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SENATE—*Monday, October 6, 1997*

The Senate met at 1 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, thank You that Your power is given in direct proportion to the pressures and perplexities we face. We are given great courage and confidence as we are reminded that You give more strength as our burdens increase, and You entrust us with more wisdom as problems test our endurance. We are cheered and comforted to know that You will never leave nor forsake us. Your love has no end, and Your patience has no breaking point.

Today we want to affirm what You have taught us: that You have called us to supernatural servanthood empowered by Your spiritual gifts of wisdom, knowledge, discernment, and vision. You lovingly press us beyond our dependence on erudition and experience alone. Thank You for giving us challenges that help to recover our humility and opportunities that force us to the knees of our hearts.

Help us, Lord, to move forward with our responsibilities by being attentive to You and obedient in following Your guidance. Give us that sure sense of Your presence and the sublime satisfaction of knowing and doing Your will. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will resume consideration of S. 25, the pending campaign finance reform bill. As announced last week, there will be no rollcall votes during today's session. Senators who desire to speak with regard to the pending amendment or bill are encouraged to do so during today's session. We should be able to get 5 hours or so of debate in today if the Senators are willing to speak.

I also remind my colleagues that a cloture vote is scheduled on the pending amendment regarding paycheck protection at 2:15 tomorrow. Also, under the provisions of rule XXII, Members have until the hour of 1:30 today in order to file timely amendments to S. 25. In addition to the cloture vote on the pending amendment, a cloture vote may occur on Tuesday on the underlying campaign finance reform bill.

On Friday, a cloture motion was also filed on the Mack-Graham amendment on immigration to the D.C. appropriations bill. So it may be necessary to have a cloture vote during Tuesday's session on that also if an agreement is not reached. The Senators are working together. I have spoken with them and I am still hopeful that an agreement can be worked out.

There are some other pending amendments on the D.C. appropriations bill, but we think maybe we will be able to reach a conclusion on those if we can get the immigration amendment by Senator MACK worked out. Therefore, it is possible that we could complete action on the D.C. appropriations bill tomorrow.

This week, the Senate will also be considering other available appropriations conference reports. I talked to the chairman, Senator STEVENS, on Friday. We think maybe there could be as many as three that would be ready in the next couple of days that we can bring up for consideration. We intend, also, to begin consideration of the ISTEA transportation infrastructure legislation, and we hope to be able to go to that on Wednesday or Thursday and spend the remainder of the week, except for interruptions for votes on the conference reports, on that.

I believe we will be in session on Friday and will probably have votes up until around noon. But we will get more information on that as the day progresses.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. KYL). Under the previous order, leadership time is reserved.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 25, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 25) to reform the financing of Federal elections.

The Senate resumed consideration of the bill.

Pending:

Lott amendment No. 1258, to guarantee that contributions to Federal political campaigns are voluntary.

Lott amendment No. 1259 (to amendment No. 1258), in the nature of a substitute.

Lott amendment No. 1260 (to amendment No. 1258), to guarantee that contributions to Federal political campaigns are voluntary.

Lott amendment No 1261, in the nature of a substitute.

Lott amendment No. 1262 (to amendment No. 1261), to guarantee that contributions to Federal political campaigns are voluntary.

Motion to recommit the bill to the Committee on Rules and Administration with instructions to report back forthwith, with an amendment.

Lott amendment No. 1263 (to instructions of motion to recommit), to guarantee that contributions to Federal political campaigns are voluntary.

Lott amendment No. 1264 (to amendment No. 1263), in the nature of a substitute.

Lott amendment No. 1265 (to amendment No. 1264), to guarantee that contributions to Federal political campaigns are voluntary.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I have to applaud the opponents of campaign finance reform. They have done a great job. They set out to confuse and distract from the real issue of campaign reform, and they have succeeded. They have diverted attention from the fact that raising money becomes one of the essential items and activities of those of us who serve in Congress just to remain competitive. They have done this

by focusing on extraneous matters like who made phone calls, where did they make them from?

We have not focused, as we should, on the continued increased cost of the media in campaigns. Consultants have become more controlling. Self-financing has become the norm. Opponents, Mr. President, of real campaign finance reform are focused on anything to divert attention from the fact that campaigns are very expensive and too long. The Governmental Affairs Committee hearing has clearly shown, at least in this Senator's opinion, that both parties need more constraints, more controls, and more attention.

We must bring attention back to what the real issues are in campaign finance—that is, the fact that Senators and Representatives spend large amounts of their time and their efforts simply raising money in order to pay for escalating media costs. As I have said, we have the never-ending, it seems, self-financing of candidates. Take a small State like the State of Nevada or one like the Presiding Officer's State of Arizona, $4 million, which has a relatively small campaign fund in this modern era, sadly. To raise that much money, you have to raise about $13,000 or $14,000 a week every year. You don't take a week off for Christmas. If you do, you have to raise more money. If you do that 52 weeks a year for 6 years, you can raise enough to be competitive in a race; you will raise about $4 million. As we know, in some States it takes a lot more money. In those States, you have to raise twice that much or three times or four times that much. Instead of raising $13,000 or $14,000 a week, people have to raise $50,000 a week. That is what we should be focusing on, Mr. President—the fact that these campaigns are very expensive.

Eleven years ago, I came to the Senate floor and talked about this campaign I had been through, a campaign where corporate money was used. Complaints had been filed with the Federal Election Commission. It is 11 years now, and a number of those complaints have still never been disposed of by the Federal Election Commission. They are still pending. I thought to myself, I can't believe there would be another election with the same rules in effect. We haven't had one election since then; we have had six since then where the same rules applied to Members of Congress. I, personally, will begin my third campaign using these same rules. In fact, I have to say they are not identical rules; they are worse, because in the early part of this century Congress decided it wasn't appropriate to have corporate money used in campaigns. The Supreme Court came back last year and said, oh, well, you can use corporate money in campaigns. State parties can virtually use the money any way they want. So corporate money is now back into elections for the first time in 85 or 90 years. Now corporate money is important.

I guess we have to be satisfied that there is a debate. I extend my appreciation to the majority leader for allowing this debate to take place; a debate about campaign financing. I have to say, though, Mr. President, that we started out saying, well, McCain-Feingold doesn't do it all, but it is not a bad bill. That is why I joined as a sponsor of that legislation. But now we are here before the Senate, the original McCain-Feingold is long gone, and we are now talking about a mini McCain-Feingold, which we are now happy that we have, that even though the original bill was lacking in many elements, now we are congratulating ourselves for going with a slimmed-down version of McCain-Feingold, which we probably won't get a chance to vote on because of all the extracurricular, extraneous matters being debated in this.

This watered-down version, I hope, can be passed. But because opponents of campaign finance reform have taken it upon themselves to expand a Supreme Court decision, the Beck case, I am not sure we are going to be able to. I have come to the floor today to remind my colleagues that we are not debating campaign finance reform to find out if the President had made phone calls from an inappropriate place or whether he should have gone to his home. Think about that; he could not do that because that is on Federal property. Maybe he should have taken Secret Service agents with him and found a pay phone to make those calls.

The fact is, we should be debating that campaigns take too much time and campaigns are far too long and take too much money. Since 1992, we have had a $900 million election cycle. In 1996, there was a 70-percent increase, in just those 4 years. In the last 20 years, congressional races have increased their spending by some 700 percent. Both political parties, Democrats and Republicans, know that the cost of campaigns is the problem. So I think we should bring back the focus on the real issue of campaign finance reform, which is that there is too much money being spent and campaigns are too long.

I see my friend from Kentucky on the floor. I have to say to him that I appreciate his honesty in this campaign debate. From the very first time that he took this as a campaign issue, he hasn't minced any words. He has said basically that he is opposed to it. We have a lot of people, Mr. President, who don't have the—I won't say courage, but that is a decent word—ability to get up and call things the way he sees them. I disagree with my friend from Kentucky, but he is willing to debate the issues as they stand. He has been willing to do this from the first time it was brought up when Senator BYRD was majority leader and when Senator Mitchell was majority leader. He doesn't hide how he feels about campaign finance reform. I appreciate his approach. Many people are hiding between the nuances of campaign finance reform and side issues. I say to my friend from Kentucky that I appreciate his approach. He says he is against campaign finance reform, and he has never hidden that fact; he has spoken out openly and has been very candid about it. I appreciate his approach to it.

I do say, however, that I wish that there were others like my friend from Kentucky who would stand up and debate the issue. McCain-Feingold, for example, let's debate it, and if there are enough votes to pass it, fine. If not, let's go on to another issue. We don't need filibusters on either side. We need to debate whether or not we need campaign finance reform. We need to go forward.

I personally believe that campaigns, I repeat, are too long, too costly, and we owe an obligation to the American public to do something about that.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, this would be a good time, in the beginning of the debate, to thank my colleague from Nevada for his kind words. I appreciate that very much. Also, Mr. President, I would like to insert a number of things into the RECORD with some explanation, just to make the record complete, before we go to further debate later this afternoon. There are a number of Senators on my side of this issue who want to speak, and they will be coming over at various times during the course of the afternoon's debate.

First, Mr. President, I would like to submit a sampling of the opinion pieces I have authored in the past year. One is from January of this year, published by the Washington Times, in which I had a premonition that President Clinton, as his own campaign finance scandal deepened, would become campaign finance reform's No. 1 fan. Frankly, it's not that I am particularly clairvoyant, but rather that they are so predictable.

As the Clinton administration and the Democratic National Committee have sunk in a scandalous quicksand of their own making, the more they publicly thrashed around groping for a campaign finance bill as if it were a life preserver. Unfortunately for America, the President and Vice President GORE seek to save themselves from their own embarrassing malfeasance in raising money from foreigners and the other episodes which have been so much in the newspapers. They want to save themselves at the expense of core constitutional freedoms for all Americans.

Mr. President, I ask unanimous consent that an article I wrote for the Washington Times be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Jan. 30, 1997]

KEEP CAMPAIGN REFORM LEGAL

(By Mitch McConnell)

"Offense is the best defense" is a cliche and a frequently employed political tactic. Diversion, skillfully applied, also can have great utility in politics. President Clinton is hoping both work for him in deflecting attention from the waves of campaign finance scandals lapping up on the White House lawn. That is why Mr. Clinton strives to become campaign finance reform's No. 1 fan.

Mr. Clinton's newfound zeal for campaign finance reform is transparent and dangerous. The McCain-Feingold bill around which he belatedly rallies is a convenient fig leaf. It is also a tremendous threat to political freedom, as it would restrict political speech and participation. The president's party hopes it will prevent collateral damage arising from the latest Clinton scandals. They contend, wrongly, that the campaign finance shenanigans making today's headlines merely illustrate a systemic problem solvable only through comprehensive "reform." Never mind that the foreign contributions and contribution-laundering reportedly done on behalf of the Clinton reelection campaign are illegal, under current law.

Mr. Clinton's "reform" agenda, while a clever diversionary tactic, is unconstitutional. It is that element which should disturb us most of all.

The Constitution's First Amendment is America's premier political reform. It should be the touchstone for campaign finance reform. But the McCain-Feingold bill and the president instead treat it as an impediment to be undermined, circumvented, even diminished. The McCain-Feingold bill, with its coerced campaign spending limits and restrictions on independent speech, is a square peg reformers try in vain to pound into the First Amendment's round hole. In tacit recognition of this, the Democrats' House and Senate leaders recently endorsed a constitutional amendment to narrow the First Amendment so that the unconstitutional (the McCain-Feingold bill) could, thus, become constitutional. Audacious, to say the least.

The Supreme Court has for years ruled, in no uncertain terms, that campaign spending is protected by the First Amendment because communication with voters costs money. Hence, spending limits are speech limits which Congress cannot constitutionally mandate. Congress must also tread lightly on the ability of private citizens and groups to participate in campaigns and affect elections via independent expenditures.

Regrettably, while striking down mandatory spending limits, the court ruled two decades ago that the government could pay candidates large sums from the U.S. Treasury in exchange for candidates' agreeing to forgo their First Amendment right to unlimited spending (i.e., speech). However, the spending limit system must be purely voluntary. That is the state of play in the billion-dollar presidential campaign finance system, where every major candidate except John Connally and the circa-1992 Ross Perot (in 1996, Perot's campaign received $30 million from the taxpayers) has opted into the taxpayer-financed spending limits program. Have the tax dollars limited spending or so-called "special interests"? No. Like a rock on Jello, the spending limits merely redirect the spending into other, unlimited, channels—including party and labor "soft" money. Spending limits promote subterfuge, which the 1996 Clinton reelection campaign may have taken to new lows (or highs, depending on your perspective).

Just as it seized upon the Keating Five scandal seven year ago, so does Washington's reform industry now exploit the emerging Clinton campaign finance scandal. The media-anointed reformers seek to complete a job they started 20 years ago—that is, to put (via the McCain-Feingold bill) the discredited presidential model of spending limits on congressional campaigns. It is an absurd proposition, but reform groups and politicians reap gains—including fawning editorials—from the battle. They are adept at massaging the press with snappy soundbites and voluminous "studies" to build a case for creating a bureaucratic regulatory regime of extraordinary proportion to micromanage and ration the speech of candidates and millions of private citizens. Why? Because, they contend that: 1) campaigns spend too much; 2) "legalized bribery" is rampant; and 3) special interests influence is pervasive.

The truth is, Americans spend far more on yogurt than political campaigns, bribery is illegal and the U.S. always has been and will be a teeming cauldron of "special interests." It is government that is pervasive. It is little wonder that virtually every American has a host of "special" interests in their government.

In his State of the Union speech, Mr. Clinton will call for campaign finance reform, specifically, the McCain-Feingold bill. He may be so audacious as to bemoan "special interest" influence, leaving unspoken his own culpability in rewarding contributors with White House access and nights in the Lincoln bedroom. It will take great restraint on the part of Congress and the country not to hoot and howl during this brazenly hypocritical call for systemic reform.

President Clinton can do much to restore confidence in the political process by cleaning up his own act. That is why on the subject of campaign finance I have two words of advice for the president: Reform yourself.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that an op-ed of mine which appeared in the Boston Globe in a somewhat altered form on Sunday, September 7, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

As with a Rorschach test, different people can view the same campaign finance data and come away with wildly divergent conclusions. Supporters of the McCain-Feingold campaign finance "reform" scheme look upon the record spending in the 1996 election cycle and profess to be horrified—hysterically seeing malevolent "special" interests at every turn, poised to plunder our democracy. I look upon that same election as the culmination of a fierce, and healthy, philosophical battle over how best to ensure a prosperous future for our nation.

Where I see a vibrant democracy-in-action, the "reform" agitators see chaos crying out for a big government remedy. In the 1996 election cycle, the liberal status quo came roaring back from the 1994 elections in which they had been so profoundly rejected. The conservative insurgents of 1994 responded in-kind, fighting to prevail in the 1996 elections with their recently acquired power intact, and the addition of a Republican-held White House. With Democrats desperate to regain control of Congress, Republicans having (after four memorable decades in minority exile) savored majority status, and momentous decisions to be made about the role of government in our society, you may be assured that the next few elections will be similarly boisterous. This political energy should be applauded, not condemned, and certainly not reformed away.

McCain-Feingold proponents have long believed that there is "too much" campaign spending, a notion that finds, at first blush, a receptive audience in cynical times. What makes the task of limiting spending so daunting for the reformers and so dangerous for our nation is that, as the Supreme Court has repeatedly ruled, in political campaigns spending limits function as speech limits of the most undemocratic and nefarious sort. Ergo, what the campaign finance reform debate is really about are First Amendment freedoms of speech, association and the right to petition the government. In our modern society, exercising these freedoms is an expensive endeavor. That is why McCain-Feingold's convoluted provisions to limit the speech of private citizens, groups, candidates and parties would surely be struck down as unconstitutional.

The Supreme Court has emphatically rejected the goals of McCain-Feingold's proponents. On whether government can intervene to limit spending, the court has said: "The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive or unwise." As to the reformer contention that campaign spending breeds corruption, the Court held that there is "nothing invidious, improper or unhealthy" in campaigns spending money to communicate. And on the reformers' appealing argument that McCain-Feingold would help "level the playing field," the Court is contemptuous: ". . . the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment."

In addition to failing the constitutional test, McCain-Feingold cannot, as a practical matter, achieve its stated aims. Level the playing field? What is a famous family name worth? What is the value of incumbency? Spending limits do not take such non-monetary factors into account. Reduce "special" interest influence? The reformers cannot even define "special" interests (the truth is everyone has "special" interests), let alone shoo them out of a democracy. Banish "legalized bribery?" That is an oxymoron. Bribery is illegal, period. Restore confidence in government? That is a tall order for any "reform" and unlikely to be achieved by a measure such as McCain-Feingold which would necessitate a huge bureaucracy to regulate the political speech of private citizens, groups, parties and thousands of candidates in every election.

To illustrate the absurdity of the McCain-Feingold approach to reform, consider its bizarre spending limit formula. For Senate general elections, reformer nirvana is achieved by limiting campaigns to spending an amount equal to: 30 cents times the number of the state's voting-age citizens up to four million, plus 25 cents times the number of voting-age citizens over four million, plus $400,000. However, if you are running in New Jersey, 80 cents and 70 cents are substituted for 30 and 25. The formula notwithstanding,

for all states, regardless of population, the minimum general election limit would be $950,000 and the maximum, $5,500,000. The primary election limit is set at 67 percent of the general and runoffs are limited to 20 percent. In the unlikely event this atrocity was deemed constitutional, it would be a mess to administrate, a nightmare to comply with, and a blight on the Republic.

To propel their effort to have the government ration political speech, McCain-Feingold proponents have seized upon the White House-Democratic National Committee campaign finance scandal which centers on violations of existing law. They exploit legitimate outrage over illegal foreign contributions in order to restrict political speech and participation by American citizens. It is a brazen and despicable strategy.

Curiously, those most associated with the First Amendment—the news media—display a callous disregard for the political freedom of private citizens, groups, candidates and parties in McCain-Feingold's cross hairs. Newspapers spew forth reams of editorials endorsing McCain-Feingold. Television's talking heads pontificate on the dire need to limit the political speech of non-media political participants. Why is the media an eager accomplice in advancing this unconstitutional and undemocratic "reform" agenda? One might reasonably conclude that media poobahs see an opportunity to fill the void left when the political speech of every other player in the political process is limited by McCain-Feingold. Newspaper editorials and articles, not to mention television, exert tremendous influence on elections. Most media outlets are subsidiaries of corporate conglomerates (i.e. "special" interests), yet they would not be limited by McCain-Feingold. On this one point alone is McCain-Feingold sensitive to the First Amendment.

That there is no media conspiracy to snuff out competitors in the political sphere makes this confluence of support for a legislative assault on their core First Amendment freedom no less lamentable. Those in the media should consider that they are but one "loophole" away—a special exemption under the Federal Election Campaign Act—from having their product regulated by the Federal Election Commission (FEC). Assuming, of course, that the Courts did not intervene. Perhaps some experience with the FEC speech police would sensitize editorial writers, reporters and TV talking heads to the insidious effects of regulating election-related speech.

The Supreme Court astutely observed six decades ago that First Amendment freedom of speech is the "matrix, the indispensable condition, of nearly every other form of freedom." Recognizing this, an extraordinary alliance of citizens groups has coalesced to oppose the McCain-Feingold bill. Ranging from the American Civil Liberties Union and the National Education Association on the left, to the Christian Coalition, National Right to Life and the National Rifle Association on the right, this coalition has little in common except a determination to preserve these core political freedoms for all Americans. In fighting the McCain-Feingold juggernaut, they are doing America a great public service.

No one is arguing that the current campaign finance system is ideal but like so many things in life, "reform" is in the eye of the beholder. I believe the current scandal-ridden presidential system of squandered taxpayer funding and illusory spending limits should be repealed. Circa-1974 contribution limits should be updated to make fund-raising less time-consuming for all candidates and less formidable for challengers who usually do not have a large base of contributors from which to draw support. All contributions should be purely voluntary which is why union members' compulsory dues should not be diverted to politicking. And more citizens should be encouraged to participate in campaigns through volunteer activities and financial contributions to the candidates and causes of their choosing. Campaign contributions are a laudable and honorable means of participation in campaigns and so long as they are publicly disclosed and continue to be scrutinized by the media, voters can judge for themselves what is appropriate.

Mr. MCCONNELL. Mr. President, this is a piece I authored and which appeared in the National Review in its June 30 edition. This op-ed starts out with the observation that proponents of spending limits are stuck between a rock and a hard place: The Constitution and reality.

It is my hope that some of the signatories to the Project Independence petition drive will read this, and particularly paying attention to the McCain-Feingold bill's absurd spending limits formula—and refrain from signing such a misleading and shallow document in the future.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MONEY GAG

(By Mitch McConnell)

Proponents of campaign-spending limits are stuck between a rock and a hard place: the Constitution and reality.

It is impossible constitutionally to limit all campaign-related spending. The Supreme Court has been quite clear on this matter, most notably in the 1976 *Buckley* v. *Valeo* decision: "The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign."

For those who do not at first blush see the link between the First Amendment and campaign spending, the Court elaborates: "A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money."

The reformers do not care or, in some cases, cannot accept that spending limits limit speech. They believe that spending limits are justified and necessary to alleviate perceived or actual corruption. But the Court slapped that argument aside, holding that there is "nothing invidious, improper, or unhealthy" in campaigns spending money to communicate. The reformers cannot that spending limits are essential because campaign spending has increased dramatically in the past two decades, a woefully lame premise the Court easily dispatched: "The mere growth in the cost of federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending." Appealing to Americans' instinct for fairness, the reformers passionately plead for spending limits to "level" the political playing field. The Court was utterly contemptuous of this "level playing field" argument. "The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment."

There you have it. The reformers cannot achieve their objectives statutorily. To realize the reformers' campaign-finance nirvana would require essentially repealing the First Amendment—blowing a huge hole in the Bill of Rights—via a constitutional amendment. Frightfully undemocratic? Yes. Out of the question? No; 38 United States senators voted to do just that on March 18, 1997. These 38 senators voted, in the name of "reform,';' for S.J. Res. 18, a constitutional amendment to empower Congress and the states to limit contributions and spending "by, in support of, or in opposition to, a candidate." Thus would the entire universe of political speech and participation be subjected to limitation by congressional edict, and enforcement by government bureaucrats.

This wholesale repeal of core political freedom registered barely a ripple in the nation's media. Perhaps reporters and editorial writers do not appreciate that their campaign coverage could be construed as spending "by, in support of, or in opposition to, a candidate" and, therefore, could be regulated under a Constitution so altered. It is not a stretch. The television networks and most major newspapers are owned by corporate conglomerates (a/k/a "special interests" and the blurred distinction is already acknowledged in federal campaign law, which currently exempts from the definition of expenditure "any news story, commentary, or editorial" unless distributed by a political party, committee, or candidate.

I do not advocate regulating newspaper editorials, articles, and headlines. I do not believe that government should compensate candidates who are harmed by television newscasts or biased anchors. However, the political playing field can never be "level" without such regulation, and it is the only area of political speech upon which the vaunted McCain-Feingold bill is silent. McCain-Feingold has provisions to enable candidates to counteract independent expenditures by every "special interest" in America, except the media industry. This "loophole" is the only one which editorial writers are not advocating be closed by the government.

Such regulation of the media may strike one as an absurd result of the campaign-reform movement, but it is a logical extrapolation of McCain-Feingold's regulatory regime. The McCain-Feingold bill's spending-limit formula for candidates is itself ludicrous. For Senate general elections: 30 cents times the number of the state's voting-age citizens up to 4 million, plus 25 cents times the number of voting-age citizens over 4 million, plus $400,000. However, if you are running in New Jersey, 80 cents and 70 cents are substituted for 30 and 25 because of the dispersed media markets. Moreover, the formula notwithstanding, for all states the minimum general election limit is $950,000 and the maximum $5,500,000. McCain-Feingold sets the primary-election limit at 67 per

cent of the general-election limit and the runoff limit at 20 per cent of the general-election limit.

Reading the Clinton-endorsed McCain-Feingold bill, one can only conclude that the era of big government is just beginning. The Courts have repeatedly ruled that communications which do not "expressly advocate" the election or defeat of a candidate (using terms such as "vote for," "defeat," "elect") cannot be regulated, yet McCain-Feingold would have the Federal Election Commission policing such ads if "a reasonable person" would "understand" them to advocate election or defeat. Out of 260 million Americans, just which one is to be this "reasonable person"?

The McCain-Feingold bill seeks to quiet the voices of candidates, private citizens, groups, and parties. Why? Because, it is said, "too much" is spent on American elections. The so-called reformers chafe when I pose the obvious question: "Compared to what?"

In 1996—an extraordinarily high-stakes, competitive election in which there was a fierce ideological battle over the future of the world's only superpower—$3.89 per eligible voter was spent on congressional elections. May I be so bold as to suggest that spending on congressional elections the equivalent of a McDonald's "extra value" meal and a small milkshake is not "too much?"

The reformers are not dissuaded by facts. Their agenda is not advanced by reason. It is propelled by the media, some politicians, and the recent infusion of millions of dollars in foundation grants to "reform" groups. Fortunately, the majority of this Congress is not ideologically predisposed toward the undemocratic, unconstitutional, bureaucratic finance scheme embodied in McCain-Feingold. Further, a powerful and diverse coalition has coalesced to protect American freedom from the McCain-Feingold juggernaut.

Ranging from the American Civil Liberties Union and the National Education Association on the left to the Christian Coalition, the National Right to Life Committee, and the National Rifle Association on the right, the individual members of the coalition agree on little except the need for the freedom to participate in American politics. There is perhaps no better illustration of the Supreme Court's observation in 1937 that freedom of speech "is the matrix, the indispensable condition, of nearly every other form of freedom." These groups understand that the First Amendment is America's greatest political reform.

Where do we go from here? After ten years of fighting and filibustering against assaults on the First Amendment advanced under the guise of "reform," I am heartened by the honest debate in this Congress. In the House of Representatives, John T. Doolittle's bold proposal to repeal government-prescribed contribution limits and the taxpayer-financed system of (illusory) presidential spending limits has more co-sponsors than McCain-Feingold's companion bill, the Shays-Meehan speech-rationing scheme. In the Senate, McCain-Feingold's fortunes cling pathetically to the specter that the Government Affairs investigation into the Clinton campaign-finance scandal will fuel public pressure for reform.

My goal is to redefine "reform," to move the debate away from arbitrary limits and toward expanded citizen participation, electoral competition, and political discourse. McCain-Feingold is a failed approach to campaign finance that has proved a disaster in the presidential system. McCain-Feingold would paper over the fatal flaws in the presidential spending-limit system and extend the disaster to congressional elections. Experience argues for scuttling it entirely.

The best way to diminish the influence of any particular "special interest" is to dilute its impact through the infusion of new donors contributing more money to campaigns and political parties. Those who get off the sidelines and contribute their own money to the candidates and parties of their choice should be lauded, not demonized. The increased campaign spending of the past few elections should be hailed as evidence of a vibrant democracy, not reviled as a "problem" needing to be cured.

My prescription for reform includes contribution limits adjusted, at the least, for inflation.

The $1,000 individual limit was set in 1974, when a new Ford Mustang cost just $2,700. The political parties should be strengthened, the present constraints on what they can do for their nominees, repealed. These would be steps in the right direction.

Mr. MCCONNELL. Mr. President, this is also an op-ed which I did for USA Today—a publication whose word limits force you to distill your arguments.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BEWARE SO-CALLED FIXES

(By Mitch McConnell)

The First Amendment of the Constitution is America's premier political reform. To reformers, it's a "loophole." The Supreme Court has repeatedly ruled that because communication with voters costs money, campaign spending is protected by the First Amendment and cannot be rationed by the government. That does not stop the so-called reformers from trying.

The presidential system of campaign finance is the monument to reform excess. Thanks to the Democratic National Committee's apparent penchant for illegal foreign contributions, it is also scandal-ridden. A post-Watergate "reform," the presidential system gives candidates tax dollars for which, in exchange, they agree to campaign spending limits. But like a rock placed on Jello, the spending limits merely shift the money into other channels—notably party and union "soft" money.

Political parties, unions and newspapers have a constitutional right to spend as much as they choose to affect elections. Some newspapers want to neuter the political parties under the guise of "reform." The parties are vital components of the electoral process, the only entities that will consistently support challengers—of all ideological stripes. Their only litmus test is party affiliation. They do not have a vote in Congress. They are a buffer between so-called "special interests" and government.

The presidential system of taxpayer-funded spending limits is a disaster that should be repealed. But so-called reformers instead want to extend that debacle to congressional elections and exploit the Democrats' scandal to justify eviscerating the political parties.

Rather than admit spending limits have failed, the reformers want to add even more layers of bureaucracy to police American political speech and participation by candidates, political parties, private citizens and groups. Why? The reformers say "too much" is spent on elections. Americans spend more on yogurt. The reformers bemoan "legalized bribery," an oxymoron. Bribery is illegal, period. They say special-interest influence is pervasive. Yet they cannot define "special interest."

Disclosure—not arbitrary, bureaucratic limits—should be the linchpin of reform. Voters can decide for themselves what is appropriate. Taxpayers should not be called upon to fund a campaign-finance scheme in which the First Amendment is regarded as a "loophole," and so long as America is a democracy, the spending limits can never be more than a facade.

Mr. MCCONNELL. Mr. President, further, I submit for the RECORD four illuminating documents from the American Civil Liberties Union. Say what you will about this organization—one that Members on my side, including me, are infrequently aligned with—they take some gutsy positions. It is tough for a liberal group—a label usually given to the ACLU—to go against the liberal grain, particularly on an issue this high-profile, as this one which we are debating today.

Particularly, Mr. President, I want to single out Laura Murphy, director of the ACLU's Washington office, and no doubt others in that organization, have taken a lot of grief for their brave and resolute position in defense of political freedom for all Americans—liberals, conservatives, and every ideological shade in between. I cannot say enough good things about the work that Laura, Joel Gora, Ira Glasser, and other folks in the ACLU have done on this issue. Their effort against McCain-Feingold has been truly heroic. Two-hundred and sixty million American beneficiaries of the first amendment owe these people a debt of thanks.

With a few notable and admirable exceptions, I have been sorely disappointed by the willingness of liberal groups to walk off a cliff for this blatantly unconstitutional reform effort. I'm told some have made the calculated decision that if the McCain-Feingold bill passed, liberal causes would benefit.

I think they are right on that score but it is shameful that so many would eagerly jettison 200 years of core political freedom—which benefits all citizens and makes America a uniquely free country—in order to stick it to conservatives and anyone else who does not support the liberal agenda.

These liberal, Democrat-leaning groups know McCain-Feingold is outrageous—that its issue advocacy provisions, to name just a few, are unconscionable assaults on the first amendment right of all Americans to petition the government as individuals, and as groups, and to weigh in on public issues. But still some actively promote McCain-Feingold, more simply look the other way—acquiescing on the sidelines of this critical debate over core constitutional freedoms they get paid to exercise.

Perhaps they believe, correctly I might add, that Republicans will save

the Nation from McCain-Feingold. I predict that will be the outcome.

Mr. President, I will now read into the RECORD some highlights of the ACLU's most recent denunciation of the McCain-Feingold bill, dated October 1, 1997:

Ever since the very first version of the various McCain-Feingold campaign finance bills was introduced in the Senate, the ACLU has gone on record to assert that each version was fatally and fundamentally flawed when measured against settled First Amendment principles. Now the Senate is debating a new "revised" incarnation of the bill. While we are pleased that the sponsors of the new version have abandoned some of the more egregious provisions that appeared in earlier versions, the "pared down" bill still cuts to the core of the First Amendment. We once again urge you to reject McCain-Feingold's unconstitutional and unprecedented assaults on freedom of speech and association.

Although the bill has a number of constitutional flaws, this letter focuses on those that impose restrictions primarily on issue advocacy. It is important to note at the outset that the recent letter from 126 law professors, commenting on McCain-Feingold, was silent on the issue advocacy restrictions in the bill, which are the subject of this letter.

1. The unprecedented restrictions on issue advocacy contained in the McCain-Feingold bill are flatly unconstitutional under settled First Amendment doctrine.

Last week there was a lot of discussion of a law professor named Burt Neumann at the Brennan Center of New York. I believe it is interesting that everyone believes Brennan wrote the Buckley case, one of the ironies of this debate. Mr. Neumann for 24 years had said the Buckley decision was wrong. And he is free to say that. He wishes it were otherwise. But his position and the position of the man he presumably admires the most, William Brennan, not only prevailed in the Buckley case but has been further elaborated on in 21 years of litigation. Thus, the ACLU says under settled first amendment doctrine:

What we are talking about here is not the law as some wish it were but the law as it is. And that is what the ACLU is referring to.

Further, in another place in the letter, Mr. President, they say:

The unprecedented and sweeping restraints on the "soft money" funding of issue advocacy and political activity by political parties raise severe first amendment problems.

At another point in the letter, the ACLU says, "The same principles that protect unrestrained issue advocacy by issue groups safeguard issue advocacy and activity by political parties."

So, if issue advocacy has been well laid out by 21 years of court cases for groups, the same thing applies for political parties.

By the way, Mr. President, this letter was signed by Ira Glasser, executive director; Laura Murphy, director, Washington office; Joel Gora, professor of law at Brooklyn Law School.

I might just say a word about Joel Gora. He was cocounsel in the Buckley case. So my side in this argument is that they didn't have to go out and find somebody to certify that they wish the law were what it isn't. These folks know what the law is, were involved in litigating these cases, and are simply certifying as to their opinion based upon deep experience in this field as to the constitutionality of the measure before us.

So, here is what they say at the end of the letter.

Accordingly, we submit that McCain-Feingold's sweeping controls on the amount and source of soft money contributions to political parties and disclosure of soft money disbursements by other organizations continue to raise severe constitutional problems. Disclosure, rather than limitation, of large soft money contributions to political parties, is the more appropriate and less restrictive alternative.

McCain-Feingold's labyrinth of restrictions on party funding and political activity can have no other effect but to deter and discourage precisely the kind of political party activity that the First Amendment was designed to protect.

. . . While reasonable people may disagree about the proper approaches to campaign finance reform, this bill's restraints on political party funding and issue advocacy raise profound First Amendment problems and should be opposed. The bill has a number of other severe flaws, some old, some new, which we will address in a future communication. But we wanted to take the opportunity to share our assessment of two of the most salient problems with the bill now.

So, Mr. President, there it is from America's experts on the first amendment, one of whom was one of the lawyers in the Buckley case. These are people who are experts on this kind of litigation, and that is their opinion about the constitutionality of McCain-Feingold, as revised.

Now, Mr. President, a September 25, 1997, letter from the Christian Coalition. It says:

DEAR SENATOR: The Christian Coalition has long supported campaign finance reform that encourages citizen participation and nonpartisan voter education. Any reform of our system of campaign financing should allow for educational tools such as nonpartisan voter guides, issue advertising, congressional scorecards and newsletters. Christian Coalition vigorously opposes the McCain-Feingold legislation which unconstitutionally restricts these types of issue advocacy.

I will just read one other sentence, Mr. President, from this particular letter. This organization says:

Voter education should be encouraged, not discouraged. An informed electorate is part of the solution, not part of the problem.

I could not agree more.

I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CHRISTIAN COALITION,
CAPITOL HILL OFFICE,
Washington, DC, September 25, 1997.

SUPPORT FIRST AMENDMENT—FREE SPEECH OPPOSE MCCAIN-FEINGOLD CAMPAIGN FINANCE BILL

DEAR SENATOR: The Christian Coalition has long supported campaign finance reform that encourages citizen participation and non-partisan voter education. Any reform of our system of campaign finance should allow for educational tools such as non-partisan voter guides, issue advertising, congressional scorecards, and newsletters. Christian Coalition vigorously opposes the McCain-Feingold legislation which unconstitutionally restricts these types of issue advocacy.

Issue advocacy is constitutionally protected free speech. Expressing opinions on issues and informing voters where candidates stand on the issues are constitutionally protected free speech, so long as the election or defeat of a candidate is not "expressly advocated." For over 20 years, the Supreme Court has repeatedly ruled that the test must be objective, not subjective. "Express advocacy" is defined by using such words as, "vote against," and "oppose." The McCain-Feingold bill imposes an unconstitutional subjective test.

Voter education should be encouraged, not discouraged. An informed electorate is part of the solution, not part of the problem. Without voter education efforts, our supporters would be forced to rely entirely on slick political advertising and the news media. In fact, newspapers and other media outlets express opinions and even expressly advocate the election or defeat of candidates through editorials. While the media is totally unregulated, as it should be under the First Amendment, some want to prohibit and heavily regulate issue organizations from exercising similar free speech.

Restrictive speech provisions will not withstand constitutional challenge. Therefore we oppose any proposals which attempt to bring constitutionally protected issue advocacy under the regulatory control of the federal government. Thank you for considering our views.

Sincerely,

HEIDI H. STIRRUP,
Director, Government Relations.

(Mr. GORTON assumed the chair.)

Mr. MCCONNELL. Mr. President, I will read just a few of the highlights from the cover letter. This is dated October 3, 1997.

DEAR SENATOR MCCONNELL: Thank you for requesting our comments on the revised McCain-Feingold campaign finance bill. . . .

Much of what the Cato Institute and similar nonprofit research and public policy corporations do could no longer be done or, done only if we are comfortable having research publications, public policy forums, city seminars, conferences and the like classified as "contributions." In this bizarre scenario, these "contributions" would have to be paid for out of our "PAC" (which, of course, we would never have), and, probably, could not be done at all since much of the "anything of value" we produce often costs more than the $5,000 limit on contributions.

Here is a group, Mr. President, not in politics. They do not go out and create a PAC, they do not do voter guides, and they think that the most recent version of McCain-Feingold is going to make it hard for them to function.

The Cato Institute goes on:

For example, if we published a study on the flat tax, or tax reform and ever discussed the issue with Representative Dick Armey—or, heaven forbid, held a policy forum or city seminar with Dick Armey, Steve Forbes, Reps' Paxon, Tauzin, Archer, or any of the other leading proponents of tax reform—under the new McCain-Feingold, these could become contributions.

I guess the good news is, as Bob Levy says, that "the September 29 version of McCain-Feingold reduces the first amendment to scrap"—so blatantly unconstitutional that it will never become law. As Bob also says, "McCain-Feingold is an insidious and destructive piece of legislation. It deserves an ignominious burial. To be blunt, either it dies, or we do."

Mr. President, I ask unanimous consent that the communication from the Cato Institute be printed in the RECORD, along with another letter from the National Taxpayers Union.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CATO,
Washington, DC, October 3, 1997.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: Thank you for requesting our comments on the revised McCain-Feingold campaign finance bill. A copy of Bob Levy's detailed analysis is attached (Bob is a senior fellow in constitutional studies here at Cato.) I think you will find the first two and closing paragraphs succinct and to the point.

In summary, much of what the Cato Institute and similar non-profit research and public policy corporations do, could no longer be done or, done only if we are comfortable having research publications, public policy forums, city seminars, conferences and the like classified as "contributions." In this bizarre scenario, these "contributions" would have to be paid for out of our "PAC" (which of course, we would never have), and, probably, could not be done at all since much of the "anything of value" we produce often costs more than the $5,000 limit on contributions. And, of course, if you know anything at all about the Cato Institute and our president, Ed Crane, the last thing we would ever do is allow ourselves to be in a situation that could be interpreted as making contributions to political candidates.

For example, if we published a study on the flat tax, or tax reform and ever discussed the issue with Rep. Dick Armey—or, heaven forbid, held a policy forum or city seminar with Dick Armey, Steve Forbes, Reps. Paxon, Tauzin, Archer, or any of the other leading proponents of tax reform—under the new McCain-Feingold, these could become "contributions."

I guess the good news is, as Bob Levy says, that "the September 29 version of McCain-Feingold reduces the First Amendment to scrap"—so blatantly unconstitutional that it will never become law. As Bob also says, "McCain-Feingold is an insidious and destructive piece of legislation. It deserves an ignominious burial. To be blunt, either it dies, or we do."

We hope the above and attached is helpful.

Sincerely,

PEGGY J. ELLIS.

Attachment.

NATIONAL TAXPAYERS UNION,
Alexandria, VA, October 6, 1997.

Attention: Campaign Finance Reform Aide.

DEAR SENATOR: When you took your oath of office you said:

I, (name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I well and faithfully discharge the duties of the office on which I am about to enter: So help me God (5 U.S.C. 3331.)

S. 25, the campaign finance bill by Senators McCain and Feingold, is blatantly unconstitutional under the First Amendment, which says in part that "Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right to the people peaceably to assemble, and to petition the Government for a redress of grievances." You cannot "support the Constitution" by trying the patience of the Courts. Therefore, we believe that every Senator has a constitutional obligation to vote against passage of this bill.

The restrictions are so absurd that, if the bill were law, it would be illegal for any organization to energetically lobby for or against any legislation within 60 days of any election unless it excluded the names of their lawmakers. So for at least four months of every other year, groups could not pay for "any paid advertisement that is broadcast by a radio broadcast station or television broadcast station" if they identified the name of a local lawmaker. If the Congress wants such silly rules, then it should also arrange to be out of session during these 60-day periods, and require that all state congressional primaries he held on the same day.

The bill also proposes to ban, year-round, so-called express advocacy while going far beyond the Supreme Court's definition of express advocacy. The definitions are so vague that candidates could complain to the Federal Election Commission that many criticisms of their views constitute "illegal" activity. Since there would be no cost to complain, complain they will.

The sponsors of this legislation may claim it would have no cost to taxpayers. We strongly disagree. Since the proposal is so vague and so far-reaching in its application and attempt to regulate speech and political activity, it would take an enormous and costly expansion of the FEC to administer our newly regulated "free-speech" rights. Therefore, we will count a vote against this bill as a pro-taxpayer vote in our annual Rating of Congress.

One final note. As a taxpayer organization, we know a thing or two about complex and vague laws such as our tax code. But if this bill becomes law, many of our tax laws will be a model of clarity compared to the election law. And the tax laws will have one advantage. Audits are not set in motion by the frivolous complaints that would be the rule under this legislation.

Sincerely,

DAVID KEATING,
Executive Vice President.

Mr. MCCONNELL. Preferring substance to petitions, I have a couple of constitutional analyses to have printed in the RECORD. I understand from the Government Printing Office that it will cost approximately $12,000 to print this material in the RECORD.

The first is an outstanding dissertation on the constitutional implications of campaign finance reform by law professor and renowned legal scholar Lillian R. BeVier of the University of Virginia, and again I will just read some of the highlights for the information of those listening to the debate.

Professor BeVier appeared before the Rules Committee on several occasions. Her report of September 4, 1997, says:

The shortcomings of current "reform" proposals are no small matter, given the First Amendment's crucial historical role in protecting our right to self-government and its sustaining liberty. For the proposals to pass constitutional muster, the First Amendment would have to be itself "amended" by judicial fiat.

And that, Mr. President, sums up I think quite well what Professor BeVier goes on to point out in some greater detail and I ask unanimous consent that that dissertation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAMPAIGN FINANCE "REFORM" PROPOSALS—A FIRST AMENDMENT ANALYSIS

(By Lillian R. BeVier)

EXECUTIVE SUMMARY

In the wake of recent reports of questionable campaign finance practices have come ever more draconian proposals to "reform" the campaign finance system. Those proposals pose a disturbing threat to the individual political freedom guaranteed by the Constitution. Under current precedents, none of them could survive a First Amendment challenge.

In *Buckley v. Valeo* (1976), the Supreme Court affirmed that giving money to and spending money on political campaigns is a core First Amendment activity. Accordingly, regulations of political contributions and expenditures will not be sustained unless justified by a compelling state interest and crafted to achieve their objective by the least restrictive means.

Current proposals to regulate campaign finance practices cannot survive the kind of scrutiny that the First Amendment requires. This study demonstrates that the ban on political action committees, the PAC ban fallback provisions, the "voluntary" spending limits, the restrictions on soft money, the regulation of issue advocacy, and the proposals to expand the enforcement powers for the Federal Election Commission all substantially infringe on core First Amendment freedoms, but none serves a compelling interest with the least restrictive means. And the proposal that broadcasters be required to provide free TV time to federal candidates is constitutionally insupportable.

The shortcomings of current "reform" proposals are no small matter, given the First Amendment's crucial historical role in protecting our right to self-government and in sustaining liberty. For the proposals to pass constitutional muster, the First Amendment would have to be itself "amended" by judicial fiat.

INTRODUCTION

Since the 1996 elections, campaign finance practices have dominated the news. Reports of unpalatable fundraising strategies, such as renting out the Lincoln bedroom to major donors and using White House telephones to solicit contributions, have appeared with distressing frequency on the nightly news. The media tend to portray those actions not as straightforward individual ethical or legal

lapses but as self-evidently symptomatic of the need for stringent new campaign finance "reforms." President Clinton, who claims to have played by the rules in his reelection campaign, also claims to strongly favor "reform." Recently, for example, in a "stop-me-before-I-kill-again" move, he petitioned the Federal Election Commission to ban political parties from accepting the "soft-money" contributions that provided so much of the fuel for the 1996 presidential contest.

A chorus of those who advocate increased regulation of the political process is always available to chant the reform mantras, and the mainstream press appears credulously willing to broadcast them: "Well-heeled [unequivocally self-serving and never public-regarding] special interests" dominate the political process; challengers and incumbents alike, consumed by the need to raise money for their campaigns, spend "most of their time . . . scrounging for funds."[1] A *Washington Post* headline declared, "The System Has Cracked under the Weight of Cash."[2] "[F]renized fund-raising and freewheeling spending . . . [of] torrents of cash" now rule the day, and election contests are conducted principally via expensive ad campaigns that saturate the airwaves.[3] Money—dollars contributed to candidates, given to political parties, and spent on election campaigns—undermines the integrity of and "defeat[s] the democratic process"[4]—or so it is said.

Despite the overheated rhetoric of dysfunctionality and doom, the debate about the nature of the changes that ought to be made in the present system of campaign finance regulations is often framed as though short-term political advantage were the only thing at stake.[5] Republicans, it is said, are against restricting campaign contributions and expenditures—but only because they are richer and better at raising money. Democrats, on the other hand, favor restrictions—but only because they wish to counter the perceived Republican money-raising advantage. Because Republicans control the present Congress, stringent new giving and spending regulations are thought unlikely. And finally, it is said that because the incumbents of both parties are "beneficiaries" of the present system, political reality suggests that those incumbents are unlikely to change the system in any way that might threaten their reelection.

For all the rhetoric, however, the debate over campaign finance regulation raises issues that genuinely transcend the short run, issues of fundamental and permanent significance that cry out to be acknowledged. Indeed, though they come to us in the benign guise of "reform," many of the campaign finance regulations that have recently been proposed would require us to renege on a central premise of our representative democracy—the individual political freedom our Constitution guarantees.

This study will examine the constitutionality of current campaign finance regulatory proposals. It will also strive to bring the stakes in the campaign finance debate into the sharpest possible focus—to provide a full accounting of regulation's cost to political freedom so that, if they find themselves tempted to adopt a short-term fix to the campaign finance "mess," legislators will not fatally underestimate the price.

THE REGULATORY AGENDA

On the agenda of today's proponents of reform are a number of specific, often shifting legislative proposals. Rather than treat each of those proposals in detail, I will proceed in more generic terms, focusing on the broad outlines of the most frequently recurring—and thus most prominent—individual suggestions for "reform." I will consider the following proposals:

The PAC ban: Eliminate political action committees (PACs) from federal election activities by banning all expenditures by and contributions to them for purposes of influencing elections for federal office, broadly defined, except those contributions and expenditures made by political parties and their candidates.

The PAC ban fallback: If the complete ban if found unconstitutional, lower the permissible amount of PAC contributions to single candidates from the present $5,000 to $1,000 and prohibit any candidate from receiving any PAC contribution that would raise that candidate's PAC receipts above a given percentage (say, 20 percent) of applicable expenditure ceilings; ban the "bundling" of individual contributions; ban the receipt by a candidate of PAC monies that exceed 20 percent of the particular election's campaign expenditure ceilings; redefine independent expenditures so as to turn more activities into "coordinated" expenditures (thus subjecting them to the contribution limitations); and broaden the definition of "express advocacy" so as essentially to prohibit generic partisan communications of any kind (by defining express advocacy to include any "expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party" and to include suggestions "to take action with respect to an election * * * or to refrain from taking action").

Spending limits and communication discounts: Impose "voluntary" spending limits for candidates in House and Senate races and prohibit spending of personal funds in excess of 10 percent of that limit; provide to candidates who agree to be bound by the limits certain amounts of free television time, plus the right to purchase additional time at reduced rates, and give them a reduced rate for mailing to state voters; limit their receipt of out-of-state contributions by requiring them to receive 60 percent of the contributions to their campaign from individuals in their own states or districts; and prohibit candidates who do not agree to be bound by the spending limits from receiving PAC contributions, require them to pay full rates for broadcasting and postage, raise the limits on contributions to their opponents from $1,000 to $2,000, and raise the expenditure limits of their opponents by 20 percent.

Restrictions on soft money: Bar federal officeholders, candidates, and national political parties from accepting unregulated contributions; subject all election-year expenditures and disbursements by political parties, including state and local parties that "*might affect* the outcome of a federal election"—including those for voter registration, get-out-the-vote drives, generic campaign activities, and any communication that identifies a federal candidate—to the full panoply of Federal Election Campaign Act (FECA) restrictions and compliance and regulatory rules.

Controls on "issue advocacy": Regulate communications that do not contain words of "express advocacy" as defined by the Supreme Court in *Buckley v. Valeo* (i.e., communications that do not "in express terms advocate the election or defeat of a clearly defined candidate for federal office").[6] Define "issue advocacy" to include a broader range of communications than does "express advocacy"; regulate it by subjecting groups funding issue advocacy communications to FECA disclosure requirements and controlling the content of issue advocacy communications by requiring disclosure of funding sources and disclaimers of candidate advocacy.

Free TV: In exchange for, and as a "public service" condition of, the allocation to them of spectrum space, require broadcasters to provide substantial amounts of free air time to all candidates for federal office. Require candidates to appear in person in the free time provided to them and to speak for themselves.

Expand Federal Election Commission enforcement powers: Grant broad new enforcement powers to the Federal Election Commission, including the right to go to court to seek an injunction against potential offenders on the ground that there is a substantial likelihood that a violation is about to occur.

FIRST AMENDMENT ANALYSIS: GENERAL PRINCIPLES

The Buckley Framework

To be constitutional, the proposals outlined above must not violate principles of political freedom and free political speech as protected under the First Amendment. The cornerstone of the Supreme Court's First Amendment jurisprudence in this area is *Buckley*. In that case the Court decided several challenges to the FECA amendments of 1974.[7] FECA was at that time Congress's most ambitious effort at election campaign reform. According to its defenders, the act was designed to equalize access to and purify the political process by ridding it of corruption and the appearance of corruption. Among other things, the plaintiffs in *Buckley* challenged the act's stringent limitations on the amounts of money individuals could contribute to and spend on campaigns for federal office and the act's provisions for public funding of presidential candidates who agreed to abide by spending limits during their campaigns. The Court sustained the provisions for public funding of presidential campaigns and the contribution limitations. It invalidated the expenditure limitations.

In resolving the *Buckley* challenges, the Court correctly took as its central premises that "a major purpose of [the First] Amendment was to protect the free discussion of governmental affairs" and that contribution and expenditure limitations "operate in an area of the most fundamental First Amendment activities."[8] Pursuant to conventional canons of First Amendment review, that meant that contributions and expenditure limitations would be subject to "strict scrutiny" by the Court and would not survive unless they were found to serve a "compelling state interest" using the "least restrictive means." Due to differences it perceived in the relative magnitudes of the First Amendment interests, the Court distinguished between limits on *contributions* of money to politicians or their campaigns and limits on campaign *expenditures* by citizens and candidates. A contribution limit, said the Court, "entails only a marginal restriction upon the contributor's ability to engage in free communication,"[9] because "the transformation of contributions into political debate involves speech by someone other than the contributor."[10] Hence, such limits could presumably be evaluated using a slightly more lenient standard of review.[11] Limits on expenditures, on the other hand, "represent substantial rather than merely theoretical restraints on the quantity and diversity of political speech."[12]

Thus, whereas the Court strongly suggested that limitations on expenditures may well run afoul of the First Amendment regardless of the context or the purported justification for their imposition, it held that

See footnotes at end of article.

limitations on contributions are constitutional if their purpose is the compelling one of preventing corruption (i.e., "the attempt to secure a political quid pro quo from current and potential officeholders")[13] or the appearance of corruption. Of particular importance to today's debate, the Court rejected equalization of political power as even a permissible, much less a compelling, justification for restrictions on either contributions or spending, observing that "the concept that government may restrict the speech of some elements in our society in order to enhance the relative voice of others is wholly foreign to the First Amendment."[14]

Buckley has proven remarkably robust and has provided the doctrinal framework for all seven of the major campaign finance cases that the Court has since decided. In each of those cases (briefly summarized in the Appendix), the Court has remained committed to *Buckley*'s major conclusions. That is not to say that the *Buckley* framework has gone unchallenged within the Court itself.[15] Still, taken as a whole, *Buckley* and its progeny stand foursquare for the following doctrinal generalizations. Because they represent governmentally imposed constraints on political activity,

Restrictions on political contributions and expenditures infringe on rights of speech and association. Therefore, the Court will strictly scrutinize such restrictions, even when they are directed at corporations instead of at individuals or groups.

Limits on independent expenditures by individuals and political groups are likely to be unconstitutional regardless of the context or the purported justification.

Preventing corruption or the appearance of corruption remains the "single narrow exception to the rule that limits on political activity" are contrary to the First Amendment.[16]

Since a ballot measure offers no opportunity to corrupt elected officials with either contributions or expenditures, the First Amendment probably prohibits restrictions on both contributions and expenditures in the context of ballot-measure elections: both kinds of restrictions infringe on First Amendment rights without countervailing benefit since "there is no significant state or public interest in curtailing debate and discussion of a ballot measure."[17]

Equalization of political influence is not a permissible justification for restrictions. The Court has never wavered in its view that government may not restrict the speech of some to enhance the relative voice of others.

Applying Buckley: In General

How do the campaign finance regulations that are presently being debated fare when subjected to analysis in light of the *Buckley* framework and the First Amendment foundation upon which it rests? The first step in the calculus of constitutionality is to determine the extent to which each proposal infringes on established First Amendment rights. That step is doctrinally uncontroversial, its analytical path clearly marked, for *Buckley* and its progeny unequivocally establish that regulations of campaign contributions and expenditures operate upon fundamental First Amendment rights to free speech and free association.

Cynically claiming that that central premise of *Buckley* represents nothing more than capitulation to the idea that "money talks," advocates of regulation mock and demean the premise. In doing so, they miss the point entirely. *Buckley* was not written on a blank First Amendment slate. Rather, it was firmly grounded upon, and thus was the natural outgrowth of, a long line of cases that affirmed that the core principles of the First Amendment protected citizens' right to speak, to publish, and to associate for political causes, free from government interference or control. Contributing to and spending money on political campaigns—whether to advocate the election of particular candidates or to take positions with respect to particular issues—was protected in *Buckley* not because money talks but because the central purpose of the First Amendment is to guarantee political freedom. The amendment ensures that individual citizens may exercise that freedom by speaking, discussing, publishing, advocating, and persuading and that they may enhance their individual voices by joining together in groups, organizations, associations, and societies. The specific rights of citizens to contribute to and spend money on political campaigns are merely necessary corollaries of their more general rights to speak freely and to associate with one another to advocate causes in which they believe.

Having established that regulations of campaign contributions and expenditures impinge on fundamental First Amendment rights, the Court will then apply "strict scrutiny" and sustain the regulations only if it finds that they serve a compelling government interest and use the least restrictive means to do so. The analytical task implicit in those second and third steps in the constitutional calculus is the identification and evaluation of the government interests that supposedly support regulation and the appraisal of the means deployed to serve those interests.

Performing that task is not as easy as its doctrinal formulation suggests. Although the Court has clearly commanded that strict scrutiny is required, it has not always adhered to the implications of that command by engaging in rigorous examination of both proffered ends and the means chosen to achieve them. In fact, the Court has occasionally been highly deferential and credulous in its assessments of ends and means, making prediction in the present case an uncertain undertaking. Still, if the integrity of First Amendment principles is to be preserved, it is critically important that both legislators and judges take great care that rhetoric and assertion not substitute for the careful analysis that truly strict scrutiny requires. For that reason, the analysis that follows will attempt not merely to summarize but to examine skeptically the arguments and the rhetorical strategies of the advocates of regulation.

Applying Buckley: Specific Proposals

The PAC Ban

In *Buckley*, the Supreme Court held that the only legitimate and compelling government interest in restricting campaign contributions and expenditures is to prevent corruption or the appearance of corruption. And the Court defined corruption precisely and narrowly as entailing a financial quid pro quo: dollars for political favors.

Despite that, advocates of the PAC ban offer justifications unrelated to preventing corruption as the Court defined it in *Buckely*. Instead, such justifications as they offer are directed, in vague terms, at reforming "an unresponsive government and a political process that has grown increasingly meanspirited"—a view reformers seem to believe is universally shared. Regarding contribution prohibitions, reformers condemn unspecified "elected officials who listen more to big money and Washington lobbyists than to their own constituents"; they decry the "influence-money culture" and claim that "our political system is rigged to benefit campaign contributors and incumbent officeholders at the great expense of citizens"; and they see an "inherent problem"—the nature of which they do not define—"with a system in which individuals and groups with an interest in government decisions can give substantial sums of money to elected officials who have the power to make those decisions."[18] At bottom, the justification they offer seems to be that special-interest PAC contributions are a dominant force in the financing of federal election campaigns, that members of Congress are dependent on them and influenced by them, that the giving of PAC money is linked to the particular PAC's legislative agenda, and that PAC money goes overwhelmingly to incumbents. Thus, they justify the PAC expenditure ban not with reference to preventing corruption but on the ground that it is a loophole-closing measure: if independent PAC expenditures continue to be permitted for "purposes of influencing any election for Federal office," they will undermine the ability of the contribution prohibitions to achieve their purpose of preventing PACs from wielding influence.

Buckley and its progeny signal quite clearly that those "justifications" for the PAC contributions and expenditure ban are neither legitimate nor compelling. The rhetorical parade of horribles cited by the advocates of increased regulation simply does not amount to corruption as the Court has defined it; thus, curing the system of them is not corruption prevention. Even if ridding the political system of the influence of big money and Washington lobbyists were somehow transformed into legitimate ends of government, a total ban on PAC contributions could not survive, for it is grossly over inclusive. Eliminating all political committee activity is not narrowly tailored, nor is it the least restrictive means of ridding the system of the influence of the money culture.

Unless the advocates of increased regulation truly intend to denounce *all* political alliances—regardless of whether they be ideological, issue driven, or public spirited—on the ground that they are *all*, in the very nature of things, bound to represent special interests, and unless they think that *all* attempts by individuals to maximize their political voices by joining together with others of like mind present an inherent problem, it is impossible to imagine how they could justify such a draconian measure as a total ban on PAC giving and spending. Cutting the heart out of the freedom of political speech and association, and conferring what would amount to a permanent monopoly on political parties, is neither necessary nor a narrowly tailored means for attaining even the ill-defined—and probably illegitimate—goal of eliminating the influence of big money and Washington lobbyists.

The PAC Ban Fallback. The fallback provision—which would lower the permissible amount of PAC contributions from $5,000 to $1,000 per election and would go into effect if or, more accurately, when the total ban on PAC contributions was declared unconstitutional—allegedly serves the same interest as the total ban. Since it aims to reduce rather than prohibit permissible contributions, the fallback provision might appear on its face to be less problematic than the total ban. That appearance is deceptive. Although the Court stated in *Buckley* that contribution limits are easier to defend than expenditure limits, it held that strict scrutiny was appropriate for both. Thus, the contribution limits

of the fallback provision must run the same strict scrutiny gauntlet, and their chances of surviving are slim to none.

First, note again that the advocates have not claimed during the course of recent debates that the interest being served by reducing the contribution limit from $5,000 to $1,000 is that of preventing corruption in the *Buckley* sense. It seems quite implausible to assert that any politician would be corrupted—or even appear to be corrupted—in the quid pro quo sense by a single contribution of even $5,000. Instead, the interest that the contribution reduction would serve is, again, the diffuse one of ending the "dominance" and "influence" of PACs. Thus, the problem the fallback limitation confronts at the outset is that, even if precisely defined, it serves an interest that has never been held to be either legitimate or compelling. And second, instead of being narrowly tailored, the limitation appears quite ill-suited to serve the interest asserted for it. Indeed, it is difficult to identify *any* interest that would be served by making it so much more difficut than it presently is for candidates to raise money: candidates will hardly be less distracted by fundraising if they have to raise money from even greater numbers of people because of the smaller amounts that any one individual or PAC may contribute.

Both the contribution ban and the fallback treat all PACs alike, as though whatever cause they espouse and however great (or limited) their resources, they all pose precisely the same danger—and the same degree of danger—of undermining the integrity of our political process. But given the enormous range and diversity of interests that PACs represent, treating them all alike makes little sense—and certainly fails the narrowly tailored, least restrictive means test. Moreover, it is important to note that even while it was sustaining the particular contribution limits in *Buckley*, the Court "cautioned . . . that if the contribution limits were too low, the limits could be unconstitutional."[19] Thus, contribution limits so low as significantly to impair the regulated party's ability to exercise First Amendment rights (as a $1,000 limit on PAC contributions would surely do) or so unreasonably below an amount that would give legitimate rise to a perception that the contributor was acquiring "undue influence" (as the $1,000 limit would surely be) are constitutionally vulnerable.

The only interest served by the fallback provision's ban on the bundling of small individual contributions to PACs would be that of preventing evasion of the contribution limitation. The bundling ban, however, represents a different sort of burden on First Amendment rights than does the constitutionally doubtful contribution limitation, which it supposedly serves as a backstop. For the bundling ban directly burdens the associational rights of individual PAC contributors. The Supreme Court recognizes that the right to associate is a "basic constitutional freedom"[20] and has stated repeatedly that "the practice of persons sharing common views banding together to achieve a common end is deeply embedded in the American political process."[21]

Advocates of the bundling ban claim that it is necessary to forestall PACs' evading the contribution limitations. Thus, whether the ban serves a compelling state interest will depend upon whether the interest served by the contribution limitations survives review and, if so, whether the ban is narrowly tailored—whether the Court sanctions a one-size-fits-all prohibition. Since the contribution limitations are unlikely to survive review, and since the one-size-fits-all prohibition is a clumsy solution in any event, the bundling ban is likely to be even more vulnerable than the contribution limitation it serves.

The fallback's prohibition of PAC contributions that raise any candidate's PAC receipts above 20 percent of campaign expenditure ceilings would also, to a large extent, stand or fall with the contribution limitations themselves, since the prohibition is defended in terms of its ability to strengthen the contribution limitations. The First Amendment burden of the 20-percent-of-expenditure limitation is more onerous than first appears, however, for after the 20 percent limit is reached the so-called limitation has the effect of a total ban. How such a limit would serve a corruption-prevention objective, moreover, is very difficult to discern. Corruption arises when large contributions are exchanged for particular political favors. If PAC contributions are not individually large enough to create a risk of corruption or its appearance, the fact that a candidate receives many of them—even were he to receive 100 percent of his campaign funding from them—simply does not increase the risk that he will be corrupted. Thus, the 20-percent-of-expenditure limitation not only is not narrowly tailored to serve a compelling state interest in preventing corruption or its appearance but also is not tailored to serve any identifiable or legitimate interest at all.

Finally, the attempt to redefine "independent expenditure"—and, in particular, to redefine "express advocacy" so as to include any and all partisan communications—runs flatly counter to the *Buckley* Court's explicit effort to immunize issue advocacy from regulation or restriction: "So long as persons or groups eschew expenditures *that in express terms advocate the election or defeat of a clearly identified candidate*, they are free to spend as much as they want to promote the candidate and his views."[22]

"Voluntary" Spending Limits

The proposals for voluntary spending limits keyed to relevant voting age populations are said to serve the interest in curbing excessive and even obscene campaign spending. Spending limits will hold down the costs of running for office and thus prevent one candidate from having an excessive advantage over another by reason of spending more. The limits are also touted for their supposed ability to redress the present imbalance in favor of incumbents (who have a grossly unfair advantage in fundraising because most PAC money goes to them).

Mandatory spending limits confront an impenetrable constitutional wall. The Supreme Court said in *Buckley* that expenditure limits simply do not serve to prevent corruption or the appearance of corruption in the electoral process, which is the only justification that the Court has ever accepted for limiting political expression. Indeed, the Court went further. It explicitly denounced the other justifications for spending limits that proponents had offered in *Buckley*, namely equalizing speech resources and stemming the rising cost of political campaigns. Because it represents such an unequivocal endorsement of freedom from government as the underlying conception of the First Amendment, the Court's aversion to restricting the voices of some in order to enhance the voices of others is worth emphasizing. Moreover, because it represents such a clear and definite rejection of the paternalism of those who think they know how much is too much to spend on political campaigning, it is worth quoting the Court's confirmation that "the mere growth in the cost of federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending and the resulting limitation on the scope of federal campaigns . . . In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign."[23]

It is, of course, because mandatory spending limits are so clearly unconstitutional that advocates of the proposed spending limits insist that they be voluntary. The transparent objective is to fit the limits into the safe harbor that the *Buckley* Court provided when it qualified its rejection of expenditure limitations by the following footnote:

"Congress may engage in public funding of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding."[24]

For a number of reasons, all reflecting the magnitude of the benefits and burdens attached to accepting or not accepting the limits, it is pure fiction to call them voluntary. They simply do not fit the *Buckley* proviso. To be specific, significant benefits are promised to those who accept the voluntary limits: candidates become eligible for free and reduced-rate television time[25] and reduced mailing rates while their opponents who do not accept the voluntary limits receive neither free time nor reduced rates. Moreover, candidates who agree to voluntary contribution limits when their opponents do not get an added benefit—their contribution limits and expenditure ceilings are raised. But burdens come with the benefits as well: candidates who volunteer to comply with the spending limits must demonstrate a threshold level of support (by raising 10 percent of the limit) before becoming eligible for the benefits; they must agree to raise 60 percent of their funds from individuals who reside in their own states or districts; and they must agree to limit the use of their own resources. In addition, they cannot use their free air time for commercials of less than 30 seconds in length.

When the Court in *Buckley* sustained the exchange of a presidential candidate's right to make unlimited expenditures in his own behalf for the right to receive public funding, it did so because it concluded that the purpose of public funding "was not to abridge, restrict, or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process."[26] The purpose of the current proposals to impose voluntary spending limitations along with their accompanying burdens and benefits, however, is quite different.

In the first place, the limits are not imposed in exchange for receipt of public funding and thus could not be defended as necessary to protect the integrity of a government-funded program. Second, the effect of the proposed expenditure limitations—whether they are deemed voluntary or not—will be to reduce substantially the quantity of campaign speech. Indeed, that must be their purpose, since the restrictions are explicitly motivated by the objective of reducing excessive spending. As the Eighth Circuit

Court of Appeals recently noted when evaluating analogous provisions of state campaign finance restrictions, one is "hard-pressed to discern how the interests of good government could possibly be served by campaign expenditure laws that necessarily have the effect of limiting the quantity of political speech in which candidates for public office are allowed to engage."[27]

The spending limitations also do not serve the posited goal of creating a level playing field between incumbents and challengers because the limitations fail to dissipate the already significant advantages of incumbency. Incumbents begin every electoral race with important advantages; equalizing the amount of money that incumbents and challengers can spend would simply make permanent the incumbent advantages that already exist. When the spending limits are combined with the proposed new restrictions on contributions and the increasingly complicated system of fundraising for challengers, they appear narrowly tailored not to level the playing field for challengers but instead to transform a challenger's initial disadvantage into a practically insurmountable barrier. That is the reason the proposals are so susceptible to the charge of being incumbent-protection measures.

Limits on Soft Money

Advocates of increased regulation of campaign finance often assert that soft money is the most dangerous and destructive money in the political system today. Soft money is money contributed by individuals, corporations, unions, and the like to the national and state parties for party-building activities, voter registration and get-out-the-vote drives, and generic issue- (rather than candidate-) oriented advertising. It is not subject to contribution limitations imposed by FECA because it is not used to advocate expressly the election of any clearly identified candidate. Reformers want to ban soft money because they believe that even though it does not go to support particular candidates it nevertheless has the unseemly propensity to influence elections. Thus, it invites wholesale evasion of the contribution limits now in place.

The reformers are right, of course: soft money *does* influence elections. But the resort to soft-money contributions is exactly what one would expect when people are prohibited from giving more directly.

Yet a ban on soft-money contributions would amount to an unprecedented restriction on political activity, one whose justification is not compelling and whose scope far exceeds what the First Amendment allows. Advocates of a soft-money ban defend it as a contribution-limitation-loophole-closing device: corporations and unions that would not otherwise be permitted to contribute to candidates' campaigns make large soft-money donations to political parties; and individuals often contribute soft money in excess of the amount they would be entitled to contribute to particular candidates. Such arguments assume, of course, that contribution limitations represent an appropriate and inviolable ceiling on the amount of money that individuals, corporations, and unions should be allowed to contribute to the political process *whether or not the contribution funds speech that creates a risk of quid pro quo corruption of particular candidates*. Thus, supporters of the ban make no pretense of establishing a link between soft-money contributions and the appearance or reality of candidate corruption that alone provides a constitutional predicate for regulation.[28]

Calling the soft-money contribution ban a contribution-limit-loophole closure does not change the basic fact, however: soft money does not fund speech that "in express terms advocate[s] the election or defeat of a clearly identified candidate for federal office," which is the *only kind* of speech for which the Court has held that contributions may be constitutionally restricted.[29] To regulate contributions for speech that is other than express advocacy of the election of particular candidates, the Court said, would create intractable vagueness problems and cause unacceptable chilling of protected, issue-oriented political speech. It would, in other words, thwart speech debating the merits of government policies and addressing the public issues that are at stake in an election—the very kind of speech that the First Amendment was written primarily to protect. Thus, because a ban on soft money aims directly and indiscriminately at core political activity, and because its proponents have not made their case that soft-money contributions pose a danger of quid pro quo corruption, the ban could not pass muster as a finely tuned means of achieving a compelling state interest.

Also bearing on the First Amendment implications of a ban on soft money is the Court's recent decision in *Colorado Republican Federal Campaign Committee v. FEC*, which held limits on independent expenditures by political parties—expenditures not coordinated with any candidate—to be unconstitutional. The independent expression of a political party's views, the Court affirmed, is core First Amendment activity, and limits on it cannot be justified with reference to a corruption-prevention rationale. Indeed, although the majority of the Court did not reach or address the issue, four justices expressed the further view that, given the practical identity of interests between party and candidate during an election, the corruption-prevention rationale for sustaining limitations on contributions did not support *any* limits on party spending, whether coordinated with the candidate or not. Although present law makes coordinated spending illegal, Justice Thomas pointedly questioned its rationale: "What could it mean for a party to 'corrupt' its candidate or to exercise 'coercive' influence over him?"[30] If the Court were to decide, when squarely facing the issue, that party spending on political activity cannot be limited, whether or not coordinated, then contributions to the party to make those expenditures would likewise seem to be protected from regulation. In sum, from constitutional perspective, restrictions on soft money are among the least defensible proposals for campaign finance reform. Indeed, arguments purporting to support such restrictions serve only to raise questions about limits on direct contributions.

Issue Advocacy

Insofar as they entail broadening the reach of campaign speech regulation to include speech that does not "in express terms advocate the election or defeat of a clearly identified candidate for federal office," proposals to control issue advocacy are constitutionally inform for the same reason that the soft-money ban is constitutionally infirm: they would regulate—and thus unacceptably chill—core political speech about the merits of policies and the proper resolution of public issues without a corruption-prevention rationale for doing so. Proponents of controls on issue advocacy claim that controls are necessary to prevent the acquisition of undue influence by advocates of particular issues. There is, however, no constitutional warrant or means for calibrating what constitutes "undue" influence, for the Constitution does not permit, nor does it provide, a metric for discerning how much influence is enough. We have no constitutional Goldilocks to say when the amount of influence possessed by advocates of particular positions is "just right." The inherent payoff for political participation in a democracy is the acquisition of influence, and it is the function of the First Amendment to protect efforts to acquire it, not to limit or constrain them.[31]

The constitutionality of proposals for regulation, insofar as they require disclosure by groups engaging in issue advocacy, is seriously jeopardized by *McIntyre* v. *Ohio Electrons Commission*.[32] In *McIntyre*, the Court had before it an Ohio statute that prohibited the distribution of anonymous campaign literature. Because the statute was a regulation of core political speech, the Court subjected it to strict scrutiny; and, because the statute did not serve a compelling state interest using the least restrictive means, the Court proceeded to strike it down. Unpersuaded that the ban was justified by Ohio's asserted interests either in preventing fraudulent and libelous statements or in providing voters with relevant information, the Court also could find no support for the statute in either *First National Bank of Boston* v. *Bellotti*[33] or in arguably relevant portions of *Buckley*.

In *Bellotti*, the Court invalidated a state law that prohibited corporations from spending money on speech designed to influence the outcome of referenda. In the course of doing so, the Court commented in dicta on the possibility that a requirement that the sponsor of corporate advertising be identified might be thought to be permissible on account of its "prophylactic effect." The *McIntyre* Court realized that the context of the *Bellotti* statement—expenditures by corporations—was not the same as the context of the Ohio statute, which purported to regulate independent expenditures by an individual. And whereas in *Buckley* the Court sustained mandatory reporting of independent expenditures in excess of a threshold level, the justices noted in *McIntyre* that the independent expenditures to which the disclosure requirement applied had been construed to mean only those expenditures that expressly advocate the election or defeat of a clearly identified candidate.[34] Thus, in *Buckley* there was a corruption-prevention rationale to support the expenditure-disclosure requirement. Such a rationale would lend only the most tenuous possible support to required disclosures of issue advocacy.

McIntyre does not purport completely to foreclose disclosure or reporting requirements with respect to independent expenditures. It does, however, reaffirm the Court's commitment to scrutinize strictly such requirements in order to preserve the right to engage in issue advocacy unencumbered by regulations that burden speech without producing a reciprocal benefit in corruption prevention.

Free TV

The proposals to require broadcasters to provide "free" TV time to federal candidates do not come under the *Buckley* rubric. Instead, insofar as they apply to broadcasters, their constitutionality is a function of the unique First Amendment jurisprudence that the Court has developed for the electronic media. That jurisprudence had its beginnings in *Red Lion Broadcasting Co.* v. *FCC*,[35] in which the Court, pointing to "spectrum scarcity," upheld the Federal Communication

Commission's rule that those attacked editorially by the broadcast media had a right of reply. Thus it denied the broadcasters' First Amendment claim that such an obligation impinged on their editorial freedom.

It is clear beyond peradventure that Congress could not constitutionally compel the *print* media to provide free space to similarly situated political candidates.[36] *Red Lion* sanctioned a different set of First Amendment rules for the broadcast media because the Court was persuaded that the scarcity of broadcast spectrum warranted content regulation of spectrum licensees' programming in the interests of diversity and fairness.

Many commentators questioned the rationality of the spectrum scarcity argument even at the time *Red Lion* was decided.[37] Regardless of whether it provided a plausible rationale at that time, however, spectrum scarcity has been rendered obsolete by the advent of cable and other technological advances. And courts, too, have increasingly criticized the argument as a justification for government control of the content of broadcast programming.[38]

There is no longer a factual foundation for the argument that spectrum scarcity entitles the government, in the public interest, to control the content of broadcast speech. Without the spectrum scarcity rationale to support it, the attempt to control broadcasters' speech by requiring them to provide *free* TV time to candidates for office would seem doomed to constitutional failure. Even were the spectrum scarcity rationale still viable, the Court has never held that *Red Lion* sanctioned "government regulations that impose specifically defined affirmative programming requirements on broadcasters."[39] The Court has been suspicious of any government action that "requires the utterance of a particular message favored by the Government," and it has been alert to guard against the "risk that Government seeks not to advance a legitimate regulatory goal but to suppress unpopular ideas or information or manipulate the public debate through coercion rather than persuasion."[40]

With respect to all speakers except the broadcast media, and most certainly with respect to candidates for political office, it goes almost without saying that any attempt by the government to dictate the format or control the content of speech is constitutionally suspect. In addition to commanding broadcasters to donate time so that political candidates may speak, the free TV proposals contemplate requiring candidates themselves, and not any surrogates, to speak in the donated time, thus dictating the format of their speech; and several suggestions have been made that the candidates must not engage in "negative" campaigning if they are to receive the free time, thus controlling the content of their entire speech. Those highly questionable aspects of the free TV proposals cannot be defended on the ground that the government, in pursuit of the public interest, is subsidizing certain candidate speech—thus conditioning receipt of its funds on the candidates' agreement to respect the contours of the government program. Such was the rationale that underlay the Court's holding in *Rust v. Sullivan*,[41] where the Department of Health and Human Services' "gag rule" prohibited recipients of federal family planning funds from providing abortion information. The *Rust* rationale could not support the format and content controls envisaged by the free TV proponents for the simple reason that the speech would be subsidized not by the taxpayers but by the broadcasters.[42]

In fact, what the free TV time proposals contemplate seems to be a bold end-run around traditional and well-established First Amendment principles. The broadcasters have no First Amendment right to resist compliance, proponents say, because spectrum scarcity permits the government to regulate their editorial judgments in the public interest. And the candidates have no First Amendment right to resist compliance with format or content controls because they are being permitted to speak for free. As the analysis above has demonstrated, the First Amendment stands as a more effective defense of freedom than the proponents imagine, and the Supreme Court would surely have little difficulty detecting the constitutional shell game that the free TV proposals epitomize.

Expanded Federal Election Commission Enforcement Powers

Many of the proposals for increased regulation of campaign finance envision a hugely enlarged enforcement role for the already overburdened and generally ineffectual Federal Election Commission.[43] The wisdom of imposing such a monumental burden on any federal agency, much less on this particular one, is questionable; but whether the enforcement mechanisms that Congress devises for implementing particular regulatory strategies are feasible or not does not usually raise First Amendment issues.

One enforcement proposal does raise such issues, however: the proposal to give the FEC power to seek to enjoin potential offenders on the ground that "there is a substantial likelihood that a violation is about to occur." The proposal is vulnerable to two different First Amendment challenges. The first involves vagueness. Many of the proposed substantive violations are themselves vague, and the "substantial likelihood" criterion for FEC action is also vague. The threat of FEC action based on either vague element of that ground would *not* only have an unacceptable chilling effect on many activities that are not violations; more significantly, it would also invite precisely the kind of arbitrary exercise of government power that the vagueness doctrine is designed to forestall.[44]

The second First Amendment challenge to giving the FEC power to enjoin campaign activity involves prior restraint on speech. Prior restraints are the "most serious and the least tolerable infringement of First Amendment rights,"[45] and they will not be sustained unless the Court is convinced that "the gravity of the evil, discounted by its probability, justifies such invasion of free speech as is necessary to avoid the danger."[46] It seems unlikely that the Court would hold that the mere possibility of violating campaign finance regulations poses the kind of threat to the national interest that would justify imposing prior restraints on speech, especially since the kind of speech put at risk by such an injunction—political speech during the course of an election campaign—lies at the very core of the First Amendment.

THE FIRST AMENDMENT ACCORDING TO THE REGULATORS

When one looks at Supreme Court precedents—in particular at *Buckley* and its progeny—the First Amendment case against current proposals for more stringent campaign finance regulations appears impregnable. But, given the vehemence and surety with which those proposals are advocated, perhaps it is well to look more closely both at the precedents for *Buckley* and related cases and at the conception of the First Amendment the reformers embrace and how that conception differs from the First Amendment that is presently embodied not only in our democratic traditions but in our supreme law.

An important question to ask is to what extent the precedents—which stand as barriers to so-called reform efforts—are rooted in traditions and ideas of freedom that we wish to preserve. *Buckley* may be the cornerstone of the Supreme Court's modern campaign finance jurisprudence, but it is important to appreciate that it was not a novel, isolated case. Rather, it was laid upon an already existing, solidly constructed First Amendment foundation. Thus, to appreciate its true significance, and understand what is at stake in the present debate, it helps to see *Buckley* as sustaining a First Amendment tradition that was already deeply embedded at the time the case was decided. *Buckley* was one in a long and continuing line of cases that have articulated and upheld, in a wide variety of contexts, the principles of free political speech and individual political freedom that lie at the very heart of the First Amendment.

The Constitution is the fundamental charter of our representative democracy, the embodiment of our right to self-government and of all our corollary liberties. The First Amendment's specification that "Congress shall make no law . . . abridging freedom of speech or of the press; or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances" plays a crucial role in determining the character of our democracy. "A major purpose of [the] Amendment was to protect the free discussion of governmental affairs."[47] Accordingly, it guarantees that individual citizens may speak, publish, and join together in groups to engage in political activity to try to achieve the substantive ends they deem desirable.[48] They may attempt to persuade others and to acquire political influence, and the government may not interfere with, punish, repress, or otherwise impede their efforts.[49]

That conception of the First Amendment is fleshed out in Supreme Court opinions that both pre- and post-date *Buckley*. Those opinions make it clear that implicit in the First Amendment guarantee of freedom from government control over what citizens may say and with whom they may associate as participants in the political process is the important corollary that citizens may freely contribute or expend the resources at their command—their intellect, their time, their talent, their organizational or rhetorical skills, their money—to or on political activity.[50] The government may not interfere in their efforts to persuade their fellow citizens of the merits of particular proposals or of particular candidates,[51] nor may it disrupt the free communication of their views,[52] nor penalize them for granting or withholding their support from elected officials on the basis of the positions those officials espouse.[53] Government may neither prescribe an official orthodoxy,[54] require the affirmation of particular beliefs,[55] nor compel citizens to support causes or political activities with which they disagree.[56] Government may neither punish its critics nor impose unnecessary burdens on their political activity.[57] Those are the bedrock principles of political freedom with which *Buckley* and its progeny are consistent; those are the principles that impelled the *Buckley* Court's conclusion that government may not restrict independent political expenditures and may limit political campaign contributions only in the name of preventing corruption.

To remain faithful to those principles, one must be vigilant to detect the costs to freedom lurking in reform proposals that come dressed as benign efforts to achieve a healthy politics. In the course of explaining why the First Amendment should be amended, House Minority Leader Richard Gephardt (D-Mo.) baldly stated that formal amendment was needed so that Congress could enact new and stringent campaign finance restrictions because "[w]hat we have is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You can't have both."[58] That breathtaking assertion performs a real service. It alerts us to the fact that, in the eyes of advocates of reform, freedom as we know it cannot survive an ambitious program of campaign finance regulations. Of equal importance, it begs the all-important questions about what a "healthy democracy" would look like and why a healthy democracy is not *by definition* one, like ours at present, in which freedom of speech reigns.

Nevertheless, the regulatory proposals that have recently been placed on the legislative agenda do claim to embody a First Amendment vision of sorts. Based not on legal precedent but crafted by legal scholars and judges who adumbrated it in the pages of scholarly journals and treatises, the conception of the First Amendment that animates proposals for campaign finance regulation bears almost no resemblance to the freedom-oriented conception that actual First Amendment doctrine embodies. Indeed, it distorts our traditional understandings of what the very words of the amendment mean and imparts an extraordinary and unprecedented significance to the phrase "freedom of speech." Precisely because it animates the present reform agenda, however, it warrants a brief summary.

The conception of the First Amendment that underlies the regulatory agenda of proponents of campaign finance reform is best understood as a rejection of the traditional understanding that freedom of speech necessarily implies individual political liberty and the absence of substantive or qualitative regulation of political debate. Proponents of reform do not perceive that they utter a contradiction when they assert that freedom of speech can be "enhanced,"[59] its purposes "furthered, not abridged,"[60] by legislation that regulates and restricts political speech. That is because the proponents of regulation believe that freedom is a quality of political life that can be regulated into existence rather than an aspect of democracy that government regulation necessarily and by definition destroys. They think that the guarantee of freedom of speech is in fact *a grant of power to*, rather than *a withholding of power from*, the government. With such power, government can control the content of political debate and fix the political process so that "political reason-giving" will prevail. Political influence will be distributed equally among groups so that "people who are able to organize themselves in such a way as to spend large amounts of cash [will] not [be] able to influence politics more than people who are not similarly able."[61] Then money will no longer play a role in our politics.

The regulators appear to distrust deeply the American people. They unselfconsciously express the concern that "completely unregulated [i.e., free] political campaigns will degenerate in such a way that the electorate would be divested of its power to make a reasoned choice among the candidates."[62] In other words, they believe that the American people cannot be trusted with the choices and political responsibilities entailed in a free political system; instead, the government must regulate the political process in order to help the people to make appropriate decisions.

In the First Amendment context, three aspects of the regulators' conception deserve particular emphasis. The first has already been mentioned: the regulators' conception perverts the meaning of the word "freedom."

Second, while decrying the polluting effect of wealth on the democratic process and celebrating spending and contribution restrictions purporting to keep the voices of individual citizens from being drowned out, reformers exempt the press from their reform proposals. In the recent debate, of course, the press has largely bemoaned the vices of the current system, and "its myth-making has been especially important in the shaping of mass opinion about reform."[63] Simply by virtue of their ability to influence the public agenda, the media distort debate, and the distortion of the political process that results from media treatment of particular candidates or issues is likely to be significant.[64] The Supreme Court has explicitly eschewed defining the rights of the press more broadly than speech rights of ordinary citizens.[65] Yet under the reformers' conception of the First Amendment, the media and media corporations enjoy privileges not enjoyed by ordinary citizens.

The third noteworthy aspect of the reformers' conception of the First Amendment is that the agenda that conception is used to promote is neither premised on empirical analysis, nor derived from established postulates, nor defended in terms of predictions about testable results. Rather, it rests on pejorative and highly charged rhetoric, is formulated in ill-defined but evocative terms, and is defended with extravagant claims about benign effects. Yet upon analysis, the picture the regulators paint—both of political reality and of the goals of reform—is so vague that it begs all the important questions.

Thus, when the late Judge Skelly Wright, long in the reform camp, surveyed the political process, he was dismayed to find "the polluting effect of money in election campaigns." He worried that "[c]oncentrated wealth . . . threaten[ed] to distort political campaigns and referenda," and he announced that "[t]he voices of individual citizens are being drowned out" by the "unholy alliance of big spending, special interests, and election victory."[66] Similarly, Professor Cass Sunstein of the University of Chicago more recently asserted that "'[m]any people think that the present system of campaign financing distorts the system of free expression, by allowing people with wealth to drown out people without it. . . . [C]ampaign finance laws might be thought to promote the purpose of the system of free expression, which is to ensure a well-functioning deliberative process among political equals."[67]

What do all those words mean? What does the "pure political process"—the one that is being "polluted"—actually look like? How rich are "people with wealth"? How poor are "people without it"? Apart from one person, one vote, what does it mean to be a "political equal"? If it means that one cannot legitimately attempt to acquire any more political influence than anyone else has, what point is there in participating in even a "well-functioning deliberative process"? And why isn't the individual political freedom that is guaranteed by present First Amendment doctrine the best means of securing a "well-functioning" democracy?

The reason questions like those are important is that the Supreme Court engages in strict scrutiny of legislation that restricts campaign giving and spending. That requires the Court to analyze carefully the asserted relationships between ends and means—a process that can hardly go forward when the ends of the legislation cannot be precisely defined and the means can be rhetorically invoked but not actually spelled out. Moreover, since campaign finance reforms have so often turned out to have unintended—indeed perverse—consequences for the political process, and since past reforms, far from having leveled the political playing field, have only entrenched incumbents, it appears doubly important that the goals of proposed new regulations be precisely specified and that the means chosen to achieve them be persuasively shown to be well targeted and genuinely likely to hit their mark.

CONCLUSION

In conclusion, current proposals for new regulation of federal election campaign finance practices are constitutionally indefensible. In their general conception, they are nothing short of a practically complete rejection of the individual and associational rights of expression and political participation that the First Amendment guarantees. In their specifics, the governmental interests they claim to serve are neither compelling nor even legitimate. And the means they deploy are neither the least restrictive nor finely tailored. If they were to be enacted, and were challenged in court and subjected to genuinely strict scrutiny, none of the proposed regulations could survive review. They could survive only if the Supreme Court decided to amend the First Amendment by judicial fiat.

APPENDIX: BUCKLEY'S PROGENY

Bellotti, widely known as the "corporate speech" case, invalidated a Massachusetts law that prohibited banks and business corporations from making expenditures to influence the vote on ballot referenda that did not materially affect their business, property, or assets. The Court strictly scrutinized the state interests asserted in behalf of the statute and the relationship between those interests and the spending limitations alleged to be the means of securing them and rather easily concluded that there was an insufficient means-end relationship to justify the limitations.

Sustaining FEC limits on the amount of money that an unincorporated association is permitted to give to a multicandidate political committee, the Court in *California Medical Association v. Federal Election Commission* engaged in lenient review. Contributions are "speech by proxy," the Court declared, so limiting them did not "restrict the ability of individuals to engage in protected political advocacy."[68]

Insisting that "there is no significant state or public interest in curtailing debate and discussion of a ballot measure," the Court in *Citizens against Rent Control v. City of Berkeley*[69] strictly scrutinized a limitation on contributions to committees formed to support or oppose ballot measures. It invalidated the limitation.

Federal Election Commission v. National Right to Work Committee was a challenge to a section of FECA that limited the National Right to Work Committee to solicitation of "members." Declaring that it would not "second-guess a legislative determination as to the need for prophylactic measures where

corruption is the evil feared,"[70] the Court narrowly construed the section and, as so construed, sustained it against a First Amendment challenge.

But in the next case, *Federal Election Commission v. National Conservative Political Action Committee*,[71] the Court reasserted its intention and authority strictly to scrutinize corruption-prevention justifications, at least when they were offered in support of limitations on expenditures. The decision invalidated §9012(f) of the Presidential Election Campaign Fund Act, which prohibited political committees from making independent expenditures in excess of $1,000 to support the election of a presidential candidate who had opted to receive public funding. "When the First Amendment is involved," then-Justice Rehnquist said, a "rigorous" standard of review is called for and deference to a legislative judgment is appropriate only "where the evil of potential corruption had long been recognized."[72]

Federal Election Commission v. Massachusetts Citizens for Life[73] was the next major campaign finance reform case. Massachusetts Citizens for Life, a nonprofit, nonstock corporation organized to "foster respect for human life and to defend the right to life of all human beings . . . through . . . political . . . activities," violated FECA restrictions on independent spending by corporations when it financed a special edition of its newsletter in which it identified and advocated the election of "pro-life" candidates. The Court held, however, that as applied to MCFL's expenditure in this case FECA was unconstitutional. First, it burdened the right of the organization to make independent expenditures—"expression at the core of our electoral process and of the First Amendment freedoms."[74] Second, because "it was formed to disseminate political ideas, not to amass capital,"[75] MCFL did not pose a threat of "unfair deployment of wealth for political purposes," nor did it "pose [a] danger of corruption."[76] Thus the "concerns underlying the regulation of corporate political activity are simply absent with regard to MCFL."[77] The commission's argument that it needed a broad prophylactic rule like the one the Court had sustained in *National Right to Work Committee* did not persuade the Court. *National Right to Work Committee* involved restrictions on solicitation for a political committee that made *contributions* to candidates, whereas the regulation at issue in *MCFL* was a restriction on *independent expenditures*; moreover, the administrative convenience of a bright-line rule is of insufficient weight to count as a compelling interest in treating two unlike entities—business corporations and groups like MCFL—alike.

The particular restrictions on independent expenditures at issue in *MCFL* were held unconstitutional. On the way to reaching that result, however, the Court appeared to suggest that if MCFL had been an "ordinary" corporation—one that posed a threat of corruption by "*unfair* deployment of wealth for political purposes" instead of one formed for the particular purpose of engaging in political advocacy—the case might have come out differently.

That suggestion bore fruit in *Austin v. Michigan Chamber of Commerce*,[78] in which the Court sustained a state law prohibiting the use of corporate treasury funds to make independent expenditures in support of or in opposition to candidates in elections for state office. The state defended the expenditure prohibition on the ground that "the unique legal and economic characteristics of corporations necessitate some regulation of their political expenditures to avoid corruption or the appearance of corruption." Justice Marshall's majority opinion upholding the restriction accepted that formulation of the corruption-prevention rationale and in doing so seemingly embraced a conception of legislative power to define and prevent "corruption" different from, more expansive than, and much less precise than that which the *Buckley* court had endorsed. *Buckley* and its progeny had limited legislative power to define corruption by focusing on corruption's deleterious effect on the integrity of elected officials. Corruption that legislatures may prevent occurs only when "[e]lected officials are influenced to act contrary to their obligations of office by the prospect of financial gain to themselves or infusions of money into their campaigns. The hallmark of corruption is the financial quid pro quo: dollars for political favors."[79] The *Austin* opinion implied that legislatures could choose to define "corruption" to include imprecisely defined untoward effects that spending might have not just on the behavior of elected officials but also on the electoral process itself.[80]

Although it may signal a departure from *Buckley*'s limiting principles, the precise extent to which *Austin* undermines *Buckley*'s constraints on legislative power to define corruption remains unclear for at least two reasons. First, the *Austin* Court made much of the fact that the restriction at issue there was imposed on corporate expenditure of treasury funds, thus hinting that had the prohibition applied to independent expenditures by individuals, or even by separate segregated corporate political action committees, the result would have been different and the prohibition would have been struck down. Second, Justice Marshall's opinion is obscure about the meaning it ascribes to the term "corruption." Although the opinion is larded with prejorative and evocative references to the "influence of political war chests"[81] and the "corrosive and distorting effects of immense aggregations of wealth,"[82] it does not describe a normative baseline of legitimacy that would permit a disinterested observer to detect a genuine threat of "corruption" in any particular campaign finance practice. The most the opinion does in that regard is to suggest that the distortion that is a permissible target of the legislature's concern stems from the fact that "the resources in the treasury of a business corporation . . . are not an indication of popular support for the corporation's political ideas."[83] Unfortunately, the opinion fails to explain the First Amendment principle that gives that fact the power to transform the most highly protected category of core political speech into an activity subject to complete legislative proscription.

The Supreme Court's most recent pronouncement on the constitutionality of campaign finance regulations came in the 1996 case of *Colorado Republican Federal Campaign Committee*, in which the Court held seven to two that independent expenditures by political parties cannot constitutionally be limited by Congress. Two justices, Stevens and Ginsburg, dissented. They signaled that they were prepared to retreat from *Buckley;* they would have held that any spending by a political party represents a contribution to a candidate and can accordingly be limited, and they were prepared to defer to Congress's judgment that measures to level the political playing field were necessary and that there was too much spending on political campaigns. The other justices stayed well within the *Buckley* framework, and four of them would have gone further to safeguard the First Amendment than did Justice Breyer's opinion for the Court. Justice Kennedy, for example, got the support of Chief Justice Rehnquist and Justice Scalia for his position that spending by political parties, even if it is coordinated with candidates, cannot be restricted pursuant to the First Amendment because to restrict party spending is to stifle what parties exist to do. Justice Thomas, in a strongly argued opinion, endorsed abandoning *Buckley's* dichotomy between contributions and expenditures and advocated treating contribution and expenditure limitations the same for First Amendment purposes, subjecting both to strict scrutiny and not permitting broad prophylactic corruption-preventing measures.

NOTES

1. John V. Lindsay, "Free TV for Political Candidates? Yes, to Cleanse the System," *New York Daily News*, February 20, 1996.

2. Ruth Marcus and Charles R. Babcock, "The System Cracks under the Weight of Cash: Candidates, Parties and Outside Interests Dropped a Record $2.7 Billion," *Washington Post*, February 9, 1997, p. A1.

3. Ibid, pp. 20–21.

4. Frank J. Sorauf, "Politics, Experience, and the First Amendment: The Case of American Campaign Finance," *Columbia Law Review* 94 (1994): 1350 (citing the amicus brief of Common Cause that was filed in *Buckley v. Valeo*).

5. Helen Dewar and Guy Gugliotta, "In Campaign Finance, One Party's 'Level Playing Field' Is Another's Shaky Ground." *Washington Post*, April 7, 1997, p. A6.

6. *Buckley v. Valeo*, 424 U.S. 1, 44–45 (1976) (per curiam).

7. Pub. L. no. 93–443, 88 Stat. 1263 (1974).

8. *Buckley* at 14 (quoting *Mills v. Alabama*, 384 U.S. 214, 218 (1966)).

9. Ibid. at 20.

10. Ibid. at 21. The different treatment accorded to contributions and expenditures has been subjected to scathing criticism both on and off the Court, most recently in *Colorado Republican Federal Campaign Committee v. Federal Election Commission*, 116 S. Ct. 2309, 2325 (1996) (Thomas, J., concurring in the judgment and dissenting in part).

11. *Buckley* at 25 (Contribution limitations may be sustained if the state demonstrates a sufficiently important interest and deploys means closely drawn to avoid unnecessary abridgment).

12. Ibid. at 19.

13. Ibid. at 26.

14. Ibid. at 48–49.

[15] The Appendix to this study contains a more detailed analysis of how the cases decided since *Buckley* have implemented the *Buckley* framework.

[16] *Citizens against Rent Control v. Berkeley*, 454 U.S. 290, 296 (1981).

[17] Ibid. at 299.

[18] Ann McBride, president of Common Cause, Testimony before the Senate Rules Committee, February 1, 1996. See also, to the same effect, Joan Claybrook, president of Public Citizen, Testimony before the Senate Rules Committee; and Becky Cain, president of the League of Women Voters, Testimony before the Senate Committee on Rules and Administration, March 13, 1996.

[19] *Carver v. Nixon*, 72 F.3d 633, 637 (1995) (citing *Buckley* at 30).

[20] *Kusper v. Pontikes*, 414 U.S. 51, 57 (1973).

[21] *Citizens against Rent Control* at 294.

[22] *Buckley* at 45.

[23] Ibid. at 57.

[24] Ibid. at 57n. 65.

[25] "Free" in the sense of no cost to them, but not free in the sense of "costless." The cost would be borne by the broadcasters.

[26] *Buckley* at 92–93.

[27] *Shrink Missouri Government PAC v. Maupin*, 71 F.3d 1422, 1426 (8th Cir. 1995).

[28] People who favor increased regulation indulge in a rhetorical strategy that implicitly equates big money with corruption and undue influence. It is thus important to recall that seeking to influence policy is what political activity—and free speech—is all about. We have no metric to tell us when influence is undue. And the Court has squarely held that *only* activities that create a danger of *quid pro quo corruption* can be constitutionally regulated.

[29] *Buckley* at 44–45.

[30] *Colorado Republican Federal Campaign Committee* at 2330–31 (Thomas, J., concurring in the judgment and dissenting in part).

[31] See Douglas Johnson and Mike Beard, "'Campaign Reform': Let's Not Give Politicians the Power to Decide What We Can Say about Them," Cato Institute Briefing Paper no. 31, July 4, 1997.

[32] *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995).

[33] *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978).

[34] *McIntyre* at 445.

[35] *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969).

[36] See *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974).

[37] See, for example, David Lange, "The Role of Access Doctrine in the Regulation of the Mass Media: A Critical Review and Assessment," *North Carolina Law Review* 52 (1973): 1. See also Scot Powe, "Or of the [Broadcast] Press," *Texas Law Review* 55 (1976): 39.

[38] See, for example, *Turner Broadcasting System Inc. v. FCC*, 512 U.S., 622, 637–38 (1996) (noting that both courts and commentators have questioned the validity of the scarcity rationale for disparate treatment of broadcast and print media); *Telecommunications Research & Action Center & Media Access to Project v. FCC*, 801 F.2d 501 (DC Cir. 1986).

[39] Rodney A. Smolla, "The Culture of Regulation," *CommLaw Conspectus* 5 (1997): 193, 199.

[40] *Turner Broadcasting* at 641.

[41] *Rust v. Sullivan*, 500 U.S. 173 (1991).

[42] Cf. *CBS, Inc. v. FCC*, 453 U.S. 367 (1981), in which the Supreme Court sustained the FCC's reading of §312(a)(7) of the Communications Act of 1943, to the effect that the section created an affirmative, promptly enforceable right of reasonable access to the use of broadcast stations for individual candidates seeking federal office. *CBS v. FCC* provides no comfort to the proponents of free TV, however, since §312(a)(7) required only that networks provide access *for which candidates were willing and had offered to pay.*

[43] Benjamin Weiser and Bill McAllister, "The Little Agency That Can't: Election Law Enforcer Is Weak by Design, Marginalized by Division," *Washington Post*, February 12, 1997, p. A1.

[44] See, for example, *Smith v. Goguen*, 415 U.S. 566, 572–73 (1974) (The vagueness doctrine "requires legislatures to set reasonably clear guidelines for law enforcement officials and triers of fact in order to prevent 'arbitrary and discriminatory enforcement.' Where a statute's literal scope, unaided by a narrowing state court interpretation, is capable of reaching expression sheltered by the First Amendment, the doctrine demands a greater degree of specificity than in other contexts.") (Citation omitted.)

[45] *Nebraska Press Association v. Stuart*, 427 U.S. 539 (1976). See also *New York Times Co. v. U.S.*, 403 U.S. 713 (1971) ("Any system of prior restraint of expression comes to this Court bearing a heavy presumption against its constitutional validity.")

[46] *Nebraska Press Association* at 561. (Citations omitted).

[47] *Mills v. Alabama*, 384 U.S. 213, 218 (1966).

[48] *NAACP v. Button*, 371 U.S. 415 (1963); *NAACP v. Alabama*, 357 U.S. 449 (1958).

[49] *Hague v. CIO*, 307 U.S. 496 (1939).

[50] *Meyer v. Grant*, 496 U.S. 414 (1988).

[51] *Pickering v. Board of Education*, 391 U.S. 563 (1968).

[52] *Mt. Healthy City School District Board of Education v. Doyle*, 429 U.S. 274 (1977).

[53] *Elrod v. Burns*, 427 U.S. 347 (1976).

[54] *West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943).

[55] *Wooley v. Maynard*, 430 U.S. 705 (1977).

[56] *Communication Workers of America v. Beck*, 487 U.S. 735 (1988); *Abood v. Detroit Board of Education*, 431 U.S. 209 (1977).

[57] *Village of Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620 (1980).

[58] Quoted in Nancy Gibbs, "The Wake-Up Call: Clinton Makes Serious Noises about Campaign Reform, But That May Not Be Enough to Change a Cozy System That Loves Special Interest Money," *Time*, February 3, 1997, p. 22.

[59] Laurence H. Tribe, *American Constitutional Law*, 1st ed. (Mineola, N.Y.: Foundation Press, 1978), §13–27, pp. 802–3.

[60] Daniel Hays Lowenstein, "Campaign Spending and Ballot Propositions: Recent Experience, Public Choice Theory, and the First Amendment," *UCLA Law Review* 29 (1982): 581–82.

[61] Cass R. Sunstein, "Political Equality and Unintended Consequences," *Columbia Law Review* 94 (1994): 1392.

[62] Tribe, §13–26, p. 798.

[63] Frank J. Sorauf, "Politics, Experience, and the First Amendment: The Case of American Campaign Finance," *Columbia Law Review* 94 (1994): 1356.

[64] Cf. Sanford Levinson, "Electoral Regulation: Some Comments," *Hofstra Law Review* 18 (1989): 412 ("I am unpersuaded by any analysis that expresses justified worry about the impact of money on the behavior of public officials and, at the same time, wholly ignores the power of the media to influence these same public officials in part through the media's ability to structure public consciousness.")

[65] Cf. *Pell v. Procunier*, 417 U.S. 817, 834 (1974) ("The Constitution does not . . . require government to accord the press special access to information not shared by members of the public generally.")

[66] Skelly Wright, "Money and the Pollution of Politics: Is the First Amendment an Obstacle to Political Equality?" *Columbia Law Review* 82 (1982): 614, 622.

[67] Cass R. Sunstein, *The Partial Constitution* (Cambridge, Mass.: Harvard University Press, 1993), p. 84.

[68] *California Medical Association v. Federal Election Commission*, 453 U.S. 182, 196, 199n. 20 (1981).

[69] *Citizens against Rent Control* at 291.

[70] *Federal Election Commission v. National Right to Work Committee*, 459 U.S. 197, 210 (1982).

[71] *Federal Election Commission v. National Conservative Political Action Committee*, 470 U.S. 480 (1985).

[72] Ibid. at 500.

[73] *Federal Election Commission v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986).

[74] Ibid. at 251 (citations omitted).

[75] Ibid. at 259.

[76] Ibid. at 260.

[77] Ibid. at 263.

[78] *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990).

[79] *Federal Election Commission v. National Conservative Political Action Committee* at 497.

[80] *Austin* at 659–60.

[81] Ibid. at 659 (quoting *Federal Election Commission v. National Conservative Political Action Committee* at 500–501).

[82] Ibid. at 660.

[83] Ibid. at 659 (quoting *Federal Election Commission v. Massachusetts Citizens for Life* at 258).

Mr. MCCONNELL. Mr. President, I will ask to have printed in the RECORD an excellent treatise on campaign finance reform and the Constitution by Professor of Law Kathleen M. Sullivan of Stanford which was recently published in the law journal published by the University of California at Davis.

Professor Sullivan examines and dismisses what she terms the reformers' "Seven Deadly Sins" of political money. This is must reading for anyone desiring a better understanding of the first amendment's role in this debate.

Mr. President, I ask unanimous consent that that treatise be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the University of California, Davis Winter Law Review, 1997]

POLITICAL MONEY AND FREEDOM OF SPEECH

(By Kathleen M. Sullivan)

[Stanley Morrison Professor of Law, Stanford University. This Essay was originally the Edward L. Barrett, Jr. Lecture on Constitutional Law, delivered at the University of California, David School of Law on February 13, 1997. The author is grateful for the hospitality of Dean Bruce Wolk and the Law School on that occasion. For helpful comments, the author thanks Alan Brownstein, Floyd Feeney, and participants in a GALA workshop organized by Sanford Kadish at the University of California, Berkeley. For research assistance, the author thanks Matthew Shors.]

INTRODUCTION

There is much talk about political money in the wake of the 1996 election. Some find the sheer volume of money spent impressive: an estimated $3 billion on all elections, $660 million on electing the Congress, and $1 billion on the presidential election. Others focus on the questions raised about alleged fund-raising activities that are forbidden by existing laws, such as contributions to political parties by foreign nationals. Still others focus on "loopholes" in the existing laws that allow their nullification as a practical matter. Nearly all focus on the presumed special influence of large contributors on political outcomes.[1]

Against this backdrop has arisen a hue and cry for campaign finance reform. Senators McCain and Feingold have revived a proposed Senate campaign finance reform bill that withered under filibuster in the 104th Congress;[2] Representatives Shays and Mechan have introduced comparable bipartisan legislation in the House. President Clinton has endorsed those bills.[3] Newly retired Democratic Senator Bill Bradley has called the McCain-Feingold proposal timid and advocates more sweeping reforms; he favors a constitutional amendment to overrule *Buckley v. Valeo*,[4] the 1976 Supreme Court decision holding that some campaign finance limits violate the right of free speech.[5] Other prominent advocates of the overrule of *Buckley* include twenty-six legal scholars led by Ronald Dworkin,[6] and twenty-four state attorneys general who argue that political money threatens the integrity of elections that it is their job to defend.[7] Countless newspaper editorial pages have opined that the time is ripe—while public outrage is high—to finally do something about campaign finance reform. Voters in states such as California and Oregon have adopted ballot measures imposing limits on the financing of state election campaigns.[8]

In short, the view that political money should be limited has become mainstream orthodoxy. Against this formidable array of thoughtful opinion, I offer here a contrary view. This Essay first lays out briefly the current law of political money and the current landscape of proposals for its reform. It then offers a critical guide to the reformers' arguments by examining the political theories that more or less explicitly underlie them. It concludes that the much belittled constitutional case against campaign finance limits is surprisingly strong, and that the better way to resolve the anomalies created by *Buckley v. Valeo* may well be not to impose new expenditure limits on political campaigns, but rather to eliminate contribution limits.

I. The law of political money

In our political system, political campaigns are generally funded with private money—the candidates' own resources plus contributions of individuals, political parties, and organized groups. The presidential campaign is an exception, funded publicly since the 1976 campaign.[9] In our system, candidates also communicate primarily through entities that are privately owned—the print and electronic press that provide candidates free news coverage and opportunities for paid political advertisements. One could imagine alternate systems, such as public funding of parties and candidate elections or public ownership of the communications media, but

[1] Footnotes at end of article.

such systems are not our own, nor likely to be our own any time soon.

In the 1976 *Buckley* decision, the Court held that restrictions on political spending implicate freedom of speech. Invalidating some portions of the post-Watergate amendments to the Federal Elections Campaign Act but upholding others, the Court held that *contributions* to a candidate could constitutionally be limited, but *expenditures* could not, except as a condition of receiving public funds.[10] Thus, after *Buckley*, candidates may spend all they want, unless they are presidential candidates who have taken public money; so may political parties, individuals, and organized groups such as political action committees (PACs)—as long as they act independently of the candidate.[11] But direct donations to a candidate's campaign may be limited in amount. Under current federal law, an individual is limited in each election to contributing one thousand dollars to a candidate, five thousands dollars to a PAC, and twenty thousand dollars to a national party, and must keep the grand total to twenty-five thousand dollars. PACs may give only five thousand dollars to a candidate, five thousand dollars to another PAC, and fifteen thousand dollars to a national party.[12] Political parties, too, face spending limits when they contribute to the campaigns of their candidates, though these are higher than those for PACs.[13]

The split regime of *Buckley* thus authorizes government to limit the *supply* of political money, but forbids it to limit *demand*. Why the distinction? *Contributions*, the Court said, implicate lesser speech interests; they merely facilitate or associate the contributor with speech. They also raise the specter of "corruption" or the appearance of corruption—that is, the danger of a quid pro quoing.[14] *Expenditures*, the Court said, are more directly expressive, and involve no corruption—a candidate cannot corrupt herself, and those who spend independently of the candidate's campaign cannot reasonably expect a pay-back.[15] Nor, held the Court, could spending limits be justified by the alternative rationale of equalizing political speaking power, because that rationale, the Court said, is "wholly foreign to the First Amendment."[16] Thus, the Court held, the only way government may bring about political expenditure limits is through a quid pro quo of its own: government may induce a candidate to accept expenditures limits in exchange for public subsidies.

Various cogent criticisms have been leveled at the contribution/expenditure distinction. First, both contributions and expenditures may equally express political opinions. As Justice Thomas wrote last summer:

"Whether an individual donates money to a candidate or group who will use it to promote the candidate or whether the individual spends the money to promote the candidate himself, the individual seeks to engage in political expression and to associate with likeminded persons. A contribution is simply an indirect expenditure."[17]

This argues for protecting both expenditures and contributions alike. Second, an "independent" expenditure may inspire just as much gratitude by the candidate as a direct contribution. This argues for regulating them both alike. Finally, it has been objected, it is unclear why expenditure limits may be induced with carrots if they may not be compelled with sticks.[18] This argues for precluding private expenditure limits even as a condition of public subsidies.

These inconsistencies arise from the *Buckley* Court's attempt to solve an analogical crisis by splitting the difference. *Buckley* involved nothing less than a choice between two of our most powerful traditions: equality in the realm of democratic polity, and liberty in the realm of political speech. The Court had to decide whether outlays of political money more resemble voting, on the one hand, or political debate, on the other. The norm in voting is equality: one person, one vote. The norm in political speech is negative liberty: freedom of exchange, against a backdrop of unequal distribution of resources (it has been said that freedom of the press belongs to those who own one[19]). Faced with the question of which regime ought to govern regulation of political money, the Court in effect chose a little of both. It treated campaign contributions as more like voting, where individual efforts may be equalized, and campaign expenditures as more like speech, where they may not.

II. Leading reform proposals

Currently on the table are three type of reform proposals to impose new restrictions on political money. One advocates further limiting campaign contributions. The second proposes more conditioning of benefits upon corresponding "voluntary" limits on private spending. The third would place outright restrictions on campaign expenditures. The first two seek to operate within the *Buckley* framework; the third would overrule *Buckley* in part.

The first type of reform proposal would "close loopholes" in the existing regulatory scheme by extending the reach of contribution limits. For example, there are currently no restrictions on contribution "bundling" by intermediaries. One political entrepreneur may collect several individual contributions of one thousand dollars each and turn over the entire sum to the candidate, PAC, or party—taking political credit for a much larger amount than she personally could have contributed. Some reform proposals, such as McCain-Feingold, would treat such "bundled" contributions as contributions by the intermediary, and therefore subject to the otherwise applicable contribution limits.[20] In other words, no more bundling.[21]

Other such proposals would impose contribution limits on so-called "soft money"—those sums that now may be given without limit by individuals, PACs, and even corporations and labor unions (who are forbidden to give directly to candidates) to political parties for purposes of grass-roots "party-building" activities. Since the 1988 campaign, use of soft money to finance de facto campaign advertisements has proliferated. Advertisements celebrating one's party, its stand on issues, or the accomplishments of its leadership, after all, do serve to build party loyalty; but to the untutored eye, they may be difficult to distinguish from campaign ads. The same is true of soft money ads attacking the other party. The amount of soft money raised by the two major parties combined has increased from $89 million in 1992 to $107 million in 1994 to roughly $250 million in 1996.[22] Some reform proposals, again including McCain-Feingold, would limit soft money contributions.[23] The Democratic National Committee has announced its intention to limit annual soft money contributions from an individual, corporation, or union to one hundred thousand dollars, and President Clinton said that the Democratic Party would stop taking any soft money if the Republicans would do the same.[24]

Would such new contribution limits be constitutional under the *Buckley* regime? Any limit on party *expenditures* of soft money would likely be struck down by the current Court in light of its recent decision that political parties may make unlimited independent expenditures on behalf of a particular candidate.[25] But limits on contributions, under *Buckley*, are another matter. The Court has previously upheld ceilings on individual contributions to PACs on the ground that such restrictions prevent end runs around limits on contributions to candidates.[26] Bundling and soft money contribution limits might be defended along similar lines, although they also raise novel and questionable burdens on the right of association.[27]

The second category of reform proposal would find new means to use public funds or other public benefits to induce candidates to agree to "voluntary" spending limits—a practice that *Buckley* held constitutional, at least as to full public financing of presidential campaigns. Extending full public funding with attached spending limits from presidential to congressional campaigns would be the most obvious version of such reform, but is probably politically infeasible. Some proposals seek to offer smaller carrots, including ones that would not directly incur public expense. For example, the McCain-Feingold Senate bill would extract from broadcasters free and discounted broadcast time. The bill would in turn give the time, as well as postage discounts, to those Senate candidates who complied with specified spending limits.[28] California's Proposition 208 would give free space in the ballot statement and allow higher contributions to candidates who adopted spending limits.[29]

Such proposals too raise First Amendment questions despite the public funding ruling in *Buckley*. For example, while a private funding ban might reasonably further the goal of full public financing of an election—in order to level the playing field—it is hardly clear that private spending limits are equally justified by the relatively trivial communications subsidies proposed in these bills. And of course, the broadcasters might object to the extraction of "free" air time as an unconstitutional compulsion of speech.[30]

The third, most dramatic type of proposal would overrule the expenditure holding in *Buckley* and permit spending limits outright. Since the current Court seems quite uninterested in overruling *Buckley*, the most plausible vehicle for such a reform would be some type of constitutional amendment. Most advocates of such a reform support an amendment authorizing Congress to reimpose expenditure limits as under the pre-*Buckley* status quo, while leaving the authority to impose contribution limits intact.

III. The political theory of campaign finance reform, or the supposed seven deadly sins of political money

What political theory supports arguments for campaign finance reform? Arguments for greater limits on political contributions and expenditures typically suggest that any claims for individual liberty to spend political money ought yield to an overriding interest in a well-functioning democracy. But what is meant by democracy here? The answer is surprisingly complex; several distinct arguments that democracy requires campaign finance limits are often lumped together. I will try to disaggregate them and critically assess each one. The reformers might be said to have identified seven, separate, supposedly deadly sins of unregulated political money.

A. Political inequality in voting

The first argument for campaign finance limits is that they further individual rights

to political equality among voters in an election. This argument starts from the principle of formal equality of suffrage embodied in the one person, one vote rule that emerged from the reapportionment cases.[31] Each citizen is entitled to an equal formal opportunity, ex ante, to influence the outcome of an election. Moreover, each person's vote is inalienable; it may not be traded to others for their use, nor delegated to agents. Literal vote-buying is regarded as a paradigm instance of undemocratic conduct. We no longer countenance gifts of turkeys or bottles of liquor to voters on election day, nor the counting of dead souls. These qualities of voting distinguish the electoral sphere from the marketplace, where goods and services, unlike votes, are fungible, commensurable, and tradeable.

Reformers often proceed from the premise of equal suffrage in elections to the conclusion that equalization of speaking power in electoral campaigns is similarly justifiable in furtherance of democracy. The most radical of such proposals would bar expenditures of private campaign funds altogether, and limit candidates to spending public funds allocated to each voter equally in the form of vouchers that could be used solely for election-related speech.[32] The principle here would be one person, one vote, one dollar.[33]

More commonly, however, the analogy to voting is meant to be suggestive, not literal; few go so far as to say that campaign finance limits are constitutionally compelled, as equipopulous districts are. Nor do most advocates of campaign finance reform argue for literal equality in electoral expenditures; the asserted right to equal political influence on the outcome of electoral campaigns is usually depicted as aspirational. But reformers argue that the goal of equal citizen participation in elections at least helps to justify campaign finance limits as constitutionally permissible.[34] On this view, campaign finance amounts to a kind of shadow election, and unequal campaign outlays amount to a kind of metaphysical gerrymander by which some votes count more than others in that shadow election.

Such arguments from formal equality of the franchise to campaign finance restrictions, however, often fail to articulate a crucial intermediate step: that political finance sufficiently resembles voting as to be regulable by the equality norms that govern voting. There is an alternative possibility: that political finance more resembles political speech than voting. That is the analogy drawn by the *Buckley* Court, at least with respect to expenditures. The choice of analogy is crucial. In the formal realm of voting—like other formal governmental settings, such as legislative committee hearings and trials in court—speech may be constrained in the interest of the governmental function in question. For example, at a town meeting, Robert's Rules of Order govern to ensure that orderly discussion may take place; at a trial, witnesses testify not to all they know but to what they are asked about, subject to rules of evidence and the constraints of relevant rights of the parties. Likewise, one voter does not get ten votes merely because he feels passionately about a candidate or issue.

By contrast, in the informal realm of political speech—the kind that goes on continuously between elections as well as during them—conventional First Amendment principles generally preclude a norm of equality of influence. Political speakers generally have equal rights to be free of government censorship, but not to command the attention of other listeners. Under virtually any theory of the justification for free speech, legislative restrictions on political speech may not be predicated on the ground that the political speaker will have too great a communicative impact, or his competitor too little. Conventional First Amendment norms of individualism, relativism, and antipaternalism preclude any such affirmative equality of influence—not only as an end-state but even as an aspiration. Indeed, such equality of participation as speakers in political debate is foreign even under the more collectivist approach to political speech outlined by Alexander Meiklejohn, who famously noted that the First Amendment "does not require that, on every occasion, every citizen shall take part in public debate. . . . What is essential is not that everyone shall speak, but that everything worth saying shall be said."[35]

A few perceptive reform advocates have noticed this problem and sought to fill in the missing step—the analogy between political finance and voting that would make equality norms relevant to both. For example, Ronald Dworkin, who largely accepts arguments for unfettered political speech in other contexts, rests his argument for campaign finance limits on the proposition that the right to equal participation as voters must be understood to entail a corollary right to equal participation as advocates in the electoral campaigns that precede and determine the vote:

"Citizens play two roles in a democracy. As voters they are, collectively, the final referees or judges of political contests. But they also participate, as individuals, in the contests they collectively judge: they are candidates, supporters, and political activists; they lobby and demonstrate for and against government measures, and they consult and argue about them with their fellow citizens. . . . [W]hen wealth is unfairly distributed and money dominates politics, . . . though individual citizens may be equal in their vote and their freedom to hear the candidates they wish to hear, they are not equal in their own ability to command the attention of others for their own candidates, interests, and convictions.[36]

In other words, formal equality of voting power implies a corollary right to equality in the opportunity to speak out in politics—at least in the particular subset of political speech that is made in connection with electoral campaigns.[37]

But what are the boundaries of an electoral campaign? Dworkin does not suggest that equalization of speaking power is a satisfactory justification for limitations of political speech in other contexts. Yet his own examples belie any easy distinction between the formal realm of electoral discourse, which he would regulate, and the informal realm of ongoing political discourse, which he presumably would not. For example, he lists "lobbying" and "demonstrations" as examples of relevant forms of citizen participation. But lobbying and demonstrations could not, without great alteration in ordinary First Amendment understandings, be regulated on the ground that their leaders had amassed too many resources. Further, elections are seamlessly connected to the informal political debates that continue in the periods between them. The more electoral campaign speech is continuous with such ordinary informal political discourse, the less campaign finance resembles voting, and the more it partakes of a realm of inevitable inequality.[38]

The reformers might answer that the equality principle could be confined to speech made expressly by candidates or their committees during formal electoral campaigns, defined by reference to some particular period in relation to elections. But now practical difficulties arise even as analytical difficulties subside. Such an approach would leave unregulated advocacy that redounds to the benefit of candidates by persons, parties, and organizations independent of them. To the extent such independent speech operates as a substitute for express candidate speech—even if an imperfect one—the principle of equality of voter participation advanced by the limits on formal campaign expenditures will be undermined.

An alternate response by reformers might be to question conventional First Amendment principles generally, and to assert political equality as a justification for regulating a wide range of informal political discourse. Such an approach raises large questions that go beyond the topic here. The key point for now is simply that, short of major revision of general First Amendment understandings, campaign finance reform may not be predicated on equality of citizen participation in elections unless electoral speech can be conceptually severed from informal political discourse. But formal campaign speech has so many informal political substitutes that this proposition is difficult to sustain.

B. Distortion

A second argument against unregulated private campaign finance is related to the first, but focuses less on individual rights than on collective consequences. This argument says that the unequal deployment of resources in electoral campaigns causes the wrong people to get elected, distorting the true preferences of voters.[39] Good candidates who cannot surmount the high financial barriers to entry never get to run, and the choice among those who do is influenced by spending power that is not closely correlated to the popularity of the candidate's ideas. On this view, unequal funding leads both candidates and voters to misidentify the electorate's actual preferences and intensities of preference.

The Supreme Court has accepted such an argument as sufficient to justify some administrative burdens on the deployment of political money. In *Austin v. Michigan Chamber of Commerce*,[40] the Court upheld a state requirement that corporations (except nonprofit corporations organized solely for ideological purposes[41]) make political expenditures solely from separate segregated political funds, not from their general treasuries.[42] The Court reasoned that the government's interest in preventing the "distortion" of the apparent strength.[43] A corporation that spent, for political purposes, money raised for investment purposes, would make it appear that there was more enthusiasm for the ideas it backed than was warranted. Funds raised for expressly political purposes and segregated in a separate political fund or corporate PAC, by contrast, would represent a more accurate proxy for the popularity of the ideas they supported.

Campaign finance reformers would extend this antidistortion principle beyond the particular problems of the corporate form at issue in *Austin*. They suggest that the ability to amass political funds in general does not correlate closely with voter preferences. Rather, the unequal distribution of campaign resources leads to misrepresentation of constituents' actual preferences and intensities of preference. The wealthy (or those who are good at fund-raising) can spend more money on a candidate they care relatively

little about than can the poor (or those who are inept at fundraising) on a candidate to whom they are passionately committed. To the extent such "distorted" campaign speech influences voting, candidates will be elected and platforms endorsed that differ from what voters would otherwise choose.

This argument has both practical and conceptual difficulties. First, a candidate's ability to attract funds is at least to some extent an indicator of popularity.[44] Money may flow directly in response to the candidate's ideas or indirectly in response to the candidate's popularity with others as reflected in poll numbers and the like.[45] To the extent that fundraising accurately reflects popularity, the reformers exaggerate the degree of distortion. Second, there are limits to how far private funding can permit a candidate to deviate from positions acceptable to the mass of noncontributing voters; the free press will to some extent correct information provided in the candidate's advertisements, and polls will discipline the candidate to respond to preferences other than those of his wealthiest backers.[46]

A third and deeper problem is that the concept of "distortion" assumes a baseline of "undistorted" voter views and preferences. But whether any such thing exists exogenously to political campaigns is unclear. Popular attitudes about public policy do not exist in nature, but are formed largely in response to cues from political candidates and party leaders. Moreover, the institutional press—itself owned by large corporations commanding disproportionate power and resources—plays a large role in shaping public opinion. Any attempt to equalize campaign spending would still leave untouched any "distortion" from the role of the press.[47]

C. Corruption, or political inequality in representation

A third argument for limiting political contributions and expenditures is often made under the heading of fighting political "corruption." This is a misnomer. Properly understood, this argument is a variation on the political inequality argument.[48] But unlike the first argument above, it focuses not on the unequal influence of voters on elections, but on the elected legislators' unequal responsiveness to different citizens once in office. The charge against unregulated political money here is that it makes citizens unequal not in their ability to elect the candidates of their choice, but in their ability to affect legislative outcomes.[49]

The Court in *Buckley* held contribution limits permissible to prevent "corruption" or the appearance of corruption of legislators by contributors of significant sums. Popular rhetoric about political money often employs similar metaphors: polls show substantial majorities who say that Congress is "owned" by special interests or "for sale" to the highest bidder. It is important to note, however, that the "corruption" charged here is not of the Tammany Hall variety. There is no issue of personal inurement; the money is not going into candidates' pockets but into television advertisements, the earnings of paid political consultants, and various other campaign expenses that increase the chances of election or reelection. This is true a fortiori for expenditures made independent of the candidate's campaign.

The claimed harm here is not, as the term "corruption" misleadingly suggests, the improper treatment of public office as an object for market exchange, but a deviation from appropriate norms of democratic representation. Officeholders who are disproportionately beholden to a minority of powerful contributors, advocates of finance limits say, will shirk their responsibilities to their other constituents, altering decisions they otherwise would have made in order to repay past contributions and guarantee them in the future. Thus, properly understood, the "corruption" argument is really a variant on the problem of political equality; unequal outlays of political money create inequality in political representation.

Again, the difficulties with the argument are both practical and conceptual. First, political money is not necessarily very effective in securing political results. The behavior of contributors provides some anecdotal support: Many corporate PACs, to borrow Judge Posner's phrase, are "political hermaphrodites";[50] they give large sums to both major parties. This hedging strategy suggests a weak level of confidence in their ability to obtain results from any particular beneficiary of their contributions.

President Clinton captured the same point at a press conference where he said that he gives major donors an opportunity for a "a respectful hearing" but not a "guaranteed result."[51] While this comment might elicit skepticism, the proposition that campaign donations are a relatively unreliable investment has empirical support. Various studies of congressional behavior suggests that contributions do not strongly affect congressional voting patterns, which are for the most part dominated by considerations of party and ideology.[52] Of course, such evidence may be countered[53] by noting that contributors may be repaid in many ways besides formal floor votes—for example, by relatively invisible actions in agenda-setting and drafting in committees. Furthermore, the few votes that are dominated by contributions may occur when there is the greatest divergence between contributors' and other constituents' interests. Still, the case that contributions divert representative responsiveness is at best empirically uncertain, and not a confident basis for limiting political speech.

A second and deeper problem with the "corruption" argument, once it is properly recast as an argument about democratic representation, is conceptual. The argument supposes that official action should respond to the interests of all constituents, or to a notion of the public good apart from the aggregation of interests, but, in any event, not to the interests of a few by virtue of their campaign outlays. But legislators respond disproportionately to the interests of some constituents all the time, depending, for example, on the degree of their organization, the intensity of their interest in particular issues, and their capacity to mobilize votes to punish the legislator who does not act in their interests. On one view of democratic representation, therefore, there is nothing wrong with private interest groups seeking to advance their own ends through electoral mobilization and lobbying, and for representatives to respond to these targeted efforts to win election and reelection.[54] It is at least open to question why attempts to achieve the same ends through amassing campaign money are more suspect, at least in the absence of personal inurement.[55]

But the question whether disproportionate responsiveness to contributors is ultimately consistent with democratic representation need not be answered to see the problem with the reformers' argument. That problem is that selecting one vision of good government is not generally an acceptable justification for limiting *speech*, as campaign finance limits do. Rather, what constitutes proper representation is itself the most essentially contested question protected by freedom of speech. The ban on seditious libel, the protection of subversion advocacy, and the general hostility to political viewpoint discrimination illustrate that free speech, under current conceptions, protects debates about what constitutes proper self-government from ultimate settlement by legislatures. To be sure, legislatures are often permitted or compelled to select among democratic theories, or to privilege one version of representation over its competitors in setting up the formal institutions of government. "One person, one vote," for example, privileges egalitarian conceptions over various alternatives—such as the inegalitarian representation provided by the United States Senate. But the right to speak—and, it might be added, to petition—includes the right to challenge any provisional settlement a legislature might make of the question of what constitutes appropriate democratic representation.

In other words, the "anticorruption" argument for campaign finance reform claims the superiority of a particular conception of democracy as a ground for limited speech. As a result, it runs squarely up against the presumptive ban on political viewpoint discrimination.[56] Campaign finance reformers necessarily reject pluralist assumptions about the operation of democracy and would restrict speech, in the form of political money to foster either of two alternative political theories. First, they might be thought to favor a Burkean or civic republican view, in which responsiveness to raw constituent preferences of any kind undermines the representative's obligation to deliberate with some detachment about the public good. Alternatively, they might be thought to favor a populist view in which the representative ought be as close as possible to a transparent vehicle for plebiscitary democracy, for the transmission of polling data into policy. Either way, they conceive democracy as something other than the aggregation of self-regarding interests, each of which is free to seek as much representation as possible.[57] But surely the endorsement of civic republicanism or populism—or any other vision of democracy—may not normally serve as a valid justification for limiting speech. Legislators may enforce an official conception of proper self-government through a variety of means, but not by prohibiting nonconforming expression.

Campaign finance reformers might object that, after all, campaign finance limits in no way stop would-be pluralists from *advocating* pluralism, but only from practicing it. The utterances being silenced are performative, not argumentative. Such a response, however, is in considerable tension with a long tradition of First Amendment protection for symbolic and associative conduct.[58] A further objection might be that this argument extends only to legislative campaign finance reform, and not to a constitutional amendment such as Senator Bradley and others have proposed.[59] That is surely correct, as an amendment could obviously revise the existing First Amendment conceptions on which the argument rests. But, apart from general reasons to tread cautiously in amending the Constitution, it might well be thought especially risky to attempt by amendment to overrule a constitutional decision that is part of the general fabric of First Amendment law, as the anomaly created by the new amendment might well have unanticipated effects on other understandings of free speech.[60]

D. Carpetbagging

A fourth strand of the reform argument is a variant of the third, with special reference to geography. Except in presidential elections, we vote in state or local constituencies. The fundamental unit of representation is geographic. But money travels freely across district and state lines. Thus, political money facilitates metaphysical carpetbagging. Contributions from or expenditures by nonconstituent individuals and groups divert a legislator's representation away from the constituents in his district and toward nonconstituents, whether they are foreign corporations or national lobbies. Various reform proposals seek to limit carpetbagging by localizing funding: McCain-Feingold, for example, would require candidates not only to limit expenditures but also to raise a minimum percentage of contributions from residents of their home state in order to receive public benefits, such as broadcast and postage discounts.[61]

Again, this seeks to decide by legislation a question of what constitutes proper representation. To some, it might be legitimate for a legislator to consider the views of national lobbies. For example, those lobbies might share strong overlapping interests with her own constituents. Or the legislator might conceive her obligation as running to the nation as well as a particular district. For the reasons just given, a privileged theory of what constitutes proper political representation cannot serve as an adequate ground for limitation of speech, for free speech is itself the central vehicle for debating that very question.

E. Diversion of legislative and executive energies

A fifth critique of the current role of political money, made often by politicians themselves and sometimes elaborated as an argument for campaign reform, is that fundraising takes too much of politicians' time.[62] Many think that incumbents spend so much time fundraising that governance has become a part-time job.

This argument supposes a sharp divide between the public activity of governing and the private role of fundraising. But this distinction is hardly clear. The "marketing" involved in fundraising consists principally of conveying and testing response to information about past and future policy positions. How this differs from the standard material of all political campaigning is unclear, and it may well be continuous with governing. If the need for fundraising were eliminated, legislators would still have to nurture their constituencies in various ways between elections. Some might think that nurturing grass roots is a more wholesome activity than nurturing fat cast; but in that case, the diversion of energies problem simply collapses back into the problem of inequality in political representation discussed earlier.[63] To the extent the candidate makes secret promises to PACs or wealthy individuals that would be unpopular with the mass of the electorate, there are strong practical limits to such strategies, such as the danger of press exposure and constituent retaliation.

However serious the problem of incursion on the candidate's time might be, one thing is clear: the split regime of *Buckley* exacerbates it. Contribution limits mean that a candidate has to spend more time chasing a larger number of contributors than she would have to do if contributions could be unlimited in amount. Concern about time, therefore, may involve a tradeoff with concern about disproportionate influence.

F. Quality of debate

A sixth critique of the unregulated outlay of political money arises on the demand side rather than the supply side. The problem, in a word, is television. Where does all this political money go? The biggest expense is the cost of purchasing advertising time on television (though increasingly, political consultants take a hefty share). The critics regard repetitious, sloganeering spot advertisements as inconsistent with the enlightened rational deliberation appropriate to an advanced democracy. It is not clear what golden age of high-minded debate they hark back to; the antecedent of the spot ad is, after all, the bumper sticker. Nonetheless, these critics clearly aspire to something wiser and better. Ronald Dworkin's lament is representative: "The national political 'debate' is now directed by advertising executives and political consultants and conducted mainly through thirty-second, 'sound bite' television and radio commercials that are negative, witless, and condescending."[64] Political expenditure limits, some suggest, would cut off the supply of oxygen to this spectacle and force candidates into less costly but more informative venues such as written materials and town hall debates.

To the extent this rationale for campaign finance reform is made explicit, it would appear flatly precluded by conventional First Amendment antipaternalism principles. Permitting limitations on speech because it is too vulgar or lowbrow would wipe out a good many pages of *U.S. Reports*. Surely a judgment that speech is too crass or appeals to base instincts is a far cry from Robert's Rules of Order or other principles of ordered liberty consistent with government neutrality toward the content of speech.

In any event, the indirect means of limiting expenditures may not do much to solve this problem. Why not directly ban political advertising on television outright? Then everyone could campaign on smaller budgets. British politicians, for example, are barred from taking out paid spots on the airwaves. But Britain has strong parties and small districts; we have neither. Banning television advertising in our political culture would impair politicians', especially challengers', ability to reach large masses of the electorate. Banning television advertisements might make us more republican, but it is hardly clear that it would make us more democratic. Moreover, the special First Amendment dispensation the Court has shown for broadcast regulation is increasingly tenuous, and has not been extended to other, increasingly competitive media. To be fully effective, a ban on television advertising might have to extend to cable and the internet, where the constitutional plausibility of regulation is even more dubious.

G. Lack of competitiveness

Finally, a last argument would locate the key problem in current campaign finance practices in the advantage it confers on incumbents over challengers. Here the claim is that a healthy democracy depends on robust political competition and that campaign finance limits are needed to "level the playing field." The reformers contend that unfettered political money confers an anticompetitive advantage upon incumbents. This advantage arises because incumbents participate in current policymaking that affects contributors' interests. Thus, they enjoy considerable fundraising leverage while in office, and indeed, incumbents received on average four times as much in contributions than challengers in the 1996 congressional election.[65] This incumbent advantage, reformers argue, limits turnover and makes challengers less effective at monitoring and checking incumbents' responsiveness. It is no accident that, for such reasons, some prominent supporters of campaign finance reform, such as Republican Senator Fred Thompson of Tennessee, a cosponsor of the McCain-Feingold bill, are also prominent supporters of term limits.

But there is some practical reason to think this argument gets the competitiveness point backwards. Campaign finance limits themselves may help to entrench incumbents in office.[66] Incumbency confers enormous nonfinancial advantages: name recognition, opportunity to deliver benefits, publicity from the free press, and the franking privilege. To offset these advantages, challengers must amass substantial funds. Challengers' lack of prominence may make it more difficult for them to raise funds from large numbers of small donations. They may therefore depend more than incumbents on concentrated aid from parties, ideologically sympathetic PACs, or even wealthy individual private backers.[67] Of course, once again, contribution limits under the split regime of *Buckley* exacerbate the problem, as incumbents are more likely to be able to raise a large number of capped contributions than challengers can.

The effect of regulation or nonregulation on the competitiveness of elections is a difficult empirical question.[68] But any prediction that campaign regulation will increase electoral competitiveness and turnover is, by virtue of its very empirical uncertainty, at least a questionable ground for limiting political speech.

CONCLUSION

The discussion to this point has sought to disentangle the separate elements of the campaign finance reformers' arguments about the evils of unregulated political money and to suggest why the proposed cure for the seven deadly sins might be worse than the disease, even on the reformers' own assumptions.[69] I have sought also to show why limits on political money are in deeper tension with current First Amendment conceptions than is often supposed. *Buckley*'s declaration of the impermissibility of redistribution of speaking power has been widely criticized;[70] the effort here has been to show alternative reasons why the justifications for campaign finance reform might trigger First Amendment skepticism. These reasons include the inseverability of campaign speech from ordinary political discourse and the viewpoint basis inherent in campaign finance reform's selection of one conception of democratic representation over its competitors as a basis for curtailing speech.

If these alternative reasons have any force, then it is easier to see why campaign finance reform is especially prone to following the law of unintended consequences: for example, limits on individual contributions helped to increase the number of PACs; limits on hard money contributions stimulated the proliferation of soft money contributions; and limits on contributions generally spurred the growth of independent expenditures.[71] The reason is not just that the demand for political money is peculiarly inelastic and thus, like the demand for other addictive substances, likely to create black markets in the shadow of regulation. The reason is that grim efforts to close down every "loophole" in campaign finance laws will inevitably trench unacceptably far upon current conceptions of freedom of political speech. Even if formal campaign expenditures and contributions are limited, the reformers' justifications attenuate as the law

reaches the informal political speech that serves as a partial substitute for formal campaign speech. Without altering conventional free speech norms about informal political discourse, there are outer limits on the ability of any reform to limit these substitution effects.

What scenario are we left with if both political expenditure and contribution limits are deemed unconstitutional? Will political money proliferate indefinitely, along with its accompanying harms? Not necessarily, provided that the identity of contributors is required to be vigorously and frequently disclosed. Arguments against compelled disclosure of identity, strong in contexts where disclosure risks retaliation,[72] are weaker in the context of attempts to influence candidate elections, as the *Buckley* decision itself recognized in upholding the disclosure requirements of the 1974 FECA amendments.[73] Weekly disclosure in the newspapers, or better, daily reporting on the internet, would be a far cry from earlier failed sunshine laws. If the lists of names and figures seemed too boring to capture general attention, enterprising journalists could "follow the money" and report on any suspect connections between contributions and policymaking.

Under this regime—in which contributions and expenditures were unlimited, but the identities of contributors were made meaningfully public—there would be at least three reasons for modest optimism that the harms the reformers fear from unlimited political money would in fact be limited.

A. Increased supply

If contributions, like expenditures, could not be limited in amount, the total level of contributions might be expected to increase as there might be a net shift from expenditures to contributions. The supply of political money to candidates would be increased. This might be expected to lower the "price" to the candidate of a political contribution. With more quids on offer, a politician has less reason to commit to any particular quo. In this politicians' buyers' market, concerns about unequal political influence that arise under the misleading "corruption" heading would arguably attenuate, and contributors might curtail their outlays in response to their declining marginal returns.

B. Decreased symbolic costs from subterfuge

If contributions could be made in unlimited amounts, would-be contributors would not have to resort to the devices of independent advertisements or party contributions as substitutes. Public perception of a campaign finance system gone out of control rests at least in part on the view that politicians, parties, and donors skirt existing laws by exploiting evasive "loopholes." To the extent that all functional contributions are made as explicit contributions, the symbolic costs of the current split regime of *Buckley* would decrease.

C. Voter retaliation

With contributions fully disclosed and their effects on political outcomes subject to monitoring by the free press, voters would be empowered to penalize candidates whose responsiveness to large contributors they deemed excessive. Voters could do retail what campaign finance reform seeks to do wholesale: encourage diversification in the sources of campaign funding. Political challengers could capitalize on connections between political money and incumbents' official actions. A striking demonstration of this point arose in the 1996 presidential election, when the Dole campaign's attack on alleged Democratic fund-raising scandals drove President Clinton's poll numbers into a temporary freefall.[74] Political money would itself be an election issue; a candidate would have to decide which was worth more to her—the money, or the bragging rights to say that she did not take it.

Of course, the harms of political money cannot be expected to be entirely self-limiting. The deregulation outlined here is only partial; compelled disclosure avoids a regime of absolute laissez-faire. Even this partial deregulation might have unintended consequences. Some of the reformers' goals are widely shared and might require market intervention. For example, achieving adequate competitiveness in elections might require some public subsidies for challengers who can demonstrate certain threshold levels of support—floors but not ceilings for political expenditures.[75] But the possibilities outlined here at least suggest some hesitation before deciding which way the split regime of *Buckley* ought to be resolved.

FOOTNOTES

[1] *See generally* David E. Rosenbaum, *In Political Money Game, the Year of Big Loopholes*, N.Y. Times, Dec. 26, 1996, at A1 (discussing amounts of money on political campaigns).

[2] *See* Bipartisan Campaign Reform Act of 1997, S. 25, 105th Cong. (reintroducing proposed measures to reform campaign financing); Senate Campaign Finance Reform Act of 1996, S. 1219, 104th Cong. (proposing measures for campaign finance reform).

[3] *See Excerpts From the First News Conference of Clinton's Second Term*, N.Y. Times, Jan. 29, 1997, at B6 [hereinafter *Press Conference Excerpts*].

[4] 424 U.S. 1 (1976).

[5] *See id.* at 143; Bill Bradley, *Congress Won't Act, Will You?*, N.Y. Times, Nov. 11, 1996, at A15 [hereinafter Bradley, *Congress Won't Act*]; Bill Bradley, *Perspectives on Campaign Finance; Money in Politics, Ants in the Kitchen*, L.A. Times, Jan. 31, 1997, at B9.

[6] *See* Leslie Wayne, *After the Election: Campaign Finance; Scholars Ask Court to Backtrack, Shutting Floodgates on Political Spending*, N.Y. Times, Nov. 10, 1996, at §1, 30 (describing scholars' letter advocating demise of *Buckey v. Valso*).

[7] *See* David Stout, *State Attorneys General Urge Limits on Campaign Spending*, N.Y. Times, Jan. 28, 1997, at A14 (stating that campaign spending threatens integrity of elections).

[8] California's 1996 ballot measure is under court challenge. *See* California Political Reform Act of 1996, Proposition 208, Cal. Gov't Code §85600 (West Supp. 1997). Many provisions of Oregon's 1995 ballot measure, Measure 9, including contributions limits, were invalidated under the free expression provision on the Oregon Constitution in *Vannatta v. Keisling*, No. SC 542506, 1997 Ore. LEXIS 5, at *42*53 (Or. Feb. 6, 1997).

[9] Some states have also experimented with public funding of state elections. *See generally* Kenneth R. Mayer & John M. Wood, *The Impact of Public Financing on Electoral Competitiveness: Evidence from Wisconsin, 1964–1990*, 20 Legis. Stud. Q 69 (1995) (finding that Wisconsin's public subsidies did not increase electoral competitiveness).

[10] *See Buckley*, 424 U.S. at 145–11 (sustaining individual contribution limits but invalidating limits on campaign expenditures).

[11] *See* FEC v. National Conservative Political Action Comm., 470 U.S. 480, 501 (1985) (invalidating limits on independent expenditures by PACs); Colorado Republican Fed. Campaign Comm. v. FEC, 116 S. Ct. 2309, 2310–20 (1996) (invalidating limits on independent expenditures by political parties).

[12] *See* Federal Election Campaign Act of 1971, 2 U.S.C. §§431–455 (1994) (defining campaign contribution limits).

[13] For explication of campaign expenditure limitations on political parties, see *Colorado Republican*, 116 S. Ct. at 2313–14.

[14] *See Buckley*, 424 U.S. at 26 (discussing potential corruption that large contributions may bring).

[15] *See id.* at 46–48 (stating that independent expenditures are not as likely to lead to abuse as large contributions).

[16] *See id.* at 49.

[17] *Colorado Republican*, 116 S. Ct. at 2327.

[18] *See* Daniel D. Polsby, Buckley v. Valeo; *The Special Nature of Political Speech*, 1976 Sur. Ct. Rev. 1, 26–31 (arguing that "the Court made a mistake in allowing expenditure ceilings to ride in on the coattails of public financing").

[19] *See, e.g.*, Mark Tushnet, *Corporations and Free Speech*, in The Politics of Law 253, 256–57 (David Kairys ed., 1982) (discussing free-speech rights available to powerful and, most specifically, corporations).

[20] *See* Bipartisan Campaign Reform Act of 1997, S. 25, 105th Cong. §231 (providing for treatment of bundled contributions).

[21] For a critique of bundling, see Fred Wertheimer & Susan Weiss Manes, *Campaign Finance Reform: A Key to Restoring the Health of Our Democracy*, 94 Colum. L. Rev. 1126, 1140–42, 1155–56 (1994). Note that the ultimate antibundling measure would be a ban on PAC contributions to political campaigns. However, even ardent reformers regard such a measure as a probable infringement of the right of association. *See id.* at 1155.

[22] *See* Rosenbaum, *supra* note 1, at A1 (reporting statistics on campaign expenditures).

[23] *See* S. 25, §§211–213 (limiting soft money contributions).

[24] See James Bennet, *Clinton Announces New Limits on Fund-Raising by Democrats*, N.Y. Times, Jan. 22, 1997, at A1.

[25] *See* Colorado Republican Campaign Comm. v. FEC, 116 S. Ct. 2309, 2317 (1996) (invalidating limits on independent expenditures by political parties).

[26] *See* California Med. Ass'n v. FEC. 453 U.S. 182, 197–98 (1981) (upholding $5000 limit on contributions to multi-candidate committees because without such limits, contribution limits upheld in *Buckley* "could be easily evaded").

[27] *See, e.g.*, NAACP v. Alabama *ex rel.* Patterson, 457 U.S. 449, 460–61 (1958) (holding that freedom of association is indispensable aspect of liberty protected by Fourteenth Amendment), *rev'd*, 360 U.S. 240 (1959).

[28] *See* S. 25, §§101–104 (setting forth benefits for political candidates who limit their campaign expenditures).

[29] *See* CAI. Gov't Code 85600 (West Supp. 1997). Section 85600 was enacted by the California Political Reform Act of 1996, Proposition 208.

[30] Compelled carriage of unwanted speech normally triggers strict First Amendment scrutiny. *See* Pacific Gas & Elec. Co. v. Public Utils. Comm'n, 475 U.S. 1 20–21 (1986) (invalidating forced inclusion of environmentalist statements in public utility's billing envelope). The Court does not apply strict scrutiny where the government's reason for the compulsion bears no relation to the content of the compelled speech. *See* Turner Broadcasting Sys., Inc. v. FCC, 512 U.S. 622, 641–42 (1994) (reviewing content-neutral law requiring cable operators to carry unwanted broadcast stations under intermediate scrutiny). Broadcasters, however, have been held subject to compelled carriage requirements that would be unconstitutional if applied to non-broadcast speakers. *Compare* Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 400–01 (1969) (upholding mandatory reply obligations applicable to broadcasters), *with* Miami Herald Pub. Co. v. Tornillo, 418 U.S. 241, 256 (1974) (invalidating mandatory reply obligations applicable to newspapers). With the obsolescence of the spectrum scarcity argument on which *Red Lion* was premised, it is unclear whether broadcasters would have a compelled-speech objection to the extraction of free or discounted air time for candidates as a condition of their receipt of public licenses.

[31] *See* Reynolds v. Sims, 377 U.S. 533, 561–68 (1964) (holding that state's legislative apportionment scheme violates Equal Protection Clause); Baker v. Carr, 369 U.S. 186, 208–37 (1962) (concluding that such claims of equal protection violations are jusiticiable).

[32] *See* Bruce Ackerman, *Crediting the Voters: A New Beginning for Campaign Finance*, Am. Prospect, Spring 1993, at 71, 72 (stating that voucher is an alternative to campaign finance reform).

[33] *See* generally Edward B. Foley, *Equal-Dollar-Per-Voter: A Constitutional Principle of Campaign Finance*, 94 Colum. L. Rev. 1204 (1994) (arguing that each voter should be constitutionally guaranteed equal financial resources for expenditures on electoral speech).

[34] *See, e.g.*, David A. Strauss, *Corrpution, Equality, and Campaign Finance Reform*, 94 Colum, L. Rev. 1369, 1383 (1994) (suggesting that "one person, one vote' is indeed the decisive counterexample to the suggestion that the aspiration [of equalizing political speech] is foreign to the First Amendment"); Cass R. Sunstein, *Political Equality and Unintended Consequences*, 94 Colum. L. Rev. 1390, 1392 (1994) (stating that "the 'one person-one-vote' rule exemplifies the commitment to political equality" and that

"[l]imits on campaign expenditures are continuous with that rule").

[35] Alexander Meiklejohn, Free Speech and Its Relation to Self-Government 25 (1948).

[36] Ronald Dworkin, *The Curse of American Politics*, N.Y. Rev. Books, Oct. 17, 1996, at 19, 23.

[37] For a similar argument by an advocate of the overrule of *Buckley* and campaign finance reform, *see* C. Edwin Baker, *Limits on Campaign 'Speech' Are Just an Extension of Existing Rules*, Philadelphia Inquirer, Jan. 28, 1997, at A11. Baker distinguishes between the aspects of politics, such as voting, that are "legally created and structured" and "specially designed to fairly achieve certain results," in which speech may be limited, and the realm of informal political debate and dialogue that "occurs as much between elections as during them," in which speech ought to be "unbounded." *See id.* Like Dworkin, Baker allocates political finance to the formal rather than the informal realm, and hence regulable by norms of equality. *See id.* But like Dworkin, Baker does not explain how campaign speech may be severed for informal political speech.

[38] *See, e.g.*, Sanford Levinson, *Regulating Campaign Activity: The New Road to Contradiction?*, Mich L. Rev. 939, 945–48 (1985) (book review) (noting financial inequalities in political influence, including disproportionate political influence of media conglomerates); *id*, at 948–49 (noting nonfinancial inequalities in campaign resources, including leisure time and celebrity status); *see also* Lillian R. BeVier, *Campaign Finance Reform: Specious Argument, Intractable Dilemmas*, 94 Colum. L. Rev. 1258, 1267 (1994) (cataloguing nonfinancial inequalities in campaigning).

[39] *See generally* Daniel Hays Lowenstein, *On Campaign Finance Reform: The Root of All Evil is Deeply Rooted*, 18 Hofstra L. Rev. 301 (1989) (proposing reform package for legislative general elections).

[40] 494 U.S. 652 (1990).

[41] *See* FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 256–65 (1986) (invalidating funding segregation requirement for ideological corporations formed for political purposes).

[42] Similar federal requirements govern corporations and labor unions. Since 1907, corporations have been barred from spending corporate treasury funds in federal election campaigns, and, since 1947, so have labor unions. *See* 2 U.S.C. §441b (1994) (prohibiting use of general funds). Thus, separate political funds are their only vehicle for contribution. *See id.* (allowing use of segregated funds). Since enactment of the 1974 FECA amendments, even government contractors have been permitted to form segregated political funds. *See id.* §441c(b) (permitting government contractors to establish and use separate funds).

[43] *See Austin*, 494 U.S. at 657–60 (examining reasons behind state regulation of corporate expenditures).

[44] *See, e.g.*, Janet M. Grenzke, *PACs and the Congressional Supermarket: The Currency Is Complex*, 33 Am. J. Pol. Sci. 1, 19–20 (1989) (concluding that in most cases, PACs do not substantially affect candidates' actions in office, absent popular approval); *see also* Bruce E. Cain, *Moralism and Realism in Campaign Finance Reform*, 1995 U. Chi. Legal F. 111, 127 (noting that money signals intensity of support in ways voting cannot).

[45] *See* Bradley A. Smith, *Faulty Assumptions and Undemocratic Consequences of Campaign Finance Reform*, 105 Yale L.J. 1049 1065 (1996) (stating that "[t]he ability to raise money is evidence of political prowess and popularity that would normally translate into votes, regardless of spending").

[46] *See* Grenzke, *supra* note 44, at 20 (stating that PACs do not "distort" politics because politicians primarily act based on popularity of legislation).

[47] See Sanford Levinson, Frameworks of Analysis and Proposals for Reform: A Symposium on Campaign Finance: Electoral Regulation: Some Comments, 18 Hofstra, L. Rev. 411, 412–13 (1989) (criticizing campaign finance reformers' lack of attention to role of press).

[48] See David A. Strauss, What Is the Goal of Campaign Finance Reform?, 1995 U. Chi. Legal F. 141, 144 (noting that "once inequality is removed," corruption argument has little independent merit).

[49] Cf. Pamela S. Karlan, The Rights To Vote: Some Pessimism About Formalism, 71 Tex. L. Rev. 1705, 1712–18 (1993) (distinguishing voting as aggregation of preferences for candidates in an election from voting as means of controlling ongoing governance).

[50] LaFalce v. Houston, 712 F.2d 292, 294 (7th Cir. 1983), cert. denied, 454 U.S. 1044 (1984).

[51] See Press Conference Excerpts, supra note 3, at B6.

[52] See, e.g., Grenzke, supra note 44, at 19–20 (observing that while money gives PACs access to legislators, it is insufficient to garner support for legislation absent popular approval); John R. Wright, Contributions, Lobbying and Committee Voting in the U.S. House of Representatives, 84 Am. Pol. Sci. Rev. 417, 433–35 (1990) (finding that lobbying, not money, affects committee behavior).

[53] For a review and critique of this evidence, see Lowenstein, supra note 39, at 306–35.

See generally Frank J. Sorauf, Inside Campaign Finance: Myths and Realities (1992) (discussing history of campaign finance reform); Frank J. Sorauf, Money in American Elections (1988) (exploring methods of election campaign financing).

[54] See Cain, supra note 44, at 115–16 (conducting that so-called "inappropriate motives," such as desire to be reelected, are both permissible and necessary in modern elections).

[55] See Strauss, supra note 34, at 1371–75 (discussing relationship between campaign finance and other techniques of legislative influence).

[56] Indeed, the mere fact that campaign contributions may be consistent with some notions of democratic theory clearly demonstrates the content basis of campaign finance laws. *See* Cain, *supra* note 44, at 120–40 (examining private contributions under procedural view of democracy).

[57] On the distinctions between these pluralist, populist, and Burkean (or civic republican or trustee) models of political influence in the campaign finance context, see BeVier, *supra* note 38, at 1269–76 (1994); Cain, *supra* note 44, at 112–22; Stephen E. Gottlieb, *The Dilemma of Election Campaign Finance Reform*, 18 Hofstra L. Rev. 215, 232–37 (1989); Daniel Hays Lowenstein, *Political Bribery and the Intermediate Theory of Politics*, 32 UCLA L. Rev. 784, 805–42, (1985).

[58] *See generally* United States v. O'Brien, 391 U.S. 367 (1968) (addressing draft-card burning); NAACP v. Button, 371 U.S. 415 (1963) (addressing constitutionality of Virginia statute limiting litigation rights).

[59] See Bradley, *Congress Won't Act*, *supra* note 5, at A15 (noting that reform will depend on concerned citizens).

[60] *See generally* Kathleen M. Sullivan, *Constitutional Constancy: Why Congress Should Cure Itself of Amendment Fever*, 17 Cardozo L. Rev. 691, 691–704 (1996) (discussing reasons why Congress should hesitate before proposing constitutional amendments).

[61] *See* Bipartisan Campaign Reform Act of 1997, S. 25, 105th Cong. §101 (1997).

[62] *See* Vincent Blasi, *Free Speech and the Widening Gye of Fund-Raising: Why Campaign Spending Limits May Not Violate the First Amendment After All*, *94 Colum.* L. Rev. 1281, 1281 (1994) (stating that candidates spend too much time fund-raising).

[63] See Strauss, supra note 48, at 156–57 (concluding that time-diversion argument has little force independent of inequality argument).

[64] Dworkin, *supra* note 36, at 19.

[65] *See* Rosenbaum, *supra* note 1, at A1 (comparing historical campaign fund amounts with those of 1996).

[66] *See* Lillian R. BeVire, *Money and Politics: A Perspective on the First Amendment and Campaign Finance Reform.* 73 Cal. L. Rev. 1045, 1069–78 (1985) (arguing that, given legislators' inherent interest in maintaining incumbency advantages, courts should be suspicious of campaign finance reform adopted purportedly to equalize speech opportunities).

[67] *See generally* Gottlieb, *supra* note 57, at 232–37 (discussing inequality in election campaigns between incumbents and challengers).

[68] *See* Grenzke, *supra* note 44, at 19–20 (concluding that contributions generally reflect preexisting support for candidates): Gary C. Jacobson, *Campaign Finance and Democratic Control: Comments on Gottlieb and Lowenstein's Papers*, 18 Hofstra L. Rev. 369, 371–74 (1989) (discussing arguments that campaign finance regulation hurts competitiveness): Gary C. Jacobson, *The Effects of Campaign Spending in House Elections: New Evidence of Old Arguments*, 34 Am. J. Pol. Sci. 334, 356–58 (1990) [hereinafter Jacobson, *House Elections*] (concluding that, in determining electoral outcomes, amounts raised by challengers are far more important than amounts raised by incumbents); Mayer & Wood, *supra* note 9, at 70 (concluding that public financing had "no effect at all" on competitiveness of elections in Wisconsin).

[69] For further argument that campaign finance reform may be ineffective in promoting its own asserted goals, see Smith, *supra* note 45, at 1071–86.

[70] *See, e.g.*, Sunstein, *supra* note 34, at 1397–99 (arguing that *Buckley* may be modern analogue of discredited case of *Lochner v. New York*, 198 U.S. 45 (1905)).

[71] *See id.*, at 1400–11 (cataloguing such efforts).

[72] *See* NAACP v. Alabama *ex rel.* Patterson, 357 U.S. 449, 462–54 (1958) (shielding NAACP membership lists from compelled disclosure to prevent economic and physical retaliation against its members), *rev'd*, 360 U.S. 240 (1959); McIntyre v. Ohio Elections Comm'n, 514 U.S. 334, 342–43 (1995) (invalidating Ohio's ban on anonymous campaign literature).

[73] *See* Buckley v. Valeo, 424 U.S. 1, 60–84 (1976) (discussing reporting and disclosure requirements).

[74] *See Dole Cuts Clinton Lead in One Poll*, Orange County Reg., Nov. 2, 1996, at A27 (stating Clinton dropped in polls because of Dole's attacks on his campaign financing methods).

[75] *See* Jacobson, *House Elections*, *supra* note 68, at 356–58 (concluding that, because amounts raised by challengers are more important than those raised by incumbents, once threshold requirement of popularity has been met, floors without ceilings might increase competitiveness).

Mr. MCCONNELL. Mr. President, no discussion of the issue advocacy provisions in the McCain-Feingold bill can be complete without the input of James E. Bopp, Jr., who is perhaps the most experienced lawyer in America in this area of the law and the bane of the FEC's irresponsible battalion of lawyers who have made it their mission in life to harass citizen groups. For that worthy accomplishment, Mr. Bopp deserves special commendation.

I ask unanimous consent to have printed in the RECORD Jim Bopp's recent law review article entitled, "The First Amendment Is Not the Loophole," which he coauthored with Richard E. Coleson.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Reprinted from University of West Los Angeles Law Review, Volume 28, 1997]

THE FIRST AMENDMENT IS NOT A LOOPHOLE: PROTECTING FREE EXPRESSION IN THE ELECTION CAMPAIGN CONTEXT

(By James Bopp, Jr.* and Richard E. Coleson**)

"Congress shall makes no law. . . abridging the Freedom of Speech. . . ."[1]

INTRODUCTION

The First Amendment plainly states that Congress is to "make no law" which would "abridg[e] the freedom of speech,"[2] yet Congress enacted the Federal Election Campaign Act of 1971 (FECA), as amended in 1974,[3] precisely to abridge certain forms of speech in election campaigns. In the landmark case of *Buckley v. Caleo*,[4] the United States Supreme Court struck down many FECA provisions on free expression grounds.

For the two decades since *Buckley*, the Federal Election Commission (FEC) has fought to close the perceived loopholes created by *Buckley* in the federal election laws, so that the agency could regulate all speech relating in any way to federal elections. Throughout this period, the Supreme Court has repeatedly proclaimed that the First Amendment is not a loophole—free expression must be protected amidst the rush to impose campaign finance restrictions.

Undeterred, the FEC has created new theories in an attempt to bypass Supreme Court holdings and pursued regulation of constitutionally-protected expression. On June 26, 1996, the United States Supreme Court decided the case of *Colorado Republican Federal Campaign Committee v. FEC (Colorado Republican)*,[5] again rejecting the FEC's creative efforts to regulate political speech protected

Footnotes at end of article.

by the First Amendment. This article discusses the *Colorado Republican* case in its historical context of conflict between federal court protection of free expression and attempts, by the FEC and various states, to regulate protected expression in the name of campaign finance reform.

The article is written from a practical perspective, i.e., what the courts have held, not what certain theoreticians would like the courts to hold.[6] In Part I, "A Primer on Protected Political Expression," the authors will summarize briefly some of the key theoretical debates, but will primarily focus on the principles undergirding free political expression, discuss some terms of art, and explain the sorts of activity over which litigation usually arises. The robust First Amendment protection of issue advocacy will be the topic of Part II, "Supreme Court Defense of Issue Advocacy Through *Buckley*," and Part III, "FEC Efforts to Stifle Issue Advocacy." Part IV will focus on "Other Protection for Free Political Expression," discussing (1) MCFL-type organizations, (2) members, (3) anonymous literature, (4) caps on contributions and expenditures, (5) political committees, (6) burden of proof, and (7) prior restraint of speech. In Part V, "A Proposal for Speech-Enhancing Campaign Reform," the article will conclude with a proposal for constitutionally-permissible campaign finance reforms which would enhance, rather than suppress, the free flow of speech about candidates and issues of public concern which is essential to our democratic Republic.

I. A PRIMER ON PROTECTED POLITICAL EXPRESSION

Our political system is based on the model of an open and free marketplace of ideas. The Framers of our Constitution believed that good ideas will triumph over bad ideas if the People are free to debate and to champion the ideas they find convincing. Free speech is not only valuable intrinsically as a personal liberty, but it is a necessary prerequisite for limited representative government, particularly in free elections.[7] This has been well stated by the District of Columbia Circuit: "If popular elections form the essence of republican government, free discourse and political activity formed the prerequisite for popular elections. As Madison wrote, a government which is 'elective, limited and responsible' to the people requires 'a greater freedom of animadversion' than one not so structured."

In our day, the Supreme Court has recognized that "debate on the qualifications of candidates [is] integral to the operation of the system of government established by our Constitution." Because the electoral process plays so central a role in our conception of a free government, "it can hardly be doubted that the constitutional guarantee [of the First Amendment] has its fullest and most urgent application precisely to the conduct of campaigns for political office."[8]

* * * * *

This effort goes by the innocuous name of campaign finance reform. While "reform" is generally considered a salutary goal, "reform" is not good when it is a euphemism for silencing the voice of the People at election time.

The Supreme Court and lower courts have repeatedly had to protect the First Amendment rights of the People against misguided "reform" efforts which impinge on essential liberties.[24] Truly beneficial "reform" would enhance the power of the People to communicate and promote their ideas, not repress it. Proper reform would return power to the People, not enhance the power of media elite, wealthy candidates, and Washington insiders to influence elections—which is the ultimate outcome if the People's voice through their political parties and political committees is muffled or silenced.[25]

Bopp writes that this fight against unconstitutional political speech restrictions advanced under the guise of "reform" is bipartisan. That may be the case in the outside world but, regrettably, that is not the situation in the Senate where it appears Democrats are going to join hands in delivering a crushing blow to First Amendment freedom that Americans have savored for two hundred years.

The battle to preserve free speech rights in the election context is bi-partisan and non-ideological, as evidenced by the existence of the Free Speech Coalition. This Coalition is co-chaired by Ellie Smeal of the Fund for the Feminist Majority and David Keene of the American Conservative Union and is made up of approximately 50 public interest advocacy groups ranging ideologically from the left to the right, from environmental activist groups to pro-business organizations, and from gun control enthusiasts to the National Rifle Association. The broad-based agreement on protecting free expression rights in the election context was symbolized recently when James Bopp, Jr., General Counsel for the National Right to Life Committee (*NRLC*) and co-author of the present article, presented testimony on behalf of the Free Speech Coalition before the U.S. Senate Committee on Rules and Administration considering campaign finance reform.[26] These public policy groups agree on little else, but they agree that the First Amendment protects their right to advocate on issues on public concern. This is the marketplace of ideas at work, with opposing groups vying for the blessing of public opinion on their issue. It is America working at its best.[27]

This battle for First Amendment liberty is being fought over several types of activities. It will be helpful to consider some of them briefly and note some terms of art.

A "political action committee" (PAC) (also sometimes known as a "political committee" in statutes) is nothing more than individuals uniting to promote issues and candidates more effectively than they could do on their own.[28] A PAC may lawfully engage in "express advocacy," i.e., expressly advocate the election or defeat of a clearly identified candidate,[29] and make contributions to candidates. First Amendment rights do not diminish in any way because persons associate to advocate for their cause more effectively; in fact, the right of citizens to band together in PACs is specifically protected by the First Amendment's freedom of association protections.[30] Thus, pejorative references to PACs as "special interests" which need to be stifled are actually misguided attacks on the core First Amendment rights of free political expression and association. The marketplace-of-ideas response to a PAC message one opposes is not to silence PACs but to form one's own association of persons to advocate an opposing message in the marketplace.[31] The cacophony of competing communications may sometimes be deafening and disquieting, but that is the way of liberty. The road to serfdom is the quiet and quiescent road. Recognizing free speech as an inherent good and the necessity of free political debate and association in a democratic republic, the Supreme Court has permitted only limited regulation of PACs.[32]

Litigation often arises over the scope of a state's definition of a political committee or PAC. Often states try to channel all individuals and groups, who advocate on issues in a manner which would in any way "influence" an election, into the political committee category so that they will have to register and report as if they were a political committee.[33] However, an organization cannot constitutionally be required to register and report as a political committee unless it "major purpose" is the nomination or election of candidates. Imposing the relatively burdensome reporting requirements which may be imposed on PACs on issue-advocacy groups is simply too heavy a burden on free expression to be permitted.[34] There is no compelling governmental interest to justify such a burden on First Amendment rights.

An "independent expenditure" is an expenditure made for a communication which contains "express advocacy" and is made without any prior consultation or coordination with a candidate. An entity which makes an independent expenditure may be required to report that expenditure, even if it is not required to register and report as a political committee.[35]

"Issue advocacy" is advocacy of issues without engaging in express advocacy.[36] For example, if a pro-life group publishes a newletter on the eve of an election describing Candidate D as pro-life and Candidate C as pro-abortion rights in an article about the two candidates, that is issue advocacy, not express advocacy, because there have been no explicit words expressly advocating the election or defeat of a clearly identified candidate for public office.[37] The candidates have been clearly identified, they are running for public office, but saying that Candidate D is pro-life is not express advocacy, it is issue advocacy. This is so even though the statement is made in a pro-life newsletter, in a discussion of candidates, on the eve of an election.[38]

A "voter guide" is a table showing the positions of candidates on various issues. If it does not expressly advocate the election or defeat of any of the identified candidates, the voter guide is pure issue advocacy and may not be regulated by the FEC or any state. The voter guide may even indicate what is the response preferred by the organization publishing the guide, e.g. by indicating a favorable answer (from the perspective of the publisher) with a (+) and an unfavorable response with a minus (−). Or the voter guide can word the questions in such a way that a candidate giving favored responses will have a "yes" answer for every question, while a candidate giving disfavored responses will have all "no" answers.[39] These voter guides may be paid for and distributed by any individual or organization.[40]

Because they discuss candidates, are distributed at election time, and may actually influence elections, voter guides have been the target of intense efforts by the FEC,[41] state legislatures,[42] and the Democrat Party[43] in an effort to force voter guide activity into the definition of express advocacy and, thereby, prohibiting citizens groups which publish them from doing so unless they register and report as political committees. Such efforts have been repeatedly rejected as courts have followed the bright-line express advocacy test set out by the United States Supreme Court to protect issue advocacy.

Advocates of McCain-Feingold cling to a groundless belief that the Supreme Court is going to do a 180 and suddenly retreat on decades of jurisprudence blasting such gross

See footnotes at end of article.

government intrusion into First Amendment speech. A notion Bopp dispels.

II. SUPREME COURT DEFENSE OF ISSUE ADVOCACY THROUGH BUCKLEY

The United States Supreme Court has long and carefully watched over efforts to regulate political speech in order to ensure that the guarantees of the First Amendment[44] are not denied. This is because such restrictions "limit political expression 'at the core of our electoral process and of First Amendment freedoms.'"[45] All political speech, including communications which expressly advocate election or defeat of Supreme Court has declared: "[T]he First Amendment right to 'speak one's mind . . . on all public institutions' includes the right to engage in "'vigorous advocacy' no less than 'abstract discussion.'" Advocacy of the election or defeat of candidates for federal office is no less entitled to protection under the First Amendment than the discussion of political policy generally or advocacy of the passage or defeat of legislation."[46]

Not only has the Court afforded strong constitutional protection for political speech in general, but it has afforded exceptionally strong constitutional protection for issue-oriented speech. As a result, the Court has repeatedly given a narrowing construction to statutes regulating political speech, so as to permit regulation of only express advocacy, in order to shield the statutes from constitutional attack. Moreover, the Supreme Court has established two bright-line tests to protect the advocacy of issues in the election context: (1) the "express advocacy test" and (2) the "major purpose test."[47] These will be discussed in turn.

A. THE BRIGHT-LINE EXPRESS ADVOCACY TEST

In a series of cases, the United States Supreme Court has drawn a distinction between express advocacy, which may be regulated, and issued advocacy, which may not be regulated. As shall be seen, both enjoy full First Amendment protection, but the compelling interest in preventing corruption (or its appearance) in the election process is only sufficiently compelling to warrant some regulation of express advocacy.[48] No governmental interest is sufficiently compelling to regulate issue advocacy.

In 1948, the Supreme Court considered the case of *United States v. Congress of Industrial Organizations (C.I.O).*[49] *C.I.O.* concerned a federal statute prohibiting a corporation or labor organization from making "any expenditure in connection with a federal election."[50] Under this provision, an indictment was returned against the C.I.O. and its president for publishing, in The CIO News, a statement urging all members of the C.I.O. to vote for a particular candidate for Congress in an upcoming election.[51] In affirming a dismissal of the indictment, the Court observed: "If §313 were construed to prohibit the publication, by corporations and unions in the regular course of conducting their affairs, of periodicals advising their members, stockholders or customers of danger or advantage to their interests from the adoption of measures, or the election to office of men espousing such measures, the gravest doubt would arise in our minds as to its constitutionality."[52]

A lengthy footnote appended to this statement set forth several passages from case law wherein the Court had declared the specially protected nature of free speech concerning public policy and political matters:

"Free discussion of the problems of society is a cardinal principle of Americanism—a principle which all are zealous to preserve. *Penekamp v. Florida*, 328 U.S. 331, 345 [(1946)].

"The case confronts us again with the duty our system places on this Court to say where the individual's freedom ends and the State's power begins. Choice on that border, now as always delicate, is perhaps more so where the usual presumption supporting legislation is balanced by the preferred place given in our scheme to the great, the indispensable democratic freedoms secured by the First Amendment. *Thomas v. Collins*, 323 U.S. 516, 529–30 [(1945)].

"For the First Amendment does not speak equivocally. It prohibits any law 'abridging the freedom of speech, or of the press.' It must be taken as a command of the broadest scope that explicit language, read in the context of a liberty-loving society, will allow. *Bridges v. California*, 314 U.S. 252, 263 [(1941)]."[53]

In 1976, the Supreme Court considered a successor statute to the one discussed in *C.I.O.*, the Federal Election Campaign Act of 1971, as amended in 1974.[54] This new statute was reviewed in *Buckley* v. *Valeo*.[55]

Buckley dealt, inter alia, with a provision which limited "any expenditure . . . relative to a clearly identified candidate."[56] The provision placed a limit on the amount of an independent expenditure on behalf of a candidate. However, this provision was considered to be unconstitutionally vague.[57] Therefore, the Court construed it with another provision of the same statute to require "'relative to' a candidate to be read to mean 'advocating the election or defeat of' a candidate."[58]

However, as the *Buckley* Court noted, this construction merely refocused the vagueness problem. The real problem, the Court noted, as that: "the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are often intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest.[59]

Because of the problem described, the Supreme Court settled on the express advocacy test as marking the line of demarcation between the permitted and the forbidden. This test is constitutionally mandated because only a statute regulating the express advocacy of a clearly identified federal candidate has a sufficiently bright line of distinction to make it constitutionally defensible. The Supreme Court, in *Buckley*, explained the problem with a quotation from *Thomas* v. *Collins:* "[W]hether words intended and designed to fall short of invitation would miss the mark is a question both of intent and of effect. No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation. In short, the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning. Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim.[60]"

Thus, the Supreme Court, in *Buckley*, said that "[t]he constitutional deficiencies described in *Thomas* v. *Collins* can be avoided only by reading §608(e)(1) [placing a ceiling on independent expenditures] as limited to communications that include explicit words of advocacy of election or defeat of a candidate."[61]

Without such a clear line of demarcation, then, a speaker is forced to "hedge and trim" comments made on issues of public importance for fear he will be charged with forbidden electioneering. This is too heavy a burden on First Amendment Rights to be constitutionally permitted.[62]

The *Buckley* Court concluded that "[t]he constitutional deficiencies" of such unclear statutory language could only be cured by reading the statute "to apply to expenditures for communications that in express terms advocate the election of a clearly identified candidate for a public office."[63] The Court added that "[t]his construction would restrict the application of §608(e)(1) to communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'"[64]

The *Buckley* Court then proceeded to determine whether the statute, "even as thus narrowly and explicitly construed, impermissibly burdens the constitutional right of free expression."[65] The Court determined that the government could not advance an interest in support of the statute sufficient to "satisfy the exacting scrutiny applicable to limitations on core First Amendment rights of political expression."[66]

In sum, the Court established the express advocacy test as a bright-line rule to distinguish political advocacy, which could be regulated, from issue advocacy, which may not.

B. THE BRIGHT-LINE MAJOR PURPOSE TEST

In *Buckley*, the Supreme Court also established the bright-line "major purpose" test. In practical application, this test means that government may not require an organization which makes contributions and independent expenditures to register and report as a political committee unless the "major purpose" of the organization is the election or nomination of candidates for political office.[67] Government may, however, require that the independent expenditures be reported by the organizations making them and that contributions be reported by the candidate receiving them. However, there is no sufficiently compelling interest to justify imposing the onerous burdens imposed on a political committee on an issue advocacy group.[68]

This test was set forth in the *Buckley* Court's discussion of 2 U.S.C. §434(e), which required "[e]very person (other than a political committee or candidate) who makes contributions or expenditures" aggregating over $100 in a calendar year "other than by contribution to a political committee or candidate" to file a statement with the Commission. Unlike the other disclosure provisions, this section does not seek the contribution list of any association. Instead, it requires direct disclosure of what an individual or group contributes or spends."[69]

"In considering this provision," the Court wrote, "we must apply the same strict standard of scrutiny, for the right of associational privacy developed in *NAACP v. Alabama* derives from the rights of the organization's members to advocate their personal points of view in the most effective way."[70]

The Court continued:

"When we attempt to define 'expenditure' . . . . [a]lthough the phrase, 'for the purpose of . . . influencing' an election or nomination, differs from the language used in §608(e)(1), it shares the same potential for encompassing both issue discussion and advocacy of a political result. The general requirement that 'political committees' and

candidates disclose their expenditures could raise similar vagueness problems, for 'political committee' is defined only in terms of amount of annual 'contributions' and 'expenditures,' and could be interpreted to reach groups engaged in purely issue discussion. . . . To fulfill the purposes of the Act they need only encompass organizations that are under the control of a candidate or the *major purpose of which is the nomination or election of a candidate.* Expenditures of candidates and 'political committees' so construed can be assumed to fall within the core area sought to be addressed by Congress. They are, by definition, campaign related.

"But when the maker of the expenditure is not within these categories—when it is an individual other than a candidate or a group other than a 'political committee'—the relation of the information sought to the purposes of the Act may be too remote. To insure that the reach of §434(e) is not impermissibly broad, we construe 'expenditure' for purposes of that section in the same way we construed the terms of §608(e)—to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate."[71]

So construed, the reporting of independent expenditures is justified by the substantial governmental interest in "sched[ding] the light of publicity on spending that is unambiguously campaign related,"[72] i.e., an interest in preventing corruption in the political process.

After the Supreme Court's 1976 *Buckley* decision, the express advocacy test and the major purpose test were clearly deployed as twin defenses against governmental encroachment on issue advocacy. However, as shown in the next section, the FEC and some state legislatures have spent the next two decades trying to evade the Court's pronouncements.

Before proceeding, however, comment needs to be made on the recent case of *Akins v. FEC.*[73] That case held that the major purpose test applied when an organization engaged in independent expenditures, but not when it made contributions. The decision, however, was wrongly decided because the court did not engage in the most basic First Amendment analysis, which would have led to a different result.

The case involved a complaint to the FEC that the American Israel Public Affairs Committee (*AIPAC*) was a "political committee" subject to the broad disclosure requirements and limits imposed on political committees. The FEC dismissed the complaint because the Committee did not met its definition for a political committee. The definition required that a committee (1) meet the $1,000 expenditure threshold and (2) have as its major purpose the nomination or election of candidates. The FEC "determined that AIPAC likely had made campaign contributions exceeding the $1,000 threshold, but concluded that there was not probable cause to believe AIPAC was a political committee because its campaign-related activities were only a small portion of its overall activities and not its major purpose."[74] The FEC argued that *Buckley* required it to include a major purpose exception for such contributions in its rules implementing 2 U.S.C. §431(4)(A) (the definition of "political committee").[75] Ironically, as the FEC properly followed and defended the *Buckely* major purpose test in this instance, it was overruled.

The D.C. Circuit's analysis reviewed the language of *Buckley* and decided that the major purpose test was only established by the Court in the context of expenditures.[76] The *Akins* court similarly dismissed the language about the major purpose test in *MCFL*[77] as only applying in the context of independent expenditures, so that "the Court's rationale in *MCFL* and *Buckely* is simply inapplicable to the present case."[78] The *Akins* court proceeded with some policy arguments about how the FEC's interpretation "would . . . allow a large organization to contribute substantial sums to campaign activity, as long as the contributions are a small portion of the organization's overall budget, without being subject to the limitations and requirements imposed on political committees."[79] Of course, that is so and is as it should be. The very idea of the major purpose test is that the heavy limits and disclosure requirements imposed on political committees are too great a burden on the First Amendment rights of organizations whose major purpose is not campaign advocacy. It is sufficient that the details of each independent expenditure or contribution to a candidate be disclosed to the FEC as matters of public record.

What was glaringly absent from the *Akins* opinion was a constitutional analysis.[80] A proper constitutional analysis would have begun with the strong First Amendment protection for all forms of political expression, including contributions. Next, the analysis would have asked whether there was any compelling governmental interest sufficient to override the First Amendment's protection. A proper analysis would have noted that the only interests found sufficiently compelling by the Court are the interests in preventing corruption and its appearance in the political process. The analysis would have then asked whether contributions to candidates from an organization whose major purpose is education and lobbying posed such a threat of corruption to the political system that is could only be cured by imposing on the organization the heavy burdens imposed on PACs. The answer, of course, would be that fully disclosed contributions, which are a small fraction of an organization's activities, pose not credible threat of corruption or the appearance thereof. Therefore, imposing the limitations and broad disclosure requirements, which are placed on political committees, on an organization whose major purpose is not the nomination or election of candidates would violate the First Amendment in the same way that the Constitution is violated in the context of such organizations making independent expenditures.

It may safely be assumed that, at such a time as the United States Supreme Court has the opportunity to review the issue raised in *Akins*, the major purpose test will be reasserted in the context of contributions, as well as independent expenditures. Meanwhile, it is clearly in force with respect to independent expenditures and with respect to contributions in all but the D.C. Circuit. The FEC filed a petition for a writ of certiorari on April 7, 1997.[81]

III. FAILED FEC EFFORTS TO STIFLE ISSUE ADVOCACY

The FEC apparently did not like the answers the Supreme Court gave in *Buckley*[82] because it soon began challenging the decision with enforcement actions and rulemaking that did not follow the express advocacy and major purpose tests. This resulted in a long string of litigation, traced below, highlighted by judicial rebuffs and rebukes.

In this twenty-year effort to suppress political speech by circumventing *Buckley*, the FEC has treated the First Amendment as a loophole in the Federal Election Campaign Act which it is the FEC's duty to close, and the FEC has treated United States Supreme Court decisions against it as inconveniences to be overcome. As a result, the FEC has engaged in a sustained and unprecedented assault on the First Amendment, consuming enormous FEC resources. Rather than enforce the many uncontroversial and clearly constitutional provisions of the FECA, the FEC has used its limited resources to launch a series of regulatory changes and enforcement actions with the intent of expanding its powers to regulate free speech. This effort has resulted in a series of court cases striking down these regulations[83] and defeating the FEC's enforcement actions.[84]

The courts have, therefore, frustrated the unlawful efforts of the FEC to impinge on free speech, but at an enormous cost in taxpayer funds and in attorney fees for successful victims of the FEC's enforcement actions. The cost to the free speech of those intimidated by the heavy hand of the FEC, however, cannot be calculated. Instead of enforcing the important and uncontroversial provisions of the Act, the FEC has focused its attention on "grassroots groups and citizens who want to take part in the political debate, too—groups far less well-funded and less capable of extricating themselves from the tangle of FEC regulations." Thus, the FEC has functioned "more and more as a censor of political expression, especially by issue-oriented, grassroots activists."[85] Some of the most significant cases are reviewed below.

A. FEC V. AFSCME (1979)

In *FEC v. American Federation of State, County and Municipal Employees (AFSCME),*[86] the District of Columbia district court rejected the FEC's contention that a poster qualified as express advocacy because it contained a clearly identified candidate, "may have tended to influence voting," and "contain[ed] communication on a public issue widely debated during the campaign."[87] The AFSCME union had printed a poster with a caricature of President Ford wearing a button reading "Pardon Me" and embracing President Nixon, but it did not report the expenditure as express advocacy. The district court held that this was issue advocacy, not express advocacy, because it contained no express words urging the election or defeat of a clearly identified candidate.[88] The *AFSCME* court noted that "[t]he *Buckley* analysis of the limits of political activity is based on long recognized principles: (1) political expression, including discussion of candidates, is afforded the broadest protection under the first amendment; and (2) discussion of public issues which are also campaign issues unavoidably draws in candidates and tends to inexorably exert influence in voting at elections."[89]

B. FEC V. CLITRIM (1980)

Undeterred, the FEC brought suit against the Central Long Island Tax Reform Immediately Committee for the Organization's failure to report funds expended to publish and distribute a leaflet advocating lower taxes and smaller government. The Second Circuit, in *FEC v. Central Long Island Tax Reform Immediately Committee (CLITRIM),*[90] adhered to the express advoacy test set forth in *Buckley* and, therefore, ruled against the FEC.

The first provision at issue required "any 'person . . . who makes contributions or independent expenditures *expressly advocating* the election or defeat of a clearly identified candidate'" in excess of one hundred dollars to file a report with the FEC.[91]

The second provision required "any person who 'makes an expenditure for the purpose of financing communications *expressly advocating* the election or defeat of a clearly identified candidate' . . . through media, advertising or mailing to state whether the communication is authorized by a candidate. . . ."[92]

The *CLITRIM* court noted "the broad protection to be given political expression,"[93] as indicated by the Supreme Court in *Buckley*, and observed that: "[t]he language quoted from the statutes was incorporated by Congress in the 1976 FECA amendments to conform the statute to the Supreme Court's holding in *Buckley v. Valeo* that speech not by a candidate or political committee could be regulated only to the extent that the communications "expressly advocate the election or defeat of a clearly identified candidate."[94]

The court further observed that limiting the statutes to reach only express advocacy "is consistent with the firmly established principle that the right to speak out at election time is one of the most zealously protected under the Constitution."[95]

The *CLITRIM* court held that: "[t]he history of §§434(c) and 441d thus clearly establish that, contrary to the position of the FEC, the words "expressly advocating" mean[ ] exactly what they say. The FEC, to support its position, argues that '[t]he TRIM bulletins at issue here were not disseminated for such a limited *purpose*' as merely informing the public about the voting record of a government official. Rather the purpose was to unseat 'big spenders.' Thus, the FEC would apparently have us read 'expressly advocating the election or defeat' to mean for the purpose, express or *implied*, of encouraging election or defeat. This would, by statutory interpretation, nullify the change in the statute ordered in *Buckley v. Valeo* and adopted by Congress in the 1976 amendments. The position is totally merit-less."[96]

From the *CLITRIM* decision, it seemed clear that the express advocacy test was firmly ensconced as black-letter constitutional law. Nevertheless, the FEC continued its campaign to eliminate freedom of speech on issues at election time.

C. FEC. V. NCPAC (1985)

In 1985, the Supreme Court considered *FEC v. National Conservative Political Action Committee (NCPAC)*.[97] This case involved a declaratory judgment action seeking to have a provision of the Presidential Election Campaign Fund Act[98] declared constitutional. It was originally initiated by the Democrat National Committee in hopes that it could prevent *NCPAC* and another conservative PAC (Fund For A Conservative Majority) from implementing their expressed intent to spend large sums of money to aid the 1984 reelection of President Ronald Reagan.[99]

The disputed provision made it a criminal offense for an independent political committee "to expend more than $1,000 to further [a] . . . candidate's election," if the "Presidential candidate elects public financing."[100] The Supreme Court declared the $1,000 cap on independent expenditures unconstitutional because such independent expenditures enjoyed full First Amendment protection and there was no compelling state interest to override this right of free expression.[101]

In *NCPAC*, the Supreme Court stated the only interest sufficiently compelling to justify regulation of political speech in the form of contributions and expenditures:

"We held in *Buckley* and reaffirmed in *Citizens Against Rent Control* that preventing corruption or the appearance of corruption are the only legitimate and compelling government interests thus far identified for restricting campaign finances. . . .

"Corruption is a subversion of the political process. Elected officials are influenced to act contrary to their obligations of office by the prospect of financial gain to themselves or infusions of money into their campaigns. The hallmark of corruption is the financial *quid pro quo*: dollars for political favor."[102]

The Court went on to state that: "The fact that candidates and elected officials may alter or reaffirm their own positions on issues in response to political message paid for by PACs can hardly be called corruption, for one of the essential features of democracy is the presentation to the electorate of varying points of view."[103]

The implication of these statements should have been clear, even to the FEC. For years the FEC has maintained the position that it ought to be able to regulate issue advocacy in the form of voter guides which tell where candidates stand on issues, on the theory that issue-advocacy groups were actually engaging in express advocacy or making a contribution to the candidates who favored their issues.[104] Voter guides might have the effect, the argument would go, or persuading candidates to support the organization's views on an issue.

However, if the only compelling interest for restricting speech at election time is corruption (or its appearance), and if persuading politicians to a different viewpoint of advocacy of issues is not corruption, then there can be no compelling governmental interest which would permit restriction of issue advocacy. If this is true of PACs, then a fortiori there can be no corruption or appearance of corruption resulting from issue advocacy by any issue advocacy groups. Undeterred, the FEC rejected the clear teaching of the Supreme Court in *Buckley*, *CLITRIM*, and *NCPAC* and continued its efforts to attempt to regulate issue advocacy.

D. FEC V. MCFL (1986)

In 1986, the Supreme Court again considered the constitutional protection afforded issue advocacy in the case of *FEC v. Massachusetts Citizens for Life (MCFL)*.[105] The FEC had brought an enforcement action against MCFL, alleging that the organization had violated 2 U.S.C. §441b, a ban on corporate expenditures "in connection with any election," by publishing a voter guide.

The voter guide, published by MCFL, was contained in a "Special Edition' newsletter which encouraged readers to "Vote Pro-Life" and identified the pro-life candidates.[106] A complaint was filed with the FEC alleging that MCFL had violated the ban on corporate expenditures found at 2 U.S.C. §441b.[107] The Supreme Court decided that this "Special Edition" did not qualify for the newspaper exemption found in the FECA,[108] and that MCFL had engaged in express advocacy, but that the First Amendment required a special exemption from §441b's prohibitions for MCFL-type corporations.[109]

Under the FECA, "expenditure" means to provide anything of value "for the purpose of influencing any election for Federal office."[110] This "influencing" language was the same terminology construed by the Supreme Court in *Buckley* to mean only express advocacy, in order to save a different provision of the FECA from unconstitutionality for sweeping issue advocacy within its ambit.

In *MCFL*, the Supreme Court considered the contention of MCFL "that the definition of an expenditure under §441b necessarily incorporates the requirement that a communication 'expressly advocate' the election of candidates," relying on *Buckley*.[111] The FEC argued that the express advocacy test should not be extended to this provision barring corporate expenditures.

The *MCFL* Court held, however, that the express advocacy rationale must be extended to restrictions on expenditures by corporations.[112] The Court said that, if a ceiling on independent expenditures, at issue in *Buckley*, had to be construed to apply only to express advocacy of the election or defeat of a clearly identified candidate (in order to eliminate the constitutional deficiencies described in *Buckley*), "this rationale requires a similar construction of the more intrusive provision [at issue in *MCFL*] that directly regulates independent spending."[113]

The Supreme Court rejected the FEC's argument that extending the express advocacy protection to corporations and labor unions "would open the door to massive undisclosed political spending."[114] Nevertheless, the FEC continued to treat constitutionally-protected issue advocacy as a loophole which ought to be closed because it limited the FEC's ability to regulate anything that might possibly influence an election.[115]

E. FEC V. FURGATCH (1987)

In 1987, the United States Court of Appeals for the Ninth Circuit decided the case of *FEC v. Furgatch*.[116] This case contained obiter dicta suggesting that the court was applying a broadened express advocacy test to the FECA's requirement that independent expenditures by an individual over $250 must be reported to the FEC[117] and must contain a disclaimer.[118]

Buckley held that only "explicit words" "expressly advocating the election or defeat of a clearly identified candidate," constitute express advocacy.[119] However, the Ninth Circuit wrote that a court could look beyond the explicit words of the communication to consider the context in which the words were communicated.[120] *Furgatch* considered newspaper advertisements which made a number of allegations about President Jimmy Carter followed by the phrases, "And we let him," "And we let him do it again," "We are letting him do it," and following paragraphs:

"He continues to cultivate the fears, not the hopes, of the voting public by suggesting the choice is between 'peace and war,' 'black or white,' 'north or south,' and 'Jew vs. Christian.' His meanness of spirit is divisive and reckless McCarthyism at its worst. And from a man who once asked, 'Why Not the Best?'

"It is an attempt to hide his own record, or lack of it. If he succeeds the country will be burdened with four more years of incoherences, ineptness and illusion, as he leaves a legacy of low-level campaigning.

"DON'T LET HIM DO IT."[121]

Noticeably absent from this communication are any words of express advocacy. Nowhere does the communication contain explicit words such as "vote for" or "defeat." The Ninth Circuit, however, decided that the context should be consulted: "We conclude that speech need not include any of the words listed in *Buckley* to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidates."[122]

Applying its contextual standard, the Ninth Circuit determined that Mr. Furgatch had engaged in express advocacy.

Four key facts should be noted about *Furgatch*. First, although the *MCFL* decision

was issued on December 15, 1986, and the *Furgatch* decision was issued just days later on January 9, 1987, *Furgatch* made no mention of the newly announced *MCFL* decision, which clearly reaffirmed the bright-line *Buckley* approach. Second, as discussed below, the *Furgatch* contextual approach has not been followed by other courts and has, in fact, been expressly repudiated by some.[123]

Third, the broader test was employed in a case which involved only a failure to report an expenditure to the FEC.[124] Fourth, the Fourth Circuit has recently demonstrated in a careful exegesis of *Furgatch* that the Ninth Circuit did not go to the extreme to which the FEC has tried to stretch it and that the actual holding of *Furgatch* conforms quite closely to *Buckley* and *MCFL*.[125]

Thus, the *Furgatch* test was decided in, and only logically applies to, the very narrow context of disclosure provisions. The *Furgatch* court noted the Supreme "Court's directive that, where First Amendment concerns are present, we must construe the words of the regulatory statute precisely and narrowly, only as far as is necessary to further the purposes of the Act."[126] The court then devoted a full page to discussing the importance of disclosure, the purposes served thereby, and the minimal burden imposed by disclosure.[127] Because it concluded that disclosure "serves an important Congressional policy and a very strong First Amendment interest," and, because the burden imposed would be "minimally restrictive," the Ninth Circuit adopted a totality of the circumstances test.[128] Therefore, if *Furgatch* is good law, it should be limited to its context.

Moreover, as mentioned, the Fourth Circuit's careful analysis has demonstrated that the core *Furgatch* holding closely conforms to the *Buckley* and *MCFL* express advocacy test and that any more broadly worded language was both dicta and contrary to Supreme Court precedent,[129] a fact the FEC clearly understood at the time.[130] In fact, the Fourth Circuit has recently excoriated the FEC, and awarded attorneys' fees against it, for bad faith prosecution in duplicitous reliance on a broad interpretation of *Furgatch* when the FEC had demonstrated its clear understanding of the true narrowness of the *Furgatch* holding in its *Brief for Respondent in Opposition* to Mr. Furgatch's petition for a writ of certiorari to the U.S. Supreme Court.[131] The Fourth Circuit's censure of the FEC for its duplicity and dissembling with regard to *Furgatch* is discussed at greater length below.

Nevertheless, energized by its success in opposing Supreme Court review of *Furgatch* and preserving the broadly-worded *Furgatch* dicta, which was useful for expanding FEC power, the FEC launched a campaign to apply its totality-of-the-circumstances "express advocacy" test in a wide range of contexts.

F. FEC V. NOW (1989)

In the case of *FEC v. National Organization for Women (NOW)*,[132] the FEC again brought an enforcement action employing its broadly defined express advocacy test. The FEC charged that membership solicitation letters discussing issues to pay inequality, abortion, and the Equal Rights Amendment (ERA) constituted express advocacy. The letters at issue expressly criticized the Reagan Administration and the Republican Party, including the following phrase which the FEC found damming: "Politicians listen when they think an organized group of citizens can help elect or defeat them." Another letter criticized by name Senators Helms, Hatch, and Thurmond and spoke of "a renewed effort now being launched by New Right reactionary groups in preparation for the 1984 elections," which phrase the FEC condemned as electioneering. A third letter made the case for the ERA and condemned President Reagan and named several senators "up for reelection in 1984," who "must be made to understand that failure to pass the ERA will result in powerful campaigns to defeat them"[133] As a result of these statements, the FEC claimed that NOW has violated the corporate prohibition on candidate-related speech.

The *NOW* court referred to both the *Buckley* test[134] and the *Furgatch* "broad test."[135] However, the *NOW* court held that there simply was no express advocacy under any test,[136] tying its holding explicitly to the *Buckley* principles: "At issues in this case is political speech, which lies at the core of the First Amendment. Discussion of public issues and the qualifications of candidates for public office is integral to a system of government in which the people elect their leaders. In order to make informed choices about its leaders, the citizenry needs to hear the free exchange of ideas. The First Amendment affords the broadcast protection to such political expression."[137]

G. FAUCHER V. FEC (1991)

It should have been clear to the FEC that the Supreme Court meant what it said in *Buckley* about issue advocacy being sacrosanct when the Court reaffirmed the test in a new context in MCFL. However, the FEC continued to press ahead with its efforts to regulate issue advocacy. Included in its effort was the promulgation of new rules regulating voter guides.

In *Faucher v. FEC*,[138] the First Circuit struck down the Federal Election Commission's regulations of voter guides as being beyond the authority of the FEC under 2 U.S.C. §441b as interpreted by the Supreme Court in *MCFL*. The regulation at issue, 11 C.F.R. §114.4(b)(5), required that a voter guide by "nonpartisan," which the FEC defined by reference to six factors. These factors included whether "the wording of their questions presented . . . suggest or favor any position on the issues covered" and whether "the voter guide expressed (any) editorial opinion concerning the issues presented."[139]

The United States District Court for the District of Maine struck the regulations down for trespassing upon constitutionally protected issue advocacy and for reaching beyond the authority of the Federal Election Commission under §441b, which bars corporate political speech.[140] The First Circuit affirmed the decision of the District Court,[141] declaring that "[t]he first amendment lies at the heart of our most cherished and protected freedoms. Among those freedoms is the right to engage in issue-oriented political speech."[142]

The First Circuit expressly applied the "bright-line" test of *Buckley* in accordance with the speech-protective rationale of that case: "In our view, trying to discern when issue advocacy in a voter guide crosses the threshold and becomes express advocacy invites just the sort of constitutional questions the Court sought to avoid by adopting the bright-line express advocacy test in *Buckley*."[143]

H. FEC V. SURVIVAL EDUCATION FUND (1994)

In *FEC v. Survival Education Fund*,[144] the U.S. District Court for the Southern District of New York rejected an FEC attempt to broaden the express advocacy test of *Buckley* and *MCFL*. The case involved letters sent four months before an election by Dr. Benjamin Spock that were hostile to President Reagan and condemned his policies. The FEC argued that the letters constituted express advocacy and, therefore, were prohibited political communications by a corporation. The court, however, pointed to the "express words" formula in *Buckley* and held that: "It is clear from the cases that expressions of hostility to the positions of an official, implying that that official should not be re-elected—even when the implication is quite clear—do not constitute the express advocacy which runs afoul of the statute. Obviously, the courts are not giving a broad reading to this statute."[145]

I. FEC V. CHRISTIAN ACTION NETWORK (1995)

In *FEC v. Christian Action Network*,[146] a Virginia district court considered advertisements, run during the 1992 election campaign, which the FEC considered to be express advocacy of the defeat of presidential candidate Clinton. Because the ads did not contain "explicit words or imagery advocating electoral action," the court held that they constituted protected issue advocacy and not electioneering.[147] The Court followed the "strict interpretation" of the express advocacy test: "In the nineteen years since the Supreme Court's ruling in *Buckley v. Valeo*, the parameters of the 'express advocacy' standard have been addressed by several federal courts in a variety of circumstances. * * * Acknowledging that political expression, including the discussion of public issues and debate on the qualifications of candidates enjoys extensive First Amendment protection, the vast majority of these courts have adopted a strict interpretation of the 'express advocacy' standard."[148]

On August 2, 1996, the United States Court of Appeals for the Fourth Circuit issued a brief per curiam opinion affirming the district court.[149]

J. FEC V. GOPAC (1996)

FEC v. GOPAC,[150] the FEC's much ballyhooed enforcement action against GOPAC (which Newt Gingrich served as chairman), amply demonstrates the FEC's refusal to recognize the constitutional protection afforded issue advocacy by the bright-line express advocacy test and the major purpose test. Despite the fact that GOPAC did not have as its major purpose the election or nomination of candidates for federal office, the FEC pushed for a test that would make an organization a political committee if it "engage[s] in 'partisan politics' or 'electoral activity.'"[151] The court rejected this approach and granted GOPAC summary judgment because the test proposed was not that of the Supreme Court in *Buckley*.[152]

K. NEW FEC REGULATIONS (OCTOBER 5, 1995)

After the *Faucher* decision in 1991, which struck down FEC regulations prohibiting voter guides from expressing a position on an issue,[153] the FEC needed to revise or delete its regulation dealing with voter guides. All that was needed to bring the regulation into compliance with the First Amendment was a small excision in the definition of "nonpartisan," so that the factors for what constituted "nonpartisan" would not include whether a question is worded in a way that supports the position of a candidate on the issue covered.[154]

The FEC took from 1991 to late 1995 to promulgate its new rules.[155] When the new rules were published, there was no mere excision or minimal editing to fix the First Amendment problem with issue advocacy. Rather, the new FEC regulations were an expansive effort to bypass the First Amendment jurisprudence of the federal courts. The rules

were a transparent attempt to incorporate the FEC's interpretation of the *Furgatch* totality of the circumstances test into the FEC rules in the hope that the FEC could sell the federal courts on the notion that deference should be granted to the agencies interpretation in federal law in this area.[156]

If such deference were forthcoming, the FEC would have accomplished by rulemaking what it had failed in years of litigating enforcement actions to achieve, i.e., imposing its broad interpretations of the *Furgatch* test in place of the Supreme Court's bright-line express advocacy test. As shall be seen, the deference was not forthcoming.

The FEC issued its copious new post-*Faucher* rules in two sets in late 1995. The first set was to take effect on October 5, 1995. The revision of the FEC voter guide regulations necessitated by *Faucher* four years before occurred in a later set of rules to take effect March 13, 1996.

The October 5 set of rules contained a new definition of express advocacy, tracking the FEC's broad interpretation of *Furgatch*:

"Expressly advocating means any communication that—

"(a) uses phrases such as 'vote for the President,' 're-elect your Congressman,' 'support the Democratic nominee,' 'cast your ballot for the Republican challenger for U.S. Senate in Georgia,' 'Smith for Congress,' 'Bill McKay in 94,' 'vote Pro-Life' or 'vote Pro-Choice' accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, 'vote against Old Hickory,' 'defeat' accompanied by a picture of one or more candidate(s), or communications of campaign slogan(s) which in context can have no other reasonable meaning than to encourage the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say 'Nixon's the One,' 'Carter 76,' 'Reagan/Bush' or 'Mondale!'; or

"(b) when taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—

"(1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

"(2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.[157]"

While the first part of subsection (a) generally followed *Buckley*, specifying explicit and express words of advocacy in the communication itself, the second part of subsection (a) added a contextual factor, relying on *Furgatch*. Subsection (b) was wholly patterned after the FEC's broad interpretation of *Furgatch*. Of course, such a definition of express advocacy would leave the speaker uncertain whether the FEC would find a communication to constitute express advocacy, consequently chilling protected speech. Such a definition would abandon the bright-line test *Buckley* said was essential to safeguard protected issue advocacy in this arena, and it would afford the FEC great latitude in its enforcement.[158]

L. MAINE RIGHT TO LIFE COMMITTEE V. FEC (1966)

The FEC's new express advocacy definition took effect on October 5, 1995. On November 22, 1995, Maine Right to Life (also a plaintiff in the *Faucher* case) filed a complaint and motions seeking declaratory and injunctive relief.[159] On February 13, 1996, the United States District Court for the District of Maine declared the latest regulations of the FEC seeking to define express advocacy[160] to be "invalid as not authorized by the Federal Election Campaigns Act of 1971, as interpreted by the United States Supreme Court in *Massachsuetts Citizens for Life*, and by the United States Court of Appeals for the First Circuit in *Faucher*, because it extends beyond issue advocacy."[161] The district court struck down a definition of "[e]xpressly advocating,"[162] which "comes directly from" *Furgatch*.[163] The district court relied on the fact that, contrary to the Ninth Circuit's decision in *Furgatch*, the Supreme Court in *Buckley* and *MCFL* created a bright-line protection of issue advocacy, "even at the risk that it is used to elect or defeat a candidate."[164]

On October 18, 1996, the First Circuit issued a brief per curiam opinion affirming "for substantially the reasons set forth in the district court opinion."[165]

The FEC, however, has obstinately taken the position that these regulations are still in effect in all other jurisdictions than the First Circuit, even though the action was brought under the Administrative Procedure Act and the First Circuit held that the FEC was without authority to promulgate these regulations and, thus, they are void.[166]

M. NEW FEC REGULATIONS (MARCH 13, 1996)

After releasing the regulations which were struck down in *Maine Right to Life Committee*, the FEC next released revised rules setting forth the FEC's requirements for "voter guides" and "voting records."[167] They became effective on March 13, 1996.[168] Under the new voter guide regulation,[169] the amount of contact that a corporation had with a candidate regarding the voter guide severely affected the content of the voter guide.

First, if the corporation had any oral communications with a candidate regarding the voter guide, the publication of the voter guide was absolutely prohibited. A prohibited oral communication would even include contacting the candidate to clarify a candidate's position on an issue.[170] As a result of the oral communication, the publication of the voter guide was considered by the FEC to be an in-kind contribution to the candidate and, thus, a prohibited corporate contribution under §441b.

However, if the corporation had no oral or written contact with the candidate,[171] the corporation retained its right to state a position on the issues of the voter guide (a First Amendment right recognized in the *Faucher* case). Of course, it is very difficult to prepare a voter guide without sending a written questionnaire to the candidates asking them to state their positions on the issues, so written questionnaires are the common practice.[172] Because the use of a questionnaire is so important to an effective voter guide, most organizations would feel compelled to at least contact the candidate in writing, resulting in severely limiting their issue advocacy.

If an organization had written contact with the candidate,[173] the content of the voter guide was severely restricted.[174] First, "all of the candidates for a particular seat or office shall be provided an equal opportunity to respond . . . ."[175] Second, "no candidate may receive greater prominence in the voter guide, than other participating candidates, or substantially more space for responses."[176] Voter guides shall not contain an "electioneering message."[177] Finally, the regulation mandates that a "voter guide and its accompanying materials shall not score or rate the candidates' responses in such a way as to convey an electioneering message."[178] Thus, to do a voter guide after written contact with a candidate, the corporation had to surrender its constitutionally-protected right to engage in issue advocacy in voter guides.

Having been repeatedly frustrated by the courts in its attempt to regulate voter guides as expenditures because of the express advocacy test, the FEC based its new voter guide regulations on a new "contribution" theory. This theory attempted to avoid the express advocacy test by labeling[179] expenditures for a voter guide as "in-kind contributions" to the candidate, which are also prohibited by corporations under §441b. The FEC's hope was that, if an expenditure for a communication was labeled as an "in-kind contribution," then the courts would not require that the communication contain express advocacy but merely influence an election. Furthermore, this theory took a very expansive view of when an expenditure was requested by or coordinated with a candidate, which is an essential element to make an expenditure into an "in-kind contribution." In both respects, however, the FEC violated existing court precedents.

The FECA made it unlawful for any corporation or union "to make a contribution or expenditure in connection with any election"[180] The FECA defines "contribution or expenditure" to include "any direct or indirect payment, . . . or gift of money, or services, or anything of value . . . to any candidate . . . in connection with any election."[181] Of course, it was this language that the Court in *MCFL* held must contain "express advocacy," if an expenditure were to be considered an independent expenditure. However, the FEC is shifting from the word "expenditure" to the word "contribution," which encompasses both direct and indirect contributions. A direct contribution is made by actually giving money to the candidate. An in-kind contribution occurs when something of value (like a mailing list) is given to the candidate or when a person pays, at the request of the candidate or an agent of his campaign, for an expense that the campaign itself would otherwise pay (like a billboard) in lieu of a direct contribution to the candidate. However, Congress did not intend for "in-kind contributions" to be a broad category. In adopting the concept of an "in-kind contribution," the Senate Report described an "in-kind contribution" as "the use of an individual's resources to aid a candidate in a manner indistinguishable in substance from the direct payment of cash to a candidate."[182]

Thus, an "in-kind contribution" has two elements. The first element is the nature of the expenditure. According to the courts, an expenditure for a communication must contain "express advocacy" to be an independent expenditure. The logic of the courts' analysis suggests that this extends to in-kind contributions. According to the FEC, however, an in-kind contribution may exist where there is only issue advocacy. The second element is whether it is made with the consent or in coordination with the candidate. Here, the FEC also has a very expansive view of coordination.

Ironically, the FEC had previously adopted the correct position that express advocacy is necessary in order to transform a protected expenditure into a prohibited contribution. In *Orloski v. Federal Election Commission*,[183] a political opponent of an incumbent Congressman challenged the FEC's failure to find "reason to believe" that the Act had been violated. The case concerned a senior

citizens' picnic at which the Congressman spoke and to which several corporations had provided food and services such as transportation.

At issue was the FEC's interpretation of what constituted a corporate contribution under §441b(a). The FEC had previously "interpreted the Act to mean the corporate funding of events sponsored by congressmen who are candidates for reelection is not prohibited by §441(b)(a) if those events are non-political."[184] In order to determine whether an event is non-political, the FEC adopted the following test: "An event is non-political if (1) there is an absence of any communication expressly advocating the nomination or election of the congressman appearing or the defeat of any other candidate, and (2) there is no solicition, making, or acceptance of a campaign contribution for the congressman in connection with the event."[185]

Because the FEC found that there was no express advocacy at the picnic in question, it found that the event was "non-political" and, thus, that it did not entail a violation of the corporate contribution prohibition of §441b. As the *Orloski* court explained: "the mere fact that corporate donations were made with the consent of the candidate does not mean that a 'contribution' within the meaning of the Act has been made. Under the Act this type of 'donation' is only a contribution if it first qualifies as an 'expenditure' and, under the FEC's interpretation, *such a donation is not an expenditure unless someone at the funded event expressly advocates the reelection of the incumbent or the defeat of an opponent . . .*"[186]

In its new regulations, however, the FEC now sought to repudiate its former, reasonable position that corporate expenditures are not political contributions which can be prohibited under §441(b) unless they involve express advocacy. The new regulations governed the "electioneering message" of voter guides on the porported authority derived from converting expenditures for voter guides into contributions.

The new regulations also adopted an expansive view of what constitutes "coordination." The FEC apparently has two theories: (1) the contact coordination theory, and (2) the presumed coordination theory.[187] The contact coordination theory was employed in the new voter guide regulations. As the structure of the voter guide regulation made clear, the FEC viewed any contact between the corporation publishing the voter guide and a candidate to constitute coordination of the voter guide and the greater the contact the greater the taint. Thus, oral communications resulted in an absolute prohibition on publishing a voter guide; written communication forfeited the corporation's right to engage in issue advocacy in their voter guide.

N. CLIFTON V. FEC (1996)

In response to these newly-issued FEC regulations restricting voter guides, Maine Right to Life Committee[188] again filed suit under the Administrative Procedure Act to have the regulations declared beyond the authority of the FEC under 2 U.S.C. §441(b), as construed by the Supreme Court in *MCFL*.[189] The case, *Clifton v. FEC*,[190] challenged the regulations,[191] which "restrict(ed) contact or coordination between a corporation and a candidate when the corporation publishes candidate voting records or voter guides."[192]

On May 20, 1996, the district court granted Plaintiffs' request for a declaration that the regulations were void as beyond the statutory authority of the FEC. The district court found that the voter guide regulation restricted not only "express advocacy" but also "issue advocacy." As the Court stated, "[t]he new regulations go far beyond the language of section 441(b) as interpreted by *MCFL*. Under the provisions for voter guides, the FEC test is not whether a corporation is engaging in issue advocacy 'on behalf of a candidate' (a test which *MCFL* would support), but whether it has had any 'contact' with the candidate. The regulations permit unrestricted issue advocacy only if there is *no* contact, oral or written in connection with a voter guide. Any oral contact concerning the content of a voter guide—questions to clarify a candidate's position for example—results in outright prohibition of corporate issue advocacy through use of the guide. Even written contact with candidates results in severe constraints on issue advocacy otherwise entitled to broad First Amendment protection under the teachings of *Buckley* and *MCFL*."[193]

Also under the ostensible statutory authority of 2 U.S.C. §441(b), the FEC promulgated 11 C.F.R. §114.4(c)(4) which purported to govern corporate preparation and distribution of the "voting records" of Members of Congress to the general public. That regulation provided that "the decision on content and the distribution of voting records shall not be coordinated with any candidate, group of candidates or political party."

The district court agreed with Plaintiffs' contention that the "voting record" regulation also impermissibly restricted issue advocacy. Noting that the regulation provided that the decision on "content" could not be "coordinated" with a candidate, the Court asked: "Does that prohibit discussion with the candidate of what a particular vote meant and a summary of the outcome in the published voting record? If there are three apparently inconsistent votes and the MRLC asks the candidate for a explanation in the publication, is that prohibited coordination of a decision on content? These are exactly the types of issue advocacy undertaken by the MRLC and, as I understand the FEC's counsel at oral argument, such activities are indeed prohibited by the new regulations."[194]

Because the district court found that both regulations restricted issue advocacy, not just express advocacy, it held that they were invalid under *Faucher*, *MCFL* and *Buckley*: "It is equally clear after *Buckley* and *MCFL* that corporate expenditures in connection with a federal election or primary *cannot* constitutionally be limited except when they are devoted to express advocacy of the election or defeat of a particular candidate or candidates."[195]

The FEC has appealed the decision to the First Circuit.[196]

O. COLORADO REPUBLICAN FEDERAL CAMPAIGN COMMITTEE V. FEC

While there has been a great deal of ongoing litigation in state and federal courts over election laws, the 1996 case of *Colorado Republican Federal Campaign Committee v. FEC*[197] is significant as the most recent word from the Supreme Court on election law issues. The case revealed steadfast support on the Court for protecting First Amendment rights in the election law context.

Significantly, the case completely undercut the FEC's presumed coordination theory. *Colorado Republican* did not involve §441(b) (barring corporate campaign expenditures and contributions), but its rejection of the presumed coordination theory is a clearly transferable concept relevant to the FEC's efforts to regulate corporate political speech under §441(b).[198] Moreover, the opinions in the case revealed strong support for the express advocacy test in this context as well.

The case involved FEC allegations that the Colorado Republican Party had exceeded FECA limits on what a party could spend to promote a candidate in a U.S. senatorial race.[199] The case arose as a result of advertisements purchased in April 1986 by the Federal Campaign Committee of the Colorado Republican Party. The radio advertisements attacked Democrat Timothy Wirth, who was then a U.S. Congressman and the most likely Democrat candidate for the open Senate seat.[200] He had announced in January 1986 that he would run for the Senate.[201] At the time of the advertisements, the Republican Party had not chosen its nominee from among the three persons competing for the nomination.[202]

The record revealed how the expenditure for the advertisements was made. The GOP state chairman arranged for the script on his own initiative.[203] He approved it without input from others.[204] In sum, he did not actually coordinate the expenditure with any candidate. It was what normally would be considered an independent expenditure.

However, the FEC argued that, because of the relationship between a party and its candidates, "coordination with candidates is presumed,"[205] even though there was factually none in this case.[206] The lead opinion of Justice Breyer, joined by Justices O'Connor and Souter, rejected this presumed coordination approach, declaring that, because "the record shows no actual coordination as a matter of fact,"[207] "we therefore treat the expenditure, for constitutional purposes, as an 'independent' expenditure, not an indirect campaign contribution."[208] This rejection of presumed coordination in the context of expenditures by a political party to attack an opposing candidate for office makes it highly unlikely that a presumption of coordination will be permitted in situations where there is less basis for a presumption. Coordination will have to be actual before an expenditure will be considered a contribution.[209]

Because Justices Breyer, O'Connor, and Souter rejected the notion of presumed coordination, they also rejected the notion that the expenditures at issue were actually contributions. Therefore, they decided it would be prudential not to reach the issue of whether a cap on coordinated expenditures by a political party is constitutional, as urged by the Colorado Republican Party. However, an opinion by Justice Kennedy, joined by Chief Justice Rehnquist and Justice Scalia, opined that the party contribution limit to candidates was unconstitutional on its face, but concurred in a judgment vacating the court of appeals decision and remanding the case,[210] as did Justice Thomas.[211]

From the *Colorado Republican* case, it seems clear that any theory that presumed coordination can convert independent expenditures into contributions must fail. Only actual coordination will achieve such a result. Of course, this is also true where a voter guide merely contains issue advocacy.

FEC v. Christian Action Network

After the Fourth Circuit affirmed the district court's dismissal of FEC charges in *FEC v. Christian Action Network*,[212] the Christian Action Network filed a petition for attorneys' fees and costs under the Equal Access to Justice Act, which permits fee awards for enforcement actions that are not "substantially justified."[213] The Fourth Circuit determined that the FEC's enforcement in reliance on its broad interpretation of *Furgatch* was not "substantially justified," but was in "bad faith."[214]

The Fourth Circuit cataloged the reasons why the express advocacy test, as set forth

in *Buckley* and *MCFL*, was so clear that failure to follow it constituted bad faith.[215] The court focused especially on the *Furgatch* decision, on which the FEC had based its authority to prosecute the Christian Action Network.[216] After carefully analyzing *Furgatch*, the Fourth Circuit summarized the holding of that case: "Indeed, the simple holding of Furgatch was that, in those instances where political communications do include an explicit directive to voters to take some course of action, but that course of action is unclear, 'context'—including the timing of the communication in relation to the events of the day—may be considered in determining whether the action urged is the election or defeat of a particular candidate for public office."[217]

The fourth Circuit then pointed out that the FEC had fully understood that explicit words expressly advocating the election or defeat of a clearly identified candidate were essential to "express advocacy" when it opposed Supreme Court review of the *Furgatch* case:

"That the commission knows well the Court's holdings in *Buckley* and *MCFL* is further confirmed by the agency's subsequent action in *Furgatch*. . . . Because *Furgatch*, despite its narrow holding, does include broad dicta which can be read (or misread) to support the FEC's expansive view of its authority, the agency vigorously opposed certiorari in the case.

"Wishing to have the opinion preserved intact, the Commission in its submissions there, in contrast to its submissions before this court, quoted *Buckley* as 'requir[ing] "explicit words of advocacy of election or defeat of a candidate."' The Commission even took the position that *Furgatch* did . . . interpret the Federal election Campaign Act's corporate disclosure statutes as 'narrowly limited to communications containing language "susceptible to no other reasonable interpretation but as an exhortation to vote" ' . . . .

"Moreover, the FEC argued to the Supreme Court that *Furgatch* was fully consistent with *Buckley* and *MCFL* precisely because the opinion focused on the specific language of Furgatch's advertisement and concluded that express advocacy existed only because the advertisement 'explicitly exhorted' voters to defeat then-President Carter. Thus, there is no doubt the Commission understands that its position that no words of advocacy are required in order to support its jurisdiction runs directly counter to Supreme Court precedent."[218]

The fourth Circuit took the FEC to task for "dissembling before th[e] court" for "quot[ing] the very sentence from page 80 of *Buckley* in which the Court uses the phrase 'express advocacy,'" but leaving out "the sentence's footnote 108" (which defined express advocacy "to mean 'express words of advocacy,'") without "any reference, by parenthetical or otherwise to the fact that footnote 108 appears in that sentence.[219]

The Fourth Circuit concluded that the FEC had acted in bad faith by bringing an enforcement action against the Christian Action network in the face of absolutely clear precedent on the express advocacy test: "In the face of the unequivocal Supreme Court and other authority discussed, an argument such as that made by the FEC in this case, that 'no words of advocacy are necessary to expressly advocate the election of a candidate,' simply cannot be advanced in good faith (as the disingenuousness in the FEC's submissions attests), much less with 'substantial justification.'"[220]

The Fourth Circuit further concluded that, even if the precedent were not unequivocally clear, the court "would bridle at the power over political speech that would reside in the FEC under" the FEC's interpretation of the express advocacy test.[221] The FEC's interpretation, said the court boils down to "an argument that the FEC will know 'express advocacy' when it sees it."[222] The court summarized the clarity of the precedent and the danger of FEC's overreaching as follows: "[T]he Supreme Court has unambiguously held that the First Amendment forbids the regulation of our political speech under such indeterminate standards. 'Explicit words of advocacy of election or defeat of a candidate,' 'express words of advocacy,' the Court has held, are the constitutional minima. To allow the government's power to be brought to bear on less, would effectively be to dispossess corporate citizens of their fundamental right to engage in the very kind of political issue advocacy the First Amendment was intended to protect—as this case well confirms."[223]

In summary, as this section has shown, there has been a long and relentless effort by the FEC to close what it has perceived to be a loophole with respect to issue advocacy—the First Amendment. The Supreme Court's express advocacy test and major purpose test remain as the twin bulwarks against this encroachment of liberty.

IV. OTHER PROTECTION FOR FREE POLITICAL EXPRESSION

In addition to its zealous safeguarding of issue advocacy in the election context, the United States Supreme Court has provided safeguards for other forms of speech related to political matters. The seven key protections have to do with (1) *MCFL*-type organizations, (2) members, (3) anonymous literature, (4) caps on contributions and expenditures, (5) political committees, (6) the burden of proof, and (7) prior restraint of speech. These topics will be dealt with in turn.

A. MCFL-TYPE ORGANIZATIONS

In *FEC* v. *Masschusetts Citizens for Life*,[224] the Supreme Court did two important things: (1) it reasserted the bright-line express advocacy test for protecting issue advocacy, and (2) it also created an exemption to the ban on corporate express advocacy found in 2 U.S.C. §441b for nonprofit, nonstock, ideological corporations. Other cases have refined this test for *MCFL*-type organizations. As would be expected, the FEC has attempted to overrule the case law with new regulations, which have promptly been declared unconstitutional. These developments will be considered in turn.

Section 441b of the Federal Election Campaign Act of 1971 prohibits corporations from making "expenditures" in connection with a federal election.[225] The United States Supreme Court, however, has limited the scope of §441b's corporate expenditure prohibition. In *MCFL*, the Supreme Court held that the prohibition on corporate expenditures could not constitutionally be applied to certain nonprofit ideological membership corporations because they did not pose a threat of corruption to the political system.[226]

Specifically, the "*MCFL* exemption" from the prohibition on corporate political speech applies to those nonprofit corporations which were established to promote political ideas, have no shareholders or members with economic disincentives to disassociate with the corporation if they disagree with its position on an issue, were not established by a business corporation or labor union, and do not act as "conduits" for funneling money from such organizations into the political marketplace.[227]

In *Day* v. *Holahan*,[228] the Eighth Circuit held that the *MCFL* exemption applied to Minnesota Citizens Concerned for Life (MCCL), despite the face that the organization received some corporate contributions. The court held that MCCL was the type of corporation which did not pose a threat of corruption to the political marketplace and, therefore, under the Constitution, was entitled to the *MCFL* exemption. As a result, the Eighth Circuit held that a Minnesota state statute that narrowed the *MCFL* exemption to such an extent that it did not apply to MCCL was unconstitutional. This case, therefore, established a de minimis test with respect to *MCFL*-type organizations which receive some minimal corporate contributions.

Subsequent to *Day*, the FEC promulgated regulations at 11 C.F.R. §114.10, purporting to define the circumstances under which the *MCFL* exemption is available to nonprofit ideological corporations under the FECA. In it's "Explanation and Justification" for the regulation, the FEC explicitly admitted that its regulation was in direct conflict with *Day v. Holahan*: "In that case, the Eighth Circuit decided that a Minnesota statute that closely tracked the Supreme Court's three essential features was unconstitutional as applied to a Minnesota nonprofit corporation. The Commission believes the Eighth Circuit's decision, which is controlling law in only one circuit, is *contrary to the plain language used by the Supreme Court in MCFL, and therefore is of limited authority*."[229]

Thus, the FEC promulgated 11 C.F.R. §114.10 despite its recognition that the regulations would directly violate the Eighth Circuit's holding in *Day*.

The FEC's regulations disallowed an exemption unless, inter alia, each of the following criteria were met: (1) the corporation's "only express purpose is the promotion of political ideas,"[230] (2) the corporation "cannot engage in business activities,"[231] (3) the corporation has "[n]o persons who are offered or who receive any benefit that is a disincentive for them to disassociate themselves with the corporation on the basis of a political issue."[232] and (4) the corporation can "demonstrate through accounting records" that it "does not . . . accept donations or anything of value from business corporations" or that it "has a written policy against accepting donations from business corporations. . . ."[233]

The FEC regulations further required[234] that a corporation which is not a political committee file a certification that it complied with the provisions of the regulations[235] and, therefore, was eligible for an exemption from the prohibition on corporate expenditures. The regulations also required that "[w]henever a qualified nonprofit corporation solicits donations, the solicitation shall inform potential donors that their donations may be used for political purposes, such as supporting or opposing candidates."[236]

The FEC's new regulations were clearly unconstitutional. They constituted another transparent effort by the FEC to expand its power and to limit political speech, as set out below.

1. MCFL's Test for an Exemption from §441b Must Be Read in the Context of That Case's Protection of Free Speech

The Supreme Court's decision in *MCFL* is essentially a speech-protective holding. The Court's fashioning of the "*MCFL* exemption"

was rooted in the very principles of public policy and governance which animate the First Amendment, and which bear brief reiteration. The Court stated that "[f]reedom of speech plays a fundamental role in a democracy. . . ."[237] As the Court had previously stated in *Buckley:* "Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people."[238]

Freedom of speech, particularly *political* speech, is thus necessary to the functioning of a representative democracy. As such, it is also "the matrix, the *indispensable condition* of every other form of freedom."[239] That is, because freedom of speech protects our very form of government, it necessarily plays a pivotal and essential role in protecting the other freedoms which are safeguarded by the Constitution. Finally, as the *MCFL* Court pointed out, "First Amendment speech is not necessarily limited to such an instrumental role."[240] In other words, the First Amendment protects speech not only because it fosters free government, but because it fosters the development of the individual by protecting freedom of thought and conscience. Quoting Justice Brandeis, the Court stated: "Those who won our independence believed that the final end of the State was to make men free to develop their faculties; and that in its government the deliberative forces should prevail over the arbitrary. *They valued liberty both as an end and as a means.*"[241]

Thus, free speech plays a vital role in protecting democracy itself, thereby making possible the other freedoms we enjoy and allowing people to develop their faculties to the fullest extent possible.

Given the centrality of free speech, it is not surprising that the Supreme Court has been extremely solicitous to protect it. The *MCFL* Court explained that, because free speech is fundamental, "we must be as vigilant against the modest diminution of speech as we are against the modest diminution of speech as we are against its sweeping restriction."[242] The Court's solicitude for free speech, in turn, caused it to fashion the fundamental principle which both mandates and explains the Court's holding in *MCFL:* "Where at all possible, government must curtail speech *only to the degree necessary* to meet the particular problem at hand, and *must avoid infringing on speech that does not pose the danger that has prompted regulation.*"[243]

The quoted statement is, in reality, a reformulation of the "strict scrutiny" test (i.e., speech regulation must be narrowly tailored to serve a compelling state interest) which the Supreme Court applies in all cases where a regulation is challenged as a content-based restriction on speech.[244] In essence, the Court was saying that, because as a Nation we value free speech so highly, our government is permitted to regulate it *only* where the government's interest is *compelling* and *only* to the extent *absolutely necessary* to achieve that interest.

The burden of demonstrating the existence of such an interest is squarely on the government. As the Supreme Court explained in *First National Bank v. Bellotti,* "where, as here, as a prohibition is directed at speech itself, and the speech is intimately related to the process of governing, the State may prevail only upon showing a subordinating interest which is compelling and the burden is on the Government to show the existence of such an interest. Even then, the State must employ means closely drawn to avoid unnecessary abridgement. . . ."[245]

The *MCFL* Court pointed out the danger which looms whenever speech is sought to be regulated, i.e., the incremental loss of freedom which may begin when we first allow speech to be restricted in pursuit of other governmental goals. "Our pursuit of other governmental ends, however, may tempt us to accept in small increments a loss that would be unthinkable if inflicted all at once."[246] Thus, courts should, wherever possible, avoid the slippery slope of speech regulation altogether—for although a particular restriction on speech may appear to be "modest," no restriction of speech is ever "minor."

The import of the above discussion is that the specific legal rules which the Supreme Court has developed (such as the *MCFL* exemption) have not been fashioned in a vacuum. Rather, they have a discernible origin in the public policies which inform the First Amendment. Those policies, in turn, are determinative of the rationales upon which the specific holdings are based.

However, in fashioning its "*MCFL* exemption" regulations, the FEC read *MCFL* as if those policies and rationales did not give meaning to its holdings. The FEC, therefore, justified its regulation almost completely by reference to the eight sentences toward the end of the *MCFL* opinion which contain a summary of the Court's specific holding,[247] while largely ignoring the lengthy discussion of the rationale for the holding which comprises the previous eight pages. However, it is rudimentary that "black letter law" cannot be understood without reference to the judicial reasoning which undergirds it.

In sum, the FEC sought a "modest diminution" in speech based on "government ends" other than the protection of free speech. However, the FEC has been unable to meet its heavy burden of demonstrating that its asserted interests are compelling and that its speech restriction is narrowly tailored.

2. The Scope of Each of the MCFL *Features Was Determined by the Rationales Which Underlaid It*

The Court in *MCFL* identified "three features essential" to its holding that MCFL could not be prohibited from independent political spending: "*First,* it was formed for the express purpose of promoting political ideas, and cannot engage in business activities. *Second,* it has no shareholders or other persons affiliated so as to have a claim on its assets or earnings. *Third,* MCFL was not established by a business corporation or labor union, and it is its policy not to accept contributions from such entities."[248]

As will be seen, the FEC took these "essential features" literally and provided in its regulations that, if a corporation did not have these identical features, it was denied the "*MCFL* exemption." As will be demonstrated, however, each of these features was explicitly tied to a rationale which both explained the feature and defined its scope.

a. The first MCFL *feature assured that political resources reflected political support*

The first feature which mandated an exemption from §441(b) was that the corporation in question was "formed for the express purpose of promoting political ideas, and cannot engage in business activities."[249] As the Supreme Court stated, this feature "ensures that political resources reflect political support."[250] The underlying reason for this concern was "to protect the integrity of the marketplace of political ideas" from "the corrosive influence of concentrated corporate wealth."[251]

In fashioning this feature, the Court was concerned that "[d]irect corporate spending on political activity raises the prospect that resources amassed in the economic marketplace may be used to provide an unfair advantage in the *political* marketplace."[252] As the Court later clarified in *Austin* v. *Michigan Chamber of Commerce,* the danger was not simply the infusion of money into the political marketplace, but infusion of funds amassed in the economic marketplace which were unrelated to support for the corporation's political ideas.[253]

However, as the FEC's broad prohibition of "business activities"[254] demonstrated, the FEC misconstrued this rationale as prohibiting any business income by the corporation. The FEC regulation reached "any provision of goods or services which results in income to the corporation" and which is not "expressly described" as donations for political purposes, as well as any "advertising or promotional activity which results in income to the corporation."[255] The Supreme Court, however, was concerned solely with the impact on the political marketplace caused by the use of funds which are *unrelated* to the corporation's political ideas.[256]

The *MCFL* Court recognized that §441b took account of this distinction by allowing corporations to make political expenditures through a separate segregated fund or PAC. Expenditures by a PAC are permitted precisely because they come from voluntary contributions and, therefore, *reflect political support:* "the money collected is that intended by those who contribute to be used for political purposes and not money diverted from another source."[257] The FEC failed to recognize that, just as PACs do not pose the problem sought to be addressed by §441b, i.e., "that substantial general purpose treasuries should not be diverted to political purposes,"[258] neither do ideological corporations such as MCFL.

As the *MCFL* Court explained, "the power of a corporation may be no reflection of the power of its ideas."[259] Unlike business corporations, however, the resources of which "are not an indication of popular support," the resources available to corporations such as MCFL exist precisely because of their political support, i.e., the fact that the ideas that they propound are considered to be important to those who, for example, patronize its bake sales.

The Supreme Court could not have been clearer about its rationale in this regard: "[r]egulation of corporate political activity thus has reflected concern *not about the use of the corporate form per se, but about the unfair deployment of wealth for political purposes.* Groups such as MCFL do not pose that danger of corruption."[260]

In its "Explanation and Justification" for the challenged regulation, the FEC demonstrated its complete misunderstanding of the above-quoted language: "[i]n order to pose no such threat, a corporation must be free from resources obtained in the economic marketplace. Only those corporations that cannot engage in business activities are free from these kinds of resources."[261] However, as demonstrated, the Court's rationale in this regard did not constitute a condemnation of the political use of "resources obtained in the economic marketplace"; rather, it was only concerned with the diversion of funds acquired in the economic marketplace to the political marketplace *where*

those funds were acquired in a manner which was unrelated to the political purposes of the corporation.

Groups such as MCFL, however, do not pose a threat of the danger that funds *unrelated* to the corporation's political goals will be funneled into the political marketplace of ideas. This is so because "[t]he resources it has available are not a function of its success in the economic marketplace, but its popularity in the political marketplace."[262] Contributors give money to such groups precisely because they wish to further the groups' political goals, i.e., "because they regard such a contribution as a more effective means of advocacy than spending the money under their own personal direction."[263] Likewise, a person who engages in "business activities" with such an organization does so with the same underlying motivation. He does not spend money at a bake sale or a flower sale primarily to get cookies or carnations. Rather, he does so to benefit the organization and to further its political goals, which he realizes are better served by concerted action than by his individual efforts. Thus, the money which changes hands is *directly related* to the political purposes of the organization and does not come within the permissible rationale for restricting all corporate expenditures.

The FEC, however, ignored the distinction between business activities which are unrelated to political ideas and those which are related to political ideas in their regulations. Through its denial of the exemption to any corporation which engages in any "business activities" (so broadly defined as to include such insensibly politically-motivated transactions as purchases made at bake sales and sales of an ad in a newsletter), the FEC had extended its regulation to "speech that does not pose the danger that has prompted regulation."[264]

b. The Second MCFL Feature Assured That Members Would Not Have a Disincentive to Disassociate With a Corporation With Which They Disagree

The second *MCFL* feature was that a corporation "has no shareholders or others associated so as to have a claim on its assets or earnings."[265] Like the other *MCFL* features, this one cannot be understood apart from the rationale for its formulation. The Supreme Court explained that the absence of such persons "ensures that persons connected with the organization will have no disincentive for disassociating with it if they disagree with its political activity."[266] In developing this feature, the Supreme Court was concerned with situations which may arise with respect to the ordinary business corporation or labor union. It is conceivable that people who are associated with such entities would not want their dues or investment funds used for political purposes. As the Court explained: "such persons . . . contribute investment funds or union dues for economic gain, and do not necessarily authorize the use of their money for political ends. Furthermore, because such individuals depend on the organization for income or for a job it is not enough to tell them that any unhappiness with the use of their money can be redressed simply by leaving the corporation or the union."[267]

Based on this reasoning, the *MCFL* Court concluded that, although it was reasonable for Congress to require the establishment of separate segregated funds to which such persons could make voluntary contributions, "[t]his rationale for regulations is not compelling with respect to independent expenditures by [MCFL]."[268] This is because, as explained above, MCFL had no stockholders or members who could share in the corporation's assets or earnings.

In fashioning its new regulation, however, the FEC again failed to take account of the underlying rationale and how it affects the scope of the feature. In denying the exemption to corporations who offer any benefit, no matter how de minimis to its members,[269] the FEC failed to recognize that the primary purpose of the feature was to protect those who "depend on the organization for income or for a job," that is, those who may have a "claim on its assets or earnings."[270] Thus, as with the first *MCFL* feature, the scope of this feature can only be understood by reference to the rationale for its creation.

c. The Third MCFL *Feature Assured That Exempt Corporations Did Not Act as Conduits for the Type of Spending That Created a Threat to the Political Marketplace*

The third *MCFL* feature concerned the fact that "NCFL was not established by a business corporation or labor union, and it was its policy not to accept contributions from such entities."[271] In *Austin*, the Court described this feature as ensuring "the organization's *independence* from the influence of business corporations."[272] The rationale for this feature is that such independence "prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace."[273]

In its regulation, however, the FEC not only required that corporations be in fact independent of the influence of business corporations, but also that they either have a policy against accepting any donations from business corporations or do not accept, either directly or indirectly, donations from business corporation. As the Second Circuit recognized in *FEC v. Survival Education Fund (SEC)*,[274] however, the rationale of this feature does not depend on whether a corporation has a policy against accepting corporate donations, but upon whether it is, in fact, independent of the influence of corporate donations. That Court explained:

"To be sure, an express policy against accepting corporate or union contributions is clear proof that no such danger exists, as the Court in *MCFL* duly found. But a nonprofit political advocacy corporation, which in fact receives no significant funding from unions or business corporations, does not surrender its First Amendment freedoms for want of such a policy.

"Under *MCFL*, a nonprofit political advocacy corporation having no shareholders or members with financial disincentives to disassociate from the corporation if they disagree with its views is exempt from §441b as long as it is independent in fact from significant business or labor influence. The existence of a policy against accepting contributions from business corporations or unions is relevant to, but not dispositive of, the issue of independence."[275]

In addition, it is not necessary that the corporation receives no business contributions. As the court in *Day v. Holahan* found, "the key issue here is the *amount* of for-profit corporate funding a nonprofit receives, rather than the establishment of a policy not to accept significant amounts."[276]

Thus, the Eight Circuit in *Day* recognized, like the Second Circuit in *SEF*, that "the factual findings of *MCFL* [did not] translate into absolutes in legal application."[277] The scope of each of these features can be understood only by understanding the particular evil that the Supreme Court in *MCFL* sought to avoid. For that reason, governmental regulation is permissible only to the extent "necessary to meet the particular problem at hand."[278] However, the FEC overstepped the zone of permissible regulation and has sought to regulate speech which is protected by a proper understanding of the purposes and rationales which account for the *MCFL* exemption.

3. Minnesota Citizens Concerned for Life v. FEC Held the FEC's New MCFL Regulations Unlawful

A challenge, under the Administrative Procedures Act, to the new FEC regulations of *MCFL*-type organizations was brought in the Eighth Circuit case of *Minnesota Citizens Concerned for Life v. FEC*.[279] The district court declared the new regulations void as beyond the statutory authority of the FEC as construed by the federal courts.

The court based its rejection of the regulations on the "functional interpretation" of *Day* rather than the "formal interpretation" of the FEC.[280] In examining the regulations, the District Court specifically found that the "prohibition against any 'business activities'" and the "prohibition against the receipt of corporate donations [are], unquestionably, too restrictive."[281]

In addition, the district court also implied that the third and fourth provisions were of questionable validity under the approach taken by the Eight Circuit in *Day*. As the district court states, "*Day* rejected a 'bright-line' approach to implementing the *MCFL* exemption, and instead looked to the particular characteristics of the nonprofit as they relate to the purpose of §441(b) and the members' First Amendment rights. Thus, *Day* casts serious doubt on §114.10(c)(1)'s requirement that a qualified nonprofit's 'only' express purpose be the expression of political ideas and §114.10(c)(3)(ii)['s] requirement that a qualified nonprofit not have members which receive 'any' benefit which is disincentive to associate themselves from the corporation."[282]

The FEC appealed the decision to the Eighth Circuit, which decided *Day*, apparently on the hope that the circuit would change its mind about its understanding of the *MCFL* exemption.[283] On May 7, 1977, the Eighth Circuit affirmed the decision of the district court.[284]

B. MEMBERS

Another protection for speech about political matters by organizations is the First Amendment guarantee that organizations may communicate with their members unencumbered by governmental regulation. This protection was recognized in 1948 by the Supreme Court in *United States v. Congress of Industrial Organizations (CIO)*.[285] As noted earlier in this article, this case involved a prohibition on "any expenditure in connection with a federal election" by a corporation or labor organization.[286] Charges were brought against the *CIO* for publishing in its membership newsletter a statement urging members to vote for a particular federal candidate.[287] The Court cited several authorities about the sacrosanct nature of free expression and dismissed the indictment, stating that: "If §313 were construed to prohibit the publication, by corporations and unions in the regular course of conducting their affairs, of periodicals advising their members, stockholders or customers of danger or advantage to their interests from the adoption of measures, or the election to office of men espousing such measures, the gravest doubt would arise in our minds as to its constitutionality."[288]

In 1982, the Supreme Court revisited the subject in *FEC v. National Right to Work Committee (NRWC)*.[289] This case involved solicitation by NRWC to "some 267,000 persons for contributions to a separate segregated fund [a PAC] that it sponsored."[290] NRWC was a nonstock corporation.[291] The issue was whether NRWC had limited its solicitations to "members" within the meaning of 2 U.S.C. §§441b(b)(4)(A) and (C), which provide that a nonstock corporation may solicit contributions to its PAC only from "members" of the corporation.[292] The organic documents of NRWC stated that it would have no members.[293] Although NRWC had mailed millions of letters promoting its opposition to compulsory unionism and soliciting donations, none mentioned membership.[294] When NRWC created its PAC (because corporations could not contribute to candidates under 2 U.S.C. §441(b)), it solicited persons who had made donations to NRWC. Upon examining the brief legislative history of §441(b), the Supreme Court decided that the congressional intent was "that some relatively enduring and independently significant financial or organizational attachment is required to be a 'member' under §441b(b)(4)(C)."[295] As a consequence, the Court held that NRWC did not have members "under any reasonable interpretation of the statute."[296] The Court reiterated the high constitutional protection accorded associational rights,[297] holding that, in this case, "the associational rights asserted by respondents may be and are overborne by the interests Congress has sought to protect in enacting §441(b)."[298]

Not content with the statutory definition of "member," with the new gloss of *NRWC*, the FEC set about to define "member" in new regulations. As usual, the FEC pursued a speech and association suppressing approach, attempting to define "member" as narrowly as possible in order to limit as much as possible the class of persons to whom the corporation may communicate its political messages and from whom it may solicit PAC funds.

An older definition of "member" had been promulgated by the FEC in 1976. The regulation defined the term as: "all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock. . . . A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund."[299]

The new definition of "member," promulgated in 1993, defined the term much more restrictively:

"*Members* means all persons who are currently satisfying the requirements for membership in a membership association, affirmatively accept the membership association's invitation to become a member, and either:

"(i) Have some significant financial attachment to the membership association, such as a significant investment or ownership stake (but *not* merely the payment of dues);

"(ii) Are required to pay on a regular basis a specific amount of dues . . . and are entitled to vote directly either for at least one member who has fully participatory and voting rights on the highest governing body of the membership association, or for those who select at least one member . . .; or

"(iii) Are entitled to vote directly for all those on the highest governing body of the membership association."[300]

The U.S. Chamber of Commerce and the American Medical Association were both affected by the new regulation and "ceased making their traditional political solicitations" to persons they had considered their members.[301] They filed suit seeking a declaration that the FEC had violated their First Amendment rights by ignoring the disjunctive "or" in the Supreme Court's statement quoted above,[302] treating it rather as a conjunctive "and."[303]

The United States Court of Appeals for the District of Columbia Circuit found fatal flaws in the new FEC regulations. The court faulted the notion that dues to a nonstock corporation were less of a financial attachment to the organization than was ownership of a single share of stock in a public corporation.[304] The court also faulted the requirement that a "member" who paid dues must vote directly for a member of the highest governing body, noting that this excluded without justification many hierarchical organizations.[305] As a result, the court declared the regulations void under the Administrative Procedures Act.

Based on the case law, therefore, to be a "member" of a nonstock organization to receive a corporation's or labor union's political communications and to be solicited for PAC purposes, one must have some financial connection with the organization (usually done with dues payments) and have a right to vote at least at a local level for persons who will chose the voting representative of a local organization to the larger governing body of the organization (typically done by allowing local members to vote for the local delegate to the state-wide governing body of the organization.[306]

C. ANONYMOUS LITERATURE

In *McIntyre v. Ohio Election Commission*,[307] the United States Supreme Court declared that a broadly worded requirement that there be a mandated disclaimer identifying the author or any writing intended to "influence" an election is unconstitutional. Indeed, the Supreme Court upheld the right of an individual or organization to publish anonymously concerning the advocacy of political causes.

In *McIntyre*, the Court considered an Ohio election practices statute in the context of an enforcement action against a woman, Margaret McIntyre, who distributed flyers generated on a home computer and printed at her own expense relating to a referendum on a proposed school tax levy.[308] Some of her handbills identified her as the author, while others contained the identifier "CONCERNED PARENTS AND TAX PAYERS."[309] Margaret was fined $100 by the Ohio Election Commission for failure to use the required disclaimer.[310] On appeal of the case, the U.S. Supreme Court struck down the Ohio statute imposing a state-mandated disclaimer on literature intended to "influence the voters in any election."[311]

Noting that the statute was a content-based "limitation on political expression" at "the core of the protection afforded by the First Amendment," the Court applied "exacting scrutiny."[312] The Court noted that in addition to "exacting scrutiny" such a restriction on "core political speech" must be "narrowly tailored to serve an overriding state interest."[313]

Ohio asserted two interests to justify its disclaimer: (1) an "interest in preventing fraudulent and libelous statements" and (2) an "interest in providing the electorate with relevant information."[314] The High Court noted that free expression includes the right to release what information one desires and that the name of a private citizen would be meaningless to most readers anyway with regard to the reader's ability to evaluate the message.[315] The Court dismissed the interest in informing the public as "plainly insufficient to support the constitutionality of its disclosure requirements."[316]

The Court gave more weight to Ohio's interest in preventing fraud and libel, noting that this interest "carries special weight during election campaigns when false statements, if credited, may have serious adverse consequences for the public at large."[317] The Court, noted, however, that Ohio had a statute setting forth penalties for false statements during political campaigns, so that the disclaimer provision was "not its principal weapon against fraud."[318] The Court noted that the disclaimer provision served as an "aid to enforcement" and a "deterrent to the making of false statements by unscrupulous prevaricators," but these "legitimate" benefits did not justify the "extremely broad" disclaimer mandate.[319]

This is so the Court said, inter alia, because the broad prohibition "encompasses documents that are not even arguably false or misleading. It applies not only to the activities of candidates and their organized supporters, but also to individuals acting independently and using only their own modest resources. . . ."[320]

The Court distinguished its upholding in *Buckley* of a requirement that expenditures in excess of a certain amount be *reported* to the FEC, declaring that the Ohio disclaimer requirements is "more intrusive than the *Buckley* disclosure requirement" and "rests on different and less powerful state interests." The Court noted that the FECA "regulates only candidate elections, not referenda or other issue-based ballot measures; and we construed 'independent expenditures' to mean only those expenditures that 'expressly advocate the election or defeat of a clearly identified candidate.'"[321]

Reporting requirements, like disclaimers, are a *type* of disclosure mechanism.[322] *Buckley* approved reporting requirements for express advocacy; it did not approve disclaimers on this type of speech. Indeed, *McIntyre* recognized that *Buckley* did not even address the issues of disclaimers or anonymous speech: "Ohio vigorously argues that our opinions in *First National Bank of Boston v. Bellotti*, . . . and *Buckley v. Valeo*, . . . amply support the constitutionality of its disclosure requirements [i.e., disclaimer]. Neither case is controlling: . . . [*Buckley*] concerned mandatory disclosure of campaign-related expenditures [i.e., reporting requirements]. Neither case involved a prohibition of anonymous campaign literature."[323]

McIntyre went on to recognize that *Buckley* upheld reporting requirements for express advocacy, and unlike disclaimers, such requirements advance the interest in obtaining information without unduly impinging upon protected speech: "True, in another portion of [*Buckley*] we [approved] a requirement that even independent expenditures in excess of a certain threshold level be reported. * * * But that requirement entailed nothing more than an identification * * * of the amount and use of money expended in support of a candidate [through a report]. Though such mandatory reporting undeniably impedes protected First Amendment activity, the intrusion is a far cry from compelled self-identification [i.e., disclaimers] on all election-related writings."[324]

The Court concluded that "the Ohio statute's infringement on speech [disclaimers,] [is] more intrusive than the *Buckley* disclosure requirement [reporting]."[325] Both means provide the State with information;

however, reporting requirements are more narrowly tailored to do so.[326]

D. CONTRIBUTION & EXPENDITURE CAPS

Another protection afforded political speech by the First Amendment and recognized by the United States Supreme Court is the limitation on the extent to which government may place caps on contributions and expenditures. While the Court permits some caps on contributions, there are limits as to how low the caps may go. No caps are permitted on independent expenditures.

Buckley's point of departure is the principle that any restriction of the amount of money that can be spent in campaigns is suspect. The Supreme Court stated that [a] restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached.[327]

Thus, a regulation which seeks to regulate political spending is subject to a presumption of invalidity. In *Buckley*, the Supreme Court did, however, enunciate a constitutional distinction between "expenditures" and "contributions." The Court stated that: "although the Act's contribution and expenditure limitations both implicate fundamental First Amendment interests, its expenditures ceilings impose significantly more severe restrictions on protected freedoms of political expression than do its limitations on financial contributions." [328]

Expenditures could not be regulated unless they constituted "express advocacy" of the election or defeat of a clearly identified candidate (and if they were "independent expenditures" they could not be limited even if they did constitute express advocacy).[329] On the other hand, contributions were, under the reasoning of *Buckley*, more susceptible of regulation.

The Court's reasons for making a distinction of constitutional dimension in this regard were essentially twofold. First, the Court found that contribution limitations did not place significant burdens on protected speech and associational freedoms. Second, the Court found that contributions could be limited because, unlike expenditures, they posed the danger of quid pro quo corruption (and the appearance thereof) to the political system. Unless both of these rationales are satisfied, contributions cannot be limited.

1. Contributions Can Only be Limited Because They Threaten Corruption to the Political System

As noted above, the *Buckley* Court began its analysis with the proposition that limits on spending in connection with campaigns are presumptively invalid. It did, however, permit the government to limit contributions to candidates or campaigns. One of the two fundamental rationales for allowing such restrictions was that, unlike expenditures, contributions pose a threat of corruption to the political system. The Court stated that "[t]o the extent that large contributions are given to secure a political *quid pro quo* from current and potential office holders, the integrity of our system of representative democracy is undermined." [330]

In addition, the Court was concerned with "appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions." [331] Therefore, the Court permitted governmental limitations on contributions[332] because of the governmental interest "in the prevention of corruption and the appearance of corruption spawned by the real or imagined influence of large financial contributions on candidates' positions and on their actions if elected to office." [333]

The Supreme Court in *Buckley* then proceeded to approve an aggregate contribution cap of $1,000 for each election by any person to any candidate for federal office.[334] The Court found that the interest in limiting "the actuality and appearance of corruption resulting from *large* individual financial contributions" justified "the limited effect upon First Amendment freedoms caused by the $1000 contribution ceiling." [335] More precisely, the Court found that in 1976 a $1,000 limit on contributions was sufficiently high to be narrowly tailored to limit corruption, while allowing individuals and organizations to assist to a "substantial extent in supporting candidates and committees with financial resources." [336]

However, contribution caps are not one of those things where, if a little is good, more is better. Efforts to set lower limits have been routinely struck down. In several post-*Buckley* decisions, courts have upheld contribution limits above $1,000,[337] but have struck down those below it. In *Carver v. Nixon*,[338] the Eighth Circuit struck down a $300 limit on direct contributions in state elections on the ground that it was not narrowly tailored to advance the state's interest in combating corruption.[339] It noted that *Buckley* upheld a $1,000 limit twenty years ago because such a limitation focused precisely on the problem with *large* campaign contributions without unduly impinging on protected speech, i.e., it was narrowly tailored to achieve its goal.[340] Similarly, in *Day v. Holahan*,[341] the Eighth Circuit struck down a $100 limit on contributions to and from political committees.[342]

2. Expenditures, However, Cannot be Limited Because Doing So Imposes Restrictions on the Freedoms of Speech and Association That are Not Justified by a Compelling Interest

As the *Buckley* Court explained, independent expenditures are entitled to full constitutional protection: "Advocacy of the election or defeat of candidates for federal office is no less entitled to protection under the First Amendment than discussion of political policy generally or advocacy of the passage or defeat of legislation." [343]

In contrast to contributions, however, "expenditures" which are not coordinated with a candidate or campaign do not pose a danger of corruption or its appearance. Thus, there is no compelling interest in their limitation. This is so because a candidate does not necessarily benefit from (and may well even be harmed by) an expenditure which is made independently of his campaign. As the Supreme Court recognized, "[u]nlike contributions, such independent expenditures may well provide little assistance to the candidate's campaign and indeed may prove counterproductive. The absence of prearrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a *quid pro quo* for improper commitments from the candidate." [344]

Thus, because as a practical matter the candidate may well not benefit from an expenditure made without coordination, the danger of quid pro quos is obviated. This results not only in alleviating the danger of corruption, but the appearance of corruption as well.

In addition, in contrast to limits on contributions that "entail[s] only a marginal restriction on the contributor's ability to engage in free communication," [345] the Court reasoned that, "because virtually every means of communicating ideas in today's mass society requires the expenditure of money," the "expenditure limitations contained in the Act represent substantial rather than merely theoretical restraints on the quantity and diversity of political speech." [346] Whereas a contribution to a candidate merely "serves as a general expression of support for the candidate and his views, but does not communicate the underlying basis for the support," [347] "a restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quality of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached." [348]

As a result, the Court has struck down limits on independent expenditures by individuals[349] and political committees.[350]

E. POLITICAL COMMITTEES

As noted by the Court in *Buckley*,[351] "the First Amendment protects political association as well as political expression." As a result, citizens have the "freedom to associate with others for the common advancement of political beliefs and ideas." [352] "Governmental action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny." [353]

Political action committees (PACs) are associations organized to enhance the political expression of citizens by joining individual contributions with those of others so that they may more effectively participate in political speech.[354] As a result, the Supreme Court has "reject(ed) the notion that the PACs form of organization or method of solicitation diminishes their entitlement to First Amendment protection," [355] and expressly held that they are protected by the First Amendment freedom of association.[356] Furthermore, any disparate treatment of a political committee, such as lower contribution limits for PACs as opposed to individuals, would violate the PACs freedom of association.[357]

F. BURDEN OF PROOF

A final protection for free political speech and association is the burden of proof placed on legislatures which enact a "law . . . abridging the freedom of speech." [358] Because free expression and association are such cherished American rights, they are protected as fundamental rights against infringement. To be valid, a law burdening or chilling these rights must serve a compelling interest and be narrowly tailored to effect only that interest.[359]

Once a plaintiff has demonstrated that a statute infringes the exercise of his or her First Amendment rights, the burden is on the state to justify this infringement. As the United States Supreme Court declared in 1978: "The constitutionality of §8's prohibition of the 'exposition of ideas' [a ban on corporate contributions or expenditures to influence the outcome of a referendum] by corporations turns on whether it can survive the exacting scrutiny necessitated by a state-imposed restriction of freedom of speech. Especially where, as here, a prohibition is directed at speech itself, and the speech is intimately related to the process of governing, 'the State may prevail only upon showing a subordinating interest which is compelling' '*and the burden is on the Government to show the existence of such an interest.*'

Even then, the State must employ means 'closely drawn to avoid unnecessary abridgment. . . .'"[360]

The state's effort to carry its burden must be done under "the closest scrutiny."[361] As the U.S. Supreme Court has stated: "When the government defends a regulation on speech . . . it must do more than simply "posit the existence of the disease sought to be cured." . . . It must demonstrate that the recited harms are real, . . . and that the regulation will in fact alleviate these harms in a direct and material way."[362]

In *Carver v. Nixon*,[363] a case involving campaign contribution caps, the Eighth Circuit declared that the government must produce "evidence to demonstrate that the limits were narrowly tailored to combat corruption or the appearance of corruption. . . ."[364] "The record is barren of any evidence of a harm or disease that needed to be addressed," the court proclaimed.[365]

In *Shrink Missouri Government PAC v. Maupin*,[366] the U.S. District Court for the Eastern District of Missouri observed that "[d]efendants wholly failed to adduce any evidence of actual corruption taking place. . . . The harm that the defendants seek to eradicate must exist and its cure must specifically be directed toward the elimination of that harm. . . . . The defendants fail to point to one incident wherein a[n] . . . official . . . has cast a vote or agreed to influence a vote, during the general assembly's regular session, in exchange for a contribution. As for the appearance of corruption, the defendants' two witnesses testified in general terms of their belief that the public perceives the acceptance of contributions during the legislative session as "inappropriate". No factual basis was given for these witnesses' perception that the electorate believes that contributions accepted during the general assembly's regular session reflect corruptive deal-making."[367]

In sum, when the government makes a law abridging free speech, it has an extremely heavy burden of proof that there is a compelling interest, and this burden must be met with the clearest of facts carefully established, not with mere speculation about possible corruption. There are two obvious reasons for this.

First is the premier protection given to free speech and free association rights in our constitutional system. Because of the supreme importance of free political speech and association to the very democratic foundations of our Republic, government should make no law abridging these expressly protected activities on the basis of unproven speculation about corruption.

Second is the fact that the legislation abridging political speech is being enacted by incumbent politicians. Justice Thomas in his concurrence in *Colorado Republican* put the matter well when he referred to the notion of according special deference to congressional judgments about campaign finance as "letting the fox stand watch over the henhouse."[368] He added, "What the argument for deference fails to acknowledge is the potential for legislators to set the rules of the electoral game so as to keep themselves in power and to keep potential challengers out of it."[369]

This warning has been echoed by various commentators. For example, Lillian BeVier points out the importance of three scope-of-review issues in protecting constitutional rights in the political speech area: (a) courts must "insist on a rigorous definition of 'corruption' as well as an intelligible description of both empirical counterparts of this corruption and the purified political order it hopes to attain"[370]; (b) courts "should adopt a 'premise of distrust' with respect to legislative means"[371]; and (c) courts should take note of the realities of campaign finance reform—such as "unintended consequences" and "at least temporary reallocations of political advantage" and sanction "only reforms that are practically guaranteed to achieve a clearly specified and unquestionably legitimate corruption-prevention goal."[372] Similar warnings have come from John Hart Ely[373] and Ralph Winter,[374] among others.

Thus, the burden is on the government to establish by clear evidence the compelling interest in corruption or its appearance which it proposes as supporting its decision to make a law abridging free expression in the vital realm of political speech.

G. PRIOR RESTRAINT OF SPEECH

The United States Supreme Court has long held that "the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."[375] This is particularly true with political speech since "timing is of the essence . . . when an event occurs, it is often necessary to have one's voice heard promptly, if it is to be considered at all."[376] Therefore, a prior restraint, even for "a day or two" may be intolerable when applied "to political speech in which the element of timeliness may be important."[377]

As set forth above, the First Amendment protects, as political speech, both political contributions and political expenditures, including both issue advocacy and independent expenditures. Unfortunately, injunctions have been sought and, on occasion, issued by lower state courts for alleged "violations" of state election law.[378] These injunctions were sought to restrain the distribution of voter guides and were overturned on appeal,[379] but the damage to First Amendment rights still occurred.

V. A PROPOSAL FOR SPEECH-ENHANCING CAMPAIGN REFORM

While most efforts at campaign finance reform have been misguided and based on flawed assumptions, there is room for speech-enhancing reform. Key to any reform to be attempted is the need to protect and enhance constitutionally guaranteed free expression. The case law is clear that such speech is constitutionally protected, and, as set forth above, the United States Supreme Court has shown no sign whatsoever that it is prepared to back away from ensuring full First Amendment protection to the political speech involved in campaigns.

This section will summarize the flawed premises on which most efforts at campaign finance reform are based, and set out some proposals for speech-enhancing reform.

A. FAULTY PREMISES TO BE AVOIDED

Recent campaign finance proposals[380] in the U.S. Congress have been based on certain premises that have been thoroughly rejected by the United States Supreme Court in the seminal election law case of *Buckley*,[381] and its progeny. As a result of these faulty premises, the proposals themselves are fundamentally flawed and have diverted attention from reform measures that would survive constitutional scrutiny and that would correct current perceived problems in the political system. These faulty premises are as follows.

1. (Faulty Premise #1) The First Amendment Is a Loophole in the Federal Election Campaign Act (FECA) Which Should Be Narrowed or Closed

As set forth in detail above, the First Amendment protects political freedoms that are vital to our representative democracy. To limit these freedoms is to fundamentally undermine the ability of our citizens to freely select their representatives and to hold them accountable for their governance. As has been shown, there is no indication whatsoever that the courts are prepared to cooperate in any endeavor to limit First Amendment freedoms in this area.[382]

2. (Faulty Premise #2) The Political System Is Only about Elections, Not about Political Ideas and the Accountability of Elected Officials to the Public for Their Positions on Issues

The debate about campaign finance reform seems to focus only on elections on the assumption that the political process is only about elections. However, elections are only a part of the political process. More importantly, elections are simply a part of our system of democratic representative government which fundamentally depends on "the free discussion of governmental affairs."[383] Thus, issue advocacy during an election, even though it may influence the election, is also about the discussion of issues of public concern and about holding public officials accountable for their positions on these issues. Representative government cannot survive without this "free discussion of governmental affairs."

3. (Faulty Premise #3) The Rising Cost of Political Campaigns Justifies Severe Government Restrictions on Campaigns

Some promoters of campaign finance reform assert that the rising cost of elections and the growing size of special interest donations has corrupted the democratic process. On that basis, they believe that severe limitations on campaigns imposed by government are justified.

However, the United States Supreme Court has made it clear that it is up to the people, not the government, to determine what is spent on political campaigns. As the Court stated in *Buckley*: "In any event, the mere growth in the cost of federal election campaigns in and of itself provides no basis for government restrictions on the quantity of campaign spending and the resulting limitation on the scope of federal campaigns. The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees who must retain control over the quantity and range of debate on public issues in a political campaign."[384]

4. (Faculty Premise #4) The Only Way to Redress the Balance Is to Stifle the Speech of Some Rather than to Enhance it for All

Some promoters of campaign finance reform believe that the system needs to change because it has eroded the power of individual voices and amplified the voices of special interests. In pursuit of equalizing speech, they take the approach of limiting, penalizing, and prohibiting speech of some in order to enhance it for others.

However, the United States Supreme Court has expressly rejected this proposition in *Buckley:* "the concept that government may restrict the speech of some elements of our

society in order to enhance the relative voice of others is wholly foreign to the First Amendment."[385] Thus, this approach is fundamentally flawed.

But even more tragically, the "solution" of stifling speech diverts attention away from positive, constitutional measures which would redress the imbalance in the current system by enhancing the speech of citizens and issue advocacy groups. These speech enhancing measures would restore a proper balance between the voices of "special interests" and the voices of individual citizens.

Some campaign finance reform advocates believe that the only way that meaningful reform will be enacted is for members to put aside partisan differences and work together to make it happen. While this may be one necessary precondition to reform, it is not the fundamental one. For meaningful reform to occur, Congress must abandon the notion that it is empowered to limit free speech in order to redress any imbalance in speech and instead find ways to level the playing field by enhancing the speech of citizens and issue advocacy groups.

B. POSITIVE PROPOSALS FOR REFORM BY ENHANCING SPEECH

In contrast to the serious constitutional obstacles to efforts to curtail speech, Congress is free to adopt measures that will enhance and encourage speech. As the *Buckley* Court explained, in upholding the provision of the FECA providing public funds for elections: "Although 'Congress shall make no law . . . abridging the freedom of speech, or of the press.' [public funding of elections] is a congressional effort, not to abridge, restrict, or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people. Thus, [the provision] furthers, not abridges, pertinent First Amendment values."[386]

But public funding of campaigns is only one way for Congress to "facilitate and enlarge public discussion and participation in the electoral process." The best antidote to the "undue influence of special interests" is to encourage citizens to take a more active part, as individuals and in association with others, in the political process.

In addition, Congress should act to reign in the FEC's effort to expand its power and regulate issue advocacy. The incorporation of the Court's speech protective holdings in appropriate provisions of the FECA and the adoption of certain administrative reforms of the FEC itself are necessary to accomplish this task. The following measures are designed to do just that.[387]

1. Section 441b of the FECA Should Be Amended to Reflect the Protections of Issue Advocacy and of the Political Speech of Not-for-Profit Corporations

Section 441(b) of the FECA makes it unlawful for any corporation "to make a contribution or expenditure in connection with any [federal] election." However, as set forth above, the United States Supreme Court in *MCFL*,[388] imposed two significant limitations on this prohibition.

First, the Court interpreted §441b to be limited to expenditures for "express advocacy." Second, the Court held that the prohibition on corporate expenditures was not applicable to certain not-for-profit corporations. These limitations should be incorporated by Congress in §441(b) by amending it.

After *Buckley*, Congress amended the FECA to incorporate changes in the statute required by the Court. For instance, Congress amended §434(c) to reflect that disclosure of expenditures by organizations that were not political committees were limited to "independent expenditures" and adopted a definition of "independent expenditure" in §431(17).

Similarly Congress should amend §441(b) to incorporate the holdings of *MCFL* by providing that it is unlawful for any corporation "to make a contribution or to make an expenditure which expressly advocates the election or defeat of a clearly identified candidate."

In addition, §441(b) should be amended to add a new subsection which provides that the prohibition on a corporation making an expenditure which expressly advocates the election or defeat of a clearly identified candidate does not apply to a not-for-profit membership corporation which (1) does not engage in substantial business activities, other than traditional fundraising activities of not-for-profit organizations, that are unrelated to the charitable, educational or political activities of the organization, (2) has no shareholders or other persons affiliated so as to have a claim on its assets or earnings, and (3) was not established by a business corporation or a labor union and does not receive a substantial portion of its contributions from such entities.

These changes would conform with the Court's decision in *MCFL*, and would signal the willingness of Congress to abide by this important issue advocacy protecting decision. Furthermore, incorporating these changes in the statute will make it readily apparent to all that this provision is narrow on its face; where now one has to read the United States Reports to know about this significant limitation.

2. The Definition of Contribution Should Be Amended to Clarify that It Does Not Apply to Issue Advocacy

The Federal Election Commission's effort to regulate and restrict issue advocacy by claiming that it is a contribution to a candidate and subject to the contribution limits if the expenditure for the issue advocacy was coordinated with a candidate should also be addressed. There is no justification for issue advocacy losing its protected status just because it has been communicated to a candidate.

This misguided attempt to circumvent the protection of issue advocacy in *Buckley* can be prevented by adding to those items listed in §431(8)(B) as not being included in the definition of "contribution" "any expenditure for a communication which does not expressly advocate the election or defeat of a clearly identified candidate."

3. The Definition of Political Committee Should Be Amended to Reflect the Court's Major Purpose Test

The Court in *Buckley* held that an organization cannot be considered a "political committee" unless the organization is "under the control of a candidate or the major purpose of the organization is the nomination or election of a candidate."[389] Unfortunately, when Congress amended the FECA after *Buckley*, this limitation was not included.

The effect of Congress's failure to modify the definition of "political committee"[390] to meet *Buckley*'s requirements has been to encourage the FEC to run amuck trying to impose on issue advocacy groups the requirements for PACs in the FECA.[391] This has had the effect of chilling the legitimate issue-oriented activities of such groups and has imposed substantial costs on them in their efforts to resist such unconstitutional impositions. Congress should make this change now by amending §431(4)(a) by adding at the end "and which is under the control of a candidate or the major purpose of which is the nomination or election of a candidate."

4. Congress Should Allow Certain Not-for-Profit Corporations to Make Contributions to Federal Candidates

Since the Supreme Court held in *MCFL* that certain not-for-profit corporations do not pose any threat to corrupt the electoral process, because contributions to them are generated by their advocacy of political ideas, and they are thus free to make independent expenditures, there is no justification to prohibiting them from also making contributions to federal candidates.[392]

This change would expand the pool of possible contributors to candidates and, since these nonprofit organizations often promote important political ideas, rather than narrow economic interests, their addition to the pool of possible contributors would help offset these "special interests."

This change could be made by modifying the new subsection proposed for §441(b) in Section 1, supra, by providing that the prohibition on a corporation making a contribution or an expenditure which expressly advocates the election or defeat of a clearly identified candidate does not apply to the not-for-profit membership corporations described therein.

5. Certain Not-for-Profit Corporations Should Be Allowed to "Bundle" Individual Contributions to Candidates

Bundling of individual contributions to candidates is currently limited to PACs. Even if certain not-for-profit corporations are not allowed to contribute to candidates, Congress should allow them to solicit from their members individual contributions to candidates that are then "bundled" and given to the candidate. This could be accomplished by specifically allowing this activity in the amendment to §441(b) proposed above.

Providing this new method of encouraging individual contributions will enhance political giving by individual citizens, diminishing the relative influence of PACs and "special interests." This "bundling" activity should be reported by amending §434(c) to so provide.

6. The Individual Contribution Limit Should be Increased to $2,500 and the Aggregate Limit to $100,000

The individual contribution limit of $1,000, found in §441(a)(a)(1) (A), and the aggregate contribution limit of $25,000, found in §441(a)(a)(3), has been in effect since 1974. While a $1,000 contribution represented a large contribution in 1974, it does not today.[393] Furthermore, allowing individuals to make larger contributions will enhance the ability of individual citizens to influence the political process while helping to offset the influence of "special interests" and PACs. The individual contribution limit should be raised to $2,500 and be indexed for inflation.

Furthermore, to accommodate the increase in individual contributions to candidates and to political parties, suggested below, the aggregate individual contribution limit, found in §441(a)(a)(3), should be increased to $100,000.

7. The Individual Contribution Limit to Political Parties Should Also Be Raised

Individual contributions to any national political party are limited to $15,000 per year by §441(a)(a)(2)(B). This limitation has diminished the relative influence of political

parties and encouraged them to seek soft money. Increasing the individual contribution limit to $50,000 would help strengthen parties that can provide an effective counterweight to "special interests."[394] Furthermore, most agree that political parties serve a beneficial mediating role in the political process that should be enhanced. Both of these benefits would be derived by increasing the contribution limit to political parties.[395]

8. The Amount Political Parties Can Spend in Coordinated Expenditures with Federal Candidates Should Also Be Increased

With the increase in the individual contribution limit to political parties, Congress should increase the coordinated expenditure limits provided in §441(a)(d). These limits have also been in existence since 1974 and were not indexed for increases in the consumer price index as were the expenditure limits on presidential campaigns.[396] Because of the increase in the cost of federal campaigns, the influence of political parties has diminished. Congress should restore this balance and also index the new limits to inflation.[397]

9. The FEC Should be Mandated, in its Regulatory Activities, to Observe the Limits Imposed by the First Amendment

Since the admonitions of the courts have left the FEC unchastened in its regulatory efforts to contain issue advocacy, Congress should mandate that, in its regulatory activities, the FEC should act in a manner that will have the least restrictive effect on the rights of free speech and association protected by the First Amendment. To give this provision some teeth, a reviewing court should be authorized to hold unlawful and set aside any action of the Commission that did not use the least restrictive means available.

10. Reasonable Attorneys Fees Should Be Authorized by Congress if any Provision of the FECA of Action of the FEC Violates Constitutionally Protected Rights

The provisions of 42 U.S.C. §1988, authorizing an award of attorney fees to prevailing party who vindicates constitutional rights as against a state, are a substantial deterrent to states violating the guarantees of federal law. While federal law currently allows for an award of attorney fees against federal agencies in limited circumstances,[398] the broader guarantees provided in §1988 are justified in this case for two reasons.

First, the FECA uniquely involves the attempt by government to regulate vital First Amendment rights that are "indispensable democratic freedoms." Particularly in light of the efforts by some to pass provisions know to be unconstitutional, a provision that allows an award of attorney fees for a successful effort to strike down a portion of the FECA is warranted.[399]

Second, the FEC has a sorry history of repeated attempts to unconstitutionally expand its powers to regulate issue advocacy. A significant deterrent to such intransigence, and a justified effort to compensate the victims of it, would be to award attorney fees to those private parties that prevail in FEC enforcement actions or against new FEC regulations.

11. The Act Should Establish Term Limits for FEC Commissioners, Staff Director, and General Counsel

The six commissioners of the FEC are currently appointed for six year terms and are eligible for reappointment.[400] The FEC is administered by a staff director and general counsel appointed by the Commission.[401] Because of the strong institutional bias toward regulating free speech in the FEC, fresh blood is needed at the higher echelons of the Commission. This could be established by providing term limits for the Commissioners, staff director, and the general counsel.

12. The Tax Credit for Small Political Contributions Should Be Restored

The 1974 amendments to the FECA contained a 50% individual tax credit for political contributions up to $100. This tax credit provided a substantial incentive for small political contributions. This incentive should be restored to encourage small contributions from a greater number of citizens.

13. Limits on Issue Advocacy for Tax Exempt Groups in the Internal Revenue Code Should Be Eliminated

The Internal Revenue Code imposes limits on issue advocacy for tax exempt organizations. Specifically, the Internal Revenue Code prohibits groups exempt under §501(c)(3) from "participat[ing] in, or interven[ing] in [including the publishing or distributing of statements], any political campaign on behalf of any candidate for public office." Organizations that are exempt under §501(c)(4) may engage in political activity but such activity must be "insubstantial" and is subject to a tax under §527.

Unfortunately, the Internal Revenue Service has given this provision a very expansive interpretation which clearly encompasses issue advocacy. For instance, in Revenue Ruling 78-248, the IRS interpreted this provision to include voter guides, even though they only contained issue advocacy and did not contain any "express advocacy." As a result, not-for-profit groups have been chilled in the exercise of their constitutional right to issue advocacy.

Congress should correct this clear violation of First Amendment speech by bringing this provision into compliance with *Buckley*. This provision should be amended to read that this exemption is available to §501(c)(3) organizations that "do not contribute to any political candidate, political committee, or political party and do not make any expenditures expressly advocating the election or defeat of a clearly identified candidate for political office." Furthermore, Congress should make it clear in the statute that §501(c)(4) organizations are not subject to a tax except on any contribution to a political candidate, committee, or party and on any independent expenditure expressly advocating the election or defeat of a clearly identified federal candidate.

CONCLUSION

As the U.S. Congress considers campaign finance reform, it has a unique opportunity to make significant changes that will improve our electoral process. There are two paths that beckon. One to limit, stifle, punish and penalize speech is doomed to failure at the doorstep of the United States Supreme Court. The other to encourage, promote and enhance speech will not only pass constitutional muster but will restore the balance that many believe is critically needed.

Moreover, the FEC must be reigned in to protect the constitutional rights of the people. The FEC is an agency out of control. Instead of carrying out its legitimate administrative role, it has expended considerable resources seeking to restrict, stifle and punish constitutionally protected free speech. Congress has an urgent duty to reorder the priorities of the FEC in order to protect citizens and grassroots organizations from the heavy hand of the censors at the FEC. Until the FEC has demonstrated a proper sensitivity for First Amendment rights, it should not be entrusted with further authority to intrude into the vital workings of our representative democracy.

FOOTNOTES

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1. U.S. CONST. amend. 1.

2. *Id.*

3. Federal Election Campaign Act of 1971, 2 U.S.C. §431 *et seq.* (amended 1974).

4. Buckley v. Valeo, 424 U.S. 1 (1976).

5. Colorado Republican Federal Campaign Comm. v. FEC, 116 S. Ct. 2309 (1996).

6. The authors are practicing attorneys who have been heavily engaged in litigation against misguided campaign reform efforts (on constitutional and Administrative Procedure Act grounds) since their seminal victory against the FEC in Faucher v. FEC, 928 F.2d 468 (1st Cir. 1991), *cert. denied sub nom.* FEC v. Keefer, 112 S. Ct. 79 (1991). Throughout the article, note will be taken of cases in which the authors and other members of the law firm of Bopp, Coleson & Bostrom are or have been engaged.

7. Free speech is both an end and a means, as stated by the United States Supreme Court in FEC v. Massachusetts Citizens for Life (*MCFL*):

"[w]hile this market metaphor has guided congressional regulation in the area of campaign activity, First Amendment speech is not necessarily limited to such an instrumental role. As Justice Brandeis stated in his discussion of political speech in his concurrence in Whitney v. California, 274 U.S. 357, 375 . . . (1927):

"Those who won our independence believed that the final end of the State was to make men free to develop their faculties; and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means." *MCFL*, 479 U.S. 238, 257 n. 10 (1986) (emphasis added) (internal citation omitted). "It is the fact of participation in the political process that the First Amendment protects, not [merely] its qualities of sanity and objectivity." West Virginians for Life v. Smith, 919 F. Supp. 954, 958 (S.D.W. Va. 1996) (quoting Lillian R. BeVier, *The First Amendment and Political Speech: An Inquiry Into the Substance and Limits of Principle*, 30 STAN. L. REV. 299, 317 (1978)).

8. FEC v. Machinists Non-Partisan Political League, 655 F.2d 380, 389 n. 17 (D.C. Cir. 1981) (quoting *Buckley*, 424 U.S. at 14-15 and Monitor Patriot Co. v. Roy, 401 U.S. 265 (1971)).

* * * * *

24. Most notable among these has been *Buckley* itself, which struck down several provisions of the Federal Election Campaign Act Amendments of 1974, Pub. L. No. 93-443, 88 Stat. 1263.

25. Bradley Smith makes a convincing case that campaign finance reform as it has been practiced has led to undemocratic consequences by entrenching the status quo, promoting influence peddling, reducing accountability, and empowering social elites (such as news reporters and wealthy candidates) at the expense of grass-roots, populist efforts. Bradley A. Smith, 105 YALE L.J. at 1071-84. In *Day v. Holahan*, the United States Court of Appeal for the Eighth Circuit noted one example of incumbent self-protection: "It appears that the legislators who enacted the $100 limit on contributions to political committees and funds, and the governor who signed the limit into law, approved limits on election-year contributions to themselves that were many times higher than the $100 limit on contributions to committees and funds." Day v. Holahan, 34 F.3d 1356, 1365 N.8 (8th Cir. 1994).

26. Campaign Finance Reform: Hearings before the United States Senate Committee on Rules and Administration (Mar. 13, 1996). The proposals in Section V of this article are largely based on the recommendations made in this testimony.

27. Similarly, in the November 1996 election, national labor unions spent $35 million dollars (by their own account) in the weeks before the November 1996 election for advertisements attacking targeted U.S. congressional candidates on various issues. Apart from questions raised about the accuracy of some of the advertisements (some have been refused by broadcasters on accuracy grounds) and the voluntariness of the use of union member's dues for pro-Democrat attack ads, such issue advocacy is an appropriate part of the American political system. The present authors and the First Amendment strongly support the right of the labor unions to engage in robust issue advocacy, even at election time. The solution for those opposed to such issue advocacy is not to silence the labor unions but to mount an effective counter-attack. However, concomitant efforts by the FEC to intimidate the Christian Coalition (and thereby similar groups) from advocating essentially opposing issues through voter guides, is abhorrent to First Amendment principles.

28. "Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association." *MCFL*, 479 U.S. at 264 (quoting NAACP v. Alabama, 357 U.S. 449, 460 (1958)).

29. Express advocacy consists of explicit words of advocacy, such as "vote for Candidate X" or "defeat Candidate Y." *Buckley*, 424 U.S. at 44.

30. Federal Election Commission v. National Conservative Political Action Committee, 470 U.S. 480 (1985).

31. The public policy struggle over abortion rights is a good example of the checks and balances in the free marketplace of ideas. Abortion-rights advocates promote their favored candidates by making donations through PACs such as Emily's List, while pro-life advocates contribute to PACs such as the National Right to Life Political Action Committee.

32. The Court, for instance, has approved statutory requirements that PACs register and report their financial activities. *Buckley*, 424 U.S. at 60–68.

33. *See e.g.*, West Virginians for Life v. Smith, 919 F. Supp. 954 (S.D.W.V. 1996). Co-author James Bopp, Jr. was lead counsel representing the Plaintiffs in this case.

34. The heavy burden imposed on PACs was well-described with respect to federal PACs in FEC v. Machinists Non-Partisan Political League, 655 F.2d 380, 392 (D.D.C. 1981), *cert. denied*, 454 U.S. 897 (1981), which noted that, once an organization is labelled a "political committee," it must "then submit to an elaborate panoply of FEC regulations requiring the filing of dozens of forms, the disclosing of various activities, and the limiting of the group's freedom of political action to make expenditures or contributions."

35. *Buckley*, 424 U.S. at 74–82.

36. *Id.*

37. Of course, if the pro-life newsletter were to combine in its election issue the words "vote pro-life" and the words "Candidate D is pro-life," the communication contains express advocacy. *MCFL*, 479 U.S. at 249–50. This is based on the unremarkable algebraic formula that, if a=b and b=c, then a=c.

38. This is so because the Supreme Court has insisted that the bright-line express advocacy test must govern any effort to bar or restrict communications about candidates, parties, and ideas in the election context. The Court has done so because America believes in free expression on issues of the day, even at election time, or, more correctly, especially at election time. What good would a First Amendment be if it did not protect communicators at precisely the time when free speech would be most effective and is most important? The fact that issue advocacy might affect an election is constitutionally inconsequential because the First Amendment right of issue advocacy must be preserved. In fact, to the Framers of the Constitution and the First Amendment, the constitutional protection of free expression was precisely to protect the advocacy of issues and ideas in the political context. "Freedom of speech plays a fundamental role in a democracy . . . [I]t 'is the matrix, the indispensable condition of nearly every other freedom.'" *MCFL*, 479 U.S. at 264 (quoting Palko v. Connecticut, 302 U.S. 319 (1937)). "[T]he right of free public discussion . . . [is] a fundamental principle of the American form of government." New York Times v. Sullivan, 376 U.S. 254, 274 (1964) (paraphrasing James Madison, 6 Writings of James Madison 341 (G. Hunt ed. 1908)).

39. *Faucher*, 928 F.2d 468.

40. A voter guide may be distributed by any individual or organization, including churches and non-profit entities organized under 501(c)(3) and 501(c)(4) of the Internal Revenue Code.

41. *See infra* Section III.

42. *See e.g., West Virginians for Life*, 919 F. Supp. 954 (permanently enjoining a state statute which defined the distribution of a voter guide within 60 days of an election to constitute express advocacy of the election of a candidate).

43. Virginia Society for Human Life v. Caldwell, 906 F. Supp. 1421, 1073–74 (W.D. Va. 1995) (recounting cases brought by the Virginia Democrat Party to enjoin the distribution of voter guides by Concerned Women for America and The Family Foundation). Co-author James Bopp, Jr. is lead counsel representing Plaintiffs in this case.

44. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or of the right of the people to peaceably assemble, and to petition the Government for a redress of grievances." U.S. Const. amend. I.

45. *Buckley*, 424 U.S. at 39 (quoting Williams v. Rhodes, 393 U.S. 23, 32 (1968)).

46. *Id.* at 48 (citations omitted) (ellipsis in original).

47. *Buckley*, 424 U.S. at 44, 79.

48. *Id.* At 45.

49. United States v. Congress of Industrial Organizations (C.I.O.). 335 U.S. 106 (1948).

50. *Id.* at 106–107 n.1.

51. *Id. at 108.*

52. *Id. at 121.*

53.* * *

54. 2 U.S.C. 431 *et seq.*

55. *Buckley*, 424 U.S. 1.

56. *Buckley*, 424 U.S. at 41 (quoting 12 U.S.C. §608(e)(1)).

57. *Id.* at 41.

58. *Id.* at 42.

59. *Id.* at 42.

60. *Buckley*, 424 U.S. at 43 (Quoting *Collins*, 323 U.S. at 535).

61. *Id.* The *Buckley* court also quoted approvingly the comments of the United States Court of Appeals for the District of Columbia, which it affirmed: "Public discussion of public issues which also are campaign issues readily and often unavoidably draws in candidates and their positions, their voting records and other official conduct. Discussions of those issues, and as well more positive efforts to influence public opinion on them, tend naturally and inexorably to exert some influence on voting at elections." *Id.* at 42 n.50 (quoting, *Buckley*, 171 U.S. App. D.C. 172, 226, 519 F.2d 821, 875 (D.C. Cir. 1975)).

62. There are strong arguments that a person wishing to express an opinion on any candidate to print and distribute flyers opposing or supporting candidates, or to give a donation to a campaign, should not have to think at all about possible laws restricting his or her speech in America. That is the spirit of the First Amendment, which says that "Congress shall make *no* law . . . abridging the freedom of speech . . . ." U.S. Const. amend. I (emphasis added). That one could today suffer penalties for political speech which is not libelous or fraudulent would, no doubt, be astounding and disconcerting to the Framers of the First Amendment.

However, the Supreme Court has said that, at a minimum, one should not have to think twice about speaking out on issues of public concern for fear of violating some law. The result of laws which limit speech in the campaign arena is to chill speech by individuals and grassroots citizen groups and to enhance the speech of organized advocacy interests who can afford to hire lawyers to watch over all their publications and expenditures. Bradley A. Smith, 105 Yale L.J. at 1077. This reality runs exactly counter to the populist rhetoric of most campaign finance reformers.

63. *Buckley*, 424 U.S. at 44.

64. *Id.* at 44 n.52.

65. *Id.* at 44.

66. *Id.* at 44–45.

67. *Buckley*, 424 U.S. at 79. The U.S. Court of Appeals for the District of Columbia has recently decided that the major purpose test does not apply to contributions, but only to independent expenditures. Akins v. FEC, 101 F.3d 731 (D.C. Cir. 1996). This case will be analyzed infra.

68. These burdens include not only detailed record-keeping and reporting requirements for all of the organizations financial activities but also disclaimer requirements on their publications and limits on the contributions that may be received by the organization. *See* FEC v. Machinists Non-Partisan Political League, 655 F.2d 380, 392 (D.C. Cir. 1981).

69. *Buckley*, 424 U.S. at 74–75 (footnotes omitted). The threshold amount for reporting independent expenditures has been increased to $250. 2 U.S.C. §434(c)(1).

70. *Id.* at 75.

71. *Id.* at 79–80 (emphasis added).

72. *Id.* at 81.

73. *Akins*, 101 F.3d 731.

74. *Id.* at 734.

75. *Id.* at 735.

76. *Id.* at 742.

77. *MCFL*, 479 U.S. 238.

78. *Akins*, 101 F.3d at 742.

79. *Id.* at 743.

80. From the opinion, it would appear that the FEC did not make a vigorous First Amendment defense. Rather, it appears to have relied on interpretation of precedent, statutory interpretation, and a plea for deference to its interpretation of the statute in its regulations. *Id.* at 740–44.

81. Akins v. FEC, 101 F.3d 731, *petition for cert. filed*, 65 U.S.L.W. 3694 (U.S. Apr. 7, 1997) (No. 96–1590).

82. The Fair Government Foundation's special report, The FEC's Express War on Free Speech 18 (1996), sums up some of the evidence of the FEC's hostility to the Supreme Court's bright-line protection of issue advocacy in *Buckley and MCFL*:

"That the Commission dragged its feet in revising its rules to conform them with the Supreme Court rulings suggests that the FEC sought to prolong its concession to the Supreme Court in the hope of changing the high court's mind. . . . During an open meeting of the FEC, Commission chairman Trevor Potter . . . expressed concern whether the Commission was remaining faithful to Supreme Court precedent. Potter questioned whether 'enforcing the law in specific matters and then in drafting a definition in general, is consistent with the very narrow language' of *Buckley*. [End note: 'Federal Election Commission Open Meeting (Aug. 11, 1994) (taped transcript available at Commission).']

"In the end, the Commission simply would not accept the plain meaning of the *Buckley* decision because it so conflicted with a majority of commissioners' fervently held regulatory beliefs. Beliefs that were less a product of the FECA or court cases than a personal philosophical disposition.

"Comments of the FEC's chairman during consideration of the proposed rules reveal what in retrospect must seem like inadvertent candor, as they demonstrate a willful disregard of the Supreme Court's commands. Chairman Trevor Potter, who cast the decisive fourth vote to approve the revised rules, unabashedly revealed that the Commission is 'close to being on a different planet from the Supreme Court in terms of what we are looking at.' In Chairman Potter's mind, 'the [Supreme] Court doesn't understand[.]' as its rulings are 'directly contrary to what the Commission understands the purpose of the Act [FECA] to be . . . . ' *Id.*

"Commissioner Danny Lee McDonald, who also voted for the revised rules, was similarly dismissive of the Supreme Court's edicts. He concluded that 'the Court just didn't get it.'"*Id.*

83. *See e.g.*, 11 C.F.R. §114.4(b)(5) (invalidated in Faucher v. FEC, 928 F.2d 468); 11 C.F.R. §114.1(e)(2) (invalidated in Chamber of Commerce v. FEC, 69 F.3d 600 (D.C. Cir. 1995)); 11 C.F.R. §100.22 (invalidated in Maine Right to Life Committee v. FEC, 914 F. Supp. 8 (D. Me. 1996), *aff'd*, 98 F.3d 1 (1st Cir. 1996)); 11 C.F.R. §114.10 (invalidated in Minnesota Citizens Concerned for Life v. FEC, 936 F. Supp. 633 (D. Minn. 1995)); and 11 C.F.R. §114.4(c)(4) & (5) (invalidated in Clifton v. Federal Election Commission, 927 F. Supp. 493 (D. Me. 1996)). Co-author James Bopp, Jr. was lead counsel for Plaintiffs in all of these cases except for *Chamber of Commerce*.

84. *See e.g.*, FEC v. AFSCME, 471 F. Supp. 315 (D.D.C. 1979); FEC v. CLITRIM, 616 F.2d 45 (2d Cir. 1980); Machinists Non-Partisan Political League, 655 F.2d 380; FEC v. Phillips Publishing, 517 F. Supp. 1308 (D.D.C. 1981); *MCFL*, 479 U.S. 238; FEC v. NOW, 713 F. Supp. 428 (D.D.C. 1989); FEC v. GOPAC, 871 F. Supp. 851 1466, 917 F. Supp. (D.D.C. 1994); FEC v. Survival Education Fund, 65 F.3d 285 (2nd Cir. 1995); FEC v. Christian Action Network, 894 F. Supp. 946 (W.D. Va. 1995), *aff'd*, 92 F.3d 1178 (4th Cir. 1996); and *Colorado Republican*, 116 S. Ct. 2309. These enforcement actions, however, are only the tip of the iceberg since many enforcement actions never progress beyond the administrative level. Such administrative investigations, however, can be equally chilling on free speech. *See e.g.*, MUR 4203 regarding U.S. Term

Limits; MUR 4204 regarding Americans for Tax Reform; Colorado Republican Federal Campaign Committee v. FEC, 116 S. Ct. 2309 (1996); and FEC v. Christian Action Network, 110 F.3d 1049 (4th Cir. 1997) (awarding attorneys' fees against FEC for bad faith prosecution).

85. Susan Hayward & Allison R. Hayward, *Gagging on Political Reform*, REASON 20 (Oct. 1996).

86. FEC v. American Federation of State, County and Mun. Employees, 471 F. Supp. 315 (D.D.C. 1979) (*AFSCME*).

87. *Id.* at 317.

88. *Id.*

89. *Id.*

90. FEC v. Central Long Island Tax Reform Immediately Committee, (*CLITRIM*) 616 F.2d 45 (2d Cir. 1980) (en banc) (*per curiam*).

91. *Id.* at 52 (quoting 2 U.S.C. §434(e)) (emphasis supplied by court.

92. *Id.* (quoting 2 U.S.C. §441d) (emphasis supplied by court).

93. *Id.* at 53.

94. *Id.* (citations omitted).

95. *Id.* (citations omitted).

96. *Id.* (citations omitted) (emphasis in original).

97. FEC v. Nat'l Conservative Political Action Comm. (*NCPAC*) 470 U.S. 480 (1985).

98. 26 U.S.C. §9001 *et seq.*

99. *NCPAC*, 470 U.S. at 483.

100. *Id.* at 482 (citing 26 U.S.C. §9012(f)).

101. *Id.* at 493–501.

102. *Id.* at 496.

103. *NCPAC* 470 U.S. at 497.

104. *See e.g., Faucher*, 928 F.2d 468; Clifton v. FEC, 927 F. Supp. 493 (D.Me. 1996).

105. *MCFL*, 479 U.S. 238.

106. *Id.* at 243.

107. *Id.* at 244.

108. 2 U.S.C. §431(9)(B)(i).

109. *MCFL*, 479 U.S. at 249, 251, 263.

110. 2 U.S.C. §431(9)(A)(i).

111. *MCFL*, 479 U.S. at 248.

112. *Id.* at 249.

113. *Id.*

114. *Id.* at 262.

115. As discussed infra in the treatment of *Faucher*, the FEC sought to dismiss the Supreme Court's application of the express advocacy test in MCFL to corporate expenditures as nonbinding obiter dictum.

116. FEC v. Furgatch, 807 F.2d 857 (9th Cir. 1987), *cert. denied* 484 U.S. 850 (1987).

117. 2 U.S.C. §434(c)(1).

118. 2 U.S.C. §441d.

119. *Buckley*, 424 U.S. at 42.

120. *Furgatch*, 807 F.2d at 864.

121. *Id.* at 858.

122. *Id.* at 864.

123. *See, e.g.*, Maine Right to Life Committee v. FEC, 914 F. Supp. 8, 13 (D. Me. 1996), *aff'd* 98 F.3d 1 (1st Cir. 1996) (*per curiam*).

124. *Furgatch*, 807 F.2d at 858.

125. FEC v. Christian Action Network, WL 157269 (4th Cir. 1997).

126. *Id.* at 861.

127. *Id.* at 862.

128. *Id.*

129. FEC v. Christian Action Network, 110 F.3d 1049 (4th Cir. 1997).

130. *Id.* (citing the FEC's brief opposing U.S. Supreme Court review).

131. *Id.*

132. FEC v. National Organization for Women, 713 F. Supp. 428 (D.D.C. 1989), *appeal dismissed* (D.C. Cir.: Oct. 11, 1991).

133. *Id.* at 431–32.

134. *Id.* at 433–34.

135. *Id.* at 434.

136. *Id.* at 435.

137. *Id.* at 429.

138. Faucher v. FEC, 928 F.2d 468. The present authors were counsel for plaintiffs in this case.

139. 11 C.F.R. §114.4(b)(5)(i) (C) and (D).

140. *Faucher*, 743 F. Supp. 64.

141. *Id.* 928 F.2d 468.

142. *Id.* at 472.

143. *Id.*

144. FEC v. Survival Education Fund, 1994 WL 96 (S.D.N.Y. 1994), *aff'd in part and rev'd in part*, 65 F.3d 285 (2d Cir. 1995).

145. *Id.* at 3. The Second Circuit avoided the express advocacy issue by holding that Survival Education Fund was an MCFL-type organization so that it could do express advocacy, but that it was required to include disclaimers on its communications that solicit contributions that were to be used for its express advocacy. *Survival Education Fund*, 65 F.3d at 285.

146. FEC v. Christian Action Network, 894 F. Supp. 946 (W.D. Va. 1995), *aff'd*, 92 F.3d 1178 (4th Cir. 1996) (*per curiam*).

147. *Id.* at 948.

148. *Id.* at 951.

149. *FEC v. Christian Action Network*, 92 F.3d 1178.

150. *FEC v. GOPAC*, 917 F. Supp. 851 (D.D.C. 1996).

151. *Id.* at 859.

152. *Id.* at 867.

153. *Faucher*, 928 F.2d 468.

154. 11 C.F.R. §114.4(b)(5)(i)(A)–(F).

155. The Fair Government Foundation's special report on The FEC's Express War on Free Speech includes the following succinct chronology of the FEC's rulemaking efforts to regulate express advocacy: Anatomy of a Rulemaking—The FEC's Twenty Year Struggle Over Express Advocacy:

1976—*Buckley v. Valeo* decided.

1976—FEC rule defining "express advocacy" adopted.

1986—*Massachusetts Citizens for Life* decided.

1987—Petition for Rulemaking filed.

1988—Advanced Notice of Proposed Rulemaking.

1988—FEC holds public hearing.

1990—Request for Further Comment.

1992—Notice of Proposed Rulemaking.

1992—FEC holds public hearing.

1994—FEC open meeting to consider proposed rule.

1995—FEC open meeting to consider Final Rule.

1995—Final Rule transmitted to Congress.

1995—Revised Express Advocacy rules take effect.

1996—Revised rules struck down; *Id.* at 16.

156. *See, e.g., Main Right to Life Committee* 914 F. Supp. at 12 (considering and * * * deference to the FEC's interpretation on which these new regulations were based).

157. 11 C.F.R. §100.22.

158. In this first set of 1995 regulation (released October 5), the FEC also tacked on a set of rules dealing with MCFL-type organizations as established by the United States Supreme Court in *MCFL*, 479 U.S. 238. This part of the regulations will be discussed, infra, under a separate heading.

159. James Bopp, Jr., co-author of this article, was lead counsel in the case.

160. 11 C.F.R. §100.22.

161. *Maine Right to Life Committee*, 914 F. Supp. at 13.

162. *Id.* at 10.

163. *Id.* at 11–12; *Furgatch*, 807 F.2d at 857 (citations omitted).

164. *Id.* at 13.

165. *Maine Right to Life Committee*, 98 F.3d at 1.

166. Petition for Rehearing and Suggestion for Rehearing in Banc at 8, Maine Right to Life Committee, No. 96–1532 (1st Cir. 1996).

167. 11 C.F.R. §114.4(c)(4) & (5). The new regulations also governed several other things, including candidates appearances at corporate meetings and use of corporate letter-head in relation to campaigns.

168. 61 Fed. Reg. at 10269.

169. The regulation, 11 C.F.R. §114.4(c)(5), was promulgated under the ostensible statutory authority of 2 U.S.C. §441b (the broad statutory prohibition on corporate "expenditures" and "contributions").

170. *Clifton*, 927 F. Supp. at 497.

171. 11 C.F.R. §114.4(c)(5)(i). Paragraph (c)(5)(i) provides that corporations "shall not contact . . . the candidates, the candidates' committees or agents regarding the preparation, contents and distribution of the voter guide. . . ."

172. It is difficult to imagine how an organization could prepare a voter guide which would be helpful to the voters without contacting the candidates and asking for responses to a survey form. The organization would be left to glean candidate views from campaign literature, news accounts, and the like. Information from such sources would often be inaccurate, incomplete, or subject to the "spin" supplied by a campaign strategist or reporter. Questions framed by advocacy organizations elicit much truer pictures of candidates' positions than candidates often are willing to admit without such careful framing.

173. 11 C.F.R. §114.4(c)(5)(ii)

174. 11 C.F.R. §114.4(c)(5)(ii) (A) through (E). Paragraph (c)(5)(ii) provides that a "corporation . . . shall not contact . . . the candidates, the candidates' committees or agents regarding the preparation, contents and distribution of the voter guide, except that questions may be directed in writing to the candidates included in the voter guide and the candidates may respond in writing. . . ."

175. 11 C.F.R. §114.4(c)(5)(ii)(B).

176. *Id.*

177. *Id.*

178. 11 C.F.R. §114.4(c)(5)(ii).

179. The Supreme Court, however, has repeatedly rejected the effort of government to "foreclose the exercise of constitutional rights by mere labels." NAACP v. Button, 371 U.S. 415, 429 (1963).

180. 2 U.S.C. §441b(a).

181. 2 U.S.C. §441b(b)(2).

182. S. Rep. No. 94–677, 94th Cong., 2d Sess., 59 (1976), 1976 U.S.C.C.A.N. (90 Stat.) 974.

183. Orloski v. Federal Elections Commission, 795 F.2d. 156 (D.C. Cir. 1986).

184. *Id.* at 160.

185. *Id.* (emphasis added).

186. * * *

187. The presumed coordination theory will be discussed in context of the *Colorado Republican* case below.

188. Maine Right to Life Committee was also a plaintill in *Faucher*, 928 F.2d at 468, and in *Maine Rights to Life Committee*, 914 F. Supp. at 8. James Bopp, Jr., one of the present authors, was lead counsel in all three of these cases brought by Maine Right to Life against the FEC.

189. *MCFL*, 479 U.S. at 238.

190. *Clifton*, 927 F. Supp. at 493.

191. 11 C.F.R. §114.4(c)(4) & (5).

192. *Clifton*, 927 F. Supp. at 494.

193. *Id.* at 497.

194. *Id.* at 497–98.

195. *Id.* (citing Faucher) (emphasis in the original).

196. *Clifton*, 927 F. Supp. at 494, appeal docketed, No. 96–1812 (1st Cir. July 18, 1996) (oral argument conducted December 4, 1996).

197. Colo. Republican Federal Campaign Comm. V. FEC, 116 S. Ct. 2309 (1996).

198. For instance, the FEC has also adopted a regulation at 11 C.F.R. §109.1(b)(4)(i)(B) which states that the Commission will presume expenditures "made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent" to be coordinated. This regulation is also of doubtful validity as a result of the *Colorado Republican* decision.

199. Section 441a(d) of the FECA permits political parties to spend $20,000 or $.02 per person of voting age in the state, whichever is greater, adjusted for inflation since 1974. *Colorado Republican*, 116 S. Ct. at 2313–44 (lead opinion of Breyer, J., joined by O'Connor and Souter, JJ.). Thus, the Colorado Republican Party was permitted to spend in 1986 about $103,000 "in connection with the general election campaign of a candidate for the United States Senate." *Id.* at 2314.

200. *Id.*

201. *Id.*

202. *Id.* at 2315.

203. *Id.* at 2315.

204. *Id.*

205. *Id.* at 2318 (citing FEC advisory opinion AO 1988–22).

206. *Id.* at 2315.

207. *Id.* at 2317.

208. *Id.* at 2315.

209. *Id.* at 2321.

210. *Id.* at 2323.

211. *Id.* at 2331.

212. *FEC v. Christian Action Network*, 894 F. Supp. 946 (W.D. Va. 1995), *aff'd*, 92 F.3d 1178 (4th Cir. 1996) (per curian). *See supra* Section III.I.

213. 28 U.S.C. §2412.

214. FEC v. Christian Action Network, 110 F.3d 1049, 1064 (4th Cir. 1997).

215. *Id.* at 1051–56, 1061–64.

216. *Id.* at 1052–55, 1069–61.

217. *Id.* at 1054.

218. *Id.* at 1063 (citations omitted) (footnotes omitted) (emphasis added).

219. *Id.* The FEC also failed to quote even once key footnote 52 of *Buckley*, although it quoted the sentence to which the footnote was attached. *Id.* at 1063.

220. *Id.* at 1064.

221. *Id.* at 1061.

222. *Id.* at 1057.

223. *Id.* at 1064.

224. *MCFL* 479 U.S. 238.

225. 2 U.S.C. §441b.

226. *MCFL*, 479 U.S. at 263.

227. *Id.* at 264.

228. Day v. Holahan, 34 F.3d 1356 (8th Cir. 1994). Co-author James Bopp, Jr. was counsel for Plaintiff Minnesota Citizens Concerned for Life, Inc. in this case.

229. 60 Fed. Reg. 35292, 35297 (1995) (emphasis added).
230. 11 C.F.R. §114.10(c) (1).
231. 11 C.F.R. §114.10(c) (2).
232. 11 C.F.R. §114.10(c) (3) (ii).
233. 11 C.F.R. §114.10(c) (4) (ii) and (iii).
234. 11 C.F.R. §114.10(e)(1).
235. At 11 C.F.R. §114.10(c)(1)–(5).
236. 11 C.F.R. §114.10(f).
237. *MCFL*, 479 U.S. at 264.
238. *Buckley*, 424 U.S. at 14 (citations omitted).
239. *MCFL*, 479 U.S. at 264 (emphasis added).
240. *Id.* at 258.
241. *Id.* at 258 n.10 (quoting Whitney v. California, 274 U.S. 357, 375 (1927)) (emphasis added).
242. *Id.* at 265.
243. *MCFL*, 479 U.S. at 265 (emphasis added).
244. *Id.* at 251–52.
245. First National Bank v. Belloti, 435 U.S. 765, 786 (1978).
246. *MCFL*, 479 U.S. at 264–65.
247. *See id.* at 264.
248. *Id.* at 264.
249. *Id.* at 264.
250. *Id.* at 264.
251. *Id.* at 257.
252. *Id.* (emphasis added).
253. Austin v. Michigan Chamber of Commerce, 494 U.S. 657, 659 (1990).
254. The regulations defined the term "business activities" to include: (A) Any provision of goods or services that results in income to the corporation; and (B) Advertising or promotional activity which results in income to the corporation, other than in the form of membership dues or donations. 11 C.F.R. §114.10(b)(3)(i). Thus, business activities would encompass income directly related to the promotion of the corporations political ideas, such as advertising in its newsletter and sale of educational material, as well as unrelated business income.
255. 11 C.F.R. §114.10(b).
256. *MCFL*, 479 U.S. at 259.
257. *Id.* at 258.
258. *Id.*
259. *Id.*
260. *Id.* (emphasis added).
261. 60 Fed. Reg. 35292, 35299 (1995).
262. *MCFL*, 479 U.S. at 259.
263. *Id.* at 261.
264. *Id.* at 265.
265. *Id.* at 264.
266. *Id.* at 264.
267. *Id.* at 260.
268. *Id.*
269. The FEC regulations specifically included "credit cards, insurance policies or savings plans," as well as "training, education, or business information," in its list of disincentives to disassociate. 11 C.F.R. §114.10(c)(3)(ii)(A) and (B).
270. *MCFL*, 479 U.S. at 260, 264.
271. *Id.* at 264.
272. *Austin*, 495 U.S. at 664 (emphasis added).
273. *Id.*
274. FEC v. Survival Education Fund, 65 F.3d 285 (2d Cir. 1995).
275. *Id.* at 293.
276. *Day*, 34 F.3d 1356, 1364 (8th Cir. 1994) (emphasis in original).
277. *Id.* at 1363. *See also SEF*, 65 F.3d at 292 ("The Court's listing of the factors essential to its holding on the facts of a particular case does not impose a code of compliance that other nonprofit corporations must follow to the letter.").
278. *MCFL*, 479 U.S. at 265.
279. Minnesota 936 F. Supp. 633 (D. Minn. 1995). James Bopp, Jr. was lead counsel in the case.
280. *Id.* at 638.
281. *Id.* at 642.
282. *Id.* at 643.
283. *MCFL*, 479 U.S. at 643, appeal docketed, No. 96–2612 MNST (8th Cir. 1996) (oral arguments held February 10, 1997).
284. 1997 WL 225120 (8th Cir. 1997).
285. United States v. Congress of Industrial Organizations (*CIO*), 335 U.S. 106 (1948).
286. *Id.* at 106–107 n.1.
287. *Id.* at 108.
288. *Id.* at 121.
289. FEC v. National Right to Work Committee, (*NRWC*) 459 U.S. 197 (1982).
290. *Id.* at 197.
291. *Id.*
292. *Id.* at 198.
293. *Id.* at 199.
294. *Id.* at 200.
295. *Id.* at 204.
296. *Id.* at 211.
297. *Id.* at 206–07.
298. *Id.* at 207.
299. 11 C.F.R. §114.1(e) (1977–1993).
300. 11 C.F.R. §114.1(e)(2) (emphasis in original).
301. Chamber of Commerce v. FEC, 69 F.3d 600, 602 (D.C. Cir. 1995).
302. "[S]ome relatively enduring and independently significant financial or organizational attachment is required to be a 'member' under §441b(b)(4)(C)." *NRWC*, 459 U.S. at 204 (emphasis added).
303. *Chamber of Commerce*, 69 F.3d at 604.
304. *Id.* at 605.
305. *Id.* at 606. Some hierarchical organizations had been given specific exemptions from this requirement in the regulations, but others had not received such treatment, leading the court to brand the regulations "arbitrary and capricious." *Id.*
306. *See NRWC*, 69 F.3d 600.
307. McIntyre v. Ohio Election Commission, 115 S. Ct. 1511 (1995).
308. *Id.* at 1514.
309. *Id.*
310. *Id.*
311 Ohio Rev. Code Ann. §3599.09(A).
312. *McIntyre*, 115 S. Ct. at 1518–19 (citing *Buckley*, 424 U.S. at 14–15).
313. *Id.* at 1519.
314. *Id.*
315. *Id.* at 1520.
316. *Id.* at 1520 (citing *Buckley*, 424 U.S. at 14–15).
317. *Id.*
318. *Id.* at 1521.
319. *Id.*
320. *Id.* at 1521 (footnote omitted).
321. *Id.* at 1523. *See* Shrink Missouri Government PAC v. Maupin, 892 F. Supp. 1246 (E.D. Mo. 1995) (applying *McIntyre* analysis in materials relating to candidate elections), *holding not appealed in* 71 F.3d 1422 (8th Cir. 1995); State v. Moses, 655 So. 2d 779 (La Ct. App. 1995) (holding unconstitutional a ban on anonymous campaign literature).
322. *Buckley*, 424 U.S. at 75 ("disclosure provisions"); *McIntyre*, 115 S. Ct. at 1522 (rejecting contention that *Buckley* "supports the constitutionality of its disclosure requirement," to wit, a disclaimer).
323. *McIntyre*, 115 S. Ct. at 1522 (emphasis added) (internal citation omitted).
324. *Id.* at 1523.
325. *Id.*
326. *Cf. Virginia Society for Human Life*, 906 F. Supp. 1071 (issuing a preliminary injunction against Virginia's disclaimer requirement on literature concerning state candidates or referenda).
327. *Buckley*, 424 U.S. at 19.
328. *Id.* at 23.
329. Nevertheless, states have made unsuccessful efforts to place a cap on independent expenditures. For example, a $1,500 cap on independent expenditures has been struck down by a federal district court in Georgia, Georgia Right to Life v. Reid, No. 1:94–CV–2744–RLV, slip. op. (N.D. Ga. Jan. 22, 1996) (unpublished decision), and a $1,000 per state election cap on independent expenditures by PACs in New Hampshire has been struck down by the First Circuit. New Hampshire Right to Life Political Action Committee v. Gardner, 99 F.3d 8 (1st Cir. 1996). James Bopp, Jr. was lead counsel in both of these cases.
330. *Buckley*, 424 U.S. at 26–27.
331. *Id.* at 27.
332. As noted above, however, this holding of *Buckley* is in jeopardy due to the recently expressed views of four members of the Supreme Court that contribution limits are also unconstitutional. *See Colorado Republican*, 116 S. Ct. 2323 (Rehnquist, C.J., and Kennedy and Scalia, JJ., concurring); *Colorado Republican*, 116 S. Ct. 2331 (Thomas, J., concurring.)
333. *Buckley*, 424 U.S. at 25.
334. *Id.* at 24–25.
335. *Id.* at 26–30 (emphasis added).
336. *Id.* at 29.
337. *See* California Med. Ass'n v. FEC, 453 U.S. 182 (1981) (upholding $5,000 annual limitation on contributions to political committees); Mintz v. Barthelemy, 722 F. Supp. 273, 281–282 (E.D. La. 1989, aff'd, 891 F.2d 520 (5th Cir. 1989) (upholding $5,000 contribution limitation for local mayoral election); Mott v. FEC, 494 F. Supp. 131 (D.D.C. 1980) ($5,000 contribution limitation upheld); Matter of Vandelinde, 366 S.E.2d 631, 636 (W. Va. 1988) (upholding $1,000 contribution limit); Florida v. Police Benevolent Ass'n v. Florida Election Comm'n, 430 So.2d 483 (Fla. Dist. Ct. App. 1983) ($1,000 contribution limitation upheld).
338. *Carver v. Nixon*, 72 F.3d 633 (8th Cir. 1995).
339. *Id.* at 633.
340. *Id.* at 638–43.
341. *Day v. Holahan*, 34 F.3d 1356 (8th Cir. 1994).
342. *See also* National Black Police v. Dist. of Col Bd. of Education, 924 F. Supp. 270, 282 (D.D.C. 1996) (striking down a contribution limit of $100).
343. *Buckley*, 424 U.S. at 48.
344. *Id.* at 47.
345. *Id.* at 21–22.
346. *Id.* at 19.
347. *Id.* at 21.
348. *Id.* at 19.
349. *Id.* at 23.
350. *National Conservative Political Action Committee*, 470 U.S. at 480. *See also* New Hampshire Right to Life Political Action Committee v. Gardner, 99 F.3d 8 (1st Cir. 1996).
351. *Buckley*, 424 U.S. at 15.
352. *Id.*
353. *Id.* at 25.
354. *Id.* at 22.
355. *Nat'l Conservative Political Action Comm.*, 470 U.S. at 494.
356. *Id.*
357. *See* Vote Choice v. DiStefano, 4 F.3d 26 (1st Cir. 1993).
358. U.S. Const. amend. 1.
359. *See e.g., Buckley*, 424 U.S. at 25–28; *MCFL*, 479 U.S. at 256.
360. First National Bank of Boston v. Bellotti, 435 U.S. 765, 786 (1978) (emphasis added) (footnote omitted) (citations omitted).
361. *Buckley*, 424 U.S. at 25.
362. United States v. Nat'l Treasury Employees Union, 115 S. Ct. 1003, 1017 (1995), quoting Turner Broadcasting System v. FCC. 114 S. Ct. 2445, 2470 (1994) (Kennedy. J., plurality). In *Colorado Republican*, the Court cited this passage in *Turner* after noting that the FEC did not "point to record evidence or legislative findings suggesting any special corruption problems" that would support its position. *Id.* 116 S. Ct. at 2317.
363. *Carver*, 72 F.3d 633.
364. *Id.* at 643.
365. *Id.*
366. Shrink Missouri Government PAC v. Maupin, 923 F. Supp. 1413 (E.D. Mo. 1996).
367. *Id.* at 1420–21.
368. *Colorado Republican*, 116 S. Ct. at 2330 n.9.
369. *Id.*
370. Lillian R. BeVier, 94 Col. L. Rev. at 1278.
371. *Id.* This is so because "[s]uch legislation carries significant potential to achieve incumbent protection instead of enhancing political competition. It arouses the uncomfortable suspicion that the corruption-prevention banner is an all-too-convenient subterfuge for the deliberate pursuit of less savory or less legitimate goals." *Id.* at 1279.
372. *Id.*
373. John H. Ely, Democracy and Distrust 106 (1980).
374. Ralph Winter, *Political Financing and the Constitution*, 486 Annals Am. Acad. Pol. & Soc. Sci. 34, 40, 48 (1986).
375. Elrod v. Burns, 427 U.S. 347, 373 (1979).
376. Shuttlesworth v. City of Birmingham, 394 U.S. 147, 163 (1969).
377. Carroll v. President and Commissioners of Princess Anne, 393 U.S. 175, 182 (1968).
378. *See* Family Foundation v. Brown, 9 F.3d 1075 (1993); Virginia Society for Human Life v. Caldwell, 906 F. Supp. 1071 (W.D. Va. 1995) (reciting history of prior restraints in Virginia). Co-authors James Bopp, Jr. and Richard E. Coleson were both counsel for Plaintiffs in these two cases.
379. *Id.*
380. *See e.g.*, S. 25, 105th Cong., 1st Sess. (1997) (sponsored by Senators McCain and Feingold); H.R. 493, 105th Cong., 1st Sess. (1997) (sponsored by Representative Shays); H.R. 600, 105th Cong., 1st Sess. (1997) (sponsored by Representative Farr).
381. *Buckley*, 424 U.S. at 1.
382. In obvious recognition of this fact, various proposed constitutional amendments have been introduced in Congress that would overrule many of the speech-protecting rulings of the courts. *See e.g.*, S.J. Res. 2, 105th Cong., 1st Sess. (1997), reprinted in Cong. Rec. S.557 (daily ed. Jan. 21, 1997).
383. Mills v. Alabama, 384 U.S. 214, 218 (1966).
384. *Buckley*, 424 U.S. at 57.
385. *Id.* at 48–49.
386. *Id.* at 92–93.
387. It can be hoped that the FEC will be more willing to follow the enactments of Congress than they have been willing to respect the pronouncements of the United States Supreme Court.

388. *MCFL.*, 479 U.S. 238.
389. *Buckley*, 424 U.S. at 79.
390. 2 U.S.C. §431(4)(a).
391. *See e.g., GOPAC*, 917 F. Supp. 851.
392. In fact, a prohibition of contributions by certain not-for-profit corporations is currently being tested before the 6th Circuit Court of Appeals in Kentucky Right to Life v. King, No 95-6581 (6th Cir. 1996) (oral arguments conducted November 13, 1996). Co-author James Bopp, Jr. is lead counsel representing Plaintiffs in this case.
393. In fact, based on figures from the Consumer Price Index, $1,000 in 1974 was worth $2,604.57 in 1994.
394. *See e.g., Colorado Republican*, 116 S.Ct. at 2317 ("If anything, an independent expenditure made possible by a $20,000 donation (by an individual), but controlled and directed by a party rather than the donor, would seem less likely to corrupt than the same (or a much larger) independent expenditure made directly by that donor.").
395. Efforts to limit soft money contributions to political parties have the opposite effect. If political parties must use hard money for administration, legal and accounting services, and generic, rather than candidate specific, voter registration and get-out-the-vote activities, then their relative influence with candidates is diminished and the influence of "special interests," is increased.
396. *See* 2 U.S.C. §441a(c).
397. Indeed, Congress should index all expenditures and contributions limits to inflation in order to maintain the balance between them struck by Congress in any new law.
398. 28 U.S.C. §2411(d)(1)(A) allows for an award of attorneys fees against a federal agencies for its actions, "unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust." However, the amount of the attorneys fees is limited to $75 an hour and only private parties with modest assets are eligible for the award. *Id.* at §2411(d)(2)(A) and (B). There are no similar limitations on award of attorneys fees for prevailing private parties under §1988.
399. Current federal law does not allow an award of attorney fees against the United States for the striking down of a federal statute for violation of constitutional protections.
400. 2 U.S.C. §437c(a)(2).
401. 2 U.S.C. §437c(f).

Mr. MCCONNELL. I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that Brad Vynalek, who is a legal intern on my staff, be granted full privilege of the floor during consideration of S. 25.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Before Senator MCCONNELL leaves the floor, I want to thank him for again the dialog that has taken place during this debate, and I look forward to its finality.

I also urge his consideration, since he has included in the RECORD so many articles, the piece that was in the Washington Post yesterday by two fairly well known Americans, former Presidents Jimmy Carter and Gerald Ford, who have said:

In order to accomplish this goal—

Talking about it is particularly important now to seize this opportunity of reform now so that it can improve the next Presidential election.

In order to accomplish this goal, both parties must lay down their partisanship and rise to meet this challenge together. Leaders of both parties have demonstrated their ability to work together on crucial and contentious issues to do what is right for the country. There is another such issue where cooperation is the only road to results. It is impossible to expect one side to disarm unilaterally in this massive arms race for funds. Rather, both sides must agree that bilateral limits are the only rational course of action to preserve the moral integrity of our electoral system. One item that we should all agree on is a banning of so-called soft money for national parties and their campaign committees. Soft money was initially intended exclusively for party building activities but has metamorphosed into a supplemental source of cash for campaigns and candidates. It is one of the most corrupting influences in modern elections because there is no limit on the size of donations, thus giving disproportionate influence to those with the deepest pockets.

And they conclude, Mr. President, by saying:

We must demonstrate that a government of the people, by the people and for the people is not a thing of the past. We must redouble our efforts to assure voters that public policy is determined by the checks on their ballots rather than the checks from special interests.

Mr. President, I would note that although former President Bush's name is not on that op-ed piece, former President Bush joined former President Carter and former President Ford in a letter asking for the outlawing of soft money.

Why should three former Presidents join in such an almost unprecedented statement?

Let me start from the beginning, in the 1991–92 election cycle. There was $85 million in the 1991–92 cycle—$85 million. In the 1995–96 election it is now up to $250 million. And the information that we have, disturbingly, is that it is growing exponentially, again, in the year 1997.

So here is the point. It is out of control, as I have said. And the second point is that it was not always like this. Campaigns were not always financed by these massive amounts of soft money. They were not. In fact, after we reformed the campaign system in 1974, there was a dramatic improvement.

Campaign spending by Presidential candidates, 1976–96, over the last 20 years. If you look down here, these total figures were a little over $100 million in 1976 and now are approaching $400 million in 1996. Remember that this was after we passed laws that were supposed to restrain the expenditures in a Presidential campaign. Let me just point out again, this far exceeds inflation—far, far exceeds inflation.

House and Senate campaign expenditures have followed roughly the same track, only more dramatically. From roughly $300 million in the total spent on House and Senate campaigns in 1976, there was a drop in the 1986 election but, aside from that, it has been an inexorable rise to well in excess of $700 million, nearly $800 million.

The soft money has grown and grown and grown and grown. In 1992, the Republican Party raised nearly $50 million in soft money; the Democrat Party, around $36 million. In 1994 it went up to the point where, in 1996, the Republican Party raised $138 million in soft money and the Democrat Party, $123 million in soft money—all of them exponential increases, only over a 4-year period.

Again, I want to emphasize for those who say the system has always been the same and we have always had to contend with these massive amounts of money, the figures do not indicate that. I might add, this does not indicate what, of course, labor did, which was very, very significant in the campaign of 1996.

Senate candidates, dollars raised, and here is the problem. Here is a significant problem because it shows, also, why it is going to be so difficult for Members of this body to vote to change this system. I want to emphasize, these numbers show why it is so difficult in the face of overwhelming numbers of Americans who want us to fix this system. In 1996, the incumbents in the Senate races raised $96 million in PAC funds. The challengers raised $43 million. In the House the numbers are dramatically more different, in fact dramatically, significantly more in favor of the incumbents, $282 million, with $97 million in PAC funds; in the case of challengers, $75 million they raised, and $14 million in PAC funds. So you had, in this present scheme, the present way that campaigns work—you had $282 million raised by incumbents, $75 million raised by challengers, and of course about a 5- or 6-to-1 advantage in PAC money as well.

Which of these statements comes closer to your point of view? Some campaign finance reform is needed? Mr. President, 77 percent of the American people; some campaign finance reform is not needed, 18 percent; and don't know, 5 percent. I have a more and more difficult time finding people who are in that 18 percent bracket. Because, as every scandal unfolds, as every new revelation is exposed to us in the morning paper and over radio and over television, there are more and more Americans who are joining that already huge 77 percent, who are saying we need to change the system.

I don't expect the American people to know the difference between hard money and soft money. I don't expect them to know how much money a PAC has raised versus that number, and I don't expect them to have read every fundraising letter that has gone out. I wish they had. I wish they had because then that 18 percent would literally disappear. But what they do know is that something is wrong. There is really something seriously wrong here and they believe, as I do, that it needs to be repaired and it needs to be repaired soon.

I want to go back to a recurring theme that I have articulated throughout—not only this debate but for the

last couple of years. If you think, as 77 percent of the American people do, that we need to fix this system, then let's sit down and reason and talk together. Let's do that. OK? If you don't think so, then obviously we will engage in vigorous debate. But please don't use the excuse or the rationale that you are for campaign finance reform but not this kind. Because Senator FEINGOLD and I have made it very clear, we will discuss any aspect, any and all aspects of the campaign abuses that exist today and ways to fix them. We are willing to sit down and agree and compromise. That has been the path we have taken on numerous other reform issues ranging from the line-item veto to the gift money to Ramspeck repeal to putting Congress under the laws that apply to the American people, and a variety of other issues—repeal of the earnings test—many others. Please, let's not hear the excuse that, Yes, the system is broken. Yes, it needs to be fixed, but that is not my solution. If you have a better solution, let me hear it because I would love to join it.

A couple of months ago—in fact February 1997, more than a couple of months ago—there was a Fox poll, Fox News poll. It says the following, "Which of the following phrases better describes most politicians?" Mr. President, 36 percent, "dedicated public servant," 36 percent of the American people believe that most politicians are dedicated public servants; 44 percent, "lying windbag," lying windbag. Maybe there is a number of reasons why 44 percent of the people contacted in this poll believe that their politicians, their elected representatives, are lying windbags, and those reasons may be a little hard to define, all of them. And all of those reasons—at least some of those reasons may be in the eye of the beholder. But I don't think anybody could deny that one of the major reasons—the major reason why the American people have such a low opinion of their elected representatives is because of campaign finance reform and the system with which we elect our people, their representatives, and perhaps more important how their elected representatives behave once in office and what they do to stay in office.

All of us should be disturbed at polling numbers like this, all of us who believe, as we all do, public service is the most honorable of professions. All of us should be disturbed about it, try to find the reasons for it, and solve it. I would argue, again, that campaign finance reform is a way to solve it.

On "Late Edition," in March 1997 a lady from Bartlesville, OK, described it best. She said, "* * * I'm a Republican supposedly. I'm more Independent than anything else. But I want to ask you something. At $735 a month, how much freedom of speech do I have? I cannot contribute to these big campaigns." The lady from Bartlesville, OK, Mr. President, I think, described the problem in her own very compelling fashion.

I paid attention to Senator MCCONNELL, as I always do, and listened to him and saw the learned treatises that he put down by various special interest groups, most of them headquartered here in Washington, appealing why we can't abandon soft money, why we can't reform the system, why the status quo is the only constitutional path we could pursue. We have spent a lot of time on the floor here with dueling constitutional lawyers. I still think Senator FEINGOLD and I, with 126, have the overwhelming advantage.

And, you know, that is kind of fun. But the reality is no matter what we enact it will be challenged in the U.S. Supreme Court. It will be challenged even if all of us were in total agreement that whatever we enacted was constitutional. But the fundamental point here is that if the American people believe that $735 a month doesn't buy them much freedom of speech, then it seems to me we ought to do what we can to restore their confidence and their faith in their ability.

Mr. President, there is a book written by Mr. Michael Louis called "Trail Fever." It is really an enlightening book. I enjoyed reading it very much. I commend it to anyone who is interested in the 1996 campaign.

> Political ads fall broadly into two categories: those designed to inflate the candidate's appeal and those intended to destroy the candidate's opponent. The Clinton ads, which the president himself helped to write, were mainly of the second type. The bulk of them were directed at the elderly and designed to prey on their natural fear of abandonment. The message they conveyed could be summarized in a sentence: If you are over sixty years old and the Republicans gain control of the White House, you will lose your health care. Vote for your life! It was a wild and wonderful distortion of the truth—
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> * * * *
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> The press was the enemy that muddied the message you were trying to deliver. Morris argued that all the old nostrums about needing the media no longer applied, that Americans were so cynical about everything that they no longer believed in anything as naive as the Simple Truth. He believed, for instance, that voters did not distinguish in any meaningful way between paid ads and the free press. "I don't think people are any more cynical about ads than they are about the press," he said. "One is what the candidate wants you to know. The other is what the media want you to know."
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> Really, it was an extraordinary turn of strategic thinking, especially for a sitting Democratic president, who might rightfully expect a little help from his soul mates in the newsrooms and on the editorial boards. It was one thing to speak through political ads; it was another to speak only through political ads. But that is exactly what Morris proposed, and Clinton accepted. "Dick wanted to spend every * * * dollar on ads," said Harold Ickes. "He thought TV was the only way to communicate." The more airtime Clinton bought, the less need he had to appear live before the cameras—and the more he could simply ignore the trail. With Morris's help Clinton created his own metaphysical trail. Right through to the Democratic convention and beyond, the Clinton campaign remained a specter, a flickering cathode ray in the suburbs of Albuquerque, New Mexico, and Toledo, Ohio.

I think that is an accurate description of what happened in 1996. I'm not saying that the outcome would have been any different, but none of that could have happened without soft money. And none of the things that happened—it funded many of the political campaigns, most of them negative—could have happened without soft money. I believe for us to allow this as well as other aspects of the system to careen further out of control, as it is now, is an abrogation of our responsibilities.

Mr. President, I will also gather up many documents and papers in support of Senator FEINGOLD's position, and my position. I do believe perhaps most Americans would pay attention to former Presidents of the United States, as I entered in the RECORD earlier, not just, with due respect, some pundits who either live inside the beltway or are called upon as well-known political analysts—by the way, whose views I respect. But the fact is, what this really boils down to is whether we are going to restore our credibility to the American people in this body and the way we are elected.

Finally—I see the distinguished Democratic leader on the floor, as well as my friend and colleague, Senator FEINGOLD—let me emphasize again, as I have throughout to the point where it is getting monotonous, we want to negotiate a reasonable settlement amongst both parties that is fair to both parties, that the American people believe is equitable, and that the American people believe is progress. We urge our colleagues on both sides of the aisle to enter into that dialog so we can reach some consensus and move forward so we can address the important issues facing the Senate, the Congress, and the people of the country.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me compliment the Senator from Arizona for his extraordinary statement, for his compelling speech just now, and for the statesmanship he has shown all the way through this debate. I also thank the Senator from Wisconsin for the partnership he has shown on this effort from the very beginning.

The New York Times, I thought, described it quite well today in articulating what most of us perceive about both of these Senators. They are bipartisan, they seek bipartisan solutions. They recognize the importance of working through these issues, not in a confrontational way, but in a way that builds consensus rather than tears it

down. The last offer of the Senator from Arizona, once more, to work with both sides to find a way with which to deal with this issue constructively, is yet another example of that manner.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 25, as modified, the campaign finance reform bill:

Thomas A. Daschle, Carl Levin, Joseph I. Lieberman, Wendell Ford, Byron L. Dorgan, Barbara Boxer, Jack Reed, Richard H. Bryan, Daniel K. Akaka, Christopher J. Dodd, Kent Conrad, Robert G. Torricelli, Charles S. Robb, Joe Biden, Dale Bumpers, Carol Moseley-Braun, John Kerry.

Mr. DASCHLE. Mr. President, it is our desire to offer a cloture motion each day this week in an effort to bring to closure the debate on this bill. Now, obviously, it is within the majority leader's right to pull the bill to avoid having the cloture votes on the legislation itself. That certainly is his prerogative. I have indicated that it would be our intention, should that occur, on those legislative vehicles that are not appropriations bills, that we would offer the McCain-Feingold bill to each and every one of them. It really doesn't matter what legislation comes before the Senate, that would be our intention.

So I want to put our colleagues on notice that it is our strong desire to finish this debate in a constructive and in a successful way, regardless of whatever pieces of legislation may be brought before the body.

Let me also reiterate an offer that I made last week. Last week, I said we would be prepared to take up S. 9, the Lott amendment, independent of this legislation. He has, in the parliamentary usage of the term, filled the tree. He has precluded our opportunity to offer amendments, to have a constructive and a real debate. All we have done so far is debated the overall concept of campaign reform without having had the opportunity to talk about the details and whether or not there may be ways in which to improve it or deal with it in whatever legislative capacity we may so choose. That, in my view, is the essence of a good debate. If you can't offer amendments, you can't really have a good debate about the bill. So we are denied that right.

So no one should be mistaken here; we are spending time on the bill, but we are not spending time on quality debate. We are not spending time in a way that will allow us to exchange views on issues that could be the subject of amendment, and until we are, we are forced into a position of having to amend this legislation in other forms and in other scenarios legislatively.

Again, I offer that same opportunity to the majority leader that I offered last week. Let's bring up the so-called Lott amendment freestanding. Let's have an opportunity to debate it. Let's offer amendments to it. We have offered that opportunity with the hope that we could break this logjam. We have offered a suggestion along with a promise not to filibuster, not to extend the debate on the so-called Lott amendment. We would be willing to schedule it at a time certain. So there should be no question that, if under those conditions our Republican colleagues choose not to allow us to go to the bill to offer amendments, everyone will see this amendment for what it really is; that is, a poison pill designed to kill campaign reform—nothing else.

The Senator from Kentucky has been very open about his willingness to kill the bill, his commitment to do that, and he has every right to employ this tactic. All I am saying is that there is a difference between winning the battle and winning the war.

Ultimately, if we spend time on nothing else than campaign finance reform for the remainder of this Congress, we will have other occasions to have a good and meaningful debate about campaign finance reform.

So, as I said, we would be voting on cloture now on Wednesday. If the bill is still pending, we will have a vote on Thursday, and we will determine the schedule for the remainder of the time we are in session at a later date. But there should be no mistake, we will continue to fight for this bill and continue to ensure that we reach out to our Republican colleagues to break the logjam in as meaningful a way as we can. I am hopeful that that effort will be successful, and I am hopeful that at some point we can come to some understanding about how that gets done. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BOND). The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I am not the majority leader, but I wanted to make a couple observations about the comments of the Democratic leader. First of all, paycheck protection is not a poison pill; it is an important piece of legislation. It was in the top 10 pieces of legislation, I say to my friend from South Dakota, that we introduced at the beginning of this year on this side of the aisle. It has probably as many supporters as McCain-Feingold does. So it is curious to me that paycheck protection, when linked up with McCain-Feingold, is a poison pill but the converse apparently isn't true.

So, again, I am not the majority leader, but I will say it is my intent to bring up paycheck protection any time any effort was made to try to force through McCain-Feingold.

But what the majority leader has done here is offer an opportunity with a very good debate. I disagree with my friend from South Dakota; I think it is a good debate. I wish he had had a chance to listen to more of it. He might have changed his position. We are going to have a good debate this afternoon. A number of Senators want to speak.

Let me be very clear, at least as far as this one Senator is concerned, there is no campaign finance reform without paycheck protection. They are the Siamese twins, Mr. President, the Siamese twins of this discussion. So paycheck protection will, indeed, be back as well.

Mr. President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I first thank my leader, Senator DASCHLE, not only for his kind words but for his important reiteration of the offer he has made. It is an unusual offer. The offer is to have S. 9, the so-called Paycheck Protection Act, come up as its own bill and relinquishing the right that Senators always have, which the Senator from Kentucky knows very well, to filibuster. In other words, it would be guaranteed an up-or-down vote. I think that is a significant offer that raises the real issue of whether we are talking about something that is, in fact, an attempt to destroy this McCain-Feingold campaign finance reform bill, which I think it clearly is.

Mr. President, I would like to also put a few items in the RECORD, as the Senator from Kentucky has done. First of all, you see a lot of headlines when you work on an issue like this. Some are good; some are bad. Sometimes you see "McCain-Feingold bill is dead." That was the litany for some time. Once in a while you see a headline you almost like, even though it isn't intended to be favorable. This one I like from The Hill, a Capitol Hill publication, of the other day, October 1, which informs us "Most Lobbyists Oppose McCain-Feingold Bill."

I ask unanimous consent that this article by Mary Lynn F. Jones be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Hill, October 1, 1997]

MOST LOBBYISTS OPPOSE MCCAIN-FEINGOLD BILL

(By Mary Lynn F. Jones)

As the Senate debates the McCain-Feingold campaign finance reform bill this week, Washington lobbyists are hoping that the deadlock will continue.

"The professional lobbying community, if they had their druthers, would do nothing," noted Ronald Shaiko, academic director of the Lobbying Institute at American University. Since they cannot actively oppose the bill, "they hide behind the cause of the First Amendment."

Lobbyist Timothy W. Jenkins, a partner at the lobbying shop of O'Connor & Hannan, agreed. "It's definitely of interest to anyone with inside-the-Beltway" issues, said Jenkins. "It's a system we all participate in and

lobbyists [donate] personal money and [many of] our companies are active" in the political action committee (PAC) community.

Martin B. Gold an attorney at Johnson, Smith, Dover, Kitzmiller & Stewart, added, "Once you open the subject of campaign finance, one never knows what kind of subjects will be raised."

The bipartisan bill, sponsored by Sens. John McCain (R-Ariz.) and Russ Feingold (D-Wis.), would kill "soft money" contributions to political parties, require greater campaign finance disclosures, restrict parties from supporting candidates who bankroll their campaign with more than $50,000 of personal funds and allow union members to receive refunds for compulsory dues spent for political purposes.

Although most lobbyists are tracking the bill closely, those who represent unions and interest groups are particularly concerned, especially since Senate Majority Leader Trent Lott (R-Miss.) offered an amendment on Monday requiring unions to obtain prior permission from members before backing candidates financially.

And while PACs are limited to a $10,000 contribution per candidate per cycle, groups can circumscribe campaign finance laws by donating unrestricted money to political parties for get-out-the-vote drives, issues advertising and other activities that do not directly support a specific candidate.

"Ninety-five percent of the attention is going to issue advocacy and soft money," added O'Connor & Hannan's Jenkins, "because that's where 95 percent of the dollars are."

"PACs limit corporations and how much they spend in elections," said Shaiko of American University. "Their loophole is soft money. If you take that out, it limits their voice in the electoral" process.

In 1996, for example, the AFL-CIO spent about $35 million on issue advocacy advertising, according to an Annenberg Public Policy Center report, and a group of 32 businesses, called "The Coalition," spent $5 million.

Jenkins said, "Some people have the view that this is government regulating the most sacred of speech, that this shouldn't be about the candidates but about the public who wants to participate in elections."

Issue advocacy and soft money raise difficult issues, primarily because of the Supreme Court's landmark 1976 decision, Buckley v. Valeo. The court equated money with free speech in that decision, ruling that campaign expenditures cannot be restricted.

By most lobbyists and analysts doubt the bill, which is staunchly opposed by Sen. Mitch McConnell (R-Ky.) and do not have enough votes to fend off an expected filibuster, will pass.

"The power of McConnell and others in the Senate to stymie it—you can't discount that," said Shaiko.

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Mr. FEINGOLD. Mr. President, I guess I am delighted to see this kind of a headline, because I am not surprised. Most lobbyists do oppose campaign finance reform and the McCain-Feingold bill, because these folks are the folks I have come to regard, not as bad people, many of them are very good people, but as people who have basically become the Washington gatekeeper. They are the ones that control the campaign contributions now. If a local individual, if a local organization back home wants to contribute to your campaign or give you support, when they are part of this organization that has a lobbyist in Washington, they need to call Washington.

So it is no surprise that the lobbyists oppose our bill. They are one of the most important forces against our bill, besides the unfortunate fact, of course, that every single Member of the Congress was elected under the current system.

But even some of these groups that are represented by lobbyists have changed their minds. The Senator from Kentucky has made a great deal of the fact that the National Education Association, he has said, opposes McCain-Feingold. There was a time when their leadership did appear with Senator MCCONNELL and indicate some opposition to some aspects of the bill. But as Senator MCCAIN and I said from the beginning, we want to address various concerns of other Senators and organizations, and we have made some changes. Our bill is now supported by the National Education Association.

I would like to have printed in the RECORD a letter of October 1, 1997, from Bob Chase, the president of the National Education Association, in which he states:

On behalf of the 2.3 million member NEA, we urge you to support real campaign finance reform and to reject legislative attacks on unions that are currently being presented in the guise of reform. NEA is supportive of the revised McCain-Feingold bill that was offered on the Senate floor on September 29.

Mr. President, I ask unanimous consent that that letter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. MCCONNELL. No.

There being no objection, the letter was ordered to printed in the RECORD, as follows:

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, October 1, 1997.

DEAR SENATOR: On behalf of the 2.3 million member National Education Association (NEA), we urge you to support real campaign finance reform and to reject legislative attacks on unions that are currently being presented in the guise of reform. NEA is supportive of the revised McCain-Feingold bill that was offered on the Senate floor on September 29. We are strongly opposed to the Lott amendment that would unfairly curb the advocacy rights of unions, including the NEA.

While NEA favors a broad package of reforms that would include voluntary spending limits coupled with partial public financing, the McCain-Feingold bill is an important first step. First and foremost, it would ban the unregulated and excessive "soft money" donations that have undermined the integrity of our political system. Further, it contains important provisions to ensure greater disclosure and stronger election laws. We are particularly pleased that the revised proposal drops any limitation on contributions by political action committees (PACs). NEA believes that small-donor PACs level the playing field and allow working Americans to have a more effective voice in politics.

NEA is supportive of full disclosure provisions affecting issue advertising. We do, however, have concerns about McCain-Feingold's provisions that would curb issue advertising in the 60 days prior to elections. These provisions are ill-defined and overly restrictive of legitimate legislative advocacy, and would inhibit the ability to speak freely on issues while they are being debated and decided in Congress. Despite this caveat, we believe that McCain-Feingold merits your support.

The Lott amendment is clearly intended not to advance the important cause of campaign finance reform, but to subvert it. The amendment is based on the false premise that members of unions do not join voluntarily; in fact, membership is voluntary. Further, unions in general, and the NEA in particular, operate under democratic decision-making processes. The annual NEA Representative Assembly, which determines the Association's policy and sets the legislative program, is the largest democratic decision-making body in the world.

On the other hand, the Lott amendment raises serious constitutional issues of free speech and association. It is a transparent attempt to curb the rights of unions to engage in not only political but legislative advocacy at the federal and state levels. The NEA strongly opposes this measure, since it would cripple our ability to advocate on behalf of our membership on the many important issues affecting children and education that come before Congress.

It is patently unfair for the Lott amendment to single out the voluntary dues of unions for this restrictive treatment, while allowing a host of other groups across the political spectrum (such as the Christian Coalition and the National Rifle Association) to continue to collect voluntary dues to fund their lobbying and advocacy efforts. The same double standard is applied to corporations, since the Lott amendment would not require businesses to effectively seek the approval of stockholders before using their funds for political activities.

In summary, we urge you to support McCain-Feingold and oppose the Lott amendment. This is an important turning point for the American political system, and it is critical that the congress take action that will foster, not hamper, the participation of working Americans in our democracy.

Sincerely,

BOB CHASE,
President.

Mr. MCCONNELL. Will the Senator yield?

Mr. FEINGOLD. I yield for a question.

Mr. MCCONNELL. I ask the Senator, is it not true in the letter—he is correct that the National Education Association, which opposed the PAC ban, has now written a letter saying they support the bill. But I refer my colleague from Wisconsin to the third paragraph of that letter. Is it not correct that they also say:

We . . . have concerns about McCain-Feingold's provisions that would curb issue advertising in the 60 days prior to elections. These provisions are ill-defined and overly restrictive of legitimate legislative activity, and would inhibit the ability to speak freely

on issues while they are being debated and decided in Congress.

Am I reading that right?

Mr. FEINGOLD. Yes. The next sentence says:

Despite this caveat, we believe that McCain-Feingold merits your support.

The fact is, even though they have some concerns about this item, which I am sure any organization involved in this kind of ad may have, their conclusion, Mr. President, the conclusion I urge on the Senator from Kentucky, is that overall, they believe the bill merits support, which, of course, is the direct opposite of what the Senator from Kentucky has said for months, both on the floor and——

Mr. MCCONNELL. Will the Senator yield?

Mr. FEINGOLD. I yield.

Mr. MCCONNELL. Was it not the case prior to this letter NEA was opposing McCain-Feingold?

Mr. FEINGOLD. Of course, I am not suggesting the Senator is misrepresenting anything. I am showing a change in position by an organization which the Senator from Kentucky has placed great reliance on. I am not suggesting for 1 minute that the Senator has mischaracterized the position.

Mr. MCCONNELL. Did the Senator from Kentucky just say their principal reason for opposing the bill was the PAC ban and that when you dropped the PAC ban——

Mr. FEINGOLD. Yes, Mr. President. My point exactly. We have tried to adjust this bill to address the concerns of organizations and groups that the Senator from Kentucky has identified. That is our point. Senator MCCAIN and I don't believe we have all the answers. In fact, neither of us love the bill. That is how we were able to come up with a compromise. We heard the concerns of the NEA. We addressed their concerns. They support us now. They no longer support the Senator from Kentucky.

A further attempt that has been made on this issue is to suggest that the American people don't care about this issue, if you look at a poll or any other measure of public opinion that this isn't important to them that we change this big money system. The Senator from Arizona has already done a fine job today of helping to dispel that.

I ask unanimous consent to print in the RECORD a publication from the very conservative publication the Weekly Standard from September 22, 1997, entitled "Republicans Get Some Very Bad News."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Weekly Standard, Sept. 22, 1997]

REPUBLICANS GET SOME VERY BAD NEWS

Republican senators got an unwelcome jolt last week at one of their usually uneventful Tuesday lunch meetings—a poll that showed they were in deep trouble. The poll, conducted by the Republican National Committee during the first week of September, gave the president his highest positive rating ever—almost 65 percent. For the first time in Clinton's presidency more Americans "strongly approved" of his performance than "strongly disapproved."

That was not the worst of it. For the first time this year, the numbers showed that more Americans wanted Democrats to control Congress than Republicans, and that Democrats were ahead on the "generic ballot" for November 1998. But what really rattled the senators was that, when asked what issues they cared most about, Americans had moved one new item into the first tier along with the old standbys of crime, education, and the like. The new issue: campaign-finance reform, which had moved from 2 or 3 percent in previous polls to double digits as the number one issue of concern.

With John McCain ready to force a confrontation on campaign reform in the Senate against the wishes of most of his GOP colleagues, there was a fair amount of senatorial murmuring about looking for a way to avoid being cast as simple defenders of the status quo. The politics of campaign-finance reform could be more interesting over the next few weeks than most pundits currently expect. And more damaging, considering that McCain's proposal is a constitutional catastrophe.

Mr. FEINGOLD. Thank you, Mr. President. I just want to highlight what was said in here. It indicates——

Mr. MCCONNELL. Will the Senator yield for one other question with regard to the Weekly Standard?

Mr. FEINGOLD. I yield for a question.

Mr. MCCONNELL. The Senator from Wisconsin referred to a statement in the Weekly Standard with regard to, what was it as he put it?

Mr. FEINGOLD. I was about to read into the RECORD the statement from the Weekly Standard which I wanted to highlight.

Mr. MCCONNELL. When the Senator is finished, I would like to have printed in the RECORD a letter from Jim Nicholson, chairman of the RNC, indicating that the polling data carried in that article is simply incorrect.

Mr. FEINGOLD. As soon as I am done, I will be happy to yield momentarily to let that happen.

Let me quote what was said by this publication that is certainly no friend of the McCain-Feingold bill and, frankly, no friend of campaign finance reform. The article indicated that:

Republican senators got an unwelcome jolt last week at one of their usually uneventful . . . lunch meetings—a poll that showed they were in deep trouble. The poll, conducted by the Republican National Committee during the first week of September, gave the president his highest positive rating ever—almost 65 percent.

And then it goes on to state:

That was not the worst of it. For the first time this year, the numbers showed that more Americans wanted Democrats to control Congress than Republicans, and that Democrats were ahead on the "generic ballot" for November 1998.

The point I want to emphasize is the following statement:

But what really rattled the Senators was that, when asked what issues they cared most about, Americans had moved one new item into the first tier along with the old standbys of crime, education, and the like. The new issue: campaign-finance reform, which had moved from 2 or 3 percent in previous polls to double digits as the number one issue of concern.

Mr. President, I know that the Senator from Kentucky wants to dispel this poll. I will yield to him in a moment to do so. But I just want to emphasize, in addition to the more independent polls that the Senator from Arizona has already cited today, that even a poll that was presented to the Republican National Committee indicates that campaign finance reform is a matter of very top concern to the American people at this time.

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. FEINGOLD. I will yield.

Mr. MCCONNELL. The question is, whether the Senator wants to—I am sure he does not want to put an item into the RECORD that is simply inaccurate. What I would hope the Senator would permit me to do, even though he has the floor and it is his insert, is to include into the RECORD a letter from Jim Nicholson, the chairman of the Republican National Committee, simply correcting that story. It was simply inaccurate. And obviously the Senator from Wisconsin has the floor.

It seems to me that for those who might be reading the CONGRESSIONAL RECORD it would be best to have the correct data inserted at this time. But I will be happy to do it later if the Senator from Wisconsin feels better.

Mr. FEINGOLD. Without conceding that the information from the Senator from Kentucky is the correct information, I have no objection to the letter of Mr. Nicholson being inserted at this time.

Mr. MCCONNELL. It was an RNC poll that the Weekly Standard was referring to. And the chairman of the national committee is simply referring to the poll that his organization took and clearing up the article that was in the Weekly Standard which was simply inaccurate. So I ask unanimous consent, Mr. President, that this letter from Jim Nicholson be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

REPUBLICAN NATIONAL COMMITTEE,
Washington, DC, September 30, 1997.

Senator MITCH MCCONNELL,
U.S. Senate,
Washington, DC

DEAR SENATOR MCCONNELL: I want to take this opportunity to clarify to you recent RNC polling data in light of misinformation reported in a September 22, 1997 Weekly Standard article entitled, "Republicans Get Some Very Bad News."

The Standard piece erroneously claimed that a recent RNC national poll illustrated that Americans were increasingly supportive

of campaign finance reform, listing it as an issue of chief concern.

Let me be clear—the Weekly Standard was wrong. In fact, the September poll discussed never contained a direct question about campaign finance reform.

Here is a synopsis of what we have found in our polling to date:

In an open-ended question from our September survey of 1,000 likely voters, not one individual surveyed identified campaign finance reform as the most important problem facing the U.S. today.

In a question offering a short list of potential concerns from our June 1997 poll, only 2% of Americans said that "the way political campaigns are financed" would be the most important issue to them in deciding how to vote for congress.

In a recent Wall Street Journal/NBC News survey, only 5% surveyed found that "reforming the way political campaigns are financed" deserved the greatest attention from the Federal government at the present time (from a list of seven issues.)

I hope this information proves useful to you as the Senate continues debate on the McCain-Feingold bill.

Sincerely,

JIM NICHOLSON,
Chairman.

Mr. FEINGOLD. Mr. President, I understand that some would feel that the poll was inaccurate, and that is what the RNC says. I also know they would have a strong desire at this point to——

Mr. MCCONNELL. Will the Senator yield?

Mr. FEINGOLD. When the Senator from Kentucky was putting items in the RECORD, I was letting him go. I will be available for questions in a moment.

All I can say, Mr. President, is this is not the only measure we put in the RECORD. What is striking is that even the Weekly Standard believes that this issue has gone very high on the list of issues. Every measure that is being taken now does indicate a tremendous growth in the concern about this issue.

I would be fascinated to hear more about exactly why the RNC changed its data on this. I will try to take a look at it later. I do not know why they indicated that it was incorrect. Somehow the Weekly Standard got the impression that this issue was on the move. On that point they are right.

Mr. President, I would also like to note with regard to the statement of the Senator from Kentucky about the American Civil Liberty Union's position on this bill, yes, the American Civil Liberties Union has expressed concerns about the bill.

I want to remind the Senator from Kentucky that the ACLU was wrong when they litigated the Buckley versus Valeo case. They did not win all the points that they litigated in that case. In fact, some of the individuals that the Senator from Kentucky has just cited were among those who litigated that case and lost. So, yes, they litigated it. They had their day in court. And they were wrong.

In fact, the ACLU, an organization which sometimes I am criticized for agreeing with, happens to be dead wrong with regard to a release that they just put out entitled "Revised McCain-Feingold Legislation Would Trample on Americans' First Amendment Rights."

Mr. President, I would like to just quote a sentence from that release to show how reckless some people are being about describing this bill. The quote says this:

McCain-Feingold imposes a 2-month, 60-day blackout before any Federal election on any radio or television advertisement that mentions any candidates for Federal office.

Mr. President, that is not true. The bill does ask that certain rules apply during that 60-day period that do not apply outside of that period, and the rules are that you must use hard money limits and disclosure in order to do it, but there is no blackout, there is no prohibition.

Mr. President, there isn't a single advertisement that you could possibly come up with that is barred by this bill. That is not what the bright line test is. In fact, it is very troubling to see an organization for which I have such high regard in terms of their professionalism, in terms of their ability to mount legal arguments, to see somebody actually say that the bill does something it clearly does not do.

You cannot prohibit advertisements. You cannot say that people cannot say things. What you can do, I believe, and I believe the Supreme Court will support this, is during the electioneering period, which the Supreme Court has talked about, you can require that certain kinds of messages be disclosed in terms of who is making them and also that the money that is used and raised for it be under certain kinds of limits. That is all it does. I think the ACLU is in error with regard to that provision.

Mr. President, I would also like to place in the RECORD at this time Senate bill 143 from the 102d Congress. The other day there was a spirited conversation between my friend, the Senator from Kentucky, and the Senator from Arizona which centered around the fact that the Senator from Kentucky has cosponsored legislation that did a couple of things that he has now said on the floor are unconstitutional.

In particular, Mr. President, the point was made by the Senator from Arizona that the Senator from Kentucky had cosponsored a bill that bans soft money. The Senator from Kentucky responded by saying: Well, you know, sometimes you sign on to a bill that you're not comfortable with, and you want to participate in a joint effort.

I understand that. Some of that experience has occurred for me with regard to this bill where I am not happy with every provision. But I do need to have printed in the RECORD, Mr. President, Senate bill 143. I ask unanimous consent that that be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 143

[102d Congress]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF FECA; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Campaign Finance Reform Act of 1991".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of FECA; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Elimination of Political Action Committees From Federal Election Activities

Sec. 101. Ban on activities of political action committees in Federal elections.

Subtitle B—Ban on Soft Money in Federal Elections

Sec. 111. Ban on soft money.
Sec. 112. Restrictions on party committees.
Sec. 113. Protections for employees.
Sec. 114. Restrictions on soft money activities of tax-exempt organizations.
Sec. 115. Denial of tax-exempt status for certain politically active organizations.
Sec. 116. Contributions to certain political organizations maintained by a candidate.
Sec. 117. Contributions to State and local committees.

Subtitle C—Other Activities

Sec. 121. Modifications of contribution limits on individuals.
Sec. 122. Political parties.
Sec. 123. Contributions through intermediaries and conduits.
Sec. 124. Independent expenditures.

TITLE II—INCREASE OF COMPETITION IN POLITICS

Sec. 201. Seed money for challengers.
Sec. 202. Use of campaign funds.
Sec. 203. Candidate expenditures from personal funds.
Sec. 204. Franked communications.
Sec. 205. Limitations on gerrymandering.
Sec. 206. Election fraud, other public corruption, and fraud in interstate commerce.

TITLE III—REDUCTION OF CAMPAIGN COSTS

Sec. 301. Broadcast discount.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Federal Election Commission Enforcement Authority

Sec. 401. Elimination of reason to believe standard.
Sec. 402. Injunctive authority.
Sec. 403. Time periods.
Sec. 404. Knowing violation penalties.
Sec. 405. Court resolved violations and penalties.
Sec. 406. Private civil actions.
Sec. 407. Knowing violations resolved in court.
Sec. 408. Action on complaint by Commission.

Sec. 409. Violation of confidentiality requirement.
Sec. 410. Penalty in Attorney General actions.
Sec. 411. Amendments relating to enforcement and judicial review.
Sec. 412. Tightening enforcement.
Subtitle B—Other Provisions
Sec. 421. Disclosure of debt settlement and loan security agreements.
Sec. 422. Contributions for draft and encouragement purposes with respect to elections for Federal office.
Sec. 423. Severability.
Sec. 424. Effective date.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Elimination of Political Action Committees From Federal Election Activities

SEC. 101. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof;

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year; and

"(D) any committee jointly established by a principal campaign committee and any committee described in subparagraph (B) or (C) for the purpose of conducting joint fundraising activities.".

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraphs (B) and (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.".

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period in which the limitation under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a) and (b) shall not be in effect; and

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association,

to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of $1,000.

Subtitle B—Ban on Soft Money in Federal Elections

SEC. 111. BAN ON SOFT MONEY.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end thereof the following new subsection:

"(i) BAN ON SOFT MONEY.—(1) It shall be unlawful for the purpose of influencing any election to Federal office—

"(A) to solicit or receive any soft money; or

"(B) to make any payments from soft money.

"(2) For purposes of paragraph (1), the term 'soft money' means any amount—

"(A) solicited or received from a source which is prohibited under section 316(a);

"(B) contributed, solicited, or received in excess of the contribution limits under section 315; or

"(C) not subject to the recordkeeping, reporting, or disclosure requirements under section 304 or any other provision of this Act.".

SEC. 112. RESTRICTIONS ON PARTY COMMITTEES.

(a) DISCLOSURE OF INFORMATION BY POLITICAL COMMITTEE.—(1) Subsection (c) of section 302 of FECA (2 U.S.C. 432(c)) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(6) each account maintained by a political committee of a political party (including Federal and non-Federal accounts), and deposits into, and disbursements from, each such account.".

(2) Subsection (b) of section 304 of FECA (2 U.S.C. 434(b)) is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(9) each account maintained by a political committee of a political party (including Federal and non-Federal accounts), and deposits into, and disbursements from, each such account.".

(b) ALLOCATION OF EXPENDITURES FOR MIXED ACTIVITIES.—Title III of FECA, as amended by section 101(a), is amended by adding at the end thereof the following new section:

"REQUIRED ALLOCATION OF CONTRIBUTIONS AND EXPENDITURES FOR MIXED ACTIVITIES BY POLITICAL PARTY COMMITTEES

"SEC. 325. (a) REGULATIONS REQUIRING ALLOCATION FOR MIXED ACTIVITIES.—Not later than 180 days after the date of the enactment of this section, the Commission shall issue regulations providing for a method for allocating the contributions and expenditures for any mixed activity between Federal and non-Federal accounts.

"(b) GUIDELINES FOR ALLOCATION.—(1) The regulations issued under subsection (a) shall—

"(A) provide for the allocation of contributions and expenditures in accordance with this subsection; and

"(B) require reporting under this Act of expenditures in connection with a mixed activity to disclose—

"(i) the method and rationale used in allocating the cost of the mixed activity to Federal and non-Federal accounts; and

"(ii) the amount and percentage of the cost of the mixed activity allocated to such accounts.

"(2) In the case of a mixed activity that consists of a voter registration drive, get-out-the-vote drive, or other activity designed to contact voters (other than an activity to which paragraph (3) or (4) applies), amounts shall be allocated on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs, except that in no event shall the amounts allocated to the Federal account be less than—

"(A) 33⅓ percent of the total amount in the case of the national committee of a political party; or

"(B) 25 percent of the total amount in the case of a State or local committee of a political party or any subordinate committee thereof.

"(3) In the case of a mixed activity that consists of preparing and distributing brochures, handbills, slate cards, or other printed materials identifying or seeking support of (or opposition to) candidates for both Federal offices and non-Federal offices, amounts shall be allocated on the basis of total space devoted to such candidates, except that in no event shall the amounts allocated to the Federal account be less than the percentages under subparagraph (A) or (B) of paragraph (2).

"(4)(A) In the case of a mixed activity by a national committee of a political party that consists of broadcast media advertising (or any portion thereof) that promotes (or is in opposition to) a political party without mentioning the name of any individual candidate for Federal office or non-Federal office, amounts allocated to the Federal account shall not be less than—

"(i) 50 percent of the total amount in the case of advertising in the national media market; and

"(ii) 40 percent in the case of advertising in other than the national media market.

"(B) In the case of a mixed activity by a State or local committee of a political party or any subordinate committee thereof that consists of broadcast media advertising (or any portion thereof) described in subparagraph (A), costs shall be allocated on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs, except that in no event shall the amounts allocated to the Federal account be less than 33⅓ percent of the total amount.

"(5) Overhead and fundraising costs of a political committee of a political party for each 2-calendar year period ending with the calendar year in which a regularly scheduled

election for Federal office occurs shall be allocated to the Federal account on the basis of the same ratio which—

"(A) the aggregate amount of receipts and disbursements of such political committee during such period in connection with elections for Federal office, bears to

"(B) the aggregate amount of receipts and disbursements of such political committee during such period.

"(c) MIXED ACTIVITY.—(1) For purposes of this section, the term 'mixed activity' means an activity the expenditures in connection with which are required under this Act to be allocated between Federal and non-Federal accounts because such activity affects 1 or more elections for Federal office and 1 or more non-Federal elections.

"(2) Activities under paragraph (1) include—

"(A) voter registration drives, get-out-the-vote drives, telephone banks, and membership communications in connection with elections for Federal offices and elections for non-Federal offices;

"(B) general political advertising, brochures, or other materials that include any reference (however incidental) to both a candidate for Federal office and a candidate for non-Federal office, or that urge support for or opposition to a political party or to all the candidates of a political party;

"(C) overhead expenses; and

"(D) activities described in clauses (v), (x), and (xii) of section 301(8)(B).

"(d) ACCOUNTS.—For purposes of this section—

"(1) the term 'Federal account' means an account to which receipts and disbursements are allocated to elections for Federal offices; and

"(2) the term 'non-Federal account' means an account to which receipts and disbursements are allocated to elections other than non-Federal offices.".

SEC. 113. PROTECTION FOR EMPLOYEES.

(a) CONTRIBUTIONS TO ALL POLITICAL COMMITTEES INCLUDED.—Paragraph (2) of section 316(b) of FECA (2 U.S.C. 441b(b)(2)) is amended by inserting "political committee," after "campaign committee,".

(b) APPLICABILITY OF REQUIREMENTS TO LABOR ORGANIZATIONS.—Section 316(b) of FECA (2 U.S.C. 441b(b)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Subparagraphs (A), (B), and (C) of paragraph (2) shall not apply to a labor organization unless the organization meets the requirements of subparagraphs (B), (C), and (D).

"(B) The requirements of this subparagraph are met only if the labor organization provides, at least once annually, to all employees within the labor organization's bargaining unit or units (and to new employees within 30 days after commencement of their employment) written notification presented in a manner to inform any such employee—

"(i) that an employee cannot be obligated to pay, through union dues or any other mandatory payment to a labor organization, for the political activities of the labor organization, including, but not limited to, the maintenance and operation of, or solicitation of contributions to, a political committee, political communications to members, and voter registration and get-out-the-vote campaigns;

"(ii) that no employee may be required actually to join any labor organization, but if a collective bargaining agreement covering an employee purports to require membership or payment of dues or other fees to a labor organization as a condition of employment, the employee may elect instead to pay an agency fee to the labor organization;

"(iii) that the amount of the agency fee shall be limited to the employee's pro rata share of the cost of the labor organization's exclusive representation services to the employee's collective bargaining unit, including collective bargaining, contract administration, and grievance adjustment;

"(iv) that an employee who elects to be a full member of the labor organization and pay membership dues is entitled to a reduction of those dues by the employee's pro rata share of the total spending by the labor organization for political activities;

"(v) that the cost of the labor organization's exclusive representation services, and the amount of spending by such organization for political activities, shall be computed on the basis of such cost and spending for the immediately preceding fiscal year of such organization; and

"(vi) of the amount of the labor organization's full membership dues, initiation fees, and assessments for the current year; the amount of the reduced membership dues, subtracting the employee's pro rata share of the organization's spending for political activities, for the current year; and the amount of the agency fee for the current year.

"(C) The requirements of this subparagraph are met only if, for purposes of verifying the cost of such labor organization's exclusive representation services, the labor organization provides all represented employees an annual examination by an independent certified public accountant of financial statements supplied by such organization which verify the cost of such services; except that such examination shall, at a minimum, constitute a 'special report' as interpreted by the Association of Independent Certified Public Accountants.

"(D) The requirements of this subparagraph are met only if the labor organization—

"(i) maintains procedures to promptly determine the costs that may properly be charged to agency fee payors as costs of exclusive representation, and explains such procedures in the written notification required under subparagraph (B); and

"(ii) if any person challenges the costs which may be properly charged as costs of exclusive representation—

"(I) provides a mutually selected impartial decisionmaker to hear and decide such challenge pursuant to rules of discovery and evidence and subject to de novo review by the National Labor Relations Board or an applicable court; and

"(II) places in escrow amounts reasonably in dispute pending the outcome of the challenge.

"(E)(i) A labor organization that does not satisfy the requirements of subparagraphs (B), (C), and (D) shall finance any expenditures specified in subparagraphs (A), (B), or (C) of paragraph (2) only with funds legally collected under this Act for its separate segregated fund.

"(ii) For purposes of this paragraph, subparagraph (A) of paragraph (2) shall apply only with respect to communications expressly advocating the election or defeat of any clearly identified candidate for elective public office.".

SEC. 114. RESTRICTIONS ON SOFT MONEY ACTIVITIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) DENIAL OF TAX-EXEMPT STATUS FOR ACTIVITIES TO INFLUENCE A FEDERAL ELECTION.—An organization shall not be treated as exempt from tax under subsection (a) if such organization participates or intervenes in any political campaign on behalf of or in opposition to any candidate for Federal office.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any participation or intervention by an organization on or after September 1, 1992.

SEC. 115. DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax), as amended by section 114, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.—

"(1) IN GENERAL.—An organization shall not be treated as exempt from tax under subsection (a) if—

"(A) such organization devotes any of its operating budget to—

"(i) voter registration or get-out-the-vote campaigns; or

"(ii) participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office; and

"(B) a candidate, or an authorized committee of a candidate, has—

"(i) solicited contributions to, or on behalf of, such organization; and

"(ii) the solicitation is made in cooperation, consultation, or concert with, or at the request or suggestion of, such organization.

"(2) CANDIDATE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'candidate' has the meaning given such term by paragraph (2) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(2)).

"(B) MEMBERS OF CONGRESS.—The term 'candidate' shall include any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress unless—

"(i) the date for filing for nomination, or election to, such office has passed and such individual has not so filed, and

"(ii) such individual is not otherwise a candidate described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act, but only with respect to solicitations or suggestions by candidates made after the date of the enactment of this Act.

SEC. 116. CONTRIBUTIONS TO CERTAIN POLITICAL ORGANIZATIONS MAINTAINED BY A CANDIDATE.

(a) CONTRIBUTIONS BY PERSONS IN GENERAL AND BY MULTICANDIDATE POLITICAL COMMITTEES.—(1) Section 315(a)(1)(A) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "candidate and his authorized political committees" and inserting "candidate, a candidate's authorized political committees, and any political organizations (other than authorized committees) maintained by a candidate,".

(2) Section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) is amended by striking "candidate and his authorized political committees" and inserting "candidate, a candidate's authorized political committees, and any political organizations (other than authorized committees) maintained by a candidate,".

(3) Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 101(c), is amended by inserting at the end thereof the following new paragraph:

"(10) For the purposes of paragraphs (1)(A) and (2)(A), the term 'political organization maintained by a candidate' means any non-Federal political action committee, non-Federal multicandidate political committee, or any other form of political organization regulated under State law which is not a political committee of a national, State, or local political party—

"(A) that is set up by or on behalf of a candidate and engages in political activity which directly influences Federal elections; and

"(B) for which that candidate has solicited a contribution.".

(b) CONTRIBUTIONS BY NATIONAL BANKS, CORPORATIONS, AND LABOR ORGANIZATIONS.—(1) Section 316(b)(2) of the FECA (2 U.S.C. 441b(b)(2)) is amended by striking "candidate, campaign committee" and inserting "candidate, political organization (other than an authorized committee) maintained by a candidate, campaign committee,".

(2) Section 316(b) of FECA (2 U.S.C. 441b(b)), as amended by section 113(b), is amended by inserting at the end thereof the following new paragraph:

"(9) For the purposes of paragraph (2), the term 'political organization maintained by a candidate' means any non-Federal political action committee, non-Federal multicandidate political committee, or any other form of political organization regulated under State law which is not a political committee of a national, State, or local political party—

"(A) that is set up by or on behalf of a candidate and engages in political activity which directly influences Federal elections; and

"(B) for which that candidate has solicited a contribution.".

(c) DATE OF APPLICATION.—The amendments made by subsections (a) and (b) shall apply to contributions described in sections 315 and 316 of FECA (2 U.S.C. 441a and 441b) made in response to solicitations made after January , 1991.

SEC. 117. CONTRIBUTIONS TO STATE AND LOCAL PARTY COMMITTEES.

Section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) to the political committees established and maintained by a State or local political party, in connection with any activity that may influence an election for Federal office, in any calendar year which, in the aggregate, exceed the lesser of

"(i) $50,000; or

"(ii) the difference between $50,000 and the amount of contributions made by such person to any political committees established and maintained by a national political party.".

Subtitle C—Other Activities

SEC. 121. MODIFICATIONS OF CONTRIBUTION LIMITS ON INDIVIDUALS.

(a) INCREASE IN CANDIDATE LIMIT.—Subparagraph (A) of section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "$1,000" and inserting "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 116(a)(3), is amended by adding at the end thereof the following new paragraph:

"(11) For purposes of subsection (a)(1)(A)—

"(A) The term 'applicable amount' means—

"(i) $1,000 in the case of contributions by a person to—

"(I) a candidate for the office of President or Vice President or such candidate's authorized committees; or

"(II) any other candidate or such candidate's authorized committees if, at the time such contributions are made, such person is a resident of the State with respect to which such candidate seeks Federal office; and

"(ii) $500 in the case of contributions by any other person to a candidate described in clause (i)(II) or such candidate's authorized committees.

"(B) At the beginning of 1991 and each odd-numbered calendar year thereafter, the Secretary of Labor shall certify in the same manner as under subsection (c)(1) the percent difference between the price index for the preceding calendar year and the price index for calendar year 1989. Each of the dollar limits under subparagraph (A) shall be increased by such percent difference and rounded to the nearest $100. Each amount so increased shall be the amount in effect for the calendar year for which determined and the succeeding calendar year.".

SEC. 122. POLITICAL PARTIES.

ITEMS NOT TREATED AS CONTRIBUTIONS OR EXPENDITURES.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clauses (x) and (xii), by inserting "national," after "the payment by a"; and

(B) in clause (xii), by inserting "general research activities," after "the costs of".

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clauses (viii) and (ix), by inserting "national," after "the payment by a"; and

(B) in clause (ix), by inserting "general research activities," after "the costs of".

SEC. 123. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For purposes of this subsection—

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate.

"(B) If a contribution is made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(C) No conduit or intermediary shall deliver or arrange to have delivered contributions from more than 2 persons who are employees of the same employer or who are members of the same trade association, membership organization, or labor organization.

"(D) No person required to register with the Clerk of the House of Representatives or the Secretary of the Senate under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), or an officer, employee or agent of such a person, may act as an intermediary or conduit with respect to a contribution to a candidate for Federal office.".

SEC. 124. INDEPENDENT EXPENDITURES.

(a) ATTRIBUTION OF COMMUNICATIONS; REPORTS.—(1) Section 318 of FECA (2 U.S.C. 441d) is amended by adding at the end thereof the following new subsection:

"(c)(1) If any person makes an independent expenditure through a broadcast communication on any television or radio station, the broadcast communication shall include a statement—

"(A) in such television broadcast, that is clearly readable to the viewer and appears continuously during the entire length of such communication; or

"(B) in such radio broadcast, that is clearly audible to the viewer and is aired at the beginning and ending of such broadcast,

setting forth the name of such person and, in the case of a political committee, the name of any connected or affiliated organization.

"(2) If any person makes an independent expenditure through a newspaper, magazine, outdoor advertising facility, direct mailing, or other type of general public political advertising, the communication shall include, in addition to the other information required by this section—

"(A) the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.'; and

"(B) a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization, and the name of the president or treasurer of such organization.

"(3) Any person making an independent expenditure described in paragraph (1) or (2) shall furnish, by certified mail, return receipt requested, the following information, to each candidate and to the Commission, not later than the date and time of the first public transmission of the communication:

"(A) Effective notice that the person plans to make an independent expenditure for the purpose of financing a communication which expressly advocates the election or defeat of a clearly identified candidate.

"(B) An exact copy of the intended communication, or a complete description of the contents of the intended communication, including the entirety of any texts to be used in conjunction with such communication, and a complete description of any photographs, films, or any other visual devices to be used in conjunction with such communication.

"(C) All dates and times when such communication will be publicly transmitted.".

(2) Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended by striking "Whenever" and inserting "Except as provided in subsection (c), whenever".

(b) DEFINITION OF INDEPENDENT EXPENDITURE.—Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended—

(1) by striking "(17) The term" and inserting "(17)(A) The term"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) For the purpose of subparagraph (A), an expenditure shall be considered to be made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, authorized committee, or agent, if there is any arrangement, coordination, or direction by the candidate or the candidate's agent prior to the publication, distribution, display, or broadcast of a communication, and it shall be presumed to be so made when it is—

"(i) based on information about the candidate's plans, projects, or needs provided to

the person making the expenditure by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or

"(ii) made by or through any person who is, or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees;

"(II) serving as an officer of the candidate's authorized committees; or

"(III) providing professional services to, or receiving any form of compensation or reimbursement from, the candidate, the candidate's committee, or agent.".

(c) HEARINGS ON COMPLAINTS.—Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following new paragraph:

"(13) Within 3 days after the Commission receives a complaint filed pursuant to this section which alleges that an independent expenditure was made with the cooperation or consultation of a candidate, or an authorized committee or agent of such candidate, or was made in concert with or at the request or suggestion of an authorized committee or agent of such candidate, the Commission shall provide for a hearing to determine such matter.".

(d) EXPEDITED JUDICIAL REVIEW.—Section 310 of the FECA (2 U.S.C. 437h) is amended by adding at the end thereof the following new sentence: "It shall be the duty of the courts to advance on the docket and to expedite to the greatest possible extent the disposition of any matter relating to the making or alleged making of an independent expenditure.".

TITLE II—INCREASE OF COMPETITION IN POLITICS

SEC. 201. SEED MONEY FOR CHALLENGERS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 111, is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding subsection (a)(2), the congressional campaign committee or the senatorial campaign committee of a national political party, whichever is applicable, may make contributions to an eligible candidate (and the candidate's authorized committees) which in the aggregate do not exceed the lesser of—

"(A) $100,000; or

"(B) the aggregate qualified matching contributions received by such candidate and the candidate's authorized committees.

"(2) Any contribution under paragraph (1) shall not be treated as an expenditure for purposes of subsection (d)(3).

"(3) For purposes of this subsection, the term 'qualified matching contributions' means contributions made during the period of the election cycle preceding the primary election by an individual who, at the time such contributions are made, is a resident of the State in which the election with respect to which such contributions are made is to be held.

"(4) For purposes of this subsection, the term 'eligible candidate' means a candidate for Federal office (other than President or Vice President) who does not hold Federal office.".

SEC. 202. USE OF CAMPAIGN FUNDS.

Section 313 of FECA (2 U.S.C. 439a) is amended by inserting "(a)" before "Amounts" and inserting at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a), a holder of Federal office may not transfer any amounts received as contributions or other campaign funds to any account maintained for purposes of defraying ordinary and necessary expenses in connection with the duties of such Federal office.".

SEC. 203. CANDIDATE EXPENDITURES FROM PERSONAL FUNDS.

(a) Section 315 of FECA (2 U.S.C. 441a), as amended by section 201, is amended by adding at the end thereof the following new subsection:

"(k)(1)(A) Not less than 15 days after a candidate qualifies for a primary election ballot under State law, the candidate shall file with the Commission, and each other candidate who has qualified for that ballot, a declaration stating whether the candidate intends to expend for the primary and general election an amount exceeding $250,000 from—

"(i) the candidate's personal funds;

"(ii) the funds of the candidate's immediate family; and

"(iii) personal loans incurred by the candidate and the candidate's immediate family in connection with the candidate's election campaign.

"(B) The declaration required by subparagraph (A) shall be in such form and contain such information as the Commission may require by regulation.

"(2) Notwithstanding subsection (a), if a candidate—

"(A) declares under paragraph (1) that the candidate intends to expend for the primary and general election funds described in such paragraph an amount exceeding $250,000;

"(B) expends such funds in the primary and general election an amount exceeding $250,000; or

"(C) fails to file the declaration required by paragraph (1),

the limitations on contributions under subsection (a), and the limitations on expenditures under subsection (d), shall be modified as provided under paragraph (3) with respect to other candidates for the same office who are not described in subparagraph (A), (B), or (C).

"(3) For purposes of paragraph (2)—

"(A) the limitation under subsection (a)(1)(A) shall be increased to $5,000; and

"(B) if a candidate described in paragraph (2)(B) expends more than $1,000,000 of funds described in paragraph (1) in the primary and general election—

"(i) the limitation under subsection (a)(1)(A) shall not apply;

"(ii) the limitation under subsection (a)(2) shall not apply to any political committee of a political party; and

"(iii) the limitation under subsection (d)(3) shall not apply.

The $5,000 amount under subparagraph (A) shall be adjusted each calendar year in the same manner as amounts are adjusted under subsection (a)(11)(B).

"(4) If—

"(A) the modifications under paragraph (3) apply for a convention or a primary election by reason of 1 or more candidates taking (or failing to take) any action described in subparagraph (A), (B), or (C) of paragraph (2); and

"(B) such candidates are not candidates in any subsequent election in the same election campaign, including the general election,

paragraph (3) shall cease to apply to the other candidates in such campaign.

"(5) A candidate who—

"(A) declares, pursuant to paragraph (1), that the candidate does not intend to expend funds described in paragraph (1) in excess of $250,000; and

"(B) subsequently changes such declaration or expends such funds in excess of that amount,

shall file an amended declaration with the Commission and notify all other candidates for the same office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending a notice by certified mail, return receipt requested.

"(6) Contributions to a candidate or a candidate's authorized committees may be used to repay any expenditure or personal loan incurred in connection with the candidate's election to Federal office by a candidate or a member of the candidate's immediate family only to the extent that such repayment—

"(A) is limited to the amount of such expenditure or the principal amount of such loan (and no interest is paid); and

"(B) is not made from any such contributions received after the date of the general election to which such expenditure or loan relates.

"(7) For purposes of this subsection, the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) any child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of a person described in subparagraph (B).

"(8) The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to ensure compliance with this subsection.".

SEC. 204. FRANKED COMMUNICATIONS.

(a) AMENDMENT OF TITLE 39, UNITED STATES CODE.—(1) Section 3210(a)(6)(A) of title 39, United States Code is amended—

(A) by striking clause (i) and inserting the following new clause:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II), by striking "fewer than 60 days immediately before the date" and inserting "during the year".

(2) Section 3210(a)(6)(C) of title 39, United States Code, is amended by striking "fewer than 60 days immediately before the date" and inserting "during the year".

(3) Section 3210(a)(6) of title 39, United States Code, is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i)(I) When a Member of the Senate disseminates information under the frank by a mass mailing, the Member shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary of the Senate a copy of the matter mailed and providing, on a form supplied by the Secretary of the Senate, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed.

"(ii)(I) When a Member of the House of Representatives disseminates information under the frank by a mass mailing, the Member shall register annually with the Clerk of the House of Representatives such mass mailings. Such registration shall be made by filing with the Clerk of the House of Representatives a copy of the matter mailed and

providing, on a form supplied by the Clerk of the House of Representatives, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Clerk of the House of Representatives shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed.".

(b) AMENDMENT OF STANDING RULES OF THE SENATE.—(1) Paragraph 1 of Rule XL of the Standing Rules of the Senate is amended by striking "less than sixty days immediately before the date" and inserting "during the year".

(2) This subsection is enacted—

(A) as an exercise of the rulemaking power of the Senate; and

(B) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

SEC. 205. LIMITATIONS ON GERRYMANDERING.

(a) REAPPORTIONMENT OF REPRESENTATIVES.—Section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress," approved June 18, 1929 (2 U.S.C. 2a), is amended—

(1) by striking subsection (c); and

(2) by adding at the end thereof the following new subsections:

"(c)(1) In each State entitled in the One Hundred Third Congress or in any subsequent Congress to more than one Representative under an apportionment made pursuant to the second paragraph of the Act entitled 'An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting', approved December 14, 1967 (2 U.S.C. 2c), as in effect prior to the date of enactment of this subsection, there shall be established in the manner provided by the law of the State a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only by eligible voters from districts so established, no district to elect more than 1 Representative.

"(2) Such districts shall be established in accordance with the provisions of this Act as soon as practicable after the decennial census date established in section 141(a) of title 13, United States Code, but in no case later than such time as is reasonably sufficient for their use in the elections for the One Hundred Third Congress and in each fifth Congress thereafter.

"(d)(1) The number of persons in congressional districts within each State shall be as nearly equal as is practicable, as determined under the then most recent decennial census.

"(2) The enumeration established according to the Federal decennial census pursuant to article I, section II, United States Constitution, shall be the sole basis of population for the establishment of congressional districts.

"(e) Congressional districts shall be comprised of contiguous territory, including adjoining insular territory.

"(f) Congressional districts shall not be established with the intent or effect of diluting the voting strength of any person, group of persons, or members of any political party.

"(g) Congressional districts shall be compact in form. In establishing such districts, nearby population shall not be bypassed in favor of more distant population.

"(h) Congressional district boundaries shall avoid the unnecessary division of counties or their equivalent in any State.

"(i) Congressional district boundaries shall be established in such a manner so as to minimize the division of cities, towns, villages, and other political subdivisions.

"(j)(1) It is the intent of the Congress that congressional districts established pursuant to this section be subject to reasonable public scrutiny and comment prior to their establishment.

"(2) At the same time that Federal decennial census tabulations data, reports, maps, or other material or information produced or obtained using Federal funds and associated with the congressional reapportionment and redistricting process are made available to any officer or public body in any State, those materials shall be made available by the State at the cost of duplication to any person from that State meeting the qualifications for voting in an election of a Member of the House of Representatives.

"(k) Nothing in this section shall be construed to supersede any provision of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

"(l)(1) A State may establish by law criteria for implementing the standards set forth in this section.

"(2) Nothing in this section shall be construed as limiting the power of a State to strengthen or add to the standards set forth in this section, or to interpret those standards in a manner consistent with the law of the State, to the extent that any additional criteria or interpretations are not in conflict with this section.

"(m)(1) The district courts of the United States shall have exclusive jurisdiction to hear and determine any action to enforce subsections (c) through (l).

"(2) A person who meets a State's qualifications for voting in an election of a Member of the House of Representatives from the State may bring an action in the district court for the district in which the person resides to enforce subsections (c) through (l) with regard to the State in which the person resides.

"(3) Notwithstanding any other provision of this section, the district courts of the United States shall have authority to issue all judgments, orders, and decrees necessary to ensure that any criteria established by State law pursuant to this section are not in conflict with this section.

"(4) With the exception of actions brought for the relief described in paragraph (3), the district court for the purposes of this section shall be a three-judge district court pursuant to section 2284 of title 28, United States Code.

"(5) On motion of any party in accordance with section 1657 of title 28, United States Code, it shall be the duty of the district court to assign the case for briefing and hearing at the earliest practicable date, and to cause the case to be in every way expedited. The district court shall have authority to enter all judgments, orders and decrees necessary to bring a State into compliance with this Act.

"(6) An action to challenge the establishment of a congressional district in a State after a Federal decennial census may not be brought after the end of the 9-month period beginning on the date on which the last such district is so established.

"(7) For the purposes of this section, an order dismissing a complaint for failure to state a cause of action shall be appealable in accordance with section 1253 of title 28, United States Code.

"(8) If a district court fails to establish a briefing and hearing schedule that will permit resolution of the case prior to the next general election, any party may seek a writ of mandamus from the United States Court of Appeals for the circuit in which the district court sits. The court of appeals shall have jurisdiction over the motion for a writ of mandamus and shall establish an expedited briefing and hearing schedule for resolution of the motion. Such a motion shall not stay proceedings in the district court.

"(9) If a district court determines that the congressional districts established by a State's redistricting authority pursuant to this Act are not in compliance with this Act, the court shall remand the plan to the State's redistricting authority to establish new districts consistent with subsections (c) through (l). The district court shall retain jurisdiction over the case after remand.

"(10) If, after a remand under paragraph (9), the district court determines that the congressional districts established by a State's redistricting authority under the remand order are not consistent with subsections (c) through (l), the district court shall enter an order establishing districts that are consistent with subsections (c) through (l) for the next general congressional election.

"(11) If any question of State law arises in a case under this section that would require abstention, the district court shall not abstain. However, in any State permitting certification of such questions, the district court shall certify the question to the highest court of the State whose law is in question. Such certification shall not stay the proceedings in the district court or delay the court's determination of the question of State law.

"(12) With the exception of actions brought for the relief described in paragraph (3), an appeal from a decision of the district court under this section shall be taken in accordance with section 1253 of title 28, United States Code. An appeal under this paragraph shall be noticed in the district court and perfected by docketing in the Supreme Court within thirty days of the entry of judgment below. Appeals brought to the Supreme Court under this paragraph shall be heard as soon as practicable.

"(13) For purposes of this section, the term 'redistricting authority' means the officer or public body having initial responsibility for the congressional redistricting of a State.".

(b) CONFORMING AMENDMENTS AND REPEALER.—(1) The first sentence of section 1657 of title 28, United States Code, is amended by striking "chapter 153 or" and inserting "chapter 153, any action under subsection (m) through (l) of section 22 of the Act entitled 'An Act to provide for the fifteenth and subsequent censuses and to provide for apportionment of Representatives in Congress,' approved June 18, 1929 (2 U.S.C. 2a), or".

(2) Section 141(c) of title 13, United States Code, is amended by adding at the end thereof the following: "In circumstances in which this subsection requires that the Secretary provide criteria to, consult with, or report tabulations of population to (or if the Secretary for any reason provides material or information to) the public bodies having responsibility for the legislative apportionment or districting of a State, the Secretary shall provide, without cost, such criteria, consultations, tabulations, or other material or information simultaneously to the leadership of each political party represented on such public bodies. For purposes of this subsection, the term 'political party' means any political party whose candidates for Representatives to Congress received, as the candidates of such party, 5 percent or more

of the total number of votes received statewide by all candidates for such office in any of the 5 most recent general congressional elections. Such materials may include those developed by the Census Bureau for redistricting purposes for the 1990 Census.".

(3) The second paragraph of the Act entitled "An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting", approved December 14, 1967 (2 U.S.C. 2c), is repealed.

SEC. 206. ELECTION FRAUD, OTHER PUBLIC CORRUPTION, AND FRAUD IN INTERSTATE COMMERCE.

(a) ELECTION FRAUD AND OTHER PUBLIC CORRUPTION.—(1) Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, political subdivision, or Indian tribal government shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than 10 years, or both.

"(c) Whoever, being a public official or an official or employee of a State, political subdivision of a State, or Indian tribal government, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or any State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) An employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee or official on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and shall be entitled to all relief necessary to make such employee or official whole. Such relief shall include reinstatement with the same seniority status that the employee or official would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual shall not be entitled to relief under paragraph (1) if the individual participated in the violation of this section with respect to which relief is sought.

"(3) A civil action brought under paragraph (1) shall be stayed by a court upon the certification of an attorney for the Government, stating that the action may adversely affect the interests of the Government in a current criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 and shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that the person controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

(2)(A) The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(B) Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(C) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

(b) FRAUD IN INTERSTATE COMMERCE.—(1) Section 1343 of title 18, United States Code, is amended—

(A) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(B) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(2)(A) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(B) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

TITLE III—REDUCTION OF CAMPAIGN COSTS

SEC. 301. BROADCAST DISCOUNT.

(a) FINDINGS.—The Congress finds that—

(1) in the 45 days preceding a primary election, and in the 60 days preceding a general election, candidates for political office need

to be able to buy, at the lowest unit charge, nonpreemptible advertising spots from broadcast stations and cable television stations to ensure that their messages reach the intended audience and that the voting public has an opportunity to make informed decisions;

(2) since the Communications Act of 1934 was amended in 1972 to guarantee the lowest unit charge for candidates during these important preelection periods, the method by which advertising spots are sold in the broadcast and cable industries has changed significantly;

(3) changes in the method for selling advertising spots have made the interpretation and enforcement of the lowest unit charge provision difficult and complex;

(4) clarification and simplification of the lowest unit charge provision in the Communications Act of 1934 is necessary to ensure compliance with the original intent of the provision; and

(5) in granting discounts and setting charges for advertising time, broadcasters and cable operators should treat candidates for political office at least as well as the most favored commercial advertisers.

(b) AMENDMENT OF COMMUNICATIONS ACT.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (b)(1), by striking "class and";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) A licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased such use pursuant to subsection (b)(1).".

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Federal Election Commission Enforcement Authority

SEC. 401. ELIMINATION OF REASON TO BELIEVE STANDARD.

Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by striking the first sentence and inserting the following: "Except as otherwise provided in subparagraph (B), if the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities determines, by an affirmative vote of 4 of its members, that an allegation of a violation or from pending violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986 states a claim of violation that would be sufficient under the standard applicable to a motion under rule 12(b)(6) of the Federal Rules of Civil Procedure, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such vote shall occur within 90 days after receipt of such complaint.".

SEC. 402. INJUNCTIVE AUTHORITY.

Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)), as amended by section 401, is amended by adding at the end thereof the following new subparagraph:

"(B) The Commission may petition the appropriate court for an injunction if—

"(i) the Commission believes that there is a substantial likelihood that a violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) such expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction.".

SEC. 403. TIME PERIODS.

Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i) by—

(A) striking ", for a period of at least 30 days,"; and

(B) striking "90 days" and inserting "60 days"; and

(2) in clause (ii) by striking "at least" and inserting "no more than".

SEC. 404. KNOWING VIOLATION PENALTIES.

Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "shall require that the person involved in such conciliation agreement shall pay a civil penalty which is not less than the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation, except that if the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 has been committed during the 15-day period immediately preceding any election, a conciliation agreement entered into by the Commission under paragraph (4)(A) shall require that the person involved in such conciliation agreement shall pay a civil penalty which is not less than the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation".

SEC. 405. COURT RESOLVED VIOLATIONS AND PENALTIES.

Section 309(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(6)) is amended—

(1) in subparagraph (A) by—

(A) striking "Commission may" and inserting "Commission shall";

(B) striking "including" and inserting "which shall include"; and

(C) striking "which does not exceed the greater of $5,000 or an amount equal to any" and inserting "which equals the greater of $10,000 or an amount equal to 200 percent of any"; and

(2) in subparagraph (B) by—

(A) striking "court may" and inserting "court shall"; and

(B) striking ", including" and inserting "which shall include"; and

(C) striking "which does not exceed the greater of $5,000 or an amount equal to any" and inserting "which equals the greater of $10,000 or an amount equal to 200 percent of any".

SEC. 406. PRIVATE CIVIL ACTIONS.

Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)), as amended by section 405, is amended—

(1) by inserting "(i)" after "(6)(A)"; and

(2) by adding at the end thereof the following new clause:

"(ii) If, by a tie vote, the Commission does not vote to institute a civil action pursuant to clause (i), the candidate involved in such election, or an individual authorized to act on behalf of such candidate, may file an action for appropriate relief in the district court for the district in which the respondent is found, resides, or transacts business. If the court determines that a violation has occurred, the court shall impose the appropriate civil penalty. Any such award of a civil penalty made under this paragraph shall be made in favor of the United States. In addition to any such civil penalty, the court shall award to the prevailing party in any action under this paragraph, all attorneys' fees and actual costs reasonably incurred in the investigation and pursuit of any such action, including those attorneys' fees and costs reasonably incurred in bringing or defending the proceeding before the Commission.".

SEC. 407. KNOWING VIOLATIONS RESOLVED IN COURT.

Section 309(a)(6)(C) of FECA (2 U.S.C. 437g(a)(6)(C)) is amended by striking "may impose a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "shall impose a civil penalty which is not less than the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation, except that if such violation was committed during the 15-day period immediately preceding the election, the court shall impose a civil penalty which is not less than the greater of $15,000 or an amount equal to 300 percent of any contribution or expenditure involved in such violation".

SEC. 408. ACTION ON COMPLAINT BY COMMISSION.

Section 309(a)(8)(A) of FECA (2 U.S.C. 437g(a)(8)(A)) is amended—

(1) by striking "act on" and inserting "reasonably pursue";

(2) by striking "120-day" and inserting "60-day"; and

(3) by striking "United States District Court for the District of Columbia" and inserting "appropriate court".

SEC. 409. VIOLATION OF CONFIDENTIALITY REQUIREMENT.

Section 309(a)(12)(B) of FECA (2 U.S.C. 437g(a)(12)(A)) is amended—

(1) by striking "$2,000" and inserting "$5,000"; and

(2) by striking "$5,000" and inserting "$10,000".

SEC. 410. PENALTY IN ATTORNEY GENERAL ACTIONS.

Section 309(d)(1)(A) of FECA (2 U.S.C. 437g(d)(1)(A)) is amended by striking "exceed" and inserting "be less than".

SEC. 411. AMENDMENTS RELATING TO ENFORCEMENT AND JUDICIAL REVIEW.

(a) TIME LIMITATIONS FOR AND INDEX OF INVESTIGATIONS.—Section 309(a) of FECA (2 U.S.C. 437g(a)), as amended by section 124, is amended by adding at the end thereof the following new paragraphs:

"(14) The Commission shall establish time limitations for investigations under this subsection.

"(15) The Commission shall publish an index of all investigations under this section and shall update the index quarterly.".

(b) PROCEDURE ON INITIAL DETERMINATION.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)), as amended by section 402, is amended by adding at the end thereof the following: "Before a vote based on information ascertained in the normal course of carrying out supervisory responsibilities, the person alleged to have committed the violation shall be notified of the allegation and shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the

information. Prior to any determination, the Commission may request voluntary responses to questions from any person who may become the subject of an investigation. A determination under this paragraph shall be accompanied by a written statement of the reasons for the determination.".

(c) PROCEDURE ON PROBABLE CAUSE DETERMINATION.—(1) Section 309(a)(3) of FECA (2 U.S.C. 437g(a)(3)) is amended by adding at the end thereof the following: "The Commission shall make available to a respondent any documentary or other evidence relied on by the general counsel in making a recommendation under this subsection. Any brief or report by the general counsel that replies to the respondent's brief shall be provided to the respondent.".

(2) Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended by adding at the end thereof the following new clauses:

"(iii) A determination under clause (i) shall be made only after opportunity for a hearing upon request of the respondent and shall be accompanied by a statement of the reasons for the determination.

"(iv) The Commission shall not require that any conciliation agreement under this paragraph contain an admission by the respondent of a violation of this Act or any other law.".

(d) ELIMINATION OF EN BANC HEARING REQUIREMENT.—Section 310 of FECA (2 U.S.C. 437h), as amended by section 124(d), is amended by striking ", which shall hear the matter sitting en banc".

SEC. 412. TIGHTENING ENFORCEMENT.

(a) REPEAL OF PERIOD OF LIMITATION.—Section 406 of FECA (2 U.S.C. 455) is repealed.

(b) SUPPLYING OF INFORMATION TO THE ATTORNEY GENERAL.—Section 309(a)(12) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(12)(A)) is amended by adding at the end thereof the following new subparagraph:

"(C) Nothing in this section shall be deemed to prohibit or prevent the Commission from making information contained in compliance files available to the Attorney General, at the Attorney General's request, in connection with an investigation or trial.".

Subtitle B—Other Provisions

SEC. 421. DISCLOSURE OF DEBT SETTLEMENT AND LOAN SECURITY AGREEMENTS.

Section 304(b) of FECA (2 U.S.C. 434(b)), as amended by section 112, is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a semicolon, and by adding at the end thereof the following new paragraphs:

"(10) for the reporting period, the terms of any settlement agreement entered into with respect to a loan or other debt, as evidenced by a copy of such agreement filed as part of the report; and

"(11) for the reporting period, the terms of any security or collateral agreement entered into with respect to a loan, as evidenced by a copy of such agreement filed as part of the report.".

SEC. 422. CONTRIBUTIONS FOR DRAFT AND ENCOURAGEMENT PURPOSES WITH RESPECT TO ELECTIONS FOR FEDERAL OFFICE.

(a) DEFINITION.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended by striking "or" after the semicolon at the end of clause (i), by striking the period at the end of clause (ii) and inserting "; and", and by adding at the end thereof the following new clause:

"(iii) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of drafting a clearly identified individual as a candidate for Federal office or encouraging a clearly identified individual to become a candidate for Federal office.".

(b) DRAFT AND ENCOURAGEMENT CONTRIBUTIONS TO BE TREATED AS CANDIDATE CONTRIBUTIONS.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(12) For purposes of paragraph (1)(A) and paragraph (2)(A), any contribution described in section 301(8)(A)(iii) shall be treated, with respect to the individual involved, as a contribution to a candidate, whether or not the individual becomes a candidate.".

SEC. 423. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 424. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on November 10, 1992, and shall apply to all contributions and expenditures made after that date.

Mr. FEINGOLD. Senate bill 143 from the 102d Congress was offered by the Senator from Kentucky. It was not a group of people that had to sort of pull together to support the leader on this. Mr. MCCONNELL, the Senator from Kentucky, was the lead author, and then other Senators, distinguished Senators, agreed with him—Senator Dole, Senator Simpson, Senator Packwood, Senator COCHRAN, Senator DOMENICI, Senator MURKOWSKI, Senator ROTH, and Senator Hatfield; but the lead author of the bill was the Senator from Kentucky. And the bill banned soft money.

Mr. President, it specifically provides for the ban of soft money which the Senator from Kentucky has denounced as an unconstitutional part of the McCain-Feingold bill. So this notion that somehow the Senator from Kentucky was not supportive of this kind of concept, at least at that time, does not seem to withstand scrutiny.

Mr. President, I would also like at this time to spend a few moments talking a little bit about a very important item, and that is the proposal before us offered by the majority leader. That represents, to me, an attempt to put the onus of the entire campaign finance issue just on organized labor. That is the substantive impact of this proposal.

But I am afraid the proposal is, in the end, going to serve a larger purpose, if it prevails. The majority leader made it pretty clear that was his purpose. The purpose of the proposal, it seems to me, is to kill the McCain-Feingold bill. I know the majority leader has said that that is not the case. But I am not the only one who believes this is a poison pill. Just about everyone who has looked at this feels this is an attempt to kill this bill by insisting that Senate bill 9 be brought up at this time.

The Senator from Kentucky said that Senate bill 9 was a very important bill; that is why it was No. 9. I understand the rules around here. The leaders get to introduce about five bills each they consider to be a top priority. Senate bill 9 was one of those top priorities of the Republican leadership.

Why then, if it was such a top priority, did they wait almost until the end of this entire year, the end of this entire session, to bring it up? If it was so important, why wasn't it given the importance that it supposedly had? Others agree.

Mr. President, I ask unanimous consent that the editorial from the New York Times entitled "The Swing Senators" of October 5, 1997, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 5, 1997]

THE SWING SENATORS

It takes many routine votes to build and sustain a Senate career, but one memorable vote can destroy a reputation. For a handful of Republican senators who have championed campaign finance reform, that fatal vote could come on Tuesday if they kill the McCain-Feingold bill. It is hard to imagine how Olympia Snowe of Maine, James Jeffords of Vermont and John Chafee of Rhode Island can face their constituents if they bury the best chance in a generation to fashion a more rational system of financing Presidential and Congressional campaigns.

That is the simple, unforgiving logic of Tuesday's vote. Trent Lott, the majority leader, has scheduled a showdown on the McCain-Feingold bill, which would curb the unlimited donations to political parties that have been at the heart of the scandals this year. The bill would also restrict the ability of independent groups to raise money from rich individuals, corporations and labor unions to broadcast candidate attack ads masquerading as issue ads two months before an election. To kill the legislation, Mr. Lott has made the first order of business a vote on an amendment he knows Democrats do not support. It would limit the ability of labor unions to raise and spend money on elections. If the amendment is approved, the overall bill will die.

All 45 Democrats are prepared to vote against Mr. Lott's amendment, so just five Republicans are needed to defeat it. Senator John McCain of Arizona, a conservative who would otherwise support the Lott amendment, will vote against it because he knows it will strangle reform. Fred Thompson of Tennessee, Susan Collins of Maine and Arlen Specter of Pennsylvania, all supporters of McCain-Feingold, seem likely to join Mr. Cain.

Senator Snowe has sponsored campaign finance reform legislation in the past and Maine, her home state, last year overwhelmingly approved a referendum that established public financing of campaigns and limits on contributions and candidate expenditures. She would betray her own record and her state if she supported Mr. Lott's effort to torpedo the McCain-Feingold bill.

Since entering the Senate in 1989, Mr. Jeffords has been among the most articulate backers of campaign finance reform. In 1992, he voted to override a veto by President Bush of legislation imposing spending and

contribution limits. Senator Chafee has also consistently favored reform over the years.

Another swing vote this week ought to come from Alfonse D'Amato of New York. Mr. D'Amato is up for re-election next year and is counting on labor support. In the past he has opposed the kind of labor fund-raising curbs now pushed by Mr. Lott. He was even quoted recently as saying he favored a ban on unlimited donations to campaigns. Mr. D'Amato could enhance his standing among moderate Republicans and independents by rallying behind the McCain-Feingold bill.

If Mr. Lott prevails, supporters of campaign reform must not give up. Senator McCain has promised to attach his bill to every piece of legislation before the Senate in the coming weeks. That strategy worked last year for raising the minimum wage. After a year of scandal and abuse, there is no greater priority for Congress than removing the stain of corruption from American politics. The public's desire for reform demands nothing less. If Senators Snowe, Jeffords and Chafee would vote on principle rather than blindly following Mr. Lott, the Senate could approve reform this week.

Mr. FEINGOLD. Mr. President, that editorial identifies clearly the belief of most Americans that the purpose of this amendment is not necessarily to simply resolve this issue, although I am sure Members on the other side of the aisle, many of them, feel strongly about it, but it is to kill the McCain-Feingold bill.

Mr. President, I also ask unanimous consent that an editorial from the USA Today, dated October 6, 1997, entitled "Squabble over union dues a pretext to stop reform" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SQUABBLE OVER UNION DUES A PRETEXT TO STOP REFORM

Our View—As in the past, those in power are trying to kill campaign-finance reform without taking the rap.

For 20 years, Congress has mounted pieties about cleaning up the swamp of special-interest money in politics, while making quite sure nothing gets done about it.

Year after year, stalling, stalemate and deception have been weapons of choice for those who have mastered the system to get elected and have little interest in change. This week, masked in a contrived debate over union dues, it may happen again.

After finally agreeing to debate campaign-finance reform, Senate Majority Leader Trent Lott has made the first order of business his own amendment requiring that union members give written permission before their dues can be used for political purposes.

Sounds noble, but it's a phony. The campaign-reform bill already includes provisions effectively barring union treasuries from making political contributions.

It closes the so-called "soft money" loophole which has allowed massive, unregulated contributions to parties by both unions and business interests.

It brings "independent expenditure" and "issue advocacy" ads that target candidates under the same regulations as campaign contributions. That makes them a no-no for both unions and business.

Limited contributions from union political actual committees would remain legal, but PACs already must obtain sign-offs from contributors. Further, union members unhappy with the use of their dues already have a right to quit the union.

But the amendment is a useful vehicle for Lott and fellow Republicans to posture for the favor of employers whose contribution they seek—and to make retaliatory mischief for the unions, which spend $35 million attacking Republicans last year. And while they moan about it, the debate gives Democratic opponents a chance to preen as friends of the union leaders.

Unfortunately, the amendment also carries the risk of fracturing the fragile coalition pushing for much-needed change. Lott has as good as said that is its real purpose.

It's an old story. In 1990, the House and Senate actually passed somewhat similar campaign-reform bills, but the conferees appointed to iron out the differences never got around to meeting. In 1994, a slightly different scenario brought a similar result.

In 1988, a reform bill was killed by a filibuster. In 1992, a bill passed but was vetoed; the votes to override weren't there. Repeatedly, representatives and senators who want to get on record as reformers have been able to do so—but with little risk of change actually becoming law.

Now, despite a $260 million flood of unregulated campaign contributions in 1995-96, despite $3 million in illegal or questionable contributions, despite an unseemly money chase by the president and vice president that has prompted Justice Department and congressional investigations, reform is again at risk of being sidetracked.

Another modest effort to get at the mess of money in politics would be dead, with few fingerprints at the scene of the crime. Just stalemate and deception as usual.

Mr. FEINGOLD. The article, of course, lays out the arguments about the issue of union dues. In fact, as is the practice of USA Today, they give an opportunity to the majority leader to respond within the article. But the subheadline sort of says it all. "As in the past, those in power are trying to kill campaign-finance reform without taking the rap."

Mr. President, at this time I ask unanimous consent to have printed in the RECORD an article from the Washington Post by David S. Broder entitled "Campaign Finance: A 'Poison Pill'* * *."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1997]

CAMPAIGN FINANCE: A "POISON PILL"...

(By David S. Broder)

From Capitol Hill to California, conservatives claim to have found a new weapon for their arsenal—a device to disarm labor unions and put Democrats on the defensive. But it is a weapon that can produce a dangerous backlash.

The devicde is wonderfully simple: a legal requirement that workers give written permission before unions can use their dues for political purposes.

In Washington, Senate Majority Leader Trent Lott (R-Miss.) this week will try to attach such an amendment to the pending campaign finance reform bill. He calls its approval "the price of admission" to every other aspect of the debate Democrats call it a "poison pill" and say if it passes, they will filibuster to protect their union allies—which would allow Lott to blame them for sinking the overall reform package that he despises.

In California, where I was reporting last week, Republican Gov. Pete Wilson announced that he will lead an effort for a 1998 ballot initiative to enact a similar requirement. At the Republican state convention in Anaheim, Wilson, drew a standing ovation by declaring that "union members shouldn't be forced to have their pockets picked for candidates or causes they don't support."

This "payroll protection" drive, as proponents call it, is the handiwork of J. Patrick Rooney, an Indianapolis insurance tycoon who previously put millions into making medical savings accounts and school vouchers part of the national Republican agenda.

Rooney told me that, through the Evergreen Freedom Foundation in Seattle he is financing lawsuits by teachers against the Washington Education Association for allegedly violating a 1992 state initiative that is the model for the Lott and Wilson proposals.

The California initiative "was going to stall out for lack of money," Rooney told me, "so I got involved," and became chairman of a signature drive that seems likely to put the issue on next June's ballot. But that is not the end of it, Rooney said he and Grover Norquist, another conservative activist, have enlisted Wilson to take the proposal to next month's meeting of all Republican governors and urge them to do the same thing in their states. A parallel bill has attracted more than 160 co-sponsors in the House of Representatives.

Polls show the idea of letting union members control how their dues are spent is popular with voters. As a device for limiting labor's voice, it is devastatingly effective. "It has had a dramatic, negative impact on us," by drying up funds and bringing on a lawsuit by the state attorney general, Trevor Neilsen, spokesman for the Washington teachers' union, told me. At the state employees' union, officials have reported that authorizations for payroll deductions for its political operations had been signed by only 82 of its 2,500 members.

In 1988, the Supreme Court ruled in *Teamsters* v. *Beck* that workers in a unionized company must be allowed the option of reclaiming the portion of their dues used for political purposes. But the *Beck* decision has not been enforced. Most employers are reluctant to risk union trouble by encouraging dissidents. In 1992, President Bush, responding to conservative pressure, issued an executive order requiring government contractors to inform employees of their *Beck* case rights. But President Clinton rescinded it on taking office, as a boon to unions and because, a White House official said, "he thought it was one-sided.

Sens. John McCain and Russ Feingold, sponsors of the main Senate campaign finance bill, have included a codification of the *Beck* decision in their measure. But Lott and Wilson and Rooney would go much further by requiring written permission from workers each year for political use of their dues. Feingold and other opponents say that is unfair, noting that it would leave corporations free to continue making soft money political contributions without permission of stockholders who might hold opposing views. And the pending initiatives do not affect hundreds of other mass-membership organizations such as the National Rifle Association and the American Association of Retired Persons, which are also hip-deep in politics.

Whether this is a political masterstroke for Republicans remains to be seen. In 1958, conservatives promoted right-to-work initiatives, barring union shop contracts, in six states. They lost everywhere but in Kansas. In California and Ohio, the two biggest targets, labor's mobilization fueled Democratic victories that devastated the GOP.

California unions are threatening to retaliate against the Rooney-Wilson initiative by placing on the ballot a measure that would "sunset" every existing corporate tax break not approved by two-thirds vote of the people and redistribute the estimated $8 billion to $12 billion a year of revenue in $1,000-a-person tax rebates.

Conservatives may learn that if you play with fire, you can be burned.

Mr. FEINGOLD. Mr. President, the Senator from Kentucky is fond of quoting Mr. Broder, a leading columnist and expert on these kinds of issues in the country. But he lays out pretty clearly the fact that this is not simply another piece of legislation that happens to come up as the first and potentially only amendment on the campaign finance reform bill. He clearly lays out some of the political and other considerations that are involved in bringing up such a poison pill.

Mr. President, I ask unanimous consent that an editorial dated October 1, 1997, from the New York Times entitled "Trent Lott's Poison Pill," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TRENT LOTT'S POISON PILL

Trent Lott, as expected, has come up with a perverse stratagem to kill campaign finance reform this year. The Senate majority leader would add a provision to the McCain-Feingold bill requiring unions to get approval from workers before using their dues or fees for political purposes. The idea might deserve consideration another day, but Mr. Lott's purpose today is to scuttle the bill by making it unacceptable to Democrats.

After months of disclosures about excesses in both parties, all 45 Senate Democrats have joined 4 Republicans to support the McCain-Feingold legislation, which would prohibit unlimited donations to the parties by wealthy individuals, labor unions and corporations. These contributions were at the heart of the access-buying scandals of the Clinton campaign, and they figure in the influence of money from tobacco and other industries on Capitol Hill. Mr. Lott knows there are nearly enough senators to approve the bill, so he wants a poison pill to repel Democrats and shatter its bipartisan support.

Only one additional Republican would be needed to join other Republican backers of reform to block Mr. Lott's plan. But it will not be easy for Republicans to resist his seductive amendment. Even two reformers, Senators John McCain of Arizona and Susan Collins of Maine, support the principle behind the amendment, though they have said they oppose the amendment itself as a threat to reform at this crucial point. Many other Republicans would like to vote for something that would punish labor for its recent campaign spending, particularly the $35 million that paid for attack ads directed at Republican candidates in 30 Congressional races last year.

The McCain-Feingold bill would codify a nine-year-old ruling of the Supreme Court holding that non-union members who pay union dues or fees as a condition of employment are entitled to demand that the fees not be used for political purposes. If Republicans want to vote on a broader provision giving that right to all union members, they should accept the Democratic offer to consider it on another day without the threat of a filibuster. It would only be fair to consider a similar curb requiring corporations, which outspent unions nearly 9 to 1 on politics last year, to get approval from shareholders when making political expenditures.

If the four Republican supporters of McCain-Feingold stand firm, only one other Republican will be needed to defeat Mr. Lott's disingenuous amendment. Senator Alfonse D'Amato of New York, no particular champion of campaign reform in the past, is in for a tough re-election fight next year and has always had the backing of at least some labor unions. Senator Jim Jeffords of Vermont, a long-time champion of campaign reform should see the wisdom of standing up now. Senator Olympia Snowe of Maine, where campaign finance reform has been approved locally, can join with Senator Collins to save the reform legislation.

Other senators who have shown independence on this issue in the past, like John Chafee of Rhode Island, should also come to the rescue. Down the road, still more Republicans will be needed to save the bill, because it will take 60 votes to thwart a promised filibuster. For now, they should realize that if they let Mr. Lott kill the bill by subterfuge, their criticism of Democratic excesses will be mere opportunism and hollow rhetoric.

Mr. FEINGOLD. Mr. President, this again is another editorial indicating that people around this country know very well that what is going on here is not an opportunity to freely and fully debate and amend this bill but an attempt to narrow it down to one issue—and I am not saying it is not an important issue—but to narrow this whole issue down to one issue having to do with union dues, which could be easily resolved.

If everybody took a look at the McCain-Feingold provision, a provision that codified the Beck decision, a provision we placed in the bill after much negotiation, it says if you are a nonunion member and you do not want your dues to go to a political campaign, we can refund that. We codified what the Supreme Court said in that.

Our concern is that the majority leader's amendment goes well beyond that, knowing full well it would make it impossible for a real bipartisan bill to come out of this body.

Mr. President, if this were a proposal offered by a Democrat, and it had as its central premise the idea that the Federal Government should be regulating the internal functions of a voluntary organization, such as the Christian Coalition or the National Rifle Association, you can bet those on the other side would be beside themselves.

Mr. President, that is what a labor union is. In fact, if you read the Beck decision, as I did again today just to be sure, that whole decision is about the fact that the Taft-Hartley Act said they were not going to permit any more closed shops in America. So if you do not want to be a member of a union, you do not have to be but there would still be union shops. And that is because under that legislation, under that law, a union is a voluntary organization.

If members of a labor union do not approve of the collective bargaining activities or the political activities or any other activities of the union, they have the right to use the democratic process to change those activities. They can run for office within the union. They can build coalitions and seek leadership posts. And of course, Mr. President—and this is a point that has been glossed over far too often in debate—if the individual wants absolutely nothing to do with the union, he or she has the option of quitting or not joining the union in the first place.

Union membership is not mandatory. It is voluntary. But as the Democratic leader has pointed out, this provision, this amendment is not about reform. I am afraid it is a little more about the last election.

The sponsors of this proposal have come to the conclusion that all of the problems in our campaign system can be traced to the political activities of just labor unions. Who believes that? Clearly, labor unions are participants, but they are only one kind of participant and by no means the greatest participant when it comes to the kind of money that has been spent in recent elections.

The Senator from Arizona and I have come to a different conclusion. I know the Senator from Arizona believes passionately that the spending by organized labor has to be controlled with regard to elections, but he and I have come to the conclusion that to simply say that unions alone are the problem does not really measure the problem.

We have concluded we should craft a reform proposal that affects both parties—that affects both parties—in a fair and equal manner. We have concluded that corporate America is just as much to blame for our campaign system as labor unions or anyone else. That is the point here. There is plenty of blame to go around for everybody. Democrats are responsible, Republicans are responsible, corporations are responsible, labor unions are responsible, groups that are trying to divide us in this country are responsible. Everybody can and should accept part of the blame for this disastrous system.

What we are trying to do, what the Senator from Arizona and I are trying to do, is to get this nonsense to come to an end. Instead, we are being told by the supporters of the Lott amendment, apparently that when the Ford Motor Co. takes the money of its shareholders and makes a $500,000 soft money contribution to a political party, that is

perfectly fine; but if the United Auto Workers makes a similar soft money contribution to a political party, that is not OK. That has to be what the authors of this amendment are suggesting because they are not suggesting that we treat them in the same way.

Of course, the other problem with the amendment is that it appears to be offered under the mistaken assumption that the underlying McCain-Feingold proposal would have no impact on labor unions. Mr. President, that is just false. The Senator from Arizona and I have worked hard to make sure that in a fair manner the activities of unions and other organizations that seem to distort the political process are affected.

First of all, the bill bans all union and corporate soft money contributions to the parties. We ban it across the board. That includes all union soft money. But it also includes if it is done by the Ford Motor Co. In short, Mr. President, under McCain-Feingold it will be illegal—illegal—for a labor union to use the dues of its members or nonmembers—members or nonmembers—to make a soft money contribution to political parties.

So what is the problem if the dues can't be used for soft money, I say to my colleagues, whether union member or nonunion member? Where is the evil that we are not correcting?

Second, the McCain-Feingold bill provides that no organization, whether it is a labor union, a corporation or any other organization, can use unregulated soft money to fund those phony attack ads against candidates that are disguised as so-called issue ads. That is because of our concern that if we only ban soft money, all the money will flow into phony issue ads and you will end up with the same situation. That is a very significant restriction on the way in which unions participated in the last election, probably even more significant in terms of dollars than the soft money restrictions.

Again, it would be illegal, Mr. President, illegal under McCain-Feingold for a union to use the dues of its members or nonmembers, either one, to run those political ads attacking or supporting candidates that are not raised using hard money and properly disclosed during the 60-day period.

Mr. President, the third provision in this bill is one that is actually aimed only at labor unions. The other two really take care of the problem. The issue of phony issue ads and soft money are the big-ticket items with regard to union or corporate spending, but the third provision is aimed directly only at labor unions. Mr. President, it does exactly what the folks on the other side of the aisle have been calling for for years. It codifies the decision of the U.S. Supreme Court in the Beck decision.

This provision requires unions to notify nonunion members that those individuals are entitled to have their agency fees reduced by the amount the union spends on political activities. Mr. President, as you can see, the unions have every right to participate in our political system, and are taking a number of hits already under this bill. Our point is they should not be singled out as the only ones to be limited in this regard. Unfortunately, that is not enough for the sponsors of this proposal. I fear they want to cut unions out of our political process completely.

Some Senators have said they do not believe anyone in America should have to contribute involuntarily, Mr. President, to any political campaign. But what would happen if you applied that principle to corporations and other organizations, as well? Say I am living in Eau Claire, WI, and I own several shares of stock in AT&T. I assume that money I have invested in that corporation was being used to grow that company and improve its market share. That is what I would hope the company would do to protect my dollar, to do their fiduciary duty to their stockholders. Would I be surprised to learn my money is being used to finance a $500,000 soft money contribution to a national political party? Sure I would. Would I be informed of that contribution? Would AT&T have to get my permission before they use my money for that purpose under the Lott amendment? Absolutely not. Unions have to do it but AT&T doesn't have to do it. So much for fairness under this amendment.

Another telling indicator of the true purpose of this proposal, I am afraid, is the timing. If these union activities are such an affront to our democratic system, I want to repeat, why wasn't S. 9, a bill introduced on the first week of our Congress, brought to the floor before this point? The senior Senator from Oklahoma introduced this bill on this matter on the very first day of the session back in January. It was one of the highest priorities of the Republican leadership. Why hasn't it been marked up, even in committee? The answer is clear. It is serving a different function. Its function here is to fill up the tree, as we say, and prevent other amendments and perhaps to kill the bill. Mr. President, I am afraid this is not about the role of labor unions. It is too much about partisanship.

The majority leader stated a week ago Friday his intention was to create a situation where the Democrats would be forced to filibuster campaign finance reform. Those on the other side know that the passage of this amendment will trigger such opposition. I am disappointed that some have concluded that the purpose of this debate should be to see which party can get the other one to kill campaign finance reform. The Senator from Arizona and I have been working hard on ensuring that this proposal is fair to both parties. We have made compromises. We have attempted to craft a bill that would give both parties credit, together, for passing campaign finance reform.

Make no mistake, whether it was truly intended to do this or not, the proposal before the Senate today in the form of the Lott amendment would kill campaign finance reform. The vote on this proposal would be the vote to determine if we pass meaningful campaign finance reform this year or not. We know the vote will be close. We know it will come down to one or two Senators. So I hope, regardless of every Senator's personal feelings about how much we should do with regard to unions specifically, my colleagues will recognize this is not a vote about restricting labor unions but a vote to kill campaign finance reform.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I rise today in support of the Lott amendment and in opposition to the McCain-Feingold bill. It is not without some reservation that I take that position. I have the greatest esteem and respect for the Senator from Wisconsin and the Senator from Arizona. I know their motives in all of this are good and honorable.

I just happen to come from a State, however, where we enacted a bill not dissimilar—not identical, but not dissimilar—to the McCain-Feingold bill. My State legislative process went through an entire cycle with Byzantine kinds of rules applied before our State supreme court, a very liberal supreme court, threw it all out as unconstitutional, as violating the right of freedom of speech.

Now, Oregon is a State that is known for good clean government, good clean many things. We have in our State no allegations of corruption, or frankly they are very infrequent. We have voter turnout that often exceeds 80 percent. We have a very healthy democratic system in my State.

Notwithstanding that, in 1994 there was an initiative that came to our ballot, very similar to McCain-Feingold, that applied to State legislative and gubernatorial races. I will admit that it passed by a large margin. I said to myself, why would it pass by a big margin if we have a good thing going here, frankly, good government in our State? I think it is simply because people don't like to be inconvenienced by democracy sometimes, and I know how they feel. I don't like to see negative ads and I don't like to be imposed upon sometimes, but frankly, democracy sometimes is uncomfortable. It is sometimes messy.

On first blush it appeared to be a very good bill. However, when it came to its enactment, our secretary of state

tried to explain it to all the legislative candidates. Everyone was wondering how you can run for public office. There were limits placed upon what a candidate could raise. There were limits placed upon what a citizen could contribute of $100. And the net effect of it all is that a State legislative office seeker could raise about $20,000 to $30,000, and that would buy maybe a couple cracks at communicating with his constituents.

The interest in the process didn't leave. It just simply vacated the open air of democracy and went back into the smoke-filled room. I am talking about organized labor and I am talking about big business. They, then, ran campaigns about candidates in the most slanderous and scurrilous of ways. For those campaigns, no one was accountable, no one was responsible. And in the end, I believe our democracy in the 98th cycle was dumbed down and disserved. Importantly, our Supreme Court, as I mentioned, declared it all unconstitutional. They did so correctly.

Now, when I ran for the U.S. Senate I ran in a special election against my friend, now my colleague, my former competitor, RON WYDEN, a Member of this Chamber. He and I became the focus of the entire country in contesting for the seat formally held by Bob Packwood. Let me tell you what happened. Both of us were running hard-hitting campaigns. Then we became the victims, and I believe myself especially, by what I term "drive-by shooting" on our democratic process. I had, in the course of several weeks time, $1 million of the most scurrilous kinds of ads run against me and I hated what they said.

I remember my little boy sitting watching television when I happened to be there and seeing one of the ads that they ran, and he turned back to me with wide eyes and tears in his eyes and he said, "That was a very bad ad, Dad," and it was.

You might think because of that I would want to shut down the ability of the unions to participate I don't want to do that, but I don't want to shut down the right of people like me and you to respond to these kinds of attacks. That is what these kinds of limits will do.

I truly believe that banning soft money is unconstitutional for many of the same reasons our State supreme court found it unconstitutional. I believe the U.S. Supreme Court would find such attempts here to be unconstitutional. Limit it—you may be able to do. But if you limit it, and I may even be able to vote for some form of limitation as we apply limits on contributions directly to candidates, perhaps there can be some constitutional limit on soft money. But if you do that, then there should be no more compulsory element left in this process.

Frankly, the huge loophole is this loophole provided by compulsory union dues. Unless the Lott amendment passes, I can't go any farther, because I saw what happened. It happened to me, and it happened to Republicans and Democrats alike in the State of Oregon. They had campaigns run about them and they were grossly unfair. I don't want to support campaign finance reform that will dumb down our democracy in that way. Indeed, I believe some of the best things that we could do are to require voluntarism in this process and then to put some reasonable spending limits or caps on soft money contributions and then to require candidates to disclose on a daily basis the source of their contributions 3 months out from a campaign so that the public knows if one candidate is getting too much from business or another candidate is getting too much from labor. Then they can decide whether that is significant to them when they cast their sacred vote.

In my view, the cure for bad democracy is not less of it but more of it and more open. I don't see that we provide for that in the McCain-Feingold bill. I see many things resulting, as they did in Oregon, which left my State in one election cycle, I believe, poorer for it.

So I plead with my colleague, vote for the Lott amendment, and then let's talk seriously about some things that we can do to make this whole process fair for both sides.

I yield the floor.

Mr. BRYAN. Mr. President, I rise today in strong support of the bipartisan campaign finance reform legislation offered by my colleagues, Senator FEINGOLD and Senator MCCAIN. I am pleased to join with all 44 of my Democratic colleagues, as well as Senators MCCAIN, THOMPSON, COLLINS, and SPECTER. I hope during the course of this debate others will join us in this first step in campaign finance reform that we so desperately need.

Campaign finance reform is an issue that deserves our full consideration and one that must be voted on this year, whatever time it takes. Mr. President, I would like to, at the outset, commend Senators FEINGOLD and MCCAIN for their thoughtful and careful bipartisan approach in crafting a piece of campaign finance reform that, although I believe it to be modest—more modest than I would have preferred—nevertheless marks a beginning.

The integrity of our political system is threatened by the tremendous amounts of money required to run for public office. The Members in this Chamber know it, political scholars know it, and the American people know it.

Mr. President, I first sought elective public office in 1968 as a candidate for my State legislature. Then and now, some money was required in order to put together a campaign, to prepare the necessary kinds of materials, and to make sure the constituents that one sought to persuade knew what your message was. Over the intervening years, I have had occasion to run for State elective office on four different occasions and have had an opportunity to run for the U.S. Senate twice now. There is no question, from any perspective, any point of view, that the amount of money that is involved today in the American political system far exceeds, by any measure, any growth that may be attributed to inflation or any other reasonable consequence, including the growth of the population in my own State and generally across the country.

There has been, during that intervening nearly 30 years since the time I have been involved in the elective political system, a marked decline in voter participation in this system. This is an alarming trend. It does not bode well for Democrats or Republicans or Independents, nor does it bode well for the future of democratic institutions.

Mr. President, I believe that there is an absolute correlation between declining voter interest and the ever larger sums of money being raised to fuel the money chase. Nearly $2.7 billion was spent on campaigns in the last election cycle. Every year the expense of campaigning climbs higher and higher, and the pressure to seek financial support for those who seek public office intensifies accordingly.

I know that some contend there is not enough money being spent in the American political system. I respectfully disagree with that opinion, and I believe that the great majority of the American public disagrees as well.

A full 92 percent of Americans believe that too much money is spent on campaigns. The Wall Street Journal poll of December of last year reflects that number. Indeed, money has become a dominant factor in American politics as to who runs and who wins. As a consequence, our political system is on a downward spiral that will continue to spin out of control unless we have the courage to take the steps necessary to stop it. There is a sense of irony, Mr. President, that the institution that benefits the most from the current system is the only one that can reform it. But we must put the interest of country ahead of our own political success and ahead of party interests.

The revised McCain-Feingold bill is, as I have said, a very modest proposal; nevertheless, it is a first step in reforming a campaign financing system that cries out for change. It just might begin to restore the people's trust in the ability of their elected officials to stop the hemorrhaging of the political system and to allow the healing process to begin. As I said, I would have preferred a more comprehensive approach, but that is not to be. However,

this is an effort which may have a chance to attract more support and thus has a chance of becoming law. Senators FEINGOLD and MCCAIN have carefully reshaped their original bill as a compromise with the hope of attracting additional Republican votes, which will be needed for its passage.

First, the McCain-Feingold legislation bans the use of so-called soft money by the national political parties from corporations, labor unions, and wealthy individuals. State parties would be banned from spending soft money on activities related to Federal elections.

The creative expanded uses by both political parties of soft money has significantly increased the demand for campaign contributions. This past 1996 election year was the costliest ever in our Nation's history. Both parties raised overall $881 million for the election—a 73-percent increase over the amount of the preceding 4 years when the parties raised $508 million. In soft money alone, Democrat and Republican parties raised $263.5 million. That is nearly three times the amount that was raised in the preceding 4-year cycle. From 1988 to 1996, the amount of soft money raised by the parties has increased by nearly 600 percent.

What needs to be done? The American people have been asked what they think needs to be done to reform the political process in this country. From the NBC/Wall Street Journal survey of June 1997 when that question was propounded, the American public is not confused. Perhaps some Members of Congress are confused, but the American public is not confused.

Reduce the amount that candidates can accept from political action committees, impose overall spending limits on campaigns, eliminate large contributions to political parties, and provide some financial incentives to candidates.

Sixty-two percent of the American people believe that is what ought to be done.

Among the other options that were discussed were:

Remove all limits on contributions so people can give as much money as they want, but require more timely disclosure of these donations.

Some of our colleagues believe that we ought to be spending more money in running for public office. The American public disagrees overwhelmingly. Only 18 percent favor the removal of limits on contributions.

Leave the current campaign financing system intact.

Only 14 percent favor that course of action.

Now, I understand that the debate and the argument is that campaign spending is a form of free speech and therefore cannot be regulated in any form. The American people, when asked that question, conclude that—18 percent of them—as a form of free speech, that cannot be regulated; and 74 percent believe campaign spending has nothing to do with free speech and that spending limits should be imposed. That data is also from the previously cited 1997 NBC News/Wall Street Journal survey.

Mr. President, I understand, having had occasion to practice law and having served as the attorney general of my State, that the constitutionality of an issue cannot be determined simply by a majority of public opinion at any one time. I certainly do not argue that to be the case because constitutional principles rise to a higher level than what a majority at any given point in time might favor. Nevertheless, during the course of debate on this and other legislation, critics of proposed legislation frequently invoke the contention that the legislation as drafted is unconstitutional. That debate has occurred in the context of this bill. The able and distinguished Senator from Kentucky has cited a number of constitutional scholars who weighed in in favor of the proposition that this legislation, in its attempt to limit soft money and other restrictions, is unconstitutional. On the other side of the constitutional divide, an equal body of distinguished scholars have weighed in on behalf of the proposition advocated by Senators FEINGOLD and MCCAIN and have asserted that these provisions are indeed constitutional.

My point in mentioning this is that we in this Chamber are not going to be able to decide that issue. We will not be able to resolve it. That is not our function. The function of the legislative branch of the two Houses of Congress is to enact legislation and, indeed, if the legislation that we have enacted is in any way constitutionally flawed, the courts—ultimately the Supreme Court of the United States—will make that decision, and the courts have done so when they believe that we have overstepped the constitutional limits in imposing restrictions on our campaign financing system.

Mr. President, we ought to allow the courts to make that determination and to move this legislation forward so that those who seek to challenge it have an opportunity to do so in the only meaningful forum in which this issue can be resolved on a constitutional basis, and that is in the judicial arena.

Mr. President, unless we have the good sense to change the rules of the game, candidates and their political parties will continue to pursue the money chase and the amount of money involved in future campaigns will continue to grow rapidly. I frequently tell the constituents in my own State that this fatally flawed campaign system that is involved has locked good people into a bad system in which, almost from the moment of our election, it is impressed upon us that the next campaign, if we choose to run for reelection, will be more costly than the previous one, and our focus almost immediately is upon how much money will I have to raise each week that I serve, each month that I serve, if I choose to seek reelection.

The amount of money has increased, as I have indicated, not just arithmetically based upon factors of inflation and the growth that is occurring in the populations of our respective States, but they have grown exponentially, and it might constitute the gravest threat to the integrity of the political system in America.

This bill proposed by Senators MCCAIN and FEINGOLD would do several things. In addition to the ban on soft money, the bill places a restriction on issue ads by independent special interests. If a Federal candidate's name is mentioned in any broadcast television or radio communication within 60 days of an election, for example, then this candidate-related expenditure will be subject to Federal election law and must be disclosed and financed with so-called hard dollars.

The Supreme Court has ruled that only communications that contain express advocacy of candidates are subject to Federal disclosure requirements and restrictions. This proposal would extend to include issue ads running 60 days prior to the election in which the individual candidate's name is mentioned in those ads.

Third, the legislation increases disclosure requirements and requires the Federal Election Commission to make campaign finance records available on the Internet within 24 hours of their filing. It requires political ads to carry a disclaimer identifying who is responsible for the content of the ad. Simply put, disclosure requirements would bring more accountability and responsibility to our political process.

Fourth, the bill prohibits political parties from making coordinated expenditures on behalf of Senate candidates who do not agree to limit their personal spending to $50,000 per election. This provision, in my opinion, will help to level the playing field between wealthy candidates and those candidates who do not have deep financial pockets.

Fifth, this bipartisan legislation prohibits anyone who is not a U.S. citizen from making financial contributions.

Finally, and what has become a central focus of this issue in recent days, McCain-Feingold requires that labor unions notify nonunion members that they are entitled to have their agency fees reduced by an amount equal to the portion of the fees used for political purposes if they file an objection to the use of those fees—a so called opt-out system in which the member can notify the union that he or she does not want any union dues used to finance any

part of the political campaign contribution system. Fair enough, it seems.

The Supreme Court's 1988 Beck decision explicitly states that nonunion members in union shops may choose to pay reduced agency fees, and the McCain-Feingold bill simply codifies the Beck decision.

(Ms. COLLINS assumed the chair.)

Mr. BRYAN. Madam President, we hear that opponents of McCain-Feingold have argued for the need to codify the Beck decision. Senators FEINGOLD and MCCAIN have done just that by including a provision that expressly codifies the Supreme Court decision.

Now, however, there is an effort to seek a new amendment, a new provision. The pending amendment is clever. It indeed may rise to the level of being ingenious. But its sole purpose and function is to kill the cause of campaign finance reform. The majority leader himself was quoted in the Wall Street Journal in September this past month as saying:

I set it up [referring to the amendment] so they will be filibustering me.

This is a political tactic that is designed to thwart, to prevent campaign finance reform. It clearly indicates that this is not a serious debate about reforming our campaign laws.

Perhaps the Washington Post editorial of October 1, 1997, sets the record in the proper context. And I quote:

Senate Majority Leader Trent Lott, having magnanimously allowed campaign finance reform legislation to come to the floor, now proposes to kill it with an amendment affecting the use of labor union dues for political purposes.

I regret that the amendment in that form was offered. I hope that some mechanism might be developed to permit us to pursue campaign finance reform and offer other amendments without this particular provision which has been variously characterized as a "killer" amendment or a "poison pill" amendment because I believe that its purpose is to effectively prevent campaign finance reform.

Mark Twain once observed that "Everyone complains about the weather, but nobody does anything about it." The same could be said about the way we finance our campaigns for elective office.

If there ever was a time to reform our political system, the time is now. Neither political party has benefited in terms of public opinion from our present campaign finance system. Overwhelmingly, 92 percent of the American people believe that our system desperately needs reform and the time for us to do it is now. If we let this opportunity slip away, I fear that real campaign finance reform may not be enacted.

We need to ban soft money, and to stop the onslaught of negative ad attacks on political candidates.

We need to level the playing field, and give challengers who want to run for Congress and to prove that their ideas have merit and represent a broad base of public support the opportunity to do so.

Madam President, we need to restore public confidence in the American political system. And I believe that the McCain-Feingold revised measure represents our best hope for making these significant and needed changes prior to the next election.

I yield the floor.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Madam President, I am very pleased that the Senate has finally taken up the discussion of the McCain-Feingold campaign reform legislation.

I very much appreciate the efforts of Senator DASCHLE in pushing this process forward. His role in demonstrating that all 45 Senate Democrats support the revised version of McCain-Feingold I think was essential. And I hope that it becomes clear to all Americans that with the one additional Republican vote necessary that we will in fact achieve historic reform of the campaign funding system in our Nation.

But I also want to applaud Senators MCCAIN and FEINGOLD for what has been a tireless effort on their behalf in forging this bipartisan compromise legislation. We have seen many good bills fall by the wayside over the years. But this seems to be one of the best opportunities in recent years to actually achieve real reform.

That said, I have to express disappointment on my part that this legislation has been stripped down to a more modest level from its original version. In particular, I am disappointed that the system no longer creates a system of voluntary spending limits in the way that the original bill did. I believe that kind of limitation, that kind of restraint that will slow the nuclear arms race of campaign fundraising and spending in the long run, will in fact be essential.

Madam President, I have been a longtime supporter of campaign reform legislation. My experiences over these past 2 years have made it even more apparent to me that passage of this campaign finance reform legislation is absolutely critical to the health of our democracy.

There are those who would suggest that any restraint on spending of any kind is somehow a dumbing down of our democracy when in fact the reality is just the opposite. The quality of our democracy, the integrity of our democracy, is not a function of how much money we spend. It is a function of how well the debate is conducted.

There are those who have legitimate philosophical problems. There are those who simply see the status quo as being supportive of their own current election to the body, and to the House of Representatives. But I think that there are a great many of us here—and I believe a majority, if the opportunity were afforded to us to actually cast a vote on the merits of campaign finance reform—who would actually support this sweeping legislation.

I personally have just been through one of the longest and, frankly, one of the most expensive per voter Senate campaigns in the history of America. My opponent and I spent a total of $24 for every vote cast. And, if one were to include the money spent by the national party organizations and the various independent groups, total spending would rise to around $29 per vote. All of this money produced one of the longest political campaigns the Nation has ever seen. My opponent began running campaign commercials 17 months from the election, then 13 months before the election—an attack ad campaign, one that I had to respond to, although I was not yet even formally an announced candidate in the race.

That is the kind of campaign negative—vitriolic, long-winded, long-standing—that did nothing to improve the confidence of the American public in our political process, and did nothing to restore confidence that in fact the system reflects their values and their ideals and their values. It was simply a system awash in too much money.

Put in perspective, in South Dakota, our small State, with statewide television advertising relatively inexpensive, for a race like this, if one were run in a State like California at $29 per vote cast, the cost would be staggering. The equivalent cost in the State of California would be a $250 million Senate campaign.

Some argue that the money is good for democracy, that the voters will be more educated by this kind of enormous financial overkill.

Last week, the Washington Post quoted the House Speaker saying that "If you have enough resources on both sides, you can actually communicate rationally." In his view, the more money spent by candidates the better.

But I can tell you with utmost certainty, given my own experience, that these arguments are utterly wrong. Voters in fact over recent years have been turned off by campaigns of this duration and of this negative quality because of unending commercials.

As I speak to South Dakotans in every corner of my State, there is a fervent wish that we could return to the days when campaigning began with great seriousness around Labor Day of the election year—not Labor Day of the year prior.

The appearance of this amount of money, the appearance of the raising of this amount of money, is one that gives rise to attitudes that the entire

system is corrupt, the entire system is unresponsive, and the American public, that there is too much time spent raising the money.

Madam President, how long is it going to be that Members of this body and Members of the other body vacate their offices daily to go to their private campaign offices in the row houses and the streets off the Hill to make their fundraising phone calls, to do this "dialing for dollars," as it is referred to around here, trying to raise the amount of money necessary to run one of these campaigns?

The typical U.S. Senate campaign, if it were raised in an equal level of energy throughout the 6-year term, would require the incumbent to raise $14,000 a week, every week, 52 weeks a year, for 6 years.. Madam President, that is not the kind of money that can be raised casually. That is not the kind of money that can be raised with a barbecue in your backyard back home in South Dakota, or whatever State you are in. That is not the kind of money that can be raised in small increments. That requires a concerted, sophisticated, methodical effort. And it is corrupt and demeaning to the service in this body. And it is destroying the public's confidence in the quality of the deliberations that take place here, and in the kind of accountability that this body has.

As the amount of money rises, what we have seen last year in the last cycle becomes only more so in the future. The amount of money to raise to win a congressional seat has continued to rise astronomically. According to the Federal Election Commission, the typical candidate for an open seat in the House of Representatives raised nearly $600,000—close to double what was required only 4 years ago. The growth in so-called soft money has been even more explosive. Data from the 1996 elections show that the amount of soft money that was raised and spent was more than three times what was spent in 1992, and 11 times more than was spent in 1980.

It should be so fundamentally absolutely clear that something is wrong—something is terribly wrong with our system of financing elections in this country.

Campaigns have become in many ways little more than a campaign finance arms race. And the American public has understandably become disenchanted with politics in large part because of this process.

There are people who suggested that all we need to do is to ban soft money raised by the political parties. Again, a mistake. Banning soft money without addressing the expanding role of independent groups and political campaigns would not go far enough, and it could create a whole new set of problems. We need to redefine the term "soft money" to include all forms of campaign spending that is presently unregulated.

During the 1996 election cycle when we experienced a flurry of campaign activity by independent organizations and congressional races, independent expenditures accounted for $19 million of spending—most of it targeted to key congressional races.

An even more pressing problem is the new phenomenon of issue advocacy advertisements. Last year's Supreme Court decision in the Colorado case opened the floodgates for this kind kind of activity.

According to a study by the Annenberg Center at the University of Pennsylvania, one-third of all campaign advertising totaling $150 million came from these so-called issue ads. Just as influential as other ads, they are political ads. They are not subject to the same fundraising regulations as in reporting requirements. Nobody knows where the money comes from. They are utterly unregulated.

The Annenberg study indicated that issue ads were the most virulently negative ads on the air. Overall, 81 percent of these ads were attack ads.

We have also seen the last expansion in the political activity by tax-exempt organizations—organizations, in effect, using taxpayer dollars to further a very political agenda on the left and on the right. And 30 tax-exempt groups are not supposed to be engaged in partisan political activity. But the reality has become very apparent to everyone who has even had a casual following of what has transpired over these last 2 years. In particular, banning soft money to political parties without addressing the growing problem of third-party groups would merely cause more money to flow into these unregulated groups.

One of my fears is, while we may limit spending that flows formally through the campaign structures of the respective candidates and their parties, that the money then as water flowing downhill washes increasingly into even more unregulated and less accountable mechanisms for running the campaigns, and the candidates will find themselves increasingly irrelevant to their own political campaigns, the political themes. And the political attacks and responses will be orchestrated and designed and organized by these so-called tax-exempt groups—groups that are, in fact, using taxpayer dollars in effect to run their partisan independent issue advocacy kinds of campaigns.

That does a disservice to the political dialog in our Nation. That does a disservice to any hope that we have that political candidates will be accountable to the public for the positions they take. The American public deserves better than that, and that is why we need campaign finance reform and that is why we need a broadened sense of soft money regulation.

It is not clear whether there are going to be any amendments allowed in the course of this debate. It is certainly my hope there will be. That is the nature of debate in this body. It is what we have done for 200 years on issues of great public significance. And yet we find a parliamentary procedure being used that may, unfortunately, stop amendments, stop debate and cause this whole exercise to come tumbling down.

But if we have an opportunity for a full, meaningful debate, involving amendments, if we are allowed to offer amendments, I have two I want to pursue. One is an amendment that would deal with the problem of candidates spending their campaign funds for personal use. This is something I think has become out of hand, as reimbursement payments to elected officials are not itemized and there are literally thousand-dollar reimbursements coming back to candidates for their personal use.

I think we need to clean this up. I think we need to take another step in the right direction to make the American public think that in fact this system is responsive to them, that campaign money is not some additional source of slush fund, not some additional source of personal financial wealth that is available to candidates.

A recent study by the Gannett News Service last year showed that many candidates have reimbursed themselves thousands upon thousands of dollars from their campaign funds with virtually no explanation of where the money has gone, what it has been used to purchase. I believe the same itemization requirements ought to be applied to candidates as are applied to other areas.

Second, I believe another matter in cleaning the system up and restoring a greater sense of integrity to the system is campaigns ought to pay the fair market value for use of private aircraft such as the corporate jets that transport Members from one corner of this continent to the other. Currently, candidates simply reimbursing the equivalent of first-class airfare, when in fact the cost of this transportation is often in the tens of thousands of dollars, and again going unrecorded, results in less accountability than I believe we should have.

We have had a historic first session of the 105th Congress as we come down now to this final month in the sense I think we have dealt responsibly with the Federal budget, the Federal budget deficit, with the design of some tax relief, in placing I think a greater emphasis on education, preserving a commitment to the environment, doing I think some positive things. But this Congress cannot be deemed a success and history will treat this Congress poorly, in my view, if we miss this opportunity now to enact meaningful, significant campaign finance reform, reform that is supported by the nonpartisan reform organizations around

the Nation, one that is not designed to tilt the playing field to one political party or the other because, frankly, in past years that has happened from time to time. We need to get away from that and, in fact, to pursue this kind of significant reform that has bipartisan support, that is supported on a very broad basis by the American public and to quit making excuses to the American public about why it could not get done, no more excuses about why the money will continue to mount, no more excuses why there will not be any greater accountability than in the past, about where the money is raised and how it is spent, no more excuses about why these campaigns are taking now years and years rather than months and months to transpire, no more excuses about where the money came from and who, in fact, has their interests best being considered by our legislative bodies in Washington.

We have that opportunity now. We cannot allow this to escape from us. We have, today and tomorrow, an opportunity to cast a historic vote to get past some of the parliamentary abuses that are attempted to be used here, the poison pill parliamentary efforts, to get past that and to allow each one of us in this body to go home at the end of this session of the 105th Congress and to look our constituents in the eye and say, I voted for or I voted against campaign finance reform on the merits, up or down. Let us be permitted to cast that vote with the full breadth of debate. While I am worried that that may not in fact transpire today or tomorrow, during the remainder of this 105th Congress we have this great opportunity and it is certainly my hope we will not allow it to slip.

I yield the floor.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. I thank the Chair.

Madam President, much of the debate this past week about campaign finance reform has missed an important dynamic of the political process. The integrity of any process depends on the integrity of the individual. We recapture the trust and confidence of the American people not by passing more laws, more regulation and more Government but by taking responsibility for our own actions and the conduct for our own campaigns—personal responsibility. Will more Government control, more regulation, more law really change our behavior and our conduct? Will more Government control make us more honest and fill us with newfound integrity? I do not think so.

Systems are corrupt because of the people. Systems are not corrupt because of the system. When we lower our expectation and we lower our standards, as we have in American politics, we lower our self-worth. We lower the system. And when we do not expect much, we do not get much. When we do not expect much from our candidates and our politicians, we will not get much. It all becomes self-fulfilling.

Now, why do we blame the system and excuse the violators? Where is the outrage over those who subvert the system and deliberately break the rules and the laws already in place? Where is the outrage over individuals who break the law and refuse to take responsibility for their own actions? Where are the voices demanding personal responsibility and personal accountability? Where are those voices? Those voices are now talking about the system.

We glide over the alleged wrongdoing of individuals, saying, well, it doesn't count, it doesn't matter—like it is beyond our control. We say that it is the system; that is the problem. The system is flawed, not the individual but the system. We say that money is evil, money is the terrible evil in our system. We excuse the alleged wrongdoing and corruption by blaming the so-called vagaries of the campaign finance system and the laws.

We dance on the pinhead of technicalities. What is allowed? What is not allowed? What is the correct shading of the law? Did the person really break the law? How must we change the rules and regulations so that this never happens again? All we need is more Government. Everybody knows that. If we have more rules, more regulation, more enforcement, more Government, then people will abide by the law.

Something is greatly amiss when we are debating the technicalities of right and wrong. There are no technicalities between right and wrong. Right is right. Wrong is wrong. There are no shades of right or degrees of wrong. The difference between right and wrong is not subject to a controlling legal authority. It is a matter of honesty. It is a matter of simply just doing the right thing. Is that difficult to grasp? Is that so difficult to this body to grasp?

We are here today debating whether or not to pass new laws based on the fact that some people broke the law, or at least allegedly broke the law. Those are laws that we already have. Those are regulations and rules on the books now. It is very clear. We already have laws prohibiting foreign contributions. We already have laws prohibiting the solicitation of campaign funds in a Government building. We already have laws that very clearly spell out the difference between so-called hard money and soft money.

I ask my colleagues one question: How will changing the rules and the laws and the regulations change behavior of those already inclined to break them? It will not. No number of new laws and new regulations will change the basic integrity of the candidate. The integrity of the system depends on the integrity of the candidate. Each candidate must take personal responsibility for his or her own actions in the conduct of their campaigns. We need to focus on individual violations of current law. We need to focus on individual conduct and behavior, individual responsibility and accountability. If each of us in public office conducted our campaigns, every aspect of our campaigns in a manner that our constituents will be proud of, not necessarily always agreeing with our positions but be proud of how we conduct ourselves and our campaigns, then we would not be engaged in this campaign finance reform debate.

People get involved and participate in a democracy because they believe in things. The idea that more people will participate in our political process if we pass more laws and regulations completely discounts the nature of free people. Politics is about people. Politics is not about Government. Politics is not about rules and regulations. Politics is about people. Politics is about people who believe in things. We will not restore the trust and confidence of the American people in elected officials and the political system by placing further restrictions, by placing further restrictions on the rights of Americans to participate in the political process.

A former Governor of Deleware and former Member of Congress, Pete DuPont, made a very compelling argument in last week's Wall Street Journal when he wrote that limits in campaigns are akin to price controls in the economy. And he said, "All of these ideas are bad economics, bad politics and, as 40 centuries have proved, very bad public policy."

The best way to correct the system is not to replace an old bad set of rules with a new bad set of rules. That is not reform. That is rearranging the restrictions. Too many people here in Washington confuse the two. The best thing to do would be to provide the American people complete and immediate disclosure of all contributions—complete and immediate disclosure of every dollar in the system. Hard money, soft money, independent expenditures, every single dollar that goes into the system must be disclosed immediately.

The press already does a good job of telling the people who is giving money to whom, when the media knows, that is. I have every confidence that if we had full disclosure of every dollar, the press would inform the people as to who is giving and receiving these contributions. They will tell the people who is spending the money for or against candidates. They will let the people know where candidates are getting their campaign contributions. Let the press do the job and report all of these contributions.

I trust the people. I trust the people of this country to be able to sort it out. If they have the information, if the people of this country have the information, they will make an informed

decision. They will determine what is acceptable to them, not because some bureaucrat or Washington regulator tells them what is right or wrong but the people sort it out. Just give the people the information.

As Governor DuPont wrote, "A well-informed electorate will safeguard American campaigns far better than any appointed group of the best and brightest Washington regulators."

Another change we might look at is to again make political contributions tax deductible. We used to do that. We allow people to deduct contributions to charities. We allow union members to deduct their union dues, but if people want to participate in American democracy by giving money, it is not tax deductible. Is not our system of self-government just as important as a charity or a union?

How will we restore the trust and confidence of the American people in their elected officials? By electing good people to office, by holding those who serve in public office accountable for their actions, and holding them to the highest standards. I consider serving in public office to be an honor and privilege. I know every one of my colleagues feels the same. This is not a right. This is not a right, to be in this body, to hold public office. It is not mine to hold onto by whatever means I can, no matter how questionable those means. It is a privilege bestowed on me by the people of my State. It is a privilege they also have the right to revoke. The people need to be our partners in the political process. We can create all the laws we want, but only the people—not the laws, not the regulators, not the regulations, not the system—but only the people can hold elected officials accountable for their actions. Only the people can, through their votes, determine when someone no longer deserves their trust and confidence.

I believe that for far too long we have been creating a society less dependent on the voluntary rule of honesty and good behavior of the citizen than on the impressive mandates of Government. Government does not mold human behavior. Behavior comes from within. I cannot support any proposal that seeks to limit the ability of the people and institutions to express themselves and takes the power to shape our public policy debate away from the people and gives it to the Government. I cannot support such legislation. That is what McCain-Feingold would do, in the name of reform.

What are we really reforming, the right of people to participate in the political process? In a free democracy, taking away people's rights is not reform. In *Buckley* v. *Valeo* the Supreme Court ruled the debate about campaign finances is about the fundamental role of the people in our democratic society. The Court wrote:

> In the free society ordained by our Constitution, it is not government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

Madam President, the system has not failed us. Campaign dollars are not the problem. They may be the excuse—the system, dollars, may be the excuse for some. But our problems are with ourselves. What outrages the American people is the conduct of some politicians—and my good friend, Senator MCCAIN, talked about this earlier this afternoon when he referenced in the poll the "lying windbags," the lying windbags that many people think of as politicians, and I know that is true. But what really outrages the American people is the conduct of some politicians and their supporters who have corrupted the system by violating the integrity of the process for their own end.

Our political leaders have, as one of their most sacred responsibilities, the responsibility to set the moral tone in America and give moral leadership. I do not mean religious leadership. I do not mean religious leadership. I mean moral leadership. Moral leadership goes well beyond the rule of law and regulation. Were the great leaders of our Nation great because of laws and regulations dictating their actions and behavior? No. Our great leaders were great because they had a moral compass and they shared that moral compass with our people and our Nation. And they relied upon that moral compass for governance. America deserves leaders who lead through the force of character and integrity, not through the force of regulation and law. Before we reform the campaign finance system, we should first look at how we might reform ourselves. We might look at how we might reform ourselves.

Madam President, I would like to end my speech this afternoon with a quote from Thomas Jefferson, our third President, one of our Nation's strongest defenders of the rights of the American people. Thomas Jefferson said, many, many years ago:

> I know of no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is surely not to take it from them, but to inform their discretion by education.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Madam President, as I mentioned when I was last on the floor, the campaign finance reform bill we are debating will not produce meaningful political reform. The McCain-Feingold proposal will not lead to reform because it leaves the single greatest obstacle to competitive elections untouched. In fact, it will strengthen the single greatest obstacle to competitive elections. That obstacle is the advantage of incumbency, which is now and always has been the single greatest perk in politics. An incumbent has access to the podium, access to the news media, and the ability to create name identification. Any time you limit political spending, any time you limit what the competitor can generate in terms of information, you strengthen the incumbent.

I submit that Hershey doesn't need to advertise that it sells chocolate, but a new competitor does. And those who inhabit public office are well-known for the fact that they inhabit it. But new individuals need to have the ability to create that same awareness in the mind of the public.

Campaign finance legislation that restricts core political speech strengthens incumbents by limiting the ability of challengers to increase their own name recognition and to highlight the incumbents' voting record on issues of concern to the voters.

So, if you say you cannot spend much money against an incumbent, and your supporters can't talk about his or her voting record, then you can't match the incumbent's advantages of being on C-SPAN in the Senate Chamber, of moving through the news industry with press releases. If Senators want true political reform, the answer is to limit terms, not to limit speech. Let's limit politicians, not the citizens. We should be talking about limiting the tenure of people in public office, not the first amendment rights of the citizens of this country.

To this end, this afternoon, I have filed an amendment to the pending campaign finance reform legislation that would authorize States to impose term limits on their Senators and Representatives. However, my amendment will not come up for debate or a vote if cloture is invoked on the McCain-Feingold bill. Accordingly, a vote for cloture on McCain-Feingold is a vote against term limits.

Let me just review for a second why term limits would provide the true reform. Incumbency is the real problem in our system. It is the single greatest perk. Committee assignments and the ability to control committees relates to incumbency, and committee assignments translate into big bucks. The value of incumbency is as strong or stronger, now that we have had modest reforms over the last several years, than it was before. As a matter of fact, when campaigning was wide open 100 years ago the value of incumbency wasn't anything like what it is now.

Madam President, 94 percent of all Members who seek reelection get reelected, and an individual challenging them, if limited in what he or she can spend, is at a disadvantage. Madam President, 94 percent is 19 out of 20. That means that the only true elections are for open seats.

Term limits are a tried and tested kind of reform: Forty one Governors, 20

State legislatures and the U.S. President have term limits. It is time that the Congress be term limited as well.

Term limits mean no more politics as usual. As a matter of fact, studies done by research institutes indicate that we would have had the balanced budget amendment to the Constitution long ago if we had term limits, which would have brought new individuals to Washington who voted the way people do in their first two terms in office instead of voting the way they do after they have spent term after term after term here and begin to endorse the bureaucracy and to sanction it and to support it. I believe we should not limit the amount that citizens can spend on politics. We should limit the amount of time politicians can spend in Washington.

I will ask that individuals vote against cloture on the McCain-Feingold bill so we would have an opportunity to vote on term limits. A vote for cloture on McCain-Feingold will be a vote against term limits. A vote against cloture will at least provide us with the opportunity to bring forward amendments. Those amendments, including my term limits amendment, hold the promise of giving us a real opportunity to amend and to otherwise change the election procedures for the benefit of the people.

The people deserve honest elections. They first deserve enforcement. So much of what is being talked about these days is the violation of laws in existence. We don't need to proliferate the laws in order to enforce them. But we do need to give opportunity to individuals who are not a part of the system now. That cannot be done by limiting what they can spend to get known or limiting what their supporters can spend to expose the record of those who are in office. But it can be given to them if we decide America has enough talent to allow it to circulate individuals through the Senate and the House, and by term limits, to say that no individual should be a lifetime occupant here, that we should give individuals an opportunity to seek election and that is the kind of campaign reform which will really benefit America.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Madam President, is there any limitation on speaking at this point? What is the parliamentary situation?

The PRESIDING OFFICER. There is none.

Mr. BINGAMAN. Madam President, let me speak for a few minutes, then, on campaign finance reform. I would like to step back from the details of the debate. There has been some debate about limiting spending: Should we limit spending or not, should we ban soft money or not, should we regulate phony issue advocacy ads or not, should we provide more power to the Federal Election Commission or not—those are the kinds of questions we debate here. But I believe this entire discussion about campaign finance reform is about one central question and that is what should determine the outcome of our Federal elections? Should we allow money to determine the outcome of our Federal elections? Or should we allow, or try to get to a situation, where a complete and a balanced discussion of the differences between the candidates determines the outcome of the election? Should we allow money or helpful information to change the minds of voters? And should we allow money or robust debate to determine who wins the race?

This fundamental issue, which I think is at the center of campaign finance reform, has been obscured because opponents of campaign finance reform have been hiding behind what I believe are mistaken Supreme Court opinions that have tried to equate money and speech. They argue that money is speech, and, therefore, to limit money is to limit speech. They say that money is robust debate. They say money is helpful information for voters. And they even say that money is or constitutes a complete and a balanced discussion about the differences between candidates.

In my view this argument is blatantly wrong. To any reasoned observer of our Federal campaigns, the argument obviously is without merit. Ask any challenger to an incumbent Senator if the millions of dollars that an incumbent is able to raise and spend in the race has meant more robust debate, more helpful information for the voters, more complete and valuable discussions about the difference between the candidate and the challenger?

The challenger will laugh out loud at the question.

My colleague said, to limit spending in campaigns is to assist incumbents because you have a lot of challengers out there who would like to be able to spend more than incumbents to challenge them and to get their message out and they are not able to do so. Madam President, that may be true for a very few rich individuals who have very substantial private wealth that they can put into races. But for an average candidate for public office in this country, your ability to raise large sums of money and compete in the media and buy the air time is directly dependent upon your incumbency. Accordingly, a challenger is at a very substantial disadvantage unless we somehow restrict or control the amount of money coming into this process.

Ask any voter who has been deluged with negative TV ads, funded by swelling campaign war chests, whether those TV ads have produced a more robust debate and provided more helpful information to the voters, or a more complete and balanced discussion of the differences between the candidates? They would think that you were crazy to suggest that those 30-second negative TV spots in fact improve their ability to make a reasoned judgment.

No, the vast increases in money spent in political campaigns have not produced more robust debate, they have not produced more helpful information for voters, or more complete and balanced discussions about the differences between candidates. This increased amount of money has meant the very opposite. In fact, voters will tell you not only that money does not equal speech, but that excessive campaign money does equal the erosion and the undermining of our political system.

To them, money means bad government. To them, money is not speech; money is the corruption of the system. The American people are very specific in their beliefs about this, Madam President. Voters surveyed recently by the Princeton Survey Associates tell us exactly what the public thinks:

55 percent of the public think that campaign money gives one group more influence by keeping other groups from having their say in policy outcomes;

50 percent think that campaign money gets some people appointed to government office who would not otherwise be considered;

48 percent think that campaign money keeps important legislation from being passed in the Senate and in the House of Representatives;

45 percent think that campaign money leads elected officials to support policies that even those elected officials don't think are best for the country;

41 percent think that campaign money even leads elected officials to vote against the interests of the constituents who sent them to Washington;

63 percent of the public think that campaign money leads elected officials to spend too much time fundraising;

And, finally, 52 percent think that money, and not speech, determines the outcome of elections under our current system.

Madam President, it is hard to argue with the public's view on these various points. I submit that the arguments by opponents of campaign finance reform, that money is speech, should not and fortunately does not pass the laugh test with the American people.

The people are right, that we desperately need to reform the campaign system. In fact, they are right that we need to do a full U-turn from where we are today. We need to reduce the amount of money raised and spent in campaigns. We need to increase the amount of robust debate, providing really helpful information to voters.

We need to increase the amount of complete and balanced discussions about the differences between candidates so the public has good information.

Even the modified McCain-Feingold campaign reform bill is a big step in the right direction. It does at least two very important things. First, it will reduce the amount of big unregulated donations from corporations and unions and wealthy individuals in our campaigns, and that is good. We need to reduce that. And second, it will regulate the huge amounts of money spent by so-called independent special interest groups on advertising that they disguise as issue ads but are, in fact, designed to advocate the defeat of a particular camp.

The original McCain-Feingold bill did much more. There were more affirmative proposals to actually encourage more robust debate, more helpful information for the voters, more complete and balanced discussions of the differences between the candidates, but the bill had to be scaled back to reduce the objections of some of the opponents of campaign finance reform. This modified version of the bill that we now have before us does not complete the U-turn that we ought to be making, but it is turning the car in the right direction.

Madam President, I stand ready to support the modified version of McCain-Feingold. I hope we will have an opportunity at some point in the near future, and hopefully this week, to have an up-or-down vote on the bill. Perhaps at some point we can get past these parliamentary maneuvers of killer amendments, of filling out the amendment tree, second-degree amendments to block an up-or-down vote. Perhaps at some point in the near future the opponents of campaign finance reform will listen to the people and conclude that money is not speech, that money, in fact, is undermining the political system that we were sent here to help ensure the functioning of.

I hope we will move expeditiously this week to pass campaign finance reform. Our constituents desire it, and we should do it.

Madam President, I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Madam President, there has been a development today that has a direct bearing on this debate that I thought would be of interest to our colleagues and particularly the occupant of the chair.

The Supreme Court today denied cert and, therefore, refused to overturn a first circuit decision, in effect confirming a district court decision, specifically ruling unconstitutional, once again, most of the issue advocacy language in the McCain-Feingold bill which we have before us. The similarities are noteworthy. Two of the three categories of restrictions on issue advocacy in McCain-Feingold read as follows. As we all know, the courts have been very clear for 21 years that you are free to go out and express your views about any of us as often as you want to, in any way that you want to, as long as you don't say certain things like "vote for" or "vote against." That does not fall within the jurisdiction of the Federal Election Commission. That group does not have to answer to a Federal agency in order to criticize us. The Federal Election Commission, as we all know, doesn't like that. So they have issued regulations seeking to change by regulation previous Court decisions on what is or what is not issue advocacy.

In those regulations, which are remarkably similar to two of the three sections in McCain-Feingold dealing with issue advocacy, the similarities are noteworthy.

In the McCain-Feingold bill, the following words are used, and the words mean this in the bill, as I understand it, that if any of these things happen, the group would fall under the Federal Election Commission and be subject to their jurisdiction. In addition to the bright line test that the Supreme Court has already laid down, the bill would seek to add to that the following:

> . . . or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates.

Madam President, that is part of the language in the underlying bill.

Other language in the underlying bill remarkably similar to the FEC regulations struck down by the Supreme Court today read as follows:

> . . . expressing unmistakable and unambiguous support for, or in opposition to, one or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

What the underlying bill is seeking to do is to outline a series of circumstances under which a group would fall within the jurisdiction of the Federal Election Commission. Currently, they are outside of that jurisdiction unless they say "vote for" or "vote against," tests which the Supreme Court laid down 21 years ago and has never changed.

That was the language from McCain-Feingold. Let me now read the language out of the FEC regulations which were struck down by the Supreme Court today:

> . . . more communications of campaign slogans or individual words which in context can have no other reasonable meaning than to urge the election or defeat of a candidate.

Further language from the proposed FEC regulations which were struck down by the Supreme Court:

> . . . when taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more candidates.

Further from the FEC regulations struck down by the Supreme Court today:

> The electoral portion of the communication is unmistakable, unambiguous and suggestive of only one meaning.

Madam President, there is a remarkable similarity between the language struck down by the Supreme Court today and the language of two of three of the sections in the McCain-Feingold bill which seek to redefine by statute what happens in an issue advocacy campaign. This is an important new development.

We have had a lot of discussion on the floor of the Senate over the last week and a half about what is and isn't constitutional. It has been suggested that there are 126 constitutional scholars out there who are certifying, in effect, that these new restrictions on issue advocacy are, in fact, constitutional. That has been asserted by some of our colleagues, even though there have been a whole line of Supreme Court decisions before the one today reiterating that they crafted this the way they did on purpose; it was not an accident. The Supreme Court wanted to have the widest latitude possible for organizations to criticize us, and there is no indication that they intended that criticism to necessarily be evaded just because it was in proximity to an election.

There is no language on the 60-day test, which is the third provision of the McCain-Feingold bill. Frankly, that is sort of a new item. The FEC has not yet tried that. But if you look at that language and look at the fact that the Court has confirmed time and time and time again that it meant what it said it did with regard to issue advocacy, I don't think it is much of a stretch to predict that, if the Court is going to strike down language almost the same as two of the three sections in McCain-Feingold seeking to make it difficult for groups to criticize us, they would be very likely to strike down the third, which makes it impossible effectively for them to criticize us without becoming a federally registered committee in the last 60 days of an election.

As I said—I see my colleague from Washington on his feet—we can discuss as long as we want to what is and isn't constitutional. The final word on that is the U.S. Supreme Court, and they just spoke again today on the very subject that we have been discussing on the floor of the Senate in the last week and a half. I think it is a very important additional indication that the Court, in spite of all the prodding of the Federal Election Commission to set up a new standard for issue advocacy, the Court has absolutely no intention of changing its mind. It has

been absolutely, unequivocally consistent for 21 years as to what you would have to put in an advertisement to be brought within the Federal Election Campaign Act and thereby covered by the FEC.

Here is what the Court said back in Buckley—and it has had many opportunities to revisit that, it hasn't changed its mind over the years, didn't change its mind again today—this is what the Court said. For a communication by a group to fall within the Federal Election Campaign Act, you would have to have express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat" or "reject."

They have had 21 years to revisit that standard, 21 years to decide the Federal Election Commission knew better than the courts about how to craft this language, 21 years to change its mind, new judges coming onto the bench and old judges leaving, and the Court has never changed its mind, up to and including today when it refused to grant certiorari on a lower court decision, in effect upholding the same language that has been on the books since 1976.

So, Mr. President, I think this is an important addition to the debate. I hope that Senators will note that the Supreme Court is not of a mind to change its opinion on issue advocacy versus express advocacy, one of the important issues that we have been debating here in the context of the proposed McCain-Feingold bill.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Washington is recognized.

Mr. BUMPERS. Will the Senator yield for a parliamentary inquiry?

Mr. GORTON. He would.

Mr. BUMPERS. Mr. President, is there any order of sequence on the speaking?

The PRESIDING OFFICER. There is not.

Mr. BUMPERS. I thank the Chair.

Mr. GORTON. Mr. President, in 1974, impelled by certain individuals and groups who felt that too much money was being spent on political campaigns and on political speech, the Congress of the United States passed a law limiting the amount of money that a candidate for Federal office could receive from any individual source, and limiting the amount of money that a candidate for a Federal office could spend advocating his or her election to that office.

The Supreme Court of the United States upheld the half of that statute that limited the amount of money that a candidate could seek from any given individual or organization or group; but about the proposition that a candidate could be limited in the amount of money that he or she could spend on a campaign, the Supreme Court of the United States made this statement—and I quote:

> A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money. The distribution of the humblest handbill or leaflet entails printing, paper and circulation costs. Speeches and rallies generally necessitate hiring a hall and publicizing the event. The electorate's increasing dependence on television, radio, and other mass media for news and information has made these expensive modes of communication indispensable instruments of effective political speech. Being free to engage in unlimited political expression subject to a ceiling on expenditures is like being free to drive an automobile as far and as often as one desires on a single tank of gasoline.

And the Supreme Court of the United States found invalid, as a violation of the fundamental first amendment right of free expression, any such limitation.

The same mindset that gave us those laws and that has forced those individuals or groups who feel vitally interested in the election or defeat of a candidate to spend money in other ways, often through the political parties that sponsor those candidates, now has brought this McCain-Feingold bill to the floor of the U.S. Senate.

Finding it ineffective simply to limit the amount of money that candidates can collect from a given individual, the bill now seeks to limit severely the amount of money that political parties can collect with which to express their message to the American people. The fact that this flies in the face of most thoughtful academics observing the political scene in the United States who call for greater party responsibility and a greater role for political parties to play in order to create a greater degree of responsibility and responsiveness in carrying out the will of the people as expressed in elections, the McCain-Feingold bill seeks to tie the hands of parties and to render them largely ineffective.

The sponsors of the bill do recognize, however, that there are other methods of communicating political ideas. While they did not attempt to limit the right of other individuals or organizations in communicating their ideas directly, and in some cases not at all, they do attempt, as the Senator from Kentucky has just pointed out, to take a form of communication called issue advocacy—that is to say, making your views known to the people of the United States with respect to issues that come before the Congress of the United States—and force it into a category which they define as express advocacy, essentially whenever the name of a candidate or a Government officeholder is used, and once again provide limitations on the amount of money that can be collected for the expression of that form of advocacy.

As the Senator from Kentucky has so clearly pointed out, not only is that portion of the McCain-Feingold bill unconstitutional on the basis of a long line of Supreme Court decisions, its unconstitutionality was reaffirmed this morning, this very morning by the refusal of the Supreme Court even to listen to a challenge to a first circuit decision on exactly that subject.

So what we have in McCain-Feingold is, in addition to the limitation on the amount of money that can be spent or contributed to individual candidates, an additional limitation on the amount that can be contributed to political parties, but no limitation at all on the amount of money that can be spent independently of those political parties by the widest range of groups and individuals in the United States who have a vital interest in the actions of this Congress unless those groups make a mistake which is absolutely unnecessary to make and use one of a handful of magic words.

Finally, of course, McCain-Feingold does not attempt in any respect whatsoever to limit the commentary, either in news columns or on editorial pages, on the part of the newspapers in the United States or similar commentary on radio and television stations. It isn't long, however, since exactly such a set of potential restrictions were proposed.

With a degree of intellectual honesty, absent from this debate, in February and March of this year many of those who are here today promoting the McCain-Feingold bill recognized that the goals they sought were blatantly violative of the first amendment to the Constitution of the United States and proposed to amend the first amendment.

At this point, Mr. President, I think it not at all inappropriate once again to read into the RECORD what those Senators—I think some 30-plus of them altogether in the final vote—proposed to do to the first amendment to the Constitution of the United States. They proposed to say:

> Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

It seems clear to me, Mr. President, that that constitutional amendment, were it placed in the Constitution of the United States, would have permitted Congress to state that the New York Times, or a newspaper in a city of 50,000 people in a city in Kentucky, could have its commentary on election campaigns limited in the same way that the present law limits contributions to candidates today.

Now, Mr. President, I think a newspaper—I will take one of my own—say the Tri City Herald in central Washington, with a circulation of some 40,000 newspapers a day, if it writes an editorial in favor of my candidacy, which I am pleased to say that it has, and distributes 40,000 copies of that newspaper, it has exceeded that $1,000 campaign contribution limit if the cost of writing and printing and distributing that newspaper exceeded 2.5 cents a copy.

Lord knows by how much the New York Times would exceed that contribution by making any kind of commentary on behalf of or in opposition to a candidate for political office. Lord knows how much more such a commentary on network television news could be considered to be worth.

Yet, Mr. President, at least the proponents of that constitutional amendment were being intellectually honest and at least they were being consistent, or would have been consistent had they been willing to say they wanted to limit the way newspapers and radio stations and television stations could comment on politics, because, obviously, if every other form of communication is going to be limited, how in the world can we justify letting those few people in the United States with enough money to own the newspapers or having the good fortune to be on their editorial boards and, for that matter, to write news stories about politics not be limited? Of course they should.

But, Mr. President, the first amendment was written not when we had television or radio stations, but when we had thousands of newspapers in the United States of America, most of them speaking much more sharply about candidates and issues than do newspapers today. And the men who wrote the first amendment to the Constitution of the United States knew that every one of those newspaper publishers had a greater first amendment right by the definition used by the promoters of McCain-Feingold than did the average citizen who did not own or write for a newspaper. But they consider that right of mass communication about political ideas to be a fundamental liberty of the people of the United States. Now we have opponents of this bill who say it is not only not a fundamental liberty of the United States; it is such a great evil that we need effectively to muzzle them.

Hark back to the Supreme Court in which the Supreme Court says virtually every means of communicating ideas in today's mass society require the expenditure of money. We have proponents who say we should not allow the expenditure of money in amounts that are sufficient to communicate those ideas.

Having limited the amount of money candidates can get, they now wish to limit the amount of money political parties can get. It is clear they wish to limit the amount of money that these independent groups can get, but in the absence of their constitutional amendment, they can't do that.

Now, last year, Mr. President, I asked this question: Were the expenditures of candidates or of political parties or of third party interest groups the least responsible? The answer, obviously, is the latter. A candidate whose name must go on all political communications can be immediately called to account for falsehood and, in fact, can readily be called to account even for what is considered to be an unfair characterization of his or her own candidacy or an unfair criticism of an opponent. Expenditures by political parties don't carry that same degree of responsibility. The occupant of the chair at the present time is not really responsible for the communications of the Kansas State Republican Party, nor am I in my political party in my State. We will catch a certain degree of criticism for what our parties do, but we at least have plausible deniability. But now having forced even the parties out of the field of effective communication, we leave all political communication to the newspapers and the television stations and those organizations, whether they are of the left or the right or of a narrow special interest, almost wholly to the field of unregulated communication for which neither beneficiaries have any responsibility nor the victims any effective way of responding.

The Senator from Oregon, during the course of this debate, has pointed out the impact of a law very much like the one that we are discussing here on politics in Oregon. There the limitations on contributions for candidates were even tighter. The point that he made of what happens in the real world was the candidates can't raise very much money, the political parties are fairly weak, so campaigning became more negative than it had ever been before—not only more negative because of the use of the undocumented constitutional rights of these outside groups to criticize, but from the fact that almost all of their communication was critical and negative in nature, and the limitations on the candidates made it effectively impossible for them to answer.

My own State, Mr. President, is going through pretty much the same experience. The more the limitations on the candidates, the greater the expenditure of money independently in so-called issue advocacy will be, and the more negative political communication will be, as it was in the classic example of the tens of millions of dollars spent by the labor unions in 1995 and in 1996.

Now, Mr. President, one other point, and I will have to admit, along with everyone else who has spoken today, almost everything that has been said today has been with respect to the revised McCain-Feingold bill. The issue before the Senate, however, is the Lott-Nickles amendment. The same analysis does not attain to the Lott-Nickles amendment because it simply says that labor unions and labor union-type organizations, while they remain entirely unlimited in the way in which they can spend their money, and with respect to issue advocacy, can only be involved in politics by the use of money to the extent that there are members who have paid dues into those unions who allow their money to be spent in such a fashion.

It is curious in the mind of this Senator that such an obviously just policy—not allowing my money, your money or anyone else's money to be used to communicate ideas with which you or I or that third party disagrees, a proposition that is clearly constitutional—should be considered to be a poison pill or the death knell for campaign reform. What could be more fundamental, Mr. President, than the idea that the individual whose money is being spent in connection with the communication of political ideas should have some control over how that money is spent?

Now, Mr. President, I am in a position to tell you how that works in practice because another element of one of the latest of the campaign reforms in the State of Washington was to make just such a provision. When that provision became law, 80 percent or more of the members of the Washington Education Association, the teacher's union, refused to allow their money to be used in politics at all. I have just heard, though I can't be entirely certain of this statistic with respect to other labor unions, the percentage of members who are willing to permit their money to be used is in single digits. Presumably, the members of those organizations prefer their money to be used for the primary function of a union with collective bargaining rights and not even on politics with which they agree, much less politics with which they disagree.

That, Mr. President, is the reason the opposition to this amendment is so fierce. That is the reason we are told most of the proponents of McCain-Feingold will filibuster this very bill if it is included. It is just because the opposition on the part of members of these organizations to spending their money in the way in which it has been spent over the last several years is so deep, so broad, and so fierce.

But in this case, I want to state once again, Mr. President, we are not talking about a matter over which there could be any serious constitutional challenge at all. We are simply talking about whether or not it is good policy. We are talking about something that would meet the goals of McCain-Feingold to the extent that their goals are

to limit the amount of money being spent on political speech. It would certainly limit it in connection with the last campaign.

Now, I am not convinced of the case that we are spending too much money on political speech. I believe the wide diffusion of political ideas was exactly what the first Congress of the United States had in mind when it passed the first amendment. However, if you are going to limit political speech, you ought to do so fairly and across the board. To do so fairly and across the board, you must gut the first amendment to the United States, you must change the Constitution, and you must say we are going to have Government—Members of this body and the appointed Federal Election Commission—decide what speech in the political context is legitimate and what speech is not, and the definition of that challenge is its own death knell because, defined in that fashion, there aren't 5 percent of the American people who would agree.

We have before the Senate, Mr. President, a flawed bill with a flawed and unconstitutional goal, together with the breathtaking statement that should we make the fundamental requirement that a man or woman's money not be spent on politics with which he or she disagrees, that we are killing this flawed proposal.

Well, I don't think the bill becomes any more constitutional by the adoption of the Lott-Nickles amendment. I don't believe the obvious constitutional flaws reiterated once again today by the Supreme Court of the United States are improved by it. Abstract fairness probably is. But a bill that says that there is something wrong with the communication of ideas—the last Democratic speaker criticized the way in which campaigns were conducted, apparently feeling that maybe we ought to have a governmental entity that says what an individual says in a political campaign is fair or unfair. We have created the greatest and strongest democracy in history and the greatest debate over political ideas with the first amendment as it is. I, for one, believe we ought to leave it alone.

Mr. MCCONNELL. Will the Senator yield?

Mr. GORTON. I am happy to yield to the Senator.

Mr. MCCONNELL. As the Senator from Washington pointed out, today's huge news that the Supreme Court has struck down essentially most of the issue advocacy language in the McCain-Feingold bill, maybe we shouldn't waste our time talking about this. But if you look at the original bill, it was designed to shut down campaigns, shut down parties, and shut down issue advocacy, and the Senator from Washington pointed out the only entity exempt from this would have been the press which enjoys a specific exemption under the Federal Election Campaign Act.

In fact, I have it here for our viewers if they want to look, section 431(9)(B), subsection 1:

> Any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

In other words, a blanket exemption for the press that no one else would enjoy.

I say to my colleague from Washington, just to ask a question, Westinghouse owns CBS, Disney owns ABC, and GE owns NBC. Now, these big corporate giants in America will, through the ownership of these television broadcast networks, enjoy a total exemption from all the restrictions that would be placed on the political speech of everybody else. This is not an unrealistic hypothetical. We just saw Ted Turner, who used to control CNN, declare on Friday he would not sell ads to a certain group because he did not like what they were saying.

So I ask my friend from Washington if he could speculate with me for a moment the mischief that might be created by the ownership of the only exempt avenue to engage in free and unfettered political expression without the heavy hands of the Federal Government, what kind of mischief he might imagine could happen in our country?

Mr. GORTON. It would certainly increase the price of television stations and television networks. It would be a bonanza to those corporate owners, as any other corporation that had a political agenda would find the only way it could effectively communicate its ideas would be through the ownership of a television network or a major metropolitan newspaper and the like.

But the point made by the Senator from Kentucky is a most interesting one. Westinghouse and Disney and GE don't need to give soft money to parties, do they? They don't need to come up with their political ideas indirectly. They have the ability to communicate them directly, without control, without limitation as to amount, to the people of the United States. So the Senator from Kentucky has made my own point better than I did myself. If you are going to limit political speech effectively, you are going to have to limit everyone's political speech. And the fewer the exemptions from those limitations, the more valuable those unlimited mouthpieces are because they cannot effectively be countered, except by someone else with the exemption.

I want to repeat one more time that I believe the constitutional amendment that was seriously debated, but defeated, on the floor of this Senate in March would have permitted limitations on what those television networks could have done, what the New York Times and every newspaper in the United States could have done. And it is the very fact that that constitutional amendment would have allowed such limitations that is the reason it should not have gotten one-third of the votes of the Members of this body. It should not have gotten any at all.

Once, however, you determine that we should continue the more than 200 years of unrestricted freedom on the part of the mass media, it becomes increasingly difficult to justify the proposition that we should limit the ability to communicate of everyone else.

As the Supreme Court decided more than 20 years ago, the ability to use money and to use, in turn, the mass media is at the very heart of the first amendment rights. The Senator from Nebraska, who was here before, it seemed to me, had the appropriate answer to this question. Political contributions should be freely given, not coerced. They should be immediately publicized and made available. Those who violate those laws of disclosure ought to be appropriately punished. None of these elements is a part of the law today, and that is where reform ought to start.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, today, I want to take a few minutes and let my views be known concerning campaign finance reform. First, I want to commend my colleagues from Arizona and Wisconsin. It is not easy to introduce legislation that you know will be adamantly opposed from the outset. I recognize this and I want to congratulate them. Second, I want to commend the Senator from Kentucky, who on more than one occasion has stood on this floor and took an unpopular stand against popular legislation for all the right reasons.

Mr. President, I have always been a strong advocate of congressional reform, even to the point of introducing legislation that has upset many of my colleagues. I have always believed that congressional reform should make Congress more like the people we represent not above them. That is why I have long been a supporter of term limits, which I believe would be one of the best campaign finance reform measures we could ever enact.

Campaign finance reform should give every American the opportunity to participate, as fully or as little as they want. This country's principles are based on freedom. People should have the ability to choose whether they want to participate in the system. We cannot and should not coerce or force citizens participation in this process. Nor should we stifle citizens participation in the electoral process. I do not

believe that this quick fix of McCain-Feingold passes either one of these tests.

First, I do not believe this legislation protects the working men and women in this country. Our electoral system is a voluntary activity. The U.S. Congress should never force participation in a voluntary activity, whether through individual activity or through financial contributions. This is why I believe the Lott amendment is so important for any campaign finance reform legislation. I would never do anything to stop outside groups from participating in the system, I just ask that all activity be voluntary. I would never force anyone to support me by either their vote or through a contribution if they disagreed with my views and I believe this should apply across the board to any group involved in our political system.

I have heard complaints that the Lott amendment would weaken the union's power and hurt the union membership. If the political positions of the union bosses are supported like they believe they are by the membership, then there should be no problem whatsoever for the unions to stay strong. But, if the unions' Washington office takes positions that are contrary to its membership, then maybe they need to rethink their ways.

Also, a provision that is forgotten by many who oppose the Lott amendment is that it also applies to corporations and national banks. The amendment makes it unlawful for any corporation or national bank to collect from or assess its stockholders any dues, initiation fee, or other payment as a condition of employment if such dues, fee or payment will be used for political activity in which the national bank or corporation is engaged. Likewise, a labor organization cannot collect or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payments will be used for political activities.

I think this amendment is very clear, no matter where you work, you should not have to choose between putting food on the table for your family or participating in an election or supporting an election. Let's make it very clear, the people who do not support this amendment believe that working men and women, union or not, should have to choose between working or supporting issues and elections with which they disagree.

I have also heard that being a union member is voluntary and one of the most democratic institutions since employees must vote to start a union, elect its leaders and if they do not like the direction the union is taking then they can work to change it or as a last resort, quit the union. If you do not like the direction of the union, you must quit your job as a last resort. I do not think any union member should have to make that choice—a job or a political contribution. This same provision applies to corporations and national banks. No employee should have to choose between keeping their job or participating financially to causes or elections they disagree with.

Some want to apply this amendment to groups such as the NRA or the Sierra Club or other issue groups. The difference between these groups and the employment condition in the Lott amendment is that joining these groups is completely voluntary and is not tied to a job. If a member of one of these issue groups wants to quit their respective group, then they just stop paying the dues and rip up the card. There is no employment backlash that causes that person to lose their job.

Thomas Jefferson summed it up best when he said, "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical."

Second, in our quest of campaign finance reform, American citizens should not have to lose their voice. The first amendment is very clear in its wording, "Congress shall make no law * * * abridging the freedom of speech or the press * * *." While campaign finance reform efforts are based on the best of intentions, whether by legislation or just simple suggestions, most of the time they will affect individuals' first-amendment rights.

The Supreme Court has been very clear where it stands on the first amendment and campaign finance laws. Since the post-Watergate changes to the Federal Election Campaign Act of 1971, 24 congressional actions have been declared unconstitutional, with 9 rejections based on the first amendment. Out of those nine, four dealt directly with campaign finance reform laws. In each case, the Supreme Court has ruled that political spending equals political speech. This Senate attempted to change this through a constitutional amendment limiting the amount one can spend in a campaign, which only tells me that this fact is undeniably recognized by this body.

In the now famous, or infamous to some, Buckley versus Valeo case, the Court states that:

> The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

This simply states that the Government may not ration or regulate political speech of a citizen through spending limits or limit its quantity any more than it can tell the local newspaper how many papers it can print, what it can print, or when it can print.

Also, the court states that " * * * the mere growth in the cost of Federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending * * * ." This goes for not just the candidate but also outside groups who want to participate in the process.

That brings me to a specific provision in the legislation before us. I have yet to hear what makes 60 days such a magic number. How can an outside issue group's ad carry a valid message 61 days before an election but if run the next day, it would lose all validity and become illegal. This just makes little sense. When I ran for this seat in the Senate, I was blasted from all angles by many different groups, but that's fine. It made my life and campaign a little more difficult, but it let me explain why I voted the way I did. These groups brought all the issues into play and no candidate can hide their record from the public.

However, no matter how I have to defend my record against these ads, I will never attempt to legislatively silence their voice. To do so would place myself over the rest of America. I cannot support the idea that my viewpoint is so much more important, that no one outside of the candidate can speak less than 60 days before the election. I cannot and will not quiet the electorate.

I did forget one exception during the 60-day blackout, the media. This 60-day blackout only strengthens the media and whatever they say, cannot be challenged, except by the candidate. Today, newspaper endorsements are held off until the end of the campaign to maximize their effect, but this 60-day blackout period will let the endorsement go without criticism from outside groups. And I question whether once a candidate gets an endorsement, if their campaign will be covered with the same amount of scrutiny as the other candidate, for again, any rebuttal to their coverage can only come from the candidates opponent.

I believe this provision places too much power in the hands of a few. I have the utmost respect for the media and the professionals who work for in the field, but too much of one gets too powerful for all.

Also, I believe this 60 day blackout will be used to remove Congress from the close scrutiny of the public. Let me explain. I am afraid that Congress will hold off some of the more controversial issues until the last 60 days before an election in order to escape the scrutiny of these outside groups. This regulation is nothing more than politicians wanting to quiet citizens from bringing up issues that politicians want to ignore.

Another problem arises regarding soft money. The definition of soft money is campaign money raised outside the regulatory structure for Federal elections—or non-Federal money.

These funds are raised and spent by political parties outside of the Federal fundraising limitations to benefit the party's State and local elections efforts. While soft money is not federally regulated, it is regulated by the 50 States. Current law already bans the use of soft money in Federal elections. Basically, a complete ban on the ability of the parties to raise and spend any soft money would federalize all elections because any money given to the national parties in support of state and local candidates would fall under the stricture of Federal laws.

The Buckley case clearly states that "[S]o long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views." The ACLU says that "the purpose of this profound distinction is to keep campaign finance regulations from overwhelming all political and public speech. And it is this distinction which defenders of the constitutionality of a ban on soft money continue to disregard."

The Court has permitted the unrestricted use of soft money by political parties and nonparty organizations in the Buckley decision and has enhanced and given it legitimacy in its subsequent decisions, including a decision involving the Republican Party from my own State of Colorado in 1996.

Let me also make a point about money being the determining factor in elections. In my Senate race, I was outspent by almost $750,000—a quarter of $1 million. You don't have to have the most money to win, you just have to have the right message and I will not legislatively try and stop someone from speaking their message during a campaign, not even my opponent's.

Many believe that now is the right time to pass a restrictive campaign finance measure with all the scandal surrounding the last Presidential campaign and that we should take a chance on the Supreme Court to rule it constitutional. The problem with this logic is that since 1976, the Supreme Court has referred to the Buckley decision over 100 times in setting limits on the Government's authority to regulate political speech. I just cannot see this Supreme Court overturning a ruling that has become the landmark decision and reference point for all campaign finance decisions.

In the end, our campaign finance system needs to be fixed, but any reform must not run counter to the first amendment. The first amendment ensures that even if we don't like what someone says, they have the right to say it. While many believe that the amount of money being spent in campaigns is objectionable, the Court has clearly stated that campaign spending is equal to speech and no matter how objectionable, it is protected under the first amendment.

I will have to say that the McCain-Feingold bill has gotten organized efforts behind it, like this ad run in the Denver Post on Thursday, October 2, by the group Campaign for America. However I would like to point out a few things.

I find some great irony in this ad. First, if McCain-Feingold passes and this ad was to be aired on TV or radio, it may just be illegal, especially if it is within the 60-day blackout period before an election. If an incumbent believes this ad to be an attempt to influence an election, they can challenge it, thus stifling debate. The very message they wish to send could be stopped by the legislation they support. That is the point I would like to make.

They want to stop big money and big guys with their big bucks from buying the system, which I want to do also by the way. Well, this group is backed by the some of the richest people in America. Actually, two of the men are on the Forbes 400 list. Plus, many of them have given hundreds of thousands of dollars to each party. It seems to me that this group is a bunch of rich guys using their big bucks to buy legislation. And, despite my request, I have yet to receive a full disclosure from this group on how much is spent, who gives and how much. All I know is who sits on their board of directors.

But in all honesty, I cannot in good conscience stop them from exercising their first amendment rights. I want any campaign finance reform legislation to encourage this—not stop it.

This is why I introduced my own bill, the Campaign Finance Integrity Act. My bill does not restrict one from exercising their political speech rights, but asks for complete and honest disclosure for all campaign spending. While this statement is not one of endorsement concerning my legislation, but in a review of the McCain-Feingold bill, the ACLU says, "Disclosure, rather than limitation, of large soft money contributions to political parties, is the more appropriate and less restrictive alternative." My bill does just that. As a matter of fact, I believe my bill has the strongest open disclosure requirements of any bill introduced.

My bill also will require candidates to raise at least 50 percent of their contributions from individuals in the State or District in which they are running;

Equalize contributions from individuals and political action committees [PAC's] by raising the individual limit from $1,000 to $2,500 and reducing the PAC limit from $5,000 to $2,500;

Index individual and PAC contribution limits for inflation;

Reduce the influence of a candidate's personal wealth by allowing political party committees to match dollar for dollar the personal contribution of a candidate above $5,000, by using only hard money;

Require organization, groups, and political party committees to disclose within 24 hours the amount and type of independent expenditures over $1,000 in support of or in opposition to a candidate.

Incorporate the Lott amendment, along with the requirement of an annual full disclosure of those activities to members and shareholders;

Prohibit depositing of an individual contribution by a campaign unless the individual's profession and employer are reported;

Encourage the Federal Election Commission to allow filing of reports by computers and other emerging technologies and to make that information accessible to the public on the Internet less than 24 hours of receipt;

Completely ban the use of taxpayer financed mass mailings; and

Lastly, will create a tax deduction for political contributions up to $100 for individuals and $200 for a joint return to encourage small donations.

One of the best way to reduce special interest money is to reduce the size and scope of Federal Government and I am not alone believing this. A recent survey by Rasmussen Research shows that 62 percent of Americans think that reducing Government spending would reduce corruption in Government. The same survey showed that 44 percent think that cutting Government spending would do more to reduce corruption than campaign finance reform, while 42 percent think campaign finance reform would reduce corruption more than cutting Government spending. I have said many times, if the Government rids itself of special interest funding and corporate welfare, then there would be little influence left for these large donors.

That is why I am fighting corporate welfare, especially thee Overseas Private Investment Corp. Some may not see OPIC in the same light, but any benefit for corporations will just keep them coming back for more. Another way to achieve campaign finance is too eliminate the Department of Commerce, where a majority of the corporate welfare programs are funded. Also, by scrapping the existing Tax Code with its many tax breaks in favor of a flatter and simpler system would clean up our campaigns greatly. Big Government solutions will not stop big business and big labor money. To break special interest money, we must break the so-called iron triangle of big business, big labor, and big Government.

I must say that by objecting to the Washington media is very difficult for any politician, but turning your back on the first amendment is more difficult for me. I want campaign finance reform and I have shown in my legislation how I would like to do it, but I will not do so at the expense of the

first amendment. Not even at the expense of those people's speech who will disagree with me on this issue. The first amendment is the reason we can disagree.

Let me end with this. While big money has been made the villain, I believe it is not the money but the people. Bad people will do bad things if given the chance. I believe that the tighter we made it, the more people will try to find loopholes resulting in more scandals. We need to enforce the laws on the books first before we add more Government regulation is not always the answer. To me it sounds like those who are under investigation and are calling for more Government regulation of campaigns are saying, "Stop me before it sin again." Well let's first uphold the law and then we can better fix it. And when we do, let's not do so at the expense of those who legally want to exercise their first amendment rights. Don't let the bad shut out the good participants in our system.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, very briefly, I thank the distinguished Senator from Colorado for an outstanding contribution to this debate. I listened carefully to his entire speech. I thought it was truly outstanding. I just wanted to commend him for that and thank him for his contribution to this important debate.

Mr. ALLARD. I thank the Senator.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, let me say, first of all, that the distinguished Senator from Maine, Senator COLLINS, has been waiting for a long time. I am most reluctant to take her spot. But I understand she has to leave. So rather than waste the time, and with her indulgence, I hope she will forgive me, I will go ahead and proceed with my statement.

First of all, Mr. President, I would like for every Member of Congress to ask himself or herself this very simple question: How much longer do you think our democracy can survive if we continue under the present system of financing our campaigns?

The first question ought to be: Can we continue to pass laws and elect people based on how much money they have and expect a participatory democracy to survive?

Question No. 2: Can this democracy survive under the present system of financing campaigns if we adopt McCain-Feingold?

With the utmost respect for two dear friends in the Senate, Senator FEINGOLD and Senator MCCAIN, I would have to say that this bill will help our democracy last a little longer than it would if we do nothing.

We call ourselves a participatory democracy. And yet, most people have long since quit participating.

So another question that every Member of the Senate ought to ask before they vote on this bill is: Why do only 50 percent of the people in our country bother to vote?

The next question they ought to ask is: Why do only about 4 percent of the people in the country contribute to candidates and parties?

We can contribute 3 bucks to the Presidential Election Fund by checking a box on our tax return, without any cost to ourselves, yet the percentage of people who check that box is down now to about 13 percent of the people who file tax returns. Thirteen percent will say, "Yes. I want $3 of my taxes to go to the Presidential campaigns." I think there are an awful lot of people in this country that think they are paying that $3 out of their own pocket. They don't pay the $3. All they do is say I would like for $3 of my existing tax liability to go to the Presidential campaign. That system has attracted much higher percentages than in the past. But it has been declining.

So, ask yourself. Why do only 50 percent of the people vote?

Why do only 4 percent of the people contribute?

Why is the number of people checking the box on their Federal tax return continuing to go down?

The answer to that is very simple. They don't think they count. They say to themselves: "Why should I contribute? Yes. I could give 25 bucks. I could give 50 bucks." But when you see $100,000 contributions in soft money, and you see the $2,000 contributions to candidates, really $4,000 if the contributor's spouse also contributes, who will believe that his $15 or $20 is going to make a difference? And they are showing in big numbers they don't believe they count by staying home on election day. And they see legislation passed continually where they know money was the determining factor.

I can remember when I was a young attorney just out of law school practicing law in my little hometown. A man came into my office one day. He said, "I want you to give me $250 for a Member of Congress." And I said, "He's not even up for reelection this year. Why would I give him $250?" He said, "Well, they have a lot of expenses," and so on. And I said, "Well, I'm not going to give you $250," the primary reason being I don't have $250. The second reason is $250 is two monthly house payments. And the third reason is I don't even like the guy; he doesn't represent my views. And fourth, I thought, if I were going to give $250, why would I give it to you? Why wouldn't I give it to the candidate so he would at least know I had given him $250 and I would also like for him to know that that is a big, big amount of money for a struggling young lawyer in a little town in Arkansas.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. BUMPERS. No, I won't yield, Senator. I have been waiting all afternoon to speak.

When I ran for Governor the first time, I found asking for money the most difficult thing I had ever done. I could not believe that I had to go around pleading with people to give me a few dollars. Nobody wanted to give me any money anyway because I had 1 percent name recognition when I started running. Some guy gave me a $100 one day, and he said, "I bet the horses all my life, but I have never bet on such a long shot as yours." But he gave me $100 anyway.

I asked Tom Eagleton, the fine Senator from Missouri, when he announced he was going to leave the Senate, "TOM, why are you leaving?" He gave me three reasons. First of all, he said, "I'm tired of laughing at things that ain't funny." The second was, "I'm tired of answering hate mail." And third, "I'm tired of going around with my tin cup out"—three very compelling, perfectly legitimate reasons for wanting to leave the Senate.

As good as McCain-Feingold is, it does not remove the problem Senators face of voting on issues in which an awful lot of people who have given them money have a dynamite interest. My son, who lives in Little Rock, and his wife had twins about a year ago, and they had a woman who came to stay with them when the twins were born. They are very fortunate they can afford that. A lot of people have twins and they can't afford to have that kind of help. Be that as it may, she has been a very intelligent woman. I visit with her when I go over to see the twins. Last week she said, "You know, DALE, I don't know much about what's going on up there, but it seems to me like you all spend all your time investigating each other." I said, "That's right, Nancy."

That is all we are ever going to do as long as we finance campaigns the way we do now. Every time you vote on an issue, Senators, you are vulnerable to accusations if it benefits anybody who ever helped you. When you take money from somebody and you vote on an issue, you better hope two things: That the issue turns out well, and that the guy who gave you money does not turn out to be a crook because if he does, the press comes running to you: How much money did he give you or why did he give you money? Was there any quid pro quo?

I am reluctant to mention this, but I am going to tell you the truth. I never did like the Keating case. A colleague whom I consider to be one of the most honest men I have ever known spent

$600,000 of his own personal money defending himself because he was said to have helped somebody who gave him money in a campaign. I can promise you he would never have taken it in a thousand years if he thought it had the least taint to it. And if Keating's S&L had made it, you would never have heard about the Keating case. There would have been no case. But because he was giving money to a lot of people and his S&L went under, and he turned out to be a crook, then we had this big dog and pony show in the Senate that lasted a year or more.

You know, I have been a friend of the President's for now 26 years. And as well as I knew the President, as close a friend as we have been through the years, I never heard of Whitewater until he became President, never knew there was such a place, never knew there was such a corporation. And if Bill Clinton hadn't had the temerity to come to Washington as the President of the United States, you would never have heard of Whitewater. It is all how things turn out.

But to reemphasize the point I started to make, that is, colleagues, when you take a contribution from anybody, even if your own intentions are pure, you better hope that money is coming from an honorable person. You better hope it is coming from somebody who isn't out defrauding people. And you better be careful how you vote on issues that can help a contributor if they turn sour or turn out to be a crook. It doesn't matter if you cast that vote on the merits. And as long as we have this system of financing campaigns you can lie awake at night worrying about it because it is a real threat. Where a quid pro quo can be inferred, it will be. That is the perception that will remain until we change the campaign finance law.

We have reached the point, Mr. President, where every single Member is constantly just one step away from disaster. And guilt or innocence has little to do with the outcome. One woman told me the other day that she had been interviewed and appeared before grand juries in one of these many investigations and was going to have to deed her house—I promise you she is totally innocent of anything—going to deed her house to her lawyer because it is the only asset she has that will come close to covering her legal bills.

Well, we have reached the point in this country where simple negligence, bad judgment, just plain policy differences are becoming criminal offenses. How many independent counsels do we have running loose in this town? And how many more will we have? I can answer that partially. As long as we finance campaigns the way we do now, there are going to be independent counsels galore in this city. When you increase funding, spending on congressional elections in 1976 from $99 million to, in 1996, almost $800 million, you have to ask, where is this going to end? That is an 800 percent increase in 20 years, with no letup in sight.

Look at the $450 million or almost $500 million in soft money for both parties during the last election cycle. It will be more this year, they are already ahead of the 1995–1996 cycle. Who gives that money? It is not little struggling lawyers as I was 40 years ago in a little town in Arkansas. It is not average folks with five and ten and fifty dollar contributions.

I will tell you when it is going to end, Mr. President. It is going to end when the American people rise up in righteous indignation and come to the realization that the system is rotten, come to the realization that they do not count. It will end when enough people in Congress get tired of every contribution that goes sour being microscopically addressed by the press and wondering about when you are going to be on one of the news magazines the next episode.

There is no perfect solution to this. I happen to come down on the side of public financing. I have a bill. I wanted to introduce my bill as an amendment. Senator KERRY and Senator WELLSTONE have a bill. We discussed whether to try to offer our bills as amendments to this bill. We concluded that would probably be counterproductive, would not get many votes, probably would not get a single Republican vote, maybe 25 or 30 Democrat votes. Yet 66 percent of the people, according to a Gallup poll in October of last year, 66 percent of the people in this country said they favor public financing of our campaigns.

I heard the distinguished Senator from Colorado say a moment ago that he won even though he was outspent. I was too in my first race. I ran against a Rockefeller. I guess you would call that stupidity. But in any event, I won, and when I ran for the Senate against an incumbent, I was badly outspent. But I tell you, those are rare exceptions. I applaud anybody who spends less money than his opponent and manages to win because 90 percent of the candidates in this country who spend the most money end up winning. Pretty heavy odds. According to statistics to this date, if you have the money, you have a 9-to-1 chance of winning.

In the 1995–96 election cycle, 400 corporations, labor unions, and individuals contributed $100,000 or more in soft money; 400 of them gave over $100,000. Were they after good government? Is that what they wanted? I don't mean to demean anybody, because I have a lot of friends who have been faithful to me for 26 years in the contribution area. I can truthfully say I am most grateful to all of them. But when I first started running for Governor in my State, there were no campaign laws and I was absolutely aghast at the amount of cash money, greenbacks, that was floating around in campaigns. One man handed me fifty $100 bills. I knew he had a deep and abiding interest in certain things that were bound to come up when I was elected, if I was elected. So I handed him his fifty $100 bills back.

Do you know something? He doesn't like me to this day. You can't give people money back and make them like it, can you, Senator?

My campaign finance director came up and said, "How are we going to run this race? You are giving more money back than we are taking in." I have given a lot of money back. All I am saying is, when you think about how much money $100,000 is, and when you think about who gave it, you have to believe that they wanted something more than good government.

In 1996—listen to this—in the U.S. Senate, Senate incumbents had a 2 to 1 spending advantage over challengers. You hear people say public financing of campaigns is welfare for the politicians. Do you know what I say to chamber of commerce and Rotary Club members, all conservative businessmen who do not much like this idea of public financing? I remind them, you have been investing in the stock market for several years now and you have been doing well. But I can tell you, if you really want to make some money, if you really want a return on your investment, you opt for public financing. That will give you the biggest return of any investment you ever made in your life, because we won't be spending a lot of money on unworthy projects that contributors supported. It will be a great investment because it will yield a cleaner government and the people will believe it is a cleaner government.

The average successful Senate race today costs $4 million. That is average. Some races have cost as much as $28 million. Where will we be 20 years from now if the costs of Senate races continue to go up another 800 percent? You can't count that high. You can't get computers to count that high at the rate we are going.

One of the problems that I have with the McCain-Feingold bill, and I am a cosponsor and ardent supporter and I certainly intend to vote for it, but I will tell you one of my fears is, while it will help preserve our democracy for a little longer and it will take some of the problems out of the way we finance campaigns today, nothing will cure the problem like public financing.

But the point I want to make, what I worry about is, if we pass McCain-Feingold, there will be a lot of hoopla about it, because I have never known people as tenacious and determined and as hard-working as Senator FEINGOLD and Senator MCCAIN have been on this issue. They have my deep and abiding admiration for their tenacity and their determination to try to do something

about what is wrong with the system. But if it passes, we will go home and we will pat ourselves on the back and give ourselves the "good government" award, as Senator HOLLINGS is always saying, and the American people will be thinking the system has been fixed. A lot of it will have been fixed, but problems will remain and I fear that they will make the people even more cynical.

The issue advocacy ads that are really ads for a candidate—they drive me crazy. This bill would help to bring them under control, require disclosure of the sources of money used to produce them. They are really campaign spending.

I can tell you, I have voted for one constitutional amendment since I have been in the Senate. I voted for ERA soon after I arrived in the Senate.

Since that time, I have voted about 32 times against every constitutional amendment. Either earlier this year or last year, I voted against Senator HOLLINGS' amendment to the Constitution which would have allowed the Congress to set campaign spending limits. I am going to vote for it. I want to announce now publicly, the next time Senator HOLLINGS brings that amendment up, I intend to support it. Despite my deep reservations about amending our Constitution, I will do almost anything to change the way we finance campaigns in this country, because I am absolutely convinced that this system is totally destructive to our democracy. I yield the floor, Mr. President.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise to announce my intention to join my colleague from Arizona, Senator MCCAIN, and vote for his motion to table the amendment offered by the distinguished majority leader to the McCain-Feingold campaign reform legislation.

This has not been an easy decision for me. I strongly support the underlying objective, if not the precise language of Senator LOTT's amendment. The principle that America's working men and women should not be required to contribute their hard-earned money to advance the campaign of candidates they do not support is a compelling one. The strong opposition of big labor to this reasonable proposal demonstrates their fear that many of the rank and file union members would not agree to the use of their dues for political purposes.

But in the final analysis, my decision on this matter must be determined by considerations other than the merits of Senator LOTT's amendment. The plain truth is that its adoption will kill campaign finance reform. That is not simply my judgment; it is the judgment of Senator MCCAIN and Senator FEINGOLD who have devoted so much time and energy to further the cause of reform.

When I ran for the U.S. Senate, I made a clear and unambiguous promise to the people of Maine. I promised that I would fight for campaign finance reform. The people of my State responded by entrusting me to represent them in this body, and whatever other loyalties that I might have, I owe my ultimate allegiance to them. I kept that promise when I cosponsored the McCain-Feingold bill, and I am keeping it now by pledging to vote against what I have concluded is, in fact, a killer amendment.

I do, however, want to say a few words to my Democratic colleagues. At the end of the day, we will not have campaign finance reform without sacrifices and courage on both sides of the aisle. If Senator LOTT's amendment is not defeated, the spotlight will shift to the Democrats. So far, they have had the easy road, able to proclaim their passion for reform, knowing that it faces an uphill battle and confident that they can blame the Republicans if it does not pass.

But if their response to the Lott amendment is simply to filibuster and not to offer a reasonable compromise on the union dues issue, an already skeptical public will reach the inevitable conclusion that Democrats are not serious about reforming the system. A number of Democrats have urged me to put principle over party, and to them I say, "Your turn may come."

Mr. President, a fair campaign finance system is essential to a healthy democracy. While not perfect, the McCain-Feingold bill would give us a fair system. Given the commitment of the people of Maine to fair play, I am confident that my position on this issue not only is right as a matter of principle, but also reflects the values of my home State.

I want to also take this opportunity to commend Senator MCCAIN and Senator FEINGOLD for their unceasing efforts in this very important fight.

Thank you, Mr. President. I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, let me take this opportunity to say what a Senator of courage the Senator from Maine is. This is a very difficult issue. The Senator from Maine, of course, is a loyal Republican, but for her to come out here and have the courage to stand up and join with us to say that this amendment would kill our bill is extremely important.

I have heard her admonition as well that this must continue to be bipartisan. But the fact that she would come out here at this key moment and say that she will stand with a bipartisan effort, as she has done in the past, is not a minor matter. It is the same thing the Senator from Maine did a few months ago when everyone kept saying, "You don't have any cosponsors; you only have two Republican cosponsors." It was the Senator from Maine who actually had some ideas that were better than our ideas, and we added them to the bill and improved it.

Let me add both my personal and professional gratitude for the commitment of the Senator from Maine to reform. We in Wisconsin like to think that we are the greatest reform State, but Maine sure gives us a challenge.

Ms. COLLINS. Will the Senator yield?

Mr. FEINGOLD. I yield for a question.

Ms. COLLINS. I thank the Senator for his kind comments.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today to add my voice to the very important discussion that the Senate is having regarding campaign finance reform, and I commend the Senator from Kentucky, Senator MCCONNELL, for not only his leadership but for his tenacity in defending what he believes and so many of us believe is an assault on the first-amendment rights of all Americans.

I also thank Senator LOTT, our leader, for his leadership in scheduling this debate, and I commend my colleagues who thus far have added insight and value to our discussion.

Mr. President, if we are to have campaign finance reform, I believe we must achieve those changes necessary to ensure public trust in our institutions and our Government officials. Serious reform must take into consideration the significant number of Americans who are compelled to make mandatory political contributions at their workplace as a condition of employment. No citizen should be required to make involuntary contributions to any candidate, party, or political interest group. No corporation, no labor union, and no business entity should have the power to twist the arms of their employees or members. These practices are wrong and un-American, and I believe they must be ended as part of our overall effort to reform the financing of Federal elections.

Serious reform must also contain provisions that increase the frequency and specificity of mandated contribution disclosure. I support measures which bring about greater transparency, those that allow the American people to know the where, the when, how much, and from whom of campaign contributions.

The last election cycle was filled with numerous activities that violated existing campaign laws. As we proceed through this debate, we should be mindful of the fact that these new reforms do nothing to reach those past

violations. We must ensure that illegal foreign contributions are kept from election campaigns, and I believe that we must ensure disclosure violations are uncovered and are punished. Thus, perhaps the most important so-called change we can now achieve is to ensure that the existing laws are routinely and are properly enforced.

However, in our zeal for change, we should not compromise the rights and freedoms of the same people we claim to protect. We must pay close attention, I believe, to the numerous Supreme Court decisions which clearly set forth that the regulation of many campaign-related activities directly implicates first-amendment rights.

In 1974, the Supreme Court reviewed the Federal Election Campaign Act in the case of Buckley and struck down the statutory restrictions on campaign expenditures. In its holding, the Court concluded that political discourse "is at the core of our electoral process and of the first amendment freedoms."

While the Court did allow a minimal level of restriction that we know about—caps on the direct contributions to candidates—and only for the purpose of preventing corruption or the appearance of corruption, it granted the full protection, Mr. President, of the first amendment to anyone spending money to communicate an idea, a belief, or a call to action.

In no uncertain terms, the Buckley decision makes clear that the first amendment forbids the Federal Government from restricting political speech and expression rights by way of campaign expenditure limits.

Mr. President, the Buckley decision does not stand in isolation. For the past 20 years, the Supreme Court of the United States has returned to this decision and consistently and unequivocally reaffirmed its soundness. The Court's subsequent decisions clearly demonstrate this, such as in FEC versus National Conservative Political Action Committee. The Court, tracking the Buckley decision, struck down restrictions on funds spent in support of publicly financed Presidential candidates in furtherance of their election. The Court held that such expenditures fell squarely, Mr. President, within the protections of the first amendment rights.

Also, in the FEC versus Massachusetts Citizens for Life, the Court ruled that the voter guide published by an incorporated entity was entitled, Mr. President, to first amendment protections and invalidated an enforcement action the FEC brought against this organization.

More recently, Mr. President, in Colorado Republican Federal Campaign Committee versus FEC, the Court again, following Buckley, held that first amendment protection covers someone communicating an idea, a belief, or a call to action. The Court found that political party expenditures made in support of party ideals and even party candidates were protected under the first amendment of the Constitution of the United States so long as the expenditures were not made, as we say, in coordination with candidates.

Mr. President, the Supreme Court rulings provide us two guideposts in our endeavor to reform campaign finance. We have the constitutionally proscribed power and thus the responsibility to prevent corruption and/or the appearance of corruption in Federal elections, but we can "make no law * * * [that] abridges the freedom of speech * * *," quoting the Constitution.

Therefore, I believe that it is essential that any reform initiatives we pass do not further encroach on the basic rights protected under the first amendment. It is not the proper role of Government, I believe, to restrict the ability of the American people to participate in election campaigns. It would be absurd, I think, to allow the Government to control the manner in which Americans communicate. If reform crosses these lines, I think it commands too high a price, it goes too far.

Mr. President, in light of the Supreme Court holdings, I do not understand and cannot support the present legislative efforts that directly impinge on first amendment rights. I particularly object to the so-called reform in Senators MCCAIN and FEINGOLD's bill which restricts independent parties from communicating "for the purpose of influencing a Federal election," regardless of whether the communication is expressed advocacy.

Just think about it. Time and again, in case after case, the Supreme Court of the United States has held that Congress can only legislate to restrict campaign-related activities where those activities comprise the express advocacy of a particular candidate. The Court even specified in a footnote in the Buckley case what it meant by express advocacy—communications such as "vote for," "elect," "defeat" and "reject." So when Congress places restrictions on communications that do not fall within this tightly drawn class, it violates, according to the Court, the first amendment.

Mr. President, as we have consistently heard on the floor during this debate, the first amendment is not a loophole. It is beyond our constitutional authority to restrict the ability of independent groups to communicate their political views where they do not engage in express advocacy.

Mr. President, I am also greatly troubled, as are others, by a provision in Senators MCCAIN and FEINGOLD's bill which prohibits independent communications that merely mention the name of a candidate within 60 days of a Federal election. Not only does such a restriction strike at the heart of first amendment protections, it all but guarantees a free ride to the incumbent involved in the election.

Just think about it, Mr. President. If there is no commentary regarding a candidate's performance in office at the time when the electorate is most tuned into the campaign, no sitting Member would ever lose. Incumbents would be able to capitalize on the inherent advantages of being in office, while challengers would be forced to rely solely on their own and probably much less resources.

This provision is incumbent reelection insurance, not campaign finance reform. Make no mistake about it. The electorate must be able to hear all the views about candidates in a timely manner. And candidates must be able to stomach the full range of opinions regarding their candidacy.

Mr. President, we must clean up the system but without compromising fundamental first amendment rights. I believe this task is difficult but not impossible. Without infringing upon any American's rights, we can ensure that the American people control the direction of their contributions, have an understanding of who gave what to whom, and are confident that our elections are free of foreign influence, which is so important.

Mr. President, the Senate, I believe, should work to enact these measures into law and not infringe on our first amendment rights.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. DOMENICI. I say to the Senator, I wonder if I might take 3 minutes as in morning business. I can go into morning business and do this, and then we can come back to this.

Mr. LEVIN. I ask unanimous consent that I be allowed to yield to Senator DOMENICI for up to 5 minutes and then have my rights to the floor restored.

The PRESIDING OFFICER. Is there objection? Hearing no objection, without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Senator very, very much. I will be perhaps even briefer than that.

PROVIDING TECHNICAL ASSISTANCE TO AID IN THE RESTORATION OF THE BASILICA OF ST. FRANCIS OF ASSISI

Mr. DOMENICI. Mr. President, on September 24 and 25, Umbria, Italy, that community, was hit by twin earthquakes. Extensive damage was inflicted upon the towns and villages across the region. Eleven people lost their lives and thousands of homes and buildings have been damaged.

The Basilica of St. Francis of Assisi was one of the buildings that was severely damaged. It isn't just a church

or a great center of pilgrimage, or an artistic archive and yet it is all of those things.

It is one of those special places that you visit one day, but long to return to for a lifetime if you are fortunate enough to get to Italy and to set about to see some very, very historic buildings with culture and with religion that just wreaks from the walls.

That is why I was profoundly saddened to learn that the basilica was severely damaged by the earthquakes of September 24 and September 25, and again last week.

It seems so ironic that the basilica, built in honor of the patron Saint of Italy who cherished the natural world, was ravaged by an act of nature.

The basilica is one of the finest examples of Italian Gothic architecture, a building of "unparalleled importance in the evolution of Italian art." It has been written, by those more knowledgeable about art and architecture than I am and will ever be, that "a harmonious relationship exists between the architecture and its fresco decoration." "The strong and simple forms are repeated throughout the building both to unify and to articulate the space with so powerful an effect that the architectural members are echoed in the painted framework to the frescos."

The basilica is a living museum providing a home for the art of several great masters of the 13th and 14th centuries. These art treasures depict scenes from the Old and New Testaments.

The famous fresco artist, Cimabue, began his work in the basilica, believe it or not, in 1277. Cimabue's frescos include scenes from the life of the Virgin, popes, angels, and saints, as well as scenes of the Apocalypse and the Crucifixion.

Cimabue's pupil, Giotto, painted 28 famous, and beautiful frescos based on St. Bonaventure's version of St. Francis' life, and major accomplishments. These famous Giotto frescos painted on the sidewalls of the basilica were cracked by the earthquake but are miraculously somewhat in tact. These frescos are world treasurers. So that my colleagues understand, let me make this comparison. Giotto was to the basilica what Brumidi was to our own beautiful Capitol.

Mobilization of Italian artists and restorers has been swift. In addition, the National Museum in London and the Louvre have offered experts to help with the restoration.

The sense-of-the-Senate resolution calls upon the Smithsonian, the National Gallery of Art, and any of the other premier art museums in the United States that have the pertinent expertise to provide technical assistance to aid in the restoration of the Basilica of St. Francis of Assisi and the works of art that have been damaged in the earthquake.

I want to indicate to the Senate I will send to the desk to be considered in wrapup a resolution—just by the Senate; we are not going to try to go to the House—just a sense-of-the-Senate resolution that states the facts regarding this disaster, and merely says that the Smithsonian Institution, the National Gallery of Art and any of the other premier art museums of the United States having pertinent expertise in restoration should provide technical assistance to aid in the restoration of the Basilica of St. Francis of Assisi and the works of art that have been damaged in the earthquake. That is essentially what it is.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997

The Senate continued with consideration of the bill.

Mr. LEVIN. Mr. President, I am a cosponsor and strong supporter of the McCain-Feingold bill, and I want to explain this afternoon in some detail why I support a key section in the bill that is the subject of much debate. It is section 201, the provision that is intended to stop what we call issue ad abuse. By issue ad abuse I mean the mislabeling of candidate ads as issue ads in order to evade contribution limits and the disclosure requirements that now exist in Federal campaign law.

I want to emphasize this point because it has been overlooked, it seems to me, by so many of us during this debate. Current law restricts contributions and the Buckley case has upheld that restriction as being consistent with the first amendment. Section 201 is not only constitutional within Buckley but it is also critically important to campaign finance reform. I want to spend some time explaining why.

Now, Buckley—which I think has been cited by just about everybody who has spoken in this debate—is the touchstone for drafting constitutionally permissible Federal campaign finance laws. So I want to start with Buckley. In Buckley, the Supreme Court upheld a strict set of limits on campaign contributions to Federal candidates, despite impassioned argument, including by the ACLU, that such limits impermissibly restricted first amendment rights of free speech and free association.

This is what the Court said in Buckley, and I will be quoting at some length because it is critical in understanding the permissible limits of campaign finance law and limits:

> It is unnecessary to look beyond the Act's primary purpose—to limit the actuality and appearance of corruption resulting from large individual financial contributions—in order to find a constitutionally sufficient justification for the $1,000 contribution limitation. Under a system of private financing of elections, a candidate lacking immense personal or family wealth must depend on financial contributions from others to provide the resources necessary to conduct a successful campaign. The increasing importance of the communications media and sophisticated mass mailing and polling operations to effective campaigning make the raising of large sums of money an ever more essential ingredient of an effective candidacy. To the extent that large contributions are given to secure political quid pro quo's from current and potential office holders, the integrity of our system of representative democracy is undermined. . . .
>
> Of almost equal concern is the danger of actual quid pro quo arrangements and the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. . . .

And the Court went on:

> Congress could legitimately conclude that the avoidance of the appearance of improper influence "is also critical. . . if confidence in the system of representative government is not to be eroded to a disastrous extent." . . . Congress was surely entitled to conclude that disclosure was only a partial measure, and that contribution ceilings were a necessary legislative concomitant to deal with the reality or appearance of corruption inherent in a system permitting unlimited financial contributions, even when the identities of the contributors and the amounts of their contributions are fully disclosed.

In other words, the Supreme Court explicitly held in Buckley that eliminating actual and apparent corruption of our electoral system—corruption which is "inherent in a system permitting unlimited financial contributions"—was a compelling enough interest to justify Congress in imposing campaign contribution limits, although such limits collide with unfettered first amendment rights of free expression and free association.

The Supreme Court adopted a balancing test, looking at what was the restriction on the first amendment compared to the public interest in avoiding the appearance of corruption in elections where there are unlimited financial contributions.

Now, what did the Supreme Court do in the area of contributions? They upheld a $1,000 contribution limit on contributions that an individual may make to a Federal candidate. Despite the argument that that limit collided with pure free speech rights—an argument made by the ACLU in the Buckley case and not adopted by the Supreme Court in Buckley—quite the opposite. They approved the contribution limit. The Supreme Court not only said that the $1,000 limit on contributions to candidates was constitutional, but it also upheld an overall ceiling of $25,000 on the amount of money that a single individual could give to all Federal candidates in a single year.

Now, how does the Court explain that? If the $1,000 limit is constitutional, how, then, would it be constitutional to limit the number of $1,000 contributions in effect to 25 candidates? Why shouldn't people be allowed to give $1,000 to 50 candidates if they want?

The language of the Court is again very instructive as to the balancing test that they adopted relative to weighing limits on contributions and any impingement on first amendment rights. Here is what the Supreme Court said:

The overall $25,000 ceiling does impose an ultimate restriction on the number of candidates and committees with which an individual may associate himself by means of financial support. But this quite modest restraint upon protected political activity serves to prevent evasion of the $1,000 contribution limitation by a person who might otherwise contribute massive amounts of money to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate or huge contributions to the candidate's political party.

The Supreme Court went on to say:

The limited additional restriction on associational freedom imposed by the overall ceiling is thus no more than a corollary of the basic individual contribution limitation that we have found to be constitutionally valid.

So the Buckley Court not only upheld limits on contributions of $1,000 per candidate per election, they also upheld an overall limit of $25,000 in a test which weighed the restrictions on associational freedoms and first amendment freedoms against the need for clean elections, against the need to avoid the appearance of corruption, which in the Supreme Court's words, arises from unlimited financial contributions to candidates.

The Supreme Court said Congress may try to avoid the appearance of corruption that results from unlimited contribution to candidates by putting limits on the contributions to any one candidate and on the total number of contributions to all candidates combined. Why? In order to prevent "evasion of the contribution limit" by a person who might "contribute massive amounts of money to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate or huge contributions to the candidate's political party."

That is Buckley. Now, we haven't heard a lot about that part of Buckley in this debate yet, but that's Buckley. We have heard, and properly so, about that part of Buckley which put limits on expenditures and acts inconsistent with the first amendment. But what we have not heard enough of is those parts of Buckley which rule constitutional the limits on contributions to candidates. It is that part of Buckley that upholds the constitutionality of limits on contributions, which is at the core of McCain-Feingold. Because it is in order to avoid the evasion of existing law and its limits on contributions that the McCain-Feingold bill is designed as it is. That is why we believe that it is perfectly consistent with Buckley.

The Buckley opinion also upheld disclosure requirements. By sustaining these disclosure requirements, the Supreme Court effectively approved the prohibition of anonymous or secret contributions to any candidate or political committee. It also effectively approved the prohibition of direct campaign spending by anonymous or secret persons. Again, the Supreme Court adopted a balancing test even when it came to disclosure.

I know that the Presiding Officer has a particular interest in the need for disclosure—an interest that I think most Members of this body share. Many of us also want to put limits on soft money contributions. On that, there is a difference inside this body. But in terms of disclosure, I know that the Presiding Officer has had a very sincere and a very longstanding interest, one I think most of us would share.

Here is what the Court said relative to the first amendment's application to disclosure requirements:

Compelled disclosure has the potential for substantially infringing on the exercise of first amendment rights. But we have acknowledged that there are governmental interests sufficiently important to outweigh the possibility of infringement, particularly when the free functioning of our national institutions is involved. The governmental interests sought to be vindicated by the disclosure requirements are of this magnitude.

So, again, it is a weighing test. The Supreme Court said explicitly that compelled disclosure—which I think probably all of us in this body support in one fashion or another—has the potential for substantially infringing on the exercise of first amendment rights. But then the Court went on to weigh the value of disclosure against the infringement and said that we have a legitimate public interest in coming down on the side of disclosure. The Court listed three compelling interests in requiring disclosure.

Later Supreme Court decisions built upon the base provided in Buckley. One key case was Austin versus Michigan State Chamber of Commerce in 1990. The Supreme Court in Austin upheld a Michigan State law which prohibited corporations from making independent expenditures, except through a political action committee which is subject to contribution limits and disclosure requirements. Despite the corporation's argument that its first amendment rights were being violated, the Supreme Court specifically held that Michigan could bar the corporation from placing an ad endorsing a specific candidate.

In other words, a corporation was told by the Supreme Court that Michigan has a right to prevent you from putting on an ad that endorses a candidate. It quoted extensively from the Massachusetts Citizens For Life case, a 1986 case.

Here is what the Supreme Court said in the Michigan case, again quoting an earlier case significantly but having additional language of its own:

"The resources in the treasury of a business corporation . . . are not an indication of popular support for the corporation's political ideas. They reflect instead the economically motivated decisions of investors and customers. The availability of these resources may make a corporation a formidable political presence, even though the power of the corporation may be no reflection of the power of its ideas." We therefore have recognized—

Here again, we get into a weighing test

that "the compelling governmental interest in preventing corruption support[s] the restriction of the influence of political war chests funneled through the corporate form.". . . Regardless of whether this danger of "financial quid pro quo" corruption may be sufficient to justify a restriction on independent expenditures, Michigan's regulation aims at a different type of corruption in the political arena: the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas.

So we have contribution limits approved by the Supreme Court. We have disclosure requirements approved by the Supreme Court. We have a ban on corporate independent expenditures except through a PAC approved by the Supreme Court.

Each of these campaign finance restrictions has been upheld by the Court in the face of arguments that these restrictions were inconsistent with the first amendment. In each of those cases, the Supreme Court acknowledged that there was some impingement on pure first amendment rights but weighed that against the public interest in clean campaigns.

TWENTY YEARS AFTER BUCKLEY

Now, the campaign contribution limits that are in existing law—the $1,000 an election and $25,000 overall—are strict limits. No corporate or union campaign spending, except through political action committees. Presidential campaigns are supposed to be funded with public funds.

Those laws, as I said, are on the books today. But candidates and parties in the 20 years since Buckley have found many ways around these tough laws. Contribution limits have been rendered all but meaningless by the soft money loophole. We have all heard the story of Roger Tamraz's $300,000 contribution to the Democrats, and the tobacco industry's donating millions of dollars to Republicans. Disclosure requirements and the ban on corporate independent expenditures have also been rendered toothless, not only by the soft money loophole, but also by the use of so-called "issue ads."

In my opinion, the most vicious combination in the 1996 election season, outside of our control and the control of the campaign finance laws, was the use of huge contributions from individuals or entities, corporations included,

funding candidate attack ads mislabeled as issue ads. This vicious combination encapsulates for me more than any other single image the collapse of our campaign finance system and the rock-bottom need for reform. Documenting issue ad abuse and the role that these so-called issue ads now play in American elections is vital to support legislative reforms that touch upon first amendment concerns. That record is being built right here on the Senate floor. That record is being built in campaign finance hearings before the Senate Governmental Affairs Committee, of which I am a member. It is a record that is filled with examples of so-called issue ads that are indistinguishable from candidate ads, as well as testimony that we have elicited from experienced candidates, officeholders, and others about the growing use of so-called issue ads as a tactic in Federal campaigns to evade the legal limits on contributions and disclosure requirements.

Mr. President, I ask unanimous consent at this point that following my remarks there be printed in the RECORD the transcripts of six so called "issue ads" that aired on television during the course of the 1996 campaign.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. Mr. President, this list, compiled by Public Citizen, illustrates in the words of the group, ". . . the use of the 'issue ad' loophole to engage in flat-out electioneering."

I want to just use one of these ads as an example. This is a 1996 ad, paid for by the League of Conservation Voters. It refers to a House Member, GREG GANSKE, a Republican Congressman from Iowa. The transcript of the ad reads as follows:

> It's our land; our water. America's environment must be protected. But in just 18 months, Congressman Ganske has voted 12 out of 12 times to weaken environmental protections. Congressman Ganske even voted to let corporations continue releasing cancer-causing pollutants into our air. Congressman Ganske voted for the big corporations who lobbied these bills and gave him thousands of dollars in contributions.

The next line is:

> Call Congressman Ganske. Tell him to protect America's environment. For our families. For our future.

This ad is treated by its sponsors as an issue ad which can be paid for out of unlimited, undisclosed funds. But if one word is changed—just one word—instead of saying "call" Congressman GANSKE, the ad says "defeat" Congressman GANSKE—which the ad says in every single other way but doesn't use the word "defeat." If they had explicitly use the word "defeat," then that ad would have to be paid for out of funds which are restricted by law, because the word "defeat" is one of those magic seven words.

In the real world is there any difference between those two ads? In the real political world, would any viewer of that ad get any message other than to defeat Congressman GANSKE? Would any reasonable person reach any other conclusion as to the purpose and intent of that ad? Is that ad not unmistakably aimed at the defeat of a candidate in the middle of an election when that ad runs? Is that ad not equivalent to an ad that is calling for the defeat of a candidate?

I think most of us in this Chamber who have been living in the real political world, as well as most of our constituents, wouldn't even notice the difference—whether the word "defeat" or "call" were in that ad. That is how similar they are.

Then the question is: Just as we are permitted by the Supreme Court to protect our contribution limit of $1,000 by having an overall limit of $25,000, will we be allowed to protect our law requiring that ads calling for the defeat or the election of a candidate come from contributions which are limited by law? Can we not protect that law also in the way we have done in McCain-Feingold, by adding another word to the seven magic words —for instance, the eighth word—the name of the candidate?

Seven words are listed in a footnote in Buckley—the so-called "seven magic words." If you use the words "vote for" or "defeat" or "elect" or "support" or "vote against" or "reject," that is unequivocally considered an ad calling for the election or defeat of a candidate. And the Supreme Court says that our restriction on contributions is constitutional if one of those ads is used. It doesn't say one of those words has to be used. It uses that as an example in a footnote.

So we are coming along now in the real world 20 years later and saying, "Here is an ad that didn't use one of those magic seven words." But is that ad functionally any different? Is that ad in the real world any different from an ad which contains the word "defeat," or does that ad unmistakably call for the defeat of that Congressman just as much if it had used the "vote against"?

That is a question which the Federal Election Commission has ruled on. They have adopted a test from a case called Furgatch that comes out of the ninth circuit. In the Furgatch case, the ninth circuit approved the test which is now the regulation of the Federal Election Commission which says that, if an ad unmistakably calls for the defeat or election of a candidate, that ad is within the meaning of our law that restricts contributions to $1,000 where the advocacy of a candidate's defeat or election is express.

We had 30 days after the Federal Election Commission adopted that regulation based on the Furgatch case, as approved by the ninth circuit—to reject the Federal Election Commission regulation that was adopted a few years ago.

The courts are divided. We have the ninth circuit saying that the test in the Furgatch case is constitutional. We have the first circuit ruling the other way. We have the Supreme Court deciding not to accept certiorari in either of the appeals. In fact, just today they did not accept an appeal of the first circuit decision.

So we have the ninth circuit a number of years ago approving the unmistakable test in Furgatch which is in the Federal Election Commission regulation, and we have the ninth circuit going the other way, and one other circuit I believe going the other way.

So we have a division in our circuits as to whether or not the unmistakable test that the Federal Election Commission has adopted by regulation—and that we have not rejected when we had an opportunity—as to whether or not that Furgatch test is in fact constitutional. But surely when you have one circuit ruling that it is constitutional, and when you have the Supreme Court declining to rule on an appeal from either circuit approving it or disapproving it, what we have now is the situation where we have divided circuits. We have the Supreme Court that hasn't ruled on the subject.

I would have like to have seen the Supreme Court adopt certiorari today, but they didn't. They left us with law in a state of limbo where you have one circuit saying the Federal Election Commission is right—it properly adopts the unmistakable test, and you have another court of appeals saying no—they can't do it consistent with the Supreme Court decision in Buckley.

That is where we sit. That is where we are going to sit until one of two things happen. Either the Supreme Court decides to rule on an appeal from one of these circuits, or we adopt a test ourselves and then presumably have that test ruled upon by the Supreme Court.

Mr. SESSIONS. Mr. President, will the Senator from Michigan yield for a question?

Mr. LEVIN. I would be happy to.

Mr. SESSIONS. With regard to that, I was, I could say, a victim. That is the way I saw it with that very type of ad late in the campaign asking people to call JEFF SESSIONS and say you are opposed to A, B, C, or D—to things he had done while in office.

I think we can take two approaches to it. It fundamentally troubles me that the League of Conservation Voters do not feel free to run an ad and say vote against this guy just like the people who ran ads against me. Why shouldn't we just let them do it? They should have to put their name on it and say who is funding it.

Mr. LEVIN. Is the Senator proposing we repeal the current law?

Mr. SESSIONS. I think we have to consider the problem of trying to contain free speech in America. I really am troubled by it. I was a victim of it. I got angry at the time. Now I wonder why I should feel obliged to tell those trial lawyers and plaintiff lawyers who opposed some of my filed suits that they can't run an ad and say my ideas are wrong and I shouldn't be elected.

As a matter of fact, I am troubled by that.

Mr. LEVIN. Of course the Senator knows they can run ads saying you ought to be defeated. They can run all of those ads they want. But under the law that we have passed, they must use contributions which comply with the limits which we have adopted. So they are free to run those kind of ads. But they must comply with law when they run those ads.

The question is whether they should have unlimited, undisclosed funds to run ads which effectively say to defeat or elect somebody but do not comply with the limit. That is what we are facing.

So, unless the Senator is suggesting that we repeal the existing law, which puts restrictions on contributions for ads which advocate the election or defeat of a candidate—that is the existing law—unless the Senator is proposing that, then it seems to me we should make that law effective and not put form over substance. And when you have two ads which are functionally the same and equivalent, treat one as though it is different from the other.

That is the issue which we are now facing on the floor, as to whether we want to enforce existing law to eliminate what we call a loophole, which clearly is the avoidance of a magic word in an ad which functionally is the same and which any reasonable person would say unmistakably is calling for the defeat of Congressman GANSKE, as an ad which uses the word "defeat" itself.

But, again, unless the Senator is calling for the repeal of existing law, it seems to me we are then in the situation where we are either going to make those limits work, those contribution limits work, which have been approved by the Supreme Court in Buckley, or else we are going to continue the current system where those limits are evaded and where you have all this soft money which comes into these campaigns, which I don't think was the intent of our law when we adopted the reform that we did after Watergate.

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. LEVIN. Sure.

Mr. MCCONNELL. Is the Senator talking about the Furgatch case?

Mr. LEVIN. I have made a number of references to Furgatch.

Mr. MCCONNELL. I am sorry; I was not on the floor, and the Senator was making the point that he thought the Furgatch case did what? Indicated that the restrictions on express advocacy in the McCain-Feingold bill would be constitutional?

Mr. LEVIN. I think the language of the Furgatch case is such that it is much more than the magic words which determine whether or not an advertisement effectively supports the election or defeat of a candidate. Just to read some of the language from Furgatch, what Furgatch does, of course, is look at that famous —as my good friend from Kentucky knows—footnote in the Buckley case, footnote 52, which uses seven magic words. The question is, are those the only words which determine whether or not an ad advocates expressly the election or defeat of a candidate?

Here is the Furgatch test. Here is what the Furgatch case says:

> We begin with the proposition that "express advocacy" is not limited to communications using certain key phrases. The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate. A test requiring the magic words "elect," "support" or their nearly perfect synonyms for a finding of express advocacy would preserve the first amendment right of unfettered expression only at the expense of eviscerating the Federal Election Campaign Act. Independent campaign spenders working on behalf of candidates could remain just beyond the reach of the act by avoiding certain key words while conveying a message that is unmistakably directed to the election or defeat of a named candidate.

So they then provided an alternative test. We are now talking about the ninth circuit in Furgatch, which says that the term "express advocacy" means a communication that advocates the election or defeat of a candidate by expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to external events such as proximity to an election.

Now, that test was basically adopted by the Federal Election Commission in its current regulation. So we have a current regulation which basically adopts the unmistakable test. Under the law, as I understand it, Congress had about 30 days within which to review that regulation. We did not overturn that regulation of the Federal Election Commission. It has to date, in a case which the Supreme Court refused to review, been left in limbo in the case.

The Supreme Court, by the way, it has been said in the Chamber here, struck down Furgatch, or more accurately——

Mr. MCCONNELL. I didn't hear anyone say that.

Mr. LEVIN. I was just getting the exact wording.

I think today it was said in the Chamber that the Federal Election Commission test has been stricken by the Supreme Court's decision today, and that is simply not accurate.

What the Supreme Court decided today was not to review a case, not to review a case from a court of appeals in which the Court said that the Federal Election Commission regulation was not constitutional. But we have another court of appeals in the Furgatch case adopting language which is the basis of the Federal Election Commission regulation, and the Supreme Court didn't review the ninth circuit's decision. So we have two decisions unreviewed by the Supreme Court, the ninth circuit decision with Furgatch language and a first circuit decision with the FEC language which is based on Furgatch——

Mr. MCCONNELL. Will my colleague yield for a question?

Mr. LEVIN. In which a key question was raised, in fact was thrown out as unconstitutional.

Mr. MCCONNELL. Is my colleague from Michigan familiar with the Federal Election Commission versus Christian Action Network, which was decided April 7 of this year? The language in that decision on page 7, I directly quote for my friend from Michigan:

> Seven years later and less than a month following the Court's decision in MCFL, the ninth circuit in FEC v. Furgatch could not have been clearer that it, too, shared this understanding of the Court's decision in Buckley. Although the Court declined to strictly limit express advocacy to the magic words of Buckley's footnote 52 because that footnote list "does not exhaust the capacity of the English language to expressly advocate election or defeat of a candidate," the entire premise of the Court's analysis was that words of advocacy such as those recited in footnote 52 were provided to support Commission jurisdiction over a given corporate expenditure.

I think what the Supreme Court was saying, or what the fourth circuit was saying is that there might be another way beyond the precise words of the footnote to expressly advocate the election or defeat, but that that was basically it. There might be another way to say the same thing beyond words actually chosen in footnote 52. But you are not permitted to wander further. Is that not the——

Mr. LEVIN. I think there is a split in the circuits, and the fourth circuit basically is close to where the first circuit is, and that is, as I understand it, also subject to appeal to the Supreme Court.

The ninth circuit has adopted the Furgatch test, which was then adopted by the Federal Election Commission. So we have a situation where we have circuits split. We have the ninth circuit adopting the Furgatch test, saying if something unmistakably calls for election or defeat of a candidate, that amounts to the express advocacy which is prohibited—not prohibited but which is subject to limits and regulations of

existing law. You have the fourth circuit and the first circuit that have reached a different conclusion on that. So you have a split in the circuits, and today the Supreme Court as of this moment decided to leave that split where it is, to leave that issue in limbo.

Mr. MCCONNELL. I am not sure how in limbo my friend from Michigan would find denial of cert in a first circuit case which pretty clearly laid out that language, much of which is in the underlying bill the Senator from Michigan supports, is unconstitutional. Does the Senator from Michigan find that vague?

Mr. LEVIN. Find what? Find it vague?

Mr. MCCONNELL. Vague.

Mr. LEVIN. No; I find it very clear in the fourth and first circuits. But I also find in the ninth circuit, a very clear opinion which reads, in part, as follows:

We begin with the proposition that "express advocacy" is not strictly limited to communications using certain key phrases. The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate. A test requiring the magic words "elect," "support," et cetera or their nearly perfect synonyms for a finding of express advocacy, would preserve the first amendment right of unfettered expression only at the expense of eviscerating the Federal Election Campaign Act.

I find those words to be very clear as well, to answer my friend from Kentucky, but the Supreme Court did not accept cert in that case either. So we have the Supreme Court not accepting appeals from circuits which have reached different conclusions. The answer to the question of my friend is I find the words of the fourth circuit clear, I find the words of the first circuit clear, and I find the words of the ninth circuit clear. Very clear.

What could be clearer than a finding of the circuit court in the ninth circuit that says, "The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate"?

It is a very clear statement.

The Supreme Court is going to have additional opportunities to address this issue, because there are additional cases which will be coming to the Supreme Court. Hopefully, they will see fit to resolve the dispute between the circuits on this issue.

Just to briefly continue with the Furgatch court, the Furgatch court went on to say the following:

First amendment doctrine has long recognized that words take part of their meaning and effect from the environment in which they are spoken. . . . However, context cannot supply a meaning that is incompatible with or simply unrelated to the clear import of the words. With these principles in mind, we propose a standard for "express advocacy" that will preserve the efficacy of the Act without treading upon the freedom of political expression.

And here is the conclusion of the Furgatch court, again, left where it was by a Supreme Court about 10 years ago. So this is the law in the ninth circuit. The Furgatch court said:

We conclude that speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate. . . . [S]peech is "express" for present purposes if its message is unmistakable and unambiguous, suggestive of only one plausible meaning.

That test, which I think most of us would agree is a real-world test, that test was adopted by the Federal Election Commission by a vote of 4 to 2. It was adopted after extensive public debate. It was presented to the Congress in 1995 under a mandatory 30-day period of review. It encountered no opposition here, and it encountered no opposition that I know of in the House of Representatives. But, this issue has not been ruled on by the Supreme Court. And the Supreme Court, again, as we all know, announced today that it declined to review a case out of the first circuit which went the other way from Furgatch, leaving a split in the circuits between those who do and those who don't approve of using the Furgatch test to distinguish between candidate and issue ads.

60-DAY RULE

One final comment, and that relates to the so-called 60-day rule that is in section 201 of the McCain-Feingold bill, because this is a third way of distinguishing candidate ads from issue ads. The key provision reads as follows:

The term "express advocacy" means a communication that advocates the election or defeat of a candidate by . . . referring to one or more clearly identified candidates in a paid advertisement that is broadcast within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring. . . .

We have seven magic words in a footnote which, if used at any time during an election, will result in an ad being required to be paid for from regulated, limited funds. If any of those magic words, so-called, are used, the Supreme Court has said, that is evidence, indeed compelling evidence, that the ad is an express advocacy ad for election or defeat of a candidate.

Now, what we do is add an eighth word, in addition to words like "defeat" and "elect" and "vote against" and "vote for." For 60 days prior to an election we add a eighth word, the name of the candidate.

It is pretty logical in an election. That is what a candidate ad is usually all about. When a candidate is named—in this ad, we have Congressman GANSKE, Congressman GANSKE, Congressman GANSKE, Congressman GANSKE. The Supreme Court has said, if you use any of the words in the footnote, that does it, that is express advocacy anytime during an election. And if it is express advocacy for the election or defeat of a candidate, you have to use the limited, regulated contributions. It has to be paid for according to the law which Congress has adopted, because we wanted contributions which go to advocate the defeat or the election of a candidate for Federal office to be governed by contribution limits.

In order to avoid the appearance of corruption—in the Supreme Court's words that exists when you have unlimited funds going into these elections—adding a eighth word to "vote for, vote against, defeat, elect," when that eighth word is the candidate's name in the 60 days before an election, is fully consistent with what the Court decided in Buckley. It is inside the spirit of it, and it implements the purpose of our law which is on the books, and it is intended to comply with what the Supreme Court said in Buckley is the legitimate purpose, public purpose of the Federal elections law.

They said we can restrict and limit contributions. They have said why it is good public policy to do so. They have said all of that. They affirmed our limit on contributions, despite the ACLU's opposition to a limit on contributions.

The ACLU's name has been invoked here a number of times. The ACLU was wrong in Buckley. The ACLU, in Buckley, argued that the first amendment did not permit restrictions on contributions. The Supreme Court did not follow the ACLU in Buckley. They adopted a weighing test, and they have since in a number of other cases.

So, what we are doing is saying, "Here is another bright-line test. Add to those seven words in that footnote, a eighth word, for 60 days on licensed media, and reflect the real world." Because we really have two choices, it seems to me. One is to repeal the law which puts limits on contributions. And many in this body, I think, favor the repeal of the law that puts limits on contributions. The other thing that we can do is to implement the law, to fully implement its purpose by closing a massive loophole which has now been created, a loophole which allows for those contributions to be made in nonregulated funds to attack or support the election of candidates to the same degree in any real world sense as does an ad which uses one of the magic words in that footnote.

The 60-day rule is a good-faith effort in McCain-Feingold to comply with the Buckley decision. It is an honest effort to comply with the words in the first amendment in the spirit of the first amendment. I don't think any of us differ in terms of our love of this Constitution. I think everybody in this

body would pass that test with flying colors as to whether we love our Constitution. I think all of us would also say we want clean and fair elections; we want to avoid the appearance of corruption.

Where we differ is in the process, as to whether or not we want to restrict contributions or whether or not we want them unlimited. For those of us who feel that unlimited contributions contribute to the appearance of corruption—and the Supreme Court has said that there is a legitimate public purpose in restricting unlimited contributions—for those of us who feel that unlimited contributions lead to the kind of spending and attack ads that we saw in the 1996 election, we want to fill that loophole, we want to close that loophole which has been now opened so wide that it basically has destroyed the effectiveness of the limit.

So the effort in McCain-Feingold is consistent with the first amendment. We hope that this body will have an opportunity to adopt, or at least to vote on, McCain-Feingold. What we have done, in summary, is to adopt some bright-line rules which we feel carry out the Buckley decision and close the issue ad loophole without infringing on the first amendment.

It is not an easy task, but these rules that we have added we believe do it. The 60-day rule provides criteria that are clear and uncomplicated but narrowly tailored to the essentials of electioneering.

Mr. President, we are facing a historic moment, and that moment is whether or not we are going to restore limits to a system which was intended to have $1,000 per candidate per election. That is supposed to be the law of the land. It has been evaded. It has been evaded with the soft-money loophole, and we are going to, within the next 24 hours, cast the first vote determining whether or not we want to restore limits, effective limits, on campaign contributions as the Supreme Court in Buckley said that we can do.

I hope that we rise to this occasion. I think the American public has had its fill of the unlimited variety. The status quo has no limits. Every day the status quo is losing more and more of the public's confidence, and it will, hopefully, be our lot to restore some of that public confidence by effectively restoring the limits that were intended to be in this law all along but which have been evaded by the soft-money loophole and the issue ads, as they are now called.

We've talked about some specific issue ads that have raised concerns. A broader analysis of issue ads is provided by a recently released study from the Annenberg Public Policy Center, an executive summary of which I've already included in the RECORD. This study takes a concentrated look at so-called issue ads aired during the most recent election cycle. It estimates that, in addition to the $400 million spent by candidates and political committees to broadcast candidate ads, between $135 and $150 million was spent by parties and outside groups to broadcast issue ads never reported to the FEC as independent expenditures. The study notes that the total spent on these issue ads is approximately one-third of the total spent on broadcast ads by all candidates for Federal office in 1995 and 1996.

The study catalogs over 100 specific so-called issue ads, a list which it states is incomplete. It then analyzes these ads, finding among other things that almost 90 percent mention a candidate by name, half the ads favor Democrats while the other half favors Republicans, and, compared to other types of political advertising, issue ads as a group were the highest in pure attack.

The study makes the following comments about the role of issue ads in the 1996 elections:

> This report catalogs one of the most intriguing and thorny new practices to come onto the political scene in many years—the heavy use of so-called 'issue advocacy' advertising by political parties, labor unions, trade associations and business, ideological and single-issue groups during the last campaign. . . . This is unprecedented, and represents an important change in the culture of campaigns. . . . To the naked eye, these issue advocacy ads are often indistinguishable from ads run by candidates. But in a number of key respects, they are different. Unlike candidates, issue advocacy groups face no contribution limits or disclosure requirements. Nor can they be held accountable by the voters on election day. . . . [A] sharp imbalance has evolved over the past two decades in the laws governing campaigns. One part of the electoral system—the part that pertains to candidates—remains regulated, while another part—one that pertains to advocacy groups and political parties—is barely regulated or not regulated at all. If you were a wealthy donor interested in affecting the outcome of a campaign, but not interested in leaving any fingerprints, it is pretty clear where you would put your money.

I have quoted from the Annenberg study, because it is a study performed by a nonpartisan group with long experience in tracking broadcast ads during election campaigns. The conclusions drawn by this expert, nonpartisan group, based upon a broad-ranging study of specific issue ads in the last election cycle, confirms what every Senator knows from personal experience. Issue ads have become a powerful, frequently used tool in Federal elections—an election tool that has nevertheless been able to evade compliance with campaign finance contribution limits and disclosure requirements.

The bottom line is that the actual experience of Congress during the 20 years since Buckley is that issue ad abuse has spiraled out of control and is now undermining not only the campaign finance system set up to deter corruption and educate the electorate, but also public confidence in the integrity of that system. The abuse has reached crisis proportions. The system is broken, and it is time to fix it.

MCCAIN-FEINGOLD PROVISIONS ON ISSUE ADS

So what to do? How are we to stop issue ad abuse, plug the issue ad loophole that is swallowing the rules on candidate ads, and do so in a way consistent with our respect for the first amendment?

The McCain-Feingold bill offers two answers. First, it seeks to curtail the soft money loophole that currently provides the bulk of funding for so-called issue ads.

The second solution that the McCain-Feingold bill offers to the problem of issue ad abuse is section 201 which takes on the knotty problem of fairly distinguishing between true candidate ads that ought to comply with campaign finance laws and true issue ads that are not campaign activity and legitimately should escape campaign finance restrictions.

As we've discussed, section 201 tackles this problem by first codifying the basic test set out in Buckley for distinguishing between candidate and issue ads. It states that independent expenditures covered by the Federal Election Campaign Act are communications which expressly advocate the election or defeat of a clearly identified candidate.

This general principle, first set out 20 years ago in Buckley, provides the constitutional basis for laws that subject political speech about candidates to such tough legal requirements as contribution limits and disclosure requirements. Congress has not previously codified this principle in the primary Federal campaign law. McCain-Feingold would do so for the first time.

But codifying the general principle is not, of course, enough to stop issue ad abuse. The Supreme Court has already held that Congress can impose contribution limits and disclosure requirements on ads that expressly advocate the election or defeat of one or more clearly identified candidates. The problem is how to identify those ads—the ads that contain the express advocacy that the Supreme Court said must be present to justify campaign finance requirements.

Section 201 offers three alternative ways for determining whether an ad contains express advocacy. The first alternative would codify the so-called magic words test first articulated in the Buckley decision. The magic words test, which we've all heard about, says that if certain enumerated words are present in an ad, the ad is express advocacy and must comply with Federal campaign laws. This part of section 201, which simply codifies Supreme Court case law, has not engendered controversy.

Section 201 then offers two other ways to determine if an ad contains express advocacy. Some critics argue that the McCain-Feingold bill violates the Constitution right there, because the Supreme Court has allegedly held that only one test of express advocacy is permissible—the magic words test—and nothing more is constitutionally permitted.

Those critics go too far. Buckley never says that the magic words test is the only permissible way to determine whether an ad expressly advocates the election or defeat of a candidate. In fact, Buckley barely discusses the magic words test. That magic words test, which some claim controls the fate of candidate and issue ads, is set out in one sentence in one footnote, footnote 52, which provides minimal guidance.

Here is footnote 52 and the magic words test in its entirety:

Footnote 52. This construction would restrict the application of [Section] 608(e)(1) to communications containing express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject."

That's it. That's the whole footnote. That's the whole discussion of the magic words test in all of Buckley. Critics who claim that the Supreme Court has held that this test is the only test that can be used to determine whether an ad contains express advocacy sufficient to justify campaign finance restrictions are going beyond the bounds of Buckley—the Supreme Court has simply not made that determination.

Many of us don't think the Supreme Court would go that far in elevating form over substance. Instead, we support the ninth circuit Furgatch test which I've quoted earlier and which is one of the three tests that section 201 of the McCain-Feingold bill seeks to codify. Section 201 words the Furgatch test as follows:

The term "express advocacy" means a communications that advocates the election or defeat of a candidate by . . . expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole with limited reference to external events, such as proximity to an election.

If Federal campaign laws are to stop issue ad abuse, we have to be able to go after ads that unmistakably and unambiguously advocate the election or defeat of a clearly identified candidate—including ads that convey such information without once mentioning a magic word.

Finally, section 201 of the McCain-Feingold bill proposes using the so-called 60-day rule. Broken down to its essentials, this test requires three elements for an ad to qualify as express advocacy: a paid broadcast on television or radio, a reference to a clearly identified candidate, and a broadcast aired within 60 days of the candidate's election.

This 60-day rule is a more limited version of a proposal first made by Thomas Mann and Norman Ornstein. It is more limited in two ways. Where the Mann-Ornstein proposal would have applied to all forms of communications, including newspaper ads, mailings, billboards and more, the section 201 proposal is limited to ads broadcast on licensed airwaves. Where the Mann-Ornstein proposal suggested a 90-day timeframe, the section 201 is limited to 60 days.

The limitation to broadcast ads is a narrowly tailored solution to the problem of issue ad abuse.

The Senate Governmental Affairs Committee on which I sit has received evidence of serious issue ad abuse outside the broadcast arena. For example, the committee subpoenaed documents related to a 1996 million-dollar mailing and telephone effort by a group called Americans for Tax Reform. This group claimed to be engaged solely in issue advocacy, but a host of undisputed facts suggests otherwise, including the fact that the Republican National Committee [RNC] donated $4.5 million to the group in October 1996—the largest donation a political party has ever made to a private organization; the group used the money from the RNC to pay for the mailings and telephone calls; the mailings and calls were orchestrated by a known partisan corporation with campaign expertise; the mailings and calls targeted specific congressional districts; and the mailings and calls were timed to occur in the last few weeks before the 1996 elections. These facts raise the same concerns that exist with respect to broadcast issue ads—that people are gaming the system and mislabeling activities as issue advocacy simply to circumvent campaign laws meant to ensure clean election and an informed electorate.

Despite this evidence of issue ad abuse outside the broadcast field, the sponsors of the McCain-Feingold bill adopted the suggestion to limit the 60-day test to ads aired on television or radio. They agreed that this limitation would address the worst abuses involving so-called issue advocacy, while leaving untouched many other outlets for first amendment expression. They also agreed that Supreme Court precedent under the Red Lion series of cases, provide constitutional foundation for a campaign finance law that addresses paid advertisements broadcast on publicly licensed airwaves, but not other forms of political advertising.

Second, the sponsors of the McCain-Feingold bill limited the provision to a 60-day rather than 90-day period, again in an effort to narrowly tailor the test to address the worst issue ad abuse—those ads that are broadcast immediately before an election.

Third, the McCain-Feingold test is limited to ads that mention a clearly identified candidate. That means that anyone who wants to present an issue ad during the 60-day period can easily avoid the extending laws' contribution limits and disclosure requirements simply by excluding mention of a specific candidate. Issue ads could direct viewers to "Call Congress," "Call Your Member of Congress," "Call the White House," or "Call Washington"—none of which mentions a specific candidate.

Alternatively, an issued ad whose sponsor felt that mentioning a specific candidate was crucial to an effective communication would be free to mention that candidate—the ad would just have to comply with the same contribution limits and disclosure requirements that now apply to candidate advocacy. Those legal requirements have already passed conditional muster in the courts, and the $400 million spent on candidate ads in the last election cycle is incontrovertible proof that they do not stop speech.

Critics argue that, nothwitstanding our efforts to craft a narrowly tailored solution to issue ad abuse, the 60-day rule is overly broad. They contend that the rule would unavoidably restrict the broadcast of true issue advocacy during the 60-day time period.

My response to this argument is that it ignores the past 20 years of experience we have had with the ingenuity of those who want to use the public airwaves to communicate their message.

Any rule that Congress develops to stop issue ad abuse will best pass constitutional muster by providing bright line guidance in this area. To date, the Supreme Court has explicitly approved one bright-line rule to distinguish candidate and issue ads—the magic words test—though we believe the Court will approve other carefully crafted tests. Since Buckley, we have seen that the magic words test has suffered wholesale evasion due to the ingenuity of ad sponsors in designing ads that send clear messages about candidates without once using a magic word.

The McCain-Feingold 60-day rule doesn't want to repeat that mistake. Its goal is not to fight first amendment ingenuity, but to harness it. It does so by providing such simple, bright line guidance that it becomes easy for any person who wants to discuss issues to avoid triggering it. All they have to do is avoid mention of a candidate or avoid the 60-day period. That's not very difficult to do. At the same time, the rule intentionally makes it very difficult for anyone who wants to support or oppose a candidate to evade the campaign finance law, since it is pretty hard to advocate the election or defeat of a candidate without mentioning the person at issue immediately before the election.

The Supreme Court has already held that it is constitutionally acceptable for seven magic words like "elect" or "defeat" in an advertisement to trigger

contribution limits and disclosure requirements. The 60-day rule proposes adding an eighth magic word in ads broadcast during the last 60 days before an election—a candidate's name.

The Supreme Court has already said that clean elections is so compelling a state interest that it justifies contribution limits and disclosure requirements. That is the law today. But the law is being evaded. Constantly. With hundreds of millions of dollars of TV ads. Evading the magic words test is not a hypothetical or theoretical problem. It is an actual problem documented in the Annenberg study and in the personal campaign experiences that many of us have had.

If we want to stop issue ad abuse—to stop allowing candidate ads to masquerade as issue ads in order to evade the law—we need to design bright line rules intended to work with rather than against ingenuity, and the endless possibilities of effective broadcast communication. We need bright line rules that close the issue ad loophole without infringing on the first amendment. It's not an easy task, but we think McCain-Feingold does it. We think it does so in a constitutionally permissible manner, because it provides criteria that are clear and uncomplicated yet so narrowly tailored to the essentials of electioneering, that those who wish to engage in issue advocacy can do so with minimal effort, while those who wish to engage in candidate advocacy will be hard pressed to evade Federal contribution limits and disclosure requirements.

Some will argue that Congress has no right to close the issue ad loophole. But those of us who believe stopping issue ad abuse is critical to restoring effective campaign finance laws believe we have crafted a minimally intrusive means to achieve the compelling public interest of detering actual and perceived corruption which the Supreme Court has said is "inherent in a system permitting unlimited financial contributions."

One of the most important provisions in the McCain-Feingold bill is the ban on soft money contributions to the political parties. But if Congress shuts down soft money to the political parties without also effectively stopping issue ad abuse, our campaign system might actually end up worse off than now. How? Because the hundreds of millions of dollars of unregulated, unlimited and undisclosed money that now flows to parties could be redirected to broadcasting issue ads that are candidate ads in everything but name.

I have heard opponents of the bill claim that McCain-Feingold's express advocacy provisions would shut down the use of educational voting guides that simply report candidates' voting records. In fact, the bill creates an explicit safe harbor for exactly that type of communication. Section 201(b) explicitly includes a subsection entitled, "Voting Record and Voting Guide Exception." It states that, so long as none of the 7 magic words in the Buckley footnote are used in the material, educational voting guides will not be deemed express advocacy subject to campaign contribution limits and disclosure requirements.

I and other authors of section 201 in the McCain-Feingold bill are well aware of the difficulty of putting into statute an effective yet easily understood means of distinguishing candidate ads from issue ads. We've worked hard to create constitutionally acceptable language. We think the tests proposed in the McCain-Feingold bill are a significant improvement over the status quo. It is a status quo that every day is losing more of the public's confidence due to ongoing, wholesale evasion of the contribution limits and disclosure requirements that are supposed to be safeguarding our electoral process.

Stopping issue ad abuse requires more than magic words. I urge my colleagues to give the McCain-Feingold approach an opportunity to do better.

I thank the Chair and thank my colleagues for this long period of time that I have taken.

EXHIBIT 1

PHONY "ISSUE ADS" FROM THE 1996 CAMPAIGN

Here are a few television advertisements, each aired during the 1996 campaign, that illustrate the use of the "issue ad" loophole to engage in flat-out electioneering: [1]

Republican National Committee: "Clinton: I will not raise taxes on the middle class. Announcer: We heard this a lot. Clinton: We gotta give middle class tax relief. Announcer: Six months later, he gave us the largest tax increase in history. Higher income taxes, income taxes on social security benefits, more payroll taxes. Under Clinton, the typical American family now pays over $1,500 more in federal taxes. A big price to pay for his broken promise. Tell President Clinton: You can't afford higher taxes for more wasteful spending."

Democratic National Committee: "Announcer: Protect families. For millions of working families, President Clinton cut taxes. The Dole/Gingrich budget tried to raise taxes on eight million. The Dole/Gingrich budget would've slashed Medicare $270 billion, cut college scholarships. The President defended our values, protected Medicare. And now a tax cut of $1,500 a year for the first two years of college, most community colleges free. Help adults go back to school. The President's plan protects our values."

Citizens Flag Alliance: "Announcer: Some things are wrong. They've always been wrong. And no matter how many politicians say they're right, they're still hateful and wrong. Stand up for the right values. Call Representative Richard Durbin today. Ask him why he voted against the Flag Protection Amendment. Against the values we hold dear. The Constitutional Amendment to safeguard our flags, because America's values are worth protecting."

Citizen Action: "Announcer: They've worked hard all their lives. They're our neighbors, our friends, our parents. They earned Social Security and Medicare. But Congressman Creamens voted five times to cut their Medicare. Even their nursing home care. To pay for a $16,892 tax break he voted to give to the wealthy. Congressman Creamens, it's not your money to give away. Don't cut their Medicare. They earned it."

The League of Conservation Voters: "Announcer: It's our land; our water. America's environment must be protected. But in just 18 months, Congressman Ganske has voted 12 out of 12 times to weaken environmental protections. Congressman Ganske even voted to let corporations continue releasing cancer-causing pollutants into our air. Congressman Ganske voted for the big corporation who lobbied these bills and give him thousands of dollars in contributions. Call Congressman Ganske. Tell him to protect America's environment. For our families. For our future."

Citizens for the Republic Education Fund: "Announcer: Senate candidate Winston Bryant's budget as Attorney General increased 71%. Bryant has taken taxpayer funded junkets to the Virgin Islands. And spent about $100,000 on new furniture. Unfortunately as the state's top law enforcement official, he's never opposed the parole of any convicted criminal, even rapists and murderers. And almost 4,000 Arkansas prisoners have been sent back to prison for crimes committed while they were on parole. Winston Bryant: government waste, political junkets, soft on crime. Call Winston Bryant and tell him to give the money back."

Mr. CRAIG. Mr. President, the debate over campaign finance reform is what I like to call the "News of the Day". The media has been on a feeding frenzy looking for angles to show that this issue had divided members of Congress. That it had divided the members of the same party. There there is a cry of outrage across America as people stand by ready to storm the Capitol in protest.

But despite the massive media hype, the public really doesn't care about the campaign finance reform issue. In the most recent ABC News/Washington Post poll—where people were asked about the most important problems facing the country—campaign finance reform did not even appear as one of the top 10 items on the list. In fact, it didn't appear at all. The same stands true for the latest CBS News poll, the latest CNN/Gallup Poll, and even last month's L-A Times poll. After extensive research of all the major polls, campaign finance has not showed up as a concern among American at all.

What is important to the American people are issues like crime, the economy, health care, education, social security, and the moral decline of the country. What people really care about is whether their children will get safely back and forth from school—and whether they'll get a good education in the public schools. They care about keeping their jobs and trying to make ends meet while they watch a good portion of their hard earned money going

[1] Transcripts originally published in *"Issue Advocacy Advertising During the 1996 Campaign: A Catalog."* The Annenberg Policy Center, September 16, 1997.

to Washington to support a wasteful and inefficient Federal Government bureaucracy. They care about their future—whether they can save enough money to retire some day—and acquire affordable health care. These are real concerns of Americans today.

Now let's just support for a minute that people actually did care about campaign finance reform. That they sat around the dinner table at night and said "How was your day at the office, oh, and by the way, we really need more campaign finance laws.

What Americans really need to know are the details about the campaign finance laws that are currently on the books. And then they need to know about the appalling campaign finance practices that were part of President Clinton's reelection effort—and how the campaign finance issues is being used to divert attention away from these scandals.

And they need to know what Congress wants to do to reform the campaign finance laws and level the paying field so neither political party has an unfair advantage over another.

They need to know what we've going to do to make all political contributions voluntary—so that no person—union or nonunion worker—is forced to pony up their money for political purposes without their expressed permission.

And, they need to know what we're going to do to give them complete and immediate access to campaign contribution records about who gave how much to whom.

This prompt and full disclosure of so-called soft money campaign donations will make the name of the donors public, aid allow the voters to decide if the candidate is looking after their best interest. Under the McCain-Feingold plan, there would be an across-the-board ban on soft money for any Federal election activity.

Let me first recognize my colleagues who have worked on this issue at great length and in good faith. I have nothing but the deepest respect for both Senators MCCAIN and FEINGOLD in their tenacity and diligence to bring this issue to the attention of the public. I agree with some of their points of disagree with others—and I will continue to do so during the course of this debate.

As for the ban on soft money, I have several major reservations on how this measure would ultimately impact the current campaign finance system.

Not improving it, but creating such a hardship on the country's State and local political parties that it would force them to concentrate on raising money in order to exist.

Under the McCain-Feingold proposal to ban soft money, State and local party committees would be prohibited from spending soft money for any Federal election activity.

Right now, State and local political parties receive so-called soft money from the national political parties. Here in Washington, both the Republican National Committee and the Democratic National Committee receive money from donors.

Some of that money is then distributed to the respective political parties in counties and localities all over the country. There are thousands of State, county, and local party offices that receive this financial aid. Then—under certain conditions—the money is used for activities such as purchasing buttons, bumper stickers, posters, and yard signs on behalf of a candidate. The money is also used for voter registration activities on behalf of the party's Presidential and Vice Presidential nominees. The money is also used for multicandidate brochures and even sample ballots.

Let's say it's election day. You go down to your local polling site—whether it's a school, a church or the American Legion hall. Sometimes there's a person there who will hand you what's called a sample ballot—listing all the candidates running for office who are in your party. Like most voters, you are more likely to choose the candidates of your party.

But under the McCain-Feingold proposal, it will be against the law to use soft money to pay for a sample ballot with the name of any candidate who's running for Congress on the same sample ballot with State and local candidates of the same party.

Under McCain-Feingold, it will be against the law to use soft money to pay for buttons, posters, yard signs, or brochures that include the name or picture of a candidate for Federal office on the same item that has the name or picture of State and local candidates.

Under McCain-Feingold, it will be against the law to use soft money to conduct a local voter registration drive 120-days before a Federal election.

Because of these new laws in the McCain-Feingold plan, State and local party officials will have to use hard money instead of soft money for these activities.

Let's look at the reality of this situation. Because of these new restrictions, local party officials—say like the Republican Party chairman in Caldwell, ID—will be forced to seek out hard money donations from local businesses and individuals to fund these political activities.

In a town of just 2,000 people, this party official—who is a volunteer—now has to spend more of his or her time fundraising, not to mention the fact that those with more money stand a better chance of winning an election. Party affiliation will become insignificant. In other words, raising hard money will become a bigger concern for these State and local officials than ever before. And, whomever raises the most money can then fund more political activities.

Mr. President, what kind of campaign finance reform is this? We have just added more laws to a system that's already heavily regulated, increased the burden on thousands of State and local party officials forcing them to go out and raise money, and created more confusion for the voters. If the point of the McCain-Feingold plan is to reform the campaign finance system, the last thing you want to do is ban soft money.

Instead, full and immediate public disclosure of campaign donations would be a much more logical approach. With the help of the latest technology, we could post this information on the Internet within 24 hours. Let's open up the records for everyone to see.

Anyone interested in researching the integrity of a campaign, or in finding out the identity of the donors, or in looking for signs of undue influence or corruption would only have to have access to a computer. They could track a campaign—dollar for dollar—to see first hand where the money is coming from.

But Mr. President, what bothers me the most about the McCain-Feingold proposal is not what's in the bill, but what has been left out. it is, what the majority leader called the other day, "the great scandal in American politics * * * and worst campaign abuse of all." That is the forced collection and expenditure of union dues for political purposes.

Mr. President, this is nothing short of extortion.

Let me make myself clear, I fully support the right of unions and union workers to participate in the political process. they should be encouraged to become involved and active in the electoral process. it's not only their right but their civic responsibility.

Back in my home State of Idaho, I meet with union workers in union halls, on the streets, and in their homes. And I hear their complaints, their anger and their outrage over how their dues are being spent and mishandled by national union officers.

They say to me "Senator CRAIG (LARRY), every month I am forced to pay dues that are used for political purposes I don't agree with. But what can I do? If I speak out, they'll call me a troublemaker * * *"

During the 1996 elections alone, union bosses tacked on an extra surcharge on dues to their members in order to raise $35 million to defeat Republican candidates around the country. It's likely they used much more of the worker's money than they reported, but I'm sure we'll never find out the truth.

But under the Paycheck Protection Act, offered by Senators LOTT and NICKLES, union workers will have new

and expanded rights and the final say on how their money is being spent. The legislation not only protects the rights of union workers, but also makes it clear that corporations adhere to the same measure.

Unions and corporations would have to get the permission in writing from each employee prior to using any portion of dues or fees to support political activities. And, workers will have the right to revoke their authorization at any time.

Finally, employees would be guaranteed the protection that if their money was used for purposes against their will, it would be a violation of federal campaign law. Mr. President, this is commonsense legislation and it's the right thing to do.

Mr. FORD. Mr. President, once again, I rise to discuss an issue that in the recent past has generated lots of talk and not much action—campaign finance reform. But thanks to the hard work of my colleagues—on both sides of the aisle—we may finally be on the brink of actually doing something to address the many problems we have with our system for financing election campaigns.

Thanks to the tireless efforts of our colleagues, Senators MCCAIN and FEINGOLD, we now know that the question is not whether a bill will come to the floor, but whether we will pass the bill that they have brought us. Keeping that in mind, I want to speak a bit today on why I will support the measure currently before us.

As an original cosponsor of McCain-Feingold, I agree that what is necessary is a comprehensive overhaul of the way we conduct our campaign business. If we have learned anything from our experiences in the last few elections, it is that money has become too important in our campaigns. Mr. President, in the last election Federal candidates and their allies spent over $2 billion—$2 billion—in support of their campaigns. The McCain-Feingold bill currently before us, I believe, is the sort of sweeping reform that we must pass if we are to restore public trust and return a measure of sanity to the way we finance elections.

Now each of us has his or her own perspective on what's wrong with the system. For me, Mr. President, it's the explosive cost of campaigning. When I announced in March that I would not seek reelection, I said: Democracy as we know it will be lost if we continue to allow Government to become one bought by the highest bidder, for the highest bidder. Candidates will simply become bit players and pawns in a campaign managed and manipulated by paid consultants and hired guns. The problem becomes clearer when you look at specifics. In my case, when I first was elected to the Senate, I spent less than $450,000—actually, $437,482—on my campaign. Back them, I thought that was a lot of money. If only I'd known. Mr. President, if I hadn't decided to retire, for next year's election I would have had to raise $4.5 million. Now, I know all about inflation but that's not inflation—that's madness. What's worse, I understand that if we continue on this path, by the year 2025 it will cost $145 million to run for a single Senate seat. Can any of us imagine what our country will look like when the only people who can afford public service are people who have—or can raise—tens of millions of dollars for their campaigns? I can't imagine such a future, Mr. President—and the time is now to make sure things never get that bad. McCain-Feingold won't cure everything that ails the current system, but I support it because it represents a real, meaningful first step toward restoring a sense of balance in our campaigns by ensuring that people and ideas—not money—are what matters. Specifically, I support McCain-Feingold because it deals with a series of disturbing issues that have grown in importance in recent years.

I also agree that a primary problem with the current system is the flood of soft money. But when I speak of soft money, Mr. President, I want to make it clear that we are talking about more than just the fundraising of the national parties. True—in 1996, the parties raised over a quarter billion dollars in soft money, which they then used in various ways to support their candidates at every level of the ballot. That's a lot of money, but it's only a small part of the total so-called soft money picture. That's because soft money, is any money that is not regulated by the Federal Election Campaign Act. That includes national party money, of course, but it also includes the millions of dollars raised and spent by corporations, unions, interest groups, and tax-exempt organizations. Our recent experience shows that these organizations are established, operated, and financed by parties and candidates themselves—and their finances are totally unregulated. Therefore, McCain-Feingold is meaningful reform because it recognizes that the problem is not just soft money, it is unregulated money.

The McCain-Feingold bill currently before us is also valuable because it recognizes that closing the party soft money loophole is not enough. The bill also addresses the problem of so-called issue advoacy advertising. These so-called issue ads have developed as a new—and sometimes devious—way that unregulated money is used to affect elections. Lawyers might call it issue advocacy, but I'm not a lawyer so I call it what it really is, handoff funding. Handoff funding is where a candidate hands off spending, usually on hardhitting negative ads, to a supposedly neutral third party whose finances are completely unregulated and not disclosed. Now I know there are those who call these ads free speech. But this isn't free speech, it's paid speech. Of course we need to respect the Constitution, but we can't let people hide behind the Constitution for their own personal or partisan gain. McCain-Feingold draws this paid speech into the light where not the lawyers but the jury—the American people—can decide which issues and which candidates they will support.

Mr. President, I want to respond just a moment to the claim of many of my Republican colleagues that McCain-Feingold's issue advocacy reform somehow limits free speech. That simply is not true. When this bill passes, not one ad that ran in the last election—not one, not even the worst attack ad—will be illegal. What McCain-Feingold would do is say to those candidates and groups who have been using handoff funding to puff themselves up or tear down their opponents—all the while claiming that they were simply, quote, advocating issues—is that within 60 days of the election they must take credit for their work, dirty or otherwise. The only people whose speech will be prevented by this law are people who are afraid to step into the light and be seen for who they are. That, Mr. President, is what I call reform—and I think the American people would agree.

Another critical issue addressed in McCain-Feingold—and this is one area, I think, where we all are in nearly unanimous agreement—is the question of disclosure. Currently there is too much campaign activity—contributions and spending—that is not disclosed to the public on a regular, timely basis. We must commit ourselves, as does McCain-Feingold, to providing the American people with timely and full disclosure to information about political spending, and the means by which they can access that information. Like many colleagues, I believe that the Internet and electronic filing is the way to make this happen; but I hope we will make it clear that all campaign finances—including third-party issue advocacy—are to be disclosed before we get too worried about how such disclosure would take place.

Mr. President, all these reforms will be meaningless unless we are willing to do right by the Federal Election Commission. If the FEC really is the toothless tiger that many people say it is, we must take at least some of the blame for removing its teeth. Any bill that makes changes to the campaign finance laws without restoring the FEC's funding and improving its ability to publicize, investigate, and punish violations cannot truly claim the title of reform.

In conclusion, Mr. President, I know that we will not have an easy road to passage of campaign finance reform legislation. In this body there are a

number of colleagues who are opposed to reform and aren't afraid to speak their minds about the quote, danger, of reform. Mr. President, I can't blame them. If I had the advantage of millions of dollars from wealthy folks and millions more from corporations and special interests, I would think reform was dangerous, too, and I would have to think twice before supporting a bill that took away that advantage. Their opposition—whether in the public interest or their self-interest—means that the debate on this issue will get more than a few of us into a real lather. I'll take that challenge, Mr. president. Just because campaign finance reform will be difficult, and might require each party to give up things it cares about or simply has gotten used to, is no reason not to pass McCain-Feingold, and soon.

All we need to do is to rollup our sleeves and remember the wisdom of that great Kentuckian Henry Clay, who called compromise "mutual sacrifice." Our way is clear, if not easy, but I have confidence that we will do what is right to restore public confidence in the way we fund our campaigns. I look forward to the continuing debate, and to demonstrate to the American people that we are serious about cleaning up the system by voting for comprehensive campaign finance reform.

Mr. ABRAHAM. Mr. President, I rise today to speak on the issue of campaign finance reform; an issue which has been before the Senate in recent days.

Like many members of this Chamber, I count myself on the side of those favoring reform. The question is: what type of reform will have the most positive impact on our electoral system.

As this debate has evolved, I have spent considerable time identifying priorities. I have divided these priorities into two separate categories. The first category is comprised of those standards or tests that any reform legislation must meet in order to receive my support. The second category constitutes a set of objectives which I believe should, as opposed to must, be included in any reform legislation.

Let me begin by listing the standards or tests that I believe must be met by any reform legislation.

First, we must act in a manner that is consistent with the first amendment of the Constitution of the United States. Mr. President I will not support a campaign finance reform bill that establishes any kind of prior restraint on political speech or empowers any federal bureaucracy to constrain first amendment rights. That is why earlier this year I opposed the constitutional amendment presented to the Senate which would have allowed Congress and its agents, including the Federal Election Commission, to place constraints on first amendment rights.

Mr. President, The first amendment to the Constitution and its guarantees of political speech are fundamental. We must not allow any Federal legislation to circumvent them, or attempt to circumvent them.

My second priority with respect to campaign finance legislation is that it must not impede or intrude on the prerogatives of the States and local units of government with respect to how they conduct political campaigns. To that end, Mr. President, I will scrutinize any legislative proposal very carefully to determine not only whether it explicitly encroaches on State and/or local election law, but also whether it sets in motion a process which ultimately could require such intrusion in the future.

Any campaign finance reform legislation must also, in my judgement, maintain a proper balance between the first amendment rights of the actual candidates and the political parties they represent and the rights of those who are not directly in the arena. Mr. President, I have watched with interest in recent years as special interest groups and others who exist to promote particular issue positions and ideologies have become increasingly active in the electoral process. Through so-called advocacy advertising and independent expenditures these groups have become dominant in many Federal elections. And, as they have grown in dominance, they have diminished the roles of the candidates and political parties.

Of course, our first amendment permits this. It is perfectly appropriate for anyone, either individually or in collaboration with others, to advocate their views on issues and campaigns. Moreover, the Supreme Court has ruled that if this is done independently of Federal candidates and the political parties, such individuals or groups may spend vast amounts of resources—well beyond donation limits permitted under Federal law—in furtherance of their causes and candidates.

What this has led to, of course, is an environment in which political campaigns are now increasingly a function of the efforts of special interests groups, rather than of the candidates and political parties. Accordingly, we must be very careful, as we enact any campaign financing reforms, to make certain that we do not totally tilt the balance away from the candidates and parties. Otherwise, Mr. President we will end up with a system in which the candidates themselves are more bystanders than participants and in which the various interest groups on all sides of all the issues are doing all of the talking. In my judgement, this would completely undermine the concept of representative democracy and I will not support legislation that enhances the prospects of such an environment.

In addition to these requirements, any campaign reform legislation we pass must be balanced. It can not be one-sided in favor of any particular political party or cause. Frankly, Mr. President, one of our parties likes the bill before us too much for my taste. I don't blame them, but it clearly focuses more on constraining sources which fund Republicans than Democrats.

To their credit, I think the sponsors of the legislation have endeavored to move in a more balanced direction. That's why the legislation before us has been modified from its original version. But in my judgment it isn't there yet.

Finally Mr. President, to have my support, any new campaign finance legislation must address what I find in my State to be the most disturbing aspect of the way American Federal elections are funded: namely, the increasing extent to which the campaigns of candidates for the House and Senate are financially supported by people who are not even constituents of the candidates themselves.

When I travel around my State and conduct town meetings, and the issue of campaign finance reform is raised, I ask people what disturbs them the most. Almost every time I hear the same answer—that individuals, political action committees, and special interest groups who don't even live in Michigan are bank-rolling the campaigns of Michigan's Members of Congress.

Mr. President, I have not conducted a thorough study of this issue but I do know that a large percentage of the money flowing into almost every campaign comes from individuals who are not the constituents of our elected officials. In fact, in many instances, Members of the House and Senate actually receive a majority of their campaign funds from people they don't even represent.

In my view this, more than anything else, is what has undermined public confidence in our system. Sure, people are upset because of large personal or corporate or labor contributions to the national parties. But I think what galls them even more is the fact that their own representatives in Washington are being financed by people from other States or even other countries. Thus, to have my support, a campaign finance reform bill must seek to address this glaring problem.

Obviously, the first amendment places certain constraints on how this can be accomplished. In fact, some argue that requiring a certain percentage of funds to come from the candidate's State would not meet a constitutional test. I think that's actually a close call and that such a reform would be constitutional. By the same token, though, I believe we can achieve the same general objective, and not

raise a constitutional challenge, by simply adjusting the donor limits, based on whether or not the donors are contributing to someone who represents them.

Whether this is accomplished by increasing the personal contribution limit for constituents, decreasing the limits for non-constituents, or a combination of both is a question we can look into. But I think such a change would move us in the right direction. It would mean that more time would be spent raising money from constituents, and it would mean that the people we represent would produce a far greater percentage of the resources involved in our campaigns. These results would greatly increase our constituents' confidence that we are here to serve them.

These, then, are the five tests or standards by which I will measure any election reform effort. For my vote, any piece of legislation must meet all of these tests. Also, I would note Mr. President, that I have separately introduced a campaign reform bill which I believe accomplishes these objectives. At the same time, there are several other issues which I think should be addressed in a campaign finance reform bill. While not indispensable to the legislation from the standpoint of my support, I consider them to be very important matters that must be focused on either at this time or in some future context.

First, I believe we must put an end to any explicit or implicit involvement of foreign money in political campaigns. As the Thompson hearings have gone forward, and the investigations of the financing of the 1996 campaign reported, I have been increasingly disturbed at the prospect that a foreign government would endeavor to influence American foreign policy through campaign donations. We need real teeth in our Federal statutes to prevent this from ever happening.

In addition, a campaign finance reform bill should include fuller disclosure than that which is presently required. I believe campaigns which reach a certain level of activity ought to be reporting, on-line, their contributions in a much more timely fashion. I also believe that independent committees should be required to make the same type of total disclosure. The increasing role that advocacy advertising and independent expenditures are playing in our campaigns demand that the funding sources for such activities be disclosed and made available as part of the campaign debate.

Third, I believe there should be more democracy with respect to the activities of political action committees. Whether it's labor PAC's, trade association PAC's, issue advocacy PAC's or corporate PAC's, the leaders of our political action committees too often act in a fashion inconsistent with the wishes of the very people whose money they are spending. I think this is wrong. I think our campaign finance reform bill should create a mechanism by which donors to PAC's are able to easily indicate at least the political parties, if not the specific candidates, they want their fund to benefit. Such a reform in my view would much more effectively justify the existence of political committees in the future.

Finally, with respect to my list of things that should be included in a campaign finance reform bill is the subject of fundraising in government buildings. Evidently, the question of what can and can not be done within Federal buildings and on Federal property is in need of clarification. I suggest that we eliminate any uncertainty that might currently exist and expressly prohibit such practices once again.

Mr. President, this then constitutes the context in which I believe campaign finance reform must be addressed. As we move forward with amendments and develop a bill, I will be monitoring our progress to determine whether the priorities I've established here today are satisfactorily addressed. Legislation which does so will receive my backing. Legislation which fails to accomplish these objectives will not.

In closing, Mr. President, I would also make several additional points. Contrary to the innuendoes contained in much of the media coverage of campaign financing I believe the Members of this body conduct their official business in a fully honorable and respectable fashion. While the way we finance elections sometimes gives rise to the appearance of impropriety, the truth is that the Members of the Senate are motivated by and act on the basis of long established personal philosophies and not campaign donations.

I would say without question that the proponents of the legislation before us are fine examples of people whose integrity is unquestioned. If tomorrow Senator MCCAIN found himself with Senator FEINGOLD's contributors and vice-versa, I do not believe either would cast one vote or take one action differently than is their current pattern, and I feel that way about the other Members of this body as well.

Mr. President, I think it is important that we say these things and that we not allow the innuendos and criticisms to go totally uncontested.

At the same time, though, as we struggle to find consensus legislation, I think all of us have an obligation to take personal action—regardless of what the election financing laws might be at a particular point in time—to reassure our constituents that we are acting in an appropriate fashion.

Frankly, Mr. President, I'm tired of hearing political figures on the one hand condemn the way we finance elections and then on the other hand engage in all of the conduct they purportedly abhor, based on the rationale that they will not unilaterally disarm themselves.

Instead of exclusively focusing our energies on passing legislation in an effort to, in theory, save us from ourselves, I think each of us should undertake those actions we determine to be most appropriate to address the perception problems which exist regarding campaigns. I think we should set these examples regardless of what the campaign finance laws might permit.

If we think it's wrong to receive a disproportionate amount of our campaign contributions from out of our States, then we should stop taking a disproportionate amount of contributions from out of our States. Similarly, if we think independent committees operating on our behalf or in support of our efforts are acting in an inappropriate fashion, we should say so clearly, publicly and definitively.

Instead of simply debating campaign finance reform while conducting business as usual, I think every Member of this Chamber who feels strongly about these issues should take some action, independent of anything that might happen legislatively, to make the system better. I intend to do so, Mr. President, regardless of what the outcome might be of these campaign finance reform efforts. If that means I am disadvantaged in my campaign should I decide to seek re-election, so be it. In fact, Mr. President, during my campaign in 1994 I unilaterally acted to limit the flow of PAC and out-of-state dollars to my candidacy.

Instead of simply waiting around for Congress to act, I will move ahead on my own. I hope other Members will do the same and that we might lead by example.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

CAMPAIGN REFORM

Mr. BURNS. Mr. President, on the issue of campaign reform, the words I speak here might not climb to the intellectual level of constitutional dialog as others who are more versed in the subject. I don't think it has to go that high. I think the simpler we keep it, the easier it will be for the American people to understand what we are trying to do.

I want to premise this by saying that I believe, and strongly believe, in four basic principles:

We should abide by current law.

We should have full and timely disclosure.

All contributions to campaigns must be voluntary contributions.

And, yes, we have to abide by the first amendment of the Constitution of the United States.

Through this debate, a debate, I might add, whose time has come, a lot will be said of the good and not so good points of the pending legislation, which, basically, right now is the new McCain-Feingold legislation. It does address some of the concerns that I have had from the beginning. However, I am still bewildered by one basic question in this whole process that we have been through since Christmas a year ago: Why is it, no matter what law we have, that it has become common practice to ignore the law?

I suggest to my colleagues, after all is said and done—and maybe more will be said than done—but to change our existing campaign finance law, one important question remains to be answered: Why do we reform or rewrite? Why don't we just abide by current law?

It is only logical to me that the best campaign reform is to enforce current law. If one or a series of campaign laws have been broken, it is clear to me that the enforcement of such laws should take center stage in every case. Indicting the breakers of the law, the alleged violators, would do more to reform campaign finance practices than any proposed legislation that we could ever pass through this body.

Think about that a little bit. Indicting the alleged violators of present law to make them stand for their practices would do more than any reform we could do for campaign practices that is before us today. It is very simple.

Volume 18, United States Code, section 607 clearly prohibits soliciting and receiving contributions in a Federal building. I quote:

> It shall be unlawful for any person to solicit or receive any contribution in any room or building occupied in the discharge of official duties.

No one has ever been prosecuted under this statute.

To reiterate what many others have stated as a matter of fact, in the 1996 election cycle, that law was allegedly broken. In fact, Mr. President, it was clearly established during Senator THOMPSON's hearings in the Governmental Affairs Committee that that was the case. The offending parties have not been brought to the altar of justice. Yet, the alleged violators contend that they have sent millions of dollars back to their original donors after the election.

What does that say? What does that tell us? How is it that we, as a nation, became a nation where we do not enforce the law? It seems that a patrolman in Montana today was in town enforcing the law. What is the difference?

It plainly states—and I quote—"any person who violates this section shall be fined under this title or imprisoned not more than three years, or both."

Now, if it has been broken, it should be enforced. If we would enforce the law, if we would indict the alleged violators, arrest, present them to a judge and a jury, I think that would do more than anything we can do in changing the law before us.

You know, Mr. President, I spent a long time refereeing football. We are in football season. It catches everybody's imagination—the Super Bowl, everything. I am wondering why that game can hold the order that it does.

Let me tell you, I thought about that a long time. In order to capture the imagination of the American people, there has to be some order to it, it has to be competitive, it has to be fair.

So the first thing that happens is there is only one rule book. The rules for high school or college or professional football is the same in Kentucky as it is in California as it is in Colorado—one federation.

And why is it on Saturday afternoon or Sunday afternoon four old men in striped shirts can go down on a field of 22 of the most mobile, hostile, heavily armored people intent on doing each other in and they have very few problems? No. 1, the rules are enforced on both sides of the ball. And, No. 2, that old man in a striped shirt is the arresting officer, he is the judge and the jury, he is the penal officer, and he does it all in 30 seconds.

A young man can haul off and slug his opponent. The referee sees it, throws the flag. That is the arrest. The judge and jury—you are guilty. "So, 15 yards against your team and, you, young man, are out of the football game." He can say, "I come from a broken family." It doesn't say anything in that rule book about that. The rule book says, "Thou shalt not hit thy opponent with the open hand. If thou doest, your team will be penalized 15 yards and you will get to watch the rest of the football game." It does not make any difference who you are, what you are; you are out of there.

So everybody understands the rules, everybody understands the penalties. It is all done in 30 seconds. And they are enforced immediately. And after an hour of play on the field, we have very few problems.

What are we missing in real life when we start talking about that? No doubt that the White House made phone calls from the White House. They claim the law doesn't apply to them. It has never been tested in court. Somebody has to file charges.

Here in the Senate there is one simple rule, one simple rule here in the U.S. Senate: Do not make fundraising calls from your office. It is not acceptable in any form, not by phone, not in person, not in letters, and not by hosting events. And basically common sense would tell you, do not put the taxpayers' property at the disposal of your campaign.

We keep hearing about that we need to change the laws. What I am saying here basically is, just obey the laws we have now. We cannot turn a blind eye to the fact that 938 people stayed overnight in the White House between 1992 and 1996 and they raised over $10 million, and that 103 coffees raised $26 million over 18 months. All of these activities are clearly established by the hearings. The law is very clear. To misunderstand or to refer to loopholes, I think, is just absurd.

To comment on the newly revised McCain-Feingold legislation, I am pleased to see that some of those steps have been made in the right direction on this piece of legislation. The authors certainly have improved it from its original version. Unfortunately, however, it is not in a comprehensive form.

That is why I commend the leader for what he has done because a major tenet to campaign finance reform should be that all Montanans, all Americans, who desire to give money or to participate in any way in a political campaign, do it voluntary. That is all we are asking. I do not want anybody to tell me where I have to give my money. If you do not want to contribute, you should not have to.

No one should be forced to do that, no political party, nobody, whatever, no organization should have the power to collect dues or any other form of payment for political uses without receiving consent.

The McCain-Feingold bill contains the Beck language, but that leaves a lot to be desired. And in some cases it is not as fair as it could be or should be. It allows union members to receive a refund upon request. But that union member must give up his union privileges at that moment. You are not allowed both. You cannot choose whether or not to make political contributions and still be a member of the organization.

So the Paycheck Protection Act is not a poison pill. It is a right. It is a basic right. It is a basic right for every man and woman and child in this country, whether to give funds or your services or your labors for a candidate, for a political party, or a ballot issue. It makes no difference. You should do it voluntarily. It is just a basic American freedom.

So this provision, the Paycheck Protection Act, I think we can all agree on that, that all contributions should be voluntary. That is the reason that is important, for no one person, no one group, no association should be able to

spend your hard-earned dollars without your consent.

There are troubling provisions. They still remain in this legislation. Clearly, as it exists today, it runs afoul of the first amendment. That has been already taken to a plain that I am sorry I cannot attain.

Political spending is equated with speech. The courts are clear and consistent on that point. We cannot say, on the one hand, we are protecting speech and, on the other hand, restrict the means by which that speech is carried out.

Under the revised bill, corporations and other organizations would be prohibited year-round from issuing communications to the public that fall under the bill's much broader definition of "express advocacy," which includes "words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates" or "expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election."

With respect to that restriction, it is my belief it would not withstand constitutional scrutiny. The Supreme Court in Buckley versus Valeo—that is all going to be talked about—in striking down the $1,000 limit on independent expenditures enacted by Congress in 1974 as a violation of the first amendment, noted that such limitation "would appear to exclude all citizens and groups except candidates, political parties, and institutional press from any significant use of the most effective modes of communication." In other words, we don't want to take away the power of the people and place it in the hands of politicians, the Government and the press.

So I suggest to my colleagues there is an answer and it is a better answer. It is simple, it is understandable, easily complied with, even easier to monitor—full and timely disclosure. Full and timely disclosure should be the core, the core of all finance practices. We always thought we need to enhance public disclosure measures that will allow the voters to know where every single penny comes from and where every single penny is spent, no matter what the organization.

You want to do something about soft money? I will tell you how to do away with soft money, just report it. This would give a full picture of the situation and allow the Sun to shine in the dark corners of the current campaign practices.

Mr. President, let me end by saying we are getting closer to the reform package. Some of the changes, visions, are true steps in the right direction. I support Senator LOTT's amendment. It is a good and necessary addition to this legislation. We should take a look at soft money and where it goes and how it is raised. The only way you do away with soft money is that everybody files, everybody reports, because you have to remember it didn't start just last week. I think there was a little failure to disclose in October of 1996, and before this discussion is all over, I am going to give this Senate an opportunity to vote on a little amendment that may put some teeth in that. They are not going to like the teeth. But I guarantee you they will file. They will file their FEC report, and that is what has to happen.

We all look at ourselves here as being part of this reform package. There are other things and other people that are also involved that will be affected by this. So before it is all over, we will see how far they really want to go in campaign finance reform, on what is right and wrong.

I yield the floor.

Mr. MCCONNELL. Let me say briefly to my friend from Montana, thank you very much for a very important contribution to this debate. I listened with great interest to the contributions of my colleague from Montana. He made also some very constructive suggestions.

PRIVILEGE OF THE FLOOR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that Shannon Bishop be permitted privileges of the floor when we are debating this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, in our debate today we have talked about a number of things. Again, you might think from the discussion that there was only one provision of our bill, the McCain-Feingold bill, and that provision had to do with the issue of express advocacy.

Of course, that is a very important aspect of the bill. Not only are we confident of the constitutionality of those provisions, but we know it is one of the very important issues that has to be resolved if we are going to deal with the problem of big money in politics.

If you listen to the opponents of this bill you can swear that is all McCain-Feingold is. But there are 25 other provisions that our opponents choose to ignore, because not only are they essentially noncontroversial provisions, they are the very provisions that, for example, the Senator from Montana was just talking about.

A number of Senators today said on the floor, why don't we do full disclosure? What I want to say to my colleagues, Mr. President, if you kill the McCain-Feingold bill, you will be eliminating a number of very key new provisions that will provide exactly the full disclosure that Members of the other side have been calling for. In other words, our bill does disclosure and more. So, why all this talk about why don't we do full disclosure of campaign contributions?

The bill greatly enhances disclosure. Instead of simply saying that contributions over $200 per person be reported, the McCain-Feingold bill as modified requires all contributions over $50 to be reported. The McCain-Feingold bill provides the most immediate disclosure possible by requiring that candidates file electronically with the FEC. It is no longer sufficient to just file a big stack of papers every 6 months and make people go through them. This will require computer reporting and immediate public access to this information on a daily or weekly basis so the connection between contributions and votes can be plainly seen. That is real disclosure. I can't imagine a fuller disclosure than that, unless we went to absolute zero which I would be happy to do in terms of contributions.

The bill also requires—you don't hear about this from the other side; they want to pretend somehow the bill is just about issue ads—the bill requires groups and parties running independent expenditures against candidates to disclose these expenditures to the FEC.

So, more information, more disclosure, more transparency, with regard to independent expenditures. The bill requires that the Federal Elections Commission make campaign finance records available on the Internet within 24 hours of filing. The bill requires the campaign to collect and disclose all required contributor information. Right now, under the current law you can do something apparently that is called making your best effort to figure out who is the person that made the contribution and what their profession is. Our bill, the McCain-Feingold bill, requires all such information be obtained upfront.

The bill also bars campaigns from depositing campaign contributions over $200 into their campaign accounts until that information has been disclosed. This is the disclosure that Senator after Senator who is against our bill has called for. What they have never mentioned is that it is in the bill. If you kill McCain-Feingold, you are killing all of these disclosure provisions.

And there is another one that my constituents in Wisconsin have called for, and that is to simply require political advertisements to carry a disclaimer identifying who is responsible for the content of a campaign ad. Time and again, I have heard my constituents say they are sick and tired of all the negative campaigning, and they find it particularly irritating that the people who run the ads aren't even required to say who they are, who is doing the ad. This is disclosure. This is what it is all about when it comes to letting the American people have the

information they need and deserve to evaluate what is happening with money in politics.

Yet if you listen to the debate by our colleagues on the other side of this issue, you could swear there is no disclosure. I have not heard a single idea regarding disclosure that goes beyond this. This is full disclosure, Mr. President. Kill McCain-Feingold, you kill these disclosure provisions.

The same thing goes for stronger provisions with regard to enforcing our laws. All afternoon, Senators came to the floor and said "We don't need new laws. We need to enforce our current laws." I happen to agree that we should more carefully and clearly enforce our current laws. I don't think that does it by itself, but what it does do is indicate a seriousness about any violations that have occurred. I agree. But it has become clear in the middle of the scandals and the allegations that some of the provisions in our statutes need some shoring up so that enforcement can improve.

What do we do about enforcement? What does McCain-Feingold do about enforcement of the law that would be eliminated if the filibuster succeeds? If McCain-Feingold is defeated, not only would our efforts to deal with phony issue ads and that are really express advocacy ads be defeated but all of these strengthening provisions would also go down. One provision prohibits foreign nationals from making any sort of contribution or donation to candidates or parties. After all the talk on both sides of the aisle about foreign contributions distorting our political process—a concern which I share—do we want to kill campaign finance reform, and with it eliminate a provision that would prohibit foreign nationals from making any sort of contribution or donation to candidates or parties? We need to strengthen that law. The filibuster would kill it.

Mr. President, this bill some would like to kill strengthens current law, making it absolutely clear that it is unlawful to raise or solicit campaign contributions from Federal property, including the White House and the U.S. Congress. Mr. President, there has been a great deal of talk by Senators today about the need to deal with that problem. This bill makes sure there are no excuses for those who would pretend whether they are in the White House or in an office of a Congressman or Senator, that somehow there is a way to get around it and actually raise money from your office. Our bill takes care of that. Killing it destroys it.

The bill increases the penalty for knowingly and willfully violating Federal election law. The bill permits the Federal Election Commission, for the first time, to conduct random audits at the end of a campaign to ensure compliance with Federal election law. The bill bars Federal candidates from converting campaign funds for personal use such as for a mortgage payment or country club membership. Yes, it bars minors, those under 18, from contributing so that we don't have 3-year-olds giving $1,000 contributions anymore which is perfectly legal under current law. Those who would defeat and filibuster McCain-Feingold would wipe out all of these new enforcement provisions and leave nothing.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FEINGOLD. I ask unanimous consent for 5 more minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FEINGOLD. Senators on both sides have been very generous with the time today. I will try to keep it brief. Beyond the disclosure and enforcement, we also do something about the fact that we all know that incumbents have an advantage under the current system. Our system says that if people agreed to limit their personal spending to $50,000, they would be able to continue to receive help from their parties in the form of coordinated expenditures; otherwise, not. That could be a deterrent to an advantage for an incumbent or perhaps a very wealthy individual who is trying to obtain a Senate seat through spending a great deal of money.

Our bill simply bans Members of Congress from sending out taxpayer-financed mass mailings under the franking privilege during the calendar year of their election. This is a major advantage that incumbents have over challengers. Again, if you wipe out the bill, you wipe out McCain-Feingold, you haven't just addressed the one or two matters the other side identified as a problem, you have wiped out these reforms as well.

Finally, Mr. President, with regard to the issues of soft money and what I like to call "phony issue ads," I have noticed that throughout this debate Senators on the other side have focused their attention primarily on trying to claim that our provisions with regard to express advocacy are somehow going to be struck down by the Supreme Court. Of course, in that regard, what I say is, in the worst-case scenario if our provisions are unconstitutional, the Supreme Court will strike it down and it won't go into play. But what I have noticed is that at the same time that this constitutional argument has been advanced we hear virtually nothing anymore about the fact that our bill bans soft money.

Where has the argument gone that banning soft money is unconstitutional? It appears to be gone. There is no challenge to our claim and our ability to demonstrate that 126 constitutional scholars believe this is not only constitutional but essential.

With that, Mr. President, I remind my colleagues that there is a great deal to this bill that would be destroyed if we do not avoid this filibuster. In that regard, I want to say that I listened with great interest earlier to my colleague as he discussed the decision this morning of the Supreme Court to deny certiorari with regard to the FEC. The fact is, Mr. President, the claim of the Senator from Kentucky that the Supreme Court struck down some kind of decision is just not true. The Supreme Court simply chose not to take up that case, just as it chose in the past not to take up the ninth circuit case that makes almost the opposite decision.

There is a conflict between the courts. The Supreme Court, at some point, may have to resolve this. Maybe they will have to resolve it when acting on the McCain-Feingold bill. But what is clear is it was neither striking down of a provision, nor was it a huge moment. It was nothing but the Supreme Court saying we are not going to take this up right now. I recognize the pressure that is behind the effort to kill this bill. I recognize the temptation to try to make something of a decision that is simply not there. But to suggest that this is a major decision or a precedent that has something to do with what the law of the land is is simply not true. The Court didn't even offer an opinion. They just said: we are not going to take up this first circuit case.

Mr. President, I listened with great interest earlier today to my colleague as he discussed the decision this morning, of the Supreme Court to deny cert—without opinion—in the case of Maine Right to Life versus the FEC.

I think it is essential to put this silent decision into its proper perspective, lest it be given weight it simply does not deserve.

Mr. President, there are any number of reasons, ranging from the facts of the case to the simple fact that they can only hear so many cases in a given year, which might lead to the Supreme Court denying certiorari in any case.

The Supreme Court's unwillingness to consider the appeal of this case is no more dispositive on the issue of express advocacy than was a similar decision to deny cert some 10 years ago in FEC versus Furgatch.

In Furgatch, the Court of Appeals for the Ninth Circuit held that context is relevant to determining what constitutes express advocacy. In Furgatch, the court found that there was no doubt that the ad in question asked people to vote against President Jimmy Carter.

The court also gave weight to the timing of the ad, noting that it occurred within 1 week of the election. Further, they were not issues based, but attacked the candidate directly—for personal qualities.

On October 5, 1987, the U.S. Supreme Court denied a petition for cert filed by Mr. Furgatch.

Mr. President, today we have heard that a similar decision of the Supreme Court—without comment, leaving in place a first circuit decision that held the FEC's regulations regarding voting records and voting guides were invalid, should be construed as to signal the end of the debate on campaign finance reform.

Now we can debate the merits of the Maine case and the Furgatch case and we may or may not reach a mutual opinion of what those cases mean. However, what is not in dispute—in regard to either case—is that the silent decision of the Court is not necessarily a substantive affirmation of the lower courts.

Such a conclusion is simply not appropriate. There may be any number of reasons—the exact reason we will likely never know—why the Supreme Court passed upon the Furgatch case and on the Maine case this morning.

If we start inferring substantive approval to every lower court case the Supreme Court refuses to hear, we will be left with a patchwork of rulings and laws which defy any thread of continuity or precedential value.

Mr. President, before we impute too much importance to the denial of cert this morning in order to avoid comprehensive reform, I think we in this body should take a long hard look at our role in this process.

We have an opportunity to address the very issues of Furgatch and Maine Right to Life and rather than hide behind the silence of the Supreme Court we should accept our responsibility and do just that. My colleague, from Kentucky argues that McCain-Feingold is unconstitutional despite the fact that legal scholars find otherwise.

The rejection of cert today means that the decision of the first circuit remains in effect in that circuit, just as Furgatch remains controlling in the ninth.

The two are in conflict and yet, the Supreme Court has elected to pass on both. If the decision today, as my colleague from Kentucky argues, means they support the first circuit, what does that mean in the ninth circuit—that it is no longer good law?

Of course that is not what it means. What it means is that we have a conflict which will remain unresolved unless either the Supreme Court moves to resolve the conflict, or we, the legislative body make the law clear.

We have no control over the Supreme Court—although I would note that many in the Congress have been attempting to exert some control over the courts in the past months—but we do have, in this body, an opportunity to resolve this impasse ourselves.

This issue before this body remains the same as it has from the outset—will we reform the campaign finance system of this Nation. Nothing the Supreme Court said—or didn't say—this morning changes that fundamental fact.

We should debate the constitutionality of this legislation and I welcome that debate. We should not, however, hide behind the silence of the Supreme Court as an affirmation of either position in this debate.

Mr. President, I thank my colleagues. It has been an interesting debate. I appreciate the courtesy of the Senator from New Mexico.

I yield the floor.

Mr. DOMENICI. Mr. President, I apologize to the Chair that this is the last speech of the evening. If I don't speak tonight, I probably won't be heard on this issue. I have been trying this afternoon, but it has been a fair assignment of speaking rights down here and I have waited my turn.

Mr. President, before I deliver my prepared remarks, I want to comment on a few things I heard on the floor. I tried at one point to ask a question of the distinguished Senator from Arkansas, Senator BUMPERS, who made a lot about lack of participation in the American democracy and especially with reference to campaign contributions. If I read him right, he said because the big money is so influential and powerful, if you will, other people don't think they ought to be giving, as if other people weren't giving.

The truth of the matter is that in every campaign, including the last time, more individuals gave small contributions and medium-size contributions than in the history of the Republic. At the pace they are on now, it looks like they are going to do that again. Now, how much is enough? I don't know. But to say that because there are big contributions, people aren't participating, you can go over and ask the Republican Party where most of its contributions come from for the regular activities of the parties, they will tell you from small contributions, and they are there by the hundreds of thousands.

Second, a big thing was made by Senator BUMPERS to the people listening that the democracy was not participatory in America because only 50 percent of the people voted, and perhaps in the State of Colorado it was 53, or in New Mexico it was 52. You know, people are really using that fact for a lot of inferences, and I am not sure many of the inferences are right. But I surely don't believe that whatever that participatory failure is—and in a moment I will say 50 percent isn't a failure—it is surely not because of contributions that we are trying to control here on the floor. There are so many reasons that Americans don't participate in politics, not the least of which is that Americans are just darn independent. They sometimes don't want to be bothered about anything. As a matter of fact, they are very busy. As a consequence, many of them just don't take time out. But I submit that for a democracy as vintage as ours to have 50 percent of the voters participating heavily and 50 percent or more, even though slightly voting, that is a pretty good track record. I submit that if the 50 percent turned into 75, we would probably get the same results. I don't want to cast any aspersions on the validity of individual votes, but our participation is sufficient to deliver the will of the people. I believe that is what we are all looking for—that the people's will would be exercised at the ballot box and get the kind of Government they want.

I rise today to offer to those colleagues who want to listen, and a few of the American people who might be listening, some thoughts that I have on this issue before the Senate now. Should Congress alter the laws governing the way we conduct political campaigns in this country in the manner recommended in the legislation before us, the so-called McCain-Feingold reform? It seems to me that we ought to have a sense of perspective about this.

I want to make one general statement before I talk a little bit about history.

The risk and danger of changing the laws right now in the manner recommended in this bill is that if that change causes one major group of Americans to lose their freedom of speech because they cannot use their money and causes another group of Americans to have an increased influence on campaigns because they can use their money, then I believe we ought to be very careful about that imbalance.

What I think might happen if these amendments are adopted to the code that we now have is that there will be a lot more opportunity for the labor unions in America, who might have nothing against it but are protected under the Constitution for their rights and freedoms of speech, but I am fearful that the balance which is there, since the unions are almost a Democratic arm today, and I don't see any reason why they will change for a while, it would seem to me we don't want to get things out of balance and then look back and say, "Oh. We also let the electorate get influenced in an unbalanced way."

So when I look at this democracy of ourselves, I see a very stable democracy. I see something very, very special. In other parts of the world when countries change their leaders, they often change the entire nature of their government. In the last several years governments have changed in Burma, Rwanda, Somalia and too many countries to mention. Many of these changes involved bloodshed and all kinds of revolution and riot. Obviously, for those who happen to be on the losing side, when some governments

changed hands, that meant torture, imprisonment and all kinds of violations of civility and civil rights.

In the United States we ought to be very thankful that we have the first amendment to the Constitution. It is the bedrock of this democracy. To me the Constitution and the first amendment are what set the United States apart as a mature democracy from the rest of the world. The first amendment allows us to have free and open political campaigns, and the Constitution provides for a smooth transition of that power between the competing political parties once the election has been completed.

In the name of reform, the bill before us fundamentally alters our unique democratic electoral process just because many are dissatisfied with the way our campaigns are financed and operated. Some are disgusted by the ads. Others lament the fact that candidates no longer control their campaigns. Many believe we need to abolish soft money. Others contend if we pass this bill the public cynicism of elected leaders will somehow evaporate.

The fact is, fellow Senators, that the debate over campaign spending is as old as this democracy itself. George Washington was roundly criticized in the early days of our country for spending three or four times the cost of a house on his first election to the House of Burgesses. Abraham Lincoln's supporters accused the Democratic opponent of bowing to "plantation and bank paper aristocracy" which could raise five times what Lincoln raised for his campaign. That is kind of reminiscent of the discussions of today.

Let there be no doubt, the constitutionality of this legislation is dubious. I heard some of the arguments today. I just do not believe they are right.

In my mind, you can be for McCain-Feingold, or you can be for the first amendment. I choose the first amendment.

The modified McCain-Feingold bill creates a so-called "bright line." That is a test 60 days out from election.

Mr. President, am I operating under a time restraint?

The PRESIDING OFFICER. We are in morning business. The time has expired.

Mr. DOMENICI. I ask unanimous consent that I be able to speak for 7 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Let me go back.

This bill before us, McCain-Feingold—and I notice Senator FEINGOLD's presence here, and I commend him for the way he has conducted himself. He feels as strongly about this as I do about my views.

But this bill creates a so-called bright-line test 60 days out from election. In effect, the bright line attempts to get through the back door what the Supreme Court in Buckley versus Valeo said you couldn't get through in the front door. In Buckley, the Supreme Court said, "The concept that government may restrict speech of some elements of our society in order to enhance the relative voices of others is wholly foreign to the first amendment."

With respect to independent expenditures, the Buckley decision means that individuals and groups may spend unlimited amounts on direct communication with voters to support or oppose Federal candidates as long as there is no coordination or consultation with any candidate.

At its heart the McCain-Feingold bill does two things:

First, it eliminates soft money.

Second, it reduces independent expenditures, express advocacy, and creates the 60-day bright-line rule. Under the bright-line rule, any independent expenditure that falls within 60 days of an election could not use a candidate's name or likeness.

Mr. President, this is where the authors of the reform bill seek to get through the back door what the Supreme Court has already ruled we may not get through the front door.

By redefining independent expenditures and express advocacy, the McCain-Feingold bill limits political speech which the Supreme Court in Buckley said was unconstitutional. I believe they will do that again when you try to tell those protected organizations already indicated as being protected that you are protected, but for the last 60 days you are not. If they are protected by free speech to involve themselves in politics, is it more important to our constitutional democracy that they be permitted to do that 2 years before an election or 58 days before an election? I would assume they would all opt who want to use their constitutional rights to say, "I don't care about doing it 2 years before; what I care about is doing it when the people are paying attention." I don't believe sitting members of this Supreme Court are going to find that you can do that unless they decide to throw out Buckley versus Valeo in its basic concept and principal thrust.

So I want to move on to one other subject. Currently groups like the AFL–CIO, the Christian Coalition, the Sierra Club, the National Rifle Association may run unlimited political advertisements using soft money, in some cases in support of the opposition to a particular issue. We have all heard on the floor how many of these ads contain the likeness of a candidate. The Supreme Court in Buckley said that any attempt to limit the expenditures of these groups for these purposes was unconstitutional. McCain-Feingold would attempt to do precisely what the Supreme Court has said is unconstitutional.

I ask fellow Senators, isn't it interesting? In this bill there is also a provision that says, even if the Court strikes down one part, the rest may be valid. I ask you, what will you have in America if they strike down the 60-day prohibition and leave the soft money and the soft money prohibition is constitutional? You will essentially have decided to turn the campaign over to issue-oriented advertising with no soft money available for party building for those who would seek to refute it. I believe it is an untenable provision.

I have examined these provisions very carefully, and, even on the slightest chance that the Supreme Court would find these provisions constitutional, I ask my fellow Senators if this is good policy. The reason I ask this question is that in my view when you muzzle political speech of individual groups whose voices will carry the day—and I ask that question in our zeal on both sides of the aisle to address the role of certain entities in our election—you need to ask yourself what the consequence will be of restricting the free speech of unions, groups, corporations, and wealthy individuals to engage in campaigns, related speech, and activities. In my mind, by restricting freedom of speech for these groups, we will make the media an even more powerful player in the political process.

During the 60 days prior to the election, when the so-called bright-line rule is in effect, the only one who will be able to speak directly about candidates will be through the news media. We all know around Washington that you should not pick a fight with someone who buys paper by the ton and ink by the barrel, because it enjoys the full protection of the first amendment and it enjoys the total discretion of those who write the news and edit the news. We call the media the fourth estate, or the unofficial fourth branch of government. The media are the big opinion makers. They write the editorials, they present the news, and they decide which issues deserve the attention of the American people on a daily basis.

We also know that members of the media are only human, and by that I mean they are not always factual and they even pride themselves as being opinionated. Their opinion tends to lean in favor of Democrats and in particular of the liberal agenda in America. That is their privilege. That is their right. Recent surveys have shown that close to 90 percent of the media votes for liberal Democratic candidates, and to me it is clear that the media coverage of politics mimics the voting record of the media, at least in many areas. What of their independence? What about their role in the election of public officials?

Thomas Jefferson once wrote:

There are rights which it is useless to surrender to the Government, but which rights

governments always have sought to invade. Among those are the rights of speaking and publishing our thoughts.

This bill is a giant step toward Congress invading the rights of many to engage in political discourse.

In a recent column, George Will noted that this debate is one of the most important in American history. He also noted that the media have failed to address the first amendment problems created by McCain-Feingold. In Will's words:

One reason the media are complacent about such restrictions on others' political speech is that these restrictions enhance the power of the media as the filters of political speech and unregulated participants in a shrunken national debate.

I submit to the Senate that this is precisely the result we need to avoid. When in doubt, I believe we should err on the side of more, not less, political speech. That is the essence of democracy.

In my mind, there is at least one other issue which needs to be addressed before we decide whether to adopt the so-called reforms. We need to get to the bottom of the scandals and violations of the law which occurred in the 1996 election. How can we talk about reform when during the 1996 election individuals and party committees blatantly and repeatedly violated the letter and the spirit of clear laws we currently have on the books? How will so-called reform prevent this from happening again in the future? We should not allow the call for reform to shield those who have violated the law from being held responsible for their acts. To do that makes a mockery of the Senate and of our laws.

I participated in the Senate Governmental Affairs Committee hearings the past several months. When the hearings began, I spoke of three statutes that I believed were pretty clear. Section 441 of the Federal Election Campaign Act makes it unlawful for foreign nationals to make contributions to elections. After 2 months of the hearings, I heard evidence of multiple violations of statutes by the Democratic National Committee and its agents. I do not think I need to recite for the American people all the examples of foreign money solicited by John Huang, Pauline Kanchanalak, and Maria Hsia and others associated with the DNC and the White House. The point is clear: The law prohibits foreign money. But there is a clear pattern of ignoring the laws during the last election.

Section 441(f) of the Federal Election Campaign Act prohibits making a contribution to a Federal election in the name of another person. Plain and simple, this law prohibits money laundering. We have seen the past election replete with those, and yet we have seen nobody punished, nobody penalized.

The final area of law implicated by the committee's investigation is section 607 of the Federal Criminal Code. It makes it a crime to solicit or receive campaign contributions on Government property. There has been much debate in the media and among members of the committee about whether the law covers the President and Vice President, whether it extends to soft money, and what Congress' original intent was when we passed this law more than a century ago.

To me, the law means what it says. Politicians, including those in the White House, cannot use Federal facilities paid for by the taxpayer to raise money for their campaigns for national political office. That is how I always understood the law. That is the way I have conducted fundraising activities, in strict accordance with that interpretation, yet the committee's record is full of evidence that fundraising calls were made from the White House.

There are other issues of illegal activity which the committee has yet to fully explore. Recently, the U.S. attorney for the Southern District of New York obtained guilty pleas from three individuals involved in the last Teamsters election. These individuals apparently will testify that the Democratic National Committee and the AFL-CIO were used in efforts to launder money from the union's treasury into the reelection of Ron Carey, the Teamsters' president. I am not here alleging that he knew of it or that he was a party to it. I am merely reciting what I know from the reports from the guilty pleas and other things occurring in that court.

The Democratic National Committee apparently entered into an agreement with the Teamsters to launder money in exchange for contributions to the party from members of the union.

We have heard a lot about the union's role in the last election, and I share the concern expressed by my colleagues. But it seems to me that we need to get to the bottom of the criminal allegations, not just change the law to deal with their political activity.

I would like to make one point about unions and their activities in the last election. We all know that unions spent at least $35 million on issue adds in 44 congressional districts during the 1996 campaign. Compared to the unions, Republican groups spent a pittance. Citizens for Reform, a group which was created to counter the unions, spent $2 million in 15 districts. The coalition, Americans Working for Real Change, spent $5 million. The unions spent $700,000 in 1 week for advertisements. This is their privilege. This is their right. I do not seek to limit them. I only seek to make sure that a balance is maintained between the exercise of that right and the exercise of rights by others. So the unions have decided, because the current law gives them an advantage, that they are able to take a portion of their money dues without consent and use these dues for political activities.

Some want to call the Lott amendment a poison pill. I believe the vote, if we do have one on that issue, is a vote for fairness and balance. I believe that all contributions and paid political speech ought to be voluntary.

According to some, the law related to fundraising on Federal property was designed to prevent Government officials from coercing political contributions from Federal employees. Should the same rule against political contributions being done without consent apply to everyone, businesses, unions, PAC's and all?

On both sides of this issue I have listened as attentively as I can. I think this has been a very civilized debate, worthy of the institution of the Senate. But I have yet to hear anything that convinces me that passing this bill, which will erode free speech rights of candidates, parties and groups, is necessary to enhance our electoral process.

Clearly, the bill takes us in the wrong direction, away from the first amendment and from our free, fair and open electoral system that is the envy of the world.

I would like to make one last point. Everyone here recognizes the many problems we are addressing today stem from the fact that the Supreme Court struck down various provisions in the post-Watergate reforms that were passed in 1974 and upheld others. I wish to caution Senators that the McCain-Feingold bill, although earnest in its attempt to correct the errors of the past, fails to take heed of the history of reforms of the past and is destined to lead us in the wrong direction and on a course to make many of the same mistakes.

This bill contains a severability clause that essentially means if certain provisions of this bill are held unconstitutional, the remainder of the act shall not be affected by the rest of the holding. Although I do not agree with the approach in this bill, I do believe that those who will vote for this bill believe that it will somehow level the playing field. If that is their interest, I ask them to very carefully examine the consequences of the title VI severability clause. If the Supreme Court holds that the bright-line rule created by this bill is unconstitutional, which I believe they will, we will not only have succeeded in increasing the inequities between the haves and the have-nots, but we will have also created a Pandora's box, full of new problems.

I thank the Senate for its attention.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business, Friday, October 3,

1997, the Federal debt stood at $5,411,881,420,892.37. (Five trillion, four hundred eleven billion, eight hundred eighty-one million, four hundred twenty thousand, eight hundred and ninety-two dollars and thirty-seven cents)

One year ago, October 3, 1996, the Federal debt stood at $5,222,192,000,000. (Five trillion, two hundred twenty-two billion, one hundred and ninety-two million)

Twenty-five years ago, October 3, 1972, the Federal debt stood at $434,091,000,000 (Four hundred thirty four billion, ninety-one million) which reflects a debt increase of nearly $5 trillion ($4,987,790,420,892.37) (Four trillion, nine hundred eighty seven billion, seven hundred ninety million, four hundred thousand, eight hundred ninety-two dollars and thirty seven cents) during the past 25 years.

A POETIC TRIBUTE TO TOBACCO GROWERS BY PEM PFISTERER CLARK

Mr. HELMS. Mr. President, criticism of and attacks on the tobacco industry—and, by implication, tobacco growers—has become a sort of one-upmanship cottage industry among politicians who, in earlier days, scrambled to pay their respects to those engaged in growing tobacco and manufacturing it. The name of the game is "piling on" and the political types are doing it with gusto.

Last month, Mr. President, Dot Helms and I attended a meeting of the Burley and Dark Leaf Tobacco Association at Williamsburg. The distinguished speaker at the dinner was Fred Barnes, one of today's most respected journalists.

Presiding at the dinner was an impressive young lady, Pem Pfisterer Clark, general manager of the Stemming District Tobacco Association in Henderson, KY.

During the program, Ms. Clark recited a touching poem she had written about tobacco farmers. To those of us whose States produce tobacco, so heatedly maligned by its turncoat one-time friends, Pem Clark's tribute to these farmers was something that needed saying—and she said it well.

Mr. President, I ask unanimous consent that Pem Clark's poem be printed in the RECORD at the conclusion of my remarks.

TRIBUTE TO GROWERS

Ladies . . . gentleman . . .
My mission now tonight
Is to share from my perspective
My thoughts on this "Tobacco Fight".

I represent a group of folk
Who dedicate their lives
To producing the very plant
On which this industry survives.

Here's a billion dollar business
That we hold to our hearts,
That's sprouting from God's smallest seed.
Now, that's a very humble start!

It's not by chance or accident
That from the well-worked earth,
A rich and leafy plant springs forth
That boasts of quality and worth.

A farmer can't put on his crop
By tossing out some seeds.
Even a "city slicker" knows
That all that guy will grow are weeds.

The work is toil, the labor long.
He plants and hoes and sprays.
And weary, he goes in at night
And sighs, and bows his head and prays.

At this point he's done all he can;
Now it's not up to him.
A lot of what will happen now
Depends on Mother Nature's whim.

The drought will come, pests and disease.
It's like a game of craps.
The sun, the wind, the rain, the hail . . .
But farmers, see, are used to that.

Relief! The crop is made. It's good.
The first fight fought he wins.
His crop stands healthy in the field,
But now the real hard work begins.

The harvest is back-breaking work.
Good help is hard to find.
The farmer says his prayers again . . .
"No mold, house burn. Good cure, this time".

The curing season has been good
He takes it from the barn.
The second fight he also wins . . .
His crop emerges safe from harm.

Lovingly the leaves are handled.
He prepares for the sale.
These will serve to feed his family—
These leaves hand-tied or in a bale.

His legal crop goes to the floor
And now the prayer that's prayed,
"Oh God, please let demand be high,
A good price given by the trade."

And so he wins fight number three.
He's paid for all he's done.
He did his best and it paid off.
He thinks this season's battles' won.

WRONG!!! Now enter fight number four:
His goose may well be cooked!
In talks of politics ans suits
The farmers' fate is overlooked!

That status doesn't last for long.
Parties soon see the light.
Leave out the guy who grows the plant?!?
That's just plain dumb! And far from right!

Now talks of settlement include
The man who has the chore
Of growing the tobacco plants,
And so he wins fight number four.

But he worries for his family.
It's how his family's fed.
The money from tobacco sales
Buys shelter, clothes and bread.

The plant the farmer nourishes . . .
He tries to keep alive . . .
There are those who want to kill it
Watch if wither up and die

Deep in his soul he wants to help
This industry survive.
And now he bows his head and pleads,
"God help us win fight number five."—PEM PFISTERER CLARK, *Copyright pending.*

HONORING JEWEL AND RUDY RUSH ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Jewel and Rudy Rush of Rolla, MO, who on October 19, 1997, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Rushs' commitment to the principles and values of their marriage deserves to be saluted and recognized.

TRIBUTE TO LIFE CHOICES CRISIS PREGNANCY CENTER IN JOPLIN, MO

Mr. ASHCROFT. Mr. President, I rise today to salute a most deserving and life-affirming ministry, the Life Choices Crisis Pregnancy Center in Joplin, Missouri. This ministry began in 1990, and has provided a much-needed service to more than four thousand women and their families. Thanks to a strong commitment and dedication to life, they have saved at least 160 babies from abortion.

Many of the services are aimed specifically at young people. One example is a program that encourages abstinence and uses trained counselors who provide information and support for teens and their parents through the Center's 24-hour help line. Additionally, the Center provides free confidential counseling, basic medical services, and lifestyle assessments at its newly constructed facility.

America needs more organizations which, like Life Choices Crisis Pregnancy Center, encourage communities to help their own, rather than rely on government-funded programs for assistance. I ask that you join with me today in recognizing not only the achievements of this center, but also the compassionate individuals who give of themselves so selflessly, helping others in their time of need.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CANCELLATION OF DOLLAR AMOUNTS OF DISCRETIONARY BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 71

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to section 1025 of Public Law 93–344, to the Committee on Appropriations, and to the Committee on the Budget.

To the Congress of the United States:

In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the "Military Construction Appropriations Act, 1998" (Public Law 105–45; H.R. 2016). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 6, 1997.*

MESSAGES FROM THE HOUSE

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 167. Concurrent resolution to correct a technical error in the enrollment of H.R. 2160.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes.

At 7:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2267) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, and agrees to the conferences asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ROGERS, Mr. KOLBE, Mr. TAYLOR of North Carolina, Mr. REGULA, Mr. FORBES, Mr. LATHAM, Mr. LIVINGSTON, Mr. MOLLOHAN, Mr. SKAGGS, Mr. DIXON, and Mr. OBEY, as the managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 2378. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1998, and for other purposes.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of August 4, 1997, the following measure was discharged and placed on the calendar:

S. 261. A bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 587. A bill to require the Secretary of the Interior to exchange certain lands located in Hinsdale County, Colorado (Rept. No. 105–96).

S. 588. A bill to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the Slate Creek Addition (Rept. No. 105–97).

S. 589. A bill to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys (Rept. No. 105–98).

S. 591. A bill to transfer the Dillon Ranger District in the Arapaho National Forest to the White River National Forest in the State of Colorado (Rept. No. 105–99).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COATS (for himself and Mr. HARKIN):

S. 1255. A bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based policy may be used to enable individuals and families with limited means to achieve economic self-sufficiency; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. REID, Mr. COVERDELL, Mr. THURMOND, Mr. GRAMM, and Mr. BURNS):

S. 1256. A bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials, or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions in which no State law claim is alleged; to permit certification of unsettled State law questions that are essential to Federal claims arising under the Constitution; to allow for efficient adjudication of constitutional claims brought by injured parties in the United States district courts and the Court of Federal Claims; to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution; and for other purposes; to the Committee on the Judiciary.

By Mr. FAIRCLOTH:

S. 1257. A bill to prohibit the Secretary of the Interior from permitting oil and gas leasing, exploration, or development activity off the coast of North Carolina unless the Governor of the State notifies the Secretary that the State does not object to the activity; to the Committee on Energy and Natural Resources.

By Mr. BENNETT:

S. 1258. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself, Mr. HOLLINGS, and Mr. BREAUX):

S. 1259. A bill to authorize appropriations for fiscal years 1998 and 1999 for the United States Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 130. A resolution to authorize testimony by a Member and an employee of the Senate; considered and agreed to.

By Mr. DOMENICI (for himself, Mr. D'AMATO, Mr. COATS, Mr. MURKOWSKI, Mr. MACK, Mr. DEWINE, Mr. HELMS, and Mr. LEAHY):

S. Res. 131. A resolution to express the sense of the Senate regarding the provision of technical assistance in the restoration of the Basilica of St. Francis of Assisi; considered and agreed to.

By Mr. WARNER:

S. Res. 132. A resolution to authorize the printing of a collection of rules and authorities of special investigatory committees of the Senate; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. REID, Mr. COVERDELL, Mr. THURMOND, Mr. GRAMM, and Mr. BURNS):

S. 1256. A bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal Agencies, or other Government officials or other Government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions in which no State

law claim is alleged; to permit certification of unsettled State law questions that are essential to Federal claims arising under the Constitution; to allow for efficient adjudication of constitutional claims brought by injured parties in the U.S. district courts and the Court of Federal Claims; to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution; and for other purposes; to the Committee on the Judiciary.

THE CITIZENS ACCESS TO JUSTICE ACT OF 1997

Mr. HATCH. Mr. President, I am pleased today to introduce the Citizens Access to Justice Act of 1997. Many Members of the Senate have as a paramount concern the protection of individual rights protected by our Constitution.

One particular right—the right to own and use private property free from arbitrary governmental action—is increasingly under attack from the regulatory state. Indeed, despite the constitutional requirement for the protection of property rights, the America of the late 20th century has witnessed an explosion of Federal regulation that has jeopardized the private ownership of property with the consequent loss of individual liberty.

Under current Federal regulations, thousands of Americans have been denied the right to the quiet use and enjoyment of their private property. Arbitrary bureaucratic enforcement of Federal and State regulatory programs has prevented Americans from building homes and commercial buildings, plowing fields, repairing barns and fences, clearing brush and fire hazards, felling trees, and even removing refuse and pollutants, all on private property.

To make matters worse, many property owners often are unable to safeguard their rights because they effectively are denied access to Federal courts. In a society based upon the rule of law, the ability to protect property and other rights is of paramount importance. Indeed, it was Chief Justice John Marshall, who in the seminal 1803 cast of *Marbury versus Madison*, observed that the "government of the United States has been emphatically termed a government of laws, and not of men. It will cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested right." Despite this core belief of John Marshall and other Founders, the ability of property owners to vindicate their rights in court today is being hampered by the overlapping and confusing jurisdiction of the Court of Federal Claims and the Federal district courts over fifth amendment property rights claims. It is also frustrated by localities which sometimes create labyrinths of administrative hurdles that property owners must jump through before being able to bring a claim in Federal court to vindicate their Federal constitutional rights. CAJA seeks to remedy these situations. Let me explain.

The Tucker Act, which waives the sovereign immunity of the United States by granting the Court of Federal Claims jurisdiction to entertain monetary claims against the United States, actually complicates the ability of a property owner to vindicate their right to just compensation for a Government action that has caused a taking. The law currently forces a property owner to elect between equitable relief in the Federal district court and monetary relief in the Court of Federal Claims. Further difficulty arises when the law is used by the Government to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims, and is used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should first seek equitable relief in the district court.

This Tucker Act shuffle is aggravated by section 1500 of the Tucker Act, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and brought by the same plaintiff. Section 1500 is so poorly drafted and has brought so many hardships, that Justice Stevens, in *Keene Corporation* versus *United States*, 113 S.Ct. 2035, 2048 (1993), has called for its repeal or amendment. CAJA would resolve the jurisdictional muddle by both repealing section 1500 and by eliminating the Tucker Act shuffle, thereby granting to both courts concurrent jurisdiction to fully adjudicate takings claims. To assure uniformity in property rights law, appeals from both courts would be heard by the Court of Appeals for the Federal Circuit.

Adding to this jurisdictional problem, is the misapplication by many courts of the finality doctrine. These courts have required claimants to jump through endless administrative, appellate and other hoops, sometimes created by agencies to retard the legitimate use and development of property, before these courts will adjudicate claims. This has resulted in increased costs to the taxpayers and has impeded innocent property owners from vindicating their constitutionally protected rights. Recently, the U.S. Supreme Court in *Suitum* versus *Tahoe Regional Planning Agency*—1997, struck as an impermissible burden on property rights such administrative and appellate schemes that make it overly difficult for property owners to protect their rights in court. CAJA would codify the *Suitum* case, thereby providing courts with guidance on the application of the finality doctrine.

Finally, I must emphasize that CAJA certainly does not create any substantive rights. The definition of property, as well as what constitutes a taking under the just compensation clause of the fifth amendment, is left to the courts to define. The bill would not change existing case law's ad hoc, case-by-case definition of regulatory takings. Instead, it would provide a procedural fix to the litigation muddle that delays and increases the cost of litigating a fifth amendment taking case. All CAJA does is to provide for fair procedures to allow property owners the means to safeguard their rights by having their day in court.

I ask for your support to allow just claimants their day in court.

By Ms. SNOWE (for herself, Mr. HOLLINGS, and Mr. BREAUX):

S. 1259. A bill to authorize appropriations for fiscal years 1998 and 1999 for the U.S. Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COAST GUARD AUTHORIZATION ACT FOR FISCAL YEARS 1998 AND 1999

Ms. SNOWE. Mr. President, today I am pleased to introduce the Coast Guard Authorization Act for fiscal years 1998 and 1999.

The Coast Guard is one of our Nation's truly essential agencies. It aids people in distress on our bays, oceans, and waterways, preventing injuries and loss of life on these waters.

It enforces all Federal laws and treaties related to the high seas and U.S. waters. It is the lead Federal agency for preventing and responding to major pollution incidents in the coastal zone. It makes our ports and shipping lanes safe for efficient marine transportation and commerce. And, as one of the five armed forces, it provides a critical component of the Nation's defense strategy.

A few statistics graphically illustrate the Coast Guard's importance to the Nation. Last year, it saved 4,750 lives, assisted more than 90,000 individuals in distress, and saved or protected nearly $6 billion in property.

As part of its law enforcement mission in 1996, the Coast Guard confiscated 29 tons of cocaine and marijuana that was destined for the United States. It intercepted over 9000 immigrants headed to our shores.

During the same year, the Coast Guard responded to more than 17,000 pollution incidents. And the maritime cargo activities that the Coast Guard monitors and protects are estimated to contribute $74 billion annually to our GDP.

Fortunately for the American people, the Coast Guard performs these and other essential missions with a high degree of professionalism.

Last year, Congress enacted the Coast Guard Authorization Act of 1996, which authorized the Coast Guard through fiscal year 1997. The bill we are introducing today reauthorizes the Coast Guard for the next 2 years—fiscal years 1998 and 1999.

It authorizes both appropriations and personnel levels for these 2 years. And it also contains various provisions that are designed to, among other things, provide greater flexibility to the Coast Guard on personnel administration, streamline the inventory management process, eliminate an unnecessary reporting requirement, and enhance the effectiveness of the Coast Guard Investigative Service. The bill also provides authority to transfer excess property to the Coast Guard Auxiliary, protects personal information from release to the public during marine casualty investigations, conforms the U.S. territorial sea definition in certain laws to the 1988 Presidential Proclamation extending it from 3 to 12 miles, provides for some noncontroversial property conveyances, and contains other provisions.

One provision that deserves particular mention relates to marine safety. Needless to say, we must have a zero tolerance policy when it comes to the use of alcohol and illegal drugs by anyone involved with the operation of a vessel. Unfortunately, some problems have arisen in recent years with the implementation of the Coast Guard's chemical testing requirements that apply in the aftermath of serious marine incidents like oil spills.

Last year, after the oil tanker *Julie N* hit a bridge in Portland, ME, and spilled 170,000 gallons of oil, it was revealed that the pilot of the vessel failed to complete a test for alcohol, as required by regulation. Consequently, we will never know whether he was under the influence of alcohol when he hit the bridge. And this is not the only case of such a lapse. The National Transportation Safety Board, with whom I consulted on this language, has identified approximately 20 cases in recent years in which chemical testing procedures have not been properly complied with after serious marine incidents.

This bill contains a provision designed to address the problem. Whereas current regulations only require the marine employer to ensure that alcohol tests are promptly conducted, the bill adds a provision that will require the Coast Guard to ensure that these tests are conducted, one way or another, within 2 hours of the accident being stabilized. The provision also increases the civil penalty for failure to comply with Coast Guard chemical testing procedures from $1,000 to $5,000. With these two changes, we will now have a clear chain of accountability in the testing process and a powerful incentive that should prevent testing lapses—and hopefully accidents related to intoxication—from occurring the in the future.

Mr. President, this is a good bill that enjoys bipartisan support on the Commerce Committee. I look forward to moving this bill to the Senate floor at the earliest opportunity.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act for Fiscal Years 1998 and 1999".

SEC. 2. TABLE OF SECTIONS.

The table of sections for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of sections.

TITLE I—APPROPRIATIONS; AUTHORIZED LEVELS

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.

TITLE II—COAST GUARD MANAGEMENT

Sec. 201. Severance pay.
Sec. 202. Use of appropriated funds for commercial vehicles at military funerals.
Sec. 203. Authority to reimburse Novato, California, Reuse Commission.
Sec. 204. Eliminate supply fund reimbursement requirement.
Sec. 205. Authority to implement and fund certain awards programs.
Sec. 206. Disposal of certain material to Coast Guard Auxiliary.

TITLE III—MARINE SAFETY AND ENVIRONMENTAL PROTECTION

Sec. 301. Alcohol testing.
Sec. 302. Penalty for violation of International Safety Convention.
Sec. 303. Protect marine casualty investigations from mandatory release.
Sec. 304. Eliminate biennial research and development report.
Sec. 305. Extension of territorial sea for certain laws.
Sec. 306. Law enforcement authority for special agents of the Coast Guard Investigative Service.

TITLE IV—MISCELLANEOUS

Sec. 401. Vessel Identification System Amendments.
Sec. 402. Conveyance of communication station Boston Marshfield receiver site, Massachusetts.
Sec. 403. Conveyance of Nahant parcel, Essex County, Massachusetts.
Sec. 404. Conveyance of Eagle Harbor Light Station.
Sec. 405. Conveyance of Coast Guard station, Ocracoke, North Carolina.
Sec. 406. Conveyance of Coast Guard property to Jacksonville University, Florida.
Sec. 407. Coast Guard City, USA.
Sec. 408. Vessel documentation clarification.

TITLE I—APPROPRIATIONS; AUTHORIZED LEVELS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1998, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,740,000,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $379,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $19,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $645,696,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the bridge alteration program, $26,000,000 to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities functions (other than parts and equipment associated with operations and maintenance), $21,000,000, to remain available until expended.

(b) Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1999, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,740,000,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $379,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $19,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $675,568,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the bridge alteration program, $26,000,000 to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities functions

(other than parts and equipment associated with operations and maintenance), $21,000,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) The Coast Guard is authorized an end-of-year strength for active duty personnel of 37,660 as of September 30, 1998.

(b) For fiscal year 1998, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,368 student years.

(2) For flight training, 98 student years.

(3) For professional training in military and civilian institutions, 283 student years.

(4) For officer acquisition, 797 student years.

(c) The Coast Guard is authorized an end-of-year strength for active duty personnel of such numbers as may be necessary as of September 30, 1999.

(d) For fiscal year 1999, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, such student years as may be necessary.

(2) For flight training, such student years as may be necessary.

(3) For professional training in military and civilian institutions, such student years as may be necessary.

(4) For officer acquisition, such student years as may be necessary.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. SEVERANCE PAY.

(a) WARRANT OFFICERS.—Section 286a(d) of title 14, United States Code, is amended by striking the last sentence.

(b) SEPARATED OFFICERS.—Section 286a of title 14, United States Code, is amended by striking the period at the end of subsection (b) and inserting ", unless the officer is separated with an other than Honorable Discharge and the Secretary of the Service in which the Coast Guard is operating determines that the conditions under which the officer is discharged or separated do not warrant payment of severance pay.".

(c) EXCEPTION.—Section 327 of title 14, United States Code, is amended by striking the period at the end of paragraph (b)(3) and inserting ", unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of severance pay.".

SEC. 202. USE OF APPROPRIATED FUNDS FOR COMMERCIAL VEHICLES AT MILITARY FUNERALS.

Section 93 of title 14, United States Code, as amended by Section 203 of this Act, is further amended—

(1) by striking "and" after the semicolon at the end of paragraph (v);

(2) by striking the period at the end of paragraph (w) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(x) rent or lease, under such terms and conditions as are deemed advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery.".

SEC. 203. AUTHORITY TO REIMBURSE NOVATO, CALIFORNIA, REUSE COMMISSION.

The Commandant may use up to $25,000 to provide economic adjustment assistance for the City of Novato, California, for the cost of revising the Hamilton Reuse Planning Authority's reuse plan as a result of the Coast Guard's request for housing at Hamilton Air Force Base. If the Department of Defense provides such economic adjustment assistance to the City of Novato on behalf of the Coast Guard, then the Coast Guard may use the amount authorized for use in the preceding sentence to reimburse the Department of Defense for the amount of economic adjustment assistance provided to the City of Novato by the Department of Defense.

SEC. 204. ELIMINATE SUPPLY FUND REIMBURSEMENT REQUIREMENT.

Subsection 650(a) of title 14, United States Code, is amended by striking "The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof." and inserting "In these regulations, whenever the fund is reduced to delete items stocked, the Secretary may reduce the existing capital of the fund by the value of the materials transferred to other Coast Guard accounts. Except for the materials so transferred, the fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof.".

SEC. 205. AUTHORITY TO IMPLEMENT AND FUND CERTAIN AWARDS PROGRAMS.

(a) Section 93 of title 14, United States Code, is amended—

(1) by striking "and" after the semicolon at the end of paragraph (w);

(2) by striking the period at the end of paragraph (x) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(y) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard programs, missions, or operations, including but not limited to state and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation).".

SEC. 206. DISPOSAL OF CERTAIN MATERIAL TO COAST GUARD AUXILIARY.

(a) Section 641 of title 14, United States Code, is amended—

(1) by striking "to the Coast Guard Auxiliary, including any incorporated unit thereof," in subsection (a); and

(2) by adding at the end thereof the following:

"(f)(1) Notwithstanding any other law, the Commandant may directly transfer ownership of personal property of the Coast Guard to the Coast Guard Auxiliary (including any incorporated unit thereof), with or without charge, if the Commandant determines—

"(A) after consultation with the Administrator of General Services, that the personal property is excess to the needs of the Coast Guard but is suitable for use by the Auxiliary in performing Coast Guard functions, powers, duties, roles, missions, or operations as authorized by law pursuant to section 822 of this title; and

"(B) that such excess property will be used solely by the Auxiliary for such purposes.

"(2) Upon transfer of personal property under paragraph (1), no appropriated funds shall be available for the operation, maintenance, repair, alteration, or replacement of such property, except as permitted by section 830 of this title.".

TITLE III—MARINE SAFETY AND ENVIRONMENTAL PROTECTION

SEC. 301. ALCOHOL TESTING.

(a) ADMINISTRATIVE PROCEDURE.—.Section 7702 of title 46, United States Code, is amended—

(1) by striking "(1)" in subsection (c);

(2) by redesignating paragraph (2) of subsection (c) as subsection (d)(1) and by redesignating subsection (d) as subsection (e);

(3) by striking "may" in the second sentence of subsection (d)(1) as redesignated, and inserting "shall"; and

(4) by adding at the end of subsection (d), as redesignated, the following:

"(2) The Secretary shall establish procedures to ensure that after a serious marine incident occurs, alcohol testing of crew members responsible for the operation or other safety-sensitive functions of the vessel or vessels involved in such incident is conducted no later than two hours after the incident is stabilized.".

(b) INCREASE IN CIVIL PENALTY.—Section 2115 of title 46, United States Code, is amended by striking "$1,000" and inserting "$5,000".

(c) INCREASE IN NEGLIGENCE PENALTY.—Section 2302(c)(1) of title 46, United States Code, is amended by striking "$1,000" and inserting "$5,000".

SEC. 302. PENALTY FOR VIOLATION OF INTERNATIONAL SAFETY CONVENTION.

(a) IN GENERAL.—Section 2302 of title 46, United States Code, is amended by adding at the end following new subsection:

"(e)(1) A vessel may not be used to transport cargoes sponsored by the United States Government if the vessel has been detained by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention.

"(2) The prohibition in paragraph (1) expires for a vessel 1 year after the date of the detention on which the prohibition is based or upon the Secretary granting an appeal of the detention on which the prohibition is based.

"(3) The head of a Federal Agency may grant an exemption from the prohibition in paragraph (1) on a case by case basis if the owner of the vessel to be used for transport of the cargo sponsored by the United States Government can provide compelling evidence that the vessel is currently in compliance with applicable international safety conventions to which the United States is a party.

"(4) As used in this subsection, the term 'cargo sponsored by the United States Government' means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.".

SEC. 303. PROTECT MARINE CASUALTY INVESTIGATIONS FROM MANDATORY RELEASE.

Section 6305(b) of title 46, United States Code, is amended by striking all after "public" and inserting a period and "This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.".

SEC. 304. ELIMINATE BIENNIAL RESEARCH AND DEVELOPMENT REPORT.

(a) Section 7001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is amended by striking subsection (e) and by redesignating subsection (f) as subsection (e).

SEC. 305. EXTENSION OF TERRITORIAL SEA FOR CERTAIN LAWS.

(a) PORTS AND WATERWAYS SAFETY ACT.—Section 102 of the Ports and Waterways Safety Act (33 U.S.C. 1222) is amended by adding at the end the following:

"(5) 'Navigable waters of the United States' includes all waters of the territorial

sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

(b) SUBTITLE II OF TITLE 46.—

(1) Section 2101 of title 46, United States Code, is amended—

(A) by redesignating paragraph (17a) as paragraph (17b); and

(B) by inserting after paragraph (17) the following:

"(17a) 'navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

(2) Section 2301 of that title is amended by inserting "(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988,)" after "of the United States".

(3) Section 4102(e) of that title is amended by striking "on the high seas" and inserting "beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured".

(4) Section 4301(a) of that title is amended by inserting "(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988)" after "of the United States".

(5) Section 4502(a)(7) of that title is amended by striking "on vessels that operate on the high seas" and inserting "beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured".

(6) Section 4506(b) of that title is amended by striking paragraph (2) and inserting the following:

"(2) is operating—

"(A) in internal waters of the United States; or

"(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.".

(7) Section 8502(a)(3) of that title is amended by striking "not on the high seas" and inserting: "not beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured".

(8) Section 8503(a)(2) of that title is amended by striking paragraph (2) and inserting the following:

"(2) is operating—

"(A) in internal waters of the United States; or

"(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.".

SEC. 306. LAW ENFORCEMENT AUTHORITY FOR SPECIAL AGENTS OF THE COAST GUARD INVESTIGATIVE SERVICE.

(A) AUTHORITY.—Section 95 of title 14, United States Code, is amended to read as follows:

"§ 95. Special agents of the Coast Guard Investigative Service law enforcement authority

"(a)(1) A special agent of the Coast Guard Investigative Service designated under subsection (b) has the following authority:

"(A) To carry firearms.

"(B) To execute and serve any warrant or other process issued under the authority of the United States.

"(C) To make arrests without warrant for—

"(i) any offense against the United States committed in the agent's presence; or

"(ii) any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

"(2) The authorities provided in paragraph (1) shall be exercised only in the enforcement of statutes for which the Coast Guard has law enforcement authority, or in exigent circumstances.

"(b) The Commandant may designate to have the authority provided under subsection (a) any special agent of the Coast Guard Investigative Service whose duties include conducting, supervising, or coordinating investigation of criminal activity in programs and operations of the United States Coast Guard.

"(c) The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Secretary of transportation or the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 14, United States Code, is amended by striking the item related to section 95 and inserting the following:

"95. Special agents of the Coast Guard Investigative Service; law enforcement authority.".

TITLE IV—MISCELLANEOUS

SEC. 401. VESSEL IDENTIFICATION SYSTEM AMENDMENTS.

Title 46, United States Code, is amended—

(1) by striking "or is not titled in a State" in section 12102(a);

(2) by adding at the end of section 12301 the following:

"(c) A documented vessel shall not be titled by a State or required to display numbers under this chapter, and any certificate of title issued by a State for a documented vessel than be surrendered in accordance with regulations prescribed by the Secretary.

"(d) The Secretary may approve the surrender under subsection (a) of a certificate of title covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.";

(3) by striking section 31322(b) and inserting the following:

"(b) Any indebtedness secured by a preferred mortgage that is filed or recorded under this chapter, or that is subject to a mortgage, security agreement, or instruments granting a security interest that is deemed to be a preferred mortgage under subsection (d) of this section, may have any rate of interest to which the parties agree.";

(4) by striking "mortgage or instrument" each place it appears in section 31322(d)(1) and inserting "mortgage, security agreement, or instrument";

(5) by striking section 31322(d)(1)(3) and inserting the following:

"(3) A preferred mortgage under this subsection continues to be a preferred mortgage even if the vessel is no longer titled in the State where the mortgage, security agreement, or instrument granting a security interest became a preferred mortgage under this subsection";

(6) by striking "mortgages or instruments" in subsection 31322(d)(2) and inserting "mortgages, security agreements, or instruments";

(7) by inserting "a vessel titled in a State," in section 31325(b)91) after "a vessel to be documented under chapter 121 of this title,";

(8) by inserting "a vessel titled in a State," in section 31325(b)(8) after "a vessel for which an application for documentation is filed under chapter 121 of this title,"; and

(9) by inserting "a vessel titled in a State," in section 31325(c) after "a vessel to be documented under chapter 121 of this title,".

SEC. 402. CONVEYANCE OF COMMUNICATION STATION BOSTON MARSHFIELD RECEIVER SITE, MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Coast Guard Communication Station Boston Marshfield Receiver Site, Massachusetts, to the Town of Marshfield, Massachusetts.

(2) LIMITATION.—The Secretary shall not convey under this section the land on which is situated the communications tower and the microwave building facility of that station.

(3) IDENTIFICATION OF PROPERTY.—

(A) The Secretary may identify, describe and determine the property to be conveyed to the Town under this section.

(B) The Secretary shall determine the exact acreage and legal description of the property to be conveyed under this section by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(b) TERMS AND CONDITIONS.—Any conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and conditions;

(A) The Secretary may reserve utility, access, and any other appropriate easements on the property conveyed for the purpose of operating, maintaining, and protecting the communications tower and the microwave building facility.

(B) The Town and its successors and assigns shall, at their own cost and expense, maintain the property conveyed under this section in a proper, substantial, and workmanlike manner as necessary to ensure the operation, maintenance, and protection of the communications tower and the microwave building facility.

(C) Any other terms and conditions the Secretary considers appropriate to protect the interests of the United States.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect January 1, 1998.

SEC. 403. CONVEYANCE OF NAHANT PARCEL, ESSEX COUNTY, MASSACHUSETTS.

(a) IN GENERAL.—The Commandant, United States Coast Guard, may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the United States Coast Guard Recreation Facility Nahant, Massachusetts, to the Town of Nahant.

(b) IDENTIFICATION OF PROPERTY.—The Commandant may identify, describe, and determine the property to be conveyed under this section.

(c) TERMS OF CONVEYANCE.—The conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to such terms and conditions as the Commandant may consider appropriate.

SEC. 404. CONVEYANCE OF EAGLE HARBOR LIGHT STATION.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Administrator of the General Services Administration shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Eagle Harbor Light Station, Michigan, to the Keweenaw County Historical Society.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this subsection.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3), (4), and (5) and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the property conveyed shall immediately revert to the United States if the property, or any part of the property.

(A) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(B) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the person to which the property is conveyed may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The person to which the property is conveyed is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) REVERSION BASED ON USE.—The conveyance of the property described in subsection (a) is subject to the condition that all right, title, and interest in the property conveyed shall immediately revert to the United States if the property, or any part of the property ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of maritime history.

(6) MAINTENANCE OF PROPERTY.—The person to which the property is conveyed shall maintain the property in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

SEC. 405. CONVEYANCE OF COAST GUARD STATION OCRACOKE, NORTH CAROLINA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Commandant, United States Coast Guard, or his designee (the "Commandant") may convey, by an appropriate means of conveyance, all right, title, and interest of the United States of America (the "United States") in and, to the Coast Guard station Ocracoke, North Carolina, to the ferry division of the North Carolina Department of Transportation.

(2) IDENTIFICATION OF PROPERTY.—The Commandant may identify, describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—The conveyance of any property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and conditions.'

(A) EASEMENTS.—The Commandant may reserve utility, access, and any other appropriate easements upon the property to be conveyed for the purpose of—

(i) use of the access road to the boat launching ramp;

(ii) use of the boat launching ramp; and

(iii) use of pier space for necessary search and rescue assets (including water and electrical power).

(B) MAINTENANCE.—The ferry division of North Carolina Department of Transportation, and its successors and assigns shall, at its own cost and expense, maintain the property conveyed under this section in a proper, substantial and workmanlike manner necessary for the use of any easements created under subparagraph (A).

(C) REVERSIONARY INTEREST.—All right, title, and interest in and to administered by the general services administration if the property, or any part thereof, ceases to be used by the Ferry Division of North Carolina Department of Transportation.

(D) OTHER.—Any other terms and conditions the Commandant may consider appropriate to protect the interests of the United States.

SEC. 406. CONVEYANCE OF COAST GUARD PROPERTY TO JACKSONVILLE UNIVERSITY, FLORIDA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey to the University of Jacksonville, Florida, without consideration, all right, title, and interests of the United States in and to the property comprising the Long Branch Rear Range Light, Jacksonville, Florida.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—Any conveyance of any property under this section shall be made—

(1) subject to the terms and conditions the Commandant may consider appropriate; and

(2) subject to the condition that all right, title, and interest in and to property conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by Jacksonville University, Florida.

SEC. 407. COAST GUARD CITY, USA.

The community of Grand Haven, Michigan, shall be recognized as "Coast Guard City, USA".

SEC. 408. VESSEL DOCUMENTATION CLARIFICATION.

Section 1201(a)(4) of title 49, United States Code, and section 2(a) of the Shipping Act, 1916 (46 U.S.C. App. 802(a)) are each amended by—

(1) striking "president or other"; and

(2) inserting a comma and "by whatever title," after "chief executive officer".

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 535

At the request of Mr. MCCAIN, the names of the Senator from Delaware [Mr. ROTH], the Senator from Utah [Mr. HATCH], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 535, a bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease.

S. 852

At the request of Mr. LOTT, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1189

At the request of Mr. SMITH, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1189, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 1194

At the request of Mr. KYL, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Minnesota [Mr. GRAMS], the Senator from Oklahoma [Mr. INHOFE], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Ohio [Mr. DEWINE], the Senator from Utah [Mr. BENNETT], the Senator from South Carolina [Mr. THURMOND], the Senator from Nebraska [Mr. HAGEL], the Senator from Arizona [Mr. MCCAIN], the Senator from Virginia [Mr. WARNER], the Senator from Oregon [Mr. SMITH], the Senator from Alabama [Mr. SESSIONS], the Senator from Wyoming [Mr. THOMAS], the Senator from Wyoming [Mr. ENZI], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Washington [Mr. GORTON], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Michigan [Mr. ABRAHAM], the Senator from Colorado [Mr. CAMPBELL], the Senator from Tennessee [Mr. THOMPSON], and the Senator from New Hampshire [Mr. GREGG] were added as

cosponsors of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the medicare program.

S. 1215

At the request of Mr. ASHCROFT, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 1215, a bill to prohibit spending Federal education funds on national testing.

S. 1247

At the request of Mr. JEFFORDS, the names of the Senator from Maine [Ms. SNOWE], the Senator from Idaho [Mr. CRAIG], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 1247, a bill to amend title 38, United States Code, to limit the amount of recoupment from veterans' disability compensation that is required in the case of veterans who have received special separation benefits from the Department of Defense.

SENATE RESOLUTION 96

At the request of Mr. CRAIG, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Washington [Mr. GORTON], the Senator from Missouri [Mr. BOND], the Senator from Tennessee [Mr. THOMPSON], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 96, a resolution proclaiming the week of March 15 through March 21, 1998, as "National Safe Place Week."

SENATE RESOLUTION 124

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Resolution 124, a resolution to state the sense of the Senate that members of the Khmer Rouge who participated in the Cambodian genocide should be brought to justice before an international tribunal for crimes against humanity.

SENATE RESOLUTION 131—RELATIVE TO THE BASILICA OF ST. FRANCIS OF ASSISI

Mr. DOMENICI (for himself, Mr. D'AMATO, Mr. COATS, Mr. MURKOWSKI, Mr. MACK, Mr. DEWINE, Mr. HELMS, and Mr. LEAHY) submitted the following resolution; which was considered and agreed to:

S. RES. 131

Whereas the Basilica of St. Francis of Assisi is one of the finest examples of Italian Gothic art and architecture;

Whereas the Basilica is a living museum providing a home for the art of several great masters of the 13th and 14th centuries, and these art treasures depict scenes from the Old Testament and New Testament;

Whereas the Basilica housed the most interesting and important pictorial cycle in Franciscan iconography;

Whereas the famous fresco artist, Cimabue, began his work in the Basilica in 1277, and the works of Cimabue are seen in the apse and the vault of the Basilica and include a lovely Madonna with Child;

Whereas Cimabue's pupil, Giotto painted frescos at the turn of the 14th century and completed 28 famous and beautiful scenes based on St. Bonaventure's account of St. Francis' accomplishments during his life. The frescos depict the life of St. Francis who had the special gift of understanding and being able to speak to animals;

Whereas other talented artists including Simone Martini and Pietro Lorenzetti left their artistic mark on the Basilica during the first half of the 14th century, frescoing the left side of the transept of the Lower Church;

Whereas the Basilica was severely damaged by twin earthquakes on September 24 and 25, 1997, the extent of which has been described as more devastating than the World War II bombings of Padue and Pisa in 1944;

Whereas the famous frescoes painted by Giotto on the side walls of the Basilica in the early 14th century and depicting scenes from St. Francis' life are cracked but mostly intact;

Whereas experts in Italy are already working to restore the Basilica, and

Whereas the National Gallery in London and the Louvre in Paris have offered experts free of charge to help in the restoration of the Basilica: Now, therefore, be it

Resolved, That the Smithsonian Institution, the National Gallery of Art and any of the other premier art museums in the United States having pertinent expertise in restoration should provide technical assistance to aid in the restoration of the Basilica of St. Francis of Assisi and the works of art that have been damaged in the earthquakes.

SENATE RESOLUTION 130—TO AUTHORIZE TESTIMONY BY A MEMBER AND AN EMPLOYEE OF THE SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 130

Whereas, in the case of *United States* v. *Delyla D. Wilson*, Case No. 97-CR-82-BLG, pending in the United States District Court for the District of Montana, subpoenas have been issued for testimony by Dwight MacKay, an employee on the staff of Senator Conrad Burns;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Dwight MacKay is authorized to testify in the case of *United States* v. *Delyla D. Wilson*, except concerning matters for which a privilege should be asserted.

SEC. 2. The testimony of Senator Conrad Burns in related state proceedings is authorized.

SENATE RESOLUTION 132—TO AUTHORIZE THE PRINTING OF A COLLECTION OF RULES AND AUTHORITIES

Mr. WARNER submitted the following resolution; which was considered and agreed to:

S. RES. 132

Resolved, That a collection of rules and authorities of special investigatory committees of the Senate, be printed as a Senate document, and there be printed additional copies of such document up to, but not exceeding, $1,200 for use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

THE BIPARTISAN CAMPAIGN REFORM ACT OF 1997

WELLSTONE AMENDMENT NO. 1277

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill (S. 25) to reform the financing of Federal elections; as follows:

[On page 10 of the bill, strike lines 5 through 8 [Sect. 102(b) Aggregate Contribution Limit for Individual.].

JOHNSON AMENDMENTS NOS. 1278–1279

(Ordered to lie on the table.)

Mr. JOHNSON submitted two amendments intended to be proposed by him to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1278

On page 30, lines 15 and 16, strike "CONTRIBUTIONS" and insert "CONTRIBUTIONS AND EXPENDITURES".

On page 30, line 17, strike "Section" and insert "(a) CONTRIBUTIONS.—Section".

On page 31, between lines 2 and 3, insert the following:

(b) EXPENDITURES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by striking "$200" and inserting "$50".

On page 37, between lines 9 and 10, insert the following:

SEC. 309. REPORTING REQUIREMENT FOR CERTAIN EXPENDITURES OF CANDIDATES.

(a) REPORTING REQUIREMENT OF COMMITTEE.—SECTION 304(B)(5) OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 (2 U.S.C. 434(B)(5)) IS AMENDED—

(1) in subparagraph (A), by inserting "(including, in the case of an expenditure to reimburse candidates or campaign workers, a specific itemization of each reimbursed candidate or worker expenditure in excess of $50 and in the case of an expenditure for air travel, the dates of the trip, each point of departure and arrival, and the identity of the traveler)" after "purpose";

(2) in subparagraph (D), by striking "and" at the end;

(3) in subparagraph (E), by inserting "and" at the end; and

(4) by adding at the end the following:

"(F) in the case of an expenditure described in subparagraph (A) that is made to

a person providing personal or consulting services and is used by such person to make expenditures to other persons (not including employees) who provide goods or services to the candidate or the candidate's authorized committees, the other person, together with the date, amount, and purpose of such expenditure, shall be disclosed;".

(b) INFORMATION REPORTED TO COMMITTEE.—Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following:

"(j) A person described in section 304(b)(5)(F) shall maintain records of and provide to a political committee the information necessary for the committee to report the information described in such section.".

AMENDMENT NO. 1279

On page 11, after line 20, insert the following:

SEC. 104. TREATMENT AS CONTRIBUTION OF UNREIMBURSED COST OF CANDIDATE TRAVEL ON PRIVATE AIRCRAFT.

Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) (as amended by section 205(a)) is amended—

(1) in clause (ii), by striking "; or" at the end;

(2) in clause (iii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(iv) in the case of the use of a private aircraft by a candidate or a candidate's authorized committees (other than an aircraft owned by the candidate or the candidate's authorized committees), the unreimbursed cost of such use, determined as the greater of the value of—

"(I) a first-class ticket on a commercial airline for a comparable trip; or

"(II) the fair market value of the use of the private aircraft.".

REED AMENDMENT NO. 1280

(Ordered to lie on the table.)

Mr. REED submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

On page 19, after line 23, add the following:

SEC. 204A. CONTRIBUTION LIMIT FOR POLITICAL PARTIES MAKING INDEPENDENT EXPENDITURES.

Section 315(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(1) in paragraph (1)(B), by striking "which, in the aggregate, exceed $20,000" and inserting "that—

"(i) in the case of a political committee that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $20,000; or

"(ii) in the case of a political committee that does not certify under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $5,000"; and

(2) in paragraph (2)(B), by striking "which, in the aggregate, exceed $15,000" and inserting "that—

"(i) in the case of a political committee that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $15,000; or

"(ii) in the case of a political committee that does not certify under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $5,000".

MCCAIN (AND FEINGOLD) AMENDMENT NO. 1281

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by them to the bill, S. 25, supra; as follows:

On page 53, after line 16, insert the following:

TITLE VII—SENATE VOLUNTARY OPTION

SEC. 701. SENATE VOLUNTARY OPTION.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 is amended by adding at the end the following:

"TITLE V—VOLUNTARY OPTION FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. DEFINITIONS.

"In this title:

"(1) ELIGIBLE SENATE CANDIDATE.—The term 'eligible Senate candidate' means a candidate who the Commission has certified under section 505 as an eligible primary election Senate candidate or as an eligible general election Senate candidate.

"(2) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMIT.—The term 'multicandidate political committee contribution limit' means, with respect to an eligible Senate candidate, the limit applicable to the candidate under section 502(f).

"(3) OUT-OF-STATE RESIDENT CONTRIBUTION LIMIT.—The term 'out-of-State resident contribution limit' means, with respect to an eligible Senate candidate, the limit applicable to the candidate under section 502(e).

"(4) PERSONAL FUNDS EXPENDITURE LIMIT.—The term 'personal funds expenditure limit' means, with respect to an eligible Senate candidate, the limit applicable to the candidate under section 503(a).

"(5) SMALL STATE.—The term 'small State' means a State with a voting age population not in excess of 1,500,000.

"SEC. 502. ELIGIBLE SENATE CANDIDATES.

"(a) IN GENERAL.—A candidate is—

"(1) an eligible primary election Senate candidate if the Commission certifies under section 505 that the candidate—

"(A) has met the primary election filing requirement of subsection (b); and

"(B) has met the threshold contribution requirement of subsection (d); and

"(2) an eligible general election Senate candidate if the Commission certifies under section 505 that the candidate—

"(A) has met the general election filing requirement of subsection (c); and

"(B) has been certified as an eligible primary election Senate candidate.

"(b) PRIMARY ELECTION FILING REQUIREMENT.—

"(1) IN GENERAL.—The requirement of this subsection is met if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees—

"(A) will not exceed the personal funds expenditure limit; and

"(B) will not accept contributions for the primary election, any runoff election, or the general election that would cause the candidate to exceed the out-of-State resident contribution limit or the multicandidate political committee contribution limit.

"(2) DEADLINE FOR FILING PRIMARY ELECTION DECLARATION.—The declaration under paragraph (1) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENT.—

"(1) IN GENERAL.—The requirement of this subsection is met if the candidate files with the Commission—

"(A) a declaration, with such supporting documentation as the Commission may require, that—

"(i) the candidate and the candidate's authorized committees—

"(I) did not exceed the personal funds expenditure limit; and

"(II) did not accept contributions for the primary election or any runoff election that caused the candidate to exceed the out-of-State resident contribution limit or the multicandidate political committee contribution limit; and

"(ii) the candidate has met the threshold contribution requirement of subsection (d), as demonstrated by documents accompanying the declaration under subsection (b) or the declaration under this subsection; and

"(B) a declaration that the candidate and the candidate's authorized committees—

"(i) will not make expenditures in excess of the personal funds expenditure limit; and

"(ii) will not accept any contribution for the general election to the extent that the contribution would cause the candidate to exceed the out-of-State resident contribution limit or the multicandidate political committee contribution limit.

"(2) DEADLINE FOR FILING GENERAL ELECTION DECLARATION.—The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date on which the candidate qualifies for the general election ballot under State law; or

"(B) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

"(d) THRESHOLD CONTRIBUTION REQUIREMENT.—

"(1) IN GENERAL.—The requirement of this subsection is met—

"(A) if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount not less than—

"(i) $100,000 in the case of a candidate seeking election in a small State; or

"(ii) $250,000 in the case of any other candidate; and

"(B) the candidate files with the Commission a statement under penalty of perjury that the requirement of subparagraph (A) has been met, with supporting materials demonstrating that the requirement has been met.

"(2) DEFINITIONS.—In this subsection:

"(A) ALLOWABLE CONTRIBUTION.—

"(i) IN GENERAL.—The term 'allowable contribution' means a contribution that is made as a gift of money by an individual pursuant to a written instrument identifying the individual as the contributor.

"(ii) EXCLUSIONS.—The term 'allowable contribution' does not include a contribution from—

"(I) an individual residing outside the candidate's State to the extent that acceptance of the contribution would bring a candidate out of compliance with subsection (e);

"(II) a multicandidate political committee to the extent that acceptance of the contribution would bring the candidate out of compliance with subsection (f); or

"(III) a source described in section 503(a)(2).

"(B) APPLICABLE PERIOD.—The term 'applicable period' means—

"(i) the period beginning on January 1 of the calendar year preceding the calendar year of a general election and ending on the date on which the declaration under subsection (b) is filed by the candidate; or

"(ii) in the case of a special election for the office of United States Senator, the period beginning on the date on which the vacancy in the office occurs and ending on the date of the general election.

"(e) OUT-OF-STATE RESIDENT CONTRIBUTION LIMIT.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—The requirement of this subsection is met if more than 50 percent of the total amount of contributions accepted by the candidate and the candidate's authorized committees are from individuals who are legal residents of the candidate's State.

"(B) SPECIAL RULE FOR SMALL STATES.—In the case of a candidate seeking election in a small State, the requirement of this subsection is met if, at the option of the candidate—

"(i) more than 50 percent of the total amount of contributions accepted by the candidate and the candidate's authorized committees are from individuals who are legal residents of the candidate's State; or

"(ii) more than 50 percent of the number of individuals whose names are reported to the Commission as individuals from whom the candidate and the candidate's authorized committees accept contributions are legal residents of the candidate's State.

"(2) PERSONAL FUNDS.—For purposes of paragraph (1), amounts consisting of funds from sources described in section 503(a)(2) shall be treated as contributions from individuals residing outside the candidate's State.

"(3) TIME FOR MEETING REQUIREMENT.—The requirements of paragraph (1) must be met by an eligible Senate candidate as of the close of each reporting period under section 304.

"(4) REPORTING REQUIREMENTS.—In addition to information required to be reported under section 304, a candidate that elects to comply with the requirements of paragraph (1)(B)(ii) shall include in each report required to be filed under section 304 the name and address of and the amount of contributions made by each individual that, during the calendar year in which the reporting period occurs, makes contributions aggregating $20 or more.

"(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMIT.—The requirement of this subsection is met if the candidate and the candidate's authorized committees do not accept, for use in connection with a primary, runoff, or general election, a contribution from a multicandidate political committee, to the extent that the making or accepting of the contribution would cause the aggregate amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed 25 percent of the aggregate contributions received by such candidate and committees from all sources.

"SEC. 503. PERSONAL FUNDS EXPENDITURE LIMIT.

"(a) LIMIT.—

"(1) IN GENERAL.—The amount of expenditures that may be made by an eligible Senate candidate or the candidate's authorized committees in connection with a primary, runoff, or general election of the candidate from the source described in paragraph (2) shall not exceed, in aggregate for each such election—

"(A) in the case of an eligible Senate candidate seeking election in a small State, $25,000 per election; or

"(B) in the case of any other eligible Senate candidate, $50,000 per election.

"(2) SOURCES.—A source is described in this paragraph if the source is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

"(b) NOTICE OF FAILURE TO COMPLY WITH REQUIREMENTS.—A candidate who filed a declaration under section 502 and subsequently acts in a manner that is inconsistent with any of the statements made in the declaration shall, not later than 24 hours after the first of the acts—

"(1) file with the Commission a notice describing those acts; and

"(2) notify all other candidates for the same office by sending a copy of the notice by certified mail, return receipt requested.

"SEC. 504. BENEFIT FOR ELIGIBLE CANDIDATES.

"An eligible Senate candidate shall be entitled to the broadcast media rates provided under section 315(b) of the Communications Act of 1934.

"SEC. 505. CERTIFICATION BY COMMISSION.

"(a) IN GENERAL.—The Commission shall determine whether a candidate has met the requirements of this title and, based on the determination, issue a certification stating whether the candidate is an eligible Senate candidate entitled to receive benefits under this title.

"(b) CERTIFICATION.—

"(1) PRIMARY ELECTION.—Not later than 7 business days after a candidate files a declaration under section 502(b), the Commission shall determine whether the candidate meets the eligibility requirements of section 502(b)(1) and, if so, certify that the candidate is an eligible primary election Senate candidate entitled to receive a benefit under this title.

"(2) GENERAL ELECTION.—Not later than 7 business days after a candidate files a declaration under section 502(c), the Commission shall determine whether the candidate meets the eligibility requirement of section 502(c)(1), and, if so, certify that the candidate is an eligible general election Senate candidate entitled to receive a benefit under this title.

"(c) REVOCATION.—

"(1) IN GENERAL.—The Commission shall revoke a certification under subsection (a), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate fails to continue to meet the requirements of this title.

"(2) NO FURTHER BENEFIT.—A candidate whose certification has been revoked shall be ineligible for any further benefit made available under this title for the duration of the election cycle.

"(d) DETERMINATIONS BY COMMISSION.—A determination (including a certification under subsection (a)) made by the Commission under this title shall be final, except to the extent that the determination is subject to examination and audit by the Commission under section 506 and to judicial review.

"SEC. 506. PENALTIES.

"(a) MISUSE OF BENEFITS.—If the Commission revokes the certification of an eligible Senate candidate, the Commission shall so notify the candidate, and the candidate shall pay to the provider of any benefit received by the candidate under this title an amount equal to the difference between the amount the candidate paid for such benefit and the amount the candidate would have paid for the benefit if the candidate were not an eligible Senate candidate.

"(b) CIVIL PENALTIES FOR EXCEEDING LIMITS.—Any eligible Senate candidate who makes expenditures in excess of the personal funds expenditure limit, or receives contributions in excess of the out-of-State resident contribution limit or the multicandidate political committee contribution limit, shall pay to the Commission as a civil penalty an amount equal to—

"(1) the amount of the excess if the excess does not exceed 5 percent of the limit,

"(2) 3 times the amount of the excess if the excess exceeds 5 percent but does not exceed 10 percent of the limit, and

"(3) if the excess exceeds 10 percent of the limit, the sum of 3 times the amount of the excess plus a civil penalty to be imposed pursuant to section 309."

(b) EXPENDITURES MADE BEFORE EFFECTIVE DATE.—An expenditure shall not be counted as an expenditure for purposes of the expenditure limits contained in the amendment made by subsection (a) if the expenditure is made before the date that is 60 days after the date of enactment of this Act.

SEC. 702. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking "(b) The charges" and inserting the following:

"(b) BROADCAST MEDIA RATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the charges";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(3) in paragraph (1)(A) (as redesignated by paragraph (2))—

(A) by striking "forty-five" and inserting "30"; and

(B) by striking "lowest unit charge of the station for the same class and amount of time for the same period" and inserting "lowest charge of the station for the same amount of time for the same period on the same date"; and

(4) by adding at the end the following:

"(2) SENATE CANDIDATES.—

"(A) ELIGIBLE SENATE CANDIDATES.—In the case of an eligible Senate candidate (as defined in section 501 of the Federal Election Campaign Act), the charges for the use of a television broadcasting station during the 30-day period and 60-day period referred to in paragraph (1)(A) shall not exceed 50 percent of the charge described in paragraph (1)(B).

"(B) NONELIGIBLE SENATE CANDIDATES.—In the case of a candidate for the United States Senate who is not an eligible Senate candidate, paragraph (1)(A) shall not apply.".

(b) PREEMPTION; ACCESS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) PREEMPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1)(A), of a broadcasting station by an eligible Senate candidate who has purchased and paid for such use pursuant to subsection (b)(2).

"(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

(c) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking "or repeated";

(2) by inserting "or cable system" after "broadcasting station"; and

(3) by striking "his candidacy" and inserting "the candidacy of the candidate, under the same terms, conditions, and business practices as apply to the most favored advertiser of the licensee".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 703. REPORTING REQUIREMENT FOR ELIGIBLE SENATE CANDIDATES.

Section 304(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting "; and"; and

(3) by adding at the end the following:

"(L) in the case of an eligible Senate candidate, the total amount of contributions from individuals who are residents of the State in which the candidate seeks office.".

ASHCROFT AMENDMENT NO. 1282

(Ordered to lie on the table.)

Mr. ASHCROFT submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AMENDMENT TO THE CONSTITUTION ALLOWING STATES TO LIMIT THE PERIOD OF TIME UNITED STATES SENATORS AND REPRESENTATIVES MAY SERVE.

The following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

JEFFORDS AMENDMENT NO. 1283

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

Beginning on page 17, strike line 7 and all that follows through page 19, line 8 and insert the following:

Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking the undesignated matter after subparagraph (C); and

(2) by adding at the end the following:

"(4) TIME FOR REPORTING CERTAIN INDEPENDENT EXPENDITURES.—

"(A) IN GENERAL.—A person that makes or obligates to make an aggregate amount of independent expenditures equal to or greater than $5,000 shall file a statement with the Commission—

"(i) in the case of expenditures made within 90 days before the date of the general election of the candidate the expenditure is made in connection with, 14 days before the expenditure is made; and

"(ii) in the case of expenditures made during any other time, within 48 hours after the expenditure is made or obligated to be made.

"(B) ADDITIONAL STATEMENTS.—An additional statement shall be filed not later than 48 hours after each additional amount of expenditures is made or obligated to be made in an aggregate amount equal to or greater than $5,000.

"(C) CONTENTS.—A statement under this paragraph shall contain the information required under paragraph (2)(A).

"(D) PLACE OF FILING; TRANSMISSION.—

"(i) PLACE OF FILING.—A statement under this paragraph shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, and the Secretary of the State of the State involved, as appropriate.

"(ii) TRANSMISSION.—Not later than 24 hours after receipt of a statement, the Secretary of the Senate or Clerk of the House of Representatives shall transmit the statement to the Commission and the Commission shall, not later than 48 hours after the receipt of the statement, transmit the statement to the candidate involved.

"(E) DETERMINATION.—

"(i) IN GENERAL.—The Commission may make a determination whether independent expenditures described in subparagraph (A) have been made or obligated to be made.

"(ii) NOTIFICATION OF CANDIDATES.—Not later than 24 hours after a determination is made under clause (i), the Commission shall notify the candidate involved in the expenditure of such determination.".

SANTORUM AMENDMENT NO. 1284

(Ordered to lie on the table.)

Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SENSE OF THE CONGRESS.

It is the sense of the Congress that because legal permanent residents of the United States are protected by the Constitution, the residents have the right under the First Amendment to legally express themselves through expenditures and contributions that affect the political and electoral process.

SEC. 2. VOTER EMPOWERMENT BY INCREASE AND INDEXING OF CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL CONTRIBUTION LIMITS.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

"(A)(i) to a local candidate (as defined in paragraph (9)) and the candidate's authorized committees with respect to any election for Federal office that, in the aggregate, exceed $4,000; and

"(ii) to a non-local candidate and the candidate's authorized committees with respect to any election for Federal office that, in the aggregate, exceed $1,000;";

(B) in subparagraph (B), by striking "$20,000" and inserting "$60,000"; and

(C) in subparagraph (C), by striking "$5,000" and inserting "$15,000"; and

(2) in paragraph (3)—

(A) by striking "$25,000" and inserting "$75,000"; and

(B) by striking the second sentence.

(b) DECREASE IN PAC CONTRIBUTION LIMIT.—Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by striking "$5,000" and inserting "$4,000".

(c) DEFINITION OF LOCAL CANDIDATE.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"(9) LOCAL CANDIDATE.—In subsection (a), the term 'local candidate' means a candidate seeking nomination for election to, or election to, the Senate or the House of Representatives for the State in which the principal residence (as this term is used in section 121 the Internal Revenue Code of 1986) of the contributor is located.".

(d) INDEXING LIMITS.—Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(1) in paragraph (1), by striking "subsection (b) and subsection (d)" and inserting "subsections (a), (b), and (d)"; and

(2) in paragraph (2)(B), by striking "means the calendar year 1974." and inserting "means—

"(i) for purposes of subsections (b) and (d), calendar year 1974; and

"(ii) for purposes of subsection (a), calendar year 1997.".

SEC. 3. POLITICAL COMMITTEE EXPENDITURE REFORM.

(a) POLITICAL PARTY COMMITTEE EXPENDITURES.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by striking subsection (d) and inserting the following:

"(d) POLITICAL PARTIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office.

"(2) TREATMENT OF EXPENDITURES.—An expenditure made under paragraph (1) shall not be treated as a contribution to or expenditure made by the candidate in connection with whom the expenditure is made for any purpose.".

(b) INCREASE IN PAC CONTRIBUTION LIMITS.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (B), by striking "$15,000" and inserting "$45,000"; and

(2) in subparagraph (C), by striking "$5,000" and inserting "$15,000".

(c) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended—

(1) by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—

"(A) IN GENERAL.—The term 'independent expenditure' means an expenditure that—

"(i) contains express advocacy; and

"(ii) is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate,

and that is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate."; and

(2) by adding at the end the following:

"(20) EXPRESS ADVOCACY.—The term 'express advocacy' includes a communication that conveys a message that advocates the election or defeat of a clearly identified candidate by using an expression such as 'vote for,' 'elect,' 'support,' 'vote against,' 'defeat,' 'reject,' '(name of candidate) for Congress,' 'vote pro-life,' or 'vote pro-choice,' accompanied by a listing or picture of a clearly identified candidate described as 'pro-life' or 'pro-choice,' 'reject the incumbent,' or a similar expression.".

SEC. 4. INCREASED DISCLOSURE.

(a) CLARIFICATION OF DEFINITION OF COOPERATION OR CONSULTATION.—Section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) (as amended by section 3(c)) is amended by adding at the end the following:

"(B) COOPERATION OR CONSULTATION.—The term 'cooperation or consultation' does not include a consultation solely for the purpose of determining the factual accuracy of information about the candidate to be used in connection with a voter guide or information about a voting record (as those terms are defined in regulation by the Commission).".

(b) MONTHLY REPORTING.—Section 304(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking "Senate" and inserting "Senate or political committee of a national party";

(2) in subparagraph (A) by striking "the following reports:" and all that follows and inserting "a monthly report, that shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month; and"; and

(3) in subparagraph (B)—

(A) by striking "(i)" and inserting "(i)(I) in the case of a principal campaign committee of a candidate,";

(B) by redesignating clause (ii) as subclause (II);

(C) in clause (i)(II), as redesignated by clause (ii), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(ii) in the case of a political committee of a national party, reports shall be filed under paragraph (4)(A)(iv).".

SEC. 5. FEDERAL ELECTION COMMISSION REFORM.

(a) INCREASE IN PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.—Section 309(a)(5)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(B)) is amended by striking "the greater of $10,000 or an amount equal to 200 percent" and inserting "the greater of $15,000 or an amount equal to 300 percent".

(b) ATTORNEY'S FEES.—Section 309(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 4437g(a)(8)) is amended by adding at the end the following:

"(D) In any proceeding under this paragraph in which the defendant substantially prevails on substantive grounds, the court may, in addition to any judgment awarded to the defendant, allow reasonable attorney's fees and other costs of the civil action.".

SEC. 6. RIGHTS OF EMPLOYEES RELATING TO THE PAYMENT AND USE OF LABOR ORGANIZATION DUES.

(a) PAYMENT OF DUES.—

(1) RIGHTS OF EMPLOYEES.—Section 7 of the National Labor Relations Act (29 U.S.C. 157) is amended by striking "membership" and all that follows and inserting the following: "the payment to a labor organization of dues or fees related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation as a condition of employment as authorized in section 8(a)(3).".

(2) UNFAIR LABOR PRACTICES.—Section 8(a)(3) of the National Labor Relations Act (29 U.S.C. 158(a)(3)) is amended by striking "membership therein" and inserting "the payment to such labor organization of dues or fees related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation".

(b) REQUIREMENTS FOR USE OF DUES FOR CERTAIN PURPOSES.—

(1) WRITTEN AGREEMENT.—Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following:

"(h)(1) An employee subject to an agreement between an employer and a labor organization requiring the payment of dues or fees to such organization as authorized in subsection (a)(3) may not be required to pay to such organization, nor may such organization accept payment of, any dues or fees not related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation unless the employee has agreed to pay such dues or fees in a signed written agreement that shall be renewed between the first day of September and the first day of October of each year.

"(2) Such signed written agreement shall include a ratio, certified by an independent auditor, of the dues or fees related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation and the dues or fees related to other purposes.".

(2) WRITTEN ASSIGNMENT.—Section 302(c)(4) of the Labor Management Relations Act, 1947 (29 U.S.C. 186) is amended by inserting before the semicolon the following: ": *Provided further*, That no amount may be deducted for dues unrelated to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation unless a written assignment authorizes such a deduction".

(c) NOTICE TO EMPLOYEES RELATING TO THE PAYMENT AND USE OF DUES.—Section 8 of the National Labor Relations Act (29 U.S.C. 158) (as amended by subsection (b)(1)) is amended by adding at the end the following:

"(i)(1) An employer shall post a notice that informs the employees of their rights under section 7 of this Act and clarifies to such employees that an agreement requiring the payment of dues or fees to a labor organization as a condition of employment as authorized in subsection (a)(3) may only require that employees pay to such organization any dues or fees related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation. A copy of such notice shall be provided to each employee not later than 10 days after the first day of employment.

"(2) The notice described in paragraph (1) shall be of such size and in such form as the Board shall prescribe and shall be posted in conspicuous places in and about the plants and offices of such employer, including all places where notices to employees are customarily posted.".

(d) EMPLOYEE PARTICIPATION IN THE AFFAIRS OF A LABOR ORGANIZATION.—Section 8(b)(1) of the National Labor Relations Act (29 U.S.C. 158(b)(1)) is amended by striking "therein;" and inserting the following: "therein, except that, an employee who is subject to an agreement between an employer and a labor organization requiring as a condition of employment the payment of dues or fees to such organization as authorized in subsection (a)(3) and who pays such dues or fees shall have the same right to participate in the affairs of the organization related to collective bargaining, contract administration, or grievance adjustment as any member of the organization;".

(e) DISCLOSURE TO EMPLOYEES.—

(1) EXPENSES REPORTING.—Section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(b)) is amended by adding at the end the following: "Every labor organization shall be required to attribute and report expenses by function classification in such detail as necessary to allow the members of such organization or the employees required to pay any dues or fees to such organization to determine whether such expenses were related to collective bargaining, contract administration, or grievance adjustment necessary to performing the duties of exclusive representation or were related to other purposes.".

(2) REPORT INFORMATION.—Section 201(c) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(c)) is amended—

(A) by inserting "and employees required to pay any dues or fees to such organization" after "members";

(B) by striking "suit of any member of such organization" and inserting "suit of any member of such organization or employee required to pay any dues or fees to such organization"; and

(C) by striking "such member" and inserting "such member or employee".

(3) REGULATIONS.—The Secretary of Labor shall promulgate a regulation as necessary to carry out the amendments made by this subsection not later than 120 days after the date of enactment of this Act.

(f) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act, except that the requirements contained in the amendments made by subsections (b) and (c) shall take effect 60 days after the date of enactment of this Act.

SEC. 7. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or donation of money or anything else of value made by any person to a national committee of a political party" after "Act of 1971"; and

(2) in subsection (b)—

(A) by inserting "or donations" after "contributions" each place it appears;

(B) by inserting "or donation" after "contribution"; and

(C) by inserting "donator" after "contributor".

SEC. 8. LIMIT ON USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "Congress may not" and inserting "the House of Representatives may not"; and

(B) in clause (i), by striking "60 days (or, in the case of a Member of the House, fewer than 90 days)" and inserting "90 days"; and

(2) by striking subparagraph (C) and inserting the following:

"(C)(i) A Member of the Senate shall not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that office in that year.

"(ii) A Member of the Senate shall not mail any mass mailing as franked mail if the mass mailing is postmarked fewer than 60 days before the date of any primary election or general election (whether regular, special, or runoff) for any national, State, or local office in which the Member is a candidate for election.".

SEC. 9. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall apply to elections occurring and filing periods beginning after December 31, 1998.

SNOWE AMENDMENT NO. 1285

(Ordered to lie on the table.)

Ms. SNOWE submitted an amendment intended to be proposed by her to amendment No. 1258 proposed by Mr. LOTT to the bill, S. 25, supra; as follows:

In lieu of the matter proposed to be inserted, insert:

___. REQUIREMENTS TO ENSURE EXPENDITURES OF CORPORATIONS AND EXEMPT ORGANIZATIONS FOR POLITICAL PURPOSES ARE VOLUNTARY.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

"(c) RESTRICTIONS ON THE REVENUES OF NATIONAL BANKS AND CORPORATIONS AND DUES OF EXEMPT ORGANIZATIONS USED FOR POLITICAL ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful—

"(A) for any national bank or corporation described in this section to use for political activities any portion of any revenues or amounts received from any shareholder or employee; or

"(B) for any organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code) to use for political activities any portion of any dues, initiation fee, or other payment collected or assessed from any member or nonmember of such organization.

"(2) REQUIREMENTS.—

"(A) NOTICE.—Each bank, corporation, or organization described in paragraph (1) which seeks to make any disbursements for any political activities from dues, initiation fees, or other payments shall—

"(i) provide to each individual a statement of such dues, fee, or other payment before the period to which such dues, fee, or payment applies, and

"(ii) include with each such statement a written notice which includes—

"(I) a reasonable estimate of the budget for such political activities,

"(II) a detailed itemization of all amounts disbursed for political activities in the 2 previous years,

"(III) a reasonable estimate of the dollar amount of the dues, fee, or payment which is to used for such political activities, and

"(IV) a space for the individual to check off that the individual does or does not consent to the expenditure of any portion of such dues, fee, or payment for political activities.

The period covered by any statement shall not exceed 12 months.

"(B) LIMITATION ON AMOUNT.—

"(i) IN GENERAL.—An organization required to provide notice under subparagraph (A) shall not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of individuals consenting to such disbursements under subparagraph (A)(ii)(IV) bears to the total number of individuals making payment of such dues, fees, or other payments.

"(ii) SPECIAL RULE.—If such consent is not provided, no portion of such dues, fees, or payments shall be used for political activities.

"(C) AVAILABILITY OF RECORDS.—An organization required to provide notice under subparagraph (A) shall make available to any affected members and nonmembers of the organization at the organization's main office any records on which the information required under subparagraph (A) is based.

"(d) CORPORATE SHAREHOLDERS MUST CONSENT TO DISBURSEMENTS FOR POLITICAL ACTIVITIES FROM FUNDS.—

"(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful for a corporation to which this section applies to make a disbursement to fund political activities.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Any corporation described in paragraph (1) which seeks to make disbursements for political activities during any 12-month period shall, in advance of such period, transmit to each of its shareholders a written notice which includes—

"(i) a reasonable estimate of the budget for such political activities,

"(ii) a detailed itemization of all amounts disbursed for political activities for the previous 2 years,

"(iii) the method by which a shareholder may vote (at its annual meeting or by proxy in connection with the meeting) to approve or disapprove of such disbursements.

"(B) LIMITATION ON AMOUNT.—

"(i) IN GENERAL.—A corporation required to provide notice under subparagraph (A) shall not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of shares voted at an annual meeting to approve such disbursements bears to the total number of shares voted with respect to such issue.

"(ii) SPECIAL RULE.—If a shareholder votes by proxy with respect to 1 or more issues to be considered at an annual meeting but does not vote by proxy with respect to the issue of disbursement of funds for political activities, the shareholder shall be treated as having voted to disapprove such disbursements.

"(e) POLITICAL ACTIVITIES.—For purposes of subsections (c) and (d), the term 'political activities' means communications or other activities which involve donations to, or participation or intervention in, any political campaign or political party, including—

"(1) any activity described in subparagraph (A), (B), or (C) of subsection (b)(2), and

"(2) any communication that attempts to influence legislation or public policy."

(b) DISCLOSURE OF CERTAIN EXPENDITURES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended—

(1) in section 301(9)(B)(iii), by striking "Federal office, except" and all that follows through the semicolon and inserting "Federal office;"; and

(2) in section 316(b)(2), by inserting at the end the following flush sentence:

"Disbursements made for activities described in subparagraphs (A), (B), and (C) shall be reported to the Commission in accordance with clauses (i) and (ii) of section 304(a)(4)(A).".

(c) EFFECTIVE DATE.—This section shall take effect upon enactment of this Act.

DODD AMENDMENT NO. 1286

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the Federal Election Commission (referred to in this section as the "Commission") was created in the wake of the Watergate scandal to ensure the integrity of Federal elections by overseeing Federal election disclosure and enforcing Federal election law;

(2) maintaining and improving the strength and effectiveness of the Commission is essential to the integrity of the Federal election system;

(3) the growing volume of financial activity in election campaigns and the sharply increasing number of cases regarding potential violations of Federal election law make it increasingly difficult for the Commission to fulfill its watchdog role;

(4) between 1994 and November, 1996, the Commission's caseload rose 36 percent in the six months leading up to the elections, and because complaints relating to the 1996 Federal elections are still being filed, the Commission expects the caseload to ultimately rise by 52 percent;

(5) As of August 30, 1997, the Commission has been only able to actually work on 88 complaints of the total 262 cases pending;

(6) with this great increase in its workload the Commission's budget has not increased by an amount necessary to allow it to hire staff to fulfill its duties;

(7) the proposed appropriations for the Commission for the next fiscal year will not allow the Commission to hire additional investigative or enforcement staff; and

(8) the combination of a decreasing budget and an increasing workload have severely impaired the Commission's ability to fulfill its role.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should provide the Federal Election Commission with sufficient resources and authority to allow it to fulfill its duties in a timely and effective manner.

JEFFORDS AMENDMENT NO. 1287

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to an amendment proposed by Mr. LOTT to the bill, S. 25, supra; as follows:

In lieu of the matter proposed to be inserted, insert:

. REQUIREMENTS TO ENSURE EXPENDITURES OF CORPORATIONS AND EXEMPT ORGANIZATIONS FOR POLITICAL PURPOSES ARE VOLUNTARY.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

"(c) RESTRICTIONS ON THE REVENUES OF NATIONAL BANKS AND CORPORATIONS AND DUES OF EXEMPT ORGANIZATIONS USED FOR POLITICAL ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful—

"(A) for any national bank or corporation described in this section to use for political activities any portion of any revenues or amounts received from any shareholder or employee; or

"(B) for any organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code) to use for political activities any portion of any dues, initiation fee, or other payment collected or assessed from any member or nonmember of such organization.

"(2) REQUIREMENTS.—

"(A) NOTICE.—Each bank, corporation, or organization described in paragraph (1) which seeks to make any disbursements for any political activities from dues, initiation fees, or other payments shall—

"(i) provide to each individual a statement of such dues, fee, or other payment before the period to which such dues, fee, or payment applies, and

"(ii) include with each such statement a written notice which includes—

"(I) a reasonable estimate of the budget for such political activities,

"(II) a detailed itemization of all amounts disbursed for political activities in the 2 previous years,

"(III) a reasonable estimate of the dollar amount of the dues, fee, or payment which is to be used for such political activities, and

"(IV) a space for the individual to check off that the individual does or does not consent to the expenditure of any portion of such dues, fee, or payment for political activities.

The period covered by any statement shall not exceed 12 months.

"(B) LIMITATION ON AMOUNT—

"(i) IN GENERAL.—An organization required to provide notice under subparagraph (A) shall—(i) not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of individuals consenting to such disbursements under subparagraph (A)(ii)(IV) bears to the total number of individuals making payment of such dues, fees, or other payments, and

"(ii) with respect to each individual who does not consent to such disbursements under subparagraph (A)(ii)(IV), either—

"(I) not collect from the individual the dollar amount of the dues, fee, or other payment which was used for such disbursement, or

"(II) refund to the individual an amount equal to such dollar amount.

"(iii) SPECIAL RULE.—If such consent is not provided, no portion of such dues, fees, or payments shall be used for political activities.

"(C) AVAILABILITY OF RECORDS.—An organization required to provide notice under subparagraph (A) shall make available to any affected members and nonmembers of the organization at the organization's main office any records on which the information required under subparagraph (A) is based.

"(d) CORPORATE SHAREHOLDERS MUST CONSENT TO DISBURSEMENTS FOR POLITICAL ACTIVITIES FROM FUNDS.—

"(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful for a corporation to which this section applies to make a disbursement to fund political activities.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Any corporation described in paragraph (1) which seeks to make disbursements for political activities during any 12-month period shall, in advance of such period, transmit to each of its shareholders a written notice which includes—

"(i) a reasonable estimate of the budget for such political activities,

"(ii) a detailed itemization of all amounts disbursed for political activities for the previous 2 years,

"(iii) the method by which a shareholder may vote (at its annual meeting or by proxy in connection with the meeting) to approve or disapprove of such disbursements.

"(B) LIMITATION ON AMOUNT.—

"(i) IN GENERAL.—A corporation required to provide notice under subparagraph (A) shall not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of shares voted at an annual meeting to approve such disbursements bears to the total number of shares voted with respect to such issue.

"(ii) SPECIAL RULE.—If a shareholder votes by proxy with respect to 1 or more issues to be considered at an annual meeting but does not vote by proxy with respect to the issue of disbursement of funds for political activities, the shareholder shall be treated as having voted to disapprove such disbursements.

"(e) POLITICAL ACTIVITIES.—For purposes of subsections (c) and (d), the term 'political activities' means communications or other activities which involve donations to, or participation or intervention in, any political campaign or political party, including—

"(1) any activity described in subparagraph (A), (B), or (C) of subsection (b)(2), and

"(2) any communication that attempts to influence legislation or public policy."

(b) DISCLOSURE OF CERTAIN EXPENDITURES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended—

(1) in section 301(9)(B)(iii), by striking "Federal office, except" and all that follows through the semicolon and inserting "Federal office;"; and

(2) in section 316(b)(2), by inserting at the end the following flush sentence:

"Disbursements made for activities described in subparagraphs (A), (B), and (C) shall be reported to the Commission in accordance with clauses (i) and (ii) of section 304(a)(4)(A).".

(c) EFFECTIVE DATE.—This section shall take effect upon enactment of this Act.

CHAFEE AMENDMENTS NOS. 1288–1289

(Ordered to lie on the table.)

Mr. CHAFEE submitted two amendments intended to be proposed by him to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1288

Beginning on page 11, strike line 4 and all that follows through page 25, line 12 and insert the following:

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. TREATMENT OF CERTAIN DISBURSEMENTS AS INDEPENDENT EXPENDITURES.

(a) TREATMENT OF CERTAIN DISBURSEMENTS AS INDEPENDENT EXPENDITURES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 507) is amended by adding at the end the following:

"SEC. 327. TREATMENT OF CERTAIN DISBURSEMENTS AS INDEPENDENT EXPENDITURES

"(a) FINDINGS.—Congress finds that—

"(1) a broadcast, advertisement, pamphlet, or other communication that identifies a candidate, and that is made during the 24-month period preceding the date of a general election, will almost inevitably influence the outcome of the election for the office sought by the candidate;

(2) likewise, a communication that identifies a political party, and that is made during that period, will almost inevitably influence the outcome of elections for all candidates of that party; and

(3) the United States has an important interest in protecting the integrity of the political and electoral process and ensuring adequate disclosure from all persons that influence the outcome of Federal elections.

"(b) IN GENERAL.—A disbursement that is made by any person to pay for a communication to the general public, or by a national bank, corporation, or labor organization to pay for a communication to its officers, employees, or members, shall be treated as an independent expenditure for purposes of section 304 if the communication—

"(1) is made during the 24-month period before the date of a general election for Federal office;

"(2)(A) contains the image or likeness of, mentions the name of, or otherwise expressly or by fair implication refers to a candidate for Federal office in that election; or

"(B) contains the name or symbol of, mentions the name of, or otherwise expressly or by fair implication refers to a political party of which any person is a candidate for Federal office in that election; and

"(3) is paid for and made without coordination with a candidate or a candidate's authorized committees.".

"(b) CONFORMING AMENDMENT.—Section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) is amended by striking "The term" and inserting "Subject to section 327, the term".

AMENDMENT NO. 1289

Beginning on page 45, strike line 8 and all that follows through page 46, line 9.

Beginning on page 49, strike line 9 and all that follows through page 50, line 13.

MOSELEY-BRAUN AMENDMENTS NOS. 1290–1293

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted four amendments intended to be proposed by her to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1290

At the appropriate place, insert the following:

SEC. . LIMITATION ON USE OF CANDIDATE'S PERSONAL FUNDS IN CONNECTION WITH CANDIDATE'S ELECTION.

(a) FINDINGS.—Congress finds that—

(1) a broad range of support through financial participation in the election process is

an important component of the democratic process;

(2) candidates are often forced to spend a large amount of funds on their election campaign because other candidates in the same election spend a large amount of funds;

(3) excess expenditures in an election campaign is wasteful and potentially destructive to the democratic process; and

(4) the limitation of contributions by candidates using personal funds can help reduce the level of spending in connection with a Federal election.

(b) LIMITATION ON USE OF CANDIDATE'S PERSONAL FUNDS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. . LIMITATION ON USE OF CANDIDATE'S PERSONAL FUNDS.

"A candidate shall not make an aggregate amount of contributions to the candidate's authorized committees or expenditures using personal funds with respect to an election in an amount in excess of 25 percent of the aggregate amount of expenditures made by the candidate and the candidate's committees with respect to an election."

AMENDMENT NO. 1291

At the appropriate place, insert the following:

SEC. . REQUIRED DISCLOSURE FOR CANDIDATE'S AUTHORIZED COMMITTEES.

Section 304(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) for an authorized committee, the source of any funds contributed to the committee or expended by the candidate using personal funds in an aggregate amount in excess of the amount of the limit under section 315(a)(1)(A) during the reporting period."

AMENDMENT NO. 1292

At the appropriate place, insert the following:

SEC. . REQUIRED DISCLOSURE IN CERTAIN COMMUNICATIONS OF THE PERSON WHO PAYS FOR THE COMMUNICATION.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended by adding at the end the following:

"(c) ISSUE COMMUNICATIONS.—

"(1) IN GENERAL.—Whenever a person makes a disbursement for the purpose of financing an issue communication (not including an expenditure described in subsection (a)), the communication shall clearly state the name of the person who made the disbursement to finance the communication.

"(2) DEFINITION.—The term 'issue communication' means a communication that—

"(A)(i) contains the image or likeness of, mentions the name of, or otherwise expressly or by fair implication refers to a candidate for Federal office; or

"(ii) contains the name or symbol of, mentions the name of, or otherwise expressly or by fair implication refers to a political party of which any person is a candidate for Federal office in that election; and

"(B) is disseminated within 90 days of the election for the office that the candidate whom the communication is in connection with is seeking.

"(3) EXCEPTION.—This subsection shall not apply to a communication that clearly has a primary purpose other than that of influencing the outcome of an election for Federal office or elections for Federal office.".

AMENDMENT NO. 1293

At the appropriate place, insert the following:

SEC. . LIMITATION ON USE OF CONTRIBUTIONS TO REPAY LOANS OF CANDIDATES.

(a) FINDINGS.—Congress finds that—

(1) a broad range of support through financial participation in the election process is an important component of the democratic process;

(2) candidates are often forced to spend a large amount of funds on their election campaign because other candidates in the same election spend a large amount of funds;

(3) excess expenditures in an election campaign is wasteful and potentially destructive to the democratic process; and

(4) the limitation of contributions from candidates using personal funds can help reduce the level of spending in connection with a Federal election.

(b) LIMITATION OF USE OF CONTRIBUTIONS TO REPAY PERSONAL DEBT OF CANDIDATE.—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended—

(1) by inserting "(a)" before "Amounts"; and

(2) by adding at the end the following:

"(b) LIMITATION OF USE OF CONTRIBUTIONS TO REPAY PERSONAL DEBT.—

"(1) IN GENERAL.—A candidate's authorized committees shall not make expenditures to repay—

"(A) a debt or obligation incurred by the candidate in connection with the election campaign of the candidate; or

"(B) a loan made to the committee from the candidate in connection with the election campaign of the candidate;

to the extent that the aggregate amount of such expenditures exceed 15 percent of the aggregate expenditures made by the candidate and the candidate's committees in the election campaign.

"(2) CANDIDATE.—A candidate shall not accept from the candidates authorized committees any amount that is used to repay, or that constitutes a repayment of, any loan described in paragraph (1) to the extent that the aggregate amount received by the candidate exceeds the limitation under paragraph (1), reduced by expenditures described in such paragraph to persons other than the candidate.".

CLELAND AMENDMENTS NOS. 1294–1299

(Ordered to lie on the table.)

Mr. CLELAND submitted six amendments intended to be proposed by him to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1294

On page 52, between lines 12 and 13, insert the following:

SEC. 510. REQUIRED CONTRIBUTOR CERTIFICATION.

Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking "and" the first place it appears; and

(B) by inserting ", and an affirmation that the individual is an individual who is not prohibited by sections 319 and 320 from making the contribution" after "employer"; and

(2) in subparagraph (B) by inserting "and an affirmation that the person is a person that is not prohibited by sections 319 and 320 from making a contribution" after "such person".

AMENDMENT NO. 1295

On page 52, between lines 12 and 13, insert the following:

SEC. 510. RESTRUCTURING OF THE FEDERAL ELECTION COMMISSION.

(a) IN GENERAL.—So much of section 306(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)) as precedes paragraph (2) is amended to read as follows:

(1) by striking "(a)(1) There" and inserting the following:

"(a) COMPOSITION OF COMMISSION.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—There is established a commission to be known as the Federal Election Commission.

"(B) APPOINTMENT OF MEMBERS.—The Commission shall be composed of 7 members appointed by the President, by and with the advice and consent of the Senate, of which 1 member shall be appointed by the President from nominees recommended under subparagraph (C).

"(C) NOMINATIONS.—

"(i) IN GENERAL.—The Supreme Court shall recommend 10 nominees from which the President shall appoint a member of the Commission.

"(ii) QUALIFICATIONS.—The nominees recommended under clause (i) shall be individuals who have not, during the time period beginning on the date that is 5 years prior to the date of the nomination and ending on the date of the nomination—

"(I) held elective office as a member of the Democratic or Republican political party;

"(II) received any wages from the Democratic or Republican political party; or

"(III) provided substantial volunteer services or made any substantial contribution to the Democratic or Republican political party or to a public officeholder or candidate for public office who is associated with the Democratic or Republican political party.

"(D) LIMIT ON PARTY AFFILIATION.—Of the 6 members not appointed pursuant to subparagraph (C), no more than 3 members may be affiliated with the same political party."; and (3) by striking paragraph (5) and inserting the following:

"(5) CHAIR; VICE CHAIR.—

"(A) IN GENERAL.—A member appointed under paragraph (1)(C) shall serve as chair of the Commission and the Commission shall elect a vice chair from among the Commission's members.

"(B) AFFILIATION.—The chair and the vice chair shall not be affiliated with the same political party.

"(C) VACANCY.—The vice chair shall act as chair in the absence or disability of the chair or in the event of a vacancy of the chair.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The term of the seventh member of the Federal Election Commission appointed under section 306(a)(1)(C) of the Federal Election Campaign Act of 1971 shall begin on May 1, 1999.

(2) CURRENT MEMBERS.—Any member of the Federal Election Commission serving a term on the date of enactment (or any successor of such term) shall continue to serve until the expiration of the term.

AMENDMENT NO. 1296

On page 52, between lines 12 and 13, insert the following:

SEC. 510. FILING FEES.

(a) SCHEDULE.—The Federal Election Commission shall establish by regulation a

schedule of filing fees that apply to persons required to file a report under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(b) REQUIREMENTS.—A filing fee schedule established under subsection (a) shall—

(1) be printed in the Federal Register not less than 30 days before a fiscal year begins;

(2) contain sufficient fees to meet the estimated operating costs of the Federal Election Commission for the next fiscal year; and

(3) provide a waiver of fees for persons required to file a report with the Federal Election Commission if such fee would be a substantial hardship to such person.

(a) APPROPRIATIONS.—Any fees collected pursuant to this section are hereby appropriated for use by the Federal Election Commission in carrying out its duties under the Federal Election Campaign Act of 1971 and shall remain available without fiscal year limitation.

(d) EFFECTIVE DATE.—This section shall apply to fiscal years beginning after the date that is 2 years after the date of enactment of this Act.

AMENDMENT NO. 1297

On page 52, between lines 12 and 13, insert the following:

SEC. 510. INDEPENDENT LITIGATION AUTHORITY.

Section 306(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by striking paragraph (4) and inserting the following:

"(4) INDEPENDENT LITIGATING AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding paragraph (2) or any other provision of law, the Commission is authorized to appear on the Commission's behalf in any action related to the exercise of the Commission's statutory duties or powers in any court as either a party or as amicus curiae, either—

"(i) by attorneys employed in its office, or

"(ii) by counsel whom the Commission may appoint, on a temporary basis as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, and whose compensation shall be paid out of any funds otherwise available to pay the compensation of employees of the Commission.

"(B) SUPREME COURT.—The authority granted under subparagraph (A) includes the power to appeal from, and petition the Supreme Court for certiorari from, and petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which the Commission appears under the authority provided in this section.".

AMENDMENT NO. 1298

On page 52, between lines 12 and 13, insert the following:

SEC. 510. LIMIT ON TIME TO ACCEPT CONTRIBUTIONS.

(a) TIME TO ACCEPT CONTRIBUTIONS.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

"(i) TIME TO ACCEPT CONTRIBUTIONS.—

"(1) IN GENERAL.—A candidate for nomination to, or election to, the Senate or House of Representatives shall not accept a contribution from any person during an election cycle in connection with the candidate's campaign except during a contribution period.

"(2) CONTRIBUTION PERIOD.—In this subsection, the term 'contribution period' means, with respect to a candidate, the period of time that—

"(A) begins on the date that is the earlier of—

"(i) January 1 of the year in which an election for the seat that the candidate is seeking occurs; or

"(ii) 90 days before the date on which the candidate will qualify under State law to be placed on the ballot for the primary election for the seat that the candidate is seeking; and

"(B) ends on the date that is 5 days after the date of the general election for the seat that the candidate is seeking.

"(3) EXCEPTIONS.—

"(A) DEBTS INCURRED DURING ELECTION CYCLE.—A candidate may accept a contribution after the end of a contribution period to make an expenditure in connection with a debt or obligation incurred in connection with the election during the election cycle.

"(B) ACCEPTANCE OF CONTRIBUTIONS IN RESPONSE TO OPPONENT'S CARRYOVER FUNDS.—

"(i) IN GENERAL.—A candidate may accept an aggregate amount of contributions before the contribution period begins in an amount equal to 125 percent of the amount of carryover funds of an opponent in the same election.

"(ii) CARRYOVER FUNDS OF OPPONENT.—In clause (i), the term 'carryover funds of an opponent' means the aggregate amount of contributions that an opposing candidate and the candidate's authorized committees transfers from a previous election cycle to the current election cycle.".

(b) DEFINITION OF ELECTION CYCLE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (as amended by section 307(b)) is amended by adding at the end the following:

"(22) ELECTION CYCLE.—The term 'election cycle' means the period beginning on the day after the date of the most recent general election for the specific office or seat that a candidate is seeking and ending on the date of the next general election for that office or seat.".

AMENDMENT NO. 1299

On page 52, between lines 12 and 13, insert the following:

SEC. 510. REQUIRED CONTRIBUTOR CERTIFICATION.

Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking "and" the first place it appears; and

(B) by inserting ", and, in the case of an individual who has made aggregate contributions in excess of $500, an affirmation that the individual is an individual who is not prohibited by sections 319 and 320 from making the contribution" after "employer"; and

(2) in subparagraph (B) by inserting "and, in the case of a person who has made aggregate contributions in excess of $500, an affirmation that the person is a person that is not prohibited by sections 319 and 320 from making a contribution" after "such person".

CLARIFICATION LEGISLATION

SMITH OF NEW HAMPSHIRE (AND GREGG) AMENDMENT NO. 1300

(Ordered referred to the Committee on Governmental Affairs.)

Mr. SMITH of New Hampshire (for himself and Mr. GREGG) submitted an amendment intended to be proposed by them to the bill (H.R. 1953) to clarify State authority to tax compensation paid to certain employees; as follows:

On page 2, strike lines 1 through 20, and insert the following:

SECTION 1. LIMITATION ON STATE AUTHORITY TO TAX COMPENSATION PAID TO INDIVIDUALS PERFORMING SERVICES AT CERTAIN FEDERAL FACILITIES.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, as amended by is amended by adding at the end the following:

"§ 115. Limitation on State authority to tax compensation paid to individuals performing services at certain Federal facilities

"Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, or the Portsmouth, New Hampshire Naval Shipyard, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"115. Limitation on State authority to tax compensation paid to individuals performing services at certain Federal facilities.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pay and compensation paid after the date of the enactment of this Act.

Mr. SMITH of New Hampshire. Mr. President, on behalf of Senator GREGG and myself, I submit an amendment. Mr. President, this is a very simple and straightforward amendment which has been drafted to address a very unique situation concerning State tax liability for persons performing services at the Portsmouth, New Hampshire Naval Shipyard. This shipyard is a Federal facility located on a group of small islands in the inner Portsmouth Harbor and Piscataqua River, which forms the border between the States of New Hampshire and Maine.

The amendment we are offering will make pay and compensation of Portsmouth Naval Shipyard employees subject only to the State taxation laws of the State in which the employees reside.

On July 28, 1997, the House of Representatives passed H.R. 1953, a bill which likewise makes State taxing authority subject to an employee's State of residence with respect to three other Federal facilities located on State borders.

Again, Mr. President, these are very unique situations where we have a serious issue of tax fairness of Federal employees at these particular Federal facilities on the border between States. It is appropriate for the Congress, in these instances, to use its power to clarify taxing authority especially where the States involved have been unable to work out an equitable tax reciprocity agreement on their own. Moreover, I would note that in this instance, there is disagreement between New Hampshire and Maine on whether

the border location of the shipyard puts it geographically in New Hampshire or Maine. This is all the more reason for Congress to seek to help these Federal employees caught in the middle of a border dispute.

As a Member of the Senate Committee on Governmental Affairs, I look forward to working with Chairman THOMPSON and my other colleagues on the committee in the next few weeks to schedule action on both the House bill and the amendment Senator GREGG and I are offering to it today.

Finally, Mr. President, I would note that when H.R. 1953 passed the House a few weeks back, some of my colleagues there noted that it took nearly 10 years to correct the tax inequity for the Federal employees at the three Federal facilities on State borders referenced in that bill. Let me say that I first took up the unfair tax situation faced by my New Hampshire constituents at the Portsmouth Naval Shipyard nearly 10 years ago, and introduced legislation in the years that followed which, unfortunately, never came to pass. However, my colleagues have told me a congressional hearing might be the best way to make our case. That is why I look forward to Senate consideration of this amendment in committee. When the facts are carefully reviewed, I think my colleagues will realize that my constituents have waited too long already for resolution of the unfair tax burden they face by virtue of their employment at this particular Federal facility. My amendment with Senator GREGG to H.R. 1953 gives the Congress another opportunity to address this situation, so it is my hope we can now rectify this situation without further delay.

THE BIPARTISAN CAMPAIGN REFORM ACT OF 1997

BURNS AMENDMENTS NOS. 1301–1303

(Ordered to lie on the table.)

Mr. BURNS submitted three amendments intended to be proposed by him to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1301

At the end of title I, add the following:

Title II of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq) (as amended by section 101) is amended by adding at the end the following:

"325. PARTICIPATION BY NATIONAL ORGANIZATIONS IN ELECTIONS FOR THE SENATE OR HOUSE OF REPRESENTATIVES.

"It shall be unlawful for the national chapter of any organization to conduct, or to use or make available funds of the national chapter to any person for the conduct of, campaign advertisements or any other form of participation in an election for the Senate or the House of Representatives in a State unless the State and local chapters of the organization consent to the participation.".

AMENDMENT NO. 1302

At the end of title I, add the following:

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq) as amended by section 101) is amended by adding at the end the following:

"325. PENALTIES FOR VIOLATION OF ELECTION LAW.

"(a) IN GENERAL.—In addition to penalties that may be imposed under any other provision of this Act, section 607 of title 18, United States Code, or any other law requiring or prohibiting any activity relating to a Federal election, and person that violates any such person shall be punished by—

"(1) lifetime disqualification from candidacy for Federal office;

"(2) imposition of a fine of not less than $50,000;

"(3) in the case of an organization described in paragraph (3) or (4) of section 501(c) of the Internal Revenue Code that is exempt from taxation under section 501(a) of the Code, disentitlement to the exemption for a period of not more than 5 years.

"(b) VIOLATION BY AN ORGANIZATION.—In the case of a violation under subsection (a) by an organization, each of the officers of the organization that had power to prevent the organization from committing the violation shall be personally liable for the violation.".

AMENDMENT NO. 1303

At the end of title I, add the following:

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq) (as amended by section 101) is amended by adding at the end the following:

"325. DECLARATIONS OF INTENT TO BECOME A CANDIDATE; DECLARATIONS OF INTENT TO PARTICIPATE IN FEDERAL ELECTIONS.

"(a) DECLARATIONS OF INTENT TO BECOME A CANDIDATE.—Not later than January 1 of any year in which a general election for Federal office is to be held in a State, each person that intends to become a candidate for Federal office in the election shall file with the Commission and with the chief election official of the State a declaration of intent to become a candidate for the office that the person intends to seek.

"(b) DECLARATIONS OF INTENT TO PARTICIPATE.—Not later than January 1 of any year in which a general election for Federal office is to be held in a State, each individual or organization that intends to participate in the election through an issue advocacy or voter education campaign shall file with the Commission and with the chief election official of the State a declaration stating that intent.".

ADDITIONAL STATEMENTS

BALTIMORE'S 311 INITIATIVE

• Mr. SARBANES. Mr. President, I rise today to bring my colleagues' attention to a crime-fighting initiative implemented by the Baltimore City Police Department, in conjunction with the Federal Community Oriented Policing Services [COPS] Program created by the 1994 Crime Bill, and with American Telephone and Telegraph. This initiative—the 1-year anniversary of which was the first of this month—has contributed greatly to community policing efforts in Baltimore, and I believe holds great promise for the Nation at large.

Like other major cities in America, Baltimore—our 12th largest city—has experienced over the past several decades a rapid rise in crime. One of the effects of this rise has been the increasing burden placed on the 911 emergency telephone system—a system which citizens regularly used to phone in not only emergency calls, but also criminal complaints of a nonemergency nature. In 1995 alone, the Baltimore Police Department fielded 1.7 million 911 calls. Such a volume made it increasingly difficult for the city's police to address in an expeditious manner those complaints that were truly of an emergency nature, and required the redeployment to the phone banks of officers who should have been on the city streets.

In October 1996, the Baltimore City Police Department, aided by a $350,000 award from the COPS office, established a new telephone line for nonemergency calls. This 311 line is staffed by limited duty officers specifically trained to handle both emergency and nonemergency calls, and citizen understanding of the differences between the 311 and 911 lines has been heightened by an intensive public awareness campaign.

Mr. President, this experiment has proven to be an unmitigated success. As a result of the implementation of the new 311 number, emergency calls to 911 have decreased by 25 percent, leaving Baltimore's police with more time to address in an expeditious manner true emergencies. In fact, statistics show that 911 operators now answer the phone on an average of 2 seconds, as compared to 6.5 seconds before the 311 line was set up, and that 80 percent fewer callers to 911 receive a message asking them not to hang up. In short, because of the 311 number, Baltimore's police can now respond immediately to situations that demand prompt action.

Moreover, the reduction in 911 calls has allowed Baltimore's police to spend more time patrolling their beats, a consequence of which has been a declining crime rate in the city of 15 percent in fiscal year 1997, as opposed to an 11 percent decline in fiscal year 1996.

These and other statistics appear in an October 2 New York Times article entitled "Baltimore Cites Success with Alternative to 911," which I ask to be printed in the RECORD at the conclusion of my statement.

Mr. President, on this 1-year anniversary of the 311 program, I want to applaud the successes of the COPS Program, and the efforts of the Baltimore City Police Department and the Office of Governor Glendening, both of whom have demonstrated the kind of vision and initiative that are essential to a successful Federal-State-local law enforcement partnership. Numerous other localities are in the process of developing their own 311-type programs, and I fully expect that on the

second anniversary of the Baltimore initiative, several of my colleagues will be on the Senate floor announcing similar success stories in their own States.

The article follows:

[From the New York Times, Oct. 2, 1997]

BALTIMORE CITES SUCCESS WITH ALTERNATIVE TO 911

(By Michael Janofsky)

BALTIMORE, OCT. 1.—Until a year ago, the owner of a cat stuck in a tree and the spouse of a shooting victim would be likely to call the same number for help: 911.

But under a pilot Federal program that could expand quickly around the country and beyond, Baltimore is using a different telephone number for non-emergencies, 311, a change that has reduced the number of 911 calls to local police by nearly 25 percent, enabling operators to handle life-threatening situations more efficiently and giving officers more time to patrol the streets.

In announcing the results of the program on its first anniversary, local, state and Federal officials said the 311 experiment has been so successful that more than 100 other jurisdictions, including Chicago and Philadelphia, are eager to try it.

"The results here have exceeded my expectations," said Joseph E. Brann, the director of the Justice Department's Office of Community Oriented Policing. "The importance to the rest of the country is that this was a community willing to use a new strategy to solve an old problem."

Most regions have used 911 as an emergency alternative to a seven-digit number for the local police station since the early 1970's. But here in Baltimore, Thomas C. Frazier, the police commissioner, said the steady increase of calls to 911, an average of 5 percent a year in recent years, was forcing many officers to spend their entire eight-hour shifts responding to calls—many of which were not true emergencies—at the expense of department efforts to increase the time officers patrol neighborhoods.

"We are trying to create more discretionary time for officers." Mr. Frazier said at a news conference, "and this enhances our ability. It has freed up an amount of time for them to be proactive."

As part of the Clinton Administration's comprehensive 1994 crime act, the Justice Department last year had a small grant—$349,787—available to test a program that would combine new technology and a city's willingness to wean residents from 911 for non-emergency needs. Baltimore jumped at the chance.

After a year, Mr. Frazier pronounced the program "a hugh success," with 24.8 percent fewer calls to 911 and better service for those who still needed it. A department analysis of calls made after 311 was implemented showed that 911 operators now answer within an average of two seconds, rather than six seconds; that 78.5 percent fewer callers get a busy signal, and that 82.2 percent asking them to not to hang up.

In addition, a police survey of people who called 311 found that 98.2 percent of them were satisfied with the response even after learning that an officer would not be immediately dispatched. For example, someone returning from vacation to discover a burglary had taken place would probably be told by a 311 operator that the police would respond, but not necessarily right away.

More significant, Mr. Frazier said, the availability of 311 to solve nonemergency problems led to an immediate decrease in the frequency with which the police were dispatched. After 311 was introduced, Mr. Frazier said, the number of times the police were dispatched fell enough to give an officer an additional hour a day for community policing. Mr. Frazier added that the overall crime rate in Baltimore has fallen 15 percent in 1997, compared with an 11 percent drop in 1996.

The success of the 311 option here probably will lead to its implementation in other cities. Lieut. Gov. Kathleen Kennedy Townsend, who helped lobby for the Federal grant, said Maryland's other populous regions, including Montgomery County and Prince George's County, near Washington, would soon get 311 systems. And John F. Reintzell, a spokesman for the Baltimore Police Department, said that the department had received inquiries from 150 police departments in the United States, Britain, Canada and South Korea.

Mr. Brann of the Justice Department said that the Federal Government did not intend to offer further financial support for 311 but that several current studies the Government was monitoring could help localities decide how they might amend the way they handle emergency calls. Dallas is offering a 311 line for access to all city agencies, and Buffalo is beginning a public awareness campaign to familiarize residents with seven-digit police station numbers.

"Agencies all over the country are interested," Mr. Brann said. "But we're not trying to shove anything down anyone's throat. It should be a local agency determination."•

TRIBUTE TO CONRAD RICHARD GAGNON, JR., AND MAUREEN E. CONNELLY

• Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Conrad Richard Gagnon, Jr., and Maureen E. Connelly who were named finalists in the second annual Samsung American Legion Scholarship Program.

The scholarship program is funded by a $5 million endowment from the Samsung Group, an international company based in South Korea, and is administered by the American Legion, the world's largest veterans organization. Only direct decedents of U.S. wartime veterans are eligible for the scholarships.

Conrad and Maureen are among many other outstanding young Americans named as finalists to compete for 1 of 10 college scholarships, each worth $20,000. The students were judged on the basis of their involvement in their school and community, and for their academic achievements.

Conrad is a native of Bedford, NH, and is currently in his senior year of high school. He is the son of Conrad and Gisele Gagnon, and has three bothers: Brian, Tim, and Dan. His grandfather, Richard Adalard Gagnon, is a World War Two veteran.

Conrad has distinguished himself by achieving excellent grades, as well as being involved in numerous and varied activities. He is an associate editor of his school year book, a member of his school's math team, and French club. He has been awarded the Boy Scouts Order of the Arrow, and will travel to California and Japan this summer on the Sony Student Abroad scholarship. Conrad also participates in community service activities such as peer tutoring, food drives, and was involved in organizing an effort to place over 100 of his peers in volunteer positions. He would like to study engineering and law in college.

Maureen is a resident of Greenland, NH. She attends Portsmouth High School. She is the daughter of Mark and Marian Connelly, and she has a sister Carolyn, and a brother Steven. Her grandfather, Quentin Dante Halstead, served on active duty in World War Two, the Korean war, and the Vietnam war.

Maureen has earned outstanding grades in honors and advance placement classes. She is also very active on her school's field hockey team and track team. In addition she is a member of student government, serving in the capacity of treasurer, as well as a member of the school newspaper staff. Maureen volunteers her time to teach young children field hockey and at a local hospital, she also maintains a job as a lifeguard. She is a senior in high school and would like to be a doctor.

Young men and women such as Conrad and Maureen are a valuable asset to New Hampshire and the future of the United States. I congratulate them on all their hard work and wish them success in their future endeavors.•

THE RALLYING CRY OF THE ECONOMIST

• Mr. MOYNIHAN. Mr. President, the most current issue of The Economist has a cover story on the Year 2000 Problem. Entitled the "Millennium Bug Muddle," the story and editorial describe the global reaction to the computer glitch. While the editors do believe much of the alarmists hue and cry is overstated, they are careful not to minimize the warnings about the critical steps we must take to solve this problem.

First, even with the lowest estimates of cost at $52 billion, the millennium bug still counts as a serious computing problem, probably the worst to strike the industry to date. Governments and industries must be prepared to pay the bill. Executives and public officials will have to convince the shareholders and taxpayers that they should foot the bill even though the fix will not increase productivity one lick.

Second, in their research, The Economist authors found that "firms that are a year or so into the repair job say they have learned two things. Had they done nothing, the consequences would have been ugly indeed, from complete failure of their accounting and billing systems to, in the case of some retail firms, an inability to do business at all.

But solving the problem is proving relatively straightforward, if time consuming and expensive." This reaffirms my belief that this is a management problem, NOT a technological problem.

Third, the article alludes to the impending deluge of litigation. "The results of these unfortunate programming decisions are already appearing. The Produce Palace, a retailer in Michigan, brought the first millennium bug case to court earlier this year, suing the makers of its sales terminals because their terminals cannot handle credit cards that expire after 1999 . . . Meanwhile, Hartford Insurance had to start fixing its systems as far back as 1988, when it realized that its 7-year bonds would crash its software from 1993 onwards." Our society is extremely litigious. Business interruptions and the ensuing blame game of lawsuits could have lasting harm on our economy and our courts.

Lastly, as The Economist does so well, the authors see the larger meaning in this problem. They conclude that because we are dependent on technology—and the pragmatic solutions that are devised in technology's evolution—we can be hindered and, in time, stricken, by the unintended consequences of these "innovations." As they point out, "British railwaymen chose Stephenson's standard gauge over Brunel's wider one in the first half of the 19th Century, as they did in America and most European countries. This standard, originally derived from horse-drawn wagons in British mines, has remained even as railway engineering has undergone 150 years of change. Not surprisingly, it is hopelessly inadequate."

But in the end, though costly, the market will compel us to change. The authors write: "Sometimes a standard will be chosen which later turns out to be wrong, (two-digit dates, narrow-gauge railways), but market forces keep the waste in check, and eventually the standard becomes wrong enough to be replaced."

What market forces and The Economist authors have failed to address, however, is the lagging response of the U.S. Government to this problem (a relative benchmark, as the United States is ahead of most countries). With just under 800 days left, we cannot have half of our agencies still assessing how many mission critical systems will be affected. This is but the first phase of three—renovation and testing/implementation are the other two. We need an outside body to ensure this problem is fixed. My bill, S. 22, will do just that.

The good news is that cover stories like that of The Economist will increase awareness, the bad news is that without mention of the status of the Federal Government, the probability of widespread failure will increase.•

TRIBUTE TO EILEEN FOLEY, MAYOR OF PORTSMOUTH.

• Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Mayor Eileen Foley, a remarkable and dedicated leader from Portsmouth, NH. Mayor Foley, Portsmouth's favorite daughter, has announced her retirement from the office of mayor after serving 10 consecutive years. She has demonstrated tremendous leadership and guidance to a countless number of people. A special era of service and dedication has come to an end with Mayor Foley's retirement.

Mayor Foley, 79, has served the city in the top seat at various times for a total of more than 16 years. Her long history of city service began as a teenager, when she and her sisters helped their mother, Mary Carey Foley, in her mayoral campaign. The elder Foley served as the city's first woman mayor between 1945–47.

Eileen Foley continued the tradition by submersing herself in a career of dedicated public service, first in the Women's Army Corps in 1944 and later as State senator, Portsmouth City Counselor and School Board member. As mayor, she has served many terms, between 1968–72, again in 1984–85, and then again in 1988 until the present.

Mayor Foley, in her long years of public service, became identified with the very city of Portsmouth in the minds of local constituents, as well as government officials and business people far and wide. She has always acted as a kind of concerned and caring mother and goodwill ambassador, speaking at clambakes and ribbon cuttings, lending her support to civic, cultural, veterans, and charitable organizations, and representing the city around the State and at such distant locations as Carrickfergus in Northern Ireland and Nichinon in Japan.

Over the years, Mayor Foley has been honored by many, including being named as 1 of the 10 most powerful women in the State by a statewide business magazine, as well as being honored with a lifetime achievement award by the Portsmouth Rotary.

Mayor Foley will continue to serve on appointed boards, be visible around town, and take an active interest in city affairs, for it is hard to leave the public eye after earning the respect and admiration of so many.

Certain people are made to serve the public. Mayor Foley is such a person, epitomizing the term public servant. Her service to the town of Portsmouth, NH, its people and to the State of New Hampshire is nothing short of appreciative and commendable. Mr. President, as a public servant myself I understand the amount of time, heart, and dedication required each and every day. Mayor Foley has served the public, not out of force, but out of love and compassion for the people, demonstrating immense heart and dedication. Mayor Foley will be missed as her public legacy comes to an end.•

ANN ARBOR DISTRICT LIBRARY—1997 LIBRARY OF THE YEAR

• Mr. LEVIN. Mr. President, I rise today to congratulate the Ann Arbor District Library for being chosen the 1997 national library of the year by the Library Journal. The Ann Arbor District Library is being recognized for providing innovative and comprehensive services to the public in a highly responsive manner. Some of the recent changes at the Ann Arbor District Library include investments in technology to provide an extensive CD-ROM collection and Internet and World Wide Web connections. Also of note is the library's award winning welcome to the library packet which is aimed at parents of at-risk children to encourage reading, education, and child safety. All of these innovations have resulted in a significant increase in the library's usage.

Standing alone, the library's technological innovations, public awareness campaigns and exemplary service would be reason enough to merit this prestigious award. However, what is even more remarkable about the Ann Arbor District Library is that all of these new changes took place during a time of tremendous transition. In 1994, the Ann Arbor District Library was still part of the Ann Arbor Public School System. That same year, voters in Michigan approved a state-wide tax restructuring proposal which had the effect of preventing the Ann Arbor District Library from renewing its tax levy under the school districts. In order to survive, the Ann Arbor District Library had to become its own public entity with its own governing board and its own millage. Not only did the library succeed at doing all of this in only 2 years, but it also managed to institute all of those wonderful changes as well.

It took the exceptional talents of many dedicated library staff, trustees, and community members to institute new programs and services in a seamless manner to its patrons while simultaneously creating a new public entity from the ground up. In particular, I would like to recognize and congratulate the Ann Arbor District Library's administrative team which consists of the library's director, Mary Anne Hodel and her top deputies, Tim Grimes, Lana Straight, Don Dely, Gary Pollack, and Marge LaRose.

The Library Journal's selection of the Ann Arbor District Library as the 1997 library of the year is a fitting tribute to all of the hard work that went into establishing this library as an important, well utilized and well run public institution. •

TRIBUTE TO CREATIVE OPTICS, INC.

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Creative Optics, Inc. in Bedford, NH, for receiving the Small Business Innovation Research [SBIR] Model of Excellence Tibbetts Award. Creative Optics is a 15-year-old, innovative think tank that develops ideas and solutions to complex problems facing the Department of Defense community.

Companies were selected based on the economic impact of their technological innovations and their overall business achievements. It is a competitive three-phase program that provides qualified small businesses with opportunities to propose innovative ideas to the Federal Government. These proposals are a response to solicitations published by the 10 Federal agencies on their upcoming research and development needs. There is a mutual benefit in that the Government secures the needed research, while the small business retains rights to commercialization. Creative Optics has made, and continues to make, a significant impact at the State and regional level.

After relocating to southern New Hampshire in 1991, Creative Optics developed a myriad of relationships with local organizations and business resources. Creative Optics is sharing its hard experience with other small businesses in the region, on the State level as well as the national level.

The president of Creative Optics, Dr. John F. Ebersole, and the owner Ingrid Ebersole, John's wife, have provided both technical vision along with an administrative personal touch to the company. Along with the Ebersole's vision and touch are the brilliant, creative minds of the individuals developing new, inventive ideas, allowing Creative Optics to shine.

Creative Optics is a unique small business in New Hampshire, providing high-level employment opportunities, economic growth, and an innovated technology developed through SBIR funding. Small businesses are fruitful in research and development, producing more than half the Nation's product innovations. Furthermore, the Federal Government is achieving the highest quality research to meet specific mission needs, as well as expanding the Nation's industrial base. I commend Creative Optics for their outstanding innovations that benefit not only the State of New Hampshire but also the Nation as well. Creative Optics is a worthy candidate for receiving the prestigious Tibbetts Award.•

TRIBUTE TO FRED HOOPER

• Mr. GRAHAM. Mr. President, as more and more Americans live to be 100, thanks to advances in health and longevity, I am honored to offer a tribute to a distinguished centurion from Florida: Mr. Fred Hooper of Ocala, FL.

Mr. Hooper, who celebrates his 100th birthday on October 6, 1997, is a builder, an educator, and an inspiration to all those who have aspired to the triumph of victory in sports competition. Fred Hooper has a special place in the history of horse racing because he won the Kentucky Derby in 1945 with his first horse, "Hoop Jr.", bought in 1943. Since then, he has bred and raced more than 100 stakes winners.

For decades, Mr. Hooper has been an instrumental force in thoroughbred racing. Through his promotion of horse racing, he has supported and strengthened Florida tourism and agriculture; two industries which are important components of Florida's economy.

As he approaches the special milestone of his 100th birthday, Mr. Hooper continues to rise early in the morning to oversee the training of his top thoroughbreds and the cutting and baling of his hay in the fields at his farm.

I recently visited this living legend at his home in Ocala. As he recalled his accomplishments and his ties that extend throughout America, I was inspired by a man who has lived a full life and has impacted so many people and events. He told me of his first horse, "Hoop Jr.", and his working relationship with Eddie Arcaro, one of the all-time greatest jockeys. Together they achieved racing history with their victory at the 1945 Kentucky Derby. This Hooper-Arcaro combination advanced the Florida racing industry to national prominence, while making Fred Hooper a legend in Florida and the racing world.

I also learned that Mr. Hooper's activities have not been limited to racing. The Hooper Construction Company built roads, bridges, airports, dams and buildings in Florida and the Southeast. It has been said that if all the roads built by Mr. Hooper's company were linked together, the combined total would stretch for four lanes from Miami to Houston.

Education is another Fred Hooper hallmark. During the 1970's, he contributed to the building of a private school in Alabama, on the former site of his construction company. And, he is rightfully proud of his support—and the generosity of the thoroughbred industry—for the veterinary school at the University of Florida.

Part of the joy of this birthday is sharing the celebration with family. Mr. Hooper is the proud father of 4 children, 13 grandchildren and 9 great-grandchildren.

The celebration of his centennial birthday on October 6, 1997, will be another achievement in the rich and rewarding life of Fred Hooper. I ask my colleagues to join me, the community of Ocala, the Hooper family and all those who love horse racing in congratulating Fred Hooper and extending to him best wishes into the next century.•

HISPANOS UNIDOS CONTRA EL SIDA/AIDS, INC.

• Mr. LIEBERMAN. Mr. President, I rise today to recognize the accomplishments of Hispanos Unidos Contra El SIDA/AIDS, Inc. of New Haven, CT, as they celebrate their 10th anniversary.

In 1987, this organization was founded by a group of concerned citizens as Connecticut's first Latino AIDS agency. Since that time, this dedicated group of men and women have worked to both curb the spread of AIDS through education and provided support services to infected members of the Latino community and their families. By serving as a fully bilingual/bicultural resource, support and advocacy agency, Hispanos Unidos Contra El SIDA/AIDS has not only been effective at serving its own clients, but has helped other community and government organizations better serve the Latino community as well.

The dedication and commitment of the staff are evident not only in their casework but also in the partnerships and coalitions they form with State and local government and nonprofit agencies. In this way they are able to assist those most immediately in need while also working to better coordinate local, regional and statewide efforts to prevent the spread of AIDS. They are the true embodiments of the ideals of compassion and community service, and the people of Connecticut thank them for the important work they have done for the past ten years and will continue to do in the future.•

AUTHORIZING TESTIMONY BY EMPLOYER OF THE SENATE

Mr. DOMENICI. Mr. President, acting in behalf of the majority leader, first I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 130, submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 130) to authorize testimony by a Member and employee of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. LOTT. Mr. President, United States versus Delyla D. Wilson is a criminal case set for trial in the U.S. District Court for the District of Montana, charging the defendant with assault on Federal officials. The case arises out of the defendant's disruption of a public meeting in Montana earlier this year attended by Senator CONRAD BURNS, along with other Federal and State officials.

Both parties have subpoenaed an employee on Senator BURNS' staff, who

witnessed this incident, to testify at the trial. This resolution would authorize the employee to testify and would also authorize Senator BURNS' testimony at related State proceedings.

Mr. DOMENICI. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 130) was agreed to.

The preamble was agreed to.

The resolution with its preamble reads as follows:

S. RES. 130

Whereas, in the case of *United States* v. *Delyla D. Wilson*, Case No. 97-CR-82-BLG, pending in the United States District Court for the District of Montana, subpoenas have been issued for testimony by Dwight MacKay, an employee on the staff of Senator Conrad Burns;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved That Dwight MacKay is authorized to testify in the case of *United States* v. *Delyla D. Wilson*, except concerning matters for which a privilege should be asserted.

SEC. 2. The testimony of Senator Conrad Burns in related state proceedings is authorized.

PROVIDING TECHNICAL ASSISTANCE IN THE RESTORATION OF THE BASILICA OF ST. FRANCIS OF ASSISI

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 131, submitted earlier today by Senator DOMENICI.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 131) to express the sense of the Senate regarding the provision of technical assistance in the restoration of the Basilica of St. Francis of Assisi.

Mr. DOMENICI. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 131) was agreed to.

The preamble was agreed to.

The resolution with its preamble reads as follows:

S. RES. 131

Whereas the Basilica of St. Francis of Assisi is one of the finest examples of Italian Gothic art and architecture;

Whereas the Basilica is a living museum providing a home for the art of several great masters of the 13th and 14th centuries, and these art treasures depict scenes from the Old Testament and New Testament;

Whereas the Basilica housed the most interesting and important pictorial cycle in Franciscan iconography;

Whereas the famous fresco artist, Cimabue, began his work in the Basilica in 1277, and the works of Cimabue are seen in the apse and the vault of the Basilica and include a lovely Madonna with Child;

Whereas Cimabue's pupil, Giotto painted frescos at the turn of the 14th century and completed 28 famous and beautiful scenes based on St. Bonaventure's account of St. Francis' major accomplishments during his life. The frescos depict the life of St. Francis who had the special gift of understanding and being able to speak to animals;

Whereas other talented artists including Simone Martini and Pietro Lorenzetti left their artistic mark on the Basilica during the first half of the 14th century, frescoing the left side of the transept of the Lower Church;

Whereas the Basilica was severely damaged by twin earthquakes on September 24 and 25, 1997, the extent of which has been described as more devastating than the World War II bombings of Padua and Pisa in 1944;

Whease the famous frescoes painted by Giotto on the side walls of the Basilica in the early 14th century and depicting scenes from St. Francis' life are cracked but mostly intact;

Whereas experts in Italy are already working to restore the Basilica; and

Whereas the National Gallery in London and the Louvre in Paris have offered experts free of charge to help in the restoration of the Basilica: Now, therefore, be it

Resolved, That the Smithsonian Institution, the National Gallery of Art and any of the other premier art museums in the United States having pertinent expertise in restoration should provide technical assistance to aid in the restoration of the Basilica of St. Francis of Assisi and the works of art that have been damaged in the earthquakes.

PRINTING OF A COLLECTION OF RULES AND AUTHORITIES OF SPECIAL INVESTIGATORY COMMITTEES OF THE SENATE

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 132, submitted earlier today by Senator WARNER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 132) to authorize the printing of a collection of rules and authorities of special investigatory committees of the Senate.

Mr. DOMENICI. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 132) was agreed to, as follows:

S. RES. 132

Resolved, That a collection of rules and authorities of special investigatory committees of the Senate, be printed as a Senate document, and there be printed additional copies of such document up to, but not exceeding, $1,200 for use of the Committee on Rules and Administration.

MILES LAND EXCHANGE ACT OF 1997

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 159, S. 590.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 590) to provide for a land exchange involving certain land within the Routt National Forest in the State of Colorado.

Mr. DOMENICI. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was considered read the third time and passed as follows:

S. 590

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Miles Land Exchange Act of 1997".

SEC. 2. LAND EXCHANGE, ROUTT NATIONAL FOREST, COLORADO.

(a) AUTHORIZATION OF EXCHANGE.—If the parcel of non-Federal land described in subsection (b) is conveyed to the United States in accordance with this section, the Secretary of Agriculture shall convey to the person that conveys the parcel all right, title, and interest of the United States in and to a parcel of Federal land consisting of approximately 84 acres within the Routt National Forest in the State of Colorado, as generally depicted on the map entitled "Miles Land Exchange," Routt National Forest, dated May 1996.

(b) PARCEL OF NON-FEDERAL LAND.—The parcel of non-Federal land referred to in subsection (a) consists of approximately 84 acres, known as the "Miles parcel", located adjacent to the Routt National Forest, as generally depicted on the map entitled "Miles Land Exchange", Routt National Forest, dated May 1996.

(c) ACCEPTABLE TITLE.—Title to the non-Federal land conveyed to the United States under subsection (a) shall be such title as is acceptable to the Secretary of Agriculture, in conformance with title approval standards applicable to Federal land acquisitions.

(d) VALID EXISTING RIGHTS.—The conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary.

(e) APPROXIMATELY EQUAL VALUE.—The values of the Federal land and non-Federal land to be exchanged under this section are deemed to be approximately equal in value, and no additional valuation determinations are required.

(f) APPLICABILITY OF OTHER LAWS.—Except as otherwise provided in this section, the Secretary shall process the land exchange authorized by this section in the manner provided in subpart A of part 254 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(g) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Forest Supervisor, Routt National Forest, and in the office of the Chief of the Forest Service.

(h) BOUNDARY ADJUSTMENT.—

(1) INCLUSION IN ROUTT NATIONAL FOREST.—On approval and acceptance of title by the Secretary, the non-Federal land conveyed to the United States under this section shall become part of the Routt National Forest and shall be managed in accordance with the laws (including regulations) applicable to the National Forest System, and the boundaries of the Routt National Forest shall be adjusted to reflect the land exchange.

(2) RETROACTIVE APPLICATION.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Routt National Forest, as adjusted by this section, shall be considered to be the boundaries of the Routt National Forest as of January 1, 1965.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

NATIONAL GRASSLANDS CONSOLIDATION ACT

Mr. DOMENICI. Mr. President, Calendar No. 184, S. 750. I ask unanimous consent the Senate proceed to the immediate consideration of the above-stated calendar and bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 750) to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. EXCHANGE OF CERTAIN MINERAL INTERESTS IN BILLINGS COUNTY, NORTH DAKOTA.

(a) PURPOSE.—The purpose of this Act is to direct the consolidation of certain mineral interests in the Little Missouri National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests in order to enhance land management capability and environmental and wildlife protection.

(b) EXCHANGE.—Notwithstanding any other provision of law——

(f) if, not later than 45 days after the date of enactment of this Act, Burlington Resources Oil & Gas Company (referred to in this Act as "Burlington" and formerly known as Meridian Oil Inc.), conveys title acceptable to the Secretary of Agriculture (referred to in this Act as the "Secretary") to all oil and gas rights and interests on lands identified on the map entitled "Billings County, North Dakota, Consolidated Mineral Exchange—November 1995", by quitclaim deed acceptable to the Secretary, the Secretary shall convey to Burlington, subject to valid existing rights, by quit-claim deed, all Federal oil and gas rights and interests on lands identified on that map; and

(2) if Burlington makes the conveyance under paragraph (1) and, not later than 180 days after the date of enactment of this Act, the owners of the remaining non-oil and gas mineral interests on lands identified on that map convey title acceptable to the Secretary to all rights, title, and interests in the interests held by them, by quitclaim deed acceptable to the Secretary, the Secretary shall convey to those owners, subject to valid existing rights, by exchange deed, all remaining Federal non-oil and gas mineral rights, title, and interests in National Forest System lands and National Grasslands identified on that map in the State of North Dakota as are agreed to by the Secretary and the owners of those interests.

(c) LEASEHOLD INTERESTS.—As a condition precedent to the conveyance of interests by the Secretary to Burlington under this Act, all leasehold and contractual interests in the oil and gas interests to be conveyed by Burlington to the United States under this Act shall be released, to the satisfaction of the Secretary.

(d) EQUAL VALUATION OF OIL AND GAS RIGHTS EXCHANGE.—The values of the interests to be exchanged under subsection (b)(1) shall be deemed to be equal.

(e) APPROXIMATE EQUAL VALUE OF EXCHANGES WITH OTHER INTEREST OWNERS.—The values of the interests to be exchanged under subsection (b)(2) shall be approximately equal, as determined by the Secretary.

(f) LAND USE.—

(1) EXPLORATION AND DEVELOPMENT.—The Secretary shall grant to Burlington, and its successors and assigns, the use of Federally-owned surface lands to explore for and develop interests conveyed to Burlington under this Act, subject to applicable Federal and State laws.

(2) SURFACE OCCUPANCY AND USE.—Rights to surface occupancy and use that Burlington would have absent the exchange under this Act on its oil and gas rights and interests conveyed under this Act shall apply to the same extent on the federally owned surface estate overlying oil and gas rights and interests conveyed to Burlington under this Act.

(g) ENVIRONMENTAL PROTECTION FOR ENVIRONMENTALLY SENSITIVE LANDS.—All activities of Burlington, and its successors and assigns, relating to exploration and development on environmentally sensitive National Forest System lands, as described in the "Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota", executed by the Forest Service and Burlington and dated November 2, 1995, shall be subject to the terms of the memorandum.

(h) MAP—The map referred to in subsection (b) shall be provided to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives, kept on file in the office of the Chief of the Forest Service, and made available for public inspection in the office of the Forest Supervisor of the Custer National Forest within 45 days after the date of enactment of this Act.

(i) CONTINUATION OF MULTIPLE USE.—Nothing in this Act shall limit, restrict, or otherwise affect the application of the principle of multiple use (including outdoor recreation, range, timber, watershed, and fish and wildlife purposes) in any area of the Little Missouri National Grasslands. Federal grazing permits or privileges in areas designated on the map entitled "Billings County, North Dakota, Consolidated Mineral Exchange—November 1995" or those lands described in the "Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota", shall not be curtailed or otherwise limited as a result of the exchanges directed by this Act.

Mr. DOMENICI. I ask unanimous consent the committee amendment be agreed to, the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 750), as amended, was read the third time and passed.

S. 750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCHANGE OF CERTAIN MINERAL INTERESTS IN BILLINGS COUNTY, NORTH DAKOTA.

(a) PURPOSE.—The purpose of this Act is to direct the consolidation of certain mineral interests in the Little Missouri National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests in order to enhance land management capability and environmental and wildlife protection.

(b) EXCHANGE.—Notwithstanding any other provision of law—

(1) if, not later than 45 days after the date of enactment of this Act, Burlington Resources Oil & Gas Company (referred to in this Act as "Burlington" and formerly known as Meridian Oil Inc.), conveys title acceptable to the Secretary of Agriculture (referred to in this Act as the "Secretary") to all oil and gas rights and interests on lands identified on the map entitled "Billings County, North Dakota, Consolidated Mineral Exchange—November 1995", by quitclaim deed acceptable to the Secretary, the Secretary shall convey to Burlington, subject to valid existing rights, by quit claim deed, all Federal oil and gas rights and interests on lands identified on that map; and

(2) if Burlington makes the conveyance under paragraph (1) and, not later than 180 days after the date of enactment of this Act, the owners of the remaining non-oil and gas mineral interests on lands identified on that map convey title acceptable to the Secretary to all rights, title, and interests in the interests held by them, by quitclaim deed acceptable to the Secretary, the Secretary shall convey to those owners, subject to valid existing rights, by exchange deed, all remaining Federal non-oil and gas mineral rights, title, and interests in National Forest System lands and National Grasslands identified on that map in the State of North Dakota as are agreed to by the Secretary and the owners of those interests.

(c) LEASEHOLD INTERESTS.—As a condition precedent to the conveyance of interests by the Secretary to Burlington under this Act, all leasehold and contractual interests in the

oil and gas interests to be conveyed by Burlington to the United States under this Act shall be released, to the satisfaction of the Secretary.

(d) EQUAL VALUATION OF OIL AND GAS RIGHTS EXCHANGE.—The values of the interests to be exchanged under subsection (b)(1) shall be deemed to be equal.

(e) APPROXIMATE EQUAL VALUE OF EXCHANGES WITH OTHER INTEREST OWNERS.—The values of the interests to be exchanged under subsection (b)(2) shall be approximately equal, as determined by the Secretary.

(f) LAND USE.—

(1) EXPLORATION AND DEVELOPMENT.—The Secretary shall grant to Burlington, and its successors and assigns, the use of Federally-owned surface lands to explore for and develop interests conveyed to Burlington under this Act, subject to applicable Federal and State laws.

(2) SURFACE OCCUPANCY AND USE.—Rights to surface occupancy and use that Burlington would have absent the exchange under this Act on its oil and gas rights and interests conveyed under this Act shall apply to the same extent on the federally owned surface estate overlying oil and gas rights and interests conveyed to Burlington under this Act.

(g) ENVIRONMENTAL PROTECTION FOR ENVIRONMENTALLY SENSITIVE LANDS.—All activities of Burlington, and its successors and assigns, relating to exploration and development on environmentally sensitive National Forest System lands, as described in the "Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota", executed by the Forest Service and Burlington and dated November 2, 1995, shall be subject to the terms of the memorandum.

(h) MAP.—The map referred to in subsection (b) shall be provided to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives, kept on file in the office of the Chief of the Forest Service, and made available for public inspection in the office of the Forest Supervisor of the Custer National Forest within 45 days after the date of enactment of this Act.

(i) CONTINUATION OF MULTIPLE USE.—Nothing in this Act shall limit, restrict, or otherwise affect the application of the principle of multiple use (including outdoor recreation, range, timber, watershed, and fish and wildlife purposes) in any area of the Little Missouri National Grasslands. Federal grazing permits or privileges in areas designated on the map entitled "Billings County, North Dakota, Consolidated Mineral Exchange—November 1995" or those lands described in the "Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota", shall not be curtailed or otherwise limited as a result of the exchanges directed by this Act.

ORDERS FOR TUESDAY, OCTOBER 7, 1997

Mr. DOMENICI. Mr. President, in behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m. on Tuesday, October 7. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to a period of morning business until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each with the following exceptions: Senator DASCHLE or his designee, 45 minutes, from 10:30 to 11:15; Senator HUTCHISON or her designee, 45 minutes, from 11:15 to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I also ask unanimous consent that from the hour of 12:30 p.m. to 2:15, the Senate stand in recess for the weekly policy luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOMENICI. Mr. President, tomorrow the Senate will be in a period for morning business until 12:30. The Senate will then recess for the policy luncheons to meet until 2:15. When the Senate resumes at 2:15, the Senate will proceed to a cloture vote on the paycheck protection amendment, which is pending to the campaign finance reform bill. If cloture is not invoked, the Senate will proceed to a cloture vote on the campaign finance reform bill itself. If cloture is not invoked, the Senate could resume the D.C. appropriations bill for consideration of the remaining issues to that appropriations matter. Therefore, additional votes could occur during Tuesday's session of the Senate. Also, as announced, the Senate may turn to any appropriations conference report that becomes available.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. DOMENICI. If there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:36 p.m, adjourned until Tuesday, October 7, 1997, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 6, 1997:

DEPARTMENT OF STATE

JAMES CATHERWOOD HORMEL, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LUXEMBOURG.

GERALD S. MCGOWAN, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PORTUGAL.

LYNDON LOWELL OLSON JR., OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWEDEN.

A. PETER BURLEIGH, OF CALIFORNIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

BILL RICHARDSON, OF NEW MEXICO, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

RICHARD SKLAR, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR UN MANAGEMENT AND REFORM.

NANCY E. SODERBERG, OF THE DISTRICT OF COLUMBIA, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH RANK OF AMBASSADOR.

NANCY E. SODERBERG, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HER TENURE OF SERVICE AS ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS.

DEPARTMENT OF TRANSPORTATION

KENNETH R. WYKLE, OF VIRGINIA, TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION, VICE RODNEY E. SLATER.

HOUSE OF REPRESENTATIVES—*Monday, October 6, 1997*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. STEARNS].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 6, 1997.

I hereby designate the Honorable CLIFF STEARNS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to 5 minutes.

The Chair recognizes the gentleman from Iowa [Mr. LEACH] for 5 minutes.

REGARDING HOLOCAUST VICTIMS REDRESS ACT

Mr. LEACH. Mr. Speaker, I rise to bring to the attention of my colleagues legislation I introduced last week with the gentleman from New York [Mr. GILMAN] in support of international efforts to provide redress to victims of the Holocaust.

In the Judaic tradition, Rosh Hashanah, which commenced at sundown last Wednesday, initiated 10 days of spiritual introspection that concludes on Friday of this week with the Day of Atonement, a time of reconciliation of man with God. The bill I have introduced, H.R. 2591, the Holocaust Victims Redress Act, represents national recognition of an aspect of the Holocaust for which the concept of reconciliation and introspection, in this case at the societal level, is profoundly appropriate.

The purpose of the legislation is to provide a measure of relief for the remaining victims of the greatest crime in man's memory, the Holocaust.

The bill would authorize up to $25 million for a U.S. contribution to organizations serving survivors of the Holocaust who live in the United States. The genesis for this proposal dates back to hearings which the Committee on Banking and Financial Services held over the past year, chronicling how the Nazis looted gold from the central banks of Europe as well as from individual Holocaust victims.

As some of my colleagues may know, following World War II the Tripartite Gold Commission, consisting of the United States, United Kingdom, and France, was created to oversee the recovery and return of Nazi-looted gold. Most of the gold recovered during that period was long ago returned to claimant countries. However, a portion of that gold remains to be distributed. The gold in the custody of the Tripartite Gold Commission, amounting to 6 metric tons, is worth anywhere from $50 to $70 million. Fifteen nations hold claim to some portion of that gold.

The case for speedy final distribution of remaining gold to Holocaust survivors, which involves a donation by 15 claimant nations of their share, is compelling. The moral case for such a distribution has been increased by the horrific revelation in the recently released Eizenstat report that Nazi Germany commingled victim gold, taken from the personal property of Holocaust victims, including their dental fillings, with monetary gold, resmelting it into gold bars and ingots which the Nazis then traded for hard currency to help finance their war efforts.

This legislation would put Congress on record in strong support of the State Department's appeal to claimant nations to contribute their share of Tripartite gold to Holocaust survivors. It would also strengthen the department's hand in seeking further recompense from other nations by authorizing the President to commit the United States to a voluntary donation of up to $25 million.

A voluntary contribution on our part could go a long way in facilitating a similar gesture of generosity from others who may be claimants of the gold pool or who may have reason to provide redress for actions taken during the dark night of the human soul we call the Holocaust. A contribution of this nature by the United States would also serve as an act of conscience on the part of this Nation.

A second aspect of the bill deals with the Nazi-looted art. Under international legal principles dating back to the Hague Convention of 1907, pillaging during war is forbidden, as is the seizure of works of art. In defiance of then extant international standards, the Nazis looted valuable works of art from their own citizens and institutions as well as from people and institutions in France and Holland and other occupied countries. This grand theft of art helped the Nazis finance their war efforts. Avarice served as an incentive to genocide with the ultimate in government censorship being reflected in the Aryan supremacist notion that certain modern art was degenerate and thus disposable.

Last Thursday in synagogues throughout the world, the shofar was sounded three times. The shrill blast of the ram's horn reminds us of many things, perhaps most importantly that God remembers the deeds of all. It is thus appropriate that as we begin the Jewish New Year of 5758, we also move forward with reconciliation with people and with their descendants whose lives were destroyed during World War II in a way we can never truly understand.

During all days, but particularly during this period of remembrance and atonement, we cannot forget what occurred and those issues which remain to be resolved and the people who deserve justice.

ROLLING READERS TO THE RESCUE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California [Mr. FILNER] is recognized during morning hour debates for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to recognize the fine work of one of the largest nonprofit children's programs in the great State of California, the Rolling Readers Volunteer Tutoring Program.

Rolling Readers is one of the Nation's premier volunteer children's literacy organizations. Back in 1991, after realizing the benefits of reading aloud to his sons, San Diego resident Robert Condon began Rolling Readers by volunteering to read to children at a local homeless shelter. From this simple beginning, the Rolling Readers Tutoring Program was developed in partnership with the San Diego County Office of Education.

Under executive director Condon, the Rolling Readers Program takes volunteer readers from the community and trains them to become weekly story-time readers for an hour each week at

local schools and community organizations. A professional site coordinator is available to help the tutors succeed.

Over 2000 Rolling Readers volunteers now read to and tutor 50,000 children each and every week. That is 2,000 readers and 50,000 children. Each volunteer in the Rolling Readers Program reads to the same group of children each week, establishing a continuity not only in tutoring but in inspiring minds, touching imaginations, developing language skills, and assuring a positive impact on the children's lives.

Because of financial contributions to Rolling Readers from many individuals, both those who read to children and those who are not able to volunteer their time, the volunteer readers are also able to give new books to the children three times a year. Millions of dollars worth of new books have now been given, each book a gift from the volunteer to the child. Offices, phones, postage, printing, and delivery trucks are also donated. In these ways Rolling Readers is an organization unlike any other.

The vision of Rolling Readers is very clear: We have a major crisis in our country. For 30 years literacy rates have been falling, with the biggest decline occurring amongst the population already in the bottom half in reading test scores. Spend a few minutes thinking that over and you will realize how devastating that situation is and how important is the work of the Rolling Readers volunteers.

I am excited that the Rolling Readers Program is further expanding in my 50th Congressional District in San Diego. I salute this fine organization and its volunteers for the outstanding contribution they are making to our communities. What can happen for our kids through reading can be truly magical.

SUPPORT THE MARRIAGE TAX ELIMINATION ACT

The SPEAKER pro tempore (Mr. LEACH). Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. STEARNS] is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, this past weekend Washington witnessed the arrival of hundreds of thousands of men who joined together to proclaim their commitment to God, family, and freedom. I am talking about the Promise Keepers. Although maligned by some folks, I applaud these individuals for looking into themselves and into others for self-improvement. I also commend them for highlighting the importance of the family.

No single unit of any society is as important as a family. It lies at the core of building sound individuals by offering love, support, and guidance. I sympathize with the difficult plight of those single parents who are struggling to raise their children, but it is true that two-parent households provide the most maturing environments. Sadly, the traditional family structure is under assault. The dissolution of the American family is not merely a personal crisis, it imposes terrible consequences throughout our society.

What is one of the greatest concerns of the American people? Obviously one of them is crime. Forty-three percent of all inmates grew up in a single-parent household. According to the Cato Institute, a 1 percentage point increase in births to single mothers appeared to increase the violent crime rate about 1.7 percent. The disturbing fact is that men from single-parent families are twice as likely to commit crimes compared with men from two-parent families.

The corruption of family values is not only mirrored in crime rates, but studies also show that a weak family structure is unhealthy. Men and women who divorce have a 40 percent greater risk of premature death than those who stay steadfastly married. What is the impact on children? Children of divorced parents see their mortality rate increase by 44 percent.

Strong families produce healthy, productive individuals. It is in the interest of everyone to promote stable families. However, the values that build strong families and a strong Nation are constantly being undermined through our popular culture. In addition, families are threatened by the policies of our own government.

There is much that we can do and should do to strengthen American families. But today I would like to point out an easy means of reducing the pressure that is helping to tear our families apart. One simple step that we can take in Congress is to eliminate the marriage tax penalty.

Not only is its unfair to punish married couples through higher taxes, it is morally wrong to penalize the cornerstone of a strong, stable family, the institution of marriage. That is why I am a cosponsor of H.R. 2456, the Marriage Tax Elimination Act of 1997.

What is this marriage penalty? Under the present tax system, many couples filing jointly are pushed into a higher tax bracket. This often results in taxing the income of a family's second wage earner at a much higher rate than if that earner filed as an individual. For example, an individual with an income of $24,000 would be taxed at a 15-percent rate. However, a working couple with incomes of $24,000 each would be taxed at 28 percent if filing jointly.

How widespread is this penalty? According to the Congressional Budget Office, over 21 million couples have paid a marriage penalty which averages about $1,400.

The Marriage Tax Elimination Act simply allows families to decide how they file their income taxes, either individually or jointly, whichever gives them the greatest tax benefit. Just this past year Congress passed the $500-per-child tax credit to help families get by and enacted educational tax relief to help parents educate their children. We are moving in the right direction in defense of the family. We should continue our efforts by eliminating the marriage penalty.

For many Members, $1,400 in tax penalties for married couples may not seem like much. However, this amount can make a real difference in improving the family situation, providing for their children, reducing the financial pressure under which most Americans struggle.

I am under no illusion that this will reverse the decline in families, but it is a step down the right road, a means to reduce the erosion of the family structure. It is an issue of fairness and of recognizing the value of strong families through strong marriages. I urge my colleagues to join with me in supporting the Marriage Tax Elimination Act.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 44 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. EMERSON) at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O gracious God, to translate our ideas and feelings and attitudes into actions that promote justice and mercy, and help us express the unity of ideas and feelings and attitudes in the lives we live every day. May good words become good deeds, may good thoughts become acts of kindness and generosity, and may good plans become the bedrock on which we build the qualities of righteousness and hope. Bless us, O God, this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nevada [Mr. GIBBONS] come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CONFERENCE REPORT ON H.R. 2158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

Mr. LIVINGSTON submitted the following conference report and statement on the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–297)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198); $19,932,997,000, to remain available until expended: Provided, That not to exceed $26,380,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: Provided further, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992 (38 U.S.C. chapter 55).

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by 38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61, $1,366,000,000, to remain available until expended: Provided, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by 38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487, $51,360,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by 38 U.S.C. chapter 37, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That during fiscal year 1998, within the resources available, not to exceed $300,000 in gross obligations for direct loans are authorized for specially adapted housing loans: Provided further, That during 1998 any moneys that would be otherwise deposited into or paid from the Loan Guaranty Revolving Fund, the Guaranty and Indemnity Fund, or the Direct Loan Revolving Fund shall be deposited into or paid from the Veterans Housing Benefit Program Fund: Provided further, That any balances in the Loan Guaranty Revolving Fund, the Guaranty and Indemnity Fund, or the Direct Loan Revolving Fund on the effective date of this Act may be transferred to and merged with the Veterans Housing Benefit Program Fund.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $160,437,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $200,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $44,000, as authorized by 38 U.S.C. chapter 31, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $2,278,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $388,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as amended, $515,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department; and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in the Department; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; aid to State homes as authorized by 38 U.S.C. 1741; administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under 38 U.S.C. chapter 17, and the Federal Medical Care Recovery Act, 42 U.S.C. 2651 et seq.; and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $17,057,396,000, plus reimbursements: Provided, That of the funds made available under this heading, $570,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1998, and shall remain available until September 30, 1999: Provided further, That of the amount made available under this heading, not to exceed $5,000,000 shall be for a study on the cost-effectiveness of contracting with local hospitals in East Central Florida for the provision of non-emergent inpatient health care needs of veterans.

In addition, in conformance with Public Law 105–33 establishing the Department of Veterans Affairs Medical Care Collections Fund, such sums as may be deposited to such Fund pursuant to 38 U.S.C. 1729A may be transferred to this account, to remain available until expended for the purposes of this account.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by 38 U.S.C. chapter 73, to remain available until September 30, 1999, $272,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; $59,860,000, plus reimbursements.

GENERAL POST FUND, NATIONAL HOMES

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8, which shall be transferred from the "General post fund": Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000.

In addition, for administrative expenses to carry out the direct loan programs, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $786,135,000: Provided, That funds under this heading shall be available to administer the Service Members Occupational Conversion and Training Act: Provided further, That none of the funds made available under this heading may be used for the relocation of the loan guaranty divisions of the Department of Veterans Affairs Regional Office in St. Petersburg, Florida to the Department of Veterans Affairs Regional Office in Atlanta, Georgia.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles for use in cemeterial operations; and hire of passenger motor vehicles, $84,183,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $31,013,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $4,000,000 or more or where funds for a project were made available in a previous major project appropriation, $177,900,000, to remain available until expended: Provided, That the $32,100,000 provided under this heading in Public Law 104–204 for the replacement hospital at Travis Air Force Base, Fairfield, CA, shall not be obligated for that purpose but shall be available for any project approved by the Congress in the budgetary process: Provided further, That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: Provided further, That funds provided in this appropriation for fiscal year 1998, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1998, and (2) by the awarding of a construction contract by September 30, 1999: Provided further, That the Secretary shall promptly report in writing to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above: Provided further, That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $4,000,000; $175,000,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $4,000,000: Provided, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by 38 U.S.C. 8109, income from fees collected, to remain available until expended, which shall be available for all authorized expenses except operations and maintenance costs, which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by 38 U.S.C. 8131–8137, $80,000,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERAN CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by 38 U.S.C. 2408, $10,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. Any appropriation for fiscal year 1998 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

SEC. 102. Appropriations available to the Department of Veterans Affairs for fiscal year 1998 for salaries and expenses shall be available for services authorized by 5 U.S.C. 3109.

SEC. 103. No appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects", and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 104. No appropriations in this Act for the Department of Veterans Affairs shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under 5 U.S.C. 7901–7904 or 42 U.S.C. 5141–5204), unless reimbursement of cost is made to the "Medical care" account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 1998 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1997.

SEC. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1998 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

SEC. 107. Notwithstanding any other provision of law, during fiscal year 1998, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the "General operating expenses" account for the cost of administration of the insurance programs financed through those accounts: Provided, That reimbursement shall be made only from the surplus earnings accumulated in an insurance program in fiscal year 1998, that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: Provided further, That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: Provided further, That the Secretary shall determine the cost of administration for fiscal year 1998, which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 108. Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) (as added by section 220 of the Immigration and

Nationality Technical Corrections Act of 1994 and redesignated as subsection (l) by section 671(a)(3)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) is amended by inserting before the period at the end the following: ", except that, in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary".

SEC. 109. In accordance with section 1557 of title 31, United States Code, the following obligated balance shall be exempt from subchapter IV of chapter 15 of such title and shall remain available for expenditure without fiscal year limitation: Funds obligated by the Department of Veterans Affairs for lease number 757-084B-001-91 from funds made available in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (Public Law 102-389) under the heading "Medical care".

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

(INCLUDING TRANSFERS OF FUNDS)

For activities and assistance to prevent the involuntary displacement of low-income families, the elderly and the disabled because of the loss of affordable housing stock, expiration of subsidy contracts (other than contracts for which amounts are provided under another heading in this Act) or expiration of use restrictions, or other changes in housing assistance arrangements, and for other purposes, $9,373,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $8,180,000,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts, for enhanced vouchers as provided under the "Preserving Existing Housing Investment" account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, (Public Law 104-204), and contracts entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act: Provided further, That the Secretary may determine not to apply section 8(o)(6)(B) of the Act to housing vouchers during fiscal year 1998: Provided further, That of the total amount provided under this head, $850,000,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: Provided further, That of the total amount provided under this heading, $343,000,000 shall be for section 8 rental assistance under the United States Housing Act of 1937 including assistance to relocate residents of properties (i) that are owned by the Secretary and being disposed of or (ii) that are discontinuing section 8 project-based assistance; for the conversion of section 23 projects to assistance under section 8; for funds to carry out the family unification program; and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: Provided further, That of the total amount made available in the preceding proviso, $40,000,000 shall be made available to nonelderly disabled families affected by the designation of a public housing development under section 7 of such Act, the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 1361l), or the restriction of occupancy to elderly families in accordance with section 658 of such Act, and to the extent the Secretary determines that such amount is not needed to fund applications for such affected families, to other nonelderly disabled families: Provided further, That the amount made available under the fifth proviso under the heading "Prevention of Resident Displacement" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, Public Law 104-204, shall also be made available to nonelderly disabled families affected by the restriction of occupancy to elderly families in accordance with section 658 of the Housing and Community Development Act of 1992: Provided further, That to the extent the Secretary determines that the amount made available under the fifth proviso under the heading "Prevention of Resident Displacement" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, Public Law 104-204, is not needed to fund applications for affected families described in the fifth proviso, or in the preceding proviso under this heading in this Act, the amount not needed shall be made available to other nonelderly disabled families: Provided further, That all balances, as of September 30, 1997, remaining in the "Annual Contributions for Assisted Housing" account and the "Prevention of Resident Displacement" account for use in connection with expiring or terminating section 8 subsidy contracts and for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, shall be transferred to and merged with the amounts provided for those purposes under this heading.

SECTION 8 RESERVE PRESERVATION ACCOUNT

The amounts recaptured during fiscal year 1998 that were heretofore made available to public housing agencies for tenant-based assistance under the section 8 existing housing certificate and housing voucher programs from the Annual Contributions for Assisted Housing account shall be collected in the account under this heading, for use as provided for under this heading, as set forth under the Annual Contributions for Assisted Housing heading in chapter 11 of Public Law 105-18, approved June 12, 1997.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

Notwithstanding any other provision of law, of the amounts recaptured under this heading during fiscal year 1998 and prior years, $550,000,000, heretofore maintained as section 8 reserves made available to housing agencies for tenant-based assistance under the section 8 existing housing certificate and housing voucher programs, are rescinded.

All balances outstanding as of September 30, 1997, in the Preserving Existing Housing Investment Account for the Preservation program shall be transferred to and merged with the amounts previously provided for those purposes under this heading.

PUBLIC HOUSING CAPITAL FUND

(INCLUDING TRANSFERS OF FUNDS)

For the Public Housing Capital Fund Program for modernization of existing public housing projects as authorized under section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), $2,500,000,000, to remain available until exended: Provided, That of the total amount, $30,000,000 shall be for carrying out activities under section 6(j) of such Act and technical assistance for the inspection of public housing units, contract expertise, and training and technical assistance directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the Department and of public housing agencies and to residents in connection with the public housing program and for lease adjustments to section 23 projects: Provided further, That of the amount available under this heading, up to $5,000,000 shall be for the Tenant Opportunity Program: Provided further, That all balances, as of September 30, 1997, of funds heretofore provided (other than for Indian families) for the development or acquisition costs of public housing, for modernization of existing public housing projects, for public housing amendments, for public housing modernization and development technical assistance, for lease adjustments under the section 23 program, and for the Family Investment Centers program, shall be transferred to and merged with amounts made available under this heading.

PUBLIC HOUSING OPERATING FUND

(INCLUDING TRANSFER OF FUNDS)

For payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,900,000,000, to remain available until expended: Provided, That all balances outstanding, as of September 30, 1997, of funds heretofore provided (other than for Indian families) for payments to public housing agencies for operating subsidies for low-income housing projects, shall be transferred to and merged with amounts made available under this heading.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

(INCLUDING TRANSFER OF FUNDS)

For grants to public housing agencies and tribally designated housing entities for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901-11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921-11925, $310,000,000, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance, training, and program assessment and execution for or on behalf of public housing agencies, resident organizations, and Indian Tribes and their tribally designated housing entities (including the cost of necessary travel for participants in such training); $10,000,000 shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home Program administered by the Inspector General of the Department of Housing and Urban Development; $10,000,000 shall be provided to the Office of Inspector General for Operation Safe Home; and $20,000,000 shall be available for a program named the New Approach Anti-Drug program which will provide competitive grants to entities managing or operating public housing developments, federally assisted multifamily housing developments, or other multifamily housing developments for low-income families supported by non-Federal governmental entities or similar housing developments supported by nonprofit private sources in order to provide or augment security (including personnel costs), to assist in the investigation and/or prosecution of drug related criminal activity in and around such developments, and to provide assistance for the development of capital improvements at such developments directly relating to the security of such developments: Provided, That grants for the New Approach Anti-Drug program shall be made on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989: Provided further, That the term "drug-related

crime", as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary: Provided further, That, notwithstanding section 5130(c) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(c)), the Secretary may determine not to use any such funds to provide public housing youth sports grants.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

For grants to public housing agencies for assisting in the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937; and for providing replacement housing and assisting tenants displaced by the demolition, $550,000,000, to remain available until expended, of which the Secretary may use up to $10,000,000 for technical assistance and contract expertise, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: Provided, That of the amount made available under this heading, $26,000,000 shall be made available, including up to $10,000,000 for Heritage House in Kansas City, Missouri, for the demolition of obsolete elderly public housing projects and the replacement, where appropriate, and revitalization of the elderly public housing as new communities for the elderly designed to meet the special needs and physical requirements of the elderly: Provided further, That no funds appropriated under this heading shall be used for any purpose that is not provided for herein, in the United States Housing Act of 1937, in the Appropriations Acts for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, for the fiscal years 1993, 1994, 1995, and 1997, and the Omnibus Consolidated Rescissions and Appropriations Act of 1996: Provided further, That none of such funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments, unless expressly permitted herein.

NATIVE AMERICAN HOUSING BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For the Native American Housing Block Grants program, as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104–330), $600,000,000, to remain available until expended, of which $5,000,000 shall be used to support the inspection of Indian housing units, contract expertise, training, and technical assistance in the oversight and management of Indian housing and tenant-based assistance, including up to $200,000 for related travel: Provided, That of the amount provided under this heading, $5,000,000 shall be made available for the cost of guaranteed notes and other obligations, as authorized by title VI of the Native American Housing Assistance and Self-Determination Act of 1996: Provided further, That such costs, including the costs of modifying such notes and other obligations, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize the total principal amount of any notes and other obligations, any part of which is to be guaranteed, not to exceed $217,000,000: Provided further, That the funds made available in the first proviso are for a demonstration on ways to enhance economic growth, to increase access to private capital, and to encourage the investment and participation of traditional financial institutions in tribal and other Native American areas: Provided further, That all balances outstanding as of September 30, 1997, previously appropriated under the headings "Annual Contributions for Assisted Housing", "Development of Additional New Subsidized Housing", "Preserving Existing Housing Investment", "HOME Investment Partnerships Program", "Emergency Shelter Grants Program", and "Homeless Assistance Funds", identified for Indian Housing Authorities and other agencies primarily serving Indians or Indian areas, shall be transferred to and merged with amounts made available under this heading.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739), $5,000,000, to remain available until expended: Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $73,800,000.

CAPITAL GRANTS/CAPITAL LOANS PRESERVATION ACCOUNT

At the discretion of the Secretary, to reimburse owners, nonprofits, and tenant groups for which plans of action were submitted with regard to eligible properties under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA) prior to the effective date of this Act, but were not executed for lack of available funds, with such reimbursement available only for documented costs directly applicable to the preparation of the plan of action or any purchase agreement as determined by the Secretary, on terms and conditions to be established by the Secretary, $10,000,000 shall be made available.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

For carrying out the Housing Opportunities for Persons with AIDS program, as authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901), $204,000,000, to remain available until expended: Provided, That of the amount made available under this heading for non-formula allocation, the Secretary may designate, on a noncompetitive basis, one or more nonprofit organizations that provide meals delivered to homebound persons with acquired immunodeficiency syndrome or a related disease to receive grants, not exceeding $250,000 for any grant, and the Secretary shall assess the efficacy of providing such assistance to such persons.

COMMUNITY DEVELOPMENT BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, to carry out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (the "Act" herein) (42 U.S.C. 5301), $4,675,000,000, to remain available until September 30, 2000: Provided, That $67,000,000 shall be for grants to Indian tribes notwithstanding section 106(a)(1) of such Act; $2,100,000 shall be available as a grant to the Housing Assistance Council; $1,500,000 shall be available as a grant to the National American Indian Housing Council; $32,000,000 shall be for grants pursuant to section 107 of such Act; $7,500,000 shall be for the Community Outreach Partnership program; $16,700,000 shall be for grants pursuant to section 11 of the Housing Opportunity Program Extension Act of 1996 (Public Law 104–120): Provided further, That not to exceed 20 percent of any grant made with funds appropriated herein (other than a grant made available under the preceding proviso to the Housing Assistance Council or the National American Indian Housing Council, or a grant using funds under section 107(b)(3) of the Housing and Community Development Act of 1974, as amended) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department.

Of the amount made available under this heading, $15,000,000 shall be made available for "Capacity Building for Community Development and Affordable Housing," as authorized by section 4 of the HUD Demonstration Act of 1993 (Public Law 103–120), as in effect immediately before June 12, 1997, with not less than $5,000,000 of the funding to be used in rural areas, including tribal areas.

Of the amount provided under this heading, the Secretary of Housing and Urban Development may use up to $55,000,000 for a public and assisted housing self-sufficiency program, of which up to $5,000,000 may be used for the Moving to Work Demonstration, and at least $7,000,000 shall be used for grants for service coordinators and congregate services for the elderly and disabled: Provided, That for self-sufficiency activities, the Secretary may make grants to public housing agencies (including Indian tribes and their tribally designated housing entities), nonprofit corporations, and other appropriate entities for a supportive services program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals: Provided further, That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job training or educational programs: Provided further, That the supportive services may include congregate services for the elderly and disabled, service coordinators, and coordinated education, training, and other supportive services, including academic skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, transportation, and child care: Provided further, That the Secretary shall require applications to demonstrate firm commitments of funding or services from other sources: Provided further, That the Secretary shall select public and Indian housing agencies to receive assistance under this heading on a competitive basis, taking into account the quality of the proposed program, including any innovative approaches, the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent to which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary (except that this proviso shall not apply to renewal of grants for service coordinators and congregate services for the elderly and disabled).

Of the amount made available under this heading, notwithstanding any other provision of law, $35,000,000 shall be available for YouthBuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under

this heading. Local YouthBuild programs that demonstrate an ability to leverage private and nonprofit funding shall be given a priority for YouthBuild funding.

Of the amount made available under this heading $25,000,000 shall be available for the Secretary, in consultation with the Secretary of Agriculture, to make grants, not to exceed $4,000,000 each, for rural and tribal areas, including at least one Native American area in Alaska and one rural area in each of the States of Iowa and Missouri, to test comprehensive approaches to developing a job base through economic development, developing affordable low- and moderate-income rental and homeownership housing, and increasing the investment of both private and nonprofit capital.

Of the amount made available under this heading, $138,000,000 shall be available for the Economic Development Initiative (EDI) to finance a variety of efforts, including $100,000,000 for making grants for targeted economic investments in accordance with the terms and conditions specified for such grants in the conference report and the joint explanatory statement of the committee of conference accompanying this Act (H.R. 2158).

Of the amount made available under this heading, notwithstanding any other provision of law, $60,000,000 shall be available for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992.

Of the amount made available under this heading, $25,000,000, including $15,000,000 for the County of San Bernardino, California, shall be used for neighborhood initiatives that are utilized to improve the conditions of distressed and blighted areas and neighborhoods, and to determine whether housing benefits can be integrated more effectively with welfare reform initiatives.

For the cost of guaranteed loans, $29,000,000, as authorized by section 108 of the Housing and Community Development Act of 1974: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,261,000,000, notwithstanding any aggregate limitation on outstanding obligations guaranteed in section 108(k) of the Housing and Community Development Act of 1974. In addition, for administrative expenses to carry out the guaranteed loan program, $1,000,000, which shall be transferred to and merged with the appropriation for departmental salaries and expenses.

Of the $500,000,000 made available under the heading "Community Development Block Grants Fund" in the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia (Public Law 105–18), not more than $3,500,000 shall be made available for the non-Federal cost-share for a levee project at Devils Lake, North Dakota: Provided, That the Secretary of Housing and Urban Development shall provide the State of North Dakota with a waiver to allow the use of its annual Community Development Block Grant allocation for use in funding the non-Federal cost-share for a levee project at Devils Lake, North Dakota: Provided further, That notwithstanding any other provision of law, the Secretary is prohibited from providing waivers, other than those provided herein, for funds in excess of $100,000 in emergency Community Development Block Grants funds for the non-Federal cost-share of projects funded by the Secretary of the Army through the Corps of Engineers.

BROWNFIELDS REDEVELOPMENT

For Economic Development Grants, as authorized by section 108(q) of the Housing and Community Development Act of 1974, as amended, for Brownfields redevelopment projects, $25,000,000, to remain available until expended: Provided, That the Secretary of Housing and Urban Development shall make these grants available on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989.

EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

For planning grants, technical assistance, contracts and other assistance, and training in connection with Empowerment Zones and Enterprise Communities, designated by the Secretary of Housing and Urban Development, to continue efforts to stimulate economic opportunity in America's distressed communities, $5,000,000, to remain available until expended.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,500,000,000, to remain available until expended: Provided, That up to $7,000,000 shall be available for the development and operation of integrated community development management information systems: Provided further, That $20,000,000 shall be available for Housing Counseling under section 106 of the Housing and Urban Development Act of 1968: Provided further, That up to $10,000,000 shall be available to carry out a demonstration program in which the Secretary makes grants to up to three organizations exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code, selected on a competitive basis, to demonstrate methods of expanding homeownership opportunities for low-income borrowers through expanding the secondary market for non-conforming home mortgage loans to low-wealth borrowers: Provided further, That grantees for such demonstration program shall have experience in working with lenders who make non-conforming loans to low-income borrowers, have experience in expanding the secondary market for such loans, have demonstrated success in carrying out such activities including raising non-Federal grants and capital on concessionary terms for the purpose of expanding the secondary market for loans in the previous two years in amounts equal to or exceeding the amount awarded to such organization under this paragraph, and have demonstrated the ability to provide data on the performance of such loans sufficient to allow for future analysis of the investment risk of such loans.

SUPPORTIVE HOUSING PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and prior laws for the Supportive Housing Demonstration Program, as authorized by the Stewart B. McKinney Homeless Assistance Act, $6,000,000 of funds recaptured during fiscal year 1998 shall be rescinded.

SHELTER PLUS CARE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and prior laws for the Shelter Plus Care program, as authorized by the Stewart B. McKinney Homeless Assistance Act, $4,000,000 of funds recaptured during fiscal year 1998 shall be rescinded.

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and the shelter plus care program (as authorized under subtitle F of title IV of such Act), $823,000,000, to remain available until expended.

HOUSING PROGRAMS

HOUSING FOR SPECIAL POPULATIONS

(INCLUDING TRANSFERS OF FUNDS)

For assistance for the purchase, construction, acquisition, or development of additional public and subsidized housing units for low income families under the United States Housing Act of 1937, as amended (42 U.S.C. 1437), not otherwise provided for, $839,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $645,000,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for the elderly under section 202(c)(2) of the Housing Act of 1959, and for supportive services associated with the housing; and $194,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, for project rental assistance, for amendments to contracts for project rental assistance, and supportive services associated with the housing for persons with disabilities as authorized by section 811 of such Act: Provided further, That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of such Act for tenant-based assistance, as authorized under that section, including such authority as may be waived under the next proviso, which assistance is five years in duration: Provided further, That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the Cranston-Gonzalez National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance and tenant-based assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate: Provided further, That all balances, as of September 30, 1997, remaining in either the "Annual Contributions for Assisted Housing" account or the "Development of Additional New Subsidized Housing" account for capital advances, including amendments to capital advances, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly, under section 202(c)(2) of such Act, shall be transferred to and merged with the amounts for those purposes under this heading; and, all balances, as of September 30, 1997, remaining in either the "Annual Contributions for Assisted Housing" account or the "Development of Additional New Subsidized Housing" account for capital advances, including amendments to capital advances, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities, as authorized under section 811 of such Act, shall

be transferred to and merged with the amounts for those purposes under this heading.

OTHER ASSISTED HOUSING PROGRAMS

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1998 by not more than $7,350,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts: Provided, That up to $125,000,000 of recaptured budget authority shall be canceled.

FLEXIBLE SUBSIDY FUND

(TRANSFER OF FUNDS)

From the Rental Housing Assistance Fund, all uncommitted balances of excess rental charges as of September 30, 1997, and any collections made during fiscal year 1998, shall be transferred to the Flexible Subsidy Fund, as authorized by section 236(g) of the National Housing Act, as amended.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1998, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $110,000,000,000.

During fiscal year 1998, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $200,000,000: Provided, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under the Mutual Mortgage Insurance Fund.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $338,421,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $326,309,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which not to exceed $12,112,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of loan guarantee modifications (as that term is defined in section 502 of the Congressional Budget Act of 1974, as amended), $81,000,000, to remain available until expended: Provided, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, of up to $17,400,000,000: Provided further, That any amounts made available in any prior appropriations Act for the cost (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans that are obligations of the funds established under section 238 or 519 of the National Housing Act that have not been obligated or that are deobligated shall be available to the Secretary of Housing and Urban Development in connection with the making of such guarantees and shall remain available until expended, notwithstanding the expiration of any period of availability otherwise applicable to such amounts.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238(a), and 519(a) of the National Housing Act, shall not exceed $120,000,000; of which not to exceed $100,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $222,305,000, of which $218,134,000, including $25,000,000 for the enforcement of housing standards on FHA-insured multifamily projects, shall be transferred to the appropriation for departmental salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

During fiscal year 1998, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $130,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $9,383,000, to be derived from the GNMA-guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $9,383,000 shall be transferred to the appropriation for departmental salaries and expenses.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $36,500,000, to remain available until September 30, 1999.

Of the amount made available under this heading, $500,000 shall be made available for a contract with the National Academy of Public Administration to evaluate the Secretary's efforts to implement needed management systems and processes.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $30,000,000, to remain available until September 30, 1999, of which $15,000,000 shall be to carry out activities pursuant to such section 561. No funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal government in connection with a specific contract, grant or loan.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and non-administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $1,000,826,000, of which $544,443,000 shall be provided from the various funds of the Federal Housing Administration, $9,383,000 shall be provided from funds of the Government National Mortgage Association, and $1,000,000 shall be provided from the "Community Development Grants Program" account.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $66,850,000, of which $16,283,000 shall be provided from the various funds of the Federal Housing Administration and $10,000,000 shall be transferred from the amount earmarked for Operation Safe Home in the "Drug Elimination Grants for Low Income Housing" account.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $16,000,000, to remain available until expended, to be derived from the Federal Housing Enterprise Oversight Fund: Provided, That not to exceed such amount shall be available from the General Fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: Provided further, That the General Fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the General Fund estimated at not more than $0.

ADMINISTRATIVE PROVISIONS

SEC. 201. EXTENDERS. (a) ONE-FOR-ONE REPLACEMENT OF PUBLIC HOUSING.—Section 1002(d) of Public Law 104–19 is amended by striking "1997" and inserting "1998".

(b) STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE.—Section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, is amended by striking "fiscal years 1996 and 1997" and inserting "fiscal years 1996, 1997, and 1998".

(c) SECTION 8 RENT ADJUSTMENTS.—Section 8(c)(2)(A) of the United States Housing Act of 1937 is amended—

(1) in the third sentence, by striking "fiscal year 1997" and inserting "fiscal years 1997 and 1998"; and

(2) in the last sentence, by striking "fiscal year 1997" and inserting "fiscal years 1997 and 1998".

(d) PUBLIC AND ASSISTED HOUSING RENTS, INCOME ADJUSTMENTS AND PREFERENCES.—

(1) Section 402(a) of The Balanced Budget Downpayment Act, I is amended by striking "fiscal year 1997" and inserting in lieu thereof "fiscal years 1997 and 1998".

(2) Section 402(f) of The Balanced Budget Downpayment Act, I is amended by striking "fiscal years 1996 and 1997" and inserting in lieu thereof "fiscal years 1996, 1997, and 1998".

SEC. 202. DELAY REISSUANCE OF VOUCHERS AND CERTIFICATES.—Section 403(c) of The Balanced Budget Downpayment Act, I is amended—

(1) by striking "fiscal years 1996 and 1997" and inserting "fiscal years 1996, 1997, and 1998";

(2) by striking "1996 and October" and inserting "1996, October"; and

(3) by inserting before the semicolon the following: "and October 1, 1998 for assistance made available during fiscal year 1998".

SEC. 203. WAIVER.—The part of the HUD 1996 Community Development Block Grant to the State of Illinois which is administered by the State of Illinois Department of Commerce and Community Affairs (grant number B–96–DC–170001) and which, in turn, was granted by the

Illinois Department of Commerce and Community Affairs to the city of Oglesby, Illinois, located in LaSalle County, Illinois (State of Illinois Department of Commerce and Community Affairs grant number 96–24104), for the purpose of providing infrastructure for a warehouse in Oglesby, Illinois, is exempt from the provisions of section 104(g)(2), (g)(3), and (g)(4) of title I of the Housing and Community Development Act of 1974 as amended.

SEC. 204. FINANCING ADJUSTMENT FACTORS.—Fifty percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not rescinded or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate.

SEC. 205. ANNUAL ADJUSTMENT FACTORS.—Section 8(c)(2)(A) of the United States Housing Act of 1937, as amended by section 201 of this title, is further amended by inserting the following new sentences at the end: "In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.".

SEC. 206. COMMUNITY DEVELOPMENT BLOCK GRANT.—Notwithstanding any other provision of law, the $7,100,000 appropriated for an industrial park at 18th Street and Indiana Avenue shall be made available by the Secretary instead to 18th and Vine for rehabilitation and infrastructure development associated with the "Negro Leagues Baseball Museum" and the jazz museum.

SEC. 207. FAIR HOUSING AND FREE SPEECH.—None of the amounts made available under this Act may be used during fiscal year 1998 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a government official or entity, or a court of competent jurisdiction.

SEC. 208. REQUIREMENT FOR HUD TO MAINTAIN PUBLIC NOTICE AND COMMENT RULEMAKING.—Notwithstanding any other provision of law, for fiscal year 1998 and for all fiscal years thereafter, the Secretary of Housing and Urban Development shall maintain all current requirements under part 10 of the Department of Housing and Urban Development regulations (24 CFR part 10) with respect to the Department's policies and procedures for the promulgation and issuance of rules, including the use of public participation in the rulemaking process.

SEC. 209. BROWNFIELDS AS ELIGIBLE CDBG ACTIVITY.—During fiscal year 1998, States and entitlement communities may use funds allocated under the community development block grants program under title I of the Housing and Community Development Act of 1974 for environmental cleanup and economic development activities related to Brownfields projects in conjunction with the appropriate environmental regulatory agencies, as if such activities were eligible under section 105(a) of such Act.

SEC. 210. PARTIAL PAYMENT OF CLAIMS ON HEALTH CARE FACILITIES.—Section 541(a) of the National Housing Act is amended—

(1) in the section heading, by adding "AND HEALTH CARE FACILITIES" at the end; and

(2) in subsection (a)—

(A) by inserting "or a health care facility (including a nursing home, intermediate care facility, or board and care home (as those terms are defined in section 232 of this Act), a hospital (as that term is defined in section 242 of this Act), or a group practice facility (as that term is defined in section 1106 of this Act))" after "1978"; and

(B) by inserting "or for keeping the health care facility operational to serve community needs," after "character of the project,".

SEC. 211. CALCULATION OF DOWNPAYMENT.—Section 203(b) of the National Housing Act is amended by striking "fiscal year 1997" in paragraph (10)(A) and inserting in lieu thereof "fiscal years 1997 and 1998".

SEC. 212. HOPE VI NOFA.—Notwithstanding any other provision of law, including the July 22, 1996 Notice of Funding Availability (61 Fed. Reg. 38024), the demolition of units at developments funded under the Notice of Funding Availability shall be at the option of the New York City Housing Authority and the assistance awarded shall be allocated by the public housing agency among other eligible activities under the HOPE VI program and without the development costs limitations of the Notice, provided that the public housing agency shall not exceed the total cost limitations for the public housing agency, as provided by the Department of Housing and Urban Development.

SEC. 213. ENHANCED DISPOSITION AUTHORITY.—Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, is amended by inserting after "owned by the Secretary" the following: ", including, for fiscal years 1997 and 1998, the provision of grants and loans from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation or demolition,".

SEC. 214. HOME PROGRAM FORMULA.—The first sentence of section 217(b)(3) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking "only those jurisdictions that are allocated an amount of $500,000 or greater shall receive an allocation" and inserting in lieu thereof the following: "jurisdictions that are allocated an amount of $500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than $500,000, shall receive an allocation".

SEC. 215. HUD RENT REFORM.—Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may provide tenant-based assistance to eligible tenants of a project insured under either sections 221(d)(3) or 236 of the National Housing Act in the same manner as if the owner had prepaid the insured mortgage to the extent necessary to minimize any rent increases or to prevent displacement of low-income tenants in accordance with a transaction approved by the Secretary provided that the rents are no higher than the published section 8 fair market rents, as of the date of enactment, during the tenants' occupancy of the property.

SEC. 216. NURSING HOME LEASE TERMS.—Section 232(b)(4)(B) of the National Housing Act is amended by striking "fifty years from the date the mortgage was executed" and inserting "ten years to run beyond the maturity date of the mortgage".

SEC. 217. HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS GRANTS.—(a) ELIGIBILITY.—Notwithstanding section 854(c)(1)(A) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)(1)(A)), from any amounts made available under this title for fiscal year 1998 that are allocated under such section, the Secretary of Housing and Urban Development shall allocate and make a grant, in the amount determined under subsection (b), for any State that—

(1) received an allocation for fiscal year 1997 under clause (ii) of such section;

(2) is not otherwise eligible for an allocation for fiscal year 1998 under such clause (ii) because the State does not have the number of cases of acquired immunodeficiency syndrome required under such clause; and

(3) would meet such requirement if the cases in the metropolitan statistical area for any city within the State, which city was not eligible for an allocation for fiscal year 1997 under clause (i) of such section but is eligible for an allocation for fiscal year 1998 under such clause, were considered to be cases outside of metropolitan statistical areas described in clause (i) of such section.

(b) AMOUNT.—The amount of the allocation and grant for any State described in subsection (a) shall be the amount that is equal to the lesser of—

(1) the difference between—

(A) the total amount allocated for such State under section 854(c)(1)(A)(ii) of the AIDS Housing Opportunity Act for fiscal year 1997; and

(B) the total amount allocated for the city described in subsection (a)(3) of this section under section 854(c)(1)(A)(i) of such Act for fiscal year 1998 (from amounts made available under this title); and

(2) $300,000.

SEC. 218. DEBT FORGIVENESS.—The Secretary of Housing and Urban Development shall cancel the indebtedness of the Village of Robbins, Illinois, relating to loans under the Reconstruction Finance Corporation and refinanced under the Public Facility Loan program (loan numbers ILL–11–RFC–0029 and ILL–11–PFL0111). The Village is hereby relieved of all liability to the Federal government for the outstanding principal balance on such loans, for the amount of accrued interest on such loans, and for any fees and charges payable in connection with such loans.

TITLE III—INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $26,897,000, to remain available until expended: Provided, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: Provided further, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: Provided further, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, including hire of passenger vehicles, and for services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, $4,000,000.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development lenders, and administrative expenses of the Fund, including services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for ES–3, $80,000,000, to remain available until September 30, 1999, of which $12,000,000 may be used for the cost of direct loans, and up to $1,000,000 may be used for administrative expenses to carry out the direct loan program: Provided, That the cost of direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $32,000,000: Provided further, That not more than $25,000,000 of the funds made available under this heading may be used for programs and activities authorized in section 114 of the Community Development Banking and Financial Institutions Act of 1994.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable under 5 U.S.C. 5376, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $45,000,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $425,500,000, to remain available until September 30, 1999: Provided, That not more than $27,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): Provided further, That not more than $2,500 shall be for official reception and representation expenses: Provided further, That not more than $70,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.), of which not to exceed $5,000,000 shall be available for national service scholarships for high school students performing community service: Provided further, That not more than $227,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program), of which not more than $40,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): Provided further, That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): Provided further, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): Provided further, That to the maximum extent feasible, funds appropriated under subtitle C of title I of the Act shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): Provided further, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): Provided further, That not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): Provided further, That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639): Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal costs per participant in all programs.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $3,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7298, $9,319,000, of which $790,000, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set fourth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses, $11,815,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $631,000,000, which shall remain available until September 30, 1999: Provided, That $49,600,000 of the funds appropriated under this heading shall be to conduct and administer a comprehensive, peer-reviewed, near- and long-term particulate matter research program in accordance with the terms and conditions set forth for such research program in the conference report and joint explanatory statement of the committee of conference accompanying this Act (H.R. 2158): Provided further, That no later than 30 days following enactment of this Act, the Environmental Protection Agency shall enter into a contract or cooperative agreement with the National Academy of Sciences to develop a comprehensive, prioritized, near- and long-term particulate matter research program and monitoring plan in accordance with the terms and conditions set forth in the conference report and joint explanatory statement of the committee of conference accompanying this Act (H.R. 2158).

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses, $1,801,000,000, which shall remain available until September 30, 1999.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $28,501,000, to remain available until September 30, 1999.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $109,420,000, to remain available until expended: Provided, That the Environmental Protection Agency is authorized to establish and construct a consolidated research facility at Research Triangle Park, North Carolina, at a maximum total construction cost of $272,700,000, and to obligate such monies as are made available by this Act for this purpose.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; not to exceed $2,150,000,000 (of which $100,000,000 shall not become available until

September 1, 1998), to remain available until expended, consisting of $1,900,000,000, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508: Provided, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: Provided further, That of the funds appropriated under this heading, $650,000,000 shall not become available for obligation until October 1, 1998, and, further, shall be available for obligation only upon enactment by May 15, 1998, of specific legislation which reauthorizes the Superfund program: Provided further, That $11,641,000 of the funds appropriated under this heading shall be transferred to the "Office of Inspector General" appropriation to remain available until September 30, 1999: Provided further, That notwithstanding section 111(m) of CERCLA or any other provision of law, $74,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of SARA: Provided further, That $35,000,000 of the funds appropriated under this heading shall be transferred to the "Science and Technology" appropriation to remain available until September 30, 1999: Provided further, That none of the funds appropriated under this heading shall be used for Brownfields revolving loan funds unless specifically authorized by subsequent legislation: Provided further, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1998.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $65,000,000, to remain available until expended: Provided, That no more than $7,500,000 shall be available for administrative expenses.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: Provided, That not more than $9,000,000 of these funds shall be available for administrative expenses.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $3,213,125,000, to remain available until expended, of which $1,350,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, and $725,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended; $75,000,000 for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $50,000,000 for grants to the State of Texas which shall be matched by state funds from state resources at 20 percent of the federal appropriation for the purpose of improving water and wastewater treatment for colonias; $15,000,000 for grants to the State of Alaska to address drinking water and wastewater infrastructure needs of rural and Alaska Native Villages as provided by section 303 of Public Law 104–182; $253,125,000 for making grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure in accordance with the terms and conditions specified for such grants in the conference report and joint explanatory statement of the committee of conference accompanying this Act (H.R. 2158); and $745,000,000 for grants to States, federally recognized tribes, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities pursuant to the provisions set forth under this heading in Public Law 104–134, provided that eligible recipients of these funds and the funds made available for this purpose since fiscal year 1996 and hereafter include States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies, as provided in authorizing statutes, subject to such terms and conditions as the Administrator shall establish, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities: Provided, That, consistent with section 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)), section 302 of the Safe Drinking Water Act Amendments of 1996 (Public Law 104–182) and the accompanying joint explanatory statement of the committee on conference (H. Rept. No. 104–741 to accompany S. 1316, the Safe Drinking Water Act Amendments of 1996), and notwithstanding any other provision of law, States may combine the assets of State Revolving Funds (SRFs) established under section 1452 of the Safe Drinking Water Act, as amended, and title VI of the Federal Water Pollution Control Act, as amended, as security for bond issues to enhance the lending capacity of one or both SRFs, but not to acquire the state match for either program, provided that revenues from the bonds are allocated to the purposes of the Safe Drinking Water Act and the Federal Water Pollution Control Act in the same portion as the funds are used as security for the bonds: Provided further, That, hereafter from funds appropriated under this heading, the Administrator is authorized to make grants to federally recognized Indian governments for the development of multi-media environmental programs: Provided further, That, hereafter, the funds available under this heading for grants to States, federally recognized tribes, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities may also be used for the direct implementation by the Federal Government of a program required by law in the absence of an acceptable State or tribal program: Provided further, That notwithstanding any other provision of law, in the case of a publicly owned treatment works in the District of Columbia, the Federal share of grants awarded under title II of the Federal Water Pollution Control Act, beginning October 1, 1997, and continuing through September 30, 1999, shall be 80 percent of the cost of construction, and all grants made to such publicly owned treatment works in the District of Columbia may include an advance of allowance under section 201(l)(2): Provided further, That, notwithstanding any other provision of law, the Administrator is authorized to make a grant of $4,326,000 under title II of the Federal Water Pollution Control Act, as amended, from funds appropriated in prior years under section 205 of the Act for the State of Florida and available due to deobligation, to the appropriate instrumentality for wastewater treatment works in Monroe County, Florida.

WORKING CAPITAL FUND

Under this heading in Public Law 104–204, delete the following: the phrases, "franchise fund pilot to be known as the"; "as authorized by section 403 of Public Law 103–356,"; and "as provided in such section"; and the final proviso. After the phrase, "to be available", insert "without fiscal year limitation".

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,932,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $2,500,000: Provided, That, notwithstanding any other provision of law, no funds other than those appropriated under this heading, shall be used for or by the Council on Environmental Quality and Office of Environmental Quality: Provided further, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as Chairman and exercising all powers, functions, and duties of the Council.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $34,365,000, to be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $320,000,000, and, notwithstanding 42 U.S.C. 5203, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $1,495,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $341,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles as authorized by 31 U.S.C. 1343; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $171,773,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $4,803,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $243,546,000: Provided, That for purposes of predisaster mitigation pursuant to 42 U.S.C. 5131 (b) and (c) and 42 U.S.C. 5196 (e) and (i), $30,000,000 of the funds made available under this heading shall be available until expended for project grants: Provided further, That the Director of the Federal Emergency Management Agency shall make a grant for $1,500,000 to resolve issues under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646, involving the City of Jackson, Mississippi.

EMERGENCY FOOD AND SHELTER PROGRAM

To carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended, $100,000,000: Provided, That total administrative costs shall not exceed three and one-half percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and the National Flood Insurance Reform Act of 1994, not to exceed $21,610,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $78,464,000 for flood mitigation, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 1999. In fiscal year 1998, no funds in excess of (1) $47,000,000 for operating expenses, (2) $375,165,000 for agents' commissions and taxes, and (3) $50,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations. For fiscal year 1998, flood insurance rates shall not exceed the level authorized by the National Flood Insurance Reform Act of 1994.

Section 1309(a)(2) of the National Flood Insurance Act (42 U.S.C. 4016(a)(2)), as amended by Public Law 104–208, is further amended by striking the date "1997" and inserting in lieu thereof the date "1998".

Section 1319 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4026), is amended by striking "October 23, 1997" and inserting "September 30, 1998".

Section 1336 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4056), is amended by striking "October 23, 1997" and inserting "September 30, 1998".

The first sentence of section 1376(c) of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4127(c)), is amended by striking all after "to be appropriated" and inserting "such sums as may be necessary through September 30, 1998, for studies under this title.".

ADMINISTRATIVE PROVISION

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected beginning in fiscal year 1998 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1998 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees shall be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1998.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER FUND

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,419,000, to be deposited into the Consumer Information Center Fund: Provided, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1998 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts: Provided further, That notwithstanding any other provision of law, the Consumer Information Center may accept and deposit to this account, during fiscal year 1998 and hereafter, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials and undertaking other consumer information activities; may expend those gifts for those purposes, in addition to amounts appropriated or otherwise made available; and the balance shall remain available for expenditure for such purpose.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,506,500,000, to remain available until September 30, 1999: Provided, That of the $2,351,300,000 made available under this heading for Space Station activities, only $1,500,000,000 shall be available before March 31, 1998.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics and technology research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,690,000,000, to remain available until September 30, 1999.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed 33 for replacement only) and hire of passenger motor vehicles; $2,433,200,000, to remain available until September 30, 1999.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $18,300,000.

ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 2000.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support" and "Office of Inspector General", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September

30, 1998 and may be used to enter into contracts for training, investigations, costs associated with personnel relocation, and for other services, to be provided during the next fiscal year.

Of the funds provided to the National Aeronautics and Space Administration in this Act, the Administrator shall by November 1, 1998, make available no less than $400,000 for a study by the National Research Council, with an interim report to be completed by June 1, 1998, that evaluates, in terms of the potential impact on the Space Station's assembly schedule, budget, and capabilities, the engineering challenges posed by extravehicular activity (EVA) requirements, United States and non-United States space launch requirements, the potential need to upgrade or replace equipment and components after assembly complete, and the requirement to decommission and disassemble the facility.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1998, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions, as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795), shall not exceed $600,000,000: Provided, That administrative expenses of the Central Liquidity Facility in fiscal year 1998 shall not exceed $203,000: Provided further, That $1,000,000, together with amounts of principal and interest on loans repaid, to be available until expended, is available for loans to community development credit unions.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,545,700,000, of which not to exceed $228,530,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1999: Provided, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: Provided further, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: Provided further, That $40,000,000 of the funds available under this heading shall be made available for a comprehensive research initiative on plant genomes for economically significant crops.

MAJOR RESEARCH EQUIPMENT

For necessary expenses of major construction projects pursuant to the National Science Foundation Act of 1950, as amended, $109,000,000, to remain available until expended, of which $35,000,000 shall become available on September 30, 1998.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $632,500,000, to remain available until September 30, 1999: Provided, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For salaries and expenses necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services and headquarters relocation; $136,950,000: Provided, That contracts may be entered into under "Salaries and expenses" in fiscal year 1998 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, $4,850,000, to remain available until September 30, 1999.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $60,000,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101–4118 for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $23,413,000: Provided, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: Provided further, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefore in the budget estimates submitted for the appropriations: Provided, That this provision does not apply to accounts that do not contain an object classification for travel: Provided further, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: Provided further, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefore set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under 31 U.S.C. 1344 or 5 U.S.C. 7905.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: Provided, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 409. None of the funds provided in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 410. Except as otherwise provided under existing law or under an existing Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation

under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 411. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 412. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 413. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 414. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 415. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 416. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A–21.

SEC. 417. Such sums as may be necessary for fiscal year 1998 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 418. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 419. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1998 for such corporation or agency except as hereinafter provided: Provided, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

SEC. 420. Notwithstanding section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)), funds made available pursuant to authorization under such section for fiscal year 1998 and prior fiscal years may be used for implementing comprehensive conservation and management plans.

SEC. 421. Such funds as may be necessary to carry out the orderly termination of the Office of Consumer Affairs shall be made available from funds appropriated to the Department of Health and Human Services for fiscal year 1998.

SEC. 422. Notwithstanding any other provision of law, the term "qualified student loan" with respect to national service education awards shall mean any loan made directly to a student by the Alaska Commission on Postsecondary Education, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

TITLE V—HUD MULTIFAMILY HOUSING REFORM

SEC. 501. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE V—HUD MULTIFAMILY HOUSING REFORM

Sec. 510. Short title.

SUBTITLE A—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING

Sec. 511. Findings and purposes.
Sec. 512. Definitions.
Sec. 513. Authority of participating administrative entities.
Sec. 514. Mortgage restructuring and rental assistance sufficiency plan.
Sec. 515. Section 8 renewals and long-term affordability commitment by owner of project.
Sec. 516. Prohibition on restructuring.
Sec. 517. Restructuring tools.
Sec. 518. Management standards.
Sec. 519. Monitoring of compliance.
Sec. 520. Reports to Congress.
Sec. 521. GAO audit and review.
Sec. 522. Regulations.
Sec. 523. Technical and conforming amendments.
Sec. 524. Section 8 contract renewals.

SUBTITLE B—MISCELLANEOUS PROVISIONS

Sec. 531. Rehabilitation grants for certain insured projects.
Sec. 532. GAO report on Section 8 rental assistance for multifamily housing projects.

SUBTITLE C—ENFORCEMENT PROVISIONS

Sec. 541. Implementation.
Sec. 542. Income verification.

PART 1—FHA SINGLE FAMILY AND MULTIFAMILY HOUSING

Sec. 551. Authorization to immediately suspend mortgagees.
Sec. 552. Extension of equity skimming to other single family and multifamily housing programs.
Sec. 553. Civil money penalties against mortgagees, lenders, and other participants in FHA programs.

PART 2—FHA MULTIFAMILY PROVISIONS

Sec. 561. Civil money penalties against general partners, officers, directors, and certain managing agents of multifamily projects.
Sec. 562. Civil money penalties for noncompliance with Section 8 HAP contracts.
Sec. 563. Extension of double damages remedy.
Sec. 564. Obstruction of Federal audits.

SUBTITLE D—OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

Sec. 571. Establishment of Office of Multifamily Housing Assistance Restructuring.
Sec. 572. Director.
Sec. 573. Duty and authority of Director.
Sec. 574. Personnel.
Sec. 575. Budget and financial reports.
Sec. 576. Limitation on subsequent employment.
Sec. 577. Audits by GAO.
Sec. 578. Suspension of program because of failure to appoint Director.
Sec. 579. Termination.

SEC. 510. SHORT TITLE.

This title may be cited as the "Multifamily Assisted Housing Reform and Affordability Act of 1997".

Subtitle A—FHA-Insured Multifamily Housing Mortgage and Housing Assistance Restructuring

SEC. 511. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) as of the date of enactment of this Act, it is estimated that—

(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;

(7) it is estimated that—

(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $3,600,000,000 in fiscal year 1997 to over $14,300,000,000 by fiscal year 2000 and some $22,400,000,000 in fiscal year 2006;

(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $7,400,000,000 by fiscal year 2006; and

(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance are likely to default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Fund;

(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects;

(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary to and with capable State, local, and other entities; and

(12) the authority and duties of the Secretary, not including the control by the Secretary of applicable accounts in the Treasury of the United States, may be delegated to State, local or other entities at the discretion of the Secretary, to the extent the Secretary determines, and for the purpose of carrying out this Act, so that the Secretary has the discretion to be relieved of processing and approving any document or action required by these reforms.

(b) PURPOSES.—Consistent with the purposes and requirements of the Government Performance and Results Act of 1993, the purposes of this subtitle are—

(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with this subtitle before the year in which the contract expires;

(4) to reduce the cost of insurance claims under the National Housing Act related to mortgages insured by the Secretary and used to finance eligible multifamily housing projects;

(5) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

(6) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals;

(7) to protect the interest of project owners and managers, because they are partners of the Federal Government in meeting the affordable housing needs of the Nation through the section 8 rental housing assistance program;

(8) to protect the interest of tenants residing in the multifamily housing projects at the time of the restructuring for the housing; and

(9) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

SEC. 512. DEFINITIONS.

In this subtitle:

(1) COMPARABLE PROPERTIES.—The term "comparable properties" means properties in the same market areas, where practicable, that—

(A) are similar to the eligible multifamily housing project as to neighborhood (including risk of crime), type of location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, utilities, and other relevant characteristics; and

(B) are not receiving project-based assistance.

(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term "eligible multifamily housing project" means a property consisting of more than 4 dwelling units—

(A) with rents that, on an average per unit or per room basis, exceed the rent of comparable properties in the same market area, determined in accordance with guidelines established by the Secretary;

(B) that is covered in whole or in part by a contract for project-based assistance under—

(i) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

(iv) the loan management assistance program under section 8 of the United States Housing Act of 1937;

(v) section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975);

(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(C) financed by a mortgage insured or held by the Secretary under the National Housing Act.

(3) EXPIRING CONTRACT.—The term "expiring contract" means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

(4) EXPIRATION DATE.—The term "expiration date" means the date on which an expiring contract expires.

(5) FAIR MARKET RENT.—The term "fair market rent" means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

(6) LOW-INCOME FAMILIES.—The term "low-income families" has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937.

(7) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—The term "mortgage restructuring and rental assistance sufficiency plan" means the plan as provided under section 514.

(8) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means any private non-profit organization that—

(A) is organized under State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

(C) has a long-term record of service in providing or financing quality affordable housing for low-income families through relationships with public entities.

(9) PORTFOLIO RESTRUCTURING AGREEMENT.—The term "Portfolio restructuring agreement" means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 513.

(10) PARTICIPATING ADMINISTRATIVE ENTITY.—The term "participating administrative entity" means a public agency (including a State housing finance agency or a local housing agency), a nonprofit organization, or any other entity (including a law firm or an accounting firm) or a combination of such entities, that meets the requirements under section 513(b).

(11) PROJECT-BASED ASSISTANCE.—The term "project-based assistance" means rental assistance described in paragraph (2)(B) of this section that is attached to a multifamily housing project.

(12) RENEWAL.—The term "renewal" means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this subtitle.

(13) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(14) STATE.—The term "State" has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(15) TENANT-BASED ASSISTANCE.—The term "tenant-based assistance" has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(16) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(17) VERY LOW-INCOME FAMILY.—The term "very low-income family" has the same meaning as in section 3(b) of the United States Housing Act of 1937.

(18) QUALIFIED MORTGAGEE.—The term "qualified mortgagee" means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

(A) is not suspended or debarred by the Secretary;

(B) is not suspended or on probation imposed by the Mortgagee Review Board; and

(C) is not in default under any Government National Mortgage Association obligation.

SEC. 513. AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

(1) IN GENERAL.—Subject to subsection (b)(3), the Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure multifamily housing mortgages insured or held by the Secretary under the National Housing Act, in order to—

(A) reduce the costs of expiring contracts for assistance under section 8 of the United States Housing Act of 1937;

(B) address financially and physically troubled projects; and

(C) correct management and ownership deficiencies.

(2) PORTFOLIO RESTRUCTURING AGREEMENTS.—Each portfolio restructuring agreement entered into under this subsection shall—

(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 514;

(C) require the participating administrative entity to review and certify to the accuracy and completeness of the evaluation of rehabilitation needs required under section 514(e)(3) for each eligible multifamily housing project included in the portfolio restructuring agreement, in accordance with regulations promulgated by the Secretary;

(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 516 or 517;

(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 514 for each eligible multifamily housing project;

(F) include other requirements established by the Secretary, including a right of the Secretary to terminate the contract immediately for failure of the participating administrative entity to comply with any applicable requirement;

(G) if the participating administrative entity is a State housing finance agency or a local housing agency, indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving willful misconduct or negligence;

(H) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this subtitle; and

(I) include, where appropriate, incentive agreements with the participating administrative entity to reward superior performance in meeting the purposes of this Act.

(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on whether, in the determination of the Secretary, the participating administrative entity—

(A) has demonstrated experience in working directly with residents of low-income housing projects and with tenants and other community-based organizations;

(B) has demonstrated experience with and capacity for multifamily restructuring and multifamily financing (which may include risk-sharing arrangements and restructuring eligible multifamily housing properties under the fiscal year 1997 Federal Housing Administration multifamily housing demonstration program);

(C) has a history of stable, financially sound, and responsible administrative performance (which may include the management of affordable low-income rental housing);

(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity;

(E) has demonstrated that it will carry out the specific transactions and other responsibilities under this part in a timely, efficient, and cost-effective manner; and

(F) meets other criteria, as determined by the Secretary.

(2) SELECTION.—If more than 1 interested entity meets the qualifications and selection criteria for a participating administrative entity, the Secretary may select the entity that demonstrates, as determined by the Secretary, that it will—

(A) provide the most timely, efficient, and cost-effective—

(i) restructuring of the mortgages covered by the portfolio restructuring agreement; and

(ii) administration of the section 8 project-based assistance contract, if applicable; and

(B) protect the public interest (including the long-term provision of decent low-income affordable rental housing and protection of residents, communities, and the American taxpayer).

(3) PARTNERSHIPS.—For the purposes of any participating administrative entity applying under this subsection, participating administrative entities are encouraged to develop partnerships with each other and with nonprofit organizations, if such partnerships will further the participating administrative entity's ability to meet the purposes of this Act.

(4) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project for which a participating administrative entity is unavailable, or should not be selected to carry out the requirements of this subtitle with respect to that multifamily housing project for reasons relating to the selection criteria under paragraph (1), the Secretary shall—

(A) carry out the requirements of this subtitle with respect to that eligible multifamily housing project; or

(B) contract with other qualified entities that meet the requirements of paragraph (1) to provide the authority to carry out all or a portion of the requirements of this subtitle with respect to that eligible multifamily housing project.

(5) PRIORITY FOR PUBLIC AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—The Secretary shall provide a reasonable period during which the Secretary will consider proposals only from State housing finance agencies or local housing agencies, and the Secretary shall select such an agency without considering other applicants if the Secretary determines that the agency is qualified. The period shall be of sufficient duration for the Secretary to determine whether any State housing financing agencies or local housing agencies are interested and qualified. Not later than the end of the period, the Secretary shall notify the State housing finance agency or the local housing agency regarding the status of the proposal and, if the proposal is rejected, the reasons for the rejection and an opportunity for the applicant to respond.

(6) STATE AND LOCAL PORTFOLIO REQUIREMENTS.—

(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in that State as may be agreed upon by the participating administrative entity and the Secretary. If a local housing agency is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in the jurisdiction of the agency as may be agreed upon by the participating administrative entity and the Secretary.

(B) NONDELEGATION.—Except with the prior approval of the Secretary, a participating administrative entity may not delegate or transfer responsibilities and functions under this subtitle to 1 or more entities.

(7) PRIVATE ENTITY REQUIREMENTS.—

(A) IN GENERAL.—If a for-profit entity is selected as the participating administrative entity, that entity shall be required to enter into a partnership with a public purpose entity (including the Department).

(B) PROHIBITION.—No private entity shall share, participate in, or otherwise benefit from any equity created, received, or restructured as a result of the portfolio restructuring agreement.

SEC. 514. MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

(a) IN GENERAL.—

(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed by the participating administrative entity, in cooperation with an owner of an eligible multifamily housing project and any servicer for the mortgage that is a qualified mortgagee, under such terms and conditions as the Secretary shall require.

(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than 1 property.

(b) NOTICE REQUIREMENTS.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

(c) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

(d) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, not less than 12 months prior to terminating the contract, the project owner shall provide written notice to the Secretary and the tenants and the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration.

(e) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing project in a manner consistent with subsection (g), or provide for tenant-based assistance in accordance with section 515;

(2) allow for rent adjustments by applying an operating cost adjustment factor established under guidelines established by the Secretary;

(3) require the owner or purchaser of an eligible multifamily housing project to evaluate the rehabilitation needs of the project, in accordance with regulations of the Secretary, and notify the participating administrative entity of the rehabilitation needs;

(4) require the owner or purchaser of the project to provide or contract for competent management of the project;

(5) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

(A) the Secretary; or

(B) local housing codes or codes adopted by public housing agencies that—

(i) meet or exceed housing quality standards established by the Secretary; and

(ii) do not severely restrict housing choice;

(6) require the owner or purchaser of the project to maintain affordability and use restrictions in accordance with regulations promulgated by the Secretary, for a term of not less than 30 years which restrictions shall be—

(A) contained in a legally enforceable document recorded in the appropriate records; and

(B) consistent with the long-term physical and financial viability and character of the project as affordable housing;

(7) include a certification by the participating administrative entity that the restructuring meets subsidy layering requirements established by the Secretary by regulation for purposes of this subtitle;

(8) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate; and

(9) prohibit the owner from refusing to lease a reasonable number of units to holders of certificates and vouchers under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenants as certificate and voucher holders.

(f) TENANT AND OTHER PARTICIPATION AND CAPACITY BUILDING.—

(1) PROCEDURES.—

(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project, residents of the neighborhood, the local government, and other affected parties to participate effectively and on a timely basis in the restructuring process established by this subtitle.

(B) COVERAGE.—These procedures shall take into account the need to provide tenants of the project, residents of the neighborhood, the local government, and other affected parties timely notice of proposed restructuring actions and appropriate access to relevant information about restructuring activities. To the extent practicable and consistent with the need to accomplish project restructuring in an efficient manner, the procedures shall give all such parties an opportunity to provide comments to the participating administrative entity in writing, in meetings, or in another appropriate manner (which comments shall be taken into consideration by the participating administrative entity).

(2) REQUIRED CONSULTATION.—The procedures developed pursuant to paragraph (1) shall require consultation with tenants of the project, residents of the neighborhood, the local government, and other affected parties, in connection with at least the following:

(A) the mortgage restructuring and rental assistance sufficiency plan;

(B) any proposed transfer of the project; and

(C) the rental assistance assessment plan pursuant to section 515(c).

(3) FUNDING.—

(A) IN GENERAL.—The Secretary may provide not more than $10,000,000 annually in funding from which the Secretary may make obligations to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this subtitle (including transfer of developments to new owners) and for tenant services, from those amounts made available under appropriations Acts for implementing this subtitle or previously made available for technical assistance in connection with the preservation of affordable rental housing for low-income persons.

(B) MANNER OF PROVIDING.—Notwithstanding any other provision of law restricting the use of preservation technical assistance funds, the Secretary may provide any funds made available under subparagraph (A) through existing technical assistance programs pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and the Multifamily Property Disposition Reform Act of 1994, or through any other means that the Secretary considers consistent with the purposes of this subtitle, without regard to any set-aside requirement otherwise applicable to those funds.

(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

(g) RENT LEVELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this subtitle shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

(A) are equivalent to rents derived from comparable properties, if—

(i) the participating administrative entity makes the rent determination within a reasonable period of time; and

(ii) the market rent determination is based on not less than 2 comparable properties; or

(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

(2) EXCEPTIONS.—

(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the fair market rent for the market area (except that the Secretary may waive this limit for not more than five percent of all units subject to restructured mortgages in any fiscal year, based on a finding of special need), if the participating administrative entity—

(i) determines that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

(ii) follows the procedures under paragraph (3).

(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units covered by the portfolio restructuring agreement with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need.

(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculated based on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

(A) the debt service of the project;

(B) the operating expenses of the project, as determined by the participating administrative entity, including—

(i) contributions to adequate reserves;

(ii) the costs of maintenance and necessary rehabilitation; and

(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as determined by the participating administrative entity, which may be established to provide incentives for owners or purchasers to meet benchmarks of quality for management and housing quality; and

(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

(h) EXEMPTIONS FROM RESTRUCTURING.—The following categories of projects shall not be covered by a mortgage restructuring and rental assistance sufficiency plan if—

(1) the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of a unit of a State government or unit of general local government);

(2) the project is a project financed under section 202 of the Housing Act of 1959 or section 515 of the Housing Act of 1949; or

(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act.

SEC. 515. SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—

(1) PROJECT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts, and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with project-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend the contract, or the Secretary shall offer to renew such contract, and the owner of the project shall accept the offer, if the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

(2) TENANT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with tenant-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall provide for the renewal of section 8 assistance on an eligible multifamily housing project with tenant-based assistance, or the Secretary shall provide for such renewal, in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for the term of the affordability and use restrictions required by section 514(e)(6), if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

(c) DETERMINATION OF WHETHER TO RENEW WITH PROJECT-BASED OR TENANT-BASED ASSISTANCE.—

(1) MANDATORY RENEWAL OF PROJECT-BASED ASSISTANCE.—Section 8 assistance shall be renewed with project-based assistance, if—

(A) the project is located in an area in which the participating administrative entity determines, based on housing market indicators, such as low vacancy rates or high absorption rates, that there is not adequate available and affordable housing or that the tenants of the project would not be able to locate suitable units or use the tenant-based assistance successfully;

(B) a predominant number of the units in the project are occupied by elderly families, disabled families, or elderly and disabled families;

(C) the project is held by a nonprofit cooperative ownership housing corporation or nonprofit cooperative housing trust.

(2) RENTAL ASSISTANCE ASSESSMENT PLAN.—

(A) IN GENERAL.—With respect to any project that is not described in paragraph (1), the participating administrative entity shall, after consultation with the owner of the project, develop a rental assistance assessment plan to determine whether to renew assistance for the project with tenant-based assistance or project-based assistance.

(B) RENTAL ASSISTANCE ASSESSMENT PLAN REQUIREMENTS.—Each rental assistance assessment plan developed under this paragraph shall include an assessment of the impact of converting to tenant-based assistance and the impact of extending project-based assistance on—

(i) the ability of the tenants to find adequate, available, decent, comparable, and affordable housing in the local market;

(ii) the types of tenants residing in the project (such as elderly families, disabled families, large families, and cooperative homeowners);

(iii) the local housing needs identified in the comprehensive housing affordability strategy, and local market vacancy trends;

(iv) the cost of providing assistance, comparing the applicable payment standard to the project's adjusted rent levels determined under section 514(g);

(v) the long-term financial stability of the project;

(vi) the ability of residents to make reasonable choices about their individual living situations;

(vii) the quality of the neighborhood in which the tenants would reside; and

(viii) the project's ability to compete in the marketplace.

(C) REPORTS TO DIRECTOR.—Each participating administrative entity shall report regularly to the Director as defined in subtitle D, as the Director shall require, identifying—

(i) each eligible multifamily housing project for which the entity has developed a rental assistance assessment plan under this paragraph that determined that the tenants of the project generally supported renewal of assistance with tenant-based assistance, but under which assistance for the project was renewed with project-based assistance; and

(ii) each project for which the entity has developed such a plan under which the assistance is renewed using tenant-based assistance.

(3) ELIGIBILITY FOR TENANT-BASED ASSISTANCE.—Subject to paragraph (4), with respect to any project that is not described in paragraph (1), if a participating administrative entity approves the use of tenant-based assistance based on a rental assistance assessment plan developed under paragraph (2), tenant-based assistance shall be provided to each assisted family (other than a family already receiving tenant-based assistance) residing in the project at the time the assistance described in section 512(2)(B) terminates.

(4) RENTS FOR FAMILIES RECEIVING TENANT-BASED ASSISTANCE.—

(A) IN GENERAL.—Notwithstanding subsection (c)(1) or (o)(1) of section 8 of the United States Housing Act of 1937, in the case of any family described in paragraph (3) that resides in a project described in section 512(2)(B) in which the reasonable rent (which rent shall include any amount allowed for utilities and shall not exceed comparable market rents for the relevant housing market area) exceeds the fair market rent limitation or the payment standard, as applicable, the amount of assistance for the family shall be determined in accordance with subparagraph (B).

(B) MAXIMUM MONTHLY RENT; PAYMENT STANDARD.—With respect to the certificate program under section 8(b) of the United States Housing Act of 1937, the maximum monthly rent under the contract (plus any amount allowed for utilities) shall be such reasonable rent for the unit. With respect to the voucher program under section 8(o) of the United States Housing Act of 1937, the payment standard shall be deemed to be such reasonable rent for the unit.

(5) INAPPLICABILITY OF CERTAIN PROVISION.—If a participating administrative entity approves renewal with project-based assistance under this subsection, section 8(d)(2) of the United States Housing Act of 1937 shall not apply.

SEC. 516. PROHIBITION ON RESTRUCTURING.

(a) PROHIBITION ON RESTRUCTURING.—The Secretary may elect not to consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the Secretary or the participating administrative entity determines that—

(1)(A) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to such project; or

(B) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally-assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal government.

(2) Material adverse financial or managerial actions or omissions include—

(A) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

(B) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

(C) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

(D) repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

(E) repeatedly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

(F) repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

(G) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(H) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(I) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

(3) the owner or purchaser of the property materially failed to follow the procedures and requirements of this part, after receipt of notice and an opportunity to cure; or

(4) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

The term "owner" as used in this subsection, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner. The term "purchaser" as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser. The terms "affiliate of the owner" and "affiliate of the purchaser" means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser. The term "control" means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial legal, beneficial or other interests of the owner or purchaser.

(b) OPPORTUNITY TO DISPUTE FINDINGS.—

(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 514, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 514.

(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

(d) DISPLACED TENANTS.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section in accordance with paragraph (1) or (2) of subsection (a) because of actions by an owner or purchaser, the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

SEC. 517. RESTRUCTURING TOOLS.

(a) MORTGAGE RESTRUCTURING.—

(1) In this part, an approved mortgage restructuring and rental assistance sufficiency plan shall include restructuring mortgages in accordance with this subsection to provide—

(A) a restructured or new first mortgage that is sustainable at rents at levels that are established in section 514(g); and

(B) a second mortgage that is in an amount equal to no more than the difference between the restructured or new first mortgage and the indebtedness under the existing insured mortgage immediately before it is restructured or refinanced, provided that the amount of the second mortgage shall be in an amount that the Secretary or participating administrative entity determines can reasonably be expected to be repaid.

(2) The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate as defined in section 1274(d) of the Internal Revenue Code of 1986. The term of the second mortgage shall be equal to the term of the restructured or new first mortgage.

(3) Payments on the second mortgage shall be deferred when the first mortgage remains outstanding, except to the extent there is excess project income remaining after payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and any other expenditures approved by the Secretary. At least 75 percent of any excess project income shall be applied to payments on the second mortgage, and the Secretary or the participating administrative entity may permit up to 25 percent to be paid to the project owner if the Secretary or participating administrative entity determines that the project owner meets benchmarks for management and housing quality.

(4) The full amount of the second mortgage shall be immediately due and payable if—

(A) the first mortgage is terminated or paid in full, except as otherwise provided by the holder of the second mortgage;

(B) the project is purchased and the second mortgage is assumed by any subsequent purchaser in violation of guidelines established by the Secretary; or

(C) the Secretary provides notice to the project owner that such owner has failed to materially comply with any requirements of this section or the United States Housing Act of 1937 as those requirements apply to the project, with a reasonable opportunity for such owner to cure such failure.

(5) The Secretary may modify the terms or forgive all or part of the second mortgage if the Secretary holds the second mortgage and if the project is acquired by a tenant organization or tenant-endorsed community-based nonprofit or public agency, pursuant to guidelines established by the Secretary.

(b) RESTRUCTURING TOOLS.—In addition to the requirements of subsection (a) and to the extent these actions are consistent with this section and with the control of the Secretary of applicable accounts in the Treasury of the United States, an approved mortgage restructuring and rental assistance sufficiency plan under this subtitle may include 1 or more of the following actions:

(1) FULL OR PARTIAL PAYMENT OF CLAIM.—Making a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act, as amended by section 523(b) of this Act. Any payment under this paragraph shall not require the approval of a mortgagee.

(2) REFINANCING OF DEBT.—Refinancing of all or part of the debt on a project. If the refinancing involves a mortgage that will continue to be insured under the National Housing Act, the refinancing shall be documented through amendment of the existing insurance contract and not through a new insurance contract.

(3) MORTGAGE INSURANCE.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the Liquidating Account of the General Insurance Fund or the Special Risk Insurance Fund and shall not be subject to any limitation on appropriations.

(4) CREDIT ENHANCEMENT.—Any additional State or local mortgage credit enhancements and risk-sharing arrangements may be established with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified or refinanced first mortgage.

(5) COMPENSATION OF THIRD PARTIES.—Consistent with the portfolio restructuring agreement, entering into agreements, incurring costs, or making payments, including incentive agreements designed to reward superior performance in meeting the purposes of this Act, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this subtitle. Upon request to the Secretary, participating administrative entities that are qualified under the United States Housing Act of 1937 to serve as contract administrators shall be the contract administrators under section 8 of the United States Housing Act of 1937 for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan. Subject to the availability of amounts provided in advance in appropriations Acts for administrative fees under section 8 of the United States Housing Act of 1937, such amounts may be used to compensate participating administrative entities for compliance monitoring costs incurred under section 519.

(6) USE OF PROJECT ACCOUNTS.—Applying any residual receipts, replacement reserves, and any other project accounts not required for project operations, to maintain the long-term affordability and physical condition of the property or of other eligible multifamily housing projects. The participating administrative entity may expedite the acquisition of residual receipts, replacement reserves, or other such accounts, by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent, in accordance with guidelines established by the Secretary.

(7) REHABILITATION NEEDS.—

(A) IN GENERAL.—Assisting in addressing the rehabilitation needs of the project. Rehabilitation may be paid from the residual receipts, replacement reserves, or any other project accounts not required for project operations, or, as provided in appropriations Acts and subject to the control of the Secretary of applicable accounts in the Treasury of the United States, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, the rehabilitation grant program established under section 236(s) of the National Housing Act, or through the debt restructuring transaction. Rehabilitation under this paragraph shall only be for the purpose of restoring the project to a non-luxury standard adequate for the rental market intended at the original approval of the project-based assistance.

(B) CONTRIBUTION.—Each owner or purchaser of a project to be rehabilitated under an approved mortgage restructuring and rental assistance sufficiency plan shall contribute, from non-project resources, not less than 25 percent of the amount of rehabilitation assistance received, except that the participating administrative entity may provide an exception from the requirement of this subparagraph for housing cooperatives.

(c) ROLE OF FNMA AND FHLMC.—Section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) paragraph (4), by striking the period at the end and inserting "; and";

(3) by striking "To meet" and inserting the following:

"(a) IN GENERAL.—To meet"; and

(4) by adding at the end the following:

"(5) assist in maintaining the affordability of assisted units in eligible multifamily housing projects with expiring contracts, as defined under the Multifamily Assisted Housing Reform and Affordability Act of 1997.

"(b) AFFORDABLE HOUSING GOALS.—Actions taken under subsection (a)(5) shall constitute part of the contribution of each entity in meeting its affordable housing goals under sections 1332, 1333, and 1334 for any fiscal year, as determined by the Secretary.".

(d) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project.

(e) CONFLICT OF INTEREST GUIDELINES.—The Secretary may establish guidelines to prevent conflicts of interest by a participating administrative entity that provides, directly or through risk-sharing arrangements, any form of credit enhancement or financing pursuant to subsections (b)(3) or (b)(4) or to prevent conflicts of interest by any other person or entity under this subtitle.

SEC. 518. MANAGEMENT STANDARDS.

Each participating administrative entity shall establish management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

SEC. 519. MONITORING OF COMPLIANCE.

(a) COMPLIANCE AGREEMENTS.—(1) Pursuant to regulations issued by the Secretary under section 522(a), each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subtitle. Each agreement shall, at a minimum, provide for—

(A) enforcement of the provisions of this subtitle; and

(B) remedies for the breach of those provisions.

(2) If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator or fails to perform its duties under the portfolio restructuring agreement, the Secretary shall have the right to enforce the agreement.

(b) PERIODIC MONITORING.—

(1) IN GENERAL.—Not less than annually, each participating administrative entity that is qualified to be the section 8 contract administrator shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this subtitle and the portfolio restructuring agreements.

(3) ADMINISTRATION.—If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator, either the Secretary or a qualified State or local housing

agency shall be responsible for the review required by this subsection.

(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

SEC. 520. REPORTS TO CONGRESS.

(a) ANNUAL REVIEW.—In order to ensure compliance with this subtitle, the Secretary shall conduct an annual review and report to the Congress on actions taken under this subtitle and the status of eligible multifamily housing projects.

(b) SEMIANNUAL REVIEW.—Not less than semiannually during the 2-year period beginning on the date of the enactment of this Act and not less than annually thereafter, the Secretary shall submit reports to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate stating, for such periods, the total number of projects identified by participating administrative entities under each of clauses (i) and (ii) of subparagraph (C).

SEC. 521. GAO AUDIT AND REVIEW.

(a) INITIAL AUDIT.—Not later than 18 months after the effective date of final regulations promulgated under this part, the Comptroller General of the United States shall conduct an audit to evaluate eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to Congress a report on the status of eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the initial audit conducted under subsection (a); and

(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

SEC. 522. REGULATIONS.

(a) RULEMAKING AND IMPLEMENTATION.—

(1) INTERIM REGULATIONS.—The Director shall issue such interim regulations as may be necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter. If, before the expiration of such period, the Director has not been appointed, the Secretary shall issue such interim regulations.

(2) FINAL REGULATIONS.—The Director shall issue final regulations necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter before the later of (A) the expiration of the 12-month period beginning upon the date of the enactment of this Act, and (B) the 3-month period beginning upon the appointment of the Director under subtitle B.

(3) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under paragraph (2), in addition to public comments invited in connection with publication of the interim rule, the Secretary shall—

(A) seek recommendations on the implementation of sections 513(b) and 515(c)(1) from organizations representing—

(i) State housing finance agencies and local housing agencies;

(ii) other potential participating administering entities;

(iii) tenants;

(iv) owners and managers of eligible multifamily housing projects;

(v) States and units of general local government; and

(vi) qualified mortgagees; and

(B) convene not less than 3 public forums at which the organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

(b) TRANSITION PROVISION FOR CONTRACTS EXPIRING IN FISCAL YEAR 1998.—Notwithstanding any other provision of law, the Secretary shall apply all the terms of section 211 and section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (except for section 212(h)(1)(G) and the limitation in section 212(k)) contracts for project-based assistance that expire during fiscal year 1998 (in the same manner that such provisions apply to expiring contracts defined in section 212(a)(3) of such Act), except that section 517(a) of the Act shall apply to mortgages on projects subject to such contracts.

SEC. 523. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CALCULATION OF LIMIT ON PROJECT-BASED ASSISTANCE.—Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following:

"(5) CALCULATION OF LIMIT.—Any contract entered into under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.".

(b) PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS.—Section 541 of the National Housing Act (12 U.S.C. 1735f-19) is amended—

(1) in subsection (a), in the subsection heading, by striking "AUTHORITY" and inserting "DEFAULTED MORTGAGES";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) EXISTING MORTGAGES.—Notwithstanding any other provision of law, the Secretary, in connection with a mortgage restructuring under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, may make a 1 time, nondefault partial payment of the claim under the mortgage insurance contract, which shall include a determination by the Secretary or the participating administrative entity, in accordance with the Multifamily Assisted Housing Reform and Affordability Act of 1997, of the market value of the project and a restructuring of the mortgage, under such terms and conditions as are permitted by section 517(a) of such Act.".

(c) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—Section 8(bb) of the United States Housing Act of 1937 (42 U.S.C. 1437f(bb) is amended—

(1) by inserting after "(bb)" the following: "TRANSFER, REUSE, AND RESCISSION OF BUDGET AUTHORITY.—(1)"; and

(2) by inserting the following new paragraph at the end:

"(2) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under title I is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.".

(d) SECTION 8 CONTRACT RENEWALS.—Section 405(a) of the Balanced Budget Downpayment Act, I (42 U.S.C. 1437f note) is amended by striking "For" and inserting "Notwithstanding part 24 of title 24 of the Code of Federal Regualtions, for".

(e) RENEWAL UPON REQUEST OF OWNER.—Section 211(b)(3) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2896) is amended—

(1) by striking the paragraph heading and inserting the following:

"(3) EXEMPTION OF CERTAIN OTHER PROJECTS.—"; and

(2) by striking "section 202 projects, section 811 projects and section 515 projects" and inserting "section 202 projects, section 515 projects, projects with contracts entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act, and projects with rents that exceed 100 percent of fair market rent for the market area, but that are less than rents for comparable projects".

(f) EXTENSION OF DEMONSTRATION CONTRACT PERIOD.—Section 212(g) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204) is amended—

(1) by inserting "(1)" after "(g)";

(2) by inserting before the period at the end the following: "or in paragraph (2)"; and

(3) by adding at the end the following:

"(2) The Secretary may renew a demonstration contract for an additional period of not to exceed 120 days, if—

"(A) the contract was originally executed before February 1, 1997, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay of publication of the Secretary's demonstration program guidelines until January 23, 1997 (not to exceed 21 projects); or

"(B) the contract was originally executed before October 1, 1997, in connection with a project that has been identified for restructuring under the joint venture approach described in section VII.B.2. of the Secretary's demonstration program guidelines, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay in implementation of the joint venture agreement required by the guidelines (not to exceed 25 projects).".

SEC. 524. SECTION 8 CONTRACT RENEWALS.

(a) SECTION 8 CONTRACT RENEWAL AUTHORITY.—

(1) IN GENERAL.—Notwithstanding part 24 of title 24 of the Code of Federal Regulations and subject to section 516 of this subtitle, for fiscal year 1999 and henceforth, the Secretary may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937, upon termination or expiration of a contract for assistance under section 8 (other than a contract for tenant-based assistance and

notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act at rent levels that do not exceed comparable market rents for the market area. The assistance shall be provided in accordance with terms and conditions prescribed by the Secretary.

(2) EXCEPTION PROJECTS.—Notwithstanding paragraph (1), upon the request of the owner, the Secretary shall renew an expiring contract in accordance with terms and conditions prescribed by the Secretary at the lesser of (i) existing rents, adjusted by an operating cost, adjustment factor established by the Secretary, (ii) a level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and expected operating expenses), or (iii) in the case of a contract under the moderate rehabilitation program, other than a moderate rehabilitation contract under section 441 of the Stewart B. McKinney Homeless Assistance Act, the base rent adjusted by an operating cost adjustment factor established by the Secretary, for the following categories of multifamily housing projects—

(A) projects for which the primary financing or mortgage insurance was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of either) and is not insured under the National Housing Act;

(B) projects for which the primary financing was provided by a unit of State government or a unit or general local government (or an agency or instrumentality of either) and the financing involves mortgage insurance under the National Housing Act, such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this Act is in conflict with applicable law or agreements governing such financing;

(C) projects financed under section 202 of the Housing Act of 1959 or section 515 of the Housing Act of 1949;

(D) projects that have an expiring contract under section 8 of the United States Housing Act of 1937 pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and

(E) projects that do not qualify as eligible multifamily housing projects pursuant to section 512(2) of this subtitle.

Subtitle B—Miscellaneous Provisions

SEC. 531. REHABILITATION GRANTS FOR CERTAIN INSURED PROJECTS.

Section 236 of the National Housing Act (12 U.S.C. 1715z–1) is amended by adding at the end the following:

"(s) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary may make grants for the capital costs of rehabilitation to owners of projects that meet the eligibility and other criteria set forth in, and in accordance with, this subsection.

"(2) PROJECT ELIGIBILITY.—A project may be eligible for capital grant assistance under this subsection—

"(A) if—

"(i) the project is or was insured under any provision of title II of the National Housing Act;

"(ii) the project was assisted under section 8 of the United States Housing Act of 1937 on the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997; and

"(iii) the project mortgage was not held by a State agency as of the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997;

"(B) if the project owner agrees to maintain the housing quality standards as required by the Secretary;

"(C)(i) if the Secretary determines that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to such project; or

"(ii) if the Secretary elects to make such determination, that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally-assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal government;

"(iii) material adverse financial or managerial actions or omissions, as the terms are used in this subparagraph, include—

"(I) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

"(II) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

"(III) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

"(IV) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

"(V) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

"(VI) committing any act or omission that would warrant suspension or debarment by the Secretary; and

"(iv) the term 'owner' as used in this subparagraph, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner; the term 'purchaser' as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser; the terms 'affiliate of the owner' and 'affiliate of the purchaser' means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser; the term 'control' means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial legal, beneficial or other interests of the owner or purchaser; and

"(D) if the project owner demonstrates to the satisfaction of the Secretary—

"(i) using information in a comprehensive needs assessment, that capital grant assistance is needed for rehabilitation of the project; and

"(ii) that project income is not sufficient to support such rehabilitation.

"(3) ELIGIBLE PURPOSES.—The Secretary may make grants to the owners of eligible projects for the purposes of—

"(A) payment into project replacement reserves;

"(B) debt service payments on non-Federal rehabilitation loans; and

"(C) payment of nonrecurring maintenance and capital improvements, under such terms and conditions as are determined by the Secretary.

"(4) GRANT AGREEMENT.—

"(A) IN GENERAL.—The Secretary shall provide in any grant agreement under this subsection that the grant shall be terminated if the project fails to meet housing quality standards, as applicable on the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997, or any successor standards for the physical conditions of projects, as are determined by the Secretary.

"(B) AFFORDABILITY AND USE CLAUSES.—The Secretary shall include in a grant agreement under this subsection a requirement for the project owners to maintain such affordability and use restrictions as the Secretary determines to be appropriate.

"(C) OTHER TERMS.—The Secretary may include in a grant agreement under this subsection such other terms and conditions as the Secretary determines to be necessary.

"(5) DELEGATION.—

"(A) IN GENERAL.—In addition to the authorities set forth in subsection (p), the Secretary may delegate to State and local governments the responsibility for the administration of grants under this subsection. Any such government may carry out such delegated responsibilities directly or under contracts.

"(B) ADMINISTRATION COSTS.—In addition to other eligible purposes, amounts of grants under this subsection may be made available for costs of administration under subparagraph (A).

"(6) FUNDING.—

"(A) IN GENERAL.—For purposes of carrying out this subsection, the Secretary may make available amounts that are unobligated amounts for contracts for interest reduction payments—

"(i) that were previously obligated for contracts for interest reduction payments under this section until the insured mortgage under this section was extinguished;

"(ii) that become available as a result of the outstanding principal balance of a mortgage having been written down;

"(iii) that are uncommitted balances within the limitation on maximum payments that may have been, before the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997, permitted in any fiscal year; or

"(iv) that become available from any other source.

"(B) LIQUIDATION AUTHORITY.—The Secretary may liquidate obligations entered into under this subsection under section 1305(10) of title 31, United States Code.

"(C) CAPITAL GRANTS.—In making capital grants under the terms of this subsection, using the amounts that the Secretary has recaptured from contracts for interest reduction payments, the Secretary shall ensure that the rates and amounts of outlays do not at any time exceed the rates and amounts of outlays that would have been experienced if the insured mortgage had not been extinguished or the principal amount had not been written down, and the interest reduction payments that the Secretary has recaptured had continued in accordance with the terms in effect immediately prior to such extinguishment or write-down.".

SEC. 532. GAO REPORT ON SECTION 8 RENTAL ASSISTANCE FOR MULTIFAMILY HOUSING PROJECTS.

Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress analyzing—

(1) the housing projects for which project-based assistance is provided under section 8 of the United States Housing Act of 1937, but which are not subject to a mortgage insured or held by the Secretary under the National Housing Act;

(2) how State and local housing finance agencies have benefited financially from the rental assistance program under section 8 of the United States Housing Act of 1937, including any benefits from fees, bond financings, and mortgage refinancings; and

(3) the extent and effectiveness of State and local housing finance agencies oversight of the physical and financial management and condition of multifamily housing projects for which project-based assistance is provided under section 8 of the United States Housing Act of 1937.

Subtitle C—Enforcement Provisions

SEC. 541. IMPLEMENTATION.

(a) ISSUANCE OF NECESSARY REGULATIONS.—Notwithstanding section 7(o) of the Department of Housing and Urban Development Act or part 10 of title 24, Code of Federal Regulations (as in existence on the date of enactment of this Act), the Secretary shall issue such regulations as the Secretary determines to be necessary to implement this subtitle and the amendments made by this subtitle in accordance with section 552 or 553 of title 5, United States Code, as determined by the Secretary.

(b) USE OF EXISTING REGULATIONS.—In implementing any provision of this subtitle, the Secretary may, in the discretion of the Secretary, provide for the use of existing regulations to the extent appropriate, without rulemaking.

SEC. 542. INCOME VERIFICATION.

(a) REINSTITUTION OF REQUIREMENTS REGARDING HUD ACCESS TO CERTAIN INFORMATION OF STATE AGENCIES.—

(1) IN GENERAL.—Section 303(i) of the Social Security Act is amended by striking paragraph (5).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any request for information made after the date of the enactment of this Act.

(b) REPEAL OF TERMINATION REGARDING HOUSING ASSISTANCE PROGRAMS.—Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 is amended by striking the last sentence.

Part 1—FHA Single Family and Multifamily Housing

SEC. 551. AUTHORIZATION TO IMMEDIATELY SUSPEND MORTGAGEES.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended by inserting after the first sentence the following: "Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public.".

SEC. 552. EXTENSION OF EQUITY SKIMMING TO OTHER SINGLE FAMILY AND MULTIFAMILY HOUSING PROGRAMS.

Section 254 of the National Housing Act (12 U.S.C. 1715z–19) is amended to read as follows:

"SEC. 254. EQUITY SKIMMING PENALTY.

"(a) IN GENERAL.—Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of a multifamily project or a 1- to 4-family residence that is security for a mortgage note that is described in subsection (b), willfully uses or authorizes the use of any part of the rents, assets, proceeds, income, or other funds derived from property covered by that mortgage note for any purpose other than to meet reasonable and necessary expenses that include expenses approved by the Secretary if such approval is required, in a period during which the mortgage note is in default or the project is in a nonsurplus cash position, as defined by the regulatory agreement covering the property, or the mortgagor has failed to comply with the provisions of such other form of regulatory control imposed by the Secretary, shall be fined not more than $500,000, imprisoned not more than 5 years, or both.

"(b) MORTGAGE NOTES DESCRIBED.—For purposes of subsection (a), a mortgage note is described in this subsection if it—

"(1) is insured, acquired, or held by the Secretary pursuant to this Act;

"(2) is made pursuant to section 202 of the Housing Act of 1959 (including property still subject to section 202 program requirements that existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act); or

"(3) is insured or held pursuant to section 542 of the Housing and Community Development Act of 1992, but is not reinsured under section 542 of the Housing and Community Development Act of 1992.".

SEC. 553. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.

(a) CHANGE TO SECTION TITLE.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended by striking the section heading and the section designation and inserting the following:

"SEC. 536. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.".

(b) EXPANSION OF PERSONS ELIGIBLE FOR PENALTY.—Section 536(a) of the National Housing Act (12 U.S.C. 1735f–14(a)) is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: "If a mortgagee approved under the Act, a lender holding a contract of insurance under title I, or a principal, officer, or employee of such mortgagee or lender, or other person or entity participating in either an insured mortgage or title I loan transaction under this Act or providing assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents and dealers, knowingly and materially violates any applicable provision of subsection (b), the Secretary may impose a civil money penalty on the mortgagee or lender, or such other person or entity, in accordance with this section. The penalty under this paragraph shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions."; and

(2) in paragraph (2)—

(A) in the first sentence, by inserting "or such other person or entity" after "lender"; and

(B) in the second sentence, by striking "provision" and inserting "the provisions".

(c) ADDITIONAL VIOLATIONS FOR MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.—Section 536(b) of the National Housing Act (12 U.S.C. 1735f–14(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following:

"(2) The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a principal, officer, or employee of a mortgagee or lender, or other participants in either an insured mortgage or title I loan transaction under this Act or provision of assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers for—

"(A) submission to the Secretary of information that was false, in connection with any mortgage insured under this Act, or any loan that is covered by a contract of insurance under title I of this Act;

"(B) falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity; or

"(C) failure by a loan correspondent or dealer to submit to the Secretary information which is required by regulations or directives in connection with any loan that is covered by a contract of insurance under title I."; and

(3) in paragraph (3), as redesignated, by striking "or paragraph (1)(F)" and inserting "or (F), or paragraph (2) (A), (B), or (C)".

(d) CONFORMING AND TECHNICAL AMENDMENTS.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended—

(1) in subsection (c)(1)(B), by inserting after "lender" the following: "or such other person or entity";

(2) in subsection (d)(1)—

(A) by inserting "or such other person or entity" after "lender"; and

(B) by striking "part 25" and inserting "parts 24 and 25"; and

(3) in subsection (e), by inserting "or such other person or entity" after "lender" each place that term appears.

Part 2—FHA Multifamily Provisions

SEC. 561. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS, OFFICERS, DIRECTORS, AND CERTAIN MANAGING AGENTS OF MULTIFAMILY PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f–15) is amended—

(1) in subsection (b)(1), by striking "on that mortgagor" and inserting the following: "on that mortgagor, on a general partner of a partnership mortgagor, or on any officer or director of a corporate mortgagor";

(2) in subsection (c)—

(A) by striking the subsection heading and inserting the following:

"(c) OTHER VIOLATIONS.—"; and

(B) in paragraph (1)—

(i) by striking "VIOLATIONS.—The Secretary may" and all that follows through the colon and inserting the following:

"(A) LIABLE PARTIES.—The Secretary may also impose a civil money penalty under this section on—

"(i) any mortgagor of a property that includes 5 or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

"(ii) any general partner of a partnership mortgagor of such property;

"(iii) any officer or director of a corporate mortgagor;

"(iv) any agent employed to manage the property that has an identity of interest with the mortgagor, with the general partner of a partnership mortgagor, or with any officer or director of a corporate mortgagor of such property; or

"(v) any member of a limited liability company that is the mortgagor of such property or is the general partner of a limited partnership mortgagor or is a partner of a general partnership mortgagor.

"(B) VIOLATIONS.—A penalty may be imposed under this section upon any liable party under subparagraph (A) that knowingly and materially takes any of the following actions:";

(ii) in subparagraph (B), as designated by clause (i), by redesignating the subparagraph designations (A) through (L) as clauses (i) through (xii), respectively;

(iii) by adding after clause (xii), as redesignated by clause (ii), the following:

"(xiii) Failure to maintain the premises, accommodations, any living unit in the project, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary, except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property.

"(xiv) Failure, by a mortgagor, a general partner of a partnership mortgagor, or an officer or

director of a corporate mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary.

"(xv) Failure to provide access to the books, records, and accounts related to the operations of the mortgaged property and of the project."; and

(iv) in the last sentence, by deleting "of such agreement" and inserting "of this subsection";

(3) in subsection (d)—

(A) in paragraph (1)(B), by inserting after "mortgagor" the following: ", general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property"; and

(B) by adding at the end the following:

"(5) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.";

(4) in subsection (e)(1), by deleting "a mortgagor" and inserting "an entity or person";

(5) in subsection (f), by inserting after "mortgagor" each place such term appears the following: ", general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property";

(6) by striking the heading of subsection (f) and inserting the following: "CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, OFFICERS AND DIRECTORS OF CORPORATE MORTGAGORS, AND CERTAIN MANAGING AGENTS"; and

(7) by adding at the end the following:

"(k) IDENTITY OF INTEREST MANAGING AGENT.—In this section, the terms 'agent employed to manage the property that has an identity of interest' and 'identity of interest agent' mean an entity—

"(1) that has management responsibility for a project;

"(2) in which the ownership entity, including its general partner or partners (if applicable) and its officers or directors (if applicable), has an ownership interest; and

"(3) over which the ownership entity exerts effective control.".

(b) IMPLEMENTATION.—

(1) PUBLIC COMMENT.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. The notice shall seek comments primarily as to the definitions of the terms "ownership interest in" and "effective control", as those terms are used in the definition of the terms "agent employed to manage the property that has an identity of interest" and "identity of interest agent".

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act.

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of the final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after that date.

SEC. 562. CIVIL MONEY PENALTIES FOR NONCOMPLIANCE WITH SECTION 8 HAP CONTRACTS.

(a) BASIC AUTHORITY.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) by designating the second section designated as section 27 (as added by section 903(b) of Public Law 104–193 (110 Stat. 2348)) as section 28; and

(2) by adding at the end the following:

"SEC. 29. CIVIL MONEY PENALTIES AGAINST SECTION 8 OWNERS.

"(a) IN GENERAL.—

"(1) EFFECT ON OTHER REMEDIES.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

"(2) FAILURE OF SECRETARY.—The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

"(b) VIOLATIONS OF HOUSING ASSISTANCE PAYMENT CONTRACTS FOR WHICH PENALTY MAY BE IMPOSED.—

"(1) LIABLE PARTIES.—The Secretary may impose a civil money penalty under this section on—

"(A) any owner of a property receiving project-based assistance under section 8;

"(B) any general partner of a partnership owner of that property; and

"(C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

"(2) VIOLATIONS.—A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

"(A) failure to provide decent, safe, and sanitary housing pursuant to section 8; or

"(B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

"(3) AMOUNT OF PENALTY.—The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

"(c) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

"(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

"(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

"(2) FINAL ORDERS.—

"(A) IN GENERAL.—If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

"(B) EFFECT OF REVIEW.—If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

"(C) FAILURE TO REVIEW.—If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

"(A) the gravity of the offense;

"(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);

"(C) the ability of the violator to pay the penalty;

"(D) any injury to tenants;

"(E) any injury to the public;

"(F) any benefits received by the violator as a result of the violation;

"(G) deterrence of future violations; and

"(H) such other factors as the Secretary may establish by regulation.

"(4) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.

"(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—Judicial review of determinations made under this section shall be carried out in accordance with section 537(e) of the National Housing Act.

"(e) REMEDIES FOR NONCOMPLIANCE.—

"(1) JUDICIAL INTERVENTION.—

"(A) IN GENERAL.—If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

"(B) FEES AND EXPENSES.—Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

"(2) NONREVIEWABILITY OF DETERMINATION OR ORDER.—In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

"(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(g) DEPOSIT OF PENALTIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is insured or formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this Act, as determined by the Secretary.

"(2) EXCEPTION.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

"(h) DEFINITIONS.—In this section—

"(1) the term 'agent employed to manage the property that has an identity of interest' means an entity—

"(A) that has management responsibility for a project;

"(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

"(C) over which such ownership entity exerts effective control; and

"(2) the term 'knowing' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.

(c) IMPLEMENTATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment.

(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms "ownership interest in" and "effective control", as such terms are used in the definition of the term "agent employed to manage such property that has an identity of interest".

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act.

SEC. 563. EXTENSION OF DOUBLE DAMAGES REMEDY.

Section 421 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715z–4a) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by striking "Act; or (B)" and inserting the following: "Act; (B) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under section 202 of the Housing Act of 1959 (including property subject to section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held by the Secretary under section 542 of the Housing and Community Development Act of 1992, but not reinsured under section 542 of the Housing and Community Development Act of 1992; or (D)"; and

(B) in the second sentence, by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,";

(2) in subsection (a)(2), by inserting after "Act," the following: "under section 202 of the Housing Act of 1959 (including section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990) and under section 542 of the Housing and Community Development Act of 1992,";

(3) in subsection (b), by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,";

(4) in subsection (c)—

(A) in the first sentence, by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,"; and

(B) in the second sentence, by inserting before the period the following: "or, in the case of any project for which the mortgage is held by the Secretary under section 202 of the Housing Act of 1959 (including property subject to section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990), to the project or to the Department for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary, as appropriate"; and

(5) in subsection (d), by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,".

SEC. 564. OBSTRUCTION OF FEDERAL AUDITS.

Section 1516(a) of title 18, United States Code, is amended by inserting after "under a contract or subcontract," the following: "or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary,".

Subtitle D—Office of Multifamily Housing Assistance Restructuring

SEC. 571. ESTABLISHMENT OF OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING.

There is hereby established an office within the Department of Housing and Urban Development, which shall be known as the Office of Multifamily Housing Assistance Restructuring.

SEC. 572. DIRECTOR.

(a) APPOINTMENT.—The Office shall be under the management of a Director, who shall be appointed by the President by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and have a demonstrated understanding of financing and mortgage restructuring for affordable multifamily housing. Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Senate a nomination for initial appointment to the position of Director.

(b) VACANCY.—A vacancy in the position of Director shall be filled in the manner in which the original appointment was made under subsection (a).

(c) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who are citizens of the United States and have a demonstrated understanding of financing and mortgage restructuring for affordable multifamily housing.

(2) FUNCTIONS.—The Deputy Director shall have such functions, powers, and duties as the Director shall prescribe. In the event of the death, resignation, sickness, or absence of the Director, the Deputy Director shall serve as acting Director until the return of the Director or the appointment of a successor pursuant to subsection (b).

SEC. 573. DUTY AND AUTHORITY OF DIRECTOR.

(a) DUTY.—The Secretary shall, acting through the Director, administer the program of mortgage and rental assistance restructuring for eligible multifamily housing projects under subtitle A. During the period before the Director is appointed, the Secretary may carry out such program.

(b) AUTHORITY.—The Director is authorized to make such determinations, take such actions, issue such regulations, and perform such functions assigned to the Director under law as the Director determines necessary to carry out such functions, subject to the review and approval of the Secretary. The Director shall semiannually submit a report to the Secretary regarding the activities, determinations, and actions of the Director.

(c) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Office (but not to contractors, subcontractors, or consultants) any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(d) INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.—

(1) IN GENERAL.—Notwithstanding subsection (a) or (b), the Director shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

(2) REQUIREMENT.—If the Director determines at any time that the Secretary is taking or has taken any action that interferes with the ability of the Director to carry out the duties of the Director under this Act or that affects the administration of the program under subtitle A of this Act in manner that is inconsistent with the purposes of this Act, including any proposed action by the Director, in the discretion of the Director, that is overruled by the Secretary, the Director shall immediately report directly to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding such action. Notwithstanding subsection (a) or (b), any determination or report under this paragraph by the Director shall not be subject to prior review or approval of the Secretary.

SEC. 574. PERSONNEL.

(a) OFFICE PERSONNEL.—The Director may appoint and fix the compensation of such officers and employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(b) COMPARABILITY OF COMPENSATION WITH FEDERAL BANKING AGENCIES.—In fixing and directing compensation under subsection (a), the Director shall consult with, and maintain comparability with compensation of officers and employees of the Federal Deposit Insurance Corporation.

(c) PERSONNEL OF OTHER FEDERAL AGENCIES.—In carrying out the duties of the Office, the Director may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of such agency or department.

(d) OUTSIDE EXPERTS AND CONSULTANTS.—The Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

SEC. 575. BUDGET AND FINANCIAL REPORTS.

(a) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Secretary shall submit a copy of the financial operating plans and forecasts for the Office to the Director of the Office of Management and Budget.

(b) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter thereof, the Secretary shall submit a copy of the report of the results of the operations of the Office during such period to the Director of the Office of Management and Budget.

(c) INCLUSION IN PRESIDENT'S BUDGET.—The annual plans, forecasts, and reports required under this section shall be included (1) in the Budget of the United States in the appropriate form, and (2) in the congressional justifications of the Department of Housing and Urban Development for each fiscal year in a form determined by the Secretary.

SEC. 576. LIMITATION ON SUBSEQUENT EMPLOYMENT.

Neither the Director nor any former officer or employee of the Office who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS–15 of the General Schedule under section 5107 of title 5, United States Code, may, during the 2-year period beginning on the date of separation from employment by the Office, accept compensation from any party (other than a Federal agency) having any financial interest

in any mortgage restructuring and rental assistance sufficiency plan under subtitle A or comparable matter in which the Director or such officer or employee had direct participation or supervision.

SEC. 577. AUDITS BY GAO.

The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to, or used by, the Office shall be made available to the Comptroller General. Audits under this section shall be conducted annually for the first 2 fiscal years following the date of the enactment of this Act and as appropriate thereafter.

SEC. 578. SUSPENSION OF PROGRAM BECAUSE OF FAILURE TO APPOINT DIRECTOR.

(a) IN GENERAL.—If, upon the expiration of the 12-month period beginning on the date of the enactment of this Act, the initial appointment to the office of Director has not been made, the operation of the program under subtitle A shall immediately be suspended and such provisions shall not have any force or effect during the period that ends upon the making of such appointment.

(b) INTERIM APPLICABILITY OF DEMONSTRATION PROGRAM.—Notwithstanding any other provision of law, during the period referred to in subsection (a), the Secretary shall carry out sections 211 and 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997. For purposes of applying such sections pursuant to the authority under this section, the term "expiring contract" shall have the meaning given in such sections, except that such term shall also include any contract for project-based assistance under section 8 of the United States Housing Act of 1937 that expires during the period that the program is suspended under subsection (a).

SEC. 579. TERMINATION.

(a) REPEAL.—Subtitle A (except for section 524) and subtitle D (except for this section) are repealed effective October 1, 2001.

(b) EXCEPTION.—Notwithstanding the repeal under subsection (a), the provisions of subtitle A (as in effect immediately before such repeal) shall apply with respect to projects and programs for which binding commitments have been entered into under this Act before October 1, 2001.

(c) TERMINATION OF DIRECTOR AND OFFICE.—The Office of Multifamily Housing Assistance Restructuring and the position of Director of such Office shall terminate upon September 30, 2001.

(d) TRANSFER OF AUTHORITY.—Effective upon the termination under subsection (c), any authority and responsibilities assigned to the Director that remain applicable after such date pursuant to subsection (b) are transferred to the Secretary.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998".

And the Senate agree to the same.

JERRY LEWIS,
TOM DELAY,
JAMES T. WALSH,
DAVE HOBSON,
JOE KNOLLENBERG,
R.P. FRELINGHUYSEN,
ROGER F. WICKER,
BOB LIVINGSTON,
LOUIS STOKES,
ALAN B. MOLLOHAN,
MARCY KAPTUR,
CARRIE P. MEEK,
DAVID E. PRICE,
DAVE OBEY,
Managers on the Part of the House.

CHRISTOPHER S. BOND,
CONRAD BURNS,
TED STEVENS,
RICHARD SHELBY,
BEN NIGHTHORSE CAMPBELL,
LARRY E. CRAIG,
THAD COCHRAN,
BARBARA A. MIKULSKI,
PATRICK J. LEAHY,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA BOXER,
ROBERT C. BYRD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report.

The language and allocations set forth in House Report 105–175 and Senate Report 105–53 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or Senate have directed the submission of a report, such report is to be submitted to both House and Senate Committees on Appropriations.

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

Appropriates $17,057,396,000 for medical care, instead of $17,006,846,000 as proposed by the House and $17,026,846,000 as proposed by the Senate.

The increase of $98,550,000 consists of the following additions to the budget request:

+$68,000,000 to continue the funding of compensation and pension examinations from the medical care account.

+$30,550,000 as a general increase, subject to approval in the operating plan.

The conferees agree that within the total amount provided, $6,000,000 is to establish the Musculoskeletal Disease Prevention and Treatment Research Center at the Jerry L. Pettis Memorial VA Medical Center in Loma Linda, California. This amount is in addition to the amount that would otherwise be made available to VISN 22.

The conferees wish to emphasize language in the House and Senate reports regarding expanding an outpatient clinic in Williamsport, Pennsylvania; activation costs for construction projects at the medical centers in Wilkes-Barre, Pennsylvania and Phoenix, Arizona; and the demonstration project involving the Clarksburg VA Medical Center and Ruby Memorial Hospital. The VA is urged to establish a community based outpatient clinic in Brookhaven, New York.

Deletes language proposed by the House and stricken by the Senate enabling compensation and pension exams to be directly funded from Veterans Benefits Administration resources. The Administration proposed that the cost of conducting medical examinations with respect to veterans' claims for compensation or pension be reimbursed from the general operating expenses appropriation. The conferees expect the results of a soon to begin pilot program to contract for compensation and pension exams will determine the advisability of this concept.

Delays the availability of $570,000,000 of the medical care appropriation in the equipment and land and structures object classifications until August 1, 1998, instead of delaying the availability of $565,000,000 as proposed by the House and $550,000,000 as proposed by the Senate.

Inserts language as proposed by the House earmarking not to exceed $5,000,000 for a pilot program on the cost-effectiveness of contracting with local hospitals in East Central Florida for the provision of non-emergent inpatient health care needs of veterans. The VA is to submit a report to the Committees on Appropriations on how it plans to conduct the demonstration program prior to implementation.

Inserts modifications to identical language proposed by the House and the Senate making amounts recovered or collected and deposited in the Department of Veterans Affairs Medical Care Collections Fund available for general purposes of the medical care appropriation, including administrative costs associated with collecting such funds. The modifications reflect the authorizing legislation which was enacted subsequent to House and Senate consideration of the appropriations bill. The conference agreement also provides for the availability of any moneys deposited in the Fund due to a shortfall that is in excess of $25,000,000 below the $604,000,000 estimated to be recovered, as authorized in Public Law 105–33, the Balanced Budget Act of 1997. Including this language on shortfalls is scored as costing $15,000,000 in budget authority and $14,000,000 in outlays. The conferees wish to make clear that the $15,000,000 is not the amount that would be made available in the event of a shortfall, rather it is the cost scored for permitting funds deposited by the Secretary of the Treasury to be made available from the Fund to the VA for health care. The actual amount of the funds made available would depend upon the amount of the shortfall. The language proposed by the House in section 108 of the VA administrative provisions dealing with a potential shortfall is deleted due to the enactment of authorizing legislation and language carried under this heading.

The House report contained a request that the General Accounting Office study and report on the effects of Veterans Integrated Service Networks (VISN) and Veterans Equitable Resource Allocation (VERA) processes and their implementation. The report was to be completed in four months. The Secretary was directed, pending receipt of the GAO report, to fund all VISNs at least at the fiscal year 1996 level. The Senate report indicated support for the implementation of VISN and VERA. It also expressed opposition to efforts to thwart VERA. The conference agreement retains the GAO report requirements, modified to direct that the report be completed in nine months. The conference agreement does not direct the VA to fund all VISNs at least at the fiscal year 1996 level.

The conferees support the pilot diabetes project in New England and Hawaii funded through the Department of Defense. The two-year pilot demonstration program shows promise for improved and innovative methods of diabetes detection, prevention, and care.

The conferees encourage VA to examine carefully the work in Detroit associated with the PARMIN, population and resource management information network. The conferees further encourage VA to consider setting aside an appropriate amount for the development and analytical work associated with the PARMIN system, and have the VA report back to the Committees on Appropriations as to the viability of this project within 120 days of enactment of this Act.

MEDICAL AND PROSTHETIC RESEARCH

Appropriates $272,000,000 for medical and prosthetic research, instead of $292,000,000 as proposed by the House and $267,000,000 as proposed by the Senate. The conference agreement includes $10,000,000 for research into Parkinson's disease. The VA is to report to the Committees on Appropriations with detailed plans on how it plans to spend these research funds.

Deletes language proposed by the House and stricken by the Senate earmarking $25,000,000 of the appropriation for medical research relating to Gulf War illnesses afflicting Persian Gulf veterans. The committee of conference is concerned with illnesses reported by some Gulf War veterans. However, the VA indicates that it is not possible to utilize effectively $25,000,000 for such research. The conferees agree that the VA is to utilize $12,500,000 of the appropriation for such purposes, and to submit information with the operating plan on how the funds will be spent. The conferees note that the Federal Government is also spending money on this effort in the Department of Defense, the National Institute of Environmental Health Sciences, and the Centers for Disease Control.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

Appropriates $59,860,000 for medical administration and miscellaneous operating expenses, instead of $60,160,000 as proposed by the House and the Senate. The decrease of $300,000 is a general reduction from the budget request, subject to approval in the operating plan. Additional information on the reduction can be found in this report under the general operating expenses account.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

Appropriates $786,135,000 for general operating expenses, instead of $853,385,000 as proposed by the House and $786,385,000 as proposed by the Senate. This amount includes the following changes to the budget request:

−$68,000,000 requested to fund compensation and pension examinations from the general operating expenses appropriation. Funds for these purposes continue to be included in the medical care account.

+$8,000,000, subject to approval in the operating plan, for activities such as higher than anticipated contracting costs to ensure compliance with Year 2000 computer problems, retaining Veterans Benefits Administration staff to improve the timeliness of processing veterans claims, development and implementation of capacities that will enable effective Department-wide strategic planning and management, information technology priorities delineated in the recent National Academy of Public Administration report, and other priorities recommended by NAPA. Consideration should be given to reprogramming funds from activities identified by NAPA as lower priority, such as VETSNET. The VA should consider this a one-time adjustment to address on-going concerns. Future budget requests are to include adequate funds for administrative costs.

−$150,000 from the $3,630,000 requested for the Office of the Secretary.

−$100,000 from the $2,373,000 requested for the Office of the Assistant Secretary for Congressional Affairs.

The conferees are concerned about the responsiveness of the Department of Veterans Affairs to Congressional inquiries regarding the implementation of the VERA system. The committee of conference directs the Department to communicate with Congress on the development of this new allocation system, as well as all other matters of interest, in a timely and informative manner. The conferees are particularly disturbed by the implementation of the VERA system within VISN 4. It is the understanding of the conferees that the VA failed to provide any information regarding the 40 different funding scenarios that were run in VISN 4 before deciding on a final allocation. Further, some hospitals within VISN 4 received allocations above their budget request, while some hospitals were targeted for cuts. The conferees are concerned that no satisfactory justification for this discrepancy has been provided. Additionally, the committee of conference understands that harsh and unfair personnel policies have been implemented in at least one hospital within VISN 4. The conferees emphasize that such activity will not be tolerated.

In an effort to address these issues, the conferees expect the Department to provide a full and detailed report, not later than December 15, 1997, to the Committees on Appropriations. This report should include but not be limited to: a complete explanation of the funding allocation within VISN 4, including all 40 funding scenarios in the Stars and Stripes Health Care Network, the specific methodology used to reach the final allocation within the VISN 4 network, a detailed justification for any funding increases or decreases provided to any hospital within VISN 4 throughout fiscal year 1997, and a detailed evaluation of the formulas and funding methodology used for the allocation of resources during fiscal year 1997.

Finally, the Secretary, the Assistant Secretary for Congressional Affairs, and the Under Secretary for Health are immediately to take appropriate action to ensure that the agency is more responsive to Congressional inquiries, and that responses to requests for information are timely and provide clear, specific, and forthcoming explanations. The committee of conference directs that $3,480,000 will be available for the Office of the Secretary, a reduction of $150,000 below the budget request. An amount of $2,273,000 will be available for the Office of the Assistant Secretary for Congressional Affairs, a $100,000 reduction below the budget request. The conferees direct that none of the reduction is to be applied to the Congressional liaison offices. An amount of $59,860,000 will be made available for the medical and miscellaneous operating expenses account, a decrease of $300,000 below the budget request. The total amount of these savings, $550,000, will be provided as an increase to the medical care account for providing health care to veterans.

Deletes language proposed by the House and stricken by the Senate enabling compensation and pension medical examinations to be directly funded from Veterans Benefits Administration resources. Such exams will continue to be funded from the medical care appropriation.

Inserts language proposed by the House and stricken by the Senate prohibiting the VA from proceeding with the relocation of loan guaranty divisions of the Regional Office in St. Petersburg, Florida to Atlanta, Georgia. The conferees do not believe the VA has adequately justified the proposed relocation. Any future relocation proposal should include a detailed cost-benefit analysis including comparison of savings for the cost of space and personnel.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

Adds technical change to the bill language for the Veterans Housing Benefit Program Fund Program Account facilitating the transition during fiscal year 1998 from the previous direct and guaranteed housing loan program accounts to the new appropriation. These provisions have recently been requested by the VA, but were not included in either the House or Senate bills.

CONSTRUCTION, MAJOR PROJECTS

Appropriates $177,900,000 for construction, major projects, instead of $159,600,000 as proposed by the House and $92,800,000 as proposed by the Senate. The conference agreement includes the following changes from the budget estimate:

+$26,300,000 for construction of an ambulatory care addition at the Asheville, North Carolina VA Medical Center.

+$21,100,000 for construction of an ambulatory care addition at the Lyons, New Jersey VA Medical Center.

+$7,700,000 for the ward renovations for patient privacy project at the Omaha, Nebraska VA Medical Center.

+$26,000,000 for the environmental improvements project at the Waco, Texas VA Medical Center.

+$4,000,000 for the columbarium component of the development and improvement project at the National Memorial Cemetery of Arizona. This amount is in addition to the $9,100,000 requested and included in the total for major construction for the development and improvement of this cemetery project.

+$12,400,000 for the patient privacy/environmental improvements project at the Pittsburgh, Pennsylvania VA Medical Center.

+$900,000 for planning of a new national cemetery in Oklahoma City, Oklahoma.

Inserts language proposed by the Senate making $32,100,000 earmarked in the 1997 Appropriations act for a replacement hospital at Travis Air Force Base available to implement the recommendations contained in the final report entitled "Assessment of Veterans' Health Care Needs in Northern California," modified to make such funds generally available for major construction projects approved in the budgetary process. This $32,100,000 together with $38,700,000 provided in previous Appropriations Acts for the replacement for the hospital at Martinez, makes a total of $70,800,000 available for capital funding for construction projects in northern California. Instead of a replacement hospital to be built at David Grant Medical Center at Travis Air Force Base, the VA recommends capital funding for a project in northern California which consists of the following elements:

$48,000,000 to renovate and add to the existing McClellan Hospital at Mather Field, Sacramento, California, for VA inpatient and outpatient services.

$13,500,000 to construct a new VA outpatient clinic at Travis Air Force Base, Fairfield, California.

$3,100,000 to upgrade the existing outpatient clinic at the former Mare Island Naval Shipyard, Vallejo, California, for a VA outpatient clinic.

$3,200,000 to upgrade the existing VA outpatient clinic at Martinez, California, and

$3,000,000 to develop new VA outpatient clinics at Auburn, Chico, Eureka, and Merced, California.

In addition to these capital plans, the VA has reached agreement with the Department of Defense about the Air Force making available up to 100 beds at David Grant Medical Center to provide inpatient care associated with the VA outpatient clinic to be built there. The conferees understand that the VA will pursue contracting arrangements with community health care facilities in Martinez and Redding, California, to improve access to inpatient services for veterans in those areas.

The conferees agree with the utilization of the $70,800,000 in previously appropriated funds for the construction of facilities in northern California as proposed by the VA and outlined in this statement. The conferees agree with increasing to 100 the number of inpatient beds at Travis, and contracting the community health care facilities in Martinez and Redding for inpatient services. This plan will provide better access to health care services for the veterans in northern California and save funds.

The conferees recognize that the cost estimates are tentative and expect the VA to notify the Committees on Appropriations of any changes in the cost estimates for the individual components of this single project prior to proceeding to construction bid. The conferees also recognize that the majority of the plan requires authorization by the legislative committees, and anticipate that the construction authorization process will proceed in a timely manner so as to benefit veterans in northern California.

Deletes language proposed by the House and the Senate requiring the General Accounting Office to review and report on construction projects where obligations are not incurred within prescribed time limitations. The VA is still required to report all such delays in obligating major construction funds to the Committees on Appropriations.

CONSTRUCTION, MINOR PROJECTS

Appropriates $175,000,000 for construction, minor projects, instead of $176,500,000 as proposed by the House and $166,300,000 as proposed by the Senate. The amount provided includes funds for the following activities:

+$1,500,000 for the expansion of the existing National Cemetery in Mobile, Alabama.

+$1,500,000 to increase the number of niches at the columbarium at the National Memorial Cemetery of the Pacific by 5,000.

The conferees urge the VA to utilize the balance of the addition to increase funding for converting inpatient space to outpatient activities use.

The conferees note the recent request for approval of a reprogramming request of construction, major projects funds to complete the third floor of the Regional Office in Jackson, Mississippi. The proposed reprogramming request of $1,000,000 for the project in Jackson is approved.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

Appropriates $80,000,000 for grants for construction of State extended care facilities as proposed by the Senate, instead of $54,500,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS

Deletes language proposed by the House and stricken by the Senate in section 108 assuring that, upon enactment of legislation establishing the Medical Collection Fund, $579,000,000 shall be available for veterans medical care if a shortfall in recoveries in excess of $25,000,000 occurs. The enactment of authorizing legislation and language carried under the medical care appropriation provide such assurance. The committee of conference wishes to make clear that the VA is expected to take all actions necessary to meet or exceed the amount of funds projected to be collected.

Inserts language proposed by the Senate in section 108 restoring the authority of the VA to request waivers of the home residency requirement for doctors employed at VA medical facilities on J–1 visas.

Deletes language proposed by the Senate in section 109 limiting the use of the locality pay differential to provide a pay increase to an employee transferred as a result of charges of sexual harassment. The conferees wish to make clear that the VA Secretary is to take all appropriate steps to ensure that a "zero tolerance" policy toward sexual harassment is implemented in all VA facilities and offices, including the strongest possible sanctions against employees engaging in such practices.

Inserts language, section 109, extending the availability of previously appropriated funds for a capital lease. This administrative provision was not included in either the House or Senate bills. Without this language, certain funds for a multi-year capital lease would lapse and the VA would be required to, in effect, pay twice for the lease.

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

Appropriates $9,373,000,000 for the housing certificate fund instead of $10,393,000,000 as proposed by the House and $10,119,000,000 as proposed by the Senate. Of this amount, $8,180,000,000 is provided for expiring or terminated section 8 project-based and tenant-based subsidy contracts instead of $9,200,000,000 as proposed by the House and $8,666,000,000 as proposed by the Senate. Additionally, $850,000,000 is provided for section 8 amendments as proposed by the House instead of $1,110,000,000 as proposed by the Senate. Finally, $40,000,000 is earmarked for section 8 certificates and vouchers necessary to relocate any nonelderly, disabled persons and their families who choose to move from a project designated for elderly persons only, as proposed by the Senate, rather than $50,000,000 as proposed by the House. Language is included to make the requirements for using these funds more flexible. Additional language is included to clarify that eligible residents may receive section 8 enhanced vouchers, also known as "sticky" vouchers, if an owner of the property chooses to prepay the outstanding indebtedness as authorized under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (Preservation Program or LIHPRHA).

SECTION 8 RESERVE PRESERVATION ACCOUNT

The conferees agree to provide HUD with authority to maintain a section 8 Reserve Preservation Account for the purpose of collecting recaptured excess section 8 reserve funds.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The conferees agree to rescind $550,000,000 of recaptured section 8 reserve funds.

PUBLIC HOUSING CAPITAL FUND

The Senate proposed language setting aside funds for the Economic Development and Supportive Services (EDSS) program within the Public Housing Capital Fund. The conferees have instead included this language within the Community Development Block Grants (CDBG) account as proposed by the House. Language is added to the Public Housing Capital Fund account to clarify that HUD may spend up to $5,000,000 for the Tenant Opportunity Program as proposed by the Senate.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

Appropriates $310,000,000 for the Drug Elimination Grants program, including $20,000,000 for the "New Approach Anti-Drug Program," instead of funding this new program with a $30,000,000 set-aside within the CDBG account, as proposed by the Senate. The House did not appropriate funds for this purpose.

The "New Approach Anti-Drug Program" authorizes HUD to make competitive grants to entities managing or operating public housing developments, federally assisted multifamily housing developments or other multifamily housing developments for low-income families supported by non-Federal governmental entities or nonprofits. The funds may be used to provide, augment, or assist in the investigation and/or prosecution of drug-related criminal activity in and around low-income housing, and to provide assistance for capital improvements directly related to security. The conferees note that none of the funds under this account should be used to reduce the local cost of and responsibility for law enforcement activities with Federal funding.

Appropriates $10,000,000 for the Office of Inspector General for Operation Safe Home as proposed by the House instead of $5,000,000 as proposed by the Senate.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

Appropriates $550,000,000 to revitalize severely distressed public housing as proposed by the Senate instead of $524,000,000 as proposed by the House. Of the total amount appropriated, $10,000,000 is provided for technical assistance as proposed by the Senate instead of $5,000,000 as proposed by the House. Additionally, as proposed by the Senate, a new demonstration to demolish obsolete elderly public housing projects is funded at $26,000,000 rather than $50,000,000 as proposed by the Senate, with a specific set-aside of up to $10,000,000 for Heritage House in Kansas City, Missouri.

The conferees direct HUD to provide an evaluation of the current status of the HOPE VI program and report to Congress by June 30, 1998. This report should identify and analyze public housing facilities which are eligible for funding as obsolete public housing under the new demonstration program, and should include recommendations on innovative approaches to revitalizing this housing so it meets the special needs of the elderly and the disabled. Finally, the conferees request HUD to advise the Congress on the current extent, status, and cost of deferred maintenance for the entire public housing stock, and to include recommendations on innovative ways for public housing agencies to address more effectively these maintenance needs through the Public Housing Capital Fund and through other funding sources and approaches.

NATIVE AMERICAN HOUSING BLOCK GRANTS

Appropriate $600,000,000 for Native American Housing Block Grants instead of $650,000,000 as proposed by the House and $485,000,000 as proposed by the Senate.

The conferees agree to provide $5,000,000 for the loan guarantee program authorized under section 601 of the Native American Housing Assistance and Self-Determination Act as proposed by the Senate. The House did not provide funds for this program. Like the Native American Housing Block Grants program, the section 601 program is less than one year old. The program was developed to provide Native Americans the ability to gain access to private investment and capital from financial institutions, builders, and nonprofits. This access is necessary if tribes are to improve their economic conditions and reduce housing shortages. At this time, however, few tribes have the financial expertise to utilize the section 601 program effectively. Therefore, for fiscal year 1998, HUD is directed to provide these funds on a demonstration basis to tribes that have experience with complex financial transactions and to study carefully their use so that lessons learned may be incorporated into regulations regarding implementation of this program throughout Indian areas.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

Appropriates $5,000,000 for the cost of guaranteed loans instead of $3,000,000 as proposed by the House and $6,000,000 as proposed by the Senate. This amount will subsidize total loan principal not to exceed $73,800,000.

CAPITAL GRANTS/CAPITAL LOANS PRESERVATION ACCOUNT

Appropriates $10,000,000 for Capital Grants/Capital Loans Preservation, instead of no funds, as proposed by the House. The Senate proposed to fund prepayments with any excess interest reduction payment funds and included additional reforms to the existing program.

To compensate organizations that incurred costs of appraisals and preparing plans of action, the conferees agree to provide $10,000,000. However, the conferees do not intend to imply that any costs associated with this program constitute an obligation of HUD. The award of close-out costs are to be determined in the sole discretion of the Secretary.

In addition, the conferees emphasize that adequate funding is provided under the section 8 contract renewal account to provide enhanced vouchers to eligible low- or moderate-income families residing in a federally-assisted project eligible for the Preservation program on the date of the prepayment of voluntary termination.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Includes language authorizing HUD to provide grants, of no more than $250,000, to nonprofit organizations that deliver meals to homebound persons who suffer from acquired immunodeficiency syndrome, as proposed by the House. The Senate did not include this provision.

COMMUNITY DEVELOPMENT BLOCK GRANTS

Appropriates $4,675,000,000 for the Community Development Black Grants program, instead of $4,600,000,000 as proposed by the House and Senate, to avert decreases in funding allocations that may be caused by the increased number of set-asides. For the Economic Development and Supportive Services Program, $55,000,000 is provided, including a set-aside of up to $5,000,000 for the Moving to Work program. Within the $55,000,000 provided for economic development and supportive services, the conferees have specified that no less than $7,000,000 shall be used for grant for service coordinators and congregate services for the elderly and disabled. The conferees understand this amount to be sufficient to renew all service coordinator and congregate services grants expiring in fiscal year 1998, and intend that all such grants be renewed except in cases where HUD has a specific reason (such as poor performance by the grantee or lack of continuing need) not to renew a particular grant. The conferees emphasize that the $7,000,000 is not a ceiling or target for spending on service coordinators and congregate services, but rather simply an absolute floor to ensure that sufficient funding is reserved for renewals before other allocations are made. The conferees consider service coordinators and other supportive services to be valuable tools for promoting self-sufficiency and improving the quality of life of elderly and disabled residents of public and assisted housing.

For grants pursuant to section 107, the conferees provide $32,000,000 instead of $25,100,000 as proposed by the House and $30,000,000 as proposed by the Senate, and $7,500,000 for the Community Outreach Partnership Program instead of $11,500,000 as proposed by the House and $12,500,000 as proposed by the Senate. Targeted set-asides within these accounts are moved to the Economic Development Initiative program.

Additionally, the conferees agree to appropriate $16,700,000 for grants to self-help housing provided pursuant to section 11 of the Housing Opportunity Program Extension Act of 1996, as proposed by the House; $35,000,000 for YouthBuild as proposed by the Senate rather than $30,000,000 as proposed by the House; and $15,000,000 for Capacity Building for Community Development and Affordable Housing, as authorized under section 4 of the HUD Demonstration Act of 1993, rather than $30,000,000 as proposed by the Senate. The House did not provide funds for this program. Language was included to limit these funds to the original grantees under section 4.

In providing $35,000,000 for YouthBuild, the conferees have demonstrated that they support the maintenance and expansion of the YouthBuild program. However, in order to promote a comprehensive approach for supporting and expanding YouthBuild, the Secretary is directed to coordinate with the Secretaries of Labor, Health and Human Services, and Education, and the Attorney General, as well as the Directors of School-to-Work Opportunities, the Corporation for National and Community Service, and the Job Corps, in conjunction with YouthBuild USA, in the development and implementation of a plan for expansion of YouthBuild. Youth Build is a comprehensive program that has relevance for all of these agencies.

Appropriates $138,000,000 for the Economic Development Initiative instead of $50,000,000 as proposed by the Senate and $40,000,000 as proposed by the House. Targeted grants are provided for the following special projects:

—$3,000,000 to the City of Highland, California, to redevelop the Fifth Street Bridge;

—$50,000 to the Cheltenham Township in Cheltenham, Pennsylvania, to restore the Cheltenham Park;

—$250,000 to the City of Jacksonville, Florida, for the Tallyrand Redevelopment Project;

—$15,000 to the Arab Police Department in Arab, Illinois, for the Multidepartmental Training Complex;

—$1,250,000 to the Stevens Institute of Business Technology in Hoboken, New Jersey, for the construction of the Laboratory for Business Innovation;

—$250,000 to the County of Inyo, California, to plan and design the Lower Owens River project;

—$50,000 to Springfield Township, Pennsylvania, for the purpose of Springfield's park restoration;

—$400,000 for the National Center for Appropriate Technology in Butte, Montana, for the purpose of making improvements in the energy efficiency of low-income housing;

—$200,000 to Ohio Wesleyan University in Delaware, Ohio, for the purpose of renovating Edgar Hall;

—$1,000,000 to the Garden State Cancer Center in Belleville, New Jersey, for the purpose of diagnosis, detection, and treatment of cancer utilizing such radioimmunodetection and radioimmunotherapy technology;

—$250,000 to the County of San Bernardino, California, for economic development at Norton Air Force Base;

—$50,000 to the City of Norristown Borough in Norristown, Pennsylvania, for recreational park development and open space preservation;

—$500,000 to Olive Crest Homes and Services for Abused Children in Perris, California;

—$50,000 to Landsdale Borough in Landsdale, Pennsylvania, for recreational parks development and open space preservation;

—$200,000 to the National Afro-American Museum in Wilberforce, Ohio, for an educational training program;

—$150,000 to the City of San Diego, California, for the Beach Area Low Flow Storm Diversion program and safety needs;

—$1,000,000 to the World Congress on Information Technology in Fairfax, Virginia;

—$600,000 to the City of Kendleton, Fort Bend County, Texas, for the upgrading of the sewer and water system;

—$2,000,000 to the Long Island Jewish Medical Center in New Hyde Park, New York;

—$1,500,000 to the Southeastern Pennsylvania Consortium for Higher Education for the purpose of data collection applicable to social public policy;

—$50,000 to the Roslyn Boys and Girls Club in Roslyn, Pennsylvania, for the completion of renovations;

—$500,000 to the Clark County Heritage Center in Springfield, Ohio, for the purpose of acquiring, remodeling, and equipping the Old Marketplace;

—$1,350,000 to Buena Vista University in Buena Vista County, Iowa, for the Distance Learning Center for Community Outreach and Development;

—$1,000,000 to the City of Mandeville, Louisiana, to develop a trailhead along the Tammany Trace Rails-to-Trails;

—$2,000,000 to Goodwill Industries of Northeast Pennsylvania in Scranton, Pennsylvania, to renovate and convert the North Scranton Intermediate School into low-income elderly housing;

—$900,000 to the Museum of Science and Industry in Chicago, Illinois, for the purpose of restoring a U505 submarine;

—$1,750,000 to the Alliance Community Hospital in Alliance, Ohio, for the purpose of developing the Eldercare Complex;

—$250,000 to the Boys and Girls Club of Greater Washington, D.C., for the purpose of creating a Capitol Hill Youth Anti-Crime program;

—$450,000 to Rural Enterprises in the City of Durant, Oklahoma, for the purpose of assisting businesses in economically distressed rural areas;

—$350,000 to the Esperanza Community Housing Corporation, $250,000 to the Central

American Resource Center, and $150,000 to the Little Tokyo Service Center in Los Angeles, California, for the purpose of implementing job training, career development, and affordable housing programs;

—$350,000 to the Plymouth Renewal Center in Louisville, Kentucky, for renovating and providing tutoring, counseling and training programs for at-risk youths;

—$500,000 to the City of Baldwinville, New York, for the purpose of participating in and revitalizing areas around the Canal Corridor Initiative;

—$1,000,000 for Pennsylvania Education and Telecommunications Exchange Network (PETE NET), for the purpose of developing a resource-sharing network;

—$2,000,000 to the Kentucky Highlands Investment Corporation in London, Laurel County, Kentucky, for the purpose of assisting start-up and expanding enterprises;

—$500,000 for Onondaga Community College, in Onondaga County, New York, for the Applied Technology Center;

—$1,500,000 to the Geyserville Visitors Center in Sonoma County, California, for the purpose of a visitors and intermodal transportation center;

—$1,135,000 to the Canaan Community Development Corporation in Louisville, Kentucky, for the purpose of promoting entrepreneurial opportunities in economically deprived areas;

—$500,000 for the Syracuse Community Health Center in Syracuse, New York, for the purpose of establishing accessible health care centers;

—$3,220,000 for enlarging and updating the Scarborough Library at Shepherd College in Shepherdstown, WV;

—$2,000,000 for the State of Maryland for brownfields activities in the Baltimore, MD metropolitan region;

—$2,000,000 for Ogden Utah, for the economic redevelopment of downtown Ogden, UT;

—$2,000,000 for the renovation of the Albright-Knox Art Gallery in Buffalo, NY;

—$400,000 for the completion of a regional landfill in Charles Mix County, SD;

—$2,500,000 for the construction of a building related to the Bushnell Theater in Hartford, CT;

—$2,500,000 for exhibit and program development at Discovery Place in Charlotte, NC;

—$600,000 for the development of the West Maui Community Resource Center in West Maui, HI;

—$1,350,000 for the renovation of the Paramount Theater in Rutland, VT;

—$250,000 for the Vermont Science Center in St. Albans, VT;

—$900,000 for the Lake Champlain Science Center in Burlington, VT;

—$350,000 for Rutland County Community Land Trust to restore low-income housing throughout the Rutland City, Vermont, area;

—$2,000,000 for the renovation of the Tapley Street Operations Center in Springfield, MA;

—$2,000,000 to develop abandoned industrial sites in the city of Perth Amboy, NJ;

—$2,500,000 to the New Mexico Office of Cultural Affairs for the New Mexico Hispanic Cultural Center;

—$400,000 for the Riverbend Research and Training Park in Post Falls, ID;

—$2,500,000 in total funding to the University of Missouri including $2,000,000 for the plant genetics research unit and $500,000 for the Delta Research Telecommunications Resource Center;

—$2,000,000 for the Cleveland Avenue YMCA in Montgomery, AL, to build a cultural arts center;

—$1,000,000 for Covenant House in Anchorage, AK;

—$80,000 to complete construction of the senior center in the city of East Providence, Rhode Island;

—$350,000 for Kids Bridge/New Jersey's Learning Museum to renovate a site in Red Bank, Monmouth County, New Jersey;

—$650,000 for the East Los Angeles Community Union (TELACU) to revitalize the economy of East Los Angeles, California;

—$1,000,000 to the Journey Museum in Rapid City, SD, for Native American and minority outreach program;

—$500,000 for infrastructure development in Puna, HI;

—$500,000 for a washeteria and related water facilities for Sheldon Point, Alaska;

—$1,500,000 for training facilities and equipment for Alaska One;

—$500,000 to Southwest Economic Development Community Development Corporation of Seattle, WA, for Rainer Valley Square;

—$500,000 for the completion of The CORE Center in Chicago, IL, a free-standing, specialized, outpatient, HIV and Infectious Disease Center;

—$1,000,000 for training facilities and equipment in the City of Jackson, Mississippi for a downtown multimodal transit center (phase II);

—$1,000,000 for the Carter County Chamber of Commerce for trade and development activities for Carter County, Montana;

—$500,000 for expansion of the community health center in Allendale, SC;

—$600,000 to University of New Orleans in New Orleans, LA, for Revitalization of Central Cities;

—$1,000,000 for Morgan State University in Baltimore, MD, for studies related to fields of science and mathematics;

—$2,000,000 for the expansion and start-up costs associated with the expansion of Hofstra University's Business Development Center;

—$1,000,000 for community development activities at LeClede Town in St. Louis, MO;

—$1,500,000 for the University of Colorado for its Health Sciences Center;

—$2,000,000 to the City of Compton, California, for revitalizing distressed areas;

—$700,000 for the Philadelphia Development Partnership for economic development in Philadelphia, PA;

—$700,000 for Lehigh Valley, PA, for the development of an aquatic and fitness center;

—$1,850,000 to Coastal Enterprises, Inc. of Wiscasset, Maine, for its economic development and rural housing programs;

—$550,000 to the Town of Easthampton, Massachusetts, for the purchase and refurbishment of a new senior center facility;

—$950,000 to Memorial Health Care, Inc. for establishment of the Community Health Care Center of Central Massachusetts in Worcester, Massachusetts;

—$950,000 to the Regional Center for Economic, Community, and Professional Development of the University of North Carolina at Pembroke, for construction of a centralized facility;

—$950,000 to the Turtle Mountain Community College in North Dakota, for completion of the Turtle Mountain Economic Development and Education Complex;

—$950,000 to the Ruskin Tropical Aquaculture Laboratory in Ruskin, Florida, for construction and equipment for a hatchery, nutrition laboratory and water quality laboratory;

—$500,000 to the to the City of Murfreesboro, Tennessee, for renovation work at the Bradley Academy;

—$450,000 to the City of Hobart, Indiana, for water and sewer line installation in the Green Acres subdivision;

—$2,400,000 to the Metropolitan Miami Action Plan to initiate the revitalization of the Overtown section of Miami, Florida;

—$1,400,000 to the City of Toledo, Ohio, for the continued revitalization of the downtown, near downtown corridor, and community service centers;

—$150,000 to "Friends of George C. Marshall" of Uniontown, Pennsylvania, for development of the George C. Marshall Memorial Plaza in Uniontown;

—$400,000 to the Eureka Coal Heritage Foundation, Inc. of Windber, Pennsylvania, for renovation of the Arcadia Theater;

—$200,000 to Barnesboro Borough, Pennsylvania, for construction of the West Branch Timber Pedestrian Bridge;

—$550,000 to the Indiana Free Library, Inc. of Indiana, Pennsylvania, to upgrade and renovate the Indiana Free Library;

—$1,200,000 to the Pacific Science Center in Seattle, Washington, for refurbishment and expansion;

—$500,000 to the California Science Museum Foundation in Los Angeles for planning and design of the Pacific Environmental Interactive Center;

—$400,000 to Chicanos Por La Causa for construction of a small business incubator facility in Phoenix, Arizona;

—$100,000 to the Urban League of Metropolitan St. Louis, Mo, for purchase and renovation of a building to house its Community Outreach Center;

—$50,000 to the Harambee Institute of St. Louis, Missouri, for purchase and renovation of an arts education facility;

—$100,000 to the St. Louis Black Repertory Company of St. Louis, Missouri, for purchase, expansion and renovation of a facility;

—$100,000 to Better Family Life, Inc. of St. Louis, Missouri, for construction of a new facility to expand existing school-based programs and cultural programs;

—$50,000 to the Portfolio Gallery and Educational Center of St. Louis, Missouri, renovation and expansion of its cultural arts training and education facility;

—$50,000 to the City of Wellston, Missouri, for revitalization of its city hall;

—$50,000 to the City of Kinloch, Missouri, to assist with the city's housing revitalization efforts;

—$400,000 to Columbia University in New York City for its Audubon Research Park;

—$100,000 to the Hebrew Academy for Special Children for its school in Rockland County, New York;

—$500,000 to Community Build, Inc. of Los Angeles, for development of a business incubator and technology center;

—$500,000 to Children's Hospital of Oakland, California, for construction of research and laboratory facilities as part of the Martin Luther King, Jr. Plaza project;

—$500,000 to Nazareth College of Rochester, New York, for library renovation, expansion and equipment;

—$500,000 to the to the Center for International Business Education at the University of San Francisco for a model program for training in international commerce, environmental management and business ethics;

—$500,000 for the Urban League of Greater Cleveland, Ohio, for programs in the area of employment, job training, education, housing, and/or elderly services;

—$500,000 for the Harvard Community Services Center of Cleveland, Ohio, to expand the intergenerational program involving youth and senior citizens;

—$300,000 to the Helen S. Brown Senior Citizens Center of East Cleveland, Ohio, to complete the renovation of the Center and for expansion of elderly services;

—$500,000 to Project East, Inc., DBA East Cleveland Straight Talk, of Shaker Heights, Ohio, for substance abuse counseling and prevention services;

—$500,000 to the Health and Education Institute of the Olivet Housing and Community Development Corporation of Cleveland, Ohio, for health and education initiatives and services;

—$600,000 to the City of Grafton, West Virginia, for economic development, community revitalization and housing-related activities;

—$350,000 to Preston County, West Virginia, to be distributed as follows: $175,000 for Arthurdale Heritage, Inc. and $175,000 for the Kingwood MainStreet program to pursue economic development, downtown revitalization, and historic preservation initiatives;

—$450,000 to the City of Parkersburg, West Virginia, for economic development and community revitalization efforts;

—$800,000 to the City of Lorain, Ohio, for health care conversion initiative at the site of the former St. Joseph's Hospital;

—$200,000 to the Hampton University Aviation Maintenance Training Learning Center of Hampton, Virginia, to continue the development of courseware central to the curriculum;

—$100,000 to the Diabetes Institute of Hampton, Virginia, to assist in the development of diagnostic and treatment protocols;

—$50,000 to the Hampton City Schools Achievable Dream Program in Hampton, Virginia; and

—$500,000 for the Callaway, Florida, Waste Water Expansion Program, to assist with the city's water separation and expansion plans.

Language is included providing that cleanup and redevelopment of areas deemed to be Brownfields are eligible activities under CDBG as proposed by the Senate, and to exempt a grant for Oglesby, Illinois, from the public comment waiting period for an environmental assessment as proposed by the House.

Language is included to create a new rural economic development program funded at $25,000,000 instead of $42,000,000 as proposed by the Senate. HUD is required to target up to $4,000,000 each to areas in Alaska, Missouri, and Iowa.

Additionally, $25,000,000 is included for a Neighborhood Initiative program to test whether housing benefits can be integrated more effectively with welfare reform initiatives. Of the amount made available, $15,000,000 is provided to the County of San Bernardino, California, to implement its neighborhood initiative program. The County of San Bernardino should work with the cities of San Bernardino, Highland, and Redlands in designing its initiative.

The conferees encourage HUD, when awarding the Neighborhood Initiative funds, to consider the following factors: 1) economic development strategies that utilize local community-based partnerships between businesses, non-profits and the public sector; 2) neighborhood revitalization efforts that integrate sustainable community and building design processes; 3) input by residents and other stakeholders; 4) creation of homeownership opportunities; 5) links between housing programs and welfare reform initiatives in the neighborhood; and 6) links between workforce development strategies and economic development strategies.

Finally, a new provision is included that limits the use of the $500,000,000 made available under the Community Development Block Grants account in the 1997 Emergency Supplemental Appropriations Act to not more than $3,500,000 for the non-Federal cost-share of a levee project at Devils Lake, North Dakota. The conferees direct that the remaining emergency CDBG funds originally allocated by HUD for this project be made available to the State of North Dakota for other emergency activities consistent with the intent of the Supplemental Appropriations and Rescissions Act of 1997 (Public Law 105–18). In addition, HUD is directed to provide the State of North Dakota with a waiver allowing it to use its annual CDBG allocation for any remaining portion of the non-Federal cost-share of this project. Finally, language is included that prohibits HUD from providing any additional waivers in excess of $100,000 in emergency CDBG funds for the non-Federal cost-share of projects funded by the Secretary of the Army through the Corps of Engineers.

This provision was added recognizing the serious risk of flooding facing the community of Devils Lake while addressing serious concerns that emergency CDBG funding has become an unregulated fund of Federal dollars which are allocated without regard to standard requirements or adequate oversight. The conferees are very concerned that the unregulated use of CDBG funds will lead to uses which are unintended and bear little relation to the broad requirements of the traditional CDBG program. The growth of costs and the increasingly broad uses for emergency activities associated with both the CDBG program and the Federal Emergency Management Agency programs are troubling to the conferees, especially because these costs threaten the ability of the VA/HUD Appropriations Subcommittees to fund adequately the other programs within their jurisdiction.

BROWNFIELDS REDEVELOPMENT

The conferees have included $25,000,000 to fund HUD's contribution to resolving Brownfields problems. This funding is to be used for activities eligible under the CDBG program. The conferees direct HUD to coordinate activities with other agencies responsible for environmental clean up activities and to provide the committees of jurisdiction with semi-annual reports describing coordinated efforts and an explanation of how this program, which has no specific authorization, will be implemented.

EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Appropriates $5,000,000 for empowerment zones and enterprise communities for planning purposes. The Senate proposed to fund the program at $25,000,000 and the House did not include funds for this purpose. The conferees expect HUD to develop guidelines for implementing this program.

Furthermore, HUD is directed to ensure that the ongoing evaluation by Abt Associates evaluates the performance of existing EZ/ECs. The study shall measure the success of existing EZ/ECs in meeting such objectives as job creation, reducing resident unemployment in the EZ/EC, and enhancing public safety. The study should provide recommendations for improving existing EZ/EC performance and crafting more effective guidelines for strategic plans for any possible future EZ/ECs.

HOME INVESTMENT PARTNERSHIPS PROGRAM

Appropriates $1,500,000,000 for the HOME program, as proposed by the House rather than $1,400,000,000 as proposed by the Senate. Of this amount, $20,000,000 is included for Housing Counseling as proposed by the Senate rather than $15,000,000 as proposed by the House, and $10,000,000 is included for a program to demonstrate ways to expand the secondary market for non-conforming loans as proposed by the House. The conferees underscore their intention that this demonstration focus solely on strategies to expand the secondary market for affordable home mortgage credit from private lenders. The conferees agree that participants in the demonstration should be selected on a competitive basis based on the criteria in the statute and contained in the House report. It is expected that the credibility and impact of the demonstration will be maximized to the extent that the Secretary awards priority in the selection process to organizations which have the following characteristics: 1) statewide or multi-state service areas; 2) sophisticated existing data collection capabilities, including adequate loan portfolio monitoring and analysis systems; 3) a demonstrated strong track record of leveraging public-sector funds for secondary market activities; and willingness to match funds awarded under this section with non-Federal funds; and 4) a mix between rural and urban loans.

HOMELESS ASSISTANCE GRANTS

Deletes language proposed by the Senate which allows HUD to transfer and merge any unobligated balances from Homeless programs into a consolidated account. This issue will be addressed when a consolidated homeless assistance program is authorized and enacted.

HOUSING PROGRAMS

HOUSING PROGRAMS FOR SPECIAL POPULATIONS

Includes language authorizing HUD to utilize amounts appropriated to these programs to provide supportive services as proposed by the Senate. The House did not include such language. The conferees believe it is appropriate that supportive services provided for persons who live in buildings financed with these funds should be paid for from these accounts rather than decreasing the scarce supportive services funds provided for families residing in public and assisted housing.

The conferees reaffirm report language contained in both House and Senate committee reports regarding the Office of Manufactured Housing, but have decided against providing a separate account for that program office.

FEDERAL HOUSING ADMINISTRATION

FHA-MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

Transfers not more than $12,112,000 from amounts derived from the FHA-MMI fund to the Office of Inspector General as proposed by the Senate instead of transferring $7,112,000 as proposed by the House.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

Appropriates $36,500,000 for research and technology related to housing issues instead of $39,000,000 as proposed by the House and $34,000,000 as proposed by the Senate.

The conferees have provided a set-aside of $500,000 from the Department's Research and Technology account for the National Academy of Public Administration (NAPA) to evaluate HUD's efforts to implement needed management systems and processes. Systems to be evaluated include contracting procedures, basic administrative organization, development of personnel requirements based on meaningful measures, and HUD's compliance with the Government Performance and Results Act. This set-aside augments $1,000,000 appropriated under the 1997 Emergency Supplemental Appropriations Act.

Currently, the General Accounting Office (GAO) and the HUD Inspector General (IG) are reviewing HUD's contracting requirements and implementation procedures; therefore, the conferees do not intend for NAPA to duplicate the GAO's and/or the IG's work. It is intended, however, that NAPA's study will complement the other reviews.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

Appropriates $30,000,000 for fair housing activities, $15,000,000 of which is for activities under the Fair Housing Initiatives Program (FHIP) as proposed by the House instead of $10,000,000 for FHIP as proposed by the Senate.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $1,000,826,000 for salaries and expenses instead of $1,005,826,000 as proposed by the House and $954,826,000 as proposed by the Senate. This modest decrease from the budget request is included to encourage the Secretary to be more forthcoming about providing information to Congress when it is requested.

HUD is undergoing Department-wide reorganization to improve delivery of services, management, and performance. The conferees agree that HUD must reorganize the manner in which it operates if it is to survive into the next century. It is the strongly held belief of the conferees that HUD must be in a position, both programmatically and operationally, to provide the highest level of opportunity for Americans to live in decent, safe and affordable homes.

The reorganization plan suggested by HUD involves consolidating offices and program functions. Additionally, the plan implements Congressional direction to decrease staff levels. Because these actions will change the manner in which HUD's services are provided, and where they are provided, Congress must be kept well-informed about how they are to be implemented, how they will impact Congressionally-mandated programs, and how they will affect services at a local level. Accordingly, the conferees direct HUD to provide the information listed below:

Submission Date:

January 15, 1998—1. Cost-benefit analysis of the newly created offices, including the Assessment Center, the Section 8 Center, and the Enforcement Center;

January 15, 1998—2. Schedule of events—rough estimate of dates for plan implementation, including when HUD will undertake and complete significant actions (i.e., new offices, staff moves);

Upon submission of President's Budget Request—3. Annualized funding projections needed to carry out the management plan;

January 15, 1998—4. Explanation of modernization and integration of financial/management information systems and how the systems will develop internal controls and improve HUD's ability to monitor and measure program performance;

January 15, 1998—5. Explanation of the resources (financial, information, staff) needed to effectively manage and operate HUD's core programs; and

Enactment of VA/HUD Appropriations Measure—6. Legal analysis of Dole Amendment applicability to HUD's reorganization plan.

The conferees support the emphasis and function of the Department's proposed Enforcement, Assessment, and Section 8 Centers and do not want to impede these much needed reforms. However, as the Management 2020 plan involves location decisions, including moving staff from Headquarters, until Congress is provided with the information listed above, and the committees of jurisdiction have had a reasonable opportunity to review and to comment upon this information, HUD is directed to take no significant actions that involve geographically relocating staff or entering into binding commitments for office space, as related to the three new proposed center locations: Namely, the Assessment Center, the Enforcement Center, and the Section 8 Center.

OFFICE OF INSPECTOR GENERAL

Appropriates $66,850,000 for the Office of Inspector General as proposed by the House instead of $57,850,000 as proposed by the Senate. Of this amount, $16,283,000 is transferred from various FHA funds as proposed by the Senate instead of $11,283,000 as proposed by the House and $10,000,000 is provided for Operation Safe Home as proposed by the House instead of $5,000,000 as proposed by the Senate.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

Appropriates $16,000,000 for the Office of Federal Housing Enterprise Oversight (OFHEO) rather than $16,312,000 as proposed by the House and $15,500,000 as proposed by the Senate. The conferees are concerned about OFHEO's growth as a bureaucracy instead of as an efficient regulatory office.

Additionally, the conferees encourage OFHEO to meet its primary statutory mission of establishing a balanced and effective risk-based capital standard for the Government Sponsored Enterprises (GSEs), as required under the Housing and Community Development Act of 1992.

ADMINISTRATIVE PROVISIONS

Several provisions included in either the House or Senate bills were not adopted by the conferees. Section numbers have been redesignated accordingly.

Section 201. Extends certain public and assisted housing reforms for this fiscal year, as proposed by the Senate. The House included language regarding minimum rents.

Section 203. Waives the requirement that the City of Oglesby, Illinois, have public hearings concerning an environmental assessment, under the Housing and Community Development Act of 1974, as proposed by the House.

Section 204. Extends a provision that provides an incentive for refinancing projects with FAF bonds to lower the cost of section 8 assistance, as proposed by the Senate.

Section 206. Reprograms $7,100,000 from an industrial park to be used for a Negro Leagues Baseball Museum and jazz museum, as proposed by the Senate.

Section 207. Prohibits prosecution of persons under the Fair Housing Act if the person is engaged in lawful activity, as proposed by the Senate.

Section 208. Requires HUD to maintain public notice and comment rulemaking, as proposed by the Senate.

Section 209. Authorizes cleanup and economic development of Brownfields as an eligible activity under the CDBG program, as proposed by the Senate.

Section 210. Permits partial payment of claims on hospital and health care facilities, as proposed by the Senate.

Section 211. Extends for one year the FHA single family streamlined downpayment program for Alaska and Hawaii as proposed by the Senate. In addition, the conferees direct HUD to study the proposal to streamline the FHA downpayment formula and to explain its impact on the continental United States. The study should examine how the proposed downpayment formula would favorably or adversely affect each State, how it would impact the FHA insurance fund, whether it would improve homeownership opportunities for low- and moderate-income families, and whether it would cause inappropriate competition by the FHA with mortgage insurance companies. The study should be completed by March 1, 1998.

Section 212. Includes language to provide flexibility for a HOPE VI project in New York, as proposed by the Senate.

Section 213. Includes language to provide HUD with flexibility to make rehabilitation grants and loans in disposing of HUD-owned and HUD-held properties, as proposed by the Senate.

Section 215. Includes language to provide financing alternatives to enhanced vouchers in certain section 236 projects.

Section 216. Includes language making a technical correction to the nursing home insurance program.

Section 217. Includes language to preserve funding for existing HOPWA grantees in the State of Wisconsin to correct an anomaly in the formula which can result in the loss of funds for a state when incidence of AIDS in a large city increases. The conferees reaffirm the direction included in the House report for HUD to examine all problems caused by the existing HOPWA formula and recommended improvements.

Section 218. Includes language to cancel the principal and interest due on HUD-guaranteed water and sewer bonds issued by the Village of Robbins, Illinois.

TITLE III—INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

Appropriates $26,897,000 for salaries and expenses as proposed by the House, instead of $23,897,000 as proposed by the Senate.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

Appropriates $4,000,000 for the Chemical Safety and Hazard Investigation Board as proposed by the Senate. The House had provided no funding for the Board.

The funding provided for fiscal year 1998 will permit the Board to begin start-up operations, including the hiring of up to 20 employees through the fiscal year. While the conferees have agreed to provide funding for the Board, they nevertheless remain concerned that the operational costs not become excessive over the next few years. Rather, the conferees expect the Board to make careful, deliberate decisions with respect to the growth and expansion of both operations and staff. The conferees anticipate that a substantial increase in appropriations in the next few years will not be feasible.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

Appropriates $80,000,000 for the Community Development Financial Institutions Fund, instead of $125,000,000 as proposed by the House. The Senate did not provide an appropriation for this account. The conferees have also included in the bill, language restricting the rate of consultants hired by the Fund.

The conferees are aware of and share concerns raised regarding implementation of the program. The conferees recognize and commend the Department of the Treasury for

taking significant steps in recent months to improve systems, procedures, and policies. The conferees agree that action should be taken to ensure, among other things, that: (a) appropriate and timely documentation is provided for the awards process and the evaluation and selection of applicants to receive assistance; (b) all successful applicants are selected pursuant to uniform standards using an objective evaluation system; (c) no individual involved in the evaluation and selection of applicants has a conflict or apparent conflict of interest; (d) none of the funds provided for this program are used for contracts for management or policy consulting services, except for contracts entered into in accordance with federal acquisition regulations with firms having recognized management or policy consulting expertise, or with individuals or firms having recognized expertise in community development lending or investing or services related to review of applications for grants and other awards from the Fund; and (e) ensure sound and impartial administration. The conferees urge the Department to remain diligent in working on systems to ensure proper accountability and management of the Fund's programs.

In place of the General Accounting Office report requested by the Senate, the conferees agree that the GAO should conduct a review of the CDFI program and report to the Congress on the implementation and effectiveness of the program in achieving its goals and objectives.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

Appropriates $45,000,000 for the Consumer Product Safety Commission as proposed by the Senate instead of $44,000,000 as proposed by the House.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

Appropriates $425,500,000 for national and community service programs operating expenses, instead of $200,500,000 as proposed by the House and $420,500,000 as proposed by the Senate.

Limits funds for administrative expenses to not more than $27,000,000, instead of $29,000,000 as proposed by the House and $25,000,000 as proposed by the Senate. This amount includes funds necessary to administer the National Service Trust.

Limits funds for educational awards to not more than $70,000,000, of which not to exceed $5,000,000 shall be available for national service scholarships for high school students performing community service, instead of $69,000,000 and $10,000,000, respectively, as proposed by the House and $59,000,000 and zero, respectively, as proposed by the Senate. The amount for educational awards is higher than the amount in either the House or Senate bill and results from the increase in funding for AmeriCorps grants. The conferees request that the Corporation provide to the Committees on Appropriations a report by June 30, 1998, on the feasibility of privatizing the National Service Trust, including the costs of privatization and recommendations on how privatization could be implemented.

Limits funds for AmeriCorps grants to not more than $227,000,000, instead of $201,000,000 as proposed by the House and $215,000,000 as proposed by the Senate.

Inserts language limiting funds for national direct programs to not more than $40,000,000 as proposed by the Senate. The House did not propose a limitation on national direct programs.

Deletes language proposed by the Senate earmarking $20,000,000 of the appropriation for the America Reads Initiative. The House did not propose such an earmarking. The conference agreement includes $25,000,000 for literacy and mentoring activities.

Deletes language proposed by the Senate restricting other funds available to the Corporation from being used for personnel compensation and other administrative expenses of certain offices. The House did not propose such language. While the conferees are providing this additional flexibility, the Corporation is expected to provide a detailed explanation in the operating plan on how it plans to coordinate the use of administrative funds from any other agency, office or source to administer its operations.

OFFICE OF INSPECTOR GENERAL

Appropriates $3,000,000 for the office of Inspector General as proposed by the Senate, instead of $2,000,000 as proposed by the House.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Appropriates $9,319,000 for salaries and expenses as proposed by the House, instead of $9,320,000 as proposed by the Senate.

ENVIRONMENTAL PROTECTION AGENCY

Appropriates $7,363,046,000 for the Environmental Protection Agency for fiscal year 1998 instead of $7,205,077,000 as proposed by the House and $6,975,920,000 as proposed by the Senate. The conferees note that the budget agreement between the Congress and the Administration called for the "operating programs" of the Agency to be funded at a level totaling just over $3,400,000,000. The funding provided for these operating programs in this agreement totals nearly $3,350,000,000, thus meeting the spirit of this agreement.

As in past years, the conferees agree that the Agency must limit transfers of funds between programs and activities to not more than $500,000, except that for the Environmental Programs and Management account only, the Agency may transfer funds of not more than $500,000 between programs and activities without prior notice to the Committees, and of not more than $1,000,000 without prior approval of the Committees. No changes may be made to any account or program element, except as approved by the House and Senate Committees on Appropriations, if it is construed to be policy or a change in policy. Any activity or program cited in the joint explanatory statement of the committee of conference shall be construed as the position of the conferees and should not be subject to reduction or reprogramming without prior approval. It is the intent of the conferees that all carryover funds in the various appropriations accounts are subject to normal reprogramming requirements as defined herein.

SCIENCE AND TECHNOLOGY

Appropriates $631,000,000 for science and technology instead of $629,223,000 as provided by the House and $600,000,000 as provided by the Senate. The conferees have included new bill language which provides $49,600,000 for a particulate matter research program in lieu of language contained in the House bill.

The conferees have agreed to the following increases to the budget request:

1. $1,250,000 for continuation of the California Regional PM 10&2.5 air quality study.
2. $2,500,000 for EPSCoR.
3. $500,000 for continuation of a study of livestock and agricultural pollution abatement at Tarleton State University.
4. $3,000,000 for the Water Environment Research Foundation.
5. $2,000,000 for continued research on urban waste management at the University of New Orleans.
6. $1,300,000 for continued oil spill remediation research at the Louisiana Environmental Research Center at McNeese State University.
7. $2,000,000 for the Mickey Leland National Urban Air Toxics Research Center. The conferees recognize the value of the air toxics research supported by the Mickey Leland National Urban Air Toxics Research Center in Houston, Texas. However, the conferees are aware that the Center has developed its own method to fill vacancies on the Board of Directors. Because the appointment of the Board of Directors provides for Congressional oversight and assures the continued success of the Center and its undertakings, it is the intent of the conferees that the Leland Center immediately revise its method of appointment of Directors consistent with law and with the original Congressional intent regarding appointment of Directors.
8. $4,000,000 for the American Water Works Association Research Foundation, including $1,000,000 for continued research on arsenic.
9. $3,000,000 for the National Decentralized Water Resource Capacity Development Project, in coordination with EPA, for continued training and research and development.
10. $1,500,000 for the Integrated Petroleum Environmental Consortium project, to be cost-shared.
11. $1,750,000 for continued research at the Environmental Lung Center of the National Jewish Medical and Research Center in Denver.
12. $6,000,000 for continued research of the Salton Sea, including $1,000,000 to the University of Redlands and $5,000,000 for the Salton Sea Authority.
13. $2,000,000 for research on treatment technologies relating to perchlorate within the Crafton-Redlands Plume, to be conducted through the East Valley Water District, California.
14. $2,000,000 for the Lovelace Respiratory Institute to establish a National Environmental Respiratory Center to coordinate research and information transfer.
15. $1,000,000 for the Center for Air Toxic Metals at the Energy and Environmental Research Center.
16. $1,000,000 for the Texas Regional Institute for Environmental Studies to identify and test new cost-effective environmental restoration technologies.
17. $1,000,000 for the Institute for Environmental and Industrial Science to develop new technologies for controlling radioactive waste, solid waste, and other emissions.
18. $500,000 for the clean air status and trends network.
19. $1,500,000 for Johns Hopkins University's School of Hygiene and Public Health to establish a National Center for Environmental Toxicology and Epidemiology.
20. $1,000,000 to establish the Center for Estuarine and Coastal Ocean Environmental Research to coordinate and further ongoing coastal and environmental research being conducted at the University of South Alabama.
21. $2,000,000 for continuation of an initiative to transfer technology developed in the federal laboratories to meet the environmental needs of small companies in the Great Lakes region, to be accomplished through a NASA-sponsored Midwest regional technology center working in collaboration with an HBCU from the region.

22. $6,000,000 for the Mine Waste Technology Evaluation Program and Berkeley pit integrated demonstration activities through the National Waste Technology Testing and Evaluation Center.

23. $1,500,000 to support external research on Pfiesteria. The conferees are concerned about the recent rash of fish killings and human sickness due to a marine biotoxic outbreak labeled Pfiesteria, in east coast waterways. In complementing current local and state efforts, the conferees direct a national research program that would evaluate competitive, peer-reviewed proposals to understand the causes, mechanisms, and health and environmental effects of Pfiesteria. Additional funding is appropriated in the environmental programs and management account.

The conferees have agreed to the following reductions from the budget request:

1. $5,078,000 from the Climate Change program.

2. $6,218,000 from the Global Change program.

3. $2,000,000 from the Advanced Measurement Initiative.

4. $8,000,000 from the new Environmental Monitoring for Public Access and Community Tracking program.

5. $5,000,000 from graduate academic fellowships.

6. $7,000,000 from advanced funding of a planned fiscal year 1998 lease requirement and savings due to a rate recalculation for the Working Capital Fund.

7. $21,273,400 as a general reduction.

The conferees are aware that orimulsion, a mixture of bitumen and water, is being considered for generating electricity in the United States. While orimulsion has been used in several countries including Japan, China, Italy and Canada's maritime provinces, it has not been utilized within the United States. Because little is known about the risks associated with the introduction of this new product, the conferees direct EPA to initiate a research activity to provide better scientific data on the qualities and characteristics of this product and the potential environmental impact of its introduction.

In addition to the funds specifically provided for perchlorate research within the Crafton-Redlands Plume, the conferees direct the Agency to work with the Department of Defense, the National Institute of Environmental Health Sciences, and other appropriate federal and state agencies to, (1) assess the state of the science on the health effects of perchlorates on humans and the environment and the extent of perchlorate contamination of our nation's drinking water supplies, and, (2) make recommendations to the House and Senate Committees on Appropriations within six months of enactment of this Act on how this emerging problem might be addressed.

The conferees note the important ongoing research activities at EPA to develop a comprehensive view of the air quality impacts resulting from swine confinement operations. The EPA is directed to coordinate these research activities working in conjunction with those efforts currently underway at the Agricultural Research Service and with other public and private research efforts.

Following consultation with the Environmental Protection Agency, the National Academy of Sciences, and numerous scientific and research and stakeholder groups, the conferees have developed a mechanism which, when implemented, will go far toward increasing the breadth of knowledge and filling research gaps regarding the potential health effects of fine particulate matter (PM). The recommendation of the conferees is meant to build on the research which has already been planned, is underway, or has been completed by EPA, NIEHS, NAS, HEI, and numerous other public and private entities, and its success will rely on the hard work and continued good will of all interested parties.

Although EPA recently issued a revised standard for PM, the Agency also indicated the standard will have no regulatory impact until after the next National Ambient Air Quality Standards (NAAQS) review, currently planned for 2002. The conferees believe a unique opportunity now exists to put into place the mechanism to establish a comprehensive, peer-reviewed, near- and long-term research program which will benefit both the Legislative and Executive branches in decision-making activities regarding PM in the coming years.

To this end, the conferees have included bill language which specifically provides $49,600,000 for particulate matter research, and further provides that within 30 days of enactment of this Act, EPA shall enter into a contract or cooperative agreement with the National Academy of Sciences (NAS) to develop a comprehensive, prioritized, near- and long-term particulate matter research program, as well as a plan to monitor how this research program is being carried out by all participants in the research effort. The conferees intend the NAS to develop a near-term research plan within four months of execution of the contract with EPA, and expect a long-term plan to be completed within twelve months of execution of the contract. Both plans should be developed on as close to a consensus basis as is practicable following consultation and comprehensive discussions with, but not limited to, representatives of the EPA, the National Institute of Environmental Health Sciences (NIEHS), the Department of Energy (DOE), and the National Oceanic and Atmospheric Administration (NOAA), as well as representatives from such organizations as the Health Effects Institute (HEI), the North American Research Strategy for Tropospheric Ozone (NARSTO), the Chemical Industry Institute of Technology (CIIT), the Lovelace Inhalation Toxicology Research Institute, the American Lung Association, the Electric Power Research Institute (EPRI), EPA's Science Advisory Board and Clean Air Scientific Advisory Committee, and other qualified personnel representing government, industry, and the environmental community. Upon completion of the research plans, the NAS shall simultaneously provide copies to the Congress, to EPA, and to all participating parties.

It is the intention of the conferees that the plan is to be the principal guideline for the Agency's particulate matter research program over the next several years. The conferees expect the Agency to implement the plan, including the conduct of appropriate peer review and the distribution of intramural and extramural funds, in a manner which assures that research as determined in the plan will proceed in an orderly and timely fashion, and according to the priority basis outlined by NAS. The conferees also expect the NAS to monitor the implementation of the research plan and periodically report to the Congress as to the progress of the NAS plan. Should EPA, after its own analysis, disagree with any research topic or priority ranking as determined in the plan, or with any other aspect of the plan, the conferees direct the Agency to provide the Congress with a detailed analysis of such a disagreement, as well as with a description of what the Agency proposes in lieu thereof. EPA is expected to move forward immediately with its PM research program as outlined in the fiscal year 1998 budget submission. Upon delivery of the NAS research plan, however, the conferees expect the Agency and other federal entities as listed above to review their ongoing particulate matter research activities and, where appropriate, re-focus such activities so as to be consistent with the NAS research plan. The funds provided above the budget request should be targeted to filing research gaps outlined by NAS and not already planned for fiscal year 1998.

In administering the research plan, the conferees expect the Agency to be responsible for the timely announcement of all requests for research proposals, for the thorough review of such proposals, and for the granting and auditing of all funds to conduct such research proposals. Given the importance of developing and publishing as much new research as possible prior to the next NAAQS review planned for PM, the Agency should take every step possible to expedite the delivery of available research funds for both intramural and extramural recipients. Moreover, in the making of specific grants or, in the case of other governmental agencies, a cooperative research agreement pursuant to the research plan, the Agency should be mindful of the various talents and expertise of each of the aforementioned organizations or other research grant applicants may have so as to maximize to the greatest extent possible the quality of the research that is to be conducted.

The conferees understand that the most immediate, or "near-term" PM research needs include, but are not limited to, topics such as toxicological and biological mechanisms, source apportionment, human exposure assessment and monitoring, ambient measurement methods, and epidemiology. NAS is thus expected to focus on these as well as other high priority topics as part of its near-term research plan.

In addition, up to $8,000,000 of the funds provided herein are to be used to create up to five university-based research centers focused on PM-related environmental and health effects. EPA will select these centers through a competitive peer review process and will ensure consistency with the final research plan formulated by the process outlined above. The centers program is intended to help address the most pressing unanswered questions involved in the air particulate field. A governing criterion for the selection of the proposed centers should be their ability to bring together bio-medical and public health scientists, engineers, environmental scientists, economists, and policy analysts as part of a coordinated and comprehensive data analysis and research effort.

The conferees direct that, prior to completion of the research plan, adequate funds be made available to support on ongoing effort to conduct a thorough inventory of all federal and non-federal research on particulate matter, to initiate key term research, and to conduct a thorough reanalysis of all key long-term studies relating to particulate matter. Priority in the award of grants as outlined in the preceding sentence should be given to organizations which are established independent research institutes funded in partnership with EPA.

Finally, the conferees expect that all research data resulting from this funding will become available to the public, with proper safeguards for researchers' first right of publication, for scientific integrity, for individuals participating in studies, for proprietary

commercial interests, and to prevent scientific fraud and misconduct.

The issue of the new particulate matter standards as outlined by EPA in July of this year, and the potential regulations that may result from these new standards, has resulted in an emotional and politically charged debate principally on the potential economic impacts of regulations based on the new standard. What has unfortunately been diminished in these debates is the almost universal recognition that considerable scientific questions relative to particulate matter remain to be answered. The conferees recognize that while reasonable people may differ as to the interpretation of the facts and that different policy judgments may be arrived at, sufficient facts are not yet available to proceed with future regulations for a new particulate standard. The conferees note that this may be the only realistic opportunity to enlist the support of both the public and private sectors to maximize the use of science so as to better determined the answers that will some day guide future regulatory actions regarding particulate matter.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

Appropriates $1,801,000,000 for environmental programs and management as proposed by the Senate instead of $1,763,352,000 as proposed by the House.

The conferees have agreed to the following increases to the budget request:

1. $2,500,000 for the Michigan Biotechnology Institute for continued development of viable cleanup technologies.

2. $900,000 for the Lake Wallenpaupack, Pennsylvania environmental restoration project.

3. $372,000 for the Saint Vincent watershed environmental restoration project.

4. $500,000 for continued activities of the Small Business Pollution Prevention Center at the University of Northern Iowa.

5. $1,000,000 for the National Estuary Program, including $400,000 for Barnegat Bay. In addition, the conferees note their support for the full budget request for the Agency's South Florida/Everglades initiative, including funding for the EPA office in South Florida.

6. $2,372,000 for the Great Lakes Program. Included in the total program level is $14,700,000 for the Great Lakes National Program Office.

7. $250,000 for design for a non-indigenous species dispersal barrier in the Chicago shipping and sanitary canal pursuant to Sec. 1202 of the National Invasive Species Act, to be cost-shared.

8. $500,000 for continued work on the Ohio River watershed pollutant reduction program, including a study of dioxin levels in the Basin, to be cost-shared.

9. $2,000,000 for continuation of the Sacramento River Toxic Pollution Control Project, to be cost-shared.

10. $2,500,000 for a water reuse demonstration project in Yucca Valley ($800,000) and a groundwater treatment demonstration project in 29 Palms ($1,700,000), California.

11. $700,000 for ongoing activities at the Canaan Valley Institute.

12. $3,000,000 for the Southwest Center for Environmental Research and Policy (SCERP).

13. $4,000,000 for the National Institute for Environmental Renewal to establish a regional environmental data center, and to develop an integrated, automated water quality monitoring and information system for watersheds impacting the Chesapeake Bay.

14. $500,000 for continuation of the Small Water Systems Institute at Montana State University.

15. $5,325,000 for rural water technical assistance activities and groundwater protection bringing the total program to $13,325,000 with distribution as follows: $8,200,000 for the National Rural Water Association; $2,100,000 for Rural Community Assistance Program; $400,000 for the Groundwater Protection Council; $1,550,000 for Small Flows Clearinghouse; $1,000,000 for the National Environmental Training Center; and $75,000 for the National Groundwater Foundation.

16. $2,000,000 for an environmental education center in Highland, California.

17. $3,000,000 for continuation of the New York and New Jersey dredge decontamination project.

18. $1,000,000 for continued work on the water quality management plan for the Skaneatles, Otisco and Owasco Lake watersheds.

19. $400,000 for continued work on the Cortland County, New York aquifer protection plan.

20. $300,000 for the NAS to conduct a study of the effectiveness of EPA's inspection and maintenance programs.

21. $400,000 for a non-profit organization to implement an action plan to accelerate the international phase-out of leaded gasoline.

22. $2,000,000 for the creation of five small public water system technology assistance centers pursuant to section 1420(f) of the Safe Drinking Water Act, as amended.

23. $500,000 for a waste water reuse study in the Victorville, California area.

24. $3,400,000 for Lake Weequahic cleanup efforts ($3,000,000) and water quality initiatives at Lake Hopatcong ($400,000), New Jersey.

25. $1,000,000 ($500,000 each) for small public water system technology centers at the University of Missouri-Columbia and at Western Kentucky University.

26. $3,000,000 to continue the demonstration project involving leaking fuel tanks in rural Alaska villages.

27. $250,000 for the Nature Conservancy of Alaska for protection of the Kenai River watershed.

28. $1,250,000 to continue the onsite wastewater treatment demonstration program through the Small Flows Clearinghouse, including efforts initiated last year in flood-ravaged areas.

29. $2,000,000 for the New York City watershed protection program.

30. $500,000 for the Treasure Valley hydrologic project.

31. $2,500,000 for the King County, Washington molten carbonate fuel cell demonstration project at the Renton wastewater treatment plant.

32. $$800,000 for the National Center for Vehicle Emissions Control and Safety to establish an On-Board Diagnostic Research Center.

33. $500,000 to continue the Compliance Assistance Center for Painting and Coating Technology.

34. $200,000 to complete the cleanup of Five Island Lake.

35. $500,000 for the Ala Wai Canal watershed improvement project.

36. $400,000 for the Maui algal bloom project.

37. $100,000 for the Design for the Environment for Farmers Program to address the unique environmental concerns of the American Pacific area and the need to develop and adopt sustainable agricultural practices for these fragile tropical ecosystems.

38. $1,500,000 for the Lake Champlain management plan.

39. $600,000 for the final year of funding for the solar aquatic wastewater treatment demonstration in Burlington, Vermont, to be cost-shared.

40. $1,000,000 for the Alabama Department of Environmental Management to coordinate a model water/wastewater operating training program.

41. $150,000 to establish a regional training center at the Kentucky Onsite Wastewater Center.

42. $550,000 for the Idaho water initiative.

43. $1,750,000 for the Three Rivers watershed protection demonstration project, to develop an overall master plan to eliminate more than 40 separate sanitary sewer overflows in the Three Rivers area of Allegheny County, Pennsylvania.

44. $750,000 to continue the Resource and Agricultural Policy Systems program.

45. $1,250,000 for the design of an innovative granular activated carbon water treatment project in Oahu.

46. $2,000,000 for the Food and Agricultural Policy Research Institute's Missouri Watershed Initiative project to link economic and environmental data with ambient water quality.

47. $1,500,000 for the National Alternative Fuels Training program.

48. $300,000 for the California Urban Environmental Research and Education Center.

49. $1,000,000 to continue the implementation of a wetlands-based potable water reuse program for the City of West Palm Beach.

50. $700,000 for the Long Island Sound office.

51. $2,000,000 for the University of Missouri Agroforestry Center to support the agroforestry floodplain initiative on a partnership basis.

52. $300,000 for the Northeast States for coordinated air use management.

53. $750,000 for the Chesapeake Bay Program to initiate a small watershed grants program for the implementation of cooperative tributary basic strategies that address the Bay's water quality and living resource needs.

54. $1,300,000 for environmental justice small community grants, bringing the total program to $2,000,000.

55. $240,000 for the water quality testing program along the New Jersey and New York shorelines.

56. $1,000,000 for the Soil Aquifer Treatment research program for indirect potable reuse of highly treated domestic wastewater being conducted in Arizona and California.

57. $1,500,000 for wastewater training grants under section 104(g) of the Clean Water Act.

58. $2,000,000 for the National Academy of Public Administration to design and manage a series of independent evaluations of recent EPA initiatives to improve the effectiveness and efficiency of EPA activities. These studies shall also assess how lessons learned can be built into ongoing agency programs. The conferees note that EPA has yet to develop a program evaluation capacity, a critical element of meeting the requirements of the Government Performance and Results Act and ensuring the most effective allocation of resources. EPA is to enter into an agreement with NAPA within 90 days, so that the reports may be made available to the Congress within two years.

59. $1,500,000 to support response and monitoring efforts, public information functions, and cross-Agency coordination and analysis to address the causes, mechanisms, and health and environmental effects of Pfiesteria, as described in the Science and Technology account.

60. $400,000 to continue efforts to ensure smooth implementation of notification of

lead-based paint hazards during real estate transactions through the Alliance to End Childhood Lead Poisoning.

The conferees have agreed to the following decreases from the budget request:

1. $693,000 from managerial support within the Office of the Administrator.
2. $1,000,000 from GLOBE.
3. $9,000,000 from the Montreal Protocol Multilateral Fund.
4. $54,000,000 from Climate change action plan programs.
5. $5,500,000 from Office of Enforcement and Compliance Assurance programs. No reduction is to be applied to compliance assistance activities.
6. $1,734,000 from the Office of International Activities global and regulatory environmental risk reduction program.
7. $10,000,000 from the new environmental monitoring for public access and community tracking program.
8. $10,107,000 from specific reinvention programs.
9. $3,900,000 from the new Urban Livability program.
10. $10,000,000 from the increase requested for sustainable development challenge grants.
11. $2,000,000 from rental costs.
12. $55,115,900 as a general reduction.

The conferees note that full funding has been provided for the Chesapeake Bay Program including $833,000 for atmospheric deposition research activities.

The conferees are concerned with the Agency's perceived inflexibility regarding the implementation of the enhanced vehicle emissions and inspection programs in a number of states. Despite passage of the National Highway System Designation Act of 1995 which included language stating that, "the Administration shall not require adoption or implementation by a state of a test-only I/M 240 enhanced vehicle inspection and maintenance program," EPA has until very recently required that states using equipment other than I/M 240 perform mass emission transient testing (METT) on 0.1% of their affected vehicles, yet has only approved I/M 240 equipment to conduct the METT. It was the intent of Congress to prohibit the mandating of I/M 240 for any purpose, whether for emission testing or evaluation testing. Therefore, it is expected that the Agency will resolve this issue with the affected states and develop a non-METT test consistent with Congressional intent. The Agency is urged to develop alternatives which, as required by the Clean Air Act, are based on data collected during inspection and repair of vehicles. The alternatives also should be seamless to the customer and not result in increased costs to the customer or service station owner, and also not result in a direct or indirect penalty to the state that is not using METT. In the event that the Agency does not develop a non-METT evaluation method, the conferees would expect to address this issue in legislation.

The conferees continue to note their serious concerns regarding the new National Pollutant Discharge Elimination System (NPDES) general permit recently proposed by EPA's Region IV. This issue was raised in the House Report accompanying H.R. 2158, and it appears the Agency has done little to address the concerns raised in that document. The conferees therefore direct EPA's Region IV to adopt an NPDES general permit for offshore oil and gas extraction which is substantially similar in its terms and conditions to that adopted and used successfully by EPA's Region VI.

The conferees are aware that recent testing conducted at Lake Tahoe has shown abnormal amounts of volatile compounds, including benzene, toluene, and xylene. The conferees recommend that EPA consider conducting an analysis and produce a report detailing the actual levels of contaminants, sources, and recommendations to protect this resource.

The conferees urge that EPA's recently announced stakeholder process for the section 313 program be expeditiously undertaken and that the recommendations be adopted prior to the filing of any reports required under the recent expansion of the program. EPA should dedicate the necessary resources to ensure this process can develop materials and procedures that will simplify the reporting burden, especially for small businesses, while also improving the ability to communicate information to the public.

The conferees direct the EPA Administrator to consider for funding the NUI proposal for a large-scale demonstration pilot project in correlation with the dredging contamination technology effort currently underway at Brookhaven National Laboratory.

OFFICE OF INSPECTOR GENERAL

Appropriates $28,501,000 for the office of inspector general as proposed by the House instead of $28,500,000 as proposed by the Senate.

BUILDINGS AND FACILITIES

Appropriates $109,420,000 for buildings and facilities instead of $182,120,000 as proposed by the House and $19,420,000 as proposed by the Senate.

For the new, consolidated research facility at Research Triangle Park, North Carolina, the conferees have agreed to an additional funding component for fiscal year 1998 of $90,000,000. The Agency has indicated this level of funding is sufficient to continue ongoing planning and construction as scheduled throughout the fiscal year. The conferees have also included bill language which raises the authorized construction cost ceiling for this project to $272,700,000. This level of authorization is necessary to permit the construction of the building—including the high bay facility, the computer center, and the child care center—as originally designed. Prior to the expenditure of funds relative to these three facilities, however, the Agency is directed to provide a cost/benefit analysis which justifies their inclusion as proposed in the original construction plan.

HAZARDOUS SUBSTANCE SUPERFUND

Appropriates $2,150,000,000 for hazardous substance superfund instead of $1,500,699,000 as proposed by the House and $1,400,000,000 as proposed by the Senate.

The conferees have agreed to the following fiscal year 1998 program levels:

$990,500,000 for the superfund response cleanup program, including the full budget request for the Brownfields program.

$174,000,000 for the enforcement program.

$129,000,000 for management and support, including $11,641,000 for transfer to the Office of Inspector General.

$35,000,000 for research and development activities, to be transferred to the Science and Technology account.

$58,000,000 for the National Institute of Environmental Health Sciences, including $23,000,000 for worker training and $35,000,000 for research activities.

$74,000,000 for the Agency for Toxic Substances and Disease Registry. The amount provided is intended to enable ATSDR to reduce significantly the backlog of more than 200 hazardous waste sites requiring public health activities and to conduct a child health initiative. Within 30 days of enactment of this Act, ATSDR is to provide a detailed operating plan to the Committees on Appropriations. In addition, ATSDR periodically is to keep the Committees apprised of progress in reducing the backlog, efforts related to the child health initiative, and proposed new activities. Within the funds provided herein, $4,000,000 is for minority health professions, $2,500,000 is for continuation of a health effects study on the consumption of Great lakes fish, and $2,000,000 is for continued work on the Toms River, New Jersey cancer evaluation and research project.

$39,500,000 for interagency activities.

The conferees note that $100,000,000 of the funds provided herein shall not become available for obligation until September 1, 1998. Further, $650,000,000 of the funds provided herein shall not become available until October 1, 1998, and shall be available for obligation only if specific reauthorization of the Superfund program occurs by May 15, 1998.

While the conferees have provided the full budget request for the Brownfields program, concerns remain regarding the Agency's legal authority to utilize Superfund dollars to establish revolving funds which in turn would be used to clean up sites which are neither emergency in nature nor eligible for NPL listing. Bill language has therefore been included which prohibits the use of funds under this heading for revolving loan funds unless specifically authorized in subsequent legislation.

Again this year, the conferees direct that all fiscal year 1997 carryover funds be used for additional response action/cleanup efforts. In addition, in order to enhance the fiscal year 1998 response action/cleanup program, the conferees direct the Agency to move expeditiously to deobligate and recapture as much unspent prior-year cleanup funds as possible.

The conferees reiterate the position of the House that strongly encourages the Agency to implement a fixed-price, at-risk contracting proposal for the clean-up of the Carolina Transformer Site in North Carolina.

With regard to the Agriculture Street Landfill Superfund site in New Orleans, the conferees are aware of the potential health risks associated with remediating the undeveloped property without permanent or temporary relocation of the nearby residents, or some other responsible mitigation effort. The conferees thus strongly urge the Agency to stay the remediation of the site, pursuant to its Record of Decision of September 2, 1997, until this matter can be satisfactorily resolved.

The conferees also reiterate the concern as expressed in the House Report accompanying H.R. 2158 regarding the EPA's response to certain "emergencies." Questions of both legal authority and the excessive expenditure of funds outside the scope of the Agency's operating plan remain very troubling. The conferees therefore direct the EPA to notify the Committees on Appropriations within 72 hours of the Agency's undertaking an emergency response at non-NPL sites that is expected to exceed $5,000,000 in total cost.

Last year, the conferees included language directing the EPA Administrator to begin construction immediately at the Pepe Field Superfund site in Boonton, New Jersey. Due to a change in the remedy by the EPA, the construction has again been delayed. The conferees are concerned with this delay and direct the Administrator to begin construction immediately.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

Appropriates $65,000,000 for the leaking underground storage tank program as proposed by the Senate instead of $60,000,000 as proposed by the House. Language is also included which provides a maximum of $7,500,000 for the program's administrative costs as proposed by the Senate instead of $9,100,000 as proposed by the House.

The conferees direct that not less than 85 percent of the funds provided be allocated to the States.

OIL SPILL RESPONSE

Appropriates $15,000,000 for oil spill response as proposed by the House and the Senate. Bill language is also included which provides a maximum of $9,000,000 for the program's administrative costs as proposed by the House instead of $8,500,000 as proposed by the Senate.

STATE AND TRIBAL ASSISTANCE GRANTS

Appropriates $3,213,125,000 for state and tribal assistance grants instead of $3,026,182,000 as proposed by the House and $3,047,000,000 as proposed by the Senate.

Bill language provides the following program levels:

$1,350,000,000 for Clean Water Capitalization Grants.

$725,000,000 for Safe Drinking Water Capitalization Grants. The conferees note that amounts provided for drinking water state revolving funds are available for national set-asides outlined in section 1452; however, health effects research is funded in the Science and Technology account as proposed by the Administration.

$75,000,000 for the United States-Mexico Border Program.

$50,000,000 for colonias in Texas, including bill language which provides a 20% match for these funds. The match requirement may be fulfilled through the commitment of state funds for either loans or grants for construction of wastewater or water systems serving colonias and the match may also consist of payment on bond interest associated with loans or grants for construction of wastewater and water systems. With respect to prior appropriated funds for colonias, the match requirement may be fulfilled through the commitment of state funds for either loans or grants for construction of wastewater systems serving colonias and may also consist of payment on bond interest associated with loans or grants for construction of wastewater systems.

$15,000,000 for Alaska rural and Native Villages, to be cost-shared.

$745,000,000 for state and tribal categorical grants, including increases above the budget request of $24,743,000 for particulate matter monitoring and data collection and $5,000,000 for section 319 non-point source pollution grants. Language is included to direct that the PM monitoring and data collection grants be issued pursuant to section 103 of the Clean Air Act so as not to require a state, tribal, or local cost share. The conferees agree that performance partnership grants and statutorily authorized transfers between state revolving funds are both exempt from the Congressional reprogramming limitations. Finally, language is included which clarifies that, as provided in the authorizing statutes for the various program grants, eligible recipients have included since fiscal year 1996 interstate agencies, tribal consortia, and air pollution control agencies, as well as States and tribes.

$253,125,000 for grants for construction of "special needs" wastewater, water treatment and drinking water facilities, and for groundwater protection infrastructure.

Bill language has been included which: (1) authorizes cross collateralization of clean water and safe drinking water state revolving funds as security for bond issues; (2) authorizes the Administrator to make grants to federally recognized Indian governments for the development of multi-media environmental programs; (3) makes it possible for EPA to use funds under this account for specific programs and purposes in state and tribal areas when such state or tribe does not have an acceptable program in place; and (4) authorizes the Administrator to make a grant of deobligated FWPCA section 205 funds for wastewater treatment facilities in Monroe County, Florida.

Finally, bill language has been included which provides for an 80/20 cost share for the use of capitalization funds for the District of Columbia. The provision, which is intended to permit the District to move aggressively in making necessary repairs and upgrades in its wastewater treatment facilities, will sunset in two years.

The conferees agree that the special needs funds are provided as follows:

1. $50,000,000 for Boston Harbor wastewater needs.

2. $3,000,000 for continued wastewater needs in Bristol County, Massachusetts.

3. $8,000,000 for New Orleans wastewater needs.

4. $5,000,000 to implement drinking water facility improvements under Title IV and to implement combined sewer overflow (CSO) projects in Richmond ($2,500,000) and Lynchburg ($2,500,000), Virginia.

5. $14,000,000 for continuation of the Rouge River National Wet Weather Demonstration project.

6. $5,000,000 for wastewater and water system needs of the Omnalinda Water Association ($500,000); the Jenner Township Sewer Authority ($2,600,000), and the North Fayette County Municipal Authority ($1,900,000), Pennsylvania.

7. $13,000,000 for the Millcreek Tube Sewer upgrade/combined sewer overflow project.

8. $3,000,000 for phase one of Sacramento's wastewater treatment facility upgrade.

9. $10,000,000 for planning and implementation of a storm water abatement system in the Doan Brook Watershed Area, Ohio.

10. $6,900,000 for wastewater infrastructure needs for Kenner ($5,000,000) and Baton Rouge ($1,900,000), Louisiana.

11. $2,250,000 for Ogden, Utah's sanitary storm sewer and drinking water distribution systems.

12. $2,500,000 to assist the Bad Axe, Michigan water crisis.

13. $10,000,000 to complete the wastewater improvement program at the Clear Lake Sanitary District, Iowa.

14. $7,000,000 for combined sewer overflow requirements in Lycoming County ($4,000,000) and for wastewater needs of the Pocono/Jackson Township Joint Authority ($1,500,000) and Smithfield Township in Monroe County ($1,500,000), Pennsylvania.

15. $1,200,000 for phase two of the Geysers Effluent Project in Northern California.

16. $14,000,000 for continued clean water improvements of Onondaga Lake.

17. $5,000,000 for wastewater and drinking water system needs in Clearfield, Mifflin, Snyder and Fulton Counties ($1,250,000); Decatur Township ($150,000); Lawrenceville Township ($300,000); Lyleville ($300,000); Lewistown ($1,000,000); McVeytown ($500,000); Adams Township and Port Trevorton ($500,000); Middleburg ($500,000); and McConnellsburg ($500,000), Pennsylvania.

18. $10,000,000 for water supply and wastewater needs for the City of Burnside ($2,000,000); the City of Williamsburg ($3,000,000); the City of Wayland ($1,500,000); the City of Hyden ($1,500,000); and the Morgan County Water District ($2,000,000), Kentucky.

19. $1,275,000 for wastewater needs for East Mesa ($700,000), West Mesa ($500,000), and Lordsburg ($75,000), New Mexico.

20. $4,000,000 for an alternative water supply system in Jackson County, Mississippi.

21. $2,000,000 for wastewater facilities and improvements in Essex County, Massachusetts.

22. $2,000,000 for the Milwaukee Metropolitan Sewerage District urban watershed restoration project (Lincoln Creek).

23. $7,150,000 for export pipeline replacement to protect Lake Tahoe.

24. $7,000,000 for wastewater facility and sanitary system improvements in Burlington, Iowa.

25. $7,000,000 for the Ashley Valley, Utah sewer management board for wastewater improvements.

26. $5,000,000 for water systems improvements in the Virgin Valley Water District, Nevada.

27. $2,000,000 for the town of Epping, New Hampshire, for wastewater treatment upgrades.

28. $4,300,000 for wastewater improvements in Queen Anne's County, Maryland, ($2,300,000); and biological nutrient removal of sewage on the Pocomoke River, Maryland ($2,000,000).

29. $6,000,000 for water/wastewater improvements in the Moreland/Riverside area of Bingham County ($3,000,000); the City of Rupert ($2,000,000); and the Rosewell and Homedale areas ($1,000,000) of Idaho.

30. $5,000,000 for Missoula, Montana sewer system improvements.

31. $3,000,000 for the Milton, Vermont wastewater treatment plant project.

32. $5,000,000 for sewage infrastructure improvements for Connellsville and Bullskin Townships in Fayette, Pennsylvania ($2,500,000) and Fallowfield Township, Pennsylvania ($2,500,000).

33. $6,300,000 for wastewater treatment improvements in Pulaski County ($5,000,000) and Kingdom City ($1,300.000), Missouri.

34. $8,000,000 for the Upper Savannah Council of Governments for wastewater facility improvements for the Savannah Valley regional sewer project in Abbeville, McCormick, and Edgefield Counties, South Carolina.

35. $$3,300,000 for water system improvements in Jackson County ($800,000), Washington County ($2,000,000), and Cleburne County ($500,000), Alabama.

36. $1,800,000 for water treatment improvements in the Joshua Basin Water District.

37. $100,000 for wastewater infrastructure improvements in Ascension Parish, Louisiana.

38. $50,000 for water and sewer improvements in the City of Kinloch, Missouri.

39. $3,000,000 for alternative source projects in the St. Johns River, South Florida, and Southwest Florida Water Management Districts.

The conferees recognize the acute need for additional water treatment capacity in San Diego County, California. While limited funds prevent the conferees from providing fiscal year 1998 funds for the development of the Olivenhain Water Treatment Project, the conferees recognize the project's potential to demonstrate the environmental and health benefits associated with microfiltration

technology. Also, with regard to San Diego's South Bay Water Reclamation Facility, the conferees are aware of the City's application for grant assistance through the United States-Mexico border projects program and that EPA and the NADBank have not rendered final judgment on the application. The conferees urge the Agency and the NADBank to review carefully this matter so as to provide any appropriate support. Should the application of the City be declined, the Agency is to provide a report to the Committees on Appropriations within 30 days of such action which explains in detail the decision of the Agencies.

Finally, the conferees note their support for construction of the Jonathan Rogers plant in El Paso, Texas and encourage the Agency to provide an appropriate amount from the border infrastructure fund to support the federal share of this project.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

Appropriates $2,500,000 for the Council on Environmental Quality and Office of Environmental Quality instead of $2,506,000 as proposed by the House and $2,436,000 as proposed by the Senate.

The conferees have agreed to bill language proposed by the House which stipulates that, notwithstanding the provisions of the National Environmental Policy Act (NEPA), there will for fiscal year 1998 be just one member of the Council on Environmental Quality (instead of three), and that individual shall act as chairman.

The conferees have also agreed to language proposed by the Senate which prohibits CEQ from using funds other than those appropriated directly to CEQ under this heading. This language is intended to prevent CEQ from augmenting its staff through the use of employees detailed from other federal agencies. It is not intended to prevent CEQ from conducting activities authorized under NEPA, including the coordination of activities of federal agencies relative to environmental policy issues. Further, the language is not intended to bar the formation of interagency task forces or prevent requests for information from other federal agencies.

UNANTICIPATED NEEDS

Appropriates $1,000,000 for unanticipated needs within the Executive Office of the President. The conferees note that this funding was included in this legislation at the request of the Administration because it was excluded from another appropriation measure. The conferees do not anticipate funding this program in this Act in subsequent fiscal years.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

Appropriates $34,365,000 for the Office of Inspector General as proposed by the House instead of $34,265,000 as proposed by the Senate. Funds for this account are derived from the Bank Insurance Fund, the Savings and Loan Association Insurance Fund, and the FSLIC Resolution Fund, and are therefore not reflected in either the budget authority or budget outlay totals.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

Appropriates $320,000,000 for disaster relief as proposed by the Senate instead of $500,000,000 as proposed by the House.

The conferees are supportive of FEMA's initiative to establish a Federal Coordinating Officer cadre staffed by full-time employees and funded by the Disaster Relief Fund to support ongoing field operations. The Agency is expected to keep the Committees on Appropriations informed of its progress as it proceeds with its plans to enroll the 25 member cadre. If the Agency moves forward on this initiative, the fiscal year 1998 operating plan should reflect this activity.

While the conferees have not included language proposed by the Senate prohibiting the use of disaster relief funds in certain instances, the conferees support efforts to rein in disaster relief expenditures, which have grown exorbitantly in recent years. The conferees acknowledge that under current law, disaster relief payments have been made for such lower priority activities as refurbishing golf courses in certain high income communities. To offset the cost of growing disaster relief requirements, a series of supplemental appropriations bills in the past few years have included large rescissions of funds from other agencies' programs, principally low income housing. Earlier this year, FEMA proposed amendments to the Stafford Act which represent a modest first step in curbing disaster relief expenditures. The conferees strongly urge the communities of jurisdiction to take swift action to consider the proposed Stafford Act amendments, including holding hearings at the earliest possible time.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

Appropriates $243,546,000 for emergency management planning and assistance instead of $261,646,000 as proposed by the House and $207,146,000 as proposed by the Senate. Bill language is included which provides $30,000,000 for pre-disaster mitigation activities instead of $50,000,000 as proposed by the House and $5,000,000 as proposed by the Senate for pre-disaster mitigation grants to state and local governments.

The conferees have provided the following increases to the budget request:

$500,000 for the completion of a comprehensive analysis and plan of all evacuation alternatives for the New Orleans metropolitan area.

$5,000,000 for FEMA to continue the replacement and upgrade of emergency equipment and vehicles. The conferees expect to be informed in the operating plan as to how these funds are expected to be spent.

$3,000,000 for State and local assistance through comprehensive cooperative agreements.

$2,900,000 for the Dam Safety program, including $1,000,000 for research in dam safety; $1,000,000 for incentive grants to States to upgrade their dam safety program; $500,000 for training programs for State dam safety inspectors; and $400,000 for administration of the program.

The conferees have included bill language providing for a grant of $1,500,000 to resolve issues under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, involving the City of Jackson, Mississippi. These issues were identified in a January 30, 1989 report of the United States Department of Housing and Urban Development.

Acknowledging the importance of pre-disaster mitigation in reducing the loss of human life, the costs and disruption caused by severe property damage, and the ever-growing cost to all taxpayers of government-backed disaster relief efforts, the conferees have provided $30,000,000 for program planning and implementation of pre-disaster mitigation efforts. The conferees acknowledge the potential value of various alternatives that have been suggested to achieve pre-disaster mitigation, including grants to state and local governments to conduct pilot demonstration projects as proposed by the Agency in their fiscal year 1998 budget submission, the HomeSaver Project proposed by The Partnership for Natural Disaster Reduction, the rapid deployment-technologies concept proposed by the Centers for Protection Against Natural Disasters (CPAND), and other research and applied engineering activities, particularly those jointly funded by the public and private sectors.

The conferees agree that up to $5,000,000 of the amount provided for pre-disaster mitigation is available immediately to fund up to seven pilot projects approved by the Director of FEMA. Prior to the expenditure of the remaining funds for any specific pre-disaster mitigation program or project, the conferees direct that the appropriate level of funding be used by the Agency to conduct a formal needs-based analysis and cost/benefit study of all of the various mitigation alternatives. The results of these analyses and studies, along with any relevant information learned from the aforementioned seven pilot projects, shall be incorporated into a comprehensive, long-term National Pre-disaster Mitigation Plan. The plan should be developed, independently peer-reviewed, and submitted to the Committees on Appropriations not later than March 31, 1998. FEMA is directed to involve in this planning effort participants which shall include, but are not limited to, representatives of FEMA and other federal agencies, state and local governments, industry, universities, professional societies, the National Academy of Sciences, The Partnership for Natural Disaster Reduction, and CPAND. The conferees intend that none of the remaining funds provided herein be obligated until the plan has been completed and submitted as outlined above. The conferees note that this approach is intended to be the foundation for providing the best and most cost-effective solution to reduce the tremendous human and financial costs associated with natural disasters.

The conferees believe that attention is warranted to minimize losses to existing steel frame structures during and following major earthquakes. Although many steel frame structures were designed and constructed in accordance with building codes in effect at the time of construction, experience in the 1994 Northridge, California earthquake and the 1995 Kobe, Japan earthquake suggests a heightened vulnerability of these structures. Accordingly, the conferees urge FEMA to consider a pilot pre-disaster mitigation project that would incorporate the greater use of new steel frame manufacturing and retrofitting technologies as a method to reduce disaster response costs.

The conferees are aware of proposals by the International Hurricane Center at Florida International University to apply advanced high-accuracy satellite laser altimeter surveying techniques to coastal and flood plain modeling and post natural disaster damage assessments. FEMA is urged to consider funding such proposals from discretionary funds to improve its modeling, mapping, damage assessment, and pre-disaster mitigation efforts.

The conferees understand that many scientists studying climate change have predicted a large-scale El Nino phenomenon this year. Many such experts who have monitored this phenomenon for decades project that

this El Nino may cause extreme weather events far worse than others associated with El Nino events of past years. While it is impossible to prevent these extreme weather events, the conferees recognize that recently developed El Nino prediction capabilities can be utilized to mitigate loss of life, human dislocation, and property damages which may occur. The conferees encourage FEMA to work with other federal agencies, including NOAA, NASA, USDA, the Army Corps of Engineers, and the Department of the Interior to utilize El Nino prediction data for disaster planning and mitigation during fiscal year 1998 and explore opportunities to expand the use of this new predictive capability for long-term mitigation planning.

The conferees note that Pointe Coupee Parish, Louisiana faces the potential threat of multiple disasters, which include the fixed site storage and transportation of volatile chemicals, a nuclear power generating facility, and such weather related threats as hurricanes, floods, and tornadoes. Disaster mitigation and response requires rapid response by civil agencies, but this is not possible without a communications system with the capability to coordinate immediately the activities of all disaster response teams. The conferees urge FEMA to work closely with the Parish and provide appropriate support for the installation and testing of a prototype communications system. Disaster response officials from Pointe Coupee Parish are expected to work closely with FEMA to make available the results of the demonstration project to other local governments and law enforcement agencies.

NATIONAL FLOOD INSURANCE FUND

Bill language which extends the borrowing authority for the flood insurance program of $1,500,000,000 for fiscal year 1998 as proposed by the House has been included.

The conferees have also included new bill language which authorizes the National Flood Insurance Program for fiscal year 1998. Without this authorization, new flood insurance policies could not be written throughout the fiscal year.

Finally, language which permits the continuation of flood mapping activities of FEMA has been included.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The conferees note that the United States space launch industry has identified underutilized infrastructure at the Stennis Space Center for potential use in launch vehicle development activities. The conferees consider such proposed use of this infrastructure to be compatible with the Center's propulsion test programs and consistent with other efforts to optimize taxpayer investments while fostering U.S. competitiveness and commercial use of space. The conferees urge NASA to pursue an appropriate method for making the underutilized Stennis infrastructure available under suitable terms and conditions, if so requested by industry, and to notify the Committees on Appropriations of the House and Senate if existing NASA authority is insufficient for this purpose.

HUMAN SPACE FLIGHT

Appropriates $5,506,500,000 for human space flight instead of $5,426,500,000 as proposed by the House and $5,326,500,000 as proposed by the Senate. Within this amount, the appropriation for space shuttle is $2,927,800,000, the appropriation for payload and utilization is $227,400,000, and the appropriation for space station and related activities is $2,351,300,000.

The conferees agree that the agency may provide $1,000,000 for the Neutral Buoyancy Simulator program, as was provided in the Senate bill. In addition, before providing funding for the program, the conferees request that NASA report on the potential viability of commercialization of the Neutral Buoyancy Simulator.

The conferees have agreed to an appropriation of $2,351,300,000 for Space Station activities in fiscal year 1998, including $80,000,000 from funds in the mission support account identified by the agency ($25,000,000 from TDRS, $20,000,000 from environmental programs, $30,000,000 from Research Operations Support, and $5,000,000 from facilities), $100,000,000 in addition to the agency's request, and $50,000,000 by reallocation from within the amounts requested in the Human Space Flight account.

Of the amount provided for space station activities, no more than $1,500,000,000 shall be available before March 31, 1998, as stated in the bill.

The conferees are troubled by the problems with the space station which include projected development cost overruns of $600,000,000–$800,000,000, the inability to hold critical hardware delivery and launch dates despite receiving the post re-design funding profile requested by the Administration, and failure to reduce the contractor team's development workforce in keeping with budget projections submitted with the 1997 and 1998 budgets.

Therefore, the conferees have agreed to provide only part of the funding and none of the transfer authority that NASA has identified as necessary for the program in fiscal year 1998, $230,000,000 above the Administration's budget request, rather than $430,000,000. In addition, the conferees have withheld about a third of the total space station funds, pending receipt of certain documents and information listed below. This gives NASA and the space station contractor the opportunity to reexamine the funding profile, schedule, content, and efficiency of the program.

The remaining $851,300,000 will be made available after March 31, 1998, if the Committees on Appropriations receive the Administration's fiscal year 1999 budget for NASA, including the annual run-out budget for the Station program through assembly complete, and also outyear projections for other NASA enterprises that retains funding levels for fiscal year 1999–2002 at levels no less than those assumed in the fiscal year 1998 budget. The conferees expect the outyear projections to reflect a balance among NASA's programs.

In addition to the requirement about the fiscal year 1999 NASA budget and bill language limiting the use of a portion of space station funds until March 31, 1998, the remaining $851,300,000 remains fenced until and unless NASA provides the following items to the Committees on Appropriations of the House and Senate, and the Committees subsequently approve the release of these funds:

1. A detailed plan, agreed jointly to by NASA and the prime contractor, for the contractor's monthly staffing levels through completion of development, and evidence that the contractor has held to the agreed-upon destaffing plan through the first four months of fiscal year 1998;

2. A detailed schedule, agreed jointly to by NASA and the prime contractor, for delivery of hardware, and NASA's plans for launching the hardware;

3. A detailed report on the status of negotiations between NASA and the prime contractor for changes to the contract for sustaining engineering and spares, with the expectation that NASA adhere to the self-imposed annual cap of $1,300,000,000 for operations after construction is complete; and

4. A detailed analysis by a qualified independent third party of the cost and schedule projections required in 1), 2), and 3) above, either verifying NASA's data or explaining reasons for lack of verification.

Given how severe the program's budget problems are, the conferees are also mindful that future NASA budgets must be funded within discretionary spending caps in the five-year balanced budget agreement, meaning that budget outlays in fiscal year 1999 for all discretionary spending will grow by just one percent. As a result, the conferees are concerned that future NASA budgets not force reductions in the current outyear projections for space science, earth science, aeronautics, and advanced space transportation because of the need to accommodate overruns in the space station budget.

SCIENCE AERONAUTICS AND TECHNOLOGY

Appropriates $5,690,000,000 for science, aeronautics and technology as proposed by the House instead of $5,642,000,000 as proposed by the Senate.

The conference agreement reflects the following changes from the budget request:

1. A general reduction of $66,000,000.

2. An increase of $1,000,000 for Multiple Sclerosis cooling therapy research.

3. An increase of $5,500,000 for the space radiation health program.

4. An increase of $1,000,000 for eye tracking technology miniaturization.

5. An increase of $10,000,000 for additional optical astronomy test beds as proposed in the Senate report (105–53). This amount represents the total NASA contribution to the capital costs for these efforts and operating costs are to be covered by the host activity.

6. An increase of $1,000,000 for the United States/Mexico Foundation for Science.

7. An increase of $5,000,000 for the lightning mapper sensor.

8. An increase of $450,000 for use of satellite imagery in urban planning and agricultural applications.

9. An increase of $15,000,000 for funding up to five consortia to develop regional application with the use of EOS data.

10. An increase of $5,800,000 for Commercial Technology Programs.

11. An increase of $6,000,000 for telecommunications technology infrastructure for K-12 schools.

12. An increase of $1,900,000 for the National Technology Transfer Center.

13. An increase of $1,750,000 for the Midwest Regional Technology Transfer Center.

14. An increase of $5,000,000 for a NASA business incubator program which is designed to foster partnerships between educational institutions and small high-technology businesses. The program is to be a nation-wide competitive program with successful applicants demonstrating at least 50 percent of total funds will be derived from non-federal sources.

15. An increase of $1,500,000 to restructure the Software Optimization and Reuse Technology program. The conferees are concerned that this program has not delivered expected results; the conferees expect NASA to restructure its current funding mechanism to allow for greater oversight and improved results. The conferees expect this funding to be expended over a two year period.

16. The conferees agree to provide an additional $20,000,000 only for post-cycle I activity on the Low Cost Booster Technology Demonstration. NASA is to proceed with cycle I awards, but no funds may be used for

market analysis or development of business plans. In addition, the conferees agree that prior to any contract awards beyond cycle I, NASA, with the Marshall Space Flight Center as the lead center, is to convene a conference of all interested parties to determine the best program structure to achieve the goal of a space launch platform for a 150 kg payload to attain a 200 nautical mile, sun-synchronous orbit, in the range of less than $2,000,000 in recurring cost. Furthermore, the conferees agree that said conference shall conclude prior to the end of cycle I and that recommended changes to the program that materialize shall be presented to Congress prior to implementation by NASA.

17. An increase of $1,500,000 for MSE-Technology Applications, Western Environmental Technology Office.

18. An increase of $1,000,000 for a joint program with the Department of Defense.

19. An increase of $3,300,000 for replication of the SEMAA program.

20. An increase of $2,500,000 for a science learning center in Kenai, Alaska.

21. An increase of $1,000,000 for the Discover Science Center, Santa Ana, California.

22. An increase of $9,000,000 for expansion of the Partnership Awards program.

23. An increase of $2,000,000 for Daily Living Science Center in Kenner, Louisiana.

24. An increase of $5,800,000 for the Space Grant College and Fellowship program.

25. An increase of $1,500,000 for the Pennsylvania Educational Telecommunications Exchange Network.

26. An increase of $1,500,000 for academic and infrastructure needs at the Apple Valley, California science and technology center.

27. An increase of $3,000,000 for Solar-B.

28. An increase of $3,000,000 for solar stereo.

The conferees also agree that NASA should continue with its efforts to purchase Earth science data from private industry to the extent it is appropriate.

The conferees concur with the intent of the language in Senate report 105–53 with regard to the Earth Observing System Data Information System (EOSDIS). The conferees wish to make clear, however, that NASA should make any evaluation of the future of the ECS based not only upon delivery, but also successful performance demonstrated in the initial post-launch operational capabilities of EOSDIS as it relates to both the AM–1 and Landsat–7 spacecraft. Further, the conferees believe that NASA should proceed carefully with the federation of mission to planet earth, but ensure the earth science community should not in any way be prevented from participating in this endeavor. Therefore, issuance of any conflict of interest guidelines should be construed narrowly to apply only to immediate ESSAC members, and pertain simply to future eligibility for any cooperative agreement notices related exclusively to federated management funding, which is to be capped in fiscal year 1998 at $10,000,000.

The conferees concur with the direction of the Senate to promote competition in the award of advanced technology development (ATD) funds. To achieve this end, commencing with fiscal year 1998 and continuing in each year thereafter, NASA should consolidate all space science ATD activities into an easily accessible consolidated budget line item and award not less than 75 percent of these funds through broadly distributed announcements of opportunity that solicit proposals from all categories of organizations, including educational institutions, industry, nonprofit institutions, NASA Centers, the Jet Propulsion Laboratory, and other Government agencies, and that allow partnerships among any combination of these entities, with evaluation, prioritization, and recommendations made by external peer review panels, consistent with the recommendations contained in the 1995 National Academy of Sciences report on managing the space sciences. In awarding ATD funds in this manner, the conferees wish to make clear that final selection of all proposals rests with NASA officials consistent with Office of Procurement Policy guidelines; and that setting technology requirements that are the foundation of the AO's rests with NASA program managers, consistent with guidance provided by advisory bodies of the at-large science community. In this fashion, NASA's technology investments will be managed in a manner parallel to that traditionally employed in implementing the agency's science program.

MISSION SUPPORT

Appropriates $2,433,200,000 for mission support instead of $2,513,200,000 as proposed by the House and $2,503,200,000 as proposed by the Senate. The conference agreement includes transfer of $80,000,000 from this appropriation to the Human Space Flight appropriation for the space station effort. The specific reductions to this appropriation are delineated in an earlier section of this statement. In addition, the conferees agree that $5,000,000 is to be provided for facilities enhancements at the Stennis Space Center.

The conferees concur with the direction of the Senate with respect to the NASA Wallops flight facility. The conferees wish to make clear that none of the funds appropriated or otherwise made available to the National Aeronautics and Space Administration by this Act, or any other Act enacted before the date of enactment of this Act, may be used by the Administrator of the National Aeronautics and Space Administration to relocate aircraft of the National Aeronautics and Space Administration based east of the Mississippi River to the Dryden Flight Research Center in California.

ADMINISTRATIVE PROVISIONS

The conferees have included an administrative provision as proposed by the Senate which directs NASA to use $400,000 for a study by the National Research Council which evaluates the engineering challenges posed by extravehicular activity requirements of space station construction/assembly.

The conferees have not included the administrative provision proposed by the House and stricken by the Senate which would have provided $150,000,000 of transfer authority.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

Appropriates $1,000,000 for the National Credit Union Administration for the Community Development Revolving Loan Program for credit unions as authorized by Public Law 103–325.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

Appropriates $2,545,700,000 for research and related activities, instead of $2,537,526,000 as proposed by the House and $2,524,700,000 as proposed by the Senate.

The conferees are in receipt of the Foundation's explanation of the programmatic areas of Knowledge and Distributed Intelligence in the Information Age and Life and Earth's Environment. The Foundation has not yet provided appropriate milestones and guideposts, to be accomplished in fiscal year 1998, and against which the agency can be measured in determining funding for fiscal year 1999. The conferees expect to receive such milestones and guideposts before the Foundation obligates any further funding for these programmatic areas.

Throug a cooperative agreement, the National Science Foundation has authorized the collection of fees for the registration of internet domain names. Under the terms of that agreement, a fund for the intellectual infrastructure of the internet has been established. For purposes of justifying the Foundation's requests for appropriations, the Foundation has included networking activities, such as the domain name registration activity, within its research facilities portfolio. The conferees concur that these activities should be considered research facilities.

Accordingly, the conferees direct the Foundation to credit up to $23,000,000 of the funds collected in the "intellectual infrastructure" fund to the Foundation's Research and Related Activities account for Next Generation Internet activities, pursuant to the authority to credit "receipts for scientific support services and material furnished by National Science Foundation supported research facilities."

The conferees are in agreement with the report of the Senate regarding participation by EPSCoR states in development of the Next Generation Internet. The conferees expect to receive the report by March 31, 1998.

At its March 1997 meeting, the National Science Board evaluated proposals for Partnerships with Advanced Computational Infrastructure (PACI). At that meeting, two partnership proposals from two existing supercomputing centers were not selected. The Board provided for the phase-out over a period of up to two years of the two centers not selected. This phase-out was designed to recognize the substantial investment made by the United States in these two centers and to keep their resources available to the user community during a period of transition to the new partnership structure.

The conferees are concerned that funding for the orderly phase-out of the two existing supercomputing centers, and the seamless transition of the user community to the new PACI program, be fully and fairly achieved in an expeditious and truly cooperative manner. Rather than providing additional funds for that purpose at this time, the conferees direct the Foundation to provide a report to the Committees on Appropriations of the House and Senate which details both the progress of the PACI program to date, and its further plans for the orderly phase-out and seamless transition of the Foundation's supercomputing program. This report should be submitted with the fiscal year 1999 budget and should focus particularly on how "high-end" users of the IBM SP supercomputing system will be fully serviced by the new partnerships, or, if necessary, by the new partnerships in close collaboration with the centers being phased-down.

The conferees have agreed to provide $40,000,000 in addition to the budget request for a competitive, peer-reviewed plant genome research program. The conferees are in agreement that the program established by the National Science Foundation should be accomplished after consultation with the National Science and Technology Council's Interagency Working Group on plant genome research.

The conferees have also agreed to provide $1,000,000 for the United States/Mexico Foundation for Science as proposed by the House.

Finally, the conferees encourage the National Science Foundation to study how it

would establish and operate a National Institute for the Environment.

MAJOR RESEARCH EQUIPMENT

Appropriates $109,000,000 for major research equipment instead of $175,000,000 as proposed by the House and $85,000,000 as proposed by the Senate.

The conferees agree to provide $4,000,000 for technical enhancements to the Gemini telescope project and $70,000,000 for upgrades to Antarctic facilities. The amount provided for Antarctic facilities includes $35,000,000 to be made available immediately and the remaining $35,000,000 to be available on September 30, 1998. The conferees have not provided the budget request of $25,000,000 for the Polar Cap Observatory. The conferees direct the National Science Foundation to provide the Committees on Appropriations of the House and Senate an analysis of alternative sites for location of the observatory and a report on the scientific justification for the project.

EDUCATION AND HUMAN RESOURCES

Appropriates $632,500,000 for education and human resources, as proposed by the House instead of $625,500,000 as proposed by the Senate.

The conferees agree to provide $2,000,000 for Advanced Technology Education and $5,000,000 for an initiative to improve the production of science and engineering doctorates drawn from under-represented groups as proposed in the House report. In addition, the conferees agree that the Foundation should provide $6,000,000 for an undergraduate reform initiative to increase the numbers of under-represented populations in mathematics, engineering and the sciences as proposed in the Senate report.

SALARIES AND EXPENSES

Appropriates $136,950,000 for salaries and expenses, the same as provided by the House and the Senate. The conferees agree with the direction contained in the Senate report with regard to reporting total cost of administration and management.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

Appropriates $60,000,000 for the Neighborhood Reinvestment Corporation instead of $70,000,000 as proposed by the House and $50,000,000 as proposed by the Senate. As this is a 20 percent increase over the fiscal year 1997 funding level, the conferees request the Corporation to notify the Committees on Appropriations as to how this additional funding will be specifically utilized throughout the fiscal year.

TITLE IV—GENERAL PROVISIONS

Language as proposed by the Senate which will allow funds made available under section 320(g) of the Federal Water Pollution Act to be used for implementing comprehensive conservation and management plans is included as section 420.

Bill language regarding the Office of Consumer Affairs is included as section 421 as proposed by the Senate instead of as section 420 as proposed by the House.

Inserts language proposed by the Senate defining "qualified student loan" with respect to national service awards, modified to make the provision apply only to Alaska.

Deletes language proposed by the Senate expressing a sense of the Senate regarding funding of veterans discretionary programs in future years. The conferees are concerned with the budget projections for veterans medical spending assumed in the 1997 Balanced Budget Act. Veterans medical spending should be afforded the highest priority in the budget process in coming fiscal years to ensure that high quality medical care is accessible and available to all eligible veterans. The conferees note that the highest priority was afforded to veterans medical spending in the conference agreement on this legislation, which makes available approximately $300,000,000 above the amount assumed in the budget agreement.

Deletes language proposed by the House which prohibits the expenditure of funds to implement regulations regarding the importation of PCBs and PCB items.

Deletes language proposed by the House which prohibits the expenditure of funds for grants or contracts to institutions of higher education which restrict ROTC activities.

Deletes without prejudice language proposed by the Senate requiring Senate hearings relating to compensation benefits for radiation exposure. The Senate conferees support the Senate provision regarding Senate hearings and a CBO cost study concerning the atomic veterans issue. The conferees are concerned that veterans who were exposed to ionizing radiation while serving on active duty may have contracted various diseases which currently are not on the presumptive list of disabilities for radiogenic diseases, and urge the Secretary to review this matter.

TITLE V—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PORTFOLIO REENGINEERING

Modifies S. 513, the "Multifamily Assisted Housing Reform and Affordability Act of 1997," which was incorporated, by reference, by the Senate. The House-passed measure did not include a similar provision. The policies contained in this provision ensure the continued economic and physical vitality of the properties restructured under this title, protect the FHA insurance fund from excessive defaults, reduce the cost of rent subsidies paid to support insured projects, and guard against possible displacement of families who live in these buildings.

Title V of the Act is divided into four subtitles. Subtitle A establishes a "mark-to-market" program to reduce the costs of over-subsidized section 8 multifamily housing properties insured by the Federal Housing Administration (FHA). Subtitle B includes several miscellaneous provisions to reform and establish new authority for the Secretary to recapture interest reduction payment subsidies from section 236 insured multifamily housing properties for purposes of providing rehabilitation grants to properties suffering from deferred maintenance. Subtitle C of the bill contains a number of provisions to minimize the incidence of fraud and abuse with regard to Federally assisted housing programs. Subtitle D creates the Office of Multifamily Housings Assistance restructuring.

Under the "mark-to-market" program, FHA-insured section 8 housing properties with above market rents are eligible for debt restructuring to reduce rent levels to those of comparable market rate properties or to the minimum level necessary to support proper operations and maintenance. In response to limitations with the Department's capacity, the legislation shifts the administration and management of this portfolio from the Department to capable entities charged with protecting the affordable housing stock in a fiscally responsible manner. Additionally, the legislation terminates the government's relationship with owners who fail to comply with Federal requirements and ends the practice of subsidizing properties that are not economically viable.

SELECTING PARTICIPATING ADMINISTRATIVE ENTITIES

This legislation utilizes capable public entities, nonprofits, and for-profit entities to act as participating administrative entities (PAEs) on behalf of the Federal government. Priority consideration is provided to public agencies, namely State and local housing finance agencies. The Secretary is required to provide interested public agencies with an exclusive time period to determine if the entities are qualified to act as PAEs. During this time period, the Secretary is required to evaluate the public agencies' qualifications, based on clearly established criteria, and to notify the applicants regarding the status of their proposals. The Secretary is required to select a public agency if it meets the selection criteria. If the proposal is rejected, the Secretary is required to provide a written explanation and an opportunity for the applicant to respond. Even in situations where a public agency is rejected under the exclusive time period, the public agency is allowed to reapply when other non-public entities are allowed to apply for the program. The conferees expect the Secretary to utilize qualified housing finance agencies (HFAs) to the greatest extent possible because of the HFAs' experience and expertise in affordable housing and their ability to ensure that the affordable housing stock is protected in a fiscally responsible manner.

The conferees stress that the criteria established in the bill relate to a wide range of factors that are intended to assure that the PAE is capable of protecting the interests of residents, properties, and communities. Similarly, the conferees recognize that the participating administrative entities will be carrying out complex duties. In many cases, PAEs will be asked to determine, subject to guidelines established by the Secretary, appropriate rent levels for the project which will determine the section 8 subsidy cost and the amount of debt that will be refinanced into a second mortgage. As a result, they have the first responsibility for determining the appropriate subsidy costs borne by Federal taxpayers and the appropriate level of risk of nonpayment that Federal taxpayers shall bear.

The conferees intend that any costs of any fees paid to the participating administrative entities, under the portfolio restructuring agreement are mandatory expenses of the appropriate FHA fund.

Section 513(b) sets forth the process and criteria for selecting participating administrative entities. The conferees intend that these criteria and processes will result in the selection of participating administrative entities that are fully and unquestionably qualified to carry out these responsibilities on behalf of the American taxpayer. They should have the necessary expertise and capacity and the ability to ascertain the public interest both in reducing cost and risk and in maintaining the public purpose for which Federal support of this housing is provided.

In situations where an HFA or local housing agency is not selected at the PAE, the Secretary has the flexibility to choose those qualified nonprofit organizations and other entities that have affordable housing missions and experience to serve as PAEs. If no qualified public or nonprofit entities are selected, the Department is provided with authority to act as the PAE in conjunction with other entities. The conferees are concerned about the Department's capacity and expects the Department or its contractors to carry out the restructuring only where adequate capacity exists. Under no circumstances shall a decision that directly affects the residents and community be made

without a public purpose entity involved. Public purpose entities, including the Department, will be involved in all critical functions such as developing the rental assistance assessment plan, screening owners and properties for mark-to-market and monitoring the portfolio after restructuring.

To facilitate optimal capacity for the restructuring program, interested public and nonprofit entities are encouraged to partner with various other entities. For example, public purpose entities could partner with public housing agencies, private financial institutions, mortgage services, nonprofit and for-profit housing organizations, Fannie Mae and Freddie Mac, the Federal Home Loan Banks, and other State or local mortgage insurance companies or bank lending consortia. Further, coordination or partnerships between different State and local housing entities are encouraged under this Act.

The Act envisions that the Department will compensate participating administrative entities and other third parties to accomplish the purpose of the Act. Other mechanisms, such as equity sharing partnerships, are expressly prohibited beginning in fiscal year 1999. (The demonstration authority continued during fiscal year 1998 permits structures such as the nonprofit joint venture structure already in use by the Department in fiscal year 1997.)

Specifically, section 713(b)(6)(B) of the Act prohibits any private entity from sharing, participating in, or otherwise benefiting from any equity created, received, or restructured as a result of the portfolio restructuring agreement. In addition, section 517(d) of the Act prohibits the Secretary from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project. These prohibitions were put in place because of concerns that equity sharing arrangements might skew the motivations of the participating administrative entities or the Department in ways counter to the public interest.

The conferees note, however, that one of the public purposes of this Act is to reduce the cost to the taxpayers of section 8 subsidies and losses to the FHA insurance fund. Moreover, during the savings and loan crisis, the Resolution Trust Corporation found that the use of equity sharing partnerships between the public sector and the private sector resulted in lower losses to the taxpayer while effectively achieving other public goals.

Likewise, the Department is using or is contemplating using such structures in a way that is consistent with the public interest. For example, under the FHA Mulifamily Housing Demonstration Program, the Department entered into a joint venture with a nonprofit organization selected through competitive bidding to restructure selected mortgages with assistance contracts that expired in fiscal year 1997. Similarly, the Department in contemplating selling notes on assisted projects to a partnership of state agencies and private investors, motivated to provide maximum return to the purchaser, and thus to the FHA fund, but with certain public policy decisions reserved to the state agency.

Therefore, the conferees direct the Department to report to the Committees of jurisdiction, no later than February 15, 1998, on the possible ways equity sharing partnerships might be incorporated into this framework as an optional alternative structure in implementing the Act, if the prohibitions in the Act were to be lifted. The report shall discuss the advantages and disadvantages of those structures in achieving public purposes. The report shall also consider what tax impact, if any, such structures would have on the owners of the projects.

FUNCTIONS OF PARTICIPATING ADMINISTRATIVE ENTITIES (PAES)

PAEs perform a variety of functions in order to reduce project rents, address troubled projects and correct management and ownership problems. PAEs are provided with portfolio restructuring program responsibilities through a working agreement with the Secretary called "Portfolio Restructuring Agreements." Under these agreements, PAEs are authorized to take a number of actions to fulfill the goals of this legislation. These actions include restructuring the project's debt, screening out bad projects and bad owners from the renewal and restructuring process, creating partnerships with other housing and financial entities and ensuring the project's long-term compliance with housing quality and management performance requirements.

Before an eligible property is allowed to enter the renewal and restructuring process, PAEs are required to carefully evaluate the project owner's record in operating the property and the property's physical condition. The Act specifies the criteria which PAEs use to determine which properties qualify for section 8 contract renewal and mortgage restructuring. These criteria focus on ownership, management performance and the economic viability of the properties. It is at this time that the Federal government is provided with the opportunity to cleanse the inventory of bad project owners and properties which hurt residents and communities, and threaten the financial interests of the American taxpayer. Owners or purchasers who have been rejected from the restructuring process have the right to dispute the basis for the rejection and are provided with an opportunity to remedy the problem. The Secretary or the PAE has the discretion to affirm, modify or reverse any rejection.

If the property owners are prohibited from restructuring, the Department is provided with authority to deal with the property in several ways, including to sell or transfer the project to a qualified purchaser. Preferences are provided to resident organizations and tenant-endorsed community-based nonprofit and public agency entities. If sales or transfers to qualified purchasers are accepted, the project becomes eligible to be restructured. In addition to sales and transfers, another option is partial or complete demolition of the project if the project is in such poor condition that rehabilitation is not cost-effective. The Department may exercise its foreclosure and property disposition powers to deal with troubled projects and owners. Under any of these scenarios, residents are protected from displacement with tenant-based assistance and reasonable moving expense funds.

RENT LEVELS

Properties eligible for restructuring have rents set at a reasonable level near or at market rates based on the rents of other comparable properties in the market. In the event comparable properties cannot be identified, the bill allows rents to be 90 percent of the fair market rent (FMR). Exception rents are allowed using the budget-based rent calculation method when no comparable property exists or where 90 percent of the FMR does not ensure the financial viability of the properties. Budget-based exception rents are capped at 120 percent of the FMR and only 20 percent of the inventory's units can receive these rents.

The conferees are sensitive to the reality that many of the properties which may require budget-based exception rents are concentrated in certain metropolitan or regional areas. In particular, a large portion of the properties in the upper Midwest are elderly facilities in rural areas, which are particularly disadvantaged under the Department's fair market rent system because these properties were built to a different standard compared to general rental properties, and the nature of the rental housing depresses the FMRs. To address these types of problems, the Act provides the Department with authority to waive the 20 percent limitation in any jurisdiction which can demonstrate a special need. The Secretary is also authorized to waive the 120 percent exception rent cap on up to five percent of the restructured units in a given year for unique situations. The conferees urge the Secretary to exercise these options to ensure that certain geographic areas are not adversely affected.

Likewise, in determining comparable rents, the participating administrative entity may take into account or may not take into account, as appropriate, units which are subject to rent control. The conferees are concerned that, if rent controlled units are excluded from the determination in every case, restructured rents could be too high in areas generally subject to rent controls. In that instance, taxpayers would pay more than necessary in section 8 subsidies.

However, the conferees recognize that there will be situations where rent controlled units may not be the most useful determinants of market rents. For example, if in determining comparable rents the participating administrative entity finds a mix of controlled and uncontrolled buildings similar to the subject property, there may be justification to use only the uncontrolled properties as indicative of market rents. In addition, a participating administrative entity determining comparable rents in an area which contains both controlled and uncontrolled properties may choose to use uncontrolled properties as the source of comparability for a project not subject to rent control and to use controlled properties for a property subject to rent control. Finally, the conferees believe that there may be instances in which the participating administrative entity may need to look at rents outside the jurisdiction to best determine comparable rents. The conferees request the Department to provide flexible program guidance on this matter to the participants.

TYPE OF RENTAL ASSISTANCE

The conference agreement mandates the continuation of project-based rental assistance for properties that predominantly serve elderly or disabled households and properties located in tight rental markets. The conferees expect the Department to develop regulations, in consultation with affected parties, that define what constitutes a "predominantly elderly" or "disabled" property and a "tight" rental market. In defining a tight rental vacancy market, the conferees believe that a six percent vacancy rate is reasonable. However, as stated previously, the conferees expect some flexibility in the regulations to account for local market variations. It is most likely that metropolitan areas such as New York City, Boston, Salt Lake City, and the San Francisco Bay area will be considered to be tight rental markets by most real estate experts and, therefore, covered under the mandatory renewal provisions.

For the remainder of the inventory, PAEs are permitted to either continue project-based assistance or can convert some or all assisted units in a property to tenant-based assistance pursuant to the rental assistance assessment plan. This decision is made only after the PAE consults with the project owner, local government officials and affected residents.

The conferees note that the Act establishes eight factors to be considered by the participating administrative entity in determining whether a section 8 contract should continue as project-based or be converted to tenant-based certificates and vouchers. Each of these factors is relevant to such determination. The Act, however, given no weight to one factor over another and the conferees have no predetermined expectation about how many projects will be converted.

Instead, the importance of each factor is to be determined in the context of each project. The conferees expect that the participating administrative entity will not make a numerical calculation of the number of factors weighing in favor of tenant-basing and the number of factors weighing in favor of project-basing, but instead will make a reasoned judgment about how, in each case, to achieve an appropriate balance of desired public policy goals as reflected by the factors. The PAE may take up to five years to convert the assistance to certificates and vouchers if the PAE decides the transition period is necessary and if such a transition period is necessary for the financial viability of the project.

MORTGAGE RESTRUCTURING AND TAX POLICY

On September 15, 1997, the House Committee on Banking, Subcommittee on Housing and Community Opportunity, held a hearing on the tax consequences of FHA-insured mortgage restructuring for project owners. The subcommittee heard testimony speculating that the Treasury Department, most likely, would review the restructuring transactions envisioned in the Act based on the individual facts and circumstances of each project. Consequently, definitive answers could not be provided about whether this restructuring proposal would result in tax consequences for participating project owners.

Moreover, the subcommittee heard testimony that, even if there was definitive guidance from the Treasury Department about the treatment of the restructuring transactions, some project owners could incur accelerated tax liabilities as a result of the restructuring and that, as a result, some project owners may not participate in the restructuring process. Finally, additional testimony suggested that Congress has no choice but to balance the budgetary cost of providing tax relief legislation with the budgetary savings that the restructuring proposals represent and with the program goal of maintaining the stock of low-income housing. Therefore, the conferees urge the committees of jurisdiction, early next year, to consider necessary legislation to ensure that the housing policy represented by this Act is not thwarted by owner concerns about tax liability.

PROPERTY REHABILITATION

The conference agreement provides rehabilitation assistance but limits the extent of rehabilitation to a non-luxury standard to prevent abuse. To further safeguard against excessive rehabilitation costs, a minimum 25 percent matching requirement from the owner is included in the Act. The purpose of this matching requirement is to encourage owners to invest their own funds in their properties and to reduce the risk to the Federal government. Rehabilitation assistance is provided either through project reserves, grants funded from acquired residual receipts, additional debt restructurings taken as part of the mortgage restructuring transaction, or from the rehabilitation grant program.

OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

The Act establishes an Office of Multifamily Housing Assistance Restructuring (OMHAR) within the Department, under the direction of the Secretary, to implement the Act, to oversee the multifamily housing restructuring process performed by participating administrative entities and, when necessary, to restructure the mortgage. The conferees intent that OMHAR be staffed with expert employees and have access to private expertise to accomplish the purposes of the Act.

To do so, OMHAR must have or obtain expertise and skills in real estate development, in management and finance, in financial and market analysis, in auditing, evaluation and oversight, and in accounting and taxation. The conferees direct the Secretary to ensure that such expertise and skills are available to OMHAR. The Act gives the Secretary the flexibility to obtain competent personnel from other agencies and to contract for expert services. However, the conferees expect that these avenues, and the existing Departmental staff, may not be sufficient to obtain the necessary skills. Therefore, the conferees expect that the Secretary may be required to hire new employees for OMHAR to perform effectively.

SPECIAL CONSULTATION PROCEDURES

Section 522 of the Act requires the Department to develop final regulations within twelve months from the date of enactment. During that period, the Department is to collect and respond to numerous public comments on several issues. However, in order to focus special attention on two critical issues, the conferees have included special requirements for the Department to seek comment through three public fora at which specified parties may make recommendations on:

—the selection process for participating administrative entities; and

—the mandatory renewal of certain contracts with project-based assistance.

Regarding the selection of participating administrative entities, the conferees stated previously that entities fully qualified shall be selected to undertake the complex task of restructuring the debt and assistance for multifamily projects. To this end, the selection criteria are intended to assure competent and efficient participants. The conferees urge the Department to use the fora to elicit a wide range of concerns and recommendations from affected parties as to implementing the selection process to accomplish this end.

Section 522 also directs the Department to solicit views on how to implement the requirements that section 8 assistance be renewed as project-based assistance for tight markets (section 515(c)(1)(A)) and when "a predominant number" of the units are occupied by elderly and/or disabled families (section 515(c)(1)(B)). The conferees believe it would be helpful if interested parties address the extent to which a project must be occupied by elderly and/or disabled persons to qualify for mandatory renewal, particularly rural projects which house elderly and disabled persons, in light of the factors that must be assessed in the rental assistance assessment plan.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1998 recommended by the committee of conference, with comparisons to the fiscal year 1997 amount, the 1998 budget estimates, and the House and Senate bills for 1998 follow:

New budget (obligational) authority, fiscal year 1997	$85,895,503,442
Budget estimates of new (obligational) authority, fiscal year 1998	90,990,338,000
House bill, fiscal year 1998	91,461,593,000
Senate bill, fiscal year 1998	90,367,535,000
Conference agreement, fiscal year 1998	90,735,430,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1997	+4,839,926,558
Budget estimates of new (obligational) authority, fiscal year 1998	−254,908,000
House bill, fiscal year 1998	−726,163,000
Senate bill, fiscal year 1998	+367,895,000

JERRY LEWIS,
TOM DELAY,
JAMES T. WALSH,
DAVE HOBSON,
JOE KNOLLENBERG,
R.P. FRELINGHUYSEN,
ROGER F. WICKER,
BOB LIVINGSTON,
LOUIS STOKES,
ALAN B. MOLLOHAN,
MARCY KAPTUR,
CARRIE P. MEEK,
DAVID E. PRICE,
DAVE OBEY,
Managers on the Part of the House.

CHRISTOPHER S. BOND,
CONRAD BURNS,
TED STEVENS,
RICHARD SHELBY,
BEN NIGHTHORSE CAMPBELL,
LARRY E. CRAIG,
THAD COCHRAN,
BARBARA A. MIKULSKI,
PATRICK J. LEAHY,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA BOXER,
ROBERT C. BYRD,
Managers on the Part of the Senate.

REPORT ON H.R. 2607, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

Mr. LIVINGSTON, from the Committee on appropriations, submitted a privileged report (Rept. No. 105–298) on the bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. All points of order are reserved on the bill.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure, which was read and, without objection, referred to the Committee on Appropriations.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, CONGRESS OF THE UNITED STATES, HOUSE OF REPRESENTATIVES,
Washington, DC, September 29, 1997.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Enclosed are copies of resolutions adopted on September 24, 1997 by the Committee on Transportation and Infrastructure. Copies of the resolutions are being transmitted to the Department of the Army.

With kind personal regards, I am

Sincerely,

BUD SHUSTER,
Chairman.

There was no objection.

DAVIS-BACON FRAUD IN OKLAHOMA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, I am sure you have heard by now about the Davis-Bacon fraud that was going on Oklahoma. After long investigations by the Oklahoma Department of Labor, the FBI indicted and a Federal judge convicted a labor union official for falsely submitting wage information to inflate wage rates on Federal projects. Last week an Oklahoma Federal judge upheld a conviction and denied the motion for a new trial or acquittal on 14 felony charges. The union official currently awaits sentencing.

The investigation by the Oklahoma Department of Labor uncovered just how easy it is to manipulate the system. The investigation uncovered inflated numbers of employees and inflated wage rates on projects that were never built. Unfortunately, this false wage information enormously skewed data that sets wages on Federal projects. This illustrates the poor quality of the Federal wage survey process and how antiquated this program really is.

I would like to close by thanking the officials who were involved in the investigation and who persisted on following through to the end results, even if the results sadly confirm the fact that the Davis-Bacon invites fraud and abuse.

THE IRS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, asking the Congress to stay out of it, the IRS is promising to reform themselves. Like a wounded TV evangelist, the IRS is begging the American people for forgiveness. They said, "This time we really mean it. Cross our hearts, hope to die."

Spare me, Mr. Speaker. Who is kidding whom? Allowing the IRS to reform themselves would be like allowing Jeffrey Dahlmer to head up the Boy Scouts. The IRS is guilty, guilty, guilty, and every time they get caught with their fingers in our 1040's, they plead for forgiveness.

Enough is enough. I say it is time to kick these computer cowboys right up their hard drives. Pass H.R. 367 and change the burden of proof in a civil tax case. That will get it done.

With that, I yield back all those crocodile tears at the Internal Revenue Service.

IN OPPOSITION TO H.R. 1270

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, this week the Committee on Resources will mark up H.R. 1270, the Nuclear Waste Act of 1997. This bill tramples the Constitution and violates the basic fundamentals this great country was founded upon.

Whatever happened to States rights? Whatever happened to the tenth amendment? How can this body mandate upon the State of Nevada that it must accept nuclear industry waste when Nevada does not even have a nuclear power plant of its own?

What about private property rights? In New Mexico a man won a lawsuit which entitled him to $884,000 because nuclear waste was shipped next to his private property and devalued his land. Again, this garbage will travel through 43 States along the most heavily populated highways in this country. Guess who is going to pay off all these private property owners? The American taxpayer.

H.R. 1270 is an unfunded mandate, a tax increase, a dangerous idea and a very bad policy. Do not be misled by the nuclear industry lobby. Get the facts. Vote "no" on 1270.

ALLOWING SMOKING IN THE CHAMBER

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Madam Speaker, our decision to allow smoking in this Chamber, the Speaker's lobby and the cloakrooms impacts not just ourselves but hundreds of employees, many of whom are here on a regular basis. Reports from our employees that I have received indicate they suffer extreme discomfort in some cases, do not like it, but feel uncomfortable about speaking out.

We should care as much for our employees as for other Federal workers who do get a smoke-free environment. They deserve it. Executive Order 13058 protects employees of Federal agencies from tobacco in the workplace. Agencies must implement the smoking ban by August 9, 1998.

There has been much talk in this Chamber about playing by the same rules as everybody else. Unfortunately, there is rather a glaring gap between the rhetoric and action when it comes to providing a smoke-free workplace for our employees.

It is time for the House to catch up with the rest of America and move to protect the health of our employees. I urge my colleagues to support H.R. 247.

WHITE HOUSE REACTION TO IRS

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute.)

Mr. HUTCHINSON. Madam Speaker, now the whole world knows what American taxpayers suspected for many years: While there are many good employees, the IRS as an organization is running amok, abusing its power, targeting citizens, and acting on a daily basis to run the word "service" straight out of town.

So what is the Clinton administration's reaction to this abuse after it comes to light? Denounce the abuses? Promise never to use the IRS for political purposes again? And here is a dream, take those responsible for the abuse and hold them accountable? Guess again. The White House instinctively reacts the way it does whenever any government bureaucracy comes under attack. It defends the IRS.

The IRS needs an overhaul. We should sunset the Internal Revenue Code and have a national debate on the direction of our tax system. It needs a breath of fresh air and acknowledgment that it needs to go in a new direction. That is what this debate would be about, if we sunset the Internal Revenue Code.

RENO PROTECTING WHITE HOUSE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, is it any wonder that the day after the Attorney General makes a supposedly impartial preliminary decision last Friday clearing President Clinton of criminal conduct, that the White House suddenly releases videotapes of fundraisers at the White House? It is no coincidence that these videotapes

were released to congressional investigators and the Justice Department after the Attorney General's decision. Senate investigators had previously asked if these tapes existed. The White House said no, they did not even exist.

Also, Madam Speaker, who is to also believe that somehow a 60-second portion of audio is missing from the tape of a June 18, 1996, fund-raising coffee at which witnesses recall John Huang asking for campaign contributions in the presence of the President?

Madam Speaker, I think it is important that we go forward and call for a special independent prosecutor, to find out what is occurring here.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules but not before 5 p.m. today.

VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 1997

Mr. STUMP. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2206) to amend title 38, United States Code, to improve programs of the Department of Veterans Affairs for homeless veterans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Health Programs Improvement Act of 1997".

SEC. 2. TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.

(a) CODIFICATION AND REVISIONS OF VETERANS HOMELESS PROGRAMS.—Chapter 17 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VII—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

"§ 1771. General treatment

"In providing care and services under section 1710 of this title to veterans suffering from serious mental illness, including veterans who are homeless, the Secretary may provide (directly or in conjunction with a governmental or other entity)—

"(1) outreach services;

"(2) care, treatment, and rehabilitative services (directly or by contract in community-based treatment facilities, including halfway houses); and

"(3) therapeutic transitional housing assistance under section 1772 of this title, in conjunction with work therapy under section 1718(a) or (b) of this title and outpatient care.

"§ 1772. Therapeutic housing

"(a) The Secretary, in connection with the conduct of compensated work therapy programs, may operate residences and facilities as therapeutic housing.

"(b) The Secretary may use such procurement procedures for the purchase, lease, or other acquisition of residential housing for purposes of this section as the Secretary considers appropriate to expedite the opening and operation of transitional housing and to protect the interests of the United States.

"(c) A residence or other facility may be operated as transitional housing for veterans described in paragraphs (1) and (2) of section 1710(a) of this title under the following conditions:

"(1) Only veterans described in those paragraphs and a house manager may reside in the residence.

"(2) Each resident, other than the house manager, shall be required to make payments that contribute to covering the expenses of board and the operational costs of the residence for the period of residence in such housing.

"(3) In order to foster the therapeutic and rehabilitative objectives of such housing (A) residents shall be prohibited from using alcohol or any controlled substance or item, (B) any resident violating that prohibition may be expelled from the residence, and (C) each resident shall agree to undergo drug testing or such other measures as the Secretary shall prescribe to ensure compliance with that prohibition.

"(4) In the establishment and operation of housing under this section, the Secretary shall consult with appropriate representatives of the community in which the housing is established and shall comply with zoning requirements, building permit requirements, and other similar requirements applicable to other real property used for similar purposes in the community.

"(5) The residence shall meet State and community fire and safety requirements applicable to other real property used for similar purposes in the community in which the transitional housing is located, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to such property.

"(d) The Secretary shall prescribe the qualifications for house managers for transitional housing units operated under this section. The Secretary may provide for free room and subsistence for house managers in addition to, or instead of payment of, a fee for such services.

"(e)(1) The Secretary may operate as transitional housing under this section—

"(A) any suitable residential property acquired by the Secretary as the result of a default on a loan made, guaranteed, or insured under chapter 37 of this title;

"(B) any suitable space in a facility under the jurisdiction of the Secretary that is no longer being used (i) to provide acute hospital care, or (ii) as housing for medical center employees; and

"(C) any other suitable residential property purchased, leased, or otherwise acquired by the Secretary.

"(2) In the case of any property referred to in paragraph (1)(A), the Secretary shall—

"(A) transfer administrative jurisdiction over such property within the Department from the Veterans Benefits Administration to the Veterans Health Administration; and

"(B) transfer from the General Post Fund of the Department of Veterans Affairs to the appropriate revolving fund under chapter 37 of this title an amount (not to exceed the amount the Secretary paid for the property) representing the amount the Secretary considers could be obtained by sale of such property to a nonprofit organization or a State for use as a shelter for homeless veterans.

"(3) In the case of any residential property obtained by the Secretary from the Department of Housing and Urban Development under this section, the amount paid by the Secretary to that Department for that property may not exceed the amount that the Secretary of Housing and Urban Development would charge for the sale of that property to a nonprofit organization or a State for use as a shelter for homeless persons. Funds for such charge shall be derived from the General Post Fund.

"(f) The Secretary shall prescribe—

"(1) a procedure for establishing reasonable payment rates for persons residing in transitional housing; and

"(2) appropriate limits on the period for which such persons may reside in transitional housing.

"(g) The Secretary may dispose of any property acquired for the purpose of this section. The proceeds of any such disposal shall be credited to the General Post Fund of the Department of Veterans Affairs.

"(h) Funds received by the Department under this section shall be deposited in the General Post Fund. The Secretary may distribute out of the fund such amounts as necessary for the acquisition, management, maintenance, and disposition of real property for the purpose of carrying out such program. The Secretary shall manage the operation of this section so as to ensure that expenditures under this subsection for any fiscal year shall not exceed by more than $500,000 proceeds credited to the General Post Fund under this section. The operation of the program and funds received shall be separately accounted for, and shall be stated in the documents accompanying the President's budget for each fiscal year.

"§ 1773. Additional services at certain locations

"(a) Subject to the availability of appropriations, the Secretary shall operate a program under this section to expand and improve the provision of benefits and services by the Department to homeless veterans.

"(b) The program shall include the establishment of not fewer than eight programs (in addition to any existing programs providing similar services) at sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of those specialized services which may be provided under existing law.

"(c) The program shall include the services of such employees of the Veterans Benefits Administration as the Secretary determines appropriate at sites under the jurisdiction of the Secretary at which services are provided to homeless veterans.

"§ 1774. Coordination with other agencies and organizations

"(a) In assisting homeless veterans, the Secretary shall coordinate with, and may provide services authorized under this title in conjunction with, State and local governments, other appropriate departments and

agencies of the Federal Government, and nongovernmental organizations.

"(b)(1) The Secretary shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the medical center or regional office, as the case may be.

"(2) Each such assessment shall be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area.

"(3) Each such assessment shall identify the needs of homeless veterans with respect to the following:

"(A) Health care.

"(B) Education and training.

"(C) Employment.

"(D) Shelter.

"(E) Counseling.

"(F) Outreach services.

"(4) Each assessment shall also indicate the extent to which the needs referred to in paragraph (3) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

"(5) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

"(c) In furtherance of subsection (a), the Secretary shall require the director of each medical center and the director of each regional benefits office, in coordination with representatives of State and local governments, other Federal officials, and nongovernmental organizations that have experience working with homeless persons in the areas served by such facility or office, to—

"(1) develop a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned, together with a description of the services offered by those programs;

"(2) seek to encourage the development by the representatives of such entities, in coordination with the director, of a plan to coordinate among such public and private programs the provision of services to homeless veterans;

"(3) take appropriate action to meet, to the maximum extent practicable through existing programs and available resources, the needs of homeless veterans that are identified in the assessment conducted under subsection (b); and

"(4) attempt to inform homeless veterans whose needs the director cannot meet under paragraph (3) of the services available to such veterans within the area served by such center or office.".

(b) CONFORMING AMENDMENTS.—(1) Section 1720A of such title is amended—

(A) by striking out subsections (a), (e), (f), and (g); and

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

(2) The heading of such section is amended to read as follows:

"§ 1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency".

(c) CONFORMING REPEALS.—The following provisions are repealed:

(1) Section 7 of Public Law 102–54 (38 U.S.C. 1718 note).

(2) Section 107 of the Veterans' Medical Programs Amendments of 1992 (38 U.S.C. 527 note).

(3) Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note).

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 17 of such title is amended—

(1) by striking out the item relating to section 1720A and inserting in lieu thereof the following:

"1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency.";

and

(2) by adding at the end the following:

"SUBCHAPTER VII—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

"1771. General treatment.

"1772. Therapeutic housing.

"1773. Additional services at certain locations.

"1774. Coordination with other agencies and organizations.".

SEC. 3. EXTENSION OF HOMELESS VETERANS COMPREHENSIVE SERVICE GRANT PROGRAM.

(a) EXTENSION FOR TWO FISCAL YEARS.—Subsection (a)(2) of section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

(b) REPEAL OF LIMITATION ON NUMBER OF PROJECTS.—Subsection (b)(2) of such section is amended by striking out ", which shall" and all that follows through "paragraph (1)".

(c) TECHNICAL CORRECTION.—Subsection (a)(1) of such section is amended by striking out ", during".

SEC. 4. ANNUAL REPORT ON ASSISTANCE TO HOMELESS VETERANS.

Section 1001 of the Veterans' Benefits Improvements Act of 1994 (38 U.S.C. 7721 note) is amended—

(1) in subsection (a)(2)—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraphs:

"(D) evaluate the effectiveness of the programs of the Department (including residential work-therapy programs, programs combining outreach, community-based residential treatment, and case-management, and contract care programs for alcohol and drug-dependence or abuse disabilities) in providing assistance to homeless veterans; and

"(E) evaluate the effectiveness of programs established by recipients of grants under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note), and describe the experience of such entities in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans."; and

(2) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 5. NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

Section 1720C of title 38, United States Code, is amended—

(1) in subsection (a), by striking out "During" and all that follows through "furnishing of" and inserting in lieu thereof "The Secretary may furnish"; and

(2) in subsection (b)(1), by striking out "pilot".

SEC. 6. PERSIAN GULF WAR VETERANS.

(a) SCOPE OF COUNSELING.—Section 703 of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4976) is amended by adding at the end the following new subsection:

"(c) FORM OF COUNSELING.—Counseling provided in this section may not be provided through written materials only, but shall include verbal counseling.".

(b) CRITERIA FOR PRIORITY HEALTH CARE.—(1) Subsection (a)(2)(F) of section 1710 of title 38, United States Code, is amended by striking out "environmental hazard" and inserting in lieu thereof "other conditions".

(2) Subsection (e)(1)(C) of such section is amended—

(A) by striking out "the Secretary finds may have been exposed while serving" and inserting in lieu thereof "served";

(B) by striking out "to a toxic substance or environmental hazard"; and

(C) by striking out "exposure" and inserting in lieu thereof "service".

(3) Subsection (e)(2)(B) of such section is amended by striking out "an exposure" and inserting in lieu thereof "the service".

(c) DEMONSTRATION PROJECTS FOR TREATMENT OF PERSIAN GULF ILLNESS.—(1) The Secretary shall carry out a program of demonstration projects to test new approaches to treating, and improving the satisfaction with such treatment of, Persian Gulf veterans who suffer from undiagnosed and ill-defined disabilities. The program shall be established not later than July 1, 1998, and shall be carried out at up to 10 geographically dispersed medical centers of the Department of Veterans Affairs.

(2) At least one of each of the following models shall be used at no less than two of the demonstration projects:

(A) A specialized clinic which serves Persian Gulf veterans.

(B) Multidisciplinary treatment aimed at managing symptoms.

(C) Use of case managers.

(3) A demonstration project under this subsection may be undertaken in conjunction with another funding entity, including agreements under section 8111 of title 38, United States Code.

(4) The Secretary shall make available from appropriated funds (which have been retained for contingent funding) $5,000,000 to carry out the demonstrations projects.

(5) The Secretary may not approve a medical center as a location for a demonstration project under this subsection unless a peer review panel has determined that the proposal submitted by that medical center is among those proposals that have met the highest competitive standards of clinical merit and the Secretary has determined that the facility has the ability to—

(A) attract the participation of clinicians of outstanding caliber and innovation to the project; and

(B) effectively evaluate the activities of the project.

(6) In determining which medical centers to select as locations for demonstration projects under this subsection, the Secretary shall give special priority to medical centers that have demonstrated a capability to compete successfully for extramural funding support for research into the effectiveness and cost-effectiveness of the care provided under the demonstration project.

SEC. 7. PERSONNEL POLICY.

Section 7425 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Notwithstanding any other provision of law, employees described in paragraph (2), and the personnel positions in which such employees are employed, are not

subject to any reduction required by law or executive branch policy in the number or percentage of employees, or of personnel positions, within specified pay grades.

"(2) Paragraph (1) applies to employees, and personnel positions, of the Veterans Health Administration performing the following functions:

"(A) The provision of, or the supervision of the provision of, care and services to patients.

"(B) The conduct of research.".

SEC. 8. PURCHASES OF PHARMACEUTICAL PRODUCTS.

Section 8125 of title 38, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) A drug, pharmaceutical or biological product, or hematology-related product that is listed on the pharmaceutical supply schedule described in section 8126(a) of this title may only be procured or ordered from that supply schedule by or for any entity specified in paragraph (2), notwithstanding any other provision of law (whether enacted before, on, or after the date of the enactment of this subsection).

"(2) An entity specified in this paragraph is (A) any agency or instrumentality of the Federal Government, or (B) any other entity that is specified in Federal law or regulation, as in effect before July 1, 1997, as eligible to procure or order drugs, pharmaceutical or biological products, or hematology-related products from such pharmaceutical supply schedule.".

SEC. 9. TECHNICAL AMENDMENTS.

(a) SECTION CROSS REFERENCE.—Section 1717(a)(2)(B) of title 38, United States Code, is amended by striking out "section 1710(a)(2)" and inserting in lieu thereof "section 1710(a)".

(b) REFERENCES TO MEDICAL CENTERS.—(1) Paragraphs (1) and (11) of section 7802 of such title are amended by striking out "hospitals and homes" and inserting in lieu thereof "medical facilities".

(2) Section 7803 of such title is amended—

(A) by striking out "hospitals and homes" each place it appears and inserting in lieu thereof "medical facilities"; and

(B) by striking out "hospital or home" both places it appears and inserting in lieu thereof "medical facility".

(c) NAME OF MEDICAL CENTER.—The Wm. Jennings Bryan Dorn Veterans' Hospital in Columbia, South Carolina, shall hereafter be known and designated as the "Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center". Any reference to such hospital in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS], each will control 20 minutes.

The Chair recognizes the gentleman from Arizona, [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on H.R. 2206.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2206 is a bill to improve VA programs for homeless veterans and health care for Persian Gulf veterans. It also includes several other provisions designed to improve the administration of the veterans' health care system.

As a result of the concerns expressed by Members and after consulting with the gentleman from Illinois [Mr. EVANS], the ranking member of the Committee on Veterans' Affairs, we have decided to drop section 8 affecting the veterans canteen service from the bill under consideration this afternoon.

Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 2206, as amended, the Veterans Health Programs Improvement Act. The bill before us today extends several important authorities which are scheduled to expire and approves a number of programs critical to meeting the needs of veterans with health care problems.

Specifically, this measure takes important steps to address some of our most serious concerns about homelessness among our veterans in our country. On any given night in America, a third of those living in the streets of America are veterans. I find this hard to live with both as a veteran and as an American citizen. I believe we must do more to respond to this problem.

As the VA's health care system makes important changes, at a minimum we must assure that the VA maintains both the quality and quantity of services delivered to homeless veterans today. This proposal will ensure the VA is able to continue such worthwhile activities which are allowing veterans to become independent and restore dignity to their lives.

Importantly, this legislation makes Persian Gulf veterans eligible for VA health care by virtue of their service in the gulf rather than through a particular exposure. The medical literature has yet to pinpoint a single cause of the problem many veterans are facing and varies on its determinations of whether health differences exist between military service persons who served in the gulf and their peers who served elsewhere. The bill we are proposing today takes cognizance of the variation in the literature and gives veterans the benefit of the doubt.

□ 1415

The VA exists to treat veterans with health problems related to their service to this country, and this bill will allow gulf war veterans with illnesses to access this care.

The measure also authorizes a grant program to improve health care provided to these veterans. The VA Health Administration is enthusiastic about using its competitive grants to encourage their care providers to be innovative in treating the symptoms veterans have related to their deployment to the gulf and in developing centers of excellence for this care.

Our Nation cannot forget these veterans as time marches on. We are obligated to investigate not only the causes of their illnesses but to find the best treatments for their symptoms for those people who honorably served in that war for our country.

Several years ago the VA realized a substantial increase in drug prices due to unanticipated changes in the Medicaid pharmaceutical pricing policies. Manufacturers' representatives have stated they would not hesitate to raise prices to the VA again if State and local purchasers are allowed to benefit from the prices that the VA negotiates on behalf of Federal purchasers. This would increase the prices VA and others who benefit from the negotiation pay for pharmaceuticals. Because of this response, we do not believe State and local purchasers should benefit from access to the Federal fee schedules.

Furthermore, our Committee on Veterans' Affairs believes because of the inadequate resources that we have, that as many as 50,000 veterans would lose their access to the health care system if the VA was required to pay more for their drugs. We cannot allow this to happen.

This bill is extremely important to America's veterans. I hope my colleagues from both sides of the aisle will join me in supporting this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. STUMP. Madam Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS], the chairman of the Subcommittee on Health.

Mr. STEARNS. Madam Speaker, I thank the gentleman from Arizona [Mr. STUMP], the chairman, and I rise to urge my colleagues to support H.R. 2206, the Veterans Health Programs Improvement Act of 1997.

While this bill includes a number of important measures, its key provisions would improve care for homeless veterans and Persian Gulf veterans. The bill, as amended and reported out of the full committee, also incorporates other pieces of legislation which have the strong support of the Committee on Veterans' Affairs and the veterans community.

First, H.R. 2206 would extend, consolidate, and strengthen VA programs which have proven effective in helping rehabilitate homeless veterans. One-third of homeless adults are veterans. Of that number, over 85 percent have a

serious psychiatric or substance abuse disorder. Studies indicate that a substantial number of those who rely on VA care are homeless or at risk of becoming homeless.

Madam Speaker, this bill recognizes that assisting the homeless is not solely a Federal or VA responsibility. In fact, it specifically envisions a VA role that involves working in partnership with Government agencies and community providers. Nevertheless, the bill would give the VA clearer and less restrictive authority to provide care and rehabilitative services to the homeless, and particularly those suffering from chronic and mental illness. It would enable veterans to provide a full range of needed services to restore health, independence, and dignity to many previously homeless veterans.

Madam Speaker, other key aspects of this legislation reflect the high priority this committee has given during the 105th Congress to oversight and particularly to oversight of VA care and provisions of benefits to Persian Gulf veterans. The full committee and its subcommittees have held four oversight hearings this year devoted exclusively to Persian Gulf war issues. That record has certainly sent a strong, clear message to veterans as well as to the Department of Veterans Affairs that this committee will do everything in its power to ensure that the VA fulfill its obligation to these veterans.

In fact, the National Commander of the American Legion commended the committee last month for "Convening the most comprehensive and important hearings on Gulf War veterans since the end of the Gulf War."

Central to our concerns has been the large number of veterans with unexplained and ill-defined health problems. What has become apparent to our committee is not only that these problems have been difficult to diagnose but they have been difficult to treat. We are encouraged that VA officials have recognized the need for different approaches to treating some of these chronically ill veterans who suffer from poorly understood health problems.

Accordingly, this legislation requires the VA to establish and fund a competitive grant program under which participating VA facilities would develop and operate demonstration programs aimed at improving care to Persian Gulf war veterans with undiagnosed illnesses. Medical science has still not provided the answers so many gulf war veterans seek in understanding the nature and cause of their illness. This legislation, however, would make it clear that regardless of the nature of the cause or causes, and regardless of whether the problem can be linked to exposure to a toxic substance or environmental hazard, these veterans are eligible for VA health care.

Finally, Madam Speaker, I would like to express my regret that a provision of this bill, based upon H.R. 1687 relating to physician and dentist retirements, was dropped due to disagreements with the Congressional Budget Office regarding its cost implications.

Nevertheless, Madam Speaker, this is an excellent bill and I urge my colleagues to join with me in passing this most important piece of legislation.

Mr. EVANS. Madam Speaker, I yield 3 minutes to the gentleman from California [Mr. FILNER], a member of the committee.

Mr. FILNER. Madam Speaker, I thank the gentleman from Arizona [Mr. STUMP] and the ranking member of the committee, the gentleman from Illinois [Mr. EVANS] for bringing this to the floor in such a rapid fashion; and also thanks to the gentleman from Florida [Mr. STEARNS], the chairman of the subcommittee, and the gentleman from Illinois [Mr. GUTIERREZ], its ranking member, for their leadership on these issues.

Madam Speaker, homelessness among our Nation's veterans continues to be a significant and troubling problem across the country. Informal surveys indicate that up to 275,000 former members of our Armed Forces sleep on America's streets or in homeless shelters every night. H.R. 2206, as has been described, provides for the extension and improvement of programs administered by the Department of Veterans Affairs which have assisted thousands of these men and women.

I am proud to say that my city of San Diego was one of the first to reach out to its homeless veterans, originating the creative program of "Stand Down." Also, the Vietnam vets of San Diego run an incredibly effective housing program. But no city has the resources to address the crisis without Federal assistance and cooperation.

The programs which are being extended under H.R. 2206 will enable the good and caring citizens of San Diego and every other American city to continue to provide shelter, transitional housing and other support critical to the survival and rehabilitation of homeless veterans.

Madam Speaker, I urge my colleagues to support this measure.

Mr. EVANS. Madam Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. DENNIS KUCINICH].

Mr. KUCINICH. I want to congratulate, first of all, Madam Speaker, the gentleman from Illinois [Mr. EVANS] and his counterpart on the other side of the aisle, the gentleman from Arizona [Mr. STUMP], for the concern which they have shown for homeless veterans and for veterans of all kinds across this country.

My father fought in World War II. I had a brother who fought in Vietnam, and he is in a veterans home today as a result of that service. I am familiar firsthand with the effect that service to a government can have on a family, and I appreciate very much the work that all the men and women have done in this country in serving America. That is why to stand here at this moment is very difficult.

I want to point out a provision in H.R. 2206, the Veterans Health Programs Improvement Act of 1997, which was put in there, and for some reason this provision, which really has nothing to do with veterans at all, this provision would punish rural and urban public hospitals and health clinics in districts across the country and be tantamount to a local tax increase. It makes a bill, which everyone should agree on, quite controversial.

Section 10 of this bill would prohibit State, county, and municipal health givers from getting lower prices for lifesaving pharmaceuticals which their patients need. Nursing homes and public hospitals would suffer, since they must purchase equipment, medical devices and lifesaving drugs for elderly citizens and the ill, especially people with AIDS.

Local public health institutions will not be allowed to operate more efficiently and less expensively, since they will be forbidden by law from purchasing many products and services at discounted prices, which would otherwise enable the taxpayers to save billions of dollars at a State and local level.

At the request of the National Performance Review and Vice President GORE, the 104th Congress intended to bring efficient practices to local and State government without onerous regulations or government mandates. The bottom line savings would be realized by local taxpayers who pay the bill of local government.

Although saving money for local taxpayers is a good idea, there are those who oppose it, and certain industry groups which benefit from Government inefficiency, would like nothing more than to have Congress pass this particular provision which is in H.R. 2206. These industry groups are trying to, in effect, interject their interest into a bill which should be, first and foremost, to support the interests of veterans but, instead, the bill has a provision which attacks public hospitals.

The pharmaceutical industry wants to see H.R. 2206 pass because they do not want public hospitals and AIDS clinics to benefit from significant savings or significant discounts on lifesaving drugs. Why sell AIDS drugs at a lifesaving discount when they can be sold at full price?

Therefore, this provision makes H.R. 2206 a tax increase on local taxpayers because it would deny State, county, and municipal hospitals and clinics from purchasing pharmaceuticals and medical equipment at the discounted prices the Federal Government negotiates.

The provision in this bill is objectionable, unfair, and controversial, and I would suggest that this provision is emblematic of what is wrong with Government. Here we all agree that our veterans need access to low cost drugs for their health, particularly those who are least able to care for themselves. And all of us could agree, I would hope, that our public hospitals and clinics need access to the lowest possible cost for pharmaceuticals. But this bill puts us in a conflict where it makes us have to separate those interests, which ought to be interests we agree on.

So we are asked to choose between those interests. I say that is a false choice; that we in the Congress should be supporting veterans and we should be supporting public hospitals in our districts. And for that reason, until we can clean up this particular provision, I am urging a "no" vote on this particular bill, and I do so only with the greatest reluctance because of the terrific respect that I have for my colleagues on both sides of the aisle who are dedicated to veterans, and I know they really care about veterans' concerns.

Mr. STUMP. Madam Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Madam Speaker, I thank the chairman for yielding me this time and, Madam Speaker, this is a stretch of circuitous logic to say that this bill is a tax increase.

As I recollect, this bill, and the ranking member, the gentleman from Illinois [Mr. EVANS] can point out, as I remember, this passed by unanimous consent, all the Democrats and Republicans. This has nothing to do with what the gentleman from Ohio is talking about.

In fact, there is nothing in this bill that prevents worthy institutions from negotiating favorable prices for themselves, individually or collectively. We simply say that this institution should not piggyback on the Federal supply schedule.

Remember, now, if we open up the Federal supply schedule and make it for everybody, then the price is going to go up for veterans, and that is why I think many of us in the committee were worried about. In fact, the General Accounting Office, I tell my colleague from Ohio, came to the committee and testified that the VA and other Federal agencies could experience price increases on almost 81 percent of all the drugs in the Federal supply schedule.

And what would that mean for veterans? Let us talk about that, because this is what we are talking about. We are talking about the Veterans Administration. We are talking about a bill that would benefit veterans. The result, the VA Administration, the Clinton administration, not Republicans in the House, not our committee, the VA Administration told us that about 50,000 veterans would lose access to care. So with that in mind, both the Democrats and Republicans unanimously passed this bill.

I think we have to remember that what we are trying to do is allow veterans, through the Committee on Veterans' Affairs, to have access and have discounted prices. If we want to have discounted programs for veterans hospitals and veterans, let us keep it there and not open it up so that they are in the final analysis hurt.

Mr. EVANS. Madam Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH].

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Mr. KUCINICH. Madam Speaker, the gentleman from Florida [Mr. STEARNS] and I are in agreement on the need to lower the cost of pharmaceuticals for veterans. To me, there is no question that this Congress ought to be doing more for our veterans.

Where we are in disagreement is that we should accept a provision in this bill which stops public hospitals from taking advantage of the lowest possible prices that might be available to them. When I say that it means a tax increase if this bill passes, here is what I mean, so we can understand this.

If public hospitals are able to get the lowest possible price for goods that they buy and for services, since they run on tax dollars, the longer they can carry that tax dollar, the more they can stretch it, the more value that is given for the tax dollar. But if the goods cost more, that means people have to pay more taxes to support it.

So that would qualify the statement that I made.

But I can see, it is difficult to be able to at once stand very firmly for veterans, as my colleague has done, for which I congratulate him, and at the same time take a stand which says, well, we cannot regard the interest of public hospitals.

So, Madam Speaker, I am very concerned that we need to let people know the effect this could have on public hospitals.

Mr. EVANS. Madam Speaker, I yield back the balance of my time.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Let me mention one or two things about the Committee on Veterans' Affairs' efforts to address the concerns of Persian Gulf war veterans. We have had four separate hearings on this subject this year. We have heard from veterans' organizations, scientists, officials from VA, DOD, and CIA, and from the Presidential Advisory Commission.

At our request, the General Accounting Office has reviewed how VA cares for veterans with undiagnosed illnesses and is undertaking additional reviews of how well VA is responding to our benefits. I also want all Members to know that we continue to press for answers to these veterans' questions.

One word about what the gentleman from Ohio [Mr. KUCINICH] is speaking of. There is nothing to prevent health organizations from negotiating with pharmaceutical companies today. Our responsibility is to protect the veterans, and if in fact we did that, or did not try to protect them, we could lose up to $250 million a year.

The VA procures about $1 billion dollars in pharmaceuticals every year, and that is why we are so interested in protecting this provision. I would like to thank the gentleman from Florida [Mr. STEARNS] and the gentleman from Illinois [Mr. GUTIERREZ], the chairman and ranking member of the Subcommittee on Health, as well as the gentleman from Illinois [Mr. EVANS], the ranking member of the full committee, for their contributions on this bill and for their continuing efforts to improve veterans' health care administration.

Mr. GUTIERREZ. Madam Speaker, I would like to thank Ranking Member EVANS and Chairman STUMP for their work on this important bill.

I would also like to thank Chairman STEARNS for his efforts to get this legislation reported out of the Veterans' Affairs Committee, Subcommittee on Health in a timely manner.

Today, Madam Speaker, we reauthorize a number of vital programs that provide treatment and rehabilitation services for homeless and mentally ill veterans.

I am sure many of you are aware of the numbers of homeless veterans in our Nation. The National Coalition for Homeless Veterans [NCHV] estimates that nearly 40 percent of homeless men are veterans.

The percentage of homeless women who are veterans has also increased during the past decade.

Thousands of these men and women who served our Nation and risked their lives for our defense have not been offered the respect and care they earned and deserve.

By reauthorizing the provision of vital health and rehabilitative care to this vulnerable but deserving population we pay off a small portion of the debt we owe these courageous Americans.

The bill before us today would consolidate, clarify, and I believe improve the Department of Veterans Affairs [VA] programs for homeless and mentally ill veterans by enabling the VA to deal more effectively and directly with many of the ailments afflicting these brave individuals.

Homeless veterans suffer from substance abuse at disproportionate levels. Approximately 70 percent of homeless veterans currently treated by the VA suffer from substance abuse problems.

Community-based residential care, which this bill authorizes for homeless veterans, has been proven to help these men and women restore their lives and I am pleased that we have reinstated these programs in this bill.

Compensated work therapy is similarly vital to the rehabilitative needs of homeless and

mentally ill veterans. Work therapy is inextricably linked to the success of patients in their fight against substance abuse.

The consolidated work therapy program reauthorized in H.R. 2206 should continue to provide this crucial link for veterans who are fighting addiction while rebuilding their lives and careers.

H.R. 2206 is important also because it gives the VA authority to create new and innovative treatments and services for Persian Gulf veterans.

We don't have all the answers regarding the illnesses afflicting the veterans of the Persian Gulf war.

Yet evidence that indicates that the symptoms Persian Gulf veterans are experiencing as a result of their service are real and not figments of their imagination continues to mount.

What we do know, is that these veterans have been suffering for too long without health care programs specifically geared to their needs.

So I am pleased that this bill creates a new program to fund demonstration projects at the VA that may lead to the development of new treatments for gulf war veterans with undiagnosed or ill-defined medical conditions.

This is a positive and long-overdue step toward addressing their unique needs.

Once again, I thank the leadership of the House Veterans' Affairs Committee for their thoughtful work on this important legislation.

I ask my colleagues to recognize this work and the importance of this bill for our veterans by voting your support for this measure.

Mr. GILMAN. Madam Speaker, I rise today in strong support of H.R. 2206, the Veterans Health Programs Improvement Act of 1997.

This bill modifies several laws, that are set to expire, which authorize programs to assist and rehabilitate homeless veterans and those with chronic mental illness. It also moves to address some of the critical needs relating to Gulf War illnesses.

It is estimated that one-third of all homeless adults and 40 percent of homeless men are veterans. According to research conducted by the VA, most homeless veterans suffer from serious psychiatric or substance abuse disorders. This legislation require the VA to create at least eight centers to provide comprehensive services to homeless veterans and to coordinate such services with other agencies and departments. It also extends the Homeless Veterans Comprehensive Service Grant Program through fiscal year 1999 and eliminates current law limitations on the number of specified projects for which grants may be awarded.

Equally important, Madam Speaker, is the VA's responsibility to its veterans from the Persian Gulf war. With recent evidence pointing more and more towards troops having been exposed to chemical or biological agents, we are morally obligated to provide our veterans with the best medical care available for the injuries they incurred in service to their country.

In addition, the Presidential Advisory Committee is expected to release its final recommendations to the administration in the near future. Among the recommendations is one that would extend general health care for those veterans with undiagnosed or difficult-to-diagnose conditions. While such a provision would be an enormous help to our Persian Gulf veterans suffering from mysterious ailments, many of them also would like to know the exact cause of their condition.

This bill establishes a $5 million grant program for 10 VA facilities to establish demonstration projects aimed at improving health care for Gulf War veterans with the aforementioned conditions that are difficult to diagnose or categorize. It also makes clear that Gulf War veterans are eligible for care for any health problem, and not just those related to exposure to toxic agents.

Accordingly, I ask my colleagues to join in supporting this worthy legislation.

Mrs. KENNELLY of Connecticut. Madam Speaker, I rise as a strong supporter of the Randolph-Sheppard Act which provides important work opportunities for the blind. I want to thank Mr. STUMP and Mr. EVANS for removing Section 8 from the Veterans' Health Programs Improvement Act of 1997, which would have weakened the Randolph-Sheppard Act. Section 8 of this bill would have granted the Veterans' Canteen Service sole authority to establish canteens, including vending facilities and vending machines at VA medical facilities. This provision would have negatively impacted the Randolph-Sheppard Act and I am pleased that it has been removed.

The Randolph-Sheppard Act, which was enacted in 1936, gives blind individuals a priority over other businesses in the operation of vending facilities and vending machine services on federal property. In 1995, I led a successful bipartisan effort which eliminated a provision to exempt the National Park Service, Bureau of Land Management and Bureau of Reclamation from the Randolph-Sheppard Act. Across the United States this program has provided employment opportunities for over 3,500 blind individuals, including over 30 blind men and women in my home state of Connecticut. In fact, it is the nation's most successful program to provide independence and work opportunities for blind people.

Blindness is often associated with adverse social and economic consequences. It is often difficult for blind individuals to find sustained employment or for that matter employment at all. The Randolph-Sheppard Act was created to eliminate dependence and its resultant cost to the taxpayer, and it remains successful in doing that. Perhaps most important, it creates entrepreneurial opportunities for blind people and promotes this nation's tradition of pride in self-reliance.

Mr. STUMP. Madam Speaker, I yield back the balance of my time.

Mr. EVANS. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 2206, as amended.

The question was taken.

Mr. STEARNS. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

DEPARTMENT OF VETERANS AFFAIRS—MAJOR MEDICAL CONSTRUCTION PROJECTS

Mr. STUMP. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2571) to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1998, and for other purposes.

The Clerk read as follows:

H.R. 2571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Seismic corrections at the Department of Veterans Affairs medical center in Memphis, Tennessee, in an amount not to exceed $34,600,000.

(2) Seismic corrections and clinical and other improvements to the McClellan Hospital at Mather Field, Sacramento, California, in an amount not to exceed $48,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1998 that remain available for obligation.

(3) Outpatient improvements at Mare Island, Vallejo, California, and Martinez, California, in a total amount not to exceed $7,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1998 that remain available for obligation.

SEC. 2. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

(1) Lease of an information management field office, Birmingham, Alabama, in an amount not to exceed $595,000.

(2) Lease of a satellite outpatient clinic, Jacksonville, Florida, in an amount not to exceed $3,095,000.

(3) Lease of a satellite outpatient clinic, Boston, Massachusetts, in an amount not to exceed $5,215,000.

(4) Lease of a satellite outpatient clinic, Canton, Ohio, in an amount not to exceed $2,115,000.

(5) Lease of a satellite outpatient clinic, Portland, Oregon, in an amount not to exceed $1,919,000

(6) Lease of a satellite outpatient clinic, Tulsa, Oklahoma, in an amount not to exceed $2,112,000.

(7) Lease of an information resources management field office, Salt Lake City, in an amount not to exceed $652,000.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(2) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1998—

(1) for the Construction, Major Projects, account $34,600,000 for the project authorized in section 1(1); and

(2) for the Medical Care account, $15,703,000 for the leases authorized in section 2.

(b) LIMITATION.—The projects authorized in section 1 may only be carried out using—

(1) funds appropriated for fiscal year 1998 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1998 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1998 for a category of activity not specific to a project.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] each will control 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2571.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2571 authorizes appropriations for VA major medical construction and major medical leases. The measure includes all the projects requested by the Department of Veterans Affairs for fiscal year 1998.

Since the earthquake in California in 1991 that closed the hospital at Martinez, there has been uncertainty in the Congress about what the VA should do to serve veterans of northern California. This bill writes the conclusion of that debate by approving an approach which will recycle a closed air force hospital near Sacramento and a naval clinic near Vallejo for veterans' use, lead to expansion of veterans' use of community health care facilities throughout northern California, and improve existing VA outpatient clinics to better serve veterans who use them.

This approach will save the U.S. Government almost $140 million in construction costs and will make VA health care more convenient for tens of thousands of veterans. This is a real victory for common sense.

Madam Speaker, I yield as much time as he may consume to the gentleman from Florida [Mr. STEARNS], the chairman of the Subcommittee on Health, for any further explanation he may make.

Mr. STEARNS. Madam Speaker, I rise in strong support of H.R. 2571, the fiscal year 1998 VA major construction authorization bill, and urge my colleagues to join me in passing this legislation.

This bill authorizes several major medical construction projects as well as leases. First, this bill authorizes $34.6 million to complete seismic corrections begun earlier at the Memphis VA Medical Center. It is important that we authorize this project because the Memphis facility does not conform to current seismic standards and lies on a fault line which has a high probability for earthquake activity.

It is important to note that this is the only project in the bill for which new funding for major construction is recommended. The bill also authorizes the expenditure of previously appropriated construction funds for several interrelated projects in northern California. The bill would authorize VA to undertake seismic corrections and clinical and other improvements at the McClellan Hospital at Mather Field in Sacramento, CA, and to make outpatient improvements at two other sites in northern California.

The bill would authorize the VA to undertake these projects in lieu of previous plans to construct a 234-bed hospital at Travis Air Force Base. The proposed Travis project was intended as a replacement for the VA medical center in Martinez which was closed in 1991 because of earthquake damage.

Studies done by the General Accounting Office and Price Waterhouse recommended against proceeding with the replacement project. The committee concurs with the view that the veterans of northern California will be better served by a plan that does not rely on a single hospital site as a source of hospital care for this large region.

The McClellan Hospital, however, has the capacity to serve the Sacramento area effectively, and VA anticipates that the McClellan facility will be transferred at no cost from the Air Force under the BRAC process.

Madam Speaker, H.R. 2571 also authorizes some $15 million for the VA to enter into lease agreements for needed satellite outpatient clinics in Jacksonville, FL; Boston, MA; Canton, OH; Portland, OR; and Tulsa, OK; and information resources management field offices in Birmingham, AL, and Salt Lake City, UT.

H.R. 2571 is a sound, fiscally responsible bill. It defers further major construction spending authorizations until VA makes more progress on strategic planning requirements that have been initiated by our committee. VA itself has urged that the Congress authorize these projects, and I urge Members to support this measure.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to support H.R. 2571. This bill accommodates the administration's construction spending priorities as well as those projects for which our committee anticipates appropriations will be made.

The major construction projects require modest funding but are critical to provide access to veterans in areas where their needs cannot be met or in maintaining patient safety in existing facilities which are deficient in conforming to the earthquake code.

I am also pleased with the emphasis this bill places on outpatient projects and development of information resources management centers.

Leasing, rather than building, to meet VA's needs is also a move in the right direction. VA has sometimes been criticized for using bricks and mortar to meet its space requirements while facilities in the community stand vacant.

The leases this bill authorizes are more flexible than in the past, and the VA can provide the capacity it needs not only for today but it may need maybe tomorrow. The authorizations for construction and for leases also allow the VHA to continue on its course of shifting the care to ambulatory settings and providing increased access to the health care needs of our veterans in 1998.

Madam Speaker, I reserve the balance of my time.

Mr. STUMP. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I would like to commend the gentleman from Illinois [Mr. EVANS] on his commitment on this bill and also to the gentleman from Florida [Mr. STEARNS] and the gentleman from Illinois [Mr. GUTIERREZ], again, the chairman and the ranking member of the subcommittee, for all their work on behalf of the veterans.

Madam Speaker, I yield back the balance of my time.

Mr. EVANS. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 2571.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

DEPARTMENT OF VETERANS AFFAIRS EMPLOYMENT DISCRIMINATION RESOLUTION AND ADJUDICATION ACT

Mr. STUMP. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1703) to amend title 38, United States Code, to provide for improved and expedited procedures for resolving complaints of unlawful employment discrimination arising within the Department of Veterans Affairs, as amended.

The Clerk read as follows:

H.R. 1703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act".

SEC. 2. EQUAL EMPLOYMENT RESPONSIBILITIES IN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—(1) Chapter 5 of title 38, United States Code, is amended by inserting at the end of subchapter I the following new section:

"§516. Equal employment responsibilities

"(a) The Secretary shall provide that the employment discrimination complaint resolution system within the Department be established and administered so as to encourage timely and fair resolution of concerns and complaints. The Secretary shall take steps to ensure that the system is administered in an objective, fair, and effective manner and in a manner that is perceived by employees and other interested parties as being objective, fair, and effective.

"(b) The Secretary shall provide—

"(1) that employees responsible for counseling functions associated with employment discrimination and for receiving, investigating, and processing complaints of employment discrimination shall be supervised in those functions by, and report to, an Assistant Secretary or a Deputy Assistant Secretary for complaint resolution management; and

"(2) that employees performing employment discrimination complaint resolution functions at a facility of the Department shall not be subject to the authority, direction, and control of the Director of the facility with respect to those functions.

"(c) The Secretary shall ensure that all employees of the Department receive adequate education and training for the purposes of this section and section 319 of this title.

"(d) The Secretary shall impose appropriate disciplinary measures, as authorized by law, in the case of employees of the Department who engage in unlawful employment discrimination, including retaliation against an employee asserting rights under an equal employment opportunity law.

"(e) The number of employees of the Department whose duties include equal employment opportunity counseling functions as well as other, unrelated functions may not exceed 40 full-time equivalent employees. Any such employee may be assigned equal employment opportunity counseling functions only at Department facilities in remote geographic locations (as determined by the Secretary). The Secretary may waive the limitation in the preceding sentence in specific cases.

"(f) The provisions of this section shall be implemented in a manner consistent with procedures applicable under regulations prescribed by the Equal Employment Opportunity Commission.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 515 the following new item:

"516. Equal employment responsibilities.".

(b) REPORTS ON IMPLEMENTATION.—The Secretary of Veterans Affairs shall submit to Congress reports on the implementation and operation of the equal employment opportunity system within the Department of Veterans Affairs. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000. Each such report shall set forth the actions taken by the Secretary to implement section 516 of title 38, United States Code, as added by subsection (a), and other actions taken by the Secretary in relation to the equal employment opportunity system within the Department of Veterans Affairs.

SEC. 3. DISCRIMINATION COMPLAINT ADJUDICATION AUTHORITY IN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—(1) Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

"§319. Office of Employment Discrimination Complaint Adjudication

"(a)(1) There is in the Department an Office of Employment Discrimination Complaint Adjudication. There is at the head of the Office a Director.

"(2) The Director shall be a career appointee in the Senior Executive Service.

"(3) The Director reports directly to the Secretary or the Deputy Secretary concerning matters within the responsibility of the Office.

"(b)(1) The Director is responsible for making the final agency decision within the Department on the merits of any employment discrimination complaint filed by an employee, or an applicant for employment, with the Department. The Director shall make such decisions in an impartial and objective manner.

"(2) No person may make any ex parte communication to the Director or to any employee of the Office with respect to a matter on which the Director has responsibility for making a final agency decision.

"(c) Whenever the Director has reason to believe that there has been retaliation against an employee by reason of the employee asserting rights under an equal employment opportunity law, the Director shall report the suspected retaliatory action directly to the Secretary or Deputy Secretary, who shall take appropriate action thereon.

"(d)(1) The Office shall employ a sufficient number of attorneys and other personnel as are necessary to carry out the functions of the Office. Attorneys shall be compensated at a level commensurate with attorneys employed by the Office of General Counsel.

"(2) The Secretary shall ensure that the Director is furnished sufficient resources in addition to personnel under paragraph (1) to enable the Director to carry out the functions of the Office in a timely manner.

"(3) The Secretary shall ensure that any performance appraisal of the Director of the Office of Employment Discrimination Complaint Adjudication or of any employee of the Office does not take into consideration the record of the Director or employee in deciding cases for or against the Department.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"319. Office of Employment Discrimination Complaint Adjudication.".

(b) REPORTS ON IMPLEMENTATION.—The Director of the Office of Employment Discrimination Complaint Adjudication of the Department of Veterans Affairs (established by section 319 of title 38, United States Code, as added by subsection (a)) shall submit to the Secretary and to Congress reports on the implementation and the operation of that office. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000.

SEC. 4. EFFECTIVE DATE.

Sections 516 and 319 of title 38, United States Code, as added by sections 2 and 3 of this Act, shall take effect 90 days after the date of the enactment of this Act.

SEC. 5. INDEPENDENT PANEL TO REVIEW EQUAL EMPLOYMENT OPPORTUNITY AND SEXUAL HARASSMENT PROCEDURES WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) ESTABLISHMENT.—There is hereby established a panel to review the equal employment opportunity and sexual harassment practices and procedures within the Department of Veterans Affairs and to make recommendations on improvements to those practices and procedures.

(b) PANEL FUNCTIONS RELATING TO EQUAL EMPLOYMENT OPPORTUNITY AND SEXUAL HARASSMENT.—The panel shall assess the culture of the Department of Veterans Affairs in relationship to the issues of equal employment opportunity and sexual harassment, determine the effect of that culture on the operation of the Department overall, and provide recommendations as necessary to change that culture. As part of the review, the panel shall do the following:

(1) Determine whether laws relating to equal employment opportunity and sexual harassment, as those laws apply to the Department of Veterans Affairs, and regulations and policy directives of the Department relating to equal employment opportunity and sexual harassment have been consistently and fairly applied throughout the Department and make recommendations to correct any disparities.

(2) Review practices of the Department of Veterans Affairs, relevant studies, and private sector training and reporting concepts as those practices, studies, and concepts pertain to equal employment opportunity, sexual misconduct, and sexual harassment policies and enforcement.

(3) Provide an independent assessment of the Report on the Equal Employment Opportunity Complaint Process Review Task Force of the Department.

(c) COMPOSITION.—(1) The panel shall be composed of six members, appointed as follows:

(A) Three members shall be appointed jointly by the chairman and ranking minority party member of the Committee on Veterans' Affairs of the House of Representatives.

(B) Three members shall be appointed jointly by the chairman and ranking minority party member of the Committee on Veterans' Affairs of the Senate.

(2) The members of the panel shall choose one of the members to chair the panel.

(d) QUALIFICATIONS.—Members of the panel shall be appointed from among private United States citizens with knowledge and expertise in one or more of the following:

(1) Extensive prior military experience, particularly in the area of personnel policy management.

(2) Extensive experience with equal employment opportunity complaint procedures, either within Federal or State government or in the private sector.

(3) Extensive knowledge of the Department of Veterans Affairs, and particularly knowledge of personnel practices within the Department.

(e) REPORTS.—(1) Not later than six months after the members of the panel are appointed, the panel shall submit an interim report on its findings and conclusions to the Committees on Veterans' Affairs of the Senate and House of Representatives.

(2) Not later than one year after establishment of the panel, the panel shall submit a final report to the Committees on Veterans' Affairs of the Senate and House of Representatives. The final report shall include an assessment of the equal employment opportunity system and the culture within the Department of Veterans Affairs, with particular emphasis on sexual harassment. The panel shall include in the report recommendations to improve the culture within the Department.

(f) PAY AND EXPENSES OF MEMBERS.—(1) Each member of the panel shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the panel.

(2) The members of the panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel.

(g) ADMINISTRATIVE SUPPORT.—The Chairman may hire such staff as necessary to accomplish the duties outlined under this title.

(h) FUNDING.—The Secretary of Veterans Affairs shall, upon the request of the panel, make available to the panel such amounts as the panel may require, not to exceed $400,000, to carry out its duties under this title.

(i) TERMINATION OF PANEL.—The panel shall terminate 60 days after the date on which it submits its final report under subsection (e)(2).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] each will control 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1703.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 1703 is the bipartisan equal employment opportunity reform bill for the VA. Many committee members from both sides of the aisle contributed to this bill.

Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as my colleagues know, the problem of sexual harassment is not new to our society or our Federal work force. It has only been in the past decade or so, however, that Congress has begun to truly recognize the depths of the problem and attempted to eliminate it from our workplace.

Recent testimony before the House Veterans' Affairs Subcommittee on Oversight and Investigations has shown that sexual harassment has been far too commonplace at the VA over the past few years. Despite what I consider to be sincere efforts of VA Secretary Jesse Brown and his successor, Hershel Gober, VA's ''zero tolerance'' policy against sexual harassment has failed.

VA's zero tolerance policy was placed in effect in 1993 after the Subcommittee on Oversight's hearings showed a seriously flawed EEO process and a culture of tolerance toward sexual harassment at the VA. I chaired those hearings back then, and I also fought to overhaul the EEO process within the VA at that time.

Thanks to the collective efforts of our past chairman, Sonny Montgomery, the gentleman from Arizona [Mr. STUMP], our current chairman, the gentleman from North Carolina [Mr. CLYBURN], the subcommittee chairman, and the gentleman from Florida [Mr. BILIRAKIS], and others, the House passed legislation during the 103d Congress that is nearly identical to the bill that we are considering today.

Given the promises of comprehensive Government-wide EEO reform, however, the Senate did not act on this piece of legislation. Nearly 5 years later, there has been no Government-wide reform of this process, there have been no major overhauls of the VA's administrative process, and VA's well-intentioned zero tolerance policy has proven to be ineffective.

But thanks to the leadership of VA's Oversight Subcommittee Chairman, TERRY EVERETT, the Committee on Veterans' Affairs has continued to keep a watchful eye on the VA's efforts to eliminate sexual harassment in the workplace. Joined by the gentleman from North Carolina [Mr. CLYBURN] and Republicans, the gentleman from Florida [Mr. BILIRAKIS], the gentleman from Indiana [Mr. BUYER], and the gentleman from Arizona [Mr. STUMP], TERRY and I introduced this bipartisan legislation that we are considering today on the floor of the House.

I commend the gentleman from Alabama, [Mr. EVERETT], for fighting the good fight, and I look forward to the passage of this legislation this afternoon.

□ 1445

No one should think that we in Congress will be able to completely end sexual harassment, discrimination and abuse at the VA or anywhere else. Still, we can play a significant role in bringing renewed professionalism, independence and objectivity to the EEO process at the VA, and that is exactly what we will do by enacting H.R. 1703.

By removing the EEO complaint process from the facility where the discrimination allegedly occurred, this legislation limits the ability of heavy-handed facility directors to unfairly influence the discrimination complaint process. By removing the final agency decision-making authority from the VA's office, this legislation eliminates the obvious conflict of interest created when the general counsel is expected to be an advocate for the VA on one hand, and to decide the merits of discrimination complaints against the department on the other hand.

By enacting this bill, we can address these serious flaws and bring renewed independence, objectivity and professionalism to the EEO process at the VA.

I am pleased to say that VA Secretary Hershel Gober has acknowledged that the VA's current EEO process is flawed and in need of reform. In anticipation of this legislation and similar legislation in the Senate, Mr. Gober has already initiated administrative changes to the EEO process which would bring the department much of the way toward achieving the reforms originally proposed in 1993. I applaud his leadership and his demonstrated level of commitment on this issue, but it is still up to Congress to make sure that the VA does all the work it needs to do for this issue to be addressed.

The Congress cannot and should not be expected to wait any longer for meaningful reform of the EEO process within the VA. More importantly, this Nation's veterans and the VA employees dedicated to serving them cannot be expected to wait any longer for meaningful action and honest reform to come to the EEO process at the VA.

By enacting H.R. 1703, we in Congress can help put the VA back on the path toward restoring employee trust and eradicating discrimination in the workplace. Our veterans and VA employees deserve no less.

Madam Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. EVERETT], the chairman of the Subcommittee on Oversight and Investigations.

Mr. EVERETT. Mr. Speaker, I rise in strong support of H.R. 1703, as amended, the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act.

This legislation has grown out of oversight activities of the Committee on Veterans' Affairs Subcommittee on Oversight and Investigations which was reestablished at the beginning of this session. I will outline the bill shortly, but first I want to give my colleagues some background on issues which led to it.

In 1993, as a result of committee hearings led by the gentleman from Illinois [Mr. EVANS] on serious sexual harassment cases at the Atlanta VA Medical Center and elsewhere, the House passed a bipartisan bill, H.R. 1032, to strengthen the VA's EEO system. The gentleman from Illinois [Mr. EVANS], now our committee's ranking Democrat, was one of the authors of that bill.

The VA opposed the bill and it died in the Senate, as the gentleman from Illinois has indicated. Nevertheless, the VA promised to address the EEO problems the committee had identified. To make a long story short, it did not happen.

Then came Fayetteville earlier this year. This past April 17, the Subcommittee on Oversight and Investigations, at the request of the gentleman from Florida [Mr. BILIRAKIS], an active member of our committee, held a hearing on allegations of sexual harassment and other abusive treatment of employees at the Fayetteville VA Medical

Center in North Carolina. Five courageous women came before the subcommittee to tell us, under oath, what had happened there. It of course differed in details, but essentially it was Atlanta all over again.

The testimony showed that the influence and control the former director at Fayetteville had over EEO complaint processing had discouraged VA employees from filing complaints and had prevented those who did from getting a fair hearing. Mr. Speaker, we heard testimony that the women, one of the women involved actually heard the EEO officer, who was the director, laugh at the complaints that had been filed. Obviously, the problems that the Atlanta case have revealed in the VA EEO system still remain.

As a consequence, the gentleman from Illinois [Mr. EVANS]; the gentleman from South Carolina [Mr. CLYBURN], the subcommittee's ranking Democrat; the gentleman from Arizona [Mr. STUMP], the chairman of the full committee; the gentleman from Florida [Mr. BILIRAKIS]; and the gentleman from Indiana [Mr. BUYER] have joined me in introducing H.R. 1703, a virtually identical bill to H.R. 1032. Down in Alabama we have a saying: ''Fool me once, shame on you; fool me twice, shame on me,'' and that is the reason we feel this legislation ought to go into law. I feel I speak for the cosponsors of the bill when I say we firmly believe that the needed EEO reforms at the VA should be a matter of law.

Mr. Speaker, H.R. 1703, as amended, will require the VA to establish a new EEO complaint resolution system separate from the facility management. It would also require the VA to establish a new, independent final decision-making office for the EEO cases. The director of the office will report directly to the VA's Secretary or Deputy Secretary. The bill would obligate the VA to report regularly to Congress on its progress in implementing the new provisions and on the operation of the new EEO system.

Finally, the bill would establish an independent panel to determine the extent of VA's hostile working environment for women and other VA employees.

Mr. Speaker, before concluding, I want to thank our distinguished Committee on Veterans Affairs chairman, the gentleman from Arizona [Mr. STUMP], for his support and vigorous oversight of the VA, for giving H.R. 1703, as amended, a high priority, and for bringing it so quickly to the floor. Also, I particularly want to mention the gentleman from Illinois [Mr. EVANS] and the gentleman from South Carolina [Mr. CLYBURN] for their hard work and personal involvement in this legislation. I want to commend the gentleman from Indiana [Mr. BUYER] for his leadership on both the Committee on Veterans Affairs and the Committee on National Security on this issue. The gentleman from Florida [Mr. BILIRAKIS], as well, has been tireless in his efforts to promote these reforms the VA needs so much for its employees.

Our bipartisan bill will not solve every EEO problem, but I believe it will go a long way toward restoring competence of VA employees in the Department's EEO system. Therefore, I strongly urge my colleagues to act favorably on H.R. 1703, as amended.

Mr. Speaker, I just received word that the VA has just announced that the administration has no objection to the House passage of H.R. 1703.

Mr. Speaker, I rise in support of H.R. 1703, as amended, the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act.

This legislation has grown out of the oversight activities of the Veterans' Affairs Subcommittee on Oversight and Investigations, which was reestablished at the beginning of this season. I will outline the bill shortly, but first I want to give my colleagues some background on the issues which led to it.

In 1993, as the result of committee hearings on serious sexual harassment cases at the Atlanta VA Medical Center and elsewhere, the House passed a bipartisan bill, H.R. 1032, to strengthen the VA's equal employment opportunity [EEO] system. Mr. EVANS, now our committee's ranking Democrat, was one of the authors of that bill.

The VA opposed the bill and it died in the Senate. Nonetheless, the VA promised to address the EEO problems the committee had identified, but, to make a long story short, it did not.

Then came Fayetteville earlier this year. This past April 17, the Subcommittee on Oversight and Investigations, at the request of Mr. BILIRAKIS, an active member of our committee, held a hearing on allegations of sexual harassment and other abusive treatment of employees at the Fayetteville VA Medical Center in North Carolina. Five courageous women came before the subcommittee to tell us under oath what had happened there.

It of course differed in the details, but essentially it was Atlanta all over again. And to make matters even worse, the VA had not disciplined the medical center's former director, against whom the allegations were made. Instead, he had been allowed to transfer at the taxpayer's expense to a VA hospital in Florida, Bay Pines, near where he owned a home and where a nonsupervisory job has been created especially for him at a slightly higher salary than he had as a hospital director. This "Club Med" treatment for an abusive boss understandably outraged many employees at Fayetteville.

The subcommittee believed, based on the testimony it heard, that there were probably more cases of harassment or abusive treatment of employees, both women and men, at Fayetteville. As the chairman, I asked the VA to do a more thorough investigation, which it did. Unfortunately, our concerns proved well founded, and many additional cases came to light. While Fayetteville has new management, we are still monitoring VA's efforts to make the affected employees whole and to restore morale. Some employees had actually been driven into retirement under what amounted to duress in order to escape unbearable working conditions.

When we asked employees at Fayetteville with sexual harassment cases why they did not file discrimination complaints with the VA's EEO system, they asked, "How could we? The director was the hospital's EEO officer and we had no confidence that anything would be done." One witness testified that the director and the EEO manager would meet after hours, discuss the EEO cases and laugh about them.

The testimony showed that the influence and control the former director at Fayetteville had over EEO complaint processing was discouraging VA employees from filing complaints and preventing those who did from getting fair treatment. Obviously, the problems the Atlanta cases had revealed in the VA's EEO system still remained.

As a consequence, Mr. EVANS, Mr. CLYBURN, the subcommittee's ranking Democrat, Chairman STUMP, Mr. BILIRAKIS and Mr. BUYER joined me in introducing H.R. 1703, a virtually identical bill to H.R. 1032. Down in Alabama, we have a saying, "Fool me once, shame on you; fool me twice, shame on me."

Since we introduced the bill and before the follow up hearing we held on July 17, the VA has taken significant administrative steps to do much of what our bill would accomplish. We have had serious discussions with the VA about their objections to various features of the bill and have completely redrafted the bill without changing its objectives. The Administration now has no objection to passage of the bill. I think I speak for the bill's cosponsors when I say we firmly believe that the needed EEO reforms at VA should be a matter of law.

Mr. Speaker, H.R. 1703, as amended, would require the VA to establish a new EEO complaint resolution system separated from facility management. It would also require the VA to establish a new, quasi-independent final decision-making office of EEO cases. The director of the office would report directly to the VA Secretary or Deputy Secretary. The bill would obligate the VA to report back regularly to Congress on its progress in implementing the new provisions and on the operations of its new EEO system.

Finally, the bill would establish an independent panel to asses the extent of this current problem within the VA.

Our bill is cost neutral. It requires changes in the way the VA processes and decides EEO cases, but the VA has assured the committee that it can accomplish these changes within its current budgetary resources. Furthermore, the Congressional Budget Office estimates no significant additional costs for a reformed EEO system at the VA.

Mr. Speaker, before concluding, I want to thank our distinguished Veterans' Affairs Committee Chairman, BOB STUMP, for his support of vigorous oversight of the VA in order to ensure that our Nation's veterans receive the benefits and services Congress has mandated, and for giving H.R. 1703, as amended, a high priority and bringing it to the floor so quickly.

Also, I particularly want to commend Mr. EVANS and Mr. CLYBURN for their hard work

and personal involvement in this legislation. I want to commend Mr. BUYER for his leadership on both the Veterans' Affairs and National Security Committees on these issues. Mr. BILIRAKIS as well has been tireless in his efforts to promote the reforms needed so much too improve the workplace for VA employees.

Our bipartisan bill would not solve every EEO problem, but I believe it would go a long way toward restoring the confidence of VA employees in the department's EEO system. Therefore, I strongly urge my colleagues to act favorably on H.R. 1703, as amended.

Mr. EVANS. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina [Mr. CLYBURN], the ranking Democrat on the Subcommittee on Oversight and Investigations.

Mr. CLYBURN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of H.R. 1703, as amended, the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act.

The veterans oversight hearings chaired by the gentleman from Alabama [Mr. EVERETT], my distinguished Republican colleague, have demonstrated an extremely sensitive and serious problem of sexual harassment within the Department of Veterans Affairs. The gentleman from Illinois [Mr. EVANS] and I were original cosponsors of legislation nearly identical to H.R. 1703 back in 1993. At that time, we were told that changes were in the works regarding the EEO process at the VA and throughout the Federal Government, and that there would be no need for this legislation.

This expected Government-wide solution never happened. The Senate never acted on the bill we passed in 1993, and here we are again almost 5 years later dealing with sexual harassment problems that continue to fester at the VA.

It is a tribute to the gentleman from Alabama [Mr. EVERETT] that he has recognized the continuing need for legislation to improve the EEO process at VA. This May, with bipartisan support, the gentleman from Alabama [Mr. EVERETT] introduced H.R. 1703, legislation derived from the bill that was first introduced in 1993.

It is also a tribute to Secretary Hershel Gober that he has recognized a serious problem with the EEO process at VA, and that he has proposed administrative changes that draw in large part from the bill we have introduced in this Congress.

The VA's proposals do not go far enough, and there is still the need for legislation in this area. That is why we need to pass H.R. 1703 today, and that is why we need to do all we can to make sure our colleagues in the Senate quickly act on their version of this legislation.

By voting in favor of H.R. 1703, we in Congress can do our part to bring professionalism and independence to the EEO process at the VA, and to help restore the faith and trust in the process that has been so lacking through the last few years.

Mr. EVANS. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, I am very gratified that this legislation is being offered today. The bill is nearly identical to legislation that I sponsored during my first term in Congress in 1993, along with the gentleman from Illinois [Mr. EVANS], the gentleman from Massachusetts [Mr. KENNEDY], and others.

The problem of employment discrimination within the VA, particularly of sexual harassment within the Department, is a problem that cannot be tolerated. The changes called for by this bill should make a major difference in ensuring that cases of discrimination or other improper behavior are handled in a proper manner.

Rather than having local VA officials police their own, a situation which invites personal relationships to interfere in an investigation, this bill offers us a better solution. Setting up an office of employment discrimination within the VA central office will enable a fair and more accurate system for dealing with complaints of harassment and discrimination.

In addition, I am hopeful that this bill will prove to be a step in the right direction, and encourage us to take action to develop proper care and treatment within the VA for Armed Forces personnel who have been sexually abused or harassed during their service in our military. This body's interest in addressing the problem of sexual harassment should not end today.

The VA's function is to serve veterans, and at present, it is doing an inadequate job of serving veterans who have been the victims of sexual abuse or harassment.

I introduced legislation earlier this year that would improve such care. I have been alarmed to learn that despite the high-profile cases that we have heard about this year at Aberdeen and other military installations and bases, the opportunity for a woman to receive care and treatment within the VA for those incidents of abuse is very rare.

I am gratified that more than 50 Members have agreed to cosponsor H.R. 2253. I would ask that any Members of this House who are voting with me to expand the investigation of sexual harassment within the VA will likewise join with me to pass legislation that will treat former military personnel, and I want to underscore this, that will treat former military personnel who seek help within the VA as a result of such abuse.

I want to thank the gentleman from Arizona [Mr. STUMP], the gentleman from Illinois [Mr. EVANS], the gentleman from Alabama [Mr. EVERETT], and the gentleman from South Carolina [Mr. CLYBURN] for their work on this important legislation. It should be supported by all Members of this House.

Mr. EVANS. Mr. Speaker, I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

A lot of people put a lot of time in achieving this bill, and I especially want to thank the gentleman from Alabama [Mr. EVERETT], the chairman of the Subcommittee on Oversight and Investigations, and the gentleman from South Carolina [Mr. CLYBURN] for all of the effort that he put forth on this bill, as well as the ranking member of the full committee; and of course the gentleman from Indiana [Mr. BUYER] and the gentleman from Florida [Mr. BILIRAKIS], who originally asked for a meeting, and the gentleman from Illinois [Mr. GUTIERREZ], who just made a statement. As I mentioned before, this is a very bipartisan bill and I urge the Members to support it.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of H.R. 1703, Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act.

Over the past several months, incidents of sexual harassment by several of the VA's senior career managers have come to my attention. This greatly disturbs me because Congress investigated similar problems several years ago. In fact, when I served as the ranking minority member of the Oversight and Investigation Subcommittee, we conducted a hearing on sexual harassment in the VA workplace in 1992.

At that time, we heard from several VA employees who had been the victims of sexual harassment. It took a great deal of courage for these women to come forward and share their experiences with our committee. Many of these women were also subjected to acts of retaliation by their abusers and other VA employees.

Their perception, which was shared by many other employees, was that the VA did not take sexual harassment complaints seriously. There was a great deal of suspicion and distrust caused by too many years of apparent toleration of unacceptable behavior.

Without question, our 1992 hearing revealed that the process in place at the VA for investigating sexual harassment complaints was seriously flawed. Consequently, the Veterans' Affairs Committee unanimously approved legislation, which was later passed by the House, to address the problems at the VA. H.R. 1032 would have provided for improved and expedited procedures for resolving complaints of employment discrimination, including sexual harassment complaints.

When we considered H.R. 1032, VA Secretary Brown opposed the passage of this legislation because he preferred to take administrative action instead. The Senate did not act on H.R. 1032, and the bill was never enacted into law.

Secretary Brown established a policy of zero tolerance of sexual harassment and other

forms of discrimination within the Department of Veterans Affairs early in his tenure as Secretary. Unfortunately, it appears that this policy of zero tolerance is not being enforced.

Almost 5 years after our first hearing, we are faced with a similar situation at the VA. This matter was brought to my attention again when the director of the Fayetteville VA Medical Center was found to have sexually harassed one female employee. He also engaged in abusive, threatening and inappropriate behavior toward other female employees. This director was transferred to the Bay Pines VA Medical Center which serves many of the veterans in my congressional district. He was allowed to retain a salary of more than $100,000 in a position created specifically for him.

I heard from my constituents, particularly female veterans and VA employees, who were outraged by the Department's actions on this matter. They do not believe that the VA took any punitive action against this senior VA employee.

At my request, the Veterans' Affairs Oversight Subcommittee held a hearing on this latest incident of sexual harassment on April 17, 1997. We heard from several VA employees who were subjected to abusive treatment while working in the Fayetteville Medical Center. Sadly, their stories mirror those that we first heard in 1992. Despite the Secretary's zero tolerance policy, it appears that the VA has failed to adequately implement sufficient administrative procedures to deal with sexual harassment complaints.

Our witnesses believed that their harasser was not properly or adequately punished. In fact, they felt that he was rewarded for his actions "by being sent to the place he wanted to be with a raise in salary." This certainly appears to be the case. Consequently, I am greatly concerned that the VA's policy of zero tolerance has, at best, not been implemented uniformly, and at worst, has been ignored.

In 1992, I said that "Everyone has the right to live and to go to work without fear of harassment of any sort * * * we owe all female veterans and all female VA employees the assurance that we will not tolerate sexual harassment at any level." This statement is just as relevant today as it was 5 years ago.

Our 1992 hearing revealed that the process in place at the VA for investigating sexual harassment complaints was seriously flawed. Our 1997 hearing showed that the process is still flawed. Although I wish it were not necessary, I am pleased to be an original cosponsor of Chairman EVERETT's legislation, H.R. 1703.

We cannot defer legislative action again. I certainly do not want to find out 5 years from now that the VA's EEO process is still broken. Victims of sexual harassment and other types of employment discrimination deserve a sympathetic and effective response from their employer. The legislation before us is essential to assure employees that mistreatment will be dealt with fairly.

I urge my colleagues to support H.R. 1703.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 1703, the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act of 1997.

In recent years, we have heard of numerous cases where individuals within the Department of Veterans Affairs who were subjected to sexual harassment and other unlawful employment discrimination. As a result, the Department has established a zero-tolerance policy on sexual harassment and has promised to improve its equal opportunity system.

This legislation would assist the Department in meeting that goal by establishing a new Office of Resolution Management [ORM] to carry out such responsibilities. The number of full time professional EEO counselors and investigators is increased under this legislation.

Furthermore, H.R. 1703 mandates that the VA Secretary establish an Office of Employment Discrimination Complaint Adjudication [OEDCA] to issue final decisions on the merits of discrimination claims within the Department. The director of OEDCA will report directly to the VA Secretary and will have sole responsibility within the VA for resolving complaints of sexual harassment and other unlawful employment practices.

Accordingly, I urge my colleagues to join me in support of this legislation, which will help to reduce the level of unlawful employment incidents in the VA and allow those who were victims of such practices to continue to move forward in helping our veterans.

Mr. FARR of California. Mr. Speaker, I rise in support of two important veterans bills being considered on the floor today. H.R. 1703, the Veterans' Affairs Employment Discrimination Prevention Act, would establish a new VA office to resolve employment discrimination claims by veterans. Too often, our Nation's veterans are the victims of discrimination in the workplace, and this legislation would help ensure that their concerns are heard and resolved.

H.R. 2206, the Veterans Health Programs Improvement Act, will provide needed help to homeless veterans and veterans of the gulf war. The legislation would reauthorize a number of important Federal programs for homeless veterans, and allow the VA to operate more care facilities for veterans suffering from drug and alcohol abuse.

In addition, H.R. 2206 would expand medical care eligibility for gulf war veterans, so that any veteran with gulf war illnesses could receive health care from the VA—whether or not their illness can be proven as caused by exposure to toxins. The bill also authorizes $5 million in funds for researching new forms of treatment of gulf war syndrome.

I represent both veterans and veterans' families who continue to suffer from gulf war illnesses, with no end in sight. Unfortunately, many suffering veterans don't get medical care because they cannot prove the cause of their illness. This legislation will ensure medical help is available for those gulf war veterans who need it.

I am glad to see these two bills come to the floor, and I urge my colleagues to support them.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Arizona [Mr. STUMP), that the House suspend the rules and pass the bill, H.R. 1703, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to provide for improvements in the system of the Department of Veterans Affairs for resolution and adjudication of complaints of employment discrimination."

A motion to reconsider was laid on the table.

□ 1500

REAUTHORIZATION OF THE EXPORT-IMPORT BANK

The SPEAKER pro tempore (Mr. STEARNS). Pursuant to House Resolution 255 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1370.

□ 1500

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States, with Mrs. EMERSON, Chairman pro tempore in the chair.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, September 30, 1997, amendment No. 3 printed in House Report 105–282 offered by the gentleman from New York [Mr. LAFALCE] had been disposed of.

It is now in order to consider amendment No. 4 printed in House report 105–282.

AMENDMENT NO. 4 OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. ROHRABACHER:

At the end of the bill, add the following:

SEC. 10. PROHIBITION AGAINST ASSISTANCE TO COMPANIES THAT ARE AT LEAST 50 PERCENT OWNED BY A FOREIGN GOVERNMENT OR MILITARY.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

"(12) PROHIBITION AGAINST ASSISTANCE TO COMPANIES THAT ARE AT LEAST 50 PERCENT OWNED BY A FOREIGN GOVERNMENT OR MILITARY.—

"(A) DETERMINATION OF OWNERSHIP.—On application for assistance involving a transaction in connection with the import or export of any good or service, the Bank shall determine whether any company involved in the transaction is at least 50 percent owned by the government or military of a foreign country.

"(B) PROHIBITION.—The Bank shall not insure, guarantee, extend credit, or participate

in an extension of credit involving any transaction in connection with the import or export of any good or service if any company involved in the transaction is at least 50 percent owned by the government or military of a foreign country.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, the gentleman from California [Mr. ROHRABACHER] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. CASTLE. Madam Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Delaware.

Mr. CASTLE. Madam Chairman, I ask unanimous consent that the time for debate on the two Rohrabacher amendments be extended to 20 minutes from the 10 minutes allocated from the rule, to be equally divided between the proponents and opponents. We have discussed this, and it is in everyone's interest to do this.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. ROHRABACHER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, my amendment to H.R. 1370 would prohibit the Export-Import Bank from providing assistance for transactions involving the import or export of goods or services with companies that are at least 50 percent owned by a foreign government or the military of a foreign government. My amendment will also prohibit the bank from insuring, extending credit, or participating in an extension of credit with such a company.

Numerous studies show that the largest percentage of Export-Import Bank transactions benefit a small number of mega private corporations at the expense of small business and/or the taxpaying citizenry. It is ridiculous that while other U.S. agencies, such as the Agency for International Development, and multinational-multilateral banks are spending billions of U.S. tax dollars on privatization efforts, that the Export-Import Bank subsidizes transactions with State or military-owned companies. Often these are the vestiges of failed socialist state-planned political and economic systems.

Even worse, some of these subsidized firms may be owned by the military arm of dictatorial regimes; for example, the Peoples Liberation Army in China, Communist China.

I have heard concern that my amendment would prevent companies from participating in large infrastructure, power generation, communications, and transportation projects in developing countries. Clearly this amendment does not prevent American companies from being involved in such projects.

What it specifies is that the U.S. taxpayers should not be put at risk with guaranteeing or loaning hundreds of millions of dollars for ventures with state- or military-owned companies that are shunned by private lenders.

This is in fact corporate welfare that subsidizes imports over exports. For example, in China, where U.S. airline companies are receiving export-import funding, those deals, more often than not, involve the transfer of American technology and the development of Chinese assembly lines that in a few short years will be in direct competition with United States workers. This is the worst kind of short-sightedness, not only on the part of the companies involved, but on the part of the U.S. Government. We are subsidizing the creation of our own high-tech competition in dictatorships like China.

Will my amendment really deter the creation of new American jobs? According to the Congressional Research Institute, and I quote, Most economists doubt that a nation can improve its welfare over the long run by subsidizing exports. At the national level, export financing merely shifts production among sectors within the economy, rather than adding to the overall level of economic activity, and subsidizes foreign consumption at the expense of the domestic economy.

In addition to sustaining the American job base, this amendment will encourage our trading partners to expedite the privatization of state-owned and military-owned companies, and to reduce the power of foreign businesses that are controlled by government apparatchiks, military brass, and other anti-democratic cronies. This is in the long-term interest of our people, it is in the long-term interest of our economy, instead of having some clique, some what they call crony capitalism, some clique of capitalists in our country being given resources that should be going out to the small businessmen and women of our country, and it also protects our own workers from subsidizing their competition.

Madam Chairman, I reserve the balance of my time.

Mr. FLAKE. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from New York [Mr. FLAKE] is recognized for 10 minutes.

Mr. FLAKE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this particular amendment and its sponsor I tend to believe does not understand what the Eximbank really does. It is completely unilateral, this amendment, and would significantly damage the ability of U.S. companies to compete for infrastructure projects in most of the regions of the world. No other government will follow suit, so this amendment simply gives foreign companies a big advantage over U.S. firms and our workers.

The amendment applies worldwide, preventing Eximbank financing in most of the lucrative and most fast-growing markets in the world, where Exim's financing is essential to U.S. companies to compete in these various marketplaces.

I think we need to understand that in the countries where Exim is operating, that those countries that are participating with these small, developing nations are in fact countries that provide subsistence to their various companies, and if we do not do that we will not be in a competitive posture with them.

U.S. industries hurt most under this amendment include power plant equipment makers, aircraft makers, oil and gas service companies, construction and engineering firms, communications equipment makers, water treatment equipment makers, et cetera.

By undercutting American exporters in these markets, this amendment would directly cut American exports and export-related jobs. These exports and jobs would go to foreign countries which would still have their government's full financial backing. I believe that this puts us in a competitive posture that takes away from our ability to be able to function appropriately in these marketplaces.

By cutting U.S. exports, this amendment will worsen our already dismal record of trade deficit. The amendment is based on the false notion that it is wrong for U.S. Governments to help American exporters sell our goods and services to government-owned companies anywhere in the world. Since no other government will follow this policy, foreign government-owned companies will simply buy from Europe, Japanese, Korean, and other competitors. It will have no impact on foreign governments, nor will it hasten privatization.

Foreign corporations and their workers are the only ones who will benefit from this amendment, because they will get the business that American exporters will lose by the denial of Exim financing.

Madam Chairman, I reserve the balance of my time.

Mr. FLAKE. Madam Chairman, I yield the balance of my time to the gentleman from Delaware [Mr. CASTLE], the distinguished chairman of the subcommittee.

The CHAIRMAN pro tempore. Without objection, the gentleman from Delaware [Mr. CASTLE] will control the remainder of the time, and is recognized for 7½ minutes.

There was no objection.

Mr. CASTLE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I am in firm opposition to this amendment. I know it means well, but we do not have time to go through that. But essentially it would severely damage U.S. exports to

developing economies, developing markets, and post-Communist foreign countries by prohibiting Exim financing for the purchasing of U.S. goods and services to any foreign buyer that is at least 50 percent owned by a foreign government or military.

It is ill-conceived, and frankly it is counterproductive. It guts Eximbank's ability to effectively support U.S. exporters and their workers, our workers, throughout much of the world. It is plainly contrary to the national interests and the economic well-being of American workers.

It is opposed by the Department of State, which has starkly warned that the amendment could do great damage to U.S. commercial interests. It is opposed by the Department of Treasury, which points out that most buyers in the developing world are public sector entities. It is just a fact. A prohibition on sales to such entities will put Eximbank out of business and cede export sales to our competitors.

The U.S. Chamber of Commerce has come out in strong opposition to this particular amendment, while at the same time strongly supporting H.R. 1370, the Export-Import Bank.

The National Association of Manufacturers states that the Rohrabacher amendments would reduce U.S. exports or public works projects in every region of the country, and block U.S. exports to government-owned customers. These amendments would hand over billions of dollars of contracts to our major competitors in Germany, Japan, and France, among others.

According to Exim, had this amendment been in effect since 1987, it would have cost the United States $8.7 billion in aircraft sales alone. It would directly jeopardize more than $11 billion in future aircraft sales.

Why would it wound us so much? Very simply, it would cut off Exim financing for the export of U.S. goods and services to any public sector economy anywhere around the world, period. For example, if a United States company is competing on a public power project in South Africa against a Japanese firm being financed by JEXIM, Japan's export credit agency, this amendment would concede that sale to the Japanese. That is why we need a strong Eximbank, to level the playing field for American exporters and their workers.

Let us be clear about the effects of this amendment. It would penalize U.S. businesses and their workers trying to compete and win in the global marketplace. It would lose billions in U.S. export sales. It would lose hundreds of thousands of good, high-paying American jobs. The amendment misperceives the purpose of Exim. It operates on commercial principles to support U.S. exporters. It operates as a lender of last resort. It finances the purchase of U.S. exports by foreign buyers at market rates. It does not subsidize foreign governments or militaries.

A vote for this amendment is a vote to impose sanctions on United States businesses and United States workers because it prohibits Exim from assisting United States exports to the fastest growing emerging markets of virtually every continent around the world: Argentina, Brazil, Central Asia, Chile, India, Mexico, Russia, South Africa and the Ukraine. A vote for this amendment is tantamount to closing down the Eximbank. I would encourage all of us to rise in opposition to this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Madam Chairman, I yield myself 1 minute.

Madam Chairman, first of all, let us just note that when we subsidize someone who is doing business overseas, that money comes from a pool of money that is not available for our own small businessmen, for everybody else who wants to do that kind of business here in the United States.

There is no reason that I see that we should provide huge American corporations with loans that are taken right out of the pockets of these small businesses that would like to maybe expand their little shop by a little bit in their hometown. That is where that money is coming from. It is no magic wand that is coming out of nowhere. It is coming from our pockets, and it is subsidizing, as I say, some of the largest companies in this country to do business where? In the developing world. Many times that is a euphemism for vicious, ugly dictatorships that cannot get loans because they are too risky for private owners to loan this money. And $8 billion in aircraft loans? What accompanies those $8 billion in loans has been mandates that we set up manufacturing units in those other "developing countries," not in the long run but in the medium run. That means we are setting up competition for our own aerospace industry. It is ridiculous. Vote against this.

Mr. CASTLE. Madam Chairman, if the gentleman will yield, I agree with voting against it.

Mr. ROHRABACHER. Vote in support of the amendment.

Mr. CASTLE. Madam Chairman, I yield 10 seconds to the gentleman from New York [Mr. FLAKE].

□ 1515

Mr. FLAKE. Madam Chairman, I think the gentleman from California [Mr. ROHRABACHER] does not quite understand how the Exim works. These are American companies that are doing business in countries where other countries allow for some type of subsidy for the companies that are operating there. I think the gentleman is correct in stating, though, that we should vote against the amendment.

Mr. CASTLE. Madam Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Madam Chairman, let me stress the issue of airplane sales has been raised. That professionals tell us that if this policy had been in effect over the last decade, it would have cost about $8.7 billion in U.S. aircraft sales and in the immediate future about $11 billion in aircraft sales.

Yes, it is true that some of our aircraft manufacturers have made certain agreements with countries around the world to produce parts of crafts there. On the other hand, so has Airbus. So the question becomes whether the United States wants to become a part of these markets or not. If we support this amendment, the United States will be blocked out of these markets, and once we are blocked out of certain markets, that ends up having a literally cyclonic effect for other markets. It is not as if one market stands alone.

Madam Chairman, in terms of what it means for jobs, it has been estimated that in just eight key emerging markets the approach contained in this amendment would lose about $16 billion of U.S. export sales. That is 227,000 jobs, or about 521 jobs per congressional district. I think that is a pretty difficult thing to suggest that we ought to be eliminating.

Finally, the issue is not whether Exim as an institution is forced to be closed down. The issue is whether we cede markets to other countries, whether we embargo United States exports, whether we give up United States jobs.

Madam Chairman, this is a case of unilateral economic disarmament. It is well-intended, but it is clearly counterproductive. I urge in no uncertain terms the defeat of this amendment.

Mr. ROHRABACHER. Madam Chairman, I yield myself 1½ minutes.

Madam Chairman, the only economic disarmament that is going on is the billions of dollars that we are taking out of our country and shipping manufacturing units to other countries, "developing" countries, and dictatorships like Vietnam and China.

Yes, this is put under the guise of being exports, but, more often than not, we are not talking about somebody selling refrigerators over in China or Vietnam, we are talking about companies getting subsidies from the U.S. Government in order to set up a manufacturing unit in those countries.

Like these airline deals that we are talking about, yes, we are selling some airplanes, but part of the deal is, we are setting up an aerospace industry to compete against our own aerospace industry a few years down the line.

Madam Chairman, this is so shortsighted, and we are not talking about exports here, we are talking about setting up temporary sales, some short-run sales, manufacturing units that

will import into the United States. This is a disaster in the medium run. But, again, we have the special interests trying to get their hands on the taxpayers' dollars for a short-term, cut-and-run philosophy on profit.

Madam Chairman, this is not going to be in the long-term interest of the American taxpayers or the American people. After they set up their companies in these countries, they are going to come back and put our own working people out of business.

Madam Chairman, I urge my colleagues to vote for this amendment and let us get on to privatization in the Third World, in the developing world, and let us not subsidize these companies like the People's Liberation Army in China.

Mr. CASTLE. Madam Chairman, I yield 1 minute to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Madam Chairman, I know it is not intended, but I believe underlying this amendment is a certain arrogance. That is that every other country in the world and company in the world must be and do as we in the United States are, that they cannot have their own system. And if they do, we will not sell them products or services with any Eximbank assistance.

I really think that that is shortsighted. As a matter of fact, were we to closely examine the United States, for example, New York State, we have a New York State Power Authority. It is a governmental entity that provides power in New York State. We have in western New York the Niagara Frontier Transportation Authority, a governmental entity providing public transportation.

Under the Rohrabacher amendment, their counterparts in foreign countries would be excluded from participating with American businessmen and women in the purchase of goods, products, and services if Eximbank were to attempt to be of assistance.

Madam Chairman, I really think that is rather foolish and narrowminded, and I think the amendment should be rejected.

Mr. ROHRABACHER. Madam Chairman, I yield myself 1 minute.

Madam Chairman, I am not suggesting, and this amendment is not suggesting, that American businesses cannot go any place in the world, whether it is dictatorships or nondictatorships, developing world or developed world, and do business. They are welcome to do so. The major question is whether or not the taxpayers of this country should be subsidizing these enterprisers who go overseas, should be subsidizing them and offering them loan guarantees, et cetera, and direct loans, through the Export-Import Bank.

Madam Chairman, these people still can go to the private sector and get their loans, they can still participate in whatever project they want, but they cannot expect the American taxpayer to subsidize ongoing socialist projects overseas or ongoing projects in these dictatorships where they own the enterprises, and so it becomes a bolstering of the regime rather than just a business enterprise.

Madam Chairman, this amendment would exclude no one from doing business overseas; it would end the taxpayer subsidy of this type of business.

Mr. CASTLE. Madam Chairman, I yield 45 seconds to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Madam Chairman, with all deference to the gentleman from California, the Eximbank has nothing to do with projects overseas. All Eximbank does is make otherwise unavailable financing to companies, such as Beloit Corporation, which is one of three worldwide manufacturers of papermaking machines and has 2,900 subcontractors, hundreds of thousands of jobs. These are blue-collar workers. The purpose of Eximbank is to allow blue-collar workers to keep their jobs in the United States. Eximbank does not subsidize projects outside of the United States.

Madam Chairman, that is the problem with people attacking Eximbank thinking it is corporate welfare when they do not even understand what this bank does.

Mr. ROHRABACHER. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, the gentleman from Illinois [Mr. MANZULLO], my good friend, has demonstrated for me exactly why my amendment is so important. I do not want us to be subsidizing sending papermaking machines to another country to then compete with our own people who are involved with the paper manufacturing industry in the United States of America.

If people want to sell cardboard boxes or whatever type of machines we are talking about overseas, more power to them. Let them go out and sell those cardboard boxes to Vietnam or China or a dictatorship, democracy, we do not care.

Madam Chairman, I do not need anyone to tell me that the American taxpayer wants us to sell manufacturing units overseas to compete with their own jobs, especially when we are talking about the subsidization here, which is what this amendment does, prevents us from subsidizing all of these state-run enterprises.

Madam Chairman, what we have got is, fine, my amendment would not affect people who want to go out and export and be involved in enterprises overseas whatsoever if they do so at their own risk and they get private capital. But the private capital will not subsidize these enterprises overseas in risky situations or in dealing with companies overseas like the People's Liberation Army where there is a political risk.

Why in the world are we having the American taxpayer subsidize this for these big corporations, whether it is a paper manufacturing company setting up a paper manufacturing company overseas or whether it is a refrigeration unit?

Motorola set up a chip manufacturing unit in China. They ended up in China using the chips from that company to develop land mines that will explode on anyone who is trying to defuse the land mine. I am not sure if they have an Export-Import Bank loan on that, but if they did, they should not have.

So, Madam Chairman, I would say let us keep the taxpayers' dollars here. Let that stay in the pool of money that is available to our own small business rather than subsidizing these enterprises overseas which in the end compete with the American jobs.

Madam Chairman, I call for the support of my amendment.

Mr. CASTLE. Madam Chairman, I yield the balance of my time to the gentleman from Florida [Mr. MICA].

Mr. MICA. Madam Chairman, Exim does not ship any money or set up any manufacturing overseas. What it does is exactly what the opponent of Exim has said: It helps American businesses finance the sale of American goods and products overseas where no one else will touch the financing. That is the whole purpose of Exim, to help create U.S. jobs, U.S. opportunities, in the sale of U.S. goods where they cannot obtain financing in any other market or by any other means.

Madam Chairman, I urge my colleagues to oppose the amendment.

Mr. KIM. Madam Chairman, I rise in opposition to the Rohrabacher amendment. While I appreciate the intent of the amendment, it is simply too broad and makes no distinction between America's friends and foes. If adopted, this amendment could result in the loss of billions of dollars of American export sales and tens of thousands of American jobs, including those of my constituents who work in the commercial aerospace industry.

Here's just one example of the damage this amendment could do to American exports. In many developing countries, the only source strong enough to support a national airline is the government. Like airlines all over the world these national airlines continue to expand and modernize. As part of this process, many of these government-owned airlines utilize the Ex-Im Bank as a key source of financing for the American-built commercial aircraft they buy. However, if Boeing or Douglas aircraft are denied access to Ex-Im financing for sales to these airlines, as this amendment would do, that won't stop these airlines from modernizing their fleets. Instead, they will turn to the Europeans who offer Ex-Im type financing and these airlines will buy Airbus products. That means many more jobs in Germany and France and fewer in America.

This is not a minor example. The list of airlines owned by a government or in which a

government holds the majority of shares that have bought or could buy Boeing or Douglas aircraft is extensive. This amounts to well over 1000 recent or current aircraft orders. Of these, some 200 are for Douglas aircraft which are built in Long Beach, CA. Each order sustains hundreds of California jobs.

Among the major airlines that could be prohibited from utilizing Ex-Im financing by this amendment are:

Aer Lingus—the national airline of Ireland; Air Afrique—the joint airline of eleven different African states; Air France; Air India; Air Malta; air Zimbabwe, Alitalia—the national airline of Italy; Balkan—the Bulgarian airlines; Biman, the national airline of Bangladesh; Cyprus Airways; Egyptair; El Al—Israel airlines; Ethiopian Airlines; Finnair of Finland; Gulf Air—the joint airline of the Bahrain, Qatar, the United Arab Emirates and Oman; Garuda of Indonesia; Indian Airlines—the domestic airline of India; Kuwait Airways; Lithuanian Airlines; Lot—the national airline of Poland; Malev, the national airline of Hungary; Nigeria Airways; Olympic Airways—the national airline of Greece; Royal Air Maroc of Morocco; Royal Jordanian Airlines; Saudia—the national airline of Saudi Arabia; Singapore Airlines; South African Airways; TAP/Air Portugal; Tarom Romanian Airlines; China Airlines; Aeroflot Russian Airlines and Turkish Airlines.

Of course, Boeing and Douglas do not have to approach the Ex-Im Bank for financing sales to all of these airlines. But, they have for many. And, American airplanes have been bought.

Madam Chairman, Israel, Ireland, Portugal, Italy, Bangladesh, Lithuania, Poland, Romania, Bulgaria, South Africa, India, France, Greece, Finland, Malta, and Hungary are all democracies and friends of the United States. Some, like Israel, are strategic allies of the United States. Yet, this amendment treats aircraft purchases for their national airlines no different than those of dictatorships like Syria, Iran, Libya, and Cuba. There are already laws on the books that prevent U.S. commercial aircraft sales to these countries. If there are specific countries that the authors of the amendment want to target, then they should offer an amendment targeting only those countries, not the significant list of friends I have noted.

I am also concerned that in the course of this debate, the charge has been made that the Ex-Im Bank uses American tax dollars to subsidize foreign businesses that compete against American industry. This is wrong. The Ex-Im Bank provides financing, loan guarantees and insurance programs like many other banks. While these guarantees are backed up by the taxpayer, so too are many domestic housing, education and other loan guarantees. Full repayment is required. In fact, the Ex-Im Bank is specifically prohibited from providing financing to U.S. exporters unless there is a reasonable assurance of repayment. Furthermore, Ex-Im Bank financing can only be used to help export American products.

The bottom line is that this amendment, if adopted, could result in the loss of billions of dollars of aircraft sales for no apparent positive reason. I cannot explain such action to an aerospace worker in my district who watches the sale of a new MD–95 or MD–11 vanish and be replaced by a European Airbus order. I urge my colleagues to support American jobs and defeat this amendment.

The CHAIRMAN pro tempore (Mrs. EMERSON). All time for debate on the amendment has expired.

The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ROHRABACHER. Madam Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, further proceedings on the amendment offered by the gentleman from California [Mr. ROHRABACHER] will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 5 printed in House Report 105–282.

AMENDMENT NO. 5 OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. ROHRABACHER:

At the end of the bill, add the following:

SEC. 10. PROHIBITION AGAINST ASSISTANCE TO ENTITY OWNED BY A GOVERNMENT WHICH IS NOT CHOSEN THROUGH FREE AND FAIR DEMOCRATIC ELECTIONS OF WHICH LACKS AN INDEPENDENT JUDICIARY, OR FOR IMPORT FROM OR EXPORT TO A COUNTRY WITH SUCH A GOVERNMENT.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

"(12) PROHIBITION AGAINST ASSISTANCE TO ENTITY OWNED BY A GOVERNMENT WHICH IS NOT CHOSEN THROUGH FREE AND FAIR DEMOCRATIC ELECTIONS OR WHICH LACKS AN INDEPENDENT JUDICIARY, OR FOR IMPORT FROM OR EXPORT TO A COUNTRY WITH SUCH A GOVERNMENT.—The Bank shall not insure, guarantee, extend credit, or participate in an extension of credit in connection with—

"(A) a transaction by an entity which is owned by a government that—

"(i) is not chosen through free and fair democratic elections, as certified by the President of the United States; or

"(ii) lacks a independent judicial system; or

"(B) the import of any good or service from, or export of any good or service to, a country with a government described in subparagraph (A).".

The CHAIRMAN pro tempore. Pursuant to the order of the Committee, the gentleman from California [Mr. ROHRABACHER] and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, my amendment to H.R. 1370 would prohibit the Export-Import Bank from providing assistance for transactions within a country ruled by a government which is not chosen through free and fair elections, as certified by the President of the United States, or which lacks an independent judiciary. This amendment will also prohibit Export-Import Bank transactions for import from or export to a country with a nondemocratic government.

While supporters of an unrestricted Export-Import Bank argue that the Bank's role is to provide support for transactions that cannot find private support, let me note that in countries where private international banks are reluctant to fund business transactions, the Export-Import Bank's subsidized lending and guarantees often reward bad economic policies and relieve nondemocratic governments of the need to create a free market environment that genuinely attracts sound foreign capital investment.

Madam Chairman, worse than that, these loans reinforce these dictatorial governments, and, basically, these governments that deny their people their basic civil liberties and economic freedoms are being told that they can be subsidized, even though they have these restrictions on their own people and it takes away their pressure then to democratize.

Opponents of my amendment also claim that Export-Import Bank transactions primarily assist small businesses in this country. To the contrary. A recent study by the CRS, that is, Congressional Research Service, shows that small businesses account for only 12 to 15 percent of the Export-Import Bank's total authorization.

CRS also emphasizes that, quote, subsidized export financing raises financial costs for all borrowers by drawing financial resources that otherwise would be available for other uses, thereby crowding some buyers from the financial markets.

□ 1530

This crowding-out effect might nullify any positive impacts subsidizing export financing may have on the economy. In other words, we are crowding out the little guy in this country in order to give some big megacorporations the money they need to set up some company in a dictatorship, and that money is no longer available to be loaned to our small businessmen and women throughout the country. End of quote from the Congressional Research Service.

It is our responsibility in Congress to appropriate America's taxpayers' dollars wisely. It makes no sense to subsidize American companies for doing business with largely corrupt and inefficient, basically antidemocratic and socialist governments who are too risky for these people to get loans from other sources in the private sector. Our

international business policy should be based on reinforcing free markets and democratic institutions where these people could get private sector loans. This is especially true when the business being subsidized is building manufacturing units abroad, which means U.S. working people, taxpayers, are subsidizing the building of factories in dictatorships to produce goods in competition with their own jobs.

Most of the investment that has gone into many of these countries, and much of it into China, we are not selling refrigerators there. We are selling people who are exporting what? Manufacturing units of refrigerators which end up being sold in the United States and putting our own people out of work. This is immoral. It is wrong, especially wrong when we are dealing with a dictatorship that is the recipient of this business activity.

My amendment will help protect U.S. taxpayers by preventing the Export-Import Bank from providing corporate welfare to risky ventures by megacorporations who should not be investing in these antidemocratic societies in the first place. But if they do, they can do it at their own risk. And it will keep us moral by preventing the taxpayers from subsidizing and propping up those regimes.

This is in fact corporate welfare that subsidizes imports actually to a higher degree than exports. For example, in China, where the United States airline companies, which we have heard today, have sold their products subsidized by the Export-Import Bank, we, as part of those agreements, have set up an aerospace industry or are in the process of setting up an aerospace industry that will put my people out of work in the medium term, not the long term but the medium term. It is ridiculous. If the dictatorships are making those sorts of demands, the last thing we should do is subsidize it with the Export-Import Bank.

I would call on my colleagues to support my amendment and let us stop this subsidization of providing manufacturing units for dictatorships.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mrs. EMERSON). Does the gentleman from Delaware [Mr. CASTLE] rise in opposition to the amendment?

Mr. CASTLE. Madam Chairman, I do rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Delaware [Mr. CASTLE] is recognized for 10 minutes.

Mr. CASTLE. Madam Chairman, I yield myself such time as I may consume. Last time I looked, the American government was not a dictatorship. These are American businesses and American workers which we are helping. Virtually nobody else is being helped at the same level. We are helping them compete with other countries.

I do rise in very strong opposition to this amendment. This is a debate about means and ends. The sponsor of the amendment seeks to promote democracy and the rule of law abroad. So does this Member and every Member of this body. There is no disagreement about the objective, but there is disagreement about the means.

The amendment's sponsor evidently believes that the United States should express its repugnance for undemocratic governments by enacting sweeping, unprecedented global sanctions against ourselves by cutting off trade, by unilaterally embargoing American exports and sacrificing good, high-paying American jobs. I do not. The United States does not advance its interest in democracy and the rule of law by punishing ourselves by telling foreign purchasers of United States goods and services to buy their industrial machinery, power equipment, telecommunications and aircraft from European or Japanese companies.

The Department of State is opposed to this amendment. The Department of the Treasury is also opposed to the amendment because Eximbank is the most effective tool in the Treasury-led international negotiations to reduce foreign export financing subsidies. The Export-Import Bank itself is opposed to this and states very explicitly that their business would be decimated by the Rohrabacher amendment. I will include their letter for the RECORD.

The effect of this amendment would be to cut off Exim financing of all export transactions in any country anywhere around the world with an unelected government, such as in the Persian Gulf, Sub-Saharan Africa, Central Asia and Southeast Asia. Likewise, the amendment would also shut off Exim financing in any country around the world which does not have an independent judiciary. This would include many countries in the newly independent states, the Middle East and Southeast Asia. Exim financing is cut off regardless of whether or not the U.S. exporter is facing government-financed competition.

The amendment therefore shifts export sales and the jobs they support from U.S. exporters all across the country to the exporters of our competitors. How can this be in the national interest?

This amendment would leave U.S. exporters defenseless in the face of foreign-government-financed competition for export contracts throughout much of the developing world. I cannot imagine a more unsound and ill-conceived basis for United States economic policy.

I urge my colleagues to reject this ill-conceived amendment.

Madam Chairman, I include for the RECORD the letter to which I referred:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, DC, October 6, 1997.

Hon. MIKE CASTLE,
Chairman, Subcommittee on Domestic and International Monetary Policy, House of Representatives, Washington, DC.

DEAR CHAIRMAN CASTLE: I am writing to express my great concern about two amendments being offered by Congressman Rohrabacher that seriously undermine the ability of U.S. exporters to sell goods and services into emerging markets and cost U.S. jobs. Simply stated, these two amendments put Ex-Im Bank "out of business".

The Rohrabacher amendments cost U.S. jobs by preventing U.S. companies from competing against Airbus and other European and Japanese supported competitor companies. Had these amendments been in effect during the past five years, Ex-Im Bank would have been unable to support approximately $50 billion out of $77 billion in U.S. exports that went forward during this period. The loss of these exports would have resulted in the loss of hundreds of thousands of jobs in each of the five years.

Small business programs at Ex-Im Bank will be decimated by the Rohrabacher amendments. Ex-Im Bank has worked diligently over the last four years to simplify its small business programs and make them accessible through delegated authority arrangements. Last year alone, Ex-Im Bank directly supported $2.4 billion in small business exports. Ex-Im Bank would be unable to finance these U.S. small business exports under the Rohrabacher amendments.

In short, these two amendments would prevent the Bank from fulfilling its mission to support U.S. exports and thereby create and sustain U.S. jobs. Without Ex-Im Bank, U.S. companies and U.S. workers will be unable to compete in emerging markets.

Sincerely,

JAMES A. HARMON.

Madam Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Madam Chairman, I reserve the balance of my time.

Mr. CASTLE. Madam Chairman, I yield 2 minutes to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Madam Chairman, I rise in opposition to the amendment.

It seems to me that a part of our responsibility is obviously to create U.S. jobs wherever that possibility exists for us. Indeed, what we have done through Exim cannot be duplicated from any other source that we have in America.

It seems to me that as we look at the letter that James Harmon has sent and that the gentleman from Delaware [Mr. CASTLE] has asked to be included in the RECORD, we would have lost a great deal of money and a great number of jobs had we not had the Eximbank support for those American companies who are doing business abroad over the last 5 years. As a matter of fact, he estimates that we would have lost $50 billion out of $777 billion in exports. That is not, it seems to me, the direction that we ought to be going.

The gentleman who is the sponsor of the amendment seems to be moving in a direction that takes out of hand the possibility for us to be able to create

jobs for American companies and for American citizens. I tend to think that we cannot afford to support this amendment. It is completely unilateral. No other government would adopt such restrictions. It means that we have basically given this market over to other countries and to other companies. That does not provide any kind of creation of jobs for American citizens.

I would hope that as our colleagues come to vote on this particular amendment, that they would vote against it and that we would continue to provide the level of support for the Exim that we have in the past.

Mr. CASTLE. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. LEACH], chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Madam Chairman, I thank my colleague for yielding me the time. Let me just say this amendment not only defies rational explication today, it defies our history. For half a century the United States of America has set a model around the world of active engagement with many different societies, even when we disagree with what is happening in those societies.

What this amendment says is, if we do not like what is happening in another society, we are going to express our differences by hitting ourselves in the face. It is patently counterproductive. I would say to my distinguished friend that while he has certain premises and certain concerns which we all share, by the same token he has a solution that I think is a countersolution.

The great question is, is this country going to be better off to constructively engage even with those with whom we differ, or are we better off going through some sort of economic isolation that amounts not only to unilateral economic disarmament but amounts to harming ourselves by giving markets to others, by allowing them to build up their export capacity in direct competition with us?

I think the answer has to be that this is an amendment that is very dicey and something that this Congress should would be ill-served to adopt.

Mr. ROHRABACHER. Madam Chairman, I yield myself 3 minutes.

Just to reflect on what my colleague, the gentleman from Iowa [Mr. LEACH] has just said, this is not unilateral disarmament. This is refraining from arming our adversaries. Yes, we have been engaged for the last half century, since World War II, the United States has been the sucker of the world most of that time. But we had to defend the world against international communism.

We do not have to take American taxpayers' dollars anymore and subsidize business deals in foreign lands, taking that money directly out of the pool of money that is available for our own people, the small business men and women of every community throughout our country. They have to take money from that same pool in order to do business in their communities, and instead we are decreasing the amount of money in that pool to give to large corporations to do what? To do business in some communist or some fascist dictatorship overseas. It is not only immoral, it is bad economics.

Yes, Red China has been a big market for our airplanes and other things, they are setting up an aerospace industry at our expense, but they have a $40 billion trade deficit with the United States. Let them finance their own business deals. They have got the money. They have got the capital.

The fact is that no private companies will finance that because it is risky, because you are dealing with a dictatorship. So what do we do? We take the pressure off them to liberalize and become a freer society by giving them the loans and guaranteeing the loans anyway.

Who are the benefactors in the Three Gorge Dam project in China, $30–$40 billion? Yes, there are some American companies over here that would like to sell the equipment to do the $30–$40 billion Three Gorge Dam project in China. We have got some public works projects here in our own country. Why are we taking money from the pool of money that is available to do things in the United States and transferring it overseas? We can buy the tractors and we can buy the equipment to do those projects right here in the United States.

We do not need to drain our own pool of capital dry in order so a few big corporations can show a profit at the end of this year, while what we are really doing is subsidizing projects in vicious and ugly dictatorships around the world, especially Red China; Red China, which now has such an unfair trading relationship with the United States that when we try to send our goods and services in, they are taxed, they are tariffed at 30–40 percent.

What do we do? We subsidize somebody who wants to set up a company over there. They set up the company and then, because we only charge them 3–4 percent tariffs on their goods coming back, that company begins exporting to the United States. In the medium run, yes, a few jobs are created in the short run, but in the long run we are destroying the economic base of our own country. We are destroying the working people of our own country, subsidizing with taxpayers' dollars. Vote for my amendment.

Mr. CASTLE. Madam Chairman, I yield myself 15 seconds.

I would like to make a couple points. First is, this is the Eximbank, not OPIC. Exim is not financing the Three Gorges project in China because of environmental concerns.

Mr. Harmon, talking about small businesses and their involvement in this, says the small business programs at Eximbank will be decimated by the Rohrabacher amendments. He is the head of Eximbank. Exim has worked diligently over the last 4 years to simplify its small business programs. It has $2.4 billion in small business exports.

Madam Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Madam Chairman, I would think that the governments of Japan, the governments of Germany, the governments of France would favor the Rohrabacher amendment. But I would think that the people of the United States and the exporters in the United States would strongly oppose it because if his amendment passes, we will be at a competitive disadvantage.

The argument has been made, and I agree with it, that we would lose money, lose jobs, to be sure, but even more important than that in my judgment, we would lose influence over those governments. The gentleman from California [Mr. ROHRABACHER] used the word "adversaries," why are we financing United States exporters who want to sell their goods or services to our adversaries. I do not view them as adversaries simply because they have a form of government that is not a clone of the United States or is not the form of government that we have. I think that we have more influence over the Chiles of this world, the Argentinas, the Brazils, the Mexicos, the central European countries, Russia, Saudi Arabia, et cetera, when we trade with them and promote trade with them rather than when we build a wall of isolation between ourselves and those countries.

Mr. CASTLE. Madam Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. MANZULLO].

□ 1545

Mr. MANZULLO. Madam Chairman, the Eximbank, to my dear colleague from the State of California, does not build factories overseas. That is not what the Eximbank does. What the Eximbank does is make loans to foreign companies so that they can buy goods that are manufactured by American companies. That is what this is about.

I met with two gentlemen from the Republic of Georgia; perhaps the George Masons and James Madisons who are in the process of writing the Constitution to set up an independent judiciary. They do not have one yet, they are working on it. The gentleman from California would draw this arbitrary line and say, well, if their government does not meet our standards of running a government, they cannot be involved in buying American goods.

Eximbank is about allowing people in foreign countries to buy goods manufactured in the United States, because

Eximbank has a rule that most of the content of that which is financed has to be American products. That is what Eximbank is all about. It is very, very simple.

The gentleman from California would cut off sales to China, cut off sales to Saudi Arabia, even cut off sales to Peru, where ultimately the independent judiciary there is the military triumvirate.

Mr. ROHRABACHER. Madam Chairman, I yield myself the balance of my time.

I do not believe in economic isolation. I applaud those enterprisers of the United States who want to go out and take risks. Let them take their own risks. Let them take their own risks. They will reap the profit. If they reap the profit, they can take the risk.

Yes, if someone wants to do business in red China, where Christians are being tortured, where the Dalai Lama's followers are being victims of genocide in Tibet, where they are wiping out Muslims in East Turkestan. Let those businessmen who want to do business in that situation take their risk, get their own loans.

Let us not deplete the limited amount of money available to create new business from our country and ship it to those people who are trying to do business over there. Let us let the mom and pops continue to have the money available from that pool of resources for us.

If the Saudis, and they have been our friends during the cold war, but if they want to buy something, let them finance it. Let the Red Chinese finance it. Let us not take this from the American taxpayers' pockets.

And if we were following the logic I have heard in this debate, we would never have ended farm subsidies in this Congress. We would have said, well, other countries have farm subsidies so we have to continue. Other countries have socialism and government controls and government subsidies to other people, thus we have to do it and follow those same countries down the drain of collectivism, which has destroyed the standard of living of so many other countries. We do not need to do that. We can lead the way.

And, in fact, the risks that are taken overseas, we do not say that these people are going to be isolated, we just say we are not going to subsidize it with taxpayers' dollars.

And again we keep hearing the refrain of selling American products overseas. Let us note that many of these projects that are being financed by mega corporations are the export of manufacturing units, which only in the short term look like exports but in the long term become a huge force for imports to overwhelm our own manufacturing jobs in the United States of America.

Let us vote for this amendment. Vote against subsidizing dictatorships.

Mr. CASTLE. Madam Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. METCALF].

Mr. METCALF. Madam Chairman, I rise in opposition to the amendment.

In simple terms, the United States has a trade deficit. The only major component doing poorly in the total economy is exports. The only strong tool we have to fend off foreign nations that subsidize their exports is the U.S. Export Import Bank.

This amendment will hurt American exporters and American jobs. It does not target the perpetrator of the problem—that being the foreign nation who we disagree with. The effect of this amendment is handing over billions of dollars of contract to foreign countries.

Surely this amendment will hurt large corporations, but let us not forget that EXIM is vital to small business exporters. Approximately 81 percent, let me repeat, 81 percent of EXIM transactions go to small exporters. Last year EXIM extended nearly $378 million in guarantees to support small business exporters which have supported 200,000 jobs annually and over 2,000 communities.

Export transactions supported by EXIM ripple through the economy to hundreds of suppliers. Thus, EXIM is not some financial boutique merely for the Fortune 500. United States Manufacturers, small and large, only go to EXIM when they have to, which is when foreign government financing is being offered on behalf of our competitors. It would be nice to live in a world where agencies such as the Export-Import Bank were not needed. Until we do this disbanding EXIM would be tantamount to unilateral economic disarmament.

The effect of this amendment will place the burden on U.S. companies and will hurt the American Worker.

Mr. CASTLE. Madam Chairman, I yield the balance of my time to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Madam Chairman, we have heard the statement, let U.S. businesses get their own financing. The whole purpose of Exim is for U.S. businesses, small, medium and large, to obtain financing to sell U.S.-produced goods overseas where there is no financing. That is the whole purpose.

There is no money that goes overseas with Exim. It is U.S.-produced products only. There is no building of factories with this money. It is U.S. goods with the government assisting and financing small, medium and large U.S. companies to sell those goods where they cannot get financing. Only U.S. contractors would be financed under this program.

We have heard about the plea for small businesses. Over 80 percent of Exim assistance goes to medium and small U.S. firms who cannot find financing to sell these U.S.-made products overseas in these difficult markets.

Exim is not corporate welfare. Exim is not a giveaway program. Exim is not a business subsidy. Exim creates thousands of jobs for American workers.

The CHAIRMAN pro tempore (Mrs. EMERSON). The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ROHRABACHER. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, further proceedings on the amendment offered by the gentleman from California [Mr. ROHRABACHER] will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 6 printed in House Report 105-282.

AMENDMENT NO. 6 OFFERED BY MR. SOLOMON

Mr. SOLOMON. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. SOLOMON: At the end of the bill, add the following:

SEC. 10. PROHIBITION AGAINST ASSISTANCE TO RUSSIA IF RUSSIA TRANSFERS CERTAIN MISSILE SYSTEMS TO THE PEOPLE'S REPUBLIC OF CHINA.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

"(12) PROHIBITION AGAINST ASSISTANCE TO RUSSIA IF RUSSIA TRANSFERS CERTAIN MISSILE SYSTEMS TO THE PEOPLE'S REPUBLIC OF CHINA.—If the President of the United States is made aware that Russia has transferred or delivered to the People's Republic of China an SS–N–22 or SS–N–26 missile system, the President of the United States shall notify the Bank of the transfer or delivery. Upon receipt of the notification, the Bank shall not insure, guarantee, extend credit or participate in an extension of credit with respect to, or otherwise subsidize the export of any good or service to Russia.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, the gentleman from New York [Mr. SOLOMON] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, my amendment simply would prohibit further Export-Import Bank subsidies of transactions involving Russian firms if, and this is so important, if Russia transfers either the SS-N-26 Sunburn missile or the SS-N-26 Yakhont missile to Communist China.

As all my colleagues will recall, this amendment passed on the State Department authorization bill, which covers Freedom Support Act aid to Russia, in June with over 240 votes at that time.

Madam Chairman, over the past 5 or 6 years, America has been engaged in

an extraordinary act of generosity toward the Russian people. I have monitored all of that aid as it has gone to the former Soviet Union, now the country called Russia. Together with our allies, we have provided tens of billions of dollars in assistance for Russia's transformation toward a free market democracy, including over $2 billion in Eximbank assistance.

That is a lot of money, my colleagues. It is a lot of taxpayers' money. And yet we have seen instances over the years where Russia has shown a very alarming disregard for the legitimate security interests of the United States of America in return for this assistance. And that puts America's soldiers and sailors at risk wherever they may serve in other foreign ports of this world. In the hands of the Communist government in Beijing, these missiles pose a direct threat to U.S. ships and U.S. sailors in the Pacific Theatre.

My colleagues, the Sunburn, and in case Members do not know, they should listen closely, the Sunburn is a supersonic sea-skimming missile designed specifically for what purpose, for the purpose to attack American ships equipped with the Aegis radar system. That is what the thing was developed for in the first place. That is right, let me say it again. The Sunburn was designed specifically to take out American ships and kill American sailors. One noted Russian defense analyst has called the Sunburn the most vicious antiship missile in the world.

The Chinese Government began shopping for this missile. Why? In direct response to the deployment of the United States aircraft carrier last year to the Strait of Taiwan, after China began lobbing missiles at Taiwan. That is true. Because of the Taiwan Relations Act we have to defend Taiwan, one of our greatest allies in the history of this world, and they were having missiles lobbed at them.

We have put American sailors at risk in those Taiwan straits and we have learned recently, Madam Chairman, that the Russians are readying to export another advanced cruise missile. This one is the SS-N-26, called the Yakhont, that travels at more than Mach II speed and has a range of 200 miles. Do my colleagues know what kind of damage that can do to American personnel serving overseas?

It would be nothing short of irresponsible, Madam Chairman, if we did not take every step possible to prevent Communist China from acquiring these missiles, and we still have time to do it. Though the Sunburn missile sale has been in the work for some time now, it is not final yet. And there are forces in Russia I have spoken to that are opposed to it. There are good people over there. There are even people like Yeltsin who want good democracy in that country and they say, "Block that sale."

We can give those positive forces in Russia some help by using our considerable aid, including Export-Import Bank subsidies, as leverage.

Madam Chairman, this amendment is about deterrence. It does not cut off Eximbank subsidies to Russia unless and until a transfer of these missile systems to China take place. If we pass it, the ball is in the Russian court.

All we want to do is to help Russia succeed, Madam Chairman. But if our aid cannot induce the Russian Government to refrain from making a sale that poses such a direct threat to our security interests, then the return on our investment is very low indeed.

If this is the case, then we owe it to the taxpayers and we owe it to our military personnel in the Pacific and in other parts of the world to terminate our aid to Russia, and that is why I urge support of this amendment. It is a very reasonable amendment, and I urge the managers of the bill from both sides of the aisle to accept the amendment.

Madam Chairman, I reserve the balance of my time.

Mr. CASTLE. Madam Chairman, I do not rise in opposition but, if there is no Member in opposition, I ask unanimous consent to control the time.

The CHAIRMAN pro tempore. Without objection, the Chair recognizes the gentleman from Delaware [Mr. CASTLE] for 5 minutes.

There was no objection.

Mr. CASTLE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this amendment prohibits Exim financing of exports to Russia if Russia transfers two sea-launched cruise missile systems to China, which is obviously a worthwhile goal.

The background to the gentleman's amendment is a concern with China's international security policy, particularly with the perception that Beijing is believed to be focused on obtaining a greater power projection capability, in part through an enhanced naval capability.

In addition, sales to China of advanced missile technology from Russia poses concerns for United States policymakers, as it does this gentleman, in part because of the potential for retransfer to buyers of Chinese supplies.

In this context, the gentleman has raised a very serious issue and the committee will not oppose his amendment.

Having said that, let me just highlight a number of concerns that will have to be addressed at some point later as the legislative process wends its way through here.

It is very broad in scope. It would impose an automatic shutoff of all Exim financing to Russia if the transfer occurs. The cutoff would apply to any transaction involving a Russian interest, whether or not the export is to Russia or involves a project in Russia.

By contrast, other United States nonproliferation legislation more narrowly targets foreign persons, including individuals and entities responsible for the arms transfer. The amendment, in its current form, also provides no waiver authority or discretionary flexibility to the executive branch.

In addition, the committee is notified that the Department of State is opposed to the amendment, noting that current law does not proscribe or sanction arms transfer by third countries to the PRC.

Nevertheless, the committee will not object to the amendment from the distinguished chairman of the Committee on Rules and, hopefully, we can work through what may or may not be problems as stated here.

Madam Chairman, I reserve the balance of my time.

Mr. SOLOMON. Madam Chairman, I yield myself the balance of my time.

Mr. FLAKE. Madam Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York, one of the outstanding, distinguished Members of this House.

Mr. FLAKE. Madam Chairman, we are prepared to accept the amendment.

Ms. HARMAN. Madam Chairman, I move to strike the requisite number of words.

As a Californian, I understand the value of the Ex-Im Bank, which supports 737 small and large businesses in my state, with a total export value of $4 billion.

But not all exports have commendable objectives, and for this reason, I rise in support of the amendment offered by my friend, the gentleman from New York [Mr. SOLOMON].

Like him, I am especially concerned about the proliferation of technologies related to weapons of mass destruction out of the former Soviet Union. Despite reassurances from top Russian leaders that these technologies and materials are under lock and key, evidence is mounting to the contrary.

An area of particular concern to me and a bipartisan group of my colleagues, including Mr. SOLOMON, is that Russia has failed to halt the sale of ballistic missile technology to Iran.

Madam Chairman, these Russian transactions are in violation to the Missile Control Technology Regime (MTCR) of which Russia has been a member since 1995.

The Administration is working through diplomatic channels to address this problem, but the response of the Russian government so far is not satisfactory. Further, the clock is ticking, and I have very credible evidence suggesting that this problem may be getting worse.

Together with 76 colleagues from the House, including the gentleman from New York, Mr. SOLOMON, I have introduced a concurrent resolution asking that Russia take all the necessary steps to stop these illegal transactions with Iran in accordance with its own policy, export control laws, and criminal code.

If Russia fails to take appropriate action, our resolution calls on President Clinton to impose

sanctions on the Russian entities responsible for this proliferation under current policy and law.

It is time for the Russian government to provide evidence that its proliferating activities to Iran and elsewhere have stopped. It's time for the U.S. government to act to ensure Russia acts as well.

I applaud my colleague Mr. SOLOMON for having raised this issue at this time.

Mr. SOLOMON. Madam Chairman, I yield back the balance of my time.

Mr. CASTLE. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

□ 1600

The Chairman pro tempore [Mrs. EMERSON]. It is now in order to consider amendment No. 7 printed in House Report 105–282.

AMENDMENT NO. 7 OFFERED BY MR. VENTO

Mr. VENTO. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. VENTO:

At the end of the bill, add the following:

SEC. 10. PROHIBITION AGAINST PROVISION OF ASSISTANCE FOR EXPORTS TO COMPANIES THAT EMPLOY CHILD LABOR.

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635 is amended by adding at the end the following:

"(f) PROHIBITION AGAINST ASSISTANCE FOR EXPORTS TO COMPANIES THAT EMPLOY CHILD LABOR.—The Bank shall not guarantee, insure, extend credit, or participate in the extension of credit with respect to the export of any good or service to an entity if the entity—

"(1) employs children in a manner that would violate United States law regarding child labor if the entity were located in the United States; or

"(2) has not made a binding commitment to not employ children in such manner.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, the gentleman from Minnesota [Mr. VENTO] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this is a simple amendment that amplifies the theme that is currently in the law that guides the approval of loans, loan guarantees, and insurance to customers or consumers abroad for the benefit of U.S. jobs. This amendment will certify that in addition to evaluating a foreign buyer's creditworthiness, the Export-Import Bank would consider the child labor practices of the potential foreign buyer. If the company exploits child labor, it would not be eligible for assistance from the Export-Import Bank.

This amendment would motivate, of course, domestic companies to investigate the labor and business practices of potential partners before entering into such agreements. In fact, this bill recognizes the increased potential in the Newly Independent States of the former Soviet Union and the sub-Saharan African areas. It, in fact, emphasizes that more of the loans ought to be made to smaller entities and smaller businesses, smaller loans, in fact, which of course bring us into contact.

Madam Chairman, I am not going to go through a recitation all of the problems with child labor around the world. Someone might say, well, we do not have a lot of data on it. And that is accurate; we are operating in the dark. But we know from reports from the International Labor Organization that there are 250 million children worldwide under the age of 15 that are working instead of receiving basic education, that are being employed in jobs that would not be permitted to be employed in our Nation.

That is 250 million reasons, in my judgment, to in fact make certain that the assistance and loans and loan guarantees and insurance that we provide in this program does have this as a major focus specified in the legislation. There is no doubt that these programs touch upon the problem that we should be proactive, not reactive, to the matter of child labor.

The employment and exploitation of children is an emerging scandal around the globe. We need to be certain, as we engage in subsidizing trade, that we do what we can to curtail the exploitation of children. This amendment will help, I think. And I trust that it is not a major problem with this area, but it is one that we have to, as I said, be proactive on.

My amendment prohibits the Export-Import Bank to provide assistance for exports to companies that violate U.S. child labor laws. The question is what types of enterprises are we facilitating abroad.

The amendment would certify that, in addition to evaluating a foreign buyer's creditworthiness, the Export-Import Bank would consider the child labor practices of the potential foreign buyer. If the company exploits child labor, then it would not be eligible for Export-Import assistance. This amendment would motivate domestic companies to investigate the labor and business practices of potential partners before entering into export agreements. The global market place means that this Congress can no longer remain passive regards how programs that we advance; U.S. loans, guarantees, and insurance may be engaged to help address the most serious problems, such as child labor.

On this issue we are advancing current policy in the dark, there is, no data to suggest that is not a problem. In fact, there is every reason for concern. The International Labor Organization estimates that over 250 million children worldwide under the age of 15 are working instead of receiving basic education. That is 250 million reasons to ensure that U.S. Ex-Im loan guarantees, insurance, and loans take the extra step to protect against the exploitation of child labor by U.S. companies and partners, there is no doubt that these programs touch upon the problem. And we should be pro-active not reactive to the matter of child labor. Child labor practices today reveal an unprecedented tragedy of a far greater magnitude than what transpired in a less global economic marketplace. It was, therefore, surprising to me that child labor practices are not considered by the Export-Import Bank when evaluating potential firms and their partners. Because we neither investigate nor know the child labor practices of the companies we assist, this amendment is essential to help assure that our U.S. child labor standards are not violated. Both symbolically and substantively, the U.S. must set an example as we advance and engage in the global marketplace.

The employment and exploitation of children is an emerging scandal around the globe. We need to be certain as we engage in subsidizing trade that we do what we can to curtail the exploitation of children.

No single nation or single agency can eradicate the child labor problem. However, we should deliberately pursue each opportunity in order to turn the tide on the inappropriate employment exploitation of young children. We have leverage in the export sector, and we should harness our market power to effect positive change. If we help these U.S. companies, then we should expect that they and their partners reflect and follow fundamental U.S. values and basic laws.

If we impede the development of young people, we curb the growth of economies and nations. And we shortchange our own work force.

Our American workers need a raise. Not just a raise in wages and benefits, but a raise in corporate conscience too and trade responsibility and fairness that addresses such obvious concerns. Let me be clear, I support the Export-Import Bank. I think that its programs are necessary in a world of global governments which subsidize corporate trade transactions. However, the U.S. Export-Import Bank needs to concentrate on financing export growth that will create good jobs at home and reinforce our basic values. The Bank's primary concern cannot only be to maximize corporate profits. We must be certain that it tracks our respect for individuals and the welfare of children.

The initiative to move into sub-Saharan Africa and other markets like the newly independent states [NIS], the former Soviet Union, raise new real risks regards child labor.

Our Nation must be more responsible in choosing with whom we do business and who our policies benefit. If the Export-Import Bank provides financing to an overseas company to buy U.S. exports, both companies win. the U.S. firm increases its profits through the sale of its goods, and the overseas company receives the financial support it needs to purchase the product. We certainly should not allow enterprises which directly or indirectly exploit children—that rob children of their most formative years—to flourish by helping them get the goods they need. Export sales advanced through Export-Import assistance

should carefully screen out products which employ illegal child labor. We need to send both domestic and foreign firms the message that if you violate the principles of U.S. child labor laws, you are no longer eligible for U.S. Export-Import assistance. Today, this amendment provides the opportunity to stand up for children, who even marginally, may be contributing to a subsidized U.S. export product.

By providing assistance to companies that employ child labor, we would be short-changing hard working American adults by threatening their economic security. Goods produced by child labor ultimately end up in our own markets, exerting downward pressure on wages and living standards. American consumers do not want their Government to provide assistance to a market for goods produced and squeezed from the sweat and toil of children.

The United States has a long history of encouraging fair and responsible business practices. In this vein, my amendment would encourage that domestic businesses and the Export-Import Bank enter into agreements with companies that follow U.S. child labor laws. Children working in overseas factories deserve the same standard of protection that we extend to U.S. children. While this amendment does not question the benefits of young people working, it opposes excessive hours, interference with education, and hazardous occupations and workplaces that are intellectually and physically debilitating to the health of young individuals. U.S. child labor laws protect the educational opportunities of minors and prohibit their employment in jobs that are detrimental to their development. By extending essentially such protection to all children, this amendment is one small step towards closing the market for illegal child labor.

This measure—the Exim Bank—isn't our sole instrument of U.S. foreign policy, but frankly it is time that we're asked to "show us the money" that we have the best leverage in collaboration with U.S. exporters we can get positive results to stop the exploitation of children.

There is no other practice so universally condemned, yet so universally practiced as the exploitation of child labor and the problem of the global marketplace means that it's our problem. Crimes committed against children around the world, that this Congress is so adamant to speak out against, should not be encouraged or tolerated by our own Government policies. This ought to be boiler plate law and policy on our every action. Export-Import financing should promote progress in wages, living standards, and human rights here in the United States and around the globe. I've been encouraged by new progress on this topic regards many imports to the United States of America. U.S. sponsored financing should not undermine progress in these important areas or legitimatize the negative status quo. U.S. Labor protections are just one reason why the United States has a good economy in the world today. Why should we lower the standards and protections that provide the foundation for U.S. prosperity? I urge my colleagues to support the Vento amendment which places the interests and well-being of our children ahead of international corporate profits.

Mr. CASTLE. Madam Chairman, I do not rise in opposition.

Madam Chairman, this amendment, as has been so fairly stated by its sponsor, prohibits the use of Exim assistance for exports to companies that employ child labor.

The majority does not intend to object to the amendment. The gentleman from Minnesota [Mr. VENTO] seeks to address a very serious human rights concern that is being examined in a number of fora, including the OECD, as well as by our own Customs Department.

Although we have doubts that Eximbank is the appropriate vehicle through which to address this issue, the amendment is certainly a powerful symbol of congressional concerns that inhumane child labor practices should not be tolerated.

Having said that, let me register some apprehensions the majority has regarding how the amendment would be implemented. Is there any comprehensive list available to the Bank of companies that employ child labor? Would the amendment apply retrospectively to new transactions only? How would it be enforced? Would foreign buyers of U.S. goods see this as an extraterritorial of U.S. laws?

It would be my hope that we would work with the sponsor of the amendment and the minority to iron out these details later in conference with the other body.

Having said that, we will not oppose the amendment. And I applaud the gentleman from Minnesota [Mr. VENTO] for his thoughtful initiative.

Mr. VENTO. Madam Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Minnesota.

Mr. VENTO. Madam Chairman, I appreciate the support of the subcommittee chairman and the questions he raised. There are not such lists, but there are other questions that we need to work together on. I appreciate his support, and I pledge myself to work with that and make this a part of the explicit policy of the Eximbank, the U.S. Export Bank, I guess, if we are successful with the new nomenclature of the gentleman from New York [Mr. LAFALCE].

Madam Chairman, I yield back the balance of my time.

Mr. CASTLE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would just say with respect to the name change, after some of the debates I have heard here in the 2 days we have debated this, I hope we can make this name change sooner rather than later. There seems to be a lot of confusion about what this bank does, I believe.

In any event, with respect to the amendment, it has been stated and we will support it.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The amendment was agreed to.

Mr. CASTLE. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. SOLOMON] having assumed the chair, [Mrs. EMERSON], Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

RECESS

The SPEAKER pro tempore (Mr. SOLOMON). Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 5 p.m.

Accordingly (at 4 o'clock and 7 minutes p.m.), the House stood in recess until approximately 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. SHAW] at 5 p.m.

PERSONAL EXPLANATION

Mr. JONES. Mr. Speaker, on Wednesday, October 1, 1997, I missed rollcall votes 484 to 489. I was presenting testimony on behalf of my legislation, H.R. 765, to the Senate Committee on Energy and Natural Resources Subcommittee on National Parks, Historic Preservation, and Recreation. If I had been present, I would have voted "yes" on roll call 484, 485, 487, 488 and 489. I would have voted "no" on roll call 486.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2160, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 232 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 232

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes. All points of order against the conference report and against its consideration are waived.

SEC. 2. Upon adoption of this resolution the House shall be considered to have adopted the concurrent resolution specified in section 3.

SEC. 3. The text of the concurrent resolution described in section 2 is as follows:

''Resolved by the House of Representatives (the Senate concurring), That in the enrollment of H.R. 2160 the Clerk of the House shall, in title IV, in the item relating to 'Domestic Food Programs—Food Stamp Program', strike the period and insert the following: ': *Provided further*, That none of the funds made available under this heading shall be used for studies and evaluations.'.''.

The SPEAKER pro tempore. The gentleman from Washington [Mr. HASTINGS] is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the distinguished gentleman from Ohio (Mr. Hall), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 232 provides for the consideration of the conference report to accompany H.R. 2160, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for fiscal year 1998, and for other purposes.

The rule waives all points of order against the conference report and its consideration, and upon its adoption the House shall be considered to have adopted the text of the following concurrent resolution: ''Resolved by the House of Representatives, the Senate concurring, that in the enrollment of H.R. 2160 the Clerk of the House shall, in title IV, in the item relating to 'Domestic Food Programs—Food Stamp Program', strike the period and insert the following: '; provided further, That none of the funds made available under this heading shall be used for studies and evaluations,'.''. This amendment, I understand, has been agreed to.

Mr. Speaker, the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Committee on Appropriations, the distinguished gentleman from New Mexico [Mr. SKEEN], and the ranking minority member, the gentlewoman from Ohio [Ms. KAPTUR], are to be commended for their leadership on the House-Senate conference committee. They have brought to the House floor a conference report which largely reflects the priorities agreed upon earlier this year when the House passed H.R. 2160 by a vote of 395 to 14.

Mr. Speaker, this conference report appropriates $49.6 billion in new fiscal year 1998 budget authority for agriculture programs, which is $103 million more than the House-passed bill but $3.6 billion less than was appropriated in fiscal year 1997. When scorekeeping adjustments are taken into account, the bill provides $35.8 billion for mandatory programs, which is about 80 percent of the total appropriated, and $13.8 billion for discretionary programs.

This conference report cuts food stamps by $2.5 billion from last year. It increases funding for the supplemental nutrition program for women, infants and children by $118 million over fiscal year 1997. It cuts funding for the Commodity Credit Corporation, maintains level funding for the Federal Crop Insurance and increases funding for both the Agriculture Research Service and the Cooperative State Research, Education and Extension Service.

Finally, Mr. Speaker, as I mentioned, this rule also self-executes one minor technical correction which was inadvertently omitted from the conference report itself. Once again, I commend the House conferees on their work on this important agreement and urge my colleagues to support both the rule and the accompanying conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume. I want to thank my colleague from Washington [Mr. HASTINGS] for yielding me the time.

As he explained, this resolution is a rule waiving all points of order against the conference report to accompany H.R. 2160, which is a bill making appropriations for Agriculture, Rural Development and Food and Drug Administration programs for fiscal 1998. The rule also self-executes an amendment to correct a technical problem.

On September 15, the Department of Agriculture released new statistics revealing that 11 million people in the United States experienced moderate or severe hunger, including more than 4 million children. In a Nation as rich as ours, this is unacceptable. Private charities cannot do the job alone.

This bill funds critical food and nutrition programs that are essential to ensuring a minimal safety net. The programs protect children, the elderly and other vulnerable populations from facing the harsh realities of hunger.

I am pleased that the conference agreement provides a slight increase above the original House level for child nutrition programs. These programs are important to maintain the health of the next generation of Americans. I am also pleased to see a small increase in funding over the House position for overseas food assistance programs. These programs save lives and show America's commitment to reducing hunger worldwide.

I commend the chairman and ranking minority member of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for their work on this bill. Mr. Speaker, this rule was approved by the Committee on Rules on a voice vote. I urge adoption of the rule and of the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BURR].

Mr. BURR of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the rule, even though some have signed off on this crazy agreement. This rule waives all points of order. Earlier this year as the Committee on Appropriations moved this bill through this House, one section was struck. It was a section that dealt with reauthorizing the fees that pharmaceutical companies pay to have the approval process expedited for their drugs that are currently under the approval process at FDA. It was struck because in fact it is not the authority of the appropriators to authorize and extend that. Today we are faced with a rule that waves the point of order, does not allow us to strike from this conference report an issue that is clearly the responsibility of the Committee on Commerce.

What are we in fact here to talk about? We are here on the brink of the ability to for once help patients in America, because user fees are great if in fact we have a process at FDA that works. For the first time since I have been here, the Food and Drug Administration was willing and has sat down and talked about real reform and real modernization at the approval process, real reforms that mean quality of care and better health for Americans.

In fact, with the passage of this, with this point of order not having an opportunity to be raised, we put that in question. We put in question, can we actually get modernization of the Food and Drug Administration? Will the Bonnie Skylers of the world, who wait for noninvasive glucose monitors so she will not have to prick her finger 4 times a day at 4 years old to check her blood sugar, will she still have to do it with this? Probably so. Because we are so close but we have allowed this to step in the way. I urge my colleagues in this House to defeat this rule. Let us send it back to the Committee on Rules. Let us do the work in a manner that we are supposed to.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURR of North Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 34, not voting 32, as follows:

[Roll No. 490]

YEAS—367

Abercrombie	Cunningham	Hayworth
Ackerman	Danner	Hefner
Aderholt	Davis (FL)	Herger
Allen	Davis (IL)	Hill
Andrews	Davis (VA)	Hilleary
Archer	DeGette	Hinchey
Armey	Delahunt	Hinojosa
Bachus	DeLauro	Hobson
Baker	DeLay	Hoekstra
Barcia	Dellums	Holden
Barrett (NE)	Diaz-Balart	Hooley
Barrett (WI)	Dickey	Horn
Bartlett	Dingell	Hostettler
Bass	Doggett	Houghton
Bateman	Doolittle	Hoyer
Bentsen	Doyle	Hulshof
Bereuter	Dreier	Hutchinson
Berman	Duncan	Hyde
Berry	Dunn	Inglis
Bilirakis	Edwards	Istook
Bishop	Ehlers	Jackson (IL)
Blagojevich	Ehrlich	Jackson-Lee
Bliley	Emerson	(TX)
Blumenauer	Engel	Jefferson
Blunt	English	Jenkins
Boehlert	Ensign	John
Boehner	Eshoo	Johnson (CT)
Bonilla	Etheridge	Johnson (WI)
Bonior	Evans	Johnson, E. B.
Bono	Everett	Johnson, Sam
Borski	Ewing	Kanjorski
Boswell	Farr	Kaptur
Boucher	Fattah	Kasich
Boyd	Fawell	Kelly
Brady	Fazio	Kennedy (MA)
Brown (CA)	Filner	Kennedy (RI)
Brown (OH)	Flake	Kennelly
Bryant	Foley	Kildee
Bunning	Forbes	Kilpatrick
Burton	Ford	Kim
Buyer	Fowler	Kind (WI)
Callahan	Fox	King (NY)
Calvert	Frank (MA)	Kingston
Camp	Franks (NJ)	Kleczka
Campbell	Frelinghuysen	Knollenberg
Canady	Frost	Kolbe
Cannon	Furse	Kucinich
Capps	Gallegly	LaFalce
Cardin	Gejdenson	LaHood
Carson	Gekas	Lampson
Castle	Gibbons	Lantos
Chabot	Gilchrest	Latham
Chambliss	Gillmor	LaTourette
Chenoweth	Goodlatte	Lazio
Christensen	Goodling	Leach
Clay	Gordon	Levin
Clayton	Goss	Lewis (GA)
Clement	Granger	Lewis (KY)
Clyburn	Green	Linder
Collins	Gutierrez	Lipinski
Combest	Gutknecht	Livingston
Cook	Hall (OH)	LoBiondo
Cooksey	Hall (TX)	Lofgren
Cox	Hamilton	Lowey
Coyne	Hansen	Lucas
Cramer	Harman	Luther
Crane	Hastert	Maloney (CT)
Crapo	Hastings (FL)	Manton
Cummings	Hastings (WA)	Manzullo
Markey	Petri	Smith (NJ)
Martinez	Pickering	Smith (TX)
Mascara	Pickett	Smith, Adam
Matsui	Pitts	Smith, Linda
McCarthy (MO)	Pomeroy	Snowbarger
McCarthy (NY)	Porter	Snyder
McCollum	Portman	Solomon
McCrery	Price (NC)	Spence
McDade	Pryce (OH)	Spratt
McDermott	Quinn	Stabenow
McGovern	Radanovich	Stark
McHugh	Ramstad	Stearns
McInnis	Rangel	Stokes
McIntosh	Redmond	Strickland
McIntyre	Regula	Stump
McKeon	Reyes	Stupak
McNulty	Riggs	Talent
Meehan	Riley	Tanner
Menendez	Rivers	Tauscher
Metcalf	Rodriguez	Tauzin
Mica	Roemer	Taylor (NC)
Millender-McDonald	Rogan	Thomas
	Rogers	Thompson
Miller (FL)	Ros-Lehtinen	Thornberry
Mink	Rothman	Thune
Moakley	Roukema	Tiahrt
Mollohan	Roybal-Allard	Tierney
Moran (KS)	Rush	Torres
Moran (VA)	Ryun	Towns
Morella	Sabo	Traficant
Murtha	Salmon	Turner
Myrick	Sanchez	Upton
Nadler	Sanders	Velázquez
Neal	Sandlin	Vento
Nethercutt	Sanford	Visclosky
Neumann	Sawyer	Walsh
Ney	Saxton	Wamp
Northup	Schaefer, Dan	Waters
Oberstar	Schaffer, Bob	Watkins
Obey	Scott	Watt (NC)
Olver	Sensenbrenner	Watts (OK)
Ortiz	Serrano	Waxman
Oxley	Sessions	Weldon (FL)
Packard	Shaw	Weldon (PA)
Pallone	Shays	Weller
Pappas	Sherman	Wexler
Parker	Shimkus	White
Pascrell	Shuster	Wicker
Pastor	Sisisky	Wise
Paul	Skaggs	Wolf
Paxon	Skeen	Woolsey
Payne	Skelton	Wynn
Pease	Slaughter	Yates
Peterson (PA)	Smith (MI)	Young (FL)

NAYS—34

Baesler	Graham	Rohrabacher
Ballenger	Jones	Scarborough
Barton	Klink	Shadegg
Burr	Klug	Souder
Coble	Largent	Stenholm
Condit	McHale	Sununu
Costello	Miller (CA)	Taylor (MS)
Deal	Minge	Thurman
DeFazio	Norwood	Whitfield
Deutsch	Nussle	Young (AK)
Ganske	Peterson (MN)	
Goode	Poshard	

NOT VOTING—32

Baldacci	Foglietta	Meek
Barr	Gephardt	Owens
Becerra	Gilman	Pelosi
Bilbray	Gonzalez	Pombo
Brown (FL)	Greenwood	Rahall
Coburn	Hefley	Royce
Conyers	Hilliard	Schiff
Cubin	Hunter	Schumer
Dicks	Lewis (CA)	Smith (OR)
Dixon	Maloney (NY)	Weygand
Dooley	McKinney	

□ 1733

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mrs. Cubin against.

Messrs. GRAHAM, DEUTSCH, BAESLER, NORWOOD, KLINK, and SHADEGG changed their vote from "yea" to "nay."

Mr. SNOWBARGER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

PERSONAL EXPLANATION

Mr. RAHALL. Mr. Speaker, I was unavoidably detained in getting back from my district, and missed rollcall vote No. 490. But had I been present and voting, I would have voted "yes" on rollcall vote No. 490, on the Rule House Resolution 232, calling up the Agriculture Appropriations Act Conference Agreement for FY 1998.

The SPEAKER pro tempore [Mr. SHAW]. Pursuant to House Resolution 232, House Concurrent Resolution 167 is considered as adopted.

The text of House Concurrent Resolution 167 is as follows:

H. CON. RES. 167

"Resolved by the House of Representatives (the Senate concurring), That in the enrollment of H.R. 2160 the Clerk of the House shall, in title IV, in the item relating to 'Domestic Food Programs—Food Stamp Program', strike the period and insert the following: ': *Provided further,* That none of the funds made available under this heading shall be used for studies and evaluations'."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 629, TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–299) on the resolution (H.Res. 258) providing for consideration of the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 2160, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. SKEEN. Mr. Speaker, pursuant to House Resolution 232, I call up the conference report on the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes, and I ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 17, 1997, at page 19166.)

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. SKEEN]

and the gentlewoman from Ohio [Ms. KAPTUR] each will control 30 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. SKEEN].

GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 2160 and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. SKEEN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I am pleased to present to the House a conference report on H.R. 2160, providing appropriations for fiscal year 1998 for the Department of Agriculture, Food and Drug Administration, and related agencies.

Mr. Speaker, the House voted overwhelmingly in favor of this bill on July 24. Since then, we were given an additional $100 million in the combined allocation process with the Senate. That money has been spent on rural development, research, and conservation, making it an even stronger bill than before while still remaining within our revised allocation.

Mr. Speaker, this bill benefits every American every day, and this is incorporated in this bill. It is truly a bipartisan bill. All of our subcommittee members and many other Members from both sides of the aisle have helped put this bill together, which I think was reflected in the earlier House vote.

Mr. Speaker, I want to thank the gentleman from Louisiana [Mr. LIVINGSTON], the gentleman from Wisconsin [Mr. OBEY], and the gentlewoman from Ohio [Ms. KAPTUR], the distinguished subcommittee ranking member, for their support. I ask my colleagues to send this conference report on to the Senate and the President with a strong "yes" vote.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conferenc compared witl enacte
TITLE I - AGRICULTURAL PROGRAMS						
Production, Processing, and Marketing						
Office of the Secretary	2,836,000	2,872,000	2,836,000	2,836,000	2,836,000	.....
Executive Operations:						
Chief Economist	4,231,000	5,308,000	4,844,000	5,252,000	5,048,000	+817,000
Commission on 21st Century Production Agriculture	.....	1,100,000	.....	.....	.....	.....
National Appeals Division	11,718,000	13,359,000	11,718,000	12,360,000	11,718,000	.....
Office of Budget and Program Analysis	5,986,000	5,918,000	5,986,000	5,986,000	5,986,000	.....
Office of Small and Disadvantaged Business Utilization 1/	.....	795,000	.....	783,000	.....	.....
Office of Chief Information Officer	.....	4,828,000	4,773,000	4,773,000	4,773,000	+4,773,000
Total, Executive Operations	21,935,000	31,308,000	27,321,000	29,154,000	27,525,000	+5,590,000
Chief Financial Officer	4,283,000	4,718,000	4,283,000	4,283,000	4,283,000	.....
Office of the Assistant Secretary for Administration	613,000	621,000	613,000	613,000	613,000	.....
Agriculture buildings and facilities (USDA)	144,053,000	131,085,000	141,085,000	131,085,000	131,085,000	-12,968,000
Payments to GSA	(103,754,000)	(98,600,000)	(98,600,000)	(98,600,000)	(98,600,000)	(-5,154,000
Building operations and maintenance	(16,794,000)	(24,785,000)	(24,785,000)	(24,785,000)	(24,785,000)	(+7,991,000
Repairs, renovations, and construction	(23,505,000)	(5,000,000)	(15,000,000)	(5,000,000)	(5,000,000)	(-18,505,000
Relocation expenses	.....	(2,700,000)	(2,700,000)	(2,700,000)	(2,700,000)	(+2,700,000
Hazardous waste management	15,700,000	25,000,000	20,000,000	15,700,000	15,700,000	.....
Departmental administration	30,529,000	25,258,000	27,231,000	26,948,000	27,231,000	-3,298,000
Office of the Assistant Secretary for Congressional Relations	3,668,000	3,714,000	3,668,000	3,668,000	3,668,000	.....
Office of Communications	8,138,000	8,279,000	8,138,000	8,138,000	8,138,000	.....
Office of the Inspector General	63,028,000	65,259,000	63,128,000	63,728,000	63,128,000	+100,000
Office of the General Counsel	27,749,000	29,449,000	27,949,000	29,098,000	28,524,000	+775,000
Office of the Under Secretary for Research, Education and Economics	540,000	547,000	540,000	540,000	540,000	.....
Economic Research Service	53,109,000	54,310,000	71,604,000	53,109,000	71,604,000	+18,495,000
National Agricultural Statistics Service	100,221,000	119,877,000	116,861,000	118,048,000	118,048,000	+17,827,000
Census of Agriculture	(17,500,000)	(36,327,000)	(36,140,000)	(36,327,000)	(36,327,000)	(+18,827,000)
Agricultural Research Service	716,826,000	726,797,000	725,059,000	738,000,000	744,605,000	+27,779,000
Buildings and facilities	69,100,000	59,300,000	59,000,000	69,100,000	80,630,000	+11,530,000
Total, Agricultural Research Service	785,926,000	786,097,000	784,059,000	807,100,000	825,235,000	+39,309,000
Cooperative State Research, Education, and Extension Service:						
Research and education activities	421,504,000	422,342,000	421,223,000	427,526,000	431,410,000	+9,906,000
Native Americans Institutions Endowment Fund	(4,600,000)	(4,600,000)	(4,600,000)	(4,600,000)	(4,600,000)	.....
Buildings and facilities	61,591,000	.....	.....	.....	.....	-61,591,000
Extension Activities	426,273,000	417,811,000	415,110,000	423,322,000	423,376,000	-2,897,000
Total, Cooperative State Research, Education, and Extension Service	909,368,000	840,153,000	836,333,000	850,848,000	854,786,000	-54,582,000
Office of the Assistant Secretary for Marketing and Regulatory Programs	618,000	625,000	618,000	618,000	618,000	.....
Animal and Plant Health Inspection Service:						
Salaries and expenses	434,909,000	424,491,000	424,244,000	437,183,000	426,282,000	-8,627,000
AQI user fees 2/	(98,000,000)	(100,000,000)	(88,000,000)	(100,000,000)	(88,000,000)	(-10,000,000)
Buildings and facilities	3,200,000	7,200,000	3,200,000	4,200,000	4,200,000	+1,000,000
Total, Animal and Plant Health Inspection Service	438,109,000	431,691,000	427,444,000	441,383,000	430,482,000	-7,627,000
Agricultural Marketing Service:						
Marketing Services	38,507,000	49,786,000	45,592,000	49,627,000	46,592,000	+8,085,000
New user fees	(3,887,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(+113,000)
(Limitation on administrative expenses, from fees collected)	(59,012,000)	(59,521,000)	(59,521,000)	(59,521,000)	(59,521,000)	(+509,000)
Funds for strengthening markets, income, and supply (transfer from section 32)	10,576,000	10,690,000	10,690,000	10,690,000	10,690,000	+114,000
Payments to states and possessions	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	.....
Total, Agricultural Marketing Service	50,283,000	61,676,000	57,482,000	61,517,000	58,482,000	+8,199,000
Grain Inspection, Packers and Stockyards Administration	23,128,000	25,722,000	23,928,000	23,583,000	23,928,000	+800,000
Inspection and Weighing Services (limitation on administrative expenses, from fees collected)	(43,207,000)	(43,092,000)	(43,092,000)	(43,092,000)	(43,092,000)	(-115,000)
Office of the Under Secretary for Food Safety	446,000	583,000	446,000	446,000	446,000	.....
Food Safety and Inspection Service	574,000,000	591,209,000	589,263,000	590,614,000	589,263,000	+15,263,000
Lab accreditation fees 3/	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	.....
Total, Production, Processing, and Marketing	3,258,280,000	3,240,053,000	3,234,830,000	3,263,057,000	3,286,163,000	+27,883,000
Farm Assistance Programs						
Office of the Under Secretary for Farm and Foreign Agricultural Services	572,000	580,000	572,000	572,000	572,000	.....

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Farm Service Agency:						
Salaries and expenses	746,440,000	742,789,000	702,203,000	700,659,000	700,659,000	-45,781,000
(Transfer from export loans)	(589,000)	(648,000)	(589,000)	(589,000)	(589,000)	.....
(Transfer from P.L. 480)	(745,000)	(815,000)	(745,000)	(815,000)	(815,000)	(+70,000)
(Transfer from ACIF)	(208,446,000)	(209,861,000)	(208,446,000)	(209,861,000)	(209,861,000)	(+1,415,000)
Total, salaries and expenses	(956,220,000)	(954,113,000)	(911,983,000)	(911,924,000)	(911,924,000)	(-44,296,000)
State mediation grants	2,000,000	4,000,000	2,000,000	2,000,000	2,000,000	.....
Dairy indemnity program	100,000	100,000	350,000	550,000	550,000	+450,000
Total, Farm Service Agency	748,540,000	746,889,000	704,553,000	703,209,000	703,209,000	-45,331,000
Agricultural Credit Insurance Fund Program Account:						
Loan authorizations:						
Farm ownership loans:						
Direct	(50,000,000)	(30,828,000)	(30,828,000)	(60,000,000)	(60,000,000)	(+10,000,000)
Guaranteed	(550,000,000)	(400,000,000)	(400,000,000)	(400,000,000)	(400,000,000)	(-150,000,000)
Subtotal	(600,000,000)	(430,828,000)	(430,828,000)	(460,000,000)	(460,000,000)	(-140,000,000)
Farm operating loans:						
Direct	(495,071,000)	(450,000,000)	(450,000,000)	(495,000,000)	(495,000,000)	(-71,000)
Guaranteed unsubsidized	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	.....
Guaranteed subsidized	(200,000,000)	(200,000,000)	(191,701,000)	(200,000,000)	(200,000,000)	.....
Subtotal	(2,395,071,000)	(2,350,000,000)	(2,341,701,000)	(2,395,000,000)	(2,395,000,000)	(-71,000)
Indian tribe land acquisition loans	(1,000,000)	(1,000,000)	(500,000)	(1,000,000)	(1,000,000)	.....
Emergency disaster loans	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	.....
Boll weevil eradication loans	(34,653,000)	.....	(34,653,000)	(34,653,000)	(34,653,000)	.....
Credit sales of acquired property	(25,000,000)	(25,000,000)	(19,432,000)	(25,000,000)	(25,000,000)	.....
Total, Loan authorizations	(3,080,724,000)	(2,831,828,000)	(2,852,114,000)	(2,940,653,000)	(2,940,653,000)	(-140,071,000)
Loan subsidies:						
Farm ownership loans:						
Direct	5,920,000	4,020,000	4,020,000	5,940,000	5,940,000	+20,000
Guaranteed	22,055,000	15,440,000	15,440,000	15,440,000	15,440,000	-6,615,000
Subtotal	27,975,000	19,460,000	19,460,000	21,380,000	21,380,000	-6,595,000
Farm operating loans:						
Direct	65,450,000	29,565,000	29,565,000	32,224,500	32,224,000	-33,226,000
Guaranteed unsubsidized	19,210,000	19,890,000	19,210,000	19,890,000	19,890,000	+680,000
Guaranteed subsidized	18,480,000	19,280,000	18,480,000	19,280,000	19,280,000	+800,000
Subtotal	103,140,000	68,735,000	67,255,000	71,394,500	71,394,000	-31,746,000
Indian tribe land acquisition	54,000	132,000	66,000	132,000	132,000	+78,000
Emergency disaster loans	6,365,000	6,008,000	6,008,000	6,008,000	6,008,000	-357,000
Boll weevil loans subsidy	499,000	.....	500,000	249,500	250,000	-249,000
Credit sales of acquired property	2,530,000	3,255,000	2,530,000	3,255,000	3,255,000	+725,000
Total, Loan subsidies	140,563,000	97,590,000	95,819,000	102,419,000	102,419,000	-38,144,000
ACIF expenses:						
Salaries and expense (transfer to FSA)	208,446,000	209,861,000	208,446,000	209,861,000	209,861,000	+1,415,000
Administrative expenses	12,600,000	10,000,000	10,000,000	10,000,000	10,000,000	-2,600,000
Total, ACIF expenses	221,046,000	219,861,000	218,446,000	219,861,000	219,861,000	-1,185,000
Total, Agricultural Credit Insurance Fund	361,609,000	317,451,000	314,265,000	322,280,000	322,280,000	-39,329,000
(Loan authorization)	(3,080,724,000)	(2,831,828,000)	(2,852,114,000)	(2,940,653,000)	(2,940,653,000)	(-140,071,000)
Risk Management Agency:						
Administrative and operating expenses	64,000,000	68,465,000	65,000,000	64,000,000	64,000,000	.....
Sales commission of agents	.....	202,571,000	188,571,000	202,571,000	188,571,000	+188,571,000
Total, Risk Management Agency	64,000,000	271,036,000	253,571,000	266,571,000	252,571,000	+188,571,000
Total, Farm Assistance Programs	1,174,721,000	1,335,956,000	1,272,961,000	1,292,632,000	1,278,632,000	+103,911,000
Corporations						
Federal Crop Insurance Corporation:						
Federal crop insurance corporation fund	1,785,013,000	1,584,135,000	1,584,135,000	1,584,135,000	1,584,135,000	-200,878,000
Commodity Credit Corporation Fund:						
Reimbursement for net realized losses	1,500,000,000	783,507,000	783,507,000	783,507,000	783,507,000	-716,493,000
Hazardous waste (limitation on administrative expenses)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	.....
Total, Corporations	3,285,013,000	2,367,642,000	2,367,642,000	2,367,642,000	2,367,642,000	-917,371,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Total, title I, Agricultural Programs	7,718,014,000	6,943,651,000	6,875,433,000	6,923,331,000	6,932,437,000	-785,577,000
(By transfer)	(209,780,000)	(211,324,000)	(209,780,000)	(211,265,000)	(211,265,000)	(+1,485,000)
(Loan authorization)	(3,080,724,000)	(2,831,828,000)	(2,852,114,000)	(2,940,653,000)	(2,940,653,000)	(-140,071,000)
(Limitation on administrative expenses)	(107,219,000)	(107,613,000)	(107,613,000)	(107,613,000)	(107,613,000)	(+394,000)
TITLE II - CONSERVATION PROGRAMS						
Office of the Under Secretary for Natural Resources and Environment	693,000	702,000	693,000	693,000	693,000	
Natural Resources Conservation Service:						
Conservation operations	619,742,000	722,268,000	610,000,000	729,880,000	633,231,000	+13,489,000
Watershed surveys and planning 4/	12,381,000		10,000,000		11,190,000	-1,191,000
Watershed and flood prevention operations 5/	101,036,000	40,000,000	101,036,000	40,000,000	101,036,000	
Resource conservation and development	29,377,000	47,700,000	29,377,000	44,700,000	34,377,000	+5,000,000
Forestry incentives program	6,325,000	6,325,000	6,325,000	6,325,000	6,325,000	
Outreach for socially disadvantaged farmers and ranchers	1,000,000	5,000,000	2,000,000	4,000,000	3,000,000	+2,000,000
Total, Natural Resources Conservation Service	769,861,000	821,293,000	758,738,000	824,905,000	789,159,000	+19,298,000
Total, title II, Conservation Programs	770,554,000	821,995,000	759,431,000	825,598,000	789,852,000	+19,298,000
TITLE III - RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS						
Office of the Under Secretary for Rural Development	588,000	596,000	588,000	588,000	588,000	
Rural Housing Service:						
Rural Housing Insurance Fund Program Account:						
Loan authorizations:						
Single family (sec. 502)	(1,000,000,000)	(1,000,000,000)	(950,000,000)	(1,000,000,000)	(1,000,000,000)	
Unsubsidized guaranteed	(2,300,000,000)	(3,000,000,000)	(3,000,000,000)	(2,300,000,000)	(3,000,000,000)	(+700,000,000)
Housing repair (sec. 504)	(35,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(-5,000,000)
Farm labor (sec. 514)	(15,000,000)	(15,001,000)	(15,000,000)	(15,001,000)	(15,000,000)	
Rental housing (sec. 515)	(58,654,000)	(128,640,000)	(128,640,000)	(128,640,000)	(128,640,000)	(+69,986,000)
Multi-family housing guarantees (sec. 538)			(19,700,000)	(19,700,000)	(19,700,000)	(+19,700,000)
Site loans (sec. 524)	(600,000)	(600,000)	(600,000)	(600,000)	(600,000)	
Self-help housing land development fund	(600,000)	(587,000)	(587,000)	(587,000)	(587,000)	(-13,000)
Credit sales of acquired property	(50,000,000)	(25,004,000)	(25,000,000)	(25,004,000)	(25,000,000)	(-25,000,000)
Total, Loan authorizations	(3,459,854,000)	(4,199,832,000)	(4,169,527,000)	(3,519,532,000)	(4,219,527,000)	(+759,673,000)
Loan subsidies:						
Single family (sec. 502)	83,000,000	128,100,000	121,600,000	128,100,000	128,100,000	+45,100,000
Unsubsidized guaranteed	6,210,000	6,900,000	6,900,000	5,290,000	6,900,000	+690,000
Housing repair (sec. 504)	11,081,000	10,308,000	10,300,000	10,308,000	10,300,000	-781,000
Farm labor (sec. 514)	6,885,000	7,388,000	7,388,000	7,388,000	7,388,000	+503,000
Rental housing (sec. 515)	28,987,000	68,745,000	68,745,000	68,745,000	68,745,000	+39,758,000
Multi-family housing guarantees (sec. 538)			1,200,000	1,200,000	1,200,000	+1,200,000
Self-help housing land development fund	17,000	20,000	17,000	20,000	17,000	
Credit sales of acquired property	4,050,000	3,493,000	3,492,000	3,493,000	3,492,000	-558,000
Total, Loan subsidies	140,230,000	224,954,000	219,642,000	224,544,000	226,142,000	+85,912,000
RHIF administrative expenses (transfer to RHS)	366,205,000	354,785,000	354,785,000	354,785,000	354,785,000	-11,420,000
Rental assistance program:						
(Sec. 521)	487,970,000	535,497,000	487,970,000	535,497,000	535,497,000	+47,527,000
(Sec. 502(c)(5)(D))	5,900,000	5,900,000	5,900,000	5,900,000	5,900,000	
Convert from HUD's section 8 contracts to USDA's section 521		52,000,000				
Total, Rental assistance program	493,870,000	593,397,000	493,870,000	541,397,000	541,397,000	+47,527,000
Total, Rural Housing Insurance Fund	1,000,305,000	1,173,136,000	1,068,297,000	1,120,726,000	1,122,324,000	+122,019,000
(Loan authorization)	(3,459,854,000)	(4,199,832,000)	(4,169,527,000)	(3,519,532,000)	(4,219,527,000)	(+759,673,000)
Mutual and self-help housing grants 6/	26,000,000		26,000,000	26,000,000	26,000,000	
Rural community fire protection grants		2,000,000	2,000,000	1,285,000	2,000,000	+2,000,000
Rural housing assistance program	130,433,000		86,488,000			-130,433,000
Rural housing assistance grants		70,900,000		45,720,000	45,720,000	+45,720,000
Subtotal, grants and payments	156,433,000	72,900,000	114,488,000	73,005,000	73,720,000	-82,713,000
RHS expenses:						
Administrative expenses	60,743,000	58,804,000	58,804,000	58,804,000	58,804,000	-1,939,000
(Transfer from RHIF)	(366,205,000)	(354,785,000)	(354,785,000)	(354,785,000)	(354,785,000)	(-11,420,000)
Total, RHS expenses	(426,948,000)	(413,589,000)	(413,589,000)	(413,589,000)	(413,589,000)	(-13,359,000)
Total, Rural Housing Service	1,217,481,000	1,304,840,000	1,241,589,000	1,252,535,000	1,254,848,000	+37,367,000
(Loan authorization)	(3,459,854,000)	(4,199,832,000)	(4,169,527,000)	(3,519,532,000)	(4,219,527,000)	(+759,673,000)

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Rural Business-Cooperative Service:						
Rural Development Loan Fund Program Account:						
(Loan authorization)	(37,544,000)	(35,000,000)	(35,000,000)	(40,000,000)	(35,000,000)	(-2,544,000)
Loan subsidy	17,270,000	16,888,000	16,888,000	19,200,000	16,888,000	-382,000
Administrative expenses (transfer to RBCS)	.....	3,482,000	3,482,000	3,482,000	3,482,000	+3,482,000
Total, Rural Development Loan Fund	17,270,000	20,370,000	20,370,000	22,682,000	20,370,000	+3,100,000
Rural Economic Development Loans Program Account:						
(Loan authorization)	(12,865,000)	(25,000,000)	(25,000,000)	(12,865,000)	(25,000,000)	(+12,135,000)
Direct subsidy	2,830,000	.....	.....	3,076,000	5,978,000	+3,148,000
Administrative expenses (transfer to RBCS)	654,000	.....	.....	.....	.....	-654,000
By transfer from cushion of credit payments	.....	(5,978,000)	(5,978,000)	.....	.....	.....
Alternative Agricultural Research and Commercialization Revolving Fund	7,000,000	10,000,000	.....	10,000,000	7,000,000	.....
Rural cooperative development grants	.....	3,000,000	3,000,000	3,000,000	3,000,000	+3,000,000
Rural business-cooperative assistance 7/	51,400,000	.....	51,400,000	.....	.....	-51,400,000
Rural community advancement program	.....	688,570,000	.....	644,259,000	652,197,000	+652,197,000
RBCS expenses:						
Salaries and expenses	25,680,000	27,482,000	25,680,000	25,680,000	25,680,000	.....
(Transfer from RDLFP)	.....	(3,482,000)	(3,482,000)	(3,482,000)	(3,482,000)	(+3,482,000)
(Transfer from REDLP)	(654,000)	.....	.....	.....	.....	(-654,000)
Total, RBCS expenses	(26,334,000)	(30,964,000)	(29,162,000)	(29,162,000)	(29,162,000)	(+2,828,000)
Total, Rural Business-Cooperative Service	104,834,000	749,422,000	100,450,000	708,697,000	714,225,000	+609,391,000
(By transfer)	(654,000)	(9,460,000)	(9,460,000)	(3,482,000)	(3,482,000)	(+2,828,000)
(Loan authorization)	(50,409,000)	(60,000,000)	(60,000,000)	(52,865,000)	(60,000,000)	(+9,591,000)
Rural Utilities Service:						
Rural Electrification and Telecommunications Loans Program Account:						
Loan authorizations:						
Direct loans:						
Electric 5%	(125,000,000)	(125,000,000)	(125,000,000)	(125,000,000)	(125,000,000)	.....
Telecommunications 5%	(75,000,000)	(40,000,000)	(75,000,000)	(52,756,000)	(75,000,000)	.....
Subtotal	(200,000,000)	(165,000,000)	(200,000,000)	(177,756,000)	(200,000,000)	.....
Treasury rates: Telecommunications	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	.....
Muni-rate: Electric	(525,000,000)	(400,000,000)	(400,000,000)	(500,000,000)	(500,000,000)	(-25,000,000)
FFB loans:						
Electric, regular	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	.....
Telecommunications	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	.....
Subtotal	(420,000,000)	(420,000,000)	(420,000,000)	(420,000,000)	(420,000,000)	.....
Total, Loan authorizations	(1,445,000,000)	(1,285,000,000)	(1,320,000,000)	(1,397,756,000)	(1,420,000,000)	(-25,000,000)
Loan subsidies:						
Direct loans:						
Electric 5%	3,625,000	9,325,000	9,325,000	9,325,000	9,325,000	+5,700,000
Telecommunications 5%	1,193,000	1,568,000	3,136,000	2,068,000	2,940,000	+1,747,000
Subtotal	4,818,000	10,893,000	12,461,000	11,393,000	12,265,000	+7,447,000
Treasury rates: Telecommunications	60,000	60,000	60,000	60,000	60,000	.....
Muni-rate: Electric	28,245,000	16,880,000	16,880,000	21,100,000	21,100,000	-7,145,000
FFB loans: Electric, regular	2,790,000	2,760,000	2,760,000	2,760,000	2,760,000	-30,000
Total, Loan subsidies	35,913,000	30,593,000	32,161,000	35,313,000	36,185,000	+272,000
RETLP administrative expenses (transfer to RUS)	29,982,000	34,398,000	34,398,000	29,982,000	29,982,000	.....
Total, Rural Electrification and Telecommunications Loans Program Account	65,895,000	64,991,000	66,559,000	65,295,000	66,167,000	+272,000
(Loan authorization)	(1,445,000,000)	(1,285,000,000)	(1,320,000,000)	(1,397,756,000)	(1,420,000,000)	(-25,000,000)
Rural Telephone Bank Program Account:						
(Loan authorization)	(175,000,000)	(175,000,000)	(175,000,000)	(175,000,000)	(175,000,000)	.....
Direct loan subsidy	2,328,000	3,710,000	3,710,000	3,710,000	3,710,000	+1,382,000
RTP administrative expenses (transfer to RUS)	3,500,000	3,000,000	3,000,000	3,000,000	3,000,000	-500,000
Total	5,828,000	6,710,000	6,710,000	6,710,000	6,710,000	+882,000
Distance learning and medical link grants and loans:						
(Loan authorization)	(150,000,000)	(150,000,000)	(150,000,000)	(150,000,000)	(150,000,000)	.....
Direct loan subsidy	1,530,000	30,000	30,000	30,000	30,000	-1,500,000
Grants	7,470,000	20,970,000	15,000,000	12,000,000	12,500,000	+5,030,000
Total	9,000,000	21,000,000	15,030,000	12,030,000	12,530,000	+3,530,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Rural utilities assistance program 7/	566,935,000		577,242,000			-566,935,000
RUS expenses:						
Salaries and expenses	33,195,000	33,000,000	33,000,000	33,000,000	33,000,000	-195,000
(Transfer from RETLP)	(29,982,000)	(34,398,000)	(34,398,000)	(29,982,000)	(29,982,000)	
(Transfer from RTP)	(3,500,000)	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)	(-500,000)
Total, RUS expenses	(66,677,000)	(70,398,000)	(70,398,000)	(65,982,000)	(65,982,000)	(-695,000)
Total, Rural Utilities Service	680,853,000	125,701,000	698,541,000	117,035,000	118,407,000	-562,446,000
(By transfer)	(33,482,000)	(37,398,000)	(37,398,000)	(32,982,000)	(32,982,000)	(-500,000)
(Loan authorization)	(1,770,000,000)	(1,610,000,000)	(1,645,000,000)	(1,722,756,000)	(1,745,000,000)	(-25,000,000)
Total, title III, Rural Economic and Community Development Programs	2,003,756,000	2,180,559,000	2,041,168,000	2,078,855,000	2,088,068,000	+84,312,000
(By transfer)	(400,341,000)	(401,643,000)	(401,643,000)	(391,249,000)	(391,249,000)	(-9,092,000)
(Loan authorization)	(5,280,263,000)	(5,869,832,000)	(5,874,527,000)	(5,295,153,000)	(6,024,527,000)	(+744,264,000)
TITLE IV - DOMESTIC FOOD PROGRAMS						
Office of the Under Secretary for Food, Nutrition and Consumer Services	454,000	560,000	454,000	454,000	554,000	+100,000
Food and Consumer Service:						
Child nutrition programs	3,219,544,000	2,617,375,000	2,543,555,000	2,617,675,000	2,612,675,000	-606,869,000
Discretionary spending		14,000,000	5,000,000		3,750,000	+3,750,000
Transfer from section 32	5,433,753,000	5,151,391,000	5,218,411,000	5,151,391,000	5,151,391,000	-282,362,000
Total, Child nutrition programs	8,653,297,000	7,782,766,000	7,766,966,000	7,769,066,000	7,767,816,000	-885,481,000
Special supplemental nutrition program for women, infants, and children (WIC)	3,805,807,000	4,108,000,000	3,924,000,000	3,927,600,000	3,924,000,000	+118,193,000
Reserve		(100,000,000)				
Food stamp program:						
Expenses	26,244,029,000	23,747,479,000	23,736,479,000	23,747,479,000	23,736,479,000	-2,507,550,000
Reserve	100,000,000	2,500,000,000	100,000,000	1,000,000,000	100,000,000	
Nutrition assistance for Puerto Rico	1,174,000,000	1,204,000,000	1,204,000,000	1,204,000,000	1,204,000,000	+30,000,000
The emergency food assistance program 8/	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	
Total, Food stamp program	27,618,029,000	27,551,479,000	25,140,479,000	26,051,479,000	25,140,479,000	-2,477,550,000
Commodity assistance program	166,000,000	272,165,000	141,000,000	148,600,000	141,000,000	-25,000,000
Food donations programs for selected groups:						
Needy family program	1,250,000		1,165,000	1,165,000	1,165,000	-85,000
Elderly feeding program	140,000,000		145,000,000	140,000,000	140,000,000	
Total, Food donations programs 9/	141,250,000		146,165,000	141,165,000	141,165,000	-85,000
Food program administration	106,128,000	105,501,000	104,128,000	107,719,000	107,619,000	+1,491,000
The Center for Nutrition Policy and Promotion 10/		2,499,000				
Total, Food and Consumer Service	40,490,511,000	39,822,410,000	37,222,738,000	38,145,629,000	37,222,079,000	-3,268,432,000
Total, title IV, Domestic Food Programs	40,490,965,000	39,822,970,000	37,223,192,000	38,146,083,000	37,222,633,000	-3,268,332,000
TITLE V - FOREIGN ASSISTANCE AND RELATED PROGRAMS						
Foreign Agricultural Service:						
Direct appropriation 11/	131,295,000	146,549,000	131,295,000	132,367,000	131,295,000	
(Transfer from export loans)	(3,231,000)	(3,327,000)	(3,231,000)	(3,231,000)	(3,231,000)	
(Transfer from P.L. 480)	(1,035,000)	(1,066,000)	(1,035,000)	(1,066,000)	(1,035,000)	
Total, Program level	(135,561,000)	(150,942,000)	(135,561,000)	(136,664,000)	(135,561,000)	
Public Law 480 Program Account:						
Title I - Credit sales:						
Program level	(240,805,000)	(123,149,000)	(238,048,000)	(247,530,000)	(244,508,000)	(+3,703,000)
Direct loans	(226,900,000)	(112,899,000)	(225,798,000)	(226,900,000)	(226,900,000)	
Ocean freight differential	13,905,000	10,250,000	12,250,000	20,630,000	17,608,000	+3,703,000
Title II - Commodities for disposition abroad:						
Program level	(837,000,000)	(837,000,000)	(837,000,000)	(837,000,000)	(837,000,000)	
Appropriation	837,000,000	837,000,000	837,000,000	837,000,000	837,000,000	
Title III - Commodity grants:						
Program level	(29,500,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(+500,000)
Appropriation	29,500,000	30,000,000	30,000,000	30,000,000	30,000,000	+500,000
Loan subsidies	185,589,000	87,889,000	175,738,000	176,596,000	176,596,000	-8,993,000
Salaries and expenses:						
General Sales Manager (transfer to FAS)	1,035,000	1,066,000	1,035,000	1,066,000	1,035,000	
Farm Service Agency (transfer to FSA)	745,000	815,000	745,000	815,000	815,000	+70,000
Subtotal	1,780,000	1,881,000	1,780,000	1,881,000	1,850,000	+70,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Total, Public Law 480:						
Program level	(1,107,305,000)	(990,149,000)	(1,105,048,000)	(1,114,530,000)	(1,111,508,000)	(+4,203,000)
Appropriation	1,067,774,000	967,000,000	1,056,768,000	1,066,107,000	1,063,054,000	-4,720,000
CCC Export Loans Program Account:						
Loan guarantees: Short-term export credit	(5,500,000,000)	(5,500,000,000)	(5,500,000,000)	(5,500,000,000)	(5,500,000,000)	.....
Loan subsidy	390,305,000	527,546,000	527,546,000	527,546,000	527,546,000	+137,241,000
Emerging markets export credit	.....	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(+200,000,000)
Salaries and expenses (Export Loans):						
General Sales Manager (transfer to FAS)	3,231,000	3,327,000	3,231,000	3,231,000	3,231,000	.....
Farm Service Agency (transfer to FSA)	589,000	648,000	589,000	589,000	589,000	.....
Total, CCC Export Loans Program Account	394,125,000	531,521,000	531,366,000	531,366,000	531,366,000	+137,241,000
Total, title V, Foreign Assistance and Related Programs	1,593,194,000	1,645,070,000	1,719,429,000	1,729,840,000	1,725,715,000	+132,521,000
(By transfer)	(4,266,000)	(4,393,000)	(4,266,000)	(4,297,000)	(4,266,000)	.....
TITLE VI - RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION						
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Food and Drug Administration						
Salaries and expenses, direct appropriation	819,971,000	750,922,000	852,501,000	873,057,000	857,501,000	+37,530,000
Prescription drug user fee act 12/	(87,528,000)	(91,204,000)	.....	(91,204,000)	(91,204,000)	(+3,676,000)
Mammography clinics user fee 12/	(13,403,000)	(13,966,000)	(13,966,000)	(13,966,000)	(13,966,000)	(+563,000)
New proposed user fees 12/	.....	(131,643,000)	.....	.....	.....	.....
Total, Program level	(920,902,000)	(987,735,000)	(866,467,000)	(978,227,000)	(962,671,000)	(+41,769,000)
Buildings and facilities	21,350,000	22,900,000	21,350,000	22,900,000	21,350,000	.....
Rental payments	46,294,000	46,294,000	46,294,000	46,294,000	46,294,000	.....
Total, Food and Drug Administration	887,615,000	820,116,000	920,145,000	942,251,000	925,145,000	+37,530,000
DEPARTMENT OF THE TREASURY						
Financial Management Service: Payments to the Farm Credit System Financial Assistance Corporation	10,290,000	7,728,000	7,728,000	7,728,000	7,728,000	-2,562,000
INDEPENDENT AGENCIES						
Commodity Futures Trading Commission	55,101,000	60,101,000	57,101,000	60,101,000	58,101,000	+3,000,000
Farm Credit Administration (limitation on administrative expenses)	(37,478,000)	(34,423,000)	(34,423,000)	(34,423,000)	(34,423,000)	(-3,055,000)
Total, title VI, Related Agencies and Food and Drug Administration	953,006,000	887,945,000	984,974,000	1,010,080,000	990,974,000	+37,968,000
TITLE VII - EMERGENCY APPROPRIATIONS						
DEPARTMENT OF AGRICULTURE						
Farm Service Agency						
Emergency conservation program	25,000,000	.....	.....	.....	.....	-25,000,000
Emergency appropriations (P.L. 105-18)	23,000,000	.....	.....	.....	.....	-23,000,000
Natural Resources Conservation Service						
Watershed and flood prevention operations	63,000,000	.....	.....	.....	.....	-63,000,000
Emergency appropriations (P.L. 105-18)	245,000,000	.....	.....	.....	.....	-245,000,000
Rural Utilities Service						
Emergency appropriations (P.L. 105-18)	4,000,000	.....	.....	.....	.....	-4,000,000
Total, title VII:						
New budget (obligational) authority	360,000,000	.....	.....	.....	.....	-360,000,000
Grand total:						
New budget (obligational) authority	53,889,489,000	52,302,190,000	49,603,627,000	50,713,787,000	49,749,679,000	-4,139,810,000
Appropriations	(53,801,489,000)	(52,302,190,000)	(49,603,627,000)	(50,713,787,000)	(49,749,679,000)	(-4,051,810,000)
Emergency appropriations	(88,000,000)	.....	.....	.....	.....	(-88,000,000)
(By transfer)	(614,387,000)	(617,360,000)	(615,689,000)	(606,811,000)	(606,780,000)	(-7,607,000)
(Loan authorization)	(13,860,987,000)	(14,201,660,000)	(14,226,641,000)	(13,735,806,000)	(14,465,180,000)	(+604,193,000)
(Limitation on administrative expenses)	(144,697,000)	(142,036,000)	(142,036,000)	(142,036,000)	(142,036,000)	(-2,661,000)

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2160) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
RECAPITULATION						
Title I - Agricultural programs	7,718,014,000	6,943,651,000	6,875,433,000	6,923,331,000	6,932,437,000	-785,577,000
Title II - Conservation programs	770,554,000	821,995,000	759,431,000	825,598,000	789,852,000	+19,298,000
Title III - Rural economic and community development programs	2,003,756,000	2,180,559,000	2,041,168,000	2,078,855,000	2,088,068,000	+84,312,000
Title IV - Domestic food programs	40,490,965,000	39,822,970,000	37,223,192,000	38,146,083,000	37,222,633,000	-3,268,332,000
Title V - Foreign assistance and related programs	1,593,194,000	1,645,070,000	1,719,429,000	1,729,840,000	1,725,715,000	+132,521,000
Title VI - Related agencies and Food and Drug Administration	953,006,000	887,945,000	984,974,000	1,010,080,000	990,974,000	+37,968,000
Title VII - Emergency appropriations	360,000,000					-360,000,000
Total, new budget (obligational) authority	53,889,489,000	52,302,190,000	49,603,627,000	50,713,787,000	49,749,679,000	-4,139,810,000

1/ Funded under Departmental Administration in FY 1997.
2/ In addition, $41 million is anticipated from Farm Bill direct appropriations.
3/ In addition to appropriation.
4/ Budget proposes to fund this account under Conservation Operations.
5/ Budget proposes to fund technical assistance for WFPO under Conservation Operations.
6/ Budget proposes to fund this account under the Rural Housing Assistance program.
7/ The Administration proposed funding for this account under the name "Rural community advancement program".
8/ Program created in Welfare Reform.
9/ Budget proposes to include funding for these programs under the Commodity Assistance Program in FY 1998.
10/ $2,218,000 included under Food Program Administration in FY 1997.
11/ Includes $10 million shift from mandatory spending for IRM activities.
12/ President's budget proposes collections to be used as revenues.

Mr. SKEEN. Mr. Speaker, I reserve the balance of my time.

Ms. KAPTUR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleagues for their forbearance here. I feel privileged to join the gentleman from New Mexico [Mr. SKEEN], our subcommittee chair, and all of our committee members in supporting this conference report on H.R. 2160, our fiscal year 1998 Agriculture, Rural Development, Food and Drug Administration, and related agencies appropriation bill.

I just want to say that this bill truly represents a bipartisan, bicameral compromise in our efforts to provide critical support for the Department of Agriculture, Food and Drug Administration, and other agencies funded in this bill. This will help our Nation remain at the leading edge for food production, fuel production, fiber and forest production, as well as agricultural research, trade promotion, and food and drug safety.

Mr. Speaker, there cannot be too many places in this Congress where one is privileged to serve on a committee where in a week he can talk about windmills and lambing season, child nutrition, and coyotes all at the same time. We are very pleased that the additional funding that is included in this bill will help us on our important research programs, our conservation programs, and our rural housing and development programs. The agreement also fully funds the budget request for youth tobacco prevention and food safety initiatives under the Food and Drug Administration.

I would like to acknowledge and thank the very talented and hard-working subcommittee staff: Tim Sanders, Carol Murphy, John Ziolkowski, JoAnne Orndorf, Doug Lawrence, Sally Chahbourne, and Roberta Jeauquent. We all rely on these individuals' experience and expertise in agriculture programs; and without their help, we would not be on this floor today.

I have to say to the gentleman from New Mexico [Mr. SKEEN], my good friend, the chairman, I shall always remember that he has been the chair of this committee during the first year that I served as its ranking member, and these moments will remain among my treasured moments in this Congress.

Mr. Speaker, I yield as much time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in strong support of this conference report and commend those conferees who did an excellent job in making balanced the priorities.

Ms. KAPTUR. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I might just mention that we have one request for time on this side.

Mr. SKEEN. Mr. Speaker, I reserve the balance of my time.

Ms. KAPTUR. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I rise in strong support of this bill. So often agriculture and so often rural America gets overlooked in the whole scheme of things.

This bill does an excellent job. I compliment the chairman and the ranking member on the bipartisan approach to this. The fact that it is agreed upon and is noncontroversial speaks well for the way agriculture is being treated, rural development is being handled, and as well as the agriculture research, which is so very, very important for the agriculture community, which in turn is important to all of America.

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Ms. KAPTUR. Mr. Speaker, I yield myself such time as I may consume to observe for the RECORD that the gentleman from Missouri [Mr. SKELTON] took off his field boots in order to give his remarks this afternoon. So we thank him very much for being downon the floor.

Mr. BENTSEN. Mr. Speaker, I rise to express my strong support for H.R. 2160, the conference report on the fiscal year 1998 Agriculture Appropriations Bill. I am especially pleased that this conference report includes $11.3 million for pediatric research conducted at the Children's Nutrition Research Center [CNRC] in Houston, which I represent. This funding level represents a $500,000 increase over last year's bill and will be used to conduct critical nutrition research on children.

It is important that we provide sufficient funding for agricultural research programs, including nutrition research. This research has helped to lead to better and more effective strategies to improve children's health. I have worked closely with members of the Appropriations Committee and the Texas Congressional Delegation to secure this vital funding, and I wish to thank Subcommittee Chairman SKEEN and ranking member KAPTUR for their assistance.

The Children's Nutrition Research Center was founded in 1978 and operates in cooperation with Texas Children's Hospital and Baylor College of Medicine in the Texas Medical Center. It is a world leader in the field of pediatric nutrition, and its research has led to better health and reduced health care costs for children. For instance, some of its research has saved 40 percent of the cost of treating premature infants at Texas Children's Hospital by developing a better system for feeding without compromising nutritional intake. This system saves $7,500 per infant and reduced the average hospital stay of premature infants by 3 days. The CNRC is currently conducting research on children's obesity, which may lead to more effective treatments to prevent such serious diseases as atherosclerosis, osteoporosis, and diabetes.

This conference report also includes critical funding for many nutrition programs, including the Food Stamp Program, the school lunch and breakfast programs, and the Women, Infants, and Children [WIC] program. For many low-income families, these programs are the only way that they can meet their nutritional needs. This legislation also includes $858 million for the Food and Drug Administration, the Federal agency responsible for protecting food safety and promoting safe and effective drugs to combat illnesses. This legislation also includes $34 million for a new food safety initiative to increase surveillance, research, and education concerning food-borne illnesses.

I urge my colleagues to support this important legislation.

Mrs. ROUKEMA. Mr. Speaker, I would like to commend the conferees for their work in putting together a conference report that achieves so many important goals.

This conference report includes an increase from $4 million to $34 million to implement the FDA's regulations aimed at curbing tobacco use by underage consumers. This makes sense.

Underage smoking creates a new generation of smokers and it puts them on the road to potentially debilitating and costly health problems. We need to prevent this now.

I would have liked a conference report that included language that would have eliminated the USDA's nonrecourse loan program for sugar. Through a combination of import quotas, price supports and subsidized loans, our Government props up sugar prices nationwide.

This is not about the small sugar farmer. This is about big agri-business. Most beneficiaries of the sugar program are large corporate interests, not small farmers. The GAO estimates that 42 percent of the sugar program benefits went to 1 percent of sugar plantations. We need to eliminate this corporate welfare, and I am sorry we are not doing that with this conference report today.

Yet, I do support this conference report because it helps our children.

What we are doing with this conference report is protecting and feeding our children.

Mr. Speaker, we are helping ensure the health of our children by increasing funding for WIC by $118 million over the previous year. This will help maintain the current participation level of 7.4 million individuals. The WIC program is a program that works, and in the longer-term, actually saves Federal money. For every $1 dollar used in the prenatal segment of the WIC Program, Medicaid saves untold moneys and give healthy productive lives to these children and cannot be measured in dollars and cents.

WIC works. It reduces the instances of infant mortality, low birthweight, malnutrition and the myriad other problems of impoverished children. The WIC program also provides valuable health care counseling for expectant mothers for both mothers and children.

This report also provides $7.8 billion for child nutrition programs, such as the school lunch and breakfast programs. This is $885 million more than the previous year. These programs help our children focus in the classroom and have the ability to concentrate on learning, and not hunger.

Mr. Speaker, we have been presented with a great opportunity today to make wise investments in our children, and our future. Let's vote for this conference report.

Ms. KAPTUR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SKEEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAW). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 18, not voting 16, as follows:

[Roll No. 491]

YEAS—399

Abercrombie	Cox	Granger
Ackerman	Coyne	Green
Aderholt	Cramer	Gutierrez
Allen	Crane	Gutknecht
Archer	Crapo	Hall (OH)
Armey	Cummings	Hall (TX)
Bachus	Cunningham	Hamilton
Baesler	Danner	Hansen
Baker	Davis (FL)	Harman
Baldacci	Davis (IL)	Hastert
Ballenger	Davis (VA)	Hastings (FL)
Barcia	Deal	Hastings (WA)
Barr	DeGette	Hayworth
Barrett (NE)	Delahunt	Hefley
Barrett (WI)	DeLauro	Hefner
Bartlett	DeLay	Herger
Barton	Dellums	Hill
Bass	Deutsch	Hilleary
Bateman	Diaz-Balart	Hinchey
Bentsen	Dickey	Hinojosa
Bereuter	Dicks	Hobson
Berman	Dingell	Hoekstra
Berry	Dixon	Holden
Bilbray	Dooley	Hooley
Bilirakis	Doolittle	Horn
Bishop	Doyle	Hostettler
Blagojevich	Dreier	Houghton
Bliley	Duncan	Hoyer
Blumenauer	Dunn	Hulshof
Blunt	Edwards	Hunter
Boehlert	Ehlers	Hutchinson
Boehner	Ehrlich	Hyde
Bonilla	Emerson	Inglis
Bonior	Engel	Istook
Bono	English	Jackson (IL)
Borski	Eshoo	Jackson-Lee (TX)
Boswell	Etheridge	Jefferson
Boyd	Evans	Jenkins
Brady	Everett	John
Brown (CA)	Ewing	Johnson (CT)
Brown (OH)	Farr	Johnson (WI)
Bryant	Fattah	Johnson, E.B.
Bunning	Fawell	Johnson, Sam
Burr	Fazio	Jones
Burton	Filner	Kanjorski
Buyer	Flake	Kaptur
Callahan	Foley	Kasich
Calvert	Forbes	Kelly
Camp	Ford	Kennedy (MA)
Canady	Fowler	Kennedy (RI)
Cannon	Fox	Kennelly
Capps	Frank (MA)	Kildee
Cardin	Franks (NJ)	Kilpatrick
Carson	Frelinghuysen	Kim
Castle	Frost	Kind (WI)
Chabot	Furse	King (NY)
Chambliss	Gallegly	Kingston
Chenoweth	Ganske	Kleczka
Christensen	Gejdenson	Klink
Clay	Gekas	Klug
Clayton	Gibbons	Knollenberg
Clement	Gilchrest	Kolbe
Clyburn	Gillmor	LaFalce
Coble	Gilman	LaHood
Collins	Goode	Lampson
Combest	Goodlatte	Lantos
Condit	Goodling	Largent
Cook	Gordon	Latham
Cooksey	Goss	LaTourette
Costello	Graham	Lazio
Cox	Granger	Leach
Coyne	Green	Levin
Cramer	Gutierrez	Lewis (CA)
Crane	Gutknecht	Lewis (GA)
Crapo	Hall (OH)	Lewis (KY)
Cummings	Hall (TX)	Linder
Cunningham	Hamilton	Lipinski
Danner	Hansen	Livingston
Davis (FL)	Harman	LoBiondo
Davis (IL)	Hastert	Lowey
Davis (VA)	Hastings (FL)	Lucas
Deal	Hastings (WA)	Luther
DeGette	Hayworth	Maloney (CT)
Delahunt	Hefley	Maloney (NY)
DeLauro	Hefner	Manton
DeLay	Herger	Markey
Dellums	Hill	Martinez
Deutsch	Hilleary	Mascara
Diaz-Balart	Hinchey	Matsui
Dickey	Hinojosa	McCarthy (MO)
Dicks	Hobson	McCarthy (NY)
Dingell	Hoekstra	McCollum
Dixon	Holden	McCrery
Dooley	Hooley	McDade
Doolittle	Horn	McDermott
Doyle	Hostettler	McGovern
Dreier	Houghton	McHale
Duncan	Hoyer	McHugh
Dunn	Hulshof	McInnis
Edwards	Hunter	McIntosh
Ehlers	Hutchinson	McIntyre
Ehrlich	Hyde	McKeon
Emerson	Inglis	McKinney
Engel	Istook	McNulty
English	Jackson (IL)	Meehan
Eshoo	Jackson-Lee (TX)	Meek
Etheridge	Jefferson	Menendez
Evans	Jenkins	Metcalf
Everett	John	Mica
Ewing	Johnson (CT)	Millender-McDonald
Farr	Johnson (WI)	Miller (FL)
Fattah	Johnson, E.B.	Minge
Fawell	Johnson, Sam	Mink
Fazio	Jones	Moakley
Filner	Kanjorski	Mollohan
Flake	Kaptur	Moran (KS)
Foley	Kasich	Moran (VA)
Forbes	Kelly	Morella
Ford	Kennedy (MA)	Murtha
Fowler	Kennedy (RI)	Myrick
Fox	Kennelly	Nadler
Frank (MA)	Kildee	Neal
Franks (NJ)	Kilpatrick	Nethercutt
Frelinghuysen	Kim	Neumann
Frost	Kind (WI)	Ney
Furse	King (NY)	Northup
Gallegly	Kingston	Norwood
Ganske	Kleczka	Nussle
Gejdenson	Klink	Oberstar
Gekas	Klug	Obey
Gibbons	Knollenberg	Olver
Gilchrest	Kolbe	Ortiz
Gillmor	LaFalce	Oxley
Gilman	LaHood	Packard
Goode	Lampson	Pallone
Goodlatte	Lantos	Pappas
Goodling	Largent	Parker
Gordon	Latham	Pascrell
Goss	LaTourette	Pastor
Graham	Lazio	Paxon
Granger	Leach	Payne
Green	Levin	Pease
Gutierrez	Lewis (CA)	Pelosi
Gutknecht	Lewis (GA)	Peterson (MN)
Hall (OH)	Lewis (KY)	Peterson (PA)
Hall (TX)	Linder	Petri
Hamilton	Lipinski	Pickering
Hansen	Livingston	Pickett
Harman	LoBiondo	Pitts
Hastert	Lowey	Pomeroy
Hastings (FL)	Lucas	Porter
Hastings (WA)	Luther	Portman
Hayworth	Maloney (CT)	Poshard
Hefley	Maloney (NY)	Price (NC)
Hefner	Manton	Pryce (OH)
Herger	Markey	Quinn
Hill	Martinez	Radanovich
Hilleary	Mascara	Rahall
Hinchey	Matsui	Ramstad
Hinojosa	McCarthy (MO)	Rangel
Hobson	McCarthy (NY)	Redmond
Hoekstra	McCollum	Regula
Holden	McCrery	Reyes
Hooley	McDade	Riggs
Horn	McDermott	Riley
Hostettler	McGovern	Rivers
Houghton	McHale	Rodriguez
Hoyer	McHugh	Roemer
Hulshof	McInnis	Rogan
Hunter	McIntosh	Rogers
Hutchinson	McIntyre	Ros-Lehtinen
Hyde	McKeon	Rothman
Inglis	McKinney	Roukema
Istook	McNulty	Roybal-Allard
Jackson (IL)	Meehan	Rush
Jackson-Lee (TX)	Meek	Ryun
Jefferson	Menendez	Sabo
Jenkins	Metcalf	Sanchez
John	Mica	Sanders
Johnson (CT)	Millender-McDonald	Sandlin
Johnson (WI)	Miller (FL)	Sanford
Johnson, E.B.	Minge	Sawyer
Johnson, Sam	Mink	Saxton
Jones	Moakley	Schaefer, Dan
Kanjorski	Mollohan	Schaffer, Bob
Kaptur	Moran (KS)	Scott
Kasich	Moran (VA)	Serrano
Kelly	Morella	Sessions
Kennedy (MA)	Murtha	Shadegg
Kennedy (RI)	Myrick	Shaw
Kennelly	Nadler	Shays
Kildee	Neal	Sherman
Kilpatrick	Nethercutt	Shimkus
Kim	Neumann	Shuster
Kind (WI)	Ney	Sisisky
King (NY)	Northup	Skaggs
Kingston	Norwood	Skeen
Kleczka	Nussle	Skelton
Klink	Oberstar	Slaughter
Klug	Obey	Smith (MI)
Knollenberg	Olver	Smith (NJ)
Kolbe	Ortiz	Smith (TX)
LaFalce	Oxley	Smith, Adam
LaHood	Packard	Smith, Linda
Lampson	Pallone	Snowbarger
Lantos	Pappas	Snyder
Largent	Parker	Solomon
Latham	Pascrell	Souder
LaTourette	Pastor	Spence
Lazio	Paxon	Spratt
Leach	Payne	Stabenow
Levin	Pease	Stark
Lewis (CA)	Pelosi	Stenholm
Lewis (GA)	Peterson (MN)	Stokes
Lewis (KY)	Peterson (PA)	Strickland
Linder	Petri	Stump
Lipinski	Pickering	Stupak
Livingston	Pickett	Sununu
LoBiondo	Pitts	Talent
Lowey	Pomeroy	Tanner
Lucas	Porter	Tauscher
Luther	Portman	Tauzin
Maloney (CT)	Poshard	Taylor (NC)
Maloney (NY)	Price (NC)	Thomas
Manton	Pryce (OH)	Thompson
Markey	Quinn	Thornberry
Martinez	Radanovich	Thune
Mascara	Rahall	Thurman
Matsui	Ramstad	Tiahrt
McCarthy (MO)	Rangel	Tierney
McCarthy (NY)	Redmond	Torres
McCollum	Regula	Towns
McCrery	Reyes	Traficant
McDade	Riggs	Turner
McDermott	Riley	Upton
McGovern	Rivers	Velázquez
McHale	Rodriguez	Vento
McHugh	Roemer	Visclosky
McInnis	Rogan	Walsh
McIntosh	Rogers	Wamp
McIntyre	Ros-Lehtinen	Waters
McKeon	Rothman	Watkins
McKinney	Roukema	Watt (NC)
McNulty	Roybal-Allard	Watts (OK)
Meehan	Rush	Waxman
Meek	Ryun	Weldon (FL)
Menendez	Sabo	Weldon (PA)
Metcalf	Sanchez	Weller
Mica	Sanders	Wexler
Millender-McDonald	Sandlin	White
Miller (FL)	Sanford	Whitfield
Minge	Sawyer	Wicker
Mink	Saxton	Wise
Moakley	Schaefer, Dan	Wolf
Mollohan	Schaffer, Bob	Woolsey
Moran (KS)	Scott	Wynn
Moran (VA)	Serrano	Yates
Morella	Sessions	Young (AK)
Murtha	Shadegg	Young (FL)
Myrick	Shaw	
Nadler	Shays	
Neal	Sherman	
Nethercutt	Shimkus	
Neumann	Shuster	
Ney	Sisisky	
Northup	Skaggs	
Norwood	Skeen	
Nussle	Skelton	
Oberstar	Slaughter	
Obey	Smith (MI)	
Olver	Smith (NJ)	
Ortiz	Smith (TX)	
Oxley	Smith, Adam	
Packard	Smith, Linda	
Pallone	Snowbarger	
Pappas	Snyder	
Parker	Solomon	
Pascrell	Souder	
Pastor	Spence	
Paxon	Spratt	
Payne	Stabenow	
Pease	Stark	
Pelosi	Stenholm	
Peterson (MN)	Stokes	
Peterson (PA)	Strickland	
Petri	Stump	
Pickering	Stupak	
Pickett	Sununu	
Pitts	Talent	
Pomeroy	Tanner	
Porter	Tauscher	
Portman	Tauzin	
Poshard	Taylor (NC)	
Price (NC)	Thomas	
Pryce (OH)	Thompson	
Quinn	Thornberry	
Radanovich	Thune	
Rahall	Thurman	
Ramstad	Tiahrt	
Rangel	Tierney	
Redmond	Torres	
Regula	Towns	
Reyes	Traficant	
Riggs	Turner	
Riley	Upton	
Rivers	Velázquez	
Rodriguez	Vento	
Roemer	Visclosky	
Rogan	Walsh	
Rogers	Wamp	
Ros-Lehtinen	Waters	
Rothman	Watkins	
Roukema	Watt (NC)	
Roybal-Allard	Watts (OK)	
Rush	Waxman	
Ryun	Weldon (FL)	
Sabo	Weldon (PA)	
Sanchez	Weller	
Sanders	Wexler	
Sandlin	White	
Sanford	Whitfield	
Sawyer	Wicker	
Saxton	Wise	
Schaefer, Dan	Wolf	
Schaffer, Bob	Woolsey	
Scott	Wynn	
Serrano	Yates	
Sessions	Young (AK)	
Shadegg	Young (FL)	
Shaw		
Shays		
Sherman		
Shimkus		
Shuster		
Sisisky		
Skaggs		

NAYS—18

Andrews	Ensign	Royce
Campbell	Kucinich	Salmon
Conyers	Lofgren	Scarborough
Cubin	Miller (CA)	Sensenbrenner
DeFazio	Paul	Stearns
Doggett	Rohrabacher	Taylor (MS)

NOT VOTING—16

Becerra	Gonzalez	Schiff
Boucher	Greenwood	Schumer
Brown (FL)	Hilliard	Smith (OR)
Coburn	Manzullo	Weygand
Foglietta	Owens	
Gephardt	Pombo	

□ 1805

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF INTENT TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2159, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1998

Mr. LARGENT. Mr. Speaker, pursuant to rule XXVIII, clause 1(c), I rise today to give the House notice of my intention to offer a motion to instruct conferees on the bill (H.R. 2159) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1997, and for other purposes. The motion is at the desk.

The form of the motion is as follows:

Mr. LARGENT moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2159 be instructed to insist upon the provisions contained in section 581 of the House bill (relating to restrictions on assistance to foreign organizations that perform or actively promote abortions).

APPOINTMENT OF CONFEREES ON H.R. 2267, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2267) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. MOLLOHAN

Mr. MOLLOHAN. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. MOLLOHAN moves that the managers on the part of the House at the conference on the disagreeing votes of the House and the Senate on H.R. 2267, Commerce-Justice-State-Judiciary Appropriations Act for Fiscal Year 1998, be instructed to insist on the House position regarding funding for programs under the Victims of Child Abuse Act in the Juvenile Justice Programs account.

The SPEAKER. The gentleman from West Virginia [Mr. MOLLOHAN] and the gentleman from Kentucky [Mr. ROGERS] each will control 30 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me explain this motion to instruct to my colleagues. The

House-Commerce-Justice-State appropriation bill provides $7 million for various programs authorized by the Victims of Child Abuse Act. The Senate bill provides $4.5 million for these programs, which is the budget request.

The Victims of Child Abuse Program improves the quality of local and Federal child abuse prosecution and case handling. It does this by identifying and implementing improved policies and procedures to assist State and Federal prosecutors in keeping abreast of modern practices in child abuse prosecution.

The program also funds local and regional child advocacy center programs to focus attention on the needs of child abuse victims by enhancing coordination and support among community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.

Children's advocacy centers are child-focused, facility-based programs that use multidisciplinary teams to coordinate judicial and social service systems' response to victims of child abuse, Mr. Speaker.

My motion instructs conferees to remain firm on the House position of $7 million for Victims of Child Abuse programs. These programs are working and working well and deserve this level of funding.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no objection to the motion.

Mr. MOLLOHAN. Mr. Speaker, I yield back the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. Without objection, the Chair appoints the following conferees:

Messrs. ROGERS,
KOLBE,
TAYLOR of North Carolina,
REGULA,
FORBES,
LATHAM,
LIVINGSTON,
MOLLOHAN,
SKAGGS,
DIXON, and
OBEY.

There was no objection.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2267, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. SHAW). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REAUTHORIZATION OF THE EXPORT-IMPORT BANK

The SPEAKER pro tempore. Pursuant to House Resolution 255 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for further consideration of the bill, H.R. 1370.

□ 1812

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States, with Mrs. EMERSON, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, amendment No. 7 printed in House report 105–282 offered by the gentleman from Minnesota [Mr. VENTO] had been disposed of.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 255, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 4 offered by the gentleman from California [Mr. ROHRABACHER] and amendment No. 5 offered by the gentleman from California [Mr. ROHRABACHER].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

□ 1815

AMENDMENT NO. 4 OFFERED BY MR. ROHRABACHER

The CHAIRMAN pro tempore (Mrs. EMERSON). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. ROHRABACHER] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT NO. 5 OFFERED BY MR. ROHRABACHER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 5 offered by the gentleman from California [Mr. ROHRABACHER] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN pro tempore. The question is on the Committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. PAUL. Mr. Chairman, H.R. 1370, reauthorizing the Export-Import Bank, should be rejected for several reasons. The claim to constitutionality is dubious. The Bank rewards special interest groups with political favors. Reallocating money from the job-producing, productive sectors of the economy to the less efficient sectors distorts credit allocation. Reauthorization of the Bank is both bad economics and bad politics.

Article I section 8 of the U.S. Constitution enumerates areas over which Congress has authority. The ninth and tenth amendments further reinforce that powers not vested in the U.S. Congress are reserved to the States or to the people. The fifth amendment of the Constitution forbids the taking from the people in order to subsidize the business of the politically well-connected. It is not through free trade that the Government subsidizes the politically well-connected. Rather, it is through such organizations as the Eximbank.

The justification of H.R. 1370 under the general welfare clause of the Constitution stretches the imagination of the intent of the Founding Fathers. Nowhere in the authors' dreams could the general welfare clause be used to tax all American individuals in order to give corporate welfare to a few, specific, large political donors. The supporters of the bill have not satisfactorily explained how the authorization of the Eximbank could be justified as regulating commerce. To construe Congress' power to coin money so broadly as to include the Federal regulation of the provision of credit by creating and perpetuating the Eximbank threatens the intrinsic value of American money itself. As former Federal Reserve Chairman Paul Volcker pointed out, "The truly unique power of a central bank, after all, is the power to create money, and ultimately the power to create is the power to destroy." Even if Congress has the constitutional authority to destroy money incident to its enumerated authority to coin, this is not to say it should do so through the reauthorization of the credit-misallocating Eximbank.

The U.S. Government takes money from its citizens through taxes to subsidize other nations' purchases. Very often, our Government subsidizes the purchases by foreign governments, such as the People's Republic of China or other brutal regimes, whose practices many Americans find objectionable. In fact, according to the Export-Import Bank's 1996

Annual Report, the People's Republic of China was the second largest recipient country of U.S. Eximbank loans or loan guarantees; American taxpayers subsidized $4.1 billion of mainland China's purchases. It is one thing to permit voluntary exchanges between citizens of different countries but quite another to coerce the American taxpayer to subsidize the purchases of a country whose practices offend many. Such practices can best be explained by considering the way in which the Eximbank operates.

Maria L. Haley, one of the five Bank directors, is a long-time friend of Bill from Arkansas who ran then-Gov. Clinton's program to attract foreign investment in the state. She advocated approval of loans to Pauline Kanchanalak (a Thai native living in Virginia) to set up Blockbuster video stores in Bangkok, Thailand. The Eximbank has never approved financing for franchise rights; retail stores abroad do not create U.S. jobs. Ms. Kanchanalak contributed $85,000 on June 18, 1996, the same day DNC fundraiser John Huang arranged for her to be invited to a White House coffee. Mr. Huang called her that day and twice more in August. The DNC eventually returned $250,000 of Ms. Kanchanalak's donations because of questionable foreign origin. It is clear that the Bank sometimes acts as a slush fund to repay political favors—it is, however, not their money to lend. It is the taxpayers' money.

The act of the government taking from its people to return only part of it—and that part with strings attached—is another sign of the so-called Nanny State. The strings are meant to induce the welfare or subsidy recipients to act in a manner that another group of individuals, through the coercive power of the State, subjectively consider desirable. A "Bully State" might be a better characterization of such a government. The Frank amendment rightfully acknowledges this fact and attempts to maintain some form of equality of discrimination.

The section added by Rep. Bernard Sanders makes an effort to address the charge that the Bank uses taxpayer dollars from both individuals and job-producing small businesses to fund large corporations that export American jobs or downsize their workforce here. If money is to be taken from the paychecks of our citizens, then it should at least be spent on companies showing a commitment to reinvestment and job creation in the United States.

That the Eximbank works at cross-purposes with our stated foreign policy objectives is clear. The bank supports state-owned and military-controlled companies in foreign nations at the same time that our foreign policy calls for the privatization of the same companies and limitations on the activities of many foreign military companies. Amendments correcting these problems should be favorably considered by the House.

The supporters of the Export-Import Bank will point to the few examples of claimed jobs created through subsidized exports of the beneficiaries of their programs. They will be conspicuously silent on the greater number of jobs lost or forgone, dispersed throughout the country, due to the increased tax burden levied on the productive companies to support the less efficient companies living on government subsidies. The few beneficiaries of government largesse are easier to identify than the no less real, but harder to identify, losers of the government's misguided policies.

The funding for the Export-Import Bank affords politicians the opportunity to pay back their contributors with other people's money. By voting for reauthorization of the Bank, those individual politicians that depend on the political support of the few large companies subsidized at taxpayer expense can return the favor. This Congress should put a stop to this special interest favoritism. The Congressional Research Service, in a recent report, noted that the Bank's "subsidized export financing raises financing costs for all borrowers by drawing on financial resources that otherwise would be available for other uses."

Small businesses that are the engine of export growth and job creation in this country subsidize the larger corporations that are shedding jobs in America. This misallocation of credit occurs because the larger corporations have the resources to lobby politicians in order to seek special favors that are out of reach of the smaller businesses. These lobbyists will claim that these special interest subsidies are important to the country. Yet with over $600 million funding for the Bank, only $20 billion of our total U.S. exports of $700 billion are subsidized.

Arguments that we must reauthorize the Bank because it creates jobs, generates economic growth, and counterbalances the subsidies of our major trading partners is not supported by objective economic data:

Country	Percent of country's exports subsidized [1]	Percent rate of real GDP growth [2]	Percent rate of unemployment [2]
Japan	32	0.7	3.1
France	18	2.2	11.6
Canada	7	2.2	9.5
Germany	5	2.1	9.4
Italy	4	3.0	12
U.K.	3	2.4	8.2
U.S.A.	2	2.0	5.6

[1] Export-Import Bank, 1995 figures.
[2] Bureau of Economic and Business Affairs, 1995 figures.

It would be difficult for anyone but the most committed statists to argue that the dirigiste wonders of government bureaucrats could be demonstrated by macroeconomic statistics. However, if there is a broad relationship, it is directly inverse to the relationship the central planners envision.

In 1995, according to Export-Import Bank data, Japan subsidized 32 percent of its exports and France subsidized 18 percent while the United States only aided 2 percent of total exports. However in the same year, according to figures from the Bureau of Economic and Business Affairs, Japan's real growth in Gross Domestic Product registered a paltry 0.7 percent against a solid 2.0 percentin the U.S., and France had an unemployment rate of 11.6 percent, more than double the American rate of only 5.6 percent. Perhaps, following the logic of the Bank's supporters, we should increase the portion of our subsidized exports to nine times the current level (with the accompanying tax increases) to double our unemployment rate, and, if that isn't desirable, we could double that rate of subsidy (again with the increased tax burden) to cut our economic growth rate to one-third its current level. We should not jump off the bridge of special interest corporativism just because our competitors do.

"Corporate welfare does not work anywhere in the world. It does not work because it penalizes a country's winners with excess taxes in order to fund that country's losers with inefficiently run government programs," testified Dr. T.J. Rodgers, President and C.E.O. of Cypress Semiconductor Corporation, before Congress in 1995. "'They've got subsidies; we need subsidies,' is exactly wrong. America will be much more competitive on a relative basis if we allow the nations with whom we compete to squander their taxpayer's money, while we encourage our companies to win without subsidies. It's like the Olympics: there comes the day when an athlete must walk alone into the arena of competition. The government cannot lift the weights and run the miles that are required to be a champion—only an individual can."

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. SHAW] having assumed the chair, Mrs. EMERSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States, pursuant to House Resolution 255, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SMITH of Michigan. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 38, not voting 17, as follows:

[Roll No. 492]

YEAS—378

Abercrombie	Archer	Baldacci
Ackerman	Bachus	Ballenger
Aderholt	Baesler	Barcia
Allen	Baker	Barrett (NE)

Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hefner
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Hill
Hinchey
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Holden
Hooley
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Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
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Millender-McDonald
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Moran (VA)
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Murtha
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Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Shaw
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Shimkus
Shuster
Sisisky
Skaggs
Skeen
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Slaughter
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wicker
Wise
Wolf
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Wynn
Yates
Young

NAYS—38

Andrews
Armey
Barr
Bass
Bilirakis
Bonior
Campbell
Chabot
Coble
Cox
DeFazio
Duncan
Ganske
Hayworth
Hilleary
Hoekstra
Hostettler
Johnson (WI)
Jones
Largent
McDermott
McIntosh
Miller (FL)
Paul
Petri
Radanovich
Rogan
Rohrabacher
Royce
Sanford
Scarborough
Sensenbrenner
Shadegg
Smith (MI)
Solomon
Stearns
Wamp
Watts (OK)

NOT VOTING—17

Brown (FL)
Coburn
Foglietta
Gephardt
Gilman
Gonzalez
Greenwood
Hilliard
Maloney (NY)
Owens
Pombo
Rangel
Schiff
Schumer
Smith (OR)
Weygand
Whitfield

□ 1836

Mr. WAMP changed his vote from "yea" to "nay."

Mr. GILLMOR, Mrs. CHENOWETH, and Mr. EVERETT changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, I regret that I was delayed on my arrival to Washington from New York, which prevented me from voting on rollcall No. 490. Had I been able to vote I would have voted "aye."

I was also inadvertently detained in voting on rollcall No. 492. Had I been Present, I would have voted "aye."

Mr. CASTLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1026) to reauthorize the Export-Import Bank of the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objecton.

The Clerk read the Senate bill, as follows:

S. 1026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Export-Import Bank Reauthorization Act of 1997".

SEC. 2. EXTENSIONS OF AUTHORITY.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "1997" and inserting "2001".

SEC. 3. TIED AID CREDIT FUND AUTHORITY.

(a) Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3(c)(2)) is amended by striking "through" and all that follows through "1997".

(b) Section 10(e) of such Act (12 U.S.C. 635i-3(3)) is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of this section.".

SEC. 4. EXTENSION OF AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.

Section 1(c) of Public Law 103-428 (12 U.S.C. 635 note; 108 Stat. 4376) is amended by striking "1997" and inserting "2001".

SEC. 5. OUTREACH TO COMPANIES.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

"(I) The Chairman of the Bank shall undertake efforts to enhance the Bank's capacity to provide information about the Bank's programs to small and rural companies which have not previously participated in the Bank's programs. Not later than 1 year after the date of the enactment of this subparagraph, the Chairman of the Bank shall submit to Congress a report on the activities undertaken pursuant to this subparagraph.".

MOTION OFFERED BY MR. CASTLE

Mr. CASTLE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CASTLE moves to strike all after the enacting clause of S. 1026 and insert in lieu thereof the provisions of H.R. 1370, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 1370) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to S. 1026 and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware? The Chair hears none and, without objection, appoints the following conferees:

Messrs. LEACH, CASTLE, BEREUTER, LAFALCE and FLAKE.

There was no objection.

VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 1997

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2206, as amended.

The Clerk read the title of the bill

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 2206, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

POSTPONING FURTHER CONSIDERATION OF MOTIONS TO SUSPEND RULES CONSIDERED ON MONDAY, SEPTEMBER 29, 1997, UNTIL TUESDAY, OCTOBER 7, 1997

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that further consideration of the remaining motions to suspend the rules originally considered on Monday, September 29, 1997 be postponed until Tuesday, October 7.

This has been cleared.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–147)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Budget and the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the "Military Construction Appropriations Act, 1998" (Public Law 105–45; H.R. 2016). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 6, 1997.*

NATIONAL MONUMENT FAIRNESS ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 256 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1127.

□ 1842

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1127) to amend the Antiquities Act to require an act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres, with Mr. SNOWBARGER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from California [Mr. MILLER], each will control 30 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I yield myself 6½ minutes.

Mr. Chairman, this is a very interesting bill that we have in front of us at this time. It is a fairness act, is what it is.

On September 18, 1996, the President of the United States, William Jefferson Clinton, stood on the south rim of the Grand Canyon and declared 1.7 million acres of land as a national monument in the State of Utah. What did he do this under? He did this under the 1906 antiquities law.

Does he have the right to do it? You bet he does. He has the right to do that. President Carter earlier had done a similar piece of legislation in Alaska of around 53 million acres.

□ 1845

Why is this bill around? Because in 1906 the President of the United States had no way to protect the gorgeous parts of America that should be protected. Wisely, Teddy Roosevelt could see a reason to do it, and out of that we got the Grand Canyon, we got Zion, we got some beautiful areas. All of those should be protected.

Later on, in 1915, we got a park bill. That park bill is what President Roosevelt probably would have used, but he did not have anything. There was nothing to protect it. Later on, Congress passed the 1964 Wilderness Act. Later on, in 1969, they passed the NEPA Act. In 1976, they passed the bill called FLPMA, or Federal Land Policy Management Act. And besides that there was the Wild Washington Trail Act, there is the Scenic Rivers Act, and the list goes on and on.

So Teddy Roosevelt did not have a tool to use. He did not have a way to do it so he used this. Since that time, other Presidents have used it and we now have 73 national monuments.

Mr. Chairman, I would be willing to say that the majority of people in here could tell me what was a distinguishing feature of the Golden Spike National Monument. They would say, of course, what it is is where the two trains came together. How about the Rainbow Bridge National Monument, where we see that beautiful red arch? Everyone could distinguish that one. So we say, well, what did we do on this one; what is the distinguishing feature? He talked about archeology, but he did not distinguish it. He talked about geology, but he did not tell us what it was. But we have 1.7 million acres.

Now let us go back to the law, where we put our hands in the air and took an oath that we would obey the law. That is the next thing; is that he would use the smallest acreage possible to do it. Smallest acreage to preserve what? What did we come up with to preserve 1.7 million acres?

To give my colleagues an idea of 1.7 million acres, that is pretty big. We could take Delaware and two other States and put it in that and they would become a national monument.

The bill we have in front of us says, well, if we are really mad at the President, as some of our colleagues say, if we are vindictive, if we want revenge, if we want to get even, let us repeal the law. I hope we rise above that. I hope we are bigger than that. I hope we should say this should still be on the books.

So we said what would be a reasonable amount of acreage for the President, and we came up with the figure 50,000 acres. Can people in this room equate with 50,000 acres? I will give them a hint. How big is Washington, DC? Anybody in here know? How about 39,000 acres. So all of Washington, DC is only 39,000 acres.

So we are saying we are going to give the President 50,000 acres; he can do it wherever, whenever he wants. He can put it in San Francisco, he can put it in New York, he can put it in Minnesota, which I would suggest three great places there. Anyway, carrying that on, we are giving him 50,000 acres.

Let us say the President says he wants more than that; he wants a bigger piece. This bill says the President now has to talk for 30 days with the Governor of the State and confer with him. But if he wants more than that, all he has to do is come to Congress. So this bill takes care of it.

We are not hurting any environment. In fact, it would be a very interesting debate that I would look forward to entering into, saying what does the antiquities bill protect. I have the bill in my hands here. It protects nothing.

In fact, if my colleagues do not believe that, go down to southern Utah and look at the people going there in hordes looking for something to see. When I stand out there as a Federal official and they say, where is the monument? I say, "Friend, you are standing

in it." They say, "Well, what am I supposed to see?" I say, "I don't know, look around and enjoy it."

People say, well, we got rid of that coal mine before it protected anything. I would be willing to ask anybody in the 435, who has been to that coal mine other than me? I have been there a number of times. If my colleagues have not been there, if they want to see one of the ugliest places in the State of Utah, they should go stand at Smokey Hollow. Rolling hills of sagebrush and bugs and nothing else. And if anybody wants to stand up and say that is beautiful, I would certainly question it.

Well, Mr. Chairman, what are we trying to do? This has nothing to do with the environment because it protects nothing. It has nothing to do with wilderness. Some of my colleagues have said, oh, the President did this because we did not pass the wilderness bill. Come on, get real.

Let us go back to the things we took from the President and the Department of Interior. All of the correspondence, not one shred of it, not one scintilla, says anything about protecting, except Mrs. Katy McGinty, who says one other thing, she says, "There is nothing here worth preserving." Right in her own words. So protection is not an issue, wilderness is not an issue, parks are not an issue.

In fact, if wilderness was the issue, I sometimes wonder, when my friends on the other side of the aisle were in control, why they did not allow the Wayne Owens bill of 5.4 million acres. Did not even allow a hearing on it, as I recall, and when I put in the bill every year, never even looked at it. So do not give us that stuff regarding wilderness.

This, my colleagues, is something that when it was brought up the Governor of the State was not made aware of it. And the gentleman from New York, I read his statement in the CONGRESSIONAL RECORD saying the Governor of New York knew about it. I talked to the Governor today and he adamantly refuses that. He says that did not happen. I was not made aware of this.

But to equivocate, my friend from New York, at 2 in the morning he got a call from the President of the United States and then it happened at 10. So if he wants to use that stretch, I have to agree with him.

The Governor was not made aware of it, I was not made aware of it, the two Senators were not made aware of it, but in this they say we want the enviro crowd there, we do not want the Utah people.

I urge my colleagues to realize this is a good piece of legislation and we should move ahead on it.

Mr. Chairman, I appreciate the opportunity to bring this important bill to the floor. H.R. 1127, the National Monument Fairness Act, is designed to limit the President's authority to create national monuments under the Antiquities Act of 1906. The bill as reported from the Resources Committee would limit unilateral monument withdrawals to 50,000 acres or the size of the District of Columbia. Anything larger would require consultation with the Governor and congressional consent. However, at the appropriate time, I will be offering a compromise amendment that addresses the concerns of most Members.

This action was provoked when President Clinton, on September 18, 1996, claiming authority under the Antiquities Act, stood on the south side of the Grand Canyon in Arizona and designated 1.7 million acres of southern Utah as a national monument.

Over at the Resources Committee, we have met with administration officials, held hearings, and subpoenaed documents in an effort to sort this thing out. Thus far, this is pretty much what we've been able to come up with:

The first time I or any other Utah official heard about the new national monument was on September 7, 1996, when the Washington Post published an article announcing that President Clinton was about to use the Antiquities Act of 1906 to create a 2 million acre national monument in southern Utah. Naturally, we were all somewhat concerned. In fact, I think most of us found it a little hard to believe. Surely the President would have had the decency to at least let the citizens of Utah know if he were considering a move that would affect them so greatly.

When we expressed our concerns to the Clinton administration, they denied that they had made any decisions. They tried to make it look like the monument was an idea that was being kicked around, but that we shouldn't really take it too seriously or worry about it. As late as September 11th, Secretary of Interior Bruce Babbitt wrote to Utah Senator BENNETT and pretty much told him that.

Within the confines of the administration, however, it was clear that the monument was a go. The real issue was keeping it a secret from the rest of the world. By July of 1996, the Department of Interior had already hired law professor Charles Wilkinson to draw up the President's National Monument proclamation. In a letter written to Professor Wilkinson asking him to draw up the proclamation, DOI solicitor John Leshy wrote: "I can't emphasize confidentiality too much—if word leaks out, it probably won't happen, so take care."

When I say that the Clinton administration went to great lengths to keep everyone in the dark, I should qualify that a little. On August 5, 1996, CEQ chair Katy McGinty wrote a memo to Marcia Hale telling her to call some key western Democrats to get their reactions to the monument idea. There was a conspicuous absence on her list, however, of anyone from the state of Utah. Even former Utah Democrat Congressman Bill Orton was kept in the dark. Clinton didn't want to take any chances. In the memo, Ms. McGinty emphasized that it should be kept secret, saying that "Any public release of the information would probably foreclose the President's option to proceed."

Why, you ask, did President Clinton want to keep this secret from the rest of the world until the day it happened? Because it would ruin their timing. This thing was a political election year stunt and those type of things have to be planned and timed perfectly. If news of the monument were to break too early it would be old news by the time Bill Clinton got his photo-op at the Grand Canyon.

Let's back up a little and ask ourselves why President Clinton wanted to create this new 1.7 million acre national monument. The administration claimed that the move was taken to protect the land. At our hearing on this issue back in April, Katy McGinty told us that "by last year the lands were in real jeopardy".

That sounds real nice, but the truth is the land wasn't in any danger, and even if it were, national monument status wouldn't do much to protect it. We have subpoenaed documents from the administration where they admit to both of these points. Take for example a March 25, 1996 E-Mail message about the proposed Utah national monument from Katy McGinty to T.J. Glauthier at OMB: "I do think there is a danger of abuse of the withdrawal/antiquities authorities, especially because these lands are not really endangered." There you have it—in Katy McGinty's own words. The administration didn't think that the land was in any real danger. The "lands in Jeopardy" excuse is nothing but that . . . An excuse.

So the administration didn't really think the lands involved were in any real danger. Lets just ignore that for a minute and ask ourselves if creating a national monument out of those lands was a good idea from a protection standpoint;

Does it stop coal mining in the area? No. You can still mine coal in a national monument and Andalex still has their coal leases. Does it stop mineral development? No. CONOCO is drilling exploratory oil wells on the Grand Staircase-Escalante National Monument as we speak. Does it stop grazing on the land? No. Grazing will continue. Does it stop people from visiting the land? No. On the contrary, national monuments are like national parks, they are meant for people to come see. The number of people coming to see the area has increased exponentially since President Clinton created his new monument. Does it stop new roads from being built? No. In fact even more new roads will probably have to be built to accommodate the increased traffic. The land wasn't in any kind of danger, and even if it were, a national monument was probably the least effective method at the administration's disposal to protect it.

Why did President Clinton pick the national monument idea when it actually protected the land less than the other options available to him? It was pure presidential politics. Utah was an expendable State and this dramatic action would assure some environmental votes in 49 other States. The Clinton administration needed to do something dramatic to get their votes. Bill Clinton needed to stand there overlooking the Grant Canyon, with the wind blowing through his hair, telling everyone how he was following in Teddy Roosevelt's footsteps and saving the land by creating a new national monument. How profound. How courageous. It kind of brings a tear to the eye, doesn't it. Never mind the fact that creating this monument didn't really achieve any of the administration's stated objectives. Chances were that no one would figure that out until after the election anyway.

Well, people are starting to figure it out now. For instance, a couple of weeks ago I read an article in the Salt Lake Tribune where a spokesman for the Southern Utah Wilderness Alliance called President Clinton and Vice President GORE "election-year environmentalists" because CONOCO is being allowed to drill for oil in the monument. Remember, these are the same people that were cheering and crying and hugging each other at the Grand Canyon a year ago. Today they are beginning to realize that they were all duped—that this was nothing but an election year stunt and that national monument status doesn't do anything for their cause.

I doubt that the election year politics reason comes as much of a surprise to anyone. And I think we have all grown to expect that sort of thing from the Clinton administration. The second reason they created the monument, however, is a lot worse, and something we should all be a little concerned about. The Clinton administration created this national monument to circumvent the powers of Congress. Essentially to circumvent the democratic process itself. All of the documents produced by the White House make it clear that the extreme environmentalists were frustrated by their failures in Congress and put immense pressure on the President to circumvent Congress by abusing the Antiquities Act.

Well, the rest is history. The rest of the world heard about the whole thing 11 days before it happened. By this time, none of us could stop it. Bill Clinton had his photo-op at the Grand Canyon, bypassed congressional power over the public lands, gave Congress the slap in the face that he had been wanting to give it for a long time, got the few extra votes he needed, and won the election. Meanwhile, the land isn't protected, hundreds of thousands of acres of private and state school trust land are hanging in limbo, and we are all wondering how we can stop this from happening again.

Since September of last year, I have had several Congressmen and Senators call me to express their concern that the same thing could happen to their state. They are outraged. Many have proposed that we completely repeal the 1906 Antiquities Act. Others have offered bills that would exempt their own states from the provisions of the act.

Before we embark on a discussion on how we should change the act, I think it would be helpful to talk a little bit about the history of the Antiquities Act of 1906. Why did we need it? What did Congress intend for the legislation to do? And how have Presidents used the act in the past?

The roots of the Antiquities Act go back into the 1800's. The 1890's saw a dramatic rise in interest in archaeological objects from the American Southwest. Pottery, ancient tools, and even human skulls obtained from prehistoric ruins brought a handsome price on the market.

As horror stories of looting and destruction of these sites reached Congress, they began to realize that something needed to be done before our archaeological sites were all destroyed. The problem, however, was that getting individual protection bills through Congress took a lot of time—too much time. These sites were being destroyed too fast. To solve this problem someone proposed that we give the President the authority to protect archaeological sites through executive withdrawal. This would provide a method to protect a large number of archaeological sites quickly.

The debate over the legislation continued for about 6 years. By 1905, the proposed Antiquities Law raised the withdrawal limit from 320 to 640 acres. In 1906, a prominent archaeologist by the name of Edgar Lee Hewett drew up a new antiquities bill that would allow the President to "declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are owned or controlled by the Government of the United States to be national monuments". The size of such withdrawals would be in all cases "confined to the smallest area compatible with the proper care and management of the objects to be protected." This compromise bill quickly passed the House and Senate, and The Antiquities Act was signed into law by President Theodore Roosevelt on June 8, 1906.

As we can see from the legislative history, Congress intended that national monuments be small in size and that they were for the purpose of preserving specific "objects". Congress specifically rejected the proposal that national monument withdrawals extend to national park type preservation of land.

Mr. Chairman, some of our Nation's greatest treasures were protected in the early years following passage of the Antiquities Act. During the next several decades, public concern for conservation increased and Congress responded by passing powerful laws to serve the cause of conservation. In 1916 the Organic Act was passed, creating the National Park Service. In 1964 the Wilderness Act created the National Wilderness Preservation System. In 1968 the Wild and Scenic Rivers Act was passed. This was followed by the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976. These laws made it easy to preserve large portions of land without forcing the President to abuse the Antiquities Act.

The era of large national park type monument withdrawals came to an abrupt close in 1943 when Franklin Roosevelt created the Jackson Hole National Monument, covering 221,610 acres. After that day, the creation of large national monuments virtually ceased. In the last 50 years there have only been four occasions when new national monuments were designated by Presidential proclamation that exceeded 1,500 acres in size. Only 2 of those have exceeded 50,000 acres: President Carter's 56 million acre withdrawal in Alaska in 1978 and President Clinton's 1.7 million acre withdrawal in Utah in 1996.

All of the other monuments created through Presidential proclamation during the last 50 years have been small and have fit the criteria of the 1906 Act relatively well.

Mr. Chairman, one might ask, why have most of the Presidents during the past 50 years declined to use the Antiquities Act to create large monuments? Is it because none of them have cared about the environment? Of course not. The answer is that they have been busy preserving our lands within the new systems and frameworks that have been set up since 1906. We have been creating wilderness areas, national parks, historical parks, recreation areas, wildlife refuges, etc. We have been following the systematic and democratic processes set forth in FLPMA, NEPA, NFMA, and other planning statutes. These new laws and systems preserve our lands more fully, and encourage public participation in planning for our public lands.

By allowing Presidents like Bill Clinton to abuse the 1906 Antiquities Act by creating multimillion acre monuments we are defeating the whole purpose of these conservation laws. Both President Carter and President Clinton used the 1906 Antiquities Act to circumvent the public land use planning procedures that Congress has created.

That's not what democracy is all about. These are issues that should be debated, issues that need to be discussed and subjected to the democratic process. These are issues where people on all sides of the debate have legitimate concerns, and they need to be heard.

Mr. Chairman, so what's the solution? How do we keep this sort of thing from happening again? The most obvious solution, and one that has been suggested to me by several Congressmen, is to just repeal the Antiquities Act. If the Antiquities Act were completely repealed, the President wouldn't be able to create any national monuments through presidential proclamation. This would eliminate Presidential abuse of the Antiquities Act, but would also eliminate the small, beneficial, archeological withdrawals originally envisioned by the act.

There may be areas out there on the public domain that still qualify for national monument status under the criteria originally envisioned by the act. It is not at all unlikely that we could uncover new and important archeological sites. These areas will need the same type of prompt executive national monument protection that other archeological sites have received under the Antiquities Act. For this reason, I think it may be unwise to completely repeal the act.

Instead, H.R. 1127 would limit the President's withdrawal authorities under the Antiquities Act.

Mr. Chairman, I will offer an amendment at the appropriate time that would not affect the authority of the President under the antiquities Act of 1906 for proclamations under 50,000 acres or an area the size of the District of Columbia. The President will have the authority to protect historic and prehistoric resources, and other objects of scientific interest on Federal lands, as currently provided in section 2 of the Antiquities Act of 1906 (16 U.S.C. 431). However, my amendment would provide for any national monument in excess of 50,000 acres to sunset after 2 years unless Congress approves of the action by way of a joint resolution. Moreover, my amendment would amend section 2 of the 1906 Act by mandating that the President transmit such a proclamation to the Governor of the affected State for comment 30 days prior to the monument proclamation taking effect.

Mr. Chairman, this compromise amendment has been worked out among many Members of this House and I must admit with much compromise on my part. However, I believe

that the result of this amendment is that the authority of the President is assured for protecting resources as intended by the Antiquities Act of 1906, but has placed Congress in the appropriate constitutional role of determining designation of Federal lands on behalf of the people of the United States.

Mr. Chairman, I urge all Members to support the Hansen substitute, defeat all other amendments and give back to Congress the balance of power this democracy demands.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield 6 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to this measure, H.R. 1127. It is a measure which, in effect, would remove an important tool from this and future Presidents in the management of hundreds of millions of acres of the public's land.

This bill upsets the balance between the executive and the Congress, blocking the President from declarations of key lands and resources when a crisis arises, often because Congress cannot or, more often, will not act.

I think it is instructive in this case to examine why the House is considering this legislation today. We in Congress have for at least the last 10 or 15 years been debating the status we would give the incredible wildlands of Utah, the red rock country.

I have seen those lands, Mr. Chairman, and I have made no secret of the fact that I am an advocate of creating federally designated wilderness areas in Utah, but of course there is great disagreement at all levels on this issue from here on the Capitol Hill all the way to the affected communities in Utah. Unfortunately, while Congress has been considering this issue, industrial and other exploitative interests have had their eyes and are attempting to get their hands on many of these Utah lands. The Kaiparowits Plateau in southern central Utah is an example.

In the face of congressional disagreements, and in an effort to protect these lands from further leasing and development, the President, last year, utilized the nearly 100-year authority granted our chief executives and designated the Grand Staircase-Escalante National Monument in south-central Utah because of its superior natural, historic, scientific and ecological values.

Now, I have heard the gentleman from Utah comment on the fact the President did not state the reasons for it, but there are four pages laid out of various types of geologic and scientific and interesting type and important type of plant life, historic materials dating from the various Native American groups all the way through pre-Colombian history, such as the arrival of the Mormons that have occurred in the artifacts and the products that are present from this culture.

So the President did, against the backdrop of years of congressional debate, years of hearings involving members of the affected communities, use the powers embodied within the purpose of this act, the Antiquities Act of 1906.

It is clear, in times when Congress is embroiled in controversy, when Federal natural, scientific, and cultural resources are at risk, the President needs tools to act to specifically designate Federal lands. Teddy Roosevelt, the first great conservationist President of this century, passed and signed the Antiquities Act in 1906. T.R. used that power in this act 18 times. Perhaps most notably was President Roosevelt's action to establish the Grand Canyon as a national monument in 1908. Presidents in general have designated 105 monuments using the Antiquities Act, including astounding areas that define our preservation and conservation achievements: as I said, Grand Canyon, Bryce Canyon, Death Valley, the Alaska's Glacier Bay, the Statute of Liberty and many, many others.

That, my colleagues, is an effective law. It worked throughout the past nine decades and it should be used the next nine decades, but today it is under attack. While supporters of this bill say they are seeking fairness and seeking to improve the Antiquities Act, I think the facts show that the effect of their action would render this law ineffective and unworkable and our special Federal lands for tomorrow would be without the protection and safeguards inherent in this important law.

This fairness act requires congressional authorization for all newly designated national monuments over a certain size. Supporters of this legislation claim the President abused his power under the act and that intensive new congressional oversight powers are needed to check executive authority. I disagree with the allegations. President Clinton acted following years of debate on the issue. This act has been used rarely since 1950, and only in situations where cherished natural resources were in immediate danger of degradation.

To require cumbersome congressional oversight procedures would greatly weaken this law in a manner that contradicts the intended purpose and the need. In fact, the 1906 act, as a law, preserves the authority of Congress to overturn or to alter monument designations made by the President. And Congress has often done so, not to diminish them, in fact, but to enlarge them.

I think it is instructive, Mr. Chairman, that none of my colleagues are attempting to rescind the President's designation of the Grand Staircase-Escalante National Monument today. They know that the American people would never support such a move. Instead, the advocates of this measure are attempting to accomplish their goals in a backhanded manner. This action has far more impact.

The new monument in Utah will not be affected, but they would hobble forever the ability of future Presidents to act as they have done for the last 91 years in 100-some actions taken to preserve our special legacies. The measure places a 50,000-acre limit on the President's designation of powers under this Antiquities Act.

I suppose if I were in the District of Columbia and all I could see was out to the beltway, I might think that is what comprises this great country. But the fact is that we have one of the greatest stewardship responsibilities in terms of managing hundreds of millions of acres of land, and it is public land. That is what we are designating in this area. This is land owned by the American people and managed for the benefit of the American people. That is the purpose.

So if we have an inside the beltway view, maybe 50,000 acres sounds like a lot, but if any of my colleagues have had the opportunity to work, and I know many of my colleagues have, to see the depth and breadth of this great country and the areas that have been left as they were touched by the creator of this land, we have a responsibility in terms of stewardship.

We needed this to stop the robber barons in the 1900's, and Teddy Roosevelt stopped them. And I think our Presidents in the future need that same power. Let us not go back to those thrilling days of yesterday when conservation took a second seat to the special interests.

I know my colleagues do not want to do that, but that is the effect of removing this power. We need this because we need balance in this so we can act and move to establish wilderness and to establish parks and to establish these other resources in this country. I ask my colleagues to vote against this measure.

This measure, H.R. 1127 places a 50,000-acre limit on the President's designation powers under the Antiquities Act. Supporters of the bill claim that most designations in the history of the act have broken this threshold. But look, Mr. Chairman, at the national monuments that have been more than 50,000 acres: the Grand Canyon, Olympic National Park, Glacier Bay, Grand Teton, Joshua Tree, Arches, and many others. They are today the grown jewels of our park system. I would hope that this Congress will be willing to prevent future Presidential declarations and designations of such natural treasures.

I urge my colleagues to oppose this bill in its current form. This Congress should not gut the law that is the foundation for all the great landscape conservation acts have been built upon. The intense passion and reaction to Presidential monument declaration isn't new. Such opposition had plagued the Presidents

from Teddy Roosevelt to Bill Clinton. The Antiquities Act is the bed rock that our conservation laws are built upon it is as relevant today as it was in 1906. It has not been eclipsed but reinforced by law to designate parks, wilderness, wild and scenic rivers, and a host of other actions almost all at the sole disposal of Congress.

I will, in recognition of the House agenda, offer an amendment that greatly improves H.R. 1127. First, it will allow—not require—a year of congressional review following Presidential declarations of national monuments before the designation becomes final. This time period will give Congress a chance to review, study, and even alter new designations. My amendment also, importantly, will protect proclaimed areas from development during this review period. No final action would be taken nor would the administration of the lands change save to maintain the status quo.

I hope the House adopts my amendment. This is a major change to the existing law and circumstance but retains the essence of this 1906 Antiquities Act.

It is ironic Mr. Chairman that this Congress and majority members that lead the Resources Committee boast of a willingness to take on more work, more responsibility to designate and manage more land use and the decisions related to it. Frankly, this committee has more to do than there is time on the clock. This measure is not an action to restore a congressional role regarding monuments, rather the result would be to submarine the 1906 act and the limited role that Presidents have had since 1906. This measure deserved and demands the strong opposition and rejection by this House as the transparent effort to move us many steps back to the days of the 19th century robber barons—say no to this bill and this policy. Say yes to our children and let's leave them a legacy for the 21st century.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG], chairman of the Committee on Resources.

Mr. YOUNG of Alaska. Mr. Chairman, I just listened to the previous speaker speak, and since 1943, there was an Effigy Mounds National Monument by Mr. Truman of 1,481 acres; Russell Cave National Monument, 310 acres by President Kennedy; Buck Island Reef National Monument, 850 acres by Mr. Kennedy; Chesapeake & Ohio Canal National Monument, 19,236 acres historical; Marble Canyon National Monument, 26,000 scientific, by Mr. Johnson; 1978, and the reason I am speaking, the Alaska Monuments, 56 million acres; and then, of course, the Grand Staircase-Escalante National Monument, 1,700,000 acres.

□ 1900

Both of those, the Alaska one and the Escalante, were for political purposes only and that is all.

We talk about robber barons. What about the coal deposits in that area that are now set aside so that people of every day can benefit from them? It is ironic that there are some other people at that time also interested in coal in foreign countries.

This was used for political purposes only. There was no consultation, even with Mr. Orton, who was one of their colleagues. He got shot in the foot, in the head, and the back by his President for the environmental community.

The bill we have before us today is a bill that will work. Fifty thousand acres is bigger than any other ones, than the political ones in Utah and Alaska. The true monuments, the true antiquities acts, have been applied with less acreage than is in this bill. This is a fairness bill. This is about if there is that much threat to an area, it can be saved by the President. If it is larger than that, and God help us, it never will be larger than that, they can come to the Congress.

I am surprised the gentleman from Minnesota [Mr. VENTO] wants to give away the authority of this Congress, because under this Constitution, only this Congress can designate and classify lands. The gentleman also said, we can come back and undo what they did in Escalante. With this President, who are they kidding? It will never get signed into law.

Do my colleagues know what they did to me in Alaska? After 56 million acres, they came back with Mo Udall, bless his heart, John Seiberling, a few others I can mention, and they set aside 147 million acres of land, took it away from the people of Alaska, took it away from the people of America, and put it in little classified areas so that only a few and the elite can get to see. This is not what the Antiquities Act is all about.

I am suggesting, respectfully, if we really want to save the Antiquities Act, if we really want to make it work, then we ought to take and adopt this bill. It is a fairness bill. It is a bill that does allow the President, by the stroke of a pen, to set aside 50,000 acres. If he wants more, he has to come back to us. And that is our role, and that is what we should be doing. This is a good bill, and I urge a "yes" on this legislation.

Mr. MILLER of California. Mr. Chairman, I yield 5 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA], the ranking Democratic member of the subcommittee.

Mr. FALEOMAVAEGA. Mr. Chairman, with due respect to the distinguished gentleman from Alaska [Mr. YOUNG], as the chairman of the Committee on Resources, and also to the gentleman from Utah [Mr. HANSEN], for whom I have the highest respect not only in his capacity as chairman of the Subcommittee on National Parks and Public Lands, but the privilege I have serving as ranking member of that subcommittee, I thank the gentleman from California [Mr. MILLER], the ranking member, for allowing me this opportunity to share my thoughts with our colleagues here in the Chamber.

Mr. Chairman, I rise in opposition to this bill in its current form. H.R. 1127 amends the Antiquities Act, a law that has been in effect for 91 years. Pursuant to this act, 105 national monuments have been designated, and 29 of these national monuments were later designated as national parks. Among the national monuments that have been later designated national parks are Grand Canyon National Park, Olympic National Park, Glacier Bay National Park, and Bryce and Zion National Parks.

The Antiquities Act has been used by all but three Presidents in the past 90 years and has been the vehicle to protect some of our most cherished public areas. Given this successful history, I do believe the executive should, with modification, retain its current authority to proclaim national monuments.

Not all of the Presidential proclamations have been received favorably by the officials from the States in which the national monuments were made. As a result of this dissatisfaction, the States of Alaska and Wyoming are now treated differently than the other States under the Antiquities Act.

Some would say that these two States are now protected from having further monuments proclaimed within their boundaries. I want to bring this point to my colleagues' attention. This concept of inconsistent treatment among the 50 States should be addressed so that we are all returned to an equal footing.

Mr. Chairman, I believe the driving force behind this legislation is the President's designation of the Grand Staircase-Escalante National Monument in 1996, shortly before the 1996 elections. It is my understanding that the President declared this area in southern Utah as a national monument without proper consultation with the elected leaders of the State of Utah.

To make matters look even worse, the President issued this proclamation while he was physically, physically, Mr. Chairman, in the State of Arizona, as though he was afraid to set foot into Utah to issue the proclamation.

Mr. Chairman, I sympathize with the Utah congressional delegation on this point and feel it was improper for the President to act in this manner. I think any of us would have been offended if such an action were taken in our State or territory, and I do not believe the Antiquities Act should give the President license to proclaim monuments without consulting with the Governor and congressional delegation from that State.

Nevertheless, the State of Utah provides a perfect example of congressional inability to reach final agreement on issues affecting the use of public land and the need for action from the executive branch of the Government.

I believe there is general agreement that it would be beneficial to the Nation if parts of the public lands in

southern Utah were preserved for future generations. And, in fact, there has been legislation introduced in each of the past five Congresses to preserve the scenic, environmentally-sensitive lands.

The problem has been in getting the two sides to agree on a compromise. In fact, even the Utah congressional delegation has not been able to agree. The two competing bills have proposed designating 1.8 million acres and 5.7 million acres of land as wilderness.

Because of differences of how much land to designate and how this land might be used, and despite the efforts of legislators on both sides, Congress has not passed a bill. Furthermore, as best I can tell, Mr. Chairman, there is little prospect of legislation on this issue being enacted into law in the foreseeable future.

Mr. Chairman, as other speakers have noted, Congress retains the power to negate Presidential proclamations. In the case of the Grand Staircase-Escalante National Monument, I am not aware of any effort to prohibit funding for the national monument or to terminate the designation as a national monument.

In fact, contrary to many arguments I have heard that designations of this nature hurt the economic development of the region, I believe the designation of this most recent national monument will provide an economic stimulus to the region. The future designation of part or all of this area as a national park could be even a greater economic stimulus.

Mr. Chairman, at the Committee on Resources markup of H.R. 1127, I offered an amendment to require that at least 60 days before the issuance of a proclamation establishing a national monument, the President must consult with the Governor of that State in which the monument would be located. The rule for this bill provides the gentleman from California [Mr. MILLER] the opportunity to offer this amendment later on today, and I hope to address the amendment in more detail at that time. I believe this change will address the real problem while still giving the President the authority to take definitive, unilateral action.

Mr. HANSEN. The gentleman from Utah [Mr. CANNON] has the whole 1.7 million acres in his district; and, all of a sudden, six little communities are now a national monument.

Mr. Chairman, I yield 6 minutes to the distinguished gentleman from the Third Congressional District in Utah [Mr. Cannon].

Mr. CANNON. Mr. Chairman, I thank the gentleman from Utah [Mr. HANSEN] for yielding me the time and for his comments.

Mr. Chairman, I rise today to explain exactly why we need to rein in the power of the President to create national monuments. I represent Utah's Third Congressional District. Within its borders is the year-old Grand Staircase-Escalante National Monument.

Last fall, President Clinton stood across the State line in Arizona, as so graciously pointed out by the ranking member, on the other side of the Grand Canyon, and, with a few quick words and the stroke of a pen, created this 1.7-million-acre monument. It is massive, larger in scope than Rhode Island and Delaware combined.

To create the monument, President Clinton used the 1906 Antiquities Act. This designation was not about the environment. This was not about doing the right thing. It was about power, politics, and the deliberate abuse of Presidential power. Those are bold statements, but the events of last September justify them.

September 7, 1996, 11 days before the designation, was a Saturday. Utahns, including the Utah congressional delegation, were startled to read in the Washington Post that President Clinton was planning to designate a massive national monument in southern Utah.

The next Monday, Utah's two Senators and three U.S. Representatives placed calls to the White House and to the Interior Department to see if there was any truth to the Washington Post story.

During a series of meetings that week, both Secretary Babbitt and Katy McGinty, the President's Chair of the Council on Environmental Quality, assured the Utah delegation that nothing was imminent. They explained that the administration had done some internal discussions but nothing was about to occur, and if it became more likely, the administration would closely consult with the Utah delegation.

That was clearly untrue. Towards the weekend, word leaked that the President and Vice President were going to do an environmental event at the Grand Canyon the following Wednesday. The rumored topic was the announcement of a new monument in southern Utah.

Alarmed and angry, the Utah delegation met with Secretary Babbitt and Ms. McGinty. This time they were asked to detail any general concerns about the concept of a monument in southern Utah. The Utah officials asked to see maps. They were told there were none. They asked for details. They received none.

The day before the expected announcement, Utah Governor Mike Leavitt flew to Washington to meet with the President. President Clinton left the Governor cooling his heels while he boarded a plane to Chicago bound for Arizona.

White House Chief of Staff Leon Panetta met with Governor Leavitt. The Governor outlined a long list of concerns and proposed a Utah-developed plan to protect the area without harming the local economy. Mr. Panetta promised the Governor that he would let him speak to the President that night. The Governor asked for a map of the proposal but again was told one was not available.

Governor Leavitt spent the evening before the announcement waiting at the hotel for a call from the President. At 2 a.m., actually 2 minutes to 2 a.m., he had a conversation with the President where he outlined his concerns. The President did agree to consider a few of the Governor's points. But the President refused to allow logic, details, or local concerns to get in the way of his photo opportunity.

Utahns, except for a few friendly Clinton supporters, were excluded from the announcement. To add insult to injury, Governor Leavitt, still in Washington, DC, picked up the New York Times to find a map of the monument, a map that had been denied to every Utah official but which apparently had been turned over to the press.

On that day, I went down to the southern Utah town of Kanab where the residents released dozens of black balloons. The people of Kanab then suspected what we now know. At a time when the Green Party in California was holding roughly 10 percent of the vote in public opinion polls, President Clinton saw southern Utah merely as an item to sacrifice on the altar of Presidential ambitions.

Mr. Chairman, I sit on the House Resources Committee. Thanks to the leadership of the gentleman from Alaska [Mr. YOUNG] and the gentleman from Utah [Mr. HANSEN], chairman of the Subcommittee on National Parks and Public Land, we have been able to extract a slew of documents concerning the creation of the Utah monument. Though much remains hidden, we have learned much.

First, this decision was not driven by a desire to protect our environment. On the contrary, documents indicate that the administration knew that the monument designation would not improve protection of these lands. The most fragile areas were already in wilderness study areas. In fact, the designation and attendant publicity has probably attracted more visitors than would otherwise come to this delicate area.

Second, law and courtesy dictate that local officials and local residents have a chance to give input on decisions that directly affect them. In this instance, 6 weeks before the designation, the administration contacted the Democratic Governor of Colorado, the two Democratic Senators from Nevada, the former Democratic Governor from Wyoming, the former Governor of Montana, and even a Democratic House Member from New Mexico to discuss the Utah monument plan. They did not bother to contact any Utahns, not even Utah Democrats. I might point out

that these people had expertise in the politics of the West but not in the particulars of southern Utah.

Third, the administration went to great lengths to avoid public scrutiny of its proposal. The law requires that public land decisions be made in the open so as to be improved by the light of public scrutiny. We now know that the administration went to great lengths to avoid application of the public disclosure requirements of NEPA, FLMPA, and FACA.

Because of its sloppy process, the White House failed to deal with problems created by its haste. Within the monument are vast deposits of coal and a large potential for oil, gas, methane, and hard rock minerals. The total value would be well in excess of $1 trillion. The 10,000 residents of the two affected counties were counting on those resources to provide jobs for their children and grandchildren.

Some of those resources are located on school trust land property held by Utah's schools. They contain mineral resources with value potentially in the billions. The Utah School Trust expected to reap millions a year from its lands within the monument.

A year ago, the President stood in Arizona and promised that, ''creating this national monument should not and will not come at the expense of Utah's children,'' and vowed to create a working group, including Utah's congressional delegation, to find equivalent lands for exchange.

Of course, a year later, no working group exists, no member of the Utah delegation has been contacted, and the Utah School Trust has been unable to open negotiations. The only thing Utah's schoolchildren are left with is a Presidential promise that is already of questionable value.

□ 1915

The story of the creation of the Grand Staircase Escalante National Monument is important because it shows what can happen when respect for a legal process is casually set aside. America itself was founded on process. Our Constitution is an elaborate set of checks and balances designed to preclude precipitous action by any leader or any group.

For this reason, I support the bill of my colleague from Utah.

I dare the opponents of this bill to justify the administration's actions with regard to this monument. I challenge opponents of this bill to convince me or anyone in Utah that such abuse will not happen again. They cannot, and that is why we need this bill.

Utah paid a price last fall for being in the way of a President's political agenda. This measure is a reasoned step in response to a gross abuse and is worthy of an affirmative vote.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Chairman, in the last several years that I have had the opportunity to serve on the Committee on Resources, I have come to have a great deal of respect and even affection for the present leaders of what is now called the Committee on Resources, the gentleman from Alaska [Mr. YOUNG] and the gentleman from Utah [Mr. HANSEN]; respectively the chairman of the Committee on Resources and the chairman of the Subcommittee on National Parks and Public Lands. However, we also have occasional differences, and we certainly have a difference on this particular piece of legislation.

This bill would restrict the President's ability to declare national monuments. This is a provision that has been in the law now for some 90 years. We have had a large number of monuments that have been declared. I think 13 Presidents have used it, and 102 monuments have been declared over that period of time. This bill is not really about all of that; this bill before us today focuses its attention on simply one national monument declared by President Clinton last year, the Grand Staircase Escalante National Monument in southern Utah.

That act by President Clinton was, I believe, one of the most important domestic acts of his administration. It set aside an area of southern Utah which is vastly important to the future of our country, and it is not the first time that this area has been considered for special consideration by a President. Many Presidents have looked at it and thought about declaring national monuments or treating it in some other special way, going back as far as the administration of Franklin Roosevelt. In fact, in Franklin Roosevelt's time, the Minister of the Interior during that administration recommended that vast portions of southern Utah be set aside as a national park.

Now, this monument is something like 1.7 million acres, only a small percentage of the public land that is owned by all of the people of the United States located in southern Utah. People of the United States own more than 22 million acres administered by the Bureau of Land Management in southern Utah. This 1.7 million acres is just a small piece of that.

So this legislation is designed to really destroy a process that has been in effect now for most of this century, has been used by 13 Presidents, has resulted in the setting aside of 102 national monuments, including the Grand Canyon, some of the most important parts of our country, and it would be destroyed, that process would be destroyed, that privilege would be denied this President and future Presidents if this legislation were to pass.

It would be a serious mistake to pass this legislation because it would mean that an honored process that has been very valuable to the people of this country would be destroyed, and the opportunity to set aside national monuments in the future would become much more difficult.

For those reasons, I hope that the Members of this House will reject this measure, and it should be defeated.

Mr. HANSEN. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I would like to engage in a colloquy with the gentleman from Utah [Mr. HANSEN], the chairman of the Subcommittee on National Parks and Public Lands of the Committee on Resources.

Mr. Chairman, I greatly appreciate your willingness to work with me to develop a compromise to allay some of the concerns that H.R. 1127 has raised. As the gentleman knows, last Tuesday night we arrived at a compromise with which we both felt quite comfortable. Unfortunately, because of a problem with the rule, we were told that that compromise could not move forward. We had to delete the sections ensuring that no single Member of either this or the other body could block a resolution of approval. That is obviously an essential provision.

I would include the compromise we reached for the RECORD at this point.

AMENDMENT TO H.R. 1127, AS REPORTED, OFFERED BY MR. HANSEN OF UTAH

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Monument Fairness Act of 1997''.

SEC. 2. CONGRESSIONAL REVIEW OF NATIONAL MONUMENT STATUS AND CONSULTATION.

The Act of June 8, 1906, commonly referred to as the ''Antiquities Act'' (34 Stat. 225; 16 U.S.C. 432) is amended as follows:

(1) By adding the following at the end of section 2: ''A proclamation of the President under this section that results in the designation of a total acreage in excess of 50,000 acres in a single State in a single calendar year as a national monument may not be issued until 39 days after the President has transmitted the proposed proclamation to the Governor of the State in which such acreage is located and solicited such Governor's written comments, and any such proclamation shall cease to be effective on the date 2 years after issuance unless the Congress has approved such proclamation by joint resolution as provided in section 5 of this Act.''.

(2) By adding the following new section at the end thereof:

''SEC. 5. CONGRESSIONAL REVIEW OF CERTAIN NATIONAL MONUMENT PROCLAMATIONS.

''(a) JOINT RESOLUTION.—For purposes of approving a proclamation referred to in section 2 that results in the designation of a total acreage in excess if 50,000 acres in a single State in a single calendar year as a national monument, the term 'joint resolution' means only a joint resolution introduced in the period after the proclamation is issued but before the expiration of the 2-year period

thereafter, the matter after the resolving clause of which is as follows: 'That Congress approves the proclamation submitted by the President on relating to the designation of a national monument in .' (The blank spaces being appropriately filled in).

"(b) REFERRAL. A Joint resolution described in this subsection shall be referred to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

"(c) SENATE PROCEDURES.—(1) In the Senate, if the Committee on Energy and Natural Resources has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission date, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

"(2) In the Senate, when the Committee on Energy and Natural Resources has reported, or is discharged (under paragraph (1)) from further consideration of a joint resolution described in this subsection, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points or order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(3) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

"(4) In the Senate, immediately following the conclusion of the debate on a joint resolution described in this subsection, and a single quorum call at the conclusion of the debate if requested in accordance with the proclamations of the Senate, the vote on final passage of the joint resolution shall occur.

"(5) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in this subsection shall be decided without debate.

"(e) PASSAGE BY ONE HOUSE.—If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

"(1) The joint resolution of the other House shall not be referred to a committee.

"(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(f) RULEMAKING POWER.—This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in this subsection, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.".

Amend the title so as to read: "A bill to amend the Antiquities Act regarding the establishment by the President of certain national monuments.".

Mr. Chairman, I would ask the gentleman from Utah [Mr. HANSEN] if he would agree with me that section 5 of the compromise was an essential provision, that it was dropped only because of a problem with the rule, and that the gentleman will work to ensure that it is restored as the bill moves through the congressional process?

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I would respond to the gentleman from New York [Mr. BOEHLERT] that yes, I agree with the gentleman on all of these points. I regret that we had to drop the language because of the problem with the rule and I will work to see it restored.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman.

With those assurances, I will support this compromise to enable the bill to begin moving forward.

As I said, I will support the compromise embodied in the manager's amendment. That compromise improves on the bill by allowing a monument declaration to take effect immediately, rather than requiring a wait for congressional approval. In other words, in the case in point, the President could have done what he did after giving 30 days advanced notice to the Governor, along with a request for comment from the Governor. The President would consider those comments, but if he did not agree with them, he could still go forward with the declaration, and the declaration would be in effect for 2 years; but then there would be a sunset provision, and after 2 years, if Congress did not pass a joint resolution approving the monument, then the monument would be no more.

I support this compromise because I believe my friends from the West have some reasonable complaints with the current system. It is not unreasonable to involve Congress in changes in the status of huge tracts of land, tracts of land of 50,000 or more acres, as is the case in point. The President still has the authority to move forward with the designation of smaller tracts of land, and I think that is an appropriate responsibility for the President. But in the rare cases where we have large tracts of land in excess of 50,000 acres, I think we should have some congressional involvement, but we ought to make darn sure that no single person can block consideration by the Congress.

However, congressional involvement must not make the 1906 Antiquities Act a dead letter. The act has served this Nation well and it should not be fundamentally altered.

If our original compromise had remained intact, that standard would have been met unequivocally. Unfortunately, the compromise was blocked by the Committee on Rules because we were told last week that the bill had to come to a vote last week.

I support the current version of the compromise only because I have the commitment of the gentleman from Utah [Mr. HANSEN], the chairman of the subcommittee, to restore the original compromise as we move forward. The gentleman has acted in good faith, and I know he will continue to do so, but I must be clear: If this bill comes back from Congress without the full compromise in place, I will enthusiastically and vigorously oppose it.

We need to pass a bill that gives Congress a reasonable chance to review Presidential declarations, but we cannot pass a bill that allows any single Member of Congress to veto a monument declaration. That was the problem with the original bill, and it is still a problem with the manager's amendment. The problem would have been solved by the procedures that had to be dropped from the compromise.

So again, I thank Chairman HANSEN for his help. I urge support for the manager's amendment, and if it passes, for final passage of the bill. I do so because this puts us on a path to a reasonable compromise. A reasonable compromise will balance congressional and Presidential responsibilities in a way that does not threaten the protection of western lands.

I look forward to working with the gentleman from Utah [Mr. HANSEN] to arrive at a final product that will meet that standard.

The CHAIRMAN. Without objection, the gentleman from Minnesota [Mr. VENTO] shall temporarily control the time for the gentleman from California [Mr. MILLER].

There was no objection.

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] is recognized.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I want to thank my colleague for yielding me this time.

Mr. Chairman, this bill is not necessary; it is not desirable; the House should reject it.

Since 1906, Presidents have used the authority under the Antiquities Act to protect very, very special parts of this Nation's public lands. Under that authority, President Roosevelt set aside the heart of the Grand Canyon and many other priceless areas. Under its authority, President Coolidge set aside Carlsbad Cavern, and President Harding protected the Indian Mounds in Ohio.

In the 105 times that the act has been used, it has included, in Colorado, usage by President Taft to set aside the sandstone pinnacles of the Colorado National Monument; by President Hoover to protect Great Sand Dunes; and President Hoover as well to take care of that very special dark chasm known as the Black Canyon of the Gunnison. Those were not mistakes. They were not attacks on the West. They were wise actions, taken under sound authority, and that authority should not be undermined.

If Members of Congress are displeased with the way the President, any President, uses this authority, there is a remedy. Congress can modify or overturn any monument a President establishes. This can be done and it has been done, and if the sponsor of this bill, for instance, is opposed to the Grand Staircase-Escalante National Monument, he can introduce a bill to modify or repeal it.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. Mr. Chairman, I have limited time. I would be glad to yield when I am finished.

Mr. HANSEN. We are more than happy to do it. We have one prepared almost and it will be coming. I want everyone to realize that. I thank the gentleman for yielding.

Mr. SKAGGS. Certainly.

Mr. Chairman, I suppose it has a very good chance of having it reported out of the Committee on Resources and probably scheduled for action on the floor, but that is not the bill before us.

Later, when we consider amendments, there will be a proposal to change this bill to make monuments temporary unless approved by Congress. We should not do that either. That would merely give some one Member of the other body, under the rules that obtain over there, the ability to block any monument. That is not the kind of way we want to do business around here.

We should do the right thing. We should do the careful thing. We should do the conservative thing. We should reject this bill.

Mr. HANSEN. Mr. Chairman, I yield 2½ minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I rise in strong support of this very modest, commonsense, much-needed and eminently fair proposal.

This legislation is needed primarily because of something Senator HATCH referred to as the most arrogant abuse of power he had seen in his 20 years in the Congress. He was referring, of course, to the sneak attack by the Federal Government just before the last election to lock up 1.7 million acres in the State of Utah to produce what is called a national monument in the Escalante-Grand Staircase section of southern Utah. However, there are several reasons why this particular land grant has been questioned like no other in U.S. history.

First, it was done with no public discussion or hearings of any type, no vote by the Congress, no vote by the Utah State Legislature, no vote by the people of Utah. In fact, the Governor of Utah testified that the first notice Utah public officials had was when they read about it 9 days beforehand in press reports.

The second serious question is the secrecy, the coverup. Not only were high-ranking officials not notified, the documents the gentleman from Utah [Mr. CANNON] mentioned earlier, the administration documents, said that it cannot be emphasized enough, this is the administration talking, that public disclosure would have stopped the designation because such an outcry would have been created. It almost makes me wonder if we have people running our Government today who want to run things in the secret, shadowy way of the former Soviet Union or other dictatorships.

Third, this 1.7 million acres contains the largest deposit of clean, low-sulfur coal in the world. Senator HATCH testified, and the gentleman from Utah, Mr. CANNON, mentioned a moment ago that this coal alone is worth over $1 trillion. Who has the second largest deposit? The Lippo Group from Indonesia, who just happened to make some very large campaign contributions about the time this land was locked up.

In one small rural county in Utah, this means the loss of 900 jobs. Not only does it mean jobs lost, but it means higher prices. It means higher prices for every individual and company which uses coal in this country.

Environmental extremists, who almost always come from wealthy or upper income backgrounds, are really destroying jobs and driving up prices all over this country. Rich environmentalists who have enough money to be insulated from the harm they do are really hurting the poor and working people of this country.

I urge my colleagues, Mr. Chairman, to support this very fair proposal by the gentleman from Utah.

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ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Members are reminded that they should refrain from using personal references to Senators.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. PETERSON].

Mr. PETERSON of Pennsylvania. Mr. Chairman, I want to thank the gentleman for the privilege to join him in support of H.R. 1127.

My father always told me, "If it is not broke, don't fix it." The Antiquities Act was not broken, but the Clinton/Gore administration abused the process. It is time to bring people back into this process. Thirteen Presidents have used it, and in my view, two have abused it. Those who have said we are going to upset the balance, I do not believe we are going to upset the balance. We are going to bring balance back.

I come from a large, rural district in Pennsylvania where there is a lot of public ownership. I want to tell the Members, people are very concerned about regulations and declarations and laws that are passed and how it impacts rural America. Utah is 73 percent public land. They had no input. They deserved better. They have a right, when regulations and declarations are coming at them, to have an input. The President should explain why 1.7 million acres was needed. Was it to increase the ability of foreign friends to import a simpler type of coal? That is a public debate that should have happened.

This bill does bring balance back to the process. States and local governments should have input. Citizens need a voice. This act, if amended, will still allow Presidents to act. Utah deserved better.

I urge Easterners, my fellow Easterners from the East, and urban and suburban legislators in this body, to be a whole lot more sensitive to rural America. Regulations and laws and declarations have a huge impact on rural life. We are taking away their very ability to earn a living and to exist and live where they want to live. I urge all Members to be much more sensitive.

This bill is modest. It gets at the problem because this administration broke it.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, I rise today in support of the National Monument Fairness Act. Like many Members, I was outraged by the President's decision to designate a whopping 1.7 million acres of land in Utah as a national monument last year. In what was obviously driven by politics and not resource conservation, the President did not consult with and in fact ignored the Governor of Utah, the State's congressional delegation, and most importantly, those affected by his action, the local population.

Tellingly, the President made his announcement in Arizona, surrounded by

hand-selected members of the green movement, far away from the people of Utah. We need to ensure that a President cannot circumvent the will of the people like this again. This bill would ensure that the President works with Congress and with affected Governors before designating large tracts of land as national monuments.

Let us make sure Congress is allowed to do the job the people sent us here to do, to represent them. It is crucial that we never again allow the President to ignore our constituents. Again, I urge a yes vote on this bill.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I just wanted to rise to point out to my colleagues that while each of us represents about 600,000 people, and our respective Senators represent entire States, the only elected official in this Nation that represents all the people is the President.

That is why I think, in constructing this, and I have been a staunch advocate of the authorizing and the other powers of this body, as I had the privilege to chair the Subcommittee on Parks and Public Lands for many years, the fact is, though, in looking at this in toto, we have to have a balance. In other words, when Congress does not act, there has to be some recourse in terms of action. We have to have the power to act.

The other issue with regard to the nature of declarations and how public we go is a real concern, because once we indicate a willingness or an interest in designating or declaring lands, we often find that individuals will put in various types of claims. Some of those claims, in my judgment, with regard to mineral claims or with regard to water permits and other types of activities, are spurious. They are designed to do one thing. That is to exact as many dollars as they can out of taxpayers in order to make the conservation designation that is intended. In fact, it happens all the time when we are considering measures for wilderness or measures within this body.

Of course, as Members know, when action is imminent in terms of a declaration, as it would be in this case, and it is a major flaw that we are going to have with some of the amendments that are being offered here today in terms of notice, because they are fatally flawed in the sense that they prevent and in fact compound the very problems that the President may be taking issue with.

The other issue is with regard to President Carter's action, the D–2 alliance, and I am sorry that my friend, the chairman, has left the floor, because we failed to meet the deadlines with regard to those lands being set aside in this Congress after many years.

In failing to take action at that time in 1980, in essence, the President had recourse to in fact try to provide some temporary protection. This is the one law he had at that time that he could use to actually address that very serious problem with regard to the disposition and designation of those lands in Alaska, which points out that all the other laws that have been passed that the gentleman commented about earlier, the gentleman from Utah, Chairman HANSEN, really did not do the job, because the President has to have some recourse.

What the chairman is doing with this bill, irrespective of what the merits are concerning, and of course I do not find politics unusual in this Congress or among those that are candidates or serving as President, it is sort of a given, but the fact is that we are taking away the power they have to act, as I think is reasonable, and Members may think unreasonable. This is taking away the ability to act. That is the fundamental flaw with this particular bill.

We have the ability to change this if we think there is a mistake by acting ourselves.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. I thank the gentleman for yielding me the time, Mr. Chairman.

Let me point out that not a single argument mounted on the other side of the aisle on this issue has addressed the bill as amended by the manager's amendment. The manager's amendment would allow the President to designate any amount of land. It would simply provide that that designation would expire within 2 years. So all the discussions on the other side about emergency need on the President's part is just a distraction from reality.

The other shocking argument we hear from the other side is that they oppose sunshine. If my colleagues around this Capitol listen to my colleague, the gentleman from Utah [Mr. CANNON], detail the outrageous abuse of power by this President in what he did this time around, that is not sunshine. Refusing to discuss the issue and misleading the Utah delegation is not sunshine; it is keeping the American people and the people of Utah in the dark, and it is wrong.

The Antiquities Act was broken by this President, but he raised an issue, and that is, we need to look at what is wrong with it and fix it. How we can fix it is to allow the Congress to have a say.

Let me point out how he broke the act. The act says specifically when the President chooses to exercise this power, he must in all cases confine the area designated to the smallest area comparable with the proper care and management of the objects that are protected. Mr. Clinton did not do that in this case. He designated 1.7 million acres, vastly more than needed to be designated.

All we are asking on this side is that when the President takes that action, that the measure come back to Congress for a vote. I thought, Mr. Chairman, that we were a Nation of laws and not a Nation of men. I am glad that the previous Presidents designated the Grand Canyon, but this Congress came back in after that and made the Grand Canyon a national park.

What opponents of this bill do not want is they do not want a public debate. They do not want open consideration of this issue. They want raw power in the hands of the President to be exercised in the dark of secrecy. I asked the gentleman on the other side of the aisle if he would yield on that point and he would not yield on that point. Their goal is not to allow the American people to know what the President is doing and to give him a free hand.

Clearly, the President in this case abused the Antiquities Act, and this is a reasonable measure to protect it; to say for 50,000 acres he can do whatever he wants, but when he goes above 50,000 acres to 1 or 22 million acres, then he ought to have to consult the people.

The President may represent all the people. He lost in the State of Utah. It seems to me it is fair to give the people in this Congress whom we represent a voice in these issues.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to this legislation. As many of my colleagues have said, it is unnecessary, and it is premised on a misleading argument that it will open the door to wanton acts by the President of the United States. There is no history in this act that that is the case. In fact, this President acted properly, within the law, within the act, and in the best interests of the American people.

The fact of the matter is that many of these lands that the President finally chose to protect by the use of the Antiquities Act have been under discussion, but those discussions have been filibustered, delayed, obstructed by members of the Utah delegation with respect to these lands and to other lands that need to be protected, public lands that are owned by the people of the United States, and lands that are open to the exploitation by the mineral extractive industries that could go onto these lands and start taking coal and petroleum and other products from these lands without regard to their preservation, as is now allowed because of the President's actions.

The facts are that those processes grind on and those companies continue

to get permits to extract those minerals. The bill the gentleman is introducing here today is basically an overturning of the Antiquities Act. It is a gutting of the Antiquities Act.

He says he wants to give 30 days' notice. With 30 days' notice, as we saw in the New World Mine, people rushed in, people rushed in to file claims and try and perfect claims when they heard the President was going to do this. In the time between the time we started considering the California desert and the time that we did the California desert, we ended up with people filing mining claims, perfecting mining claims, knowing that the government would then have to come along and try to deal with them.

The notion that somehow this current law would be improved upon if the Congress had 2 years in which to act, the Congress can act at any time it wants. It is acting tonight with consideration of this legislation. The gentleman from Utah says he has a repeal of this, or to overturn the President's act, coming. That is fine. People can vote yes or no.

But these are the lands of all the people of this Nation. The President from time to time has to take positions to protect those lands, because the legislative process is unable to respond. The legislative process, if we gave them 2 years, we have the very same problem. We have the Senators from Utah or elsewhere that decide they want to filibuster this act, and all the political dynamics kick in, with what else is going on in the Senate, and somehow we cannot report out provisions to protect these lands and we are right back where we are today before the President acted.

That is why, that is why we should keep the current law as it is. It provides for the protection of the lands. And if the Congress is so outraged, they can come back and modify, they can come back and repeal, they can come back and change the provisions of the Monuments Act.

If we listened to these people, we would have the President pick. Maybe this year he could pick the Grand Staircase, but that exceeds 50,000 acres, so he could not pick that one. But once he set notice that he was going to do the Grand Staircase, people would start filing, and the power would plateau, because they could see the handwriting on the wall. The President might be prepared to act.

Then people in the Canyon of the Escalante, they could start to file on those actions. All of a sudden, what we have done is caused the taxpayer a huge liability because we have decided that these people should have a right to file on these public lands for extractive permits.

The fact of the matter is that when we look at these lands and we see them and how they are intertwined, one of the things I thought we learned over the last 20 years is setting arbitrary acreages does not necessarily guarantee the protection of the ecosystem, the lands, the assets, or the interplay between those resources.

But again, this law that is being presented here tonight or this proposed law that is being presented here tonight is simply one to kick the teeth out of this act, and to somehow try to see if they can embarrass or punish this President for the actions he took. This President should neither be embarrassed nor should he be punished because he took these actions on behalf of the American people.

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And he did it properly so, and he did it over the actions that for years and years of people who decided that they were going to stand in the way of these public lands, they were not going to allow this to happen. And I think that is why the President acted and the President should be very proud of his actions and the American people should be very proud of these actions.

The authors of this legislation, they say they do not know why the President did that because there is nothing there. But then they say there is everything there because people are coming to see the antiquities and the geologic sites and the cultural sites and the beauty of this area.

Obviously, the people of this country understand the assets and value of these lands that are there, and they are obviously supportive of the efforts by the President to protect these lands. Now they can come there to utilize them, and, fortunately enough, we were able to get resources for interpretation of these sites and guidance at these sites. This can again be a wonderful experience for America's families, the millions who take to their automobiles and their vacations to visit and see these wonderful lands of the West, and the arches, and the bridges and canyons, and the rivers and ecosystems, and the riparian areas that are so unique to anything else that is offered in the United States.

We should continue with the current law as it is. Should this legislation pass the House, I would be surprised if it has much of a life after that. But people should not vote for a bad bill just because it is not going to go anywhere. We should turn this bill down and protect the Antiquities Act and protect the prerogatives of the President and, more important than that, protect these valuable, valuable lands of the United States of America.

Mr. Chairman, I yield back the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just say that the Presidents have used this well and have done a good job with it. If we wanted to punish the President, we would repeal it. Of all of these hundred and something things, very, very few of them are over 100,000 acres, over 50,000 acres. It can still be used. This is just a modest approach to it.

Mr. Chairman, a lot of Members have talked about the idea of the threatened land that we are talking about. Those who put this together did not realize that. Let me quote from their letters to the White House, to another person in the White House, and I will not mention their names.

I realize the real remaining question is not so much what the letter says, but the political consequences of designating these lands as monuments when they are not threatened.

Let me repeat,

when they are not threatened with losing wilderness stature, and they are probably not the areas of the country most in need of designation.

Right from the White House.

Another one where they talk about, all we are worried about is how the "enviros" will react. This has nothing to do with the Grand Staircase-Escalante. It is talking about balance of power.

We talked about my amendment which I think will more than handle this area. And let me point out, there is no reason to be an apologist for the President or for anybody here. It was a mistake that was made, and therefore this is a very modest, reasonable approach to take care of it.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Monument Fairness Act of 1997".

SEC. 2. CONSULTATION WITH THE GOVERNOR AND STATE LEGISLATURE.

Section 2 of the Act of June 8, 1906, commonly referred to as the "Antiquities Act" (34 Stat. 225; 16 U.S.C. 431) is amended by adding the following at the end thereof: "A proclamation under this section issued by the President to declare any area in excess of 50,000 acres in a single State in a single calendar year, to be a national monument shall not be final and effective unless and until the Secretary of the Interior submits the Presidential proclamation to Congress as a proposal and the proposal is passed as a law pursuant to the procedures set forth in Article 1 of the United States Constitution. Prior to the submission of the proposed proclamation to Congress, the Secretary of the Interior shall consult with and obtain the written comments of the Governor of the State in which the area is located. The Governor

shall have 90 days to respond to the consultation concerning the area's proposed monument status. The proposed proclamation shall be submitted to Congress 90 days after receipt of the Governor's written comments or 180 days from the date of the consultation if no comments were received.".

Amend the title so as to read: "A bill to amend the Antiquities Act to require an Act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 50,000 acres.".

The CHAIRMAN. No amendment shall be in order except those printed or considered as though they were printed in House Report 105–283, which may be considered only in the order specified, may be offered only by a Member designated in the report, shall be considered read, shall be debated for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for the voting on the first question shall be a minimum of 15 minutes.

The Chair is advised that amendment No. 1 will not be offered and, consequently, it is now in order to consider amendment No. 2 printed in House Report 105–283.

AMENDMENT NO. 2 OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VENTO:

Page 3, line 14, strike "unless and until" and insert "until 1 year after".

Page 3, beginning on line 16, insert a period after "Congress" and strike all that follows through the period on line 18 and insert in lieu thereof: "During the period of review, Federal lands within the proclamation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws."

The CHAIRMAN. Pursuant to House Resolution 256, the gentleman from Minnesota [Mr. VENTO] and the gentleman from Utah [Mr. HANSEN] will each control 5 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise to offer an amendment with regards to this that will make it workable.

The fact is, the problem is with Congress not acting, and all the other versions that we here over 50,000 acres provide for Congress to sit on its hands and do nothing, and if they do that, that is simply enough not to, in fact, provide for the protection of these lands.

So, Mr. Chairman, this amendment is a very straightforward amendment. It says that the President can make the declaration, and if Congress does not act within a year, that declaration takes effect. During that pendency, during that period of time, those lands would be protected. They would be protected from mineral entry and from other types of appropriation.

These lands are all public lands we are talking about. They are owned by the Federal Government and by the people of this country, who are the Federal Government. The fact is, that is what this is about: To take away the power. This keeps the power in the hands of the President but gives us the opportunity, with the other types of proposals, to provide for the opportunity to act on this for Congress.

This would be, of course, a limitation in the powers of the President in this particular instance, but it would not inure to the damage in terms of what happens to taxpayers in this instance. It would provide for the conservation, and the other precepts of the Antiquities Act would be kept in place.

This makes sense. Instead of requiring Congress to act, my amendment preserves an option for us to act, and it would not permit us to get by by simply sitting on our hands. In fact, that is, of course, what the case is today with many of the other laws that we have, whether it is a park designation or wilderness designation. Just by doing nothing, we can avoid facing the issue. This gives the President the opportunity to do his job as steward of such lands.

Mr. SHADEGG. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, if I could ask a couple of questions, the gentleman from Minnesota said this would keep the power in the hands of the President. It would keep the power in the hands of the President to create a monument of over 50,000 acres?

Mr. VENTO. Mr. Chairman, reclaiming my time, I would say to the gentleman: To make the declaration.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. HANSEN asked and was given permission to revise and extend his remarks.)

Mr. HANSEN. Mr. Chairman, the 1-year limit for Congress that the gentleman from Minnesota [Mr. VENTO] has come up with, to finalize the monument designation as the Vento amendment would enact, simply does not allow enough time for Congress to act to the Presidential proclamation. In fact, it takes way the power that this bill provides to Congress in order to pass the proposed designation.

Mr. Chairman, I would ask my colleagues to keep in mind, a case in point would be the most recent Presidential abuse of the Antiquities Act designating 1.7 million acres of mostly sagebrush and pinyon juniper in southern Utah as a national monument.

Mr. Chairman, it is well over a year since the purely political monument was established, yet there continues to be frequent congressional discussion of this blatant and insulting abuse of Presidential power designated as a national monument proclamation, so this amendment really does nothing.

Mr. Chairman, I find it interesting when I hear some say this is only Federal lands and we all own it. That is not what the antiquities law says. Let us go to the law when all else fails. It says "on lands owned or controlled by." Well, they control everything, if we want to take the extreme interpretation of it. In fact, in this 1.7 million acres there are 200,000 acres that belonged to the schoolchildren of Utah. There are countless pieces of private ground that are encompassed. There are cities that are encompassed, but now they are "controlled by." So I do not know where we get this type of thing. I really do not see a reason for this particular amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think that those lands are not part of the monument.

Mr. HANSEN. Mr. Chairman, reclaiming my time, they are inside the monument. What choice have they got? If they are completely surrounded, they are in the monument. Believe me.

Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. CANNON].

Mr. CANNON. Mr. Chairman, the gentleman from Minnesota has said several times today, and in the prior debate on the rule, that the problem is that Congress has not acted. Now, what the premise of that is is that there is a problem out there that needs to be solved. It is an urgent problem that requires what the Governor of Utah called a dictatorial action.

Mr. Chairman, I believe this is a straw man. The fact is, what we are saying here is that the people of Utah were somehow out committing depredations on this area. Remember, this is an area bigger than New Hampshire and Delaware combined. It is a huge area that has only about 10,000 people in the periphery, not even on the area.

Therefore, I would like to just point out that I do not think it is a reasonable thing for this body to look at itself and say we need to give up any authority we have because of some potential depredations and give dictatorial powers to the Presidency. I think

in a matter of balance in this body that we should retain that balance, as opposed to the Presidency, and at the same time give him the ability to do what we need to do with monuments.

Mr. Chairman, no one could love monuments more than I. I grew up with Arches National Monument. I grew up with that monument. It is now a park, but I have a hard time calling it a park because it was such a wonderful monument.

We want monuments. America wants monuments, but we want them done in the light, not in the darkness, not hiding in saying, if people find this out, we will not be able to do it, not suggesting a straw man of people going out and making claims on land. Those are not fair things to do. We need policy and balance, and that is what this bill represents.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Chairman, I simply want to point out and express my appreciation to the gentleman from Minnesota [Mr. VENTO], my friend, for his candor in his remarks in support of this particular amendment. He said, and I quote quite directly, "This leaves the power in the hands of the President." And indeed that is precisely what the proponents of this amendment want to do. They want to leave the power under the Antiquities Act in the hands of the President.

Mr. Chairman, that might be a good idea and under prior Presidents probably was a good idea. But, regrettably, the most recent incident demonstrates that that power is awesome and can be, and in this case regrettably was, abused.

Even if my colleagues do not think it was abused in this case, they ought to be concerned about the power of the President to act unilaterally; to, as he did in this case, ignore the Utah delegation; to, as he did in this case, ignore the Governor of Utah, who is sitting in a hotel in Washington, DC, desperately trying to see the President.

I suggest that people who believe in sunshine, who believe in process, and who believe in the rule of law, should reject this amendment, because it leaves in the President's hands the power to unilaterally designate a national monument of 50,000 acres, as our bill would do, but to go beyond that and to designate 1.7 million, or 5 million, or 10 million, or 22 million, or, for that matter, 22 billion acres, and to ignore the Congress in doing that.

That simply is not good public policy in this country today, where we believe in the rule of law, where we believe in representational government, where we believe public policy should be debated openly in the Congress between people who represent all kinds of different views.

Mr. Chairman, to leave the President with that sole power to be abused when he wants to, as sadly happened in this case on the eve of an election, is a mistake, is wrong. I cannot believe that anyone does not see that. Sunshine is what we need. If my colleagues trust people and believe in representative government, I urge them to reject this amendment.

Mr. VENTO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would say that this amendment does achieve a balance. I think we had a balance in terms of powers, in terms of many units, conservation units and other units we can designate. And my colleagues are failing to understand that in terms of opening up any of this to public announcement prior to the declaration, we will invite in various groups to make claims, and then the taxpayers have to buy back that which they already own, whether it is a claim for minerals, whether it is a claim for water, whatever the claim may be.

Mr. Chairman, I just think that that is wrong. It is one of the fatal flaws in the legislation, and all the variations that have been proposed by my subcommittee chairman have that particular problem in them. What we are saying here is, if this is an error on the part of the President, if Congress disagreed with it, within a year they could come back and prevent the declaration to occur.

□ 2000

The fact is that even in this instance, where they are making these claims and some have been talking about the fact that it was unlawful, I am not aware of any court decision or any action, I am not aware of any court decision or action or anything pending in which the Antiquities Act has not been successfully upheld as being a proper and legal power of the President and constitutional. Unless there is something I am unaware of, I would be happy to yield to anyone to give me the name of a case in the last 91 years where that has occurred.

Of course, I think the issue here is, I think that maybe the last thing to criticize, of course, is to say somehow this is political or that is political. There is a lot of politics that go on on the House floor, in our committees, and certainly I do not think the President is beyond that. But in this case, I think he did the right thing. I think that the laws were pending, measures were pending.

The gentleman from Utah quite rightly recognized, as I led the committee, I did not hear that bill or move on that bill of the gentleman from New York [Mr. OWENS] that he was concerned about. I did not do that. Perhaps I should have. We could have averted this particular designation by the President.

I think at that time he probably was giving me different advice than that which he might be giving me now. Today I think the advice he gives us is wrong. This is a prudent, a measured move that I have in this amendment in terms of providing for a year review and providing for the opportunity but avoiding the type of problem that can exist and has existed.

My view is not seeing the view of the bills that we have before us that would put oil wells in the Grand Canyon. It would put mines in various areas. We have had it. Even today the claims that are being made in Escalante are being honored. We have to honor those types of claims that are being made.

We are talking about Federal land and public land and, yes, there are lands that are included within these monuments. I hope that we could move fairly and expeditiously to deal with the trade-off of those lands so that they could be used and the benefit of that would be to the citizens and others in Utah that might be affected by that.

That is a different issue, though. We are not doing this on the basis of one monument. We are doing it forever. When we do that, we deny the children of the 21st century their legacy. I urge an "aye" vote for the Vento amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. VENTO. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 256, further proceedings on the amendment offered by the gentleman from Minnesota [Mr. VENTO] will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 3 printed in House Report 105–283.

AMENDMENT NO. 3 OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. MILLER of California:

Page 3, strike line 8 and all that follows through page 4, line 2, and insert the following:

Section 2 of the Act of June 8, 1906, commonly referred to as the Antiquities Act (34 Stat. 225; 16 U.S.C. 432), is amended by adding at the end the following: "At least 60 days before the issuance of a proclamation under this section, the President shall consult with the Governor of the State in which the proposed monument is to be located and any other individuals or organizations the President deems advisable, unless the President

determines and publishes a notice that a delay in issuing a proclamation will jeopardize the values for which such monument is to be established.".

Amend the title to read "To amend the Antiquities Act to provide for consultation in the establishment by the President of national monument.".

The CHAIRMAN. Pursuant to House Resolution 256, the gentleman from California [Mr. MILLER], and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield 5 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

The CHAIRMAN. Without objection, the gentleman from American Samoa [Mr. FALEOMAVAEGA] will control the 5 minutes.

There was no objection.

Mr. FALEOMAVAEGA. Mr. Chairman, I yield myself such time as I may consume.

As I noted during the general debate of this bill, from my perspective the problem with the Antiquities Act is that the President has the ability to declare national monuments without consulting with the elected officials from the State in which the monument is being considered. Mr. Chairman, my amendment deletes the language of H.R. 1127 and instead amends the Antiquities Act to require that the President consult with the governor of the State in which the proposed monument is to be located at least 60 days in advance of issuance of a proclamation. The only exception to this requirement is if the President publishes a notice that a delayed issuance of the proclamation would jeopardize the values for which the monument is being established.

Mr. Chairman, this proposal seems to be the right mix of authority vested in the executive while still giving State officials notification of action being considered. This gives the State an opportunity to take any action it seems appropriate before a proclamation is issued.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does gentleman from Utah [Mr. HANSEN] claim the time in opposition?

Mr. HANSEN. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, after looking at this, it appears to me the President has to consult with the governor of the affected State at lease 60 days prior to issuing a proclamation unless the President finds delay would jeopardize the value of such monument being established. As Members know here, I will be doing a manager's amendment which I think, my good friend from American Samoa, pretty well answers that. What it will say is when the President is ready to make his proclamation prior to doing that, he has 30 days in which to talk to the governor of that State.

So I think in a way this would pretty well resolve it without these things occurring that have occurred where the governor of the State is stonewalled in a hotel in Washington, DC, trying desperately to get in to the President of the United States, trying to find out what is going on. I was stonewalled as chairman of the committee, both Senators were stonewalled. But I do have to agree that at 2 in the morning our governor did get a call and then it was done at 10, no time to even react.

So I think the gentleman is on the right track, the gentleman from American Samoa, the gentleman from California. I support them, but I do not think they have gone quite far enough. With what they have said here, I can see where in their hearts they would see that maybe the Hansen amendment coming up would more than solve this. I would appreciate their support in this. I rise in opposition to this amendment. I would suggest it be rejected.

Mr. FALEOMAVAEGA. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in support of this amendment. I think the distinction here with this amendment in addressing the question of consultation with the governor of the State in which a designation will be made and transmitting the proclamation to that governor is a matter of legitimate concern and interest.

But it is a far cry from this amendment to then be standing the act on its head and in effect sort of creating temporary monuments, as we may end up doing in this legislation, and then if the Congress does not act the monument goes away. That is to gut the Antiquities Act.

This is to try to address a problem that a number of Members believe is legitimate and of concern in terms of the communications between the Federal Government and local governments that are going to be impacted by these actions. I think this is a good amendment. The gentleman from American Samoa [Mr. FALEOMAVAEGA] has suggested this from the time of the hearings and during the legislative process. I believe that the amendment should be supported because I think this is a rational response, unlike the legislation which then goes to the undermining of the entire current law with respect to presidential ability to protect these public lands.

Mr. FALEOMAVAEGA. Mr. Chairman, I yield back the balance of my time.

Mr. HANSEN. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] has 3½ minutes remaining.

Mr. HANSEN. Mr. Chairman, I yield the balance of my time to the gentleman from Colorado [Mr. BOB SCHAFFER].

Mr. BOB SCHAFFER of Colorado. Mr. Chairman, I would urge colleagues to reject the Miller amendment that is before us at the moment. I ask this body to remember exactly what it is that this debate is all about.

This is not a discussion over safeguards against some prospective possibility of executive abuse where national monuments are concerned. This is a bill that is brought to us because of the demonstrated abuses that have already occurred, already occurred. What this amendment proposes to do is virtually nothing different than the President has already done in establishing the Escalante Grand Staircase National Monument.

Think of this, 1.7 million acres set aside in a State where the governor was not consulted, where the governor of that State of Utah heard by rumor that this might occur within his State. The President did not even exercise the courage of making the announcement from the State where the monument was to be designated. He made it one State over in Arizona. He consulted the governor of my State in Colorado, Roy Romer, who now is chairman of the Democratic National Committee, consulted him weeks before; consulted Robert Redford, an actor; but did not consult one member of the Utah delegation.

What this amendment suggests in front of us now is that the President will attempt to notify somebody. It does not say it has to be the governor of that State. It says that it may be some other individual, any other individual or organizations that he deems advisable. Well, who would that be?

Let me just tell my colleagues from past experience, it was not the governor of the State of Utah where this monument was in question. In fact, that governor flew all the way here to Washington, DC, camped out in a hotel, asked for meetings with the President of the United States and was denied that opportunity until 2 in the morning before that President set aside 1.7 million acres.

Let me suggest, this is not just an issue of great concern for those individuals here from Utah. It is of great concern to every Member of this Congress who has public lands within it or private land within it or State lands within it, because those are the kinds of lands we are talking about.

The Antiquities Act that we think of was designed quite frankly for small monuments. In fact, prior to this 1.7 million acre set-aside, that is what we saw, small areas of land with some unique feature.

But when this President decided to waltz into a State without notifying the congressional delegation, without notifying the Senators, without notifying one individual within that State of any elected capacity and set aside 1.7 million acres, we need to shut that authority off. We need to put that authority back in the hands of the people's House so that we can assure right here that our citizens and taxpayers, property rights holders and those who enjoy the use of public lands and who enjoy credible monuments have the opportunity to have input and a say-so and have full opportunity to deliberate the importance of those dramatic actions by this Congress.

Mrs. CUBIN. Mr. Chairman, I rise today in opposition to the Miller amendment that would allow the Antiquities Act to apply to all 50 states.

As you may know Mr. Chairman, Wyoming is fully exempt from the Antiquities Act—the President cannot designate a national monument in my State that is 50 acres, 5,000 acres, 50,000 acres or 5 million acres without the consent of Congress.

The legislation that established this important exemption was passed into law in 1950. The law is very simple, and very straight forward. It reads: "No further extension or establishment of national monuments in Wyoming may be undertaken except by express authorization of Congress."

The State of Wyoming took civil action in February of 1945 against the administration of President Franklin D. Roosevelt, after he had used the Antiquities Act to designate the Jackson Hole National Monument.

The State claimed national interference with the use and maintenance of State highways, together with the loss of revenue from game and fish licenses by the exercise of federal control.

Finally, an agreement was reached between the parties and Congress that incorporated much of the Jackson Hole National Monument into Grand Teton National Park. In addition, legislation was also enacted that bars any future Presidential designation of any national monument in my State.

The Miller amendment, if passed, would submit the people of Wyoming to the possibility of the same treatment that occurred in 1945—the designation of a national monument without as much as a single comment from the people who live in the affected state.

President Clinton recently used the Antiquities Act to establish the Grand Staircase-Escalante National Monument in Utah.

He stood not in Utah, but on the north rim of the Grand Canyon in Arizona, to announce the creation of that monument. No member of Congress, local official or the Governor of Utah was ever consulted, nor was the public.

In 1976 this Nation made an important public policy decision. Congress passed landmark legislation in the Federal Land Policy and Management Act (FLPMA) requiring great deliberation, careful process, and above all public input in determining how public lands should be used.

I am not willing to submit my constituents—the citizens of the State of Wyoming—to a President, present or future, who is willing to skirt important environmental and public comment processes for purely political gain.

We must require, and our constituents expect, full and complete accountability of our elected officials—the President through the Antiquities Act must be accountable to the citizens he represents. If he is not, I believe that power should be taken away.

I am thankful that Wyoming had the foresight and courage to pass the law that exempts it from the Antiquities Act and from an outright abuse of power.

I ask that my colleagues oppose the Miller amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was rejected.

The CHAIRMAN. The Chair is advised that amendments 4 and 5 will not be offered.

It is now in order to consider the amendment made in order pursuant to House Resolution 256.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Monument Fairness Act of 1997".

SEC. 2. CONGRESSIONAL REVIEW OF NATIONAL MONUMENT STATUS AND CONSULTATION.

Section 2 of the Act of June 8, 1906, commonly referred to as the "Antiquities Act" (34 Stat. 225; 16 U.S.C. 431) is amended by adding the following at the end thereof: "A proclamation of the President under this section that results in the designation of a total acreage in excess of 50,000 acres in a single State in a single calendar year as a national monument may not be issued until 30 days after the President has transmitted the proposed proclamation to the Governor of the State in which such acreage is located and solicited such Governor's written comments, and any such proclamation shall cease to be effective on the date 2 years after issuance unless the Congress has approved such proclamation by joint resolution."

The CHAIRMAN. Pursuant to House Resolution 256, the gentleman from Utah [Mr. HANSEN] and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Since September 18, 1996, the Utah delegation, the Committee on Resources and many other Members of Congress have tried to figure out a way to both preserve the President's authority to designate national monuments in emergency situations but prevent the type of abuses the Clinton administration pulled last September in Utah.

After much discussion in committee and with other Members, since then I have agreed on a compromise proposal that addresses these many concerns. My amendment allows the President to unilaterally designate any, any national monument up to 50,000 acres in size. Remember, this is the approximate size of the District of Columbia.

If the President wants to designate a national monument over 50,000 acres, he must submit the proposal to the Governor of the affected State 30 days prior to the proclamation. After the 30-day period, the monument is created. However, after 2 years, the monument designation will sunset unless the Congress has passed a joint resolution approving the President's action. Thus, if Congress does not agree with the monument over 50,000 acres in size, the land will revert back to its former status.

I commend my colleague from New York for his willingness to reach this agreement. This is a compromise. It restores the balance of power between the President and the Congress while still allowing the President to act in emergency situations as originally intended in 1906.

I urge all Members to support this compromise which restores Congress' role in managing our Federal lands. I ask, what could be more fair than this? Fifty thousand acres he gets, like that. That seems very simple to me. Over that, he can still do it.

□ 2015

To me, that is a reasonable approach.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from California [Mr. MILLER] claim the time in opposition?

Mr. MILLER of California. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. MILLER] for 5 minutes.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to this. I commend my colleagues for trying to work out a compromise for his legislation, which he realizes has some problems or is flawed, but the fact is that this is just a perfect political solution: The President is able to declare, and then Congress will do what Congress has done, and that is sit on its hands and nothing would happen.

So it does not really put anything on us. It is the same problem that we had. We are right back where we started from. We are chasing our tail around a tree here. That is really what this amendment does.

I appreciate the fact that they have 2 years to go out and convince the public, but we have had many decades to

try to convince them about the red rock country of southern Utah and we still have not come to a conclusion by setting a certain amount aside for conservation purposes. That is the problem with this amendment.

Far worse than that, this amendment says. that 30 days before we have to send the proclamation to the Governor. I understand the gentleman's problem with the Governor and other people not being informed, but I want the gentleman to understand my problem. My problem is I do not think the taxpayers should get ripped off in the process. And once we set this proclamation in writing and put it out there, obviously it is open season in terms of making claims and making changes, and I think most of those are spurious, quite frankly. That is my concern.

So we have those two problems. Those are two big problems with this amendment, which is a good political compromise, I guess. The Presidents can go off and designate monuments every 2 years, Congress can sit on its hands. The Presidents would be happy. They would get the political credit for declaring the monuments, and in 2 years they would not be there, they would monument-for-the-day, the monuments would be gone, and the public would be the losers.

I think this is wrong. I think this process does not do it. The gentleman is not there yet with this amendment. This amendment is a bad amendment and its being offered as a compromise, I think, is a problem. It is no compromise for me, and its is no compromise for the 13 Presidents that have used this power. This would take away the authority and the ability to act as stewards for these conservation areas.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. CANNON].

Mr. CANNON. Mr. Chairman, I believe that argument we just heard is a strawman: The idea that taxpayers are going to be ripped off earlier. I think it was said there would be claims filed that would take the value that belongs to American people.

If we look at those issues, and water was mentioned. The fact is water is already taken in these areas. We will not have spurious claims on waters. As to minerals, those that are known are pretty much taken. Those that are not known, if someone randomly goes out and decides to file a claim, they will not have value. And when they come back to the process of proving value, they will not have any.

We do believe in America still in the rule of law and in supporting contracts and the obligations of the American people. In this particular case, in the case of Utah, I do not think there is any question but that the President abused his power. There is no question by people looking at this dispassionately at how he hid his actions.

What we are talking about in this amendment is restoring balance to the process, limiting the extremes to which a President can go, and this President has said he would go or has gone. This is not only about the people of Utah, though. It is not just about the people in the western United States, the public land States. It is not just about those kinds of things. This is about the abuse of Presidential power generally and this is a particularly good bill that will rein in that power and allow this House its proper role in the balance of the policy decisions about how we use our public lands.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Chairman, this is the Here Today Gone Tomorrow Monument Act. It would make two changes in the law regarding large presidentially proclaimed monuments. First, it would require the President to provide 30 days notice prior to a proclamation. And that is no surprise. As Secretary Babbitt has said, and I quote, "The notice period would provide both incentive and opportunity to stake mining claims and carry out other development activities which could irreparably impair the ability of the President to protect the area."

That is not just speculation. The opponents of the Grand Canyon and Arches proclamations, to mention just two specifically, said they wanted to mine those areas. Second, it would sunset a monument proclamation after 2 years if Congress did not enact legislation approving it. That means that a single Senator opposed to a monument could block it by putting a hold on the bill or a monument could be gone tomorrow simply because of delays and oversights.

We can be sure once the monument declaration expired, the people who wanted to stake mining claims would be out there in force. That is what the gentleman from Minnesota [Mr. VENTO] meant about protecting the taxpayers.

Put another way, if this substitute had been in effect in 1908, the chances are that much of the Grand Canyon today would be an abandoned mining site; chances are that some of our other national monuments and others would be covered by mill tailings.

The "Dear Colleague" of the gentleman from New York [Mr. BOEHLERT] of last week made this same point. He said then, and I quote, "A congressional approval process would enable any powerful committee chairman or a single Senator to single-handedly block monument declarations. And few monument declarations fail to attract at least one opponent. Just look back at the opposition that greeted the declaration concerning the Grand Canyon if you have any doubts."

These words are equally true of the substitute being offered today. That is why this amendment should be defeated.

Mr. Chairman, I submit for the RECORD a letter from Secretary Babbitt to the Speaker regarding this legislation.

SECRETARY OF THE INTERIOR,
Washington, October 6, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We understand that the House soon will consider H.R. 1127, the proposed "National Monument Fairness Act of 1997," a bill strongly opposed by the Administration and which I have stated would be the subject of a veto recommendation.

We have serious concerns with a new amendment to the bill made in order last Wednesday. The amendment does not correct the flaws in H.R. 1127, as noted in the attached Statement of Administration Policy. If this amendment is adopted, I would still recommend to the President that he veto H.R. 1127, as the bill would continue to infringe upon the power vested in him by the Antiquities Act.

The Antiquities Act is one of the most successful environmental laws in American history. Between 1906 and 1997, fourteen Presidents have proclaimed 105 national monuments, including Grand Canyon, Zion, Joshua Tree, the Statue of Liberty, Jackson Hole, Death Valley and most recently Grand Staircase-Escalante National Monument. These designations have not been without controversy, but it is clear that, without the President having the authority to act quickly, many of America's grandest places would never have been protected and preserved for future generations.

The proposed amendment would require the President to provide 30 days notice prior to a designation. Requiring 30 days public notice in advance of every land withdrawal severely undermines the purpose of the Act, which in part is to permit the President to protect federal lands on an immediate and time-sensitive basis. The notice period would provide both incentive and opportunity to stake mining claims and to carry out other development activities which could irreparably impair the ability of the President to preserve and protect the area.

Equally as damaging to our ability to protect public lands, the amendment would make each covered Presidential proclamation effectively temporary. It would require that such proclamations be nullified if Congress does not act affirmatively to ratify them within two years. Congress currently has the authority and opportunity to act to overturn any monument designation at any time by passing legislation to do so. To make permanent monument status dependent on affirmative Congressional action within a specified time limit presents too great a risk that the complexities of the Congressional process and scheduling will undermine the protections for these special places that all Americans want and deserve.

I urge the House to defeat this attempt and any others that would undermine the President's authority under the Antiquities Act.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

BRUCE BABBIT.

Mr. MILLER of California. Mr. Chairman, I yield myself the balance of my time.

My two colleagues have pointed out exactly what is wrong with this. First of all, this leaves our public lands and the damage to public lands and the threat to public lands open to a policy by filibuster, by Senate holds, and by obstructionists. Those would be the people who win in the debate against protecting and creating the national monuments.

The second point, as the gentleman said, there is no mining here. Well, there is mining. In fact, in the Grand Canyon there was previously. But this is a generic law. This is not about these lands, this million 7, this is about lands in the future that may be declared monuments where there are serious issues over water rights, where there are mining claims, where there are all these issues.

If we give 30 days notice, we will have a gold rush out there for people who think they can come back and jack up the Federal Government for these things, because we deal with that in this committee and have for years and years and years by people who think they can then extract something from the Federal Government if they file a claim.

So, remember this, we are not writing a law about Utah. We are writing a law about the United States of America, and there are many assets that people would find valuable and would try to perfect and would try to hold up the Federal Government. So whether or not there is water in this particular area that would be in contention or not does not speak to this law. That is why the 30-day notice provision and the 2-year provision is simply bad public policy, because it leads into the policy of filibuster, the policy of hold rather than debate and action.

Mr. HANSEN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I have a hard time believing my good friends from the other side, knowing how articulate and how well versed they are in the law, have forgotten there is a FLPMA Act. This happened in 1906. There is a Federal Land Management Policy Act that covers everything my three friends have just talked about.

One of those is emergency withdrawals. I will not quote the section, I am sure they know where it is. Another is general land withdrawals, and another is land classifications. So the opposition is using scare tactics here. With this act or without this act all three of these cover the problem.

The gentleman from New York talked about the idea if this had been there in 1906. Please keep in mind that only two since 1943, only two declarations would be affected by this amendment: The one in Alaska and the one in Utah. All the rest are all right. So the vast, vast, vast majority of all the monuments would not be affected at all because we are giving the President 50,000 acres. Carte blanche. Take it anywhere he wants. In the middle of his district. Wherever he wants it, he can do it.

So I say if there has ever been a fairness act that is reasonable, that restores the power to Congress where it belongs, this is the act. Nothing to do with the monument in Utah, nothing to do with the one in Alaska or the little teeny ones, like most of them are, of maybe 300 acres. So, Mr. Chairman, I urge support of this amendment and support of the bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Utah [Mr. HANSEN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 256, further proceedings on the amendment offered by the gentleman from Utah [Mr. HANSEN] will be postponed.

The point of no quorum is considered withdrawn.

Mr. HANSEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOB SCHAFFER of Colorado) having assumed the chair, Mr. SNOWBARGER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1127) to amend the Antiquities Act to require an act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres, had come to no resolution thereon.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BOB SCHAFFER of Colorado). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

STATUS OF THE CNMI

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, I have introduced a bill today that will allow the people of the CNMI to decide whether they will abide by all of the laws of the United States or whether they chose to seek independence.

Reports of abuses in the CNMI are not new. Reports surfaced as long as 13 years ago. In response, Congress directed the establishment of a joint program with the CNMI to respond to this widening range of abuses. After 3 years, these agencies investigating these abuses report the negative trends worsening. They report:

Chinese garment and construction workers sign shadow contracts with a government recruitment agency before leaving China for employment in the CNMI. These contracts restrict their civil rights and threaten to return them to China if workers make labor complaints while in the CNMI.

Wages for domestic maids average $0.64 an hour for an average work week of 72 hours. The domestic service sector averages the highest percentage of labor complaints out of all sectors.

Many businesses in the CNMI are not subject to the Fair Labor Standards Act, resulting in their failing to pay the employees, going bankrupt and eventually going into another line of business under a different name.

The CNMI does not require visas for investors. A business entry permit allows foreign businessmen to enter the CNMI with $50,000 to set up a business. There is no evidence that the CNMI verifies or authenticates the amount, nature, or source of the claimed investment.

Reports have found an appearance of a large number of underage dancers and other underage workers in the CNMI. Many of these persons are alleged to be engaged in prostitution. CNMI lacks the resources to determine the authenticity of birth certificates and other documents and therefore in many cases simply admits these persons on the basis of approved work permits. In addition, many of these nonresident alien victims fail to report their cases to authorities because of fear of retaliations or loss of employment.

The INS reports the CNMI has had limited success in improving immigration control, including adjudications, examinations, inspection, and investigations. CNMI immigration worksite enforcement is nonexistent.

The CNMI can ship duty-free goods to the United States under General Note 3(a)(iv) of the Harmonized Tariff Schedule, which provides duty-free entry to qualifying products of the CNMI and other U.S. insular possession. The duty-free and quota-free preferences coupled with the CNMI's local control of its immigration policy and its minimum wage rate, have created a loophole that enables foreign interests to establish apparel productions facilities in the CNMI with unlimited access to the U.S. market, thereby giving the CNMI garment industry advantages that are not enjoyed in the US market.

The CNMI has flooded the islands with low-cost foreign labor, resulting in a huge population increase and high unemployment among native U.S. Citizens. As a result, many indigenous people are living at the poverty level or below.

These abuses are happening in our own backyard. Because of that, we cannot look the other way and allow them to continue when they are occurring in the U.S. jurisdiction.

The covenant agreement adopted by Congress and the CNMI gave local control of immigration and the minimum wage to the Commonwealth. In establishing the covenant, the residents of the CNMI expressed concern that Federal immigration laws would permit excessive immigration to the islands from neighboring countries thus overwhelming the local culture and community. Isn't it ironic that these policies have produced the opposite result. U.S. citizens are now a minority of the population. Temporary alien workers now compromise 60 percent of the total labor force and 90 percent of the private sector labor force.

In response to calls that the CNMI be subject to U.S. immigration and wage laws, the Governor and various local leaders spoke out stating they would prefer independence than to fall under our laws. My response to the Government and other local leaders is this: OK. Lets bring this issue to the citizens who live in the CNMI. Lets ask the people: Shall the CNMI be governed under U.S. immigration and wage laws or shall the CNMI seek independence.

The days of status quo have come and gone. We now must take responsibility for the abuses occurring and take measures to remedy them. If the CNMI does not agree, they are free to choose self-determination. However, if they are to remain as a part of the United States then they must adhere to all of our laws.

GOOD NEWS FOR THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. I rise tonight to bring some good news to the American people.

I spent some time in my district on Thursday and Friday, and I had a chance to talk with lots of folks and it occurred to me as I was talking with the people back home that the concepts of the tax cut bill actually being signed into law and the amount of taxes that people are going to pay next year having actually gone down is something that the folks back home did not understand very well yet.

So I thought I would start this evening with a little bit of discussion of some good news for the American people, for people that are working and paying taxes into this Government. Taxes are going down and it is good news. It is the first time in 16 years it has happened. It has happened at the same time that we have actually balanced the budget for the first time since 1969.

□ 2030

I thought what I would do to start this evening is just talk through those tax cuts a little bit, because there is something in the tax cut package that affects virtually every American citizen that is working and paying taxes today.

I thought I would start with the one that is going to affect the most families. In Wisconsin, the $400 per child tax cut affects 550,000 Wisconsin families. In all of our families back home in Wisconsin that have children under the age of 17, next year, for 1998, they should figure out how much taxes they would have owed to the U.S. Government, or to Washington, and subtract $400 off the bottom line for each one of those children.

Let me say that again, so it is crystal clear exactly what this $400 per child tax cut means. If there are children in the home under the age of 17, the family would go through and figure out how much taxes they would have owed to the U.S. Government, to Washington, and they will then simply subtract $400 per child off the bottom line.

For a family with three kids under the age of 17, for a family of five, like our family used to be, our kids are older now, but like our family used to be, if you have three kids under the age of 17, that family could subtract $1,200 off the amount of taxes that they would have owed to the U.S. Government.

Let me put this another way. For that family of five with three kids at home, they should in January of next year go into their place of employment and reduce their withholding taxes, reduce the amount of money that their employer is sending to Washington each month, by $100, because, you see, that $1,200 for the 3 kids divided up over the 12 months is $100 a month.

Again, this bill is signed into law; this is not political rhetoric or promises. I cannot count how many people in Wisconsin said to me, "I will believe it when I see it." It is done; it is signed into law. That family of five, in January of next year, should keep $100 more a month in their own home instead of sending it out here to Washington, DC.

A lot of folks say, "What about education? There are other things that you need to be doing in Washington with that money that you are letting these families keep." Let me first say that I think that these families in Wisconsin, all 550,000 of them, can do a much better job spending their own money than they could if that money was sent out here to Washington for Washington to decide how to spend it.

But second, on the education front, I think it is very important to know what was in the tax cut provisions to help with education, because the amount of money that is to be provided for freshmen and sophomores in college is a phenomenal amount in terms of many of the people going especially to places like the technical college like MATC in Milwaukee, WI, or Gateway Tech in Kenosha, WI, between Kenosha and Racine, or Blackhawk Tech out in Jamesville, WI.

For a freshman or sophomore in college, they keep the first thousand dollars of their college cost. That is to say, the first thousand dollars they spend on college tuition, room, board, and books, the whole shooting match; the first thousand dollars is fully refundable; and the second thousand dollars is 50 percent refundable.

So let me translate that into English. If the listeners or if our colleagues have a freshman or sophomore in college, and the normal freshman or sophomore is paying more than $2,000 a year in room, board, and tuition, you should figure out how much you owe the Federal Government in taxes and subtract $1,500 off the bottom line, and that money is designed to help pay for the college education. So for freshmen and sophomores in college, the tax cut package provides a college tuition credit of $1,500 a year.

For juniors and seniors, it is 20 percent of the first $5,000. So for most juniors and seniors in college, they should keep a thousand dollars more of their own money to help pay that college tuition. This is a lot of money for a lot of families.

A family in Wisconsin with a freshman in college, two kids still at home, again, I am back to that family of five, there are so many of these families out there in Wisconsin and all across America, for a family of five with a freshman in college and two kids still at home, they keep $1,500 extra because of the freshman in college, the college tuition credit, and they keep $400 for each one of the two kids at home, or $2,300 more of their own money.

And make no mistake about this. This is not like Washington reaching into the pockets of taxpayers, bringing the money out here to Washington, and then Washington making a decision about who should get this money back. It is very different than that. This is the families out there who get up every morning and go to work for a living, they work very hard, but instead of sending that money out here to Washington, they simply keep that money in their own home. That is how a tax cut should be.

So if you have got a freshman or sophomore in college and a couple of kids still at home, we are talking roughly $200 a month more in the take-home paycheck than it would have been if this tax bill had not been signed.

Again, I want to emphasize, the tax bill is signed into law. The ink is dry. This is not political rhetoric or political promises. This bill has been signed into law, and it is good news for families all across America.

The tax cut package did not end there; the tax cut package went on. The tax cut package also reduced the capital gains tax from 28 percent down to 20 percent, and then it goes to 18 in the year 2000. So capital gains have

been cut. If you are in the lower-income bracket but you bought stocks or bonds or whatever and they have appreciated in value, in the lower-income bracket, the tax on capital gains has dropped from 15 percent down to 10 percent.

So for the folks who have made investments in order to prepare to take care of themselves in their own retirement and to take care of themselves as they prepare to retire, the capital gains, the amount of money that they will send to the Federal Government, has been decreased from 28 percent down to 20 percent.

It did not stop there either. I have some folks say, "Well, you haven't talked to me yet, Mark. There are others of us out here." I had a young couple, for example, where both spouses were working but one spouse had returned to college on at least a halftime basis. She did not go into exact details, but with both of them working, of course, they had a significant tax burden to the Federal Government. She said, "Well, Mark, my parents are no longer paying my bills. I am going back to college. This does not help me."

Well, in fact, in this case, where we have got a husband and wife working, there are provisions in the tax bill that would directly impact them, because the money that was going to pay for her college tuition would be reimbursed to them or subtracted off the bottom line of the taxes they were due.

But there is another area that this young couple is very eligible for under this provision. It is called the Roth IRA. The Roth IRA is different from the old-fashioned IRA. The old-fashioned IRA, you put $2,000 in per person and write it off your taxes this year. Under the Roth IRA, you put $2,000 in but you do not get to write it off on your taxes this year.

That may not sound like a good deal this year. But the difference is, when you take this money out in retirement, all of the interest, all of the accumulated value of this IRA, all of the money that is accumulated because of the interest or earnings on it, you get that money tax free.

And for that young people that was there at this meeting on Friday that I was at back home in my district, that young couple can put money into the Roth IRA, let it accumulate, and then take out up to $10,000 to help that couple buy their first home.

So you see, that young couple with one in college and the other one working, both working but one in college on a part-time basis, they benefit from the college tuition tax credit as well as from the Roth IRA that allows them an opportunity to save up and buy their first home.

The Roth IRA, of course, can be used by many people in their thirties and forties and fifties who are saving up to take care of themselves in retirement as well. It is another major change in the tax code.

One other one that I want to bring to attention that is very important: For anyone out there who owns their own home, in the past they had this one-time exclusion at age 55, so that people had to wait until age 55 to sell their home and then they could sell it one time. Well, that is just plain gone; it is not there anymore. If you have lived in your home for 2 years, and you sell your home, and it has been your personal residence now for 2 years, there is no tax due to the Federal Government. Under this new tax code, if you sell your home and it has been your principal residence for 2 years or longer, there is no tax due to the Federal Government.

I get through telling a lot of folks about these tax cuts and how they impact so many people. I should talk on seniors, too. Seventy-four percent of the seniors in Wisconsin own their own home. Many of the seniors took the one-time exclusion at age 55 and then bought another house and are ready to sell it again. And of course the new house has appreciated in value 8 to 10 years later. So this tax cut as far as the home sale is certainly very significant to seniors.

For seniors, also in this package, Medicare has been restored. So they do not have to worry about Medicare going bankrupt, as it was back 2 years ago, 3 years ago. It has been restored for at least a decade for our senior citizens.

I get done telling our folks back home about these tax cuts, and especially the families, like one at college and two still at home, that see they get to keep $2,300 more of their own money, and they go, "It is a lot of money. It is a lot of money, Mark. Does that mean that we are going to destroy the Nation? Does that mean we are going to pass this huge burden of debt on to our children, we are going to start deficit spending again? Does that mean we are going to wreck America to do this?" The answer to that question is "No."

I would like to now devote some of our time here this evening to a discussion about why the answer to that question is "No" and what has changed out here in Washington to get us to a point where that answer is "No."

Before I go in that direction, however, I see my good friend, the gentleman from California (Mr. Hunter), has joined us.

Mr. Speaker, I yield to the gentleman from California (Mr. Hunter).

Mr. HUNTER. Mr. Speaker, I appreciate the gentleman from Wisconsin (Mr. Neumann) yielding to me.

I intended to do a 5-minute special order a little later on on the U.S. Marine Corps and the commandant, Chuck Krulak, one of our great commandants. But I am very interested in the expertise of the gentleman from Wisconsin (Mr. Neumann) in this area.

I think that particularly the homeowners' or home sellers' exclusion from taxation that the gentleman from Wisconsin (Mr. Neumann) talked about is a real release and a relief for literally hundreds of thousands of homeowners in this country, because over the years they have traded up as inflation increased, especially in areas like California and, I am sure, the home State of the gentleman from Wisconsin (Mr. Neumann) too; and they are now at the point where, if they sell that home, they have a very low basis and they are going to pay massive taxes.

And now this $500 exclusion, up to $500 exclusion, has come in the nick of time. They can use that money for their kids' education and, incidentally, for buying houses for their children. And most children today need some help from their parents to buy a house.

Mr. NEUMANN. Mr. Speaker, reclaiming my time, in Wisconsin that top-end number is not totally relevant in most cases because most of our homes are under that price.

And as a home builder, I worked with a lot of folks that were transferring from Wisconsin, and I am sure some of our people came to California, too. I have to sell our State and say how good the business climate is there under our Governor Tommy Thompson.

But we have a lot of people transferring in from a higher-priced home area, such as California, to a lower-priced area, such as Wisconsin. And, of course, those folks are the ones that sold their homes in California for lots more money and came to Wisconsin and bought a less expensive home, and in the past, they would have owed a substantial amount of money to the Federal Government in capital gains tax. That is gone. They would no longer owe that money.

Is this not what America is about? It is not just about the money, it is about the idea of people having the freedom to take that job promotion to provide a better life for themselves and their family. It is about the opportunity to live the American dream in our Nation again and the tax policies freeing up people to do what they see as opportunities to provide this better life for themselves and their family. That is what this is about.

Mr. HUNTER. If the gentleman from Wisconsin (Mr. Neumann) would continue to yield, I think he is absolutely right. I thank him for yielding.

Mr. NEUMANN. I turn our attention now to the question that I get asked quite regularly after I get done talking about the tax cuts, and they are very concerned that we are not destroying this Nation to do it.

I start tonight by talking about how we got into the situation we are in today where we have a $5.3 trillion debt

staring us in the face. This chart I brought with me shows the growth of the debt and how from 1960 to 1980 it did not really grow very much, but from 1980 forward, it has grown a lot. The chart ends in 1995. And we can see how fast the debt climbed in particular from the late seventies and the early eighties on through the year 1995. It has led us to a point where we are $5.3 trillion in debt.

By the way, a lot of people look at this and say, well, if I am a Democrat, I go, 1980, that is Ronald Reagan; it must be Reagan's fault. If I am a Republican, I go, the Democrats controlled Congress during all those years and they spent out of control, so it is the Democrats' fault.

The facts of the matter are that it is an American problem. It is time we put our partisanship aside and figure out how to solve the problem for the good of the future of this great Nation that we live in. It is a very real problem, and I think it is clear from looking at this picture that this problem cannot be allowed to continue.

This picture is the reason I left the private sector, a very good job in a very good business, providing job opportunities for people as a homebuilder. I left the profession and ran for office because I knew this would bring us down as a Nation if we did not do something about it.

I brought a board along that shows the number, because a lot of folks have never seen how big this number is. We are currently $5.3 trillion in debt as a Nation. This next line shows, if we divide that debt up amongst all the people so everybody pays just their share of the debt, $5.3 trillion divided by the people in the country is $20,000 for every man, woman, and child in America.

Let me say that another way. This Government, the people that have been here in Washington since 1980, saw fit to spend $20,000 more than they collected in taxes for virtually every single American man, woman, and child in the whole country.

For a family of five, like mine, this Nation has borrowed on our behalf $100,000. We are in debt $20,000 for every man, woman, and child in America and $100,000 for a family of five like mine. And the real problem with that is, this is a real debt; interest is being paid on it.

A family of five, like mine, this year will pay $580 a month, every month, to do nothing but pay the interest on that Federal debt. As a matter of fact, one dollar out of every six that the Federal Government spends, i.e., one dollar out of every six that they collect out of your pocket in taxes, one dollar out of every six does nothing but pay the interest on this Federal debt.

It is not just income taxes where they are paying that $580 a month. If you do something as simple as walk into the store and buy a loaf of bread, the store owner makes a small profit on that loaf of bread; and, of course, when the store owner makes a small profit, part of that profit is taxed, and it gets sent out here to Washington to pay interest on that Federal debt. This is a very, very serious problem that must be addressed in this Nation.

How did we get here? Well, each and every year since 1969, this Government has overdrawn its checkbook. It is not a lot different from your checkbook or any other family in America when they will do their bills and figure out their checkbooks each month. The Government takes in a certain amount of money and writes out checks. When they write out checks for more money than they have in their checkbook, what they do is borrow the money. And, of course, that adds to the debt each and every year.

Since 1969, we have not had one single year where the Federal Government did not spend more money than it had in its checkbook. That is a pretty staggering statement. Since 1969, we have not had one single year where Washington did not spend more money than it had in its checkbook.

If that were our home or any home of any of the families across America, the banks would certainly have foreclosed and stopped the checking account before now.

□ 2045

But in Washington, they have just kept borrowing and borrowing and borrowing, and that is what has led us to the $5.3 trillion debt.

I think it is very significant to talk about what happened during the 1980s and the 1990s that led us to this position, and before 1995 what happened to get us into this mess. Well, time and time again, Washington laid into place a plan to balance the Federal budget, and how many times did the American people hear that phrase, balance the Federal budget.

The Gramm-Rudman-Hollings bill of 1995, and I have the 1997 one up here, this blue line shows what they promised the American people. They promised they would get to a balanced budget by 1993. The red line shows what they actually did. When they promised the people they were going to have a balanced budget and did this, the American people became critical of Washington, and it is very understandable, that criticism that was leveled against Washington, because they promised one thing and did something different entirely, and that is why.

That is what led up to the change in Congress in 1994. That is what brought the American people to change control of the House of Representatives and change control of the Senate. I mean in all fairness, what they did is turn the House of Representatives from Democrat control into Republican control, and they changed the Senate into Republican control, and in all fairness, they left a Democrat President in this mix. So what the American people saw fit to do was say, we have rejected this idea, we have rejected this group of people that have promised us repeatedly to get to a balanced budget but did something different every time.

So we got to 1993 and we were looking at this picture where, in fact, they had not met their promise and the budget was not balanced. So Washington made a decision about what to do. It is very different than 1997. In 1993, when they looked at this picture and saw that they wanted to balance the budget, they raised taxes. They concluded that they could not control Washington spending, so the only alternative, if they were serious about getting to a balanced budget, was to raise taxes.

So they raised the Social Security taxes on senior citizens. They raised the gasoline tax by 4.3 cents a gallon, but they did not spend the money for extra roads or infrastructure or to provide a better mechanism to get product from one place of production to the marketplace; they raised it by 4.3 cents a gallon and did not spend the money on building roads. On top of that, they tacked on another 2.5 percent that would have expired, and that money is not actually getting spent to build roads either.

Social Security taxes went up, marginal tax rates went up. I think we are getting a pretty clear picture here. We have broken promises because Washington could not curtail its spending, and we have raised taxes as the logical solution, they concluded back in 1993, as the right way to get to a balanced budget.

The American people in 1994 said, wrong, that is not what we want. We do not want these broken promises and we do not want tax increases; we want Washington to control its spending appetite. And they elected a new group to Congress. In 1995 we laid out a plan and we promised the American people again that we were going to balance the budget, and the American people were skeptical, to say the least. But our plan is this blue line. This is the deficit stream that we promised to the American people.

We are now in the third year of this 7-year plan to balance the Federal budget, and I think the American people should be asking, how are they doing? They are 3 years in. Do they warrant our consideration to allow them to stay, or should we throw them out and get a new group in there too?

We are in the third year to balance the Federal budget. We are not only on track to balancing the Federal budget, but we are so far ahead of schedule from what we promised that we will probably have our first balanced budget in fiscal year 1998, 4 years ahead of what was promised.

This picture down here, on track, ahead of schedule, fulfilling the promises made to the American people, is very different than this picture up here. I would add that in the face of this picture, in the face of Washington finally curtailing the growth of Washington spending so that we can actually stay on track and get to a balanced budget sooner, not later, sooner than promised, we have also laid this tax cut package that I was explaining earlier in the hour on the table. So we are not only reducing taxes, we are reaching a balanced budget ahead of schedule.

So the answer to the constituents' question when they ask me, are we wrecking America by cutting taxes, the answer is definitively no. If Washington just curtails the growth of spending, we reach a point where we can both balance the budget and reduce taxes at the same time, and when we say reduce taxes, it is very simple. That means let the people keep more of their own money instead of giving it out here to Washington. That means we understand that the people can do a better job spending their money than the people out here in Washington.

I have another way to show this same thing and it is a similar statement here, but it is another way to look at it, to understand how it is that we have been able to both balance the budget and cut taxes at the same time. This red line shows how fast spending was growing before 1995, before the American people put a new group in control of the House of Representatives. In 1995, this red line started going up a little slower. The spending growth of Washington started going up at a slower rate. It is still going up, and to all our constituents that are concerned that Medicare, Medicaid or some of those important programs are going away, well no, spending is as a matter of fact still going up faster than some of us would like to see.

At the same time, the blue line kept going up as fast or faster. So when spending started going up at a slower rate and revenue started going up at a faster rate, it is easy to see that we are going to start running a surplus in the near term. Again, the good news is we will have the first tax cut in 16 years, we have the first balanced budget since 1969, and Medicare has been restored for our senior citizens.

There is another important chart to take a look at here, because it really emphasizes how different things are. I had a lot of my constituents say, well, you know, Mark, you guys are actually lucky. The economy is doing so good that you all are going to look good no matter what you do out there.

While there are a couple of things to think about in response to that. First, the economy has done good between 1969 and today and it has never led to a balanced budget. Every time the economy has performed well in the past, Washington saw the extra revenues coming in and acted very quickly to spend the extra revenues on every program they could think of.

This Congress has acted very differently. In the face of a very strong economy, we curtailed the growth in spending. This chart shows how fast spending was going up before we got here, 5.2 percent annual growth rate. This shows how fast it is going up under the new House of Representatives, under Republican control, and it is important to note that at the same time the economy has been very strong, the growth of Washington spending has been curtailed.

This chart is important for another reason. A lot of folks say, well, Mark, when you are curtailing or cutting Washington spending and they call it cuts, it is important to note that Washington spending is still going up. Again, I emphasize, too fast for some of our likings, myself included. But Washington spending is still going up, but it is going up at a much slower rate than it was before.

When Washington spending growth is curtailed, that means Washington spends less money. If Washington spends less money, that means they borrow less money, they overdraw their checkbook by less. When they borrow less money out of the private sector, that leaves more money available in the private sector, and from here it gets pretty easy. More money available in the private sector means the interest rates will stay down.

With the interest rates down, of course people buy more houses and cars and they have a better chance of living the American dream. And when they buy more houses and cars, I get excited when I talk about this part, when they buy more houses and cars, of course that means that there will be job opportunities for our kids, because somebody has to build those houses and cars, and that means that my kids can have the hope and dream of living the American dream right here in our Nation. They will not have to go to a Pacific Rim country, China, or someplace else to live the American dream.

When we see this sort of thing happening, Washington borrows less money, more money available in the private sector means lower interest rates, people again have the chance of living the American dream. When they buy those houses and cars, that is job opportunities, and that is what is going to keep our kids right here home in America where they belong.

This chart, I cannot emphasize the significance and importance of understanding that we have two things going on out here at the same time that has allowed us to get to our first balanced budget since 1969 and lower taxes at the same time. The strong economy, coupled with curtailing the growth of Washington spending, has led us to this point, and it is a very nice spot to be at.

The next question I typically hear at my town hall meetings is, who gets credit for all of this stuff? The first answer to that question is very straightforward. I learned in Washington that there is absolutely no end to what we can accomplish if we are willing to give the credit for doing it to someone else.

So my first answer to our constituents is I do not care who gets the credit. This is so good for America, it does not matter who gets the credit. It is the right thing for our country. A balanced budget, lower taxes, Medicare restored, those are the right things, so it does not matter who gets credit.

I also brought documentation here as to what was going on when we came here in 1995 and what would have happened if we had come and played golf, tennis, basketball and did not do our jobs. On this chart we can see where the deficit was heading when we got here in 1995. This red line shows what the deficit would be as we move toward the year 2002. Had we done nothing, this is what would have happened. The yellow line shows what would have happened after our first 12 months.

In the first 12 months we made progress, and again, I think it is important to remember those first 12 months. That was the 100 days, that was the Contract With America where we did all kinds of things in the first day, and those 100 days were many, many hours out here, lots of disagreement from side to side as to what should be done. But what it did do is it brought this projected deficit line down to this yellow line.

Well, we boldly laid the green line into place and we boldly promised the American people that even though we were looking at this picture, we were going to make this happen. I am happy to report that when we got done with it, we are now 3 years into the plan, and we not only achieved our target, the green line, but we are far ahead of schedule from what was promised.

Again, when we understand all of these pieces of pie put together, curtailing the growth of Washington spending, more money available in the private sector which keeps the interest rates down, people buy more houses and cars, that is more job opportunities so they leave the welfare rolls, when we see all of these pieces fitting together, it is pretty clear how we can be here talking about the first balanced budget since 1969, in addition to the first tax cut, and Medicare being restored.

I have one more thing that I think is important to talk about, because I have talked about the past and the present. I talked about how it was before 1995 with broken promises and tax increases, and how it is now in the third year of a 7-year plan to balance

the budget where we are on track and ahead of schedule, and we are also providing the first tax cut in 16 years and Medicare restored. I think the logical question is, what next? Where do we go from here and what kind of problems do we still have facing America?

Well, first, even after we get to a balanced budget, we still have a $5.3 trillion debt staring us in the face. I can see in the gallery above me here this evening some young people. If we do not do anything about that $5.3 trillion debt, it would be like the parents that are sitting up there simply passing this debt on to their children. So the first thing we need to think about after we get to a balanced budget is get on a payment plan so we repay that $5.3 trillion debt.

We have drafted legislation in our office that is called the National Debt Repayment Act, that effectively puts us on a home mortgage repayment plan. It is not a lot different than the people who used to build homes with us and when they got the home done, went to the bank, borrowed the money and put it on a 30-year repayment plan. That is effectively what we have done.

It goes like this: After the budget is balanced, we cap the growth of Washington spending at a rate at least 1 percent below the rate of revenue growth. I have a picture here that shows what happens. If the red line, the spending line is going up at a slower rate than the blue line; again, if the revenue line, the blue line, is going up faster than the red line, the spending line, that creates a surplus, it creates a little gap between those two lines, it creates a surplus.

Here is what our bill does. It says, recognizing that simply by controlling Washington spending growth, we can create this surplus, we are going to take two-thirds of the surplus and make a house payment. We are going to make that payment on the $5.3 trillion debt. So we are going to start making mortgage payments on this debt that has been run up over the last 15 to 20 years.

If this plan is followed, two-thirds of the money, two-thirds of this surplus will literally repay the entire Federal debt by the year 2026.

It does something else that is very important as well. When we are repaying the debt, we are putting the money back into the Social Security Trust Fund that has been taken out over the last 15 years. It is important to understand that Social Security today is taking more money out of paychecks of people than what it is giving back out to our senior citizens in benefits. That extra money that is coming in is supposed to be set aside in a savings account so that when the baby boom generation gets to retirement, there is enough money there that they can go to the savings account, get the money and make good on the Social Security promises. It should come as no surprise so anyone that has followed Washington that the money that has come in for Social Security, that is supposed to be in the savings account, is not there. It has been spent on all kinds of Washington programs, and the Social Security Trust Fund is now all part of the $5.3 trillion debt.

The National Debt Repayment Act repays the entire Federal debt. So when we are repaying the Federal debt, we are putting the money back into the Social Security Trust Fund. So the National Debt Repayment Act restores the Social Security Trust Fund for our senior citizens.

The other third of the surplus, two-thirds is going to make these payments on the national debt, the other one-third is being used to reduce taxes each year for our working families in America. So the good news is we look to the future with the National Debt Repayment Act, our seniors can rest assured that their Social Security will be safe because the National Debt Repayment Act puts the money back in that has been taken out of the Social Security Trust Fund.

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Our children can be assured that the entire Federal debt would be repaid. Think of this legacy. We could pass this Nation on to our children absolutely debt-free. For people in the work force today, they can count on additional tax cuts.

Lord only knows I have heard enough different ideas of which taxes to cut next. My personal preference is that we eliminate the marriage tax penalty, and maybe have some across-the-board tax cuts beyond that. But the good news is, think of the wonderful fight we are about to have: which taxes should we reduce, and how far down should we take those taxes, and how different that fight is from 1993 when the debate was, which taxes shall we raise and how high we should raise them. This is a good debate to have.

To all the folks upset about any portion of the tax cut plan because it should have been a different way, I would simply remind us how different this fight is from 1993, where how high we should raise taxes and which one was the debate, as opposed to 1997, where we are having this debate about which taxes to cut.

So the National Debt Repayment Act provides surpluses as we go forward. Use two-thirds of those surpluses to make a mortgage type payment on the Federal debt. The other one-third goes to tax cuts. If enacted, it guarantees our children a debt-free Nation, a legacy of a debt-free country. Our senior citizens' Social Security would be restored, and the people in the work force today can look forward to additional tax cuts as we move forward. Not a bad plan for 3 years into this new Congress.

We have gone away from the broken promises of the past and the raising taxes to the first balanced budget since 1969 and the first tax cut in 16 years, and we are now moving forward to the next step, which is repaying the Federal debt. We can look forward to passing this Nation on to our children debt-free.

I yield to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. Mr. Speaker, I want to congratulate my friend, the gentleman from Wisconsin, for his leadership on the budget and tax issues. Because underneath what he is saying, and I have heard him, as I have watched back in my office, allude to this several times, that a lot of this is basically a matter of trust. That is, who do we trust most with our incomes? Do we trust the people in Washington, or do we trust the families, the parents, the individuals around the country to make the decisions for their kids' future education, for their kids' health, for their family decisions on whether they are going to take a vacation with their family or whether they are going to get a certain kind of winter coat or whether they are going to bank it. Rather than have the people in Washington make these decisions, we need the people back home in Indiana and in Wisconsin and in other States to do that. That is in fact what we are doing.

If we do not get control of this deficit that has been mounting up, particularly as it relates to things like the Social Security trust fund, which, if we repay that in the debt repayment plan, well, if we do not do that, not only will we not have short-term balanced budgets, we will not have the income in our families to make those decisions, but we will absolutely bankrupt this country as the baby-boomers, your and my generation, hit the retirement system, which we have paid into all of our lives, but all of a sudden there will not be any money there.

So sometimes what we have to do is plan for the future, in addition to the present. The gentleman is going one step beyond where the current bill goes and saying, hey, look, we have to think out where we are headed, or our kids will be saddled with a double whammy; that is, no reserve, Federal reserve, to pay for our retirement, and having to pay huge taxes and interest rates, because the debt has accumulated.

Mr. NEUMANN. Reclaiming my time, Mr. Speaker, is it not exciting to be standing here having this conversation? We came in together in 1995. Does the gentleman remember what it was like when we first sat in a hotel not far from here as we were going through our original process, and we were committed to getting to a balanced budget? The best hope was 2002.

We talked about, could not our class be the one that would bring it up; instead of 2002, why do we not do it by

2000, or maybe even sooner? And it was just beyond imagination in this city that we could possibly get a balanced budget before the year 2002. And to do tax cuts and the balanced budget at the same time, it was almost like unheard of.

And the idea of actually curtailing and controlling the growth of Washington spending, bringing that growth rate down by 40 percent in 2 years, it is phenomenal what has happened out here in 2½ or 3 short years. It is just exciting to be able to stand here and talk about good things. When I was elected to office I never thought I would go home and say something good has happened in Washington, because so many bad things had happened out here as we watched the broken promises, the tax increases and more government regulation, and it just seemed like it was going to be more and more and more Washington and less and less control of our lives and our families back home in Wisconsin. That is what brought me into this in the first place.

It is really exciting to be out here and have the opportunity to talk about these families, the family with two kids at home and one off at college that keeps $2,300 of their own money, instead of sending it out here. That is just exciting to be able to talk about.

Mr. SOUDER. If the gentleman will continue to yield, Mr. Speaker, I have some points I hope to talk about later tonight, where I am concerned as we get near the end of the appropriations process that the Federal Government is taking too much control.

What the gentleman has pointed out and what we have to keep in perspective is the difference between where we were in 1993 and 1994 and what we are debating about today.

I have a grave concern about the guesstimating in the census, and trying to gain power through that and through bringing in illegal immigrants into our voting system without background checks. I have grave concerns about national testing. I have grave concerns about the desire to allow family planning money to be used for abortions throughout this world. Those are grave concerns.

But we made an earth-shaking change in the election of 1994, when the gentleman and I came in. That is, what we were so upset about in 1993 and 1994 is it seemed that in every category of American life the Federal Government was in an aggressive, expansive mode; that we had this tremendous pressure on the health care system, the greatest health care system in the world. We had the Labor Department going after small businesses and mid-sized businesses and large businesses, saying they were going to turn OSHA into an enforcement agency, when what we were hearing at the grass roots is that they were not concerned about the health and safety of individuals, but rather, in harassment of job-producing industries.

We saw in every category gun owners being restricted and being gone after by the Federal Government. We saw a collapse in a lot of the moral leadership of our country and, in particular, the type of laws that were protecting unborn children and others. We saw a major tax increase, the largest tax increase in the United States history. We saw proposal after proposal that would have expanded the Federal Government's role in every single appropriations bill in every single category of this country.

Now, after the 1994 election, the whole debate has been turned. We are still arguing over different points, important points. But the big questions, was the deficit going to continue to spiral upward or was it going to head down, were we going to give more money to individuals or take more money from individuals, and we now are moving towards a balanced budget this year; an amazing, amazingly low deficit this past weekend, and maybe $23 billion for the fiscal year. We are looking at——

Mr. NEUMANN. Just a second on that point, Mr. Speaker. It will not be long and CBO will be in our court, and they will actually admit that the budget is going to be balanced next year, in fiscal year 1998, for the first time in 30 years. They are slowly coming around to the numbers that the gentleman and I have been working on and putting out regularly over the last 3 months that do demonstrate we are going to hit this balanced budget 4 years ahead of schedule.

Mr. SOUDER. An extraordinary achievement for our children and our families, because our interest rates are staying low, our unemployment rate is staying low. We are not only able to absorb all of the immigrants who are coming into this country, but we have in parts of my district at least 2 percent under what was considered full employment. We are at 2 percent in some of the counties of my district on an unemployment rate.

The consequences of this control of the deficit are huge in terms of interest rates and keeping the employment rates up and the unemployment rate down. But the tax cuts are important, because it will give the maximum flexibility to the individuals. Those of us who are concerned about the growth of the power of government, the best thing we can do is give $500 per child to each family for each child, because what that will do is let parents make the decisions they need to make for their children.

By giving the capital gains changes, people can invest in their homes, and senior citizens can sell off their homes for their retirement income. By having education IRAs, by having family farms be able to be preserved in the families and small businesses be able to be preserved in the families, those are huge steps toward social stability in this country, and toward the moral fabric and restrengthening in this country.

We are going to argue about these other issues, important issues, but we have to keep in mind that in the big picture we have made tremendous strides in changing the entire national debate to how do we give more power to families and individuals, how do we give more power to States, how do we reduce the size of the spending and the deficit in Washington.

Mr. NEUMANN. I know the gentleman made the point on the tax cuts. A lot of times back home people do not understand how possibly could we cut a family's taxes by $2,300, that family of 5 that I keep talking about, a freshman in college and two kids still at home; how could Washington possibly cut their taxes by $2,300 in a year and not bankrupt the system.

What we forget in general is that Washington is collecting, through all the parts of society, Washington collects $6,500 in taxes for every man, woman, and child in the United States of America. On average, if we take the total amount Washington collects and divide it by the people in the country, Washington is collecting on average $6,500 per person for every man, woman and child in the whole country. So when we put the $2,300 tax cut in that perspective, it becomes pretty clear how we have managed to do this and at the same time balance the budget.

Mr. SOUDER. If the gentleman will continue to yield, my understanding of the gentleman's math, there is a family with two children, they would be paying roughly $24,000 a year in taxes, roughly $26,000 a year, and that is an extraordinary figure. It is not that the government is actually starving. They have been starving out families. What we want to do is get more of those dollars back to those families, empower the families to make those decisions, and less out of Washington.

If I can add one other thing, those tax cuts deserve a ton of credit for the deficit reduction, because what it did by giving more dollars, and the stock market knowing that more dollars were going to be in individual hands, knowing that family businesses and capital gains and inheritance tax changes were coming, it kept the confidence of the consumers up, rather than having the confidence go down. Usually we have these cycles. It was to a large degree the combination of controlling our spending, but even more importantly, the tax cuts that have revived and kept this tremendous economic growth engine going.

So a lot of the reason that we have this deficit decline that we have is not just because of us controlling spending, but in fact, it is because tax cuts gave

the markets the confidence, gave the investors the confidence and the individuals the confidence to continue to employ people, to continue to build up inventories, to buy products. That has kept the economy going in a remarkable way.

Mr. NEUMANN. I just want to reemphasize, and the gentleman from Arizona has joined us, and I know the gentleman from California [Mr. HUNTER] would like time, but I want to reemphasize that working model of curtailing the growth of Washington spending that is so important in understanding what has happened out here.

Washington spending, before we got here, a 5.2 percent growth rate. After we got here, 3.2, a 40 percent slower growth in Washington spending. When Washington spending is less, that means Washington borrows less money out of the private sector.

This was a theory in 1995: if Washington borrowed less money there would be more money available that would keep the interest rates down, and with the interest rates down people would buy more houses and cars. Of course, that meant people had to build them. That is what has led to the full employment, is those job opportunities that come as people make decisions, the interest rates are down, they have the opportunity to achieve the American dream.

It is this curtailing of Washington spending, coupled with the strong economy, and they feed on each other, that has allowed this to happen. It was a theory in 1995. It is now a proven commodity. It works and it is being shown in the economy that we are in today.

I want to turn our attention to education. I see the gentleman from Arizona has joined me, and I am happy to yield to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding.

I compliment both my friend, the gentleman from Wisconsin [Mr. NEUMANN] and the gentleman from Indiana [Mr. SOUDER] for bringing out and emphasizing for all of our listeners the importance of curtailing spending. That is indeed critically important, I think, for the future of this Nation, not just for the economic reasons, not just because the government spending is out of control, but also because I think we are discovering that government does not have all the answers.

When we give government too much in the way of resources, it just grows and grows and grows, and not all of what it does is good. As a matter of fact, as government gets bigger freedom gets smaller.

I did want to segue into the education issue. As I listen to you do the math computation, I think, indeed, if certain proposals before this Congress prevail, we could be the last Members of this Congress that can do basic mathematic calculations.

Last week this issue came up. We are in the midst of a fight over an issue called national testing. My colleague came to the floor last week and pointed out that in the midst of that debate, there is a great deal of misunderstanding. Many of my colleagues and friends back home in Arizona say to me, why is it Republicans are against national testing? Why is it you do not want to do the President's national testing idea?

I point out to them that there are grave dangers in the President's proposal, because if we do national testing as the President proposes with the Department of Education setting the tests, we are in serious jeopardy of dumbing down America and America's math skills.

For example, I want to point out an article that appeared in last week's Wall Street Journal by Lynne Cheney, in which she illustrates this point.

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She cites a gentleman by the name of Steven Leinwand who sits on the committee overseeing President Clinton's proposed national mathematics exam. In this column she writes that Mr. Leinwand believes that it is downright dangerous, downright dangerous, to teach students mathematical skills like 6 times 7 is 42.

Mr. NEUMANN. Mr. Speaker, reclaiming my time, I am a former math teacher, and I think it is downright dangerous to listen to that kind of advice from those kinds of experts.

Mr. SHADEGG. Well, it would be downright dangerous not to teach them 6 times 7 is 42. But Mr. Leinwand goes on, according to this article by Lynn Cheney, and says we should not teach students basic computational skills, addition, subtraction, multiplication, and division, because it will anoint the few who master those skills and cast out the many who do not.

This is a national expert who would be in charge of writing this test saying we should not teach children those skills. I was so shocked at his essay saying those things that I asked my staff to go get a copy of the essay, and it is right here. In fact, Mr. Leinwand says, "We should be beyond teaching children basic mathematics skills. That is, in fact, a bad idea."

Indeed, he is not alone on this effort. There is a National Association of Mathematics teachers who says specifically we should not teach children certain knowledge and skills such as whole number computation. And what is their reason? Because it will make them feel bad.

What does that have to do with national testing? Why would we not want national testing? The short and clear answer is, if we let people like Mr. Leinwand write a national test which tests kids on thinking or some other theory but does not find out if they can add or subtract or multiply or divide, we are going to create a national disaster across this country.

Mr. Speaker, I know that time is short.

Mr. NEUMANN. Mr. Speaker, reclaiming my time briefly, I think the real question here is, who is going to control what we expect our children to know when they graduate from school? Is it going to be the people in Washington, this national test developer, or is it going to be the people in our communities? And I want to reflect on an experience in my background.

I was a math teacher, and in Milton, WI, I sometimes had people tell me that my students did not know what they were supposed to know when they graduated from high school. I found that personally offensive, because in my classroom we worked very hard to make sure they had these basic skills the gentleman is talking about.

So what we did in Milton, WI, is what I think we should be doing all across America. We developed a survey, and we sent it out to the people in Milton, WI, the parents, the teachers, the community. We sent the survey out to them and said: What do you expect our math students to know when they graduate from high school?

We got the results back and developed a curriculum and a test to make sure that our students knew what our parents and our teachers and our community wanted our kids to know. We found out that initially we were having 70 percent of our students fail the test. By 2 years later, we were performing in the 90 percent bracket, where our students were now virtually all graduating with the skills that the community expected.

Mr. Speaker, this is how it should be done. It should be done with the active involvement of the parents and the teachers and the community, not by some group in Washington deciding what is appropriate and what is not appropriate, because if we turn that authority over to them, we take the parents and the teachers and the community even further out of the education picture.

Mr. SHADEGG. Mr. Speaker, if the gentleman will continue to yield, I think the gentleman is exactly right. This is the whole question about who is going to write the test, who is going to decide what our children learn. Like the gentleman from Wisconsin, I trust the parents and the teachers and the administrators and, for that matter, the students in my own school a lot more than I trust bureaucrats in Washington.

Let me conclude on that point. This is an issue that is going to be resolved in Washington very soon. The Senate has staked out a position on the Labor-HHS bill which says, well, we will do national testing, but we will assure that it is a good test, not one that has

whole math in it, not one that refuses to test children on their computational skills; we will delegate the decision on writing the test to an organization called the National Assessment Governing Board.

Lynn Cheney wrote a subsequent article pointing out that that assumes that this National Assessment Governing Board will be immune from the pressures to test whole math or to test some other radical theory. The problem is not just who in Washington writes it; the problem is that it should not be written in Washington.

The test to test our children's skills ought to be written at least in our neighborhoods, in our schools by our school districts, by our school boards, and by our State departments of education, and not by national organizations who are so remote from those parents and those children.

I thank the gentleman for yielding the time.

Mr. NEUMANN. Mr. Speaker, I am happy to yield to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. Mr. Speaker, as a member of the Committee on Education and the Workforce, I first want to thank Chairman GOODLING for standing firm on this national testing as we come to the final weeks of battle. But I wanted to reiterate a couple of points about the danger of these national tests.

We heard about the math. It is unbelievable that somebody could oppose teaching 6 times 7, and particularly unbelievable that it could be a national leader. What is so amazing about math is that that would be a category you would think this would not happen.

Later, when Lynn Cheney wrote about history standards and some of the other national standards, we had a college art association conference warn faculty members not to teach women artists such as Mary Cassatt because she frequently painted the women and children and thus reinforced patriarchal thought.

We had a 1992 Smithsonian exhibit called "Etiquette of the Underclass" that advocated a view of the United States so class ridden that those born at the bottom could never hope to move up. One of the materials accompanying the Smithsonian exhibition said, "Upward mobility is one of our most cherished myths."

Mr. Speaker, we know that they have this problem with history standards, which is why it was thrown out. We have problems with art. We have problems with economics being national standards, because they politicalize it. Now we have problems with math.

Mr. Speaker, I want to throw out one other thing. Bill Safire in a column this weekend said that, "The American tradition has been to entrust such decisions to local school boards run, not always well but usually democratically, by involved parents and teachers in that community, with review by State authorities and with the Feds intervening only when States fail to protect a student's constitutional rights."

Last Thursday morning, a lady whose son attends Casa Roble High School in Sacramento, CA, gave me a test that was given her son in a technology class on August 29, 1997, supposedly after we got by this. This was not a national test. If this was a national test, we would be in deep trouble. This was a local test. However, it is a local test that spread to five States. But because it is a local test, we can fight it at the local level.

But this is why we fear national tests. It was trying to look at the students' values and things like: I donate to charities. I envy the way movie stars are recognized wherever they go. Things that make us wonder whether they are being too intrusive.

But, Mr. Speaker, I want to read some questions that strike fear in my heart.

Question Number 2: I will regularly take my children to church services.

Question Number 11: I have a close relationship with either my mother or my father.

Question 12: I have taught a Sunday School class or otherwise been active in my church.

Question 24: I believe in a God who answers prayers.

Question 34: I believe that tithing, giving one-tenth of one's earnings to the church, is one's duty to God.

Question 41: I pray to God about my problems.

Question 43: I like to spend holidays with my family.

Question 53: It is important that grace be said before meals.

Question 59: I care what my parents think about the things that I do.

Question 72: I read the Bible or other religious writings regularly.

Question 78: I love my parents.

Question 82: I believe that God created man in his own image.

Question 91: If I ask God for forgiveness, my sins are forgiven.

Question 95: I respect my father and mother.

What business do schools have intruding in the religious life of children and asking intruding questions about how students feel about their mother and father? It may have been well-intentioned, but this is scary. What if this stuff gets in the national tests? At least at the local level we can fight it.

Mr. Speaker, how dare this President propose taking over our children's lives through a national test when we have seen the pattern here? We have seen it in economics, we have seen it in math, we have seen it in history. At least at the local level, we have a fighting chance to change it. If these people nationalize this stuff, it is going to be a scary country to live in, because it is clear where they are headed and this type of stuff scares me to death.

Mr. NEUMANN. Mr. Speaker, reclaiming my time, is this not what this battle is about?

In 1993, they raised taxes so they could maintain all sorts of new Washington programs like Goals 2000, like national testing, like all kinds of things. They raised taxes so they could continue the growth of Washington spending, making Washington and the people here bigger and more powerful and more intrusive in our lives. Is that not what it was all about?

Now as we curtail the growth of Washington spending, as we slow this thing down, we are fighting to keep this sort of situation from developing, where again Washington steps in and takes the responsibility of parents and teachers and communities and Washington decides what is appropriate to be on this sort of national test and what is appropriate to ask our young people.

That is wrong. That is a responsibility of the parents and the teachers and the communities. That should not be Washington's responsibility. We see this fight in almost every time we turn a corner in this city. Whether it be education or anything else, it is every topic. They want more and more control of the lives of the people instead of letting the people have more and more control of their own lives.

We see that in the tax cut/tax increase debate as to, who is going to control the money that the people earn, Washington or the people? In education, who is going to control what our kids learn, Washington or the parents and the teachers and the school district?

Mr. SOUDER. Mr. Speaker, if the gentleman will yield, he is absolutely correct. The people of Wisconsin have an independent tradition and the people of Indiana have an independent tradition. And the Founding Fathers knew, although Indiana and Wisconsin were not in existence at the time, that we have inherited that belief that power corrupts and absolute power corrupts absolutely. We have a healthy skepticism of a concentration of power.

Our Founding Fathers knew that we needed a balance. We needed individuals with rights. We needed a Court, we needed a Congress, a President. We needed strong States. A lot of people believed that going to a Constitution as opposed to Articles of Confederation was consolidating too much power.

Back then, they did not think about departments of education and national tests. That was far from it. They were doing minimal Federal Government. Our Founding Fathers had it right. They were fearful that power concentrated, as it was in Europe, would lead to the type of tracking in the education systems, would lead to the type of monarchy dependency, that we would look to our capital city for all the solutions rather than inside our souls and inside our own families and look to government to fix the problems of the poor rather than sacrificing our

own time and money to reach out to those who are hurting.

Mr. Speaker, that is indeed what is happening in America. We need to stand up. And this budget deal and the tax cuts were an important first step. Now we have to follow through on some of the details, because we have the big picture right. We need to make sure that they do not back-door us as we go through the actual appropriations bills.

Mr. NEUMANN. Mr. Speaker, I thought I would conclude my hour this evening by wrapping up what we have been talking about. The discussion has been about more Washington and more Washington control of our lives versus less Washington and less Washington control of our lives, and the integrity of this Government in general.

We started with the past. We started with before 1995. We started with the broken promises of the Gramm-Rudman-Hollings bill, how they promised to get to a balanced budget but never got around to doing it; how in 1993 the way they decided to get to a balanced budget was to raise taxes on the people, and the people in 1994 said: Enough of that stuff; We do not want any more broken promises; We do not want any more tax increases. They elected a new group of people to the House of Representatives.

They elected Republicans to control the House and Republicans to control the Senate and left the Democrat President, in all fairness, to complete this picture.

But from 1995 to 1997, things have been very, very different. We, too, laid out a plan to balance the Federal budget, and we are in the third year of that 7-year plan. We are not only on track but we are going to have the first balanced budget in fiscal year 1998, the first time in 30 years we are going to actually have a balanced Federal budget; Washington is not going to spend more money than it takes in.

Mr. Speaker, how has this happened? It has been done not through tax increases like back in 1993 but at the same time we lower taxes. It has been done by curtailing the appetite of Washington spending.

It has been a battle; there is no question about it. Washington spending is still going up, but at a much slower rate than what it was going up before. It was going up almost twice as fast as inflation before 1995. By slowing that growth of Washington spending, we are at a point where we have both a balanced budget and lower taxes; first time since 1969 for the balanced budget, first time in 16 years that we have had a tax cut, and Medicare has been restored.

At the same time, we have to look forward to the future and ask ourselves what is coming next. The next in the picture is, we are going to put us on a plan to repay the entire Federal debt. As we repay that $5.3 trillion debt, that puts us in a position as a Nation where we can give to our children the legacy of a debt-free country.

At the same time we are repaying that debt, we are putting that money back into the Social Security Trust Fund that has been taken out over the last 15 to 20 years, so Social Security is once again solvent and secure for our senior citizens. This plan entails keeping one-third of our surpluses and dedicating it to additional tax cuts as we go forward.

Mr. Speaker, it is a very, very changed discussion in Washington, from past broken promises and higher taxes, to the present of promises kept on track and ahead of schedule in balancing the budget, lower taxes and a restored Medicare, and a future that includes paying off the Federal debt with additional tax cuts, restoring the Social Security Trust Fund, and, most important of all, as we repay that Federal debt, we can give this Nation to our children absolutely debt free.

What better legacy, what better hopes and dreams could we have in this Nation than that plan for our future?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REDMOND). The Chair would remind all Members to refrain from references to occupants of the gallery.

SLIPPERY SLOPE OF DEFENSE BUDGET CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, a couple of weeks ago I submitted an article for the prestigious military magazine on military affairs, "Proceedings." In that article, I outlined the slippery slope that we are presently on with respect to our deteriorating national defense and where I think we should be going, what I think we should be doing, my opinion, and what future actions should be taken.

Mr. Speaker, my staff mentioned to me tonight when they read the article, and I had mentioned service leaders who had not spoken up over the past several years, "Do you think people will think you are referring to Chuck Krulak, the Commandant of the Marine Corps?" And I said, "Absolutely not."

Mr. Speaker, I am down here on the floor tonight to make sure that folks understand that that is not the case, because Chuck Krulak is one of the finest Marine Corps Commandants and one of the finest Marine warriors of this century.

□ 2130

I think of Chuck in the great tradition and legend of guys like Chesty Puller and Gimlet I. Butler, great Marines, and Chuck's own father, Brute Krulak, who is one of the great Marine warriors of all time.

I talked, Mr. Speaker, about the deteriorating infrastructure of national security and the fact that just a few years ago, when we won Desert Storm, we had 18 Army divisions. We are now down to 10. We had 24 fighter air wings. We are now down to 13. We had 546 naval ships. We are now down to 346. And as this decline continues, very few Americans understand what is going on.

I am reminded also that it was General Krulak who spoke up and put down in writing the fact that the Marines are about 93 million M–16 bullets short of what they need to fight and win two regional conflicts; that is, two regional wars and have enough money to continue to keep their training rotations going and keep the troops coming in.

If you look at those two regional wars, we have actually fought both of the wars that we think we might have to have. We fought the war in the Middle East, in Iraq, and we fought the war in Korea. We only have 10 Army divisions today, but when we fought the war in the Middle East, we used some 8 Army divisions. That only leaves 2. And yet when we fought the war in Korea, when the North Koreans, on June 25, 1950 invaded the southern part of the peninsula, we used 7 Army divisions in that war along with a large contingency of Marines. So we used 8 in the Middle East, 7 in the Korean peninsula. That is 15 Army divisions. And yet today we only have 10 Army divisions.

Similarly, we have slashed our air power, almost slashed it in half, from 24 fighter air wings to only 13.

So, Mr. Speaker, we are continuing with this low level defense budget to go down the slippery slope. That means that when we have a war which surprises us, where the enemy comes at us with better preparation than we expected, which usually is the case, with higher technology than we expected, which is usually the case, and with surprise which, yes, is usually the case, as was the Tet offensive in Vietnam, as was Pearl Harbor, as was the invasion of Kuwait, we are going to be in trouble and we are probably going to have more young Americans come home in body bags because of our rush to cut government spending.

We are cutting the one area where you have to remain strong. That is national security.

Once again, Mr. Speaker, let me applaud my good friend, Chuck Krulak, and all the great service he has given this country. And to everybody who has spoken up similarly, even though they have taken some hits for it, let us try to make the case again to the American people in this new year and bring that defense budget up.

EDUCATION REFORMS

The SPEAKER pro tempore (Mr. REDMOND). Under the Speaker's announced policy of January 7, 1997, the gentleman from North Carolina [Mr. ETHERIDGE] is recognized for 60 minutes as the designee of the minority leader.

Mr. ETHERIDGE. Mr. Speaker, I want to thank my friend, the gentleman from New Jersey [Mr. PALLONE], for joining me this evening. I have a few opening remarks and then I will ask him, if he would like, to join me. I want to thank him for being here this evening and for helping to organize this special opportunity to talk about a very important issue involved in the Democratic effort to reform, to improve and to strengthen public schools in this country.

We have held this series of after hours speeches to engage the American people in a dialogue about the policy choices that are being made that will have a profound impact on the way our children are educated in every community all across this great country. We simply must put the maximum effort we can into improving of our public schools for our children. By that, I mean all the children of this country, not just a select few that we can give vouchers or something else and give a lot of lip service, but I am talking about every child, no matter where they live in this country.

We have a lot of work to do. Some of these things certainly are local responsibilities, no question about that. But we at the Federal level cannot walk away from our responsibility to help every child in this country.

Mr. Speaker, before I became a Member of the people's House, I spent 8 years as the superintendent of public schools in the State of North Carolina. I am proud of the record that we have established in our State in improving education. I had the privilege during those years to spend a good deal of my time in the classrooms, on the front line in the struggle of our schools in the battle against ignorance.

I am here this evening to talk about those North Carolina values that I think have made a difference in our State and certainly can make a difference across this country.

In all the time that I spent in those classrooms, and I still go in them now at least once a week since I have been elected to Congress, no student has ever asked me who paid for the textbooks, who built the building, who paid the power bill, who paid the electrical bill or who bought the school buses they rode to school on. The child does not care who provides them the opportunity to learn. A child only knows what that opportunity is, whether or not they have been provided one and, in many cases, unfortunately an opportunity denied. And once you deny an opportunity for an education, you deny a child an opportunity to have a level playing field to compete and develop their God-given ability.

I think sometimes those of us in public office get too carried away by whose responsibility it is and forget that it is all of our responsibility. It is not just the responsibility of the Federal Government or the State government or local government or parents and children. All of us share a responsibility. That is why public schools in this country are asking parents to be engaged, asking the business communities to be engaged, because all of us share a responsibility for our children.

One issue that we must make a top priority is the issue of school facilities and school construction and, yes, the repairing of those buildings in many cases. All across this country we have crumbling schools, some in our inner cities as well as in rural areas of this country. And we have major overcrowding in schools where areas are growing and growing very rapidly. And in some cases they are adjacent to urban centers where those areas are poor and do not have the resources to match it. I know because my district contains areas, directs spending and faces all of these problems.

My State just passed last November the largest bond issue in the history of our State, $1.9 billion for school construction, by the largest majority of any bond issue in the history of our State. That tells me people care about children. They care about them having quality facilities, and people want action on this important issue. We have to get beyond the dialogue and the rhetoric of whose responsibility it is and just say it is our responsibility, it is our country, and these are our children. We have to deal with all of them.

There are some communities that cannot do it without help, without some leveraging. I think that is an issue that we have to grapple with, and we have to grapple with it at the Federal level. There was a time when it was not our responsibility at the Federal level to determine whether or not people had electric power. But in the 1930's we decided we ought to do that and we put a policy in place that every citizen of this country would have electric power and we put in the REA. We also made the same decision as related to telephones and, shock of all things, we decided that water and sewer was important. It was not a national priority before that.

And I happen to believe if there is anything important to this country beyond the defense of our borders, it is education for the young children of this country, making sure that they have the minds to be able to compete in the 21st century. And, yes, education is all of our responsibilities so that children can develop their God-given ability.

The President made a very sound school construction proposal during the budget talks but, unfortunately, the Republican leadership refused to allow it to be included in the final budget package. That was very disappointing. It was a very disappointing decision by the Republican leadership because the American people need some help to repair their local schools, and this Congress should do more to provide that help. Sure, we have balanced the budget. I am proud of that. And now that we have balanced the budget, we should not shirk our responsibilities to help our children.

While Washington often bickers over what role the Federal Government should and should not take on these issues, our focus should really be on the needs of our local communities and making sure that our children have the best opportunity.

You can walk into a school in any community in America and immediately know where education ranks in that community. As a matter of fact, you do not have to walk into a school. You can drive into a community and find out where the nicest buildings are and you will know what the priority is in that community. We have to change attitudes and support public schools and public education.

Many poor communities do not have the resources to build the quality facilities that they need. We should help them. We must help them. Many growing communities cannot keep up with the pace of expansion that they have to meet the needs of all the children in the school system. We should help them.

I speak to many chambers of commerce, as I know other Members of this Congress do, to business leaders, community leaders and other groups. Sometimes someone will say to me that the quality of buildings really does not make a difference. I have a ready answer for those folks. I say, when you go out and recruit new business and bring jobs to your community, why do you not take them down to the side of town where you have the old run-down warehouses or old run-down buildings and say the quality of the building really does not make any difference? Why do you not put your business in that old building? It is the quality of the people you put in it that makes the difference.

And yes, it is important, the quality of people you put in it, but the quality of that facility says a lot about what you care about. It also says to your employees that you care about their environment. It also says to children that you care about education when you improve the quality of the facility.

The town fathers always wanted to show off the shiny new facilities that attracted those new buildings. That is why today we are seeing communities all across America and parents and others raise the issue of school facilities and the quality of education, because that is what business interests

are asking about. It is their pride and joy. And the quality of the opportunities for our children will be the thing that will make a difference in the 21st century.

I say our schools should be our pride and joy also, because it is important that children see the quality and that we do care about their schools and that we do have the quality of facility they need, because it does have a significant impact. I know. I have seen it. I have been there, as the gentleman has.

It makes all the difference in the world. It has an impact on their attitudes, and it certainly translates into a better learning environment and we see the difference. It also has an impact on discipline, and we see a drop in the number of problems that children have. If you have a nice facility, it is amazing what happens to your attendance rate. It goes up. Children want to be in a nice environment. That should be our top priority. There are a lot of other things we can be doing.

I am working on legislation that will be drafted to help rebuild our schools in our run-down areas and build new schools in areas that are growing. This bill will help direct resources to areas where they are needed most, where school populations are projected to explode in the next several years, and we know what is happening.

We have the largest enrollment in our public schools today that we have ever had in our history. It is projected to increase dramatically over the next 10 years. We have areas of the country that are growing by 10, 15, 20 and some as much as 35 and 40 percent. Those areas can absolutely not meet the needs that they have.

I am very pleased to have my colleague from New Jersey join me this evening, and other colleagues will be joining us later. I know, to the gentleman from New Jersey, this is an an issue of interest to him. I see we have another colleague joining us to talk about this issue of not only facility that is important but the quality of the academic offering and how important it is to have accountability.

□ 2145

And, hopefully, before we finish, we will have time to talk about the proposal the President has made for us to deal with this issue, of how to have accountability in our schools and assure the American public that the schools in North Carolina, in every corner of our State, and in New Jersey and in Texas, as people are mobile and move about, that their children have a quality education.

I yield to my colleague from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from North Carolina for initiating this special order tonight. I know he is probably the most knowledgeable person in the House of Representatives on education issues, primarily because he has lived through it and he knows what he is talking about. He is dealing with these situations firsthand, which is what we really need when we are dealing with education and other issues here in the House of Representatives.

A couple of things the gentleman mentioned here this evening I want to sort of reiterate or go into a little more. First of all, I did listen to some of our Republican colleagues a little earlier when they were talking about the budget and taking credit for achieving or at least trying to achieve a balanced budget.

It is certainly good we did pass the balanced budget proposal, and I do believe that it will achieve a balanced budget, but I would mention that the Democrats fought very hard not only to achieve a balanced budget but also to make sure that there was funding in that budget bill for education priorities. And we made a point, as did the President, that we were not going to go along with the bill unless the Republicans changed their policies and provided a significant amount of funding for education priorities.

A lot of the money that was targeted by the Democrats in that bill went to higher education, because, as the gentleman knows, the cost of higher education has skyrocketed in recent years, in the last decade, or even the last 20 years. And what we were trying to do was to provide programs, tax credits, ways to provide additional funding to students through their parents or through their own families so that they would have access to quality higher education.

I think we succeeded. I am not saying we totally succeeded, because costs are still going up, but we have at least provided some tax credits and some deductions and some scholarship and some expansion that makes more money available for those who do not have it; primarily middle-class students. But what we need to turn our attention to now, and what the gentleman from North Carolina described, is primarily before a person goes to college, secondary schools, grammar school, kindergarten, even preschool. That is where the Democrats now are prioritizing what we think this Congress should do.

I know the gentleman in particular has cochaired the Democratic Task Force on Education, which has come up with a number of basic principles that I think really set the standard for what kind of legislation and what priorities we should have in this Congress on education issues. The gentleman mentioned a couple of those, but I wanted to zero in on two.

One is, of course, the main purpose of our debate this evening, and that is the need to basically provide for the education infrastructure. We know that schools are overcrowded. We know that a lot of them need repair. We know a lot of local school districts need to build new schools because there is so much of an increase in enrollment.

The gentleman also mentioned the fact that the Federal role here should be primarily to support public education and not take dollars away from public education through a voucher system that primarily supports private education.

One of the things that I think needs to be stressed, and I know the gentleman mentioned it but I am going to stress it again, is that throughout this debate that will be occurring in the next few weeks, actually beginning this week with the D.C. appropriations bill, what needs to be stressed is not so much that many of us, including myself, are opposed to vouchers, but that we feel that vouchers take money away from public schools.

In other words, if we had all the money in the world, we had money growing on trees, so to speak, around here, and we were able to say, OK, let us try a little experiment where we send a few thousand kids in the District of Columbia or in the State of New Jersey or North Carolina to try on an experimental basis a voucher system, I might say, OK, why not. That is a small experiment. A few thousand kids here or there. We will try it and see what the result is. But the problem here is that our public schools are strapped for funds. We know when we talk about the infrastructure problems how strapped for funds they are.

So for us to talk in the context of that and say we are going to take resources away from these public schools, where it could be spent on good programs in these public schools, whether it is infrastructure or it is academic excellence or it is training teachers, whatever it happens to be, and we are going to take those dollars and we are going to spend them on voucher systems for private or parochial schools, I do not think that is fair. I think that is counter to the interests of the public school education that the overwhelming majority, I think it is better than 90 percent of the students are educated in public schools.

So we need to stress to our constituents, and I explain this all the time, that the voucher system is not without cost and impact on the public schools, and that is the problem that I have with it.

Mr. ETHERIDGE. I thank the gentleman, because he is absolutely right. We are not talking about putting additional dollars into the system. If we go down that road, then all those who are currently out there who are not in the public schools, who are either in private schools or parochial schools or wherever they may be, they are going to be standing in line for their dollars once we cross that threshold.

What we would be talking about doing is in every public school in America, in the inner city, in the suburbs, and in rural America, we will be taking dollars out of those schools and reducing that opportunity for every single child. And the child that gets hurt the most is the child who is most vulnerable, in most cases, but all of them suffer.

The last time I checked, as our three children went through the public schools, and we still have one in it, the PTA, in almost every school that I am aware of, certainly in our State and I assume it is true in the gentleman's, they do not have enough money. Otherwise, why would they be having candy sales and hot dog sales and book sales and all these other things they do to raise money? They are raising money to supplement the resources in the schools that are not now available.

So if we are to go in and take additional dollars out, we will do one of two things, should it happen: We will increase the sales by the PTA in other areas or we will deprive them of more opportunities than they are now being deprived. And I think that would be a shame and a disgrace at a time when education in America, in my opinion, is at a premium.

I agree with the gentleman. I think he is absolutely right, and I would yield back.

Mr. PALLONE. I will not go on too long, because I know my colleague from Texas would like to speak as well, but what I see the Republican leadership trying to do is to sort of give the impression that the public school system has failed and we need to look for alternatives now.

And that is not what I am getting from my constituents. They believe that the public school system is generally doing OK. It needs improvement, but they do not want to sacrifice it at the expense of or in order to fund a voucher program that primarily sends resources to private schools. They have a sense of community. They like their public school. They want to see it improved. So let us not just throw it to the wind and say, look, it cannot be repaired.

The bottom line is that if we spend some money and spend some Federal dollars the way the Democrats and the way the gentleman's task force has proposed on emphasizing academic excellence, better training of teachers, and there are a whole slew of things, we have not even talked tonight about the safe and well-equipped schools as well, if we spend money on those things and we improve the public schools, then I think that is money well spent. And that is where our constituents are saying they would like to see the dollars spent.

I wanted to briefly say, and I know we have talked about this, but again when we talk about the magnitude of the problem in terms of school overcrowding and the needs because of dilapidated schools, it is really overwhelming. Just some general statistics here. The General Accounting Office has said that approximately one-third of all schools serving 14,000,000 students are in need of substantial repair or outright replacement. School enrollment, 1996–97 school year. Elementary and secondary school enrollment was a record 51.7 million. That has been broken by this year's high enrollment of 52.2 million.

So the number of kids entering the system is increasing rapidly and the demand for more schools is there. And it is not even repairing the infrastructure, but it is also the high-technology needs. As we move into the high-technology era, the computers, the ability to access the Internet. Very few schools have the ability, have the needed infrastructure to access the Internet. They do not have the money to buy the computers.

All we are really saying, I think, is that if the Federal Government was able to spend a small amount of money and leverage, most of the time, in terms of infrastructure need, the gentleman mentioned it before, local school districts bond for infrastructure needs. But what the President has talked about and, unfortunately, as the gentleman mentioned, was not included in this budget, was the fact that we should use Federal dollars to leverage and pay the interest costs on a lot bonding, it allows more school construction and repairs to take place, and it allows the local school districts to make those kinds of investments at less of a cost over the long term.

So that is what we are talking about. We are not talking about anything that is going to violate the basic concept that funding and control is still local with regard to our education system. Because that is what America has always been about: Local education. But there is no reason, just like we do with sewage infrastructure or roads or everything else, why not have some Federal dollars to help the local municipality pay some of these costs.

Mr. ETHERIDGE. It is easy. If we do not want to do something, we can find a thousand reasons. If we want to do it, it is not hard to find a reason.

Last time I checked, I have not heard anyone get up on this floor and say we should not send water and sewer money to our municipalities to clean them up because we might take control of it. They will find another way if they do not want to spend the dollars. But the truth is, if we want to do it, we can find a way to do it.

The gentleman talked about the schools. And the truth is what we really are about in the whole litany of things is reforming, repairing, and renewing. The three R's. We have to reform and certainly go on about doing things.

I really get frustrated, and I was out there 2 years ago when this Congress talked about doing away with the Department of Education and education was under assault, and both of the gentleman here were fighting to make sure we saved it, and we did. But my colleagues cannot imagine what that did for the morale of teachers and principals and people on the frontlines educating children.

They just sort of tuned it out and kept working. They work hard every day. They are some of the hardest working people in our society today. And I think what we need to do is raise up the tremendous job they do and give them an uplift rather than beating them down.

I know my good friend, the gentleman from Texas [Mr. GREEN], his wife is a teacher, and she is an outstanding one, and I yield to the gentleman because I know he has something he would like to contribute to this dialog.

Mr. GREEN. I want to thank my colleagues, Mr. Speaker, for allowing for this special order tonight, particularly on education.

While I was in my office returning some phone calls and listening to my colleagues from the Republican side for the first hour, the fear they have is Federal control of our schools. Well, I think the three of us would agree we do not want Federal control of our schools. We have fought against that. In fact, in 1994 we reauthorized elementary, secondary education funding, and it was a Democratic Congress and a Democratic President who signed that.

We actually freed a lot of the schools from the paperwork and the requirements that we built up, both Republican and Democratic Presidential administrations. Goals 2000 was a great program, and is still a great program for schools to benefit and States to adopt without Federal controls. Just Federal assistance without the Federal Government saying this is what they have to do. They can do it for literacy, they can pay for lots of different programs with it, but this is our effort to help local schools and States to provide for educational opportunities.

I know the gentleman talked about vouchers, and again this week we will talk about experimenting with the District of Columbia. And Lord knows the District of Columbia needs help for their public school system, but I really do not know if we need to use them as an experiment, because those children need an education. We do not need to lose a generation of children by experimenting with some program that may work in the District of Columbia so then we can export it to the States.

I know the gentleman also talked about national standards. And, again, as long as they are voluntary, I think most folks agree with that.

Like the gentleman, I have two children that went through public schools

and are now a junior and senior in college, by the way in public institutions in Texas, because we also have some low-tuition rates in our public colleges in Texas. And, sure, they could have gotten a better education, but they also got an adequate education. It is an urban school district, literally a microcosm of our country, probably 70 percent minority students today. And when they were in school it was probably 65 percent minority students.

But they went to public schools and they got an education. Of course, my wife teaches in those schools so she also made sure they had that motivation, not just in school but at home.

One of the concerns I have, and in serving a lot of years in the legislature, was the facilities situation we have. We talked about that in special orders a number of times, our deteriorating schools facilities around the country, whether it be in New York, or Washington, DC, or Houston, TX, or a lot of our districts. Providing opportunity for quality education is one of the most important things we do in Congress.

□ 2200

I always believed that the key to the future of our country was a quality education. Now, we all know we want to make sure we have a strong military. We want to have a strong economic base. But it does not take too far to go. We can go just across the river in Virginia and talk to the folks in the Pentagon, and they will tell us that to have a strong military, we have to have an educated force there, people who can think, people who can respond to different circumstances.

And that is what public education is supposed to do. Granted, does it do it 100 percent of the time? No. That is why we are here. That is why we have teachers every day and legislators across the country and school board members and superintendents trying to make it work.

As the gentleman mentioned, my wife is an algebra teacher. I have to admit, I took algebra and barely struggled through, even college calculus. And if somebody gave me the quadratic formula tonight, I could not solve it without the best tutor I ever had in college, who is my wife.

But that also taught me a way of thinking. So whether it was managing a business or practicing law or serving here in an elected office, we have a way that we can make decisions. And that is what we are trying to teach children.

Sure, we want them to add, subtract, multiply, and divide. We want them to know the history of our great country. We want them to know English. We want them to know lots of things. We want them to know science, although some of us, I have to admit, are not science oriented. That is why I am not on the Committee on Appropriations.

But we also want them to have a way to think and be able to change with the times. So that is why I think public education, the investment we put into it, lots of things, is helping those local districts and the States where most of the funding is raised.

Just as we help our children to read, we must also give them schools that are safe places to learn. Today, our Nation's schools are increasingly run down, overcrowded, and technologically ill-equipped. Too many of our school buildings and classrooms are deteriorating, again, not just in Washington, D.C., that we hear about, as a Nation we hear about all the time, but all across our country, whether it be in an urban area like I represent or rural area.

According to a GAO report, one-third of our schools need major repair or outright replacement. Sixty percent need work on major building features, such as a sagging roof or cracked foundation. Forty-six percent lack even the basic electrical wiring to support computers and modems and modern communications technology that we want our children to be able to respond to not only this decade but the next century, and we cannot do it with the facilities we have today.

These are problems, again, not just in my own district in Houston but also across our country. A number of studies have shown that many school systems, particularly those in urban and high-poverty areas, are plagued by decaying buildings that threaten the health and safety and the learning opportunities of our children. Good school facilities are an important precondition for school learning.

Now, we know that if you have a great teacher, a great teacher can teach you under a tree. But that teacher cannot teach you under that tree if it is snowing or raining outside. So we have to have a facility that is adequate not only for those good days that that teacher may be there, but also for the whole school year.

Numerous studies have linked student achievement and behavior to good physical building conditions. Not only are our schools in a state of disrepair, but we also need to see the accommodating growths in enrollment. And I heard my colleagues talking about that earlier.

In Houston, our school enrollment is skyrocketing. The Texas school population increased by 7.9 percent in 1 year. In the Houston Independent School District, we experienced an increase of 3,700 students just from last year.

We have a solution to that, or at least a down payment, or a start. The Senate Labor-HHS-Education appropriations includes $100 million for provision for school facility infrastructure, and it is a good starting point.

In fact, I think it is ironic when my colleague, the gentleman from New Jersey [Mr. PALLONE], asked me today about doing a special order on education, I am always willing to do it, one of my school superintendents from Aldine School District, Sonny Donaldson, whom I work with on a number of occasions, just happened to send me a letter talking about how important that $100 million provision is for school facility infrastructure in the Senate appropriations bill. Our House bill did not include that $100 million.

I have to admit, $100 million, we can spend that in the State of Texas alone. But it is a help from the Federal Government to leverage, as the gentleman from New Jersey [Mr. PALLONE] talked about, to show that we will provide a dollar for maybe what a local district may provide $10 or $100, but to provide that assistance, that we recognize that that child is also our responsibility on the floor of the House. We cannot just put it off on school board members, we cannot put it off on State legislators or school superintendents; we have to take the responsibility on ourselves.

As we help our communities build and maintain their schools, we must ensure that every school and classroom is connected to the information superhighway. And the President has proposed a 5-year, $2 billion fund that will support grass-roots efforts and again put the fingertips of every child by the year 2000 on modern computers, high-quality educational software, trained teachers in connection with the superhighway.

Again, I appreciate the opportunity to join my colleagues tonight.

Mr. ETHERIDGE. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PALLONE], because I think he has something he wants to add to that.

Mr. PALLONE. Mr. Speaker, I was listening to what the gentleman from Texas [Mr. GREEN] said, in particular with regard to the effects of overcrowded classrooms or decaying schools. There is no question that it affects the quality of education provided to students.

It is much more difficult, and I know my colleague from North Carolina [Mr. ETHERIDGE] mentioned, as well, it is much more difficult to learn in an environment where the building is crumbling around you or the situation where there are too many students in the classroom.

Of course it is true, as my colleague said, that some teachers can teach in the worst situation in the world and some students can learn in the worst situation. But, unfortunately, those are often exceptions, and the reality is, we have to see how the average student is impacted.

The one thing that the gentleman from Texas [Mr. GREEN] mentioned, though, that I particularly want to draw attention to is, it is really ironic that this week, I think it is either Wednesday or Thursday of this week on this floor, we are going to be considering this Republican amendment that

would adopt a voucher system in the District of Columbia.

I do not know if it was the last time, but certainly in early September, when the gentleman from North Carolina [Mr. ETHERIDGE] and I, and I think the gentleman from Texas [Mr. GREEN], we were all here and we were talking about how the schools in the District of Columbia were closed, I believe, for at least 3 weeks, in some cases maybe even more, because the Federal judge in the District of Columbia had ruled that the conditions in the schools were so bad, that the infrastructure conditions were so bad that she, I think it was a woman judge, insisted that the schools be closed until the money was spent to repair the schools.

Now, we have been talking about infrastructure and we have been talking about vouchers all night. But here we have a situation where probably the infrastructure problem in the District of Columbia is one of the worst in the Nation, to the point where they could not even open the schools.

I am sure the judge was motivated by the fact that it was going to be a bad learning experience for these kids and it was going to be hard for them to learn, given these buildings and the shape they were in. And here, where there is such a great need for money to repair schools, we are proposing a voucher system, which I do not know how many, I think there are a few thousand kids that are going to be impacted by it. Why not spend that money on the infrastructure needs when the court has actually had to step in and close the schools for that reason?

Again, it points at directly how the need is there and yet we are wasting the resources. In fact, in some cases, I understand these kids might not even be in the District, they might actually be going to Virginia or Maryland or some other places for their education.

I am not here to defend the District of Columbia and its school system. I am sure there are bad conditions and there are problems, and they have been documented. But it does not make any sense to me to say, okay, forget about that; Let it continue to deteriorate, and we will just set up this voucher system.

Mr. ETHERIDGE. Mr. Speaker, reclaiming my time, if we take that another step and we look at industry, and one of the first things I remember in the D.C. situation that my colleague mentioned was, they went in to put the roofs on the buildings because the buildings were leaking.

It is one thing to have poor lighting. It is another thing to have trash cans in the building catching the water when it rains. And that leads to a multitude of problems of safety and additional deterioration and on and on. There is no question that the quality of the environment makes a difference. There are enough studies.

The gentleman from Texas [Mr. GREEN] mentioned growth. Let me just share a few of the States, if I may, that are growing so rapidly. Over the next 10 years, it is projected, this is just high school enrollment, because it goes back to the point he made about those youngsters showing up at elementary school. I have often said, some people want to know why communities are growing so and schools are growing. I said, well, you know, people move into communities, and when they move there, they tend to want to bring the children with them if they have children. That is normally what happens. And when they bring them there, normally they want to go to school.

And in growing communities, we understand that. And for some communities, they can pretty well determine how large their first-grade class will be by the number of live births that happened 5 or 6 years earlier. The problem most schools have are in those fast-growing communities where you have in-migration; people move in and bring the children.

As an example, in California, over the next 10 years, it is projected that there will be a 35-percent increase in the high school enrollment in the State of California, a State right now that is a large State, a State that most of us think of as being a State that is fairly affluent.

But when we have that kind of growth continue in a State that is right now already struggling to meet the needs, we wind up with major overcrowding. And overcrowding leads to all those problems that we talk about of discipline, lack of academic achievement.

There is no question of the studies, and there will be more studies that will continue to come out, beyond having quality teachers in the classroom and a good curriculum, the next best thing we can do for children to provide for them learning opportunities where they excel is smaller class sizes.

We can talk to any teacher in this country, in urban or rural systems, in elementary grades or high school, and what they will say is, "Let me have a small class." It gets back to the point the gentleman from Texas [Mr. GREEN] made earlier about the teacher teaching under the tree. If we have got a small enough class, you can teach most anywhere. The problem we have is, as those classes grow, we really do need space in the larger classes so that children have places to move around, or students, for that matter, who happen to be in high school.

But let me give my colleagues a couple of other States. For the gentleman from Texas [Mr. GREEN], your State is one that is proposed to grow very rapidly over the next 10 years. High school enrollment will increase by 19 percent. They can take their high school enrollment right now and figure out how many more schools they are going to need across the State and classrooms.

My home State, which happens to be the ninth or tenth largest State in terms of public schools, depending how you measure it, but I think we are about ninth, is going to grow 27 percent at the high school level in the next 10 years. We are building buildings as fast as we can. We will not keep up.

And the list goes. Nevada, 24; Georgia, the tenth or eleventh largest State, depending on how you look at it in terms of numbers, they are always right close to North Carolina, they will grow by 20 percent in population at the high school level. So we are seeing a tremendous need. Virginia, 20 percent.

All across this country, we are going to see the most rapid, the largest growth at the high school level over the next 10 years we have seen at any period since the end of World War II. It is what some are calling the baby boom echo. We had the baby boomers. Now the baby boomers are echoing, and we are having children, and it is growing very, very rapidly.

These numbers in no way reflect the tremendous need that my colleagues have talked about that is out there for repairs, for renovations, for making sure that buildings are wired to take care of the access to the Internet and computers to deal with all the information that is now bombarding society and certainly children and teachers and students have to deal with.

It does not say anything about all the other needs outside those school buildings just in the learning environment, because if we are going to have a large number of students together, we have got all those auxiliary needs at the high school level, for the athletic program, for the extracurricular activities that are absolutely needed. When we get that many young people together, we had better have something for them to do beyond academics. We all know that that is awfully important.

Mr. Speaker, I yield to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. When we talk about, again, buildings, thank goodness we are going to have those kids in high school, because the other problem we talk about a lot of times is the dropout.

We do not want to see those children start in the elementary grades and go on to middle school and then drop out before they get to high school. We want to see them complete high school, because that is just another step on the road to their success, but also on the road to our country's success, because our country, as great as it is, is not any good at all if we have an uneducated work force or uneducated people that are defending our Nation.

And we can defend our country not just by carrying a gun or manning a missile; we defend our country every

day by being as aggressive in our business. That is what our school system is all about.

□ 2215

That is why the United States is the greatest country in the world for lots of reasons. One, the free enterprise system; but also, because we educate everyone. We are a diverse country and we want everyone to be educated. We want to give them the opportunity, and granted, some people are harder to educate.

In fact, I had some high school teachers who said I was probably one of those harder to educate students. But I am glad that they persevered because they were preparing me to serve in Congress. And that is why we need to encourage and do better today for those teachers that are out there today doing that, just like the gentleman said. They are hard-working. They not only work their 7 hours a day, but they spend hours and hours in the evening grading those tests, grading those papers that they cannot do during the day.

Also, conferences. I cannot remember, when I was in school, a teacher calling my parents. One, I did not want them to. But today, because most of the schools have it built into the responsibilities, teachers have to contact those parents, not just sending a note home but calling those parents to make sure they bring them in as part of the education system, because we just cannot educate children with teachers and students; it is all of us involved in it, parents, the community, and that is where we see the success in the school districts.

Let me say that the problem in some facilities, some districts have success with their local taxpayers who approve the bond elections. We had some great successes in the districts I am honored to represent. We have a school, Cheneby High School, a small school district on the outskirts of Houston that has a new high school, Cheneby High School that has state-of-the-art computers. There is a hookup in every classroom. We do not have that in most of our districts, because some districts, the voters voted against bonds, so they are having to do creative financing to do it. Galena Park High School in a neighboring district is building a new high school, doing the same thing, because their voters approved it. But we need to help on a national basis because it is a national concern, because we need to make sure that those young people are prepared to take our places here on the floor.

Mr. ETHERIDGE. Mr. Speaker, as the gentleman says, it is part of our national security, and I think it is just as important or certainly measures in importance with defending our borders, because if our young people cannot compete in the economic environment we find ourselves in in the world economy, we are going to be in trouble in the 21st century.

I yield to my friend from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I just wanted to follow up on some of the things that my colleague from Texas said about the way that we are talking about proceeding with this school construction Federal funding. I know the gentleman from North Carolina mentioned basically the legislative proposal.

There have been various proposals, but essentially what we are talking about is to provide these intra subsidies, if you will, for new construction and renovation. When we were talking about the President's budget, the program that was actually negated, if you will, by the Republicans, that was a $5 billion Federal jump start that had a goal of increasing school construction by 25 percent over the next 4 years. But what the gentleman from Texas mentioned, and I think is so important, is that generally, my understanding, it is certainly true in New Jersey, I think in almost every State, is that in order to finance school construction through bonding, one usually has to go to a local referendum to do that.

Part of the reason why local school districts have turned down the bond proposals is because of the exorbitant costs. They cannot necessarily get a good package or get financing at a low interest rate because of maybe the nature of the district, or I do not know how much State funding they get, or whatever.

So we are not forcing anybody to do anything here. What we are saying is if there is a district that needs some help in terms of their putting together a package and doing the financing, the Federal Government is out there to help to provide an intra subsidy, and the idea would be then that the local school district and the voters would still have to approve the bond issue, but it would be more attractive to them because it would be at a lower interest rate and they would have some subsidy, if you will, coming from the Federal Government.

So it is more likely that this is going to help those districts that are having problems getting the financing, because it will make it more attractive to the voters and make it easier to pass these bond issues, is my understanding. But again, it is strictly voluntary. Nobody is stepping in from the Federal Government telling them what to do. If one is willing to spend the money, and the school districts are still going to have to spend the majority of the money on this, it just makes it a lot easier for them to do that.

To me, that is exactly what the role of the Federal Government should be doing, trying to help the school districts that want to help themselves. They have the need, they are having difficulty obtaining the financing, and we step in and we make it a lot easier to do so. But that can go very far in my understanding, just from my own experience in New Jersey, that kind of subsidy can go very far towards achieving the goal of having a lot more renovation, a lot of new schools constructed, just that little bit of Federal help, so to speak.

Mr. ETHERIDGE. Mr. Speaker, I think the gentleman is absolutely correct. What the gentleman was talking about is, the gentleman said we are setting a national priority and he is saying that is important.

I know in my home State in North Carolina we passed a bond issue this year, $1.9 billion, and it may seem like a lot of money, and it is a large sum of money in our State, but we were looking at school facility needs 2 years ago in excess of $5 billion. So the State was going to assist the locals; they had to pass their own referendums on a match, on a sliding scale, for assistance.

Well, now we are growing so fast that a lot of those communities are going to still see themselves with tremendous needs over the next several years. But that is really what the gentleman is talking about, those that show the initiative locally, that draw from a pool, and this money would be used to draw down, to make the interest rates lower. So in effect one is able to have a larger bond issue for less money, is really what the bottom line is.

Mr. PALLONE. Mr. Speaker, if the gentleman will yield again, this proposal, the one that the Republicans knocked down, was very flexible in how the money could be used. I know the gentleman from Texas talked about computers or technology infrastructure, whatever. I just have a list here. It can be used just for basic building purposes, but it also can be used for health and safety problems, with plumbing, heating and lighting; it can be used to improve energy efficiency; it can be used for all kinds of educational technologies, such as communications, closets, electrical systems, power outlets, all of that goes to the computers; and also for after school learning centers, community projects that are linked to the schools.

I know the gentleman from North Carolina has mentioned in the past in different special orders how increasingly schools are learning centers for all kinds of activities, not only during the school day but after school, for extracurricular programs, sports, adult education. So this is a very flexible proposal that can be used for all of those different things.

Mr. ETHERIDGE. Mr. Speaker, the gentleman is absolutely correct. We have schools across this country, and I know in my State, before-school programs for children, before school opens

they actually open the school and provide a morning day care, provide breakfast for them, and it is on a sliding scale and the schools actually make money on it. For those who cannot afford to pay and those that can, they put together different programs to work.

I yield to the gentleman from Texas.

Mr. GREEN. Mr. Speaker, let me talk about some innovative things that schools have done. For example, in some of the districts I am familiar with, we have always heard of night school students, but they are using their buildings, because why build new buildings if they are not utilizing them? So they are using them for night students. Those students who may be more motivated by going out and working during the day and coming in and getting their high school diploma during the night in an abbreviated program, schools are doing that. So even in those opportunities, we are seeing overcrowding on the high school level.

So there are other activities, and the gentleman mentioned other activities. We have great ROTC programs, great band programs; obviously athletics, if one is coming from Texas or North Carolina, I guess. But every way we can reach that child to keep them in school, to encourage them to be in school, again, no matter what we do, any of the extracurricular programs and use it as a motivator.

I just happened to like to play football when I was in high school and that was a motivator. In fact, those coaches could motivate me much better than any English teacher could. But that worked. The same way with ROTC now is so successful, and it is a growing program in our districts, at least in Texas and I think nationwide.

So that is why the infrastructure funding is so important. What my colleague from New Jersey mentioned, we have title I funding that is available for computers. We can go buy the computers now. But to wire the school, we cannot use title I funding. That is why an infrastructure, to bring that school up to grade level for wiring for the public schools for the computers, but also for the health and safety of those children, so not only does the roof not fall in, but the fire safety is there, and I know that is the D.C. problem. The judge said those schools are just not safe for those children. Frankly, if I had a child in the D.C. schools, I would be glad that the judge said that and said, OK, we need to fix them before we put those children in those schools.

Mr. Speaker, I include the following letter from the Aldine Independent School District, Houston, TX, for the RECORD:

ALDINE INDEPENDENT
SCHOOL DISTRICT,
Houston, TX, September 30, 1997.

Hon. GENE GREEN,
Rayburn Bldg.,
Washington, DC.

DEAR CONGRESSMAN GREEN: Enrollment is rising in the nation's public schools and federal incentives are needed to fund critical construction to meet growth. The $100 million provision for school facility infrastructure in the Senate's appropriations bill is a starting point. The House bill, however, does not include school infrastructure funding.

I urge you to contact House conferees who will meet to resolve differences between the House and Senate bills and ask them to accept the $100 million for school infrastructure included in the Senate version. For your convenience, I have included a list of the House conferees from the subcommittee.

For urban school districts such as Aldine, which has experienced 2-3 percent annual growth over the last three years, federal funding is vital. Your assistance in retaining the $100 million appropriations for the Rebuild America's Schools initiative is greatly appreciated by our children, taxpayers, and educators.

Sincerely,

M.B. DONALDSON,
Superintendent of Schools.

Mr. ETHERIDGE. Let me thank the gentleman. He is absolutely correct.

We have talked about after hours, and I just wanted to make a point of that, because I have been in a number of schools where they actually have an after hours program for a number of students who have difficulty at home. They drop out of school. They decide they want to come back to the public schools, they do not want to go to the community college and get a GED. They want to get their high school diploma.

And I know it is happening in North Carolina, where they actually can come to school at night, have a full-time job during the day because they have to earn a living. They may have already gotten married early, but they want to get their degree, and this happens.

The public schools are changing. We can put together another special order very shortly, hopefully before this week is out, and actually talk about some of these things, but more importantly talk about the strengths of our public schools, the academic things that are happening. Our schools certainly have a lot of challenges today, but they are meeting those challenges in a way they have never met them, because as both of my friends have said this evening, they are working harder, our teachers are working hard, they are committed, and we have some of the best qualified people in those classrooms we have ever had and the leadership, the principalship.

I think we need to talk about it. I know we are seeing student achievement go up, as we talk about the National Assessment of Education Progress, which I happen to believe is a better measure than the SAT that we use on an intermittent basis, because NAEP tends to do it by sampling, and that is where we can absolutely sample and they come back with a statistical number and it is accurate. We have seen some dramatic growth in our State and really across the country since 1990 in math and reading, and those are two of the core areas, and we have to see that continue and escalate across this country for all children.

That is one of the things I hope we will be able to talk about and have some data on over the next several days, and that gets back to the issue the President proposed and that others are saying we ought not to do.

Well, that is silly. That is absolutely silly. It is voluntary. We are now giving it to 43 States in this country. Forty-three States are taking the NAEP right now, and they are doing it on a voluntary basis. When I was a superintendent and we met all 50 chiefs, we absolutely said there will not be a national curriculum; we will not support it, we will not have any part of it, but we will participate and want to participate in a voluntary testing program.

Why? Because the people who live in North Carolina today very well may live in Texas next week or New Jersey the year after that, and they have a right to know that their children, as they move from place to place, that it is measured and they are getting the kind of education they want.

I think that is why we are seeing the American public on almost everything we read say they are willing to make sure that their children have a good education, and they want that assessment and they want it on a voluntary basis.

I hope we can talk about that and erase that myth that our schools are not doing better than we are doing, because they really are, because we are doing it with children, as my friend from Texas said, that are coming to school with a lot of baggage these days. They are coming to school when they have not had a chance to sleep the night before; many come when the first meal they have had since they left lunch the day before is the breakfast they get when they show up in the morning.

Mr. PALLONE. Mr. Speaker, if the gentleman would yield, I think we are running out of time, but I just wanted to, if I could, follow up on what the gentleman from North Carolina said.

The gentleman from Texas mentioned earlier about Goals 2000, and we know that the Republicans have many times opposed Goals 2000 and asked that it not be funded. But in my home State of New Jersey we have received funding from Goals 2000. And one of the things that we have done with that funding, and it has been very successful, is not only do testing statewide, but also use the results of that testing to develop core curriculum.

One of the goals of the Democratic education task force that the gentleman cochairs is to emphasize academic excellence in the basics. I think that across the country people understand that we need to have excellence in the basics.

□ 2230

Obviously, curricula will vary from one school district to the next, or one State to the next. That is the way it should be. That is the American way. But the basics, students need to learn how to read and write. They need basic science courses. These are the kinds of things they need if they are going to be successful.

There is absolutely no reason why the Federal Government cannot provide money to the States to help develop core curriculum, in some cases do testing, to do what the States think needs to be done on a voluntary basis to improve basic skills. I do not think anybody is against that. If they are, I do not care, because I think they are wrong. We need basic skills.

Mr. ETHERIDGE. The gentleman is absolutely correct. I was there when we got the Goals 2000 money. Of all the money the Federal Government sent to our State, that was the most flexible money; very few strings attached, other than fill out about a 2-page form and send to it to the Department of Education on what you were going to do with the money, how you were going to use it, what results you were going to get. That is the money that has been used in North Carolina, and I would assume in the other 49 States and territories, to allow for the reform, the change that is now taking place all across this country.

I thank the gentleman, and I hope we can get back and spend a whole evening on this whole issue of academic reform and accountability in these areas, and talk about assessment, because I feel very strongly about it and I think the American people do. I thank the gentleman for joining me.

WHY NOT HAVE NATIONAL TESTS FOR MATH AND SCIENCE?

The SPEAKER pro tempore [Mr. REDMOND]. Under the Speaker's announced policy of January 7, 1997, the gentleman from Arizona [Mr. SHADEGG] is recognized for half of the remaining time until midnight, approximately 45 minutes.

Mr. SHADEGG. Mr. Speaker, I appreciate this opportunity to discuss a topic that has also been discussed earlier tonight, and that is the question of education.

I cannot help but comment on my colleagues who were just here on the floor before me. In just a few moments of listening to them I heard one of them, a gentleman who was previously in the educational establishment, either a principal or a superintendent of a school district, say that he supports good education and therefore, supports a voluntary national testing program.

It is, indeed, that subject that I want to talk about tonight, because it is a topic that is very close to me. I have back home in Arizona right now a 13-year-old daughter who is a freshman at Thunderbird High School in the Phoenix area, excuse me, a sophomore, and struggling to get through her education this year, and to try to get into the best school in terms of college that she can possibly get into. I have an 11-year-old son who is in grade school.

Their education is vitally important to me, because I understand that in this global economy we are in, precisely how well they do in pursuing their education goals will determine in many ways to a great extent how well they do throughout the rest of their lives. There simply is no issue which is, at core, more important to me, and more important in a Nation where we are founded on the notion of universal public schools.

I listened to my colleagues from the other side of the aisle talk about public schools and the importance of public schools, yet I have to tell the Members, there are a couple of things that I resent. I want to talk about those tonight. I resent it when my colleagues on the other side of the aisle allege that they are the only ones who care about education and the only ones who care about public education. I think it is wrong to cast those kinds of aspersions and make those kinds of value judgments, because some of us view this issue differently than they do.

I was educated in public schools all the way through, never attended a day of private school in my entire life. Not from kindergarten through law school did I attend anything but public schools. My children are in public schools now. I believe very much in a quality public education.

But just because I believe in that does not mean I have to accept their view of the world, or even the professional educators' view of the world or, as I like to call them, the educrats' view of the world or the Federal Department of Education's view of the world. Instead, I bring to this debate my own rational thought, my own experience about education, my own views about the importance of public education, but mostly about quality education; about challenging my daughter Courtney to do her best every day in school; and about challenging my son Stephen to do his best every day in school.

I listened to the other side and they touched upon this issue of testing, national testing. That is a major topic that I want to talk about tonight. I want to talk about how some of us can believe and believe very strongly that as good and as apple pie and as motherhood and as all-American as national testing sounds, that we can look at our children and see how they are doing in Minnesota versus Arizona, as good as those things sound, in point of fact I believe and I believe deeply that national testing, if we mean by that federally dictated testing, tests written at the Federal Department of Education in Washington, D.C., thousands of miles from my home in Moon Valley, Arizona, if we mean by that a national testing written by a committee set up by this President, or for that matter any other President, if we mean one single uniform Federal test applied to every student in America, and we will judge every student in America by how they do on that test, I submit, it is not only bad, and a bad idea, it could be disastrous.

That does not mean that I do not support education. What it means is that when I look at the idea of one Federal test, I recognize that we are placing all of our eggs in one basket. If that test is written badly, if that test is written, as I fear the test might be written, to test the current fads in education, the newest whole math or new math or the newest whole language or whole English, or some other popular fad within the education establishment, not only will the test not measure real performance by my children, by my daughter Courtney or my son Stephen, but instead, it will do massive damage, and damage to every boy and every girl in public and private school in America, at a time when in this global economy we cannot tolerate that.

Why do I say that? How could just doing a national test, how could just having a national test, how could a national test which was voluntary, and my colleague pointed out that he could not understand, how could a national test that was voluntary be dangerous? How could it be a problem?

I listened to him, and I think many people who view this issue from that standpoint are honest and genuine and sincere, and I can even understand their point. Instead, I get many of my colleagues back home, many of my friends back home, who say, well, explain to me what your concern is about national testing. Why is that such a bad idea? Why should we not have a single test to test the skills of our children across America, so we can look at how they do?

Let me make a point here. I just had a friend move from Arizona to New Jersey this last year. His two boys, a little bit older than my children, are now in high school in New Jersey. He thinks they are being challenged more rigorously in New Jersey than they were in Arizona. So why should we not be able to test that?

A few years ago I had a good friend who moved from Tucson, Arizona, to Maryland, not far from here, Potomac,

Maryland. He felt his children were being challenged better at their new school than at their old school. So what can be wrong with national testing, particularly if it is voluntary?

Let me explain that, for people who are listening and watching, and for my colleagues who care about this debate. The problem with national testing begins with the issue of what do tests do. Tests set a benchmark. They set, in and of themselves, an educational standard. They say, we are going to test these subjects and these matters, and if you want your students to do well, they had better know these subjects and these answers. They had better know what is going to be tested and how to answer those questions.

What I am saying here is that my children's teachers, and indeed, I think my teachers and all teachers across America, to a certain degree in a very positive sense, teach to the test; that is, they understand what the students whose lives and whose education they have been entrusted with are going to be tested on, and so they want to be sure that they have that knowledge. If math is going to be tested, they will stress math.

But then the question comes, what about math? What within math does the test test, because I need to make sure as a teacher that my students know those skills that will be tested?

So I believe that one fact we have to begin to entertain a discussion of this topic of a national test is if we agree as a Nation to have a single Federal test, written in Washington, D.C. by the Federal Department of Education or by some consultant hired by the Department of Education, we need to understand that every conscientious teacher in America in public schools, in private schools, wherever, my children's teachers in the Washington Elementary School District in Phoenix, Arizona, will want to know what is in that test and will want to know what skills my children need to learn to do well on that test.

And they should do that. My teachers must have taught me the skills that were going to be tested, because I was able to make it through my education through grade school and high school into college and on into law school. So someone taught me what was going to be tested on the test.

So we should begin the debate by understanding that this voluntary testing program that my colleagues seem to think is such a great idea in fact is in itself setting a national standard.

Now, you say, well, what is wrong with that? What is the problem with setting a national standard? In a minute I am going to talk about some of the substantive problems in setting a national standard, but first I want to deal with the issue of voluntary.

How can it be a problem if this is voluntary? Congressman, how can it be a problem if we have national test, but you can choose or you cannot choose to have your students in your school or your school district school take that test? The answer is simple and straightforward.

In education in America there are very, very few, a relatively small number of textbook writers. If we as a Nation establish a national test, that tests, for example, math and science, even if we leave out a national test on social studies or some other more controversial topics, then there will be math and science texts written all across America to teach what is on that national test. It is the marketplace. It is reality.

So when the parents and the teachers in my school district, the Washington School District in Phoenix, Arizona, want to select a text, most of the texts they will have to choose from, most of the textbooks that they could give to my student, my child, or my son or my daughter in school in Phoenix, Arizona, will be texts, textbooks that are written to that national test.

So voluntariness at that moment goes pretty much out the window, because we will have a national test, and we will understand that everyone in America is going to be judged on that, and the textbook writers will understand if kids need to learn to pass that test, they need to have a textbook that gives them those subject matters and teaches them the skills to pass that test.

So the notion of, well, it is just voluntary, they can opt not to do it, turns out to be a ruse, a charade, not real, because every teacher in America first will want to teach to the test, because he or she will care about their students' performance. Teachers are genuine, caring, loving people who want their students to do best. So they will teach to that national test. But for a school that wants to opt out, they will feel have a limited choice, because virtually all of the textbooks will be written to that national test.

Why is there then a problem with a national test? Here I want to turn to some experts who have greater experience and knowledge than I do. I have to tell you that when I entered this debate I was not sure that national tests were a bad idea. I had not thought through the idea of teachers teaching to the test. I had not thought through the idea of textbooks being written by the handful of textbook companies in America to that test.

So I did not instantaneously say, this is a bad idea. As a matter of fact, I was much like most Americans who say, gee, what is wrong with a national test? As a matter of fact, I read a syndicated columnist today about how he had gotten into the cab in a major city, here in town, and the cab driver engaged him in a discussion of this issue of national tests. I think America is engaged in that debate. I think they are uncertain about this issue. That is why I wanted to talk about it tonight.

Let me turn to the experts. One of the experts in field, someone I respect a lot, is a woman by the name of Lynn Cheney. Lynn Cheney is a senior fellow at the American Enterprise Institute, and her work in this area I think is very important for all Americans to read and understand, because this is an important issue to every American. What could be more important than our children's education?

What debate is greater than this question about national tests? The President on the floor of this very House from that dais right there told America in his State of the Union this year that he was going to impose national, that is, federally-written, Washington, D.C. tests in math and science, and he called America to rally to that cause.

I am standing here tonight saying, we ought not to rally to that cause. Let me make it clear why. Ms. Cheney in a recent article which appeared in the Wall Street Journal on September 29 addressed this issue. Her column is headed, "A Failing Grade for Clinton's National Standards." Remember, national tests will set national standards.

She begins her column by pointing out that, "A consultant who sits on the President's committee overseeing the proposed national mathematics exam had written an essay, and in this essay, he explained his views of education." It turns out this consultant is not alone. His views are shared by apparently hundreds of mathematics teachers across America, because the test that he advocates he is also helping write for an association of math teachers across America. He is also a consultant to the education department of the State of Connecticut. His name is Stephen Leinwand. I do not know that that matters.

But what he wrote in the essay, according to Ms. Cheney, was that it is downright dangerous to teach students things like 6 times 7 is 42.

□ 2245

"Put down the 2 and carry the 4." It is dangerous, he wrote in this essay, to teach children basic mathematical computational skills. Indeed, he goes on to articulate in this article that he does not think we should teach children any calculation skills that involve whole number computation. We have to say, why? Are we missing something here?

The answer is straightforward. He writes if we teach children that 6 times 7 is 42, we will be, and I quote, "anointing the few", who master this skill, who learn that 6 times 7 is 42, and learn the rest of the multiplication tables or the division tables. He says we will be anointing the few who master these skills, and I quote, "casting out the many."

The bottom line in his view of the world is that we should not teach addition, subtraction, multiplication and division to the students in America, and since we should not teach it, he believes fervently and he advocates we should not test it. We should not teach and we should not test basic mathematical skills to our children in schools in America today because we will be sorting people out. That is, we will be anointing the few and rewarding those who get the answer right, and we will be casting out the many who fail.

Well, I happen to disagree with his numbers right there because I think children in America, the vast majority, do learn the multiplication tables and addition, subtraction, and division, and so we are not anointing the few and casting out many, but we are learning to teach children that there are skills that they will need in their life.

Mr. Leinwand goes on in his essay and explains why the committee on which he sits, a committee which is helping to write the proposed national test, recommends a national math exam that would avoid directly assessing certain knowledge and skills such as whole number computation, and that is a quote.

So, he is anxious to test America and to have a national math test. He is on the President's committee to write this math test, but the test should not test basic knowledge and skills such as whole number computation, that is addition, subtraction, multiplication and division, because we will make children, to put it simply, feel bad. Mr. Leinwand thinks that is a bad idea.

The school that Mr. Leinwand comes from is a whole math school or a new math school. There are other articles that talk about it. Lynne Cheney wrote in the Weekly Standard of August 4 in which she talks about the entire school in America of math teachers who believe that we must throw out computational skills and teach whole math and what is also called in different lingo, "fuzzy math" or "new math."

Some may believe that new math is the greatest thing in the world and may want their child taught that, but what I want to point out in discussing this issue is that the potential disaster here is a national one if we set a national test that all children must learn and pass.

If the education establishment in Washington, DC, captures this idea, if the President succeeds in convincing Americans that, by gosh, if we care about our kids we must have a national test, and we write one test and it is fatally flawed because it tests not addition, multiplication, subtraction or division but tests only the newest fad in math, fuzzy math or new math, we will be forever condemning at least a generation of America's children to not learning the basic skills they need.

Mr. Leinwand defends his stand saying, Listen, it is more important that kids be able to think their way through problems. I agree. I think kids ought to be able to think through problems. And he defends his position by saying everybody in America uses a calculator and they ought to be able to bring a calculator to school, do the calculations themselves.

Mr. Speaker, that is a great idea, but I have had the experience of picking up a calculator and using it and looking at the answer and saying wait a minute, that answer is wrong. Sometimes the electronic devices that we rely upon go bad. Somebody spills their glass of water or something on the calculator and the answer we get is wrong. If students were never taught in school addition, subtraction, multiplication and division, then how are they going to have a gut feeling for what is right or wrong?

That concern was expressed by a fellow Arizonian. Marianne Moody Jennings is a woman whom I admire in Arizona. I have never had the pleasure of meeting her, but she became interested in this issue as well. She wrote a column called "MTV Math Does Not Add Up." She is, herself, a professor at Arizona State University. She is the director of the Lincoln Center for Applied Ethics at Arizona State University. Here is her experience with this issue.

She has young children like I do. She said one evening she came home and her blood began to boil because she witnessed her daughter, who I am sure she was a grade school student, I do not know, was at home doing her math home work and she was using a calculator to compute 10 percent of 470.

Think of it. Do we need a generation of Americans, do we need to decide in this Nation that basic math skills are so unimportant that for a task as 10 percent of 470 they need a calculator? And if we do, who at some point in the history of this world will know whether the calculators are right or wrong?

Ms. Jennings became supremely upset about this and began to teach her daughter that she should learn those math skills herself and that the calculation of 10 percent of 470 should be one that she could do in her head in a nanosecond.

Mr. SOUDER. Mr. Speaker, if the gentleman would yield, one of the things that we begin to see in supermarkets are the calculators on the carts. As a practical matter, as somebody who has a business degree as opposed to a law degree, one of the great tactics is to change the size of the box so the new larger style actually has a bigger box but sometimes less in it.

If shoppers cannot do basic math on their feet, they are ripe to be taken advantage of in every supermarket aisle, in every toy department, in every department store. And I say this as somebody who has been and my family have always been retailers, but if people cannot do basic math, they are not going to be able to figure out what is the best buy.

Mr. SHADEGG. Mr. Speaker, reclaiming my time, that is exactly right. Our children in America need these basic skills and they are vitally important. If we say to them, as this national math association proposes to say, and they already by the way have on their tests, those written by I think the National Association of Math Teachers, they have already decreased rather dramatically the amount that current tests used in schools across America test basic skills. But if we adopt a national test, an examination that does not test any or tests almost no basic skills, does not ask eighth graders if they can, without a calculator, add, subtract, divide, multiply basic calculations, we are condemning them to precisely what the gentleman points out. We are condemning an entire Nation to be taken advantage of.

More importantly, we are putting ourselves at a huge disadvantage. But I want to make the point that this is not a debate about Bill Clinton and his test proposal. It is not a debate about Steven Leinwand. It is not a debate about whether we like or do not like the Federal Department of Education. It is not a debate about whether we like or do not like new math or whole English. That is not the issue.

The issue here is a more fundamental one and it is nothing less than, to use a government term, Federalism. But Federalism is nothing more than the expression of belief in individuals to address and solve their own problems.

What really is applied here is the proposition that the parents and the teachers and the administrators at the school down the street from my house, at Lookout Mountain Elementary where my son Stephen goes, or Thunderbird High where my daughter Courtney goes, that those parents and those teachers and those students and those administrators can do a better job of figuring out education at that school. And certainly the Arizona Department of Education, which gets somewhat involved in these issues, can do a better job of listening to the people of the Arizona and they can make those decisions for themselves.

But I mention the word "Federalism." I am not just against national standards because I do not like the Department of Education and I do like the people at my children's schools. I am not just against it because I do not trust Bill Clinton and I do trust the principal at Courtney's school and Stephen's schools. I am against it for a bigger reason and that is the whole notion of Federalism.

It was a part of the genius of this Nation. It was if we had a Nation that was one Nation but made up of 50 different States as we have now come to be, and

if we said that basic national policies, national defense, foreign trade, and trade between the States could be regulated by Congress and the Federal Government, but if we left the other decisions, for example decisions about the education of our children, to those 50 different States and to the little communities and localities within those States, the school board association in my neighborhood, then if one of those schools had a great idea, they could pursue that idea and maybe do a great job and it would be picked up in some other State. Or if one a bad idea, and I suggest Mr. Leinwand's idea in my view is a bad idea, and if the State of Connecticut wants to pay him to teach and write a test that does not test the eighth graders in Connecticut basic math skills, so be it. Maybe in 10 years, the Connecticut schools and the schoolchildren will be way ahead of the Arizona schools and schoolchildren on math. Maybe Mr. Leinwand is right; I suggest he is wrong.

But think of it this way. If he is right, Arizona can choose to follow him. If he is wrong, and only Connecticut pursues his radical ideas, then only the children this Connecticut suffer. But if we embrace Bill Clinton's idea, and let us assume it was well-intended, let us assume that my colleagues who were here for the last hour who implored us to adopt a national standard because they think that will help kids, if we follow their lead and if Mr. Leinwand or his colleagues write a national math test which pursues whole math or new math or new new math, the catastrophe to education is not confined to Connecticut; it will spread across America because that national test will set a national standard.

The national test and the national standard will be picked up by the textbooks across America and it will not matter if States voluntarily participate or if the people in Arizona choose not to participate voluntarily, opt out, because the only textbooks they will be able to get will be textbooks that teach that national standard. And that one-size-fits-all national standard which does not teach math computational skills as Mr. Leinwand wants it not to teach it and not to test it, and remember he is not only on the President's committee, but he is also on this National Association of Math Teachers committee which as an association has disavowed teaching basic math skills, we will have a disaster.

The literature here is pretty clear. California has already pursued whole math and it has turned out to be, in the view of many teachers and parents in California, a disaster. And they have now tried to seize it back, and in many schools, school district by school district they are throwing out the new new math or the whole math and putting back in the basic math.

As a matter of fact in one school district they have forbidden calculators in grades one through three because they want kids to learn the basic skills. But if we pursue a national standard. If the President wins this debate which will occur between the House and the Senate in the conference committee in the next few weeks, we do not have a problem in just Connecticut or just California, we will have a nationwide disaster.

I want to point this out, because this issue is going to go to a conference committee. The Senate has adopted one position on this issue, the House has another position, and the President a third.

The President's position is we should have a national standard written by the Federal Department of Education, a national test written by the Federal Department of Education and if there is a new fad in the Federal Department of Education by the bureaucrats and the "educrats" in there, that is fine. Put that fad in the test and we can change that later. It will be hard to change a single Federal standard.

The Senate has taken a middle ground. The Senate's position is let us go ahead and have a national test, but let us pick an independent body to write that national test, that one-size-fits-all national test.

□ 2300

Mr. SOUDER. It is important to note for the record that the independent body is picked two-thirds by the President of the United States.

Mr. SHADEGG. That is scary in and of itself. One of the proposals by the Senate was to give this test writing responsibility to an organization called the National Assessment Governing Board. The idea behind the Senate proposal is we will take it out of the Federal Department of Education, where trends in pop math or popular teaching and writing in the education field is most fervent, and we will put it in a more objective group that is not quite as subject to these trends or fads in education. And the problem with that, Ms. Cheney writes about it in this second article entitled "Yes to High Standards, No to National Tests," a position paper written by Lynne Cheney, senior fellow, American Enterprise Institute, she says the problem with the Senate position is one of naivete; is it assumes that the Federal Department of Education is the only one subject to these national fads in education and that if we just take it away from them and give it to this new organization, the National Assessment Governing Board, that they will protect these national one-size-fits-all tests from fads and trends.

Mr. SOUDER. Mr. Speaker, if the gentleman will continue to yield, the gentleman is being very kind. Mrs. Cheney was being very kind as well. The fact is it was a sham compromise to try to get themselves out of a pickle because the nominees, the overwhelming majority of those nominees would be picked by the President, recommended by the Department of Education, so in fact it is the same body. It looks different but if it walks like a duck, talks like a duck and swims like a duck, it is a duck.

Mr. SHADEGG. Is the gentleman suggesting that this might have been just a political charade so it was not publicly vested in the Federal Department of Education, but the reality is that it would be the exact same?

Mr. SOUDER. I was certainly suggesting that the only difference was that there might be a third minority on the one and the other would be all Clinton appointees.

Mr. SHADEGG. For a moment, Mr. Speaker, it seems to me the House position is the right position. The House position, the idea of a one-size-fits-all national test is a bad one, and it is not bad because of who writes it. It is bad because of the implications of a single test. Letting parents, teachers, school advocates in my home State write our test I think is the right way to go.

There are already many quote unquote national tests. The Iowa Basic Skills Test was given to my school all the time I was growing up. I think they are still given there now. I would be interested in hearing from the gentleman what is given in Indiana. But it is not as though we cannot compare performance from school to school or State to State.

And indeed, if we want a non-Federal, that is a nongovernment written test that people could voluntarily choose to give to their children, that might have some value. But the problem in this debate and the concern I have is that we are going to surrender, in the spirit of doing good for our children, we are going to surrender the notion that that means we need a single national test.

I heard my colleagues on the other side of the aisle tonight say, you cannot care about kids, you cannot support public education, you cannot believe in the process if you do not support national tests. They are wrong. I think every American in their gut that thinks about it knows that they are wrong. We cannot turn education in America over to the latest fad, as embodied either in the Department of Education or in a sham independent group.

That is why I was compelled to come to the floor tonight and talk about this issue, so that the people back home in my district who are just kind of casually thinking about the idea of national standards would think it through one more step and recognize that a national test sets a national standard, and if that national standard is written in Washington, DC, many thousands of miles from my home in Phoenix, AZ, and at least 1,000 miles from your home in Indiana, I think

they will recognize they would rather have input at the local level.

Mr. SOUDER. Mr. Speaker, if the gentleman will continue to yield, I would like to reinforce the gentleman's remarks. I may be even more scared than you because Indiana is only 600 miles away from Washington; therefore, we are even more vulnerable than the people in Arizona.

One of the things that is unusual about this Congress is that we are actually having a discussion about the role of federalism and the role of States and the Federal Government. It has been something that we have been pushing. We are at a critical point here on national testing. As an American history buff, I have gone back and forth and wondered at the time of the founding of our country, would I have been more of an anti-Federalist or a Federalist? Where would I have been on the Articles of Confederation? Would I be like Fisher Ames from New England, who was very skeptical of the Constitution and worried that it was giving up States' rights, or Patrick Henry, another hero of mine, "Give me liberty or give me death," when he heard about the Articles of Confederation moving into the Constitution? He said, "I smell a rat." He was worried that the Constitution was going to be abused the way it is being abused today.

I, on the other hand, as a business major and a business person, I want to reiterate one other thing that the gentleman from Arizona said. I attended public elementary school, junior high and high school. My wife did the same. All three of my children have done the same. We Republicans care deeply about public education. That is why we are so concerned about these national tests. As we get into this debate, and as a business major and a businessman, I have deep concerns about the quality of education graduates.

A book that had a big impact on me was "Cultural Literacy" by Hirsch, and in that book he suggests that we are in danger in America of a vulcanization, the root word that comes over what we are seeing in Bosnia and Croatia right now, that is, overlapping groups of people who cannot communicate with each other. We are in danger of that in America.

We need some commonality of language, some commonality of history. We need high school graduates who can read and write and do basic math. We need people who have the skills with which to come into industry. We are already near the point where private industry has as many teachers as the public schools, because they are so upset about the quality of education. It is not hard to understand what is driving the desire for standards among businessmen and among many people in this country. We need to have standards.

The question is, whose standards? Even though I, as somebody who has certain tendencies, the gentleman from Arizona and I, who are good friends, often will debate what is the proper role of the Federal Government and State governments. And at times I tend to be a little more proactive in the area of the Federal Government than the gentleman from Arizona. We have had some interesting evenings debating this. But nobody who understands the founding of our Republic and who understands the evolution of our Republic believes that education was intended to be a Federal role.

One of the things that we need to understand up here is to understand why our Founding Fathers were concerned about certain matters falling into the hands of the Federal Government. We have heard the appalling cases that the gentleman from Arizona brought out in math. You would think that math would be relatively noncontroversial. We already saw what happened with history standards.

Mr. SHADEGG. Reclaiming my time, Mr. Speaker, for just one moment, we really did get into this debate because there was an earlier debate where the advocates of national tests said, we will just do national tests. They never pointed out there are subjective areas where what you teach can vary rather dramatically. If you teach American history, you can have one view of it or another, and they can be radically different.

So the President and others responded and said, we will not do subject areas like social studies or history. We will do the black and white, there is a right answer, there is a wrong answer, like math and science. And on the floor of the House here, in his State of the Union, the President proposed only to test math and science.

I think the gentleman from Indiana is about to point out some of the outrageous things that are going on in the other areas. I just want to point out, even when you go to so-called objective subject areas like math and science, you discover that there are these radical trends which say two plus two is not four or you should not teach kids 6 times 7 is 42. And even what we think of as objective in the crazy world of the education bureaucracy has become itself subjective.

Mr. SOUDER. Mr. Speaker, what the gentleman has pointed out is absolutely correct. You have devastated our hardest argument to make, which is that math even is politicized in this day and age, and can be ineffective if consolidated with power in the hands of the wrong people.

I want to hasten to point out, for those who say, but if the Federal Government makes a mistake, they can change it, this national testing is moving forward. Inside the Department of Education, as they prepared the tests without any authorization from Congress, without any appropriations from Congress, in fact with over two-thirds of this House of Representatives going on record against national testing, it still is moving forward. If they passed a bad test and we wanted to try to amend that test, even in most cases, if we could get two-thirds in the House to override, the Senate would block us and certainly the President would veto it and we would have a filibuster in the Senate.

In other words, once it is bad, it will probably not get corrected.

Now, the problem here is that there is a history, so to speak, with this. Lynne Cheney, who we have quoted a number of times tonight, actually was in the humanities art department of the Federal Government and now admits that she made the mistake of granting the first funds for the history exams. She says, "I was wrong." She watched the bias that crept into the history. She has written also how every category in our universities, and do we want to spread this to our high schools, has become politicized.

College Art Association conference warning faculty members not to teach women artists such as Mary Cassatt, who has beautiful oil paintings over in our national art museums, because they frequently painted women and children and thus reinforced patriarchal thought. At the University of Wisconsin, a professor from the University of Wisconsin writing in the Harvard Educational Review, the most prestigious university in our country, at least arguably, urges her fellow professors to be open about their intention to appropriate public resources, classrooms, school supplies, teacher-professor salaries, academic requirements and degrees to further, quote, progressive agendas. Curriculum and instruction 607, in which students learn how to conduct political demonstrations and then conduct these political demonstrations in the library, mall and administrative offices of the university; for these efforts, students receive three hours credit.

In a recent issue of College English, a publication of the National Council of Teachers of English, a professor from California advises university teachers to vary the political strategy they use in the classroom to suit the institution. For example, he says, in his middle class university he tries to show how the United States offers freedom of choice and a chance to get ahead and then challenges their belief in that. Then he shows them in his English class the odds against their attaining room at the top, the way their education has channeled them towards a mid-level professional and social slot and conditioned them into authoritarian conformity in English class.

Then we have the Smithsonian museum in the United States which has been under attack for how they present the American West. They have been

under attack for how they tried to rewrite the Japanese American section of World War II and had to have Congress intervene. They said, in an exhibition called Etiquette of the Underclass, they wrote, "Upward mobility," announced materials accompanying the exhibition, "is one of our most cherished myths."

Now, what we are seeing is the National Council of English, we are seeing the Harvard Education Review, the College Art Association, we are seeing the Smithsonian institution, all politicizing major statements in the United States.

My concern spreads past this. I read earlier this evening, and I wanted to go through this again, at Casa Roble High School into Sacramento, California, this was a values appraisal scale in a career study in a technology class. This was given to a student. It was given to me last Thursday. It is not something that was done 10 years ago. It was done August 29, 1997. It was not something that is far out. It has been done now, we found it in five States. It appears to be possibly the National Education Association that is circulating this. It is incredibly intrusive.

On the one hand these questions can be innocuous and you can see how they might be valuable to a guidance counselor. On the other hand, think of the dangers of an all-powerful Federal Government getting this kind of information on our children.

Mr. SHADEGG. I just want to clarify, you are going to read to us from a survey given to students at a public school, not a religious or private or sectarian school, and administered by the school asking these questions of public school students; is that right?

Mr. SOUDER. Mr. Speaker, in a technology class. The reason I want to point this out is this is what we do not want to have happen in a Federal test. If it happens in a Federal test, we will never get it changed. Question number one starts off, "I have a regular physical checkup by my doctor every year."

Mr. SHADEGG. These questions are put to the student who answers this?

Mr. SOUDER. Yes, and you can have a 10 for definitely true, 7 for mostly true, 5 for undecided, mostly false is a 3, definitely false is a zero.

Mr. SHADEGG. They would be revealing this information, answering these questions about themselves to be handed over to the school and for the school to use for whatever purpose they chose?

Mr. SOUDER. For technology class, and it is a career study. It is to help channel kids as to what they should do. Think of this explosive information. Is this what we want public authorities knowing about our families? And if you do not think this is one of the most intrusive things you have ever heard, then perhaps you are on a different planet than I am.

Number two, "I will regularly take my children to church services." So they are asking these children in high school to anticipate whether they are going to take their children to church services. "I have a close relationship with either my mother or my father." You will see patterns to a number of questions I am reading. Half of them are family intrusive and half of them are religious intrusive. "I have taught Sunday school class or otherwise taken an active part in my church," if that is any business of the school.

□ 2315

Number 24, I believe in a God who answers prayers. I believe that tithing, giving one-tenth of one's earnings to the church, is one's duty to God. Number 41, I pray to God about my problems. Number 43, I like to spend holidays with my family. Number 53, it is important that grace be said before meals. Number 59, I care what my parents think about the things I do. Number 63, I believe there is life after death. Number 72, I read the bible and other religious writings regularly. Number 78, I love my parents. Number 82, I believe that God created man in his own image. Number 91, if I ask God for forgiveness, my sins are forgiven. Number 95, I respect my father and mother.

EDUCATION

The SPEAKER pro tempore (Mr. REDMOND). Under a previous order of the House, the gentleman from Indiana [Mr. SOUDER] is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, I want to finish this point, because in my kids' own high school in Indiana, a survey was passed out in class through the high school yearbook that led me to get upset in my first term, and we passed some legislation here, but it concerned questions asked about anal sex, among other things, and it was one of the most offensive surveys I have ever read, even worse than this, even though this is probing even deeper into religious beliefs. But in Indiana the school board responded. They changed the rules of the school and they took back the test.

The parent of the child who was in this class is taking it up with her school board and it can have an impact. When something happens in our local schools, we can try to do something about it and try to affect change. But when something happens in Washington, we are virtually powerless to change that. I say that as a United States Congressman. We are virtually powerless. It is very frustrating.

And if we let Washington take over the national testing, it is a frightening scenario ahead.

Mr. SHADEGG. If the gentleman will yield, I just want to conclude what we talked about the last hour. I applaud the gentleman for going into those other areas and pointing out that it is not just the one example that I chose of math, which is what the President is proposing, math and science, but indeed in other areas it goes into far more subjective subjects, far more invasive and intrusive questions, but importantly, as the gentleman pointed out, those invasions, those abuses, those trends occur at the States level where we have a chance to deal with them.

I just want to conclude this hour, or the hour and now 5 minutes we picked up, by saying I hope that our colleagues listening realize that it is not that we do not care about the education of our children. I know the gentleman has young children both in high school, grade school and in college, I guess, and I have mentioned earlier in the hour I have young children. I care very much about their education. And as I said, I resent it when the other side says Republicans do not care about education or Republicans do not care about public education. I care deeply about public education. And as I said, I went all the way through public education myself and both my children are in public education.

I hope that those listening understand that we can deeply believe in education, we can deeply believe in public education, and we can be very concerned and very, very much opposed to national testing, a sound-good motherhood and apple pie idea, because of the dangerous consequences.

What the gentleman said is exactly right. If we have tests written in Fort Wayne, Indiana, or in Phoenix, Arizona, or wherever it might be, we can deal with the problems that might creep into those. But if they are written in Washington, D.C., in a mindless bureaucracy which is hard to penetrate and where, quite frankly, only the views of the most deeply imbedded, entrenched educational bureaucracy are heard, I think we will lose control of our kids' education.

I do want to point out that this is a critical issue; that it is in a conference report. There are members in the United States Senate mentioned in Lynne Cheney's article who are fighting against the Senate position on this issue, who agree with us that as good sounding as national testing is, it is, in fact, bad for education in America. And I would urge our colleagues to talk with their friends on the other side and try to get them to accede to the House position on this issue and let us study this issue further and make sure we do not write a national test.

I also want to point out that having read Lynne Cheney's column, which mentioned Steven Leinwand, I wanted to find his actual article. I have the actual article and it does in fact say it is time to acknowledge that continuing

to teach pencil and paper computational algorithms to our students is not only unnecessary but counterproductive and dangerous.

He goes on to say that learning long division and its computational cousins, meaning subtraction and multiplication, is an obsolete notion.

These are rather shocking notions that are written here. I also wanted to point out that several times in my remarks I talked about mathematics association with which Mr. Leinwand is associated and it is called the National Council of Teachers of Mathematics, and they have already written a national assessment which has reduced the math portion of the exam where we do computational skills by 20 percent already.

These are not us talking about crazy ideas that some individual extreme person has. These are trendy ideas that are catching on across America and could be dangerous if they in fact take hold and are embodied into a single national test.

Mr. SOUDER. Reclaiming my time, Mr. Speaker, I want to thank the gentleman from Arizona for bringing the attention of this country to the math standards.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SCHIFF (at the request of Mr. ARMEY) for today through October 24, on account of medical reasons.

Mr. POMBO (at the request of Mr. ARMEY) for today, on account of personal reasons.

Mr. GREENWOOD (at the request of Mr. ARMEY) for today, on account of waiting in hospital with his family while his father has triple bypass surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FALEOMAVAEGA) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mrs. MINK, for 5 minutes, today.

(The following Members (at the request of Mr. CANNON) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes each day, on October 7, 8, and 9.

Mr. BILBRAY, for 5 minutes, on October 8.

Mr. JONES, for 5 minutes, on October 7.

Mr. HULSHOF, for 5 minutes, on October 7.

Mr. SMITH of Michigan, for 5 minutes each day, on October 7, 8, and 9.

Mr. HUNTER, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FALEOMAVAEGA) and to include extraneous matter:)

Mr. POSHARD.

Mr. VISCLOSKY.

Mr. SHERMAN.

Mr. KIND.

Mr. LEVIN.

Mrs. MALONEY of New York.

Mr. SCHUMER.

Mr. RAHALL.

Mr. KLECZKA.

(The following Members (at the request of Mr. CANNON) and to include extraneous matter:)

Mr. ROGAN

Mr. BEREUTER.

Mr. STUMP.

Mr. KING.

(The following Members (at the request of Mr. SHADEGG) and to include extraneous matter:)

Mr. CLYBURN.

Mr. BILIRAKIS.

Mr. BLUNT.

Mr. SABO.

Mr. GOODLING.

Mr. ETHERIDGE.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2378. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1998, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

October 2, 1997:

H.R. 1948. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 394. An act to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan.

ADJOURNMENT

Mr. SHADEGG. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 21 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, October 7, 1997, at 9 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5359. A letter from the Acting Comptroller General, the General Accounting Office, transmitting an updated compilation of historical information and statistics regarding rescissions proposed by the executive branch and rescissions enacted by the Congress through the close of fiscal year 1996; (H. Doc. No. 105-143); to the Committee on Appropriations and ordered to be printed.

5360. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Missouri [MO 027-1027; FRL-5891-2] received October 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5361. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Code of Federal Regulations; Authority Citations [Docket No. 97N-0365] received October 1, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5362. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Natural Rubber-Containing Medical Devices; User Labeling [Docket No. 96N-0119] received October 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5363. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Lost Securityholders [Release No. 34-39176; File No. S7-21-96] (RIN: 3235-AG99) received October 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5364. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services (Transmittal No. 98-10), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5365. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the Czech Republic (Transmittal No. DTC-49-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5366. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Israel (Transmittal No. DTC-74-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5367. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production

of major military equipment with the United Kingdom (Transmittal No. DTC–99–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5368. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the United Kingdom (Transmittal No. DTC–100–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5369. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Canada (Transmittal No. DTC–105–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5370. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the Republic of Korea (Transmittal No. DTC–95–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5371. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Spain (Transmittal No. DTC–77–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5372. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Japan (Transmittal No. DTC–87–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5373. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

5374. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting the report on the verifiability of the Comprehensive Nuclear Test Ban Treaty, pursuant to 22 U.S.C. 2577(a); to the Committee on International Relations.

5375. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–127, "CFO Membership on the Health and Hospitals Public Benefit Corporation Board, Council Review of Board Promulgations, and Approval of Organizational and Operational Plan Amendment Act of 1997" received October 3, 1997, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform and Oversight.

5376. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Audit of the District of Columbia's Crime Victims Compensation Program for the Period October 1, 1993 through February 28, 1997," pursuant to D.C. Code section 47–117(d); to the Committee on Government Reform and Oversight.

5377. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's strategic plan for fiscal years 1997 through 2002, pursuant to Public Law 103–62; to the Committee on Government Reform and Oversight.

5378. A letter from the Chairman, Occupational Safety and Health Review Commission, transmitting the Commission's strategic plan for fiscal years 1997 through 2002, pursuant to Public Law 103–62; to the Committee on Government Reform and Oversight.

5379. A letter from the Acting Assistant Secretary for Policy, Management and Budget, Department of the Interior, transmitting the Department's final rule—Department of the Interior Acquisition Regulation; Regulatory Streamlining (RIN: 1090–AA65) received October 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5380. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Adjustments [I.D. 092697C] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5381. A letter from the Assistant Secretary and Commissioner of Patents and Trademarks, Department of Commerce, transmitting the Department's final rule—Changes to Patent Practice and Procedure [Docket No. 960606163–7130–02] (RIN: 0651–AA80) received October 1, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5382. A letter from the Acting Assistant Secretary (Civil Works), the Department of the Army, transmitting a report on the storm damage reduction and shoreline protection project for Rehoboth Beach and Dewey Beach, Delaware, pursuant to section 101(b)(6) of the Water Resources Development Act of 1996 (H. Doc. No. 105—144); to the Committee on Transportation and Infrastructure and ordered to be printed.

5383. A letter from the Acting Assistant Secretary (Civil Works), the Department of the Army, transmitting a report on the project for river bank erosion control and bluff stabilization at Norco Bluffs, Riverside County, California, pursuant to section 101(b)(4) of the Water Resources Development Act of 1996; (H. Doc. No. 105–145); to the Committee on Transportation and Infrastructure and ordered to be printed.

5384. A letter from the Acting Assistant Secretary (Civil Works), the Department of the Army, transmitting a report on the storm damage reduction project for Long Beach Island, Nassau County, New York, pursuant to section 101(a)(21) of the Water Resources Development Act of 1996; (H. Doc. No. 105–146); to the Committee on Transportation and Infrastructure and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LEWIS of California: Committee of Conference. Conference report on H.R. 2158. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–297). Ordered to be printed.

Mr. Taylor of North Carolina Committee on Appropriations. H.R. 2607. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–298). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 258. Resolution providing for consideration of the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact (Rept. 105–299). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 708. A bill to require the Secretary of the Interior to conduct a study concerning grazing use of certain land within and adjacent to Grand Teton National Park, WY and to extend temporarily certain grazing privileges; with an amendment (Rept. 105–300). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1805. A bill to amend the Auburn Indian Restoration Act to establish restrictions related to gaming on and use of land held in trust for the United Auburn Indian Community of the Auburn Rancheria of California, and for other purposes (Rept. 105–301). Referred to the Committee of the Whole House on the State of the Union.

Mr. LIVINGSTON: Committee on Appropriations. Revised subdivision of budget totals for fiscal year 1998 (Rept. 105–302). Referred to the Committee of the Whole House on the State of the Union.

Mr. GILMAN: Committee on International Relations. H.R. 2232. A bill to provide for increased international broadcasting activities to China; with an amendment (Rept. 105–303). Referred to the Committee of the Whole House on the State of the Union.

Mr. GILMAN: Committee on International Relations. House Resolution 188. Resolution urging the executive branch to take action regarding the acquisition by Iran of C–802 cruise missiles (Rept. 105–304). Referred to the House Calendar.

Mr. GILMAN: Committee on International Relations. H.R. 2358. A bill to provide for improved monitoring of human rights violations in the People's Republic of China; with amendments (Rept. 105–305). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2469. A bill to amend the Federal Food, Drug, and Cosmetic Act and other statutes to provide for improvements in the regulation of food ingredients, nutrient content claims, and health claims, and for other purposes; with amendments (Rept. 105–306). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 1710. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, clearance, and use of devices to maintain and improve the public health and quality of life of the citizens of the United States; with an amendment (Rept. 105–307). Referred to the Committee of the Whole House on the State of the Union.

Mr. GILMAN: Committee on International Relations. H.R. 2386. A bill to implement the provisions of the Taiwan Relations Act concerning the stability and security of Taiwan and United States cooperation with Taiwan on the development and acquisition of defensive military articles; with an amendment (Rept. 105–308 Pt. 1).

Mr. GILMAN: Committee on International Relations. H.R. 967. A bill to prohibit the use of United States funds to provide for the participation of certain Chinese officials in international conferences, programs, and activities and to provide that certain Chinese

officials shall be ineligible to receive visas and excluded from admission to the United States; with amendments (Rept. 105–309 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on International Relations discharged from further consideration. H.R. 3121 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 5 of rule X the Committee on National Security discharged from further consideration. H.R. 2386 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 967. Referral to the Committee on the Judiciary extended for a period ending not later than October 7, 1997.

H.R. 2386. Referral to the Committee on National Security extended for a period ending not later than October 6, 1997.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TAYLOR of North Carolina:

H.R. 2607. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

By Mr. BOB SCHAFFER (for himself, Mr. NEY, Mr. HOSTETTLER, Mr. ARMEY, Mr. BACHUS, Mr. BAKER, Mr. BALLENGER, Mr. BARR of Georgia, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BASS, Mr. BATEMAN, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BLILEY, Mr. BOEHNER, Mr. BONILLA, Mr. BONO, Mr. BRADY, Mr. BRYANT, Mr. BURR of North Carolina, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CAMPBELL, Mr. CANADY of Florida, Mr. CANNON, Mr. CHABOT, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. COBLE, Mr. COBURN, Mr. COLLINS, Mr. COMBEST, Mr. COOK, Mr. COOKSEY, Mr. COX of California, Mr. CRANE, Mr. CRAPO, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DELAY, Mr. DICKEY, Mr. DOOLITTLE, Mr. DREIER, Mr. DUNCAN, Ms. DUNN of Washington, Mr. EHRLICH, Mr. ENSIGN, Mr. EVERETT, Mr. FAWELL, Mr. FOLEY, Mrs. FOWLER, Mr. FOX of Pennsylvania, Mr. GANSKE, Mr. GEKAS, Mr. GIBBONS, Mr. GILCHREST, Mr. GILLMOR, Mr. GINGRICH, Mr. GOODLATTE, Mr. GOSS, Mr. GRAHAM, Mr. GREENWOOD, Mr. GUTKNECHT, Mr. HANSEN, Mr. HASTERT, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HILL, Mr. HILLEARY, Mr. HOEKSTRA, Mr. HULSHOF, Mr. HUTCHINSON, Mr. HUNTER, Mr. HYDE, Mr. INGLIS of South Carolina, Mr. SAM JOHNSON, Mr. JONES, Mr. KASICH, Mr. KINGSTON, Mr. KLUG Mr. KNOLLENBERG, Mr. KOLBE, Mr. LARGENT, Mr. LATHAM, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LIVINGSTON, Mr. MANZULLO, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCINNIS, Mr. MCINTOSH, Mr. MCKEON, Mr. MICA, Mr. MILLER of Florida, Mrs. MYRICK, Mr. NETHERCUTT, Mr. NEUMANN, Mrs. NORTHUP, Mr. NORWOOD, Mr. NUSSLE, Mr. PACKARD, Mr. PARKER, Mr. PAXON, Mr. PETERSON of Pennsylvania, Mr. PICKERING, Mr. PITTS, Mr. POMBO, Mr. PORTER, Ms. PRYCE of Ohio, Mr. RADANOVICH, Mr. RAMSTAD, Mr. REDMOND, Mr. RILEY, Mr. ROGAN, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROYCE, Mr. SALMON, Mr. SCARBOROUGH, Mr. DAN SCHAEFER of Colorado, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SKEEN, Mr. SMITH of Michigan, Mr. SMITH of Texas, Mrs. LINDA SMITH of Washington, Mr. SMITH of Oregon, Mr. SNOWBARGER, Mr. SOUDER, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. SUNUNU, Mr. TALENT, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Mr. THUNE, Mr. TIAHRT, Mr. UPTON, Mr. WALSH, Mr. WAMP, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, Mr. WHITFIELD, Mr. WICKER, and Mr. YOUNG of Florida):

H.R. 2608. A bill to protect individuals from having money involuntarily collected and used for political activities by a corporation or labor organization; to the Committee on House Oversight.

By Mr. MILLER of Florida (for himself, Mr. CONDIT, Mr. POMBO, Mr. THOMAS, Mr. CANADY of Florida, Mr. BISHOP, and Mrs. THURMAN):

H.R. 2609. A bill to make a regulatory correction concerning methyl bromide to meet the obligations of the Montreal Protocol without placing the farmers of the United States at a competitive disadvantage versus foreign growers; to the Committee on Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTERT:

H.R. 2610. A bill to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 1999, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes; to the Committee on Government Reform and Oversight.

By Mrs. CHENOWETH (for herself and Mr. TRAFICANT):

H.R. 2611. A bill to amend title 11, United States Code, to declare that donations to a religious group or entity, made by a debtor from a sense of religious obligation, such as tithes, shall be considered to have been made in exchange for a reasonably equivalent value; to the Committee on the Judiciary.

By Mr. EHLERS (for himself, Mr. COBLE, and Mr. HOEKSTRA):

H.R. 2612. A bill to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment; to the Committee on Commerce.

By Mr. ETHERIDGE:

H.R. 2613. A bill to amend the Internal Revenue Code of 1986 to permit the issuance of tax-exempt bonds by certain organizations providing rescue and emergency medical services; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 2614. A bill to improve the reading and literacy skills of children and families by improving in-service instructional practices for teachers who teach reading, to stimulate the development of more high-quality family literacy programs, to support extended learning-time opportunities for children, to ensure that children can read well and independently not later than third grade, and for other purposes; to the Committee on Education and the Workforce.

By Mr. JONES:

H.R. 2615. A bill to prohibit the Secretary of the Interior from permitting oil and gas leasing, exploration, or development activity off the coast of North Carolina unless the Governor of the State notifies the Secretary that the State does not object to the activity; to the Committee on Resources.

By Mr. RIGGS:

H.R. 2616. A bill to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools; to the Committee on Education and the Workforce.

By Mr. BRYANT (for himself and Mr. WICKER):

H.J. Res. 95. Joint resolution granting the consent of Congress to the Chickasaw Trail Economic Development Compact; to the Committee on the Judiciary.

By Mr. SKEEN:

H. Con. Res. 167. Concurrent resolution to correct a technical error in the enrollment of H.R. 2160; which was considered and agreed to.

By Mr. BAESLER (for himself, Mr. BERRY, Mr. BOYD, Mr. CONDIT, Mr. CRAMER, Ms. DANNER, Mr. GOODE, Mr. HALL of Texas, Ms. HARMAN, Mr. JOHN, Mr. MCINTYRE, Mr. MINGE, Mr. PETERSON of Minnesota, Ms. SANCHEZ, Mr. SANDLIN, Mr. STENHOLM, Mr. TANNER, Mrs. TAUSCHER, and Mr. TAYLOR of Mississippi):

H. Res. 259. Resolution providing for consideration of the bill (H.R. 1366) amending the Federal Elections Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes; to the Committee on Rules.

By Ms. WATERS (for herself, Mr. OBERSTAR, Mr. KLECZKA, Mr. GUTIERREZ, Mr. HINCHEY, Mr. NADLER, Mr. DICKEY, Mr. CLAY, Mr. LEWIS of Georgia, Mr. PAYNE, Mr. FLAKE, Mr. WYNN, Mr. TOWNS, Mr. CLYBURN, Mr. THOMPSON, Mrs. CLAYTON, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. SAWYER, Mr. MOLLOHAN, Ms. DELAURO, Mr. WAXMAN, Mr. DAVIS of Florida, Mr. FRANK of Massachusetts, Mr. WISE, Mr. ORTIZ, Mr. GREEN, Mr. FROST, Mr. FAZIO of California, Ms. KAPTUR, Mr. GORDON, Ms. PELOSI, Mr. DIXON, Mr. BISHOP, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DEFAZIO, Ms. VELÁZQUEZ, Mrs. MINK of Hawaii, Mr. KENNEDY of Rhode Island, Mr. MALONEY of Connecticut, Mr. WATT of North Carolina, Ms. FURSE, Ms. WOOLSEY, Mr. FORD, Mr. STRICKLAND, Mr. MENENDEZ, Mr. BOSWELL, Mr. REYES, Mr. BLAGOJEVICH, Mr. EVANS, Mr. POSHARD, Mr. GEJDENSON, Mr. ANDREWS, Mr. SCOTT, Ms. LOFGREN,

Mr. KENNEDY of Massachusetts, Mr. HASTINGS of Florida, Mr. CUMMINGS, Mr. JACKSON, Ms. JACKSON-LEE, Ms. HARMAN, Ms. MCKINNEY, Mr. FARR of California, Mr. EDWARDS, Mr. BALDACCI, Mr. DOYLE, Mr. HALL of Ohio, Mr. POMEROY, Mr. HOYER, Mr. HEFNER, Mr. CONDIT, Mr. BOYD, Ms. SLAUGHTER, Ms. DANNER, and Ms. HOOLEY of Oregon):

H. Res. 260. Resolution condemning the Nigerian dictatorship for its abuse of United States Ambassador Walter Carrington; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CLEMENT:

H.R. 2617. A bill for the relief of Rosalba Colunga de Medina, Claudia Janet Alexandru Medina, and Jose Armando Medina, Jr.; to the Committee on the Judiciary.

By Ms. ROYBAL-ALLARD:

H.R. 2618. A bill for the relief of Sergio Lozano, Fauricio Lozano, and Ana Lozano; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 2619. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Fjording;* to the Committee on Transportation and Infrastructure.

H.R. 2620. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Pacific Monarch;* to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. WOLF, Mr. MICA, Ms. WOOLSEY, and Mr. HOLDEN.

H.R. 65: Ms. SANCHEZ.

H.R. 80: Mr. WELDON of Florida.

H.R. 123: Mr. EHLERS, Mr. HALL of Texas, Mr. HEFLEY, Mr. KINGSTON, Mr. MCCRERY, Mr. PARKER, Mr. SANFORD, Mr. HASTINGS of Washington, and Mr. WELDON of Pennsylvania.

H.R. 192: Mr. WELDON of Pennsylvania and Mr. EHRLICH.

H.R. 218: Mr. STEARNS, Mr. LEWIS of Kentucky, Mr. CALVERT, Mr. GORDON, Mr. POMBO, Mr. HILLEARY, and Mr. WELDON of Florida.

H.R. 300: Mr. GREENWOOD and Mr. KIND of Wisconsin.

H.R. 367: Mr. DICKEY and Mr. ENSIGN.

H.R. 383: Mrs. MORELLA.

H.R. 399: Mr. VISCLOSKY.

H.R. 414: Mr. EHRLICH.

H.R. 418: Mr. TAYLOR of North Carolina.

H.R. 453: Mr. GUTIERREZ, Mr. DIXON, Mr. CLYBURN, Mr. DAVIS of Illinois, and Mr. STOKES.

H.R. 563: Mr. BARCIA of Michigan and Mrs. MYRICK.

H.R. 600: Mr. SHERMAN.

H.R. 696: Ms. FURSE.

H.R. 768: Mr. EWING.

H.R. 836: Mr. SMITH of New Jersey.

H.R. 991: Ms. PELOSI, Ms. MCCARTHY of Missouri, Mr. POMEROY, Mr. BOYD, Ms. DELAURO, Mr. DOYLE, and Mr. PRICE of North Carolina.

H.R. 1072: Mr. GUTIERREZ and Mr. DAVIS of Illinois.

H.R. 1114: Mr. THOMPSON, Mr. ENSIGN, Mr. EDWARDS, Mr. PAPPAS, Mr. STOKES, Mr. BARR of Georgia, and Mr. BALLENGER.

H.R. 1126: Mr. TRAFICANT.

H.R. 1147: Mr. CRAPO and Mr. BARCIA of Michigan.

H.R. 1227: Mr. MILLER of Florida.

H.R. 1231: Mr. BLILEY.

H.R. 1285: Mr. BURTON of Indiana.

H.R. 1290: Mr. HAYWORTH.

H.R. 1387: Mr. SALMON.

H.R. 1411: Mr. BLILEY, Mr. INGLIS of South Carolina, and Mr. MCHALE.

H.R. 1425: Mr. OLVER and Mr. MORAN of Virginia.

H.R. 1455: Mr. FATTAH.

H.R. 1521: Mr. HERGER and Mr. HOBSON.

H.R. 1531: Mr. WEYGAND.

H.R. 1534. Mr. DOYLE, Mr. TAYLOR of North Carolina, and Mr. THUNE.

H.R. 1577. Mr. WELDON of Florida.

H.R. 1636. Mr. MARTINEZ.

H.R. 1712. Mr. PICKERING, Mr. PORTER, Mr. BLUNT, and Mr. FOLEY.

H.R. 1754. Mr. PETERSON of Minnesota, Mr. COOKSEY, and Mr. SMITH of New Jersey.

H.R. 2021. Ms. DUNN of Washington.

H.R. 2023. Ms. PELOSI, Mr. UNDERWOOD, Ms. WOOLSEY, Ms. KILPATRICK, and Mrs. MALONEY of New York.

H.R. 2053. Ms. KILPATRICK and Mrs. MALONEY of New York.

H.R. 2110. Mr. LANTOS.

H.R. 2118. Mr. THOMPSON.

H.R. 2183. Mr. TAYLOR of Mississippi, Mr. STENHOLM, Mr. SISISKY, Mr. STRICKLAND, Mr. BAESLER, Mrs. SANCHEZ, Mr. CONDIT, Mr. PETERSON of Minnesota, Mr. ETHERIDGE, Ms. CHRISTIAN-GREEN, and Mr. WAXMAN.

H.R. 2211. Ms. WOOLSEY and Mr. TORRES.

H.R. 2321. Mr. BOEHNER, Ms. DUNN of Washington, Mr. GRAHAM, Mrs. LOWEY, Mr. PARKER, Mr. PASTOR, and Mr. STUPAK.

H.R. 2327. Mr. GRAHAM, Mr. WALSH, Mr. SKELTON, Mr. EHLERS, Mr. BLUMENAUER, Mr. NUSSLE, and Mr. SCHIFF.

H.R. 2351. Mr. DEFAZIO and Mr. BLAGOJEVICH.

H.R. 2380. Mr. MORAN of Kansas.

H.R. 2424. Mr. ENSIGN, Mr. LUTHER, Mr. BARRETT of Wisconsin, and Mr. PETRI.

H.R. 2436: Mr. OWENS and Mr. ACKERMAN.

H.R. 2437: Mr. OWENS and Mr. ACKERMAN.

H.R. 2462: Mr. SHAYS, Mr. SHADEGG, Mr. MILLER of Florida, Mr. SMITH of Michigan, and Mrs. MYRICK.

H.R. 2469: Mr. BLILEY and Mr. MCHALE.

H.R. 2493: Mr. CANNON and Mr. PICKETT.

H.R. 2523: Mr. THOMPSON and Mr. KENNEDY of Rhode Island.

H.R. 2535: Mr. GOODLATTE and Mr. THUNE.

H.R. 2551: Mr. MCHUGH and Mr. METCALF.

H.R. 2554: Mr. HINCHEY and Ms. KILPATRICK.

H.R. 2563: Mr. ISTOOK, Mrs. THURMAN, Mrs. EMERSON, and Mr. CRAMER.

H.R. 2565: Mr. BATEMAN and Mrs. MYRICK.

H.R. 2584: Ms. WOOLSEY, Mr. DAVIS of Illinois, and Mr. GREEN.

H.R. 2586: Mr. SPRATT.

H.R. 2592: Mr. PARKER.

H.R. 2599: Mr. HINCHEY and Ms. KILPATRICK.

H. Con. Res. 55: Mr. ISTOOK, Mr. DIXON, and Mr. SHAYS.

H. Con. Res. 107: Ms. DELAURO, Mrs. MINK of Hawaii, Mr. HAMILTON, Mr. GEKAS, and Mrs. MALONEY of New York.

H. Con. Res. 112: Mr. LEVIN, Mr. CAPPS, and Mr. GUTIERREZ.

H. Con. Res. 148: Mr. PAPPAS, Mr. POSHARD, Mr. MCGOVERN, Mr. KENNEDY of Massachusetts, Mr. MANTON, Mr. FILNER, Mr. CAPPS, Mr. BROWN of Ohio, Mr. PALLONE, and Mr. TORRES.

H. Res. 235: Mr. LUTHER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HINOJOSA, Mr. TOWNS, Mr. LANTOS, Mr. REDMOND, Mr. FALEOMAVAEGA, and Mr. BROWN of Ohio.

EXTENSIONS OF REMARKS

TRIBUTE TO SOUTH CAROLINA TEACHER OF THE YEAR, CHRISTINE FISHER

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to South Carolina's Teacher of the Year, Christine Fisher. Mrs. Fisher is a constituent of mine, and a seventh and eighth grade band teacher at Southside Middle School in Florence, SC. She is in Washington DC, October 6–8 for the fifth annual National Teacher Forum.

This week, teachers across the Nation are being recognized for their leadership as well as excellence in teaching by participating in the National Teacher Forum. The forum is designed to tap the knowledge, experience, and insight that these teachers have gained with regard to Federal education programs and policies.

Mrs. Fisher has been a teacher for 21 years; 12 of which she has taught at Southside Middle School. Under her leadership, the Southside bands have been awarded outstanding performance awards for 12 straight years. Mrs. Fisher has also been the recipient of numerous awards including the Florence District One Teacher of the Year, Time Warner Cable Star Teacher, Lead Music Teacher at the Curriculum Leadership in the Arts, Outstanding Junior High Band Director of the eastern district of South Carolina, and Teacher of the Year at two schools during her teaching career. She has also been a guest conductor and clinician for the Berkeley County Honors Band, the Eastern District Honors Band and the Spartanburg County Honors Band. In addition to her musical experience, Mrs. Fisher has also helped in writing, and has received, numerous grants for music education and technology. Mrs. Fisher also has been a guest speaker for numerous music seminars, including university level classes. Aside from her mainstream curriculum, she also has a great interest and knowledge in music for the learning disabled student.

Throughout her 21 year tenure, Mrs. Fisher has taught music in schools through the Pee Dee area of the sixth congressional district. She is also a Member of the National Education Association, South Carolina Education Association, Music Educators National Conference, South Carolina Music Educators Association, and the South Carolina Band Directors Association.

Mr. Speaker, I know Mrs. Fisher will be an excellent resource for the National Teachers Forum, and I ask that you join me in saluting her as South Carolina's Teacher of the Year.

OUR LADY OF CONSOLATION ROMAN CATHOLIC CHURCH CELEBRATED 50TH ANNIVERSARY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to congratulate Our Lady of Consolation Roman Catholic Church in Merrillville, IN, in celebration of its 50th anniversary as a parish last Sunday, October 5, 1997. The anniversary celebration began with a Mass of thanksgiving, which was celebrated by Bishop Dale J. Melczek. Following the Mass, there was a banquet in the parish hall.

A parish of humble beginnings, Our Lady of Consolation, which was established as Immaculate Heart of Mary in 1947, celebrated its first Mass on October 5, 1947, in a town fire station. The parish was founded by Father Alvin Jasinski under the direction of the Fort Wayne Diocese to serve the needs of the growing Catholic population of Independence Hill, a section of what is now Merrillville, IN. In November 1947, 1 acre of land, which included a store and other buildings, was purchased as a more suitable site for the church. Many parishioners contributed their time, talent, money, and materials to transform the store into the first Immaculate Heart of Mary Church. Land for a permanent church site was acquired and a building fund was begun under the guidance of Father Leo Ambruster in the early 1960's. With the determination and patience of the parishioners, the cornerstone of the new church was blessed on August 27, 1967, only several years after the purchase of the land. The church was dedicated by Bishop Andrew Grutka as Our Lady of Consolation.

Our Lady of Consolation derived its name from the 2d century writer, St. Ignatius of Antioch. St. Ignatius was the first to express devotion to Mary as "Consoler of the Afflicted." In the 17th century, when an outbreak of bubonic plague ravaged and decimated the Luxembourg population, the people prayed to Mary, Consoler of the Afflicted, for relief in their anguish and fear of death. Bishop Grutka decided to change the parish name from Immaculate Heart of Mary Church to Our Lady of Consolation since Holy Trinity Church in Gary, IN, built a statute commissioned "Christ the Consoler." The bishop stated it was appropriate that Christ the Consoler have a Mother of Consolation.

In recent years, Our Lady of Consolation has flourished under the guidance of Father Joseph Vamos who arrived at the parish in 1987. In 1988, the cornerstone was laid for a parish activity center, which consists of a chapel used for weekday Mass, small weddings, and funerals, a parish office, large social and banquet hall, fully equipped kitchen, and six large classrooms. The classrooms are being utilized for faith formation program classes, small parish meetings, and a preschool serving approximately 40 children. The entire parish complex, which also consists of a rectory, was paid for within 3 years of its construction. Currently, the parish has taken on other initiatives, which include the redecoration of the church, the purchase of a new sacristy, the addition of an atrium entry way to the parish center, and the installation of stained glass windows in the chapel. The recent prosperity of Our Lady of Consolation may be attributed to both the foresight of past parish pastors, as well as the success of the parish's annual festival. The annual festival is a tradition that dates back to the early days of the parish in Independence Hill.

Although Our Lady of Consolation has changed drastically over the years, some aspects have remained the same. For instance, some of the original members of the small church in Independence Hill are still parishioners. Also, the Holy Name Society and the Altar and Rosary Sodality, which were founded in the very beginning of the church's history, still work for the betterment of the church today. Other organizations within the parish include an Over 55 Club, a parish youth group, and a newly formed Knights of Columbus Good Shepherd Council. The original parish consisted of under 100 families. Today, the number is over 1,000.

Mr. Speaker, I ask you and my other distinguished colleagues to join me today in commending the parish family of Our Lady of Consolation, under the guidance of Father Joseph Vamos, as they celebrate the 50th anniversary of their founding. All past and present parishioners and pastors should be proud of the numerous contributions they have made out of the love and devotion they have displayed for their church.

HONORING WILLIAM T. HUSTON, RECIPIENT OF THE SETON AWARD

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to my dear friend, William T. Huston. Bill has spent his career serving his family, his church, his community, and his country.

Our Nation was founded upon the principles of freedom, faith, and the pursuit of liberty. Bill is a man who exemplifies these qualities, and whose efforts to serve those around him are an inspiration to all.

As chairman of the Watson Land Co., Bill has proven himself to be a model of leadership. He tempers good business skills with a keen eye for serving his fellow man. As a

community leader, Bill has led quietly by example, given countless hours of service, and encouraged those around him to do the same.

Mr. Speaker, tonight Bill Huston will be honored by the National Catholic Education Association for his commitment to American education. Bill also will be joined by another great American, Dr. William Bennett, as they are presented with the prestigious Seton Award.

Named for Saint Elizabeth Ann Seton in recognition for her lifelong dedication to teaching, the award is presented annually to those who have dedicated their life to education. As a further tribute to Bill, the National Catholic Education Association will present a child in Bill's community with a $1,000 scholarship to use toward their education.

Mr. Speaker, the importance of a sound education must be underscored. As we look to solve the problems of the future, we have before us a man who has provided the right example. For his efforts, and in recognition of a well-deserved honor this evening, I am privileged to commend and pay tribute to William T. Huston.

PERSONAL EXPLANATION

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. SHERMAN. Mr. Speaker, I regret missing votes on the afternoon of October 1. Due to the pressing nature of the Jewish holidays it was necessary for me to leave town in order to arrive in California by sundown for Erev Rosh Hashana.

SUBPOENA ENFORCEMENT IN THE CASE OF DORNAN VERSUS SANCHEZ

SPEECH OF

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1997

Mr. MARTINEZ. Mr. Speaker, I hear over and over again that we are concerned about the integrity of our election process, and I agree with that, not only for the 46th congressional district but for all over the United States.

This is not the only place where voter fraud has occurred. But I hear interjected into the debate the reference to the number of fraudulent votes in the 46th district. Then our friend from Texas gets up and states that the Hermandad is the crookedest organization around and guilty of all kinds of wrongdoing.

The problem I have with that is an investigating committee trying to investigate someone who has already made up his mind lends itself to the idea that since they have already made up their mind, their investigation is going to conclude with the conclusions they have already made.

Let me say in the same breath that the gentleman speaks about the high level of debate that began this debate. He rushes in to chastise one of our Members for pulling a race card. What greater race card was there pulled when on that side of the aisle they chose as their closing speaker someone of Hispanic descent?

Finally, Mr. Speaker, Republicans have an 8-year history in southern California of intimidating Latino voters at the polls. The Republican Party paid $600,000 to settle two voting intimidation cases, one stemming from 1988 and one from 1989, in which the Orange County Republican Party placed security guards and signs at the voting polls designed to scare Latino voters.

Mr. Speaker, Hispanic-Americans have served in every branch of our military. They have fought and died in our wars, defending the cherished principles of freedom and democracy. Hispanic-Americans have earned the right to vote without being intimidated at the polls. It may come as a surprise to some of my friends on the other side of the aisle, but there are millions of Americans of Hispanic origin, many with surnames like de la Garza, Gonzalez, Torres, Rodriguez, Menendez, Becerra, and even Martinez who voted, and voted legally, in the last election.

THOMAS R. BROWN, SOUTH TEXAS VETERANS HEALTH CARE SYSTEM, SAN ANTONIO, TX, RECEIVES OLIN E. TEAGUE AWARD

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. STUMP. Mr. Speaker, in a ceremony on Thursday, September 18, 1997, in the House Veterans' Affairs Committee hearing room, Thomas R. Brown, chief, Recreation Therapy Service, South Texas Veterans Health Care System, San Antonio, TX, received this year's Olin E. Teague Award for his efforts on behalf of disabled veterans.

The Teague Award is presented annually to a VA employee whose achievements have been of extraordinary benefit to veterans with service-connected disabilities, and is the highest honor at VA in the field of rehabilitation.

Under Mr. Brown's pioneering leadership in the area of wheelchair sports, an extraordinarily effective recreation therapy program has been developed in the VA system. Due to Mr. Brown's career as a national and international wheelchair athlete and his success as a coach, teacher, and motivator, in 1980 he was asked to help establish a national wheelchair games program for VA in conjunction with the International Year for Disabled Persons. In 1981, the first National Veterans Wheelchair Games were held in Richmond, VA, with 74 veterans participating. Under Mr. Brown's continuing guidance and advice, the games have expanded with tremendous success as a rehabilitation tool. Veterans travel from all over the Nation to participate, many of whom have never before competed in organized sporting competitions. The games now boast of over 550 competitors giving veterans an excellent opportunity to interact with their peers, to experience the thrill of victory, and to participate with a level of exuberance many had thought was lost forever.

Mr. Speaker, the name Olin E. "Tiger" Teague is synonymous with exemplary service to the Nation's veterans. The late Congressman Teague served on the House Veterans' Affairs Committee for 32 years, 18 of those years as it distinguished chairman. No one who opposed him on veterans' issues ever had to ask why he was called Tiger. He set the standards by which we can best serve all veterans. I know my colleagues join me in offering our deep appreciation to Mr. Brown for his concern, dedication, and innovation in meeting the special rehabilitation needs of disabled veterans. We congratulate him for the excellence of his work and for the distinguished award he received.

SMALL BUSINESS PROGRAMS REAUTHORIZATION AND AMENDMENTS ACT OF 1997

SPEECH OF

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1997

Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 2261 and to thank the bipartisan leadership of the Committee on Small Business for their cooperation in folding H.R. 2429, as reported from the Committee on Science, into the bill currently before the House. I also would like to thank our committee's leadership Chairman SENSENBRENNER, Chairwoman MORELLA, and Ranking Member GORDON for working so hard in the limited time we had available to us to make the STTR program a more effective resource for our Nation's small businesses.

I would like to address my remarks today to the Small Business Technology Transfer [STTR] program amendments which were reported from the Committee on Science and folded into this legislation.

The STTR program was begun as an experiment 4 years ago to help small businesses move ideas from our Nation's universities and national laboratories into the commercial marketplace. It is clear that this experiment has not been underway long enough to prove itself, and it needs to be extended for an additional 3 years. Hardly any of the STTR grantees have had enough time to move a promising idea to a commercial product or government purchase through the STTR process. It was also painfully clear during the committee's hearing on the STTR program that information is not available to answer the most basic question about the effectiveness of the STTR program or the SBIR program on which it was modeled. Witnesses did not have statistics available to them to counter the assertion that the STTR and SBIR programs are paying for research that the private sector would have been done anyway if the Government grants had not been available. The anecdotal evidence which was available to us suggests that the programs are providing major assistance to specific small businesses, but we have much to learn about the program's overall effectiveness. This situation must be rectified before the programs are extended again 3 years from now.

The Committee on Science accepted an amendment offered by Mr. SENSENBRENNER and me that may help solve this problem by bringing the STTR and SBIR programs under the Government Performance and Results Act, GPRA. Agencies will be required to develop performance measures for their SBIR and STTR programs, to collect information on the performance of grantees, and to analyze that data in light of program goals. Our committee report to accompany H.R. 2429 suggests a variety of possible measures which could be used for these programs. Each time agencies participating in STTR or SBIR submit a report under the GPRA Act, they will be required to submit information on their SBIR and STTR programs as well. This should leave us with a firm basis in the future to look at these programs and to reform them as necessary.

The commercialization component of the SBIR and STTR programs can be seen through the program's phases. Phase I is for defining an idea; phase II is for developing the idea to the point where it is useful commercially or to the Government. Phase III is the point where the programs' successes are harvested either through private sector commercialization or through Government purchases of products and services. These programs have a second goal of providing value to the Government, a goal which can be complimentary to the commercialization goal. If Phase I and II grants are coordinated with the agencies' priority research and development programs, agencies should have a base of relevant expertise in the small business community for the Phase III work to build on. We, therefore, hope to see future SBIR and STTR solicitations positioned in the mainstream of agency and interagency priority initiatives.

Members of our committee continue to be concerned about the extreme concentration of SBIR and STTR grants in a small number of companies located in a few States. We know there are tens of thousands of small businesses throughout the country with high quality scientists and engineers on their staffs, many of which might benefit from SBIR or STTR participation. This will not happen as long as the program keeps awarding hundreds of grants each year to a handful of companies. We also wonder how companies can remain small businesses if they truly have the management capabilities to write hundreds of research proposals and to carry out dozens of research projects for the Government each year. If they really are moving the research results of all these projects towards commercialization, why aren't they becoming big enough to outgrow the program? Our legislation partially addresses this problem by requiring the SBA to perform outreach activities to encourage applications from a much larger and more diverse segment of the small business community. However, we did not have time in this authorization to agree upon more direct legislative solutions to the multiple awards problem. It is a problem that is serious enough that it should not be ignored any longer. We, therefore, urge participating agencies to be aggressive in broadening the base of program participants and warn agencies who persist in continually awarding many grants to the same companies to be prepared to show that these favored few companies are both adding value to the Government and aggressively developing markets for their research results.

LEE HAMILTON: A PUBLIC SERVANT REFLECTS ON THREE DECADES IN CONGRESS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. BEREUTER. Mr. Speaker, this Member would take a moment to recognize my distinguished colleague from Indiana, the Honorable LEE HAMILTON. First as chairman and now as ranking Democrat on the Committee on International Relations, LEE HAMILTON has consistently sought to promote the U.S. national interest and to advance our bilateral and multilateral relations around the globe. He has applied his Indiana common sense to many of the most difficult international issues that this country has been forced to address.

LEE HAMILTON was chairman of the Europe and Middle East Subcommittee when the Berlin Wall fell and when the Soviet Union collapsed. He was instrumental in crafting the SEED Act that provided timely assistance to the fledgling democracies in Central Europe, and he was the driving force behind the Freedom Support Act that support democratic institutions in Russia. These are just a few of his more recent landmark legislative accomplishments, Mr. Speaker, for which the distinguished gentleman can rightly take pride.

Mr. Speaker, although the distinguished gentleman sits on the other side of the aisle from this Member, this Member has regularly sought him out for advice and guidance. Years ago, when this Member was a junior member of the minority on the International Relations Committee, LEE HAMILTON helped this Member pursue a number of initiatives that, without this help, would have been impossible. LEE did not have to do this, and no one ever knew of his help; however, it meant an enormous amount to this relatively junior Member.

Mr. Speaker, LEE HAMILTON recently was awarded the Edmund Muskie distinguished Public Service Award for his 3½ decades of service to the Nation. This Member congratulates Mr. HAMILTON and would ask to submit into the CONGRESSIONAL RECORD the gentleman's statement, "Reflections on the Congress and the Country," which he delivered to the Center for National Policy which was honoring him on September 29, 1997, with the Edmund Muskie Award. This gentleman wishes LEE and his wife Nancy all the best in the years ahead and thanks them for their remarkable contributions to our Nation.

REFLECTIONS ON THE CONGRESS AND THE COUNTRY

I really do not recall enjoying speeches any more than I have tonight. Thank you one and all. Some I thought could have been a little longer, others I found a bit restrained, but overall it has been an immensely satisfying evening.

I shall think often of this evening and the high honor you have paid to me. I've always wanted to walk off the stage before I was shoved off, and your nice gesture makes me think I have done that.

Politicians do a lot of things very well but I'm not sure retiring is one of them. I've always felt that you should leave when others think you should stay.

It has occurred to me in times past that the United States government needed the equivalent of a House of Lords for retired politicians. I'm beginning to think more favorably of that idea. I'm not quite sure what its purpose would be and I know that the taxpayers wouldn't tolerate it, but it would be a nice gathering place for a bunch of hasbeens. It would keep us out of mischief and perhaps more importantly keep us off the television, and an occasional good thought or deed might from time to time emerge.

No award comes to one person alone. All who receive an honor stand on the shoulders of many others. I acknowledge no all-inclusive list tonight of people who share this award with me, but among them most importantly are: my wife, Nancy, and our children, Tracy, Debbie, and Doug; I cannot begin to tell you the contributions they have made—but for a sample consider not having their husband and father around the house for 30 weekends a year for 30 years; the man who got me started in this political business, and he has remained a trusted friend and advisor, Dick Stoner, and his wife, Virginia; and, of course, a long list of outstanding staff members, without whose help I would have accomplished very little. The best advice for any Member remains: hire a staff a lot smarter than you are; and I have done that.

The award is all the more meaningful because it is named for Edmund Muskie. I still remember the clarity and persuasiveness of his statements on the budget, the environment, and foreign policy.

Mike Barnes and Mo Steinbruner have been doing an excellent job of continuing his important work at the Center for National Policy. As Madeleine Albright correctly noted last year, CNP is more than a think tank, it's an action tank.

And a word of special appreciation to Hank Schacht, the Chairman and CEO of Lucent Technologies. If you want a model for an American business executive, look no further. He combines all the skills of an outstandingly successful business executive with a commitment to the public interest that is simply extraordinary.

I've been asked to reminisce for a few minutes. Obviously they didn't expect anything too heavy from me this evening, and I'm pleased to comply.

EARLY YEARS IN CONGRESS

I've been fortunate to serve many years in Congress. I've served with 8 Presidents. I've worked with 11 Secretaries of State. And when I complete my 17th Congress, I'll be one of only around 80 Members in the history of the House who have served that long.

I remember, of course, my early years in Congress. I remember that the Speaker of the House then, John McCormack, could not remember my name. He called me John and Henry and Carl on various days. Then one day before the Democratic caucus to elect the Speaker he called me on the phone. I told him I wouldn't vote for him, but would vote instead for Mo Udall. That's probably not the smartest judgment I ever made. From that day on, however, he knew my name, and the next time he saw me in the hall he called me Lee. And to his eternal credit he never held it against me.

I remember those early days when Members of Congress could put a new post office in every village and hamlet, and I did. I built 17 in my first year in Congress.

And I remember needing only one staffer to help me answer constituent mail, and getting only an occasional visit from a lobbyist.

I also remember that I could accept any gift offered, and make any amount of money of outside income, unrestricted and unreported. I even remember—in those pre-Vietnam and pre-Watergate days—people believing and trusting what government officials and politicians said.

I remember that when I first ran for Congress in 1964, my total campaign budget was $30,000, compared to $1 million last election.

And I remember many close personal relationships across the aisle. Early in my career, I made a parliamentary mistake on the floor. A senior Republican (and good friend) came over, put his arm around me, and gently pointed out my mistake and how to correct it—and this was on a bill he opposed. I can't imagine that happening today.

I remember walking into the House Foreign Affairs Committee room, which was then a small room now occupied by the House TV-radio gallery. I was told by the staff director there were no seats at the Committee table for me or the other two freshmen Democratic Members. He told me that if I wanted a seat I had to arrive before the lobbyists and the spectators came in. But it really didn't matter whether I came or not; as a freshman I was not going to be recognized to speak.

UNFORGETTABLE MEMBERS OF CONGRESS

I remember some unforgettable Members of Congress, including the awesome—even fearsome—Chairman of the Judiciary Committee, Emanuel Celler. I was the designated spokesman when a group of us went to talk to him about the President's proposal to extend the term of House Members from two or four years. We favored the bill and had introduced it. And I asked him how he stood on the bill. His response has become a part of Washington lore. He said, "I don't stand on it, I'm sitting on it. It rests four-square under my fanny and will never see the light of day." And of course it didn't, and we learned something about congressional power.

I remember Chairman Jamie Whitten, who would bring the most complicated appropriations bill, thousands of pages in length, to the floor of the House and spend his entire allotted debate time on a conference report thanking everyone under the sun, and saying nothing about the bill. The first few times he did it I though he might not be smart enough to explain the bill. I finally figured out that he was too smart to explain it, and he never did, and he always got it passed.

I remember how deeply disappointed President Johnson was when I offered the first amendment to reduce U.S. involvement in Vietnam. It was a switch of position for me, although others had preceded me. I was one of his favorites from the class of '64, and he had come to campaign for me in '66. He had taken a special interest in my career. I will never forget his eyes when he asked me, "How could you do that to me, Lee?"

I remember Hale Boggs addressing President Nixon and members of his entire Cabinet in the Cabinet Room. He made an impassioned plea as only he could do on a subject I've long since forgotten, and as he left the room he did so with the observation, "Now, Mr. President, if you'll excuse me, I have some important people waiting to see me in my office."

The memories go on and on in an endless line of splendor. With each one of them it reminds me that serving in the House of Representatives has been a high privilege, but a good bit of fun too.

GOOD ADVICE

And I remember the good advice I got. I got good financial advice from President Johnson. He had the freshmen gather in the Cabinet Room. I don't remember much of what he said except one thing; he told us "Buy your home." He said, "If you're like most politicians it'll be the only decent investment you'll ever make."

I remember Tip O'Neill putting his arm around me as we walked down the hall and giving me some advice. He called me Neal for my first decade here because I reminded him of a Boston baseball player by the name of Neal Hamilton. He said, "Neal, you can accomplish anything in this town if you're willing to let someone else take the credit."

I remember Wilbur Mills, a marvelous man, a superb legislator, who came, of course, to an unhappy ending. One evening we walked out of the Capitol together. His picture was on the cover of *Time* magazine; he was known all over the country; he was the foremost legislator in Congress—people sought his advice and clamored to speak with him even for a few seconds. I asked him where he was going, he said "I'm going back to Arkansas. I'll have a public meeting." He mentioned some small Arkansas town and said "There'll be about 15 or 20 people there." I never forgot it. As we departed he said "Lee, don't ever forget your constituents. Nothing, nothing comes before them."

And I remember Carl Albert who said always respect your colleagues and never forget that each one of them serves in this House because they were elected to do so by the American people.

PUBLIC ATTITUDE TOWARD GOVERNMENT

But let me go beyond the specific remembrances and turn more serious for a moment as we conclude.

There's been a massive change of attitude toward the role of government since I first came here. In the early 1960s many were brimming with optimism over the potential of federal programs to solve all kinds of problems—alleviating poverty, curbing racial discrimination, providing health coverage, rebuilding American's cities.

Today the mood has shifted toward pessimism about what government can achieve that is worthwhile. Many believe that government creates more problems than it solves.

Over these past 30 years I've been struck by the decline in public respect for government. In recent years it has threatened the ability of government to make good policy. Of course skepticism has always been a healthy strain in American thinking. Our Constitution reflects that with all of its checks and balances. And we all know that government can be inefficient, inaccessible, and unaccountable. But when healthy skepticism about government turns to cynicism, it becomes the great enemy of democracy.

I think the operative question in American government today is the same as it was at Gettysburg when Lincoln asked "Can this nation so dedicated and so conceived long endure?" That question may put it in rather apocalyptic terms, but it nonetheless is on the mark.

A constituent put the right question to me the other day, "What's the most important thing you can do to restore confidence in government?"

RESTORING CONFIDENCE IN GOVERNMENT

You'll be happy to know I'm not going to try to answer that question in any length tonight.

But my basic response to my constituent was that to restore confidence in government we have to make government responsive, accessible, and workable.

I believe that representative democracy is our best hope for dealing with our problems. We live in a complicated country of vast size and remarkable diversity. When I was in high school we had 130 million people. Today we have almost 270 million. So in my working lifetime the population of the country has more than doubled. Our voters are many; they're spread far and wide; and they represent a great variety of races, religions, and national origins. It isn't easy to develop a system that enables such a country to live together peacefully and productively.

Representative democracy, for all of its faults, permits us to do that. It works through a process of deliberation, negotiation, and compromise—in a word, the process of politics. Politics and politicians may be unpopular but they're also indispensable. Politics is the way that we express the popular will of the people in this country. At its best, representative democracy gives us a system whereby all of us have a voice in the process and a stake in the product.

In many ways, we have lost what the founding fathers possessed—the belief that government can work. Government is certainly still needed to provide for our national security and help promote our general welfare. Sometimes government gets in our way, but other times it can be helpful to ordinary people in their effort to succeed, to have opportunity, and to correct instances of oppression and injustice.

Those of us who see important reasons for government to act must be willing not just to criticize government and try to improve its operations, we must also work to improve public understanding of what government can do, what it cannot do, and what it has done. I simply do not see how it is possible to deal with many of our problems without a minimal public confidence in government.

I know that many people say the government and Congress don't work very well. And it's certainly not difficult to point out instances when they don't. But on the other hand, given the size of the country and the number and complexity of the challenges we confront, my view is that representative democracy works reasonably well in this country. I do not for a moment agree with those who think that the American system has failed or that the future of the country is bleak.

IMPROVING OPERATIONS OF CONGRESS

My main interest during my years in Congress has been to make government responsive, accessible, and workable. Part of that representative democracy system, of course, is the role of Congress.

Congress is an enormously important and resilient institution. I'm impressed almost daily with the way it tackles difficult national problems, manages conflict in the country, acts as a national forum, reflects diverse points of view, and over time usually develops a consensus that reflects the collective judgment of a diverse people. It has helped create and maintain a nation more free than any other. It is the most powerful and most respected legislative body in the world.

It is not, of course, perfect. It has some major flaws. It doesn't think enough about the long term, for example; it can be much too partisan; and the system by which we finance our elections is a mess. But I nonetheless believe that Congress is—overall but not perfectly, often but not always—responsive to the sustained and express will of the American people. It's a much more responsive body than people think. Congress does usually respond to public opinion if that

opinion is conveyed strongly by the American people, as we have seen in the recent work to balance the budget.

I have seen many changes over the years, but I think America is a better place today than it was when I came to Congress in 1965:

The Cold War is over, and we are at peace.

As the preeminent military power in the world, we do not worry about an imminent threat to our national security.

It is hard to find a place on the map where the U.S. is not engaged in some manner trying to make things better.

We enjoy the world's most competitive economy.

The new global trading system means new challenges and a host of new opportunities.

The Internet brings a world of knowledge to the most remote classroom or the most remote home.

We have greatly improved the lot of older Americans with programs like Social Security and Medicare.

Women and minorities have had new doors opened to them like never before.

And, by far the most important of all, this still is the land of opportunity where everyone has a chance, not an equal chance unfortunately, but still a chance to become the best they can become.

Congress did not single-handedly bring about all of these changes. But it played a major role in every one of them. Congress is still the protector of our freedom and the premier forum for addressing the key issues of the day.

As I receive this award from the Center for National Policy and look back over my years in Congress, I'm not cynical, pessimistic, or discouraged. I'm optimistic about Congress and about the country. I am grateful for every day I've been a part of this body and I do not know of any place in the world that I would have preferred to be. I believe that inch by inch, line by line, I've had a small—very small—part in making this a more perfect union and making this country stronger, safer, and freer.

What more could anyone want?

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 7, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 8

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on proposed legislation relating to food safety.

SR–332

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nominations of John Arthur Hammerschmidt, of Arkansas, James E. Hall, of Tennessee, and George W. Black Jr., of Georgia, each to be a Member of the National Transportation Safety Board.

SR–253

Indian Affairs

To hold hearings on the proposed settlement between State Attorneys General and tobacco companies, focusing on the proposed Indian provision.

SR–485

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to consider the nominations of Laura S. Unger, of New York, and Paul R. Carey, of New York, each to be a Member of the Securities and Exchange Commission, Dennis Dollar, of Mississippi, to be a Member of the National Credit Union Administration Board, Edward M. Gramlich, of Virginia, and Roger Walton Ferguson, of Massachusetts, each to be a Member of the Board of Governors of the Federal Reserve System, and Ellen Seidman, of the District of Columbia, to be Director of the Office of Thrift Supervision, Department of the Treasury.

SD–538

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR–253

Finance

To hold hearings on S. 1195, to promote the adoption of children in foster care.

SD–215

Foreign Relations

To hold hearings to examine proliferation threats through the year 2000.

SD–419

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Labor and Human Resources

To hold hearings on the nomination of David Satcher, of Tennessee, to be Assistant Secretary of Health and Human Services and Medical Director and Surgeon General of the Public Health Service, Department of Health and Human Services.

SD–106

2:00 p.m.

Judiciary

Antitrust, Business Rights, and Competition Subcommittee

To hold hearings to examine issues with regard to competition in the cable and video markets.

SD–226

2:15 p.m.

Foreign Relations

Business meeting, to consider the International Telecommunication Union Constitution and Convention (Treaty Doc. 104–34), Protocol Amending the 1916 Convention with Canada for the Protection of Migratory Birds (Treaty Doc. 104–28), Protocol Amending the Convention with Mexico for the Protection of Migratory Birds and Game Mammals (Treaty Doc. 105–26), Maritime Boundaries Treaty with Mexico (Ex. F, 96–1), and pending nominations.

SD–419

OCTOBER 9

9:30 a.m.

Commerce, Science, and Transportation

To resume hearings to examine the proposed settlement between State Attorneys General and tobacco companies to mandate a total reformation and restructuring of how tobacco products are manufactured, marketed, and distributed in America, focusing on public health goals.

SR–253

Energy and Natural Resources

To hold hearings on the nomination of M. John Berry, of Maryland, to be Assistant Secretary of the Interior for Policy, Management, and Budget.

SD–366

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To hold hearings to examine the outlook and consequences of a new United Nations climate change treaty as the United States prepares for the December convention in Kyoto, Japan.

SD–419

Labor and Human Resources

Public Health and Safety Subcommittee

To hold hearings to examine the National Institutes of Health clinical research.

SD–430

10:00 a.m.

Armed Services

To hold hearings on the nominations of Robert M. Walker, of Tennessee, to be Under Secretary of the Army, Jerry MacArthur Hultin, of Virginia, to be Under Secretary of the Navy, and F. Whitten Peters, of the District of Columbia, to be Under Secretary of the Air Force, all of the Department of Defense.

SR–222

Banking, Housing, and Urban Affairs

Securities Subcommittee

To hold oversight hearings on the Financial Accounting Standards Board and its proposed derivatives accounting standard.

SD–562

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Judiciary

Business meeting, to mark up H.R. 1847, to improve the criminal law relating to fraud against consumers, S. 474, to enforce regulations prohibiting the interstate or foreign transmission of gambling information against certain computer service providers, and S. 1024, to make permanent chapter 12 of the Bankruptcy Code relating to adjustment of debts of a family farmer with regular annual income.

SD–226

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold oversight hearings on the feasibility of using bonding techniques to finance large-scale capital projects in the National Park System.
SD–366

Foreign Relations
To hold hearings to examine the pros and cons of NATO enlargement.
SD–419

OCTOBER 20

10:00 a.m.
Indian Affairs
To hold hearings on H.R. 79, to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe, and S. 156, to provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe.
SR–485

OCTOBER 21

9:30 a.m.
Labor and Human Resources
To hold hearings on S. 1124, to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment.
SD–430

10:00 a.m.
Indian Affairs
To hold hearings on H.R. 700, to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians, and H.R. 976, to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians.
SR–485

OCTOBER 22

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD–430

10:00 a.m.
Judiciary
To hold hearings on the nomination of Bill Lann Lee, of California, to be Assistant Attorney General, Department of Justice.
SD–226

OCTOBER 23

9:30 a.m.
Indian Affairs
To hold hearings on S. 1077, to amend the Indian Gaming Regulatory Act.
SD–106

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 869, to prohibit employment discrimination on the basis of sexual orientation.
SD–430

OCTOBER 27

10:00 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the social impact of music violence.
SD–342

Indian Affairs
To hold oversight hearings on the contemporary status of the Bureau of Indian Affairs of the Department of the Interior.
Room to be announced

2:00 p.m.
Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to examine proposals to deter youth from using tobacco products.
SD–430

OCTOBER 28

10:00 a.m.
Labor and Human Resources
To resume hearings to examine an Administration study on the confidentiality of medical information and recommendations on ways to protect the privacy of individually identifiable information and to establish strong penalties for those who disclose such information.
SD–430

OCTOBER 30

10:00 a.m.
Labor and Human Resources
To hold hearings to examine recent developments and current issues in HIV/AIDS.
SD–430

NOVEMBER 5

9:30 a.m.
Indian Affairs
To hold oversight hearings on proposals to extend compacting to agencies of the Department of Health and Human Services.
SR–485

CANCELLATIONS

OCTOBER 8

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 1064, to amend the Alaska National Interest Lands Conservation Act to more effectively manage visitor service and fishing activity in Glacier Bay National Park.
SD–366

OCTOBER 29

9:30 a.m.
Indian Affairs
To resume oversight hearings on proposals to reform the management of Indian trust funds.
Room to be announced

SENATE—*Tuesday, October 7, 1997*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, the Reverend C. Edward Pruitt, Burke United Methodist Church, Burke, VA. Dr. Pruitt, we are pleased to have you with us.

PRAYER

The guest Chaplain, Rev. Dr. C. Edward Pruitt, Burke United Methodist Church, Burke, VA, offered the following prayer:

Let us pray.

God of all creation, Who has made of one blood all the nations of the world to dwell on this Earth, help us to live as brothers and sisters. May we have love, compassion, and concern for one another knowing that when one of us suffers, we all suffer.

On this day, O God, we pray for the peacemakers of our world as they fly from Washington to the Middle East, from the United Nations to Bosnia, and to all parts of our war-torn world. They carry with them their briefcases and a deep desire for peace among the peoples of the Earth. Hear our prayer for these peacekeepers and leaders who long for peace but don't yet know how to find that peace. Give them Your guidance, Your wisdom, and commitment, O God.

And now we ask Your special blessings and guidance upon the Members of this Senate body as they seek Your will for America and the world. In their deliberations, give them hospitality, friendliness, and humor, and may what they say and do on this day make a real difference in our world.

Bring life to our spirits and a sense of joy to our living. May Your will be done in our lives, our country, and our world. We pray in humbleness and thanksgiving. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. GREGG. Mr. President, I yield to the Senator from Virginia for a brief comment relative to the opening prayer.

Mr. WARNER. I thank the leader.

THE GUEST CHAPLAIN

Mr. WARNER. Mr. President, it is my privilege to recognize this morning the Reverend C. Edward Pruitt as our guest Chaplain for today. We particularly welcome his words of assurance to give strength to all of us in the discharge of our duties.

Reverend Pruitt serves as the pastor of the Burke United Methodist Church in the Commonwealth of Virginia. He has been in that post for 3 years and has ministered to the people of Virginia and Maryland for the past 30 years in his distinguished career. A graduate from the Wesley Theological Seminary here in Washington, Reverend Pruitt has a very unique background.

If one detected a slight accent in the Reverend Pruitt's words this morning, it might be because he grew up as a waterman's son—that's a fisherman's son—on the small island named Tangier in the middle of the Chesapeake Bay. Here the islanders still speak with great pride with a lingering trace of the Elizabethan English dialog, reflecting the historic settlement of that island by the English Captain John Smith in 1608.

I do not know how many of my colleagues know that Tangier Island in Virginia exists, but it does. I have been privileged to be there many times. It is noted for one other thing: There is not a single automobile for transportation.

Again, we welcome Reverend Pruitt, and the Senate is particularly grateful to Bill Hoagland, chief of staff to the Republican Senate side of the Budget Committee for bringing to the attention of the President pro tempore and the leadership the availability of this distinguished pastor.

Thank you. I yield the floor.

SCHEDULE

Mr. GREGG. Mr. President, this morning, the Senate will be in a period for morning business until 12:30 p.m. At 12:30 p.m., the Senate will recess for the policy luncheons to meet until 2:15 p.m. When the Senate reconvenes at 2:15 p.m., the Senate will proceed to a cloture vote on the paycheck protection amendment currently pending to S. 25, the campaign finance reform bill. If cloture is not invoked on the amendment, the Senate will proceed to a cloture vote on the campaign finance reform bill itself. If cloture is not invoked on the bill, the Senate could resume the D.C. appropriations bill for the consideration of the remaining issues to that appropriations matter. A cloture vote is scheduled for tomorrow on the pending Mack-Graham amendment to the District of Columbia appropriations bill if that issue is not resolved.

Also, as announced, the Senate may turn to any appropriations conference reports that become available. Therefore, additional votes will occur following the 2:15 p.m. vote during today's session of the Senate. I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBERTS). Under the previous order, there will now be a period for the transaction of morning business, with the Democratic leader having 45 minutes under his control.

The distinguished Democratic leader is recognized.

Mr. DASCHLE. Mr. President, thank you for the recognition.

CAMPAIGN FINANCE REFORM

Mr. DASCHLE. Mr. President, let me begin by simply commenting on the interesting juxtaposition this body finds itself in this morning.

Less than 500 yards from here, the Governmental Affairs Committee is holding a hearing—another hearing—dealing with questions relating to campaign finance in the last Presidential campaign cycle. There seems to be an extraordinary degree of enthusiasm for pursuing every facet of that particular exercise, and I understand the enthusiasm because, obviously, it reflects in a very negative way upon many in the Democratic Party. There has been an effort to direct the committee's attention to similar allegations regarding Republican activities, but the Democrats have largely been denied an opportunity to demonstrate any balance. In fact, with all of the hearings held thus far, I am quite sure there have only been 3 days out of all of those hearings held that the committee has spent analyzing, considering allegations regarding Republican activity. So while 90 percent of the attention is centered on Democrats and less than 10 percent on Republicans, the investigation goes on.

The real question is, Where will this take us? And that leads me to this comment on juxtaposition. I wouldn't be surprised if on the cloture vote this afternoon, virtually every member of the Republican Governmental Affairs Committee will vote against cloture on the bill, will vote not to come to some termination of this charade that we have called debate for the last 14 days.

It was on September 19 that the majority leader came to the floor, surprising virtually all of us and asking unanimous consent to go to the campaign finance reform legislation. Not having had an opportunity to consult

with my colleagues, we had a temporary delay in agreeing to that proposal. But during that discussion, the majority leader made it very clear:

We want to do it in a time when it can be fully debated. I think it is important that we have a chance to look at different proposals and see if a consensus can be reached. . . . So, we fully intend to have notification of the date and an adequate discussion of all sides of the issue. . . .

. . . we will have a full panoply of options to make sure we have it brought up at the right time and we can have a full debate and look at all the other things we need to consider.

Comments made by the majority leader on September 19.

Mr. President, that was over 2 weeks ago. Everyone can recall what has happened since then. The bill was immediately laid down. The majority leader, as is his right, proceeded to fill the parliamentary tree. By that, I mean adding, 8 or 10 amendments to the bill to preclude Democrats from offering any amendments to the McCain-Feingold bill. He did not offer just any amendment. He introduced this Lott amendment, the bill, S. 9, kill the bill—which at least he was very up front about. He is quoted in the Wall Street Journal on the 26th of September saying:

I set it up so they will be filibustering me.

He was quoted in the Washington Times on the same day:

I presume the Democrats are going to filibuster what we laid out. I set it up so they are going to do the filibustering, not the Republicans.

So, Mr. President, his motives were pretty clear. He laid it out very well. So there shouldn't be any doubt what this is about. This isn't a discussion about whether or not the proposal is a good idea. We have already suggested, proposed that if it is a good idea, let's extend it to all organizations, let's extend it to corporations, let's extend it to all membership organizations that involve themselves in elections. If you pay dues, you ought to have the opportunity to say how those dues are spent. That is the Republican argument. Well, if it is good for unions, it ought to be good for corporations; it ought to be good for the Chamber; it ought to be good for every other organization.

Interesting enough, the Right to Work Committee, no bastion of support for labor unions, is quoted in the Washington Post:

The Right to Work Committee says it is opposed to any union provisions being included in the campaign finance overhaul.

Even the Right to Work Committee opposes adding the Lott amendment to the campaign finance reform bill.

So we are not fooling anybody here, Mr. President. We have offered, as I noted a moment ago, to take S. 9 separately; no filibuster. Let's have a good debate about whether it makes sense. Let's have amendments, and then let's vote up or down. We have offered that. That hasn't been accepted. Why? Well, the majority leader has made it very clear why. That's too easy. He wants to set up a situation that requires a Democratic filibuster.

So this is a poison pill, Mr. President—a poison pill. Why would Democrats oppose cloture on the amendment? Because if cloture is invoked on the amendment, by the very nature of cloture, all other amendments that are nongermane to that particular amendment falls. Could we add corporations? No. Could we add any other organization? No. So everybody ought to understand what this is all about. The majority leader does not want an up-or-down vote on his amendment. He doesn't want an up-or-down vote on campaign finance reform.

So we find ourselves in an interesting situation. We could table the amendment. I believe the votes are now here for the Senate to table the Lott amendment, but it is increasingly unlikely that we will have an opportunity to table the amendment this afternoon.

I am very disappointed with the way this whole matter has been handled from the very beginning in laying down the unanimous-consent request. When the majority leader attained his position, he and I had what I thought was an understanding: There would be no surprises. Well, you can imagine my shock at the surprise a few weeks ago, that is, on September 19, at this unanimous consent request, considering our understanding.

Yesterday, we filed a cloture motion to ensure that there will be another vote on reform, at least tomorrow. What I didn't know is that the majority leader took us out of debate on the campaign finance reform bill in order to preclude a tabling motion yesterday. That was surprise No. 2. So this debate has been filled with surprises. I am surprised, given what he said on September 19 about the full panoply of options, that we have no options at all. We have the option of voting for cloture.

If all this is confusing, it really boils down to something very simple: Do you support meaningful campaign finance reform? Do you or not? If you do, you will press the majority leader for a tabling motion on his amendment. If you do, you will vote for cloture this afternoon on the McCain-Feingold bill. So there shouldn't be any confusion at all about what this is about, about what the motivations are or about the circumstances in which we find ourselves this morning.

The bottom line is, the vast majority of Republicans are refusing to allow this Senate to act on one of the most important pieces of legislation to be brought up in this Senate in this Congress. That is the fact. And how ironic that as we investigate infractions, as we investigate allegations, the response is simply: Let's do nothing; let's filibuster the campaign finance reform bill; let's load up the tree so we can't have a debate on amendments.

We all understand it. The American people understand it too, Mr. President. Sooner or later we will have our day. It is the old lose the battle, win the war metaphor that keeps coming back. We may lose cloture today, we may not get our tabling motion today, but we are going to get some votes. If it is all we do for the rest of this Congress, we are going to get some votes.

Others have come to the floor to seek recognition. I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I appreciate the comments of the Senator from South Dakota. I rise to support his comments.

Mr. President, there is a wonderful cemetery in a little town called Medora, ND, on the edge of the Bad Lands in western North Dakota. The cemetery has very unusual tombstones in it because they did not always know the names of the people who died when they tried a century later to identify the remains in the cemetery. So they took an oral history of the old folks living around there and did the best they could.

So if you visit that little cemetery, you will see tombstones that say, on one "Baby From The Hotel." They did not know who it was. They just knew it was a baby that died in the hotel. On the other, "Man The Bank Fell On." Still another tombstone, "Cowboy With 2 Acres." Still another, they knew the man's name was Pete and it said, "Pete, He Died In A Disagreement."

It is an interesting cemetery to visit because by these tombstones you can tell, without knowing the names, who is buried there.

I was thinking about that cemetery today because we have today a group of people who are fixing to try to kill and then bury campaign finance reform. They have been out here for days. Today is their day because today we have some votes. They want to kill it, and they want to bury it.

The problem for them is no matter what happens today, they are not able to create a tombstone that says, rest in peace for campaign finance reform, because it is not going to rest in peace. Those who believe there is not enough money in politics and we ought to have more, those who believe that we ought to kill campaign finance reform and they are the ones to do it, they want to have a little rest in peace tombstone and run to the back rooms and collect their political inheritance, the tens of millions of dollars that keep flowing into all of these coffers and hard money and soft money for this organization and that organization.

It is not going to work quite that way. If they kill campaign finance reform today, it will have been a charade. We were told that we would consider campaign finance reform on the floor of the Senate. How did it come to the floor of the Senate? It came to the floor of the Senate tied in ropes with a procedure designed to prevent anyone from offering any amendments or having any votes except those structured by the majority leader. And those structured by the majority leader are intended to accomplish the following:

According to one who spent a great deal of time on the floor here, "We're going to kill it, and kill it proudly." Campaign finance reform, that is their goal, "kill it, and kill it proudly."

"I set it up so they will be filibustering me," proudly crows another.

Conservative columnist Mr. Novak wrote a column and said it as it was,

> The party's preference is * * * no reform at all: Remove all limits on campaign contributions but disclose them daily on the Internet. Because that won't become law, the GOP leaders favor a Senate standoff in which no proposal gets 60 votes needed to end a filibuster.

I did not say that. A Republican columnist wrote that. That is the strategy.

Part of it is: "[Speaker] Calls For More, Not Less, Campaign Cash." It is because of a profound difference of opinion. Despite the facts, despite this red line on campaign spending that goes up and up and up, spending that is out of control in politics in this country, despite that, we have people who believe the problem is there is not enough cash in politics. They are dead wrong. They could not be more wrong.

The American people know and the American people understand that we need to pass some sort of meaningful campaign spending reform. I happen to believe we ought to try to find a way to put limits on campaign spending.

Individual races, the Supreme Court said by a 5 to 4 decision you cannot support those. I would like the Supreme Court to have another opportunity to rethink that, but in any event there are other ways to do it to provide incentives for spending limits on each campaign. In fact, the bill before us is watered down. They took that portion of the bill out before it was brought to the floor. So what they are trying to kill is even just a skeleton of what we ought to be doing.

If we get to vote on amendments, those of us who believe there ought to be spending limits will bring that to the floor and ask for a vote on that as well. But that is not in the bill at the moment.

The strategy is a legislative strategy to bring it up, have no votes, offer a poison pill, fill the legislative tree so everyone is bound up and no one can do anything, then file cloture, have a vote on cloture, and pull the bill and claim to all of America you really allowed consideration of campaign finance reform.

That is not consideration. That is a sham. That is not about honest consideration of campaign finance reform. An honest consideration of it would be to bring the bill to the floor and let people file amendments and have a debate and have votes and determine what is the will of the Senate.

The goal of those who want to kill this today is to do nothing because they like the current system. They will feel, I assume, like hogs in a corn crib when this is all done, just rejoicing at their bounty because they will have killed campaign finance reform, and the hundreds of millions of dollars that continue to float around to all these campaigns will magnify and multiply manyfold.

We have had 6,700 pages of hearings on campaign finance reform, 3,361 floor speeches—make that 3,362 now today and 3,363 with the next Speaker—113 votes over the years, 522 witnesses. And some say, Well, gee, we need more time to consider this. We don't need more time to consider this. Campaigns are not auctions. They are elections. Money isn't speech. If money is speech in American politics, then there is something wrong with the political system.

If we cannot begin with the germ of an idea that there is too much money in politics, that this red line signifies something that is unhealthy about American politics and that soft money is the legal form of cheating from the old type of campaign finance reform, and if you cannot deal with the form of cheating that erupts from the old campaign finance reform because you don't want to do anything, then somehow we have failed as an institution.

So my point today is very simple. In 1996, the Democrats, through their organization, spent $332 million. That was up 73 percent over 4 years previous. The Republicans spent $548 million. That was up 74 percent over 4 years previous.

The fact is, the evidence is all around us that the cost of these campaigns is mushrooming and escalating, and it is unhealthy. The question is, what do we do about it?

Today, we are going to answer the question who is for reform and who isn't, who wants to do something about this and who doesn't, who cares about this issue and who doesn't care.

I know some are going to be tempted today to follow the strategy employed by the majority leader: Construct a tent and create an illusion and have several cloture votes through which or behind which some Members can hide with their votes so you never ever get to the central question of, Do you stand for campaign finance reform or don't you?

I just say to those who have conceived of this strategy that this campaign finance reform, if you think you have killed it today, it is going to be resurrected tomorrow. This is not going to rest in peace. You are going to vote on this and vote on this and vote on this until you understand this is a serious issue and the American people insist that this Congress do something about campaign finance reform.

I am proud, as I believe the Senator from South Dakota, the minority leader, Senator DASCHLE, is proud and my colleagues are proud of standing for reform and deciding that we support the kind of changes that are necessary to bring some health to the campaign finance system in this country and to do something about the abuses, the outrageous amounts of money in campaign finance.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, how much time remains under the control of the minority leader?

The PRESIDING OFFICER. The time remaining is approximately 24 minutes 56 seconds.

Mr. KENNEDY. For the minority leader?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I yield myself 7 minutes, Mr. President.

Mr. President, Americans from all walks of life know that we need tough new laws that limit the role of money in election campaigns in American political life. They are fed up with a campaign process driven by the soaring costs of television commercials. They are fed up with incumbents and challengers who spend more time raising money from special interests instead of serving the public interest.

Americans want true campaign finance reform, and today is a test of whether the Republican leadership in the Senate is listening. Will we get a chance to enact campaign finance reform, or will the Republican leadership in the Senate continue to block reform or even withdraw the bill entirely?

Instead of reform and accountability in Government, Republicans wants to silence the voices of America's working families. Instead of adopting real limits on campaign spending, Republicans want to sweep the American worker under the rug.

In the world according to the Republicans, there would be more and more money for their campaigns and less and less for those who speak up for better jobs, better health care for our children, and a better retirement for our seniors.

So far in this debate, instead of limiting the amount of money in politics, Republicans prescribe an overdose of money for elections in which their friends in big corporations and their lobbyists and special interests can

write more checks and bigger checks to the Republican Party.

Republicans in the Senate have decided that they would rather kill the patient with a poison pill than cure the disease. They say that unless the bill silences the voice of labor unions and American workers in the political process, they will kill campaign finance reform. They want to increase the power of large corporations and squash even the limited power that American workers have today. Republicans want to handcuff labor unions in the battle for a living wage and fair retirement benefits, for safety and health conditions in the workplace.

In short, Republicans want to impose a gag rule on American workers but let their friends in big corporations, the National Rifle Association, and other well-heeled special interests buy a controlling interest in the Government.

The Lott amendment is a killer amendment, because it unfairly punishes working Americans and their unions for participating in the 1996 elections. The Lott amendment bars unions from collecting dues from any workers—including those who voluntarily join a union—unless those workers sign a permission slip for their union dues to be spent for political purposes.

When the amendment seeks to block labor union contributions for political purposes, the restriction is not limited to campaign ads or lobbying. Instead, it includes union newsletters, nonpartisan voter registration drives, and get-out-the-vote efforts. The scope is vast, and the goal is obvious—to deny working Americans those basic rights of our democracy.

We have heard much in recent days about the importance of the first amendment. Many on the other side of the aisle wrap themselves in the banner of free speech when they oppose the McCain-Feingold bill. They claim that the first amendment requires that more money be pumped into the political process.

That is Alice-in-Wonderland, looking-glass logic, and everyone knows it.

I couldn't disagree more, and so does the majority of the American people. Americans want campaign finance reform, and they want it now.

Strangely, those who claim that the first amendment demands more money in politics are silent about the Lott amendment's effect on free speech. Working Americans and their unions have first amendment rights to freedom of speech and association. Political activity is critical for workers to protect the legislative gains they have made in the past 70 years. Workers can and should speak out to strengthen safety and health laws, and protect American jobs against exploitative foreign competition.

And what better way to address these and other basic concerns than by banding together in their unions? The labor movement is the most effective voice for working Americans in the political process, and we all know it.

But the Lott amendment silences this voice. It imposes onerous prior consent requirements on unions, and forces unions to set up burdensome bureaucracies to meet its terms. The amendment's supporters know this would cripple unions' ability to participate in politics. Yet those supporters say nothing about the denial of workers' freedom to speak or associate. Many Republicans apparently care nothing for the first amendment when it comes to American workers.

How hypocritical can you get?

Well, I believe that the first amendment applies to employees as well as executives. Unions have at least as much right to speak as corporations. Nothing in the first amendment says "except if you are a union member."

Unfortunately, it seems that many of my colleagues on the other side disagree.

They want to continue the torrent of campaign ads and political contributions from the big tobacco companies and other large corporations, the National Rifle Association and other special interests. The Lott amendment does nothing to affect the free flow of money from those groups, whether their members agree or not. Where is the concern for corporate shareholders who do not want their money going toward political causes? What about dues-paying members of the National Rifle Association who may not agree with all the political stands their organization takes? I don't hear Republicans expressing concerns about them.

Instead, under the Lott amendment it is only workers who are silenced while big corporation and other special interests are unaffected.

The current campaign finance laws, inadequate as they are, at least apply evenhandedly to political spending by both business and labor. The Lott amendment violates fundamental principles of parity by imposing new restrictions on workers and labor unions.

This isn't reform; it is revenge. It is a blatant attempt to punish working Americans for their role in the 1996 elections and an equally blatant attempt to increase the role of big business in the next election.

These workers were pointing out the importance of fairness to working Americans to increase the minimum wage, working families that were pointing out the wrong priorities that were being pressed by the Republican leadership in cutting back essential education programs. They were pointing out the recommendations by the Republican majority to cut back on the Medicare Program and to use those cuts for tax breaks for wealthy individuals, and the programs that were recommended and passed in the House and Senate to open up pension funds for corporate raiders—all of these items were put out on the American agenda, and in instance after instance the American people rejected the Republicans' proposal and reelected a Democratic President.

We must move beyond this partisan assault on American workers and enact real campaign financing reform. We should heed the call of former Presidents Carter and Ford as they wrote on Sunday:

> We must demonstrate that a government of the people, by the people and for the people is not a thing of the past. We must redouble our efforts to assure voters that public policy is determined by the checks on their ballots rather than the checks from powerful interests.

If President Ford and President Carter can agree, if Vice President Mondale and former Senator Kassebaum can agree, then surely this Senate can reach agreement, too.

I urge my colleagues to defeat the Lott amendment and support the meaningful reforms of the McCain-Feingold legislation. I yield the floor.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. I yield myself 5 minutes from the time controlled by the Democratic leader.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. REED. Mr. President, I rise today in strong support of meaningful campaign finance reform. In particular, in support of the McCain-Feingold bill. I want to commend those two Senators for their excellent work and their unflinching efforts to bring this measure to a vote. I also want to rise in opposition to the proposed Lott amendment. It is an amendment that is clearly a poison pill designed not to do anything other than derail meaningful campaign finance reform. This is the conclusion of all observers who have looked at this carefully—Common Cause, the League of Women Voters, editorial pages in the New York Times and Washington Post. Political scientist Norman Ornstein said, "A vote for the Lott amendment is a direct move to kill reform." Rather than killing reform, we should be embracing it today, in terms of the Feingold-McCain legislative initiative.

In 1884, the Supreme Court gave us the task of protecting the electoral system. In the words of the opinion in Ex Parte Yarborough, they said Congress has "the authority to protect the elective process against two great natural and historical enemies of all republics, open violence and insidious corruption."

What we are witnessing today in our electoral process encompasses this form of insidious corruption—not specific misdemeanors, or infractions, but a system in which the American people

are losing faith and confidence, that they are seeing their system transform from one in which free elections are based on the merits of the candidates to one which they perceive is based upon simply the sheer volume of cash that flows into the system. This corrupting influence is weakening our ability to govern and the confidence of the people in our motives and indeed in our actions.

Ninety-two percent of Americans think that too much money is spent on campaigns; 89 percent want fundamental change in the campaign finance system; 85 percent believe special interests have more influence than the voters; 69 percent believe that public officials are indifferent to their views, their concerns, their needs; 51 percent believe that quite a few Government officials are corrupt.

If that is not evidence of insidious corruption, then I don't know what is. Perhaps other evidence might be the fact that people are no longer participating in the most meaningful way a citizen can participate, by voting. We have seen voter participation plummet. In 1996, voter turnout was below 50 percent, which is the lowest since the early 1920's. Fewer people volunteer to participate as volunteers on campaigns, as canvassers, as public-spirited citizens who want to be involved in the Government. The most frequently cited reason for people not actively engaging as candidates is the fact that they can't raise the enormous amounts of money that they perceive is essential to becoming part of the American political process.

All of this argues, I think, eloquently and decisively for fundamental campaign finance reform. But what is happening today in this amendment is an attempt to throttle the views of working men and women throughout this country. And at the same time, protect and enshrine the right of the few to give very, very much to political campaigns.

That, I think, is another example of how the system has gone haywire and askew. Six hundred thousand people contributed over $200 in Federal campaigns in 1996. That represents .31 percent of eligible voters. Of those individuals that gave over $1,000, 237,000 Americans, .12 percent of eligible donors. Those individuals who gave the maximum amount under Federal law to Federal candidates, $25,000, in the entire United States, 126—an infinitesimal fraction. That is what this argument is about today in many respects. It is to allow those individuals to give directly and indirectly unlimited sums to the political process and to further erode confidence in our Government. At the same time, the Lott amendment would circumscribe the ability of working men and women to make small, routine contribution through political action committees.

The sum of all this is that we need fundamental reform. The Feingold-McCain bill presents such reform. It would ban soft money to national political parties as well as the use of soft money by State parties to impact Federal elections. It would eliminate the abuse of issue ads. The last election cycle saw an explosion of issue ads, ads in which candidates were beaten about the head and shoulders regularly, not by their opponent, but by groups that rose up suddenly and put ads on television and departed just as quickly.

(Mr. SMITH of Oregon assumed the chair.)

Mr. REED. The Feingold-McCain bill would also strengthen disclosure in election law. It would provide for strict codification of the Beck decision, not circumscribe and prevent labor from participating in elections, but codify the Supreme Court decision, allowing the notification of the use of funds for political purposes by unions and also reduction for those individual members who object to such uses. Also, it will put limits on party assistance of wealthy candidates and the ban of foreign money into American campaigns. This is fundamental, necessary reform of our campaign system. I argue in fact that as worthy as these reforms are, we would have to go further. But today at least let us take the step forward for this sensible, moderate balanced reform, which the American people are demanding.

There are States in this country that have taken the step, have gone much further and passed expenditure caps on campaigns, that are experimenting with other ways in which they want the issues to be decided by candidates based upon their positions, not by campaign committees based on their balances in their checking accounts. We should take the step forward today. We should in fact resist the Lott amendment, which would derail meaningful campaign finance reform. We should rather urge that we, as the Senate of this great country, proudly step forth and endorse meaningful campaign finance reform. Many years ago, in 1914, the New England poet Robert Frost wrote: "Good fences make good neighbors."

Well, Mr. President, ladies and gentlemen, when it comes to campaign finance reform, all our fences are down. They have been demolished by a flood of cash running into elections. Unless we build good, strong fences, we can't be good neighbors or good candidates or indeed good citizens. We need to reform our campaign finance system, we need to begin today by defeating the Lott amendment and moving forward to pass the McCain-Feingold legislation.

I yield the balance of my time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague for his strong words. He has been a very strong reformer in the Senate.

Mr. President, let me try to not repeat the arguments that have already been made on the floor and instead draw from conversation that my wife Sheila and I have had with people in cafes in Minnesota. We had the opportunity, in August, to spend about a week just dropping in cafes in the morning around breakfasttime and lunchtime and just talking with people and listening to what people had to say. I say to my colleagues that one disturbing conclusion from these discussions with people is that I think many people in our country, certainly many Minnesotans, are now pretty well convinced that way too much of politics, way too much of Government is dominated by wealthy people and special interests, that too few people have way too much wealth, power, and say and that too many people—that is to say the majority of people—are locked out.

Mr. President, in the cafes in Minnesota, quite often people would say to us: When it comes to our concerns, Paul and Sheila, about affordable child care, jobs and decent wages, and affordable health care, about the power of insurance companies, the way in which we are denied coverage, about the concentration of power in banking, about the concentration of power in agriculture, about affordable education, when it comes to our concerns, we don't think our concerns are of much concern in the Halls of the Congress.

I think the main reason that people have reached this conclusion is that they are so disillusioned about all the ways in which they see big money dominating politics. Indeed, I think that is the ethical issue of our time.

Mr. President, so that nobody has any illusions here, I don't think that people view this as corruption as in the wrongdoing of individual officeholders, but they view it as systemic. They really believe that there is an imbalance of power where the wealthy few and powerful interests pretty much dominate the political process. Mr. President, you know what? I think they are right. I don't think it is just a perception. I think they are absolutely right.

If you believe in representative democracy, then you believe in the idea that each person counts as one and no more than one. We don't have that any longer. We have auction block democracy, Government going to the highest bidder. People are disillusioned. That is the meaning of the last election, where over 50 percent of the people in the country didn't even vote. The party of the disaffected is the largest party in our country. Therefore, I don't understand, for the life of me, why my colleagues on the majority side introduced an amendment—the majority

leader introduces an amendment which basically destroys this campaign reform effort.

Now, Mr. President, I want to thank Senators MCCAIN and FEINGOLD for their very strong leadership. I think this is the most important issue before us. I think it is the core question; it is the core issue. Every year since I have been here in the Senate, I fought it out on these reform issues because I really think this goes to the very heart of whether or not we really have a democracy or whether we just have a pseudodemocracy. What we have before us really is not the McCain-Feingold original formula, but the extra-mild version, which I don't think has enough zing in it, but at least it represents a step forward. With the McCain-Feingold effort here, we have a ban on soft money contributions to the parties. This is the sort of unaccountable money, if you will. We have in addition, some real standards on this issue advocacy—and this has been gone over, which is a terribly important part of this legislation—and by the way, if you ban soft money to the parties and don't do anything about the issue ads, really psuedofake ads, the money will just shift there, and in addition, you have some standards dealing with tighter standards dealing with independent expenditures. So it is a step forward. That is why we should pass it.

My hope is that it will whet the appetite of people in the country for more because the truth of the matter is, in the spirit of compromise, the one provision that was actually dropped—that is why we have McCain-Feingold extra-mild now, it had do with us, with reducing the amount of money spent in campaigns in Senate races. I mean, I thought that was the most important part that we would somehow reduce the amount of money spent in exchange for discounts when it comes to access to TV time or direct mailing, you name it.

Now, Mr. President, I mean, I think the criteria ought to be, let's stop this obscene money chase, let's stop the obscene amount of money all of us have to spend and the time we have to spend raising money. Let's lessen the special interest access and influence. There is way too much of that. The vast majority of people really are locked out of this process, and let's try and have a level playing field, where challengers have a shot at winning. By that criteria, the McCain-Feingold bill doesn't go far enough. But if this piece of legislation is passed—and that is why it is such an important bill, even this stripped-down version is so important—people in the country, I think, will say, look, the Congress has finally taken some action. This is a step forward.

People aren't fools. People aren't going to see this legislation as the be all and end all. They are not going to see it as Heaven on Earth, as ending all special interest access; they are not going to see it as ending the huge amounts of money spent in politics. But people will see it as a step forward. I say to my colleagues that what we have here when it comes to the majority leader's amendment—quite frankly, I am surprised that some of my colleagues in the majority party have essentially followed the lead of this amendment. I hope they won't. If we have a vote that is going to be very revealing.

If in fact people vote for this Lott amendment and continue to insist that it became part of a reform bill knowing that it is, as everyone has said, the "poison pill" amendment, then we may very well have no reform bill passed at all.

So this becomes a vote which tells people in the country where all of us stand and on what side each party stands on when it comes to this fundamental question of reform.

If we come here this afternoon and what we have happen is that we have the Lott amendment out there—I don't know why we can't have a separate vote on the Lott amendment. I thought we would. I think we can vote it down. If that doesn't happen, then there is no cloture, and then we go to the McCain-Feingold bill and we can't get cloture, that is blocked by Senators in the majority party, then what happens is we again reach an impasse, and people in the country become disillusioned.

As a Democrat, I will just say to the Members of the majority party that, frankly, I think people will be very angry. I think they will not appreciate this amendment. I think they will not appreciate the effort on the part of the majority leader to kill campaign finance reform. But I would say, not as a Democrat but as a Minnesotan, as an American citizen, ultimately we all lose. If we do not take advantage of this moment in time where we can pass a reform bill, albeit it still doesn't do enough, then we will be making a huge mistake, and this will just add to the disillusion of the people in the country.

The good news is that we can pass a reform bill. I hope we do. I hope we do not squander this opportunity. The good news is that all around the country there is a lot of energy for reform.

I introduced a bill with Senator KERRY which is a clean-election, clean-money option which essentially gets all of the private money out of politics. It is really strong. People in Maine have supported it. People in Vermont have now supported it. There are going to be initiatives around the country on this. There is a lot of energy in States all across the country. So I think people in the country are going to continue to put the pressure on.

But we ought not to miss this opportunity to do something good. We ought not to miss this opportunity to at least begin to make some changes in the way in which all of this money is spent on politics. We ought not to miss this opportunity to pass the McCain-Feingold bill and give people in the country a clear message that we hear them. We ought not to miss this opportunity for reform. We ought not to miss this opportunity to reassure people in the country that we are committed to a political process that is more open, with more integrity—and not just the heavy hitters, the big givers, the invested and the well-connected running the show. We better not miss this opportunity.

I say to my colleagues in the majority party that I hope some of you will have the courage to vote against this Lott amendment, if we have that chance, or have the courage to join us and pass the McCain-Feingold bill, which would be a historically significant step in the right direction in leading our country toward more democracy, toward more participation and more involvement as opposed to this awful system we have right now which absolutely needs to be changed.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, I rise today to voice my support for the McCain-Feingold campaign finance reform bill. This debate is one of the most important that the Senate will conduct in this session of Congress, and I desperately hope it will result in passage of meaningful campaign finance reform.

There is an extraordinary need for reform of our election laws. Despite the apparent problems—problems that have gotten worse with every election—Congress has not passed reform. Our failure to act has contributed to a loss of confidence, not only in our electoral system, but in our democracy.

The American public has lost faith in government and its institutions. Americans feel they don't control government because they believe they don't control elections.

If you ask people who runs Washington, most will say "special interests." People watch State officials, Members of Congress, and Presidential candidates chase money, and believe that's the only way to get your voice heard in Washington. They see televised campaign finance hearings, allegations of trading contributions for access, and they think, "how could my voice be heard over all that cash."

Certainly, Congress is not alone to blame for the current system. Voters themselves share some responsibility. People routinely decry the use of negative political ads, yet continually respond to the content of those ads. The media, especially television stations and networks, have failed to adequately inform the public of important policy questions. Instead of covering significant issues, broadcasters often fall back on covering the "horserace" aspect of the campaign, or "sideshow" disagreements among candidates.

But the ultimate responsibility rests in this Chamber, with Congress. For more than 30 years the growing crisis has been ignored. Year after year, speeches are given, bills are introduced, but no action is taken.

We now have a rare opportunity, with public attention focused on this debate and this bill, to pass real campaign finance reform.

Senators MCCAIN and FEINGOLD have developed a genuine compromise plan. It is not exactly as I would have drafted—or any of us, if we had that chance. It is, however, the best, last chance we have to repair the broken campaign finance system.

The modified version of the bill addresses one of the fundamental problems in the system—soft money contributions. By banning these huge sums from Federal campaigns, we correct many of the problems which have been exposed this year in hearings before the Senate Governmental Affairs Committee.

The bill also tries to deal with the growing and disturbing impact of independent expenditures. I believe the sponsors of the bill have achieved a delicate balance in this area—curtailing the use of this practice, while still conforming to constitutional boundaries.

Mr. President, we have never had a time in our Nation's history when such a pervasive problem went unanswered by the Congress. America has met challenges such as this before, and adopted policies which strengthened our democracy. We have that opportunity with the bill before us.

The McCain-Feingold bill will help restore the American public's faith in this institution and in all the institutions of Government.

As some of my colleagues know, Senator BROWNBACK and I have introduced legislation to establish an independent commission to reform our campaign finance laws. This commission would be similar to the Base Closure Commission, which proposed a series of recommendations to Congress for an upor-down vote of approval.

But I do not believe that we should take such an approach at this time. It would be much better if Congress acted on its own, without the help of an outside body, to reform our election laws. It would demonstrate to the American public that Congress is serious about changing the way our democracy functions.

Mr. President, before I conclude, I just want to take a moment and commend my colleague from Wisconsin, Senator FEINGOLD. Without his tireless efforts to advance this bill, it surely would have died long ago. By bringing this cause to the floor, Senator FEINGOLD truly follows in the tradition of the great progressive movement in Wisconsin. I'm proud to serve with him, and I urge my colleagues to support our efforts to pass this vital legislation.

Mrs. MURRAY. Mr. President, this is the 5th year I have been a Member of the U.S. Senate. And this is the 5th year I can recall debating campaign finance reform. I have voted for campaign reform legislation several times now, and each time it has been killed off by filibuster.

This year, I have served as a member of the Leadership Task Force on Campaign Reform. We knew from the beginning of the year this would be a big issue. Therefore, we have devoted hours to finding a way to break the logjam and move a bill.

Against this backdrop, I have been listening to this debate very closely over the past few days. I have been watching the hearings in the Governmental Affairs Committee, and I have been watching the efforts of colleagues on the other side of the aisle as they attempt to find a compromise.

So far, I cannot see many differences between this debate, and the ones we've had over the past few years. In this debate, we have a bipartisan group of Senators committed to reform. This group has worked overtime to craft a reasonable reform measure that makes sense for America. They have worked to generate support, to make their case to the media and to the public, and to push for the last few votes necessary to pass it. I have been proud to support the effort.

And, like usual, there is the familiar obstruction on the other side of the aisle: a concerted effort to preserve the status quo. Though carefully disguised, their goal is to prevent reform legislation from passing.

There is a big difference this time. The public is paying more attention than ever before. The excesses of the last campaign season, brought to light through the good work of the Governmental Affairs Committee, have made campaign reform a front-burner issue in every kitchen in America. Just yesterday, more than 1 million signatures were delivered to the Capitol. These are signatures from people all over America who, over the past 7 months, have joined a nationwide call for reform.

The people are calling for reform, as they have for years. But this time the call is louder, the focus is more intense, and the opponents of reform will be held accountable.

What exactly is the problem? Money, plain and simple. Too much money, having too much influence over our democratic process. As I have said before, this Congress has reached the point where votes and decisions have become a bidding war between well funded special interests.

When the Senate debates a bill, we are no longer simply 100 Senators representing our States. We are 100 Senators representing our States and every special interest who has ever made a major financial contribution to the party, or to the campaign, in order to influence government decisionmaking. This is wrong. This is not the way it should be.

The campaign system is clogged with money, and there is no room left for the average voter. Political campaigning has become an industry in this country. In last election, over $800 million were spent on Federal elections alone. To what end? To perpetuate the status quo. Just think what $800 million could do if spent on charitable pursuits.

Instead, that money—much of it undisclosed, from dubious sources—flowed into the political arena and dictated the terms of our elections to the people. Like water, it flowed downhill into campaigns all across the country. Some of it came out in the form of national party ads attacking candidates in the abstract; some came out in the form of issue-ads by interest groups trying to influence the outcomes. Some of it came out in the candidates own TV ads.

It reaches the point where you almost cannot hear the voices of the candidates anymore, only the voices of the dueling special interests. We do not know who pays for these ads, where they get their money, or what they stand to gain if their candidate wins. Yet they have found ways to have a huge influence over the election process.

On the other side of the aisle, the opponents of reform argue against the McCain-Feingold bill on free speech grounds. They wrap themselves in the flag and posture as protectors of free speech. Then they argue politicians and political parties should be able to take money in any amount from anyone in order to make the case for their reelection. They believe that having more money entitles one to a greater influence over our campaigns and elections. I find this argument shocking, Mr. President. I find it profoundly undemocratic, and un-American.

In hiding behind a transparent argument about free speech based on access to money, the opponents of reform conveniently gloss over reality: our campaign system is so awash in money, that the voices of average people and average voters are completely drowned out. Ultimately, people are losing faith in their elected officials and their government. It is simply not a healthy situation for our country.

Mr. President, the opponents of reform miss the point. In America, money does not equal speech. More money does not entitle one to more speech. The haves are not entitled to a greater voice in politics than the havenots. In America, everyone has an equal say in our government. That is why our Declaration of Independence starts with, "We, the people."

The last time we debated reform, I told a story of a woman who sent my campaign a small contribution of $15. With her check she enclosed a note that said, "please make sure my voice means as much as those who give thousands." With all due respect, Mr. President, this woman is typical of the people who deserve our best representation. Sadly, under the current campaign system, they rarely do.

I have tried to live by my word on this issue. My first Senate campaign was a shoestring affair. I was out spent nearly 3 to 1 by a congressional incumbent. But because I had a strong, grassroots, people-based effort, I was able to win.

Since then, I have worked hard to keep to that standard. I have over 20,000 individual donors. The average contribution to my campaign is $42. Over 90 percent of my contributions come from within Washington State. I firmly believe that's the way campaigns should be run: by the people.

We need more disclosure, not less. We need more restrictions on special interest money, not fewer. We need less money in the system, not more. We need to amplify the voices of regular people, instead of allowing them to be shouted down by special interests.

Mr. President, I believe we have made this debate way too complicated. After all the maneuvering, the cloture petitions, the technicalities, the procedural votes, this issue boils down to one basic question: are Senators willing to make some modest reforms to reduce the influence of big money in politics and encourage greater voter participation? Or are they more interested in protecting the current system, and the ability of parties and politicians to turn financial advantage into political advantage?

Are you for reform, or against it? Are you with the people, or against them on the need for a more healthy democracy? The votes we are taking today will show the answers to these questions.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I think by unanimous consent I have the next 45 minutes reserved. I would like to yield the first 20 minutes, or 25 if he needs it, to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Thank you, Mr. President. I wish to thank my colleague from Texas for reserving this time.

Mr. President, we are going to change the subject in regard to campaign reform. Let me just simply say that I think it is always a wise suggestion to check under the banner of what is alleged campaign reform, and I think if we would check under the banner in regards to the McCain-Feingold bill, that campaign reform is an oxymoron. But having said that, I am not going to take any more time of the Senate on this particular subject.

BOSNIA AND NATO ENLARGEMENT

Mr. ROBERTS. Mr. President, I want to talk about what is happening in regard to mission creep in Bosnia and how that reflects on the hearings that will start very quickly in the Senate in regard to NATO expansion.

Mr. President, when President Woodrow Wilson exhorted Americans to make the world safe for democracy, he did not mean sending U.S. troops to attack foreign television stations and to attempt to try to shut down political speech in other countries. Yet that is exactly what happened last week in Bosnia as NATO troops, or SFOR troops, took over four television transmitters in an effort to control news broadcasts in that shattered region. State Department officials, in declaring victory, pledged to create a system "free of the monopolizing influence of political parties." Let me emphasis that again. Free the system—"free of the monopolizing influence of political parties." Then they set about the task of deciding what television content from United States networks might be appropriate for viewing by the citizens of Bosnia—content that is not "ethnically biased."

Wrote Lee Hockstader of the Washington Post:

> As a result of the seizures of the TV towers, NATO generals and Western diplomats have cast themselves in the roles of media executives determined to construct an even-handed state television station in a country that has never had one. That represents a new level of involvement in Bosnia's affairs for the West * * *

A new level of involvement indeed.

The trouble is, neither the American public nor Congress have been told by President Clinton just what out expectations are in Bosnia. What is our mission? How long will it last? How much will it cost? What will be accomplished? How do we extract out troops from the mess they are in?

None of these questions have been answered.

Is this war? If U.S. troops were involved in a war situation, we could expect media outlets to be military targets.

Is this war? If so, we can expect costs and casualties far beyond what the administration has projected.

Is this war? If so, what national security interests are at stake?

Is this war? If so, our troops cannot be expected to defend their lives with Nielsen ratings.

Mr. President, given this outlandish situation, we are tempted to treat these events as farce:

So when a television station in our home State gives a Senator a rough time, maybe we should call the Marines instead of the news director.

And certainly many Americans would agree they should not be bothered by the "monopolizing influence of political parties" during next year's campaign season.

Now we are back to campaign finance reform. But, Mr. President, Bosnia is serious business. Lives are at risk. Regional stability is on the line. We have serious obligations.

A few days ago Congress adopted an important amendment to the Defense appropriations bill, kindly referred to by the distinguished chairman of the Appropriations Committee as the "Roberts amendment." It requires the President to certify to Congress by May 15, 1998, that the continued presence of United States forces in Bosnia is in our national interest and why.

He must state the reasons for our deployment and the expected duration of deployment.

He must provide numbers of troops deployed, estimate the dollar cost involved, and give the effect of such deployment on overall effectiveness of U.S. forces.

Most importantly, the President must provide a clear statement of our mission and out objectives.

And he must provide an exit strategy for bringing our troops home.

If the President does not meet these conditions, funding for military deployment will end next May.

Following our actions against the television stations, Serbian officials warned there would be retaliation. And the New York Times reported that Bosnian Muslims are secretly arming themselves.

A senior NATO commander was quoted, "The question no longer is if the Muslims will attack the Bosnian Serbs, but when. The only way to prevent such an attack, at this point, is for the peacekeeping mission to extend its mandate."

Sound familiar. You bet it does.

Extend the mandate—that's mission creep by any name.

And it is the dangerous result of a policy that is lacking in direction, lacking in leadership and lacking in purpose.

The events of the last few days are alarming. They make it more urgent that the administration develop and articulate a course of action that is based on sound policy.

Taking over TV transmitters? Trying to figure out on an even basis what should be programmed, what the people of Bosnia should hear and listen to?

I suggested to one of my colleagues that if we had a choice of programs we should put "Gunsmoke," which is a favorite TV show of mine, on the Bosnian TV stations. I don't know what would be the opposing viewpoint. Maybe "Natural Born Killers" could be posed for some of the people who have been

convicted or who have been indicted under the war crimes trials. Maybe in terms of programming we could decide on old newsreels of Tito. Maybe that would do some good.

This is incredible in terms of taking over the TV transmitters.

We need hard answers on Bosnia.

We need direction.

We don't need Nielsen ratings.

In that regard, I thank my colleague from Texas for bringing up this special time for us to consider how Bosnia also segues in our decision in regard to NATO expansion.

However, with all due respect to former Ambassador Richard Holbrook and Secretary of State Madeleine Albright, there is not much support for American military presence in Bosnia in Dodge City, KS, where "Gunsmoke" came from. Now, the question is, are the American people willing to commit to additional military responsibilities called for under article 5 of the NATO Charter, and at what cost? Will they support a commitment to the Czech Republic? How about Slovakia or Slovenia or perhaps Macedonia?

When I went over during the August break to visit our troops in Bosnia, our intelligence officials and others in that part of Central Europe, here came the folks from Macedonia wanting to be included in NATO expansion. Some 20 Senators, myself included, following the leadership of the distinguished Senator from Texas, asked that question and 10 others in a letter to the President prior to Madrid. With many Senators listed as skeptical or undecided, clearly I think the hard questions must be asked in full.

Simply put, to bring NATO expansion into focus, I think President Clinton must become engaged. In Warsaw, St. Petersburg, and in Bucharest, he addressed general European security concerns but he has not made a case to the Congress and to the American people. As a matter of fact, in remarks during his European trip, the President said in the post-Soviet era, military matters are no longer primary, that terrorism, illegal drugs, national extremism, regional conflicts due to ethnic, racial, and religious hatreds do matter. I can assure you using an expanded NATO to address these concerns raises more questions than answers.

What means would be used? Warplanes, ground forces, and naval power are of little use in fighting ethnic hatred and racism. If NATO membership reduces the threat of ethnic rivalries, somebody should tell that to the Protestants and Catholics of Northern Ireland, the Basques in Spain, and the Kurds in Turkey.

Do we really want to change the most successful security alliance in history to a European United Nations? With 16 NATO members and 28 other nations inaugurating the Euro-Atlantic Partnership Council, the protocol rituals and welcoming speeches left no time for any serious discussion. The meeting was over.

And, I must say while I understand the personal and emotional feelings that all freedom loving people feel when visiting Prague, Warsaw, and Budapest, I do not think NATO expansion will right the wrongs of Yalta nor do I agree that raising serious questions about NATO expansion represents the echoes of Munich as some in the administration have charged. To characterize serious critics as appeasers or isolationists sets needed debate off on entirely the wrong foot.

Let me emphasize my reservations are not a reflection on the potential new members or their worthiness to join the alliance. I am extremely impressed with the success of the nations of Eastern Europe and their dramatic move toward democracy.

Let me share some of my major concerns.

Without argument NATO has been the most successful alliance in history. Likewise, most will agree that chief among the reasons for NATO's success is the fact that it is a military alliance comprised of like-minded nations focused against a common threat. As we know, in the past the security threat was the Soviet Union and the nations of the Warsaw Pact.

Today, however, that threat is vastly diminished—some would say gone. With the Warsaw Pact now history, there certainly is no clear threat to the survival of Europe on the horizon.

Certainly there are concerns for stability in Europe such as we have witnessed in Bosnia and in Albania. But do we need to fundamentally alter the structure of this very successful alliance to insure stability in Europe? Will the results of our actions be to turn a superb military alliance into a political alliance with diminished military capability? If we do, will NATO survive?

Let me stress we have vital interests in maintaining a healthy and stable Europe. That's not the question. Europe's continued peace is vital. But is enlargement of NATO necessary to achieve that goal?

WHY IT IS NECESSARY TO ENLARGE NATO?

The proponents state the reasons for enlargement include, preventing a power vacuum from developing in Eastern Europe and promoting total European stability by reducing in risk of instability in Europe's eastern half. The concern appears to be if NATO does not offer membership, the countries of Eastern Europe will founder, will not become fully developed Democratic states, or will become embroiled in ethnic or nationalistic disputes based on historic rivalries like we see in Bosnia. Worse, this theory holds, they will again become part, either voluntarily or forced, of an alliance with a resurgent Russia.

The Clinton administration has steadfastly maintained the position that a stable Europe will be no threat to Russia and in fact will increase the security of Russia. However, the Russians do not see it that way and have consistently stated they are opposed to NATO expansion for national security concerns.

Part of the "why enlarge NATO" question should be the timing of such an enlargement. Unfortunately, part of the motivation of the timing of this venture is to have the first new members join at the same time as the 50th anniversary of NATO. Let me say again, we are thinking about altering NATO, fundamentally realigning our relations with Europe, risking our resources and committing our military for questionable national interests and basing the timing of such an important event on the 50th anniversary of NATO.

Mr. President, that is public relations. It is not foreign policy.

What are the alternatives to NATO enlargement? Perhaps an enhanced Partnership for Peace would provide the desired stability and military security in Eastern Europe instead of membership in NATO. Perhaps membership in the European Union, coupled with Partnership for Peace, would allow continued development of Democratic systems in Eastern European nations. Those alternatives should be part of the national debate.

Let's take a look at the cost of all of this. What are the costs of NATO enlargement? I am concerned with the widely varying values and assumptions used to arrive at the U.S. portions of the bill for enlargement. Since the Madrid Summit, it is clear that our allies are not on board for sharing costs of enlargement. Until this plan for sharing is established and agreed to, how can we know what our actual costs will be and why we should proceed? If our allies refuse to carry what we feel is their fair share, given our defense responsibilities, will the United States pay more? And, if so, asking American taxpayers to up the ante would be most difficult.

Just as we have seen in the Bosnian operation, unexpected funding for DOD has directly affected the much-needed military modernization and procurement programs. Why should we be willing to risk the future of our military capability in defending our vital national interests by rushing into NATO enlargement without confidently knowing, in great detail, the costs associated with the enlargement and what our allies and the new members will and are capable of funding.

What will be the Russian reaction to NATO enlargement? Mr. President, just yesterday Susan Eisenhower and several distinguished foreign policy experts came to the Senate and testified before myself and Senator SESSIONS and Senator COLLINS and Senator STEVENS and others as to why they felt

NATO enlargement was the wrong step at the wrong time.

The most important concern that must be well understood is the reaction of the Government of Russia to the enlargement of NATO. If we get this wrong, the need for enlargement will be self-fulfilling and we will again need a strong military alliance facing east. We are in danger of awakening the Russian bear, not taming him and putting him in a cage.

Aleksei Arbatrov, the deputy chairman of the Russian Parliament's defense committee, was recently quoted as saying that the way in which an expanded NATO was imposed on the Russians "was a shock for those trying to improve relations." He added there "was a widespread feeling of betrayal among Russian Democrats."

Mr. Arbatrov predicted Russia could turn to a strategy of first-strike nuclear capability to combat what is perceived as a NATO threat on its doorstep.

"There is no chance whatsoever" that Russia's Parliament would ratify START II or START III, Mr. Arbatrov said.

I know that the Russians have joined the Partnership for Peace, signed the Founding Act, and have been officially quiet, semiquiet, about three potential new NATO members. However, there can be no doubt that all factions of the Russian political system are opposed to the expansion. What they see is a military alliance moving eastward, ever closer to their borders.

We cannot allow Russia to dictate our actions or the actions of NATO. Let that be perfectly clear. But it would be most dangerous to embark on such an important foreign policy matter as NATO enlargement without fully understanding or accounting for the Russian concerns. That is what Susan Eisenhower stated. That is what the other foreign experts stated.

Why are the Baltic States and NATO such a sensitive issue to Russia? There are at least two reasons. Addition of the Baltics would move NATO's borders to Russia, and a section of Russian territory, including the city of Kalinningrad, would be completely surrounded by NATO.

When asked about the Russian reaction to the addition of the Baltics to NATO, the Russian Ambassador to the United States said "the reaction would be fierce." Even with this understanding of the potential reaction by Russia, the administration continues to insist the Baltic States are likely to be asked to join in the next round.

I remain concerned we are approaching the Russian issue, Mr. President, with much bravado and arrogance with our fingers crossed behind our back.

Although I consider these three areas—why enlarge? what is the cost? and what will be the reaction of Russia?—to be the most critical, there are other areas of significant importance that must be part of the debate, Mr. President. I look forward to discussing these three and the others in detail in the coming months. NATO enlargement is the most important foreign policy and military decision the United States will make or has made for many years. We must make the right decision.

And again, Mr. President, I thank the distinguished Senator from Texas for leading the charge in asking the right questions, the complex questions that must be asked before the Senate considers either in committee or in the Chamber later the ratification of NATO.

Mr. President, may I ask how much time I have consumed of the 25 minutes that was yielded to me?

The PRESIDING OFFICER. The Senator has spoken for approximately 20 minutes.

Mr. ROBERTS. If I might, I would just like to touch, I would tell the distinguished Senator from Texas, on a related matter, if I could, for another, say, 2 or 3 minutes, if I might.

What I would like to talk about is the reaction in regards to how the American people feel about this. It is the American public that must be fully informed and aware of what responsibilities NATO will entail and what expansion would mean to our American men and women in uniform.

What about the American public? Last April, the Roper Starch worldwide poll asked Americans the level of support for using armed forces in certain situations. I don't think the American people are isolationist, but I think there is understandable concern about risking American lives in political wars of gradualism.

The Senator from Texas went to Bosnia, Brcko, took a look at Tuzla and Sarajevo, and is very concerned about mission creep and again repeating the past mistakes in political wars of gradualism.

The American public understands that. If the United States were attacked, 84 percent of those polled supported using force—84 percent if we were attacked. I don't know about the other 16 percent. If our forces stationed overseas were attacked, 50 percent supported armed intervention. To safeguard peacekeeping within the framework of the United Nations, the support dropped to 35 percent. Hello. And to stop an invasion of one country by another, which is called for in article V in regard to NATO expansion, the support fell sharply to 15 percent.

I took my own poll. It was after the Dodge City Rodeo in August. I met with the Ford County, KS, wheat growers. They are good friends of mine, long-time friends and constituents. I told them I was going to the Czech Republic, Bosnia, and Hungary. The price of wheat depended in part on world trade and security. The heads nodded. But in that particular case, I tell my distinguished friend and colleague from Texas, there wasn't much support until we took a hard look in regard to Bosnia and to NATO enlargement. As a matter of fact, one farmer said, "My son is over there. He is a foreign linguist in the National Guard unit over there. He should be back." So I think we really need to demonstrate not only to the Ford County, KS, wheat growers but to all Americans as evidenced by this poll what are our vital national security interests in regards to NATO expansion and answer those tough questions about cost, what happens in relation to Russia and what happens in terms of the long-term best interests of our foreign policy.

Again, I thank the Senator from Texas and I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Before the distinguished Senator from Kansas leaves the floor, I do appreciate so much this Senator's leadership on the issue of Bosnia and the issue of NATO expansion because he is one of the Senators who has taken the time to go to Bosnia, to look firsthand at the conditions there to determine what is in the United States security interests and certainly the best interests of the people of Bosnia.

I would just like to ask the Senator from Kansas before he yields the floor to tell me and the American people about the experience that he had in the resettlement-of-refugees issue.

What did the Senator see with his own eyes that brought him to the same conclusion that I have come to, that we are barking up the wrong tree in putting U.S. troops in harm's way before the people of this country have come to a settlement themselves?

Mr. ROBERTS. I would be happy to respond to my colleague.

As my colleague knows, I have discussed at length the original purpose of the Bosnia mission was to safeguard our troops—that is, the peacekeeping role—and to try to do what we can in regard to technology restoration, to nation building, to the possibility of the location and capture and prosecution of war criminals and then refugee resettlement.

In response to the Senator's question, it is that part of the goal that is especially difficult. Now, I think we have come from peacekeeping to peace enforcement. I think we have come far afield from the original goal in that we are now disarming the police in regard to Mr. Karadzic's troops, and I think in regard to what I am able to understand from our intelligence community we are aggressively going to locate, capture and proceed with war criminals.

Now, as I have just indicated, we have a situation where the SFOR

troops have taken over TV transmitters. So I think the Senator from Texas makes a good point in terms of mission creep.

But in answer to the specific question, flying in the helicopter with a one-star over there from Tuzla where our American forces have their headquarters, we went over a small hill, and on the knoll of the hill there used to be 60 Muslim families that lived there, and during the fighting since 1993 there was tremendous bloodshed, there were atrocities very close by, and obviously that particular piece of real estate is not inhabited any more by the Muslims. So there was an attempt by SFOR and by NATO to relocate these refugees on that hill.

Three times they tried it. The first time, with 60 people, they tried to relocate on the hill, they were driven away by rocks and stones and shouts and intimidation by the Serbs in that area. The second time they tried, it got a little tougher. We were also involved in the building of new homes, in terms of financing those new homes. Then you got into some home destruction.

Well, the third time, they were met by an angry crowd with 2x4's. They burned the homes down. And we have pictures of them attacking the Muslims, the 60 people we were trying to relocate, with 2x4's. And I asked the one star, I asked the general, "Are we going to try it again?" He said, "No, I don't think that's a very good investment of our tax dollars or our time and effort." I think we got the message. He suggested if we have successful refugee relocation, we should do it in Brcko. The Senator from Texas has been there, and I ask her now what her observation was about how that refugee resettlement effort is going. And I thank her for asking the question.

Mrs. HUTCHISON. I thank the Senator from Kansas. I thank him for taking the time to go over there, to look firsthand, because I think you get a very different perspective when you are able to do that. I appreciate the leadership position the Senator from Kansas is taking. I will just say that I had a different experience walking on the streets of Brcko in August. But I came to the same conclusion, after going into the home of a Serb, going into the street and talking to a Muslim who was just resettling into the neighborhood where that person had lived before. I asked each individually, "Are you working with your neighbor to help them resettle into their homes?"

I asked the Serb about the Muslim. "Oh, no, no. We are not doing that because we know that they are occupied and they have their own problems. We wouldn't want to disturb them."

So then you ask the Muslim, "Have you met your Serb neighbor? Have you had a chance to visit or have coffee with your Serb neighbor?" And the answer was, "Oh, no, no, we actually haven't. We have not been able to do that."

These are people who are living in homes that are 5 feet from each other, 10 feet. The streets are very narrow. Yet, they are not mixing.

I think we have to look at the big picture here. American people are very generous. We want to help the people of Bosnia. But I think what we are trying to do is help them in a way that will provide a long-term peace, an economic stability. And doing things that are inherently unpeaceful, putting our U.S. troops in harm's way, I don't think is the right answer. That is why I am saying let's go back to the table at Dayton. Let's determine where we are.

I will give this administration a lot of credit for keeping the parties apart, for trying to forge a peace. Now I ask this administration to say we have had 2 years of Dayton, let's assess it. Let's see if this is the right direction. Because I don't think it is.

We have witnessed elections in which the people who come in to vote come in under armed guard, they vote, they leave under armed guard. We have elected Muslims who cannot even enter the city to take control of the government to which they are elected to serve. We have elected Serbs, where they are not able to reenter. We are declaring victory. I am missing something. We have elected governments that cannot serve, that cannot even enter the cities in which they were elected. And we are declaring this to be a victory? I think we need to have a reality check.

That brings me to the bigger context of NATO expansion and cost, and just how much should the United States absorb when we are talking about issues where we want to be helpful but we want to make sure that our money is going toward a successful endeavor. That is where, I think, this administration is not being realistic.

Take the idea of NATO expansion. I think all of us in this country believe that NATO is the best alliance that has ever been put forward on the face of the Earth. Because of its strength, it never had to fire a shot and the cold war was ended. Now we are looking at expanding NATO and the hearings are starting this week to do that very thing. I think the questions that Senator HELMS is asking are the very important questions that must be answered if we are going to expand NATO in a responsible way and in a way that sets a base for a long-term stability in Europe.

Senator HELMS is not saying I am for a NATO expansion period. He is saying I am for NATO expansion if it is done right. The "if it is done right" seems to be lopped off and not given very much attention. I think it is time the administration gave the "if it is done right" portion of Senator HELMS' statement its due. Because if it is done right, it will continue to be the greatest alliance that was ever formed on the face of this Earth. And if it is done wrong, it will be the unraveling of the greatest alliance that was ever put on the face of the Earth.

So we have the choice, of whether to keep NATO strong and stable by expanding responsibly or whether we just expand willy-nilly. America will absorb all the costs, and then the American people will say, wait a minute, I don't intend to completely prop up Europe without a fair share taken by our allies in Europe.

That question becomes very important because just this last week in the Washington Post there was a report on the meeting of NATO defense ministers at which our own Secretary of Defense, William Cohen, participated. The reporter for the Washington Post says that this was, in fact, a startling meeting because the NATO defense ministers voiced serious misgivings about the United States insistence that they, along with the new members to be brought into NATO, would carry the bulk of the expenses related to NATO enlargement.

You see, President Clinton has told the American Congress that the American share would be $2 billion over 10 years—$200 million. That is something I think American taxpayers would willingly absorb. But there is a lot of disagreement about those numbers because, in fact, we do not know what is in the requirements for NATO expansion. So, to have numbers before you have requirements is the cart before the horse in most people's books.

The European allies said that they did not think it was right for America to take $2 billion of the $35 billion which the Clinton administration estimates NATO expansion will cost, and they are objecting to paying $16 billion from the present membership. In fact, the ministers from Germany, France, Great Britain, and the Netherlands expressed dismay and insisted that the burdensharing debate must be viewed in a wider context.

You see, Secretary Cohen was right. He said the right things. He said that any shortchanging on defense investments by existing members or new partners would lead to a hollow alliance and ultimately erode confidence in future rounds of enlargement. Secretary Cohen is sending up the red flag of warning because he, too, is saying, do it right.

Let's look at the amount of gross domestic product that is spent by NATO members. The United States spends 3.8 percent of gross domestic product on defense. This is 3.8 percent of the domestic product of our country, the whole domestic product. The United Kingdom spends 3.1 percent, Germany spends 1.5 percent, France spends 2.5 percent. And they are saying they are not going to spend any more than that.

So I think we need to be forewarned that our European allies are not committing to the same numbers that the United States is. I think we have to put that in perspective. Because General Shalikashvili, who just left the chairmanship of the Joint Chiefs of Staff, was lamenting the fact that we don't have enough money in our defense budget to properly train our troops for peak readiness. He says we don't have enough money to buy parts or equipment. Yet, we are spending $3 billion a year, on average, in Bosnia, pursuing a policy that has yet to be defined, with no exit strategy and with the administration now saying it is probable that we are going to extend the troops with no defined end when he has already extended the mission nearly 2 years beyond the first limit that he set.

Let's take another example. Just yesterday the President vetoed almost $300 million of military construction in the United States. He vetoed such operational projects as a corrosion control facility, headquarters facilities that would enhance command, control and communications, ammunition storage facilities—$300 million in America. At the same time, he approved the expenditure of military construction in Europe for NATO enhancement of over $150 million. What kinds of projects did he approve for NATO? Ammunition storage facilities, administrative buildings—the exact same things he vetoed for military construction in the United States, for our bases, for our readiness.

So I do have a problem when the outgoing chairman of the Joint Chiefs says we are not spending enough for our own readiness, for our own military personnel, when the President vetoes military construction which was in the Defense Department's 5-year plan, saying these were not priorities, while at the same time signing military construction of $150 million in Europe for NATO enhancement.

So, I have to say the issue of our own readiness is a key issue here. If we are going to spend $3 billion in Bosnia for a policy that has, I think, minimal chance to succeed and the outgoing Chairman of the Joint Chiefs is saying we don't have enough money for our own readiness, what are we doing as the stewards of this country, as the ones responsible for our own national defense, our readiness, our troop morale, our quality of life for our troops, our taxpayers, and, most of all, for our own security threats, when we would veto our own military construction and put half that same amount into European construction? And when we know that we are not spending enough to keep our troops ready for the eventual real threat to the United States that could come from an incoming ballistic missile, for which we do not have the defense; from a terrorist nation that would do any kind of bombing of our own people, either on our shores or off? Are we building up for the potential threat in Korea, in the Middle East?

I just have to ask the administration to think about these issues as we look at our own situation and our readiness and our strength. Are we doing everything we should for our own troops, for our own military construction, for our own quality of life for our men and women who are serving in the military? Or are we dissipating our resources in operations that are not defined, that have no exit strategy, in places like Bosnia and Somalia and Haiti?

I would just ask the question, Do we have our priorities straight? When we look at the issue of NATO expansion, we must look at the cost. It must be nailed down. It must not be a moving target. It must be clear. And we must tell our European allies exactly what we will do, and not be badgered into taking more than our fair share of the cost of European security. We do want to step up to the line. We do want to be the major superpower in the world, and fulfill our responsibilities. But we are already spending more of our gross domestic product on national defense than our European allies spend. I think the American taxpayer has the right to ask the question: Are we spending the dollars for our own security? Are we doing our fair share for the humanitarian needs of this country, and for the countries that we are trying to help? Are we spending the dollars wisely? That is the question.

I think as we move toward NATO expansion, we must be good and responsible stewards for the American taxpayer, and, more important, we must be good and responsible stewards of the national defense of our country. We must meet the test, for our young men and women in the military who have pledged their lives to preserve our freedom, that our commitment to them is commensurate with their commitment to the United States; that we will guard them with respect, with a quality of life that allows them and their families to live with a high standard of living, and that we will make sure that wherever they are, in the field or on our shores, that they have everything they need to do their job.

I think if we are going to keep that commitment to them and to the American people, we must ask the questions about NATO expansion, about our mission in Bosnia: Are we spending the dollars wisely and are we assured that when we put our United States troops on the ground that there is a United States security threat and risk that requires that action?

Mr. President, those are the questions that I hope Senator HELMS, in his hearings this week on NATO expansion, will focus on and not allow fuzzy, vague, moving-target answers from the administration. The American people and our young men and women in the service deserve no less than total responsibility and total answers to those questions.

Thank you, Mr. President. I yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I ask unanimous consent that I be recognized to speak in morning business for such time as I may consume.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes, under the previous order.

Mrs. FEINSTEIN. Mr. President, the Finance Committee recently approved fast-track authority for the President. I thought I might come to the floor and express some of my very serious concerns about this proposal.

Let me begin by saying to those who would paint every Member of Congress who has a problem with the fast track proposal with some broad brush calling us protectionists or xenophobic. I, for one, am not.

Trade is very important to my State. California is the seventh largest economy on Earth, and we produce 20 percent of the Nation's exports. Exports are one of the largest growing economic sectors in my State. More than 1 million jobs in California are directly related to trade, and that number is growing. So I see free and fair trade as an integral part of California's economic future, and it is my responsibility as a U.S. Senator representing that State to see that the concerns and issues and industries of my State are protected in agreements, or at least as nearly as I can do so.

As I see it, America already has the most open markets in the world, but the problem is that this openness isn't reciprocated by many of our trading partners, and that brings us to the present situation.

Article I, section 8 of the Constitution gives Members of this body constitutional responsibility for matters of trade and the economy. Fast track is essentially a surrendering, an abrogation, of those constitutional responsibilities provided to this body by the Constitution of the United States. I, for one, see no reason why we should surrender that.

Essentially, fast track is simply the ability of the administration to negotiate a trade agreement, then bring it quickly to the Congress, get it ratified within a specific period of time, without congressional opportunity to amend it in any way, shape, or form.

The administration claims that fast track authority is needed to keep our

economy growing strong, to allow our companies to compete with those of the European Union and Japan in growing markets such as South America and the Pacific Rim and to maintain America's symbolic commitment to free trade by letting the President negotiate agreements without fear that Congress is going to mettle in any of the details.

In my view, that argument flies in the face of reality. Since President Clinton has taken office, 220 trade agreements have been negotiated with foreign nations. Only two of those required fast track.

In recent years, U.S. exports have been the strength of the economy. U.S. exports increased 50 percent since 1991 without fast track. Today, exports are 30 percent higher than in 1993.

According to trade data released by the International Monetary Fund, United States exports to Brazil, South America's richest market, grew 56 percent from 1994 to 1995. During that same period, the European Union's exports to Brazil grew only 8 percent, while Japan's exports grew only 18 percent. This growth in U.S. exports has occurred without fast track authority. As a recent Wall Street Journal article citing the IMF data, pointed out, U.S. exporters hardly seem handicapped without fast track.

So arguments that the United States cannot negotiate trade agreements without fast track I think are specious. Further, to argue that without fast track the United States risks losing the jobs that come with robust trade begs the question of how previous fast-track agreements have fared in this regard.

Once again, I did not vote for NAFTA, but NAFTA was my first experience with fast track. Once spurned, hopefully twice learned. Under NAFTA, the United States $1.7 billion trade surplus with Mexico in 1993 became a record trade deficit of $16.3 billion by 1996. The balance of trade has gone exactly the wrong way.

Our balance of trade with Canada has also grown, more than doubling from $11 billion to $23 billion annually.

Let us look at GATT, another important trade agreement. The GATT agreement has contributed to the largest merchandise trade deficit in U.S. history. Today, it is at an all-time high of $165 billion.

I think these experiences combine to present an eloquent statement that says: Go slow. Fast track may well backfire. In the future it may not be as desirable as some claim.

If we look at the currency problems in certain southeast Asian countries, we can identify some of their trade strategies. I think what happens, as a result of some of the financial problems, is these countries push for more exports to our country and they close their markets to our products. This is a very real danger signal for the future. I think it indicates that as a nation we should go slow. We need to be very careful and deliberate in these negotiations.

The Commerce Department estimates that every $1 billion in exports equals between 14,000 and 15,000 jobs. Based on that calculation alone, the United States has lost hundreds of thousands of jobs as a result of these trade deficits. The administration claims a modest increase in U.S. net exports as a result of NAFTA, but the jury is still out.

These mounting trade deficits should be a loud and clear message that America should negotiate better trade deals, rather than give up congressional responsibility through fast track.

The bottom line is that Members of Congress are being asked to forfeit our ability to offer amendments to any trade agreement with no guarantee that the major industries of our States will not be disadvantaged by those agreements. Under fast track, Congress is left with no recourse except to vote against the whole agreement.

The President tried to address some of these concerns in the proposal he sent to Congress. But the goals and objectives of the President's fast track proposal are still just that—goals and objectives. Previous fast track agreements have demonstrated why this is just not good enough.

For me, a Californian, NAFTA was a big case in point:

NAFTA had an immediate negative impact on the California wine industry. The California wine industry produces 90 percent of our Nation's wine and 90 percent of the wine exported by the United States.

Coincident with NAFTA, Mexico gave Chilean wines an immediate tariff reduction from 20 percent to 8 percent and a guarantee of duty-free status within a year. By contrast, United States wines face a 10-year phaseout of a much higher Mexican tariff, leaving U.S. wines at a significant disadvantage in the Mexican market. It is actually a wipeout of our market share of wine in Mexico.

The result of this tariff inequity was predictable. Exports of all U.S. wines to Mexico have dropped by one-third since NAFTA went into effect, while Chilean wine exports to Mexico have nearly doubled. The size of the Chilean gains virtually match the size of U.S. losses. Chilean wine picked up the market share lost by the U.S. wineries, dominated by California.

During the NAFTA debate in Congress, the administration pledged to correct these tariff inequities within 120 days of NAFTA's approval. Let me quote from a letter to Members of Congress from then U.S. Trade Representative Mickey Kantor dated November 8, 1993:

> Pursuant to your request, you have my personal commitment that, within 120 days of the coming into force of NAFTA, I will personally negotiate the immediate reduction of Mexican tariffs on US wines to the level of Mexican tariffs on Chilean wines and, thereafter, have them fall parallel with future reductions in such tariffs.

I personally talked with Mr. Kantor at least three or four times on this issue. I also talked with the President, as well as others in the White House. This was a glaring discrepancy, and the whole administration made a commitment to correct the discrepancy.

You would think that at least by today, 3 years later, the tariffs would be parallel. But 3½ years later, these inequities remain enshrined in the agreement. As a matter of fact, as the result of an unrelated trade dispute, Mexico actually raised tariffs on United States wine back up to pre-NAFTA levels of 20 percent, increasing the tariff from the 14 percent it had reached under NAFTA. Rather than drop to zero within 10 years, the tariff is now 20 percent, a wipeout for an American market share.

Another product of fast track, the General Agreement on Tariffs and Trade, known as GATT, also contained monumental inequities that seriously disadvantaged California's wine industry. Prior to the Uruguay round of GATT, major wine competitors had wine tariffs that were almost four times the United States tariff on an ad valorem basis.

But, even though the United States had the lowest tariffs of any major wine producer, United States negotiators agreed in the Uruguay round to drop United States tariffs by 36 percent over 6 years, while the world's largest wine producer, the EU, dropped its tariffs by 10 percent. As a result, the current U.S. tariff on all wine products is an average of 2.4 percent. That is far lower than the EU's current average tariff of 13 percent.

The PRESIDING OFFICER. If I may, the Senator's 10 minutes have expired.

Mrs. FEINSTEIN. I would like to finish this.

Mr. GRAMM. I ask that the Senator have an additional 2 minutes.

Mrs. FEINSTEIN. Pardon me?

Mr. GRAMM. I ask unanimous consent that the Senator have an additional 2 minutes, if that would solve the problem.

Mrs. FEINSTEIN. I accept that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. If I do not finish it, I will perhaps get on the queue and come back later. I thank the Senator from Texas. I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. FEINSTEIN. I have some very specific concerns about fast track that are not adequately addressed in the current proposal.

First, tariff inqequities: As I said, the United States is already the most open market in the world. But our trade

agreements have sometimes disadvantaged American industries by not requiring a level playing field with other nations. All too often, the price of modest tariff reductions elsewhere has been further reductions in the already low U.S. tariffs.

Any future agreements should require that other countries meet our tariff level before we agree to lower our tariffs further. Any fast-track proposal would have to address this issue before winning my support.

There should also be stronger enforcement mechanisms included when trade barriers are not lowered as provided for in an agreement. Half the problems with previous trade agreements have stemmed from nonenforcement. A recent report from the American Chamber of Commerce in Japan said more effort must be dedicated to enforcing existing agreements.

For example, Europe simply did not accept the GATT commitments on audio visual services, instead, maintaining its 1989 European Union Broadcast Directive. This EU directive limits the market for U.S. movies and TV broadcasting.

Another example is an agreement signed with China in May of this year which grants the United States access to Chinese markets for table grapes. However, despite the agreement, China maintains a 55 percent tariff on United States table grapes, presenting a significant barrier to United States exports.

Second, phytosanitary standards:

In addition to tariff inequities, disagreements over phytosanitary standards continue, and are often used as de facto trade barriers. For example: Japan's stringent tests for pesticides on American nectarines, cherries, and other fruit continues to deny market access for United States products.

Another example is Chile: The United States imported 1 billion trays of fresh vegetables from Chile during the 1996–97 growing year, while the United States exported no similar products to Chile during its growing year—why?—because of Chile's phytosanitary restrictions on imports of United States poultry, fruit, and vegetables, which has effectively banned all imports of these goods.

The President's fast track proposal—section 2(b)(6)(C)(iii)—states that unjustified phytosanitary restrictions should be eliminated, but there is no language requiring that scientifically based standards be established before a trade agreement can be signed.

Third, dispute resolution: The previous free trade agreement with Canada, and the NAFTA agreement, established a process for resolving disputes. But the process does not always work. For example:

California growers have complained in the past about Mexican inspectors being unavailable at the border, so shipments are delayed.

There is also no timely method of solving a dispute within a matter of hours. This is important when perishable goods are sitting at a border or a port warehouse awaiting a decision.

A bigger problem now is that if a Mexican inspector finds a pest and does not know whether that pest is subject to quarantine, it reportedly takes a week for the inspector to find out. No shipper can leave fruit sitting at the border for a week.

In January of last year, Mexico shipped over 8,000 boxes of brussels sprouts to the United States market causing the price to drop literally in half. This product dumping caused the price to drop to a level from which the brussel sprout industry could not recover during that season.

The dispute resolution process needs to be strengthened to include a mechanism for swift resolution—within 48 hours—when a dispute involves perishable commodities.

Fourth, environmental standards: I agree with many of my colleagues that we should not encourage a race to the bottom, in which the country with the weakest environmental protection wins the prize of economic growth.

We all know that pollution knows no geographic boundaries. U.S. commitment to preserving the quality of our environment should be as vigorous as our commitment to open markets, and that commitment should be reflected in our trade agreements to the greatest extent possible.

For example, large numbers of American companies have located in Mexico. The pollution from these companies goes into the New River, which flows north into the United States, terminating at the Salton Sea. I have flown over the New River, and I have seen first hand the extent of the pollution which is killing the Salton Sea. No companies in the United States can do what is being done in Mexicali.

Also, Mexican farmers have access to pesticides and other chemicals that are not available to American growers. These disparities will only increase as we enforce our own laws.

California growers will soon face an uneven playing field regarding the use of methyl bromide, a widely used soil and post-harvest fumigant. Under the Clean Air Act, the United States is phasing out the use of methyl bromide by 2001, but our trading partners will continue to use the chemical. Moreover, many of our trading partners require our growers to fumigate their crops with methyl bromide before the commodity is shipped.

U.S. requirements to control particulate matter will add costs to U.S. producers, while no comparable requirements are being imposed on many of our trading partners.

Our trade agreements should encourage our trading partners to live up to the highest environmental standards, not put added pressure on American companies to lower our standards.

Fifth, manufacturing base and labor standards: I also share the concern raised by many of my Democratic colleagues that we need to be particularly careful to protect our manufacturing base, and not undermine labor standards, as we negotiate new trade agreements.

At one point, California was home to six automobile manufacturing plants, but today we are reduced to one. Once we lose our manufacturing capacity, I am very concerned it will be very difficult if not impossible to reclaim.

Akio Morita, the chairman of Sony, made a blunt assessment of the situation: he said America will cease to be a world power if it loses its manufacturing base. I wholeheartedly agree.

Service jobs, like energy and transportation services—which have fueled much of my State's economic rebound—are important, but can't compensate for the loss of higher-wage manufacturing jobs in this country. And if we lose our manufacturing base, we lose the service jobs, technology advances, and innovation that go with it.

U.S. manufacturers already face enormous pressure to relocate manufacturing capability abroad to meet the regulatory and competitive demands of foreign nations.

The Semiconductor Industry Association, representing the makers of computers chips, says 30 percent of their investment abroad is due to chipmakers' desire to avoid high tariffs or meet a foreign government's requirement that manufacturing be done in their country, in order to sell in an otherwise closed market.

For example: China's $3 billion semiconductor market is growing rapidly. But they have a closed market, imposing high tariffs unless the manufacturer builds a plant in their country.

This is a $132 billion worldwide market and is expected to reach $245 billion market by the year 2000. California is the Nation's leading chip producing State, so this is enormously important to my State.

U.S. trade agreements must aggressively tear down the trade restrictions that force U.S. manufacturers overseas.

U.S. manufacturers often cannot compete with foreign countries on wage costs.

One of the arguments advanced by NAFTA supporters was the expansion of trade will boost the economies of our trading partners—and theoretically their wages—and expand the demand for our products in return. However, based on our NAFTA experience, the theory has not materialized.

According to the Labor Department, the wage gap between United States and Mexico workers is widening, rather than narrowing. In 1993, Mexican wages were 15 percent of those in the United States. Today, they are 8 percent.

This decline in wages is not solely the effect of the Mexican peso crisis. In 1994—before the peso collapse—real hourly wages in Mexico had already dropped to nearly 30 percent below their 1980 level—UC-Berkeley sociologist Harley Shaiken.

Mexico's financial problems only exacerbated the trend. Since 1994, real wages in Mexico have dropped another 25 percent to roughly half their 1980 level.

Clearly, NAFTA has not yet improved the wages of Mexican labor.

Conclusion: Any fast track legislation must contain the following assurances:

There must be a mechanism for swift and effective dispute resolutions.

There must be language included stipulating that any agreement negotiated under fast track must set equal tariffs between the United States and our trading partners before the United States agrees to lower tariffs further.

There must be mandatory mutual acceptance of scientifically-sound phytosanitary standards.

There must be enforceable environmental standards in place.

And there must be labor and wage provisions, and aggressive reduction of trade barriers, to protect our manufacturing future.

Without these assurances written into the bill, I am very concerned that extension of fast track authority would give away, once again, the only ability I have as a U.S. Senator to influence trade agreements to see that they are responsive to the concerns of my State and important industries.

Until these concerns are addressed, Mr. President, I must oppose any extension of fast-track authority.

CAMPAIGN FINANCE REFORM

Mr. SMITH of New Hampshire. Mr. President, I rise to speak in opposition to the motion to invoke cloture on S. 25, the McCain-Feingold campaign finance reform bill.

Throughout my years in Congress, I have supported efforts to reform campaign finance laws. I have, for example, voted to eliminate political action committees and to prohibit the use of the congressional franking privilege for mass mailings.

Along with Senators GREGG, TORRICELLI, and JOHNSON, I am cosponsoring in this Congress legislation to establish a bipartisan commission that would recommend campaign finance reforms. The Claremont Commission Act, which is named after the agreement reached between President Clinton and Speaker GINGRICH at a meeting in my home State of New Hampshire, would establish a nine-member commission to examine campaign finance rules and propose comprehensive legislation for reform.

The Claremont Commission would make recommendations based on good policy, not politics. The creation of such a commission finally would make good on the promise that President Clinton and Speaker GINGRICH made when they shook hands in Claremont in May, 1995.

Mr. President, the McCain-Feingold campaign finance reform bill is seriously flawed. Indeed, I believe that it is unconstitutional because it unduly restricts the freedom of speech that is guaranteed by the first amendment to our Nation's Constitution.

The bill's ban on soft money is a restriction on free speech. Even worse, in my view, the bill's severe limitations on so-called issue advocacy advertisements that mention a candidate's name, or show the candidate's likeness, within 60 days of an election, involve a direct regulation of the content of political speech.

Out Nation's founders meant to allow free, open, and robust political speech and debate. The McCain-Feingold bill, however, moves to limit free speech and debate. I wholeheartedly agree with my distinguished colleague from Kentucky, Senator MCCONNELL, as well as the many constitutional scholars whose views he has cited, that the McCain-Feingold bill goes too far in regulating and restricting free speech and, therefore, is unconstitutional.

I believe that any meaningful campaign finance reform proposal ought to require candidates to disclose completely to the American people what they spend on their campaigns and from whom they received campaign contributions. Full disclosure, not limitations on free speech, is the right kind of campaign finance reform.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

(The remarks of Mr. GRAMM pertaining to the introduction of S. 1260 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, we are due to recess.

Mr. GRAMM. Mr. President, we have two other speakers here. I assume they are going to want to extend morning business. If I can, without seeing the Senate adjourn, why don't I yield the floor to Senator WYDEN and he can ask unanimous consent for himself and Senator FRIST, that they each have an opportunity to speak briefly before we adjourn.

I yield to Senator WYDEN.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I thank my colleague from Texas. I ask unanimous consent, Mr. President, that I be allowed to speak as in morning business for 5 minutes and that Senator FRIST may speak as well for 5 minutes, and there may be at least two other Senators that would like to speak as in morning business for 5 minutes.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Senator THOMPSON from Tennessee be accorded 5 minutes before the luncheon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent that Senator FEINSTEIN be allowed to speak for 5 minutes, as well, as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I ask unanimous consent to be allowed to speak for up to 5 minutes also before the recess.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I also ask unanimous consent that Senator DODD be allowed to speak for up to 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMPAIGN FINANCE REFORM

Mr. WYDEN. Mr. President, my first official act as a new U.S. Senator, taken 15 minutes after I was sworn in, was to become a sponsor of the bipartisan campaign finance reform bill that the U.S. Senate will begin to vote on later today.

I strongly believe that political campaigns should be about people and not money. But that is not what is happening in America today. Campaign finance activity has become like the arms race—one side gets $10, the next side gets $20, the other side comes back and gets $30. It spirals up and up—spending that is out of control, spending that is simply unaccountable to voters.

Every Member of the U.S. Senate has devoted hours and hours to fundraising. Every Member of the U.S. Senate knows that when there is an election that Tuesday in November, folks sleep in on Wednesday, and then in November it starts all over again. Every Member of the U.S. Senate knows that America deserves better.

I don't agree with every part of the McCain-Feingold bipartisan campaign finance legislation; I would not pretend otherwise. And I think that is true of many of the sponsors of this legislation. But if this bipartisan bill passes, candidates in America are going to spend more time talking to voters in shopping malls and less time working the phones raising funds. That is going to be good for democracy in America, and I hope the Senate passes this bipartisan bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

(The remarks of Mr. FRIST pertaining to the introduction of S. 1261 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

CAMPAIGN FINANCE REFORM

Mr. GRAMS. Mr. President, I wanted to comment a little bit on the campaign finance debate that is going on.

Mr. President, over the last several months, Americans have expressed grave concern over the daily reports of alleged illegal or improper campaign contributions to the Democratic National Committee and White House during the 1996 campaign cycle. These reports have raised the perception among some Americans that access and votes can be bought in Washington and that the system for financing our Federal campaigns is corrupt and broken.

Consequently, there have been many proposals introduced in the Congress that are intended to change the way in which campaigns for Federal office are financed. Most of these proposals call for enacting new limits on how Americans can exercise their political freedoms. Their stated purpose is to ultimately restore the trust of the public in their Government.

I share the concerns about these reports of irregular and even illegal fundraising during the 1996 elections. However, I disagree that the way to respond to these concerns is to pass new laws that would do nothing more than limit the ability of Americans to exercise their political freedoms guaranteed by the first amendment.

The first amendment has always been the basis for active citizen participation in our political process. The first amendment ensures that, among other things, average Americans can participate in our democratic process through publicly disclosed contributions to campaigns of their choice. It also allows Americans to freely draft letters to the editor, distribute campaign literature, and participate in rallies and get-out-the-vote drives.

In my view, the Federal Government can restore the integrity of our electoral process through greater enforcement of existing laws, increased disclosure of contributions and expenditures, and protection of the rights of Americans to become involved in the democratic process without fear of coercion. We don't need new campaign finance laws. Simply loading new laws upon those which have already been broken will not solve the problem. After all, if campaigns or donors would not obey the current laws, strengthened almost 25 years ago after the Watergate scandal, why would we believe they would obey a new set of rules? They simply can't.

The whole exercise is a public relations scheme designed to let the public think we are reacting—when we are not. To move in this direction would only threaten the ability of Americans to participate in the democracy which they have helped to create. Placing new limits or government controls are not the answer.

Mr. President, this leads me to my concerns with the McCain-Feingold proposal. While I commend the proponents of McCain-Feingold for making some minor changes to their initial proposal, such as removing the provisions providing for voluntary spending limits and restrictions on political action committees, the modified McCain-Feingold proposal still continues to suppress the rights of Americans to communicate their ideas and express their views.

For example, this modification is premised upon the belief that there is too much money spent on American elections. If we accept this assumption, then Congress has decided to assert questionable authority to suppress the rights of Americans to become involved in the political process and make their voices heard.

In fact, the belief that there is government justification for regulating the costs of political campaigns was rejected by the Supreme Court in the landmark case of Buckley versus Valeo. In Buckley, the Court declared,

> The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive or unwise. In the free society ordained by our Constitution it is not the government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

The McCain-Feingold proposal also fails to recognize that Americans have a right to petition the government and have their voices heard. Americans have both a right and obligation to make their views known and hold those that seek to represent them accountable for their actions or positions on issues.

Mr. President, I expect the American people will receive a full disclosure of campaign finance law violations. I believe the testimony before the Governmental Affairs Committee has thus far proved the need for the Federal Government to focus its efforts on greater enforcement of our existing laws and prosecution of those who violate the laws, before Congress seeks to pass new laws. Congress should not use violations of existing law to restrict political speech and participation by those who abide by current law.

In addition to more timely enforcement of our existing election laws, we should encourage greater disclosure of each contribution and expenditure. Fair and frequent disclosure of contributions by Federal office seekers will open up the political process to the electorate.

I am encouraged by the disclosure provisions contained within the McCain-Feingold proposals. We share the same goal of letting the sun shine on the process. I am sure there will be additional opportunities to debate this aspect of the McCain-Feingold proposal.

Finally, Congress should work to protect the right of Americans to participate in the democratic process without fear of coercion. Despite the Supreme Court decision in Communications Workers of America versus Beck almost 10 years ago, millions of Americans still have portions of their paychecks taken and used for political purposes for which they may disagree, without their knowledge or consent.

I believe forcing an individual to make compulsory campaign contributions is contrary to our constitutional form of government and the first amendment freedoms we enjoy as citizens. As Thomas Jefferson once said, "to compel a man to furnish contribution of money for the propagation of opinions which he disbelieves, is sinful and tyrannical." For these reasons, I support the majority leader's decision to offer the "Paycheck Protection Act" as an amendment to the McCain-Feingold bill. I do not consider this a "poison pill" to passage of campaign finance legislation, but rather effective medicine for our Nation's employees because it will allow individuals to regain control of their paychecks, avoid coercion, and exercise their political freedoms.

Finally, Mr. President, as we approach the next century, the Senate has the responsibility to restore the public's trust in their government and preserve the political freedoms that were enacted over 200 years ago. I remain hopeful that our actions here will not affect the ability of future generations of Americans to enjoy these same freedoms.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to speak for 5 minutes.

The PRESIDING OFFICER. The Senator from Connecticut is recognized to speak for 5 minutes.

Mr. DODD. Mr. President, I thank the Chair. I may need a few more minutes than 5. I will see how things are going, Mr. President, and may request unanimous consent to proceed a bit longer.

(The remarks of Mr. DODD pertaining to the introduction of S. 1260 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

CAMPAIGN FINANCE REFORM

Mr. THOMPSON. Mr. President, I understand that the so-called Lott amendment will be considered this afternoon after lunch—an amendment to the campaign finance reform bill known as the McCain-Feingold bill. I want to address that briefly. I have given it serious consideration because I think it is a serious matter.

I must say that I agree with the underlying intent of this legislation. I support the concept of this amendment. I would like to see it enacted into law. I believe that American workers need all the protections they can get with regard to the matters that are addressed in this amendment. In fact, I intend to cosponsor freestanding legislation that would give us an opportunity to have an up-or-down vote on this idea.

But, Mr. President, as I look at this, I became concerned whether or not there is any chance of this amendment ever becoming law because, as I understand it, it is an amendment to the campaign finance bill. When I ask around whether or not those who are supporting the amendment will support the bill in case the amendment passes, I don't get any affirmative responses. In other words, as I see the state of play now, if we pass this amendment, then those who are primarily in support of the amendment will still oppose the underlying legislation. So there is no chance, as I see it, that the amendment or the ideas expressed in the amendment have any chance at all for becoming law in this process.

I am an original cosponsor of this particular legislation, the McCain-Feingold bill. I cannot align myself, even though I agree with the underlying intent, with an effort that has no chance of success in terms of passing any legislation or passing an amendment but that would, in effect, make sure that the underlying bill, McCain-Feingold, and the so-called Lott amendment, would both never become the law of this land. That is what we are faced with.

I must say it makes it a little bit more difficult for me when it is openly expressed as an effort to kill the underlying legislation.

So, Mr. President, I will do what I can for the rest of this Congress to see that the working men and women are protected in this regard.

I think it is a noble settlement. I think it is a good idea. There is freestanding legislation on this which I will support. But since I see no hope and no opportunity for this amendment to ever have the force and effect of law, then I cannot support it and will not.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to be heard for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I just want to express my gratitude and the gratitude of the Senator from Arizona for the statement of the Senator from Tennessee, the fact that he was an original cosponsor of this bill, he has been bipartisan every step of the way and has made this reform much more possible both in the past and today. And I thank him for his tremendous leadership on this issue.

RECESS

The PRESIDING OFFICER. The Senate stands in recess.

Thereupon, the Senate, at 1:01 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I ask to be recognized under my leader time just briefly.

The PRESIDING OFFICER. The majority leader.

THE SENATE SCHEDULE

Mr. LOTT. First, I apologize to my colleagues for having to take this time right now before the cloture vote. However, the last couple of weeks have been somewhat hectic in the scheduling of floor action, with the end of the fiscal year, appropriations bills, fast track and ISTEA legislation brewing, all looming over the Senate schedule. And I wanted to address the Senate before these votes occur.

Having said all that, I think all of my colleagues understand that one of the major roles of the majority leader is to set the Senate schedule during each day's session and during the week. Conversely, yesterday I watched with dismay as the minority leader filed a cloture motion to the pending campaign finance reform bill and further announced it would be his intention to continue that practice for the remainder of the week. Unfortunately, since I was not notified of the minority leader's intention, I could not be on the floor to respond.

I will say now that my response was really one of dismay. All Senators know that filing a cloture motion does affect the Senate schedule. Needless to say, if cloture is invoked, if more than 60 Senators voted to limit the debate, then the Senate must remain on that clotured item until disposed of, regardless of what the majority leader might have had in mind for the schedule for floor consideration during those few days.

So I say to my colleagues that I do regret the action, but I understand how these things happen. Sometimes we just can't get in touch with each other and there is miscommunication. But prior to that event, the Senate had basically conducted what I think has been an interesting debate, an informative debate, and I think a fair and constructive debate. As of yesterday afternoon at approximately 7:30 p.m., the Senate had been considering this campaign finance reform bill for parts or all of 6 days. The debate had exceeded 22 hours and has been basically evenly shared by both sides of the issue.

I ask unanimous consent the time spent on the debate be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Friday, September 26th (On the bill 10–3:45) 5'45"

Proponents:	
Daschle	21
McCain	24
Feingold	23
Kerry	30
Thompson	17
Torricelli	30
Dorgan	25
Total	170

Opponents:	
Lott	24
Bennett	49
McConnell	14
Ashcroft	25
Grams	12
Gorton	34
Total	158

Monday, September 29th (On the bill 12–6:10) 6'10"

Proponents:	
McCain	51
Feingold	04
Collins	13
Levin	13
Dorgan	21
Lieberman	39
Cleland	16
Durbin	20
Total	177

Opponents:	
Lott	05
Warner	05
McConnell	96
Bennett	15
Nickles	19
Hatch	10
Total	150

Tuesday, September 30th (Morning Business) 32"

Proponents:	
Daschle	04
Boxer	10
Wellstone	18
Total	32

Wednesday, October 1st (Morning Business) 2'01"

Proponents:	
Kennedy	08
Levin	17
Glenn	57
Total	82

Opponents:	
Thomas	10

Santorum	29
Total	39

Monday, October 6th (On the bill 1–7:30) 7'30"

Proponents:

Feingold	51
McCain	15
Daschle	08
Reid	09
Johnson	19
Bryan	18
Bingaman	08
Bumpers	24
Levin	54
Collins	05
Total	211

Opponents:

McConnell	40
G. Smith	07
Hagel	14
Gorton	34
Allard	22
Ashcroft	07
Shelby	09
Domenici	26
Burns	20
Total	179

Mr. LOTT. So I understand, especially in this case, though, there is a wish by the minority to try to control the Senate schedule. However, there are other pressing items that are pending on the Senate's calendar that require Senate consideration. Some of those include, but are not limited to, fast-track legislation, remaining appropriations conference reports, ISTEA, Amtrak, adoption and foster-care legislation and, hopefully, perhaps others.

In closing, I hope that all Senators understand that I will have to move to proceed to other legislative items after these two cloture votes if cloture is not invoked. I am announcing to my colleagues now, so that no Member will be surprised by my actions. For the record, I have held up my end of the bargain by making the campaign finance issue the pending business prior to the October recess. It was suggested we were going to delay it until the end of the week, or the end of the month, or the end of the session. I said at the time I had no intention of doing that. I thought we should have debate early and we should have every opportunity for Senators to express themselves. The Senate has been provided more than adequate debate on this bill, and I think that the important thing now is to go ahead and have these cloture votes. It appears to me that there is no consensus at this time on this issue. I will have more to say about this after the votes, and I hope that we can move on to other issues that need to be done before the close of the session.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I am very disappointed with the announcement made by the majority leader, but I am not surprised. He has said from the very beginning that he was going to devise a strategy that would kill campaign finance reform, and he may have done so in the interim. It is not our intention to schedule legislation. It is not our intention to in any way obstruct the desires of the majority leader to go on to other issues. But it is our desire to have a good debate about one of the most important pieces of legislation pending before the Senate.

While we have had a good exchange of views on this particular bill, we have not had a debate. A debate in the Senate, by its very nature, allows Senators to offer amendments, to exchange views with regard to the language of the bill itself. But we have been precluded from doing that. Why? Because the majority has disallowed the opportunity for anybody to offer an amendment. What kind of debate is that? We have been on it and off it intermittently for the last couple of weeks, but we have not had a debate, not one living up to the standards and the expectations of anybody with regard to this body. This ought to be a deliberative body. There is no deliberation when the tree is filled, the amendments are precluded, and the bill is pulled.

So, we will continue to persist, regardless of whether it is in the form of an amendment or a bill. Again, I would rather work with the majority leader. He mentioned being surprised. I guess now we both had that occasion. I am not going to talk about Pearl Harbor this afternoon, as he did on the 16th of September. But let us not surprise each other. Let us get on with trying to lead the Senate in a way that will allow us to complete our work. We are prepared to do that on this bill and every other bill.

I yield the floor.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill.

The bill clerk read as follows:

A bill (S. 25) to reform the financing of Federal elections.

Pending:

Lott amendment No. 1258, to guarantee that contributions to Federal political campaigns are voluntary.

Lott amendment No. 1259 (to amendment No. 1258), in the nature of a substitute.

Lott amendment No. 1260 (to amendment No. 1258), to guarantee that contributions to Federal political campaigns are voluntary.

Lott amendment No 1261, in the nature of a substitute.

Lott amendment No. 1262 (to amendment No. 1261), to guarantee that contributions to Federal political campaigns are voluntary.

Motion to recommit the bill to the Committee on Rules and Administration with instructions to report back forthwith, with an amendment.

Lott amendment No. 1263 (to instructions of motion to recommit), to guarantee that contributions to Federal political campaigns are voluntary.

Lott amendment No. 1264 (to amendment No. 1263), in the nature of a substitute.

Lott amendment No. 1265 (to amendment No. 1264), to guarantee that contributions to Federal political campaigns are voluntary.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment No. 1258 to Calendar No. 183, S. 25, the campaign finance reform bill:

Trent Lott, Don Nickles, Jon Kyl, Slade Gorton, Mitch McConnell, Connie Mack, Larry E. Craig, Strom Thurmond, Gordon H. Smith, Kay Bailey Hutchison, Jesse Helms, Christopher S. Bond, Thad Cochran, Rick Santorum, R.F. Bennett, Bob Smith.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Lott amendment No. 1258 to S. 25, a bill to reform the financing of Federal elections, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 52, nays 48, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—52

Abraham	Faircloth	McCain
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Chafee	Hatch	Shelby
Coats	Helms	Smith Bob
Cochran	Hutchinson	Smith Gordon H
Collins	Hutchison	Stevens
Coverdell	Inhofe	Thomas
Craig	Kempthorne	Thompson
D'Amato	Kyl	Thurmond
DeWine	Lott	Warner
Domenici	Lugar	
Enzi	Mack	

NAYS—48

Akaka	Feingold	Lautenberg
Baucus	Feinstein	Leahy
Biden	Ford	Levin
Bingaman	Glenn	Lieberman
Boxer	Graham	Mikulski
Breaux	Harkin	Moseley-Braun
Bryan	Hollings	Moynihan
Bumpers	Inouye	Murray
Byrd	Jeffords	Reed
Cleland	Johnson	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Rockefeller
Dodd	Kerry	
Dorgan	Kohl	
Durbin	Landrieu	

Sarbanes	Specter	Wellstone
Snowe	Torricelli	Wyden

The PRESIDING OFFICER. On this vote, the ayes are 52, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 25, as modified, the campaign finance reform bill:

Thomas A. Daschle, Carl Levin, J. Lieberman, Wendell Ford, Byron L. Dorgan, Barbara Boxer, Jack Reed, Richard H. Bryan, Daniel K. Akaka, Christopher Dodd, Kent Conrad, Robert Torricelli, Charles Robb, Joe Biden, Dale Bumpers, Carol Moseley-Braun, John Kerry.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk, and I observe that Senator DASCHLE filed a cloture motion on the McCain-Feingold bill, S. 25. This is a cloture motion on the paycheck equity amendment.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment No. 1258, to Calendar No. 183, S. 25, the campaign finance reform bill:

Trent Lott, D. Nickles, Jon Kyl, Slade Gorton, Mitch McConnell, Connie Mack, Larry Craig, Strom Thurmond, Gordon Smith, Jesse Helms, Kay Bailey Hutchison, Christopher S. Bond, Bill Frist, Charles Grassley, Thad Cochran, Rick Santorum.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 183, S. 25, the campaign finance reform bill:

Trent Lott, Rick Santorum, Jon Kyl, Don Nickles, Mitch McConnell, Connie Mack, Larry E. Craig, Strom Thurmond, Gordon H. Smith, Kay Bailey Hutchison, Jesse Helms, Christopher S. Bond, Thad Cochran, R. F. Bennett, Bob Smith, Ted Stevens.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 25, a bill to reform the financing of Federal elections, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 53, nays 47, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—53

Akaka	Feinstein	Lieberman
Baucus	Ford	McCain
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Breaux	Hollings	Murray
Bryan	Hutchinson	Reed
Bumpers	Inouye	Reid
Byrd	Jeffords	Robb
Chafee	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Collins	Kerrey	Snowe
Conrad	Kerry	Specter
Daschle	Kohl	Thompson
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden
Feingold	Levin	

NAYS—47

Abraham	Faircloth	Mack
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Coats	Hatch	Shelby
Cochran	Helms	Smith (NH)
Coverdell	Hutchison	Smith (OR)
Craig	Inhofe	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thurmond
Domenici	Lott	Warner
Enzi	Lugar	

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 47.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT—MOTION TO PROCEED

Mr. LOTT. Mr. President, I move to proceed to S. 1156, the D.C. appropriations bill.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DASCHLE. Mr. President, is this a debatable motion?

The PRESIDING OFFICER. This is a debatable motion.

Mr. DASCHLE. Mr. President, I want to be heard on the issue, if I can. In essence, what we are doing here is pulling the bill. We are now stating that, at least for the purposes of this week and perhaps this session of Congress, debate on the campaign finance bill is over.

We are not prepared to accept that. I think we ought to have a good discussion this afternoon about whether we really want to do that. Do we want to pull this bill and go to the District of Columbia appropriations bill? I would say that at least every Member on this side of the aisle, and perhaps some on that side of the aisle, are not prepared to do that. So we are not prepared to have that vote right now, and I hope we will have a good discussion about it, a good debate about whether it is in our interest to do so.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I will not object for the purposes of giving the majority leader the opportunity to respond.

Mr. LOTT. Mr. President, I thank the minority leader for doing that so that I can respond to his comments. First of all, let me tell Members where we are on this. The D.C. appropriations bill would be the pending issue. We do have a cloture motion that we filed on that. We would have a vote on that not before 4 o'clock. There is still a chance we would get an agreement between Senator MACK, Senator GRAMM, and Senator GRAHAM of Florida on the immigration issue, and then we would have one other pending amendment. I believe it is the Coats scholarship amendment for the District of Columbia.

I believe those are the only two pending issues we would still have to dispose of on the D.C. appropriations bill, and then we would be able to go to final passage. That would be the last of the 13 appropriations bills, and then we could go on to conference on that and, hopefully, get all of these conference reports done before the continuing resolution runs out on the 23d, I believe, of this month. I wanted to make sure Members understand what we are trying to do here—go back to the D.C. appropriations bill.

Now, with regard to the issue that we have been debating and the votes we just had, those two cloture votes that we just took, in my opinion, put an end to campaign finance reform at this time. They end the drive for phony reform, the kind that rigs the law in favor of one side or the other. They end

the partisan game plan that treated the Constitution and the right of free speech guarantees as technicalities to be gotten around. That was the worst aspect of this year's effort to rewrite Federal campaign law, this willingness to abridge one of the fundamental freedoms of the American people.

Earlier this year, to my amazement, 38 Senators actually voted to change the first amendment so that the Congress or a Federal agency could limit free speech. I never thought I would see that day arrive. Now, those 38 Senators have been joined by others who would not explicitly repudiate the first amendment, but they would in fact change it. I think that is a very serious challenge to the Constitution.

What we have here is an effort to change the subject, to change the laws, where the laws we have on the books have already been broken. We do not have a consensus yet on how to proceed on this issue. We will be back on this issue some day. But I want to say again that until we do something about the paycheck equity issue, allow people to have some say over how their dues are used, and make sure that all campaign contributions are voluntary, I don't see how we can ever resolve this issue. So I feel good about what we did today. I think we did the right thing for the American people, the right thing in protecting free speech. Now we can move on to other issues, and we can continue to have other debate and other votes on this on other days.

But as for now, I think we did the right thing. I am proud the Senate didn't turn its back on the Constitution. Just yesterday, the Supreme Court ruled that you cannot limit free speech, you cannot limit advocacy issues in campaigns. We may not like it, but in America you should have a right to say how your monies are used. You should have the ability to express your position on an issue or on a candidate.

So I hope that we can mend some of the problems that have developed and go on and do our work on a lot of important issues, and perhaps some day we can find a way to have an opportunity to come together on this issue.

I yield to the Senator from Oklahoma for a question, without losing my right to the floor.

Mr. NICKLES. Mr. President——

Mr. KERRY. Regular order, Mr. President.

Mr. NICKLES. The majority leader has yielded so that I may ask a question. Your request was to move to the District of Columbia appropriations bill. Correct me if I am wrong, but that is the last appropriations bill we haven't passed. We passed the other 12, and we passed a continuing resolution. The continuing resolution will expire on the 23d of this month. So it is your hope that we can dispose of the District of Columbia appropriations bill, hopefully, tonight; is that correct?

Mr. LOTT. That's correct.

Mr. NICKLES. And dispose of—I believe there is the Coats amendment pending and also a Mack proposal pending. So if we can dispose of both of those amendments, finish the District of Columbia appropriations bill, let it go to conference, and hopefully work out the differences with the House on that and several other conference reports, as many as possible this week, hopefully complete all those by the 23d, maybe we won't need a continuing resolution. It looks like there may be a couple of bills that we may not be able to finish by the 23d. It is your hope that we can finish the D.C. bill tonight?

Mr. LOTT. That's correct. I believe we can. I understand that the interested Senators, on a bipartisan basis, have come very close to an agreement. I think we may have an answer within the hour.

Mr. NICKLES. The majority leader made some comments on the campaign finance reform and paycheck protection. I know my colleague the minority leader said he wanted to have more discussion. I will tell my colleague that I would like to visit about that a little bit more as well. I think every American should be guaranteed the right to say whether or not they contribute to a campaign. I can't imagine that any employees have money taken away from them on a monthly basis without their consent. I think that is un-American.

I personally inform the majority leader and tell my colleague from South Dakota, I think it is a very fundamental question of freedom, and I feel very strongly about it. I am happy to discuss that with our colleagues and, hopefully, figure out a way to pass it. Two or three of my colleagues say maybe it should be amended. I am happy to discuss that with them as well. I never said it was perfect. I think we should have a fundamental question of fairness. Should we not have the right or the opportunity to make sure that everybody that contributes to a political campaign does it on a voluntary basis?

So I appreciate the majority leader's responding to my question. I know he wants to set this aside as far as campaign reforms and pass the appropriations bill. I concur with that.

But just to ask the majority leader a question, does he agree with me that every American should have the right to be able to contribute to a campaign on a voluntary basis?

Mr. LOTT. It is such a fundamental, basic right, I really can't understand why there is such resistance to it in campaign finance reform. Frankly, all employees, whether they are union members or not, should have the right to say how their dues or fees are used, and it should not be done without their permission.

Mr. McCONNELL. Will the majority leader yield for a question?

Mr. LOTT. I yield to the Senator from Kentucky for the purpose of a question, without losing my right to the floor.

Mr. McCONNELL. Well, Leader, let me just ask if you are familiar with the cloture vote we had on this issue last year. I was asking the leader, since I am compelled to ask a question, if he is familiar with the cloture vote we had last year.

Mr. LOTT. I believe I am familiar with it, and I believe that the vote we just had, as a matter of fact, was a better vote in defense of free speech than we had just a year ago. After all the pressures and all of the media hype on this issue, as a matter of fact, the Senate voted by a stronger margin for free speech and for union members being able to have a say on where their dues would go.

Mr. McCONNELL. I say the majority leader's memory is excellent. In fact, the vote against cloture and the vote to defend the first amendment was better this year than it was last year, in spite of all of the effort that has been made to undermine fundamental free speech in this country. So I commend the majority leader for his leadership, and we look forward to defeating this measure at any time it may be offered to the Senate.

Mr. KERRY. Will the majority leader yield for a question?

Mr. LOTT. I yield to the Senator from Massachusetts for the purpose of a question, without losing my right to the floor.

Mr. KERRY. I ask the majority leader if it is a fact that, under the procedures of the Senate, this bill, the D.C. appropriations bill, would have been the regular order of the Senate, so it was unnecessary to move to proceed to the D.C. appropriations as the regular order, except that by moving, as the majority leader has, he has in effect taken the campaign finance reform bill and put it back on the calendar, which essentially removes it from the capacity of automatically coming up again before the Senate; is that an accurate description of what has happened parliamentarily?

Mr. LOTT. I think that is an accurate description of what is happening parliamentarily. We have had parts of 7 days of debate. We have had two votes on this issue. As I said, it is obvious that a consensus has not been reached. We have other important issues that Members want to come up and debate. I accommodated advocates of the campaign reform bill, and we have had the debate they wanted. It came up early, not later.

Now we have other issues we need to deal with. We need to deal with the District of Columbia appropriations bill, so that it can go to conference and hopefully go down to the President. A

lot of work has gone into that bill this year to try to help the people in the District of Columbia. Do we want the District of Columbia appropriations bill to die here and be folded in some form or another in some CR at some point?

I know the Senator from Massachusetts would like to see us do Amtrak reform so that, as a matter of fact, the funds we have identified, a flow of funds for Amtrak, can go forward. If we don't get the reform authorization language, the money will not be released. That is going to get to be a serious problem. We see the possibility, or even the probability, of a strike facing Amtrak later on this very month. It seems to me that we need to address some of those issues so that we can have adequate funding for Amtrak. I know the Senator from Massachusetts wants that.

The President of the United States indicated to me through top staff officials on Monday morning that they hope we will vote on this issue and then move on to other issues, including the fast-track trade agreement. We have a lot of important work to do. I just said a moment ago that I don't think this is the last time we are going to talk about campaign finance reform. Maybe some day we can sit down and see what we might agree on. We are certainly not going to agree to a situation that gives up any American's right to free speech and that forces other citizens to pay, against their wishes, for campaigns they don't support.

So you are right that our purpose here is to get off of campaign finance reform for now and go to the District of Columbia appropriations bill. I believe if we can do that, we could probably finish today. The next order of business I would like to try to go to is the ISTEA transportation infrastructure bill. That, too, is a bipartisan issue that Senator DASCHLE and I have talked about. Senator MAX BAUCUS is working on it, along with Senator CHAFEE. There is a bipartisan group, and they are ready to go. In that case, the Senate needs to provide a little leadership because the House hasn't been able to pass a bill. They passed just an extension. We can pass a 6-year bill with a formula that would be fairer overall. There will be some disagreements on that. Until we get started, we are never going to resolve them.

Mr. KERRY. Mr. President, if I can continue, let me say to the majority leader, I think all of us have been sensitive to the needs of the Senate to do the business of the Senate. We have set aside the campaign finance reform in order to do that at any time that it was important. But there is a very big distinction between taking this off the calendar in a way that prohibits us, if we were to reach agreement, from returning to it immediately or from really deliberating on it.

I ask the majority leader, would he be prepared, if Members on both sides were to discuss in the next hours some kind of approach that we weren't permitted to vote on, we weren't permitted to actually legislate on, but which might resolve this question of how you provide people the free choice with respect to their dues or otherwise, in a fair-minded way? Would the majority leader be prepared, if Members on both sides believe there is a solution, to bring this back for a vote in order to deal with that?

Mr. LOTT. Well, when we have a solution even in distant sight that would be fair and would not restrict Americans' ability to participate in the election process, a system that is a fair one, then certainly I am always amenable to talking further. My record is replete with examples where I said, I think there is hope, let's work. But on this issue at this time, that hope is not there. There has been no real movement in that direction. So I don't foresee that happening.

The Senator from Massachusetts was one of the ones who said, "Are you going to bring this up early, or are you going to wait until the last day of the last week of this session?" I said, no, I didn't want to do that because I didn't want us to end up on this issue without having the time to talk about it. I thought about it and I said, as a matter of fact, let's go ahead and get started because I thought there was a window of opportunity in here to have the debate, which we did for some 23 or 24 hours, on campaign finance reform. So I said, let's do it now. But I think it would not be good faith, after all that, to want to do it again next week, and every day we are in session, and the last day we are in session. I don't think that is in good faith either. That will wind up affecting everything else we need to do.

We have had a good debate. We know that right now there is not a consensus. But if we begin to move toward one that is not partisan, that is fair and does not limit free speech, I am always willing to see what we can agree to.

Mr. KERRY. One last question with a very quick response. The Senator from Massachusetts contemplated the Senate doing what the Senate is supposed to do, which is legislating, voting. We have not voted on one amendment. We have not permitted one issue to come to the real deliberative efforts of the Senate, which is through a vote. I think the Senator knows that.

So my question would be, if there is this kind of solution, will the Senator permit it to come to a vote—if it were a majority of the Senate that had come to that conclusion, a majority of the Senate?

Mr. LOTT. I cannot help but be reminded of some of the speeches I heard the former majority leader from Maine, Senator Mitchell, make on this floor. When a Senator would object to his procedures, he would reply that the Senator understands how the Senate operates; the Senator understands that in the Senate it quite often requires 60 votes, not 50 or 51 votes, to take action; the Senator understands that being deliberative doesn't mean having multiple votes.

We could have had amendment after amendment after amendment and be on this subject for the rest of this month. But there was no consensus. There is no consensus. The truth of the matter is that the other side feels that, if they do not limit free speech, the bill is not worth having. We, on the contrary, feel that if people can't have control over how their contributions are used or their dues are used, the bill would not be fair.

But, as I have said before, we will keep working on this. And I am always amenable to suggestions. I have been talking to Senators this very morning about that.

I yield to the Senator, if I can. Let me yield to the Senator from Pennsylvania, then I will come back to this side, for a question.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Pennsylvania.

Mr. SANTORUM. Thank you. I thank the leader.

I just wanted to ask a question. The Senator from Massachusetts talked about the job of the Senate as it moves forward on legislation. I just wanted to harken back to his statement about FDA reform, and what has been done by some people trying to block consideration of FDA reform and comptime-flextime. If you will correct me, I believe it is still on the calendar at this point because we do not have 60 votes to move forward with the comptime.

Mr. LOTT. As a matter of fact, on flextime, that is the pending business. And, under certain circumstances this week, we could end up back on that bill, which will suit me fine.

Mr. SANTORUM. Is it not the fact that we will not be able to get 60 votes on comptime-flextime, and as a result we have not been able to move forward with that piece of legislation, which, as we have just been told by the Senator from Massachusetts, is the business of the Senate? We have not had that debate yet.

Mr. LOTT. I believe, in answer to the Senator's question, that the majority of the Senate thinks there should be an opportunity for workers to be able to take time to be with their children, or to do whatever they might need to do—for the PTA or for their own health reasons. The U.S. Senate could, by a majority vote, allow that to happen, but instead the bill has been filibustered. Since we have not been able to round up 60 votes, it still is pending on the calendar.

Mr. SANTORUM. My understanding is that the major opposition to the comptime-flextime—you can tell me—the major opposition that is moving is on the other side of the aisle, and talking to those Members to block the comptime-flextime bill from coming up for consideration.

Mr. LOTT. I know there has been a lot of interest by the Senator from Massachusetts, Senator KENNEDY, about that. And I know he had problems with the Food and Drug Administration reform package, which, by the way, passed with a bipartisan vote, overwhelmingly, to cut off his filibuster. We voted, I think, twice to cut off the filibuster, and I understand it passed 98 to 2. It took us a month to get it done.

Mr. SANTORUM. Can the Senator say what outside organizations are principally opposed to the comptime-flextime bills being considered here?

Mr. LOTT. I believe the AFL-CIO. I think it would be helpful if we could check with their members because I think the members would like to have a say about the denial of their comptime-flextime.

Mr. SANTORUM. With respect to the Lott amendment on paycheck equity, what outside organization is blocking the consideration of that? In fact, what outside organization is a major opponent?

Mr. LOTT. That legislation to allow for voluntary contributions to campaigns so that workers are not required to pay dues as a condition of employment and then have those dues used for political candidates. Our amendment to fix that problem has been opposed by the union bosses. But yet the union members in the country, when they find out that their dues are being used for political purposes without their permission and without their knowledge—the ones I talk to—are irate. They say, "I want the opportunity to decide. I may want to give permission. I might want to check it off and say this is fine."

But in America shouldn't you have the ability to say that? Shouldn't you have the choice about how your own moneys are used as a condition of employment?

Mr. SANTORUM. I would also ask the question maybe in a little different light.

Let me ask this question. My question is, can you come up with a reason why someone would want to be debating the changing of the underlying law with respect to campaign finance at a time when there is another debate going on out here about violations of current existing law? Can you possibly postulate for me what you think the motivation of some might be to question the underlying existing law of campaign finance in the face of overwhelming evidence and even new evidence that has come out, as recently as other day, that there are existing violations of campaign finance law? Could you answer for me or postulate for me what the reasons are that someone may want to divert attention away from a debate and examination of the breaking of existing campaign laws to talk about something completely unrelated, which is changing the existing law?

Mr. LOTT. I said in my speech a week or so ago that what really bothers me here is people saying, "My goodness, the laws which we wrote have been broken and, therefore, we should change them." And what new laws do they propose? Laws that restrict free speech, in the McCain-Feingold proposal as it now stands. There are provisions in that with regard to advocacy, or advocating an issue, or advocating even a candidate. The Supreme Court just yesterday refused to review the lower court which said you can't limit that.

Our paycheck protection amendment has been called a "poison pill." Since when is it a "poison pill" when you have an amendment that says the American people should have a say about how their money is used?

I think that is a very strange description of a very fundamental freedom and right I thought we still had in America.

Mr. SANTORUM. If I could ask one additional question, do you find it ironic that on the day in which we have campaign finance hearings in the Governmental Affairs Committee, talking about the legal activities at the White House with the Democratic National Committee, that Members of the Senate here on the other side of the aisle want to focus on a completely different issue which has to do with changing the existing campaign? Do you think there is some sort of strategy involved here? I am just curious as someone sort of on the outside.

Mr. LOTT. It appears to me there might be some thinking along those lines. But, you know, I, at this point, don't want to question the motives of others.

I appreciate the questions that have been asked, and I would ask consent that after the Senator from South Dakota speaks, that I be able to regain the floor to continue this discussion.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the Presiding Officer.

Mr. President, let me respond to a couple of the matters raised by my distinguished majority leader.

First of all, with regard to the District of Columbia appropriations bill, there is no reason why the majority leader could not have simply called for regular order. By calling for regular order, the D.C. appropriations bill would have been on the floor. We would not have had to put the campaign finance reform bill back on the calendar.

So no one should be misled by that sleight-of-hand. It is very important that everyone realize what happened. The majority leader pulled the bill, put it back on the calendar, ostensibly so we could come back to the District of Columbia appropriations bill. But that wasn't necessary because the regular order is the District of Columbia appropriations bill. So we could have achieved what the majority leader said he wanted to achieve simply by going back to the regular order.

Mr. President, I hope everybody realizes that is the reason Democrats have found the decision of the majority leader questionable today. Why would we do that if, indeed, we are going to be going back to cloture votes tomorrow and to cloture votes again on Thursday?

I have heard several of my colleagues say that it is the American way to ensure that every single person voluntarily participate in the political process, and, in so protecting the voluntary nature of that participation, it is critical that unions provide for some mechanisms to refund that portion of the payment dedicated to political activity within each union. That is the American way to have that opportunity.

I do not want to debate the so-called Lott amendment at length. But I certainly expect that they would then support that same freedom—that same voluntary spirit—when it comes to the mandatory collection of political resources from corporations, from organizations, and from all other entities involved in the political process. If it is good for one, it has to be good for the other.

With regard to having a full and fair debate about that, I don't know what could be more full or more fair than to bring up the bill separately and have a good debate—an all-out debate about it.

Let's have a debate with amendments on whether or not we want to expand it, whether, indeed, it is a good idea.

But I get back to why this is going on. This is going on not because people are concerned about freedom, about free speech. This is going on because it is a poison pill, because we know as long as we are in this situation we are never going to get to campaign finance reform.

So I hope everyone understands what this is all about. The majority leader says there isn't a consensus. I will agree today there are not 60 votes on the bill, but we are getting closer to a consensus on a lot of these other issues.

Mr. President, let me just say, given this poison pill, campaign finance reform probably choked a little bit today, but it did not die. It is alive. It

is well. And it may choke a little bit more as they try to shove it down the throat of the whole campaign finance reform concept, but I will tell you this. Campaign finance reform will not die until it is passed. It will pass. I do not want to be in a situation to amend other bills, but that is exactly what we will be forced to do if we are not able to deal with this in a constructive way.

So I just hope that Republicans and Democrats can work through these obstacles, that we can rid ourselves of the poison pill and debate it as an issue as we should but then allow the Senate to work its will on campaign finance reform in a meaningful way. I hope we can do that.

Mr. DORGAN. Will the Senator yield?

Mr. DASCHLE. I yield to the Senator from North Dakota.

Mr. DORGAN. I appreciate the Senator from South Dakota yielding. I would like to ask just a couple brief questions.

The majority leader has consistently this afternoon indicated there has been a rather full and extensive debate on campaign finance reform. Isn't it the case that exactly the opposite is true? The master illusionists in America are those who are able to convince people that they have seen things that do not exist.

Isn't that what we have here? We have had a debate on campaign finance reform, we are told. Isn't it the case, I ask the Senator from South Dakota, that the campaign finance reform bill was brought to the Senate in a very complicated set of almost Byzantine procedures that are called filling the tree so that no one else had an opportunity to do anything to amend this bill, and that under the procedure that existed the bill was debated, but no one, save the majority leader, was able to offer one single amendment?

Isn't it the case that we had what is called an illusion? I think this is an illusion to convince people to see things that do not exist.

I think people will see what happened here, a procedure that ties up the Senate, allows no one to offer any amendments, and then a claim, trying to pull the bill from the floor, that we have had a debate on campaign finance reform. Is that an accurate description of what has happened in recent days?

Mr. DASCHLE. The Senator from North Dakota is exactly right. That is the description. We have spent a lot of time on it. But ask any Senator in this Chamber whether they have had an opportunity to offer an amendment, to talk about differences that we might have with the McCain-Feingold bill per se. We have all indicated that we are willing to support it, but there have also been a lot of indications on the part of many Senators that they would like to improve upon it, they would like to change this or that. It is the nature of this body to have a good debate about what is the most appropriate language, what is the most appropriate provision with regard to these questions. We have been denied that.

So while we have had good speeches—I have heard some great speeches, even some exchange—we have not had a debate, not a debate in the true sense of the word where Democrats and Republicans can walk down to the floor, offer an amendment, have a good vote, go on to the next amendment, have an exchange. That has not occurred.

Mr. DORGAN. If I might just ask two brief additional questions.

Isn't it the case that on the cloture vote on the underlying bill, the McCain-Feingold bill, 53 Members of the Senate voted for cloture, which suggests that 53 Members of the Senate support this bill? So we have a campaign finance reform bill that has the support of the majority of the Senate and a procedure designed to prevent the Senate from having a vote on it. Is that not the case that we now face?

Mr. DASCHLE. The Senator is absolutely correct. The majority of the Senate has now gone on record in support of the bill as it is pending before the body, and we have been precluded the opportunity to vote up or down on that bill.

Mr. DORGAN. I know the Senator has another engagement, but let me ask one final question. Isn't it the case now that the pending business in this Chamber was campaign finance reform and the majority leader is asking by motion to go to D.C. appropriations and that those who decide to vote to do that are voting to pull campaign finance reform? If that is the case—and I guess it is procedurally—I think we ought to have a debate about that. I think we ought to have a vote on it, we ought to find out who in the Senate decides to vote to pull campaign finance reform from the floor of the Senate before we have had the first amendment offered to that bill.

Why haven't we had an amendment offered? Because this bill was tied up tight, brought to the floor with the design and a boast by some that they are going to kill it and be proud they killed it, and they are going to put this in a position where someone else filibusters and gets the blame for killing it.

This is clearly an illusion. And isn't it the case that the vote we are going to be asked to take—and I hope it is a record vote; you have already asked for the yeas and nays—will be a vote on whether we believe we should pull campaign finance reform from the floor of the Senate? I am going to vote no, but isn't that in fact the vote we are going to have?

Mr. DASCHLE. I think the Senator from North Dakota describes it accurately. We don't think——

Mr. LOTT. Mr. President, will the Senator yield for a question to the Senator from North Dakota?

Mr. FORD. Let him answer his question.

Mr. LOTT. I will be glad to wait.

Mr. DASCHLE. I will be glad to complete my answer and yield to the majority leader.

The answer is clearly yes. We don't believe that this is time for business as usual here, that we simply pull the bill after we debated it, as we have now for some 23 hours, if you can call this a debate. Simply to pull the bill without any resolution on the issues is a very difficult thing for many of us to accept. So the Senator is absolutely right. Our preference would be to stay on this bill. Let's see if we can finish it. We hope we can finish the D.C. appropriations bill, too. We have attempted to do that, but clearly we have to move on with subsequent votes on campaign finance reform.

I would be happy to yield to the majority leader.

Mr. LOTT. I will just wait, if the Senator is about through with his comments. I will just go ahead and respond.

Mr. DASCHLE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I thank the Senator from South Dakota for allowing us to have this discussion to go back and forth, but I want to point out to the Senator from North Dakota that the same rationale that he used also applies to the amendment that I had offered, the paycheck equity amendment; 52 Senators voted to invoke cloture so that we could go ahead and get a vote on that issue, as a matter of fact. So a majority of the Senate feels very strongly about that.

Mr. DORGAN. Will the Senator yield on that point?

Mr. LOTT. It seems to me that sometimes maybe even the White House knows more about the rules of the Senate than some of us around here.

As a matter of fact, when the White House spokesman, Mr. McCurry, was asked about how the vote would come in the Senate, he was asked, "Well, what if there is a filibuster?"

Mr. McCurry said, "Well, then there would be a filibuster and there would be a cloture vote and then they would move on."

"But if they don't get 60 votes, that wouldn't be a vote."

"It would be a vote. That's the way the Senate rules work. What else?"

"Does the vote of 60, is that considered a vote?"

"Mr. McCurry. A vote to limit debate by invoking cloture is considered a vote under Senate rules, yes, the last time I checked."

Mr. DORGAN. Will the Senator yield?

Mr. LOTT. Mr. McCurry seems to know more about the rules than some of us around here.

Mr. DORGAN. Will the Senator yield?

Mr. LOTT. But the argument again that 53 Senators voted for cloture on the underlying bill applies the other way, too; 52 Senators voted for cloture on the amendment that was pending.

Mr. DORGAN. Will the Senator yield for a question?

Mr. LOTT. I will be glad to yield.

Mr. DORGAN. No one is suggesting, certainly not me, that the Senator has not followed the rules. The Senator has used the rules exactly as he desired to use the rules to bring this bill up, fill the tree, prevent it from having amendments, have a cloture vote, and kill the bill. This Senator understands that. I have been curious about why the majority leader would not allow a motion to table. We understand that there was not an interest in allowing a motion to table the Lott amendment to be offered this morning.

In fact, the Senator in a rather unusual move last evening put us in morning business all morning. Our expectation was we would be able to have a motion to table. I wonder if the Senator would tell us why that was inappropriate or whether he would allow us the opportunity to offer a motion to table the Lott amendment at some point.

Mr. LOTT. In response to the Senator's question, as a matter of fact, I had been indicating all along that we would have full debate on this, we would have cloture votes. If cloture was achieved, then we would move on from there. If it was not, then we would go to other legislative business.

As a matter of fact, I had to file the cloture motion last week, I guess it was last Friday, so we could have these cloture votes. As a matter of fact, as to morning business, I have lots of Senators who come in and say: We have very important issues we want to talk about. Can you set aside an hour or some time, even 2 hours, for morning business?

Yesterday afternoon I came down to the floor. No Senators were waiting to speak on campaign finance reform. One Senator was waiting to speak on another issue, and so we went into morning business where Senators could speak up to 5 minutes on any other subject they wanted.

So if I could go on at this point, does the Senator from Utah have a question he would like to ask?

I yield for a question.

Mr. BENNETT. I would like to ask the majority leader a question regarding the Lott amendment about which we have heard some ex post facto debate here. Is it not true that under the Lott amendment corporate employees who are not members of the union also would be required to give their permission before their money could be used?

Mr. LOTT. That is absolutely true, a little point that seems to be ignored in many circles around here. As a matter of fact, I don't think any worker, whether he or she is a union member or nonunion member, should be compelled to have their dues or fees or assessments or in any way have to pay without their permission for politics or for a political candidate. I think it should be applicable to workers at all levels. And so I purposely included that.

Some people say, "Well, you went beyond the Beck decision of the Supreme Court." Yes, that is one of the key places where I did go beyond the Beck decision. I said this voluntarism should be applicable to all employees, all workers. So clearly that is a part of the amendment as it now stands.

Mr. BENNETT. Now, if I could further query the majority leader, on this issue of equality between workers and shareholders and the suggestion that corporations that are involved in giving soft money are taking money involuntarily from the shareholders, is the majority leader familiar with the shareholder boycott movements that occurred, oh, some decade or so ago, people who would sell their shares of stock in companies that did business in South Africa, for example?

Mr. LOTT. I am familiar with that, and I know of the Senator's background in business as a corporate executive, and he knows all too well that stockholders, shareholders, have a very strong voice in what happens, and that voice is by buying or not buying more stock or by selling what they have and putting it somewhere else. They can choose where they put their money. What a wonderful American procedure that is. But it is one that we value very much.

Mr. BENNETT. I would say to the majority leader before my next question, I have been called by brokers who have told me what a marvelous investment a particular company is. And I said, "But they sell cigarettes, and I don't want to put my money in a company that sells cigarettes." And I was told, "Yes, but they're mainly in cookies and biscuits and other kinds of food." And I said, "No, I am making a decision as to whom I will support with my investment dollars, and the company that's in the tobacco business is not one I want to support with my money." I don't attack people who support it with their own money, but I make my own investment decisions. I have heard people say the same thing about entertainment companies, saying they don't want their money in the entertainment company that produces a particular movie, and whatever.

But this is the next question I would like to address to the majority leader. The distinguished minority leader talked about campaign finance hitting a bump in the road today but saying it was not dead, that the Senate had hit it but not killed it.

Is it not the opinion of the majority leader that the biggest bump that McCain-Feingold has hit is not the vote in the Senate but the vote in the Supreme Court? When the Supreme Court took action with respect to denying cert to a lower court ruling, did the Supreme Court not in fact inflict a much bigger blow on McCain-Feingold than the vote we took today? And if, indeed, we had passed it today, is it not now clear the Supreme Court itself would gut the bill?

Mr. LOTT. I think it is obvious that that would be the result. Now, there are those who have been saying, well, you never know how the courts are going to rule until they look at the specific language or until they have in fact ruled. Right in the middle of the debate on McCain-Feingold, the Supreme Court spoke clearly, once again, and said you cannot limit people's speech. You cannot limit advocacy. You cannot limit groups that want to take a position on an issue. It was really interesting that ruling did come just yesterday of this week.

Mr. BENNETT. Would the majority leader not concur, then, that it is a better use of the Senate's time to be debating appropriations bills at this point in the fiscal year than worrying about legislation that is clearly unconstitutional? Don't we have a responsibility, when something is clearly unconstitutional, to get off of it and move onto something more productive?

Mr. LOTT. It would appear to me to be the case. If the Senator will allow me, I would like to ask that the cloture vote scheduled for today now occur at 4 p.m. I would say to the Senate that I have just notified the minority leader of this request, therefore the next vote will be 4 p.m. today on the motion to invoke cloture with respect to the Mack-Gramm immigration amendment to the D.C. appropriations bill.

The PRESIDING OFFICER. The leader has that right.

Mr. LOTT. Does the Senator wish me to yield further?

Mr. BENNETT. I thank the majority leader for his courtesy. I have no further questions.

Mr. LOTT. As I said here last week, I think protecting citizens against forced political contributions should be the litmus test for the sincerity of this debate. Anyone unwilling to do that cannot be taken seriously as an advocate for reform. The fact is that the advocates of McCain-Feingold decided that legislating about campaign finance reform was less important than maintaining the system of compulsory campaign contributions by employees. And, so, rather than allow their own legislation, the present form of McCain-Feingold, to go forward, they brought down the roof of the whole temple on their own bill. At least Samson had reason to wreck the place. But I don't think that should be the case

here. They are so determined to limit workers' ability to say where their dues or their fees are going to be used, and how, that they are willing to have the whole issue set aside.

So we stand here, now, in the midst of this scuffle, but maybe the things we are finding out this very day about what happened in the 1996 campaign will have some future effect on what we decide to do. Belatedly, now, we see these videotapes brought forward, showing White House coffees. Even more belatedly, we understand, now, that there is an audio track of the President's meeting with John Huang on June 18, 1996. Where have these tapes been? Why haven't we known about this before?

When it comes to campaign finance, the administration gives a whole new meaning to the term "technical problems." Only a few days ago, while those White House videos were not available—or maybe people weren't aware of them—the Attorney General had been moving away from an independent counsel, not toward it.

So, I once again have serious problems with trying to detect who is serious about legitimate campaign reform. What we have here is not a lack of restrictive campaign laws. In fact, I think that is a big part of the problem. We already have more laws, more restrictions, more regulations than the mind can contend with. I think we have been making mistakes over a period of years in the writing of campaign laws, where now it takes lawyers and CPA's and FEC experts to try to make sure that a candidate for office, of either party, is complying with the law. What we have is a lack of enforcement of the existing laws. So, the push has been to say, well, there may have been some problems, maybe some laws were broken, so what we need is new laws. I respectfully disagree with that.

We are not going to go forward in a way that is unconstitutional. We are not going to go forward in a way that does not deal with this problem of the taking of dues from workers and using them for political purposes.

I just came across an interesting quote attributed to former White House Deputy Chief of Staff, Harold Ickes. This is actually a quote from Michael Louis, in the New York Times magazine. He says that the Deputy Chief of Staff will tell you, point blank, that President Clinton does not care about campaign finance reform, that he is using the issue for his own purposes, none of them altruistic. I think that sums up what is going on here and I think the American people should not allow themselves to be fooled by the debate that we have been hearing over the last week.

I yield further to the Senator from Kentucky for a question.

Mr. MCCONNELL. Yes, I wanted to ask the distinguished majority leader if he was aware that there had been some survey data actually taken of employees, union employees, assessing their attitude about their dues being taken, in effect, and spent on causes with which they disagree?

Mr. LOTT. I am aware that there have been some survey data. I am trying to remember what the numbers were. I believe—perhaps you will have them—in one instance it was 62 percent; in another it was 78 percent.

Mr. MCCONNELL. I think the 78 percent figure the majority leader refers to is the one that I saw; 78 percent of workers would like to have an opportunity, up front in advance, to make the decision on whether or not they contribute, in effect, to a political cause; fundamental American right. That is what the leader's amendment would have provided, not just for union members but employees of corporations who are not union members, and of course any shareholders who are aggrieved have the option to sell the shares, if they object to any political donation of a corporation. So I commend the majority leader.

Mr. LOTT. I would like to make another point. Perhaps the Senator might want to respond with a question on that, or comment.

I didn't just dismiss the McCain-Feingold bill out of hand. I sat down with the Senator from Arizona and we went over what was in his bill. One of the problems with it is how he deals with this paycheck equity issue. His bill, as I understand it—maybe you can correct me—says, in effect, that after an election is over, if a member decides that he or she would like to get their dues back because the money was used in some way he or she didn't agree with, then they could get it back.

Great. You have already had an election. Somebody has already been bombed with millions of dollars of money that is used against union members' permission, and then they can say, after the fact: If you are mad, you can get your money back. I don't understand the rationale for that thinking.

Mr. MCCONNELL. The majority leader is absolutely correct. That provision would have only given an employee who decided he didn't like it an opportunity to write in and get his money back after it was over—wholly inadequate, I would say to the leader, wholly inadequate.

Mr. FORD addressed the Chair.

Mr. MCCONNELL. The real decision is, do you—are you asked in advance whether or not you want to contribute your hard-earned money to a group that may go out and spend it on causes with which you disagree?

Mr. FORD. Mr. President, I don't mind listening to this debate but the floor is in the possession of the majority leader and he yielded for a question, not a statement.

Mr. LOTT. Mr. President, in case the Senator from Kentucky or the other Senator from Kentucky or any other Senator would like to speak—we will have a vote at 4 o'clock, but in order for them to make some comments if they would like, I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I just want to thank the distinguished majority leader for his leadership on this very important issue. In the judgment of this Senator, there is nothing more important than protecting the first amendment and giving American citizens an opportunity to participate in the political process.

I would say that is not just my view. That is the view of the United States Supreme Court. It is the view of the American Civil Liberties Union. The Court has said you have a constitutional right to support, to contribute to the candidate of your choice. So we are talking about fundamental first amendment rights in this debate.

I also want to take this opportunity to thank my colleagues who have spoken during the course of this debate. The number of speakers has been roughly equal on both sides. Every one of the Senators who spoke on my side of this issue spoke in defense of the first amendment.

I also extend my gratitude and my appreciation to Tamara Somerville, my long-time assistant in this struggle to protect the first amendment. Nobody has ever worked harder, produced more brilliant subject matter, and done it with greater humor than she. So, my thanks to Tam, not only for her good work for me but also on behalf of the country, in defense of the first amendment.

I also want to thank her assistant, Lani Gerst, who did a remarkable job as well, for all of her help.

Mr. President, it has indeed been a wonderful debate. We will in all likelihood have it off and on again. It seems that is the history of this issue. It has been around a few times over the last 10 years, but I think the opposition to ruining the first amendment continues to grow. Today's cloture vote against cloture was the highest in 10 years.

So, I end today on an optimistic note, that the first amendment will, indeed, survive for another year.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I hear a lot of interesting talk. It amuses me some but it also bothers me. In the hearing in the Governmental Affairs Committee today—we heard the majority leader talking about tapes. They don't want to impugn the integrity of the President, but they kind of scorn the tapes suddenly showing up. After everyone made a statement all morning

—never got to witness, talked about tapes all morning—they tried to get to Mr. Ruff, I believe his name is, who is the counsel for the White House, who came down to the meeting, came in the audience, and the ranking member tried to get him before the committee to answer their questions. And he was gaveled down and the committee recessed.

Something about this does not ring true. If you can come out here and just bash somebody and bash them, and they have no opportunity to defend themselves, and then you recess the meeting—something like that is what is happening here on the Senate floor. We see a campaign finance reform bill that comes up and we do what we refer to as filling the tree, and that means no one else can put up an amendment, and they say we have an opportunity to debate the bill? That is like the man trying to answer in the Governmental Affairs Committee about the tapes that were released, and they wouldn't let him talk.

So, we are trying to get to a campaign finance bill here today and you can't talk. Oh, you can talk, but you can't vote. And they talk about this amendment of the majority leader's, that is so great—why is it that they will not accept a more comprehensive bill in the same light that covers everybody? No, they want their own bill, because it is harder on labor than it is on business. It is harder on labor than it is on associations. So, that is the reason that amendment has been cloistered and we cannot get to it.

I understand we have a couple of more minutes. This is a little bit like they talk about the laws, that everything is fine. It is like being opposed to the IRS. Oh, we have had all these hearings about IRS, we are going to get rid of IRS, we are going to do all that—but the Republicans are in the majority. They are the ones who are bashing IRS. But they passed a bill, a tax bill, of almost 900 pages—900 pages, and they are trying to say we want to get rid of the IRS. Sure they are going to get rid of the IRS. They are going to overload them. When IRS is overloaded the constituents are overloaded.

Come on, now, give us a break. If you are against the IRS, don't pass 900 pages of new tax law. And, when a man wants to come to answer the questions that they are asking, let him talk, let him answer the questions. If you have an amendment that is comprehensive, that applies to all PAC's, all organizations, why not talk about it, why not let us vote on it? We are being gagged. We are being gagged by the majority. They don't want us to vote. They have the ability to do that. That is the rules of the Senate. I am in the minority. But we are going to protect the rights of the minority. We will protect the rights of the minority and that is the reason we are a great country, we listen to the minority's voice. We have a right and we exercise that right. We represent a State and we have that right, representing that State. We are U.S. Senators and we have that right.

So, therefore, that right is going to be exercised if I have anything to do with it and can stand on my feet.

I yield the floor at 4 o'clock.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. STEVENS). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Mack second-degree amendment No. 1253 to Calendar No. 155, S. 1156, the District of Columbia appropriations bill:

Connie Mack, Mike DeWine, Barbara Boxer, Bob Graham, Conrad Burns, Wayne Allard, Paul Coverdell, James M. Inhofe, John H. Chafee, Richard G. Lugar, Ted Stevens, Larry E. Craig, James M. Jeffords, Gordon Smith, R.F. Bennett, D. Nickles.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the Mack amendment No. 1253, as modified, to S. 1156, the DC appropriations bill, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 99, nays 1, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—99

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Allard	Ford	Mack
Ashcroft	Frist	McCain
Baucus	Glenn	McConnell
Bennett	Gorton	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Gramm	Moynihan
Bond	Grams	Murkowski
Boxer	Grassley	Murray
Breaux	Gregg	Nickles
Brownback	Hagel	Reed
Bryan	Harkin	Reid
Bumpers	Hatch	Robb
Burns	Helms	Roberts
Campbell	Hollings	Rockefeller
Chafee	Hutchinson	Roth
Cleland	Hutchison	Santorum
Coats	Inhofe	Sarbanes
Cochran	Inouye	Sessions
Collins	Jeffords	Shelby
Conrad	Johnson	Smith (NH)
Coverdell	Kempthorne	Smith (OR)
Craig	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Domenici	Landrieu	Thurmond
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Warner
Enzi	Levin	Wellstone
Faircloth	Lieberman	Wyden

NAYS—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 99, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. MACK. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. The Chair, in my capacity as a Senator from the State of Alaska, moves to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. The motion to proceed falls, and the clerk will report the pending bill.

The assistant legislative clerk read as follows:

A bill (S. 1156) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill

Pending:

Coats modified amendment No. 1249, to provide scholarship assistance for District of Columbia elementary and secondary school students.

Graham/Mack/Kennedy amendment No. 1252, to provide relief to certain aliens who would otherwise be subject to removal from the United States.

Mack/Graham/Kennedy modified amendment No. 1253 (to amendment No. 1252), in the nature of a substitute.

MODIFIED AMENDMENT NO. 1253

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MACK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays? There does not appear to be a sufficient second. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the modified amendment No. 1253. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—99

Abraham	Brownback	Coverdell
Akaka	Bryan	Craig
Allard	Bumpers	D'Amato
Ashcroft	Burns	Daschle
Baucus	Campbell	DeWine
Bennett	Chafee	Dodd
Biden	Cleland	Domenici
Bingaman	Coats	Dorgan
Bond	Cochran	Durbin
Boxer	Collins	Enzi
Breaux	Conrad	Faircloth

Feingold	Kempthorne	Reed
Feinstein	Kennedy	Reid
Ford	Kerrey	Robb
Frist	Kerry	Roberts
Glenn	Kohl	Rockefeller
Gorton	Kyl	Roth
Graham	Landrieu	Santorum
Gramm	Lautenberg	Sarbanes
Grams	Leahy	Sessions
Grassley	Levin	Shelby
Gregg	Lieberman	Smith (NH)
Hagel	Lott	Smith (OR)
Harkin	Lugar	Snowe
Hatch	Mack	Specter
Helms	McCain	Stevens
Hollings	McConnell	Thomas
Hutchinson	Mikulski	Thompson
Hutchison	Moseley-Braun	Thurmond
Inhofe	Moynihan	Torricelli
Inouye	Murkowski	Warner
Jeffords	Murray	Wellstone
Johnson	Nickles	Wyden

NAYS—1

Byrd

The modified amendment (No. 1253) was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, October 6, 1997, the Federal debt stood at $5,413,432,617,300.15. (Five trillion, four hundred thirteen billion, four hundred thirty-two million, six hundred seventeen thousand, three hundred dollars and fifteen cents)

Five years ago, October 6, 1992, the Federal debt stood at $4,060,002,000,000. (Four trillion, sixty billion, million)

Ten years ago, October 6, 1987, the Federal debt stood at $2,378,537,000,000. (Two trillion, three hundred seventy-eight billion, five hundred thirty-seven million)

Fifteen years ago, October 6, 1982, the Federal debt stood at $1,128,772,000,000. (One trillion, one hundred twenty-eight billion, seven hundred seventy-two million)

Twenty-five years ago, October 6, 1972, the Federal debt stood at $435,152,000,000 (Four hundred thirty-five billion, one hundred fifty-two million) which reflects a debt increase of nearly $5 trillion—$4,978,280,617,300.15 (Four trillion, nine hundred seventy-eight billion, two hundred eighty million, six hundred seventeen thousand, three hundred dollars and fifteen cents) during the past 25 years.

MESSAGES FROM THE HOUSE

At 10:39 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 1026) to reauthorize the Export-Import Bank of the United States, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. LEACH, Mr. CASTLE, Mr. BEREUTER, Mr. LAFALCE, and Mr. FLAKE, as the managers of the conference on the part of the House.

At 2:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate.

H.R. 1703. An act to amend title 38, United States Code, to provide for improvements in the system of the Department of Veterans Affairs for resolution and adjudication of complaints of employment discrimination.

H.R. 2206. An act to amend title 38, United States Code, to improve programs of the Department of Veterans Affairs for homeless veterans, and for other purposes.

H.R. 2571. An act to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1998, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1703. An act to amend title 38, United States Code, to provide for improvements in the system of the Department of Veterans Affairs for resolution and adjudication of complaints of employment discrimination; to the Committee on Veterans' Affairs.

H.R. 2206. An act to amend title 38, United States Code, to improve programs of the Department of Veterans Affairs for homeless veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2571. An act to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1998, and for other purposes; to the Committee on Veterans' Affairs.

ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker of the House, was signed on today, October 7, 1997, by the President pro tempore [Mr. THURMOND]:

H.R. 2378. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1998, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1159. A bill to amend the Alaska Native Claims Settlement Act, regarding the Kake Tribal Corporation public interest land exchange, and for other purposes (Rept. No. 105–100).

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

S. 1266. An original bill to interpret the term "kidnapping" in extradition treaties to which the United States is a party (Rept. No. 105–101).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAMM (for himself, Mr. DODD, Mr. DOMENICI, Mrs. BOXER, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. HAGEL, Mr. REID, Mr. WYDEN, Mr. ALLARD, Ms. MOSELEY-BRAUN, Mrs. MURRAY, and Mr. LIEBERMAN):

S. 1260. A bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST:

S. 1261. A bill to establish the Education Scholars Block Grant Program; to the Committee on Labor and Human Resources.

By Mr. FAIRCLOTH:

S. 1262. A bill to authorize the conveyance of the Coast Guard Station, Ocracoke, North Carolina; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN:

S. 1263. A bill to establish requirements regarding national tests in reading and mathematics; to the Committee on Labor and Human Resources.

By Mr. HARKIN (for himself, Mr. DASCHLE, Mr. LEAHY, and Mr. JOHNSON):

S. 1264. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD:

S. 1265. A bill to amend the Occupational Safety and Health Act of 1970 to expand the provisions to include construction safety requirements; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 1266. An original bill to interpret the term "kidnapping" in extradition treaties to which the United States is a party; from the Committee on Foreign Relations; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMM (for himself, Mr. DODD, Mr. DOMENICI, Mrs. BOXER, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. HAGEL, Mr. REID, Mr. WYDEN, Mr. ALLARD, Ms. MOSELEY-BRAUN, Mrs. MURRAY, and Mr. LIEBERMAN):

S. 1260. A bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State

law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1997

Mr. GRAMM. Mr. President, I send a bill to the desk on behalf of myself, Senator DODD, Senator DOMENICI, Senator BOXER, Senator FAIRCLOTH, Senator FEINSTEIN, Senator HAGEL, Senator REID, Senator WYDEN, Senator ALLARD, Senator MOSELEY-BRAUN, Senator MURRAY, and Senator LIEBERMAN.

Mr. President, on December 22, 1995, the Senate took an extraordinary action in overriding President Clinton's veto of the Private Security Litigation Reform Act, Public Law 104-67. This major reform legislation was an effort to try to do something about frivolous lawsuits that were filed on a class-action basis against basically new, innovative companies.

These abusive lawsuits were literally a multibillion dollar tax imposed on new and innovative companies. They were invariably filed on a class-action basis, where there was no real client. The cost of defense against such litigation was so high that normally the cases ended in large settlements out of court.

We passed a comprehensive bill to try to deal with that problem in Federal court. That bill made a combination of five major changes in the law. It said, first, that there had to be real clients; that if a lawyer was going to file a class-action suit, he had to be filing it on behalf of real shareholders, encouraged by a set of procedures where the largest shareholder in the class-action suit was in fact in charge of that suit.

Second, the legislation required that there be specificity with regard to what the company was alleged to have done wrong.

Third, it required a discovery process designed to get the facts out on the table, rather than a discovery process that was a tool for harassing defendants into settling the case.

Fourth, the legislation set up a system of proportional liability so that you could not simply sue in order to reach where the deep pockets were; you had to go after the real perpetrators of fraud.

Finally, it contained an attorney misconduct provision, which said that if the judge made a judgment—we require an initial judgment by law—that this was an abusive lawsuit, then the parties who had engaged in this abusive conduct would be forced to pay for the legal expenses of the company that was defending itself.

So strong was the support for this bill that we were able not only to pass it on a bipartisan basis, but we overrode the President's veto of the bill.

We held a hearing on July 24 of this year in the Securities Subcommittee, which I chair, to gauge whether or not the law was achieving its purposes. What we discovered from the nine witnesses, a broad cross-section of people—State regulators, companies that were subject to these suits, a former SEC Commissioner—was that while we had dealt with the problem in Federal court, we now were seeing a migration of these lawsuits to State courts with a real effort and apparently a successful effort to circumvent what we had done.

So, Mr. President, I have introduced this bill, with Senator DODD as my principal cosponsor—he is the ranking Democrat on the subcommittee—and with a broad cross-section of Republicans and Democrats to try to correct this problem. What our bill does is very simply this. It sets national standards for stocks that are traded on the national markets. What it says is that in the case of class-action suits, and class-action suits only, if a stock is traded on the national market, if it is a national stock, then the class-action suit has to be filed in Federal court. This does not apply to individual lawsuits. It applies only to class-action lawsuits, and it applies only to stocks that are traded nationally.

Legislatively, we have been moving toward national standards for national securities. The National Securities Markets Improvement Act, enacted overwhelmingly last year, created national rules for many aspects of our national securities markets. This is an important step continuing in that direction, a step in line with the principles lying behind the commerce clause of the Constitution.

Mr. President, I would also like to take this opportunity to notify my colleagues that, even though we have a relatively short amount of time left in this session of Congress, the Securities Subcommittee will move quickly on this legislation, beginning with legislative hearings before we adjourn for the year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Litigation Uniform Standards Act of 1997".

SEC. 2. LIMITATION ON REMEDIES.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1993.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

"SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.

"(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"(b) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

"(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(c) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

"(d) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) CLASS ACTION.—The term 'class action' means any single lawsuit, or any group of lawsuits filed in or pending in the same court involving common questions of law or fact, in which—

"(A) damages are sought on behalf of more than 25 persons;

"(B) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated; or

"(C) one or more of the parties seeking to recover damages did not personally authorize the filing of the lawsuit.

"(2) COVERED SECURITY.—A security is a 'covered security' if it satisfies the standard for a covered security specified in paragraph (1) or (2) of section 18(b) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred.".

(2) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by striking "and, concurrent with State and Territorial courts," and inserting "and, concurrent with State and Territorial courts, except as provided in section 16 with respect to class actions,"; and

(B) by striking "No case arising under this title and brought in any State court of competent jurisdiction shall be removed" and inserting "Except as provided in section 16(c), no case arising under this title and brought in any State court of competent jurisdiction shall be removed".

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(1) in subsection (a), by striking "The rights and remedies" and inserting "Except as provided in subsection (f), the rights and remedies"; and

(2) by adding at the end the following new subsection:

"(f) LIMITATIONS ON REMEDIES.—

"(1) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

"(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(2) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

"(3) DEFINITIONS.—For purposes of this subsection the following definitions shall apply:

"(A) CLASS ACTION.—The term 'class action' means any single lawsuit, or any group of lawsuits filed in or pending in the same court involving common questions of law or fact, in which—

"(i) damages are sought on behalf of more than 25 persons;

"(ii) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated; or

"(iii) one or more of the parties seeking to recover damages did not personally authorize the filing of the lawsuit.

"(B) COVERED SECURITY.—A security is a 'covered security' if it satisfies the standard for a covered security specified in paragraph (1) or (2) of section 18(b) of the Securities Act of 1933, at the time during which it is alleged that the misrepresentation, ommission, or manipulative or deceptive conduct occurred.".

(c) APPLICABILITY.—The amendments made by this section shall not affect or apply to any action commenced before and pending on the date of enactment of this Act.

Mr. DODD. Mr. President, I am very pleased this afternoon to rise along with my colleague, Senator GRAMM of Texas, who spoke a few moments ago, on a bill that the two of us are introducing together. I regret that I wasn't on the floor at the time he made his remarks. But I appreciate very much his leadership on this issue.

We are introducing a bill called the Securities Litigation Uniform Standards Act of 1997.

Just about 2 years ago, I stood here as part of a successful effort to restore the integrity and fairness of our private securities litigation system.

It's probably appropriate at this juncture to remind ourselves just how important the private litigation system has been in maintaining the integrity of our capital markets.

It is highly questionable whether our markets would be as deep, as liquid, as strong, as transparent, were it not for our system of maintaining private rights of action against those who commit fraud.

It is precisely because of the importance of this system, that the depths to which it had sunk by 1995 was so very troubling.

The system was no longer a mechanism for aggrieved investors to seek justice and restitution, but was instead a means for enterprising attorneys to manipulate its procedures for their own considerable profit and to the detriment of legitimate companies and investors across the Nation.

I could easily spend all of my time today recounting the cases of abusive and frivolous litigation that were hindering our growth industries; suffice to say that the flaws in the litigation system not only threatened the viability of private rights of action, but also presented a serious threat to the growth and success of key industries across the Nation.

Now that we are 2 years out from enactment of the reform bill, it is easy to see that many of the reforms are working well and that aggrieved investors still have access to the courthouse.

However, there is one development since the enactment of the reform law that has the potential to undermine our good work and send us back to the days of litigation frenzy.

This development is the significant increase in securities fraud class actions filed in State court.

Prior to congressional enactment of the reform law in 1995, securities fraud class actions in State court were almost unheard of. People went to the Federal courts.

But since we reformed the Federal system, there has been substantial increases in State court filings both in 1996 and 1997.

It is not unreasonable to assume that it is the weaker, even abusive claims, that are now finding a home in State court that they no longer have in Federal court.

The development of differing standards in State courts is troubling not only to this Senator, but also to the President. In a letter the President sent to me on this subject in July, he stated:

> The possibility of change in one or more States' securities laws similar to those proposed [last year] in California's Proposition 211 suggests that there may be a need to reconsider the appropriate balance of Federal and State roles in securities law. As I said when I opposed Proposition 211 last August, the proliferation of multiple and inconsistent standards could undermine national law.

In April, the Securities and Exchange Commission conducted a survey for the President, on the effect of the reform act; one of the survey's conclusions was:

> To the extent that State courts can be used to avoid the discovery stay in cases that would otherwise have been brought in Federal court, one of the goals of the reform act may be frustrated.

This migration of frivolous class actions to State court threatens the effectiveness of the reform act.

Not only is it reasonable to assume that more and more companies could become hostage to increased State litigation costs, but the prospect of State litigation, where there is no safe harbor for forward-looking statements, is right now having a chilling effect upon corporate disclosure of projections and other forward-looking information.

Let me just as an aside state how important it is for prospective investors to get as much disclosure from companies as they possibly can so that they can make intelligent decisions about whether to invest their hard-earned dollars in these companies. Mr. President, this is a question of getting as much information, as I said, from companies. What we had in the Federal law was, of course, a safe harbor to allow for statements to be made that could then not be used against the corporation in some frivolous lawsuit.

Now, reasonable people, of course, may disagree with the magnitude of the State litigation problem as it exists today. I would be first to admit that as well. I do not want to suggest to my colleagues that we have some overwhelming problem on our hands.

But whether you believe that it is a small, medium, or even large problem today, as some do, it is a less important question, in my view, than whether you believe it is a problem that is destined to get worse. I think on that everyone can agree.

Again, I think the Securities and Exchange Commission survey is instructive on this point. I quote from the report.

> . . . if State law provides advantages to plaintiffs in particular case, it is reasonable to expect that plaintiffs' counsel will file suit in State court.

The plain English translation: any plaintiffs' attorney worth his salt is going to file in State court if he feels it will give him an advantage.

SEC Commissioner Steve Wallman succinctly outlined the harm that the proliferation of State class actions is having on securities system when he said that "this phenomenon is clearly balkanizing the Federal securities laws."

In testimony submitted to the Securities Subcommittee in July, Commissioner Wallman also pointed out that the debate over establishing a national standard for litigation on national securities is one that should take place, even if there was no burgeoning problem on the State level:

> The issue of pre-emption is broader than the potential effectiveness of the reform act, even though the reform act's effectiveness may be the current catalyst for raising the matter.
>
> Rather than permit or foster fragmentation of our national system of securities litigation, we should give due consideration to the benefits flowing to investors from a uniform national approach. That analysis can be pursued, and conclusions reached, regardless of whether one believes we now know—or will, within any reasonable time frame, know—the definitive impact of the reform act.

The idea of creating a national standard for nationally traded securities is consistent with the recent trend in Congress, the SEC, and in the States themselves, to redefine the relationship between the States and the Federal Government on securities issues.

SEC Chairman Arthur Levitt, in discussing securities regulation, provided a perspective that should guide our debate over securities litigation:

> The current system of dual Federal-State regulation is not the system that Congress—or the Commission—would create today if we were designing a new system. While securities markets today are global, issuers and securities firms must still [comply with] 52 separate jurisdictions. . . . It appears that an appropriate balance can be attained in the Federal-State arena that better allocates responsibilities, reduces compliance costs

and facilitates capital formation, while continuing to provide for the protection of investors.

The point is if we are beginning de novo you wouldn't set up this situation. Obviously, we are not going to scrap it all. But we ought to try to reform it in a way that reflects the way we are today.

The principle of national treatment for national securities trading on national exchanges is as solid for legislation on securities litigation as it was for securities regulation.

The legislation that we are introducing today, if enacted, will allow Congress to address this State litigation problem before it gets completely out of control.

It will do so in a very targeted and narrow way, essentially preempting only those class actions that have recently migrated to State court, while leaving traditional State court actions and procedures solidly in place.

First, the legislation applies only to class actions, which are defined as those actions in which damages are sought on behalf of more than 25 people, one or more parties seek damages on behalf of other unnamed parties, or one or more of the parties did not personally authorize the suit.

Actions involving less than 25 people would not be affected.

Second the legislation is limited only to those securities that are listed on one of the three national stock exchanges—the New York, American, and NASDAQ stock market. Our legislation uses the definition of "covered security" that was used to preempt State regulation in last year's National Securities Markets Improvement Act.

The legislation does not affect any State enforcement action, whether civil or criminal. State regulators retain their full authority to bring enforcement actions in any venue allowed under State law.

In fact, the California Securities Regulator testified very strongly in support of establishing uniform national litigation standards for nationally traded securities.

Let me again emphasize what this bill does not do: it does not affect individual actions in State court; it does not protect penny stocks, delisted securities, roll-ups, or securities sold only within a single State; it does not protect bad brokers or investment advisors; it does not impact on State regulators.

This legislation has been carefully crafted only to affect those types of class actions that are appropriately heard on the Federal level.

To the extent that there are technical modifications needed to ensure that no other State actions are impacted, I certainly pledge that we will make those changes to keep the bill focused only on the problem area.

Mr. President, our capital markets are the envy of the world and America is the undisputed leader in the financial services industry.

But if we are to remain the global leader, if our markets are to remain ahead of those in London, Frankfurt, Tokyo or Hong Kong, we must create uniformity and certainty.

How can we expect to get foreign companies to list on our exchanges if we have to explain that they will face not only our very tough Federal standards on securities fraud, but also the possibility of 50 constantly changing State standards.

That's not a reasonable proposition for a foreign company, or even for an American one.

This legislation will create certainty and establish uniformity without impinging on the traditional and important role that States play in combating fraud.

I urge my colleagues to cosponsor this bill and I look forward to returning to the floor soon to see this bill pass the Senate.

Senator GRAMM of Texas and I feel that this is a solid piece of legislation. Again, the problem is not totally out of hand yet. The trend lines are clear. We are not infringing upon State courts or State regulators and State traded securities but only nationally traded securities on the three national markets.

So we end up with a national standard which is what we intended when we passed the Reform Act of 2 years ago.

With that, Mr. President, I again thank my colleagues for their patience. I urge them to take a good look at the piece of legislation which Senator GRAMM of Texas and I have introduced, and urge them to cosponsor the bill and join us in passing this legislation.

By Mr. FRIST:

S. 1261. A bill to establish the Education Scholars Block Grant Program; to the Committee on Labor and Human Resources.

THE TEACHER INVESTMENT ACT

Mr. FRIST. Mr. President, I recently had the opportunity to hold forums on education across my home State of Tennessee. I traveled to Nashville, Memphis, and Knoxville to listen to a variety of people with expertise in educational issues, such as teachers, students, principals, and school board members. These events were a wonderful opportunity for me to listen. While a variety of educational issues were explored at each of the forums, the need for an ample, qualified teaching force was a predominant theme at each forum.

I would like to note that Tennessee's 1997 Teacher of the Year, Ms. Cathy Pihl, was both present at the Memphis forum on education and is here with us today. I am also pleased that Mr. Jon Hubble, Tennessee's 1997 Teacher of the Year finalist, is also here. Cathy is a fourth grade teacher at Kate Bond Elementary School in Memphis, TN, with 8 years of teaching experience. Jon, who has 10 years of teaching experience, teaches social studies to seventh and eighth grade students at Wright Middle School in Nashville, TN. I am delighted to have both of these outstanding teachers here with us today. We must encourage and enable more students to follow in Cathy and Jon's footsteps.

In addition to what I heard in Tennessee about the need for qualified teachers, recent statistics highlight the need for a strong teaching force across the Nation. Elementary and secondary school enrollments are expected to reach an all-time high this fall—52.2 million students. Approximately 2 million more teachers will be needed for the next decade.

The Teacher Investment Act, which I am introducing today, would allow State education agencies to award scholarships to students who are studying to become elementary and secondary school teachers. These scholarships would not need to be repaid provided the students meet certain criteria.

Specifically, scholarships may go to both undergraduate and graduate students who are committed to becoming teachers. In addition, the individual must have demonstrated outstanding academic achievement in college and must commit to teaching for 2 years in an elementary or secondary school.

Quite simply, we need more Cathy's and Jon's. One way to achieve this goal is to invest resources to prepare a new generation of teachers. In return, the scholarship recipients must invest at least 2 years in the teaching field. The Teacher Investment Act makes a serious commitment to both our future teachers and students. However, as we discuss our future teachers, I, again, would like to highlight the important achievements and contributions of two of today's teachers—Jon Hubble and Cathy Pihl, who represent Tennessee's teachers so well.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EDUCATION SCHOLARS BLOCK GRANT PROGRAM.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Education Scholars Block Grant Program

"SEC. 420G. SHORT TITLE; PURPOSE; AUTHORIZATION OF APPROPRIATIONS.

"(a) SHORT TITLE.—This subpart may be cited as the 'Teacher Investment Act'.

"(b) PURPOSE.—It is the purpose of this subpart—

"(1) to attract more of our Nation's most academically gifted students into teaching careers in elementary and secondary education;

"(2) to retain in teaching our Nation's best teachers who have demonstrated promise in, and a commitment to, a teaching career;

"(3) to increase the public status of a teaching career in elementary and secondary education;

"(4) to address the anticipated shortage of teachers in the next several decades; and

"(5) to provide States with the flexibility to integrate State teacher education initiatives with Federal teacher scholarship support.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 1998 and each of the 4 succeeding fiscal years.

"SEC. 420H. SCHOLARSHIP AUTHORIZED.

"(a) PROGRAM AUTHORITY.—The Secretary may award grants to States from allotments under section 420I to enable the States to provide scholarships to individuals who—

"(1)(A) have completed at least half of the academic credit requirements for graduation from an institution of higher education with a bachelor's degree, or with a graduate degree that prepares the individual for licensure or certification as an elementary school or secondary school teacher;

"(2) are admitted to or enrolled in an institution of higher education;

"(3) have demonstrated outstanding academic achievement while enrolled in an institution of higher education; and

"(4) are committed to becoming or remaining elementary school or secondary school teachers.

"(b) PERIOD OF AWARD.—A State shall determine the scholarship period, except that a scholarship recipient shall not receive a scholarship award for more than 2 years of study at any institution of higher education.

"SEC. 420I. ALLOTMENT AMONG STATES.

"(a) ALLOCATION FORMULA.—From the sums appropriated pursuant to the authority of section 420G(c) for any fiscal year, the Secretary shall allot to each State that has an agreement under section 420J an amount equal to $5,000 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

"(b) NUMBER OF SCHOLARSHIPS AVAILABLE.—The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

"(c) USE OF CENSUS DATA.—For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data from the Bureau of the Census that the Secretary determines is satisfactory.

"SEC. 420J. STATE AGREEMENTS.

"The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program under this subpart. Each such agreement shall include provisions to ensure that—

"(1) the State educational agency will administer the program in the State;

"(2) the State educational agency will comply with the provisions of this subpart;

"(3) the State educational agency will conduct outreach activities to publicize the availability of the scholarships to all eligible postsecondary students in the State, with particular emphasis on activities designed to ensure that students from low-income and moderate-income families have access to the information regarding the opportunity for full participation in the program; and

"(4) the State educational agency will pay to each individual in the State who is awarded a scholarship the cost of tuition and fees at an institution of higher education for a year, except that such payment shall not exceed $5,000.

"SEC. 420K. SELECTION OF EDUCATION SCHOLARS.

"(a) ESTABLISHMENT OF CRITERIA.—The State educational agency shall establish the criteria for selection of scholars. Such criteria shall—

"(1) fulfill the purpose of the subpart in accordance with a State's projected elementary school and secondary school teaching needs and priorities; and

"(2) require a scholarship recipient to have demonstrated outstanding academic achievement and a commitment to a teaching career, as determined by the State educational agency.

"(b) LIMITATIONS.—In awarding scholarships under this subpart, the State educational agency shall provide—

(1) not less than 75 percent of the scholarships to individuals who do not possess a bachelor's degree; and

(2) not more than 25 percent of the scholarships to individuals who are pursuing a graduate degree.

"(c) CONSULTATION REQUIREMENT.—In carrying out this subpart, the State educational agency shall consult with school administrators, school boards, teachers, and counselors.

"SEC. 420L. AWARD AMOUNT; SCHOLARSHIP CONDITIONS.

"(a) AWARD AMOUNT.—Each individual awarded a scholarship under this subpart shall receive an award for the cost of tuition and fees at an institution of higher education of not more than $5,000 for an academic year of study.

"(b) CONDITIONS.—Each State educational agency receiving a grant under this subpart shall establish procedures to ensure that each scholarship recipient—

"(1) pursues a course of study at an institution of higher education;

"(2) maintains a 3.0 grade point average on a 4.0 scale; and

"(3) enters into an agreement to teach in accordance with section 420M(a).

"SEC. 420M. SCHOLARSHIP AGREEMENT; REPAYMENT PROVISIONS.

"(a) SCHOLARSHIP AGREEMENT.—Each recipient of a scholarship under this subpart shall enter into an agreement with the State educational agency under which the recipient shall—

"(1) within the 2-year period after completing the education for which the scholarship was awarded, teach for a period of 2 years as an elementary school or secondary school teacher in the State served by the State educational agency;

"(2) provide the State educational agency with evidence of compliance, determined pursuant to regulations promulgated by the Secretary, with the provisions of paragraph (1); and

"(3) repay all or part of the scholarship award received in accordance with subsection (b) in the event the conditions of paragraph (1) are not complied with, except as provided by section 420N.

"(b) REPAYMENT PROVISIONS.—A recipient of a scholarship found by the State educational agency to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay to the State educational agency a pro rata amount of such scholarship assistance received, plus interest, at the rate of 8 percent or the rate applicable to loans in the applicable period under part B of this title, whichever is lower, and where applicable, reasonable collection fees, on a schedule to be prescribed by the Secretary pursuant to regulations promulgated under this subpart.

"SEC. 420N. EXCEPTIONS TO REPAYMENT PROVISIONS.

"(a) DEFERRAL DURING CERTAIN PERIODS.—A scholarship recipient shall not be considered in violation of the agreement entered into pursuant to section 420M(a) during any period in which the recipient—

"(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

"(2) is serving, not in excess of 3 years, as a member of the Armed Forces;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by the sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months; or

"(6) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations promulgated under this subpart.

"(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

"SEC. 420O. CONSTRUCTION OF NEEDS PROVISIONS.

"Except as provided in section 471, nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs analysis in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to education assistance.".

By Mr. FAIRCLOTH:

S. 1262. A bill to authorize the conveyance of the Coast Guard station, Ocracoke, NC; to the Committee on Commerce, Science, and Transportation.

CONVEYANCE AUTHORIZATION LEGISLATION

Mr. FAIRCLOTH. Mr. President, I am introducing this bill today to authorize the Department of Transportation to convey the Coast Guard station, Ocracoke, NC, to the State of North Carolina, when the Coast Guard determines that it no longer needs to keep the facility.

This station is located on the southern end of Ocracoke Island, adjacent to the wharf where the ferries to and from Swan Quarter and Cedar Island dock. It is vital that these limited ferry facilities are expanded to meet the ever-growing demands of more and more traffic, and this Coast Guard station is ideal for this purpose. Since the port at Ocracoke is the southern termination of State highway 12 on the Outer Banks, these ferries are the only way to get residents and tourists across

Pamlico Sound in the event of the need to evacuate when hurricanes threaten. The only other way off this stretch of the Outer Banks is the bridge at Roanoke Island, which is more than 75 miles to the north of Ocracoke.

The State also plans to use this surplus Coast Guard facility for educational purposes. While the ferry division has a need for the grounds and a portion of the station buildings, the remaining spaces can be used for coastal environmental study. Of course the Coast Guard will continue to have access to the docking facilities to any extent needed.

Mr. President, with the safety of the residents and of all our guests that visit the Outer Banks uppermost in my mind, I urge timely consideration and passage of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, COAST GUARD STATION OCRACOKE, NORTH CAROLINA.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey, without consideration, to the State of North Carolina (in this section referred to as the "State"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, in Ocracoke, North Carolina, consisting of such portion of the Coast Guard Station Ocracoke, North Carolina, as the Secretary considers appropriate for purposes of the conveyance.

(b) CONDITIONS.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That the State accept the property to be conveyed under that subsection subject to such easements or rights of way in favor of the United States as the Secretary considers to be appropriate for—

(A) utilities;

(B) access to and from the property;

(C) the use of the boat launching ramp on the property; and

(D) the use of pier space on the property by search and rescue assets.

(2) That the State maintain the property in a manner so as to preserve the usefulness of the easements or rights of way referred to in paragraph (1).

(3) That the State utilize the property for transportation, education, environmental, or other public purposes.

(c) REVERSION.—(1) If the Secretary determines at any time that the property conveyed under subsection (a) is not be used in accordance with subsection (b), all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Upon reversion under paragraph (1), the property shall be under the administrative jurisdiction of the Administrator of General Services.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a), and any easements or rights of way granted under subsection (b)(1), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the conveyance under subsection (a), and any easements or rights of way granted under subsection (b)(1), as the Secretary considers appropriate to protect the interests of the United States.

By Mr. BINGAMAN:

S. 1263. A bill to establish requirements regarding national tests in reading and mathematics; to the Committee on Labor and Human Resources.

THE VOLUNTARY NATIONAL TESTING ACT OF 1997

Mr. BINGAMAN. Madam President, today as the House-Senate conferees are scheduled to meet again, I am introducing the Voluntary National Testing Act of 1997 for two main reasons: to clarify many of the misconceptions that have arisen since the Senate voted in favor of this approach, and—to counter the mistaken impression that support for voluntary national testing has eroded in recent weeks.

This legislation simply makes permanent the compromise approach that was approved overwhelmingly by the Senate last month.

While the Senate amendment gave NAGB, the governing board, authority for only fiscal year 1998, this legislation would provide permanent authority.

Otherwise, the language is identical to that amendment: it prevents anyone from being forced to take the test or attach any funding conditions on the test; transfers control immediately to the independent board, which will have full power to change any elements it deems necessary; and charges the board with revisiting key issues that have arisen so far, such as whether students should use calculators or whether there should be a test in a student's native language if needed.

Contrary to what some may think, there are many signs that support for voluntary national tests remains strong despite scare tactics and "education-ese" being used by its opponents.

Public opinion—as well as the views of almost every mainstream education and business organization in the country—remains strongly in favor of making rigorous, standard measures of student achievement available.

The most recent polls show that two-thirds of the public favor the President's proposal—even more are in favor of the general approach that is in this bill.

Though two districts have decided not to administer the reading exam, all 15 original districts are still planning to administer at least the math test and all 7 States that have signed up remain on board for both exams.

Contrary to what is being said, I do not think there has been any major controversy about the NAEP tests we are planning to use as models for the new ones—after all, pretty much everyone can agree on what we expect our children to know about reading and math at fourth and eighth grade.

There is not much that's controversial about reading a paragraph from Charlotte's Web, or figuring out a word problem in math.

The benefits of a voluntary national test are clear to the parents and teachers who are most determined to see better schools for their children.

Let us allow State and local communities to decide for themselves, rather than making the decision for them here in Washington.

Right now, many States currently offer tests and some are quite good—but they have no common standard and many mislead parents into thinking their children are doing better than they actually are.

Under the new approach, many students would struggle and even fail at first, it's true. But, through the combined efforts of their teachers, parents, and community leaders, far more than anyone expected beforehand would eventually succeed—it's happening in Milwaukee and Philadelphia already.

The voluntary national tests are about setting high expectations for all children, measuring progress in a way that's widely accepted, and demanding accountability for improvements that we all know are needed. They are not about treating minorities unfairly or usurping local and parental control over what is taught in school, which I would never support.

With a common measure of progress it becomes increasingly possible to win additional financial support so desperately needed—it is a necessary step. Voluntary national tests would provide parents new insight so they could push hard for improvements in our public schools that might otherwise not occur.

Support in the Senate remains solidly in favor of the compromise approach to developing a voluntary national test.

Faced with a choice between banning the tests and transferring control to an independent board, 87 Senators less than a month ago voted in favor of developing the tests under the governing board.

I recently worked with 43 Senators to sign a very strong letter pledging to filibuster the conference report if it banned development of the tests before States or districts could decide. This support overwhelms the opposition of a small part of the Senate, led by Senator ASHCROFT.

If necessary, this is more than enough to block consideration of the conference report or support a Presidential veto—regardless of how the House votes.

By Mr. HARKIN (for himself, Mr. DASCHLE, Mr. LEAHY, and Mr. JOHNSON):

S. 1264. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement; to the Committee on Agriculture, Nutrition, and Forestry.

THE FOOD SAFETY ENFORCEMENT ENHANCEMENT ACT OF 1997

Mr. HARKIN. Mr. President, today, I along with Senators LEAHY, DASCHLE, and JOHNSON will introduce legislation to enhance the enforcement of our Nation's meat and poultry inspection laws and preserve consumer confidence in the safety of the food they eat. Earlier this year, Americans were stunned by the recall of 25 million pounds of hamburger. They were further amazed when they learned that the Secretary of Agriculture does not have the authority to demand a recall of adulterated product. He does not even have the authority to impose civil fine on a company which knowingly or repeatedly violates food safety laws.

Given the recent number of E. coli outbreaks across the country, Americans are demanding that we do more to prevent food-borne contamination and to stop it in its tracks once an outbreak has been identified. Farmers and ranchers expect us to do more to protect consumer confidence in the products from which they make their hard-earned living.

This legislation I am introducing, which has been developed in cooperation with the Secretary of Agriculture, will give the USDA important new tools to enforce our food safety laws. The legislation would require processors and handlers to notify the USDA of the existence of adulterated meat and poultry products, allow the Secretary to recall adulterated products, and give him the ability to levy civil penalties.

Currently USDA is limited to the atomic bomb of food safety tools. The Secretary can request a recall of product which is suspected to be tainted, withdraw inspection from a processing plant, and issue press releases alerting consumers. In the case of Hudson, a company went out of business, several people were hospitalized and consumer confidence in beef products was shaken. Clearly we need other tools for the USDA to address food safety concerns short of such extreme measures.

The Secretary already has civil penalty authority under 11 other statutes. He can issue civil penalties for the abuse of a circus elephant, but not for the shipment of adulterated meat. In addition, 68 percent of States with State meat inspection systems have civil penalty authority. The number of states with mandatory E. coli 0157:H7 reporting requirements has more than doubled since 1992.

To be sure, we cannot guarantee that the new enforcement powers in this legislation would have prevented the Hudson recall from occurring or that they will prevent future outbreaks. But mandatory reporting of adulterated meat and mandatory recall authority just makes good sense. With these powers, the USDA will be able to respond more quickly to ensure public safety and consumer confidence.

I view this bill, however, as only the beginning of a process to identify needs in the meat and poultry food chain that can lead to enhanced public safety. All sectors of the food system, from the producer to the consumer need to take responsibility for improved safety. Real food safety cannot be achieved by any one method. We need multiple defenses, using each to their maximum potential. To lower the incidence of food-borne illness we must take a number of steps: Additional research into the way that food-borne pathogens infect animals, remain in the meat products and cause illness in humans; increased research into treatments of food-borne illnesses; improved identification and regulation of hazard points in the production and processing processes; electronic pasteurization as a means of actually reducing pathogens in meat and poultry products; and consumer education on the proper handling and preparation of meat to reduce the risk of illness.

We are currently making progress toward improving food safety. The new Hazard Analysis Critical Control Points [HACCP] meat inspection system will begin to go into effect in 1998. This new science-based inspection system will specifically target E. coli and salmonella in the meat processing system and is designed to prevent, not just identify contamination. We need to get this system in place and inspectors trained as fast and thoroughly as possible.

Clearly we need to do more. The events of the past few months underscore that need. We cannot sit around and wait until the next fatal food-safety scare. We have to act proactively and decisively. All sectors of agricultural economy have a stake in ensuring food safety, from the producer to the consumer. I will work closely with consumer advocates, producers and industry to develop a comprehensive package of legislation that will raise the standard of food safety in this country. I believe this bill is a good starting point.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food Safety Enforcement Enhancement Act of 1997".

SEC. 2. FOOD SAFETY ENFORCEMENT FOR MEAT AND MEAT FOOD PRODUCTS.

(a) IN GENERAL.—The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended—

(1) by redesignating section 411 (21 U.S.C. 681) as section 414; and

(2) by inserting after section 410 (21 U.S.C. 679a) the following:

"SEC. 411. NOTIFICATION, NONDISTRIBUTION, AND RECALL OF ADULTERATED OR MISBRANDED ARTICLES.

"(a) NOTIFICATION.—A person (other than a household consumer) that has reason to believe that a carcass, part of a carcass, meat, or meat food product of cattle, sheep, swine, goats, horses, mules, or other equines (referred to in this section as an 'article') transported, stored, distributed, or otherwise handled by the person is adulterated or misbranded shall immediately notify the Secretary, in such manner and by such means as the Secretary may by regulation promulgate, of the identity and location of the article.

"(b) NONDISTRIBUTION AND RECALL.—

"(1) VOLUNTARY ACTIONS.—On receiving the notification under subsection (a) or otherwise, if the Secretary finds that an article is adulterated or misbranded and that there is a reasonable probability that human consumption of the article would present a threat to public health, as determined by the Secretary, the Secretary shall provide all appropriate persons, as determined by the Secretary, that transported, stored, distributed, or otherwise handled the article with an opportunity to—

"(A) cease distribution of the article;

"(B) notify all persons transporting, storing, distributing, or otherwise handling the article, or to which the article has been transported, sold, distributed, or otherwise handled, to immediately cease distribution of the article;

"(C) recall the article; and

"(D) in consultation with the Secretary, provide notice to consumers to whom the article is, or may have been, distributed.

"(2) MANDATORY ACTIONS.—If the person refuses to or does not voluntarily take the actions described in paragraph (1) with respect to an article within the time and in the manner prescribed by the Secretary, the Secretary shall, by order, require the person to immediately—

"(A) cease distribution of the article; and

"(B) notify all persons transporting, storing, distributing, or otherwise handling the article, or to which the article has been transported, sold, distributed, or otherwise handled, to immediately cease distribution of the article.

"(3) NOTICE TO CONSUMERS.—The Secretary shall, as the Secretary considers necessary, provide notice to consumers to whom the article was, or may have been, distributed.

"(4) NONDISTRIBUTION BY NOTIFIED PERSONS.—A person transporting, storing, distributing, or otherwise handling the article, or to which the article has been transported, sold, distributed, or otherwise handled, that is notified under paragraph (1)(B) or (2)(B) shall immediately cease distribution of the article.

"(c) INFORMAL HEARING ON ORDER.—

"(1) IN GENERAL.—The Secretary shall provide a person subject to an order under subsection (b) with an opportunity for an informal hearing (pursuant to such rules or regulations as the Secretary shall prescribe) on the actions required by the order and on why the article that is the subject of the order should not be recalled.

"(2) TIMING.—The Secretary shall hold the informal hearing as soon as practicable, but

not later than 2 days, after the issuance of the order.

"(d) RECALL OR OTHER ACTIONS.—

"(1) IN GENERAL.—If, after providing an opportunity for an informal hearing under subsection (c), the Secretary determines that there is a reasonable probability that human consumption of the article that is the subject of an order under subsection (b) presents a threat to public health, the Secretary may—

"(A) amend the order to require recall of the article or other appropriate action;

"(B) specify a timetable during which the recall will occur;

"(C) require periodic reports to the Secretary describing the progress of the recall; and

"(D) provide notice to consumers to whom the article is, or may have been, distributed.

"(2) VACATION OF ORDER.—If, after providing an opportunity for an informal hearing under subsection (c), the Secretary determines that adequate grounds do not exist to continue the actions required by the order, the Secretary shall vacate the order.

"(e) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to any other remedies that may be available.

"SEC. 412. REFUSAL OR WITHDRAWAL OF INSPECTION OF ESTABLISHMENTS.

"(a) IN GENERAL.—The Secretary may, for such period, or indefinitely, as the Secretary considers necessary to carry out this Act, refuse to provide or withdraw inspection under title I with respect to an establishment if the Secretary determines, after opportunity for a hearing on the record is provided to the applicant for, or recipient of, inspection, that the applicant or recipient, or any person responsibly connected with the applicant or recipient (within the meaning of section 401), has committed a willful violation or repeated violations of this Act (including a regulation promulgated under this Act).

"(b) DENIAL OR SUSPENSION OF INSPECTION PENDING HEARING.—The Secretary may deny or suspend inspection under title I, pending opportunity for an expedited hearing, with respect to an action under subsection (a), if the Secretary determines that the denial or suspension is in the public interest to protect the health or welfare of consumers or to ensure the effective performance of an official duty under this Act.

"(c) JUDICIAL REVIEW.—

"(1) IN GENERAL.—A determination and order of the Secretary with respect to the refusal or withdrawal of inspection under this section shall be final and conclusive unless, not later than 30 days after the effective date of the order, the affected applicant for, or recipient of, inspection—

"(A) files a petition for judicial review of the order; and

"(B) simultaneously sends a copy of the petition by certified mail to the Secretary.

"(2) REFUSAL OR WITHDRAWAL OF INSPECTION PENDING REVIEW.—Inspection shall be refused or withdrawn as of the effective date of the order pending any judicial review of the order unless the Secretary directs otherwise.

"(3) VENUE; RECORD.—Judicial review of the order shall be—

"(A) in—

"(i) the United States court of appeals for the circuit in which the applicant for, or recipient of, inspection resides or has its principal place of business; or

"(ii) the United States Court of Appeals for the District of Columbia; and

"(B) on the record on which the determination and order are based.

"(d) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to any other remedies that may be available.

"SEC. 413. CIVIL PENALTIES.

"(a) IN GENERAL.—

"(1) ASSESSMENT.—The Secretary may assess a civil penalty against a person that violates this Act (including a regulation promulgated or order issued under this Act) of not more than $100,000 for each violation.

"(2) SEPARATE OFFENSES.—Each violation and each day during which a violation continues shall be a separate offense.

"(3) NOTICE AND OPPORTUNITY FOR HEARING.—The Secretary shall not assess a civil penalty under this section against a person unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(4) AMOUNT.—The amount of a civil penalty under this section shall be—

"(A) assessed by the Secretary by written order, taking into account—

"(i) the gravity of the violation;

"(ii) the degree of culpability;

"(iii) the size and type of the business; and

"(iv) any history of prior offenses under this Act; and

"(B) reviewed only in accordance with subsection (b).

"(b) JUDICIAL REVIEW.—

"(1) IN GENERAL.—An order assessing a civil penalty against a person under subsection (a) shall be final and conclusive unless the person—

"(A) not later than 30 days after the effective date of the order, files a petition for judicial review in—

"(i) the United States court of appeals for the circuit in which the person resides or has its principal place of business; or

"(ii) the United States Court of Appeals for the District of Columbia; and

"(B) simultaneously sends a copy of the petition by certified mail to the Secretary.

"(2) RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the violation was found and the civil penalty assessed.

"(c) COLLECTION ACTION FOR FAILURE TO PAY ASSESSMENT.—

"(1) REFERRAL TO ATTORNEY GENERAL.—If a person fails to pay a civil penalty after the order assessing the civil penalty has become final and unappealable, the Secretary shall refer the matter to the Attorney General.

"(2) ACTION BY ATTORNEY GENERAL.—The Attorney General shall bring a civil action to recover the amount of the civil penalty in United States district court.

"(3) SCOPE OF REVIEW.—In the collection action, the validity and appropriateness of the order of the Secretary imposing the civil penalty shall not be subject to review.

"(d) REFUSAL OR WITHDRAWAL OF INSPECTION PENDING PAYMENT.—If a person fails to pay the amount of a civil penalty after the order assessing the civil penalty becomes final and unappealable, the Secretary may refuse to provide or withdraw inspection under title I of the person until the civil penalty is paid or until the Secretary directs otherwise.

"(e) PENALTIES IN LIEU OF OTHER ACTIONS.—Nothing in this Act requires the Secretary to report for prosecution, or for the institution of an action, a violation of this Act if the Secretary believes that the public interest will be adequately served by assessment of a civil penalty.

"(f) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to any other remedies that may be available.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1 of the Federal Meat Inspection Act (21 U.S.C. 601) is amended by adding at the end the following:

"(w) PERSON.—The term 'person' means any individual, partnership, corporation, association, or other business unit.".

(2) The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended—

(A) by striking "person, firm, or corporation" each place it appears and inserting "person";

(B) by striking "persons, firms, and corporations" each place it appears and inserting "persons"; and

(C) by striking "persons, firms, or corporations" each place it appears and inserting "persons".

SEC. 3. FOOD SAFETY ENFORCEMENT FOR POULTRY AND POULTRY FOOD PRODUCTS.

The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended—

(1) in the first sentence of section 5(c)(1) (21 U.S.C. 454(c)(1))—

(A) by striking ", by thirty days prior to the expiration of two years after enactment of the Wholesome Poultry Products Act,"; and

(B) by striking "sections 1–4, 6–10, and 12–22 of this Act" and inserting "sections 1 through 4, 6 through 10, 12 through 22, and 31 through 33"; and

(2) by adding at the end the following:

"SEC. 31. NOTIFICATION, NONDISTRIBUTION, AND RECALL OF ADULTERATED OR MISBRANDED ARTICLES.

"(a) NOTIFICATION.—A person (other than a household consumer) that has reason to believe that any poultry or poultry product (referred to in this section as an 'article') transported, stored, distributed, or otherwise handled by the person is adulterated or misbranded shall immediately notify the Secretary, in such manner and by such means as the Secretary may by regulation promulgate, of the identity and location of the article.

"(b) NONDISTRIBUTION AND RECALL.—

"(1) VOLUNTARY ACTIONS.—On receiving notification under subsection (a) or otherwise, if the Secretary finds that an article is adulterated or misbranded and that there is a reasonable probability that human consumption of the article would present a threat to public health, as determined by the Secretary, the Secretary shall provide all appropriate persons, as determined by the Secretary, that transported, stored, distributed, or otherwise handled the article with an opportunity to—

"(A) cease distribution of the article;

"(B) notify all persons transporting, storing, distributing, or otherwise handling the article, or to which the article has been transported, sold, distributed, or otherwise handled, to immediately cease distribution of the article;

"(C) recall the article; and

"(D) in consultation with the Secretary, provide notice to consumers to whom the article is, or may have been, distributed.

"(2) MANDATORY ACTIONS.—If the person refuses to or does not voluntarily take the actions described in paragraph (1) with respect to an article within the time and in the manner prescribed by the Secretary, the Secretary shall, by order, require the person to immediately—

"(A) cease distribution of the article; and

"(B) notify all persons transporting, storing, distributing, or otherwise handling the article, or to which the article has been transported, sold, distributed, or otherwise

handled, to immediately cease distribution of the article.

"(3) NOTICE TO CONSUMERS.—The Secretary shall, as the Secretary considers necessary, provide notice to consumers to whom the article was, or may have been, distributed.

"(4) NONDISTRIBUTION BY NOTIFIED PERSONS.—A person transporting, storing, distributing, or otherwise handling the article, or to which the article has been transported, sold, distributed, or otherwise handled, that is notified under paragraph (1)(B) or (2)(B) shall immediately cease distribution of the article.

"(c) INFORMAL HEARING ON ORDER.—

"(1) IN GENERAL.—The Secretary shall provide a person subject to an order under subsection (b) with an opportunity for an informal hearing (pursuant to such rules or regulations as the Secretary shall prescribe) on the actions required by the order and on why the article that is the subject of the order should not be recalled.

"(2) TIMING.—The Secretary shall hold the informal hearing as soon as practicable, but not later than 2 days, after the issuance of the order.

"(d) RECALL OR OTHER ACTIONS.—

"(1) IN GENERAL.—If, after providing an opportunity for an informal hearing under subsection (c), the Secretary determines that there is a reasonable probability that human consumption of the article that is the subject of an order under subsection (b) presents a threat to public health, the Secretary may—

"(A) amend the order to require recall of the article or other appropriate action;

"(B) specify a timetable during which the recall will occur;

"(C) require periodic reports to the Secretary describing the progress of the recall; and

"(D) provide notice to consumers to whom the article is, or may have been, distributed.

"(2) VACATION OF ORDER.—If, after providing an opportunity for an informal hearing under subsection (c), the Secretary determines that adequate grounds do not exist to continue the actions required by the order, the Secretary shall vacate the order.

"(e) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to any other remedies that may be available.

"SEC. 32. REFUSAL OR WITHDRAWAL OF INSPECTION OF ESTABLISHMENTS.

"(a) IN GENERAL.—The Secretary may, for such period, or indefinitely, as the Secretary considers necessary to carry out this Act, refuse to provide or withdraw inspection under this Act with respect to an establishment if the Secretary determines, after opportunity for a hearing on the record is provided to the applicant for, or recipient of, inspection, that the applicant or recipient, or any person responsibly connected with the applicant or recipient (within the meaning of section 18(a)), has committed a willful violation or repeated violations of this Act (including a regulation promulgated under this Act).

"(b) DENIAL OR SUSPENSION OF INSPECTION PENDING HEARING.—The Secretary may deny or suspend inspection under this Act, pending opportunity for an expedited hearing, with respect to an action under subsection (a), if the Secretary determines that the denial or suspension is in the public interest to protect the health or welfare of consumers or to ensure the effective performance of an official duty under this Act.

"(c) JUDICIAL REVIEW.—

"(1) IN GENERAL.—A determination and order of the Secretary with respect to the refusal or withdrawal of inspection under this section shall be final and conclusive unless, not later than 30 days after the effective date of the order, the affected applicant for, or recipient of, inspection—

"(A) files a petition for judicial review of the order; and

"(B) simultaneously sends a copy of the petition by certified mail to the Secretary.

"(2) REFUSAL OR WITHDRAWAL OF INSPECTION PENDING REVIEW.—Inspection shall be refused or withdrawn as of the effective date of the order pending any judicial review of the order unless the Secretary directs otherwise.

"(3) VENUE; RECORD.—Judicial review of the order shall be—

"(A) in—

"(i) the United States court of appeals for the circuit in which the applicant for, or recipient of, inspection resides or has its principal place of business; or

"(ii) the United States Court of Appeals for the District of Columbia; and

"(B) on the record on which the determination and order are based.

"(d) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to any other remedies that may be available.

"SEC. 33. CIVIL PENALTIES.

"(a) IN GENERAL.—

"(1) ASSESSMENT.—The Secretary may assess a civil penalty against a person that violates this Act (including a regulation promulgated or order issued under this Act) of not more than $100,000 for each violation.

"(2) SEPARATE OFFENSES.—Each violation and each day during which a violation continues shall be a separate offense.

"(3) NOTICE AND OPPORTUNITY FOR HEARING.—The Secretary shall not assess a civil penalty under this section against a person unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(4) AMOUNT.—The amount of a civil penalty under this section shall be—

"(A) assessed by the Secretary by written order, taking into account—

"(i) the gravity of the violation;

"(ii) the degree of culpability;

"(iii) the size and type of the business; and

"(iv) any history of prior offenses under this Act; and

"(B) reviewed only in accordance with subsection (b).

"(b) JUDICIAL REVIEW.—

"(1) IN GENERAL.—An order assessing a civil penalty against a person under subsection (a) shall be final and conclusive unless the person—

"(A) not later than 30 days after the effective date of the order, files a petition for judicial review in—

"(i) the United States court of appeals for the circuit in which the person resides or has its principal place of business; or

"(ii) the United States Court of Appeals for the District of Columbia; and

"(B) simultaneously sends a copy of the petition by certified mail to the Secretary.

"(2) RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the violation was found and the civil penalty assessed.

"(c) COLLECTION ACTION FOR FAILURE TO PAY ASSESSMENT.—

"(1) REFERRAL TO ATTORNEY GENERAL.—If a person fails to pay a civil penalty after the order assessing the civil penalty has become final and unappealable, the Secretary shall refer the matter to the Attorney General.

"(2) ACTION BY ATTORNEY GENERAL.—The Attorney General shall bring a civil action to recover the amount of the civil penalty in United States district court.

"(3) SCOPE OF REVIEW.—In the collection action, the validity and appropriateness of the order of the Secretary imposing the civil penalty shall not be subject to review.

"(d) REFUSAL OR WITHDRAWAL OF INSPECTION PENDING PAYMENT.—If a person fails to pay the amount of a civil penalty after the order assessing the civil penalty becomes final and unappealable, the Secretary may refuse to provide or withdraw inspection under this Act of the person until the civil penalty is paid or until the Secretary directs otherwise.

"(e) PENALTIES IN LIEU OF OTHER ACTIONS.—Nothing in this Act requires the Secretary to report for prosecution, or for the institution of an action, a violation of this Act if the Secretary believes that the public interest will be adequately served by assessment of a civil penalty.

"(f) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to any other remedies that may be available.".

Mr. DASCHLE. Mr. President, today I am pleased to join Senator HARKIN and others to introduce legislation that would strengthen the U.S. Department of Agriculture's ability to protect the public from contaminated meat and poultry products. The United States has the safest food in the world, and this USDA-supported food safety initiative, the Food Safety Enforcement Enhancement Act of 1997, would take important steps to ensure it stays that way.

I have considered food safety policy to be of great significance for many years. As chair of the Agriculture Subcommittee on Agriculture Research, Conservation, Forestry and General Legislation in 1993 and 1994, I held a number of hearings on meat and poultry inspection, including a 1993 hearing to consider the *E. coli* crisis in the Pacific Northwest. Subsequent to a series of congressional hearings related to that incident, Senator LEAHY and I introduced a bill requiring USDA to replace its old meat inspection process with a modern system called the Hazard Analysis and Critical Control Point System [HACCP].

HACCP is a major improvement over the old system because it uses scientific understanding of harmful bacteria to prevent contamination from occurring in the first place. Inspectors observe operations at critical control points and test for pathogens in samples scientifically collected at meat and poultry processing plants.

Because USDA needs the tools to respond swiftly and appropriately to violations, our legislation also would have allowed USDA to fine meat packing plants and processors for safety violations, and order mandatory recalls of contaminated meat and poultry products.

Congress did not pass that bill, but USDA was able to implement many of the bill's provisions through administrative means, including the new

HACCP system of meat and poultry inspection. USDA did not have the authority, however, to implement provisions of the bill that would have strengthened the agency's regulatory authority. Today USDA lacks the regulatory tools that were intended to complement the new inspection system.

The Food Safety Enforcement Enhancement Act of 1997 would amend the Federal Meat Inspection Act [FMIA] and the Poultry Products Inspection Act [PPIA] by adding three new enforcement sections: First, to provide for mandatory recall of meat and poultry products; second, to provide more explicit authority to refuse or withdraw inspection; and third, to provide the power to assess civil monetary penalties. This bill would further ensure that the meat in grocery stores and restaurants is free of *E. coli*, salmonella, and other harmful bacteria.

Civil fines and mandatory recall authority are important improvements, and both are employed by other Federal agencies. Civil fines deter undesirable practices, can be imposed more quickly than criminal penalties or inspection withdrawal, and can be tailored to specific cases. The Food Safety Enforcement Enhancement Act of 1997 is careful to combine ample due process protection with the potential for fines. A hearing before an independent administrative law judge is one of the first steps in the process, and an appeals mechanism is also part of the process.

Mandatory recall is an important improvement to a system that currently relies on voluntary recalls by industry. Although the industry historically has cooperated by voluntarily recalling products when food safety has been in question, USDA needs to be able to swiftly recall meat or poultry in the event voluntarism one day fails.

Science allows us to know more today about food safety than ever before in history and to have higher standards than ever before. It is imperative that we use this science to identify and implement the most effective, efficient production practices. The Food Safety Enforcement Enhancement Act of 1997 surely would enable USDA to take great strides in using HACCP to this end.

By Mr. DODD:

S. 1265. A bill to amend the Occupational Safety and Health Act of 1970 to expand the provisions to include construction safety requirements; to the Committee on Labor and Human Resources.

THE CONSTRUCTION SAFETY, HEALTH, AND EDUCATION IMPROVEMENT ACT OF 1997

Mr. DODD. Mr. President, today I am again introducing the Construction Safety, Health, and Education Improvement Act of 1997. In 1970, the passage of the Occupational Safety and Health Act signified a pledge to American workers that workplaces would be safe and healthy. Sadly, 27 years later, we still have a long way to go to fulfill that promise.

Nationally, more than 6,200 people died from work-related injuries in 1995, as average of 17 people each day. More than 1,000 of those deaths were in the construction industry. In Connecticut, construction deaths remain a significant fact of life for men and women who work in this field. But these are not simply statistics. These deaths represent families and friends losing loved ones.

Construction tends to involve some of the most hazardous work done by workers including roofing, excavation, and trenching. The industry faces many challenges in providing a safe work environment. Often, the worksite changes from week to week, or day to day, and workers and subcontractors come and go as a given project moves forward.

I will never forget the tragedy that occurred at a construction site in my home State more 10 years ago. Twenty-eight people lost their lives during the construction of an apartment building called L'Ambiance Plaza in Bridgeport, CT, when the floors of the building collapsed. Ten years have not healed the wounds from that tragedy. I attended a memorial service earlier this year, and saw many of the same people I saw 10 years ago when this tragedy occurred. They were older, but still carry grief over the loss of a spouse, parent, or friend.

Construction disasters are sadly not isolated to a given State or region. In just the last few months, construction workers in Orlando, Chicago, Indianapolis, Brooklyn, Huntington Beach, and Washington, DC, to name just a few, lost their lives in work related accidents.

The bill I am offering today is straightforward and offers commonsense solutions. I introduced similar legislation in each of the past five Congresses. An office of construction, safety, health and education would be established within OSHA tasked to identify construction employees with a high incidence of injury and noncompliance. The office would establish training in construction safety for inspectors, establish model compliance programs and a toll-free number for reporting safety concerns. The bill would require the development and implementation of a written safety and health plan for each construction project, including an analysis of hazardous activities involved in the project and assurances that all employees are notified of these conditions.

Whether 1 person dies or 25 die, any life lost is one too many. We should not suffer another workplace tragedy before we put in place measures to safeguard construction sites. I urge my colleagues to join me in sponsoring this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Construction Safety, Health, and Education Improvement Act of 1997".

SEC. 2. OFFICE OF CONSTRUCTION SAFETY, HEALTH, AND EDUCATION.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended—

(1) by striking sections 30, 31, and 34;

(2) by redesignating sections 32 through 33 as sections 34 and 35, respectively; and

(3) by inserting after section 29 the following:

"SEC. 30. OFFICE OF CONSTRUCTION SAFETY, HEALTH, AND EDUCATION.

"(a) ESTABLISHMENT.—There is established in the Occupational Safety and Health Administration an Office of Construction Safety, Health, and Education (hereinafter in this section referred to as the 'Office') to ensure safe and healthful working conditions in the performance of construction work.

"(b) DUTIES.—The Secretary shall—

"(1) identify construction employers that have high fatality rates or high lost workday injury or illness rates or who have demonstrated a pattern of noncompliance with safety and health standards, rules, and regulations;

"(2) develop a system for notification of employers identified under paragraph (1);

"(3) establish training courses and curriculum for the training of inspectors and other persons with duties related to construction safety and health who are employed by the Occupational Safety and Health Administration;

"(4) establish model compliance programs for construction safety and health standards and assist employers, employees, and organizations representing employers and employees in establishing training programs appropriate to such standards; and

"(5) establish a toll-free line on which reports, complaints, and notifications required under this Act may be made.".

SEC. 3. CONSTRUCTION SAFETY AND HEALTH PLANS AND PROGRAMS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (as amended by section 2) is further amended by adding after section 30 the following:

"SEC. 31. CONSTRUCTION SAFETY AND HEALTH PLANS AND PROGRAMS.

"(a) PROJECT CONSTRUCTOR.—The Secretary shall, by regulation, require each construction project to have an individual or entity (hereinafter referred to as the 'project constructor') that is responsible for the establishment of the safety and health plan (as described in subsection (b)) for such project and for ensuring that the plan is carried out. Such regulations shall require that—

"(1) if only one general or prime contractor exists on a construction project, such contractor shall be the project constructor, unless such contractor designates another entity with such entity's consent to be the project constructor; and

"(2) if a construction project has more than one general or prime contractor, the

construction owner shall be the project constructor unless such construction owner designates another entity with such entity's consent to be the project constructor.

"(b) CONSTRUCTION SAFETY AND HEALTH PLAN.—

"(1) IN GENERAL.—The Secretary shall, by regulation, require that the project constructor for a construction project develop and implement a written construction safety and health plan for the construction project (hereinafter in this section referred to as the 'plan') to protect employees against hazards which may occur at such project.

"(2) PLAN ELEMENTS.—The plan shall—

"(A) include a hazard analysis and construction process protocol which shall apply to each worksite of the project;

"(B) include assurance that each construction employer on the project has a safety and health program which complies and is coordinated with the plan and the requirements of subsection (c);

"(C) provide for regular inspections of the worksite to monitor the implementation of the plan;

"(D) include a method for notifying affected construction employers of any hazardous conditions at a construction worksite or of noncompliance by an employer with the project safety and health plan;

"(E) include a method for responding to the request of any construction employer, employee, or employee representative, for an inspection of a construction worksite to determine if an imminent danger exists and to stop work at, or remove affected employees from, an area in which such a danger exists;

"(F) provide assurance that a competent person is on site at all times to oversee the implementation of the safety plan and coordinate activities among employers; and

"(G) provide assurance that the plan will be reviewed and modified as the project addresses new safety concerns.

"(3) AVAILABILITY.—Copies of the plan shall be made available to each construction employer prior to commencement of construction work by that employer.

"(c) APPLICATION.—

"(1) IN GENERAL.—The Secretary, by regulation, may modify the requirements of this section, or portions thereof, as such requirements apply to certain types of construction work or operations where the Secretary determines that, in light of the nature of the risks faced by employees engaged in such work or operation, such a modification would not reduce the employees' safety and health protection. In making such modification, the Secretary shall take into account the risk of death or serious injury or illness, and the frequency of fatalities and the lost work day injury rate attendant to such work or operations.

"(2) EMERGENCY WORK.—If it is necessary to perform construction work on a worksite immediately in order to prevent injury to persons, or substantial damage to property, and such work must be conducted before compliance with the requirements of the regulations under subsections (a) and (b) can be made, the Secretary shall be given notice as soon as practicable of such work. Compliance with such requirements shall then be made as soon as practicable thereafter.".

SEC. 4. STATE CONSTRUCTION SAFETY AND HEALTH PLANS.

Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) is amended by adding at the end the following:

"(i) Any State plan that covers construction safety and health shall contain requirements which, and the enforcement of which, are, and will be, at least as effective, in providing safe and healthful employment and places of employment in the construction industry as the requirements contained in subsection (c), and the requirements imposed by, and enforced under, this Act and section 107 of the Contract Work Hours Standards Act (40 U.S.C. 333), including requirements relating to construction safety and health plans.".

SEC. 5. ENFORCEMENT.

(a) CITATIONS.—Section 9(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 658(a)) is amended by inserting ", 8, or 31" after "section 5".

(b) PROJECT CONSTRUCTORS.—Section 9 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 658) is amended by adding at the end the following:

"(e) For purposes of this section and sections 8, 10, 11, and 17 a project constructor shall be considered an employer.".

SEC. 6. REPORTS TO CONGRESS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (as amended by section 3) is further amended by adding after section 31 the following:

"SEC. 32. REPORTS TO CONGRESS.

"The Secretary shall include in the annual report submitted to the President under section 26 additional information on the construction industry as such information relates to the general subjects described in section 26, including the operation of the Office of Construction Safety, Health, and Education.

SEC. 7. FEDERAL CONSTRUCTION CONTRACTS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (as amended by section 6) is further amended by adding after section 32 the following:

"SEC. 33. FEDERAL CONSTRUCTION CONTRACTS.

"Not later than 90 days after the date of the enactment of this section, the Secretary shall deliver to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate recommendations regarding legislative changes required to make the safety records (including records of compliance with Federal safety and health laws and regulations) of persons bidding for contracts subject to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) a criterion to be considered in the awarding of such contracts.".

SEC. 8. DEFINITIONS.

Section 3 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652) is amended by adding at the end thereof the following:

"(15) For purposes of sections 30 and 31, the following terms shall have the following meanings:

"(A) The term 'construction employer' means an employer as defined in paragraph (5) (including an employer who has no employees) who is engaged primarily in the building and construction industry or who performs construction work under a contract with a construction owner, except that a utility providing or receiving mutual assistance in the case of a natural or man-made disaster shall not be considered a construction employer.

"(B) The term 'construction owner' means a person who owns, leases or has effective control over property with or without improvements, a structure, or other improvement on real property on which construction work is being, or will be, performed.

"(C) The term 'construction project' means all construction work by one or more construction employers which is performed for a construction owner and which is described in work orders, permits, requisitions, agreements, and other project documents.

"(D) The term 'construction work' means work for construction, alteration, demolition, or repair, or any combination thereof, including painting and decorating, but does not include work performed under a contract between a construction employer and a homeowner for work on the homeowner's own residence, or routine maintenance and upkeep performed at least monthly, and such term shall include work performed under a contract between a construction employer and an agency of the United States or any State or political subdivision of a State.

"(E) The term 'construction worksite' means a site within a construction project where construction work is performed by one or more construction employers.".

SEC. 9. RELATIONSHIP TO EXISTING LAW AND REGULATIONS.

(a) IN GENERAL.—Nothing contained in the amendments made by this Act or the regulations issued to carry out the amendments shall limit the application of, or lessen, any of the requirements of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Contract Work Hours Standards Act (40 U.S.C. 327 et seq.), or the standards or regulations issued by the Secretary of Labor to carry out either such Act.

(b) PROJECT CONSTRUCTORS.—The presence and duties of a project constructor or a project safety coordinator on a project shall not in any way diminish the responsibilities of construction employers under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) for the safety and health of their employees.

ADDITIONAL COSPONSORS

S. 193

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 193, a bill to provide protections to individuals who are the human subject of research.

S. 714

At the request of Mr. AKAKA, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 714, a bill to make permanent the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs.

S. 801

At the request of Mr. GRAHAM, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 801, a bill to amend title 38, United States Code, to provide for improved and expedited procedures for resolving complaints of unlawful employment discrimination arising within the Department of Veterans Affairs, and for other purposes.

S. 969

At the request of Mr. D'AMATO, the name of the Senator from Rhode Island [Mr. REED] was added as a cosponsor of S. 969, a bill ordering the preparation of a Government report detailing injustices suffered by Italian-Americans during World War II, and a formal acknowledgment of such injustices by the President.

S. 1008

At the request of Mr. DURBIN, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1008, a bill to amend the Internal Revenue Code of 1986 to provide that the tax incentives for alcohol used as a fuel shall be extended as part of any extension of fuel tax rates.

S. 1105

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 1105, a bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes.

S. 1195

At the request of Mr. CHAFEE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1195, a bill to promote the adoption of children in foster care, and for other purposes.

S. 1212

At the request of Mr. DORGAN, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1212, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify that records of arrival or departure are not required to be collected for purposes of the automated entry-exit control system developed under 110 of such Act for Canadians who are not otherwise required to possess a visa, passport, or border crossing identification card.

S. 1213

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1213, a bill to establish a National Ocean Council, a Commission on Ocean Policy, and for other purposes.

S. 1220

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. HOLLINGS, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Michigan [Mr. LEVIN], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Concurrent Resolution 52, a concurrent resolution relating to maintaining the current standard behind the "Made in USA" label, in order to protect consumers and jobs in the United States.

AMENDMENTS SUBMITTED

THE BIPARTISAN CAMPAIGN REFORM ACT OF 1997

JEFFORDS AMENDMENT NO. 1304

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill (S. 25) to reform the financing of Federal elections; as follows:

Strike section 501 and insert the following:

SEC. 501. REQUIREMENTS TO ENSURE EXPENDITURES OF CORPORATIONS AND EXEMPT ORGANIZATIONS FOR POLITICAL PURPOSES ARE VOLUNTARY.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

"(c) RESTRICTIONS ON THE REVENUES OF NATIONAL BANKS AND CORPORATIONS AND DUES OF EXEMPT ORGANIZATIONS USED FOR POLITICAL ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful—

"(A) for any national bank or corporation described in this section to use for political activities any portion of any revenues or amounts received from any shareholder or employee; or

"(B) for any organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code) to use for political activities any portion of any dues, initiation fee, or other payment collected or assessed from any member or nonmember of such organization.

"(2) REQUIREMENTS.—

"(A) NOTICE.—Each bank, corporation, or organization described in paragraph (1) which seeks to make any disbursements for any political activities from dues, initiation fees, or other payments shall—

"(i) provide to each individual a statement of such dues, fee, or other payment before the period to which such dues, fee, or payment applies, and

"(ii) include with each such statement a written notice which includes—

"(I) a reasonable estimate of the budget for such political activities,

"(II) a detailed itemization of all amounts disbursed for political activities in the 2 previous years,

"(III) a reasonable estimate of the dollar amount of the dues, fee, or payment which is to used for such political activities, and

"(IV) a space for the individual to check off that the individual does or does not consent to the expenditure of any portion of such dues, fee, or payment for political activities.

The period covered by any statement shall not exceed 12 months.

"(B) LIMITATION ON AMOUNT; REFUND.—A bank, corporation, or organization required to provide notice under subparagraph (A) shall—

"(i) not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of individuals consenting to such disbursements under subparagraph (A)(ii)(III) bears to the total number of individuals making payment of such dues, fees, or other payments, and

"(ii) with respect to each individual who does not consent to such disbursements under subparagraph (A)(ii)(III), either—

"(I) not collect from the individual the percentage of the dues, fee, or other payment which was to be used for such disbursements, or

"(II) refund to the individual an amount equal to such percentage.

"(C) SPECIAL RULE.—For purposes of subparagraph (B)(i), if an individual does not provide a response under paragraph (2)(A)(ii)(IV), the individual shall be treated as not having consented to the use of any portion of such dues, fee, or payment for political activities.

"(D) AVAILABILITY OF RECORDS.—An organization required to provide notice under subparagraph (A) shall make available to any affected members and nonmembers of the organization at the organization's main office any records on which the information required under subparagraph (A) is based.

"(d) CORPORATE SHAREHOLDERS MUST CONSENT TO DISBURSEMENTS FOR POLITICAL ACTIVITIES FROM FUNDS.—

"(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful for a corporation to which this section applies to make a disbursement to fund political activities from sources not described in subsection (c).

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Any corporation described in paragraph (1) which seeks to make disbursements for political activities during any 12-month period from sources not described in subsection (c) shall, in advance of such period, transmit to each of its shareholders a written notice which includes—

"(i) a reasonable estimate of the budget for such political activities,

"(ii) a detailed itemization of all amounts disbursed for political activities for the previous 2 years,

"(iii) the method by which a shareholder may vote (at its annual meeting or by proxy in connection with the meeting) to approve or disapprove of such disbursements.

"(B) LIMITATION ON AMOUNT.—

"(i) IN GENERAL.—A corporation required to provide notice under subparagraph (A) shall not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of shares voted at an annual meeting to approve such disbursements bears to the total number of shares voted with respect to such issue.

"(ii) SPECIAL RULE.—If a shareholder votes by proxy with respect to 1 or more issues to be considered at an annual meeting but does not vote by proxy with respect to the issue of disbursement of funds for political activities, the shareholder shall be treated as having voted to disapprove such disbursements.

"(e) POLITICAL ACTIVITIES.—For purposes of subsections (c) and (d), the term 'political activities' means communications or other activities which involve donations to, or participation or intervention in, any political campaign or political party, including—

"(1) any activity described in subparagraph (A), (B), or (C) of subsection (b)(2), and

"(2) any communication that attempts to influence legislation or public policy."

(b) DISCLOSURE OF CERTAIN EXPENDITURES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended—

(1) in section 301(9)(B)(iii), by striking "Federal office, except" and all that follows through the semicolon and inserting "Federal office;"; and

(2) in section 316(b)(2), by inserting at the end the following flush sentence:

"Disbursements made for activities described in subparagraphs (A), (B), and (C) shall be reported to the Commission in accordance with clauses (i) and (ii) of section 304(a)(4)(A).".

(c) EFFECTIVE DATE.—This section shall take effect upon enactment of this Act.

TORRICELLI AMENDMENTS NOS. 1305–1306

(Ordered to lie on the table.)

Mr. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 25, supra; as follows:

AMENDMENT NO. 1305

At the appropriate place in the bill, insert the following:

SEC. 302. BROADCAST MEDIA RATES FOR CANDIDATES.

Section 315(b)(1) of the Communications Act (47 U.S.C. 315(b)(1)) is amended by—

(1) striking "forty-five" and inserting "30";

(2) striking "sixty" and inserting "60";

(3) inserting "an amount not to exceed 50 percent of" before "the lowest unit"; and

(4) inserting after section 315(b)(2) the following:

"(3) In order to qualify for the broadcast media rate in section 315(b)(1), an advertisement must be at least 60 seconds in length and the candidate purchasing the ad must appear for at least 75% of the duration of the advertisement."

AMENDMENT NO. 1306

On page 53, strike lines 14 through 21 and insert the following:

SEC. 601. SEVERABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), if any provision of this Act or amendment made by this Act, or the application of any provision or amendment to any person or circumstance, is held invalid, the holding shall not affect—

(1) the other provisions of this Act and amendments made by this Act; or

(2) the application of the provisions of this Act and amendments made by this Act to other persons and circumstances.

(b) EXCEPTION.—If any part of paragraph (20) of section 301 of the Federal Election Campaign Act of 1971 (as added by section 201), or the application of any part of that paragraph to any person or circumstance, is held invalid, section 324 of the Federal Election Campaign Act of 1971 (as added by section 101) shall be of no effect.

TORRICELLI (AND JOHNSON) AMENDMENT NO. 1307

(Ordered to lie on the table.)

Mr. TORRICELLI (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by them to the bill, S. 25, supra; as follows:

At the end of the bill, add the following: "It is the sense of the Senate that if comprehensive campaign finance reform is not signed into law by the President, the President should appoint a bipartisan panel of campaign finance experts to study comprehensive campaign finance reform and propose legislation for the consideration of the 105th Congress."

TORRICELLI AMENDMENT NO. 1308

(Ordered to lie on the table.)

Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill, S. 25, supra; as follows:

At the appropriate place, insert the following:

SEC. . DISCLOSURE OF DONOR LISTS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"( ) REQUIRED DISCLOSURE.—An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that is required to file a report under this Act with respect to independent expenditures shall include in such report the name and address of any contributor whose contributions to the organization during the calendar year and the preceding calendar year exceed $5,000. The organization does not need to disclose contributors that have been disclosed in a previous report and have not made any contributions since the last disclosure.".

JEFFORDS AMENDMENT NO. 1309

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment to an amendment proposed by Mr. LOTT to the bill, S. 25, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. REQUIREMENTS TO ENSURE EXPENDITURES OF CORPORATIONS AND EXEMPT ORGANIZATIONS FOR POLITICAL PURPOSES ARE VOLUNTARY.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

"(c) RESTRICTIONS ON THE REVENUES OF NATIONAL BANKS AND CORPORATIONS AND DUES OF EXEMPT ORGANIZATIONS USED FOR POLITICAL ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful—

"(A) for any national bank or corporation described in this section to use for political activities any portion of any revenues or amounts received from any shareholder or employee; or

"(B) for any organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (other than an organization described in section 501(c)(3) of such Code) to use for political activities any portion of any dues, initiation fee, or other payment collected or assessed from any member or nonmember of such organization.

"(2) REQUIREMENTS.—

"(A) NOTICE.—Each bank, corporation, or organization described in paragraph (1) which seeks to make any disbursements for any political activities from dues, initiation fees, or other payments shall—

"(i) provide to each individual a statement of such dues, fee, or other payment before the period to which such dues, fee, or payment applies, and

"(ii) include with each such statement a written notice which includes—

"(I) a reasonable estimate of the budget for such political activities,

"(II) a detailed itemization of all amounts disbursed for political activities in the 2 previous years,

"(III) a reasonable estimate of the dollar amount of the dues, fee, or payment which is to used for such political activities, and

"(IV) a space for the individual to check off that the individual does or does not consent to the expenditure of any portion of such dues, fee, or payment for political activities.

The period covered by any statement shall not exceed 12 months.

"(B) LIMITATION ON AMOUNT; REFUND.—A bank, corporation, or organization required to provide notice under subparagraph (A) shall—

"(i) not make disbursements for political activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of individuals consenting to such disbursements under subparagraph (A)(ii)(III) bears to the total number of individuals making payment of such dues, fees, or other payments, and

"(ii) with respect to each individual who does not consent to such disbursements under subparagraph (A)(ii)(III), either—

"(I) not collect from the individual the percentage of the dues, fee, or other payment which was to be used for such disbursements, or

"(II) refund to the individual an amount equal to such percentage.

"(C) SPECIAL RULE.—For purposes of subparagraph (B)(i), if an individual does not provide a response under paragraph (2)(A)(ii)(IV), the individual shall be treated as not having consented to the use of any portion of such dues, fee, or payment for political activities.

"(D) AVAILABILITY OF RECORDS.—An organization required to provide notice under subparagraph (A) shall make available to any affected members and nonmembers of the organization at the organization's main office any records on which the information required under subparagraph (A) is based.

"(d) CORPORATE SHAREHOLDERS MUST CONSENT TO DISBURSEMENTS FOR POLITICAL ACTIVITIES FROM FUNDS.—

"(1) IN GENERAL.—Except as provided in this subsection, it shall be unlawful for a corporation to which this section applies to make a disbursement to fund political activities from sources not described in subsection (c).

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Any corporation described in paragraph (1) which seeks to make disbursements for political activities during any 12-month period from sources not described in subsection (c) shall, in advance of such period, transmit to each of its shareholders a written notice which includes—

"(i) a reasonable estimate of the budget for such political activities,

"(ii) a detailed itemization of all amounts disbursed for political activities for the previous 2 years,

"(iii) the method by which a shareholder may vote (at its annual meeting or by proxy in connection with the meeting) to approve or disapprove of such disbursements.

"(B) LIMITATION ON AMOUNT.—

"(i) IN GENERAL.—A corporation required to provide notice under subparagraph (A) shall not make disbursements for political

activities for the period covered by such notice in an amount greater than the amount which bears the same ratio to the amount of such disbursements estimated in the notice as the percentage of shares voted at an annual meeting to approve such disbursements bears to the total number of shares voted with respect to such issue.

"(ii) SPECIAL RULE.—If a shareholder votes by proxy with respect to 1 or more issues to be considered at an annual meeting but does not vote by proxy with respect to the issue of disbursement of funds for political activities, the shareholder shall be treated as having voted to disapprove such disbursements.

"(e) POLITICAL ACTIVITIES.—For purposes of subsections (c) and (d), the term 'political activities' means communications or other activities which involve donations to, or participation or intervention in, any political campaign or political party, including—

"(1) any activity described in subparagraph (A), (B), or (C) of subsection (b)(2), and

"(2) any communication that attempts to influence legislation or public policy."

(b) DISCLOSURE OF CERTAIN EXPENDITURES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended—

(1) in section 301(9)(B)(iii), by striking "Federal office, except" and all that follows through the semicolon and inserting "Federal office;"; and

(2) in section 316(b)(2), by inserting at the end the following flush sentence:

"Disbursements made for activities described in subparagraphs (A), (B), and (C) shall be reported to the Commission in accordance with clauses (i) and (ii) of section 304(a)(4)(A).".

(c) EFFECTIVE DATE.—This section shall take effect upon enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, October 7, 1997, at 9 a.m. in SR–328A to consider the nominations of Ms. Sally Thompson to be Chief Financial Officer of the U.S. Department of Agriculture and Mr. Joe Dial to be Commissioner of the Commodity Futures Trading Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, October 7, 1997, at 10 a.m. on the nominations of Terry Garcia to be Assistant Secretary of NOAA and Raymond Kammer to be Director of NIST.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE AND THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, JOINTLY

Mr. GRAMM. Mr. President, the Finance Committee Subcommittees on Social Security and Family Policy and on Health Care and the Banking Committee Subcommittee on Securities request unanimous consent to conduct a joint hearing on Tuesday, October 7, 1997, at 10 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 7, 1997, at 10 a.m. and 3 p.m. to hold hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRAMM. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Tuesday, October 7, at 10 a.m. for a hearing on campaign financing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, October 7, 1997, at 10 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on "Vindication of Property Rights: Improving Citizens' Access to Justice."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Nomination of Charles Jeffress to be an Assistant Secretary of Labor [OSHA] during the session of the Senate on Tuesday, October 7, 1997, at 9:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. GRAMM. Mr. President, the Committee on Veterans' Affairs requests unanimous consent to hold a markup on the following pending legislation: S. 309, S. 464, S. 623, as amended, S. 714, as amended, S. 730, as amended, S. 801, as amended, S. 813, S. 986, as amended, S. 987, as amended, and S. 999.

The markup will be held at 3 p.m., on Tuesday, October 7, 1997, in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. GRAMM. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, October 7, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S. 725, a bill to direct the Secretary of the Interior to convey the Collbran Reclamation project to the Ute Water Conservancy District and the Collbran Conservancy District; S. 777, a bill to authorize the construction of the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes; H.R. 848, a bill to extend the deadline under the Federal Power Act applicable to the collection of the AuSable Hydroelectric project in New York, and for other purposes; H.R. 1184, a bill to extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric project in the State of Washington, and for other purposes; H.R. 1217, a bill to extend the deadline under the Federal Power Act for the construction of a hydroelectric project in the State of Washington, and for other purposes; S. 1230, a bill to amend the Small Reclamation Projects Act of 1956 to provide for Federal cooperation in non-Federal reclamation projects and for participation by non-Federal agencies in Federal projects; and S. 841, a bill to authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HIS HOLINESS ARAM I

• Mr. ABRAHAM. Mr. President, I rise to speak of a special event which is taking place in the State of Michigan. On October 17, 1997 until October 20, 1997, the greater metropolitan Detroit Armenian community and Michigan, welcomes His Holiness Aram I, Catholicos of the Great House of Cilicia.

His Holiness has served as the spiritual leader of the Holy See of Cilicia of the Armenian Apostolic Church since 1995 and his visit to Michigan and the Armenian community is truly a blessing. Prior to his consecration as Catholicos he has served as the prelate of the Armenian community in Lebanon for 15 years. His Holiness is to be commended for his spiritual leadership not only in the Armenian Apostolic Church but also in regions of the world which face persistent unrest and violence. Through his ministry, published articles and lectures, His Holiness continues to impact lives and provide steadfast love.

The Armenian community has faced many hardships throughout its history, yet the spirit of the Armenian people and its leaders has never diminished. I am honored to recognize His Holiness

for his dedication to religious understanding and the goal of peace throughout the world. May each of us be inspired to seek greater meaning in all that we do. Again, I extend my heartfelt best wishes to His Holiness as he visits Michigan.•

COMPREHENSIVE COAL ACT REFORM ACT

• Mr. DORGAN. Mr. President, I rise today to add my name as a cosponsor of the Comprehensive Coal Act Reform Act of 1997, a bipartisan bill introduced by Senators COCHRAN and CONRAD just prior to the August recess. This bill seeks to alleviate inequities and unforeseeable hardships caused by the reachback tax provisions of the Coal Industry Health Benefit Act of 1992 [the Coal Act], while safeguarding the Combined Fund established under the Coal Act to ensure that retired mine workers get the health benefits they deserve.

As part of the Energy Policy Act of 1992, Congress passed a proposal to help protect health benefits of retired mine workers by allowing the trustees of the newly created Combined Fund to reach back and require former employers of retired coal miners to pay substantial assessments to the fund in order to finance such benefits. While its goals are laudable, this sweeping proposal contains some serious shortcomings. For one thing, it unfairly imposes excessive assessments on some companies, while under-assessing others.

Senators COCHRAN and CONRAD have worked for some time to develop a compromise bill that addresses some of the shortcomings in the Coal Act. This effort led to the introduction of the Comprehensive Coal Act Reform Act of 1997, S. 1105, which I think makes a number of needed changes. I applaud efforts of these Senators to find a workable and fair solution to the reachback problem. And I've added my name as a cosponsor of S. 1105 because I support the primary thrust and goals of this bill.

I do not know if the formula adopted in S. 1105 perfectly resolves the problems created by the Coal Act. Some companies will probably continue to argue that they are paying too much and that others are paying too little into the Combined Fund. Retired mine workers will undoubtedly be concerned by any bill modifying the Coal Act until it's shown that the proposal causes no harm to them.

Finally, let me be very clear about one point. My cosponsorship of this bill should not be construed by anyone as a weakening of my support for retired mine workers and their families. They worked tirelessly in their jobs—often at substantial risk to their personal health and safety—to help meet the energy needs of this country. They are entitled to retirement benefits earned for their dedicated years of service. Any corrective action we take in Congress must ultimately be consistent with this obligation.•

THE 100TH ANNIVERSARY OF MIDDLETOWN HIGH SCHOOL FOOTBALL

• Mr. D'AMATO. Mr. President, as you may be aware, the 1997 season marks the 100th team to play football for Middletown High School.

During these 100 years, Middletown football teams have been coached by Messrs. Bright, Massee, Sjellander, Cady, Spaulding, Greason, Southwell, Sundstrom, Downing, Springman, Goes, Sampson, Hughes, Finch, Bateman, Rodiak, Nania, Whitehead, Brunner, Wolslayer, Ryder, and Scali.

Asylum, Hayes, Wilson, and Faller are the football fields where the Middletown High School teams have played their games during the past century.

For the past 100 years, Middletown football teams have embraced the spirit of competition and have established a winning tradition.

Counted among former MHS football players are elected officials, teachers, doctors, coaches, construction workers, lawyers, businessmen, and members of the military who continue to make positive contributions to their community.

For the past 100 years, the "Middies" have been supported by the board of education, government, civic and fraternal organizations, and the greater Middletown community.

For these reasons, we ask that you give pause.•

RECOGNIZING THE AMERICAN ASSOCIATION OF MENTAL RETARDATION ILLINOIS CHAPTER'S 1997 DIRECT SERVICE PROFESSIONAL HONOREES

• Ms. MOSELEY-BRAUN. Mr. President, it is my distinct pleasure to join the Illinois Chapter of the American Association of Mental Retardation in honoring the recipients of the 1997 Direct Service Professional Award. These honorees are being recognized for their outstanding commitment and contributions to the lives of people in Illinois with developmental disabilities.

These award winners have distinguished themselves through their compassion, dedication, patience, and professionalism. Their work not only enriches the lives of those who they care for, but also enriches all of our lives and sets an example of service for all Americans to follow.

It is indeed my privilege to recognize and celebrate the achievements of the following Illinois direct service professionals: Sunshyne Albers, Angie Berquist, Amy Birdett, Kathy Bouras, Barbara Eakin, Janet Hayes, Bertha Hernandez, Donna Johnson, Marcella Jones, Gertrude Kilpatrick, Thurman McGee, Rosalyn Moore, Charlotte Morrison, Gary Perkins, Larry Pullums, Carolyn Racki, Crystal Rapp, Dolores Sollenberger, Ellis "Steve" Stephens, Viparwon Thongchai, Lisa Vito, Cassandra Wilkins, and Larry Yaus.

I take this opportunity to join the Illinois Chapter of the American Association of Mental Retardation in saluting the winners of the 1997 Direct Service Professional Award. It is my honor to serve them in the U.S. Senate.•

HUMANITARIAN RELIEF IN IRAQ

• Mr. ABRAHAM. Mr. President, I stand before you today to speak of a situation which is of great concern. As Iraqi children returned to school last week, they began another year under difficult circumstances. For 7 years, the innocent children and citizens of Iraq have endured hardships and suffering which are immeasurable for many in this country. Economic sanctions imposed upon the country of Iraq by the United Nations were never intended to deprive the Iraqi people of the necessities of life. While some relief has occurred I believe that much more must be done.

Yet, the situation in Iraq is grim. According to the United Nations Food And Agriculture Organization [FAO], the Iraqi children are perhaps the most vulnerable and hardest hit. More than 600,000 children have died and it is estimated that 4,500 children are dying each month from problems related to malnutrition and shortages of medical supplies. While the sanctions continue, the regime prospers. It is time for the citizens and leaders of our country to continue to provide humanitarian aid to the most innocent of Iraq.

The United States Department of State has not objected to the issuance of licenses to United States organizations and individuals donating food, medicine, and other materials for essential civilian needs in Iraq. I am pleased that my office was able to assist the International Relief Association [IRA] based out of St. Clair Shores, MI, in obtaining a license to provide much needed supplies to the children and elderly of Iraq. I believe that it is essential to continue to seek out organizations and individuals who wish to assist in bringing further humanitarian relief to Iraq and to help them in obtaining the proper licenses to do so. Let it be known, that I encourage my colleagues to invoke the spirit of American humanitarianism and for each of them to examine the simple fact that aid must continue in this region of the world. I commend each organization and individual who has assisted in providing relief to the people of Iraq. May each of us be reminded that political and economic sanctions should not affect the lives of those who innocently suffer.•

SUSAN LANDON

• Mr. BINGAMAN. Mr. President, I rise today to express my deep sorrow about the death of Susan Landon on September 28, 1997. Ms. Landon, a citizen of New Mexico and resident of the city of Albuquerque, graduated from the University of New Mexico. She went on to fulfill a rich and varied career writing for the Albuquerque Journal. I have become familiar with Susan's work, as she reported on a range of issues spanning much of the breadth of contemporary New Mexico life.

Ms. Landon worked as the youth page editor, and as a reporter for general assignments, education, and State news. She began writing for the Journal's editorial page in 1992, and continued to do so until a few weeks before her death. Susan excelled in her assignments, winning numerous city, State, and national journalism awards. She found particular satisfaction through her work covering various Native American issues, and was thanked publicly by the president of the Navajo Nation for the sensitivity and understanding which was reflected in her writings.

I would like to quote from an article written by Jim Belshaw, a friend and colleague of Susan, in which he said "Susan Landon was smart and fair and irreverent and compassionate and tough; she was a native New Mexican who knew and loved the State and its people. She had an unerring ability to cut through rhetoric and get to the heart of a matter, regardless of its camouflage."

Mr. President, I ask today that the full text of Mr. Belshaw's article be printed in the RECORD, as it provides a unique perspective on the life of this dedicated individual whom New Mexico will miss very much.

The article follows:

PRIZED REPORTER SHARED HER GIFT WITH N.M.

(By Jim Belshaw)

Susan Landon, my friend and colleague of 20 years, died Sunday. She was 47 years old. She left a gift—a photograph!

At first, I believed the photograph spoke only to those of us who toil in journalistic fields. But I was mistaken as well as myopic. The photograph's message, clear and sharp as a New Mexico autumn, is meant not just for the people who worked at Susan's side all these years but for anybody who cares to embrace it.

The black-and-white photo shows a young newspaper reporter on the job. She stands in muddy, ankle-deep flood water. She writes in a notebook while the man whose name and words will appear in the next morning's newspaper leans on the shovel he has been using to fling muck out of his flooded home.

"Look who shot this," Susan said the first time she showed me the picture.

Stamped on the back of the print was the name of the Journal photographer—Jim Nachtwey, a mutual friend who has gone on to renown as one of the world's foremost photojournalists.

The picture is dated June 15, 1977; a handwritten note on the back of the photo describes the scene's circumstances.

"My mother wrote this," Susan said, smiling at the singular pride only a mother can have in a child.

"Famous Journal Reporter," the note's formal title announces. "Susan Landon with David Starkey—covering story when irrigation ditch wall broke in South Valley, flooding 4 homes."

I don't remember how long it's been since that first time she showed me the photograph. After that conversation, I never said anything more about it, though I thought of it often because its message was so clear and irrefutable.

Then one day a few weeks ago, after it became clear that she would lose the fight against the cancer that attacked her, Susan handed me the picture and said, "I want you to have this."

Susan Landon was smart and fair and irreverent and compassionate and tough—all the things a reporter should be.

She was a native New Mexican who knew and loved the state and its people. She had an unerring ability to cut through rhetoric and get to the heart of a matter, regardless of its camouflage.

She was painfully shy and militantly private, but she never backed away from the demands of the job. At her core lay a righteous anger, a philosophic pilot light ready to ignite when confronted with inequity; the flame burned especially hot when she encountered a bully abusing power.

She spent the final years of her newspaper career as an editorial writer, but when she spoke of what she missed most it had nothing to do with the inside of the building.

"I miss the reservation," she once said, looking back to the years she covered the Navajo Nation. "I miss being out there talking to the people. I miss writing about them. It was the best time for me."

When she gave me the photograph, it occurred to me that it should be made into a poster and pinned up on the bulletin boards of journalism schools all over the country. It is a clean, pure image of what this job is supposed to be.

Each time I looked at it. I thought about the peripheral circus that follows us these days: Seminars and focus groups and dazzling graphics and endless analysis; the Internet and Web pages and cyberspace prophets issuing incessant revelations predicting the printed world's imminent doom.

Then I look again at Susan's photograph and I am reminded of what the job is supposed to be—any job, not just ours. The photograph transcends journalism, its simple eloquence unable to be contained within the confines of a single endeavor.

This image of Susan with her pen and note pad is the image of a woman doing the job with no complaints, no excuses, no sleight of hand, no gimmicks.

It speaks to anyone engaged in any undertaking. It says the only thing that really counts is getting the job done. Anything else is just an excuse and deep in our hearts we all know it.

My dear friend, Susan, has died and left a gift that at first glance seems to be a photograph but is much more. Susan left us a compass. It points to true north.•

CHALDEAN FEDERATION OF AMERICA DINNER

• Mr. ABRAHAM. Mr. President, I rise today to acknowledge an important event which is taking place in the State of Michigan. On this day, October 14, 1997, many have gathered to celebrate the Chaldean Federation of America's fifth annual dinner and awards banquet. Each of the individuals in attendance deserve special recognition for their commitment and steadfast support of the Chaldean community.

I am pleased to recognize the recipients of tonight's awards: Dr. Nathima Atchoo—Humanitarian Award, Mayor Gerald Naftaly—Civic Humanitarian Award, Hayat Jajonie and Salim Sarafa—Community Service Awards, Janan Senawi—Volunteer Recognition Award, Ismael Ahmed and Sargon Lewie—CFA President's Award, Isam Yaldo—Business/Community Award, and Deacon Sadik Barno—Cultural Award. Each of these recipients should take great pride in receiving these distinguished awards.

While it is important to pay special tribute to the awardees, it is also essential to honor each citizen of the Chaldean community. In many respects, the Chaldean community of Michigan is a true example of a thriving community. Through strong economic growth, inspiring leaders, and unwavering dedication, the State of Michigan has greatly benefited from Chaldean-Americans. One such organization that has exemplified the spirit of the Chaldean community is the International Relief Association.

The International Relief Association [IRA] continues to assist in supplying humanitarian relief to the children of Iraq. This association which is based in St. Louis Clair Shores, MI, has been a tireless advocate for the innocent individuals which have been so deeply affected by the trade embargo imposed on Iraq since 1990. According to the United Nations International Children's Education Fund, it is estimated that some 4,500 children are dying each month from malnutrition and the shortage of much-needed supplies. I commend the IRA for its active participation in the lives of the people of Iraq.

While the IRA continues to help to support the people of Iraq, I believe that each of us must examine what role we can play. It is essential that collectively we begin to raise awareness concerning this region of the world. Again, I am deeply honored to lend my support to the work of the IRA and to the countless individuals whose own private efforts often go unnoticed.

To the Chaldean-American community and to the awardees, I send my sincere best wishes and may the spirit of this evening continue to inspire each of you.•

TRIBUTE TO THE ST. THOMAS AQUINAS SCHOOL

• Mr. SMITH of New Hampshire. Mr. President I rise today to honor the St. Thomas Aquinas School in Drew, NH, for receiving the State Champion

Award for the President's Challenge on Physical Fitness.

The State Champion Award is presented to schools with the highest number of students scoring at or above the 85th percentile on the President's Challenge.

The five assessments of the President's Challenge measure four components of physical fitness: a 1-mile run/walk for heart and lung endurance, curl-ups for abdominal strength and endurance, a "sit and reach" stretch for muscular flexibility, pull-ups for upper body strength and endurance, and a shuttle run for agility.

St. Thomas Aquinas is a private Catholic school filled with 300 students in grades kindergarten through 8.

Excelling in physical fitness is a positive step toward making healthy lifestyle choices that will provide lifelong benefits. I am very proud of the students at St. Thomas Aquinas for their accomplishments and applaud the efforts and dedication of the school.•

THE FIFTH ANNUAL AMERICAN ARAB CHAMBER OF COMMERCE BANQUET

• Mr. ABRAHAM. Mr. President, today I rise to extend my best wishes for the American Arab Chamber of Commerce-Michigan's annual banquet on October 19. The American Arab Chamber of Commerce-Michigan will again hold this yearly event which recognizes individuals and their contributions in helping to promote a strong Michigan economy.

This year's banquet is an especially notable event. October 19 marks the fifth year for the chamber of commerce's banquet. While this is worthy of note, I am especially honored to have the opportunity to welcome His Royal Highness Crown Prince El-Hassan bin Talal of the Hashemite Kingdom of Jordan to Detroit. Attending the event with His Royal Highness will be several members of the Jordanian Cabinet and His Exellency Dr. Marwan Muasher, Ambassador to the United States. The participation of Crown Prince Hassan and the other Jordanian emissaries affords everyone the opportunity to learn of new business and cultural possibilities between Michigan and Jordan. Furthermore, as the keynote speaker, Crown Prince Hassan will provide valuable insight for the American Arab Chamber of Commerce-Michigan on the trade relationship between the United States and Jordan.

I am proud of the Arab-American community's continual efforts to foster relationships of goodwill. These efforts will go far in enhancing and promoting the community's image and understanding throughout the United States and beyond.

We can all be proud of these efforts. I also take pride in the American-Arab Chamber of Commerce's efforts to include the entire spectrum of businesses in Michigan. Members of the chamber of commerce range in size from small entrepreneurial companies to large international corporations, with every individual committed to promoting Michigan's economic vitality. This vibrant community adds a great deal to Michigan, and I am very pleased to have the opportunity to recognize the chamber's efforts.•

BUDGET SCORING OF THE CONFERENCE AGREEMENT ON H.R. 2378

• Mr. DOMENICI. Mr. President, I rise in support of the conference agreement on H.R. 2378, the Treasury and general Government appropriations bill for fiscal year 1998.

This bill provides new budget authority of $25.4 billion and new outlays of $22.5 billion to finance operations of the Department of the Treasury, including the Internal Revenue Service, U.S. Customs Service, Bureau of Alcohol, Tobacco, and Firearms, and the Financial Management Service; as well as the Executive Office of the President, the Office of Personnel Management, the General Services Administration, and other agencies that perform central Government functions.

I congratulate the chairman and ranking member for producing a bill that is within the subcommittee's 302(b) allocation and generally consistent with the bipartisan balanced budget agreement. I also commend the chairman for his strong support of law enforcement, including the Federal Law Enforcement Training Center.

When outlays from prior-year BA and other adjustments are taken into account, the bill totals $25.4 billion in BA and $25.2 billion in outlays. The total bill is $2 million below the Senate subcommittee's 302(b) nondefense discretionary allocation for budget authority and outlays. The bill is at the subcommittee's violent crime trust fund allocation for BA and under its allocation for outlays by $8 million.

Mr. President, I ask to have printed in the RECORD a table displaying the Budget Committee scoring of the conference agreement on H.R. 2378.

The table follows:

H.R. 2378, TREASURY-POSTAL APPROPRIATIONS, 1998, SPENDING COMPARISONS—CONFERENCE REPORT

[Fiscal Year 1998, $ millions]

	Defense	Non-defense	Crime	Mandatory	Total
Conference report:					
Budget authority		12,604	131	12,713	25,448
Outlays		12,377	118	12,712	25,207
Senate 302(b) allocation:					
Budget authority		12,606	131	12,713	25,450
Outlays		12,379	126	12,712	25,217
President's request:					
Budget authority		12,960	118	12,713	25,791
Outlays		12,495	105	12,712	25,312
House-passed bill:					
Budget authority		12,401	97	12,713	25,211
Outlays		12,170	94	12,712	24,976
Senate-passed bill:					
Budget authority		12,466	131	12,713	25,310
Outlays		12,268	112	12,712	25,092
CONFERENCE REPORT COMPARED TO:					
Senate 302(b) allocation:					
Budget authority		−2			−2
Outlays		−2	−8		−10
President's request:					
Budget authority		−356	13		−343
Outlays		−118	13		−105
House-passed bill:					
Budget authority		203	34		237
Outlays		207	24		231
Senate-passed bill:					
Budget authority		138			138
Outlays		109	6		115

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.•

FOCUS:HOPE'S "WALK 1997"

• Mr. ABRAHAM. Mr. President, I rise today to pay homage to an organization which is working to help create a better America. On Sunday, October 12, Focus:HOPE will hold its annual walk. This walk raises awareness of the community's needs and reaffirms Focus:HOPE's commitment to metropolitan Detroit.

This year has been very challenging for Focus:HOPE. The organization was struck by a terrible tragedy: the loss of Father Cunningham. His passing was a blow to not only the program he founded, but to the entire Detroit community. The dedication and vigor with which he pursued his goal of creating an environment where all people live in harmony was unsurpassed; his optimism and belief in Detroit was overwhelming; faced with the task before him, his spirit remained undaunted. Truly, he was one man who made a difference. This year Focus:HOPE's spirit was shaken and so too were its foundations. Earlier this year, storms swept through metropolitan Detroit, ravaging the area. A tornado sped through the city and left Focus:HOPE's facilities severely damaged in its wake.

Now, Focus:HOPE is rebuilding. Although a great part of Focus:HOPE is gone, Father Cunningham's vision lives on. The many volunteers and supporters walking this year represent a renewed commitment. Sunday will be an occasion for the organization to rededicate itself to helping provide every needy individual with the means to succeed. Over the years, Focus:HOPE has flourished and grown into a shining example of what can be accomplished through dedication and hard work. As much as this occasion is a reflection on the past, it is more appropriately a time to contemplate what the future may hold. The 21st century is drawing near and Focus:HOPE'stands ready to meet all challenges head-on. I am confident this year's walk will inspire people to follow Father Cunningham's lead and help make the city of Detroit, the State of Michigan, and the entire Nation a better place.•

DISTRICT OF COLUMBIA APPROPRIATIONS ACT

Mr. LOTT. Mr. President, in view of the agreement and the effort that has been made by Senator MACK, Senator GRAMM of Texas, and Senator GRAHAM of Florida, they understand they have perhaps worked this issue out but they want to actually get it written up, and they will have it available tomorrow morning. So we believe we can complete action on the District of Columbia appropriations bill tomorrow.

There will be no further votes this evening. The next vote will occur at approximately 12 noon on Wednesday.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMPAIGN FINANCE REFORM

Mr. FAIRCLOTH. Mr. President, there is in this country a need for campaign reform. Something could well be done but the approach from the Clinton-Gore administration is in no way a sincere effort. It is a gossamer facade at reform. In reality, it is nothing more than an attempt to divert people's attention from the flagrant abuses of the campaign finance laws already on the books—laws they have broken on a regular basis.

It takes absolute unmitigated gall for President Clinton and Vice President GORE to talk about campaign finance reform when they cannot and have not obeyed the existing laws. For the President and Vice President to be talking about campaign finance reform, it would be similar to Jesse James leading a crusade for stricter bank robbery laws. They both remind me of two people that have stolen your horses and go flying down the road by your house saying "lock your barn, lock your barn." They have gotten the horses and gone.

The truth is that this is a first step in a liberal effort to get the American taxpayer to pay for political campaigns. It would be a massive mistake to take the electoral process away from the private sector and turn it into another Federal Government bureaucracy. And that is exactly what this bill would do. What they are hoping to do is to make campaigns a public bureaucracy paid for by the taxpayers whether they want to or not. When they talk about campaign finance reform, there is one thing they have in mind: Getting their hands into the public till to pay for their political campaigns.

If you want to see how well public financing works, you can just look at the 1996 Presidential campaign. Have you ever seen a more flagrant disregard for the laws of this country than happened in that? President Clinton and Vice President GORE didn't need to raise money from Buddhist monks, Asian temples, international arms dealers, and the Chinese Government because their general election campaign was already paid for by the American taxpayers. But, no, they were so greedy they had to go everywhere and hunt every illegal contribution they could find.

They wonder why fewer and fewer Americans are checking off the contribution box for the President's election fund on their tax forms. Why check it off? Simply make a trip to the Buddhist temple and fund your own campaign.

The private sector works. If people want to support a candidate with their contributions, they will. But don't force the taxpayers to fund the ideological campaigns of candidates they don't support. And that is exactly where we are heading.

Mr. President, as I said, there is a need for campaign finance reform. I have supported several specific items which I believe could help bring some balance to the system. Indexing contributions would be one. Another is to make sure that workers have an option whether they want to support the union political activities or not. One of the most important things is to protect their paycheck. We need faster and fuller disclosure of contributions, and if we really wanted to do something for campaign finance reform we could go with term limits, if we were really serious about controlling it.

Most importantly, politicians should start obeying the campaign finance laws that are already on the books. Why should we start passing more reform laws when in the past campaign we saw the President and the Vice President break the ones that were there day in and day out. And I am tired of the "everybody did it" excuse that we are hearing out of this administration. Even if that were true, it is time for the President to muster the intestinal fortitude on his own and stop doing it. There is no excuse for him to do it because somebody—they were saying this morning in the hearing—20 years ago did it. He should be responsible for himself.

It is already illegal to accept contributions from foreign countries. Why do we not enforce the existing law rather than going for new ones? Mr. President, we need real campaign finance reform but spare us the moral outrage coming from President Clinton and Vice President GORE. We have enough cynicism in politics as it is now. It is time to end it. It is time for the President and Vice President to take responsibility for their personal actions.

Mr. President, I thank you and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, OCTOBER 8, 1997

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that when the

Senate completes its business for the day, it stand in adjournment until the hour of 11 a.m. on Wednesday, October 8. I further ask that on Wednesday, immediately following the morning prayer, the routine requests through the morning hour be granted and the hour prior to the cloture vote on S. 25 be equally divided in the usual form and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FAIRCLOTH. Tomorrow, at 11 a.m., the Senate will begin debate on the motion to invoke cloture on S. 25, the McCain-Feingold finance reform bill. Therefore, the cloture vote will occur at 12 noon tomorrow with the mandatory quorum being waived. Assuming cloture is not invoked, the Senate will then move to proceed to S. 1173, the so-called ISTEA legislation. Hopefully, the Senate will be able to make good progress on that legislation with votes occurring Wednesday afternoon on the ISTEA bill. As previously announced, the Senate may also consider any appropriate conference reports that may be available.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. FAIRCLOTH. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:08 p.m., adjourned until Wednesday, October 8, 1997, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 7, 1997:

IN THE COAST GUARD

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. COAST GUARD UDNER TITLE 14 UNITED STATES CODE, SECTION 271:

To be lieutenant commander

THOMAS FLORA, x...
ALFREDO T. SORIANO, x...
WILLIAM E. THOMPSON,
ALLEN B. CLEVELAND, x...
TIMOTHY M. FITZPATRICK, x...
MICHAEL J. KELLY, x...
PETER W. SEAMAN, x...
WILLIAM P. GREEN, x...
JOHN R. TURLEY, x...
MARKUS D. DAUSSES, x...
JOHN L. BRAGAW, x...
GLENN L. GEBELLE, x...
MICHAEL S. SABELLICO, x...
LAURA H. O'HARE, x...
SUSAN K. VUKOVICH, x...
CRAIG O. FOWLER, x...
DANIEL S. CRAMER, x...
JOHN J. METCALF, x...
STEVEN J. REYNOLDS, x...
SEAN M. MAHONEY, x...
KEVIN J. MCKENNA, x...
CHRISTOPHER E. ALEXANDER, x...
JAMES W. SEBASTIAN, x...
HAN KIM, x...
PHYLLIS E. BLANTON, x...
ANDREW C. PALMIOTTO, x...
MATTHEW K. CREELMAN, x...
CALEB CORSON, x...
MARCH H. NGUYEN, x...
CYNTHIA L. STOWE, x...
CHARLES JENNINGS, x...
MARY J. SOHLBERG, x...
JOHN F. MALONEY, x...
CRAIG T. HOSKINS, x...
JAMES P. MCLEOD, x...
RAYMOND D. HUNT, x...
KENNETH V. FORDHAM, x...
JON S. KELLAMS, x...
KEITH M. SMITH, x...
DONNA L. COTTRELL, x...
JAMES W. CROWE, x...
PETER D. CONLEY, x...
KELLY L. KACHELE, x...
SCOTT A. BUTTRICK, x...
JANET R. FLOREY, x...
MELISSA A. BULKLEY, x...
JAMES H. WHITEHEAD, x...
WILLIAM R. KELLY, x...
JASON LYUKE, x...
JOHN M. DANAHER, x...
JOHN E. BORIS, x...
MARK D. BERKELEY, x...
RICHARD A. SANDOVAL, x...
CHARLES M. GREENE, x...
BRIAN P. HALL, x...
ERIC P. CHRISTENSEN, x...
RONALD J. HAAS, x...
MARK D. WALLACE, x...
MATTHEW C. STANLEY, x...
FRANK G. DELEON, x...
ROD D. LUBASKY, x...
DARCY D. GUYANT, x...
PERRY S. HUEY, x...
DONALD F. POTTER, x...
KEVIN M. BALDERSON, x...
PATRICK FLYNN, x...
WAYNE A. STACEY, x...
PATRICK G. MCLAUGHLIN, x...
WAYNE C. CONNER, x...
JEFFREY S. PHELPS, x...
MICHAEL G. BLOOM, x...
ROGER D. MASON, x...
MICHAEL W. DUGGAN, x...
BRUCE E. GRAHAM, x...
LAMBERTO D. SAZON, x...
HENRY D. KOCEVAR, x...
BRUCE D. HENSON, x...
SEAN A. MCBREARTY, x...
ROBERT C. WILSON, x...
GARY L. BRUCE, x...
JIM L. MUNRO, x...
KEVIN P. FROST, x...
ROBERT D. KIRK, x...
WILLIAM L. STINEHOUR, x...
SCOTT B. VARCO, x...
DAWAYNE R. PENBERTHY, x...
KEITH R. BILLS, x...
RICHARD K. WOOLFORD, x...
TIMOTHY A. ORNER, x...
DOUGLAS M. GORDON, x...
JAMES D. JENKINS, x...
LARRY D. BOWLING, x...
DREW J. TROUSDELL, x...
SCOTT W. BORNEMANN, x...
PAUL A. TITCOMBE, x...
WILLIAM M. DRELLING, x...
KRISTIN A. WILLIAMS, x...
JOHN E. HURST, x...
KEVIN D. CAMP, x...
STEVEN W. POORE, x...
ARTHUR R. THOMAS, x...
THOMAS E. CAFFERTY, x...
JEFFREY A. REEVES, x...
RONALD L. HENSEL, x...
MARC P. LEBEAU, x...
BARRY O. ARNOLD, x...
SAMUEL SHORT, x...
GARY E. BRACKEN, x...
DAVID C. HARATT, x...
RICHARD T. GATLIN, x...
JOSEPH P. KELLY, x...
ERIC V. WALTERS, x...
COREY J. JONES, x...
MICHAEL J. BOSLEY, x...
ROGER R. LAFERRIERE, x...
JOHN G. KEETON, x...
ROBERT S. YOUNG, x...
JOHN J. DOLAN, x...
ALAN W. CARVER, x...
LEONARD C. GREIG, x...
DAVID A. WALKER, x...
DAVID L. HARTLEY, x...
MICHAEL A. MEGAN, x...
WILLIAM J. BOEH, x...
STEWART M. DIETRICK, x...
THOMAS TARDIBUONO, x...
JOHN E. SOUZA, x...
TIMOTHY J. HEITSCH, x...
JULIE A. GAHN, x...
DONALD E. CULKIN, x...
BYRON L. BLACK, x...
JAMES E. HANZALIK, x...
KURT A. SEBASTIAN, x...
GREGORY J. SANIAL, x...
FRANK R. PARKER, x...
JOHN A. HEALY, x...
TINA L. BURKE, x...
JOHN D. WOOD, x...
JAN M. JOHNSON, x...
TIMOTHY G. STUEVE, x...
KEITH A. RUSSELL, x...
JOHN F. MORIARTY, x...
MICHAEL P. RYAN, x...
JOHN B. SULLIVAN, x...
LARRY R. KENNEDY, x...
ROBERT P. HAYES, x...
STUART L. LEBRUSKA, x...
CHRISTOPHER J. MEADE, x...
CHARLES A. RICHARDS, x...
DONALD JILLSON, x...
CHARLES E. RAWSON, x...
JANET E. STEVENS, x...
CHRISTOPHER D. NICHOLS, x...
JOEL D. SLOTTEN, x...
DOMINIC DIBARI, x...
STEPHEN P. CZERWONKA, x...
KURT C. OBRIEN, x...
ROBERT T. MCCARTHY, x...
KEVIN P. FREEMAN, x...
JOEL D. DOLBECK, x...
RICHARD D. FONTANA, x...
SEAN M. BURKE, x...
EDGARS A. AUZENBERGS, x...
JOEL D. MAGNUSSEN, x...
MICHAEL J. LOPEZ, x...
THOMAS F. RYAN, x...
ALAN N. ARSENAULT, x...
PETER N. DECOLA, x...
THOMAS G. NELSON, x...
JAMES CARLSON, x...
PHILIP J. SKOWRONEK, x...
PAT DEQUATTRO, x...
DAVID M. DERMANELIAN, x...
AUSTIN J. GOULD, x...
STEPHEN M. SABELLICO, x...
ANDY J. FORDHAM, x...
SCOTT D. PISEL, x...
LAURENCE J. PREVOST, x...
JOSEPH M. PESCI, x...
CHARLES L. CASHIN, x...
JESSE K. MOORE, x...
GLENN M. SULMASY, x...
MATTHEW J. ZAMARY, x...
ANTHONY S. LLOYD, x...
KIRK A. BARTNIK, x...
WILLIAM J. WOLTER, x...
FRANCIS E. GENCO, x...
DAVID P. CROWLEY, x...
JOSEPH F. HESTER, x...
JOHN C. RENDON, x...
CHARLES S. CAMP, x...
WILLIAM R. MEESE, x...
MICHAEL P. CAROSOTTO, x...
STEVEN A. BANKS, x...
JOSEPH E. MANJONE, x...
TIMOTHY F. PETTEK, x...
KEITH T. WHITEMAN, x...
JAMES E. SCHEYE, x...
JOSEPH E. BALDA, x...
JAMES R. OLIVE, x...
JAMES TABOR, x...
GARY A. CHARBONNEAU, x...
EDWARD J. CUBANSKI, x...
ERIC G. JOHNSON, x...
PATRICK J. MCGUIRE, x...
BRADFORD CLARK, x...
JOSEPH J. LOSCIUTO, x...
VICTORIA A. HUYCK, x...
ROMUALDO DOMINGO, x...
CAMERON T. NARON, x...
JASON A. FOSDICK, x...
ADAM J. SHAW, x...
IAN LIU, x...
PATRICK FOLEY, x...
BASIL F. BROWN, x...
GEORGE M. ZEITLER, x...
CHRISTIAN J. HERZBERGER, x...
ROBERT F. OLSON, x...
MICHAEL Z. ERNESTO, x...
MITCHELL C. EKSTROM, x...
MICHAEL D. CALLAHAN, x...
ROBERT E. STYRON, x...
DOUGLAS M. RUHDE, x...
DARWYN A. WILMOTH, x...
STEVEN M. SHERIDAN, x...
JAMES B. NICHOLSON, x...
JOSEPH L. DUFFY, x...
ROBERT A. LAAHS, x...
CEDRIC A. HUGHES, x...
CARMEN T. LAPKIEWICZ, x...
GLENA T. SANCHEZ, x...
RODERICK D. DAVIS, x...
BRIAN K. GOVE, x...
RUSSELL C. PROCTOR, x...
GERARDO MORGAN, x...
DAVID S. FISH, x...
KEVIN C. BURKE, x...
MICHAEL A. JENDROSSEK, x...

TONY C. CLARK, x...
ROBERT D. PHILLIPS, x...
STEVEN R. SATOR, x...
THEODORE R. SALMON, x...
JASON L. TENGAN, x...
MARK S. RYAN, x...
ROBERT J. GREVE, x...
PETER M. KILFOYLE, x...
BRIAN K. MOORE, x...
WILLIAM F. ADICKES, x...
MARK J. WILBERT, x...
THURMAN T. MAINE, x...
CRAIG A. PETERSEN, x...
ROBERT I. GRIFFIN, x...
DONALD R. LING, x...
JEFFREY S. HUDKINS, x...
MARK J. GANDOLFO, x...
DIRK A. GREENE, x...
DAVID J. ROKES, x...
TODD A. TSCHANNEN, x...
MICHAEL R. OLSON, x...

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) IN THE MEDICAL CORPS UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624, 628, 531, AND 3064:

To be lieutenant colonel

REED S. CHRISTENSEN, x...
*THADDEUS J. KROLICKI, x...
*ROBERT W. WILKESON, x...

To be major

RAMCHANDRA J. LAHORI, x...
STEPHEN C. LEE, x...
JAMES E. RAGAN, x...

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY AND FOR REGULAR ARMY APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624, 628, AND 531:

To be major

PERRY W. BLACKBURN, JR., x...
*PAUL A. WHITTINGSLOW, x...

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be lieutenant colonel

PAUL D. MCGRAW, x...

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 531 (IDENTIFIED WITH AN ASTERISK) AND x...

To be lieutenant

*FREDERICK BRASWELL, x...
*KENNETH S. LANE, x...
EDWIN A. THARPE, x...

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be lieutenant commander

LEIGH P. ACKART, x...
GILBERTO ACOSTA, x...
SALVADOR AGUILERA, x...
MICHAEL T. AKIN, x...
PAUL M. ALEXANDER, x...
DANIEL L. ALLEN, x...
JENNIFER M. ALLEN, x...
KATHRYN A. ALLEN, x...
STEVEN E. ALLEN, x...
DAVID C. ALLISON, x...
LOUIS AMBLARD, x...
PAMELA K. AMBROZ, x...
KARLYNA L. D. ANDERSEN, x...
JAMES J. ANDERSON, x...
THERESA M. ANTOLDI, x...
JOEL M. APIDES, x...
JULIA J. ARCHER, x...
MARC E. A. ARENA, x...
ELLEN A. ARGO, x...
JAMES B. ARON, x...
DALE A. BAKER, x...
RANDY L. BALDWIN, x...
MARILOU P. BARKER, x...
CHRISTOPHER P. BARNES, x...
TIMOTHY D. BARNES, x...
STEVEN M. BARNEY, x...
BENJAMIN J. BARROW, x...
MICHAEL M. BATES, x...
THOMAS E. BATES, x...
KRISTEN M. BATTAGLIA, x...
LAWRENCE L. BATZLOFF, x...
WILLIAM P. BAUGH, x...
LYNN L. BEACH, x...
LUNDY BEARD, x...
JAMES G. BEASLEY, x...
MARGARET S. BEAUBIEN, x...
THOMAS BECKMAN, x...
BORIS S. BELCHOFF, x...
BRYAN L. BELL, x...
DARL V. BELL, x...
THERESA A. BELL, x...
JOHN L. BENDER, x...
JOSEPH A. BERNETSKI, x...
SCOTT A. BERNOTAS, x...
JON BERRY, x...
BRUCE A. BETTS, x...
WALTER S. BEW, x...
MANUEL A. BIADOG, x...
SEAN BIGGERSTAFF, x...
JOSEPH B. BLACKBURN, x...
TAMMY BLANKENSHIP, x...
BARRY R. BLANKFIELD, x...
ALISA J. BLITZSEIBERT, x...
ELDON G. BLOCH, x...
ANGELA J. H. BOATMAN, x...
SUSAN K. BOBO, x...
PATRICK H. BONDAD, x...
SIDNEY L. BOURGEOIS, x...
MARK J. BOURNE, x...
BRENDA F. BRADLEY, x...
DENA A. BRADLEY, x...
JIMMY A. BRADLEY, x...
ROBERT R. BRASWELL, x...
DENISE BREAULT, x...
KEVIN M. BREW, x...
KENNETH J. BROOMER, x...
BENEDICT J. BROWN, x...
CARLOS V. BROWN, x...
PATRICK C. BROWN, x...
PATRICK W. BROWN, x...
FORREST R. BROWNE, III, x...
MARGUERITE D. BRUCE, x...
JOHN D. BRUGHELLI, x...
WILLIAM C. BRUNNER, x...
DORRIE E. BRYSON, x...
FREDERICK F. I. BURGESS, x...
JAMES L. BURK, x...
JOSEPH F. BURKARD, x...
ALAN L. BURLINGAME, II, x...
SUE A. BURNETT, x...
CASEY C. BURNS, x...
MARK L. BURTMAN, x...
STANLEY R. BUSH, x...
MAUREEN R. N. BUTLER, x...
JACK C. CAIN, x...
MARGARET CALLOWAY, x...
JOSEPH A. CAMPBELL, x...
NICHOLAS M. CARDINALE, x...
ROY J. CARLS, x...
BRETT B. CARMICHAEL, x...
WILLIAM S. CARNEVALI, x...
DAVID T. CARPENTER, x...
RONALD K. CARR, x...
KEVIN J. CARRIER, x...
THOMAS P. CARROLL, x...
JOHN J. CARTY, x...
HAROLD H. CASERTA, x...
BROOKS D. CASH, x...
PEDRO L. CASINGAL, JR, x...
ANTHONY P. CATANESE, x...
THOMAS G. CATENA, x...
RODANTE CATUBAY, xx...
KEITH C. CELEBREZZE, x...
VIDMANTAS A. CEMARKA, x...
JAY E. CHAMBERS, x...
CONNIE CHAN, x...
MARK K. CHO, x...
STEPHEN L. CHRISTOPHER, x...
MICHAEL A. CIAMPI, x...
GARY B. CLARK, x...
JAMES F. CLEARY, x...
TIMOTHY L. CLENNEY, x...
DAVID W. CLINE, x...
THOMAS R. CLOUTHIER, x...
STEVEN J. COATY, x...
HARRIET E. COFFEY, x...
LINDA J. COLEMAN, x...
SHERI R. COLEMAN, x...
JAMES A. COLLINS, x...
JOHN P. COLMENARES, x...
LINDA A. CONIGLIO, x...
KATHERINE H. CONNOLLY, x...
ALBERT E. COOMBS, x...
CATHERINE S. COPENHAVER, x...
JOHN CORONADO, x...
PATRICIA M. CORSELLO, x...
MICHAEL T. COURIS, x...
ROBERT R. COX, x...
STEPHEN COX, x...
RANDAL B. CRAFT, x...
KEVIN L. CRAIG, x...
TIMOTHY G. CRAVEN, x...
LUZ M. CRELLIN, x...
JAMES R. CRISFIELD, JR, x...
MARK C. CROWELL, x...
RACHELE A. CRUZ, x...
ERIC E. CUNHA, x...
MARK S. CURNOW, x...
DEBORAH A. CURRAN, x...
SCOTT A. CURTICE, x...
DALE P. CURTIS, x...
ERIC W. CZANDER, x...
RHODEL F. DACANAY, x...
MASON X. DANG, x...
ELIZABETH A. DANIS, x...
TIMOTHY M. DANNEMILLER, x...
AGNES G. DAVID, x...
ANDREW M. DAVIDSON, x...
GREGORY W. DAVIS, x...
SUBRATO J. DEB, x...
MONTE R. DEBOER, x...
DEBRA A. DELEO, x...
EUGENE D. DELLAMAGGIORE, x...
JULIE D. DELVECCHIO, x...
BRIAN J. DEMASTER, x...
EDWARD A. DEMPSTER, x...
JOHN E. DEORDIO, x...
KRISTI B. DEPPERMAN, x...
JUDITH M. DICKERT, x...
KENNETH DIXON, x...
ROBERT N. DOBBINS, x...
MATTHEW C. DOLAN, x...
REBECCA L. DONALDSON, x...
CHRISTOPHER R. DONOVAN, x...
ANTHONY P. DORAN, x...
CHRISTINE E. DORR, x...
LISA S. DOWNING, x...
GERALD W. DRYDEN, JR, x...
MARIBETH T. DUFFY, x...
LOLA DURHAM, x...
KATHLEEN DURYEA, x...
JEFFREY J. DYER, x...
LAURA M. DYER, x...
TEDDIE L. DYSON, x...
GUS EADY, x...
MARVIN R. EARLES, x...
MATTHEW L. EARLY, x...
WALTER E. EAST, x...
MICHAEL E. EBY, x...
DEMETRI ECONOMOS, x...
BARBARA A. ELKO, x...
JEROME G. ENAD, x...
JOHN W. EPLING, x...
PHILIP J. EVANS, x...
TODD L. EVANS, x...
RONALD D. EVERS, x...
LENORE R. EZERNACK, x...
TED M. FANNING, x...
JACKIE S. FANTES, x...
PETER T. FAVREAU, x...
JASON S. FEINBERG, x...
JOSE J. FERNANDEZ, JR, x...
WENDY C. FEWSTER, x...
DANNY E. FIELD, x...
PAUL E. FINLEY, x...
TERENCE FINNERTY, x...
JEFFREY A. FISCHER, x...
KEVIN FITZPATRICK, x...
JOSEPH W. FLANAGAN, x...
JONATHAN T. FLEENOR, x...
CAROLINE M. FLINT, x...
MARIA C. FLYNN, x...
BRYAN A. FOX, x...
THOMAS C. FRANCHINI, x...
MICHAEL I. FREW, x...
MARK A. FRIEND, x...
DAVID R. FULCHER, x...
CRAIG A. FULTON, x...
LEONARD T. GAINES, x...
ROBERT E. GAINOR, x...
GREGORY GANSER, x...
DARIN S. GARNER, x...
STEPHEN G. GARNER, x...
DANIEL C. GAUGHAN, x...
MICHAEL R. GAURON, x...
JANET M. K. GEHRING, x...
REX W. GERDING, x...
RICHARD R. GESSNER, x...
CHERYL A. GIBSON, x...
KEVIN GILDNER, x...
DANIEL N. GILL, x...
STEPHEN M. GILL, x...
MARK T. GILLAND, x...
MERRILL L. GLADDEN, JR, x...
DANIEL J. GLATT, x...
TODD E. GOODE, x...
BRIAN M. GOODWIN, x...
SCOTT H. GOODWIN, x...
KELVIN J. GOODWINE, x...
MATTHEW O. GOTCH, x...
WILLIAM R. GRAF, x...
KARIS K. GRAHAM, x...
JOHN C. GRAVES, x...
WALTER M. GREENHALGH, x...
JIMMIE S. GRIFFEA, x...
JAMES M. GRIMES, x...
JOHN L. GRIMWOOD, x...
MARGARET M. GRISSINGER, x...
JOHN C. GROESCHEL, x...
KURT E. GRUNAWALT, x...
RODNEY L. GUNNING, x...
PAUL E. GUTT, x...
MICHAEL N. HABIBE, x...
BRADLEY H. HAJDIK, x...
BEVERLY HALL, x...
KRIS B. HALL, x...
MICHAEL A. HALL, x...
CRAIG S. HAMER, x...
JADA L. HAMILTON, x...
KEITHE A. HANLEY, x...
DOUGLAS W. HANNA, x...
MICHAEL S. HANSEN, x...
GERALYN A. HARADON, x...
ERIC P. HARDEE, x...
JOHN V. HARMON, x...
DENISE Y. HARRINGTON, x...
ROBERT A. HARRIS, x...
GREGORY W. HARSHBERGER, x...
SHEHERAZAD A. HARTZELL, x...

WILLIAM P. HAYES, x...
WILLIAM R. HAYES, x...
CHARLES K. HEAD, x...
MARJORIE P. HEBERLE, x...
DANIEL J. HEBERT, x...
PENNY M. HEISLER, x...
JAMES D. HELLAUER, x...
MICHAEL N. HENDEE, x...
CHRISTOPHER C. HENDERSON, x...
JENIFER L. HENDERSON, x...
ERROL D. HENRIQUES, x...
JOHN M. HERNANDEZ, x...
JOY M. HERNANDEZHORTON, x...
JAVIER HERRERA, x...
THOMAS D. HICKEY, x...
THOMAS E. HICKEY, x...
JAMES F. HILES, III, x...
JAMES M. HILL, x...
MARY C. HILTON, x...
KEVIN W. HINSON, x...
SCOTT HINTON, x...
CHARLES C. HOFF, x...
WILLIAM K. HOLLAND, x...
HARNATH C. HOLMES, x...
ANTHONY R. HOOVLER, x...
MICHAEL T. HOPKINS, x...
MARY C. L. HORRIGAN, x...
LILY X. HOU, x...
RAYMOND G. HOULE, x...
MARK H. HOVATTER, x...
MARCUS H. HOWELL, x...
CHARLES R. HOWSARE, x...
DAVID R. HOYT, x...
FRANK J. HRUSKA, x...
JENNIFER A. HUEBNER, x...
DONALD S. HUGHES, x...
WALTER B. HULL, x...
JOHN F. HUNT, x...
ROBERT J. HUNT, x...
THANH T. HUYNH, x...
JOEL INMAN, x...
MARK R. IPPOLITO, x...
CURTIS M. IRBY, x...
GILLIAN V. JAEGER, x...
JULIE A. JARVIS, x...
M. Z. JASSER, x...
ELESIA M. JEMISON, x...
ROBERT M. JENNINGS, x...
JAMES JOHNSON, JR., x...
LAURENCE C. JOHNSON, x...
MARILANNE JOHNSON, x...
PETER M. JOHNSON, x...
RANDALL G. JOHNSON, x...
CHRISTINE M. JOLLY, x...
GREGORY W. JONES, x...
SHERRY K. JONES, x...
TAMMY C. JONES, x...
BENJAMIN W. JORDAN, x...
STANLEY J. JOSSELL, x...
MILAN J. JUGAN, JR., x...
RICHARD D. KACERE, x...
ALEXANDER J. KALLEN, x...
KENN K. KANESHIRO, x...
FREDERICK C. KASS, x...
SARA M. KASS, x...
KIMBERLY M. KAUFFMAN, x...
NINA L. KAZEROONI, x...
THOMAS J. KEANE, x...
DAVID J. KEBLISH, x...
FRANCES G. KELLER, x...
FREDERIC J. KELLEY, III, x...
EDWARD W. KELLY, x...
JOHN S. KENNEDY, x...
TINA L. KEY, x...
PAUL C. KIAMOS, x...
BARBARA J. KINCADE, x...
KRISTIAN J. KINEL, x...
KEVIN L. KLETTE, x...
MARK A. KOBELJA, x...
JOSEPH J. KOCHAN, III, x...
TADEUSZ J. KOCHEL, x...
RONALD J. KOCHER, x...
PETER H. KOPFER, x...
KAREN J. KOPMANN, x...
PATRICK M. KORTEBEIN, x...
ERNEST P. KOTSOS, x...
TODD M. KRAFT, x...
WILLIAM K. KREBS, x...
MATTHEW L. KRONISCH, x...
DAVID G. KUPKOWSKI, x...
WILLIAM E. KUTZERA, x...
CHARLES S. KUZMA, x...
GREGORY L. LABENZ, x...
CARLA R. LAMB, x...
JOSEPH M. LARA, x...
PATRICK R. LARABY, x...
CATHY T. LARRIMORE, x...
THOMAS R. LATENDRESSE, x...
JOSEPH T. LAVAN, x...
PATRICK L. LAWSON, x...
RANDAL K. LEBLANC, x...
JEFFREY S. LECLAIRE, x...
JONATHAN Y. LEE, x...
NORMAN LEE, x...
PATRICIA LEE, x...
JOHN W. LEFAVOUR, x...
PAUL H. LENTO, x...
SCHALK J. LEONARD, x...
WILLIAM J. LEONARD, JR., x...
THOMAS A. LEONG, x...
SHARRON A. LEWIS, x...
JAMES R. LIBERKO, x...
CON Y. LING, x...
GLENN J. LINTZ, x...
FRANCESCA K. LITOW, x...
DAVID P. LONCARICH, x...
DONALD A. LONERGAN, x...
ROGER D. LORD, x...
MICHAEL J. LOUTHAN, x...
ANN M. LUCAS, x...
ANNA W. LUCAS, x...
STACEY L. LUDLOW, x...
PATRICK F. LUEDTKE, x...
JOSEPH P. LUKASIEWICZ, x...
THOMAS C. LUKE, x...
MARY A. MACY, x...
RICHARD N. MAENHARDT, x...
JASON D. MAGUIRE, x...
RICHARD T. MAHON, x...
GERARD J. MAHONEY, x...
ROBERT R. MAIN, x...
WILLIAM W. MAK, x...
MARTIN A. MAKELA, x...
DOUGLAS J. MARSHALL, x...
KEVIN M. MARTIN, x...
THOMAS C. MARTIN, JR., x...
CARLOS J. MARTINEZ, x...
JESUS MARTINEZ, x...
KEVIN J. MASON, x...
MARSHALL L. MASON, III, x...
THERESA M. P. MASON, x...
GARY L. MASTERS, JR., x...
JOHN W. MAURICE, JR., x...
CHRISTOPHER B. MAWN, x...
BRUCE C. MAXWELL, x...
CHRISTOPHER J. MCARTHUR, x...
STACY MCBROOM, x...
MARTIN D. MCCUE, x...
JOHN M. MCCURLEY, x...
DAVID M. MCELWAIN, x...
RONALD C. MCGAUGH, JR., x...
MICHAEL T. MCHALE, x...
GEORGE R. MCKEMEY, x...
DENNIS P. MCKENNA, x...
SHANTHA C. MCKINLAY, x...
JOSEPH P. MCMAHON, II, x...
ELLEN M. MCMANUS, x...
DANIEL A. MCNAIR, x...
JOHN M. MCVEIGH, x...
MICHAEL J. MEDINA, x...
KENNETH J. MELCHIORRE, x...
JAMES J. MENSCHING, x...
JANET L. MENZIE, x...
ROBERT D. MENZIES, x...
BRETT T. METCALF, x...
THOMAS P. MEZZETTI, JR., x...
MICHAEL H. MICHALSKI, JR., x...
MARK E. MICHAUD, x...
CHARLES H. MILLER, IV, x...
JEFFREY S. MILLER, x...
FREDERICK W. MINOR, x...
ALLEN O. MITCHELL, x...
JACK H. MITSTIFER, x...
GORDON E. MODARAI, x...
LUIS M. MOLINA, x...
GEORGE R. MOON, x...
THOMAS F. MOONEY, III, x...
JOLENE M. MOORE, x...
LESLIE A. MOORE, x...
MICHAEL K. MOORE, x...
THOMAS P. MOORE, x...
DONNA M. MORGAN, x...
ROBERT C. MORRIS, x...
CHRISTOPHER S. MOSHER, x...
SHERYL B. MOVSAS, x...
ANDREW B. MUECK, x...
MARK S. MURPHY, x...
MICHAEL B. MURPHY, x...
SCOTT J. MURPHY, x...
MICHAEL J. MURRAY, x...
JOSEPH S. MYERS, JR., x...
MICHAEL A. NACE, x...
JOHN H. NAGELSCHMIDT, x...
HELEN A. NAPIER, x...
WILLIAM C. NASH, x...
KENNETH T. NATIONS, x...
DANIEL X. NESBITT, x...
JOHN B. NEWMAN, x...
WILLIAM C. NEWTON, x...
TRANG D. NGUYEN, x...
SANDOR S. NIEMANN, x...
ANGELA S. NIMMO, x...
GREGORY P. NOONE, x...
ROBIN Y. NOYES, x...
ELVIN R. NUNES, II, x...
ANITA M. NUSBAUM, x...
ROBERT C. NUSBAUM, x...
ROBERT B. OAKELEY, x...
JAMES M. OAKS, x...
KRISTIN L. OAKS, x...
KATHRYN A. OBRIEN, x...
WILLIAM F. OBRIEN, x...
MICHAEL J. ODONOGHUE, JR., x...
CHRISTOPHER OHARA, x...
DAVID A. OLIVER, x...
LORI K. OLIVER, x...
DONALD E. OLOFSSON, x...
DANIEL W. ONEILL, x...
LUIS A. ORTEGA, x...
CHERYL A. OSTROWSKI, x...
MICHAEL OTTNEY, x...
JOSEPH F. PALERMO, x...
DEIDRA R. C. PALMER, x...
JOHN T. PALMER, x...
RICHARD M. PANKO, x...
JOHN J. PAPE, x...
RONALD D. PARKER, x...
GARY V. PASCUA, x...
THERESA M. PASERB, x...
JEANMARIE PATNAUDE, x...
KELLY S. PAUL, x...
RICHARD J. PAVER, x...
VIOLET A. A. PAYNE, x...
ERICK PERROUD, x...
MARIA E. PERRY, x...
DARRYL N. PERSON, x...
TODD B. PETERSON, x...
JOANNE M. PETRELLI, x...
MARK J. PETRUZZIELLO, x...
ROSELLE C. PETTORINO, x...
GARY M. PHILLIPS, x...
BRANT D. PICKRELL, x...
STEPHEN P. PIKE, x...
PAMELA M. PLETCHER, x...
JEFFREY M. PLUMMER, x...
DAVID S. PLURAD, x...
JAMES B. POINDEXTER, III, x...
MARK A. POLCA, x...
ROBERT J. POMPHREY, x...
JOAN POOCHOON, x...
TIMOTHY J. POREA, x...
MAE M. POUGET, x...
THOMAS M. PRATER, x...
KEVIN T. PRINCE, x...
JAMES A. PROTIN, x...
LARRY J. PRUITT, x...
KENNETH G. PUGH, x...
CHARLES T. PULLEN, x...
SALLY R. PULLEN, x...
SCOTT W. PYNE, x...
CHRISTOPHER S. QUARLES, x...
RICHARD D. QUATTRONE, x...
TIMOTHY R. QUINER, x...
JEFFREY D. QUINLAN, x...
JAMES D. RAILEY, x...
ROBERT C. RAYMOND, x...
DON S. RAYMUNDO, x...
LESLIE E. REARDANZ, III, x...
MARK A. REED, x...
WILLIAM J. REED, x...
WILLIAM F. REICH, IV, x...
MICHAEL R. REIDER, x...
RICHARD N. REILLY, x...
EDWARD W. RHOMBERG, x...
RANDY S. RICH, x...
DAWN D. RICHARDSON, x...
MONIQUE R. RICHEY, x...
WILLIAM G. RINCON, x...
JUAN P. RIVERA, x...
STEVEN R. ROBERTS, x...
GARY C. ROBERTSON, x...
DAVID F. ROCKWELL, x...
LAUREN P. RODIER, x...
SHELLY D. ROGERS, x...
STACY J. ROGERS, x...
MENDEZ A. E. ROIS, x...
SALLY A. ROLDAN, x...
BRUCE A. ROLL, x...
MARY A. RONALD, x...
SHARON L. RONCONE, x...
MICHAEL J. ROPIAK, x...
PHILIP G. ROSENBERG, x...
BARBARA C. ROSENTHAL, x...
JASON J. ROSS, x...
MICHAEL B. ROTH, x...
MICHAEL S. ROUNDY, x...
MARY K. RUSHER, x...
JOSEPH F. RUSSELL IV, x...
MICHAEL H. RYAN, x...
ERICA L. SAHLER, x...
NYDIA I. SANCHEZ, x...
JOHN W. SANDERS III, x...
JOHN T. SANTOSALVO, x...
FRANKLIN R. SARRA, JR., x...
ELIZABETH K. SATTER, x...
RICHARD B. SAUL, x...
TROY SAUNDERS, x...
MICHAEL A. SAVANNAH, JR., x...
JOSEPH W. SCHAUBLE, x...
MARY D. SCHETZSLE, x...
BRYAN P. SCHUMACHER, x...
LINWOOD R. SCHWARTZ, x...
CLIFFORD G. SCOTT, x...
DELENE SCRAFFORD, x...
SCOTT M. SEATON, x...
ROBERT E. SEDLACK, x...
PETER W. SEELEY, x...
HELEN N. SEMPIRA, x...
DAVID A. SERAFINI, x...
JAVAID A. SHAD, x...
DAVID G. SHELDON, x...
MICHAEL A. SHERMAN, x...
THOMAS SHIEH, x...
RUSSELL D. SHILLING, x...
JAMES H. SIMON, x...
PAUL E. SIMS, x...
ALLEN J. SKIBBA, x...
WILLIAM T. SKINNER, x...
DOROTHEA A. SLEDGE, x...
STEPHANIE M. SMART, x...
DAVID M. SMITH, x...
GORDON R. SMITH, x...
MARK W. SMITH, x...
SERESE Y. SMITHHAXTON, x...
MARK E. SNIDER, x...
MICHAEL S. SNYDER, x...

KAREN M. SOMERS, x...
PAUL S. SON, x...
THOMAS C. H. SONG, x...
GARY A. SPENCER, x...
ROBERT C. STABLEY, x...
DAVID A. STAHL, x...
PETER G. STAMATOPOULOS, x...
DIANNE STANTONSANCHEZ, x...
J. C. STARK, x...
MITCHELL E. STASHOWER, x...
DICK E. STEARNS III, x...
JULIE A. STENGER, x...
SHEREE D. STEPHENS, x...
CHRISTOPHER A. STEWART, x...
TROND A. STOCKENSTROM, x...
JAMES T. STONE, x...
JASON D. STONER, x...
MICHAEL C. STONER, x...
KARL D. STOUT, JR., x...
MICHAEL J. STRUNC, x...
KEITH A. STUESSI, x...
DAWN E. SULLIVAN, x...
PATRICIA M. SULZBACH, x...
TODD E. SUMNER, x...
JACKELENE SUTTON, x...
STEPHEN A. SZABO, x...
KURT M. TAMARU, x...
DAVID A. TARANTINO, JR., x...
GREGORY J. TARMAN, x...
PAULINE M. TAYLOR, x...
BRADLEY E. TELLEEN, x...
MICHAEL D. THOMAS, x...
WILLIAM C. THOMAS, x...
P. H. G. THOMPSON, x...
STEVEN C. THORNE, x...
JONATHAN S. THOW, x...
TUDOR R. TIEN, x...
ANTHONY L. TIMKO, x...
GREGORY N. TODD, x...
WILLIAM E. TODD, x...
JENNIFER E. TONGEMARTIN, x...
OREN G. TOWNSEND, x...
JOHN M. TRAMONT, x...
DAVID J. TRETTEL, x...
JEFFREY R. TRIMARK, x...
DONALD P. TROAST, x...
SAMUEL K. TSANG, x...
BING S. TSAY, x...
MARK A. ULRICH, x...
GUIDO F. VALDES, x...
JASON L. VANBENNEKOM, x...
ROBERTO S. VASQUEZ, x...
SHARON S. VETTER, x...
JONATHAN H. WAGSHUL, x...
DELANO I. WALTERS, x...
SCOTT S. WANIEWSKI, x...
DAVID C. WARUNEK, x...
DAVID L. WASBERG, x...
MICHAEL A. WEAVER, x...
VICKIE A. WEAVER, x...
PETER WECHGELAER, x...
PETER A. WEISSKOPF, x...
ANN C. WEISZ, x...
MARK W. WERNER, x...
DONNA Y. WESTLAKE, x...
CHRISTOPHER WESTROPP, x...
KEVIN L. WHEELOCK, x...
JAMES H. WHITE, x...
RENEE T. WHITE, x...
EDNA C. WHITMORE, x...
CHRISTOPHER J. WHITNEY, x...
JAMES R. WHITSETT, x...
ANDREW F. WICKARD, x...
MELISSA A. WIGGINS, x...
PERRY N. WILLETTE, x...
DONALD J. WILLIAMS, x...
JAMES O. WILLIAMS, JR., x...
SANDRA F. WILLIAMS, x...
TRACI E. WILLIAMS, x...
BRIAN K. WILLIAMSON, x...
MICHAEL D. WILLIAMSON, x...
PAMELA Y. WILLSBORGSTEDE, x...
MICHAEL J. WILSON, x...
DEBORAH K. WINBURN, x...
JAMES P. WINCELOWICZ, x...
MICHAEL T. WINKLER, x...
LAURA A. WOLFGANG, x...
ROBERT O. WOODBURY, x...
JON S. WOODS, x...
PETER G. WOODSON, x...
YANCY C. YORK, x...
MARY E. YOUNGMAN, x...
MICHAEL A. ZANOLI, x...
ROBERT S. ZARUM, x...
JOHN A. ZULICK, x...

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

To be lieutenant

WILLIAM L. ABBOTT, x...
SCOTT R. ADAMS, x...
MICHAEL A. ADRIANO, x...
RONALD L. AKERS, x...
RICHARD M. AMATO, x...
MICHAEL A. AMIG, x...
MARTIN A. ANDERSON, JR., x...
ARTHUR P. ARKO, x...
PETER J. BACHAND, x...
DAVID R. BALLANCE, x...
THOMAS C. BEHNE, x...
NONITO V. BLAS, x...
KARL J. BLAU, xx...
JAMES B. BLEAKLEY, x...
ROGER J. BROUILLET, x...
ALEX S. BROWN, x...
HOMER W. BUCKNER, x...
LAWRENCE C. CALLAHAN, x...
DENNIS L. CAMERON, x...
JERRY M. CARR, x...
TERRY V. CARROLL, x...
BARBARA A. CARTER, x...
PAUL C. CATOE, x...
GREGORY N. CHANDLER, x...
JERRY T. CHAPMON, x...
JERRY D. CHASE, x...
QUIRION CHRISTIAN, x...
TIMOTHY J. COCHRAN, x...
FRANK T. COGSWELL, x...
JOHN C. COLUCCI, x...
JAMES CONLEY, JR., x...
MICHAEL C. CONTONI, x...
THOMAS R. CORLEY, x...
JOHN E. CROSS, x...
DAVID A. DEARMAN, x...
JOHN F. DEDITIUS, x...
CHARLES A. DENNIS, x...
MARK P. DITTIG, x...
JOHN M. DOGGETT, x...
ROBERT J. DOHENY, x...
KENNETH P. DONALDSON, x...
ROBERT C. DOTSON, x...
RICHARD C. DUNAWAY, x...
GARRY S. DUNCAN, x...
DAVID A. DYMARCIK, x...
GREGORY T. ECKERT, x...
WILLIAM C. ECKES, x...
KEVIN L. ECKMANN, x...
DION J. EDON, x...
STEVEN J. EISENHAUER, x...
DAVID H. ELLER, x...
JEFFREY A. ELLIOTT, x...
ROBERT W. ESCHNER, x...
ROBERT R. FARMER, x...
MICHAEL P. FEELEY, x...
JOHN K. FERGUSON, x...
THEODORE H. FIEFFER, x...
WILLIAM P. FLINN, x...
YGNACIO V. FLORES, x...
RUSSELL D. FLORESKE, x...
RONALD E. FOUDRAY, x...
MARCIA A. FRITSCH, x...
ROBERT D. FUENTES, x...
GARRETT L. GARDNER, x...
MARK J. GIBSON, x...
GERARD F. GILES, x...
CLAY K. GLASHEEN, x...
HILTON J. GLYNN, x...
MARC D. GREGORY, x...
WALTER L. GRIFFIN, x...
BRUCE A. GRUBB, x...
COLLEEN E. HALLETT, x...
JEFFERY N. HANSON, x...
DAVID W. HARPER, x...
RICHARD F. HART, x...
TODD A. HAYNES, x...
SUSAN L. HENSLEY, x...
CHRISTOPHER A. HERNANDEZ, x...
MARK A. HOCHSTETLER, x...
PATRICK J. HODGSON, x...
CYNTHIA A. HOHWEILER, x...
RONALD J. HOLZMAN, x...
JOHN T. HONEA, x...
JOSEF S. HORAK, x...
RONALD P. HOSKINS, x...
STEVEN D. HULL, x...
GREGORY S. IRETON, x...
WILLIAM R. JOHNSON, x...
LAWRENCE A. JONES, x...
WILLIAM JONES, x...
MARK H. JORDEN, x...
HERBERT G. KAATZ, x...
GEORGE F. KELLY, x...
TRENT A. KERBS, x...
REBECCA L. KIRK, x...
EDWARD M. KNODLE, x...
DONALD J. KOBIEC, x...
LARRY G. KRULL, x...
GARY C. KYTE, x...
GEORGE C. LAFEMINA, x...
BRET R. LANCASTER, x...
MICHAEL D. LANTHORN, x...
MICHAEL LAPRADE, x...
WILLIAM S. LASKY, x...
CHRISTOPHER T. LESTER, x...
ERIC C. LEWIS, x...
KELVIN M. LEWIS, x...
GREGORY P. LIED, x...
MICHAEL A. LILE, x...
JOHN M. LOTH, x...
SCOTT B. LYONS, x...
JAMES W. MACEY, x...
ANNE E. MACFARLANE, x...
CRAIG T. MAJOR, x...
MANUEL S. MARGUY, x...
ROBERT B. MARRS, x...
ANTHONY S. MARTIN, x...
KELLY J. MATTESON, x...
MATTHEW M. MAURER, x...
MARTIN P. MCCABE, x...
JOHN D. MCCANN, x...
CHRIS E. MCDANIEL, x...
STEPHANIA Y. MCGARITY, x...
ROBERT E. MERCER, x...
DARRELL E. MERON, x...
SEAN M. MERSH, x...
MARK A. MESKIMEN, x...
ANTHONY O. MILLER, x...
PHILLIP G. MILLER, x...
WILLIAM F. MILLER, x...
RICHARD J. MORAWSKI, x...
DENNIS S. MOYER, x...
CHERYL A. MUIRHEAD, x...
STEVEN B. MULESKI, x...
DAVID T. MYATT, x...
GARY W. MYERS, x...
MICHAEL NIXON, x...
SCOTT E. NORR, x...
MARIAN S. OGRADY, x...
ROLANDO OLIVAS, x...
KEVIN R. OLSON, x...
JEFFREY M. PAFFORD, x...
RONNIE PARKS, x...
JAMES M. PARTICKA, x...
MICHAEL G. PASQUARETTE, x...
MOYNE J. PATTERSON, x...
RUSSELL L. PEACOCK, x...
THOMAS A. PETRELLA, x...
VICTORIA J. PHELPS, x...
DAVID L. POWELL, x...
THOMAS E. POWERS, x...
WILLIAM M. PRESCOTT, x...
ROBERT L. RAINES, x...
KEITH W. RANSOM, x...
RONALD L. REID, x...
PAUL K. REMICK, x...
JAMES A. ROBERTS, x...
MARK H. ROBERTSON, x...
THOMAS A. RODDY, x...
STEPHEN P. RODES, x...
CAITLIN G. ROOT, x...
BRADLEY J. SCHWAKE, x...
WILLIAM J. SCOGGIN, x...
MICHAEL A. SCOTT, x...
GERALD A. SHEALEY, x...
RICHARD T. SHELAR, x...
VINCENT S. SIEVERT, x...
SCOTT D. SILK, x...
ERIC J. SIMON, x...
MICHAEL G. SMITH, x...
REMBRANDT V. SMITH, x...
ROBERT E. SMITHBERGER, x...
JERRY M. SOLICH, x...
THOMAS G. SPANGLER, x...
EDWARD A. SPURLIN, x...
PETER J. STEVENS, JR., x...
JOHN M. STEVENSON, x...
RICHARD M. STEWART, x...
HILARY STROSE, x...
RANDY S. TANNER, x...
FRANKLIN R. TAYLOR, x...
ROY A. TELLER, x...
GREGORY A. TESCHNER, x...
MCDONALD THOMAS, x...
EDWARD S. THOMPSON, x...
DIANE E. TINKER, x...
MICHAEL B. TOMBLIN, x...
ROBERT J. TRAYNOR, x...
DENNIS B. TROUT, x...
ROBERT K. TUCKER, x...
JAMES P. TURNER, x...
STEVEN J. URSO, x...
ALEXANDER VANWORMER, x...
EFRAIN VELAZQUEZ, x...
MATTHEW W. VINCENT, x...
GLENN A. VOPPER, x...
TIMOTHY P. WADLEY, x...
TERRY P. WALDENMAIER, x...
SCOTT A. WALKER, x...
TIMOTHY J. WALTERS, x...
JOHN C. WANACHECK II, x...
DAVID S. WARNER, x...
RONALD T. WASHINGTON, x...
BRYAN F. WATTS, x...
LAURA A. WENDEL, x...
RAY R. WETMORE, JR., x...
DONALDSON E. WICKENS, x...
JURGEN H. WIESE, x...
JIMMY N. WILLIAMS, x...
WILLIAM A. WILLIAMS, x...
BARRY E. WISDOM, x...
JEFFREY N. WOOD, x...
ALLEN W. WOOTEN, x...
THERESA E. WRIGHT, x...
DONALD L. YOUNG, x...
STEVEN D. ZIEGLER, x...

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 5721:

To be lieutenant commander

WILLIAM B. ALLEN, x...
DANIEL D. ARENSMEYER, x...
KENNETH G. BECK, x...
MARK D. BEHNING, x...
CRAIG R. BLAKELY, x...
DAVID C. BORAH, x...
LEONARD H. BORGDORFF, x...
DENNIS R. BOYER, x...
WOODS R. BROWN, x...

ANTONIO J. CARDOSO, x...
ROBERT J. CLARK, x...
JOHN R. CRAIG, x...
JOHN H. CUNNINGHAM, x...
EUGENE J. DOYLE, x...
SEAN T. EPPERSON, x...
KEVIN S. FORD, x...
BRYAN P. FRATELLO, x...
BARRY J. GITTLEMAN, x...
JOHN R. GORMAN, x...
THOMAS C. GRAVES, x...
DANIEL P. HENDERSON, x...
MATTHEW HERMSTEDT, x...
EDWARD L. HERRINGTON, x...
WILLIAM J. HOUSTON, x...
JAMES H. JONES, x...
DAVID A. JULIAN, x...
FREDERICK A. KOONEY, x...
ERIC L. LONBORG, x...
PERRY L. MCDOWELL, x...
DARREN J. MCGLYNN, x...
JOHN P. MCGRATH, x...
TYLER L. MEADOR, x...
MARK V. METZGER, x...
JOHN C. MOHN, JR, x...
SANTOS L. MOLINA, x...
JOHN T. MYERS, x...
JAMES R. NELSON, x...
SCOTT W. PAPPANO, x...
EDWARD A. PITTMAN, x...
BRIAN D. ROTH, x...
JOHN A. SAGER, x...
DOUGLAS A. SAMPSON, x...
GEORGE B. SAROCH, x...
THOMAS A. SCHARES, x...
JAMES C. SEALS, x...
WILLIAM B. SEAMAN, x...
JAMES W. SKINNER, x...
MICHAEL J. SOWA, x...
JAMES L. SPENCER, x...
WILLIAMS R. STEVENSON, x...
MICHAEL J. TAYLOR, x...
DAVID W. WARNER, x...
JAMES P. WATERS, x...

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be lieutenant colonel

REBECCA G. ABRAHAM, x...
CHARLES E. ACREE, x...
KELLY M. ADAMS, x...
TERRY R. ADLER, x...
RICARDO AGUILAR, x...
JOHN J. AHERN, x...
FRANK ALBANESE, x...
JAMES V. ALDERMAN, x...
SCOTT C. ALEXANDER, x...
EDGAR ALICEAORTIZ, x...
ALETA S. ALLEN, x...
STEPHEN F. ALLTOP, x...
PATRICK A. ALMAZAR, x...
ANDREW C. ALPAUGH, x...
DOUGLAS H. ALSTON, x...
KURT S. ANDERS, x...
NIELS T. ANDERSEN, x...
ALAN K. ANDERSON, x...
BRYAN K. ANDERSON, x...
LISA M. ANDERSON, x...
JOSEPH O. ANDREWS, x...
MICHAEL ANGLEY, x...
MARK ANTHONY, x...
GLEN A. APGAR, x...
HAROLD J. ARATA, III, x...
ROBERT A. ARBACH, x...
CHIC A. AREY, x...
THOMAS ARKO, x...
JONATHAN A. ARNOLD, x...
TIMOTHY D. ARRINGTON, x...
THOMAS A. ARTIS, x...
CARLOS V. ARVIZU, x...
STEVEN V. AUCHTER, x...
ROGER P. AUSTIFF, x...
JOHN C. AUTEN, x...
JOHN F. AYMONIN, x...
ALAN E. BABCOCK, x...
GARRY C. BACCUS, x...
DANIEL D. BADGER, JR, x...
FREDERICK L. BAEDKE, x...
LAURELL BAEZ, x...
OCTAVIO NMI BAEZ, JR, x...
STEVEN A. BAGNASCHI, x...
HOWARD B. BAKER, x...
STEVEN F. BAKER, x...
TODD J. BALAWAJDER, x...
STEVEN A. BALDOCK, x...
DAVID S. BALLARD, x...
GUILLERMO B. BALMASEDA, x...
MICHAEL S. BALOG, x...
DANIEL C. BANKS, x...
ERIC A. BANKS, x...
MARTIN D. BANNON, x...
MARK JOSEPH BARNABO, x...
RICHARD D. BARTHOLOMEW, x...
MICHAEL L. BARTLEY, x...
RICHARD R. BASKIN, x...
DIANNA J. BATCHELOR, x...
JERRY L. BATEMAN, JR, x...
GLENN C. BAUGHER, x...
WILLIAM H. BAUMAN, III, x...
GREGORY M. BAYLEY, x...
MICHAEL O. BEALE, x...
CHARLES M. BEARD, x...
THOMAS J. BEATTIE, x...
STEVEN J. BEATTY, x...
ROBERT D. BECERRA, x...
KARL H. BECKER, x...
DENNIS J. BEERS, x...
EDWARD N. BEERY, x...
JEFFERY A. BELL, x...
ROBERT F. BELLACICCO, x...
THOMAS L. BELLNOSKI, x...
ROBERT S. BELLOMY, x...
GARY C. BENDER, x...
JOSEPH T. BENDER, x...
RALPH K. BENDER, x...
DALE P. BENEDETTI, x...
GORDON R. BENNETT, x...
BRYAN J. BENSON, x...
MICHAEL P. BENSON, x...
EDWARD J. BERGEMANN, x...
DANIEL E. BERGERON, x...
WILLIAM J. BERNARD, x...
LOUIS A. BERRENA, x...
ALAN T. BERRYMAN, x...
BRUCE R. BEVILLE, x...
LARRY W. BEWARD, x...
HAROLD W. BIDLACK, x...
THOMAS W. BILLICK, x...
DENNIS C. BILLIG, x...
PHILLIP E. BINGMAN, x...
CHRISTOPHER P. BISGROVE, x...
JONATHAN E. BITLER, x...
LANE S. BITTICK, x...
KIM R. BJERKEBEK, x...
MATTHEW T. BLACK, x...
ERIC L. BLACKMON, x...
LEMOYNE F. BLACKSHEAR, x...
MARY W. BLACKWELL, x...
LARRY R. BLADES, x...
RANDY L. BLAISDELL, x...
CAROLYN M. BLALOCK, x...
MICHAEL S. BLAND, x...
EDWIN K. BLASI, x...
ROBERT G. BLEDSOE, x...
GRACE M. BLEVINSHOLMAN, x...
JODIE L. BLISS, x...
KENNETT G. BLOCK, x...
ROLAND J. BLOOM, x...
MICHAEL J. BLOOMFIELD, x...
BRIAN W. BOARDMAN, x...
BRENDA J. BOBBITT, x...
LOUIS G. BOCHAIN, x...
JOHN A. BOCKHOLD, x...
CHRISTOPHER C. BOGDAN, x...
HELEN A. BOHN, x...
GLYN F. BOLASKY, x...
PETER J. BONANNO, x...
DEBORAH L. BORIO, x...
ALAN J. BORTON, x...
JAMES L. BOSTON, x...
ALAN V. BOTINE, x...
AMY M. BOUCHARD, x...
CLARENCE J. BOUCHAT, IV, x...
TIMOTHY M. BOUDREAUX, x...
GREGG B. BOURKE, x...
DANIEL J. BOURSON, x...
THOMAS J. BOUTHILLER, x...
JOHN M. BOWERS, x...
CHRISTOPHER W. BOWMAN, x...
PAUL A. BOWMAN, x...
JOHN P. BOYLAN, x...
ROBERT M. BOZUNG, x...
JOHN L. BRAINERD, x...
GARY A. BRAND, x...
LORRIE L. P. BRANTLEY, x...
LEANN D. BRASURE, x...
LLOYD W. BRASURE, x...
KENNETH E. BRAY, x...
JOSEPH P. BREEN, x...
JEFFREY A. BRELSFORD, x...
JOHN E. BRENCE, x...
WILLIAM P. BRIDGES, x...
RANDALL R. BRIGHT, x...
ANDREW J. BRITSCHGI, x...
ROBERT E. BRITT, JR, x...
TIMOTHY R. BRITT, x...
JERRY BROOKS, x...
EDWARD D. BROWN, x...
MARIAN J. BROWN, x...
ROBERT L. BROWN, x...
RONALD G. BROWN, x...
SCOT C. BROWN, x...
SCOTT W. BROWN, x...
CHRISTOPHER M. BROYHILL, x...
NORMAN J. BROZENICK, JR, x...
STEPHEN M. BRUMMOND, x...
JOHN A. BRUNDERMAN, x...
KENNETH A. BRUNER, x...
JOHN S. BRUNHAVER, x...
ROBERT C. BRUNO, x...
JAN M. BRUNS, x...
OLIVER L. BRYANT, JR, x...
CURTIS L. BUCKLES, x...
ARNOLD W. BUNCH, JR, x...
LARRY E. BUNTING, x...
DARRYL R. BURGAN, x...
ROBERT J. BURGESS, x...
TIM R. BURKES, x...
RALI M. BURLESON, x...
ROBERT E. BURNETT, JR, x...
JOHN J. BURNISH, III, x...
JOSEPH M. BURNS, x...
JEFFREY M. BURROWS, x...
THOMAS A. BUTER, x...
GREGORY S. BUTERBAUGH, x...
ALAN E. BYNUM, x...
DONALD D. BYRD, x...
KENNETH L. BYRD, x...
JAMES A. BYRON, x...
JOSEPH T. CALLAHAN, III, x...
NED F. CALVERT, JR, x...
ANNE G. CAMPBELL, x...
CHRISTOPHER D. CAMPBELL, x...
DANIEL H. CAMPION, x...
PAUL A. CANNIZZO, x...
RAYMOND K. CANNON, x...
GEORGE E. CARAGIANIS, x...
DUANE G. CAREY, x...
JAY S. CARLSON, x...
CHARLES R. CARR, x...
DAVID B. CARR, x...
DAVID W. CARR, x...
STEPHEN S. CARR, x...
RUSSELL L. CARRAWAY, x...
MARVIN D. CARROLL, x...
VERONIQUE M. D. CARSTENS, x...
RONNIE CARVER, x...
JOHN D. CASEY, x...
JOHN C. CASSERINO, x...
WILFRED T. CASSIDY, x...
GIL V. CASTILLO, x...
KENNETH R. CATE, x...
PARRIS A. CATHER, x...
JAMES T. CAVOTO, x...
JOHN R. CAWTHORNE, x...
MICHAEL J. CAYLOR, x...
CHRISTOPHER S. CEPLECHA, x...
ARMAND A. S. CERRONE, x...
TIMOTHY C. CETERAS, x...
WILLIAM J. CHANGOSE, x...
DONALD R. CHAPMAN, JR, x...
RAYMOND J. CHAPMAN, x...
WILLIAM G. CHAPMAN, x...
RICHARD M. CHAVEZ, x...
RALPH D. CHEEK, x...
JAMES S. CHESNUT, x...
LAWRENCE K. CHILTON, x...
LARRY Y. CHING, x...
MARK E. CIOFFI, x...
CORBY L. CLARK, x...
DOUGLAS C. CLARK, x...
HAROLD D. CLARK, JR, x...
JOHN S. CLARK, JR, x...
LEO T. CLARK, x...
ROBERT B. CLARK, III, x...
WILLIAM R. CLAYPOOL, III, x...
ROY M. CLAYTON, III, x...
JOSEPH D. CLEM, x...
CHARLES N. CLIATT, x...
KRISTINE M. CLIFTON, x...
MICHAEL J. COATS, x...
BARRY B. COBLE, x...
JOSEPH M. CODISPOTI, x...
JAMES R. CODY, x...
PATRICK A. COE, x...
CYNTHIA M. COHAN, x...
CATHERINE G. COLEMAN, x...
LEONARD T. COLEMAN, x...
RANDALL G. COLEMAN, x...
CHRISTOPHER E. COLEY, x...
JOSE R. COLL, x...
JAMES M. COLLINS, x...
DONOVAN P. COLMAN, x...
MICHAEL L. COMNICK, x...
PATRICK M. CONDRAY, x...
MARK D. CONFER, x...
VINCENT J. CONSTANTINO, x...
CHRISTOPHER A. COOK, x...
GREGORY P. COOK, x...
TIMOTHY M. COOK, x...
MICHAEL B. COOLIDGE, x...
MICHAEL A. CORBETT, x...
MARIA L. CORDERO, x...
DAVID C. CORDON, x...
JOHN T. CORRIGAN, x...
JEFFREY A. CORVEY, x...
RICHARD D. COSGROVE, x...
THOMAS H. COUCH, x...
CRAIG A. COWGILL, x...
MICHAEL A. COX, x...
ROBERT M. COX, x...
SAMUEL D. COX, x...
DANIEL H. CRAFT, x...
MICHAEL D. CRAIG, x...
WILLIAM O. CRAIG, x...
JOHN A. CRAWFORD, x...
KENNETH G. CREIGHTON, x...
DAVID W. CRIBB, x...
MICHAEL L. CRISAFI, x...
JAMES H. CROMER, x...
LARRY A. CROSS, x...
JOHN S. CROW, x...
MILES A. CROWELL, x...
ROBERTA K. CRUMM, x...
ELLIOT F. CRUZ, x...
YOLANDA CRUZ, x...
ALEX U. CRUZMARTINEZ, x...
JOYCE A. CUMMINGS, x...
EDWIN CUNNINGHAM, x...
SUSAN M. CUNNINGHAM, x...
TOBY L. CUNZ, x...
FRANCIS E. CURRAN, III, x...
STEPHEN B. CZERWINSKI, x...

SUSAN E. DABROWSKI, x...
SIGFRED J. DAHL, x...
DONALD F. DALY, x...
JAMES F. DANIEL, x...
JOHN A. DANIELS, x...
LOUIS M. DANTZLER, x...
KENNETH A. DARNEY, JR., x...
DIK A. DASO, x...
JOHN F. DAUGHTRY, JR., x...
KEVIN P. DAVIDSON, x...
ROBERT D. DAVIS, III, x...
ROBERT J. DAVIS, x...
BRUCE C. DEARY, x...
ROBERT A. DEASY, III, x...
RICHARD D. DEFRIES, x...
RUSSELL P. DEFUSCO, x...
DENNIS J. DEGRAFF, x...
WILLIAM J. DELEHUNT, x...
WILLIAM G. DENBLEYKER, x...
TODD E. DENNING, x...
JAMES E. DENNIS, x...
STEVEN J. DEPALMER, x...
ROBERT S. DERING, x...
ALAN D. DETER, x...
MARK L. DEVIRGILIO, x...
BRUCE R. DEWITT, x...
TERRY L. DICKENSHEET, x...
BRIAN D. H. W. DICKERSON, x...
DEREK R. DICKEY, x...
IAN R. DICKINSON, x...
TERESA L. DICKS, x...
ERIC D. DIDOMENICO, x...
MARK L. DIEDRICK, x...
SCOTT A. DINAPOLI, x...
LAURA A. H. DISILVERIO, x...
TERESA AH DJURIC, x...
EUGENE W. DOBRY, JR., x...
PAUL T. DOLSON, x...
BLAKE L. DONALD, x...
MATTHEW J. DORSCHEL, x...
TYRONE DORSEY, x...
MARTIN G. DOURTE, x...
SCOTT M. DOWTY, x...
JAMES J. DREW, x...
JOSEPH D. DRUCTOR, x...
SCOTT B. DUFAUD, x...
DONALD F. DUMAS, x...
ALTON L. DUNHAM II, x...
HELMUT S. DUNLAP, x...
ALBERT G. DUNN, JR., x...
JAMES A. DUNN, x...
THOMAS J. DUPRE, x...
WILLIAM E. DURALL, x...
MATTHEW J. DURHAM, x...
JAMES E. EDGE, x...
MICHAEL D. EDWARDS, x...
THOMAS J. EDWARDS, x...
GEORGE V. EICHELBERGER, x...
JAMES E. EISENHART, x...
DAVID C. EISENSTADT, x...
KIM F. ELLARD, x...
LISA K. ELLARD, x...
MICHAEL D. ELLIS, x...
STEPHEN J. ELLISON, x...
THOMAS F. ELSESSER, x...
TAYLOR C. EMANUEL, x...
JOHN L. EMICH, JR., x...
NELSON W. ENGLISH, x...
MATTHEW C. ENGLUND, x...
JAMES C. EPTING, x...
MICHAEL J. ERICKSEN, x...
RAYMOND W. ERICKSON, JR., x...
STEVEN P. ERNST, x...
DAVID ERTESCHIK, x...
JAMES L. ESOLA, x...
JOHN L. EUNICE III, x...
JAMES J. EVANKO, x...
JOHN W. FAGNANT, x...
STEPHEN C. FAIRBAIRN, x...
ANNE R. FAIRCHILD, x...
MARK J. FARENBAUGH, x...
MARK A. FASSIO, x...
ANTHONY W. FAUGHN, x...
TERRY M. FEATHERSTON, x...
BRIAN C. FENELON, x...
BRYAN S. FERGUSON, x...
JEFFREY B. FETNER, x...
HOWARD P. FIELDS, x...
RICHARD E. FINCH, x...
THOMAS V. FINKE, x...
JAMES L. FITCH, x...
DARYL K. FITZGERALD, x...
MARK P. FITZGERALD, x...
JOHN W. FLADE, x...
WYATT R. FLEMING, x...
JAVIER FLORES, x...
KEVIN A. FOLEY, x...
ROGER A. FOLEY, x...
TERRENCE J. FOLEY, x...
DAVID A. FOLTS, x...
RONALD J. FONTANEZ, x...
GREGORY E. FOO, x...
WAYNE C. FOOTE, x...
DEWEY G. FORD, x...
JOSEPH M. FORD, x...
MICHAEL R. FOWLER, x...
MICHAEL J. FRAHM, x...
MARTIN E. BARTEAU FRANCE, x...
GREGG A. FRANK, x...
RANDAL C. FRANKLIN, x...
WARREN H. FRANKLIN, x...
DAVID T. FREANEY, x...
WALTER E. FRED, x...
NEIL B. FRIEDLI, x...
LINDA K. FRONCZAK, x...
MICHAEL K. FRYE, x...
HERBERT N. FULLER, x...
PAUL A. FULTON, x...
ANN P. FUNK, x...
FRANCIS R. GABRESKI, x...
PAUL A. GACKE, x...
JAMES J. GALLAGHER, x...
JAMES P. GALLOWAY III, x...
CALIXTO M. GARCIA, x...
IGOR J.P. GARDNER, x...
MICHAEL T. GARDNER, x...
ERIC P. GARRISON, x...
GREGG A. GARRISON, x...
WANDA K. GARRITY, x...
ERIC D. GARVIN, x...
JORGE S. GARZA, x...
JOHN J. GASKA, x...
MILO R. GAVIN, x...
PAUL T. GEIER, x...
JOHN P. GEIS II, x...
CHRISTIAN G. GEISEL, x...
JOHN R. GEISSLER, JR., x...
DONALD S. GELOSH, x...
KEITH E. GENTILE, x...
MARK S. GIANNINI, x...
PHILLIP G. GIBBONS, x...
DAVID G. GIBBS, x...
RICHARD F. GIBBS II, x...
TOM GILBERT, x...
VANCE F. GILSTRAP, x...
DORILYNN D. GIMONDO, x...
CRAIG S. GIRARD, x...
LOWELL S. GLOVER, x...
DUANE A. GOEHRING, x...
CAROL V. GOFF, x...
HAROLD R. GOFF, x...
MATTHEW S. GOGAN, x...
JAMES M. GOLASH, x...
ROBERT A. GOLDBERG, x...
JULIA K. GONZALES, x...
WILLIAM GONZALEZ, JR., x...
JOHN PHILLIP GOOD, x...
DAVID E. GOSS, x...
JESSE R. GOSSNER, x...
LESTER O. GRADY, JR., x...
JUDY M. GRAFFIS, x...
KENNETH C. GREEN, x...
ERIC GREENBLATT, x...
JAMES J. GREENOUGH III, x...
RODERICK I. GREGORY, x...
MARK W. GREISING, x...
ALAIN M. GRIFFIN, x...
BOBBIE L. GRIFFIN, JR., x...
NATALIE A. GROSEK, x...
KENNETH P. GROSSELIN, JR., x...
RONALD A. GRUNDMAN, x...
GLEN E. GULLEKSON, x...
JOHN D. GYTRI, x...
MORRIS E. HAASE, x...
STEVEN L. HACK, x...
MICHAEL H. HACKETT, JR., x...
MARK E. HACKLER, x...
STEVEN M. HADFIELD, x...
DAVID L. HAFICH, x...
CHARLES E. HAINES, x...
RICHARD A. HAIR, x...
CHRISTOPHER B. HALE, x...
THELMA R. HALES, x...
BRIAN K. HALL, x...
BYRON E. HALL, x...
RANDALL D. HALL, x...
ROGER L. HALL, x...
ERIC V. HALMON, x...
DONALD J. HALPIN, x...
CHARLES A. HAMILTON, x...
ROBERT E. HAMM, JR., x...
HARVEY L. HAMMOND, JR., x...
DEXTER R. HANDY, x...
RUSSELL J. HANDY, x...
DONA J. HANLEY, x...
PHILLIP C. HANNAH, JR., x...
JEFFREY A. HANSON, x...
WILLIAM L. G. HARDEN, x...
MICHAEL R. HARGROVE, x...
ROBERT J. HARPER, x...
TIMOTHY A. HARRIS, x...
ROBERT HARRISON, x...
ANTHONY C. HART, x...
CARL J. HARTKE, x...
JAMES W. HARVARD, x...
MARVIN K. HARVEY, JR., x...
WALTER B. HARVEY III, x...
KEN R. HASEGAWA, x...
GREGORY S. HASTY, x...
CASS HATCHER, x...
JAMES C. HATFIELD, x...
TIM HAWES, x...
CLIFTON A. HAYNES, JR., x...
JONATHAN K. HAYWARD, x...
KELLY P. HAZEL, x...
DAVID M. HAZELTON, x...
JEAN A. HEBERT, x...
CRAIG W. HEISE, x...
MICHAEL L. HELSABECK, x...
JAMES E. HENRY, x...
ROBERT J. HENRY, x...
PETER H. HENSON, x...
KENNETH C. HERBERT, x...
WILLIAM E. HERR, x...
STEPHEN P. HERRLINGER, x...
STEPHEN R. HESS, x...
WALTER C. HESS, x...
DEANNA M. HICKS, x...
MARK C. HIEBERT, x...
DAVID W. HILLS, x...
LARRY C. HILLS, x...
MICHAEL R. HINDES, x...
DOUGLAS J. HINE, x...
KEITH A. HINTON, x...
TROY A. HITHE, x...
PAMELA R.C. HODGE, x...
STEPHEN L. HOGG, x...
STEPHANIE L. HOLBROOK, x...
ROBERT W. HOLDER, x...
EDWARD E. HOLLAND, JR., x...
VERONICA E. HOLLEY, x...
BRYAN A. HOLT, x...
DANIEL E. HOOTON, JR., x...
HARRY HOPKINS, III, x...
KEVIN L. HOPKINS, x...
JOHNNY R. HORN, x...
WILLIAM T. HORN, x...
ROY F. HOUCHIN II, x...
DANA J. HOURIHAN, x...
BROWN G. HOWARD IV, x...
STEPHEN P. HOWARD, x...
DAVE C. HOWE, x...
MARK T. HUBBARD, x...
ARTHUR F. HUBER II, x...
BENJAMIN C. HUFF, x...
STEPHEN L. HUFFMAN, x...
ARLEY J. HUGGHINS, x...
CATHERINE L. HUGHES, x...
CHARLES E. HUGHES, x...
CRAIG A. HUGHES, x...
WILLIAM D. HUGHES III, x...
JOHN F. HUNNELL, x...
DAVID J. HUNTER, x...
RICHARD W. HURCKES, JR., x...
DAVID A. HUSS, x...
JAMES C. HUTTO, JR., x...
BRET A. HYDE, x...
JUAN IBANEZ, JR., x...
ELIZABETH L.A. IDELL, x...
MICHAEL A. ILLERBRUN, x...
ROBERT W. INGALLS, x...
CARROLL J. INGRAM, JR., x...
MAURICE J. INKEL, JR., x...
NANCY R. INSPRUCKER, x...
MICHAEL J. IRWIN, x...
BRYAN K. ISHIHARA, x...
DOUGLAS JACKSON, x...
JOHN C. JACKSON III, x...
SCOTT M. JACKSON, x...
DAVID A. JACOBS, x...
JEROME M. JANKOWIAK, x...
LEONARD P. JANKOWSKI, x...
DAVID J. JAY, x...
DONALD L. JENKINS, JR., x...
EDWARD T. JESPERSEN, x...
DREW D. JETER, x...
GLEN G. JOERGER, x...
KENNETH J. JOHNS, x...
BRUCE A. JOHNSON, x...
CHARLES W. JOHNSON, x...
DAVID C. JOHNSON, x...
DORIS A. JOHNSON, x...
JEFFREY R. JOHNSON, x...
LAWRENCE M. JOHNSON III, x...
PAUL T. JOHNSON, x...
THOMAS E. JOHNSON, x...
SAMUEL C. JOHNSTON, x...
GERARD JOLIVETTE, x...
CAROL ANN JONES, x...
STEPHEN M. JONES, x...
MARK H. JORDAN, x...
MARTHA K. JORDAN, x...
DANIEL O. JOYCE, x...
THOMAS F. JOYCE, x...
GREGORY J. JUDAY, x...
EDWARD P. JUERSIVICH, x...
MARK JUSCIUS, x...
MICHAEL J. KADLUBOWSKI, x...
KEITH A. KAISER, x...
MICHELLE S. KALKOWSKI, x...
WILLIAM K. KANESHIRO, x...
TIMOTHY W. KARANOVICH, x...
FRANCIS E. KARL, x...
WILLIAM B. KARR, JR., x...
ROBERT J. KAUFMAN III, x...
JOEL A. KAZY, x...
BRADLEY S. KEANE, x...
KEVIN V. KECK, x...
PETER R. KECK, x...
GAIL A. KEEFE, x...
KEVIN J. KEEFER, x...
WILLIAM C. KELLER, x...
MICHAEL J. KELLEY, x...
SCOTT E. KELLY, x...
MICHAEL A. KELTZ, x...
ALVIN R. KEMMET, JR., x...
TERRY L. KENNEDY, x...
PAUL C. KENT, II, x...
DWIGHT L. KENYON, x...
KENNETH F. KESLAR, x...
ROBIN M. KESTERSON, x...
JON A. KIMMINAU, x...
LELAND W. KINDLE, x...
CHRISTOPHER B. KING, x...
ROBYN M. KING, x...
BRET T. KLASSEN, x...

KURT A. KLAUSNER, x...
KEVIN P. KLINGENBERG, x...
FREDERICK D. KLUG, x...
ANDREW Q. KNAPP, x...
GASTON R. KNIGHT, x...
ALAN P. KNOPF, x...
MARK E. KOECHLE, x...
RICHARD C. KOLOIAN, x...
VENKATRAO KONERU, x...
DOUGLAS J. KOSKI, JR., x...
JEFFREY J. KOSS, x...
JAMES B. KOTOWSKI, x...
JEFFREY KRAUSERT, x...
JOHN P. KROGMAN, x...
MARK F. KRUSAC, x...
MICHAEL KUKULSKI, x...
KRISTINA D L. KULAAS, x...
MARK R. KUSCHEL, x...
MARSHA J. KWOLEK, x...
ROBERT D. LAFEBRE, x...
GARY J. LAMMERS, x...
PAUL S. LAND, x...
DONALD R. LANDING, x...
DAVID A. LANDRY, x...
CHRIS S. LANE, x...
GARY W. LANE, x...
RICHARD A. LANE, x...
JIMMY L. LANGLEY, JR., x...
RICHARD W. LAVERGNE, x...
THOMAS E. LAWRENCE, JR., x...
TIMOTHY S. LEAPTROTT, x...
DANIEL K. LEAR, x...
RODNEY L. LEATHERY, x...
NORMAN R. LECLAIR, x...
CHRISTOPHER B. LECRAW, x...
DAVID S. LEDIN, x...
DAVID C. LEE, x...
TERENCE B. K. LEE, x...
RODERICK W. LEES, x...
DOUGLAS W. LEFFORGE, x...
LEE J. LEHMKUHL, x...
ROXANNE L. LEHR, x...
RICHARD W. LEIBACH, x...
JOHN W. LENT, x...
SHERON R. LEONARD, x...
JOSEPH P. LEPANTO, x...
ROBERT P. LEROUX, x...
MARK J. LEWAKOWSKI, x...
ALFRED M. LEWIS, x...
MICHAEL LEWIS, x...
ERNEST R. LIBERATORE, JR., x...
JOHN C. LIBURDI, x...
MICHAEL J. LICATA, x...
THOMAS R. LIES, x...
JOHN S. LILLY, x...
STEPHEN J. LINSENMEYER, JR., x...
MARK F. LIST, x...
RODNEY K. H. LIU, x...
DARRELL A. LIVINGSTON, x...
PAUL S. LOCKHART, x...
ROSEMARIE M. LOERAKKER, x...
JEFFREY G. LOFGREN, x...
JAMES C. LONG, x...
JAMES T. LONG, x...
JOHN A. LOPER, x...
KEVIN W. LOPEZ, x...
PAUL M. LOUGHNANE, x...
WILLIAM P. LOVELACE, x...
MARY J. LOWE, x...
ROBERTA R. LOWE, x...
MARC A. LUIKEN, x...
GEOFFREY T. LUM, x...
DONALD A. LUNDIE, x...
TIMOTHY T. LUNDIN, x...
TERRY L. LUST, x...
MICHAEL C. LUTS, x...
RUSSELL T. LUTTON, x...
GREGORY R. LYNCH, x...
KENNETH O. LYNN, x...
MITCHELL S. LYONS, x...
TAMARA C. MACKENTHUN, x...
WILLIAM C. MACKINZIE, III, x...
BRIAN R. MADTES, x...
ROBERT J. MAHONEY, x...
GREGORY J. MAIN, x...
SHERMAN A. MALONE, x...
LAWRENCE E. MANNING, JR., x...
LEONARDO J. MANNING, x...
THEODORE J. MANOLAS, JR., x...
MICHAEL A. MARCINIAK, x...
DANE A. MAROLT, x...
DAVID P. MARONE, x...
CALVIN T. MARTIN, x...
EDWARD B. MARTIN, x...
KEVIN L. MARTIN, x...
WILLIAM H. MARTIN, JR., x...
LOUIS J. MARTUCCI, x...
CALVIN B. MASON, x...
ANN M. MATONAK, x...
DENNIS O. MAY, x...
STEPHEN M. MAYBERRY, x...
STEPHEN O. MCALLISTER, x...
DANIEL E. MCCABE, x...
BARRY L. MCCALL, x...
EARL V. MCCALLUM, JR., x...
KEVIN P. MCCANDLESS, x...
DAVID R. MCCARTHY, x...
MARK R. MCCAUSLAND, x...
ROBERT S. MCCORMICK, x...
WAYNE L. MCCOY, JR., x...
LINDA K. MCCULLERS, x...
ROBERT K. MCCUTCHEN, JR., x...
JERRY C. MCDANIEL, x...
KENNETH C. MCDANIEL, x...
WILLIAM M. MCDANIEL, x...
JOHN R. MCDONALD, x...
ROBERT F. MCENIRY, x...
ANNE E. MCGEE, x...
RICHARD M. MCGIVERN, x...
MICHAEL A. MCGOVERN, x...
LAMBERT R. MCGRATH, III, x...
GREGORY A. MCINTYRE, x...
WILLIAM L. MCINTYRE, x...
STEVEN E. MCKAY, x...
CYNTHIA A. MCKINLEY, x...
JAMES H. MCKINNEY, JR., x...
JAMES K. MCLAUGHLIN, x...
CHARLES G. MCMILLAN, x...
MICHAEL B. MCMILLAN, x...
BEVERLY Y. MCNAIR, x...
MICHAEL R. MCPHERSON, x...
JOSEPH M. MCWILLIAMS, x...
JOSEPH MEANS, JR., x...
PHILIP L. MENTHE, x...
DAVID C. MERKER, x...
ELLEN MERKLE, x...
JOHNNY E. MERRICK, x...
LYNNANNE MERTEN, x...
SAMUEL H. METZLER, x...
KEITH A. MICHEL, x...
MICHELE MIDDLESWORTH, x...
MARK R. MILARDO, x...
FRANK M. MILES, JR., x...
JOHN K. MILKS, x...
DAVID A. MILLER, x...
DENNIS M. MILLER, x...
JOEL E. MILLER, x...
MARCUS S. MILLER, x...
MARK A. MILLER, x...
SCOTT A. MILLER, x...
STEVEN F. MILLER, x...
KENNETH D. MILLS, x...
WILLIAM H. MILTON, x...
TIMOTHY R. MINISH, x...
THOMAS J. MIRA, x...
JONI L. MIRANDA, x...
KEITH G. MISSAR, x...
DAVID E. MITCHELL, x...
MICHAEL J. MIXON, x...
RONALD A. MOELLER, x...
STEVEN J. MOES, x...
MARILEE A. MOLK, x...
JAMES P. MOLLOY, x...
RICARDO MONTANEZ, x...
PAUL J. MONTGOMERY, x...
TODD L. MONTGOMERY, x...
GREGG MONTIJO, x...
LLOYD B. MOON, JR., x...
CHRISTOPHER L. MOORE, x...
DAVID A. MOORE, x...
MICHAEL A. MORABITO, x...
LEWIS C. MORANT, x...
MICHAEL J. MORGAN, x...
WILLIAM A. MORGAN, x...
DEATRIX M. MORRIS, x...
JOHNNY M. MORRIS, x...
ROBERT M. MORRISON, x...
STEPHEN E. MORRISSEY, x...
JUDITH B. MOSES, x...
LEONARD S. MOSKAL, x...
STEPHEN J. MOSS, x...
GREGORY D. MOULTRIE, x...
PAUL A. MRAZIK, x...
MARK R. MUELLER, x...
STEVEN C. MUHS, x...
JULIE A. MULVEY, x...
STEPHEN M. MULVEY, x...
SERGIO C. MUNIZ, x...
JAMES MUNN, JR., x...
MICHAEL A. MURAWSKI, x...
ANDREW R. MURPHY, x...
KENNETH A. MURPHY, x...
MARK D. MURRAY, x...
JAMES W. MYERS, x...
PAUL L. MYERS, III, x...
JAMES J. NALLY, x...
WILLIAM M. NAPOLITANO, JR., x...
ROBERT T. NAUER, x...
RICHARD G. NAUGHTON, x...
DAVID NEGRON, JR., x...
ANGELA NELSON, x...
DEAN A. NELSON, x...
DOUGLAS A. NELSON, x...
ERIC G. NELSON, x...
RANDAL S. NELSON, x...
RANDY E. NELSON, x...
SYLVIA S. NELSON, x...
ALLAN S. NETZER, x...
JOHN M. NEUHAUSER, x...
ANDREW M. NICHOLS, x...
WILLIAM B. NIXON, x...
ROBERT C. NOHRN, x...
ROBERT C. NOLAN, II, x...
JAMES O. NORMAN, x...
THOMAS J. NORTH, x...
MICHAEL NOSTRAND, x...
PHILIP M. NOSTRAND, x...
GREGORY P. NOWELL, x...
DAVID H. NUCKLES, JR., x...
WILLIE G. NUNN, x...
ANGELO M. NUZZO, x...
JAMES J. OAKLEY, x...
ERIC M. OCONNELL, x...
RANDY A. OCONNOR, x...
MATTHEW C. OETKEN, x...
THEODORE P. OGREN, x...
MARK A. OHAIR, x...
LOUIS W. OLINTO, x...
THOMAS R. OLSEN, JR., x...
DAVID P. OLSON, x...
GORDON A. OLVERA, x...
JAMES ONEAL, JR., x...
BEVAN R. ORME, x...
STEVEN R. OTTO, x...
GREGORY A. OVERBY, x...
DOUGLAS D. OWEN, x...
JAMES G. OWENS, x...
JOEL R. OWENS, x...
ROXANN A. OYLER, x...
DAVID C. PACKHAM, x...
MICHAEL R. PAICE, x...
CHARLES A. PALDANIUS, x...
THOMAS A. PALMER, x...
ROGER M. PALMISANO, x...
WADE M. PALMORE, x...
THOMAS D. PARKER, x...
TODD J. PARKER, x...
CHARLES E. PARKS, x...
EDWIN T. PARKS, x...
DAVID L. PARRIS, x...
ERNEST L. PARROTT, x...
DEBORAH J. PARSON, x...
GREGORY F. PATTERSON, x...
CHARLES C. PATTILLO, JR., x...
WILLIAM J. PAULK, x...
MAXINE J. W. PAULSON, x...
MICHAEL A. PAVLOFF, x...
LOWELL B. PECK, x...
RODNEY M. PEDERSEN, x...
CHRISTOPHER E. PELC, x...
JOSEPH PELCHAR, x...
SHIRLEY L. PERALES, x...
ALAN J. PERDIGAO, x...
JOSEPH A. PERDUE, x...
GEORGE PERKINS, x...
MARK C. PERKINS, x...
JOHN J. PERLEONI, x...
PHILLIP L. PERRY, x...
BARBARA A. PETERS, x...
DAVID E. PETERSEN, x...
ALAN B. PETERSON, x...
RANDALL C. PETERSON, x...
WILLIAM E. PETERSON, x...
WILLIAM J. PFAU, x...
EDWARD J. PHILLIPS, x...
THERESA MARY PHILLIPS, x...
HOSEA L. PICKETT, x...
STEVEN A. PIETRUSZKA, x...
ANTHONY S. PINO, x...
ALFRED L. PITTS, x...
DAVID E. PLANT, x...
JONATHAN H. PLOTT, x...
NICOLE H. PLOURDE, x...
GARY L. PLUMB, x...
JAMES P. PLYLER, x...
JAMES B. POCOCK, x...
ROBERT D. POLLOCK, x...
ROBERT N. POLUMBO, x...
GARY W. POND, x...
BILL POPE, x...
MARK A. POPE, x...
PAUL M. PORONSKY, x...
CHARLES H. PORTER, x...
RUSSELL L. PORTER, x...
KENNETH O. PORTIS, x...
JAMES N. POST, III, x...
NATHANIEL T. POSTELLE, x...
NORMAN D. POTTER, x...
JOHN D. POUCHER, II, x...
THOMAS J. POWERS, x...
DARRELL J. PRATT, x...
WILLIAM B. PRICE, x...
THORNTON E. PRIEST, JR., x...
DENNIS C. PROKOPOWICZ, x...
MICHAEL L. PRUCEY, x...
JAMES E. PUGH, x...
MARVIN S. PUGMIRE, x...
MARY L. PURDUE, x...
VINCENT F. QUINN, x...
DELPHINE MARIA RAFFERTY, x...
FOWLER O. RAGLAND, JR., x...
GLENDA P. RAICHLEN, x...
DOUGLAS J. RAILEY, JR., x...
LEONARD H. RAK, x...
LUIS A. RAMIREZ, x...
LOUIS G. RANHOFER, JR., x...
CHARLES P. RAUPACH, x...
SHIRLEY A. RAWLS, x...
STEVENSON L. RAY, x...
MICHAEL K. REAGAN, x...
TIMOTHY P. REAGAN, x...
NORMAN W. REECE, x...
BRUCE A. REED, x...
DOUGLAS J. REED, x...
ROBERT E. REHBEIN, x...
JOSEPH L. REHM, x...
RICHARD B. REHS, x...
JACK L. REIMANN, x...
JERRY RENNE, x...
LARRY L. REXFORD, x...
CURTIS R. REYNOLDS, x...
RICHARD A. REYNOLDS, x...
PATRICK L. RHODE, x...
WILLIAM H. RHODES, JR., x...
DON K. RHUDY, x...
ROBERT E. RICCI, x...

DAVID L. RICHARDS, x...
CAROLYN E. RICHARDSON, x...
EDDIE L. RICHARDSON, x...
JOHN C. RILEY, x...
TIMOTHY J. RINCON, x...
TIMOTHY P. RINGDAHL, x...
DENEAN P. RIVERA, x...
HECTOR V. RIVERA, x...
TINA G. RIZZO, x...
LARRY E. ROAN, x...
DARRYL L. ROBERSON, x...
REID A. ROBERTS, x...
WILLIAM E. ROBERTS, III, x...
ALBERT L. ROBERTSON, JR, x...
THOMAS E. ROBICHAU, x...
STEVEN W. ROBINETTE, x...
CHARLES M. ROBINSON, x...
LORI J. ROBINSON, x...
RICHARD A. ROCLEVITCH, x...
JOHN ROGERS, x...
JOSEPH T. ROHRET, x...
MARK A. ROLING, x...
CALVIN J. ROMRELL, x...
SUSAN B. ROSE, x...
TIMOTHY J. ROSE, x...
THOMAS E. ROSENSTEEL, x...
DUANE P. ROSS, x...
RAYMOND J. ROTTMAN, x...
STEVEN A. RUEHL, x...
STEVEN A. RUGGLES, x...
KEVIN E. RUMSEY, x...
GARY W. RUSSELL, x...
JOSEPH D. RUTKOWSKI, x...
COLLEEN M. RYAN, x...
MICHAEL C. RYAN, x...
FREDERIC C. RYDER, x...
RUSSELL E. SACKETT, x...
PAUL D. SADOWSKI, JR, x...
MAURICE E. SALCEDO, x...
DAVID H. SAMMONS, JR, x...
JAMES F. SANDERS, x...
STEPHEN J. SATAVA, x...
MARK T. SATTERLY, x...
DAVID C. SAUTTER, x...
STEPHEN D. SAWYER, x...
JOHN J. SCANLON, x...
LARRY J. SCHAEFER, x...
SCOTT H. SCHAFER, x...
ALFRED C. SCHARFF, x...
FRED S. SCHEPPELE, x...
JOHN M. SCHIAVI, x...
DAVID P. SCHILLER, x...
MAX M. SCHINDLER, x...
THOMAS J. SCHLUCKEBIER, x...
OLIVER E. SCHMOKER, III, x...
CHARLES J. SCHNEIDER, x...
JAMES S. SCHOENEMAN, x...
SHEILA L. SCHROCK, x...
SCOTT G. SCHROEDER, x...
DONALD R. SCHUBACK, JR, x...
PAUL A. SCHUBERT, x...
JOHN F. SCHULTE, x...
BERNARD A. SCHWARTZE, x...
JOSEPH H. SCHWARZ, x...
JAMES A. SCHWINDT, x...
JAMES M. SCIFRES, x...
GEORGE D. SCISS, x...
DAVID A. SCOTT, x...
PAUL L. SCOTT, x...
ROBERT W. SCOTT, x...
REBECCA N. SEEGER, x...
WILLIAM D. SELLERS, x...
RUSSELL J. SEVERINO, JR, x...
JEFFERSON L. SEVERS, x...
LEON A. SHAFER, x...
JAMES D. SHAFFER, x...
ROBERT H. SHAMBLIN, x...
JOHN N. T. SHANAHAN, x...
KENNETH M. SHARPLESS, x...
DEBRA A. SHATTUCK, x...
RICHARD G. SHAUGHNESSY, x...
MARK D. SHEEDY, x...
JOHN J. SHELPMAN, JR, x...
WILLIAM L. SHELTON, JR, x...
MICHAEL M. SHEPARD, x...
SETH D. SHEPHERD, x...
ROBERT S. SHEROUSE, x...
JOHN R. SHROYER, x...
PAUL D. SIEVERT, x...
MICHAEL O. SILAS, x...
KEVIN J. SILVA, x...
ROBERT C. SILVA, x...
MICHAEL A. SILVER, x...
JOHN D. SILVIA, x...
DONALD E. SIMMONS, x...
THOMAS L. SIMPSON, x...
ERIC N. SINGLE, x...
KEITH D. SINGLETON, x...
ROBIN C. SITES, x...
LARRY C. SKOGEN, x...
RANDALL A. SKOV, x...
ALBERT L. SLY, x...
LEONARD C. SMALES, x...
DAVID R. SMITH, x...
GREGORY A. SMITH, x...
HULAND C. SMITH, x...
JAMES E. SMITH, x...
JEFFRY F. SMITH, x...
KENRIC SMITH, x...
KEVIN B. SMITH, x...
STEWART C. SMITH, x...
TIMOTHY J. SMITH, x...
HARRY L. SNODGRASS, x...
WILLIAM R. SNOW, x...
MARK E. SNYDER, x...
JOHN L. SOKOLSKY, x...
DAVID F. SOLOMON, x...
DONALD G. SOMERVILLE, x...
BAXTER L. SOSEBEE, x...
TERENCE J. SPANN, x...
DON W. SPARKS, x...
WILLIAM X. SPEIGHT, JR, x...
MARTIN J. SPITEK, x...
JEFFREY W. SPRAGGINS, x...
ANITA K. SPRINGER, x...
TIMOTHY M. SPRINGER, x...
DANA M. STABIN, x...
KEITH B. STACHOWSKI, x...
ROBERT J. STAIB, x...
ELLEN J. STALEY, x...
ROBERT M. STAMBAUGH, x...
EDWARD M. STANHOUSE, x...
MICHAEL W. STANSBURY, x...
WENDELL T. STAPLER, x...
CLARENCE B. STARK, II, x...
JOHN D. STAUFFER, x...
KERMIT L. STEARNS, II, x...
LARRY STEELE, x...
CAREY A. STEGALL, x...
JOSEPH V. STEPHANS, x...
ERIC J. STEPHEN, x...
WILLIAM D. STEPHENS, x...
GREGORY A. STEVENS, x...
ROBERT K. STITH, x...
GREG J. STOCK, x...
LOWELL J. STOCKMAN, x...
MICHAEL R. STOCKWELL, x...
RALPH O. STOFFLER, x...
RICHARD E. STONE, x...
KURT A. STONEROCK, x...
BRIAN W. STORCK, x...
MICHAEL S. STOUGH, x...
ROBERT A. STOWE, x...
ROBERT L. STRADFORD, x...
DAVID A. STRAND, x...
JOHN R. STRASBURGER, II, x...
SUSAN E. STREDNANSKY, x...
XAVIER L. STREETER, x...
PAUL C. STRICKLAND, x...
ANTHONY B. STRINES, x...
ELISABETH J. STRINES, x...
PATRICK A. STROMAN, x...
RUTH A. STRONG, x...
THOMAS R. STULL, x...
JAMES L. SULLIVAN, x...
SHANNON M. SULLIVAN, x...
MARK J. SURINA, x...
CHARLES D. SUTHERLAND, x...
CRAIG O. SUTTON, x...
PHILIP A. SWANSON, x...
EDWIN C. SWEDBERG, x...
WILLIAM R. SWEGER, JR, x...
CHRISTOPHER L. SWIDER, x...
TERRENCE C. SYKES, x...
GERALD E. SZPILA, x...
GREGG F. TANOFF, x...
STEPHEN M. TANOUS, x...
JAMES K. TATUM, x...
CLINTON E. TAYLOR, x...
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JOHN R. TAYLOR, JR, x...
KERRY W. TAYLOR, x...
TIMOTHY S. TAYLOR, x...
KURT A. TEMPEL, x...
JOSEPH MICHAEL TERRY, x...
DEAN THEODOSAKIS, x...
BOB J. THOMAS, x...
KENNETH L. THOMAS, x...
LEE E. THOMAS, x...
ANTHONY C. THOMPSON, x...
DONALD W. THOMPSON, x...
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JOHN F. THOMPSON, x...
DAVID W. THORSEN, x...
CARL D. THUNBERG, x...
TERRY D. TICHENOR, x...
ROBERT E. TILLEMA, x...
KELLY TIMMONS, x...
THOMAS L. TINSLEY, x...
STEVEN M. TIPPETS, x...
RICHARD C. TOLLINI, x...
THOMAS G. TOMARAS, x...
FRANK G. TOMKO, x...
ROBERT R. TOPP, x...
GEORGE TORRES, JR, x...
JUAN TORRES, JR, x...
JOSEPH A. TORSANI, III, x...
THOMAS J. TRASK, x...
KIM C. TRAVER, x...
RUSSELL W. TRAVIS, x...
TIMOTHY N. TRAVIS, x...
DAVID B. TREAT, x...
BENJAMIN D. TROTTER, x...
DAVID P. TROTTIER, x...
CARL E. TROUT, x...
ALAN B. TUCKER, JR, x...
JOSEPH R. TURNAGE, JR, x...
MARK L. TURNER, x...
COUNT B. TYE, JR, x...
CLIFFORD P. UEHLIN, x...
JEFFERY A. URIE, x...
JAMES W. URSCHELER, x...
JOHN C. USTICK, x...
VINCENT C. VALDESPINO, x...
ROBERT M. VALEK, x...
WILLIAM D. VALENTI, x...
PAUL A. VALENTIC, x...
BURTON L. VANDENBURG, x...
RICHARD S. VANDERBURGH, x...
DEBORAH S. VANDEVEN, x...
MARK D. VANHEYNIGEN, x...
CAROL L. VAUGHT, x...
RICHARD G. VAUGHT, x...
VICTORIA A. VELEZ, x...
JOHN R. VENABLE, x...
DARRELL M. VENTURE, x...
GONZALO I. VERGARA, x...
GREGG K. VERSER, x...
ROSS A. VICTOR, x...
ERIC VINCENT, x...
STEPHEN W. E. VINCENT, x...
TIMOTHY D. VINOSKI, x...
RUSSELL A. VOGEL, x...
KEITH A. VRAA, x...
DANIEL VRSNIK, x...
GLENN A. WADDELL, x...
MICHAEL F. WAGNER, x...
RONALD J. WAGNER, x...
STEVEN D. WAGNER, x...
DAVID M. WAHL, x...
MARK T. WALDRON, x...
EARL WALKER, x...
PAUL C. WALKER, x...
TRACEY A. WALKER, x...
ERNEST E. WALLACE, x...
EDWARD T. WALSH, x...
STEPHEN J. WALSH, x...
RONALD G. WALTERS, x...
PAUL D. WALTON, x...
WALTER W. WANNER, JR, x...
JOSEPH S. WARD, JR, x...
MARYMARGARET S. WARD, x...
TED W. WARNOCK, x...
JOE L. WASHINGTON, x...
ROBERT M. WATKINS, x...
DONALD S. WATROUS, x...
ROBERT D. WATSON, x...
DAVID D. WATT, x...
BRYAN L. WAUGH, x...
DYKE D. WEATHERINGTON, x...
ERNEST G. WEEKS, x...
JOSEPH L. WEGNER, x...
JOHN D. WEIDERT, x...
ROBERT F. WEILAND, JR, x...
STEPHEN P. WEILER, x...
GUY W. WELLS, x...
JAMES G. WELTON, x...
MATHEW S. WENGLER, x...
JAMES E. WEST, x...
SCOTT D. WEST, x...
JEFFERY L. WESTERN, x...
RICHARD T. WESTLAND, x...
RUSSELL MARK WETZEL, x...
JOSEPH F. WHALEY, III, x...
CURT L. WHEELER, x...
JOEL D. WHEELER, x...
RICHARD J. WHEELER, x...
ROBERT E. WHEELER, x...
MARTIN WHELAN, x...
ROBERT K. WHITAKER, x...
YULIN G. WHITEHEAD, x...
JERRY D. WHITLEY, x...
MARCELLUS J. WHITT, JR, x...
JON W. WICKLUND, x...
GARY M. WILBAS, x...
ERIC J. WILBUR, x...
TERRY E. WILLETT, x...
ROBERT J. WILLHITE, x...
JAMES D. WILLIAMS, x...
JOHN E. WILLIAMS, x...
MARIANNE T. WILLIAMS, x...
TERRY W. WILLIAMSON, x...
DAVID J. WILMOT, x...
BRET T. WILSON, x...
JAMES R. WILSON, x...
MONICA A. WILSON, x...
ROBERT A. WIND, x...
MICHAEL P. WINSLOW, x...
DONALD L. WIRTH, x...
RICHARD L. WOJICK, JR, x...
JOHN R. WOODCOCK, x...
ELDON A. WOODIE, x...
JEFFREY S. WOOLSTON, x...
WILLIAM N. WOOTTON, x...
EDWARD G. WORLEY, x...
JOSEPH WOTTON, x...
CELEO WRIGHT, x...
ROBERT F. WRIGHT, JR, x...
DONALD E. WUSSLER, JR, x...
PETER R. WYMAN, x...
CHARLES E. WYNNE, x...
MARK D. YAKABE, x...
GARY E. YALE, x...
SEAN M. YERONICK, x...
STEPHEN M. YOUNG, x...
JEFFREY YUEN, x...
LYNN M. ZABKAR, x...
FELIX A. ZAMBETTI, III, x...
CLIFFORD A. ZAPF, x...
DARRELL P. ZELKO, x...
RICHARD E. ZIEBARTH, x...
DAVID W. ZIEGLER, x...
DAVID A. ZIOMEK, x...
ROBERT J. ZYRIEK, II, x...

HOUSE OF REPRESENTATIVES—*Tuesday, October 7, 1997*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. PACKARD].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 7, 1997.

I hereby designate the Honorable RON PACKARD to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested.

S. 590. An act to provide for a land exchange involving certain land within the Routt National Forest in the State of Colorado; and

S. 750. An act to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes.

The message also announced that pursuant to Public Law 99–498, the Chair, on behalf of the President pro tempore, appoints Charles Terrell, of Massachusetts, to the Advisory Committee on Student Financial Assistance for a 3-year term effective October 1, 1997.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 25 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Massachusetts [Mr. MCGOVERN] for 5 minutes.

THREE CHEERS FOR UNIVERSITY PARK CAMPUS SCHOOL

Mr. MCGOVERN. Mr. Speaker, I wish to share with my colleagues the history of a remarkable school that has just come into being in the Third Congressional District of Massachusetts. It is called the University Park Campus School.

This school, which opened its doors this fall to its first class of seventh graders, is a collaboration between Worcester Public Schools and Clark University, located in the Main South neighborhood of Worcester. Over the next 5 years, the school will expand to cover students in grades 7 through 12 by enrolling a new class of seventh graders each year.

What makes this school so very special? First, Clark University has guaranteed every student who enters and completes University Park Campus School and then passes Clark University's entrance requirement will be able to attend Clark University for 4 years tuition free. That is right, tuition free. Clark University is promising these seventh graders a college education if they study hard and complete the 5-year program of University Park Campus School.

The University Park Campus School is a college preparatory school for neighborhood students, predominantly at-risk, underprepared students. Many had the dream of going to college, but never thought that dream could be achieved. Several other students and their families never even began to dream until Worcester Public Schools and Clark University presented them with this magnificent opportunity.

This year, 35 students were chosen from 60 applicants. Academic standing was not considered in the application process. What mattered most was a commitment to learning, judged from an essay written by the students, letters of recommendation from teachers, and promises from parents or guardians to be closely involved. Students also had to commit themselves to putting in a longer school day and more homework time 4 days a week. On the fifth day students will be involved in community service and special seminars.

The small student-teacher ratio and the involvement of Clark University faculty and students will provide these young people with the very best of quality education.

Now, I have visited University Park Campus School and I am here to tell you that these kids, who are entering the first seventh-grade class, are really excited about going to college and achieving the American dream of a good education and good job. They are committed to this program, their families are committed to becoming active and involved in this school, and the community is committed to the success of each and every one of these students.

Recently I met with Donna Rodrigues, the school coordinator, and the school's two teachers, Dermot Shea and June Eressy. After talking with them, I have no doubt about the abilities of these educators to help make these children's dreams come true. Clark University faculty, who come from a host of different disciplines, may be involved in these students' education for as long as 10 years, from seventh grade through college, providing academic and professional support and mentoring that few students receive.

University Park Campus School, however, was once only a dream, a dream in the mind and heart of Clark University President Richard Traina. President Traina found an able partner in Jim Garvey, superintendent of Worcester public schools, and together they turned this dream into a reality. Planning for this school was made possible as part of a Federal grant from the U.S. Department of Housing and Urban Development to promote the redevelopment of the Main South neighborhood. Enthusiastic support from Worcester Public School Committee, the neighborhood surrounding the university, and the campus community, have brought all the pieces together.

Perhaps we should never have doubted that this innovative school could be built and operated in Worcester innercity. After all, 87 percent of all kids eligible to attend Worcester public schools do attend public schools. That is because Superintendent Garvey has made a commitment to bring quality education to all Worcester's children.

I hope others will follow the model of University Park Campus School. Here is a university that is giving back to the community that supports it. Here is a public school system committed to bring quality education to all Worcester's children, and here are students and parents who are encouraged to set their expectations at the very highest level.

Can you imagine walking into an innercity seventh-grade classroom where every single student is talking to you about how they are going to college and what they are going to choose as their major?

Mr. Speaker, I wish every one of my colleagues could meet these students and faculty members. I invite my colleagues to visit Worcester and University Park Campus School, truly a model for public education that we can all praise and support.

Mr. Speaker, I include the following materials on the University Park Campus School.

UNIVERSITY PARK CAMPUS SCHOOL—THE SCHOOL WITH A PROMISE

(By Donna Rodrigues)

After phone calls, brochures, visits to elementary feeder schools, family informational meetings, and personal interviews with 35 families and children, I proudly present University Park Campus School's Class of 2003 to you. You will find quotes from family members and children that I found irresistible on the sides of each page.

THE PROCESS

The school day for UPCS is longer than any other school in Worcester, and reflects best thought from practice and research. Children will attend school from 7:45 to 4:00 for four days per week, with an optional 4:00–5:00 homework center available during which time "Big Kids" from Clark may tutor and serve as mentors. The fifth day, designed with two large three hour blocks of time, we integrate community service and special seminars into the curriculum, and will begin at 8:30 and end at 3:00. Teachers will see fewer students for longer periods of time. The last hour of each day will be devoted to what was learned that day, with some students needing remediation and others acceleration.

A PREREQUISITE: FAMILY INVOLVEMENT

Children from the neighborhood did not have to take an entrance exam nor were their test scores or grades analyzed before admittance, but they did have to attend an informational meeting with their parents and/or guardians.

Sarah Lawrence Lightfoot said that "children bring their families to school with them," and that they did during our informational meetings. The first of four family informational meetings brought 75 adults with 25 children to the Lurie Room at Clark University. Generations filled the room to hear about the "new school." The more I spoke about high academic expectations, hours of homework, and shutting off the television to read, the more families shook their heads in agreement and nudged their children. I told them that this was not a school for everyone, it is a school for those who want to make a commitment to their education, a school with promise, one made by Clark University for the possibility of free tuition, and one made by UPCS to prepare these children for the demands of a four year competitive college or university.

COLLABORATIONS WIN-WIN

As news of UPCS spread throughout the Clark campus, professors and students approached Donna Rodrigues to discuss the school and possible connections. The Special Seminar arrangements we made turned out to be equally beneficial to Clark and UPCS. It appears that many Clark students can benefit from experience with younger children to broaden their resumes.

Theater and film students need experience producing and directing younger children for job experience; education students need to observe best practice and work with exceptional mentor teachers; education students, with provisional certification, in the Masters Program will be able to realize a "Ted Sizer dream" of a year long site-based program; foreign language students will be able to increase their conversational skills by conversing with native speakers; psychology students will be able to be involved in a sustained mentoring program; community service projects at Clark have a new meaning; and UPCS students and families will provide a wealth of information about the neighborhood.

UPCS also has collaborations planned with: University of Massachusetts Medical Center Pipeline; Worcester Foundation for Biomedical Research; Broad Meadow Brook Farm; New England Science Center; Worcester Art Museum; State initiatives: PALMS, CUSER; PACE at Harvard University; Northeastern University RESEED Program; and Sturbridge Village.

EXCELLENCE BEGINS IN THIS COMMUNITY

What Makes the University Park Campus School Unique?

A College Preparatory school for neighborhood students; predominately "at-risk," underprepared students.

A school culture that emphasizes "respect and responsibility" and strong ties to the Main South community—all students participate in community service/research internships.

Radically redesigned school schedule and pacing of the day; organization of core academic material into 2 large academic blocks—Humanities and Math/Science.

Opportunities for teachers to know their students well—teachers teach fewer students over the course of the day and over multiple years, and meet with small "advisory/tutorial" groups everyday.

Sustained intellectual partnerships with Clark faculty and students—through guest lectures, "special seminars," and a program supporting Clark students to serve as tutors and coreseachers, as part of their undergradute and graduate preparation.

A school culture that emphasizes "effort" over "ability": multiple second chances and opportunities for academic support (Homework Center, after-school program, summer courses).

High standards and performance-based exit requirements for each two year "stage," with the expectation that some students will take longer and need more support to meet the performance and content knowledge requirements.

Emphasis on teacher as intellectual, researcher and educational leader, with time built into each school day for reflection, collaboration with fellow teachers and Clark faculty and students, and on-going research.

Demonstration/Teaching school—a resource for the entire Worcester Public School community.

Innovative pedagogy promoting a strategic mix of "hands-on," inquiry based learning and more traditional, "direct instruction."

Strong emphasis on "basic," enabling skills (mathematics, reading/writing, analysis, the use of multi-media technologies for research and communication) in combination with sustained, interdisciplinary investigations.

Innovative assessment plan—emphasizing developmental assessment (with clear, public standards and rubrics) for students and parents coupled with strict exit requirements requiring content and process mastery (demonstrated through exhibitions, examinations, and projects—all standards and tests designed to be "taught to").

Active "test preparation" for all standardized tests (MCAS, PSATs, SATs, etc.) that students will be expected to take.

Thoughtful approach to conferencing with parents, teachers, and students—twice a year, using assessment plan to build home/school partnership.

QUOTES FROM STUDENTS SELECTED FOR UPCS—UNEDITED EXCERPTS FROM STUDENT'S APPLICATION ESSAY

"One of the reasons I want to attend this school is I want to be a somebody and the only way that you can be a somebody is to have a excellent and brillent egecation. My mom also wants to be a part of it and I think that it will help me and my mom learn more about others. I also want to be in a safe environment not to worry about people asking to try drugs or be in a gang."—Michael Donnelly, 6th Grader, Heard Street School.

"I would appreciate very much if I could get the opportunity to go to UPCS. I think I'll do a lot better in a smaller class. Going to a University has been my one dream, and without an EDUCATION there is no room in this world and no career for me. If given this opportunity I'll assure you that I will be the best and brightest boy in your school. I was born in St. Lucia a Caribbean Island. I could remember 6 years ago, my first day in Worcester, my mother pointed out to me. This is the university I want you to go too. All I knew that coming to America was coming for an education, because my grand parents was so excited since I will be their first grand son with the college education. They believe in me and I believe in myself. I want to make them proud of me."—Neal Kangal, 6th Grader, Goddard School.

"I think that it's going to be wonderful because their's going to be a lot of help for kids that need it. Because I'm one of those kids who needs a lot of help. Signing off"—Danielle Chase, 6th Grader, Canterbury Street School.

"I think that it is a great learning opportunity. Because when I start high school I need to think about my future to go to college and become a writer. To me a neighborhood should be a place where you can feel safe. Like you can trust people around you."—Taryn Kodel, 6th Grader, Gates Lane School.

QUOTES FROM PARENTS OF SELECTED STUDENTS OF UPCS—EXCERPTS FROM UPCS BROCHURE: FAMILIES OF THE CLASS OF 2003

"You're giving my girls a future—one I never could give them. I work ten hours a day, and I can't make ends meet."—A Father.

"I grew up in this neighborhood, and I always thought that I would work at the Foundry. They called 21 of us into the office, and 3 kept their jobs, the ones that could use the computer. At 50, I had no job, no choices, no options . . . no computer or academic skills. Now I take courses here at Clark with my 24-year-old daughter. I want my son to go to this school (UPCS). I want him to have choices."—A Father.

"Please tell me again that this is really true—it's too good for me—I've never been picked for anything good."—A Father.

"I got goose bumps when you were talking about the school. I couldn't believe it."—A Grandmother.

TRIBUTE TO THE PROMISE KEEPERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized

during morning hour debates for 5 minutes.

Mr. NEUMANN. Mr. Speaker, I rise this morning to pay special tribute to a group of people that were in this town this weekend, a large group of people, the Promise Keepers.

They were in town, a large group, predominantly men, but there were some women there too, to recommit themselves to their faith in God and to the most important things in their lives here, and that is their families.

When I watched the media and the media treatment of this particular event, I could not help but think back to when I first entered into politics myself. With no political experience or background behind me, I went into politics thinking that if we talked about our faith in God and our commitment to our family and our commitment to our country, and what a great country it was, where you could start a business in the basement of our home and build that business because of the opportunities that exist here, build that business into a company that provided job opportunities for 250 people, I thought that was what was right and good about this great Nation that we live in.

When I went into politics, I learned that they treated the business success, they said well, that makes you rich and therefore you are a bad guy. Even though the business started in the basement of the house and we busted our tails and did what this great country is all about, built that business from the ground up to provide job opportunities for our people, they twisted that around.

When they learned of a faith in God and a commitment to family, well, they twisted that around too and started using names like "right wing radical." Well, if right wing radical means that you are committed to your faith and God and you are committed very strongly to your family, and if you believe in this great country we live in that if people work hard you should have an opportunity to start a business in the basement of your home and build it, well, then so be it, and let us hope the whole country is right wing radical, because that is what made America great in the first place.

I brought with me this morning all seven promises that the Promise Keepers make, because sometimes in the media this stuff gets twisted around, so I thought I would read all seven of them this morning. Here are the promises, the seven promises of a Promise Keeper, the people that were here this weekend.

Number 1, a Promise Keeper is committed to honor Jesus Christ through worship, prayer, and obedience to God's word in the power of the Holy Spirit.

Number 2, a Promise Keeper is committed to pursue vital relationships with a few other men, understanding that he needs brothers to help him keep his promises, promises being the faith.

Number 3, and here is one that they like to twist around, No. 3, a Promise Keeper is committed to practice spiritual, moral, ethical, and sexual purity. That is, the husbands that were here are committed to their wives and their families.

Let me read No. 3 one more time, because I think it is extremely important. A Promise Keeper is committed to practice spiritual, moral, ethical, and sexual purity.

Number 4, a Promise Keeper is committed to build strong marriages and families through love, protection, and Biblical values.

Number 5, a Promise Keeper is committed to support the mission of his church by honoring and praying for his pastor and by actively giving his time and resources.

Number 6, a Promise Keeper is committed to reach beyond any racial and denominational barriers to demonstrate the power of Biblical unity.

Number 7, a Promise Keeper is committed to influence his world, being obedient to the Great Command and the Great Commission, the Great Command being in Mark 12:30–31, and the Great Commission is found in Matthew 28:19–20.

Now, I have just read the entire commitment of the people that were here in Washington this weekend, and again I refer to some of the press coverage of this, where instead of treating it as people who were sincerely committed to what made America the greatest Nation in the world in the first place, a commitment to faith, the freedom to worship in our country as we see fit and appropriate in our lives, a commitment to our families, knowing that a husband and wife raising children is what is great in this country and what has built this country and been the backbone of America, and an understanding that in this great Nation that we live in we have the opportunity to start a business in the basement of a home and build that business through hard work and effort into something that provides job opportunities to lots of people.

Well, after two races which we lost and getting beat up over these very issues, I have come back to the conclusion that in fact these are the right values for the future of this country, and I sincerely hope that the other people in America will come back to the conclusion that a commitment to a faith in God, a commitment to our families, and an understanding that, with hard work, in America the opportunity to get ahead and live the American dream is still here, I hope those are the values that we carry forward from our generation to the next generation.

THANKING CONGRESS FOR USING D.C. STUDENT INTERNS IN SEPTEMBER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning hour debates for 5 minutes.

Ms. NORTON. Mr. Speaker, I come to the floor today to sincerely thank Members of the House and Senate for affording the opportunity for 254 high school students to participate as volunteer interns in 175 of your offices during the first 3 weeks of September when D.C. schools were closed for roof repairs. I want especially to thank the gentlewoman from the Virgin Islands, Ms. DONNA CHRISTIAN-GREEN, the gentleman from Pennsylvania, Mr. TOM FOGLIETTA, and the gentlewoman from California, Ms. JANE HARMAN, who not only accepted interns in their office, but who also have themselves come to the floor to speak of their experience with our students and to commend the young people. I will include for the RECORD their statements and other materials from this experience.

Congress was due back at the same time the schools were due to open in the District. General Julius Becton and other school officials tried desperately to find ways to get schools open, but an extraordinarily rigid and restrictive court ruling made this impossible. Shortly before we were due back, it became clear to me that all options had been exhausted. With only a few days to go before September 2, the day school was to open, my staff and I got to work to recruit Members to accept interns.

My first "Dear Colleague" produced an immediate response of 20 Representatives and Senators and the numbers mounted quickly with each "Dear Colleague." The Speaker also generously sent his own "Dear Colleague." Initially using an application process, we had only a handful of students. I then put aside this process. With the energetic help of at-large board of education member Tonya Kinlow, we went straight to the source. We enlisted principals to call some of these students directly. On September 2, we had so many students that we had to give each student a number and some had to be called by phone at home as our own phone calls to Members of the House and Senate produced more places.

Ultimately, we placed every student within a couple of days. These students found universal receptivity among Members of the House and Senate, for which I am very grateful. Throughout the 3-week period, I was constantly stopped by Members and staff members who heaped praise on these youngsters. The D.C. students they said were very helpful in assisting with many significant tasks. They spoke of the energy, enthusiasm, hard work, and collegiality of the students. Some Members

have already invited students to continue to work in their offices.

Not every Member could accommodate a student for a longer period. However, I have been encouraged by this experience to establish a permanent D.C. congressional intern program. The program will be flexible to meet the needs of Members and to give students what many regard as a rich, once in a lifetime chance, to work here with us in the House and in the Senate.

Mr. Speaker, through the brief intern program, Members got to see District residents in a way that is seldom available. These students were not the District government or even the District. These were young people, the young people I feel very fortunate to represent. Because of your gracious generosity, these D.C. high school students put a new face on the District of Columbia. They are our best face. I hope you will keep these bright young faces in mind when the D.C. Congressional High School Intern Program comes knocking.

Mr. Speaker, I include the following for the RECORD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 20, 1997.

HOST A D.C. STUDENT AS A VOLUNTEER IN YOUR OFFICE

DEAR COLLEAGUE: Please join me in hosting a student from the District of Columbia school system as an intern in your office for about three weeks from September 2 to September 22. Because funds to fix school roofs became available so late, school opening has had to be pushed back. Therefore, hundreds of junior high and high school students are in need of work opportunities and are willing to volunteer in congressional offices during this period. I am asking for your help in keeping these youngsters off the streets and giving them something to do.

Whether simply "shadowing" a staffer or doing tasks in a congressional office, you would be offering a wonderful opportunity which District youngsters would appreciate to see how the legislative process actually works first hand. Given the incredibly busy nature of our offices, there are probably a number of tasks on which a young person could assist your staff. Students would be available to work whatever number of hours each day you decide.

Please host a student for this three-week period. Please RSVP to me or Kirra Jarratt in my office at 5-8050 to host a student or to get more information.

Sincerely,

ELEANOR HOLMES NORTON.

[Release of August 21, 1997]

HOUSE AND SENATE MEMBERS RESPOND TO NORTON CALL TO HOST A D.C. STUDENT DURING ROOF REPAIRS

WASHINGTON, D.C.—Congresswoman Eleanor Holmes Norton (D-D.C.) has already received more than 20 calls from the offices of Members of the House and Senate in response to her "Dear Colleague" letter sent yesterday encouraging them to host a D.C. student while school roofs are being repaired. Many have said that they would take two students. In her letter she said: "Whether simply shadowing a staffer or doing tasks in a congressional office, you would be offering a wonderful opportunity, which District youngsters would appreciate, to see how the legislative process actually works first hand. Given the incredibly busy nature of our offices, there are probably a number of tasks on which a young person could assist your staff."

MEMORANDUM OF AUGUST 26, 1997

To: Members of the District of Columbia City Council and Members of the District of Columbia Board of Education

Re: DC Student Volunteers in Congressional Offices

We are recruiting Members of the House and Senate to host senior high school students to volunteer in congressional offices from September 2nd to September 22nd while schools are being repaired. The response has been overwhelming—thus far 50 members of the House and Senate have agreed to host one or two students. However, we need help locating students for this opportunity.

We are working with Board of Education At-Large Member Tonya Kinlow and School Superintendent General Julius Becton's office to administer this program. I would appreciate your forwarding names of interested students you would like to recommend to Tonya Kinlow at 724-4289 (fax 724-2040) or Erin Prangley in my office at 225-8050 (fax 225-3002).

ELEANOR HOLMES NORTON.

[Release of Aug. 28, 1997]

EIGHTY-FIVE MEMBERS OF THE HOUSE AND SENATE WILL HOST D.C. STUDENTS WHILE SCHOOL ROOFS ARE BEING REPAIRED

WASHINGTON, DC.—Congresswoman Eleanor Holmes Norton today announced that eighty Senators and Members of the House of Representatives have agreed to host D.C. high school students in their congressional offices while D.C. schools' roofs being repaired. Orientation for students is Tuesday, September 2 at 9:00 a.m. in the Gold Room (2168) of the Rayburn House Office Building on the corner of South Capitol Street and Independence Avenue, SE.

Because of the short time frame, D.C. high school students who wish to participate are asked to report to the orientation even if they have not yet filled out the application and will be assigned on a first come, first serve basis. At the moment, there are plenty of spaces available. Parents and students should call Congresswoman Eleanor Holmes Norton's office at (202) 225-8050 or Erin Prangley during the evening or weekend at (202) 225-5129 for more information.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 29, 1997.

DEAR COLLEAGUE: 90 House and Senate Members will host D.C. students while school roofs are being repaired from September 2 to September 19.

Have you signed up?

Call Erin Prangley in Congresswoman Norton's office at 5-8050.

Sincerely yours,

ELEANOR HOLMES NORTON.

[Release of Aug. 29, 1997]

SPEAKER NEWT GINGRICH JOINS CONGRESSWOMAN ELEANOR HOLMES NORTON CALLING FOR MEMBERS OF THE HOUSE AND SENATE TO HOST D.C. STUDENTS WHILE SCHOOL ROOFS ARE BEING REPAIRED

WASHINGTON, DC.—Congresswoman Eleanor Holmes Norton today announced that Members of the House and Senate have made available 110 places for D.C. students who will be out of class for most of September while new roofs are being put on D.C. schools. Speaker Newt Gingrich is among the almost 100 members of the House and Senate who have already offered places and have come forward for D.C. students and more are expected. In addition to Norton's "Dear Colleague" letters which have served to recruit the Members who have already volunteered, the Speaker has now sent his own "Dear Colleague" to Member asking them to come on aboard.

D.C. students in or entering senior high school who want to participate in the program should come to orientation on Tuesday, September 2nd at 9:00 a.m. in the Gold Room (Room 2168) of the Rayburn House Office Building located on the corner of South Capitol Street and Independence Avenue, SE. Students will be accommodated on a first come, first serve basis. However, an attempt will be made first to accommodate students who have called Congresswoman Norton's office to reserve a place if they are on time. Following orientation on Tuesday, students will be taken to their assigned offices in the House or Senate.

At the orientation, students will hear from Congresswoman Norton and from the School Board Member with whom she has been working, At-Large School Board Member Tonya Kinlow. Richard Bess, Specialist in American National Government with the Congressional Research Service ("CRS") will talk to the students about the workings of Congress and Mike Fauntroy, Summer Policy Intern from CRS will tell D.C. students what they can expect from their internship experience.

Congresswoman Norton said: "The response from Members of the House and Senate has been nothing short of overwhelming. I believe that it will be beneficial to Members of Congress and their staffs to have contact with D.C. youngsters to get an appreciation for their energy, intelligence and zest for learning. Although our students are Washingtonians, most have little contact with the Congress. I expect that the intern opportunity will be a valuable educational experience."

Parents and students should call Congresswoman Eleanor Holmes Norton's office at (202) 225-8050 or Erin Prangley during the evening or weekend at (202) 225-5129 for more information.

Congresswoman Norton also has a program called D.C. Students at the Capitol ("DCSC") that has had a steady backlog since it began last school year. Teachers bring D.C. students to tour the Capitol, sit in on sessions of the House and Senate as well as a hearing and meet with their congresswoman. Congresswoman Norton's goal is to have every D.C. youngster visit the Capitol as part of this program before graduating from high school. Adult groups also can participate in the program. To make a reservation for DCSC call 783-5065.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 2, 1997.

DEAR COLLEAGUE: Wanted! 100 more Members of House and Senate to host D.C. High School Students until September 19th while D.C. Schools are repaired. These are eager, intelligent, and energetic young people.

This morning 250 Students arrived and we had places for only 170. My special thanks to the 100 Members and Senators who have already volunteered.

For additional information or to volunteer, please call Erin Prangley at 225–8050.

Sincerely,

ELEANOR HOLMES NORTON.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 2, 1997.

DEAR STUDENT: Thank you for volunteering your time to help in a congressional office. If you take full advantage of this experience, it should be invaluable to you. We are very appreciative that so many Members of the House and Senate have signed up to host D.C. students during this period when school is not open. Please respond by being on time, doing a good job and dressing appropriately every day. I am very proud to represent you in the Congress, and I want my colleagues in Congress to share my enthusiasm about your energy, intelligence, and willingness to work hard.

Although you have been assigned to a Member of the House or Senate, you should feel free to call my office (225–8050) or come by (Longworth 1424) if we can be of any additional assistance to you or simply to say hello.

Sincerely,

ELEANOR HOLMES NORTON.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 10, 1997.

DEAR STUDENT: Enclosed you will find information on different events being offered this week as a part of the Congressional Black Caucus Foundation Annual Legislative Conference. We encourage you to attend these optional events. Please remember to check with your supervisor before attending any optional programs, as your first responsibility lies with your congressional office duties.

We have also enclosed a form to be completed by those of you who are using this opportunity to complete your community service hours. Please direct any questions regarding this program to the school board at 724–4289. Finally, if your packet includes an application, please complete it and return it to my office at 1424 Longworth or fax it to 225–3002.

Feel free to call my office (225–8050) or come by (1424 Longworth) if we can be of any additional assistance to you or simply to say hello.

Sincerely,

ELEANOR HOLMES NORTON.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 25, 1997.

MR. SPEAKER: I rise today to commend Tatiana Naboa and Alexander Prince, two young citizens of the District of Columbia, who voluntarily offered their services to my office, through my colleague Representative Eleanor Holmes Norton's Internship Program.

They chose to turn a negative situation into a positive fulfilling experience for themselves and well as my Washington staff. They carried out all tasks assigned to them and was always ready to assist in any way they could.

Tatiana and Alex are products of the much maligned DC school system. Obviously, there are some things wrong, but there are a lot of good things happening to our children when they attend the public schools in the district. From my experience with Tatiana & Alex, I know my colleagues who participated in the Internship program, can support me when I say that the students were respectful, knowledgeable and inquisitive. This can only come through the school's reinforcement of values instilled by their families.

As we go about the daily business of instituting laws for our fellow Americans, we must continue to provide opportunities for our younger Americans. We must give them a reason to accept the challenges they will face, make it meaningful and guide them to become productive members of our society. Tatiana and Alex are shining examples of what is possible.

My staff join me in wishing these two outstanding District of Columbia students continued success in the future.

DONNA M. CHRISTIAN-GREEN,
Member of Congress.

PRAISE OF D.C. HIGH SCHOOL STUDENTS

Ms. HARMAN. Mr. Chairman, I rise today in praise of two outstanding young people who have been interning in my office for two and a half weeks, Christiana Hodge of Eastern High School and Calvin Wingfield of Banneker High School.

Thanks to the internship program for D.C. high school students organized by my colleague, Representative Eleanor Holmes Norton, I have had the pleasure to work with these two bright and dedicated students whose contribution to my office has been invaluable.

Mr. Chairman, I have been so impressed by Christiana and Calvin's willingness to spend three weeks interning on Capitol Hill—and working hard—while waiting for the school year and new challenges to begin. It is my hope that this experience has been as rewarding for them as it has for me.

I know Christiana and Calvin will go far in life, because of their outstanding qualities. I thank them for their help over these past weeks, and I thank Eleanor Holmes Norton for bringing me in contact with them.

CLINTON FOREIGN POLICY STATUS REPORT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. GOSS] is recognized during morning hour debates for 5 minutes.

Mr. GOSS. Mr. Speaker, the President appears set on establishing a legacy for himself as the 20th century peacemaker. Obviously we applaud that, and as chairman of the House Permanent Subcommittee on Intelligence, of course, I share the goal of improving the peace and security of our global community, and, of course, particularly the United States of America.

But I am concerned there is not enough thought given to such crucial matters in critical places as defining what we mean when we say our national interests. There appears to be precious little long-term planning going on, not enough commitment to understanding exit strategies and contingency plans, things like that that matter. There is no real vision apparently behind this administration's foreign policy; it is day-to-day ad hoc.

Mostly what we see are photo ops, and some of them are the distressing images of our men and women in uniform in harm's way without a clear mission. In Bosnia, for instance, we recently reached an agreement to end funding for the U.S. mission there by June. That would be June of next year. The President could extend the mission if he certified that it was in the national interest, however that might be defined, to do so.

Then, a few days later, NATO and the United States troops we read in the papers unexpectedly seized four television transmitters which had been controlled by the hardliners supporting one of the Bosnian Serb leaders, in this case Radovan Karadzic.

I am troubled that while the administration talks to Congress about wrapping up the mission in Bosnia, it is getting ever more deeply involved in Bosnian politics and affairs, to the point of running the evening news.

What is our mission in Bosnia? Where are we going? Where is this all heading? How much is it going to cost? The Bosnia scenario, though, is unfortunately not an isolated case for this administration. In some respects it reminds me of what has happened in Haiti.

The U.N. mission in Haiti is set to expire on November 30. As that deadline approaches, the administration ought to be talking about ways to get our troops out, to ease the transition, to help the Haitians continue along the path to a stabilized democracy.

Although we have now spent at least $3 billion of United States taxpayers' dollars in Haiti, it is unclear whether anyone has figured out an exit strategy so the Haitian people can get on with running their own country. In fact, I am not sure what we have gotten for that $3 billion.

A number of obstacles to democracy remain in Haiti. Investigations into the various politically motivated murders have not gone forward, and those that were responsible have not been brought to justice. These are political assassinations I am talking about.

Not one state-run industry has begun the privatization process, thus there is no foreign investment in Haiti and the economy is in the basket. The leading force for economic reform, Rosny Smarth, resigned his post as Prime Minister because he was unwilling to certify the April 6 elections for one-third of the Senate and local council. In other words, democracy, the ballot box system, has broken down there. The turnout for the elections, incidentally, was a dismal 5 percent.

Many independent observers have charged the elections were riddled with fraud and significant violations of local law. This is not success. The dispute over these elections is yet to be resolved and Haiti is still without a new prime minister.

Sadly, Jean-Bertrand Aristide, the man U.S. troops restored to power, you will remember, with 20,000 U.S. troops,

is often cited as an obstacle to essential reform these days, and I am not alone in this dire assessment. A leading scholar of Latin America and the Caribbean area has recently stated that "Haitian democracy is heading for a major derailment." Remember, we spent $3 billion trying to ensure Haitian democracy.

I am troubled that this administration still points to Haiti as a foreign policy success. If this is a success, we are going to be in serious trouble in other places.

As the New Republic recently pointed out, "The Clinton Administration has achieved less than it might have and almost nothing irreversible," a euphemism for saying we have struck out.

It is time for the administration to lay out a realistic and workable Haiti policy that takes us beyond the involvement of United States troops and further along the road to true democracy in Haiti, as we have all repeatedly asked.

Mr. Speaker, the Clinton administration has a number of difficult foreign policy questions that need to be addressed. What is happening in the Middle East? We pick up the papers, we see political assassination attempts, we see uproar going on. The peace process is not working, despite the heroic efforts of some of our folks in their shuttle diplomacy. It is just not happening the way it was supposed to.

What about North Korea? That is not an accident waiting to happen; that is an accident that is happening today. People are starving, it is a country that is in another era, and it is not a friend of Western democracy.

Where do we stand in Africa? Here is a whole continent besieged with incredible grievous obstacles to a future, whether it is starvation, chaos, political problems, genocide, whatever we read about every day in the paper.

So, a legacy is more than just photo ops that declare "Peace in our time has arrived." We need some consistent, long-term foreign policy planning at the White House, and a focused look at what our national interests really are in today's world. When we understand that, perhaps we will be able to effectively protect the United States of America and the peace we want for the world.

TRIBUTE TO ORANGE COUNTY, CA HEAD START

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from California [Ms. SANCHEZ] is recognized during morning hour debates for 3 minutes.

Ms. SANCHEZ. Mr. Speaker, the recently passed Labor-HHS appropriations bill will provide some of the most cost effective money our Government can spend to protect the health and welfare of all Americans. I am happy to announce that the Orange County Head Start Program just received $1.3 million in an expansion grant, benefits of the 8-percent increase which the Head Start Program received this year.

This grant will allow additional children to be served through Orange County Head Start programs. Head Start is especially important to me, because I am a Head Start kid. I was one of the first in 1965. My mother and my father, very hard-working parents, working with children and yet below the poverty line, my mother picked up the newspaper one day and read about Head Start and said "This must be a program for Loretta."

I believe that I am the only Head Start kid in Congress. And while I entered that first day into Head Start crying, the fact of the matter was that I learned many things. I learned about peanut butter, I learned about nap time, and, most importantly, I learned how to spell my name and how to speak English.

Head Start helped me to change from a shy, quiet girl, into an inquisitive and eager child, fully prepared to begin kindergarten at the same level as the rest of my classmates. That is why I believe Head Start is one of the best programs that we can help children across the United States with. To this day, Head Start continues to benefit countless children with their mental, their emotional, and their physical development. Head Start also helps families. It helped my mother and my father to understand about parenting, to understand about working with the schools, to understand about helping their children, and they went on to have seven successful college graduated children.

I congratulate Orange County Head Start for their grant award. It is through their efforts that disadvantaged children are getting the Head Start they need.

GLOBAL WARMING: DO NOT OVERREGULATE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. STEARNS] is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, I rise today to address the subject of global warming. Today marks the beginning of the White House Conference on Global Climate, a precursor to the Kyoto Conference in December.

The conference, of course, is expected to highlight the usual rhetoric, that the world is heating up, the ice is melting, the oceans are rising, that doomsday is fast approaching. Reality, however, shows that the global warming is still without accurate data for confirmation.

The great majority of the scientists that the administration parades as proof positive of global warming are not really knowledgeable of atmospheric physics, although some may know a lot about forestry, fisheries or agriculture. In other words, the administration is relying mostly on social scientists, policy experts and government functionaries.

Nevertheless, the White House persists in its claims. In fact, they plan to move towards a costly global climate treaty, armed with questionable United Nations intergovernmental panel information on climate change, the IPCC reports, which make the case that the world is heating up and humans are to blame.

But before we rush to judgment, Mr. Speaker, we should know the facts. The 1995 IPCC report lowered its best estimate for warming by about a third from the 1990 IPCC report. In fact, that shows they were off by one-third. Also, the sea level estimates have been reduced. In the 1970's, scientists estimated a 25-foot rise. Today they estimate a 1.5-foot rise.

Why all the uncertainty? Forecasts of global warming rely on computer models which attempt to simulate the Earth's climate. Climate change proponents have always been quick to point out that the models predict a discernible amount of warming resulting from CO_2 buildup. What they are hesitant to discuss is the relative confidence they have in their own models, and in fact confidence levels are low for two main reasons. One is a lack of computer power.

There are 14 orders of magnitude in the climate system. So far researchers have only been able to model the two largest, the planetary scale and the scale of weather disturbances. To model the third, thunderstorms, would require 1,000 times more computer speed.

Even if researchers could model smaller scales, they would run into the second obstacle, a very sketchy understanding of the Earth's climate. Researchers, for example, are still debating the impact of clouds on the Earth's climate. Until these questions are resolved, it is difficult to build models that make accurate predictions.

Now, many scientists think it will be more than a decade before we have the technology to adequately predict the planet's future. Of course, scientists do accept the existence of a natural greenhouse effect in the atmosphere, which has been known since the 19th century and is not to be confused with any influence from human activity. Another accepted fact is that the greenhouse gasses have been increasing as a consequence of an expanding world population, carbon dioxide from burning fossil fuels, for instance, and methane from raising cattle. But the climate warming of the past 100 years, which occurred mainly before 1940, in no way

supports the results of computer models that predict a drastic future warming.

The pre-1940 warming is likely a natural recovery from a previous natural cooling. Most important though is the fact that weather observations have shown no global warming trend in the past 20 years whatsoever.

The discrepancy between calculated predictions of warming and the actual observations of no warming has produced a crisis for these scientists. Those who want to believe in global warming keep hoping that proof is just around the corner. In the meantime, unfortunately, it is the American taxpayers who will bear the burden of this uncertainty.

Mr. Speaker, let us be careful not to over regulate.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning hour debates for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, in North Carolina we are pausing this week to draw attention to the need to focus greater efforts on the problem of domestic violence, and this is National Domestic Violence Awareness Month.

Just as we are confronted with the blight of hunger in America, we are faced with the blight of domestic violence, a public and personal health problem. Imagine the incidence of domestic violence in the world if indeed that is the situation that we face in America, that in America some 4 million women are battered every year, every year, one woman every 13 seconds.

It is for that reason the United Nations 4th Conference on Women held in Beijing, China, in September 1995, directly addressed this issue. Violence against women is an obstacle to equality, development, and peace. That was one of the conclusions of the conference.

Another conclusion, violence against women violates both their human rights and their fundamental freedom. Among several other actions to be taken, the conference urged that we condemn violence against women and refrain from invoking any custom, tradition, or religious consideration to avoid our obligation with respect to its elimination.

Being passive in this vital effort is not enough. Merely making the statement that one does not commit domestic violence does not go far enough in solving the problem. We must be proactive. If I may borrow from a well-worn phrase from several decades ago, if you are not part of the solution, you are said to be part of the problem.

Violence against women occurs in nearly every daily area of our lives. Women are assaulted on the street, at workplaces, in schools and campuses. But it has been the hidden violence in the home at times in our Nation that is particularly difficult. It is the hushed tone, it is not acceptable, it is not talked about. But it is now gaining serious and sensible community-wide attention, as it should be.

Today most States now enact some form of domestic violence legislation and the public has now come to understand that it is a problem. As part of the crime bill, Congress passed the Violence Against Women Act. The President created within the Department of Justice the Violence Against Women Office. Significant funding has been directed toward this problem under the Violence Against Women Act.

Still attitudes are slow to change, and much more needs to be done. Victims of domestic violence continue to face an unacceptable gap in legal representation when required to make appearances in key proceedings affecting their personal safety and the safety of their families.

Domestic violence remains a strong risk factor for female homicide. More women are murdered by their husband or their boyfriends than half of them murdered by strangers. Poor women are still far more likely to be victims of domestic violence than other women, and domestic violence endures as the leading cause of injury to women. More women are indeed harmed by domestic violence than all combined, street accidents, automobile accidents, or assault by strangers. More of their friends harm them and their loved ones than strangers do.

The problem of domestic violence also affects rural areas as well as urban areas. Women of all races, social, religious, ethnic, economic groups, all ages are affected by domestic violence.

Once domestic violence occurs, it reoccurs, and often times it escalates. This week and this month will only have meaning if each of us makes a new commitment to take a firm stand and to understand to do something, no matter how small, to help bring an end to the spread of domestic violence.

Changes begin with awareness, but it happens with action. Condemn violence against women and refrain from invoking any custom, tradition, or religious consideration to avoid our obligation with respect to its elimination. On this issue, each of us can be a part of the solution.

CURE FOR SOCIAL SECURITY DILEMMA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Michigan [Mr. SMITH] is recognized during morning hour debates for 4 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I am going to sort of give an hour lecture on Social Security, and I am going to try to do that in 4 minutes.

With these charts, the first chart represents what is going to be happening in Social Security when we have less money coming in in taxes than are required to payout benefits. Since it is a pay-as-you-go system where current taxes immediately go to pay current benefits, and there is no savings or very little savings, it is becoming a bigger and bigger problem.

Look at this chart. A short-term surplus only lasts until 2011, and then the benefits for payouts to retirees are much larger than the taxes coming in. The red on this chart represents what happens to the deficits, how much more money we are going to add to the taxes coming in on Social Security in order to meet the benefit obligations.

You see it goes all the way to $400 billion a year. There has been a lot of talk about if we just would keep the cotton-picking hands of Congress away from the trust fund, away from the surpluses, but these surpluses now amount today to $600 billion. Six-hundred billion dollars is not enough to cover benefit payments on Social Security for 2 years. So that is not a long-term solution.

This chart shows what is happening to Americans that are living longer. When we started Social Security in 1935, the average age of death was 61 years old, so most people never even reached the 65-year-old age that entitled them for any benefits. So they died earlier, most people, and Social Security funding was not as big a problem.

As you see on this chart, life expectancy has gone from 61 when we started Social Security, and today it is 74 years old. So people are living longer. That is good, but it makes a problem with keeping the system solvent.

I have introduced a bill, and I will be introducing my next bill in the next few weeks. That has been scored by the Social Security Administration to keep Social Security solvent for the next 75 years. The population growth of seniors is going up at the rate of 73 percent. The population rate of workers is increasing at 14 percent. That means that there are fewer workers paying in their taxes to cover the benefits. So the question is, What do we do?

In 1950, we had 17 people working paying in their taxes for each Social Security recipient. Today there are only three people working. By 2029, there are going to be two people working. We cannot continue to raise taxes on workers in America. We have increased taxes 36 times since 1971. So today most of the American workers pay more in the Social Security tax than they pay in the payroll tax; 78 percent of American workers now pay more in the Social Security tax than they do in the income tax.

Now, here is the bottom line: If you are over 50 years old, you are going to have to live about 26 years after you retire just to break even on the taxes that you and your employer paid into Social Security. That is why private investment has got to be part of the solution.

If you are a lucky enough individual to break even, and that is even if Congress does not face up to the problem, then I think it is very important that Congress wakes up to the fact that the longer we delay a solution for Social Security, the more drastic that solution is going to have to be.

So what my proposal says is let us start private investment, where part of that Social Security tax can go into a personal retirement investment fund that is the property of the worker, and if they are lucky enough to meet the average of the last 80 years it will increase at the rate of 8.5 percent per year, and through the magic of compound interest it will result in greater benefits and save Social Security.

SUPPORT PUBLIC EDUCATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from Michigan [Ms. STABENOW] is recognized during morning hour debates for 4 minutes.

Ms. STABENOW. Mr. Speaker, I rise today to talk about one of the most critical issues facing our country, and that is support for public education and developing and expanding a skilled work force that is able to compete in the world in the 21st Century.

We are going to be discussing this week on this floor issues related to public education. We are going to be talking about the D.C. schools and the fact that there are leaky roofs, roofs falling in, and what the solution should be.

We are going to hear from the majority that the solution to leaky roofs is vouchers. We on the minority side are going to say that the solution to leaky roofs is to fix the roof, it is to then go on and make sure we have quality teachers teaching basic skills with technology in their classrooms, safe classrooms, children coming into kindergarten prepared to learn, and that we make a national commitment to our public education system all across this country.

Our democracy is founded on the belief that we have to provide a quality public education to every child in every neighborhood if we are to remain strong and independent as a country.

There are wonderful examples of supporting public schools in my district in Michigan. I attended on Sunday a celebration of a restoration of the Mason public schools, where in their elementary schools and their high school they have been investing in increasing their science labs and putting more technology into the buildings, a new field house, renovating their auditorium for the arts.

That community has made a strong public commitment and said to the young people of that community, "We believe in you, we will invest in you, and we want your public schools to be the best they can be."

All across my district now we are involved in a private sector effort called Net Day, where the business community has come together investing dollars, the labor community, through the leadership of IBEW and our electricians, are donating their personal time on Saturdays to come into the schools, working with our educators, working with every part of the community to wire our schools for the textbook of the future called the Internet, whether it is the Lansing public schools where we are wiring, in fact have wired 29 schools and are now moving on to bring volunteers to work with young people on basic reading skills, whether it is Pinckney elementary school that was wired, Lake Fenton a week ago, or the Fenton public schools on November 1.

We have a strong commitment in Michigan to bringing together all parts of the community to make the public school system the best that it can be. Do we need variety? Yes. Do we need choices? Of course. But if we pull dollars away from our public school system to put into private schools and thereby undermine the ability of every child to get a quality education, we do not do well for the future of this country.

There is a fundamental debate going on in this Chamber, a fundamental debate that each of us will be participating in through our votes. I strongly encourage my colleagues to step up and support a continuing strong public school system for the future.

Our children are moving into a world that is very different, that involves competing with people all over the world. They need skills that will allow them to be prepared to be successful in that world. It starts with a strong public school system.

LOW-INCOME CHILDREN DESERVE BEST SHOT AT GOOD EDUCATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Texas, Mr. SAM JOHNSON, is recognized during morning hour debates for 4 minutes.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I agree, we got to keep the public schools going, but why does the President continue to deny low income students a chance to excel academically? Why does he insist that children attend unsafe and often drug-infested schools?

Well, to be honest, I am still trying to find the answer to these questions. I find it ironic that both the President and Vice President send their children not to the District's struggling public schools, but to safe and challenging private schools. They understand and they want their children to get the best education, get it in a safe and friendly environment. They do not want their children to walk through metal detectors and have police roaming the walks and the halls or witness a drug buy or a shooting, and I do not blame them.

But I believe that every child, black, white, rich or poor, should have the same choice. They should be able to get a first rate education, one that fosters growth and learning, not hopelessness and despair.

For all the President's talk of equality and opportunity for all, he is now the obstacle to those parents who want only the same privileges he has, to give their kids the best education possible.

He seems to be more interested in bureaucrats, unions and Federal control than in the well-being of our children. Our President does not believe that you parents are smart enough to do what is best by your kids, by denying you the freedom of choice that he and the First Lady exercise, he is denying your children their best shot at the American dream.

What is wrong with letting parents make their own decision, use their own money, that their children would be better served in a private school or a public school on the other side of town? What is wrong with this? What is the President trying to save? Clearly it is not our children's future.

Mr. Speaker, the answer is simple; it is school choice. The answer is simple; it is parental control. The answer is freedom to choose how and where your child gets an education. The President must not prevent our children from succeeding. The future of America depends on it.

EDUCATION, A TOP PRIORITY WITH DEMOCRATS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, Democrats have made education a top priority this Congress and our emphasis has been on improving public schools, including raising educational standards and addressing infrastructure needs. I listened to the previous speaker, and my concern is that the Republican leadership, after trying to make the deepest education cuts in history last year, is now emphasizing vouchers to pay for private schools as the way to reform our education system.

I listened to the previous speaker, and he talked about how the President and Mrs. Clinton send their kids to private school. But what he neglected to say is that they are paying for that out of their own pocket. The problem with the voucher system that the Republican leadership is talking about is that this is public dollars, tax dollars, that they want to take that to be used to improve the public schools and take those tax dollars and give it to private schools.

Now, I have no problem with choice. The President and Mrs. Clinton exercised the choice, and they pay privately out of their own pocket to send their kids to private school, and I think choice is great. Everyone, if they can afford it, if they have the money, they have the ability throughout this great land of ours to send their kids to private school or parochial school. But the difference is the use of public dollars, public money that could be used to improve the infrastructure of the schools, to pay for more teachers, to provide smaller classrooms, to teach and to improve basic skills. Those public dollars should not be taken away from the public schools and given to private schools to pay for private education for a very few.

In my opinion, vouchers will not help public schools; just the opposite, they will drain away resources that could be used to improve public school standards and rebuild crumbling or overcrowded schools.

Mr. Speaker, the Republican leadership's latest experiment with vouchers will be rolled out this week right here in the District of Columbia. Their plan will be considered as part of the D.C. appropriations bill I think this Thursday. It will provide up to $3,200 to 2,000 children in Washington to attend private schools.

This is about $45 million in Federal funds that would be made available to pay for private education for about 3 percent of the District of Columbia students, 3 percent of the students.

Mr. Speaker, in my opinion it makes no sense to take away $45 million that could be made available to the city of Washington to improve basic schools or to fix deteriorated buildings in the public schools and use this money for private schools.

Now, we know because of the decrepit physical condition of many schools in the District of Columbia, the opening of the school year was postponed for 3 weeks. The voucher programs will take away money that could be used to fix these schools that were in fact closed. Why, so that 3 percent of the students can take advantage of the situation, and the other 97 percent who remain in the public schools will suffer?

With 9 out of 10 children in America attending public schools, Democrats understand that we need to rebuild and reform public schools, not to destroy them.

Today our House Democratic Task Force on Education is going to unveil a new Democratic agenda to improve public schools, and I am not going to get into all aspects of it, but I just wanted to mention some of the key elements again to the public schools.

First of all, the emphasis will be on academic excellence in the basics. Every student has to learn the basics, reading, writing, arithmetic. That is what it is all about if they are going to succeed later in life.

Second, we are talking about better training teachers to help children achieve high standards. We need to better train our teachers if they are going to better train our students.

Third, we are talking about a major infrastructure program to basically improve the situation with the decrepit buildings in many of our communities around the country. We have overcrowding, we need new schools, we have schools in disrepair that need to be fixed up, we have schools that need to be improved so they can accommodate the new high technology age that can be wired for computers, so they can have students so they can be involved in the Internet, for example.

The other thing that we keep talking about is the fact that a small amount of money can be used on the Federal level to support local initiatives for strong neighborhood public schools. Democrats believe in the neighborhood school concept. We think the Federal dollars can help in that regard. Also we need to empower parents. We need to get parents more involved in the public schools so they can choose the best public schools for their children.

Again, choice is fine, choice within the public schools. Choice is also fine if people want to pay to send their kids to public schools. But let us use the public dollars to improve the public schools.

I want to say I believe very strongly, Mr. Speaker, that Americans overwhelmingly support the Democratic commitment to public schools, and they want to make our public schools safer, improve the quality of teachers, and get parents more involved in education. That is what the Democrats wanted. Fix the public schools, improve the public schools.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 50 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 10 a.m.

PRAYER

The Reverend Jay Scribner, First Baptist Church, Branson, MO, offered the following prayer:

Let us pray, please.

Our gracious Heavenly Father, we are grateful for the privilege of living in America. We are thankful for the many freedoms which we enjoy. Freedoms which were framed by our forefathers and perpetuated by our representative form of government in this great Republic.

I pray for these men and women who by virtue of their election, have assumed a very honorable position as a servant representative to the people of these United States. May the decisions which they make today be made with wisdom from on high, with integrity from within, with justice and fairness for all people, and may it be obvious that even though they sit on both sides of the aisle, today they are one in purpose and intention to make right and wise decisions. May they be decisions that will reestablish righteousness as the foundation of morality for America, a pride in our heritage, love for our neighbor, and honor for our God and Saviour.

May the biblical Gospel be central to their public activism. May godliness be central to their personal attributes. And may God be central to their political action. All because righteousness exalts a nation.

We pray this in the name of Christ the Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. MCNULTY] come forward and lead the House in the Pledge of Allegiance.

Mr. McNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME TO THE REVEREND JAY SCRIBNER

(Mr. BLUNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks:)

Mr. BLUNT. Mr. Speaker, it is a great honor to follow our guest chaplain Rev. Jay Scribner today. Reverend Scribner has been pastor of the First Baptist Church in Branson for the past 20 years. Branson has grown tremendously in the 20 years that Jay has been there. This town of 3,500 will host 5 million visitors this year. Each Sunday Reverend Scribner has the potential to preach to visitors from all over the world.

During his ministry the First Baptist Church in Branson has quadrupled in size. He has led the church through two significant building programs resulting in debt-free additions. We probably should seek his financial advice while he is here with us today.

Reverend Scribner has been a constant leader in the community of Branson where he is continually an influence for biblical principles and family values. He has led the First Baptist Church to help mission churches in Missouri and in Wyoming and in the country of Belarus.

He has been involved in Promise Keepers and kept his own promises, always being conscientious to put his family first. He and his wife Kay just celebrated 30 years of marriage. Today, as on so many other days, Kay is at his side. As a father he has always taken time to spend with his sons when they were going to school and by planning special outings for them.

Thanks, Jay and Kay, for providing an example for us to follow.

PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. NEY). This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

GLOBAL EXPLORATION AND DEVELOPMENT CORP., KERR-McGEE CORP., AND KERR-McGEE CHEMICAL CORP.

The Clerk called the bill (H.R. 1211) for the relief of Global Exploration and Development Corp., Kerr-McGee Corp., and Kerr-McGee Chemical Corp.

There being no objection, the Clerk read the bill, as follows:

H.R. 1211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIMS AGAINST THE UNITED STATES.

(a) PAYMENT OF CLAIMS.—The Secretary of the Treasury shall pay, out of money not otherwise appropriated—

(1) to the Global Exploration and Development Corporation, a Florida corporation incorporated in Delaware, $9,500,000;

(2) to Kerr-McGee Corporation, an Oklahoma corporation incorporated in Delaware, $10,000,000; and

(3) to Kerr-McGee Chemical Corporation, an Oklahoma corporation incorporated in Delaware, $0.

(b) CONDITION OF PAYMENT.—(1) The payment authorized by subsection (a)(1) is in settlement and compromise of all claims of Global Exploration and Development Corporation, as described in the recommendations of the Court of Federal Claims set forth in 36 Fed. Cl. 776.

(2) The payment authorized by subsections (a)(2) and (a)(3) are in settlement and compromise of all claims of Kerr-McGee Corporation and Kerr-McGee Chemical Corporation, as described in the recommendations of the Court of Federal Claims set forth in 36 Fed. Cl. 776.

SEC. 2. LIMITATION ON FEES.

No more than 15 percent of the sums authorized to be paid by section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the recovery of such sums. Any person violating this section shall be fined not more than $1,000.

With the following committee amendment in the nature of a substitute:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SATISFACTION OF CLAIMS AGAINST THE UNITED STATES.

(a) PAYMENT OF CLAIMS.—The Secretary of the Treasury shall pay, out of money not otherwise appropriated—

(1) to the Global Exploration and Development Corporation, a Florida corporation incorporated in Delaware, $9,500,000;

(2) to Kerr-McGee Corporation, an Oklahoma corporation incorporated in Delaware, $10,000,000; and

(3) to Kerr-McGee Chemical Corporation, an Oklahoma corporation incorporated in Delaware, $0.

(b) CONDITION OF PAYMENT.—(1) The payment authorized by subsection (a)(1) is in settlement and compromise of all claims of Global Exploration and Development Corporation, as described in the recommendations of the Court of Federal Claims set forth in 36 Fed. Cl. 776.

(2) The payments authorized by subsections (a)(2) and (a)(3) are in settlement and compromise of all claims of Kerr-McGee Corporation and Kerr-McGee Chemical Corporation, as described in the recommendations of the Court of Federal Claims set forth in 36 Fed. Cl. 776.

SEC. 2. LIMITATION ON FEES.

No more than 15 percent of the sums authorized to be paid by section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the recovery of such sums. Any person violating this section shall be fined not more than $1,000.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed.

A motion to reconsider was laid on the table.

LLOYD B. GAMBLE

The Clerk called the bill (H.R. 998) for the relief of Lloyd B. Gamble.

There being no objection, the Clerk read the bill, as follows:

H.R. 998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROPRIATION OF FUNDS.

(a) PAYMENT.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Lloyd B. Gamble of Fairfax, Virginia, the sum of $253,488.

(b) BASIS.—The payment required by subsection (a) shall be to compensate Lloyd B. Gamble for the injuries sustained by him as a result of the administration to him, without his knowledge, of lysergic acid diethylamide by United States Army personnel in 1957.

SEC. 2. SATISFACTION OF CLAIMS.

The payment made pursuant to section 1 shall be in full satisfaction of all claims Lloyd B. Gamble may have against the United States for any injury described in such section.

SEC. 3. INELIGIBILITY FOR ADDITIONAL BENEFITS.

Upon payment of the sum referred to in section 1, Lloyd B. Gamble shall not be eligible for any compensation or benefits from the Department of Veterans Affairs or the Department of Defense for any injury described in such section.

SEC. 4. LIMITATION OF AGENTS AND ATTORNEYS FEES.

It shall be unlawful for an amount of more than 10 percent of the amount paid pursuant to section 1 to be paid to or received by any agent or attorney for any service rendered to Lloyd B. Gamble in connection with the benefits provided by this Act. Any person who violates this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NANCY B. WILSON

The Clerk called the bill (H.R. 1313) for the relief of Nancy B. Wilson.

There being no objection, the Clerk read the bill, as follows:

H.R. 1313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENTITLEMENT TO WIDOW'S INSURANCE BENEFITS.

(a) IN GENERAL.—For purposes of determining the eligibility of Nancy B. Wilson, the widow of Alphonse M. Wilson (social security number xxx-xx-xxxx), to widow's insurance benefits under section 202(e) of the Social Security Act (42 U.S.C. 402(e)), Nancy B. Wilson shall be deemed to have been married to Alphonse M. Wilson for a period of not less than 9 months immediately prior to the day on which Alphonse M. Wilson died.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on March 21, 1991.

(c) PAYMENT.—Any benefits to which Nancy B. Wilson is entitled for the period prior to the date of the enactment of this Act shall be paid to her in a lump sum.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minutes on each side.

THE IRS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I hold right here in my hands evidence that the IRS is acting illegally against the hard working men and women of this country. Despite the fact that quotas were outlawed 9 years ago, an inner-office memorandum that I received in my office clearly shows that the IRS continues to use quotas. IRS employees note that they are hounded by their superiors to bring in a predetermined amount of money, rather than the correct amount actually owed by the taxpayer. If they hope to receive promotions, these IRS employees are told they must meet the monthly quota by collecting amounts that these employees know to be above the actual amount due.

Mr. Speaker, this is an outrage. It is wrong by anyone's standard and it must be stopped. The IRS must be held accountable for their actions. I urge my colleagues to join me in cosponsoring the bipartisan IRS Restructuring and Reform Act. Let us put an end to the outrageous and illegal abuse of power by this bloated Federal bureaucracy.

GALLAUDET UNIVERSITY CONGRESSIONAL BASKETBALL CLASSIC

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. I rise this morning to encourage all Members and staff and others who are interested to attend the annual, semiannual, I should say, Gallaudet University congressional basketball classic in which the Democrats and the Republicans play against each other. The Dunkin' Donkeys, as the Democrats are known, will play the Fighting Elephants on Wednesday, October 8, which is tomorrow, at 7 p.m. Admission is free. It is at Gallaudet University. That is the national university for the deaf and hearing impaired. I happen to be a board member along with the gentleman from Illinois [Mr. LAHOOD]. It is a great place.

We are raising funds for the university. It is being sponsored by the NBA, the Washington Wizards, COMSAT and the Milwaukee Bucks, HERB KOHL's Milwaukee Bucks. We encourage everyone to come out. It is a great evening. It is lots of fun. The Republicans have a very good team. They won last year, I think by two points. We are the underdogs but we are up for it and we look forward to seeing everybody there cheering us on.

ETHICS AND THE ADMINISTRATION

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, so what is the latest from the most ethical administration in history? Well, the same administration that gave us Webster Hubbell, Mike Espy, Hazel O'Leary, Ron Brown, John Huang, Craig Livingstone and countless witnesses with law degrees from Yale and Harvard who just cannot quite recall whenever they are hauled before a congressional committee, now give us incomplete tapes of White House coffees.

But with this administration we just do not know what we are going to get next. First we have documents which were subpoenaed by the special counsel suddenly turn up in the White House book room 2 years later. We have the guy put in charge of the White House security operation who somehow ends up with 900 FBI files of Republicans; and, oh yes, no one can seem to recall who hired this guy.

Then we have over 50 people who have either fled the country or taken the fifth in order to avoid telling us what they know about illegal foreign campaign contributions. Now we learn about the existence of tapes of White House fundraisers, I mean coffees, which conveniently are released just after the Attorney General says the coffees are OK. Stay tuned. The soap opera continues.

EUROPE AND THE UNITED STATES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, France has cut a $2 billion natural gas deal with Iran, that is right, Iran. And the 15 European nations told Uncle Sam to butt out, "It is not your business, Uncle Sam." Unbelievable. Was it Uncle Sam's business when hundreds of thousands of Americans died to liberate France and Europe from Nazi rule? Is it Uncle Sam's business to protect Europe with NATO dollars? Is Bosnia our business?

Unbelievable, folks. Iran gets $2 billion from France, Iran buys missiles from China and Russia. Iran points missiles at Uncle Sam. Beam me up. France and Europe are a bunch of asset kissers. We are financing it. I say it is time to send Europe a big fat bill. Maybe then they will appreciate freedom and Uncle Sam.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are guests of the House and that any manifestations of approval or disapproval of the proceedings is in violation of the rules of the House.

A SIMPLE, FAIR TAX SYSTEM

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, the Internal Revenue Service is creating real problems for many Americans. People in my district did not need to see congressional hearings to know this. Too many of them have been entangled in IRS red tape.

Mr. Speaker, I am glad to see that the issue of IRS reform is finally getting the national attention it deserves. It is time for the debate to start about how to save the American taxpayer from the IRS burden. Americans spend 5 billion hours and $225 billion preparing their tax returns annually.

The American taxpayer has been overburdened long enough. In addition to the need for IRS reform, it is time to reform the Tax Code. The Congress owes the American taxpayer a simpler, fairer tax system.

□ 1015

BREAST CANCER CARE PETITION DRIVE

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, I strongly encourage my colleagues this morning to visit a new site on the Internet

called the on-line Breast Cancer Care Petition Drive. It is located at breastcare.shn.com.

The site offers people a chance across this country to sign a petition calling for hearings on two very important bills, H.R. 135 and H.R. 164, the first legislation to ban drive-through mastectomies and the second bill to require insurance companies that now cover mastectomies to also cover reconstructive breast surgery.

Perhaps more impressive than the petition itself is the part of the site that allows people to post their own perspectives on, and experience with, breast cancer and tell their poignant stories. One survivor wrote:

There are real tears being shed by real women every day across the country. They are your neighbors, your colleagues, your kids' teachers, the clerk at the grocery store. Breast cancer survivors have enough to deal with. Do the right thing, Congress, pass this legislation and help make the tears fewer for those who will follow us.

Mr. Speaker, I urge my colleagues to visit this breastcare.shn.com and help get this legislation through Congress.

THE WHITE HOUSE COFFEE COLLECTION VIDEOTAPES

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, now from the White House tapes and records comes the coffee collection: The first tape, "The Fugitive", starring Charlie Trie, Pauline Kanchanalak, and John Huang. The next one, "Liar, Liar", an interview, Harold Ickes and Don Fowler. "True Lies", an FEC review of the DNC financial report. "Rent", filmed on location in the Lincoln bedroom. "The Conspiracy Theory", starring FRED THOMPSON and DAN BURTON. "Devil's Advocate", starring Janet Reno. "Independent Counselor's Day", starring HENRY HYDE. "Indiana Al in the Buddhist Temple of Doom". "The Con Heir Apparent and Michael Crittendon's Lost Words", starring John Huang on closed caption, where he is seen saying, in the words of Jerry McGuire, "Show me the money."

But, remember, unlike the Lincoln bedroom, these tapes and videos are not for rent. You have to get them with a subpoena. So see a lawyer near you and join up today. Get your coffee collector's video series from White House Productions.

SUPPORT LAW ENFORCEMENT OFFICERS

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, it is with a heavy heart that I rise on behalf of the people of North Carolina to call for aggressive action to crack down on juvenile violence.

Just 2 weeks ago two teenage brothers, in a stolen vehicle on I–95 outside Fayetteville shot and killed two North Carolina law enforcement officers with a military style AK–47 assault rifle. The victims were a state trooper, Ed Lowry, and Cumberland County sheriff's deputy David Hathcock, gunned down in the line of duty. The authorities in Harnett County arrested these culprits after an extensive chase.

Like my North Carolina neighbors, I was shocked and appalled by this senseless tragedy that has shattered the community and taken these two heroes' lives. Trooper Lowry was a 23-year veteran of the patrol, and Deputy Hathcock had been on the force for 17 years. More than 3,000 mourners attended the memorial services to express sympathy to the victims' families.

Mr. Speaker, law enforcement officers put their lives on the line day in and day out to keep our streets and neighborhoods and communities safe from these types of juveniles and thugs. Police officers need our help and support as they do their increasingly difficult job.

In the name of Ed Lowry and David Hathcock, I call on this Congress to pass tough and smart legislation to help these brave men and women fight juvenile crime.

LOCAL JUDGE'S RULING VETOES SCHOOL CLEAN-UP

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, last weekend the city of Washington witnessed a wonderful phenomenon on the mall. A million men came from all over the country for the "Promise Keepers" rally to pray for their wives, their children and for their nation's leaders. But even more remarkable was the fact that thousands of these men—carpenters, painters, and electricians—decided to leave something more tangible behind.

According to the Washington Times, 2,000 Promise Keepers went to Taft Jr. High School—the most dilapidated school in Washington, and turned it into the cleanest. The incredible thing is that thousands more men wanted to go into every single dilapidated school in Washington, D.C., paint them, clean them, and repair them so they would be fit for our children to occupy. Unbelievably, a local superior court judge in Washington named Kaye Christian prevented them from doing it.

Today, Mr. Speaker, children all over the District of Columbia are going into some of the most substandard schools in our country, and the parents of those children have a right to know from that judge why she did not heed President Clinton and Colin Powell's call for volunteerism. She should have let those children be educated today in schools that are clean, safe and fit for occupation. Because of her order, a great opportunity to do something for needy children was lost.

PUBLIC SCHOOLS HAVE MADE THIS NATION STRONG

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, with nine out of every ten children in America attending public schools, Democrats understand that we need to rebuild and reform our public schools, not destroy them. Yes, our public schools have problems, some serious problems, but we should not dismantle public education in this country.

Public education has been the great equalizer allowing youngsters from every social stratum, from every economic background, whatever gender, to be able to realize their potential and their God given talents.

My colleagues on the other side of the aisle have a plan that would drain funds from America's public schools, put that money into private schools and private education. Speaker GINGRICH wants to impose this experimental voucher program on school districts all across this country.

We have a message for the Speaker: Our children are not his guinea pigs. Democrats will not allow this experiment to go forward.

It is our public schools that have made this Nation strong. It has put the American dream within reach of all of our children and Democrats want to improve and not destroy America's public school system.

VICE PRESIDENT GORE WARNS OF OVERPOPULATION

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, Vice President AL GORE warned the other day that overpopulation fosters global warming. He suggested expanding birth control and abortion programs in developing countries would help reduce the environmental threat. Noting that Third World nations are producing too many children too fast, in addition to too much pollution, Mr. GORE said it is time to ignore the controversy over family planning and cut out-of-control population growth.

This is the man that says there is not enough spotted owls, there is not enough trees on the planet, but we have too many children being born.

What is wrong with this picture? Too many children being born in the Third World nations.

He said one way that we can cut the child mortality rate in this speech was by aborting them before they could be born. Again, what is wrong with this picture? Kill them before they are born so we can cut child mortality rates?

I think Mr. GORE is in real trouble with that kind of argument.

INVEST IN PUBLIC EDUCATION; NOT A PRIVILEGED FEW

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, there is nothing more important than our children's education. That is why Democrats want to invest in our classrooms, our teachers, our crumbling school buildings and in our children's future.

Since they came to power, Republicans have vowed to cut education. Now they propose taking millions out of public education and putting it into vouchers, allowing a privileged few to attend private schools. We should not punish the many to help a privileged few. That is not right, it is not fair, it is not just. That is why Democrats will continue to stand. We will continue to fight for quality education for every child.

Abolish the Department of Education, end the school lunch program, cut funding for education, and now divert money to private schools. That is the Republican education plan. Is it any wonder the American people do not trust their children's education in the hands of Speaker GINGRICH?

PRESIDENT'S ACTION REPRESENTS ABUSE OF LINE ITEM VETO AUTHORITY

(Mrs. FOWLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FOWLER. Mr. Speaker, I rise to condemn the President's decision yesterday to line item veto 38 military construction projects.

The President's action represents a blatant violation of the budget agreement reached earlier this year between the executive and the legislative branches. Funding for the projects included in this year's military construction appropriations bill was entirely within the cap set forth by that agreement.

The President's action represents a clear abuse of the line item veto authority. In the case of the projects for Naval Station Mayport in my district the pier improvements in question are necessary to meet near-term home porting requirements set forth by the Navy. These improvements will be built at a later date but at a higher cost to the taxpayers.

The President acted based on false information provided by the Office of Management and Budget. According to OMB and the President, the Mayport project did not begin construction until fiscal year 1998. This is patently untrue and I advised OMB of that last week. This project would have begun construction in June of 1998.

The President's action was an abuse of his power and authority. Every Member needs to be on notice we need to remind the President that the Founding Fathers did not intend this body to be a rubber stamp.

CONGRESS SHOULD DO REAL EDUCATION REFORM

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, today Democrats are very concerned about education in America. We want to rebuild our schools. We want to upgrade our schools. We want to repair our schools. We believe that is the way to help local communities. The Republicans, on the other hand, believe the way to do it is to take money out of public schools and put it into vouchers.

The fact of the matter is that the majority of American students, nine out of ten, will go to public schools. Under their voucher program, a few people, under an experimental program, will get money to go to vouchers, the very poor. That will leave the middle class and the working class in public schools and classrooms that are sub par.

A third of our Nation's schools need extensive repair or replacement. One-half of our schools have major environmental problems, such as poor ventilation, asbestos, poor heating or lighting. We have overcrowding in many of our Nation's schools. We need to help local communities rebuild America's education infrastructure. We need to put money in public education where it really counts, and that is rebuilding and upgrading American schools. I urge Congress to do real education reform.

CAMPAIGN REFORM SHOULD FREE THE PAYCHECKS OF AMERICAN WORKERS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, imagine the outcry if your utility company added to your bill money that you would have to pay to support their political agenda, and each year you would have to give the utility company hundreds of dollars so they could push for their political agenda, support their political candidates and protect their monopoly.

Well, it happens every month here in America. Working men and women are forced to pay compulsory dues used for political ploys which they do not support. Forced to fund campaigns. Forced to fund candidates. And they do not have a voice in how the money is spent.

The Supreme Court said it was illegal to do it in the Beck decision, but the administration through Executive order deliberately chose not to uphold the Court's decision. Thomas Jefferson said it was tyranny and a sin to force our citizens to financially support political agendas with which they disagreed.

Americans know it is wrong. Campaign reform should not and must not occur without freeing the paychecks of American workers.

EDUCATION INFRASTRUCTURE IS IN A CRISIS

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, we need to do more for the education of our children. In my home State of Ohio education is in a crisis, and yet we make decisions to take tax dollars from working moms and dads and give those tax dollars to wealthy urban areas so that they can build sports stadiums.

I received a letter from a local school superintendent who said, "Dear Ted, I want to thank you for your article in the Portsmouth Daily Times about putting the education of our children above the building of sports stadiums. It is going to take tough decisions to solve the school funding problem."

Then he says, "It is so unfair for our students to have academic classes in an old remodeled tiny locker room, and yet a new stadium is the priority."

"Last week," he said, "I had to move a kindergarten class out into the hallway because of sewer gas fumes. There were no empty spare rooms to hold the children for such an emergency."

Mr. Speaker, we need to support public education in order to educate our children in the way they deserve to be educated.

□ 1030

HERE WE GO AGAIN

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, here we go again. First it was Whitewater, then Travelgate, then Filegate, then White House phone calls. And if that was not enough, now we have a thing called Laundrygate.

Three of Ron Carey's political consultants pled guilt to a money-laundering scheme which has caused the 1996 Teamsters election to be overturned. Their cooperation with Federal prosecutors has shed new light on how to raise laundered money. And to no one's surprise, it seems the White House and DNC and several lobbying groups have been implicated.

Mr. Carey claims he was a victim. The Clinton/Gore campaign and DNC say they know nothing about it. Yet, when you follow the money, the money trail points right to them, in their direction.

Frankly, Mr. Speaker, I am beginning to wonder who exactly is in control. Maybe it is the guy next door, perhaps even more than they care to admit. I really wonder.

LUPUS AWARENESS MONTH

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, this is October, Lupus Awareness Month.

Many people have not heard of lupus. It is a disease that is extremely widespread but not well-known. We have an immune system which protects our bodies against viruses, bacteria, and other foreign materials. However, a person who has lupus, their immune system, which is supposed to be their protector, becomes the attacker.

Perhaps the most discouraging aspect of lupus is the fact that there is no cure. I know this from firsthand experience, having lost a sister and very close friend to lupus.

I have introduced a bill (H.R. 1111), the Lupus Research and Care Amendment Act of 1997, which would increase research and deliver essential services to individuals with lupus and their families.

Think about it; many of my colleagues have people in their family who suffer from lupus. It is a young woman's disease. It usually attacks women in their childbearing years. It is like arthritis, rheumatism, but it attacks every system of the body.

I urge all of my colleagues, Mr. Speaker, to join with me in cosponsoring H.R. 1111.

COMMENTS BY VICE PRESIDENT GORE REGARDING SOLUTION FOR GLOBAL WARMING

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. PITTS. Mr. Speaker, I rise to express outrage at the recent comments made by Vice President AL GORE to the effect that abortion is the solution for global warming.

I would like to enter into the RECORD a letter many of us in Congress will be sending him today. Let me read a portion of it.

Mr. Gore, as the father of four children, surely you see the value of your own children to our society. Since we are sure you do not regard your own children as a threat to our environment, it is difficult to understand why you would regard a large African, Asian, or Latin American family as an environmental threat.

Your statements contain a crucial fallacy of logic; namely, that human life is incompatible with sound environmental policy. We believe it is practically and morally essential that these two goals be pursued together. A pristine environment will be of no use to the millions of children who would be sacrificed to the policies you endorse.

You accused those who oppose abortion as part of U.S.-funded population control programs of creating controversy needlessly. Let us be clear; it is not our reaffirmation of human dignity that ought to be controversial but, rather, the violence and degradation inflicted upon women and children through these programs.

Mr. Speaker, I urge the Members of the House to seek environmental health for our world without endangering the lives of defenseless children.

The letter referred to follows:

Hon. ALBERT GORE,
The White House,
Washington, DC.

DEAR VICE PRESIDENT GORE: We write to express our concern over the comments you made to TV weather forecasters on climate control at the White House on October 1, 1997. Your conviction that abortion programs in developing countries are crucial to saving the environment is directly at odds with the American commitment to protecting human life.

Mr. Gore, as the father of four children, surely you see the value of your own children to our society. Since we are sure you do not regard your own children as a threat to our environment, it is difficult to understand why you would regard a large African, Asian, or Latin American family as an environmental threat.

Your statements contain a crucial fallacy of logic, namely that human life is incompatible with sound environmental policy. We believe it is practically and morally essential that these two goals be pursued together. A pristine environment will be of no use to the millions of children who would be sacrificed to the policies you endorse.

You accused those who oppose abortion as part of U.S.-funded population control programs of creating "controversy" needlessly. Let us be clear: it is not our reaffirmation of human dignity that ought to be controversial, but rather the violence and degradation inflicted upon women and children through these programs.

Mr. Vice President, we urge you to seek environmental health for our world without endangering the lives of defenseless children. I hope that you and others in the Administration will bear in mind that when it comes to solving the problems of our planet, human beings are our first natural resource.

MILITARY CONSTRUCTION CUT AT DYESS AFB, TEXAS

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, yesterday the President used his newfound line item veto authority to cut a number of congressionally and Defense Department approved military construction projects at military installations around the United States.

Among those projects eliminated was a squadron operations facility at Dyess Air Force Base in Abilene, TX. With one stroke of his pen, he has eliminated the means of building a facility needed to serve the 500 to 1,000 men and women who will make up the 13th Bomber Squadron in the year 2000.

One of the reasons given for vetoing this project is that it did not meet the so-called quality of life requirement for funding military construction projects. I do not know what the President's definition of quality of life is, but I do know that there are currently no existing facilities to house the 13th Bomber Squadron.

Without this facility, the 500 to 1,000 men and women of the 13th Bomber Squadron will be denied the tools they need to do their job. How will this add to their quality of life or their ability to discharge their duties?

This is a programmed project. The appropriate committees of the House and Senate saw the value of this project and funded it for the good of the Air Force and our national security.

Mr. President, you were wrong to veto this project.

ERRONEOUS INFORMATION CAUSES BAD DECISIONS

(Mr. SKEEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKEEN. Mr. Speaker, imagine working where buildings do not meet current safety regulations, the heating and cooling systems do not work, the septic tanks are failing, facilities are crumbling, adequate fire detection and suppression systems do not exist, and in one instance a building is a breeding ground for the hantavirus due to rat infestation.

What am I describing? The White House? No. It is difficult to imagine, but these working conditions do exist for approximately 200 men and women who work at the military launch complexes in southern New Mexico. These are people who are protecting our national interest by testing vital national defense systems, such as the Patriot Missile, one of the most widely recognized and successful systems.

Yesterday, by saying "no" to improving working conditions, when the President vetoed portions of the military construction legislation, he said "no" to the women and men by denying them the opportunity to perform

their duties in the safest facilities possible.

I am introducing legislation today that will restore funding for this and other meritorious projects. The President's decision was misguided. This is not about deficit reduction. This is about the President taking the "Washington knows best" approach and ignoring the judgment of individuals who are closest to the problems.

AL GORE'S STATEMENTS MADE AT WEATHER FORECASTERS' MEETING

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I too rise today to take exception to the statements made by Vice President AL GORE last Wednesday in a meeting of the weather forecasters.

In this speech, Vice President GORE claimed that overpopulation was a major cause of worldwide environmental problems and global warming. But what was indefensible were the solutions which he offered for the still disputed problem of global warming.

The Vice President praised President Clinton for the repeal of the Mexico City policy, which permitted hundreds of millions of tax dollars to flow to organizations which perform or actively promote abortion as a method of family planning in Third World countries.

According to the Washington Times, Mr. GORE also stated that industrialized nations have stabilized their populations through birth control, abortion, and a reduction in child mortality rates but that world population would grow if developing nations are not targeted now.

Has the Vice President's environmental extremism gone so far that he now advocates the worldwide killing of innocent babies as the solution to the still unproven problem of global warming?

TODAY IS GREAT DAY FOR CONGRESS

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, today is a great day for the Congress. It shows that the system does work. There are going to be two bills on the suspension calendar that I worked on very hard for the last several years.

The first bill is a comprehensive FDA reform bill to reform the Food and Drug Administration. It is the culmination of a series of 3 years of work on a bipartisan basis to bring the American people the safest food and the most technologically advanced drugs and medical devices in the world.

The second bill is the suspension bill that will ratify low-level nuclear waste compact between my State, Texas, and the great States of Maine and Vermont. Again, this bill is a culmination of 5 years of work between those States' Governors and State delegations on a bipartisan basis.

So we are going to have two bills on the floor today, both good public policy, and I would encourage all of my colleagues to vote for them.

FOOD AND DRUG ADMINISTRATION REGULATORY MODERNIZATION ACT OF 1997

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1411) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biological products, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food and Drug Administration Regulatory Modernization Act of 1997".

(b) REFERENCES.—Except as otherwise specified, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to that section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—IMPROVING REGULATION OF DRUGS

Sec. 101. Fees relating to drugs.
Sec. 102. Pediatric studies of drugs.
Sec. 103. Expediting study and approval of fast track drugs.
Sec. 104. Expanded access to investigational therapies.
Sec. 105. Information program on clinical trials for serious or life-threatening diseases.
Sec. 106. Dissemination of information on new uses.
Sec. 107. Studies and reports.
Sec. 108. Approval of supplemental applications for approved products.
Sec. 109. Health care economic information.
Sec. 110. Clinical investigations.
Sec. 111. Manufacturing changes for drugs.
Sec. 112. Streamlining clinical research on drugs.
Sec. 113. Data requirements for drugs.
Sec. 114. Content and review of applications.
Sec. 115. Scientific advisory panels.
Sec. 116. Dispute resolution.
Sec. 117. Informal agency statements.
Sec. 118. Positron emission tomography.
Sec. 119. Requirements for radiopharmaceuticals.
Sec. 120. Modernization of regulation.
Sec. 121. Pilot and small scale manufacture.
Sec. 122. Insulin and antibiotics.
Sec. 123. FDA mission and annual report.
Sec. 124. Information system.
Sec. 125. Education and training.
Sec. 126. Centers for education and research on drugs.
Sec. 127. Harmonization.
Sec. 128. Environmental impact review.
Sec. 129. National uniformity.
Sec. 130. FDA study of mercury compounds in drugs and food.
Sec. 131. Notification of discontinuance of a life saving product.

TITLE II—IMPROVING REGULATION OF DEVICES

Sec. 201. Dispute resolution.
Sec. 202. Investigational device exemptions; expanded access.
Sec. 203. Special review for certain devices.
Sec. 204. Expanding humanitarian use of devices.
Sec. 205. Device standards.
Sec. 206. Scope of review.
Sec. 207. Premarket notification.
Sec. 208. Classification panels.
Sec. 209. Premarket approval.
Sec. 210. Accreditation for accredited persons.
Sec. 211. Preamendment devices.
Sec. 212. Device tracking.
Sec. 213. Postmarket surveillance.
Sec. 214. Harmonization.
Sec. 215. Reports.
Sec. 216. Practice of medicine.
Sec. 217. Clarification of definition.
Sec. 218. Labeling and advertising regarding compliance with statutory requirements.
Sec. 219. FDA mission and annual report.
Sec. 220. Information system.
Sec. 221. Noninvasive blood glucose meter.
Sec. 222. Rule of construction.

TITLE III—IMPROVING REGULATION OF FOOD

Sec. 301. Flexibility for regulations regarding claims.
Sec. 302. Petitions for claims.
Sec. 303. Health claims for food products.
Sec. 304. Nutrient content claims.
Sec. 305. Referral statements.
Sec. 306. Disclosure of irradiation.
Sec. 307. Irradiation petition.
Sec. 308. Glass and ceramic ware.
Sec. 309. Food contact substances.
Sec. 310. Margarine.
Sec. 311. Effective date.

TITLE I—IMPROVING REGULATION OF DRUGS

SEC. 101. FEES RELATING TO DRUGS.

(a) FINDINGS.—Congress finds that—

(1) prompt approval of safe and effective new drugs and other therapies is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of human drug applications;

(3) the provisions added by the Prescription Drug User Fee Act of 1992 have been successful in substantially reducing review times for human drug applications and should be—

(A) reauthorized for an additional 5 years, with certain technical improvements; and

(B) carried out by the Food and Drug Administration with new commitments to implement more ambitious and comprehensive improvements in regulatory processes of the Food and Drug Administration; and

(4) the fees authorized by amendments made in this title will be dedicated toward

expediting the drug development process and the review of human drug applications as set forth in the goals identified in the letters of _____, and _____, from the Secretary of Health and Human Services to the chairman of the Committee on Commerce of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate, as set forth at ___ Cong. Rec. _____ (daily ed. _____, 1997).

(b) DEFINITIONS.—Section 735 (21 U.S.C. 379g) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "Service Act, and" and inserting "Service Act,"; and

(B) by striking "September 1, 1992." and inserting the following: "September 1, 1992, does not include an application for a licensure of a biological product for further manufacturing use only, and does not include an application or supplement submitted by a State or Federal Government entity for a drug that is not distributed commercially. Such term does include an application for licensure, as described in subparagraph (D), of a large volume biological product intended for single dose injection for intravenous use or infusion.";

(2) in the second sentence of paragraph (3)—

(A) by striking "Service Act, and" and inserting "Service Act,"; and

(B) by striking "September 1, 1992." and inserting the following: "September 1, 1992, does not include a biological product that is licensed for further manufacturing use only, and does not include a drug that is not distributed commercially and is the subject of an application or supplement submitted by a State or Federal Government entity. Such term does include a large volume biological product intended for single dose injection for intravenous use or infusion.";

(3) in paragraph (4), by striking "without" and inserting "without substantial";

(4) by amending the first sentence of paragraph (5) to read as follows:

"(5) The term 'prescription drug establishment' means a foreign or domestic place of business which is at one general physical location consisting of one or more buildings all of which are within 5 miles of each other and at which one or more prescription drug products are manufactured in final dosage form.".

(5) in paragraph (7)(A)—

(A) by striking "employees under contract" and all that follows through "Administration," the second time it occurs and inserting "contractors of the Food and Drug Administration,"; and

(B) by striking "and committees," and inserting "and committees and to contracts with such contractors,";

(6) in paragraph (8)—

(A) in subparagraph (A)—

(i) by striking "August of" and inserting "April of"; and

(ii) by striking "August 1992" and inserting "April 1997";

(B) in subparagraph (B), by striking "1992" and inserting "1997"; and

(C) by striking the second sentence; and

(7) by adding at the end the following:

"(9) The term 'affiliate' means a business entity that has a relationship with a second business entity if, directly or indirectly—

"(A) one business entity controls, or has the power to control, the other business entity; or

"(B) a third party controls, or has power to control, both of the business entities.".

(c) AUTHORITY TO ASSESS AND USE DRUG FEES.—

(1) TYPES OF FEES.—Section 736(a) (21 U.S.C. 379h(a)) is amended—

(A) by striking "Beginning in fiscal year 1993" and inserting "Beginning in fiscal year 1998";

(B) in paragraph (1)—

(i) by striking subparagraph (B) and inserting the following:

"(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the application or supplement.";

(ii) in subparagraph (D)—

(I) in the subparagraph heading, by striking "NOT ACCEPTED" and inserting "REFUSED";

(II) by striking "50 percent" and inserting "75 percent";

(III) by striking "subparagraph (B)(i)" and inserting "subparagraph (B)"; and

(IV) by striking "not accepted" and inserting "refused"; and

(iii) by adding at the end the following:

"(E) EXCEPTION FOR DESIGNATED ORPHAN DRUG OR INDICATION.—A human drug application for a prescription drug product that has been designated as a drug for a rare disease or condition pursuant to section 526 shall not be subject to a fee under subparagraph (A), unless the human drug application includes indications for other than rare diseases or conditions. A supplement proposing to include a new indication for a rare disease or condition in a human drug application shall not be subject to a fee under subparagraph (A), if the drug has been designated pursuant to section 526 as a drug for a rare disease or condition with regard to the indication proposed in such supplement.

"(F) EXCEPTION FOR SUPPLEMENTS FOR PEDIATRIC INDICATIONS.—A supplement to a human drug application for an indication for use in pediatric populations shall not be assessed a fee under subparagraph (A).

"(G) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an application or supplement is withdrawn after the application or supplement is filed, the Secretary may waive and refund the fee or a portion of the fee if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to waive and refund a fee or a portion of the fee under this subparagraph. A determination by the Secretary concerning a waiver or refund under this paragraph shall not be reviewable.";

(C) by striking paragraph (2) and inserting in lieu the following:

"(2) PRESCRIPTION DRUG ESTABLISHMENT FEE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each person that is named as the applicant in a human drug application, and after September 1, 1992, had pending before the Secretary a human drug application or supplement, shall be assessed an annual fee established in subsection (b) for each prescription drug establishment listed in its approved human drug application as an establishment that manufactures the prescription drug product named in the application. The annual establishment fee shall be assessed in each fiscal year in which the prescription drug product named in the application is assessed a fee under paragraph (3) unless the prescription drug establishment listed in the application does not engage in the manufacture of the prescription drug product during the fiscal year. The establishment fee shall be payable on or before January 31 of each year. Each such establishment shall be assessed only one fee per establishment, notwithstanding the number of prescription drug products manufactured at the establishment. In the event an establishment is listed in a human drug application by more than 1 applicant, the establishment fee for the fiscal year shall be divided equally and assessed among the applicants whose prescription drug products are manufactured by the establishment during the fiscal year and assessed product fees under paragraph (3).

"(B) EXCEPTION.—If, during the fiscal year, an applicant initiates or causes to be initiated the manufacture of a prescription drug product at an establishment listed in its human drug application—

"(i) that did not manufacture the product in the previous fiscal year; and

"(ii) for which the full establishment fee has been assessed in the fiscal year at a time before manufacture of the prescription drug product was begun;

the applicant will not be assessed a share of the establishment fee for the fiscal year in which the manufacture of the product began.".

(D) in paragraph (3)—

(i) in subparagraph (A)—

(I) in clause (i), by striking "is listed" and inserting "has been submitted for listing"; and

(II) by striking "Such fee shall be paid" and all that follows through "section 510." and inserting the following: "Such fee shall be payable for the fiscal year in which the product is first submitted for listing under section 510, or for relisting under section 510 if the product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each product for a fiscal year in which the fee is payable."; and

(ii) in subparagraph (B), by striking "505(j)." and inserting the following: "505(j), under an abbreviated application filed under section 507, or under an abbreviated new drug application pursuant to regulations in effect prior to the implementation of the Drug Price Competition and Patent Term Restoration Act of 1984.".

(2) FEE AMOUNTS.—Section 736(b) (21 U.S.C. 379h(b)) is amended to read as follows:

"(b) FEE AMOUNTS.—Except as provided in subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be determined and assessed as follows:

"(1) APPLICATION AND SUPPLEMENT FEES.—

"(A) FULL FEES.—The application fee under subsection (a)(1)(A)(i) shall be $250,704 in fiscal year 1998, $256,338 in each of fiscal years 1999 and 2000, $267,606 in fiscal year 2001, and $258,451 in fiscal year 2002.

"(B) OTHER FEES.—The fee under subsection (a)(1)(A)(ii) shall be $125,352 in fiscal year 1998, $128,169 in each of fiscal years 1999 and 2000, $133,803 in fiscal year 2001, and $129,226 in fiscal year 2002.

"(2) FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection (a)(2) shall be $35,600,000 in fiscal year 1998, $36,400,000 in each of fiscal years 1999 and 2000, $38,000,000 in fiscal year 2001, and $36,700,000 in fiscal year 2002.

"(3) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection (a)(3) in a fiscal year shall be equal to the total fee revenues collected in establishment fees under subsection (a)(2) in that fiscal year.".

(3) INCREASES AND ADJUSTMENTS.—Section 736(c) (21 U.S.C. 379h(c)) is amended—

(A) in the subsection heading, by striking "INCREASES AND";

(B) in paragraph (1)—

(i) by striking "(1) REVENUE" and all that follows through "increased by the Secretary" and inserting the following: "(1) INFLATION ADJUSTMENT.—The fees and total fee revenues established in subsection (b) shall be adjusted by the Secretary";

(ii) in subparagraph (A), by striking "increase" and inserting "change";

(iii) in subparagraph (B), by striking "increase" and inserting "change"; and

(iv) by adding at the end the following flush sentence:

"The adjustment made each fiscal year by this subsection will be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 1997 under this subsection.";

(C) in paragraph (2), by striking "October 1, 1992," and all that follows through "such schedule." and inserting the following: "September 30, 1997, adjust the establishment and product fees described in subsection (b) for the fiscal year in which the adjustment occurs so that the revenues collected from each of the categories of fees described in paragraphs (2) and (3) of subsection (b) shall be set to be equal to the revenues collected from the category of application and supplement fees described in paragraph (1) of subsection (b)."; and

(D) in paragraph (3), by striking "paragraph (2)" and inserting "this subsection".

(4) FEE WAIVER OR REDUCTION.—Section 736(d) (21 U.S.C. 379h(d)) is amended—

(A) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively and indenting appropriately;

(B) by striking "The Secretary shall grant a" and all that follows through "finds that—" and inserting the following:

"(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of one or more fees assessed under subsection (a) where the Secretary finds that—";

(C) in subparagraph (C) (as so redesignated by subparagraph (A)), by striking ", or" and inserting a comma;

(D) in subparagraph (D) (as so redesignated by subparagraph (A)), by striking the period and inserting ", or";

(E) by inserting after subparagraph (D) (as so redesignated by subparagraph (A)) the following:

"(E) the applicant is a small business submitting its first human drug application to the Secretary for review."; and

(F) by striking "In making the finding in paragraph (3)," and all that follows through "standard costs." and inserting the following:

"(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(C), the Secretary may use standard costs.

"(3) RULES RELATING TO SMALL BUSINESSES.—

"(A) DEFINITION.—In paragraph (1)(E), the term 'small business' means an entity that has fewer than 500 employees, including employees of affiliates.

"(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(E) the application fee for the first human drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay—

"(i) application fees for all subsequent human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business; and

"(ii) all supplement fees for all supplements to human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business.".

(5) ASSESSMENT OF FEES.—Section 736(f)(1) (21 U.S.C. 379h(f)(1)) is amended—

(A) by striking "fiscal year 1993" and inserting "fiscal year 1997"; and

(B) by striking "fiscal year 1992" and inserting "fiscal year 1997 (excluding the amount of fees appropriated for such fiscal year)".

(6) CREDITING AND AVAILABILITY OF FEES.—Section 736(g) (21 U.S.C. 379h(g)) is amended—

(A) in paragraph (1), by adding at the end the following: "Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of human drug applications within the meaning of section 735(6).";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "Acts" and inserting "Acts, or otherwise made available for obligation,"; and

(ii) in subparagraph (B), by striking "over such costs for fiscal year 1992" and inserting "over such costs, excluding costs paid from fees collected under this section, for fiscal year 1997"; and

(C) by striking paragraph (3) and inserting the following:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fees under this section—

"(A) $106,800,000 for fiscal year 1998;

"(B) $109,200,000 for fiscal year 1999;

"(C) $109,200,000 for fiscal year 2000;

"(D) $114,000,000 for fiscal year 2001; and

"(E) $110,100,000 for fiscal year 2002,

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by application, supplement, establishment, and product fees.

"(4) OFFSET.—Any amount of fees collected for a fiscal year which exceeds the amount of fees specified in appropriation Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under appropriation Acts for a subsequent fiscal year.".

(7) REQUIREMENT FOR WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND FEES.—Section 736 (21 U.S.C. 379h) is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following:

"(i) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (d), or for a refund of any fee collected in accordance with subsection (a), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.".

(8) SPECIAL RULE FOR WAIVER, REFUNDS, AND EXCEPTIONS.—Any requests for waivers, refunds, or exceptions for fees assessed prior to the date of enactment of this Act shall be submitted in writing to the Secretary of Health and Human Services within 1 year after the date of enactment of this Act.

(d) ANNUAL REPORTS.—

(1) PERFORMANCE REPORT.—Beginning with fiscal year 1998, not later than 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g et seq.), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letter described in subsection (a)(4) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

(2) FISCAL REPORT.—Beginning with fiscal year 1998, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1997.

(f) TERMINATION OF EFFECTIVENESS.—The amendments made by subsections (b) and (c) cease to be effective October 1, 2002, and subsection (d) ceases to be effective 120 days after such date.

SEC. 102. PEDIATRIC STUDIES OF DRUGS.

Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after section 505 the following:

"PEDIATRIC STUDIES OF DRUGS

"SEC. 505A. (a) MARKET EXCLUSIVITY FOR NEW DRUGS.—If, prior to approval of an application that is submitted under section 505(b)(1), the Secretary determines that information relating to the use of a drug in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which shall include a timeframe for completing such studies), and such studies are completed within any such timeframe and the reports thereof submitted in accordance with subsection (d)(2) or accepted in accordance with subsection (d)(3)—

"(1)(A) the period during which an application may not be submitted under subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 shall be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 to four years, to forty-eight months, and to seven and one-half years shall be deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

"(B) the period of market exclusivity under subsections (c)(3)(D)(iii) and (iv) and (j)(4)(D)(iii) and (iv) of section 505 shall be three years and six months rather than three years; and

"(2)(A) if the drug is the subject of—

"(i) a listed patent for which a certification has been submitted under subsections (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

"(ii) a listed patent for which a certification has been submitted under subsections

(b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

"(B) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

"(b) SECRETARY TO DEVELOP LIST OF DRUGS FOR WHICH ADDITIONAL PEDIATRIC INFORMATION MAY BE BENEFICIAL.—Not later than 180 days after the date of enactment of this section, the Secretary, after consultation with experts in pediatric research shall develop, prioritize, and publish an initial list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population. The Secretary shall annually update the list.

"(c) MARKET EXCLUSIVITY FOR ALREADY-MARKETED DRUGS.—If the Secretary makes a written request to the holder of an approved application under section 505(b)(1) for pediatric studies (which shall include a timeframe for completing such studies) concerning a drug identified in the list described in subsection (b), the holder agrees to the request, the studies are completed within any such timeframe and the reports thereof are submitted in accordance with subsection (d)(2) or accepted in accordance with subsection (d)(3)—

"(1)(A) the period during which an application may not be submitted under subsection (c)(3)(D)(ii) or (j)(4)(D)(ii) of section 505 shall be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 to four years, to forty-eight months, and to seven and one-half years shall be deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

"(B) the period of market exclusivity under subsections (c)(3)(D)(iii) and (iv) and (j)(4)(D)(iii) and (iv) of section 505 shall be three years and six months rather than three years; and

"(2)(A) if the drug is the subject of—

"(i) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

"(ii) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

"(B) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

"(d) CONDUCT OF PEDIATRIC STUDIES.—

"(1) AGREEMENT FOR STUDIES.—The Secretary may, pursuant to a written request for studies, after consultation with—

"(A) the sponsor of an application for an investigational new drug under section 505(i);

"(B) the sponsor of an application for a drug under section 505(b)(1); or

"(C) the holder of an approved application for a drug under section 505(b)(1),

agree with the sponsor or holder for the conduct of pediatric studies for such drug.

"(2) WRITTEN PROTOCOLS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary agree upon written protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied upon the completion of the studies and submission of the reports thereof in accordance with the original written request and the written agreement referred to in paragraph (1). Not later than 60 days after the submission of the report of the studies, the Secretary shall determine if such studies were or were not conducted in accordance with the original written request and the written agreement and reported in accordance with the requirements of the Secretary for filing and so notify the sponsor or holder.

"(3) OTHER METHODS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary have not agreed in writing on the protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied when such studies have been completed and the reports accepted by the Secretary. Not later than 90 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary's only responsibility in accepting or rejecting the reports shall be to determine, within the 90 days, whether the studies fairly respond to the written request, whether such studies have been conducted in accordance with commonly accepted scientific principles and protocols, and whether such studies have been reported in accordance with the requirements of the Secretary for filing.

"(e) DELAY OF EFFECTIVE DATE FOR CERTAIN APPLICATIONS; PERIOD OF MARKET EXCLUSIVITY.—If the Secretary determines that the acceptance or approval of an application under section 505(b)(2) or 505(j) for a drug may occur after submission of reports of pediatric studies under this section, which were submitted prior to the expiration of the patent (including any patent extension) or market exclusivity protection, but before the Secretary has determined whether the requirements of subsection (d) have been satisfied, the Secretary shall delay the acceptance or approval under section 505(b)(2) or 505(j), respectively, until the determination under subsection (d) is made, but such delay shall not exceed 90 days. In the event that requirements of this section are satisfied, the applicable period of market exclusivity referred to in subsection (a) or (c) shall be deemed to have been running during the period of delay.

"(f) NOTICE OF DETERMINATIONS ON STUDIES REQUIREMENT.—The Secretary shall publish a notice of any determination that the requirements of subsection (d) have been met and that submissions and approvals under section 505(b)(2) or (j) for a drug will be subject to the provisions of this section.

"(g) DEFINITIONS.—As used in this section, the term 'pediatric studies' or 'studies' means at least one clinical investigation (that, at the Secretary's discretion, may include pharmacokinetic studies) in pediatric age groups in which a drug is anticipated to be used.

"(h) LIMITATION.—The holder of an approved application for a new drug that has already received six months of market exclusivity under subsection (a) or (c) may, if otherwise eligible, obtain six months of market exclusivity under subsection (c)(1)(B) for a supplemental application, except that the holder is not eligible for exclusivity under subsection (c)(2).

"(i) RELATIONSHIP TO REGULATIONS.—Notwithstanding any other provision of law, if any pediatric study is required pursuant to regulations promulgated by the Secretary, such study shall be deemed to satisfy the requirement for market exclusivity pursuant to this section.

"(j) SUNSET.—No period of market exclusivity shall be granted under this section based on studies commenced after January 1, 2002. The Secretary shall conduct a study and report to Congress not later than January 1, 2001, based on the experience under the program. The study and report shall examine all relevant issues, including—

"(1) the effectiveness of the program in improving information about important pediatric uses for approved drugs;

"(2) the adequacy of the incentive provided under this section;

"(3) the economic impact of the program on taxpayers and consumers, including the impact of the lack of lower cost generic drugs on lower income patients; and

"(4) any suggestions for modification that the Secretary deems appropriate.".

SEC. 103. EXPEDITING STUDY AND APPROVAL OF FAST TRACK DRUGS.

(a) IN GENERAL.—Chapter VII is amended by adding at the end the following:

"SUBCHAPTER D—FAST TRACK PRODUCTS

"SEC. 741. FAST TRACK PRODUCTS.

"(a) DESIGNATION OF DRUG AS A FAST TRACK PRODUCT.—

"(1) IN GENERAL.—The Secretary shall facilitate the development and expedite the review of new drugs that are intended for the treatment of serious or life-threatening conditions and that demonstrate the potential to address unmet medical needs for such conditions. In this section, such products shall be known as 'fast track products'.

"(2) REQUEST FOR DESIGNATION.—The sponsor of a drug may request the Secretary to designate the drug as a fast track product. A request for the designation may be made concurrently with, or at any time after, submission of an application for the investigation of the drug under section 505(i) or section 351(a)(3) of the Public Health Service Act.

"(3) DESIGNATION.—Within 30 calendar days after the receipt of a request under paragraph (2), the Secretary shall determine whether the drug that is the subject of the request meets the criteria described in paragraph (1). If the Secretary finds that the drug meets the criteria, the Secretary shall designate the drug as a fast track product and shall take such actions as are appropriate to expedite the development and review of the application for approval of such product.

"(b) APPROVAL OF APPLICATION FOR A FAST TRACK PRODUCT.—

"(1) IN GENERAL.—The Secretary may approve an application for approval of a fast track product under section 505(b) or section 351 of the Public Health Service Act (21 U.S.C. 262) upon a determination that the

product has an effect on a clinical endpoint or on a surrogate endpoint that is reasonably likely to predict clinical benefit.

"(2) LIMITATION.—Approval of a fast track product under this subsection may be subject to the requirements—

"(A) that the sponsor conduct appropriate post-approval studies to validate the surrogate endpoint or otherwise confirm the effect on the clinical endpoint; and

"(B) that the sponsor submit copies of all promotional materials related to the fast track product during the preapproval review period and, following approval and for such period thereafter as the Secretary deems appropriate, at least 30 days prior to dissemination of the materials.

"(3) EXPEDITED WITHDRAWAL OF APPROVAL.—The Secretary may withdraw approval of a fast track product using expedited procedures (as prescribed by the Secretary in regulations which shall include an opportunity for an informal hearing), if—

"(A) the sponsor fails to conduct any required post-approval study of the fast track drug with due diligence;

"(B) a post-approval study of the fast track product fails to verify clinical benefit of the product;

"(C) other evidence demonstrates that the fast track product is not safe or effective under the conditions of use; or

"(D) the sponsor disseminates false or misleading promotional materials with respect to the product.

"(c) REVIEW OF INCOMPLETE APPLICATIONS FOR APPROVAL OF A FAST TRACK PRODUCT.—

"(1) IN GENERAL.—If the Secretary determines, after preliminary evaluation of clinical data submitted by the sponsor, that a fast track product may be effective the Secretary shall evaluate for filing, and may commence review of portions of, an application for the approval of the product before the sponsor submits a complete application. The Secretary shall commence such review only if the applicant (A) provides a schedule for submission of information necessary to make the application complete, and (B) pays any fee that may be required under section 736.

"(2) EXCEPTION.—Any time period for review of human drug applications that has been agreed to by the Secretary and that has been set forth in goals identified in letters of the Secretary (relating to the use of fees collected under section 736 to expedite the drug development process and the review of human drug applications) shall not apply to an application submitted under paragraph (1) until the date on which the application is complete.

"(d) AWARENESS EFFORTS.—The Secretary shall—

"(1) develop and disseminate to physicians, patient organizations, pharmaceutical and biotechnology companies, and other appropriate persons a description of the provisions applicable to fast track products established under this section; and

"(2) establish a program to encourage the development of surrogate endpoints that are reasonably likely to predict clinical benefit for serious or life-threatening conditions for which there exist significant unmet medical needs.".

(b) GUIDANCE.—Within 1 year after the date of enactment of this Act, the Secretary shall issue guidance for fast track products (as defined in section 741(a)(1) of the Federal Food, Drug, and Cosmetic Act) that describes the policies and procedures that pertain to section 741 of such Act.

SEC. 104. EXPANDED ACCESS TO INVESTIGATIONAL THERAPIES.

Chapter V (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

"SUBCHAPTER D—UNAPPROVED THERAPIES AND DIAGNOSTICS

"SEC. 551. EXPANDED ACCESS TO UNAPPROVED THERAPIES AND DIAGNOSTICS.

"(a) EMERGENCY SITUATIONS.—The Secretary may, under appropriate conditions determined by the Secretary, authorize the shipment of investigational drugs (as defined in regulations prescribed by the Secretary) for the diagnosis or treatment of a serious disease or condition in emergency situations.

"(b) INDIVIDUAL PATIENT ACCESS TO INVESTIGATIONAL PRODUCTS INTENDED FOR SERIOUS DISEASES.—Any person, acting through a physician licensed in accordance with State law, may request from a manufacturer or distributor, and any manufacturer or distributor may provide to such physician after compliance with the provisions of this subsection, an investigational drug (as defined in regulations prescribed by the Secretary) for the diagnosis or treatment of a serious disease or condition if—

"(1) the licensed physician determines that the person has no comparable or satisfactory alternative therapy available to diagnose or treat the disease or condition involved, and that the risk to the person from the investigational drug is not greater than the risk from the disease or condition;

"(2) the Secretary determines that there is sufficient evidence of safety and effectiveness to support the use of the investigational drug in the case described in paragraph (1);

"(3) the Secretary determines that provision of the investigational drug will not interfere with the initiation, conduct, or completion of clinical investigations to support marketing approval; and

"(4) the sponsor, or clinical investigator, of the investigational drug submits to the Secretary a clinical protocol consistent with the provisions of section 505(i) and any regulations promulgated under section 505(i) describing the use of investigational drugs in a single patient or a small group of patients.

"(c) TREATMENT INDS.—Upon submission by a sponsor or a physician of a protocol intended to provide widespread access to an investigational drug for eligible patients, the Secretary shall permit such investigational drug to be made available for expanded access under a treatment investigational new drug application if the Secretary determines that—

"(1) under the treatment investigational new drug application, the investigational drug is intended for use in the diagnosis or treatment of a serious or immediately life-threatening disease or condition;

"(2) there is no comparable or satisfactory alternative therapy available to diagnose or treat that stage of disease or condition in the population of patients to which the investigational drug is intended to be administered;

"(3)(A) the investigational drug is under investigation in a controlled clinical trial for the use described in paragraph (1) under an effective investigational new drug application; or

"(B) all clinical trials necessary for approval of that use of the investigational drug have been completed;

"(4) the sponsor of the controlled clinical trials is actively pursuing marketing approval of the investigational drug for the use described in paragraph (1) with due diligence;

"(5) the provision of the investigational drug will not interfere with the enrollment of patients in ongoing clinical investigations under section 505(i);

"(6) in the case of serious diseases, there is sufficient evidence of safety and effectiveness to support the use described in paragraph (1); and

"(7) in the case of immediately life-threatening diseases, the available scientific evidence, taken as a whole, provides a reasonable basis to conclude that the product may be effective for its intended use and would not expose patients to an unreasonable and significant risk of illness or injury.

A protocol submitted under this subsection shall be subject to the provisions of section 505(i) and regulations promulgated under section 505(i). The Secretary may inform national, State, and local medical associations and societies, voluntary health associations, and other appropriate persons about the availability of an investigational drug under expanded access protocols submitted under this subsection. The information provided by the Secretary, in accordance with the preceding sentence, shall be of the same type of information that is required by section 402(j)(3) of the Public Health Service Act.

"(d) TERMINATION.—The Secretary may, at any time, with respect to a sponsor, physician, manufacturer, or distributor described in this section, terminate expanded access provided under this section for an investigational drug if the requirements under this section are no longer met.".

SEC. 105. INFORMATION PROGRAM ON CLINICAL TRIALS FOR SERIOUS OR LIFE-THREATENING DISEASES.

(a) IN GENERAL.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i), the following:

"(j)(1) The Secretary, acting through the Director of the National Institutes of Health, shall establish, maintain, and operate a program with respect to information on research relating to the treatment, detection, and prevention of serious or life-threatening diseases and conditions. The program shall, with respect to the agencies of the Department of Health and Human Services, be integrated and coordinated, and, to the extent practicable, coordinated with other data banks containing similar information.

"(2)(A) After consultation with the Commissioner of Food and Drugs, the directors of the appropriate agencies of the National Institutes of Health (including the National Library of Medicine), and the Director of the Centers for Disease Control and Prevention, the Secretary shall, in carrying out paragraph (1), establish a data bank of information on clinical trials for drugs for serious or life-threatening diseases and conditions.

"(B) In carrying out subparagraph (A), the Secretary shall collect, catalog, store, and disseminate the information described in such subparagraph. The Secretary shall disseminate such information through information systems, which shall include toll-free telephone communications, available to individuals with serious or life-threatening diseases and conditions, to other members of the public, to health care providers, and to researchers.

"(3) The data bank shall include the following:

"(A) A registry of clinical trials (whether federally or privately funded) of experimental treatments for serious or life-threatening diseases and conditions under regulations promulgated pursuant to sections 505

of the Federal Food, Drug, and Cosmetic Act that provides a description of the purpose of each experimental drug, either with the consent of the protocol sponsor, or when a trial to test effectiveness begins. Information provided shall consist of eligibility criteria, a description of the location of trial sites, and a point of contact for those wanting to enroll in the trial, and shall be in a form that can be readily understood by members of the public. Such information must be forwarded to the data bank by the sponsor of the trial not later than 21 days after trials to test clinical effectiveness have begun.

"(B) Information pertaining to experimental treatments for serious or life-threatening diseases and conditions that may be available—

"(i) under a treatment investigational new drug application that has been submitted to the Food and Drug Administration under section 551(c) of the Federal Food, Drug, and Cosmetic Act; or

"(ii) as a Group C cancer drug (as defined by the National Cancer Institute).

The data bank may also include information pertaining to the results of clinical trials of such treatments, with the consent of the sponsor, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatments.

"(4) The data bank shall not include information relating to an investigation if the sponsor has provided a detailed certification to the Secretary that disclosure of such information would substantially interfere with the timely enrollment of subjects in the investigation, unless the Secretary, after the receipt of the certification, provides the sponsor with a detailed written determination that such disclosure would not substantially interfere with such enrollment.

"(5) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary. Fees collected under section 736 of the Federal Food, Drug, and Cosmetic Act shall not be used in carrying out this subsection.".

(b) COLLABORATION AND REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs shall collaborate to determine the feasibility of including device investigations within the scope of the registry requirements set forth in section 402(j) of the Public Health Service Act.

(2) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report—

(A) of the public health need, if any, for inclusion of device investigations within the scope of the registry requirements set forth in section 402(j) of the Public Health Service Act;

(B) on the adverse impact, if any, on device innovation and research in the United States if information relating to such device investigation is required to be publicly disclosed; and

(C) on such other issues relating to such section 402(j) as the Secretary may deem appropriate.

SEC. 106. DISSEMINATION OF INFORMATION ON NEW USES.

(a) IN GENERAL.—Chapter VII (2 U.S.C. 371 et seq.), as amended by section 103, is amended by adding at the end the following:

"SUBCHAPTER E—DISSEMINATION OF TREATMENT INFORMATION

"SEC. 745. REQUIREMENTS FOR DISSEMINATION OF TREATMENT INFORMATION ON DRUGS.

"(a) IN GENERAL.—Notwithstanding sections 301(d), 502(f), and 505 and section 351 of the Public Health Service Act (42 U.S.C. 262), a manufacturer may disseminate to—

"(1) a health care practitioner,

"(2) a pharmacy benefit manager,

"(3) a health insurance issuer,

"(4) a group health plan, or

"(5) a Federal or State governmental agency,

written information concerning the safety, effectiveness, or benefit of a use not described in the approved labeling of a drug if the manufacturer meets the requirements of subsection (b).

"(b) SPECIFIC REQUIREMENTS.—A manufacturer may disseminate information about a new use of a drug under subsection (a) only if—

"(1) there is in effect for such drug an application filed under section 505(b) or a biologics license issued under section 351 of the Public Health Service Act;

"(2) the information meets the requirements of section 746;

"(3) the information to be disseminated is not derived from clinical research conducted by another manufacturer or if it was derived from research conducted by another manufacturer, the manufacturer disseminating the information has the permission of such other manufacturer to make the dissemination;

"(4) the manufacturer has, 60 days before such dissemination, submitted to the Secretary—

"(A) a copy of the information to be disseminated; and

"(B) any clinical trial information the manufacturer has relating to the safety or effectiveness of the new use, any reports of clinical experience pertinent to the safety of the new use, and a summary of such information;

"(5) the manufacturer has complied with the requirements of section 748 (relating to certification that the manufacturer will submit a supplemental application with respect to such use);

"(6) the manufacturer includes along with the information to be disseminated under this subsection—

"(A) a prominently displayed statement that discloses—

"(i) that the information concerns a use of a drug that has not been approved by the Food and Drug Administration;

"(ii) if applicable, that the information is being disseminated at the expense of the manufacturer;

"(iii) if applicable, the name of any authors of the information who are employees of, consultants to, or have received compensation from, the manufacturer, or who have a significant financial interest in the manufacturer;

"(iv) the official labeling for the drug and all updates with respect to the labeling;

"(v) if applicable, a statement that there are products or treatments that have been approved for the use that is the subject of the information being disseminated pursuant to subsection (a)(1); and

"(vi) the identification of any person that has provided funding for the conduct of a study relating to the new use of a drug for which such information is being disseminated; and

"(B) a bibliography of other articles from a scientific reference publication or scientific or medical journal that have been previously published about the use of the drug covered by the information disseminated (unless the information already includes such bibliography).

"(c) ADDITIONAL INFORMATION.—If the Secretary determines, after providing notice of such determination and an opportunity for a meeting with respect to such determination, that the information submitted by a manufacturer under subsection (b)(3)(B), with respect to the use of a drug for which the manufacturer intends to disseminate information, fails to provide data, analyses, or other written matter that is objective and balanced, the Secretary may require the manufacturer to disseminate—

"(1) additional objective and scientifically sound information that pertains to the safety or effectiveness of the use and is necessary to provide objectivity and balance, including any information that the manufacturer has submitted to the Secretary or, where appropriate, a summary of such information or any other information that the Secretary has authority to make available to the public; and

"(2) an objective statement of the Secretary, based on data or other scientifically sound information available to the Secretary, that bears on the safety or effectiveness of the new use of the drug.

"SEC. 746. INFORMATION AUTHORIZED TO BE DISSEMINATED.

"(a) AUTHORIZED INFORMATION.—A manufacturer may disseminate the information on the new use of a drug under section 745 only if the information—

"(1) is in the form of an unabridged—

"(A) reprint or copy of an article, peer-reviewed by experts qualified by scientific training or experience to evaluate the safety or effectiveness of the drug, which was published in a scientific or medical journal (as defined in section 750(6)), which is about a clinical investigation with respect to the drug, and which would be considered to be scientifically sound by such experts; or

"(B) reference publication, described in subsection (b), that includes information about a clinical investigation with respect to the drug that would be considered to be scientifically sound by experts qualified by scientific training or experience to evaluate the safety or effectiveness of the drug that is the subject of such a clinical investigation; and

"(2) is not false or misleading and would not pose a significant risk to the public health.

"(b) REFERENCE PUBLICATION.—A reference publication referred to in subsection (a)(1)(B) is a publication that—

"(1) has not been written, edited, excerpted, or published specifically for, or at the request of, a manufacturer of a drug;

"(2) has not been edited or significantly influenced by a such a manufacturer;

"(3) is not solely distributed through such a manufacturer but is generally available in bookstores or other distribution channels where medical textbooks are sold;

"(4) does not focus on any particular drug of a manufacturer that disseminates information under section 745 and does not have a primary focus on new uses of drugs that are marketed or under investigation by a manufacturer supporting the dissemination of information; and

"(5) presents materials that are not false or misleading.

"SEC. 747. ESTABLISHMENT OF LIST OF ARTICLES AND PUBLICATIONS DISSEMINATED AND LIST OF PROVIDERS THAT RECEIVED ARTICLES AND REFERENCE PUBLICATIONS.

"(a) IN GENERAL.—A manufacturer may disseminate information under section 745 only if the manufacturer prepares and submits to the Secretary biannually—

"(1) a list containing the titles of the articles and reference publications relating to the new use of drugs that were disseminated by the manufacturer to a person described in section 745(a) for the 6-month period preceding the date on which the manufacturer submits the list to the Secretary; and

"(2) a list that identifies the categories of providers (as described in section 745(a)) that received the articles and reference publications for the 6-month period described in paragraph (1).

"(b) RECORDS.—A manufacturer that disseminates information under section 745 shall keep records that may be used by the manufacturer when, pursuant to section 749, such manufacturer is required to take corrective action and shall be made available to the Secretary, upon request, for purposes of ensuring or taking corrective action pursuant to such section. Such records, at the Secretary's discretion, may identify the recipient of information provided pursuant to section 745 or the categories of such recipients.

"SEC. 748. REQUIREMENT REGARDING SUBMISSION OF SUPPLEMENTAL APPLICATION FOR NEW USE; EXEMPTION FROM REQUIREMENT.

"(a) IN GENERAL.—A manufacturer may disseminate information under section 745 on a new use only if—

"(1) the manufacturer meets the condition described in subsection (b) or in subsection (c); or

"(2) there is in effect for the manufacturer an exemption under subsection (d) from the requirement of paragraph (1).

"(b) SUPPLEMENTAL APPLICATION; CONDITION IN CASE OF COMPLETED STUDIES.—For purposes of subsection (a)(1), a manufacturer may disseminate information on a new use if the manufacturer has submitted to the Secretary an application containing a certification that—

"(1) the studies needed for the submission of a supplemental application for the new use have been completed; and

"(2) the supplemental application will be submitted to the Secretary not later than 6 months after the date of the initial dissemination of information under section 745.

"(c) SUPPLEMENTAL APPLICATION; CONDITION IN CASE OF PLANNED STUDIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), a manufacturer may disseminate information on a new use if—

"(A) the manufacturer has submitted to the Secretary an application containing—

"(i) a proposed protocol and schedule for conducting the studies needed for the submission of a supplemental application for the new use; and

"(ii) a certification that the supplemental application will be submitted to the Secretary not later than 36 months after the date of the initial dissemination of information under section 745 (or, as applicable, not later than such date as the Secretary may specify pursuant to an extension under this paragraph or paragraph (3)); and

"(B) the Secretary has determined that the proposed protocol is adequate and that the schedule for completing such studies is reasonable.

The Secretary may grant a longer period of time for a manufacturer to submit a supplemental application if the Secretary determines that the studies needed to submit such an application cannot be completed and submitted within 36 months.

"(2) PROGRESS REPORTS ON STUDIES.—A manufacturer that submits to the Secretary an application under paragraph (1) shall submit to the Secretary periodic reports describing the status of the studies involved.

"(3) EXTENSION OF TIME REGARDING PLANNED STUDIES.—The period of 36 months authorized in paragraph (1)(A)(ii) for the completion of studies may be extended by the Secretary if the manufacturer involved submits to the Secretary a written request for the extension and the Secretary determines that the manufacturer has acted with due diligence to conduct the studies in a timely manner. Such extension may not provide more than 24 additional months.

"(d) EXEMPTION FROM REQUIREMENT OF SUPPLEMENTAL APPLICATION.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), a manufacturer may disseminate information on a new use if—

"(A) the manufacturer has submitted to the Secretary an application for an exemption from meeting the requirement of subsection (a)(1); and

"(B)(i) the Secretary has approved the application in accordance with paragraph (2); or

"(ii) the application is deemed under paragraph (3)(A) to have been approved (unless such approval is terminated pursuant to paragraph (3)(B)).

"(2) CONDITIONS FOR APPROVAL.—The Secretary may approve an application under paragraph (1) for an exemption only if the Secretary determines that—

"(A) it would be economically prohibitive with respect to such drug for the manufacturer to incur the costs necessary for the submission of a supplemental application for reasons, as defined by the Secretary, such as the lack of availability under law of any period during which the manufacturer would have exclusive marketing rights with respect to the new use involved or that the population expected to benefit from approval of the supplemental application is small; or

"(B) it would be unethical to conduct the studies necessary for the supplemental application for a reason such as the new use involved is the standard of medical care for a health condition.

"(3) TIME FOR CONSIDERATION OF APPLICATION; DEEMED APPROVAL.—

"(A) IN GENERAL.—The Secretary shall approve or deny an application under paragraph (1) for an exemption not later than 60 days after the receipt of the application. If the Secretary does not comply with the preceding sentence, the application is deemed to be approved.

"(B) TERMINATION OF DEEMED APPROVAL.—If pursuant to a deemed approval under subparagraph (A) a manufacturer disseminates written information under section 745 on a new use, the Secretary may at any time terminate such approval and under section 749(b)(3) order the manufacturer to cease disseminating the information.

"(e) REQUIREMENTS REGARDING APPLICATIONS.—Applications under this section shall be submitted in the form and manner prescribed by the Secretary.

"(f) TRANSITION RULE.—For purposes of this section, in any case in which a manufacturer has submitted to the Secretary a supplemental application for which action by the Secretary is pending as of the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997, the application is deemed to be a supplemental application submitted under subsection (b).

"SEC. 749. CORRECTIVE ACTIONS; CESSATION OF DISSEMINATION.

"(a) POSTDISSEMINATION DATA REGARDING SAFETY AND EFFECTIVENESS.—

"(1) CORRECTIVE ACTIONS.—With respect to data received by the Secretary after the dissemination of information under section 745 by a manufacturer has begun (whether received pursuant to paragraph (2) or otherwise), if the Secretary determines that the data indicate that the new use involved may not be effective or may present a significant risk to public health, the Secretary shall, after consultation with the manufacturer, take such action regarding the dissemination of the information as the Secretary determines to be appropriate for the protection of the public health, which may include ordering that the manufacturer cease the dissemination of the information.

"(2) RESPONSIBILITIES OF MANUFACTURERS TO SUBMIT DATA.—After a manufacturer disseminates information pursuant to section 745, the manufacturer shall submit to the Secretary a notification of any additional knowledge of the manufacturer on clinical research or other data that relate to the safety or effectiveness of the new use involved. If the manufacturer is in possession of the data, the notification shall include the data. The Secretary shall by regulation establish the scope of the responsibilities of manufacturers under this paragraph, including such limits on the responsibilities as the Secretary determines to be appropriate.

"(b) CESSATION OF DISSEMINATION.—

"(1) FAILURE OF MANUFACTURER TO COMPLY WITH REQUIREMENTS.—The Secretary may order a manufacturer to cease the dissemination of information pursuant to section 745 if the Secretary determines that the information being disseminated does not comply with the requirements established in this subchapter. Such an order may be issued only after the Secretary has provided notice to the manufacturer of the intent of the Secretary to issue the order and has provided an opportunity for a meeting with respect to such intent unless paragraph (2)(B) applies. If the failure of the manufacturer constitutes a minor violation of this subchapter, the Secretary shall delay issuing the order and provide to the manufacturer an opportunity to correct the violation.

"(2) SUPPLEMENTAL APPLICATIONS.—The Secretary may order a manufacturer to cease the dissemination of information pursuant to section 745 if the Secretary determines that—

"(A) in the case of a manufacturer to which section 748(b) applies, the Secretary determines that the supplemental application received under such section does not contain adequate information for approval of the new use with respect to which the application was submitted; or

"(B) in the case of a manufacturer to which section 748(c) applies, the Secretary determines, after an informal hearing, that the manufacturer is not acting with due diligence to complete the studies involved.

"(3) TERMINATION OF DEEMED APPROVAL OF EXEMPTION REGARDING SUPPLEMENTAL APPLICATIONS.—If under section 748(d)(3) the Secretary terminates a deemed approval of an exemption, the Secretary may order the manufacturer involved to cease disseminating the information. A manufacturer shall comply with an order under the preceding sentence not later than 60 days after the receipt of the order.

"(c) CORRECTIVE ACTIONS BY MANUFACTURERS.—

"(1) IN GENERAL.—In any case in which under this section the Secretary orders a manufacturer to cease disseminating information, the Secretary may order the manufacturer to take action to correct the information that has been disseminated, except as provided in paragraph (2).

"(2) TERMINATION OF DEEMED APPROVAL OF EXEMPTION REGARDING SUPPLEMENTAL APPLICATIONS.—In the case of an order under subsection (b)(3) to cease disseminating information, the Secretary may not order the manufacturer involved to take action to correct the information that has been disseminated unless the Secretary determines that the new use described in the information would pose a significant risk to the public health.

"SEC. 750. DEFINITIONS.

"For purposes of this subchapter:

"(1) The term 'health care practitioner' means a physician, or other individual who is a provider of health care, who is licensed under the law of a State to prescribe drugs.

"(2) The terms 'health insurance issuer' and 'group health plan' have the meaning given such terms under section 2791 of the Public Health Service Act.

"(3) The term 'manufacturer' means a person who manufactures a drug, or who is licensed by such person to distribute or market the drug.

"(4) The term 'new use', with respect to a drug, means a use that is not included in the approved labeling of the drug.

"(5) The term 'pharmacy benefit manager' means an organization that—

"(A) manages pharmaceutical costs through—

"(i) pharmacy benefit administration, including claims processing adjudication, pharmacy networks, mail service, and data reporting;

"(ii) formulary management and contracting, including evaluating drugs for formulary status, negotiations of contracts with manufacturers, and disbursement of rebates; and

"(iii) utilization management, including communicating and enforcing therapy guidelines and drug use principles to physicians, pharmacists, and patients; and

"(B) serves 2 principal types of customers which are—

"(i) employers, both private- and public-sector, who use either self-funded health benefits through a third party administrator's insurance carrier or use traditional indemnity coverage, using providers from a preferred provider network or in a fee-for-service capacity; and

"(ii) health maintenance organizations.

"(6) The term 'scientific or medical journal' means a scientific or medical publication—

"(A) that is published by an organization—

"(i) that has an editorial board;

"(ii) that utilizes experts, who have demonstrated expertise in the subject of an article under review by the organization and who are independent of the organization, to review and objectively select, reject, or provide comments about proposed articles; and

"(iii) that has a publicly stated policy, to which the organization adheres, of full disclosure of any conflict of interest or biases for all authors or contributors involved with the journal or organization;

"(B) whose articles are peer-reviewed and published in accordance with the regular peer-review procedures of the organization;

"(C) that is generally recognized to be of national scope and reputation;

"(D) that is indexed in the Index Medicus of the National Library of Medicine of the National Institutes of Health; and

"(E) that is not in the form of a special supplement that has been funded in whole or in part by 1 or more manufacturers.

"SEC. 751. RULES OF CONSTRUCTION.

"(a) UNSOLICITED REQUEST.—Nothing in section 745 shall be construed as prohibiting a manufacturer from disseminating information in response to an unsolicited request from a health care practitioner.

"(b) DISSEMINATION OF INFORMATION ON DRUGS NOT EVIDENCE OF INTENDED USE.—Notwithstanding subsection (a), (f), or (o) of section 502, or any other provision of law, the dissemination of information relating to a new use of a drug, in accordance with section 745, shall not be construed by the Secretary as evidence of a new intended use of the drug that is different from the intended use of the drug set forth in the official labeling of the drug. Such dissemination shall not be considered by the Secretary as labeling, adulteration, or misbranding of the drug.

"(c) PATENT PROTECTION.—Nothing in section 745 shall affect patent rights in any manner.

"(d) AUTHORIZATION FOR DISSEMINATION OF ARTICLES AND FEES FOR REPRINTS OF ARTICLES.—Nothing in section 745 shall be construed as prohibiting an entity that publishes a scientific journal (as defined in section 750(6)) from requiring authorization from the entity to disseminate an article published by such entity or charging fees for the purchase of reprints of published articles from such entity.".

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

"(x) The dissemination of information in violation of section 745.".

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to implement the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act, or upon the Secretary's issuance of final regulations pursuant to subsection (c), whichever is sooner.

(e) SUNSET.—The amendments made by this section cease to be effective September 30, 2006, or 7 years after the date on which the Secretary promulgates the regulations described in subsection (c), whichever is later.

SEC. 107. STUDIES AND REPORTS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study—

(1) to determine the impact of the amendments made by section 7 on the resources of the Department of Health and Human Services; and

(2) of the scientific issues raised as a result of the amendments made by section 7, including issues relating to—

(A) the effectiveness of such amendments with respect to the provision of useful scientific information to health care practitioners;

(B) the quality of the information being disseminated pursuant to such amendments;

(C) the quality and usefulness of the information provided, in accordance with such amendments, by the Secretary or by a manufacturer at the request of the Secretary; and

(D) the impact of such amendments on research in the area of new uses of drugs, indications for new uses, or dosages of drugs for new uses, particularly the impact on pediatric indications and rare diseases.

(b) REPORT.—Not later than January 1, 2002, the Comptroller General of the United States shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report of the results of the study under subsection (a).

SEC. 108. APPROVAL OF SUPPLEMENTAL APPLICATIONS FOR APPROVED PRODUCTS.

(a) PERFORMANCE STANDARDS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register performance standards for the prompt review of supplemental applications submitted for approved drugs under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262).

(b) GUIDANCE TO INDUSTRY.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue final guidances to clarify the requirements for, and facilitate the submission of data to support, the approval of supplemental applications for the approved articles described in subsection (a). The guidances shall—

(1) clarify circumstances in which published matter may be the basis for approval of a supplemental application;

(2) specify data requirements that will avoid duplication of previously submitted data by recognizing the availability of data previously submitted in support of an original application; and

(3) define supplemental applications that are eligible for priority review.

(c) RESPONSIBILITIES OF CENTERS.—The Secretary shall designate an individual in each center within the Food and Drug Administration which is responsible for the review of applications for approval of drugs for—

(1) encouraging the prompt review of supplemental applications for approved articles; and

(2) working with sponsors to facilitate the development and submission of data to support supplemental applications.

(d) COLLABORATION.—The Secretary shall implement programs and policies that will foster collaboration between the Food and Drug Administration, the National Institutes of Health, professional medical and scientific societies, and other persons, to identify published and unpublished studies that may support a supplemental application, and to encourage sponsors to make supplemental applications or conduct further research in support of a supplemental application based, in whole or in part, on such studies.

SEC. 109. HEALTH CARE ECONOMIC INFORMATION.

Section 502(a) (21 U.S.C. 352(a)) is amended by adding at the end the following: "Health care economic information provided to a formulary committee, or other similar entity, in the course of the committee or the entity carrying out its responsibilities for the selection of drugs for managed care or other similar organizations, shall not be considered to be false or misleading if the health care economic information directly relates to an indication approved under section 505 or 507 or section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) for such drug and is based on competent and reliable scientific evidence. The requirements set forth in section 505(a), 507, or section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) shall not apply to health care economic information provided to such a committee or

entity in accordance with this paragraph. Information that is relevant to the substantiation of the health care economic information presented pursuant to this paragraph shall be made available to the Secretary upon request. In this paragraph, the term 'health care economic information' means any analysis that identifies, measures, or compares the economic consequences, including the costs of the represented health outcomes, of the use of a drug to the use of another drug, to another health care intervention, or to no intervention.".

SEC. 110. CLINICAL INVESTIGATIONS.

(a) CLARIFICATION OF THE NUMBER OF REQUIRED CLINICAL INVESTIGATIONS FOR APPROVAL.—Section 505(d) (21 U.S.C. 355(d)) is amended by adding at the end the following: "If the Secretary determines, based on relevant science, that data from one adequate and well-controlled clinical investigation and confirmatory evidence (obtained prior to or after such investigation) are sufficient to establish effectiveness, the Secretary may consider such data and evidence to constitute substantial evidence for purposes of the preceding sentence.".

(b) WOMEN AND MINORITIES.—Section 505(b)(1) (21 U.S.C. 355(b)(1)) is amended by adding at the end the following: "The Secretary shall, in consultation with the Director of the National Institutes of Health, review and develop guidance, as appropriate, on the inclusion of women and minorities in clinical trials required by clause (A).".

SEC. 111. MANUFACTURING CHANGES FOR DRUGS.

(a) IN GENERAL.—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 106, is amended by adding at the end the following subchapter:

"SUBCHAPTER F—MANUFACTURING CHANGES

"SEC. 755. MANUFACTURING CHANGES.

"(a) IN GENERAL.—With respect to a drug for which there is in effect an approved application under section 505 or 512 or a license under section 351 of the Public Health Service Act, a change from the manufacturing process approved pursuant to such application or license may be made, and the drug as made with the change may be distributed, if—

"(1) the holder of the approved application or license (referred to in this section as a 'holder') has validated the effects of the change in accordance with subsection (b); and

"(2)(A) in the case of a major manufacturing change, the holder has complied with the requirements of subsection (c); or

"(B) in the case of a change that is not a major manufacturing change, the holder complies with the applicable requirements of subsection (d).

"(b) VALIDATION OF EFFECTS OF CHANGES.—For purposes of subsection (a)(1), a drug made with a manufacturing change (whether a major manufacturing change or otherwise) may be distributed only if, before distribution of the drug as so made, the holder involved validates the effects of the change on the identity, strength, quality, purity, and potency of the drug as the identity, strength, quality, purity, and potency may relate to the safety, bioequivalence, bioavailability, or effectiveness of the drug.

"(c) MAJOR MANUFACTURING CHANGES.—

"(1) REQUIREMENT OF SUPPLEMENTAL APPLICATION.—For purposes of subsection (a)(2)(A), a drug made with a major manufacturing change may be distributed only if, before the distribution of the drug as so made, the holder involved submits to the Secretary a supplemental application for such change and the Secretary approves the application. The application shall contain such information as the Secretary determines to be appropriate, and shall include the information developed under subsection (b) by the holder in validating the effects of the change.

"(2) CHANGES QUALIFYING AS MAJOR CHANGES.—For purposes of subsection (a)(2)(A), a major manufacturing change is a manufacturing change that—

"(A) is determined by the Secretary to have substantial potential to adversely affect the identity, strength, quality, purity, or potency of the drug as they may relate to the safety, bioequivalence, bioavailability, or effectiveness of a drug; and

"(B)(i) is made in the qualitative or quantitative formulation of the drug involved or in the specifications in the approved application or license referred to in subsection (a) for the drug (unless exempted by the Secretary from the requirements of this subsection);

"(ii) is determined by the Secretary by regulation or guidance to require completion of an appropriate clinical study demonstrating equivalence of the drug to the drug as manufactured without the change; or

"(iii) is determined by the Secretary by regulation or guidance to have a substantial potential to adversely affect the safety or effectiveness of the drug.

"(d) OTHER MANUFACTURING CHANGES.—

"(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the Secretary may regulate drugs made with manufacturing changes that are not major manufacturing changes as follows:

"(A) The Secretary may authorize holders to distribute such drugs without prior approval by the Secretary.

"(B) The Secretary may require that, prior to the distribution of such drugs, holders submit to the Secretary supplemental applications for such changes.

"(C) The Secretary may establish categories of such changes and designate categories to which subparagraph (A) applies and categories to which subparagraph (B) applies.

"(2) CHANGES NOT REQUIRING SUPPLEMENTAL APPLICATION.—

"(A) SUBMISSION OF REPORT.—A holder making a manufacturing change to which paragraph (1)(A) applies shall submit to the Secretary a report on the change, which shall contain such information as the Secretary determines to be appropriate, and which shall include the information developed under subsection (b) by the holder in validating the effects of the change. The report shall be submitted by such date as the Secretary may specify.

"(B) AUTHORITY REGARDING ANNUAL REPORTS.—In the case of a holder that during a single year makes more than one manufacturing change to which paragraph (1)(A) applies, the Secretary may in carrying out subparagraph (A) authorize the holder to comply with such subparagraph by submitting a single report for the year that provides the information required in such subparagraph for all the changes made by the holder during the year.

"(3) CHANGES REQUIRING SUPPLEMENTAL APPLICATION.—

"(A) SUBMISSION OF SUPPLEMENTAL APPLICATION.—The supplemental application required under paragraph (1)(B) for a manufacturing change shall contain such information as the Secretary determines to be appropriate, which shall include the information developed under subsection (b) by the holder in validating the effects of the change.

"(B) AUTHORITY FOR DISTRIBUTION.—In the case of a manufacturing change to which paragraph (1)(B) applies:

"(i) The holder involved may commence distribution of the drug involved 30 days after the Secretary receives the supplemental application under such paragraph, unless the Secretary notifies the holder within such 30-day period that prior approval of the application is required before distribution may be commenced.

"(ii) The Secretary may designate a category of such changes for the purpose of providing that, in the case of a change that is in such category, the holder involved may commence distribution of the drug involved upon the receipt by the Secretary of a supplemental application for the change.

"(iii) If the Secretary disapproves the supplemental application, the Secretary may order the manufacturer to cease the distribution of the drugs that have been made with the manufacturing change.".

(b) TRANSITION RULE.—The amendment made by subsection (a) takes effect upon the effective date of regulations promulgated by the Secretary of Health and Human Services to implement such amendment, or upon the expiration of the 24-month period beginning on the date of the enactment of this Act, whichever occurs first.

SEC. 112. STREAMLINING CLINICAL RESEARCH ON DRUGS.

Section 505(i) (21 U.S.C. 355(i)) is amended by adding "(1)" before "The Secretary", by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, by striking the last two sentences, and by adding the following new paragraphs:

"(2) Subject to paragraph (3), a clinical investigation of a new drug may begin 30 days after the Secretary has received from the manufacturer or sponsor of the investigation a submission containing such information about the drug and the clinical investigation, including —

"(A) information on design of the investigation and adequate reports of basic information, certified by the applicant to be accurate reports, necessary to assess the safety of the drug for use in clinical investigation; and

"(B) adequate information on the chemistry and manufacturing of the drug, controls available for the drug, and primary data tabulations from animal or human studies.

"(3)(A) At any time, the Secretary may prohibit the sponsor of an investigation from conducting the investigation (referred to in this paragraph as a 'clinical hold') if the Secretary makes a determination described in subparagraph (B). The Secretary shall specify the basis for the clinical hold, including the specific information available to the Secretary which served as the basis for such clinical hold, and confirm such determination in writing.

"(B) For purposes of subparagraph (A), a determination described in this subparagraph with respect to a clinical hold is that—

"(i) the drug involved represents an unreasonable risk to the safety of the persons who are the subject of the clinical investigation, taking into account the qualifications of the clinical investigators, information about the drug, the design of the clinical investigation, the condition for which the drug is to be investigated, and the health status of the subjects involved; or

"(ii) the clinical hold should be issued for such other reasons as the Secretary may by

regulation establish (including reasons established by regulation before the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997). Such regulations shall provide that such exemption shall be conditioned upon the manufacturer, or the sponsor of the investigation, requiring that experts using such drugs for investigational purposes certify to such manufacturer or sponsor that they will inform any human beings to whom such drugs, or any controls used in connection therewith, are being administered, or their representatives, that such drugs are being used for investigational purposes and will obtain the consent of such human beings or their representatives, except where they deem it not feasible or, in their professional judgment, contrary to the best interests of such human beings. Nothing in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of drugs.

"(C) Any request to the Secretary from the sponsor of an investigation that a clinical hold be removed shall receive a decision, in writing and specifying the reasons therefor, within 30 days after receipt of such request. Any such request shall include sufficient information to support the removal of such clinical hold.".

SEC. 113. DATA REQUIREMENTS FOR DRUGS.

Within 12 months after the date of enactment of this Act, the Secretary of the Health and Human Services, acting through the Commissioner of Food and Drugs, shall issue guidance that describes, for certain types of studies, when abbreviated study reports may be submitted, in lieu of full reports, with a new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and with a biologics license application under section 351 of the Public Health Service Act (42 U.S.C. 262). Such guidance shall describe the kinds of studies for which abbreviated reports are appropriate and the appropriate abbreviated report formats.

SEC. 114. CONTENT AND REVIEW OF APPLICATIONS.

(a) SECTION 505(b).—Section 505(b) (21 U.S.C. 355(b)) is amended by adding at the end the following:

"(4)(A) The Secretary shall issue guidance for the review of applications submitted under paragraph (1) relating to promptness, technical excellence, lack of bias and conflict of interest, and knowledge of regulatory and scientific standards which shall apply equally to all individuals who review such applications.

"(B) The Secretary shall meet with a sponsor of an investigation or an applicant for approval under this section or section 351 of the Public Health Service Act if the sponsor or applicant makes a reasonable request for a meeting, for the purpose of reaching agreement on the design and size of clinical trials. Minutes of any such meeting shall be prepared by the Secretary and made available to the sponsor or applicant upon request.

"(C) Agreement regarding the parameters of the design and size of clinical trials of a new drug that are reached between the Secretary and a sponsor or applicant shall be reduced to writing and made part of the administrative record by the Secretary. Such agreement shall not be changed after the testing begins, except—

"(i) with the written agreement of the sponsor or applicant; or

"(ii) pursuant to a decision, made in accordance with subparagraph (D) by the director of the division in which the drug is reviewed, that a substantial scientific issue essential to determining the safety or effectiveness of the drug has been identified after the testing has begun.

"(D) A decision under subparagraph (C)(ii) by the director shall be in writing and the Secretary shall provide to the sponsor or applicant an opportunity for a meeting at which the director and the sponsor or applicant will be present and at which the director documents the scientific issue involved.

"(E) The written decisions of the reviewing division shall be binding upon, and may not directly or indirectly be changed by, the field or compliance division personnel unless such field or compliance division personnel demonstrate to the reviewing division why such decision should be modified. For purposes of this paragraph, the reviewing division is the division responsible for the review of an application for approval of a drug (including all scientific and medical matters, chemistry, manufacturing, and controls).

"(F) No action by the reviewing division may be delayed because of the unavailability of information from or action by field personnel unless the reviewing division determines that a delay is necessary to assure the marketing of a safe and effective drug.".

(b) SECTION 505(j).—

(1) AMENDMENT.—Section 505(j) (21 U.S.C 355(j)) is amended by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively, and by adding after paragraph (2) the following:

"(3)(A) The Secretary shall issue guidance for the review of applications submitted under paragraph (1) relating to promptness, technical excellence, lack of bias and conflict of interest, and knowledge of regulatory and scientific standards which shall apply equally to all individuals who review such applications.

"(B) The Secretary shall meet with an applicant for approval of a drug under this subsection if the applicant makes a reasonable request for a meeting for the purpose of reaching agreement on the design and size of studies needed for approval of such application. Minutes of any such meeting shall be prepared by the Secretary and made available to the sponsor or applicant.

"(C) Agreements regarding the parameters of design and size of bioavailability and bioequivalence trials of a drug under this subsection that are reached between the Secretary and a sponsor or applicant shall be reduced to writing and made part of the administrative record by the Secretary. Such agreement shall not be changed after the testing begins, except—

"(i) with the written agreement of the sponsor or applicant; or

"(ii) pursuant to a decision, made in accordance with subparagraph (D) by the director of the division in which the drug is reviewed, that a substantial scientific issue essential to determining the safety or effectiveness of the drug has been identified after the testing has begun.

"(D) A decision under subparagraph (C)(ii) by the director shall be in writing and the Secretary shall provide to the sponsor or applicant an opportunity for a meeting at which the director and the sponsor or applicant will be present and at which the director documents the scientific issue involved.

"(E) The written decisions of the reviewing division shall be binding upon, and may not directly or indirectly be changed by, the field or compliance office personnel unless such field or compliance office personnel demonstrate to the reviewing division why such decision should be modified. For purposes of this paragraph, the reviewing division is the division responsible for the review of an application under this subsection (including scientific matters, chemistry, manufacturing, and controls).

"(F) No action by the reviewing division may at any time be delayed because of the unavailability of information from or action by field personnel unless the reviewing division determines that a delay is necessary to assure the marketing of a safe and effective drug.".

(2) CONFORMING AMENDMENTS.—Section 505(j) (21 U.S.C. 355(j)), as amended by paragraph (1), is amended—

(A) in paragraph (2)(A)(i), by striking "(6)" and inserting "(7)";

(B) in paragraph (4), by striking "(4)" and inserting "(5)";

(C) in paragraph (4)(I), by striking "(5)" and inserting "(6)"; and

(D) in paragraph (7)(C), by striking "(5)" each place it occurs and inserting "(6)".

SEC. 115. SCIENTIFIC ADVISORY PANELS.

Section 505 (21 U.S.C. 355) is amended by adding at the end the following:

"(n)(1) For the purpose of providing expert scientific advice and recommendations to the Secretary regarding a clinical investigation of a drug or the approval for marketing of a drug under section 505 or section 351 of the Public Health Service Act, the Secretary shall establish panels of experts or use panels of experts established before the date of the enactment of this subsection, or both.

"(2) The Secretary may delegate the appointment and oversight authority granted under section 904 to a director of a center or successor entity within the Food and Drug Administration.

"(3) The Secretary shall make appointments to each panel established under paragraph (1) so that each panel shall consist of—

"(A) members who are qualified by training and experience to evaluate the safety and effectiveness of the drugs to be referred to the panel and who, to the extent feasible, possess skill and experience in the development, manufacture, or utilization of such drugs;

"(B) members with diverse expertise in such fields as clinical and administrative medicine, pharmacy, pharmacology, pharmacoeconomics, biological and physical sciences, and other related professions;

"(C) a representative of consumer interests and a representative of interests of the drug manufacturing industry not directly affected by the matter to be brought before the panel; and

"(D) 2 or more members who are specialists or have other expertise in the particular disease or condition for which the drug under review is proposed to be indicated.

Scientific, trade, and consumer organizations shall be afforded an opportunity to nominate individuals for appointment to the panels. No individual who is in the regular full-time employ of the United States and engaged in the administration of this Act may be a voting member of any panel. The Secretary shall designate one of the members of each panel to serve as chairman thereof.

"(4) Each member of a panel shall publicly disclose all conflicts of interest that member may have with the work to be undertaken by the panel. No member of a panel may vote on any matter where the member or the immediate family of such member could gain financially from the advice given to the Secretary. The Secretary may grant a waiver of any conflict of interest upon public disclosure of such conflict of interest if such waiver is necessary to afford the panel essential

expertise, except that the Secretary may not grant a waiver for a member of a panel when the member's own scientific work is involved.

"(5) The Secretary shall provide education and training to each new panel member before such member participates in a panel's activities, including education regarding requirements under this Act and related regulations of the Secretary, and the administrative processes and procedures related to panel meetings.

"(6) Panel members (other than officers or employees of the United States), while attending meetings or conferences of a panel or otherwise engaged in its business, shall be entitled to receive compensation for each day so engaged, including traveltime, at rates to be fixed by the Secretary, but not to exceed the daily equivalent of the rate in effect for positions classified above grade GS–15 of the General Schedule. While serving away from their homes or regular places of business, panel members may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(7) The Secretary shall ensure that scientific advisory panels meet regularly and at appropriate intervals so that any matter to be reviewed by such panel can be presented to the panel not more than 60 days after the matter is ready for such review. Meetings of the panel may be held using electronic communication to convene the meeting.

"(8) Within 60 days after a scientific advisory panel makes recommendations on any matter under its review, the Food and Drug Administration official responsible for the matter shall review the conclusions and recommendations of the panel, and notify the affected persons of the final decision on the matter, or of the reasons that no such decision has been reached. Each such final decision shall be documented including the rationale for the decision.

"(9) A scientific advisory panel under this subsection shall not be subject to the annual chartering and annual report requirements of the Federal Advisory Committee Act.".

SEC. 116. DISPUTE RESOLUTION.

Chapter V (21 U.S.C. 351 et seq.), as amended by section 102, is amended by inserting after section 505A the following:

"DISPUTE RESOLUTION

"SEC. 506. If, regarding an obligation under this Act, there is a scientific controversy between the Secretary and a person who is a sponsor, applicant, or manufacturer and no specific provision of this Act or regulation promulgated under this Act provides a right of review of the matter in controversy, the Secretary shall, by regulation, establish a procedure under which such sponsor, applicant, or manufacturer may request a review of such controversy by an appropriate scientific advisory panel under section 505(n). Such review shall take place in a timely manner. The Secretary shall promulgate such regulations within 180 days of the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997.".

SEC. 117. INFORMAL AGENCY STATEMENTS.

Section 701 (21 U.S.C. 371) is amended by adding at the end the following:

"(h)(1)(A) The Secretary shall develop guidance documents with public participation and ensure that the existence of such documents and the documents themselves are made available to the public both in written form and through electronic means. Such documents shall not create or confer any rights for or on any person, although they present the views of the Secretary on matters under the jurisdiction of the Food and Drug Administration.

"(B) Although guidance documents shall not be binding on the Secretary, the Secretary shall ensure that employees of the Food and Drug Administration do not deviate from such guidances without appropriate justification and supervisory concurrence.

"(C) For guidance documents that set forth initial interpretations of statute or regulation, changes in interpretation or policy that are of more than a minor nature, complex scientific issues, or highly controversial issues, the Secretary shall ensure public participation prior to implementation of any guidance documents, unless the Secretary determines that for reasons of the public health need, such prior public participation is not feasible. In such cases, the Secretary shall provide for public comment upon implementation, and take such comment into account.

"(D) For guidance documents that set forth existing practices or minor changes in policy, the Secretary shall provide for public comment upon implementation.

"(2) In developing guidance documents, the Secretary shall ensure uniform nomenclature and uniform internal procedures for approval of such documents. The Secretary shall ensure that guidance documents and revisions of such documents are properly dated and indicate the nonbinding nature of the documents.

"(3) The Secretary, through the Food and Drug Administration, shall maintain electronically and publish periodically in the Federal Register a list of guidance documents. Such list shall be updated quarterly. All such documents shall be made available to the public.

"(4) The Secretary shall report to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate no later than July 1, 2000, on the implementation of these practices.".

SEC. 118. POSITRON EMISSION TOMOGRAPHY.

(a) REGULATION OF COMPOUNDED POSITRON EMISSION TOMOGRAPHY DRUGS.—

(1) DEFINITION.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(ii) The term 'compounded positron emission tomography drug'—

"(1) means a drug that—

"(A) exhibits spontaneous disintegration of unstable nuclei by the emission of positrons and is used for the purpose of providing dual photon positron emission tomographic diagnostic images; and

"(B) has been compounded by or on the order of a practitioner who is licensed by a State to compound or order compounding for a drug described in subparagraph (A), and is compounded in accordance with that State's law, for a patient or for research, teaching, or quality control; and

"(2) includes any nonradioactive reagent, reagent kit, ingredient, nuclide generator, accelerator, target material, electronic synthesizer, or other apparatus or computer program to be used in the preparation of such a drug.".

(b) ADULTERATION.—

(1) IN GENERAL.—Section 501(a)(2) (21 U.S.C. 351(a)(2)) is amended by striking "; or (3)" and inserting the following: "; or (C) if it is a compounded positron emission tomography drug and the methods used in, or the facilities and controls used for, its compounding, processing, packing, or holding do not conform to or are not operated or administered in conformity with the positron emission tomography compounding standards and the official monographs of the United States Pharmacopeia to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, that it purports or is represented to possess; or (3)".

(2) SUNSET.—Section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) shall not apply 4 years after the date of enactment of this Act or 2 years after the date on which the Secretary of Health and Human Services establishes the requirements described in subsection (c)(1)(B), whichever is later.

(c) REQUIREMENTS FOR REVIEW OF APPROVAL PROCEDURES AND CURRENT GOOD MANUFACTURING PRACTICES FOR POSITRON EMISSION TOMOGRAPHY.—

(1) PROCEDURES AND REQUIREMENTS.—

(A) IN GENERAL.—In order to take account of the special characteristics of compounded positron emission tomography drugs and the special techniques and processes required to produce these drugs, not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall establish—

(i) appropriate procedures for the approval of compounded positron emission tomography drugs pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

(ii) appropriate current good manufacturing practice requirements for such drugs.

(B) CONSIDERATIONS AND CONSULTATION.—In establishing the procedures and requirements required by subparagraph (A), the Secretary of Health and Human Services shall take due account of any relevant differences between not-for-profit institutions that compound the drugs for their patients and commercial manufacturers of the drugs. Prior to establishing the procedures and requirements, the Secretary of Health and Human Services shall consult with patient advocacy groups, professional associations, manufacturers, and physicians and scientists licensed to make or use compounded positron emission tomography drugs.

(2) SUBMISSION OF NEW DRUG APPLICATIONS AND ABBREVIATED NEW DRUG APPLICATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of Health and Human Services shall not require the submission of new drug applications or abbreviated new drug applications under subsection (b) or (j) of section 505 (21 U.S.C. 355), for compounded positron emission tomography drugs that are not adulterated drugs described in section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) (as amended by subsection (b)), for a period of 4 years after the date of enactment of this Act, or for 2 years after the date on which the Secretary establishes procedures and requirements under paragraph (1), whichever is later.

(B) EXCEPTION.—Nothing in this Act shall prohibit the voluntary submission of such applications or the review of such applications by the Secretary of Health and Human Services. Nothing in this Act shall constitute an exemption for a compounded positron emission tomography drug from the requirements of regulations issued under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) for such drugs.

(d) REVOCATION OF CERTAIN INCONSISTENT DOCUMENTS.—Within 30 days after the date of

enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a notice terminating the application of the following notices and rule, to the extent the notices and rule relate to compounded positron emission tomography drugs:

(1) A notice entitled "Regulation of Positron Emission Tomographic Drug Products: Guidance; Public Workshop", published in the Federal Register on February 27, 1995.

(2) A notice entitled "Guidance for Industry: Current Good Manufacturing Practices for Positron Emission Tomographic (PET) Drug Products; Availability", published in the Federal Register on April 22, 1997.

(3) A final rule entitled "Current Good Manufacturing Practice for Finished Pharmaceuticals; Positron Emission Tomography", published in the Federal Register on April 22, 1997.

(e) DEFINITION.—As used in this section, the term "compounded positron emission tomography drug" has the meaning given the term in section 201 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321).

SEC. 119. REQUIREMENTS FOR RADIOPHARMACEUTICALS.

(a) REQUIREMENTS.—

(1) REGULATIONS.—

(A) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, after consultation with patient advocacy groups, associations, physicians licensed to use radiopharmaceuticals, and the regulated industry, shall issue proposed regulations governing the approval of radiopharmaceuticals designed for diagnosis and monitoring of diseases and conditions. The regulations shall provide that the determination of the safety and effectiveness of such a radiopharmaceutical under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) shall include consideration of the proposed use of the radiopharmaceutical in the practice of medicine, the pharmacological and toxicological activity of the radiopharmaceutical (including any carrier or ligand component of the radiopharmaceutical), and the estimated absorbed radiation dose of the radiopharmaceutical.

(B) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate final regulations governing the approval of the radiopharmaceuticals.

(2) SPECIAL RULE.—In the case of a radiopharmaceutical intended to be used for diagnostic or monitoring purposes, the indications for which such radiopharmaceutical is approved for marketing may, in appropriate cases, refer to manifestations of disease (such as biochemical, physiological, anatomic, or pathological processes) common to, or present in, one or more disease states.

(b) DEFINITION.—In this section, the term "radiopharmaceutical" means—

(1) an article—

(A) that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans; and

(B) that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(2) any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such article.

SEC. 120. MODERNIZATION OF REGULATION.

(a) LICENSES.—

(1) IN GENERAL.—Section 351(a) of the Public Health Service (42 U.S.C. 262(a)) is amended to read as follows:

"(a)(1) No person shall introduce or deliver for introduction into interstate commerce any biological product unless—

"(A) a biologics license is in effect for the biological product; and

"(B) each package of the biological product is plainly marked with—

"(i) the proper name of the biological product contained in the package;

"(ii) the name, address, and applicable license number of the manufacturer of the biological product; and

"(iii) the expiration date of the biological product.

"(2)(A) The Secretary shall establish, by regulation, requirements for the approval, suspension, and revocation of biologics licenses.

"(B) The Secretary shall approve a biologics license application—

"(i) on the basis of a demonstration that—

"(I) the biological product that is the subject of the application is safe, pure, and potent; and

"(II) the facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent; and

"(ii) if the applicant (or other appropriate person) consents to the inspection of the facility that is the subject of the application, in accordance with subsection (c).

"(3) The Secretary shall prescribe requirements under which a biological product undergoing investigation shall be exempt from the requirements of paragraph (1).".

(2) ELIMINATION OF EXISTING LICENSE REQUIREMENT.—Section 351(d) of the Public Health Service Act (42 U.S.C. 262(d)) is amended—

(A) by striking "(d)(1)" and all that follows through "of this section.";

(B) in paragraph (2)—

(i) by striking "(2)(A) Upon" and inserting "(d)(1) Upon" and

(ii) by redesignating subparagraph (B) as paragraph (2); and

(C) in paragraph (2) (as so redesignated by subparagraph (B)(ii))—

(i) by striking "subparagraph (A)" and inserting "paragraph (1)"; and

(ii) by striking "this subparagraph" each place it appears and inserting "this paragraph".

(b) LABELING.—Section 351(b) of the Public Health Service Act (42 U.S.C. 262(b)) is amended to read as follows:

"(b) No person shall falsely label or mark any package or container of any biological product or alter any label or mark on the package or container of the biological product so as to falsify the label or mark.".

(c) INSPECTION.—Section 351(c) of the Public Health Service Act (42 U.S.C. 262(c)) is amended by striking "virus, serum," and all that follows and inserting "biological product.".

(d) DEFINITION; APPLICATION.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended by adding at the end the following:

"(i) In this section, the term 'biological product' means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings.".

(e) CONFORMING AMENDMENT.—Section 503(g)(4) (21 U.S.C. 353(g)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking "section 351(a)" and inserting "section 351(i)"; and

(B) by striking "262(a)" and inserting "262(i)"; and

(2) in subparagraph (B)(iii), by striking "product or establishment license under subsection (a) or (d)" and inserting "biologics license application under subsection (a)".

(f) SPECIAL RULE.—The Secretary of Health and Human Services shall take measures to minimize differences in the review and approval of products required to have approved biologics license applications under section 351 of the Public Health Service Act (42 U.S.C. 262) and products required to have approved new drug applications under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)).

(g) EXAMINATIONS AND PROCEDURES.—Paragraph (3) of section 353(d) of the Public Health Service Act (42 U.S.C. 263a(d)) is amended to read as follows:

"(3) EXAMINATIONS AND PROCEDURES.—The examinations and procedures identified in paragraph (2) are laboratory examinations and procedures which have been approved by the Food and Drug Administration for home use or which, as determined by the Secretary, are simple laboratory examinations and procedures which have an insignificant risk of an erroneous result, including those which—

"(A) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results by the user negligible, or

"(B) the Secretary has determined pose no unreasonable risk of harm to the patient if performed incorrectly.".

SEC. 121. PILOT AND SMALL SCALE MANUFACTURE.

(a) HUMAN DRUGS.—Section 505(c) (21 U.S.C. 355(c)) is amended by adding at the end thereof the following:

"(4) A drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the drug and to obtain approval prior to scaling up to a larger facility, unless the Secretary makes a determination that a full scale production facility is necessary to ensure the safety or effectiveness of the drug.".

(b) ANIMAL DRUGS.—Section 512(c) (21 U.S.C. 360b(c)) is amended by adding at the end the following:

"(4) A drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the drug and to obtain approval prior to scaling up to a larger facility, unless the Secretary makes a determination that a full scale production facility is necessary to ensure the safety or effectiveness of the drug.".

SEC. 122. INSULIN AND ANTIBIOTICS.

(a) CERTIFICATION OF DRUGS CONTAINING INSULIN.—

(1) AMENDMENT.—Section 506 (21 U.S.C. 356), as in effect before the date of the enactment of this Act, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 301(j) (21 U.S.C. 331(j)) is amended by striking "506, 507,".

(B) Subsection (k) of section 502 (21 U.S.C. 352) is repealed.

(C) Sections 301(i)(1), 510(j)(1)(A), and 510(j)(1)(D) (21 U.S.C. 331(i)(1), 360(j)(1)(A), 360(j)(1)(D)) are each amended by striking ", 506, 507,".

(D) Section 801(d)(1) (21 U.S.C. 381(d)(1)) is amended by inserting after "503(b)" the following: "or composed wholly or partly of insulin".

(E) Section 8126(h)(2) of title 38, United States Code, is amended by inserting "or" at

the end of subparagraph (B), by striking "; or" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(b) CERTIFICATION OF ANTIBIOTICS.—

(1) AMENDMENT.—Section 507 (21 U.S.C. 357) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 201(aa) (21 U.S.C. 321(aa)) is amended by striking out "or 507", section 201(dd) (21 U.S.C. 321(dd)) is amended by striking "507,", and section 201(ff)(3)(A) (21 U.S.C. 321(ff)(3)(A)) is amended by striking ", certified as an antibiotic under section 507,".

(B) Section 301(e) (21 U.S.C. 331(e)) is amended by striking "507(d) or (g),".

(C) Section 306(d)(4)(B)(ii) (21 U.S.C. 335a(d)(4)(B)(ii)) is amended by striking "or 507".

(D) Section 502 (21 U.S.C. 352) is amended by striking subsection (l).

(E) Section 520(l) (21 U.S.C. 360j(l)) is amended by striking paragraph (4) and by striking "or Antibiotic Drugs" in the subsection heading.

(F) Section 525(a) (21 U.S.C. 360aa(a)) is amended by inserting "or" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(G) Section 525(a) (21 U.S.C. 360aa(a)) is amended by striking ", certification of such drug for such disease or condition under section 507,".

(H) Section 526(a)(1) (21 U.S.C. 360bb) is amended by striking "the submission of an application for certification of the drug under section 507,", by inserting "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(I) Section 526(b) (21 U.S.C. 360bb(b)) is amended—

(i) in paragraph (1), by striking ", a certificate was issued for the drug under section 507,"; and

(ii) in paragraph (2) by striking ", a certificate has not been issued for the drug under section 507," and by striking ", approval of an application for certification under section 507,".

(J) Section 527(a) (21 U.S.C. 360cc(a)) is amended by inserting "or" at the end of paragraph (1), by striking paragraph (2), by redesignating paragraph (3) as paragraph (2), and by striking ", issue another certificate under section 507,".

(K) Section 527(b) (21 U.S.C. 360cc(b)) is amended by striking ", if a certification is issued under section 507 for such a drug, or", "of the issuance of the certification under section 507,", and "issue another certification under section 507, or".

(L) Section 704(a)(1) (21 U.S.C. 374(a)(1)) is amended by striking ", section 507 (d) or (g)".

(M) Section 735(1) (21 U.S.C. 379g(1)(C)) is amended by inserting "or" at the end of subparagraph (B), by striking subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(N) Subparagraphs (A)(ii) and (B) of sections 5(b)(1) of the Orphan Drug Act (21 U.S.C. 360ee(b)(1)(A), 360ee(b)(1)(B)) are each amended by striking "or 507".

(O) Section 45C(b)(2)(A)(ii)(II) of the Internal Revenue Code of 1986 is amended by striking "or 507".

(P) Section 156(f)(4)(B) of title 35, United States Code, is amended by striking "507," each place it occurs.

(c) EXPORTATION.—Section 802 (21 U.S.C. 382) is amended by adding at the end thereof the following:

"(i) Insulin and antibiotic drugs may be exported without regard to the requirements in this section if the insulin and antibiotic drugs meet the requirements of section 801(e)(1).".

(d) EFFECT.—The amendments made by subsection (b) shall not apply with respect to any application for a drug that contains an active ingredient (including any ester or salt of the active ingredient) that was an antibiotic drug within the meaning of section 507 of such Act and was the subject of an approved or pending application under such section 507 for certification or exemption from certification before the date of the enactment of this Act.

SEC. 123. FDA MISSION AND ANNUAL REPORT.

(a) MISSION.—Section 903 (21 U.S.C. 393) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by adding after subsection (a) the following:

"(b) MISSION.—The Food and Drug Administration shall promote the public health by promptly and efficiently reviewing clinical research and taking appropriate action on the marketing of regulated products in a timely manner, and with respect to such products shall protect the public health by ensuring that—

"(1) foods are safe, wholesome, sanitary, and properly labeled;

"(2) human and veterinary drugs are safe and effective;

"(3) there is reasonable assurance of safety and effectiveness of devices intended for human use;

"(4) cosmetics are safe and properly labeled; and

"(5) public health and safety are protected from electronic product radiation.

The Food and Drug Administration shall participate with other countries to reduce the burden of regulation, harmonize regulatory requirements, and achieve appropriate reciprocal arrangements.".

(b) ANNUAL REPORT.—Section 903 (21 U.S.C. 393), as amended by subsection (a), is amended by adding at the end the following:

"(e) ANNUAL REPORT.—The Secretary shall, simultaneously with the submission each year of the budget for the Food and Drug Administration, submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate an annual report which shall—

"(1) review the performance of the Food and Drug Administration in meeting its mission and the development of Food and Drug Administration policies to implement such mission;

"(2) review the performance of the Food and Drug Administration in meeting its own performance standards, including its own outcome measurements, and statutory deadlines for the approval of products or for other purposes contained in this Act;

"(3) describe the staffing and resources of the Food and Drug Administration;

"(4)(A) list each bilateral and multinational meeting held by the Food and Drug Administration to address methods and approaches to reduce the burden of regulation, to harmonize regulation, and to seek appropriate reciprocal arrangements, (B) describe the goals, activities, and accomplishments of the Food and Drug Administration in such meetings, and (C) list issues that the Food and Drug Administration is considering or has presented for each such meeting.".

SEC. 124. INFORMATION SYSTEM.

Chapter IX is amended by adding at the end the following section:

"SEC. 906. INFORMATION SYSTEM.

"The Secretary shall establish and maintain an information system to track the status and progress of each application or submission (including a petition, notification, or other similar form of request) submitted to the Food and Drug Administration requesting agency action.".

SEC. 125. EDUCATION AND TRAINING.

Chapter IX, as amended by section 124, is amended by adding at the end the following sections:

"SEC. 907. EDUCATION.

"The Secretary shall conduct training and education programs for the employees of the Food and Drug Administration relating to the regulatory responsibilities and policies established by this Act, including programs for scientific training and training in administrative process and procedure and integrity issues.".

SEC. 126. CENTERS FOR EDUCATION AND RESEARCH ON DRUGS.

Chapter IX, as amended by section 125, is amended by adding at the end the following section:

"SEC. 908. DEMONSTRATION PROGRAM REGARDING CENTERS FOR EDUCATION AND RESEARCH ON DRUGS.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, shall establish a demonstration program for the purpose of making one or more grants for the establishment and operation of one or more centers to carry out the activities specified in subsection (b).

"(b) REQUIRED ACTIVITIES.—The activities referred to in subsection (a) are the following:

"(1) The conduct of state-of-the-art clinical and laboratory research for the following purposes:

"(A) To increase awareness of new uses of drugs and the unforeseen risks of new uses of drugs.

"(B) To provide objective clinical information to the following entities:

"(i) Health care practitioners or other providers of health care goods or services.

"(ii) Pharmacy benefit managers.

"(iii) Health maintenance organizations or other managed health care organizations.

"(iv) Health care insurers or governmental agencies.

"(C) To improve the quality of health care while reducing the cost of health care through the prevention of adverse effects of drugs and the consequences of such effects, such as unnecessary hospitalizations.

"(2) The conduct of research on the comparative effectiveness and safety of drugs.

"(3) Such other activities as the Secretary determines to be appropriate, except that the grant may not be expended to assist the Secretary in the review of new drugs.

"(c) APPLICATION FOR GRANT.—A grant under subsection (a) may be made only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(d) PEER REVIEW.—A grant under subsection (a) may be made only if the application for the grant has undergone appropriate technical and scientific peer review.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 1998, and $3,000,000 for fiscal year 1999.".

SEC. 127. HARMONIZATION.

Section 803 (21 U.S.C. 383) is amended by adding at the end the following:

"(c) The Secretary shall participate in meetings with representatives of other countries to discuss methods and approaches to reduce the burden of regulation and harmonize regulatory requirements if the Secretary determines that such harmonization continues consumer protections consistent with the purposes of this Act. The Secretary shall report to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate at least 60 days before executing any bilateral or multilateral agreement under subsection (b).".

SEC. 128. ENVIRONMENTAL IMPACT REVIEW.

Chapter VII, as amended by section 111, is amended by adding at the end the following:

"SUBCHAPTER G—ENVIRONMENTAL IMPACT REVIEW

"SEC. 761. ENVIRONMENTAL IMPACT REVIEW.

"Notwithstanding any other provision of law, an environmental impact statement prepared in accordance with the regulations published at part 25 of 21 C.F.R. (as in effect on August 31, 1997) in connection with an action carried out under (or a recommendation or report relating to) this Act, shall be considered to meet the requirements for a detailed statement under section 102(2)(C) of the National Environmental Policy Act.".

SEC. 129. NATIONAL UNIFORMITY.

(a) NONPRESCRIPTION DRUGS.—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 128, is amended by adding at the end the following:

"SUBCHAPTER H—NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS FOR HUMAN USE AND PREEMPTION FOR LABELING OR PACKAGING OF COSMETICS

"SEC. 771. NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS FOR HUMAN USE.

"(a) IN GENERAL.—Except as provided in subsection (b), (c)(1), (d), (e), or (f), no State or political subdivision of a State may establish or continue in effect any requirement—

"(1) that relates to the regulation of a drug intended for human use that is not subject to the requirements of section 503(b)(1); and

"(2) that is different from or in addition to, or that is otherwise not identical with, a requirement under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

"(b) EXEMPTION.—Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement that—

"(1) protects an important public interest that would otherwise be unprotected;

"(2) would not cause any drug to be in violation of any applicable requirement or prohibition under Federal law; and

"(3) would not unduly burden interstate commerce.

"(c) SCOPE.—

"(1) IN GENERAL.—This section shall not apply to—

"(A) any State or political subdivision requirement that relates to the practice of pharmacy; or

"(B) any State or political subdivision requirement that a drug be dispensed only upon the prescription of a practitioner licensed by law to administer such drug.

"(2) SAFETY OR EFFECTIVENESS.—For purposes of subsection (a), a requirement that relates to the regulation of a drug shall be deemed to include any requirement relating to public information or any other form of public communication relating to a warning of any kind for a drug.

"(d) EXCEPTIONS.—

"(1) IN GENERAL.—In the case of a drug described in subsection (a)(1) that is not the subject of an application approved under section 505 or 507 or a final regulation promulgated by the Secretary establishing conditions under which the drug is generally recognized as safe and effective and not misbranded, subsection (a) shall apply only with respect to a requirement of a State or political subdivision of a State that relates to the same subject as, but is different from or in addition to, or that is otherwise not identical with—

"(A) a regulation in effect with respect to the drug pursuant to a statute described in subsection (a)(2); or

"(B) any other requirement in effect with respect to the drug pursuant to an amendment to such a statute made on or after the date of enactment of this section.

"(2) STATE INITIATIVES.—This section shall not apply to a State public initiative enacted prior to the date of enactment of this section.

"(e) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"(f) STATE ENFORCEMENT AUTHORITY.—Nothing in this section shall prevent a State or political subdivision thereof from enforcing, under any relevant civil or other enforcement authority, a requirement that is identical to a requirement of this Act.".

(b) INSPECTIONS.—Section 704(a)(1) (21 U.S.C. 374(a)(1)) is amended by striking "prescription drugs" each place it appears and inserting "prescription drugs, nonprescription drugs intended for human use,".

(c) MISBRANDING.—Paragraph (1) of section 502(e) (21 U.S.C. 352(e)(1)) is amended to read as follows:

"(1)(A) If it is a drug, unless its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula)—

"(i) the established name (as defined in subparagraph (3)) of the drug, if there is such a name;

"(ii) the established name and quantity or, if deemed appropriate by the Secretary, the proportion of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including whether active or not the established name and quantity or if deemed appropriate by the Secretary, the proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein, except that the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this subclause, shall not apply to nonprescription drugs not intended for human use; and

"(iii) the established name of each inactive ingredient listed in alphabetical order on the outside container of the retail package and, if deemed appropriate by the Secretary, on the immediate container, as prescribed in regulation promulgated by the Secretary, but nothing in this clause shall be deemed to require that any trade secret be divulged, except that the requirements of this subclause with respect to alphabetical order shall apply only to nonprescription drugs that are not also cosmetics and this subclause shall not apply to nonprescription drugs not intended for human use.

"(B) For any prescription drug the established name of such drug or ingredient, as the case may be, on such label (and on any labeling on which a name for such drug or ingredient is used) shall be printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient, except that to the extent that compliance with the requirements of clause (A)(ii) or (iii) or this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary.".

(d) COSMETICS.—Subchapter H of chapter VII, as amended by subsection (a), is further amended by adding at the end the following:

"SEC. 772. PREEMPTION FOR LABELING OR PACKAGING OF COSMETICS.

"(a) IN GENERAL.—Except as provided in subsection (b), (d), or (e), a State or political subdivision of a State shall not impose or continue in effect any requirement for labeling or packaging of a cosmetic that is different from or in addition to, or that is otherwise not identical with a requirement that is specifically applicable to a particular cosmetic or class of cosmetics under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

"(b) EXEMPTION.—Upon application of a State or political subdivision thereof, the Secretary may by regulation after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement for labeling and packaging that—

"(1) protects an important public interest that would otherwise be unprotected;

"(2) would not cause a cosmetic to be in violation of any applicable requirements or prohibition under Federal law; and

"(3) would not unduly burden interstate commerce.

"(c) SCOPE.—For purposes of subsection (a), a reference to a State requirement that relates to the packaging or labeling of a cosmetic means any specific requirement relating to the same aspect of such cosmetic as a requirement specifically applicable to that particular cosmetic or class of cosmetics under this Act for packaging or labeling, including any State requirement relating to public information or any other form of public communication.

"(d) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"(e) STATE INITIATIVE.—This section shall not apply to a State requirement adopted by a State public initiative or referendum enacted prior to September 1, 1997.".

SEC. 130. FDA STUDY OF MERCURY COMPOUNDS IN DRUGS AND FOOD.

(a) LIST AND ANALYSIS.—The Secretary of Health and Human Services shall, through the Food and Drug Administration—

(1) compile a list of drugs and foods that contain intentionally introduced mercury compounds, and

(2) provide a quantitative and qualitative analysis of the mercury compounds in the list under paragraph (1).

The Secretary shall compile the list required by paragraph (1) within 2 years after the date

of the enactment of this section and shall provide the analysis required by paragraph (2) within 2 years of such date of enactment.

(b) STUDY.—The Secretary of Health and Human Services, acting through the Food and Drug Administration, shall conduct a study of the effect on humans of the use of mercury compounds in nasal sprays. Such study shall include data from other studies that have been made of such use.

(c) STUDY OF MERCURY SALES.—

(1) STUDY.—The Secretary of Health and Human Services, acting through the Food and Drug Administration and subject to appropriations, shall conduct, or shall contract with the Institute of Medicine of the National Academy of Sciences to conduct, a study of the effect on humans of the use of elemental, organic or inorganic mercury when offered for sale as a drug or dietary supplement. Such study shall, among other things, evaluate—

(A) the scope of mercury use as a drug or dietary supplement; and

(B) the adverse effects on health of children and other sensitive populations resulting from exposure to, or ingestion or inhalation of, mercury when so used.

In conducting such study, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Chair of the Consumer Product Safety Commission, and the Administrator of the Agency for Toxic Substances and Disease Registry, and, to the extent the Secretary believes necessary or appropriate, with any other Federal or private entity.

(2) REGULATIONS.—If, in the opinion of the Secretary, the use of elemental, organic or inorganic mercury offered for sale as a drug or dietary supplement poses a threat to human health, the Secretary shall promulgate regulations restricting the sale of mercury intended for such use. At a minimum, such regulations shall be designed to protect the health of children and other sensitive populations from adverse effects resulting from exposure to, or ingestion or inhalation of, mercury. Such regulations, to the extent feasible, should not unnecessarily interfere with the availability of mercury for use in religious ceremonies.

SEC. 131. NOTIFICATION OF DISCONTINUANCE OF A LIFE SAVING PRODUCT.

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 129, is further amended by adding at the end the following:

"Subchapter I—Notification of the Discontinuance of a Life Saving Product

"SEC. 781. DISCONTINUANCE OF A LIFE SAVING PRODUCT.

"(a) IN GENERAL.—A manufacturer that is the sole manufacturer of a drug (including a biological product) or device—

"(1) that is—

"(A) life supporting;

"(B) life sustaining; or

"(C) intended for use in the prevention of a debilitating disease or condition; and

"(2) for which an application has been approved under section 505(b), 505(j), or 515(d),

shall notify the Secretary of a discontinuance of the manufacture of the drug or device at least 6 months prior to the date of the discontinuance.

"(b) REDUCTION IN NOTIFICATION PERIOD.—On application of a manufacturer, the Secretary may reduce the notification period required under subsection (a) for the manufacturer if good cause exists for the reduction, such as a situation in which—

"(1) a public health problem may result from continuation of the manufacturing for the 6-month period;

"(2) a biomaterials shortage prevents the continuation of the manufacturing for the 6-month period;

"(3) a liability problem may exist for the manufacturer if the manufacturing is continued for the 6-month period;

"(4) continuation of the manufacturing for the 6-month period may cause substantial economic hardship for the manufacturer; or

"(5) the manufacturer has filed for bankruptcy under chapter 7 or 11 of title 11, United States Code.

"(c) DISTRIBUTION.—To the maximum extent practicable, the Secretary shall distribute information on the discontinuation of the drugs and devices described in subsection (a) to appropriate physician and patient organizations.".

TITLE II—IMPROVING REGULATION OF DEVICES

SEC. 201. DISPUTE RESOLUTION.

Section 506, as added by section 116, is amended in the first sentence by inserting before the period the following: ", or under section 515(g)(2)(B), as applicable".

SEC. 202. INVESTIGATIONAL DEVICE EXEMPTIONS; EXPANDED ACCESS.

Section 520(g) (21 U.S.C. 360j(g)) is amended by adding at the end the following:

"(6)(A) Not later than 120 days after the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997, the Secretary shall by regulation establish, with respect to a device for which an exemption under this subsection is in effect, the following:

"(i) Procedures and conditions under which the Secretary will, without requiring an additional approval of an application for an exemption or the approval of a supplement to such an application, permit—

"(I) developmental changes in the device that do not constitute a significant change in design or in basic principles of operation and that are made in response to information gathered during the course of an investigation; and

"(II) changes or modifications to clinical protocols that do not affect the validity of data or information resulting from the completion of an approved protocol and do not alter the relationship of likely patient risk to benefit relied upon to approve a protocol.

"(ii) Procedures and conditions under which the Secretary will, outside of an approved investigational protocol (subject to compliance with regulations for the protection of patients), permit uses of the device in the diagnosis, monitoring, or treatment of diseases or conditions that are life-threatening or could be irreversibly debilitating, when—

"(I) the treating physician determines that the investigational use of the device likely will provide a benefit; that the risk of not using the device exceeds the probable risk of using the device; and that there is no legally marketed device alternative for the satisfactory treatment or diagnosis of such disease or condition;

"(II) the Secretary determines that there is sufficient evidence of safety and effectiveness to support the investigational use of the device in the case described in subclause (I);

"(III) the Secretary determines that the investigational use of the device will not interfere with the initiation, conduct, or completion of clinical investigations to support marketing approval; and

"(IV) the sponsor, or clinical investigator, of the investigational use of the device submits to the Secretary a clinical protocol consistent with the provisions of paragraph (3) and any regulations promulgated under such paragraph describing the investigational use of devices in a single patient or a small group of patients.

"(B) Regulations under subparagraph (A)(i) shall provide that a change or modification described in such subparagraph is not permitted unless, not later than 5 days after making the change or modification, a notice of the change or modification is submitted to the Secretary.

"(C) Regulations under subparagraph (A)(ii) shall provide that, under appropriate conditions described by the Secretary in the regulations, the Secretary will authorize the shipment of investigational devices (as defined in the regulations) for the diagnosis, monitoring, or treatment of a serious disease or condition in emergency situations.

"(7)(A) In the case of a person intending to investigate the safety or effectiveness of a class III device or any implantable device, the Secretary shall ensure that the person has an opportunity, prior to submitting an application to the Secretary or to an institutional review board, to submit to the Secretary, for review, an investigational plan (including a clinical protocol). If the applicant requests a meeting with the Secretary regarding such review, the Secretary shall meet with the applicant not later than 30 days after receiving the request for the meeting.

"(B) Agreements regarding the parameters of an investigational plan (including clinical protocol) that are reached between the Secretary and a sponsor or applicant shall be reduced to writing and made part of the administrative record by the Secretary. Such agreements shall not be changed, except—

"(i) with the written agreement of the sponsor or applicant; or

"(ii) pursuant to a decision, made in accordance with subparagraph (C) by the director of the office in which the device involved is reviewed, that a substantial scientific issue essential to determining the safety or effectiveness of the device involved has been identified.

"(C) A decision under subparagraph (B)(ii) by the director shall be in writing, and may be made only after the Secretary has provided to the sponsor or applicant an opportunity for a meeting at which the director and the sponsor or applicant are present and at which the director documents the scientific issue involved.".

SEC. 203. SPECIAL REVIEW FOR CERTAIN DEVICES.

Section 515(d) (21 U.S.C. 360e(d)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding at the end the following:

"(5) In order to provide for more effective treatment or diagnosis of life-threatening or irreversibly debilitating human diseases or conditions, the Secretary shall provide review priority for devices—

"(A) representing breakthrough technologies,

"(B) for which no approved alternatives exist,

"(C) which offer significant advantages over existing approved alternatives, or

"(D) the availability of which is in the best interest of the patients.".

SEC. 204. EXPANDING HUMANITARIAN USE OF DEVICES.

(a) SECTION 520(m).—Section 520(m) (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (2), by inserting after and below subparagraph (C) the following:

"The request shall be in the form of an application to the Secretary. Within 60 days of

the date of the receipt of an application, the Secretary shall issue an order approving or denying the application, except that if the Secretary convenes a scientific advisory panel, the Secretary shall within 120 days of the receipt of an application issue such order.";

(2) by amending paragraph (5) to read as follows:

"(5) The Secretary may suspend or withdraw an exemption from the effectiveness requirements of sections 514 and 515 for a humanitarian device, after providing notice and an opportunity for an informal hearing, if any condition for granting such exemption for such device set forth in paragraphs (2) through (4) no longer is met."; and

(3) by amending paragraph (6) to read as follows:

"(6) The Secretary may require a person granted an exemption under paragraph (2) to demonstrate continued compliance with the requirements of this subsection if the Secretary believes such demonstration to be necessary to protect the public health or if the Secretary has reason to believe that the criteria for the exemption are no longer met.".

(b) REGULATIONS.—Any provision in a regulation included in title 21 of the Code of Federal Regulations pertaining to humanitarian devices which is inconsistent with the amendments made by subsection (a) shall be deemed rescinded on the date of the enactment of this Act. The Secretary shall amend regulations pertaining to humanitarian devices to conform with the amendments made by subsection (a).

SEC. 205. DEVICE STANDARDS.

(a) ALTERNATIVE PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended by adding at the end thereof the following:

"Listing of Recognized Standards

"(c)(1) The Secretary shall issue notices identifying and adopting applicable nationally or internationally recognized standards (or portions of such standards) to which a person may self-certify compliance for the purpose of demonstrating a reasonable assurance that a device is safe or effective or to determine compliance with any requirement of this Act. Such notices shall be published in the Federal Register, and the Secretary shall provide an opportunity for public comment on the standards involved.

"(2) The Secretary shall accept a certification that a device conforms with each type of standard referenced in subsection (a) and identified in such certification to the extent such standard applies, except that the Secretary may, at any time, require the person who submitted the certification to submit the data and information which such person relied upon in making such certification, and may reject the certification if the Secretary determines that the data and information do not demonstrate compliance with the standards identified in the certification. Such person shall maintain the data and information for a period of 2 years after the submission of the certification, or for the expected design life of the device, whichever is later.

"(3) The Secretary may remove from the list of standards adopted under subsection (a) a standard (or portion of a standard) which the Secretary determines is not reliable for the purpose set out in such subsection.

"(4) In the case of a person who does not self-certify compliance pursuant to paragraph (1) regarding a device, the person may elect to utilize data other than those required by standards under paragraph (1) to demonstrate a reasonable assurance of the safety or effectiveness of the device.".

(b) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331), as amended by section 106(b), is amended by adding at the end the following:

"(y) The falsification of a certification under section 514(c) or the failure or refusal to provide data or information required by the Secretary under such section.".

(c) ADULTERATED DEVICES.—Section 501(e) (21 U.S.C. 351(e)) is amended by striking "subject to a performance standard" and all that follows and inserting the following: "subject to a performance standard established under subsection (b) of section 514, unless such device is in all respects in conformity with such standard; or subject to a standard listed under subsection (c) of such section (in the case of a person who has self-certified to such standard), unless such device is in all respects in conformity with such standard.".

(d) CONFORMING AMENDMENTS.—

(1) DEFINITION OF CLASS II DEVICE.—Section 513(a)(1)(B) (21 U.S.C. 360c(a)(1)(B)) is amended by inserting after "performance standards," the following: "the listing of standards under section 514(c)," .

(2) RELATIONSHIP TO PERFORMANCE STANDARDS.—Section 514(a) (21 U.S.C. 360d(a)) is amended—

(A) in paragraph (1), in the second sentence, by striking "under this section" and inserting "under subsection (b)";

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking "under this section" and inserting "under subsection (b)";

(C) in paragraph (3), by striking "under this section" and inserting "under subsection (b)"; and

(D) in paragraph (4), in the matter preceding subparagraph (A), by striking "this section" and inserting "this subsection and subsection (b)".

SEC. 206. SCOPE OF REVIEW.

(a) SECTION 513(a).—Section 513(a)(3) (21 U.S.C. 360c(a)(3)) is amended—

(1) in subparagraph (A) by inserting "one or more" before "clinical investigation"; and

(2) by adding at the end the following:

"(C) In making a determination of a reasonable assurance of the effectiveness of a device for which an application under section 515 has been submitted, the Secretary shall consider whether the extent of data that otherwise would be required for approval of the application with respect to effectiveness can be reduced through reliance on postmarket controls.

"(D)(i) Upon the request of any person intending to submit an application under section 515, the Secretary shall, not later than 30 days after receiving such request, meet with the person to determine the type of valid scientific evidence within the meaning of subparagraphs (A) and (B) that will be necessary to demonstrate the effectiveness of a device for the proposed conditions of use. Within 30 days of such meeting, the Secretary shall identify, and confirm in writing, the type of valid scientific evidence that will provide a reasonable assurance that a device is effective under the proposed conditions of use.

"(ii) Agreements under section 515 regarding the parameters of valid scientific evidence for a device that are reached between the Secretary and a sponsor or applicant shall be reduced to writing and made part of the administrative record by the Secretary. Such agreements shall not be changed, except—

"(I) with the written agreement of the sponsor or applicant; or

"(II) pursuant to a decision, made in accordance with clause (iii) by the director of the office in which the device involved is reviewed, that a substantial scientific issue essential to determining the safety or effectiveness of the device has been identified.

"(iii) A decision under clause (ii) by the director shall be in writing, and may be made only after the Secretary has provided to the sponsor or applicant an opportunity for a meeting at which the director and the sponsor or applicant are present and at which the director documents the scientific issue involved.".

(b) SECTION 513(i).—Section 513(i)(1) (21 U.S.C. 360c(i)(1)) is amended by adding at the end the following:

"(C) To facilitate reviews of reports submitted to the Secretary under section 510(k), the Secretary shall consider the extent to which reliance on postmarket controls may expedite the classification of devices under subsection (f)(1) of this section.

"(D) Whenever the Secretary requests information to demonstrate that devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary to making substantial equivalence determinations. In making such request, the Secretary shall consider the least burdensome means of demonstrating substantial equivalence and request information accordingly.

"(E)(i) Any determination by the Secretary of the intended use of a device shall be based upon the proposed labeling submitted in a report for the device under section 510(k), unless the director of the organizational unit responsible for regulating devices (in this subparagraph referred to as the 'Director'), after providing an opportunity for consultation with the person who submitted such report, determines and states in writing (I) that there is a reasonable likelihood that the device will be used for an intended use not identified in the proposed labeling for the device, and (II) on the basis of data or the absence of data, that such use could cause harm.

"(ii) Such determination shall—

"(I) be provided to the person who submitted the report within 10 days from the date of the notification of the Director's concerns regarding the proposed labeling;

"(II) specify limitations on the device's labeling which proscribe the use not included in proposed labeling; and

"(III) find the device substantially equivalent when the labeled intended use and the technological characteristics of the device relative to a legally marketed device conform with the requirements of subparagraph (A).

"(iii) The responsibilities of the Director under this subparagraph may not be delegated.

"(iv) This subparagraph has no legal effect after the expiration of the five-year period beginning on the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997.".

(c) SECTION 515(d).—Section 515(d) (21 U.S.C. 360e(d)) is amended—

(1) in paragraph (1)(A), by adding after and below clause (ii) the following:

"In making the determination whether to approve or deny the application, the Secretary shall rely on the conditions of use included in the proposed labeling as the basis for determining whether or not there is a reasonable assurance of safety and effectiveness, if the proposed labeling is neither false nor misleading. In determining whether or not such labeling is false or misleading, the Secretary shall fairly evaluate all material facts pertinent to the proposed labeling."; and

(2) by adding after paragraph (5) (as added by section 5(2)) the following:

"(6)(A)(i) A supplemental application shall be required for any change to a device subject to an approved application under this subsection that affects safety or effectiveness, unless such change is a modification in a manufacturing procedure or method of manufacturing and the holder of the approved application submits a written notice to the Secretary that describes in detail the change, summarizes the data or information supporting the change, and informs the Secretary that the change has been made under the requirements of section 520(f).

"(ii) The holder of an approved application who submits a notice under clause (i) with respect to a manufacturing change of a device may distribute the device 30 days after the date on which the Secretary receives the notice, unless the Secretary within such 30-day period notifies the holder that the notice is not adequate and describes such further information or action that is required for acceptance of such change. If the Secretary notifies the holder that a premarket approval supplement is required, the Secretary shall review the supplement within 135 days after the receipt of the supplement. The time used by the Secretary to review the notice of the manufacturing change shall be deducted from the 135-day review period if the notice meets appropriate content requirements for premarket approval supplements.

"(B)(i) Subject to clause (ii), in reviewing a supplement to an approved application, for an incremental change to the design of a device that affects safety or effectiveness, the Secretary shall approve such supplement if—

"(I) nonclinical data demonstrate that the design modification creates the intended additional capacity, function, or performance of the device; and

"(II) clinical data from the approved application and any supplement to the approved application provide a reasonable assurance of safety and effectiveness for the changed device.

"(ii) The Secretary may require, when necessary, additional clinical data to evaluate the design modification of the device to provide a reasonable assurance of safety and effectiveness.".

SEC. 207. PREMARKET NOTIFICATION.

(a) SECTION 510.—Section 510 (21 U.S.C. 360) is amended—

(1) in subsection (k)—

(A) in the matter preceding paragraph (1), by adding after "report to the Secretary" the following: "or person who is accredited under section 712(a)"; and

(B) by adding after and below paragraph (2) the following:

"Such a report is not required for a device intended for human use that is exempted from the requirements of this subsection under subsection (l) or is classified into class I under section 513. The exception established in the preceding sentence does not apply to any class I device that is intended to be life supporting or life sustaining or is intended for a use which is of substantial importance in preventing impairment of human health, or to any class I device that presents a potential unreasonable risk of illness or injury. With respect to a person who is accredited under section 712(a), such accredited person shall review a report under this subsection that is received by such person and shall submit, not later than 60 days after receiving the report, to the Secretary such person's recommendation for action to be taken by the Secretary on the report."; and

(2) by adding after subsection (k) the following subsection:

"(l) Not later than 30 days after the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997, the Secretary shall publish in the Federal Register a list of each type of class II device that does not require a report under subsection (k) to provide reasonable assurance of safety and effectiveness. Each type of class II device listed by the Secretary shall be exempt from the requirement to file a report under subsection (k) as of the date of the publication of the list in the Federal Register. Beginning on the date that is 1 day after the date of the publication of the list, any person may petition the Secretary to exempt a type of class II device from the reporting requirement of subsection (k). The Secretary shall publish in the Federal Register notice of the intent of the Secretary to exempt the device, or of the petition, and provide a 30-day period for public comment. If the Secretary fails to respond to a petition within 120 days of receiving it, the petition shall be deemed to be granted.".

(b) INITIAL CLASSIFICATION.—Section 513(f) (21 U.S.C. 360c(f)) is amended—

(1) in the second sentence of paragraph (1) by striking the period at the end and inserting the following: "unless within 30 days of receiving an order classifying the device into class III the person who submits a report under section 510(k) for such device requests review with respect to the classification of the device and a final order of classification from the Secretary. Such person shall submit to the Secretary data and information supporting the classification of the device into class I or II. After the request, a device classified into class III under this paragraph remains in class III, but shall not be deemed to be finally classified until the Secretary has determined the classification of the device based on the classification criteria set forth in subparagraphs (A) through (C) of subsection (a)(1), within 60 days of receiving the request to review and classify a device. Any device found under this paragraph not to be substantially equivalent to a device described in subparagraph (A)(i) and which is classified by the Secretary into class III may not be commercially distributed in commerce before it is approved under section 515."; and

(2) by adding at the end the following:

"(4) The Secretary may not withhold a determination of the initial classification of a device under paragraph (1) because of a failure to comply with any provision of this Act unrelated to a substantial equivalence decision, including a finding that the facility in which the device is manufactured is not in compliance with good manufacturing requirements as set forth in regulations of the Secretary under section 520(f) (other than a finding that the failure to comply with such regulations is directly related to the safety or effectiveness of the device).".

(c) SECTION 513.—Section 513(i)(1) (21 U.S.C. 360c(i)), as amended by section 206(b), is amended—

(1) in subparagraph (A)(ii)(I), by striking "clinical data" and inserting "appropriate clinical or scientific data" and by inserting "or a person accredited under section 712" after "Secretary";

(2) in subparagraph (A)(ii)(II), by striking "efficacy" and inserting "effectiveness"; and

(3) by adding at the end of paragraph (1) the following:

"(F) For purposes of subparagraph (A), the term 'legally marketed device' includes any device introduced into interstate commerce for commercial distribution before May 28, 1976, and any device determined to be substantially equivalent to such device which has not been removed from the market by an order of the Secretary or a judicial order because it is not safe or not effective.

"(G) Not later than 270 days after the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997, the Secretary shall issue guidance specifying the general principles that the Secretary will consider in determining when a specific intended use of a device is not reasonably included within a general use of such device for purposes of a determination of substantial equivalence under subsection (f) or section 520(l).".

(d) SUNSET.—The amendments made by subsections (a)(1)(A) and (c)(1), to the extent that they relate to an accredited person under section 712 of the Federal Food, Drug, and Cosmetic Act, shall be of no force or effect upon the expiration of 7 years from the date of the enactment of this Act.

SEC. 208. CLASSIFICATION PANELS.

Section 513(b) (21 U.S.C. 360c(b)) is amended by adding at the end the following:

"(5) Classification panels covering each type of device shall be scheduled to meet at such times as may be appropriate for the Secretary to meet applicable statutory deadlines.

"(6)(A) Any person whose device is specifically the subject of review by a classification panel shall have the same rights as the Secretary regarding—

"(i) access to data and information submitted to a classification panel (except for data and information that are not available for public disclosure under section 552 of title 5, United States Code);

"(ii) the submission, for review by a classification panel, of information that is based on the data or information provided in the application submitted under section 515 by the person, which information shall be submitted to the Secretary for prompt transmittal to the classification panel; and

"(iii) the participation of the persons at meetings of the panel.

"(B) Any meetings of a classification panel shall provide adequate time for initial presentations and for response to any differing views by persons whose devices are specifically the subject of a classification panel review, and shall encourage free and open participation by all interested persons.

"(7) After receiving from a classification panel the conclusions and recommendations of the panel on a matter that the panel has reviewed, the Secretary shall review the conclusions and recommendations, shall make a final decision on the matter in accordance with section 515(d)(2), and shall notify the affected persons of the decision in writing and, if the decision differs from the conclusions and recommendations of the panel, shall include the reasons for the difference.

"(8) A scientific advisory panel under this subsection shall not be subject to the annual chartering and annual report requirements of the Federal Advisory Committee Act.".

SEC. 209. PREMARKET APPROVAL.

Section 515(d) (21 U.S.C. 360e(d)), as amended by section 203(1), is amended by inserting after paragraph (1) the following:

"(2) Each application received under subsection (c) shall be reviewed in a manner to achieve final action on such application within 180 days of its receipt. At the request of the applicant, the Secretary shall meet with an applicant under such an application within 90 days of the date of the application's submission.".

SEC. 210. ACCREDITATION FOR ACCREDITED PERSONS.

(a) AMENDMENT.—Subchapter A of chapter VII is amended by adding at the end the following:

"ACCREDITED PERSONS

"SEC. 712. (a) IN GENERAL.—The Secretary shall, not later than 1 year after the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997, accredit persons for the purpose of reviewing and initially classifying devices under section 513(f)(1) that are subject to a report under section 510(k). An accredited person may not be used to perform a review of a class III device, or a class II device which is intended to be permanently implantable or life sustaining or life supporting.

"(b) ACCREDITATION.—

"(1) PROGRAMS.—The Secretary shall provide for such accreditation through programs administered by the Food and Drug Administration, other government agencies, or by other qualified nongovernment organizations.

"(2) ACCREDITATION.—

"(A) GENERAL RULE.—Not later than 180 days after the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997, the Secretary shall establish and publish in the Federal Register requirements to accredit or deny accreditation to persons who request to perform the duties specified in subsection (a). The Secretary shall respond to a request for accreditation within 60 days of the receipt of the request. The accreditation of such person shall specify the particular activities under subsection (a) for which such person is accredited.

"(B) WITHDRAWAL OF ACCREDITATION.—The Secretary may withdraw accreditation of any person accredited under this paragraph, after providing notice and an opportunity for an informal hearing, when such person acts in a manner that is inconsistent with the purposes of this section or poses a threat to public health or fails to act in a manner that is consistent with the purposes of this section.

"(C) PERFORMANCE AUDITING.—To ensure that persons accredited under this section will continue to meet the standards of accreditation, the Secretary shall—

"(i) make onsite visits on a periodic basis to each accredited person to audit the performance of such person; and

"(ii) take such additional measures as the Secretary determines to be appropriate.

"(D) ANNUAL REPORT.—The Secretary shall include in the annual report required under section 903(e)(2) the names of all accredited persons and the particular activities under subsection (a) for which each such person is accredited and the name of each accredited person whose accreditation has been withdrawn during the year.

"(3) QUALIFICATIONS.—An accredited person shall, at a minimum, meet the following requirements:

"(A) Such person shall be an independent organization which is not owned or controlled by a manufacturer, supplier, or vendor of devices and which has no organizational, material, or financial affiliation with such a manufacturer, supplier, or vendor.

"(B) Such person shall be a legally constituted entity permitted to conduct the activities for which it seeks accreditation.

"(C) Such person shall not engage in the design, manufacture, promotion, or sale of devices.

"(D) Such person shall be operated in accordance with generally accepted professional and ethical business practices and shall agree in writing that as a minimum it will—

"(i) certify that reported information accurately reflects data reviewed;

"(ii) limit work to that for which competence and capacity are available;

"(iii) treat information received, records, reports, and recommendations as proprietary information;

"(iv) promptly respond and attempt to resolve complaints regarding its activities for which it is accredited; and

"(v) protect against the use, in carrying out subsection (a) with respect to a device, of any officer or employee of the person who has a financial conflict of interest regarding the device, and annually make available to the public disclosures of the extent to which the person, and the officers and employees of the person, have maintained compliance with requirements under this clause relating to financial conflicts of interest.

"(4) SELECTION OF ACCREDITED PERSONS.—The Secretary shall provide each person who chooses to use an accredited person to receive a section 510(k) report a panel of at least 2 or more accredited persons from which the regulated person may select 1 for a specific regulatory function.".

(b) CONFORMING AMENDMENT.—Section 301 (21 U.S.C. 331), as amended by section 205(b), is amended by adding at the end the following:

"(z) In the case of a drug, device, or food—

"(1) the submission of a report or recommendation by a person accredited under section 712 that is false or misleading in any material respect;

"(2) the disclosure by a person accredited under section 712 of confidential commercial information or any trade secret without the express written consent of the person who submitted such information or secret to such person; or

"(3) the receipt by a person accredited under section 712 of a bribe in any form or the doing of any corrupt act by such person associated with a responsibility delegated to such person under this Act.".

(c) SUNSET.—The amendments made by subsections (a) and (b) to the extent they relate to an accredited person under section 712 of the Federal Food, Drug, and Cosmetic Act shall be of no force or effect upon the expiration of 7 years from the date of the enactment of this Act.

(d) REPORT.—Not later than 5 years after the date of the enactment of this Act, the Comptroller General of the United States shall report to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the use of accredited persons under section 712 of the Federal Food, Drug, and Cosmetic Act, the extent to which such use was helpful in the implementation of such Act, and the extent to which such use promoted actions which were contrary to the purposes of such Act.

SEC. 211. PREAMENDMENT DEVICES.

Section 515(i) (21 U.S.C. 360e(i)) is amended to read as follows:

"Revision

"(i) Not later than 180 days after the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997, the Secretary shall publish in the Federal Register a list of the types of devices classified into class III under section 513(d), which are not subject to a regulation under subsection (b), and for which the Secretary has determined after classification of such devices that premarket approval is unnecessary to protect the public health. Each such type of device listed in the Federal Register publication shall be reclassified into class II or class I, as appropriate.".

SEC. 212. DEVICE TRACKING.

Subsection (e) of section 519 (21 U.S.C. 360i) is amended to read as follows:

"Device Tracking

"(e) The Secretary may by order require a manufacturer to adopt a method of tracking a class II or class III device—

"(1) the failure of which would be reasonably likely to have serious adverse health consequences; or

"(2) which is—

"(A) intended to be an implantable device, or

"(B) a life sustaining or life supporting device used outside a device user facility.".

SEC. 213. POSTMARKET SURVEILLANCE.

Section 522 (21 U.S.C. 360l) is amended to read as follows:

"POSTMARKET SURVEILLANCE

"SEC. 522. (a) IN GENERAL.—The Secretary may by order require a manufacturer to conduct postmarket surveillance for any device of the manufacturer which is a class II or class III device the failure of which would be reasonably likely to have serious adverse health consequences or which is intended to be—

"(1) an implantable device, or

"(2) a life-sustaining or life-supporting device used outside a device user facility.

"(b) SURVEILLANCE APPROVAL.—Each manufacturer required to conduct a surveillance of a device shall, within 30 days of receiving an order from the Secretary prescribing that the manufacturer is required under this section to conduct such surveillance, submit, for the approval of the Secretary, a plan for the required surveillance. The Secretary, within 60 days of the receipt of such plan, shall determine if the person designated to conduct the surveillance has appropriate qualifications and experience to undertake such surveillance and if such plan will result in information necessary to determine the occurrence of unforeseen events. The Secretary, in consultation with the manufacturer, may by order require a prospective surveillance period of up to 36 months. Any determination by the Secretary that a longer period is necessary shall be made by mutual agreement between the Secretary and the manufacturer or, if no agreement can be reached, after the completion of a dispute resolution process as described in section 506A.".

SEC. 214. HARMONIZATION.

(a) SECTION 520(f).—Section 520(f)(1)(B) (21 U.S.C. 360j(f)(1)(B)) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting "; and" and by adding after clause (ii) the following:

"(iii) ensure that such regulation conforms, to the extent practicable, with internationally recognized standards defining quality systems, or parts thereof, for medical devices.".

(b) SECTION 803.—Section 803 (21 U.S.C. 383), as amended by section 127, is amended in subsection (c)—

(1) by adding at the end the following sentence: "The Secretary shall, not later than 180 days after the date of enactment of the Food and Drug Administration Regulatory Modernization Act of 1997, make public a plan that establishes a framework for achieving mutual recognition of good manufacturing practices inspections.";

(2) by inserting "(1)" after "(c)"; and

(3) by adding at the end the following:

"(2) The Secretary shall report to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate at least 60 days before executing any bilateral or multilateral agreement under paragraph (1).".

SEC. 215. REPORTS.

(a) REPORTS.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "manufacturer, importer, or distributor" and inserting "manufacturer or importer"; and

(B) by striking paragraph (9) and inserting the following:

"(9) shall require distributors to keep records and make such records available to the Secretary upon request.";

(2) by striking subsection (d); and

(3) in subsection (f), by striking ", importer, or distributor" each place it appears and inserting "or importer".

(b) REGISTRATION.—Section 510(g) (21 U.S.C. 360(g)) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by inserting after paragraph (3) the following:

"(4) any distributor who acts as a wholesale distributor of devices, and who does not manufacture, repackage, process, or relabel a device; or"; and

(3) by adding at the end the following flush sentence:

"In this subsection, the term 'wholesale distributor' means any person who distributes a device from the original place of manufacture to the person who makes the final delivery or sale of the device to the ultimate consumer or user.".

(c) DEVICE USER FACILITIES.—

(1) IN GENERAL.—Section 519(b) (21 U.S.C. 360i(b)) is amended—

(A) in paragraph (1)(C)—

(i) in the first sentence, by striking "a semi-annual basis" and inserting "an annual basis";

(ii) in the second sentence, by striking "and July 1"; and

(iii) by striking the matter after and below clause (iv); and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "or" after the comma at the end;

(ii) in subparagraph (B), by striking ", or" at the end and inserting a period; and

(iii) by striking subparagraph (C).

(2) SENTINEL SYSTEM.—Section 519(b) (21 U.S.C. 360i(b)) is amended—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4) the following paragraph:

"(5) With respect to device user facilities that are hospitals or nursing homes:

"(A) The Secretary shall by regulation plan and implement a program under which the Secretary limits user reporting under paragraphs (1) through (4) to a subset of hospitals and nursing homes that constitutes a representative profile of user reports for device deaths and serious illnesses or serious injuries.

"(B) During the period of planning the program under subparagraph (A), paragraphs (1) through (4) continue to apply to such device user facilities.

"(C) During the period in which the Secretary is providing for a transition to the full implementation of the program, paragraphs (1) through (4) apply to such facilities except to the extent that the Secretary determines otherwise.

"(D) On and after the date on which the program is fully implemented, paragraphs (1) through (4) do not apply to such a facility unless the facility is included in the subset referred to in subparagraph (A).

"(E) Not later than one year after the date of the enactment of the Food and Drug Administration Regulatory Modernization Act of 1997, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the plan developed by the Secretary under subparagraph (A) and the progress that has been made toward the implementation of the plan.".

SEC. 216. PRACTICE OF MEDICINE.

Chapter IX, as amended by section 126, is amended by adding at the end the following:

"SEC. 909. PRACTICE OF MEDICINE.

"Nothing in this Act shall be construed to limit or interfere with the authority of a health care practitioner to prescribe or administer any legally marketed device to a patient for any condition or disease within a legitimate health care practitioner-patient relationship. This section shall not limit any existing authority of the Secretary to establish and enforce restrictions on the sale or distribution, or in the labeling, of a device that are part of a determination of substantial equivalence, established as a condition of approval, or promulgated through regulations. Further, this section shall not change any existing prohibition on the promotion of unapproved uses of legally marketed devices.".

SEC. 217. CLARIFICATION OF DEFINITION.

Section 201(h) (21 U.S.C. 321) is amended by adding at the end the following: "A computer software product shall not be considered a device under this paragraph solely on the basis that the primary use of such product is related to the provision of health care.".

SEC. 218. LABELING AND ADVERTISING REGARDING COMPLIANCE WITH STATUTORY REQUIREMENTS.

Section 301 (21 U.S.C. 331) is amended by striking paragraph (l).

SEC. 219. FDA ANNUAL REPORT.

Section 903 (21 U.S.C. 393), as amended by section 123(b), is amended in subsection (e)—

(1) by striking the period at the end of paragraph (4) and inserting "; and"; and

(2) by adding at the end the following:

"(5) summarize and explain each instance in the previous fiscal year in which an application received under section 515(c) was not reviewed in a manner to achieve final action on such application within 180 days of its receipt.".

SEC. 220. INFORMATION SYSTEM.

Section 906, as added by section 124, is amended by adding at the end the following: "With respect to devices, the system shall permit access by the applicant under conditions specified by the Secretary.".

SEC. 221. NONINVASIVE BLOOD GLUCOSE METER.

(a) FINDINGS.—The Congress finds that—

(1) diabetes and its complications are a leading cause of death by disease in America;

(2) diabetes affects approximately 16,000,000 Americans and another 650,000 will be diagnosed in 1997;

(3) the total health care-related costs of diabetes total nearly $100,000,000,000 per year;

(4) diabetes is a disease that is managed and controlled on a daily basis by the patient;

(5) the failure to properly control and manage diabetes results in costly and often fatal complications including but not limited to blindness, coronary artery disease, and kidney failure;

(6) blood testing devices are a critical tool for the control and management of diabetes, and existing blood testing devices require repeated piercing of the skin;

(7) the pain associated with existing blood testing devices creates a disincentive for people with diabetes to test blood glucose levels, particularly children;

(8) a safe and effective noninvasive blood glucose meter would likely improve control and management of diabetes by increasing the number of tests conducted by people with diabetes, particularly children; and

(9) the Food and Drug Administration is responsible for reviewing all applications for new medical devices in the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the availability of a safe, effective, noninvasive blood glucose meter would greatly enhance the health and well-being of all people with diabetes across America and the world.

SEC. 222. RULE OF CONSTRUCTION.

Nothing in this title or the amendments made by this title shall be construed to affect the question of whether the Secretary of Health and Human Services has any authority to regulate any tobacco product, tobacco ingredient, or tobacco additive. Such authority, if any, shall be exercised under the Federal Food, Drug, and Cosmetic Act as in effect on the day before the date of the enactment of this Act.

TITLE III—IMPROVING REGULATION OF FOOD

SEC. 301. FLEXIBILITY FOR REGULATIONS REGARDING CLAIMS.

Section 403(r)(4) (21 U.S.C. 343(r)(4)) is amended by adding at the end the following:

"(D) Subject to the time period in the last sentence of clause (A)(i), proposed regulations under this paragraph may be made effective upon publication at the discretion of the Secretary, notwithstanding the provisions of section 553 of title 5, United States Code, pending consideration of public comment and publication of a final regulation. Such regulations shall be deemed final agency action for purposes of judicial review.".

SEC. 302. PETITIONS FOR CLAIMS.

Section 403(r)(4)(A)(i) (21 U.S.C. 343(r)(4)(A)(i)) is amended—

(1) by adding after the second sentence the following: "If the Secretary does not act within such 100 days, the petition shall be deemed to be denied unless an extension is mutually agreed upon by the Secretary and the petitioner.";

(2) in the fourth sentence (as amended by paragraph (1)) by inserting immediately before the comma the following: "or the petition is deemed to be denied"; and

(3) by adding at the end the following: "If the Secretary does not act within such 90 days, the petition shall be deemed to be denied unless an extension is mutually agreed upon by the Secretary and the petitioner. If the Secretary issues a proposed regulation, the rulemaking shall be completed within 540 days of the date the petition is received by the Secretary. If the Secretary does not issue such a proposed regulation within such 540 days, the Secretary shall provide the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the reasons action on the proposed regulation did not occur within such 540 days.".

SEC. 303. HEALTH CLAIMS FOR FOOD PRODUCTS.

Section 403(r)(3) (21 U.S.C. 343(r)(3)) is amended by adding at the end thereof the following:

"(C) Notwithstanding the provisions of clauses (A)(i) and (B), a claim of the type described in subparagraph (1)(B) which is not authorized by the Secretary in a regulation promulgated in accordance with clause (B) shall be authorized and may be made with respect to a food if—

"(i) a scientific body of the United States Government with official responsibility for public health protection or research directly relating to human nutrition (such as the National Institutes of Health or the Centers for Disease Control and Prevention) or the National Academy of Sciences or any of its subdivisions has published an authoritative statement, which is currently in effect, about the relationship between a nutrient and a disease or health-related condition to which the claim refers;

"(ii) a person has submitted to the Secretary, at least 150 days (during which the Secretary may issue a regulation described in subparagraph (4)(D) and may notify any person who is making a claim as authorized by clause (C) that such person has not submitted all the information required by such clause) before the first introduction into interstate commerce of the food with a label containing the claim, (I) a notice of the claim, which shall include the exact words used in the claim and shall include a concise description of the basis upon which such person relied for determining that the requirements of subclause (i) have been satisfied, (II) a copy of the statement referred to in subclause (i) upon which such person relied in making the claim, and (III) a balanced representation of the scientific literature, including a bibliography of such literature, relating to the relationship between a nutrient and a disease or health-related condition to which the claim refers;

"(iii) the claim and the food for which the claim is made are in compliance with clause (A)(ii) and are otherwise in compliance with paragraph (a) and section 201(n); and

"(iv) the claim is stated in a manner so that the claim is an accurate representation of the authoritative statement referred to in subclause (i) and so that the claim enables the public to comprehend the information provided in the claim and to understand the relative significance of such information in the context of a total daily diet.

For purposes of this clause, a statement shall be regarded as an authoritative statement of a scientific body described in subclause (i) only if the statement is published by the scientific body and shall not include a statement of an employee of the scientific body made in the individual capacity of the employee.

"(D) A claim submitted under the requirements of clause (C) may be made until—

"(i) such time as the Secretary issues a regulation (including a regulation described in subparagraph (4)(D)) under the standard in clause (B)(i)—

"(I) prohibiting or modifying the claim and the regulation has become effective, or

"(II) finding that the requirements of clause (C) have not been met, including finding that the petitioner has not submitted all the information required by such clause; or

"(ii) a district court of the United States in an enforcement proceeding under chapter III has determined that the requirements of clause (C) have not been met.".

SEC. 304. NUTRIENT CONTENT CLAIMS.

Section 403(r)(2) (21 U.S.C. 343(r)(2)) is amended by adding at the end the following:

"(G) A claim of the type described in subparagraph (1)(A) for a nutrient, for which the Secretary has not promulgated a regulation under clause (A)(i), shall be authorized and may be made with respect to a food if—

"(i) a scientific body of the United States Government with official responsibility for public health protection or research directly relating to human nutrition (such as the National Institutes of Health or the Centers for Disease Control and Prevention) or the National Academy of Sciences or any of its subdivisions has published an authoritative statement, which is currently in effect, which identifies the nutrient level to which the claim refers;

"(ii) a person has submitted to the Secretary, at least 150 days (during which the Secretary may issue a regulation described in subparagraph (4)(D) and may notify any person who is making a claim as authorized by clause (C) that such person has not submitted all the information required by such clause) before the first introduction into interstate commerce of the food with a label containing the claim, (I) a notice of the claim, which shall include the exact words used in the claim and shall include a concise description of the basis upon which such person relied for determining that the requirements of subclause (i) have been satisfied, (II) a copy of the statement referred to in subclause (i) upon which such person relied in making the claim, and (III) a balanced representation of the scientific literature, including a bibliography of such literature, relating to the nutrient level to which the claim refers;

"(iii) the claim and the food for which the claim is made are in compliance with clauses (A) and (B), and are otherwise in compliance with paragraph (a) and section 201(n); and

"(iv) the claim is stated in a manner so that the claim is an accurate representation of the authoritative statement referred to in subclause (i) and so that the claim enables the public to comprehend the information provided in the claim and to understand the relative significance of such information in the context of a total daily diet.

For purposes of this clause, a statement shall be regarded as an authoritative statement of a scientific body described in subclause (i) only if the statement is published by the scientific body and shall not include a statement of an employee of the scientific body made in the individual capacity of the employee.

"(H) A claim submitted under the requirements of clause (G) may be made until—

"(i) such time as the Secretary issues a regulation (including a regulation described in subparagraph (4)(D))—

"(I) prohibiting or modifying the claim and the regulation has become effective, or

"(II) finding that the requirements of clause (G) have not been met, including finding that the petitioner had not submitted all the information required by such clause; or

"(ii) a district court of the United States in an enforcement proceeding under chapter III has determined that the requirements of clause (G) have not been met.".

SEC. 305. REFERRAL STATEMENTS.

Section 403(r)(2)(B) (21 U.S.C. 343(r)(2)(B)) is amended to read as follows:

"(B) If a claim described in subparagraph (1)(A) is made with respect to a nutrient in a food, and the Secretary makes a determination that the food contains a nutrient at a level that increases to persons in the general population the risk of a disease or health-related condition that is diet related, then the label or labeling of such food shall contain, prominently and in immediate proximity to such claim, the following statement: 'See nutrition information for ____ content.' The blank shall identify the nutrient associated with the increased disease or health-related condition risk. In making the determination described in this clause, the Secretary shall take into account the significance of the food in the total daily diet.".

SEC. 306. DISCLOSURE OF IRRADIATION.

Chapter IV (21 U.S.C. 341 et seq.) is amended by inserting after section 403B the following:

"DISCLOSURE

"SEC. 403C. (a) No provision of section 201(n), 403(a), or 409 shall be construed to require on the label or labeling of a food a separate radiation disclosure statement that is more prominent than the declaration of ingredients required by section 403(i)(2).

"(b) In this section, the term 'radiation disclosure statement' means a written statement or symbol that discloses that a food has been intentionally subject to radiation.".

SEC. 307. IRRADIATION PETITION.

Not later than 60 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall—

(1) make a final determination on any petition pending with the Food and Drug Administration that would permit the irradiation of red meat under section 409(b)(1) of the Federal Food, Drug, and Cosmetic Act; or

(2) provide the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate an explanation of the process followed by the Food and Drug Administration in reviewing the petition referred to in paragraph (1) and the reasons action on the petition was delayed.

SEC. 308. GLASS AND CERAMIC WARE.

(a) IN GENERAL.—The Secretary may not implement any requirement which would ban, as an unapproved food additive, lead and cadmium based paints in the lip and rim area of glass and ceramic ware before the expiration of one year after the date such requirement is published.

(b) LEAD AND CADMIUM BASED PAINT.—Lead and cadmium based paint may not be banned as an unapproved food additive if it is on glass and ceramic ware—

(1) which has less than 60 millimeters of decorating area below the external rim; and

(2) which is not, by design, representation, or custom of usage intended for use by children.

SEC. 309. FOOD CONTACT SUBSTANCES.

(a) FOOD CONTACT SUBSTANCES.—Section 409(a) (21 U.S.C. 348(a)) is amended—

(1) in paragraph (1)—

(A) by striking "subsection (i)" and inserting "subsection (j)"; and

(B) by striking at the end "or";

(2) by striking the period at the end of paragraph (2) and inserting "; or";

(3) by inserting after paragraph (2) the following:

"(3) in the case of a food additive that is a food contact substance, there is—

"(A) in effect for such substance a regulation issued under this section prescribing the conditions under which such substance may be safely used and such substance and the use of such substance are in conformity with such regulation; or

"(B) a notification submitted under subsection (h) that is in effect."; and

(4) in the flush matter following paragraph (3) (as added by paragraph (3)), by inserting "or notification" after "regulation" each place it appears.

(b) NOTIFICATION FOR FOOD CONTACT SUBSTANCES.—Section 409 (21 U.S.C. 348), as

amended by subsection (a), is further amended—

(1) by redesignating subsections (h) and (i), as subsections (i) and (j), respectively;

(2) by inserting after subsection (g) the following:

"Notification Relating to a Food Contact Substance

"(h)(1) Subject to such regulations as may be promulgated under paragraph (3), a person manufacturing or supplying a food contact substance may, at least 120 days prior to the introduction or delivery for introduction into interstate commerce of the food contact substance, notify the Secretary of the—

"(A) name of the person;

"(B) identity and intended use of the food contact substance; and

"(C) determination of the person that the intended use of such food contact substance is safe under the standard described in subsection (c)(3)(A).

The notification shall contain the information that forms the basis of the determination and all information required to be submitted by regulations promulgated by the Secretary.

"(2)(A) A notification submitted under paragraph (1) shall become effective 120 days after the date of receipt by the Secretary and the food contact substance may be introduced or delivered for introduction into interstate commerce, unless, within the 120-day period, the Secretary—

"(i) makes a determination that, based on the data and information before the Secretary, such use of the food contact substance has not been shown to be safe under the standard described in subsection (c)(3)(A), or

"(ii) makes a determination under paragraph (3) with respect to the need for a petition under subsection (b) for such food contact substance,

and informs the person of such determination.

"(B) A determination by the Secretary under subparagraph (A)(i) shall constitute final agency action subject to judicial review.

"(C) A notification under this subsection shall be effective only with respect to the person identified in the notification.

"(3)(A) The notification process in this subsection shall be utilized for authorizing the marketing of a food contact substance except where the Secretary determines that submission and review of a petition under subsection (b) is necessary to provide adequate assurance of safety, or where the Secretary and the person manufacturing or supplying the food contact substance agree that such person should submit a petition under subsection (b).

"(B) The Secretary may promulgate regulations to identify the circumstances in which a petition shall be filed under subsection (b) and shall consider criteria such as the probable consumption of a food contact substance and potential toxicity of the food contact substance in determining the circumstances in which a petition shall be filed under subsection (b) with respect to the food contact substance.

"(4) The Secretary shall keep confidential any information provided in a notification under paragraph (1) for 120 days after receipt by the Secretary of the notification. After the expiration of such 120 days, the information shall be available to any interested party except for any matter in the notification that is a trade secret or confidential commercial information.

"(5) In this section, the term 'food contact substance' means any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.";

(3) in subsection (i), as so redesignated by paragraph (1), by adding at the end the following: "The Secretary shall by regulation prescribe the procedure by which the Secretary may deem a notification under subsection (h) to be no longer in effect."; and

(4) in subsection (j), as so redesignated by paragraph (1), by striking "subsections (b) to (h)" and inserting "subsections (b) to (i)".

(c) EFFECTIVE DATE.—Notifications under section 409(h) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (b), may be submitted beginning 18 months after the date of enactment of this Act.

SEC. 310. MARGARINE.

(a) SECTION 301(m).—Paragraph (m) of section 301 (21 U.S.C. 331) is amended by striking "section 407(b) or 407(c)" and inserting "section 407".

(b) SECTION 407.—Section 407 (21 U.S.C. 347) is amended to read as follows:

"OLEOMARGARINE AND MARGARINE

"SEC. 407. No person shall sell, or offer for sale, oleomargarine or colored margarine unless the principal display panel of such oleomargarine or margarine bears as one of its principal features the word 'oleomargarine' or 'margarine' which is in—

"(1) bold type on such panel;

"(2) a size reasonably related to the most prominent printed matter; and

"(3) lines generally parallel to the base on which the package rests as it is designed to be displayed.".

(c) ACT OF MARCH 16, 1950.—Sections 3(a) and 6 of the Act of March 16, 1950 (21 U.S.C. 347a, 347b) are repealed.

SEC. 311. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BLILEY] and the gentleman from Michigan [Mr. DINGELL] each will control 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, if my colleagues had told me 3 years ago that FDA modernization would come before the House on the suspension calendar, well, I would have asked them to see their doctor. Yet, here we are.

Today brings to an end almost 3 years of work by the Committee on Commerce. When the committee first discussed the need to modernize the FDA in 1995, we knew that outdated rules were slowing down the vital work of the FDA and that patients were the ones who were suffering.

Vital new medicines and medical devices were not getting to the patients who needed them as quickly as they should. As I said back then, it breaks my heart to see American patients having to go overseas to get medicines and medical devices they need to stay alive.

Congress had to act. But it had to act wisely, with prudence and with balance, because the work of the FDA is just too important to do otherwise. That is why our committee launched what I believe was an unprecedented outreach effort. Literally thousands of hours were devoted to reaching out to all corners of the country on this issue.

Our FDA reform team spoke to patients, to medical specialists, to researchers, and to consumer groups. We held 17 hearings over the last 3 years. We compiled more than 2,000 pages of testimony. Our goal then and our goal now was balanced, well-reasoned legislation, legislation that the President would be eager to sign, legislation that honored the medical oath, "First do no harm."

We have fulfilled our objectives. Last year we produced a package of legislative proposals that have been hailed from all quarters as balanced and reasonable in their approach. Two of the three bills were unanimously reported by the committee. The third was approved by a voice vote.

These are the bills that have been consolidated into the measure before us today: H.R. 1411, the Prescription Drug User Fee Reauthorization and Drug Regulatory Modernization Act of 1997, which is contained as title I of this bill; H.R. 1710, the Medical Device Regulatory Modernization Act of 1997, which is title II; and H.R. 2469, the Food and Nutrition Information Reform of 1997, which is title III.

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All three of these measures prove, once again, that men and women of goodwill working together can bridge differences. When we put the interests of the American people first, there is nothing that can keep us apart. We have done our homework, we have reached our objectives. We have built a stronger, better, more efficient FDA. We have enhanced the safety of the medicines we take, the food we feed our children, and we are going to help a lot of people.

Medicines will be approved faster and medical devices will get to people sooner, and those with serious and life-threatening diseases will get access to the best experimental new drugs that modern medicine can provide. That is important, Mr. Speaker, because when we are sick, when we are suffering, every minute counts.

Some of my colleagues deserve special praise and thanks. Their work on

this issue has been tireless, and the credit for this legislation belongs to them, the members of our FDA reform team: the gentleman from Florida [Mr. BILIRAKIS], chairman of our Subcommittee on Health and Environment, along with the gentleman from Pennsylvania [Mr. GREENWOOD], the gentleman from North Carolina [Mr. BURR], the gentleman from Texas [Mr. BARTON], the gentleman from Wisconsin [Mr. KLUG], and the gentleman from Kentucky [Mr. WHITFIELD].

I want to reach across the aisle, too, to thank our friends the gentlewoman from California [Ms. ESHOO], the gentleman from New York [Mr. TOWNS] and the gentleman from Texas [Mr. HALL], and I would like to thank our ranking members, the gentleman from Michigan [Mr. DINGELL] and the gentleman from Ohio [Mr. BROWN], for their invaluable contributions to this effort. My colleagues should all be proud of a job very well done. The American people thank them, and I do too.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, this is an excellent piece of legislation. I strongly urge my colleagues on both sides of the aisle to support it. I believe it should be adopted and should be signed. It represents some remarkable work in terms of bipartisanship by my good friend, the gentleman from Virginia [Mr. BLILEY], by the ranking member of the subcommittee, by the distinguished chairman of the subcommittee, and by a lot of other Members who have worked very hard on this.

The legislation would extend the Prescription Drug User Fee Act, which has resulted in some enormous advances in terms of the functioning of FDA user fees, which have been wise and right. That is a program which has worked well. Today, virtually all drugs and biological products are reviewed in a year or less. Priority drugs for serious illnesses, drugs that represent true clinical breakthroughs, can be reviewed in 6 months or less.

The entire pharmaceutical industry joins with FDA in supporting this program, and when that happens, we know that we have a winner. This program is indeed a winner, because we have witnessed the continued quality of drugs coming from FDA review, both in terms of safety and consumer protections, and they are a monument to the speedy and careful work now possible to be done by an adequately staffed FDA in this area.

The bill contains reforms in medical device regulation. I am especially pleased that a number of these concerns represent actions suggested by the Committee on Commerce's Subcommittee on Oversight and Investigation's 1993 report, ''Less Than the Sum of Its Parts.''

One of the important things accomplished during the negotiations on the medical device portions of the legislation was development of provisions that allow improvements in efficiency and reduce regulatory requirements while maintaining strong public health protection. The bill's sponsors responsibly and carefully negotiated a number of difficult compromises to assure patient safety would not be jeopardized in a careless attempt to speed up market clearance and approval of products. I believe that these provisions strike a difficult but important balance.

Finally, Mr. Speaker, the bill includes provisions for modifications in food labeling requirements that will help consumers to get access to good information more easily and more quickly.

In total and on balance, we have a good piece of legislation before us today. Members of the committee have worked closely together, and I want to thank the gentleman from Virginia [Mr. BLILEY], the chairman of the committee, and the gentleman from Florida [Mr. BILIRAKIS], the chairman of the subcommittee, for their courtesies to me and other Democratic members of the committee.

The staffs of the committee have worked closely together: Howard Cohen, Rodger Currie, Eric Berger, and Kay Holcombe, who will be, I regret to inform the House, leaving the committee staff at the conclusion of this Congress. They deserve particular thanks for bringing us to this point; also, the gentlewoman from California [Ms. ESHOO] and others who have worked so hard to make this possible deserve the appreciation of the committee and of the Congress.

I strongly urge my colleagues on both sides of the aisle to support this legislation. It is good legislation, it serves the public interests, it moves forward the regulatory process, and it serves the interests of the consuming public.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. BILIRAKIS], the chairman of the subcommittee.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, today the House is considering landmark legislation which will streamline the drug approval process, provide safer foods to our citizens, and address critical problems in the approval of medical devices.

On September 17, the Subcommittee on Health and Environment approved all three FDA bills by voice vote. On September 25, the full Committee on Commerce approved the drug and food bills by a vote of 43 to zero, and the device bill by voice vote the following day.

In the ensuing days, a small number of outstanding issues were diligently and successfully resolved following bipartisan discussion between Chairman BLILEY and myself, other interested members of the majority, the distinguished ranking member, the gentleman from Michigan, Mr. DINGELL, the gentleman from California, Mr. WAXMAN, and other concerned members of the minority.

As Members may be aware, at the end of last week Chairman BLILEY and the gentleman from Michigan, Mr. DINGELL, coauthored a memo to all members of the Committee on Commerce informing them that these issues had been successfully resolved and that the legislation would be placed on the Suspension Calendar. Since that time, the three reported FDA reform bills, H.R. 1411, H.R. 1710 and H.R. 2469, were consolidated into the substitute version of H.R. 1411. This morning in a bipartisan ''Dear Colleague'' letter, Chairman BLILEY and the gentleman from Michigan, Mr. DINGELL, urged all Members to support the consolidated bill that is now before the House.

In short, the drafting, negotiations and markup of this legislation have been a shining example of what can be accomplished in the spirit of bipartisanship and cooperation among Members.

The foundation of these bills was developed during the last Congress. For those of my colleagues who may not remember, both Republican and Democrat members of the Committee on Commerce sat shoulder-to-shoulder with the FDA on the legislative package to modernize the agency, and while our committee never actually marked up this legislation, these discussions laid the groundwork for the bill we are considering today.

This has been an open process, one which has been open to anyone who is interested in FDA reform. Since the beginning of the 104th Congress, the Committee on Commerce conducted 17 separate formal hearings on FDA reform and FDA-related issues, which represented 72 hours and 44 minutes and 2,094 pages of testimony.

In addition, members of the committee and their staffs have met with patient and consumer groups, medical consumer groups, manufacturers, the FDA and others who are interested in FDA reform. We have had an open door policy throughout the process, and the fact that this bill was placed on the Suspension Calendar with the full support of the gentleman from Michigan [Mr. DINGELL] is a reflection of our success.

There are many, Mr. Speaker, who deserve credit for bringing this legislation before the House. First I want to thank the gentleman from Pennsylvania [Mr. GREENWOOD], who took the time to educate himself and other Members on complex FDA issues. He

played a key role in developing this bill. I want to thank the gentleman from North Carolina [Mr. BURR] for his willingness to sponsor the drug reform legislation. His bill will accomplish an important goal: Improving the drug approval process.

The gentleman from Wisconsin [Mr. KLUG], along with the gentleman from Kentucky [Mr. WHITFIELD], the gentleman from Texas [Mr. HALL], and the gentleman from New York [Mr. TOWNS] have been leaders in reforming food laws.

The gentleman from Texas [Mr. BARTON] and the gentlewoman from California [Ms. ESHOO] have dedicated time and energy to writing a bipartisan medical device bill. Both have been successful in crafting a bill which is considered reasonable and responsible by both Members of Congress and industry.

Finally, I want to thank our full committee chairman, the gentleman from Virginia [Mr. BLILEY], the subcommittee ranking member, the gentleman from Ohio [Mr. BROWN], and the full committee ranking member, the gentleman from Michigan [Mr. DINGELL]. We are considering FDA reform today due to their willingness to work out the details of this legislation with the administration and the FDA.

And of course I also appreciate the support this process has received from both HHS Secretary Donna Shalala and the acting FDA Commissioner, Dr. Michael Friedman. Their leadership and cooperation helped us achieve our ultimate goal of considering practical and thoughtful FDA reform legislation.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

Our first goal must be to ensure that patients have access to safe and effective new products as quickly as humanly and scientifically possible. While this bill continues to include some provisions that give me pause, I also believe it includes provisions that are workable, positive and contribute to the goal of ensuring an FDA operation that works in the best interests of its most important customers: Patients.

Nevertheless, as we proceed with this discussion I think it is important to put a few facts in perspective. Many have argued that FDA reform is essential because new and improved drugs and medical devices are not reaching American patients quickly enough. The facts simply do not bear this out.

For example, through FDA's own management initiatives and without any change in legislation, FDA's Center for Devices has overhauled its operations and dramatically improved its review times for new products. Further, I think the majority of medical device manufacturers will agree that the center is more user-friendly and efficient than ever before. I hope as we proceed to conference with this legislation we will look carefully at provisions relating to medical devices to ensure that we are not increasing requirements for FDA in a way that will set back the progress that has been made.

One of the most important provisions included in this legislation is the reauthorization of the Prescription Drug User Fee program. PDUFA has provided the agency with the resources it clearly needed to allow it to continue to be the world leader in the review and the approval of new drugs. If there were one single reason for the House to pass this bill, drug user fees is that reason.

I am pleased the legislation includes some process improvements related to FDA's regulation of generic drugs. While these products are not the breakthrough miracle drugs we read about in headlines, generic drugs are small miracles to millions of elderly patients, especially those living on fixed incomes, who depend on these alternatives which many times are vastly less expensive than brand name products. Generic products generally save billions of dollars in health care costs.

I was disappointed that the bill did not go further in addressing what I believe are several difficult problems related to the review of generic drugs: Frivolous citizen petitions filed by lawyers representing the large drug companies which divert resources and slow the approval of generic alternatives. I hope we can continue to work on these matters, perhaps in the context of future legislation.

I remain concerned about provisions in the bill that allow manufacturers to distribute information about off-label uses of their products. I am not convinced by the arguments that this kind of system is necessary for physicians to have the information they need to treat patients, especially given the companies' financial interest in promoting their products. I will closely monitor this program to determine whether it, in fact, is in the best interests of patients, or simply serves to enrich drug and device companies.

Mr. Speaker, FDA is a remarkably effective agency. I have never been persuaded that massive changes in laws were needed to correct any dreadful problem lurking under the surface, but working with the gentleman from Virginia [Mr. BLILEY], the gentleman from Florida [Mr. BILIRAKIS], the gentleman from Michigan [Mr. DINGELL], and the gentlewoman from California [Ms. ESHOO], I am pleased that this legislation focuses more on modernizing than completely overhauling this very good public agency.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume to point out that not with us this morning is the gentleman from Pennsylvania [Mr. GREENWOOD], whose father underwent bypass surgery yesterday, and I know all of us will want to have him in our prayers.

With that, I yield 3 minutes to the gentleman from North Carolina [Mr. BURR].

Mr. BURR of North Carolina. Mr. Speaker, I thank the gentleman from Virginia [Mr. BLILEY], and I thank the gentleman from Florida [Mr. BILIRAKIS], the gentleman from Michigan [Mr. DINGELL], the ranking member, and the gentleman from Ohio [Mr. BROWN]. Without their leadership we would not be here today talking about reform of this crucial agency.

I was fortunate in the 104th Congress to be with a group of individuals committed and focused on FDA reform: The gentleman from Pennsylvania [Mr. GREENWOOD], the gentleman from Wisconsin [Mr. KLUG], and the gentleman from Texas [Mr. BARTON], and I truly believe that that was the real impetus behind our success that we are here to put into law today. Without their focus, and the addition of the gentlewoman from California [Ms. ESHOO] and the gentleman from Kentucky [Mr. WHITFIELD], we might not have completed this task, and I am grateful for their commitment.

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I also realize that this has been a taxing process, one that we could not have completed without Howard Cohen, Eric Berger, Rodger Currie, and Kay Holcombe, staff members who devoted countless hours to the changes that Members sought in this very crucial piece of legislation.

This is extraordinary to have H.R. 1411 on the floor, because today is about one thing and one thing only. It is about patients. It is about patients' access to safe, technologically superior, and affordable medical treatment.

Mr. Speaker, throughout the past 2 years I have compiled countless stories of patients and their experience with the Food and Drug Administration. I remember Lissy Mahler from Lansing, NC, who, after trying everything available at the time, sought an investigational treatment therapy for her cancer. The investigational therapy improved the quality of her life and may have prolonged her life.

And there was Frances Swaim, who wrote me as an elderly mother of a child with multiple sclerosis and said, "Congressman, the only thing I ask is that you change the Food and Drug Administration so that drugs I know are available other places might be approved so my daughter, and others, can in fact benefit with their quality of life."

Countless patients across this country have visited my office. I remember the day that Steve Seigel came in to

talk about Mary Jo's cancer and about the struggle that she went through and the belief that the FDA, to her, had no human face. What have we done over the past 2½ years? We have placed a human face on the FDA and a human face on patients, and for Mary Jo, her dream has become reality.

Mr. Speaker, I also realize that many of the people who visited my office this year will not be back next year because we have not done it quick enough. But it is important that we understand that now is the time for Congress and the Food and Drug Administration to work together to make the changes, to make sure that as the American people cross that "Bridge to the 21st Century," that we do not look back at the FDA, that in fact they go across with us.

FDA modernization is not radical, it is responsible. It is not senseless, it is safe. I urge my colleagues today to remember that in fact passage of this legislation is about patients and their quality of life.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, title II of the legislation we are going to vote on today was known as H.R. 1710, the Medical Device Regulatory Modernization Act, sponsored by the gentleman from Texas [Mr. BARTON] and myself.

My colleague from Texas and I have worked very, very hard to craft a bill that can and should be broadly supported by the full House today. I salute the gentleman from Texas for his work on the bill and his commitment to making it a bipartisan effort.

Mr. Speaker, I also want to salute the gentleman from Virginia [Mr. BLILEY], the distinguished chairman of the Committee on Commerce; the gentleman from Florida [Mr. BILIRAKIS], the distinguished chairman of the Subcommittee on Health and Environment; the gentleman from Michigan [Mr. DINGELL], our very distinguished ranking member; and the gentleman from Ohio [Mr. BROWN]. Together I think that we have produced something that we can all be proud of.

Mr. Speaker, H.R. 1710 passed the Subcommittee on Health and Environment and the full Committee on Commerce by a voice vote, and the bill enjoyed almost 150 bipartisan cosponsors.

This bill provides the FDA with new authority to recognize performance standards and initially classify devices according to risk. Patients will get greater access. And I want to underscore that, it is so important to the American people. They have greater access to investigational devices and access to devices that will benefit small numbers of people, much like the successful Orphan Drug Program.

The bill provides companies with the opportunity to meet with the FDA to resolve their differences and focus their research early in the review process. In short, Mr. Speaker, this legislation will help move the FDA into the next century.

Mr. Speaker, the bill improves current law by focusing FDA's review process for 510(k) applications, which is the process by which lower risk devices get cleared by the FDA for marketing.

To address concerns raised by the Agency that the bill was too restrictive on their ability to look at the intended use of the device not listed on the proposed label, the bill allows for very narrow circumstances under which the Agency could seek information beyond the label. Decisions to look beyond the label will be made by senior Agency officials, not individual reviewers, and are clearly intended to be the exception rather than the rule. FDA supported this.

Mr. Speaker, the bill amends the FDA's current process for postmarket surveillance and replaces it with authority requiring surveillance of high-risk devices for 3 years, allowing for surveillance periods of even longer periods of time if agreed to by the FDA and the manufacturer. This provision, too, was fully supported by the FDA.

I also want to point out a section of the bill dealing with outside reviewers, so my colleagues are clear on what the bill proposes. We have exempted all class III devices from outside review. We have exempted any class II device that is implantable, life-supporting, or life-sustaining from outside review. If there is a device for which FDA believes no qualified third party review exists, then the Agency will not have to accredit such an entity.

In closing, Mr. Speaker, I want to thank some very key people from our respective staffs that have worked so hard to make sure that this legislation would move forward. In particular, I want to salute Kay Holcombe, Howard Cohen, Rodger Currie, and Eric Berger of the committee staff, Beth Hall of the staff of the gentleman from Texas [Mr. BARTON], and Bill Bates of my own. He has aged considerably from being a very young man at the beginning of this process to this moment.

Mr. Speaker, all of these individuals brought forward their commitment to us to bring forward a bill that we could be proud of, that would deserve and enjoy bipartisan support, and, most of all, benefit the American people by the benefit of what the industry can bring forward in this country.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. WHITFIELD].

Mr. WHITFIELD. Mr. Speaker, I thank the gentleman from Virginia [Mr. BLILEY] very much for the leadership that he has provided in this effort today, and I certainly want to commend both sides of the aisle as they worked very hard together. I also want to emphasize the importance of the staff and all of the long hours that they put in on this legislation.

H.R. 2469 passed the Committee on Commerce by a vote of 43 to 0. It is a bill that is going to help us streamline the processing of petitions at FDA. This is a modest first step in our efforts to streamline the Nutrition Labeling and Education Act of 1990. But the changes will provide FDA with additional flexibility as it processes petitions filed at the Agency, provide alternative petition methods for health and nutrient claims, if claims meet the significant scientific standard, and I want to emphasize that that standard is maintained.

This legislation will place a statutory deadline for FDA to complete action on petitions and will address the first amendment problem raised in the Federal court case of The Nutritional Health Alliance versus Shalala. FDA will be required to complete its actions on petitions within 540 days. This is a more liberal standard for FDA than the nonbinding 270-day limitation it placed on itself in response to the Nutritional Health Alliance case I just mentioned.

Of course, many Members wanted to do more, particularly in the area of national uniformity for labeling standards. But as I stated earlier, this is an important first step, and I want to commend all of those who were involved in this legislation.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, the bill we have before us today is the product of a long and intense period of negotiation between people with very different views of the FDA, how it works today, and how it should do its job in the future.

It is a compromise and one that probably makes no one completely happy, but it is a good faith effort to find a common ground so that we could move legislation forward in a timely way to reauthorize what has been one of the most successful programs we have to help the FDA do its job and do it better and faster. That is known as the Prescription Drug User Fee Program, also PDUFA.

It is a program with broad support by industry and the Agency and one that has been widely acknowledged as working and working extremely well. It has led to faster approval of drugs with no diminution of the thoroughness or scope of the review. Throughout the process, it has been the primary goal of every party of this debate to find legislation that could be broadly supported and achieve this reauthorization.

If I were writing the legislation, it would be a very different product than we have before us today. I would not authorize off-label use of drugs or third party review of devices, for example. I would not weaken the FDA authority to fully review devices for all likely

uses, and I firmly believe that over the long run, we will regret that we have changed FDA law in this way.

But, Mr. Speaker, I recognize the broad interest in this body and in the Senate in trying out these changes, and I recognize that the FDA negotiated many protections in the way the off-label provisions would work and that the demonstration of third party review of devices is now considerably more limited than when this debate started.

Most particularly, I recognize that we have provided for a sunset of each of these experimental provisions so that all of us will have an opportunity to understand how they have worked and reconsider them, if necessary. To me, that is a critical aspect of these bills.

Mr. Speaker, I am particularly pleased to see provisions in the bill which expand the clinical trial data base which I think can be helpful to many people around the country dealing with many serious and life-threatening diseases.

I join in supporting this legislation, and will have a further statement in the RECORD.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, at the start of the last Congress, consumers were unhappy with the FDA, the medical community was unhappy with the FDA, patient groups were unhappy with the FDA. I would think if we took a poll within the FDA, many of the FDA employees were unhappy with the FDA. It was so bad that at my first hearing on the FDA, I said that FDA stood for "Foot Dragging and Alibis."

Mr. Speaker, because of the hearings we had in this Congress and in the last Congress, we have before us today a bipartisan piece of legislation that is a giant step in the right direction toward bringing the FDA into the 20th and 21st century.

I want to thank Speaker GINGRICH for making this a priority. I want to thank the gentleman from Virginia [Mr. BLILEY], chairman of the full committee; the gentleman from Michigan [Mr. DINGELL], the ranking member; the gentleman from Pennsylvania [Mr. KLINK], my colleague and ranking member; the gentleman from Florida [Mr. BILIRAKIS]; Donna Shalala; and President Clinton for making this day a possibility.

On the medical device section of the bill, that is the section of the bill that the gentlewoman from California [Ms. ESHOO] and I have worked so long and hard on, we have a number of improvements. We have a system of third party review for class I and most class II medical devices. We have a system for expedited approval and reporting requirements for devices that have already been approved overseas. We have a strong provision to protect the practice of medicine for the medical community. We have a requirement that they will establish a workable appeals process for arbitrating scientific disputes in the statute, and we reclassify all existing devices so that they are not automatically classified as class III when they come into the Agency.

Mr. Speaker, we allow the manufacturers to announce in the promotional materials that their products have actually been FDA approved.

There is one section of the bill that deals with the scope of review that I want to go into further detail on. This is the process that would allow a product to come to market as long as it is substantially equivalent to a product already on the market.

In the original bill, there was a provision that would require the FDA to make a determination solely on the intend use of the label. Some members of the committee and the FDA felt that this would prohibit them from adequately reviewing the product. So in this package, we have a compromise that is a very carefully constructed provision that would allow the FDA to go beyond the label under certain conditions. They have to be exceptional, they have to be carefully controlled circumstances, and the FDA has admitted that this authority will be rarely used, and only in the most exceptional cases.

We have a good bipartisan agreement between us. The FDA no longer stands for "Foot Dragging and Alibis," it stands for "Fair Deals for All."

Mr. Speaker, I hope that we will unanimously support this, and I want to thank my staff member Beth Hall and Bill Bates from the staff of the gentlewoman from California [Ms. ESHOO]. They have done exceptional work, along with the committee staffs on both sides of the aisle.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

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Mr. PALLONE. Mr. Speaker, the legislation before us has been the product of hard work, tough negotiations and true bipartisanship, and the result is a well crafted bill that will reauthorize the Prescription Drug User Fee Act and enact common sense Food and Drug Administration reform.

I want to take the opportunity to congratulate the chairmen and the ranking members of both the full committee and the subcommittee, as well as the professional staff of the Committee on Commerce on both sides of the aisle, particularly Kay Holcombe, whom I work with the most, for a job well done.

Mr. Speaker, this legislation will take the FDA into the 21st century by giving the FDA the tools to continue to do its job effectively while keeping pace with the new technological innovations and medical breakthroughs.

I just wanted to mention, concerning the drug provisions, I am pleased with the inclusion of a bipartisan amendment which would provide for the notification of discontinuance when a company terminates a product the absence of which would cause severe harm to a patient. To allay industry concerns. We have included a "good cause" waiver that allows the FDA to waive the time requirement under certain circumstances.

In addition, there are two amendments concerning mercury that were incorporated into the bill. One of the provisions requires the FDA to study the impact of a form of organic mercury in nasal sprays on the brain. It has already been banned for use on agricultural crops since 1969 and has been considered a neurotoxin. And the second provision would examine the sale of mercury as a drug or for other home use.

Mr. Speaker, with regard to medical devices, I want to congratulate the gentlewoman from California [Ms. ESHOO] and the gentleman from Texas [Mr. BARTON] for their ability to find common ground with the FDA and industry on these issues. I believe that the third party review process has been worked out well. It will free up the FDA's limited resources to review and approve high-risk devices.

Finally, Mr. Speaker, I am pleased that language was included to ensure that this legislation does not hinder the FDA's authority to reduce teen smoking. We already know that 3,000 kids start smoking each day, and that in my State of New Jersey alone over 130,000 children currently under 18 will die prematurely from tobacco-related diseases.

Mr. Speaker, it is my expectation that this bill will pass with overwhelming support today, but along with its passing today we must work quickly in conference to report out a good bill that the President can sign into law. The longer we delay, the more risk we take in slowing the drug approval process.

I have to say certainly that the suspension process today, which I never thought would happen, is a very good indication that every one involved is seeking to move quickly and that any differences with the Senate can be quickly overcome. I certainly urge all of my colleagues, not only Members of the committee but all of our colleagues, to register a strong statement of support by voting overwhelmingly for this legislation today.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Speaker, I rise in strong support of H.R. 1411, the Food and Drug Administration Regulatory Modernization Act.

Much has been said about the able leadership of our chairman, the gentleman from Virginia [Mr. BLILEY], the gentleman from Texas [Mr. BARTON], the gentleman from Florida [Mr. BILIRAKIS], and our friends on the other side of the aisle, the gentleman from Michigan [Mr. DINGELL], the gentlewoman from California [Ms. ESHOO], and the gentleman from Ohio [Mr. BROWN].

I would also like to comment on our terrific staff on both sides of the aisle. Howard Cohen, Eric Berger and Jane Williams on my staff spent countless hours walking Members through the myriad of different amendments and travails. It was terrific to see us come together in a great moment of bipartisan harmony and pass this legislation out of our full committee 43 to nothing.

This legislation embodies several basic goals that I believe all of us, patients and consumers, health professionals and drug device and food industries, and the Congress, all share. We want to ensure that patients and consumers continue to enjoy the benefits of innovations in treatments and technologies that bring us lifesaving and enhancing drugs and medical devices, with a safe, abundant healthful, affordable food supply.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. Mr. Speaker, this morning we are considering a bill that I never believed would be debated under suspension rules. In fact, I thought my chances of winning the lottery in Texas were much better than the FDA reform bill being on the suspension calendar.

This bill has had a long and contentious history on the Committee on Commerce. It was not always clear that a compromise bill could be reached. This bill is a step forward for reform. I believe both sides of the aisle should support it, and we have heard this morning they do.

One of the areas that caused the most concern for me was the approval process for medical devices, particularly third party review. I am pleased that the gentlewoman from California [Ms. ESHOO] and the gentleman from Texas [Mr. BARTON] have come together and worked out a compromise that would utilize the expertise of outside reviewers, prevent conflicts of interest, and involve the FDA in the certification of reviewers. Even with the use of outside reviewers, the bill still gives the FDA discretion to accept or deny the recommendations of outside reviewers.

This reform, combined with other portions of the bill, will help medical device companies know what is required of them during the FDA review, and gives them a sense of certainty that their application will be handled within a certain period of time. At the same time, it recognizes the FDA's role at the center of the medical device and drug review process and reassures the American people they will be accountable for the safety and efficacy of drugs and devices.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I rise in support of the bill, and will include concerns which were not addressed in the bill which would allow the FDA and EPA to ban products used by asthmatics that are medically necessary.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to a member of the committee, the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise in strong support of H.R. 1411.

E. coli bacteria results in between 10,000 and 20,000 illnesses a year. While proper cooking can kill *E. coli*, it deprives us of something that many of us really like, a nice juicy rare hamburger. Pasteurizing red meat with low-dose irradiation kills bacteria without harming the food. The process has already been approved by FDA for spices, poultry, pork. Why not hamburger?

For more than 3 years the Food and Drug Administration has been sitting on a petition to allow the use of low-dose irradiation for red meat. It is time that they passed. H.R. 1411 includes an amendment I offered to make the FDA complete its review within 60 days. Mr. Speaker, we need to have safer meat. Low-dose irradiation would provide that. A vote for this bill will make all of us a hamburger helper.

Mr. DINGELL. Mr. Speaker, I yield myself 1 minute for the purposes of a colloquy, and I yield to the distinguished gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to thank my colleague from Michigan for yielding to me.

Thirty million Americans rely on CFC propelled metered-dose inhalers. These are the inhalers for asthmatics. Over 30 million Americans rely on them. Yet in March 1997, the FDA proposed a policy that would ban these metered-dose inhalers for asthmatics all across the country, while the FDA did not take into account what alternatives would be available to millions of children in this country.

I want to thank the ranking member of the committee and the chairman for recognizing the need to modify this FDA policy, and look forward to working with them to see that appropriate amendments are made to the FDA law so that metered-dose inhalers are not banned for children in this country.

Mr. DINGELL. Mr. Speaker, the committee considered this matter. We regard it as important and we will pursue it further.

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time to close.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, this is what this process is supposed to be about, making legislation to make the people's lives in the United States a little bit better. I believe very strongly that that is what this legislation will do.

I think just for a second though we should remind ourselves that this was not an easy process and it was a long process. I think the work in particular of the gentleman from Michigan [Mr. DINGELL] and other leadership on the Democratic side and the Democratic Members really have brought us toward this point in time. Just 12 months ago, 24 months ago, the FDA legislation that was in front of us was a much more radical, in fact, a radical and really threatening piece of legislation to the American people.

In terms of the prescription drug area, we have made some dramatic strides. I believe there is still one area in the conference committee, I know that the Members, the gentleman from North Carolina [Mr. BURR] in particular, as well as the gentleman from Florida [Mr. BILIRAKIS], will be working on. That is the issue of exclusivity for new antibiotic drugs. The bill limits exclusivity to new antibiotics and that exclusivity would not apply to any drug for which an NDA is already pending. I am also pleased that we have a commitment to continue working on eliminating exclusivity to antibiotics in which there is not a pending I&D, which is the final stage of clinical investigation.

This Congress has made very significant strides in promoting the use of generic drugs in the United States of America as a cost containment and a health issue for all Americans. In an attempt to both balance the need for innovation in terms of resistant strain antibiotics, while at the same time balancing the need for generics and the purpose for generics that this Congress has stated very strongly on many occasions over the last years, I think it is important that any additional exclusivity that we grant in terms of antibiotics, which would be the first time that there would be exclusivity for antibiotic drugs, that it be limited in scope very narrowly to the challenge that we face in terms of resistant strains. I know we have made some moves in that direction, and hopefully as we enter the conference report we can continue that as much as possible within the specifics.

Mr. DINGELL. Mr. Speaker, I yield myself 1 minute for purposes of closure.

I simply want to read the language of the administration on this. It says:

The administration applauds the House for its efforts to produce a bipartisan FDA reform bill and appreciates the responsiveness

to concerns that have been raised. Because of the importance of obtaining a 5-year extension of the Prescription Drug User Fee Act, [PDUFA], the administration has no objection to the House passage of H.R. 1411.

I urge my colleagues to recognize that this is a compromise. This is a good compromise. It represents a bill which makes progress, which serves the public interest, which helps the manufacturers but which also protects the consumer with exquisite care. It is an excellent bill. I urge my colleagues to vote for it.

Mr. BLILEY. Mr. Speaker, I would like to say, it has been said before in the debate but I want to thank the staff, particularly Howard Cohen, Eric Berger, Rodger Currie, and Alan Hill and Kay Holcombe.

With that, Mr. Speaker, I yield the balance of my time to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Speaker, I thank the gentleman. I have watched a number of young friends in my district grow a head taller as we have worked on this bill for the past 3 years. And while they have outgrown last year's school clothes, unfortunately they cannot outgrow their diseases. Amber still has juvenile diabetes. Cody still has epilepsy. And Kristin still has asthma. Today's bill will go a long way toward easing their suffering by setting up special testing for new drugs aimed at children and expediting new uses for drugs also aimed at treating children's diseases.

This bill is going to go a long way towards easing the suffering of millions of Americans across this country and obviously not just children. But most importantly, I think that this legislation will go a long way toward changing the culture at the Food and Drug Administration. It is a move away from scare tactics and toward sounds science on food policy, away from redtape and toward sound science and speedy approval on new medical devices. Perhaps most importantly, it is a move away from bureaucracy, and finally toward compassion.

Congratulations to my colleagues who have worked on this bill for so long and so hard for the past 3 years, the gentleman from Virginia [Mr. BLILEY] and the gentleman from Michigan [Mr. DINGELL], the gentleman from Florida [Mr. BILIRAKIS] and the gentleman from California [Mr. WAXMAN], the gentleman from Texas [Mr. BARTON], the gentleman from North Carolina [Mr. BURR], and the gentleman from Pennsylvania [Mr. GREENWOOD]. Our fight has gone back a long way, back to the early days of 1994.

And thanks to the professional staff on both sides who have worked so hard for the last 3 years as well. But most of all, congratulations to my three young friends. For Cody and Amber and Kristin and millions of Americans suffering from diseases across the country, this bill is for them.

Mr. SMITH of New Jersey. Mr. Speaker, I am pleased that today the House has finally taken long-overdue action to reauthorize the Prescription Drug User Fee Act (H.R. 1411).

In 1992, Congress enacted the Prescription Drug User Fee Act (P.L. 102–571) to authorize the Food and Drug Administration [FDA] to collect user fees from pharmaceutical companies to pay for more timely reviews of new, breakthrough drugs. It has been estimated that over $300 million in user fees have been collected under Public Law 102–571 to help finance safety and efficacy trials at the FDA. All of these user fees have been returned directly to the FDA, which used the money to expand its staff and cut review times for new drugs, thereby ensuring that patients ultimately benefit from the program.

H.R. 1411 also institutes a number of important reforms to the FDA to reduce drug review times and provide more information to patients and physicians in a timely manner. The net effect of this legislation will be to save and improve the lives of sick and injured persons across our nation.

But despite these much needed reforms to the FDA, there is much work that remains to be done. Specifically, I am concerned, like many Americans, about the FDA's plans to accelerate the elimination of metered dose inhalers [MDI's] that contain chlorofluorocarbons [CFC's].

As many of you know, on March 6, 1997, the FDA proposed a plan to phase-out the use of CFC's and MDI's, which are used by asthma and cystic fibrosis patients to breathe.

While I agree it is important to institute a transition strategy that will eventually eliminate CFC use, the advance notice of proposed rulemaking [ANPR] published by FDA on March 6 is deeply flawed and should be scrapped in favor of a plan that put patients—not international bureaucrats—first.

And it is Congress which must ensure that the interests of patients are in fact upheld throughout the formation of our country's MDI transition strategy. To that end, my colleague and friend from Florida, Mr. CLIFF STEARNS, and I have introduced legislation, H.R. 2221, that will temporarily suspend the FDA's ANPR until a new proposal can be crafted. It is our intention to offer our legislation as an amendment to H.R. 1411 had we been afforded an opportunity to do so.

Mr. Speaker, our legislation is necessary because the FDA's plan has numerous problems, including the fact that under the plan patients will have significantly fewer choices in asthma medications, which will leave some patients deprived of the medicines that need to breathe.

Specifically, FDA has classified most MDI-delivered respiratory medications into two therapeutic classes. One therapeutic class has five moieties, or drug types which are delivered to the lungs by the MDI, and other has seven moieties. A moiety refers to the drug's active ingredient, and for each moiety there are usually multiple generic versions produced and marketed.

According to the FDA proposal once two moieties are available in a non-CFC MDI form, all other drugs, including generics, in that therapeutic class will be banned. Thus, if you are a patient that relies on a moiety that is banned by the FDA policy, and the two non-CFC MDI's that remain on the market are unsatisfactory or unusable, your very life could be placed at risk.

As Congress continues to assess and debate the best way to craft a CFC transition strategy for metered dose inhalers, I would like to highlight the case of Tommy Farese, a 9-year-old boy from Spring Lake, NJ, who wrote to the FDA in April to oppose their plan. Tommy told the FDA that as someone who depends on Intal, Vanceril, and Provental every day to breathe, he does not want these medications taken away from him.

Under the FDA plan, the entire therapeutic class of drugs Tommy—and other like him—use to survive could be banned when two different non-CFC MDI moieties are marketed. However, if the first two non-CFC MDIs approved by FDA in a therapeutic class do not include the moieties for Intal and Vanceril, Tommy would lose access to the drugs he needs to physically breathe. Mr. Speaker, as the father of two daughters with asthma, I find any plan that could lead to such an outcome completely unacceptable.

Not surprisingly, the FDA's plan has generated a firestorm of opposition from patients, respiratory therapists, and physicians: nearly 10,000 letters in opposition have been received to date by the FDA. Those expressing their concerns about the FDA plan include: Dr. C. Everett Koop, Mothers of Asthmatics, the Joint Council of Allergy, Asthma and Immunology [JCAAI], the Cystic Fibrosis Foundation, the American Medical Association, and the American Association of Respiratory Therapists.

In my view, any plan to remove safe and effective medications from the marketplace needs to place the interests of children like Tommy Farese first and foremost. Sadly, the FDA plans fails in this regard. Indeed, the FDA plan presumes that CFC-free inhalers serve all patient subpopulations—such as children and the elderly—equally well, despite the fact that children have special needs. Therefore, I call upon all Members to support H.R. 2221 and stop the FDA from implementing this terribly flawed and environmentally marginal proposal.

Mr. PAUL. Mr. Speaker, today, out of nowhere, comes the stealth Prescription Drug User Fee Re-authorization and Drug Regulatory Modernization Act of 1997. Regrettably, but unlike certain militarily procured aircraft, a little rain will not make this bill disintegrate.

According to its proponents, this FDA-strengthening bill was more than 3 years in the making—a so-called compromise between industry and the administration, we are told. Yet, despite the 177 pages attempting to reform an administrative agency and its rulemaking direction, the leadership did not see fit to announce floor consideration of this bill in the Weekly Whip Notice, yesterday's Shipping Post's "Tuesday's Forecast" section or any other commonly accepted medium as near as I can discern. More curiously, in my attempts to draw some attention to the broadsweeping nature of the bill on the House floor and the process by which it had come up for consideration, I am told by the bill's proponents that "there is no time available to speak regarding the bill." Instead, C–SPAN viewers will be

treated to a love-in during which each of the bill's drafters and advocates commend one another for the fine job of corporatism and internationalism they are about to bestow upon the American citizenry and in such a critical aspect of their lives; that is, their health.

When a 177-page bill comes to the floor under suspension with practically nothing more than an hours notice, one must always question what freedom-depriving regulation is about to be forced upon the citizens. Below is a sneak preview of the latest regulatory loss of individual liberty and State sovereignty.

So-called harmonization language contained in the bill requires the Secretary, through bilateral and multilateral agreements, to "harmonize regulation * * * and seek appropriate reciprocal arrangements" with foreign regulatory agencies. Vocal opponents of this harmonization language convincingly argue this internationalizing of what is already an unconstitutional usurpation of States rights, is very likely to greatly limit the availability of food supplements by requiring prescriptions for dispensation as is the case in certain parts of Europe. Perhaps with such harmonization, we will not only have a Federal war on drugs, but a Federal war on riboflavin, folic acid, and bee pollen. At last, an American alfalfa czar.

Food supplement availability may be the least of concerns amongst those who still revere states' rights and acknowledge the continued existence of the tenth amendment. Section 28 of H.R. 1411, as available on the Internet, entitled "National Uniformity," "prohibits states and subdivisions from regulating food, drugs, or cosmetics * * *" The bill permits the FDA to set national standards for cosmetics but permits States to issue warning labels and take defective products off the shelves.

To the dismay of medical privacy advocates, the bill authorizes the FDA to mandate the tracking of medical patients who use certain medical devices for up to 36 months as well as conduct post-market surveillance of these patients.

The bill limits the speech of manufacturers who would claim health benefits on their product labels without the approval of a scientific agency of the Federal Government. The bill responsibly makes provisions for such Scientific Advisory Panels in section 6. According to the bill, these panels are to be made up of "persons who are qualified by training and experience * * * and who, to the extent feasible, possess skill in the use of, or experience in, the development, manufacture, or utilization of * * * drugs or biological products." Here we have yet another chapter in the book of corporatism detailing the means by which one politically connected private concern gains a competitive advantage or Government privilege at the expense of some less-politically-connected entity or the consumer via some Federal Government, regulatory framework.

A bill effecting a major reformation of the Food and Drug Administration with such serious implications for individual liberties and for States' ability to effectuate their constitutionally-ordained police powers, warrants something more than the "stealth" procedure by which this regulatory "bomb" has been brought to the house floor. This bill apparently will be passed without a real opportunity for responsible debate or even a recorded vote. At a minimum, an opportunity to speak or inquire regarding the bill's provisions on the house floor and/or the opportunity to amend the bill to improve or remove offensive language, should have been provided within the legislative process. Unfortunately, this was not the case. For these reasons, I oppose H.R. 1411.

Mr. TOWNS. Mr. Speaker, I join my colleagues in applauding the scheduling of this measure today. H.R. 1411, the Prescription Drug User Fee Reauthorization and Drug Regulatory Modernization Act of 1997 is the culmination of 2 years of hard work by the Commerce Committee to modernize procedures that the Food and Drug Administration uses to approve drugs, devices, and food products.

Without the modernizing steps that have been incorporated in this legislation today, the FDA would continue to be seen as a barrier to new innovative therapies and products. The bill before us today represents a careful balance between a new, streamlined process and consumer protections against harmful products. These innovations in the way the FDA will do business from now on makes the approval of drugs and devices a more predictable process. This legislation will also provide patients with greater access to information about new investigational treatments. Additionally, we established reasonable national uniformity standards for OTC drugs and cosmetics. These standards offer a excellent beginning for future discussions about national uniformity for food products, discussions which I hope will begin next year with hearings on this issue.

Finally, Mr. Speaker, I am most pleased about the provisions in this bill which relate to food products. I had the wonderful experience of working closely on these issues in a bipartisan fashion with the gentleman from Kentucky [Mr. WHITFIELD], the gentleman from Wisconsin [Mr. KLUG], and the gentleman, from Texas [Mr. HALL]. While some argued that food reforms were too controversial to include in this bill, my colleagues and I never stopped believing that we could craft reasonable and meaningful food reforms that would be acceptable to the industry, FDA, and consumers alike. With the able assistance of our committee counsels on both sides of the aisle, Eric Berger and Kay Holcomb, the measures you see before today accomplished this goal. The food issues in this bill build on the success of the Nutrition Labeling and Education Act and they represent a modest downpayment on more significant food law reforms. The bill promises to provide important public health benefits to consumers by enabling FDA to act quickly on petitions for new health and nutrient content claims and by removing impediments to critical food technologies like irradiation.

I join my colleagues from the Commerce Committee in urging the immediate passage of this legislation.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in support of H.R. 1411, a package of three bills reforming the Food and Drug Administration.

Clearly, the modernization and streamlining of the FDA are important goals which have commanded considerable thought, time, and energy from Members of Congress, the Agency, and other interested parties. I am pleased that we are acting today on this important legislation, and I look forward to swift passage and enactment.

Mr. Speaker, I come from New Jersey. And I am proud to say that my home State is considered the Nation's medicine chest. New Jersey is home to some of the world's most innovative pharmaceutical companies, including Johnson & Johnson, Merck, American Home Products, Schering Plough, Warner-Lambert, Novartis, Hoffman-La Roche, and Bristol-Myers Squibb, just to name some of them. More than 40,000 pharmaceutical company employees are working in my State, leading the way in discovering, researching, developing, and marketing life-saving new drugs. I am proud to represent these individuals and businesses.

While the bill will benefit these individuals, by reauthorizing the Prescription Drug User Fee Act [PDUFA] and streamlining and modernizing the Agency, I am supporting H.R. 1411 today because it benefits a larger group: America's patients. All Americans who are in desperate need of new therapies for Alzheimer's, Parkinson's disease, cancer, AIDS, and all other maladies for which no adequate drug treatment exists today. Furthermore, our work benefits the world in every country where there is sickness and suffering.

There is so much in this bipartisan bill that is designed to help patients. There is the reauthorization of PDUFA, the enactment of which has meant more to expediting approval of life-saving new therapies than anything else. Last year, the FDA approved 53 new drugs and 9 new biologics. Since enactment of PDUFA, FDA has approved more than 125 new molecular entities—totally new medicines—all of which have brought relief and benefit to patients.

H.R. 1411 also provides for expedited approval of life-saving new medicines and access to unapproved therapies for the most critically ill among us. The bill allows manufacturers to disseminate information about unapproved uses of approved drugs, while ensuring that the information is balanced and encourages additional research on already-approved products.

The package also facilitates the development, clearance, and use of devices to maintain and improve public health and quality of life.

Finally, H.R. 1411 maintains the Agency's high standards of efficacy and consumer safety.

Mr. Speaker, when we enact this legislation, we will be giving the hope of better health and longer lives to millions of Americans and people around the world. That is good news for New Jersey and good news for America. I urge support of this legislation.

Mr. STEARNS. Mr. Speaker, I rise in support of H.R. 1411. First, I would like to thank Chairman BLILEY and Chairman BILIRAKIS and the staff for getting us to this point. It has been a long and at times very difficult process and you are to be commended for your leadership.

I would also like to give special thanks to my colleagues, Representatives RICHARD BURR, JOE BARTON, and ED WHITFIELD for all their hard work on these three bills.

Legislative proposals to reform the FDA to speed up the approval process for new drugs and medical devices and to improve the regulation and labeling of food is long overdue. Today's vote is historic and I am pleased to see that we have finally gotten to this point.

The problems associated with FDA's regulation of products and related issues are already known in the biomedical industry. Several key issues are: how regulation affects patient access to new drugs, how it impedes new drugs and biotechnology products from being brought to market, and how regulatory delays are forcing drug and medical device companies overseas.

If we are to continue to compete in this global economy, we must streamline the current FDA approval process. Because European review of new medical technologies is more efficient and timely than the FDA, these companies are increasingly moving out of the United States. Start-up biotech companies, also unable to meet the capital demands due to the lengthy and uncertain FDA process, have lost thousands of jobs through both direct exports and opportunity costs.

While our position has slipped in recent years, the United States is still the world's leader in the development and production of medical technology. However, the sad fact is that the United States is beginning to lose ground in health technology to foreign competitors. Unless we provide relief for this industry and curb FDA's burdensome over regulation and countless delays in the approval process, we will continue to see a steady erosion in an industry in which we have always been recognized as a world leader.

It is very gratifying to be a part of this process and I want to applaud the Commerce Committee's desire to make these necessary changes contained in the legislation before us today. We have an opportunity to reverse the trends which have our companies going outside the United States to conduct initial development of new products. When this occurs, not only do we lose jobs, but we also lose U.S.-produced technologies.

One question that we might ask is: What are we doing in comparison to the rest of the world. For instance, it might be useful to have a list of these products and whether they have been approved in tier one countries and for how long. Perhaps there should be some type of annual report that provides us with that type of data. If the FDA objects to this, I think it might be advisable to ask what we can do to make sure that the FDA makes such information available in the future.

While I wholeheartedly support H.R. 1411, I want to call my colleagues attention to an issue I believe is of tremendous importance and that needs to be addressed.

On March 6, 1997, the FDA issued an advance notice of proposed rulemaking [ANPR] that set forth its plan to ban CFC-containing metered-dose inhalers once certain criteria are met. The plan was developed in collaboration with the Environmental Protection Agency [EPA] and is intended to eliminate the minuscule amount of CFC's currently allowed to be used for medications delivered by metered-dose inhalers.

We need to protect the health and well-being of the millions of Americans that use chlorofluorocarbon-containing metered-dose inhalers to treat their respiratory conditions. My colleague, CHRISTOPHER SMITH, and I introduced H.R. 2221. This bill will require the Secretary of Health and Human Services to take no further action on FDA's proposed ban on chlorofluorocarbon [CFC]-containing metered-dose inhalers.

During the full committee markup of PDUFA, I offered an amendment to rectify a serious issue that has arisen due to actions taken by the FDA. Because I did not want to impede the process, I withdrew my amendment. However, I do intend to pursue this issue until I am satisfied that all patients who rely on such life saving drugs will not be denied their rights to such medications.

Again, I want to reiterate my support for H.R. 1411 and look forward to its final passage.

Mr. RAMSTAD. Mr. Speaker, I rise in support of the package of Food and Drug Administration [FDA] reform bills before us today.

I support this entire package, but I would like to specifically talk about title II of this bill, which addresses medical devices.

Reforming FDA's approval process for medical devices is something I have worked on since I first come to Congress in 1991. I have long argued we can save lives, health care dollars, and jobs by creating a more hospitable climate for our biotechnology, pharmaceutical, food, and medical device industries.

That's why, in November 1993, former Rep. Tim Valentine—D–NC—and I founded the bipartisan House Medical Technology Caucus to educate our colleagues on the issues facing the medical technology sector, including the FDA approval process.

As a cosponsor of H.R. 1710, the base language for title II, I know the legislation to expedite review of medical devices will go a long way toward bringing medical devices to market faster, thereby saving lives and creating jobs in this country. With intelligent coordination of regulatory strategies consistent with good science and good manufacturing practices, we can move needed drugs and medical devices to consumers in less time without increasing risk.

The FDA must review products and procedures promptly and effectively, since one of the most important ways to help individuals in need of lifesaving products and procedures is to make sure these products are made accessible as soon as possible without compromising safety.

It now takes 15 years and $350 million to get the average new drug from the laboratory to the patient. The average time for the FDA to approve a medical device has increased from 415 days in 1990 to 773 in 1995—even through the FDA is currently required by law to taken no longer than 180 days to approve new devices. In addition, the majority of all new drugs approved by the FDA in the last 5 years were already in use overseas.

The package of FDA reform legislation will improve the approval process for medical devices, drugs, and biological products without reducing the level of protection for safety or effectiveness.

I urge my colleagues to support this bill today. The patients in our country who have been denied access to lifesaving drugs and devices deserve nothing less.

Mr. SHAYS. Mr. Speaker, I rise in support of H.R. 1411, the Food and Drug Administration Regulatory Modernization Act of 1997. I commend the committee for bringing this bipartisan bill to the full House for consideration.

Since I became chairman of the Government Reform and Oversight Committee's Subcommittee on Human Resources, we have held 14 oversight hearings on the Food and Drug Administration [FDA]. In the course of oversight hearings on medical device regulatory standards, food safety, the food additive petition review process, and the safety of the Nation's blood supply, we found the agency needs to be modernized and streamlined. This bill makes progress toward these goals, while protecting the public health.

I am particularly pleased the compromise struck by the committee provides greater clarity to the medical device approval process by ensuring that FDA's review will be based on the intended use cited on the proposed label submitted by the manufacturer. As an added safeguard, FDA will have procedures to require the manufacturer to place a warning on the label if the agency believes the device will be used for conditions other tan those listed on the label.

Enactment of this legislation will result in lifesaving therapies reaching patients in a more timely fashion. I commend the Commerce Committee for its fair and deliberate approach to meaningful FDA reform.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise to day in support of H.R. 1411, legislation which includes three important reforms and commend Chairman BLILEY and his Commerce Committee for all their hard work on this bill.

First, the bill will reauthorize the Prescription Drug User Fee Act, a user fee that has been tremendously effective in expediting the FDA drug approval process. That reauthorization is absolutely critical.

Second, H.R. 1411 streamlines and vastly improves the FDA drug approval process, clearing the way for lifesaving new drugs to reach individuals in need of them.

Finally, the package facilitates the development, clearance, and use of devices to maintain public health and improve the quality of life for many Americans and so many people around the world that are sick and suffering.

This legislation is certainly a priority for the State of New Jersey, which is home to many of the most innovative pharmaceutical companies and more than 40,000 employees, that have led the way in research, development, and marketing of lifesaving new drugs throughout the world.

However, New Jersey is also home to even more individuals that are in desperate need of new therapies for Alzheimer's, Parkinson's disease, cancer, AIDS and other diseases, for which no adequate drug treatment exists today.

I am pleased that the legislation also maintains and strengthens protection for consumers under the Food and Drug Administration Director.

I would like to commend the Commerce Committee for their hard work on this bill and urge support for H.R. 1411.

The SPEAKER pro tempore (Mr. QUINN). The question is on the motion

offered by the gentleman from Virginia [Mr. BLILEY] that the House suspend the rules and pass the bill, H.R. 1411, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

□ 1130

The title of the bill was amended so as to read: "A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the regulation of food, drugs, cosmetics, and devices, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate bill as follows:

S. 830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food and Drug Administration Modernization and Accountability Act of 1997".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

TITLE I—IMPROVING PATIENT ACCESS

Sec. 101. Mission of the Food and Drug Administration.
Sec. 102. Expanded access to investigational therapies.
Sec. 103. Expanded humanitarian use of devices.

TITLE II—INCREASING ACCESS TO EXPERTISE AND RESOURCES

Sec. 201. Interagency collaboration.
Sec. 202. Sense of the committee regarding mutual recognition agreements and global harmonization efforts.
Sec. 203. Contracts for expert review.
Sec. 204. Accredited-party reviews.
Sec. 205. Device performance standards.

TITLE III—IMPROVING COLLABORATION AND COMMUNICATION

Sec. 301. Collaborative determinations of device data requirements.
Sec. 302. Collaborative review process.

TITLE IV—IMPROVING CERTAINTY AND CLARITY OF RULES

Sec. 401. Policy statements.
Sec. 402. Product classification.
Sec. 403. Use of data relating to premarket approval.
Sec. 404. Consideration of labeling claims for product review.
Sec. 405. Certainty of review timeframes.
Sec. 406. Limitations on initial classification determinations.
Sec. 407. Clarification with respect to a general use and specific use of a device.
Sec. 408. Clarification of the number of required clinical investigations for approval.
Sec. 409. Prohibited acts.

TITLE V—IMPROVING ACCOUNTABILITY

Sec. 501. Agency plan for statutory compliance and annual report.

TITLE VI—BETTER ALLOCATION OF RESOURCES BY SETTING PRIORITIES

Sec. 601. Minor modifications.
Sec. 602. Environmental impact review.
Sec. 603. Exemption of certain classes of devices from premarket notification requirement.
Sec. 604. Evaluation of automatic class III designation.
Sec. 605. Secretary's discretion to track devices.
Sec. 606. Secretary's discretion to conduct postmarket surveillance.
Sec. 607. Reporting.
Sec. 608. Pilot and small-scale manufacture.
Sec. 609. Requirements for radiopharmaceuticals.
Sec. 610. Modernization of regulation of biological products.
Sec. 611. Approval of supplemental applications for approved products.
Sec. 612. Health care economic information.
Sec. 613. Expediting study and approval of fast track drugs.
Sec. 614. Manufacturing changes for drugs and biologics.
Sec. 615. Data requirements for drugs and biologics.
Sec. 616. Food contact substances.
Sec. 617. Health claims for food products.
Sec. 618. Pediatric studies marketing exclusivity.
Sec. 619. Positron emission tomography.
Sec. 620. Disclosure.
Sec. 621. Referral statements relating to food nutrients.

TITLE VII—FEES RELATING TO DRUGS

Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. Definitions.
Sec. 704. Authority to assess and use drug fees.
Sec. 705. Annual reports.
Sec. 706. Effective date.
Sec. 707. Termination of effectiveness.

TITLE VIII—MISCELLANEOUS

Sec. 801. Registration of foreign establishments.
Sec. 802. Elimination of certain labeling requirements.
Sec. 803. Clarification of seizure authority.
Sec. 804. Intramural research training award program.
Sec. 805. Device samples.
Sec. 806. Interstate commerce.
Sec. 807. National uniformity for nonprescription drugs and cosmetics.
Sec. 808. Information program on clinical trials for serious or life-threatening diseases.
Sec. 809. Application of Federal law to the practice of pharmacy compounding.
Sec. 810. Reports of postmarketing approval studies.
Sec. 811. Information exchange.
Sec. 812. Reauthorization of clinical pharmacology program.
Sec. 813. Monograph for sunburn products.
Sec. 814. Safety report disclaimers.

SEC. 3. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

TITLE I—IMPROVING PATIENT ACCESS

SEC. 101. MISSION OF THE FOOD AND DRUG ADMINISTRATION.

Section 903 (21 U.S.C. 393) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) MISSION.—

"(1) IN GENERAL.—The Secretary, acting through the Commissioner, and in consultation, as determined appropriate by the Secretary, with experts in science, medicine, and public health, and in cooperation with consumers, users, manufacturers, importers, packers, distributors, and retailers of regulated products, shall protect the public health by taking actions that help ensure that—

"(A) foods are safe, wholesome, sanitary, and properly labeled;

"(B) human and veterinary drugs, including biologics, are safe and effective;

"(C) there is reasonable assurance of safety and effectiveness of devices intended for human use;

"(D) cosmetics are safe; and

"(E) public health and safety are protected from electronic product radiation.

"(2) SPECIAL RULES.—The Secretary, acting through the Commissioner, shall promptly and efficiently review clinical research and take appropriate action on the marketing of regulated products in a manner that does not unduly impede innovation or product availability. The Secretary, acting through the Commissioner, shall participate with other countries to reduce the burden of regulation, to harmonize regulatory requirements, and to achieve appropriate reciprocal arrangements with other countries.".

SEC. 102. EXPANDED ACCESS TO INVESTIGATIONAL THERAPIES.

Chapter V (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

"Subchapter D—Unapproved Therapies and Diagnostics

"SEC. 551. EXPANDED ACCESS TO UNAPPROVED THERAPIES AND DIAGNOSTICS.

"(a) EMERGENCY SITUATIONS.—The Secretary may, under appropriate conditions determined by the Secretary, authorize the shipment of investigational drugs (including investigational biological products), or investigational devices, (as defined in regulations prescribed by the Secretary) for the diagnosis, monitoring, or treatment of a serious disease or condition in emergency situations.

"(b) INDIVIDUAL PATIENT ACCESS TO INVESTIGATIONAL PRODUCTS INTENDED FOR SERIOUS DISEASES.—Any person, acting through a physician licensed in accordance with State law, may request from a manufacturer or distributor, and any manufacturer or distributor may provide to such physician after compliance with the provisions of this subsection, an investigational drug (including

an investigational biological product), or investigational device, (as defined in regulations prescribed by the Secretary) for the diagnosis, monitoring, or treatment of a serious disease or condition if—

"(1) the licensed physician determines that the person has no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat the disease or condition involved, and that the risk to the person from the investigational drug or investigational device is not greater than the risk from the disease or condition;

"(2) the Secretary determines that there is sufficient evidence of safety and effectiveness to support the use of the investigational drug or investigational device in the case described in paragraph (1);

"(3) the Secretary determines that provision of the investigational drug or investigational device will not interfere with the initiation, conduct, or completion of clinical investigations to support marketing approval; and

"(4) the product sponsor, or clinical investigator, of the investigational drug or investigational device submits to the Secretary a clinical protocol consistent with the provisions of section 505(i) or 520(g) and any regulations promulgated under section 505(i) or 520(g) describing the use of investigational drugs or investigational devices in a single patient or a small group of patients.

"(c) TREATMENT INDs/IDEs.—Upon submission by a product sponsor or a physician of a protocol intended to provide widespread access to an investigational product for eligible patients, the Secretary shall permit an investigational drug (including an investigational biological product) or investigational device to be made available for expanded access under a treatment investigational new drug application or investigational device exemption (as the terms are described in regulations prescribed by the Secretary) if the Secretary determines that—

"(1) under the treatment investigational new drug application or investigational device exemption, the investigational drug or investigational device is intended for use in the diagnosis, monitoring, or treatment of a serious or immediately life-threatening disease or condition;

"(2) there is no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat that stage of disease or condition in the population of patients to which the investigational drug or investigational device is intended to be administered;

"(3)(A) the investigational drug or investigational device is under investigation in a controlled clinical trial for the use described in paragraph (1) under an effective investigational new drug application or investigational device exemption; and

"(B) all clinical trials necessary for approval of that use of the investigational drug or investigational device have been completed;

"(4) the sponsor of the controlled clinical trials is actively pursuing marketing approval of the investigational drug or investigational device for the use described in paragraph (1) with due diligence;

"(5) the provision of the investigational drug or investigational device will not interfere with the enrollment of patients in ongoing clinical investigations under section 505(i) or 520(g);

"(6) in the case of serious diseases, there is sufficient evidence of safety and effectiveness to support the use described in paragraph (1); and

"(7) in the case of immediately life-threatening diseases, the available scientific evidence, taken as a whole, provides a reasonable basis to conclude that the product may be effective for its intended use and would not expose patients to an unreasonable and significant risk of illness or injury.

A protocol submitted under this subsection shall be subject to the provisions of section 505(i) or 520(g) and regulations promulgated under section 505(i) or 520(g). The Secretary may inform national, State, and local medical associations and societies, voluntary health associations, and other appropriate persons about the availability of an investigational drug or investigational device under expanded access protocols submitted under this subsection. The information provided by the Secretary, in accordance with the preceding sentence, shall be of the same type of information that is required by section 402(j)(3).

"(d) TERMINATION.—The Secretary may, at any time, with respect to a person, manufacturer, or distributor described in this section, terminate expanded access provided under this section for an investigational drug (including an investigational biological product) or investigational device if the requirements under this section are no longer met.".

SEC. 103. EXPANDED HUMANITARIAN USE OF DEVICES.

Section 520(m) (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (2), by adding at the end the following flush sentences:

"The request shall be in the form of an application submitted to the Secretary. Not later than 75 days after the date of the receipt of the application, the Secretary shall issue an order approving or denying the application.";

(2) in paragraph (4)—

(A) in subparagraph (B), by inserting after "(2)(A)" the following: ", unless a physician determines that waiting for such an approval from an institutional review committee will cause harm or death to a patient, and makes a good faith effort to obtain the approval, and does not receive a timely response from an institutional review committee on the request of the physician for approval to use the device for such treatment or diagnosis"; and

(B) by adding at the end the following flush sentences:

"In a case in which a physician described in subparagraph (B) uses a device without an approval from an institutional review committee, the physician shall, after the use of the device, notify the chairperson of the institutional review committee of such use. Such notification shall include the identification of the patient involved, the date on which the device was used, and the reason for the use."; and

(3) by striking paragraph (5) and inserting the following:

"(5) The Secretary may require a person granted an exemption under paragraph (2) to demonstrate continued compliance with the requirements of this subsection if the Secretary believes such demonstration to be necessary to protect the public health or if the Secretary has reason to believe that the criteria for the exemption are no longer met.".

TITLE II—INCREASING ACCESS TO EXPERTISE AND RESOURCES

SEC. 201. INTERAGENCY COLLABORATION.

Section 903(b) (21 U.S.C. 393(b)), as added by section 101(2), is amended by adding at the end the following:

"(3) INTERAGENCY COLLABORATION.—The Secretary shall implement programs and policies that will foster collaboration between the Administration, the National Institutes of Health, and other science-based Federal agencies, to enhance the scientific and technical expertise available to the Secretary in the conduct of the duties of the Secretary with respect to the development, clinical investigation, evaluation, and postmarket monitoring of emerging medical therapies, including complementary therapies, and advances in nutrition and food science.".

SEC. 202. SENSE OF THE COMMITTEE REGARDING MUTUAL RECOGNITION AGREEMENTS AND GLOBAL HARMONIZATION EFFORTS.

It is the sense of the Committee on Labor and Human Resources of the Senate that—

(1) the Secretary of Health and Human Services should support the Office of the United States Trade Representative, in consultation with the Secretary of Commerce, in efforts to move toward the acceptance of mutual recognition agreements relating to the regulation of drugs, biological products, devices, foods, food additives, and color additives, and the regulation of good manufacturing practices, between the European Union and the United States;

(2) the Secretary of Health and Human Services should regularly participate in meetings with representatives of other foreign governments to discuss and reach agreement on methods and approaches to harmonize regulatory requirements; and

(3) the Office of International Relations of the Department of Health and Human Services (as established under section 803 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 383)) should have the responsibility of ensuring that the process of harmonizing international regulatory requirements is continuous.

SEC. 203. CONTRACTS FOR EXPERT REVIEW.

Chapter IX (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

"SEC. 906. CONTRACTS FOR EXPERT REVIEW.

"(a) IN GENERAL.—

"(1) AUTHORITY.—The Secretary may enter into a contract with any organization or any individual (who is not an employee of the Department) with expertise in a relevant discipline, to review, evaluate, and make recommendations to the Secretary on part or all of any application or submission (including a petition, notification, and any other similar form of request) made under this Act for the approval or classification of an article or made under section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) with respect to a biological product. Any such contract shall be subject to the requirements of section 708 relating to the confidentiality of information.

"(2) INCREASED EFFICIENCY AND EXPERTISE THROUGH CONTRACTS.—The Secretary shall use the authority granted in paragraph (1) whenever the Secretary determines that a contract described in paragraph (1) will improve the timeliness or quality of the review of an application or submission described in paragraph (1), unless using such authority would reduce the quality, or unduly increase the cost, of such review. Such improvement may include providing the Secretary increased scientific or technical expertise that is necessary to review or evaluate new therapies and technologies.

"(b) REVIEW OF EXPERT REVIEW.—

"(1) IN GENERAL.—Subject to paragraph (2), the official of the Food and Drug Administration responsible for any matter for which expert review is used pursuant to subsection (a) shall review the recommendations of the

organization or individual who conducted the expert review and shall make a final decision regarding the matter within 60 days after receiving the recommendations.

"(2) LIMITATION.—A final decision under paragraph (1) shall be made within the applicable prescribed time period for review of the matter as set forth in this Act or in the Public Health Service Act (42 U.S.C. 201 et seq.).

"(3) AUTHORITY OF SECRETARY.—Notwithstanding subsection (a), the Secretary shall retain full authority to make determinations with respect to the approval or disapproval of an article under this Act, the approval or disapproval of a biologics license with respect to a biological product under section 351(a) of the Public Health Service Act, or the classification of an article as a device under section 513(f)(1).".

SEC. 204. ACCREDITED-PARTY REVIEWS.

(a) IN GENERAL.—Subchapter A of chapter V (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

"SEC. 523. ACCREDITED-PARTY PARTICIPATION.

"(a) ACCREDITATION.—Not later than 1 year after the date of enactment of this section, the Secretary shall accredit entities or individuals who are not employees of the Federal Government to review reports made to the Secretary under section 510(k) for devices and make recommendations to the Secretary regarding the initial classification of such devices under section 513(f)(1), except that this paragraph shall not apply to a report made to the Secretary under section 510(k) for a device that is—

"(1) for a use in supporting or sustaining human life;

"(2) for implantation in the human body for more than 1 year; or

"(3) for a use that is of substantial importance in preventing the impairment of human health.

"(b) ACCREDITATION.—Within 180 days after the date of enactment of this section, the Secretary shall adopt methods of accreditation that ensure that entities or individuals who conduct reviews and make recommendations under this section are qualified, properly trained, knowledgeable about handling confidential documents and information, and free of conflicts of interest. The Secretary shall publish the methods of accreditation in the Federal Register on the adoption of the methods.

"(c) WITHDRAWAL OF ACCREDITATION.—The Secretary may suspend or withdraw the accreditation of any entity or individual accredited under this section, after providing notice and an opportunity for an informal hearing, if such entity or individual acts in a manner that is substantially not in compliance with the requirements established by the Secretary under subsection (b), including the failure to avoid conflicts of interest, the failure to protect confidentiality of information, or the failure to competently review premarket submissions for devices.

"(d) SELECTION AND COMPENSATION.—A person who intends to make a report described in subsection (a) to the Secretary shall have the option to select an accredited entity or individual to review such report. Upon the request by a person to have a report reviewed by an accredited entity or individual, the Secretary shall identify for the person no less than 2 accredited entities or individuals from whom the selection may be made. Compensation for an accredited entity or individual shall be determined by agreement between the accredited entity or individual and the person who engages the services of the accredited entity or individual and shall be paid by the person who engages such services.

"(e) REVIEW BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall require an accredited entity or individual, upon making a recommendation under this section with respect to an initial classification of a device, to notify the Secretary in writing of the reasons for such recommendation.

"(2) TIME PERIOD FOR REVIEW.—Not later than 30 days after the date on which the Secretary is notified under paragraph (1) by an accredited entity or individual with respect to a recommendation of an initial classification of a device, the Secretary shall make a determination with respect to the initial classification.

"(3) SPECIAL RULE.—The Secretary may change the initial classification under section 513(f)(1) that is recommended by the accredited entity or individual under this section, and in such case shall notify in writing the person making the report described in subsection (a) of the detailed reasons for the change.

"(f) DURATION.—The authority provided by this section terminates—

"(1) 5 years after the date on which the Secretary notifies Congress that at least 2 persons accredited under subsection (b) are available to review at least 60 percent of the submissions under section 510(k); or

"(2) 4 years after the date on which the Secretary notifies Congress that at least 35 percent of the devices that are subject to review under subsection (a), and that were the subject of final action by the Secretary in the fiscal year preceding the date of such notification, were reviewed by the Secretary under subsection (e),

whichever occurs first.

"(g) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall contract with an independent research organization to prepare and submit to the Secretary a written report examining the use of accredited entities and individuals to conduct reviews under this section. The Secretary shall submit the report to Congress not later than 6 months prior to the conclusion of the applicable period described in subsection (f).

"(2) CONTENTS.—The report by the independent research organization described in paragraph (1) shall identify the benefits or detriments to public and patient health of using accredited entities and individuals to conduct such reviews, and shall summarize all relevant data, including data on the review of accredited entities and individuals (including data on the review times, recommendations, and compensation of the entities and individuals), and data on the review of the Secretary (including data on the review times, changes, and reasons for changes of the Secretary).".

(b) RECORDKEEPING.—Section 704 (21 U.S.C. 374) is amended by adding at the end the following:

"(f)(1) A person accredited under section 523 to review reports made under section 510(k) and make recommendations of initial classifications of devices to the Secretary shall maintain records documenting the training qualifications of the person and the employees of the person, the procedures used by the person for handling confidential information, the compensation arrangements made by the person in accordance with section 523(d), and the procedures used by the person to identify and avoid conflicts of interest. Upon the request of an officer or employee designated by the Secretary, the person shall permit the officer or employee, at all reasonable times, to have access to, to copy, and to verify, the records.

"(2) Within 15 days after the receipt of a written request from the Secretary to a person accredited under section 523 for copies of records described in paragraph (1), the person shall produce the copies of the records at the place designated by the Secretary.".

SEC. 205. DEVICE PERFORMANCE STANDARDS.

(a) ALTERNATIVE PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended by adding at the end the following:

"Recognition of a Standard

"(c)(1)(A) In addition to establishing performance standards under this section, the Secretary may, by publication in the Federal Register, recognize all or part of a performance standard established by a nationally or internationally recognized standard development organization for which a person may submit a declaration of conformity in order to meet premarket submission requirements or other requirements under this Act to which such standards are applicable.

"(B) If a person elects to use a performance standard recognized by the Secretary under subparagraph (A) to meet the requirements described in subparagraph (A), the person shall provide a declaration of conformity to the Secretary that certifies that the device is in conformity with such standard. A person may elect to use data, or information, other than data required by a standard recognized under subparagraph (A) to fulfill or satisfy any requirement under this Act.

"(2) The Secretary may withdraw such recognition of a performance standard through publication of a notice in the Federal Register that the Secretary will no longer recognize the standard, if the Secretary determines that the standard is no longer appropriate for meeting the requirements under this Act.

"(3)(A) Subject to subparagraph (B), the Secretary shall accept a declaration of conformity that a device is in conformity with a standard recognized under paragraph (1) unless the Secretary finds—

"(i) that the data or information submitted to support such declaration does not demonstrate that the device is in conformity with the standard identified in the declaration of conformity; or

"(ii) that the standard identified in the declaration of conformity is not applicable to the particular device under review.

"(B) The Secretary may request, at any time, the data or information relied on by the person to make a declaration of conformity with respect to a standard recognized under paragraph (1).

"(C) A person relying on a declaration of conformity with respect to a standard recognized under paragraph (1) shall maintain the data and information demonstrating conformity of the device to the standard for a period of 2 years after the date of the classification or approval of the device by the Secretary or a period equal to the expected design life of the device, whichever is longer.".

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

"(x) The falsification of a declaration of conformity submitted under subsection (c) of section 514 or the failure or refusal to provide data or information requested by the Secretary under section 514(c)(3).".

(c) SECTION 501.—Section 501(e) (21 U.S.C. 351(e)) is amended—

(1) by striking "(e)" and inserting "(e)(1)"; and

(2) by inserting at the end the following:

"(2) If it is declared to be, purports to be, or is represented as, a device that is in conformity with any performance standard recognized under section 514(c) unless such device is in all respects in conformity with such standard.".

TITLE III—IMPROVING COLLABORATION AND COMMUNICATION

SEC. 301. COLLABORATIVE DETERMINATIONS OF DEVICE DATA REQUIREMENTS.

Section 513(a)(3) (21 U.S.C. 360c(a)(3)) is amended by adding at the end the following:

"(C)(i)(I) The Secretary, upon the written request of any person intending to submit an application under section 515, shall meet with such person to determine the type of valid scientific evidence (within the meaning of subparagraphs (A) and (B)) that will be necessary to demonstrate the effectiveness of a device for the conditions of use proposed by such person, to support an approval of an application. The written request shall include a detailed description of the device, a detailed description of the proposed conditions of use of the device, a proposed plan for determining whether there is a reasonable assurance of effectiveness, and, if available, information regarding the expected performance from the device. Within 30 days after such meeting, the Secretary shall specify in writing the type of valid scientific evidence that will provide a reasonable assurance that a device is effective under the conditions of use proposed by such person.

"(II) Any clinical data, including 1 or more well-controlled investigations, specified in writing by the Secretary for demonstrating a reasonable assurance of device effectiveness shall be specified as a result of a determination by the Secretary—

"(aa) that such data are necessary to establish device effectiveness; and

"(bb) that no other less burdensome means of evaluating device effectiveness is available that would have a reasonable likelihood of resulting in an approval.

"(ii) The determination of the Secretary with respect to the specification of valid scientific evidence under clause (i) shall be binding upon the Secretary, unless such determination by the Secretary could be contrary to the public health.".

SEC. 302. COLLABORATIVE REVIEW PROCESS.

Section 515(d) (21 U.S.C. 360e(d)) is amended—

(1) in paragraph (1)(A), by striking "paragraph (2) of this subsection" each place it appears and inserting "paragraph (4)";

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (1) the following:

"(2)(A)(i) The Secretary shall, upon the written request of an applicant, meet with the applicant, not later than 100 days after the receipt of an application from the applicant that has been filed as complete under subsection (c), to discuss the review status of the application.

"(ii) If the application does not appear in a form that would require an approval under this subsection, the Secretary shall in writing, and prior to the meeting, provide to the applicant a description of any deficiencies in the application identified by the Secretary based on an interim review of the entire application and identify the information that is required to correct those deficiencies.

"(iii) The Secretary and the applicant may, by mutual consent, establish a different schedule for a meeting required under this paragraph.

"(B) The Secretary shall notify the applicant immediately of any deficiency identified in the application that was not described as a deficiency in the written description provided by the Secretary under subparagraph (A).".

TITLE IV—IMPROVING CERTAINTY AND CLARITY OF RULES

SEC. 401. POLICY STATEMENTS.

Section 701(a) (21 U.S.C. 371(a)) is amended—

(1) by striking "(a) The" and inserting "(a)(1) The"; and

(2) by adding at the end the following:

"(2) Not later than February 27, 1999, the Secretary, after evaluating the effectiveness of the Good Guidance Practices document published in the Federal Register at 62 Fed. Reg. 8961, shall promulgate a regulation specifying the policies and procedures of the Food and Drug Administration for the development, issuance, and use of guidance documents.".

SEC. 402. PRODUCT CLASSIFICATION.

Chapter VII (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

"Subchapter D—Classification of Products and Environmental Impact Reviews

"SEC. 741. CLASSIFICATION OF PRODUCTS.

"(a) REQUEST.—A person who submits an application or submission (including a petition, notification, and any other similar form of request) under this Act, may submit a request to the Secretary respecting the classification of an article as a drug, biological product, device, or a combination product subject to section 503(g) or respecting the component of the Food and Drug Administration that will regulate the article. In submitting the request, the person shall recommend a classification for the article, or a component to regulate the article, as appropriate.

"(b) STATEMENT.—Not later than 60 days after the receipt of the request described in subsection (a), the Secretary shall determine the classification of the article or the component of the Food and Drug Administration that will regulate the article and shall provide to the person a written statement that identifies the classification of the article or the component of the Food and Drug Administration that will regulate the article and the reasons for such determination. The Secretary may not modify such statement except with the written consent of the person or for public health reasons.

"(c) INACTION OF SECRETARY.—If the Secretary does not provide the statement within the 60-day period described in subsection (b), the recommendation made by the person under subsection (a) shall be considered to be a final determination by the Secretary of the classification of the article or the component of the Food and Drug Administration that will regulate the article and may not be modified by the Secretary except with the written consent of the person or for public health reasons.".

SEC. 403. USE OF DATA RELATING TO PREMARKET APPROVAL.

(a) IN GENERAL.—Section 520(h)(4) (21 U.S.C. 360j(h)(4)) is amended to read as follows:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c) (including information from clinical and preclinical tests or studies that demonstrate the safety and effectiveness of a device, but excluding descriptions of methods of manufacture and product composition) shall be available, 6 years after the application has been approved by the Secretary, for use by the Secretary in—

"(i) approving another device;

"(ii) determining whether a product development protocol has been completed, under section 515 for another device;

"(iii) establishing a performance standard or special control under this Act; or

"(iv) classifying or reclassifying another device under section 513 and subsection (l)(2).

"(B) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary as the evidentiary basis for the agency actions described in subparagraph (A).".

(b) CONFORMING AMENDMENT.—Section 517(a) (21 U.S.C. 360g(a)) is amended—

(1) in paragraph (8), by adding "or" at the end;

(2) in paragraph (9), by striking ", or" and inserting a comma; and

(3) by striking paragraph (10).

SEC. 404. CONSIDERATION OF LABELING CLAIMS FOR PRODUCT REVIEW.

(a) PREMARKET APPROVAL.—Section 515(d)(1)(A) (21 U.S.C. 360e(d)(1)(A)) is amended by adding at the end the following flush sentences:

"In making the determination whether to approve or deny the application, the Secretary shall rely on the conditions of use included in the proposed labeling as the basis for determining whether or not there is a reasonable assurance of safety and effectiveness, if the proposed labeling is neither false nor misleading. In determining whether or not such labeling is false or misleading, the Secretary shall fairly evaluate all material facts pertinent to the proposed labeling.".

(b) PREMARKET NOTIFICATION.—Section 513(i)(1) (21 U.S.C. 360c(i)(1)) is amended by adding at the end the following:

"(C) Whenever the Secretary requests information to demonstrate that the devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary to make a substantial equivalence determination. In making such a request, the Secretary shall consider the least burdensome means of demonstrating substantial equivalence and shall request information accordingly.

"(D) The determination of the Secretary under this subsection and section 513(f)(1) with respect to the intended use of a device shall be based on the intended use included in the proposed labeling of the device submitted in a report under section 510(k).".

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsections (a) and (b) shall be construed to alter any authority of the Secretary of Health and Human Services to regulate any tobacco product, or any additive or ingredient of a tobacco product.

SEC. 405. CERTAINTY OF REVIEW TIMEFRAMES.

(a) CLARIFICATION ON THE 90-DAY TIMEFRAME FOR PREMARKET NOTIFICATION REVIEWS.—Section 510(k) (21 U.S.C. 360) is amended by adding at the end the following flush sentence:

"The Secretary shall review the report required by this subsection and make a determination under section 513(f)(1) not later than 90 days after receiving the report.".

(b) ONE-CYCLE REVIEW.—Section 515(d) (21 U.S.C. 360e(d)), as amended by section 302, is amended by inserting after paragraph (2) the following:

"(3) Except as provided in paragraph (1), the period for the review of an application by the Secretary under this subsection shall be not more than 180 days. Such period may not be restarted or extended even if the application is amended. The Secretary is not required to review a major amendment to an

application, unless the amendment is made in response to a request by the Secretary for information.".

SEC. 406. LIMITATIONS ON INITIAL CLASSIFICATION DETERMINATIONS.

Section 510 (21 U.S.C. 360) is amended by adding at the end the following:

"(m) The Secretary may not withhold a determination of the initial classification of a device under section 513(f)(1) because of a failure to comply with any provision of this Act that is unrelated to a substantial equivalence decision, including a failure to comply with the requirements relating to good manufacturing practices under section 520(f).".

SEC. 407. CLARIFICATION WITH RESPECT TO A GENERAL USE AND SPECIFIC USE OF A DEVICE.

Not later than 270 days after the date of enactment of this section, the Secretary of Health and Human Services shall promulgate a final regulation specifying the general principles that the Secretary of Health and Human Services will consider in determining when a specific intended use of a device is not reasonably included within a general use of such device for purposes of a determination of substantial equivalence under section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)(1)).

SEC. 408. CLARIFICATION OF THE NUMBER OF REQUIRED CLINICAL INVESTIGATIONS FOR APPROVAL.

(a) DEVICE CLASSES.—Section 513(a)(3)(A) (21 U.S.C. 360c(a)(3)(A)) is amended by striking "clinical investigations" and inserting "1 or more clinical investigations".

(b) NEW DRUGS.—Section 505(d) (21 U.S.C. 355(d)) is amended by adding at the end the following: "Substantial evidence may, as appropriate, consist of data from 1 adequate and well-controlled clinical investigation and confirmatory evidence (obtained prior to or after such investigation), if the Secretary determines, based on relevant science, that such data and evidence are sufficient to establish effectiveness.".

SEC. 409. PROHIBITED ACTS.

Section 301(l) (21 U.S.C. 331(l)) is repealed.

TITLE V—IMPROVING ACCOUNTABILITY

SEC. 501. AGENCY PLAN FOR STATUTORY COMPLIANCE AND ANNUAL REPORT.

Section 903(b) (21 U.S.C. 393(b)), as amended by section 201, is further amended by adding at the end the following:

"(4) AGENCY PLAN FOR STATUTORY COMPLIANCE.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary, after consultation with relevant experts, health care professionals, representatives of patient and consumer advocacy groups, and the regulated industry, shall develop and publish in the Federal Register a plan bringing the Secretary into compliance with each of the obligations of the Secretary under this Act and other relevant statutes. The Secretary shall biannually review the plan and shall revise the plan as necessary, in consultation with such persons.

"(B) OBJECTIVES OF AGENCY PLAN.—The plan required by subparagraph (A) shall establish objectives, and mechanisms to be used by the Secretary, acting through the Commissioner, including objectives and mechanisms that—

"(i) minimize deaths of, and harm to, persons who use or may use an article regulated under this Act;

"(ii) maximize the clarity of, and the availability of information about, the process for review of applications and submissions (including petitions, notifications, and any other similar forms of request) made under this Act, including information for potential consumers and patients concerning new products;

"(iii) implement all inspection and postmarket monitoring provisions of this Act by July 1, 1999;

"(iv) ensure access to the scientific and technical expertise necessary to ensure compliance by the Secretary with the statutory obligations described in subparagraph (A);

"(v) establish a schedule to bring the Administration into full compliance by July 1, 1999, with the time periods specified in this Act for the review of all applications and submissions described in clause (ii) and submitted after the date of enactment of this paragraph; and

"(vi) reduce backlogs in the review of all applications and submissions described in clause (ii) for any article with the objective of eliminating all backlogs in the review of the applications and submissions by January 1, 2000.

"(5) ANNUAL REPORT.—

"(A) CONTENTS.—The Secretary shall prepare and publish in the Federal Register and solicit public comment on an annual report that—

"(i) provides detailed statistical information on the performance of the Secretary under the plan described in paragraph (4);

"(ii) compares such performance of the Secretary with the objectives of the plan and with the statutory obligations of the Secretary;

"(iii) analyzes any failure of the Secretary to achieve any objective of the plan or to meet any statutory obligation;

"(iv) identifies any regulatory policy that has a significant impact on compliance with any objective of the plan or any statutory obligation; and

"(v) sets forth any proposed revision to any such regulatory policy, or objective of the plan that has not been met.

"(B) STATISTICAL INFORMATION.—The statistical information described in subparagraph (A)(i) shall include a full statistical presentation relating to all applications and submissions (including petitions, notifications, and any other similar forms of request) made under this Act and approved or subject to final action by the Secretary during the year covered by the report. In preparing the statistical presentation, the Secretary shall take into account the date of—

"(i) the submission of any investigational application;

"(ii) the application of any clinical hold;

"(iii) the submission of any application or submission (including a petition, notification, and any other similar form of request) made under this Act for approval or clearance;

"(iv) the acceptance for filing of any application or submission described in clause (iii) for approval or clearance;

"(v) the occurrence of any unapprovable action;

"(vi) the occurrence of any approvable action; and

"(vii) the approval or clearance of any application or submission described in clause (iii).

"(C) SPECIAL RULE.—If the Secretary provides information in a report required by section 705 of the Food and Drug Administration Modernization and Accountability Act of 1997 or a report required by the amendments made by the Government Performance and Results Act of 1993 and that information is required by this paragraph, the report shall be deemed to satisfy the requirements of this paragraph relating to that information.".

TITLE VI—BETTER ALLOCATION OF RESOURCES BY SETTING PRIORITIES

SEC. 601. MINOR MODIFICATIONS.

(a) ACTION ON INVESTIGATIONAL DEVICE EXEMPTIONS.—Section 520(g) (21 U.S.C. 360j(g)) is amended by adding at the end the following:

"(6)(A) The Secretary shall, not later than 120 days after the date of enactment of this paragraph, by regulation modify parts 812 and 813 of title 21, Code of Federal Regulations to update the procedures and conditions under which a device intended for human use may, upon application by the sponsor of the device, be granted an exemption from the requirements of this Act.

"(B) The regulation shall permit developmental changes in a device (including manufacturing changes) in response to information collected during an investigation without requiring an additional approval of an application for an investigational device exemption or the approval of a supplement to such application, if the sponsor of the investigation determines, based on credible information, prior to making any such changes, that the changes—

"(i) do not affect the scientific soundness of an investigational plan submitted under paragraph (3)(A) or the rights, safety, or welfare of the human subjects involved in the investigation; and

"(ii) do not constitute a significant change in design, or a significant change in basic principles of operation, of the device.".

(b) ACTION ON APPLICATION.—Section 515(d)(1)(B) (21 U.S.C. 360e(d)(1)(B)) is amended by adding at the end the following:

"(iii) The Secretary shall accept and review data and any other information from investigations conducted under the authority of regulations required by section 520(g), to make a determination of whether there is a reasonable assurance of safety and effectiveness of a device subject to a pending application under this section if—

"(I) the data or information is derived from investigations of an earlier version of the device, the device has been modified during or after the investigations (but prior to submission of an application under subsection (c)) and such a modification of the device does not constitute a significant change in the design or in the basic principles of operation of the device that would invalidate the data or information; or

"(II) the data or information relates to a device approved under this section, is available for use under this Act, and is relevant to the design and intended use of the device for which the application is pending.".

(c) ACTION ON SUPPLEMENTS.—Section 515(d) (21 U.S.C. 360e(d)), as amended by section 302, is further amended by adding at the end the following:

"(6)(A)(i) A supplemental application shall be required for any change to a device subject to an approved application under this subsection that affects safety or effectiveness, unless such change is a modification in a manufacturing procedure or method of manufacturing and the holder of the approved application submits a written notice to the Secretary that describes in detail the change, summarizes the data or information supporting the change, and informs the Secretary that the change has been made under the requirements of section 520(f).

"(ii) The holder of an approved application who submits a notice under clause (i) with respect to a manufacturing change of a device may distribute the device 30 days aft

the date on which the Secretary receives the notice, unless the Secretary within such 30-day period notifies the holder that the notice is not adequate and describes such further information or action that is required for acceptance of such change. If the Secretary notifies the holder that a premarket approval supplement is required, the Secretary shall review the supplement within 135 days after the receipt of the supplement. The time used by the Secretary to review the notice of the manufacturing change shall be deducted from the 135-day review period if the notice meets appropriate content requirements for premarket approval supplements.

"(B)(i) Subject to clause (ii), in reviewing a supplement to an approved application, for an incremental change to the design of a device that affects safety or effectiveness, the Secretary shall approve such supplement if—

"(I) nonclinical data demonstrate that the design modification creates the intended additional capacity, function, or performance of the device; and

"(II) clinical data from the approved application and any supplement to the approved application provide a reasonable assurance of safety and effectiveness for the changed device.

"(ii) The Secretary may require, when necessary, additional clinical data to evaluate the design modification of the device to provide a reasonable assurance of safety and effectiveness.".

SEC. 602. ENVIRONMENTAL IMPACT REVIEW.

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 402, is further amended by adding at the end the following:

"SEC. 742. ENVIRONMENTAL IMPACT REVIEW.

"Notwithstanding any other provision of law, an environmental impact statement prepared in accordance with the regulations published in part 25 of title 21, Code of Federal Regulations (as in effect on August 31, 1997) in connection with an action carried out under (or a recommendation or report relating to) this Act, shall be considered to meet the requirements for a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).".

SEC. 603. EXEMPTION OF CERTAIN CLASSES OF DEVICES FROM PREMARKET NOTIFICATION REQUIREMENT.

(a) CLASS I AND CLASS II DEVICES.—Section 510(k) (21 U.S.C. 360(k)) is amended by striking "intended for human use" and inserting "intended for human use (except a device that is classified into class I under section 513 or 520 unless the Secretary determines such device is intended for a use that is of substantial importance in preventing impairment of human health or such device presents a potential unreasonable risk of illness or injury, or a device that is classified into class II under section 513 or 520 and is exempt from the requirements of this subsection under subsection (l))".

(b) PUBLICATION OF EXEMPTION.—Section 510 (21 U.S.C. 360) is amended by inserting after subsection (k) the following:

"(l)(1) Not later than 30 days after the date of enactment of this subsection, the Secretary shall publish in the Federal Register a list of each type of class II device that does not require a notification under subsection (k) to provide reasonable assurance of safety and effectiveness. Each type of class II device identified by the Secretary not to require the notification shall be exempt from the requirement to provide notification under subsection (k) as of the date of the publication of the list in the Federal Register.

"(2) Beginning on the date that is 1 day after the date of the publication of a list under this subsection, the Secretary may exempt a class II device from the notification requirement of subsection (k), upon the Secretary's own initiative or a petition of an interested person, if the Secretary determines that such notification is not necessary to assure the safety and effectiveness of the device. The Secretary shall publish in the Federal Register notice of the intent of the Secretary to exempt the device, or of the petition, and provide a 30-day period for public comment. Within 120 days after the issuance of the notice in the Federal Register, the Secretary shall publish an order in the Federal Register that sets forth the final determination of the Secretary regarding the exemption of the device that was the subject of the notice.".

SEC. 604. EVALUATION OF AUTOMATIC CLASS III DESIGNATION.

Section 513(f) (21 U.S.C. 360c(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "paragraph (2)" and inserting "paragraph (3)"; and

(B) in the last sentence, by striking "paragraph (2)" and inserting "paragraph (2) or (3)";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

"(2)(A) Any person who submits a report under section 510(k) for a type of device that has not been previously classified under this Act, and that is classified into class III under paragraph (1), may request, within 30 days after receiving written notice of such a classification, the Secretary to classify the device under the criteria set forth in subparagraphs (A) through (C) subsection (a)(1). The person may, in the request, recommend to the Secretary a classification for the device. Any such request shall describe the device and provide detailed information and reasons for the recommended classification.

"(B)(i) Not later than 60 days after the date of the submission of the request under subparagraph (A) for classification of a device under the criteria set forth in subparagraphs (A) through (C) of subsection (a)(1), the Secretary shall by written order classify the device. Such classification shall be the initial classification of the device for purposes of paragraph (1) and any device classified under this paragraph shall be a predicate device for determining substantial equivalence under paragraph (1).

"(ii) A device that remains in class III under this subparagraph shall be deemed to be adulterated within the meaning of section 501(f)(1)(B) until approved under section 515 or exempted from such approval under section 520(g).

"(C) Within 30 days after the issuance of an order classifying a device under this paragraph, the Secretary shall publish a notice in the Federal Register announcing such classification.".

SEC. 605. SECRETARY'S DISCRETION TO TRACK DEVICES.

(a) RELEASE OF INFORMATION.—Section 519(e) (21 U.S.C. 360i(e)) is amended by adding at the end the following flush sentence:

"Any patient receiving a device subject to tracking under this section may refuse to release, or refuse permission to release, the patient's name, address, social security number, or other identifying information for the purpose of tracking.".

(b) PUBLICATION OF CERTAIN DEVICES.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall develop and publish in the Federal Register a list that identifies each type of device subject to tracking under section 519(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i(e)(1)). Each device not identified by the Secretary of Health and Human Services under this subsection or designated by the Secretary under section 519(e)(2) shall be deemed to be exempt from the mandatory tracking requirement under section 519 of such Act. The Secretary of Health and Human Services shall have authority to modify the list of devices exempted from the mandatory tracking requirements.

SEC. 606. SECRETARY'S DISCRETION TO CONDUCT POSTMARKET SURVEILLANCE.

(a) IN GENERAL.—Section 522 (21 U.S.C. 360l) is amended by striking "SEC. 522." and all that follows through "(2) DISCRETIONARY SURVEILLANCE.—The" and inserting the following:

"SEC. 522. (a) DISCRETIONARY SURVEILLANCE.—The".

(b) SURVEILLANCE APPROVAL.—Section 522(b) (21 U.S.C. 360l(b)) is amended to read as follows:

"(b) SURVEILLANCE APPROVAL.—

"(1) IN GENERAL.—Each manufacturer that receives notice from the Secretary that the manufacturer is required to conduct surveillance of a device under subsection (a) shall, not later than 30 days after receiving the notice, submit for the approval of the Secretary, a plan for the required surveillance.

"(2) DETERMINATION.—Not later than 60 days after the receipt of the plan, the Secretary shall determine if a person proposed in the plan to conduct the surveillance has sufficient qualifications and experience to conduct the surveillance and if the plan will result in the collection of useful data that can reveal unforeseen adverse events or other information necessary to protect the public health and to provide safety and effectiveness information for the device.

"(3) LIMITATION ON PLAN APPROVAL.—The Secretary may not approve the plan until the plan has been reviewed by a qualified scientific and technical review committee established by the Secretary.".

SEC. 607. REPORTING.

(a) REPORTS.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)—

(A) in the first sentence by striking "make such reports, and provide such information," and inserting "and each such manufacturer or importer shall make such reports, provide such information, and submit such samples and components of devices (as required by paragraph (10)),";

(B) in paragraph (8), by striking "; and" and inserting a semicolon; and

(C) by striking paragraph (9) and inserting the following:

"(9) shall require distributors to keep records and make such records available to the Secretary upon request; and";

(2) by striking subsection (d); and

(3) in subsection (f), by striking ", importer, or distributor" each place it appears and inserting "or importer".

(b) REGISTRATION.—Section 510(g) (21 U.S.C. 360(g)) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by inserting after paragraph (3), the following:

"(4) any distributor who acts as a wholesale distributor of devices, and who does not manufacture, repackage, process, or relabel a device; or"; and

(3) by adding at the end the following flush sentence:

"In this subsection, the term 'wholesale distributor' means any person who distributes a device from the original place of manufacture to the person who makes the final delivery or sale of the device to the ultimate consumer or user.".

SEC. 608. PILOT AND SMALL-SCALE MANUFACTURE.

(a) NEW DRUGS.—Section 505(c) (21 U.S.C. 355(c)) is amended by adding at the end the following:

"(4) A new drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the new drug and to obtain approval of the new drug prior to scaling up to a larger facility, unless the Secretary determines that a full scale production facility is necessary to ensure the safety or effectiveness of the new drug.".

(b) NEW ANIMAL DRUGS.—Section 512(c) (21 U.S.C. 360b(c)) is amended by adding at the end the following:

"(4) A new animal drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the new drug and to obtain approval of the new drug prior to scaling up to a larger facility, unless the Secretary determines that a full scale production facility is necessary to ensure the safety or effectiveness of the new drug.".

SEC. 609. REQUIREMENTS FOR RADIOPHARMACEUTICALS.

(a) REQUIREMENTS.—

(1) REGULATIONS.—

(A) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, after consultation with patient advocacy groups, associations, physicians licensed to use radiopharmaceuticals, and the regulated industry, shall issue proposed regulations governing the approval of radiopharmaceuticals designed for diagnosis and monitoring of diseases and conditions. The regulations shall provide that the determination of the safety and effectiveness of such a radiopharmaceutical under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) shall include (but not be limited to) consideration of the proposed use of the radiopharmaceutical in the practice of medicine, the pharmacological and toxicological activity of the radiopharmaceutical (including any carrier or ligand component of the radiopharmaceutical), and the estimated absorbed radiation dose of the radiopharmaceutical.

(B) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate final regulations governing the approval of the radiopharmaceuticals.

(2) SPECIAL RULE.—In the case of a radiopharmaceutical intended to be used for diagnostic or monitoring purposes, the indications for which such radiopharmaceutical is approved for marketing may, in appropriate cases, refer to manifestations of disease (such as biochemical, physiological, anatomic, or pathological processes) common to, or present in, 1 or more disease states.

(b) DEFINITION.—In this section, the term "radiopharmaceutical" means—

(1) an article—

(A) that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans; and

(B) that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(2) any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such article.

SEC. 610. MODERNIZATION OF REGULATION OF BIOLOGICAL PRODUCTS.

(a) LICENSES.—

(1) IN GENERAL.—Section 351(a) of the Public Health Service (42 U.S.C. 262(a)) is amended to read as follows:

"(a)(1) Except as provided in paragraph (4), no person shall introduce or deliver for introduction into interstate commerce any biological product unless—

"(A) a biologics license is in effect for the biological product; and

"(B) each package of the biological product is plainly marked with—

"(i) the proper name of the biological product contained in the package;

"(ii) the name, address, and applicable license number of the manufacturer of the biological product; and

"(iii) the expiration date of the biological product.

"(2)(A) The Secretary shall establish, by regulation, requirements for the approval, suspension, and revocation of biologics licenses.

"(B) The Secretary shall approve a biologics license application on the basis of a demonstration that—

"(i) the biological product that is the subject of the application is safe, pure, and potent; and

"(ii) the facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent.

"(3) A biologics license application shall be approved only if the applicant (or other appropriate person) consents to the inspection of the facility that is the subject of the application, in accordance with subsection (c).

"(4) The Secretary shall prescribe requirements under which a biological product undergoing investigation shall be exempt from the requirements of paragraph (1).".

(2) ELIMINATION OF EXISTING LICENSE REQUIREMENT.—Section 351(d) of the Public Health Service Act (42 U.S.C. 262(d)) is amended—

(A) by striking "(d)(1)" and all that follows through "of this section.";

(B) in paragraph (2)—

(i) by striking "(2)(A) Upon" and inserting "(d)(1) Upon;" and

(ii) by redesignating subparagraph (B) as paragraph (2); and

(C) in paragraph (2) (as so redesignated by subparagraph (B)(ii))—

(i) by striking "subparagraph (A)" and inserting "paragraph (1)"; and

(ii) by striking "this subparagraph" each place it appears and inserting "this paragraph".

(b) LABELING.—Section 351(b) of the Public Health Service Act (42 U.S.C. 262(b)) is amended to read as follows:

"(b) No person shall falsely label or mark any package or container of any biological product or alter any label or mark on the package or container of the biological product so as to falsify the label or mark.".

(c) INSPECTION.—Section 351(c) of the Public Health Service Act (42 U.S.C. 262(c)) is amended by striking "virus, serum," and all that follows and inserting "biological product.".

(d) DEFINITION; APPLICATION.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended by adding at the end the following:

"(i) In this section, the term 'biological product' means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings.".

(e) CONFORMING AMENDMENT.—Section 503(g)(4) (21 U.S.C. 353(g)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking "section 351(a)" and inserting "section 351(i)"; and

(B) by striking "262(a)" and inserting "262(i)"; and

(2) in subparagraph (B)(iii), by striking "product or establishment license under subsection (a) or (d)" and inserting "biologics license application under subsection (a)".

(f) SPECIAL RULE.—The Secretary of Health and Human Services shall take measures to minimize differences in the review and approval of products required to have approved biologics license applications under section 351 of the Public Health Service Act (42 U.S.C. 262) and products required to have approved full new drug applications under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)).

SEC. 611. APPROVAL OF SUPPLEMENTAL APPLICATIONS FOR APPROVED PRODUCTS.

(a) PERFORMANCE STANDARDS.—Not later than 180 days after the date of enactment of this section, the Secretary of Health and Human Services shall publish in the Federal Register performance standards for the prompt review of supplemental applications submitted for approved articles under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

(b) GUIDANCE TO INDUSTRY.—Not later than 180 days after the date of enactment of this section, the Secretary of Health and Human Services shall issue final guidances to clarify the requirements for, and facilitate the submission of data to support, the approval of supplemental applications for the approved articles described in subsection (a). The guidances shall—

(1) clarify circumstances in which published matter may be the basis for approval of a supplemental application;

(2) specify data requirements that will avoid duplication of previously submitted data by recognizing the availability of data previously submitted in support of an original application; and

(3) define supplemental applications that are eligible for priority review.

(c) RESPONSIBILITIES OF CENTERS.—The Secretary of Health and Human Services shall designate an individual in each center within the Food and Drug Administration (except the Center for Food Safety and Applied Nutrition) to be responsible for—

(1) encouraging the prompt review of supplemental applications for approved articles; and

(2) working with sponsors to facilitate the development and submission of data to support supplemental applications.

(d) COLLABORATION.—The Secretary of Health and Human Services shall implement programs and policies that will foster collaboration between the Food and Drug Administration, the National Institutes of Health, professional medical and scientific societies, and other persons, to identify published and unpublished studies that may support a supplemental application, and to encourage sponsors to make supplemental applications or conduct further research in support of a supplemental application based, in whole or in part, on such studies.

SEC. 612. HEALTH CARE ECONOMIC INFORMATION.

(a) IN GENERAL.—Section 502(a) (21 U.S.C. 352(a)) is amended by adding at the end the following: "Health care economic information provided to a formulary committee, or other similar entity, in the course of the committee or the entity carrying out its responsibilities for the selection of drugs for managed care or other similar organizations, shall not be considered to be false or misleading if the health care economic information directly relates to an indication approved under section 505 or 507 or section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) for such drug and is based on competent and reliable scientific evidence. The requirements set forth in section 505(a), 507, or section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) shall not apply to health care economic information provided to such a committee or entity in accordance with this paragraph. Information that is relevant to the substantiation of the health care economic information presented pursuant to this paragraph shall be made available to the Secretary upon request. In this paragraph, the term 'health care economic information' means any analysis that identifies, measures, or compares the economic consequences, including the costs of the represented health outcomes, of the use of a drug to the use of another drug, to another health care intervention, or to no intervention.".

(b) STUDY AND REPORT.—The Comptroller General of the United States shall conduct a study of the implementation of the provisions added by the amendment made by subsection (a). Not later than 4 years and 6 months after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to Congress a report containing the findings of the study.

SEC. 613. EXPEDITING STUDY AND APPROVAL OF FAST TRACK DRUGS.

(a) IN GENERAL.—Chapter V (21 U.S.C. 351 et seq.), as amended by section 102, is further amended by adding at the end the following:

"Subchapter E—Fast Track Drugs and Reports of Post-Market Approval Studies

"SEC. 561. FAST TRACK DRUGS.

"(a) DESIGNATION OF DRUG AS A FAST TRACK DRUG.—

"(1) IN GENERAL.—The Secretary shall facilitate development, and expedite review and approval of new drugs and biological products that are intended for the treatment of serious or life-threatening conditions and that demonstrate the potential to address unmet medical needs for such conditions. In this Act, such products shall be known as 'fast track drugs'.

"(2) REQUEST FOR DESIGNATION.—The sponsor of a drug (including a biological product) may request the Secretary to designate the drug as a fast track drug. A request for the designation may be made concurrently with, or at any time after, submission of an application for the investigation of the drug under section 505(i) or section 351(a)(4) of the Public Health Service Act.

"(3) DESIGNATION.—Within 30 calendar days after the receipt of a request under paragraph (2), the Secretary shall determine whether the drug that is the subject of the request meets the criteria described in paragraph (1). If the Secretary finds that the drug meets the criteria, the Secretary shall designate the drug as a fast track drug and shall take such actions as are appropriate to expedite the development and review of the drug.

"(b) APPROVAL OF APPLICATION FOR A FAST TRACK DRUG.—

"(1) IN GENERAL.—The Secretary may approve an application for approval of a fast track drug under section 505(b) or section 351 of the Public Health Service Act (21 U.S.C. 262) upon a determination that the drug has an effect on a surrogate endpoint that is reasonably likely to predict clinical benefit.

"(2) LIMITATION.—Approval of a fast track drug under this subsection may be subject to the requirements—

"(A) that the sponsor conduct appropriate post-approval studies to validate the surrogate endpoint or otherwise confirm the clinical benefit of the drug; and

"(B) that the sponsor submit copies of all promotional materials related to the fast track drug during the preapproval review period and following approval, at least 30 days prior to dissemination of the materials for such period of time as the Secretary deems appropriate.

"(3) EXPEDITED WITHDRAWAL OF APPROVAL.—The Secretary may withdraw approval of a fast track drug using expedited procedures (as prescribed by the Secretary in regulations) including a procedure that provides an opportunity for an informal hearing, if—

"(A) the sponsor fails to conduct any required post-approval study of the fast track drug with due diligence;

"(B) a post-approval study of the fast track drug fails to verify clinical benefit of the fast track drug;

"(C) other evidence demonstrates that the fast track drug is not safe or effective under conditions of use of the drug; or

"(D) the sponsor disseminates false or misleading promotional materials with respect to the fast track drug.

"(c) REVIEW OF INCOMPLETE APPLICATIONS FOR APPROVAL OF A FAST TRACK DRUG.—

"(1) IN GENERAL.—If preliminary evaluation by the Secretary of clinical efficacy data for a fast track drug under investigation shows evidence of effectiveness, the Secretary shall evaluate for filing, and may commence review of, portions of an application for the approval of the drug if the applicant provides a schedule for submission of information necessary to make the application complete and any fee that may be required under section 736.

"(2) EXCEPTION.—Any time period for review of human drug applications that has been agreed to by the Secretary and that has been set forth in goals identified in letters of the Secretary (relating to the use of fees collected under section 736 to expedite the drug development process and the review of human drug applications) shall not apply to an application submitted under paragraph (1) until the date on which the application is complete.

"(d) AWARENESS EFFORTS.—The Secretary shall—

"(1) develop and widely disseminate to physicians, patient organizations, pharmaceutical and biotechnology companies, and other appropriate persons a comprehensive description of the provisions applicable to fast track drugs established under this section; and

"(2) establish an ongoing program to encourage the development of surrogate endpoints that are reasonably likely to predict clinical benefit for serious or life-threatening conditions for which there exist significant unmet medical needs.".

(b) GUIDANCE.—Within 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance for fast track drugs that describes the policies and procedures that pertain to section 561 of the Federal Food, Drug, and Cosmetic Act.

SEC. 614. MANUFACTURING CHANGES FOR DRUGS AND BIOLOGICS.

(a) IN GENERAL.—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 602, is further amended by adding at the end the following:

"Subchapter E—Manufacturing Changes

"SEC. 751. MANUFACTURING CHANGES.

"(a) IN GENERAL.—A change in the manufacture of a new drug, including a biological product, or a new animal drug may be made in accordance with this section.

"(b) CHANGES.—

"(1) VALIDATION.—Before distributing a drug made after a change in the manufacture of the drug from the manufacturing process established in the approved new drug application under section 505, the approved new animal drug application under section 512, or the license application under section 351 of the Public Health Service Act, the applicant shall validate the effect of the change on the identity, strength, quality, purity, and potency of the drug as the identity, strength, quality, purity, and potency may relate to the safety or effectiveness of the drug.

"(2) REPORTS.—The applicant shall report the change described in paragraph (1) to the Secretary and may distribute a drug made after the change as follows:

"(A) MAJOR MANUFACTURING CHANGES.—

"(i) IN GENERAL.—Major manufacturing changes, which are of a type determined by the Secretary to have substantial potential to adversely affect the identity, strength, quality, purity, or potency of the drug as the identity, strength, quality, purity, and potency may relate to the safety or effectiveness of a drug, shall be submitted to the Secretary in a supplemental application and drugs made after such changes may not be distributed until the Secretary approves the supplemental application.

"(ii) DEFINITION.—In this subparagraph, the term 'major manufacturing changes' means—

"(I) changes in the qualitative or quantitative formulation of a drug or the specifications in the approved marketing application for the drug (unless exempted by the Secretary from the requirements of this subparagraph);

"(II) changes that the Secretary determines by regulation or issuance of guidance require completion of an appropriate human study demonstrating equivalence of the drug to the drug manufactured before such changes; and

"(III) other changes that the Secretary determines by regulation or issuance of guidance have a substantial potential to adversely affect the safety or effectiveness of the drug.

"(B) OTHER MANUFACTURING CHANGES.—

"(i) IN GENERAL.—As determined by the Secretary, manufacturing changes other than major manufacturing changes shall—

"(I) be made at any time and reported annually to the Secretary, with supporting data; or

"(II) be reported to the Secretary in a supplemental application.

"(ii) DISTRIBUTION OF THE DRUG.—In the case of changes reported in accordance with clause (i)(II)—

"(I) the applicant may distribute the drug 30 days after the Secretary receives the supplemental application unless the Secretary notifies the applicant within such 30-day period that prior approval of such supplemental application is required;

"(II) the Secretary shall approve or disapprove each such supplemental application; and

"(III) the Secretary may determine types of manufacturing changes after which distribution of a drug may commence at the time of submission of such supplemental application.".

(b) EXISTING LAW.—The requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) and the Public Health Service Act (42 U.S.C. 201 et seq.) that are in effect on the date of enactment of this Act with respect to manufacturing changes shall remain in effect—

(1) for a period of 24 months after the date of enactment of this Act; or

(2) until the effective date of regulations promulgated by the Secretary of Health and Human Services implementing section 751 of the Federal Food, Drug, and Cosmetic Act,

whichever is sooner.

SEC. 615. DATA REQUIREMENTS FOR DRUGS AND BIOLOGICS.

Within 12 months after the date of enactment of this Act, the Secretary of the Health and Human Services, acting through the Commissioner of Food and Drugs, shall issue guidance that describes when abbreviated study reports may be submitted, in lieu of full reports, with a new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and with a biologics license application under section 351 of the Public Health Service Act (42 U.S.C. 262) for certain types of studies. Such guidance shall describe the kinds of studies for which abbreviated reports are appropriate and the appropriate abbreviated report formats.

SEC. 616. FOOD CONTACT SUBSTANCES.

(a) FOOD CONTACT SUBSTANCES.—Section 409(a) (21 U.S.C. 348(a)) is amended—

(1) in paragraph (1)—

(A) by striking "subsection (i)" and inserting "subsection (j)"; and

(B) by striking at the end "or";

(2) by striking the period at the end of paragraph (2) and inserting "; or";

(3) by inserting after paragraph (2) the following:

"(3) in the case of a food additive as defined in this Act that is a food contact substance, there is—

"(A) in effect, and such substance and the use of such substance are in conformity with, a regulation issued under this section prescribing the conditions under which such additive may be safely used; or

"(B) a notification submitted under subsection (h) that is effective."; and

(4) by striking the matter following paragraph (3) (as added by paragraph (2)) and inserting the following flush sentence:

"While such a regulation relating to a food additive, or such a notification under subsection (h) relating to a food additive that is a food contact substance, is in effect, and has not been revoked pursuant to subsection (i), a food shall not, by reason of bearing or containing such a food additive in accordance with the regulation or notification, be considered adulterated under section 402(a)(1).".

(b) NOTIFICATION FOR FOOD CONTACT SUBSTANCES.—Section 409 (21 U.S.C. 348), as amended by subsection (a), is further amended—

(1) by redesignating subsections (h) and (i), as subsections (i) and (j), respectively;

(2) by inserting after subsection (g) the following:

"Notification Relating to a Food Contact Substance

"(h)(1) Subject to such regulations as may be promulgated under paragraph (3), a manufacturer or supplier of a food contact substance may, at least 120 days prior to the introduction or delivery for introduction into interstate commerce of the food contact substance, notify the Secretary of the identity and intended use of the food contact substance, and of the determination of the manufacturer or supplier that the intended use of such food contact substance is safe under the standard described in subsection (c)(3)(A). The notification shall contain the information that forms the basis of the determination, the fee required under paragraph (5), and all information required to be submitted by regulations promulgated by the Secretary.

"(2)(A) A notification submitted under paragraph (1) shall become effective 120 days after the date of receipt by the Secretary and the food contact substance may be introduced or delivered for introduction into interstate commerce, unless the Secretary makes a determination within the 120-day period that, based on the data and information before the Secretary, such use of the food contact substance has not been shown to be safe under the standard described in subsection (c)(3)(A), and informs the manufacturer or supplier of such determination.

"(B) A decision by the Secretary to object to a notification shall constitute final agency action subject to judicial review.

"(C) In this paragraph, the term 'food contact substance' means the substance that is the subject of a notification submitted under paragraph (1), and does not include a similar or identical substance manufactured or prepared by a person other than the manufacturer identified in the notification.

"(3)(A) The process in this subsection shall be utilized for authorizing the marketing of a food contact substance except where the Secretary determines that submission and review of a petition under subsection (b) is necessary to provide adequate assurance of safety, or where the Secretary and any manufacturer or supplier agree that such manufacturer or supplier may submit a petition under subsection (b).

"(B) The Secretary is authorized to promulgate regulations to identify the circumstances in which a petition shall be filed under subsection (b), and shall consider criteria such as the probable consumption of such food contact substance and potential toxicity of the food contact substance in determining the circumstances in which a petition shall be filed under subsection (b).

"(4) The Secretary shall keep confidential any information provided in a notification under paragraph (1) for 120 days after receipt by the Secretary of the notification. After the expiration of such 120 days, the information shall be available to any interested party except for any matter in the notification that is a trade secret or confidential commercial information.

"(5)(A) Each person that submits a notification regarding a food contact substance under this section shall be subject to the payment of a reasonable fee. The fee shall be based on the resources required to process the notification including reasonable administrative costs for such processing.

"(B) The Secretary shall conduct a study of the costs of administering the notification program established under this section and, on the basis of the results of such study, shall, within 18 months after the date of enactment of the Food and Drug Administration Modernization and Accountability Act of 1997, promulgate regulations establishing the fee required by subparagraph (A).

"(C) A notification submitted without the appropriate fee is not complete and shall not become effective for the purposes of subsection (a)(3) until the appropriate fee is paid.

"(D) Fees collected pursuant to this subsection—

"(i) shall not be deposited as an offsetting collection to the appropriations for the Department of Health and Human Services;

"(ii) shall be credited to the appropriate account of the Food and Drug Administration; and

"(iii) shall be available in accordance with appropriation Acts until expended, without fiscal year limitation.

"(6) In this section, the term 'food contact substance' means any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.";

(3) in subsection (i), as so redesignated by paragraph (1), by adding at the end the following: "The Secretary shall by regulation prescribe the procedure by which the Secretary may deem a notification under subsection (h) to no longer be effective."; and

(4) in subsection (j), as so redesignated by paragraph (1), by striking "subsections (b) to (h)" and inserting "subsections (b) to (i)".

(c) EFFECTIVE DATE.—Notifications under section 409(h) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (b), may be submitted beginning 18 months after the date of enactment of this Act.

SEC. 617. HEALTH CLAIMS FOR FOOD PRODUCTS.

Section 403(r)(3) (21 U.S.C. 343(r)(3)) is amended by adding at the end the following:

"(C) Notwithstanding the provisions of clauses (A)(i) and (B), a claim of the type described in subparagraph (1)(B) that is not authorized by the Secretary in a regulation promulgated in accordance with clause (B) shall be authorized and may be made if—

"(i) an authoritative scientific body of the Federal Government with official responsibility for public health protection or research directly relating to human nutrition (such as the National Institutes of Health or the Centers for Disease Control and Prevention), the National Academy of Sciences, or a subdivision of the scientific body or the National Academy of Sciences, has published an authoritative statement, which is currently in effect, about the relationship between a nutrient and a disease or health-related condition to which the claim refers;

"(ii) a person has submitted to the Secretary at least 120 days before the first introduction of a food into interstate commerce a notice of the claim, including a concise description of the basis upon which such person relied for determining that the requirements of subclause (i) have been satisfied;

"(iii) the claim and the food for which the claim is made are in compliance with clause (A)(ii), and are otherwise in compliance with paragraph (a) and section 201(n); and

"(iv) the claim is stated in a manner so that the claim is an accurate representation of the authoritative statement referred to in subclause (i) and so that the claim enables the public to comprehend the information provided in the claim and to understand the relative significance of such information in the context of a total daily diet.

For purposes of this paragraph, a statement shall be regarded as an authoritative statement of such a scientific body described in

subclause (i) only if the statement is published by the scientific body and shall not include a statement of an employee of the scientific body made in the individual capacity of the employee.

"(D) A claim submitted under the requirements of clause (C), may be made until—

"(i) such time as the Secretary issues an interim final regulation—

"(I) under the standard in clause (B)(i), prohibiting or modifying the claim; or

"(II) finding that the requirements of clause (C) have not been met; or

"(ii) a district court of the United States in an enforcement proceeding under chapter III has determined that the requirements of clause (C) have not been met.

Where the Secretary issues a regulation under subclause (i), good cause shall be deemed to exist for the purposes of subsections (b)(B) and (d)(3) of section 553 of title 5, United States Code. The Secretary shall solicit comments in response to a regulation promulgated under subclause (i) and shall publish a response to such comments.".

SEC. 618. PEDIATRIC STUDIES MARKETING EXCLUSIVITY.

(a) GENERAL AUTHORITY.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505 the following:

"SEC. 505A. PEDIATRIC STUDIES OF DRUGS.

"(a) MARKET EXCLUSIVITY FOR NEW DRUGS.—If, prior to approval of an application that is submitted under section 505(b)(1), the Secretary determines that information relating to the use of a drug in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which may include a timeframe for completing such studies), and such studies are completed within any such timeframe and the reports thereof submitted in accordance with subsection (d)(2) or completed within any such timeframe and the reports thereof are accepted in accordance with subsection (d)(3)—

"(1)(A) the period during which an application may not be submitted under subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 shall be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 to four years, to forty-eight months, and to seven and one-half years shall be deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

"(B) the period of market exclusivity under subsections (c)(3)(D) (iii) and (iv) and (j)(4)(D) (iii) and (iv) of section 505 shall be three years and six months rather than three years; and

"(2)(A) if the drug is the subject of—

"(i) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

"(ii) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under subsection (c)(3) or (j)(4)(B) of section 505 shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

"(B) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under subsection (c)(3) or (j)(4)(B) of section 505 shall be extended by a period of six months after the date the patent expires (including any patent extensions).

"(b) SECRETARY TO DEVELOP LIST OF DRUGS FOR WHICH ADDITIONAL PEDIATRIC INFORMATION MAY BE BENEFICIAL.—Not later than 180 days after the date of enactment of this section, the Secretary, after consultation with experts in pediatric research (such as the American Academy of Pediatrics, the Pediatric Pharmacology Research Unit Network, and the United States Pharmacopoeia) shall develop, prioritize, and publish an initial list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population. The Secretary shall annually update the list.

"(c) MARKET EXCLUSIVITY FOR ALREADY-MARKETED DRUGS.—If the Secretary makes a written request for pediatric studies (which may include a timeframe for completing such studies) concerning a drug identified in the list described in subsection (b) to the holder of an approved application under section 505(b)(1) for the drug, the holder agrees to the request, and the studies are completed within any such timeframe and the reports thereof submitted in accordance with subsection (d)(2) or completed within any such timeframe and the reports thereof accepted in accordance with subsection (d)(3)—

"(1)(A) the period during which an application may not be submitted under subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 shall be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of section 505 to four years, to forty-eight months, and to seven and one-half years shall be deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

"(B) the period of market exclusivity under subsections (c)(3)(D) (iii) and (iv) and (j)(4)(D) (iii) and (iv) of section 505 shall be three years and six months rather than three years; and

"(2)(A) if the drug is the subject of—

"(i) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

"(ii) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under subsection (c)(3) or (j)(4)(B) of section 505 shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

"(B) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under subsection (c)(3) or (j)(4)(B) of section 505 shall be extended by a period of six months after the date the patent expires (including any patent extensions).

"(d) CONDUCT OF PEDIATRIC STUDIES.—

"(1) AGREEMENT FOR STUDIES.—The Secretary may, pursuant to a written request for studies, after consultation with—

"(A) the sponsor of an application for an investigational new drug under section 505(i);

"(B) the sponsor of an application for a drug under section 505(b)(1); or

"(C) the holder of an approved application for a drug under section 505(b)(1),

agree with the sponsor or holder for the conduct of pediatric studies for such drug.

"(2) WRITTEN PROTOCOLS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary agree upon written protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied upon the completion of the studies and submission of the reports thereof in accordance with the original written request and the written agreement referred to in paragraph (1). Not later than 60 days after the submission of the report of the studies, the Secretary shall determine if such studies were or were not conducted in accordance with the original written request and the written agreement and reported in accordance with the requirements of the Secretary for filing and so notify the sponsor or holder.

"(3) OTHER METHODS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary have not agreed in writing on the protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied when such studies have been completed and the reports accepted by the Secretary. Not later than 90 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary's only responsibility in accepting or rejecting the reports shall be to determine, within the 90 days, whether the studies fairly respond to the written request, whether such studies have been conducted in accordance with commonly accepted scientific principles and protocols, and whether such studies have been reported in accordance with the requirements of the Secretary for filing.

"(e) DELAY OF EFFECTIVE DATE FOR CERTAIN APPLICATIONS; PERIOD OF MARKET EXCLUSIVITY.—If the Secretary determines that the acceptance or approval of an application under subsection (b)(2) or (j) of section 505 for a drug may occur after submission of reports of pediatric studies under this section, which were submitted prior to the expiration of the patent (including any patent extension) or market exclusivity protection, but before the Secretary has determined whether the requirements of subsection (d) have been satisfied, the Secretary shall delay the acceptance or approval under subsection (b)(2) or (j), respectively, of section 505 until the determination under subsection (d) is made, but such delay shall not exceed 90 days. In the event that requirements of this section are satisfied, the applicable period of market exclusivity referred to in subsection (a) or (c) shall be deemed to have been running during the period of delay.

"(f) NOTICE OF DETERMINATIONS ON STUDIES REQUIREMENT.—The Secretary shall publish a notice of any determination that the requirements of subsection (d) have been met and that submissions and approvals under subsection (b)(2) or (j) of section 505 for a drug will be subject to the provisions of this section.

"(g) LIMITATION.—The holder of an approved application for a new drug that has already received six months of market exclusivity under subsection (a) or (c) may, if otherwise eligible, obtain six months of market

exclusivity under subsection (c)(1)(B) for a supplemental application, except that the holder is not eligible for exclusivity under subsection (c)(2).

"(h) STUDY AND REPORT.—The Secretary shall conduct a study and report to Congress not later than January 1, 2003 based on the experience under the program. The study and report shall examine all relevant issues, including—

"(1) the effectiveness of the program in improving information about important pediatric uses for approved drugs;

"(2) the adequacy of the incentive provided under this section;

"(3) the economic impact of the program; and

"(4) any suggestions for modification that the Secretary deems appropriate.

"(i) TERMINATION OF MARKET EXCLUSIVITY EXTENSION AUTHORITY FOR NEW DRUGS.—Except as provided in section 618(b) of the Food and Drug Administration Modernization and Accountability Act of 1997, no period of market exclusivity shall be extended under subsection (a) for a drug if—

"(1) the extension would be based on studies commenced after January 1, 2004; and

"(2) the application submitted for the drug under section 505(b)(1) was not approved by January 1, 2004.

"(j) DEFINITIONS.—In this section, the term 'pediatric studies' or 'studies' means at least 1 clinical investigation (that, at the Secretary's discretion, may include pharmacokinetic studies) in pediatric age-groups in which a drug is anticipated to be used.".

(b) MARKET EXCLUSIVITY UNDER OTHER AUTHORITY.—

(1) THROUGH CALENDAR YEAR 2003.—

(A) DETERMINATION.—If the Secretary requests or requires pediatric studies, prior to January 1, 2004, under Federal law other than section 505A of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), from the sponsor of an application, or the holder of an approved application, for a drug under section 505(b) of such Act (21 U.S.C. 355(b)), the Secretary shall determine whether the studies meet the completeness, timeliness, and other submission requirements of the Federal law involved.

(B) MARKET EXCLUSIVITY.—If the Secretary determines that the studies meet the requirements involved, the Secretary shall ensure that the period of market exclusivity for the drug involved is extended for 6 months in accordance with the requirements of subsection (a), (c), (e), and (g) (as appropriate) of section 505A of such Act (as in effect on the date of enactment of this Act.).

(2) CALENDAR YEAR 2004 AND SUBSEQUENT YEARS.—

(A) NEW DRUGS.—Effective January 1, 2004, if the Secretary requests or requires pediatric studies, under Federal law other than section 505A of the Federal Food, Drug, and Cosmetic Act, from the sponsor of an application for a drug under section 505(b) of such Act, nothing in such law shall be construed to permit or require the Secretary to ensure that the period of market exclusivity for the drug is extended.

(B) ALREADY MARKETED DRUGS.—

(i) DETERMINATION.—Effective January 1, 2004, if the Secretary requests or requires pediatric studies, under Federal law other than section 505A of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), from the holder of an approved application for a drug under section 505(b) of such Act, the Secretary shall determine whether the studies meet the completeness, timeliness, and other submission requirements of the Federal law involved.

(ii) MARKET EXCLUSIVITY.—If the Secretary determines that the studies meet the requirements involved, the Secretary shall ensure that the period of market exclusivity for the drug involved is extended for 6 months in accordance with the requirements of subsection (a), (c), (e), and (g) (as appropriate) of section 505A of such Act (as in effect on the date of enactment of this Act.).

(3) DEFINITIONS.—In this subsection:

(A) DRUG.—The term "drug" has the meaning given the term in section 201 of such Act.

(B) PEDIATRIC STUDIES.—The term "pediatric studies" has the meaning given the term in section 505A of such Act.

(C) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 619. POSITRON EMISSION TOMOGRAPHY.

(a) REGULATION OF COMPOUNDED POSITRON EMISSION TOMOGRAPHY DRUGS UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—

(1) DEFINITION.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(ii) The term 'compounded positron emission tomography drug'—

"(1) means a drug that—

"(A) exhibits spontaneous disintegration of unstable nuclei by the emission of positrons and is used for the purpose of providing dual photon positron emission tomographic diagnostic images; and

"(B) has been compounded by or on the order of a practitioner who is licensed by a State to compound or order compounding for a drug described in subparagraph (A), and is compounded in accordance with that State's law, for a patient or for research, teaching, or quality control; and

"(2) includes any nonradioactive reagent, reagent kit, ingredient, nuclide generator, accelerator, target material, electronic synthesizer, or other apparatus or computer program to be used in the preparation of such a drug.".

(b) ADULTERATION.—

(1) IN GENERAL.—Section 501(a)(2) (21 U.S.C. 351(a)(2)) is amended by striking "; or (3)" and inserting the following: "; or (C) if it is a compounded positron emission tomography drug and the methods used in, or the facilities and controls used for, its compounding, processing, packing, or holding do not conform to or are not operated or administered in conformity with the positron emission tomography compounding standards and the official monographs of the United States Pharmacopeia to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, that it purports or is represented to possess; or (3)".

(2) SUNSET.—Section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) shall not apply 4 years after the date of enactment of this Act or 2 years after the date or which the Secretary of Health and Human Services establishes the requirements described in subsection (c)(1)(B), whichever is later.

(c) REQUIREMENTS FOR REVIEW OF APPROVAL PROCEDURES AND CURRENT GOOD MANUFACTURING PRACTICES FOR POSITRON EMISSION TOMOGRAPHY.—

(1) PROCEDURES AND REQUIREMENTS.—

(A) IN GENERAL.—In order to take account of the special characteristics of compounded positron emission tomography drugs and the special techniques and processes required to produce these drugs, not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall establish—

(i) appropriate procedures for the approval of compounded positron emission tomography drugs pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

(ii) appropriate current good manufacturing practice requirements for such drugs.

(B) CONSIDERATIONS AND CONSULTATION.—In establishing the procedures and requirements required by subparagraph (A), the Secretary of Health and Human Services shall take due account of any relevant differences between not-for-profit institutions that compound the drugs for their patients and commercial manufacturers of the drugs. Prior to establishing the procedures and requirements, the Secretary of Health and Human Services shall consult with patient advocacy groups, professional associations, manufacturers, and physicians and scientists licensed to make or use compounded positron emission tomography drugs.

(2) SUBMISSION OF NEW DRUG APPLICATIONS AND ABBREVIATED NEW DRUG APPLICATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of Health and Human Services shall not require the submission of new drug applications or abbreviated new drug applications under subsection (b) or (j) of section 505 (21 U.S.C. 355), for compounded positron emission tomography drugs that are not adulterated drugs described in section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) (as amended by subsection (b)), for a period of 4 years after the date of enactment of this Act, or for 2 years after the date or which the Secretary establishes procedures and requirements under paragraph (1), whichever is later.

(B) EXCEPTION.—Nothing in this Act shall prohibit the voluntary submission of such applications or the review of such applications by the Secretary of Health and Human Services. Nothing in this Act shall constitute an exemption for a compounded positron emission tomography drug from the requirements of regulations issued under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) for such drugs.

(d) REVOCATION OF CERTAIN INCONSISTENT DOCUMENTS.—Within 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a notice terminating the application of the following notices and rule, to the extent the notices and rule relate to compounded positron emission tomography drugs:

(1) A notice entitled "Regulation of Positron Emission Tomographic Drug Products: Guidance; Public Workshop", published in the Federal Register on February 27, 1995.

(2) A notice entitled "Guidance for Industry: Current Good Manufacturing Practices for Positron Emission Tomographic (PET) Drug Products; Availability", published in the Federal Register on April 22, 1997.

(3) A final rule entitled "Current Good Manufacturing Practice for Finished Pharmaceuticals; Positron Emission Tomography", published in the Federal Register on April 22, 1997.

(e) DEFINITION.—As used in this section, the term "compounded positron emission tomography drug" has the meaning given the term in section 201 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321).

SEC. 620. DISCLOSURE.

Chapter IV (21 U.S.C. 341 et seq.) is amended by adding after section 403B the following:

"DISCLOSURE

"SEC. 403C. (a) No provision of section 403(a), 201(n), or 409 shall be construed to require on the label or labeling of a food a separate radiation disclosure statement that is more prominent than the declaration of ingredients required by section 403(i)(2).

"(b) In this section, the term 'radiation disclosure statement' means a written statement that discloses that a food or a component of the food has been intentionally subject to radiation.".

SEC. 621. REFERRAL STATEMENTS RELATING TO FOOD NUTRIENTS.

Section 403(r)(2)(B) (21 U.S.C. 343(r)(2)(B)) is amended to read as follows:

"(B) If a claim described in subparagraph (1)(A) is made with respect to a nutrient in a food, and the Secretary makes a determination that the food contains a nutrient at a level that increases to persons in the general population the risk of a disease or health-related condition that is diet related, then the label or labeling of such food shall contain, prominently and in immediate proximity to such claim, the following statement: 'See nutrition information panel for ____ content.' The blank shall identify the nutrient associated with the increased disease or health-related condition risk. In making the determination described in this clause, the Secretary shall take into account the significance of the food in the total daily diet.".

TITLE VII—FEES RELATING TO DRUGS

SEC. 701. SHORT TITLE.

This title may be cited as the "Prescription Drug User Fee Reauthorization Act of 1997".

SEC. 702. FINDINGS.

Congress finds that—

(1) prompt approval of safe and effective new drugs and other therapies is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of human drug applications;

(3) the provisions added by the Prescription Drug User Fee Act of 1992 have been successful in substantially reducing review times for human drug applications and should be—

(A) reauthorized for an additional 5 years, with certain technical improvements; and

(B) carried out by the Food and Drug Administration with new commitments to implement more ambitious and comprehensive improvements in regulatory processes of the Food and Drug Administration; and

(4) the fees authorized by amendments made in this title will be dedicated toward expediting the drug development process and the review of human drug applications as set forth in the goals identified in appropriate letters from the Secretary of Health and Human Services to the chairman of the Committee on Commerce of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate.

SEC. 703. DEFINITIONS.

Section 735 (21 U.S.C. 379g) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "Service Act, and" and inserting "Service Act,"; and

(B) by striking "September 1, 1992." and inserting the following: "September 1, 1992, does not include an application for a licensure of a biological product for further manufacturing use only, and does not include an application or supplement submitted by a State or Federal Government entity for a drug or biological product that is not distributed commercially. Such term does include an application for licensure, as described in subparagraph (D), of a large volume biological product intended for single dose injection for intravenous use or infusion.";

(2) in the second sentence of paragraph (3)—

(A) by striking "Service Act, and" and inserting "Service Act,"; and

(B) by striking "September 1, 1992." and inserting the following: "September 1, 1992, does not include a biological product that is licensed for further manufacturing use only, and does not include a drug or biological product that is not distributed commercially and is the subject of an application or supplement submitted by a State or Federal Government entity. Such term does include a large volume biological product intended for single dose injection for intravenous use or infusion.";

(3) in paragraph (4), by striking "without" and inserting "without substantial";

(4) by striking paragraph (5) and inserting the following:

"(5) The term 'prescription drug establishment' means a foreign or domestic place of business which is at 1 general physical location consisting of 1 or more buildings all of which are within 5 miles of each other, at which 1 or more prescription drug products are manufactured in final dosage forms.";

(5) in paragraph (7)(A)—

(A) by striking "employees under contract" and all that follows through "Administration," and inserting "contractors of the Food and Drug Administration,"; and

(B) by striking "and committees," and inserting "and committees and to contracts with such contractors,";

(6) in paragraph (8)—

(A) in subparagraph (A)—

(i) by striking "August of" and inserting "April of"; and

(ii) by striking "August 1992" and inserting "April 1997";

(B) by striking subparagraph (B) and inserting the following:

"(B) 1 plus the decimal expression of the total percentage increase for such fiscal year since fiscal year 1997 in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia."; and

(C) by striking the second sentence; and

(7) by adding at the end the following:

"(9) The term 'affiliate' means a business entity that has a relationship with a second business entity if, directly or indirectly—

"(A) 1 business entity controls, or has the power to control, the other business entity; or

"(B) a third party controls, or has power to control both of the business entities.".

SEC. 704. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) TYPES OF FEES.—Section 736(a) (21 U.S.C. 379h(a)) is amended—

(1) by striking "Beginning in fiscal year 1993" and inserting "Beginning in fiscal year 1998";

(2) in paragraph (1)—

(A) by striking subparagraph (B) and inserting the following:

"(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the application or supplement.";

(B) in subparagraph (D)—

(i) in the subparagraph heading, by striking "NOT ACCEPTED" and inserting "REFUSED";

(ii) by striking "50 percent" and inserting "75 percent";

(iii) by striking "subparagraph (B)(i)" and inserting "subparagraph (B)"; and

(iv) by striking "not accepted" and inserting "refused"; and

(C) by adding at the end the following:

"(E) EXCEPTION FOR DESIGNATED ORPHAN DRUG OR INDICATION.—A human drug application for a prescription drug product that has been designated as a drug for a rare disease or condition pursuant to section 526 shall not be subject to a fee under subparagraph (A), unless the human drug application includes indications for other than rare diseases or conditions. A supplement proposing to include a new indication for a rare disease or condition in a human drug application shall not be subject to a fee under subparagraph (A), provided that the drug has been designated pursuant to section 526 as a drug for a rare disease or condition with regard to the indication proposed in such supplement.

"(F) EXCEPTION FOR SUPPLEMENTS FOR PEDIATRIC INDICATIONS.—A supplement to a human drug application for an indication for use in pediatric populations shall not be assessed a fee under subparagraph (A).

"(G) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an application or supplement is withdrawn after the application or supplement is filed, the Secretary may waive and refund the fee or a portion of the fee if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to waive and refund a fee or a portion of the fee under this subparagraph. A determination by the Secretary concerning a waiver or refund under this paragraph shall not be reviewable.";

(3) by striking paragraph (2) and inserting the following:

"(2) PRESCRIPTION DRUG ESTABLISHMENT FEE.—

"(A) IN GENERAL.—Each person that—

"(i) is named as the applicant in a human drug application; and

"(ii) after September 1, 1992, had pending before the Secretary a human drug application or supplement;

shall be assessed an annual fee established in subsection (b) for each prescription drug establishment listed in its approved human drug application as an establishment that manufactures the prescription drug product named in the application. The annual establishment fee shall be assessed in each fiscal year in which the prescription drug product named in the application is assessed a fee under paragraph (3) unless the prescription drug establishment listed in the application does not engage in the manufacture of the prescription drug product during the fiscal year. The establishment fee shall be payable on or before January 31 of each year. Each such establishment shall be assessed only 1 fee per establishment, notwithstanding the number of prescription drug products manufactured at the establishment. In the event an establishment is listed in a human drug application by more than 1 applicant, the establishment fee for the fiscal year shall be divided equally and assessed among the applicants whose prescription drug products

are manufactured by the establishment during the fiscal year and assessed product fees under paragraph (3).

"(B) EXCEPTION.—If, during the fiscal year, an applicant initiates or causes to be initiated the manufacture of a prescription drug product at an establishment listed in its human drug application—

"(i) that did not manufacture the product in the previous fiscal year; and

"(ii) for which the full establishment fee has been assessed in the fiscal year at a time before manufacture of the prescription drug product was begun;

the applicant will not be assessed a share of the establishment fee for the fiscal year in which manufacture of the product began."; and

(4) in paragraph (3)—

(A) in subparagraph (A)—

(i) in clause (i), by striking "is listed" and inserting "has been submitted for listing"; and

(ii) by striking "Such fee shall be payable" and all that follows through "section 510." and inserting the following: "Such fee shall be payable for the fiscal year in which the product is first submitted for listing under section 510, or for relisting under section 510 if the product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each product for a fiscal year in which the fee is payable."; and

(B) in subparagraph (B), by striking "505(j)." and inserting the following: "505(j), or under an abbreviated new drug application pursuant to regulations in effect prior to the implementation of the Drug Price Competition and Patent Term Restoration Act of 1984, or is a product approved under an application filed under section 507 that is abbreviated.".

(b) FEE AMOUNTS.—Section 736(b) (21 U.S.C. 379h(b)) is amended to read as follows:

"(b) FEE AMOUNTS.—Except as provided in subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be determined and assessed as follows:

"(1) APPLICATION AND SUPPLEMENT FEES.—

"(A) FULL FEES.—The application fee under subsection (a)(1)(A)(i) shall be $250,704 in fiscal year 1998, $256,338 in each of fiscal years 1999 and 2000, $267,606 in fiscal year 2001, and $258,451 in fiscal year 2002.

"(B) OTHER FEES.—The fee under subsection (a)(1)(A)(ii) shall be $125,352 in fiscal year 1998, $128,169 in each of fiscal years 1999 and 2000, $133,803 in fiscal year 2001, and $129,226 in fiscal year 2002.

"(2) FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection (a)(2) shall be $35,600,000 in fiscal year 1998, $36,400,000 in each of fiscal years 1999 and 2000, $38,000,000 in fiscal year 2001, and $36,700,000 in fiscal year 2002.

"(3) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection (a)(3) in a fiscal year shall be equal to the total fee revenues collected in establishment fees under subsection (a)(2) in that fiscal year.".

(c) INCREASES AND ADJUSTMENTS.—Section 736(c) (21 U.S.C. 379h(c)) is amended—

(1) in the subsection heading, by striking "INCREASES AND";

(2) in paragraph (1)—

(A) by striking "(1) REVENUE" and all that follows through "increased by the Secretary" and inserting the following: "(1) INFLATION ADJUSTMENT.—The fees and total fee revenues established in subsection (b) shall be adjusted by the Secretary";

(B) in subparagraph (A), by striking "increase" and inserting "change";

(C) in subparagraph (B), by striking "increase" and inserting "change"; and

(D) by adding at the end the following flush sentence:

"The adjustment made each fiscal year by this subsection will be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 1997 under this subsection.";

(3) in paragraph (2), by striking "October 1, 1992," and all that follows through "such schedule." and inserting the following: "September 30, 1997, adjust the establishment and product fees described in subsection (b) for the fiscal year in which the adjustment occurs so that the revenues collected from each of the categories of fees described in paragraphs (2) and (3) of subsection (b) shall be set to be equal to the revenues collected from the category of application and supplement fees described in paragraph (1) of subsection (b)."; and

(4) in paragraph (3), by striking "paragraph (2)" and inserting "this subsection".

(d) FEE WAIVER OR REDUCTION.—Section 736(d) (21 U.S.C. 379h(d)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively, and indenting appropriately;

(2) by striking "The Secretary shall grant a" and all that follows through "finds that—" and inserting the following:

"(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of 1 or more fees assessed under subsection (a) where the Secretary finds that—";

(3) in subparagraph (C) (as so redesignated by paragraph (1)), by striking ", or" and inserting a comma;

(4) in subparagraph (D) (as so redesignated by paragraph (1)), by striking the period and inserting ", or";

(5) by inserting after subparagraph (D) (as so redesignated by paragraph (1)) the following:

"(E) the applicant is a small business submitting its first human drug application to the Secretary for review."; and

(6) by striking "In making the finding in paragraph (3)," and all that follows through "standard costs." and inserting the following:

"(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(C), the Secretary may use standard costs.

"(3) RULES RELATING TO SMALL BUSINESSES.—

"(A) DEFINITION.—In paragraph (1)(E), the term 'small business' means an entity that has fewer than 500 employees, including employees of affiliates.

"(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(E) the application fee for the first human drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay—

"(i) application fees for all subsequent human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business; and

"(ii) all supplement fees for all supplements to human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business.".

(e) ASSESSMENT OF FEES.—Section 736(f)(1) (21 U.S.C. 379h(f)(1)) is amended—

(1) by striking "fiscal year 1993" and inserting "fiscal year 1997"; and

(2) by striking "fiscal year 1992" and inserting "fiscal year 1997 (excluding the amount of fees appropriated for such fiscal year)".

(f) CREDITING AND AVAILABILITY OF FEES.—Section 736(g) (21 U.S.C. 379h(g)) is amended—

(1) in paragraph (1), by adding at the end the following: "Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of human drug applications within the meaning of section 735(6).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "Acts" and inserting "Acts, or otherwise made available for obligation,"; and

(B) in subparagraph (B), by striking "over such costs for fiscal year 1992" and inserting "over such costs, excluding costs paid from fees collected under this section, for fiscal year 1997"; and

(3) by striking paragraph (3) and inserting the following:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fees under this section—

"(A) $106,800,000 for fiscal year 1998;

"(B) $109,200,000 for fiscal year 1999;

"(C) $109,200,000 for fiscal year 2000;

"(D) $114,000,000 for fiscal year 2001; and

"(E) $110,100,000 for fiscal year 2002,

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by application, supplement, establishment, and product fees.

"(4) OFFSET.—Any amount of fees collected for a fiscal year which exceeds the amount of fees specified in appropriation Acts for such fiscal year, shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under appropriation Acts for a subsequent fiscal year.".

(g) REQUIREMENT FOR WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND FEES.—Section 736 (21 U.S.C. 379h) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (d), or for a refund, of any fee collected in accordance with subsection (a), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.".

(h) SPECIAL RULE FOR WAIVER, REFUNDS, AND EXCEPTIONS.—Any requests for waivers, refunds, or exceptions for fees paid prior to the date of enactment of this Act shall be submitted in writing to the Secretary of Health and Human Services within 1 year after the date of enactment of this Act.

SEC. 705. ANNUAL REPORTS.

(a) FIRST REPORT.—Beginning with fiscal year 1998, not later than 60 days after the end

of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g et seq.), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letter described in section 702(4) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

(b) SECOND REPORT.—Beginning with fiscal year 1998, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

SEC. 706. EFFECTIVE DATE.

The amendments made by this title shall take effect October 1, 1997.

SEC. 707. TERMINATION OF EFFECTIVENESS.

The amendments made by sections 703 and 704 cease to be effective October 1, 2002 and section 705 ceases to be effective 120 days after such date.

TITLE VIII—MISCELLANEOUS

SEC. 801. REGISTRATION OF FOREIGN ESTABLISHMENTS.

Section 510(i) (21 U.S.C. 360(i)) is amended to read as follows:

"(i)(1) Any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or a device that is imported or offered for import into the United States shall register with the Secretary the name and place of business of the establishment and the name of the United States agent for the establishment.

"(2) The establishment shall also provide the information required by subsection (j).

"(3) The Secretary is authorized to enter into cooperative arrangements with foreign countries to ensure that adequate and effective means are available for purposes of determining, from time to time, whether drugs or devices manufactured, prepared, propagated, compounded, or processed by an establishment described in paragraph (1), if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).".

SEC. 802. ELIMINATION OF CERTAIN LABELING REQUIREMENTS.

(a) PRESCRIPTION DRUGS.—Section 503(b)(4) (21 U.S.C. 353(b)(4)) is amended to read as follows:

"(4)(A) A drug that is subject to paragraph (1) shall be deemed to be misbranded if at any time prior to dispensing the label of the drug fails to bear, at a minimum, the symbol 'Rx only'.

"(B) A drug to which paragraph (1) does not apply shall be deemed to be misbranded if at any time prior to dispensing the label of the drug bears the symbol described in subparagraph (A).".

(b) MISBRANDED DRUG.—Section 502(d) (21 U.S.C. 352(d)) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 503(b)(1) (21 U.S.C. 353(b)(1)) is amended—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) Section 503(b)(3) (21 U.S.C. 353(b)(3)) is amended by striking "section 502(d) and".

(3) Section 102(9)(A) of the Controlled Substances Act (21 U.S.C. 802(9)(A)) is amended—

(A) in clause (i), by striking "(i)"; and

(B) by striking "(ii)" and all that follows.

SEC. 803. CLARIFICATION OF SEIZURE AUTHORITY.

Section 304(d)(1) (21 U.S.C. 334(d)(1)) is amended—

(1) in the fifth sentence, by striking "paragraphs (1) and (2) of section 801(e)" and inserting "subparagraphs (A) and (B) of section 801(e)(1)"; and

(2) by inserting after the fifth sentence the following: "Any person seeking to export an imported article pursuant to any of the provisions of this subsection shall establish that the article was intended for export at the time the article entered commerce.".

SEC. 804. INTRAMURAL RESEARCH TRAINING AWARD PROGRAM.

Chapter IX (21 U.S.C. 391 et seq.), as amended by section 203, is further amended by adding at the end the following:

"SEC. 907. INTRAMURAL RESEARCH TRAINING AWARD PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, may, directly or through grants, contracts, or cooperative agreements, conduct and support intramural research training in regulatory scientific programs by predoctoral and postdoctoral scientists and physicians, including support through the use of fellowships.

"(b) LIMITATION ON PARTICIPATION.—A recipient of a fellowship under subsection (a) may not be an employee of the Federal Government.

"(c) SPECIAL RULE.—The Secretary, acting through the Commissioner of Food and Drugs, may support the provision of assistance for fellowships described in subsection (a) through a Cooperative Research and Development Agreement.".

SEC. 805. DEVICE SAMPLES.

(a) RECALL AUTHORITY.—

(1) IN GENERAL.—Section 518(e)(2) (21 U.S.C. 360h(e)(2)) is amended by adding at the end the following:

"(C) If the Secretary issues an amended order under subparagraph (A), the Secretary may require the person subject to the order to submit such samples of the device and of components of the device as the Secretary may reasonably require. If the submission of such samples is impracticable or unduly burdensome, the requirement of this subparagraph may be met by the submission of complete information concerning the location of 1 or more such devices readily available for examination and testing.".

(2) TECHNICAL AMENDMENT.—Section 518(e)(2)(A) (21 U.S.C. 360h(e)(2)(A)) is amended by striking "subparagraphs (B) and (C)" and inserting "subparagraph (B)".

(b) RECORDS AND REPORTS ON DEVICES.—Section 519(a) (21 U.S.C. 360i(a)) is amended by inserting after paragraph (9) the following:

"(10) may reasonably require a manufacturer or importer to submit samples of a device and of components of the device that may have caused or contributed to a death or serious injury, except that if the submission of such samples is impracticable or unduly burdensome, the requirement of this paragraph may be met by the submission of complete information concerning the location of 1 or more such devices readily available for examination and testing.".

SEC. 806. INTERSTATE COMMERCE.

Section 709 (21 U.S.C. 379a) is amended by striking "a device" and inserting "a device, food, drug, or cosmetic".

SEC. 807. NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS AND COSMETICS.

(a) NONPRESCRIPTION DRUGS.—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 614(a), is further amended by adding at the end the following:

"Subchapter F—National Uniformity for Nonprescription Drugs and Preemption for Labeling or Packaging of Cosmetics

"SEC. 761. NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), (c)(1), (d), (e), or (f), no State or political subdivision of a State may establish or continue in effect any requirement—

"(1) that relates to the regulation of a drug that is not subject to the requirements of section 503(b)(1) or 503(f)(1)(A); and

"(2) that is different from or in addition to, or that is otherwise not identical with, a requirement under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

"(b) EXEMPTION.—

"(1) IN GENERAL.—Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement that—

"(A) protects an important public interest that would otherwise be unprotected, including the health and safety of children;

"(B) would not cause any drug to be in violation of any applicable requirement or prohibition under Federal law; and

"(C) would not unduly burden interstate commerce.

"(2) TIMELY ACTION.—The Secretary shall make a decision on the exemption of a State or political subdivision requirement under paragraph (1) not later than 120 days after receiving the application of the State or political subdivision under paragraph (1).

"(c) SCOPE.—

"(1) IN GENERAL.—This section shall not apply to—

"(A) any State or political subdivision requirement that relates to the practice of pharmacy; or

"(B) any State or political subdivision requirement that a drug be dispensed only upon the prescription of a practitioner licensed by law to administer such drug.

"(2) SAFETY OR EFFECTIVENESS.—For purposes of subsection (a), a requirement that relates to the regulation of a drug shall be deemed to include any requirement relating to public information or any other form of public communication relating to a warning of any kind for a drug.

"(d) EXCEPTIONS.—

"(1) IN GENERAL.—In the case of a drug described in subsection (a)(1) that is not the subject of an application approved under section 505 or 507 or a final regulation promulgated by the Secretary establishing conditions under which the drug is generally recognized as safe and effective and not misbranded, subsection (a) shall apply only with respect to a requirement of a State or political subdivision of a State that relates to the same subject as, but is different from or in addition to, or that is otherwise not identical with—

"(A) a regulation in effect with respect to the drug pursuant to a statute described in subsection (a)(2); or

"(B) any other requirement in effect with respect to the drug pursuant to an amendment to such a statute made on or after the date of enactment of this section.

"(2) STATE INITIATIVES.—This section shall not apply to a State public initiative enacted prior to the date of enactment of this section.

"(e) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"(f) STATE ENFORCEMENT AUTHORITY.—Nothing in this section shall prevent a State or political subdivision thereof from enforcing, under any relevant civil or other enforcement authority, a requirement that is identical to a requirement of this Act.".

(b) INSPECTIONS.—Section 704(a)(1) (21 U.S.C. 374(a)(1)) is amended by striking "prescription drugs" each place it appears and inserting "prescription drugs, nonprescription drugs intended for human use,".

(c) MISBRANDING.—Paragraph (1) of section 502(e) (21 U.S.C. 352(e)(1)) is amended to read as follows:

"(1)(A) If it is a drug, unless its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula)—

"(i) the established name (as defined in subparagraph (3)) of the drug, if there is such a name;

"(ii) the established name and quantity or, if deemed appropriate by the Secretary, the proportion of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including whether active or not the established name and quantity or if deemed appropriate by the Secretary, the proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: *Provided*, That the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this paragraph, shall not apply to nonprescription drugs not intended for human use; and

"(iii) the established name of each inactive ingredient listed in alphabetical order on the outside container of the retail package and, if deemed appropriate by the Secretary, on the immediate container, as prescribed in regulation promulgated by the Secretary, but nothing in this clause shall be deemed to require that any trade secret be divulged: *Provided*, That the requirements of this clause with respect to alphabetical order shall apply only to nonprescription drugs that are not also cosmetics: and *Provided further*, That this clause shall not apply to nonprescription drugs not intended for human use.

"(B) For any prescription drug the established name of such drug or ingredient, as the case may be, on such label (and on any labeling on which a name for such drug or ingredient is used) shall be printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient: *Provided*, That to the extent that compliance with the requirements of clause (A)(ii) or (iii) or this clause of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary.".

(d) COSMETICS.—Subchapter F of chapter VII, as amended by subsection (a), is further amended by adding at the end the following:

"SEC. 762. PREEMPTION FOR LABELING OR PACKAGING OF COSMETICS.

"(a) IN GENERAL.—Except as provided in subsection (b), (d), or (e), a State or political subdivision of a State shall not impose or continue in effect any requirement for labeling or packaging of a cosmetic that is different from or in addition to, or that is otherwise not identical with a requirement specifically applicable to a particular cosmetic or class of cosmetics under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

"(b) EXEMPTION.—Upon application of a State or political subdivision thereof, the Secretary may by regulation after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement for labeling and packaging that—

"(1) protects an important public interest that would otherwise be unprotected;

"(2) would not cause a cosmetic to be in violation of any applicable requirements or prohibition under Federal law; and

"(3) would not unduly burden interstate commerce.

"(c) SCOPE.—For purposes of subsection (a), a reference to a State requirement that relates to the packaging or labeling of a cosmetic means any specific requirement relating to the same aspect of such cosmetic as a requirement specifically applicable to that particular cosmetic or class of cosmetics under this Act for packaging or labeling, including any State requirement relating to public information or any other form of public communication.

"(d) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"(e) STATE INITIATIVE.—This section shall not apply to a State requirement adopted by a State public initiative or referendum enacted prior to September 1, 1997.".

SEC. 808. INFORMATION PROGRAM ON CLINICAL TRIALS FOR SERIOUS OR LIFE-THREATENING DISEASES.

(a) IN GENERAL.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i), the following:

"(j)(1) The Secretary, acting through the Director of the National Institutes of Health and subject to the availability of appropriations, shall establish, maintain, and operate a program with respect to information on research relating to the treatment, detection, and prevention of serious or life-threatening diseases and conditions. The program shall, with respect to the agencies of the Department of Health and Human Services, be integrated and coordinated, and, to the extent practicable, coordinated with other data banks containing similar information.

"(2)(A) After consultation with the Commissioner of Food and Drugs, the directors of the appropriate agencies of the National Institutes of Health (including the National Library of Medicine), and the Director of the Centers for Disease Control and Prevention, the Secretary shall, in carrying out paragraph (1), establish a data bank of information on clinical trials for drugs, and biologicals, for serious or life-threatening diseases and conditions.

"(B) In carrying out subparagraph (A), the Secretary shall collect, catalog, store, and disseminate the information described in such subparagraph. The Secretary shall disseminate such information through information systems, which shall include toll-free telephone communications, available to individuals with serious or life-threatening diseases and conditions, to other members of the public, to health care providers, and to researchers.

"(3) The data bank shall include the following:

"(A) A registry of clinical trials (whether federally or privately funded) of experimental treatments for serious or life-threatening diseases and conditions under regulations promulgated pursuant to sections 505 and 520 of the Federal Food, Drug, and Cosmetic Act that provides a description of the purpose of each experimental drug or biological protocol, either with the consent of the protocol sponsor, or when a trial to test efficacy begins. Information provided shall consist of eligibility criteria, a description of the location of trial sites, and a point of contact for those wanting to enroll in the trial, and shall be in a form that can be readily understood by members of the public. Such information must be forwarded to the data bank by the sponsor of the trial not later than 21 days after the approval by the Food and Drug Administration.

"(B) Information pertaining to experimental treatments for serious or life-threatening diseases and conditions that may be available—

"(i) under a treatment investigational new drug application that has been submitted to the Food and Drug Administration pursuant to part 312 of title 21, Code of Federal Regulations; or

"(ii) as a Group C cancer drug.

The data bank may also include information pertaining to the results of clinical trials of such treatments, with the consent of the sponsor, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatments.

"(4) The data bank shall not include information relating to an investigation if the sponsor has provided a detailed certification to the Secretary that disclosure of such information would substantially interfere with the timely enrollment of subjects in the investigation, unless the Secretary, after the receipt of the certification, provides the sponsor with a detailed written determination that finds that such disclosure would not substantially interfere with such enrollment.

"(5) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary. Fees collected under section 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h) shall not be authorized or appropriated for use in carrying out this subsection.".

(b) COLLABORATION AND REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs shall collaborate to determine the feasibility of including device investigations within the scope of the registry requirements set forth in subsection (j) of section 402 of the Public Health Service Act.

(2) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report that shall consider, among other things—

(A) the public health need, if any, for inclusion of device investigations within the scope of the registry requirements set forth in subsection (j) of section 402 of the Public Health Service Act; and

(B) the adverse impact, if any, on device innovation and research in the United States if information relating to such device investigation is required to be publicly disclosed.

SEC. 809. APPLICATION OF FEDERAL LAW TO THE PRACTICE OF PHARMACY COMPOUNDING.

Section 503 (21 U.S.C. 353) is amended by adding at the end the following:

"(h)(1) Sections 501(a)(2)(B), 502(f)(1), 502(l), 505, and 507 shall not apply to a drug product if—

"(A) the drug product is compounded for an identified individual patient, based on a medical need for a compounded product—

"(i) by a licensed pharmacist in a State licensed pharmacy or a Federal facility, or a licensed physician, on the prescription order of a licensed physician or other licensed practitioner authorized by State law to prescribe drugs; or

"(ii) by a licensed pharmacist or licensed physician in limited quantities, prior to the receipt of a valid prescription order for the identified individual patient, and is compounded based on a history of the licensed pharmacist or licensed physician receiving valid prescription orders for the compounding of the drug product that have been generated solely within an established relationship between the licensed pharmacist, or licensed physician, and—

"(I) the individual patient for whom the prescription order will be provided; or

"(II) the physician or other licensed practitioner who will write such prescription order; and

"(B) the licensed pharmacist or licensed physician—

"(i) compounds the drug product using bulk drug substances—

"(I) that—

"(aa) comply with the standards of an applicable United States Pharmacopeia or National Formulary monograph; or

"(bb) in a case in which such a monograph does not exist, are drug substances that are covered by regulations issued by the Secretary under paragraph (3);

"(II) that are manufactured by an establishment that is registered under section 510 (including a foreign establishment that is registered under section 510(i)); and

"(III) that are accompanied by valid certificates of analysis for each bulk drug substance;

"(ii) compounds the drug product using ingredients (other than bulk drug substances) that comply with the standards of an applicable United States Pharmacopeia or National Formulary monograph and the United States Pharmacopeia chapter on pharmacy compounding;

"(iii) only advertises or promotes the compounding service provided by the licensed pharmacist or licensed physician and does not advertise or promote the compounding of any particular drug, class of drug, or type of drug;

"(iv) does not compound a drug product that appears on a list published by the Secretary in the Federal Register of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective;

"(v) does not compound a drug product that is identified by the Secretary in regulation as presenting demonstrable difficulties for compounding that reasonably demonstrate an adverse effect on the safety or effectiveness of that drug product; and

"(vi) does not distribute compounded drugs outside of the State in which the drugs are compounded, unless the principal State agency of jurisdiction that regulates the practice of pharmacy in such State has entered into a memorandum of understanding with the Secretary regarding the regulation of drugs that are compounded in the State and are distributed outside of the State, that provides for appropriate investigation by the State agency of complaints relating to compounded products distributed outside of the State.

"(2)(A) The Secretary shall, after consultation with the National Association of Boards of Pharmacy, develop a standard memorandum of understanding for use by States in complying with paragraph (1)(B)(vi).

"(B) Paragraph (1)(B)(vi) shall not apply to a licensed pharmacist or licensed physician, who does not distribute inordinate amounts of compounded products outside of the State, until—

"(i) the date that is 180 days after the development of the standard memorandum of understanding; or

"(ii) the date on which the State agency enters into a memorandum of understanding under paragraph (1)(B)(vi),

whichever occurs first.

"(3) The Secretary, after consultation with the United States Pharmacopeia Convention Incorporated, shall promulgate regulations limiting compounding under paragraph (1)(B)(i)(I)(bb) to drug substances that are components of drug products approved by the Secretary and to other drug substances as the Secretary may identify.

"(4) The provisions of paragraph (1) shall not apply—

"(A) to compounded positron emission tomography drugs as defined in section 201(ii); or

"(B) to radiopharmaceuticals.

"(5) In this subsection, the term 'compound' does not include to mix, reconstitute, or perform another similar act, in accordance with directions contained in approved drug labeling provided by a drug manufacturer and other drug manufacturer directions consistent with that labeling.".

SEC. 810. REPORTS OF POSTMARKETING APPROVAL STUDIES.

(a) IN GENERAL.—Chapter V (21 U.S.C. 351 et seq.), as amended by section 613(a), is further amended by adding at the end the following:

"SEC. 562. REPORTS OF POSTMARKETING STUDIES.

"(a) SUBMISSION.—

"(1) IN GENERAL.—A sponsor of a drug that has entered into an agreement with the Secretary to conduct a postmarketing study of a drug shall submit to the Secretary, within 1 year after the approval of such drug and annually thereafter until the study is completed or terminated, a report of the progress of the study or the reasons for the failure of the sponsor to conduct the study. The report shall be submitted in such form as prescribed by the Secretary in regulations issued by the Secretary.

"(2) AGREEMENTS PRIOR TO EFFECTIVE DATE.—An agreement entered into between the Secretary and a sponsor of a drug, prior to the date of enactment of this section, to conduct a postmarketing study of a drug shall be subject to the requirements of paragraph (1). An initial report for such an agreement shall be submitted within 6 months after the date of the issuance of the regulations under paragraph (1).

"(b) CONSIDERATION OF INFORMATION AS PUBLIC INFORMATION.—Any information pertaining to a report described in paragraph (1) shall be considered to be public information to the extent that the information is necessary—

"(1) to identify the sponsor; and

"(2) to establish the status of a study described in subsection (a) and the reasons, if any, for any failure to carry out the study.

"(c) STATUS OF STUDIES AND REPORTS.—The Secretary shall annually develop and publish in the Federal Register a report that provides a status of the postmarketing studies—

"(1) that sponsors have entered into agreements to conduct; and

"(2) for which reports have been submitted under subsection (a)(1).".

(b) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than October 1, 2001, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report containing—

(1) a summary of the reports submitted under section 562 of the Federal Food, Drug, and Cosmetic Act; and

(2) an evaluation of—

(A) the performance of the sponsors in fulfilling the agreements with respect to the conduct of postmarketing studies described in such section of such Act;

(B) the timeliness of the Secretary's review of the postmarketing studies; and

(C) any legislative recommendations respecting postmarketing studies.

SEC. 811. INFORMATION EXCHANGE.

(a) IN GENERAL.—Chapter VII (2 U.S.C. 371 et seq.), as amended by section 807, is further amended by adding at the end the following:

"Subchapter G—Dissemination of Treatment Information

"SEC. 771. DISSEMINATION OF TREATMENT INFORMATION ON DRUGS, BIOLOGICAL PRODUCTS, AND DEVICES.

"(a) DISSEMINATION OF TREATMENT INFORMATION.—

"(1) IN GENERAL.—Notwithstanding sections 301(d), 502(f), 505, and 507 and section 351 of the Public Health Service Act (42 U.S.C. 262), and subject to the requirements of paragraphs (2) through (6) and subsection (b), a manufacturer may disseminate to a health care practitioner, a pharmacy benefit manager, a health maintenance organization or other managed health care organization, or a health care insurer or governmental agency, written information concerning the safety, effectiveness, or benefit (whether or not such information is contained in the official labeling) of a drug, biological product, or device for which—

"(A) an approval of an application filed under section 505(b), 505(j), or 515, a clearance in accordance with section 510(k), an approval in accordance with section 507, or a biologics license issued under section 351 of the Public Health Service Act, is in effect; and

"(B) if the use is not described in the approved labeling of the product, the manufacturer has submitted to the Secretary a certification that a supplemental application

for that use will be submitted to the Secretary pursuant to paragraph (3) or the manufacturer has received an exemption under paragraph (3)(C).

"(2) AUTHORIZED INFORMATION.—A manufacturer may disseminate the written information under paragraph (1) only if the information—

"(A) is in the form of an unabridged—

"(i) reprint or copy of a peer-reviewed article from a scientific or medical journal (as defined in subsection (c)(5)) of a clinical investigation, with respect to a drug, biological product or device, that would be considered to be scientifically sound by experts qualified by scientific training or experience to evaluate the safety or effectiveness of the drug, biological product, or device that is the subject of such clinical investigation; or

"(ii) reference textbook (as defined in subsection (c)(4)) that includes information about a clinical investigation with respect to a drug, biological product, or device, that would be considered to be scientifically sound by experts qualified by scientific training or experience to evaluate the safety or effectiveness of the drug, biological product, or device that is the subject of such clinical investigation; and

"(B) is not false, not misleading, and would not pose a significant risk to the public health.

"(3) COMMITMENT TO FILE A SUPPLEMENTAL APPLICATION; INCENTIVES FOR RESEARCH.—

"(A) IN GENERAL.—A manufacturer may disseminate information about a use not described in the approved labeling of a drug, biological product, or device pursuant to paragraph (1) only if—

"(i) the manufacturer has submitted to the Secretary a certification that the studies needed to file a supplemental application for such use have been completed and such supplement will be filed within 6 months after the date of the initial dissemination of information under paragraph (1); or

"(ii)(I) the manufacturer has submitted to the Secretary a proposed protocol and schedule for conducting the studies needed to submit a supplemental application for such use and has certified that the supplement will be submitted within 36 months after the date of the initial dissemination of information under paragraph (1); and

"(II) the Secretary has determined that the protocol for conducting such studies is adequate and that the schedule for completing such studies is reasonable.

"(B) EXTENSION.—

"(i) LONGER PERIOD OF TIME.—The Secretary may grant a longer period of time for a manufacturer to submit a supplemental application pursuant to subparagraph (A) if the Secretary determines that the studies needed to submit a supplemental application cannot be completed and submitted within 36 months.

"(ii) EXTENSION OF 3-YEAR PERIOD.—The Secretary may extend the time within which a manufacturer must submit a supplemental application pursuant to subparagraph (A) if the manufacturer demonstrates that the manufacturer has acted with due diligence to conduct the studies in a timely manner. Such extension shall not exceed a period of 24 months.

"(C) EXEMPTIONS.—A manufacturer may file a request for an exemption from the requirements set forth in subparagraph (A). Such request shall be submitted in the form and manner prescribed by the Secretary and shall demonstrate that—

"(i) due to the size of the patient population or the lack of potential benefit to the sponsor, the cost of obtaining clinical information and submitting a supplemental application is economically prohibitive; or

"(ii) it would be unethical to conduct the studies necessary to obtain adequate evidence for approval of a supplemental application.

The Secretary shall act on a request for an exemption under this subparagraph within 60 days after the receipt of the request. If the Secretary fails to act within 60 days, the manufacturer may begin to disseminate information pursuant to paragraph (1) without complying with subparagraph (A). If the Secretary subsequently denies the request for an exemption, the manufacturer either shall cease dissemination or shall comply with the requirements of subparagraph (A) within 60 days after such denial. If the manufacturer ceases dissemination pursuant to this subparagraph solely on the basis that the manufacturer does not comply with subparagraph (A), the Secretary may take appropriate corrective action, but may not order the manufacturer to take corrective action.

"(D) REPORT.—A manufacturer who submits a certification to the Secretary under subparagraph (A) shall provide the Secretary periodic reports that describe the status of the studies being conducted to obtain adequate evidence for approval of a supplemental application.

"(4) INFORMATION ON NEW USES.—

"(A) IN GENERAL.—If the information being disseminated under paragraph (1) meets the requirements of this section, a manufacturer may disseminate information under paragraph (1) concerning the new use of a drug, biological product, or device (described in paragraph (1)) 60 calendar days after the manufacturer has submitted to the Secretary—

"(i) a copy of the information; and

"(ii) any clinical trial information the manufacturer has relating to the safety or efficacy of the new use, any reports of clinical experience pertinent to the safety of the new use, and a summary of such information.

If any of the information required to be provided under clause (ii) has already been provided to the Secretary, the manufacturer may meet the requirements of clause (ii) by providing any such information obtained by the manufacturer since the manufacturer's last submission to the Secretary and a summary that identifies the information previously provided.

"(B) ADDITIONAL INFORMATION.—If the Secretary determines that the information submitted by a manufacturer under subparagraph (A)(i) with respect to a new use of a drug, biological product, or device fails to provide data, analyses, or other written matter, that is objective and balanced, the Secretary may require the manufacturer to disseminate along with the information described in subparagraph (A)—

"(i) additional information with respect to the new use of the drug, biological product, or device that—

"(I) is in the form of an article described in paragraph (2)(A); and

"(II) provides data, analyses, or other written matter, that is scientifically sound;

"(ii) additional objective and scientifically sound information that pertains to the safety or efficacy of the use and is necessary to provide objectivity and balance, including any information that the manufacturer has submitted to the Secretary, or where appropriate, a summary of such information, or any other information that the Secretary has authority to make available to the public;

"(iii) an objective statement prescribed by the Secretary based on information described in clause (i) or (ii), provided the manufacturer has access to the data that forms the basis of such statement unless the Secretary is prohibited from making such data available to the manufacturer; and

"(iv) a statement that describes any previous public announcements by the Secretary relevant to the new use.

"(5) NEW INFORMATION.—If a manufacturer that is disseminating information pursuant to paragraph (1) becomes aware of new information relating to the safety or efficacy of a new use of a drug, biological product, or device for which information was disseminated under paragraph (1), the manufacturer shall notify the Secretary with respect to the new information. If the Secretary determines that the new information demonstrates that a drug, biological product, or device may not be effective or may present a significant risk to public health, the Secretary shall, in consultation with the manufacturer, take such appropriate action as the Secretary determines necessary to ensure public health and safety. The Secretary may limit the types of new information that must be submitted under this paragraph.

"(6) CESSATION OF DISSEMINATION; CORRECTIVE ACTION.—The Secretary may order a manufacturer to cease the dissemination of all information being disseminated pursuant to paragraph (1) if—

"(A) the Secretary finds that a supplemental application does not contain adequate information for approval for the use that is the subject of the information;

"(B) the Secretary determines, after an informal hearing, that the manufacturer is not acting with due diligence to complete the studies necessary to file a supplemental application for the use that is the subject of the information being disseminated; or

"(C) the Secretary determines that the information being disseminated does not comply with the requirements set forth in this section, after providing notice, an opportunity for a meeting, and for minor violations of this section (if there has been substantial compliance with this section), an opportunity to correct such information.

If the Secretary orders cessation of dissemination pursuant to this paragraph, the Secretary may order the manufacturer to take appropriate corrective action.

"(7) SPONSORED RESEARCH.—If a manufacturer has sponsored research that results in information as described in paragraph (2)(A), another manufacturer may not distribute the information under this section, unless such manufacturer is required by the Secretary to distribute the information.

"(b) DISCLOSURE STATEMENT.—In order to afford a full and fair evaluation of the information described in subsection (a), a manufacturer disseminating the information shall include along with the information—

"(1) a prominently displayed statement that discloses—

"(A) that the information concerns a use of a drug, biological product, or device or other attribute of a drug, biological product, or device that has not been approved by the Food and Drug Administration;

"(B) if applicable, that the information is being disseminated at the expense of the manufacturer;

"(C) if applicable, the name of any authors of the information who are employees of, or consultants to, or have received compensation from, the manufacturer, or who have a

significant financial interest in the manufacturer;

"(D) the official labeling for the drug, biological product, or device and all updates with respect to the labeling;

"(E) if applicable, a statement that there are products or treatments that have been approved for the use that is the subject of the information being disseminated pursuant to subsection (a)(1); and

"(F) the identification of any person that has provided funding for the conduct of a study relating to a new use of a drug, biological product, or device for which such information is being disseminated; and

"(2) a bibliography of other articles from a scientific reference textbook or scientific or medical journal that have been previously published about the new use of a drug, biological product, or device covered by the information disseminated (unless the information already includes such bibliography).

"(c) DEFINITIONS.—As used in this section:

"(1) HEALTH CARE PRACTITIONER.—The term 'health care practitioner' means a medical provider that is licensed to prescribe a drug or biological product, or to prescribe or use a device, for the treatment of a disease or other medical condition.

"(2) MANUFACTURER.—The term 'manufacturer' includes a person who manufactures, distributes, or markets a drug, biological product, or device.

"(3) NEW USE.—The term 'new use' used with respect to a drug, biological product, or device means a use of a drug, biological product, or device not included in the approved labeling of such drug, biological product, or device.

"(4) REFERENCE TEXTBOOK.—The term 'reference textbook' means a reference publication that—

"(A) has not been written, edited, excerpted, or published specifically for, or at the request of a manufacturer of a drug, biological product, or device;

"(B) has not been edited or significantly influenced by a manufacturer of a drug, biological product, or device;

"(C) is not solely distributed through a manufacturer of a drug, biological product, or device but is generally available in bookstores or other distribution channels where medical textbooks are sold;

"(D) does not focus on any particular drug, biological product, or device of a manufacturer that disseminates information under subsection (a), and does not have a primary focus on new uses of drugs, biological products, or devices that are marketed or under investigation by a manufacturer supporting the dissemination of information; and

"(E) presents materials that are not false or misleading.

"(5) SCIENTIFIC OR MEDICAL JOURNAL.—The term 'scientific or medical journal' means a scientific or medical publication—

"(A) that is published by an organization—

"(i) that has an editorial board;

"(ii) that utilizes experts, who have demonstrated expertise in the subject of an article under review by the organization and who are independent of the organization, to review and objectively select, reject, or provide comments about proposed articles; and

"(iii) that has a publicly stated policy, to which the organization adheres, of full disclosure of any conflict of interest or biases for all authors or contributors involved with the journal or organization;

"(B) whose articles are peer-reviewed and published in accordance with the regular peer-review procedures of the organization;

"(C) that is generally recognized to be of national scope and reputation;

"(D) that is indexed in the Index Medicus of the National Library of Medicine of the National Institutes of Health;

"(E) that presents materials that are not false or misleading; and

"(F) that is not in the form of a special supplement that has been funded in whole or in part by 1 or more manufacturers.

"(d) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a manufacturer from disseminating information in response to an unsolicited request from a health care practitioner.

"(e) STUDIES AND REPORTS.—

"(1) GENERAL ACCOUNTING OFFICE.—

"(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the impact of this section on the resources of the Department of Health and Human Services.

"(B) REPORT.—Not later than January 1, 2002, the Comptroller General of the United States shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report of the results of the study.

"(2) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

"(A) IN GENERAL.—In order to assist Congress in determining whether the provisions of this section should be extended beyond the termination date specified in section 811(e) of the Food and Drug Administration Modernization and Accountability Act of 1997, the Secretary of Health and Human Services shall, in accordance with subparagraph (B), arrange for the conduct of a study of the scientific issues raised as a result of the enactment of this section, including issues relating to—

"(i) the effectiveness of this section with respect to the provision of useful scientific information to health care practitioners;

"(ii) the quality of the information being disseminated pursuant to the provisions of this section;

"(iii) the quality and usefulness of the information provided, in accordance with this section, by the Secretary or by the manufacturer at the request of the Secretary; and

"(iv) the impact of this section on research in the area of new uses, indications, or dosages, particularly the impact on pediatric indications and rare diseases.

"(3) PROCEDURE FOR STUDY.—

"(A) IN GENERAL.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct the study required by paragraph (2), and to prepare and submit the report required by subparagraph (B), under an arrangement by which the actual expenses incurred by the Institute of Medicine in conducting the study and preparing the report will be paid by the Secretary. If the Institute of Medicine is unwilling to conduct the study under such an arrangement, the Secretary shall enter into a similar arrangement with another appropriate nonprofit private group or association under which the group or association will conduct the study and prepare and submit the report.

"(B) REPORT.—Not later than September 30, 2005, the Institute of Medicine, the group, or association, as appropriate, shall prepare and submit to the Committee on Labor and Human Resources of the Senate, the Committee on Commerce of the House of Representatives, and the Secretary a report of the results of the study required by paragraph (2). The Secretary, after the receipt of the report, shall make the report available to the public.

"(4) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

"SEC. 772. ESTABLISHMENT OF LIST OF ARTICLES AND TEXTBOOKS DISSEMINATED AND LIST OF PROVIDERS THAT RECEIVED ARTICLES AND REFERENCE TEXTBOOKS.

"(a) IN GENERAL.—A manufacturer that disseminates information in the form of articles or reference textbooks under section 771 shall prepare and submit to the Secretary biannually—

"(1) a list containing the titles of the articles and reference textbooks relating to the new use of drugs, biological products, and devices that were disseminated by the manufacturer to a person described in section 771(a)(1) for the 6-month period preceding the date on which the manufacturer submits the list to the Secretary; and

"(2) a list that identifies the categories of providers (as described in section 771(a)(1)) that received the articles and reference textbooks for the 6-month period described in paragraph (1).

"(b) RECORDS.—A manufacturer that disseminates information under section 771 shall keep records that identify the recipients of articles and textbooks provided pursuant to section 771. Such records are to be used by the manufacturer when, pursuant to section 771(a)(6), such manufacturer is required to take corrective action and shall be made available to the Secretary, upon request, for purposes of ensuring or taking corrective action pursuant to paragraph (3), (5), or (6) of section 771(a).

"SEC. 773. CONSTRUCTION.

"(a) DISSEMINATION OF INFORMATION ON DRUGS OR DEVICES NOT EVIDENCE OF INTENDED USE.—Notwithstanding subsection (a), (f), or (o) of section 502, or any other provision of law, the dissemination of information relating to a new use of a drug or device, in accordance with section 771, shall not be construed by the Secretary as evidence of a new intended use of the drug or device that is different from the intended use of the drug or device set forth in the official labeling of the drug or device. Such dissemination shall not be considered by the Secretary as labeling, adulteration, or misbranding of the drug or device.

"(b) PATENT PROTECTION.—Nothing in section 771 shall affect patent rights in any manner.

"(c) AUTHORIZATION FOR DISSEMINATION OF ARTICLES AND FEES FOR REPRINTS OF ARTICLES.—Nothing in section 771 shall be construed as prohibiting an entity that publishes a scientific journal (as defined in section 771(c)(5)) from requiring authorization from the entity to disseminate an article published by such entity and from charging fees for the purchase of reprints of published articles from such entity.".

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by section 205(b), is further amended by adding at the end the following:

"(y) The dissemination of information pursuant to section 771 by a manufacturer who fails to comply with the requirements of such section.".

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to implement the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act, or upon the Secretary's issuance of final regulations pursuant to subsection (c), whichever is sooner.

(e) TERMINATION OF EFFECTIVENESS.—The amendments made by this section cease to be effective September 30, 2006, or 7 years after the date on which the Secretary promulgates the regulations described in subsection (c), whichever is later.

SEC. 812. REAUTHORIZATION OF CLINICAL PHARMACOLOGY PROGRAM.

Section 2 of Public Law 102–222 (105 Stat. 1677) is amended—

(1) in subsection (a), by striking "a grant" and all that follows through "Such grant" and inserting the following: "grants for a pilot program for the training of individuals in clinical pharmacology at appropriate medical schools. Such grants"; and

(2) in subsection (b), by striking "to carry out this section" and inserting ", and for fiscal years 1998 through 2002 $3,000,000 for each fiscal year, to carry out this section".

SEC. 813. MONOGRAPH FOR SUNBURN PRODUCTS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue a final monograph for over-the-counter sunburn products for prevention or treatment of sunburn.

SEC. 814. SAFETY REPORT DISCLAIMERS.

Chapter IX (21 U.S.C. 391 et seq.), as amended by section 804, is further amended by adding at the end the following:

"SEC. 908. SAFETY REPORT DISCLAIMERS.

"With respect to any entity that submits or is required to submit a safety report or other information in connection with the safety of a product (including a product which is a food, drug, new drug, device, dietary supplement, or cosmetic) under this Act (and any release by the Secretary of that report or information), such report or information shall not be construed to necessarily reflect a conclusion by the entity or the Secretary that the report or information constitutes an admission that the product involved caused or contributed to an adverse experience, or otherwise caused or contributed to a death, serious injury, serious illness, or malfunction. Such an entity need not admit, and may deny, that the report or information submitted by the entity constitutes an admission that the product involved caused or contributed to an adverse experience or caused or contributed to a death, serious injury, serious illness, or malfunction.".

MOTION OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BLILEY moves to strike out all after the enacting clause, and insert in lieu thereof the text of H.R. 1411, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the regulation of food, drugs, cosmetics, and devices, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1411) was laid on the table.

NATIONAL MONUMENT FAIRNESS ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 256 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1127.

□ 1132

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1127) to amend the Antiquities Act to require an Act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres, with Mr. SNOWBARGER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, October 6, 1997, the demand for a recorded vote on the amendment offered by the gentleman from Utah [Mr. HANSEN] printed in section 3 of House Resolution 256 had been postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 256, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 2 offered by the gentleman from Minnesota [Mr. VENTO] and amendment No. 6 offered by the gentleman from Utah [Mr. HANSEN].

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

AMENDMENT NO. 5 OFFERED BY MR. VENTO

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota [Mr. VENTO] on which further proceedings were postponed, and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. VENTO:

Page 3, line 14, strike "unless and until" and insert "until 1 year after".

Page 3, beginning on line 16, insert a period after "Congress" and strike all that follows through the period on line 18 and insert in lieu thereof: "During the period of review, Federal lands within the proclamation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws."

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 224, not voting 8, as follows:

[Roll No. 493]

AYES—201

Abercrombie	Gutierrez	Morella
Ackerman	Hall (OH)	Nadler
Allen	Hamilton	Neal
Andrews	Harman	Obey
Baldacci	Hastings (FL)	Olver
Barcia	Hefner	Owens
Barrett (WI)	Hinchey	Pallone
Becerra	Hinojosa	Pascrell
Bentsen	Hooley	Pastor
Berman	Houghton	Payne
Blagojevich	Hoyer	Pelosi
Blumenauer	Jackson (IL)	Pomeroy
Bonior	Jackson-Lee (TX)	Porter
Borski	Jefferson	Poshard
Boucher	John	Price (NC)
Brown (CA)	Johnson (CT)	Rahall
Brown (FL)	Johnson (WI)	Ramstad
Brown (OH)	Johnson, E. B.	Rangel
Capps	Kanjorski	Reyes
Cardin	Kaptur	Rivers
Carson	Kelly	Rodriguez
Castle	Kennedy (MA)	Roemer
Clay	Kennedy (RI)	Rothman
Clement	Kennelly	Roukema
Clyburn	Kildee	Roybal-Allard
Conyers	Kilpatrick	Rush
Costello	Kind (WI)	Sabo
Coyne	King (NY)	Sanchez
Cramer	Kleczka	Sanders
Cummings	Kucinich	Sandlin
Davis (FL)	Lampson	Sawyer
Davis (IL)	Lantos	Saxton
Davis (VA)	Lazio	Schumer
DeFazio	Leach	Scott
DeGette	Levin	Serrano
Delahunt	Lewis (GA)	Shays
DeLauro	Lipinski	Sherman
Dellums	LoBiondo	Skaggs
Deutsch	Lofgren	Skelton
Dicks	Lowey	Slaughter
Dingell	Luther	Smith (NJ)
Dixon	Maloney (CT)	Smith, Adam
Doggett	Maloney (NY)	Snyder
Dooley	Manton	Spratt
Engel	Markey	Stabenow
English	Martinez	Stark
Eshoo	Mascara	Stokes
Etheridge	Matsui	Strickland
Evans	McCarthy (MO)	Stupak
Farr	McCarthy (NY)	Tanner
Fattah	McDermott	Tauscher
Fawell	McGovern	Taylor (MS)
Fazio	McHale	Thurman
Filner	McIntyre	Tierney
Flake	McKinney	Torres
Foglietta	McNulty	Towns
Forbes	Meehan	Velázquez
Ford	Meek	Vento
Fox	Menendez	Visclosky
Frank (MA)	Millender-McDonald	Waters
Franks (NJ)	Miller (CA)	Watt (NC)
Frost	Minge	Waxman
Furse	Mink	Wexler
Gejdenson	Moakley	Wise
Gephardt	Mollohan	Woolsey
Gilman	Moran (VA)	Wynn
Gordon		Yates
Green		

NOES—224

Aderholt	Bonilla	Collins
Archer	Bono	Combest
Armey	Boswell	Condit
Bachus	Boyd	Cook
Baesler	Brady	Cooksey
Baker	Bryant	Cox
Ballenger	Bunning	Crane
Barr	Burr	Crapo
Barrett (NE)	Burton	Cubin
Bartlett	Buyer	Cunningham
Barton	Callahan	Danner
Bass	Calvert	Deal
Bateman	Camp	DeLay
Bereuter	Campbell	Diaz-Balart
Berry	Canady	Dickey
Bilbray	Cannon	Doolittle
Bilirakis	Chabot	Doyle
Bishop	Chambliss	Dreier
Bliley	Chenoweth	Duncan
Blunt	Christensen	Dunn
Boehlert	Coble	Edwards
Boehner	Coburn	Ehlers

Ehrlich
Emerson
Ensign
Everett
Ewing
Foley
Fowler
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Clayton
Gonzalez
Hilliard
LaFalce
Lewis (CA)
Schiff
Thompson
Weygand

□ 1154

Mr. GUTKNECHT changed his vote from "aye" to "no."

Mrs. ROUKEMA and Messrs. KENNEDY of Rhode Island, HOYER, DOOLEY of California, and GILMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 256, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment in the nature of a substitute offered by the gentleman from Utah [Mr. HANSEN] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Monument Fairness Act of 1997".

SEC. 2. CONGRESSIONAL REVIEW OF NATIONAL MONUMENT STATUS AND CONSULTATION.

Section 2 of the Act of June 8, 1906, commonly referred to as the "Antiquities Act" (34 Stat. 225; 16 U.S.C. 431) is amended by adding the following at the end thereof: "A proclamation of the President under this section that results in the designation of a total acreage in excess of 50,000 acres in a single State in a single calendar year as a national monument may not be issued until 30 days after the President has transmitted the proposed proclamation to the Governor of the State in which such acreage is located and solicited such Governor's written comments, and any such proclamation shall cease to be effective on the date 2 years after issuance unless the Congress has approved such proclamation by joint resolution.".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 222, noes 202, not voting 9, as follows:

[Roll No. 494]

AYES—222

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Portman
Pryce (OH)
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Woolsey
Young (AK)

NOES—202

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bentsen
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Chenoweth
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
Lampson
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Taylor (MS)
Thurman
Tierney

Torres	Visclosky	Wexler
Towns	Walsh	Wise
Turner	Waters	Wynn
Velázquez	Watt (NC)	Yates
Vento	Waxman	Young (FL)

NOT VOTING—9

Becerra	Hilliard	Schiff
Cooksey	Jefferson	Thompson
Gonzalez	LaFalce	Weygand

□ 1204

Messrs. GILMAN, ENGLISH of Pennsylvania, QUINN, BAESLER, KLINK and SHAYS changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. QUINN) having assumed the chair, Mr. SNOWBARGER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1127) to amend the Antiquities Act to require an act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres, pursuant to House Resolution 256, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 229, nays 197, not voting 7, as follows:

[Roll No. 495]

YEAS—229

Aderholt	Ganske	Pappas
Archer	Gekas	Parker
Armey	Gibbons	Paul
Bachus	Gilchrest	Paxon
Baesler	Gillmor	Peterson (MN)
Baker	Goode	Peterson (PA)
Ballenger	Goodlatte	Petri
Barcia	Goodling	Pickering
Barr	Goss	Pickett
Barrett (NE)	Graham	Pitts
Bartlett	Granger	Pombo
Barton	Green	Portman
Bass	Greenwood	Pryce (OH)
Bateman	Gutknecht	Radanovich
Bereuter	Hall (TX)	Redmond
Berry	Hansen	Regula
Bilbray	Hastert	Riggs
Bilirakis	Hastings (WA)	Riley
Bishop	Hayworth	Rogan
Bliley	Hefley	Rogers
Blunt	Herger	Rohrabacher
Boehlert	Hill	Ros-Lehtinen
Boehner	Hilleary	Royce
Bonilla	Hobson	Ryun
Bono	Hoekstra	Salmon
Boswell	Horn	Sandlin
Boyd	Hostettler	Sanford
Brady	Houghton	Scarborough
Bryant	Hulshof	Schaefer, Dan
Bunning	Hunter	Schaffer, Bob
Burr	Hutchinson	Sensenbrenner
Burton	Hyde	Sessions
Buyer	Inglis	Shadegg
Callahan	Istook	Shaw
Calvert	Jenkins	Shimkus
Camp	Johnson, Sam	Shuster
Campbell	Jones	Sisisky
Canady	Kasich	Skeen
Cannon	Kim	Skelton
Castle	King (NY)	Smith (MI)
Chabot	Kingston	Smith (OR)
Chambliss	Klink	Smith (TX)
Chenoweth	Klug	Smith, Linda
Christensen	Knollenberg	Snowbarger
Coble	Kolbe	Solomon
Coburn	LaHood	Souder
Collins	Largent	Spence
Combest	Latham	Stearns
Condit	LaTourette	Stenholm
Cook	Lewis (CA)	Stump
Cooksey	Lewis (KY)	Stupak
Cox	Linder	Sununu
Cramer	Livingston	Talent
Crane	Lucas	Tanner
Crapo	Manzullo	Tauzin
Cubin	McCollum	Taylor (NC)
Cunningham	McCrery	Thomas
Danner	McDade	Thornberry
Deal	McHugh	Thune
DeLay	McInnis	Tiahrt
Diaz-Balart	McIntosh	Traficant
Dickey	McKeon	Turner
Dooley	Metcalf	Upton
Doolittle	Mica	Wamp
Dreier	Miller (FL)	Watkins
Duncan	Moran (KS)	Watts (OK)
Dunn	Myrick	Weldon (FL)
Edwards	Nethercutt	Weldon (PA)
Ehrlich	Neumann	Weller
Emerson	Ney	White
Ensign	Northup	Whitfield
Everett	Norwood	Wicker
Fawell	Nussle	Wolf
Foley	Oberstar	Young (AK)
Fowler	Ortiz	Young (FL)
Frelinghuysen	Oxley	
Gallegly	Packard	

NAYS—197

Abercrombie	Brown (CA)	Cummings
Ackerman	Brown (FL)	Davis (FL)
Allen	Brown (OH)	Davis (IL)
Andrews	Capps	Davis (VA)
Baldacci	Cardin	DeFazio
Barrett (WI)	Carson	DeGette
Bentsen	Clay	Delahunt
Berman	Clayton	DeLauro
Blagojevich	Clement	Dellums
Blumenauer	Clyburn	Deutsch
Bonior	Conyers	Dicks
Borski	Costello	Dingell
Boucher	Coyne	Dixon
Doggett	Kucinich	Poshard
Doyle	LaFalce	Price (NC)
Ehlers	Lampson	Quinn
Engel	Lantos	Rahall
English	Lazio	Ramstad
Eshoo	Leach	Rangel
Etheridge	Levin	Reyes
Evans	Lewis (GA)	Rivers
Ewing	Lipinski	Rodriguez
Farr	LoBiondo	Roemer
Fattah	Lofgren	Rothman
Fazio	Lowey	Roukema
Filner	Luther	Roybal-Allard
Flake	Maloney (CT)	Rush
Foglietta	Maloney (NY)	Sabo
Forbes	Manton	Sanchez
Ford	Markey	Sanders
Fox	Martinez	Sawyer
Frank (MA)	Mascara	Saxton
Franks (NJ)	Matsui	Schumer
Frost	McCarthy (MO)	Scott
Furse	McCarthy (NY)	Serrano
Gejdenson	McDermott	Shays
Gephardt	McGovern	Sherman
Gilman	McHale	Skaggs
Gordon	McIntyre	Slaughter
Gutierrez	McKinney	Smith (NJ)
Hall (OH)	McNulty	Smith, Adam
Hamilton	Meehan	Snyder
Harman	Meek	Spratt
Hastings (FL)	Menendez	Stabenow
Hefner	Millender-McDonald	Stark
Hinchey	Miller (CA)	Stokes
Hinojosa	Minge	Strickland
Holden	Mink	Tauscher
Hooley	Moakley	Taylor (MS)
Hoyer	Mollohan	Thurman
Jackson (IL)	Moran (VA)	Tierney
Jackson-Lee (TX)	Morella	Torres
John	Murtha	Towns
Johnson (CT)	Nadler	Velázquez
Johnson (WI)	Neal	Vento
Johnson, E. B.	Obey	Visclosky
Kanjorski	Olver	Walsh
Kaptur	Owens	Waters
Kelly	Pallone	Watt (NC)
Kennedy (MA)	Pascrell	Waxman
Kennedy (RI)	Pastor	Wexler
Kennelly	Payne	Wise
Kildee	Pease	Woolsey
Kilpatrick	Pelosi	Wynn
Kind (WI)	Pomeroy	Yates
Kleczka	Porter	

NOT VOTING—7

Becerra	Jefferson	Weygand
Gonzalez	Schiff	
Hilliard	Thompson	

□ 1223

Mr. STUPAK changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

Pursuant to the provisions of House Resolution 256, the title of the bill was amended so as to read: "A bill to amend the Antiquities Act regarding the establishment by the President of certain national monuments."

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 2159, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1998

Mr. LARGENT. Mr. Speaker, I offer a motion to instruct conferees on H.R. 2159.

The SPEAKER pro tempore (Mr. QUINN). The Clerk will report the motion.

The Clerk read as follows:

Mr. LARGENT moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2159 be instructed to insist upon the provisions contained in section 581 of the House bill (relating to restrictions on assistance to foreign organizations that perform or actively promote abortions).

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. LARGENT] and the gentlewoman from California [Ms. PELOSI] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Mr. Speaker, I yield myself such time as I may consume to say that very simply, the proposal that is before the House at this time to instruct the conferees on the foreign operations appropriations bill is simply to say this is well traveled, yet controversial ground that the House has already spoken on earlier this year.

The vote was taken on the foreign operations appropriations bill to accept what is known as the Mexico City policy, and that is to say that no U.S. tax dollars are to go to any organizations that perform abortions, with the exceptions of the life of the mother, rape, and incest, and this motion to instruct the conferees on the foreign operations appropriations bill simply says to our conferees, we want them to adhere to the language that we voted 234 to 210 on on September 4.

Mr. Speaker, that is the motion to the conferees.

Mr. Speaker, I yield 1½ minutes to my friend and colleague, the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the motion is very simple, very straightforward. It asks our conferees to stand firm on a policy that has been in place for a decade, the Mexico City policy: that no funds of the United States that we contribute to international organizations should be used to support organizations who, in the course of family planning, advocate, promote, and perform abortions.

We do support responsible organizations that do engage in family planning but avoid any representation of or performance of abortions. American taxpayers have a right to know that their funds will not be used to pursue a policy that is antiethical to the conscience of most Americans.

Performance of abortion has been rejected by the Congress for the 2½ decades that I have served in the Congress in domestic activities; we should not support it in international activities, and I urge support of the gentleman's instruction.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

I rise in opposition to this motion to instruct. The conferees have been working diligently to resolve all the sensitive and contentious issues in this bill, including the population issue. I think that every person in this Chamber agrees that we all must work hard to reduce the number of abortions that are performed in our country and worldwide. This motion to instruct does not achieve that. Indeed, a vote for this motion to instruct is a motion to call for a Presidential veto.

We were prepared to go to conference last evening; we resolved our outstanding issues. The conference was canceled at the last minute by the Republican leadership because they are trying to work out this problem, and this injection of the motion to instruct is not necessary. We have had at least 6 votes on this issue on 4 separate bills.

The best way to reduce the number of abortions, and that is our goal, is to have the most effective family planning.

My colleagues and I have clearly signaled a willingness to offer reasonable alternatives through the Gilman-Pelosi substitute to provide assurances that abortion is not and will not be used as a substitute for contraception.

The gentleman from Minnesota [Mr. OBERSTAR] said that this motion to instruct would say that no funds could go to organizations that in the course of family planning advocate, promote, or perform, abortions.

□ 1230

I agree with him. That is not what this motion to instruct does, however. That is what the Gilman-Pelosi alternative proposes, but this motion to instruct is a gag rule on any organizations which are trying to advocate and provide family planning services.

Mr. Speaker, I will submit for the RECORD some of the examples of where the family planning successfully has reduced the number of abortions.

Mr. Speaker, the very Mexico City authorizing language is contained in the State Department authorization bill which is now in conference. The President has made it clear he will veto the bill if the Mexico City language is attached, and this motion here will call for a veto of our bill. It will hold hostage all of our foreign assistance, including critical money for Middle East peace at this sensitive time. The Mexico City provision will crush our international family planning efforts which work to reduce the number of abortions performed worldwide.

I urge my colleagues to vote against this motion to instruct and to allow the conferees freedom to continue their efforts to work together to resolve this difficult issue.

Mr. Speaker, I ask my colleagues in this House of Representatives, are they not tired of this debate? Are they not tired of having to make this contentious vote week in and week out, month in and month out? Let us resolve the issue which recognizes our common ground in reducing the number of abortions, which recognizes U.S. law which says that no funds can be used to perform abortion internationally, the Helms law, which Senator HELMS himself wrote and which is the underlying law to all of this. This is not about any U.S. dollars going to underwrite, subsidize, or be fungible for organizations that are promoting family planning.

Maybe as in every other household in America, in this House we have to have a talk about the facts of life. We have to have a talk about the birds and the bees. If we want to reduce the number of abortions, it should be clear that effective family planning is the best way to do that. The best way to resolve the issue for us legislatively is to let the conferees work. It has to come back before this body to accept or reject. But this motion to instruct is not constructive. Indeed, it is counterproductive to our goals.

Mr. Speaker, I reserve the balance of my time.

Mr. LARGENT. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SMITH], who really has been lionhearted on this issue, my friend and colleague.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. LARGENT] for his courage in offering this motion along with the gentleman from Illinois [Mr. HYDE].

Mr. Speaker, I rise in strong support of the Largent-Hyde motion to instruct conferees to the foreign ops bill to uphold the House position on the pro-life Mexico City policy—the Hyde amendment of foreign aid.

Today, Mr. Speaker, the pro-life laws and policies of almost 100 countries that restrict abortion are under siege and the engine driving this global pro-abortion push is the nongovernmental organizations funded by the U.S. Government.

The House position, adopted 234 to 191, permits the flow of funds only to those organizations that pledge to provide only family planning and not abortion. In other words, the innocent children are not put at risk.

Mr. Chairman, who we subsidize, not just what, but who we subsidize, who we give hundreds of millions of dollars—and these are discretionary funds, this is not entitlement spending—does matter.

Let me remind Members that the simple fact of the matter is that the long-standing law the Helms amendment stipulating that no U.S. funds can be directly used for abortion was found to be infirm and incomplete and riddled with loopholes. Money is fungible. The millions of dollars that we give to a group immediately frees up other funds that can be used, and in this case are used, for performing and aggressively promoting abortion.

It should matter greatly to each and every one of us not just what an organization does with its specific subsidy, but the rest of its agenda as well. It is a package deal.

Mr. Speaker, many groups use family planning as the Trojan horse to conceal their real agenda, abortion on demand. We closed those loopholes back in the mid-1980's with the implementation of the Mexico City policy. Regrettably, Mr. Clinton reinstated the loopholes.

Many Planned Parenthood affiliates around the world are leaving no stones unturned in their obsessive campaign to legalize abortion on demand around the globe. If they succeed, millions of babies will die from the violence of abortion on demand.

I urge Members again, as I did in previous debates, to carefully consider the 1992 IPPF, International Planned Parenthood Federation, abortion manifesto called Vision 2000. We call it Nightmare 2000, because it is a global strategic plan to usher in a world of free abortion. Nightmare 2000 was adopted by Planned Parenthood and its 140 affiliates in 1992 and they are trying to implement it around the world. The blueprint for action is designed to "bring pressure on governments" and to, quote, further "campaign for policy and legislative changes to remove restrictions against abortion." In other words, topple the pro-life laws.

Mr. Speaker, can anything be more clear? Pressure governments to nullify their pro-life policies? Campaign for abortion on demand? And we, Mr. Speaker, if we fail to include the Mexico City language in our foreign policy statute will put hundreds of millions of dollars at their disposal to advance this antichild campaign of pressure.

Fred Sai, who is former chairman of IPPF, said, and I quote, "Now, for the first time the IPPF strategic plan, Vision 2000 * * * outlines activities at both the Secretariat and Family Planning Association level to further IPPF's explicit goal of increasing the right of access to abortion."

Planned Parenthood is an abortion purveyor and should not be subsidized.

Who we support does matter. Planned Parenthood's explicit goal is the eradication of every pro-life law, policy, and/or constitutional provision protecting babies on the face of the Earth. IPPF has an elaborate plan of action, to promote abortion in Central and South America where unborn children are now legally safeguarded. They have plans to repeal the pro-life laws in Africa, the Muslim countries in the Middle East, and several Asian countries as well.

In Poland, for example, the chairman of the Parliamentary Group on the Family, Stanislaw Kowolik, lashed out in public debate at the external factions in Poland for meddling in that country and pushing for liberalized abortion.

Another example of a backlash against the United States and Planned Parenthood pressure to legalize abortion is in the Philippines. A headline in the Philippine Daily Inquirer last July read: "Flavier Hits U.S. Pressure on Abortion," and then the newspaper quotes Senator Juan Flavier: "We have just celebrated our 50th anniversary of independence from America, but we can still see insidious methods of imperialism trying to subvert our self-determination by using [population control] funds as subtle leverage. I strongly oppose abortion. It is prohibited by our laws and the Philippine Constitution. Hence, we should be prepared to lose foreign funding rather than be pressured into causing the death of unborn children."

The abortion promotion by Planned Parenthood is so extreme in the Philippines that the president of IPPF's own affiliate, it is known as the Family Planning Organization of the Philippines, FPOP, resigned over what he called IPPF's hidden agenda to use his affiliate as a Trojan horse to legalize abortion.

Mr. Speaker, I strongly, strongly urge a "yes" vote for the motion offered by the gentleman from Oklahoma [Mr. LARGENT] and the gentleman from Illinois [Mr. HYDE] to affirm the House-passed language in the foreign operations bill.

Ms. PELOSI. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY], the distinguished ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, this proposal is before us because there is, evidently, a small number of very committed and determined and, some might say, zealous Members on that side of the aisle who still believe that if they hold up Government long enough, that they can get their way totally on this issue.

I think that we spent about 8 months defining our differences on this issue, and now is the time when we need to reconcile those differences on behalf of a greater good.

Mr. Speaker, the fact is that we have now seen both sides of this debate, in my view, demonstrate their irresponsibility. Last week, we saw some of the groups who are most interested in family planning reject out of hand the Pelosi-Gilman amendment because it was not pure enough in promoting their goals. Now this week, we see the other side of the issue just as rigid, just as unwilling to compromise, indicating that they would rather tie up all of American foreign policy than compromise one iota on this issue.

All this motion to instruct does today is demonstrate something we have known for months, that the supporters of the Smith language have a small majority in the House but they do not have two-thirds. We have all known that before. All that does is demonstrate that a group has enough votes to get something to the House but not enough votes to get it by the President. That means that responsible adults would find a way to compromise an issue without sacrificing principle.

Now, we have already offered as a committee to try to resolve this by giving the Smith forces in this House a big win, a win which I think they ought to have, by eliminating all U.S. funds to the U.N. population program if they do not get out of China, because, in my view, they have a coercive abortion program in China.

Mr. Speaker, in my view, that is a large win that that group ought to accept. Sooner or later we have to recognize that neither one of the hard positions on this issue have enough votes to put their position into law. That means, as adults, we have to find some other way to proceed to get this bill passed.

Sooner or later, despite this motion today, which will pass but which will have no great import in terms of the eventual outcome, despite that motion, we will have to get down to getting our business done. All this does is stand in the way of getting our work done.

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. BARCIA], on the other side of the aisle, to dispel the notion that this is some right-wing, radical group on this side of the aisle.

Mr. BARCIA. Mr. Speaker, I rise in support of the motion to instruct the conferees to insist on the House provisions reinstating the Mexico City restrictions on international family planning funding.

Mr. Speaker, as a pro-life Member, I strongly believe that our tax dollars should not be used to subsidize organizations that perform abortions or actively work to legalize abortions in developing countries.

We fought this battle in the House last month when the provision was added to the foreign operations appropriations bill. We did not add this provision as trade bait, we offered it as a matter of conscience, a matter of conviction, and a matter of morality. We cannot go back on our word on so vital an issue as the right to life. Let us not put innocent children at risk. Let us stand against the effort to bring down the pro-life policies of almost 100 countries that restrict abortion.

Mr. Speaker, our conferees must insist on this provision.

Ms. PELOSI. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this motion to instruct. In fact, the conferees are trying to resolve this issue. We should not interfere with their work. We have had this debate already on this floor. No one is suggesting abortion on demand.

Let me point out once again the deep flaw in the policy that this motion deals with here. Under current law, current law of the United States, not one dollar of U.S. family planning funds can be used to perform or even counsel women to obtain abortions anywhere in the world. No matter what they say, no matter what they do, that is the fact. This, in fact, is a gag rule, as the gentlewoman from California [Ms. PELOSI] has pointed out.

I will say this to my colleagues on our side of the aisle and on the other side of the aisle, that they are putting innocent children at risk and women at risk. For many women and children across the world, U.S. family planning aid can literally mean the difference between life and death.

Mr. Speaker, 600,000 women die in childbirth every year around the world. Access to family planning in the developing world would reduce unintended pregnancies by one-fifth. We could save the lives of 120,000 of these women. Family planning allows women and men to choose how many children they want and when to have them.

□ 1245

Spacing children further apart, breast feeding them can improve a child's chance of survival by up to 20 percent. U.S. family planning aid funds have supported health clinics around the world which give poor women their only access to preventive health services, which can detect disease like cervical cancer in the early stages and save lives. Vote against this motion to instruct. It is wrong.

Mr. LARGENT. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Speaker, this issue comes down, to me, to a very simple proposition. We do not use taxpayer dollars to fund abortions in the United States. We certainly should not use taxpayer dollars to fund abortions in China and generally abroad.

There are millions and millions of people in this country, many of them my constituents, who are deeply opposed on grounds of conscience to abortion. Out of respect for them, and because a vast majority of this House and of this Government, at least rhetorically, wants abortion to be at least discouraged, wants public policy at least to discourage abortion, out of respect for them we are scrupulously careful not to use taxpayer dollars to fund abortions in the United States. Why should we send money abroad where it can be used to fund abortions there?

The other side says it will not be used to fund abortions; that is implicit in the language. What is wrong with making it clear, crystal clear? We are sending this money to places like China where admittedly they have policies not just of abortion but forced abortion, where thousands, maybe hundreds of thousands of women every year are forced to undergo abortion. Why should we not make it clear that our dollars, whatever they do over there, our dollars will not be used to support that?

That is what this struggle is about. It is a struggle, Mr. Speaker, where both sides are very sincere and hold their positions deeply. I credit the other side with that view. One cannot listen to the passion of their arguments without believing that.

I agree totally, we should not hold anything else hostage to this issue. We should not do it. This is an issue where Members have deeply held, sincere beliefs. Let us get this money and this policy off of the foreign ops bill and let us fight this out separately. There is no reason to hold up any other part of the foreign ops bill. Let us bring it out, aid to Israel, aid to Africa, any of the rest of it, let us bring it out and let us vote for it, and I will vote for it. But let us not tie this to the rest of that bill.

If we are going to have a dispute over this, and I hope we can work it out, if we are going to have a dispute over this, like guests in somebody's house, let us not bust up the living room. Let us at least step outside if we are going to have a fight over this. Let us pull it off of the rest of the foreign ops bill and bring it out.

There is no reason to have a big fight over this that holds up the Government. I do not want that. I do not think those of us who support this measure want that. But we do not want our tax dollars to be used for abortions in China and abroad when we do not allow them to be used for abortion here.

Ms. PELOSI. Mr. Speaker, I yield myself 20 seconds.

Mr. Speaker, it either is good news or plain news to some of our colleagues on the other side of the aisle that no U.S. dollars can be spent, may be spent, any verb we want, to use abroad on performing abortions. So to use that in an argument in this debate is not a compliment to our colleagues' intelligence. The Helms law prohibits any funds to be used for abortion. What we are advocating is funding for family planning and for those organizations who advocate family planning as a means to reduce abortions.

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the very distinguished and able chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I reluctantly rise to agree with virtually everything that the gentleman from Missouri said, with the exception of whether or not there is money for China in this bill. I understand there is not.

But I rise also to explain, while I will be voting "present" on the motion to instruct conferees, I am strongly prolife. I have consistently voted for the Mexico City policy, along with the rest of the House. However, after three painful years of trying to get this policy through the Senate on this bill and accepted by the White House, I have come to the conclusion that we cannot codify the Mexico City policy on an appropriations bill or perhaps anywhere else until we have a Republican President.

This issue has delayed final consideration of the Foreign Operations Act for 3 years in a row. It was the last issue resolved on last year's final appropriations bill. This year it is blocking two major pieces of legislation, the Foreign Operations Appropriations Bill and the State Department authorization bill. And this is an authorization issue which should be resolved in that authorization bill, not this bill.

I would love to see the Mexico City policy enacted into law, but we have got two big problems. The Senate will not take it, and the President will not sign it. This motion to instruct the conferees simply ignores that fact. The House position is well established. What we need is a motion to instruct the Senate conferees, but the votes in the Senate are simply not there. But our biggest problem is with the President, Bill Clinton. He will veto the bill that contains Mexico City policy language, make no mistake about it.

So I sympathize with my colleagues who believe strongly as I do in the Mexico City policy, but this is a futile exercise which offers no solution, only continued stalemate. Therefore, I am voting "present."

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DELAY], the majority whip and a member of the Committee on Appropriations.

Mr. DELAY. Mr. Speaker, I really appreciate the gentleman from Oklahoma [Mr. LARGENT] and the gentleman from Illinois [Mr. HYDE] bringing this motion to instruct because this is not a futile exercise. This is a motion to instruct the conferees of the House that represent the House position, to send a message to the Senate. Mr. Speaker, message to the Senate: The House will not give in on this issue, period. We will not back down. We will not back away. And we just dare the Senate to stop us in our quest.

Mr. Speaker, message to the President: If the President dares to veto this bill because of Mexico City language, we would relish it because obviously we know where the administration, particularly the Vice President, Mr. GORE, Mr. Speaker, is coming from. Because in a speech on global warming, Mr. GORE already revealed where he is coming from. He says there are too many people in this world providing too

much pollution in this world and, therefore, and I quote from a newspaper article, "Vice President GORE warned that overpopulation fosters global warming, yesterday suggested expanding abortion programs in developing countries to help reduce the environmental threat."

That is what they are using this money for, Mr. Speaker. We will not back down. Message to the Senate and to the President: We will not give up on this issue.

Ms. PELOSI. Mr. Speaker, I want the RECORD to show that Vice President GORE's speech makes no reference to advancing abortion programs to reduce population. Perhaps the gentleman was misinformed by a newspaper article.

Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. CALLAHAN], for whom I have a great deal of respect, the distinguished chairman of our subcommittee.

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. CALLAHAN].

The SPEAKER pro tempore (Mr. EWING). The gentleman from Alabama [Mr. CALLAHAN] is recognized for 3 minutes.

Mr. CALLAHAN. Mr. Speaker, I thank both of my colleagues for yielding me this time.

Let me be very emphatic about where we are on this bill. This bill was drafted by me. It carries my name as the chief sponsor.

Regardless of what some have told my colleagues on the floor today, there is no way that anybody anywhere in the world can spend one dollar on an abortion. Let us make that perfectly clear. This is not whether or not money contained in this bill can be spent on abortion because it absolutely cannot, so let us make that clear. I wish those of my colleagues that choose to speak on this would indicate to those that they are speaking to the prohibition that is very definitely there. None of the money in this House bill can be spent on abortions anywhere in the world, period.

Now, what we are trying to do is, as we have had to face for the last 3 years, is to handle a situation which should not even be in this bill. It should be in the authorization bill. Generally when we come to the floor the authorizers are objecting because we are putting authorizations in an appropriation bill and they say no.

The proper place for this issue to be addressed is in the Committee on International Relations. They have a bill in conference that they are trying to get it on but they do not have the votes. So they are saying, let us shift the burden of responsibility to the Committee on Appropriations, which is violative of our rules and violative of our normal procedures.

So let us look also at the fact that under my leadership, under my chairmanship of the Subcommittee on Foreign Operations, Export Financing and Related Programs, we have cut population spending by nearly 40 percent. Does anybody come up and say, well, chairman, well subcommittee members, we appreciate the giant step that you have made? No. Instead they come and they give indication to Members of Congress that we are authorizing abortions, which we are not.

So I am leaving it up to the House people to decide. If Members want the appropriators to also be authorizers, give us carte blanche. We will do it all, if that is what they want, but they cannot pick and choose. And they cannot mislead this House with false information that there is something in this bill that would permit in any form, shape, or fashion $1 of this money to be spent on abortions, because it is absolutely false.

So we can vote our conscience. I am pro-life. I am unashamedly pro-life. I am proud of that fact. Phyllis Schafly came to me about 3 or 4 months after the Roe versus Wade decision. I was the first legislator in the entire country to do something to try to negate some of the problems that Roe versus Wade came up with.

Anyway, my colleagues should vote their conscience on this. But this is not a vote as to whether or not any of this money can be spent on abortion because it absolutely cannot.

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I have a hard time understanding, where is all the beef? The Largent motion is entirely in order. It is not out of order and we should be having this debate now. If there is absolutely no chance of any money going to fund abortions, which there is, why are we seeing the objection on the other side that is so vehement and an unwillingness on the part of some Members to address the issue instead of attacking us personally?

I think that it is very plain and clear, the President has stated that with this motion in the bill, he will veto the bill. I think the White House is making their position very plain and clear, but we in the House will not back down on this policy. That is a message to the Senate and to the White House. Yes, this is an issue we are fighting for and fighting hard for. It is appalling that Mr. GORE would try to take care of what he perceives as global warming with a new program on abortion. I say that the Largent motion is entirely in order and should be supported as the issue has been in the past.

Ms. PELOSI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, because the gentleman from Alabama [Mr. CALLAHAN] so eloquently explained that this is not abortion money, it is family planning for the world, I rise to oppose this motion to instruct.

□ 1300

Ms. PELOSI. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY], a distinguished member of the Committee on Appropriations Subcommittee on Foreign Operations, Export Financing and Related Programs.

Mrs. LOWEY. Mr. Speaker, I rise in very strong opposition to this misguided motion to instruct conferees. This is just another extreme motion that aims to end family planning overseas.

The proponents of the motion claim that it simply cuts abortion funding. As the chairman of our subcommittee said so eloquently, abortion funding overseas has been prohibited since 1973, and this motion would cut abortion funding from zero to zero. There is not a dollar of funding for abortion in this bill. Therefore, this motion must be after something more, and that something is family planning.

One of the most important forms of aid that we provide to other countries is family planning assistance. No one can deny that the need for family planning services to prevent unintended pregnancies in developing countries is urgent, and the aid we provide is absolutely invaluable. When women are unable to control the number and timing of births, they will rely on abortion, often illegal, unsafe, and life-threatening.

This motion misses that critical point and continues to delay final passage of the foreign aid bill. The conferees on the foreign operations bill are working very hard to construct a foreign aid bill that will be acceptable both to the Congress and to the President, but the proponents of this motion are clearly unconcerned about the fate of the foreign aid bill. They are ignoring the critical assistance the bill provides to some of the neediest people around the world. They are disregarding the fact that this bill creates the framework for the United States to further its foreign policy goals, and they are using the false logic that family planning equals abortion to the exclusion of all other critical issues in the bill.

Our subcommittee went to Egypt in the past year. We visited the child-maternal survival clinics. We saw the critical need. We need to help women understand how to space pregnancies. Otherwise we are creating more abortions and putting people in desperate, desperate conditions and threatening their lives.

I urge my colleagues to oppose this misguided notion and let the conference committee continue to do its work to pass a foreign aid bill.

Mr. LARGENT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE], one of the cosponsors of the Largent-Hyde motion to instruct.

Mr. HYDE. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. LARGENT] for yielding me this time.

There are so many things that are said that are not totally true. The gentlewoman said this is an attack on family planning. The fact is 40 percent of the money that pays for family planning in the world comes from the United States and will still come from the United States whether this succeeds or not. It is just it will not go to the organizations that perform abortions or counsel for abortions. But the money is there and it will be spent. We will drench the world with condoms, it is just not through International Planned Parenthood. So that is just not so.

The second thing is, my good friend, the gentleman from Alabama, [Mr. SONNY CALLAHAN], says not a dollar of this will go for abortion. He is so right. He is so right. Not a dollar will go for abortion. But that is not the end of the story. When the United States gives money to International Planned Parenthood we free up their money that can be spent for abortions. We facilitate abortions. So this individual dollar cannot be spent for an abortion. He is right. But by giving them these dollars, we free up other money to procure abortions.

The problem is this country has a policy of not subsidizing abortion. Why does that end at the water's edge? Why does the policy of not subsidizing abortions not extend globally? It ought to, without harming family planning.

So the gentleman is right, by law this money cannot go for abortions, but the consequences of this money frees up other moneys that go for abortions. So abortions are facilitated. And babies are just as dead if they have been facilitated into abortion as if the money has gone for abortion.

I think the motion to instruct is well advised, it is sound, it is consistent with the policy of this Congress and this country of not paying tax dollars for abortions.

Ms. PELOSI. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia [Mr. MORAN], a member of the Committee on Appropriations.

Mr. MORAN of Virginia. Mr. Speaker, I rise in very strong opposition to this amendment. In the first place, it is a deliberate poison pill. The sponsor knows it is veto bait. But in addition to my opposition on tactical grounds, it should be opposed for substantive policy reasons.

When we last debated this issue in the foreign operations bill on September 4, we had the opportunity at long last to lay it to rest. We could have reached a constructive compromise by assuring one another that if in fact Federal funds meant for international family planning programs were being used to pay for abortions, they would be withheld.

It said that we would ensure if United Nations family planning money was being used in any way we did not like in China, it would redirect the funds to other family planning operations. The compromise was fair and, most importantly, it would have maintained funding for a program that in any humane context must be maintained. But the compromise failed and now we have another opportunity in conference to restore these assurances.

The Senate passed a bill without the Mexico City provision. If we include the Senate language we will operate on the continued assurance of the Hyde language that has forbidden the use of Federal funds for abortion since 1972. If we include the Senate provisions, we can continue to provide these family planning services to the families that need them so desperately, families that live in the most abject poverty and are without the resources or the education to exercise any effective control over the size of their families.

To deny them that information and risk the lives of hundreds of thousands of women who die from pregnancy-related complications is inhumane, it is cruel, it is wrong, and I urge my colleagues to allow the conferees to work out a compromise that is fair, without the added pressure of this destructive instruction.

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. SHIMKUS].

Mr. SHIMKUS. Mr. Speaker, I rise in support of the Largent-Hyde motion to instruct the conferees.

I am not tired of fighting for life. Once the public understands that what we have here is an elaborate shell game, shifting money to one area to free up money to another, there will be a national outcry. If we do not provide money for abortions in the United States we should not fund abortions internationally.

This elaborate shell game must end. This motion to instruct the conferees does that and allows Federal money to go where it should, family planning.

Ms. PELOSI. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN], who is a distinguished member of the Committee on Appropriations as well and of our Subcommittee on Foreign Operations, Export Financing and Related Programs.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentlewoman for yielding me this time. As a member of the Subcommittee on Foreign Operations, Export Financing and Related Programs, I rise in opposition to the motion to instruct.

Child survival and maternal health programs are the cornerstone of our foreign aid bill, and access to family planning is critical to protecting the health and welfare of children and women in any and all nations that receive our assistance.

This motion is about roadblocks. It sets up roadblocks to basic health care and family planning services for women in developing countries, and it is a roadblock to passage of our foreign operations bill, which has many essential purposes.

Every day, Mr. Speaker, more than 31,000 children under the age of 5 die in developing countries. By helping women space their children at least 2 years apart, at least one in four of these infant deaths can be prevented. Every year 585,000 women, one woman for every minute of every day, dies of causes related to pregnancy and childbirth. That is an absolutely horrendous statistic, and 99 percent of these women live in developing countries. The fact is that 25 percent of these deaths can be prevented by allowing women the simple means to delay motherhood.

Family planning is critical to the lives of women around the world and especially in developing countries. These women and their children do not need any more roadblocks. I urge my colleagues to defeat this motion.

Mr. LARGENT. Mr. Speaker, I would like to ask again for the division of time.

The SPEAKER pro tempore (Mr. EWING). The gentleman from Oklahoma [Mr. LARGENT] has 13½ minutes remaining and the gentlewoman from California [Ms. PELOSI] has 11½ minutes remaining.

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. ARMEY], the majority leader.

Mr. ARMEY. Mr. Speaker, I would like to begin by thanking my colleague, the gentleman from Oklahoma, for bringing this resolution to the floor, this motion to instruct conferees.

The issue here is very clear and very, very important, an issue that could hardly be more heartfelt by the people who are concerned about the way their tax dollars are used in this case. Very simply, we are saying we do not want some nearly $400 million of American taxpayers' dollars to go to agencies without clear prohibitions against the use of that money for the performance and the conduct of abortions.

There should be no doubt about it. Whatever other activities they do, that is another matter. But, clearly, we are insisting on the House position: American tax dollars should not be used for the promotion of or the conduct of the practice of abortion.

I encourage all my colleagues to vote "yes" on this motion.

Ms. PELOSI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CAMPBELL], a member of

the Committee on International Relations.

Mr. CAMPBELL. Mr. Speaker, the subcommittee chairman was exceptionally clear and forceful. He deserves an awful lot of credit for his courage and the position that he has taken.

None of this money goes to perform abortions. My dear friend and our colleague, the majority leader, said no money should go to perform or conduct abortions. He is right, and none of the money does.

The debate here is about money going to an agency and then that agency counsels concerning abortion. None of our money goes to the performance of abortion, but an agency that receives the money is permitted to conduct counseling, to tell a woman about an abortion right that she may have in that country.

With the gentlewoman's permission, I wish to yield to the sponsor of the motion, if he might be able to respond to the following question, which deals with the issue of fungibility, because that is at the heart and soul of this debate.

Our good friend, the distinguished chairman of the Committee on the Judiciary, argues fungibility. If we give money to one of these agencies, it will free up money that these agencies could otherwise use for abortions. If that were so, it seems to me the gentleman from Oklahoma ought to be opposed also to the $1.2 billion we give to economic aid for Israel.

Israel is a country, our ally, that allows abortion, and in the appropriate circumstances government funds abortion in Israel. If fungibility is the argument, does the gentleman from Oklahoma not also oppose $1.2 billion in aid to Israel?

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, I was here in 1984, when the Mexico City policy was crafted, and let me remind Members that the Mexico City policy was a minimalist policy, a bottom line, a very modest policy. Countries were excluded, because in countries around the world, we only have one government. Nongovernmental organizations, there are a multitude of them. There are Planned Parenthoods, there is the Pathfinder Fund, there is a large number of nongovernmental organizations.

We wanted to stop funding the abortion industry. Because what happens, they become an extension of our foreign policy and they use perhaps some of their own money, but money is fungible, as was stated so clearly. Our money frees up their money to crusade to bring down the right to life laws in these countries.

So I would have preferred countries were included, but they are not. We compromised that back in 1984.

Ms. PELOSI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CAMPBELL] for the purposes of asking the gentleman from Oklahoma [Mr. LARGENT] a question, but not for yielding our time to the other side to make arguments that are not a response to the gentleman's question.

Mr. CAMPBELL. Mr. Speaker, I respect the gentleman, and I wish my good friend and colleague from Oklahoma had responded to my question. He chose not to. Fungibility is the issue. If it is, then it is an issue with regard to the $1.2 billion to Israel as well.

My good friend from New Jersey said, and I just heard him say, he wished that provision was included. Well, I am pleased to hear him at least being consistent, but I think others on the side of fungibility ought to recognize that they are not being consistent.

Last, in the few seconds remaining, bear in mind that when people come for abortion services around the world, they frequently get family planning advice for the first time. For the first time. And so by allowing family planning agencies to offer advice on abortion, we prevent the second abortion.

The statistics are remarkable. About four out of five women in Tanzania who come in for abortion have never heard of family planning; two out of three in Egypt and one out of two in Turkey. So we would prevent the second abortion from happening if these women, who seek abortion advice, also receive family planning advice so another abortion does not happen.

□ 1315

Mr. LARGENT. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. COBURN], my friend and colleague.

Mr. COBURN. Mr. Speaker, on September 4, this House did give our conferees some instructions. We passed this language.

The reason that this is a problem is because our conferees are not following what we told them to do in the first place. We instructed them what to do by the very amendment that we passed in this House. There would be no conflict if they would follow the will of the House as already had been voted.

I am greatly disappointed in some of the words that I have heard spoken today where we see process has become very much more important to many of the Members of our side than principle. When that happens in this body, God forbid what is going to happen to our land.

If we are going to abandon principle so we can get a bill passed, shame on us. Shame on us if we are going to abandon our principles. Every life is worth saving. Whether it is at the beginning, the moment of conception, or at the end, it is worth saving.

Message to the appropriation chairman: We are going to stand for life. This language should be there. We will pass this today.

Message to Mr. GORE: Life is important. It does not cause pollution. It is all valuable. Mistakes of human life may cause pollution, not babies, not children, not adults.

Message to the President: If, in fact, you want to hold up foreign appropriations over the fact that we should not be spending money to abort newborn babies in other countries in the world, something very much different than what we do here, then hold it up.

I will vote against any foreign appropriations bill that does not have that language. And I would encourage my fellow Members on this side of the aisle and the other to support this motion to instruct. It is the right thing to do on principle. To heck with the process.

Ms. PELOSI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. EDWARDS], a member of the Committee on Appropriations.

Mr. EDWARDS. Mr. Speaker, I think this debate is less about principle than about the issue of the real consequences of this measure.

As the father of a new, healthy boy, I am very deeply grateful that my wife had access to early prenatal care. The real consequence of this measure, though unintended, I know, but the real consequence would be to deny thousands of women around the world the very prenatal care that my wife and I so cherished, the prenatal care that helped bring a healthy baby boy into this world.

Mr. Speaker, I am glad pro-life Members in this House have spoken out against this measure. This should not be a matter of pro-life or pro-choice. Family planning should not be that choice.

The fact is that, under the law, not one dollar of U.S. taxpayers' money can be spent anywhere in the world to provide for abortions. That is the law, period. Some have said, if we send family planning dollars abroad, organizations can free up money then for abortion. Well, using that logic, I assume the United States should stop all military aid to allies, the United States should stop military aid to countries ravaged with disease, the United States should stop all food aid to children in foreign nations who are starving to death. Perhaps we should stop dismantling nuclear warheads around the world because those dollars could be used somehow to free up money for abortions.

Mr. Speaker, the principle I stand by is that that fungibility argument stretches logic to a point of being illogical. The fact is, family planning reduces unwanted pregnancies. The fact is that every dollar cut from family planning is going to increase the possibility of abortions around this world.

For those reasons, Mr. Speaker, I will actively oppose this measure, intended

well, I know, by its sponsors, whom I respect. But I think they have an obligation to also look at not just our principles but the consequences of our actions on this floor. The consequences of this measure would be ill-founded.

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. GRAHAM] .

Mr. GRAHAM. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. LARGENT] for yielding me the time.

Mr. Speaker, this is an extremely important debate at a critical time, for two reasons. One, we have already voted in this House to instruct the conferees in a manner that they are not following. So I think it is time to reinforce our original intentions.

And the Vice President of the United States has suggested that global warming is due to lack of family planning. Intellectually, there may be some truth to that, but so far as family planning equals abortion, I hope he did not mean that. It is about time to understand that family planning does not include taxpayer dollars for abortions.

Unfortunately, without this instruction, the groups who receive the $385 million of family planning money are, some of them, very much engaged in the business of abortion. And I bet my colleagues there are tons of pro-choice taxpayers who would say, "I do not want my dollar sent overseas to engage in abortion activities even though I may be pro-choice."

That is the issue of the moment, of the day, maybe of the century. And now is the time cleared for the House to express we disagree with the way the conference is going and we want them to get back on track. And prenatal care is not a part of family planning money. Abortion, unfortunately, is, whether we like it or not.

Mr. LARGENT. Mr. Speaker, can we ask how much time we have remaining?

The SPEAKER pro tempore (Mr. EWING). The gentleman from Oklahoma [Mr. LARGENT] has 9½ minutes remaining, and the gentlewoman from California [Ms. PELOSI] has 6½ minutes remaining.

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. HOSTETTLER].

Mr. HOSTETTLER. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. LARGENT] for yielding me the time.

Mr. Speaker, I want to make it very clear what this motion does. This motion simply instructs the conferees to hold to the House position on what has been referred to as the Mexico City policy. That policy says that agencies that perform family planning as a result of funding of the U.S. Federal Government do not take part in performing abortions or counseling abortions.

Now, there are those that have said that if this instruction goes through, that somehow family planning will end. During the Reagan administration, there were over 350 agencies that agreed to this policy, to the Mexico City policy. And so family planning will not end as a result of this. We will have plenty of folks that will take U.S. Federal taxpayers' dollars and use them for the purposes of family planning.

Mr. Speaker, I believe this is a common-sense approach to tell the conferees what the House wants. And what the House wants is the same thing that the American people want in the United States. We do not want to export abortion as well as keep it in the United States.

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PAPPAS], my friend and colleague.

Mr. PAPPAS. Mr. Speaker, I thank my colleague from Oklahoma [Mr. LARGENT] and the distinguished chairman of the Committee on the Judiciary [Mr. HYDE] for offering this motion.

We are talking about the consistency, we are talking about the lives of unborn human beings. Those of us who are in the House, 435 of us throughout the country, are honored to be here and cast votes such as this, which are votes of conviction. And I have heard here today some folks, whom I have a great deal of respect for, who, as the gentleman from Oklahoma [Mr. COBURN] said, care more about getting something done, in my opinion, than the content of that legislation.

The American people and the citizens of the district that I represent care about not us just doing something, but care about what we do. I plan to vote for this conference instruction motion, which is consistent with the vote that we took a number of times here. I would implore the Members who have voted for this policy in the past to search their consciences once again and to be true to their convictions.

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, let me respond briefly to my good friend, the gentleman from Louisiana [Mr. LIVINGSTON] who talked about "stalemate." I would suggest to my colleagues that stalemate in the progression of legislation to save the lives of innocent children from the violence of abortion is always preferable over capitulation. Preservation of both childrens' lives and mothers' lives is of infinite importance. Inconvenience—even hardship in legislation—pales to insignificance in the equation.

Let us make no mistake about it, abortion is violence against children. Dismemberment, chemical poisoning, there is no other way to construe it; abortion is violence against kids.

In response to my dear friend from Alabama [Mr. CALLAHAN], his bill subsidizes the overseas abortion industry, the very people who are killing babies and trying to bring down the right-to-life laws of sovereign countries. So I do not think we can pretend to believe that the Helms law passed in 1973 is sufficient. The reason why the United States embraced the Mexico City policy in the first place back was because the Helms amendment was inadequate and loophole ridden.

Finally in response to Ms. PELOSI, the Vice President AL GORE clearly stated, and I have the transcript, when asked what the administration is doing in the area of global warming, launched into gloating about the demise of the pro-life Mexico City policy by Executive order. It is right here in black and white. Mr. GORE blames the babies of the poor for the consumption excesses of the rich and powerful. He makes them do the dying to advance an opinion on global warming. Mr. GORE'S message is clear. Let us rid the planet of billions of people in South America, Central America, Africa, and Asia. Sorry, but I truly believe his views to be racist and elitist. Someday soon the people of these developing nations are going to fully recognize that to some, their presence on Earth is regarded as something bad. People aren't pollution—every child has just as much right to be here as my kids—or AL GORE'S kids.

Ms. PELOSI. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, it is very interesting to hear the arguments that are being made in support of this motion to instruct, because either our colleagues are not aware of the facts or they choose to ignore them.

For the RECORD, just because our colleague, the gentleman from New Jersey [Mr. SMITH], talked about Mr. GORE'S speech at the end, I would like to submit the Vice President's statement for the RECORD, where it very clearly points out what he did say in his speech.

And, yes; the President did sign an Executive order changing the Mexico City policy. And I applaud him for that, for changing that gag rule on international family planning organizations. But the Vice President did not say what he has been quoted as saying here today.

Let us just say, in good faith, we will attribute it to practices and inaccurate news accounts, because anyone who has read the Vice President's statement will know that, in answer to his question about global population, he said the three things that the administration would advance would be child survival, availability of birth control information, and the empowerment of women, especially politically, socially, in the context of family.

That is what the Vice President talked about. I would like to submit his statement for the RECORD for all of our colleagues to see.

I think that in the course of our trying to develop an alternative so that we can make peace in this House over the issue of what our colleagues call abortion and what we are saying is family planning, this is not about abortion. They can say it all they want, but that is not what this debate is about. It is about international family planning initiatives that save lives.

Our colleagues have said that we are in support of abortion on demand. That simply is not true. It says that we want to fund organizations to promote abortions. And, indeed, our alternative did exactly the opposite of that. It said that the funds would go to organizations that do not promote international abortion as a method of family planning and, indeed, that utilize these funds to prevent abortion as a method of family planning.

They have talked about funds going to China. And our alternative not only withheld the funds from the UNFPA of the amount of funds going to China; we said, if UNFPA went into China, they would receive no funds, no funds, not just the amount that is spent in China, no funds to spend any other place in the world to address what we believed were their sincere concerns.

But I have to draw the line when our colleagues come to the floor and say that we are for abortion, we are promoting organizations that are abortion factories, that we are for abortion on demand. I hate to even say the word. I cannot even believe that I, in public or in private or in mixed company, would be using such a word, so anathema is the concept to me. But the fact is that they want to inject that most unfortunate issue.

We all agree abortion is a failure, it is a failure across the board, and we want to reduce the number of abortions. But do not tell us that we cannot have appropriate international family planning initiatives because of the mischaracterization of what those initiatives are by one-third of this body.

One hundred and thirty-two Members of the Republican caucus, a majority of the Republican caucus, voted to cut off all of the family planning funds in this bill under the Paul amendment. So let us understand what the motivation is in this debate.

I had hoped that we could have a respectful debate, respectful of each other's point of view on this. But I refuse to allow those of us who are fighting this fight on international family planning to be characterized as proabortion or for abortion on demand.

And, indeed, also agreeing with the gentleman from Alabama [Mr. CALLAHAN], our distinguished chairman, not $1 in this bill goes for the performance of abortion. If they want to talk about fungibility, let us open that issue up across the board on every issue that comes before the House.

I reserve the balance of my time, Mr. Speaker.

Question. Kerri Coleman (sp), CBS Nightly News in Cleveland, Ohio. Mr. Vice President, you were talking about global population, you know, growing essentially out of control. Has the administration thought in any way, shape or form about policy affecting those developing countries relative to overpopulation. I know it's a sticky subject, but have you guys sat down and thought about the recommendations to the rest of the world.

VICE PRESIDENT GORE: Yes sir, we have. And one of the first things actually in the first few days that President Clinton was in office, he signed an executive order changing a policy that had been called the Mexico City Policy because the last worldwide conference on population was in Mexico City and a previous administration had said the United States would not participate in any of these international programs and the president changed that. Then we went to the next worldwide conference which was in Cairo on population and development. The president asked me to lead the delegation there. We created a new consensus and got a new worldwide approach that most everybody in the world has joined into.

Now we probably don't want to spend much time on this, but the—this doesn't have to be as controversial as some people make it out to be. There are certain conditions which, when established in a country, lead to a dramatic change in their population growth rates. The scientists talk about what they call a demographic transition that goes from high birth rates and high death rates to low birth rates and low death rates. And most all of the developed countries, the advanced countries, have made that transition.

And you know, we think back—we don't need to think back more than one or two generations in the United States to when our parents—and certainly our grandparents—were in families with six, eight, 10 kids and more. It hasn't been that long ago. But now, you know, it's—the two-child family is the average and so forth.

Well, the developing countries still have very, very large families. What makes for that difference? It turns out that there are about three things:

Number one, child survival rates, which, when you think about it, is really important, because most of these countries don't have a Social Security system. They count on the fact that at least some of their children will survive into adulthood and take care of them when they're old. If you have a very high child mortality rate, and a high percentage of the children die in infancy or in childbirth, then you've got to have a lot of children in order to guarantee stability and—I mean, you know, in your old age. And that's just a factor. So when you increase the survivability of children and decrease child mortality, it tends toward a lower family size.

Second, availability of birth control information and culturally appropriate and acceptable techniques. And that's the controversial part. But they decide that for themselves. And when that's available, that's the second factor.

The third factor is the empowerment of women, socially, politically, and in the context of the family, to participate in the decisions about childbearing. And I guess with some people that's controversial, too. I don't think it should be.

But when those three conditions are established, those countries make that change, and their population begins to stabilize.

We're actually beginning to experience some good news around the world with the beginnings of a stabilization in world population. But the momentum in the demographic system is such that we're inevitably going to go to eight or nine billion. The question is whether these changes will keep us from going to 10, 12, 14 billion. But there's emerging good news there. Now, that same kind of momentum, of course, is in the greenhouse gas emission part of this, too.

Yes, right here.

Mr. LARGENT. Mr. Speaker, I would like to acknowledge my appreciation for the last speaker's admittance that abortion is a failed policy as far as family policy is concerned.

Mr. Speaker, I yield 1 minute to the gentlewoman from the State of Washington, Mrs. LINDA SMITH.

Mrs. LINDA SMITH of Washington. Mr. Speaker, I am very pleased that this was brought to the floor by the gentleman from Oklahoma [Mr. LARGENT] in that I think it clarifies something. This debate is needed. It appears that we all agree to appropriate family planning. But it is clear, very clear, that we do not agree that abortion should be birth control.

We have heard over and over again that money cannot be used for abortions, so why have this debate? Why clarify it? But I say the very debate means that we need to clarify it, we need to stand today and say that we will reflect the American people's values.

Every policy shows that they do not want their money to fund or facilitate abortions in America. Why should they want their money to fund or facilitate abortions in foreign countries? This reflects the values of Americans. To be told that we should be worried about a money bill, a spending bill, and that money is more important than principles and values, does not reflect America's values.

Mr. LARGENT. We have how many minutes remaining, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. LARGENT] has 5½ minutes remaining.

Mr. LARGENT. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. TIAHRT], my friend and colleague.

Mr. TIAHRT. Mr. Speaker, the gentlewoman from California [Ms. PELOSI] said that this is not abortion. Then I think the simple solution of that is, just go ahead and accept the language then, if we are not dealing with abortion. Let us go ahead and put it in this conference report and instruct our conferees. It was the will of the House earlier.

I heard earlier that this was supposedly just a small group of people who were upset about this bill, which would include myself, who opposed using the tax dollars for abortion.

If my colleagues go down to the average American city on Main Street and stop people there and say, "Do you think we should use your tax dollars to go overseas to give it to groups like Planned Parenthood International so

they can lobby for laws to allow abortion on demand?" they would say no.

The majority of Americans would say no, because what they are doing with abortion on demand is, they are encouraging countries like China and India to allow sex selection, where they can take their female children and discard them, in hopes of getting a male child next time. Or they can use it for birth control.

Vice President GORE's statements, I think, were very clear to me. This is not America's values, Mr. Speaker, and I hope that we will vote for this and include it as instruction for conferees.

Mr. LARGENT. Mr. Speaker, I am the last remaining speaker. I will close debate if the gentlewoman from California [Ms. PELOSI] will yield back.

The SPEAKER pro tempore. The gentlewoman from California [Ms. PELOSI] has 2½ minutes remaining. The gentleman from Oklahoma [Mr. LARGENT] has the right to close.

Ms. PELOSI. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS], and I say that painfully, as he announced his plans over the weekend, a distinguished member of the Committee on Appropriations.

Mr. SKAGGS. Mr. Speaker, I thank the gentlewoman from California [Ms. PELOSI] for yielding me the time.

Mr. Speaker, I really wanted to ask her a question. I appreciate her fine leadership on this bill and this issue.

I still am mystified by some of the terminology and characterization of this issue. It seems to me that if family planning leads to fewer unwanted children, it necessarily follows that there would be fewer abortions to the extent that this country asserts its leadership and provides resources for family planning around the world.

So would not the antiabortion vote be "no"?

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentlewoman from California.

Ms. PELOSI. The gentleman from Colorado [Mr. SKAGGS] is quite correct. If we want to reduce the number of abortions, as we all do, we should support international family planning, or family planning domestically, as well.

The statistics are quite encouraging in terms of the countries. For example, in the Ukraine, where the Ministry of Health reported an 8.6 decrease in abortions between January and June 1996, it was a result of the women's reproductive health program, which began in 1995 with USAID funding.

Mr. SKAGGS. Mr. Speaker, if the gentlewoman from California [Ms. PELOSI] would further yield, I thank her for her response.

The SPEAKER pro tempore. The gentlewoman from California [Ms. PELOSI] is recognized for the balance of her time, 1½ minutes.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to just talk about the bill and why, from a procedural standpoint, I would urge our colleagues not to support the motion to instruct.

We have worked very hard on this particular issue in the context of a fuller bill. We all come to this body bringing our principles, our beliefs, and the necessity to get a job done, the challenge to get a job done.

□ 1330

We have advocated. We have debated. We have characterized. We have attributed motivations. We have been through it all. The time now is for us to exert leadership and draw this to a conclusion. Advocacy is something that we are elected to perform here, but at some point we have to face the facts and face the votes, and come to a conclusion which ends the debate.

The vote here today will do nothing but draw, if the conference committee were to follow these instructions, draw a veto, prolong the agony, and hold up child survival funds, funds to fight infectious diseases, the funding for the Middle East peace, at a very fragile time in the Middle East peace, our fight against narcotics; in addition to that, all of the resources we are putting out there to promote U.S. exports to grow our economy, as is one of the pillars of the President's foreign policy, to grow our economy through promoting exports, and many, many other worthy provisions in this legislation.

So the time for advocacy is over, the time for leadership is here. Let us find our area of common ground and resolve this issue once and for all. Vote against this motion to instruct.

Mr. LARGENT. Mr. Speaker, I yield myself the balance of my time to close the debate.

The SPEAKER pro tempore (Mr. EWING). The gentleman from Oklahoma [Mr. LARGENT] is recognized for 4½ minutes.

Mr. LARGENT. Mr. Speaker, some of my colleagues may be saying, why are we talking about this issue today? Let me just make it very clear why that is. The fact is that the House conferees, if we look at the way they voted the last time we voted on this issue, which was carried by the overwhelming majority of this House, 234 to 210, we voted to support the language that we are trying to instruct our conferees to retain. Our House conferees do not agree with the majority that voted in the House. So many times we hear on a variety of issues, the House must work its will. The House has worked itswill. The majority voted. It said, keep the Mexico City policy that says that no dollars will go overseas to fund abortions.

I did not say that the right way, according to the subcommittee chairman on the Committee on Appropriations. Let me say it this way. No one can argue with what I am about to say. More abortions will be performed as a result of funding that comes from this subcommittee if we do not retain the Mexico City policy. More abortions will be performed if we do not retain the House's position on the Mexico City policy that says no United States tax dollars can go to any agency that performs abortions. That is correct. That is not wrong.

Let me also talk about some of the arguments that have been made against this motion; that again, we are going over the same ground we have covered in the House already. The Vice President said that the reason that we have global warming is that there are too many people; no, not here in the United States, because these people he needs to vote for him in the year 2000. It is other countries. It is the other guys, you have too many people, and you are warming the globe up. We cannot do that. What we need to do is send you more money so you can have abortions there, so there are fewer of you and more of us. That is wrong. That is wrong.

People have said, we cannot do this because the President is going to veto it for sure. Let me just tell the Members, the President is only one branch of this Government, not all three, and not all great ideas begin down at Pennsylvania Avenue. The House has spoken. We are right to retain the advice of the House with this measure.

We need to say to the President: There are some things that are so important we are willing to stand toe-to-toe, nose-to-nose to you, and say, we count, too, and so do the children, not only of this country but of the world, and we are here to protect them.

There have been a lot of Members that have talked about the process, people who want to stop the process. I will tell the Members that on this matter the principle is more important than the process. Damn the process, this is too important.

There have also been people that have said, including the gentlewoman from California, have we not debated this long enough? Have we not gone over this? Is this just not old territory? Why rehash this issue? To recall the voice of Winston Churchill, I will say to the gentlewoman from California that we will never, never, never surrender on this issue of defending children both at home and abroad. Our voice will never be silenced. We may lose, we have lost in the past, but we will never fail to put up a fight. That is the message.

Let me just say, in closing, that I appreciate my colleagues on both sides of the aisle who have come to the defense of the unborn, and urge all of my colleagues to vote in support of the House's position on the Mexico City policy, to say that we will not continue to use United States taxpayer dollars

that in any way facilitate more abortions in the world, that that is an ill-advised use of taxpayer moneys.

If we ask people, are you pro-choice, pro-life, it is pretty evenly split. But if we ask people, should we be using taxpayer dollars to fund abortions, overwhelmingly in this country the people have said no, do not use my taxpayer dollars to help facilitate more abortions in our country. It would be hypocritical to say that we are not going to fund taxpayer funded abortions in this country, but we are going to wink and nod and look the other way, we are not going to talk about this issue, when it applies overseas. That is wrong, that is hypocritical, and the House needs to speak and work its will today.

Mr. ADAM SMITH of Washington. Mr. Speaker, I rise today in opposition of this motion to instruct the conferees to adopt the Mexico City family planning restrictions to the 1998 Foreign Operations appropriations bill.

Unlike the House, the Senate wisely chose not to insert the Mexico City family planning policy into its Foreign Operations appropriations bill. As the House conferees meet with the Senate conferees to produce a final version of this bill, I sincerely hope that the Senate position will prevail and the Mexico City policy will be dropped.

Supporters of the Mexico City policy argue that it is necessary to ensure that the United States shouldn't fund abortion overseas. However, it is important to remember that the United States is expressly prohibited from doing so. I repeat, no U.S. aid goes toward abortions overseas.

The Mexico City policy would take that funding restriction further and say that no U.S. aid could go toward health clinics overseas that provide abortion or abortion-related services. Those health care clinics would have to choose between forgoing U.S. aid and denying thousands of women access to much-needed health care or not providing abortion services to women who have the right to choose according to their country's laws.

The Mexico City policy would have the unfortunate consequence of preventing thousands of women from receiving family planning services, prenatal care, and other important reproductive health care services.

The result of the Mexico City policy would be more unintended pregnancies resulting in more abortions, more maternal and infant deaths, and more economic and environmental strain on families. I urge the House to protect women's reproductive health care worldwide and vote no on this motion.

Mr. LARGENT. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Oklahoma [Mr. LARGENT].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LARGENT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 233, nays 194, answered "present" 1, not voting 6, as follows:

[Roll No. 496]

YEAS—233

Aderholt	Goss	Packard
Archer	Graham	Pappas
Armey	Granger	Parker
Bachus	Gutknecht	Paul
Baker	Hall (OH)	Paxon
Ballenger	Hall (TX)	Pease
Barcia	Hamilton	Peterson (MN)
Barr	Hansen	Peterson (PA)
Barrett (NE)	Hastert	Petri
Bartlett	Hastings (WA)	Pickering
Barton	Hayworth	Pitts
Bateman	Hefley	Pombo
Bereuter	Herger	Portman
Berry	Hill	Poshard
Bilirakis	Hilleary	Quinn
Bliley	Hoekstra	Radanovich
Blunt	Holden	Rahall
Boehner	Hostettler	Redmond
Bonilla	Hulshof	Regula
Bonior	Hunter	Riggs
Bono	Hutchinson	Riley
Borski	Hyde	Roemer
Brady	Inglis	Rogan
Bryant	Istook	Rogers
Bunning	Jenkins	Rohrabacher
Burr	John	Ros-Lehtinen
Burton	Johnson, Sam	Royce
Buyer	Jones	Ryun
Callahan	Kanjorski	Salmon
Calvert	Kaptur	Sanford
Camp	Kasich	Saxton
Canady	Kildee	Scarborough
Cannon	Kim	Schaefer, Dan
Chabot	King (NY)	Schaffer, Bob
Chambliss	Kingston	Sensenbrenner
Chenoweth	Kleczka	Sessions
Christensen	Klink	Shadegg
Coble	Knollenberg	Shaw
Coburn	Kucinich	Shimkus
Collins	LaFalce	Shuster
Combest	LaHood	Skeen
Cook	Largent	Skelton
Cooksey	Latham	Smith (MI)
Costello	LaTourette	Smith (NJ)
Cox	Lewis (KY)	Smith (OR)
Cramer	Linder	Smith (TX)
Crane	Lipinski	Smith, Linda
Crapo	LoBiondo	Snowbarger
Cubin	Lucas	Solomon
Cunningham	Manton	Souder
Danner	Manzullo	Spence
Deal	Mascara	Stearns
DeLay	McCollum	Stenholm
Diaz-Balart	McCrery	Stump
Dickey	McDade	Stupak
Doolittle	McHugh	Sununu
Doyle	McInnis	Talent
Dreier	McIntosh	Tauzin
Duncan	McIntyre	Taylor (MS)
Dunn	McKeon	Taylor (NC)
Ehlers	Metcalf	Thomas
Emerson	Mica	Thornberry
English	Miller (FL)	Thune
Ensign	Moakley	Tiahrt
Everett	Mollohan	Traficant
Ewing	Moran (KS)	Walsh
Foley	Murtha	Wamp
Forbes	Myrick	Watkins
Fowler	Neal	Watts (OK)
Fox	Nethercutt	Weldon (FL)
Gallegly	Neumann	Weldon (PA)
Ganske	Ney	Weller
Gekas	Northup	Whitfield
Gillmor	Norwood	Wicker
Gingrich	Nussle	Wolf
Goode	Oberstar	Young (AK)
Goodlatte	Ortiz	Young (FL)
Goodling	Oxley	

NAYS—194

Abercrombie	Allen	Baesler
Ackerman	Andrews	Baldacci
Barrett (WI)	Gibbons	Nadler
Bass	Gilchrest	Obey
Becerra	Gilman	Olver
Bentsen	Gordon	Owens
Berman	Green	Pallone
Bilbray	Greenwood	Pascrell
Bishop	Gutierrez	Pastor
Blagojevich	Harman	Payne
Blumenauer	Hastings (FL)	Pelosi
Boehlert	Hefner	Pickett
Boswell	Hinchey	Pomeroy
Boucher	Hinojosa	Porter
Boyd	Hobson	Price (NC)
Brown (CA)	Hooley	Pryce (OH)
Brown (FL)	Horn	Ramstad
Brown (OH)	Houghton	Rangel
Campbell	Hoyer	Reyes
Capps	Jackson (IL)	Rivers
Cardin	Jackson-Lee (TX)	Rodriguez
Carson	Jefferson	Rothman
Castle	Johnson (CT)	Roukema
Clay	Johnson (WI)	Roybal-Allard
Clayton	Johnson, E. B.	Rush
Clement	Kelly	Sabo
Clyburn	Kennedy (MA)	Sanchez
Condit	Kennedy (RI)	Sanders
Conyers	Kennelly	Sandlin
Coyne	Kilpatrick	Sawyer
Cummings	Kind (WI)	Schumer
Davis (FL)	Klug	Scott
Davis (IL)	Kolbe	Serrano
Davis (VA)	Lampson	Shays
DeFazio	Lantos	Sisisky
DeGette	Lazio	Skaggs
Delahunt	Leach	Slaughter
DeLauro	Levin	Smith, Adam
Dellums	Lewis (CA)	Snyder
Deutsch	Lewis (GA)	Spratt
Dicks	Lofgren	Stabenow
Dingell	Lowey	Stark
Dixon	Luther	Stokes
Doggett	Maloney (CT)	Strickland
Dooley	Maloney (NY)	Tanner
Edwards	Markey	Tauscher
Ehrlich	Martinez	Thurman
Engel	Matsui	Tierney
Eshoo	McCarthy (MO)	Torres
Etheridge	McCarthy (NY)	Towns
Evans	McDermott	Turner
Farr	McGovern	Upton
Fattah	McHale	Velázquez
Fawell	McKinney	Vento
Fazio	McNulty	Visclosky
Filner	Meehan	Waters
Flake	Meek	Watt (NC)
Foglietta	Menendez	Waxman
Ford	Millender-McDonald	Wexler
Frank (MA)	Miller (CA)	White
Franks (NJ)	Minge	Wise
Frelinghuysen	Mink	Woolsey
Frost	Moran (VA)	Wynn
Furse	Morella	Yates
Gejdenson		
Gephardt		

ANSWERED "PRESENT"—1

Livingston

NOT VOTING—6

Gonzalez	Schiff	Thompson
Hilliard	Sherman	Weygand

□ 1407

Ms. HOOLEY of Oregon and Mr. DEUTSCH changed their vote from "yea" to "nay."

Messrs. HANSEN, BONIOR, and COX of California changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 258 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 258

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. Each section of the bill shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. EWING). The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], my good friend, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

GENERAL LEAVE

Ms. PRYCE of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. PRYCE of Ohio. Mr. Speaker, House Resolution 258 provides for consideration of H.R. 629, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act, under another completely fair and open rule.

The rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce.

Under the rule, the Chairman of the Committee of the Whole may give priority recognition to those Members who have preprinted their amendments in the CONGRESSIONAL RECORD prior to their consideration. And to expedite consideration of H.R. 629, the rule also allows the Chair to postpone recorded votes and reduce to 5 minutes the voting time on any postponed question, as long as the first in any series of votes is not less than 15 minutes.

Finally, as is customary, the minority will be provided with a motion to recommit with or without instructions.

Mr. Speaker, in 1980 Congress passed legislation to provide a system for States to take responsibility for the disposal of low-level radioactive waste. Examples of low-level radioactive waste include waste that is disposed of by hospitals, by universities conducting research, and by electric utilities. This waste poses relatively few risks and typically does not require any special protective shielding to make it safe for workers and communities.

Congress recognized, when it passed the Low-level Radioactive Waste Policy Act of 1980, that while the Federal Government should handle high-level waste, States should be primarily responsible for disposal of low-level wastes generated within their borders. Through the 1980 act, Congress encouraged States to either build their own disposal sites or enter into compacts with other States to share waste disposal facilities. That is exactly what the States of Texas, Vermont, and Maine have done.

Mr. Speaker, this is a straightforward rule which deals with a straightforward process, the ratification of an interstate compact under the law as Congress wrote it.

All the hard work has already been done by the States of Texas, Vermont, and Maine, who negotiated the compact and gained the approval of their respective States. The Governors and legislatures in the States of Texas and Vermont have approved the compact, and Maine secured its citizens' support through a public referendum.

The compact provides that the State of Texas will host the waste facility, but it does not name a specific site. And while Congress does not have to give its consent for interstate agreements to have validity, congressional approval is desirable in this instance to assure that compact members will be able to reject waste from nonmember States.

Mr. Speaker, that is all we are doing today, telling the States of Texas, Maine, and Vermont whether or not we accept their mutual agreement. It is nothing new. Congress has already given its consent to 9 such compacts, including 41 States. Today if we pass this rule and the underlying legislation, Congress will be ratifying compact number 10.

In the Committee on Rules, we heard from the bill's proponents who, in fairness, mentioned the concerns of a few other Members who were not present to give their testimony. While no specific amendments were mentioned to the committee, the open process that this rule provides should offer concerned Members ample opportunity to debate and offer germane amendments that they feel will improve the bill. Or, perhaps through the motion to recommit, the bill's opponents will choose to make their views known. The point is, this rule gives them that option.

As one of my Democratic colleagues on the Committee on Rules pointed out last night, this issue has been around for a long time. And to be fair to the States involved, the underlying bill deserves to be debated in this body and receive an up-or-down vote.

□ 1415

Therefore, I encourage my colleagues to support the open rule before us so that the House can move forward and debate the merits of the underlying legislation. I urge a "yes" vote on this open rule.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I thank my colleague, the gentlewoman from Ohio [Ms. PRYCE] for yielding me the time.

This is an open rule. It will allow full and fair debate on H.R. 629, which is the Texas Low Level Radioactive Waste Disposal Compact Consent Act. The bill approves an agreement between the States of Texas, Maine, and Vermont to establish a disposal facility in Texas for low level radioactive waste. Under this rule amendments will be allowed under the 5-minute rule, the normal amending process in the House.

The Texas Low Level Radioactive Waste Disposal Compact has supporters and opponents among the Members of the House, as does the bill. However, all Members on both sides of the aisle will have the opportunity to offer amendments under this open rule. And because it is an open rule, and because 2 years ago when the House took up an identical bill, we also had an open rule that was approved by voice vote, Mr. Speaker, I would urge adoption of this resolution, which is an open rule before us today.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I thank the gentlewoman for yielding me the time. I rise in support of the rule. As has been pointed out by majority and minority members of the Committee on Rules, this is an open rule.

The Commerce Clause of the Constitution gives the Congress the right to regulate interstate commerce between the States. The States of Texas, Vermont, and Maine have chosen to form a compact as a result of the Low Level Nuclear Waste Act and the amendments back in 1985. If ratified and signed by the President, this act would give those States the right to ship their low level radioactive nuclear waste to a site in Texas that is unspecified in the bill.

There are some opponents. The gentleman from San Antonio who represents the congressional district, the gentleman from Texas [Mr. BONILLA] is here and does oppose this site that apparently is going to be chosen.

This bill deserves to be debated on the floor. It was debated on the floor in the 104th Congress and passed with 243 in the affirmative and 176 in the negative. It did not go to the Senate because it was on the suspension calendar and it failed to get the two-thirds vote.

We are not on the suspension calendar this afternoon. We have an open rule so that any Member can offer amendments to the bill. I would hope that the rule itself will be noncontroversial and that we can pass it by unanimous consent and then get into the actual debate of the bill. I rise in support of the rule and hope that all Members will support it.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, I rise today to support this rule on H.R. 629, the bill to give congressional consent to the Texas Low Level Radioactive Waste Disposal Compact.

The Committee on Rules has recommended an open rule for allowing for 1 hour of general debate. I fully expect a vigorous discussion of the compact. I look forward to that debate and to answering any questions that may arise.

This compact is important for Vermont. It is important for Texas. And it is important for Maine. This would be the 10th compact that Congress has ratified since 1985, when Congress enacted the low level radioactive waste disposal policy. Congress gave the States a mandate, an unfunded one, I might add, to develop methods for managing low level waste. The three States have diligently complied with that mandate. The Governors and legislatures of Vermont and Texas have approved the compact. The Governor, the legislature, and the people of Maine have approved the compact. I urge Members to support the rule.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Speaker, I thank my friend, the gentlewoman from Ohio [Ms. PRYCE] for yielding the time to me.

There is no Member of Congress that is more engaged or focused on this issue today than myself, Mr. Speaker. I rise in opposition to the rule and the bill. I will be getting into more details during general debate as to the reasons why we should defeat this bill.

This is a clear case of constituents in my area being victimized without having a say in where this low level radioactive waste dump site is going to be constructed. This is a country that I have grown up in always understanding that if something is going to happen in a person's neighborhood, it ought to be with their approval or at least they have some kind of input in the process. That is not the case at all.

We have been debating and arguing about this issue for so many years now. It has finally come to a head here where the proponents have worked very hard to try to turn Members around to vote differently than they did the last time this came to the floor. That is why I am working hard today to oppose the rule and the bill.

I do commend members of the Committee on Rules and the gentleman from New York [Mr. SOLOMON] for providing an open rule. It is the fairest kind of rule that we can have. But my point is that this bill should not even be before us today. That is why I will be opposing the rule and opposing the bill after we finish the vote on this rule.

I look at, this is just a handful of the petitions that have been signed by men, women, and children in my congressional district. Up to a dozen counties and towns have already expressed their strong opposition to this dump site. Again, it is a sparsely populated area in west Texas, part of the area that I represent that spans 58,000 square miles. People out there are entitled to their constitutional rights, to their property rights. They should not be victimized by just being told this has to be built in their backyard, and we are going to fight hard to defeat this rule and bill today.

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, to set the record correct at the beginning, this is a bad idea that has been defeated by a majority of this House once in the last Congress. I believe my colleague, the gentleman from Texas [Mr. BARTON], got it backward on the result. There were 176 Members of this Congress that said they wanted to dump radioactive waste on Texas and the district of the gentleman from Texas [Mr. BONILLA], and there were 243 of us that said we do not want to be the Lone Star dump, and the bill was defeated.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I just want to say, the gentleman is correct. I did have it backward. The gentleman from Austin, TX is correct on the numbers.

Mr. DOGGETT. Mr. Speaker, that is the first concession by an Aggie to a Longhorn in this body in a long time. I appreciate it.

This bad idea has been defeated once on the floor of this Congress and the question is, should we reconsider today and decide that the last Congress was wrong and that it is time to dump radioactive waste on Texas? In Texas we have a very short answer to that. Don't mess with Texas. We find it on pickup trucks and Cadillacs and Fords and Volkswagens all over the State of Texas. That is exactly what is being proposed here today, messing with Texas.

We are pretty proud down there in the Lone Star State of the fact that we have a lone star as a symbol of our independence as Texans. But, by golly, we do not want the Lone Star State turned into the lone dump State, and that is what is about to happen if this bill is approved.

Lest anyone think this is just a Texas issue, let me emphasize that of late, since the vote in the last Congress, and there are of course not 243 Texans here, that since the vote in the last Congress even some of the Yankees who are in this compact have come to the conclusion that dumping on Texas is a pretty lousy idea. Indeed, within the last week the largest contributor of nuclear waste to this dump, up in Maine, appropriately titled the Maine Yankee nuclear power plant, has written to Speaker GINGRICH and to various Members of this Congress saying do not do it. They recognize that it is going actually to cost citizens in Maine more money, not less money, if this compact is approved.

I think that it is a bad idea, not only for Texans but for those in the compact at the other end of the country in New England, those served by the Maine Yankee nuclear power plant and by anyone who sits in between New England and west Texas that might have this nuclear waste shipped through their area.

This compact has been lobbied through the Texas legislature by some of the most high-powered lobbyists around. They lobbied the legislature of Texas to accept this compact on the grounds that it would protect Texas, and that Texas would be teamed up with two little States way up in New England that probably could not generate very much waste to be dumped

there, and we would be a lot better off there than being teamed up with some State like New York or Massachusetts or California that might send a whole lot of waste down to Texas.

There is only one problem with that reasoning. This is not a Texas-Vermont-Maine compact. It is mislabeled. It is a Texas-Vermont-Maine compact plus any other State that a group of appointed, unelected commissioners, accountable to no one but themselves, may choose to add to the compact.

In fact, the economics of this compact are going to cause exactly the opposite result of what those who promoted the compact told the Texas legislature and the people of Texas. This compact could be expanded to include waste from anywhere, of any type, at any time that this group of unelected compact commissioners decides that they want to dump it on the district of the gentleman from Texas [Mr. BONILLA]. That waste does not have to be approved by people in Sierra Blanca, TX, or anywhere else.

It is a bad idea. Don't mess with Texas or any place in between.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. Mr. Speaker, it is with some trepidation I follow my colleague from Texas because obviously, let me correct something, I was in the legislature in 1991 when the legislature passed the compact enabling legislation, again, to limit the ability as the Federal Government and this Congress allowed States to limit their access for waste, Texas, Maine, and Vermont.

Now, granted, some future legislature, I do not know if it is appointed officials but the legislature in Texas decides to appoint officials, they could delegate that authority, but that is just not the case. The legislature in Texas, after studying it, adopted this site in west Texas. It was not picked by Washington. It was not even picked by those of us who served in the 1991 legislative session because all we did was enable the legislature to do that, to do the study.

Granted, nobody wants waste, particularly low level, but we have to have a place for it. The compact allows Texas, Maine, and Vermont to work together to have that site. That site was picked in Hudspeth County. We did not pick that site in Congress. The local folks in Texas did that, and the legislature actually ultimately did. That is the best reason why this ought to be passed today. We are not going to debate the site. Sure, I would rather have the site in Maine or Vermont but Texas agreed to do it by those local officials.

This is just an affirmation of the compact that this Congress allowed for low level. We are going to hear a lot today, not only on this rule. It is an open rule. We will hear a lot about transportation, a lot about the site in west Texas. Again, it is away from an urban area. The closest urban area is El Paso.

This is the best of a bad world, but we have to have a place to put this low level waste. This is, again, the local decision by the State of Texas to do that. That is why 23 of the Members from Texas are supporting this bill, this rule and this bill today. We will hear a great deal more as we go into the full debate.

That is why I am proud to be a cosponsor of the bill. I have for a number of years because we have to have a reasonable place to put it. We cannot just deny it and let it be out there in limbo, having this warehoused on sites, whether it be hospitals or whether it be on power plant facilities. We have to have a permanent solution for it, someplace where we can put it together safely instead of having it in storage facilities behind hospitals, in urban areas. That is not possible.

We are going to hear the concern about the transportation, whether it be from my colleagues in Dallas or in Houston. I represent an urban area. We have more volatile substances on our freeways right now in Houston than this low level waste. So I would hope that the Congress, after considering this bill today, would pass it favorably so we can have a compact between Texas, Maine, and Vermont to have a reasonable place for our low level waste.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. SAM JOHNSON].

□ 1430

Mr. SAM JOHNSON of Texas. Mr. Speaker, I just wanted to second what my colleague in the Texas legislature and here, the gentleman from Texas [Mr. GREEN], has said. It was a Texas decision. It was made by the Texas legislature. I was there with him when that decision was made. Texas made the decision to have a compact and Texas deserves to have the Congress affirm it.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Speaker, 30 years ago the nuclear utility industry was telling Americans it would provide power that was too cheap to meter. Soon Americans found out it was power too expensive to use. Now we are told that we have power that is too hot to handle and power refuse that is too dangerous to store.

Mr. Speaker, I offer these comments in the context of the rule and the debate which will follow so that my colleagues can have the benefit of the experience that I had as a State Senator in Ohio who led the effort against the siting of a multistate radioactive waste dump in the State of Ohio.

There was an effort to bring in waste from Iowa, Indiana, Wisconsin, Minnesota and Missouri, 2.25 cubic million feet of radioactive waste, into the State of Ohio. And in the course of examining this proposal, what we found out was this.

That the waste itself, called low-level, in fact exists for thousands of years. So the word "low-level" is a misnomer; and that inevitably the cost involved here will be passed on to consumers or taxpayers, as nuclear utilities will either not handle the cost or find ways for the States or the taxpayers of the States to absorb.

Furthermore, there is no known technology which can safely store this radioactive waste for more than 25 years. These casks which they are put in will deteriorate and crack and the waste will leach out into the outside environment. There is no way to prevent a release to the outside. We found this out through months and months of public hearings.

We found out that not only does the technology not exist but the Department of Energy itself will admit that the best they can do with these casks is to keep the radioactive waste for 25 years. We found out that there was no safe way to transport millions upon millions of cubic feet of radioactive waste across this country.

So let it not be said this is simply a State issue. This is a national issue, because the movement of radioactive waste, thousands upon thousands of miles, goes through our neighborhoods, through our communities, and our people are at risk when we have an unstable radioactive waste in containers that cannot always be safely affirmed.

Furthermore, there is no safe place to site radioactive waste. The fact of the matter is that there is a difference in the amount of risk that is out there. It is unsafe whether it is sited near Lake Erie or near the Rio Grande. We need a national policy which puts the nuclear utilities on notice that they have to come up with the solution and they have to pay for it, not the taxpayers or the ratepayers.

The real question here is a public interest question of whether or not the nuclear utilities are going to be served or whether or not the public interest is going to be served. This is not an issue where the States can make this decision in a vacuum. The decision is made by this Congress and it affects the entirety of the United States.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Nevada, [Mr. ENSIGN].

Mr. ENSIGN. Mr. Speaker, we have heard from the proponents of this bill that Texas said "yes," but we have also heard that the local people where this nuclear waste will be stored said "no." We have also heard that people object

to the transport of low-level nuclear waste.

Let us switch this argument just temporarily to low level versus high level, because those people who are going to be voting to put low-level nuclear waste in the State of Texas, their concerns on transport and the like should also be the same concerns when it comes to high-level nuclear waste, which will be coming to this floor in approximately 2 weeks.

Mr. Speaker, all those opposed to this bill should also be opposed to the high-level transport of nuclear waste, which is much more dangerous than the transport of low-level nuclear waste across this country. I would urge everyone to take a close look at both bills and to vote "no" on both bills.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is an issue that we all need to look closely at and, obviously, there are many ways that we may view this. I think that we have an obligation to our hospitals, our research laboratories, and our universities to emphasize that this is low-level radioactive waste. It is trash-like material, some consisting of paper and plastics and construction materials that are contaminated with low levels of radioactive materials.

I need to assure and emphasize that the storing of these materials will be governed by Federal regulations, and that there is a life that will be tested as to the impact that these materials will have on the surrounding community.

But the most important point, because we are champions, those of us who have supported this compact, mind my colleagues, just a compact that is approved by Congress, that gives permission, the States have already engaged in a cooperative effort, but the real issue are the citizens, and the decision of where and how has not yet been decided. In fact, no site will be selected without public hearings that give concerned citizens the opportunity to express their views on the location of the facility, and the State of Texas should ensure, as they are, that these hearings will be held.

Environmental agencies will conduct the appropriate review and resolve environmental concerns in accordance with current law and regulations. No radioactive waste from States other than Texas, Maine and Vermont would be stored at the facility.

The real key is that we have to find solutions to these very difficult problems. We must relate those to the surrounding communities and we must be fair to the surrounding communities. At the same time, we must recognize the problems that our hospitals and research laboratories and universities are facing.

This is a rule that we should support and, finally, Mr. Speaker, we should support the final passage of this bill and work with local officials to ensure that the local citizens are protected. I would ask my colleagues to support this legislation.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I just want to refocus the debate. We are debating an open rule. We are debating an open rule, where any Member can come before the Chamber and offer an amendment germane to the bill. So we should support the open rule.

On some of the other issues that have been raised, this is low-level nuclear radioactive waste, not high-level. The gentleman from Ohio, who talked about regulating the transportation of these wastes, this does not do anything with transportation. It simply gives, under the commerce clause of the Constitution, the rights of the States of Texas, Vermont and Maine to have a compact.

In regard to that, if they do not ratify the compact, any State can transport its low-level nuclear waste to Texas. Ohio was in a compact with Indiana, Iowa, Minnesota, Missouri and Wisconsin, for example.

So I hope we will vote for the open rule, have a debate on whether the States should have a right to have a compact, and then have the vote on the bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas, [Mr. REYES].

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in opposition to the rule.

I find it ironic that there are a number of my fellow Texans that are fighting for this rule and fighting for this bill. If it is such a good deal, why do they not put it in their district?

We must prevent this bill from becoming law and we can do that by voting against the rule and sending this bill back where it came from. By defeating the rule we can send a very clear message that it is bad public policy to dump radioactive waste in communities that are primarily populated by minorities.

By defeating the rule we can keep our word to the Mexican Government under which we signed the 1983 La Paz agreement.

By defeating this rule we can prevent radioactive waste from being transported through 12 States and more than 2,000 miles to be dumped on a small community in far west Texas.

By defeating this rule we can do what the Maine Yankee Nuclear Power Reactor wants us to do, and that is not to pass this compact.

I urge all of my colleagues to defeat this rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in strong support of the rule and in strong support of the legislation.

It seems to me that we have two issues that we are discussing. The first is process. And in terms of process, what the Members should understand is that we have three State legislatures, Texas, Vermont and Maine, which overwhelmingly voted to enter this compact. We have three Governors, and I might add one is a Republican, one is a Democrat, and one is an Independent, who today strongly support going forward with the compact. We have six U.S. Senators from Texas, Maine and Vermont strongly in support of the compact. We have the two Members from Maine, the entire Vermont delegation, me, in support of the compact. I know that will carry a lot of weight. We are undivided on this issue, and we have two-thirds of the Texas House delegation in support of this compact.

So for those Members who believe in devolution, in giving power to the States, it seems to me we should treat this compact in the same way we have treated 9 other compacts involving 41 States. Texas, Maine and Vermont want to be treated the same way as 41 other States have been treated.

The second issue, and actually the more important issue, has to do with good environmental policy. I happen to believe that passage of this amendment makes absolute environmental sense. The evidence is very, very strong that the geology of Vermont and Maine is such that it would be a serious environmental problem if we continued to keep the waste in those States.

The real issue, I must tell my colleagues, and I say this as an opponent of nuclear power, if I had my way, we would close down every nuclear power plant in this country as soon as we could, safely, but the problem is we have low-level waste. And to turn our backs on that problem and ignore that problem and to say that it will go away is wrong.

The environmental debate today should be what is the safest way of disposing of low-level radioactive waste, and I would argue strongly that the passage of this legislation and depositing it in a safer location in Texas is the direction that we should go.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I rise today of course in strong support of this rule. The Texas low-level waste compact is a very simple and straightforward piece of legislation. It is not all as strange as has been made out here. It simply seeks approval of an

agreement between three States, Texas, Maine and Vermont, on the management of States' low-level waste.

It is important, I think, to note, because it has been brought up by so many of the speakers, that opponents raise issues that cannot be addressed in H.R. 629, such as location. This is not a place to address location. Geological and environmental review are by law designated to the State jurisdiction.

In Texas, the review process has been closely scrutinized by the Texas Natural Resources Conservation Commission, the EPA of the State of Texas, the State held town hall meetings, open debate on the floor of the Texas legislature, and intense negotiation by State leaders.

I agree with the gentleman from Texas [Mr. DOGGETT] when he says, "Don't mess with Texas." Don't mess with Texas. Don't mess with the legislature of Texas that has already decided this thing. Don't mess with Bulloch, who herded it through the State Senate. Don't mess with Speaker Laney, who herded it through the house. Don't mess with the Governors of these three States. Don't mess with the TNN-RCC. Don't mess with the town hall meetings.

□ 1445

I think this has been decided at the State level. Nothing in this compact agreement designates where in the State of Texas the site is going to be located. As a matter of fact, it is in absolutely no way site specific. The location and regulation of the site are solely State issues left up to the whole State, which in this case is Texas.

By approving this compact, Texas will be required to accept waste only from Maine and Vermont. And without a compact, I say to the others from Texas, we can find ourselves having to accept waste from any number of States.

So never before has Congress rejected a low-level waste compact. I strongly urge my colleagues to honor the good-faith agreements between Texas, Maine, and Vermont by supporting this rule and by supporting the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me remind my colleagues that we are here debating a completely open rule providing for the consideration of H.R. 629. It does not get any fairer than that around here. Whether or not my colleagues support the Texas compact, which is the issue dealt with by the underlying legislation, the rule itself is eminently fair, both opponents and proponents. Therefore, I once again strongly urge my colleagues to support this open rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Pursuant to House Resolution 258 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 629.

□ 1447

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact, with Mr. EWING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Colorado, Mr. DAN SCHAEFER and the gentleman from Texas, Mr. HALL, each will control 30 minutes.

The Chair recognizes the gentleman from Colorado, Mr. DAN SCHAEFER.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 629, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act, would grant the consent of Congress to the low-level radioactive waste disposal agreement reached between the States of Texas, Maine, and Vermont.

When Congress passed the Low-level Radioactive Waste Policy Act in 1980, it was a part of a broader agreement whereby the States are responsible for the disposal of low-level radioactive waste while the Federal Government is responsible for high-level waste disposal.

Since the 1980 act was passed, 41 States, as has been stated before, have received the consent of Congress for disposal compacts. Low-level radioactive waste includes a host of materials, from medical isotopes, to university research wastes, to the industrial waste generated at nuclear power plants.

The vast majority of these wastes do not even require the use of special containers to protect against threats to human health. In most cases, the radioactivity in these materials will decay to the point where there is no significant risk to human health after about 100 years.

With the decision to put low-level waste responsibilities at the State level, the obligations of the Federal Government are fairly limited. Clearly and certainly, it is our responsibility to ensure that the compacts comply with the Federal Low-level Waste Act.

During our consideration of H.R. 629 in the Committee on Commerce, it was clear that the compact meets this test. The State legislatures and Governors of Texas, Maine, and Vermont have met their obligation under the Low-level Radioactive Waste Policy Act. It is now our responsibility to support the States in this decision.

I want to thank the gentleman from Texas [Mr. BARTON] and certainly the gentleman from Ohio [Mr. HALL], ranking member on the Subcommittee on Energy and Power, the sponsors of this legislation, for their very strong leadership and capable effort in moving the bill to this point. I strongly support H.R. 629 and encourage its adoption by the full House.

Mr. HALL of Texas. Mr. Chairman, I ask unanimous consent to yield 15 minutes to the gentleman from Texas [Mr. BONILLA] and and that he be permitted to yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BONILLA. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. REYES].

Mr. REYES. Mr. Chairman, I thank the gentleman from Texas [Mr. BONILLA] for yielding me the time.

Mr. Chairman, I rise today to oppose H.R. 629, which will allow radioactive waste to be dumped in the far west community of Sierra Blanca.

There are many reasons to vote against this bill. First, it violates the 1983 La Paz agreement between Mexico and the United States. This agreement directs both Governments to adopt appropriate measures to prevent and eliminate sources of pollution within a 60-mile radius of the border.

The State of Texas asserts that they must merely inform the Government of Mexico. But many people disagree. There is widespread objection to this site at all levels of the Mexican Government. The Mexican State of Chihuahua, which adjoins the proposed site, opposes the Sierra Blanca site. The Embassy of Mexico expressed deep concerns about the proposed site.

The chairman of the Mexican Senate's Committee on the Environment has written his American counterpart to object. The city councils of El Paso and Juarez have both issued a position statement in strong opposition to the site.

But if that is not compelling enough argument against this bill, there are others. If H.R. 629 passes, radioactive waste from Maine and Vermont will travel through the States of Massachusetts, New Hampshire, Connecticut, New York, Pennsylvania, Maryland, West Virginia, Virginia, Tennessee, Arkansas, and all the way across the State of Texas until it gets dumped

into the community of Sierra Blanca and far west Texas.

Who would want radioactive waste shipped through their district? I do not, and neither should my colleagues. If my colleagues are still not convinced, there is more. How about the fact that this site is earthquake prone? Supporters of H.R. 629 are so concerned about that that they felt it necessary to send out a "Dear Colleague" trying to explain why we should put radioactive waste there anyway.

Or how about the fact that this waste remains active for literally thousands of years, low level? You decide. How will that affect the water table in west Texas? I do not think we need to draw a picture up to that one.

If my colleagues need another reason to vote against this bill, last week the public affairs director of the Maine Yankee nuclear power reactor said, and I quote this, "The Texas compact no longer makes economic sense for Maine Yankee ratepayers."

If the company that wants to dump its radioactive waste on the constituents of the district of the gentleman from Texas [Mr. BONILLA] does not support the compact, why should we?

Supporters of H.R. 629 will tell us that this bill does not endorse a specific site in Texas. The fact is that the Texas Legislature has already identified Sierra Blanca as a site for this dump, and a vote for H.R. 629 is a vote to support this site. This is the same legislation that was overwhelmingly defeated in the 104th Congress. But here we are again, fighting again to keep this Congress from dumping on the people of west Texas.

There have been reports to my office that supporters of this bill have said that no one lives where they want to put this dump. Representatives from the nuclear power districts of east Texas, 800 miles and 14 hours from Sierra Blanca, and from the States of Vermont and Maine, over 2,000 miles away, are the major proponents of the dump, and they have erroneously claimed that citizens of Sierra Blanca support this compact. They do not, and neither should my colleagues.

Supporters of this bill want to dump radioactive waste on the communities that are primarily populated by low-income minorities. Do my colleagues think we would be on this floor today debating this bill if the dump site were going to be at Lake Tahoe or Monterey, CA, or Newport, RI, or Martha's Vineyard? Of course not.

The Hispanic Caucus is unanimous in its opposition to this bill. Last week, we sent a letter to the Speaker asking him to stop this bill from coming to this floor. Obviously, he chose not to do that. Do my colleagues think this bill would be on the floor if the dump were going to be in Marietta, GA? Obviously not.

The Texas State Conference of the NAACP also passed a resolution in opposition to this compact.

I have only been a Member of this Congress for 9 months, Mr. Chairman, but I know a bad bill when I see one. If my colleagues think it is OK to dump radioactive waste in communities where 75 percent of the people are Hispanic, then they should risk on voting for this bill. But if they agree with me that my constituents and the constituents of the gentleman from Texas [Mr. BONILLA] are as important as theirs and a life on the border is worth as much as a life away from the border, then they should vote on this bill. Send a message to the corporate CEO's who think they can dump their waste on my constituents and on the constituents of the gentleman from Texas [Mr. BONILLA] halfway across the country. And that is not OK to do that.

I urge all my colleagues to consider those facts and vote "no" on H.R. 629.

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON].

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I am changing sides on this issue. I was in the Texas Senate when they debated this in Texas. One thing I have come to realize, we have got to identify some place to put this low-level waste. It is much more dangerous to have it scattered everywhere, behind every hospital, behind doctors' offices, and all over the place.

We do not know exactly where it will be in Texas. That will be a Texas decision. But many local citizens have come to my office and pleaded to allow it to happen, because without this legislation, it is going on now and it can come from anywhere and everywhere. With this legislation, it is limited to Vermont and Maine, small States, cannot have too much to dump there.

The one thing we have to understand in this country is that we utilize many medicines and many other elements to promote human life and health that are dangerous in storage. We have to store it somewhere, and we are trying to pick the least populous areas to store it.

These areas under discussion are the least populous areas in the country. If I thought for a moment that it would subject local citizens to a worse status of health and danger than what they are now, I would not be standing here asking my colleagues to support this measure. I know that it will not.

These will be under the most safe conditions that we can provide with rules to operate. Without rules to operate, it can very well be and continue to be very dangerous, because when we have these in our most populous urban areas and we talk about environmental justice, this is one way that we can protect environmental justice, by picking areas and using just those.

□ 1500

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 4 minutes to the sponsor of the bill, the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman from Colorado, Mr. DAN SCHAEFER, for yielding me this time.

Mr. Chairman, I want to reiterate that we are here this afternoon debating whether three States of the United States have the right to enter into an interstate compact. The Constitution of the United States says they have that right, the Governors of the three States say they have that right, the legislatures of the three States say they have that right, and I would point out that 41 other States of the Union have entered into such State compacts.

We are not here to debate whether the site that is probably going to be selected in Texas is the appropriate site; we are not here to debate whether there are some overriding socioeconomic issues that may preclude this site being picked; we are simply here to say these three States have the same rights that all of the other States of the Union have.

Governors of the State of Texas, both Democrat and Republican, Governor Bush, the Republican Governor today, Governor Ann Richards, the prior Governor, have supported this compact. It was defeated on the House floor in the last Congress on the suspension calendar, which is why we are coming today to the floor on a nonsuspension calendar.

I do want to try to address some of the issues that have been raised so far in the debate. The gentleman from El Paso pointed out that earthquakes may be a problem. I would like to point out, if we want to be site-specific, that this is in an earthquake zone that has not had an earthquake in recorded history. There is no geological fault under the site, but if there is, the site has been designed to withstand an earthquake of a magnitude of 6.0 on the Richter scale directly under the site.

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, is the gentleman aware that there have been two tremors in the last 4 years, and sometimes in parts of the country where there have not historically been earthquakes, these tremors can be a sign of something that is ahead?

Mr. BARTON of Texas. Mr. Chairman, the gentleman is correct, there have been tremors, but my understanding is that there have not been tremors in this area. Even if there were, the largest earthquake that has ever been recorded in Texas history is 6.4 on the Richter scale. This site could withstand an earthquake of 6.0 on the Richter scale directly under the site.

According to the study that has been done, any seismic activity anywhere close to Hudspeth County has been active from 750 years to 12 million years. The halflife radioactivity of low-level nuclear waste that is going to be transported and stored here is less than 100 years, and 85 percent of it has a halflife of less than 10 years.

Now, the gentleman from El Paso also talked about it is in violation of the La Paz agreement. It is not in violation of the La Paz agreement. The La Paz agreement says that the United States and Mexico should consult on these issues. We have consulted with the national government and with the local governments. The EPA and the State Department as late as July of this year have said there is no violation of any international agreement in this compact that is pending before us today.

There have also been concerns expressed about the facts that this has been located in a dominant Hispanic area. That is a true statement. The population of Hudspeth County is 66 percent Hispanic. I would point out that of the 10 sites that were considered, there were a number of them that had a higher ethnicity of Hispanic population. The three variables that were used, though, were not ethnicity. They were rainfall, this has the lowest rainfall; population density, this is right at one-half of a person per square mile, which is the second lowest density, and there are a total of less than 3,000 people in the county. So this has the lowest rainfall, one of the lowest population densities, and there have been no earthquakes in recorded history in this site.

There is support for this on this site in Texas. I include for the RECORD a letter from the county judge.

HUDSPETH COUNTY COURTHOUSE,
Sierra Blanca, TX, July 23, 1996.

DEAR MEMBER OF CONGRESS: We are writing to encourage you to vote in favor of the Texas Low-Level Radioactive Waste Disposal Compact, H.R. 558 without amendment.

As officials from the community nearest to the proposed facility, our primary duty is to protect the health and safety of our citizens and of future generations. In fulfillment of this duty, we have invested substantial time and effort in examining technical reports and talking with state officials and others involved in identifying and investigating a location for a low-level radioactive waste disposal facility in our county.

We are convinced that the facility planned for the site is safe. This judgment is borne out by the "Environmental Safety Analysis" made by the state agency in charge of licensing the disposal facility in our state. That agency found that the site will not "pose an unacceptable risk to the public health" or cause "a long-term detrimental impact on the environment."

Far from causing problems for our community, the disposal facility will bring to our area needed economic and social benefits. Hudspeth County has already received grants of over $2 million for the State of Texas for use in community projects of our own choosing. When Congress consents to the Texas Compact, the county will receive an additional $5 million in development funds from the states of Vermont and Maine. And, when the facility begins operation, the county will receive $.8 million annually from its gross revenue—equal to more than one-third of the county's total annual budget. These funds are very much needed in our effort to raise the standard of living, education, and medical care system for residents of our county.

Fundamentally, where and how to site a commercial low-level radioactive waste disposal facility is a state and local issue. In July of this year, the State of Texas will convene a series of public hearings, several in our community, which will allow any member of the public to comment and raise questions about any aspect of the proposed facility and its location. This is where the decision on the location and safety of the disposal facility should be made—not in the halls of Congress thousands of miles away from our community.

We have heard that some members of Congress, at the urging of certain advocacy groups who do not represent our community, object to the location of the disposal facility based on the ethnic composition and the economic status of our county. We are the direct representatives of this ethnically diverse and economically underdeveloped community, and we are convinced that the facility will be safely built. In addition, in December 1995, approximately half of the adult population of Sierra Blanca signed a petition supporting Congressional consent for the Texas Compact.

By consenting to the Texas Compact, Congress will: eliminate the need for two low-level radioactive waste disposal sites in more populous, more humid northeast states; alleviate the need to store low-level radioactive waste of hundreds of generating locations in the three member states; approve a facility that the most directly affected citizens find both safe and beneficial; and ensure that the State of Texas and its partners in the Texas Compact will be able to control the amount of waste coming into a facility located in our community.

Please vote for S. 419 without amendment.

Please contact us if you have any questions or would like more information.

Sincerely,

JAMES A. PEACE,
County Judge.

Mr. REYES. Mr. Chairman, I yield 3 minutes to the gentleman from Austin, Texas [Mr. DOGGETT], a gentleman who has been involved in this issue since he has arrived in Congress in the right way.

Mr. DOGGETT. Mr. Chairman, my hometown of Austin, TX, is a mighty long way from Sierra Blanca, hundreds of miles, much further than traveling across the States of Vermont and Maine to reach this area of Texas. But I can tell my colleagues that there are literally thousands of people in central Texas that are greatly concerned about the idea that Texas would suddenly become the great dumping place for the Nation's toxic nuclear waste.

Mr. Chairman, there has been some suggestion that this is somehow low-level, and therefore, no risk. Nothing could be further from the truth. We are not talking about just a box full of hospital gloves. Indeed, it has been estimated that we could take all of the medical waste in this country and all of the academic-generated waste, and it would be about 5 ten-thousandths of the waste that is going to be placed in this dump. Ninety percent of it comes from nuclear powerplants. That is one of the reasons it is so significant that the Maine Yankee Nuclear Power Plant, the largest generator of waste from the State of Maine, now says it is a bad idea, that it is going to cost the ratepayers of Maine tens of millions of dollars if this compact is approved.

Indeed, the type of waste that is involved here, I do not see anything in the compact limiting it to a mere 100 years, as one of the last speakers said, although my guess is that for most folks around here, just 100 years of dangerous toxic radioactive nuclear waste is a mighty long time. In fact, it is more than a lifetime.

But the type of waste that can be placed in this dump includes tritium, which has a halflife of 12 years and a hazardous life of 120 to 240 years, and iodine 129, which has a halflife of 16 million years and a hazardous life of hundreds of millions of years.

It is because of the gravity of this situation that the Austin City Council went on record unanimously opposed to this dump. It is the same thing that was done by 18 county governments in Texas and by 9 Texas cities. Most recently, this past weekend the Texas Conference of the NAACP went on record against the location of this dump, and more Texans, as they learn about this, are saying, do not allow Texas to become the Nation's dumping ground.

Much has been said to the effect that this has nothing to do with the specific site. It has nothing to do with the specific site unless one happens to live in Sierra Blanca, because Sierra Blanca has already been designated. After elimination of more politically sensitive sites, it has been designated, after having been rejected on geological grounds, it has been selected as the most politically palatable place within the State of Texas to place this particular dump.

There are more than a few problems at this site, and that is probably why it was rejected initially in the State of Texas: earthquakes, seepage, closeness to the Mexican border. Can my colleagues imagine what would happen if Mexico proposed to locate a radioactive waste dump 16 miles from our border? There would be outrage, and there should be over this proposal.

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS], the deputy whip.

Mr. EDWARDS. Mr. Chairman, I rise in support of the Texas compact. If this were an issue that only affected the districts of my friend, the gentleman from Texas [Mr. BONILLA] or my friend, the gentleman from Texas [Mr. REYES], both of whom I greatly respect, then I

would in no way want to involve myself in this fight.

This issue is more than that. It affects the citizens, all the citizens, of three States in this Union: Texas, Vermont, and Maine. It is on behalf of those citizens that I wish to speak today.

The fact is that 9 other compacts have passed this Congress affecting 41 States. This is not a new issue before this Congress. Since this compact most directly affects those citizens in those three States, I think it is fair to ask the position of those States' political leaders. All six U.S. Senators from the three States support this compact, all three Governors, the vast majority of U.S. House Members from the three States support it.

As a Texan I can say not only has the Texas Legislature overwhelmingly approved this compact in 1993, but former Governor Ann Richards, a Democrat, supported this compact as Governor, as well as her successor, Republican Governor George W. Bush.

Mr. Chairman, I know and respect the fact that some people do not want any low-level nuclear waste or any waste put anywhere. In a dream world, frankly, that would be my position. But in the real world, as long as we can save Americans' lives using x rays in hospitals, and yes, as long as we have nuclear powerplants, there will be low-level nuclear waste. The question is not will we put it somewhere; the question is where.

My contention is that if the State of Texas through its Governor, its legislature, its two U.S. Senators and a vast majority of its U.S. House Members support a low-level site in Texas, it seems that other Members of this House would at least lend weight to that position. Those of us who live in Texas have no intention of locating an unsafe depository of low-level waste in our home State. We live there. The fact is, this is not a free choice. If we do not pass this compact, we are going to have threatening waste and unsafe conditions all across these three States. For those reasons, I urge support of this compact.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 4 minutes to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Chairman, I would like to engage in a colloquy with the gentleman from Texas [Mr. BARTON], if that is all right.

Mr. BARTON of Texas. Mr. Chairman, I would be happy to engage in a quality colloquy with the gentleman from Maine.

Mr. BALDACCI. Mr. Chairman, owners of the sole nuclear plant in Maine this summer decided to shut it down 10 years ahead of schedule. Events in Maine relating to the compact have taken a dramatic and unexpected turn recently. I thank the gentleman for the opportunity to clarify some of the concerns that have been expressed.

My first issue concerns the heightened interest in the ability of compact member States to responsibly dispose of low-level waste generated in their States before completion of the Texas facility. I ask the gentleman if it is his understanding and intent that pursuant to an agreement by the Governors of Maine, Vermont, and Texas, each State can continue to ship waste to sites outside of the host State until the Texas facility is open and accepting low-level waste?

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. BALDACCI. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, the gentleman is correct. This interpretation and expectation have been articulated by the Governors of the three party States. It is our intent that generators in the gentleman's State and in any other of the compact States will be allowed to send low-level radioactive decommissioning waste to a non-compact site before the host site is ready. In fact, States in other compacts currently ship their waste to sites outside the host State while the siting process continues.

Mr. BALDACCI. I thank the gentleman for that clarification.

My second concern relates to the disposal of oversized pieces of low-level reradioactive waste created during the dismantling of a nuclear powerplant. What provisions will be made to assure that when a facility opens in the host State, section 4.01 of the compact will be fully implemented?

Mr. BARTON of Texas. Mr. Chairman, if the gentleman will yield, I have been assured that the Texas Low-Level Radioactive Waste Disposal Authority will pursue the acquisition of the necessary licenses concurrent with the site licensing process. It is our intent that when the facility opens, it will be in possession of all of the licenses needed to operate, including those for the disposal of oversized low-level waste.

Mr. BALDACCI. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I rise in strong support of H.R. 629, with those concerns being addressed. Experience has taught us all just how difficult waste management issues can become, and none is more difficult than those involving radioactive waste.

I would like to remind my colleagues that have been speaking in opposition that their State does generate this waste and their State does need a place to be able to place this waste. The concern that has been raised by Maine Yankee Power Plant has to do with the dramatic turn of events and whether the economies make sense, since there will be a closing, decommissioning, and dismantling of the plant. Maine is in favor of this, the elected representatives of Maine are in favor of this, the Governor of the State of Maine is in favor of this, and this is an insurance policy for the right environmental safeguards for the disposal of this waste.

It is very important to understand that the compact under consideration contains real and significant advantages for all three States. With this compact, Texas will be able to limit the amount of low-level radioactive waste coming into its facility from out-of-State sources. Maine and Vermont together produce a fraction of what is generated in Texas, and for Maine and Vermont, the compact relieves either State from the need to develop its own facility. Given the relatively small amount of waste produced in Maine, developing such a facility will be a disproportionate expense.

These benefits are among the reasons that the compact received overwhelming support from the Governors and the legislatures in all three States. We should now act to approve H.R. 629, without amendments. It represents the States' best efforts linked to comply with a Federal mandate, an unfunded Federal mandate, not directly linked to the development of any specific site in Texas. It contains major benefits for all three States.

I also have the letter that has been signed by all three Governors, Governor Bush, Governor Dean, and Governor King from Maine, and I enter it into the RECORD at this time.

STATE OF MAINE,
OFFICE OF THE GOVERNOR,
Augusta, ME, September 22, 1997.

Hon. GEORGE W. BUSH,
Governor, State of Texas, Austin, TX.
Hon. HOWARD DEAN, M.D.,
Governor, State of Vermont, Montpelier, VT.

DEAR GOVERNORS BUSH AND DEAN: As you know, the State of Maine has been forced to review the feasibility of the Texas Low-Level Radioactive Waste Disposal Compact with the State of Maine and Vermont ("Texas Compact") now pending in Congress. Our review has been prompted by the unexpected development of the premature closing of the Maine Yankee electronic generation nuclear facility located in Wiscasset, Maine and the fact that the shipment of decommissioning waste will commence next year, ten years prior to the timeframe upon which the Compact was based.

It continues to be the strong preference of Maine to proceed with the Texas Compact as currently drafted, and to fulfill our obligations under that agreement. However, these unexpected developments place Maine at risk of duplicative expenditures for low-level nuclear waste disposal in the following three areas.

First, we have been forced to recognize the possibility that as Maine Yankee's decommissioning proceeds, the only available disposal facility licensed to accept major portions of the waste stream is the facility at Barnwell, South Carolina, to which generations in Maine, Vermont and Texas can currently send low level radioactive waste. However, upon ratification of the Compact agreement, the Texas Compact Commission will acquire the authority under Section 3.05(7) to disapprove shipments by waste generators

in any of the three States to the Barnwell facility. Such an outcome could impose substantial costs, unnecessarily, or Maine Yankee and the Maine citizens who are paying for decommissioning.

Second, our obligation to make payments totaling twenty-five million dollars to the State of Texas under Section 5.01 of the Compact is unconditional, as long as Maine remains a member of the Compact, even if substantial portions of Maine Yankee's waste stream are ultimately disposed of in South Carolina. This places Maine citizens at risk of not getting the benefit of their bargain with Texas and Vermont, in the absence of any equitable adjustments in Maine's monetary obligations under the Compact.

Third, while the Texas facility has applied for discretion in the size or form of shipments that are accepted for final disposal, the proposed facility is presently unable to guarantee acceptance of oversize decommissioning waste components, intact or in large sections, as required under Section 4.01 of the Compact pertaining to disposal of all decommissioning waste in the Compact region. A failure to provide disposal capacity for this portion of the decommissioning waste stream in a timely manner at the Texas facility could compel Maine Yankee to dispose of waste at another licensed facility, causing duplicative costs.

With these aspects of our dilemma in mind, we request the following clarifications of intent, that we believe are fully consistent with the intent and letter of the Compact, but require affirmative action by the Texas Compact Commission to implement. These include the following three items:

1. The Compact agreement currently requires that there be no discrimination in prices charged to generators in Maine and Vermont compared with Texas at Section 4.04(4). It is consistent to also assure that there will be no discrimination between host and non-host generators regarding access by Compact States to disposal facilities outside of Texas. For this reason, appointees to the Texas Compact Commission should endorse a principle of non-discriminatory access by generators in *all* Compact States to disposal facilities outside of Texas. It is critical to effective implementation of this principle that final appointments to the Compact Commission and timely review of any petition under Section 3.05(7) occur as expeditiously as possible.

2. There is a realistic risk that Maine citizens could be compelled to pay twice for the disposal of Maine Yankee's decommissioning waste, in the form of up-front payment of construction costs for the Texas facility as well as the disposal fees charged by Barnwell for actual disposal. In consideration of this risk, the State of Texas agrees to undertake reasonable efforts in good faith to mitigate this problem in consultation with the States of Maine and Vermont. Efforts to mitigate, or reduce the impact on Maine citizens of up-front payments for unused disposal capacity will require the consent of the Texas Compact Commission, which consent will not be unreasonably withheld.

3. In order to accommodate the projected decommissioning waste stream at Maine Yankee that may occur as early as 1998, the Texas Low-Level Radioactive Waste Disposal Authority must pursue as expeditiously as possible the licensing of all disposal shipments, specifically including the disposal of oversize decommissioning components. Until the Texas Natural Resource Conservation Commission approves such a permit application, the Texas facility will be unable to fulfill the requirement established at Section 4.01 of the Compact for disposal of all decommissioning waste located in the party states.

We are confident that you recognize that none of these requested actions involve a change in the language of the Compact, nor of the basic expectations of the three states that negotiated Compact in 1993. These three points of agreement merely clarify the mutual intent of the Governors for implementing the Compact in a manner that assures an equitable outcome for all three states.

Thank you for your gracious consideration of these vital issues for our States and our joint effort in Congress and in the years to come.

Sincerely,

ANGUS S. KING, JR.,
Governor, State of Maine.

□ 1515

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Chairman, I rise in support of H.R. 629, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act. I believe this bill is vital to protecting our State from increasing amounts of out-of-State waste by entering into the compact.

By ratifying this agreement, Texas will receive added protection to stop other States from shipping their low-level radioactive waste into the State. Texas will maintain complete control over the disposal site. Only Texas will decide whether or not another State may join in the compact. Upon congressional ratification, Maine and Vermont shall contribute a total of $25 million to Texas and another $25 million due when the disposal facility begins operations.

Governor Bush, former Governor Ann Richards, and the Texas Legislature have overwhelmingly supported this compact. By entering into this compact, Texas can keep out-of-compact waste from entering the State. Currently 42 States have entered into these compacts to prevent further importation of out-of-State waste. Furthermore, this facility will provide for the safe disposal of radioactive materials from biomedical research conducted at the Nation's largest medical center, the Texas Medical Center in Houston, and from industrial and electric power generators in our State. I appreciate the concerns raised by the opponents, but the fact remains that something must be done about this waste.

I believe it is better for Texans and, in particular, the Texas Legislature to determine where to store such waste and whose to accept. Without this legislation, Texas would lose control over both the interstate and intrastate transfer of low-level radioactive waste, and I believe that would be far worse for our State's citizens.

Currently, my citizens live with the incineration of hazardous waste in their neighborhoods, and the EPA wants to increase the capacity of this incineration by importing PCB's from around the world. Without this compact, Texas could find itself in the same position as it relates to low-level radioactive waste, as the private sector seeks to import it from all over the Nation, rather than limiting the transfer to Maine and Vermont.

H.R. 629 should be passed without amendments because Texas, Maine, and Vermont spent years negotiating mutually acceptable terms of this agreement. Subsequently the legislatures and Governors of all three States approved identical compact legislation. Any amendments would require the three States to begin efforts anew.

I urge my colleagues to support this important piece of legislation.

Mr. BONILLA. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I stand today here in opposition to H.R. 629. I simply cannot understand why we talk about various Governors of States, the State of Texas, its legislature, really underscoring and underlining and accepting what I seem to believe could be opening the door to further dumping. I am not sure I understand this limiting.

First of all, I think H.R. 629 violates a 1983 La Paz agreement between Mexico and the United States wherein they are prohibited both Governments from dumping 60 miles from the border. As we see this map here, this waste material, radioactive, is going to come all the way from Maine across Vermont, New Hampshire, down to Massachusetts, to New York, Pennsylvania, Maryland, West Virginia, Virginia, and all the way across down to Tennessee through Arkansas, through the State of Texas, and then finally settle down here in Sierra Blanca, radioactive material in the vicinity of a population numbered at some 700,000 people 20 miles from the border, from the river. This is against that treaty, Mr. Chairman. I do not see the sanity in opening up this kind of door for Texas.

I am not from Texas, I come from California. But we have had the same problems there. Our State is replete with the sight of waste dumps, toxic landfills, incinerators, you name it, in those communities of less resistance. Who are those communities? Usually the communities where minorities live, usually the east side of town, the other side of the tracks. That is what we talk about when we say environmental justice. We need environmental justice. I think this is environmental injustice. If Texas allows itself to open up the door to this kind of prevalent danger, I do not understand the facts here.

Why was this legislation defeated in the last session of Congress, the 104th Congress? I think I understand why the 104th Congress defeated this kind of measure. It is implicit, Mr. Chairman, as to the dangers, to the consequences of this.

Supporters of this bill want to dump radioactive waste on a community that is primarily minorities, again, here on the border, as if we do not have enough problems already on the border, on the river, with the kind of maquiladora dumping on the river, infesting all the way down to Brownsville.

Mr. Chairman, we do not need this kind of legislation. I urge my colleagues here to defeat it today very soundly, just like the 104th session of Congress did.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support of H.R. 629. Mr. Chairman, the Low-Level Radioactive Waste Policy Act and its 1985 amendments make commercial low-level radioactive waste disposal a State and not a Federal responsibility.

As we have heard, all that Texas and Maine and Vermont are asking for today is to be treated as 9 other compacts were treated affecting 41 States. This is not new business. We have done it 9 times, 41 States, and Texas, Maine, and Vermont ask us to do it today.

Mr. Chairman, let me touch for a moment upon the environmental aspects of this issue. Let me address it from the perspective of someone who is an opponent of nuclear power, who opposes the construction of power plants and, if he had his way, would shut down the existing nuclear power plants as quickly and as safely as we could.

One of the reasons that many of us oppose nuclear power plants is that when this technology was developed, there was not a lot of thought given as to how we dispose of the nuclear waste. Neither the industry nor the Government, in my view, did the right thing by allowing the construction of the plants and not figuring out how we get rid of the waste.

But the issue we are debating here today is not that issue. The reality, as others have already pointed out, is that the waste is here. We cannot wish it away. It exists in power plants in Maine and Vermont, it exists in hospitals, it is here.

The gentleman from Texas [Mr. REYES] a few moments ago said, "Who wants radioactive waste in their district?" I guess he is right. But do Members know what, by going forward with the nuclear power industry, that is what we have. So the real environmental issue here is not to wish it away, but to make the judgment, the important environmental judgment, as to what is the safest way of disposing of the nuclear waste that has been created. That is the environmental challenge that we face.

The strong environmental position should not be and cannot be to do nothing, and to put our heads in the sand and pretend that the problem does not exist. It would be nice if Texas had no low-level radioactive waste, or Vermont or Maine or any other State. That would be great. That is not the reality. The environmental challenge now is, given the reality that low-level radioactive waste exists, what is the safest way of disposing of that waste.

Leaving the radioactive waste at the site where it was produced, despite the fact that that site may be extremely unsafe in terms of long-term isolation of the waste and was never intended to be a long-term depository of low-level waste, is horrendous environmental policy. What sense is it to say that you have to keep the waste where it is now, even though that might be very environmentally damaging? That does not make any sense at all.

No reputable scientist or environmentalist believes that the geology of Vermont or Maine would be a good place for this waste. In the humid climate of Vermont and Maine, it is more likely that groundwater will come in contact with that waste and carry off radioactive elements to the accessible environment.

There is widespread scientific evidence to suggest, on the other hand, that locations in Texas, some of which receive less than 12 inches of rainfall a year, a region where the groundwater table is more than 700 feet below the surface, is a far better location for this waste.

This is not a political assertion, it is a geological and environmental reality. Furthermore, even if this compact is not approved, it is likely that Texas, which has a great deal of low-level radioactive waste, and we should make the point that 80 percent of the waste is coming from Texas, 10 percent from Vermont, 10 percent from Maine, the reality is that Texas will go forward with or without this compact in building a facility to dispose of their low-level radioactive waste.

If they do not have the compact, which gives them the legal right to deny low-level radioactive waste from coming from anyplace else in the country, it seems to me they will be in worse environmental shape than they are right now. Right now, with the compact, they can deal with the constitutional issue of limiting the kinds of waste they get.

From an environmental point of view, I urge strong support for this legislation.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 4 minutes to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to begin by asking for a colloquy with the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I am glad to engage in another quality colloquy.

Mr. ALLEN. Mr. Chairman, if the gentleman from Texas [Mr. BARTON] can clarify one further point, it is my understanding that if the State of Maine suffers negative economic consequences owing to the circumstances of early closure of Maine Yankee, the Governors have agreed that the commission will use all good faith efforts to enable Maine to have such damages mitigated.

Mr. BARTON of Texas. Mr. Chairman, it is my understanding that the Governors of the gentleman's State and my State and Vermont have agreed that all reasonable good faith efforts would be executed by the State of Texas and the commission, if any such damages occur, to assist Maine in achieving such mitigation.

Mr. ALLEN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I want to say a couple of things. First of all, there is broad support within the State of Maine for this particular compact. In our State, not only has the Governor supported it, supported the compact and does support it; not only has it passed the State legislature; but it has passed a statewide referendum. People in Maine support this particular compact, even though, of course, as always, there is some opposition.

Mr. Chairman, we have been working for years to get to this particular point. Several speakers before me have mentioned Maine Yankee. Maine Yankee is in an unusual circumstance. Just recently, Maine Yankee closed down 10 years ahead of schedule. The President of Maine Yankee would not be doing his job if he did not look at the economic consequences and say, there may be some risks here that we did not anticipate.

There were some risks. The most important risk was this. What if the Texas facility is not built and not on line and not ready for Maine's decommissioning waste of Maine Yankee, and yet we cannot send it to Barnwell, SC, which is the only other site?

I believe, as a result of conversations with the Governor's office and with Maine Yankee and others over the last few days, that that risk is mitigated, and it is mitigated in particular by the undertaking of the Governors of the three States to work in good faith to solve those particular problems if and when they arise.

□ 1530

So I believe, I am convinced, that now the costs of this compact are in line with the costs of disposal of this waste in Barnwell, SC.

Let me say this. The gentleman from Vermont early on said there are two

issues here. One is process. This has the broad support of people in Texas, Vermont, and Maine. But second, it makes good environmental policy. This is good environmental sense.

We cannot wish away low-level radioactive waste. It has to go somewhere. If it does not go somewhere and if it is not stored in a safe, secure site, then it is going to be distributed all over this country.

As a country, as we think about how we deal with low-level radioactive waste, and this is low-level, this is not spent nuclear fuel rods, this is low-level waste, we need to figure out how to dispose of it. We need to look for places where the geology is right, where the hydrology is right, where the population is sparse.

And although I am not involved in the choice of a particular site in Texas, I know that Maine has hydrological and geological problems that would make it a problem in our State.

It is vital as we go forward that there not be one site at Barnwell, SC, to deposit low-level radioactive waste. We need to have two. It makes good economic sense, and it makes good, sound environmental policy.

So I would close simply by saying that I urge all of my colleagues to support this bill. It makes sense for people in Maine, Vermont, and Texas, and around the country.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Texas, Mr. SAM JOHNSON.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I would like to point out that this property is State-owned property. We had a big discussion about that when I was in the State legislature. I know that the gentleman from Texas [Mr. GREEN] remembers that. And it was picked because of its location and because it was State-owned.

Mr. Chairman, after 30 years, 85 percent of the waste is nonradioactive. That is what we are talking about. We are talking about low-level waste. We are not talking about high-level waste.

The specific site is limited to 30 years, this place. And I would say to the gentleman from Texas [Mr. REYES] that at that location it takes 20,000 to 40,000 years for anything to seep down to the Rio Grande.

Also, I would ask the question about my colleague from California who has a compact but does not want this one. His State has got a compact with North Dakota, South Dakota, and Arizona. The gentleman had a big, long line that said transportation is a big problem. Guess what? California has not gotten their site ready yet, so where are they sending their waste? South Carolina, all the way across the country. If transportation is a problem, then California has got it.

Mr. Chairman, I would tell my colleagues, transportation is not a problem. Transportation has an excellent safety record for transportation of commercial low-level waste. During the last 20 years, there have only been four minor accidents and never been a radiologically related injury or death associated with a transportation accident of such waste.

For the past 20 years, they have been transporting this waste to South Carolina. Licensing, inspection, and enforcement regulations from the Federal Government ensure that transportation requirements are met. All waste coming into Texas is going to be dry, solid form, and they are going to have a tracking system to track the waste from the source of generation through disposal, accounting accurately for each part of it.

So I would suggest to the gentleman from Texas [Mr. DOGGETT], if he does not want Texas to have a compact, then any State can ship waste to Texas.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, years ago when the country first started learning about toxic waste, nuclear waste, radioactive waste, there were jokes that kind of circulated around the country that if one visited a nuclear plant or grew up in an area like Three Mile Island, people would chuckle and say, "Do you glow in the dark?"

Mr. Chairman, I can assure my colleagues that while that was a joke in some other communities, this is no laughing matter for the constituents that I represent in west Texas. Imagine, just because they happen to live in a rural area, why would they have any less right to having a safe environment than somebody who grew up in downtown New York? Just because they chose a quiet area where they want to get away from all of that other stuff, and suddenly they wake up one day and the school bus that their kid is riding in down the highway passes a nuclear waste dump site, and they suddenly wonder every day if their child going to become infected or contaminated by some of the waste going through the system and through the water supplies possibly if something goes wrong. There is a possibility.

The gentleman from Texas [Mr. BARTON] points out that there has never been an earthquake in this area. But there have been tremors. There has been movement in the ground that makes the residents out there shake in their boots at the prospect that something might happen.

Mr. Chairman, I ask my colleagues to put themselves in their shoes. Imagine if they were sending their child to school every day wondering, "Did I make the right decision in settling in this area?"

Would they ever think the day would come as an American that their constitutional rights to be heard about something that is going to be built in their backyard might be violated and they would not, as an American, have any say as to whether or not this dump was going to be constructed in their very own backyard?

Mr. Chairman, I have got at least 12 county commissioners, courts, local governments, who have written me and spoken to me very strongly about their opposition to this dump being created in their backyard, people like county judge Jake Brisbin in Presidio and former mayor Alfredo Gutierrez in Del Rio who were concerned about this issue.

People talk about the La Paz agreement with Mexico. Sometimes we think that we hold the upper hand with our neighbors to the south on environmental issues. But the thing we have to ask ourselves is when the Speaker of the House, as he has in the right way, sat down with the President of Mexico and said, "Do not build those Carbon 1 and Carbon 2 burning plants near the border because they will pollute our air. Why don't you put scrubbers on the facility?" And the Mexican Government will not do it. And now, in turn, they are asking us not to build a low-level radioactive waste site nearing the Mexican border because it could threaten their country as well.

Mr. Chairman, we have to learn to coexist along the border and comply with the La Paz agreement so that we do not have threats that exist to people on either side of the border.

For those of my colleagues who think that this compact affects only Texas, Maine, and Vermont, I have a map. The gentleman from California [Mr. TORRES] pointed out one route that the waste could take coming down here. But whether it takes a route that the gentleman pointed out that comes through the middle of the country, or whether it took a detour and went through Chicago, maybe Iowa or Nebraska or another detour throughout the South like Georgia, Alabama, Mississippi, there are many different superhighways that exist in this area, and this stuff could be coming through the neighborhoods of my colleagues.

One of my friends pointed out earlier as well that there may be only 20 percent of this radioactive waste which is, in fact, radioactive. Mr. Chairman, I would ask my colleagues, if they had to drink the water in their house and they knew that only 20 percent of the liquid in that glass was radioactive, would they drink it? Is that not enough to scare them to death about how this could affect the future of the children growing up in their community?

I ask all of my colleagues, when they think about all those funny things that were said over the years about glowing in the dark, it is not just the people in Texas who are going to be suffering from this. If my colleagues live in any of these States enroute here in moving

that waste though the country and down to west Texas, they have to ask themselves the same question.

If there is a truck accident or train accident or something happens along the way and suddenly just 20 percent of that load spills in their community, what are they going to say to their people when they have to come back and explain to them, "Yes, I approved that radioactive facility down in Texas, but I never thought the stuff would be coming through my town?"

Well, Mr. Chairman, how about if it does? What are my colleagues going to say when there is an accident? This is not just a case of my people glowing in the dark in the future if there is an accident. I ask Members to think about it. It could be their people, too.

Mr. Chairman, I yield back the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. Mr. Chairman, let me briefly respond to the gentleman from Texas [Mr. BONILLA] in talking about glowing in the dark. I think that is raising questions that really are not the issue, because right now in our hospitals, in portable buildings in our hospitals, in the ceilings of our hospital, they are storing that.

So, it is not as the gentleman is trying to allege, that this is glowing in the dark. We are talking about low-level waste that is already being stored in urban areas, not in safe, contained areas like is contemplated for west Texas.

Mr. Chairman, let me talk about the transportation issue. There is more dangerous cargo now on Interstate 10 that goes through the gentleman's district, and not too far, than ever will be considered in low-level waste. There are more volatile chemicals flowing down Interstate 10 from El Paso to San Antonio than will ever be in there.

Mr. Chairman, let me address the La Paz issue a little bit. Let me quote from Reuters News. Alejandro Calvillo, an officer of Greenpeace Mexico, is quoted as saying that, "Mexico's National Water Commission and Nuclear Safeguard Commission recently concluded that the dump posed no health hazard for Mexico." That was Reuters, September 5, 1996.

Mr. Chairman, another quote regarding the La Paz agreement. The Texas facility promotes another purpose of the La Paz agreement to "prevent, reduce and eliminate sources of pollution" because it is properly engineered and environmentally sound.

Mr. Chairman, that is why this provision is a good place to do it. The Federal Government, Congress, allowed in 1985 for the interstate compact. Texas, Maine, and Vermont agreed to do it. The legislature in Texas, and I know because I served there up until 1991, agreed to this compact. In 1993, they agreed, after a great deal of studies, to have the siting.

The gentleman from Texas [Mr. BONILLA] talked about all those local elected officials that are contacting him. Maybe they ought to call their State representatives and senators and the Governor's office, because those are the people who made that decision to go to his county. We always believe that decisions are made best that are made locally. This was a local decision and not on the floor of this Congress.

Mr. Chairman, that is why it is important. If we do not pass this bill and that site opens, the constituents of the gentleman out there will have waste from all over the country coming to this site. Maybe instead of the gentleman from California [Mr. TORRES] shipping his wastes from California to South Carolina, perhaps they will be able to stop halfway and leave it in the gentleman's district in west Texas. I am sure they will be able to make a deal with them.

That is what is so important about this bill. It allows a compact for a number of States to participate and allows Texas to say, we are the biggest State in the compact, we have to have a place to put our low-level waste that we are now warehousing on site.

Mr. Chairman, we need to pass this bill, H.R. 629, today to make sure we can do that. That is why I urge an "aye" vote for this bill.

Mr. HALL of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank all my colleagues for their input here. We are along toward the end of a long, hard trail, and a lot of these arguments that are being made are good arguments. I can understand them and understand where they are coming from. They are less legal arguments than they are emotional arguments.

I even respect these Members who have come to the aid of a colleague. I respect the gentleman from Texas [Mr. BONILLA], who has done a good job with this situation in that he came in late. When this first transpired, the gentleman was not the Congressman from that area. He has done a good job since becoming their Congressman and representing them and setting his best foot forward.

□ 1545

All of this is late. Most of this happened before the gentleman from Texas [Mr. BONILLA] got to be the Congressman for the area that they have designated. These arguments should have been made before the TNRCC and before all the community hearings. They should have been made before the town hall meetings. Even the recent colloquy between the Governors that gave the option for input from people who had an interest, there has been all the input in the world into this. There has been opportunity for everyone to be heard. I think everyone has been heard from the three States today.

I think this low-level radioactive waste policy act is a very good example of State and Federal cooperation. This compact fulfills the Congress' side of the bargain. This is just the part we have to do. The States have already done their part. Other States have their compacts. I think 40 other States have them. In 1980 and again in 1985, Congress enacted legislation that set up a program under which States would have primary responsibility and primary control over the disposal of low-level radioactive waste. This is what the States wanted. This is what they asked for. This is what they were entitled to.

It makes sense because so many important local activities depend on having safe and ready disposal of low-level waste. While this issue is often discussed in terms of utilities' needs for disposal facilities, let me tell my colleagues, it also concerns hospitals, university research programs. It concerns industries across the State of Texas and across this Nation, industries that spawn jobs, and jobs spawn dignity; industry and jobs in the area where this site is, where substantial amounts have been spent.

Mr. Chairman, I urge my colleagues to pass this. I will not pretend that finding the site has been easy or is easy or that all the questions about how to build the right facility are known. These are questions that have to be resolved in the course of obtaining a license to operate the facility and cannot be settled by us.

The Texas compact meets the law's requirements. It is needed by the people of these three States. I strongly urge that we support it. We ought to encourage States to conform with Federal policy, which is exactly what Texas, Maine, and Vermont have done by entering into this compact. I urge Members' support of these States' actions by voting for H.R. 629.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield the balance of my time to the gentleman from Texas [Mr. BARTON].

The CHAIRMAN. The gentleman from Texas [Mr. BARTON] is recognized for 8½ minutes.

Mr. BARTON of Texas. Mr. Chairman, we have heard quite a bit of emotion this afternoon on the floor about the issue generically of nuclear waste and specifically low-level nuclear waste. We have heard the concerns about transporting the waste. We have heard the concerns about storing the waste. We have heard the concerns about possibly seeing some of the waste get into the water table because of an earthquake.

Let us reverse that as we close the argument. We do not live in a zero risk environment. Every day thousands of

Americans are diagnosed with cancer. If we do not have a way to dispose of the radiation treatments that are used to treat colon cancer, they are not going to be treated and those people are going to die. If we do not have a way to diagnose if somebody has some sort of a defect that is treated by diagnostic piece of equipment like an x ray or radionuclide that they put into the bloodstream, those people will not know that they have that medical disability and they, too, will develop the disease and they will die.

The fact of the matter is that we need disposal sites for low-level radioactive nuclear waste. That is a fact. We want to protect human life. We want to do everything we can to give people a quality of human life. Forty-one States currently have developed compacts with other States. Three States today want the same right that those 41 other States have today, Vermont, Texas, and Maine.

If we want to talk about the transportation problem, almost all of the waste that is going to be stored in Texas is going to be generated in Texas. Less than 50 truckloads a year, less than 1 per week, is going to be transshipped from Maine or Vermont. As the gentleman from Texas, [Mr. SAM JOHNSON] pointed out, in the almost 30 years that we have tracked the transportation of low-level nuclear waste around this country, there have only been four accidents, only four accidents, and there has not been one reported injury from those four accidents. That is an important issue but it is in no way a determinative issue.

We simply need to accept the reality that States under the law and under the Constitution have the right to enter into a compact. This particular compact is between Texas, Vermont, and Maine. The Governors have supported it on a bipartisan basis, the legislatures of all three States have supported it on a bipartisan basis, and we should support it on a bipartisan basis.

When we come to the rollcall vote in the next 5 minutes, vote ''yes.'' The concerns that have been expressed by the gentleman from Texas [Mr. BONILLA], who represents the district, which are very valid concerns, can be addressed if they need to be addressed between the Texas Legislature and the executive branch, the Texas Natural Resource Commission that has responsibility for regulating environmental issues in the State of Texas.

There are some issues that need to be addressed. This is not the time and this is not the place. Vote ''yes'' on the compact. Give our States the same right that 41 other States have under the law today. I compliment the distinguished chairman of the subcommittee and compliment him for his leadership on this issue.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I will just remind the committee that this, after study, passed not only the subcommittee but the full committee by unanimous vote, voice vote, and I would ask support of the bill.

Mr. ARCHER. Mr. Chairman, I rise in strong support of the low-level radioactive waste compact between the States of Texas, Maine, and Vermont. The compact makes sense from both an economic and an environmental perspective. This country needs to adopt responsible policies for the safe and effective disposal of waste; this compact is a step in that direction, as the 3 States have fulfilled the mandate of Congress.

The 1980 Low-Level Radioactive Waste Policy Act and its 1985 amendments make each State ''responsible for providing, either by itself or in cooperation with other States,'' for disposal of its own commercial low-level radioactive waste. In compliance with this Federal legislation, the States of Texas, Maine, and Vermont have arranged to manage their waste through the terms of the Texas compact. This compact passed the legislatures of the States involved and is supported by Governors Bush of Texas, Dean of Vermont, and King of Maine. It also has the support of our own Commerce Committee which passed this bill out of committee unanimously. Texas, Maine, and Vermont have complied with all Federal and State laws and regulations in forming this compact. For the Congress to deny ratification of the Texas compact would be a serious breach of States rights and a rejection of Congress' previous mandate to the States.

Opponents of the compact object to the proposed site of the disposal facility in Hudspeth County. The bill before us, however, does not designate a site. A vote for H.R. 629 is neither a vote to endorse nor oppose the proposed site in Texas. Federal legislation leaves the siting of a facility to State governments and should be resolved during the formal licensing proceedings. Currently, the Texas Natural Resources Conservation Commission is conducting the appropriate public hearings.

Mr. Chairman, Congress should not stifle the responsible efforts of these three States by rejecting a course of action Congress encouraged in the first place. I urge my colleagues to vote to supply the member States of the Texas Compact with the same protections we have already given 42 States in the nine previously approved compacts. Vote ''yes'' on H.R. 629.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to offer thoughts on H.R. 629, the Texas low-level radioactive waste disposal compact. This agreement will allow the States of Texas, Maine, and Vermont to enter into an agreement to dispose of low-level radioactive waste produced in their States.

The congressional consideration of this bill will allow a contractual agreement to be developed by Texas, Maine, and Vermont for the cooperative resolution of the problem of disposing of low-level radioactive waste.

The Commerce clause found in article I, section 8, clause 3 of the U.S. Constitution provides that Congress—not the States—has the power to regulate commerce among States. This clause has been interpreted by the courts to restrict a State's ability to regulate in a manner that would impermissible burden or discriminate against interstate commerce.

Under this law, without the compact's protection, the site if opened in Texas would be forced to take low-level radioactive waste from all 50 States.

Through legislative action in 1980 and 1985, the Congress encouraged States to form compacts to provide for new low-level radioactive waste disposal. Since 1985, 9 interstate low-level radioactive waste compacts have been approved by Congress, encompassing 41 States.

All radioactive materials lose radioactivity at predictable rates. Therefore, agreements are necessary for the proper disposal and storage of low-level radioactive waste until it reaches harmless levels at the end of 100 years.

This compact would not designate a particular site, but only the agreement among the participating States for the development of low-level radioactive facility.

My position on any site location, which I have expressed in the past, is that public hearings must, and should be, part of the process in order to give concerned citizens an opportunity to express their views on the site.

Before any final decision of location is made these hearings should allow for proper comment and evaluation of those comments to take place. It is my understanding that the Texas State planners are committed to as public a process as possible.

The Texas compact specifies that commercial low-level radioactive waste generated in the party States of Texas, Maine, and Vermont will be accepted at the Texas Low-Level Radioactive Waste Disposal Facility. Low-level radioactive waste is defined the same way as the Low-Level Radioactive Waste Policy Amendments Act of 1985, Public Law 99–240.

Commerce low-level radioactive waste typically consists of wastes from operations and decommissioning of nuclear power plants, hospitals, research laboratories, industries, and universities. Typical low-level radioactive waste is trashlike materials consisting of metals, paper, plastics, and construction materials that are contaminated with low-levels of radioactive materials.

A compact is a serious matter, and a compact regarding the disposal or storage of low-level radioactive waste is extremely important. This compact will be managed by the participating States and especially by the State of Texas with the greatest care and professionalism possible.

I urge my colleagues to support this compact.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill will be considered under the 5-minute rule by section, and each section shall be considered as having been read.

During consideration of the bill for amendment, the Chair will accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any proposed question that immediately follows another vote, provided the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will designate section 1.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The text of H.R. 629 is as follows:

H.R. 629

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Texas Low-Level Radioactive Waste Disposal Compact Consent Act".

SEC. 2. CONGRESSIONAL FINDING.

The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.).

SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

The consent of the Congress to the compact set forth in section 5—

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

SEC. 4. CONGRESSIONAL REVIEW.

The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided in such compact.

SEC. 5. TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is given to the States of Texas, Maine, and Vermont to enter into the Texas Low-Level Radioactive Waste Disposal Compact. Such compact is substantially as follows:

"TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

"ARTICLE I. POLICY AND PURPOSE

"SEC. 1.01. The party states recognize a responsibility for each state to seek to manage low-level radioactive waste generated within its boundaries, pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b–2021j). They also recognize that the United States Congress, by enacting the Act, has authorized and encouraged states to enter into compacts for the efficient management and disposal of low-level radioactive waste. It is the policy of the party states to cooperate in the protection of the health, safety, and welfare of their citizens and the environment and to provide for and encourage the economical management and disposal of low-level radioactive waste. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety, and welfare of the citizens and the environment of the party states; to limit the number of facilities needed to effectively, efficiently, and economically manage low-level radioactive waste and to encourage the reduction of the generation thereof; and to distribute the costs, benefits, and obligations among the party states; all in accordance with the terms of this compact.

"ARTICLE II. DEFINITIONS

"SEC. 2.01. As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

"(1) 'Act' means the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b–2021j).

"(2) 'Commission' means the Texas Low-Level Radioactive Waste Disposal Compact Commission established in Article III of this compact.

"(3) 'Compact facility' or 'facility' means any site, location, structure, or property located in and provided by the host state for the purpose of management or disposal of low-level radioactive waste for which the party states are responsible.

"(4) 'Disposal' means the permanent isolation of low-level radioactive waste pursuant to requirements established by the United States Nuclear Regulatory Commission and the United States Environmental Protection Agency under applicable laws, or by the host state.

"(5) 'Generate,' when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

"(6) 'Generator' means a person who produces or processes low-level radioactive waste in the course of its activities, excluding persons who arrange for the collection, transportation, management, treatment, storage, or disposal of waste generated outside the party states, unless approved by the commission.

"(7) 'Host county' means a county in the host state in which a disposal facility is located or is being developed.

"(8) 'Host state' means a party state in which a compact facility is located or is being developed. The State of Texas is the host state under this compact.

"(9) 'Institutional control period' means that period of time following closure of the facility and transfer of the facility license from the operator to the custodial agency in compliance with the appropriate regulations for long-term observation and maintenance.

"(10) 'Low-level radioactive waste' has the same meaning as that term is defined in Section 2(9) of the Act (42 U.S.C. 2021b(9)), or in the host state statute so long as the waste is not incompatible with management and disposal at the compact facility.

"(11) 'Management' means collection, consolidation, storage, packaging, or treatment.

"(12) 'Operator' means a person who operates a disposal facility.

"(13) 'Party state' means any state that has become a party in accordance with Article VII of this compact. Texas, Maine, and Vermont are initial party states under this compact.

"(14) 'Person' means an individual, corporation, partnership or other legal entity, whether public or private.

"(15) 'Transporter' means a person who transports low-level radioactive waste.

"ARTICLE III. THE COMMISSION

"SEC. 3.01. There is hereby established the Texas Low-Level Radioactive Waste Disposal Compact Commission. The commission shall consist of one voting member from each party state except that the host state shall be entitled to six voting members. Commission members shall be appointed by the party state governors, as provided by the laws of each party state. Each party state may provide alternates for each appointed member.

"SEC. 3.02. A quorum of the commission consists of a majority of the members. Except as otherwise provided in this compact, an official act of the commission must receive the affirmative vote of a majority of its members.

"SEC. 3.03. The commission is a legal entity separate and distinct from the party states and has governmental immunity to the same extent as an entity created under the authority of Article XVI, Section 59, of the Texas Constitution. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

"SEC. 3.04. The commission shall:

"(1) Compensate its members according to the host state's law.

"(2) Conduct its business, hold meetings, and maintain public records pursuant to laws of the host state, except that notice of public meetings shall be given in the non-host party states in accordance with their respective statutes.

"(3) Be located in the capital city of the host state.

"(4) Meet at least once a year and upon the call of the chair, or any member. The governor of the host state shall appoint a chair and vice-chair.

"(5) Keep an accurate account of all receipts and disbursements. An annual audit of the books of the commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the commission.

"(6) Approve a budget each year and establish a fiscal year that conforms to the fiscal year of the host state.

"(7) Prepare, adopt, and implement contingency plans for the disposal and management of low-level radioactive waste in the event that the compact facility should be closed. Any plan which requires the host state to store or otherwise manage the low-level radioactive waste from all the party states must be approved by at least four host state members of the commission. The commission, in a contingency plan or otherwise, may not require a non-host party state to store low-level radioactive waste generated outside of the state.

"(8) Submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report to be submitted on or before January 31 of each year.

"(9) Assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

"(10) Keep a current inventory of all generators within the party states, based upon information provided by the party states.

"(11) By no later than 180 days after all members of the commission are appointed under Section 3.01 of this article, establish by rule the total volume of low-level radioactive waste that the host state will dispose of in the compact facility in the years 1995–2045, including decommissioning waste. The shipments of low-level radioactive waste from all non-host party states shall not exceed 20 percent of the volume estimated to be disposed of by the host state during the 50-year period. When averaged over such 50-year period, the total of all shipments from non-host party states shall not exceed 20,000 cubic feet a year. The commission shall coordinate the volumes, timing, and frequency of shipments from generators in the non-host party states in order to assure that over the life of this agreement shipments from the non-host party states do not exceed 20 percent of the volume projected by the commission under this paragraph.

"SEC. 3.05. The commission may:

"(1) Employ staff necessary to carry out its duties and functions. The commission is authorized to use to the extent practicable the services of existing employees of the party states. Compensation shall be as determined by the commission.

"(2) Accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation, grant or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the commission.

"(3) Enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the commission shall bind a party state.

"(4) Adopt, by a majority vote, bylaws and rules necessary to carry out the terms of this compact. Any rules promulgated by the commission shall be adopted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

"(5) Sue and be sued and, when authorized by a majority vote of the members, seek to intervene in administrative or judicial proceedings related to this compact.

"(6) Enter into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact for management or disposal, provided that the agreement receives a majority vote of the commission. The commission may adopt such conditions and restrictions in the agreement as it deems advisable.

"(7) Upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level waste to a low-level radioactive waste disposal facility located outside the party states. The commission may approve the petition only by a majority vote of its members. The permission to export low-level radioactive waste shall be effective for that period of time and for the specified amount of low-level radioactive waste, and subject to any other term or condition, as is determined by the commission.

"(8) Monitor the exportation outside of the party states of material, which otherwise meets the criteria of low-level radioactive waste, where the sole purpose of the exportation is to manage or process the material for recycling or waste reduction and return it to the party states for disposal in the compact facility.

"SEC. 3.06. Jurisdiction and venue of any action contesting any action of the commission shall be in the United States District Court in the district where the commission maintains its office.

"ARTICLE IV. RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS OF PARTY STATES

"SEC. 4.01. The host state shall develop and have full administrative control over the development, management and operation of a facility for the disposal of low-level radioactive waste generated within the party states. The host state shall be entitled to unlimited use of the facility over its operating life. Use of the facility by the non-host party states for disposal of low-level radioactive waste, including such waste resulting from decommissioning of any nuclear electric generation facilities located in the party states, is limited to the volume requirements of Section 3.04(11) of Article III.

"SEC. 4.02. Low-level radioactive waste generated within the party states shall be disposed of only at the compact facility, except as provided in Section 3.05(7) of Article III.

"SEC. 4.03. The initial states of this compact cannot be members of another low-level radioactive waste compact entered into pursuant to the Act.

"SEC. 4.04. The host state shall do the following:

"(1) Cause a facility to be developed in a timely manner and operated and maintained through the institutional control period.

"(2) Ensure, consistent with any applicable federal and host state laws, the protection and preservation of the environment and the public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the disposal facilities within the host state.

"(3) Close the facility when reasonably necessary to protect the public health and safety of its citizens or to protect its natural resources from harm. However, the host state shall notify the commission of the closure within three days of its action and shall, within 30 working days of its action, provide a written explanation to the commission of the closure, and implement any adopted contingency plan.

"(4) Establish reasonable fees for disposal at the facility of low-level radioactive waste generated in the party states based on disposal fee criteria set out in Sections 402.272 and 402.273, Texas Health and Safety Code. The same fees shall be charged for the disposal of low-level radioactive waste that was generated in the host state and in the non-host party states. Fees shall also be sufficient to reasonably support the activities of the Commission.

"(5) Submit an annual report to the commission on the status of the facility, including projections of the facility's anticipated future capacity, and on the related funds.

"(6) Notify the Commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of the facility and identify all reasonable options for the disposal of low-level radioactive waste at alternate compact facilities or, by arrangement and Commission vote, at noncompact facilities.

"(7) Promptly notify the other party states of any legal action involving the facility.

"(8) Identify and regulate, in accordance with federal and host state law, the means and routes of transportation of low-level radioactive waste in the host state.

"SEC. 4.05. Each party state shall do the following:

"(1) Develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for the facility to conform to packaging, processing, and waste from specifications of the host state.

"(2) Maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

"(3) Develop and enforce procedures requiring generators within its borders to minimize the volume of low-level radioactive waste requiring disposal. Nothing in this compact shall prohibit the storage, treatment, or management of waste by a generator.

"(4) Provide the commission with any data and information necessary for the implementation of the commission's responsibilities, including taking those actions necessary to obtain this data or information.

"(5) Pay for community assistance projects designated by the host county in an amount for each non-host party state equal to 10 percent of the payment provided for in Article V for each such state. One-half of the payment shall be due and payable to the host county on the first day of the month following ratification of this compact agreement by Congress and one-half of the payment shall be due and payable on the first day of the month following the approval of a facility operating license by the host state's regulatory body.

"(6) Provide financial support for the commission's activities prior to the date of facility operation and subsequent to the date of congressional ratification of this compact under Section 7.07 of Article VII. Each party state will be responsible for annual payments equalling its pro-rata share of the commission's expenses, incurred for administrative, legal, and other purposes of the commission.

"(7) If agreed by all parties to a dispute, submit the dispute to arbitration or other alternate dispute resolution process. If arbitration is agreed upon, the governor of each party state shall appoint an arbitrator. If the number of party states is an even number, the arbitrators so chosen shall appoint an additional arbitrator. The determination of a majority of the arbitrators shall be binding on the party states. Arbitration proceedings shall be conducted in accordance with the provisions of 9 U.S.C. Sections 1 to 16. If all parties to a dispute do not agree to arbitration or alternate dispute resolution process, the United States District Court in the district where the commission maintains its office shall have original jurisdiction over any action between or among parties to this compact.

"(8) Provide on a regular basis to the commission and host state—

"(A) an accounting of waste shipped and proposed to be shipped to the compact facility, by volume and curies;

"(B) proposed transportation methods and routes; and

"(C) proposed shipment schedules.

"(9) Seek to join in any legal action by or against the host state to prevent nonparty states or generators from disposing of low-level radioactive waste at the facility.

"SEC. 4.06. Each party state shall act in good faith and may rely on the good faith performance of the other party states regarding requirements of this compact.

"ARTICLE V. PARTY STATE CONTRIBUTIONS

"SEC. 5.01. Each party state, except the host state, shall contribute a total of $25 million to the host state. Payments shall be deposited in the host state treasury to the credit of the low-level waste fund in the following manner except as otherwise provided. Not later than the 60th day after the date of congressional ratification of this compact, each non-host party state shall pay to the host state $12.5 million. Not later than the 60th day after the date of the opening of the compact facility, each non-host party state shall pay to the host state an additional $12.5 million.

"SEC. 5.02. As an alternative, the host state and the non-host states may provide for payments in the same total amount as stated above to be made to meet the principal and interest expense associated with the bond indebtedness or other form of indebtedness issued by the appropriate agency of the host state for purposes associated with the development, operation, and post-closure monitoring of the compact facility. In the event the member states proceed in this manner, the payment schedule shall be determined in accordance with the schedule of debt repayment. This schedule shall replace the payment schedule described in Section 5.01 of this article.

"ARTICLE VI. PROHIBITED ACTS AND PENALTIES

"SEC. 6.01. No person shall dispose of low-level radioactive waste generated within the party states unless the disposal is at the compact facility, except as otherwise provided in Section 3.05(7) of Article III.

"SEC. 6.02. No person shall manage or dispose of any low-level radioactive waste within the party states unless the low-level radioactive waste was generated within the party states, except as provided in Section 3.05(6) of Article III. Nothing herein shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, nor its disposal pursuant to 10 C.F.R. Part 20.302.

"SEC. 6.03. Violations of this article may result in prohibiting the violator from disposing of low-level radioactive waste in the compact facility, or in the imposition of penalty surcharges on shipments to the facility, as determined by the commission.

"ARTICLE VII. ELIGIBILITY, ENTRY INTO EFFECT; CONGRESSIONAL CONSENT; WITHDRAWAL; EXCLUSION

"SEC. 7.01. The states of Texas, Maine, and Vermont are party states to this compact. Any other state may be made eligible for party status by a majority vote of the commission and ratification by the legislature of the host state, subject to fulfillment of the rights of the initial non-host party states under Section 3.04(11) of Article III and Section 4.01 of Article IV, and upon compliance with those terms and conditions for eligibility that the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this section, as a member of this compact; provided, however, the specific provisions of this compact, except for those pertaining to the composition of the commission and those pertaining to Section 7.09 of this article, may not be changed except upon ratification by the legislatures of the party states.

"SEC. 7.02. Upon compliance with the other provisions of this compact, a state made eligible under Section 7.01 of this article may become a party state by legislative enactment of this compact or by executive order of the governor of the state adopting this compact. A state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment, the legislature enacts this compact.

"SEC. 7.03. Any party state may withdraw from this compact by repealing enactment of this compact subject to the provisions herein. In the event the host state allows an additional state or additional states to join the compact, the host state's legislature, without the consent of the non-host party states, shall have the right to modify the composition of the commission so that the host state shall have a voting majority on the commission, provided, however, that any modification maintains the right of each initial party state to retain one voting member on the commission.

"SEC. 7.04. If the host state withdraws from the compact, the withdrawal shall not become effective until five years after enactment of the repealing legislation and the non-host party states may continue to use the facility during that time. The financial obligation of the non-host party states under Article V shall cease immediately upon enactment of the repealing legislation. If the host state withdraws from the compact or abandons plans to operate a facility prior to the date of any non-host party state payment under Sections 4.05(5) and (6) of Article IV or Article V, the non-host party states are relieved of any obligations to make the contributions. This section sets out the exclusive remedies for the non-host party states if the host state withdraws from the compact or is unable to develop and operate a compact facility.

"SEC. 7.05. A party state, other than the host state, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. During this two-year period the party state will continue to have access to the facility. The withdrawing party shall remain liable for any payments under Sections 4.05(5) and (6) of Article IV that were due during the two-year period, and shall not be entitled to any refund of payments previously made.

"SEC. 7.06. Any party state that substantially fails to comply with the terms of the compact or to fulfill its obligations hereunder may have its membership in the compact revoked by a seven-eighths vote of the commission following notice that a hearing will be scheduled not less than six months from the date of the notice. In all other respects, revocation proceedings undertaken by the commission will be subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), except that a party state may appeal the commission's revocation decision to the United States District Court in accordance with Section 3.06 of Article III. Revocation shall take effect one year from the date such party state receives written notice from the commission of a final action. Written notice of revocation shall be transmitted immediately following the vote of the commission, by the chair, to the governor of the affected party state, all other governors of party states, and to the United States Congress.

"SEC. 7.07. This compact shall take effect following its enactment under the laws of the host state and any other party state and thereafter upon the consent of the United States Congress and shall remain in effect until otherwise provided by federal law. If Texas and either Maine or Vermont ratify this compact, the compact shall be in full force and effect as to Texas and the other ratifying state, and this compact shall be interpreted as follows:

"(1) Texas and the other ratifying state are the initial party states.

"(2) The commission shall consist of two voting members from the other ratifying state and six from Texas.

"(3) Each party state is responsible for its pro-rata share of the commission's expenses.

"SEC. 7.08. This compact is subject to review by the United States Congress and the withdrawal of the consent of Congress every five years after its effective date, pursuant to federal law.

"SEC. 7.09. The host state legislature, with the approval of the governor, shall have the right and authority, without the consent of the non-host party states, to modify the provisions contained in Section 3.04(11) of Article III to comply with Section 402.219(c)(1), Texas Health & Safety Code, as long as the modification does not impair the rights of the initial non-host party states.

"ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

"SEC. 8.01. The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party shall not be infringed upon unnecessarily.

"SEC. 8.02. This compact does not affect any judicial proceeding pending on the effective date of this compact.

"SEC. 8.03. No party state acquires any liability, by joining this compact, resulting from the siting, operation, maintenance, long-term care or any other activity relating to the compact facility. No non-host party state shall be liable for any harm or damage from the siting, operation, maintenance, or long-term care relating to the compact facility. Except as otherwise expressly provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act or failure to act. Generators, transporters, owners and operators of facility shall be liable for their acts, omissions, conduct or relationships in accordance with applicable law. By entering into this compact and securing the ratification by Congress of its terms, no party state acquires a potential liability under section 5(d)(2)(C) of the Act (42 U.S.C. Sec. 2021e(d)(2)(C)) that did not exist prior to entering into this compact.

"SEC. 8.04. If a party state withdraws from the compact pursuant to Section 7.03 of Article VII or has its membership in this compact revoked pursuant to section 7.06 of Article VII, the withdrawal or revocation shall not affect any liability already incurred by or chargeable to the affected state under Section 8.03 of this article.

"SEC. 8.05. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby to the extent the remainder can in all fairness be given effect. If any provision of this compact shall be

held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

"SEC. 8.06. Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

"(1) The United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et seq.).

"(2) An agreement state under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

"SEC. 8.07. Nothing in this compact confers any new authority on the states or commission to do any of the following:

"(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the United States Nuclear Regulatory Commission or the United States Department of Transportation.

"(2) Regulate health, safety, or environmental hazards from source, by-product, or special nuclear material.

"(3) Inspect the activities of licensees of the agreement states or of the United States Nuclear Regulatory Commission.".

The CHAIRMAN. Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. DOGGETT

Mr. DOGGETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOGGETT: Page 2, line 17, strike out "and", in line 20, strike out the period and insert "; and", and after line 20 insert the following:

(4) is granted only for so long as no low-level radioactive waste is brought into Texas from any State other than Maine or Vermont.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. DAN SCHAEFER] reserves a point of order against the amendment.

Mr. DOGGETT. Mr. Chairman, this is a very straightforward amendment. As the Clerk's reading just indicated, it is designed, though I still have reservations about this compact, to implement the intent, indeed the very words of my colleague, the gentleman from Texas [Mr. BARTON], and my colleague, the gentleman from Texas [Mr. BENTSEN], who spoke earlier and said that the whole purpose of this agreement was to provide our State added protection against other States coming in and dumping their waste. So this amendment just says very straightforward, in a single phrase, that we are granting our approval of this compact only so long as the radioactive waste that is brought into Texas does not come from any other State other than the two that are the current signatories, Maine and Vermont. I am sure it is acceptable to the sponsor of the bill, and I would yield to the gentleman, and I will continue further if it is agreeable.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I am tempted to accept it. The problem is, under the compact we give the States the right to negotiate the compact. Without checking with the Governors and the Texas legislature, of which the gentleman is a former member, I would not want to preclude them, although to my knowledge they have no negotiations to expand it. I would not want to accept it without giving the States the right to take a look at it. So I would have to have reluctantly oppose it.

Mr. DOGGETT. Mr. Chairman, reclaiming my time, I guess this really points out the entire problem with this compact. The States, the State of Texas has said this compact is designed to protect our citizens. Members of this body like the gentleman from Texas [Mr. BARTON] and other colleagues from Texas and other parts of the country have come forward today and they have said this will protect Texas, added protection for our State. Yet when push comes to shove, they are eager and willing to let an unelected group of commissioners, as this compact provides in subsection 6 of section 3.05, that group of unelected commissioners who will not, I would say to the gentleman from Texas, ever have to go back to the Governor or to the legislature and certainly not to this Congress, to allow waste from any place they want to be dumped in Texas.

That is exactly what all this is about. It is not about Texas and Vermont and Maine. That is the foot in the door. That is where they begin. If we look at this bill, Mr. Chairman, we will find in the definitions of this compact, where they define the term "party States," they say Texas, Maine and Vermont are, and here is the critical word, the "initial" party States under this compact. They are just getting started. They are the "initial parties." They are the beginning. But eventually waste from all of those States will pour right into west Texas.

Now, it is true that in the State of Texas we have a pretty big idea about what our State is about. Really big. In fact we can still find Texans that think that Colorado is part of north Texas. In fact when Texas won its independence in 1836, part of Colorado was part of north Texas. But I have yet to come across any braggart in Texas who thinks that Maine and Vermont are a part of our region.

When this Congress passed in 1986, the Low-Level Radioactive Waste Policy Act, it contemplated and envisioned regional compacts. One of the reasons, one of the several reasons for that was to avoid the dangers of transporting things from one end of the country to the other end of the country. The region that is defined in this bill are the States of Texas, Vermont, and Maine. If they can be part of the region of Texas, then any State can be part of the region of Texas.

The low level radioactive waste as it is referred to, may be called, just as this is called the Texas-Maine-Vermont compact, it may be called low-level radioactive waste, but I guarantee my colleagues they would not want any of it in their backyard. This stuff is going to be around for long after any Member of this body. For hundreds of thousands of years some of this low-level radioactive waste will be hazardous to humans. And who knows how to protect and contain that waste over that period of time?

So we would be well advised to limit, if that is the purpose of this compact, to limit this compact to those States and not, as the gentleman from Texas [Mr. BARTON] has suggested, leave it to the unelected commissioners. At least require the people's House, the people's representatives and the Senate of the United States, to approve the addition of any other States to this compact.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DOGGETT] has expired.

Mr. DOGGETT. Mr. Chairman, I ask unanimous consent to proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. BARTON of Texas. Reserving the right to object, Mr. Chairman, if we grant unanimous consent for this 5 minutes, is it the only additional 5 minutes the gentleman from Austin is going to request?

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. DOGGETT. On this amendment, Mr. Chairman.

Mr. BARTON of Texas. Mr. Chairman, I withdraw my reservation of objection at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. DOGGETT] is recognized for 5 minutes.

□ 1600

Mr. DOGGETT. Mr. Chairman, there has been some discussion about this site where the waste from Vermont and Maine would come to Texas, and the suggestion that people in Sierra Blanca would be protected in the event that this particular compact is ratified.

I would draw the attention of my colleagues to this particular chart, all these little red squiggly lines were real squiggly at one time. They were squiggly when the Earth shook and when the Earth trembled. In fact, in April 1995, during the very time that this compact was being considered here

the last time it was beat, within about 100 miles of where this site is located there was an earthquake that hit 5.6 on the Richter scale. That is enough to let us shake, rattle, and roll.

In addition to the earthquake problem, there is the question of the floodplain. All this blue area around Sierra Blanca is a 100-year floodplain. It is even more visible on certain other charts. The fact is that it is not only near the Rio Grande River but it is near Graten Lake that is near the 100-year floodplain, that these flood waters from that 100-year floodplain within a mile of this site will be flowing into the Rio Grande River.

We are not, therefore, just talking about the poor people of Sierra Blanca, we are talking about people all up and down the Rio Grande River who draw their water from the Rio Grande River that risk danger from having this dump placed where it is. That is one of the reasons, that this dump was initially rejected by the Texas Waste Disposal Authority. They turned to this dump only because it later proved to be the most politically palatable.

So I would say to my colleagues that the best way to assure the protection that the authors say they want, protection that will extend not just this year but for a long time into the future, is to write it into law, just as with all the other provisions of this compact, to write into law that there is a guarantee that no waste will be coming from New York or from Massachusetts or from any of the other States around the country, 41 of whom we are told this afternoon are so happy they would not possibly think of coming to Sierra Blanca. Let us leave them in their happiness and leave the people of Sierra Blanca with the mere waste of Texas and Vermont and Maine and not extend it to all of these other States around the country.

There are many people who cannot be here today to have their say on this compact. One of them is a woman from the region whose name is Lourdes Perez. She has written a very moving song in Spanish, "El Nino de Sierra Blanca." It does an injustice to the beauty of her writing to quote from it, but to take only a few lines I would read in English the translation:

> For the moment it seems that it's a done deal. I say that this is infuriating; that the Earth is going to swallow this poison in her guts. I say that this is an insult to contemplate suffering from a comfortable distance for a legacy, a trash dump, they want to leave for the children.

I think that says it all. At least make it a little trash dump of three States, not a giant trash dump that includes the garbage and makes Texas the pay toilet for the country of nuclear radioactive waste, 90 percent of which will be coming into that pay toilet from nuclear powerplants, not gloves or medical waste, much of which has a very short life. Ninety percent of it is going to come from nuclear powerplants, and an infinitesimally small portion of the total waste that will be pouring in even from these three States will come from academic or medical purposes.

To suggest that there is something at stake for people if we do not establish this dump site is really to misanalyze the issue. So I ask my colleagues to join with me today in approving this amendment so that the authors who have come forward get exactly what they say they wanted, that only these three States are in this compact and not one more to it.

The CHAIRMAN. Does the gentleman from Colorado [Mr. DAN SCHAEFER] insist on his point of order?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I withdraw my point of order.

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the amendment.

I wish to engage in a colloquy, if I could, with the author of the amendment, if the gentleman from Texas [Mr. DOGGETT] would care to answer some questions.

Has the gentleman shown this amendment to the Governor's office or to the lieutenant Governor's office or to the speaker's office in Texas?

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. DOGGETT. The answer is I thought their intent was reflected in the compact. When we read section 6, they say they want to be open to everyone.

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, the question is, before it came on the floor, had the gentleman checked this amendment with any official of the Texas Legislature or the Governor?

Mr. DOGGETT. If the gentleman will continue to yield, I would say no, that while I have great respect for Governor Bush, I do not ordinarily check my Legislation with him.

Mr. BARTON of Texas. Mr. Chairman, I personally have no problem with the intent of the amendment.

Mr. RODRIGUEZ. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from San Antonio.

Mr. RODRIGUEZ. Mr. Chairman, I was just going to clarify part of the gentleman's question. The current Governor was not there. That was Governor Ann Richards. The present Governor was not there, although I was there in the Texas House and I had the opportunity to be there. And one of the arguments that they utilized was the fact that most of the waste was just going to be coming from those three States.

And I know that a lot of them were very favorable because of that, and that it was going to restrict any other States from coming down. That is why some individuals, despite the fact that they were against it, decided to support it.

Mr. BARTON of Texas. Reclaiming my time, Mr. Chairman, I thank the gentleman for that clarification. My point is, I have no problem with the intent of the amendment. The intent, I think, is honorable, to restrict the waste to the States of Texas, Vermont, and Maine.

The problem is twofold: No. 1, it has not been checked with the State of Texas, and it should have been. No. 2, if any amendment is accepted, then the State Legislatures and the Governors of the three States have to go back and renegotiate the entire agreement.

So while the amendment is well-intended on its face, it in fact is a killer amendment. I know of no negotiations by any agency in the State of Texas, and I am not as familiar with the States of Vermont and Maine, to expand the compact. I would point out that 41 other States already have compacts. If we ratify this amendment, we will have 44 States that have compacts, so we will only have 6 States remaining, one of those, South Carolina, has the national depository now.

So again, while it is well-intentioned, I think this amendment would be a killer amendment. If in fact the gentleman wishes to pursue it, I would be happy to pursue it with him, with the appropriate officials in the three appropriate States, but I could not accept it at this point in time and would hope the House would vote against it if it comes to a vote.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. DOGGETT. The gentleman is aware that in the bill there are conditions to the consent of this compact by the Congress, and those current conditions have not required renegotiation. What is it that makes the gentleman think that if this Congress approves the compact 100 percent, but says that it is limited to the three States that negotiated it, that that would require any renegotiation?

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, it might be a simple reratification, but both committee staff and professional staff have advised me that this would require a renegotiation.

Mr. RODRIGUEZ. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from San Antonio.

Mr. RODRIGUEZ. Mr. Chairman, I thank the gentleman for yielding.

I indicated to the gentleman that I was also in the Texas House when this occurred. It is my understanding this would be appropriate for us. We have the right to dictate whether this

should exist or not exist, and we should have a right to limit which States should be able to participate. So I do not see a problem in terms of accepting this amendment.

In fact, I think it would be a good amendment. If the gentleman wanted this to go forward, this can be the language that might be able to allow it to continue to go forward. I think a lot of us in the Texas house, we did have some concerns with it.

Mr. BARTON of Texas. Reclaiming my time, Mr. Chairman, again, my argument is not against the intent of the amendment. It is the fact it has been brought up with no consultation with the State of Texas; and according to the professional staff and committee staff, if we accept the amendment we have to renegotiate the agreement.

We have been negotiating this agreement for 5 years. It is time to pass it, send it to the Senate, send it to the President; then, if we want to do things like that, work with the States of Texas, Vermont, and Maine and we will do it.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. GREEN. Mr. Chairman, I know the concern of my colleague who formerly served in the Texas House. Maybe the Texas House should have revisited that, but that is not the issue on the floor today of this House. We have 41 States that have compacts. No other of those 41 States have this provision in their compact. So for us to have protection in Texas, we need to pass this bill without the amendment.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has expired.

(By unanimous consent, Mr. BARTON of Texas was allowed to proceed for 1 additional minute.)

Mr. GREEN. If the gentleman will continue to yield, again, 41 States already. If we pass this bill today intact it will be 44 States that will have compacts. None of the other 41 States have this amendment.

If people are opposing the bill, then they can oppose it, but this is a killer amendment because it will take it and actually eliminate the ability of a compact between Texas, Maine, and Vermont.

The compact commission, three-fourths of the members of that compact commission, my colleague from Austin talked about, are Texas members, and that is their decision. Again, the legislature can change that in Texas, but not on the floor of this Congress. We do not want to make the decisions for the State of Texas on the floor of this House. That should be made closest to the local folks.

Mr. BARTON of Texas. Reclaiming my time, Mr. Chairman, I would also say that the Texas Legislature does not meet again until January 1999.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Colorado, if I have any time left.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, one quick point. In nine previous compacts that we have approved in Congress, in nine of them, we have never altered the language that has been approved by the States, and I do not think we should be altering the language that has been approved by the States now.

Mr. RODRIGUEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just indicate, if I can give my colleagues an analogy, for those of us that live in neighborhoods that have yards, there is a tendency for us, when sometimes we have a broken lawnmower or trash, there is a tendency for us to put it at the far end of the yard, which sometimes is in the proximity that is even closer to our neighbors.

The same thing has happened in this situation. We have a situation where we assume that it is far away from all of us, but the proximity to Mexico is right there. Juarez is a population of over 2 million people. The Rio Grande is going to impact over 1,300 miles. The population in Texas that is impacted through the Rio Grande and the border region is over an additional 3 million people on this side of the border, not to mention the population on the other side.

So there is always a feeling that if I put it in the far end of my yard, I am not going to see it, but that is what is closer to our neighbors. And what we are doing to them is very inappropriate in terms of where we are putting this.

Not only in terms of the population that is there, I did not even mention the city of El Paso that has over 700,000 population. But one of the other things I wanted to mention to my colleagues is that if we look at Mexico in terms of their abuse, in terms of what is happening with the maquiladoras, we need to also look at ourselves in terms of the danger that we are putting all those individuals in. The proximity to the Rio Grande is so darn close, and also with the Pecos River that is by there, that it is putting in danger a large population.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. RODRIGUEZ. I yield to the gentleman from Texas.

Mr. DOGGETT. Is the gentleman aware of the fact that the Governor of Chihuahua, Mexico, the State adjacent to this area, in 1995, the last time we beat this compact down, wrote Governor Bush and said, and I quote, "I express to you our great concern over the news we have received about the construction of a nuclear cemetery in Sierra Blanca." And it is a cemetery, and we just hope it is only the waste that is going to die there. "The confinement of radioactive material in that place endangers the health of the population due to the possible emissions of radioactivity into the air, soil and water, water table layers and surface water river beds."

So it is not only in this country, is it not, but in Mexico that there is grave concern; and are these not the same people to whom we turn when we are concerned about cleaning up air over Big Bend and the water along the Rio Grande that serves so much of Texas?

Mr. RODRIGUEZ. Mr. Chairman, reclaiming my time, the gentleman just hit on an area that is of key importance. Not only is the Governor of the State of Chihuahua against it, but the entire Government of Mexico has indicated that that violates some of the treaty agreements with this country. They are extremely concerned that we would choose as a country to put a nuclear site right next to the border of Mexico. That is very inappropriate.

As was also indicated earlier, there was some discussion what had happened in terms of an earthquake. Actually, there is a major fault, and there is some real concerns in terms of what has occurred in the last few years. There was an earthquake around the Alpine and west Texas area that was pretty dramatic. There was some damage that occurred in that area, and that can also be a great concern in terms of the whole area.

Now, the issue, and I can understand, when we say we are going to allow them to form a pact but we cannot dictate any aspects of it? I think we can. I think this amendment allows an opportunity for Vermont and Maine and Texas to participate. And I think that when people come to us with trade agreements, we want to be able to have an influence, do we not? Sure we do.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. RODRIGUEZ. I yield to the gentleman from Texas.

□ 1615

Mr. DOGGETT. Is the gentleman aware that the Governor of Texas at the time, prior to Governor Bush back in 1993, was asked by the State of Connecticut to join this compact and that she wrote back, "After we are satisfied that the Texas disposal facility is operating safely and efficiently, and if we determine that accepting waste shipments from Connecticut would benefit Texas, we may open up discussions with you"?

So it has already been asked to have other States join in this compact. There are already offers to pay to dump their garbage in the pay toilet down in west Texas. And if we cannot, we expect other States to do likewise once this dump gets underway.

Mr. BALDACCI. Mr. Chairman, would the gentleman from Texas yield on that point?

Mr. DOGGETT. I would like the gentleman from Texas [Mr. RODRIGUEZ] to answer my question first.

Mr. RODRIGUEZ. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Texas.

Mr. RODRIGUEZ. Mr. Chairman, I agree totally with the gentleman from Texas [Mr. DOGGETT].

Mr. BALDACCI. Mr. Chairman, I move to strike the requisite number of words.

If I am reading correctly from the bill, it says on page 9 they are already limiting the shipments from all non-host-party States, are already capped. It says on page 9 that it is already capped at 20 percent of the volume, it shall not exceed that in this legislation.

So while the gentleman from Texas (Mr. Doggett) may want to represent it as an unlimited involvement of many States into Texas, in fact, it is already capped at 20 percent and it cannot exceed that.

I, as a Representative from Maine, would be opposed to the amendment that the gentleman from Texas [Mr. DOGGETT] is offering because it upsets the legislation that has been put before us and that has been dealt with by the States of Maine, Vermont, and Texas. I would put that forward here to say that we do have this cap.

Mr. RODRIGUEZ. Mr. Chairman, will the gentleman yield?

Mr. BALDACCI. I yield to the gentleman from Texas.

Mr. RODRIGUEZ. Mr. Chairman, if my colleague already has that cap, and he indicated there is a 20 percent, what would be the objection of just allowing those three States to participate?

I was going to indicate that there is already a cap. What would be the difference in terms of also agreeing to set the cap, and that was a cap of the understanding of the compact that there were three States to participate? What is wrong with allowing that cap in that amendment by the gentleman from Texas [Mr. DOGGETT] to be accepted if that is the case?

Mr. BALDACCI. Mr. Chairman, reclaiming my time, because in Maine, as already has been discussed, the Maine Yankee is closing and decommissioning but Maine is still going to apportion a cost to pay for its portion of this siting.

So Maine and Vermont and Texas are going to be in partnership, and Maine's share is going to be contributed, but Maine is not going to be reaching the volume because of an unexpected closing 10 years earlier of 97 percent of the low-level radioactive waste. So Maine is saying that it should be able to make sure that it utilizes that volume.

But there is a cap that exists that no more than 20 percent of the nonparties that host can participate that already has been capped. So we would have the utilization for what is being paid for, and there is still a cap that exists on the legislation.

I understand and appreciate the concerns that have been expressed by members in the community which closely reside in this particular area. But I really believe that this would be in Texas' best interest because it, by and far, would be the largest producer of not only low-level radioactive waste but high-level radioactive waste and, rather than opening itself up to all the States to have a compact that has a limit of nonparty States to it of up to 20 percent, allows for that cap to be adhered to.

So I think this would be something that would be good for Texas, it would be good for Maine and Vermont, and it would stay within the confines of this compact. But to amend this compact in any way, we have to remember that in the State of Maine this was ratified by the people. So it is not just the Governors and the legislature, but it has to go back before the people, and it would almost restart that whole entire process.

Mr. RODRIGUEZ. Mr. Chairman, if the gentleman from Maine [Mr. BALDACCI] will continue to yield, can he clarify that once more? That is 20 percent of the max that is distributed? So if another State goes up higher, then that percentage continues to expand, not the percentage, but the amount?

Mr. BALDACCI. Reclaiming my time, no. According to what I am reading, it says that the shipments of low-level radioactive waste from all non-host-party States shall not exceed 20 percent of the volume estimated to be disposed of by the host State during this 50-year period.

Mr. RODRIGUEZ. If the gentleman will continue to yield, so 20 percent of that specific State.

Mr. BALDACCI. No; the volume disposed of the host State during that 50-year period. So there is a cap on the States participating in this compact.

Mr. RODRIGUEZ. And if we do not reach that percentage, we are going to seek it out and get waste from other States?

Mr. BALDACCI. Shall not exceed.

Mr. RODRIGUEZ. But they will be trying to get to that level from other States so that they can get payment from those States in order to get their reimbursement of the cost that they have put into it; is that correct?

Mr. BALDACCI. The States are capped at whatever can be allowed from nonhost States. So there is a cap on it that was designed by the compact and approved by all the parties involved. So there cannot be any more waste than what was already set for here. So a State cannot all of a sudden contract with other States to sort of make money on this arrangement. It is limited in the arrangement.

Mr. RODRIGUEZ. We are not doing anything to that. That is still allowable under the compact if that language remains there?

Mr. BALDACCI. Reclaiming my time, this amendment restricts it to within only those three States.

Mr. RODRIGUEZ. If the gentleman would yield further, no, only those three States in terms of initial pact, because my understanding is that the particular three States can decide to include other States.

Mr. BALDACCI. Reclaiming my time, under the compact, they can. But under the Doggett amendment, it would be limited to only those three States.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Texas (Mr. Barton).

Mr. BARTON of Texas. If we were to accept this amendment as is, would the gentleman defer on any other amendments?

Mr. DOGGETT. Mr. Chairman, if the gentleman from Texas [Mr. BARTON] would yield, yes, I would. And other than commending the gentleman from Texas [Mr. BARTON] for accepting the amendment, I would restrain myself and offer no more comments this afternoon.

Mr. BARTON of Texas. Well, I checked with the chairman of the subcommittee. But I would be willing to accept this amendment with the understanding that, in the interim before we go to conference, we check the Governor of the State and let the Members from the other two States check with their Governors.

I think we have never amended any other compact on the floor of the House.

Mr. DOGGETT. I understand the genuine concern of the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. With that understanding that we reserve the right to check with the State Governors, and if they need to check with their legislatures, I would be willing to accept this amendment if the gentleman from Texas [Mr. DOGGETT] would agree to offer no other amendments on this bill today.

Mr. DOGGETT. If the gentleman would continue to yield, I so agree. And I appreciate the gentleman's position on this.

Mr. BARTON of Texas. Mr. Chairman, I would withdraw my objection to the amendment and would now support the amendment, with the agreement that I just have with the gentleman from Texas [Mr. DOGGETT].

Mr. Chairman, I yield back to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. Mr. Chairman, I am glad we have worked it out to accept the amendment and get more information.

The most recent information I have, though, and I need to have my colleagues from west Texas talk to me about this, because I was just informed, Mr. Chairman, that we have 20 miles south of Juarez, Mexico, much closer to El Paso, a low-level nuclear site in the Republic of Mexico, and it is much closer to our border than this site is to the Republic of Mexico.

And if my colleague, the gentleman from west Texas [Mr. REYES], or the gentleman from Texas [Mr. RODRIGUEZ] would explain that to me, I would be glad to yield to them. Are my colleagues aware that there is a low-level nuclear site 20 miles south of Juarez, Mexico?

I understand their opposition to the bill today is a lot of La Paz amendments and agreements. But maybe they can share that with us. Is there really a low-level site 20 miles south of Juarez, Mexico, in the Republic of Mexico?

Mr. REYES. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Texas.

Mr. REYES. Not that I am aware of.

Mr. GREEN. Reclaiming my time, my colleagues might want to check it and share that with fellow Members, because I know a lot of opposition to this site, and if there is one closer to El Paso in the Republic of Mexico than this site is to El Paso, then I think a lot of Members would like to know about that.

Mr. RODRIGUEZ. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Texas.

Mr. RODRIGUEZ. Mr. Chairman, I just wanted to respond to the gentleman from Texas [Mr. GREEN]. I do not know if there is one out there. But say that there is, should we do the same thing? I do not think so.

Mr. GREEN. Mr. Chairman, reclaiming my time, the gentleman from Texas [Mr. RODRIGUEZ] is right, maybe we should not. But I just know that if their side and the Republic of Mexico is closer to El Paso, why are we not having this battle in the National Assembly in Mexico City?

Mr. RODRIGUEZ. We have always had a problem with Mexico abusing and the maquiladoras abusing on the river, and we have been critical of them and the abuse of the environment. Because they do that does not mean that we should also do the same thing.

So we need to be very cognizant of that as a large population. Just looking at the population on this side, El Paso has 770,000 people, and the other side is 2,000,000 people.

Mr. GREEN. Reclaiming my time, I agree. But the problem I have is that I do not think this site is that environmentally dangerous as maybe a site that is maybe 20 miles south of El Paso, 20 miles south of Juarez.

So I want us to consider the total package. But having looked at the engineering studies on this for a number of years, I would consider this site as not an environmentally dangerous area as compared to other sites.

But, again, if we are debating this on the floor, we ought to have the full information for those who represent Texas. And, again, just because one country does it does not mean we need to. But I also know we have to have a site for our low-level waste.

Mr. RODRIGUEZ. Mr. Chairman, if the gentleman will yield further, I understand that fully. And that is why this amendment would be ideal, because, yes, we do need a site and this would just restrict it to the States of Texas, Maine, and Vermont.

But to think that people from throughout the country are going to be dumping in that site because it is considered to be rural and because the people there are poor and because they think it is an appropriate site, there are a lot of other concerns that we have on the border.

Mr. GREEN. Again reclaiming my time, the reason that site was there is not because the people were rural or poor, it was because the legislature and the powers that be in the State of Texas selected that site. They did not say, let us go out and find some place that is poor and without representation. Because there is a State senator from that area, there is a State representative, and there are county commissioners who obviously had impact on this and opposed it earlier.

Mr. HALL of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not interfere with the objection. I will not interfere with the acceptance. The gentleman from Texas [Mr. DOGGETT] is the author of the bill, the sponsor of the bill.

But I think as it goes forward, we need to be reminded that this amendment decreases the flexibility provided in the compact that benefits Texas, Maine, and Vermont without increasing protection for Texas.

The gentleman from Texas [Mr. RODRIGUEZ] a few moments ago asked what would be the problem with doing this. Let me tell him what the problem is to where this goes into the RECORD where it can be considered by other deliberative bodies that will be looking at this bill.

In the first place, no new State could join the compact. And new members, if they so chose, if Texas so chose and Vermont so chose and Maine so chose, new members could reduce the cost for all of the facility. We are taking away flexibility from the future for our own State.

And one last word: This amendment gives to this bill something that Congress has never made such condition on any other compact. I hope that the future bodies, conference committee, and the final vote on this, that this will be a part of the RECORD.

And I support the position of the gentleman from Texas [Mr. BARTON], who has made his offer to the gentleman from Texas [Mr. DOGGETT].

□ 1630

The CHAIRMAN. All time for debate on the amendment has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. DOGGETT].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments?

AMENDMENT OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KUCINICH:

Kucinich amendment, page 2, after line 20, insert the following:

(5) No nuclear waste shall be transported through any incorporated area with a population in excess of 25,000 persons.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I reserve a point of order, and I would like to see a copy of the amendment.

The CHAIRMAN. A point of order is reserved.

PARLIAMENTARY INQUIRY

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, are we not able to have this amendment in writing?

The CHAIRMAN. The Clerk is furnishing the gentleman a copy.

The gentleman from Colorado, Mr. DAN SCHAEFER has reserved a point of order.

Mr. DAN SCHAEFER of Colorado. I do reserve a point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio [Mr. KUCINICH] is recognized.

Mr. KUCINICH. Mr. Chairman, among the many issues which have come before this Congress during this debate is the issue of the transportation of nuclear waste. This compact is set up in such a way that nuclear waste will be moved from the State of Maine and the State of Vermont to the State of Texas, which puts into question how the waste is going to get there. So the transportation, then, of nuclear waste is part and parcel of the debate over this issue and over this legislation.

My colleagues in the following States ought to be very concerned about this legislation, because millions of cubic feet of nuclear waste will be moved through the States of New York, Pennsylvania, Ohio, Indiana, Illinois, Missouri, Arkansas, into Texas. I will go over that again. The States of New York, Pennsylvania, Ohio, Indiana, Illinois, Missouri, Arkansas, into Texas

will have millions and millions of cubic feet of radioactive waste transported through communities, and what my amendment does is to say once and for all that Congress takes the position that we are going to protect populated areas from the possibility of a derailment or any kind of release.

We are dealing with technologies here which are not perfect. We are dealing here with technologies which are no match for the radioactive waste they are transporting. We are talking about a journey of thousands of miles from the State of Maine through to the State of Texas, through many populated areas.

This Congress ought to set conditions of consent to the compact which include that in order for that waste to be moved safely, it must be kept out of populated areas. So that is why the amendment is offered in such a way that this Congress will protect all populated areas, 25,000 or over, so that we keep nuclear waste from being transported through these communities.

It is imperative that Congress takes a position on this issue because we need to protect our populated areas in the event of an accident. Once something happens, it will be too late to say I am sorry, it will be too late to say, why did we not think of routing it a different way; it will be too late to say we should have sat down and found a way to move it through and around populated areas, and so that is why this amendment is imperative.

If we are making policy for the disposition of nuclear waste, and if that policy provides that nuclear waste is going to be moved thousands of miles, we also must take a responsible position to protect the populated areas of some of our major States, including New Hampshire, which the waste from Maine would move through, and Vermont, New York, Pennsylvania, Ohio, Indiana, Illinois, Missouri, Arkansas, through to Texas.

So, Mr. Chairman, I am asking the Members of Congress to support this amendment as a means of showing the communities across this country, whatever position one takes on the overall bill, one should not have a problem with an amendment that is designed to protect populated areas from the event of an accident moving high-level or low-level or any kind of nuclear waste.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Colorado, Mr. DAN SCHAEFER insist on his point of order?

Mr. DAN SCHAEFER of Colorado. I do insist on my point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Colorado, Mr. DAN SCHAEFER is recognized.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I feel very strongly that this amendment is not germane to the bill, and that we are simply giving States the right to enter into these compacts. We are not asking them anyplace in the bill how transportation is going to be decided or anything else.

Under rule 16, the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill, and we are not talking in the bill about transportation.

So I must insist on my point of order and ask for a ruling of the Chair.

Mr. KUCINICH. Mr. Chairman, with all due respect to the gentleman, how are we going to get it there? The waste is in Maine; it is going to get to Texas. It is not going to materialize in Texas. It is going to be transported, which is why Congress ought to take a position and why it is germane. It is implicit in this. One cannot separate the question of transport from the creation of the compact. Otherwise, we are not moving it, so it is germane.

The CHAIRMAN. Does the gentleman from Maine wish to be heard on the point of order?

Mr. ALLEN. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Maine [Mr. ALLEN] is recognized.

Mr. ALLEN. Mr. Chairman, there is a fundamental fact: This compact is not about transportation. The transportation goes on now. We are not talking about spent fuel rods, we are talking about low-level radioactive waste. In Maine, 95 percent of that waste comes from the Maine Yankee plant. Waste is now transported all around this country. Our waste in Maine now goes primarily to Barnwell in South Carolina. It moves through the United States, through different States, as it is.

That is why I believe, Mr. Chairman, that a provision like this, which basically says, no nuclear waste, so we can argue about that, shall be transported through any incorporated area with a population in excess of 25,000 persons, that is a different issue from the issue of whether this compact, negotiated over years between Maine and Vermont and Texas, shall be approved by this House.

Mr. KUCINICH. Mr. Chairman, if I may, with respect to my colleague's comments, again, no matter what the other States agreed to, the Congress of the United States has overriding authority under the Constitution, article I, section 8, with respect to interstate commerce, and we have an obligation to see to it that this Constitution is upheld.

We are the final word on interstate commerce. So I am saying in order to assert our constitutional prerogative on interstate commerce, that what we ought to do is put it in the conditions of consent to the compact, because otherwise we have a compact that means nothing. The question here is of transport. Common sense tells us it is germane.

The CHAIRMAN. The Chair is prepared to rule.

The fundamental purpose of the pending bill is to grant the consent of the Congress to a specified compact among three States. The Chair would agree that an amendment proposing directly to change the terms of the interstate compact itself would be contrary to that fundamental purpose, but the Chair notes that while section 5 of the bill carries the text of the interstate compact, the preceding sections of the bill comprises provisions exercising and reserving the exercise of the prerogatives of Congress to legislation with respect to matters addressed in the compact. Section 3 of the bill makes the consent of the Congress to the compact contingent on fidelity to the pertinent Federal law. Section 4 of the bill reserves the possibility that the Congress might alter or repeal its consent to the compact. Thus, the purpose of the bill is not merely to consent to the text of the compact proposed by the States, but also to prescribe contingent or conditional terms for such consent. The Doggett amendment added an additional condition subsequent.

The amendment offered by the gentleman from Ohio does not propose a direct change in the compact, itself. Rather, it proposes to include in the grant of the congressional consent a condition on the routing of nuclear waste material as a matter of Federal law.

The bill, which is open to amendment at any point, contains a provision in the compact on page 15 relating to the routing of nuclear waste materials in accordance with Federal law.

Thus, the amendment does not deviate from the fundamental purpose of the bill, that is, to ratify a compact among three States; nor does it directly change the compact provisions. Because the issue of routing is in the bill, the Chair feels the amendment is germane and overrules the point of order.

Is there further debate on the amendment?

Mr. ALLEN. Mr. Chairman, I rise in opposition to the proposed amendment.

The CHAIRMAN. The gentleman from Maine [Mr. ALLEN] is recognized for 5 minutes.

Mr. ALLEN. Mr. Chairman, a lot of allegations have been made about waste. I want to say first of all, I understand the position of my good friend from Ohio [Mr. KUCINICH] but I do want to challenge some of the statements that he made earlier.

Millions of cubic feet of nuclear waste. Let me describe the State of Maine for a moment and the waste that we have.

Today, in the State of Maine, 95 percent of our low-level radioactive waste, which is what we are talking about, 95 percent of that is generated by the Maine Yankee atomic powerplant. That powerplant is closed, has been

closed this year, is closed permanently, will now go through a process of decommissioning. In the course of that process of decommissioning, there will be low-level radioactive waste that will still need to be moved on, but the amount that will be generated in the State of Maine, needless to say, is going to fall off dramatically.

Now, I would also say, as I mentioned in response to the point of order, that what we are talking about here is low-level radioactive waste that already moves. It is generated by hospitals, it is generated by laboratories, it is already moved around this country through a wide variety of States, and that really is bound to continue, whether this compact is ratified or not.

Finally, I would say this: An earlier amendment was accepted by the gentleman from Texas [Mr. BARTON], but I have grave reservations and would urge the defeat of all amendments for several reasons. Maine, Texas, and Vermont spent years negotiating this compact. The legislatures and the Governors of those States approved the compact. Any amendment would require the three States to begin the ratification process all over again. It goes back to the Governors, back to the legislatures, and we are here today really to approve what they have already negotiated.

I would say this: No other low-level radioactive waste compacts approved by this body have been amended when they were submitted to Congress. Compact amendments have been approved by Congress only at the request of member States, only at the request of member States and only after the amendments were negotiated and adopted by member States in the same manner as the original compact.

We have a process for dealing with these compacts, and it is to let the Governors and the State legislatures come to agreement and when they have come to agreement, come to the floor of this House and ask for approval. We should not today approve amendments, any amendments to this compact. I say, let us approve the compact as it came in, and then if the States wish to renegotiate their deal, they can do that as they go forward.

For that reason, I urge a "no" vote on the amendment proposed by my good friend from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Ohio.

Mr. KUCINICH. Mr. Chairman, as the Chairman has so well stated, this amendment is germane, and in addition to that, it is time for Congress to step up to its responsibility to set terms so we protect populated areas. Again, the interest of Maine is at stake. I respect that. The interests of the people of Maine are at stake when nuclear waste is moving through communities in Maine, Vermont, New York, Pennsylvania, Ohio, Indiana, Illinois, Missouri, Arkansas, and Texas. Low-level is a misnomer. This nuclear waste lasts for thousands of years, whether it is 10 cubic feet or a million cubic feet.

So this is not simply a matter of a few States coming to an agreement without regard to the interests of the rest of the United States of America. What I am trying to preclude here is that we do not end up with a mobile Chernobyl and have a condition where nuclear waste is in proximity to a populated area and creates a risk to that populated area while it is being transported.

Mr. ALLEN. Mr. Chairman, reclaiming my time, let me respond to the threat of a mobile Chernobyl.

□ 1645

We are not talking about high level radioactive waste. We are talking about clothing, we are talking about materials, we are talking about the kinds of materials that are used in hospitals, that are used in laboratories, and yes, are used to protect workers in and around nuclear powerplants. We are not talking about spent fuel rods.

This kind of low-level radioactive waste is already transported all around the country every day in trucks and rail cars. I believe this compact, what this compact does is ensure that the waste from Maine and Vermont and Texas will be dealt with appropriately in an environmentally sound manner.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in the strongest possible opposition. Mr. Chairman, I want to show the Members in the body this amendment. It took me a minute to decipher it. I was not sure if a chicken had been walking around or what. It has not been shown to me. I am the offeror of the bill. I saw it after the subcommittee chairman asked for a copy, so to say that there has been an attempt to work this issue out would be a misnomer.

Second, although the Chair has ruled it is germane because we have the right to amend the compact, I would point out that this is not a transportation bill. It is a bill simply saying that three States have the right to enter into an interstate compact.

Currently the Nuclear Regulatory Commission and the U.S. Department of Transportation and the States have more than adequate regulations in place regarding transportation of low-level radioactive materials. Of the States of Vermont and Maine, if the compact is ratified, it is estimated they are going to transport less than 50 truckloads of low-level nuclear material to the State of Texas each year.

Let us put that in perspective: 50 truckloads. There are millions of pounds of low-level, or at least hazardous materials, I would not say all radioactive materials, but hazardous materials being transported around the country today without this amendment. There is absolutely no reason to put another constraint on these three States other than already exists under current State and Federal law and regulation.

I understand the gentleman's concern, I understand he legitimately feels there may be a hazard to human health in some population areas of more than 25,000 people. I would point out though that almost all this material is going to be transported in containers that are at least a foot thick, more than 10 inches thick on the sides and a foot thick on the top, in solid form.

I would also point out that in the 30 years that the Nuclear Regulatory Commission has been monitoring the transportation of such materials in other areas, there have only been four accidents, and none of those accidents have resulted in any kind of an injury to human health at all. So there is no reason for this amendment.

This is not a transportation bill, it is a compact bill between three States. There are adequate regulations in place now at both the State and Federal level. I would hope that we would reject this amendment overwhelmingly.

Mr. HALL of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is another amendment, like the Doggett amendment, that is just simply meant to kill or slow down or to derail this bill. That is simply all it is. It is asking for something that the Congress has never made such a condition on on any other compact.

As I read it, it says "No nuclear waste shall be transported through any incorporated area with a population in excess of 25,000 persons"; not just no low-level waste, no nuclear waste. That affects everybody in this country. That affects the gentleman from California, who had the compact with the two Dakotas. You can get out of the Dakotas a few miles without hitting a city that is 25,000 or less, but you cannot get very close to California.

How can you get the shipments from any of the areas? This amendment may mean putting waste on back roads, rather than the safest streets. The safest streets are the highways, the better-built roads, the more recently being constructed roads. I cannot really believe the gentleman from Cleveland, OH [Mr. KUCINICH] wants to choose between who is at risk either. I do not want really believe he means that. The best highways may be the more populated areas with bypasses.

Do we want to put it on Main Street, the old Main Streets that come down through? It could vastly increase costs by putting waste on circuitous routes, and could make it a lot more dangerous. It could mean that you simply

cannot ship waste, for example, from Rice University out of Houston, because you cannot use the roads. How would you get out of Sloan-Kettering in New York City to the outskirts of New York? You just could not do it. How could you get out of the smallest hospital in the city of Cleveland? You just could not do it.

This is a bad amendment, meant to derail the bill. I urge Members to vote against it.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment, because I believe very strongly that whether it is this amendment or any other amendment, it is not going to make a terrible bill any better.

I want to raise my objection to this amendment on another premise that has not been raised here today, because I spoke earlier about people who choose to live in the serenity of a small community, and in my case, in west Texas, where this proposed site is going to be built, or is planned to be built; that people have chosen to live in this serene area, where people are supposed to leave them alone and let them conduct their lives the way they see fit.

The premise the gentleman from Ohio makes that perhaps their rights are not as important as someone from an urban area, I cannot understand that. Why would a person, for example, that might live in Cleveland 1 year and decide the next year that they want to move to a small town with white picket fences, that has a population of 5,000, and suddenly the Federal Government comes along and says, if you live in Cleveland you do not have to have the nuclear waste come through your town, but if you live in Any Town, U.S.A., you are going have this stuff rolling by your front yard? I think that is discriminatory in terms of an American's choice of where they want to live. The right of an American in a rural area is every bit as important as the right of an American in an urban area. I cannot understand how they can distinguish these rights by proposing this kind of amendment.

Mr. KUCINICH. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Ohio.

Mr. KUCINICH. Mr. Chairman, first of all, I missed the first part of the debate. Did the gentleman say that he favored having this in Texas, in his district?

Mr. BONILLA. I am absolutely opposed to this bill and building this compact in my district.

Mr. KUCINICH. I missed that initial part. If I may continue, with the gentleman's permission, the issue here is not to establish competing interests between areas where the population is under 25,000 or areas where the population is over 25,000, the issue in this amendment is to establish that we put the responsibility on those officials in charge to make sure that they keep it out of populated areas, and that they draw the route through which this waste is going to move in such a way as to not jeopardize any heavily populated civilian area.

Those who support this bill want to transport it from Maine all the way through to Texas. So it is incumbent upon us to give some direction as to whether or not we want to see the waste moved away from populated areas, where there is less jeopardy.

There has been testimony presented by the supporters of this bill, by the gentleman from Texas [Mr. BARTON], that this is a very safe method of transport, that there has never been an accident that has caused any harm. If that is true, then this amendment should not be a problem with the gentleman.

Mr. BONILLA. Reclaiming my time, Mr. Chairman, my point is that I do not think a person living in an urban area should have any more preferential treatment than my area. I do not want the waste going through the town of the gentleman from Ohio [Mr. KUCINICH], and I do not want it winding up in my district.

Mr. SANDERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would ask my friend, the gentleman from Cleveland, OH [Mr. KUCINICH], my good friend, whether this restriction applies to the compact that Ohio is a member of.

Mr. KUCINICH. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Ohio.

Mr. KUCINICH. Mr. Chairman, Ohio no longer is a member of a compact. Based on numerous testimony and the concerns of Ohioans that nuclear waste was dangerous, we got out of the compact.

Mr. SANDERS. Reclaiming my time, Mr. Chairman, but does this restriction apply to the compact that Ohio was a member of, or any other compact that has been passed by the Congress?

Mr. KUCINICH. I think we should ask for a ruling of the Parliamentarian.

Mr. SANDERS. It is not a question of a ruling, it is a factual question. The answer is no, obviously not. The question is a confusing one. The gentleman from Ohio [Mr. KUCINICH] and I are opposed to nuclear power. The question is, however, not to debate now the future of nuclear power, but what do we do when we have nuclear waste that is low level?

The implication of the argument of the gentleman from Ohio [Mr. KUCINICH] is a very simple one. That is, basically, because this is a clear amendment, if we cannot transport the low-level waste, then we have to get rid of it in our own backyard. The problem with that argument is, there are some backyards in the country in which it would be an environmental disaster to place low-level nuclear waste; that that waste would then seep into the water table, it would go all over the area, and people would be drinking it.

So in my view, what the gentleman from Ohio [Mr. KUCINICH] is arguing is bad environmental policy. Obviously, I would ask the gentleman from Ohio if he has researched the issue, and in fact, if he believes that it would be possible, and the gentleman from Texas [Mr. HALL] made this point, if it would be conceivable that waste could be taken from Vermont or Maine to Texas without going through a community of 25,000. My guess is it would be impossible.

All the gentleman from Ohio [Mr. KUCINICH] is saying is let us kill it; you cannot move it, let us kill it. But the whole thrust of a compact, the concept of a compact, is that there are some communities, and nobody wants low-level nuclear waste, we can agree on that, but we could also agree that environmentalists and geologists do tell us that there are some areas for geological reasons that can better accept the waste than other areas.

If the amendment of the gentleman from Ohio [Mr. KUCINICH] were to pass, essentially what he would be saying is that every community has to get rid of the waste within that area, despite the fact that some areas from an environmental point of view would see enormous damage.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Texas.

Mr. HALL of Texas. Would it not also mean you could not even get it from one city to the next, not in intrastate nor interstate?

Mr. SANDERS. Somebody made the point that if you are in a hospital in a large city surrounded by another city, you obviously could not get it out.

Mr. HALL of Texas. The gentleman has been kind enough to use, and let me read it, "no nuclear waste," not just low-level waste, he has been kind enough to use low-level waste, but no nuclear waste could be moved.

Mr. KUCINICH. If the gentleman will continue to yield, Mr. Chairman, it is implied in the amendment, of course, that if it becomes too difficult for it to be moved, then storing it on-site is a viable option. The decision of the nuclear utilities to locate was a decision that was affirmed by public utility or public service commissions, was it not?

Mr. SANDERS. Reclaiming my time, Mr. Chairman, I opposed the construction of nuclear powerplants, so the gentleman is talking to the wrong guy. But the location of the nuclear powerplants, when they were developed, it was not implicit in that, it was certainly not implicit that the waste

would be permanently stored on that location. For example, in Vernon, VT, it would be a disastrous place to store nuclear waste in a long-term period.

So given the reality, and this is the problem that we have, I say to the gentleman from Ohio, given the reality that we have all of this nuclear waste, the environmental challenge is to determine how we could dispose of that waste in the safest way possible.

I do not agree that forcing communities to dispose of it locally, which is the implication of the gentleman's amendment, is the safest. I would argue that that in fact could be an environmental disaster.

Mr. KUCINICH. If the gentleman will continue to yield, Mr. Chairman, I would say to the gentleman from Vermont [Mr. SANDERS], my proposal is to stop the shipment of waste through populated areas. However, it makes good sense, I believe, as public policy, that because we do not have any sound ways of storing this anywhere, that the best bet is to leave it on-site until we come up with——

Mr. SANDERS. Reclaiming my time, Mr. Chairman, I would say to the gentleman from Ohio [Mr. KUCINICH], I think every environmentalist in America would tell him that is an absolutely incorrect statement.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Vermont.

Mr. SANDERS. I thank the gentleman for yielding to me.

I think there is not much of an environmental debate, I would say to my very good friend, the gentleman from Ohio, that there are certain locations in the country, given the fact that we have low-level waste, that can from an environmental point of view absorb and sustain that waste better than others. There is no question about it.

□ 1700

The gentleman is wrong, I believe, and I think most environmentalists and geologists would tell the gentleman that he is wrong by saying that it is good environmental policy to force communities which, from a geological point of view, would have a very difficult time containing that waste. I do not think that there is much argument about that.

The difference that we have is, the gentleman is opposed to nuclear power. I am opposed to it. But the reality is, we have waste. The environmental challenge is, how do we get rid of that waste in the most effective and safe way?

The gentleman from Ohio seems to think if it gets into a truck, that is more dangerous than if we store it in an unsound environmental location. I would strongly disagree and would argue that I think most geologists and environmentalists would also disagree.

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, I want to read into the RECORD the number of accidents, because when I spoke off the cuff, I did not give the correct number and I want to make sure that we at least get the record straight.

During the past 20 years, there have been 53 transportation accidents involving approximately 1,000 packages of commercial low-level radioactive waste. Of those 53 accidents, only 4 involved the release of any low-level radioactive waste, and of those 4, none resulted in any human injury.

So I was correct on that point. But there have been 53 accidents, not 4. There have been 53. Four resulted in release of some low-level contamination, but there was no one injured from those four.

Mr. Chairman, I would also like to point out that the amendment of the gentleman from Ohio [Mr. KUCINICH], as it is currently written, would prohibit all nuclear waste from being transported, not just low-level. And if we interpret it literally, we could not move the waste from where it was generated.

For example, at M.D. Anderson Cancer Center in Houston, TX, we could not remove the syringes, we could not remove the x-rays, we could not remove the radionuclides once they have been used. So it has been pointed out by others in opposition, this is a killer amendment. It is outside the scope of the bill, and I would hope that we would vote it down.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Chairman, what the gentleman from Texas [Mr. BARTON] is saying is that it is better to put it in a site and a facility that is licensed for disposal rather than to create thousands of de facto sites in cities, hospitals, universities, and small areas all over the country?

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, that is correct.

Mr. REYES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is obvious that this issue is very complex, very complicated, and it is never a win-win situation. There are always winners and there are losers.

The gentleman from Vermont [Mr. SANDERS] asked the rhetorical question: Is this kind of waste able to be absorbed in anyone's backyard? Obviously not. It depends on whose backyard we are talking about. I think this afternoon we have had a good opportunity to look at the complexity of the issue. We have had an opportunity to look at the controversy surrounding this kind of issue.

Mr. Chairman, I think that when we are talking about where is the waste, where can we store it, I would ask: Is it any safer in Vernon, VT, versus Sierra Blanca, TX? I think it is left up to the situation of whose ox is being gored.

I think in the context of the number of accidents, it does not make any difference how many accidents have occurred. It does not make any difference the historical record of those accidents. It is the next one that we have to worry about.

Mr. KUCINICH. Mr. Chairman, will the gentleman yield?

Mr. REYES. I yield to the gentleman from Ohio.

Mr. KUCINICH. Mr. Chairman, I would like to go back to the beginning of this debate over this amendment. The gentleman from Vermont and I agree on the problems with nuclear power. Once nuclear power was created, nuclear waste as the output of it became a separate problem.

Nuclear utilities, it is true, built in environmentally sensitive areas. There is no question about that. Lake Erie is an example off the shores of the State of Ohio. There are two major nuclear power plants constructed in the eastern part and the western part of our State right on the shores of Lake Erie. But I submit that the technology still is not up to the challenge of moving this waste and that perhaps it is not up to the challenge of keeping it on site.

Mr. Chairman, perhaps there are no good choices here at all, but we must be cognizant of the fact that once we move it, that brings with it a whole different other set of circumstances and problems.

Mr. Chairman, 95 percent of the waste involved is from nuclear power plants. It is not from laboratories; it is from nuclear power plants. And because of that, when the waste is moved through heavily populated areas, it creates problems, and that is why I brought this amendment up.

I am well aware of the fact that utilities were not responsible in where these plants were built. I am well aware that some areas want the waste out of there. But the problem is, once we start moving the waste, we create a whole new set of problems. Until we are ready to move the waste in a responsible way away from populated areas, we should not be building new compacts to encourage the movement of new waste.

The CHAIRMAN. All time for debate on this amendment has expired.

The question is on the amendment offered by the gentleman from Ohio [Mr. KUCINICH].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. REYES. Mr. Chairman, I demand a recorded vote.

Mr. BARTON of Texas. Mr. Chairman, reserving the right to object.

The CHAIRMAN. The gentleman will state his objection.

Mr. BARTON of Texas. Mr. Chairman, was the gentleman on his feet in time to request a vote?

The CHAIRMAN. The gentleman was on his feet.

Pursuant to House Resolution 258, further proceedings on the amendment offered by the gentleman from Ohio [Mr. KUCINICH] will be postponed.

Are there further amendments?

AMENDMENT OFFERED BY MR. KUCINICH

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio [Mr. KUCINICH] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GUTKNECHT) having assumed the chair, Mr. EWING, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact, pursuant to House Resolution 258, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BONILLA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 309, nays 107, not voting 17, as follows:

[Roll No. 497]

YEAS—309

Abercrombie	Fawell	McHale
Aderholt	Fazio	McHugh
Allen	Flake	McInnis
Archer	Foglietta	McIntosh
Armey	Foley	McIntyre
Baker	Ford	McKeon
Baldacci	Fowler	Meek
Ballenger	Fox	Metcalf
Barcia	Frelinghuysen	Mica
Barr	Frost	Miller (CA)
Barrett (NE)	Furse	Miller (FL)
Barrett (WI)	Gallegly	Minge
Bartlett	Ganske	Mink
Barton	Gekas	Moran (KS)
Bass	Gephardt	Moran (VA)
Bateman	Gilchrest	Myrick
Bentsen	Gillmor	Neumann
Bereuter	Goode	Ney
Berman	Goodlatte	Northup
Berry	Goodling	Norwood
Bilbray	Gordon	Nussle
Bilirakis	Goss	Oberstar
Bishop	Graham	Obey
Bliley	Granger	Owens
Blumenauer	Green	Oxley
Blunt	Greenwood	Packard
Boehlert	Gutknecht	Parker
Boehner	Hall (TX)	Paxon
Bonior	Hamilton	Pease
Bono	Hansen	Pelosi
Borski	Harman	Peterson (MN)
Boswell	Hastert	Peterson (PA)
Boucher	Hastings (FL)	Pickering
Boyd	Hastings (WA)	Pickett
Brady	Hayworth	Pitts
Brown (CA)	Hefley	Pomeroy
Brown (FL)	Hefner	Porter
Brown (OH)	Herger	Portman
Bryant	Hill	Pryce (OH)
Bunning	Hilleary	Quinn
Burr	Hobson	Radanovich
Burton	Hoekstra	Rahall
Buyer	Horn	Ramstad
Callahan	Hostettler	Redmond
Camp	Houghton	Regula
Campbell	Hoyer	Riggs
Canady	Hulshof	Riley
Cannon	Hutchinson	Rivers
Carson	Hyde	Roemer
Chabot	Inglis	Rogers
Chambliss	Istook	Rohrabacher
Chenoweth	Jackson-Lee (TX)	Roukema
Christensen	Jenkins	Royce
Clay	John	Ryun
Clayton	Johnson (WI)	Sabo
Clement	Johnson, E. B.	Salmon
Clyburn	Johnson, Sam	Sanders
Coble	Jones	Sandlin
Coburn	Kaptur	Sanford
Collins	Kildee	Sawyer
Combest	Kilpatrick	Saxton
Condit	Kim	Scarborough
Cook	Kind (WI)	Schaefer, Dan
Cooksey	King (NY)	Schaffer, Bob
Cox	Kingston	Scott
Cramer	Klink	Serrano
Crane	Klug	Sessions
Crapo	Knollenberg	Shadegg
Cubin	Kolbe	Shaw
Cunningham	LaFalce	Sherman
Danner	Lampson	Shimkus
Davis (FL)	Largent	Shuster
DeGette	Latham	Sisisky
DeLay	LaTourette	Skaggs
Deutsch	Lazio	Skelton
Dickey	Leach	Smith (MI)
Dicks	Levin	Smith (OR)
Dingell	Lewis (KY)	Smith (TX)
Dooley	Linder	Smith, Adam
Dreier	Livingston	Smith, Linda
Duncan	Lofgren	Snowbarger
Dunn	Lowey	Snyder
Edwards	Lucas	Solomon
Ehlers	Luther	Spence
Ehrlich	Manton	Spratt
Emerson	Manzullo	Stabenow
Engel	Martinez	Stark
Eshoo	Mascara	Stearns
Etheridge	McCarthy (MO)	Stenholm
Everett	McCarthy (NY)	Stokes
Ewing	McCollum	Stump
Farr	McCrery	Stupak
Fattah	McDade	Sununu
Talent	Traficant	Wexler
Tauscher	Turner	White
Tauzin	Upton	Whitfield
Taylor (MS)	Vento	Wicker
Taylor (NC)	Walsh	Wolf
Thomas	Wamp	Woolsey
Thompson	Waters	Wynn
Thornberry	Watkins	Young (AK)
Thune	Watts (OK)	Young (FL)
Tiahrt	Weldon (FL)	
Towns	Weldon (PA)	

NAYS—107

Ackerman	Hinchey	Nadler
Andrews	Hinojosa	Nethercutt
Bachus	Holden	Olver
Baesler	Hooley	Ortiz
Blagojevich	Hunter	Pallone
Bonilla	Jackson (IL)	Pappas
Calvert	Johnson (CT)	Pascrell
Capps	Kanjorski	Paul
Castle	Kasich	Payne
Conyers	Kelly	Petri
Costello	Kennedy (MA)	Pombo
Coyne	Kennedy (RI)	Poshard
Cummings	Kennelly	Price (NC)
Davis (IL)	Kleczka	Reyes
Davis (VA)	Kucinich	Rodriguez
Deal	LaHood	Rogan
DeFazio	Lantos	Ros-Lehtinen
Delahunt	Lewis (CA)	Rothman
DeLauro	Lewis (GA)	Roybal-Allard
Dellums	Lipinski	Rush
Diaz-Balart	LoBiondo	Sanchez
Dixon	Maloney (CT)	Schumer
Doggett	Maloney (NY)	Sensenbrenner
Doolittle	Markey	Shays
Doyle	McDade	Skeen
English	McGovern	Slaughter
Ensign	McKinney	Smith (NJ)
Evans	McNulty	Souder
Filner	Meehan	Strickland
Forbes	Menendez	Tierney
Frank (MA)	Millender-McDonald	Torres
Franks (NJ)	Moakley	Velázquez
Gejdenson	Mollohan	Watt (NC)
Gibbons	Morella	Weller
Gilman	Murtha	Weygand
Gutierrez		Yates

NOT VOTING—17

Becerra	Matsui	Tanner
Cardin	McDermott	Thurman
Gonzalez	Neal	Visclosky
Hall (OH)	Pastor	Waxman
Hilliard	Rangel	Wise
Jefferson	Schiff	

□ 1732

Messrs. CAPPS, DIXON, FRANK of Massachusetts, HUNTER, GILMAN, MOAKLEY, PAYNE, Mrs. KELLY, and Mrs. MALONEY of New York changed their vote from "yea" to "nay."

Mr. PICKERING and Mr. STARK changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on H.R. 629, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 105–311) on the resolution (H. Res. 261) waiving points of order against the conference report to accompany the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 1122, PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 105–312) on the resolution (H. Res. 262) providing for consideration of the Senate amendments to the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, which was referred to the House Calendar and ordered to be printed.

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF H.R. 901, AMERICAN LAND SOVEREIGNTY PROTECTION ACT

Mr. SOLOMON. Mr. Speaker, I ask, and this is pretty complex so we should listen, I ask unanimous consent that it be in order today, or on any day thereafter, for the Speaker, as though pursuant to clause 1(b) of rule XXIII, to declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 901) to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, and that consideration of the bill proceed according to the following order:

And we are about to vacate two rules and make in order a bill that has been agreed to by the other side of the aisle.

No. 1, the reading of the bill shall be dispensed with.

No. 2, general debate shall be confined to the bill and shall not exceed 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources.

No. 3, after general debate the bill shall be considered for amendment under the 5-minute rule.

No. 4, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on Resources now printed in the bill. The committee amendment in nature of a substitute shall be considered as read.

No. 5, no amendments shall be in order except the amendments printed in the CONGRESSIONAL RECORD and numbered 2, 27, 5, and 51 pursuant to clause 6 of rule XXIII; one amendment in the form that I have placed at the desk by the gentleman from California [Mr. MILLER] or his designee regarding striking section 4(b); and one amendment in the form that I have placed at the desk by the gentleman from California [Mr. MILLER] or his designee regarding specific biosphere reserves.

No. 6, each amendment may be offered only in the order specified in paragraph 5 of this order and may be offered only by the Member who caused the amendment specified in paragraph 5 to be printed in the CONGRESSIONAL RECORD, or their designees, or a member otherwise designated in paragraph 5.

No. 7, each amendment shall be considered as read, shall be debatable for 30 agreed-to minutes, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments specified in this order are waived.

No. 8, the Chairman of the Committee of the Whole may: No. 1, postpone until a time during further consideration in the Committee of the Whole a demand for a recorded vote on any amendment; and, No. 2, reduce to 5 minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.

No. 9, at the conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute.

No. 10, the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

No. 11, House Resolutions 243 and 257, two rules that we reported earlier but were not acted on, are laid on the table.

Mr. Chairman, No. 12, pending the unanimous consent request, I ask unanimous consent to dispense with the reading at this point of the two amendments by the gentleman from California [Mr. MILLER] that I have placed at the desk.

The text of The Miller amendments are as follows:

On page 9 of the bill, beginning at line 1, strike all through the end of line 16, and renumber subsequent subsections accordingly.

On page 10 of the bill, after line 8, insert the following:

"'(d) Subsection (b) shall not apply to the following—

"'(1) California Coast Ranges Biosphere Reserve;

"'(2) Channel Islands Biosphere Reserve;

"'(3) Golden Gate Biosphere Reserve;

"'(4) Everglades National Park and Dry Tortugas National Park Biosphere Reserve;

"'(5) Isle Royale National Park Biosphere Reserve;

"'(6) New Jersey Pinelands Biosphere Reserve;

"'(7) Olympic National Park Biosphere Reserve;

"'(8) Virgin Islands National Park Biosphere Reserve; and

"'(9) Hawaiian Islands Biosphere Reserve.'"

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. MILLER of California. Reserving the right to object, I do so for point of clarification. At the outset, I am not quite clear. Are we operating under the 5-minute rule or will the amendments operate under the 15 minutes each side?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, we are operating 15 minutes each side at the request of the gentleman. We do have the ability to roll the votes. If this unanimous consent request is granted, it will save this body about 2 hours of time tonight.

Mr. MILLER of California. Anything I can do to help, I am delighted to do so.

Mr. SOLOMON. I thought the gentleman would. The gentleman is a great help.

Mr. MILLER of California. I thank the gentleman for his cooperation on this.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

AUTHORIZING THE SPEAKER TO DESIGNATE A TIME NOT LATER THAN OCTOBER 31, 1997, TO RESUME PROCEEDINGS ON REMAINING MOTIONS TO SUSPEND THE RULES ORIGINALLY DEBATED ON SEPTEMBER 29, 1997

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to designate a time not later than October 31, 1997, for resumption of proceedings on the seven remaining motions to suspend the rules originally debated on September 29, 1997.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1757, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1998 AND 1999

Mr. CALLAHAN. Mr. Speaker, pursuant to rule XXVIII, I rise to inform the House that tomorrow I will offer a motion to instruct conferees on H.R. 1757, which would instruct and insist upon the provisions contained in title XXI of the House bill relating to United States policy with respect to forced abortion and foreign organizations that perform or promote abortion.

The text of the motion is as follows:

Mr. CALLAHAN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1757 be instructed to insist upon the provisions contained in title XXI of the House bill (relating to United States policy with respect to forced abortion and foreign organizations that perform or promote abortion).

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to the order of the House of today and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 901.

□ 1739

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 901) to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, with Mr. SUNUNU in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the order of the House of today, the bill is considered as having been read the first time.

The gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. MILLER] each will control 30 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I agreed to the amendments that were being offered by the gentleman from California, including the gentleman from California [Mr. FARR], a time limitation of 15 minutes on each side, in the sense of cooperation, but I do not believe there is much need to debate this legislation any further than it has been debated.

It has been debated by thousands of Americans because the American Land Sovereignty Protection Act asserts the power of this Congress that is under the Constitution over all the lands that belong to America. So that everyone understands, the concern here is the Congress, therefore the people, are left out of the domestic process to designate World Heritage sites and Biosphere reserves.

I want to stress that again. We are left out. They have never been consulted. They were never worked with. This was a U.N. effort on behalf of the State Department to make these grand decisions without even considering the local input.

All this bill requires is the participation of Congress, which really is the branch of the American people, in the designation process of Heritage sites and Biosphere reserves.

□ 1745

Many, many Americans, from all sections of our country, have called my office to say they are concerned about the lack of congressional oversight over UNESCO international land reserves in the U.S. and to express support for this bill.

Within the last 25 years, 67 sites in the United States have been designated as Biosphere Reserves or World Heritage sites, all with no congressional oversight and no congressional input or input from individual citizens. The public and local governments were not consulted.

The World Heritage Site Program is based on a treaty. H.R. 901 does not end U.S. participation in the World Heritage Site Program. We have a domestic law implementing this program, and H.R. 901 proposes to change that domestic law so that Congress must approve the sites.

The Biosphere Reserve Program is not authorized by even a single U.S. law or any international treaty. May I remind my colleagues when they raise their hand up here and say, "I swear to uphold the Constitution," if they do not support this bill, they are against the Constitution of America.

This is an extended effort by the executive branch appointees, whatever their political party, cannot and should not do things the law does not authorize. What is unreasonable about Congress insisting that no land be designated for inclusion in these international land use programs without clear and direct approval of Congress? What is unreasonable about having local citizens and public officials participate in decisions on designating land near their homes for inclusion in an international zone?

We need to reemphasize our congressional duty to keep international commitments from abridging traditional constitutional constraints. Otherwise, the boundaries between one owner's land and another or even between the Government's land and private land are too easily ignored.

H.R. 901 will also prevent attempts by the executive branch to use international land designations to bypass the Congress to make land use decisions and protect our domestic land use decision-making process from unnecessary international interference.

We are going to hear a lot today that this is a fear tactic to worry about black helicopters, this is just what we call a good thing to do, this makes us all feel so well and good. But, for the life of me, what is wrong with this body, this Congress, from making these decisions is some U.N. body making decisions that affect everybody's lives, especially the local people; it decreases the value of their land.

By the way, most of the areas that did have proper notice rejected these definitions. But in my State, we were never notified, the Governor was never notified, legislative body was never notified, my villages were never notified. Yet, we have these Biosphere areas in my State. And that is wrong. Of the 67, we found out there was no input at all in those areas with the local people.

The amendments that are going to be offered today, the amendments I suggested and I agreed to be let offered, I am going to oppose all of them, and I hope we can defeat all of them, because they are not warranted. There is no necessity for them. This is a simple, clean bill that says, yes, we are still part of the program, but when you designate this, you are going to have to get the go-ahead from the Congress.

I urge a strong vote on H.R. 901 and urge its passage.

Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise today in support of America's role as a global environmental leader and in opposition to this bill, H.R. 901.

I say to my colleagues that at this crucial time, when nations around the world are making decisions that would impact upon the future of our planet,

we must set an example, we must encourage nations to participate in cooperative efforts to improve and learn more about our global environment. We must not succumb to the isolated and misinformed fears of the very few and demolish years of progress in the right direction, progress towards better science, and better understanding and more cooperation internationally.

The only trespass that most of these treaties and conventions are guilty of is that they are loosely associated with the United Nations; not bad in my view but in the view of some today. We need to be part of the debate on a global basis in terms of these issues and solutions to such problems.

The bill we have before us today appears harmless. In a sense, it is not all that different from much of the other legislation considered by the House which has sought to rollback critical, substantive, and symbolic environmental protections, but, like these other bills, a seemingly benign idea has potentially devastating results.

I am fairly certain that there is not a Member of this body who would put the sovereignty of the United States at risk, not a single Member, Mr. Speaker. Yet the proponents of this legislation will come to this floor today and tell us that if we care about American sovereignty, we must pass this bill. That is misleading and a transparent distraction from the main issues.

I disagree with that statement categorically. This bill is not about sovereignty. This is about sacrificing three important international programs: The World Heritage Convention, the Ramsar Accord, and the Man and Biosphere Program, sacrificing them upon the altar of special interests multinational mining and timber companies and others that choose to exploit these resources and want to alleviate internatonal recognition.

Indeed, we need to look at what got us into this entire mess. The proponents of this legislation claim that a proposed mine next to Yellowstone National Park, Teddy Roosevelt's Yellowstone, I might add, was halted by environment forces in black helicopters.

Mr. Chairman, the criticisms expressed by members of the World Heritage Convention were just a few in number but a resounding chorus of thousands who did not wish to see the coal slurry of a Canadian mining company degradating the Yellowstone River spoke up. To say that this project was stopped by the World Heritage Convention is factually incorrect. It establishes a casual relationship that does not exist. This project was stopped because the company that wanted to carry it out decided that it was not a good idea after all. And they were correct in such decision the existing U.S. environmental law that raised the questions concerning this proposed mine.

Mr. Chairman, each one of these conventions and treaties, two treaties and a convention, have explicit provisions in their preamble and in their statement which point out that the sovereignty of the individual States that participate in the World Heritage Convention, there are 150 countries that participate in that, and we are going to opt out of that. And with regards to the biosphere, 125 countries participate in this agreement. And this proposed legislation seeks to rescind the 47 Biosphere designations, a recognition that they now enjoy. Furthermore, with regards to the Ramsar convention, there are 92 countries that participate; and we are going to get out of treaty which recognizes 15 sites in the USA and 760 more globally. This proposal advocates a view of "Stop the world, I want to get off," that the understanding and science and insights and the fact that we live in a global community, a world that is knit together environmentally and knit together with regards to air quality, water quality, and important landscapes that support an intricate biodiversity upon which we are all dependent, this particular legislation basically says that the United States is no longer going to be a participant in the natural and cultural preservation of wetlands in these special areas. We are not even going to do it in a symbolic sense. And that is really what this does.

It is this symbolic sense in which we are able to enlist other nations to, in fact, participate in terms of trying to reach and to put in place good science, to put in place a better understanding and better knowledge. And, after all, of course, I guess that is ultimately what the proponents of this really fear. It is that knowledge that we have that translates into new policy that they really want to stop.

There really is an effort here to try and renege, to go back, to be in a state of denial with regards to issues that are presented by the formation of this new knowledge, whether it is wetlands that are recognized, whether it is parks and other public areas, whether it is the Biosphere and ecosystems.

I cannot tell my colleagues how disappointed I am so often when I go into the committee and I have to try to explain what an ecosystem is and I find that there is so much denial with regard to these obvious issues.

You will hear many criticisms of the Man and Biosphere Program. But the fact remains that these programs work. They have been operating without controversy and with the solid support of both Democratic and Republican administrations for more than two decades. The World Heritage Convention was first ratified by the United States in 1973 and now has nearly 150 nations as signatories. The Convention's purpose is to identify and list significant natural and cultural sites around the world. This provides visibility—tourist dollars—and encouragement for such resources' protection. Such a voluntary convention identification is required to operate consistently with U.S. laws. The International Man and Biosphere Program [MAB] was established in 1970 and now has 125 nations as signatories. It seeks to encourage a healthy relationship between humans and the environment by promoting international cooperation in research and education. MAB imposes no management restrictions and is a voluntary program for all nations that participate. The U.S. Man and Biosphere Program is a domestic, Federal program and the sole authority for its implementation and regulation resides with the Government of the United States of America.

Let me be clear: the United Nations has absolutely no authority whatsoever to dictate Federal land management decisions within or for the United States. If any such program did exist, I would join with all who oppose it and end U.S. participation.

What is most ironic about this debate is the fact the United States has been the leader in establishing these programs to provide a voluntary, positive means of recognition, education and encouragement for the care of internationally significant cultural and natural resources. Our own environmental laws are effective and strong, protecting the health of all Americans and preserving, conserving, and rehabilitating our natural resources, while ensuring that our Nation's economy remains vibrant. Environmental science and policy is one of the most important ways in which the United States leads the world today and will continue to do so in the future.

Independent from the World Heritage Convention and the Man in the Biosphere Agreement is another key program, the Ramsar Convention, which was adopted in 1971 in Ramsar, Iran. Ninety-two nations participate; the United States is but one, and we have 15 identified wetland sites being promoted within the United States of the 775 worldwide wetlands promoted by Ramsar.

But if we pass this bill, we can kiss all of that goodbye. Stop the world, we'll be saying. The United States wants to get off.

Mr. Speaker, I oppose H.R. 901. We must not turn our backs on the important international voluntary initiatives that are working successfully to safeguard our planet for future generations. At a time when we understand that pervasive pollution respects no borders, nations must work together to hold up the voluntary efforts that point to cooperation and hope for tomorrow of the natural, cultural, scientific wetlands and ecosystem landscapes embraced by the various conventions that the United States has led to shape. The U.S. Congress should not renege on our Nation's environmental global stewardship role. This measure is diametrically opposed to commonsense collaboration and should be rejected.

Mr. YOUNG of Alaska. Mr. Chairman, I would just remind my colleagues that this Nation of ours is based on the constitutional right of private land. We must keep that. We are not a one-world group. We are the sovereign Nation of the United States of America.

Mr. Chairman, I yield 4¼ minutes to the gentlewoman from Idaho [Mrs. CHENOWETH], a great chairman.

Mrs. CHENOWETH. Mr. Chairman, my colleagues are going to hear a lot of distracting arguments today. But I simply want to tell my colleagues that H.R. 901 simply enacts three very basic requirements.

No. 1 is, it requires the Secretary of Interior to get the approval of Congress for any nomination of property located in the United States for inclusion in the World Heritage list.

No. 2, very simply, the bill would prohibit the Federal officials from nominating any land in the United States as a biosphere reserve unless Congress ratifies and enacts the biosphere reserve treaties.

The gentleman from Minnesota [Mr. VENTO] had just mentioned that this does violence to three particular international programs. But I want to remind the gentleman, these international programs have never been ratified by the Senate and yet they have been enacted by this White House. What are we to do? Just sit here and let it happen?

Finally, H.R. 901 simply prohibits any Federal official from designating any land in the United States for a special or restricted use under any international agreement unless such designation is specifically approved by law.

Let me remind my colleagues, Mr. Chairman, there is not one word in this simple little piece of legislation that talks about black helicopters. And I do not want my colleagues or anyone who is listening to be diverted in their attention from this. This is a simple bill on American sovereignty.

These provisions do not represent a massive change in our policy, nor are they born out of paranoia. Actually, what this bill comes out as is to restate again what article IV, section 3, of the U.S. Constitution has said and still says. This section succinctly states that, and I quote, "The Congress shall have the power"—"The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other properties belonging to the United States." That is very simple.

Mr. Chairman, I am fully aware that there are two very distinct spectrums of opinions as to just how World Heritage sites and Biosphere Diversity Reserves and other land designations made under the auspices of the U.N. impact land policy.

There are some who suggest that these designations, which encompass 6 percent of our national parks, the land mass in our national parks and preserves and monuments, they make up enough land that has already been set aside under this unauthorized joint jurisdiction to fill up the entire State of Colorado. That is not benign, Mr. Chairman.

Let me also remind my colleagues, on the other hand, that the Committee on Resources, my chairman here held a hearing and we heard testimony from citizens living in Alaska, Arkansas, Missouri, Minnesota, New Mexico, New York, and Wyoming that suggests that this is not benign; local units of government, county commissioners who said they did not even know these land designations were occurring within their counties, that rules against everything that our Government stands for, openness in government.

Mr. Chairman, the only relevant argument that the Clinton administration has made against this bill, I mean, normally they just talk about black helicopters, but the only relevant argument that they have made against this bill is that it would add unnecessary bureaucracy to the designation process.

Let me ask my colleagues, having the Congress act on the desires of an international body is unnecessary bureaucracy? I do not think so.

□ 1800

I do not think that is what the Framers of the Constitution had in mind.

Let me tell my colleagues what this international body has in mind, because they say very clearly in their operational guidelines as to how these designations will be brought in. In the guidelines it states, in all cases as to maintain objectivity in the evaluation process, that the entire process is to be made secret. These designations have been made in secret. We are just saying, let us let the sun shine on this, let us let the people have their say, and let us let the Congress act.

Mr. MILLER of California. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I thank the gentleman for yielding me this time.

I am really surprised that this bill is on the floor. I think what we are seeing here is that we have nothing to fear but fear itself, and this bill is a good example of it.

We have had the biosphere program around since 1974, through 4 Republican administrations, 2 Democratic administrations. We just heard that people never heard about it. It has been in their backyard for 25 years and they have not heard about it because it has not done any harm.

Do we know what the biosphere program does? It designates, and do we know who asks for the designation? Local communities. And all it does, there is no budget given to them, there is no regulatory authority given to them; it has no effect. What the biosphere program does, it has a common set of processes for measuring environmental conditions, not only in the United States but around the world.

Yesterday, the President of the United States gathered leaders of industry and Members of this House and the Senate to talk about global warming. There was a unanimous consensus that global warming is a problem, and that America must play a leadership role, and at the same time that we need to have more knowledge about this earth and what is happening to it. Yet, at the same time we discussed that, here is one program that has been around for 25 years where they have been measuring impacts on the earth and been able to find out what the effects of global warming and other global environmental issues are.

Frankly, environmental issues are part of our national security. The problem here is nothing has been broken. There is not anything here. All of a sudden, after 25 years, somebody comes in here and says, oh, we have to have congressional approval of this. Well, it sounds good but it is a very dangerous precedent, because what we are saying now is the private land that is petitioned to be in these biospheres and has been so designated, they cannot do that without congressional approval.

It says that State parks, local water districts now have to come to Congress. My God, if we have ever felt that there is something that is a usurpation of local control, of State sovereignty, local government control, of private property rights, this is it. This takes them all away. It takes them all away and says, "By the way, you have to now go through a process."

In fact, the process that they have outlined in the bill requires that there is more information necessary. They have to measure the impacts within a 10-mile radius. We do not even require that for nuclear power plants, and yet we are going to require it to be designated as the biosphere, and it wipes out all of those designations that we have petitioned for and received.

I think this bill would be setting a very dangerous precedent by Congress overreaching, by fearing fear itself. Where there is nothing broken, they want to break something, and my colleagues, that is the wrong approach. The next thing we know, if one of our communities wants to have a U.N. store in it, we are going to have to ask for congressional approval, and after that, I would not be surprised if merit badges have to be approved by Congress.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume to say that for the record, this program costs the taxpayers of America over $1 million, just for the record. I want to make that perfectly clear.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Chairman, when I was sworn into office in January, I took an oath to uphold the U.S. Constitution. Each of us has taken that same oath, and I rise to remind us

of our oath of office and reflect on the words of the Constitution. Article IV, section 2 of the U.S. Constitution states, "The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

Clearly, the U.S. Constitution gives the U.S. Congress and only the U.S. Congress the authority to make all rules and regulations over Federal lands.

This authority is not given to the President, it is not given to the U.S. Ambassador to the United Nations. No one in the State Department or the Department of the Interior is given this authority. The Constitution does not give this authority to the United Nations, UNESCO or any other body. The authority to establish rules and regulations over Federal lands is reserved to the U.S. Congress and only the U.S. Congress.

What does H.R. 901, this bill, require the Government to follow? The U.S. Constitution. The bill requires the specific approval of Congress before any area within the United States is subject to an international land use nomination, classification, or designation. Is this so offensive?

H.R. 901 requires the consent of Congress before the Secretary of the Interior may nominate any property in the United States for inclusion in the World Heritage list. I believe this is certainly consistent with Article IV, section 2.

H.R. 901 specifically prohibits the Federal officials from nominating any land in the United States for designation as a biosphere reserve. Such designations are left to Congress to determine.

The bill requires the Congress to reconsider for designation as a biosphere reserve those sites that have already been designated as biosphere reserves by administrations. It restores to Congress the authority to choose to redesignate or not redesignate these sites. This is a process that should have been in place all along.

H.R. 901 prohibits Federal officials from designating any land in the United States for a special or restricted use under any international agreement unless such designation is specifically approved by law.

I call on all of my colleagues to uphold the U.S. Constitution and the constitutional authority of this body. A vote for H.R. 901 is a vote to preserve the authority of this body. A vote against H.R. 901 is a vote that quite frankly, in my opinion, is inconsistent with Article IV, section 2, and the oath that we have taken.

The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

Mr. MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I would just like to ask the gentleman a question.

There are about 85 different designations under the Ramsar, under the World Heritage Convention, and under the Man and Biosphere Program. Can the gentleman cite one example of any action taken that limits the use of any land in those, that is inconsistent with the Federal or State law or private property rights?

I yield to the gentleman for that purpose.

Mr. WELDON of Florida. Mr. Chairman, as the gentleman is aware, the committee has received testimony.

Mr. VENTO. Mr. Chairman, I have looked through that testimony and I have not found any.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Oklahoma.

Can the gentleman cite that example?

Mr. COBURN. Mr. Chairman, as a matter of fact, it comes from the gentleman's own State. I have a letter here from Bob Lessard, a State senator, and he states in this letter to me that he is the chairman of the Minnesota Senate Committee on Natural Resources.

He says, "During the mid-1980's the National Park Service proposed a massive Northwoods International Biosphere Reserve."

Mr. VENTO. Mr. Chairman, reclaiming my time, I am asking not what is proposed. I am asking whether or not there is an example where it has exceeded State, Federal, or local law or private property rights.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Chairman, I just want to say a couple of words in opposition to this legislation, because it has the potential to do so much damage. What this legislation would accomplish if it were signed into law is simply this: It would make it increasingly difficult for our Government to administer cooperative arrangements with other countries to protect the environment here in this country and elsewhere around the world.

We have been a leader in the world in advancing the idea that environmental protection has to be global in order to be effective. We are deeply concerned with such things as weather patterns and climate change and forces that are at play around the world that indicate to us quite clearly that there is nothing that one country or even one continent can do independently of the rest of the world if we are going to be effective in protecting the world's environment. This legislation would make that problem much more difficult and our ability to effect it almost impossible.

Furthermore, the legislation seems to suggest that people's private property is somehow jeopardized and the ability of individual States to regulate either biospheres or heritage sites is in jeopardy, when in fact that is not the case, because the legislation, the program as it exists currently stipulates quite clearly that no activity is possible within any State without the State's consent and full cooperation. Nothing can be done on any public or private property without the cooperation and consent of the public or private property owners.

There is nothing in any of these programs which impedes upon the ability of either a single State or a private property landowner within a State to regulate their private property or public property in whatever way they see fit.

This legislation is the product of an overactive imagination, one which has the ability to see a problem where none exists. It would not be so bad if that were all it was, but it is much more than that. It would destroy our ability to effectuate international cooperation with regard to the environment, and that would be a serious mistake indeed. This legislation should be defeated.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume to remind those listening, though, that there is no law the gentleman just spoke about having to require the cooperation that says they may, that there is no law, because there is no law on the books. That is what I am trying to do, put a law on the books that gives the constitutional duty to the Congress, as it is the Congress's responsibility.

Mr. Chairman, I yield 2½ minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Chairman, I will read comments and portions of the letter from Senator Bob Lessard of Minnesota.

He says,

As Chairman of the Minnesota Senate Committee on Natural Resources, I commend you for your efforts to defund the Man and Biosphere Program. Since one of the major opponents of your amendment is Minnesota Congressman Bruce Vento, who represents a compact urban district with little undeveloped land, I would like to tell you about the painful experience northern Minnesota had with the Man and Biosphere Program in the past.

During the mid-1980s, the National Park Service proposed a massive Northwoods International Biosphere Reserve that included lands in my Senate district which were included without notifying me or any other local elected officials. In 1984, the state-sponsored Citizens Committee on Voyageurs National Park took up this issue after a casual comment from the then Voyageurs National Park Superintendent Russell Berry that our area had been nominated as a biosphere reserve.

Now, note, they had not been notified; they accidentally found out about it.

At a public meeting of that committee on December 21, 1984 in Minneapolis after the nomination was made, Mr. Berry partially explained one reason for the biosphere reserve by stating, "I'd like to be in as strong a position as possible to influence activities outside the boundaries that would adversely affect the Park in the context of things that would be detrimental to the ecosystem within the Park."

Because the park is surrounded by thousands of acres of private property, Mr. Berry intended to use the biosphere as a means to implement Federal land use controls on private property.

He intended to implement Federal land use controls on private property. "Since my constituents did not want their constitutionally-guaranteed private property rights further threatened, they strongly opposed this proposal. Consequently," 3 years later, "the Northwoods International Biosphere Reserve nomination was withdrawn."

"Until the Man and Biosphere Program is authorized by Congress and statutory protections for private property are guaranteed, I will support all efforts to defund this program. Without these protections," and I would remind our fellow representatives that these are the protections that the gentleman from Alaska [Mr. YOUNG] has in his bill, "unelected Federal bureaucrats will again use biosphere reserves as a means of implementing Federal land use controls on private property."

This is exactly the point. Here is the biosphere reserve, here is the area around it, here is the greater area, intending to impact all private property with a small ownership in this area.

Mr. Chairman, I support this bill, and I include for the RECORD the letter from Senator Lessard which I quoted from in my statement.

ST. PAUL, MN,
July 21, 1997.

Representative TOM COBURN,
429 Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN COBURN: As Chairman of the Minnesota Senate Committee on Natural Resources and Environment, I commend you for your efforts to defund the Man and Biosphere Program (MAB). Since one of the major opponents of your amendment is Minnesota Congressman BRUCE VENTO, who represents a compact urban district with little undeveloped land, I would like to tell you about the painful experience northern Minnesota had with the MAB program in the past.

During the mid-1980's the National Park Service proposed a massive Northwoods International Biosphere Reserve that included lands in my Senate district which were included without notifying me or any other local elected officials. In 1984, the state-sponsored Citizen's Committee on Voyageurs National Park took up this issue after a casual comment from the then Voyageurs National Park Superintendent Russell Berry that our area had been nominated as a biosphere reserve. At a public meeting of that committee on December 1, 1984 in Minneapolis after the nomination was made, Mr. Berry partially explained one reason for the biosphere reserve by stating "I'd like to be in as strong a position as possible to influence activities outside the boundaries that would adversely affect the Park in the context of things that would be detrimental to the ecosystem within the Park."

Because the park is surrounded by thousands of acres of private property, Mr. Berry intended to use the biosphere as a means to implement federal land use controls on private property. Since my constituents did not want their constitutionally-guaranteed private property rights further threatened, they strongly opposed this proposal. Consequently, in 1987 the Northwoods International Bisophere Reserve nomination was withdrawn by National Park Service Director William Penn Mott.

Until the MAB program is authorized by Congress and statutory protections for private property are guaranteed, I will support all efforts to defund this program. Without these protections, unelected federal bureaucrats will again use biosphere reserves as a means of implementing federal land use controls on private property.

Since Mr. VENTO's district is 300 miles away from the ill-fated Northwoods International Biosphere Reserve proposal, I would encourage you to listen to those who represent people who live and work in the affected area rather than those who recreate in the area on weekends.

Thanks again for your efforts in defense of local control and private property.

Sincerely,

BOB LESSARD,
State Senator.

□ 1815

Mr. MILLER of California. Mr. Chairman, I yield myself 7½ minutes.

Mr. Chairman, I have been here 23 years. This may be the craziest damned bill I have ever seen. We are here to correct a problem about a proposal that was made by a United States Senator from the State of Minnesota 10, 12 years ago that was not approved by the process, by the public process getting involved, and they turned it down. It is not a secret, it was proposed by a United States Senator that this is what he wanted to propose for his State.

We are talking about a program that started in the early 70's, and if we look at the Biosphere Reserve sites, they were approved in 1976 in Alaska, in 1987 in Arizona, in 1976 in Texas, 1981 in Texas, 1983 in California in the redwood range, in the Carolina areas in 1986, in 1976 in the Cascades, the Central Gulf in 1983, the Central Plains in 1976, the Channel Islands in 1986, in 1976 in Montana, in 1976 in Alaska, in 1976 in Colorado, in 1976 in Montana, in 1986 in Alaska, in 1988 in the Golden Gate region of the San Francisco Bay area, in 1976 in Oregon, in 1980 in Hawaii, in 1976 in New Hampshire, in 1976 in Kansas, in Tennessee in 1991, my God, we have got to one in this decade, in 1976 in Puerto Rico, in 1990 in Kentucky, in 1984 in the Mojave in California, in the New Jersey pine lands in 1983, 1979 in Colorado. This is some conspiracy to take over the lands of the United States? This conspiracy has been going on and these places have been designated for 20 years, and the Members have just discovered it?

No, I think what has happened is a very extreme element has been elected to Congress, and somehow now they think they want to make this a problem. They want to make a problem out of the fact that the State of Florida wants to nominate the Everglades as a World Heritage area. That puts it on a par with the Sphinx, the Taj Mahal, the Grand Canyon.

Why do they want to do that? Because they are proud of the Everglades. They put together a committee. They nominated it to the United Nations. They also know that if it is on this list, it is really good for tourism, that their economy will do well. That is why people are trying to get on this list from all over the world, because tourists like to go to areas that have these designations, because they are special, they are worldwide environmental assets.

Now we want to tell them they cannot do that unless they get the approval from the Federal Government. These people have lost their minds. Think about it. This is like telling a person who spends their whole life working to go to the Olympics, but because the medal is given to them by an international body, they have to come to Congress to get approval.

Gee, I think that would be hard. Imagine, you spend your whole life ice skating, weight lifting, you are running world class speeds, but it is an international body, and it is about the sovereignty.

This is not about sovereignty, this is about extremism run amuck. This is about some of the areas that are the pride of our States, the pride of local communities. They are the areas we enjoy with our families, and if they are so fortunate to be a World Heritage area, the whole area wins and the Nation wins, in terms of tourism.

If they are a Biosphere area, we try to do some coordination of research. We do not do any land use planning. What we have learned over the last 20 years is about ecosystems, that if you preserve just a little corner and you do not think about the watersheds or you do not think about the other landscape areas, maybe preserving that area means nothing, because other things go to deteriorate.

We know now that if we clear-cut the areas way up-river, the silt fills the river, kills the fish, destroys the tourism industry, destroys the fishing industry, and maybe even the water quality downstream. So now we like to look in large landscapes and see, can we preserve this?

Now we have been doing this for 25 years, but now somebody says this is a U.N. plot to take over the sovereignty of the United States. It cannot be, folks, it cannot be that we just discovered this 25 years later. This is the U.N. that we owe $1 billion to. Maybe they are coming to repossess us or something.

I do not get what is going on here, but this is craziness. This is craziness, that we would tell these local communities that somehow they now have to come to the Federal Government to get our approval because their citizens and their local governments and businesses want to participate.

No, something is very wrong here. There is some other agenda. Because it cannot be about the Mammoth Cave area in Kentucky that was established in 1990. It cannot be about the Olympic National Park in Washington that was established in 1976. No, I do not think that is what it is about. It is not about the Golden Gate, the redwoods, the Golden Gate Park, the Presidio; these areas that millions of people come to visit and participate to bring millions of tourism dollars to the San Francisco Bay Area.

I do not think that is what it is about. There is some craziness in the air. Have these guys been swimming in the Potomac? Do they have this pfiesteria? What is going on here? No, this bill is not on the level, Mr. Chairman. This bill ought to be rejected overwhelmingly for simply understanding that this is simply not on the level.

We are talking about a program that has been through Republican and Democratic administrations, with the designations in some cases 25 years old. Now we discover a problem that demands that we make these areas go through a Federal procedure and rigmarole so they can have their nomination?

They just cannot be voting for this on that theory, because that is contrary to what many of the supporters of this bill say about the involvement of the Federal Government. Apparently it is not about the involvement of the Federal Government, because they are willing to involve the Federal Government when they want to involve the Federal Government to stymie local initiative, to stymie tourism opportunities, business opportunities.

They now want to give the Congress a check over all of that. These are local areas that have been nominated and participated in a process because they think it will be good for them. Now somehow we are in a war with the United Nations. We should be honored as a Nation that of all of the assets of the world, the Great Wall of China, the Taj Mahal, that they also think that these assets in the country are worth this kind of designation. This is an honor. This is like, you know, we took care of these places, we preserved them. We took care of and preserved the Grand Canyon. We are trying to preserve and protect and are spending hundreds of millions and billions of dollars on the Everglades and the redwood forests and Olympic Peninsula of the Northwest, and the great boundary waters. We took care of that and now we get recognized.

This, again, is like the scientist who works real hard and he gets a Nobel Prize, but it comes from an international body, so we want Congress to decide whether or not he should be able to accept it. This is an honor for our Nation. This is international recognition because we led the world in environmental protection and the protection of these kinds of assets. Now we want to strip our Nation of that honor? I hope they do not.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Members are reminded that profanity is not accepted on the floor of the House.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to remind the people that it is not the government, it is this Congress, the House of the people, not the government. Number two, they say, why have we not done it before? We have not because we have some people that believed in one world that were chairmen of the committee and subcommittee chairmen who never allowed us to have this on the floor of the House.

Now I am the chairman of this committee. This is the right thing to do for America, for the people of America. It is our responsibility under the Constitution. They may not believe in the Constitution, but I do. They may believe in one world, but I do not. I believe in the sovereignty of the United States of America.

Mr. Chairman, I yield 4 minutes to the gentlewoman from Missouri [Mrs. EMERSON].

Mrs. EMERSON. Mr. Chairman, I rise today to join my colleagues to urge the House's support of H.R. 901, the American Land Sovereignty Protection Act. I really do commend my colleague, the gentleman from Alaska, Chairman YOUNG, for his dedication to protecting the rights that were granted to us in the Constitution.

Mr. Chairman, when the Framers of the Constitution wrote it, they set up a process of checks and balances. One of the duties designated to Congress in the Constitution is the duty to keep international commitments in check, and to ensure congressional oversight in matters affecting both domestic and foreign policy.

The American Land Sovereignty Protection Act is designed to bring the integrity of the Constitution back to government. In the last few months I have spent a great deal of time talking to the folks in my district, and attending hearings and meetings in order to defend the private property owners in decisions that may affect them.

From the U.S. Man in the Biosphere Program, which has been a hot topic of discussion in southern Missouri as well as surrounding States, such as Arkansas, Oklahoma, and Kansas, to the so-called American Heritage Rivers Initiative that is attempting to set up a whole new bureaucracy to regulate our waterways, whole new programs and initiatives are being proposed through the use of Executive orders without any congressional approval or oversight.

Moreover, most citizens are often kept in the dark and left completely out of the process. Before they know it, their lands are nominated and designated by the United Nations or some other steering committee before any public input can be given. This is a direct infringement on their constitutional rights. The protection of those rights is essential for the protection of freedom and ultimately the protection for our country.

Actions such as the designation or a nomination without notice or input from the citizens and locally elected officials is wrong. Furthermore, the U.S. Government has no right to make agreements with international organizations without first making those actions known to its citizens.

If anyone doubts that land use restrictions can occur or that local communities have been deliberately left out of the loop, do not take my word for it. Let us take a look at a feasibility report to the once-proposed Ozark Highlands Man in the Biosphere Program in my congressional district. I will quote directly from that report:

Normally, there is no need for change in landholding or regulation following a designation of a Biosphere Reserve, except where changes are required to ensure the strict protection of the core area or specific research site.

And the steering committee of this program admitted in their report that they "* * * decided that public meetings would not be part of the interview process because such meetings tend to polarize views of the public and may capture negative attention from the press."

Make no mistake about it, the potential for land use restrictions and proposed new regulations are the consequences when we create these types of designations. I believe it is a dangerous and harmful precedent to set to allow the President to designate our lands as Biosphere Reserves without the input of the very citizens that are directly affected. This is simply unacceptable. This practice strips away their right to participate in the democratic process, and erodes the confidence that the general public does place in its government.

Mr. Chairman, it is time to restore this confidence and to require the President to seek congressional approval for actions which spend taxpayer dollars and establish Federal policies with the stroke of a pen. Anything less would be a diminishment of the individual rights guaranteed to each and every one of us in the Constitution.

I urge my colleagues to join my colleague from Alaska and all supporters of property ownership by voting in favor of the American Land Sovereignty Protection Act.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I would like to make two points about this legislation. Mr. Chairman, as a member of the Committee on Science and a former chairman, I have had the opportunity to conduct what relatively little oversight has been conducted of this program.

I will indicate, to begin with, that to some extent I agree with the proponents of this legislation, that there has been inadequate congressional review of the program and that there is a need for oversight. To those who have indicated that they object to the program because it is not an authorized program, I agree with them. Any program, no matter how insignificant it is in monetary terms, and this is a relatively insignificant program in monetary terms, when it reaches the point where it becomes of major policy interest to the citizens of this country, it deserves a congressional review and deserves to be implemented on the basis of a congressional authorization.

For that reason, I have introduced legislation to authorize this program, although from a legal standpoint it has not been construed as being necessary in view of the fact that the programs have been funded now, as has been indicated, for a quarter of a century.

□ 1830

The Biosphere designation, per se, I cannot agree with the supporters of this bill as to its deleterious effect on the people of this country or the sovereignty of this Nation. I do not think that is in fact true, although I do not belittle the fact that there are many people who seem to feel that it is.

The more important purpose of this program is to allow for the conduct of research in similar areas of the world or different areas of the world by scientists in order that there can be some comparison of the impact upon increasing industrialization and increasing urbanization on particular ecosystems around the world. And this research is being conducted by many, many different institutions. In fact, two of the most important research programs are being conducted by the University of Alaska at Anchorage, for example, in one case, and at Fairbanks in another case.

Mr. Chairman, these are very legitimate research programs which are immensely assisted by the fact that they are able to be conducted in designated Biosphere areas. One of these involves a subject I am sure dear to the heart of the gentleman from Alaska [Mr. YOUNG], the ecological role of hunting in herd dynamics of wild caribou. Since he is an avid hunter, I would think he would want to know more about this important subject. The other similar program in Alaska is likewise devoted to improving the strategies for managing the wild caribou in that area.

These are legitimate. And I did not pick on the gentleman from Alaska for any particular reason. There are similar programs in Russia, for example, where we have research programs conducted by American institutions aimed at quantifying and statistically analyzing the conditions of various reserves in Russia. We are gaining, I would suspect, fairly important information about the effect of the Russian policies on the management of their natural resources.

There is one here, the only one of the group that I have listed that is being conducted by the Center for Scientific Investigations in Merida, Mexico, which I have had an opportunity to visit. This is a very poor area, now a part of the former Mayan empire. They are looking for ways to improve their economy and are doing research on the utilization of native palms there in order to supplant the coconut palm, which no longer grows in that area.

Mr. Chairman, I cannot possibly see any way in which this research cannot be considered extremely valuable to the United States and all the people of the world.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. PETERSON].

Mr. PETERSON of Pennsylvania. Mr. Chairman, I appreciate the privilege of being a part of this debate and commend the gentleman from Alaska [Mr. YOUNG] for bringing this legislation forward.

Mr. Chairman, it seems strange to me that when we try to make sure that the voters, the citizens of this country, have a chance to understand world agreements, international commitments, they have a right to know. They have a right to understand.

Yesterday in this very same body, we had a similar debate that the President should continue to have the right to set aside a 1.7 million, 22 million, any other amount, and the people should have no say through their legislative body, the Congress.

Now today, we are having a similar argument, same participants, saying that the people should have no say, they should not have the right to understand what these designations mean; they should not be notified and allowed to participate in the process.

We heard that most of these were brought about by local community requests. That is not true. We heard it was crazy, trivial, nonsensical, and would have no impact. So then it should not concern anybody, should it? But just before that, we had a speaker who said we are overreaching and this will be so damaging to world policy and world commitment to change. They cannot have it both ways.

Mr. Chairman, I do not believe either side of the aisle goes wrong when we involve the voters, and we involve the voters through local government, State government, and through the Congress, Mr. Chairman, not through national dictators, not through Cabinet officials, who sometimes are just as radical one way or the other, who will move policies forward that take this country and the world in the wrong direction.

We are the body that should oversee to make sure that farming policies are local, State, and Federal Government oriented, not foreign countries or the United Nations; wetland policies are local, State, and Federal Government, not foreign country; timber policies are local, State, and Federal, not the United Nations; mining policies, and on.

The people in America that I represent from the Fifth District want us to make the rules, want us to keep them informed, want us to understand these programs and give them the right to understand these programs.

Mr. Chairman, it seems so simple and so right that when we give the people, the voters that send us here, every chance we can to understand and react to what we do and what our leaders do in world agreements, is that too much to ask? There is a lot of fear out there today that there is a push for a world government, and the American voters are against it.

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this bipartisan legislation. I would also like to thank the gentleman from Alaska [Mr. YOUNG] for his leadership and hard work on this issue.

When a similar bill came to the House floor last year, it received 246 votes. This bill has supporters from both parties, and 174 Members have signed on as cosponsors.

This is a very modest proposal, Mr. Chairman, which will ensure that American citizens have at least some control over policy decisions made concerning public lands in the United States. Most Americans today are deeply concerned about foreign influence over our Government and over land management policies, especially policies made with no real public notice.

The United Nations Biosphere Reserves and World Heritage Sites programs are relics from the United Nations Educational, Scientific, and Cultural Organization, UNESCO. The United States withdrew from that organization in 1984 because it was so mismanaged and politicized. However,

there are currently 47 Biosphere Reserves and 20 World Heritage Sites in the United States. These areas were nominated and approved with almost no public discussion or congressional approval.

I believe that before we continue to participate in this program, we should give the American people, through their elected representatives, the opportunity to decide if this is doing what it was designed to do or even if it was needed.

Certainly there is nothing radical and certainly nothing dangerous about this legislation. All it does is attempt to make sure that the American people have the final say about decisions affecting land in the United States.

During the last Congress, the House Committee on Resources held a hearing on a similar bill. At that hearing Dr. Jeremy Rabkin from Cornell University testified that the bill was, quote, a modest but useful statement that global enthusiasm should not be allowed to run roughshod over our traditional constitutional principles.

He went on to state, quote: What is the American interest in these programs? The United States had established programs of conservation long before the United Nations was established. We do not need the permission of other countries to do what we think is necessary to preserve our natural or cultural treasures.

I agree completely. This country has been a leader, not a follower, in protecting natural resources. I do not believe we need a committee made up of primarily Third World countries to tell us how to manage our public lands. As I stated earlier, this bill merely gives the American public the opportunity to decide if they want to participate in these programs.

If my colleagues think Washington bureaucrats and U.N. officials should make land management decisions without effective public input, then vote against this bill. But if they think the American public should have some limited but effective control over how public land is managed, instead of just a meaningless comment period which really has no effect at all, then they should vote for this bill.

Finally, Mr. Chairman, I think it is a sad day in this House when the other side has to resort to profanity, childish sarcasm, and scurrilous personal abuse to make its case.

I urge my colleagues to support H.R. 901.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FARR]

Mr. FARR of California. Mr. Chairman, I do not think people really read this bill very well, from what I have heard. First of all, we had the gentlewoman from Missouri [Mrs. EMERSON] get up and talk about the fact that we need this bill because the local process does not work, and then she pointed out that because there was controversy, Missouri never has had a Biosphere nor ever wants one. And the process is working. They do not get one. It seems to me that that is exactly what this process is about.

The State of Kansas was mentioned. There are no biospheres in Kansas. Another gentleman from Pennsylvania got up. There are no biospheres there in this program. It seems that nothing has injured the States where the Members are from who are getting up and speaking and saying this is something we ought to be afraid of.

Mr. Chairman, 85 countries in the world are in the Biosphere. What we are doing is pulling out of it. The United States is pulling out of the Biosphere program, unless, and this is where I think they have not read the bill because they are talking here about Federal lands. But there are private lands in the Biosphere. There are local water districts.

What proponents of this bill are saying is that Marin County Water District, they are out and they do not get back in because the new bill says it has to be owned by the United States, this is land owned by the United States, and that all designations here before are wiped out.

Well, go tell that to the California State Parks Commission and the Redwoods State Park. Go tell that to the University of California and the Landels-Hill Big Creek Reserve. Go tell that to the Jackson Demonstration State Forest in California. Go tell it to the Audubon Society, which happens to have a ranch where the public can visit. Those have all Biosphere programs. They got into it. There has been no controversy. But they are wiped out, and they can never get back in.

Then the author of the bill talks about, well, this program is going to cost the public money; it has $1 million somewhere involved in Federal commitments. Well, if we are going to go through the process that is going to require any Federal lands and those private and State and local lands are out, they never can get in, we are going to spend hundreds of millions of dollars if we look at the procedures that are requiring an economic impact report within a 10-mile radius.

Mr. DUNCAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I brought here a little poster which talks about and shows article IV, section 3, of the U.S. Constitution, and I need this here to remind all my colleagues of the importance of the Constitution. It gives Congress the power to develop all needful rules and regulations governing land belonging to the United States. But, frankly, over the last 25 years international land programs have been designating an increasing number of pieces of U.S. land without the approval of Congress, without the approval of congressional oversight.

At present, over 68 percent of U.S. national parks, preserves, and national monuments are designated as a U.N. World Heritage Site, Biosphere, or both. Although they were created for environmental protection of public land, Federal management of these programs threatens to expand, expand into private property. The values of nearby private property and local economies could be negatively impacted.

So, Mr. Chairman, I would remind my colleagues to look at this when they vote and remember, Congress should insist that no U.S. land be designated for inclusion in the U.N. Biosphere Reserve or World Heritage Sites without congressional approval. Additionally, local residents and public officials should be allowed to participate, participate in the nominating process.

So, Mr. Chairman, according to the Constitution, which I have here, decisions regarding the use of American lands should remain with the American people. For these reasons, I support H.R. 901, the American Land Sovereignty Protection Act.

Mr. Chairman, the American Land Sovereignty Protection Act is necessary to maintain Congress' role in U.S. land management and to preserve U.S. sovereignty over these lands. Additionally, the act preserves State sovereignty and private property rights in adjacent Federal lands.

Article IV, section 3 of the Constitution gives Congress the power to develop all needful rules and regulations governing lands belonging to the United States. However, over the past 25 years, international land programs have designated an increasing expanse of U.S. lands—without the approval of Congress and virtually no congressional oversight.

At present, over 68 percent of U.S. national parks, preserves, and monuments are designated as a U.N. World Heritage Site, Biosphere Reserve, or both. Although these land designations were created for environmental protection of public land, Federal management of these programs threatens to expand to private property.

The values of nearby private property and local economies could be negatively affected.

The American public is rarely informed of such designations. Federal agencies are not required to include public involvement when nominating an area for a U.N. Biosphere Reserve or World Heritage Site.

Congress should insist that no U.S. land be designated for inclusion in U.N. Biosphere Reserves or World Heritage Sites without congressional approval. Additionally, local residents and public officials should be allowed to participate in the nominating process.

In accordance with the Constitution, decisions regarding the use of American land should remain with the American people. For these reasons, I support H.R. 901, the American Land Sovereignty Protection Act.

□ 1845

Mr. MILLER of California. Mr. Chairman, I yield myself 2½ minutes.

I think my colleague, the gentleman from California [Mr. FARR] makes a very important point. It is just not a question of the Federal lands we are taking out here, but there are arrangements and agreements that local governments, universities, foundations have entered into for the preservation of these biospheres, not because anybody twisted their arm but because they think it important and they are involved in them for educational opportunities, for research opportunities so that we better understand these areas, like the University of California, Clemson University, Little St. Simons Island Foundation, the University of South Carolina, the California Department of Parks and Recreation, South Carolina Department of Natural Resources, Colorado Department of Natural Resources, Vermont Natural Resource agency. It goes on and on and on.

The point being this: These areas were selected and were nominated and are involved in these and have been now for 25 years because local citizens, educational institutions, foundations and local governments felt that this was important. My colleagues on the other side insist upon saying that this is about the management of the land. This has nothing to do with the management of the land. There is no authority, no responsibility and no power to manage the land.

I think that this act, this legislation, has been badly represented by the proponents of it because clearly for 25 years that is not what this legislation has been doing. The proponents ought to make that clear but they refuse to. They want to continue that this is somehow a one world government takeover of local governments, that somehow the University of South Carolina or Clemson University could not figure out that they were doing this at their own volition, or the University of California or Stanford University or the California Parks Department, they could not figure out how to do this on their own, or the Nature Conservancy or the Audubon Society, they could not somehow figure out how to do it on their own. This is that kind of operation.

I would just hope that the Members would take a very clear look at this. This is not as it is represented and this is a bill, a solution that is in search of a problem because the problem simply does not exist. These areas have existed for 25 years. They have been accepted by local communities. They are promoted by local communities. In the case of the World Heritage areas, they are an honor for this Nation.

Mr. DUNCAN. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, I rise today in support of H.R. 901, the American Land Sovereignty Protection Act. For too many years a war has been waged on western lands with private property rights, States' rights and western values being trampled on in the process. Even though Congress is constitutionally entrusted with the power of the management and use of lands belonging to the United States, the United Nations' land designations currently take place without the approval of Congress.

I have heard from many of my constituents in California's 43d Congressional District who are angry because they believe the United Nations has been given the rights to Federal land. They are upset about this issue and wonder how the United States could have let this happen. I am sure many of my colleagues have received similar calls. We in Congress who have been elected to represent them have only one way to help them: Pass this legislation.

H.R. 901 would correct this injustice and require that the Congress approve international land designations in the United States. I urge all my colleagues to support this legislation.

Mr. MILLER of California. Mr. Chairman, I yield the balance of my time to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding me the time. I rise in opposition to this bill and point out again that this bill negates two treaties, two treaty agreements that we have, the World Heritage Convention Treaty, the Ramsar Treaty, and the one agreement protocol with Man and Biosphere. Much of the discussion has gone on about Man and Biosphere tonight. This negates these three agreements.

The fact is there are 82 sites in the United States which have been recognized under the World Heritage and the Ramsar and under the Man and Biosphere. I asked for one example where there was a land use limitation placed on any of these by virtue of these three agreements which are negated. The answer that came back was a resounding silence from the other side.

We had allegations, innuendoes, suggestions of proposals.

Mr. Chairman, I yield to the gentlewoman from Idaho [Mrs. CHENOWETH] for that example right now.

Mrs. CHENOWETH. Mr. Chairman, the best example is the Crown Butte Mine that was a patent and mine site. We are preparing to pay $65 million for that particular taking. That is a taking of private property.

Mr. VENTO. Reclaiming my time, Mr. Chairman, that is just an allegation suggesting that somehow the Man and Biosphere Program limited that. That was a decision in terms of other factors that are involved. It was not the specific Man and Biosphere Program that limited it.

I want to point out that the opening paragraph in the Man and Biosphere Program points out, biosphere reserves, each of which remains under the sole sovereignty of the State where it is situated and thereby submitted to State legislation only, form a world network in which participation of States is voluntary.

The Man and Biosphere Program, incidentally, is a scientific research program. The World Heritage recognizes sites, and it says, article 6 of the Convention for the Protection of the World Cultural and Natural Heritage expressly provides for full respect of the sovereignty of the Nation in whose territory the heritage site is located and further states, "without prejudice to property rights provided by national legislation."

Finally, in article 2 of the Ramsar Treaty, the Convention on Wetlands of International Importance, Ramsar specifically states, "The inclusion of a wetland on the list does not prejudice the exclusive sovereign rights of the contracting party in whose territory the wetland is situated."

My question is, what are my colleagues afraid of? It is a sad day to me when the Members of this House have given in to the misconceptions and misinformation that are being used to advance this bill. Loosely associated with the United Nations, but this voluntary conservation recognition has been led by the United States.

Mr. DUNCAN. Mr. Chairman, I yield 30 seconds to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I just want to state for the record that there are numerous examples of private property takings and the biggest is, the biggest burden to the American taxpayers is the Crown Butte Mine. That is a $65 million tax bill to the U.S. taxpayers to pay off the private property rights holders, the patent mine holders and the leasing company for the taking of that mine site. Ask people in the Adirondacks in New York. There are people that are furious about this from all over the Nation because of the takings of the use of their private property.

Mr. DUNCAN. Mr. Chairman, I yield myself the balance of my time.

Let me close by saying that many people today feel that we have a government of, by and for the bureaucrats instead of one that is of, by and for the people. They feel powerless to control or affect the decisions even of our own government, but they have much less power in influencing the decisions of the United Nations. Surely we do not want to turn more power over to unelected U.N. bureaucrats. I urge the passage of this very modest, very fair legislation.

Mr. HASTINGS of Washington. Mr. Chairman, in recent years, an alarmingly large

amount of our nation's land has been made subject to various international land use restrictions through United Nations Biosphere Reserve and World Heritage Site designations. Under the Constitution, Congress has the power to make all meaningful rules and regulations governing lands belonging to the United States. However, these international land designations have been created with virtually no congressional oversight. Equally important, the general public and local governments are rarely consulted in this process.

By consenting to international land use designations, the United States agrees to regulate surrounding lands which, in most cases, include a substantial amount of private property. Honoring these agreements could force the Federal Government to prohibit, or limit, some uses of private lands outside the internationally designated area unless our country wants to break a pledge to other nations. Furthermore, by agreeing to U.N. land designations, the United States may be indirectly agreeing to the terms of international treaties to which the United States is not a party, and which the Senate has not ratified.

The bill amends the National Historic Preservation Act to require the Secretary of the Interior to secure congressional consent to nominate any lands for World Heritage Site or Site in Danger status. Furthermore, the Secretary may not nominate any lands for World Heritage Site status without a finding that no existing commercially viable businesses will be harmed by the land use restrictions associated with a U.N. designation.

H.R. 901 also terminates existing Biosphere Reserves by December 31, 2000 and prohibits future designations unless: the Biosphere reserve is specifically authorized by Congress; the designated lands are entirely owned by the United States; and a management plan exists which specifically provides for the protection of private and non-Federal Government property rights. The Secretary of State is also required to submit an annual report on all Biosphere Reserves in the United States.

Finally, H.R. 901 amends the National Historic Preservation Act to prevent land use restrictions and designations under any international agreements unless that designation is authorized by law, and only allows private property to be included in such a designation with the written consent of the property owner.

H.R. 901 protects private property owners by giving them, as well as their elected representatives, greater input into this process. I urge my colleagues to support this legislation which protects United States sovereignty and the private property rights of American citizens.

Ms. CHRISTIAN-GREEN. Mr. Chairman, I rise in strong opposition to H.R. 901, the American Land Sovereignty Protection Act. This legislation is unnecessary and unwise. I share the views of the State Department in the belief that this bill would add a level of political and bureaucratic regulation that is unnecessary and runs counter to the United States role in both local and global environmental cooperation. I also fully share the Clinton administration's view in opposing H.R. 901 because the "bill could significantly reduce U.S. leadership and influence in global conservation and is counter to the U.S. role in global environmental cooperations."

If enacted, H.R. 901 would cancel the Biosphere Reserve and World Heritage Site programs, including the 67 existing sites in the United States, if Congress did not authorize them. One of these Biosphere Reserves is the Virgin Islands Biosphere Reserve in my district. I initially intended to offer an amendment to remove the Virgin Islands Biosphere Reserve from coverage of this bill but because of an agreement reached by the leadership of the Resources Committee, the ranking minority member, Mr. MILLER will offer my amendment and other similar amendments in-block, instead.

Mr. Chairman the Virgin Islands Biosphere reserve was designated in 1976. During the last 10 years, there have been various efforts to implement the Biosphere Reserve concept on St. John and to develop linkages with the small-island territories and nations in the Lesser Antilles and the Caribbean basin. Because the efforts of the VI Biosphere Reserve have relied heavily on National Park Service, [NPS] resources and participation, the NPS has been a dominant influence in the early efforts to develop a Biosphere Program.

In 1986, the National Park Service constructed the Virgin Islands Biosphere Reserve Center to support the VI Biosphere Reserve goals. The Center provides space for offices for research scientists and resource managers, laboratories, research collections, conferences, training facilities, public education programs, community development activities, and lodging for researchers working in the park. The Center's activities have fostered recognition of the biosphere reserve in the Virgin Islands and the Caribbean basin.

We are proud, Mr. Chairman, of the work that the VI Biosphere Reserve will be doing in developing and implementing conservation and economic programs in the Virgin Islands and Caribbean region. Additionally, because we recognize economic value of being designated a World Heritage Site to our tourism based economy, my constituents and I have been seeking, for some time now, to have the Salt River National Historical Park and Ecological Preserve, in my native St. Croix, received this prestigious designation.

While I respect the property rights concerns of the proponents of this legislation, there simply isn't a need for their fears. Designation as either a Biosphere Reserve of a World Heritage site does not constitute either a loss of United States sovereignty or present a threat to the enjoyment of individual property rights.

My colleague, we should oppose this bill because it's unnecessary and would impair the ability of Federal agencies to work with States and territories, like my district of the Virgin Islands, to achieve the benefits of international recognition for U.S. conservation and research sites.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the order of the House of today, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered as having been read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Land Sovereignty Protection Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The power to dispose of and make all needful rules and regulations governing lands belonging to the United States is vested in the Congress under article IV, section 3, of the Constitution.

(2) Some Federal land designations made pursuant to international agreements concern land use policies and regulations for lands belonging to the United States which under article IV, section 3, of the Constitution can only be implemented through laws enacted by the Congress.

(3) Some international land designations, such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Cultural Organization, operate under independent national committees, such as the United States National Man and Biosphere Committee, which have no legislative directives or authorization from the Congress.

(4) Actions by the United States in making such designations may affect the use and value of nearby or intermixed non-Federal lands.

(5) The sovereignty of the States is a critical component of our Federal system of government and a bulwark against the unwise concentration of power.

(6) Private property rights are essential for the protection of freedom.

(7) Actions by the United States to designate lands belonging to the United States pursuant to international agreements in some cases conflict with congressional constitutional responsibilities and State sovereign capabilities.

(8) Actions by the President in applying certain international agreements to lands owned by the United States diminishes the authority of the Congress to make rules and regulations respecting these lands.

(b) PURPOSE.—The purposes of this Act are the following:

(1) To reaffirm the power of the Congress under article IV, section 3, of the Constitution over international agreements which concern disposal, management, and use of lands belonging to the United States.

(2) To protect State powers not reserved to the Federal Government under the Constitution from Federal actions designating lands pursuant to international agreements.

(3) To ensure that no United States citizen suffers any diminishment or loss of individual rights as a result of Federal actions designating lands pursuant to international agreements for purposes of imposing restrictions on use of those lands.

(4) To protect private interests in real property from diminishment as a result of Federal actions designating lands pursuant to international agreements.

(5) To provide a process under which the United States may, when desirable, designate lands pursuant to international agreements.

SEC. 3. CLARIFICATION OF CONGRESSIONAL ROLE IN WORLD HERITAGE SITE LISTING.

Section 401 of the National Historic Preservation Act Amendments of 1980 (Public Law 96-515; 94 Stat. 2987) is amended—

(1) in subsection (a) in the first sentence, by—

(A) striking "The Secretary" and inserting "Subject to subsections (b), (c), (d), and (e), the Secretary"; and

(B) inserting "(in this section referred to as the 'Convention')" after "1973"; and

(2) by adding at the end the following new subsections:

"(d)(1) The Secretary of the Interior may not nominate any lands owned by the United States for inclusion on the World Heritage List pursuant to the Convention, unless—

"(A) the Secretary finds with reasonable basis that commercially viable uses of the nominated lands, and commercially viable uses of other lands located within 10 miles of the nominated lands, in existence on the date of the nomination will not be adversely affected by inclusion of the lands on the World Heritage List, and publishes that finding;

"(B) the Secretary has submitted to the Congress a report describing—

"(i) natural resources associated with the lands referred to in subparagraph (A); and

"(ii) the impacts that inclusion of the nominated lands on the World Heritage List would have on existing and future uses of the nominated lands or other lands located within 10 miles of the nominated lands; and

"(C) the nomination is specifically authorized by a law enacted after the date of enactment of the American Land Sovereignty Protection Act and after the date of publication of a finding under subparagraph (A) for the nomination.

"(2) The President may submit to the Speaker of the House of Representatives and the President of the Senate a proposal for legislation authorizing such a nomination after publication of a finding under paragraph (1)(A) for the nomination.

"(e) The Secretary of the Interior shall object to the inclusion of any property in the United States on the list of World Heritage in Danger established under Article 11.4 of the Convention, unless—

"(1) the Secretary has submitted to the Speaker of the House of Representatives and the President of the Senate a report describing—

"(A) the necessity for including that property on the list;

"(B) the natural resources associated with the property; and

"(C) the impacts that inclusion of the property on the list would have on existing and future uses of the property and other property located within 10 miles of the property proposed for inclusion; and

"(2) the Secretary is specifically authorized to assent to the inclusion of the property on the list, by a joint resolution of the Congress after the date of submittal of the report required by paragraph (1).".

"(f) The Secretary of the Interior shall submit an annual report on each World Heritage Site within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the site:

"(1) An accounting of all money expended to manage the site.

"(2) A summary of Federal full time equivalent hours related to management of the site.

"(3) A list and explanation of all nongovernmental organizations that contributed to the management of the site.

"(4) A summary and account of the disposition of complaints received by the Secretary related to management of the site.".

SEC. 4. PROHIBITION AND TERMINATION OF UNAUTHORIZED UNITED NATIONS BIOSPHERE RESERVES.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is amended by adding at the end the following new section:

"SEC. 403. (a) No Federal official may nominate any lands in the United States for designation as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization.

"(b) Any designation on or before the date of enactment of the American Land Sovereignty Protection Act of an area in the United States as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization shall not have, and shall not be given, any force or effect, unless the Biosphere Reserve—

"(1) is specifically authorized by a law enacted after that date of enactment and before December 31, 2000;

"(2) consists solely of lands that on that date of enactment are owned by the United States; and

"(3) is subject to a management plan that specifically ensures that the use of intermixed or adjacent non-Federal property is not limited or restricted as a result of that designation.

"(c) The Secretary of State shall submit an annual report on each Biosphere Reserve within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the reserve:

"(1) An accounting of all money expended to manage the reserve.

"(2) A summary of Federal full time equivalent hours related to management of the reserve.

"(3) A list and explanation of all nongovernmental organizations that contributed to the management of the reserve.

"(4) A summary and account of the disposition of the complaints received by the Secretary related to management of the reserve.".

SEC. 5. INTERNATIONAL AGREEMENTS IN GENERAL.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is further amended by adding at the end the following new section:

"SEC. 404. (a) No Federal official may nominate, classify, or designate any lands owned by the United States and located within the United States for a special or restricted use under any international agreement unless such nomination, classification, or designation is specifically authorized by law. The President may from time to time submit to the Speaker of the House of Representatives and the President of the Senate proposals for legislation authorizing such a nomination, classification, or designation.

"(b) A nomination, classification, or designation, under any international agreement, of lands owned by a State or local government shall have no force or effect unless the nomination, classification, or designation is specifically authorized by a law enacted by the State or local government, respectively.

"(c) A nomination, classification, or designation, under any international agreement, of privately owned lands shall have no force or effect without the written consent of the owner of the lands.

"(d) This section shall not apply to—

"(1) agreements established under section 16(a) of the North American Wetlands Conservation Act (16 U.S.C. 4413); and

"(2) conventions referred to in section 3(h)(3) of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712(2)).

"(e) In this section, the term 'international agreement' means any treaty, compact, executive agreement, convention, bilateral agreement, or multilateral agreement between the United States or any agency of the United States and any foreign entity or agency of any foreign entity, having a primary purpose of conserving, preserving, or protecting the terrestrial or marine environment, flora, or fauna.".

SEC. 6. CLERICAL AMENDMENT.

Section 401(b) of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1(b)) is amended by striking "Committee on Natural Resources" and inserting "Committee on Resources".

The CHAIRMAN. No amendment shall be in order except amendments 2, 27, 5 and 51 as printed in the CONGRESSIONAL RECORD; one amendment by the gentleman from California [Mr. MILLER] or his designee at the desk striking section 4(b), and one amendment by the gentleman from California [Mr. MILLER] or his designee at the desk regarding specific biosphere reserves.

Each amendment may be offered only in the order specified, may be offered only by the Members who caused them to be printed in the RECORD or their designees or a Member otherwise designated in the previous order of the House.

Each amendment shall be considered as read, debatable for 30 minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment and shall not be subject to a demand for a division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Pursuant to the previous order of the House, it is now in order to consider amendment No. 2 printed in the CONGRESSIONAL RECORD.

AMENDMENT NO. 2 OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of amendment is as follows:

Amendment No. 2 offered by Mr. BROWN of California:

Strike page 8, line 21 through page 9, line 16, and insert the following:

"SEC. 403 (a) No Federal official may nominate any lands in the United States for redesignation as a United States Biosphere Reserve under the Man and the Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization, except in accordance with this section.

"(b) Any designation on or before the date of enactment of the American Land Sovereignty Protection Act of lands in the United States as a United States Biosphere Reserve under the Man and the Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization shall not have, and shall not be given, any force or effect, unless the proposed United States Biosphere Reserve is determined by the Secretary of State—

"(1) to include—

"(A) little-disturbed areas of natural habitat that are reasonably expected to remain so because of protection or management under any law or regulation in effect before the date of that designation; and

"(B) managed use areas;

"(2) to be suitable to serve as a model of outstanding stewardship fostering a harmonious relationship between human activities and the conservation of natural resources; and

"(3) to have been nominated for designation by each person that holds title to the lands, or in the case of public lands, by the governmental authority administering the lands, after local public comment has been obtained and considered.

"(c) The Secretary of State, or governmental authority administering the nominated lands, shall use appropriate means to publicize nationally the nomination of lands for designation as a United States Biosphere Reserve.

"(d) Designation of lands as a United States Biosphere Reserve shall not convey any additional protections or use restrictions to included lands, or impose any obligations on third parties, including private parties, nor shall it impose any restrictions or requirements on private rights or private property land uses within the lands or adjacent to the lands. Recognition as a United States Biosphere Reserve shall in no way affect United States sovereignty over lands.

"(e)(1) For all designations on or before the date of enactment of the American Land Sovereignty Protection Act of lands in the United States as a United States Biosphere Reserve, the Secretary of State shall transmit to the Congress determinations made under subsection (b) of this section within 90 days after the date of enactment of the American Land Sovereignty Protection Act.

"(2) Upon receiving any new nomination for designation of lands as a United States Biosphere Reserve after the date of enactment of the American Land Sovereignty Protection Act, the Secretary of State, after determining that the requirements of subsection (b) (1) through (4) have been met, shall transmit to the Congress the information received with respect to the nomination. No lands shall be designated as a United States Biosphere Reserve until at least 90 days have passed after the transmittal of information with respect to those lands under this paragraph.

Page 9, line 17, redesignate subsection (c) as subsection (F).

The CHAIRMAN. The gentleman from California [Mr. BROWN] and a Member opposed, each will control 15 minutes.

The Chair recognizes the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I yield myself such time as I may consume.

I rise today to offer an amendment that would place the congressional oversight role for the Man and Biosphere program in a more practical and workable context. As I indicated in my earlier discussion, I feel that the proponents of this bill are correct in asserting that this program deserves congressional authorization and congressional oversight. My amendment would provide for such oversight.

We have debated the pros and cons of the Man and Biosphere program on a number of occasions during this session of Congress, but there remain a number of elusive arguments against the program for which virtually no evidence has been presented. I am not in any way dismissing the seriousness of these arguments regarding private property rights and national sovereignty. Indeed, the legislation in bill form which I have previously introduced would guarantee a continuing active oversight mechanism to ensure that there would be no disregard to private property rights and no loss of national sovereignty.

I pledged to the House on this occasion to exert my very best efforts in bringing this bill to the floor as quickly as possible.

Now, some of the provisions in my bill are likewise included in the amendment which I am offering here today. We are faced today with a bill, H.R. 901, that would have the practical effect of eliminating all biosphere designations and seriously hindering the ongoing research at these sites before we have had an opportunity to examine in any serious way the actual benefits and potential shortcomings of this program.

Again, as I indicated earlier, my previous concern over the last several years has been with the research programs which flow from this designation of Man and Biosphere program. By rescinding all existing biosphere designations and requiring that Congress must pass specific statutory legislation for each designation in the future, we are virtually guaranteeing that no designations will be made.

I want to make a clear distinction between the biosphere designations that we are discussing today and actually setting aside Federal land for legal protection. Obviously this latter point, setting aside Federal lands for legal protection, is an extremely serious decision that is appropriate for specific congressional legislation. The biosphere designations, however, have absolutely no effect on the legal status of any lands. I want to repeat that.

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It may be useless to repeat it, because it has been repeated about a dozen times already, but biosphere designations have absolutely no effect on the legal status of any lands. They serve only to facilitate the research that goes on there. Specifically, they enable a vigorous data exchange program with comparable biospheres elsewhere in the world, some of which I have previously referred to in my earlier discussion.

Thus, it is appropriate that the discussion to identify and nominate biospheres should be a part of the overall responsibilities of the executive branch. Congress should exercise oversight by reviewing those designations during the reporting period specified in my amendment. This is similar to the oversight role that we would exercise over the research itself which is being conducted there.

It is simply unreasonable to burden Congress with a micromanagement role in actually legislating each such decision. Since no designation changes any aspect of the legal status of such lands, these designations do not arise to the level of significance that they should compete with other more substantive legislation that Congress must deal with.

I would point out that my amendment, taken from the bill which I earlier introduced, H.R. 1801, ensures that all nominations and designations remain in local control. To subject, for example, a designation in Texas to a vote of the full House in effect removes this local control aspect. Many biospheres are, in fact, related to State and even privately owned lands when the local owners support such designation. A congressional statute would serve only to override such local actions.

Mr. Chairman, I would like to just briefly quote from the language of my amendment, in case anyone doubts what I have just indicated. My amendment would require that any lands that are to be designated should have been designated by each person that holds title to the lands. Each person has to participate in the designation. Or in the case of public lands, the governmental authority administering the lands, after local public comment has been obtained and considered, can nominate a land for consideration.

Furthermore, the Secretary of State or governmental authority administering the nominated lands shall use appropriate means to publicize nationally the nomination of lands for designation as a United States Biosphere Reserve. The designation of lands as a reserve shall not convey any additional protection or use restrictions to included lands, or impose any obligation on third parties, including private parties, nor shall it impose any restrictions or requirements on private rights or private property land uses within the land or adjacent to the land.

Now, this is exactly what the proposers of this bill have been asserting that they want. And I have included it in my amendment so that it would be absolutely clear that that is the situation.

In closing, I want to point out that my amendment ensures a proper and appropriate level of congressional oversight while preserving a workable biosphere program because of the overriding importance of the international research conducted within the framework of this biosphere program.

Mr. Chairman, I urge the support of my colleagues for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment, and I reluctantly do so because I have great respect for the

gentleman from California [Mr. BROWN].

But my committee has held three hearings on the biosphere designations. Biosphere Reserves are unpopular because they were created without consulting, working with the public. In my State, no one was notified, including the governor. Nearby property owners, who are not even consulted about the nomination, have legitimate concerns about the program. No hearings have been held on this amendment and there has been no chance for public comment.

Very frankly, I think the amendment is, although well thought out, is not the amendment that should be adopted. For designation of Biosphere Reserves, this amendment delegates the constitutional power of the Congress to the Secretary of State. In all due respect to our new Secretary of State, I do not want this Congress to give her that much power. It only gives us a cursory role to make these decisions.

Frankly, why have more roadblocks? Nearly every month the Congress passes bills naming post offices, park visitor centers, and federal courthouses, and it is all an honorary function. If someone would like to have their area as a biosphere area now, if they want to come back, there is no reason why that Congressman in that district, the person of the people, cannot recommend it.

Again I want to stress that I think it is the role of this Congress to make these definitions, so I do oppose this amendment and urge the defeat of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of California. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I appreciate the gentleman yielding me this time, and I want to speak in favor of his amendment.

I think, as the gentleman from California has stated under general debate, that, in fact, these programs, the major program we have been talking about, the Man and the Biosphere Program, in which 120 some nations actually participate, we have actually, as a Nation, led in the development of this program to provide research, global research.

Now, because I am for global research does not mean I am for one world government as some might assume. The fact is, of course, that I think we need the 650 research sites we have around the globe. Forty-seven Biosphere Reserves, we know, are in this country, the United States of America, and many of them serve as a focus of that scientific research.

Mr. Chairman, my job, as a Member of Congress, I think, is translating new knowledge, new information into public policy. One source of that information, of course, in terms of landscape and land use questions and the health of these types of ecosystems comes from this primary on-the-ground type of research.

Almost every one of our land management agencies, the Fish and Wildlife Service, the Park Service, the Forest Service, the Bureau of Land Management and others, have as one of their functions their mission, scientific endeavor. In fact, we have some of the most renowned scientists in the world in terms of our forests and landscapes in the Forest Service and in the Fish and Wildlife Service and in the Park Service.

The fact is that in designating these M.B.P. we can build and do build as much knowledge as we might have within the continental United States or the various States that are not within it, Puerto Rico, American Samoa. Each one of these has been a focus in terms of research activities. But as far as we go, we still end up with an incomplete picture if that is the only information that we obtain.

So in terms of working cooperatively under this voluntary program that has been set up, the Man and the Biosphere Program, we obtain that type of information so that we can make better public policy decisions. And whether we agree or not with questions like global warming or the pollution that is occurring, perhaps, in the oceans, the conditions and problems with the atmosphere and ozone, all of this type of information can be gathered cooperatively.

And that events occurring on these special landscapes. The information that comes from the Caribbean National Forest in Puerto Rico, or the Andrews Experimental National Forest in the State of Washington, all is very important. A couple of these happen to be biosphere sites. We can pull that information together, from more important data so that we can make better decisions.

What has been stated here is that this program, one of the major objections was that it was not authorized. Well, here we have a chance in an authorizing bill to authorize the Man and the Biosphere Program. I think it is constituted appropriately. It has been operating for 25 years. Various agencies, the Federal Government, have accomplished this. It is part of a major agreement that we have entered into, as I said, with 125 other nations participating; 651 scientific sites.

With the action of this bill, and the absence of legislation or modifications such as the gentlemen from California [Mr. BROWN] and [Mr. MILLER] will propose, we would be unilaterally withdrawing from the MBP, from the universities that have made the agreements, from the corporations that have made the agreements, all on a voluntary basis, from the State governments and the agencies of the State governments that have made the agreements. This Congress, in buying into the ideas and the fears, I very much regret that, that in fact we would be reneging and yielding our leadership in terms of conservation and science in terms of the environment on a global basis.

So I strongly rise in support of the gentleman's amendment to reauthorize this. As he stated, he has put in the provisions that deal with some of the property concerns that have been raised.

No one has brought a single example up of the 82 sites, including the 47 Biosphere Reserves, in fact, where these agreements, these treaties, have had any impact on any land use decision. They may bring information, they may bring information that is used in decision-making by those that have the authority to make decisions, but there has been no instance.

And I think if they are guilty of being loosely associated with the United Nations, so be it. But I think we need this information as individuals because we live in an environment in which the global condition and the global science is something of an information network that we have to create.

I urge Members to adopt this sensible amendment that the gentleman from California [Mr. BROWN] has offered.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BRADY].

Mr. BRADY. Mr. Chairman, I rise to respectfully oppose this amendment.

The Secretary of State is simply no substitute for the American people. Texas now has two Biosphere Reserves totaling over three-quarters of a million acres in our State affecting a lot of counties and a lot of people.

The Secretary of State is simply not qualified to determine, as this amendment asks him to do, to determine natural habitat areas, land stewardship, the conservation of natural resources or a number of other environmental issues. The Secretary of State, whose job it is to help direct our relationships with foreign countries, is no more closer to this mission than the IRS or the Federal Election Commission. They are all equally unqualified to determine property rights in States across our country.

The bottom line is that those who work hard, save enough money to buy a house and make a mortgage understand how difficult it is, how extremely hard one has to work to buy land, to own a family farm, to keep it running, to buy a ranch and operate it, to work all their lives and buy a home in the country to retire upon. And while some people would call them extremists, I say they have earned the right to have a say in how their land is used and how the land adjacent to them is used.

That is why this bill, in its concept, in its principle, says that we ought to, as Congress and the American people, have a say, a real say in what happens to our lands in our States.

Local government leaders have testified before the Committee on Resources that they were never consulted, had no idea about the creation of biospheres in their local areas. Several States have passed resolutions opposing the biospheres that have already been created. That alone raises a real doubt about the validity and the value of the properties that have already been designated, and it underscores the need for us to have a say.

America's lands ultimately belong to America and not to the world. Private lands belong to private property owners and not to the United Nations and not without our consent. It is time to protect our lands and our rights by giving us a voice through Congress on how these lands are used.

Mr. BROWN of California. Mr. Chairman, how much time is remaining on each side?

The CHAIRMAN. The gentleman from California [Mr. BROWN] has 3 minutes remaining.

Mr. BROWN of California. Mr. Chairman, I yield myself such time as I may consume, and let me close, really, by trotting out the heavy artillery here.

I note in the list of research projects that are being supported under the Man and the Biosphere Program that one of these is from my own State of California, where they are developing the integrated monitoring data and information system, which allows us to keep constant control over all the research that is going on around the world, and it comes right back to California where we can watch it and take advantage of it.

But even more impressive is the fact that out of this list of 15, two of them are in the State of Alaska. And perhaps I am reading this figure wrong, but I think one says $50 million and the other $35 million, or $15 million, and these will automatically go down the drain if this bill passes.

I know my good friend from Alaska, who has been so assiduous in pursuing the welfare of Alaskans and the receipt of research grants for all good things that help the world, would be devastated to lose this inflow of Federal cash.

□ 1915

Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentlewoman from Washington [Mrs. LINDA SMITH].

Mrs. LINDA SMITH of Washington. Mr. Chairman, I stand tonight as a strong supporter of this bill, and I stand against the amendment, not because of the intender, I think that his intentions are good, but I can find nowhere in the Constitution that we would give the power to the Secretary of State over our lands.

As my colleagues can see, article IV, section 3, of the Constitution says, "The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

International designations, such as World Heritage Sites, Biosphere Reserves, and others occur without congressional input or approval and are in direct conflict with article IV, section 3.

Unfortunately, these designations usually occur without the input of local citizens, and quite often they are not even aware that they happen until something happens to them, like they lose their local property rights or the use of their property.

Everyone here should be concerned about these designations and should support the bill, H.R. 901, because what it does, it stands up for local property owners, but it also says the Congress is responsible to the people. We are elected. And the reason I stand against this amendment is, the Secretary of State is not; the Secretary of State is appointed. It is not unreasonable to ask that these nominations be made in the light of day, they be confirmed by the people's body, and that we protect the sovereignty of America.

I would ask that my colleagues consider very strongly voting against this amendment but also for the final bill. It passed strong before with a 246 to 178 vote, and I think it will again tonight if we know our Constitution.

Mr. YOUNG of Alaska. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from Alaska [Mr. YOUNG] has 9 minutes remaining.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I would like to report that the U.S. Man and Biosphere program is funding a meeting of those concerned with the restoration of the Florida Everglades through a grant. The meeting is at a resort in Maine. Why is it not being held in Florida near the Everglades, the subject of the meeting?

Local participation would be encouraged, and the meeting would cost the taxpayers less. But I really think this shows how badly this program is being managed. It is not being managed, it has not been managed, it is a boondoggle, it has been a boondoggle, and it circumvents the role of Congress.

Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, the question I have to ask is this: If it just supports ecological research cooperation, why would his bill want to remove the private sector from being able to do that on their own lands, or local districts to do it, or even State parks from doing this ecological research? Why would his bill say they cannot do it?

Mr. YOUNG of Alaska. Reclaiming my time, I believe most of these areas were set aside without public input. There is no reason why, if it is such a great idea and a good operation, if there is one in his district, I would certainly support the gentleman if he represents that district, as I have said otherwise. But it should still be this Congress and not some other agency.

Mr. FARR of California. But my amendment would exempt it.

The CHAIRMAN. The gentleman from California [Mr. FARR] has yielded the balance of his time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BROWN].

The amendment was rejected.

The CHAIRMAN. Pursuant to the previous order of the House, it is now in order to consider amendment No. 27 printed in the CONGRESSIONAL RECORD.

AMENDMENT NO. 27 OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 27 offered by Mr. VENTO:

On page 11 of the bill—

(1) on line 10, strike "and";

(2) on line 13, strike the period and insert instead "; and"; and

(3) after line 13, insert the following:

'"(3) sites nominated under the Convention on Wetlands of International, Importance Especially as Waterfowl Habitat (popularly known as the Ramsar Convention).'"

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself 5 minutes.

I rise, of course, in support of the amendment that I have submitted. During the markup of this bill in the full Committee on Resources, an amendment was offered that will effectively end the U.S. participation in the Convention on Wetlands of International Importance, especially as waterfowl habitat.

This amendment is one that the ducks and geese and sportsmen should be in favor of adopting, Mr. Chairman, the convention on wetlands, especially waterfowl, generally known as the Ramsar Convention.

My amendment would reaffirm the U.S. participation in this 25-year-old

international agreement that celebrates 775 wetland sites around the world, only 15 of which are within the United States, only 15. This is an entirely voluntary program, and it is named after a meeting that was held in Ramsar, Iran.

I am still rather baffled why anyone would want to end our involvement in this voluntary agreement, this Ramsar Treaty. It imposes no land use restrictions or regulations on American landowners. All it does, and it is the only international agreement to do so, is encourage worldwide protection of wetlands.

Currently, 92 nations have joined in adopting the Ramsar objective to stem the loss of wetlands and ensure their conservation. Again, the agreement makes no mandates and sets no rules. Statements to the contrary are simply incorrect. Congress writes the laws, and Congress sets the rules.

As I have said, I would join the supporters of this bill in opposing any international agreement that did restrict our powers to do so. This, however, is not the case. This debate ought to be about wetlands, which are important for a number of reasons. They serve as a valuable natural resource for wildlife and people, a vast array of wildlife, including, of course, many important species of migratory waterfowl. They provide food and shelter and, of course, rich vegetation.

The wetlands soak up water, reducing flooding, and they also help break down pollutants and protect clean water supplies, which, of course, feed into the various aquifers very often or into our surface streams and rivers. Development that destroys wetlands, thus, has important consequences. It reduces our ability to cope with difficult flood situations and reduces wildlife habitat, the major cause, of course, of the decline of many wetland species.

Indeed, I often wonder if we could have prevented the horrible floods that occurred in my home State earlier this year if we had protected more of our precious wetlands.

Ramsar seeks to temper this development by promoting international cooperation in responsible use and management of wetlands. Participating nations consider wetlands conservation in natural resource planning and seek to maintain the ecological character of wetlands. Most importantly, the 15 U.S. Ramsar sites are part of an international network of protected areas necessary for the conservation of wetland-dependent migratory species.

This Congress should not end U.S. participation in the Ramsar Convention. Wetlands are among the most productive environments in the world and provide amazing examples of our planet's biological diversity. The Ramsar Convention celebrates the importance of these remarkable habitats worldwide and ensures their protection for future generations.

The fact is, Mr. Chairman, that this treaty, this agreement, provides us the opportunity to lead and to encourage other nations to preserve wetlands. We do a pretty good job here in terms of many of the wetlands we have.

Obviously, we debate it and it is a matter of great concern, I think, to most of the Members of this body. But the fact is, how can we project beyond what we do in this country? Because we know that many of these species migrate to the other hemisphere in some cases and out of the country, in Mexico, and many other places.

We have many volunteer programs that do this, such as Ducks Unlimited. But the fact is, on a global basis, if we want to deal with wetlands, this is one form of voluntary organization, a voluntary treaty, which has no effect in terms of anyone's property rights, which is entered into. We have 15 such sites which are celebrated. As I said, there are many more sites on a global basis.

I would encourage the Members to restore this amendment to the bill, so this is an exception, so this treaty remains in force and effect and it is not knocked out by this measure before us.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to remind my colleagues that H.R. 901 will not end participation by the United States in the Ramsar Convention. It does not do that. It has no effect on existing Ramsar sites, does not affect them at all. All it does is simply require any new Ramsar sites to be recognized and approved by its adoption.

Mr. Chairman, I yield 4 minutes to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Chairman, I thank my colleague, the gentleman from Alaska [Mr. YOUNG] for yielding me the time.

Mr. Chairman, I rise in support of H.R. 901 and in strong opposition to the Vento amendment. The Vento amendment would allow international officials to nominate sites under the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, commonly known as the Ramsar Convention, without having to abide by the controls on such designations listed in H.R. 901.

In essence, Mr. Chairman, the Vento amendment would allow international bureaucrats to designate U.S. lands as wetlands. Such classifications would not require the approval of Congress nor the consent of the owner of the land.

Mr. Chairman, that is significant, so let me repeat that. Under the Vento amendment, a wetlands designation under the Ramsar Convention would not require the approval of Congress nor the consent of the owner of the land. That is not only wrong, it would surrender common sense and constitutional rights.

The goal of H.R. 901 is to ensure that international agreements do not infringe upon our sovereignty. For this reason, the Committee on Resources passed an amendment by voice vote that said sites selected under the Ramsar Convention must be authorized in the same way other international designations are, by passing a law.

Mr. Chairman, protecting waterfowl habitat is a laudable goal we all should support. However, too many times the Ramsar Convention has been used, actually abused, by special interest groups looking to usurp private property rights. Let me provide just one example of the far-reaching effects of the Ramsar Convention.

Steve Lindsey of Canelo, AZ, is a fifth-generation rancher in the southeastern part of my State. His family has ranched the same land since the late 1860's. On January 28 of this year, a radical special interest group petitioned the U.S. Fish and Wildlife Service to designate 60 acres of Mr. Lindsey's privately-owned land as a "wetland of international importance especially as waterfowl habitat." The designated area, Mr. Chairman, can be seen in the picture next to me right here.

Let us take a look at this picture. I would especially ask opponents or proponents of this amendment to take a look at this picture. As they can see, water does not cover the 60 acres of land the extremists want designated under the Ramsar Convention. Rather, a small meandering stream known as Turkey Creek runs through the property only 4 months of the year.

Let me show my colleagues a picture of Turkey Creek, Mr. Chairman. It is scarcely discernible. Here is the supposed wetland. This picture illustrates that the creek is no more than a foot wide and a few inches deep.

Again, the goal of the Ramsar Convention is to protect waterfowl habitat. I would simply say to the Members of this body that this creek is no more a waterfowl habitat than the fountain across the street in front of the Library of Congress. The duck hunters, Mr. Chairman, do not care about this puddle. It is only suitable for rubber ducks.

There are no less than 10 such proposed designations in my home State of Arizona. Needless to say, unelected and unaccountable international officials should not have unchecked, unparalleled power to name sites in the United States under the Ramsar Convention, ruin the livelihood of our citizens, and deny them their right as citizens.

□ 1930

Mr. Chairman, the Ramsar Convention is another example of government

gone haywire. It tramples on the sovereignty that we as a nation so cherish. H.R. 901 would help rectify this egregious violation of our international sovereignty.

As Mr. Lindsey stated in his testimony before the Committee on Resources earlier this year, "It is absolutely necessary that this bill, H.R. 901, include the Ramsar Convention and that this bill is passed and implemented. As a sovereign nation, we cannot give any more power to those who desire to control our very existence."

Therefore, I urge defeat of the Vento amendment.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute.

I would just point out to my colleague from Arizona that most of the examples that have been brought up here in terms of all of it, these examples with regard to Ramsar, are areas that were proposed. None of us can prevent people from making recommendations as to protection of a wetland area, and the fact is that they had not been identified. There are no sites in Arizona that, in fact, are so designated.

The specific provisions of this bill would prevent any type of private or State land or other lands from even being considered, even if people wanted to do so, and they are permitted on a voluntary basis. So it simply denies the opportunity to even consider it. To those that voluntarily want to participate in this type of agreement, it simply denies it. That is what the legislation does.

So repeatedly we ask for specific examples of any type of instance where any property right, any type of denial or control was placed by virtue of any of these three, and we are simply given back examples of proposals or measures or other activities involved that do not really reflect; no one can answer that question.

Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I would like to correct something that the gentleman from Alaska [Mr. YOUNG], the chairman of the full committee, said. When he introduced this bill, of which the gentleman from Arizona [Mr. HAYWORTH] was a cosponsor, it exempted the Ramsar sites, and on page 11 of the bill that was introduced it said, "Sites to be exempted: Sites nominated under the Convention on Wetlands of International Importance, especially waterfowl habitat, properly known as the Ramsar Convention."

But the amendment that was offered by the gentlewoman from Idaho [Mrs. CHENOWITH] in the committee exempted that, so this amendment that the gentleman from Minnesota [Mr. VENTO] is bringing up is trying to put the bill back in its original order the way the gentleman from Alaska [Mr. YOUNG] introduced it, because it does protect the waterfowl that the gentleman is interested in protecting. What it is doing is, it is restoring the bill to what the gentleman thought was the proper exemption from the bill.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, all we are doing is saying, any future Ramsar sites have to come before the Congress. It does not affect anything that is in place now. Nothing affects the Convention; it just says it has to come back here. We are protecting those wetlands.

Mr. FARR of California. Mr. Chairman, reclaiming my time, no, because what it says, and I disagree with my colleague, it is easily read on page 10, line 17. It says that it has to be specifically authorized by law. That is not an exception. One has to introduce a law in the future to recognize that. We are not exempting it, we are kicking it out. None of these things apply to Ramsar sites. The gentleman from Alaska [Mr. YOUNG] is not exempting any of them, and for those that he wants, he has to take an act of Congress to get it back in.

I do not think that is what the gentleman intended, and that is why I think the Vento amendment is in order and it is a proper one and we ought to support it, because the bill does just the opposite of what the gentleman from Alaska got up and spoke about.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, it says prospective, it does not say in the past. It is retroactive. It says prospective. That is what it says.

All I am saying is any future Ramsar Convention sites have to come back to the Congress.

Mr. FARR of California. Mr. Chairman, reclaiming my time, the gentleman has not exempted the existing sites.

Mr. YOUNG of Alaska. But we are talking about prospective.

Mr. FARR of California. No.

Mr. YOUNG of Alaska. Yes.

Mr. FARR of California. Well, I can read also.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would just point out that prospectively this makes it impossible, frankly, to really put it in effect, because if we look at the prescriptions here, we can have no State lands, for instance, that would be involved and we could have no private lands in terms of corporations or those that voluntarily want to participate. And if there is anything I think that we know, even though there are vast Federal lands that are the domain of the public, the fact is that these lands end up being intermixed, especially these wetlands end up being intermixed.

I come down on the side of the gentleman from California with regard to his interpretation of what this is. It says, if we read on page 11, it says, a nomination, classification existing or designation under any international agreement. It does not say prospective agreements, it says any international agreement of privately owned land shall have no force or effect without the written consent of the owner of the lands. And then it goes on, this section shall not apply.

So that means since they knocked out Ramsar, that all of these particular provisions in section 5 which are not exempt come under section 5. So all of those requirements come under it.

So the fact is that we are overreaching here. This is an amendment which will not only vitiate the existing, but make it nearly impossible to set this in place.

Mr. FARR of California. Mr. Chairman, reclaiming my time, does not the gentleman's amendment restore this bill to the shape it was in when it was introduced by the gentleman from Alaska [Mr. YOUNG]?

Mr. VENTO. Yes, it does.

Mr. Chairman, I yield myself 1 additional minute, and I yield to the gentleman from California [Mr. FARR] if he has further comments.

Mr. FARR of California. Mr. Chairman, I thank the gentleman for yielding, and I would hope that the gentleman from Alaska [Mr. YOUNG] would accept this amendment for the reasons that he got up and stated that he is interested in preserving these wetlands, particularly because they are the nursery for so many of our wild birds, wildlife, and in fact he is very interested in preserving those.

Those bird life know no boundaries. They do not respect as to where they land and feed, they do not respect whether it is Federal property or State property or local property, and this ought to be exempted for the protection of such waterfowl. I would think that he would easily adopt the gentleman's amendment to correct what has been taken out of this bill in a fashion which he did not understand.

Mr. VENTO. Mr. Chairman, reclaiming my time, there are 775 sites globally; 15 are in the United States. Most of the United States exist in issues where we have fish and wildlife and other existing types of wetlands.

Mr. Chairman, I reserve the balance of my time.

Mrs. CHENOWETH. Mr. Chairman, I yield myself such time as I may consume to point out that we have a letter here from the World Wildlife Fund, and they are opposing a road that would be

a very safe road between an airport up in Alaska and a village, and they are opposing it on the basis that, well, in fact they say the bill would violate the obligations of the United States under the Ramsar Convention to conserve the ecological character of wetlands of international importance.

Now, this is a reason why we cannot support the gentleman's amendment, and I also would like to simply state for the record that anyone who has tried to apply for a 404 permit under the Army Corps of Engineers' guidelines would just shudder at the thought of having to also deal with an international body in trying to get a 404 Army Corps of Engineers permit.

Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I had not originally intended on speaking on this particular amendment, but the debate intrigued me so much that I decided to ask for time to speak.

All afternoon we have heard how these particular treaties are honorary and they do nothing, and now we have an amendment because it is so important, because these treaties do things that are so important. It seems somewhat contradictory that on the one hand they do nothing, but on the other hand they are important because of all that they are capable of doing in protecting wetlands.

In regards to what the gentleman from Arizona [Mr. HAYWORTH] was speaking about a little earlier in the protection of a particular piece of land that resides in his congressional district, I found it interesting to note that in June 1993, the Southwest Center for Biological Diversity petitioned the U.S. Fish and Wildlife Service to list the Canelo Hills Lady's Tresses as an endangered species. That was listed as an endangered species in January of this year, and as a result of a lawsuit that was filed by that particular organization.

I have here a copy of a newspaper article that ran in February 1997, February of this year, that has a quote from someone that says, "by protecting these Arizona wetlands through the Ramsar Convention, we get international oversight, and that is exactly what the developers do not want," said Kieran Suckling, who is the executive director of the Southwest Center for Biological Diversity.

Well, it seems like they did not get exactly what they wanted by finding an endangered species to list on that particular piece of property, so then they began to put their efforts into having an international treaty entered into to protect this as an important wetland.

So I think we can begin to understand why people out in the real world are concerned about these particular international agreements that are entered into without congressional oversight, without their representative having the opportunity to stand before Congress and make their argument to his colleagues or her colleagues.

I think we begin to understand why people are concerned about that. It is because these international agreements are used by groups, whether they are American environmental groups or whether they are groups outside of America, they use these international agreements to achieve their goals, and if they cannot get what they want through Congress, if they cannot get what they want through the bureaucracy, through the administration, they will go around them to an international organization to try to achieve that.

Mr. FARR of California. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from California.

Mr. FARR of California. Mr. Chairman, first of all, since the gentleman has none of these biospheres in his district, is there any example of effect on property rights that the gentleman can mention?

Mr. POMBO. Yes. Reclaiming my time, I think that this amendment deals with Ramsar. The situation that was brought up by the gentleman from Arizona [Mr. HAYWORTH] earlier, with the concerns of that particular gentleman on his particular ranch, are concerns that private property owners all across the country have.

I think that is exactly what is going on, and that is what scares people, that now they do not just deal with their local bureaucrat and through the entire Federal bureaucracy and fighting with Congress and everything else that unfortunately the American people have become used to and find as an important, everyday fact of being in the ranching business that they have to deal with Federal bureaucrats, but now all of a sudden they have an international convention that is coming down on them, an international agreement that is coming down on them that they cannot handle, that they do not want.

If these things, if they just have to be approved by Congress, it does not change the underlying agreement; it does not change the protection of anything. All it is saying is that Congress has to approve it.

Mr. FARR of California. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from California.

Mr. FARR of California. Mr. Chairman, if the gentleman had some wetlands on his property and he wanted the University of California to do some research in conjunction with his ranching operations, does the gentleman think he should have to come to Congress to have that research done?

Mr. POMBO. Mr. Chairman, reclaiming my time, no, I do not think they should have to come to Congress to have research done on a wetlands that happens to be in their district, but I am sure that a university would be fully capable of studying wetlands that occur on my ranch or anybody else's ranch without the United Nations or anyone else getting involved.

See, my colleagues on the other side make the mistake of thinking that unless we have a Federal bureaucracy and a State bureaucracy and a local bureaucracy, and now an international bureaucracy to study all of this stuff, we do not have quite enough bureaucracy.

The way things used to work is that if there was a problem, we studied it, we figured it out and we got it done. Now all we do is study it to death. All we have is, we have the local planners that have to have their bureaucracy that we have to fight through; and then we go to the county and then the State and then the Federal Government, and now international, and now my colleagues on the other side of the aisle are happy. We are trying to change that.

Mr. VENTO. Mr. Chairman, I yield myself the balance of my time.

I would like to point out that again the gentleman from California [Mr. POMBO], a member of the committee, talked about creating more bureaucracy. The fact is that these 651 agreements that exist with regards to the 775 sites, the actual work that goes on there, are voluntary agreements in terms of what takes place.

What we are doing is injecting ourselves into it and saying one has to come to Congress if one wants to be part of the Ramsar Convention. So we are injecting ourselves into it. It really is taking back from the Fish and Wildlife or the State Department, Natural Resources, or the university or private landowner that is into this particular agreement.

The reason we have this agreement is of course to try and encourage countries to preserve their wetlands. We obviously have led the world in many conservation areas in the preservation of wetlands, the application of that knowledge, the ultimate protection of the waterfowl that are in them.

What is happening here is that my colleague is suggesting in this bill to take the United States out of that particular role in terms of leadership. We have 15 of these sites in the United States, 760 of them around the world.

□ 1945

The gentleman points out that somebody made a proposal somewhere that suggested that this international agreement was going to stop development, or affect an endangered species. I agree with the gentleman, I think fear and these concerns should be realistic,

but they should also be tangible. They should have meaning. If there is an action that the Ramsar Convention has in fact caused, then I think I would like to hear it, but so far I have not heard it.

Mr. Chairman, we have gone far afield. This bill had this exemption and somebody came into committee and gave some testimony with regard to fears that they had. I regret that. I think Members, though, ought to be motivated by facts. The issue is that for over 25 years this agreement, this treaty has been in agreement. We have ceded some power to our executives that represent us. This is a voluntary agreement. It has no effect in terms of the land use, other than the limitations that the Federal Government may put on some of its wetlands, or States, or private property owners and other individuals that own lands.

Mr. FARR of California. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. FARR of California. Mr. Chairman, I think people ought to take a very close look at this amendment. It restores the exemption that the chairman originally wanted when he introduced the bill, but the same cosponsors that have gotten up are now speaking against this amendment.

The Ramsar treaty allows countries which we need to have treaties with, particularly since our wildfowl fly over national boundaries. We have a lot of birds from Canada that come to the United States. Certainly we have to have some common research methodology, common denominators on habitat that are entered into voluntarily.

I would think that the chairman would want to reinstate this amendment to protect the very interests that he has spoken so passionately about in committee and on the floor.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his statement.

I think this is a good amendment. It does preserve the wetlands, the Ramsar treaty. It is an important treaty, a voluntary treaty. It has given us the opportunity to save wetlands around the world. I would hope that this body would stand up for that principle tonight.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentlewoman from Idaho, [Mrs. HELEN CHENOWETH].

Mrs. CHENOWETH. I thank the gentleman for yielding time to me, Mr. Chairman.

I just want to say that the issue of regulation of wetlands has been one that has been very difficult for this Nation. While we understand the values of wetlands, it has been a source of grief for many, many Americans, just getting through the American rules and regulations for designated wetlands. There are many farmlands and areas out of production because of just our American designation of wetlands.

Anyone who really wants to understand the grief of wetlands and the wetlands saga needs to look back at the John Poszgai case. John Poszgai was a Hungarian freedom fighter who fought his way to America, and set up a small business, and ultimately ended up spending a number of years in a Federal penitentiary because he dumped some dirt on his land, with the permission of the local units of government. But all the Federal agencies apparently had not given him the permission. Being a foreigner, he did not totally understand the entire situation.

I just point this out to say there has been a lot of grief over wetlands in the United States of America. Why do we need an international body? Why do we need an agreement coming out of Ramsar, Iran? Let us take care of our own business right here in the United States of America.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to remind my colleagues that my bill, as it is being debated tonight, does not affect existing Ramsar sites. It does not affect those sites. We are still in the convention. All I am doing is try to restate again the constitutional role of this Congress to designate areas that have been picked by the Ramsar Convention in the future, prospective. That is all it does.

I would like to suggest one thing. It was mentioned about King Cove and the road that was supposed to go to Cold Bay in Alaska, and the so-called World Wildlife Fund says the bill would violate the obligation of the United States under the Ramsar Convention.

What does that mean? It means that the Ramsar Convention being defended by my good friend, the gentleman from Minnesota [Mr. VENTO] is now willing to put the lives of my Alaskan constituents in jeopardy every day because they do not want 7 miles of road built through a so-called Eisenbeck refuge area that has 200 miles of roads in it, and every use in the world, but they use the Ramsar Convention as an excuse.

I want to suggest that we ought to do one thing, put this back into the control of the Congress in the future for Ramsar Convention sites. It does not hurt the existing sites.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. VENTO. I do not want to accept the allegation they make in it. I think this is a designated wilderness site. It has other restrictions on it. As far as I can see that is not the designated site under Ramsar.

Mr. YOUNG of Alaska. All I am saying is what they say.

Reclaiming my time, Mr. Chairman, I am suggesting they are using this type of thing to impose a terrible hardship on my people in Alaska when it is incorrect. Let them come back to Congress and let us discuss the future Ramsar sites.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VENTO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 220, not voting 18, as follows:

[Roll No. 498]

AYES—195

Abercrombie	Gutierrez	Obey
Ackerman	Hall (OH)	Olver
Allen	Hamilton	Ortiz
Andrews	Harman	Owens
Baldacci	Hastings (FL)	Pallone
Barrett (WI)	Hefner	Pascrell
Becerra	Hinchey	Pastor
Bentsen	Hinojosa	Payne
Berman	Hooley	Pelosi
Blagojevich	Horn	Pomeroy
Blumenauer	Hoyer	Porter
Bonior	Jackson (IL)	Poshard
Borski	Jackson-Lee (TX)	Price (NC)
Boucher	Jefferson	Rahall
Boyd	John	Ramstad
Brown (CA)	Johnson (CT)	Rangel
Brown (FL)	Johnson (WI)	Reyes
Brown (OH)	Johnson, E. B.	Rivers
Capps	Kanjorski	Rodriguez
Cardin	Kaptur	Roemer
Carson	Kelly	Rothman
Castle	Kennedy (MA)	Roukema
Clay	Kennedy (RI)	Roybal-Allard
Clayton	Kildee	Rush
Clement	Kilpatrick	Sabo
Clyburn	Kind (WI)	Sanchez
Conyers	Kleczka	Sanders
Costello	Klug	Sandlin
Coyne	Kucinich	Sanford
Cummings	LaFalce	Sawyer
Davis (FL)	Lampson	Saxton
Davis (IL)	Lantos	Schumer
DeFazio	LaTourette	Scott
DeGette	Leach	Serrano
Delahunt	Levin	Shays
DeLauro	Lewis (GA)	Sherman
Dellums	Lipinski	Sisisky
Deutsch	Lofgren	Skaggs
Dicks	Lowey	Slaughter
Dingell	Luther	Smith (NJ)
Dixon	Maloney (CT)	Smith, Adam
Doggett	Maloney (NY)	Snyder
Dooley	Manton	Spratt
Ehlers	Markey	Stabenow
Engel	Mascara	Stark
English	Matsui	Stokes
Eshoo	McCarthy (MO)	Strickland
Evans	McCarthy (NY)	Tauscher
Ewing	McDermott	Thompson
Farr	McGovern	Thurman
Fattah	McHale	Tierney
Fawell	McKinney	Torres
Fazio	McNulty	Towns
Filner	Meehan	Velázquez
Flake	Meek	Vento
Forbes	Menendez	Walsh
Ford	Millender-McDonald	Waters
Fox	Miller (CA)	Watt (NC)
Frank (MA)	Minge	Waxman
Frelinghuysen	Mink	Weldon (PA)
Frost	Mollohan	Wexler
Furse	Morella	Weygand
Gejdenson	Nadler	Wise
Gephardt	Neal	Woolsey
Gilchrest		Wynn
Gilman		

NOES—220

Aderholt	Gillmor	Pappas
Archer	Goode	Parker
Armey	Goodlatte	Paul
Bachus	Goodling	Paxon
Baesler	Gordon	Pease
Baker	Goss	Peterson (MN)
Ballenger	Graham	Peterson (PA)
Barcia	Granger	Petri
Barr	Green	Pickering
Barrett (NE)	Greenwood	Pickett
Bartlett	Gutknecht	Pitts
Barton	Hall (TX)	Pombo
Bass	Hansen	Portman
Bateman	Hastert	Pryce (OH)
Bereuter	Hastings (WA)	Quinn
Berry	Hayworth	Redmond
Bilbray	Hefley	Regula
Bishop	Herger	Riggs
Bliley	Hill	Riley
Blunt	Hilleary	Rogan
Boehlert	Hobson	Rogers
Bonilla	Hoekstra	Rohrabacher
Bono	Holden	Ros-Lehtinen
Boswell	Hostettler	Royce
Brady	Houghton	Ryun
Bryant	Hulshof	Salmon
Bunning	Hunter	Scarborough
Burr	Hutchinson	Schaefer, Dan
Buyer	Hyde	Schaffer, Bob
Callahan	Inglis	Sensenbrenner
Calvert	Istook	Sessions
Camp	Jenkins	Shadegg
Campbell	Johnson, Sam	Shaw
Canady	Jones	Shimkus
Cannon	Kasich	Shuster
Chabot	Kim	Skeen
Chambliss	King (NY)	Skelton
Chenoweth	Kingston	Smith (MI)
Christensen	Klink	Smith (OR)
Coble	Knollenberg	Smith (TX)
Coburn	Kolbe	Smith, Linda
Collins	LaHood	Snowbarger
Combest	Largent	Solomon
Condit	Latham	Souder
Cook	Lazio	Spence
Cox	Lewis (CA)	Stenholm
Cramer	Linder	Stump
Crane	Livingston	Stupak
Crapo	LoBiondo	Sununu
Cubin	Lucas	Talent
Cunningham	Manzullo	Tanner
Danner	Martinez	Tauzin
Davis (VA)	McCollum	Taylor (MS)
Deal	McCrery	Taylor (NC)
DeLay	McHugh	Thomas
Diaz-Balart	McInnis	Thornberry
Dickey	McIntosh	Thune
Doolittle	McIntyre	Tiahrt
Doyle	McKeon	Traficant
Dreier	Metcalf	Turner
Duncan	Mica	Upton
Dunn	Miller (FL)	Wamp
Edwards	Moran (KS)	Watkins
Ehrlich	Murtha	Watts (OK)
Emerson	Myrick	Weldon (FL)
Ensign	Nethercutt	Weller
Everett	Neumann	White
Foley	Ney	Whitfield
Fowler	Northup	Wicker
Franks (NJ)	Norwood	Wolf
Gallegly	Nussle	Young (AK)
Ganske	Oberstar	Young (FL)
Gekas	Oxley	
Gibbons	Packard	

NOT VOTING—18

Billirakis	Gonzalez	Moran (VA)
Boehner	Hilliard	Radanovich
Burton	Kennelly	Schiff
Cooksey	Lewis (KY)	Stearns
Etheridge	McDade	Visclosky
Foglietta	Moakley	Yates

□ 2012

Mr. QUINN and Ms. PRYCE of Ohio changed their vote from "aye" to "no".

Mr. FILNER, Mr. SNYDER and Ms. HARMAN changed their vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ETHERIDGE. Mr. Chairman, on the last amendment, the Vento amendment, I was unavoidably detained; and had I been present, I would have voted "yes."

Mr. YOUNG of Alaska. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SOLOMON) having assumed the chair, Mr. SUNUNU, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 901), to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, had come to no resolution thereon.

□ 2015

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2169, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight, Tuesday, October 7, 1997, to file a conference report on the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year 1998, and for other purposes.

The SPEAKER pro tempore (Mr. SOLOMON). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

The SPEAKER pro tempore. Pursuant to the order of the House of today and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 901.

□ 2015

IN THE COMMITTEE OF THE WHOLE

Accordingly; the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill [H.R. 901] to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, with Mr. SUNUNU in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose earlier today, amendment No. 27 offered by the gentleman from Minnesota [Mr. VENTO] had been disposed of.

Pursuant to the previous order of the House, it is now in order to consider amendment No. 5 printed in the CONGRESSIONAL RECORD.

AMENDMENT NO. 5 OFFERED BY MR. FARR OF CALIFORNIA

Mr. FARR of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. FARR of California:

On page 10 of the bill, after line 8, insert the following:

"(d) Subsection (b) shall not apply to California Coastal Ranges Biosphere Reserve."

The CHAIRMAN. The gentleman from California [Mr. FARR] and a Member opposed, each will control 15 minutes.

The Chair recognizes the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, is this the amendment that affects the Central Valley California district or is this the amendment that affects the Redwoods?

Mr. FARR of California. Mr. Chairman, it affects the California coast ranges, only to central California.

Mr. Chairman, if I may continue, this amendment is very simple. What it says is that we want to be exempted from the bill of the gentleman from Alaska [Mr. YOUNG]. And that is the California coast ranges. This includes State forests, the Jackson Demonstration State Forest, the Landels-Hill Big Creek Reserve, which is part of the university. This amendment exempts the California coast ranges and the biosphere reserve from the bill.

What it does is retain existing biosphere designations for the State forests, for the Channel Islands, the National Marine Sanctuary, for the Audubon Canyon, Bodega Marine Reserve, Cordell Banks National Marine Sanctuary, the Farallon National Wildlife Refuge, the Golden Gate National Recreation Area, the Gulf of the Farallones National Marine Sanctuary, the Jasper Ridge Biological Preserve, and the Marin Municipal Water District.

The gentleman from California [Mr. RIGGS], the gentlewoman from California [Ms. PELOSI], the gentlewoman from California [Ms. WOOLSEY], myself, and the gentleman from California [Mr. CAPPS] are affected by this amendment and to my knowledge we all support it. I will not speak for the gentleman from

California Mr. RIGGS, but for Ms. PELOSI, Ms. WOOLSEY, Mr. FARR of California, and Mr. CAPPS, we think that the process for the designation of biosphere reserves has been adequate. It has gone up through a local process. It has gone up through the State lands commission.

Mr. Chairman, this amendment exempts the California coastal range biosphere reserve, which includes the Elder Creek area of critical environmental concern, the Heath & Marjorie Angelo Coast Range Preserve, the Jackson Demonstration State Forest, the Landels-Hill Big Creek Reserve, the Redwood Experimental Forest, the Redwood National Park, the Redwood State Parks and the western slopes of Cone Peak in Los Padres National Forest. These properties are part of the coast range reserves. They have come up through a bottoms up process and they have been designated and we would like to be exempted from it. We do not want Congress to intrude upon the fact that these have been in the process, been in the biosphere reserve program for some time.

In fact I can speak to one of them, the Landels-Hill reserve, because our group of people have an inholding in there which is private property. We enjoy having that designation. It allows us to have an internationally recognized place to do biological study on weather data, on climate, on the fisheries of the reserve. And it is one of the most unique ecological zones on the Pacific Coast because the distance between the shoreline and the highest coastal peak is in the shortest ecological zone, meaning we have more ecological units in a shorter distance and it makes it an ideal study area.

So these California coast ranges have been part of the biosphere reserve program and the amendment says, do not mess with them. Do not take them away. Allow us to be what we have historically been. Mr. Chairman, I would ask that the gentleman accept this amendment because I think that he will see that the Members of Congress overwhelmingly support it.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I want to thank my good friend, the chairman of the Committee on Resources, for yielding time to me.

The gentleman from California, my home State colleague, concluded his remarks by saying that the Members of Congress affected by his amendment support his amendment. I want to make it clear to my colleagues on both sides of the aisle that I do not support this amendment for a number of reasons, not least of which is very little consultation by Mr. FARR prior to proposing his amendment.

I was attempting to ask the gentleman from California [Mr. FARR] to yield to me so that I could ask him if he has any kind of map or survey plat or property description that accompanies his amendment so he could show us perhaps precisely the land areas involved. I would also like to know from him why he feels, briefly, why he feels it is necessary to take land such as the coastal redwoods that are permanently protected under public ownership in my congressional district, namely the Redwoods National Park and the California State Redwood Parks, and apply to them this further designation of biosphere reserve under international auspices. The gentleman from California [Mr. FARR], I wondered if I yielded to the gentleman if he could tell me where interested Members might obtain a precise description of the land areas involved here?

Mr. FARR of California. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from California.

Mr. FARR of California. Mr. Chairman, I would be glad to answer the gentleman. As the Congressman from the district, he knows it very well. He knows that the Redwood State Park has had a biosphere designation, and that is why he has cosponsored the bill to wipe it out, to say that it cannot exist, that the State Parks Commission has no ability, not under old law and certainly not under new law, because the new law will not allow anything but Federal lands to be approved by congressional approval, and that it is going to cost untold sums of money to go out and do the research because they have to do an economic impact within a 10-mile radius in order just to have an international study zone.

The gentleman knows that because it is in his district that the Redwood National Park has had the biosphere since the early 1980's. He knows that the northern California coast range under the Bureau of Land Management has had that designation since 1983.

Mr. RIGGS. Mr. Chairman, reclaiming my time, since the gentleman is being unresponsive to the query that I posed to him, which I thought was a very reasonable one, instead he prefers to talk around it.

The unfortunate aspect of this is that this is a very, very generic amendment that has potentially far-reaching legal implications and real impacts on local residents. I can tell the gentleman, since I think he stipulates that I might know my congressional district better than he knows my congressional district, that my constituents would not favor his amendment and in fact would strongly support the underlying bill offered by the chairman of the Committee on Resources, the gentleman from Alaska [Mr. YOUNG]. I do not think I have to belabor this debate.

I was able to watch the interchange between the gentleman from California [Mr. FARR] and the gentleman from California [Mr. POMBO] earlier back in my office. I think Mr. POMBO put it well, that we do not need another layer of regulation or potential regulation, an overlay on top of all the other existing protections that these lands already enjoy at considerable, I will not yield, so I would appreciate the gentleman not interrupting me, that are already permanently protected and maintained at considerable expense to taxpayers.

I can further tell the gentleman that there are many of my constituents who still have very strong feelings and reservations and misgivings about the creation of the Redwood National Park by the legislative branch of the Federal Government, by the Congress back in the early 1970's. They believe that there were some promises made then, specifically "If you build it, they will come," that somehow tourism will take the place of timber production as a way of life and as a mainstay of our economy, that have not today almost 30 years later materialized. So we do not appreciate this intrusion in our affairs, Mr. Chairman. We do not want to be subject to the gentleman's amendment.

Therefore, I feel compelled to oppose the amendment, and will be happy to continue this debate. Although I might suggest to the gentleman, if it in fact is the case that the other Members of Congress whose districts are affected by the gentleman's amendment support his amendment, perhaps he would consider excluding my district from the gentleman's amendment and therefore we might allow the House to move forward with its business. I thank the gentleman, the chairman of the Committee on Resources, for yielding me the time.

Mr. FARR of California. Mr. Chairman, I yield 3½ minutes to the gentlewoman from San Francisco [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding me the time and for his leadership in bringing this amendment to the floor. I urge my colleagues to support the central California coastal biosphere reserve as an exception to the legislation presented by the very distinguished chairman of the committee.

Mr. Chairman, I am pleased to represent an area which was included in the United Nations biosphere reserve program in 1989, the Golden Gate National Recreation Area and many surrounding sites, including the Gulf of Farallones Islands and Cordell Banks National Marine Sanctuaries and Point Reyes National Seashore across the bay.

The area of reserve encompasses 85,710,300 acres. During this time, since 1989, collaborative activities include a symposium on biodiversity on the central California coast, a tide pool monitoring and public education program

and research exchange program with a similar reserve in France, and workshops with educators and scientists exploring opportunities for new environmental education programs. The fact that this area has been designated a biosphere reserve has enhanced its standing as worthy of protection.

Our distinguished colleague the gentleman from California [Mr. FARR], the maker of the amendment, has spelled out very clearly the land areas that are covered by his amendment and has enumerated some of the other collaborative efforts relating to weather and other environmental concerns.

Mr. Chairman, it is important for our colleagues to understand a biosphere reserve does not change what is already taking place in a designated area. It does not change the management of a site. It does not change the ownership of the site.

A biosphere reserve designation does foster cooperation, shared research and science and a greater understanding of the natural value of the resource. All of the uses of the site are regulated in accordance with the conservation and management goals of the administering agencies. There is no significant change in what exists except that knowledge about protecting the area by preserving its resources becomes elevated through scientific research, education and collective problem solving. United States law prevails in these areas, the laws we have created to protect the rich and diverse national treasures.

For my communities, this effort is very important because of the outreach of the biosphere reserve partners to engage inner city youth and to enhance opportunities for young people to understand and respect our environment.

□ 2030

It provides an invaluable contribution for an urban population.

The Department of the Interior, the agency we have entrusted with the protection of our national parks; the Department of Commerce, the agency which we have entrusted with the protection of our marine resources; the State of California, the governing body for a State population of more than 32 million people; universities and private organizations all contribute to this important effort. These partners do not advocate policy in management practices, but together provide a cooperative framework for making the best information and technology available to all of the partners, domestically and internationally, in performing their responsibilities to protect the resources we have deemed irreplaceable.

Mr. Chairman, there are no black helicopters; there are no U.N. troops and there is no global takeover. The U.N. Biosphere Reserve Program is a legitimate program that fosters understanding and elevates our knowledge of the biodiversity that surrounds us. It has been in effect since 1970, under four Republican Presidents, two Democratic Presidents. It came into being under President Nixon and was reauthorized under President Bush. There is nothing sinister about it.

I urge my colleagues to support the Farr amendment and to oppose the legislation that is the underlying bill on the floor.

Mr. FARR of California. Mr. Chairman, how much time does each side have remaining?

The CHAIRMAN. The gentleman from California [Mr. FARR] has 8 minutes remaining and the gentleman from Alaska [Mr. YOUNG] has 10 minutes remaining.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume to rise in strong opposition to the amendment and urge a "no" vote on the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FARR of California. Mr. Chairman, I yield myself such time as I may consume to respond to the comments of the gentleman from California [Mr. RIGGS].

For 15 years the California Coast Ranges Biosphere Reserve Program has been in existence. This bill wipes that out entirely. My amendment puts it back in. This bill creates a bureaucracy. My bill prohibits in having a bureaucracy.

The gentleman from California [Mr. RIGGS] is opposing this amendment without permission from the University of California, without permission from the California Department of Forests, without permission from the Jedediah Smith and the Prairie Creek, the California Parks and Recreation, all of those in his district. The point that I am trying to make is that if the gentleman accepts this amendment, there is no change, no change to the law that has been there for the last 15 years. In all that time the gentleman served in Congress he never opposed those designations because there was no impact.

Frankly, what I am appalled about with this entire bill is that the gentleman is taking scientific studies and saying that we can no longer collaborate in these studies if indeed they have an international perspective when these studies are petitioned in a bottoms-up process. And this bill would no longer allow, the gentleman is not only saying that they are wiped out, the bill also says they can never get back in.

State Parks can never get back in, California Department of Forests can never get back in, University of California can never get back in, the Prairie Creek and Jedediah Smith and Del Norte Coast State Parks can never get back in. Why? Because the bill says the only way they can get back in, after doing very extensive studies, if Congress so decides, can only be for those areas that are a Federal designation.

So if the gentleman wants no bureaucracy, if the gentleman wants to keep things the way they are in a peaceful state, and if the gentleman wants to allow these State and local and I would even say private agencies and the Cone Peak area, of which there is a lot of private inholdings, to allow them to maintain the international biosphere program, this is the only way he can do it, by adopting the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I suggest respectfully that this amendment is, frankly, unnecessary. As I mentioned before, I not only oppose it, but under the bill all areas that have been designated have a 3-year grandfather clause. And if everybody loves these areas, the people that represent these areas can come back, bring them before the committee and they become a reality.

All we are asking, to get back to the original intent of the bill, 901, is put this back in the hands of the people of America, the United States Congress, that makes these designations. But under my bill, in the sense of fairness, I did give them a 3-year grandfather clause.

So I do not believe this amendment is necessary. We can do it through the proper process. So I strongly oppose the amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from California, [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I feel compelled to respond to the last comments by my colleague, just to point out to him that I was not aware until this very moment that I needed the permission, I believe that was the exact word used, the permission of the University of California, the permission of various regulatory agencies at the State and local level to represent, and I hope protect, the best interests of my constituents.

I did not know that. I thought they elected me and trusted me to act and use my own independent judgment to act on what I thought was in their best interests and what constitutes good public policy.

And I hope the gentleman from California [Mr. FARR] will not take this wrong, we are not saying over here that we support current law. To the contrary, we are saying we support the bill that came out of the Committee on Resources because it will restore Congress' proper constitutional role in managing Federal lands.

These are lands, by the way, that do not belong to a university, they do not belong to a resources agency, they do not belong to any bureaucracy. They

belong to the people, all the taxpayers who foot the bills, which is a simple fact of life that too often gets lost in this place when we debate these kinds of issues.

Allowing the administration to arbitrarily nominate and designate land further centralizes land use policymaking authority in the executive branch and diminishes public participation in the process. That is the big problem that we have here. We do not want the Congress to be bypassed repeatedly, as it has been in the process of designating these sites.

We believe that the people of the Nation, who are represented by us, their elected Representatives here in Congress, we are the best arbiters of these kinds of issues, not some faceless international council.

So that the real problem we have here, I believe, is that we become a party to these international land designations. I am glad we are having the opportunity to debate it here now, maybe expose this issue to the American people, but by becoming a party to these international land designations, made again by some faceless international council, a lot of us are concerned that the United States of America, the sovereign United States of America, may be indirectly agreeing to terms of international treaties, such as the Convention on Biodiversity, to which the United States is not a party and which the United States Senate has refused to ratify.

Mr. FARR of California. Mr. Chairman, how much time does each side have?

The CHAIRMAN. The gentleman from California [Mr. FARR] has 5½ minutes remaining and the gentleman from Alaska [Mr. YOUNG] has 7 minutes remaining.

Mr. FARR of California. Mr. Chairman, I yield myself 4 minutes.

I want to state what this is all about, why we are getting so worked up. The U.S. Man and the Biosphere Program is a program that supports ecological research collaboration and coordination at an international level. It involves 114 countries. It is supported by the administration, going back since 1974 by four Republican presidents and two Democratic Presidents. It receives support from 15 U.S. Government agencies for interdisciplinary scientific research in projects of mutual interest.

Why should that cause so much problem? It is so passive. It is so unintrusive. It has no ability to vest regulatory authority. It has no grants and money that come with it. It has no effect on property. No one has ever been able to get up and speak of one instance where it has affected property values; and, in fact, most of the people that oppose this do not even have these in their districts.

The 15 agencies that were directed to come together were a collaboration ordered by OMB to participate in a collaborative program so that we could have, frankly, something that Republicans have offered for a long time, one-stop shopping. Simplify the Federal Government.

Why? Why are we so much opposed to local State parks, to local nonprofits, such as the Audubon Society, to State universities, such as the University of California, which the gentleman from California [Mr. RIGGS] does have land ownership in his district, why are we opposed to those organizations? We can say let us have Federal land that has to get into this, to have permission of Congress. I wish the author would take that amendment, but he has not. In fact, he said that these properties can no longer, any of them, ever be in the program unless, one, they are Federal lands and they come back through in an act of Congress.

I think that is wrong. This amendment simply says those properties that have been in the program, and I might add they were nominated by President Ronald Reagan, and the gentleman has represented them for all these years and there has been no problem and all of a sudden the gentleman wants to knock them out.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I think the gentleman makes an important point that under this legislation, and we will offer an amendment later to exempt the current biospheres area, but obviously this is important to us in California, the amendment the gentleman has offered; that this legislation wipes out this designation without regard to merit, whether local people like it, whether the local State agency thinks the research is important, or whether the local universities who are involved, or local citizens groups who are involved in these programs, whether the foundations that have put land into these programs, this is not a question of a review and then weeding out the bad ones. This takes 47 programs and just wipes them out in all the different States, in all the different districts, in all the different characteristics. Just wipes these programs out without any consideration of merit.

As we pointed out, I think several times tonight, this particular one that the gentleman from California [Mr. FARR] has pointed out has been in existence for 15 years. No one has clamored to this committee saying get rid of this. No one has said this is harming the land. Others have existed for longer than that, 25 years. But this legislation comes along without regard to local opinion, involvement, concern, or support. The Federal Government just comes along and wipes it out, our unobtrusive Federal Government brought to us by the House Committee on Resources.

One would think Members would be asked whether or not they consent to this or not. But that is not what is going on here. Just flat out wiping them out. If anybody thinks that is not the heavy hand of the Federal Government, tell that to people who have spent so many resources trying to preserve and protect these areas and learn how to take care of them.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I want to again stress it is not the Government. We are asking the Congress to accept their role. All these projects were unauthorized. They never were authorized. We did not do our job. We blindly set aside because a certain party was in control of the House that believed in this type of thing and we did not do our duty.

So we are not doing anything in this bill. We are giving them the 3 years. If they are as good as they say they are, they can come back.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding me this time.

Here we go again. These particular sites have no regulatory authority, no money, no grants. They cannot do anything, they are totally powerless. But if we do not have them, the developers and the miners and the loggers are going to destroy all of these unique environmental areas.

Now, there is something that is contradictory about that. Either they have regulatory authority, either they have power to do something or they do not. We cannot argue both sides.

Now, the gentleman from California [Mr. RIGGS] will be the first to stand up and say that his district has unique environmental qualities that need to be protected. He will be the first one to stand up and say that the people of the First District in California want to protect those areas, and they have city councils, they have boards of supervisors, they have State representatives who fight day in and day out to protect those areas. The gentleman himself has spent an inordinate amount of time back here in Congress trying to protect the unique environmental qualities that exist in northern California. But that is the way it is supposed to work.

We do not need an international organization, an international designation that Congress never looks at, that Congress never has oversight authority on, that Congress never approves. Why do we need something that is kind of behind the doors to protect something? Do we really feel that the people of that particular area cannot protect their own resources; that they do not have anybody there with enough

smarts or enough caring or enough compassion to protect their resources?

□ 2045

And there is no one in Congress who can protect these areas. Throughout the entire country, there is no one that can protect them. We need an international organization that can step forward and tell us what needs to be protected and how we are going to do that.

The CHAIRMAN. The gentleman from California [Mr. FARR] has 1½ minutes remaining.

Mr. FARR of California. Mr. Chairman, I yield myself 30 seconds.

I respond to somebody who is very familiar with this program, unlike those who have been talking, many of whom have none in their district. What they are taking away is the ability for America and for private landowners, for States, and for anybody other than the Federal Government to ever get into an interdisciplinary scientific research that may be done on a standardized basis around the world.

I think this is an embarrassment to take this away, say you have to come to Congress, and even if you are private land, you cannot get it, if you are State land, you cannot get it, and if you are local land, you cannot get it.

This has existed because we ratified the treaty back in 1974. There may not be congressional authorization because there has never needed to be.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I want to remind the gentleman from California [Mr. FARR] that there is no Biosphere treaty. There has never been a treaty. Let us keep that in mind. Let us not stretch this truth. There was no treaty.

Mr. FARR of California. If the gentleman will yield, Mr. Chairman, the World Heritage Convention was ratified in 1973.

Mr. YOUNG of Alaska. Not the Biosphere areas.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman from Alaska [Mr. YOUNG] for yielding me the time.

I just want to say that the United States Supreme Court has addressed this issue in a very, very interesting case, Fong Yue Ting versus United States, where that highest court in the land wrote:

> To preserve this Nation's independence and give security against foreign aggression and encroachment constitute the very highest duty of every nation, and to attain these ends, nearly all other considerations are to be subordinated. It matters not in what form such aggression and encroachment come.

I believe the Supreme Court understands what we are dealing with.

Furthermore, I just want to wind my comments up by saying that George Washington, in a letter dated October 9, 1795, wrote:

> My ardent desire is, and my aim has been, to comply strictly with all engagements, foreign and domestic; but to keep the United States free from political connections with every other country, to see them independent of all and under the influence of none, is my ardent desire.

I share that. While I believe in a strong and vigorous trade policy, the sovereignty of the United States of America is so very important, and the protection of private property rights must be protected.

Mr. FARR of California. Mr. Chairman, I rise as a property owner, and I want to protect private property rights. Support this amendment. I rise as a former county supervisor. Support local control. Support this amendment. I rise as a former State legislator. Support States' rights. Support this amendment. And I rise as a Member of the United States Congress, saying, thank God that this country has been a global leader in environmental protection and environmental resource management.

And in a time when we recognize global, global warming and global environmental pollution, which our national Defense Department says is not in our national security interest to keep the world being polluted, that we can have international agreements that allow us to have some commonality and science, if there is anything that ought to be protected, it is that. Give us back our property rights. Support this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Nothing in this bill precludes any scientific study, any type of cooperation with other countries. All we are doing is getting back the responsibility of this Congress that we swore to uphold. The Constitution of the United States is all I am asking for. I urge a "no" vote on this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FARR].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FARR of California. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from California [Mr. FARR] will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. Pursuant to the previous order of the House, it is now in order to consider amendment No. 51 printed in the CONGRESSIONAL RECORD.

AMENDMENT NO. 51 OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 51 offered by Mr. VENTO: Page 10, line 15, Following the word "special" insert the following: ", including commercial."

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] and a Member opposed will each control 15 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment follows a different tack than that which had been offered before. In this newfound enthusiasm in this Congress to reassert its prerogatives and control, absolute control over land use designations and limits as they apply to preservation and study and surveys and really international voluntary conventions, I am offering an amendment which permits us to assert the same sort of control over commercial type of activities that are of an international nature.

A key component of the pending legislation is a requirement that Congress specifically approve the recognition of any U.S. lands for conservation purposes as a result of agreement with a foreign entity. However, at the same time, this legislation does not require similar congressional action when the U.S.-owned lands are leased, oftentimes at a loss to American taxpayers, to foreign-owned companies for drilling, for mining, for timber harvesting, or other commercial endeavors. Claims can be made, and under law, hundreds of millions of dollars of U.S. public land assets are handed over to foreign corporations or persons for a pittance, to foreign entities.

The Vento amendment establishes parity in that process. Under my amendment, the legislation requires for specific congressional authorization where it be extended to cover commercial uses and development of U.S. lands by foreign companies and U.S. subsidiaries of foreign companies or entities. My amendment would not prevent such activities from occurring. It would encourage Congress to approve such actions, which has, of course, been the siren song that we have heard over and over again tonight. We need Congress to approve all of these specific conservation, these voluntary conservation agreements.

The Vento amendment is a responsible provision that responds to foreign exploitations which are now occurring and which neither the Congress nor the administration can legally stop.

Many of my colleagues would remember the public outcry when it was revealed that a concession facility at Yosemite National Park was going to be managed by a Japanese conglomerate, Matsushita. No legal recourse was available to block this action.

A similar outrage was voiced when the Secretary of the Interior was required, under Federal law and under court order, to release and to honor a claim and patent to release Federal lands containing more than $10 billion in gold to a subsidiary of a Canadian-owned corporation for less than $10,000.

Nothing has been done to prevent the repeat of this type of land use policy, a real ripoff of the American public. A foreign firm can operate the concession at the Statue of Liberty or any of our national parks. And foreign firms can continue to exploit American resources while ripping off the U.S. taxpayers.

We now have an opportunity to change those policies. While the Vento amendment will not prevent these activities from moving forward, it is intended to require Congress to consider the national consequences and specifically authorize those actions. If we are going to require Congress to approve actions to recognize U.S.-owned lands for conservation purposes, then Congress should also approve actions by foreign firms which exploit U.S. lands.

Mr. Chairman, I urge the support of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if the Vento amendment does what it says it does, it is not germane. It was written, so it does not really say anything.

I do not want it in the RECORD to say that we happen to agree that we have to enter, if you read in this section the term "international agreement" means any compact, executive agreement, conservation, bilateral agreement, or multilateral agreements between the United States or any agency of the United States, any foreign entity.

And I am suggesting, respectfully, that the attempt of the gentleman from Minnesota [Mr. VENTO] is to preclude any type of activity under treaty, including the other treaties, such as NAFTA, and allowing other countries into our lands, as well we go into their lands.

So I adamantly oppose the amendment because all it is is including commercial, and I am suggesting, respectfully, it is written very cleverly, but if it does what he says it does, and I do not believe it is, it would have been nongermane and I would have made a point of order. But it does not do that.

So I, very frankly, urge a strong "no" vote on this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] has 11 minutes remaining.

Mr. VENTO. Mr. Chairman, I yield 4 minutes to the gentleman from West Virginia [Mr. RAHALL], a distinguished member of the Committee on Resources.

Mr. RAHALL. Mr. Chairman, I thank the distinguished gentleman from Minnesota [Mr. VENTO] for yielding me the time.

Mr. Chairman, the black helicopters are, indeed, circling over our lands. They are out there circling as we speak. And the agents of foreign powers are, indeed, locking up our public lands, intent upon not only controlling them, but ultimately America's very natural resource heritage.

But to be sure, Mr. Chairman, and let us be sure about this, the pilots of these helicopters are not wearing the blue helmets of the United Nations. Rather, they are wearing the corporate emblems of foreign conglomerates based in South Africa, Australia, Luxembourg, and Canada.

These foreign agents are not from the United Nations. Their weapons are not World Heritage sites or International Biospheres. Indeed, the true threat comes from the foreign conglomerates, multinational mining firms, who swoop down upon our public lands owned by the American taxpayers and extract the gold and the silver, with no rent, no royalties paid to the American people, the owners of this land.

The U.N. charter in this instance is not the issue. It is our very own mining law of 1872, of 1872, which continues with reckless disregard to our economy and our environment to turn over our Federal assets to the control of foreign nationals.

So I rise in support of this amendment, to this bill, the American Lands Sovereignty Protection Act, for if we are to protect the sovereignty of our American lands from foreign powers, then we must include commercial developments undertaken by foreign powers in this legislation. That is what this amendment is all about.

As my colleague, the gentleman from Minnesota [Mr. VENTO], said, it is about parity in this process. It is about restoring sanity and reasonableness to the fanaticism behind this bill. Our lands, our resources, owned by all Americans, are being claimed by foreign entities. Are we in Congress having a say on it? No. The hard-rock minerals of these lands are being mined, with no return to the public, and these lands are being privatized by foreign entities for a mere pittance, $2.50 or $5 an acre. That is what we are giving away to foreign entities, allowed under the mining law of 1872, yes. Should these practices be condoned in 1997? No, of course not. This House is on record, by an overwhelming majority, in a bipartisan manner, as saying no.

So the real issue here today is not what the proponents of H.R. 901 make it out to be. It is not about the United Nations. It is not about black helicopters descending upon an unsuspecting populace. It is, in these times of budgetary constraint, about the relinquishment of our lands and minerals to multinational conglomerates for what amounts to fast food hamburger prices.

So I say to my colleagues, vote "yes" on the Vento amendment. Cast a vote for America. Allow us in Congress to have a say where foreign entities are going to come in and control our concessionaires at the Statue of Liberty or Yosemite or at other national park areas. Let the Congress have a say on these issues before we lose further lands to foreign conglomerates.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Minnesota.

□ 2100

Mr. VENTO. Mr. Chairman, I wanted to acknowledge the gentleman's cosponsorship of this amendment. I neglected to do that in offering it, and I appreciate his guidance and strong support as a former chairman of the Subcommittee on Mining and Minerals for many years on the Committee on Natural Resources. I appreciate the gentleman's strong support and his cosponsorship of this amendment. I thank the gentleman.

Mr. RAHALL. Mr. Chairman, I thank the gentleman, and I urge support for this amendment.

Mr. VENTO. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him for introducing this amendment along with the gentleman from West Virginia [Mr. RAHALL], who has just spoken, because this amendment takes us right to the crux of what this legislation is about.

This legislation is about international mining companies, timber companies and others that seek to beat back those individuals and local communities who want to protect the ecosystems, that want to protect the watersheds, that want to protect their local communities, that want to protect our national parks and our heritage areas. This bill is about beating those people back, under the guise of the sovereignty of the United States.

Yet the proponents of this legislation would happily hand over billions of dollars of taxpayer-owned platinum or gold or silver or coal or timber and think nothing of it, and have done that, and have supported that effort.

They would think nothing of delegating their authority to the Department of Interior to enter into a lease for billions of dollars of what belongs to the taxpayers, and as the gentleman from Minnesota pointed out, the taxpayers get nothing back.

A private person can own the land right next to this and they can get royalties in the millions, tens of millions, hundreds of millions. We get nothing, because these people are willing to delegate their authority over these lands to some bureaucrats who give it away to international mining companies who want to destroy maybe the Clarks Fork River, who wanted to take $1 billion out of the lands of Idaho.

The gentleman says this is only about treaties. Well, maybe that is why the western Governors are not happy with fast track, because I say to my colleagues, we need this law to protect us in the future, because we do not get a right under arrangements like NAFTA, under the arrangements under fast track.

So what we have here is those great protectorates of a constitutional power, who will not let a faceless bureaucrat enter into a research grant to protect lands, will gladly hand them over to Canadian mining companies, South African mining companies, Canadian timber companies, "Come on in and get all you want." Do we think that is really what the taxpayers want? The taxpayers have said time and again they are tired of that arrangement, they are tired of seeing us lose money, they are tired of seeing us enter into leases where people spend $270, $270, and they have $1 billion worth of minerals.

My colleagues on the other side are worried about sovereignty? I do not think so. I think it only cuts one way.

My colleagues are only worried about it when somebody wants to do a little research and not harm the land, but when somebody wants to come in and tear up the landscape, walk off with the gold, walk off with the platinum, there is silence on the other side. So apparently, it is open season for international companies who want to come and rape and ruin the land and take the gold and take the silver.

Somehow this committee cannot figure out how to stop that, but if someone wants to come and study the watershed in the Redwood National Forest or somebody wants to study the Channel Islands or somebody wants to study the Big Ben Park down in Texas to see whether it can be protected, whether it can be developed in a way that is compatible; if someone wants to study the Everglades, somehow one is giving up sovereignty. But if somebody wants to give away the legacy of this country and the heritage of this country and its gold and its silver and its platinum, this committee says, "Come on in, buy it for $5 an acre, and we will give you millions of dollars."

Mr. Chairman, the greatest scam going in the history of the American taxpayer. This is one where we just back up the big old dump truck, we put the shovel in the ground and we take the gold and do not even say "thank you" to the people of the United States.

I think the gentleman from Minnesota [Mr. VENTO] and the gentleman from West Virginia [Mr. RAHALL] have put their thumb right on what this bill is about. Read it on the Internet, folks. This is a big push by those corporate interests to try to drive out of these communities people who have concerns for the environment, the watershed, the habitat and the wildlife, because then there is nobody to stop them from taking the gold and the silver and the platinum of this Nation.

This is a travesty, it is a travesty. It has been denounced by every editorial board, every public interest group, every periodical. Since 1872, somehow these people have not figured out how to amend the law so the taxpayer could get a fair break, and now they are going to use this law to drive off the researchers and the local communities and the universities and the State park system who are trying to protect the lands, the heritage and the history of this country. Do we think, my colleagues, maybe it is not on the level? Maybe it is just not on the level, and my colleagues ought to vote for this amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume to say to my colleague that I have heard some great demagoguery in my life, but that is one of the best, because this amendment only applies to commercial:

> In this section, the term "international agreement" means any treaty, compact, executive agreement, convention, bilateral agreement, or multilateral agreement between the United States or any agency of the United States and any foreign entity or agency of any foreign entity, having a primary purpose of conserving, preserving, or protecting the terrestrial or marine environment flora, or fauna.

That is all this does. This is just a great platform for my good friend from California [Mr. MILLER] to talk about the evils of mining, the terrible things that occur. It has nothing to do with this bill. It is a great smokescreen, and I compliment him on it. It is one of those issues that I am very pleased to say that I hope everybody could see through it.

This amendment is a mischievous amendment. It does nothing. I am tempted to vote for the silly thing, because it does nothing, it means nothing. It is a disaster when it comes to having taken the time to put this in this bill. As I told the Parliamentarian, and in fact, it is out of order if that is what it really does, because it does not do that with the amendment.

The amendment is an innocuous little amendment, but it gives them a platform to talk and pontificate on the terrible evils of the mining law. My good friend from West Virginia, [Mr. RAHALL], now, he does not have any foreign people digging the mountains out in West Virginia, no; destroying the environment, no. Those are not foreign countries, and in fact, they are all pure, homemade countries, but they are destroying West Virginia, but that is all right. But do not mess with the public lands. Lock it up so his price of coal goes up and his people get rich.

I do not blame him, but I am suggesting respectfully, that is a little hypocritical.

Mr. RAHALL. Mr. Chairman, would the gentleman yield? The gentleman brought up my name. Would the gentleman yield?

Mr. YOUNG of Alaska. I did not bring up the gentleman's name.

Mr. RAHALL. These happen to be private lands, I will have the gentleman know.

The CHAIRMAN. The gentleman from Minnesota controls the time.

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I thank my distinguished colleague from Minnesota for yielding, and I would respond to my chairman of the Committee on Resources, let us not mix apples and oranges here. West Virginia, these are private lands, these are private people that have come in.

Is the gentleman asking that the private developers not be allowed to do what they want on private land?

Mr. YOUNG of Alaska. Mr. Chairman, I am not saying that. Is the gentleman telling me they are all privately owned companies? Is there any foreign money in those companies?

Mr. RAHALL. Mr. Chairman, reclaiming my time.

Mr. YOUNG of Alaska. Yes, absolutely, take back the time.

Mr. RAHALL. Mr. Chairman, reclaiming my time, I would say as well that my coal miners are paying their taxes, their royalties to the Federal Government for mining on private land, not lands owned by the Federal taxpayers.

I thank the gentleman for yielding.

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume to point out that this amendment does in fact have an impact, we believe, because as we look at foreign entities and we look at the purpose of conserving, obviously if we are not conserving, if one is taking the products out of the land, mining or doing other activities, one still has to prepare an environmental impact statement. I would suggest to my colleagues that it is a lease agreement or other agreements that have to be entered into.

The fact is that as we look at what has happened, and I admit that this only affects those foreign entities that

are coming in to do that, foreign countries, maybe even publicly owned foreign companies, but for instance, we have gold mining that has gone on. The value of that by the Barrick Gold Strike Company is $8.9 billion in Nevada that was sold for a pittance. Gold Fields Mining Company, United Kingdom company, purchased for $1,700; estimated value, $266 million. The first one, incidentally, was purchased as a $9 billion value, purchased for less than $9,000. The Faxcalk Company of Denmark, Travatine, purchased for $270; estimated value of the claim, $1 billion.

Mr. YOUNG of Alaska. Would the gentleman yield for a moment?

What has this got to do with the gentleman's amendment to this bill? Nothing.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. YOUNG of Alaska. Mr. Chairman, this is another classic example of nothing about nothing.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. PETERSON].

Mr. PETERSON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding.

I have been a part of the legislative process for 20 years, and I want to sincerely say to my colleagues, the American public deserves a more upright and honest statement of the facts. I urge my colleagues tomorrow to read the record that has been created here tonight. I want to tell my colleagues, it is far from the truth. To make such outlandish statements that the sovereignty act is to take away the protection of public lands so people can take advantage of them is not true.

The American public had very little to say, if anything, at the local level, at the State level and at the national level about the biosphere program. It was created by administrations with no legislative oversight and no legislative funding and no legislative input. There is great concern among people around this country that decisions are going to be made in the future and are currently being made by world people, people from around the world, and they do not want America governed that way, they want America governed by Americans at the local level, at the State level and at the national level. And for my colleagues on the other side to make these statements that have been made, and I mean this sincerely, they owe the American public an apology because they have talked about everything but the truth.

We heard about this being overreaching and so damaging. We had others call it crazy, trivial nonsense, and we had other ones saying it was all done by local community requests. The American public want to understand world agreements, and they have a right to. They want to understand international commitments that our Government makes, and they have a right to.

In conclusion, those who want to deprive the average American, those who want to deprive the American citizens from having the right to understand what biospheres are about, having the right to react to their local government or their Congress, whether they agree or disagree, and they may agree, but give them the right. When it is not to be publicly debated, people think we have something to hide when they do not have a shot, they do not have a bite of the apple. That is what America is all about. We cannot have too much sunshine, we cannot have too much people participation.

People in America are concerned about the proposal of world government and other countries making decisions in this country, and generally in a huge percentage they are opposed to that, and we should be sensitive to that for the long run of this country, because most other countries do not really care about the future of America, but Americans do, and they should have the right to understand clearly every agreement, every international commitment that is done, and it should be done in the sunshine, and that is what this whole bill is about, not the rhetoric we heard a few moments ago.

Mr. VENTO. Mr. Chairman, I would be happy if the gentleman would yield me some of his time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Minnesota [Mr. VENTO] will be postponed.

The point of order is considered withdrawn.

□ 2115

The CHAIRMAN. Pursuant to the previous order of the House, it is now in order to consider an amendment without a number offered by the gentleman from California [Mr. MILLER] that will strike section 4(b).

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MILLER of California:

On page 9 of the bill, beginning at line 1, strike all through the end of line 16, and renumber subsequent subsections accordingly.

The CHAIRMAN. The gentleman from California [Mr. MILLER] will control 15 minutes, and a Member in opposition will control 15 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation as currently drafted wipes out the Biosphere Reserves that have existed in this country for between 15 and 25 years, and have had the continued support of the local communities where they exist.

Some of them are as grand as the Big Bend in Texas, some of them are as grand as the Redwood Coastal Range in the State of California, the Glacier Bay National Park in Alaska, Golden Gate National Recreation Area, the Great Smoky Mountains National Park, the Mojave National Preserve, the Olympic Peninsula in the Pacific Northwest, one of the great, great sites in this country.

These designations were first started in the early 1970s. This occurred throughout the 1970s. They have been worked on and researched, and assets have been brought to this effort by universities, by local foundations, by national foundations, by local civic organizations that have been brought into researching the effort, by the various park systems of the various States where these are involved.

The fact of the matter is there has been very little or no outcry about this because people did not realize what they had. What they had with this designation was the opportunity to participate in research not only in their local areas, but to be able to coordinate and work with other research going on around in other places of the world. It gave us a chance to look at some of these landscapes, and we know we mismanaged them when we managed them in very small portions. Now we are able to look on them in a grander scale.

But this legislation wipes them out, just wipes them out. It does not matter if those of us in California who are so concerned with the Channel Islands, with the watersheds in the south of San Francisco, or with our great redwood parks, it does not matter, it just wipes them out. It does not matter that the people in Texas are proud of the Big Bend, and the Big Bend is serious desert research, habitat research. It just wipes them out.

It does not do that for the Heritage areas. It grandfathers them in. What this amendment would simply do is grandfather in the existing areas, and then if the bill passes, new areas would

have to be designated in accordance with this legislation.

But what it does not do is it does not throw away the effort, the time, and the experience that we have gained in these programs. It is not a unilateral withdrawal from the biosphere program. It in fact leaves that in place, since there has been little or no complaint about the existing ones.

It is interesting that most of the people who have argued about this have been people who do not have these in their areas. People have come down and made remarkable speeches about the Constitution and what have you. They just do not happen to have a Biosphere Reserve. There are not people asking for time saying get rid of that biosphere in Texas or Arizona, get rid of that biosphere in California. So what we have here is legislation that deals with a problem that does not exist.

I do not think that is fair to these local organizations. I do not think that is fair to the parks department in our States that have put assets and resources and time and effort into this, or to the foundations, or to the universities that have engaged in this research. So I would simply leave the status quo. The last one designated was in 1991. It is not like they are roaring on here and designating them every year. There are only 47 nationwide. Then let the bill work its will on those programs.

This amendment is no more complicated than that. I would urge when the House votes tomorrow, that it votes to grandfather and exempt these provisions from this legislation.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Alaska [Mr. YOUNG] claim the time in opposition?

Mr. YOUNG of Alaska. Mr. Chairman, I do claim the time in opposition.

The CHAIRMAN. The gentleman from Alaska [Mr. YOUNG] is recognized for 15 minutes in opposition to the amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding time to me, Mr. Chairman.

Mr. Chairman, I say to my good friend, the gentleman from California [Mr. MILLER], he propounded the statement that he does not hear anybody yelling, get rid of these biospheres. I would like to invite the gentleman from California [Mr. MILLER] up to my district.

I just took the honorable chairman of the Committee on Resources and the honorable gentlewoman from Idaho [Mrs. CHENOWETH] and a number of other Members up to the Catskill Mountains, where there was a proposed biosphere about to go in. They heard an earful.

I would invite them to come to another mountain range that I represent, called the Adirondack Mountains. As a Representative from that area with one of the largest U.N. Biosphere Reserves in the United States, I have a personal interest in this bill on behalf of the 600,000 people that I have the privilege of representing.

In my congressional district, the Champlain-Adirondack Biosphere Reserve was created in 1989. It was created at the request of a quasi-governmental agency called the Adirondack Park Agency. If I have time, I will talk about how Nelson Rockefeller rammed this down the throats of the people I represent some 30 years ago. It was at the request of two Governors. One was a very liberal Governor from the State of New York, and one was a very liberal Governor from the State of Vermont. Without even any input from the State legislature or without congressional hearings or real input from any of the local citizens of the Adirondacks, this area was designated in the middle of the night, without anybody knowing about it, as a U.N. Biosphere Reserve.

The system completely bypassed the people directly affected by this program. None of us knew about it. In this case, and in many cases in this country, I would submit that with congressional oversight and public input, many of these U.N. sites would not even have been designated.

In fact, in 1994, this was only just 3 years ago, the Catskill region of New York, again in my district, was nominated for designation as a U.N. Biosphere Reserve, and we almost did not know anything about that. But we got wind of it. When I found out about it and when local officials and residents raised cain about it, and showed their opposition, the nomination was defeated.

That is probably what would have happened all over this country had these not been snuck in in the middle of the night. The American Land Sovereignty Act before us tonight unequivocally states that no lands in this country can be included in any international land use programs without the clear and direct approval of Congress.

That makes sense, because even on that side of the aisle, and I respect the gentleman and I believe he would let his constituents know about it, I do not think he would try to sneak it in in the middle of the night, if I look around, all of these Members look like respected Members of this body.

Most all of H.R. 901 protects individual private property rights. That is the most important thing. Executive branch political appointees cannot and should not be making property decisions in the place of individual landowners. This bill is a first step in the right direction in returning power to the elected Representatives in Congress as well as to the local citizens and officials.

Most importantly, Mr. Chairman, this bill, if we defeat the Miller amendment, reasserts the constitutional rights of property owners all across the country to control their land without interference from some international organization. That is what this debate is all about.

Please come over here and defeat the Miller amendment, and we can defeat all of these amendments, and then vote for this bill that means so much to the people in this country.

Mr. MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CAPPS].

Mr. CAPPS. Mr. Chairman, I rise because the Channel Islands Biosphere Reserve is in our district, in the Twenty-second District of California. I have had an opportunity to watch the cooperative work that goes on there with the Channel Islands National Marine Sanctuary, the National Oceanic and Atmospheric Administration, the national parks, the Channel Island National Park, and I would say most especially the University of California. And the Chair knew I was going to say that.

I think it is very, very positive work. It ought to be continued, too. I do not have the fear about world government that I think people on the other side have. I think this is really an attack on the United Nations. I do not have that fear. I think there are times when we need international cooperation for research purposes.

That is primarily what we are talking about here. There is some concern about persons from other countries participating in American research, or research having to do with American locales, but I want to point out that Americans participate in international research of a biospheric nature throughout the world. This is fair play.

I certainly support the amendment of the gentleman from California [Mr. MILLER], and I urge my colleagues to support it as well.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I again rise in opposition to this amendment. This amendment is a backdoor way of authorizing existing Biosphere Reserves. The Heritage areas were recognized in the bill because it is under treaty, but there is no treaty on the biospheres, none. Let us make that perfectly clear. I have a 3-year grandfather clause. We can come back and talk about each one of these. If everybody loves them like they do, it will work.

By the way, I have no fear of outside world government at all. I believe in America. But I suggest respectfully I do also believe, and I think each one of the Members were sworn to uphold the Constitution. The Constitution says

that Congress, this Congress, the Members and I, are the only ones who can designate lands.

So why is the fear, why do Members want to give this away to somebody else? I have never understood that, and this whole argument. What is wrong with this Congress acting, and by the way, the areas that have been designated can still be, under State participation, under the individual participation, can still have the same type of study and research.

I keep hearing this research charade. The research can go on. There is nothing that stops the research, nothing at all. All we are asking in this legislation is that this Congress fulfill its responsibility of designating lands. If in fact UNESCO or somebody wants to designate it, let them come to Congress. That is all I will ask.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I appreciate the ranking member yielding time to me.

I just wanted to ask the chairman to yield. Because his point is that under the World Heritage Convention, that the 20 sites that are in existence remain in existence that are designated, and he is correct about that. The Ramsar sites that are in existence, the 15, remain in effect. There is nothing that I said or intimated that they were not, and they are under treaty.

But I think that, in my judgment, the World Heritage sites, we will not have another World Heritage site in the United States based on this legislation, because it makes it impossible, based on the type of requirements that are in the legislation under that supposition.

In any case, looking, because we are talking about the Man and Biosphere program, that protocol right now, that agreement, of which 120-some nations are involved, the fact is this says you give 2 or 3 years of time, but then in terms of requirements, it says it consists solely of lands as of that date that are enacted that are owned by the United States.

So therefore, to be into that biosphere, to be part of that, you could not be a State land, you could not be a private land, you could not be anything. So in essence, saying you are going to give us an opportunity to go back and designate those is not entirely accurate, in my judgment, because this will take it apart. There is no way under the precepts of this bill that it can be put back together again. So once we break that apart, it cannot be put back together.

Earlier today it was suggested that some Members did not agree with some of the statements that were being made over here, and at that time they would not yield, because I was wondering which statements. It reminds me of the adage that was once espoused by President Truman, that said that you do not have to really give them a lot of grief. He said, you just have to tell the truth, and they will think that they have a lot of grief.

Because I do not want to be accused of something else, the issue is I have been trying to strive for a common understanding. Everyone is entitled to their own opinion, but they are not entitled to their own facts with regard to this. That is what this bill does. This is the literal reading of this bill.

If the gentleman disagrees with that, I would be happy to yield what time I have so I can engage in a realistic debate with regard to this issue.

□ 2130

No offers?

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I rise in support of this amendment.

It is ironic we are here debating and we find that this side of the aisle is out here trying to protect local property rights, local control. This bill wipes it out.

The bill that is before us wipes out what four Republican administrations and two Democratic administrations have been carrying on. It wipes out the ability for America to participate with 146 other nations. It wipes out the exchange of information among scientists on a common international one page.

Mr. Chairman, it wipes out the process that allowed the nomination from local governments, from State governments, from nonprofits, and from private land use. It wipes it out, Mr. Chairman, because it says that on page 9, "Any designation shall not be given any force or effect unless it consists solely of lands that of the date of enactment are owned by the United States."

So all of those programs that have been involved in this for so many years are wiped out. It wipes out, and I think this is something that has not been looked at, it wipes out the fact that a lot of international tourists come to the United States. And according to the Visitor's Service Survey conducted in the Everglades, 44 percent of the international visitors say they came to that because it was such a designated site. They knew about it because of their host countries. That is why the National Tourist Association of Kentucky has written in opposition to this bill, because this bill wipes out essentially a tourist attraction.

The Man and Biosphere program is a key program that helps train our Peace Corps volunteers. When we go overseas to try and develop an environmental program for the countries that the Peace Corps volunteers are serving in so that everybody can be on the same scientific page, they are trained by our Biosphere programs here in the United States before they go overseas. This wipes that out. This wipes out the ability for America to participate, and that, I think, is why this bill is so fundamentally wrong.

Mr. Chairman, I urge my colleagues to adopt this amendment that at least makes it prospective and not retrospective. Do not tread on property rights.

Mr. MILLER of California. Mr. Chairman, I yield myself 4 minutes.

Let us understand something here. It has been suggested that somehow we were giving away the Constitution of the United States if we did not vote for this bill. But this bill leaves in place the World Heritage Areas that were designated by the United Nations, that were nominated by the United States, accepted by the United Nations pursuant to their criteria, and the treaty, the international treaty we have on Heritage areas. So this bill leaves those in place.

But, Mr. Chairman, the Biosphere areas that were designated by the U.S. Government, that were nominated by local communities, and are recognized, not designated, not accepted by them, recognized by the international program, that we nominated and we control them, those are wiped out.

But those of my colleagues on the other side who are so upset about one world government and the United Nations and so upset about international conspiracy, they leave in place the designation that is made by the United Nations.

So what is the problem here? This is wiping out the other treaty. I do not get it. There is some inconsistency here, folks. So it is now the treaty power that prevents proponents of this bill from acting to protect the sovereignty and their citizens? I see. OK. So now we have it clear.

Mr. Speaker, these areas that were nominated by local governments or organizations and agencies, and were designated by the various administrations starting from President Nixon to today, those are a threat to the United States, but the United Nations designated and accepted areas and the United Nations criteria are not? Something is very wrong here.

What is wrong here is that we are overriding with this legislation, we are overriding the local designation.

The gentleman from New York [Mr. SOLOMON] got up and talked about how people in his district raised cain about one of these areas and it did not happen. Is the gentleman suggesting that the people in Florida and Texas and California and Montana and Idaho were snookered? Were they snookered in 1986, 1976, 1996? Were they snookered? I don't think so. The point is this: That is the process.

Somebody else got up here and said that in Minnesota back in 1983 somebody proposed one of these and the people turned it down. It sounds to me like the process is working, folks. But now they want to wipe out those local decisions. Forty-seven areas said they thought it was OK; they want to wipe them out.

Mr. Chairman, I can understand my colleagues on the other side saying, "Hey, you do not like that process; you want to go through this one, and if in the future you want one of these, you have got to come to Congress." That is fine. But why would you wipe out all of these other areas?

Their contention is that the people in San Francisco or Los Angeles or Santa Barbara were snookered, even though they were interested in doing this and participating and they asked to participate. Kind of an interesting theory. Kind of an interesting theory.

Mr. Chairman, it should not happen. It should not happen. I would urge Members to support this amendment when we vote tomorrow to restore these areas that are currently in place and protect these very, very, very valuable assets of the United States of America.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to remind everybody, the treaty for the Heritage Areas was ratified by the Senate and voted on by the House, but not the Biospheres. That is why we had to leave the Heritage. If I had my way, they would be out too. Let us be very up front about this. The Biosphere is, again, a designation by the U.N., by UNESCO, without any local input.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, the gentleman from California [Mr. FARR] said that the Tourist Association of Kentucky supports the Biosphere Reserve Program. However, on May 29, 1997, the Kentucky State Senate, by a voice vote, approved Senate Resolution 35 which reads:

> The General Assembly of the Commonwealth of Kentucky is unalterably opposed to the inclusion of any land within the borders of the Commonwealth within the purview of the Biosphere Treaty or any biodiversity program without the express consent of the General Assembly of the Commonwealth of Kentucky, as provided by the Constitution of the United States and the Constitution of Kentucky.
>
> Furthermore, the General Assembly urges the Members of the Congress of the United States, and especially the Kentucky delegation to the Congress of the United States, to oppose ratification of this treaty and the inclusion of any land within the Commonwealth of Kentucky in any Biosphere program of the United Nations.

Mr. MILLER of California. Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BRADY].

Mr. BRADY. Mr. Chairman, when we do something wrong, we go back and make it right. That is what the crux of this bill does, and that is what this amendment prevents.

Mr. Chairman, in Texas we have two Biosphere Reserves that total over three-quarters of a million acres in our State, a significant amount. Under this amendment, we as a Congress are prevented from going back to the communities that include those Biospheres and are adjacent to them. We are prevented from going back to those school districts, those county commissions, and the State legislature, and allowing them to ask the questions that they were not allowed to ask the first time: How does this affect our community and what does this allow us to do? What does it prevent us from doing? How will it affect our tourism? How will it affect our property tax values? How will it affect everything that we have been building in our community and our State?

This amendment prevents those very common sense and basic questions from being asked. And those Biosphere Reserves that have value in support will pass all those tests, and those that do not will at last have a local standard applied to them that we desperately need.

I know some believe the United Nations knows what is best for our communities, but I have a great deal of faith that local communities and counties and school boards and State legislatures, if given an opportunity to ask those questions and have them answered, will come up with the right decision. I have faith in them. This amendment prevents us, prevents them, from having a say. We all deserve to have a say in our property rights.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from California [Mr. MILLER] will be postponed.

The point of no quorum is considered withdrawn.

Pursuant to the previous order of the House, it is now in order to consider the amendment regarding specific Biosphere Reserves.

Mr. MILLER of California. Mr. Chairman, I will not offer the amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. PETERSON of Pennsylvania] having assumed the chair, Mr. SUNUNU, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 901) to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, had come to no resolution thereon.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 901.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

VIOLENCE AGAINST CHILDREN IS GORE'S CURE FOR ENVIRONMENT

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, last week the Washington Times reported that, and I quote, "Vice President Al Gore, warning that overpopulation fosters global warming, yesterday suggested expanding abortion programs in developing countries to help reduce the environmental threat."

Mr. Speaker, it is absolutely scandalous and inhumane that the Vice President of the United States is aggressively touting violence against babies to mitigate global warming. The Vice President is blaming the babies of the poor for the consumption excesses of the rich and powerful. How dare he blame the kids.

In a meeting with the weather forecasters, AL GORE gleefully pointed to the administration's repeal of the Mexico City policy, the Hyde amendment for the developing world, as a step towards population control.

Make no mistake about it, President Clinton's action has permitted hundreds of millions of dollars, U.S. tax dollars, to flow to the abortion industry overseas. The Vice President is blaming the problem of global warming on children and suggesting that somehow the world will be a much cleaner place if these innocent children are killed by abortion.

Mr. Speaker, I insert the following article into the RECORD.

[From the Washington Times, Oct. 3, 1997]

GORE'S CURE FOR GLOBAL WARMING JOLTS PRO-LIFE ACTIVISTS

(By Paul Bedard)

Pro-life activists yesterday expressed alarm that Vice President Al Gore's suggestion to curb global warming by slashing population growth could lead to more abortions in Third World countries.

"What he would do is push violence against babies to advance a theory to cure greenhouse gas problems," said Rep. Christopher H. Smith, New Jersey Republican. "You don't use violence to get a cleaner atmosphere."

"Al Gore should not try to impose the immortality of abortion on developing nations," said Carol Long, director of the National Right to Life Political Action Committee.

Mr. Smith charged that the White House was being "elitist" in its effort to curb birth rates by targeting mostly poor, nonwhite populations in Africa, Asia and South America.

"It's elitist because it blames the poor and vulnerable for the problems of the rich and powerful," said Mr. Smith, chairman of the House International Relations human rights subcommittee. "It's very arrogant to persecute anyone to push a theory."

Mr. Gore this week told a White House global warming conference that overpopulation was the top proponent of climate change and, thus, should be a major focus for Government policy. He heralded President Clinton's early 1993 decision to reverse GOP policies blocking U.S. funding of family-planning groups that perform abortions abroad.

Mr. Gore suggested that the industrialized nations have "stabilized" their populations through a three-point program of birth control, abortion and a reduction in child mortality rates, but world populations would grow if developing nations aren't targeted now.

He suggested that pushing his three initiatives could cut 2 billion to 5 billion people from the projected 2050 world population of 14 billion.

"We're actually beginning to experience some good news around the world with the beginnings of a stabilization in world population. But the momentum in the demographic system is such that we're inevitably going to go to 8 or 9 billion. The question is whether these changes will keep us from going to 10, 12, 14 billion," Mr. Gore said.

Mr. Gore has long promoted a "Global Marshall Plan" that promotes birth control and family planning, but his comments at a White House summit of some 100 TV weathermen this week rattled some pro-life advocates.

"This will be the wake-up call," Mr. Smith said.

The National Right to Life Committee also took notice of Mr. Gore's comments and began alerting members, as did the House Pro-Life Caucus.

And Gary Bauer, head of the Family Research Council, said, "The problem with global warming isn't that there are too many people or too many children. That's our greatest asset."

Under the Gore plan, developing nations need three programs to slow population: one to cut child mortality rates so that families don't need to produce numerous children with the expectation that some will die young, birth control and moves to boost women politically and socially.

"When those three conditions are established, those countries make that change, and their population begins to stabilize," he said.

Since 1992, the year he was chosen to be President Clinton's running mate on the Democratic ticket challenging President Bush, he has promoted population control as a means to combat global warming—even though the scientific community remains divided about the seriousness of the global warming threat.

That year, for example, he authored the popular book "Earth in the Balance."

Chapter 15 of the book details elements of a "Global Marshall Plan" that promotes education, birth control and reductions in child mortality rates.

"No goal is more crucial to healing the global environment than stabilizing human population," he wrote.

[From the Washington Times, October 2, 1997]

THIRD WORLD BIRTH CONTROL TOPS GORE'S LIST OF 'GREENHOUSE' CURES

(By Paul Bedard)

Vice President Al Gore, warning that overpopulation fosters global warming, yesterday suggested expanding abortion programs in developing countries to help reduce the environmental threat.

Noting that Third World nations are producing too many children too fast—in addition to too much pollution—Mr. Gore said it is time to ignore the controversy over family planning and cut out-of-control population growth.

WARMING BLAMED ON OVERPOPULATION

While hosting about 100 TV weathermen at a White House global-warming conference, Mr. Gore was asked how to reduce population surges in developing countries that experts say will lead to a doubling of Earth's current 5.5 billion population within 40 years.

After highlighting President Clinton's early decision to kill the Bush administration's so-called "Mexico City policy" that prohibited U.S. funding of overseas birth-control programs that include abortion, Mr. Gore focused on family planning and child mortality rates.

"This doesn't have to be as controversial as some people make it out to be," Mr. Gore said, offering three solutions to overpopulation.

First, he said that cutting child mortality rates will encourage families in developing countries not to have so many children.

"They count on the fact that at least some of their children will survive into adulthood and take care of them when they're old. If you have a very high child mortality rate, and a high percentage of the children die in infancy or in childbirth, then you've got to have a lot of children in order to guarantee stability and—I mean, you know, in your old age," he explained.

The second factor is "availability of birth control information and culturally appropriate and acceptable techniques. And that's the controversial part," he said.

"The third factor is the empowerment of women, socially, politically, and in the context of the family, to participate in the decisions about childbearing," said Mr. Gore, who is pro-choice.

The issue was the first of several Mr. Gore and Mr. Clinton touched on as they tried to persuade the weathermen to warn viewers of the threat of global warming.

White House spokesman Michael McCurry explained the conference goal: "Maybe they can make the subject of global warming a little more lively for their audiences."

He added that the weathermen "appreciated being treated as something other than airheads."

Mr. Gore, using an easel and four different colored markers, tutored the forecasters on the issue, and suggested that changing weather patterns are due to global warming.

At one point he seemed to suggest that global warming was linked to weather-related deaths, plane crashes and unusual outbreaks of malaria, but he later said the cause wasn't clear.

Several of the forecasters said they believe that weather patterns have changed, possibly because of the warming of the earth due to overpopulation and pollution.

But most weren't ready to make the link as quickly as the vice president was.

Doug Hill, weatherman for WUSA-TV (Channel 9) in Washington, said, "I recognize that we are probably in the threshold of having a problem" with global warming.

But he said that he was not ready to make "the giant leap" that changing weather conditions are due to human-generated global warming rather than the product of weather cycles.

"I didn't see [the conference] as sounding alarm. I see it as raising awareness" to the issue, he said.

While Mr. Clinton said he believed the vice president's claim that global warming from pollution and "greenhouse" gases exists, he was more anecdotal in explaining the effects.

"You'd be amazed how many people just sort of from their anecdotal, personal experiences have this sense that there is more instability in the climate than there used to be," leaving the scientific language for Mr. Gore, author of a best-selling book on the environment.

The administration is preparing to attend a worldwide global-warming conference in Japan to set a goal for the reduction of greenhouse gas emissions, but Mr. Gore refused to reveal the U.S. bargaining position.

And while the goal of the conference was to alert the nation that environmental changes could lead to hotter temperatures and flooding due to snow and ice melts in the North and South poles, he offered few initiatives Americans could undertake to reduce the threat.

Mr. Gore also said it would be "crazy" to ignore global warming just because there isn't universal agreement in the scientific community about its existence.

He compared naysayers to tobacco industry executives who claimed for years that cigarettes weren't harmful—even after the 1964 surgeon general's report linking tobacco to lung cancer.

"I can't imagine that we would allow this to happen," he said.

KIMBERLY TRANEL, WINNER OF D.A.R.E. ESSAY CONTEST

(Mr. MANZULLO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. MANZULLO. Mr. Speaker, I am pleased today to offer my sincere congratulations to Kimberly Tranel for being selected the student D.A.R.E. essay contest winner for Jo Daviess County in the 16th Illinois Congressional District, which I am proud to represent.

Kimberly's essay, which will be printed in today's CONGRESSIONAL RECORD, was chosen from among hundreds of others written by students from around the county at the conclusion of their D.A.R.E. classes.

D.A.R.E., which stands for Drug Abuse Resistance and Education, is a nationwide effort which helps kids become aware of the dangers of drugs and offers advice and assistance on how they can avoid using drugs.

I commend all who are involved with D.A.R.E., who are making a difference in the lives of young people, and especially Kimberly. I am proud to take this moment to recognize Kimberly and her determination to take a strong stand against drugs.

Mr. Speaker, I include the following for the RECORD.

The lessons she learned which she writes about in her essay will help her peers resist illegal drugs and remain drug-free. I congratulate Kimberly and all the students who submitted essays on this vitally important issue.

D.A.R.E.

(By Kimberly Tranel)

D.A.R.E. stands for drug, resistance, abuse, and education. During D.A.R.E. this year I learned that it means learning to say no to misuse of drugs. Also it is a class that is taught all over the world telling kids that drugs are very harmful to you. Some things to do when you're asked to take drugs is to give them the cold shoulder, change the subject, say no and walk away, give a reason or excuse, say no as many times as possible, say no thank you, avoid the situation, and show strength in the word NO. I learned the difference between clubs and gangs. The difference is that clubs are more like activities and that gangs have drugs and guns; sometimes you have to wear certain clothes to be in a gang. Be careful how you dress so you don't look like a gang member.

I learned that we have to have three things: they are recognition, affection, and belonging. If you don't have these things you have to remember never to do drugs. Also, I learned about the different kinds of pressure: they are personal pressure, family pressure, media pressure, and peer pressure. There is also friendly pressure, teasing pressure, indirect pressure, and heavy pressure. Some words I learned are Risk, Media, Stress, Consequences, and Self-Esteem. Risk is taking a chance, media is any means of communication that reaches or influences large numbers of people, stress is any strain pressure, or excitement about a situation or an event, consequences are the results of something you do or choose not to do, and self-esteem is the way you feel about yourself.

I feel that this D.A.R.E. program has helped me out a lot and that I can be whoever I want to be and stay drug-free.

I can avoid violence by not taking drugs and to stay drug-free I can't take drugs. All I have to do is be confident in myself and stand up to say no.

I think it's important to stay drug-free and to be who you want to be. I want to live as long as I can and I want to have a good life. That's why it's important to me to stay drug-free. If you don't stay drug-free you can get cancer, lung disease or have other bad things happen to you.

The choice for me is to stay *drug-free.*

□ 2145

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BRADY). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AMERITECH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DAVIS] is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to recognize Ameritech, an outstanding corporation headquartered in my district, for honoring eight outstanding individuals with the Ameritech Award of Excellence in Crime Prevention.

Ameritech, a model company and community leader, is one of the world's 100 largest companies. Ameritech is a full service communications company, committed to supporting crime prevention. Ameritech and the National Crime Prevention Council collaborated to develop an award which will be presented to eight recipients at the Ameritech Awards of Excellence in Crime Prevention dinner on October 14.

Ameritech continues to work to reach its goal of becoming a single source of communications solutions. It has 68,000 employees, 1 million share owners and more than $23 billion in assets. It provides customers, dependent on their desires and needs, with the best communications products available. Operating from these two principles, Ameritech helps millions of customers in 50 States and 40 countries communicate and manage information through cellular telephone, data, video, cable TV and security monitoring networks.

Richard Notebaert, Ameritech's chairman and chief executive officer, has had a profound effect on the company. In addition to the five primary regions, Illinois, Michigan, Indiana, Wisconsin and Ohio, that Ameritech provides with local telephone service, Ameritech has expanded its outreach to offer additional products and services throughout the United States and Europe.

Mr. Notebaert began his career in 1983 as vice president of marketing and operations at Wisconsin Bell. In June 1993 he became Ameritech's president and chief operating officer. In January 1994 he was elected president and chief executive officer, and in April 1994 he was named chairman and CEO.

As chairman and CEO, Mr. Notebaert is responsible for Ameritech's total operations. He received his Bachelor of Arts degree in 1969 and a Master's degree in business administration in 1983, both from the University of Wisconsin, and has received honorary doctorate degrees from Indiana Wesleyan University, the University of Indianapolis and Ripon College.

President Clinton appointed Mr. Notebaert to the President's Export Council in March 1995, where he currently serves as a member. He is a trustee of the Chicago Symphony Orchestra and the University of Notre Dame, a charter trustee of Northwestern University, and a member of the Business Council and other civic and community organizations.

Ameritech takes part in numerous community projects in Illinois, Wisconsin, Indiana, Michigan and Ohio. Additionally, Ameritech has developed resources and initiatives designed to help teachers and students. It contributed $2 million to the Library of Congress to establish a digital grant competition; created the Ameritech Hispanic Advisory Panel [AHAP] web site that provides Ameritech's Hispanic employees with opportunities to network and provide mutual support and develop. Finally Ameritech has sponsored many events such as the Ameritech Awards of Excellence in Crime Prevention, and created information and products for seniors and people with special needs.

Ameritech's involvement in this project has once again demonstrated its leadership in private sector promotion of safety and community strength. Additionally, Ameritech's participation has illustrated that the private sector must be engaged in positive community development.

Ameritech's commercial and social reputation provides the foundation for companies and organizations to follow. I urge America to join with me tonight in commending Ameritech and Mr. Notebaert for their work in creating the Ameritech Awards of Excellence in Crime Prevention.

ACCUSATIONS AGAINST THE WHITE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thought it was appropriate to come to the floor of the House as I have watched the unfolding of the controversy swirling around the question

of campaign finance reform but accusations being thrown at the White House, the question of lost tapes and found tapes and the real issue before the American public.

I am frankly disappointed and certainly outraged that the real issue that has been raised by most citizens as I have encountered them, the question of coming to a common consensus on reforming the process of campaign finance reform, now lost in a swirl of refusal on the other side of the street, in the other body, is not really the point of which we are looking at. We now hear voices calling for the impeachment of the Attorney General of the United States of America, casting accusations unfairly, no investigation on the basis of which the Attorney General and staff made their decision not to proceed at this time without accusations made against the President of the United States.

I want the truth. I think it is important for the debate to be full and open, for any investigation to fully provide for the American people and for those of us in this body the real facts, so that we can in a forthright manner answer to the American people and provide reasoned campaign finance reform. If there are accusations to be made, let them be made and let them be tested and let them be factually determined and discovered.

As it seems, the President and the White House have answered the question of the so-called missing tapes by indicating that in their inquiry they did inquire of the retainers of these videotapes and those individuals responded that they had nothing. And when they were pressed further, they then put White House counsel to the test, and they discovered the tapes and indicated and informed the Attorney General's office that such tapes existed.

But after reviewing of the tapes it has been determined that, one, without the sound, and there are sound tapes to come afterwards, that there seems to have been no asking for campaign dollars at these coffees. It seems that these coffees were similar to those held by many other administrations. In fact, when they did a search of fundraising or coffee tapes through the search file, 150 of them were discovered preceding or including the Clinton administration, but including as well the Bush administration and other administrations.

So I would ask my colleagues on the other side of the aisle, what is the real issue? Do we want to unveil and unfold the facts or do we want to make accusations? First against the President of the United States, then the Vice President of the United States? Do we want the facts or do we want cameras and coverage and accusations and hearings? Do we want to hear what witnesses are saying, that they did in fact follow the rules and the law? Do we want to engage in real change and real reform, that is, passing campaign finance reform, unlike what happened today, a total collapse, if you will, of the debate and the passage of real campaign finance reform in the other body?

I would simply say, Mr. Speaker, that I want reform. I have signed on to several pieces of legislation, proudly so, that raise up the question fairly of real campaign finance reform. This is a difficult question. It is a question that many Americans, it falls on deaf ears, it is confusing. It is inside the beltway. It is a bunch of politicians fighting each other.

I do believe it is important for us, this body, with its integrity and hard working Members who do believe in what the real responsibility of this Congress is, is to provide for the leadership and guidance of this great government and for this country and for its citizens, many of whom are vulnerable, like children and senior citizens, our veterans. These are the responsibilities that we have, among many others.

So false accusations and getting in the spotlight and making statements that the President is a criminal and the Attorney General should be impeached, false accusations I think need to come to an absolute halt. We need to let the proceedings proceed. We need to understand that the independent or special prosecutor is not in and of itself a saviour. The Whitewater prosecution, some $35 million later, with Ken Starr as the leader, has found nothing of substance and yet it proceeds to take taxpayers' dollars. All of the special prosecutors have not been what they have led to believe.

I think that we need to get on the right track, Mr. Speaker. As I close, the right track is real campaign finance reform, is ridding ourselves of the false accusations, the misleading comments and the unfortunate calling for the impeachment of the Attorney General of the United States of America.

HAPPY 50TH ANNIVERSARY TO LEROY AND JEANETTE LINCK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. POSHARD] is recognized for 5 minutes.

Mr. POSHARD. Mr. Speaker, I have seldom taken the floor of the House here in the 9 years which I have served to present congratulatory remarks, but this is an occasion which gives me great pleasure to do so. Mr. Speaker, in an era when many are concerned with the demise of the institution of marriage and family here in the United States, I rise today to honor Leroy and Jeanette Linck. It gives me great pleasure to congratulate Leroy and Jeanette on their 50th wedding anniversary.

Leroy and Jeanette were married on September 5, 1947 at the Methodist church in Bartonville. The Lincks joyously celebrated their 50th anniversary with close friends and family on September 6 at an intimate reception in the Spillertown Baptist Church educational building for all to share in this wonderful occasion.

I tell you, Mr. Speaker, that Leroy and Jeanette have been great and dear friends of mine for many years and I have had the opportunity to watch firsthand the tremendous service that they have given their family, their friends, their community and also their party.

Leroy has been an active volunteer in the political arena and through his work experience he is a jack-of-all-trades. He has been a Democrat precinct committeeman for 32 productive years, working hand in hand with members of both political parties to show people in our area in southern Illinois what it means to participate in the democratic process.

□ 2200

His fervor for community involvement was intoxicating. He is permanently responsible for letting people in the surrounding area become aware of and getting them to participate in the political process.

Jeanette dedicated many years of her career as a nurse at a local doctor's office until she decided to retire when the practice closed.

Mr. Speaker, in a day where marriages are too often short lived, it is a real treasure to be a witness to a couple that has endured the daily trials and tribulations that cause many couples to fail. The Lincks have proven that they can work things out and get through their struggles. Their family is no stranger to life's hardships. They have had many along the way, but for 50 solid years they have shown us how to overcome those problems, keep the family together and they have been a great testimony to young people in our area. Leroy and Jeanette have been blessed with a large loving family and a strong marriage.

Mr. Speaker, what a monumental achievement to be married for 50 years. It is an honor to represent a couple like the Lincks. They are an inspiration to us all in southern Illinois, and I am very proud to represent them in the United States House of Representatives.

CONGRESS MUST CONTINUE THE PATH TOWARD TAX RELIEF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, this Congress has made tax relief, middle class tax relief, a high priority, and we

have passed tax relief, but it is not enough. The average American this year will spend more time working to pay taxes than he or she will to work to pay for housing, food and clothing combined. On average, Americans will spend 2 hours and 49 minutes each day laboring to pay taxes.

Tax Freedom Day for 1997 was May 9. That is the latest Tax Freedom Day in history. We are still paying too much taxes. Let me give my colleagues some examples, because people do not realize the hidden taxes. They often focus on income taxes, but the pass-through taxes we in Congress are always dumping on corporations also get picked up by our constituents and taxpayers.

A bottle of beer is 43 percent taxes; an airplane ticket, 40 percent taxes; a bottle of liquor, 72 percent taxes; the electric bill, 25 percent taxes; a loaf of bread, 31 percent taxes; a car, 45 percent taxes; a hotel bill, 43 percent taxes; restaurant meal, 27 percent taxes; a package of cigarettes, 75 percent taxes; the telephone bill, 50 percent taxes; a pizza, 38 percent taxes; a can of Coca Cola, 35 percent taxes; and a gallon of gas, approximately 54 percent taxes.

Mr. Speaker, Americans are still being overtaxed. We have got to continue the path for tax relief. I think it is extremely important when we consider that the budget increases spending by over $50 billion, but the tax relief was less than $18 billion. It is not even a first step. It is a half step. We have to continue this.

Now, in addition to reducing taxes, Mr. Speaker, we have also got to simplify our taxes. Today, in terms of regulations, there are more than 7,500 pages in the Internal Revenue Code. It has tripled in the last decade. There are over 1 million words in it. Now, that is just the regulation. If we put in the laws, there is 17,000 pages in the IRS Code. There are 480 IRS tax forms. The IRS sends out 10 million corrections, tax correction notices, each year. And in 1990 alone, there were 190,000 disputes between the IRS and the taxpayers that required legal action.

Mr. Speaker, the American taxpayers do not wake up in the morning and try to figure out new ways to cheat the IRS. Most of the problems are just genuine misunderstandings in not being able to figure out this very complicated tax system that we have.

One taxpayer was fined $10,000 for using type 12 pitch on a typewriter instead of using type 10 pitch on his typewriter. A $10,000 fine. In 1993, a taxpayer was fined $46,806 for an alleged underpayment of 10 cents. How is that for one thin dime?

There is a case of a day care center, Mr. Speaker, which allegedly owed the IRS $14,000. It was raided by armed agents, who refused to release the children in the day care center until the parents pledged to give the government money.

The IRS has more employees than the Central Intelligence Agency, the Federal Bureau of Investigation and the Drug Enforcement Agency combined. Its budget makes it a bigger consumer of tax dollars than the Department of Commerce, the Department of State and the Department of Interior.

It is time that we revamped our tax system, Mr. Speaker. It is absolutely essential. We need to have tax relief, but we need to have tax simplification and clarification.

I am proud to see that the gentleman from Texas [Mr. ARMEY], the majority leader, and the gentleman from Louisiana [Mr. TAUZIN] are taking it on the road to the American people, and I invite them to come to Savannah, Georgia. I know they are going to be coming to Atlanta, but I hope they will bring it down, because we need to have a good debate and move to the direction of tax simplification right away.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING ADJUSTMENT IN APPROPRIATIONS UNDER SECTION 8 OF U.S. HOUSING ACT OF 1937

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, I submit the following for the RECORD:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, October 6, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Office of the Speaker, Washington, DC.

DEAR MR. SPEAKER: Sec. 203 of H. Con. Res. 84 requires that the Chairman of the Committee on the Budget make an adjustment ". . . after the reporting of an appropriation measure (or after the submission of a conference report thereon) that includes an appropriation for the renewal of expiring contracts for tenant- and project-based housing assistance under section 8 of the United States Housing Act of 1937 . . . not to exceed $9,200,000,000 in budget authority and the appropriate amount of outlays."

In July the House Committee on Appropriations reported H.R. 2158, a bill making appropriations for the Department of Housing & Urban Development, Veterans Affairs, and Related Agencies for Fiscal Year 1998 which included $9,200,000,000 in budget authority for Section 8 housing renewals. At that time the Appropriations Committee's new discretionary allocation was increased by $9,200,000,000 in budget authority and $3,436,000,000 in outlays.

The conference report accompanying H.R. 2158 has been filed and the amount provided for Section 8 housing renewals has been reduced to $8,180,000,000 in budget authority. Therefore, the amount of new discretionary budget authority allocated to the Appropriations Committee is hereby reduced by $1,020,000,000. The revised 302(a) allocations for the Appropriations Committee and aggregate budget levels are shown on the attached table.

These adjustments shall apply while the legislation is under consideration and shall take effect upon enactment of the legislation.

The adjustments are as follows:

COMMITTEE ON APPROPRIATIONS

[In millions of dollars]

Discretionary	Current allocation		Change		Revised allocation	
	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays
General purpose	521,140	549,837	−1,020	0	520,120	549,837
Violent crime reduction trust fund	5,500	3,592			5,500	3,592
Total	526,640	553,429	−1,020	0	525,620	553,429

Aggregate levels for budget authority and outlays for fiscal year 1998 remain unchanged as follows:

[In millions of dollars]

Budget authority	1,387,183
Outlays	1,372,461

Sincerely,

JOHN R. KASICH,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, September 30, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Office of the Speaker, Washington, DC.

DEAR MR. SPEAKER: Section 10114 of the Balanced Budget Act of 1997 (P.L. 105–33) requires that when an appropriations bill provides funds for an Earned Income Tax Credit Compliance Initiative there shall be an adjustment to the appropriate budgetary aggregates (subject to limitations set forth in sec 10114 of P.L. 105–33) and corresponding adjustments to the Appropriations Committee's 302(a) allocation.

The Appropriations Committee has reported the conference on H.R. 2378, the Appropriations Treasury Postal Service for FY 1998. This bill specifically provides $138,000,000 in discretionary budget authority for FY 1998 for an Earned Income Tax Credit Compliance Initiative. The associated outlays are $131,000,000. These amounts are within the amounts provided by section 10114 of the Balance Budget Act of 1997 (P.L. 105–33).

These adjustments shall apply while the legislation is under consideration and shall take effect upon enactment of the legislation.

The adjustments are as follows:

COMMITTEE ON APPROPRIATIONS

[In millions of dollars]

Discretionary	Current allocation		Change		Revised allocation	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
General purpose	521,002	549,706	+138	+131	521,140	549,837
Violent crime reduction trust fund	5,500	3,592			5,500	3,592
Total	526,502	553,298	+138	+131	526,640	553,429

The aggregate levels for budget authority and outlays for fiscal year 1998 are increased as follows:

[In millions of dollars]

Current aggregates		Change		Revised aggregates	
Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
$1,387,045	$1,372,330	+$138	+$131	$1,387,183	$1,372,461

Sincerely,

JOHN R. KASICH,
Chairman.

THE TAX SYSTEM AND THE IRS MUST BE REFORMED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, two old duffers, about my age, I suppose, were discussing some of the exigencies of life, and one surmised, "You know, there are only two things that are certain, death and taxes." The other one thought about that for a minute and he turned around and he said, "Yeah, but there is one thing about death, it doesn't get worse every time Congress meets."

Well, I am not here to talk about death, but I do want to talk about something I have had a lot of experience with, and that is taxes. This country, above everything else that we deal with, must reform the tax system and the IRS. We have seen the horror stories, and some Members of this House have probably experienced firsthand the agonizing and humiliating process of being audited and intimidated by the Internal Revenue Service or, as Newsweek magazine calls it, the Infernal Revenue Disservice.

I have several examples, Mr. Speaker. The first is a neighbor of mine on South Whidbey Island. He was a small businessperson. We had a sharp depression. Some might call it a recession, but it was a sharp depression in the lumber areas of our country in 1981–82, and he went bankrupt. He just outright lost his business, lost his home, and he was having trouble just putting food on the table.

He was a very responsible guy. He was working at every job he could find during that time, and there were not very many, but he came home one day with a check for $295. He immediately went to the bank and deposited it in the bank and wrote checks to some of the other small businesses to whom he owed the money.

Well, the check bounced. All his checks started bouncing. And he rushed down to the bank and he said, "What is wrong? I deposited the check." They said, "Well, what had happened was the IRS had come in and looted his bank account." They ostensibly said he owed them money, and did not even inform him. Let me repeat that. They did not even notify him. Now, how about that for an agency?

Another instance. Miami newspaperman, Daniel Heller, ran an expose of an illegal IRS spying operation back in 1973. This is old news but it is well worth hearing. After he refused agents demands to name the key source for the information that he received for the story, the IRS mounted a full-scale investigation of him.

He was indicted for tax evasion in 1982 and imprisoned in 1987. He was freed when the U.S. Court of Appeals ruled that he had been framed. IRS agents had pressured the main witness, Heller's own accountant, to lie under oath. The IRS paid him $500,000 to drop a lawsuit against them, and he took the money and he gave it to charity.

How about Carol Ward in Colorado? This is one that the Speaker may have seen on 60 Minutes. Her story is just as frightening. Three weeks after she insulted a local IRS agent who was auditing her son by saying that the auditor was better suited to selling chicken fried steak at a truck stop than doing the IRS business, the same agent instituted a $325,000 emergency tax claim against her and began proceedings to seize her small chain of clothing stores and other property, which would obviously put her out of business permanently.

The IRS settled its claim against Ward eventually for $3,500. They had levied an emergency claim for $325,000 when only $3,500 was due. But Mrs. Ward turned around and sued the IRS and won $325,000 in damages. A Federal judge ruled that a grossly negligent IRS official had discussed her tax status in a letter to the newspaper.

Though the case was settled almost a year and a half ago, Ward still has not seen a dime of the money that the IRS owes her.

What we have here, Mr. Speaker, is a government bureau so out of control, so arrogant that the constitutional rights of American citizens are at risk. A bureaucracy empowered by this body operating with little oversight and robbing the citizens, our own citizens, to fill the treasury.

They say, "If it ain't broke, don't fix it." This bureaucracy is broke and we have to fix it. The answer is simple: A new tax system and a new Tax Code. I applaud my colleagues, the gentleman from Texas, Mr. DICK ARMEY, the majority leader, and the gentleman from Louisiana, Mr. BILLY TAUZIN, as they embark on a nationwide tour to get out the message that the tax system is broke and it must be fixed. Whether a flat tax or a consumption tax or whatever the idea is to rid ourselves of the burdensome IRS and get back to a Tax Code that is fair, simple and reinstills faith in the way our government operates.

Mr. Speaker, almost 60 percent of Americans believe that their Federal income taxes are too high, almost 70 percent believes the IRS has too much power, almost 80 percent believes loopholes allow people with the same income to pay significantly different amounts of taxes.

In summary, the IRS is out of control. The majority in this House has pledged to get rid of the IRS as we know it and completely reform the present Tax Code that is patently unfair. Most importantly, let us allow our citizens to keep a lot more of their own hard earned money.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. SOUDER] is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, I have had a number of people come up to me today and commend me on my courage, not so much for anything I have done as a Congressman directly, or said, but for wearing my Notre Dame tie today.

I think it is important that we stand with our team and our favorites, even in tough times, not just in good times. So I am proud to wear my Notre Dame tie, even though we have had one of our rockier starts, and I want to express my personal confidence in our coaches. It is a tough transition, but I know they will eventually win because we are Notre Dame.

I also wanted tonight to make a couple of other comments on campaign finance reform, but I wanted to clarify one thing first. I am afraid many Americans may get confused. This week's Time Magazine has a cover story "America's Fascination with Buddhism." And I wanted to make this clear; that our Vice President is not converting to Buddhism, and this is not about our Vice President. He does not worship in Buddhist temples, he raises money in Buddhist temples, and I thought it was important to clarify that.

I have been very upset to watch the headlines in the last few days about this administration calling on us to do campaign finance reform, because rule number one should be to enforce the current law. In fact, I am on a number of campaign finance reform bills and I believe we need to have campaign finance reform. But the first thing we need to do is follow the current law. What good does it do to pass more laws if we do not follow the current law?

I saw an editorial cartoon that said "Campaign Reform Analogy" and it showed a football player getting tackled as the ball was coming to him, with the referee standing there not blowing his whistle, and it says pass interference, no whistle. Then it shows people going off sides and tackling the quarterback, and it says off sides, no whistle. Then it shows a guy kicking another player down to get the football, "saying unnecessary roughness and still there is no whistle."

□ 2215

The referee then turns to the crowd and says, "Obviously, we need more rules."

That is sometimes the way I feel here. Not that we do not need more rules, but, quite frankly, what is the penalty for not following the current rules? Maybe to get some people to come to the floor and go on for a 1-minute or 5-minute special order. But what is the practical penalty besides having to send money back?

Let me give my colleagues an example. Last year, Keshi Zhan, a single mother, earned $22,407.84 as a full-time records assistant for an Arlington County, VA, welfare agency. More than a third of her income went to rent her one-bedroom apartment. Nonetheless, blowing away Ted Turner in percentage giving and approaching Mother Theresa-like generosity, she still managed to give $2,000 to Illinois Democratic Senator MOSELEY-BRAUN, $2,000 to Indiana Democrat Evan Bayh, and $3,000 to the Oregon Democratic Party. Another $1,000 went to the gentleman from Missouri [Mr. GEPHARDT], House minority leader.

Moreover, Ms. Zhan attended a posh Hay-Adams Hotel fundraiser organized by John Huang. President Clinton was the guest of honor, and 40 couples donated $25,000 each. Ms. Zhan's share was $12,500. Altogether, she gave Democrats $20,500 in 1996. Pretty amazing for someone with an income of $22,407.84. No wonder Mr. Huang escorted her to the White House for a photo opportunity with the Vice President. To quote the Washington Times: "Now either the earned income tax credit has gotten completely out of control, or Ms. Zhan, a close associate of Democratic fundraiser Charlie Trie, has an interesting tale to tell."

Mr. Trie, who has fled the country, apparently without any immediate plans to return, received $500,000 in wire transfers for the Government-owned Bank of China.

I do not know about this new math, but these numbers simply do not add up. Rule No. 1 is, follow the current law. What good is it going to do for us to pass a bunch of new laws if we do not follow the current law?

Then there is this matter about posturing about campaign finance reform while we are raking in the money. The Washington Post on Sunday: "Gore Preaches Funding Reform For Politics." I am going to just read three paragraphs.

The Vice President spent Friday night beside the Florida Aquarium's shark tank dining on grouper with about 50 people who donated $5,000 a couple to the State party. Today, after giving the keynote speech at the Florida Democratic convention, he flew to Jacksonville for closed meetings with about 50 members of the Progressive Foundation, a nonprofit arm of the Democratic Leadership Council. The retreat, at the sprawling ranch of Howard Gilman, was not a fundraiser, but many of the participants are major donors to the DLC's Progressive Policy Institute. Gilman is a frequent contributor to Democrats. At the convention in Tampa, as Gore was urging lawmakers to 'put your vote where your mouth is' on campaign finance reform, the Democratic National Committee was distributing a how-to manual for candidates who want to tap into the party's Federal money stream.

This is a sampling of President Clinton's schedule since campaign finance reform became his top priority:

On August 7, 1997: Gazpacho, swordfish, carrots, and zucchini; $350,000 raised at DNC fundraiser with Democratic Business Council at Mayflower Hotel in Washington, DC.

August 7, 1997: In a nearby salon, couscous and beef tenderloin; $300,000 raised by DNC supporters who contributed $25,000 at the Mayflower.

September 21, 1997: The day after the President and First Lady dropped off their daughter at college; $950,000, mostly soft money, which the President doesn't like. Apparently it is OK, if you don't like it, to take the money. Menu unknown. Perhaps donors were able to order off of the menu at the posh Postrio Restaurant in San Francisco; $300,000.

Later that evening, dinner was served to the President and 18 wealthy Silicon Valley entrepreneurs. Menu: Gazpacho, steak, and potatoes; apparently it was very good, with $600,000 raised at this dinner alone.

September 26, 1997: Hours after giving a speech in Houston, where President Clinton castigated politicians "for not being sincere about curbing the influence of money in politics, and Clinton said, 'We desperately need to reform the way that we finance our campaigns,'" it was Texas Gulf red snapper topped with Galveston Bay jumbo lump crab meat and mango-roasted pepper vinaigrette at the sprawling estate of Tilman Fertitta, a restaurant entrepreneur; $600,000 for the DNC; $10,000 a person.

According to the Washington Times, the dinner was scheduled first, and then aides scouted for an appropriate official event for the President so that taxpayers would pick up part of the considerable tab for his and his entourage's travel.

According to a White House spokesman, Clinton has been speaking at DNC functions around the country, helping the party raise $19 million in the first half of 1997 alone.

President Clinton's fundraising successes this year could be another subject for the emergency special session of Congress that he may call for on campaign finance reform. He ought to practice what he preaches.

TRANSFER OF NUCLEAR TECHNOLOGY TO CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, today it was reported that the Deputy Assistant Secretary of State, Mr. Robert Einhorn, was in Beijing to discuss the transfer of nuclear technology to China. The report stated that Mr. Einhorn was ready to negotiate and put into effect a 1985 accord that allows American firms to export nuclear technology to China.

Mr. Speaker, when the United States and China signed this accord in 1985,

Members of Congress were concerned with China sales of nuclear weapons technology to third countries, and in response to the accord, Congress quickly passed legislation that required the President to first certify that China has not sold or transferred nuclear technology to countries that are not subject to inspection by the International Atomic Energy Agency.

Last month, the Clinton administration began preparations to certify that China has stopped its exportation of nuclear technology to unregulated countries. This is the first time in 12 years that a United States President has moved toward such a certification.

What is unfortunate, Mr. Speaker, is that the administration is willing to overlook China's recent transferance of nuclear technology to unregulated nuclear facilities in Pakistan and Iran.

Surprisingly, the administration has accepted assurances by Beijing that it would "cancel or postpone indefinitely" several projects, especially secret nuclear facilities in Pakistan and a uranium conversion facility in Iran as the basis for the United States granting the certification.

Mr. Einhorn recently told lawmakers that China has canceled the Iranian project. But, ironically, China gave the blueprint to Iran to construct the facility.

Mr. Speaker, the administration would be granting certification despite CIA findings that the Chinese have sold 5,000 ring magnets to Pakistan for its uranium enrichment facility. And ring magnets, I should say, can be used in the building of nuclear weapons.

Furthermore, the administration is willing to ignore China's continued support of Pakistan's commitment to build a plutonium production reactor and a plutonium processing plan. Despite the protests of United States lawmakers, China continues to assist Pakistan in building a sophisticated nuclear arsenal. Unfortunately, this arsenal is not subject to international inspection.

In fact, the administration continues to look the other way as China continues to exploit technology and ballistic and missile components to Pakistan. I would like to remind my colleagues that Pakistan is not a member of the International Atomic Energy Agency and bans investigators from several of its nuclear facilities.

Mr. Speaker, why is the administration willing to grant certification? Eight days ago, the Chinese Prime Minister signed regulations that would limit the export of nuclear technology. Is the administration satisfied that 8 days is the sufficient amount of time to show China's commitment to change its practices for the last 12 years? I certainly do not think so.

Nuclear proliferation experts are concerned as to whether the Chinese Government even has the ability or is willing to enforce these regulations.

Mr. Speaker, United States officials have expressed concern that the upcoming China-United States summit, which is supposed to take place later this month, would be a failure if there is not some positive development in our trade relations. And this is particularly true since the process of including China in the World Trade Organization may not be completed by the time of the summit.

The idea, from what I can gather, is that the U.S. certification regard to nuclear technology exports would somehow salvage the summit. But this, I would submit, is the wrong reason for granting certification.

Is the upcoming summit so important, Mr. Speaker, essentially, that we, as Members of this body, should be willing to compromise the United States position on nuclear proliferation and grant China this certification? I do not think so. I think that is an inappropriate way to proceed.

Members of this body have supported and at times insisted that China receive United States peaceful nuclear technology only if China halts all nuclear exports to nations with unregulated nuclear facilities. Earlier this year, a letter was sent to President Clinton by Members of Congress stating that China has not earned or behaved in a manner which warrants such certification.

Mr. Speaker, basically, I am asking, and I hope that many of my colleagues will insist, that the administration change its mind and not grant the certification to China. I am not willing to compromise the United States position on nuclear proliferation simply to appease the Chinese Government in this upcoming Sino-United States summit. I think it is the wrong way to proceed, and hopefully many of us in Congress will continue to insist that we not proceed in that direction.

U.S. DOES NOT FUND ABORTIONS WITH TAXPAYER DOLLARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. TALENT] is recognized for 5 minutes.

Mr. TALENT. Mr. Speaker, the House cast a very important vote today on a motion to instruct on the foreign operations bill, a motion to instruct the conferees not to recede from the language which was inserted in the amendment on the House floor on that bill, language which says simply that when in that bill we spend money for population control abroad, that money cannot be spent or given to organizations that procure or counsel abortions.

Now, it seems to me the basic issue with this kind of language is as follows: We do not fund abortions here in the United States with taxpayer dollars. We certainly should not use taxpayer dollars to fund abortions abroad. There are two very important reasons for this.

In the first place, whatever our divisions may be on this very contentious issue, we all basically accept, a vast majority of people in this country accept, that our public policy should, at minimum, discourage abortion. The vast majority of the people believe it is an evil even if there are many people who believe it is a necessary evil.

If we say something is an evil, we do not subsidize it, we do not spend the taxpayer dollars on it. We may believe very passionately it should not be outlawed, but that does not mean we want to encourage people to do it. That is the policy we follow here within the borders of the United States. We should follow a policy at least no less vigorous with regard to the money that we send abroad.

There is another issue. There are millions of Americans, and I am one of them, who believe as a deep matter of conscience that abortion is wrong, that if anything is wrong, abortion is wrong. Out of respect for them, as well as because we want to discourage that practice, we do not take their money which they pay in taxes to support their Government and use it to fund abortions here in our borders in the United States. Out of a similar respect for them, we should not take their money and spend it on abortions in other countries.

It was a very important vote. I was very pleased that the House, by a margin that was actually larger than the one which the House originally adopted this language called the Mexico City language, The House instructed its conferees not to recede from it.

One other point that I want to make with regard to this, Mr. Speaker, it is an important one, and it is one I think we may actually have some agreement on. Everyone here is concerned that we not stall the whole foreign operations bill because of this dispute, as important as it is, that only relates to a particular part of it.

I could not agree more. We should not hold up the whole foreign operations bill because the House and the Senate cannot agree on this language. I do not know why the Senate will not at least try to pass the bill over in the Senate with language saying, we do not fund abortions here, we are not going to fund it abroad. If that is their position, we ought not to let the whole bill go down because of that.

It is very simple to prevent that from happening, whether it is simply resolved in the conference committee that this measure is going to be worked out in a separate bill on the authorization bill. And at that point, we can free up the rest of the foreign operations bill, the aid to Israel, the other things that are important, and pass that.

That is the position I hope the House continues to take, Mr. Speaker, first of all, that we do not use taxpayer dollars to fund abortions here in the United States. We are certainly not going to do so abroad. We understand that the Senate and others have sincere and deep disagreements about that. We are not going to let those disagreements hold up the foreign operations bill.

None of us are going to go have to recede from positions that we hold as a matter of honor. We will simply agree we will not hold up that bill, we will fight it out in another venue. That is the position I hope the House takes. I think it was a courageous vote today, Mr. Speaker. I hope we continue it in the weeks ahead as we work toward the adjournment.

TRIBUTE TO WADE STEVENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, I would like to address my remarks tonight to the Stevens family of Bay St. Louis, MS, Sue Stevens, but in particular Eric and Laura Stevens, two young people who lost their dad recently.

I can only imagine how horrible it is for a child to lose their mom and dad. And I know that nothing I can say or do can lessen your sorrow. But I want you to know and I want the people of our Nation to know that I think your dad was a hero.

□ 2230

For his courage and his compassion and his unselfishness, he should be, and he will be, remembered.

Just a few weeks ago, Eric and Laura's dad was diagnosed with an aneurysm in his brain and he was told that he required surgery to correct it. Their dad, Wade Stevens, told a coworker, Deb Sellier, that should things go bad that he wanted her husband to have his heart. Deb's husband, Dave Sellier, is a retired St. Louis policeman who was medically retired because of a heart condition a few years back. He has been on a waiting list for an organ transplant since March of 1996.

Wade died during surgery. At the time of his death he was 44 years old. I feel very fortunate to have known him for 20 of those years. He was a loving father and husband, active in his church and in his community. He leaves behind his wife Susan and two children, Eric and Laura, and my prayers are with him and his family.

Mr. Speaker, I am honored to pay tribute to somebody I think is a hero, my good friend, Wade Stevens. On behalf of his many friends, I wish to extend my deepest condolences. He will be missed and remembered by all.

THE MARRIAGE TAX ELIMINATION ACT

The SPEAKER pro tempore (Mr. BRADY). Under a previous order of the House, the gentleman from Missouri [Mr. BLUNT] is recognized for 5 minutes.

Mr. BLUNT. Mr. Speaker, let me say, first of all, that one of my predecessors in this district, serving this district in the Congress, was another Gene Taylor, and I am honored to be able to follow the gentleman from Louisiana [Mr. TAYLOR] on the floor tonight and recognize really the commitment that so many of our Members have to families, not only their own family but families in their district.

I want to talk for a few minutes about families when it comes to paying taxes. We need to repeal the marriage penalty, the marriage tax that penalizes 21 million American couples.

Few couples of course decide to marry based on their tax burden, but every couple understands the tax implications on April 15. On a web site that those of us who are sponsoring the repeal of the marriage penalty have established, we have gotten many letters from married folks who are concerned about that.

Sean McGowan from Jefferson City, MO, writes, "I think the marriage penalty is a major cause of the breakdown of the family here in the United States. Your bill would do a lot to cut down on the incidence of cohabitation by unmarried couples and give more children two-parent families where there is a real commitment between the parents."

Mark Wyckcoff from Baldwin, MO, writes, "My wife and I have been truly among those hardest hit by the marriage penalty. In my position as a physical therapist, I have been fortunate enough to benefit from a well-paying, high-demand occupation. In the 4 years we have been married, we have had one refund, our first, mainly because of taxes taken out based on a full year's salary when each of us worked only part of the year. Since the 1993 tax year, we have paid out an additional $8,868 as a well-earning, rich if you adopt the standards of the current administration, married, no dependents, no real property holding couple," and they pay a penalty because of what happens in the Tax Code. It is really another hidden tax, one of those kinds of taxes that Washington is famous for imposing.

Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It takes the income of the family's second wage-earner, often the woman's salary, at a much higher rate than if the salary had been earned at the individual rate. For many couples where both the husband and wife work, the second income becomes used simply to pay the IRS. That makes the marriage tax a penalty for working women.

For example, an individual with an income of $24,000 would be taxed at 15 percent. A working couple with incomes of $24,000 each would be taxed at 28 percent, a significant increase on the tax burden of $600 in new taxes simply because they are married, simply because they are forced into a higher tax bracket by filing a joint return.

In another case, a couple where one spouse earns $75,000 a year while the other has no income, they pay $3,872 less in income taxes than if they were single. Compare that to a husband and wife who each make $37,500, a combined income of $75,000, and they pay $1,391 more in taxes simply because they are married. Mr. Speaker, $1,391 or $600 are no small penalties. The Congressional Budget Office estimates that the average penalty for a married couple is $1,400 a year.

What would a family do for $125 of additional income each month? What would they do with $125 of additional income each month as well? That is equal to half a year's car payments on the average car payment. It could be used to secure a down payment for the first home or to pay tuition.

For the Federal Government, it is an annual $30 billion plum and it is a plum that we need to give up. We need to give up that $30 billion; we need to eliminate the marriage penalty. We need to go back to a tax law that really honors marriage, does not penalize marriage.

The Marriage Tax Elimination Act of 1997 that I am cosponsoring eliminates the marriage tax. It allows couples to choose which method would be to their advantage in filing their taxes, whether the single taxpayer method or the married taxpayer method for a joint return would be the best thing for them to do.

The elimination of the marriage tax also fills a void left over from the tax relief package of 1997. We have directed tax cuts for families with children; we have broadened the scope of tax relief, and in 1998 we could broaden the scope of tax relief to include all married couples with the elimination of the marriage tax penalty.

Washington should take every opportunity to help families stay together. Many times that means bringing home an income that provides them with time together, time to share values, and time to share experiences. This is the next logical step in the 1997 tax relief that we have given to families. We now need to give it to married couples by eliminating the marriage penalty, Mr. Speaker.

TRIBUTE TO HENRY B. GONZALEZ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from California (Mr. BECERRA) is recognized for

one-fourth of the time remaining before midnight as the first designee of the minority leader.

GENERAL LEAVE

Mr. BECERRA. Mr. Speaker, if I may, before I begin my remarks, I would like to request unanimous consent for all Members who speak on this particular special order to have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BECERRA. Mr. Speaker, I want to thank our distinguished colleagues who are here at this late hour here in Washington, DC, those who are from the Texas delegation, those who may have served with the individual we are here to honor by serving on the same committee, or those who just happen to know this individual and consider him a great friend and an honorable American. I would like to say to all of those folks from that committee, from that State, from this House, thank you for joining me and other Members of the Congressional Hispanic Caucus as we pay tribute to the dean of the Hispanic Caucus, the dean of the Texas Democratic Delegation, in fact, the Texas Delegation, period; and the former chairman and now ranking member of the Committee on Banking and Financial Services, the Honorable HENRY B. GONZALEZ.

Mr. Speaker, after 36 years of dedicated service to his constituents in Texas, the Hispanic community and the Nation, Dean GONZALEZ has announced that he will soon resign from the Congress.

Dean GONZALEZ was one of five founding members of the Congressional Hispanic Caucus back in December of 1976. This is just one of the reasons why I am so pleased that we could pay this tribute to him during the month of October, a month that this country has celebrated as Hispanic Heritage Month for quite some time.

This special order is a particularly fitting forum in which to pay tribute to HENRY B. GONZALEZ, because Dean GONZALEZ, as we all know, has made effective use of this particular format, the special orders, in his 36 years in Congress. In fact, before the House rules on special orders were changed in the 103rd and 104th Congresses, Dean GONZALEZ had a standing request for 60 minutes each day to speak out on matters of concern to him.

For example, in his special orders, Dean GONZALEZ warned repeatedly about the impending savings and loan crisis years before the industry actually even collapsed. Dean GONZALEZ also used the special orders to educate the Nation about the wonderful and endearing cultural contributions of Americans of Mexican descent.

In recent years, some of Dean GONZALEZ' most popular special orders, especially those with C-SPAN audiences, have been those where he discusses history: his own, the history of San Antonio, of Texas, and the history of the founding of our Federal Government.

But Dean GONZALEZ did not reserve his special orders for the cameras, as some might think. He engaged in this practice long before cameras were ever allowed in the House Chamber. He spoke out in his special orders so he would be on the record on different issues of the day.

Of course, Congressman GONZALEZ was best known for his special orders uncovering and combating the fraud and exploitation in the savings and loan industry, but he also spoke out on many occasions about a number of things. He could have spoken out on any given day about the 500 or so hearings that he held while he was chairman of the Committee on Banking and Financial Services, or perhaps he took the time on an evening to speak about the 71 bills that he helped shepherd through the process from the beginning until enactment.

He could have easily have spoken about the legislation he proposed that would guarantee depositors safe places to put their savings, or about the credit that he made available to small businesses so that they could grow and flourish, or about the reauthorization of the Federal housing laws for this country, and perhaps he could have spent time talking about how he was trying to strengthen our laws regarding money laundering, bank fraud, and other financial crimes.

Well, the issue of today is the unflagging commitment of our friend and dean, HENRY B. GONZALEZ, and I, for one, would like to go on the record, as Dean GONZALEZ often did, by saying that Dean GONZALEZ, HENRY B. GONZALEZ, is truly a living legend. He has been an inspiration and role model for us all. History books will have to make plenty of room for him and all of his accomplishments.

During these closing days of this month of October as Hispanic Heritage Month, we pause to honor one of our great American leaders. We wish Dean GONZALEZ, Mrs. Bertha Gonzalez, and members of the Gonzalez family our very best as he prepares to bring his illustrious career to a close.

Dean GONZALEZ has created a legend which inspires us today and will continue to inspire us for generations to come.

Mr. Chairman, I yield to a great respected friend, the gentleman from Texas [Mr. FROST.]

Mr. FROST. Mr. Speaker, I thank the gentleman from California [Mr. BECERRA], the chairman of the Hispanic Caucus, for yielding.

Mr. Speaker, I rise today to join with my colleagues in honoring HENRY GONZALEZ, who has announced that he will retire from Congress at the end of this year.

Congressman GONZALEZ has been a pioneer in State and national politics. After having served in both the San Antonio City Council and the Texas State Legislature, he arrived in Washington in 1961, 36 years ago, as the first Hispanic Congressman ever elected from the State of Texas. He has consistently been a voice for the less fortunate and has fought tirelessly for civil rights, good education, and affordable housing for millions of Americans.

Congressman GONZALEZ has always had the courage and conviction to stand up for the things he believes in. Whether it is taking on Presidents, Republicans or even Members of his own party, HENRY has never backed down from a good fight when he believed his cause is right. The truth is, HENRY usually is right.

When he leaves the House later this year, he will be missed by his colleagues. However, I am hopeful that the return home to Texas and to his family will be just the thing for his health. I suspect that even in retirement HENRY will continue to weigh in on matters important to him and to all of us, and as the new Democratic dean of the Texas delegation, I anticipate seeking HENRY's counsel for years to come.

Mr. BECERRA. Mr. Speaker, I yield at this point to another colleague from Texas, Mr. CIRO RODRIGUEZ.

Mr. RODRIGUEZ. Mr. Speaker, it is great to see a speaker from Texas and a fellow colleague from the Texas House.

Today we set aside time to honor a man who served the House for 35 years. It is my honor to stand here before this respected body and share my personal tribute to HENRY B. GONZALEZ on behalf of myself, the citizens of Texas, and specifically San Antonio, whom he tirelessly served.

□ 2245

Many of the Members may have read about the incident where I had the opportunity, at the age of 12 or 13, approximately, where I recall pumping gas in a gas station, and I remember HENRY B. coming by and putting gas in his car. To this day, I still remember that incident. I remember vividly that experience that I had, and the privilege that I had of knowing him and seeing him there for the first time, an individual that we know now and knew then as a legend.

Growing up in San Antonio, I looked to HENRY B. as a role model of what I wanted to be and what other individuals also shared, a strong individual with strong work ethics, an individual with integrity, an individual with honesty, an individual who has worth, a man who had strong convictions, and continues to verbalize his concerns and his opinions.

As I experienced that first interaction with him when I was about 12 or

13 years old, I also remember my father, who passed away recently, who used to refer to HENRY B. as El Compadre GONZALEZ, which literally means Godfather, but in our culture it is more in terms of a buddy or a friend.

We grew up in our family knowing HENRY B. as Compadre GONZALEZ, as my dad used to refer to him. My dad's Compadre, Congressman GONZALEZ, has served this House proudly as a chairman, and now as a ranking member of the Committee on Banking and Financial Services.

His accomplishments are many. As chairman, he helped to usher over 71 bills through the legislative process. These bills focused on areas he cared about and things we knew that mattered to the average person in our community, similar to those across the country.

He was an advocate for making more credit available to small businesses, helping find a safe place for people to put their savings, and reauthorizing Federal housing loans and laws. All this and much more is what we know HENRY B. GONZALEZ as a Congressman.

Back home in San Antonio, My Compadre, as my dad used to refer to him, has roots that go way back to those days when I also first encountered him when I was about 12 years old and I put gas in his car. He served my hometown in various positions, at one point being in the San Antonio Housing Authority, then in the City Council in San Antonio, and also in the State Senate in the State of Texas.

All along, HENRY B. served his people and continues to do that. I was one of those people that he helped serve. For these accomplishments and for all of those that he has helped in, we thank him.

Today I want to say, Gracias, Compadre, as my dad would have said, "Gracias por tu servicio y por el amor que en estos anos pasados nos has ofrecido." Thank you very much. Thank you for your service, and the love that you have given all of us. Mucha suerte, y que Dios te bendiga. Good luck, and may God bless you.

Mr. BECERRA. Mr. Speaker, I yield to the gentleman from Iowa [Mr. JIM LEACH], the distinguished chairman of the Committee on Banking and Financial Services, someone who has served for many years with the Dean.

Mr. LEACH. Mr. Speaker, I join my friends on the other side to pay tribute to the gentleman from San Antonio, Texas, Representative HENRY B. GONZALEZ. I know of no more honorable Member of Congress.

More than 40 years ago, HENRY GONZALEZ began a long and exemplary career in public service. He served in the San Antonio City Council, and later in the Texas State Senate, where he was at that time the first person of Mexican descent to serve in that body in more than 100 years. Elected to the Eighty-seventh Congress on November 4, 1961, HENRY has honorably and tirelessly served his constituents and his country for 35 years in the United States House of Representatives.

A sign that has hung on the door of his office for many years sums up his perspective on the seat he has held in Congress. It reads, "This office belongs to the people of the 20th Congressional District of Texas."

In January, 1962, HENRY was appointed to serve as a member of the Committee on Banking and Currency, which is known today as the Committee on Banking and Financial Services. There he served with distinction as the chairman of the Subcommittee on Housing from 1981 to 1994, and chairman of the full committee from 1989 to 1994.

When HENRY became chairman of the Committee on Banking and Financial Services in 1989, the Nation was facing the most costly financial crisis in the history of the United States, the half a trillion dollar savings and loan debacle.

Throughout this crisis HENRY GONZALEZ led the Congress in enacting legislation to protect depositors, bring stability back to the beleaguered thrift industry, and restore the strength and integrity of the deposit insurance system. His leadership helped to avoid an even larger financial crisis with even more dire implications for the national economy.

On the heels of enacting this legislation HENRY held numerous hearings to bring to light the abuses of some of the Nation's most notorious financiopaths. An old-fashioned liberal, HENRY never had a conflict of interest. He did not simply advocate, he lived campaign reform. His only special interest was his constituents. He never let them down, nor did they ever countenance an alternative. Honesty has its rewards.

While HENRY's work as the chairman of the Committee on Banking and Financial Services was marked by a commitment to protect the consumer, perhaps his greatest accomplishments can be found in his tireless devotion to improving the status of public housing and helping the Nation's poor.

As a young Hispanic male in San Antonio, and later in his work as a social worker, HENRY experienced and witnessed firsthand the effects of discrimination and the economic disenfranchisement of the poor.

The record of HENRY's tenure as chairman of the Subcommittee on Housing illustrates his commitment to helping those in need. Under his direction, the Subcommittee on Housing held the first hearing in January, 1983, on the growing homeless population of the United States, which led in 1987 to the enactment of comprehensive legislation to address the needs of the homeless, the Stewart B. McKinney Homeless Assistance Act.

As colleagues on the Committee on Banking and Financial Services, HENRY and I have held differing positions on a number of issues, particularly in matters involving the independence of the Federal Reserve Board. But Congressman GONZALEZ has been clearly right and deserves great credit for certain of his efforts to bring about more transparency to the operations of the Federal Reserve. He has also led Congress in efforts to uncover money laundering in various parts of the country, particularly in the San Antonio Federal Reserve District.

The legislative achievements of HENRY GONZALEZ, spanning more than three decades of service in the Congress, are far too numerous to mention during this special order. But the many public service awards and honors that have been bestowed on him over the years, including the John F. Kennedy Profile in Courage Award, stand as testaments to the difference HENRY GONZALEZ has made.

It is often said that the true riches in one's life can be measured by the lives one has touched and changed for the better. Throughout his career in public service, HENRY GONZALEZ has steadfastly stood up for those less advantaged in American life. He has literally represented and improved the lives of millions. For his honorableness, for his commitment to basic values, for his remembrance of his own roots, we in this House this evening honor a giant of a man, HENRY B. GONZALEZ of Texas.

TRIBUTE TO THE HONORABLE HENRY B. GONZALEZ

The SPEAKER pro tempore (Mr. BRADY). Under the Speaker's announced policy of January 7, 1997, the gentleman from California [Mr. BECERRA] is recognized to continue not beyond 11:18 p.m. as the designee of the minority leader.

Mr. BECERRA. Mr. Speaker, I thank the chairman of the committee for his eloquent remarks on behalf of the gentleman from Texas [Mr. GONZALEZ].

Mr. Speaker, I see the gentlewoman from Texas [Ms. JACKSON-LEE], who has been a voice, in many respects, helping replace the voice of HENRY B. GONZALEZ from Texas in her passionate way, and a good friend of mine. I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from California, and I appreciate his leadership, along with the Dean-to-be of the Texas delegation, for his leadership as well in calling this special order to pay tribute to one who stands among us as a great, great, great American. That is, Congressman HENRY B. GONZALEZ.

Let me discard all of the words that I might have wanted to say, for they would take longer than even the time that I might consume. I might want to

continue giving praises to a true gentleman, a gentle giant, and not in physical structure, but certainly in mind and in heart; someone who, before it was in vogue, if you will, to be politically correct, was a valiant battler, a soldier, a person who would stoop and lift up those who may be trying to traverse those trials and tribulations of life. That was HENRY B., as he was and is affectionately called.

It is worthy to note that he was first elected in 1961, that he has served his country for some 36 years, and he served it with pride. There was never a moment when he was not proud of the fact that he came from a community such as San Antonio, where he rose up, if you will, from the ashes, not in a negative way, not to say that he could not, but that he did, and that in his own way he was a role model for all to follow, a proud Hispanic American, a proud Latino, someone who always said, yes, I can.

For that reason I admired him, and as a Texan, loved him, and recognized that when I could not speak, when African-Americans were not in the State Senate, HENRY B. GONZALEZ spoke on our behalf, carried our message; said that we, too, in Texas deserved the equality of all human beings.

Yes, he continued to raise that leadership role as he pressed forward on issues dealing with all Americans, and particularly he emphasized his proud heritage as a Hispanic American, and someone who rose up and shined his particular light, not for himself, but for others.

I think it is important to note, Mr. Speaker, that Congressman GONZALEZ, along with his subcommittee chairman, but under his leadership, conducted more than 500 hearings and shepherded 71 bills through the legislative process, from introduction to enactment. I think we might say that HENRY B. GONZALEZ was not just holding the Chair, he was actually working the Chair; 500 hearings, because he believed in this process.

I think HENRY B. GONZALEZ felt that this was the best place that he could live his life, because he thought there was something worthy to the fact that we debated the issues of this country, that we did not go out on the front lawn and get pistols and shoot at each other. He truly exemplified that process.

I would like to comment on the fact that he thought of those who were most vulnerable, as I have said before, by guaranteeing depositors to have a safe place to put their savings, and to make more credit available to small businesses, reauthorizing Federal housing laws, and strengthening the laws pertaining to money laundering, bank fraud, and other financial crimes. The savings and loan industry was reorganized and revitalized during his tenure. He certainly was a man of strength during an hour of crisis for our savings and loans.

He was a good friend of the holders of the seat, and in particular, the Honorable Barbara Jordan and Mickey Leland.

One point that I would like to emphasize that was truly of importance to HENRY B. GONZALEZ, and that was his commitment to every single American having a good quality of life. That is why many called him the champion of public housing.

We are now engaged in a long debate about the reform of public housing and what the public housing residents should do. We disagree, we agree. Many of us have disagreed with the new reform. But one thing we can agree with is that HENRY B. GONZALEZ truly had a heart of gold as it related to those Americans who lived in public housing. They viewed him as their hero, someone who wanted for them the same dignity as any one of us who might live in our own independent housing, or other types of housing.

So he fought for good quality housing in public housing. He fought for the Housing and Urban Development Agency to do right by those residents, to provide them with opportunities. He likewise felt that as he worked for their opportunities, that they would also look for chances to move out of public housing. He was a big believer in giving each American the chance to have the American dream.

Mr. Speaker, let me say, in the words of the Honorable Mickey Leland, the late Congressman Mickey Leland, who often said, "Mi casa es su casa," his term was utilized for the purpose of realizing that my house is your house. It means that in fact, as I stand in need, you may be in need. We are all in this together.

HENRY B. GONZALEZ exemplified that phrase, that he would work for all the people; that his house was our house, that our house was his house. I truly will miss his leadership and his spirit, the fact of his gentleness but yet his firmness, his ability to fight. I will truly fight on his behalf for his legacy, that we all will recognize mi casa es su casa, we are all in this together. Thank you, HENRY B., for all that you have done for America.

Mr. Speaker, Congressman HENRY B. GONZALEZ of the 20th Congressional District, who has nobly served his constituents and our great nation for 36 years in the House of Representatives, is leaving us at the end of this session.

First elected in 1961, HENRY B. as he is affectionately known, made his mark as Chairman of the Banking Committee for six years. During his tenure as Banking Committee Chairman (1989–1994), Congressman GONZALEZ and his subcommittee chairmen conducted more than 500 hearings and shepherded 71 bills through the legislative process from introduction to enactment. Among the major bills produced by the Committee that became law was legislation guaranteeing depositors a safe place to put their savings, making more credit available to small businesses, reauthorizing federal housing laws, and strengthening the laws pertaining to money laundering, bank fraud, and other financial crimes. The savings and loan industry was reorganized and revitalized during his tenure. He certainly was a man of strength during an hour of crisis for our savings and loan industry.

Congressman GONZALEZ worked tirelessly for the residents of public housing and the National Housing Trust is a testament to his leadership in public housing. There are millions of Americans today who are able to find affordable housing because of this great man.

In previous congresses Congressman GONZALEZ has been active in writing other banking and housing laws, and involved in a wide range of legislation—including urban development, veterans, federal employees, education, economic development, civil rights, equal opportunity, safe drinking water, protection of the interests of U.S. citizens in foreign countries which benefit from U.S. contributions to international development institutions.

We will miss this fine gentleman, we will miss his spirit of service with a true sense of honor.

□ 2300

Mr. BECERRA. Mr. Speaker, let me first thank the gentlewoman from Texas for those words of praise and I know they are appreciated, not just by Mr. GONZALEZ, but by all of us who appreciate the work that he has done as well.

Mr. Speaker, I yield now to the gentlewoman from New York [Mrs. MALONEY] who is a member of the Committee on Banking and Financial Services, and a friend of Mr. GONZALEZ.

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding and I thank him for organizing this tribute tonight for HENRY B.

Mr. Speaker, I rise to pay tribute to a friend, a great American, who is an icon of the civil rights movement and one of the truly great congressmen of our time, HENRY B. GONZALEZ. Throughout HENRY B.'s 44 years in public service, he has served his constituents well through his dedication, dignity, and honesty.

When I came to Congress in 1992, what impressed me so much was how HENRY, as the Committee on Banking and Financial Services Chairman, reached out to me as a freshman and offered assistance. As Chairman, he guided me, and time and time again he was there. When HENRY B. tells you something he will do, it happens.

During floor debate on one of my first legislative proposals, an amendment to the Department of Defense Appropriations Act of 1994 that would remove the funding for the Civilian Marksmanship Program, this was a program that had been put in the budget after the War of 1812. It was a piece of petrified pork and I wanted to remove it, not only to save taxpayers

money but to understand the budget process better.

Mr. Speaker, I will never forget going to the floor on my first amendment and having the Chairman of the Committee on Banking and Financial Services come to the floor and support me. I was so touched, I looked up his comments and I want to put them in the RECORD and remember them always. Mr. Chairman, I would say to the gentleman from Texas, "I appreciate your coming that day to help me, HENRY."

Congressman HENRY GONZALEZ will be remembered for speaking honestly and bluntly about the need for oversight of the U.S. Federal Reserve. Over the years his tireless efforts helped to crack open the Federal Reserve by urging them to immediately announce its monetary policy decisions and to begin publishing the minutes of its Monetary Policy Committee in 1994. From the changes he brought to the Central Bank, many have benefited.

The most touching story I have about HENRY B. took place during the first hearing at which Secretary Henry Cisneros testified in 1993. As he began his testimony, Secretary Cisneros described how when he was growing up in rural Texas his family had a portrait of HENRY B. GONZALEZ on the wall. To them, to the Cisneros family, and to many Hispanics in Texas, HENRY was more than a politician. He was a hero. At that moment, I truly understood just how deeply he had touched the lives of other people. I remember Secretary Cisneros saying that he never thought in his life he would have the honor to speak before HENRY B. GONZALEZ.

HENRY was kind. He even was kind enough to do me a favor. When I went back to my district, many of the banks asked if HENRY GONZALEZ could come to visit New York City, since he never had before. Well, I went to him and asked him personally if he would make the trip and he agreed. It was a great session. Just questions and answers, dialog, discussions back and forth. I know that HENRY liked to spend most of his free time back in his district, so I really appreciate his friendship when he did this favor for me.

Mr. Speaker, this body is a better place for having had HENRY GONZALEZ serve here. But more importantly, this country is a better place for him having served here. All Americans will miss his presence.

I would like, Mr. Speaker, to put into the RECORD a news article written by Molly Ivins that was published on September 9, 1997, and it is entitled, "We should have listened to HENRY B." She goes through all the times that HENRY B. stood up honestly talking about the bank scandal, the RTC bailout, the savings and loan scandal, always speaking up for what he believed in, for what he thought was right.

Mr. Speaker, I must say to the gentleman from Texas, "I always listened, HENRY B. We miss you HENRY. We wish you were here. We all appreciate your public service and your contribution to this country."

WE SHOULD HAVE LISTENED TO HENRY B.
(By Molly Ivins)

AUSTIN.—We hope Henry B. is enjoying all the bouquets being tossed his way. Hard to think of anyone who deserves them more. Notice how often the word "honorable" occurs in the political obits? Of how many people now serving in the United States Congress is "honorable" the first word that comes to mind? But me, I wish we had honored this honorable man less on his way out of our political life and had listened to him more.

It's amazing, when you look at the record, how often Henry B. Gonzalez was right—many times when nobody else was. If only we had listened. If only Congress had listened that night in 1981 when it was passing the Garn-St. Germain bill between midnight and 1 a.m. with no debate. The new Reagan administration was full of ideological certitude that deregulation was what the country needed—get the government off business's back, get rid of all the petty rules and regulations. And the place to start was the savings-and-loan industry, whose lobbyists had been allowed to write their own deregulation bill.

Of the 435 members of the House of Representatives, only four rose in the middle of the night to oppose that bill: Jim Leach, that decent Republican from Iowa, and three Texas Democrats, all of them with populism bone-deep in their political makeup. There's a reason that Texans describe freezing weather by saying "cold as a banker's heart." Because the Garn-St. Germain bill had been written largely in secret, no one was quite sure what was in it. But the Texans rose to oppose it anyway: Jim Wright, Jim Mattox and Henry B. Gonzalez. You can look it up.

If only we had listened to Henry B. as early as 1983, when he warned that Reagan's HUD Secretary Samuel Pierce was an agent for politically favored special interests. If only we had listened to Henry B. when he warned us how often PAC money was making our representatives the captives of special interests rather than the public interest.

If only we had insisted they follow his example and not accept money from special interests before their own committees. If only we had listened to Henry B. when he warned us about the concentration of power in larger banks instead of encouraging it. If only we had listened to Henry B. when he told us over the years that the Federal Reserve was too secretive, too powerful, too unresponsive to the public interest. And when Henry B. tells you that Alan Greenspan is a liar, you can look for the man's nose to grow.

And, Texas, beloved Texas, how many years of agony would we have saved ourselves if we had listened to Henry B. during the hideous "seg session" in 1957, when he single-handedly tried to fend off some of the ugliest, most racist legislation ever to disgrace this state? Ronnie Dugger of The Texas Observer described Henry B.'s famous filibuster in the Texas Senate as follows:

"He started roaring, he roared on, and he closed roaring; never has his like been seen here before. For 22 hours he held the floor, an eloquent, an erudite, a genuine and a passionate man; and any whose minds he didn't enter had slammed the doors and buried the keys.

"He spoke for those who have no voice of their own. He spoke for the Latin-Americans who have been sweated, cheated and ratholed. 'Who speaks for the Negroes? What about them?' he cried. 'Why do one-tenth of the people of Texas have no representatives in the Legislature? Why do they get the lowly jobs always? Is Texas liberty only for Anglo-Saxons?' He rose to help prevent 'the loss of just one liberty for which men have died—men have died, not just talked, talk is easy.' His colleagues were ready to quit, but he would not. 'What a noble opportunity to enlist in a cause that's eternal, the maintenance of the dignity of a human! For whom does the bell toll? You, the white man, think it tolls for the Negro. I say, the bell tolls for you. It is ringing for us all, for us all.'"

Henry B. in full rhetorical flight is eloquent like few others. Thirty-nine years after that astonishing filibuster, a fool named LaFalce from New York tried to take Henry B.'s job as the ranking Democrat on the House Banking Committee. Henry B. rose to speak and gave that new generation of politicians a lesson in how it's done: "How can I acquiesce in a thing that ignores my record of honorable and successful leadership? How can I be silent in the face of such an injustice?" LaFalce later confessed to reporters, "Henry was so good, I almost voted for him."

Henry B. is not always high-flown. In the 1950s, the politically correct way to refer to Chicanos was "Latin-Americans." Henry B. once observed that a Latin-American is "a Mexican with a poll tax." Nor did he later cotton to "Chicano." Just plain "American" was always good enough for Henry B., no hyphens, as was just plain "Democrat."

On Flag Day in 1993, disgusted by the syrupy display of patriotism, Henry B. said the House was "like a good little herd, reminiscent of the Hitlerian period: Sieg heil, sieg heil." When outraged Republicans demanded that he be censured, Henry B. said, "It must have hit pretty close to those goose-steppers."

I once wrote that Henry B. had a barely perceptible accent (I was wrong; he has no accent—only the faintest Hispanic intonation in his speech) and could not understand why he was so infuriated by what seemed to me a harmless remark. I later learned from reading an old issue of the Observer: "When the time came for him to go to junior high, his accent was so thick they made fun of him. He had read that Demosthenes of Athens developed his oratory by shouting at the sea with pebbles in his mouth, so he, Henry Gonzalez, did that. Long evenings, he read Carlyle aloud with rocks in his mouth 'until papa though I was nuts and told me to stop.' He had a friend correct his enunciation as he read out from Robert Louis Stevenson. Nights, his sister and brothers would creep up to his bedroom window and watch him declaiming to a mirror, and they would run off, giggling."

No one in Washington seemed to understand Henry B.; he was always stigmatized as a "maverick," a "loner," a "lone wolf." What did Henry B. Gonzalez ever care about running with the pack? From his earliest days on the San Antonio City Council, he was at the lonely end of many an 8–1 vote. "The vote that carries the weight of moral conviction behind it, it has been my observation, is a vote that eventually triumphs," he once said.

Of course, we all relished Henry B.'s proper Texan tendency to duke it out when necessary. He had been an amateur boxer at the University of Texas at Austin, and over his years as a probation officer, city official and even in Congress, he was willing to mix it up.

He once got into a shoving match in the cloak room with another congressman who had insulted him on the floor. And at the age of 70, he slugged some jerk who had called him a communist in a restaurant. Served the guy right, we all felt.

Like Barbara Jordon, who later followed him in the Texas Senate, Henry B. has been a First and an Only for much of his life. First Mexican-American in the Texas Senate, first elected to Congress from Texas. And I think, like her, his most important contribution may be as a role model. For four generations of Tejanos, Henry B. has been the model, the one from whom they all learned. They could not have had a better.

Mr. BECERRA. Mr. Speaker, reclaiming my time, we have no further speakers so I would like to close with some final comments about Mr. GONZALEZ and that would be mostly to note some personal observations.

First, I think we all recognize the work of HENRY B. GONZALEZ as a colleague, and those who have been in this institution longer than I could speak to the many things that he has done beyond even the years when I could remember the civil rights community coming forward and fighting for the privilege and the honor of serving all Americans well and making sure all of us as Americans had the right to live freely.

But I speak as someone who has benefited from what HENRY GONZALEZ has done over the years. And I know that I was able to be the first in my family to go on to college because of people like HENRY B. GONZALEZ. I know that I have an opportunity to serve in this House because of the work of people like HENRY B. GONZALEZ. And I know that even though the former chairman and the ranking member of the Committee on Banking and Financial Services will be retiring soon, very shortly, it is only fitting that we recognize him this evening, this year, before he does leave. Most of the time we wait until someone has retired or passed on. In this case, I think it is appropriate that we recognize Mr. GONZALEZ.

It has been a difficult time of transition for the State of Texas. Earlier this year, Texas and all America lost one of its patriots, a colleague of ours, a great man, someone who devoted much of his life serving this country in time of war and in time of peace, Frank Tejeda, who passed away, also from San Antonio. Now we find HENRY B. GONZALEZ retiring.

We are going to lose two tremendous individuals in this House, but fortunately at least San Antonio will know that one of those individuals will return and be a member of the family in San Antonio.

It gives me great pride to say to anyone who can hear tonight that HENRY B. GONZALEZ deserves the recognition of an American hero. He will go down in the history books of America and he is the reason why America continues and will continue to have a glorious history, because we have a gentleman who served this country so well and has made so many of us so proud.

Mr. GREEN. Mr. Speaker, today we take the opportunity to express our sincere appreciation and gratitude to the dean of the Texas delegation, Representative HENRY B. GONZALEZ.

His leadership and courage has served as an inspiration for every Member of the Texas delegation, for every Member of Congress, and for the citizens of our country.

Congressman GONZALEZ was born on May 3, 1916.

He married Bertha Cuellar in November 1940. He has 8 adult children, 21 grandchildren, and 3 great-granddaughters.

Educated in the San Antonio public school system, he later attended San Antonia College, studied engineering at the University of Texas, and graduated from St. Mary's University School of Law.

Representative GONZALEZ prior to his tenure in the U.S. House of Representatives served as deputy director for the San Antonio Housing Authority, a member of the city council of San Antonio, mayor pro-tem, and as a State senator.

As State senator in the 1950's HENRY B.'s filibuster against segregationist laws are legendary.

On November 4, 1961, Representative GONZALEZ started his illustrious career in the U.S. House of Representatives.

Representative GONZALEZ' 36-year tenure is an example for all of us to follow. HENRY B. has always been a dedicated public servant, who does everything he can to help his district.

Currently, he is the ranking member on the Committee on Banking and Financial Services.

His tenure in the House in dotted with moments of great achievements. As chairman, Congressman GONZALEZ, shepherded through 71 bills from introduction to enactment. Bills such as those creating a safe place for depositors to put their money, making more credit available to small businesses.

One of the greatest achievement for his district was passing public laws that made it possible to hold the 1968 HemisFair in San Antonio. This achievement gave rise to the city's convention center, exhibition hall, restaurants, which has become a popular tourist and meeting site for our country.

The Honorable HENRY B. GONZALEZ, has been a model for all of us to follow. He is a man who stands on principle. He shows all of us on a day-to-day basis what it means to be a public servant. HENRY B., thank you for everything, we'll miss you.

Mr. ORTIZ. Mr. Speaker, I thank the gentleman from Texas for taking the time to bring us together on the House floor to pay tribute to a man who has been a groundbreaking pioneer for Hispanics and for Texans.

HENRY B. GONZALEZ came to the House of Representatives in 1961, before any other Hispanics were elected from the State of Texas.

Before that, he was the first Hispanic elected to the San Antonio City Council and the first Hispanic elected to the Texas State Senate in the 20th century.

He was a trailblazer for all of us who were elected after him.

To see the future, you must stand on the shoulders of a giant.

When HENRY B. GONZALEZ was elected in 1961, many of us stood on his shoulders and saw a glimpse of our own future.

When I was running for reelection as county commissioner back in 1972, HENRY B. came to Corpus Christi to host a fundraiser for me.

It was a wildly successful event, just because the chairman was involved.

He left his legislative mark, and he left his personal mark on a host of issues—on education, on banking, on civil rights, and on the right of the people to be informed about their Government.

HENRY B. has been a different kind of public servant all his life.

It was terribly important to him not to be typecast into a particular role in public life.

He didn't really affiliate with the Hispanic Caucus, because he did not want to be known as the Hispanic; he wanted to be known as the legislator.

He certainly made his mark on the world of Congress and legislation.

As chairman of the House Banking Committee, he saw over 70 bills pass through his committee and into law.

These laws have a direct influence on the lives of people today.

These laws ranged from guaranteeing depositors a safe place to put their savings, to making more credit available to small businesses, to strengthening laws pertaining to money laundering, bank fraud, and other financial crimes.

He was a maverick in this body and in this place.

He held hearings to shed light on the Federal Reserve, U.S. policy with pre-war Iraq, the Bank of Commerce and Credit International scandal, and the 1980's savings and loan disaster.

HENRY B. GONZALEZ is a proud man and a Texan to the core his soul.

When someone called him a Communist at a restaurant long ago, he clinched his fist and smacked them across the face—them's fighting words in Texas.

He never forgot his roots and he never let anyone else forget either.

Tonight, I offer HENRY B. my very best regards and my best wishes.

We will miss you terribly, Mr. Chairman, but you deserve to spend this time enjoying your life with Bertha and all those grandchildren.

Ms. WATERS. Mr. Speaker, I rise today to say goodbye to my good friend and esteemed colleague Congressman HENRY B. GONZALEZ. There are few Congresspersons who have served their constitutents and the country with such integrity, passion, and vision.

Liberalism may currently be out of fashion, but HENRY GONZALEZ is a liberal in absolutely the best sense of the word. Guided by the courage of his convictions he did not care if the positions he took were unpopular.

HENRY GONZALEZ distinguished himself as a master public policy maker. He was a wealth of information and had an absolute command of a wide range of issues. I remember when I first came to Congress he was often on the floor talking and educating the American people—and fellow Congress Members, I might add—about the important issues of the day.

I also had the honor of serving on the Banking and Financial Services Committee with

HENRY, through much of his tenure as the chairman of the committee as well as ranking democratic member of the committee. His leadership on the committee will not be forgotten.

Throughout his career, Congressman GONZALEZ has been a prolific legislator, passing over 70 major pieces of legislation and conducting over 500 hearings. What runs through all of his work is an unfailing commitment to using the power of the Federal Government to protect the American people. The following are just a few of his many legislative contributions as a champion of the poor.

The Community Development Banking and Financial Institutions Act of 1993. This act created the Community Development Financial Institutions Program to help encourage lending and economic development in poor communities.

The Cranston-Gonzalez National Affordable Housing Act; HENRY wrote the most far-reaching and significant housing legislation enacted in the past decade. This legislation significantly increased Federal funding for housing programs and supported a number of new affordable housing programs; and legislation to protect consumers from abusive credit bureau practices, to ensure the safety and soundness of our banking system, and strengthen safeguards against money laundering.

In addition to his work in the areas of housing, banking and community development, HENRY was a tireless fighter against discrimination and injustice.

Congressman GONZALEZ was a champion for the rights of all minorities and championed the cause for civil rights of Mexican-Americans and immigrants. He successfully opposed the Bracero Act and spoke throughout his career against anti-immigrant, and anti-worker legislation.

His first piece of legislation as a Congressman was a resolution calling for the abolition of the poll tax that still existed in five States in early 1960's. His action led to the adoption of the 24th amendment to the U.S. Constitution.

These are just a few—and I emphasize "a few"—of the many, many legislative accomplishments of HENRY GONZALEZ.

Only a small number of persons have had the opportunity to represent our country in Congress. Few have enjoyed as long a tenure and prolific legislative history as HENRY GONZALEZ. Even fewer distinguish themselves by embodying the best attributes of a public servant for the common man. HENRY, you are truly one of a kind and we will miss you dearly. The American people will miss you as well.

Mr. BONIOR. Mr. Speaker, today, we honor Congressman HENRY GONZALEZ of Texas, a champion of justice who is retiring after a lifetime of public service. Thoughtful, passionate and committed to the people of his district and our country, Congressman GONZALEZ has been the quintessential citizen-statesman.

I have always admired his willingness to stand against the tide when he felt he was right. Like few I've known, Congressman GONZALEZ has the courage of his convictions. Whether it was civil rights, housing issues, or allegations of governmental wrongdoing, Congressman GONZALEZ pursued the matter with both intelligence and vigor.

His sense of self is remarkable. At once proud and down-to-earth, wise but quick to action, kind yet strong, Congressman GONZALEZ imparts confidence to his friends, and earns the respect of his adversaries. I feel fortunate to have had the opportunity to learn from him as we've worked together over the past 20 years.

So HENRY, I thank you for your leadership and dedicated service. I thank you for your commitment to justice. Most of all, though, I thank you for your friendship.

I wish you well as you return home to the community you love and have so ably represented during your fine career.

Mr. EDWARDS. Mr. Speaker, I rise in honor of our colleague, HENRY GONZALEZ and his lifetime of commitment to our Nation.

Mr. HINOJOSA. Mr. Speaker, in Texas we adhere to the philosophy that if it comes from Texas not only is it bigger and better, but it's definitely the biggest and the best. Ours is the State of legends. It's also the State from where many of the Nation's most legendary people come. There's the legendary Speaker of the House, Sam Rayburn. There's the legendary 36th President of the United States, Lyndon Johnson.

And tonight, we pay well-deserved tribute to another great individual who is a living legend, and who will go down in the annals of history as one of the true giants of this institution—our distinguished colleague, the legendary HENRY B. GONZALEZ.

Having only come to Congress in January, I am new to this body and therefore, unfortunately have not had the privilege, as so many of you have, of closely working with Congressman GONZALEZ.

What is not new to me, however, is his 36-year record of achievement and accomplishment here in the House of Representatives, nor his record as a Texas State Senator in the 1950's where he became a civil rights icon fighting for the rights of Hispanics to attend public schools.

His mark has been far-reaching. This is a man who has been a defender of public housing programs for the poor. This is a man who has fought for equity in education. This is a man who, during a time of crisis reorganized, and in the process of doing so, revitalized the savings and loan industry.

He has been a champion of small business, an advocate for the underprivileged—of all ethnic backgrounds, I might add—HENRY B. GONZALEZ has been, and is, nothing less than a maverick.

I have the greatest respect and admiration for the dean of our delegation for all that he has done, and for the role model he has been and will continue to be for so many. As the first Hispanic in Congress from Texas, he paved the way for many of us who are here today.

Your remarkable achievements over the years have shown us all why it is so important to work tirelessly for what we believe in. You have taught us why we must be dedicated to the pursuit of excellence. You have shown how goals are, indeed, attainable, but not always easy to achieve. Even more importantly, I think you have shown that within each and every one of us there is the potential to make a real difference in the world we live in, but that to make such a difference one must be involved.

Some lead. Others inspire. Through your words and actions you have done both. You have set the standard that others will now strive to reach. It's a high benchmark, and I think everyone here on both sides of the aisle will agree that your legacy to this institution will both be enduring and rich. In my mind there isn't any question that no one can ever fill your shoes, but then, isn't that what defines a legend—one-of-a-kind?

HENRY B. GONZALEZ—We're going to miss your leadership, but most of all we're going to miss you.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to pay a special tribute to a great Texan, Congressman HENRY B. GONZALEZ. Congressman GONZALEZ has announced that he will resign from Congress at the end of the year, and all of Texas will miss him dearly.

Over the years, Congressman GONZALEZ has worked diligently on banking and housing legislation due to his committee assignments and Ranking Member position on the Banking Committee and its subcommittees. Not content to work only on behalf of San Antonio and the State of Texas, Congressman GONZALEZ has concentrated on issues such as gun control, crime problems, education, health, and other issues of national concern.

During his tenure as Banking Committee Chairman, Congressman GONZALEZ and his subcommittee chairman conducted more than 500 hearings and shepherded 71 bills through the legislative process from introduction to enactment. Among the major bills produced by the Committee that became law was legislation guaranteeing depositors a safe place to put their savings, making more credit available to small businesses, reauthorizing Federal housing laws, and strengthening the laws pertaining to money laundering, bank fraud, and other Federal crimes. Without a doubt, the country is a much better place for average Americans because of his stewardship in Congress over the years.

Prior to his election to Congress, Congressman GONZALEZ served for 5 years as a Senator in the Texas Legislature where he attracted worldwide attention through his filibusters against various bills upholding or facilitating the principles of segregation. With his election to the Texas Senate in 1956, the Congressman became the first citizen of Mexican descent to be seated in that body in 110 years. All minorities in Texas owe Congressman GONZALEZ a large debt of gratitude for his unflinching commitment over the years to the principles of equal protection and treatment under the law.

During his 5 years in the Texas Senate, Congressman GONZALEZ introduced, cosponsored or managed 42 bills, including those concerning slum clearance programs and control of lobbying. He opposed legislation that required moderate and low income groups to bear a greater part of the tax burden. In a special session of the legislature in 1961 he filibustered, unsuccessfully, for 5 hours against passage of a sales tax act. In a special legislative session in 1957, he filibustered alone for 20 consecutive hours against three segregation bills. Having served in both the Texas

House and Senate, I benefited and learned from Congressman GONZALEZ' legacy of dedication working on behalf of the poor and disenfranchised.

HENRY GONZALEZ followed his conscience and has always done what he thought was right. When he speaks, everyone listens, and when people speak to him, he listens. He will be missed by all of us. The Texas delegation and the entire Congress have lost a valuable colleague. But his wisdom, I hope will continue to be heard and felt in the Halls of Congress and around the Nation.

To the giant of a man that I fondly call "Mr. B," I salute you! I miss you Mr. B.

Mr. BENTSEN. Mr. Speaker, I join my colleagues today in honoring Congressman HENRY B. GONZALEZ for his many years of service to the United States and the State of Texas, during which he provided tremendous leadership on banking, housing, civil rights, and countless other issues.

The dean of the Texas Delegation, HENRY B. GONZALEZ will be remembered most of all for the fierce independence, dogged determination, and commitment to doing right that he has brought to every venture he ever undertook.

I am honored to have had the opportunity to serve in the House of Representatives with HENRY B. GONZALEZ, even if for only 3 of his 36 years in this body. He is an example to all of us of a true advocate of the people who brought honor to this House. He is also a true Texan who worked tirelessly to further the best interests of our State.

HENRY B. GONZALEZ served as chairman of the House Banking, Housing and Urban Affairs Committee during perhaps its most difficult period, following the collapse of the Savings and Loans industry. He presided over the drafting and successful enactment of tough S&L bailout legislation which returned stability to a foundering industry. His other legislative accomplishments include legislation guaranteeing depositors a safe place to put their savings, making credit more available to small businesses, reauthorizing Federal housing laws, and strengthening the laws pertaining to money laundering, bank fraud, and other financial crimes. He also shepherded through Congress the National Flood Insurance Reform Act of 1994, legislation of major importance to my district, which shored up the program's premium fund and provided better enforcement of requirements to purchase flood insurance.

Congressman GONZALEZ may best be remembered for his leadership on housing policy, an area where he was a leader not just for Texas but nationally. As Chairman of the Subcommittee on Housing and Community Development, Congressman GONZALEZ wrote the Federal housing policy, during the 1980's and much of the 1990's, translating his vision of safe and decent housing for all Americans into the Nation's agenda. In 1990, Congressman GONZALEZ spearheaded the first significant housing overhaul in 16 years, renewing the Federal Government's commitment to affordable housing. His legislation increased Federal funding for housing programs by $3.3 billion and, for the first time, addressed the housing problems of people with AIDS. This effort followed his successful drive to permanently extend the Federal Housing Administration's authority to insure home mortgage loans thus extending the chance of home ownership to millions of working families and his continued push to address the needs of the homeless. Congressman GONZALEZ' commitment to expanding housing has helped thousands of people across the country improve their lives by obtaining a place to call home.

Congressman GONZALEZ also made his mark in the area of civil rights. From his earliest days in Government he has fought against the evils of segregation and discrimination. In 1956 he became the first citizen of Mexican descent to serve in the Texas State Senate and successfully fought segregationist legislation during his 5-year tenure. True to form, Congressman GONZALEZ still holds the record for the longest filibuster in the history of the Texas Senate, laboring for 36 hours to defeat anti-civil-rights legislation that had passed the Texas House. Congressman GONZALEZ continued his commitment to civil rights throughout his years in Congress. He was an ardent backer of President Johnson's civil rights initiatives during the 1960's and has since sponsored legislation to strengthen the rights of women, minorities, the disabled, and the elderly. His contributions were recently recognized by the Texas NAACP, which honored him with their "Texas Hero Award."

Throughout his career, HENRY B. GONZALEZ fought for government policies that fostered better living and economic conditions for all Americans. He has been the consumer's friend on financial legislation. He is among the fathers of the Community Reinvestment Act. He has championed legislation to strengthen education, economic development, and environmental protection. He has been a strong supporter of civil rights for all Americans, and improved access to health care for the elderly, veterans, and low-income individuals. He has also supported policies to improve the Nation's infrastructure and promote a strong small business community.

Our entire Nation has benefited from HENRY B. GONZALEZ' service in Congress, and his legacy includes a stronger, more stable banking system that continues to lead the world in innovation and service; a stronger commitment to affordable housing; more open government; and a better quality of life for many Texans and Americans. I am pleased to join my colleagues in honoring Congressman GONZALEZ, but I am sad to see him go. The House Banking Committee will not be the same without HENRY B. GONZALEZ on the top row. His well deserved retirement is a loss for the Nation, the House and the Texas Delegation. I wish him the best in his new career as full-time father, grandfather and husband.

Mr. HOYER. Mr. Speaker, I rise today to join my colleagues in praising Congressman HENRY B. GONZALEZ for his remarkable career representing the citizens of Texas' 20th Congressional District. Recently, Representative GONZALEZ announced his intention to resign his seat by year's end, signaling the loss of one Congress' truly outstanding leaders and one of the Nation's shining beacons of decency, conviction and courage.

Mr. Speaker, when they talk about Congress being "of the people, and for the people" they use HENRY GONZALEZ as their guide. Both as a local legislator in San Antonio and here in Washington, HENRY GONZALEZ has fought the good fight when it comes to representing our Nation's neediest citizens and championing mainstream values and ideals. His unflagging support and tireless efforts to promote equitable and affordable housing leaves a legacy of fairness and honesty of which the entire Nation can be proud.

HENRY GONZALEZ represents the heart and soul of this institution, as well as that of the Democratic Party. It is his strongly held belief that Congress is the most hallowed symbol of freedom in the western world. And, it is his steadfastness on this and so many other issues that guides HENRY GONZALEZ and has so profoundly touched so many of his colleagues. It is HENRY GONZALEZ' unfailing and unwavering conviction that every man, woman and child deserves a fair shot at the American dream which has helped shape the direction and vision of the Democratic party for many years.

Mr. Speaker, HENRY's stance on issues may not have been popular, they may have run against the grain of conventional wisdom, but if he believed he was on solid moral ground, he stood firm. Mr. Speaker, this kind of character represents the true spirit and tradition of this institution. It is this kind of intestinal fortitude that is all too often lacking in today's society.

In announcing his retirement, HENRY stated that it is "time for me to go home." Few have represented their Districts as faithfully as HENRY GONZALEZ, and I know few Members who are so beloved and revered back home as HENRY GONZALEZ. And, while I know that the people of the 20th Congressional District wish you all the best in your retirement, there are also some who are anxious at the prospect of losing such a giant figure here in Washington.

HENRY, I know this was a difficult decision for you. This body will miss your wisdom, courage and leadership. I am pleased that you will have more time with your wife Bertha and your eight outstanding children. You have much to be proud of and you deserve every moment of happiness and joy this time will bring. God bless you and God speed in all that you do in the years to come.

Mr. LAFALCE. Mr. Speaker, it is my distinct privilege and honor to rise this afternoon to join in a fitting tribute to my friend and respected colleague, HENRY GONZALEZ.

I became a Member of the House in 1975, and from the beginning, HENRY B. GONZALEZ was an example for me and my fellow freshmen. HENRY was a beacon shining brightly, a champion of consumers and of those in society in greatest need. He remains such a beacon.

One does not enter into the presence of HENRY GONZALEZ without learning something. Whether an anecdote about Lyndon Johnson and Texas politics, or a lecture about the depths of despair among the homeless, or a seminar on the intricacies of banking law, HENRY was a true leader. He inspired, cajoled, and probed; always with passion and always fighting for the little guy and for the supremacy of the public interest over narrow private concerns.

I should note in particular the lasting mark that HENRY GONZALEZ has made on the area

of housing and community development. He knew how important the Federal role is in helping ensure that all Americans have a decent home in a good neighborhood. He as much as anyone has kept the beacon of Federal aid to our cities lit. He has truly been a conscience of the Congress, and his efforts in this arena will be particularly missed.

HENRY'S career in the House may be nearing its end, but we all know that his memory will endure. He has left his stamp on our Nation, and the United States is far better for it. Mr. Speaker, I salute HENRY B. GONZALEZ and wish him and his family all of the best in the years to come.

Mr. MARTINEZ. Mr. Speaker, I rise tonight to pay tribute to a friend, a colleague, and a great American. After a highly distinguished 36 year career in Congress, representing San Antonio, TX, HENRY B. GONZALEZ has announced that he will resign at the end of the year.

Mr. Speaker, when I was first elected to the House in 1982, HENRY GONZALEZ was already an institution in this august body. His leadership on a variety of national issues affecting his constituents, the Hispanic community in general, and the Nation as a whole, are legendary.

During his congressional tenure, HENRY served as chairman of the Committee on Banking, Finance, and Urban Affairs from 1989 to 1994. In his capacity as chairman, HENRY successfully promoted legislation guaranteeing depositors a safe place to put their savings. He championed measures facilitating small business access to credit and strengthened the laws against money laundering and bank fraud.

Under his leadership, the Banking, Committee held a countless number of hearings on the Bush administration's prewar Iraq policy. HENRY vigorously investigated the scandal involving the Bank of Commerce and Credit International, and he took the lead in shedding light on the savings and loan debacle of the 1980's.

Throughout his distinguished public service, HENRY has championed the causes of urban and economic development, affordable housing and civil rights. I'm certain that HENRY must have broken the congressional record for endurance on special orders. I vividly remember how he would tirelessly take to the floor night after night exposing government incompetence, waste, and abuse.

I salute you HENRY. I salute your integrity and leadership. You will be sorely missed.

Mr. SERRANO. Mr. Speaker, today I join my colleagues to honor Congressman HENRY B. GONZALEZ for his noteworthy public accomplishments. Congressman GONZALEZ is a dear personal friend, a mentor, and an invaluable Member of this body.

He was born Enrique Barbosa Gonzalez in San Antonio, TX, on May 3, 1916, to Leonides Gonzalez Cigarroa and Genoveva Barbosa Prince de Gonzalez, who had fled to San Antonio from the state of Durango in Northern Mexico during the Mexican Revolution in 1911. HENRY GONZALEZ attended public schools and graduated from Jefferson High School in 1935. He continued his education at San Antonio College and the University of Texas. In 1943 he graduated from St. Mary's University School of Law.

Prior to joining this body, Congressman Gonzalez was elected in 1953 to the San Antonio City Council, serving as mayor pro tempore for the latter part of his term. He spoke against segregation of public facilities, and the council passed desegregation ordinances. Elected to the Texas State Senate in 1956, GONZALEZ, along with then Senator Abraham Kazen, attracted national attention in 1957 for holding the longest filibuster in the history of the Texas legislature. The filibuster, which lasted 36 hours, succeeded in killing 8 out of 10 racial segregation bills that were aimed at circumventing the U.S. Supreme Court's decision in the Brown versus Board of Education case.

During the 1960 Presidential campaign, John F. Kennedy requested GONZALEZ' help in organizing Viva Kennedy Clubs throughout the country. He served as national cochairman.

HENRY GONZALEZ has served in the U.S. House of Representatives since November 4, 1961. He is third in House seniority and Dean both of the Texas delegation and of Hispanics in Congress. He was the first Hispanic Representative from Texas and has served in Congress longer than any other Hispanic. He will mark 36 years in Congress on November 4, 1997. A humble man with a strong personality, GONZALEZ has received national attention for his various crusades.

During his first term, he was assigned to the Committee on Banking and Currency, which in 1977 became the Banking, Finance, and Urban Affairs Committee. He worked for the passage of a number of legislative proposals of the New Frontier and Great Society, including the Housing Act of 1964. He worked on legislation that was eventually incorporated into the Equal Opportunities Act of 1964, and supported the Library Service Act of 1964, and the Civil Rights Act of 1964.

In the 1970's, GONZALEZ continued with his mission. In 1977, he gained national attention as chairman of the House Assassinations Committee that was established to investigate the murders of John F. Kennedy and Martin Luther King, Jr.

As a member of the House Small Business Committee in the 94th Congress, GONZALEZ served as chairman of the ad hoc subcommittee on the Robinson-Patman Act, antitrust legislation, and related matters. He played a key role in salvaging the Robinson-Patman Act, which is considered the "Magna Carta" of small business.

During his 10-year chairmanship—1971–81—of the Subcommittee on International Development Institutions and Finance of the Banking Committee, he sponsored the "Gonzalez amendment," as it is commonly known, to protect U.S. citizens' property from expropriation by countries that receive loans from international development institutions to which the United States contributes.

From 1981 to 1994 he chaired the Subcommittee on Housing and Community Development, and in 1989 he became chairman of the full Banking Committee. During his tenure as chairman of the committee, GONZALEZ dealt with the collapse of the savings and loan industry, a crisis he had predicted throughout the 1980's. In 1991 he led a restructuring of the Federal deposit insurance system. As chairman he earned a reputation for being a fair leader who allowed equitable participation in the creation of bills. He became ranking member of this committee and subcommittee in 1995, relinquishing his chairmanship when the Republicans gained control of the House.

I have the privilege and honor to know HENRY GONZALEZ personally and to serve with him in the U.S. House of Representatives. Congressman GONZALEZ has dedicated his entire life to serving others. With specific regard to his constituents, he has always concentrated on issues that affect water quality and supply, gun control, and crime problems, education, health, and labor/business concerns, to secure the best possible future for San Antonio.

Throughout his career he has been active in writing banking and housing laws, and involved in a wide range of legislation, including urban development, veterans, Federal employees, education, economic development, civil rights, and equal opportunity. We all owe a very special debt of gratitude to his courageous and tireless work.

Mr. Speaker, I am proud to pay this tribute to Congressman HENRY B. GONZALEZ, who with his wisdom, fortitude, diligence, and relentless dedication tried, for 36 years, to make this House and the Nation better places and to set an example for all of us to follow. Today, GONZALEZ receives well-deserved recognition in the same institution in which he served with such distinction. I ask my colleagues to join me in conveying best wishes and deep gratitude to Congressman HENRY B. GONZALEZ.

ELIMINATING THE MARRIAGE PENALTY TAX

The SPEAKER pro tempore (Mr. BRADY). Under the Speaker's announced policy of January 7, 1997, the gentleman from Indiana [Mr. MCINTOSH] is recognized for the remaining time before midnight as the designee of the majority leader.

Mr. MCINTOSH. Mr. Speaker, let me say to my colleagues that the purpose of our session at this time would be to discuss a bill that a friend of mine, the gentleman from Illinois [Mr. WELLER] and I have introduced to eliminate the marriage penalty tax from our Tax Code.

Tonight I would like to share with my colleagues and those watching exactly what the impact of that marriage penalty tax has been on average Americans, the devastating effect that it has had on their families and how our legislation will once and for all remove that terrible policy from our Tax Code.

For several weeks now I have been using my Internet site to allow people to write to me on the marriage penalty and how it has been affecting them. A lot of them have taken the opportunity to write at www.house.gov/mcintosh and tell me exactly what it means in their life. And so I would hope to be able to share with my colleagues some of those responses tonight.

Before we do that, I wanted to yield time to another colleague who is a member of the Committee on Ways and

Means that will be considering this bill next year as we take up the question of how to further reduce the tax burden on American families in this Congress. It is with great pleasure that I would yield as much time as he would require to my colleague, the gentleman from Pennsylvania [Mr. ENGLISH].

MR. ENGLISH of Pennsylvania. Mr. Speaker, I thank the gentleman from Indiana, and I especially want to thank him for joining with the gentleman from Illinois [Mr. WELLER] in promoting H.R. 2456, of which I am an original cosponsor which will provide real relief to working families.

Mr. Speaker, the marriage penalty is a tax policy completely divorced from reality. Couples are forced to pay higher taxes because they are married and many couples with two incomes get hit with a heavy tax bill when they get married. The current policy provides that two-income married couples get punished by the taxman for pursuing the American dream.

Now, in my view as a member of the Committee on Ways and Means, I feel strongly that tax policy should be marriage neutral. That there should be no penalty, no incentive attached to being married as opposed to being unmarried. I arrive at this from personal experience.

Mr. Speaker, 5 years ago, my wife and I got married. She was a schoolteacher. I was a policy analyst in the Pennsylvania Legislature, and neither of us are what anyone, not even the bureaucrats in the Treasury, would classify as rich. We both had incomes in the thirties. We were both comfortable. But when we got married, we were hit with a tax penalty of over $1,000.

This is not an isolated instance. There are 21 million couples in America who are hit with the marriage tax penalty which on the average is equal to a half a year in car payments. That is an incredible disincentive and an incredible burden to couples that elect to get married.

Mr. Speaker, this is I think a real problem in America that falls particularly in certain areas. It is a burden on working mothers. It is a burden and a tax on working women. It is a tax that is particularly onerous on the poor. I was struck that two-earner families earning under $20,000 a year face a marriage penalty equal to roughly 8 percent of their income on the average. That is a much bigger burden than any other class.

It is worth noting that tax policy in other countries, if anything, incentivizes as part of cultural policy getting married, as opposed to penalizing it as part of the Tax Code.

Mr. Speaker, I think we need to do something about this. I want to thank the gentleman from Indiana for his efforts. I want to note that another colleague of mine from Ways and Means, the gentleman from California [Mr. HERGER] has introduced H.R. 2593 which also addresses this problem.

It is worth noting that back in 1993, the Committee on Ways and Means reported out a bill that was ultimately vetoed by the President that provided real tax relief for America, including some relief under the marriage penalty issue.

I think that as part of an upcoming tax cut, we should have the courage in the House to address this problem of the marriage penalty. I believe, as a member of the Committee on Ways and Means, that this is a Government policy that punishes folks for doing the right thing. I think we should move aggressively in coming months to try to cut back on the marriage penalty as part of an effort to reduce the tax burden on middle-class families.

Mr. Speaker, I thank the gentleman for yielding to me. I know he has some specific, striking instances where people have written into him or contacted him to offer their specific situations.

Mr. MCINTOSH. Mr. Speaker, reclaiming my time, I thank the gentleman from Pennsylvania for his support of this bill, and his support is instrumental as the committee moves forward to consider this in its agenda next year.

Let me now yield to another colleague of mine, the gentleman from Illinois [Mr. MANZULLO], who will talk about this issue, but also share with our colleagues some of those interesting letters that we have received over the Internet from people about how this marriage penalty is affecting them in their lives.

Mr. MANZULLO. Mr. Speaker, all laws have faces and every time this body enacts a law, it affects people. The American people are either the beneficiaries of what we do here or they are the losers. And how incongruous it is that in a society that is literally crumbling, if we take a look at the polls of the people and ask them what are the most important issues, sometimes they will reflect economic issues but often they speak in terms of cultural deterioration, and a system where America is really reaching out to recapture the moral underpinnings that made it so great, people will say that there is a moral crisis in America.

□ 2315

And how interesting it is that in a society where we have almost a 50 percent divorce rate, that our Tax Code discourages people to get married. It is incredible. The Tax Code provides incentives for homeownership by making interest deductible on home mortgages. The Tax Code provides incentives for charitable contributions so that people can deduct a certain percent of that which they give to charity. And yet the core institution in our Republic, that is, the relationship of husband and wife, is threatened by a Congress which does not take into consideration the fact that people are simply paying too much in taxes. The money in this country does not belong to government. The money belongs to the people. And whatever the people give to the government is taxes for the purpose of running the government.

I received a letter from Tricia Smith who lives in the district which I represent. She and her husband live in Rockford, IL. Let me read this.

I am writing to formally state my disapproval of the current Federal tax quirk which penalizes many married couples solely because they are married. When my husband and I first became aware of this issue, we had our tax advisor complete our taxes two ways for comparison sake: married filing jointly and single filing separately. We were shocked to discover that we were paying over $750 more just because we were married filing jointly. That extra $750 in Federal taxes annually really seems unfair.

Listen to this very interesting statement she made:

As a Congressman who is concerned about family values, I thought you should be aware of this tax issue which is working against many hard working American families. Furthermore, this tax quirk actually provides a substantial incentive for couples to get divorced for financial reasons. I would be interested in hearing what you have heard about this matter. Please explain why Congress is not rectifying this unfair taxation issue. Sincerely, Tricia Smith.

Another letter that was written to the gentleman from Indiana [Mr. MCINTOSH] that he received on his e-mail, web site, rather, from Jeff and Beth Sewell of Zionsville, IN.

"We have been married for 8 years and have figured our taxes both as a married couple and as two singles each and have always wondered why the Federal Government insists on penalizing us for being married. The Federal Government needs to get out of the business of social engineering. This is a good first step," talking about the tax decrease we just had. "In addition, it is definitely the right moral choice and politically it is a 'no-brainer'."

And Tom Davis from Hilliard, OH, wrote to Mr. MCINTOSH:

"No person who legitimately supports family values could be against this bill." I presume this is the bill on which we are both cosponsors, that is, H.R. 2456. I will include these letters for the RECORD. He says: "The marriage penalty is but another example of how in the past 40 years the Federal Government has enacted policies that have broken down the fundamental institutions that were the strength of this country from the start."

These are not the words of Congressmen. These are the words of the taxpayers who are being hit with this penalty. We do not just pay for it in taxes. We pay with troubled children, failed educational institutions, a weakened military, more crime and dependent adults.

Davis from Hilliard, OH, he sees everything as a big package, which is

what most Americans do, because being Members of Congress, it is so easy to compartmentalize issues. Yet the American people look upon everything in terms of the big picture.

Davis, writing at this web site, says that he sees the marriage penalty really as another attack upon one of America's great institutions, that is, the marriage. He says, "The letter 'F' too long has stood for Federal Government instead of family. Keep working to reverse this terrible spiral."

I am just totally amazed at how complicated this Tax Code got.

Let me hasten to state that one of the tax bills that the Republicans have passed within the past year, year and a half, which was not signed into law, contained some very modest relief toward eliminating the marriage penalty that unfortunately did not make its way into law, but at least the thought is there and the wheels are moving toward it. We have been promised that for each year that the Republicans stay in office, in the majority, we are going to have a tax break, a tax cut. And let us not penalize people for getting married.

Young couples getting married and their goal is to buy a house, how interesting it is that we set up a special IRA so you can put in after-tax dollars that will grow without tax on the inside, build up the dividends and the interest, et cetera, for the purpose of encouraging homeownership, and then at the same time penalize these young couples simply for getting married and say because they got married, they will pay an extraordinary amount in taxes.

Mr. Speaker, I wholeheartedly am in favor of H.R. 2456, the Marriage Tax Elimination Act of 1997.

I would enter this final note. There is a chapter in the budget that appears normally each year called generational forecasts. And that says based upon spending patterns in the Federal, State and local governments over the past several years, that because of the huge national debt that we have of somewhere around $5.5 trillion, that by the time a child born after 1993 enters the work force, that child will have a combined local, State and Federal tax rate of somewhere between 85 and 93 percent. It is extraordinary. That is not a legacy to leave our children. That is guaranteed socialism.

The governments at all levels are going to take away the money of our children. The beginning of reversing this assault on the American family, where in most American families husbands and wives work, one of the spouses is working solely to pay taxes, even in families where incomes, where the individuals earn $25,000 to $35,000 apiece, they combine their income and half that money, half of it is going to pay for taxes on all levels.

So let us reverse this trend. Let us say that we should encourage people to get married and make it so that under this bill that we are all cosponsoring here, H.R. 2456, that when a couple files their income taxes, they can do it on the basis that they will not be penalized simply because they got married.

Mr. Speaker, I include for the RECORD the letters to which I referred:

ROSCOE, IL, *September 12, 1997.*

Congressman DON MANZULLO,
Rockford, IL.

DEAR CONGRESSMAN MANZULLO: I am writing to formally state my disapproval of current federal tax quirk which penalizes many married couples—solely because they are married. Enclosed you will find a recent article from the Wall Street Journal. I have seen several other articles over the past couple of years confirming the same issue.

When my husband and I first became aware of this issue we had our tax advisor complete our taxes two ways for comparison sake: 1. married filing jointly and 2. single filling separately. We were shocked to discover that we were paying over $750 more just because we were married filing jointly. My husband and I are not wealthy, we only earn about $70,000 jointly a year. So, that extra $750 in federal taxes annually really seems unfair.

As a Congressman who is concerned about family values, I thought you should be aware of this tax issue which is working against many hard working American families. Furthermore, this tax quirk actually provides a substantial incentive for couples to get divorced for financial reasons (I read one article which cited couples who had done just that).

I would be interested in hearing what you have heard about this matter. Please explain why Congress is not rectifying this unfair taxation issue.

Sincerely a concerned married voter/taxpayer.

TRICIA SMITH.

ZIONSVILLE, IN.

We have been married for eight years and have figured our taxes both as a married couple and as two singles each and have always wondered why the federal government insists on penalizing us for being married . . . the federal government needs to get out of the business of social engineering . . . this is a good first step . . . in addition it is definitely the right moral choice . . . and politically it is a "no brainer."

JEFF AND BETH SEWELL.

HILLIARD, OH.

No person who legitimately supports family values could be against this bill.

The marriage penalty is but another example of how in the past 40 years the federal government has enacted policies that have broken down the fundamental institutions that were the strength of this country from the start.

We don't pay for it just in taxes, we pay with troubled children, failed educational institutions, a weakened military, more crime and dependent adults.

The letter "F" for too long has stood for Federal Government instead of Family. Keep working to reverse this terrible spiral.

THOMAS L. DAVIS.

Mr. MCINTOSH. Mr. Speaker, I thank the gentleman for cosponsoring this legislation, which I will report to my colleagues now has over 200 cosponsors on both sides of the aisle. This is very much a bipartisan bill that is growing in momentum.

Let me mention very briefly exactly how this marriage penalty works in our tax code. It hits young people at the very beginning of their lives when they decide they want to get married. They are hit immediately with having to lose some of their deductions, with having to be thrown into a higher tax bracket in many cases. As my colleague from Illinois pointed out, oftentimes it seems as if the spouse's income is merely to pay the Federal income taxes because they go into those higher brackets.

But then it hits them again when they have children and will start qualifying for our $500 tax credit that we finally got President Clinton to sign last summer. Well, unfortunately, there is a marriage penalty built into that, so that some couples are earning so much money that they will not be able to qualify for that $500 credit if they are married, but if they file for a divorce, they would be able to receive that $500 tax credit. Again, an example of how this penalty strikes at the very core of our marriage institution.

Finally when they retire, many people are struck with a marriage penalty in Social Security when they want to remarry, if it is a widower, and start a second family.

I think it is critical that we also understand that this marriage penalty particularly discriminates against women. Oftentimes women are wage earners who come in and out of the marketplace. When they have children, they may put their career on hold in order to help raise a family. But that is only temporary and at some point they plan to come back and start working again, or out of necessity may have to have a second income just to make ends meet. Those women are sometimes hit with 50 to 60 percent marginal tax rates on their income. This bill would correct that and eliminate the discrimination in the tax code against women who choose to work in order to support their families.

When you consider the FICA, the State and local income taxes, this is an astonishing burden upon these families who decide to do it. Now, demographic statistics show us that three quarters of American families have two wage earners. So this is an enormous burden upon those families, and particularly the wives who decide that they want to have a chance to work in the workplace also. If we want to do anything to give women the choice of whether they work or stay home, we will equalize what taxes they pay and no longer penalize them when they decide they are going to go into the work force with a higher marginal rate.

Very quickly, let me show a real life example from a friend of mine in Muncie, IN. He lives up in Albany, works at Ball State University as an accountant, and he figured out the taxes for him and his wife. He earns about $44,000

as an accountant. She earns about a little over $32,000. My staff did not tell me what her profession is or what her job is, but if you call my office and ask for Angie Orem, she will tell you that.

But he earns $44,000, gets deductions of $15,000 and exemptions of another $5,000, ending up for a total income that is taxed at $23,000 if he files singly. His wife has $4,000 of deductions, another $2,500 of exemptions, for $25,000 in taxable income. Total taxable income if they file singly would be almost $49,000, $48,936. That is if they filed singly.

Now, if they file jointly as a married couple, they are married and the law requires them to do that, they earn a total income of $76,000, have deductions of $17,000 and another exemption of about $7,600 for a total taxable income of $51,589, so we can see there is an increase of over $2,000 in their taxable income.

The total tax burden, if my colleagues can follow me on this, is $1,649 in additional taxes to this couple because they both decided to work and are married. If they divorced tomorrow and took advantage of the ability to file singly, they would save $1,649.

Mr. Speaker, that is wrong. We cannot be penalizing people in this country who decide to work and be married. We must repeal this. We must have action on this bill in order to once and for all tell the American people the Government is on the side of families.

Now, let me yield to another cosponsor, a colleague of mine in the freshman class who hails from Illinois, who has worked very hard to make sure that this issue comes before this Congress.

Mr. Speaker, I yield to the gentleman from Illinois [Mr. SHIMKUS].

□ 2330

Mr. SHIMKUS. Mr. Speaker, I thank my colleague from Indiana and also want to thank my colleague from Illinois [Mr. WELLER], who is ill tonight, who would be most certainly here on the floor discussing this issue with the American public had he been able to get out of his sick bed.

Let me begin by saying that this Republican Congress has done a remarkable job of keeping its promises. We promised tax cuts and we passed the first tax cuts in 16 years. We promised a balanced budget and we have the first balanced budget plan in 36 years. We promised to save Medicare, and again we have come through with extending the solvency of Medicare for 10 years. We have kept our word.

We often hear politicians talk about family values and protecting the children of this great Nation. This type of rhetoric sounds wonderful for cameras and reporters but does little for the American citizens. Without action, we have done nothing. We must mean what we say and say what we mean.

Tonight we are doing just that. The Members speaking tonight all support the Marriage Tax Elimination Act and are official cosponsors of this legislation. And if passed into law, the Marriage Tax Elimination Act would simply allow families to decide how to file their income taxes, either individually or jointly, whichever gives them the greatest tax benefit.

Currently, Federal tax law forces married American families to pay higher tax bills than they would if they remained single. I think this is wrong and so do most Americans.

I want to briefly tell my colleagues about three Americans that are constituents of mine, SallyJo, Derrick and Julia Derker. SallyJo is married to Derrick and they have a 17-month-old baby named Julia. SallyJo tells me the money she sends in taxes to the Federal Government is money she and her husband could have used to save for Julia's college education.

She also reiterated one of the things I hear over and over again as I travel around my district. She said that she and her family pay too much taxes and that it is not fair that married couples face higher tax bills than single people.

I agree with SallyJo and so do many of my colleagues. But I am doing more than just talking about the marriage tax. I have cosponsored, along with many of my colleagues in the House, this legislation and am going to push for its passage into law over the next year. I supported this change in the Tax Code because it is the right thing to do and because of people like the Derker family in Springfield, IL.

Mr. Speaker, Congress should lead by example and pass this worthy change into law as soon as possible, and I want to thank my colleagues for the opportunity to speak on this special order this evening.

Mr. MCINTOSH. Mr. Speaker, I want to thank the gentleman from Illinois [Mr. SHIMKUS] for his support for this bill. And, by the way, I want the gentleman to feel free to give out our web site, www.house.gov/mcintosh to any of his constituents and ask them to write to us about how they are penalized on the marriage penalty. We will continue to use those examples to demonstrate to our colleagues how serious this problem is all across the Nation.

Let me now yield to another colleague of mine. We have worked together on many legislative projects in our first term in the Congress, in the 104th Congress. He is a colleague that I know cares deeply about the status of families in our country, and just like me he cannot stand the government when it does stupid things and penalizes individuals who are trying to work hard, save money and get ahead in this country.

Without further ado, I yield to my colleague, the gentleman from Maryland, Mr. BOB EHRLICH.

Mr. EHRLICH. And get regulations off their backs as well.

Mr. MCINTOSH. We will start with the taxes then go to regulations.

Mr. EHRLICH. It is always a pleasure to share the floor with my great friend, my classmate and terrific friend, the gentleman from Indiana, Mr. DAVID MCINTOSH.

Just a couple of observations. I really appreciate the gentleman's real life examples. As we have said on this floor now for 3 years, facts are dangerous. Those folks that live in the gentleman's district are real folks with real incomes and they are real facts, and it is very difficult to argue with real facts.

A couple of observations I will throw out for comment from my good friend from Indiana. First, I am very pleased to be a cosponsor of the bill. Over 200 cosponsors. We have only had the bill out for how long? A couple of weeks.

Mr. MCINTOSH. Only 3 weeks so far. The gentleman from Illinois, Mr. JERRY WELLER, by the way, has done a tremendous job as a member of the Committee on Ways and Means in recruiting people to sponsor this bill on both sides of the aisle. He wanted to be here with us tonight, but unfortunately took ill. But he will be working tirelessly through the rest of this fall session to get the rest of the cosponsors we need, and I am sure he will be coming to the floor to tell the American people and our colleagues about this legislation.

Mr. EHRLICH. The gentleman from Illinois [Mr. WELLER] has been terrific on this, so I congratulate him as well, also our classmate.

Second, I think it is important to note, although we never hear any of this coming from the other sides of the aisle or the White House, that this is yet another plank in the Contract With America. Nobody wants to bring this up, but the fact is that 80 percent of the Contract With America is now in law, signed by President Clinton. This is yet another plank of the Contract With America that did not get passed, unfortunately, but will be passed, we believe, in the 105th Congress, and that is terrific.

Third, I believe our friend, the gentleman from Illinois, Mr. DON MANZULLO, really talked about the cultural denigration side of this issue in a very articulate way, and I will not repeat what he said. He said it all. It is the moral and the right thing to do. We should not penalize folks for doing what we ask them to do, to be the bedrock of society and get married. Public policy should encourage and not discourage the institution of marriage.

Fourth, I know my friend the gentleman from Indiana [Mr. MCINTOSH] and I, and many folks on the majority side, were asked over the break, the August break, why did we not have this particular provision in the budget

agreement of 1997? The answer, obviously, is, we do not control the White House and we can only get so much done at one time.

It was a frustrating fact that we had to live with. We could not get this done in the budget agreement. We made great progress in other aspects of the Tax Code: Capital gains, a subject near and dear to my colleague's heart, I know; the alternative minimum tax; other taxes, capital gains, as I said, was certainly a priority with many of us during both of our elections in 1994 and 1996; also the estate tax, which we have discussed on this floor on prior occasions. So this is just another plank of the entire effort to, one, bring taxes down.

As our leadership has now begun to discuss over the past few months, we have folks in our leadership now crisscrossing the country talking about the next logical step as we continue to attack tax by tax, which is fundamental tax reform at the Federal level, asking ourselves how we can simplify our Tax Code, make it flatter, make it fairer for the majority of working Americans. That is the next step. But until we get to that step, and we need a national consensus to reach that, we need to attack it tax by tax. That is the reason we are here on this late night in the east right now talking about the marriage tax.

I will close with respect to my comments on this particular issue, I know we want to discuss another issue in a minute, with two quotes, one from the National Taxpayers Union, the director, Al Cors, talking about the marriage tax. "Such a double standard is wholly at odds with the American ideal that taxes should not be a primary consideration in any individual's economic or social choice." Well put.

We have talked about women and the importance of working women in this society, always, but particularly today. The National Independent Women's Forum, Barbara Ledeen, executive director, and I quote, "We urge Congress to put the Tax Code where its rhetoric is and eliminate marriage penalties. Serious steps to reform tax laws would mean real liberation for women, those who work and those who may have to in the future." Very well put.

With those two comments, I yield back for closing comments on this issue from my friend from Indiana.

Mr. MCINTOSH. Mr. Speaker, let me thank the gentleman; and, in fact, let me, in closing, read one more of these comments from the folks all around this country who have written in on the e-mail site www.house.gov/mcintosh where we have a special page in our web site for the marriage penalty and what it means for people in this country.

This message came from Bobby and Susan Payne in Marietta, GA.

We always filed as married filing separately, because that saves us about $500 a year over married filing jointly. When we figured out our 1996 tax return, just out of curiosity we went back through and figured out what our tax would be if we were just living together instead of being married. Imagine our disgust when we discovered that if we had just lived together, instead of being married, we would have saved an additional $1,000. So much for the vaunted quote family values of our government. Our government is sending a very bad message to young adults by penalizing marriage in this way.

I cannot tell my colleagues how much I agree with Bobby and Suzy Payne. This is a terrible message not only to young people but to everyone in our culture that the Government does not really care for families in this country.

We will work, I will work without stopping, to make sure this bill comes to the House floor next year so that once and for all we can eliminate the marriage penalty tax in this country.

The gentleman from Illinois, Mr. JERRY WELLER, will be back here on the House floor later in the month with additional examples and further progress reports on how we are doing in promoting this bill. I do support my colleague very much, the gentleman from Maryland [Mr. EHRLICH], on this bill, but he also asked me if we could use part of this time, and I am happy to do it because I think it is very important, on another subject that has been in the news in the past few days, and that is the continuing revelations about evidence of wrongdoing in this administration in the campaign finance area.

One of the things that has happened is that we all read with really quite a bit of surprise that this administration had taped many of the coffees and fund-raisers that were held at the White House and for some reason had failed to let investigators at the Justice Department know, had failed to let investigators here in the House or over in the Senate know that these tapes existed until last week when the day after Attorney General Reno sent a letter to the gentleman from Illinois, Mr. HENRY HYDE, chairman of our Committee on the Judiciary, saying she thought the President had done nothing wrong. Then the White House decided maybe we better turn these over to the Justice Department.

Well, this is one part of what is emerging as a larger pattern of this administration stalling, obstructing the investigations, telling us, oops, we made a mistake, we should have given you those a long time ago; or, oops, we made a mistake, we should never have asked for the FBI files to come to the White House; or, oops, we made a mistake, we did not know Mrs. Clinton's billing records were in the White House until one day one of the cleaning ladies found them in one of the document rooms; and, oops, we made a mistake, we did not tell the Congress about all the videotapes, and, frankly, we do not even know if there are more of those video tapes.

All of this is an indication that the American people deserve to know the full truth about this, and one of the things they deserve to know is who knew about this effort to review the tapes? When did they first discover it at the White House staff? Who was told about it? Did the Justice Department know about these tapes? Did Mrs. Reno have any inkling from the lawyers in the White House that this type of evidence was being reviewed? Had her attorneys asked for these tapes?

These are the questions that the American people need to know in detail about this issue. But it is all relevant for a larger question, and that is do we have an administration that at one point decided we are above the law; that we can break the campaign finance laws because we need to win in 1996?

Frankly, I think no American will accept the premise that any President of any party should be above the law, and that is the core issue that we are going to be looking at in these investigations.

Let me yield now to my colleague for additional comments on this subject.

Mr. EHRLICH. I thank the gentleman. We ask people not to be cynical as a result of the marriage tax. We are here tonight telling the American people we have over 200 sponsors. We are going to try to get rid of this bad public policy that punishes marriage. I want to direct a few comments to the gentleman from Indiana. Let us not make the American people more cynical than they are.

I love the fact that most of my constituents are skeptical about government. I want them to be skeptical about government. I am skeptical about government, my colleague is, and most folks in the majority party certainly is. That is what brought us here. Let us keep that healthy skepticism. But as revelation upon revelation occurs, they go beyond skepticism to cynicism, which is dangerous.

And something else that makes them very cynical, and we live it, we talk about it every day as we come over here to this floor for procedural vote followed by procedural vote followed by procedural vote; as we hear lots of discussion about the importance of campaign finance reform from the party that controlled this House for 40 years and never discussed it in a serious way; as another grand jury gets impaneled; as another subpoena is issued; as another document is discovered by a cleaning lady, a very thorough cleaning lady, by the way, I would like to hire her at some point; as a new videotape comes to light; as a new telephone log is produced; as soft money shows up in hard money accounts; as another big labor boss is the target of new allegations; as the Attorney General expands a new inquiry; as

Buddhist nuns testify with immunity; as fund-raising documents are destroyed; as the Lincoln bedroom and the Oval Office are rented out; as new front groups, like the National Council of Senior Citizens, one of the gentleman's favorites, I know, are exposed; as bad cases of amnesia hit the leaders of the Democratic Party; as another potential witness escapes across the sea from the subpoena power possessed by this Congress, we undergo day after day ridiculous procedural votes and 1-minutes and 5 minutes and 60 minutes of rhetoric about the importance of campaign finance reform.

□ 2345

And the bottom line, folks, is this. I direct this comment to the American people: There is a difference between illegal acts and stonewalling and a legitimate issue of campaign finance reform.

Let us talk about campaign finance reform. We can certainly tweak the system. But before we do, let us cut the phoniness, let us cut the inside-the-beltway garbage we hear so often, and talk about what the White House, what this administration, what these folks have done in making a mockery of our legal system, of our present campaign finance system, where we have dozens and dozens and dozens and dozens of statutes on the books that people are not supposed to violate.

Before we get to that legitimate discussion, let us clear it out and talk in very clear terms and have this administration, for once, come clean with the American people about what it does. That is the way we should operate in this House.

Mr. MCINTOSH. Reclaiming my time, let me point out to the gentleman that there is a parallel in this recent history of our country.

In the 1970's, we had a terrible scandal in the campaign area. It resulted in the campaign finance laws that we have today. And a lot of people have said that is all we need to do, is pass more laws and that will take care of the problem. But I will remind them that in Watergate two things happened.

One, we got tighter limits on contributions so people could not come in and give a million dollars and appear to buy their way into access into highest levels of our Government.

But second, those who committed a crime in violating the existing laws left office. They left office either because they were prosecuted by a special prosecutor or because they resigned, realizing that they could no longer justify holding that office to the American people.

Now, in my heart, I hope that President Clinton has not committed a crime. I wish that he and all of those in his administration would give us the evidence and not stonewall and obstruct investigations so that we can, once and for all, get to the bottom of that and reach that conclusion.

But we must see that evidence, because if it does show that there was a crime committed, then it will not be sufficient to pass new laws. The American people will demand that those who have broken the laws be held accountable just like everyone else.

We do not have a system in this Government where the President or any other person is above the law. We rejected that over 200 years ago when we left the monarchy in England and set up these United States. But to get to that conclusion, we must have all of the evidence and we must have it on the record so that the entire American people can make that judgment along with us in Washington.

Mr. EHRLICH. If the gentleman would yield, is that not really the ultimate cynical defense: They are all dirty, they all do it? Let us change the system. Let us not talk about what occurred in an objective way. Let us stonewall. Let us not discuss what actually happened. Let us make the American public take their eye off the ball. Anything but actually getting to the bottom line, which is what people so desperately want out of this town.

Mr. MCINTOSH. Let me say, yes, I agree totally with the gentleman from Maryland [Mr. EHRLICH] on that.

In fact, I remember watching as a young boy, I think I was in junior high, all summer long as the Watergate hearings continued. And I cannot tell my colleagues the amount of parallel that has come out, the most recent one being that there were tapes that nobody knew about and suddenly they were revealed. And then eventually it came out that some of those tapes had been altered. We have not seen all the tapes. We have to wait and see what they contain.

But, even more so, that everybody does it was something that the White House and its supporters made back in Watergate. "Well, why do you hold us accountable? This is something other Presidents have done before." The American people said, "No, we are not going to use that as a legitimate excuse. We are going to hold you accountable. You are the custodians of the trust of the American people in the White House and the Presidency, the highest office in our land." We will say the same thing now when that excuse is brought up.

Other parallels are incredible also. Eventually, a lot of people ended up, frankly, going to jail, not because of an underlying crime but because they had tried to obstruct justice, they had tried to withhold evidence that was necessary for the prosecutors at the Justice Department or the Special Counsel's Office or in Congress to proceed with their investigations.

I will tell my colleagues, we have seen an incredible series of coincidences, if that is what they are, where, whoops, we forgot to tell. But this evidence, until it is already in the public domain and then it becomes public and there is even further disclosures, we need an independent counsel, someone who will not be accountable to the President for his or her position the way Janet Reno is accountable to this President as Attorney General.

We need somebody who can be firm and say, Mr. President, it is not appropriate for you to withhold those tapes from my prosecutors. It is not appropriate for you to withhold those tapes from FBI agents working for me on this case. And that is what is going to be required to restore integrity to this office so that all of us can know what has happened and hopefully find out that the President is exonerated.

Mr. EHRLICH. Reclaiming my time, I agree with my colleague. Nobody wants the President or First Lady or anybody to get in trouble. We are in public office. We know it is not easy. Nobody deserves a medal for running, but it is not easy to be in public office in this day.

But at some point, at some point in time, the dog-ate-my-homework excuse literally cannot fly anymore and the American people are going to say, hey, what went on? Give me the facts. Please do not stonewall. We want to judge for ourselves. Cooperate with those folks. Produce the documents. Honor subpoenas. Produce your witnesses. Do not misuse power. Do not abuse power.

Because of all the discussions we have here in this body about policy, we can agree and disagree, the abuse of power is something the American people simply will not stand for.

Mr. MCINTOSH. Let me also address another point, which is the excuse that everybody has. It does not hold water in this case. We have seen unprecedented abuses of power and abuses of the campaign finance laws.

First of all, all these coffees that went on and selling the Lincoln bedroom. No other President in U.S. history has had the gall to use the White House in this way for this type of political partisan activity. They do not do it. It has never been done before.

It is a violation of the requirements that the Federal Government property not be used for political campaign activities. Even the Attorney General acknowledges, when you start using other buildings, the Government, like the Old Executive Office Building, there is a serious problem under the law with that use of that.

Second, we have never had an administration that systematically went out and solicited funds from people who were not legitimate donors, illegal donors, under our campaign finance laws. Never before in our history has a political party returned $3 million in contributions. Some of us think that may be just the tip of the iceberg.

Never before has an administration in this country said, we are going to launder that money if we have a donor that we know is illegal. Because they are a foreign citizen, well, let us see if they can give to another party. Maybe the unions in their elections and the unions will give us money in exchange for that.

That is money laundering, straight and simple. Never before has that been done in American politics. Never before has there been a systematic decision to ignore your lawyers and their legal advice, that Government equipment, like the White House computer, cannot be used for political fundraising and political activities.

And yet, we see evidence that memos were circulating in the White House among very senior advisors to the President to try to figure out exactly how to do that, to use that Government computer for partisan political activities.

So to say that everybody does it is just plain false. It has never happened in our history. It is unprecedented, and it is wrong.

Mr. EHRLICH. It is false, and it appeals to the lowest common denominator.

I will close on this point. It goes back to that cynical attitude that I suspect this administration has used pretty successfully over the years.

□ 2355

They all do it, they are all dirty, gosh, let us change it. We did not do it, and if we did it, we will not do it again.

Well, at some point in life, that is not good enough. At some point one actually has to put up or shut up. Our plea tonight, I know on behalf of many of our colleagues on both sides of the aisle is, just stop it. Just stop it. Come clean with the American people. Obey the subpoenas. Not the "whoops," not "the dog ate my homework," not the "no-controlling legal authority," not "the witnesses escaped overseas," not that "we forgot," not "the maid found something in the White House," not the "we did not do it and we apologize if we did." We are tired of it. Let us get on with the real issue of campaign finance reform, but we cannot do that until this administration actually obeys the law.

I thank the gentleman for the time this evening.

Mr. MCINTOSH. Mr. Speaker, let me close in saying that tomorrow the gentleman from Indiana [Mr. BURTON] the chairman of our Committee on Government Reform and Oversight, will begin his hearings. We will begin to hear testimony from individuals who tell us about how they were given funds from a foreign government and they were told, "If you would only give that money as the donation to the Democratic National Committee, that would help us enormously in this campaign." It is a concrete example of how the laws were broken, it is a sad, sad tale, and as I pointed out earlier, it is unprecedented in American politics.

I thank my colleague from Maryland for joining me on this special order tonight. I look forward to working with him to continue to bring out the facts in this case, as well as to promote our efforts to provide equality for married couples in this country.

CONFERENCE REPORT ON H.R. 2169

Mr. WOLF submitted the following conference report and statement on the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes:

CONFERENCE REPORT H. REPT. 105-313

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2169) "making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $61,000,000, of which not to exceed $40,000 shall be available as the Secretary may determine for allocation within the Department for official reception and representation expenses: Provided, That notwithstanding any other provision of law, there may be credited to this appropriation up to $1,000,000 in funds received in user fees: Provided further, That none of the funds appropriated in this Act or otherwise made available may be used to maintain custody of airline tariffs that are already available for public and departmental access at no cost; to secure them against detection, alteration, or tampering; and open to inspection by the Department.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $5,574,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, and development activities, to remain available until expended, $4,400,000.

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $121,800,000, shall be paid from appropriations made available to the Department of Transportation: Provided, That such services shall be provided on a competitive basis to entities within the Department of Transportation: Provided further, That the above limitation on operating expenses shall not apply to non-DOT entities: Provided further, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: Provided further, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

PAYMENTS TO AIR CARRIERS

(RESCISSION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

Of the budgetary resources provided for "Small Community Air Service" by Public Law 101-508, for fiscal year 1998, $38,600,000 are rescinded.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of direct loans, $1,500,000, as authorized by 49 U.S.C. 332: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $15,000,000. In addition, for administrative expenses to carry out the direct loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, $2,900,000, of which $2,635,000 shall remain available until September 30, 1999: Provided, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

COAST GUARD

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,715,400,000, of which $300,000,000 shall be available for defense-related activities and $25,000,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That the number of aircraft on hand at any one time shall not exceed two hundred and twelve, exclusive of aircraft and parts stored to meet future attrition: Provided further, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: Provided further, That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839: Provided further, That $34,300,000 of the funds provided under this heading for increased drug interdiction activities are not available for obligation until the Director, Office of National Drug Control Policy: (1) reviews the specific activities and associated costs and benefits proposed by the

Coast Guard; (2) compares those activities to other drug interdiction efforts government-wide; and (3) certifies, in writing, to the House and Senate Committees on Appropriations that such expenditures represent the best investment relative to other options: Provided further, That should the Director, Office of National Drug Control Policy decline to make such certification, after notification in writing to the House and Senate Committees on Appropriations, the Director may transfer, at his discretion, up to $34,300,000 of funds provided herein for Coast Guard drug interdiction activities to any other entity of the Federal Government for drug interdiction activities: Provided further, That up to $615,000 in user fees collected pursuant to section 1111 of Public Law 104–324 shall be credited to this appropriation as offsetting collections in fiscal year 1998.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $397,850,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which $212,100,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2002; $25,800,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2000; $44,650,000 shall be available for other equipment, to remain available until September 30, 2000; $68,300,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2000; and $47,000,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 1999: Provided, That funds received from the sale of HU–25 aircraft shall be credited to this appropriation for the purpose of acquiring new aircraft and increasing aviation capacity: Provided further, That the Commandant may dispose of surplus real property by sale or lease and the proceeds shall be credited to this appropriation, of which not more than $9,000,000 shall be credited as offsetting collections to this account, to be available for the purposes of this account: Provided further, That the amount herein appropriated from the General Fund shall be reduced by such amount: Provided further, That any proceeds from the sale or lease of Coast Guard surplus real property in excess of $9,000,000 shall be retained and remain available until expended, but shall not be available for obligation until October 1, 1998: Provided further, That the Secretary, acting through the Commandant, may enter into a long-term Use Agreement with the City of Unalaska for dedicated pier space on the municipal dock necessary to support Coast Guard enforcement vessels when such vessels call on the Port of Dutch Harbor, Alaska.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $21,000,000, to remain available until expended.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $17,000,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55); $653,196,000.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $67,000,000: Provided, That no more than $20,000,000 of funds made available under this heading may be transferred to Coast Guard "Operating expenses" or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $19,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

For payment of necessary expenses incurred for recreational boating safety assistance under Public Law 92–75, as amended, $35,000,000, to be derived from the Boat Safety Account and to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities and the operation (including leasing) and maintenance of aircraft, and carrying out the provisions of subchapter I of chapter 471 of title 49, United States Code, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104–264, $5,301,934,000, of which $1,901,628,000 shall be derived from the Airport and Airway Trust Fund: Provided, That none of the funds in this Act shall be available for the Federal Aviation Administration to plan, finalize, or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of enactment of this Act: Provided further, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: Provided further, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: Provided further, That none of the funds in this Act shall be available for new applicants for the second career training program: Provided further, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: Provided further, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: Provided further, That none of the funds derived from the Airport and Airway Trust Fund may be used to support the operations and activities of the Associate Administrator for Commercial Space Transportation: Provided further, That up to $5,000 of funds appropriated under this heading may be used for activities under the Aircraft Purchase Loan Guarantee Program.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this head; to be derived from the Airport and Airway Trust Fund, $1,875,477,000, of which $1,656,367,000 shall remain available until September 30, 2000, and of which $219,110,000 shall remain available until September 30, 1998: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $199,183,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2000: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development: Provided further, That none of the funds in this Act may be obligated or expended for the "Flight 2000" Program.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and for noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations, $1,600,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $1,700,000,000 in fiscal year 1998 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 47117(h) of title 49, United States Code: Provided further, That discretionary funds available for noise planning and mitigation shall not exceed $200,000,000 and

discretionary funds available for the military airport program shall not exceed $26,000,000.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under 49 U.S.C. 48103 as amended, $412,000,000 are rescinded.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

Except as specifically provided elsewhere in this Act, none of the funds in this Act shall be available for activities under this heading during fiscal year 1998.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, including motor carrier safety program operations, and research of the Federal Highway Administration not to exceed $552,266,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: Provided, That $241,708,000 of the amount provided herein shall remain available until September 30, 2000.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

For carrying out the provisions of section 1069(y) of Public Law 102–240, relating to construction of, and improvements to, corridors of the Appalachian Development Highway System, $300,000,000 to remain available until expended: Provided, That none of the funds provided under this heading shall be available for engineering, design, right-of-way acquisition, or major construction of the Appalachian development highway system between I–81 in Virginia and the community of Wardensville, West Virginia.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $21,500,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1998.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $20,800,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

None of the funds under this head are available for obligations for right-of-way acquisition during fiscal year 1998.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 31102, $85,000,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $84,825,000 for "Motor Carrier Safety Grants".

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under part C of subtitle VI of title 49, United States Code, and chapter 301 of title 49, United States Code, $74,901,000, of which $40,674,000 shall remain available until September 30, 2000: Provided, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under 23 U.S.C. 403 and section 2006 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), to be derived from the Highway Trust Fund, $72,061,000, of which $49,520,000 shall remain available until September 30, 2000.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 153, 402, 408, and 410, and chapter 303 of title 49, United States Code, to remain available until expended, $186,000,000, to be derived from the Highway Trust Fund: Provided, That, notwithstanding subsection 2009(b) of the Intermodal Surface Transportation Efficiency Act of 1991, none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1998, are in excess of $186,500,000 for programs authorized under 23 U.S.C. 402, 410, and chapter 303 of title 49, U.S.C., of which $149,700,000 shall be for "State and community highway safety grants", $2,300,000 shall be for the "National Driver Register", and $34,500,000 shall be for section 410 "Alcohol-impaired driving counter-measures programs": Provided further, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: Provided further, That not to exceed $5,268,000 of the funds made available for section 402 may be available for administering "State and community highway safety grants": Provided further, That not to exceed $150,000 of the funds made available for section 402 may be available for administering the highway safety grants authorized by section 1003(a)(7) of Public Law 102–240: Provided further, That not to exceed $500,000 of the funds made available for section 410 "Alcohol-impaired driving counter-measures programs" shall be available for technical assistance to the States.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $20,290,000, of which $1,389,000 shall remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: Provided further, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: Provided further, That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $57,067,000, of which $5,511,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, funds appropriated under this heading are available for the reimbursement of out-of-state travel and per diem costs incurred by employees of State governments directly supporting the Federal railroad safety program, including regulatory development and compliance-related activities.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $20,758,000, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and 49 U.S.C. 24909, $250,000,000, to remain available until September 30, 2000, of which $12,000,000 shall be for the Pennsylvania Station Redevelopment Project.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: Provided, That no new loan guarantee commitments shall be made during fiscal year 1998.

NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for Next Generation High-Speed Rail studies, corridor planning, development, demonstration, and implementation, $20,395,000, to remain available until expended: Provided, That funds under this head may be made available for grants to States for high-speed rail corridor design, feasibility studies, environmental analyses, and track and signal improvements.

ALASKA RAILROAD REHABILITATION

To enable the Secretary of Transportation to make grants to the Alaska Railroad, $15,280,000 shall be for capital rehabilitation and improvements benefiting its passenger operations.

RHODE ISLAND RAIL DEVELOPMENT

For the costs associated with construction of a third track on the Northeast Corridor between Davisville and Central Falls, Rhode Island, with sufficient clearance to accommodate double stack freight cars, $10,000,000, to be matched by the State of Rhode Island or its designee on a dollar for dollar basis and to remain available until expended: Provided, That as a condition of accepting such funds, the Providence and Worcester (P&W) Railroad shall enter into an agreement with the Secretary to reimburse Amtrak and/or the Federal Railroad Administration, on a dollar for dollar basis, up to the first $23,000,000 in damages resulting from the legal action initiated by the P&W Railroad under its existing contracts with Amtrak relating to the provision of vertical clearances between Davisville and Central Falls in excess of those required for present freight operations.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation authorized by 49 U.S.C. 24104, $543,000,000, to remain available until expended, of which $344,000,000 shall be available for operating losses, and $199,000,000 shall be for capital improvements: Provided, That if Amtrak reform legislation as required by section 977(f) of the Taxpayer Relief Act of 1997 is enacted into law prior to the distribution by the Secretary of any of the funds appropriated above for capital improvements, then the portion of this appropriation made available for capital improvements shall not be available for obligation and the Secretary shall not transfer any of the funds appropriated under this heading for capital improvements to Amtrak: Provided further, That in the event Amtrak reform legislation required by section 977(f) of the Taxpayer Relief Act of 1997 is enacted into law after the distribution of some or all of the funds appropriated under this account for capital improvements are transferred by the Secretary to Amtrak, then the Secretary of the Treasury shall reduce the amount refunded to Amtrak under section 977 of the Taxpayer Relief Act of 1997 by an amount equal to the funds distributed to Amtrak under this heading for capital improvements and the portion of this appropriation made available for capital improvements shall not be available for obligation and no additional funds appropriated under this heading shall be transferred by the Secretary to Amtrak for capital improvements: Provided further, That none of the funds provided for capital improvements may be transferred to operating losses to pay for debt service interest unless specifically authorized by law after the date of enactment of this Act: Provided further, That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements with funds appropriated herein which is prohibited by this Act shall be deemed a violation of 31 U.S.C. 1341: Provided further, That funding under this head for capital improvements shall not be made available before July 1, 1998: Provided further, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $45,738,000: Provided, That none of the funds in this Act shall be available for the execution of contracts under section 5327(c) of title 49, United States Code, in an aggregate amount that exceeds $15,000,000.

FORMULA GRANTS

For necessary expenses to carry out 49 U.S.C. 5307, 5310(a)(2), 5311, and 5336, to remain available until expended, $240,000,000: Provided, That no more than $2,500,000,000 of budget authority shall be available for these purposes: Provided further, That of the funds provided under this head for formula grants, no more than $150,000,000 may be used for operating assistance under 49 U.S.C. 5336(d): Provided further, That the limitation on operating assistance provided under this heading shall, for urbanized areas of less than 200,000 in population, be no less than seventy-five percent of the amount of operating assistance such areas are eligible to receive under Public Law 103–331: Provided further, That in the distribution of the limitation provided under this heading to urbanized areas that had a population under the 1990 census of 1,000,000 or more, the Secretary shall direct each such area to give priority consideration to the impact of reductions in operating assistance on smaller transit authorities operating within the area and to consider the needs and resources of such transit authorities when the limitation is distributed among all transit authorities operating in the area.

UNIVERSITY TRANSPORTATION CENTERS

For necessary expenses for university transportation centers as authorized by 49 U.S.C. 5317(b), to remain available until expended, $6,000,000.

TRANSIT PLANNING AND RESEARCH

For necessary expenses for transit planning and research as authorized by 49 U.S.C. 5303, 5311, 5313, 5314, and 5315, to remain available until expended, $92,000,000, of which $39,500,000 shall be for activities under Metropolitan Planning (49 U.S.C. 5303); $4,500,000 for activities under Rural Transit Assistance (49 U.S.C. 5311(b)(2)); $8,250,000 for activities under State Planning and Research (49 U.S.C. 5313(b)); $36,750,000 for activities including National Planning and Research (49 U.S.C. 5314 and 5313(a)); and $3,000,000 for National Transit Institute (49 U.S.C. 5315).

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5338(a), $2,210,000,000, to remain available until expended and to be derived from the Highway Trust Fund: Provided, That $2,210,000,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's formula grants account.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $2,000,000,000 in fiscal year 1998 for grants under the contract authority in 49 U.S.C. 5338(b): Provided, That there shall be available for fixed guideway modernization, $800,000,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $400,000,000; and there shall be available for new fixed guideway systems $800,000,000, to be available as follows:

$44,600,000 for the Atlanta-North Springs project;

$1,000,000 for the Austin Capital metro project;

$46,250,000 for the Boston Piers MOS–2 project;

$1,000,000 for the Boston urban ring project;

$5,000,000 for the Burlington-Essex, Vermont commuter rail project;

$2,000,000 for the Canton-Akron-Cleveland commuter rail project;

$1,500,000 for the Charleston monobeam rail project;

$1,000,000 for the Charlotte South corridor transitway project;

$500,000 for the Cincinnati Northeast/Northern Kentucky rail line project;

$5,000,000 for the Clark County, Nevada fixed guideway project;

$800,000 for the Cleveland Blue Line extension to Highland Hills project;

$700,000 for the Cleveland Berea Red Line extension to Hopkins International Airport;

$1,000,000 for the Cleveland Waterfront Line extension project;

$8,000,000 for the Dallas-Fort Worth RAILTRAN project;

$11,000,000 for the DART North Central light rail extension project;

$1,000,000 for the DeKalb County, Georgia light rail project;

$23,000,000 for the Denver Southwest Corridor project;

$20,000,000 for the New York East Side access project;

$8,000,000 for the Florida Tri-County commuter rail project;

$2,000,000 for the Galveston, Texas rail trolley system project;

$1,000,000 for the Houston Advanced Regional Bus project;

$51,100,000 for the Houston Regional Bus project;

$1,250,000 for the Indianapolis Northeast corridor project;

$3,000,000 for the Jackson, Mississippi intermodal corridor project;

$61,500,000 for the Los Angeles MOS–3 project;

$31,000,000 for MARC commuter rail improvements;

$1,000,000 for the Memphis, Tennessee regional rail project;

$5,000,000 for the Metro-Dade Transit east-west corridor project;

$5,000,000 for the Miami-North 27th Avenue project;

$1,000,000 for the Mission Valley East corridor project;

$500,000 for the Nassau Hub rail link EIS project;

$60,000,000 for the New Jersey Hudson-Bergen LRT project;

$27,000,000 for the New Jersey Secaucus project;

$6,000,000 for the New Orleans Canal Street corridor project;

$2,000,000 for the New Orleans Desire Streetcar project;

$12,000,000 for the North Carolina Research Triangle Park project;

$4,000,000 for the Northern Indiana South Shore commuter rail project;

$3,000,000 for the Oceanside-Escondido light rail project;

$1,600,000 for the Oklahoma City MAPS corridor transit project;

$2,000,000 for the Orange County transitway project;

$31,800,000 for the Orlando Lynx light rail project;

$500,000 for the Pennsylvania Strawberry Hill/Diamond Branch rail project;

$4,000,000 for the Phoenix metropolitan area transit project;

$5,000,000 for the Pittsburgh airport busway project;
$63,400,000 for the Portland-Westside/Hillsboro project;
$2,000,000 for the Roaring Fork Valley rail project;
$20,300,000 for the Sacramento LRT project;
$63,400,000 for the Salt Lake City South LRT project;
$4,000,000 for the Salt Lake City regional commuter system project;
$1,000,000 for the San Bernardino Metrolink project;
$1,500,000 for the San Diego Mid-Coast corridor project;
$29,900,000 for the San Francisco BART extension to the airport project;
$15,000,000 for the San Juan Tren Urbano;
$21,400,000 for the San Jose Tasman LRT project;
$18,000,000 for the Seattle-Tacoma light rail and commuter rail projects;
$30,000,000 for the St. Louis-St. Clair LRT extension project;
$2,500,000 for the St. George Ferry terminal project;
$500,000 for the Springfield-Branson, Missouri commuter rail project;
$1,000,000 for the Tampa Bay regional rail project;
$2,000,000 for the Tidewater, Virginia rail project;
$1,000,000 for the Toledo, Ohio rail project;
$12,000,000 for the Twin Cities transitways projects;
$2,000,000 for the Virginia Rail Express Fredericksburg to Washington commuter rail project;
$2,500,000 for the Whitehall ferry terminal project; and
$3,000,000 for the Wisconsin central commuter rail project.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5338(b) administered by the Federal Transit Administration, $2,350,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For necessary expenses to carry out the provisions of section 14 of Public Law 96–184 and Public Law 101–551, $200,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, including the Great Lakes Pilotage functions delegated by the Secretary of Transportation, $11,200,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $28,450,000, of which $574,000 shall be derived from the Pipeline Safety Fund, and of which $4,950,000 shall remain available until September 30, 2000: Provided, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: Provided further, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OILSPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $31,300,000, of which $3,300,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2000; and of which $28,000,000 shall be derived from the Pipeline Safety Fund, of which $14,839,000 shall remain available until September 30, 2000: Provided, That in addition to amounts made available for the Pipeline Safety Fund, $1,100,000 shall be available for grants to States for the development and establishment of one-call notification systems and shall be derived from amounts previously collected under 49 U.S.C. 60301, and that an additional $365,000 in amounts previously collected under 49 U.S.C. 60301 is available to conduct general functions of the pipeline safety program.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2000: Provided, That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $42,000,000: Provided, That none of the funds under this heading shall be for the conduct of contract audits.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $13,853,000: Provided, That $2,000,000 in fees collected in fiscal year 1998 by the Surface Transportation Board pursuant to 31 U.S.C. 9701 shall be made available to this appropriation in fiscal year 1998: Provided further, That any fees received in excess of $2,000,000 in fiscal year 1998 shall remain available until expended, but shall not be available for obligation until October 1, 1998.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $3,640,000: Provided, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $48,371,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

EMERGENCY FUND

For necessary expenses of the National Transportation Safety Board for accident investigations, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $1,000,000, to remain available until expended.

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 1998 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.) for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 305. None of the funds in this Act shall be available for salaries and expenses of more than one hundred seven political and Presidential appointees in the Department of Transportation: Provided, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any

program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. The Secretary of Transportation may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity in execution of the Technology Reinvestment Project authorized under the Defense Conversion, Reinvestment and Transition Assistance Act of 1992 and related legislation: Provided, That the authority provided in this section may be exercised without regard to section 3324 of title 31, United States Code.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1998 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1997, no State shall obligate more than 25 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 12 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State;

(2) after August 1, 1998, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 103(e)(4), 104, 144, and 160 of title 23, United States Code, and under sections 1013(c) and 1015 of Public Law 102–240; and

(3) not distribute amounts authorized for administrative expenses and funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, the Federal lands highway program, the intelligent transportation systems program, the Truman-Hobbs bridges funded under the discretionary bridge program, and amounts made available under sections 1040, 1047, 1064, 6001, 6005, 6006, 6023, and 6024 of Public Law 102–240, and 49 U.S.C. 5316, 5317, and 5338: Provided, That amounts made available under section 6005 of Public Law 102–240 shall be subject to the obligation limitation for Federal-aid highways and highway safety construction programs under the head "Federal-Aid Highways" in this Act.

(d) During the period October 1 through December 31, 1997, the aggregate amount of obligations under section 157 of title 23, United States Code, for projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, sections 131(b), 131(j), and 404 of Public Law 97–424, sections 1061, 1103–1108, 4008, 6023(b)(8), and 6023(b)(10) of Public Law 102–240, and for projects authorized by Public Law 99–500 and Public Law 100–17, shall not exceed $277,431,840.

(e) Notwithstanding any other provision of law, none of the funds in this Act shall be available for the distribution of bonus limitation under the federal-aid highways program.

SEC. 311. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation under the discretionary grants program.

SEC. 312. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 313. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 314. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant. The FAA shall accept such equipment, which shall thereafter be operated and maintained by the FAA in accordance with agency criteria.

SEC. 315. None of the funds in this Act shall be available to award a multiyear contract for production end items that (1) includes economic order quantity or long lead time material procurement in excess of $10,000,000 in any one year of the contract or (2) includes a cancellation charge greater than $10,000,000 which at the time of obligation has not been appropriated to the limits of the Government's liability or (3) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: Provided, That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

SEC. 316. For the purposes of funds made available under the heading, Formula Grants, the term "Capital Project" includes a project for—

(A)(i) acquisition, construction, supervision, or inspection of a facility or equipment, including inspection thereof, for use in mass transportation; and

(ii) expenses incidental to the acquisition or construction (including designing, engineering, location survey, mapping, acquiring rights of way, associated pre-revenue startup costs, and environmental mitigation), payments for rail trackage rights, Intelligent Transportation Systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating a bus;

(C) remanufacturing a bus;

(D) overhauling rail rolling stock;

(E) preventive maintenance; and

(F) financing the operating costs of equipment and facilities used in mass transportation in urbanized areas with a population of less than 200,000.

SEC. 317. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Discretionary grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2000, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 318. Notwithstanding any other provision of law, any funds appropriated before October 1, 1993, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 319. None of the funds in this Act may be used to compensate in excess of 350 technical staff years under the federally-funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 1998.

SEC. 320. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by $3,000,000, which limits fiscal year 1998 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than $118,800,000: Provided, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Transportation Administrative Service Center.

SEC. 321. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Limitation on General Operating Expenses" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Railroad Safety" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 322. None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations pursuant to title V of the Motor Vehicle Information and Cost Savings Act (49 U.S.C. 32901 et seq.) prescribing corporate average fuel economy standards for automobiles, as defined in such title, in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

SEC. 323. None of the funds in this Act may be used for planning, engineering, design, or construction of a sixth runway at the Denver International Airport, Denver, Colorado: Provided, That this provision shall not apply in any case where the Administrator of the Federal Aviation Administration determines, in writing, that safety conditions warrant obligation of such funds: Provided further, That funds may be used for activities related to planning or analysis of airport noise issues related to the sixth runway project.

SEC. 324. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: Provided, That such funds shall not be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 325. None of the funds in this Act may be obligated or expended for employee training which: (a) does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties; (b) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (c) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations; (d) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; (e) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or (f) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

SEC. 326. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation: Provided, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

SEC. 327. None of the funds in this Act may be used to support Federal Transit Administration's field operations and oversight of the Washington Metropolitan Area Transit Authority in any location other than from the Washington, D.C. metropolitan area.

SEC. 328. Not to exceed $1,000,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 329. Notwithstanding any other provision of law, the Secretary may use funds appropriated under this Act, or any subsequent Act, to administer and implement the exemption provisions of 49 CFR 580.6 and to adopt or amend exemptions from the disclosure requirements of 49 CFR part 580 for any class or category of vehicles that the Secretary deems appropriate.

SEC. 330. No funds other than those appropriated to the Surface Transportation Board or fees collected by the Board shall be used for conducting the activities of the Board.

SEC. 331. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 332. Notwithstanding any other provision of law, receipts, in amounts determined by the Secretary, collected from users of fitness centers operated by or for the Department of Transportation shall be available to support the operation and maintenance of those facilities.

SEC. 333. None of the funds made available in this Act may be used for improvements to the Miller Highway in New York City, New York.

SEC. 334. None of the funds in this Act shall be available to implement or enforce regulations that would result in the withdrawal of a slot from an air carrier at O'Hare International Airport under section 93.223 of title 14 of the Code of Federal Regulations in excess of the total slots withdrawn from that air carrier as of October 31, 1993 if such additional slot is to be allocated to an air carrier or foreign air carrier under section 93.217 of title 14 of the Code of Federal Regulations.

SEC. 335. Notwithstanding any other provision of law, of amounts made available under Federal Aviation Administration "Operations", the FAA shall provide personnel at Dutch Harbor, Alaska to provide real-time weather and runway observation and other such functions to help ensure the safety of aviation operations.

SEC. 336. Notwithstanding 49 U.S.C. 41742, no essential air service shall be provided to communities in the forty-eight contiguous States that are located fewer than seventy highway miles from the nearest large and medium hub airport, or that require a rate of subsidy per passenger in excess of $200 unless such point is greater than two hundred and ten miles from the nearest large or medium hub airport.

SEC. 337. (a) IN GENERAL.—For purposes of the exception set forth in section 29(a)(2) of the International Air Transportation Competition Act of 1979 (Public Law 96–192; 94 Stat. 48), the term "passenger capacity of 56 passengers or less" includes any aircraft, except aircraft exceeding gross aircraft weight of 300,000 pounds, reconfigured to accommodate 56 or fewer passengers if the total number of passenger seats installed on the aircraft does not exceed 56.

(b) INCLUSION OF CERTAIN STATES IN EXEMPTION.—The first sentence of section 29(c) of the International Air Transportation Competition Act of 1979 (Public Law 96–192; 94 Stat. 48 et seq.) is amended by inserting "Kansas, Alabama, Mississippi," before "and Texas".

(c) SAFETY ASSURANCE.—The Administrator of the Federal Aviation Administration shall monitor the safety of flight operations in the Dallas-Fort Worth metropolitan area and take such actions as may be necessary to ensure safe aviation operations. If the Administrator must restrict aviation operations in the Dallas-Fort Worth area to ensure safety, the Administrator shall notify the House and Senate Committees on Appropriations as soon as possible that an unsafe airspace management situation existed requiring the restrictions.

SEC. 338. Rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department and allocated to elements of the Department using fair and equitable criteria and such funds shall be available until December 31, 1998.

SEC. 339. Notwithstanding any other provision of law, the Department of the Navy is directed to transfer the USNS EDENTON (ATS–1), currently in Inactive Ship status, to the United States Coast Guard.

SEC. 340. (a) FINDINGS.—The Congress finds that—

(1) Congress has the authority under article I, section 8 of the Constitution to regulate the air commerce of the United States;

(2) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

(3) a grant recipient that uses airport revenues for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

(4) illegal diversion of airport revenues undermines the interest of the United States in promoting a strong national air transportation system;

(5) the policy of the United States that airports should be as self-sustaining as possible and that revenues generated at airports should not be diverted from airport purposes was stated by Congress in 1982 and reaffirmed and strengthened in 1987, 1994, and 1996;

(6) certain airports are constructed on lands that may have belonged, at one time, to native Americans, native Hawaiians, or Alaskan natives;

(7) contrary to the prohibition against diverting airport revenues from airport purposes under section 47107 of title 49, United States Code, certain payments from airport revenues may have been made for the betterment of native Americans, native Hawaiians, or Alaskan natives based upon the claims related to lands ceded to the United States;

(8) Federal law prohibits diversions of airport revenues obtained from any source whatsoever to occur in the future whether related to claims for periods of time prior to or after the date of enactment of this Act; and

(9) because of the special circumstances surrounding such past diversions of airport revenues for the betterment of native Americans, native Hawaiians, or Alaskan natives, it is in the national interest that amounts from airport revenues previously received by any entity for the betterment of native Americans, native Hawaiians, or Alaskan natives, as specified in subsection (b) of this section, should not be subject to repayment.

(b) TERMINATION OF REPAYMENT RESPONSIBILITY.—Notwithstanding the provisions of 47107 of title 49, United States Code, or any other provision of law, monies paid for claims related to ceded lands and diverted from airport revenues and received prior to April 1, 1996, by any entity for the betterment of native Americans, native Hawaiians, or Alaskan natives, shall not be subject to repayment.

(c) PROHIBITION ON FURTHER DIVERSION.—There shall be no further payment of airport revenues for claims related to ceded lands, whether characterized as operating expenses, rent, or otherwise, and whether related to claims for periods of time prior to or after the date of enactment of this Act.

(d) CLARIFICATION.—Nothing in this Act shall be construed to affect any existing federal statutes, enactments, or trust obligations created thereunder, or any statute of the several States that define the obligations of such States to native Hawaiians, native Americans, or Alaskan

Natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy such obligations.

SEC. 341. LIMITATION ON FUNDS USED TO ENFORCE REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS.—None of the funds made available in this Act may be used by the Coast Guard to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104–55), or the amendments made by that Act, that does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act, or the amendments made by that Act) differences in—

(1) physical, chemical, biological, and other relevant properties; and

(2) environmental effects.

SEC. 342. Notwithstanding the provisions of any other law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 343. Subsection (d)(4) of 49 U.S.C. 31112 is amended by striking "September 30, 1997" and inserting "February 28, 1998".

SEC. 344. None of the funds in this Act shall be used to enforce against air carriers, conducting operations under part 135 of the Federal Aviation Administration (FAA) regulations (14 C.F.R. 135.1 et seq.) that are not scheduled operations (as defined in 14 C.F.R. 119.3), the requirement in section 44936(f)(1) of title 49 that records be checked before hiring an individual as a pilot, until the FAA determines, in writing that it can furnish to such air carriers the requested records within 30 days, as required by section 44936(f)(5) of title 49. If the Administrator cannot make the determination, in writing, within 150 days after enactment of this Act, then the Administrator shall report to the Committees on Appropriations, the Senate Committee on Commerce, Science, and Transportation, and the House Committee on Transportation and Infrastructure, the reasons why the determination cannot be made.

SEC. 345. EXEMPTION AUTHORITY FOR AIR SERVICE TO SLOT-CONTROLLED AIRPORTS.—Section 41714 of title 49, United States Code, is amended by adding at the end thereof the following:

"(i) EXPEDITIOUS CONSIDERATION OF CERTAIN EXEMPTION REQUESTS.—Within 120 days after receiving an application for an exemption under subsection (a)(2) to improve air service between a nonhub airport (as defined in section 41731(a)(4)) and a high density airport subject to the exemption authority under subsection (a), the Secretary shall grant or deny the exemption. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure of the grant or denial within 14 calendar days after the determination and state the reasons for the determination.".

SEC. 346. (a) As soon as practicable after the date of enactment of this Act, the Secretary of Transportation, acting for the Department of Transportation, may take receipt of such equipment and sites of the Ground Wave Emergency Network (referred to in this section as "GWEN") as the Secretary of Transportation determines to be necessary for the establishment of a nationwide system to be known as the "Nationwide Differential Global Positioning System" (referred to in this section as "NDGPS").

(b) As soon as practicable after the date of enactment of this Act, the Secretary of Transportation may establish the NDGPS. In establishing the NDGPS, the Secretary of Transportation may—

(1) if feasible, reuse GWEN equipment and sites transferred to the Department of Transportation under subsection (a);

(2) to the maximum extent practicable, use contractor services to install the NDGPS;

(3) modify the positioning system operated by the Coast Guard at the time of the establishment of the NDGPS to integrate the reference stations made available pursuant to subsection (a);

(4) in cooperation with the Secretary of Commerce, ensure that the reference stations referred to in paragraph (3) are compatible with, and integrated into, the Continuously Operating Reference Station (commonly referred to as "CORS") system of the National Geodetic Survey of the Department of Commerce; and

(5) in cooperation with the Secretary of Commerce, investigate the use of the NDGPS reference stations for the Global Positioning System Integrated Precipitable Water Vapor System of the National Oceanic and Atmospheric Administration.

(c) The Secretary of Transportation may—

(1) manage and operate the NDGPS;

(2) ensure that the service of the NDGPS is provided without the assessment of any user fee; and

(3) in cooperation with the Secretary of Defense, ensure that the use of the NDGPS is denied to any enemy of the United States.

(d) In any case in which the Secretary of Transportation determines that contracting for the maintenance of 1 or more NDGPS reference stations is cost-effective, the Secretary of Transportation may enter into a contract to provide for that maintenance.

(e) The Secretary of Transportation may—

(1) in cooperation with appropriate representatives of private industries and universities and officials of State governments—

(A) investigate improvements (including potential improvements) to the NDGPS;

(B) develop standards for the NDGPS; and

(C) sponsor the development of new applications for the NDGPS; and

(2) provide for the continual upgrading of the NDGPS to improve performance and address the needs of—

(A) the Federal Government;

(B) State and local governments; and

(C) the general public.

SEC. 347. The Secretary of Transportation is authorized to transfer funds appropriated to the Coast Guard in Public Law 102–368 in order to pay rent assessments by the General Services Administration related to prior year space needs of the Department: Provided, That prior to any such transfer, notification shall be provided to the House and Senate Committees on Appropriations.

SEC. 348. (a) Subsection (b) of section 642 of the Treasury and General Government Appropriations Act, 1998 is amended by inserting "other than a Member of Congress," after "Code,".

(b) Paragraph (1) of section 642(c) of such Act is amended by striking "(1)(A) subject to subparagraph (B)," and inserting "(1)" and by striking "December 31, 1998" and all that follows through the end and inserting "December 31, 1998;".

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1998".

And the Senate agree to the same.

FRANK R. WOLF,
TOM DELAY,
RALPH REGULA,
HAROLD ROGERS,
RON PACKARD,
SONNY CALLAHAN
TODD TIAHRT,
ROBERT B. ADERHOLT,
BOB LIVINGSTON,
MARTIN OLAV SABO,
THOMAS M. FOGLIETTA,
ESTEBAN EDWARD TORRES,
JOHN W. OLVER,
ED PASTOR,
DAVID R. OBEY,
Managers on the Part of the House.

RICHARD C. SHELBY,
PETE V. DOMENICI,
ARLEN SPECTER,
CHRISTOPHER S. BOND,
SLADE GORTON,
ROBERT F. BENNETT,
LAUCH FAIRCLOTH,
TED STEVENS,
FRANK R. LAUTENBERG,
ROBERT C. BYRD,
BARBARA A. MIKULSKI,
HARRY REID,
HERB KOHL,
PATTY MURRAY,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes, submit the following joint statement to the House of Representatives and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill.

CONGRESSIONAL DIRECTIVES

The conferees agree that Executive Branch propensities cannot substitute for Congress' own statements concerning the best evidence of Congressional intentions; that is, the official reports of the Congress. Report language included by the House (House Report 105–188) or the Senate (Senate Report 105–55 accompanying the companion measure S. 1048) that is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

PROGRAM, PROJECT AND ACTIVITY

During fiscal year 1998, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended, with respect to funds provided for the Department of Transportation and related agencies, the terms "program, project and activity" shall mean any item for which a dollar amount is contained in an appropriations Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. In addition, the reductions made pursuant to any sequestration order to funds appropriated for "Federal Aviation Administration, Facilities and equipment" and for "Coast Guard, Acquisition, construction, and improvements" shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriations Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of

conference. The conferees recognize that adjustments to the above allocations may be required due to changing program requirements or priorities. The conferees expect any such adjustment, if required, to be accomplished only through the normal reprogramming process.

STAFFING INCREASES PROVIDED BY CONGRESS

The conferees direct the Department of Transportation to fill expeditiously any positions added in this bill, without regard to agency-specific staffing targets which may have been previously established to meet the mandated government-wide staffing reductions. The conferees support the overall staffing reductions, and have made reductions in the bill which more than offset staffing increases provided for a small number of specific activities.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

The conference agreement provides $61,000,000 for salaries and expenses of the office of the secretary, instead of $60,009,000 as proposed by the House and $66,703,000 as proposed by the Senate.

The conference agreement deletes language proposed by the Senate that provides not to exceed $10,567,000 for rental of headquarters space, related services assessed by the General Services Administration, and for department-wide facility security enhancements. Sufficient funds are included within the appropriation to cover the office of the secretary's costs associated with the rental of headquarters space and related services assessed by the General Services Administration.

The conference agreement deletes bill language proposed by the House that would limit to $606,000 funds made available to the office of acquisition and grants management, solely for department-wide grants management activities.

The conference agreement includes the following changes to the budget request for this office:

Reductions in staff:	
−5 Attorney advisors	−400,000
−2 Congressional liaison officers	−150,000
−2 Intergovernmental liaison officers	−150,000
−3 Office of public affairs	−175,000
−3 Office of administration	−125,000
−1 Office of intermodalism	−100,000
Office of the chief information officer	−225,000
Fitness reviews of airlines, +3 FTE	+180,000

OFFICE OF CIVIL RIGHTS

The conference agreement provides $5,574,000 for the office of civil rights, as proposed by both the House and Senate.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

The conference agreement provides $4,400,000, as proposed by both the House and the Senate. Within the funds provided, $300,000 is included to conduct a national capital region congestion mitigation study and to hold a summit; $100,000 is included to develop with the Department of Agriculture, the private sector and the transportation industry a comprehensive strategy to distribute excess food and commodities from fields and warehouses to food banks and other public and non-profit organizations that assist the poor; and sufficient funds are included for transportation planning assistance for the 2002 Winter Olympics in Salt Lake City and for a multimodal transportation study for Albuquerque and Santa Fe, New Mexico.

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

The conference agreement includes a limitation on activities financed through the transportation administrative service center at $121,800,000, as proposed by the House. Language is included in the conference agreement that stipulates that the limitation shall not apply to non-DOT entities and that services provided by the transportation administrative service center to entities within the department shall be provided on a competitive basis. In addition, the conference agreement includes two language provisions, as proposed by the House. The first provision limits activities transferred to the transportation administrative service center to only those approved by the agency modal administrator; the second limits special assessments or reimbursable agreements levied against any program, project, or activity funded in this Act to only those assessments or reimbursable agreements presented to and approved by the House and Senate Committees on Appropriations. The Senate bill contained no similar provisions.

The conferees reiterate that the department shall submit with the department's Congressional budget submission an approved annual operating plan of the transportation administrative service center and quarterly reports for the Committees' review. Quarterly reports and approvals of the Secretary's management council shall also be provided to the Committees in a timely manner.

The conferees direct the Office of Inspector General to undertake a study that evaluates the utility and cost effectiveness of the transportation administrative service center both to the individual modes and the department generally; whether the transportation administrative service center provides quality services responsive to customer needs at a competitive price; and whether the Federal Aviation Administration's franchise fund duplicates or reduces the cost effectiveness of a department-wide service center. The conferees direct that this report be provided to the House and Senate Committees on Appropriations not later than April 1, 1998.

PAYMENTS TO AIR CARRIERS

(RESCISSION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement rescinds $38,600,000 in contract authority which was provided in previous authorizing Acts, as proposed by the Senate. The House bill contained no similar rescission.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

The conference agreement includes a limitation on direct loans of $15,000,000 and provides subsidy and administrative costs totaling $1,900,000, as proposed by both the House and Senate.

MINORITY BUSINESS OUTREACH

The conference agreement provides $2,900,000 for minority business outreach activities, as proposed by both the House and Senate.

COAST GUARD

OPERATING EXPENSES

The conference agreement provides $2,715,400,000 for Coast Guard operating expenses instead of $2,708,000,000 as proposed by the House and $2,435,400,000 as proposed by the Senate. In addition, the Senate-passed Department of Defense Appropriations Bill, 1998 included $300,000,000 for national security activities of the Coast Guard. The House bill included similar funding within the overall total provided in this bill.

The agreement limits Coast Guard aircraft to 212, as proposed by the House, instead of 221 as proposed by the Senate.

The agreement includes House provisions prohibiting the obligation of $34,300,000 budgeted for Coast Guard drug interdiction activities until the Director, Office of National Drug Control Policy (ONDCP) reviews such activities and provides a specific certification to the Congress regarding the merit of such activities. The bill also allows the Director, ONDCP to transfer all or part of these funds to other federal entities for other drug interdiction activities.

The following table compares the House and Senate bills and the conference agreement for items in conference:

Coast Guard
Operating Expenses
Fiscal Year 1998
Conference Agreement

	House	Senate	Conference
Personnel Resources:			
Budget estimate:	$1,723,261,000	$1,723,261,000	$1,723,261,000
Adjustments to budget estimate:			
Public affairs staffing	-840,000	0	-600,000
Professional training/education	-1,645,000	0	-1,645,000
Recruiting	-1,000,000	0	-1,000,000
FTE staffyear savings	-19,600,000	0	-18,440,000
Amount recommended	**1,700,176,000**	**1,723,261,000**	**1,701,576,000**
Operating Funds & Unit Level Maintenance:			
Budget estimate:	620,749,000	620,749,000	620,749,000
Adjustments to budget estimate:			
Governor's Island caretaker status	-8,300,000	-8,300,000	-2,300,000
Amount recommended	**612,449,000**	**612,449,000**	**618,449,000**
Depot Level Maintenance:			
Budget estimate:	395,990,000	395,990,000	395,990,000
Adjustments to budget estimate:	0	0	
Amount recommended	**395,990,000**	**395,990,000**	**395,990,000**
Account-Wide Adjustments:			
User fee offset, foreign flag cruise ships	-615,000	0	-615,000
GWEN/DGPS	0	+3,700,000	0
Amount recommended	**-615,000**	**3,700,000**	**-615,000**
Total appropriation	2,708,000,000	*2,735,400,000	2,715,400,000

* Includes $2,435,400,000 in this bill and $300,000,000 in the Department of Defense Appropriations Bill, 1997. Shown together here for comparability purposes.

Ballast water management program.—The conferees agree that, within the total amount provided, $1,995,000 is to implement the nationwide ballast water management program, as proposed by the House.

Governor's Island caretaker status.—The conference agreement provides $6,000,000 for Coast Guard maintenance of Governor's Island in a "caretaker" status pending transfer to the General Services Administration. This is a reduction of $2,300,000 from the budget estimate. The Coast Guard has indicated that Governor's Island can be adequately maintained until such transfer during fiscal year 1998 at this funding level; however, if costs are higher than currently expected, the Coast Guard should advise the Congress as soon as possible. The conferees do not expect to support Coast Guard funding for caretaker expenses in fiscal year 1999, since such funding would be beyond the normal responsibility of federal agencies under existing regulations.

Sand Island Bridge, Honolulu, HI.—The conferees direct the Coast Guard to conduct a study, using operating funds, to determine the eligibility of the Sand Island Bridge in Honolulu Harbor, Hawaii for funding under the "Alteration of bridges" program.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conference agreement includes $397,850,000 for acquisition, construction, and improvements instead of $379,000,000 as proposed by the House and $412,300,000 as proposed by the Senate. The bill allocates funds by budget activity as follows:

Vessels, small boats, and related equipment.—$212,100,000 instead of $191,650,000 as proposed by the House and $214,700,000 as proposed by the Senate;

Aircraft and related programs.—$25,800,000 instead of $33,900,000 as proposed by the House and $26,400,000 as proposed by the Senate;

Other equipment.—$44,650,000 instead of $47,050,000 as proposed by the House and $51,200,000 as proposed by the Senate;

Shore facilities and aids to navigation facilities.—$68,300,000 instead of $59,400,000 as proposed by the House and $73,000,000 as proposed by the Senate.

The bill also allows up to $9,000,000 in offsetting collections from asset sales to be credited to this appropriation during fiscal year 1998, as proposed in both bills, with technical language as proposed by the House and the Senate.

The bill provides that the Secretary may enter into a long-term agreement with the City of Unalaska in Alaska for dedicated pier space on the municipal dock for Coast Guard vessels, as proposed by the Senate.

A table showing the distribution of this appropriation by project as included in the fiscal year 1998 budget estimate, House bill, Senate bill, and the conference agreement follows:

Acquisition, Construction, and Improvements
Fiscal Year 1998
Conference Agreement

Program Name	FY 1997 Enacted	FY 1998 Estimate	FY 1998 House	FY 1998 Senate	Conference Agreement
Vessels:	**216,500,000**	**186,900,000**	**191,650,000**	**214,700,000**	**212,100,000**
Survey and design - cutters and boats	500,000	500,000	500,000	500,000	500,000
Seagoing buoy tender (WLB) replacement	54,000,000	55,000,000	55,000,000	41,000,000	41,000,000
Coastal buoy tender (WLM) replacement	75,000,000	21,000,000	21,000,000	21,000,000	21,000,000
47-foot motor lifeboat (MLB) replacement project	26,000,000	21,600,000	31,600,000	21,600,000	31,600,000
Buoy boat replacement project (BUSL)	7,800,000	12,000,000	12,000,000	12,000,000	12,000,000
Polar icebreaker replacement follow-on	4,000,000	4,000,000	3,500,000	4,000,000	3,500,000
82-foot WPB capability replacement	33,100,000	0	0	0	0
Configuration management	3,500,000	3,800,000	3,800,000	3,800,000	3,800,000
Surface search radar replacement project	4,000,000	15,400,000	15,400,000	15,400,000	15,400,000
Motor surfboat replacement	1,100,000	0	0	0	0
210-foot medium endurance cutter MMA	2,500,000	0	0	0	0
Polar class icebreaker reliability improvement program	5,000,000	9,300,000	6,550,000	5,300,000	5,300,000
Coastal patrol boat (CPB)	0	37,300,000	37,300,000	68,100,000	63,000,000
Mackinaw replacement	0	0	2,000,000	2,000,000	2,000,000
Independent maritime response vessel	0	2,000,000	0	2,000,000	0
Deepwater capability concept exploration	0	5,000,000	3,000,000	5,000,000	3,000,000
Reprogramming (FY 1996 IMARV funds)	0	0	[2,000,000]	[2,000,000]	[2,000,000]
ATS-1 conversion	0	0	0	13,000,000	10,000,000
Aircraft:	**18,040,000**	**26,400,000**	**33,900,000**	**26,400,000**	**25,800,000**
Traffic alert & collision avoidance system (TCAS)	5,700,000	3,300,000	3,300,000	3,300,000	3,300,000
Global positioning system installation	1,900,000	1,900,000	1,900,000	1,900,000	1,900,000
HC-130 engine conversion	6,800,000	5,200,000	5,200,000	5,200,000	4,100,000
HH-65A helicopter kapton rewiring	2,000,000	3,200,000	3,200,000	3,200,000	3,200,000
HH-65A helicopter mission computer replacement	2,000,000	4,400,000	4,400,000	4,400,000	4,400,000
HH-65 offset (FY 1995 reprogramming)	-360,000	0	0	0	0
Long range search aircraft capability preservation	0	4,600,000	4,100,000	4,600,000	4,100,000
HC-130 aircraft sensor upgrade	0	3,800,000	11,800,000	3,800,000	4,800,000
Reprogramming (FY 1996 C-130 SLAR funds)	0	0	[2,000,000]	[0]	[2,000,000]
Other Equipment:	**41,700,000**	**49,700,000**	**47,050,000**	**51,200,000**	**44,650,000**
Fleet logistics system	9,300,000	9,200,000	9,200,000	9,200,000	8,200,000
Ports and waterways safety system (PAWSS)	0	5,500,000	5,500,000	5,500,000	5,500,000
Marine information for safety and law enforcement (MISLE)	5,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Conversion of software applications	6,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Finance center information system replacement	2,100,000	0	0	0	0
Aviation logistics management information system (ALMIS)	4,800,000	2,700,000	2,700,000	2,700,000	2,700,000
National distress system modernization	1,000,000	7,000,000	7,000,000	5,000,000	5,000,000
Communication systems 2000	4,000,000	1,000,000	1,000,000	1,000,000	1,000,000
WLB/WLM support facility	1,800,000	0	0	0	0
Global maritime distress and safety system	700,000	0	0	0	0
Personnel MIS/Jt uniform military pay system	1,600,000	1,600,000	0	1,600,000	1,600,000
VHF-FM high level site upgrade	4,400,000	7,400,000	7,400,000	7,400,000	7,400,000
VTS requirements evaluation	1,000,000	0	0	0	0
Local notice to mariners automation	0	1,800,000	750,000	1,800,000	750,000
Frequency spectrum reallocation	0	5,100,000	5,100,000	5,100,000	4,100,000
Defense message system implementation	0	1,400,000	1,400,000	1,400,000	1,400,000
Differential GPS phase II (coastal gaps)	0	1,000,000	1,000,000	1,000,000	1,000,000
Port security equipment	0	0	0	3,500,000	0
Shore Facilities and Aids to Navigation:	**52,350,000**	**69,000,000**	**59,400,000**	**73,000,000**	**68,300,000**
Survey and design - shore projects	6,000,000	6,000,000	6,000,000	6,000,000	5,000,000
Minor AC&I shore construction projects	2,400,000	8,000,000	6,600,000	8,000,000	7,000,000
Mid-atlantic air station consolidation	1,300,000	0	0	0	0
Coast Guard Yard ship handling facility (phase II)	4,950,000	0	0	0	0
Support center Portsmouth - upgrade sandblast facility	2,000,000	0	0	0	0

Acquisition, Construction, and Improvements
Fiscal Year 1998
Conference Agreement

Program Name	FY 1997 Enacted	FY 1998 Estimate	FY 1998 House	FY 1998 Senate	Conference Agreement
Support Ctr San Pedro, CA - construct medical facility	3,700,000	0	0	0	0
Public family quarters	12,000,000	15,900,000	15,900,000	15,900,000	14,900,000
Base San Juan, PR - reconstruction	7,000,000	0	0	0	0
Waterways ATON projects	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
Station Juneau, AK - renovate/expand station	2,000,000	0	0	0	0
Station Sabine - reconstruct/expand waterfront facilities	4,000,000	0	0	0	0
Owensboro, KY - relocate cutter moorings	2,000,000	0	0	0	0
Station Bellingham, WA - relocation	0	4,000,000	4,000,000	4,000,000	4,000,000
Group Woods Hole, MA - waterfront renovation	0	2,900,000	2,900,000	2,900,000	2,900,000
Group/Station New Orleans, LA - relocation	0	4,200,000	8,400,000	4,200,000	8,400,000
Base Ketchikan, AK - replace breakwater	0	1,600,000	1,600,000	1,600,000	1,600,000
Omega termination cost	0	6,700,000	0	6,700,000	0
Bayonne, NJ - construct pier	0	4,100,000	0	4,100,000	4,100,000
ISC Portsmouth, VA - command & control engineering center	0	4,700,000	4,700,000	4,700,000	4,700,000
New London, CT - leadership development center	0	5,900,000	4,300,000	5,900,000	4,300,000
Reprogramming (FY 1996 Wadsworth, NY funds)	0	0	[1,600,000]	[1,600,000]	[1,600,000]
ISC Kodiak - hanger renovation	0	0	0	4,000,000	4,000,000
Ground wave emergency network (GWEN)/DGPS	0	0	0	0	2,400,000
Personnel and Related Support:	**46,250,000**	**47,000,000**	**47,000,000**	**47,000,000**	**47,000,000**
Direct personnel costs	45,400,000	46,500,000	46,500,000	46,500,000	46,500,000
Core acquisition costs	850,000	500,000	500,000	500,000	500,000
Total gross appropriation	374,840,000	379,000,000	379,000,000	412,300,000	397,850,000
Offsetting collections from asset sales	0	-9,000,000	-9,000,000	-9,000,000	-9,000,000
Total net appropriation	*374,840,000*	*370,000,000*	*370,000,000*	*403,300,000*	*388,850,000*

Group/Station New Orleans.—The conferees agree to direct that $3,000,000 of the funds provided for relocation of Group/Station New Orleans is only to improve the condition of the waterway adjoining the relocation site, as proposed by the House.

Ground wave emergency network (GWEN)/DGPS.—The conference agreement includes $2,400,000 to initiate the establishment of a nationwide differential global positioning system (DGPS) utilizing decommissioned United States Air Force ground wave emergency network (GWEN) sites and equipment. The Coast Guard and Federal Railroad Administration have successfully converted a demonstration GWEN site into a Coast Guard-operated precision DGPS. The funds provided to the Coast Guard shall be used for site, tower, and antenna acquisition, equipment, construction, and other hardware and software costs related to the expansion of the Coast Guard's current DGPS coverage to a ground-based nationwide system. These increased mapping and locator capabilities will have far-reaching applications in the areas of positive train control, intelligent transportation systems, search and rescue, fire fighting, precision farming, and other public safety missions.

Hampton, Long Island seasonal search and rescue facility.—The conferees agree that the Department of Defense and the Coast Guard should sign a memorandum of agreement providing for a seasonal search and rescue capability operating out of the Air National Guard facility at the Francis S. Gabreski Airport in Hampton, Long Island for the period April 15 to October 15, 1998. However, the conferees agree that this activity should result in no additional costs being borne by the Department of Defense or the Air National Guard, and is approved at this time for one year only.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The conference agreement includes $21,000,000 for environmental compliance, as proposed by both the House and the Senate.

ALTERATION OF BRIDGES

The conference agreement includes $17,000,000 for the alteration of bridges program instead of $16,000,000 as proposed by the House and $26,000,000 as proposed by the Senate. The following table compares the conference agreement by project to the levels proposed by the House and Senate:

Bridge and location	House bill	Senate bill	Conference agreement
New Orleans, LA, Florida Avenue RR/HW Bridge	$7,000,000	$3,000,000	$7,000,000
Brunswick, GA, Sidney Lanier HW Bridge	9,000,000	18,000,000	10,000,000
Honolulu, HI, Sand Island Road Tunnel	0	5,000,000	0
Total	16,000,000	26,000,000	17,000,000

RETIRED PAY

The conference agreement includes $653,196,000 for Coast Guard retired pay as proposed by the Senate instead of $645,696,000 as proposed by the House. This is scored as a mandatory appropriation in the Congressional budget process.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $67,000,000 for reserve training as proposed by the House instead of $65,535,000 as proposed by the Senate. The conferees agree with the direction of the House that, of the increase provided, $1,000,000 is for additional recruiting activities. The conference agreement also includes a provision proposed by the House which limits to $20,000,000 the amount of this appropriation which may be transferred to Coast Guard "Operating expenses" or otherwise used to reimburse the active duty Coast Guard for its support of the reserves.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement includes $19,000,000 for Coast Guard research, development, test and evaluation as proposed by the House instead of $20,000,000 as proposed by the Senate. The conferees agree that the additional work proposed by the Senate to improve ballast water management practices can be accommodated within the $1,995,000 allocated in Coast Guard "Operating expenses" for this activity.

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

The conference agreement includes $35,000,000 for boat safety, as proposed by both the House and the Senate.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

The conference agreement includes $5,301,934,000 for operating expenses of the Federal Aviation Administration instead of $5,300,000,000 as proposed by the House and $5,325,900,000 as proposed by the Senate. The bill also provides that these funds are in addition to amounts made available as a mandatory appropriation of user fees in the Federal Aviation Administration Reauthorization Act of 1996 (Public Law 104-264). These mandatory appropriations are estimated to add $50,000,000 to the FAA's operating budget for fiscal year 1998, providing a total budgetary increase of $451,934,000 (9.2 percent) over fiscal year 1997. Of the total amount provided, $1,901,628,000 shall be derived from the airport and airway trust fund as proposed by the Senate instead of $1,880,000,000 as proposed by the House. The balance of this appropriation is drawn from the general fund.

The bill includes a provision proposed by the House which prohibits funds from planning, finalizing, or implementing any regulation to impose new aviation user fees not specifically authorized by law after the date of enactment of this Act. Both the House and Senate Committees on Appropriations expressed very serious concerns this year with FAA's recent aviation user fee proposals on both technical and policy-related grounds. The recent bipartisan budget agreement authorizes aviation excise taxes for the foreseeable future which provide sufficient revenues to finance the FAA's activities without additional user fees. The significant increases in this bill for FAA's budget prove that Congress can provide adequately for the agency without augmenting appropriations with user fees.

The conferees are aware of FAA's opinion that the agency has the legal authority to establish new user fees under the generic authority provided in the User Fee Statute, and do not wish to see FAA circumvent the legislative process and avoid the normal cost controls which apply to other federal agencies through the administrative implementation of new user fees. The conferees emphasize, however, that this provision does not prevent the FAA from implementing new user fees. It only provides that such fees must be specifically authorized by the Congress.

The bill includes no limitation on the number of passenger motor vehicles which may be leased or purchased by the FAA, as proposed by the Senate. The House had proposed a limitation of four vehicles.

The bill allocates up to $5,000 for activities of the "Aircraft purchase loan guarantee program", as proposed by the Senate. The House bill contained no similar allocation.

The following table compares the conference agreement to the levels proposed in the House and Senate bills by budget activity:

FAA Operations
Fiscal Year 1998
Conference Agreement

	House	Senate	Conference
Air Traffic Services:			
Budget estimate:	$4,192,516,000	$4,192,516,000	$4,192,516,000
Adjustments to budget estimate:			
HAZMAT program	-6,000,000	0	-6,000,000
ATR office	-2,625,000	0	-2,000,000
Contract maintenance	-3,659,000	0	0
Leased telecommunications	-6,200,000	-4,000,000	-5,000,000
Assoc. admin. ATS HQ staffing	-2,325,000	0	0
MARC	+1,500,000	0	0
PCS moves	-1,500,000	0	-1,500,000
Sat Comm, Anchorage, AK	0	+400,000	+400,000
NAS plan hand-off	0	-7,000,000	-7,000,000
Amount recommended	**4,171,707,000**	**4,181,916,000**	**4,171,416,000**
Aviation Regulation/Certification:			
Budget estimate:	613,768,000	613,768,000	613,768,000
Adjustments to budget estimate:			
Human intervention and motivation study (HIMS)	0	+400,000	+400,000
Amount recommended	**613,768,000**	**614,168,000**	**614,168,000**
Aviation Security:			
Budget estimate:	98,651,000	98,651,000	98,651,000
Adjustments to budget estimate:	-497,000	0	-497,000
Amount recommended	**98,154,000**	**98,651,000**	**98,154,000**
Research and Acquisition:			
Budget estimate:	92,858,000	92,858,000	92,858,000
Adjustments to budget estimate:	0	0	0
Amount recommended	**92,858,000**	**92,858,000**	**92,858,000**

	House	Senate	Conference
Administration of Airports:			
Budget estimate:	48,052,000	48,052,000	48,052,000
Adjustments to budget estimate:			
Staffing adjustment	0	0	0
Amount recommended	**48,052,000**	**48,052,000**	**48,052,000**
Commercial Space Transportation			
Budget estimate:	6,182,000	6,182,000	6,182,000
Adjustments to budget estimate:			
Staffing adjustment	0	0	0
Amount recommended	**6,182,000**	**6,182,000**	**6,182,000**
Administration:			
Budget estimate:	262,143,000	262,143,000	262,143,000
Adjustments to budget estimate:			
Executive staff-administration	-1,852,000	0	-1,852,000
Business & info consultation	-1,800,000	0	-1,800,000
Amount recommended	**258,491,000**	**262,143,000**	**258,491,000**
Staff Offices:			
Budget estimate:	71,930,000	71,930,000	71,930,000
Adjustments to budget estimate:			
Staffing adjustment	-1,825,000	0	0
Office of policy-periodic fitness reviews	-180,000	0	-180,000
Amount recommended	**69,925,000**	**71,930,000**	**71,750,000**
Account-Wide Adjustments:			
Travel reform	-5,900,000	0	-5,900,000
Time off awards	-2,875,000	0	-2,875,000
DOT library contribution	-120,000	0	-120,000
Interest on Sunday premium pay	-242,000	0	-242,000
Amount recommended	**-9,137,000**	**0**	**-9,137,000**

Total appropriation	5,350,000,000	5,375,900,000	5,351,934,000
(Appropriation in this bill)	(5,300,000,000)	(5,325,900,000)	(5,301,934,000)
(Mandatory user fees)	(50,000,000)	(50,000,000)	(50,000,000)

Mid-America Aviation Resource Consortium (MARC).—The conference agreement includes $1,700,000, as requested in the budget, to continue the agency's commitment to the Mid-America Aviation Resource Consortium (MARC) in Minnesota. The conferees believe that MARC provides cost-effective services to the FAA's air traffic controller training program, and does not compete with training services provided by the Mike Monroney Aeronautical Center in Oklahoma City.

Leased telecommunications.—The conferees agree that the reduction of $5,000,000 in leased telecommunications is based on the concern cited in the Senate report.

Cherry Capital Airport study.—The conferees agree with the direction of the House that the General Accounting Office should conduct a review of FAA's critical value studies on the Cherry Capital Airport in Michigan.

WINGS.—The conferees direct that no funds may be used in fiscal year 1998 to develop the proposed new personnel and payroll system known as WINGS.

Contract towers.—The conferees direct the FAA to study air traffic in New Bern and Hickory, North Carolina and Salisbury/Wicomico County Airport in Maryland and open contract towers at those airports in fiscal year 1998 if those studies show such airports: (a) meet existing benefit-cost criteria; or (b) are justified after consideration of cost-sharing agreements with non-federal parties. This modifies the Senate's proposal, which would have also directed establishment of a contract tower at these locations if the FAA projected that the airport might meet benefit-cost criteria within the next two years.

Regulations on the operation of lighter than air vehicles.—The conferees recognize the increasing popularity of hot air ballooning as a spectator and aviation sport. Currently, hot air balloons, also known as lighter than air (LTA) vehicles, are restricted by 14 CFR 91.119, the federal aviation regulation on minimum safe altitude requirement which normally applies to fixed wing aircraft. Understanding the vast differences between LTA and fixed wing aircraft, the conferees question the feasibility of requiring pilots of hot air balloons to comply with 14 CFR 91.119. The FAA currently exempts helicopters from this provision, and usually waives this regulation for hot air balloon rallies. The conferees encourage the FAA to examine this safety concern for balloonists and report back to the House and Senate Committees on Appropriations on the feasibility of exempting hot air balloons from this provision.

Electromagnetic hazards on commercial aircraft.—The conferees recognize the national need to examine the safety of commercial aircraft from electromagnetic interference. Currently, there is no independent organization that has the requisite resources such as aircraft, test facilities, and expertise that can function to provide science-based technical guidance for government and industry. The Department of Energy's Sandia National Laboratory and Army Test and Evaluation Command Directorate of Applied Technology Test and Simulation have the resources and ongoing programs that can provide science-based electromagnetic analysis and testing services for evaluation of aircraft safety issues due to the use of portable electric devices on board or other off-board electromagnetic sources such as high power radars and newer communication transmitters. The conferees encourage the FAA to examine the resources that exist within these organizations in order to begin addressing this issue.

GENERAL PROVISIONS

Wright Amendment.—The conferees have included the provision recommended by the Senate clarifying the meaning of section 29(a)(2) of the International Air Transportation Competition Act of 1979 regarding air transportation provided by commuter airlines operating aircraft with a passenger capacity of 56 passengers or less. The conferees do not adopt the Senate bill and report language relating to the Dallas City Council, and the discussions in the Senate report regarding regional jets. In addition, the conferees have added bill language including additional states to be covered under section 29(c) of the International Air Transportation Competition Act of 1979.

The conferees are concerned about the safety of flight operations in U.S. airspace, and have included language directing the FAA Administrator to ensure that aviation operations in the Dallas-Fort Worth metropolitan area are, and will remain, safe. In addition, the language directs the FAA Administrator to notify the House and Senate Committees on Appropriations and the Senate Committee on Commerce, Science, and Transportation of any restrictions on operations the Administrator directs to ensure safety. Further, the Administrator shall report to the House and Senate Committees on Appropriations and the Senate Committee on Commerce, Science, and Transportation within 45 days of enactment of this Act outlining any additional equipment or air traffic control support necessary to enhance traffic flow, airspace management, and safety in the Dallas-Fort Worth metropolitan area.

Upon a 25 percent increase in total flight operations from the levels existing as of the date of enactment of this Act at either Dallas Love Field or Dallas-Fort Worth International Airport, the Administrator of the Federal Aviation Administration shall initiate a review of air traffic management within the Dallas-Fort Worth metroplex and report to the House and Senate Committees on Appropriations and the Senate Committee on Commerce, Science, and Transportation within 180 days. This review shall include an analysis of congestion and delays in the metroplex airspace, the impact on Love Field or Dallas-Fort Worth International Airport, and air traffic management constraints in the region. Upon a 50 percent increase in total flight operations from the levels existing on the date of enactment of this Act at either of the airports mentioned in this section, the Administrator shall report to the House and Senate Committees on Appropriations and the Senate Committee on Commerce, Science, and Transportation within 30 days describing what actions, if any, are recommended to ensure the efficient and safe operation of Dallas-Fort Worth metroplex airspace.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement provides $1,875,477,000 for facilities and equipment instead of $1,875,000,000 as proposed by the House and $1,889,004,883 as proposed by the Senate. The bill provides that funds for programs in budget activities one through four have an obligational availability of three years and funds for programs in budget activity five are available for two years, as proposed by the House and Senate. The total appropriation is derived from the airport and airway trust fund.

The following table provides a breakdown of the House and Senate bills and the conference agreement by program:

FACILITIES AND EQUIPMENT
Fiscal Year 1998
Conference Agreement
(In thousands of dollars)

TITLE	FY 1997 Enacted	FY 1998 Estimate	FY 1998 House	FY 1998 Senate	Conference Agreement
ENGINEERING DEVELOPMENT, TEST AND EVALUATION:					
AVIATION WEATHER SERVICES IMPROVEMENTS	19,942.0	23,000.0	33,000.0	23,000.0	23,000.0
EN ROUTE AUTOMATION	96,500.0	0.0	0.0	0.0	0.0
VOICE SWITCHING AND CONTROL SYSTEM (VSCS) - EDT&E	13,300.0	0.0	0.0	0.0	0.0
OCEANIC AUTOMATION SYSTEM	39,000.0	32,000.0	42,000.0	32,000.0	32,000.0
AERONAUTICAL DATA LINK (ADL) APPLICATIONS	0.0	0.0	15,000.0	0.0	15,000.0
NEXT GENERATION VHF A/G COMMUNICATION SYSTEM	2,090.0	7,400.0	7,400.0	7,400.0	5,400.0
WIDE AREA AUGMENTATION SYSTEM (WAAS) FOR GPS	95,000.0	0.0	0.0	0.0	0.0
NATIONAL SATELLITE TEST BED	11,500.0	0.0	0.0	0.0	0.0
AIR TRAFFIC MANAGEMENT (ATM)	0.0	18,240.0	45,440.0	18,240.0	45,440.0
WEATHER AND RADAR PROCESSOR (WARP)	0.0	0.0	24,400.0	0.0	24,400.0
SUBTOTAL - EN ROUTE PROGRAMS	**277,332.0**	**80,640.0**	**167,240.0**	**80,640.0**	**145,240.0**
TERMINAL DIGITAL RADAR (ASR-11)	13,300.0	42,200.0	42,200.0	35,800.0	35,800.0
TERMINAL AUTOMATION	48,000.0	68,000.0	73,000.0	68,000.0	68,000.0
REMOTE MAINTENANCE MONITORING SYSTEM	6,000.0	0.0	0.0	0.0	0.0
WEATHER SYSTEMS PROCESSOR (WSP)	8,055.0	6,200.0	6,200.0	5,200.0	5,200.0
AIRPORT SURFACE TARGET IDENTIFICATION SYSTEM	4,000.0	0.0	0.0	0.0	0.0
INNOVATIVE INFRARED DEICING TECHNOLOGY	0.0	0.0	970.0	0.0	970.0
SUBTOTAL - TERMINAL PROGRAMS	**79,355.0**	**116,400.0**	**122,370.0**	**109,000.0**	**109,970.0**
LOCAL AREA AUGMENTATION SYSTEM FOR GPS (LAAS)	6,000.0	6,500.0	6,500.0	6,500.0	6,500.0
WIDE AREA AUGMENTATION SYSTEM (WAAS)	0.0	101,530.0	114,000.0	101,530.0	152,830.0
SUBTOTAL - LANDING/NAVAIDS	**6,000.0**	**108,030.0**	**120,500.0**	**108,030.0**	**159,330.0**
FAA TECHNICAL CENTER FACILITY - BUILDING LEASE	5,290.0	5,290.0	5,290.0	5,290.0	5,290.0
UTILITY PLANT MODIFICATIONS	910.0	0.0	0.0	0.0	0.0
NAS IMPROVEMENT OF SYSTEM SUPPORT LABORATORY	2,000.0	2,000.0	2,000.0	2,000.0	2,000.0
TECHNICAL CENTER FACILITIES	9,000.0	7,000.0	7,000.0	7,000.0	7,000.0
INDEPENDENT OPERATIONAL TEST SUPPORT	3,500.0	3,200.0	3,200.0	3,200.0	3,200.0
INNOVATIVE INFRARED DEICING TECHNOLOGY	0.0	0.0	0.0	970.0	0.0
SUBTOTAL, RDT&E EQUIPMENT AND FACILITIES	**20,700.0**	**17,490.0**	**17,490.0**	**18,460.0**	**17,490.0**
TOTAL ACTIVITY 1	***383,387.0***	***322,560.0***	***427,600.0***	***316,130.0***	***432,030.0***
AIR TRAFFIC CONTROL FACILITIES AND EQUIPMENT:					
LONG RANGE RADAR (LRR) PROGRAM - REPLACE/ESTABLISH	16,500.0	6,600.0	6,600.0	6,600.0	6,600.0
EN ROUTE AUTOMATION	106,100.0	214,240.0	214,190.2	214,240.0	212,290.2
NEXT GENERATION WEATHER RADAR (NEXRAD)	0.0	3,000.0	3,000.0	3,000.0	3,000.0
AIR TRAFFIC OPERATIONS MANAGEMENT	1,000.0	1,000.0	1,000.0	1,000.0	1,000.0
WEATHER AND RADAR PROCESSOR (WARP)	24,650.0	24,400.0	0.0	24,400.0	0.0
AERONAUTICAL DATA LINK (ADL) APPLICATIONS	17,425.0	8,000.0	0.0	4,000.0	0.0
ARTCC BUILDING IMPROVEMENTS/PLANT IMPROVEMENTS	62,087.0	98,551.7	86,451.7	98,551.7	96,851.2
VOICE SWITCHING AND CONTROL SYSTEM (VSCS)	101,700.0	50,700.0	50,700.0	50,700.0	45,400.0
RCF - EXPAND/RELOCATE	2,825.0	1,440.0	1,440.0	3,140.0	3,140.0
TRAFFIC FLOW MANAGEMENT	38,000.0	0.0	0.0	0.0	0.0
AIR TRAFFIC MANAGEMENT	0.0	44,200.0	17,000.0	44,200.0	40,000.0
DATA MULTIPLEXING NETWORK (DMN)	3,900.0	3,900.0	3,900.0	3,900.0	2,900.0
CRITICAL COMMUNICATIONS SUPPORT	0.0	4,300.0	4,300.0	4,300.0	3,000.0
SATELLITE COMMUNICATIONS CIRCUIT BACK-UP	2,000.0	0.0	0.0	0.0	0.0
DOD BASE CLOSURE - FACILITY TRANSFER	500.0	2,200.0	2,200.0	2,200.0	2,200.0
BACK-UP EMERGENCY COMMUNICATIONS (BUEC)	3,000.0	8,500.0	8,500.0	8,500.0	8,500.0
AIR/GROUND COMMUNICATION RFI ELIMINATION	0.0	2,000.0	2,000.0	2,000.0	2,000.0
VOLCANO MONITOR	2,000.0	0.0	0.0	2,000.0	2,000.0

FACILITIES AND EQUIPMENT
Fiscal Year 1998
Conference Agreement
(In thousands of dollars)

TITLE	FY 1997 Enacted	FY 1998 Estimate	FY 1998 House	FY 1998 Senate	Conference Agreement
ATC BEACON INTERROGATOR (ATCBI) REPLACEMENT	1,000.0	7,400.0	7,400.0	7,400.0	7,400.0
SPECTRUM AUCTION IMPACT	40,000.0	0.0	0.0	0.0	0.0
LOW DENSITY RADIO COMMUNICATIONS LINK	0.0	29,840.0	23,840.0	23,840.0	23,840.0
ATC EN ROUTE RADAR FACILITIES	0.0	6,748.3	6,748.3	6,748.3	6,748.3
EN ROUTE COMMS AND CONTROL FACILITIES IMPROVEMENT	3,265.0	918.3	918.3	918.3	918.3
OMEGA TERMINATION COST	0.0	0.0	6,700.0	0.0	6,700.0
SUBTOTAL - EN ROUTE PROGRAMS	**425,952.0**	**517,938.3**	**446,888.5**	**511,638.3**	**474,488.0**
TERMINAL DOPPLER WEATHER RADAR (TDWR) - PROVIDE	4,655.0	4,800.0	2,300.0	2,300.0	2,300.0
MODE S - PROVIDE	3,980.0	0.0	0.0	0.0	0.0
TERMINAL AUTOMATION	16,300.0	40,000.0	33,800.0	40,000.0	36,500.0
REMOTE MAINTENANCE MONITORING SYSTEM (RMMS)	17,900.0	0.0	0.0	0.0	0.0
TERMINAL AIR TRAFFIC CONTROL FACILITIES - REPLACE	74,400.0	62,000.0	67,000.0	70,000.0	67,000.0
CONTROL TOWER/TRACON FACILITIES - IMPROVE	16,354.0	18,631.1	4,800.0	0.0	0.0
TERMINAL VOICE SWITCH REPLACEMENT (TVSR)	12,300.0	9,940.0	1,640.0	1,640.0	1,640.0
RADIO CONTROL EQUIPMENT (RCE) - PROVIDE	0.0	3,000.0	3,000.0	3,000.0	3,000.0
EMPLOYEE SAFETY/OSHA AND ENVIRONMENTAL COMPLIANCE	21,000.0	43,700.0	23,000.0	43,700.0	23,000.0
CHICAGO METROPLEX	2,900.0	4,700.0	4,700.0	4,700.0	4,700.0
NEW AUSTIN AIRPORT AT BERGSTROM	16,900.0	3,700.0	2,000.0	0.0	1,000.0
POTOMAC METROPLEX	1,000.0	2,600.0	27,600.0	2,600.0	27,600.0
DENVER METROPLEX	4,000.0	1,200.0	1,200.0	1,200.0	1,200.0
NORTHERN CALIFORNIA METROPLEX	7,500.0	21,700.0	21,700.0	21,700.0	21,700.0
ATLANTA METROPLEX	6,500.0	15,600.0	25,400.0	15,600.0	20,000.0
TOWER AUTOMATION PROGRAM	10,000.0	2,000.0	0.0	0.0	0.0
DIGITAL VOICE RECORDER SYSTEM	4,000.0	3,000.0	3,000.0	3,000.0	3,000.0
NAS INFRASTRUCTURE MANAGEMENT SYSTEM (NIMS)	0.0	26,750.0	18,000.0	25,350.0	18,000.0
AIRPORT SURVEILLANCE RADAR (ASR-9)	0.0	23,700.0	23,700.0	23,700.0	23,700.0
AIRPORT SURFACE DETECTION EQUIPMENT (ASDE-3)	4,000.0	0.0	8,600.0	0.0	7,500.0
TERMINAL RADAR (ASR) - IMPROVE	4,445.0	3,240.5	3,240.5	3,240.5	3,240.5
SOUTHERN CALIFORNIA METROPLEX	5,700.0	0.0	0.0	0.0	0.0
AIRPORT MOVEMENT AREA SAFETY SYSTEM (AMASS)	15,393.0	0.0	14,300.0	0.0	11,600.0
TERMINAL COMMUNICATIONS IMPROVEMENTS	3,406.0	2,189.0	0.0	0.0	0.0
GRR/GRT RADIO REPLACEMENT	12,000.0	0.0	0.0	0.0	0.0
SUBTOTAL - TERMINAL PROGRAMS	**264,633.0**	**292,450.6**	**288,980.5**	**261,730.5**	**276,680.5**
AUTOMATED SURFACE OBSERVING SYSTEM (ASOS)	12,644.0	14,850.0	14,850.0	24,850.0	24,850.0
OASIS	500.0	4,900.0	3,900.0	4,900.0	3,900.0
AUTOMATED WEATHER OBSERVING SYSTEM (AWOS)	550.0	0.0	0.0	0.0	0.0
AWOS/ASOS AUGMENTATION-STATE OF ALASKA	550.0	0.0	0.0	0.0	0.0
ADVANCED WEATHER OBSERVING SYSTEMS	0.0	0.0	7,150.0	0.0	0.0
DIGITAL ALTIMETER SETTING INDICATORS (DASI) - REPLACE	0.0	1,600.0	1,600.0	1,600.0	1,600.0
FLIGHT SERVICE FACILITIES IMPROVEMENT	0.0	1,418.5	1,418.5	1,418.5	1,418.5
SUBTOTAL - FLIGHT SERVICE PROGRAMS	**14,244.0**	**22,768.5**	**28,918.5**	**32,768.5**	**31,768.5**
VOR/DME/TACAN NETWORK PLAN	1,900.0	2,445.0	2,445.0	2,445.0	2,445.0
INSTRUMENT LANDING SYSTEM (ILS) - ESTABLISH/UPGRADE	2,900.0	3,000.0	3,000.0	23,000.0	3,000.0
ILS - REPLACE MARK 1A, 1B, AND 1C	0.0	2,200.0	2,200.0	2,200.0	2,200.0
LOW LEVEL WINDSHEAR ALERT SYSTEM (LLWAS)	17,399.0	4,300.0	4,300.0	4,300.0	4,300.0
RUNWAY VISUAL RANGE (RVR)	3,000.0	3,500.0	3,500.0	3,500.0	3,500.0
INSTRUMENT APPROACH PROCEDURES AUTOMATION (IAPA)	2,400.0	0.0	0.0	0.0	0.0
GULF OF MEXICO OFFSHORE PROGRAM	5,950.0	3,200.0	3,200.0	3,200.0	3,200.0
ILS REPLACEMENT/WILCOX CAT II/III	0.0	2,745.0	2,745.0	2,745.0	2,745.0
WIDE AREA AUGMENTATION SYSTEM (WAAS)	0.0	51,300.0	0.0	51,300.0	0.0
NDB SUSTAIN	0.0	1,400.0	1,400.0	1,400.0	1,400.0
NAVIGATIONAL AND LANDING AIDS - IMPROVE	3,744.0	2,402.5	2,402.5	3,357.5	3,000.0
ILS - REPLACE GRN-27	9,000.0	0.0	0.0	0.0	0.0
APPROACH LIGHTING SYSTEM IMPROVEMENT (ALSIP)	2,000.0	0.0	0.0	0.0	0.0

FACILITIES AND EQUIPMENT
Fiscal Year 1998
Conference Agreement
(In thousands of dollars)

TITLE	FY 1997 Enacted	FY 1998 Estimate	FY 1998 House	FY 1998 Senate	Conference Agreement
LORAN-C UPGRADES	4,650.0	0.0	5,000.0	0.0	3,000.0
PRECISION APPROACH PATH INDICATORS (PAPI)	3,125.0	0.0	5,000.0	5,000.0	3,500.0
ANEMOMETERS AND RELATED EQUIPMENT-JUNEAU, AK	375.0	0.0	0.0	3,500.0	3,500.0
TACTICAL LANDING SYSTEMS	0.0	0.0	0.0	10,000.0	0.0
SUBTOTAL - LANDING AND NAVIGATIONAL AIDS	**56,443.0**	**76,492.5**	**35,192.5**	**115,947.5**	**35,790.0**
ALASKAN NAS INTERFACILITY COMM SYSTEM (ANICS)	12,000.0	8,600.0	8,600.0	8,600.0	8,600.0
FUEL STORAGE TANK REPLACEMENT AND MONITORING	40,000.0	30,000.0	30,000.0	30,000.0	25,000.0
FAA BUILDINGS AND EQUIPMENT - IMPROVE/MODERNIZE	12,600.0	10,000.0	10,000.0	10,000.0	10,000.0
ELECTRICAL POWER SYSTEMS - SUSTAIN/SUPPORT	15,000.0	16,200.0	16,200.0	20,200.0	19,200.0
AIR NAVAIDS AND ATC FACILITIES (LOCAL PROJECTS)	2,000.0	2,000.0	2,000.0	2,000.0	2,000.0
AIRCRAFT RELATED EQUIPMENT PROGRAM	4,900.0	2,000.0	2,000.0	2,000.0	2,000.0
AIRCRAFT FLEET MODERNIZATION	0.0	2,701.0	2,701.0	18,951.0	2,701.0
AIRPORT CABLE LOOP SYSTEMS - SUSTAINED SUPPORT	0.0	500.0	500.0	500.0	500.0
COMPUTER AIDED ENG GRAPHICS (CAEG) REPLACEMENT	1,500.0	1,000.0	1,000.0	1,000.0	1,000.0
SUBTOTAL - OTHER ATC FACILITIES	**88,000.0**	**73,001.0**	**73,001.0**	**93,251.0**	**71,001.0**
TOTAL ACTIVITY 2	***849,272.0***	***982,650.9***	***872,981.0***	***1,015,335.8***	***889,728.0***
NON-ATC FACILITIES AND EQUIPMENT:					
NAS MANAGEMENT AUTOMATION PROGRAM (NASMAP)	0.0	1,000.0	1,000.0	1,000.0	1,000.0
HAZARDOUS MATERIALS MANAGEMENT	15,000.0	20,000.0	15,000.0	7,000.0	7,000.0
AVIATION SAFETY ANALYSIS SYSTEM (ASAS)	19,400.0	16,800.0	16,800.0	16,800.0	16,800.0
OPERATIONAL DATA MANAGEMENT SYSTEM (ODMS)	5,100.0	1,600.0	0.0	1,600.0	1,000.0
FAA EMPLOYEE HOUSING - PROVIDE	5,000.0	0.0	0.0	0.0	0.0
LOGISTICS SUPPORT SYSTEM AND FACILITIES	1,500.0	9,749.0	9,749.0	9,749.0	9,749.0
TEST EQUIPMENT - MAINTENANCE SUPPORT	1,000.0	500.0	500.0	500.0	500.0
INTEGRATED FLIGHT QUALITY ASSURANCE	2,000.0	4,000.0	4,000.0	4,000.0	3,000.0
SAFETY PERFORMANCE ANALYSIS SUBSYSTEM (SPAS)	2,600.0	4,100.0	4,100.0	4,100.0	4,100.0
NATIONAL AVIATION SAFETY DATA CENTER	3,700.0	2,000.0	2,000.0	2,000.0	2,000.0
NAS RECOVERY COMMUNICATIONS (RCOM)	1,500.0	0.0	0.0	0.0	0.0
PERFORMANCE ENHANCEMENT SYSTEM	5,400.0	11,000.0	11,000.0	11,000.0	11,000.0
EXPLOSIVE DETECTION SYSTEMS	144,200.0	0.0	0.0	0.0	0.0
SUBTOTAL - SUPPORT EQUIPMENT	**206,400.0**	**70,749.0**	**64,149.0**	**57,749.0**	**56,149.0**
COMPUTER BASED INSTRUCTION (CBI) - EXPAND/IMPROVE	3,000.0	5,500.0	3,000.0	5,500.0	3,000.0
AERONAUTICAL CENTER TRAINING AND SUPPORT FACILITIES	0.0	6,000.0	6,000.0	6,000.0	6,000.0
NATIONAL AIRSPACE SYSTEM (NAS) TRAINING FACILITIES	1,000.0	1,500.0	1,500.0	1,500.0	1,500.0
DSR TRAINING SIMULATOR (MARC)	0.0	0.0	4,000.0	0.0	4,000.0
AIRPORT FIREFIGHTING TRAINING (RMESTC)	0.0	0.0	0.0	750.0	0.0
SUBTOTAL - TRAINING EQUIPMENT & FACILITIES	**4,000.0**	**13,000.0**	**14,500.0**	**13,750.0**	**14,500.0**
TOTAL ACTIVITY 3	***210,400.0***	***83,749.0***	***78,649.0***	***71,499.0***	***70,649.0***
MISSION SUPPORT:					
SYSTEM ENGINEERING AND DEVELOPMENT SUPPORT	31,341.0	31,930.0	30,960.0	31,930.0	28,960.0
PROGRAM SUPPORT LEASES	29,600.0	27,500.0	27,500.0	27,500.0	27,500.0
LOGISTICS SUPPORT SERVICES	8,800.0	6,000.0	6,000.0	6,000.0	6,000.0
MIKE MONRONEY AERONAUTICAL CENTER - LEASE	15,500.0	15,200.0	15,200.0	15,200.0	15,200.0
IN-PLANT NAS CONTRACT SUPPORT SERVICES	4,800.0	2,500.0	2,500.0	2,500.0	2,500.0
TRANSITION ENGINEERING SUPPORT	47,500.0	44,800.0	44,800.0	44,800.0	44,800.0
FREQUENCY AND SPECTRUM ENGINEERING - PROVIDE	1,200.0	1,500.0	1,500.0	1,500.0	1,500.0
PERMANENT CHANGE OF STATION MOVES	8,500.0	3,800.0	3,800.0	3,800.0	3,800.0
FAA SYSTEM ARCHITECTURE	6,500.0	5,200.0	5,200.0	5,200.0	3,500.0
TECHNICAL SERVICES SUPPORT CONTRACT (TSSC)	65,900.0	54,700.0	54,700.0	54,700.0	54,700.0

FACILITIES AND EQUIPMENT
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(In thousands of dollars)

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RESOURCE TRACKING PROGRAM	1,000.0	500.0	500.0	500.0	500.0
CENTER FOR ADVANCED AVIATION SYSTEM DEV. (MITRE)	57,000.0	55,300.0	59,000.0	55,300.0	57,000.0
FY 2000 COMPUTER REPLACEMENT	0.0	18,000.0	18,000.0	18,000.0	18,000.0
WAREHOUSED EQUIPMENT	0.0	0.0	7,000.0	0.0	0.0
TOTAL ACTIVITY 4	***277,641.0***	***266,930.0***	***276,660.0***	***266,930.0***	***263,960.0***
PERSONNEL AND RELATED EXPENSES:					
PERSONNEL AND RELATED EXPENSES	217,000.0	219,110.0	219,110.0	219,110.0	219,110.0
TOTAL ACTIVITY 5	***217,000.0***	***219,110.0***	***219,110.0***	***219,110.0***	***219,110.0***
TOTAL	***1,937,700.0***	***1,874,999.9***	***1,875,000.0***	***1,889,004.8***	***1,875,477.0***

Funding responsibility for navigation and landing aids.—The conferees agree with the direction of the House that the FAA should not move forward on any proposal to shift funding responsibility for navigation and landing aids from the FAA to other parties without specific Congressional authorization.

Instrument landing systems—establishment.—The conference agreement provides $3,000,000 for installation of previously purchased instrument landing systems as requested in the budget and proposed by the House, instead of $23,000,000 as proposed by the Senate. The conferees agree not to direct these funds be allocated to specific locations.

Assessments.—The conferees agree with the direction of the House that the FAA is to discontinue the practice of "assessing" F&E projects for administrative costs unrelated to the specific F&E program.

GPS wide area augmentation system.—The conferees agree to provide $152,830,000 for continued development of the GPS wide area augmentation system (WAAS), as proposed by the Senate, instead of $114,000,000 as proposed by the House. All funds are provided under budget activity one, as proposed by the House, reflecting the developmental nature of this program.

The conferees are very concerned about the current status of this important program, and that comprehensive and timely planning—in concert with budget deliberations—is not being conducted. In the last three years, this program has witnessed changes in the prime contractor, the program manager, and the program sponsor. Significant new requirements have been announced by the FAA, the cost to complete has risen, and the schedule has slipped. And all this has occured in a program which has enjoyed the highest level of Congressional and Executive Branch support for funding—and which has been held up as an example of FAA's new acquisition management system.

The conferees are concerned that this critical program not turn into another debacle like the advanced automation system. Therefore, the conferees direct:

(a). That no more than 25 percent of fiscal year 1998 funds be obligated until the Secretary of Transportation reports to the House and Senate Committees on Appropriations regarding the status and management of the program, including a funding profile for all years of the program;

(b). That no more than 70 percent of fiscal year 1998 funds be obligated until April 1, 1998, unless the Appropriations Committees provide approval prior to that date;

(c). That the FAA administrator provide quarterly reports to the Appropriations Committees on cost, schedule, and technical performance status; and

(d). That the Comptroller General report to the Appropriations Committees on the status of the program, not later than March 1, 1998.

The conferees are uncertain of how FAA intends to provide satellite communications capability for this program, and the extent to which those costs are included in long range capital budget plans. Therefore, the conferees request the Secretary of Transportation to submit a report detailing the specific plans in this regard, including a detailed funding profile and schedule, by February 15, 1998.

The conference agreement provides funding sufficient for this program to maintain its current schedule. As a result, the conferees have deleted funds proposed by the Senate for additional instrument landing systems and for tactical landing systems. However, the conferees advise the FAA that a reprogramming for these systems might be directed during fiscal year 1998 if the FAA is unable to meet the tests above ensuring timely obligation of fiscal year 1998 WAAS funding.

Potomac metroplex.—The conference agreement provides $27,600,000 for construction of the Potomac metroplex, as proposed by the House, instead of $2,600,000 as proposed by the Senate. After many years of study, to the conferees' knowledge the FAA has not identified any aircraft noise-related issues attendant with the construction of this new facility. However, should the FAA determine in the future that adverse noise impacts might occur, the FAA is expected to advise the House and Senate Appropriations Committees in a timely manner.

Terminal automation.—The conferees are alarmed to learn that the FAA has internally reported a shortfall in the funding needed to continue production of the DDM–2300 series monitors, which are key elements in the architecture of the STARS program. This could not only jeopardize the fixed price contract, but also halt U.S. production of these monitors. The conferees direct the FAA to report to the House and Senate Committees on Appropriations by December 15, 1997 explaining how the agency will locate the resources necessary to continue to monitor production during fiscal year 1998.

Weather observing systems.—The conferees do not agree with the House's direction requiring a competitive procurement between AWOS and ASOS systems, but direct the FAA to perform a cost-capability tradeoff study to determine the appropriateness of procuring more AWOS units in fiscal year 1999. The conference agreement includes $10,000,000 as proposed by the Senate for the acquisition of additional ASOS systems.

ARTCC building improvements.—The conferees agree that, of the funds provided for "ARTCC building/plant improvements", $12,100,000 is for relocation of the Honolulu center/radar approach control (CERAP), as proposed by the Senate. The House recommended no funding for this facility.

Navigational and landing aids.—The conferees agree that, within funds provided for "Navigational and landing aids", the FAA should allocate $80,000 for an ODALS system at the airport in Cordova, Alaska, and sufficient funding to develop instrument approaches at the airport in Rutland, Vermont.

Terminal automated radar display and information system.—The conferees encourage the FAA to give full consideration to installing a terminal automated radar display and information system (TARDIS) at Paine Field in Washington.

Tucson International Airport tower study.—The conferees are concerned that the extension of the main runway at Tucson International Airport has altered the line of sight of air traffic controllers at this facility, and that the current placement of the control tower does not allow the controllers full visibility of the airfield. The conferees direct the FAA to conduct a study to determine if the air traffic control tower needs to be relocated to ensure the continued safety of flight operations at this airport.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement provides $199,183,000 for FAA research, engineering, and development instead of $185,000,000 as proposed by the House and $214,250,000 as proposed by the Senate.

The following table shows the distribution of funds in the House and Senate bills and the conference agreement:

RESEARCH, ENGINEERING, AND DEVELOPMENT
Fiscal Year 1998
Conference Agreement

Program Name	Budget Estimate	Comparative Estimate	FY 1998 House	FY 1998 Senate	Conference Agreement
System Development and Infrastructure	**75,550,000**	**16,379,000**	**9,804,000**	**75,550,000**	**14,654,000**
System planning & resource management	1,164,000	2,889,000	1,860,000	1,164,000	1,164,000
Technical laboratory facility	3,341,000	8,046,000	2,500,000	3,341,000	8,046,000
Center for Advanced Aviation System Development	5,444,000	5,444,000	5,444,000	5,444,000	5,444,000
Personnel and related expenses	65,601,000	0	0	65,601,000	0
Capacity and Air Traffic Management Technology	**9,108,000**	**24,383,000**	**25,297,000**	**9,108,000**	**21,258,000**
Air traffic management technology	2,986,000	4,812,000	2,986,000	2,986,000	2,986,000
Oceanic automation program	0	4,202,000	5,000,000	0	4,202,000
Runway incursion reduction	2,990,000	3,294,000	6,000,000	2,990,000	6,000,000
System capacity, planning and improvements	1,367,000	4,013,000	7,241,000	1,367,000	4,000,000
Cockpit technology	1,765,000	4,070,000	4,070,000	1,765,000	4,070,000
General aviation/vertical flight technology	0	1,172,000	0	0	0
Modeling, analysis, and simulation	0	0	0	0	0
Free flight implementation	0	2,820,000	0	0	0
Communications, Navigation & Surveillance	**15,132,000**	**23,362,000**	**15,132,000**	**15,132,000**	**18,103,000**
Communications	4,706,000	9,965,000	4,706,000	4,706,000	4,706,000
Navigation	10,426,000	13,397,000	10,426,000	10,426,000	13,397,000
Surveillance	0		0	0	0
Weather	**3,982,000**	**6,055,000**	**15,300,000**	**8,982,000**	**15,300,000**
Airport Technology	**5,458,000**	**7,854,000**	**5,000,000**	**5,458,000**	**5,000,000**
Aircraft Safety Technology	**26,625,000**	**38,999,000**	**42,662,000**	**34,625,000**	**49,202,000**
Aircraft systems fire safety	2,049,000	5,665,000	6,993,000	2,049,000	6,993,000
Advanced materials/structural safety	1,700,000	2,706,000	3,065,000	1,700,000	3,065,000
Propulsion and fuel systems	1,691,000	3,048,000	5,000,000	1,691,000	5,000,000
Flight safety/atmospheric hazards research	1,660,000	3,018,000	2,063,000	1,660,000	2,063,000
Aging aircraft	12,966,000	16,040,000	15,000,000	20,966,000	21,540,000
Aircraft catastrophic failure prevention research	1,270,000	1,981,000	4,000,000	1,270,000	4,000,000
Aviation safety risk analysis	5,289,000	6,541,000	6,541,000	5,289,000	6,541,000
System Security Technology	**49,895,000**	**56,045,000**	**39,655,000**	**51,145,000**	**44,225,000**
Explosives and weapons detection	36,200,000	39,568,000	30,135,000	37,450,000	34,200,000
Airport security technology integration	4,000,000	5,358,000	2,485,000	4,000,000	2,485,000
Aviation security human factors	4,695,000	5,512,000	5,540,000	4,695,000	5,540,000
Aircraft hardening	5,000,000	5,607,000	1,495,000	5,000,000	2,000,000
Human Factors & Aviation Medicine	**10,737,000**	**21,668,000**	**26,550,000**	**10,737,000**	**26,550,000**
Flight deck/maintenance/system integration human factors	7,272,000	9,457,000	12,550,000	7,272,000	12,550,000
Air traffic control/airway facilities human factors	3,078,000	7,624,000	10,000,000	3,078,000	10,000,000
Aeromedical research	387,000	4,587,000	4,000,000	387,000	4,000,000
Environment and Energy	**2,891,000**	**2,891,000**	**3,600,000**	**2,891,000**	**2,891,000**
Innovative/Cooperative Research	**622,000**	**2,364,000**	**2,000,000**	**622,000**	**2,000,000**
Total appropriation	*200,000,000*	*200,000,000*	*185,000,000*	*214,250,000*	*199,183,000*

Runway incursion reduction.—The conferees agree that, within the funds available, the FAA should pursue, as a high priority, further development of the surface movement advisor and the demonstration of low-cost ASDE technology.

Weather research.—The conferees provide $15,300,000 for weather research as proposed by the House instead of $8,982,000 as proposed by the Senate. The FAA is directed not to reprogram any of these funds to activities outside the weather research program, as proposed by the House. Within the amount provided, the FAA is to allocate funds as follows:

Center for Wind, Ice and Fog, New Hampshire	$500,000
Project Socrates	3,000,000
National Center for Atmospheric Research (NCAR)	11,000,000

ATC/AF human factors.—The conferees agree that, of the funds provided for ATC/AF human factors, $500,000 is available only for additional research into assessment, evaluation, and development of training methodologies related to the English language proficiency problem.

Flight 2000.—The conference agreement includes bill language prohibiting funds in this Act from implementing the Flight 2000 demonstration program during fiscal year 1998. While the conferees agree that this program may ultimately prove to have merit, a great deal of financial and technical planning, and justification before the Congress, still needs to take place. The administration has not requested funds for this effort in fiscal year 1998, and the conferees agree with the House that funds should not be reprogrammed from other important FAA activities to begin such a large program midway through the year.

Aging aircraft.—Of the $21,540,000 provided for "Aging aircraft", the conferees agree to the following allocations: $3,000,000 for direct support of the Aging Aircraft Nondestructive Inspection Validation Center; $1,000,000 for aging aircraft-related activities at the Center for Aviation Systems Reliability; $6,000,000 for the Airworthiness Assurance Center of Excellence; $1,500,000 to conduct research at the Center for Intelligent Aviation Technologies; and $4,400,000 to further engine titanium component inspection.

Explosives and weapons detection.—The conferees agree that, of the funds provided for "Explosives and weapons detection", $1,250,000 is to continue to develop pulsed fast neutron transmission spectroscopy technology, as specified in the Senate report.

Explosive detection systems.—Consistent with the administration's budget request for fiscal year 1998, the conferees have not provided fiscal year 1998 funding for the acquisition and deployment of explosive detection systems. Since submission of the administration's fiscal year 1998 budget, the House and Senate Committees on Appropriations have repeatedly impressed upon the department that the Congress is open to a budget amendment on this issue. However, no amendment requesting funds for these systems has been submitted. The conferees reiterate a willingness to consider such funding in future appropriations action, should funding be requested. The conferees also note that acquisition of these systems is eligible for funding, under the airport improvement program. The conference agreement provides $1,700,000,000 for this program, which is a substantial increase over fiscal year 1997.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes a liquidating cash appropriation of $1,600,000,000, as proposed by the House and the Senate.

Obligation limitation.—The conferees agree to an obligation limitation of $1,700,000,000 for the "Grants-in-aid for airports" program, as proposed by both the House and the Senate. The conferees also agree to the provision in the Senate bill which limits funds for the military airport program and the noise planning and mitigation program in order to provide additional funds for capacity enhancements and safety projects. Without this provision, there would be an imbalance between the various components of this program, with safety, security, small hubs, true discretionary, and capacity-enhancement funds held at the fiscal year 1997 level while allowing huge increases in two particular programs: the military airport set-aside and the noise-mitigation set-aside (increases of 252 percent and 66 percent, respectively). While providing an overall increase of 16 percent, the conference agreement provides more consistent and fair increases for each of these categories, as follows:

	Percent
Noise mitigation	+39.4
Military airport program	+40.5
Capacity/safety/security/noise (CSSN)	+27.0
Remaining discretionary	+27.0

Priority consideration.—The conferees agree that the FAA should give priority consideration to grant applications for the projects listed in the House or Senate reports, or in this statement of the managers, in the categories of discretionary grants for which they are eligible. If projects cited in these reports which are eligible for fiscal year 1998 AIP funding are not funded with funds in the remaining discretionary category, the conferees expect that any projects funded within this discretionary category will be:

(a). Projects for which FAA has issued letters of intent (LOIs);

(b). Projects that will produce significant aviation safety improvements;

(c). Projects otherwise necessary for rehabilitation of airport infrastructure; or

(d). Projects with a positive net present value, as determined by a benefit-cost analysis, for those projects exceeding $5,000,000 in capacity discretionary funding.

In addition to those airports listed in the House and Senate reports, the conferees agree to the following:

Akron-Canton Regional Airport, North Canton, Ohio.—The conferees urge the FAA to give priority consideration to requests for discretionary funding for the extension of runway 1-19.

Rickenbacker International Airport, Columbus, Ohio.—The conferees are pleased to note the significant progress made in the transition of the former Rickenbacker Air Force Base to Rickenbacker International Airport and foreign trade zone number 138. The conferees encourage the FAA to give favorable consideration to grant applications within available discretionary programs that will support Rickenbacker's five year capital improvement plan to address essential infrastructure needs.

Montgomery County Airport, PA.—The conferees agree that projects at this airport should receive priority consideration by the FAA, except the conferees agree that the safety concerns of residents adjacent to Wings Field should be addressed to their satisfaction before grant funding is considered or approved.

Waynesboro Airport, MS.—The conferees direct the FAA to give priority consideration to requests for discretionary funding to support continuation of the airport's improvement program, including earthwork and site preparation for a project to lengthen and widen a runway and construct a parallel taxiway and apron.

Brewton Municipal Airport, AL.—The conferees urge the FAA to give priority consideration to needed safety improvements at this joint military/civilian use airport.

Pueblo Airport, CO.—The conferees urge the FAA to give priority consideration to projects to improve and expand the Pueblo Airport in Colorado.

Philadelphia International Airport, PA.—The conferees urge the FAA to give high priority to the installation of an instrument landing system and precision runway monitor at Philadelphia International Airport in line with support for timely completion of a new runway at this facility. The conferees note the consistent support for this new runway by both FAA and the Congress. The schedule for installation of navigational aids at Philadelphia by the FAA needs to coincide with completion of the new runway, now scheduled to occur in December 1999, to ensure the safe and efficient use of the runway under instrument weather conditions.

Colorado Springs Airport, CO.—The conferees agree that the FAA should give priority consideration to rehabilitation of runway 17R/35L at Colorado Springs Airport instead of the projects cited in the Senate report.

Moore County Airport, NC.—Enplanements at the Moore County Airport, which serves the resort area of Pinehurst, continue to increase and the airport is thus eager to embark on the first phase of its four stage expansion plan. The airport wishes to accelerate the requisite land acquisitions due to the rapid growth of the area and the resultant appreciation of local real estate values. The conferees urge the FAA to give priority consideration to requests for discretionary funding for these land purchases and for projects related to timely safety and security improvements at the Moore County Airport.

Anchorage International Airport, AK.—The conferees have provided language in the Senate report urging FAA to issue a letter of intent to support planned improvements at Anchorage International Airport. Instead, the conferees urge FAA to give priority consideration for discretionary grants for surface improvements at the airport to support a new air cargo facility, to be developed with private funds, and for other improvements planned to meet expected growth in passenger traffic over the next twenty years.

Isbell Field Municipal Airport, AL.—The conferees are pleased that, since 1993, the FAA has assisted the City of Fort Payne, Alabama in its efforts to acquire the requisite land to expand the Isbell Field Municipal Airport. The multiyear funding requested by the City of Fort Payne would expand Isbell Field and increase its capacity to meet the growing aviation needs of De Kalb County. The conferees recognize the need for land acquisition at this airport and urge the FAA to award discretionary grants for the expanded runway project consistent with existing evaluation criteria.

Clover Field Airport, TX.—The conferees are pleased to note that, since 1989, the FAA has assisted local public sponsors in their efforts to acquire Clover Field Airport, a privately-owned, public use federal reliever airport

near Houston Hobby Airport in Texas. The FAA has helped fund Clover Field's feasibility study, airport master plan, and environmental assessment. The conferees consider this to be a worthy project, recognizing that Clover Field has served the region for over fifty years, and noting that the FAA has also recognized its importance by choosing it as the site for the recently commissioned doppler weather radar system and by making it one of the few general aviation facilities with a GPS weather station. Therefore, if the public sponsors complete their due diligence in fiscal year 1998, the conferees encourage the FAA to provide the needed funding to them for the final acquisition of Clover Field Airport.

San Diego International Airport, CA.—As a result of noise litigation, in 1993 the San Diego Unified Port District made a commitment to the community surrounding the San Diego International Airport to complete a school sound attenuation program. Of the five schools in the program, only one—Point Loma High School—remains to be sound attenuated. The conferees encourage FAA to give priority consideration to requests for discretionary funding to expedite and complete this program.

Ogden-Hinckley International Airport, UT.—The conferees are concerned about the adequacy of security provided for the Ogden-Hinckley Airport, not just the immediate area around the terminal. While security fencing of the terminal area might address the security needs of the airport in its existing role, the fencing may be inadequate for the 2002 Winter Olympics or for anticipated growth. The conferees are concerned about the vulnerability to intrusion of the taxiways, hangers, tie-downs, the heli-pad, the deicing area, and other facilities outside the 650 feet of fencing immediately adjacent to the terminal. Accordingly, the conferees urge the administrator to give priority consideration to construction of fencing which meets section 107 security mandates around the entire perimeter of the airport, to include Olympics-related security needs. In evaluating security needs related to the Olympics, the administrator should confer with local and federal law enforcement agencies.

Westmoreland County Airport, PA.—The conferees are aware of the need for funding for the second phase of the expansion of the terminal at the Westmoreland County Airport. This project, when completed, will include more efficient passenger and baggage handling systems, as well as new commercial space. The conferees urge the FAA to give this project priority consideration for available discretionary funds.

Johnstown-Cambria County Municipal Airport, PA.—The conferees are aware of the need for funding of the terminal renovation project and for constructing a firefighting and snow removal equipment building at Johnstown-Cambria County Municipal Airport. The terminal has not been renovated since 1966, and a bigger terminal would attract larger aircraft and more passengers. The conferees urge the FAA to give this project priority consideration for available discretionary funds.

Instrument landing systems.—The conferees agree that the following AIP-eligible equipment should be given priority consideration for discretionary grants:

Zanesville Airport, OH.—installation of localizer and glideslope equipment;

Hays Municipal Airport, KS.—instrument landing system;

Stanly County Airport, NC.—installation of instrument landing system;

Bessemer Airport, AL.—instrument landing system;

Manistee Blacker Airport, MI.—instrument landing system; and

Stennis International Airport, MS.—instrument landing system.

Letters of intent.—The conferees encourage the FAA to consider signing a letter of intent (LOI) for major capacity enhancement projects at the following airports:

New Orleans International, LA
Philadelphia International, PA
Atlanta Hartsfield International, GA
Seattle-Tacoma International, WA
Minneapolis-St. Paul International, MN
Salt Lake City International, UT

The conferees also direct the FAA to advise the House and Senate Committees on Appropriations thirty days prior to awarding any new LOI. This letter should detail any cost savings to the overall project expected to result from the proposed LOI and should list any other LOI applications pending before the FAA. The conferees note that the policy of prior written Congressional notification has been in effect for several years for LOIs totaling more than $10,000,000. However, greater attention needs to be paid to this requirement.

Minneapolis-St. Paul International Airport, MN.—The Minneapolis-St. Paul airport serves as a major hub and a regional air service connector for the upper midwest states. Construction of the planned new 8,000 foot north-south runway, primarily for air carrier operations, is projected to increase the operational capacity of the airport by 25 percent. As such, this project, including land acquisition, would significantly enhance system-wide airport capacity and reduce congestion and delay for aircraft and passengers in a multistate area. The FAA expects that its environmental review of this new runway will be completed during the first quarter of calendar year 1998. The conferees encourage the FAA to consider signing a letter of intent of AIP discretionary funds to this project so this capacity-enhancement project can be constructed as soon as feasible.

Salt Lake City International Airport, UT.—The Salt Lake City International Airport has embarked on a capacity enhancement development program designed to provide much-needed additional airport capacity for the future, as well as for the 2002 Winter Olympic Games. During the past five years, passenger activity has grown 60 percent, making Salt Lake City the second fastest growing airport in the nation. The conferees encourage the FAA to consider signing a letter of intent for the development program at this important airport.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

The conference agreement rescinds $412,000,000 in contract authority instead of $190,000,000 as proposed by the Senate. These funds are unavailable for obligation because they represent a portion of the amount of budget authority above the fiscal year 1997 obligation limitation. Therefore, this rescission will have no effect on ongoing airport construction programs.

AVIATION INSURANCE REVOLVING FUND

The conference agreement includes language authorizing the expenditure of funds for aviation insurance activities as proposed in the House and Senate bills. This legislative language has been carried in appropriations Acts for many years, and is expected to result in no budget authority or outlays during fiscal year 1998.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The conference agreement includes the qualified limitation on funds for the "Aircraft purchase loan guarantee program" proposed by the Senate instead of the outright prohibition on funds proposed by the House. Funding of up to $5,000 for this program has been included under FAA "Operations".

ADMINISTRATIVE SERVICES FRANCHISE FUND

The conference agreement deletes the prohibition on funding new activities under FAA's Administrative Services Franchise Fund during fiscal year 1998 proposed by the House. The conferees direct FAA to submit a report to the House and Senate Committees on Appropriations no later than March 1, 1998 detailing any cost savings which have been achieved by the FAA from operation of the franchise fund.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

The conference agreement limits general operating expenses of the Federal Highway Administration (FHWA) to $552,266,000, instead of $510,313,000 as proposed by the House and $558,440,000 as proposed by the Senate.

The conference agreement provides extended availability of $241,708,000 for contract programs of the Federal Highway Administration, instead of $202,226,000 as proposed by the House and $245,687,000 as proposed by the Senate.

The recommended funding distribution by program and activity of the administrative expenses and research and development programs of the FHWA is as follows:

Program/Activity	*Conference level*
Administrative expenses	$259,558,000
Motor carrier safety administrative expenses	51,000,000
Contract programs:	
Research and technology:	
Highway research and development	61,087,000
Intelligent transportation systems	130,160,000
Technology development	13,311,000
National advanced driving simulator	13,250,000
Local technical assistance	
National Highway Institute	
Minority business enterprises	10,000,000
International transportation	900,000
Rehabilitation of TFHRC	2,000,000
Technical assistance to Russia	
GPS support	1,000,000
R and T technical support	10,000,000
Total	552,266,000

The highway research and development and intelligent transportation systems programs by activity are displayed below:

Program/Activity	*Conference level*
Highway research and development:	
Safety	$9,500,000
Pavements	10,500,000
Structures	15,256,000
Environment	5,666,000
Right-of-way	365,000
Policy	5,400,000
Planning	7,000,000
Motor carrier	7,400,000
Total	61,087,000

Program/Activity	Conference level
Intelligent transportation systems:	
Research and development	31,500,000
Operational tests	83,900,000
Evaluations	7,000,000
Program support	7,760,000
Total	130,160,000

Office of motor carriers.—The conferees have provided $51,000,000 for the office of motor carriers' administrative expenses within the FHWA's limitation on general operating expenses. The conference agreement includes the following adjustments to the budget request:

Operating expenses excluding rent	−$245,000
Federal/industry training	−1,220,000
Outreach	−300,000

Flexibility in the use of funds provided under the limitation on general operating expenses.—The conferees acknowledge that certain activities funded under the limitation on general operating expenses in prior years are not recommended for funding in fiscal year 1998. This treatment is consistent with the administration's fiscal year 1998 budget request, which assumed that these activities will be provided contract authority under legislation pending to reauthorize the federal-aid highway program. The conferees agree that if legislation is not enacted in fiscal year 1998 providing contract authority for these activities, the FHWA may, following notification to and approval of the House and Senate Committees on Appropriations, utilize funds provided within this limitation on general operating expenses for such activities.

Highway research and development.—The conference agreement deletes the House's direction that up to $100,000 of the funds provided for highway research and development be allocated for the San Joaquin air quality study. Funds for the air quality study have been allocated within the funds provided for environment research and development.

The conference agreement deletes the House's direction that funds for various highway research and development activities shall not be obligated until after FHWA has increased its cost sharing from non-federal sources. The FHWA is directed, however, to increase substantially its cost sharing arrangements with non-federal sources in fiscal year 1998 and is directed to document those efforts and successes to the House and Senate Committees on Appropriations with its annual Congressional justifications.

Safety.—The conference agreement includes $250,000 for pedestrian and bicycle safety and $250,000 to conduct a demonstration of technologies and practices to improve the driving performance of elderly drivers.

Structures.—The conference agreement provides sufficient funds to pursue research into high performance materials and bridge systems. The conferees encourage FHWA to work with an academic and industry-led national consortium to demonstrate the applications of an all-composite bridge for civil engineering purposes.

Environment.—The conference agreement includes funding for FHWA's participation in the assessment of methodologies needed for estimating emissions of particulate matter in the San Joaquin Valley of California. The conferees encourage the FHWA to continue its work with the National Center for Physical Acoustics to identify scientific issues which impede accurate noise prediction.

Planning.—The conference agreement provides $7,000,000 for planning research and development. The conferees encourage the FHWA to assess the Red River corridor transportation infrastructure of the five state area pursuant to the recommendations of the Northern Great Plains Rural Development Commission. The conference agreement does not include any funding for the sustainable transportation initiative.

Motor carrier.—The conference agreement includes sufficient funds to conduct a study on the prevalence of sleep apnea in truck drivers and for an operational test and validation of technological aids to improve fatigue management among commercial truck drivers.

Intelligent transportation systems (ITS).—Within the funds provided for operational tests, the conferees direct that funding shall be available for the following projects in the amounts specified below:

Project	Conference level
Advanced transportation weather information system, University of North Dakota	$775,000
Arizona National Center for Traffic and Logistics Management	1,000,000
Commercial vehicle operations, I–5, California	1,500,000
Cumberland Gap tunnel, Kentucky	1,550,000
Dade County Expressway, Florida toll collection system	1,000,000
Franklin County, Massachusetts traveler information system	875,000
Greater Milwaukee freeway traffic management system (MONITOR)	5,500,000
Houston, Texas	1,500,000
I–90/I–94 rural ITS corridor, Wisconsin	1,700,000
Inglewood, California	500,000
Louisiana interstates 55, 10, and 610, ITS systems	5,500,000
Market Street and Pennsylvania convention center passenger information center	325,000
Minnesota Guidestar	6,000,000
Nashville, Tennessee traffic guidance system	750,000
National capital region congestion mitigation	6,000,000
National Institute for Environmental Renewal	1,000,000
I–90 connector, Rensselaer County, New York	1,250,000
I–275, St. Petersburg, Florida	1,000,000
Syracuse, New York advanced transportation management system	1,000,000
Texas Transportation Institute	1,000,000
Rt. 236/I–495, Northern Virginia, ITS systems	500,000
Bozeman, Montana, Western Transportation Institute	1,000,000
Southeast Michigan snow and ice management (SEMSIMS)	1,150,000
Utah intelligent transportation systems	3,500,000
Kansas City, MO, intermodal common communications technology	1,000,000
Reno, NV, intelligent transportation systems	1,875,000
Barboursville—Ona, WV, traffic management	8,000,000
North Dakota State University advanced traffic analysis center	600,000
Sullivan County, NY, emergency weather system	1,000,000
Urban Transportation Safety Systems Center (Philadelphia)	250,000
New York City toll plaza scanners	1,100,000
Cleveland, OH, computer integrated transit maintenance environment project	1,000,000
Santa Teresa, NM, intermodal technology demonstration project[1]	1,000,000
Operation Respond hazardous materials emergency response software	1,000,000
Washington State radio communication emergency call boxes	750,000
Washington statewide roadway weather information system	1,250,000
I–95 multi-state corridor coalition	1,000,000
Colorado I–25 truck safety improvements	9,000,000
Tuscaloosa, AL, traffic integration and flow control	2,200,000
Pennsylvania Turnpike Commission ITS	6,000,000
Alaska cold weather ITS sensing	1,000,000

[1] To be provided to the ATR Institute.

Should the reauthorization or the temporary extension of the Intermodal Surface Transportation Efficiency Act limit the administrative draw down of the Federal Highway Administration in such a way as to limit resources available to fully fund the preceding ITS projects under the limitation on general operating expenses, the conferees direct the FHWA to fund these ITS projects at the levels specified from funds made available for ITS deployment and research and development in the temporary extension and the reauthorization of the Intermodal Surface Transportation Efficiency Act.

International transportation.—The conferees encourage the FHWA to undertake a study on the potential for establishing a roadlink from Wrangell, Alaska to the Canadian border along a proposed Brandfield alignment.

HIGHWAY-RELATED SAFETY GRANTS

(HIGHWAY TRUST FUND)

(LIQUIDATION OF CONTRACT AUTHORIZATION)

The conference agreement deletes an appropriation proposed by the Senate for liquidating cash for highway-related safety grants. The House bill contained no similar appropriation.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

The conference agreement includes $300,000,000 for the Appalachian development highway system as proposed by the Senate. The House bill contained no similar appropriation.

The conference agreement includes language that prohibits the expenditure of funds made available under this heading for engineering, design, right-of-way acquisition or major construction of the Appalachian development highway system between I–81 in Virginia and the community of Wardensville, West Virginia.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

The conference agreement limits obligations for the federal-aid highway program to $21,500,000,000 as proposed by the House instead of $21,800,000,000 as proposed by the Senate.

The conference agreement deletes the Senate references of priority designations and set-asides within the Federal Highway Administration's discretionary grant programs.

Emergency relief program.—In view of a recent Inspector General report questioning the use of over $100 million in highway emergency relief funds, the conferees are concerned about the FHWA's stewardship of the

emergency relief program. The conferees expect FHWA to improve its program management by closely monitoring the expenditure of such funds and adhering to the program eligibility criteria. The conferees further require FHWA to provide a report explaining when emergency relief funds can be used to pay for "betterments". The report shall provide specific examples of the types of betterments FHWA would expect to be funded as a result of the environmental process. The conferees direct that the report be delivered to the House and Senate Committees on Appropriations not later than February 1, 1998.

Central Artery/Third Harbor Tunnel project.—The conferees are concerned that the cost estimate for the Central Artery/Third Harbor tunnel (CA/THT) project in Boston, Massachusetts has increased to approximately $11 billion. As noted in the past, the Commonwealth of Massachusetts must recognize that any cost growth that occurs in this project through the point of its completion will detract from what the state can hope to accomplish in its transportation investments throughout the state for many years to come. The conferees will not support any additional special federal-aid highway funding for the Commonwealth of Massachusetts for this project other than those funds that are apportioned to the state by formula as enacted by Congress. Therefore, cost increases in the project must either be covered by state funds or Massachusetts' formula federal-aid funding.

Further, although the state is currently free to utilize its federal-aid formula funds to support the project, the conferees are concerned that (1) support of the project not adversely impact transportation investments throughout the Commonwealth of Massachusetts; and (2) the project be completed consistent with its current budget. The currently approved finance plan for the project commits the state to support a $400 million annual highway program in the remainder of the state. The conferees are aware that the finance plan must be approved at least annually and that the next update was due October 1, 1997. The Department is directed to submit periodic updates of the plan to the House and Senate Committees on Appropriations, the Inspector General, and the General Accounting Office for review. The conferees feel that it is essential that the finance plan continue to commit the state to a statewide highway program of at least $400 million per year.

With the implementation of the Massachusetts Metropolitan Highway System legislation, the state has put in place mechanisms to help it secure the needed local funds to support both the short and long term needs of the project. That enabling legislation must be followed with specific actions to obtain the local funding. The next finance plan update must recognize the cost increase that occurred during the past year and it must ensure that the local funding sources are adequate to cover total project costs and cash flow needs that can not be met by reasonable expectations of federal-aid formula funds that will be available for obligation to the state.

The conferees note that the project design is virtually complete and the majority of the construction contracts are already awarded. The very nature of this project, constructing underground in a dense urban environment, provides many opportunities for cost increases that must be vigorously guarded against. The finance plan sets out a very stringent target for controlling costs on construction contracts once they are awarded and underway. The Commonwealth of Massachusetts has acknowledged that these goals are tough but achievable. The conferees believe that the state must fully commit its energies to controlling all costs for the remainder of the project life with special emphasis on the cost of awarded contracts. This will require that the state appropriately utilize the best available contract management techniques and also make full use of the contractor value engineering provisions of their contracts.

The conferees direct the state to continue to share project cost information with the Federal Highway Administration on at least a monthly basis and direct the Federal Highway Administration to evaluate trends that could warrant an update of the finance plan at a point sooner than its normal fiscal year anniversary, and to inform the House and Senate Committees on Appropriations of any variance of those trends from the preceding month.

The conferees reiterate that should cost estimates to complete the project exceed the current $11 billion estimate, there may be no other choice in the future but to cap the federal financial participation in the program and/or limit the percentage of federal-aid funds that may be allocated to the project from the state's overall federal-aid apportionment.

Federal lands.—The conferees encourage the FHWA central federal lands highways division to conduct a geographical engineering study to furnish data that will lead to the mitigation of a landslide affecting a major highway within the boundaries of Badlands National Park. The study should include survey, subsurface investigation and required instrumentation. The landslide in the area poses a significant threat to the safety of the traveling public and is a costly and continual maintenance burden.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

The conference agreement provides a liquidating cash appropriation of $20,800,000,000 for the federal-aid highways program as proposed by the House, instead of $20,850,000,000 as proposed by the Senate.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

The conference agreement deletes an appropriation of $8,000,000 for the cost of direct loans from the right-of-way revolving fund as proposed by the Senate and includes a limitation prohibiting obligations for right-of-way acquisition during fiscal year 1998 as proposed by the House.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

A total of $85,000,000 has been provided in liquidating cash for motor carrier safety grants as proposed by both the House and the Senate.

MOTOR CARRIER SAFETY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

The conference agreement provides $84,825,000 for motor carrier safety grants instead of $85,325,000 as proposed by the House and $84,300,000 as proposed by the Senate. This agreement allocates the funding in the following manner:

Basic grants to states	$73,500,000
Border assistance	2,500,000
Priority initiatives	2,000,000
Administrative costs	825,000
Information systems and planning	6,000,000
Total	84,825,000

Basic grants to states.—The conferees have agreed to provide $73,500,000 for basic grants to states. Of this total, the Office of Motor Carriers has the flexibility to provide some of the total funding to states to improve data analysis, information systems, and program management necessary for the implementation of performance-based safety grants in fiscal year 1999, if requested.

Border assistance.—The conference agreement provides $2,500,000 for border assistance, as proposed by the House. Funding has not been provided to the second tier states because Mexican commercial motor vehicles cannot operate beyond Arizona, California, New Mexico, and Texas until the year 2000.

State training and administration.—The conferees provide $825,000 for state training and administration, and direct that no more than $100,000 from any motor carrier account be used to support the Challenge program in fiscal year 1998. Further, the conferees expect that this program will be entirely self-supporting in fiscal year 1999.

Information systems.—The conference agreement provides $6,000,000 for information systems and planning, which shall be allocated as follows: $2,000,000 for information systems and analysis; $3,000,000 for commercial vehicle information; and $1,000,000 for the driver program.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

The conference agreement provides $74,901,000 from the general fund for highway and traffic safety activities instead of $74,492,000 as proposed by the House and $74,760,000 as proposed by the Senate. Of the total, $40,674,000 shall remain available until September 30, 2000 as proposed by the House. The Senate bill contained no similar provision.

The agreement includes a provision which prohibits NHTSA from obligating or expending funds to plan, finalize, or implement any rulemaking that would add requirements pertaining to tire grading standards that are different from those standards already in effect. This provision was contained in both the House and Senate bills.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

The conference agreement provides $72,061,000 from the highway trust fund for operations and research activities instead of $72,415,000 as proposed by the House and $71,740,000 as proposed by the Senate. Of the total, $49,520,000 shall remain available until September 30, 2000 as proposed by the House. The Senate bill contained no similar provision.

The conference agreement for operations and research (general fund and highway trust fund combined) includes the following adjustments to the budget request:

Auto safety hotline	−$236,000
Odometer fraud	−75,000
School bus restraint	+700,000
Youth, drugs, and driving initiative	−600,000
Enforcement and emergency services	−454,000
Head injury management	+250,000
Accountwide adjustment	−123,000

Biomechanics.—Within the funds provided, the conferees direct NHTSA to provide

$100,000 to develop a biofidelic child crash test dummy, as requested by the House.

School bus restraint devices.—The conferees have provided $700,000 for a new pilot program for states to experiment with alternative safety restraint bar devices on school buses. NHTSA shall report back to the House and Senate Committees on Appropriations by December 31, 1997, on the implementation of this program and provide the Committees with an evaluation of these safety devices by August 1, 1998.

Youth, drugs, and driving initiative.—The conferees have not funded the administration's youth, drugs, and driving initiative. No state has been willing to participate in this demonstration program because of serious constitutional, legal, and privacy issues raised by this program, and the enormous startup costs states would incur without federal assistance. This program is estimated to cost at least $16,000,000 during the next three years, and would detract from the amount of funding available for many other critical highway safety initiatives, such as alcohol-impaired driving, increasing seat belt usage, and reducing drug impaired driving. However, the conferees are concerned about the growing problem with youth and drugs, and have provided $1,400,000 to bolster training and education for law enforcement, prosecutors, and judges on detecting, arresting, and sanctioning youth alcohol and drug offenders. As part of this effort, NHTSA should consider developing model policies for youth enforcement, treatment and sentencing and then conducting a demonstration in 3 to 5 jurisdictions using this model.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

The conference agreement provides $186,000,000 to liquidate contract authorizations for highway traffic safety grants, as proposed by both the House and the Senate.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

The conference agreement limits obligations for highway traffic safety grants to $186,500,000 as proposed by the House instead of $187,000,000 as proposed by the Senate. The conferees provide $5,268,000 for administration of the grant program as proposed by the House instead of $4,948,000 as proposed by the Senate. The conference agreement prohibits the use of funds for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for state, local, or private buildings or structures, as proposed by both the House and the Senate. Further, the conference agreement limits funds for the administration of highway safety grants to $150,000, as proposed by both the House and the Senate. The bill includes separate obligation limitations with the following funding allocations:

State and community grants	$149,700,000
Alcohol incentive grants	34,500,000
National driver register	2,300,000

State and community grants.—The conferees have provided $149,700,000 for state and community grants, instead of $140,200,000 as proposed by the House and $150,700,000 as proposed by the Senate. Of this total, $9,000,000 shall be used to expedite the efforts of States to increase seat belt usage beyond the estimated amount that each State spent in this area in fiscal year 1997, as proposed by the Senate. The House had provided $9,000,000 for occupant protection incentive grants as a separate item, subject to authorization; but authorization did not occur prior to the beginning of fiscal year 1998. Combining this funding with state and community grants does not prejudice the occupant protection incentive grant program from receiving consideration for funding in future appropriation bills, if authorized. The conferees have not earmarked any new funding for performance-based plans, as proposed by the Senate, because forty-one states are already preparing these plans in fiscal year 1997 and all states will prepare such plans in fiscal year 1998.

Alcohol incentive grants.—The conference agreement provides $34,500,000 for alcohol incentive grants instead of $35,000,000 as proposed by the House and $34,000,000 as proposed by the Senate. The conference agreement also includes bill language that limits to $500,000 the funds for alcohol-impaired driving countermeasures programs that are made available for technical assistance to the states, as proposed by the House and the Senate.

National driver register.—A total of $2,300,000 has been provided for the national driver register, as proposed by both the House and the Senate.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

The conference agreement appropriates $20,290,000 for the Office of the Administrator instead of $19,434,000 as proposed by the House and $19,800,000 as proposed by the Senate. Of the total amount, $1,389,000 shall remain available until expended, as proposed by the House instead of $1,339,000 as proposed by the Senate.

The conferees agree to the following adjustments to the budget request:

Limit growth in support services	−$68,000
Reduction in information technology	−140,000
Reduction in rent	−25,000
Reduction in Chief Counsel staffing	−36,000
Net reduction to budget	−269,000

GSA rent.—The conference agreement deletes a prohibition on the use of funds for rental payments to the General Services Administration to pay for the expenses of headquarters employees outside the Nassif building after January 1, 1998, as proposed by the House. The Senate bill contained no similar provision. However, the conferees have reduced the appropriation for rent by $25,000, or the square foot cost differential between housing FRA employees in the Nassif building or locating these employees in offices outside of the building. The conferees remain concerned that an entire modal administration previously housed within the Nassif building is now located a significant distance away from the department's other daily operations and is no longer fully integrated within the department. The conferees would strongly prefer to see FRA relocated back to the Nassif building, but recognize that it is only slightly more costly to house these employees outside of the main headquarters building.

Railroad relocation.—The conferees direct the FRA to continue, within available funds, consultative efforts to support the implementation of short term railroad operating and long term relocation solutions between railroads and local communities, including Metairie, Louisiana.

RAILROAD SAFETY

The conferees have provided $57,067,000 for railroad safety as proposed by the Senate instead of $56,967,000 as proposed by the House. Of the total amount, $5,511,000 shall remain available until expended as proposed by the House instead of $5,400,000 as proposed by the Senate. The conference agreement includes the following adjustments to the budget request:

Reduction in technology systems	−$77,000
Rail safety advisory committee	−100,000
Administrative reduction	−98,000
Enhance grade crossing safety initiatives	+275,000

Grade crossing safety initiatives.—The conferees have provided $275,000 above the request for the office of safety personnel and programs to support new and additional highway/rail grade crossing safety initiatives. FRA shall use this funding to perform interstate rail corridor and crossing safety evaluations; provide technical assistance to state transportation departments in identifying the most dangerous crossings; evaluate and disseminate best practices for crossing hazard mitigation; assess the effectiveness of crossing signal technologies; interface with the motor carrier industry through FHWA's office of motor carriers regarding safer commercial driving practices at highway/rail crossings; and, in accordance with new statutory requirements contained in the 1996 Federal Aviation Administration Reauthorization Act, work with affected local communities that are considering train whistle restrictions, to help develop effective supplementary safety measures.

RAILROAD RESEARCH AND DEVELOPMENT

The conference agreement provides $20,758,000 for railroad research and development instead of $21,038,000 as proposed by the House and $24,906,000 as proposed by the Senate and includes the following adjustments to the budget request:

Equipment related research	−$50,000
Operation Lifesaver	+200,000
T-6 railcar	−500,000
Magnetic levitation	−500,000
Environmental issues	−100,000
Research and development facilities	−80,000
TRB study	+150,000

1-800 emergency notification system.—The conferees have deleted funding provided by the Senate for expedited development of a computer-based emergency response system for notification of malfunctioning grade crossing signals and track obstacles, based on unobligated balances. FRA and two states are already working on the development of this system. The conferees expect that the agency's fiscal year 1999 budget submission will include a definitive schedule for completion of this project and a description of the process by which FRA will promote state investment in this approach to improving grade crossing safety.

Positive train control.—In conjunction with FRA, eastern railroads are developing positive train control (PTC) capable of operating with present and future technologies to adapt to the various types of railroad infrastructure. As the first step, an interoperable locomotive platform is being developed. As the next step, a positive train separation (PTS) pilot will be run on the rail line between Manassas, Virginia through Hagerstown, Maryland to Harrisburg, Pennsylvania to demonstrate the operation of locomotives over different types of PTC territory. This project, funded jointly by FRA and the railroads, was begun last year. The conferees direct FRA and the affected railroads to proceed under previously negotiated cost-sharing agreements with the second phase of the

pilot project, which is intended to develop a PTS system that builds on existing infrastructure, is interoperable, and cost-effective.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

The conference agreement provides $250,000,000 for the Northeast corridor improvement program as proposed by the House instead of $273,450,000 as proposed by the Senate. Funding shall be available until September 30, 2000 as proposed by the House instead of September 30, 1999 as proposed by the Senate. Of this total, $12,000,000 shall be available for the Pennsylvania station redevelopment project solely for life and safety improvements.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The conference agreement does not permit any new loan guarantee committments to be made during fiscal year 1998 as proposed by both the House and the Senate.

NEXT GENERATION HIGH SPEED RAIL

The conference agreement provides $20,395,000 for the next generation high speed rail program instead of $18,395,000 as proposed by the House and $26,000,000 as proposed by the Senate. The following table summarizes the conference agreement by budget activity:

	Conference level
Train control systems	$3,750,000
Non-electric locomotives	9,300,000
(ALPS)	(2,000,000)
(Prototype locomotive)	(4,800,000)
(RTL-3)	(2,500,000)
Grade crossings and innovative technologies:	5,600,000
(Sealed corridor)	(2,000,000)
(Mitigating hazards)	(2,500,000)
(Low-cost HSR crossing)	(1,100,000)
Track & structures	1,200,000
Planning technology	
Administration	545,000
Total	20,395,000

Prototype locomotives.—The conferees have provided $4,800,000 for prototype locomotives, which shall be available to FRA to: (1) continue its focus on high-speed fossil fuel research on flywheel turbine technology; (2) design, develop, and test different nonelectric locomotive concepts; and (3) evaluate technologies, which incorporate modern, recently developed locomotive car bodies that meet FRA's Tier II passenger rail car construction standards, other applicable federal safety regulations, and have the potential to operate at 150 miles per hour, yet be available for revenue demonstration at speeds of 125 miles per hour within a two to three year period.

Planning technology.—Although the conferees are supportive of analytic and technical assistance to states for the development of high-speed rail programs, the conferees have deferred funding for planning technology pending reauthorization.

ALASKA RAILROAD REHABILITATION

The conference agreement provides $15,280,000 for the Alaska Railroad instead of $17,000,000 as proposed by the Senate. The House bill contained no similar appropriation. Within the appropriation, $10,000,000 shall be available for track rehabilitation and $5,280,000 shall be for improvements to the Seward dock.

Seward dock.—The conferees have reduced the amount for improvements to the Seward dock from $7,000,000 in the Senate bill to $5,280,000. Such reduction will result in increased local participation in the project, particularly by the city of Seward. Therefore, the conferees direct the department to provide funding for the dock improvements directly to the city to complete the intermodal improvements on behalf of the Alaska Railroad.

RHODE ISLAND RAIL DEVELOPMENT

Total funding for the Rhode Island rail development project is $10,000,000 as proposed by both the House and the Senate. The conference agreement includes language that requires, as a condition of accepting such funds, the Providence and Worcester Railroad to reimburse Amtrak and/or the Federal Railroad Administration, on a dollar for dollar basis, up to the first $23,000,000 if damages occur in vertical clearances in excess of those required for present freight operations as proposed by the House. The Senate bill required reimbursement up to the first $13,000,000.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

The conference agreement provides $543,000,000 for grants to the National Railroad Passenger Corporation (Amtrak) as proposed by the House instead of $344,000,000 as proposed by the Senate. Within the appropriation, $344,000,000 shall be available for operating subsidies and $199,000,000 for capital grants instead of $202,000,000 for operating losses, $81,000,000 for retirement payments, and $260,000,000 for capital grants as proposed by the House. The Senate bill contained $344,000,000 solely for Amtrak operations.

The conference agreement deletes a number of language provisions included in either the House or Senate bills. These include: (1) deleting language proposed by the House that prohibits any of the funds appropriated for mandatory payments to be used for payments for Amtrak employees; (2) deleting language proposed by the House that prohibits obligation or expenditure of operating losses in excess of the amounts specified; (3) deleting language proposed by the House requiring the Federal Railroad Administration to submit quarterly reports on the financial status of Amtrak; and (4) deleting language proposed by the Senate that provides $641,000,000 for qualified expenses of Amtrak and non-Amtrak states, subject to the enactment of the Intercity Passenger Rail Fund, but withholding the amount until the enactment of a subsequent appropriation Act releasing such funds for obligation.

The conference agreement retains bill language proposed by the House that prohibits the transfer of capital improvement funds to pay for debt service interest unless specifically authorized by law and deems as a violation of the Anti-Deficiency Act the incurring of any obligation or commitment for the purchase of capital improvements prohibited in this appropriations Act. The Senate bill contained no similar provisions.

The conference agreement also retains language that makes funds available for capital improvements on July 1, 1998, as proposed by the House. The Senate bill included no similar provision.

The conference agreement includes language that requires the Secretary of Transportation to reduce the tax credit enacted under the Taxpayer Relief Act of 1997 by the amount appropriated for capital improvements, should Amtrak reforms be enacted. Neither the House nor the Senate bill contained a similar provision.

Operating subsidies.—The conference agreement provides $344,000,000 for operating subsidies. Of this total, the conferees believe that the federal appropriation for railroad retirement payments should not be greater than $81,000,000. This figure has been calculated by identifying Amtrak's tax liabilities (including Amtrak employer Tier 2 taxes and supplemental taxes) and subtracting the Railroad Retirement Board's payments to Amtrak's beneficiaries. The conferees believe that Amtrak has been overstating its passenger rail service payments and understating its routine operating expense subsidy. However, providing $81,000,000 in federal appropriations for railroad retirement payments in no way affects the railroad's statutory obligations. Amtrak shall continue to be liable for all taxes that normally would be payable by the corporation as a railroad employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.

The conferees direct the department to include an estimate of Amtrak's total tax liability and its components in FRA's annual congressional justification, and a comprehensive listing of Amtrak's operating expenses that, by statute, are eligible for federal subsidy. In addition, Amtrak is directed to provide to the House and Senate Committees on Appropriations a copy of the Railroad Retirement Board's annual letter to Amtrak, upon receipt, which identifies Amtrak's railroad retirement payments.

Route closure and realignment report.—The conferees direct the General Accounting Office (GAO) to examine economic data for Amtrak's system and develop system-wide performance rankings of all routes currently in service based on short- and long-term economic loss. This report should consider all income and all costs, and perform a revenue-to-cost yield analysis of each Amtrak route. Also, the economic implications of multi-year capital requirements and declining federal operating subsidies should be examined. Amtrak shall provide GAO with this data within 30 days after the bill is enacted. If Amtrak reauthorization is enacted into law by December 31, 1997, GAO should include, as part of its review, any reforms that may impact on each route's viability. GAO should provide the House and Senate Committees on Appropriations with interim briefings on the issues and prepare a final report by May 15, 1998.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

The conference agreement provides $45,738,000 as proposed by the House instead of $41,497,000 as proposed by the Senate. The conference agreement limits funds available for the execution of contracts under section 5327(c) of title 49, U.S.C. for project management oversight activities to $15,000,000 as proposed by both the House and Senate.

FORMULA GRANTS

The conference agreement provides a total program level of $2,500,000,000 for transit formula grants, as proposed by the House instead of $2,400,000,000 as proposed by the Senate. Within this total, the conference agreement appropriates $240,000,000 from the general fund instead of $290,000,000 as proposed by the House and $190,000,000 as proposed by the Senate.

The conference agreement limits to $150,000,000 funds available for operating assistance, instead of $200,000,000 as proposed by the House. The Senate bill contained no similar limitation on operating expenses. In addition, the conference agreement retains language proposed by the House that provides transit operating assistance to urbanized areas of less than 200,000 in population

at a level no less than seventy-five percent of the amount such areas were to receive under Public Law 103-331; and, that in the distribution of the limitation of operating assistance to urbanized areas that have a population of 1,000,000 or more, instructs the Secretary to direct each area to give priority consideration to the impact of reductions of operating assistance on smaller transit authorities operating within the area. The Senate bill contained no similar provisions.

UNIVERSITY TRANSPORTATION CENTERS

The conference agreement appropriates $6,000,000 for university transportation centers as proposed by both the House and Senate.

TRANSIT PLANNING AND RESEARCH

The conference agreement provides a total of $92,000,000 for transit planning and research instead of $86,000,000 as proposed by the House and $77,250,000 as proposed by the Senate. Within the funds provided, $36,750,000 shall be available for national planning and research activities and other activities of the transit cooperative research program.

The conference agreement deletes language proposed by the Senate that provides $500,000 to the Colorado Department of Transportation to study the metropolitan planning process and organization in the Denver metropolitan area. The House bill contained no similar provision.

The conferees direct that within the funding level provided for transit planning and research, the Federal Transit Administration shall make available the following amounts for the programs and activities listed below:

Project	*Conference level*
Joblinks employment transportation program	$1,000,000
Hennepin community works program, Hennepin County, Minnesota	1,000,000
Project ACTION	2,000,000
Advanced technology transit bus	10,000,000
Fuel cell bus program	4,000,000
Advanced transportation and alternative fueled technologies consortium	1,500,000
Rural transportation assistance program	750,000
Fatigue awareness and safety training program	1,000,000
Zinc-air battery research	2,000,000
Colorado metropolitan planning organization study	500,000
Electronic distribution center for surplus transit-related equipment	500,000
Low-speed magnetic levitation	1,000,000

Colorado metropolitan planning organization study.—The conferees have included $500,000 which shall be made available to study the metropolitan planning process and organization in the Denver metropolitan area. The study shall be based on a scope of work agreed to by Douglas County (on behalf of selected Denver regional county and municipal governments), the Denver Regional Council of Governments, and the Colorado Department of Transportation. In order to insure that the study is fair and objective, the conferees recommend that the Colorado Department of Transportation make these funds available to a Denver based, private sector, non-profit university based research organization with expertise in public policy. The conferees direct that the recommendations of the study be provided to the House and Senate Committees on Appropriations within twenty-four months of enactment of this Act.

Honolulu, HI.—The conferees direct the Federal Transit Administration to support a comprehensive transportation investment analysis of the primary urban corridor from Ewa to east Honolulu, Hawaii.

Fuel cell bus program.—The conferees have provided up to $4,000,000 to continue development of the fuel cell bus. The conferees direct that none of the funds provided in this Act shall be available for the construction of a parking garage or an Intermodal and National Depository Fuel Cell facility at Georgetown University in Washington, DC.

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND

The conference agreement provides $2,210,000,000 in liquidating cash for the trust fund share of transit expenses as proposed by both the House and Senate.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

The conference agreement limits obligations for the discretionary grants program to $2,000,000,000 as proposed by the House instead of $2,008,000,000 as proposed by the Senate. The conference agreement also limits obligations for fixed guideway modernization to $800,000,000; for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities to $400,000,000; and for new fixed guideway systems to $800,000,000 as proposed by the House. The Senate bill limits obligations to $780,000,000; $440,000,000; and $788,000,000, respectively.

The conference agreement deletes language proposed by the Senate that reallocates $6,345,000 in previously provided funds for the Alaska-Hollis to Ketchikan ferry project. The House bill contained no similar provision.

Three-year availability of section 5309 discretionary funds.—The conferees direct that the FTA not reallocate funds provided in fiscal year 1995 for the Whitehall ferry terminal project or the New Jersey Burlington to Gloucester rail project before September 30, 1998, because the Committees have been informed that these projects are nearing obligation. Further, the conferees direct the FTA to deobligate funds in the amount of $2,779,000 made available in Public Law 103-122, for preliminary engineering associated with the Minneapolis-St. Paul Twin Cities Central Corridor project and make these funds available for bus and bus facilities projects in the Twin Cities Central Corridor. The conferees also direct the FTA to reallocate funds in the amount of $4,962,500, made available in Public Law 103-331 for the Twin Cities Central Corridor project and not obligated by the end of fiscal year 1997, and make these funds available for similar bus and bus facilities projects in the Twin Cities Central Corridor.

Further, should additional funds from previous appropriations Acts be available for reallocation, the conferees direct the FTA to reprogram these funds no earlier than fifteen days after notification to the House and Senate Committees on Appropriations and only to the extent that those projects are able to fully obligate additional resources in the course of fiscal year 1998. With respect to reallocation of discretionary bus funds, the FTA is directed to reallocate funds to only those projects identified in the reports accompanying the Department of Transportation and Related Agencies Appropriations Act, 1998, no earlier than fifteen days after notification to the House and Senate Committees on Appropriations.

Bus and bus-related facilities.—The conference agreement provides $400,000,000 for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities, together with $978,000 of funds originally provided in the fiscal year 1995 Department of Transportation and Related Agencies Appropriations Act. The conferees agree that the recommended funding is to be distributed as follows:

Project	*Conference*
State of Alabama:	
Birmingham/Jefferson County buses	$3,000,000
Birmingham downtown intermodal transportation facility, phase 2	6,000,000
Gadsden, buses and vans	100,000
Hunstville Intermodal center, phase 1	5,000,000
Mobile southern market historic intermodal center	1,000,000
Mobile municipal pier intermodal waterfront access rehabilitation project	1,000,000
Mobile bus replacement	1,500,000
Mobile intermodal facility	5,500,000
Montgomery bus replacement	1,500,000
Tuscaloosa bus replacement	1,000,000
State of Arizona:	
Phoenix buses and bus facilities	4,500,000
Tucson intermodal center	1,000,000
State of California:	
Folsom multimodal facility	1,500,000
Foothill transit bus maintenance facility	9,000,000
I-5 Consortium Cities Joint Powers Authority facilities	5,000,000
Inglewood transit center project	500,000
Lake Tahoe intermodal center	1,000,000
Long Beach buses and bus facilities	1,500,000
Marina/Ft. Ord buses and multimodal center	1,000,000
Mendocino County buses	800,000
Modesto bus maintenance facility	1,750,000
Rialto MetroLink depot	1,100,000
Riverside County buses and bus facility	2,350,000
Riverside County transit vehicle ITS communications	1,000,000
Sacramento bus facility	1,000,000
San Joaquin (Stockton) bus facilities	2,000,000
Santa Clara buses	2,500,000
Santa Cruz metropolitan transit district buses and bus facility	1,000,000
San Ysidro border intermodal center	500,000
Solano County buses and bus-related equipment	1,200,000
Sonoma County bus facilities	1,000,000
Unitrans maintenance facility	1,000,000
Woodland transfer facility	200,000

Project	Conference
Yolo County buses and paratransit vehicles	1,000,000
Yosemite area regional transportation solution	500,000
State of Colorado, buses and bus facilities	5,500,000
State of Connecticut:	
Bridgeport buses and bus facilities	2,000,000
Bridgeport intermodal center	3,750,000
New Haven bus facility	1,200,000
State of Delaware: New Castle bus facility	1,500,000
State of Florida:	
Daytona Beach intermodal facility	2,000,000
Florida Citrus Connection buses	1,500,000
Lakeland transit buses	1,000,000
Lakeworth buses and bus facilities	1,000,000
LYNX buses and bus facilities	3,000,000
Metro-Dade County buses and bus facilities	5,000,000
Orlando intermodal facility	1,000,000
Palm Beach County buses and bus facilities	2,000,000
Tampa (Hillsborough County), HARTline buses and bus facilities	1,500,000
Volusia County buses and bus facilities	2,000,000
State of Georgia:	
Chatham bus facility	4,000,000
MARTA buses	5,000,000
State of Hawaii: Honolulu buses and bus facility	5,000,000
State of Illinois: Buses and bus facilities	4,500,000
State of Indiana:	
Indianapolis buses	2,000,000
South Bend intermodal facility	2,000,000
State of Iowa:	
Statewide bus and bus facilities	2,750,000
Sioux City park and ride facility	1,250,000
State of Kansas: Johnson County bus maintenance/operations facility	1,000,000
State of Louisiana:	
Statewide buses and bus facilities	13,900,000
State of Maryland: Buses and bus facilities	8,000,000
Commonwealth of Massachusetts:	
Franklin RTA buses	500,000
Greenfield Montague Transportation Area buses	700,000
South Station intermodal transportation center	1,000,000
Springfield intermodal center	1,000,000
Worcester Union Station	3,000,000
State of Michigan: Buses and bus facilities	7,500,000
State of Minnesota:	
Metropolitan Council transit operations, buses and bus facilities	9,000,000
St. Paul, Snelling bus garage	1,500,000
State of Mississippi: Jackson bus facility	2,000,000
State of Missouri:	
Kansas City buses and fare box collection system	3,500,000
Kansas City Union Station intermodal center	4,500,000
State of Missouri bus and bus facilities	8,000,000
State of Nevada:	
Clark County buses	8,000,000
Reno, Washoe County Regional Transportation Commission, buses and bus facilities	1,500,000
State of New Jersey: NJ Transit alternative fuel buses	6,000,000
State of New Mexico:	
Albuquerque uptown transit center	1,000,000
Demonstration of universal electric transportation subsystems (DUETS)	1,000,000
Las Cruces, Santa Fe, and Albuquerque park and ride	1,000,000
Sante Fe buses and bus facilities	1,000,000
Statewide, buses and bus facilities	3,750,000
State of New York:	
Nassau County and Long Island buses and bus facilities (Goodwill Games)	1,000,000
Nassau County natural gas buses	5,000,000
New Rochelle intermodal facility	1,500,000
New York City natural gas buses	7,500,000
NFTA HUBLINK program	1,000,000
Poughkeepsie intermodal facility	2,000,000
Rensselaer County intermodal facility	1,875,000
Staten Island/Brooklyn mobility project	1,000,000
Suffolk County buses	2,150,000
Syracuse buses	4,300,000
Westchester County buses	5,000,000
Yonkers intermodal facility	2,000,000
State of North Carolina:	
Chapel Hill University of North Carolina buses	1,000,000
Statewide buses and bus facilities	5,000,000
State of Ohio: Buses and bus facilities	12,500,000
State of Oregon:	
Eugene-Springfield-Lane County buses and bus facilities	1,000,000
Lane Transit District bus system	1,000,000
Salem and Corvallis buses and bus facilities	1,000,000
Commonwealth of Pennsylvania:	
Allegheny County buses	1,000,000
Armstrong Mid-County buses and bus facility	200,000
Berks Area Reading transit intermodal facility	500,000
Cambria County buses and bus facilities	800,000
Fayette and Somerset buses, vans, and bus facilities	600,000
Indiana County buses	500,000
Lackawanna County paratransit vans	300,000
Lawrence County buses	1,000,000
Lehigh and Northampton buses	1,000,000
Mid Mon Valley transit authority buses	750,000
New Castle area transit authority buses	750,000
North Philadelphia intermodal facility	1,000,000
Philadelphia Eastwick intermodal center	1,000,000
Schuykill County buses	200,000
Scranton buses and bus facility	1,500,000
SEPTA buses	7,500,000
Towanda Borough intermodal bus facility	2,000,000
Wilkes-Barre intermodal facility	1,500,000
Williamsport buses and bus facility	1,250,000
Statewide bus and bus facilities projects	4,000,000
State of South Carolina:	
Columbia buses and facility	2,000,000
Pee Dee Regional Planning Authority, buses and facilities	3,000,000
Virtual Transit Enterprise, integration of transit information processing systems	1,000,000
State of South Dakota:	
Statewide bus and bus facilities	2,250,000
State of Tennessee: Buses and bus facilities	8,000,000
State of Texas:	
Austin buses	3,000,000
Brazos Transit Authority, transit facilities and buses	3,000,000
Corpus Christi bus facilities	1,950,000
El Paso buses	1,000,000
Fort Worth buses	1,500,000
Galveston alternatively fueled vehicles	2,000,000
Rural Texas bus replacement program	2,500,000
State of Utah:	
Utah Transit Authority Olympic park and ride lots	2,000,000
Park City Transit buses	400,000
Utah Transit Authority bus acquisition	2,000,000
Utah Transit Authority Olympic intermodal transportation centers	2,500,000
Statewide buses and bus facilities	2,000,000
State of Vermont:	
Burlington multimodal center	1,500,000
Statewide bus and bus facilities	1,000,000
Commonwealth of Virginia:	
Clarendon canopy project	250,000
Falls Church electric buses	400,000
Dulles corridor buses and bus facilities	2,500,000
Richmond multimodal center	2,500,000
State of Washington:	
Bremerton buses and transportation center	1,000,000
Chelan-Douglas multimodal center	1,000,000
Community Transit, Kasch Park facility	1,500,000
Everett intermodal center	2,500,000
King County multimodal facility	1,000,000

Project	Conference
King County metro commuter intermodal connector	1,500,000
King County park and ride lots	5,000,000
Olympic Peninsula International Gateway Transportation Center	1,000,000
Snohomish County buses	2,500,000
Tacoma Dome station project	1,500,000
Thurston County intercity buses	1,000,000
Whatcom Transportation Authority, facilities	1,500,000
State of West Virginia:	
Huntington intermodal facility and buses	7,000,000
Statewide buses and bus facilities, communications and computer systems	9,250,000
State of Wisconsin:	
Milwaukee rail station rehabilitation	1,000,000
Wisconsin Transit System buses	13,000,000
Total	400,975,000

Mobile, Alabama intermodal facility.—The conference agreement includes $5,500,000 for phase 1 of an intermodal and transit transfer facility in the city of Mobile, Alabama. These funds are to be used for preliminary engineering, design, site acquisition, improvement and rehabilitation of an intermodal facility to link local transit, intercity bus and passenger rail, automobile, for-hire transportation and charter/excursion tours in the downtown area. The conferees encourage the city to seek additional appropriations in fiscal year 1999 to complete phase 2 of the intermodal facility.

Lake Tahoe intermodal center.—The conferees urge the Administrator to consider funds that have already been spent by non-federal sources on planning of this project towards the local match requirements.

State of Louisiana.—The conference agreement includes $13,900,000 for the state of Louisiana to be distributed as follows: Baton Rouge bus-related facilities, $600,000; Jefferson Parish buses, $1,200,000; Lafayette bus-related facility, $750,000; Lake Charles buses, $150,000; LA DOTD vans and equipment, $700,000; Monroe buses and bus-related equipment, $800,000; New Orleans buses and bus-related facilities, $7,500,000; Shreveport buses and bus-related facility, $400,000; and St. Tammany Parish, bus and bus-related facility, $300,000.

State of Michigan.—The conference agreement includes $7,500,000 for the state of Michigan. In addition to the funds provided in this Act, the conferees direct the FTA to make available to the state of Michigan for the procurement of buses and bus-related equipment funds originally provided in the fiscal year 1995 Department of Transportation and Related Agencies Appropriations Act for a passenger intermodal transit center in Detroit, Michigan.

New fixed guideway systems.—The conference agreement deletes language proposed by the House that would make distribution of the funds available for new fixed guideway systems subject to authorization. The Senate bill contained no similar provisions. The conference agreement provides for the following distribution of the recommended funding for new fixed guideway systems as follows:

Project	Conference level
Atlanta-North Springs project	$44,600,000
Austin Capital metro	1,000,000
Boston Piers Mos-2 project	46,250,000
Boston urban ring	1,000,000
Burlington-Essex, VT, commuter rail	5,000,000
Canton-Akron-Cleveland commuter rail project	2,000,000
Charleston monobeam rail project	1,500,000
Charlotte South corridor transitway project	1,000,000
Cincinnati Northeast/Northern Kentucky rail line project	500,000
Clark County, Nevada, fixed guideway project	5,000,000
Cleveland blue line extension to Highland Hills project	800,000
Cleveland Berea red line extension to Hopkins International Airport	700,000
Cleveland waterfront line extension project	1,000,000
Dallas-Fort Worth RAILTRAN project	8,000,000
DART North central light rail extension project	11,000,000
DeKalb County, Georgia light rail project	1,000,000
Denver Southwest corridor project	23,000,000
East Side access project, New York	20,000,000
Florida Tri-County commuter rail project	8,000,000
Galveston rail trolley system project	2,000,000
Houston advanced regional bus plan project	1,000,000
Houston regional bus project	51,100,000
Indianapolis Northeast corridor project	1,250,000
Jackson, Mississippi intermodal corridor project	3,000,000
Los Angeles MOS-3 project	61,500,000
MARC commuter rail improvements	31,000,000
Memphis, Tennessee regional rail project	1,000,000
Metro-Dade transit east-west corridor project	5,000,000
Miami North 27th Avenue project	5,000,000
Mission Valley East corridor project	1,000,000
Nassau hub rail link EIS	500,000
New Jersey—Hudson-Bergen project	60,000,000
New Jersey Secaucus project	27,000,000
New Orleans Canal Street corridor project	6,000,000
New Orleans Desire streetcar project	2,000,000
North Carolina Research Triangle Park project	12,000,000
Northern Indiana South Shore commuter rail project	4,000,000
Oceanside-Escondido light rail project	3,000,000
Oklahoma City MAPS corridor transit project	1,600,000
Orange County transitway project	2,000,000
Orlando Lynx light rail project	31,800,000
Pennsylvania Strawberry Hill/Diamond Branch rail project	500,000
Phoenix metropolitan area transit project	4,000,000
Pittsburgh airport busway project	5,000,000
Portland—Westside/Hillsboro project	63,400,000
Roaring Fork Valley rail	2,000,000
Sacramento LRT project	20,300,000
Salt Lake City South LRT project	63,400,000
Salt Lake City regional commuter rail	4,000,000
San Bernardino Metrolink project	1,000,000
San Diego Mid-Coast corridor project	1,500,000
San Francisco BART extension to the airport project	29,900,000
San Juan Tren Urbano	15,000,000
San Jose Tasman LRT project	21,400,000
Seattle-Tacoma commuter and light rail projects	18,000,000
St. Louis-St. Claire LRT extension project	30,000,000
St. George ferry terminal project	2,500,000
Springfield-Branson, MO commuter rail	500,000
Tampa Bay regional rail project	1,000,000
Tidewater, Virginia rail project	2,000,000
Toledo, Ohio rail project	1,000,000
Twin Cities transitways projects	12,000,000
Virginia Railway Express Fredericksburg to Washington commuter rail project	2,000,000
Whitehall ferry terminal project	2,500,000
Wisconsin central commuter rail project (METRA)	3,000,000

Charleston, SC monobeam rail project.—The conference agreement provides $1,500,000 for conceptual planning and engineering and related work for a full-scale demonstration monobeam rail line in the Charleston, South Carolina area.

Denver southwest corridor project.—Congress has stated clearly that airport funds should not be used for non-airport purposes. Moreover, the House Subcommittee on Transportation Appropriations has stated that it will consider any action to divert revenue illegally from airports in all its decisions regarding funding for transportation projects within its jurisdiction. The conferees are concerned that the City of Denver may be considering the diversion of airport revenues to buy rights of way from the Union Pacific Railroad. The Inspector General is directed to inform the House and Senate Committees on Appropriations and the Federal Aviation Administration immediately should an illegal diversion of airport revenue occur.

Los Angeles MOS-3 project.—The conference agreement provides $61,500,000 for the Los Angeles MOS-3 project, of which $24,000,000 shall be available for the East Side extension, together with the required local matching funds. The conferees agree that none of the funds in this Act shall be available until (1) after the LACMTA produces a financially constrained rail recovery plan which complies with the consent decree for enhanced bus service; (2) the FTA conducts a final review and accepts the plans and certifies to the House and Senate Committees on Appropriations that the fiscal management of the project meets or exceeds accepted US government standards; (3) the General Accounting Office and the Department of Transportation's inspector general conduct an independent analysis of the plans and provide

such analysis to the House and Senate Committees on Appropriations within sixty days of FTA accepting the plan; (4) the House and Senate have concluded their review of the analysis within sixty days of the transmittal of the analysis to the Committees; and (5) after the FTA has re-negotiated parts 1A and 1B of the MOS-3 full funding grant agreement.

Pittsburgh airport busway project.—In conjunction with the FTA and its project management oversight consultant, the Port Authority of Allegheny County, Pennsylvania has developed a recovery plan for the Phase I Pittsburgh Airport Busway/Wabash HOV facility in order to address budget and schedule variances from the original full funding grant agreement. The conferees believe that the recovery plan has yielded a revised project scope that will provide virtually all of the transit benefits within the original full funding grant agreement amount of $326.8 million. The conference agreement provides $5,000,000 for the Pittsburgh busway project, completing the federal government's commitment to the project.

The FTA has proposed to deobligate $19,410,000 of funds necessary to implement the recovery plan. These funds have already been provided by Congress for this project. Retaining these already-appropriated and obligated funds and adding the final $5,000,000 will complete the full funding grant agreement. Accordingly, the conferees direct the FTA not to deobligate the funds already obligated to the Port Authority.

Twin Cities transitways project.—The conference agreement provides $12,000,000 for the Twin Cities Transitways project. Of this amount, not less than $10,500,000 is provided for the development and construction of the Hiawatha Corridor fixed guideway. Up to $1,500,000 may be available for the planning, analysis and engineering on the Riverview, Northstar and Northwest Corridors, including a major investment study of the Riverview Corridor. In the Northstar and Northwest Corridors, a portion of the $1,500,000 may be used for minor transit improvements, as well as planning, analysis and engineering of transit routes and alternatives, including commuter rail.

Virginia Railway Express (VRE) Fredericksburg to Washington commuter rail project.—The conferees agree that the funds provided in this Act shall be distributed as follows: $1,100,000 shall be available for right-of-way acquisition at Route 123 and Route 1 to provide direct access to the Woodbridge station of the VRE and $900,000 shall be available to improve pedestrian safety at the King Street Metro and VRE station area.

Wisconsin central commuter rail project.—The conference agreement includes $3,000,000 for Wisconsin central commuter rail, or Metra. Funds provided in this Act are to be available for engineering and design work on proposed expansions to the Metra system, as well as station reconstruction on the South Shore line in Chicago.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

The conference agreement provides $2,350,000,000 in liquidating cash for mass transit capital programs, as proposed by both the House and the Senate.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

The conference agreement includes $200,000,000 for the construction of the Washington, DC Metrorail system, as proposed by the House instead of $160,000,000 as proposed by the Senate.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

The conference agreement appropriates $11,200,000 for operations and maintenance of the Saint Lawrence Seaway Development Corporation as proposed by the House. The Senate bill presumed that authorizing legislation would convert the Corporation into a performance-based organization, requiring no direct appropriation in fiscal year 1998.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

The conference agreement appropriates $28,450,000 for research and special programs as proposed by the Senate instead of $27,934,000 as proposed by the House. The conferees have made the following reductions to the budget estimate:

Reduction in hazardous materials personnel, compensation and benefits	−$150,000
Limit research and development activities	−1,850,000
Increase funding for crisis response center	+450,000
Reduction in program support personnel, compensation and benefits	−102,000
Net change to the budget request	−1,652,000

Crisis response center.—The conferees have provided $450,000 for a transportation emergency preparedness and response demonstration project, as described in the Senate report. The state should provide at least $300,000 in cost sharing for this project. The conferees expect that the establishment of this center will be a one-time occurrence and do not expect the department to provide ongoing consulting or other services for the center.

Program and administrative support.—The conferees recommend $8,219,000 for program and administrative support. The conferees agree that a $102,000 reduction in program and administrative support shall be allocated at the discretion of the administrator, and permit the administration to continue using detailees as necessary.

Simultaneous vehicle and infrastructure design.—The conferees direct the Secretary of Transportation to submit a letter to the House and Senate Committees on Appropriations on the concept of simultaneous vehicle and infrastructure design by January 30, 1998.

Bill language, as proposed by the House, permitting credits to this appropriation to be used for expenses related to training, report publication, and dissemination, and for travel expenses incurred in the performance of hazardous materials exemptions and approval functions has been retained in the conference agreement. The Senate bill proposed similar language, but did not restrict the credit of funds received from state and other public and private authorities expenses only to travel.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

The conference agreement provides total funding of $31,300,000 for the pipeline safety program, instead of $31,486,000 as proposed by the House and $31,000,000 as proposed by the Senate. In addition, the conferees have provided $1,465,000 from the reserve fund for one-call notification activities and some contract programs, instead of $1,000,000 for one-call activities as proposed by the House and $2,000,000 for one-call activities and some contract programs as proposed by the Senate.

The following table summarizes the conference agreement by budget activity and funding sources:

Budget activity	Pipeline safety fund	Oil spill liability trust fund	Reserve fund[1]	Total
Personnel, compensation and benefits	$7,706,000	$259,000	—	$7,965,000
Operating expenses	3,687,000	—	—	3,687,000
Contract programs:	2,942,000	713,000	$365,000	4,020,000
(Information systems)	—	—	—	(1,200,000)
(Risk assessment and technical studies)	—	—	—	(1,200,000)
(Compliance)	—	—	—	(300,000)
(Training and information dissemination)	—	—	—	(820,000)
(Emergency notification)	—	—	—	(100,000)
(National public education)	—	—	—	(400,000)
Oil pollution act	—	2,328,000	—	2,328,000
Research and development	1,165,000	—	—	1,165,000
Grants:	12,500,000	—	—	12,500,000
(State grants)	(12,000,000)	—	—	(12,000,000)
(Risk management grants)	(500,000)	—	—	(500,000)
One-call program	—	—	1,100,000	1,100,000
Total	28,000,000	3,300,000	1,465,000	32,765,000

[1] Funding derived from the reserve fund is not directly appropriated.

Coal log pipeline research study.—The conferees agree that the office of pipeline safety shall not complete a research study on coal log pipelines, as requested by the Senate, since the issue falls outside the scope and expertise of this office.

EMERGENCY PREPAREDNESS GRANTS

The conference agreement provides $200,000 for emergency preparedness grants as proposed by both the House and the Senate.

OFFICE OF INSPECTOR GENERAL

Salaries and Expenses

The conference agreement includes $42,000,000 for salaries and expenses of the office of inspector general as proposed by the House instead of $38,900,000 as proposed by the Senate.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

The conference agreement provides $13,853,000 for salaries and expenses of the Surface Transportation Board instead of $15,853,000 as proposed by the House and $12,300,000 as proposed by the Senate. In addition, the conference agreement includes language that permits the Board to collect $2,000,000 in fees to supplement its appropriation in fiscal year 1998, instead of $3,100,000 as proposed by the Senate. The House bill provided the Board with the ability to offset $2,000,000 of its appropriation from fees collected during the fiscal year. The conferees agree that any fees received in excess of $2,000,000 in fiscal year 1998 shall not be available for obligation until October 1, 1998, as proposed by the House. The Senate bill proposed that fees in excess of $3,100,000 shall not be available until October 1, 1998.

BUREAU OF TRANSPORTATION STATISTICS

Funding for the Bureau of Transportation Statistics (BTS) is provided through the federal-aid highways budget. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) authorized $25,000,000 for fiscal year 1997, and the conference agreement defers funding decisions for fiscal year 1998 to the appropriate authorizing committees which shall determine BTS' funding levels in fiscal year 1998 in the context of the reauthorization of ISTEA. The conferees are concerned, however, that the BTS has sought to reduce activities of the Office of Airline Information (OAI), whose mission is to provide the US government, the department and other users with uniform and comprehensive financial, traffic, and economic data on individual air carrier operations and the air transportation industry, citing insufficient funding. Last year the conferees noted that ample funding was provided through BTS' core program to fund all on-going activities related to OAI, and the conferees again expect that all OAI activities shall be fully funded in fiscal year 1998 within the core funding provided to the BTS.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

The conference agreement provides $3,640,000 for salaries and expenses of the Architectural and Transportation Barriers Compliance Board as proposed by both the House and the Senate.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

The conference agreement appropriates $48,371,000 for salaries and expenses of the National Transportation Safety Board instead of $46,000,000 as proposed by the House and $49,700,000 as proposed by the Senate. At this level, the conferees agree that sufficient funding is provided to fund 402 positions and to continue operating the communications center on a contract basis.

EMERGENCY FUND

The conference agreement provides $1,000,000 to the National Transportation Safety Board's emergency fund, as proposed by both the House and the Senate.

TITLE III

GENERAL PROVISIONS

The conference agreement includes general provisions that were in both the House and Senate versions of the bill that were not amended.

The conference agreement modifies the section on the distribution of the Federal-aid highway obligation authority contained in both the House and Senate bills by deleting the provisions relating to bonus limitation. The conference agreement prohibits bonus obligations and includes the limitation on federal-aid highway obligations during the period October 1 through December 31, 1997, as proposed by the House. The Senate bill contained no similar limitations.

The conference agreement includes the Senate provision that redefines the term "capital project" under the Federal Transit Administration's formula grants program to allow preventive maintenance and other activities to be funded as a capital expense. Also, the provision allows areas under 200,000 in population to use formula assistance grants for any transit purpose, including capital, planning and operating costs. The House bill contained no similar provision.

The conference agreement includes the House provision that limits funds to compensate in excess of 350 staff years under the federally funded research and development contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development. The Senate bill contained no similar provision.

The conference agreement modifies the House provision that reduces funding for activities of the transportation administrative service center of the Department of Transportation and limits obligation authority of the center to $118,800,000. The Senate bill contained no similar provision.

The conference agreement includes the House provision that prohibits funds to be used to prepare, propose, or promulgate any regulation pursuant to title V of the Motor Vehicle Information and Cost Savings Act prescribing corporate average fuel economy standards for automobiles as defined in such title, in any model year that differs from standards promulgated for such automobiles prior to enactment of this section. The Senate bill contained no similar provision.

The conference agreement includes the House provision that prohibits the use of funds to be used for planning, engineering, design or construction of a sixth runway at the new Denver International Airport unless the Federal Aviation Administrator determines that safety conditions warrant obligation of such funds, and allows funds to be used for planning or analysis of airport noise issues related to a sixth runway. The Senate bill contained no similar provision.

The conference agreement includes the Senate technical correction to the House provision that allows for the sale and credit of receipts for Bureau of Transportation Statistics data products.

The conference agreement includes the House provision that prohibits the use of funds for any type of training which: (a) does not meet needs for knowledge, skills, and abilities bearing directly on the performance of official duties; (b) could be highly stressful or emotional to the students; (c) does not provide prior notification of content and methods to be used during the training; (d) contains any religious concepts or ideas; (e) attempts to modify a person's values or lifestyle; or (f) is for AIDS awareness training, except for raising awareness of medical ramifications of AIDS and workplace rights. The Senate bill contained no similar provision.

The conference agreement includes the House provision that requires the Federal Transit Administration's oversight of the Washington Metropolitan Area Transit Authority (WMATA) to be based in Washington, D.C. metropolitan area. The Senate bill contained no similar provision.

The conference agreement includes the Senate provision that limits the necessary expenses of advisory committees to $1,000,000. The House bill contained no similar provision.

The conference agreement includes "or fees collected by the Board" as proposed by the Senate as funds to be used for conducting the activities of the Surface Transportation Board. The House proposed to use only appropriated funds.

The conference agreement includes the House provision that prohibits the use of funds for the improvement of Miller Highway in New York City, New York. The Senate bill contained no similar provision.

The conference agreement includes the House provision that prohibits funds to implement or enforce regulations that would result in slot allocations for international operations to any carrier at O'Hare International Airport in excess of the number of slots allocated to and scheduled by that carrier as of October 1, 1993, if that slot is withdrawn from an air carrier under existing regulations. The Senate bill contained no similar provision.

The conference agreement includes the Senate provision that directs the Federal Aviation Administration to provide real-time weather and runway observation and other such functions at Dutch Harbor, Alaska. The House bill contained no similar provision.

The conference agreement includes the Senate provision that limits the number of communities that receive essential air service funding by excluding points in the 48 contiguous United States that are located 70 highway miles from the nearest large or medium hub airport, or that require a subsidy in excess of $200 per passenger, unless such a point is more than 210 miles from the nearest large or medium hub airport. The House bill contained no similar provision.

The conference agreement modifies the Senate provision on the definition of "passenger capacity of 56 passengers or less" for reconfigured aircraft under section 29(a)(2) of the International Air Transportation Competition Act of 1979. This provision is discussed under Federal Aviation Administration, Operations. The House bill contained no similar provision.

The conference agreement modifies the Senate provision that credits to appropriations of the Department of Transportation rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources. Such funds received shall be available until December 31, 1998, instead of December 31 of the next fiscal year. The House bill contained no similar provision.

The conference agreement includes the Senate provision that directs the Department of the Navy to transfer an inactive Navy vessel, USNS EDENTON (ATS–1), to the Coast Guard. The House bill contained no similar provision.

The conference agreement modifies the Senate provision that clarifies the treatment of airport revenues in the State of Hawaii.

Any existing obligations, trust or otherwise, to Native Hawaiians, Native Americans, or Alaskan Natives with respect to ceded lands, arising under existing federal or State statutes, remain unaffected. The agreement only prohibits airport revenues from being used to satisfy any such obligations. Therefore, the State of Hawaii's obligations to Native Hawaiians arising under the Admission Act (Public Law 96-3, 93 Stat. 4) remain unaffected by this provision, except that airport revenues may not be used to satisfy those obligations. The House bill contained no similar provision.

The conference agreement includes the Senate provision that prohibits the Coast Guard from issuing or enforcing regulations regarding animal fats and vegetable oils. The House bill contained no similar provision.

The conference agreement includes the Senate provision that authorizes the Secretary of Transportation to allow issuers to redeem or repurchase preferred stock sold to the Department of Transportation. The House bill contained no similar provision.

The conference agreement includes the Senate provision that extends the expiration date from September 30, 1997 to February 28, 1998 relating to the operation of longer combination vehicles in the State of Nebraska. The House bill contained no similar provision.

The conference agreement modifies the Senate provision that would have required the Federal Aviation Administration to implement pilot record sharing requirements of section 44936(f) of title 49, U.S.C., not later than February 1, 1998, if possible, and to work with non-scheduled air carriers under part 135 of the Federal Aviation Administration's regulations to implement such requirements. The conference agreement prohibits funds being used to enforce pilot record sharing requirements against unscheduled operations of part 135 carriers unless the Federal Aviation Administration determines that such records can be provided within 30 days. The Administrator shall report to Congress if that determination cannot be made within 150 days of enactment of this Act. The House bill contained no similar provision.

The conference agreement includes the Senate provision that requires the Secretary of Transportation to exercise the exemption authority under section 41714 of title 49, U.S.C., with respect to certain air service between slot-controlled airports subject to that authority and non-hub points, within 120 days after receiving a request for such an exemption. The House bill contained no similar provision.

The conference agreement includes the Senate provision that provides for the development and operation of the nationwide differential global positioning system. The House bill contained no similar provision.

The conference agreement includes a provision that authorizes the Secretary of Transportation to transfer funds appropriated to the Coast Guard in fiscal year 1993 in order to pay rent assessments by the General Services Administration related to prior year space needs of the Department. The Senate bill contained a provision that authorizes the Secretary of Transportation to transfer funds to make rental payments to the General Services Administration in excess of the amounts provided in the bill. The House bill contained no similar provision.

The conference agreement includes a provision which precludes Members of Congress from participating in a retirement plan change open season. The House and Senate bills contained no similar provision.

Those general provisions that were not included in the conference agreement follow:

The conference agreement deletes the Senate provision that allows the Department of Transportation to transfer up to 5 percent of any discretionary appropriation to another appropriation provided that the recipient account does not increase by more than 10 percent, and provides that any transfer be treated as a reprogramming of funds. The House bill contained no similar provision.

The conference agreement deletes the Senate provision that authorizes the Department of Transportation to receive and use funds resulting from fees charged to providers of telecommunications services for using Federal property for the siting of mobile service antennas. The House bill contained no similar provision.

The conference agreement deletes the Senate provision that allows the Federal Aviation Administration to approve closing the Richards-Gebaur Memorial Airport in Kansas City, Missouri, and the Bader Field in Atlantic City, New Jersey, as public airports and redeveloping such property for non-aeronautical use. The House bill contained no similar provision.

The Conference agreement has deleted, without prejudice, the language included in the Senate bill regarding Richards-Gebaur Memorial Airport located in Kansas City, MO and Bader Field located in Atlantic City, NJ. The conferees believe that additional statutory authorities are not necessary for the FAA to make the necessary findings regarding closure of civil aviation airports.

The conference agreement deletes the Senate provision that directs the New York Metropolitan Transportation Authority (MTA) to use its transit formula grants to study the costs and benefits of instituting an integrated fare system for commuters who use both the Metro North Railroad or the Long Island Rail Road and the New York City subway or bus systems, and to report to the Senate Appropriations Committee. The House bill contained no similar provision. The conferees understand that the MTA is prepared to undertake the preceding study using funds available to the MTA, and direct that the results of the study be submitted to the House and Senate Committees on Appropriations within 45 days of enactment of this Act.

The conference agreement deletes the Senate provision that provides up to $20,000,000 to the State of Michigan and $12,000,000 to the State of Illinois from transit discretionary grants for buses and bus facilities. The House bill contained no similar provision.

The conference agreement deletes the Senate provision that expresses the sense of the Senate concerning the imminent expiration of highway and mass transit spending authorizations and the function of this bill. The House bill contained no similar provision.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1998 recommended by the Committee of Conference, with comparisons to the fiscal year 1997 amount, the 1998 budget estimates, and the House and Senate bills for 1998 follow:

New budget (obligational) authority, fiscal year 1997	$12,068,308,000
Budget estimates of new (obligational) authority, fiscal year 1998	13,115,727,000
House bill, fiscal year 1998	13,162,271,000
Senate bill, fiscal year 1998	12,808,122,883
Conference agreement, fiscal year 1998	13,062,718,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1997	+994,410,000
Budget estimates of new (obligational) authority, fiscal year 1998	−53,009,000
House bill, fiscal year 1998	−99,553,000
Senate bill, fiscal year 1998	+254,595,117

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF TRANSPORTATION						
Office of the Secretary						
Salaries and expenses	52,966,000	56,136,000	60,009,000	66,703,000	61,000,000	+8,034,000
Office of civil rights	5,574,000	5,574,000	5,574,000	5,574,000	5,574,000	.....
Transportation planning, research, and development	3,000,000	6,008,000	4,400,000	4,400,000	4,400,000	+1,400,000
Transportation Administrative Service Center	(124,812,000)	.....	(121,800,000)	.....	(121,800,000)	(-3,012,000)
Payments to air carriers (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(25,900,000)	.....	.....	.....	.....	(-25,900,000)
(Limitation on obligations)	(25,900,000)	.....	.....	.....	.....	(-25,900,000)
Rescission of contract authorization	(-12,700,000)	(-38,600,000)	.....	(-38,600,000)	(-38,600,000)	(-25,900,000)
Rescission	(-1,133,000)	.....	.....	.....	.....	(+1,133,000)
Rental payments	127,447,000	10,567,000	.....	.....	.....	-127,447,000
Minority business resource center program	1,900,000	1,900,000	1,900,000	1,900,000	1,900,000	.....
(Limitation on direct loans)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	.....
Minority business outreach	2,900,000	2,900,000	2,900,000	2,900,000	2,900,000	.....
Total, Office of the Secretary	193,787,000	83,085,000	74,783,000	81,477,000	75,774,000	-118,013,000
(Limitations on obligations)	(25,900,000)	.....	.....	.....	.....	(-25,900,000)
Total budgetary resources	(219,687,000)	(83,085,000)	(74,783,000)	(81,477,000)	(75,774,000)	(-143,913,000)
Coast Guard						
Operating expenses	2,319,725,000	2,440,000,000	2,408,000,000	2,435,400,000	2,415,400,000	+95,675,000
Defense function (050)	.....	300,000,000	300,000,000	.....	300,000,000	+300,000,000
(Transfer from DOD)	(300,000,000)	.....	.....	(300,000,000)	.....	(-300,000,000)
Supplemental (P.L. 105-18)	1,600,000	.....	.....	.....	.....	-1,600,000
Acquisition, construction, and improvements:						
Offsetting collections	.....	-9,000,000	-9,000,000	-9,000,000	-9,000,000	-9,000,000
Vessels	216,500,000	186,900,000	191,650,000	214,700,000	212,100,000	-4,400,000
Aircraft	18,040,000	26,400,000	33,900,000	26,400,000	25,800,000	+7,760,000
Other equipment	41,700,000	49,700,000	47,050,000	51,200,000	44,650,000	+2,950,000
Shore facilities and aids to navigation facilities	52,350,000	69,000,000	59,400,000	73,000,000	68,300,000	+15,950,000
Personnel and related support	46,250,000	47,000,000	47,000,000	47,000,000	47,000,000	+750,000
Subtotal, A C & I appropriations	374,840,000	370,000,000	370,000,000	403,300,000	388,850,000	+14,010,000

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Environmental compliance and restoration	22,000,000	21,000,000	21,000,000	21,000,000	21,000,000	-1,000,000
Port Safety Development	5,000,000	.....	.....	.....	.....	-5,000,000
Alteration of bridges	16,000,000	.....	16,000,000	26,000,000	17,000,000	+1,000,000
Retired pay	608,084,000	645,696,000	645,696,000	653,196,000	653,196,000	+45,112,000
Supplemental (P.L. 105-18)	9,200,000	.....	.....	.....	.....	-9,200,000
Reserve training	65,890,000	65,000,000	67,000,000	65,535,000	67,000,000	+1,110,000
Research, development, test, and evaluation	19,200,000	19,000,000	19,000,000	20,000,000	19,000,000	-200,000
Boat safety (Aquatic Resources Trust Fund)	35,000,000	50,000,000	35,000,000	35,000,000	35,000,000	.....
Total, Coast Guard	3,476,539,000	3,910,696,000	3,881,696,000	3,659,431,000	3,916,446,000	+439,907,000
Federal Aviation Administration						
Operations	4,925,500,000	5,036,100,000	5,300,000,000	5,325,900,000	5,301,934,000	+376,434,000
Appropriation of user fees	.....	300,000,000	.....	.....	.....	.....
Offsetting Collections	-75,000,000	.....	.....	.....	.....	+75,000,000
Emergency appropriations	(32,400,000)	.....	.....	.....	.....	(-32,400,000)
Facilities and equipment (Airport and Airway Trust Fund)	1,793,500,000	1,875,000,000	1,875,000,000	1,889,004,883	1,875,477,000	+81,977,000
Emergency appropriations	(144,200,000)	.....	.....	.....	.....	(-144,200,000)
Research, engineering, and development (Airport and Airway Trust Fund)	187,412,000	200,000,000	185,000,000	214,250,000	199,183,000	+11,771,000
Emergency appropriations	(21,000,000)	.....	.....	.....	.....	(-21,000,000)
Grants-in-aid for airports (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(1,500,000,000)	(1,500,000,000)	(1,600,000,000)	(1,600,000,000)	(1,600,000,000)	(+100,000,000)
(Limitation on obligations)	(1,460,000,000)	(1,000,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(+240,000,000)
Rescission of contract authorization	(-800,000,000)	.....	.....	(-190,000,000)	(-412,000,000)	(+388,000,000)
Total, Federal Aviation Administration	6,831,412,000	7,411,100,000	7,360,000,000	7,429,154,883	7,376,594,000	+545,182,000
(Limitations on obligations)	(1,460,000,000)	(1,000,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(+240,000,000)
Total budgetary resources	(8,291,412,000)	(8,411,100,000)	(9,060,000,000)	(9,129,154,883)	(9,076,594,000)	(+785,182,000)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Federal Highway Administration						
Limitation on general operating expenses	(521,114,000)	(494,376,000)	(510,313,000)	(558,440,000)	(552,266,000)	(+31,152,000)
Highway-related safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(2,049,000)	(4,000,000)	.....	(4,000,000)	.....	(-2,049,000)
Rescission of contract authority	(-9,100,000)	.....	.....	.....	.....	(+9,100,000)
Appalachian Development Highway system	.....	.....	.....	300,000,000	300,000,000	+300,000,000
Federal-aid highways (Highway Trust Fund):						
(Limitation on obligations)	(18,000,000,000)	(20,170,000,000)	(21,500,000,000)	(21,800,000,000)	(21,500,000,000)	(+3,500,000,000)
Supplemental obligation authority (P.L. 105-18)	(694,810,534)	.....	.....	.....	.....	(-694,810,534)
(Exempt obligations) (sec. 310 a-d)	(1,783,237,000)	(1,510,571,000)	(1,390,570,000)	(1,390,600,000)	(1,390,570,000)	(-392,667,000)
(Bonus program) (sec. 310 e)	(241,173,000)	.....	(269,656,000)	.....	.....	(-241,173,000)
(Liquidation of contract authorization)	(19,800,000,000)	(19,800,000,000)	(20,800,000,000)	(20,850,000,000)	(20,800,000,000)	(+1,000,000,000)
Emergency appropriations	(82,000,000)	.....	.....	.....	.....	(-82,000,000)
Emergency relief program (P.L. 105-18)	(650,000,000)	.....	.....	.....	.....	(-650,000,000)
Right-of-way revolving fund	.....	.....	.....	8,000,000	.....	.....
Motor carrier safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(74,000,000)	(90,000,000)	(85,000,000)	(85,000,000)	(85,000,000)	(+11,000,000)
(Limitation on obligations)	(78,225,000)	(100,000,000)	(85,325,000)	(84,300,000)	(84,825,000)	(+6,600,000)
Rescission of contract authorization	(-12,300,000)	.....	.....	.....	.....	(+12,300,000)
State infrastructure banks	150,000,000	.....	.....	.....	.....	-150,000,000
State infrastructure banks (Highway Trust Fund)	.....	150,000,000	.....	.....	.....	.....
Transportation infrastructure credit program (Highway Trust Fund)	.....	100,000,000	.....	.....	.....	.....
Total, Federal Highway Administration	150,000,000	250,000,000	.....	308,000,000	300,000,000	+150,000,000
(Limitations on obligations)	(18,773,035,534)	(20,270,000,000)	(21,585,325,000)	(21,884,300,000)	(21,584,825,000)	(+2,811,789,466)
(Sec. 310 obligations)	(2,024,410,000)	(1,510,571,000)	(1,660,226,000)	(1,390,600,000)	(1,390,570,000)	(-633,840,000)
Total budgetary resources	(20,947,445,534)	(22,030,571,000)	(23,245,551,000)	(23,582,900,000)	(23,275,395,000)	(+2,327,949,466)
National Highway Traffic Safety Administration						
Operations and research	80,900,000	.....	74,492,000	74,760,000	74,901,000	-5,999,000
Operations and research (Highway Trust Fund)	51,712,000	147,500,000	72,415,000	71,740,000	72,061,000	+20,349,000
Subtotal, Operations and research	132,612,000	147,500,000	146,907,000	146,500,000	146,962,000	+14,350,000

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Highway traffic safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(168,100,000)	(185,000,000)	(186,000,000)	(186,000,000)	(186,000,000)	(+17,900,000)
State and community highway safety grants (Sec. 402) (limitation on obligations)	(128,700,000)	(140,200,000)	(140,200,000)	(150,700,000)	(149,700,000)	(+21,000,000)
National Driver Register (Sec. 402) (limitation on obligations)	(2,400,000)	(2,300,000)	(2,300,000)	(2,300,000)	(2,300,000)	(-100,000)
Contract authorization (P.L. 105-18)	2,500,000	.....	.....	.....	.....	-2,500,000
Highway safety grants (Sec. 1003(a)(7)) (limitation on obligations)	(11,500,000)	.....	.....	.....	.....	(-11,500,000)
Occupant protection incentive grants (limitation on obligations)	.....	(9,000,000)	(9,000,000)	.....	.....	.....
Alcohol-impaired driving countermeasures programs (Sec. 410) (limitation on obligations)	(25,500,000)	(34,000,000)	(35,000,000)	(34,000,000)	(34,500,000)	(+9,000,000)
Contract authorization (P.L. 105-18)	500,000	.....	.....	.....	.....	-500,000
Rescission of contract authorization	(-24,800,000)	.....	.....	.....	.....	(+24,800,000)
Total, National Highway Traffic Safety Administration	135,612,000	147,500,000	146,907,000	146,500,000	146,962,000	+11,350,000
(Limitations on obligations)	(168,100,000)	(185,500,000)	(186,500,000)	(187,000,000)	(186,500,000)	(+18,400,000)
Total budgetary resources	(303,712,000)	(333,000,000)	(333,407,000)	(333,500,000)	(333,462,000)	(+29,750,000)
Federal Railroad Administration						
Office of the Administrator	16,739,000	20,559,000	19,434,000	19,800,000	20,290,000	+3,551,000
Railroad safety	51,407,000	57,067,000	56,967,000	57,067,000	57,067,000	+5,660,000
Railroad research and development	20,100,000	21,638,000	21,038,000	24,906,000	20,758,000	+658,000
Northeast corridor improvement program	175,000,000	.....	250,000,000	273,450,000	250,000,000	+75,000,000
High-speed rail trainsets and facilities	80,000,000	.....	.....	.....	.....	-80,000,000
Next generation high speed rail	24,757,000	19,595,000	18,395,000	26,000,000	20,395,000	-4,362,000
Trust fund share of next generation high-speed rail (Highway Trust Fund): (Liquidation of contract authorization)	(2,855,000)	.....	.....	.....	.....	(-2,855,000)
Alaska Railroad rehabilitation	10,000,000	.....	.....	17,000,000	15,280,000	+5,280,000
Rhode Island Rail Development	7,000,000	10,000,000	10,000,000	10,000,000	10,000,000	+3,000,000
Direct loan financing program	58,680,000	.....	.....	.....	.....	-58,680,000
Direct loan financing program limitation	(400,000,000)	.....	.....	.....	.....	(-400,000,000)
Grants to the National Railroad Passenger Corporation:						
Operations	364,500,000	.....	283,000,000	344,000,000	344,000,000	-20,500,000
Capital	223,450,000	.....	260,000,000	.....	199,000,000	-24,450,000
Subtotal, Grants to Amtrak	587,950,000	.....	543,000,000	344,000,000	543,000,000	-44,950,000

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Capital grants to the National Railroad Passenger Corporation (Highway Trust Fund)		445,450,000				
(Northeast corridor improvements)		(200,000,000)				
(Pennsylvania Station Redevelopment Project)		(23,450,000)				
Operating grants to the National Railroad Passenger Corporation (Highway Trust Fund)		344,000,000				
Emergency railroad rehabilitation and repair:						
Emergency funding (P.L. 105-18)	(18,900,000)					(-18,900,000)
Total, Federal Railroad Administration	1,031,633,000	918,309,000	918,834,000	772,223,000	936,790,000	-94,843,000
Federal Transit Administration						
Administrative expenses	41,497,000		45,738,000	41,497,000	45,738,000	+4,241,000
Administrative expenses (Highway Trust Fund, Mass Transit Account)		47,018,000				
Formula grants	490,000,000		290,000,000	190,000,000	240,000,000	-250,000,000
Formula grants (Highway Trust Fund):						
(Limitation on obligations)	(1,659,185,000)		(2,210,000,000)	(2,210,000,000)	(2,260,000,000)	(+600,815,000)
Operating assistance grants	(400,000,000)		(200,000,000)		(150,000,000)	(-250,000,000)
Subtotal, Formula grants	(2,149,185,000)		(2,500,000,000)	(2,400,000,000)	(2,500,000,000)	(+350,815,000)
Formula programs (Highway Trust Fund, Mass Transit Account):						
(Limitation on obligations)		(3,498,500,000)				
(Liquidation of contract authorization)		(1,500,000,000)		(2,210,000,000)		
University transportation centers	6,000,000		6,000,000	6,000,000	6,000,000	
Transit planning and research	85,500,000		86,000,000	77,250,000	92,000,000	+6,500,000
Metropolitan planning	(39,500,000)		(39,500,000)	(39,500,000)	(39,500,000)	
Rural transit assistance	(4,500,000)		(4,500,000)	(4,500,000)	(4,500,000)	
Transit cooperative research	(8,250,000)		(8,250,000)			(-8,250,000)
National planning and research	(22,000,000)		(22,500,000)	(22,000,000)	(36,750,000)	(+14,750,000)
State planning and research	(8,250,000)		(8,250,000)	(8,250,000)	(8,250,000)	
National transit institute	(3,000,000)		(3,000,000)	(3,000,000)	(3,000,000)	
Subtotal, Transit planning and research	(85,500,000)		(86,000,000)	(77,250,000)	(92,000,000)	(+6,500,000)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Transit planning and research (Highway Trust Fund, Mass Transit Account)	.....	91,800,000	.....	.....	.....	.....
Metropolitan planning	.....	(39,500,000)	.....	.....	.....	.....
Transit cooperative research	.....	(8,250,000)	.....	.....	.....	.....
Statewide planning	.....	(8,250,000)	.....	.....	.....	.....
National planning and research	.....	(16,800,000)	.....	.....	.....	.....
National mass transportation institute	.....	(3,000,000)	.....	.....	.....	.....
University transportation centers	.....	(6,000,000)	.....	.....	.....	.....
Advanced Technology Transit Bus	.....	(10,000,000)	.....	.....	.....	.....
Subtotal, Transit planning and research	.....	(91,800,000)	.....	.....	.....	.....
Trust fund share of expenses (Highway Trust Fund) (liquidation of contract authorization)	(1,920,000,000)	.....	(2,210,000,000)	(2,210,000,000)	(2,210,000,000)	(+290,000,000)
Rescission of contract authorization	(-271,000,000)	.....	.....	.....	.....	(+271,000,000)
Discretionary grants (Highway Trust Fund) (limitation on obligations):						
Fixed guideway modernization	(760,000,000)	.....	(800,000,000)	(780,000,000)	(800,000,000)	(+40,000,000)
Bus and bus-related facilities	(380,000,000)	.....	(400,000,000)	(440,000,000)	(400,000,000)	(+20,000,000)
New starts	(760,000,000)	.....	(800,000,000)	(788,000,000)	(800,000,000)	(+40,000,000)
Subtotal, Discretionary grants	(1,900,000,000)	.....	(2,000,000,000)	(2,008,000,000)	(2,000,000,000)	(+100,000,000)
Rescission of contract authorization	(-588,000,000)	.....	.....	.....	.....	(+588,000,000)
Major capital investments (Highway Trust Fund, Mass Transit Account) (limitation on obligations)	.....	(650,000,000)	.....	.....	.....	.....
Mass capital investments (Highway Trust Fund, Mass Transit Account) (liquidation of contract authority)	.....	(2,350,000,000)	.....	.....	.....	.....
Mass transit capital fund (Highway Trust Fund) (liquidation of contract authorization)	(2,300,000,000)	.....	(2,350,000,000)	(2,350,000,000)	(2,350,000,000)	(+50,000,000)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Washington Metropolitan Area Transit Authority	200,000,000	.....	200,000,000	160,000,000	200,000,000	.....
Washington Metropolitan Area Transit Authority (Highway Trust Fund, Mass Transit Account)	.....	200,000,000	.....	.....	.....	.....
Total, Federal Transit Administration	822,997,000	338,818,000	627,738,000	474,747,000	583,738,000	-239,259,000
(Limitations on obligations)	(3,559,185,000)	(4,148,500,000)	(4,210,000,000)	(4,218,000,000)	(4,260,000,000)	(+700,815,000)
Total budgetary resources	(4,382,182,000)	(4,487,318,000)	(4,837,738,000)	(4,692,747,000)	(4,843,738,000)	(+461,556,000)
Saint Lawrence Seaway Development Corporation						
Operations and maintenance (Harbor Maintenance Trust Fund)	10,337,000	.....	11,200,000	.....	11,200,000	+863,000
Research and Special Programs Administration						
Research and special programs	26,886,000	30,102,000	27,934,000	28,450,000	28,450,000	+1,564,000
Hazardous materials safety	(15,472,000)	.....	(15,024,000)	(15,492,000)	(15,342,000)	(-130,000)
Emergency transportation	(993,000)	.....	(993,000)	(1,443,000)	(1,443,000)	(+450,000)
Research and technology	(3,580,000)	.....	(3,596,000)	(3,296,000)	(3,446,000)	(-134,000)
Program and administrative support	(6,841,000)	.....	(8,321,000)	(8,219,000)	(8,219,000)	(+1,378,000)
Subtotal, research and special programs	(26,886,000)	.....	(27,934,000)	(28,450,000)	(28,450,000)	(+1,564,000)
Emergency appropriations	(3,000,000)	.....	.....	.....	.....	(-3,000,000)
Pipeline safety (Pipeline Safety Fund)	28,460,000	30,660,000	28,186,000	28,000,000	28,000,000	-460,000
Pipeline safety (Oil Spill Liability Trust Fund)	2,528,000	2,328,000	3,300,000	3,000,000	3,300,000	+772,000
Subtotal, Pipeline safety	30,988,000	32,988,000	31,486,000	31,000,000	31,300,000	+312,000
Emergency preparedness grants: Emergency preparedness fund	200,000	200,000	200,000	200,000	200,000	.....
Total, Research and Special Programs Administration	58,074,000	63,290,000	59,620,000	59,650,000	59,950,000	+1,876,000
Office of Inspector General						
Salaries and expenses	37,900,000	40,889,000	42,000,000	38,900,000	42,000,000	+4,100,000
Surface Transportation Board						
Salaries and expenses	12,344,000	14,300,000	15,853,000	12,300,000	13,853,000	+1,509,000
Offsetting collections	.....	-14,300,000	-2,000,000	.....	.....	.....

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
General Provisions						
Bureau of Transportation Statistics (transfer from Federal-aid Highways)	(25,000,000)	(31,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	.....
Transportation Administrative Service Center reduction	-10,000,000	.....	-25,000,000	.....	-3,000,000	+7,000,000
Railroad safety offsetting collections	.....	-60,000,000	.....	.....	.....	.....
Net total, title I, Department of Transportation	11,983,102,000	13,065,087,000	13,111,631,000	12,753,782,883	13,009,707,000	+1,026,605,000
Appropriations	(12,750,635,000)	(13,103,687,000)	(13,111,631,000)	(12,982,382,883)	(13,460,307,000)	(+709,672,000)
Rescissions	(-1,719,033,000)	(-38,600,000)	.....	(-228,600,000)	(-450,600,000)	(+1,268,433,000)
Emergency appropriations	(951,500,000)	.....	.....	.....	.....	(-951,500,000)
(Limitations on obligations)	(23,986,220,534)	(25,604,000,000)	(27,681,825,000)	(27,989,300,000)	(27,731,325,000)	(+3,745,104,466)
(Sec. 310 obligations)	(2,024,410,000)	(1,510,571,000)	(1,680,226,000)	(1,390,600,000)	(1,390,570,000)	(-633,840,000)
Net total budgetary resources	(37,993,732,534)	(40,179,658,000)	(42,453,682,000)	(42,133,682,883)	(42,131,602,000)	(+4,137,869,466)
TITLE II - RELATED AGENCIES						
Architectural and Transportation Barriers Compliance Board						
Salaries and expenses	3,540,000	3,640,000	3,640,000	3,640,000	3,640,000	+100,000
National Transportation Safety Board						
Salaries and expenses	42,407,000	40,000,000	46,000,000	49,700,000	48,371,000	+5,964,000
Appropriation of user fees	.....	6,000,000	.....	.....	.....	.....
Emergency appropriations	(6,000,000)	.....	.....	.....	.....	(-6,000,000)
Emergency funding (P.L. 105-18)	(29,859,000)	.....	.....	.....	.....	(-29,859,000)
Emergency fund	.....	1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000
Emergency fund (emergency appropriations)	(1,000,000)	.....	.....	.....	.....	(-1,000,000)
Total, National Transportation Safety Board	42,407,000	47,000,000	47,000,000	50,700,000	49,371,000	+6,964,000
Total, title II, Related Agencies	82,806,000	50,640,000	50,640,000	54,340,000	53,011,000	-29,795,000
Appropriations	(45,947,000)	(50,640,000)	(50,640,000)	(54,340,000)	(53,011,000)	(+7,064,000)
Emergency appropriations	(36,859,000)	.....	.....	.....	.....	(-36,859,000)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE III - GENERAL PROVISIONS						
National Civil Aviation Review Commission	2,400,000	.....	.....	.....	.....	-2,400,000
Net total appropriations	12,068,308,000	13,115,727,000	13,162,271,000	12,808,122,883	13,062,718,000	+994,410,000
Scorekeeping adjustments:						
Emergency appropriations	-289,600,000	.....	.....	.....	.....	+289,600,000
Emergency funding (P.L. 105-18)	-698,759,000	.....	.....	.....	.....	+698,759,000
General provision: Bonuses & awards	-513,604	.....	.....	.....	.....	+513,604
Pipeline safety	1,000,000	.....	1,000,000	2,000,000	1,000,000	.....
Railroad Safety	-3,000,000	.....	.....	.....	.....	+3,000,000
Total, adjustments	-990,872,604	.....	1,000,000	2,000,000	1,000,000	+991,872,604
Net grand total	11,077,435,396	13,115,727,000	13,163,271,000	12,810,122,883	13,063,718,000	+1,986,282,604
Appropriations	(12,796,468,396)	(13,154,327,000)	(13,163,271,000)	(13,038,722,883)	(13,514,318,000)	(+717,849,604)
Rescissions	(-1,719,033,000)	(-38,600,000)	.....	(-228,600,000)	(-450,600,000)	(+1,268,433,000)
(Limitations on obligations)	(23,986,220,534)	(25,604,000,000)	(27,681,825,000)	(27,989,300,000)	(27,731,325,000)	(+3,745,104,466)
(Sec. 310 obligations)	(2,024,410,000)	(1,510,571,000)	(1,660,226,000)	(1,390,600,000)	(1,390,570,000)	(-633,840,000)
Net grand total budgetary resources	(37,088,065,930)	(40,230,298,000)	(42,505,322,000)	(42,190,022,883)	(42,185,613,000)	(+5,097,547,070)
RECAP						
Total mandatory and discretionary	11,077,435,396	13,115,727,000	13,163,271,000	12,810,122,883	13,063,718,000	+1,986,282,604
Mandatory	617,284,000	645,696,000	645,696,000	653,196,000	653,196,000	+35,912,000
Discretionary:						
Defense (050)	.....	300,000,000	300,000,000	.....	300,000,000	+300,000,000
Nondefense	10,460,151,396	12,170,031,000	12,217,575,000	12,156,926,883	12,110,522,000	+1,650,370,604
Total, Discretionary	10,460,151,396	12,470,031,000	12,517,575,000	12,156,926,883	12,410,522,000	+1,950,370,604

FRANK R. WOLF,
TOM DELAY,
RALPH REGULA,
HAROLD ROGERS,
RON PACKARD,
SONNY CALLAHAN,
TODD TIAHRT,
ROBERT B. ADERHOLT,
BOB LIVINGSTON,
MARTIN OLAV SABO,
THOMAS M. FOGLIETTA,
ESTEBAN EDWARD TORRES,
JOHN W. OLVER,
ED PASTOR,
DAVID R. OBEY,
Managers on the Part of the House.

RICHARD C. SHELBY,
PETE V. DOMENICI,
ARLEN SPECTER,
CHRISTOPHER S. BOND,
SLADE GORTON,
ROBERT F. BENNETT,
LAUCH FAIRCLOTH,
TED STEVENS,
FRANK R. LAUTENBERG,
ROBERT C. BYRD,
BARBARA A. MIKULSKI,
HARRY REID,
HERB KOHL,
PATTY MURRAY,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEWIS of Kentucky (at the request of Mr. ARMEY), for today after 7 p.m., and for the balance of the week, on account of illness in the family.

Mr. HILLIARD of Alabama (at the request of Mr. GEPHARDT), for Monday, October 6, and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAPPS) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. POSHARD, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. KINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. KINGSTON, for 5 minutes, today.

Mr. BUYER, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today and October 8.

Mr. FOLEY, for 5 minutes, today and October 8.

Mr. PAXON, for 5 minutes, on October 8.

Mr. DUNCAN, for 5 minutes, on October 8.

Mr. KASICH, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. TALENT, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. TAYLOR, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. SOUDER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CAPPS) and to include extraneous matter:)

Mr. STARK.
Mr. SCHUMER.
Mr. KENNEDY of Rhode Island.
Mr. CLYBURN.
Mr. FRANK of Massachusetts.
Mrs. MALONEY of New York.
Mr. COYNE.
Mr. MORAN of Virginia.
Mr. MCGOVERN.
Mrs. MEEK of Florida.
Ms. FURSE.
Mr. GORDON.
Ms. NORTON.
Mr. LIPINSKI.
Mr. DELLUMS.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. WAXMAN.
Mr. UNDERWOOD.
Mr. LANTOS.
Mr. FILNER.
Mr. KIND.
Mr. KUCINICH.
Mr. BONIOR.

(The following Members (at the request of Mr. KINGSTON) and to include extraneous matter:)

Mr. ARCHER.
Mr. DUNCAN.
Mr. WELLER.
Mr. GRAHAM.
Mr. BILIRAKIS.
Mr. FRELINGHUYSEN.
Mr. TAUZIN.
Mr. HERGER.
Mr. PACKARD.

(The following Members (at the request of Mr. EHRLICH) and to include extraneous matter:)

Mr. GANSKE.
Mr. ETHERIDGE.
Mr. RADANOVICH.
Mr. SPRATT.
Mrs. MEEK of Florida.
Mrs. CHENOWETH.
Mr. KIM.
Mr. MATSUI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 590. An act to provide for a land exchange involving certain land within the Routt National Forest in the State of Colorado; to the Committee on Resources.

S. 750. An act to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes; to the Committee on Resources.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 2378. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1998, and for other purposes.

ADJOURNMENT

Mr. EHRLICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 57 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 8, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5385. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Statement of Identity, Nutrition Labeling and Ingredient Labeling of Dietary Supplements; Compliance Policy Guide, Revocation [Docket Nos. 95N–0245 and 94P–0110] (RIN: 0910–AA59) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5386. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Requirement for Nutrient Content Claims, Health Claims, and Statements of Nutritional Support for Dietary Supplements [Docket No. 95N–0282] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5387. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Nutrient Content Claims: Definition for "High Potency" and Definition of "Antoxidant" for Use in Nutrient Content Claims for Dietary Supplements and Conventional Foods [Docket Nos. 95N–0245, 95N–0282, and 95N–0347] (RIN: 0905–AD96) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5388. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Notification Procedures for Statements on Dietary Supplements [Docket No. 96N–0240] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5389. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Uniform Compliance Date for Food Regulations [Docket No. 96N–0094] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5390. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Premarket Notification for a New Dietary Ingredient [Docket No. 96N–0232] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5391. A letter from the Acting Administrator, Health Resources and Service Administration, transmitting the Administration's final rule—Grants for Residency Training and Advanced Education in the General Practice of Dentistry (RIN: 0906–AA47) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5392. A letter from the Administrator, General Services Administration, transmitting the Administration's strategic plan covering the years 1998 through 2002, pursuant to Public Law 103–62; to the Committee on Government Reform and Oversight.

5393. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska [Docket No. 961126334–7052–02; I.D. 092997A] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5394. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Changes [Docket No. 961227373–6373–01; I.D. 092597A] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5395. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes (Federal Aviation Administration) [Docket No. 97–CE–94–AD; Amendment 39–10150; AD 97–20–14] (RIN: 2120–AA64) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5396. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Helicopter Systems Model MD–900 Helicopters (Federal Aviation Administration) [Docket No. 96–SW–30–AD; Amendment 39–10149; AD 97–20–12] (RIN: 2120–AA64) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5397. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 29022; Amendment No. 1823] (RIN: 2120–AA65) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5398. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 29024; Amendment No. 1825] (RIN: 2120–AA65) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5399. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 29023; Amdt. No. 1824] (RIN: 2120–AA65) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5400. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Thunder on the Lake Powerboat Races, Sunset Lake, Wildwood Crest, New Jersey (Coast Guard) [CGD 05–97–074] (RIN: 2115–AE46) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5401. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulation; Red River, Louisiana (Coast Guard) [CGD8–97–037] (RIN: 2115–AE47) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5402. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Interstate 5 Bridge Repair Project, Columbia River, Vancouver, WA (Coast Guard) [CGD13–97–023] (RIN: 2115–AA97) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5403. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Loan Guaranty: Requirements for Interest Rate Reduction Refinancing Loans (RIN: 2900–AI92) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5404. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Related Collection, Refunds, and Credits; Revision of Information Reporting and Backup Withholding Regulations; and Removal of Regulations Under Part 35a and of Certain Regulations Under Income Tax Treaties [TD 8734] (RIN: 1545–AU43; 1545–AT77) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5405. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, first-out inventories [Rev. Rul. 97–43] received October 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5406. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Time for Filing Form 4720 Return [TD 8736] (RIN: 1545–AU66) received October 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5407. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Certain Payments Made Pursuant to a Securities Lending Transaction [TD 8735] (RIN: 1545–AP71) received October 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5408. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Treaty-Based Return Positions [TD 8733] (RIN: 1545–AP35) received October 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 1411. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biological products, and for other purposes; with an amendment (Rept. 105–310). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 261. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–311). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 262. Resolution providing for the consideration of the Senate amendments to the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions (Rept. 105–312). Referred to the House Calendar.

Mr. WOLF: Committee of Conference. Conference report on H.R. 2169. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–313). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on the Judiciary discharged from further consideration. H.R. 967 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ARCHER (for himself, Mr. CRANE, and Mr. DREIER):

H.R. 2621. A bill to extend trade authorities procedures with respect to reciprocal trade agreements, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period

to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CRANE:

H.R. 2622. A bill to make miscellaneous and technical changes to various trade laws; to the Committee on Ways and Means.

By Mr. TAYLOR of Mississippi:

H.R. 2623. A bill to designate the United States Post Office located at 16250 Highway 603 in Kiln, Mississippi, as the "Ray J. Favre Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. WHITFIELD:

H.R. 2624. A bill disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45; to the Committee on Appropriations.

By Mr. BARR of Georgia:

H.R. 2625. A bill to redesignate Washington National Airport as "Ronald Reagan-Washington National Airport"; to the Committee on Transportation and Infrastructure.

By Mr. DUNCAN (for himself, Mr. SHUSTER, Mr. OBERSTAR, and Mr. LIPINSKI):

H.R. 2626. A bill to make clarifications to the Pilot Records Improvement Act of 1996, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. FOLEY (for himself, Mr. KENNEDY of Rhode Island, Mr. KLINK, Mr. FOX of Pennsylvania, Mrs. MYRICK, and Mr. MICA):

H.R. 2627. A bill to limit the authority of the Administrator of the Environmental Protection Agency to ban metered-dose inhalers; to the Committee on Commerce.

By Mr. GANSKE:

H.R. 2628. A bill to authorize amounts required to be paid by the United States pursuant to a judgement or settlement in favor of an individual to be used to pay child support and alimony obligations of the individual; to the Committee on Ways and Means.

By Mr. MATSUI (for himself, Mr. TANNER, Mr. BERMAN, Mr. MORAN of Virginia, and Mr. DAVIS of Florida):

H.R. 2629. A bill to establish objectives for negotiating and procedures for implementing certain trade agreements; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON (for himself, Mr. LOBIONDO, and Mr. ANDREWS):

H.R. 2630. A bill to redesignate the Mullica River-Great Bay National Estuarine Research Reserve as the Jacques Cousteau National Estuarine Research Reserve at Mullica River-Great Bay; to the Committee on Resources.

By Mr. SKEEN (for himself, Mr. REYES, Mr. SCHIFF, Mr. MCDADE, Mr. LEWIS of California, Mr. STENHOLM, Mr. SISISKY, Mr. PICKETT, Mr. ABERCROMBIE, and Mr. REDMOND):

H.R. 2631. A bill disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45; to the Committee on Appropriations.

By Mr. STARK:

H.R. 2632. A bill to amend title XI and title XVIII of the Social Security Act to combat health care fraud and abuse; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 2633. A bill to amend title XVIII of the Social Security Act to provide for standard forms under the Medicare Program for certifications of medical necessity and certifications of terminal illness; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STRICKLAND (for himself, Mr. GILMAN, Mr. RUSH, Mr. FOX of Pennsylvania, Mr. BONIOR, Mr. KENNEDY of Rhode Island, Mrs. KELLY, Mr. MCNULTY, Mr. HOLDEN, Mr. MASCARA, Mr. HINCHEY, Mr. FALEOMAVAEGA, Mr. MURTHA, Mr. FRANK of Massachusetts, and Mr. ACKERMAN):

H. Con. Res. 168. Concurrent resolution expressing the sense of the Congress that the United States Postal Service should maintain the Postal Uniform Allowance Program; to the Committee on Government Reform and Oversight.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GRAHAM introduced A bill (H.R. 2634) for the relief of Jessica Koch; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. ACKERMAN, Mr. BLUMENAUER, Ms. SLAUGHTER, Ms. RIVERS, Mr. RUSH, Mr. MENENDEZ, and Mr. GREEN.

H.R. 121: Mr. WELDON of Florida.

H.R. 164: Mr. FARR of California, Mrs. JOHNSON of Connecticut, Mrs. MORELLA, Mr. FOLEY, and Mr. KENNEDY of Rhode Island.

H.R. 286: Ms. FURSE.

H.R. 287: Ms. FURSE.

H.R. 590: Mr. KENNEDY of Rhode Island and Mr. MINGE.

H.R. 619: Mr. TIERNEY, Mr. GUTIERREZ, Mr. CLYBURN, Mr. WYNN and, Mr. CAPPS.

H.R. 754: Mr. FARR of California.

H.R. 789: Mr. POMEROY.

H.R. 955: Mr. KLUG and Mr. SANDLIN.

H.R. 965: Mr. CRAPO.

H.R. 979: Mr. CUNNINGHAM, Ms. KILPATRICK, and Mrs. JOHNSON of Connecticut.

H.R. 983: Ms. SLAUGHTER, Mrs. TAUSCHER, Mr. UNDERWOOD, and Mrs. THURMAN.

H.R. 1009: Mr. TIAHRT.

H.R. 1100: Mr. GRAHAM.

H.R. 1111: Mr. NEAL of Massachusetts, Mr. HILLIARD, Mr. COYNE, Mr. NADLER, Mr. FOLEY, Mr. GREEN, Mr. GEJDENSON, Mr. FAZIO of California, and Mr. LANTOS.

H.R. 1114: Mr. HOLDEN, Ms. MCCARTHY of Missouri, and Mr. MCINTYRE.

H.R. 1129: Mr. MCGOVERN, Mr. UNDERWOOD, Mr. SHAYS, and Mr. HILLIARD.

H.R. 1176: Mr. CAPPS and Mr. WAXMAN.

H.R. 1215: Mr. MARTINEZ and Mr. HINOJOSA.

H.R. 1231: Mr. MURTHA.

H.R. 1260: Mr. KIM.

H.R. 1320: Mr. BLAGOJEVICH.

H.R. 1334: Mr. FARR of California.

H.R. 1378: Mr. NUSSLE, Mr. REDMOND, and Mr. HERGER.

H.R. 1427: Mr. GREENWOOD.

H.R. 1500: Mr. WEXLER.

H.R. 1555: Mr. HINCHEY.

H.R. 1608: Mr. GUTKNECHT, Mr. DEAL of Georgia, Mr. BOSWELL, Mr. ADAM SMITH of Washington, Mr. FALEOMAVAEGA, and Mr. STOKES.

H.R. 1614: Ms. KAPTUR and Mr. KILDEE.

H.R. 1635: Mr. ENSIGN, Mr. SANDERS, Mr. SMITH of Michigan, and Mr. ALLEN.

H.R. 1689: Mr. THORNBERRY, Mr. FOX of Pennsylvania, Mr. MICA, Mr. HOUGHTON, Mr. METCALF, Mr. HAYWORTH, Mr. COLLINS, and Mr. MINGE.

H.R. 1737: Mr. GREEN, Mr. BALDACCI, Mrs. KELLY, Mr. BONIOR, Ms. SLAUGHTER, Mr. UNDERWOOD, Mr. FROST, Mr. LANTOS, Mr. SANDLIN, and Mr. LAMPSON.

H.R. 1782: Mr. CONYERS and Mr. SANDERS.

H.R. 1813: Mr. BONIOR, Ms. CHRISTIAN-GREEN, Mr. STRICKLAND, Mr. DELAHUNT, Mr. THOMPSON, Ms. KAPTUR, and Mr. VENTO.

H.R. 1823: Mr. BONIOR, Mr. MCGOVERN, Mr. LAMPSON, Mr. TIERNEY, Ms. HOOLEY of Oregon, Mr. PASCRELL, Mr. SYNDER, Mrs. MCCARTHY of New York, Ms. KILPATRICK, Mr. BLAGOJEVICH, Mr. ROTHMAN, and Mr. DAVIS of Illinois.

H.R. 1842: Mr. LEWIS of Kentucky.

H.R. 1850: Mr. LUTHER.

H.R. 2023: Mr. POSHARD and Mr. ACKERMAN.

H.R. 2053: Mr. STRICKLAND, Mr. GUTIERREZ, and Mr. LAFALCE.

H.R. 2100: Mr. FILNER.

H.R. 2120: Ms. STABENOW, Mr. WEYGAND, Mr. KIND of Wisconsin, and Mr. PAYNE.

H.R. 2125: Mr. SMITH of New Jersey.

H.R. 2128: Mr. FILNER.

H.R. 2131: Mr. CLEMENT, Mr. ABERCROMBIE, and Mr. LAMPSON.

H.R. 2174: Mr. DAVIS of Illinois, Mr. BOUCHER, Ms. KILPATRICK, and Ms. STABENOW.

H.R. 2195: Mr. BROWN of Ohio and Mr. EVANS.

H.R. 2202: Mr. EWING, Mr. BARRETT of Wisconsin, Mr. EDWARDS, Mr. LEWIS of Georgia, Ms. BROWN of Florida, Mr. MATSUI, Mr. GOODLATTE, and Mr. HILLIARD.

H.R. 2221: Mr. SESSIONS and Mr. HINOJOSA.

H.R. 2257: Mr. STARK.

H.R. 2265: Mr. GALLEGLY.

H.R. 2292: Mr. SMITH of Michigan, Mrs. TAUSCHER, Ms. HOOLEY of Oregon, Mr. MILLER of Florida, Mr. LEWIS of Kentucky, Mr. SESSIONS, Mr. GINGRICH, Mr. DELAY, Mr. DAVIS of Virginia, Mr. COX of California, Mr. BOSWELL, Mr. HALL of Texas, and Mr. SNOWBARGER.

H.R. 2328: Mr. FAZIO of California.

H.R. 2369: Mr. WYNN, Mr. PETERSON of Minnesota, and Mr. DEAL of Georgia.

H.R. 2377: Mr. CONDIT, Mr. COOKSEY, Mr. CRAPO, Mr. THORNBERRY, Mr. NUSSLE, Mr. NETHERCUTT, Mr. HOEKSTRA, and Mr. GOODLING.

H.R. 2387: Mr. DAVIS of Illinois.

H.R. 2404: Ms. NORTON and Mr. MILLER of California.

H.R. 2421: Mr. UNDERWOOD, Mr. FRANK of Massachusetts, Mr. YATES, Mr. DELLUMS, and Mr. MILLER of California.

H.R. 2422: Mr. MARTINEZ.

H.R. 2450: Ms. FURSE, Mr. FALEOMAVAEGA, and Ms. RIVERS.

H.R. 2454: Mr. MCHUGH and Mr. LIPINSKI.

H.R. 2457: Mr. MCHUGH and Mr. LIPINSKI.

H.R. 2460: Mr. HUTCHINSON.

H.R. 2468: Mr. GUTIERREZ.

H.R. 2476: Ms. KILPATRICK, Mr. HOLDEN, Mr. TRAFICANT, Mr. FROST, and Ms. WOOLSEY.

H.R. 2485: Mr. PETRI, Mr. PALLONE, Mr. BARRETT of Wisconsin, Mr. BROWN of Ohio, Mr. MASCARA, Mr. DOYLE, Mr. JOHNSON of Wisconsin, Mr. MEEHAN, Ms. MCCARTHY of

Missouri, Ms. RIVERS, Mr. VISCLOSKY, and Mr. SAWYER.

H.R. 2495: Mr. DELAHUNT, Mr. PASCRELL, Mr. FALEOMAVAEGA, Mr. BROWN of California, Mr. STARK, Mr. BONIOR, and Ms. LOFGREN.

H.R. 2497: Mr. DREIER, Mrs. KELLY, Mr. FOLEY, Mr. BARR of Georgia, Mr. LOBIONDO, Mr. BALLENGER, Mr. HERGER, Mr. KASICH, Mr. WELDON of Florida, and Mr. BLUNT.

H.R. 2503: Ms. KILPATRICK, Mr. LIPINSKI, Mr. MCINTYRE, Mr. GUTIERREZ, and Mr. LAMPSON.

H.R. 2527: Mrs. MORELLA, Mr. BONIOR, Mr. BERRY, Mr. COSTELLO, Mr. GEJDENSON, Mr. MCGOVERN, Mr. SANDERS, Mr. CAPPS, Mr. SCHUMER, Mrs. MALONEY of New York, Ms. ESHOO, Mrs. CLAYTON, Mr. MURTHA, Mr. RUSH, Mr. RAHALL, Ms. RIVERS, Mr. STRICKLAND, Mr. EVANS, and Mr. ABERCROMBIE.

H.R. 2543: Mr. MARTINEZ.

H.R. 2545: Ms. DELAURO, Mr. CRAMER, Mr. EDWARDS, Ms. LOFGREN, Mr. LAMPSON, Mr. DEUTSCH, Mr. COBURN, Ms. FURSE, Ms. WOOLSEY, Mrs. MORELLA, Ms. SLAUGHTER, Ms. ESHOO, and Mr. SANDLIN.

H.R. 2558: Mr. LAMPSON, Mr. DELLUMS, and Mr. FILNER.

H.R. 2559: Mr. DELLUMS and Mr. FILNER.

H.R. 2560: Ms. ROYBAL-ALLARD, Mr. QUINN, Mrs. CLAYTON, Ms. WATERS, Mr. BONIOR, Mr. HASTINGS of Florida, Mrs. KELLY, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FOGLIETTA, Mr. PAYNE, Mr. STOKES, Mr. OWENS, Mr. BARRETT of Wisconsin, Mr. TRAFICANT, Mr. ROEMER, Mr. LEWIS of Georgia, Mr. HINCHEY, Mr. RODRIGUEZ, and Mr. MCGOVERN.

H.R. 2563: Mr. HAYWORTH.

H.R. 2597: Ms. MCKINNEY.

H.R. 2599: Mr. GUTIERREZ.

H.R. 2604: Mr. DELAY, Mr. RAMSTAD, Mr. UNDERWOOD, and Mr. LANTOS.

H.R. 2611: Mr. PACKARD and Mr. BISHOP.

H.J. Res. 26: Mr. MCCRERY.

H. Con. Res. 80: Mr. PORTER, Mr. MCHALE, Mr. PETERSON of Pennsylvania, Mr. FATTAH, Mr. WELDON of Pennsylvania, Mr. SOLOMON, and Mr. GONZALEZ.

H. Con. Res. 107: Mr. SNOWBARGER and Mr. UNDERWOOD.

H. Con. Res. 155: Mr. REGULA and Mrs. NORTHUP.

H. Con. Res. 159: Mr. BARRETT of Wisconsin, Mr. WALSH, Mr. MARTINEZ, Mr. MCNULTY, Mr. OLVER, Mr. BROWN of Ohio, and Mr. FORBES.

H. Res. 96: Mr. STOKES and Mr. TORRES.

H. Res. 139: Mrs. CHENOWETH and Mr. KASICH.

H. Res. 200: Mr. YOUNG of Alaska.

H. Res. 212: Mr. BERMAN.

H. Res. 224: Mr. GEPHARDT, Mr. PRICE of North Carolina, Mr. TRAFICANT, Mrs. EMERSON, and Mrs. KELLY.

H. Res. 229: Mr. FILNER, Mr. HASTINGS of Florida, Mr. THOMPSON, Mr. GREEN, and Mr. SHAYS.

EXTENSIONS OF REMARKS

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2267) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes:

Mr. LEVIN. Mr. Chairman, I rise in opposition to the Hyde amendment to the Commerce-Justice-State appropriation.

In Committee there was a provision added that would have allowed Members of Congress and their staffs to be reimbursed for legal costs in cases where they were the prevailing party against the Federal Government, unless a court found that the Government's case was "substantially justified or that other special circumstances would make an award unjust."

Under this provision, the burden of proof would be placed on Government prosecutors who would not only have to prove that there was probable cause a crime had been committed, but also that they were substantially justified in bringing the case to trial.

It was my intention to vote for an amendment to completely strike the committee language from the bill. Unfortunately, the Congress was not given an opportunity to vote on such an amendment.

Instead the Congress considered the Hyde amendment. This amendment took a questionable approach to a handful of cases involving Congress and sought to apply it to all cases prosecuted by the Government. This would open the Government up to a flood of litigation every time it lost a case, regardless of the circumstances.

It was a bad idea for cases involving Congress and it's an exponentially worse when it's extended to everyone else. The fact is that if this provision were to become law, the Department of Justice would choose not to pursue difficult, but legitimate, criminal cases such as those involving rape and child molestation.

CELEBRATING NATIONAL DYSTONIA AWARENESS WEEK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today to celebrate October 12–19 as National Dystonia Awareness Week.

Mr. Speaker, I became interested in the efforts of organizations that promote public awareness and research into dystonia when one of my constituents, Larry Bienstock, brought to my attention his long-term battle with this devastating disease. After receiving his law degree from New York University, Larry was a leading figure in bringing people together who were concerned about dystonia and in establishing a strong collective voice for advocacy.

Dystonia is a rare neurological disorder characterized by severe muscle contractions and sustained postures that afflict an estimated 300,000 people in North America. The three major types of dystonia are primary, focal dystonia, and secondary dystonia.

Primary dystonia, also known as idiopathic torsion dystonia, causes spasms that affect different parts of the body and often starts in childhood.

Focal dystonia affects one specific part of the body, distinguished in five categories: blepharospasm, cervical dystonia, oromandibular dystonia, spasmodic dysphonia, and writer's cramp. Blepharospasm causes eyelids to rise tightly for seconds to hours. Cervical dystonia is the contraction on neck muscles turning the head to one side or pulling it forward or backward. Oromandibular dystonia—also known as Meige's Syndrome—is a combination of blepharospasm and oromanibular dystonia in which the muscles of the lower face pull or contract irregularly to cause facial distortions. Spasmodic dysphonia affects the speech muscles of the throat, causing strained, forced, or breathy speech. Writer's cramp is characterized by muscles in the hand and forearm contracting.

The final type of dystonia, secondary dystonia, is caused by an injury or other brain illness.

Unfortunately at this time, there is no definite test for dystonia and many primary care doctors have only minimal knowledge of the symptoms of this disease. The medical profession has found this particular neurological disorder difficult to detect, and therefore it is difficult to correctly diagnose individuals suffering from dystonia. Dystonia affects six times more Americans than other better known disorders such as Huntington's disease and muscular dystrophy.

Those who suffer from dystonia, their families, and their friends have benefited from the creation of the Affiliated National Dystonia Association [ANDA], which is comprised of the Dystonia Medical Research Foundation, the National Spasmodic Dysphonia Association, and the National Spasmodic Torticollis Association. I applaud their work, and support their outstanding efforts.

ANDA provides outreach education regarding the various types of dystonia to both the medical and lay communities, including school systems, government, and the media. It also provides for medical grants to promote research into the causes of and treatment for dystonia. Finally, ANDA sponsors patient and family support groups and programs.

Many citizens react to the physical manifestations of dystonia by avoiding those who have this disorder, causing them to experience isolation and suffer grave psychological harm. Greater recognition and understanding of dystonia, both in the medical and the lay communities, is highly desirable. Individuals can obtain more information about dystonia on the world wide web. The Dystonia Medical Research Foundation has created a web page that not only offers information about the various forms of dystonia, but also details meeting places and dates for those who are or have a family member affected by dystonia. The web address is http://www.ziplink.net/users/dystonia/. You can also learn more by visiting an Internet news group dedicated to dystonia research at "alt.support.dystonia." The toll-free number is 1–800–377–DYST (3978).

Today, as we celebrate National Dystonia Awareness Week, I stand with those who have suffered with dystonia and those who have been their advocates. We must continue to increase public awareness of this disease and ultimately, to search for a cure.

HAPPY 50TH ANNIVERSARY LEROY AND JEANETTE

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. POSHARD. Mr. Speaker, in an era when many are concerned with the demise of the institution of marriage and the family unit in the United States, I rise today to honor Leroy and Jeanette Linck. It gives me great pleasure to congratulate Leroy and Jeanette on their 50th anniversary. Leroy and Jeanette were married on September 5, 1947 at the Methodist Church in Bartonville. The Linck's joyously celebrated their 50th anniversary with close friends and family on September 6 at an intimate reception in the Spillertown Baptist Church Educational Building for all to share in this wonderful occasion.

Leroy has been an active volunteer in the political arena and through his work experience he is a jack of all trades. Leroy was a Democratic Precinct Committeeman for 32 productive years. His fervor for community involvement was intoxicating and is personally responsible for letting the people in the surrounding areas become aware of the political process. Jeanette dedicated 12 years to her career as a nurse at a local doctor's office until she decided to retire when the practice closed.

Mr. Speaker, in a day where marriages are too often short lived, it is a real treasure to be

a witness to a couple that has endured the daily trials and tribulations that cause many couples to fail. The Linck's have proven that they can work things out and muddle through their struggles. This family is no stranger to life's hardships.

Leroy and Jeanette have been blessed with a large, loving family and a strong marriage. Mr. Speaker, what a monumental achievement to be married for 50 years. It is an honor to represent a couple like the Linck's—they are an inspiration to us all in southern Illinois and I am proud to represent them in the U.S. House of Representatives.

POWER VACUUM AT PANAMA CANAL

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. KING. Mr. Speaker, on October 5, 1997 The New York Times ran an interesting story by Larry Rohter on a power vacuum developing at the Panama Canal. The importance of the Canal to the United States' economic interests should not be underestimated with over 200,000 jobs in our Nation dependent on a safe and efficient Canal operation. For example, one out of every four vessels entering or leaving the Port of New York and New Jersey transits the Panama Canal.

I commend to my colleagues the Rohter story with the hope that officials at the Pentagon will not neglect our responsibilities in Panama over the next 27 months.

[From the New York Times, October 5, 1997]

AS PANAMA CANAL TRANSFER NEARS, MORE JOCKEYING TO FILL A POWER VACUUM

(By Larry Rohter)

MIAMI, Oct. 4.—The sudden resignation of the chairman of the Panama Canal Commission, with barely two years remaining before the United States yields control of the vital waterway, has created a power vacuum that Panama is now maneuvering to fill, American officials and current and former canal officials say.

Meeting in a closed session here this week, the nine-member binational body, created by the Panama Canal Treaties 20 years ago, chose the United States Secretary of the Army, Togo D. West, Jr., to succeed Joe R. Reeder, an American, who resigned on Sept. 15.

But in a nod to Panama's increasingly assertive posture regarding the running of the canal, the board also created a new position, that of vice chairman, and named a Panamanian, Jorge E. Ritter, to the job.

As Minister of State for Canal Affairs and a member of the commission's board, Mr. Ritter is already the Panamanian Government's principal negotiator on canal matters. This summer, President Ernesto Perez Balladares enhanced Mr. Ritter's already considerable influence by naming him director of the Panama Canal Authority, the entity that will assume management of the waterway when the United States hands it over to Panama on Dec. 31, 1999.

Mr. West, on the other hand, is relatively new to canal matters and remains preoccupied with the Army's sexual harassment scandals, the deployment of American troops in Bosnia and a host of other issues. This has led to concerns among some shipping executives and other canal specialists that he will be unable to devote the time required to supervise the handover properly and to assure that the Canal Treaties are properly implemented.

"It makes no sense in the heavy-duty transition that is under way to have the Secretary of the Army as chairman of the Canal Commission," said Robert R. McMillan, Mr. Reeder's predecessor as board chairman. "There is no way he can do justice to the position, no matter how many colonels from his retinue he has swarming around the Canal. With this job, it's hands on or nothing; you can't tune in just for board meetings and be an effective chairman."

In a telephone interview Friday, Mr. West, a lawyer and former general counsel of the Department of Defense, said his new post "has always been a part-time job" and that "the occasions on which the chairmanship was the sole duty of whoever held it are rare, if any." Naming a Panamanian as vice chairman "probably should have been done before now," he added, and "provides a further sign of the spirit of cooperation" between the two countries.

"We have every confidence that Secretary West will be fully capable of handling his responsibilities as Secretary of the Army as well as chairman of the Panama Canal Commission board of directors," said Capt. Michael Doubleday, a Defense Department spokesman in Washington.

Captain Doubleday noted that former Army Secretary Michael P. Stone also served as chairman of the Panama Canal commission's board, from early 1990 to January 1993.

Like Mr. Pérez Balladares' other nominees to the future Canal Authority, which include four members of his or his wife's family, Mr. Ritter has close ties to the President and the governing Democratic Revolutionary Party. During the rabidly anti-American dictatorship of Gen. Manuel Antonio Noriega, who was then leader of the party, Mr. Ritter was Panama's Ambassador to Colombia and then Foreign Minister.

In 1992, after the American invasion that toppled and captured him, General Noriega was convicted here of drug trafficking, racketeering and money laundering to aid Colombian drug cartels and was sentenced to 40 years in prison. During his trial, a witness testified that Mr. Ritter, using his diplomatic privileges while Ambassador in Bogatá, had purchased a Mercedes-Benz on behalf of a leading Colombian drug dealer in return for $50,000. Mr. Ritter has denied that he did anything improper.

"Having to deal with Jorge Ritter is a sizable assignment," one American official said, speaking on condition of anonymity. "That's why it is vitally important to the national interest to have someone in place who can really focus on the situation on a day-to-day basis and provide continuity all the way through 1999."

Canal officials say that Panama viewed Mr. Reeder's departure, which American officials attributed to tensions between him and Mr. West, as an opportunity to strengthen its presence on the commission. There had even been informal suggestions that the new chairman be a Panamanian, they said, which led to negotiations aimed at avoiding a show of discord at the body's next public meeting, scheduled to take place in New York this month.

Mr. West said that "if there was any such discussion in the margins, I had no sign of that." He described Mr. Ritter as "a very impressive person, intellectually very sharp, the right person to do this job," but, when asked if he himself expected to remain as chairman of the commission through 1999, he did not answer directly.

"There is every intention for all of us to be a stabilizing and not a destabilizing influence," he said. Though "neither I nor the Administration have any present plans for me not to see this through," he added, "the half life of political appointees in any administration is of such a nature that I have already exceeded my expected term."

DON PIENKOS, 1997 OUTSTANDING AMERICAN OF POLISH DESCENT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. KLECZKA. Mr. Speaker, I rise today in heartfelt tribute to my good friend, Don Pienkos, who has been honored by the National Polish Alliance's Milwaukee Society as the 1997 Outstanding American of Polish Descent.

Don has for many years played such an important role in the Polish-American community in the Milwaukee area and nationally. He's been on the board of directors for the Polish National Alliance and is very involved with its Milwaukee Society. He is also active in the Polish American Congress and Milwaukee's Polishfest Festival. Dr. Pienkos has also long been a supporter of the Polish Institute of Arts and Sciences of America and the Kosciuszko Foundation.

Currently the director of undergraduate studies for the Political Science Department at the University of Wisconsin-Milwaukee, Don Pienkos' special area of interest is Eastern Europe and the nations of the former Soviet Union. He has taught at UWM for nearly 30 years, working to instill in his students an appreciation for and understanding of Eastern European politics and culture. In addition, he helped organize UWM's committees on Russian and Eastern European studies, as well as Polish studies.

As a natural outgrowth of his interest, knowledge and pride in his Polish heritage, Don has authored several books on Poland and on Polish-American organizations. These informative works provide us with wonderful accounts of the efforts Polish-Americans have made on behalf of the Polish people and fellow Polish-Americans.

Most recently, Don has been active in Poland's struggle to rebuild its government and economy after the fall of eastern bloc communism. He has worked with elected community leaders from Poland to train them in local democratic government and was in Poland to observe and write about their 1995 elections. Don was also honored to have met with President Clinton and Vice-President GORE to discuss North Atlantic Treaty Organization enlargement, and has worked hard toward the goal of full NATO membership for Poland.

Mr. Speaker, it is my privilege to honor Professor Donald Pienkos for his outstanding work in the Polish-American community. I congratulate him on being awarded the Milwaukee

Society's Outstanding American of Polish descent and extend my best wishes for a successful Pulaski Day celebration and continued success for years to come. Sto Lat!

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. KIND. Mr. Speaker, today we begin the 6th week of legislation business since returning from the August district work period. Each weekend I return home to western Wisconsin and meet with the people whom I represent. Each weekend I have to inform them that we have not taken any action on campaign finance reform. Mr. Speaker, the people of my district are tired of hearing that another week has gone without campaign finance reform.

Over the past 6 weeks in Congress we have found the time to tackle some very difficult matters. Yet that action has done nothing to restore the public's faith in this institution. The reason for this lack of faith is our failure to clean our own house. The public is demanding that we eliminate the influence of big money in the political system before they will trust us to serve the interests of the people. Failure to even consider a bill on campaign finance reform is only feeding that cynicism.

Instead of banning soft money Congress gave huge tax breaks to tobacco companies. Instead of requiring special interests to disclose what they spend on campaign advertising Congress continues to allow those special interest groups to run unregulated political ads more than a year before an election. Instead of instituting more stringent campaign reporting requirements Congress conducts repetitive, partisan inquiries into past campaign abuses.

Mr. Speaker, it is time to restore the public's faith in our democratic system. It is time to show the voters that we have the ability to clean our own house. It is time we pass meaningful campaign finance reform.

FAMILY PLANNING FUNDING

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. SABO. Mr. Speaker, the Foreign Operations conference report soon will be considered by the House. As we consider that legislation, I want to call my colleague's attention to this editorial on family planning funding which appeared recently in the Minneapolis Star Tribune.

EDITORIAL: FAMILY PLANNING—SAVING THE WORLD'S CHILDREN, AND MOTHERS

Before they settle into office, perhaps new members of Congress should be required to visit a developing country. They'd see what it's like to scratch a livelihood out of the dirt, to strain to feed more mouths than the available food can fill. They'd see how overpopulation spawns a cycle of poverty, disease, illiteracy and environmental devastation. And these world travelers would likely return to the Capitol knowing something that many of today's lawmakers can't seem to grasp: If Americans want to save lives and improve health overseas, funding family planning is the surest bet.

There's really no disputing this; no credible group even tries. The World Bank—hardly a bastion of bleeding hearts—says investing in contraception is a remarkably cost-effective way to improve child and maternal health. Yet U.S. lawmakers have been mysteriously reluctant to take note of this wisdom. In recent years they've devoted only a pittance of foreign-aid funds to family planning, and then have bent over backwards to keep from spending it.

This year's backbend comes courtesy of the House of Representatives, which has pasted a "global gag rule" and other debilitating amendments to its version of the foreign operations appropriations bill. The bill is being considered along with its cleaner Senate companion in a conference committee that convened Thursday.

The House's gag rule is a variation on an old theme, born of the hope that holding family planning programs hostage can somehow stop abortion. Though federal law has barred the use of U.S. funds for foreign abortions for two decades, the House plan goes one grand step further. It would bar family-planning groups overseas from receiving U.S. funds if—using their own, non-U.S. money—the groups provide abortions, openly support abortion or even speak to their governments about making abortion safer. The House bill would also cut off $25 million to the U.N.'s Population Fund unless the agency pulls out of China, where forced abortions have been reported.

Whatever its intent, it's hard to imagine that this scheme will actually do much to curb abortion. Its chief effect will likely be to weaken the network of family-planning agencies on which millions of the globe's most destitute contraceptive-seekers depend. And since contraception is the best anti-abortion program around, making it hard to get is sure to spur fresh demand for abortion. Even now, unwanted pregnancies result in about 50 million abortions every year—many performed in dangerous, often deadly, conditions. What sensible soul would want to add to that number?

TRIBUTE TO DONALD J. BABB

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. BLUNT. Mr. Speaker, I rise today to commend Donald J. Babb as this year's recipient of the American Hospital Association's Shirley Ann Monroe Leadership Development Award. Mr. Babb serves as chief executive officer of Citizens Memorial Hospital [CMH] and executive director of Citizens Memorial Health Care Foundation in Bolivar, MO. The Monroe Award is given annually to a chief executive officer of a small or rural hospital.

Don has been with CMH since it first opened its doors in the fall of 1982. In fact, Don was hired before construction even began, and was the hospital's first employee. He was hand-picked by the hospital's original board of directors to come to Bolivar to help build CMH from the ground up. And, build it from the ground up he did.

Because of Don's hard work and vision, CMH has grown from a 45,000 square foot facility with 90 employees to a 300,000 square foot facility with over 1,000 employees. But the hospital's phenomenal growth cannot be measured merely in terms of physical size. Under Don's leadership CMH has evolved into a fully-integrated health care delivery system to meet the growing needs of its service area, which has grown from 17,000 to nearly 80,000 people in only 15 years. Today, CMH includes a 74 bed acute care hospital, an intensive care unit, a full-service outpatient clinic, rehabilitation services, a home health agency, 12 physician clinics, an ambulance service, and a residential care facility. The hospital will also add a dialysis clinic this fall.

The health care industry has faced many changes in the past two decades, and Don has confronted those changes head-on. Because of the rising costs of health care Don formed Missouri Advantage, the first Health Maintenance Organization [HMO] for a small, rural hospital in Missouri, and one of only six in the Nation at that time. In 1996, Don expanded Missouri Advantage to cover three additional rural hospitals in the State.

Don has consistently used his position to look for new and better ways to identify and address the health care needs in his community. In 1995, he formed Community Health Assessment Resource Teams [CHART] in five counties within the CMH service area. Don has used CHART to bring together professionals, lay people, and volunteers to address issues like teen pregnancy, infant mortality, and the acute shortage of health care professionals in rural communities.

In spite of Don's personal success, he has never lost touch with the community he serves or the people he works with. It is not uncommon for Don to take time out to visit personally with the employees of CMH and let them know that he appreciates their efforts. His is a great example. I would like to thank Don once again for having the courage to lead, and to congratulate him on receiving this well deserved honor.

86TH ANNIVERSARY OF THE REPUBLIC OF CHINA ON TAIWAN

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate President Lee Teng-hui and Vice President Lien Chan of the Republic of China on Taiwan as they celebrate the 86th anniversary of the founding of their nation. Their commitment to the sometimes-difficult task of forging a democratic nation is to be lauded.

Also, I would like to extend my best to Representative Jason Hu, who is returning to Taiwan to assume the duties of Foreign Minister. If his tenure here in the United States is any indication of the future, Dr. Hu will be a first-rate foreign minister for the Taiwanese Government. His efforts to forge ties between our countries are commendable and will surely serve him well.

Finally, I ask my colleagues to join me in offering encouragement to the Taiwanese Government in its continued efforts to build a democratic nation.

READING EXCELLENCE ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. GOODLING. Mr. Speaker, for many years I have led the battle to combat illiteracy in the United States, through the development of the Even Start Family Literacy Program and through the improvement of the Adult Education Act.

What has been missing has been a focus of preventing reading difficulties from developing in the first place. We have several major Federal education programs focused on assisting children who are experiencing difficulties learning to read, such as title 1 of the Elementary and Secondary Act and the Individuals With Disabilities Education Act. And yet, the 1994 NAEP Reading Report Card points out that 40 percent of children in fourth grade are reading below the basic level. This means they have only partially mastered the prerequisite knowledge and skills which are fundamental for proficient work at their grade level.

President Clinton, and I commend him for his interest in improving reading skills in our Nation's children, has proposed that we address this problem primarily through the use of volunteers to help students experiencing reading difficulties. However, hearings before my Committee on Education and the Workforce have pointed out that an even more fundamental change is necessary if we are to teach children to read. The fact is, we first have to teach teachers how to teach reading based on reliable, replicable research on how children learn to read.

Dr. Reid Lyon, Chief of the Child Development and Behavior Branch at the National Institutes of Health, testified before the committee that fewer than 10 percent of our Nation's teachers have an adequate understanding of how reading develops or how to provide reading instruction to struggling readers.

Rather than focusing on volunteers, we need to focus our attention on those individuals who have the primary responsibility for teaching our children to read.

Today I am introducing a bill which I believe will go a long way toward addressing the illiteracy problems in our country. This legislation, the Reading Excellence Act, provides grants to States to provide funding to title 1 schools in school improvement to teach teachers how to teach reading and to provide for a range of other activities to help prevent the development of reading difficulties among children in elementary school.

Among other activities, the bill requires schools to provide transition programs for children who are not ready to move from kindergarten to first grade, family literacy activities for parents who have low levels of literacy to help them become their child's first and most important teacher, and additional assistance before and after school, on weekends, during non-instructional periods during the school day and during the summer to children experiencing reading difficulties.

The bill also requires States to fund tutorial assistance grants. These grants would go to title 1 schools in enterprise and empowerment zones and would be used to provide grants to parents to seek additional reading assistance for their children from a list of providers developed by the local educational agency.

The Reading Excellence Act also calls for the board dissemination of information on reliable, replicable research on reading to Federal education programs with a strong reading component so all teachers have the knowledge they need to teach children how to read.

Finally, this bill makes important changes to the Even Start Family Literacy Act and the College Work Study Act to allow them to work with children and families to improve the reading ability of our Nation's children.

Mr. Speaker, this is a good bill which will go a long way toward insuring that the children in our Nation will learn to read as soon as possible once they enter school. It is my sincere hope that this bill can receive bipartisan support and I have been working closely with the Clinton administration and Democrats who serve on my committee to achieve that goal. While we are not there yet, it is my desire to continue to work with them to develop a bill that both Republicans and Democrats can support and that will truly help all children to read no later than the third grade.

INTRODUCTION OF THE EMERGENCY MEDICAL SERVICES ENHANCEMENT ACT OF 1997

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. ETHERIDGE. Mr. Speaker, I am pleased today to announce an important initiative for rural America. Recently, rural areas have been faced with rising health care costs, and providing medical services has become a financial burden on local government. As a result, rescue and EMS squads have had to to forgo needed improvements, construction, and equipment. When a loved one requires emergency services, ambulances must roll, equipment must work, and facilities must be in place. These organizations often make the difference between life and death in an emergency. We cannot risk one life because of a lack of sufficient funds for these organizations.

Today, I am introducing legislation that will seek to correct this problem. The Emergency Medical Services Enhancement [EMS] Act will allow emergency organizations to issue tax-exempt bonds to raise funds for the purchase of equipment and for the construction and improvement of facilities. Tax-exempt bonds are used to build schools, bridges, and other public facilities. Volunteer fire departments have issued these bonds to purchase equipment and facilities. It is only right that we give similar consideration to those volunteer organizations that provide life saving emergency services to our citizens.

Mr. Speaker, this legislation will have an immediate impact on volunteer emergency organizations in rural areas across this country. In Harnett County, NC, my home county, the town of Dunn is building a new EMS facility as a result of damage to the previous station from Hurricane Fran last year. The Dunn EMS would have saved half a million dollars if it could have issued tax-exempt bonds. In Franklin County, the Franklinton EMS has been colocated with the fire department since its headquarters were destroyed by Fran last year. This bill will help them rebuild and provide the quality services the people of Franklin County deserve. This bill will save lives in rural counties throughout the country.

Mr. Speaker, this bill builds on the work of my friend and a former Member of this body, martin Lancaster. He laid the foundation for this effort by introducing this bill when he was in the House a few years ago. I am pleased to have the opportunity to introduce this bill that will fulfill a critical need in our rural communities.

INTRODUCTION OF THE CHILD SUPPORT ENHANCEMENT ACT OF 1997

HON. GREG GANSKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. GANSKE. Mr. Speaker, today I am introducing the Child Support Enhancement Act of 1997 which will help ensure that deadbeat parents take personal responsibility for their children.

It takes two people to bring a child into the world and it takes two people to raise a child in this world. Unfortunately, in too many cases, one parent believes that their responsibility ends when the baby is born.

Statistics estimate that by 1994, there were approximately 11.4 million families with minor children in this country that were single-parent households. While single-parent families made up roughly 13 percent of American families in 1970, this number escalated to 31 percent of all families in 1994.

This harsh reality means that the success of our Nation's child support enforcement efforts is important to an even greater number of children growing up in this country in single-parent homes.

As I have mentioned before, while we can't legislate and force parents to read to their children, attend Little League baseball games or show up at birthday parties, we can help make sure there is food in children's mouths and clothes on their backs by encouraging financial responsibility. This financial responsibility must include both parents. Child support is not merely a legal duty; it is a moral duty.

This is why I strongly supported the initiatives contained in the welfare bill that passed into law during the 104th Congress. The new law improves child support collection procedures, enhances enforcement of child support orders across State lines, and helps insure that deadbeat parents take personal responsibility for their children.

As Members of Congress we must oversee the implementation of the new law to ensure

it is achieving its intended purpose. In the meantime, we must continue efforts to strengthen our child support enforcement efforts.

The importance of these initiatives can clearly be seen when one considers that in fiscal year 1995, the child support enforcement program collected child support payments for less than 20 percent of its caseload.

That is why I am introducing the Child Support Enforcement Act of 1997. This bill authorizes the seizure or interception of judgments or settlements to private individuals in suits brought against the Federal Government. The legislation applies to settlements or judgments in both administrative actions and claims in a court of law.

Currently, State child support enforcement officials and others working on behalf of custodial parents can seize or intercept moneys in suits against private individuals and State governments, but only in very narrow circumstances can they do this when Uncle Sam is involved.

If a deadbeat parent is going to receive money from the Federal Government, this legislation will help to ensure that the children get their share.

We must continue efforts that make it easier for child support collectors to do their job.

For kids' sake, I urge my colleagues to support this bill.

TRIBUTE TO MICHAEL GARSON

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to commend and congratulate Michael Garson for his outstanding community service in my district. Mr. Garson was recently honored by the Harry S. Truman Democratic Club, also in my district. Community action and service are critical to the betterment of our cities, and Mike certainly is an outstanding example of how people involved in such service can have positive impact on those around them.

In addition to serving as a Democratic State committeeman and as a Democratic leader of the 41st assembly district, Mike is a member of the New York State and Brooklyn Bar Associations, the International Legal Fraternity Phi Delta Phi, B'nai B'rith Sheepshead Lodge, Congregation Beth Shalom of Sheepshead Bay, and the Jewish War Veterans No. 335, Cohen-Eisenman Post. He also services with distinction on the board of directors of the Kings Bay YMHA–YWHA. He was honored in 1982 by the Kings County Young Democrats and is listed in Who's Who in the East. Mike lives in the Madison section of Brooklyn with his wife, Laurie, and his daughter, Francesca.

I thank Mike for his continued community service and wish him success in his life. I sincerely hope that we will continue to work together for many years to come.

HONORING SHERMAN SPEARS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. DELLUMS. Mr. Speaker, I rise to recognize the achievement of one of my constituents, Mr. Sherman Spears. He will be honored on October 14, 1997 as a recipient of the Amendment Award of Excellence in Crime Prevention on behalf of the National Crime Prevention Council. Out of 140 nominations, Mr. Spears was selected along with eight extraordinary individuals who are fighting crime and building community.

Mr. Spears was shot at the age of 19 and fortunate to have survived. The incident, which left him a paraplegic, motivated him to dedicate his life to doing what he can to help at-risk young people make choices to keep themselves and others alive, and to teach them how to build safer communities. Since 1993, he has been the Coordinator of Teens on Target, a youth violence prevention program in my hometown of Oakland, CA. He began the Caught in the Crossfire hospital peer visitation program in 1994.

Mr. Spears used his experience and understanding to develop the Caught in the Crossfire program. This program provides adolescents, who are recovering from violent injuries in the Highland hospital trauma center, with educational materials about violent crime to dissuade victims and their friends from retailing against their attackers. Upon discharge, Mr. Spears contacts the patients to see if they have used the referrals given to them, such as joining a program to help them get their GED, changing friendship groups, or joining and attending a physical rehabilitation program.

Caught in the Crossfire provides visitation to all recovering adolescents who are referred by the Highlight hospital staff. This averages 50 visits per year. The average length of hospital stay of each patient is 2 to 3 days; Mr. Spears responds to the call for help within 24 hours.

Teens on Target approaches at-risk youth in an attempt to reform their perspectives and to help them understand the repercussions of violence. The program trains multiethnic urban youth to educate their peers about the causes of violence and how to prevent it at home, in their neighborhood, and in their city. Each year, 25 youth from two high schools in Oakland are trained by Mr. Spears to: First, provide peer violence prevention education at schools, conferences and community events; second, educate professionals on the impact of violence on youth and strategies for prevention that will work; third, provide an informed voice to the media about how youth can be leaders in preventing violence; fourth, provide positive role models for youth; and fifth, provoke policymakers to take action to prevent violence. The youth, at risk for dropping out of school themselves, are referred to Teens on Target by probation officers, principals, counselors, and teachers. They provide four interactive violence prevention workshops to approximately 2,000 youth per year addressing the issues of gun violence, street and gang violence, alcohol and drug violence, and family violence. Over 5,000 youth have received this training since Mr. Spears has coordinated the project.

I would like to thank the National Crime Prevention Council and Ameritech for their commitment in helping individuals fight crime and build community and for recognizing and honoring the work of Mr. Spears and others.

Sherman Spears did not let his experience with violence become an excuse for defeat. He has not allowed the physical difficulties resulting from that incident to keep him from making a contribution to his community. Instead, he has used his unique insight to create programs to address crime throughout Oakland. We, in Oakland, are fortunate and proud to have Mr. Spears working on the front lines, to help break the vicious cycle of violence. Thank you so much for your commitment and work on our behalf. I also ask my colleagues to join me in congratulating Sherman Spears and hard-working individuals like him who make a difference in their communities.

EMERGENCY MEDICAL SERVICES ENHANCEMENT ACT OF 1997

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. ETHERIDGE. Mr. Speaker, I am pleased today to announce an important initiative for rural America. Recently, rural areas have been faced with rising health care costs, and providing medical services has become a financial burden on local government. As a result, rescue and EMS squads have had to forgo needed improvements, construction, and equipment. When a loved one requires emergency services, ambulances must roll, equipment must work and facilities must be in place. These organizations often make the difference between life and death in an emergency. We cannot risk one life because of a lack of sufficient funds for these organizations.

Today, I am introducing legislation that will seek to correct this problem. The Emergency Medical Services Enhancement [EMS] Act will allow emergency organizations to issue tax-exempt bonds to raise funds for the purchase of equipment and for the construction and improvement of facilities. Tax-exempt bonds are used to build schools, bridges, and other public facilities. Volunteer fire departments have issued these bonds to purchase equipment and facilities. It is only right that we give similar consideration to those volunteer organizations that provide life saving emergency services to our citizens.

Mr. Speaker, this legislation will have an immediate impact on volunteer emergency organizations in rural areas across this country. In Harnett County, NC, my home county, the town of Dunn is building a new EMS facility as a result of damage to the previous station from Hurricane Fran last year. The Dunn EMS would have saved half a million dollars if it could have issued tax-exempt bonds. In Franklin County, the Franklinton EMS has been co-located with the fire department since its headquarters were destroyed by Fran last year. This bill will help them rebuild and provide the quality services the people of Franklin

County deserve. This bill will save lives in rural counties throughout the country.

Mr. Speaker, this bill builds on the work of my friend and a former Member of this body, Martin Lancaster. He laid the foundation for this effort by introducing this bill when he was in the House a few years ago. I am pleased to have the opportunity to introduce this bill that will fulfill a critical need in our rural communities.

SOMERSET AMVETS LOUIS A. COLON POST #72 FIFTIETH ANNIVERSARY

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. McGOVERN. Mr. Speaker, I am here today to congratulate the Somerset AMVETS Louis A. Colon Post #72 on their 50 anniversary. The Somerset AMVETS have been a source of community pride and public service since their inception in 1947.

For the past 50 years the Somerset AMVETS have worked tirelessly to promote the values of those who have served in the U.S. military. They have sponsored numerous youth athletic teams, partnered with Somerset South school in providing athletic and academic mentoring, provided scholarships to area youths attending college, worked with the VA voluntary services and for 50 consecutive years sponsored Boy Scout troop #2. This is just a sampling of the charitable and community service work the Somerset AMVETS have provided in the past 50 years.

Once again I would like to congratulate and commend the Somerset AMVETS Louis A. Colon Post #72 on their 50th anniversary. I with them continued success in all their future endeavors.

TRIBUTE TO MARILYN LLOYD

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. GORDON. Mr. Speaker, I rise today to recognize the outstanding achievements of one of our former colleagues, Marilyn Lloyd, who served in the House from 1975 to 1995. On October 10, Ms. Lloyd's 20 years of service to her district will be commemorated at the dedication of the Marilyn Lloyd Environmental and Life Sciences Complex in Oak Ridge, TN.

The Marilyn Lloyd Environmental and Life Sciences Complex will comprise most of the Environmental Sciences Division's labs and offices on the west end of Oak Ridge National Laboratory [ORNL]. Ms. Lloyd's successor, Congressman ZACH WAMP, along with various officials and dignitaries, will be on hand to express their appreciation for her efforts on behalf of ORNL.

There could not be a more fitting tribute to her hard work and dedication to the Oak Ridge community. As a senior member of the House Science Committee and chairwoman of the Subcommittee on Energy, former Representative Lloyd was in a unique position to assume a watchdog position and ensure that Oak Ridge was treated fairly. At a time when many DOE sites are struggling, Oak Ridge has maintained its status as a national leader in neutron science, cutting-edge technology, and environmental cleanup. None of this would have been possible without Marilyn Lloyd's diligence and commitment to the Third District of Tennessee.

In her previous position as a U.S. Congresswoman, Ms. Lloyd brought attention to the need for fusion energy research and the Isotope Production and Distribution Program. Her dedication to her district and the science community was so deep-rooted, she chose to remain the chairwoman of the Energy Subcommittee even after she had obtained the seniority to chair a subcommittee on the House Armed Services Committee.

Ms. Lloyd still remains active in the science community and in Oak Ridge. She is an appointee to the Secretary of Energy's advisory board and a member of Lockheed Martin Energy Research Corp. board of directors. Her community service, church activities, and family keep her busy as well.

As the first and only woman to be elected to a full term in the U.S. House of Representatives from Tennessee, Marilyn always was a trailblazer. I cannot think of anyone more deserving of this tribute than my former colleague and friend, Marilyn Lloyd. Her past and continued work for the Oak Ridge National Lab and the Third District should never be forgotten.

CELEBRATION OF AUSTRIAN-AMERICAN DAY

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. BILIRAKIS. Mr. Speaker, I rise today to commemorate Austrian-American Day. President Clinton and Governors across the Nation proclaimed September 26, 1997, as Austrian-American Day. Three of my constituents, Christian Robin, Maria Groh, and Anna Goodman, came to Washington, DC, to celebrate this important occasion.

Why is September 26 important to Austrian-Americans? On September 26, 1945, at the meeting of all Federal Provincial Governors, the United States insisted that Austria remain a united nation. Had it not been for the United States, Austria would have been divided between the East and West.

This year also marks an important anniversary for Austrian-Americans. Fifty years ago, the United States initiated the Marshall plan. Through this plan, many war-torn European nations were able to rebuild after World War II. The Marshall plan enabled these nations to fend off the looming Communist threat.

Austrian-Americans work hard to make their communities a better place to live in by sharing what they have and helping others in need. In a sense, we can say that our aid in postwar reconstruction has come full circle. We are now receiving the benefits of the generosity that our Nation showed to another country in their time of need.

Mr. Speaker, many great Austrian-Americans have contributed to our way of life. I want to take a moment and reflect on some famous Austrian-Americans: Joseph Pulitzer, Supreme Court Justices Felix Frankfurter and Earl Warren, Estee Lauder, Fred Astair, and Arnold Schwarzenegger. These individuals have made many contributions to our society. Of course, there are countless other Austrian-Americans who have contributed greatly in the areas of literature, science, economics, medicine, and entertainment.

Austria and America have an inextricable bond which has been created not only through the Marshall plan but also through those Austrians who have chosen to make the United States their home. Though they may have been born and raised in another country, they have joined the melting pot that is our country, making our Nation even stronger by the addition of their experiences and hopes and dreams for America. We must take the time to learn and appreciate other heritages and cultures. I would like to commend Austrian-Americans for making their culture accessible to all of us through their many different activities throughout the United States.

CONGRATULATIONS TO J. EDWIN KYLE

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. TAUZIN. Mr. Speaker, J. Edwin Kyle is celebrating his 80th birthday on October 12, 1997. I would like to wish him a very happy birthday and congratulate him on reaching this milestone. I wish him many more joy-filled birthdays.

FAST TRACK IS THE WRONG TRACK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. LIPINSKI. Mr. Speaker, it is no secret that I have been a consistent and vocal critic of NAFTA. When Congress voted to expand the treaty to Mexico in 1994, I opposed it, and subsequent events have demonstrated all too clearly why NAFTA was a bad deal for the American working man and woman. The United States has lost more than 400,000 jobs, while the situation of Mexican workers has continued to deteriorate.

Perhaps NAFTA could have been salvaged when Congress received it for deliberation 4 years ago. Unfortunately, we had no choice but to vote for it as it was presented to us, with no opportunity to add amendments or insert clarifications of any kind, because in 1992, Congress handed President Bush fast track negotiating authority.

Now President Clinton would like to expand NAFTA to other nations in the Western Hemisphere, such as Chile. And, of course, he

again wants fast track authority in dealing with our neighbors.

The problem with fast track is not so much that the President is using it to negotiate bad trade deals, although he did, and I believe he will again. The overriding concern is that fast track is yet another voluntary abrogation of congressional authority to the President.

It should be of great concern to my colleagues and all Americans that the people's legislature—Congress—could again surrender much of its constitutional prerogatives in shaping trade policy. There is no denying that we exist in a global economy, where we should always strive for free and fair trade. However, at a time when world commerce is becoming increasingly complex and the future well-being of American workers is pegged to the way we do business with other countries, Congress is voluntarily handing over its responsibility when it comes to shaping the rules by which we have to play.

Over the last 30 years, Congress has given up many of its traditional powers to the President, such as sending American troops into war zones. It is time for Congress to put a stop to this trend, and the upcoming fast track vote is the perfect place to turn the tide.

Even the ardent free traders at the Wall Street Journal recently published a poll that showed an overwhelming majority of Americans believe that Congress should play a role in the crafting of our Nation's trade agreements.

It is time for Congress to put a halt to both self-destructive trade agreements and the meek surrender of its prerogatives and responsibilities.

HONORING SANDOR BRATTSTROM

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. WELLER. Mr. Speaker, I rise today to honor the hard work and dedication of a valued employee, Mr. Sandor Brattstrom, who has served as congressional liaison to communities in the 11th District of Illinois since I took office in 1995. Sandy has been a faithful friend of the people of the 11th District of Illinois. His service on their behalf, particularly the people of Will County, has positively affected these communities in innumerable ways.

As congressional liaison to Will County, he has helped me build strong relationships with local officials and business leaders. His instinctive understanding of the needs of these communities and his ability to perceive fruitful courses of action has served to make me more effective as a community servant.

A very important part of Sandy's work has been his critical role in the redevelopment of the 23,500 acre Joliet Arsenal property, a project which has attracted national attention as a prototype for the conversion of unneeded military facilities to productive civilian use.

Not only did Sandy play a key role in mobilizing the diverse 11th District sources of support needed to ensure passage of the enabling redevelopment legislation, the Illinois Land Conservation Act of 1996, but he has since worked very hard to help begin the process of implementing the following major provisions of this landmark act of Congress:

The creation of the 19,000-acre Midewin National Tallgrass Prairie—the largest tallgrass prairie in the Nation. The prairie will be a wonderful natural treasure cherished by Americans for many generations to come.

The development of a 3,000-acre industrial park utilizing much of the arsenal's infrastructure to eventually provide economic growth and thousands of new jobs.

The building of a 985-acre national veterans' cemetery—larger even than the Arlington National Cemetery and the second largest in the Nation—to honor the men and women whose courage and sacrifice to America have preserved our freedoms.

Sandor Brattstrom has been a very important contributor to the success of my service in the U.S. Congress on behalf of the citizens of the 11th District. I am pleased to know that in his new position as assistant executive director of the Joliet Arsenal Development Authority, he will continue to serve many of the people of Will County and the 11th District.

I thank you, Sandy, for all you have accomplished for me and the people I represent.

TRIBUTE TO ADELE McKENZIE

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. DUNCAN. Mr. Speaker, on Veterans Day of this year, a great American and wonderful lady, Adele McKenzie, will be honored at the courthouse in Maryville, TN.

This will be a very well-deserved tribute to a very patriotic woman.

Adele McKenzie is a native of Blount County and the daughter of the late India and Thomas Brady.

She is the great, great, great, great, great granddaughter of the first county judge who served when Blount was still a territorial county.

Mrs. McKenzie is the widow of Lt. Comdr. Boyd McKenzie, a 30-year veteran of the U.S. Navy. The wife of a career military man is in many, many ways a veteran herself.

She is the mother of Boyd McKenzie, Jr., who is with Delta Airlines in Atlanta, and Melinda Bryan, a sergeant with the Chattanooga police department.

Mrs. McKenzie has long been active in community affairs, especially the VFW Auxiliary, for which she served two terms as district 2 president.

She was president of the Sam Houston School PTA and worked for 32 years as a Scout leader. She has been a longtime member of the Blount County Jury Commission, a member of the Disabled American Veterans Auxiliary, the Fort Loudon Association, and the Sam Houston Memorial Association.

Mrs. McKenzie has been best known in recent years as a valuable and devoted member of the staff of The Daily Times newspaper.

Adele McKenzie has been and remains today as one of the most active and respected citizens of Blount County.

She is loved and admired by thousands. She has not lived her life on the sidelines, but instead has done her best to help others.

This Nation would be a much better place if we had more people like Adele McKenzie.

I would like to call to the attention of my colleagues and other readers of the RECORD the following article about the life of Adele McKenzie which was published in The Daily Times.

COMMISSION HONORS REPORTER, HISTORIAN FOR SERVICE TO PUBLIC

(By Tammy Stanford)

Adele McKenzie—veteran government news reporter and historian—was honored by the Blount County Commission Monday. 1A resolution approved unanimously by the group, said McKenzie of The Daily Times has given years of "exceptional and selfless public service."

For more than two decades, McKenzie covered the Blount County Court and Commission for the Times, including its important budget committee meetings.

"You were an honorary member of the budget committee," James Kyker, a commissioner for many years and current commission chairman, told McKenzie during the presentation.

Said Dean Stone, McKenzie's long-time coworker and executive-editor of the times: "(Adele's) favorite assignments were the Blount County Quarterly Court and the Blount County Commission."

County Executive Bill Crisp said officials wanted to acknowledge McKenzie's dedication with a resolution.

"We wanted to make sure you understood how much we appreciate and love you." Crisp told the honoree.

McKenzie now writes features and a weekly cooking column for the newspaper.

Stone noted McKenzie's renown as a local historian. Her family has been prominent in the area since Blount was a territorial county.

McKenzie's son, Boyd M. McKenzie Jr., was at the presentation and also lauded his mother's contributions to the county.

She has been a leader in many community clubs, including the Sam Houston Memorial Association and Boy Scouts and Girl Scouts.

McKenzie is the daughter of the late India Patton Brady and Thomas F. Brady. She is the widow of Lt. Cmdr. Boyd M. McKenzie.

The couple's daughter, Melinda Bryan, is a Chattanooga police officer. Their son works for Delta Airlines in Atlanta.

PERSONAL EXPLANATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. SCHUMER. Mr. Speaker, I was unavoidably detained on Monday, October 6, 1997, and thus was unable to vote in favor of the Veterans Health Programs Improvement Act. I know that this bill passed by a very wide margin and that my vote made no difference in the outcome, however as one who has consistently supported our veterans and who has joined with many Members to seek additional research into gulf war syndrome, I had hoped to be on the House floor to cast an affirmative vote.

GLENN T. SEABORG—ELEMENTAL PIONEER

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. DELLUMS. Mr. Speaker, it is my great privilege today to pay tribute to one of America's—and the world's greatest scientists. Dr. Glenn T. Seaborg is currently the university professor of chemistry at the University of California, associate director-at-large at the Lawrence Berkeley National Laboratory and chairman of the Lawrence Hall of Science. He has previously served as both chancellor of the University of California, Berkeley and as chairman of the Atomic Energy Commission.

Dr. Seaborg is perhaps best known as the cowinner of the 1951 Nobel Prize in Chemistry for his work on the chemistry of the transuranic elements. He is the codiscoverer of 10 transuranic elements, and is the only person to hold a patent on a chemical element—both americium and curium.

Today I want to applaud Dr. Seaborg for yet another honor. The international panel that approves the names of new elements has approved the naming of Element 106 as Seaborgium. This is the first time that an element has been named for a living person, and is a great tribute to the work that Dr. Seaborg has accomplished over the last six decades. He is one of a very few Americans for whom the term "living legend" truly applies, and it is my honor today to congratulate Dr. Seaborg on this magnificent achievement.

THE AMERICAN LAND SOVEREIGNTY PROTECTION ACT

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. RADANOVICH. Mr. Speaker, as a cosponsor of H.R. 901, the American Land Sovereignty Protection Act, I am confident that the bill makes a firm commitment to protecting America's public lands against overreaching international bureaucracies, like the United Nations. I particularly commend Chairman DON YOUNG for his leadership on this bill.

My district in California includes three national parks—Yosemite, Kings Canyon, and Sequoia. Therefore, any question of threatened sovereignty over public lands and its potential impact on adjoining private property is of critical concern to me and my constituents. The United Nations should not be operating in our backyard in the absence of congressional oversight. H.R. 901 reasserts Congress' constitutional role in the making of rules and regulations governing lands belonging to the United States and its people.

It is arrogant for the United Nations to believe that undermining the United States' hard won sovereignty is in the best interest of world peace. Preserving every measure of U.S. sovereignty is crucial to maintaining American leadership abroad and at home. I urge the House to pass H.R. 901.

HONORING CLARA PADILLA ANDREWS

HON. ELIZABETH FURSE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Ms. FURSE. Mr. Speaker, I rise today in honor of Hispanic Heritage Month to recognize an outstanding individual, a constituent, and friend of mine in the First Congressional District of Oregon, Ms. Clara Padilla Andrews. Ms. Andrews has dedicated her life to serving others.

Ms. Andrews is the owner and publisher of the El Hispanic News, a bilingual English/Spanish weekly community newspaper in Oregon. Previously, Ms. Andrews has served as a Community and Family Services integration of services supervisor and the Hispanic services coordinator for Multnomah County in Portland. Through her tenure with the county, she demonstrated her strong will, dedication, and commitment to sharing her talents and knowledge to promote networking and partnerships. Her ability as a community organizer and strong encouragement of project collaboration were essential ingredients in the work she did and continues to do in creating a better society for all.

Ms. Andrews is known for her behind-the-scenes advocacy on behalf of disenfranchised Hispanic families in Multnomah County. She was instrumental in obtaining monetary support to staff positions at three high schools to reduce the Hispanic student dropout rate.

She was also essential in the renovation of the Galaxy apartment complex. This cluster of apartments in their original condition were a northeast Portland neighborhood eyesore in deplorable condition with a prevalence of drugs and prostitution, crime, and poverty.

Today the Galaxy apartments are the Villa de Clara Vista apartments named in honor the Hacienda Community Development Corp. and recruited board members to spearhead the renovation effort to make affordable family housing available. The project today also includes a one-stop center for coordinated social services for area occupants. This project now serves as a national model.

Ms. Andrews has worked at all levels of government. Her civic involvement is admirable, as she served as the secretary of state for New Mexico from 1983 to 1986 and was the highest ranking Latina elected official at that time. When Ms. Andrews lost her granddaughter, Susana Gurule, to cancer, she founded the Susana Maria Gurule Foundation which focuses its efforts on increasing the number of minority volunteers for the National Marrow Donor Program registry. As a result of her work, she has also been named to the National Marrow Donor Program board.

Ms. Andrews is a 1986 recipient of a Congressional Hispanic Caucus Distinguished Service Award, the 1994 Doernbecker Hospital Hero's Award, Executive Women in State Government Distinguished Award, and several others. She has also been named 1 of the 100 Most Influential Hispanics four times.

Ms. Andrews is an exemplary citizen. Her lifetime of achievements and contributions to making society a better place for all serves as a model for all of us to learn from and follow. In recognition of National Hispanic Heritage month, it is my honor to recognize my friend, Ms. Clara Patilla Andrews.

PAYING TRIBUTE TO JUDITH MAY COOK

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to honor an exemplary citizen and beloved public servant, Judith May Cook. Her endless contributions to the small community of Little Compton deserve proper recognition as she prepared to retire from her position as town clerk.

Judith was born to Clarence F. and Lucille Hambly on November 25, 1947. At 29 years old she began her distinguished career as a public servant. On April 1, 1976, Judith was first appointed to fill the unexpired term of retiree, Olive R. Kneeland, as treasurer of Little Compton. She committed her invaluable efforts to this office for 6 years and her hard work and dedication were not soon forgotten. After the tragic death of Philip B. Wilbur, the town clerk, Judith was appointed to fill his unexpired term. Since her appointment on December 4, 1986, she has run unopposed in every election for this position. Besides fulfilling the duties of her appointments, Judith was elected to participate on the town's budget committee for a term and a half. Ms. Cook has played a vital role in the government's stability and financial security of the small community of Little Compton.

Little Compton is a sparesely settled, seaside community populated by only 3,367 permanent residents. While the town entertains an influx of summer residents, the economy does not rely on tourism, but agriculture is its largest significant component. Little Compton has remained free of many of the political and economic pressures of the 20th century. In a town that celebrates its natural evolution as much as its picturesque landscape, a defining citizen like Judith May Cook proves to be a true role model.

When Judith May Cook retires on January 1, 1998, it will be a great loss for the community of Little Compton. Her professional success and dedicated service will always stand as a model of commitment for which we may strive to emulate. I ask my colleagues to join me to salute and thank Judith for her years of outstanding public service.

PERMANENT LEGAL RESIDENCY FOR JESSICA KOCH

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. GRAHAM. Mr. Speaker, today, I introduced a bill crucial to Jessica Koch, a high school senior in my district. This bill will provide for the permanent legal residency of this

well-rounded, ambitious girl whose world has been irrevocably changed after recently discovering her status as an illegal immigrant.

Jessica came to this country with a tourist visa in 1981. Shortly thereafter, when she was 18 months old, she was abandoned by her biological mother, the only parent she had ever known. Fortunately, she was taken into the caring home of David and Diane Miller, who were awarded legal custody of her when she was 5. Oblivious of her status as an illegal immigrant, the Millers raised her, supported her, and cared for her as one of their own. It was not until this year that Jessica's life and hopes for a successful future were turned upside-down.

On August 13, Jessica went to replace a lost Social Security card that the Millers obtained for her when they were given custody. She was stunned when she was denied a card and was told she was an illegal immigrant. Until that moment Jessica took pride in acting as a responsible citizen by working part-time while in school and registering to vote. Now, upon learning of her illegal status, she was forced to stop working to help support herself.

Because Jessica came to this country as an infant and became a member of the Miller family at a young age, she was raised with the impression that she was an adopted member of the Miller family and that she was a U.S. citizen. This is a case to which Congress can bring a happy resolution. By introducing this bill, I am hopeful that Jessica can remain in the United States, the only country she calls home.

IN RECOGNITION OF CAPTAIN PACKARD'S NAVAL INTELLIGENCE TREATISE

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. MORAN of Virginia. Mr. Speaker, Capt. Wyman H. Packard, U.S. Navy (Retired), a constituent of mine from Arlington, has spent the past three decades diligently compiling the first public history of U.S. Naval Intelligence. Today, the result of his effort is a joint publication of the Office of Naval Intelligence and the Naval Historical Center titled "A Century of Naval Intelligence."

Captain Packard's undertaking was done without remuneration from the U.S. Government. Rather, he chose to demonstrate that history repeats itself and we have a tendency of going in a circle under the guise of progress. This book will serve as a textbook for the Naval Intelligence School and will provide a starting point for future historical studies. This administrative history studies how the discipline and bureaucracy of naval intelligence evolved.

Most of Captain Packard's research comes from firsthand experiences. He participated in five major sea engagements during World War II, including Midway, the Coral Sea, and the Solomons. He also served abroad the USS *Hornet* from the time it was launched and through its brief but heroic history until it was sunk in the Pacific.

This book clearly demonstrates the importance of naval intelligence to the U.S. national security during peace and war and is a valuable reference for defense professionals.

100-MILE DIABETES WALK

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. COYNE. Mr. Speaker, I rise today to pay tribute to a truly remarkable group of individuals from western Pennsylvania.

This year marks the 20th annual Walk to Beat Diabetes. Each year, Mr. Robert Mandera, a postal worker from Caraopolis, PA, leads a small band of dedicated volunteers on a 100-mile walk from Erie, PA, to Pittsburgh to raise money for diabetes research. The walk will begin this year on October 10 and end on October 12.

Mr. Mandera started this project 20 years ago after his daughter was diagnosed with juvenile diabetes. His personal experience with this terrible disease motivated him to begin raising money to support diabetes research.

Each year, Mr. Mandera and his fellow walkers cover the 100 miles between Erie and Pittsburgh over the course of 3 grueling days. A number of generous sponsors provide food, lodging, supplies, and clothing for the volunteers. Many family members, contributors, and well-wishers join the walkers for the last few miles. The walk ends at the McKnight Siebert Shopping Center in Township, where a raffle is held for sports memorabilia to raise more money for diabetes research. This year, the walkers hope to raise $20,000 for diabetes research.

Mr. Mandera is a Vietnam veteran who is active in the V.F.W. He serves on the board of directors of the Pittsburgh Chapter of the American Diabetes Association, and he has raised money for arthritis research and the March of Dimes as well as for the ADA.

Mr. Speaker, I salute these brave volunteers, and I want to especially commend Mr. Robert Mandera for 20 years of unstinting dedication to this worthy cause.

SMALL BUSINESS PROGRAMS REAUTHORIZATION AND AMENDMENTS ACT OF 1997

SPEECH OF

HON. FRANK A. LoBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1997

Mr. LoBIONDO. Mr. Speaker, I rise today in strong support of H.R. 2261, the Small Business Programs Reauthorization and Amendments Act. The Small Business Administration provides the principal form of disaster relief for communities struck by tragedy. On August 21 and 22, 13½ inches of rain fell in Atlantic County in my district in a matter of hours. This downpour ended up causing $54 million in estimated damage, impacting more than 5,000 homes and businesses. Because a bulk of the area is not located in a flood plain, many of the impacted families and business owners did not have flood insurance.

Last week, the President declared Atlantic County a disaster area making the area eligible for Federal assistance. A bulk of this assistance, which is made up of low-interest loans for home repairs and property and inventory damage, will come from the Small Business Administration. The people benefiting from this aid are small business owners and hard-working families, many of which were told they did not have to have flood insurance because they were located in a low-risk area. Where do these people turn when suddenly they have to come up with thousands upon thousands of dollars to replace such essential items as water heaters, washer/dryers, and furnaces? Many of them turn to the Small Business Administration. As we speak, representatives from the Small Business Administration are holding workshops in my district for individuals interested in applying for low-interest disaster loans. They have issued more than 2,000 loan applications and have already made several approvals since they started taking applications last week.

The Small Business Administration fulfills a vital need for disaster victims. For individuals and businesses that cannot recoup their losses through insurance, the SBA provides a safety net that enables people to put their lives back together after a devastating natural disaster. I am proud to support H.R. 2261 and I hope we can secure swift passage of this vital legislation.

REAUTHORIZATION OF THE EXPORT-IMPORT BANK

SPEECH OF

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1370) to reauthorize the Export-Import Bank of the United States:

Mr. ARCHER. Mr. Chairman, I rise today in support of reauthorization of the Export-Import Bank of the United States. This institution is absolutely vital to our Nation in order to keep American companies and workers competitive in the world marketplace.

My philosophy on trade has always been that we should take every step possible to make it free and fair for all countries, and that purchases should be made based on quality, price, and service. I firmly believe that, under such circumstances, American companies will excel. Unfortunately, as my colleagues know, this is not always the case today. In a perfect world, France, Germany, Japan, England and our other competitors would not provide unfair advantages to their exporters. If that were the case, we would be having a different debate today. We would not need the Exim Bank to level the playing field.

However, the fact remains that the Exim Bank finances American exports where commercial financing is simply not available or

competitive and where, without government action, the sale would be lost. The Exim Bank does this at a low cost to the taxpayers and with a tremendous positive impact on the American economy. Last year alone, Exim Bank supported over 200,000 high quality American jobs.

It is also important to note that the Exim Bank is not a giveaway program. The Bank must be repaid every dollar it lends, and has had a default rate of only 1.0 percent over the last 15 years. This is significantly better than our own commercial banks have performed over the same period of time.

Last week I met with Mr. James Harmon, the new president of Exim Bank. Frankly, I was impressed with his determination to institute management and policy changes at the Bank that will make it an even better value for the taxpayers. He has some great innovative ideas that will help make American companies even more competitive in the 21st century. I look forward to working with him and I urge my colleagues to vote against unilateral economic disarmament and vote in favor of reauthorizing the Export-Import Bank.

IN HONOR OF DR. H. BEECHER HICKS, JR.

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Ms. NORTON. Mr. Speaker, I rise in praise of Rev. Dr. H. Beecher Hicks, who is the senior minister at Metropolitan Baptist Church in Washington, DC and one of the Nation's great preachers. He is a brilliant spiritual leader, a renowned author, a distinguished civic leader, and an outspoken champion of the rights of District residents.

I rise to recognize Pastor Hicks on the occasion of the Metropolitan Baptist Church's 20th Pastoral Jubilee for their pastor, when the more than 7,000 members of the church are celebrating his many accomplishments and contributions. Pastor Hicks has been a leader in bringing women into the ministry and has advocated the ordination of women. He has established programs at the church that are much-praised models for churches around the Nation for people living with AIDS and their families, for prison inmates, for seniors, and for youth. He has rebuilt his historic church and made it a center for revitalization of its inner city neighborhood.

Dr. Hicks has become a leading voice in pursuing the democratic right of self government for District residents. When the Congress forced a death penalty referendum on the District in 1992, Dr.Hicks was chair of the campaign against the death penalty. He led the campaign not only as a civic leader of the community, but also as a minister of the Gospel who, like many of the ministers in the District, opposes the death penalty on religious grounds.

Dr. Hicks' dissertation for his doctoral degree from Colgate Rochester Divinity School in 1972, "Images of the Black Preacher: The Man Nobody Knows," was published in 1977. Since then he has been widely published in religious publications. His two most recent volumes are "*Preaching Through a Storm*" and "*Correspondence with a Cripple From Tarsus.*"

In recognition of his extraordinary talent in his calling, *Ebony* named Dr. Hicks one of the "Fifteen Greatest African-American Preachers" in 1993. Mr. Speaker, I ask that Members of this body, the U.S. House of Representatives, join me in saluting the dynamic leadership of Rev. Dr. H. Beecher Hicks, Jr.

MEDICARE AND MEDICAID BENEFICIARY PROTECTION ACT OF 1997

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. STARK. Mr. Speaker, today I am introducing the Medicare and Medicaid Beneficiary Protection Act of 1997, a bill designed to continue our fight against health care fraud, waste, and abuse in the Medicare and Medicaid Programs.

THE PROBLEM

The General Accounting Office [GAO] has estimated that fraud and abuse could be as much as 10 percent of total health care spending. This best estimate—that 10 percent of the Nation's $1 trillion health bill is lost in waste, fraud, and abuse—includes both the private and public sector. Consider this . . . Federal baseline outlays for Medicare are approximately $208 billion in fiscal year 1998—and 10 percent of waste, fraud, and abuse roughly equals the $23 billion we cut each year in this year's budget reconciliation bill. If we were tougher on health care fraud, we wouldn't have to cut payments from the honest, hardworking providers who justly should receive payment for their services.

A recent audit by the Health and Human Services Office of Inspector General [HHS OIG] estimated that approximately $23 billion—about 14 percent of the total Medicare fee-for-service benefit payments—had been improperly paid through the Medicare system. These errors included everything from simple mistakes to outright fraud. Most improper payments were due to the lack of any or adequate documentation to support the claimed service—lack of medical necessity; incorrect coding; and noncovered or unallowable services. All the money improperly paid, however, was wasteful.

RECENT LEGISLATIVE EFFORTS ARE PROMISING BUT NOT ENOUGH

We should be proud of recent legislative efforts. The Health Insurance Portability and Accountability Act and the Balanced Budget Act of 1997 made significant strides in combating fraud, waste, and abuse in the Medicare and Medicaid Programs. With bipartisan cooperation, we enacted unprecedented tools for fighting what has become one of the favorite crimes of the 1990's—cheating the Government of billions of dollars through health care fraud. This new legislation designs a fraud fighting program that coordinates the efforts of a broad array of law enforcement and health care agencies. Equally as important, it authorizes funding to support the work of law enforcement and the development of new detection and enforcement techniques.

Total fines, restitutions and recoveries achieved this year from OIG criminal and civil investigations totaled $1.2 billion. This is five times higher than recoveries for fiscal year 1996. Approximately 2,500 health care providers and entities were excluded from doing business with the Medicare, Medicaid, and other Federal and State health care programs because of violations of the law—an 80-percent increase from the 1,400 exclusions in fiscal year 1996.

Although we're heading in the right direction, massive fraud schemes to defraud the Government continue. Here are just a few examples.

A psychologist billed for more than 24 hours of therapy in a single day.

A home health agency charged for visits to patients' homes when the patients were actually hospitalized.

A nursing home submitted claims for surgical dressings on behalf of patients who had not undergone surgery.

A fictitious diagnostic firm collected payment for nonexistent lab work on dead people.

One beneficiary was charged $5,290 for tape over a 6-month period of which $5,000 was excessive. Medicare paid for but the beneficiary probably did not receive, 66,000 feet or 12.5 miles of 1-inch tape.

Although recent legislation is a good first step, we need to do more. In a August 19, 1997, statement, Gregory Anderson, director of corporate and financial investigations for Blue Cross and Blue Shield of Michigan said it best—despite increased enforcement and the publicity of million dollar settlements with large, multi-State health corporations, "the rewards outweigh the risks today."

The bill I am introducing today aggressively continues the fight. My message should be clear to those who do business with Medicare and Medicaid—the fight against health care fraud is just beginning.

FINANCIAL AND COMPLIANCE AUDITS SHOULD BE A COST OF DOING BUSINESS WITH MEDICARE AND MEDICAID

I want to highlight one particular provision in this bill—the use of compliance and financial audits. Unfortunately, it's relatively easy for fraudulent operators to escape detection because the Health Care Financing Administration [HCFA], which oversees the Medicare and Medicaid Programs, is woefully lacking in resources to provide adequate oversight and to track down abusers. Over the past 7 years, the number of Medicare claims processed rose 70 percent, while HCFA's budget for reviewing claims grew less than 11 percent. Adjusting for claims growth and inflation, funding for review dropped from 74 cents to 48 cents per claim. As a result, the proportion of claims reviewed dropped from 17 percent to 9 percent. In the especially problematic home health area, reviews plummeted from 62 percent in 1987 to a target of 3 percent in 1996.

In many industries, it is standard operating procedure for businesses to fund independent audits of their compliance with Federal laws and regulations. For example, banks have paid for independent government financial and compliance audits since the 1800's. In fact, the Office of the Comptroller of the Currency

is a special branch of the Treasury Department that is fully funded through fees it assesses for conducting bank audits. It's time we do the same for providers and suppliers who do business with the Medicare and Medicaid programs.

Health care spending consumes an ever-increasing portion of the Federal budget—now at least 20 percent. And the Federal Government pays a third of our Nation's health care bills—more than any other single source. We are the largest purchaser—isn't it time we become a wiser purchaser? And isn't it imperative that we have tighter reins on an area that consumes so many of our tax dollars?

Banks have for many decades borne the financial responsibility for demonstrating their legitimacy. It is an accepted cost of the privilege of keeping other people's money. Medicare and Medicaid providers are being given the privilege of taking taxpayers' money, without the corresponding responsibility for proving their legitimacy. The appalling level of fraud, waste and abuse in the programs is the unfortunate result.

HHS doesn't have the funding to audit all categories of providers that have abusive track records. Even if it did, taxpayers shouldn't have to foot the bill. Twenty three billion dollars says it's time to make Federal audits a cost of doing business with the Nation's largest health care payer, the Federal Government.

WE SHOULD BE DILIGENT IN OUR FIGHT AGAINST HEALTH CARE FRAUD

It's simple for me—individuals found to intentionally, systematically and repeatedly defraud Medicare and Medicaid should go to jail. We should have a zero tolerance for repeat offenders. We should not hide behind free market language as an excuse for criminal behavior. The fight against health care fraud should be aggressive and on-going. Medicare beneficiaries deserve the best we can offer—quality care at an affordable price with strong protections against unscrupulous providers.

The following is a summary of the bill:

I. Title I—Revisions to Sanctions for Fraud and Abuse

A. Subtitle A—Exclusion Authority

1. Sec. 101—Clarifies the application of mandatory exclusion based on felony convictions relating to controlled substances to individuals involved in health care.

2. Sec. 102—Clarifies the period of exclusion based on loss of license.

3. Sec. 103—Clarifies the application of sanctions to Federal health care programs.

B. Subtitle B—Civil Monetary Penalties

1. Sec. 111—Repeals the clarifications concerning levels of knowledge required for the imposition of civil monetary penalties.

2. Sec. 112—Allows for civil monetary penalties to be applied for services ordered or prescribed by an excluded individual or entity.

3. Sec.113—Permits HHS to pursue civil monetary penalty actions after consulting with the Attorney General.

4. Sec. 114—Clarifies payment practice exception authority to definition of remuneration.

5. Sec. 115—Extends subpoena and injunction authority.

6. Sec. 116—Clarifies amounts of civil monetary penalties.

7. Sec. 117—Applies anti-dumping sanctions against physicians who refuse an appropriate transfer at a hospital with specialized capabilities or facilities.

C. Subtitle C—Criminal Penalties

1. Sec. 121—Kickback penalties for knowing violations

2. Sec. 122—Repeals expanded exception for risk-sharing contract to anti-kickback provisions

3. Sec. 123—Expands criminal penalties for kickbacks

4. Sec. 124—Treats certain Social Security Act crimes as Federal health care offenses

D. Subtitle D—Miscellaneous Provisions

1. Sec. 131—Repeals HIPAA advisory opinion authority

2. Sec. 132—Clarifies identification numbers to be used with adverse action data base

3. Sec. 133—Clarifies who may have access to information in adverse action data bank

II. Title II—Improvements in Providing Program Integrity

A. Subtitle A—General Provisions

1. Sec. 201—Limits the use of automatic stays and discharge in bankruptcy proceedings for provider liability for health care fraud.

2. Sec. 202—Requires certain providers to fund annual financial and compliance audits as a condition of participation under the Medicare and Medicaid programs

3. Sec. 203—Makes clear that Medicare carriers and fiscal intermediaries and State Medicaid agencies are liable for claims submitted by excluded providers.

4. Sec. 204—Reforms Medicare Hospital Outpatient Payment Policies.

5. Sec. 205—Standardizes forms used for certifications of medical necessity and certifications of terminal illness.

6. Sec. 206—No mark-up for drugs, biologicals or nutrients; requires use of national drug code numbers in Medicare claims.

7. Sec. 207—Adjusts hospital payments to reflect excess payment resulting from a financial interest with downstream facilities.

Subtitle B—Other Provisions

1. Sec. 211—Inclusion of cost of home health services in explanation of Medicare benefits.

2. Sec. 212—Prohibits "cold-call" marketing for Medicare+Choice plans.

III. Title III—Provider Enrollment Process—Fees

1. Sec. 301—Fees for agreements with Medicare providers and suppliers.

2. Sec. 302—Establishes requirements and fees for Medicare overpayment collections.

3. Sec. 303—Requires an administrative fee for Medicare overpayment collection.

IV. Title IV—Payment Improvements

A. Subtitle A—Mental Health Partial Hospitalization Services

1. Sec. 401—Limits location of provision of services.

2. Sec. 402—Clarifies qualifications for community mental health centers.

3. Sec. 403—Requires audit of providers of partial hospitalization services.

4. Sec. 404—Implements prospective payment system for partial hospitalization services.

5. Sec. 405—Provides for a demonstration program for expanded partial hospitalization services.

B. Subtitle B—Rural Health Clinic Services

1. Sec. 411—Decreases beneficiary cost sharing for rural health clinic services.

2. Sec. 412—Implements a prospective payment system for rural health clinic services.

CAMPAIGN FINANCE HEARINGS ARE CREATING AN ATMOSPHERE OF DISCRIMINATION AGAINST ASIAN-AMERICANS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. LANTOS. Mr. Speaker, a number of concerns have been expressed over the past few months regarding the manner in which Chairman BURTON and the majority members of the House Government Reform and Oversight Committee have conducted their investigation into campaign finance abuses during the 1996 election campaign. There have been complaints that the investigation is too partisan, that it is duplicative and poorly managed. After 9 months and literally millions in taxpayer funds, this investigation has been beset with delays, staff resignations, poorly conducted investigations, and bungled procedures.

At the recent meeting of the committee at which committee members voted to extend immunity to a few witnesses who will testify at a hearing later this week, I raised a matter of the most serious concern to me. Mr. Speaker, I would like to call to the attention of the House those concerns which I raised during the meeting of the committee.

Mr. Speaker, this House and the committee investigating campaign finance must be particularly sensitive about the possible discriminatory effects that the investigation may have on Asian-Americans. There is a grave danger that stereotyping and Asian bashing will become, and in many instances have become, part and parcel of this investigation.

There is a long history of discrimination against Asian-Americans in this country. We all remember chapters of that history, perhaps the most shameful of which is the incarceration of tens of thousands of United States citizens of Japanese origin during the Second World War.

This investigation, perhaps inadvertently, has contributed to stereotyping and race baiting. As one who is singularly conscious of this issue, I want to call attention to this issue, because Asian-Americans have as much right to participate in the political process as do Americans of any other national origin. Deliberately or otherwise, Asian-Americans have been the target of both of these investigations to an unacceptable and overwhelming degree.

While some might consider the question of Asian bashing ludicrous and outrageous. Organizations representing Asian-Americans do not. A petition with the U.S. Commission on Civil Rights was filed on behalf of the leading organizations representing Asian-Americans. These organizations believe that members of some of this Nation's most important institutions have acted irresponsibly and carelessly to allegations of campaign finance wrongdoing

by scapegoating and stereotyping of Asian-Americans.

In point of fact, affiliates and subsidiaries of foreign-owned corporations have made vastly greater contributions to both political parties than the issues that we are dealing with in the Burton investigation. A Canadian-owned corporation gave $2 million to the political parties. An Australian-owned corporation gave $674,000, and an additional $1 million to the California Republican Party. Brown and Williamson, a British-owned tobacco company, gave $642,000.

None of these foreign-owned corporations have been the subject of any inquiry by either the Senate or House committee. As a matter of fact, in July, the Federal Election Commission levied the largest fine in history on a foreign contribution, and that contribution was made by a citizen of German origin. He has not been hauled before either committee.

Mr. Speaker, it would be absurd and an escape from reality to argue that there is not an Asian tone to these hearings. It is my hope that as hearings in the House commence that we will all remain acutely conscious of these most sensitive issues.

IN HONOR OF NEW YORK STATE SENATOR LEONARD P. STAVISKY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to acknowledge publicly outstanding individuals in our communities.

The Franklin D. Roosevelt Democratic Association of New York will be presenting its first ever Life-Time Achievement Award to State Senator, and dear friend of mine, Leonard P. Stavisky. To list the accomplishments of this great man would take up more pages that I would be allocated in the CONGRESSIONAL RECORD. To those of us who know him so well, I do not have to tell you of the Senator's accomplishments in the field of education, city and State government, and the many issues with which he has been involved. I am just amazed that one person could accomplish so much.

I congratulate you Leonard for over 30 years of service dedicated to the public good. Your example and your friendship over the years has meant so much to me, and I am just grateful for the opportunity to honor you with a CONGRESSIONAL RECORD statement.

ON THE CELEBRATION OF THE REPUBLIC OF CHINA'S 86TH ANNIVERSARY NATIONAL DAY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Ms. PELOSI. Mr. Speaker, tomorrow in San Francisco, which I am privileged to represent in the U.S. Congress, a special celebration will take place marking the 86th Anniversary of the National Day of the Republic of China. I rise to bring to the attention of my colleagues this, the "Double Tenth" celebration of freedom.

The people of the United States have a special bond with the people of the Republic of China [Taiwan], who have unflinchingly demonstrated to the world their commitment to democracy under steady pressure. The Republic of China is a vibrant, thriving nation for the present and a model for the future—a model characterized by strong economic growth and respect for basic human rights and democratic freedoms.

The Republic of China is an important partner of the United States, economically, culturally, strategically, and politically. I am proud to relay to the Double Tenth celebrants in San Francisco the support and best wishes of the Republic of China's many friends in Congress. I congratulate the participants in this festival of freedom on their 86th Anniversary National Day and look forward to celebrating this historic event annually for many, many years to come.

PRINCIPLES FOR PRACTICAL DRUG POLICIES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. FRANK of Massachusetts. Mr. Speaker, I believe that one of the areas in American public policy where debate is the most retarded and stunted is that of drug policy. For too many of us in elected office, debating drug policy means engaging in a competition to show how tough one can be, without regard for how intelligent one is. In many areas of public policy we have come to the thoughtful realization that good intentions do not necessarily solve a problem, and that persisting in failed policies may make political sense, but rarely serves as a useful way to achieve real progress in improving society. Unfortunately, none of this seems to have penetrated the area of drugs, where despite the enormous shortcomings of the current excessively punitive policy, which does not do nearly as much as we could do to reduce drug use, and, in fact, exacerbates some problems, elected officials appear afraid to reexamine the issue.

For this reason, I was delighted to read the report of the drug policy project of the Federation of American Scientists. A group organized by the FAS recently issued an extremely useful statement, embodying a set of principles for practical drug policies. The list of those subscribing to these policies is an impressive one, and while I doubt that any single Member of Congress will agree with all of the principles—indeed I doubt that any single member of the group agrees fully with all of the principles—it represents a very important step forward in trying to produce rational discussion of public policy in the drug area, both because it seeks to break the taboo against precisely this sort of discussion, and because of the common sense embodied in the principles themselves.

Because I believe it is very important that we break out of the intellectual rut in which drug policy is now mired, I ask that this statement be printed here, along with the list of endorsers.

PRINCIPLES FOR PRACTICAL DRUG POLICIES

As a step toward redirecting discussion and action around drug abuse control into more useful channels, we propose the following as reasonable and moderate principles for practical drug policies.

1. [Why drug policy?] Any activity that diminishes normal capacities for self-control can create dangers for those who engage in it and for those around them. Drugs that threaten self-control, either through intoxication or through addiction, are therefore matters of social as well as personal concern. This applies to licit and illicit substances alike.

2. [Science and policy] Drug policies should be based on the best available knowledge and analysis and should be judged by the results they produce rather than by the intentions they embody. Too often, policies designed for their symbolic value have unanticipated and unwanted consequences.

[Minimizing overall damage] Drug control policies should be designed to minimize the damage done to individuals, to social institutions, and to the public health by (a) licit and illicit drug-taking, (b) drug trafficking, and (c) the drug control measures themselves. Damage can be reduced by shrinking the extent of drug abuse as well as by reducing the harm incident to any given level of drug consumption.

[Forms of damage] The forms of damage to be minimized—whether caused by drugs or drug control measures—include illness and accidents, crimes against person and property, corruption and disorder, disruption of family and other human relationships, loss of educational and economic opportunities, loss of productivity, loss of dignity and autonomy, loss of personal liberty and privacy, interference in pain management and other aspects of the practice of medicine, and the costs of public and private interventions.

5. [Laws and regulations] Laws and regulations are among the primary means of preventing drug abuse. Lifting prohibition on a substance is likely to increase its consumption, perhaps dramatically. Some substances present dangers such that even limited licit availability, other than for medically supervised use, would be unlikely to yield the desired minimum-damage outcome. Therefore, we cannot escape our current predicament by "ending prohibition" or "legalizing drugs."

6. [Enforcement for results] Enforcement and punishment, like other policies, should be designed to minimize overall damage. As long as some substances are illegal or tightly regulated, there will be attempts to evade those controls and therefore a need for enforcement and sanctions, in some cases including imprisonment. The use of disproportionate punishments to express social norms is neither just nor a prudent use of public funds and scarce prison capacity.

7. [Stance towards users] Social disapproval of substance abuse can be a powerful and economical means of reducing its extent. Such disapproval should not be translated into indiscriminate hostility towards all drug users based solely on their drug use. Persons who violate the rights of others under the influence of intoxicants or in order to obtain intoxicants are to be held fully responsible for their actions, criminally as well as civilly.

8. [Tailoring policies to drugs] Alcohol is familiar and widely accepted, yet it shares the intoxicating and addictive risks of some of the illicit drugs. Current policies make alcohol too easily and cheaply available and allow it to be too aggressively promoted. The resulting damage to users and others is very large. Taxation, regulation, and public information are all justified means to the end of reducing that damage.

10. [What about tobacco?] Nicotine, as commonly used, is not an intoxicant. But its addictive potential is great, and chronic cigarette smoking carries severe health risks. The wide prevalence of tobacco use under current policies makes cigarette smoking the leading cause of preventable early death. More stringent regulation is needed to protect the public health.

11. [Valuing treatment properly] Successful treatment for people with substance abuse disorders produces benefits for those treated and for those around them. Treatment episodes that reduce drug use and damage to self and others but do not produce immediate, complete, and lasting abstinence ought to be regarded as incomplete successes rather than as unredeemed failures.

12. [Prevention] For drug abuse as for other ills, the more successful the prevention effort the less the need for remediation. Developing and implementing effective drug abuse prevention strategies, especially for minors, is an essential means of drug abuse control. Prevention messages should accurately reflect what is known about the effects and risks of the substances they discuss.

13. [Taking measured steps] Drug policies need to be updated as social conditions change and the base of scientific knowledge grows. Policy changes that can be introduced incrementally and evaluated step by step are to be preferred over sweeping changes with less predictable consequences.

14. [Integrity and civility] Debate about drug policies engages deeply felt values and therefore often becomes heated and even acrimonious. Civility and honesty about facts, proposals, and motives can serve both to improve drug policies and to advance the broader public interest in healthy political discourse.

These principles may seem straightforward, hardly needing to be said. That they are in fact controversial illustrates something important about the way drugs and drug policy now tend to be discussed.

The current drug policy debate is marked by polarization into two positions stereotyped as "drug warrior" and "legalizer." This creates the false impression that "ending prohibition" is the only alternative to an unrestricted "war on drugs," effectively disenfranchising citizens who find both of those options unsatisfactory. Polarization and strong emotions give rise to misrepresentations of facts and motives, oversimplification of complex issues, and denial of uncertainty.

In the face of strong opposition, some of those who favor fundamental changes in the drug laws have elected to concentrate on more modest proposals which they intend as way stations towards their unstated longer-term goals. Partly as a consequence, some of those devoted to maintaining or intensifying present anti-drug efforts have taken to dismissing all criticisms of current policies—even those based on solid research showing that one or another policy or program fails to serve its stated aim—as mere fronts for a covert "legalization" effort.

In this climate, every idea, research finding, or proposal put forth is scrutinized to determine which agenda it advances, and the partisans on each side are quick to brand anyone who deviates from their "party line" as an agent of the opposing side. As a result, propositions of dubious validity achieve the status of loyalty oaths, and questions that ought to be addressed on technical and practical grounds (what works in prevention, how well interdiction performs, which treatment approaches help which clients) are instead debated as matters of ideological conviction.

The tendency in each camp is to focus on only one face of the problem. One extreme talks as if the miseries surrounding drug distribution and abuse are entirely the product of unwise policies. The other is just as likely to say or imply that the damage comes entirely from the drugs themselves. In fact, both drugs and drug policies cause harm. Any policy, including inaction, does harm as well as good. Once that is acknowledged, we can begin the hard work of shaping policies that do more good than harm. That work will demand reasoned analysis and scientific respect for evidence, and doing it well will require learning from mistakes rather than denying them.

ENDORSEMENTS—PRINCIPLES FOR PRACTICAL DRUG POLICIES

Hamilton Beazley, former President, National Council on Alcoholism and Drug Dependence.

George E. Bigelow, Professor of Behavioral Biology in the Department of Psychiatry and Behavioral Sciences, Johns Hopkins University School of Medicine.

Joseph V. Brady, Professor of Behavioral Biology in the Department of Psychiatry and Behavioral Sciences and Professor of Neuroscience, Johns Hopkins University School of Medicine.

William J. Bratton, CEO, First Security Consulting; former Commissioner of the New York City Police Department.

Jonathan P. Caulkins, Professor of Public Affairs, Carnegie-Mellon University.

Philip J. Cook, Professor of Economics and Policy Studies and Acting Director of the Terry Sanford Institute for Public Policy, Duke University.

Harriet de Wit, Associate Professor of Psychiatry, University of Chicago.

John J. Dilulio Jr., Professor of Politics and Public Affairs at Princeton University and Senior Fellow at the Brookings Institution.

William A. Donohue, President, Catholic League for Religious and Civil Rights.

Peter Edelman, Professor, Georgetown University Law Center and former Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services.

Margaret E. Ensminger, Associate Professor of Health and Policy Management, Johns Hopkins School of Hygiene and Public Health; joint appointment in Psychiatry, Johns Hopkins University School of Medicine.

Marian W. Fischman, Professor of Behavioral Biology, Department of Psychiatry, Columbia University College of Physicians and Surgeons.

Avram Goldstein, M.D., Professor Emeritus of Pharmacology, Stanford University.

Roland Griffiths, Professor of Behavioral Biology, Department of Psychiatry and Behavioral Sciences and Professor of Neuroscience, Johns Hopkins University School of Medicine.

Francis X. Hartmann, Executive Director, Program in Criminal Justice Policy and Management, Kennedy School of Government, Harvard University.

Chris-Ellyn Johanson, Professor of Psychiatry and Behavioral Neurosciences, Wayne State University School of Medicine.

Reese T. Jones, M.D., Professor of Psychiatry, University of California, San Francisco.

Carl Kaysen, Professor Emeritus of Political Economy, MIT, and former Director, Institute for Advanced Study, Princeton.

David McLean Kennedy, Senior Researcher, Program in Criminal Justice Policy and Management, Kennedy School of Government, Harvard University.

Sheppard G. Kellam, M.D., Professor of Mental Hygiene, Johns Hopkins School of Hygiene & Public Health; joint appointment in Psychiatry, Johns Hopkins School of Medicine.

Mark A.R. Kleiman, Professor, School of Public Policy and Social Research, University of California, Los Angeles.

Stanley Korenman, M.D., Professor of Medicine and Associate Dean, UCLA Medical School.

Robert E. Litan, Director of Economic Studies, Brookings Institution; former Associate Director, U.S. Government Office of Management and Budget.

Glenn Loury, University Professor, Professor of Economics, and Director of the Institute on Race and Social Division, Boston University.

Robert MacCoun, Associate Professor, Graduate School of Public Policy, University of California at Berkeley.

Mark H. Moore, Professor of Criminal Justice Policy and Management, Harvard University.

Dennis E. Nowicki, Chief of Police, Charlotte-Mecklenburg Police Department, North Carolina.

John O'Hair, Prosecuting Attorney, Wayne County (Detroit), Michigan.

Peter Reuter, Professor of Public Affairs and Criminology, University of Maryland.

Michell S. Rosenthal, M.D., President, Phoenix House Foundation.

Sally L. Satel, Lecturer, Yale Medical School.

Thomas C. Schelling, Distinguished University Professor at University of Maryland.

Charles R. Schuster, Professor of Psychiatry and Behavioral Neurosciences and Director of the Clinical Research Division on Substance Abuse, Wayne State University School of Medicine; former Director of the National Institute on Drug Abuse.

Lewis Seiden, Professor and Chairman of the Department of Pharmacology, University of Chicago.

Solomon H. Snyder, M.D., Distinguished Service Professor of Neuroscience, Pharacology, and Psychiatry; Director, Department of Neuoscience, The Johns Hopkins University School of Medicine.

George Vaillant, M.D., Professor of Psychiatry, Harvard Medical School.

RECOGNITION OF NATIONAL BLACK McDONALD'S OPERATOR'S ASSOCIATION 25TH ANNIVERSARY

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mrs. MEEK of Florida. Mr. Speaker, I rise to announce the 25th anniversary of the National Black McDonald's Operators Association. The

association will hold its biennial convention October 7–10 in the Miami metropolitan area.

The establishment of the association grew out of McDonald's concern over riots following the assassination of Dr. Martin Luther King, Jr. In the aftermath, McDonald's national management team expressed its belief that community business leaders, and in this instance, black community business leaders, were best able to address the issues and concerns of their communities.

On December 21, 1968, Herman Petty of Chicago became the first black owner/operator of a McDonald's franchise. Soon thereafter, McDonald's experienced a black-owned franchise growth spur. By the end of 1969, there were 12 black-operated McDonald's restaurants throughout the country. Today, there are over 300 franchises in the association, with a total of 800 restaurants nationwide.

This year's theme—"Pride in Progress"—reflects the association's commitment to teamwork in their efforts to improve the communities where they live and their businesses prosper. We often are encouraged to give back to our communities. For 25 years, members of the National Black McDonald's Operators Association have done that through scholarship programs, regional cooperative projects, and individual donations to special projects.

Mr. Speaker, I believe in free enterprise and strong economic growth. I also believe that the best antidote to despair and racism is full participation in our strong and growing economy. The black American business women and men of this association know that they must take the initiative to bring the spark of enterprise to their inner cities while striving to reach those communities that prosperity has passed.

As the National Black McDonald's Operators Association celebrates this impressive milestone, I salute the members for their philanthropic commitment and for their embodiment of the American spirit.

RECOGNITION OF ASHLEY CHOATE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. PACKARD. Mr. Speaker, three times a year, a select group of high school juniors come to our Nation's Capital to serve in the congressional page program. Sixty-six of the best and brightest young men and women head to Washington for a semester in the Halls of Congress. This semester, one of my own constituents was chosen as a congressional page. Today, I am pleased to recognize Ashley Choate, of Dana Point, CA, as a member of the fall of 1997 class of congressional pages.

Ashley has not only excelled in academics at Dana Hills High School, but she has given back to her community and found the time to participate in high school athletics. It is truly commendable that Ashley was able to hold on to her 3.45 grade-point average while volunteering at an orphanage in Mexico and selling Christmas trees to raise money for her church. She also found the time to play softball for her high school during her freshman and sophomore years prior to coming to the House of Representatives.

Mr. Speaker, Ashley Choate is truly deserving of commendation. She is a wonderful individual and was recently recognized by the Los Angeles Times in an article of September 24, 1997, for earning the distinction of serving as a congressional page. I am especially pleased that she was chosen as a page in the House of Representatives. However, I am more pleased to have Ashley as an official representative of the 48th District of California. She is truly exceptional. I wish her well.

TRIBUTE TO ELIZABETH STEWART CARLSON—A QUIET AMERICAN HEROINE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. LANTOS. Mr. Speaker, few Members of this House have had the good fortune that I have enjoyed since I first became a Member in 1981. My greatest good fortune has been to have a district office staff of extraordinary high caliber.

For most of the 17 years that I have served in this body, I have benefited enormously from the dedication of a quiet, dignified, vital American heroine, special assistant in my district office, Elizabeth Stewart Carlson. Just a few days ago on October 3, we celebrated her 80th birthday, and at the same time we marked the beginning of another decade of dedicated service to the lives of so many by this wise, wonderful, and brave woman.

Elizabeth Carlson has been firmly rooted in the San Francisco Bay Area all of her life. Her father served for some time as the mayor of the City of Vellejo in the East Bay. As were so many in our area and elsewhere in our Nation, Betty Carlson was deeply affected by her teenage experience in the Bay Area during the Great Depression of the 1930's. Although her own family escaped some of the worst consequences of that difficult period, she saw the lives and health of others visibly ground down by deprivation and suffering. It was during that time that Betty Carlson first practiced and learned her quiet courage.

Mr. Speaker, this early observation of widespread suffering produced a desire in Betty Carlson to serve humanity. She graduated as a registered nurse in time to serve in Bay Area hospitals during the Second World War, and, in recognition of her care and compassion, she received the award for Outstanding Graduate after One Year from the Mount Zion School of Nursing. Then, and throughout her entire 30-year career in nursing, Betty applied kindness, careful treatment, common sense, and empathy to countless patients, some of them very ill and dying.

Betty Carlson's first husband, who had a career in law enforcement, met an early death in a line-of-duty accident. Because of her husband's profession, Betty lived a life of particular courage. The families of individuals which have pursued careers in public safety know the daily bravery required to watch a loved one go off to work with the knowledge of the personal danger that is involved.

Betty Carlson did not sit idly at home and wait, however. In addition to her professional nursing career, she was fully engaged in activities to support their son Frank. She continued her motherly responsibilities after her second marriage to Sten Carlson, and, with the birth of their son Eric, her responsibilities increased in such areas as the PTA, Boy Scouts, and other youth groups.

In addition to her efforts with those groups that were important to her family, Betty Carlson has provided leadership and countless hours of service to many major civic and philanthropic organizations during Sten's long and dedicated service with United Airlines, and since his retirement.

The skill, compassion, courage, and leadership which Betty Carlson developed and demonstrated in her family, civic life, and formal nursing career during the first 30 years of her adult life would have made her a most highly valued member of my congressional staff. But one horrible experience she endured in 1974 has brought Betty enormous suffering, heroic reaffirmation, and positive public social action.

Mr. Speaker, in 1974, Betty Carlson's son Frank and his young wife Annette were viciously attacked in their San Francisco home. In one of the most reprehensible and appalling crimes that I have ever known about, Frank and his wife Annette were brutally and senselessly tortured and then left for dead. Betty's beloved son Frank died during that long and tragic night. Annette, Frank's wife and Betty's daughter-in-law, miraculously survived.

It is entirely fitting that we view Betty Carlson's suffering since that tragic event, her resulting religious struggle and reaffirmation, and the ongoing, quiet heroism of her principled and constructive public response in a similar light to the response of the heroic, nonviolent Guatemalan Mayan Nobel Peace Price winner Rigoberta Menchu, after the similarly terrible torture and murder of her mother.

With the help of Betty's husband Sten and other loved ones, prayer, pastoral counsel, her own great courage, and the healing of time, Betty Carlson survived, and has helped her son's wife to live an active and productive life. Betty cofounded and served as president of the group Justice for Murder Victims. In 20 years, this group has greatly improved public awareness and to some extent improved our laws in dealing with families of the victims of murder. I have the greatest respect for Betty Carlson's ongoing service and the kindness mixed with common sense which she has shown toward many who have suffered.

Mr. Speaker, on the occasion of Betty Carlson's 80th birthday I invite my colleagues to join me in paying tribute to this outstanding woman. We extend to her our very best wishes that she may continue to offer many more years of public service, commitment to her religious community, and a joyous family life with her husband Sten, her son Eric, and her daughters-in-law Wai Ling and Annette.

TRIBUTE TO AILEEN HARPER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in recognizing Aileen Harper for her extraordinary contributions and dedication to the Center for Health Care Rights in Los Angeles.

The Center for Health Care Rights is a California-based nonprofit organization dedicated to assuring consumer access to quality health care through information, education, counseling, advocacy, and research programs. Founded in 1984 as the Medicare Advocacy Project, the Center for Health Care Rights has gained widespread recognition as a leader among the State's health insurance counseling and advocacy programs. The center offers more than 1 million Medicare beneficiaries in Los Angeles County a free, one-stop service center that provides much needed counseling and education.

The success of the Center for Health Care Rights depends greatly upon its devoted and knowledgeable staff. Aileen is being presented with the Health Insurance Counseling and Advocacy Program Service Award for her ongoing leadership and vision at the center. This past September marked her 13th anniversary with the center. During her tenure, Aileen has developed and managed programs in community education and counseling designed to provide assistance with Medicare, managed care, long-term care, and other related health insurance matters that Medicare beneficiaries face in Los Angeles County.

Aileen currently serves as the director of district service programs, continuing her longtime commitment to serving the center's clients, particularly the underserved elderly and disabled populations who seek the center's counsel. She has also developed extensive experience with consumer concerns and protections in Medicare and managed care, having authored a number of consumer training materials that are used not only by the center, but by other Medicare advocates in California as well.

Our community owes Aileen a debt of gratitude for her significant accomplishments and distinguished record of achievement. I ask my colleagues to join me in applauding her tremendous efforts and in wishing her happiness and success for the future.

INTRODUCTION OF THE MARRIAGE PENALTY RELIEF ACT

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. HERGER. Mr. Speaker, I rise today to announce the introduction of H.R. 2593, the Marriage Penalty Relief Act. I am pleased to report that a bipartisan group of my colleagues, including Mrs. KENNELLY, Mr. WELLER, Mr. CRANE, Mr. SHAW, Mrs. JOHNSON of Connecticut, Mr. BUNNING, Mr. HOUGHTON, Mr. MCCRERY, Mr. CAMP, Mr. NUSSLE, Mr. JOHNSON of Texas, Ms. DUNN, Mr. COLLINS, Mr. PORTMAN, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. CHRISTENSEN, Mr. WATKINS, Mr. HAYWORTH, Mr. NEAL, and Mr. COYNE have joined me in this effort to provide relief to those couples who pay more in taxes simply because they are married.

Now that the Taxpayer Relief Act of 1997 has been signed into law, Congress must begin to consider its options for further tax relief in 1998. While this year's landmark tax cut does provide important benefits to students, investors, small business owners, and families with children, no specific provisions were included to assist those families victimized by the marriage penalty. I strongly believe that marriage penalty relief should figure prominently into the next tax cut passed by Congress.

Mr. Speaker, the marriage penalty imposes a substantial burden on a great many American families. According to a recent report by the Congressional Budget Office, the average marriage penalty was nearly $1,400 in 1996. Indeed, under 1996 tax law, married couples could have owed the IRS more than $20,000 in additional taxes compared to what they would have owed had they not been married. This is patently unfair, Mr. Speaker, and Congress must act to provide these families the relief that they deserve.

As financial pressures push more and more nonworking spouses into the labor force, an increasing number of families fall prey to marriage penalties. Indeed, CBO estimates that 42 percent of all married couples—some 21 million families—incurred marriage penalties in 1996. One of the major reasons why so many of these joint filers face this added tax burden is that the very first dollar earned by a family's lower earning spouse is taxed at the marginal rate of the higher earning spouse. Exempting some of the lower earning spouse's income from tax would mitigate this unfair situation, providing significant relief to the millions of Americans who face a higher tax bill solely because they are married.

Mr. Speaker, two-earner married couples were once entitled to a significant tax deduction to help offset the marriage penalties that are built into the Internal Revenue Code. However, the Code no longer permits these families to take advantage of this deduction. The Marriage Penalty Relief Act would simply restore this two-earner deduction, once again allowing couples a 10-percent deduction for up to $30,000 of the lower earning spouse's income. While this approach will not eliminate the marriage penalty in all cases, it will provide meaningful relief to victims of this unfair tax—at roughly one-third the estimated revenue cost of outright elimination.

Mr. Speaker, I believe that providing families relief from the marriage penalty should be a major legislative priority during the next session of the 105th Congress. I am pleased that the approach adopted in my legislation has already attracted substantial bipartisan support, and I would urge the rest of my colleagues to cosponsor the Marriage Penalty Relief Act.

GUAM BATTLES FAMILY VIOLENCE

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. UNDERWOOD. Mr. Speaker, last week my home island of Guam was shocked by the death of 7-year-old Erica Aquino, her mother Therese Crisostomo Aquino and her father Rudy Aquino. The island of Guam is shocked and horrified at the horrible details of these violent deaths. According to police and media reports, Rudy Aquino, estranged from his ex-wife Therese, had shot her and then their young daughter Erica before turning the shotgun on himself. Immediate family members were summoned to the scene of the crime to learn first hand of the tragedy. They had been preparing for a birthday celebration in honor of Therese's brother, a newly ordained parish priest.

Therese was a social worker in the adult protective services unit of the Guam Department of Public Health and Social Services. Her daughter Erica was a second grade student at San Vicente School in Barrigada. A week has passed since these deaths and the family and friends of Therese Crisostomo Aquino and her daughter Erica are asking many questions, "Why did it happen?; How could we have helped?" The friends and family of Rudy Aquino also ask "Why did it happen?" and "How could we have helped?"

The incident occurred on the eve of Governor Carl Gutierrez's Proclamation of October as Family Violence Awareness Month. As if to demonstrate the need for such a proclamation, three lives were lost because of family violence. As we all know, family violence affects us regardless of age, sexual orientation, physical ability, marital status, ethnicity, cultural or educational background, religion or economic status. It is often ignored and tolerated by our society, and despite the number of agencies and nonprofit organizations set up to assist them, many victims continue to feel isolated and ashamed, and even responsible for the abuse—blaming themselves. We have to do all that we can to let them know that they are not alone.

Family violence affects the whole family, especially children. Children in abusive homes carry the terrible lessons of violence with them into adulthood and into the next generation. Children who grow up in violent homes are 6 times more likely to commit suicide, 24 times more likely to commit sexual assault crimes, 74 times more likely to commit crimes against the person and 50 times more likely to abuse drugs or alcohol.

Sadly, in Guam, despite a culture in which our elderly or "manamko", as they are affectionately known, are honored and revered, it was essential for our government to open an adult protective services unit in 1989. Since its inception, there have been 800 reports of physical and emotional abuse received by our island's elderly and disabled. Abuse in our families has reached into the generations that preceded us.

In Guam, police officers have responded to 5,969 family violence offenses from 1993

through 1995. During that same time period, the Child Protective Services received 5,881 referrals, and in 1996 they have reviewed over 3,000 of these referrals. In 1995, the Guam Attorney General's Office prosecuted 106 criminal felony cases and 248 criminal misdemeanor cases; while from January through June, 1996, they prosecuted 50 criminal felonies and 248 criminal misdemeanor cases. So many women and men are reluctant to admit to the violence and reach out beyond the family that experts believe the actual prevalence may be much higher than the numbers indicate.

So what are we doing in Guam to lessen and eliminate the instances of violence taking place between family members? Since 1993, the Governor, through executive order, has established the family violence task force comprised of all governmental agencies and nonprofit organizations which deal with family violence. Among its primary duties is the development and implementation of inter-and intradepartmental or agency policy and protocol on family violence; the development and evaluation of prevention and treatment programs for the community-at-large and for targeted groups; and the establishment of a community resource, referral and visitation center to disseminate throughout the territory, educational information and materials concerning prevention and response to family violence.

The family violence task force was just reinstitutionalized this year, and includes the following members: The First Lady of Guam, Mrs. Geraldine T. Gutierrez; and representatives of the following private and public entities: the Guam Police Department; the Department of Corrections; the Department of Law, Attorney General's Office; the Superior Court of Guam, Family Counseling and Client Services Division; the Guam Legal Services Corporation; the Public Defender Services Corporation; the Guam Bar; Department of Mental Health and Substance Abuse; the Crisis Hotline; Healing Hearts; Department of Public Health & Social Services, Adult and Child Protective Services; Department of Youth Affairs; the Governor's Community Outreach Federal Programs Office; the Mayors' Council of Guam; the Guam Housing and Urban Renewal Authority; the Guam Department of Education; the Guam Community College; the University of Guam; the Alee Shelter and Shelter for Abused Children, Catholic Social Services; Victim Advocates Reaching Out [VARO] inafa'maolek, Inc; Victim Witness Ayuda Services; Sanctuary Inc; United Women of Micronesia; Naval Services Center, U.S. Navy Hospital Guam; Andersen Air Force Base Support Flight; and other individuals, to be named from the community-at-large which include religious leaders, private business persons and members of civic associations and organizations.

The Family Violence Task Force has traditionally held a public awareness campaign throughout the month of October. This year, Family Violence Awareness Month is being headed by Alicia Limtiaco, a private attorney who has formerly served as the island's Chief Prosecutor. One of the many events planned for the month is a "Silent Witness Exhibit" in memory of fatalities of domestic violence of Guam. Guam will be represented in the national events being held this month here in Washington by First Lady Geri Gutierrez, Sister Eileen of the Alee Shelter, and Marie McElligot of the Superior Court of Guam, as well as other dedicated supporters and advocates.

Also scheduled throughout the month are numerous appearances on all the local radio and television stations, as well as forums for specific target groups such as "Up Close and Personal" for service providers, "Ashes, Ashes We All Fall Down" for university students; and forums with broader themes such as "Legal Issues," "Life Skills for Women Only," "Life Skills Seminar for Couples," and "For Men Only." The local churches are encouraged to conduct sermons on family violence, and a poster and essay contest will be conducted in the island's schools.

Despite all these efforts, Guam continues to battle with family violence. It is recognized as a very serious and escalating problem within our community, and will take the entire community to actively work together to make our island safe for everyone, especially our women, children, elderly and disabled. On behalf of the people of Guam and the United States, I commend the dedicated work of all of the agencies, professionals, and volunteers, who work tirelessly to bring peace to each island family.

CONGRATULATIONS ON DOUBLE TENTH DAY

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to mark the October 10, 1997 celebration of the 36th anniversary of the founding of the Republic of China on Taiwan. October 10 was selected as the date for observing Taiwan's founding because on that date in 1911, troops and ordinary citizens of the Wuchang region of China revolted against their Manchu dynastic rulers to protest against the corruption and incompetence of their leadership. After centuries of imperial and dynastic rule, the October 10th rebellion affirmed the desire of the Chinese people to achieve self-determination. With the election of President Lee Teng-hui, the first democratically-elected head of state in China's history, we witnessed a partial realization of the aspirations of the Chinese people who revolted in 1911.

Under President Lee's leadership, Taiwan has expanded its presence within the international community and has become an important source of development assistance. As evidence by the levels of cultural exchanges and bilateral trade, relations between the United States and Taiwan have never been stronger. President Lee has selected Dr. Jason Hu, Taiwan's former representative in Washington, as his new Foreign Minister. During his time in Washington, Dr. Hu proved himself to be a hard-working, highly effective and selfless representative of the Taiwanese Government and people. I am confident that Dr. Hu will be equally successful and impressive in his new position of Foreign Minister.

In closing, Mr. Speaker, I extend my heartfelt congratulations to the people of Taiwan on the upcoming October 10, 1997 celebration of the anniversary of the founding of the Republic of China on Taiwan.

IN HONOR OF GREGORY R. DEMALINE ON HIS ATTAINMENT OF EAGLE SCOUT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Gregory Demaline of Parma, OH, who will be honored for his attainment of Eagle Scout.

The attainment of Eagle Scout is a high and rare honor requiring years of dedication to self-improvement, hard work, and the community. Each Eagle Scout must earn 21 merit badges, 12 of which are required, including badges in: lifesaving; first aid; citizenship in the community; citizenship in the Nation; citizenship in the world; personal management of time and money; family life; environmental science; and camping.

In addition to acquiring and proving proficiency in those and other skills, an Eagle Scout must hold leadership positions within the troop where he learns to earn the respect and hear the criticism of those he leads.

The Eagle Scout must live by the Scouting law, which holds that he must be: trustworthy, loyal, brave, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, clean, and reverent.

And the Eagle Scout must complete an Eagle project, which he must plan, finance, and evaluate on his own. It is no wonder that only 2 percent of all boys entering Scouting achieve this rank.

My fellow colleagues, let us recognize and praise Gregory for his achievement.

THOSE SURPLUSES: PROCEED WITH CAUTION

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. SPRATT. Mr. Speaker, 2 weeks ago, the Washington Post published an excellent article about the Federal budget by Dr. Robert Reischauer, former CBO director and now a fellow at the Brookings Institution. I would like to share this article with my colleagues. Many of our colleagues are proposing new ways to spend a putative budget surplus, either by cutting more taxes or raising spending. Dr. Reischauer warns Congress that this is a mistake. He reminds us that even though we have made extraordinary progress in reducing the deficit, the Government is still not in surplus and the budget is not projected to reach surplus until after the year 2000. We should certainly not be spending a surplus we don't have.

Even when we reach surplus, Dr. Reischauer points out, we will be relying on the balance in the Social Security trust fund to

offset the deficit spending in the rest of the Federal budget. Finally, there is considerable merit in paying down the $4 trillion debt the Federal Government owes the public, once we reach surplus. This will help prepare us for the deficits we will be facing once we start to pay the cost of the baby boomers' retirement.

Two months ago, Congress and the President enacted a bipartisan 5-year budget plan, which provided both for modest spending increases and tax cuts. Sticking to the budget agreement is the surest path to reaching a budget surplus. In any case, we should certainly not start spending surpluses we have not yet achieved.

[From the Washington Post, Sept. 21, 1997]

THOSE SURPLUSES: PROCEED WITH CAUTION

(By Robert D. Reischauer)

Had Rip van Winkle been around a few years ago, he would have been put to sleep reading the endless stream of apocalyptical budget reports which warned that the large deficit of the day would soon explode if politically impossible spending cuts or tax increases were not enacted immediately. Had he been roused a few weeks ago and told that the president had just signed the first significant tax cut since 1981 and that the latest budget projections were for modest but growing surpluses after 2001, he undoubtedly would have gone into immediate cardiac arrest.

The amazing budgetary turnaround of the past year and the prospect of future surpluses have also quickened pulses on Capitol Hill. Those who worship at the concrete altar already have drawn up plans to boost highway spending; those whose faith tells them that lower taxes can solve all of the nation's problems have begun crafting further tax reductions; and those whose worthy social initiatives have been cruelly sacrificed to the gods of fiscal responsibility over the past decade are dusting off their proposals for expanded social investments.

Before the promised surpluses burn a hole in the congressional pocketbook, lawmakers should remember that these surpluses are not yet in hand and that there are benefits from sustaining rather than spending them. The projections of surpluses assume that Congress and the president will adhere to the balanced budget act's limits on discretionary spending. These limits, which provide half the deficit reduction needed to balance the budget in the year 2002, will require politically painful votes on appropriations in each of the next four years, votes that will reduce real discretionary spending 12 percent below current levels by 2002. The experience of the past few months should raise a bit of skepticism about the political system's ability to mete out such sacrifice. When faced with the $544.8 billion discretionary spending cap that the 1993 budget agreement set for the coming fiscal year, Congress and the president balked and used the new agreement to add $8.5 billion to the fiscal 1998 limits.

The projected surpluses could also evaporate if there are many slips in those portions of the balanced budget and tax relief acts that do not require further legislative action. Some of the promised Medicare savings, which account for over half of the spending reductions anticipated for the next five years, could fail to materialize if the Health Care Finance Administration has difficulty implementing the 226 complex provisions of the new law that generate these savings. The $21.4 billion expected to be bid for rights to use portions of the electromagnetic spectrum for commercial purposes could turn out to be more pie-in-the-sky than money-in-the-bank. The revenue loss from the tax relief act could be larger than anticipated if individuals respond with more gusto than expected to its incentives or if wily tax accounts find unforeseen ways to mine the provisions of the new law.

The considerable uncertainty that surrounds estimates of both how much the program cuts will save and how much tax reductions will cost if cuts and reductions are implemented as planned is a further reason for caution. The Office of Management and Budget's estimate of the net reduction in Medicare spending over the next five years is 34 percent larger than the Congressional Budget Office's, while Congress's Joint Tax Committee calculates that the child tax credit will cost 19 percent more than Treasury estimates.

While the economics assumptions upon which the new budget projections are based appear to be quite prudent, an average-sized recession could easily add $100 billion to the deficit for a year or two and delay the attainment of a balanced budget until well after 2002.

These warnings may represent excessive caution; modest surpluses could well materialize early in the 21st century. But if they do, there are good reasons to squirrel them away—that is, to pay down the federal debt—rather than spend them on program expansions or further tax cuts. Even in 2002, when the budget is first projected to be in surplus, taxpayers won't come close to footing the full bill for what the federal government provides them. The overall budget surplus of $32 billion that CBO projects for 2002 will be made up of a $120 billion surplus in the Social Security program offset by a whopping $88 billion deficit in all of the government's other accounts. It is well recognized that Social Security is incurring future liabilities that far exceed its modest surpluses and that without major reform it will be insolvent before the last of the baby boomers has retired.

Furthermore, surpluses have consequences that can be every bit as salutary as those provided by tax reductions or expanded government programs. Surpluses add to national saving, boost domestic investment and thereby raise, by small but important amounts, productivity, economic growth and incomes. If surpluses are allowed to develop, interest rates will be reduced, and the federal debt will be reduced, and the federal debt will begin to shrink. As a consequence, the portion of the federal budget devoted to debt service—currently one out of every seven dollars—will shrink, leaving more for real priorities.

Having probably achieved a balanced overall budget—an objective that seemed to be unattainable only a few years ago—it is time to shift the focus of the policy debate to balancing the non-Social Security budget and restructuring Social Security and Medicare for the long term. If these objectives can be achieved, Rip van Winkle won't find when he next wakes up a nation in which either retirees are scrimping by on inadequate social insurance benefits or workers are unduly burdened supporting the aged.

TRIBUTE TO MILKEN FAMILY FOUNDATION NATIONAL EDUCATOR AWARD RECIPIENTS

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to two of my constituents who have been honored by receiving the Milken Family Foundation National Educator Award. These constituents are Mr. Linard McCloud from Charleston, SC, and Mrs. Thomasenia J. Benson of Orangeburg, SC.

Mr. Linard McCloud is the band conductor at Burke High School in Charleston. He has been the band director at his alma mater for almost 20 years. During his tenure at Burke, the Burke High School band has improved to a grade V concert level band. The band has received no less than an excellent rating in the past five concert festivals with most of the on-stage music receiving superior ratings.

Under Mr. McCloud's direction, the Burke High School band has performed for the Prince of Wales, recorded an ETV production on the percussion ensemble, filmed a local commercial, marched in two Mardi Gras parades, and performed for several college football games. In addition, the band has toured Canada three times and will travel to New Orleans in the spring.

Aside from his excellent leadership as band director, Mr. McCloud has given tirelessly to his students and the music community. He has been credited with obtaining over 100 scholarships for his students. He also serves as the president of the Charleston County Band Director's Association, and is a member of the Florida A&M University summer band camp staff, Kappa Kappa Psi music fraternity, and Alpha Kappa Mu honor society. He has received community service awards from Alpha Phi Alpha, Kappa Alpha Psi, and Phi Beta Sigma fraternities. He is also a senior trustee and lifelong member of Morris Brown AME Church.

Mrs. Thomasenia J. Benson, who also received the Milken Family Foundation National Educator Award, is currently in her second year as principal at Orangeburg-Wilkinson High School in Orangeburg, SC.

Mrs. Benson, a native of the Pee Dee area of South Carolina, received a bachelor of science degree from Benedict College in Columbia, SC. She received a master's degree in education and credits in counseling and secondary administration from the University of South Carolina, also in Columbia.

Mrs. Benson began her career as an educator by teaching U.S. history and psychology for 12 years at Batesburg-Leesville High School. From there, she taught social studies for 4 years at Irmo Middle School. Next, she served as assistant principal at Irmo Middle School. From there, Mrs. Benson became the assistant principal at W.A. Perry Middle School in Columbia for 3 years. Prior to becoming principal of Orangeburg-Wilkinson High School, she was principal at William J. Clark Middle School, also in Orangeburg, for 3

years. Mrs. Benson's commitment to education is illustrated through almost three decades of service to the students of South Carolina.

Mr. Speaker, these two South Carolina educators are among 150 of the Nation's most distinguished educators to be awarded the Milken Family Foundation National Educator Award. Along with the $25,000 financial award, they will receive educational resources through the powerful network for over 1,000 previous recipients of this prestigious award. This year's recipients were chosen, among other criteria, for their achievement in developing innovative educational curricula, programs and/or teaching methods; outstanding ability to instill in students character and self-confidence; and commitment to professional development.

As two of this year's winners, both Mr. McCloud and Mrs. Benson will be sent to Los Angeles in June 1998 for the annual Milken Family Foundation National Education Conference. Mr. Speaker, I ask you to join me in paying tribute to these two distinguished educators from my district as I am so proud to have them represent both the Sixth Congressional District and the State of South Carolina.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. KIND. Mr. Speaker, today is a sad day for supporters of campaign finance reform. The U.S. Senate failed to pass the McCain-Feingold campaign finance bill. A majority of the Senate, 53 Members, supported this bill. However they were seven votes short of ending a filibuster by those who are satisfied with the status quo.

The amendment supporters included 45 Democrats and 8 Republicans. this bipartisan show of support is an encouraging sign and it reflects the growing momentum for passage of campaign finance reform. It is unfortunate that a majority of the Members in the Senate cannot pass such an important piece of legislation. I hope that the leadership of the Senate will see the wisdom of allowing reconsideration of the McCain-Feingold bill.

However, at least the members of the Senate were allowed a vote on campaign finance reform. In the House we haven't been given the opportunity to vote on any bill. With the effort in the Senate stalled now is the time for the House to take up this issue. Mr. Speaker, lets put our partisan differences aside and allow a vote on meaningful campaign finance reform.

IN HONOR OF ST. INNOCENT ORTHODOX CHURCH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. KUCINICH. Mr. Speaker, I rise today to congratulate St. Innocent Orthodox Church on the consecration of its new church structure in Olmsted Township, OH.

Fourteen years ago, a coalition of dedicated Orthodox Christians from a variety of ethnic backgrounds came together to practice their faith in a common language. These early members began holding biweekly services in the Community Room of Great Northern Mall and established committees to determine the growth and direction of the new parish. St. Innocent was chosen as the patron saint because the zeal of the missionary, who taught the Orthodox Christian Faith across North America and Alaska, would be an inspiration to the members of the new church.

In 1984, the members of St. Innocent began holding services in a rented chapel in Westlake. Members established a church school program for children and adults and weekly Bible studies. The church is also very active in outreach to the surrounding community. A program to provide food and support to St. Herman's House of Hospitality receives continued support. In addition, money from an extra collection each month is donated to charitable organizations or to families in need. Each Christmas, the parish supports at least one family in the community with gifts, food, financial assistance, and love.

St. Innocent welcomes the diversity of its parish and combines the many ethnic traditions into its services. I am confident that the growing parish family will flourish, and that the many services and activities it sponsors will multiply in the new church facility in Olmsted Township.

EDEL JENSEN PETERSEN: YWCA TRIBUTE TO WOMEN

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. FILNER. Mr. Speaker and colleagues, I rise today to recognize and honor Edel Jensen Petersen, who will receive on October 10, 1997, the YWCA Tribute to Women Award for a lifetime of volunteer work in Lincoln, NE.

Born in 1910, Edel has been described as a woman ahead of her time. It was quite an accomplishment at the time for her, a woman, to go to college. She taught school, both in Iowa and Nebraska, in the elementary grades and in special education. She married in 1936 and is the mother of Sharon Edel Schultze, my senior legislative assistant and a member of my San Diego Board of Education, San Diego City Council, and congressional staff for almost 20 years.

As a woman ahead of her time, Edel has worked in an equal partnership with her husband of over 61 years, long before the women's movement highlighted the importance of this concept. She and her husband, Pastor Alvin Petersen, are the perfect partners—working and playing together as a team throughout their 30-year ministry at the Lutheran Student Center and Chapel at the University of Nebraska in Lincoln and now in their retirement.

Edel was an integral part of the staff at the Lutheran Student Center, sometimes as paid staff, but more often as a volunteer. She was affectionately known as "Mom Pete" by all who came to the student center. She offered her skills in counseling, networking, research, and the arts. She is said to have had a profound influence on the lives of many, and she served as a mentor to thousands of young women as they passed through the university. In fact, she has been a role model to women during her whole life—as a teacher, a mother, a grandmother, the wife of a pastor, a community volunteer, as part of the team at the student center, and in retirement. Most importantly, she has been a friend to all who needed a friend.

She was also a mentor to the wives of other campus pastors and pastoral interns at the university. She formed a study group for married women students and, along with her husband, initiated a Couples Club, a Grad Club, and a theology study group—all opportunities to support the sharing of ideas and concerns.

Edel's code for living, "to listen, to accept, to love, and to affirm", is evident in everything she does. She frequently opened her home to university students who needed a place to live, including many international students. Early in their ministry at the university, Pastor Pete and Mom Pete initiated International Night, inviting students from various countries, including all religious beliefs, to prepare and share a meal of foods from their native countries. Such events eventually became a cooperative effort of all the campus ministries. She encouraged students at the student center to sponsor children through the Foster Parents Plan, a project which helped these students reach out beyond their own concerns. She and her husband spent a summer in the 1960's leading a group of young people in their work with a Chicago inner-city project sponsored by the Methodist Church.

Another important sphere of her influence was the creative enrichment she brought to the university students and the community as a whole, by initiating an annual Festival of the Arts at the Lutheran Student Center. The festival included both local and nationally known artwork, music, and drama. The final festival before her husband's retirement was a magnificent display of Native American Indian art and was described by one university professor as the best show he had seen of Native American artists.

As a gifted pianist, writer, poet, and weaver, Edel's own contributions to the arts have been published and featured throughout the Midwest. Two of her most notable weavings are featured at the Lutheran Student Center and at the Lied Center for Performing Arts in Lincoln.

She recently won first place in the Legacies Story Writing Contest, sponsored by the Lincoln Area Agency on Aging. She had her winning essay published in Lifelines magazine, and also recently was published in the Lincoln Journal-Star newspaper, with an article describing how she has worked to grow older with joy and continued commitment to life and to worthwhile causes.

In the community outside of the student center, Edel has been a volunteer tutor through the American Red Cross, has served as president of the PTA at her daughter's school, led Camp Fire troops, was a docent at

the Sheldon Art Gallery for more than 10 years, has been a member of Bread for the World since it was first organized and of the United Nations for over 20 years, read weekly to retired people at a senior center, and most recently, has helped to establish a reading group for visually and hearing impaired women at Eastmont Towers, the retirement home where she now lives.

And Edel has been recycling since her youth, before anyone else ever thought about the importance of recycling. Preservation of our Earth's environment is one of her paramount concerns.

Being in the limelight has never been what it was about for Edel Petersen. Her joy has been to motivate, to empower, to facilitate—often from behind the scenes. So it is highly appropriate and rewarding that her contributions are being recognized by this prestigious award.

Edel is an example of what one woman can do, by keeping herself open to the possibilities to help and to serve—whether her actions have a large impact in the community or help the person next door who needs love and encouragement.

For all these reasons, I am particularly pleased to recognize the contributions of Edel Petersen with this acknowledgement in the House of Representatives.

IN HONOR OF THE 50TH WEDDING ANNIVERSARY OF ADOLF AND DOROTHY ZALEWSKI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. KUCINICH. Mr. Speaker, I rise today to celebrate the 50th wedding anniversary of Adolf and Dorothy Zalewski.

Mr. and Mrs. Zalewski were married on October 25, 1947 at the Immaculate Heart of Mary Church and are life-long residents of the Slavic Village neighborhood of Cleveland. Adolf Zalewski retired in 1985 after working for 38 years at LTV Steel and is a World War II veteran. Dorothy Zalewski served a term as a councilwoman in Newburgh Heights and is currently a Precinct B committeewoman.

Both Adolf and Dorothy remain active in church, civic, and political affairs. Adolf is an auxiliary policeman in Newburgh Heights and is active at his church. Dorothy is president of the Newburgh Heights Democratic Club and volunteers at a local hospital. Adolph and Dorothy will celebrate their 50th anniversary with their three children and eight grandchildren.

I am happy to congratulate Adolf and Dorothy Zalewski on 50 years of marriage and wish them another 50 years of happiness together.

INTRODUCTION OF THE RECIPROCAL TRADE AGREEMENTS ACT OF 1997

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. MATSUI. Mr. Speaker, today I, along with several of my colleagues, am introducing companion legislation to the legislation passed out of the Senate Finance Committee on fast track. Last week, the Senate Finance Committee voted to approve bipartisan fast-track legislation. We believe the Finance Committee's legislation strikes a reasonable balance with respect to various concerns raised about fast track and is a bill that every Member who wants to support fast track should be able to support. The bill also includes an extension of requested trade adjustment assistance programs.

This legislation lays out important principal negotiating objectives including expanded and strengthened language for agriculture and intellectual property. These are two areas in which we, as a country, stand to gain in the near term. In addition the bill contains a provision specifically calling for greater transparency in international fora and particularly in the WTO. The bill also is consistent with proposals which afford fast-track procedures primarily for trade and trade-related measures. This strongly reflects the traditional use of fast-track authority. Finally, the legislation addresses labor and the environment issues in a meaningful and constructive way.

The debate over fast track thus far has been contentious and divisive. It is time to move from abstract issues to the business of legislating. We believe that it is important to our country's continued leadership on all fronts that we pass fast track before the Congress adjourns this year.

HIGH SPEED GROUND TRANSPORTATION ASSOCIATION LEGISLATIVE EDUCATION ACTION PROGRAM

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. KIM. Mr. Speaker, I rise today to express my strong support for including a high-speed rail program in our Nation's surface transportation law.

For much of my life, I have had a strong interest in magnetic levitation train technologies, Maglev. When I was a practicing engineer, I actually worked on the proposed Anaheim to Las Vegas Maglev train route. That project never got off the ground, but I knew then that Maglev was the technology of the future.

Other countries in Asia and Europe realized decades ago that high-speed rail systems were essential to effective, intercity travel. But in America, we really don't have anything like that. Amtrak runs a few trains over 100 miles-per-hour in the Northeast Corridor, but that's about it. In the United States, intercity travel means air travel or your car.

Unfortunately, that's not good enough. In some cities our airspace is dangerously crowded, the airports are over capacity, and the freeways are congested nightmares. We need an alternative to air travel, and I think high-speed rail is the answer.

That's why I introduced H.R. 2341, the Magnetic Levitation Transportation Technology Deployment Act. My bill provides almost $1 billion over 6 years for research grants, planning and design, and construction of a Maglev project. The first 2 years would provide $50 million for research, corridor planning, and development. The final 4 years would provide $940 million for additional research and construction. H.R. 2341 would usher the United States into the next generation of intercity travel.

The House Transportation and Infrastructure Committee, upon which I serve as a subcommittee chairman, has taken a more conservative approach to Maglev technology in its reauthorization of the Nation's surface transportation law. The Building Efficiency Surface Transportation Equity Act [BESTEA] reauthorizes the Swift Rail Development Act at $35 million per year for corridor planning, research, and development. In recognition of my Maglev bill, our committee agreed to expand the Swift Rail Development Act to include Maglev systems. In short, BESTEA provides important research and planning funds like H.R. 2341, but it is silent on the construction phase of the program. I believe this is a good start for Maglev, and I look forward to working with our chairman to improve upon this program.

In the Senate, the chairman of the Environment and Public Works Committee has included a Maglev program in his reauthorization bill that is almost identical to H.R. 2341. I commend the chairman and ranking member for their leadership in making Maglev a transportation priority, and I intend to work with them in conference to see that a Maglev program is included in the final bill sent to the President.

IN HONOR OF TAYLOR E. GOODE ON HIS ATTAINMENT OF EAGLE SCOUT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Taylor Goode of North Olmsted, OH, who will be honored on October 12, 1997, for his attainment of Eagle Scout.

The attainment of Eagle Scout is a high and rare honor requiring years of dedication to self-improvement, hard work, and the community. Each Eagle Scout must earn 21 merit badges, 12 of which are required, including badges in: lifesaving; first aid; citizenship in the community; citizenship in the Nation; citizenship in the world; personal management of time and money; family life; environmental science; and camping.

In addition to acquiring and proving proficiency in those and other skills, an Eagle Scout must hold leadership positions within the troop where he learns to earn the respect and hear the criticism of those he leads.

The Eagle Scout must live by the Scouting Law, which holds that he must be: trustworthy, loyal, brave, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, clean, and reverent.

And the Eagle Scout must complete an Eagle Project, which he must plan, finance, and evaluate on his own. It is no wonder that only 2 percent of all boys entering Scouting achieve this rank.

My fellow colleagues, let us recognize and praise Taylor for his achievement.

SENATE—*Wednesday, October 8, 1997*

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, You know what is ahead today for us. Crucial issues await our attention. Unmade decisions demand our concentration. And we know that the choices we make will affect us, others around us, our Nation and the world.

It's with that in mind that we say with the psalmist, "Show us Your ways, O Lord; teach us Your paths. Lead us in Your truth and teach us, for You are the God of our salvation; on You we wait all the day."—Psalm 25:4–5.

May we prepare for the decisive decisions of this day by opening our minds to the inflow of Your spirit. We confess that we need Your divine wisdom to shine the light of discernment in the dimness of our limited understanding.

We praise You, that we can face the rest of this day with the inner peace of knowing that You will answer this prayer for guidance. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The PRESIDENT pro tempore. The able assistant majority leader, Senator NICKLES of Oklahoma, is recognized.

SCHEDULE

Mr. NICKLES. Mr. President, this morning the Senate will begin immediately 1 hour of debate on the motion to invoke cloture on S. 25, the McCain-Feingold campaign finance reform bill. Members can therefore expect a cloture vote at approximately 12 noon today. Assuming cloture is not invoked, the Senate may then proceed to S. 1173, the so-called highway transportation bill, ISTEA legislation. It is also possible the Senate will resume consideration of the D.C. appropriations bill if the two remaining issues can be resolved. The Senate may also consider any appropriations conference reports that may be available. Therefore, Members can anticipate additional rollcall votes throughout today's session of the Senate.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997—CLOTURE MOTION

The PRESIDING OFFICER (Mr. HUTCHINSON). Under the previous order, there will now be 1 hour equally divided in the usual form, prior to the cloture vote on S. 25.

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, am I correct that the 1 hour between now and the vote at 12 is equally divided?

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCONNELL. Mr. President, I would like to yield to the Senator from Arkansas such time as he may desire, and take this opportunity to come preside while he speaks.

(Mr. MCCONNELL assumed the chair.)

Mr. HUTCHINSON. Mr. President, I thank the Senator from Kentucky for yielding time.

Yesterday I voted to invoke cloture on the McCain-Feingold bill. Today I will oppose that effort.

I voted for cloture because I want campaign finance reform. I want an opportunity to amend McCain-Feingold, which I believe is a seriously flawed bill. I want a chance to vote on a reform bill and I want to ban or limit soft money. But it is now clear that there is no consensus in support of McCain-Feingold, and if we are to have serious and meaningful reform, we will and must take a different direction.

I absolutely do not support the current version of McCain-Feingold. In my opinion, and I have expressed it both publicly and privately, McCain-Feingold contains provisions that threaten free speech and pose serious constitutional problems, especially in the area of issue advocacy. These groups, which play such an important part in the political process, regardless of their affiliation, deserve to play that important role. And we must not in any way place a chill on their right of free expression and their ability to criticize their public officials. There have been abuses, no doubt about that. But it is far better for us to err on the side of freedom and to err on the side of liberty and to err on the side of the Constitution than to take a chance of passing a misguided, though popular right now, reform bill that would in fact begin that erosion of those liberties and freedoms and the right of free expression that we cherish as Americans and that we always should.

It is clear there is no consensus on McCain-Feingold and will not be. It is equally clear that repeated cloture votes on McCain-Feingold is a part of a political strategy to portray opponents of McCain-Feingold as opponents of reform. As unfortunate as it is for the American people, the McCain-Feingold bill has become so politicized that even supporters of campaign finance reform, like myself, are disgusted with the political tactics that have been used in this debate. You have to question the sincerity of a strategy that disrupts Senate business and distracts the Senate from other important business such as ISTEA, the transportation funding bill, fast track, appropriation conference reports and judicial nominations, all of these vitally important things, pressing business of the American people, and to set that aside so we can hold press conferences to portray opponents of McCain-Feingold as opponents of reform, which is not true and is not fair.

If supporters of McCain-Feingold truly wanted to put forth a serious effort to enact reform, they would take a different approach by working to find consensus, by working to find agreement, rather than attempting to score political points.

I will not be a part of these partisan guerrilla warfare tactics. I fully and completely support campaign finance reform. I think we have need to address it. I think we need to reform the system and particularly deal with that area in which there has been abuse, in the area of soft money. But I will not again vote to invoke cloture on S. 25 and be a part of a political game that is more concerned about portraying political opponents in a certain bad light than enacting meaningful and real and significant reform.

I thank again the Senator from Kentucky for his leadership and for his genuine deep convictions in defense of the first amendment and the right of free expression. I yield the floor.

(Mr. HUTCHINSON assumed the chair.)

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I listened with keen interest to the comments of the Senator from Arkansas and want to congratulate him for his decision. With his decision there is an excellent chance that today we will reach a historic high in opposition to measures similar to McCain-Feingold. So I commend the Senator from Arkansas for his conviction and thank him for his support in defense of the first amendment. I think he has done the courageous and correct thing.

I want to make a few brief observations this morning. There is not a whole lot left to say in this debate. But I wanted to refer to a few articles over the last few days that I think ought to be noted and printed in the RECORD.

A USA Today column on Monday, by Richard Benedetto, is worth noting, in terms of the attitude of the press on this issue. Americans have every right to expect that the press will not take sides on an issue off of the editorial page. Here is Mr. Benedetto's column of Monday, that I think is noteworthy, in USA Today. He says:

If you think the news media are providing the straight story on efforts to revise campaign finance laws, look closer.

Much of the reporting is tilted toward voices in favor of wholesale reform. Those who take an opposing view are mostly portrayed as either corrupt or partisan.

Little space or time is devoted to sober, broad looks at arguments on all sides of the issue. Instead, coverage is often emotional and selective. Reporting usually begins from the premise that the McCain-Feingold reform bill now before the Senate is good, and that any attempt to slow it, stop it or change it is bad.

Proponents say the fate of our democracy hangs on reform. And given a predisposition of many in the media to agree, that message is hammered home and almost daily.

* * * * *

CNN gives its position away in the title of a show on campaign finance it will air Tuesday: The Money Trail; Democracy for Sale.

This was ostensibly an objective piece by CNN on campaign finance, an issue which the occupant of the chair has just said is largely about the first amendment to the U.S. Constitution.

Mr. Benedetto goes on:

Thanks to coverage such as that, it's no surprise polls show that a majority of Americans want Congress to pass legislation to tighten the rules under which politicians and political parties collect money.

Never one to misread a popular trend, President Clinton has enlisted on the side of reform. Never mind that it was alleged abuses of current law by Clinton and Vice President Gore in 1996 that intensified calls for change in the first place. He's now a believer.

Just a couple of other comments from his column, Mr. Benedetto's column in USA Today of Monday:

Media conduct on this one is not pure liberal bias. It's another example of what Washington Post columnist Robert Samuelson calls "pack journalism run amok."

"We media types fancy ourselves independent and skeptical thinkers," he recently wrote. "Just the opposite is often true. We're patsies for the latest social crusade or intellectual fad."

Mr. President, I ask unanimous consent Mr. Benedetto's column in USA Today be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, Oct. 6, 1997]

MEDIA TOO QUICK TO BUY INTO CAMPAIGN REFORM

(By Richard Benedetto)

If you think the news media are providing the straight story on efforts to revise campaign finance laws, look closer.

Much of the reporting is tilted toward voices in favor of wholesale reform. Those who take an opposing view are mostly portrayed as either corrupt or partisan.

Little space or time is devoted to sober, broad looks at arguments on all sides of the issue. Instead, coverage is often emotional and selective. Reporting usually begins from the premise that the McCain-Feingold reform bill now before the Senate is good, and that any attempt to slow it, stop it or change it is bad.

Proponents say the fate of our democracy hangs on reform. And given a predisposition of many of the media to agree, that message is hammered home almost daily.

Consider this opening sentence from an Associated Press wire story last week: "Virginia's candidates for governor are taking full advantage of one of the nation's most liberal campaign finance laws, raking in more than $10 million through August." In one sentence, readers are given two negative cues on campaign finance. The first: that Virginia law is "one of the nation's most liberal." The second: the loaded phrase "raking in."

CNN gives its position away in the title of a show on campaign finance it will air Tuesday: The Money Trail: Democracy for Sale.

Thanks to coverage such as that, it's no surprise polls show that a majority of Americans want Congress to pass legislation to tighten the rules under which politicians and political parties collect money.

Never one to misread a popular trend, President Clinton has enlisted on the side of reform. Never mind that it was alleged abuses of current law by Clinton and Vice President Gore in 1996 that intensified calls for change in the first place. He's now a believer.

While reform may be needed, there are several arguments for moving carefully. For example, enacting limits on contributions could run afoul of the Constitution.

In 1976, the Supreme Court ruled 9–0 that campaign contributions are the equivalent of speech and that attempts to limit them could violate First Amendment rights. How thoroughly has that issue been aired? Not very. The focus of most reporting is on procedural maneuvering of opponents.

When Senate Majority Leader Trent Lott, R–Miss., introduced an amendment last week to require labor unions to get permission of members before spending dues money for political purposes, news reports said he was "muddying the water."

Opponents called it "a poison pill." Newspaper editorials denounced the move as shamefully partisan. The charge: Republicans want to hamper unions' ability to raise money because the millions of dollars they raise for campaigns go mostly to Democrats.

But if that's legitimate cause for denouncing the amendment, why is it not similarly legitimate to question the motive of Democrats seeking to ban "soft money?" Those are unlimited contributions that go to political parties and are supposed to help pay for party-building activities such as get-out-the-vote efforts.

Republicans collect more soft money than Democrats. So it would seem in the Democrats' interest to get rid of that GOP advantage. Yet, few raise that point. According to the prevailing wisdom, soft money must go—period.

Media conduct on this one is not pure liberal bias. It's another example of what Washington Post columnist Robert Samuelson calls "pack journalism run amok."

"We media types fancy ourselves independent and skeptical thinkers," he recently wrote. "Just the opposite is often true. We're patsies for the latest social crusade or intellectual fad."

The anti-smoking campaign is a recent example of the media buying in with few reservations. Global warming, too. Now it's campaign finance reform.

Mr. MCCONNELL. Also there was a recent and interesting survey conducted by Rasmussen Research, out of North Carolina.

Most Americans think that friendly reporters are more important to a successful political campaign than money, according to a Rasmussen Research survey of 1000 adults. By a 3-to-1 margin (61 percent to 19 percent) Americans believe that if reporters like one candidate more than another, that candidate is likely to win—even if the other candidate raised more money in a campaign.

I ask unanimous consent that be printed in the RECORD as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORTERS MORE INFLUENTIAL THAN CAMPAIGN CASH?—MOST AMERICANS SAY YES!

WAXHAW, NC.—Most Americans think that friendly reporters are more important to a successful political campaign that money, according to a Rasmussen Research survey of 1,000 adults. By a 3-to-1 margin (61% to 19%) Americans believe that if reporters like one candidate more than another, that candidate is likely to win—even if the other candidate raised more money in the campaign.

"This finding raises basic questions about the types of reform that it will take to restore voter confidence in representative democracy," noted Scott Rasmussen, president of Rasmussen Research. "Campaign contributions that buy special favors are viewed by the American people as a problem that needs to be addressed. However, most also think that much more serious reform will be needed to solve our nation's electoral problems."

Earlier surveys by Rasmussen Research have found the most Americans think the passage of new campaign finance laws will not end corruption in government. The consensus view is that new laws would simply encourage politicians to find new ways of obtaining money in exchange for votes or other favors. Nine-out-of-ten Americans believe that members of Congress do exchange votes for campaign cash.

Americans are also generally suspicious of reporters. More than seven-out-of-ten registered voters believe that the personal biases of reporters affect their coverage of stories, issues, and campaigns.

Additional survey information on campaign finance reform and other issues can be found at www.PortraitoAmerica.com, a web site maintained by Rasmussen Research.

Rasmussen Research is a public opinion polling firm that conducts independent surveys on events in the news and other topics. The survey of 1,000 adults was conducted September 27–28, 1997. The survey has a margin of sampling error of +/−3 percentage points, with a 95% level of confidence.

Mr. MCCONNELL. Also, there was a fascinating column by Robert Samuelson in Newsweek of October 6, Monday of this week. The headline says, "Making Pols Into Crooks—Campaign-Finance 'Reform' Criminalizes Politics and Deepens Public Cynicism."

Let me just take a few excerpts out of this article, because I think it really is excellent, and sums up the nature of this debate. Bob Samuelson says:

The "reformers" claim they're trying to lower public cynicism by cleansing politics of the evils of money. Actually, they're doing the opposite: by putting so many unrealistic restrictions on legitimate political activity, the "reformers" ensure that more people—politicians, campaign workers, advocacy groups—will run afoul of the prohibitions. Public cynicism rises as politics is criminalized.

Mr. Samuelson goes on:

There is no easy way to curb the role of money in politics without curbing free expression. If I favor larger (smaller) government, I should be able to support like-minded candidates by helping them win. Campaign "reformers"—who would like to replace private contributions with public subsidies and impose strict spending limits—reject this basic principles.

Money, they say, is corrupting politics. It isn't.

Campaign spending isn't out of control or outlandish. In the 1996 election, campaign spending at all levels—

At all levels, Federal, State and local—

totaled $4 billion, says political scientist Herbert Alexander of the Citizens' Research Foundation. That was one twentieth of one percent of the gross domestic product of $7.6 trillion. Americans spend about $20 billion a year on laundry and dry cleaning. Is the price of politics really too steep?

Robert Samuelson asks.

Further in the article he says:

More menacing are the artificial limits that "reformers" have imposed on political expression——

Something the Senator from Arkansas was just referring to a few moments ago in his speech——

What's been created is a baffling maze of election laws and rules that, once codified, establish new types of criminal or quasi-criminal behavior. Anyone tiptoeing around the rules is said to be "skirting the law." And there are violations. In the futile effort to regulate politics, the "reformers" have manufactured most of the immorality, illegality and cynicism that they deplore.

Today's "abuses" stem mostly from the 1974 "reforms" enacted after Watergate. Congress then limited the amount individuals could give a candidate to $1,000 per election; total giving to all candidates (directly, through parties or committees) was limited to $25,000 a year. What happened? The limits inspired evasions. Suppressing contributions to candidates encouraged new political-action committees. People gave to PACs, which give to candidates. In 1974, there were 608 PACs; now there are 4,000.

Another evasion is "independent spending": groups (the Supreme Court says) can promote a candidate by themselves if they don't "coordinate" with a candidate. The present evasion of concern is "soft money": contributions to parties for "party-building" activities like voter registration. "Soft money" contributions have no limits; so Tamraz could give $300,000. But "soft money" can also be used for general TV ads that mention candidates as long as they don't use such words as "vote for." Does any of this make any sense? Not really. Ordinary people can't grasp all the obscure, illogical distinctions.

And he is talking, Mr. President, about current law, even before we talk about making it more complicated.

No matter. The failure of past "reforms" is no barrier to future "reforms." The latest effort is the McCain-Feingold bill now before the Senate.

Samuelson says:

Most of the bill flouts the spirit, if not the letter, of the First Amendment.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, Oct. 6, 1997]

MAKING POLS INTO CROOKS—CAMPAIGN-FINANCE "REFORM" CRIMINALIZES POLITICS AND DEEPENS PUBLIC CYNICISM

(By Robert J. Samuelson)

The prospect that an independent counsel will be named to investigate the alleged campaign-law violations of President Bill Clinton and Vice President Al Gore exposes a central contradiction of "campaign-finance reform." The "reformers" claim they're trying to lower public cynicism by cleansing politics of the evils of money. Actually, they're doing the opposite: by putting so many unrealistic restrictions on legitimate political activity, the "reformers" ensure that more people—politicians, campaign workers, advocacy groups—will run afoul of the prohibitions. Public cynicism rises as politics is criminalized.

The distasteful reality is that politics requires money. To compete, candidates must communicate; and to communicate, they need cash. Someone has to pay for all the ads, direct mail and polls. There is no easy way to curb the role of money in politics without curbing free expression. If I favor larger (smaller) government, I should be able to support like-minded candidates by helping them win. Campaign "reformers"—who would like to replace private contributions with public subsidies and impose strict spending limits—reject this basic principle.

Money, they say, is corrupting politics. It isn't. Campaign spending isn't out of control or outlandish. In the 1996 election campaign spending at all levels totaled $4 billion, says political scientist Herbert Alexander of the Citizens' Research Foundation. That was one twentieth of one percent of the gross domestic product (GDP) of $7.6 trillion. Americans spend about $20 billion a year on laundry and dry cleaning. Is the price of politics really too steep?

Nor have contributions hijacked legislation. Consider the tax code. It's perforated with tax breaks, many undesirable. Some tax breaks benefit wealthy constituents who sweetened their lobbying with generous campaign contributions. But the largest tax breaks stem mostly from politicians' desire to pander to masses of voters. In the 1997 tax bill, Clinton and Congress provided huge tax breaks for college tuition. Does anyone think these passed because Harvard's president is a big contributor?

The media coverage and congressional hearings of today's alleged campaign-finance "abuses" have, of course, revealed the frenzied and demeaning efforts of politicians of both parties to raise money. But there hasn't been much evidence of serious influence buying. The worst we've heard is of President Clinton's, in effect, subletting the Lincoln Bedroom to big contributors and of businessman Roger Tamraz's giving $300,000 to Democrats in the hope of winning government support for an oil pipeline. All Tamraz got was a brief chat with Clinton and no blessing for the project. This sort of preferential "access" isn't dangerous.

More menacing are all the artificial limits that "reformers" have imposed on political expression. What's been created is a baffling maze of election laws and rules that, once codified, establish new types of criminal or quasi-criminal behavior. Anyone tiptoeing around the rules is said to be "skirting the law." And there are violations. In the futile effort to regulate politics, the "reformers" have manufactured most of the immorality, illegally and cynicism they deplore.

Today's "abuses" stem mostly from the 1974 "reforms" enacted after Watergate. Congress then limited the amount individuals give a candidate to $1,000 per election; total giving to all candidates (directly, through parties or committees) was limited to $25,000 a year. What happened? The limits inspired evasions. Suppressing contributions to candidates encouraged new political-action committees. People give to PACs, which give to candidates. In 1974, there were 608 PACs; now there are nearly 4,000.

Another evasion is "independent spending": groups (the Supreme Court says) can promote a candidate by themselves if they don't "coordinate" with a candidate. The present evasion of concern is "soft money": contributions to parties for "party-building" activities like voter registration. "Soft money" contributions have no limits; so Tamraz could give $300,000. But "soft money" can also be used for general TV ads that mention candidates as long as they don't use such words as "vote for." Does any of this make sense? Not really. Ordinary people can't grasp all the obscure, illogical distinctions.

No matter. The failure of past "reforms" is no barrier to future "reforms." The latest effort is the McCain-Feingold bill now before the Senate. Named after its sponsors (Republican John McCain of Arizona and Democrat Russell Feingold of Wisconsin), it would outlaw "soft money" and try to ban "issue advocacy" ads in the 60 days before an election ("Issue advocacy" ads favor or oppose candidates; the distinction between them and "independent spending" cannot briefly be explained.) Most of the bill flouts the spirit, if not the letter, of the First Amendment:

"Congress shall make no law . . . abridging the freedom of speech . . .; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The connection between campaign "reform" and the Clinton-Gore predicament has emerged, ironically, in the complaints of some "reformers" that the president and vice president are being unfairly targeted. In The Washington Post, Elizabeth Drew says that Gore behaved like a "klutz," but "klutziness isn't a federal crime." The 1883 law that he and the president may have violated (soliciting contributions from federal property), argues Drew, aimed to protect civil servants from being shaken down by politicians. In The New York Times, former deputy attorney general Philip Heymann says the campaign against Gore aims only to

"destroy the Democratic front runner for president."

All this is true. But it misses the larger point: the campaign-finance laws are so arbitrary and complex that they invite "criminality" or its appearance. Bad laws should be discarded. Rep. John Doolittle of California sensibly suggests abandoning all contribution limits and enacting tougher disclosure laws. The best defense against the undue influence of money is to let candidates raise it from as many sources as possible—and to let the public see who's giving. That would be genuine reform.

Mr. MCCONNELL. Mr. President, also in the Wall Street Journal of October 1, there was a piece by Jonathan Rauch, who is a contributing editor to the National Journal. I want to read a few parts of that.

Mr. Rauch said:

The McCain-Feingold bill being debated in the Senate this week has become the default option for campaign-finance reformers: If you are an editorialist who needs to suggest something better than today's tumbledown system, you press the McCain-Feingold button on our word processor. Well, the system today is rotten, and radical change is needed. But McCain-Feingold, for all its good press and good intentions, is a bad bill. It would do nothing to end the failures of the past 20 years. Indeed, it would unflinchingly compound them.

At the core of today's troubles are two realities that will not yield to any amount of legislative or lawyerly cleverness. The first is that private money—a lot of it—is a fact of life in politics, and if you push it out of one part of the system it tends to re-enter somewhere else, usually deeper in shadow. The second is that money spent to communicate with voters cannot be regulated without impinging on the very core of the First Amendment, which was written to protect political discourse above all.

That is what they were thinking about when they wrote the first amendment, political discourse.

We got into today's mess by defying both of these principles, with predictable results. When reformers placed limits on money spent to support or defeat candidates, lobbies simply shifted to ad campaigns that omitted explicit requests to vote for or against candidates: "issue advocacy," which the courts have ruled is constitutionally protected. And when reformers placed tight limits on contributions to candidates, donors began giving to political parties instead: "soft money."

The distinctions between "hard" and "soft" money, and between "express advocacy" and "issue advocacy," are grounded in legalistic mumbo-jumbo, and so the attempts to enforce them have made campaign law bewilderingly complex without accomplishing any of the law's goals. Campaigns are neither cheaper nor fairer nor less dependent on private money than, say, 30 years ago—just the opposite, in fact. One conclusion you might draw is that the 1970s-style, money-regulating model is bankrupt. Another is that a horse-doctor's dose of the old medicine will finally heal the patient. Enter Sens. John McCain and Russell Feingold.

Among many things their bill would do, two are paramount. First, it would ban "soft money" given to political parties. Second, to make the "soft money" ban work, it would also restrict independent "issue advocacy." Voila—no more money, right?

Wrong. Lots and lots of money, but in different places. Ban soft money, and lobbies would bypass the parties and conduct their own campaign blitzes. Candidates and parties are already losing control of their messages as lobbies—which, unlike candidates and parties, are not accountable to voters—run independent advocacy campaigns.

Mr. President, I see that my friend from Wisconsin is here. I am going to reserve the remainder of my time and ask that the entire Jonathan Rauch article that I just was reading from be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:]

[From the Wall Street Journal, Oct. 1, 1997]

VOTE AGAINST MCCAIN, WAIT, CAN I SAY THAT?

(By Jonathan Rauch)

The McCain-Feingold bill being debated in the Senate this week has become the default option for campaign-finance reformers: If you are an editorialist who needs to suggest something better than today's tumbeldown system, you press the McCain-Feingold button on your word processor. Well, the system today is rotten, and radical change is needed. But McCain-Feingold, for all its good press and good intentions, is a bad bill. It would do nothing to end the failures of the past 20 years. Indeed, it would unflinchingly compound them.

At the core of today's troubles are two realities that will not yield to any amount of legislative or lawyerly cleverness. The first is that private money—a lot of it— is a fact of life in politics, and if you push it out of one part of the system it tends to re-enter somewhere else, usually deeper in shadow. The second is that money spent to communicate with voters cannot be regulated without impinging on the very core of the First Amendment, which was written to protect political discourse above all.

We got into today's mess by defying both of these principles, with predictable results. When reformers placed limits on money spent to support or defeat candidates, lobbies simply shifted to ad campaigns that omitted explicit requests to vote for or against candidates: "issue advocacy," which the courts have ruled is constitutionally protected. And when reformers placed tight limits on contributions to candidates, donors began giving to political parties instead: "soft money."

The distinctions between "hard" and "soft" money, and between "express advocacy" and "issue advocacy," are grounded in legalistic mumbo-jumbo, and so that attempts to enforce them have made campaign law bewilderingly complex without accomplishing any of the law's goals. Campaigns are neither cheaper not fairer nor less dependent on private money than, say, 30 years ago—just the opposite, in fact. One conclusion you might draw is that the 1970s-style, money-regulating model is bankrupt. Another is that a horse-doctor's dose of the old medicine will finally heal the patient. Enter Sens. John McCain (R., Ariz.) and Russell Feingold (D., Wis.).

Among many things their bill would do, two are paramount. First, it would ban "soft money" given to political parties. Second, to make the "soft money" ban work, it would also restrict independent "issue advocacy." Voilá—no more money, right?

Wrong. Lots and lots of money, but in different places. Ban soft money, and lobbies would bypass the parties and conduct their own campaign blitzes. Candidates and parties are already losing control of their messages as lobbies—which, unlike candidates and parties, are not accountable to voters—run independent advocacy campaigns. The McCain-Feingold bill would accelerate the alienation of politicians from their own campaigns, and, for good measure, it could also starve the parties of funds.

The sponsors are aware that independent advertising might replace soft money: thus the bill's remarkable new limits on all ads that mention candidates within 60 days of an election. In the words of Sen. McCain: "Ads could run which advocate any number of causes. Pro-life ads, pro-choice ads, antilabor ads, pro-wilderness ads, pro-Republican Party ads, pro-Democrat Party ads—all could be aired in the last 60 days. However, ads mentioning the candidates could not." So, for example, I might commit a federal crime by taking out an ad in this newspaper criticizing Sen. McCain for supporting his bill. The Founders would have run screaming from such a notion, and rightly so: You cannot improve the integrity of any political system by letting politicians restrict political speech.

In real life the courts are likely to strike down McCain-Feingold's speech controls, in which case, of course, the limits would not work. But even if the limits were allowed to stand, they still would not work: Everybody would race to game the system by dressing up political expression in absurd costumes, whose legitimacy would be contested ad nauseam in the courts. Maybe my ad couldn't say "Vote against McCain and Feingold," but could it say "Show the promoters of the dangerous McCain-Feingold bill how you feel"? Who would decide?

The potential for speech micromanagement is endless. Imagine the fun lawyers could have with the bill's exception for "voter guides"—a permissible voter guide being (hold on tight, now) any printed matter written in an "educational manner" about two or more candidates that (1) is not coordinated with a candidate, (2) gives all candidates an equal opportunity to respond to any questionnaires, (3) gives no candidate any greater prominence than any other, and (4) does not contain a phrase *"such as"* (my italics), "vote for," "re-elect," "support," "defeat," "reject" or other "words which in context can have no reasonable meaning other than to urge the election or defeat of one or more candidates." Is that clear?

So, after McCain-Feingold, campaign law would become even more complex and mystifying. Politicians would remain mendicants, forced by low contribution limits to beg every day and in every way for donations. Our already weak parties would lose their main source of funds, becoming weaker still. If the speech controls were upheld, political discussion would be both chilled and contorted. And if the speech controls were struck down, political campaigns would be run by lobbies ("independent expenditures") rather than by candidates and parties. Quite a reform.

Even total deregulation would be better than McCain-Feingold, provided disclosure were retained. For that matter, doing nothing would be better. Best by a very long measure, however, would be a combination of deregulation, disclosure and generous public financing for candidates who forgo private fund-raising—a plan which, instead of trying to eliminate or micromanage private money, would give voters an alternative to it, and make the acceptance of private donations an issue in every campaign.

Alas, all of those admittedly imperfect ideas are bitterly opposed by the anti-money

crusaders who gave us the system we have now, and who still predominate in the "reform community." To change their minds, campaign-finance law will probably have to be made worse before it can be made better. That task, at least, McCain-Feingold would perform admirably.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. Let me, first of all, congratulate the occupant of the chair for his vote yesterday. I heard his comments this morning. The occupant of the chair did the right thing yesterday. He voted for cloture and joined 52 other Senators—a Senator we had not in the past known for sure whether or not he was going to vote for cloture on any occasion, and I very much appreciate that.

I realize that his words are sincere. He does, in fact, support campaign finance reform. It is important that, again, the Senator from Arizona and I signal what we have signaled in the past, and that is that we are very eager to negotiate, whether on the floor or off the floor, to make a bill that would be more palatable to Members on both sides of the aisle.

I think the Senator from Arkansas has indicated some excellent ideas in the past. That is the signal I want to give, despite whatever indications one might feel from the press accounts, which, of course, all of us have to take with a grain of salt on both sides of the issue. The fact is that many of us really would like to change this system, and I believe the Senator who occupies the chair is one of them.

Let me reiterate our offer, which I think we have made good on time and time again, that if modifications need to be made to pass this terribly important bill, we are ready to do it. That is how the junior Senator from Maine became such a tremendous advocate for our cause. She had some ideas that were better than ours, and we incorporated them and moved on to make the bill even better.

So I look forward to working with the occupant of the chair so that, once again, he can feel comfortable voting for cloture as we continue to press this issue on the floor, which we will do until we get the result that the American people demand.

Let me also suggest, this is a point that seems to be missed in this debate frequently. The Senator from Kentucky speaks frequently and eloquently about the first amendment. But the way our system is established, surely if you pass a bill in the Congress, a piece of legislation, a statute, it doesn't amend the Constitution. There is more to the process. The President has to sign the bill, and it has to go up to the United States Supreme Court, unless nobody challenges it. And I have a sneaking suspicion that somebody might challenge this bill if it became law.

So what is the worst-case scenario? The worst-case scenario is that if, in fact, there is a shred of our bill that is unconstitutional, the Supreme Court will say so and strike it down. They know how to do their job. If we do our job, they will do their job. That is exactly what they did in the very famous case of Buckley versus Valeo. They determined that some elements of the bill were constitutional, despite the claim of the ACLU and others that they were not, and they said they were OK.

For example, having a limitation on contributions. It is, obviously, the law now, and the Senator from Kentucky cannot dispute that it is the law, that right now somebody can't give more than $2,000 in the course of 6 years to a U.S. Senate candidate in hard money. That is a limitation. The Supreme Court said it is OK.

On the other hand, in Buckley versus Valeo, the Court said you can't have overall mandatory spending limits because that, in their view, would be a violation of the first amendment.

So what is the threat to the first amendment of passing a piece of legislation about which we have a good-faith disagreement as to its constitutionality? I happen to think it is clear that the major provisions of our bill are constitutional.

I would be the first to concede that the closest case would be the one that the Senator from Kentucky has focused most of his firepower on in this debate, and that is the issue of what I like to call phony issue ads. But I can see that would be something the Supreme Court would have to take a long and hard look at, and I think they should. That is why, Mr. President, I don't support a constitutional amendment to get this done. The first amendment is too sacred.

So, I want to address your concern about the first amendment to tell you that I was, I believe, the first or second Member of the U.S. Senate to come out here and oppose something called the Communications Decency Act. People fell all over each other voting for that bill that would have censored the Internet. I came out here and said, "Look, on the face of this, even though I am not a leading constitutional expert but I have looked at the Constitution, on the face of it, this is unconstitutional." Yet, I believe 84 Members of this body, including the Senator from Kentucky, voted for it, sent it up to the Supreme Court and, guess what? Unanimously that Supreme Court—of which a majority of the Members were appointed by the majority party Presidents—unanimously ruled that that was unconstitutional.

Mr. President, both with regard to your concern that we be flexible and open to other people's ideas, which I think you and I have established a good record on, and with regard to the issue of the first amendment to the Constitution, not only couldn't I agree with you more, but I believe we have a lot to talk about and work together on to achieve campaign finance reform.

Since the Senator from Kentucky continues in his steadfast way to make a record, which I hope one day will get before the Supreme Court—he hopes it won't get that far—let me address a couple of other issues and put a few things of concern to me in the RECORD.

The Senator from Kentucky has been proudly suggesting that the McCain-Feingold bill is dead, and yet we are out here today debating it again, and we will be debating it again. That is because it is not going away. It is because it is not simply a question of various elements of the media saying that the McCain-Feingold bill is a good idea. There are others who are not in the media who, I think, are not easily duped by the media who think we ought to enact some of the things that are in the McCain-Feingold bill.

Let me just put a few of those items in the RECORD. First, I ask unanimous consent that letters from former Presidents Gerald Ford, Jimmy Carter, and George Bush endorsing a soft money ban—a soft money ban, which is the centerpiece of the McCain-Feingold proposal—be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

HOUSTON, TX,
June 19, 1997.

Senator NANCY KASSEBAUM BAKER,
Washington, DC.

DEAR SENATOR KASSEBAUM: First, let me commend you and the former Vice President, Ambassador Mondale, for taking a leadership role in trying to bring about campaign reform.

I hope the current Congress will enact Campaign Reform legislation.

We must encourage the broadest possible participation by individuals in financing elections. Whatever reform is enacted should go the extra mile in demanding fullest possible disclosure of all campaign contributions.

I would favor getting rid of so called "soft money" contributions but this principle should be applied to all groups including Labor.

I congratulate you for working for better campaign finance law enforcement.

With my respects to you and Vice President Mondale I am, sincerely,

GEORGE BUSH.

JULY 17, 1997.

TO VICE PRESIDENT WALTER MONDALE:

I am pleased to join former Presidents Bush and Ford in expressing hope that this Congress will enact meaningful campaign finance reform legislation. For the future of our democracy, and as our experience may be emulated by other nations, prompt and fundamental repair of our system for financing federal elections is required.

The most basic and immediate step should include an end to "soft money," whether in the form of corporate or union treasury contributions to federal campaigns, or large and unregulated contributions from individuals. The initial step should also include measures

that provide for complete and immediate disclosures of political contributions and expenses.

To accomplish these and other reforms and to lay the basis for future ones, we also need to develop a strong national consensus about the objectives of reform. It will take more than just the action of this Congress, but fundamental reform is essential to the task of repairing public trust in government in our leaders. We must take significant steps to assure voters that public policy is determined by the exercise of their franchise rather than a broken and suspect campaign finance system.

Please extend to Senator Nancy Kassebaum Baker my appreciation for the work that she has undertaken with you to advance the essential cause of bipartisan campaign finance reform.

Sincerely,

JIMMY CARTER.

JULY 10, 1997.

DEAR SENATOR KASSEBAUM: Our system of financing federal election campaigns is in serious trouble. To remedy these failings requires prompt action by the President and the House and Senate. I strongly hope the Congress in cooperation with the White House will enact Campaign Reform legislation by the forthcoming elections in 1998.

Public officials and concerned citizens. Republicans and Democrats alike, have aleady identified important areas of agreement. These include (1) the need to end huge uncontrolled "soft money" contributions to the national parties and their campaign committees, and to bar solicitation of "soft money" from all persons, parties and organized labor by federal officeholders and candidates for any political organizations; (2) the need to provide rapid and comprehensive discount of contributions and expenditures in support of, or opposition to, candidates for federal office; and (3) the need to repair the system of campaign finance law enforcement by assuring that it is effective and independent of politics.

A significant bi-partisan effort across party lines can achieve a legislative consensus in campaign reforms that will help to restore the confidence of our citizens in their federal government.

I commend you and former Vice President Mondale for your leadership on behalf of campaign reform.

Sincerely,

GERALD R. FORD.

Mr. FEINGOLD. Mr. President, I would like to mention just a sentence from President Bush's letter, who I don't think is usually considered a pawn of the liberal media. He says:

I would favor getting rid of so called "soft money" contributions but this principle should be applied to all groups including Labor.

Of course, our soft money ban in our bill is comprehensive and includes labor.

A letter from President Carter also indicates as follows:

The most basic and immediate step should include an end to "soft money," whether in the form of corporate or union treasury contributions to federal campaigns, or large and unregulated contributions from individuals.

From President Carter.

President FORD indicated in a letter:

. . . the need to end huge uncontrolled "soft money" contributions to the national parties and their campaign committees, and to bar solicitation from "soft money" from all persons, parties and organized labor by federal officeholders and candidates for any political organizations . . .

Mr. President, how can these three Presidents, two from the Republican Party and one from the Democratic Party, be considered pawns of a solely Democratic effort to pass campaign finance reform? On its face it is absurd to suggest a bill led by the Senator from Arizona, a strong Republican, is such a bill. But here are two Republican Presidents saying we should ban soft money. Yet, the effort to kill this bill would prevent the core element of our bill to ban soft money.

Let me add, it is not just former Presidents, Mr. President, it is also former Members of this body and of the other body. Former Members of Congress have endorsed our bipartisan campaign finance reform bill and the end of soft money.

I ask unanimous consent that a statement of former Members of Congress, dated September 29, 1997, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF FORMER MEMBERS OF CONGRESS

We are pleased to join former Presidents Bush, Carter and Ford in expressing the hope that the current Congress enact meaningful bipartisan campaign finance reform legislation.

The distinguished former Presidents have identified the indispensable core of reform: (1) a ban on "soft money" contributions to the national parties and their campaign organizations, applied equally to contributions of corporate and union treasury funds, as well as to large individual contributions in excess of those permitted by law; (2) complete and rapid disclosure of political contributions and expenses; and (3) effective and politically independent enforcement of campaign finance laws.

Some of us favor additional proposals, including provisions to assure that a ban on "soft money" is not circumvented through campaign advertisements that are thinly disguised as "issue advocacy." Together we believe it is time to test the merits of different or competing ideas through debate and votes, but that any disagreement over further reforms should not delay enactment of essential measures, beginning with a ban on soft money, where agreement is within reach.

Our democracy will be strengthened when the Congress acts to assure the American public that the nation's campaign finance system honors our nation's ideals.

Nancy Kassebaum Baker (R-KS), Howard H. Baker, Jr. (R-TN), David L. Boren (D-OK), John C. Danforth (R-MO), Mark O. Hatfield (R-OR), Abner J. Mikva (D-IL), Patricia S. Schroeder (D-CO), Walter F. Mondale (D-MN), Henry Bellmon (R-OK), Bill Bradley (D-NJ), Thomas F. Eagleton (D-MO), Robert H. Michel (R-IL), Sam Nunn (D-GA), Alan K. Simpson (R-WY).

The original signers of the statement are joined by:

Bella Abzug (D-NY), Wendell Anderson (D-MN), Mark Andrews (R-ND), Bob Bergland (D-MN), Rudy Boschwitz (R-MN), John Brademas (D-IN), William Brock (R-TN), , Clarence Brown (R-OH), Jim Broyhill (R-NC), Beverly Byron (D-MD), Rod Chandler (R-WA), Dick Clark (D-IA), Tony Coelho (D-CA), Barber Conable (R-NY), Alan Cranston (D-CA), John Culver (D-IA), Hal Daub (R-NE), John Dellenback (R-OR), Butler Derrick (D-SC), Tom Downey (D-NY), Don Edwards (D-CA), Mickey Edwards (R-OK), Robert Ellsworth (R-KS), Karan English (D-AZ), James Exon (D-NE), Dante Fascell (D-FL), Geraldine Ferraro (D-NY), Sheila Frahm (R-KS), Bill Frenzel (R-MN), Clifford Hansen (R-WY), Fred Harris (D-OK), Thomas Hartnett (R-SC), Howell Heflin (D-AL), Peter Hoagland (D-NE), Carroll Hubbard (D-KY), Walter Huddleston (D-KY).

Martha Keys (D-KS), Melvin Laird (R-WI), Russell Long (D-LA), Mike Mansfield (D-MT), Marjorie Margolies-Mezvinsky (D-PA), Charles Mathias (R-MD), Ron Mazzoli (D-KY), Paul McCloskey (R-CA), John Melcher (D-MT), Howard Metzenbaum (D-OH), John Miller (R-WA), George Mitchell (D-ME), Frank (Ted) Moss (D-UT), Gaylord Nelson (D-WI), Dick Nichols (R-KS), Leon Panetta (D-CA), Claiborne Pell (D-RI), David Pryor (D-AR), Albert Quie (R-MN), John Rhodes III (R-AZ), Matthew Rinaldo (R-NJ), Peter Rodino (D-NJ), Warrent Rudman (R-NH), Lynn Schenk (D-CA), Richard Schweiker (R-PA), Philip Sharp (D-IN), Paul Simon (D-IL), Jim Slattery (D-KS), W.B. Spong (D-VA), Robert Stafford (R-VT), Al Swift (D-WA).

Mr. FEINGOLD. Mr. President, in that letter, a number of our former colleagues from both Houses of the Congress state:

We are pleased to join former Presidents Bush, Carter and Ford in expressing the hope that the current Congress enact meaningful bipartisan campaign finance reform legislation.

This includes the names of people like the distinguished former Member Nancy Kassebaum Baker, former Senator from Kansas; Howard Baker, Jr., former leader and Senator from Tennessee; former Republican Senator John Danforth of Missouri, who I had the honor to serve with briefly; former Senator Mark Hatfield of Oregon; former Senator Walter Mondale and former Vice President; former Senator Bill Bradley from New Jersey; former minority leader of the other body, Robert Michel; former U.S. Senator Sam Nunn; former Senator Al Simpson, the Senator from Wyoming with whom I disagreed frequently on the floor of the Senate who was among the toughest and most clever opponents you could have on the floor, but he cosponsored the McCain-Feingold bill last session after he made his retirement announcement, and he still supports it. And the list goes on.

Mr. President, I do not think these folks are merely pawns of the media. These folks have been here; they have seen it; they have done it. And they know that spending a tremendous amount of your time in raising money is the corrupting of this process. And many of them, as they announced their retirements, said they were sick and tired of spending their time as Members of Congress raising money. The

killing of the bill, the vain attempt to kill this bill, as it turns out, would prevent the first efforts to get our attention away from raising money and back to the business we were elected to do.

Mr. President, I ask unanimous consent to have printed in the RECORD an op-ed piece that appeared in the July 18, 1997, Washington Post authored by former Republican Senator Nancy Kassebaum, Baker, and former Vice President Walter Mondale calling for bipartisan campaign finance reform and a ban on soft money.

There being no objection, the material was ordered to printed in the RECORD, as follows:

[From the Washington Post, July 18, 1997]

CAMPAIGN FINANCE: FIX IT

(By Nancy Kassebaum Baker and Walter F. Mondale)

President Clinton has challenged Congress to "make this summer a time not of talk but of action" in fixing our broken system of campaign financing. We agree wholeheartedly.

Earlier this year the president asked the two of us, a Republican and a Democrat, to assist in the cause of bipartisan campaign finance reform. Although pessimism about the will of Congress to reform campaign finance laws is widespread, we are optimistic that the task can be achieved through a clear focus on necessary and achievable reforms, leadership and determination.

Last month, we submitted an Open Letter to the President and Congress recommending four areas in which to begin, without delay, the task of ensuring that our nation's campaign finance system serves, rather than undermines, the interests of American democracy.

First, Congress should promptly ban "soft money," the huge uncontrolled contributions to national parties and their campaign organizations that have so dismayed the public. This prohibition would do much to slow the flood of campaign money and enable the nation to adhere to the justified premise of earlier reforms, that massive amounts of money from powerful sources distort elections and government.

Second, we must ensure that "soft money" not continue its corrosive work under the this disguise of "issue advocacy." The election law should be tightened to distinguish clearly between media advertisements that are campaign endorsements or attacks and those that genuinely debate issues. to make a "soft money" ban fully meangingful the election law should establish consistent rules for the financing of all electioneering advertisements.

Third, disclosure rules should be broadened to ensure that voters know who is responsible for the accuracy and fairness of campaign advertisements. Increasingly, candidates are bystanders in their own campaigns, not knowing the identity of sponsors of messages that dominate the airwaves close to elections. Also, with today's technology, even last-minute contributions and expenditures can be revealed before Election Day.

Fourth, no reform will be worth much without effective enforcement. The Federal Election Commission must be strengthened. This should include the appointment of knowledgeable and independent-minded commissioners. Additionally, changes are needed to allow for the full and timely resolution of issues through the courts when the commission is deadlocked or cannot act because of lack of funds.

Significant majorities might be found for other reforms. As the debate goes forward, Congress should be encouraged to consider further steps to provide relief from the incessant treadmill of fund-raising. However, we should not delay action on those measures that can pass now.

Time is of the essence. Congressional elections are coming up next year. The presidential campaign for the year 2000 will begin soon after. Each day these elections draw closer, the passage of reform becomes even more difficult. Now is the best time to advance legislation that will provide the American people with a more effective and more equitable election process.

It is no secret that the Senate will be the first battleground for reform. There are honest differences that warrant debate there but also votes on their merits. We are confident that the Senate's leadership will recognize its responsibility to schedule campaign finance reform for early and full debate. And speaking plainly, we further believe that the American public will deem unacceptable any tactic that prevents a majority of the Senate from coming to a final vote.

We appreciate the value of Senate rules on debate. But campaign finance issues are well known to every member. Whatever any senator's individual views on campaign finance issues may be, all senators should unite in one conviction. The future of our democracy requires them to address their differences in public debate on the Senate floor and for their votes on final passage to be recorded.

Most important is to set aside attempts to gain or maintain partisan advantage. The time is now to come together to address the integrity of our national government. Restoring that integrity demands honest, bipartisan campaign finance reform.

Mr. FEINGOLD. Mr. President, I also ask unanimous consent to have printed in the RECORD an opinion piece from last Sunday's Washington Post coauthored by former Presidents Carter and Ford, who actually ran against each other in 1976, calling for campaign finance reform and the end of the soft money system.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1997]

AND THE POWER OF THE BALLOT

(By Jimmy Carter and Gerald Ford)

When we ran against each other in 1976, the modern campaign finance system was in its infancy; it was the first presidential election governed by strict limits and public financing. Looking back, it is easy to recognize why the reforms of the 1970s were so essential. Today it is disheartening to witness changes that have distorted those reforms and shaken Americans' faith in their democracy.

We have watched as elections have grown more controversial, more expensive, riddled with soft money and less understandable to the average voter. We have watched as participation in presidential elections has declined—plummeting during the last election to the lowest levels since 1924.

Less than half of the voting-age population cast their ballots for president in 1996, and while there are many factors that might contribute to this disturbing figure, we believe that a lack of public trust in government and in our system of democratic elections is a major part of the problem. When people feel disenfranchised from their political system, they stop participating in it. And when that happens, democracy suffers.

We have both worked in our public lives toward the goal of exporting our democratic system to other nations. Our model (or "the U.S. model") must be fundamentally reformed in terms of campaign financing to warrant the faith of other countries.

We can both personally attest that there is no greater honor than to serve your country. Yet the honor of public service is being tarnished by a system of campaign funding that has made many Americans lose faith in the concept of public service as a virtue. That service is diminished when elected officials are forced to spend so much time raising money instead of focusing on the many important issues they were elected to address.

We firmly believe that now is the time to restore Americans' faith in their democracy, their government and their democratically elected institutions. Meaningful, bipartisan campaign finance reform is needed to rein in a system that is out of control.

As a minimal first step, Congress and the president should approve legislation that bans soft money, enhances enforcement of existing campaign finance laws and creates a more accountable disclosure system that informs rather than obfuscates. These are the areas identified by former vice president Walter Mondale and former senator Nancy Kassebaum Baker in their effort to promote reform. It is particularly important to seize this opportunity for reform now so it can improve the next presidential election.

In order to accomplish this goal, both parties must lay down their partisanship and rise to meet this challenge together. Leaders of both parties have demonstrated their ability to work together on critical and contentious issues to do what is right for the country. This is another such issue where cooperation is the only road to results. It is impossible to expect one side to disarm unilaterally in this massive arms race for funds. Rather, both sides must agree that bilateral limits are the only rational course of action to preserve the moral integrity of our electoral system.

One item that we should all agree on is a ban of so-called "soft money" for national parties and their campaign committees. Soft money was initially intended exclusively for "party building" activities but has metamorphosed into a huge supplemental source of cash for campaigns and candidates. It is one of the most corrupting influences in modern elections because there is no limit on the size of donations—thus giving disproportionate influence to those with the deepest pockets.

According to the Federal Elections Commission, both parties raised a record-breaking $262 million in soft money during the 1996 elections. Recent news reports showed that figure will be shattered again in 2000 if current fund-raising rates continue.

These figures make it absolutely clear what is at stake. If Congress does not act now to stem this massive flow of soft money, Americans' cynicism and mistrust of government will only increase. And that step is only the beginning of needed fundamental reform.

We must demonstrate that a government of the people, by the people and for the people is not a thing of the past. We must redouble our efforts to assure voters that public policy is determined by the checks on their

ballots rather than the checks from powerful interests.

Jimmy Carter was president from 1977 to 1981. Gerald Ford was president from 1974 to 1977.

Mr. FEINGOLD. Mr. President, I would like to place in the RECORD as well a couple of items from groups across the country that I think have independent judgment, who are not easily fooled by a media campaign in favor of a bill that would otherwise not have merit. The suggestion that this is all that is going on here is on its face absurd, it is even a little insulting.

But I do not think you can say of the National Council of the Churches of Christ that they were somehow tricked into supporting something that isn't really reform. So I ask unanimous consent to have printed in the RECORD a statement by the National Council of the Churches of Christ endorsing comprehensive campaign finance reform which includes, Mr. President, specific references to a number of the provisions in the McCain-Feingold bill and specifically references the McCain-Feingold bill asking "legislators to oppose amendments currently being offered to the McCain-Feingold measure in an effort to kill its passage." I think it is an unmistakable reference to the Lott amendments.

I ask unanimous consent that it be printed in the RECORD, and a statement by NETWORK, a national Catholic social justice group. The press release endorses the McCain-Feingold reform proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE USA,
Washington, DC, October 4, 1997.

The National Council of Churches joins with others today to urge legislators to break the logjam which has blocked campaign finance reform efforts for so long and to pass a meaningful bipartisan reform bill. Our long-standing commitment to campaign finance reform grows directly from profound religious faith: every human being is a person of dignity and worth as a child of God. In our democracy a signal of that dignity and worth is a fair and just electoral process where all people are included equitably and with respect.

What a moral affront to buy or sell either the public trust or the individual vote! In our policy statements we have long held that unfair campaign financing violates the moral integrity of public life.

Our support for current campaign finance reform comes from seeing it as an important step in moral correction. Of course, even the proposed legislation is not perfect. Inequities will still need attention. But we believe that such reform can strengthen the control of corrupting processes that attack the very heart of democratic elections. The undue influence of money diminishes the voting power of ordinary citizens.

Further, we are very concerned about widespread disillusionment with public life, and especially political life. Religion means for us God's mandate for the well-being of all people. We have long sought "the common good". We have long stood against religious self-seeking or the private advantage of any religious group. It is not our "good" we seek; it is the "common good". Disillusionment and cynicism over politics and electoral processes must be addressed. We believe that campaign finance reform can be a step toward building "the common good."

Let me add one more piece to our public endorsement of campaign finance reform. In Protestant Christian heritage we have long affirmed what we call "Christian vocation". Many elected public officials see their works as a public trust, and go about it with a genuine sense of religious commitment—a "vocation". They serve God by serving the well-being of all people. When public officials are consumed by constant fund raising, they cannot adequately invest themselves in fulfilling the public leadership role with which they have been entrusted. Our current campaign financing practices inflict frantic demands and exhausting requirements on political leaders. Every sensitivity to them has to insist on reform.

So here we are—I on behalf of the National Council of Churches—to urge support for effective campaign finance reform. We call for prompt consideration and passage of such a reform bill, and urge legislators to oppose amendments currently being offered to the McCain-Feingold measure in an effort to kill its passage. It is rooted in our religious tradition of public morality and the pursuit of the common good. We call on people in churches and other religious communities across the land to support leaders in the Administration and the Members of Congress who have the wisdom and courage to enact genuine reform.

Rev. Dr. ALBERT M. PENNYBACKER,
Associate General Secretary, NCCC.

CATHOLIC LOBBY DEMANDS CONGRESS MOVE ON CAMPAIGN FINANCE REFORM NOW

NETWORK, a National Catholic Social Justice Lobby supports campaign finance reform that promotes greater participation in the election process for all and believes comprehensive reform must include a public financing component as well as spending limits. NETWORK is very disappointed and concerned about the lack of commitment by Members of Congress for real campaign finance reform and demands that Congress top its political maneuvering and bring campaign finance reform up for debate and a vote. "To not deal with campaign finance reform would be an affront to the voice of the people of our country. Project Independence is a clear example of the desire people have for real campaign finance reform" declares Kathy Thornton, RSM, NETWORK's National Coordinator.

NETWORK sees the stripped down version of the McCain (R-AZ)—Feingold (D-WI) campaign finance reform bill S. 25 as a positive incremental step, not as the final answer to reforming the campaign finance system. Therefore, NETWORK does support S. 25, but opposes Senator Lott's amendment because it sees it as a poison pill that is designed to kill meaningful campaign finance reform.

NETWORK, a National Catholic Social Lobby is a membership organization which lobbies, educates and organizes on the federal level from a faith-based perspective promoting economic justice for people who are poor and marginalized.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that statements by Jerome Kohlberg, founder of the Campaign Reform Project, Thomas S. Murphy, and Richard Rosenberg, and a list of two dozen former and current corporate chief executive officers who have endorsed bipartisan, comprehensive campaign finance reform be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

CRP BUSINESS ADVISORY COUNCIL
(By Jerome Kohlberg, Founder, Campaign Reform Project)

Thank you for joining us this morning, My name is Jerome Kohlberg. I founded the Campaign Reform Project (and its sister organization Campaign for America) for one purpose—to end the influence of money in politics.

Some of you may be more familiar with my past activities in the business world. Perhaps you are curious why a successful businessman is getting involved in this ugly debate. And what's more, why he is persuading other business leaders to follow suit.

Personally, I was never a major political donor. It was not until 1988 when Michael Dukakis ran for President that I began to make substantial political contributions. He was a fellow graduate of Swathmore, and I though he was an honorable man who would make a good President. During that race, I contributed $100,000 in soft money to the Democratic Party.

I continued to support the party through 1992, but became increasingly uncomfortable with the process. Although I wasn't looking for access, I was given the opportunity many times. I could only imagine what someone who was looking for access might get for his or her money. When decisions from the routine to the profound are shaped by who gave money and how much, who didn't and why, and who might in return for what, we have a problem. Clearly, money is undermining, rather than supporting democracy.

Therefore, while I continue to have a great deal of respect for those individuals who choose public service, and I continue to support individual candidates from both parties, I no longer give soft money.

I, and my colleagues on the Business Advisory Council of the Campaign Reform Project, believe these large money contributions distort the system giving unequal weight to the opinions of the rich, the corporations and the labor unions.

Our children and grandchildren deserve a better legacy—a legacy of a responsive and responsible federal government. Therefore, rather than just cease making donations, I want to insure that the campaign finance system is reformed for my grandchildren and, ultimately, for the country. Therefore, I am committing substantial personal resources to this effort because the stakes are too high not to.

I have dedicated funds to both the Campaign Reform Project and the Campaign for America. Both organizations are committed to fundamental campaign finance reform. The Campaign for America joined with Common Cause in Project Independence to collect the signatures of over one million citizens who support campaign finance reform.

With the Campaign Reform Project, we've worked to organize business leaders in support of this issue. Many of our members are elder statesmen from the business community. The presence here today of Mr. Murphy and Mr. Rosenberg illustrates the deep concern they have with this system.

Any many other individuals. Warren Buffett, Alan Hassenfeld, and Arjay Miller,

to name just a few, have joined with us in this fight for reform.

I call it a fight because I know it would be one. While a very sensible and modest proposal toward reform has been offered in the Senate, I fear that there are many who would prefer the status quo.

All of us sitting around this table understand the process for making a deal. We've been deal-makers. We know that closing a deal on campaign finance reform isn't going to be easy. But, we do believe it is possible. The proposal that is pending now before the Senate is a reasonable one. It seems to us that it's a package everyone should support. However, we suspect there are those who may try adding amendments that are likely to make it unreasonable—in other words, kill the deal. We believe that is unacceptable.

Democracy is serious business. Campaign finance reform will help restore some public confidence in our democratic system of campaigns and elections. We are here today to say the system must be changed. I have been pleased that so many business leaders have been willing to put their name to the call for reform as is evidenced by the ad we will run tomorrow. We will continue, over the next weeks, to further galvanize the business community in support of reform. Thank you.

CRP BUSINESS ADVISORY COUNCIL

(By Thomas S. Murphy, Retired-Chairman & CEO, Capital Cities/ABC, Inc.)

It is a pleasure to be here and join Jerry in this important endeavor. As members of the Campaign Reform Project's Business Advisory Council evaluated the prospects for reform this year, it became clear that doing something to curtail the explosion of soft money needed to be a top priority.

All of the improprieties being examined in the Senate Government Affairs Committee are related to soft money. It is a system that has gone out of control.

As you know, in the 1996 election cycle, the parties raised over $260 million in soft money—more than three times the $87 million raised in the 1992 election cycle. What's more, although a Los Angeles Times survey released earlier this week indicated that 26 percent of the nations largest 544 corporations made no political contributions, this percentage was even higher four years ago. Unfortuantely, more and more business leaders feel in order to come out on top, they must play the soft money game.

Therefore, a soft money ban would go a long way toward fixing the most egregious problem. But, it is not enough. It is also necessary to improve the system of reporting contributions. Electronic disclosure would be one step, expanding reporting requirements for independent expenditure campaigns might be another. An FEC with teeth would also be a major improvement.

Our group, the Business Advisory Council, has worked to solicit the support from several of our colleagues for this effort.

We began at the beginning of the year with only a few of us. As you can see from the ad, however, the number of business leaders calling for reform in 1997 has grown substantially.

And this list is a work in progress. Many others, as evidenced by the survey I cited earlier, support these modest reforms which will help restore public confidence in the political process.

We're not naive. We're pragmatic. We believe that Congress can no longer avoid taking action.

CRP BUSINESS ADVISORY COUNCIL

(By Richard Rosenberg, Former Chairman & CEO, Bank of America)

When I first became involved with the Campaign Reform Project it was around a broad set of principles—reducing special interest money in political campaigns, strengthening financial disclosure requirements, leveling the playing field between challengers and incumbents, increasing access to electronic media, and curtailing the cost of campaigns.

When members of the Business Advisory Council met this past spring and summer, we affirmed our support for these principles, but we also focused on what we could accomplish now.

As business executives, we know the value of both short and long term results. We recognize that business has a critical role to play in reforming the current campaign finance system. Nothing would revive reform faster than corporate America halting its soft money contributions. Many business leaders already feel the system has become an industry unto itself, caught up in a perpetual cycle that undermines both democracy and genuine business interests.

So what could we do in the short term? We decided to educate other business leaders and recruit them to join us. We also evaluated the prospects for reform and decided that something had to be enacted this year. We came to a consensus that any reform must include, at a minimum: a ban on soft money and stronger financial disclosure requirements and reporting rules.

Changes in both of these areas would constitute significant first steps. But, I must stress, only first steps. Our long-term agenda focuses on the principles I outlined earlier. I think they are important enough to mention again—leveling the playing field between challengers and incumbents, increasing access to electronic media in order to facilitate more direct communication from candidates, and curtailing the overall cost of campaigns.

BUSINESS ADVISORY COUNCIL

Jerome Kolberg, Founder.

Robert L. Bernstein, Former Chairman/President of Random House.

George T. Brophy, Chairman, President & CEO, ABT Building Products Corporation.

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Robert J. Kiley, President, New York City Partnership.

Melvin B. Lane, Former Publisher & Co-Chairman, Lane Publishing Co.-Sunset Magazine.

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Thomas S. Murphy, Retired-Chairman & CEO, Capital Cities/ABC, Inc.

Sol Price, Price Entities.

Sanford R. Robertson, Chairman, Robertson Stephens & Co.

Arthur Rock, Arthur Rock & Co.

Richard Rosenberg, Former Chairman & CEO, Bank of America.

Jane E. Shaw, Ph.D., Founder, The Stable Network.

Thomas W. Smith, President & Founder, Prescoft Investors, Inc.

Donald Stone, Former Chairman & CEO, MLSI.

Robert D. Stuart, Jr., Chairman Emeritus, The Quaker Oats Company.

Dr. P. Roy Vagelos, Former Chairman & CEO, Merck & Co., Inc.

A.C. Viebranz, Former Senior Vice President, External Affairs, GTE Corporation.

Thomas S. Volpe, President & CEO, Volpe Brown Whelan & Company, LLC.

Mr. FEINGOLD. Mr. President, this one makes an interesting point, that is, that in addition to the various church and other religious groups, in addition to former Presidents, in addition to former Members of Congress, in addition to the hundreds of editorials by liberal papers, conservative papers, moderate newspapers all across the country that have supported McCain-Feingold and believe it has merit, that what we have discovered, Senator MCCAIN and I, the Senator from Arizona and I have discovered, is that there are a whole lot of businesspeople that are tired of being the fall guys of this system.

Under the system, even with hard money, let alone soft money, where they can be asked for hundreds of thousands of dollars, a lot of these CEO's feel like they have become the fall guys of American politics.

I actually had the CEO of one of these companies, the Federal Express Co., come to visit me after last year's episode, where they were able to insert a provision into the Federal aviation bill that allowed them to not have a national union even though, as we very well know, their competitor, the United Parcel Service does have a national union, which they had to contend with recently, but they were able to place a provision in that bill, even though they had not won a vote on any occasion on the particular issue, shortly after they gave each of the two parties—I want to check my notes on this—but I believe they gave them each $100,000 of soft money just a few days—just a few days—before this provision was inserted into the bill.

When I met with the CEO, who is a tremendous entrepreneur in this country, he said he has no choice, in effect, that if this is the way the rules are set up, he has to represent his employees and his shareholders and he has to fight and make political contributions, and he has to play hardball in effect. He did. He won.

You know what? During that UPS strike, Federal Express, which has that protection against such national union advocacy, Federal Express picked up something like 10 to 15 percent of UPS's market share, something they had been trying to do forever.

My point in introducing this item from the business leaders is to suggest that even the business leaders, who

many might associate with the other side of the aisle in many cases, are saying, we are sick and tired of being the fall guys of a system that essentially has the potential to shake them down, otherwise, they are afraid their competitor might get an edge.

It is almost exactly what Mr. Tamraz said when he indicated by paying $300,000 he got the room the other people got that paid $300,000. That is access, and that is how you get in the room, and that is in effect the American way. That seemed to be what he was saying. It is pretty sad that has become the American way.

Even some of the corporate leaders of this country do not want this to become what it has become, which is in effect a corporate democracy, a democracy dominated by big money, not by the average citizen's right to have their vote count the same as others.

Mr. President, I also ask unanimous consent to have printed in the RECORD a statement by Jay Lintner of the United Church of Christ calling for comprehensive campaign finance reform, and a statement from the Church Women United endorsing the McCain-Feingold proposal, and a statement by the Religious Action Center of Reform Judaism in support of comprehensive campaign finance reform.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE FOR CHURCH IN SOCIETY
UNITED CHURCH OF CHRIST,
Washington, DC, October 6, 1997.

PRESS STATEMENT—THE REV. JAY LINTNER

Do we have a democracy or a dollarocracy? Do politicians represent people or money?

Our mythology is democracy. The reality, made very apparent in the elections last Fall, is that politicians are bought and sold in the open market. All efforts at reform have collapsed, and the Senate prepares to filibuster and confuse the issue.

Every other country in the world knows that money rules. Are we the last naive country on earth? Or are we the first country whose guiding ideology may lead us into a new reality? Is the Holy Spirit at work, empowering people to turn the political order upside down?

I'm speaking today on behalf of 18 major denominations and faith groups—AME, Methodist, Episcopal, United Church of Christ, Union of American Hebrew Congregations. We are here to say that campaign finance reform is not just some political, partisan issue. It is a moral issue.

The prophet Isaiah said it well: "Your princes are rebels and companions of thieves. Everyone loves a bride and runs after gifts. They do not defend the orphan and the widow's cause does not come before them" (Isaiah 1:23).

The front page today says that the Capitol Hill princes put 129 pork barrel projects in the recent military construction bill, more money given away in one bill than all the campaign contributions that bought the politicians. Is there some bill here where they've sneaked some money for the widows and orphans?

Can we get moral corruption out of the political process? Politicians count on public apathy, public cynicism, public awareness that this is the way rulers always rule.

This is more than a moral problem. This is a spiritual problem. Have we given up faith in government, in our common community shaping a moral order? No. We sent out 100,000 packets of petitions to our churches and synagogues, and now our petitions are laid at the feet of the capitol.

We will not go away. The gates of hell will not prevail and the gates of Washington will not prevail. We demand a ban on soft money, and we demand much more comprehensive reform that breaks the power of big money buying our electoral process. We want our politicians back, accountable to we the people, not we the dollars.

CHURCH WOMEN UNITED SUPPORTS CAMPAIGN FINANCE REFORM EFFORTS

WASHINGTON, DC, October 6, 1997.—Church Women United (CWU) stands in solidarity today with all citizens concerned over the integrity of our democratic system. In particular, we support the efforts of Senators McCain, Feingold and Thompson and Representatives Shays and Meehan to reform the current system of raising and spending private money to finance election campaigns.

Church Women United is a 55-year-old, ecumenical movement of Christian women from Protestant, Catholic and Orthodox traditions. Since our beginnings, we have worked for a just and peaceful world, with a special concern for women and children. In 1986, CWU adopted a policy in support of campaign finance reform which calls for tougher restrictions on special-interest PACs and spending limits for congressional candidates.

CWU is aware of the increasing role special interest money plays in influencing politicians and policy. Members of Congress are rapidly losing their ability to represent the interest of the common good in favor of a more narrow, wealthy constituency. As such, we view campaign finance reform as one of the major challenges in ensuring that the needs of poor women and children are taken seriously in the formation and implementation of public policy. Until politicians are freed from the pressures of monied interests, it will remain difficult to have the needs of those without means heard.

The McCain-Feingold campaign finance reform bill is a first step at recognizing and correcting the imbalance of power in our political system. We applaud all members of the House and Senate who are co-sponsoring the bill. We encourage others who currently are not supportive to join in these efforts to help make the electoral process more representative of the interests of all U.S. citizens.

STATEMENT OF MARK PELAVIN—RELIGIOUS ACTION CENTER OF REFORM JUDAISM, OCTOBER 6, 1997

On behalf of the Union of American Hebrew Congregations and the Central Conference of American Rabbis, their 860 congregations and 1,800 rabbis, and the 1.5 million Reform Jews throughout the United States and Canada, I am proud to be here today to add our voice to those calling, urgently, for serious campaign finance reform.

Our call for comprehensive campaign finance reform is reflective of the views of many mainstream religious communities. From the pews and pulpits of our churches and synagogues across the nation, we hear that campaign finance reform is not an esoteric technical issue of election regulations, but one that goes to the essence of the ethical and moral life of our nation. We hear people asking:

How can we expect just results from an unjust system, one in which monied interests hold every advantage, and those who most need the helping hand of government—the poor, our children—cannot make their voices heard above the din?

How can we—whose religious calling includes the imperative to speak for the widow and the orphan, for the poor and the children—accept an electoral process which structurally and systematically favors the richest among us?

How can we acquiesce in a system which forces those who seek public office, or who wish to continue in public service, to spend so much of their precious time and energy not raising the nation's moral conscience but raising campaign funds?

If we are serious about seeking justice, *and we are*, then we cannot, *and we will not*, accept such a system.

We stand at the brink of a historic opportunity. Real reform is within reach. But first, the Senate must prove that it is committed to ending the status quo. The Lott Amendment, which the Senate will consider tomorrow, was designed as a distraction, crafted to protect politics as usual. (And how ironic, and revealing, that in attempting to derail vital legislation to open up our political system, Senator Lott and his supporters' first thought is to undermine the political voice of America's working men and women!)

We call on our elected leaders to reject the Lott Amendment and to work toward the creation of a more ethical campaign financing system, a system which will reinforce rather than tarnish the principles of American democracy, a system which can help salvage our collective faith in public service. We pledge our vigorous support in this historic effort.

Mr. FEINGOLD. Mr. President, at this point these are all the items I want to place in the RECORD at this time. But fortunately this debate will continue in one form or another. We will have an important cloture vote shortly on the overall bill.

Tomorrow, there will be two more cloture votes. And it will continue because it is absolutely essential that we do not disgrace ourselves by going home, certainly for the 1998 elections, and even more importantly just going home at the end of this session having displayed to the American people all the abuses of the current system, the areas where the law is insufficient, the areas where there are loopholes in the law, and then to return home and say to everyone, "You know what? We didn't do anything about it. We didn't pass a single piece of legislation."

I don't think any of us on either side of the aisle consider that to be an acceptable outcome.

I would like finally to say again to the Chair, I look forward to working to negotiate the kind of legislation that he can support. And I again thank him for his vote yesterday.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Parliamentary inquiry, in a quorum call is the time equally charged to both sides?

The PRESIDING OFFICER. The time is charged to the side which puts in the quorum call, unless consent is granted to divide that equally.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that four letters from the American Civil Liberties Union, outlining the constitutional infirmities of the McCain-Feingold bill, be printed in the RECORD. I understand that the Government Printing Office estimates the cost of printing these articles in the RECORD to be approximately $2,500.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, October 1, 1997.

HON. MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCONNELL: Ever since the very first version of the various McCain-Feingold campaign finance bills were introduced in the Senate, the ACLU has gone on record to assert that each version was fatally and fundamentally flawed when measured against settled First Amendment principles. Now the Senate is debating a new "revised" incarnation of the bill. While we are pleased that the sponsors of the new version have abandoned some of the more egregious provisions that appeared in earlier versions, the "pared down" bill still cuts to the core of the First Amendment. We once again urge you to reject McCain-Feingold's unconstitutional and unprecedented assaults on freedom of speech and association.

Although the bill has a number of constitutional flaws, this letter focuses on those that impose restrictions primarily on issue advocacy. It is important to note at the outset that the recent letter from 126 law professors, commenting on McCain-Feingold, was silent on the issue advocacy restrictions in the bill, which are the subject of this letter.

1. The unprecedented restrictions on issue advocacy contained in the McCain-Feingold bill are flatly unconstitutional under settled First Amendment doctrine.

The Supreme Court in *Buckley* v. *Valeo* well understood the risks that overly broad campaign finance regulations could pose to electoral democracy because "[discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution." 424 U.S. at 14. The Court recognized that "the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest." 424 U.S. at 43. If any discussion of a candidate in the context of discussion of an issue rendered the speaker subject to campaign finance controls, the consequences for free discussion would be intolerable and speakers would be compelled "to hedge and trim," *Id.*, quoting *Thomas* v. *Collins*, 323 U.S. 516, 535 (1945).

Accordingly, the Court reasoned, under the First Amendment, campaign finance controls had to be limited and could only apply to "communications that in express terms advocate the election or defeat of a clearly identified candidate." Conversely, all speech which does not "in express terms advocate the election or defeat of a clearly identified candidate" must be totally free from permissible controls. "So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views." 424 U.S. at 45. And they are free from reporting and disclosure requirements as well.

The Court fashioned the express advocacy doctrine to safeguard issue advocacy from campaign finance controls, even though such discussion might influence the outcome of an election. The doctrine provides a hard, bright-line, objective test that protects political speech and association by focusing solely on the content of the speaker's words, not the motive in the speaker's mind or the impact of the speaker's opinions, or the proximity to an election, or the phase of the moon. The doctrine marks the boundary of permissible regulation and frees issue advocacy from any permissible restraint.

The *Buckley* Court could not have been more clear about the need for that bright line test which focuses solely on the speaker's words and which is now an integral part of settled First Amendment doctrine. It was designed to protect issue discussion and advocacy by allowing independent groups of citizens to comment on and criticize the performance of elected officials without becoming ensnared in the federal campaign finance laws. And it permits issue discussion to go forward at the time that it is most vital in a democracy: during an election season.

The new version of the McCain-Feingold bill once again would obliterate the bright line test of "express advocacy" which the courts have fashioned over a period of 25 years to protect the broad range of issue discussion in America from campaign finance controls. Instead, the bill would impose unprecedented controls on issue advocacy in clear violation of settled First Amendment principles.

The new bill attacks issue advocacy on a number of fronts.

It abandons the bright-line test of express advocacy in favor of a permanent year-round restriction on issue advocacy redefined in an unconstitutionally vague, overbroad and watered-down fashion.

It imposes, in effect, a two-month, 60 day blackout before any federal election on any radio or television advertisement on any issue if that communication "mentions" any candidate for federal office.

It restrains any communication that expresses "support for or opposition to" anyone who is a candidate for office.

These unprecedented restrictions would effectively silence issue advocacy by the countless hundreds and thousands of groups that add to the political debate in America.

These proposals would all undermine the purpose of the "express advocacy" doctrine, which is to keep campaign finance regulations from overwhelming all political and public speech. They would do so by dramatically expanding the statutory definition of express advocacy and thereby impermissibly sweeping an enormous amount of protected issue advocacy within the net of campaign finance regulations.

The current version of McCain-Feingold takes a "new" approach to silencing issue advocacy, but it is no less flawed than its predecessors. Once again, the clear purpose and inevitable effect of the provisions in the revised McCain-Feingold bill will be to shut down citizen criticism of incumbent officeholders standing for re-election at the very time when the public's attention is especially focused on such issues.

Given the fact that the proposed restraints on issue advocacy are targeted primarily at criticism of incumbent legislators during an election season, the danger to the core purposes of the First Amendment posed by such legislation is clear and present.

2. The unprecedented and sweeping restraints on the "soft money" funding of issue advocacy and political activity by political parties raise severe First Amendment problems.

A central critical distinction has informed the Supreme Court's campaign finance jurisprudence. Contributions and expenditures made by federal candidates, or those who expressly advocate their election or defeat, may be subject to regulation. All other political and issue advocacy and discussion—even though it might influence the outcome of an election—may not be subject to governmental control. This constitutional Continental Divide is compelled by the First Amendment and is built upon the concept that only "express advocacy" of the election or defeat of specific federal candidates can be subject to regulation.

Accordingly, while candidate-focused contributions and expenditures and "express advocacy" can be subject to various restrictions or regulations, the Court in *Buckley* v. *Valeo*, 424 U.S. 1 (1976) held that all speech which does not "in express terms advocate the election or defeat of a clearly identified candidate" is totally free of any permissible regulation: "So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, *they are free to spend as much as they want to promote the candidate and his views.*" 424 U.S. at 45 (emphasis supplied). The purpose of this profound distinction is to keep campaign finance regulations from overwhelming all political and public speech. And it is this distinction which defenders of the constitutionality of a ban on "soft money" continue to disregard.

The same principles that protect unrestrained advocacy by issue groups safeguard issue advocacy and activity by political parties. "Soft money" is funding that does not support "express advocacy" of the election or defeat of federal candidates, even though it may exert an influence on the outcome of federal elections in the broadest sense of that term. It sustains primary political activity by parties such as get-out-the-vote drives and issue advertising. Because it is not used for express advocacy, it can be raised from sources that would be restricted in making contributions or expenditures. Compare *Austin* v. *Michigan Chamber of Commerce*, 494 U.S. 652 (1990) with *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765 (1978).

Indeed, the unrestricted use of soft money by political parties and non-party organizations like labor unions has been invited by *Buckley* ("So long as persons and groups eschew . . ."), authorized by Congress (see 2 U.S.C. sections 431 (8)(A)(I) and (B)(xii) which permit soft money for state elections

and voter registration and get out the vote drives), sanctioned and enhanced by rulings of the Federal Election Commission and acknowledged by the Supreme Court last year in *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission*, 116 S.Ct. 2309 (1996), which upheld *unlimited* "hard money" independent expenditures by political parties on behalf of their candidates.

Most pertinently, the *Colorado Republican* Court reached that conclusion despite arguments that unrestrained soft money contributions were undermining the Act's limitations on hard money party funding:

"We recognize that FECA permits individuals to contribute more money ($20,000) to a party than to a candidate ($1,000) or to other political committees ($5,000). . . . We also recognize that FECA permits unregulated "soft money" contributions to a party for certain activities, such as electing candidates for state office . . . or for voter registration and "get out the vote" drives. . . . But the opportunity for corruption posed by these greater opportunities for contributions is, at best, attenuated. Unregulated "soft money" contributions may not be used to influence a federal campaign, except when used in the limited party-building activities specifically designated by statute." *Id.* at 2316.

And the Court's suggestion that Congress "might decide to change the statute's limitations on contributions to political parties"—which has been taken out of context by defenders of McCain-Feingold's soft money ban—referred to hard money donations.

Accordingly, we submit that McCain-Feingold's sweeping controls on the amount and source of soft money contributions to political parties and disclosure of soft money disbursements by other organizations continue to raise severe constitutional problems. Disclosure, rather than limitation, of large soft money contributions to political parties, is the more appropriate and less restrictive alternative.

McCain-Feingold's labyrinth of restrictions on party funding and political activity can have no other effect but to deter and discourage precisely the kind of political party activity that the First Amendment was designed to protect.

The ACLU continues to believe that the most effective and least constitutionally problematic route to genuine reform is a system of equitable and adequate public financing. While reasonable people may disagree about the proper approaches to campaign finance reform, this bill's restraints on political party funding and issue advocacy raise profound First Amendment problems and should be opposed. The bill has a number of other severe flaws, some old, some new, which we will address in a future communication. But we wanted to take the opportunity to share our assessment of two of the most salient problems with the bill now.

Sincerely,

IRA GLASSER,
Executive Director.
LAURA W. MURPHY,
Director, Washington Office.
JOEL GORA,
Professor of Law, Brooklyn Law School, and Counsel to the ACLU.

QUESTIONS AND ANSWERS ABOUT ISSUE ADVOCACY (WITH SPECIFIC REFERENCE TO THE REVISED MCCAIN-FEINGOLD BILL)

1. WHAT IS ISSUE ADVOCACY?

Issue advocacy can best be defined as any speech relating to issues and the policy positions taken by candidates and elected officials. It can be as simple as a statement like "Senator Doe's position on school vouchers is grievously mistaken." Or it can be as involved as a multimillion dollar campaign of broadcast and print advertisements that spreads the same message. Any group or individual can engage in issue advocacy.

Under current law, a message stops being considered "issue advocacy" if it is accompanied by "express advocacy" or actual statements advocating the election or defeat of a clearly identified candidate for office, i.e. "Senator Doe's position on school vouchers is grievously mistaken and anyone who cares about the separation of church and state should vote against him in November."

Although issue advocacy can leave the impression that a listener should support or oppose a particular candidate, such messages cannot—under current law—be treated (and therefore regulated) as express advocacy by the Federal Elections Commission.

2. WHY IS CONGRESS TRYING TO REGULATE ISSUE ADVOCACY?

During the 1996 elections, groups across the political spectrum engaged in intense issue advocacy campaigns. Many members of Congress felt they lost control of their campaigns because of the unregulated and undisclosed advertising from issue groups. Their concern that elections are "out of control" seems to be the driving force in current efforts to regulate issue advocacy.

Because of this loss of control, some federal lawmakers seem to believe that candidates' interests should trump the right of citizen involvement and speech. Also, many members of Congress believe that issue advocacy became far too political and powerful during the last election cycle. They assert that these issue ads are really a subterfuge for express advocacy communications. Many lawmakers and advocacy groups think that all communications that could influence the outcome of elections should be regulated by statute.

3. HOW WILL THE REVISED MCCAIN-FEINGOLD LEGISLATION AFFECT ISSUE ADVOCACY?

The legislation that the Senate will most likely vote on during the next several days is a revised version of the McCain-Feingold bill. The ACLU will soon be releasing an analysis of the new legislation, but in the meantime, we continue to assert that the issue advocacy provisions of the revised bill are unconstitutional. Such unconstitutional provisions include:

A permanent, year-round restriction on issue advocacy achieved through redefining express advocacy in an unconstitutionally vague and watered-down manner. The key to the existing definition of express advocacy is the inclusion of an explicit directive to vote for or vote against a candidate. Minus the explicit directive or so-called "bright line test," what constitutes express advocacy will be in the eye of the beholder, in this case the FEC. Few non-profit issue groups will want to risk their tax status to engage in speech that could be interpreted by the FEC to have an influence on the outcome of an election.

A two-month black out on all television and radio issue advertising before primary and general elections. The only individuals and groups that will be able to characterize a candidate's record on radio and television during this 60 day period would be the candidates, PACs and the media. It seems this ban would exclude issue advertising on cable, the Internet, in print and in ads on movie screens.

A misleading "exception" for candidate voting records. The voting records that would be permitted under this new statute would be stripped of any advocacy-like commentary. For example, depending on its wording, the ACLU (as a 501(c)(4) corporation) might be banned from distributing a voting guide that highlighted members of Congress who have a 100 percent ACLU voting record as members of an "ACLU Honor Roll." Unless the ACLU chose to create a PAC to publish such guides, we would be barred by this statute even though we do not expressly advocate the election or defeat of a candidate.

Redefining "expenditure," "contribution" and "coordination with a candidate" so that legal and constitutionally protected activities of issue advocacy groups would become illegal. If the ACLU decided to take out an advertisement lauding—by name—Senators for their effective advocacy of constitutional campaign finance reform, this ad would be counted as express advocacy on behalf of the named Senators and therefore prohibited.

The Senate is threatening to erect a Byzantine set of laws that pose a formidable barrier to citizen speech. This barrier to free speech and free participation in the electoral process is like a barbed wire fence. No individual or group should try to scale it unless they are willing to become ensnared in a complicated set of laws that have significant penalties.

These provisions of the new McCain-Feingold legislation would silence citizen speech to give candidates more control over what is said about them prior to an election and throughout the election year. Similar bans and disclosure requirements were contained in the original McCain-Feingold bill.

In addition, many of the pending reform bills in the House and Senate such as H.R. 2183, the *Bipartisan Campaign Integrity Act of 1997*, H.R. 493, the *Bipartisan Campaign Reform Act* (which has evolved into H.R. 1776 and 1777, the *Campaign Independence Restoration Act*, Parts I and II) and H.R. 600, *American Political Reform Act*, among others, would ban or impose burdensome and unconstitutional disclosure on issue speech.

4. WHAT ARE THE PROBLEMS WITH CONGRESSIONAL ATTEMPTS TO REIN IN ISSUE ADVOCACY?

The proposals being considered in the House and Senate have manifold constitutional and practical problems.

A. Constitutional Concerns

All of the proposals violate the First Amendment. Attempts to regulate and require disclosure of issue advocacy through statute and through FEC regulation have repeatedly been declared unconstitutional by the Supreme Court and lower federal courts. The Court has always viewed issue advocacy as a form of speech that deserves the highest degree of protection under the First Amendment. Not only has the Court been supportive of issue advocacy, the justices have affirmatively stated that they are untroubled by the fact that issue advertisements may influence the outcome of an election. In fact, in *Buckley* v. *Valeo*, the justices stated:

"The distinction between discussion of issues and candidates and advocacy of the election or defeat of candidates may often dissolve in practical application Candidates, especially incumbents, are often intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but

campaigns themselves generate issues of public interest. *Buckley* v. *Valeo*, 424 U.S. 1 (1976) at 42."

Those of us who truly understand and defend the phenomenon of issue advocacy freely acknowledge that the advertisements and statements of issue groups do have political impact. In fact, many groups hope that the voters will take candidate positions and voting records into account when voters go to the polls.

For example, groups like the ACLU want to continue to discuss candidate positions on civil liberties issues before, during and after elections, even though we are barred by our own policies from endorsing or opposing particular candidates for public office. Forbidding us to do so would make much of our legislative advocacy irrelevant during large portions of the year. Would we, for example, be permitted to criticize Senator Doe for his position on vouchers after September 4?

The premise of the Federal Election Campaign Act and current campaign reform proposals is that Congress can control the quantity and qualify of all speech that influences the outcome of elections in an attempt to make elections "fair."

The Supreme Court has responded on repeated occasions to this attempt to regulate political speech by invoking the primacy of the First Amendment instead of deferring to the concept of "political speech equalization" asserted by Congress and FECA.

The only justification for any regulation of political speech upheld by the Court has been to guard against the reality or appearance of corruption. Although many have criticized issue advocacy, few, if any, are asserting that it fosters a *quid pro quo* form of corruption that the Court has allowed Congress to guard against.

Defenders of the First Amendment know that the freedom to engage in robust political debate in our democracy will be at risk if the Congress or the FEC is given the authority to ban issue ads close to an election, or evaluate the content of issue ads to determine if they are really a form of express advocacy. The Supreme Court recognized this danger long before it decided *Buckley*. In an opinion issued in 1945 in *Thomas* v. *Collins*, the Court stated:

". . . the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning. Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim. *Thomas* v. *Collins*," 323 U.S. 516 (1945).

Given the Court's concern about the chilling effect regulation has on speech, one can better appreciate the need for a clear-cut standard for limiting the kinds of communications that can be regulated by campaign finance laws. While some are disheartened that the FEC only has clear authority to regulate communications that include express advocacy terms like "vote for" and "vote against," "elect Doe for Congress," etc., others are relieved that the FEC is not free to regulate all political speech.

It is noteworthy that none of these proposals seek to regulate the ability of the media to exercise its enormous license to editorialize in favor or against candidates. If the sponsors of these proposals to regulate issue advocacy have their way, the only entities that would be free to comment on candidates' records would be the press, PACs and the candidates themselves.

With no proven record of corruption, why are citizen groups being ejected from political debate during the crucial period before elections?

B. Practical Implications

The proposed McCain-Feingold statutory limitations on issue advocacy would force groups that now engage in issue advocacy—501(c)(3) and 501(c)(4)—to create new institutional entities—PACs—to "legally" speak within 60 days before an election. The groups would also be forced to disclose all contributors to the new PAC.

Opportunities that donors now have to anonymously contribute to issue groups would be eliminated. Not all members of non-profit organizations want to become members of PACs. Separate accounting procedures, new legal costs and separate administrative processes would be imposed on these groups, merely so that their members could preserve their First Amendment rights to comment on candidate records. It is very likely that some groups will remain silent rather than risk violating this new requirement or absorbing the attendant cost of compliance.

This new provision may trigger Internal Revenue Service review of the non-profit status of groups that elect to create PACs. The IRS may justifiably examine the primary purpose of the issue groups. Groups could face a loss of members and tax deductible gifts for exercising their First Amendment rights.

It is notable that the much ballyhooed Brennan Center constitutional law professors letter recently released by Senators John McCain (R-AZ) and Russ Feingold (D-WI) is conspicuously silent on the advocacy restrictions contained in the bill.

5. HAS CONGRESS PREVIOUSLY ENACTED LAWS REGULATING ISSUE ADVOCACY?

Yes, in 1974 Congress enacted a similar issue advocacy disclosure law that was struck down in federal court. The Federal Election Campaign Act of 1971 was amended in 1974 to require the disclosure to the Federal Election Commission of issue groups engaged in "any act directed to the public for the purpose of influencing the outcome of an election, or publishes or broadcasts issues to the public any material referring to a candidate (by name, description, or other reference) . . . setting forth the candidates position on any public issue, [the candidate's] voting record, or other official acts . . . or is otherwise designed to influence individuals to cast their votes for or against such a candidate or to withhold their votes from such candidate." 2 U.S.C. Sec. 437A.

Such groups would have been required to disclose to the FEC in the same manner as a political committee or PAC. They would have to make available every source of funds which were used in accomplishing such acts.

This provision of the 1974 amendments was challenged by the ACLU as part of the *Buckley* case. When the challenge came before the U.S. Court of Appeals for the DC Circuit (prior to coming before the Supreme Court), the provision was struck down because it was vague and imposed an undue burden on groups engaged in activity that is, and should be, protected by the First Amendment. The D.C. Circuit Court ruling stated:

"To be sure, any discussion of important public questions can possibly exert some influence on the outcome of an election preceding . . . But unlike contributions and expenditures made solely with a view to influencing the nomination or election of a candidate, issue discussions unwedded to the cause of a particular candidate hardly threaten the purity of the elections. Moreover, and very importantly, such discussions are vital and indispensable to a free society and an informed electorate. Thus, the interest group engaging in nonpartisan discussions ascends to a high plane, while the governmental interest in disclosure correspondingly diminishes."

It is noteworthy that the FEC did not appeal this aspect of the Circuit Court's ruling.

6. HAS THE FEDERAL GOVERNMENT AND THE FEDERAL ELECTIONS COMMISSION TRIED TO REGULATE ISSUE ADVOCACY IN A WAY THAT WOULD TREAT IT AS EXPRESS ADVOCACY?

It certainly has. In one early telling incident, three elderly citizens with no connection to any candidate or political party published an advertisement in early 1972 in The New York Times that condemned the secret bombings of Cambodia by the United States. The advertisement also called for the impeachment of President Nixon and printed an honor roll of those members of Congress who had opposed the bombings. The honor roll included Senator George McGovern.

Although the ad was a classic example of speech protected by the First Amendment, it violated a federal campaign finance law, which effectively barred such expenditures on the ground that they could influence the upcoming presidential election by criticizing President Nixon and applauding one of his possible opponents, Senator McGovern. On the basis of this law, the U.S. government sued the three in federal court, seeking to enjoin them from publishing such ads, and wrote a letter to the Times threatening them with criminal prosecution if they published such an ad again.

The ACLU represented the three citizens and won. But the FEC has tried to regulate issue advocacy repeatedly since then. As recently as October 5, 1995, and on March 13, 1996, the FEC attempted to issue regulations severely circumscribing the rights of issue advocacy groups to communicate information on candidates.

In fact, the FEC has a terrible track record of trying to broadly interpret current FECA statues to encompass issue advocacy speech. While it is impossible to go into the facts of every case, with the narrow exception of *FEC* v. *Furgatch*, 869 F.2d 1256 (9th Cir. Cal. 1989), the Supreme Court and the lower courts have repeatedly rebuffed the FEC in this area.

In addition to Buckley, we suggest you look at the following decisions: *United States* v. *National Committee for Impeachment*, 469 F.2d 1135 (2d Cir, N.Y. 1972); *American Civil Liberties Union* v. *Jennings*, 366 F. Supp. 1041 (D.D.C. 1973); *FEC* v. *AFSCME*, 471 F Supp. 315 (D.D.C. 1979); *FEC* v. *Central Long Island Tax Reform Immediately Committee*, 616 F.2d 45 (2d Cir. N.Y. 1980); *FEC* v. *NCPAC*, 470 U.S. 480 (1985); *FEC* v. *NOW*, 713 F. Supp 428 (D.D.C. 1989); *Faucher* v. *FEC*, 928 F.2d 468 (1st Cir. Me. 1991); *FEC* v. *Survival Education Fund*, 65 F.3d 285 (2d Cir. N.Y. 1994); *FEC* v. *Christian Action Network*, 110 F.3d 1049 (4th Cir. Va. 1997); *FEC* v. *GOPAC*, 917 F. Supp. 851 (D.D.C. 1996); *Maine Right to Life Committee* v. *FEC*, 98 F.3d 1 (1st Cir. Me. 1996); and *Clifton* v. *FEC*, 114 F.3d 1309 (1st Cir. Me. 1997).

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, April 14, 1997

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: On February 20, 1997, I wrote to you on behalf of the

American Civil Liberties Union urging our strong opposition to S. 25, the Bipartisan Campaign Reform Act of 1997. In that letter, we set forth the reasons why we believe that bill is "fatally and fundamentally flawed when measured against First Amendment values."

Thereafter, a letter was sent to Senators John McCain and Russell Feingold by the Brennan Center for Justice at NYU School of Law. That letter asserted that the ACLU's analysis of the constitutionality of S. 25 was based on arguments which had been rejected in the *Buckley* case and would not command majority support on the current court. Despite the eminence of its author, however, the letter is incomplete and incorrect in a number of key respects. We appreciate this opportunity to demonstrate why and to respond to the charge that we presented "distorted descriptions of existing constitutional law."

Those provisions of S. 25 which seek to induce candidates to adhere to spending limits in Senate campaigns and penalize those who refuse, which severely restrict political action committees and which likewise restrain contributions to political parties are not justified by *Buckley* or later cases. They will not survive strict scrutiny. The provisions of the bill which assault independent political activity and invade the absolutely protected sphere of issue speech are precisely condemned by *Buckley* and its progeny and are all but *per se* invalid. The entire sweep of the bill, including the greatly expanded enforcement powers given to the Federal Election Commission, is worse than the sum of its parts. It is as objectionable an assault on political freedom as were the provisions of the Federal Election Campaign Act at issue in *Buckley*.

Preliminarily, we would note that our condemnation of three of the most extreme provisions of the bill—the total and complete ban on *any* political contributions by political action committees (Section 201), the sweeping new public disclosure requirements targeting people who give as little as $50 (Section 304) or even $20 (Section 101) to a Senate candidate, and the xenophobic ban on political contributions by lawful resident aliens—went unremarked in the Brennan Center letter. Nothing in *Buckley* would justify the constitutionality of these provisions, and we would welcome the Brennan Center's joining us in denouncing them.

I. S. 25: THE UNCONSTITUTIONAL OFFER YOU CAN'T REFUSE

Replying to our assertion that "S. 25's coercive and punitive scheme designed to compel candidates to accept spending limits in Senate elections and to penalize those who refuse, violates First Amendment principles," the Brennan Center asserts that this is an argument that the ACLU lost in the *Buckley* case.

There are three reasons why this is not so and why *Buckley* does not control the validity of these provisions of S. 25.

First, we didn't lose that argument in *Buckley* because we never made it. The primary contention was that the Presidential public funding scheme discriminated against those candidates and parties whom it excluded, not that it exacted unconstitutional conditions and limitations from those whom it benefited, nor that it coerced compliance by penalizing those who declined the offer.

Second, the *Buckley* Court did state that Congress could condition acceptance of public funds on a candidate's agreement to abide by specified spending limits, because a candidate may decide voluntarily to forego private fundraising and accept public funding. But a candidate or party was free to reject that offer and choose to try to raise and spend more money than the conditional limits would permit, without regard to what opposing candidates or parties did. The choice of one candidate did not affect the rights of others. Whether that conditional funding scheme would survive close scrutiny under the Court's unconstitutional conditions doctrine is a substantial question.

But the scheme in S. 25 is not just a conditional funding scheme which requires candidates to give up rights in order to get benefits and which penalizes non-complying candidates by denying them free television prime time, half-priced purchased and discounted mass mailings rates. S. 25 is also a contingent benefits scheme whereby the exercise of protected campaign spending rights by a noncomplying candidate triggers statutory fundraising benefits to his or her complying opponent. Thus, if any noncomplying Senate candidate exceeds the applicable spending limit by only 5% the complying candidate's spending limit is raised tenfold by 50%. Likewise, if a noncomplying candidate's expenditures exceed 155% of the limit, the complying candidate's ceiling is again raised tenfold to 200%. And in both instances, the contribution limits for the complying candidate, but not the noncomplying one, are *doubled* from $1,000 to $2,000, making it easier for the complying candidate to raise funds to "drown out" the noncomplying candidate. Adding insult to injury, noncomplying candidates are subject to more burdensome disclosure requirements in order to enforce the triggering mechanism that raises the spending limits and contribution caps for their complying opponents.

Further, the law mandates that 60% of all contributions must be raised in state in order to be eligible for the benefits. Residency requirements can be the basis for who can vote in an election but should not be the basis for who can speak about an election. See *McIntyre* v. *Ohio Board of Elections*, 517 U.S. (1995). Moreover, in-state limitations could deprive particular kinds of underfinanced, insurgent candidates of the kind of out-of-state support they need. Just as much of the civil rights movement was fueled by contributors and supporters from other parts of the nation, so, too, are many new and struggling candidates supported by interests beyond their home states. This proposal would severely harm such candidacies. Perhaps that is its purpose.

In addition, Congress is our national legislature, and although its representatives come and are elected from separate districts and states, the issues that are debated are, by definition, national issues that transcend district and state lines and may be of concern to citizens all over the nation. When such issues become central in certain campaigns, people and groups from all over the country should be entitled to have their views and voices heard on those issues. Any other approach takes a disturbingly insular and isolated view of political accountability and the obligations of a Member of Congress.

The clear purpose and patent effect overall of this conditional funding scheme is to chill and deter, dollar for dollar, any candidate from trying to mount an effective high-spending campaign. With this contingent limitation scheme, incumbents, who will almost always opt for the public funding, have arranged a way to have their cake and eat it too. That scheme, which coerces candidates to accept the limitations by penalizing them if they do not, is a far cry from anything sustained in *Buckley*. It is an offer that few can refuse.

II. S. 25'S ATTACKS ON PACS

The bill whose constitutionality the Brennan Center vouches for would totally and entirely ban PAC contributions to Senate candidates, a wholly unprecedented restriction of the rights of literally millions of Americans, most of them small donors in the $25 to $100 range, to pool their resources to amplify their voices. Such small-donor PACs affiliated with groups running the gamut from the National Abortion Rights Action League, the Human Rights Campaign Fund and Emily's List, on the one hand, to the National Right to Life Committee, the Christian Coalition and the National Rifle Association, on the other, would be denied the right to support the candidates of their choice.

Nothing in *Buckley* sustains such a radical restraint on the right of freedom of speech and association. *Buckley* upheld a $5,000 limit on political action committee contributions to individual federal candidates, not the $0 limit, total ban that Section 201 of S. 25 would impose on all Senate campaigns.

Even the "fall back" provision that would impose a 20% cap on the amount of PAC contributions that *any* Senate candidate could receive operates, effectively, as a $0 limit, total ban once that limit is reached. Once any Senate candidate has received PAC contributions totaling 20% of the applicable spending limit, all other groups are barred from supporting that candidate and effectively silenced. In *Buckley* the Court said that "[g]iven the important role of contributions in financing political campaigns, contribution restrictions could have a severe impact on political dialogue if the limitations prevented candidates and political committees from amassing the resources necessary for effective advocacy." 424 U.S. at 22. The Court found that the contribution limits there survived close scrutiny under that test, in large part precisely because the Act, though limiting individual contributions to $1,000, permitted PACs to contribute five times that amount, and provided for a proliferation of PACs to fill the fundraising gap. *Id.* at 23, 29–30. A total or near-total ban on PAC contributions would fail the *Buckley* test.

That is why reducing the PAC contribution ceiling to $1,000 is also extremely suspect. In 1976 dollars, that would be about a $350 ceiling on contributions. It is simply incredible to believe that the *Buckley* Court would have upheld that low a limit on individual or PAC contributions, especially when so many PACS are small donor PACs where the concern with corruption is attenuated. The Brennan Center letter is simply wrong in its assertion that "in the years since *Buckley*, the Supreme Court has upheld every contribution limit that has come before it in an election context." (p. 2). In *Citizens Against Rent Control* v. *Berkeley*, 454 U.S. 290 1981), cited in our earlier letter, the Court, by a vote of 8 to 1, invalidated a $250 limit on personal contributions to local referendum campaigns. S. 25's limits would be similarly vulnerable.

III. S. 25'S ATTACKS ON ISSUE ADVOCACY AND SPEECH

One of the central tenets of the Supreme Court's campaign finance jurisprudence has been the critical distinction between contributions and expenditures made by federal candidates, or their campaigns or those who expressly advocate their election or defeat, on the one hand, and all other political and

issue advocacy and discussion and activity, even though it might influence the outcome of an election, on the other. This constitutional Continental Divide is compelled by the First Amendment and is built upon the concept that only "express advocacy" of the election or defeat of specific federal candidates can be subject to regulation.

It is not that there is an inherent distinction between issue speech and electoral advocacy. Quite the contrary, as the *Buckley* Court recognized: "For the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest." 424 U.S. at 43. But *Buckley* held that if any mention of a candidate in the context of discussion of an issue rendered the speaker or the speech subject to campaign finance controls, the consequences for the First Amendment would be intolerable.

Accordingly, while candidate-focused contributions and expenditures and "express advocacy" can be subject to various restrictions or regulations, the Court clearly held in *Buckley* that all speech which does not "in express terms advocate the election or defeat of a clearly identified candidate" is totally free of any permissible regulation: "So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, *they are free to spend as much as they want to promote the candidate and his views.*" 424 U.S. at 45 (emphasis supplied). The purpose of this profound distinction is to keep campaign finance regulations from overwhelming all political and public speech.

The effect of the distinction has been manifold. It is the express advocacy concept that defines the notion of "soft money" which is political funding that is used for party-building, get-out-the-vote activities and generic advertising ("Vote Democratic"), all activities which do not "expressly advocate" the election or defeat of specific federal candidates. Because it is not used for such express advocacy, it can be raised from sources that would be restricted in making contributions or expenditures. It is the express advocacy concept that separates an illegal corporate expenditure advocating the election or defeat of a specific candidate from an allowed issue advertisement discussing public and political questions. Compare *Austin* v. *Michigan Chamber of Commerce*, 494 U.S. 652 (1990) with *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765 (1978). It is the express advocacy concept that defines and cabins the concept of independent expenditures and determines the permissibility of coordinated expenditures. It is the express advocacy concept that protects the myriad on non-partisan, issue-oriented groups like the ACLU in their right to comment on and criticize the performance of elected officials without becoming ensnared in the federal campaign finance laws. See *Buckley* v. *Valeo*, 519 F.2d 817, 832 (D.C. Cir. 1975).

And it is that critical constitutional distinction which S. 25 seeks to blur beyond recognition.

A. Soft Money

As indicated, soft money is funding that does not support "express advocacy" of the election or defeat of federal candidates, even though it may exert an influence on the outcome of federal elections in the broadest sense of that term. It sustains primary political activity such as get-out-the-vote drives and issue advertising. That is why, contrary to the Brennan Center's letter, the relevant precedent is not *Austin* which involved express advocacy by corporations, but *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission*, 116 S.Ct. 2309 (1996), which upheld *unlimited* independent expenditures by political parties on behalf of their candidates.

Indeed, the unrestricted use of soft money by political parties and non-party organizations like labor unions has been invited by *Buckley* ("So long as persons and groups eschew . . ."), authorized by Congress (see 2 U.S.C. sections 431 (8)(A)(I) and (B)(xii) which permit soft money for state elections and voter registration and get out the vote drives), sanctioned and enhanced by rulings of the Federal Election Commission and acknowledged by the Supreme Court in last year's *Colorado Republican* case. In that case, and despite a brief filed by the Brennan Center with charts and graphs detailing large individual and corporate soft money contributions to the two major parties and contending that "soft money contributions to local political parties have cascaded into a flood of dollars from corporations, labor unions, and wealthy donors that threaten the integrity of the Act's federal contributions restrictions. . . ." (Brief, p. 8) the Court nonetheless stated:

"We recognize that FECA permits individuals to contribute more money ($20,000) to a party than to a candidate ($1,000) or to other political committees ($5,000). . . We also recognize that FECA permits unregulated "soft money" contributions to a party for certain activities, such as electing candidates for state office . . . or for voter registration and "get out the vote" drives. But the opportunity for corruption posed by these greater opportunities for contributions is, at best, attenuated. Unregulated "soft money" contributions may not be used to influence a federal campaign, except when used in the limited party-building activities specifically designated by statute." *Id.* at 2316.

Accordingly, S. 25's sweeping and convoluted limitations on the amount and source of soft money contributions to political parties (Section 211 to 213) and disclosure of soft money disbursements by other organizations (Section 211) are not justified by precedent. Disclosure, rather than limitation, of large soft money contributions to political parties, is the appropriate remedy.

Nonetheless, we recognize that during the last election cycle, many candidates for federal office spent as much time responding to issue advertising and independent expenditures as they did campaigning against the advertising emanating from their opponents. The solution to this problem is not to tamp down on issue advocacy, independent expenditures or soft money contributions in a vague, overbroad and unconstitutional manner. Rather, Congress should lift the individual and PAC contribution limits so that candidates have better control and access to the larger sums of money necessary to finance their own campaigns, subject, of course, to timely and appropriate disclosure.

B. Independent Expenditures

The Court has repeatedly stated that independent expenditures are at the core of the First Amendment's protection because they embody citizen commentary on government, politics, and candidates for elective office. See *Buckley* v. *Valeo*, *supra*; *FEC* v. *National Conservative PAC*, 470 U.S. 480 (1985); *Colorado Republican Federal Campaign Committee* v. *FEC*, *supra*. In our initial letter we identified a number of ways in which S. 25 burdens and restrains these core First Amendment rights.

First, S. 25 broadly expands the definition of "coordination" so that virtually any person or group who has had even the most casual interaction with a candidate or a campaign is therefore barred from making independent expenditures. Section 405.

Second, the bill imposes a number of new and burdensome reporting and disclosure requirements on those who would make such expenditures. Sections 241, 405. For example, *any* person or group who spends more than $1,000 to place a small political advertisement in *The New York Times*—a very small ad—within three weeks of an election must file a report with the government within 24 hours of when they *arrange* for the ad—before it even runs. Section 241. Failure to do so can result in civil monetary penalties or injunctive suits by the Federal Election Commission. And what triggers the application of these extensive new controls is any political content which the government might deem "express advocacy" under the patently unconstitutional definition of that concept contained in this bill. See *infra*.

Ignoring these serious concerns, the Brennan Center letter focuses solely on the question of coordination between a party and its candidate. Section 404. But even there the letter ignores the fact that the *Colorado Republican* case rejected the validity of a conclusive conclusion of impermissible coordination whenever a party made an expenditure in favor of its candidates. Yet S. 25 replaces the rejected automatic conclusion with an all but conclusive factual presumption of coordination and therefore limitation.

C. Issue Advocacy

S. 25's worst assault on settled First Amendment principles is its efforts to obscure the bright line test of "express advocacy" that has been fashioned by the courts for 25 years to protect the broad range of issue discussion in America from campaign finance controls. The *Buckley* Court could not have been more clear about the need for that bright line, objective test which focuses solely on the speaker's words. That test is an integral part of the First Amendment, no less than the "actual malice" rule of *New York Times Co.* v. *Sullivan*, 376 U.S. 254 (1964) in defamation cases, or the "incitement test" of *Brandenburg* v. *Ohio*, 395 U.S. 444 (1969) in subversive advocacy cases.

Indeed, the ACLU's initial encounter with campaign finance laws was to defend against their very first use to try to muzzle a small handful of dissenters who had published an advertisement in *The New York Times* criticizing the President of the United States. The government claimed that the ad was "for the purpose of influencing" the outcome of the 1972 Presidential election. The government was resoundingly rebuffed, and the courts ruled that the campaign finance laws could not be used in such an open-ended fashion to control issue speech. *United States* v. *National Committee for Impeachment*, 469 F.2d 1135, 1139–1142 (2d Cir. 1972); see also, *American Civil Liberties Union* v. *Jennings*, 366 F.Supp. 1041, 1055–57 (D.D.C. 1973, three-judge court); *Buckley* v. *Valeo*, 519 F.2d. 817, 832 (D.C. Cir. 1975, en banc); *Buckley* v. *Valeo*, 424 U.S. at 42–45 and 76–80. Instead, "express advocacy" would be the bright dividing line between campaign advocacy and issue speech.

Now, S. 25 attempts to replace that time-honored concept with the kind of vague and

over broad formulas that *Buckley* and other courts rejected, and the circle has turned full round. *Buckley* said the First Amendment required that the law could only regulate "expenditures for commutations that in express terms advocate the election or defeat of a clearly identified candidate for federal office." *Id.* at 44, 80. The very language and concepts that the *Buckley* Court rejected as permissible definitions of regulatable electoral advocacy have now reappeared in this bill. In *Buckley* the Court rejected a triggering provision that regulated advocacy speech "relative to a clearly identified candidate." S. 25 regulates advocacy speech that "refers to a clearly identified candidate." Section 406. and *any* communication by a political party to the public which "refers to a clearly identified candidate" would be subject to regulation, without more.

Beyond that, First Amendment rights would turn once again on such vague and subjective concepts as whether the communication "conveys a message" that advocates the election or defeat of a particular candidate or that "a reasonable person would understand as advocating the election or defeat" of a candidate and that is "made for the purpose of advocating the election or defeat of the candidate as shown by . . . a statement or action by the person making the communication, the targeting or placement of the communication, or the use by the person making the communication of polling, demographic, or other similar data relating to the candidate's campaign or election." Publication of "box core" voting records would be allowed only if "limited solely to providing information about the voting record of elected officials on legislative matters and that a reasonable person would not understand as advocating the election or defeat of a particular candidate." That's how incumbents would impede dissemination of information about their voting records and official actions.

In an effort to defend these suspect provisions, the Brennan Center letter distorts the meaning of the concept of "independent expenditure" as defined by the Court. A communication cannot be defined as an independent expenditure because it is "designed to affect the outcome" of a federal election or because the speaker's "purpose and effect was to advocate the election or defeat of an identified candidate" or because the speaker's "predominant intent" was to do so. The courts have rejected these subjective tests as treacherously dangerous boundary lines to mark First Amendment rights. Under the First Amendment, an independent expenditure is *only* one which "expressly advocates the election or defeat" of a specific candidate. And references to "so-called 'issue ads'" or "phony 'issue ads'" (Letter, pp. 5, 6) cannot change that fact. It is not surprising that the letter cites no precedent for its support of a bill which would undue 25 years of bright line protection for issue-oriented speech.

S. 25 remains "fatally and fundamentally flawed when measured against First Amendment values." It contains 87 pages of tortured twists and turns seeking more and more limits on political funding and therefore on political speech. As we all know, that approach has not worked, and we think it will not work, politically or constitutionally. We think it is time instead, to explore ways to expand political participation and opportunity that do not entail restricting political speech such as meaningful and constitutional public financing. We look forward to working with you to do so.

Sincerely,

IRA GLASSER,
Executive Director.
LAURA W. MURPHY,
Director, Washington Office.
JOEL GORA,
Professor of Law, Brooklyn Law School, and Counsel to the ACLU.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, February 20, 1997.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I am writing this letter to set forth my views and those of the American Civil Liberties Union National Office with respect to the constitutionality of S. 25, the Bipartisan Campaign Reform Act of 1997. A year ago, I presented the opposition of the American Civil Liberties Union to S. 1219, last year's campaign finance bill. Once again, you have a bill before you which is fatally and fundamentally flawed when measured against First Amendment values. And one again we must oppose it.

The ACLU has long maintained that limitations on contributions and expenditures used for the purpose of advocating candidates and causes in the public forum violate the First Amendment. Under the First Amendment, as properly construed in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), Congress cannot ration or restrict the political funding that nourishes and sustains political speech. "In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign." 424 U.S. at 51.

I was an ACLU staff attorney who helped shape our pleadings and argued before the Court in the *Buckley* case, which was a landmark of political freedom. And, as a Professor of Law at Brooklyn Law School, I have worked with the ACLU on these issues ever since. Just last year, the continuing validity of the First Amendment principles recognized in *Buckley* was reaffirmed by the Supreme Court, by a wide 7 to 2 margin, in *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission*, 116 S. Ct. 2309 (1996), a ruling which struck down limitations on independent expenditures by political parties.

In a number of critical respects, S. 25 runs afoul of these cherished principles. For example:

S. 25's coercive and punitive scheme, designed to compel candidates to accept spending limits in Senate elections and to penalize those who refuse, violates First Amendment principles.

The ban and severe limitations on political action committees cuts to the heart of freedom of association.

The unprecedented restrictions and controls on raising and spending "soft money" by political parties and even non-partisan groups trammel the First Amendment rights of parties and their supporters in a manner well beyond any compelling governmental interest and violate the ruling in the *Colorado Republican* case.

The radically expanded definition of "coordinated" expenditure will improperly restrict the core area of independent electoral speech and wreak havoc on freedom of association.

Worst of all, the new definitions of what constitutes "express advocacy" are so vague and overbroad that they transgress the great Constitutional Divide between partisan electoral advocacy, subject to some regulation, and the absolutely protected sphere of issue discussion, subject to no permissible restraint. For twenty-five years courts have fashioned and fostered that bright-line distinction in order to protect the core values of the First Amendment. S. 25 seeks to undo those carefully crafted categories and obliterate those constitutionally compelled distinctions.

The reduced record keeping threshold for contributions and disbursements, from $200 down to $50, or for "eligible" candidates as low as $20, is a gross invasion of political privacy.

The ban on political contributions by persons not eligible to vote is an insult to the First Amendment which guarantees free speech to all within our shores.

Last, but by no means least, the new enforcement powers given to the Federal Election Commission to go to court in the midst of a campaign to enjoin "a violation of this Act" pose an ominous and sweeping threat of prior restraint and political censorship.

Let me elaborate briefly on these concerns.

1. S. 25's coercive and punitive scheme designed to compel candidates to accept spending limits in Senate elections and to penalize those who refuse, violates First Amendment principles.

Title I of the bill, providing "spending limits and benefits" for Senate campaigns, is an attempt to coerce what the law cannot command, a backdoor effort to impose campaign spending limits—which almost always benefit incumbents—in violation of essential free speech principles and the doctrine of unconstitutional conditions. The provisions for "voluntary" expenditure limits and other campaign funding controls, imposed in order to induce candidates to accept ceilings and restrictions on political speech and penalize and disadvantage those who will not do so, raise serious First Amendment problems.

The receipt of public subsidies or benefits should never be conditioned on surrendering First Amendment rights. That would penalize the exercise of those rights. See *Perry* v. *Sindermann*, 408 U.S. 593, 597 (1972); *FCC* v. *League of Women Voters*, 468 U.S. 364 (1984); *Board of County Commissioners* v. *Umbehr*, 116 S. Ct. 2342 (1996). Since candidates have an unqualified right to spend as much as they can to get their message to the voters, and to spend as much of their own funds as they can, and to raise funds from supporters all over the country, they cannot be made to surrender those rights in order to receive public benefits.

In *Buckley* the Court suggested that Congress might establish a system where candidates would choose freely and voluntarily between public funding with expenditure limits and private spending without limits, so long as the non-participating candidate remained free to engage in unlimited private funding and spending. In that setting, the purpose of the public financing of Presidential campaigns was "not to abridge, restrict or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people." 424 U.S. at 92–93.

S. 25 fails this test, for its overall purpose and effect are to limit speech, not enhance it. The bill imposes substantial penalties on those disfavored, non-complying candidates who will not agree to limit their campaign expenditures, while it confers significant fund-raising benefits upon those privileged candidates who adhere to the limits. Privileged candidates get free broadcast time, and

sharply reduced broadcast and mailing rates. Disfavored candidates must pay double promotional costs for the very same communications. The bill contains triggers which dramatically raise the spending ceilings and the contribution caps for privileged candidates whenever disfavored candidates threaten to mount a serious, well-funded campaign, or whenever independent groups speak out against a privileged candidate.

In effect, the bill tries to insure that privileged candidates will always be able to counteract the messages of disfavored candidates and their supporters. The law stacks the deck against the candidate who will not agree to limits, which will usually be the challenger trying to defeat an incumbent. In short, this scheme does everything possible to enable the candidate who agrees to spending limits to overwhelm the candidate who does not. That is not a level playing field. Lower courts have been quick to invalidate such one-sided, lopsided "voluntary" schemes. See *Shrink Missouri Government PAC* v. *Maupin*, 71 F.3d 1422, 1426 (8th Cir. 1995) ("We are hard-pressed to discern how the interests of good government could possibly be served by campaign expenditure laws that necessarily have the effect of limiting the quantity of political speech in which candidates for public office are allowed to engage."); *Day* v. *Holohan*, 34 F.2d 1356 (8th Cir. 1994).

2. The various limitations on PAC contributions violate freedom of speech and association.

Section 201 of the bill would ban all political contributions by political action committees. This would cut to the heart of the First Amendment's protection of freedom of political speech and association. The bill would give a permanent political monopoly to political parties and political candidates, and would silence all those groups that want to support or oppose those parties and candidates. PACs come in all sizes and shapes and provide vehicles for millions of Americans to amplify their voices. There is not a word in *Buckley* or any case which suggests that the Court would uphold a total ban on PAC contributions to federal candidates and still all those voices. Frankly, this is just political grandstanding. That's why there is a "fall back" provision which would impose a $1,000 cap on PAC contributions, which is also of very doubtful constitutionality. See *Committee Against Rent Control* v. *Berkeley*, 454 U.S. 290 (1981); *Meyer* v. *Grant*, 486 U.S. 414 (1988); *Carver* v. *Nixon*, 72 F.3d 633 (8th Cir. 1995). In any event, this provision is fatally overbroad because it treats all PACs alike, even those made up only of small contributors.

Likewise, the ban on "bundling" of individual PAC contributions would abridge the freedom of association which the Supreme Court has recognized as a "basic constitutional freedom." *Kusper* v. *Pontikes*, 414 U.S. 51, 57 (1973). As the Court has pointedly observed, "the practice of persons sharing common views banding together to achieve a common end is deeply embedded in the American political process." *Citizens Against Rent Control* v. *Berkeley*, 454 U.S. 290, 294 (1981).

Finally, the cap of 20% on PAC contributions that may be received will simply make it harder for candidates to raise funds, intrude upon freedom of speech and association and act like yet another backdoor effort to limit overall campaign expenditures, all in violation of *Buckley's* core principles.

3. The unprecedented controls on "soft money" are unjustified restraints on political parties and other organizations, as are the restraints on coordinated expenditures.

Sections 211, 212, 213 and 221 of the bill would severely limit and restrict the sources and use of soft money by political parties and other organizations. The new sweeping limitations and controls on "soft money" contributions to and disbursements by political parties and other organizations, federal, state or local, would expand the reaches of the FECA into unprecedented new areas, far beyond what any compelling interest would require. The reach of these proposals is breathtaking and unprecedented.

Indeed, just last June, the Court cast grave doubt upon the constitutionality of these various provisions. By a 7 to 2 margin, the Court ruled that even candidate-focused, "hard money" expenditures by political parties were fully protected by First Amendment principles and the *Buckley* precedents. In *Federal Election Commission* v. *Colorado Republican Federal Campaign Committee*, supra, the Court gave full constitutional protection to unlimited party independent expenditures and invalidated the FEC rule that treated all candidate-focused, independent party expenditures as though they were "coordinated" with the candidate and therefore subject to limitations. In language powerfully relevant here the Court held: "We do not see how a Constitution that grants to individuals, candidates, and ordinary political committees the right to make unlimited independent expenditures could deny the same right to political parties." 116 S.Ct. at 2317. The case for thorough protection for "soft money" is even stronger, since it is used by definition for voter registration, get-out-the-vote, "generic" advertising like "Vote Democratic" and other party-building activities.

Equally significant, the Court squarely rejected the sweeping claims that soft money spent by political parties was "corrupting" the system and had to be stopped: "We also recognize that the FECA permits unregulated 'soft money' contributions to a party for certain activities. . . . But the opportunity for corruption posed by these greater opportunities for contributions is, at best, attenuated." 116 S.Ct. at 2316.

Finally, Section 404, the new provision that tells political parties that they can continue to make "coordinated" expenditures on behalf of their candidates only if they forfeit their *Colorado Republican Committee* right to make independent expenditures supporting that candidate is yet another example of how this bill coerces the surrender of one constitutional right in order to exercise another. That kind of coercion should be rejected out of hand.

4. The new restrictions on independent expenditures improperly intrude upon that core area of electoral speech and impermissibly invade the absolutely protected area of issue advocacy.

Two basic truths have emerged with crystal clarity after twenty years of campaign finance decisions. First, independent expenditures for "express" electoral advocacy by citizen groups about political candidates lie at the very core of the meaning and purpose of the First Amendment. Second, issue advocacy by citizen groups lie totally outside the permissible area of government regulation. See *Buckley* v. *Valeo*, 424 U.S. at 14–15, 78–80, *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765 (1978); *FEC* v. *Massachusetts Citizens For Life*, 479 U.S. 238, 249 (1986). This bill assaults both principles.

First, Section 405 of the bill vastly expands the concept of "coordinated" expenditures so that virtually any person who has had any interaction with a candidate or a campaign is therefore barred from making independent expenditures. These definitions and limitations embody an impermissible kind of "gag order by association." See *De Jonge* v. *Oregon*, 299 U.S. 353 (1937). Second, if significant independent expenditures are made "in support of another candidate or against" an eligible, privileged candidate, the spending limits of the latter are raised to make it easier to counteract the independent. speech. Finally, new and expanded reporting requirements are imposed on independent speakers. All of this is designed to chill and deter core electoral advocacy.

Worst of all is S. 25's blunderbuss assault on issue-oriented speech. The weapon is an unconstitutional expansion of the definition of "express advocacy" in order to sweep classic issue speech within the zone of regulation as independent expenditures. The bill abandons the bright line test of express advocacy (words which in express terms advocate the election or defeat of a candidate, such as "Vote for Smith," "Vote Against Jones," "Elect," "Defeat"), a test which the Supreme Court held was mandated by the First Amendment. Instead, Section 406 of the bill would treat as express advocacy any communication "that conveys a message that advocates the election or defeat of a clearly identified candidate" or, worse, "that a reasonable person would understand as advocating the election or defeat or a candidate." A safe harbor provision, for a communication that "is limited solely to providing information about the voting record of elected officials on legislative matters and that a reasonable person would not understand as advocating the election or defeat or a particular candidate" is circular and no safe harbor at all. Indeed, the prospect of subjecting free speech rights to the post facto assessment of a "reasonable person" test would undo decades of First Amendment jurisprudence designed to protest First Amendment rights against the vagueness and uncertainly of such a standard.

This provision attacking issue ads and legislative advocacy would sweep in the kind of essential issue advocacy which *Buckley* and cases predating *Buckley* by a generation, see *Thomas* v. *Collins* 323 U.S. 516 (1945), have held immune from government regulation and control. It seems to be targeted exactly against the kind of voting record, "box score" discussion that emanates from the hundreds and thousands or issue organizations that enrich our public and political life. In *Buckley*, the Court adopted the bright line test line test of express advocacy in order to immunize issue advocacy from regulation: "So long as person or groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spends as much as they want to promote the candidate and his views." Id. at 45.

Most significantly, the Act at issue in *Buckley* contained a similar provision regulating issue-oriented groups because of their "box score" ratings of public officials and comparable activities. That provision was unanimously held unconstitutional by the en banc Court of Appeals, without any further appeal by the government. See *Buckley* v. *Valeo*, 519 F.2d 817, 832 (D.C. Cir 1975). Circuit Judges running the gamut from Bazelon and Wright to Robb and Mackinnon were unanimous in their condemnation of that effort to control issue speech. The new and expanded definition of "express advocacy" in S. 25 is similarly, grievously flawed.

5. The bill gives unacceptable new powers of prior restraint and political censorship to the Federal Election Commission.

With all of these problems with the bill, particularly those that pertain to issue advocacy and independent expenditures, giving the Federal Election Commission sweeping new powers to go to court to seek an injunction on the allegation of a "substantial likelihood that a violation . . . is about to occur" is fraught with First Amendment peril.

Where sensitivity to the core constitutional protection for issue advocacy is concerned, the Commission has, in the words of one appellate judge, "failed abysmally." See *Federal Election Commission* v. *CLITRIM*, 616 F.2d 45, 53-54 (2d Cir. 1980)(Kaufman, C.J. concurring). And ever since then, non-partisan, issue-oriented groups like the ACLU, the National Organization for Women, the Chamber of Commerce, Right-to-Life Committees and many others have had to defend themselves against charges that their public advocacy rendered them subject to all the FECA's restrictions, regulations and controls. The kind of "chilling effect" that such enforcement authority generates in the core area of protected speech makes the strongest case against giving the Commission additional powers to tamper with First Amendment rights.

S. 25 is not the way to reform campaign finance. It is bad constitutional law and bad political reform. True reform would expand political participation and funding, without limits and conditions, not restrict contributions and expenditures by which groups and individuals communicate their messages to the voters.

Thank you for the opportunity to set forth these views.

Sincerely,

JOEL M. GORA,
Professor of Law,
Brooklyn Law School.

Mr. MCCONNELL. Mr. President, there was an editorial in Friday's Wall Street Journal entitled "The Beltway's Hale-Bopp" with regard to the bill before us today. And I ask unanimous consent that that be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 3, 1997]

THE BELTWAY'S HALE-BOPP

Campaign finance reform, also known as McCain-Feingold, isn't merely a legislative proposal. Campaign finance reform is now a religion.

Somehow in the past several years, campaign finance reform transmuted from a cause into a belief system. It is the Beltway's version of the Heaven's Gate cult, in which the powers attributed to the Hale-Bopp comet have been transferred to the McCain-Feingold bill. It has become the mothership that will transport the American people away from the failings of modern politics and toward a purer system of government. One can almost hear the pundits' plaintive chorus preparing for the bill's passage: "Knock, knock, knockin' on heaven's door."

Interestingly, most of the McCain-Feingold cult's adherents aren't run-aways or overworked computer programmers. Instead, they hold down jobs in the print and electronic media. Articles and editorials evangelizing for McCain-Feingold pour forth like a river. An acquaintance of ours had the misfortune of finding herself flying cross-country recently seated next to a McCain-Feingold fundamentalist. It was an arduous six hours.

We raise these matters not in a spirit of rank partisanship (the Anti-Partisans being another aborning Beltway cult, incidentally), but out of concern for these loved ones. By nature, our media brethren are a skeptical lot. A managing editor once told us that some of his reporters declined his entreaties to get involved in the life of their local communities because "it might compromise my objectivity." Normally, excepting the occasional marches on behalf of abortion rights, these are hard cases.

So how else, other than religious belief, to explain why so many have become so attached to a legislative proposal that is objectively unconstitutional, that would cheerfully allow federal bureaucrats to regulate political speech while shrinking from, as if from sunlight, the regulation of pornography?

One of the two most important components of McCain-Feingold would explicitly forbid "issues ads" that mention a candidate's name within 60 days of a federal election. The Supreme Court made no dent with a whole series of decisions starting in 1976 with Buckey v. Valeo, which held that the law may be able to limit contributions, but that limits on expenditures, even from the personal fortune of an actual candidate, violate the Constitution. But the crusade rolls on even in the face of a Supreme Court decision as recent as last year's Colorado Republican Party v. Federal Election Commission, in which the court struck down limitations on official party spending on behalf of its candidates. That is to say the second half of McCain-Feingold, the ban on "soft money," is also unconstitutional. Justice Breyer wrote for the court: "The independent expression of a political party's views is 'core' First Amendment activity."

Then, of course, there is the phrase with which the First Amendment closes, about making no law abridging the right "to petition the Government for a redress of grievances." That is, lobbying. Now admittedly the Founding Fathers were rationalists who lived in the shadow of the long-ago Enlightenment. In our newer age no stronger article of faith abides around the Beltway than that anyone who "lobbies" the Congress about their grievances against, say, the Clean Air Act, is corrupting the vestal virgins who inhabit that place. McCain-Feingold, according to Senator McCain, would thwart the lobbies from interfering with the deliberations of Congress. That is to say, the politicians who command a third of all the money in the Gross Domestic Product want to pass laws against taxpayers trying to influence them.

At the end of the day we remain skeptics, less so of McCain-Feingold than of its advocates' professions of nonpartisanship. The problem with campaign finance as it exists is not so much the inevitable corruptions, but that these corruptions are so secret, as the tortuous hearings of the Thompson Committee have proven. Full disclosure—daily, publicly, electronically—of contributions from whatever source, from cloistered Buddhist nuns to ethanol fanatics, would let voters decide for themselves which imperfect soul they wished to vote into office.

Mr. MCCONNELL. Further, Mr. President, there was an op-ed piece in the Washington Times by Peggy Ellis of the Cato Institute entitled "10 Big Lies About Campaign Finance Reform. . . ." I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Oct. 7, 1997]

10 BIG LIES ABOUT CAMPAIGN FINANCE REFORM . . .

(By Peggy Ellis)

Lie No. 1: The American people are clamoring for campaign finance reform. Outside of Washington and the political elites, campaign finance reform finishes at the bottom of the list of issues people care about (3 percent). Most voters believe that whatever reforms are passed, politicians will find a way around the new rules (73 percent). By huge margins, voters are less likely to vote for their member of Congress if they vote for reforms that are unconstitutional (88 percent), make it easier for them to get re-elected (71 percent), make it more difficult for citizens' groups to inform voters of candidates' voting records (80 percent) or increase the relative power of the media (69 percent) (Tarrance Group, June 1997).

Senator Mitch McConnell, the Kentucky Republican known as the "Darth Vader of campaign finance reform," won re-election last year with a 160,000 vote margin—without the endorsements of the two largest newspapers because of his stance on "reform" and with the maximum contributions allowed by law from the tobacco companies. Rep. Linda Smith, Washington Republican, won her first election while being hugely outspent by the incumbent. She then became the darling of campaign finance reformers and almost lost.

Lie No. 2: Only wealthy special interests have access to members of Congress. Poppycock. The first item on all members' calendars is, and will always be, constituents. Members of Congress meet with lobbyists and policy experts all day long and then go vote the way they want to. Further, it is part of every legislative aide's job to meet with all sides to best prepare their boss for whatever the issue might be. As Senator Bob Bennett, Utah Republican, said at a recent hearing, "I'll tell you who has access to me—anyone registered to vote in the state of Utah."

Lie No. 3: Banning soft money is the only way to ensure that the scandals of the '96 presidential election don't happen again. The best way to make sure the abuses of '96 don't happen again is to punish those who have broken the law. Soft money was banned in the original 1974 rules and the 1976 election was run without soft money. Parties were so strapped for cash that traditional activities such as bumper stickers and get-out-the-vote drives were sharply curtailed. One of the primary purposes of the 1979 amendments to federal election law was to restore soft money. Traditional party-building activities are clearly not what the reformers want to control. It is the issue ads run by the parties—which are the essence of First Amendment protected speech. To eliminate this distortion, eliminate the limits on party contributions to their candidates. It is bizarre that political parties cannot give directly to their candidates as much as they want. No claims can be made of a corrupting relationship between a candidate and his or her political party. And for those who want to open up the political process and loosen the grip of incumbents political parties are the one group that will always support a challenger.

Lie No. 4: You can constitutionally control issue advocacy. It is often forgotten that in

the original 1974 amendments to the Federal Elections Campaign Act, Congress sought to limit issue ads, just as many do now. The Supreme Court overturned these rules. Nothing is more central to the core of what our country was founded on than the ability of private individuals and groups to discuss, criticize and protest their elected officials and those that seek office. A 20-year string of court decisions reaffirm that free and unencumbered political speech enjoys the highest First Amendment protection and cannot be regulated by the federal government.

Lie No. 5: Most issue ads are "thinly veiled campaign ads" and, therefore, can and must be regulated by the Federal Election Commission. Nothing is more central to the First Amendment than the rights of individuals and groups to participate openly and freely in our nation's political debate. Reformers and misinformed senators claim that, since issue ads are clearly intended to influence an election, they should be regulated. Buckley vs. Valeo anticipated this argument. Of course, the Court held, these ads are intended to influence elections, but our First Amendment rights are so central to our political freedom that unless the words "vote for" or "vote against" are used, these ads are issue advocacy and cannot be regulated by the government.

Lie No. 6: McCain-Feingold will open up the system. In fact, McCain-Feingold could be renamed the Incumbent Protection Act. The stratospheric incumbent re-election rate we have today is a direct result of the 1974 rules. Contribution and spending limits and tighter controls on issue advocacy are blatant incumbent protection. All the distortions in the current system are results of the 1974 rules—the 90 percent incumbent re-election rate, the explosion of issue advocacy and soft money and the increase of millionaires in office, the amount of time candidates have to spend raising money, the increase in the relative power of the media and celebrities. More of the same is not the answer.

Lie No. 7: Buckley was a 5-to-4 decision and "a close call," vulnerable to future court tests. On the contrary—we have years of court decisions reaffirming the central findings of the Buckley decision. In the area of issue advocacy alone, in the years since Buckley was decided, both the Supreme Court and lower courts have, time and time again, reaffirmed the reasoning and holding of that decision as it pertains to the protection of issue advocacy. The 126 "constitutional scholars" currently said to endorse McCain-Feingold do not endorse the issue advocacy restrictions at all—only the soft money and spending limits. In fact, the Fourth Circuit was so disturbed by the FEC's attempts to redraw the lines defining issue advocacy that the court demanded in April that the FEC pay Christian Action Network's court costs.

Lie No. 8: Campaign costs are spiraling out of control. This "explosion" is outside of candidate spending. Candidate spending was virtually flat from 1994 to 1996, with an explosion of issue ads outside of the campaigns themselves. The answer, however, is not to trample the First Amendment rights of private individuals, but to lift the contribution limits on parties and candidates. Let the money spent on many of the issue ads flow directly to the candidates. As for the anger many members have at private groups expressing their views and—absolutely—trying to influence their election: too bad! Politics and political campaigns belong to the people, not to the candidates and certainly not the federal government. The right to seek to persuade fellow citizens at election time is as fundamental as the right to vote itself.

Lie No. 9: Obscene amounts of money are spent in political campaigns. Congressional candidates spent approximately $740 million in 1996. This is only slightly higher than the approximately $700 million spent in 1994. It's a lot of money—but not when compared to what we spend as a society in other areas. These congressional totals average less than $4 per eligible voter. If you look at every race in the country, from dog catcher to president, the amount spent is less than $10 per eligible voter. As a society, we spend more on potato chips, Barbie dolls, yogurt and a host of other commodities than we do on politics. While many of us may like Barbie dolls and potato chips more than we like politics, only politics has control over every aspect of our lives.

Lie No. 10: We must control the amount of money spent in campaigns because candidates and members of Congress have to spend all their time raising money. It is the ridiculous $1,000 contribution limit that has limited the ability of challengers to raise the money they need to mount a successful campaign—and the reason members of Congress have to spend so much time raising money. The answer is not to control the amount candidates can spend, which would only further entrench incumbents, but to eliminate the contribution limits. Let the money flow directly to the candidates and, with almost-instant electronic disclosure, let the voters decide.

Mr. AKAKA. Mr. President, today at noon, we have another opportunity to invoke cloture on S. 25, the McCain-Feingold campaign finance reform bill, which I support. I am sorely disappointed that yesterday, the Republican majority once again successfully blocked going to the bill.

After yesterday's two votes, the majority leader said that campaign reformers should just give up—that the bill's chances for enactment in this session of the 105th Congress were dead.

I do not believe that the American people should be denied the benefit of campaign finance reform that would, in my opinion, level the playing field so that running for Federal office would not be so strongly influenced by money.

It is amazing to me that after several months of public hearings by the Senate Governmental Affairs Committee that anyone doubts the critical need to rewrite our campaign funding laws. Throughout the course of the hearings we have witnessed example after example of the misuse of our campaign finance laws.

And yet there remains a real crisis in the Senate over our inability to enact any campaign finance reform legislation. Moreover, this wholesale disdain for ending the money chase through substantive finance reform fuels the distrust held by the American public of Congress and their belief that Congress does not wish to clean up its own house.

Our committee has examined allegations of foreign money influencing Federal campaigns, the use of Federal facilities to raise funds, contributors donating in another's name, and access to Congress and the White House linked to campaign donations. Like my colleagues, I support prosecution by the Department of Justice of these allegations if it is appropriate. We have also had an opportunity to hear from expert witnesses on how they would reform the funding of elections.

Mr. President, we can no longer allow the mad hunt for money to drive our elections. Nor can we ignore the dramatic increases in soft money donations, the problems associated with unregulated independent expenditures and issue advocacy, and the improper use of tax-exempt organizations.

And yet, despite the tremendous explosion in campaign expenditures and the dismay over the political system expressed by the voters, there remains steadfast opposition to reforming our Nation's campaign finance laws, as evidenced by yesterday's votes.

I was hopeful, although perhaps too optimistic, to believe that S. 25, the McCain-Feingold campaign finance reform bill would be embraced by most Members of the Senate. I was wrong.

With less than 50 percent of voting age Americans going to the polls in the last election, so much is at stake. The public's deep distrust of this Nation's elected officials by the voters will continue if the only thing that comes from the Senate's investigation into campaign finance abuse allegations and the abbreviated debate on S. 25 is political rhetoric and finger-pointing.

The Republican majority has seen fit to stifle the efforts of those Senators who support reforming the Nation's campaign finance laws. The only hope I see in passing such reform at a future date lies with the American voter. It will be up to the people of this great democracy to demand that their Senators support campaign finance reform. There will be no campaign finance reform until there is a nationwide movement to stop the campaign finance abuses uncovered by the Senate Governmental Affairs Committee.

S. 25, the Bipartisan Campaign Reform Act of 1997, was modified in good faith, in an attempt to craft a bill more acceptable to the opposition. Unfortunately, it did not pass muster with those opposing it. In spite of yesterday's defeats, we have another chance to proceed to S. 25 by invoking cloture today.

Americans deserve a Government that works hard for their interests and not just the interests of monied contributors. Our citizens deserve a more responsive, efficient, accountable and representative Government.

Mr. CHAFEE. Mr. President, the Senate has the opportunity to improve the system by which we finance our elections. Yesterday, the Senate had before

it two proposals: one sponsored by Majority Leader LOTT and Senator NICKLES; the other sponsored by Senators MCCAIN and FEINGOLD. Much of the discussion of these proposals, both here in the Senate and in the media, characterized them as mutually exclusive. For the most part, Republicans were expected to support the Lott proposal, and all 45 Democrats and a handful of Republicans were committed to voting for McCain-Feingold.

The paramount goals of any true effort to reform the system of financing elections for Federal office must be to reduce the influence of special interest money on elected officials and to level the playing field between incumbents and challengers. The partisan division that has created the procedural situation in which the Senate found itself yesterday suggests that these goals are not yet at hand. Although the proposals before us are not the final resolution to the problems that afflict the current system of campaign fundraising, they do provide a good starting point.

I voted for cloture on both the Lott proposal and on the underlying McCain-Feingold bill. Do I think that the majority leader's proposal is flawless? Of course I don't, no more than I think the McCain-Feingold bill provides all of the solutions to the outrages of the 1996 elections. But, I also do not agree with those on the other side who have called the Lott amendment a poison pill. The truth is that together these proposals establish a sound starting point for a reasonable debate on campaign finance reform. It's time to let the process go forward. The Lott amendment should be opened up to improvements, just as the McCain-Feingold bill should be amendable.

As I see it, the goal of the Lott amendment is meritorious. It is to give union members some say over the political uses of their money. Today, union dues are used to support or oppose particular candidates without any authorization from the dues payers. McCain-Feingold takes a small step to address this problem, which amounts to compulsory contributions to candidates. Under the McCain-Feingold bill, dues paying, non-union members would be eligible for a refund if they disagreed with the political uses of their dues. That takes care of an estimated 1 million workers, but 16 million union members are left without any control over the political uses of their funds. That seems fundamentally unfair.

Senator LOTT's amendment seeks to address this unfairness. According to the Lott amendment, unions would be prohibited from using dues for political purposes, including lobbying, unless individuals gave prior written consent. As I understand it, the prior consent requirement is viewed by opponents to be onerous, and, I think, the limitation on lobbying simply doesn't apply to the issue at hand—Federal election campaigns. As many know, Senator SNOWE and others—who feel as I do, that this debate should move forward in an effort to find common ground—have been working to refine this proposal. A vote for cloture on the Lott amendment is a vote in favor of moving the process forward. It is a vote in favor of opening up the Lott proposal to improvements.

I also voted for cloture on the McCain-Feingold bill. Senators MCCAIN and FEINGOLD have made considerable improvements to their bill. They have worked to accommodate the concerns of other Senators, particularly Senator COLLINS who has worked hard to move this process forward. I continue to have concerns about some of the provisions of the bill. The treatment of independent expenditures is not wholly satisfactory to me, although Senator MCCAIN assures me these provisions were suggested by top experts on Federal elections. I filed amendments that I believe could improve the McCain-Feingold bill, but, of course, the Senate cannot get to the point of debating the merits and flaws of the bill unless cloture is invoked.

As far as I am concerned, the most important problem to be addressed this year is one that barely existed a few years ago, the explosion of soft money in the process. Not too many years ago, many of us were here debating whether PAC's, political action committees, should be able to contribute $5,000 per candidate, per election. We worried that these PAC contributions might appear to give special interests too much influence. But the soft money explosion has made those amounts seem like pocket change. I believe that if all else fails, we must deal with the soft money problem, and we must take steps, at least, to impose disclosure requirements on the money that is spent on so-called issue ads. We also should seek common ground on the Lott amendment. The Senate has the opportunity to make these important changes in the current fundraising system by invoking cloture on both the Lott amendment and the underlying McCain-Feingold bill.

Mr. MACK. Mr. President, the key issue in this debate is a simple one: Will we enforce the campaign laws already on the books or not? Will we concoct some new layer of confusing and complex rules and regulations to distract the voters from the real issue, or will we do the right thing? Are we going to insist that campaigns and candidates follow the current rules, or are we going to keep changing the laws each time there is a new scandal? If we can't—or won't—even enforce the laws we have now, what makes us think that a new set of laws will be more effective?

The Senate and the American people have witnessed a flood of testimony in recent weeks and months about illegal foreign contributions, influence peddling, and money laundering at the highest levels of our Government. The Attorney General has finally called for an investigation in the face of mounting evidence that, to many of us, clearly warranted a special investigator months ago.

Now, here we are debating a bill on the floor of the Senate that will not only add new regulations and restrictions to the people's ability to participate in the election of their own representatives, but which ignores the violations of campaign laws that apparently have already taken place.

How does that play with the American people? I doubt it goes over too well. Sure, Americans are distrustful of all the money in campaigns. They are right to be suspicious when they read about Buddhist nuns being used to funnel foreign money into a Presidential campaign or the Lincoln bedroom being used to cozy up with big-money campaign contributors.

And they are also right to be dubious of what is going on here, because I think they understand and we are not tackling the real issue at hand. We are trying to divert their attention away from the simple fact that our campaign laws are not being enforced. This is the kind of cynicism that justifies the American people's distrust and apathy toward Washington politicians.

History teaches us that when any law is not enforced, whether campaign law or any other law, the people lose confidence in the system, whether it is the criminal justice system or the electoral system. When violations of the law go uninvestigated and unpunished, we send the message that the law doesn't matter. We destroy one of the core principles of our government—that we are a nation of laws, not of men—and the law applies equally to everyone—not just to some and not others.

We aren't doing anything to restore the American people's confidence in their Government until we begin to deal with this fundamental issue: Do the current campaign laws matter enough to be enforced or are they just an arbitrary system that can be followed or ignored depending on what is convenient for a campaign? The answer to this question must be emphatic—the laws that are here to protect our political system must be enforced vigorously. Nothing less is acceptable.

Mr. President, there is a second reason the voters are dubious about our seriousness for cleaning up campaign finance violations. Many of these voters are angry that their hard-earned money goes to candidates they don't agree with. This happens through what essentially is extortion by the unions. Many hard-working union workers have part of their paycheck sent to political campaigns they don't support.

Yes, by codifying the Beck decision, this bill tries to make sure that nonunion members don't have their paychecks extorted for political use. But union members are left in a position of having to choose between their job or their first amendment right to support the candidate of their choice. With more and more union members voting Republican in recent years, it's no wonder that the liberal union bosses are working to make sure this form of political blackmail is protected.

Some will say this is no different than PAC's using their money to support candidates that a contributor may not agree with. Well if the Sierra Club or the National Rifle Association or any other similar group uses your money to support a candidate you disagree with, you can stop giving your money to that group and its PAC. It's a voluntary choice. But that's not possible in a union—at least not without putting your job at risk.

No, Mr. President, this effort does nothing to fix what's broken. There are all sorts of schemes to make television stations give candidates free air time, and to regulate what can and can't be said in political commercials. And there are even provisions that would have the Federal Government establishing State and local campaign restrictions. All of this adds up to putting chains around our fundamental first amendment rights.

The courts have repeatedly held that communications which do not expressly advocate the election or defeat of a candidate are not subject to regulation by the Government. But the proponents of this bill would make the Federal Election Commission into the politics police. They would determine whether a reasonable person would know that an ad is advocating the election or defeat of a candidate or not. This would send a chill through our political process. Now the Government would decide what is reasonable or not. It is exactly the kind of temptation to tyranny that the Founding Fathers were protecting the American people from when they adopted the first amendment.

Supporters of this bill contend there is too much money in politics. What they're saying is, they think there's too much free speech, too much involvement by free people expressing their views. But isn't that exactly what we want—more involvement and more participation? More candidates are running for office now than ever. Voters now have more options than ever. Placing further limits on speech will effectively drive more citizens from the process.

We should stop this misguided effort and do what the American people really want—and that is to enforce the laws that have been on the books for years. Only by doing so will we restore their confidence in the political and electoral system that is supposed to send us here to do their bidding.

Mr. President, I urge all my colleagues on both sides of the aisle to make enforcing our current laws the No. 1 priority and put aside this effort to construct yet another monstrosity of bureaucracy and complexity that will add to American's skepticism of Washington.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the quorum call time be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There remains 5½ minutes on each side.

Mr. DORGAN. If I might, claiming the time remaining on our side, just make a comment about the pending business.

We will shortly be casting another vote on cloture on the issue of campaign finance reform. The vote is going to be whether we invoke cloture on the McCain-Feingold campaign finance reform bill.

Now, it is interesting, as we have been watching this develop over the recent days, we have seen a form of legislative cholesterol clogging and plugging the system so that at the end some can say, "Well, we have considered campaign finance reform but they have, in effect, killed it." That has been the plan all along.

I mentioned yesterday that the great illusionists in America are those who can convince people they have seen something that doesn't exist. We had that yesterday in which there was an assertion that we were presented with a debate on campaign finance reform, but the debate didn't really exist because no one was able to offer any amendments on campaign finance reform. The bill was brought to the floor by someone who wanted to kill it, so he bound it up with a tight rope—what he called filling the tree with amendments, a tree of amendments—so that no one else could offer any amendments, and then filed a cloture motion designed to kill campaign finance reform.

The fact is this system doesn't work. The campaign finance system in this country is broken. There is too much money in campaigns. I have showed the chart out here on a number of occasions when I have spoken about it. The red line on the chart on campaign spending goes straight up. And yet we have people in this Chamber and across the Capitol who believe the problem is we don't have enough money in politics, there is not enough money in campaigns. What on Earth are they thinking about? We need to reduce the amount of money in campaigns.

One of the issues that is involved in this legislation is soft money. We ought to abolish soft money, the legal form of cheating from the old campaign finance reform. For every rule there are people who try to figure out how to get around it, over it or under it. In soft money, the growth in the explosion of so-called soft money is the growth and explosion of legal cheating in campaign finance, and we ought to change it.

There are only two sides to this issue: Those who want to reform the system, and those who are insisting the current system is just fine.

There are a majority of us in this Chamber, we believe, who will vote for McCain-Feingold, for campaign finance reform, if only we can get it up on the floor of the Senate for a vote. I hope today, or perhaps tomorrow if further votes on cloture occur, that we will have an opportunity to demonstrate that, if we can get the bill to the floor of the Senate, it will have a majority vote.

On my side of the aisle, 45 Members, every single Member, has signed a letter saying we support this kind of campaign finance reform. We had three, four, five Members on the other side of the aisle who have supported it. If we can get it up for a vote, we will pass campaign finance reform. But there are those who have tried to ride this into a box canyon somewhere from which there is no escape because they by design want to kill campaign finance reform because they believe there is not enough money in politics. They want more money in American politics. I have no idea where they get that sort of notion.

The American people know better. The American people support with an 80-percent margin the need to pass campaign finance reform by this Congress. I urge my colleagues to vote for cloture. Vote for cloture on the McCain-Feingold bill and breathe some life into campaign finance reform and let's do what the American people know we should and what the American people know we must—reform the system by which we finance American campaigns, because the current system is broken.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we are about to vote on a cloture motion on what is, without question, a very important issue to all of us and to the country at large. In fact, it is so important that this morning the President of

the United States cried out, "Save me from myself. Save me, please. I'm off to Philadelphia to raise money, and if you don't save me by passing the new law, I may do something wrong, or I'm going to have to do what I'm going to do anyway."

Well, Mr. President, I'm sorry, but all I ask you to do is to abide by the law that is on the books of the land today. That is what I do. That is what the Senator who just spoke does. I doubt that Senator DORGAN ever has attempted to violate campaign law. I know he hasn't. He is an honest man. He makes sure he doesn't because he hires an attorney and he hires an accountant and he keeps himself legal because what we live under today is a well-regulated campaign finance system.

I am absolutely amazed that when the American family sits down at night the first topic of the dinner table is not what about that campaign finance reform they are talking about on the floor of the Senate; I suspect that family is talking about what happened to the child who was lost on the streets of America today, or that classmate of your son or daughter whom you found out got arrested for drugs, or some other issue like that. That makes a heck of a lot more sense to the average American than the phenomenal, political, and media hype that has been built over the last 3 or 4 months about campaign finance reform.

Mr. President, if I have heard it once, I have heard it 100 times, spoken from the other side of the aisle, "Oh, they all do it." No, we don't all do it. I just came out of a campaign and I didn't violate a law nor was I accused of violating a law. I raised money legally. I'm sorry if you have to use a smoke cloud or subterfuge to argue your political point of view. It is wrong.

Mr. President of the United States, it is wrong to say that everybody does it, because not everybody does. I am not about to save you, Mr. President, from yourself and from going to Philadelphia today to raise money. Last I checked, you touched out of here voluntarily. You left this city voluntarily. And yet that was the argument that was used by the President of the United States today. "Well, the Senate yesterday didn't pass a law so I got to go do it again." Sorry, Mr. President, that isn't the issue here.

The Supreme Court yesterday spoke out very, very clearly when they said you can't deny the right of a citizen to speak out, you can't deny advocacy in a free speech society. This Senate can talk all of the politics it wants. It can line up all of the 30-second sound bites it wants, but it cannot violate the Constitution nor will the Court allow us to.

In this instance, I would love to quiet the voice of an advocate who disagreed with me, and I had many of them last year in my campaign. I had over a quarter of a million spent against me, and I will tell you, I don't think the ads were right. In fact, I think they were wrong. I think they failed to tell the truth. But in a free society, dogone it, now and then you have to withstand somebody who doesn't agree with you and you have to withstand somebody who may tell a lie about you. If you are in public life, that is a darn fact, the sureness of what will happen, and we all know that.

What is wrong about it? Nothing is wrong about it. Oh, I could see where we should adjust some things, but I will tell you right now, if we are going to say to a certain citizen in our society, "You are going to provide money whether you want to or not, and that money is going to make it into the political system whether you want it to or not," and our colleagues on the other side of the aisle will not allow that to happen, they will not allow the average citizen to have full, voluntary participation, then there will be no reform for this Senator to vote for.

That will not happen if I have the ability of most Senators to block issues from coming to the floor. If we are going to talk about major campaign, we must talk about fairness, we must talk about equity, and we must talk about the right of the citizen in free speech and voluntarism.

So today I stand with pride in my defense of the Constitution and the right of the citizen. I will oppose cloture on this bill, not out of an embarrassment or not out of shame, but out of pride for the system that can work when you play by the law.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. Mr. President, let me just say McCain-Feingold may be dead as most people around here seem to believe. I have always believed the American people can have anything they want any time they are unified. The time is fast approaching when the American people are going to demand that we change a system that is rotten to the core. McCain-Feingold goes a long way in that direction. It doesn't go nearly far enough to please me personally, but at least it will be a beginning.

The two things you can do to restore people's faith in the American Government and Congress, the two things you can do that will instill more confidence than anything else would be to balance the budget and change the way we finance campaigns.

I have heard all the sophistry about the constitutionality of this bill. I just want to tell you, when it comes to free speech, you can hang your hat on free speech if you want to, but the thing that makes this system rotten is that a guy who can afford to belly up for $100,000 gets a lot more free speech than some guy giving $25. The reason he doesn't give $25 is because he knows it gets him nothing—not even good government.

So I plead with my colleagues, for God's sake, let's do something that the vast majority of the American people want us to do—that is, to level the playing field for all parties. You don't have a democracy when the people we elect and the laws we pass depend on how much money we raise for it.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on S. 25, as modified, the campaign finance reform bill:

Thomas A. Daschle, Carl Levin, Joseph I. Lieberman, Wendell Ford, Byron L. Dorgan, Barbara Boxer, Jack Reed, Richard H. Bryan, Daniel K. Akaka, Christopher J. Dodd, Kent Conrad, Robert G. Torricelli, Charles S. Robb, Joe Biden, Dale Bumpers, Carol Moseley-Braun, John Kerry.

CALL OF THE ROLL

The PRESIDING OFFICER (Mr. SESSIONS). By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 25, a bill to reform the financing of Federal elections, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—52

Akaka	Feinstein	McCain
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Reid
Bumpers	Jeffords	Robb
Byrd	Johnson	Rockefeller
Chafee	Kennedy	Sarbanes
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Thompson
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Feingold	Lieberman	

NAYS—47

Abraham	Bennett	Burns
Allard	Bond	Campbell
Ashcroft	Brownback	Coats

Cochran	Gregg	Nickles
Coverdell	Hagel	Roberts
Craig	Hatch	Roth
D'Amato	Helms	Santorum
DeWine	Hutchinson	Sessions
Domenici	Hutchison	Shelby
Enzi	Inhofe	Smith (NH)
Faircloth	Kempthorne	Smith (OR)
Frist	Kyl	Stevens
Gorton	Lott	Thomas
Gramm	Lugar	Thurmond
Grams	McConnell	Warner
Grassley	Murkowski	

NOT VOTING—1

Mack

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997—MOTION TO PROCEED

Mr. LOTT. Mr. President, I move to proceed to Calendar No. 188, S. 1173, the so-called ISTEA legislation.

The PRESIDING OFFICER. The question is on the motion. Is there debate?

Mr. LAUTENBERG. Mr. President, was that a unanimous-consent request?

Mr. LOTT. No. Mr. President, if the Senator would yield, it is a motion. But it is debatable. I understood the Senator from New Jersey intended to debate the motion.

Mr. LAUTENBERG. Yes.

Mr. LOTT. Could I inquire of the Senator from New Jersey how long he thinks that he would need to do that?

Mr. LAUTENBERG. I can speak for myself, I think, about the bill that I want to explain but I can't certainly speak for any other colleagues.

Mr. LOTT. I am not asking for a specific hour, just some general—an hour or two.

Mr. LAUTENBERG. It is not my intention to tie the Senate up with this for some indefinite period—not at all—but I do want to discuss some of the problems that I see with the bill.

Mr. LOTT. Does the Senator think an hour is about what he is thinking about?

Mr. LAUTENBERG. I am not going to enter into a time agreement.

Mr. LOTT. I am not asking for an agreement—just for the information of all Senators so we know when there might be some further action—just some general idea of the time expected.

Mr. LAUTENBERG. In fairness to the majority leader, who I have found to be an understanding person, I would take the time necessary; probably—I do not know—an hour or so.

Mr. LOTT. That would be fine. Will the Senator require a rollcall vote?

Mr. LAUTENBERG. No.

Mr. LOTT. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, if we can achieve order in the Chamber, it would be easier for us to communicate.

The PRESIDING OFFICER. Will the Senate come to order?

The Senate will come to order.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the Chair.

Mr. FORD. Mr. President, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Kentucky is correct. The Senate is not in order.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, once again, I thank you.

Mr. President, we are about to consider a radical departure from the structure as we have known it to take care of our highway and transportation needs for the next 6 years. But I view this approach as somewhat premature and want to discuss what some of the problems are with it. As a member of the Environment and Public Works Committee, and also, Mr. President, as having been the chairman of the Senate Transportation Subcommittee of Appropriations, and currently the ranking member, I view it from a particular vantage point.

So I want to use this opportunity to alert my colleagues to some of the problems that I see with the bill and those opportunities perhaps to change it. I know, Mr. President, that when I discuss concerns with this bill that I also reflect——

Mr. BAUCUS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Will the Senate please come to order? The Senator from New Jersey has the floor and has the right to be heard.

Mr. LAUTENBERG. Mr. President, I thank you and the Senator from Montana.

Mr. BAUCUS. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. Will the Senator from New Jersey hold for a moment? Will those having conversations please take them to the Cloakroom so we can hear the Senator from New Jersey?

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, once again I thank you. I sense that the excitement about the comments that I want to make has just overtaken the Senate and it is hard for people to settle down. But if they will settle down and listen, their fondest dreams will be realized.

Mr. President, I think we ought to take some time to pause before we talk about amendments to the bill known as ISTEA to consider what it is that we are about to discuss, and amendments we will be offering once we are engaged in debate about the bill. But before we start that debate, again I want to point out what I think are some of the serious discrepancies in its development.

I am not alone in my concerns about it. As I have indicated, other States—I know my friends and colleagues from Illinois have distinct concerns about it. I was particularly interested in a discussion that we had just a while ago in a conference with some of the Democratic Members to learn some of the facts about Illinois roads that I am sure the senior Senator from Illinois will want to discuss. Our colleagues from Massachusetts have some misgivings about the bill. The Senators from Maryland have also indicated the fact that they are not happy with what has been offered in this bill. My colleagues across the river in the State of New York have indicated to me that they are looking seriously at the bill, as other States not exactly in the Northeast corner have also indicated—as I mentioned, the State of Illinois. I know there are some concerns in the State of California and some concerns in the State of Pennsylvania. Again, I will not speak for those Senators, but those are the States where the formula change wound up dealing with these States in a fairly negative fashion.

So, Mr. President, as we begin to discuss bringing this bill to the floor for discussion, it is time, I think, to begin debating not simply the motion to proceed but the substance of the bill.

This 6-year authorization bill which governs transportation spending and planning is going to set the future of every State's transportation system into the next century. As we go forward with this debate, we better be sure that the serious transportation needs of the American people, of their businesses, of their jobs, of their regions, and their States are being met by this bill.

Frankly, there is some good to be said for this legislation. I have my doubts that ultimately it achieves the goal that the distinguished chairman of the Environment and Public Works Committee and the distinguished ranking member are seeking. Those are not the objectives that we see being met as we discuss the reauthorization of ISTEA.

Transportation, as we all know, is not just about roads, rail, and bike trails. It is about the economy. It is about jobs. It is about moving goods efficiently and effectively. It is about building better communities. It is about a quality of life that surrounds our transportation networks or, in

fact, is developed as a result of efficient and competent transportation infrastructure. It is about smart investment. It is about protecting our environment and human health. It is about quality of life in its fullest expanse. It is about making sure that we do what we can to leave a clean environment for future generations. It is about being more independent and not simply just asking other countries to supply us with oil at whatever price they determine the market will bear. We never know when that changes, as we saw if we look at history back just a couple of decades.

So this is far more than simply, again, roads and rails and waterways. It is about quality of life. It also, frankly, tells us what America is going to be doing in the next century to be more competitive in this global marketplace. That is a very serious question for us, because as we see the European Union forming to establish its economies, we know they are going to be using the latest in technology. They have far, far better rail and transit systems than we see typically in our country—high-speed rail. We see roads where the pavement endures a far greater period of time than do those in our country and in our States.

So we have to think very long and hard about how this Congress is going to make its mark on transportation investments and policies for the next 6 years. The question is, Does this legislation fully address the needs of the national transportation system and provide necessary funding and guidance where it is most needed? Do we consider transportation issues as if they affect the whole country? Because whether they are about roads in New Jersey or roads in Illinois or roads throughout the Northeast or North-South, the fact is it has a bearing on the way society functions, the way our country's economy produces.

Sometimes those issues get lost, Mr. President, when we see the regional differences kind of expand, when we see that now suddenly in the closing period when the original version of ISTEA was produced, there is a change being attempted in a very short period of time to change formula, to change the way we function. I do not care which party is in power or which region of the country has more seniority. The fact is that we have to work together as a national enterprise because otherwise we will pay a price that is not yet seen nor understood.

When we talk about a transportation bill, do we consider such critical factors as relieving choke points of congestion, ensuring adequate infrastructure in ports and along corridors to necessitate the free flow of goods, providing sufficient access to remote areas of the country. I know that we hear from Senators whose States are more rural than mine or some of the States that I have named in my list, but that does not mean that those people ought not have available transportation facilities so that they can get their children to school or get to the marketplace or get to their jobs. I am honestly concerned about that. The Senators from the more rural States know very well that Senator FRANK LAUTENBERG from New Jersey has tried to preserve things like essential air service so that communities are not suddenly isolated and removed and not able to communicate with the rest of the world outside their direct boundary.

Ms. MOSELEY-BRAUN. Will the Senator yield for a question?

Mr. LAUTENBERG. Does the bill ensure that the most heavily traveled corridors and highways are fully maintained and upgraded to handle not only the traffic of today but the expectations for traffic tomorrow? So as I said at the beginning of my statement and as we are seeing, I have my doubts.

Ms. MOSELEY-BRAUN. Will the Senator yield for a question?

Mr. LAUTENBERG. I will be happy to yield for a question.

Ms. MOSELEY-BRAUN. I would like to put a question to the Senator from New Jersey. The Senator's points are very well taken and particularly the point that the Senator makes with regard to the synergies, if you will, between different types of transportation modalities and how all of them come together in this ISTEA legislation.

I would like to call to my colleague's attention a picture really that I shared earlier this morning concerning the pivotal role as almost a hub State that Illinois plays in terms of national transportation. Because our State, Illinois, is situated kind of in the middle of the country as it is and goes from north to south, as it turns out, most of the commodity flows—this is from 1993—as you can see, most of the commodity flows go through the State of Illinois. Whether from California on the west, Florida on the south, Florida-Texas, or from the east coast, they come together at the hub in Illinois.

Yet, having said that, it is also a fact that Illinois right now is suffering from inadequate attention to the convergence of transportation and transit activities in the State. We have seen in my State real difficulties with road funding to begin with. I have some headlines here: "Illinois Roads in Shambles," and then it goes on with report after report regarding the dismal shape of Illinois roads. "Illinois Roads Among the Worst in the Nation." That is on the road part of the equation.

On the transit part of the equation, it is also news back in my State that there have been reductions in service for public transportation, moving people from place to place so as to give a breadth, if you will, to the economic activity in the State.

So with both the road aspect of funding as well as the transit function, Illinois winds up being a hub State. Actually, in addition to being a hub State, Illinois is a donor State. We wind up contributing more to the funding of our interstate highway program than many other States. We are way down there in terms of dollars sent to Washington and dollars received back.

My question to my colleague would be whether or not the formula with respect to highway funding takes into adequate account the importance of the hub activities, of the convergence of transportation modalities in a State such as Illinois and whether or not this legislation addresses the transportation needs of the country by failing to adequately do so?

Mr. LAUTENBERG. I thank the Senator from Illinois for her question because it ties exactly into things that I see. The situation is not dissimilar, as I am sure the Senator is aware, from my State of New Jersey. Much as Chicago and environs in Illinois are just at the crossroads where the traffic flows east and west from the rich agricultural sectors of our country to the export opportunities at the ports on the east coast or the marketplaces on the east coast and to the places where habitation is large and the materials have to move rapidly in order to get there at an appropriate time for the product to be effective in the marketplace, we have the same thing. Our corridor is north-south.

If one travels north-south in New Jersey, it helps originate some of the jokes that frankly I don't like about, "You live in New Jersey. What exit?" People, trying to make jokes—again, I think poor jokes—think of New Jersey as a large highway with some occasional rest stops along the way. But we carry that traffic. We want to play our role in the national being, in the national economy.

We try to make it convenient for the trucks and the traffic to pass through expeditiously, but we can't do it unless we have particular funding addressed to those issues. Why should New Jersey be the recipient of foul air created by that incredible amount of vehicular traffic when it is not ours? We do not gouge the travelers at our service stations or towns. Our prices are in keeping with the marketplace because we want it to be a comfortable place. We don't want the trucks and everybody else to wind up in traffic congestion, spewing foul air. But we cannot pay for it entirely by ourselves. We are being asked to carry a load for the whole sector of the country. The Senator is right on the mark, and I hope she will take note of that as she evaluates this bill that is being proposed.

Ms. MOSELEY-BRAUN. Will the Senator yield for another question? Is it not a fact that the original ISTEA, Intermodal Surface Transportation

Act, referred to the needs of local and interstate commerce, the national and civil defense? And, in so doing, makes direct reference to the needs of the various States to work together to collaborate in behalf of our national interest in commerce, in both local commerce and national commerce, as well as our defense needs? And is it not also a fact, therefore, that to the extent that this legislation focuses in just on miles of road as opposed to these goals of the act, that it not only creates a burden for the States so affected, but also creates a burden for the country in failing to meet the express goals of the original legislation?

Mr. LAUTENBERG. We certainly must consider that. If one looks back to the origination of the highway system, going back into the 1950's, much of that was designed to assure that, if necessary, our defense capability was strong, that we could move the traffic, move the equipment, move the personnel rapidly through our society. And that cannot be ignored. So that all of these things relate to the same needs.

That emphasizes the fact—and once again I am grateful to my colleague and friend from Illinois—it emphasizes the fact that this has to be considered a national enterprise. And, suddenly, one region's gain against another's does little for the country. It may look like a new sector is gaining something. They gain nothing if they don't have the marketplace, if they don't have the access, if we can't move our troops and equipment, Heaven forbid at a critical time, rapidly and efficiently. Then we have lost a lot more than the simple gain from an adjustment, untimely as this one, frankly, seems to be.

Ms. MOSELEY-BRAUN. If the Senator will yield, I suggest the biggest threshold challenge that we have to overcome in this debate is a matter of one's perspective. If indeed this is seen as pitting one State's interest against another State's interest, then one can arrive at a formula that rewards the powerful and "who is on the committee," and all kinds of factors that have nothing to do with commerce, with our national civil defense, with transportation or, indeed, our economy.

If, on the other hand, our perspective is one of those larger goals that were pointed to in the original act, then that would lead to a formula in the first instance that would produce a very different result, or a different result than the one that we see here.

So I ask my colleague whether or not it is his impression, since he has worked so diligently and closely on this matter over time, whether or not the formula itself may be flawed in that it sets up this competition among and between the States instead of requiring us to focus on what is in the interests of our country, what is in our national interests, what is in the interests of transportation as a generic label for all the ways we move goods and services and matters of interest around, within the United States.

Mr. LAUTENBERG. My answer is that if there was—and there has been—a concern about the formulas by which funds were distributed, that a review is certainly in order. But the review, in my view, ought to take place in an orderly fashion so it can be debated here on the floor, so it can be debated in the respective committees. There are several committees that have jurisdiction over parts of this. So it takes a little bit of time to get this done.

Now, because we have procrastinated so long in getting this done, it seems we have to rush to put in the new bill. Something that affects so much of the way we function as a society I think deserves more than a rush to judgment. Frankly, my offhand suggestion would be that we extend the current bill for a period of time. And I think 6 months would be a disaster; probably a year, so that we can consider in a thoughtful forum what we ought to be looking at.

The Senator mentioned something very interesting. Right now there has been a change in the manner, the philosophy of the way this body operates. Power has moved in a particular direction. But what goes around comes around, as is said. Are we going to be looking at changes in structure for something as important as our transportation infrastructure differently every time there is a power shift? If it's Democrats one time and Republicans the next; if it's western one time and eastern or southern or central the next, will we therefore at that point in time suddenly make changes that take care of our region? Do you know what that will produce? Everyone knows what that will produce: Chaos. It will produce competition at the worst level.

I see it now in State after State, where some States are willing to modify their environmental requirements, willing to modify their labor requirements, to try to steal business from another State. What good does it do us in the final analysis? It does us no good because eventually the price is paid. I am going to talk about that a little bit later.

My State is a State that has prospered. We benefited from some of the ingenuity that went into the development of the industrial revolution. Much of it took place in the State of New Jersey. Edison and his numerous inventions were largely out of New Jersey. We have a high-technology business in pharmaceuticals and electronics and computers. As the Senator knows, I was in the computer business before I came to the Senate. Some days, ruefully, I look back, especially payday. But the fact of the matter is that we are a high-technology State and thus we have been able to create a pretty good job market.

The result is that New Jersey is No. 50 among States—last—in getting a return on the tax dollars it sends here to Washington. And I hear about it from all of my constituents, let me tell you. They don't understand why it is we are sending money down here and, where we have a slight advantage, which has been in ISTEA, the transportation bill, suddenly now it is being taken away. The question is being asked back home, whether by a newspaper or in town meetings or just individual discussions: Are they after New Jersey again? Do they want to make us pay more of our tax dollars into the national interest so States that are poverty stricken or don't have the job network or don't have the economic infrastructure that we have, they want to take it again from New Jersey? My answer, unfortunately, has to be, "I think so." Because that is the way it looks, based on what the formulas are.

I want to see the day when we stand on the floor of this U.S. Senate and we talk about distributions of tax dollars received here in Washington. Maybe what we ought to do is put this under an umbrella that says everybody gets 100 cents on the dollar. Every State, send your money to Washington, you get it back. We will see how the roads that cross through some States function; and we will see how welfare, and how education assistance, and nutrition for children gets taken care of in those States.

Ms. MOSELEY-BRAUN. If the Senator will yield for another question?

Mr. LAUTENBERG. Please.

Ms. MOSELEY-BRAUN. That seems to me exactly the point. When you base a formula on per capita income, what happens then is, No. 1, just at the outset you wind up penalizing those States that are contributing the most.

There is an interesting quote out of the Advisory Committee on Intergovernmental Relations, which I want to call my colleague's attention to, which says, "Per capita income is not a proxy for State wealth."

That is exactly what is happening, using that as a proxy for State wealth. It is much to the point. It is not just a matter of sharing. Because, if anything, I would encourage the Senator from New Jersey and my colleagues to think about this as something in which we are called upon to share. We are called upon to share resources in our national interest to see to it that the transportation needs of our country are adequately addressed.

But what we have here, it seems to me, is a formula that is flawed—No. 1, in regards to the numbers that go underneath it that are used to determine State wealth, on the one hand. It seems to be flawed also in not giving adequate consideration to the use and reuse and overuse, in some instances, of transportation modalities, whether they are roads or highways or transit

systems. The fact is, the more people you have the more these systems are going to be used. Just like any other physical thing, the more that it is used the more it deteriorates.

So we have a situation in which infrastructure, as a fundamental issue, is addressed in this legislation based on a series and a host of factors and considerations that may not adequately comprehend that this infrastructure is infrastructure that serves all of our needs. It's not just New Jersey's roads or Illinois' roads. It's roads through which American products will move, roads over which Americans travel, transportation that allows for an American economy. All of us have an investment and a stake in seeing to it that all of the States that form the crux of our economic mix get adequately served by the allocation that this formula represents.

So, my question to my colleague—and this will be my last question to my colleague—my question to my colleague is whether or not he believes that it will be possible for us to engage with the committee and others—I am not a member of the committee but at the same time have tried to interact with the committee that made this decision—but whether or not, if we were given the additional time to take up these questions, in terms of whether the formula presently being used to allocate resources actually meets the needs of our country—if given additional time we might be able to reshape some of the integral parts of that decisionmaking in way that it would more closely serve the goals of the Transportation Act?

Mr. LAUTENBERG. Once again, I say to my colleague from Illinois, I agree fully with the response that was elicited, because of the nature of the question. It is our Nation. It is a national goal. It is a national objective and we have to keep that in mind.

I know the Senator from Illinois shares my view that when an emergency comes in our country, and whether it be floods or earthquakes or tornadoes, our hearts are breaking here. I say, this was across party lines, both parties. When we saw the people in North Dakota and South Dakota and States like that during the flood, I never voted against funding for FEMA, for our Federal Emergency Management Agency, or those actions that were taken to get a community restored after a natural disaster. It is then and then only, it seems, that we are reminded that we are a national unit, that we are a national federation, that we are one country.

Suddenly we will spring into action when it comes to relieving the distress that results from a natural disaster; a consequence. We have to keep that in mind when we look here at what we are doing on the floor of the U.S. Senate today. That is, ensuring that all States in all parts of the country are treated with a degree of fairness. I know we will hear from other colleagues who say: Well, New Jersey has been a donee State, gotten back more than it has sent down in gasoline tax.

I say yes, that is true. That is true. It was the only place, as I mentioned earlier, that we could make up for the deficiency in return on our tax dollars that we usually get from the transmissions that we make. So this is why I am so intent on making sure that this new piece of legislation, this reauthorization, this NEXTEA, or whatever we want to call it, reflects the fact that New Jersey is being shortchanged here as are these other seven or eight States, drastically shortchanged, and that we want to try to restore it if he we can and bring sense to the thing. We will have an earnest debate, however long that takes, to see that the adjustments are properly made.

The Intermodal Surface Transportation Efficiency Act, known as ISTEA, expired less than 2 weeks ago. ISTEA in its origination was far-reaching and visionary, and we ought to keep that as a theme for what we are doing now. It declared for the first time that the interstate system was complete and that transportation policy and planning should shift the focus from building eight-lane highways to improving the transportation systems in our communities.

Earlier transportation policies specifically encouraged people to abandon existing communities and cities in favor of new development in previously untouched green spaces—the suburbs.

(Mr. THOMAS assumed the chair.)

Mr. LAUTENBERG. Mr. President, the suburbs have become the residential location of choice, and traffic patterns have shifted accordingly. I have seen it, once again, in my own State, and I have seen it in bordering States, where a new highway will be built which is designed to serve traffic that exists there and traffic that might develop. Within no time—and I say this, again, coming from the most densely populated State in the Union—in no time, there are traffic jams on those highways, be it Highway 78, Highway 24 or Highway 80. I can give you the list of highways that were built which looked like they were the highways of the future and, before you know it, they are the highways of yesterday, because people took advantage of the opportunity to move out of town: "Let's get out of here."

It hasn't spoken very well of our urban policy, I will tell you that, because what happened in the grand design that emerged in the early fifties by my former commander in chief, also the commander in chief of the Senator from Rhode Island, then became President, was a system for national highway transportation that had an unfortunate consequence. The distinguished Senator from New York, Senator MOYNIHAN, often talks about how it enabled people to leave the problems of the cities behind, move out to the suburbs and, as a consequence, we have had the despair that has followed in the cities because the revenue bases were taken away from them.

We found out that that is not a particularly good policy for America and that we have to make sure we have a balanced transportation network, one that permits a city dweller to get to work in another part of the city or another city, just as it does to aid the rural resident in getting to his or her place of work and the needs that each of the families has.

A 1996 report conducted by the Eno Transportation Foundation entitled "Commuting in America II," found that today, the dominant commuting flow pattern is suburban, with 50 percent of the Nation's commuters living in the suburbs and over 41 percent of all jobs located there, up from 37 percent in 1980. Suburban areas are now the main destination of work trips. The report also found there was a substantial increase in reverse commuting, central city to suburbs, commuting rose from 9 percent share of growth over the decade from 1970 to 1980 to 12 percent from 1980 to 1990.

However, earlier transportation policies also discouraged land use planning, creating new and growing congestion around new and growing communities. While our cities died, our metropolitan areas grew too quickly and overwhelmed the infrastructure. So there is a paradox here: In one way, the cities were falling moribund and, in another way, suddenly these metropolitan areas just grew around them and became almost the definition of—certainly far more than a metropolis. The suburban sprawl drew industry to the suburbs and drained cities of income and jobs. This trend continues today and is even expanding.

The effect of this trend on such critical issues as quality of life, safety, the environment and economic development is undeniable. I want to read from a study by the Surface Transportation Policy Project. It said:

> One of the most far-reaching effects of our transportation spending patterns is the increasingly spread-out pattern of American cities. The results of this new pattern range from the loss of open space—

We know that happens regularly.

> sprawl consumes a million and a half acres of farmland each year—to more driving and the problems it creates.

One study found that vehicle miles traveled per household increased by 25 to 30 percent when residential density is cut in half. Just think about it. Vehicle miles traveled per person increased by 25 to 30 percent when residential density was cut in half.

Do you know what that means, Mr. President? Cars, cars, cars, cars, cars.

And how do you handle them efficiently is a large question. We have talked at times about the elimination of Amtrak as a real possibility if we don't tend to its capital needs, the elimination of our only major intercity passenger rail service in the country. Look at what happens if that disappears.

If it disappears, the airspace between Boston and Washington would require that we put up 10,000 737 flights a year or more. Can you imagine? Right now, look at Newark Airport. It is beautifully designed, a very progressive airport. Constant delays. Why? Because the airspace above the airport cannot accommodate the number of flights we would require.

Look at the highways. It would put hundreds of thousands of cars or more per year on the highways between Boston, New York, and Washington. Not a terribly good idea.

ISTEA was designed to try and grapple with these problems in trends in a fair, sound, and efficient manner. It sought to employ sounder land-use planning by incorporating communities into the process. It recognized good transportation policy does not mean simply pouring more concrete and asphalt. Instead, it focused on moving goods and people in a way that makes the most sense for our Nation, our States, our economy, and our communities.

ISTEA increased planning and flexibility and placed emphasis on local decisionmaking, encouraged new technology and made environmental and social needs a priority. I saw some of that new technology in place yesterday when a coalition of firms appeared in the Capitol and showed us what might be by way of new transportation opportunities with the use of technology.

They talked about an experiment near San Diego, CA. A 7.2-mile section of road was equipped with magnets. We heard from someone from the Department of Federal Highways about a ride that she was taking at fairly high speeds, the normal speed for this section of the country on these highways. She suddenly realized that her driver was reading USA Today looking at the sports section.

I asked if he got in the back seat and she drove the car. She said, no, he was still in the front seat behind the wheel, and here he was reading a newspaper as he was traveling along at 60 to 70 miles per hour. They employed new technology, and when they equip the cars with the appropriate transmission and receiving response from the magnets on the highways, they are able to move along with the traffic. You can go to sleep if you want to, and if the traffic slows, the vehicle slows.

It is a wonderful thing, but it needs investment. In order to do that, we have to make sure that our transportation planning incorporates all of these suggestions, as well as more highways and more transportation opportunities are made available.

I know that in the New York-New Jersey region, there is a new technology to pay tolls. It is relatively painless until you get the bill, and then you see it has been a daunting experience. But with just a little device put on the windshield, you can ride through tolls on the George Washington Bridge, and the other bridges and highways around the New York area. It is going to be expanded. It shows what can happen when there is cooperation among various agencies on a bi-State basis. You can improve things without impairing any State's right to grow and develop. It is working very well. That is just a small precursor of what we might expect in the future if we employ technology properly.

Those are the kinds of things that we have to think about as we invest in our transportation system.

ISTEA is where this regard for technology really developed. It was then called Intelligent Vehicle Highway Systems. I was the author of much of that part of the bill. I tried something different. I tried to develop what we might call intelligent drivers. It was an impossible task, Mr. President. So instead, we tried to develop intelligent technologies so that the car would take over driving; it didn't have to depend on the driver's emotion to keep it cool and keep it straight.

It worked very well. The advances are just beginning to develop. That is so consistent with what our future planning ought to be about that we have to make sure that everything is encompassed in this very important piece of legislation.

ISTEA increased planning and flexibility, placed emphasis on local decisionmaking, encouraged new technology and made environment and social needs a priority.

ISTEA strongly reaffirmed the Federal commitment in transportation planning and investment. While the Nation's existing infrastructure continues to decay and we face reduced budgets, economic competition demands ever increasing efficiency and growth. Federal policy should continue to emphasize these goals while empowering local and regional governments to make their own decisions on transportation investment. As we approach the close of the 20th century, we need to build upon ISTEA's successes to prepare for more intense global economic and technological competition.

Transportation investment has a direct and indirect impact on our economy and society. Transportation by itself generates 20 percent of the gross domestic product. Each billion dollars invested in transportation produces more than 25,000 construction-related jobs. A sound, efficient, and innovative transportation system will make a major contribution to national efforts to match the productivity of our trading partners.

As we begin to consider the next surface transportation reauthorization bill, we need to think more deeply about what it is that we really want to achieve. The most important goal is to ensure a sound transportation system, one that recognizes that commerce and travel does not necessarily stop at a State's border. It recognizes that we are a nation of States and not autonomous nation-States. Our economy depends on the free and efficient flow of goods. It depends on one sector taking advantage of its natural opportunities, be it agriculture or lumber or other things, while another State takes care of its availability of energy and another takes advantage of its ability in telecommunications and electronics.

That is what makes us the Nation that we are. I have great respect for the farming and agricultural population of our country. The exchange of opportunity for them is important to me. I cooperate, as I said earlier, when they need flood control measures or irrigation opportunities. That then ought to beget reciprocation from those parts of the country when we look at a State like New Jersey, an industrial State.

The distinguished occupant of the chair is not at liberty to answer, but I will pose a rhetorical question. That is, which State has the most horses per acre of any State in the country? I will answer because I know that the occupant of the chair, being a Senator from Wyoming, would love to respond, but I will take advantage of my position having the microphone to answer. It is New Jersey. New Jersey has more horses per acre than any other State in the country.

That surprises people because they think of us as having more smokestacks than any other part of the country. Well, the fact is that New Jersey is a place where people like to live, horses like to live, and we raise them. We do not have, I do not think, the bucking bronco type that we see in Wyoming, but we have horses fleet of foot and the headquarters of the equestrian society in this country.

So we are interconnected, interrelated. That is what intermodal talks about. Simply put, that means the success of our transportation policy cannot always be measured by an evaluation of dollar-for-dollar return on gas consumption or other criteria that denies real transportation problem solutions and trends confronting the entire Nation.

I would wager—and I have traveled across most of this country, so that I have seen small cities in less populated States—one thing I have noticed is that they all have something in common, the cities in my State and the

cities in other States. They have traffic congestion at the wrong time—at perhaps the right time, because that is when people are commuting from work and from school and from home and shopping and all of those things.

Our policy should not be designed to pit State against State but should be designed for effective, efficient, and economically sound transportation, while at the same time it encourages rational and reasonable planning and new construction to meet anticipated new growth.

As I have said, I fear that for all of its good intention, this bill does not succeed in accomplishing this goal. We need one national transportation policy to promote a national system. In an era of a shrinking budget, the least we should do is prioritize our investments, the least that we should do is to ensure that our existing transportation system is adequately maintained and preserved before there are significant investments in new capacity.

Unfortunately, the incentive at the State and local level is to build new roads, complete with ribbon-cutting ceremonies and all of the hoopla that goes along with an occasion like that, but to rather do that, it seems, than the less glamorous job of investing in the proper maintenance of existing roads. That is a less glamorous pursuit and does not get the same kind of interest. But if you are driving along and you are bouncing on potholes and you can't get by road construction projects, it is quickly understood.

Since 1991, more than half of the highway money available for repairs and to be spent in metropolitan areas has been diverted to State departments of transportation to pay for the construction of new highways. This, in my judgment, is a bad way to invest. Building a new road costs far more per mile than repairing an existing one.

New roads in metropolitan areas have been estimated to cost as much as $1 billion a mile. And I can give a specific example in the New York metropolitan area. In contrast, the Federal Highway Administration estimates that it costs approximately $1.26 million for 1 mile of pavement reconstruction on urban highways.

Put another way, the way to fix what we have in favor of building new capacity also costs money. The FHWA estimated the cost of routine maintenance of pavement in good condition at about 8 cents per square foot, whereas the cost of rehabilitating failed pavement was closer to 80 cents per square foot—10 times the amount that it would require if it was maintained in good condition.

There is another thing, and we have been reading a lot about it of late, and that is the time that pavement lasts in other countries, especially in Europe, is far, far longer than we see in our country. We ought to be looking at that problem as we review our highway needs to see whether we can get longer use out of existing roads without having, again, construction blockades and things of that nature.

This bill as written abandons ISTEA's programs that place emphasis on preservation and maintenance of the existing infrastructure in favor of laying new roadbed. In my opinion, we are headed in the wrong direction. We must first take care of what we have rather than spend billions of dollars on new paving.

Mr. President, I have not risen to speak in order to deny new transportation needs. That is not my mission, because I have had a long record of involvement with transportation. I am in the Senate now 15 years and have been involved with transportation for all of those years, because in my State transportation is the lifeblood of our existence.

So I favor spending more money on transportation infrastructure. I favor the modality of rail and high-speed trains and aviation and highways and waterways. We are now seeing a proliferation in the New York area of ferries crossing the Hudson River and the East River to get people from State to State without having to wait for long lines through tunnels and bridges and congestion, and working very well.

So all of these things have to be considered. I want us to invest in all of them. What I am talking about this very day is to consider that these are national obligations and we ought to invest accordingly.

Any legislation we consider and pass should recognize the fact that what we face in critical transportation corridors is crumbling infrastructure, roadways that are falling apart and unable to bear the load they carry.

My plea here is for prudence and sound economic policy. What I am talking about is ensuring that our tax dollars are used wisely and well and that our transportation policies will meet the real needs of both today and the next century.

We underinvest in our transportation infrastructure, Mr. President. Our Nation's future standard of living depends on our infrastructure. Yet, for many years we have failed to make needed investments, and Americans are paying a price for this failure. In metropolitan and suburban areas throughout our country traffic congestion has become a major problem. Commuters waste hour after hour sitting in traffic. They sit in their cars unproductive, tempers running away from them, time lost, time away from families, away from spouses, away from children. It is a terrible waste of time, and it is eroding the quality of life for millions of Americans.

Our roads are not being maintained. Potholes mar our streets and highways. Bridges are deteriorating. Our railroads and transit systems are not being maintained sufficiently nor being invested in sufficiently to take advantage of new technologies.

Too many airports are underequipped, and delays are rampant. The sky can be used far more efficiently than we are using it. We get tied up with weather delays in this country. In other countries, some of them have figured out how to land in weather in which it is almost ground zero. It is because the technology is available. We do not use those techniques in our country. The scope of these problems is enormous, Mr. President.

In 1994, the Federal Highway Administration estimated that 57 percent of all roads have been allowed to deteriorate into poor quality, into mediocre or fair condition. They also estimated that 30 percent of major urban roads suffer from congestion.

According to the 1995 National Bridge Inventory, there are 186,000 structurally deficient or functionally obsolete bridges. That is a terrible condition. We have seen the bridge collapses. We have seen tieups around bridges. We have seen sudden emergency calls to replace the bridges which cannot be done in a hurry. We ought to be taking care of the maintenance of these things in a proper fashion.

Mr. President, failing to meet our transportation infrastructure has real economic needs. One study estimated that congestive roads in our Nation's 25 largest urban areas costs motorists $43 billion annually in wasted time and fuel— $43 billion. I guess when it is said like this, the impact isn't real. When it is translated into costs per person or cost per family, it comes down to a significant burden that we all have to carry.

Another study estimates that American motorists spent an additional $21.5 billion in extra vehicle operating costs in 1994 as a result of driving on roads in poor or fair condition.

I will not identify the community, but I was driving Friday night, it was after dark, about 8 o'clock at night, and I hit a pothole that was so deep that I thought the wheels fell off my car. I got out to see if there was any damage, and I could not see it. But this thing was 1½ feet deep. Imagine hitting that if you are going 30 miles an hour and suddenly—and it had to be 2 feet wide, so it caught the wheel very, very fully.

We see it all the time in all the States across the country. I hear about the condition of roads. The Senator from Illinois held up a newspaper article in which it said Illinois had among the worst roadways in the country. Well, I think that can be imagined by lots of people as they travel the roads in their own States. It is an inexplicable condition that arises around when we say that we want things to be better but we are unwilling to make

the investments in maintenance and care that we ought to.

Meaning no slight to the auto and truck repair industry, with statistics like these it is clear that at least one sector of our economy will continue to prosper if these conditions are not addressed.

According to the Department of Transportation, in 1994, $57 billion in capital investment would have been required from all levels of Government just to maintain—now that is in 1994, $57 billion would have been required just to maintain 1993 conditions in performance. Imagine that. In 1 year we created a need for $57 billion in capital just to maintain the level of quality that existed on our roads.

In 1993, by comparison, we spent only $40 billion on highway and transit capital investment compared to the $57 billion that would have been required a year later.

In other words, to simply maintain current conditions and performance on our highway and transit systems we would have to have increased investments by over 40 percent. This kind of dramatic underinvestment, Mr. President, simply cannot be sustained without our entire country paying a severe price in the long run. Keep in mind, Mr. President, that what we need to do more than simply maintain current conditions of performance if America is going to compete successfully in the future, we need to make improvements, as well. There is just no escaping the need for a greater commitment of resources.

For example, to invest in all those highway improvements that would yield greater benefits than costs, the Department of Transportation estimates we would have to invest $80 billion. In other words, to improve conditions to optimal levels based on economic and engineering factors, we have to double our current capital investment in highway and transit.

We, in this body, often talk about the importance of the marketplace in driving the economy. Well, Mr. President, I have owned, started, and operated a business and I know firsthand that investment in the long term is required. The first question that we should ask of any legislation that purports to address transportation needs is whether in the long term it is going to help or hinder our Nation's ability to compete effectively in the global marketplace, and whether it will meet the needs of our citizens on a day-to-day and year-to-year basis.

I feel especially strongly about the importance of transportation because in my State, as I said earlier, it is critical.

Mr. SARBANES. Will the Senator yield?

Mr. LAUTENBERG. I am happy to yield to the Senator.

Mr. SARBANES. This transportation bill is critical to every Member of the Senate. It is highly critical to every State, is it not?

Mr. LAUTENBERG. It certainly is. To answer the question of the Senator even more broadly, the fact of the matter is that in this change in program some States have had adjustments that are as high as 48 or 50 percent over their previous year, while other States took a cut. So when the Senator asks is it critical to every State, absolutely.

In a State like that of the Senator from Maryland or my State, it has a unique character because of the crowded conditions under which our people live—densely populated States, metropolitan States.

Mr. SARBANES. If the Senator will yield further for a question, I simply ask the Senator, in fact, my State is the second-highest traffic density on the urban interstates of any State in the Nation. You may be No. 1. Now, that makes a very important point.

The purpose of the Federal Highway Program is to provide a high-quality road system. I understand the claim of donor States and I am not trying to minimize that. I think attention has to be paid to that.

On the other hand, I always thought that the system was directed toward the system's needs. The purpose is to construct an interstate highway system that serves the entire country, and I think if you are going to have real equity in the distribution of highway funds you need to look at things like urban areas of highway traffic density, high volume of vehicle miles traveled per lane mile, other systems that indicate how heavily the infrastructure is being used. I understand in rural States they have a different kind of problem and we need to take account of that as well.

One of my difficulties with this bill, and I ask the Senator whether it is the same, if he has the same perception, is that this aspect of developing an interstate highway system—of course, we built the system. Much of it now needs repair and rehabilitation

Mr. LAUTENBERG. Or maintenance.

Mr. SARBANES. In my State, we have not yet finished the interstate system. We have some very pressing problems in the western part of my State with respect to certain interchanges. It was not done the way it should have been done to begin with, and we now have to address that problem.

I say to the Senator from New Jersey, I take it it is your perception, as well, that these considerations of system need and the needs of the heavily urban areas in which there is this very heavy, heavy traffic, have not been adequately addressed in this legislation.

Mr. LAUTENBERG. I could not agree more.

What has happened is the proposed formula is a much more mathematical exercise. It says if you put in this dollar's worth of gas tax, that you have to get back your dollar's worth of investment in the highways.

On the other hand, States like yours and States like mine get a far less return on our total tax dollars, those dollars sent to the Federal Government, than many or most States in the country. In my case, we happen to be number 50 in return on dollars that we send down to Washington. This was one place that there was an opportunity to regain some of the advantage that was rightfully ours, and it is being ignored.

So to answer the Senator's question, there are many conditions that ought to be evaluated in terms of a national transportation investment that go beyond simply the dollar-for-dollar return on gas tax. It ought to consider what contribution does the State of Maryland, does the State of Rhode Island, does the State of New Jersey make to the national economy, to the national well-being as a result of having its roads available and open and in decent condition so that traffic that goes from place to place—from the market, from the farm to the port, from the factory to the airport—what kind of a return ought we to get for that? What kind of compensation ought we get for that?

Mr. SARBANES. If the Senator will yield further, I think he is addressing a very important point.

Let me give an example from my State. Maryland has one of the highest density levels on urban interstate in the country, as I said before, second. Apparently, New Jersey is first. The Baltimore-Washington region interstates are the second most congested in the Nation. Now, my colleagues can appreciate this because they are here in Washington and they have some experience with this highway network I am talking about.

We are in the center of the I–95 corridor, the north to south corridor. This corridor generates a huge amount of commercial and passenger traffic. It is adjacent to the Nation's Capital which generates additional commercial and personal through traffic. We are serving not just our own needs but national needs by having a first-rate interstate system here. In fact, we have a disproportionately large responsibility for complex infrastructure projects that need maintenance and rehabilitation. These projects—I–95, the Capitol beltway, the Baltimore beltway, I–70—all carry through traffic generated outside the State of Maryland. Now, there are other States along the eastern corridor—New Jersey is an obvious example—that are sort of through States. In other words, a lot of highway traffic is moving through those States, going from one point to another point, and neither point related to the State through which they are passing.

Yes, we have to invest significant amounts of money, not only the Federal share that we receive, but State and local share as well, in order to maintain this highway network if we are going to maintain the existing infrastructure and have the efficient movement of freight and passenger traffic.

Now, my perception of this bill is it does not adequately address that consideration, that that is one of the things that has not been focused on.

The formula allocation represents a very significant drop for my State from 1.72 to 1.51. The amount of money now that is provided for the interstate discretionary program, as I understand it in this legislation, is severely limited. As I understand it, and I ask the Senator from New Jersey, there is only $140 million a year nationwide for both interstate highways and bridges, is that correct?

Mr. LAUTENBERG. That is correct, and it is an appropriate deficiency to note.

By the way, as the Senator talks about the State of Maryland and a change in formula, ours goes from 2.82 to 2.41. There is a difference of more than 15 percent in just that change in formula.

The Senator was not in the Chamber when I talked about the fact that if changes were necessitated in formula, they should have been debated at length. They should have had the appropriate kind of committee reviews. I know the Senator sits on the committee where transit needs are considered. We have the Commerce Committee involved with aviation and rail, we have the Environment Committee on which I sit and under whose auspice this bill is presented for highway and road travel. To suddenly change that formula without considering the national aspects of the requirements that Maryland has imposed upon it or that New Jersey has imposed upon it—Maryland happens to be in a critical location in terms of our defense needs. If there is an emergency, we have to be able to move troops and equipment through in a hurry. That readiness costs something to maintain.

There is also a requirement, I know the State of Maryland shares with New Jersey an interest in having high-speed rail service pass through your State and commuter rail service. Look at the success we have seen just with the establishment of WAMATA. The investments in those areas are critical if we are going to have a national perspective.

Can you imagine a system to serve the Capital and environs that isn't contributed to in significant measure by the Federal Government? As it happens, it is, but it describes very poignantly the need that exists when you participate in a national scheme.

Mr. CHAFEE. Could I make a correction? The Senator from Maryland was in error in a statement.

Mr. LAUTENBERG. I am happy to yield for a response.

Mr. CHAFEE. There was only $140 million available for interstate repair and maintenance. That is in the Secretary's discretionary account and that is exactly what he has under the currently existing ISTEA measure, but divided among the States it is some $6 billion—with a "b" for billion.

So it is a long way from the $140 million the Senator thought was all that was available.

Mr. SARBANES. The amount that is divided among the States, as I understand it, is a formula allocation.

Mr. CHAFEE. That is right.

Mr. SARBANES. I recognize there is a formula allocation. Here is the problem, and I am glad the Senator interjected because I think it is very important to focus on this problem. I understand the committee's problem. The committee had to do a formula allocation, Members are at them from all over the place, about the formula allocation.

Now, I concur with the Senator from New Jersey, and I appreciate his continuing to yield to me for a question. We didn't know what the formula figure was going to be until the committee came out with the formula figure, and then we were presented with this formula figure. So we take a strong hit on the formula which I think does not adequately recognize the kind of transportation challenges with which we are confronted which have a national import.

Now, in addition to the formula allocation, there are also other moneys that are available in the legislation—various discretionary programs. The interstate discretionary program is one, the public land highways is another, the Appalachian regional highway program is yet another, and there are others, as well, which can be used if the committee is saying to us we can't do the formula allocation in a way that takes into account all of these considerations. Then the least the committee should do is have these other programs which can then be used to offset the unfavorable impact of the formula allocations. It is my perception that that hasn't been done, as well.

Now, we have one unique problem in my State that I want to bring to people's attention, and that is, the Federal Government owns the Woodrow Wilson Bridge; it is federally owned. It is the only facility on the interstate system in which that is the case. Now, the committee has provided $900 million, and that is certainly an important step forward, but it is barely over half of what would be required to get a new Woodrow Wilson Bridge, which every expert agrees is necessary.

Now, the States have indicated that once a new bridge is done, they are willing to take over the responsibility of maintaining it from then on out. But it is clearly unfair to dump the responsibility upon them that was not met by the Federal Government. There is no way the States can pay for this thing. Maryland receives, under the formula allocation, a little over $300 million a year in Federal highway money. We are going to need, for one bridge, $1.6 to $1.8 billion, and this legislation provides $900 million. I think it is the Federal Government's responsibility, frankly, to deal with the problem of this bridge. They need to face up and deal with that problem. Once they have dealt with it, then it can be shifted over to State responsibility. But you ought not to dump this responsibility, which the Federal Government failed to meet, upon the State. So this is a whole list of the kind of problems we are talking about, which this legislation fails to come to grips with.

(Mr. SANTORUM assumed the chair.)

Mr. CHAFEE. Well, if I might say to the Senator from Maryland, $900 million gets you a pretty good bridge, I think, if the Senator is discouraged by only $900 million for the bridge. I appreciate their approach to that as well. There have been some estimates that go as high as $1.6 billion. But the Senator ought to be aware of what the House proposal is.

Mr. SARBANES. I am aware of what the House does. I am not arguing the House bill.

Mr. CHAFEE. The House bill left it entirely up to Virginia and Maryland. So I would hope that the Senator would be somewhat grateful for what the Senate is doing.

Mr. SARBANES. Well, I think we indicated that we understood the committee has done something. I am pointing out that it is not adequate to meet the problem. This is a pressing problem in the interstate system. The House approach would actually create a gaping hole in the interstate system. I think the committee recognized that problem at least. But, again, I am talking about this in the context of the other things that are happening in this legislation. If the committee came to me and said, look, we have to redo a formula allocation, we understand the problems it creates for you, we understand you have some other pressing highway needs, and we are trying to help you address those, but that hasn't happened. Any effort to try to get at that hasn't met with any success.

I understand the committee has a difficult job and I, frankly, have been supportive of the effort to try to find more money with which the committee can work. I say to my friend from New Jersey, isn't it a fact that if more money were available, it would be easier to work out these problems?

Mr. LAUTENBERG. Absolutely.

Mr. SARBANES. Some of us have supported the committee in its effort

to find more money, and you come in and you are confronted with a bill like this.

Mr. LAUTENBERG. I had an opportunity earlier today to talk about that. I will soon yield to my good friend from Montana. I had an observation earlier today in a discussion that we had in miniconference out here that more money is more money, except that if more money comes and we continue to lose our share, it doesn't do what we think it ought to do, which is to improve the system generally, but not at the expense of our respective States. That is really the nub of our discussion.

If the Senator from Montana is asking if I will yield for a response, I am happy to yield without losing my right to the floor.

Mr. BAUCUS. I thank the Senator. This is basically a discussion here on the bill. Obviously, it is the goal of the committee and the Senate to come up with a fair highway bill. That is what the Senator from Rhode Island is attempting to do and the Senator from Virginia, who was on the floor, the Senator from Montana, and the two Senators now speaking seek that same goal. It is also true that we are in a transition.

This country is changing. The country, in 1997, is not what it was in 1987, not what it was in 1980. The fact is that, in 1991, in an ISTEA bill, the highway bill, this Congress essentially did not update data. It just took the 1980 data. That is, lane and miles traveled, vehicle miles traveled. We even used a postal roads component which was enacted maybe at the turn of the century. We used very old data when we wrote the ISTEA bill that we are now currently operating under. It is just unfortunate.

At the same time, in the earlier ISTEA bills—not the one before us, but current law and the earlier one—the main effort was to complete construction of the interstate system. That was the main purpose of the program in the first place. The current ISTEA bill—not the one on the floor, but current law—based its formula essentially, as I said, on old data and upon completion of the interstate program, and that is what we did.

In 1991, we just built upon the earlier data, which was data for the completion of the interstate. And in this last ISTEA, we then apportioned more dollars to States which were completing their interstate system, compared with States that were not completing their interstate system. And the current law basically completes construction—not maintenance, but construction—of the interstate system. And so now, in 1997, the new transportation bill we are writing is one that recognizes that the interstate system has been completed. We are now moving toward maintenance and intermodal systems, intelligent highway systems, and other programs to modernize, update, and make sure that the current transportation bill is no longer based upon older data, but rather is based upon current data.

That means that those States that got a lot of interstate completion money in the last several years are not going to get the same additional dollars in this bill for the very simple reason that their interstates are completed. On top of that, many States built their interstates financed with tolls. That is, Federal dollars were not sent to those States; rather, those States charged their motorists tolls and they built their own interstates, feeling that either they wanted to do it earlier or that way was a better way to do it, et cetera. A lot of these States, after completing construction of their interstate systems, based upon tolls, have now come back to the Congress—in fact, in the last ISTEA bill, they were able to convince this Congress that they should get reimbursed again, even though those interstate systems were paid for by tolls. This Congress paid Federal money again on top of the completion of the interstate.

So we have some States with lots of dollars in the last several years of the interstate system—that is, States with lots for interstate completion and States with what is called interstate reimbursement dollars going to those States. I know this is not a comfortable position for some of these States to be in when they look at only the dollars because, obviously, those States would like to have a percentage increase again in the current years over the past dollars they have been receiving, even though their interstate construction, which is more expensive in maintenance, is complete, and even though those States got interstate reimbursement dollars on top of interstate systems that were financed by toll roads.

So here we are trying to write a bill which recognizes, again, the completion of interstate construction and rather moves toward the current new era which, as I mentioned, recognizes the completion of the interstate construction. Now, the Senators make a very good statement and point when they talk about congestion and the number of miles—the amount of congestion on I–95 or on the eastern corridor. In fact, as the Senator from Maryland said, Maryland ranks second in the Nation in urban congestion. That is a fact. The State that ranks No. 1 is California. New Jersey is not too far down the list.

My thought here is that we have the challenge before us of trying to address what I think are legitimate concerns and that is the congestion factor that the Senators talk about. We are operating under very severe constraints; that is, the amount of dollars in this ISTEA bill is pretty tight, based upon the budget resolution, the President's proposal to Congress, and the increase in ISTEA dollars in this bill is not as much as was the increase in ISTEA dollars in the last ISTEA transportation bill. So it would be my thought that we find a way to amend this bill so that, in effect, if not this year, at least next year, there are potentially more dollars available, and in a way that certainly it may recognize the concerns of the Senators.

I am not prepared at this point to say what that might be. There needs to be more discussion to determine that. But I think that if the amendment that we know is going to come up is passed, there might be a way to address that. You certainly have the assurance of this Senator to work in the context of that amendment to see if we can potentially address some of the concerns the Senators have. But the main point is that we are trying to work this all out. We hear what you are saying. There are many opportunities: there are amendments, there is a conference, and it is my hope that we can pass a bill which is fair to all regions of the country. You have my assurance that I will do all I can to achieve that goal.

Mr. LAUTENBERG. Mr. President, I hear the Senator from Montana's interests and concerns. I know that he is sincere. We have worked together for many years, as I had with the chairman of the committee. But if this bill goes as it is, the chances for recovery, I think, are pretty slim. And once in place, we will be running uphill to try and recover.

What I would rather see is some kind of a consensus developed that includes the States that are now disadvantaged. I was looking at the States and I see that percentage points in a State that borders both of our States—Pennsylvania—is down to 20-some percent from its formula share from where it was —22 percent, I think. We can't deal in this room, at the moment, with the poor fate that befell Pennsylvania. I don't know how their Senators are going to respond to it. I think if an adjustment is going to be made in the formula, there has to be a period of transition so that States are held harmless from where they were as adjustments take place. This isn't to suggest that review is out of order, not at all. I think reviews of the formula are always in order. But I think the Senator from Maryland made an important contribution to this debate when he highlighted the national interests and national obligations that some of our States have, being corridor States, as expressed earlier by the Senator from Illinois. A corridor that runs east and west produces a lot of traffic through the State of Illinois.

Mr. SARBANES. Will the Senator yield for a moment?

Mr. LAUTENBERG. Yes, I will.

(Mr. ALLARD assumed the chair.)

Mr. SARBANES. My State has one of the Nation's great ports, the Port of Baltimore.

Mr. President, the road network from that port to the West is critical for the commerce of the Nation—not just for the commerce of Maryland, but for the commerce of the Nation. A proper system of access for the movement of goods is extremely important to the economic health of the country. So all of this needs to be taken into account. We are on a major corridor for the movement of passengers and traffic north and south, and because of the port, we have a major corridor that goes to the Midwest that is critical for the economic activity in the Midwest. In many respects it is more critical for the economic activity in the Midwest than in my own State. Those things need to be considered in this legislation.

The Woodrow Wilson Bridge that we talked about—and I think the chairman is right, they have certainly done a better job than they have done in the House. But we still have to get up to a point where we can do this bridge, and this level will not allow that to happen. That is a major link on the entire interstate highway system. Every expert who has examined it says the bridge needs to be replaced within the next 5 to 6 years. We have to move on that project.

Those are items that could be addressed I think in this legislation.

I also agree with the Senator from New Jersey. If you are going to start adjusting the formula in recognition of, let's say, population shifts, which is what the argument is that is being made, at the least—of course, I argue that you have to look at system needs in a much more significant way than I think has been done in this legislation. But leaving that to one side, at the very least, the transition period has to, in effect, cushion the impact of it so that States don't all of a sudden find themselves unable to carry through on committed transportation projects which are essential for the vitality of their economy. That is what the whole issue is that we are discussing here.

Mr. LAUTENBERG. Mr. President, the Senator is right. The fact of the matter is that among the items that have to be considered in establishing a proper formula has to be the amount of mileage recorded within the States' roadbed systems. In my State we have north-south I–95, east-west through to I–80, and all kinds of cargo and material pass over these roads and cause enormous traffic congestion in New Jersey. Our roads are beat up, with heavy trucks taking more than their fair share of the abuse. We stand there and kind of grin and bear it. But it is in the national interest.

If one wants to use an analogy, we have to look at what happens in environmental legislation. New Jersey, being in the location that we are on the east coast, is the unfortunate recipient of material carried by the prevailing winds from west to east. They carry all of the pollutants and all of the particulate that is thrown up by stacks across the rust belt, or the iron belt, or the steel belt in the midwestern States. Some of that material travels hundreds of miles to arrive at its place of deposition, which is New Jersey, Maryland, and New York, in the eastern States.

So, as we consider environmental legislation, we try to accommodate what causes the problem. The problem is caused by the energy and industrial nature of things from the Midwest. That is part of the formula. Here we are saying, listen, as we create new formulas, we ought to debate them more thoroughly and let's talk about the congestion on our roads that we receive as a result of being a corridor State.

New Jersey is a corridor State. Commerce travels in the Northeast and the rest of the country. Over 60 billion—with a "b"—vehicle miles are traveled on my State's roads annually. Our State is the Garden State. It is one of the most important links in our Nation's transportation system.

The Senator from Maryland talked about the value of the port. I know that the Senator from Rhode Island, the chairman of the committee, is trying valiantly to improve the efficiency of the port outside of Providence by making sure that there is rail access and truck access that is good. I respect him. And, frankly, I see it as a positive thing for my State of New Jersey. Could it be competitive? Of course, it could be competitive. But I don't look at it that way. I think our country is obligated to continue to produce to the best of our ability to the maximum of our capacity. So we need these facilities.

So whether it is specifically located in New Jersey or Maryland or Rhode Island, the fact of the matter is that what happens in the West, what happens in the South, and what happens in the center of the country depends very much on the capacity of our States in the East to be able to help their export market, which is such a big part of things, and also the industrial market because parts go from one place to another and assemblies are done in different States often than where most of the parts are manufactured. It is an essential part of our national being. Ten percent of the Nation's total freight either originates, terminates, or passes through New Jersey. Almost 60 percent of this tonnage is strictly through traffic. Imagine that, 10 percent. Goods traveling just 24 hours on a truck from New Jersey will reach a market of 40 percent of the population of the United States and Canada—over 100 million people.

Mr. President, these aren't just cars from New Jersey; they are vehicles from every State in the Nation, as well as Canada, Mexico, and other nations.

In short, and to rephrase an old joke—I don't like jokes about my State—but if you are traveling on the east coast and you don't go through New Jersey, you just can't get there from here.

Millions of people travel along New Jersey's highways. They travel from the South, the West, New York City, Boston, and New England. People in New York and New England on their journeys travel to places like the sea shore, Florida, Washington, DC, the Eastern Shore, or trying to get to Long Island Sound and sallying up out of Rhode Island and those places. So we have to make sure that our roads are efficient and functioning, and that we are not drowning in pollution.

Every day 324,000 tons of goods made in my State of New Jersey are transported on New Jersey's roads by 134,000 trucks. Many of these trucks are coming from the ports of Newark and Elizabeth. They are transporting cars and other goods that arrive from countries like South Korea, Great Britain, Germany, Taiwan, and Indonesia. The entire port of New York and New Jersey is the busiest port on the east coast. Despite the critical importance of New Jersey's infrastructure to the Nation, it is in dismally poor shape and getting worse by the hour, by the day, and by the week. Nearly 20 percent of New Jersey's interstate mileage is in poor or mediocre condition, and more than 45 percent of our bridges are in deficient condition. They are functionally obsolete in many cases.

Mr. President, New Jersey's roads and bridges take an unbelievable pounding in hot summers, and harsh winters take a huge toll on our infrastructure. Road salt in the winter and ocean salt year round add to the damage.

In addition, New Jerseyans and those who travel through my State often face unbearable congestion. Travelers in cars and trucks struggle for hours every day with New Jersey's highway stops and starts, and our heavily used roads and bridges are badly in need of additional maintenance.

Mr. President, the status of New Jersey's transportation infrastructure has a direct effect on the State and the region's economic vitality and on every resident's quality of life. But more importantly, it affects the entire Nation's economic vitality. The future challenges to that infrastructure are ominous. In the next 6 years there probably will be more travel on our roads, more cargo coming into our ports, and more rapid deterioration of our transportation infrastructure. That is not a particularly pleasant prospect, and I think that we have to prepare for it in the best possible way. The best possible way is to recognize that States like mine and those such as the State of

Maryland have unique conditions that have to be met.

I once again would like to review and restate the number of States that are included—Maryland, New Jersey, Pennsylvania, Ohio, California, and Massachusetts, to name but a few. There are eight States in all that seem to have the heaviest share of the load. Unfortunately, the ISTEA bill before us does not adequately respond to the challenge that we face. It doesn't address New Jersey's growing needs.

Note that the highway title addresses density on highways, or congestion. While it recognizes the particular situation of some States, when it comes to heavily used, densely populated urban States with significant commerce and trade traffic, the bill is virtually silent. If a State's motorists choose to not guzzle gas, either by using mass transit, walking, or biking, this bill will penalize them. Therefore, it has to be improved. I am not saying that New Jersey should get more than its fair share. I am simply saying, Mr. President, that it should and must get its fair share—nothing more, nothing less. The bill just doesn't do that.

Mr. President, there is another bit of word and verbiage that goes into the debate on highways. We talk about donor States and donee States. The distinguished colleague of ours from Louisiana said you can't explain that to the folks back home and said they want to see whether or not their road and their infrastructure is getting attention, whether the potholes are being filled, and whether the roads are being maintained in a suitable fashion.

So I get tired of hearing complaints that emanate from the so-called donor States. To make it very simple for any who might be listening or watching, donor States are those that send down more in tax revenues, gasoline taxes in particular, than they get back. The others are called donee States. The donor States complain about how they don't get their fair share of highway and transit funding. Many of those donor States do quite well when one examines the total of Federal return on the dollar. Many of these States simply don't have the same needs as New Jersey and other high-density transportation corridors.

Mr. President, when it comes to defense spending, spending by the Interior Department, agriculture spending, many urbanized, densely populated States come out year after year after year as big losers. But we have not said yet that the Government must spend as much on national parks in our region as we spend in western States. We have not yet demanded an equal share of the defense spending or an equal share of agricultural spending. It is not realistic. Those States that now have these investments being made have particular needs.

Those needs strike me as being part of the national requirement. If there is a national park in Colorado, I would like to see it maintained because in visits by my constituents or my family or people from around the country, I want them to be proud of it. I want them to say, why, there is nothing prettier than Estes Park and other parks that exist in Colorado, and so it should be. I want to make sure if airspace is needed so that our airplanes can fly and practice and train—our Air Force Academy is in the State of Colorado—we continue to invest in that and in that skill we have. I think it is going to be more required in the future. But a large part of that investment vests in Colorado. So what. It is part of my national interest.

Or an equal share of agriculture spending. New Jersey is still called the Garden State, and despite the density of population that we have—the most densely populated State in the country, I remind everybody—about 25 percent of our State is still forested, and that is really pleasant to see. I see it often from airplanes. We have one reserve that is a million acres today. But we are not looking for assistance with our agriculture, even though our farmers perform an important service for the community, because these demands are unrealistic. They do not take into account the real needs of the entire Nation. They do not consider that there is a benefit for all Americans by strategically focusing resources to meet critical problems.

I said earlier and I repeat, when floods took over the Dakotas and parts of Minnesota or Missouri, I wanted us as a country to help out, and I was very vocal about it. I felt it was a responsibility that we had, again, to confirm that we are one nation.

The fact is each State has its own individual needs, and they change from time to time. New Jerseyans send $15 billion more per year to Washington than they receive in total Federal dollar return—$15 billion more. The Federal Government's job is to apportion funding where need is greatest, and sometimes we swallow hard and we say, if one State has a higher need for family spending, welfare, OK, we are willing to take some share of that.

On the other hand, Mr. President, when it is our turn, I think we ought to get some consideration. The one area where we are a donee State is transportation, and that is because there was some recognition that so much of the Nation's traffic load was carried by the State of New Jersey. But now the intention is to change it. If I may say so—and I do not mean to castigate—the fact is that it was almost whimsical in its development, because States like mine took some pretty big hits.

Well, my State and my region's needs are largely in transportation. That is our equivalent to agriculture for Iowa and Nebraska and those States. We are in the most densely populated part of the country, with some of the most highly traveled and congested roads. Anyone who has driven the New Jersey Turnpike, Route 1, Atlantic City Expressway, Interstate 80 can attest to these needs. As I have already noted, many of these vehicles on these highways are from States other than New Jersey. My kids used to love to play a game when they were little. We would write down the States from the license plates that we saw, and we would get pretty close to 49 besides ours because there were so many. I didn't always enjoy being in the middle of that confluence of traffic, but at least it kept the kids seated.

Mr. President, New Jersey isn't just asking from the Federal Government transportation dollars. We are investing our own funds in our infrastructure as well. State and local governments in New Jersey spend more highway dollars per lane mile than any other State in the Nation—our money, reinvested in our infrastructure. We made this commitment to transportation simply because our needs were so great. But that does not excuse getting our fair share from the Federal Government.

There is nothing in any study, census projection, or economic trend to indicate that these needs will diminish in the future. In fact, quite the opposite is true. Some States are arguing that they should get back at least 90 percent of those payments they have made into the highway trust fund. But I still think that their needs have to be examined before that return is justified. It is part of a contribution to the national well-being, and it makes no sense to take away funds from regions that have greater needs.

I remind everyone that we are a single nation, one nation, and not a collection of autonomous sovereignties. Can you imagine what would have happened if at the Constitutional Convention our delegates included a clause in the Constitution mandating that each State must get back from the Federal Government 90 percent of what it paid in taxes? What would have happened to our country? We have people now who individually say, well, I don't want to pay for this. We have people from extremes on the right like militia who say, I don't want to pay for the kind of liberal judicial system that we have, or I do not want to pay for that program or this program. Then we have people on the other side who say, I am unwilling to have my dollars go for defense needs. But we say, too bad; you are an American; you are part of American society. You are part of a great nation. You are part of a country the likes of which has never existed on this Earth before and perhaps never will again. But we say, that's your obligation. We are one country. We are one people with sometimes different actions, but we come together when we have to.

Those of us old enough to have served in World War II saw it, as did the distinguished chairman of the Environment Committee, who had a very distinguished war record. Mine was not so distinguished, but I did what I had to in Europe in World War II. We came together as a country. We sometimes forget that obligation, that we are one nation and we ought not to pick at one another's opportunities or advantage and say, OK, you've got this because you are a donee State and therefore we are going to take it away from you.

Unless the whole picture is examined, it is not a complete one. We certainly never could have maintained our great national parks and forests; we could never have saved thousands of family farms from bankruptcy in difficult economic times; we could never afford to pay for emergency relief from earthquakes, floods or hurricanes; we would certainly not have a national transportation system; some States would have paved roads and some States would have dirt roads; there would be no interstate highway system, no airports in rural areas if we said it wasn't part of the national responsibility.

I repeat that I am a supporter of essential air service for which the Federal Government pays a significant subsidy. For every passenger that flies into some of those airports, the Federal Government will pay two or three times, four times the cost for the seat because we do not want to see those communities isolated. They are very dependent. So we say, OK, it is part of an obligation we have. We certainly wouldn't have a national passenger rail system. It may be more regional than national, but it travels through important regions of the country. I don't know of any State, as infrequent as Amtrak rail service might be, that wants to give it up very quickly. We would not have a space program; we would not have a National Science Foundation; we would not have the National Institutes of Health; more importantly, we probably would not exist as a nation because we would have no national defense, no Army, Navy, National Guard, Air Force.

Thanks to the wisdom and forethought of our Founders, there is no minimum guarantee clause in the Constitution except to protect the individual rights. Perhaps some in New Jersey think we might be better off if there were. We have a high per capita income, but we ought not to be penalized for it. We make our contribution in many ways. The fact is our Nation is stronger because Federal aid has been provided to areas with the greatest needs, and that is the way it ought to be.

I want to talk for a moment about another matter that is important to my State, mass transit. Good public transit increases the efficiencies of existing roadways, especially in congested areas where many people live. Transit is essential to rural, suburban and urban residents. It is a cost-effective solution to health care access, a key to successful welfare reform, and an environmentally sensible way to meet commuting needs. It is an increasingly important service for the elderly, for persons with disabilities, for students and those who cannot afford a car.

Anyone who questions the necessity for transit services only has to visit some of the more populated States like New Jersey or New York or California, where they do not have enough public transportation, or Maryland or the District of Columbia. The most densely populated State in the Nation, New Jersey has also the most vehicle density on its roads. Located between two heavily populated metropolitan areas, New Jersey is known as the corridor State. Over 60 billion vehicle miles are traveled on New Jersey's roads annually. The ability of trucks and cars to move freely on New Jersey's roads directly affects our economy. It affects the congestion, which has a dramatic effect on the individuals living there.

It is also a primary commuter State. Millions of New Jerseyans face serious commuter problems each day. In many areas of New Jersey there is nowhere else to put a new road. Many of our people work in New York City, and their residences are in New Jersey. Or in the southern part of our State, many of our people work in the city of Philadelphia. They have to be able to get back and forth to work. But we simply can't build ourselves out of congestion. That is why my State is so heavily reliant on mass transportation. Nearly 10 percent of the New Jersey work force uses mass transit.

We have a line just recently created called the Midtown Direct, a project in the urban core, which is a program very successful thus far, designed to bring together railroad connections that exist throughout our State into New York. Midtown Direct was one part of it, and it was inaugurated 1 year ago. Within weeks, the ridership doubled its projections.

Transit in New Jersey is well used and well supported. Nationally, transit has also proven to reduce congestion and, of course, save dollars.

A 1996 report conducted by the Federal Transit Administration found that the annual economic loss to U.S. business caused by traffic congestion is $40 billion, and the additional annual economic loss if all U.S. transit commuters drove instead would be $15 billion. So we are looking at huge differences in our economy.

It is also obviously good for the environment. According to the Federal Transit Administration, transit use saves 1.5 billion gallons of auto fuel in our country each year, 1.5 billion gallons. If one wants to worry about what happens to America's independence, one need only look at the quantity of imported oil that we are bringing into the country. Transit is energy efficient, and the less gasoline used the less the United States is dependent on foreign oil.

Americans also see direct public health benefits from transit use. According to the Environmental Protection Agency, up to 110 million Americans breathe air that is unhealthful. The American Lung Association estimates that the national health care bill for air-pollution-related illness is $40 billion a year. Transportation sources cause 40 to 60 percent of pollution that produce ozone, and 70 to 80 percent of carbon monoxide emissions. Nearly one-third of carbon dioxide emissions, the most significant greenhouse gas, comes from transportation sources. And, on this debate, no matter how detached or how unbelieving a person might be, one cannot be unconcerned about what we see happening with our climate, what can be happening with our health in this country. Much of the problem, in my view, emanates from the fact that we have these emissions in ever-increasing quantities in this country, as much as we fight against it.

The fastest growing source of carbon dioxide emission is the transportation sector. Transit produces real environmental benefits. On average, riding transit instead of driving cuts hydrocarbon emissions that produce smog by 90 percent and carbon monoxide by more than 75 percent. One person using mass transit for a year instead of driving to work saves our environment 9 pounds of hydrocarbons, 62 pounds of carbon monoxide, and 5 pounds of nitrogen oxides.

It doesn't stop there. Over the past 30 years, the U.S. transit industry and its riders have prevented the emission of 1.6 million tons of hydrocarbons, 10 million tons of carbon monoxide, and 275,000 tons of nitrogen oxides into the air; the importation of 20 billion gallons of gasoline; and the construction and maintenance of the 20,000 lane-miles of freeways and arterial roads and 5 million parking places to meet demands, saving at least $220 billion a year.

Transit is an important part of our Nation's transportation system, and we ought to ensure that it is afforded the same priority as other modes of transportation.

It is obvious, this bill also needs to address a crucial safety question, and one that I have worked on very hard over the years. That is, in the pursuit of safer highway travel we ought to do what we can to get drunken drivers off the road. This bill has to include a reduction in the blood alcohol measure, from .10 to .08 as a national standard. It is already, by the way, the standard in 15 States.

Let me explain why we need this new standard. In 1996, 17,000 people died in alcohol-related traffic accidents; 17,000 people. By the way, if we examine the history of the Vietnam war, where we lost over 50,000 of our service people, the high year was about 17,000 people killed. Every year in America, 17,000 people die in alcohol-related traffic accidents. It is a national disgrace. Of those, 3,700 people, almost 9 percent, had alcohol levels below the .10 standard that most States enforce. Mr. President, .08 BAC laws have proven to have an effect on even heavy drinkers. The beverage industry fights us, and will continue to fight us on this. They tell you that it will ruin business, that the .08 law targets social drinkers and makes criminals out of them. Nothing could be further from the truth. When I wrote the law that made the drinking age across this country 21, the minimum drinking age, the beverage and the hospitality people said you are going to ruin our business.

Ruin their business? We saved 10,000 kids from dying on the highways since I wrote that law in 1983. Mr. President, 10,000 families don't have to mourn the loss of a young child. One can hardly say that business in restaurants, taverns, and social places has been bad. They can't say it now.

To make the point, a man of my height and weight could drink four beers in an hour on an empty stomach and still not hit .08. If I drank a fifth beer, I would be over the .08 but I would still be under .10. Should anyone be legally entitled to drink that much alcohol and then get on the road? The question answers itself. Of course not. Keep this in mind, when you look at a group of people in a bar or restaurant having drinks, the .08 law would only affect one of those people, and that is the person driving a car.

We are not asking people to stop drinking. This is not a morality play. I am not telling people that they should not drink to their pleasure. If someone falls off a bar stool, as long as he doesn't fall on me it doesn't hurt me. But if he gets behind the wheel of a car, Heaven forbid, he could take away a child, a grandchild, mother, father, brother, sister. It should not be allowed. It's a criminal act. It turns an automobile from a thing of pleasure to a lethal weapon.

We say just control your habits. There is a point at which they need to put the cork on the bottle for their own safety and for the safety of everyone else who shares the road with them. Studies have shown that States that have adopted .08 laws have had significant drops in alcohol-related traffic deaths and that a national .08 law could prevent up to at least 500 to 600 fatalities a year. Just that difference, from .08 to .10, could save 500 to 600 people a year from dying on the highways.

In the State of Virginia, after it adopted its .08 law, it saw a drop not only in traffic deaths but in driving under the influence arrests as well.

The Federal legislation that I introduced years ago to make 21 the national drinking age engendered a heck of a fight with the liquor lobby. But the law has saved 10,000 lives, it is estimated. I believe that .08 will save thousands more in a period of time. If we want confirmation whether or not we are on the right track, the people who support the .08 limit include the American Medical Association, the American Insurance Association, the American Trucking Association, the National Safety Council, and the National Sheriff's Association.

Those who oppose .08, and I have to ask why, are principally in the beverage and hospitality area. We ought to let them know that we don't oppose social behavior of one's choice in restaurants and public gatherings, but we don't want to add anything to the fatality rate that can be prevented.

Another safety issue that we are talking about in the legislation is big trucks. Trucking companies are trying to get Congress to allow bigger trucks on the highways, double and triple trailers. My view, and that of many others, is no. Motorists in my home State of New Jersey want relief from the rising death toll of the past few years. Consider what we are talking about here. A triple trailer can be 120 feet long, longer than a Boeing 747 jetliner. And it can weigh 64 tons. That is quite a behemoth on the highway. I am sure if you let your imagination work, and think about what the consequence can be when you are driving on a highway on a dark night, it is raining, doing about 55, maybe 60 miles an hour. That's a safe speed in these conditions.

Suddenly a line of trucks starts to pass you. It is scary enough when the truck is a standard 44-foot length. But what is it like if a line of three of these 120 footers went by, each one of them three times, practically, the size of the single truck that has you worried in the first place? It would be like driving through an eclipse. For more than a solid minute the trucks would block your view of the road except for what is directly in front of you. For more than a minute your windshield would be sprayed by the tire wash off 32 sets of wheels.

Your heart jumps each time one of those triple trailers weaves slightly into your lane. You know this type of truck needs at least 1½ football fields to come to a stop. Imagine that, 1½ football fields. And it's worse in the rain. This kind of heart-thumping drive would become more common if we allowed triple trailers greater access to highways. I know the people in my State don't want it. In 1994 to 1995, fatal accidents involving trucks were up 13 percent. Trucking accidents overall were up 16 percent, 84 people died in each year, 1994 and 1995, and one stretch of road in my State, route 287, saw the numbers of accidents involving trucks quadruple between 1988 and 1994.

I agree with them, the only cargo vehicle this size should also have wings and be racing down a runway, not barreling down a highway.

Mr. President, the debate on ISTEA is not only inevitable, it's essential, because this is such an important piece of legislation in our national structure. I agree that the chairman of the Environment Committee, the ranking member of the Environment Committee, wants to do the same things in their objectives as I do, and almost everyone else does. That is to continue to invest in our infrastructure, our transportation infrastructure, making sure that we develop and refine, to the best of our ability, each of the modes of transportation: Highways, aviation, rail, transit, waterways. We want to know that all of these things are operating in the safest manner that can accommodate most of our people efficiently.

The potential is there. I have been working publicly and privately to help meet that objective, as have my colleagues, but this bill just doesn't do it. I want to help bring a bill to the floor that meets these needs.

(Mr. BROWNBACK assumed the chair.)

Mr. LAUTENBERG. Mr. President, I think our colleagues in the House have the right idea, and that is to pass a temporary extension. If we pass a temporary extension, I think it has to be based on the formula, upon the structure of ISTEA as it presently is, not a newer version that changes things. Then we can sit down and create a plan that is fairer to all States in all regions and addresses these crucial needs. But it will take some significant discussion.

This is a major, major change that is contemplated, and because it was concentrated in ultimately a few hands doesn't mean that it didn't pursue the right path, but what it does mean is that it has not fully considered all of the needs of the country, as we see from the resistance to this, opposed by a number of us from States particularly in the East, but not exclusively.

My proposal is to see if we can find, not necessarily in order of importance, A, a substitute; B, a program that in transition will give States a chance to make adjustment, will hold those States that are being asked to take less of the funding pie harmless from year to year as the formula changes. I think that is the fairest way to do it; C, to listen carefully to what our colleagues in the House of Representatives have to say about their version of ISTEA. I am not talking about the 6-month bill that we see out there, necessarily, because I don't see a 6-month

extension coming unless it proceeds under the present formula and structure. But to take perhaps another year in transition and try to develop a fairer piece of legislation, try to develop a piece of legislation that considers the needs, not just the tax cash-flow that results from gasoline taxes, because, to be repetitive for emphasis, just because a State sends down a dollars' worth of tax dollars doesn't necessarily mean that it ought to get a dollar in return on transportation investments if it, in fact, gets other returns that are far greater than the tax dollars they send down.

I call painful attention to the fact that my State is 50th in return on the Federal tax dollar. The State of New Jersey is 50th. To make it abominably simple, it means that if we send down a dollar in taxes, we get 69 cents back—69 cents; 31 cents of New Jersey taxpayers' contributions go to programs that benefit other States, other regions of the country.

We haven't seen a tax revolt in New Jersey. We swallow hard. We think we ought to get more. We don't have the need for an agricultural subsidy, but listen, if it is going to be given away, we are going to want our share. If when we do have some advantage because of need, like transportation, and we are not getting our fair share return on that, then we are going to say, hey, listen, when I look at the defense bill—and I sit on the Defense Subcommittee of the Appropriations Committee—I want to look at that bill to see if New Jersey gets a fair share.

How absurd a conclusion that would be. Can you imagine, someone looking at the defense bill and saying, "Wait a second, does my State get its fair share," or is the question really, is my country best protected? As silly as that sounds, to say, well, give me my fair share, that simply means spend the money in my State, even though we don't accomplish the objective, I hope that it will be out of consideration because it just doesn't make any sense.

A bill that doesn't take care of the needs of my State, which I interpret as the needs of the country, is equally unfair. So I hope as the discussion goes on that those who agree with me that this bill needs some further review—I realize that this is not untimely to consider reauthorizing the bill because the other one has expired, but I would like to make sure that we include the needs that my State and others have.

I would like to reread the policy statement that accompanied the original ISTEA legislation. These are the views of our distinguished colleague and friend to just about everybody here and one of the best-informed people on transportation infrastructure. That is Senator DANIEL PATRICK MOYNIHAN of the Empire State, the State of New York. Again, Senator MOYNIHAN has studied the transportation needs of this country. He knows so much about the origins of parts of our transportation system, going from the early canals to the development of the National Highway System. He said:

> I am especially proud of the principles we set out in ISTEA 6 years ago and wish to include them in this bill.
>
> It is the policy of the United States to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the Nation to compete in the global economy, and will move people and goods in an energy efficient manner.
>
> The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the Nation's preeminent position in international commerce.

I think it is fair to say that that summarizes certainly the beginning principles of ISTEA's development, and we are living off of what I would say is a successful period of investment in our transportation needs, intermodally balanced, not quite perfect in every aspect, not quite sufficient funding.

When I see what we invest in our transportation infrastructure in this country, it saddens me because in some cases we are ranked among the lesser developed countries of the world instead of the most developed countries of the world. When I look at high-speed rail passenger service, our per-capita spending is way below the average, and it is not right. This Nation ought to have a transit that can move at 180 miles an hour on a consistent basis as they have in France, or faster in Japan. I saw the other day where a train in Japan for a limited length of travel was at over 300 miles an hour, and they are looking to make it even faster. It would relieve our skyways, it would relieve our highways, and would broaden the opportunity if we have the investment in intercity rail that we need.

So, Mr. President, I am sorry that we have not come to an agreement on what is an appropriate renewal or a new version of ISTEA as it expires. Again, I am hoping that we will have time for debate on it. It is also my understanding that we are going to have a discussion on the appropriateness of continuing an affirmative action program in ISTEA, and I welcome that debate because I believe that DOT's affirmative action program continues to be necessary and could withstand constitutional scrutiny under the standards set forth in the Adarand decision.

I have been told that the junior Senator from Kentucky may be offering an amendment to strike the Disadvantaged Business Enterprise Program from this legislation. Perhaps he is content to believe that we are now in a colorblind society, but I plan to oppose that amendment because I don't think we are.

The Department of Transportation's Disadvantaged Business Enterprise Program, or DBE Program, provides a 10-percent national contracting goal for socially and economically disadvantaged small businesses. Congress created this program in 1982 because minorities and women were shut out of transportation construction contracts, shut out not because they were any less able to perform the terms of the construction contract, shut out not because their bids were higher than their competitors, but shut out because they were not white, in some cases they were not men. We decided in the 1982 highway bill that the old boy network was no longer acceptable in Federal transportation construction contracts. We were right then, and the chairman of both the Transportation Subcommittee and the full committee were right to continue this program in S. 1173.

I expect we will hear opponents of the DBE Program say that it imposes a quota or a set-aside for women- or minority-owned firms. It doesn't do that. The statute provides a 10-percent goal which may be modified by the Secretary of Transportation. States and municipalities are able to set their own goals which may be higher or lower than 10 percent. If a State doesn't reach its goal, there is no adverse consequence.

I repeat, Mr. President, because it is an important point and one which the opponents to the DBE Program may not mention, the DBE Program provides a goal, and if States do not meet this goal, DOT does not directly withhold transportation dollars. There is no adverse consequence.

So why do we still need an affirmative action program for Federal construction contracts? Because we know the private sector looks to the public sector for leadership on this issue. If we eliminate the DBE Program at this time, we will return quickly to the good old boy network that excludes women and minorities. How do we know that? Because several States eliminated their versions of DOT's DBE Program, and within a matter of months, minority- and women-owned and controlled businesses received fewer, if any, construction contracts.

Minorities comprise approximately one-fifth of our population. Just under 10 percent of construction firms are minority owned and controlled, yet receive only 5 percent of construction receipts.

I will give you another statistic, Mr. President. White business owners in the construction industry receive over 50 times as many loan dollars of equity capital as minority owners with the same borrowing characteristics.

Mr. President, I ask opponents of the DBE affirmative action program to explain why these numbers are so disproportionate if we did, in fact, live in a colorblind society.

I expect, Mr. President, we are going to have a lengthy discussion about the DBE program and whether or not it is constitutional. Again, I look forward to the debate because I believe after a full discussion, the majority of my colleagues will agree that the DBE program is constitutional under the Adarand standard.

In the 1995 Adarand decision, seven of the nine Supreme Court Justices recognized the continuing need for affirmative action programs to remedy the lingering effects of racial discrimination. After Adarand, affirmative action programs must serve a compelling governmental interest and be narrowly tailored to address that interest.

The first court to apply this strict scrutiny standard set forth under Adarand found that Congress met the compelling-Government-interest component. It disagreed that the DBE program was narrowly tailored, but the district court judge went far beyond the Supreme Court's holding by virtually deciding that no affirmative action program can be narrowly tailored.

The Justice Department is rightfully appealing this decision.

Mr. President, there will be time to discuss this matter further at a later time. I look forward to that.

I am confident that the Senate will accept the responsibility of looking at this program calmly and rationally rather than simply trying to fuel the fires of passion and hatred which the issue of affirmative action can ignite. Should the junior Senator from Kentucky offer this amendment, I hope my colleagues will oppose it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. CHAFEE. What is the question?

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The PRESIDING OFFICER. The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken appear in black brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intermodal *Surface* Transportation *Efficiency* Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition.

TITLE I—SURFACE TRANSPORTATION

Sec. 1001. Short title.

Subtitle A—General Provisions

Sec. 1101. Authorizations.
Sec. 1102. Apportionments.
Sec. 1103. Obligation ceiling.
Sec. 1104. Obligation authority under surface transportation program.
Sec. 1105. Emergency relief.
Sec. 1106. Federal lands highways program.
Sec. 1107. Recreational trails program.
Sec. 1108. Value pricing pilot program.
Sec. 1109. Highway use tax evasion projects.
Sec. 1110. Bicycle transportation and pedestrian walkways.
Sec. 1111. Disadvantaged business enterprises.
Sec. 1112. Federal share payable.
Sec. 1113. Studies and reports.
Sec. 1114. Definitions.
Sec. 1115. Cooperative Federal Lands Transportation Program.
Sec. 1116. Trade corridor and border crossing planning and border infrastructure.
Sec. 1117. Appalachian development highway system.
Sec. 1118. Interstate 4R and bridge discretionary program.
Sec. 1119. Magnetic levitation transportation technology deployment program.
Sec. 1120. Woodrow Wilson Memorial Bridge.
Sec. 1121. National Highway System components.
Sec. 1122. Highway bridge replacement and rehabilitation.
Sec. 1123. Congestion mitigation and air quality improvement program.
Sec. 1124. Safety belt use law requirements.
Sec. 1125. Sense of the Senate concerning reliance on private enterprise.
Sec. 1126. Study of use of uniformed police officers on Federal-aid highway construction projects.
Sec. 1127. Contracting for engineering and design services.

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

Sec. 1201. Administrative expenses.
Sec. 1202. Real property acquisition and corridor preservation.
Sec. 1203. Availability of funds.
Sec. 1204. Payments to States for construction.
Sec. 1205. Proceeds from the sale or lease of real property.
Sec. 1206. Metric conversion at State option.
Sec. 1207. Report on obligations.
Sec. 1208. Terminations.
Sec. 1209. Interstate maintenance.

CHAPTER 2—PROJECT APPROVAL

Sec. 1221. Transfer of highway and transit funds.
Sec. 1222. Project approval and oversight.
Sec. 1223. Surface transportation program.
Sec. 1224. Design-build contracting.
Sec. 1225. Integrated decisionmaking process.

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

Sec. 1231. Definition of operational improvement.
Sec. 1232. Eligibility of ferry boats and ferry terminal facilities.
Sec. 1233. Flexibility of safety programs.
Sec. 1234. Eligibility of projects on the National Highway System.
Sec. 1235. Eligibility of projects under the surface transportation program.
Sec. 1236. Design flexibility.

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

Sec. 1301. State infrastructure bank program.

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

Sec. 1311. Short title.
Sec. 1312. Findings.
Sec. 1313. Definitions.
Sec. 1314. Determination of eligibility and project selection.
Sec. 1315. Secured loans.
Sec. 1316. Lines of credit.
Sec. 1317. Project servicing.
Sec. 1318. Office of Infrastructure Finance.
Sec. 1319. State and local permits.
Sec. 1320. Regulations.
Sec. 1321. Funding.
Sec. 1322. Report to Congress.

Subtitle D—Safety

Sec. 1401. Operation lifesaver.
Sec. 1402. Railway-highway crossing hazard elimination in high speed rail corridors.
Sec. 1403. Railway-highway crossings.
Sec. 1404. Hazard elimination program.
Sec. 1405. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.
Sec. 1406. Safety incentive grants for use of seat belts.
Sec. 1407. Automatic crash protection unbelted testing standard.

Subtitle E—Environment

Sec. 1501. National scenic byways program.
Sec. 1502. Public-private partnerships.
Sec. 1503. Wetland restoration pilot program.

Subtitle F—Planning

Sec. 1601. Metropolitan planning.
Sec. 1602. Statewide planning.
Sec. 1603. Advanced travel forecasting procedures program.
Sec. 1604. Transportation and community and system preservation pilot program.

Subtitle G—Technical Corrections

Sec. 1701. Federal-aid systems.
Sec. 1702. Miscellaneous technical corrections.
Sec. 1703. Nondiscrimination.
Sec. 1704. State transportation department.

Subtitle H—Miscellaneous Provisions

Sec. 1801. Designation of portion of State Route 17 in New York and Pennsylvania as Interstate Route 86.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

Sec. 2001. Strategic research plan.
Sec. 2002. Multimodal [transportation research and development program] *Transportation Research and Development Program.*
Sec. 2003. National university transportation centers.

Sec. 2004. Bureau of Transportation Statistics.
Sec. 2005. Research and technology program.
Sec. 2006. Advanced research program.
Sec. 2007. Long-term pavement performance program.
Sec. 2008. State planning and research program.
Sec. 2009. Education and training.
Sec. 2010. International highway transportation outreach program.
Sec. 2011. National technology deployment initiatives and partnerships program.
Sec. 2012. Infrastructure investment needs report.
Sec. 2013. Innovative bridge research and construction program.
Sec. 2014. Use of Bureau of Indian Affairs administrative funds.
Sec. 2015. Study of future strategic highway research program.
Sec. 2016. Joint partnerships for advanced vehicles, components, and infrastructure program.
Sec. 2017. *Transportation and environment cooperative research program.*
Sec. 2018. Conforming amendments.

Subtitle B—Intelligent Transportation Systems

Sec. 2101. Short title.
Sec. 2102. Findings.
Sec. 2103. Intelligent transportation systems.
Sec. 2104. Conforming amendment.

Subtitle C—Funding

Sec. 2201. Funding.

SEC. 2. DEFINITION.

In this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Surface Transportation Act of 1997".

Subtitle A—General Provisions

SEC. 1101. AUTHORIZATIONS.

For the purpose of carrying out title 23, United States Code, the following sums shall be available from the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—For the Interstate and National Highway System program under section 103 of that title $11,979,000,000 for fiscal year 1998, $11,808,000,000 for fiscal year 1999, $11,819,000,000 for fiscal year 2000, $11,916,000,000 for fiscal year 2001, $12,242,000,000 for fiscal year 2002, and $12,776,000,000 for fiscal year 2003, of which—

(A) $4,600,000,000 for fiscal year 1998, $4,609,000,000 for fiscal year 1999, $4,637,000,000 for fiscal year 2000, $4,674,000,000 for fiscal year 2001, $4,773,000,000 for fiscal year 2002, and $4,918,000,000 for fiscal year 2003 shall be [used] *available* for the Interstate maintenance component; and

(B) $1,400,000,000 for fiscal year 1998, $1,403,000,000 for fiscal year 1999, $1,411,000,000 for fiscal year 2000, $1,423,000,000 for fiscal year 2001, $1,453,000,000 for fiscal year 2002, and $1,497,000,000 for fiscal year 2003 shall be [used] *available* for the Interstate bridge component.

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title $7,000,000,000 for fiscal year 1998, $7,014,000,000 for fiscal year 1999, $7,056,000,000 for fiscal year 2000, $7,113,000,000 for fiscal year 2001, $7,263,000,000 for fiscal year 2002, and $7,484,000,000 for fiscal year 2003.

(3) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title $1,150,000,000 for fiscal year 1998, $1,152,000,000 for fiscal year 1999, $1,159,000,000 for fiscal year 2000, $1,169,000,000 for fiscal year 2001, $1,193,000,000 for fiscal year 2002, and $1,230,000,000 for fiscal year 2003.

(4) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title $200,000,000 for each of fiscal years 1998 through 2003.

(B) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title $90,000,000 for each of fiscal years 1998 through 2003.

(C) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title $172,000,000 for each of fiscal years 1998 through 2003.

(D) COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Cooperative Federal Lands Transportation Program under section 207 of that title $74,000,000 for each of fiscal years 1998 through 2003.

SEC. 1102. APPORTIONMENTS.

(a) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) and the set-asides authorized by subsection (f), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the National Highway System, the congestion mitigation and air quality improvement program, and the surface transportation program, for that fiscal year, among the States in the following manner:

"(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—

"(A) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

"(i) 50 percent in the ratio that—

"(I) the total lane miles on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997);

in each State; bears to

"(II) the total of all such lane miles in all States; and

"(ii) 50 percent in the ratio that—

"(I) the total vehicle miles traveled on lanes on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997);

in each State; bears to

"(II) the total of all such vehicle miles traveled in all States.

"(B) INTERSTATE BRIDGE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing bridges on the Interstate System, in the ratio that—

"(i) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in each State; bears to

"(ii) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in all States.

"(C) OTHER NATIONAL HIGHWAY SYSTEM COMPONENT.—

"(i) IN GENERAL.—For the National Highway System (excluding [activities for which] funds [are] apportioned under subparagraph (A) or (B)), $36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remainder apportioned as follows:

"(I) 20 percent of the apportionments in the ratio that—

"(aa) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

"(II) 29 percent of the apportionments in the ratio that—

"(aa) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

"(III) 18 percent of the apportionments in the ratio that—

"(aa) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in each State; bears to

"(bb) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in all States.

"(IV) 24 percent of the apportionments in the ratio that—

"(aa) the total diesel fuel used on highways in each State; bears to

"(bb) the total diesel fuel used on highways in all States.

"(V) 9 percent of the apportionments in the ratio that—

"(aa) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

"(bb) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

"(ii) DATA.—Each calculation under clause (i) shall be based on the latest available data.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding subparagraphs (A) through (C), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

"(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

"(ii) the total of all weighted nonattainment and maintenance area populations in all States.

"(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

"(i) 0.8 if—

"(I) at the time of the apportionment, the area is a maintenance area; *or*

"(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under [that Act; or] *the Clean Air Act (42 U.S.C. 7401 et seq.);*

[(III) as of the date of enactment of the Intermodal Transportation Act of 1997, the area is considered by the Administrator of the Environmental Protection Agency to be a flexible attainment region;]

"(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under that subpart;

"(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under that subpart;

"(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under that subpart;

"(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under that subpart; or

"(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide.

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—

"(i) CARBON MONOXIDE NONATTAINMENT AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.

"(ii) CARBON MONOXIDE MAINTENANCE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was at one time also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide but has been redesignated as a maintenance area, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.1.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

"(i) 20 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 30 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 25 percent of the apportionments in the ratio that—

"(I) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in each State; bears to

"(II) the total square footage *of* structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in all States.

"(iv) 25 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) DATA.—Each calculation under subparagraph (A) shall be based on the latest available data.

"(C) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(b) EFFECT OF CERTAIN AMENDMENTS.—Section 104 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

"(h) EFFECT OF CERTAIN AMENDMENTS.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the amendments made by section 901 of the Taxpayer Relief Act of 1997 shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Intermodal *Surface* Transportation *Efficiency* Act of 1997 and *this* title [23, United States Code].".

(c) ISTEA TRANSITION.—

(1) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall determine, with respect to each State—

(A) the total apportionments for the fiscal year under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program;

(B) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding apportionments for the Federal lands highways program under section 204 of that title;

(C) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding—

(i) apportionments authorized under section 104 of that title for construction of the Interstate System;

(ii) apportionments for the Interstate substitute program under section 103(e)(4) of that title (as in effect on the day before the date of enactment of this Act);

(iii) apportionments for the Federal lands highways program under section 204 of that title; and

(iv) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943);

(D) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (B); by

(ii) the applicable percentage determined under paragraph (2); and

(E) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (C); by

(ii) the applicable percentage determined under paragraph (2).

(2) APPLICABLE PERCENTAGES.—

(A) FISCAL YEAR 1998.—For fiscal year 1998—

(i) the applicable percentage referred to in paragraph (1)(D)(ii) shall be 145 percent; and

(ii) the applicable percentage referred to in paragraph (1)(E)(ii) shall be 107 percent.

(B) FISCAL YEARS THEREAFTER.—For each of fiscal years 1999 through 2003, the applicable percentage referred to in paragraph (1)(D)(ii) or (1)(E)(ii), respectively, shall be a percentage equal to the product obtained by multiplying—

(i) the percentage specified in clause (i) or (ii), respectively, of subparagraph (A); by

(ii) the percentage that—

(I) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for the fiscal year; bears to

(II) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for fiscal year 1998.

(3) MAXIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, in the case of each State with respect to which the total apportionments determined under paragraph (1)(A) is greater than the product determined under paragraph (1)(D), the Secretary shall reduce proportionately the apportionments to the State under section 104 of title 23, United States Code, for the National Highway System component of the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program so that the total of the apportionments is equal to the product determined under paragraph (1)(D).

(B) REDISTRIBUTION OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds made available under subparagraph (A) shall be redistributed proportionately under

section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program, to States not subject to a reduction under subparagraph (A).

(ii) LIMITATION.—The ratio that—

(I) the total apportionments to a State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, *metropolitan planning*, and the congestion mitigation and air quality improvement program, after the application of clause (i); bears to

(II) the annual average of the total apportionments determined under paragraph (1)(B) with respect to the State;

may not exceed, in the case of fiscal year 1998, 145 percent, and, in the case of each of fiscal years 1999 through 2003, 145 percent as adjusted in the manner described in paragraph (2)(B).

(4) MINIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall apportion to each State such additional amounts as are necessary to ensure that—

(i) the total apportionments to the State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of paragraph (3); is equal to

(ii) the greater of—

(I) the product determined with respect to the State under paragraph (1)(E); or

(II) the total apportionments to the State for fiscal year 1997 for all Federal-aid highway programs, excluding—

(aa) apportionments for the Federal lands highways program under section 204 of title 23, United States Code;

(bb) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943); and

(cc) demonstration projects under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240).

(B) OBLIGATION.—Amounts apportioned under subparagraph (A)—

(i) shall be considered to be sums made available for expenditure on the surface transportation program, except that—

(I) the amounts shall not be subject to paragraphs (1) and (2) of section 133(d) of title 23, United States Code; and

(II) 50 percent of the amounts shall be subject to section 133(d)(3) of that title;

(ii) shall be available for any purpose eligible for funding under section 133 of that title; and

(iii) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are apportioned.

(C) AUTHORIZATION OF CONTRACT AUTHORITY.—

(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this paragraph.

(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(d) MINIMUM GUARANTEE.—

(1) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Minimum guarantee

"(a) ADJUSTMENT.—

"(1) IN GENERAL.—In fiscal year 1998 and each fiscal year thereafter on October 1, or as soon as practicable thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that—

"(A) the ratio that—

"(i) each State's percentage of the total apportionments for the fiscal year—

"(I) under section 104 for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program; and

"(II) under *this section and* section 1102(c) of the Intermodal *Surface* Transportation *Efficiency* Act of 1997 for ISTEA transition; bears to

"(ii) each State's percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available;

is not less than 0.90; and

"(B) in the case of a State specified in paragraph (2), the State's percentage of the total apportionments for the fiscal year described in subclauses (I) and (II) of subparagraph (A)(i) is—

"(i) not less than the percentage specified for the State in paragraph (2); but

"(ii) not greater than the product determined for the State under section 1102(c)(1)(D) of the Intermodal *Surface* Transportation *Efficiency* Act of 1997 for the fiscal year.

"(2) STATE PERCENTAGES.—The percentage referred to in paragraph (1)(B) for a specified State shall be determined in accordance with the following table:

"State	Percentage
Alaska	1.24
Arkansas	1.33
Delaware	0.47
Hawaii	0.55
Idaho	0.82
Montana	1.06
Nevada	0.73
New Hampshire	0.52
New Jersey	2.41
New Mexico	1.05
North Dakota	0.73
Rhode Island	0.58
South Dakota	0.78
Vermont	0.47
Wyoming	0.76.

"(b) TREATMENT OF ALLOCATIONS.—

"(1) OBLIGATION.—Amounts allocated under subsection (a)—

"(A) shall be available for obligation when allocated and shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are allocated; and

"(B) shall be available for any purpose eligible for funding under this title.

"(2) SET-ASIDE.—Fifty percent of the amounts allocated under subsection (a) shall be subject to section 133(d)(3).

"(c) TREATMENT OF WITHHELD APPORTIONMENTS.—For the purpose of subsection (a), any funds that, but for section 158(b) or any other provision of law under which Federal-aid highway funds are withheld from apportionment, would be apportioned to a State for a fiscal year under a section referred to in subsection (a) shall be treated as being apportioned in that fiscal year.

"(d) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Minimum guarantee.".

(e) AUDITS OF HIGHWAY TRUST FUND.—Section 104 of title 23, United States Code, is amended by striking subsection (i) and inserting the following:

"(i) AUDITS OF HIGHWAY TRUST FUND.—From available administrative funds deducted under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.".

(f) TECHNICAL AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting "NOTIFICATION TO STATES.—" after "(e)";

(B) in the first sentence—

(i) by striking "(other than under subsection (b)(5) of this section)"; and

(ii) by striking "and research";

(C) by striking the second sentence; and

(D) in the last sentence, by striking ", except that" and all that follows through "such funds"; and

(2) in subsection (f)—

(A) by striking "(f)(1) On" and inserting the following:

"(f) METROPOLITAN PLANNING.—

"(1) SET-ASIDE.—On";

(B) by striking "(2) These" and inserting the following:

"(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These";

(C) by striking "(3) The" and inserting the following:

"(3) USE OF FUNDS.—The"; and

(D) by striking "(4) The" and inserting the following:

"(4) DISTRIBUTION OF FUNDS WITHIN STATES.—The".

(g) CONFORMING AMENDMENTS.—

(1) Section 146(a) of title 23, United States Code, is amended in the first sentence by striking ", 104(b)(2), and 104(b)(6)" and inserting "and 104(b)(2)".

(2)(A) Section 150 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150.

(3) Section 158 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(iii) in paragraph (1) (as so redesignated)—

(I) by striking "AFTER THE FIRST YEAR" and inserting "IN GENERAL"; and

(II) by striking ", 104(b)(2), 104(b)(5), and 104(b)(6)" and inserting "and 104(b)(2)"; and

(iv) in paragraph (2) (as redesignated by clause (ii)), by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraph (1)"; and

(B) by striking subsection (b) and inserting the following:

"(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.".

(4)(A) Section 157 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157.

(5)(A) Section 115(b)(1) of title 23, United States Code, is amended by striking "or 104(b)(5), as the case may be,".

(B) Section 137(f)(1) of title 23, United States Code, is amended by striking "section 104(b)(5)(B) of this title" and inserting "section 104(b)(1)(A)".

(C) Section 141(c) of title 23, United States Code, is amended by striking "section 104(b)(5) of this title" each place it appears and inserting "section 104(b)(1)(A)".

(D) Section 142(c) of title 23, United States Code, is amended by striking "(other than section 104(b)(5)(A))".

(E) Section 159 of title 23, United States Code, is amended—

(i) by striking "(5) of" each place it appears and inserting "(5) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997) of"; and

(ii) in subsection (b)—

(I) in paragraphs (1)(A)(i) and (3)(A), by striking "section 104(b)(5)(A)" each place it appears and inserting "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997)";

(II) in paragraph (1)(A)(ii), by striking "section 104(b)(5)(B)" and inserting "section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997)";

(III) in paragraph (3)(B), by striking "(5)(B)" and inserting "(5)(B) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997)"; and

(IV) in paragraphs (3)[(B)] and (4), by striking "section 104(b)(5)" each place it appears and inserting "section 104(b)(5) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997)".

(F) Section 161(a) of title 23, United States Code, is amended by striking "paragraphs (1), (3), and (5)(B) of section 104(b)" each place it appears and inserting "paragraphs (1) and (3) of section 104(b)".

(6)(A) Section 104(g) of title 23, United States Code, is amended—

(i) in the first sentence, by striking "sections 130, 144, and 152 of this title" and inserting "subsection (b)(1)(B) and sections 130 and 152";

(ii) in the first and second sentences—

(I) by striking "section" and inserting "provision"; and

(II) by striking "such sections" and inserting "those provisions"; and

(iii) in the third sentence—

(I) by striking "section 144" and inserting "subsection (b)(1)(B)"; and

(II) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(C)".

(B) Section 115 of title 23, United States Code, is amended—

(i) in subsection (a)(1)(A)(i), by striking "104(b)(2), 104(b)(3), 104(f), 144," and inserting "104(b)(1)(B), 104(b)(2), 104(b)(3), 104(f),"; and

(ii) in subsection (c), by striking "144,,".

(C) Section 120(e) of title 23, United States Code, is amended in the last sentence by striking "and in section 144 of this title".

(D) Section 151(d) of title 23, United States Code, is amended by striking "section 104(a), section 307(a), and section 144 of this title" and inserting "subsections (a) and (b)(1)(B) of section 104 and section 307(a)".

(E) Section 204(c) of title 23, United States Code, is amended in the first sentence by striking "or section 144 of this title".

(F) Section 303(g) of title 23, United States Code, is amended by striking "section 144 of this title" and inserting "section 104(b)(1)(B)".

SEC. 1103. OBLIGATION CEILING.

(a) GENERAL LIMITATIONS.—Subject to the other provisions of this section and notwithstanding any other provision of law, the total amount of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $21,800,000,000 for fiscal year 1998;
(2) $22,768,000,000 for fiscal year 1999;
(3) $22,901,000,000 for fiscal year 2000;
(4) $23,070,000,000 for fiscal year 2001;
(5) $23,511,000,000 for fiscal year 2002; and
(6) $24,259,000,000 for fiscal year 2003.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The limitations under subsection (a) shall not apply to obligations of funds under—

[(A) section 125 of title 23, United States Code;

[(B) section 105(a) of that title, excluding amounts allocated under section 105(a)(1)(B) of that title;]

(A) section 105(a) of title 23, United States Code, excluding amounts allocated under section 105(a)(1)(B) of that title;

(B) section 125 of that title;

(C) section 157 of that title (as in effect on the day before the date of enactment of this Act);

(D) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(E) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

(F) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);

(G) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198); and

(H) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027).

(2) EFFECT OF OTHER LAW.—A provision of law establishing a limitation on obligations for Federal-aid highways and highway safety construction programs may not amend or limit the applicability of this subsection, unless the provision specifically amends or limits that applicability.

(c) APPLICABILITY TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations for Federal-aid highways and highway safety construction programs established by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code.

(d) OBLIGATION AUTHORITY.—Section 118 of title 23, United States Code, is amended by adding at the end the following:

"(g) OBLIGATION AUTHORITY.—

"(1) DISTRIBUTION.—For each fiscal year, the Secretary shall—

"(A) distribute the total amount of obligation authority for Federal-aid highways and highway safety construction programs made available for the fiscal year by allocation in the ratio that—

"(i) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to each State for the fiscal year; bears to

"(ii) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to all States for the fiscal year;

"(B) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State; and

"(C) not distribute—

"(i) amounts deducted under section 104(a) for administrative expenses;

"(ii) amounts [made available for the Federal lands highways program under section 204;] *set aside under section 104(k) for Interstate 4R and bridge projects;*

"(iii) amounts made available under sections 143, 164, 165, 204, 206, 207, and 322;

"(iv) amounts made available under section 111 of title 49;

"(v) amounts made available under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.);

"(vi) amounts made available under section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938);

"(vii) amounts made available under chapter 2 of subtitle C of title I, and sections 1503, 1603, and 1604, of the Intermodal Surface Transportation Efficiency Act of 1997;

[("(iii)] *"(viii)* amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 201); and

[("(iv)] *"(ix)* amounts made available for implementation of programs under chapter 5 of this title and sections 5222, 5232, and 5241 of title 49.

"(2) REDISTRIBUTION.—Notwithstanding paragraph (1), the Secretary shall, after August 1 of each of fiscal years 1998 through 2003—

"(A) revise a distribution of the funds made available under paragraph (1) for the fiscal year if a State will not obligate the amount distributed during the fiscal year; and

"(B) redistribute sufficient amounts to those States able to obligate amounts in addition to the amounts previously distributed during the fiscal year, giving priority to those States that have large unobligated balances of funds apportioned under section 104 and under section 144 (as in effect on the day before the date of enactment of this [subsection] *subparagraph*).".

(e) APPLICABILITY OF OBLIGATION LIMITATIONS.—An obligation limitation established by a provision of any other Act shall not apply to obligations under a program funded under this Act or title 23, United States Code, unless—

(1) the provision specifically amends or limits the applicability of this subsection; or

(2) an obligation limitation is specified in this Act with respect to the program.

SEC. 1104. OBLIGATION AUTHORITY UNDER SURFACE TRANSPORTATION PROGRAM.

Section 133 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the 3-fiscal year period of 1998 through 2000, and the 3-fiscal year period of 2001 through 2003, an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

"(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during each such period; by

"(B) the ratio that—

"(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

"(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

"(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).".

SEC. 1105. EMERGENCY RELIEF.

(a) FEDERAL SHARE.—Section 120(e) of title 23, United States Code, is amended in the first sentence by striking "highway system" and inserting "highway".

(b) ELIGIBILITY AND FUNDING.—Section 125 of title 23, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively;

(3) by inserting after the section heading the following:

"(a) GENERAL ELIGIBILITY.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

"(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

"(2) catastrophic failure from any external cause.

"(b) RESTRICTION ON ELIGIBILITY.—In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

"(c) FUNDING.—Subject to the following limitations, there are hereby authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

"(1) Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section, except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

"(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, provided that such funds are reimbursed from the appropriations authorized in paragraph (1) of this subsection when such appropriations are made.";

(4) in subsection (d) (as so redesignated), by striking "subsection (c)" both places it appears and inserting "subsection (e)"; and

(5) in subsection (e) (as so redesignated), by striking "on any of the Federal-aid highway systems" and inserting "Federal-aid highways".

(c) SAN MATEO COUNTY, CALIFORNIA.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide; *and*

[(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities; and

[(3) complies with the local coastal plan; shall be eligible for assistance under section 125(a) of title 23, United States Code.]

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

SEC. 1106. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(j) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any Federal-aid highway project the Federal share of which is funded under section 104.

"(k) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds made available to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under section 104 and that provides access to or within Federal or Indian lands.".

(b) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to the pay the Federal share of the cost of the project.".

(c) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, and Indian reservation roads and bridges.

"(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, *by rule*, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

"(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

"(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

"(A) shall be developed in cooperation with States and metropolitan planning organizations; and

"(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

"(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

"(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.";

(2) in subsection (b), by striking the first 3 sentences and inserting the following: "Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe.";

(3) in the first sentence of subsection (e), by striking "Secretary of the Interior" and inserting "Secretary of the appropriate Federal land management agency";

(4) in subsection (h), by adding at the end the following:

"(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.";

(5) by striking subsection (i) and inserting the following:

"(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

"(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section."; and

(6) in subsection (j), by striking the second sentence and inserting the following: "The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a).".

SEC. 1107. RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

"§ 206. Recreational trails program

"(a) DEFINITIONS.—

"(1) MOTORIZED RECREATION.—The term 'motorized recreation' means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

"(2) RECREATIONAL TRAIL; TRAIL.—The term 'recreational trail' or 'trail' means a thoroughfare or track across land or snow, used for recreational purposes such as—

"(A) pedestrian activities, including wheelchair use;

"(B) skating or skateboarding;

"(C) equestrian activities, including carriage driving;

"(D) nonmotorized snow trail activities, including skiing;

"(E) bicycling or use of other human-powered vehicles;

"(F) aquatic or water activities; and

"(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

"(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails (referred to in this section as the 'program').

"(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—

"(1) a State may use apportionments received under this section for construction of new trails crossing Federal lands only if the construction is—

"(A) permissible under other law;

"(B) necessary and required by a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.);

"(C) approved by the administering agency of the State designated under paragraph (2); and

"(D) approved by each Federal agency charged with management of the affected lands, which approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(2) the Governor of a State shall designate the State agency or agencies that will be responsible for administering apportionments received under this section; and

"(3) the State shall establish within the State a State trail advisory committee that represents both motorized and nonmotorized trail users.

"(d) USE OF APPORTIONED FUNDS.—

"(1) IN GENERAL.—Funds made available under this section shall be obligated for trails and trail-related projects that—

"(A) have been planned and developed under the laws, policies, and administrative procedures of each State; and

"(B) are identified in, or further a specific goal of, a trail plan or trail plan element included or referenced in a metropolitan transportation plan required under section 134 or a statewide transportation plan required under section 135, consistent with the statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.).

"(2) PERMISSIBLE USES.—Permissible uses of funds made available under this section include—

"(A) maintenance and restoration of existing trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages;

"(C) purchase and lease of trail construction and maintenance equipment;

"(D) construction of new trails;

"(E) acquisition of easements and fee simple title to property for trails or trail corridors;

"(F) *payment of* costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment received by the State for a fiscal year; and

"(G) operation of educational programs to promote safety and environmental protection as these objectives relate to the use of trails.

"(3) USE OF APPORTIONMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), of the apportionments received for a fiscal year by a State under this section—

"(i) 40 percent shall be used for trail or trail-related projects that facilitate diverse recreational trail use within a trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;

"(ii) 30 percent shall be used for uses relating to motorized recreation; and

"(iii) 30 percent shall be used for uses relating to nonmotorized recreation.

"(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than 1 percent of all such fuel use in the United States, shall be exempted from the requirements of subparagraph (A) upon application to the Secretary by the State demonstrating that the State meets the conditions of this subparagraph.

"(C) WAIVER AUTHORITY.—Upon the request of a State trail advisory committee established under subsection (c)(3), the Secretary may waive, in whole or in part, the requirements of subparagraph (A) with respect to the State if the State certifies to the Secretary that the State does not have sufficient projects to meet the requirements of subparagraph (A).

"(D) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(F) shall be exempt from the requirements of subparagraph (A).

"(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project under this section shall not exceed 80 percent.

"(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

"(A) the share attributable to the Secretary of Transportation may not exceed 80 percent; and

"(B) the share attributable to the Secretary and the Federal agency jointly may not exceed 95 percent.

"(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law, amounts made available by the Federal Government under any Federal program that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section;

may be credited toward the non-Federal share of the cost of the project.

"(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for a fiscal year does not exceed 80 percent.

"(5) STATE ADMINISTRATIVE COSTS.—The Federal share of the administrative costs of a State under this subsection shall be determined in accordance with section 120(b).

"(g) USES NOT PERMITTED.—A State may not obligate funds apportioned under this section for—

"(1) condemnation of any kind of interest in property;

"(2) construction of any recreational trail on National Forest System land for any motorized use unless—

"(A) the land has been apportioned for uses other than wilderness by an approved forest land and resource management plan or has been released to uses other than wilderness by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;

"(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—

"(A) has been apportioned for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to [other] uses *other than wilderness* by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved management plan; or

"(4) upgrading, expanding, or otherwise facilitating motorized use or access to trails predominantly used by nonmotorized trail users and on which, as of May 1, 1991, motorized use is prohibited or has not occurred.

"(h) PROJECT ADMINISTRATION.—

"(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—

"(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).

"(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to

the Federal agency's share in accordance with subsection (f).

"(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.

"(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds made available under this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(f)(3)).

"(4) COOPERATION BY PRIVATE PERSONS.—

"(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the [property] *land* will cooperate with the State and participate as necessary in the activities to be conducted.

"(B) PUBLIC ACCESS.—Any use of the apportionments to a State under this section on private*ly owned* land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

"(i) APPORTIONMENT.—

"(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State that meets the requirements of subsection (c).

"(2) APPORTIONMENT.—Subject to subsection (j), for each fiscal year, the Secretary shall apportion—

"(A) 50 percent of the amounts made available to carry out this section equally among eligible States; and

"(B) 50 percent of the amounts made available to carry out this section among eligible States in proportion to the quantity of nonhighway recreational fuel used in each eligible State during the preceding year.

"(j) ADMINISTRATIVE COSTS.—

"(1) IN GENERAL.—Whenever an apportionment is made under subsection (i) of the amounts made available to carry out this section, the Secretary shall first deduct an amount, not to exceed 1 percent of the authorized amounts, to pay the costs to the Secretary for administration of, and research authorized under, the program.

"(2) USE OF CONTRACTS.—To carry out research funded under paragraph (1), the Secretary may—

"(A) enter into contracts with for-profit organizations; and

"(B) enter into contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations.

"(k) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $20,000,000 for fiscal year 1999, $22,000,000 for fiscal year 2000, $23,000,000 for fiscal year 2001, $24,000,000 for fiscal year 2002, and $25,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

(b) CONFORMING AMENDMENTS.—

(1) The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title I (16 U.S.C. 1261 et seq.).

(2) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 206 and inserting the following:

"206. Recreational trails program.".

SEC. 1108. VALUE PRICING PILOT PROGRAM.

(a) IN GENERAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in the subsection heading, by striking "CONGESTION" and inserting "VALUE"; and

(2) in paragraph (1), by striking "congestion" each place it appears and inserting "value".

(b) INCREASED NUMBER OF PROJECTS.—Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence by striking "5" and inserting "15".

(c) ELIGIBILITY OF PREIMPLEMENTATION COSTS.— Section 1012(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence—

(1) by inserting after "Secretary shall fund" the following: "all preimplementation costs and project design, and"; and

(2) by inserting after "Secretary may not fund" the following: "the implementation costs of".

(d) TOLLING.—Section 1012(b)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking "a pilot program under this section, but not on more than 3 of such programs" and inserting "any value pricing pilot program under this subsection".

(e) HOV PASSENGER REQUIREMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking paragraph (6) and inserting the following:

"(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section [102] *146(c)* of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.".

(f) FUNDING.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by adding at the end the following:

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY.—

"(i) IN GENERAL.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this subsection but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

"(I) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

"(II) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

"(III) shall be available for any purpose eligible for funding under section 133 of that title.

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.".

(g) CONFORMING AMENDMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in paragraph (1), by striking "projects" each place it appears and inserting "programs"; and

(2) in paragraph (5)—

(A) by striking "projects" and inserting "programs"; and

(B) by striking "traffic, volume" and inserting "traffic volume".

SEC. 1109. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—Section 143 of title 23, United States Code, is amended to read as follows:

"§ 143. Highway use tax evasion projects

"(a) DEFINITION OF STATE.—In this section, the term 'State' means the 50 States and the District of Columbia.

"(b) PROJECTS.—

"(1) IN GENERAL.—The Secretary shall use funds made available under paragraph (7) to carry out highway use tax evasion projects in accordance with this subsection.

"(2) ALLOCATION OF FUNDS.—The funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary.

"(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

"(4) LIMITATION ON USE OF FUNDS.—Funds made available under paragraph (7) shall be used only—

"(A) to expand efforts to enhance motor fuel tax enforcement;

"(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

"(C) to supplement motor fuel tax examinations and criminal investigations;

"(D) to develop automated data processing tools to monitor motor fuel production and sales;

"(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

"(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

"(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

"(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY OF FUNDS.—Funds authorized under this paragraph shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(c) EXCISE FUEL REPORTING SYSTEM.—

"(1) IN GENERAL.—Not later than April 1, 1998, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development and maintenance by the Internal Revenue Service of an excise fuel reporting system (referred to in this subsection as the 'system').

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop and maintain the system through contracts;

"(B) the system shall be under the control of the Internal Revenue Service; and

"(C) the system shall be made available for use by appropriate State and Federal revenue, tax, or law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUND.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

"(A) $8,000,000 for development of the system; and

"(B) $2,000,000 for each of fiscal years 1998 through 2003 for operation and maintenance of the system.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 143 and inserting the following:

"143. Highway use tax evasion projects.".

(2) Section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is repealed.

(3) Section 8002 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 220[4]3) is amended—

(A) in the first sentence of subsection (g), by striking "section 1040 of this Act" and inserting "section 143 of title 23, United States Code,"; and

(B) by striking subsection (h).

SEC. 1110. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "pedestrian walkways and" after "construction of"; and

(B) by striking "(other than the Interstate System)";

(2) in subsection (e), by striking ", other than a highway access to which is fully controlled,";

(3) by striking subsection (g) and inserting the following:

"(g) PLANNING AND DESIGN.—

"(1) IN GENERAL.—Bicyclists and pedestrians shall be given consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively.

"(2) CONSTRUCTION.—Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

"(3) SAFETY AND CONTIGUOUS ROUTES.—Transportation plans and projects shall provide consideration for safety and contiguous routes for bicyclists and pedestrians.";

(4) in subsection (h)—

(A) by striking "No motorized vehicles shall" and inserting "Motorized vehicles may not"; and

(B) by striking paragraph (3) and inserting the following:

"(3) wheelchairs that are powered; and"; and

(5) by striking subsection (j) and inserting the following:

"(j) DEFINITIONS.—In this section:

"(1) BICYCLE TRANSPORTATION FACILITY.—The term 'bicycle transportation facility' means a new or improved lane, path, or shoulder for use by bicyclists or a traffic control device, shelter, or parking facility for bicycles.

"(2) PEDESTRIAN.—The term 'pedestrian' means any person traveling by foot or any mobility impaired person using a wheelchair.

"(3) WHEELCHAIR.—The term 'wheelchair' means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or powered.".

SEC. 1111. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I and II of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $16,600,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in [paragraph (1)] *subsection (a)* and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

SEC. 1112. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code (as amended by section 1106(a)), is amended—

(1) in each of subsections (a) and (b), by adding at the end the following: "In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection."; and

(2) by adding at the end the following:

"(l) CREDIT FOR NON-FEDERAL SHARE.—

"(1) ELIGIBILITY.—A State may use as a credit toward the non-Federal share requirement for any program under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) or this title, other than the emergency relief program authorized by section 125, toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain, without the use of Federal funds, highways, bridges, or tunnels that serve the public purpose of interstate commerce.

"(2) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—The credit toward any non-Federal share under paragraph (1) shall not reduce nor replace State funds required to match Federal funds for any program under this title.

"(B) CONDITIONS ON RECEIPT OF CREDIT.—

"(i) AGREEMENT WITH THE SECRETARY.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreements as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding 3 fiscal years.

"(ii) EXCEPTION.—Notwithstanding clause (i), a State may receive a credit under paragraph (1) for a fiscal year if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than [25] *30* percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years.

"(3) TREATMENT.—

"(A) IN GENERAL.—Use of the credit toward a non-Federal share under paragraph (1) shall not expose the agencies from which the credit is received to additional liability, additional regulation, or additional administrative oversight.

"(B) CHARTERED MULTISTATE AGENCIES.—When credit is applied from a chartered multistate agency under paragraph (1), the credit shall be applied equally to all charter States.

"(C) NO ADDITIONAL STANDARDS.—[The] *A* public, quasi-public, [and] *or* private [agencies] *agency* from which the credit for which the non-Federal share is calculated under paragraph (1) shall not be subject to any additional Federal design standards or laws (including regulations) as a result of providing the credit beyond the standards and laws to which the agency is already subject.".

SEC. 1113. STUDIES AND REPORTS.

(a) HIGHWAY ECONOMIC REQUIREMENT SYSTEM.—

(1) METHODOLOGY.—

(A) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the methodology used by the Department of Transportation to determine highway needs using the highway economic requirement system (referred to in this subsection as the "model").

(B) REQUIRED ELEMENT.—The evaluation shall include an assessment of the extent to which the model estimates an optimal level of highway infrastructure investment, including an assessment as to when the model may be overestimating or underestimating investment requirements.

(C) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the evaluation.

(2) STATE INVESTMENT PLANS.—

(A) STUDY.—In consultation with State transportation departments and other appropriate State and local officials, the Comptroller General of the United States shall conduct a study on the extent to which the highway economic requirement system of the Federal Highway Administration can be used to provide States with useful information for developing State transportation investment plans and State infrastructure investment projections.

(B) REQUIRED ELEMENTS.—The study shall—

(i) identify any additional data that may need to be collected beyond the data submitted, prior to the date of enactment of this Act, to the Federal Highway Administration through the highway performance monitoring system; and

(ii) identify what additional work, if any, would be required of the Federal Highway Administration and the States to make the model useful at the State level.

(C) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(b) INTERNATIONAL ROUGHNESS INDEX.—

(1) STUDY.—The Comptroller General of the United States shall [submit a report to Congress on] *conduct a study on* the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

(2) REQUIRED ELEMENTS.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(c) REPORTING OF RATES OF OBLIGATION.—Section 104 of title 23, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (m); and

(2) by inserting after subsection (i) the following:

"(j) REPORTING OF RATES OF OBLIGATION.—On an annual basis, the Secretary shall publish or otherwise report rates of obligation of funds apportioned or set aside under this section and sections 103 and 133 according to—

"(1) program;

"(2) funding category or subcategory;

"(3) type of improvement;

"(4) State; and

"(5) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.".

SEC. 1114. DEFINITIONS.

(a) FEDERAL-AID HIGHWAY FUNDS AND PROGRAM.—

(1) IN GENERAL.—Section 101(a) of title 23, United States Code, is amended by inserting before the undesignated paragraph defining "Federal-aid highways" the following:

"The term 'Federal-aid highway funds' means funds made available to carry out the Federal-aid highway program.

"The term 'Federal-aid highway program' means all programs authorized under chapters 1, 3, and 5.".

(2) CONFORMING AMENDMENTS.—

(A) Section 101(d) of title 23, United States Code, is amended by striking "the construction of Federal-aid highways or highway planning, research, or development" and inserting "the Federal-aid highway program".

(B) Section 104(m)(1) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended by striking "Federal-aid highways and the highway safety construction programs" and inserting "the Federal-aid highway program".

(C) Section 107(b) of title 23, United States Code, is amended in the second sentence by striking "Federal-aid highways" and inserting "the Federal-aid highway program".

(b) ALPHABETIZATION OF DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by reordering the undesignated paragraphs so that they are in alphabetical order.

SEC. 1115. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code (as amended by section 1107(a)), is amended by inserting after section 206 the following:

"§ 207. Cooperative Federal Lands Transportation Program

"(a) IN GENERAL.—There is established the Cooperative Federal Lands Transportation Program (referred to in this section as the 'program'). Funds available for the program may be used for projects, or portions of projects, on highways that are owned or maintained by States or political subdivisions of States and that cross, are adjacent to, or lead to federally owned land or Indian reservations *(including Army Corps of Engineers reservoirs)*, as determined by the State. Such projects shall be proposed by a State and selected by the Secretary. A project proposed by a State under this section shall be on a highway or bridge owned or maintained by the State, or 1 or more political subdivisions of the State, and may be a highway or bridge construction or maintenance project eligible under this title or any project of a type described in section 204(h).

"(b) DISTRIBUTION OF FUNDS FOR PROJECTS.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—The Secretary—

"(i) after consultation with the Administrator of General Services, the Secretary of the Interior, and other agencies as appropriate *(including the Army Corps of Engineers)*, shall determine the percentage of the total land in each State that is owned by the Federal Government or that is held by the Federal Government in trust;

"(ii) shall determine the sum of the percentages determined under clause (i) for States with respect to which the percentage is 4.5 or greater; and

"(iii) shall determine for each State included in the determination under clause (ii) the percentage obtained by dividing—

"(I) the percentage for the State determined under clause (i); by

"(II) the sum determined under clause (ii).

"(B) ADJUSTMENT.—The Secretary shall—

"(i) reduce any percentage determined under subparagraph (A)(iii) that is greater than 7.5 percent to 7.5 percent; and

"(ii) redistribute the percentage points equal to any reduction under clause (i) among other States included in the determination under subparagraph (A)(ii) in proportion to the percentages for those States determined under subparagraph (A)(iii).

"(2) AVAILABILITY TO STATES.—Except as provided in paragraph (3), for each fiscal year, the Secretary shall make funds available to carry out eligible projects in a State in an amount equal to the amount obtained by multiplying—

"(A) the percentage for the State, if any, determined under paragraph (1); by

"(B) the funds made available for the program for the fiscal year.

"(3) SELECTION OF PROJECTS.—The Secretary may establish deadlines for States to submit proposed projects for funding under this section, except that in the case of fiscal year 1998 the deadline may not be earlier than January 1, 1998. For each fiscal year, if a State does not have pending, by that deadline, applications for projects with an estimated cost equal to at least 3 times the amount for the State determined under paragraph (2), the Secretary may distribute, to 1 or more other States, at the Secretary's discretion, ⅓ of the amount by which the estimated cost of the State's applications is less than 3 times the amount for the State determined under paragraph (2).

"(c) TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a State and the Secretary may agree to transfer amounts made available to a State under this section to the allocations of the State under section 202 for use in carrying out projects on any Federal lands highway that is located in the State.

"(2) SPECIAL RULE.—This paragraph applies to a State that contains a national park that was visited by more than 2,500,000 people in 1996 and comprises more than 3,000 square miles of land area, including surface water, that is located in the State. For such a State, 50 percent of the amount that would otherwise be made available to the State for each fiscal year under the program shall be made available only for eligible highway uses in the national park and within the borders of the State. For the purpose of making allocations under section 202(c), the Secretary may not take into account the past or future availability, for use on park roads and parkways in a national park, of funds made available for use in a national park by this paragraph.

"(d) RIGHTS-OF-WAY ACROSS FEDERAL LAND.—Nothing in this section affects any claim for a right-of-way across Federal land.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $74,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be [made] available for obligation in the same manner as if the funds were apportioned under chapter 1.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 207 and inserting the following:

"207. Cooperative Federal Lands Transportation Program.".

SEC. 1116. TRADE CORRIDOR AND BORDER CROSSING PLANNING AND BORDER INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) BORDER REGION.—The term "border region" means—

(A) the region located within 60 miles of the United States border with Mexico; and

(B) the region located within 60 miles of the United States border with Canada.

(2) BORDER STATE.—The term "border State" means a State of the United States that—

(A) is located along the border with Mexico; or

(B) is located along the border with Canada.

(3) BORDER STATION.—The term "border station" means a controlled port of entry into the United States located in the United States at the border with Mexico or Canada, consisting of land occupied by the station and the buildings, roadways, and parking lots on the land.

(4) FEDERAL INSPECTION AGENCY.—The term "Federal inspection agency" means a Federal agency responsible for the enforcement of immigration laws (including regulations), customs laws (including regulations), and agriculture import restrictions, including the United States Customs Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, the Food and Drug Administration, the United States Fish and Wildlife Service, and the Department of State.

(5) GATEWAY.—The term "gateway" means a grouping of border stations defined by proximity and similarity of trade.

(6) NON-FEDERAL GOVERNMENTAL JURISDICTION.—The term "non-Federal governmental jurisdiction" means a regional, State, or local authority involved in the planning, development, provision, or funding of transportation infrastructure needs.

(b) BORDER CROSSING PLANNING INCENTIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall make incentive grants to States and to metropolitan planning organizations designated under section 134 of title 23, United States Code.

(2) USE OF GRANTS.—The grants shall be used to encourage joint transportation planning activities and to improve people and vehicle movement into and through international gateways as a supplement to statewide and metropolitan transportation planning funding made available under other provisions of this Act and under title 23, United States Code.

(3) CONDITION OF GRANTS.—As a condition of receiving a grant under paragraph (1), a State transportation department or a metropolitan planning organization shall certify to the Secretary that it commits to be engaged in joint planning with its counterpart agency in Mexico or Canada.

(4) LIMITATION ON AMOUNT.—Each State transportation department or metropolitan planning organization may receive not more than $100,000 under this subsection for any fiscal year.

(5) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,400,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(c) TRADE CORRIDOR PLANNING INCENTIVE GRANTS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States to encourage, within the framework of the statewide transportation planning process of the State under section 135 of title 23, United States Code, cooperative multistate corridor analysis of, and planning for, the safe and efficient movement of goods along and within international or interstate trade corridors of national importance.

(B) IDENTIFICATION OF CORRIDORS.—Each corridor referred to in subparagraph (A) shall be cooperatively identified by the States along the corridor.

(2) CORRIDOR PLANS.—

(A) IN GENERAL.—As a condition of receiving a grant under paragraph (1), a State shall enter into an agreement with the Secretary that specifies that, in cooperation with the other States along the corridor, the State will submit a plan for corridor improvements to the Secretary not later than 2 years after receipt of the grant.

(B) COORDINATION OF PLANNING.—Planning with respect to a corridor under this subsection shall be coordinated with transportation planning being carried out by the States and metropolitan planning organizations along the corridor and, to the extent appropriate, with transportation planning being carried out by Federal land management agencies, by tribal governments, or by government agencies in Mexico or Canada.

(3) MULTISTATE AGREEMENTS FOR TRADE CORRIDOR PLANNING.—The consent of Congress is granted to any 2 or more States—

(A) to enter into multistate agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of interstate trade corridor planning activities; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable to make the agreements effective.

(4) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $3,000,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(d) FEDERAL ASSISTANCE FOR TRADE CORRIDORS AND BORDER INFRASTRUCTURE SAFETY AND CONGESTION RELIEF.—

(1) APPLICATIONS FOR GRANTS.—The Secretary shall make grants to States or metropolitan planning organizations that submit an application that—

(A) demonstrates need for assistance in carrying out transportation projects that are necessary to relieve traffic congestion or improve enforcement of motor carrier safety laws; and

(B) includes strategies to involve both the public and private sectors in the proposed project.

(2) SELECTION OF STATES, METROPOLITAN PLANNING ORGANIZATIONS, AND PROJECTS TO RECEIVE GRANTS.—In selecting States, metropolitan planning organizations, and projects to receive grants under this subsection, the Secretary shall consider—

(A) the annual volume of commercial vehicle traffic at the border stations or ports of entry of each State as compared to the annual volume of commercial vehicle traffic at the border stations or ports of entry of all States;

(B) the extent to which commercial vehicle traffic in each State has grown since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103-182) as compared to the extent to which that traffic has grown in each other State;

(C) the extent of border transportation improvements carried out by each State since the date of enactment of that Act;

(D) the reduction in commercial and other travel time through a major international gateway expected as a result of the project;

(E) the extent of leveraging of Federal funds provided under this subsection, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding;

(F) improvements in vehicle and highway safety and cargo security in and through the gateway concerned;

(G) the degree of demonstrated coordination with Federal inspection agencies; [and]

(H) the extent to which the innovative and problem solving techniques of the proposed project would be applicable to other border stations or ports of entry;

(I) demonstrated local commitment to implement and sustain continuing comprehensive border planning processes and improvement programs; and

(J) other factors to promote transport efficiency and safety, as determined by the Secretary.

(3) USE OF GRANTS.—

(A) IN GENERAL.—A grant under this subsection shall be used to develop project plans, and implement coordinated and comprehensive programs of projects, to improve efficiency and safety.

(B) TYPE OF PLANS AND PROGRAMS.—The plans and programs may include—

(i) improvements to transport and supporting infrastructure;

(ii) improvements in operational strategies, including electronic data interchange and use of telecommunications to expedite vehicle and cargo movement;

(iii) modifications to regulatory procedures to expedite vehicle and cargo flow;

(iv) new infrastructure construction;

(v) purchase, installation, and maintenance of weigh-in-motion devices and associated electronic equipment in Mexico or Canada if real time data from the devices is provided to the nearest border station and to State commercial vehicle enforcement facilities that serve the border station; and

(vi) other institutional improvements, such as coordination of binational planning, programming, and border operation, with special emphasis on coordination with—

(I) Federal inspection agencies; and

(II) their counterpart agencies in Mexico and Canada.

(4) CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.—At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more than $10,000,000 of the amounts made available under paragraph (5) to the Administrator of General Services for

the construction of transportation infrastructure necessary for law enforcement in border States.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $125,000,000 for each of fiscal years 1998 through 2003.

(e) COORDINATION OF PLANNING.—

(1) PLANNING AND DEVELOPMENT OF BORDER STATIONS.—The General Services Administration shall be the coordinating Federal agency in the planning and development of new or expanded border stations.

(2) COOPERATIVE ACTIVITIES.—In carrying out paragraph (1), the Administrator of General Services shall cooperate with Federal inspection agencies and non-Federal governmental jurisdictions to ensure that—

(A) improvements to border station facilities take into account regional and local conditions, including the alignment of highway systems and connecting roadways; and

(B) all facility requirements, associated costs, and economic impacts are identified.

(f) COST SHARING.—A grant under this section shall be used to pay the Federal share of the cost of a project. The Federal share shall not exceed 80 percent.

(g) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this section but not allocated exceeds $4,000,000 as of September 30 of any year, the excess amount—

(1) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

(2) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

(3) shall be available for any purpose eligible for funding under section 133 of that title.

SEC. 1117. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 201(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the second sentence, by inserting before the period at the end the following: ", except that each allocation to a State shall remain available for expenditure in the State for the fiscal year in which the allocation is allocated and for the 3 following fiscal years"; and

(2) by inserting after the second sentence the following: "Funds authorized under this section for fiscal year 1998 or a fiscal year thereafter, and not expended by a State during the 4 fiscal years referred to in the preceding sentence, shall be released to the Commission for reallocation *and shall remain available until expended.*".

(b) SUBSTITUTE CORRIDOR.—Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "(b) The Commission" and inserting the following:

"(b) DESIGNATIONS.—

"(1) IN GENERAL.—The Commission"; and

(3) by adding at the end the following:

"(2) SUBSTITUTE CORRIDOR.—In lieu of Corridor H in Virginia, the Appalachian development highway system shall include the Virginia portion of the segment identified in section [332(a)(29)] *1105(c)(29)* of the [National Highway System Designation Act of 1995 (Public Law 104–59;] *Intermodal Surface Transportation Efficiency Act of 1991* (109 Stat. 597).".

(c) FEDERAL SHARE FOR PREFINANCED PROJECTS.—Section 201(h)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "70 per centum" and inserting "80 percent".

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 201[(g)] of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—

"(A) FISCAL YEARS 1998 THROUGH 2003.—For the continued construction of the Appalachian development highway system approved as of September 30, 1996, in accordance with this section, there shall be available from the Highway Trust Fund (other than the Mass Transit Account) $40,000,000 for each of fiscal years 1998 through 2000, $50,000,000 for fiscal year 2001, $60,000,000 for fiscal year 2002, and $70,000,000 for fiscal year 2003.

"(B) OBLIGATION AUTHORITY.—The Secretary shall provide equivalent amounts of obligation authority for the funds authorized under subparagraph (A).

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be determined in accordance with this section and the funds shall remain available in accordance with subsection (a).".

SEC. 1118. INTERSTATE 4R AND BRIDGE DISCRETIONARY PROGRAM.

(a) IN GENERAL.—Section 104 of title 23, United States Code (as amended by section 1113(c)(1)), is amended by inserting after subsection (j) the following:

"(k) SET-ASIDE FOR INTERSTATE 4R AND BRIDGE PROJECTS.—

"(1) IN GENERAL.—For each of fiscal years 1998 through 2003, before any apportionment is made under subsection (b)(1), the Secretary shall set aside $70,000,000 from amounts to be apportioned under subsection (b)(1)(A), and $70,000,000 from amounts to be apportioned under subsection (b)(1)(B), for allocation by the Secretary—

"(A) for projects for resurfacing, restoring, rehabilitating, or reconstructing any route or portion of a route on the Interstate System (other than any highway designated as a part of the Interstate System under section 103(c)(4) and any toll road on the Interstate System that is not subject to an agreement under section 119(e) (as in effect on December 17, 1991) or an agreement under section 129(a));

"(B) for projects for a highway bridge the replacement, [or] rehabilitation, *or seismic retrofit* cost of which is more than $10,000,000; and

"(C) for projects for a highway bridge the replacement, [or] rehabilitation, *or seismic retrofit* cost of which is less than $10,000,000 if the cost is at least twice the amount reserved under section 144(c) by the State in which the bridge is located for the fiscal year in which application is made for [a grant] *an allocation* for the bridge *under this subsection.*

"(2) REQUIRED ALLOCATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each of fiscal years 1998 through 2003, the Secretary shall allocate on October 1, for use for highway bridge projects, at least $20,000,000 of the amounts set aside under paragraph (1) to any State that—

"(i) is apportioned for fiscal year 1998 under paragraphs (1)(B), (1)(C)(i)(III), and (3)(A)(iii) of subsection (b) an amount that is less than the amount apportioned to the State for the highway bridge replacement and rehabilitation program under section 144 for fiscal year 1997; and

"(ii) was apportioned for that program for fiscal year 1997 an amount greater than $125,000,000.

"(B) EXCEPTION.—A State that transferred funds from the highway bridge replacement and rehabilitation program during any of fiscal years 1995 through 1997 in an amount greater than 10 percent of the apportionments for that program for the fiscal year shall not be eligible for an allocation under subparagraph (A).

"(C) ADDITIONAL ALLOCATION.—An allocation to a State under subparagraph (A) shall be in addition to any allocation to the State under paragraph (1).

[*"(2)*] *"(3)* AVAILABILITY TO STATES OF INTERSTATE 4R FUNDS.—The Secretary may grant the application of a State for funds made available for a fiscal year for a project described in paragraph (1)(A) if the Secretary determines that—

"(A) the State has obligated or demonstrates that it will obligate for the fiscal year all of the apportionments to the State under subparagraphs (A) and (B) of subsection (b)(1) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project described in paragraph (1)(A) that has been submitted by the State to the Secretary for approval; and

"(B) the State is willing and able to—

"(i) obligate the funds within 1 year after the date on which the funds are made available;

"(ii) apply the funds to a project that is ready to be commenced; and

"(iii) in the case of construction work, begin work within 90 days after the date of obligation of the funds.

"(4) ELIGIBILITY OF CERTAIN BRIDGES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this subsection.

"(B) LIMITATION.—The amount of assistance under subparagraph (A) shall not exceed the cumulative amount that the agency has expended for capital and operating costs to subsidize the transit system.

"(C) DETERMINATION BY THE SECRETARY.—Before authorizing an expenditure of funds under this paragraph, the Secretary shall make a determination that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement, seismic retrofitting, or rehabilitation project.

"(D) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of expenditure.

"[(3)] *(5)* PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Amounts made available under this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 118 of title 23, United States Code, is amended by striking subsection (c).

SEC. 1119. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

"§ 322. Magnetic levitation transportation technology deployment program

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station.

"(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(4) PARTNERSHIP POTENTIAL.—The term 'partnership potential' has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 1978).

"(b) ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make available financial assistance to provide the Federal share of full project costs of eligible projects selected under this section.

"(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than ⅔.

"(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

"(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

"(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

"(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

"(2) require an amount of Federal funds for project financing that will not exceed *the sum of*—

"(A) the amounts made available under subsection (h)(1)(A); and

"(B) the amounts made available by States under subsection (h)(4);

"(3) result in an operating transportation facility that provides a revenue producing service;

"(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

"(5) satisfy applicable statewide and metropolitan planning requirements;

"(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

"(7) to the extent *that* non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

"(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

"(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

"(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

"(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

"(3) States, regions, and localities financially contribute to the project;

"(4) implementation of the project will create new jobs in traditional and emerging industries;

"(5) the project will augment MAGLEV networks identified as having partnership potential;

"(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

"(7) financial assistance would foster the timely implementation of a project; and

"(8) life-cycle costs in design and engineering are considered and enhanced.

"(f) PROJECT SELECTION.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 eligible project for financial assistance.

"(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

"(h) FUNDING.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1999 and $20,000,000 for fiscal year 2000.

"(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

"(II) the availability of the funds shall be determined in accordance with paragraph (2).

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

"(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

"(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title *and the Transportation Infrastructure Finance and Innovation Act of 1997*, including loans, loan guarantees, and lines of credit.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

"322. Magnetic levitation transportation technology deployment program.".

SEC. 1120. WOODROW WILSON MEMORIAL BRIDGE.

(a) DEFINITIONS.—Section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 628) is amended—

(1) in paragraph (3), by striking ", including approaches thereto"; and

(2) in paragraph (5), by striking "to be determined under section 407. Such" and all that follows and inserting the following: "as described in the record of decision executed by the Secretary in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The term includes ongoing short-term rehabilitation and repairs to the Bridge.".

(b) OWNERSHIP OF BRIDGE.—

(1) CONVEYANCE BY THE SECRETARY.—Section 407(a)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by inserting "or any Capital Region jurisdiction" after "Authority" each place it appears.

(2) AGREEMENT.—Section 407 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by striking subsection (c) and inserting the following:

"(c) AGREEMENT.—

"(1) IN GENERAL.—The agreement referred to in subsection (a) is an agreement concerning the Project that is executed by the Secretary and the Authority or any Capital Region jurisdiction that accepts ownership of the Bridge.

"(2) TERMS OF THE AGREEMENT.—The agreement shall—

"(A) identify whether the Authority or a Capital Region jurisdiction will accept ownership of the Bridge;

"(B) contain a financial plan satisfactory to the Secretary, which shall be prepared before the execution of the agreement, that specifies—

"(i) the total cost of the Project, including any cost-saving measures;

"(ii) a schedule for implementation of the Project, including whether any expedited design and construction techniques will be used; and

"(iii) the sources of funding that will be used to cover any costs of the Project not funded from funds made available under section 412; and

"(C) contain such other terms and conditions as the Secretary determines to be appropriate.".

(c) FEDERAL CONTRIBUTION.—The Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 627) is amended by adding at the end the following:

"SEC. 412. FEDERAL CONTRIBUTION.

"(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than

the Mass Transit Account) $100,000,000 for fiscal year 1998, $100,000,000 for fiscal year 1999, $125,000,000 for fiscal year 2000, $175,000,000 for fiscal year 2001, $200,000,000 for fiscal year 2002, and $200,000,000 for fiscal year 2003, to pay the costs of planning, preliminary engineering and design, final engineering, acquisition of rights-of-way, and construction of the Project, except that the costs associated with the Bridge shall be given priority over other eligible costs, other than design costs, of the Project.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that—

"(A) the funds shall remain available until expended and shall not be subject to any obligation limitation;

"(B) the Federal share of the cost of the Bridge component of the Project shall not exceed 100 percent; and

"(C) the Federal share of the cost of any other component of the Project shall not exceed 80 percent.

"(b) USE OF APPORTIONED FUNDS.—Nothing in this [Act] *title* limits the authority of any Capital Region jurisdiction to use funds apportioned to the jurisdiction under paragraph (1) or (3) of section 104(b) of title 23, United States Code, in accordance with the requirements for such funds, to pay any costs of the Project.

"(c) AVAILABILITY OF APPORTIONED FUNDS.—None of the funds made available under this section shall be available before the execution of the agreement described in section 407(c), except that the Secretary may fund the maintenance and rehabilitation of the Bridge and the design of the Project.".

(d) CONFORMING AMENDMENT.—Section 405(b)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 629) is amended by striking "the Signatories as to the Federal share of the cost of the Project and the terms and conditions related to the timing of the transfer of the Bridge to".

SEC. 1121. NATIONAL HIGHWAY SYSTEM COMPONENTS.

The National Highway System consists of the routes and transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled "Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals" and dated May 24, 1996.

SEC. 1122. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) in the section heading, by striking "**program**";

(2) by striking subsections (a) through (n), (p), and (q);

(3) by inserting after the section heading the following:

"(a) DEFINITION OF REHABILITATE.—In this section, the term 'rehabilitate' (in any of its forms), with respect to a bridge, means to carry out major work necessary—

"(1) to address the structural deficiencies, functional obsolescence, or physical deterioration of the bridge; or

"(2) to correct a major safety defect of the bridge, *including seismic retrofitting*.

"(b) BRIDGE INVENTORY.—

"(1) IN GENERAL.—In consultation with the States, the Secretary shall—

"(A) annually inventory all highway bridges on public roads that cross waterways, other topographical barriers, other highways, and railroads;

"(B) classify each such bridge according to serviceability, safety, and essentiality for public use; and

"(C) assign each such bridge a priority for replacement or rehabilitation based on the classification under subparagraph (B).

"(2) CONSULTATION.—In preparing an inventory of highway bridges on Indian reservation roads and park roads under paragraph (1), the Secretary shall consult with the Secretary of the Interior and the States.

"(3) INVENTORY OF HISTORICAL BRIDGES.—At the request of a State, the Secretary may inventory highway bridges on public roads for historical significance.

"(c) CERTIFICATION BY THE STATE.—Not later than 180 days after the end of each fiscal year beginning with fiscal year 1998, each State shall certify to the Secretary, either that—

"(1) the State has reserved, from funds apportioned to the State for the preceding fiscal year, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), an amount that is not less than the amount apportioned to the State under this section for fiscal year 1997; or

"(2) the amount that the State will reserve, from funds apportioned to the State for the period consisting of fiscal years 1998 through 2001, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), will be not less than 4 times the amount apportioned to the State under this section for fiscal year 1997.

"(d) USE OF RESERVED FUNDS.—A State may use funds reserved under subsection (c) to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, *apply sodium acetate/formate deicer to*, or install scour countermeasures on a highway bridge on a public road that crosses a waterway, other topographical barrier, other highway, or railroad.

"(e) OFF-SYSTEM BRIDGES.—

"(1) REQUIRED EXPENDITURE.—For each fiscal year, an amount equal to not less than 15 percent of the amount apportioned to a State under this section for fiscal year 1997 shall be expended by the State for projects to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, *apply sodium acetate/formate deicer to*, or install scour countermeasures on highway bridges located on public roads that are functionally classified as local roads or rural minor collectors.

"(2) USE OF FUNDS TO MEET REQUIRED EXPENDITURE.—Funds reserved under subsection (c) and funds made available under section 104(b)(1) for the National Highway System or under section 104(b)(3) for the surface transportation program may be used to meet the requirement for expenditure under paragraph (1).

"(3) REDUCTION OF REQUIRED EXPENDITURE.—After consultation with local and State officials in a State, the Secretary may, with respect to the State, reduce the requirement for expenditure under paragraph (1) if the Secretary determines that the State has inadequate needs to justify the expenditure.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be [80 percent] *as determined under section 120(b)*.

"(g) BRIDGE PERMIT EXEMPTION.—

"(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to each bridge authorized to be replaced, in whole or in part, under this section.

"(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425; 33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title if the bridge is over waters that are—

"(A) not used and not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(B)(i) not tidal; or

"(ii) tidal but used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

"(h) INDIAN RESERVATION ROAD BRIDGES.—

"(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

"(2) RESERVATION OF FUNDS.—

"(A) IN GENERAL.—Of the amounts authorized for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $9,000,000 for projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, *apply sodium acetate/formate deicer to*, or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

"(B) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

"(i) have an opening of 20 feet or more;

"(ii) be on an Indian reservation road;

"(iii) be unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; and

"(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

"(3) APPROVAL REQUIREMENT.—Funds to carry out Indian reservation road bridge projects under this subsection shall be made available only on approval of plans, specifications, and estimates by the Secretary.";

(4) by redesignating subsection (o) as subsection (i); and

(5) in subsection (i) (as so redesignated)—

(A) in paragraph (1), by inserting "for alternative transportation purposes (including bikeway and walkway projects eligible for funding under this title)" after "adaptive reuse";

(B) in paragraph (3)—

(i) by inserting "(regardless of whether the intended use is for motorized vehicular traffic or for alternative public transportation purposes)" after "intended use"; and

(ii) by inserting "or for alternative public transportation purposes" after "no longer used for motorized vehicular traffic"; and

(C) in the second sentence of paragraph (4)—

(i) by inserting "for motorized vehicles, alternative vehicular traffic, or alternative public transportation" after "historic bridge"; and

(ii) by striking "up to an amount not to exceed the cost of demolition".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge replacement and rehabilitation.".

SEC. 1123. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHED PROGRAM.—Section 149(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(b) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended in the first sentence—

(1) by striking "that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994" and inserting "that is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) or classified as a submarginal ozone nonattainment area under that Act, or if the project or program is for a maintenance [area or an area that, as of the date of enactment of the Intermodal Transportation Act of 1997, is considered by the Administrator of the Environmental Protection Agency to be a flexible attainment region";] *area,"*;

(2) in paragraph (1)—

(A) in subparagraph (A), by striking "clauses (xii) and" and inserting "clause"; and

(B) in subparagraph (B), by striking "such section" and inserting "section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))";

(3) in paragraph (2), by inserting "or maintenance" after "State implementation";

(4) in paragraph (3), by inserting "or maintenance of the standard" after "standard"; and

(5) in paragraph (4), by inserting "or maintenance" after "attainment".

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

"(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project eligible under the surface transportation program under section 133.

"(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not [attributed to the] *based on its* nonattainment [or] *and* maintenance area *population under subparagraphs (B) and (C) of section 104(b)(2)* for any project *in the State* eligible under section 133.".

(d) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended in the first sentence by striking "The" and inserting "Except in the case of a project funded from sums apportioned under section 104(b)(2), the".

(e) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended by inserting after the undesignated paragraph defining "maintenance" the following:

"The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).".

(2) Section 149(b)(1)(A)(ii) of title 23, United States Code, is amended by striking "an area" and all that follows and inserting "a maintenance area; or".

SEC. 1124. SAFETY BELT USE LAW REQUIREMENTS.

Section 355 of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended—

(1) in the section heading, by striking "and maine";

(2) in subsection (a)—

(A) by striking "States of New Hampshire and Maine shall each" and inserting "State of New Hampshire shall"; *and*

(B) in paragraph (1), by striking "and 1996" and inserting "through 2000"; and

(3) by striking "or Maine" each place it appears.

SEC. 1125. SENSE OF THE SENATE CONCERNING RELIANCE ON PRIVATE ENTERPRISE.

(a) IN GENERAL.—It is the sense of the Senate that each agency authorized to expend funds made available under this Act, or an amendment made by this Act, or a recipient of any form of a grant or other Federal assistance under this Act, or an amendment made by this Act—

(1) should, in expending the funds or assistance, rely on entities in the private enterprise system to provide such goods and services as are reasonably and expeditiously available through ordinary business channels; and

(2) shall not duplicate or compete with entities in the private enterprise system.

(b) PROCEDURES.—The Secretary should provide procedures to inform each agency that administers this Act and each recipient of a grant or other Federal assistance of the sense of the Senate expressed in subsection (a).

SEC. 1126. STUDY OF USE OF UNIFORMED POLICE OFFICERS ON FEDERAL-AID HIGHWAY CONSTRUCTION PROJECTS.

(a) IN GENERAL.—In consultation with the States and State transportation departments, the Secretary shall conduct a study on the extent and effectiveness of use by States of uniformed police officers on Federal-aid highway construction projects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a), including any legislative and administrative recommendations of the Secretary.

SEC. 1127. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)(i), by striking ", except to" and all that follows through "services";

(2) by striking subparagraph (C) and inserting the following:

"(C) SELECTION, PERFORMANCE, AND AUDITS.—

"(i) IN GENERAL.—All requirements for architectural, engineering, and related services at any phase of a highway project funded in whole or in part with Federal-aid highway funds shall be performed by a contract awarded in accordance with subparagraph (A).

"(ii) PROHIBITION ON STATE RESTRICTION.—A State shall not impose any overhead restriction that would preclude any qualified firm from being eligible to compete for contracts awarded in accordance with subparagraph (A).

"(iii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATIONS.—The process for selection, award, performance, administration, and audit of the resulting contracts shall comply with the cost principles and cost accounting principles of the Federal Acquisition Regulations, including parts 30, 31, and 36 of the Regulations."; and

(3) by adding at the end the following:

"(H) COMPLIANCE.—

"(i) IN GENERAL.—A State shall comply with the qualifications-based selection process, contracting based on the Federal Acquisition Regulations, and the single audit procedures required under this paragraph, or with an existing State law or a statute enacted in accordance with the legislative session exemption under subparagraph (G), with respect to any architecture, engineering, or related service contract for any phase of a Federal-aid highway project.

"(ii) STATES WITH ALTERNATIVE PROCESS.—Any State that, after November 28, 1995, enacted legislation to establish an alternative State process as a substitute for the contract administration and audit procedures required under this paragraph or was granted a waiver under subparagraph (G) shall submit the legislation to the Secretary, not later than 60 days after the date of enactment of this subparagraph, for certification that the State legislation is in compliance with the statutory timetable and substantive criteria specified in subparagraph (G).".

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

SEC. 1201. ADMINISTRATIVE EXPENSES.

Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133, the congestion mitigation and air quality improvement program under section 149, or the *Interstate and* National Highway System *program* under section 103, the Secretary shall deduct a sum, in an amount not to exceed 1½ percent of all sums so made available, as the Secretary determines necessary to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2.

"(2) CONSIDERATION OF UNOBLIGATED BALANCES.—In making the determination described in paragraph (1), the Secretary shall take into account the unobligated balance of any sums deducted under [that paragraph] *this subsection* in prior fiscal years.

"(3) AVAILABILITY.—The sum deducted under paragraph (1) shall remain available until expended.".

SEC. 1202. REAL PROPERTY ACQUISITION AND CORRIDOR PRESERVATION.

(a) ADVANCE ACQUISITION OF REAL PROPERTY.—Section 108 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 108. Advance acquisition of real property";

and

(2) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

"(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.".

(b) CREDIT FOR ACQUIRED LANDS.—Section 323(b) of title 23, United States Code, is amended—

(1) in the subsection heading, by striking "DONATED" and inserting "ACQUIRED";

(2) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

"(A) is obtained by the State, without violation of Federal law; and

"(B) is incorporated into the project.

"(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

"(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

"(B) the fair market value of donated land shall be established as of the earlier of—

"(i) the date on which the donation becomes effective; or

"(ii) the date on which equitable title to the land vests in the State.";

(3) by striking paragraph (3);

(4) in paragraph (4), by striking "to which the donation is applied"; and

(5) by redesignating paragraph (4) as paragraph (3).

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 108 and inserting the following:

"108. Advance acquisition of real property.".

SEC. 1203. AVAILABILITY OF FUNDS.

Section 118 of title 23, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of a project agreement, shall be credited to the same program funding category for which the funds were previously apportioned and shall be immediately available for obligation.

"(2) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—Any Federal-aid highway funds apportioned to a State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of this paragraph) and credited under paragraph (1) may be transferred by the Secretary in accordance with section 103(d).".

SEC. 1204. PAYMENTS TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second and third sentences and inserting the following: "The payments may also be made for the value of such materials as—

"(1) have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

"(2) are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in the vicinity.";

(2) by striking subsection (b) and inserting the following:

"(b) PROJECT AGREEMENTS.—

"(1) PAYMENTS.—A payment under this chapter may be made only for a project covered by a project agreement.

"(2) SOURCE OF PAYMENTS.—After completion of a project in accordance with the project agreement, a State shall be entitled to payment, out of the appropriate sums apportioned or allocated to the State, of the unpaid balance of the Federal share of the cost of the project.";

(3) by striking subsections (c) and (d); and

(4) by redesignating subsection (e) as subsection (c).

SEC. 1205. PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.

(a) IN GENERAL.—Section 156 of title 23, United States Code, is amended to read as follows:

"§ 156. Proceeds from the sale or lease of real property

"(a) MINIMUM CHARGE.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

"(b) EXCEPTIONS.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

"(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 156 and inserting the following:

"156. Proceeds from the sale or lease of real property.".

SEC. 1206. METRIC CONVERSION AT STATE OPTION.

Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking "Before September 30, 2000, the" and inserting "The".

SEC. 1207. REPORT ON OBLIGATIONS.

Section 104(m) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended—

(1) by inserting "REPORT TO CONGRESS.—" before "The Secretary";

(2) by striking "not later than" and all that follows through "a report" and inserting "a report for each fiscal year";

(3) in paragraph (1), by striking "preceding calendar month" and inserting "preceding fiscal year";

(4) by striking paragraph (2);

(5) in paragraph (3), by striking "such preceding month" and inserting "that preceding fiscal year"; and

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 1208. TERMINATIONS.

(a) RIGHT-OF-WAY REVOLVING FUND.—Section 108 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TERMINATION OF RIGHT-OF-WAY REVOLVING FUND.—

"(1) IN GENERAL.—Funds apportioned and advanced to a State by the Secretary from the right-of-way revolving fund established by this section prior to the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997 shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

"(2) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in paragraph (1), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

"(A) the Highway Trust Fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

"(B) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund.".

(b) PILOT TOLL COLLECTION PROGRAM.—Section 129 of title 23, United States Code, is amended by striking subsection (d).

(c) NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.—As soon as practicable after the date of enactment of this Act, the Secretary shall take such action as is necessary for the termination of the National Recreational Trails Advisory Committee established by section 1303 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1262) (as in effect on the day before the date of enactment of this Act).

(d) CONGRESSIONAL BRIDGE COMMISSIONS.—Public Law 87–441 (76 Stat. 59) is repealed.

SEC. 1209. INTERSTATE MAINTENANCE.

(a) INTERSTATE FUNDS.—Section 119 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (d); and

(3) by striking subsection (f) and inserting the following:

"(f) TRANSFERABILITY OF FUNDS.—

"(1) UNCONDITIONAL.—A State may transfer an amount not to exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).

"(2) UPON ACCEPTANCE OF CERTIFICATION.—If a State certifies to the Secretary that any part of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) is in excess of the needs of the State for resurfacing, restoring, rehabilitating, or reconstructing routes and bridges on the Interstate System in the State and that the State is adequately maintaining the routes and bridges, and the Secretary accepts the certification, the State may transfer, in addition to the amount authorized to be transferred under paragraph (1), an amount not to exceed 20 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).".

(b) ELIGIBILITY.—Section 119 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking "and rehabilitating" and inserting ", rehabilitating, and reconstructing";

(2) by striking subsections (b), (c), (e), and (g);

(3) by inserting after subsection (a) the following:

"(b) ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—A State—

"(A) may use funds apportioned under subparagraph (A) or (B) of section 104(b)(1) for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System, including—

"(i) resurfacing, restoring, rehabilitating, and reconstructing bridges, interchanges, and overcrossings;

"(ii) acquiring rights-of-way; and

"(iii) intelligent transportation system capital improvements that are infrastructure-based to the extent that they improve the performance of the Interstate System; but

"(B) may not use the funds for construction of new travel lanes other than high-occupancy vehicle lanes or auxiliary lanes.

"(2) EXPANSION OF CAPACITY.—

"(A) USING TRANSFERRED FUNDS.—Notwithstanding paragraph (1), funds transferred under subsection (c)(1) may be used for construction to provide for expansion of the capacity of an Interstate System highway (including a bridge).

"(B) USING FUNDS NOT TRANSFERRED.—

"(i) IN GENERAL.—In lieu of transferring funds under subsection (c)(1) and using the transferred funds for the purpose described in subparagraph (A), a State may use an amount of the sums apportioned to the State under subparagraph (A) or (B) of section 104(b)(1) for the purpose described in subparagraph (A).

"(ii) LIMITATION.—The sum of the amount used under clause (i) and any amount transferred under subsection (c)(1) by a State may not exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1)."; and

(4) by redesignating subsection (f) as subsection (c).

(c) CONFORMING AMENDMENTS.—

(1) Section 119(a) of title 23, United States Code, is amended in the first sentence by striking "; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in subsection (e)".

(2) Section 1009(c)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 119 note; 105 Stat. 193[3]4) is amended by striking "section 119(f)(1)" and inserting "section 119(c)(1)".

CHAPTER 2—PROJECT APPROVAL

SEC. 1221. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code (as amended by section 1118), is amended by inserting after subsection (k) the following:

"(l) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of that chapter relating to the non-Federal share shall apply to the transferred funds.

"(3) TRANSFER TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Funds made available under this title or chapter 53 of title 49 and transferred to the National Railroad Passenger Corporation or to any publicly-owned intercity or intracity passenger rail line shall be administered by the Secretary in accordance with subtitle V of title 49, except that the provisions of this title or chapter 53 of title 49, as applicable, relating to the non-Federal share shall apply to the transferred funds.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) through (3) shall be transferred in the same manner and amount as the funds for the projects are transferred.".

SEC. 1222. PROJECT APPROVAL AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 106. Project approval and oversight";

(2) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(3) by striking subsections (a) through (d) and inserting the following:

"(a) IN GENERAL.—Except as otherwise provided in this section, the State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require. The Secretary shall act upon such plans, specifications, and estimates as soon as practicable after they have been submitted, and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval. The execution of such project agreement shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

"(b) PROJECT AGREEMENT.—The project agreement shall make provision for State funds required for the State's pro rata share of the cost of construction of the project and for the maintenance of the project after completion of construction. The Secretary may rely upon representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

"(c) SPECIAL RULES FOR PROJECT OVERSIGHT.—

"(1) NHS PROJECTS.—Except as otherwise provided in subsection (d) of this section, the Secretary may discharge to the State any of the Secretary's responsibilities for the design, plans, specifications, estimates, contract awards, and inspection of projects under this title on the National Highway System. Before discharging responsibilities to the State, the Secretary shall reach agreement with the State as to the extent to which the State may assume the responsibilities of the Secretary under this subsection. The Secretary may not assume any greater responsibility than the Secretary is permitted under this title as of September 30, 1997, except upon agreement by the Secretary and the State.

"(2) NON-NHS PROJECTS.—For all projects under this title that are off the National Highway System, the State may request that the Secretary no longer review and approve the design, plans, specifications, estimates, contract awards, and inspection of projects under this title. After receiving any such request, the Secretary shall undertake project review only as requested by the State.

"(d) RESPONSIBILITIES OF THE SECRETARY.—

"(1) IN GENERAL.—Subject to paragraph (2), nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under any Federal law other than this title.

"(2) LIMITATION.—Any responsibility or obligation of the Secretary under sections 113 and 114 of this title shall not be affected and may not be discharged under this section, section 133, or section 149.

"(e) VALUE ENGINEERING ANALYSIS.—In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid highway shall be accompanied by a value engineering or other cost reduction analysis.

"(f) FINANCIAL PLAN.—The Secretary shall require a financial plan to be prepared for any project with an estimated total cost of $1,000,000,000 or more.".

(b) STANDARDS.—

(1) ELIMINATION OF GUIDELINES AND ANNUAL CERTIFICATION REQUIREMENTS.—Section 109 of title 23, United States Code, is amended—

(A) by striking subsection (m); and

(B) by redesignating subsections (n) through (q) as subsections (m) through (p), respectively.

(2) SAFETY STANDARDS.—Section 109 of title 23, United States Code (as amended by paragraph (1)), is amended by adding at the end the following:

"(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction.".

(c) PROGRAMS; PROJECT AGREEMENTS; CERTIFICATION ACCEPTANCE.—Sections 110 and 117 of title 23, United States Code, are repealed.

(d) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23 is amended—

(A) by striking the item relating to section 106 and inserting the following:

"106. Project approval and oversight.";

and

(B) by striking the items relating to sections 110 and 117.

(2) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining "project agreement" by striking "the provisions of subsection (a) of section 110 of this title" and inserting "section 106".

(3) Section 114(a) of title 23, United States Code, is amended in the second sentence by striking "section 117 of this title" and inserting "section 106".

SEC. 1223. SURFACE TRANSPORTATION PROGRAM.

(a) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "10" and inserting "8"; and

(B) in the first sentence of paragraph (3)(*A*), by striking "80" and inserting "82"; and

(2) in subsection (e)—

(A) in paragraph (3)(B)(i), by striking "if the Secretary" and all that follows through "activities"; and

(B) in paragraph (5), by adding at the end the following:

"(C) INNOVATIVE FINANCING.—

"(i) IN GENERAL.—For each fiscal year, the average annual non-Federal share of the total cost of all projects to carry out transportation enhancement activities in a State shall be not less than the non-Federal share authorized for the State under section 120(b).

"(ii) EXCEPTION.—Subject to clause (i), notwithstanding section 120, in the case of projects to carry out transportation enhancement activities—

"(I) funds from other Federal agencies, and other contributions that the Secretary determines are of value, may be credited toward the non-Federal share of project costs;

"(II) the non-Federal share may be calculated on a project, multiple-project, or program basis; and

"(III) the Federal share of the cost of an individual project subject to subclause (I) or (II) may be equal to 100 percent.".

(b) PROGRAM APPROVAL.—Section 133(e) of title 23, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) PROGRAM APPROVAL.—

"(A) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

"(i) certifies that the State will meet all the requirements of this section; and

"(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

"(B) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—As necessary, each State shall request from the Secretary adjustments to the amount of obligations referred to in subparagraph (A)(ii).

"(C) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.".

(c) PAYMENTS.—Section 133(e)(3)(A) of title 23, United States Code, is amended by striking the second sentence.

SEC. 1224. DESIGN-BUILD CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) in paragraph (2)(A), by striking "Each" and inserting "Subject to paragraph (3), each"; and

(3) by adding at the end the following:

"(3) DESIGN-BUILD CONTRACTING.—

"(A) IN GENERAL.—A State transportation department may award a contract for the design and construction of a qualified project described in subparagraph (B) using competitive selection procedures approved by the Secretary.

"(B) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter that involves installation of an intelligent transportation system or that consists of a usable project segment and for which—

"(i) the Secretary has approved the use of design-build contracting described in subparagraph (A) under criteria specified in regulations promulgated by the Secretary; and

"(ii) the total costs are estimated to exceed—

"(I) in the case of a project that involves installation of an intelligent transportation system, [$10,000,000] *$5,000,000*; and

"(II) in the case of a usable project segment, $50,000,000.".

(b) COMPETITIVE BIDDING DEFINED.—Section 112 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) COMPETITIVE BIDDING DEFINED.—In this section, the term 'competitive bidding' means the procedures used to award contracts for engineering and design services under subsection (b)(2) and design-build contracts under subsection (b)(3).".

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date specified in subsection (e), the Secretary shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENTS.—The regulations shall—

(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department of design-build contracting; and

(B) establish the procedures to be followed by a State transportation department for obtaining the Secretary's approval of the use of design-build contracting by the department and the selection procedures used by the department.

(d) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act.

(e) EFFECTIVE DATE FOR AMENDMENTS.—The amendments made by this section take effect 2 years after the date of enactment of this Act.

SEC. 1225. INTEGRATED DECISIONMAKING PROCESS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"§354. Integrated decisionmaking process

"(a) DEFINITIONS.—In this section:

"(1) INTEGRATED DECISIONMAKING PROCESS.—The term 'integrated decisionmaking process' means the integrated decisionmaking process established with respect to a surface transportation project under subsection (b).

"(2) NEPA PROCESS.—The term 'NEPA process' means the process of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a surface transportation project.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(4) SURFACE TRANSPORTATION PROJECT.—The term 'surface transportation project' means—

"(A) a highway construction project that is subject to the approval of the Secretary under title 23; and

"(B) a capital project (as defined in section 5302(a)(1)).

"(b) ESTABLISHMENT OF INTEGRATED DECISIONMAKING PROCESSES FOR SURFACE TRANSPORTATION PROJECTS.—The Secretary shall—

"(1) establish an integrated decisionmaking process for surface transportation projects that designates major decision points likely to have significant environmental effects and conflicts; and

"(2) integrate the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with the requirements established by the Secretary for transportation planning and decisionmaking.

"(c) INTEGRATED DECISIONMAKING GOALS.—The integrated decisionmaking process for surface transportation projects should, to the maximum extent practicable, accomplish the following major goals:

"(1) Integrate the NEPA process with the planning, predesign stage, and decisionmaking for surface transportation projects at the earliest possible time.

"(2) Integrate all applicable Federal, State, tribal, and local permitting requirements.

"(3) Integrate national transportation, social, safety, economic, and environmental goals with State, tribal, and local land use and growth management initiatives.

"(4) Consolidate Federal, State, tribal, and local decisionmaking to achieve the best overall public interest according to an agreed schedule.

"(d) STREAMLINING.—

"(1) AVOIDANCE OF DELAYS, PREVENTION OF CONFLICTS, AND ELIMINATION OF UNNECESSARY DUPLICATION.—The Secretary shall design the integrated decisionmaking process to avoid delays in decisionmaking, prevent conflicts between cooperating agencies and members of the public, and eliminate unnecessary duplication of review and decisionmaking relating to surface transportation projects.

"(2) INTEGRATION; COMPREHENSIVE PROCESS.—The NEPA process—

"(A) shall be integrated with the transportation planning and decisionmaking of the Federal, State, tribal, and local transportation agencies; and

"(B) serve as a comprehensive decisionmaking process.

"(3) OTHER REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall—

"(i) establish a concurrent transportation and environmental coordination process to reduce paperwork, combine review documents, and eliminate duplicative reviews;

"(ii) develop interagency agreements to streamline and improve interagency coordination and processing time;

"(iii) apply strategic and programmatic approaches to better integrate and expedite the NEPA process and transportation decisionmaking; and

"(iv) ensure, in appropriate cases, by conducting concurrent reviews whenever possible, that any analyses and reviews conducted by the Secretary consider the needs of other reviewing agencies.

"(B) TIME SCHEDULES.—To comply with subparagraph (A)(ii), time schedules shall be consistent with sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations (or any successor regulations).

"(4) CONCURRENT PROCESSING.—

"(A) IN GENERAL.—The integrated decisionmaking process shall, to the extent practicable, include a procedure to provide for concurrent (rather than sequential) processing of all Federal, State, tribal, and local reviews and decisions emanating from those reviews.

"(B) INCONSISTENCY WITH OTHER REQUIREMENTS.—Subparagraph (A) does not require concurrent review if concurrent review would be inconsistent with other statutory or regulatory requirements.

"(e) INTERAGENCY COOPERATION.—

"(1) LEAD AND COOPERATING AGENCY CONCEPTS.—The lead and cooperating agency concepts of section 1501 of title 40, Code of Federal Regulations (or any successor regulation), shall be considered essential elements to ensure integration of transportation decisionmaking.

"(2) RESPONSIBILITIES.—The Secretary shall—

"(A) not later than 60 days after the date on which a surface transportation project is selected for study by a State, identify each Federal agency that may be required to participate in the integrated decisionmaking process relating to the surface transportation project and notify the agency of the surface transportation project;

"(B) afford State, regional, tribal, and local governments with decisionmaking authority on surface transportation projects the opportunity to serve as cooperating agencies;

"(C) provide cooperating agencies the results of any analysis or other information related to a surface transportation project;

"(D) host an early scoping meeting for Federal agencies and, when appropriate, conduct field reviews, as soon as practicable in the environmental review process;

"(E) solicit from each cooperating agency as early as practicable the data and analyses necessary to facilitate execution of the duties of each cooperating agency;

"(F) use, to the maximum extent possible, scientific, technical, and environmental data and analyses previously prepared by or for other Federal, State, tribal, or local agencies, after an independent evaluation by the Secretary of the data and analyses;

"(G) jointly, with the cooperating agencies, host public meetings and other community participation processes; and

"(H) ensure that the NEPA process and documentation provide all necessary information for the cooperating agency to—

"(i) discharge the responsibilities of the cooperating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other law; and

"(ii) grant approvals, permits, licenses, and clearances.

"(f) ENHANCED SCOPING PROCESS.—During the scoping process for a surface transportation project, in addition to other statutory and regulatory requirements, the Secretary shall, to the extent practicable—

"(1) provide the public with clearly understandable milestones that occur during an integrated decisionmaking process;

"(2) ensure that all agencies with jurisdiction by law or with special expertise have sufficient information and data to discharge their responsibilities;

"(3) ensure that all agencies with jurisdiction by law or with special expertise, and the public, are invited to participate in the initial scoping process;

"(4) coordinate with other agencies to ensure that the agencies provide to the Secretary, not later than 30 days after the first interagency scoping meeting, any preliminary concerns about how the proposed project may affect matters within their jurisdiction or special expertise based on information available at the time of the scoping meeting; and

"(5) in cooperation with all cooperating agencies, develop a schedule for conducting all necessary environmental and other review processes.

"(g) USE OF TITLE 23 FUNDS.—

"(1) USE BY STATES.—A State may use funds made available under section 104(b) or 105 of title 23 or section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1997 to provide resources to Federal or State agencies involved in the review or permitting process for a surface transportation project in order to meet a time schedule established under this section.

"(2) USE AT SECRETARY'S DISCRETION.—At the request of another Federal agency involved in the review or permitting process for a surface transportation project, the Secretary may provide funds under chapter 1 of title 23 to the agency to provide resources necessary to meet the time schedules established under this section.

"(2) AMOUNT.—Funds may be provided under paragraph (1) in the amount by which the cost to complete a environmental review in accordance with a time schedule established under this section exceeds the cost that would be incurred if there were no such time schedule.

"(3) NOT FINAL AGENCY ACTION.—The provision of funds under paragraph (1) does not constitute a final agency action.

"(h) STATE ROLE.—

"(1) IN GENERAL.—For any project eligible for assistance under chapter 1 of title 23, a State may require, by law or agreement coordinating with all related State agencies, that all State agencies that—

"(A) have jurisdiction by Federal or State law over environmental, growth management, or land-use related issues that may be affected by a surface transportation project; or

"(B) have responsibility for issuing any environment related reviews, analyses, opinions, or determinations;

be subject to the coordinated environmental review process provided under this section in issuing any analyses or approvals or taking any other action relating to the project.

"(2) ALL AGENCIES.—If a State requires that any State agency participate in a coordinated environmental review process, the State shall require all affected State agencies to participate.

"(i) EARLY ACTION REGARDING POTENTIALLY INSURMOUNTABLE OBSTACLES.—If, at any time during the integrated decisionmaking process for a proposed surface transportation project, a cooperating agency determines that there is any potentially insurmountable obstacle associated with any of the alternative transportation projects that might be undertaken to address the obstacle, the Secretary shall—

"(1) convene a meeting among the cooperating agencies to address the obstacle;

"(2) initiate conflict resolution efforts under subsection (j); or

"(3) eliminate from consideration the alternative transportation project with which the obstacle is associated.

"(j) CONFLICT RESOLUTION.—

"(1) FORUM.—The NEPA process shall be used as a forum to coordinate the actions of Federal, State, regional, tribal, and local agencies, the private sector, and the public to develop and shape surface transportation projects.

"(2) APPROACHES.—Collaborative, problem solving, and consensus building approaches shall be used (and, when appropriate, mediation may be used) to implement the integrated decisionmaking process with a goal of appropriately considering factors relating to transportation development, economic prosperity, protection of public health and the environment, community and neighborhood preservation, and quality of life for present and future generations.

"(3) UNRESOLVED ISSUES.—

"(A) NOTIFICATION.—If, before the final transportation NEPA document is approved—

"(i) an issue remains unresolved between the lead Federal agency and the cooperating agency; and

"(ii) efforts have been exhausted to resolve the issue at the field levels of each agency—

"(I) within the applicable timeframe of the interagency schedule established under subsection (f)(5); or

"(II) if no timeframe is established, within 90 days;

the field level officer of the lead agency shall notify the field level officer of the cooperating agency that the field level officer of the lead agency intends to bring the issue to the personal attention of the heads of the agencies.

"(B) EFFORTS BY THE AGENCY HEADS.—The head of the lead agency shall contact the head of the cooperating agency and attempt to resolve the issue within 30 days after notification by the field level officer of the unresolved issue.

"(C) CONSULTATION WITH CEQ.—The heads of the agencies are encouraged to consult with the Chair of the Council on Environmental Quality during the 30-day period under subparagraph (B).

"(D) FAILURE TO RESOLVE.—If the heads of the agencies do not resolve the issue within the time specified in subparagraph (B), the referral process under part 1504 of title 40, Code of Federal Regulations (or any successor regulation), shall be initiated with respect to the issue.

"(k) JUDICIAL REVIEW.—Nothing in this section affects the reviewability of any final agency action in a district court of the United States or any State court.

"(l) STATUTORY CONSTRUCTION.—Nothing in this section affects—

"(1) the applicability of the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other statute; or

"(2) the responsibility of any Federal, State, tribal, or local officer to comply with or enforce any statute or regulation.".

(b) TIMETABLE; REPORT TO CONGRESS.—The Secretary, in consultation with the Chair of the Council on Environmental Quality and after notice and opportunity for public comment—

(1) not later than 180 days after the date of enactment of this Act, shall design the integrated decisionmaking process required by the amendment made by subsection (a);

(2) not later than 1 year after the date of enactment of this Act, shall promulgate a regulation governing implementation of an integrated decisionmaking process in accordance with the amendment made by subsection (a); and

(3) not later than 2 years after the date of enactment of this Act, shall submit to Congress a report identifying any additional legislative or other solutions that would further enhance the integrated decisionmaking process.

(c) CONFORMING AMENDMENT.—The analysis for subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"354. Integrated decisionmaking process.".

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

SEC. 1231. DEFINITION OF OPERATIONAL IMPROVEMENT.

Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining "operational improvement" and inserting the following:

"The term 'operational improvement' means the installation, operation, or maintenance, in accordance with subchapter II of chapter 5, of public infrastructure to support intelligent transportation systems and includes the installation or operation of any traffic management activity, communication system, or roadway weather information and prediction system, and any other improvement that the Secretary may designate that enhances roadway safety and mobility during adverse weather.".

SEC. 1232. ELIGIBILITY OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended by inserting "in accordance with sections 103, 133, and 149," after "toll or free,".

(b) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(5) of title 23, United States Code (as amended by section 1234), is amended by adding at the end the following:

"(R) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(c) SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following:

"(12) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(d) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by [adding at the end] *inserting after paragraph (4)* the following:

"(5) if the project or program is to construct a ferry boat or ferry terminal facility and if the conditions described in section 129(c) are met.".

SEC. 1233. FLEXIBILITY OF SAFETY PROGRAMS.

Section 133(d) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) SAFETY PROGRAMS.—

"(A) IN GENERAL.—With respect to funds apportioned for each of fiscal years 1998 through 2003—

"(i) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130;

"(ii) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 152; and

"(iii) an amount equal to 6 percent of the amount apportioned to a State under section

104(b)(3) shall be available only to carry out activities eligible under section 130 or 152.

"(B) TRANSFER OF FUNDS.—If a State certifies to the Secretary that any part of the amount set aside by the State under subparagraph (A)(i) is in excess of the needs of the State for activities under section 130 and the Secretary accepts the certification, the State may transfer that excess part to the set-aside of the State under subparagraph (A)(ii).

"(C) TRANSFERS TO OTHER SAFETY PROGRAMS.—A State may transfer funds set aside under subparagraph (A)(iii) to the apportionment of the State under section 402 or the allocation of the State under section 31104 of title 49.".

SEC. 1234. ELIGIBILITY OF PROJECTS ON THE NATIONAL HIGHWAY SYSTEM.

Section 103(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

"(5) ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1)(C) for the National Highway System may be obligated for any of the following:

"(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

"(B) Operational improvements for segments of the National Highway System.

"(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, construction of a transit project eligible for assistance under chapter 53 of title 49, and capital improvements to any National Railroad Passenger Corporation passenger rail line or any publicly-owned intercity passenger rail line, if—

"(i) the highway, transit, or rail project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

"(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

"(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

"(D) Highway safety improvements for segments of the National Highway System.

"(E) Transportation planning in accordance with sections 134 and 135.

"(F) Highway research and planning in accordance with chapter 5.

"(G) Highway-related technology transfer activities.

"(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(I) Fringe and corridor parking facilities.

"(J) Carpool and vanpool projects.

"(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(L) Development, establishment, and implementation of management systems under section 303.

"(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101–640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction, except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

"(N) Publicly-owned intracity or intercity passenger rail or bus terminals, including terminals of the National Railroad Passenger Corporation and publicly-owned intermodal surface freight transfer facilities, other than seaports and airports, if the terminals and facilities are located on or adjacent to National Highway System routes or connections to the National Highway System selected in accordance with [subsection (b)] *paragraph (2)*.

"(O) Infrastructure-based intelligent transportation systems capital improvements.

"(P) In the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, any project eligible for funding under section 133, any airport, and any seaport.

"(Q) Publicly owned components of magnetic levitation transportation systems.".

SEC. 1235. ELIGIBILITY OF PROJECTS UNDER THE SURFACE TRANSPORTATION PROGRAM.

Section 133(b) of title 23, United States Code (as amended by section 1232(c)), is amended—

(1) in paragraph (2), by striking "and publicly owned intracity or intercity bus terminals and facilities" and inserting ", including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus or rail";

(2) in paragraph (3)—

(A) by striking "and bicycle" and inserting "bicycle"; and

(B) by inserting before the period at the end the following: ", and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)";

(3) in paragraph (4)—

(A) by inserting ", publicly owned passenger rail," after "Highway";

(B) by inserting "infrastructure" after "safety"; and

(C) by inserting before the period at the end the following: ", and any other noninfrastructure highway safety improvements";

(4) in the first sentence of paragraph (11)—

(A) by inserting "natural habitat and" after "participation in" each place it appears;

(B) by striking "enhance and create" and inserting "enhance, and create natural habitats and"; and

(C) by inserting "natural habitat and" before "wetlands conservation"; and

(5) by adding at the end the following:

"(13) Publicly owned intercity passenger rail infrastructure, including infrastructure owned by the National Railroad Passenger Corporation.

"(14) Publicly owned passenger rail vehicles, including vehicles owned by the National Railroad Passenger Corporation.

"(15) Infrastructure-based intelligent transportation systems capital improvements.

"(16) Publicly owned components of magnetic levitation transportation [systems.".] *systems.*

"(17) Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.".

SEC. 1236. DESIGN FLEXIBILITY.

Section 109 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) REQUIREMENTS FOR FACILITIES.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

"(A) adequately serve the existing traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

"(B) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in subparagraph (A) and to conform to the particular needs of each locality.

"(2) CONSIDERATION OF PLANNED FUTURE TRAFFIC DEMANDS.—In carrying out paragraph (1), the Secretary shall ensure the consideration of the planned future traffic demands of the facility.".

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

SEC. 1301. STATE INFRASTRUCTURE BANK PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 162. State infrastructure bank program

"(a) DEFINITIONS.—In this section:

"(1) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

"(A) to provide credit enhancements;

"(B) to serve as a capital reserve for bond or debt instrument financing;

"(C) to subsidize interest rates;

"(D) to ensure the issuance of letters of credit and credit instruments;

"(E) to finance purchase and lease agreements with respect to transit projects;

"(F) to provide bond or debt financing instrument security; and

"(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which the assistance is being provided.

"(2) STATE.—The term 'State' has the meaning given the term under section 401.

"(b) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—

"(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

"(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

"(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement

under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

"(c) FUNDING.—

"(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

"(A)(i) the total amount of funds apportioned to the State under each of paragraphs (1) and (3) of section 104(b), excluding funds set aside under paragraphs (1) and (2) of section 133(d); and

"(ii) the total amount of funds allocated to the State under section 105 and under section 1102 of the Intermodal *Surface* Transportation *Efficiency* Act of 1997;

"(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49) under sections 5307, 5309, and 5311 of title 49; and

"(C) the total amount of funds made available to the State under subtitle V of title 49.

"(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

"(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

"(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

"(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

"(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

"(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

"(e) QUALIFYING PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), [Federal] funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under this title, [or] for capital projects (as defined in section 5302 of title 49), *or for any other project that the Secretary determines to be appropriate.*

"(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under subparagraph (A) or (B) of section 104(b)(1) may be used only to provide assistance with respect to projects eligible for assistance under those subparagraphs.

"(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49 shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

"(f) INFRASTRUCTURE BANK REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

"(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c);

"(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

"(C) ensure that investment income generated by funds contributed to the bank will be—

"(i) credited to the bank;

"(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

"(iii) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

"(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

"(E) ensure that repayment of the loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

"(F) ensure that the term for repaying any loan will not exceed the lesser of—

"(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

"(ii) the useful life of the investment; and

"(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

"(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

"(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

"(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

"(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

"(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59) to comply with this section.

"(i) APPLICABILITY OF FEDERAL LAW.—

"(1) IN GENERAL.—The requirements of this title or title 49 that would otherwise apply to funds made available under that title and projects assisted with those funds shall apply to—

"(A) funds made available under that title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under section (f); and

"(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of that title *(other than sections 113 and 114 of this title and section 5333 of title 49)* is not consistent with the objectives of this section.

"(2) REPAYMENTS.—The requirements of this title or title 49 shall not apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall not be considered to be Federal funds.

"(j) UNITED STATES NOT OBLIGATED.—

"(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

"(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

"(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

"(l) PROGRAM ADMINISTRATION.—

"(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

"(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"162. State infrastructure bank program.".

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

SEC. 1311. SHORT TITLE.

This chapter may be cited as the "Transportation Infrastructure Finance and Innovation Act of 1997".

SEC. 1312. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 1313. DEFINITIONS.

In this chapter:

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) interest during construction, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

(3) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(4) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 1316 to provide a direct loan at a future date upon the occurrence of certain events.

(5) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(6) LOCAL SERVICER.—The term "local servicer" means—

(A) a State infrastructure bank established under title 23, United States Code; or

(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

(7) OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term "project" means any surface transportation project eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code.

(9) PROJECT OBLIGATION.—The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) SECURED LOAN.—The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 1315.

(11) STATE.—The term "State" has the meaning given the term in section 101 of title 23, United States Code.

(12) SUBSTANTIAL COMPLETION.—The term "substantial completion" means the opening of a project to vehicular or passenger traffic.

SEC. 1314. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

(A) shall be included in the State transportation plan required under section 135 of title 23, United States Code; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this chapter, shall be included in the approved State transportation improvement program required under section 134 of that title.

(2) APPLICATION.—A State, a local servicer identified under section 1317(a), or the entity undertaking the project shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) 50 percent of the amount of Federal-aid highway funds apportioned for the most recently-completed fiscal year under title 23, United States Code, to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

(2) SELECTION CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

(C) The extent to which assistance under this chapter would foster innovative public-private partnerships and attract private debt or equity investment.

(D) The likelihood that assistance under this chapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(F) The amount of budget authority required to fund the Federal credit instrument made available under this chapter.

(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

[(1) Section 113 of title 23, United States Code.]

[(2)] *(1)* Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

[(3)] *(2)* The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[(4)] *(3)* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

[(5) Section 5333 of title 49, United States Code.]

SEC. 1315. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs; or

(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 1314.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) AUTHORIZATION PERIOD.—The Secretary may enter into a loan agreement during any of fiscal years 1998 through 2003.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall be payable, in whole or in part, from revenues generated by any rate covenant, coverage requirement, or similar security feature supporting the project obligations or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be equal to the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of making a secured loan under this section.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

(4) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

(5) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—As soon as practicable after substantial completion of a project, the Secretary shall sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

SEC. 1316. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 1314.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—

(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay [debt service on project obligations] *the costs specified in subsection (a)(2).*

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be [equal to] *not less than* the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

(5) SECURITY.—The line of credit—

(A) shall be made available only in connection with a project obligation secured, in whole or in part, by a rate covenant, coverage requirement, or similar security feature or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A line of credit under this section shall not be issued for a project with respect to which another Federal credit instrument under this chapter is made available.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after [substantial completion of the project] *the end of the period of availability specified in subsection (b)(6)* and be fully repaid, with interest, by the date that is [20] *25* years after the end of the period of availability specified in subsection (b)(6).

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

SEC. 1317. PROJECT SERVICING.

(a) REQUIREMENT.—The State in which a project that receives financial assistance under this chapter is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this chapter.

(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

(1) shall act as the agent for the Secretary; and

(2) may receive a servicing fee, subject to approval by the Secretary.

(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

SEC. 1318. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.".

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 113. Office of Infrastructure Finance

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

"(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

"(c) FUNCTIONS.—The Director shall be responsible for—

"(1) carrying out the responsibilities of the Secretary described in section 301(9);

"(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

"(3) providing technical assistance to Federal, State, and local government agencies and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"113. Office of Infrastructure Finance.".

SEC. 1319. STATE AND LOCAL PERMITS.

The provision of financial assistance under this chapter with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 1320. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this chapter and the amendments made by this chapter.

SEC. 1321. FUNDING.

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter—

(A) $60,000,000 for fiscal year 1998;

(B) $60,000,000 for fiscal year 1999;

(C) $90,000,000 for fiscal year 2000;

(D) $90,000,000 for fiscal year 2001;

(E) [$100,000,000] *$115,000,000* for fiscal year 2002; and

(F) [$100,000,000] *$115,000,000* for fiscal year 2003.

(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this chapter, not more than $2,000,000 for each of fiscal years 1998 through 2003.

(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this chapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this chapter shall be limited to the amounts specified in the following table:

Fiscal year:	Maximum amount of credit:
1998	$1,200,000,000
1999	$1,200,000,000
2000	$1,800,000,000
2001	$1,800,000,000
2002	$2,000,000,000
2003	$2,000,000,000.

SEC. 1322. REPORT TO CONGRESS.

Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter, including a recommendation as to whether the objectives of this chapter are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter without Federal participation.

Subtitle D—Safety

SEC. 1401. OPERATION LIFESAVER.

Section 104 of title 23, United States Code (as amended by section 1102(a)), is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by striking "subsection (f)" and inserting "subsections (d) and (f)"; and

(2) in subsection (d), by striking paragraph (1) and inserting the following:

"(1) OPERATION LIFESAVER.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $500,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year to carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.".

SEC. 1402. RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

"(A) IN GENERAL.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.

"(B) ELIGIBLE CORRIDORS.—Funds made available under subparagraph (A) shall be expended for projects in—

"(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause); and

"(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D).

"(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph [(A)] *(B)* shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

"(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph [(A)] *(B)*, the Secretary shall consider—

"(i) projected rail ridership volume in each corridor;

"(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

"(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

"(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

"(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.".

SEC. 1403. RAILWAY-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "structures, and" and inserting "structures,"; and

(B) by inserting after "grade crossings," the following: "trespassing countermeasures *in the immediate vicinity of a public railway-highway grade crossing*, railway-highway crossing safety education, enforcement of traffic laws relating to railway-highway crossing safety, and projects at privately owned railway-highway crossings if each such project is publicly sponsored and the Secretary determines that the project would serve a public benefit,";

(2) in subsection (d), by adding at the end the following: "In a manner established by the Secretary, each State shall submit a report that describes completed railway-highway crossing projects funded under this section to the Department of Transportation for inclusion in the National Grade Crossing Inventory prepared by the Department of Transportation and the Association of American Railroads."; and

(3) by striking subsection (e).

SEC. 1404. HAZARD ELIMINATION PROGRAM.

(a) IN GENERAL.—Section 152 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting ", bicyclists," after "motorists";

(2) in subsection (b), by striking "highway safety improvement project" and inserting "safety improvement project, including a project described in subsection (a)"; and

(3) in subsection (c), by striking "*on any public road* (other than a highway on the Interstate System)." *and inserting the following: "on—*

"(1) any public road;

"(2) any public transportation vehicle or facility, any publicly owned bicycle or pedestrian pathway or trail, or any other facility that the Secretary determines to be appropriate; or

"(3) any traffic calming measure.".

(b) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended—

(A) in the undesignated paragraph defining "highway safety improvement project", by striking "highway safety" and inserting "safety"; and

(B) by moving that undesignated paragraph to appear before the undesignated paragraph defining "Secretary".

(2) Section 152 of title 23, United States Code, is amended in subsections (f) and (g) by striking "highway safety improvement projects" each place it appears and inserting "safety improvement projects".

SEC. 1405. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1301(a)), is amended by adding at the end the following:

"§ 163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

"(a) DEFINITIONS.—In this section:

"(1) ALCOHOL CONCENTRATION.—The term 'alcohol concentration' means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

"(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

"(3) LICENSE SUSPENSION.—The term 'license suspension' means the suspension of all driving privileges.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does

not include a vehicle operated solely on a rail line or a commercial vehicle.

"(5) REPEAT INTOXICATED DRIVER LAW.—The term 'repeat intoxicated driver law' means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within 5 years after a conviction for that offense whose alcohol concentration with respect to the second or subsequent offense was determined on the basis of a chemical test to be equal to or greater than 0.15 shall receive—

"(A) a license suspension for not less than 1 year;

"(B) an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

"(C) either—

"(i) an assignment of 30 days of community service; or

"(ii) 5 days of imprisonment.

"(b) TRANSFER OF FUNDS.—

"(1) FISCAL YEARS 2001 AND 2002.—

"(A) IN GENERAL.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

"(i) from the apportionment of the State under section 104(b)(1);

"(ii) from the apportionment of the State under section 104(b)(3); or

"(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

"(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer 3 percent of the funds apportioned to the State on that date under each of paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out under section 402 with funds transferred under paragraph (1) or (2) shall be 100 percent.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

"(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

"(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

"(ii) the ratio that—

"(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

"(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

"(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under that section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1301(b)), is amended by adding at the end the following:

"163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.".

SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1405(a)), is amended by adding at the end the following:

"§ 164. Safety incentive grants for use of seat belts

"(a) DEFINITIONS.—In this section:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

"(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term 'multipurpose passenger motor vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

"(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term 'national average seat belt use rate' means, in the case of each of calendar years 1995 through 2001, the national average seat belt use rate for that year, as determined by the Secretary.

"(4) PASSENGER CAR.—The term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(5) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term 'savings to the Federal Government' means the amount of Federal budget savings *relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.))*, as determined by the Secretary.

"(7) SEAT BELT.—The term 'seat belt' means—

"(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

"(8) STATE SEAT BELT USE RATE.—The term 'State seat belt use rate' means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

"(A) for each of calendar years 1995 through 1997, by the State, as adjusted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

"(B) for each of calendar years 1998 through 2001, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

"(b) DETERMINATIONS BY THE SECRETARY.—Not later than 30 days after the date of enactment of this section, and not later than September 1 of each calendar year thereafter through September 1, 2002, the Secretary shall determine—

"(1)(A) which States had, for each of the previous calendar years (referred to in this subsection as the 'previous calendar year') and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

"(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

"(2) in the case of each State that is not a State described in paragraph (1)(A)—

"(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1995 through the calendar year preceding the previous calendar year; and

"(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

"(c) ALLOCATIONS.—

"(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

"(2) OTHER STATES.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

"(d) USE OF FUNDS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

"(e) CRITERIA.—Not later than 180 days after the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

"(f) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $60,000,000 for fiscal year 1998, $70,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $100,000,000 for each of fiscal years 2002 and 2003.

"(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph

(1), the allocation to each State under subsection (c) shall be reduced proportionately.

"[(2)] *(3)* USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts—

"(A) shall be apportioned in accordance with section 104(b)(3);

"(B) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

"(C) shall be available for any purpose eligible for funding under section 133.

"[(3)] *(4)* ADMINISTRATIVE EXPENSES.—Not more than 2 percent of the funds made available to carry out this section may be used to pay the necessary administrative expenses incurred in carrying out this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1405(b)), is amended by adding at the end the following:

"164. Safety incentive grants for use of seat belts.".

SEC. 1407. AUTOMATIC CRASH PROTECTION UNBELTED TESTING STANDARD.

(a) IN GENERAL.—

(1) TESTING WITH SIMULTANEOUS USE.—Beginning on the date of enactment of this Act, for the purpose of certification under section 30115 of title 49, United States Code, of compliance with the motor vehicle safety standards under section 30111 of that title, a manufacturer or distributor of a motor vehicle shall be deemed to be in compliance with applicable performance standards for occupant crash protection if the motor vehicle meets the applicable requirements for testing with the simultaneous use of both an automatic restraint system and a manual seat belt.

(2) PROHIBITION.—In no case shall a manufacturer or distributor use, for the purpose of the certification referred to in paragraph (1), testing that provides for the use of an automatic restraint system without the use of a manual seat belt.

(b) REVISION OF STANDARDS.—The Secretary shall issue such revised standards under section 30111 of title 49, United States Code, as are necessary to conform to subsection (a).

Subtitle E—Environment

SEC. 1501. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1406(a)) is amended by adding at the end the following:

"§ 165. National scenic byways program

"(a) DESIGNATION OF ROADS.—

"(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as National Scenic Byways or All-American Roads.

"(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

"(3) NOMINATION.—To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.

"(b) GRANTS AND TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States to—

"(A) implement projects on highways designated as National Scenic Byways or All-American Roads, or as State scenic byways; and

"(B) plan, design, and develop a State scenic byway program.

"(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

"(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway or All-American Road and that is consistent with the corridor management plan for the byway;

"(B) each eligible project along a State-designated scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as a National Scenic Byway or All-American Road; and

"(C) each eligible project that is associated with the development of a State scenic byway program.

"(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

"(1) An activity related to the planning, design, or development of a State scenic byway program.

"(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

"(3) Safety improvements to a State scenic byway, National Scenic Byway, or All-American Road to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, National Scenic Byway, or All-American Road.

"(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, passing lane, overlook, or interpretive facility.

"(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

"(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

"(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

"(8) Development and implementation of a scenic byways marketing program.

"(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

"(e) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byways project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $17,000,000 for fiscal year 1999, $19,000,000 for fiscal year 2000, $19,000,000 for fiscal year 2001, $21,000,000 for fiscal year 2002, and $23,000,000 for fiscal year 2003.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. National scenic byways program.".

SEC. 1502. PUBLIC-PRIVATE PARTNERSHIPS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

"(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

"(B) cost sharing of any project expense;

"(C) carrying out of [administrative] *administration*, construction management, project management, project operation, or any other management or operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

"(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

[(A) shall include the incremental costs of vehicle refueling infrastructure and other capital investments associated with the project; but

[(B) shall not include the base cost of any vehicle that would otherwise be borne by a private party or the cost of any project element that would otherwise be offset by any other Federal, State, or local program.

[(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made with respect to any activity that is required under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.".]

"(A) may include the costs of vehicle refueling infrastructure and other capital investments associated with the project; and

"(B) shall—

"(i) include only the incremental cost of an alternative fueled vehicle compared to a conventionally fueled vehicle that would otherwise be borne by a private party; and

"(ii) apply other governmental financial purchase contributions in the calculation of net incremental cost.

"(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.".

SEC. 1503. WETLAND RESTORATION PILOT PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) surface transportation has unintended but negative consequences for wetlands and other water resources;

(2) in almost every State, construction and other highway activities have reduced or eliminated wetland functions and values, such as wildlife habitat, ground water recharge, flood control, and water quality benefits;

(3) the United States has lost more than ½ of the estimated 220,000,000 acres of wetlands that existed during colonial times; and

(4) while the rate of human-induced destruction and conversion of wetlands has slowed in recent years, the United States has suffered unacceptable wetland losses as a result of highway projects.

(b) ESTABLISHMENT.—The Secretary shall establish a national wetland restoration pilot program (referred to in this section as the "program") to fund mitigation projects to offset the degradation of wetlands, or the loss of functions and values of the aquatic resource, resulting from projects carried out before December 27, 1977, under title 23, United States Code (or similar projects as determined by the Secretary), for which mitigation has not been performed.

(c) APPLICATIONS.—To be eligible for funding under the program, a State shall submit an application to the Secretary that includes—

(1) a description of the wetland proposed to be restored by a mitigation project described in subsection (b) (referred to in this section as a "wetland restoration project") under the program (including the size and quality of the wetland);

(2) such information as is necessary to establish a nexus between—

(A) a project carried out under title 23, United States Code (or a similar project as determined by the Secretary); and

(B) the wetland values and functions proposed to be restored by the wetland restoration project;

(3) a description of the benefits expected from the proposed wetland restoration project (including improvement of water quality, improvement of wildlife habitat, ground water recharge, and flood control);

(4) a description of the State's level of commitment to the proposed wetland restoration project (including the monetary commitment of the State and any development of a State or regional conservation plan that includes the proposed wetland restoration); and

(5) the estimated total cost of the wetland restoration project.

(d) SELECTION OF WETLAND RESTORATION PROJECTS.—

(1) INTERAGENCY COUNCIL.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall establish an interagency advisory council to—

(A) review the submitted applications that meet the requirements of subsection (c); and

(B) not later than 60 days after the application deadline, select wetland restoration projects for funding under the program.

(2) SELECTION CRITERIA FOR PRIORITY WETLAND RESTORATION PROJECTS.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall give priority in funding under this section to wetland restoration projects that—

(A) provide for long-term monitoring and maintenance of wetland resources;

(B) are managed by an entity, such as a nature conservancy, with expertise in the long-term monitoring and protection of wetland resources; and

(C) have a high likelihood of success.

(e) REPORTS.—Not later than April 1, 2000, and April 1, 2003, the Secretary shall submit a report to Congress on the results of the program.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for fiscal year 1998, $13,000,000 for fiscal year 1999, $14,000,000 for fiscal year 2000, $17,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $24,000,000 for fiscal year 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle F—Planning

SEC. 1601. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Metropolitan planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—Congress finds that it is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

"(3) CONTENTS.—The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

"(4) PROCESS.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) REDESIGNATION.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(3) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(4) STRUCTURE.—Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

"(C) appropriate State officials.

"(5) OTHER AUTHORITY.—Nothing in this subsection interferes with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; or

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities under State law.

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997, shall be retained, except that the boundaries may be adjusted by agreement of the affected metropolitan planning organizations and Governors in the manner described in subsection (b)(2).

"(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established by agreement between the appropriate units of general purpose local government (including the central city) and the Governor;

"(B) shall encompass at least the urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period;

"(C) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census; and

"(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(e) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—If more than 1 metropolitan planning organization has authority within a metropolitan planning area or an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each such metropolitan planning organization shall consult with the other metropolitan planning organizations designated for the area and the State in the development of plans and programs required by this section.

"(f) SCOPE OF PLANNING PROCESS.—The metropolitan transportation planning process for a metropolitan area under this section shall consider[, as appropriate,] the following:

"(1) Supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

[''(4) Protecting and enhancing the environment and promoting energy conservation and improved quality of life.]

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) DEVELOPMENT.—In accordance with this subsection, each metropolitan planning organization shall develop, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long-range transportation plan for its metropolitan area.

"(B) FORECAST PERIOD.—In developing long-range transportation plans, the metropolitan planning process shall address—

"(i) the considerations under subsection (f); and

"(ii) any State or local goals developed within the cooperative metropolitan planning process;

as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process.

"(C) FUNDING ESTIMATES.—For the purpose of developing the long-range transportation plan, the State shall consult with the metropolitan planning organization and each public transit agency in developing estimates of funds that are reasonably expected to be available to support plan implementation.

"(2) LONG-RANGE TRANSPORTATION PLAN.—A long-range transportation plan under this subsection shall, at a minimum, contain—

"(A) an identification of transportation facilities (including major roadways and transit, multimodal, and intermodal facilities) that should function as a future integrated transportation system, giving emphasis to those facilities that serve important national, regional, and metropolitan transportation functions;

"(B) an identification of transportation strategies necessary to—

"(i) ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

"(ii) make the most efficient use of existing transportation facilities to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area; and

"(C) a financial plan that demonstrates how the long-range transportation plan can be implemented, indicates total resources from public and private sources that are reasonably expected to be available to carry out the plan (without any requirement for indicating project-specific funding sources), and recommends any additional financing strategies for needed projects and programs.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before adopting a long-range transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan.

"(5) PUBLICATION OF LONG-RANGE TRANSPORTATION PLAN.—Each long-range transportation plan prepared by a metropolitan planning organization shall be—

"(A) published or otherwise made readily available for public review; and

"(B) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

"(B) OPPORTUNITY FOR COMMENT.—In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(C) FUNDING ESTIMATES.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.—The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) CONTENTS.—The transportation improvement program shall include—

"(A) a list, in order of priority, of proposed federally supported [surface transportation] projects and strategies to be carried out within each 3-year-period after the initial adoption of the transportation improvement program; and

"(B) a financial plan that—

"(i) demonstrates how the transportation improvement program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program (without any requirement for indicating project-specific funding sources); and

"(iii) identifies innovative financing techniques to finance projects, programs, and strategies (without any requirement for indicating project-specific funding sources).

"(3) INCLUDED PROJECTS.—

"(A) CHAPTER 1 AND CHAPTER 53 PROJECTS.—A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of this title shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of this title that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall,

in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(5) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

"(i) by—

"(I) in the case of projects under chapter 1, the State; and

"(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

"(ii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project of higher priority in the program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—

"(A) REQUIRED DESIGNATIONS.—The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and any affected public transit operator.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies.

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—In addition to the transportation improvement program development required under subsection (h)(1), all federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a transportation management area on the National Highway System shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF FUNDS.—If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

"(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.—The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated metropolitan transportation plan and program that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, in the case of a transportation management area classified as nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be programmed in the area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project results from an approved congestion management system.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

"(l) LIMITATION.—Nothing in this section confers on a metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not eligible for assistance under this title or chapter 53 of title 49.

"(m) FUNDING.—

"(1) IN GENERAL.—Funds set aside under section 104(f) of this title and section 5303 of title 49 shall be available to carry out this section.

"(2) UNUSED FUNDS.—Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

"134. Metropolitan planning.".

SEC. 1602. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Statewide planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight throughout each State.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

"(3) CONTENTS.—The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal State transportation system and an integral part of the intermodal transportation system of the United States.

"(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) SCOPE OF PLANNING PROCESS.—Each State shall carry out a transportation planning process that shall consider[, as appropriate,] the following:

"(1) Supporting the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

[("(4) Protecting and enhancing the environment and promoting energy conservation and improved quality of life.]

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(c) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall—

"(1) coordinate the planning with the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

"(2) carry out the responsibilities of the State for the development of the transportation portion of the State air quality implementation plan to the extent required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(d) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum, consider—

"(1) with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

"(e) LONG-RANGE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a long-range transportation plan, with a minimum 20-year forecast period, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the plan shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area, the plan shall be developed in consultation with local elected officials representing units of general purpose local government.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—The State shall develop a transportation improvement program for all areas of the State.

"(B) CONSULTATION WITH GOVERNMENTS.—

"(i) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(ii) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with units of general purpose local government.

"(iii) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(C) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall—

"(i) be consistent with the long-range transportation plan developed under this section for the State;

"(ii) be identical to the project as described in an approved metropolitan transportation improvement program; and

"(iii) be in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—

"(i) IN GENERAL.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(ii) LIMITATION.—Clause (i) does not require the indication of project-specific funding sources.

"(E) PRIORITIES.—The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

"(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out in areas described in subparagraph (A) on the National Highway System shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials.

"(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section and section 134, approved not less frequently than biennially by the Secretary.

"(5) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project of higher priority in the program.

"(g) FUNDING.—Funds set aside under section 505 of this title and section 5313(b) of title 49 shall be available to carry out this section.

"(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section or section 134 are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section or section 134 shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 1603. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish an advanced travel forecasting procedures program—

(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as "TRANSIMS"); and

(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under this section to—

(1) provide funding for completion of core development of the advanced transportation model;

(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

(4) allocate funds to not more than 12 entities described in paragraph (3), *representing a diversity of populations and geographic regions,* for a pilot program to enable transportation management areas designated under section 134(i) of title 23, United States Code, to convert from the use of travel forecasting procedures in use by the areas as of the date of enactment of this [section] *Act* to the use of the advanced transportation model.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for fiscal year 1998, $3,000,000 for fiscal year 1999, $6,500,000 for fiscal year 2000, $5,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2002, and $2,500,000 for fiscal year 2003.

(2) ALLOCATION OF FUNDS.—

(A) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1)

shall be allocated to activities in described in paragraphs (1), (2), and (3) of subsection (b).

(B) FISCAL YEARS 2000 THROUGH 2003.—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of—

(A) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

(B) any activity described in subsection (b)(4) shall not exceed 80 percent.

SEC. 1604. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a comprehensive initiative to investigate and address the relationships between transportation and community and system preservation.

(b) RESEARCH.—

(1) IN GENERAL.—In cooperation with appropriate Federal agencies, State, regional, and local governments, and other entities eligible for assistance under subsection (d), the Secretary shall carry out a comprehensive research program to investigate the relationships between transportation, community preservation, and the environment.

(2) REQUIRED ELEMENTS.—The program shall provide for monitoring and analysis of projects carried out with funds made available to carry out subsections (c) and (d).

(c) PLANNING.—

(1) IN GENERAL.—The Secretary [may] *shall* allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to plan, develop, and implement strategies to integrate transportation and community and system preservation plans and practices.

(2) PURPOSES.—The purposes of the allocations shall be—

(A) to improve the efficiency of the transportation system;

(B) to reduce the impacts of transportation on the environment;

(C) to reduce the need for costly future investments in public infrastructure; and

(D) to provide efficient access to jobs, services, and centers of trade.

(3) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) propose projects for funding that address the purposes described in paragraph (2);

(B) demonstrate a commitment to public involvement, including involvement of nontraditional partners in the project team; and

(C) demonstrate a commitment of non-Federal resources to the proposed projects.

(d) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary [may] *shall* allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) have instituted preservation or development plans and programs that—

(i) meet the requirements of title 23 and chapter 53 of title 49, United States Code; and

(ii) are—

(I) coordinated with adopted preservation or development plans; or

(II) intended to promote *cost-effective and* strategic investments in transportation infrastructure *that minimize adverse impacts on the environment*;

(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

(i) spending policies that direct funds to high-growth areas;

(ii) urban growth boundaries to guide metropolitan expansion;

(iii) "green corridors" programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

(iv) other similar programs or policies as determined by the Secretary;

(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment; and

(D) propose projects for funding that address the purposes described in subsection (c)(2).

(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

[(3)] *(4)* USE OF ALLOCATED FUNDS.—

(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

(i) any project eligible for funding under title 23 or chapter 53 of title 49, United States Code; or

(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

(I) transit-oriented development plans;

(II) traffic calming measures; or

(III) other coordinated transportation and community and system preservation practices.

(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $20,000,000 for each of fiscal years 1998 through 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle G—Technical Corrections

SEC. 1701. FEDERAL-AID SYSTEMS.

(a) IN GENERAL.—Section 103 of title 23, United States Code, is amended to read as follows:

"§ 103. Federal-aid systems

"(a) IN GENERAL.—For the purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) DESCRIPTION.—The National Highway System consists of an interconnected system of major routes and connectors that—

"(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

"(B) meet national defense requirements; and

"(C) serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System consists of the following:

"(A) The Interstate System described in subsection (c).

"(B) Other urban and rural principal arterial routes.

"(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

"(D) A strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be highways on or off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(E) Major strategic highway network connectors consisting of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network. The highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(3) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 178,250 miles.

"(4) MODIFICATIONS TO NHS.—

"(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State or that is proposed by a State and revised by the Secretary if the Secretary determines that the modification—

"(i) meets the criteria established for the National Highway System under this title; and

"(ii) enhances the national transportation characteristics of the National Highway System.

"(B) COOPERATION.—

"(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

"(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

"(c) INTERSTATE SYSTEM.—

"(1) DESCRIPTION.—

"(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico), consists of highways—

"(i) designed—

"(I) in accordance with the standards of section 109(b); or

"(II) in the case of highways in Alaska and Puerto Rico, in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway; and

"(ii) located so as—

"(I) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

"(II) to serve the national defense; and

"(III) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

"(B) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation agencies of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

"(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

"(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

"(4) INTERSTATE SYSTEM DESIGNATIONS.—

"(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

"(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

"(i) IN GENERAL.—If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A), the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

"(ii) WRITTEN AGREEMENT OF STATES.—A designation under clause (i) shall be made only upon the written agreement of the State or States described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by the date that is 12 years after the date of the agreement.

"(iii) REMOVAL OF DESIGNATION.—

"(I) IN GENERAL.—If the State or States described in clause (i) have not substantially completed the construction of a highway designated under this subparagraph within the time provided for in the agreement between the Secretary and the State or States under clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

"(II) EFFECT OF REMOVAL.—Removal of the designation of a highway under subclause (I) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

"(iv) PROHIBITION ON REFERRAL AS INTERSTATE SYSTEM ROUTE.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as the highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a route on the Interstate System.

"(C) FINANCIAL RESPONSIBILITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

"(ii) CERTAIN HIGHWAYS.—Subject to section 119(b)(1)(B), a State may use funds available to the State under paragraphs (1) and (3) of section 104(b) for the resurfacing, restoration, rehabilitation, and reconstruction of a highway—

"(I) designated before March 9, 1984, as a route on the Interstate System under subparagraph (A) or as a future Interstate System route under subparagraph (B); or

"(II) [in Alaska or Puerto Rico] designated under subparagraph (A) *and located in Alaska or Puerto Rico*.

"(d) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—

"(1) INTERSTATE CONSTRUCTION FUNDS NOT IN SURPLUS.—

"(A) IN GENERAL.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997), if the amount does not exceed the Federal share of the costs of construction of segments of the Interstate System in the State included in the most recent Interstate System cost estimate.

"(B) EFFECT OF TRANSFER.—Upon transfer of an amount under subparagraph (A), the construction on which the amount is based, as included in the most recent Interstate System cost estimate, shall be ineligible for funding under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997) or 104(k).

"(2) SURPLUS INTERSTATE CONSTRUCTION FUNDS.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of surplus funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997), if the State has fully financed all work eligible under the most recent Interstate System cost estimate.

"(3) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.

"(e) UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS.—Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997) shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date.".

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining "Interstate System" by striking "subsection (e) of section 103 of this title" and inserting "section 103(c)".

(B) Section 104(f)(1) of title 23, United States Code, is amended by striking ", except that" and all that follows through "programs".

(C) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading, by striking "SUBSTITUTE,"; and

(ii) in paragraph (1)(A)(i), by striking "103(e)(4)(H),";

(D) Section 118 of title 23, United States Code (as amended by section 1118(b)), is amended—

(i) by striking subsection (d); and

(ii) by redesignating subsections (e), (f), and (g) (as added by section 1103(d)) as subsections (c), (d), and (e), respectively.

(E) Section 129(b) of title 23, United States Code, is amended in the first sentence by striking "which has been" and all that follows through "and has not" and inserting "which is a public road and has not".

(2)(A) Section 139 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 139.

(C) Section 119(a) of title 23, United States Code, is amended in the first sentence—

(i) by striking "sections 103 and 139(c) of this title" and inserting "section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A)"; and

(ii) by striking "section 139 (a) and (b) of this title" and inserting "subparagraphs (A) and (B) of section 103(c)(4)".

(D) Section 127(f) of title 23, United States Code, is amended by striking "section 139(a)" and inserting "section 103(c)(4)(A)".

(E) Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597) is amended by striking subparagraph (B) and inserting the following:

"(B) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as parts of the Interstate System under this paragraph shall be treated in the same manner as segments designated under section 103(c)(4)(A) of title 23, United States Code.".

SEC. 1702. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) DEFINITIONS AND DECLARATION OF POLICY.—

(1) CREATION OF POLICY SECTION.—Section 102 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 102. Declaration of policy";

(B) by redesignating subsection (a) as subsection (c) and moving that subsection to the end of section 146; and

(C) by redesignating subsection (b) as subsection (f) and moving that subsection to the end of section 118 (as amended by section 1701(b)(1)(D)(ii)).

(2) TRANSFER OF POLICY PROVISIONS.—Section 101 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 101. Definitions";

(B) in subsection (a), by striking "(a)";

(C) by striking subsection (b); and

(D) by redesignating subsections (c) through (e) as subsections (a) through (c), respectively, and moving those subsections to section 102 (as amended by paragraph (1)).

(3) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 101 and 102 and inserting the following:

"101. Definitions.
"102. Declaration of policy.".

(B) Section 47107(j)(1)(B) of title 49, United States Code, is amended by striking "section 101(a)" and inserting "section 101".

(b) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "PROJECTS" and all that follows through "When a State" and inserting "PROJECTS.—When a State";

(B) by striking paragraphs (2) and (3); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately;

(2) by striking subsection (c);

(3) in subsection (d), by striking "section 135(f)" and inserting "section 135"; and

(4) by redesignating subsection (d) as subsection (c).

(c) MAINTENANCE.—Section 116 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in the first sentence, by striking "he" and inserting "the Secretary"; and

(B) in the second sentence, by striking "further projects" and inserting "further expenditure of Federal-aid highway program funds"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) INTERSTATE MAINTENANCE PROGRAM.—Section 119(a) of title 23, United States Code, is amended in the first sentence by striking "the date of enactment of this sentence" and inserting "March 9, 1984".

(e) ADVANCES TO STATES.—Section 124 of title 23, United States Code, is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

(f) DIVERSION.—

(1) IN GENERAL.—Section 126 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126.

(g) RAILWAY-HIGHWAY CROSSINGS.—Section 130(f) of title 23, United States Code, is amended by striking "APPORTIONMENT" and all that follows through the first sentence and inserting "FEDERAL SHARE.—".

(h) SURFACE TRANSPORTATION PROGRAM.—Section 133(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(i) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended by striking subsection (m) and inserting the following:

"(m) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

(j) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

(k) NONDISCRIMINATION.—Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title," and inserting "section 106(a),";

(B) by striking "he" each place it appears and inserting "the Secretary";

(C) in the second sentence, by striking "He" and inserting "The Secretary";

(D) in the third sentence, by striking "In approving programs for projects on any of the Federal-aid systems," and inserting "Before approving any project under section 106(a),"; and

(E) in the last sentence, by striking "him" and inserting "the Secretary";

(2) by striking subsection (b);

(3) in the subsection heading of subsection (d), by striking "AND CONTRACTING"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(l) PRIORITY PRIMARY ROUTES.—

(1) IN GENERAL.—Section 147 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147.

(m) DEVELOPMENT OF A NATIONAL SCENIC AND RECREATIONAL HIGHWAY.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148.

(n) HAZARD ELIMINATION PROGRAM.—Section 152(e) of title 23, United States Code, is amended by striking "apportioned to" in the first sentence and all that follows through "shall be" in the second sentence.

(o) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—

(1) IN GENERAL.—Section 155 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155.

SEC. 1703. NONDISCRIMINATION.

(a) IN GENERAL.—Section 324 of title 23, United States Code, is amended—

(1) by inserting "(d) PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX.—" before "No person"; and

(2) by moving subsection (d) (as designated by paragraph (1)) to the end of section 140 (as amended by section 1702(k)).

(b) CONFORMING AMENDMENTS.—

(1) Section 324 of title 23, United States Code, is repealed.

(2) The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 324.

SEC. 1704. STATE TRANSPORTATION DEPARTMENT.

(a) IN GENERAL.—Section 302 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a)";

(B) by striking the second sentence; and

(C) by adding at the end the following: "Compliance with this section shall have no effect on the eligibility of costs."; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) Title 23, United States Code, is amended—

(A) by striking "State highway department" each place it appears and inserting "State transportation department"; and

(B) by striking "State highway departments" each place it appears and inserting "State transportation departments".

(2) The analysis for chapter 3 of title 23, United States Code, is amended in the item relating to section 302 by striking "highway" and inserting "transportation".

(3) Section 302 of title 23, United States Code, is amended in the section heading by striking "**highway**" and inserting "**transportation**".

(4) Section 410(h)(5) of title 23, United States Code, is amended in the paragraph heading by striking "HIGHWAY" and inserting "TRANSPORTATION".

(5) Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking "State highway department" and inserting "State transportation department".

(6) Section 138(c) of the Surface Transportation Assistance Act of 1978 (40 U.S.C. App. note to section 201 of the Appalachian Regional Development Act of 1965; Public Law 95-599) is amended in the first sentence by striking "State highway department" and inserting "State transportation department".

Subtitle H—Miscellaneous Provisions

SEC. 1801. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) IN GENERAL.—Subject to subsection (b)(2), notwithstanding section 103(c), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each segment of State Route 17 described in subsection (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, access-controlled, and grade-separated shall—

(A) be designated as a future Interstate System route; and

(B) become part of Interstate Route 86 at such time as the Secretary determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) TREATMENT OF ROUTE.—

(1) MILEAGE LIMITATION.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by section 103(c)(2) of title 23, United States Code.

(2) FEDERAL FINANCIAL RESPONSIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, to eliminate substandard features of, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

SEC. 2001. STRATEGIC RESEARCH PLAN.

Subtitle III of title 49, United States Code, is amended—

(1) in the table of chapters, by inserting after the item relating to chapter 51 the following:

"52. RESEARCH AND DEVELOPMENT ... 5201";

and

(2) by inserting after chapter 51 the following:

"CHAPTER 52—RESEARCH AND DEVELOPMENT

"Sec.

"5201. Definitions.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"5211. Transactional authority.

"SUBCHAPTER II—STRATEGIC PLANNING
"5221. Strategic planning.
"5222. Authorization of [appropriations] *contract authority*.
"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM
"5231. Multimodal Transportation Research and Development Program.
"5232. Authorization of [appropriations] *contract authority*.
"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS
"5241. National university transportation centers.

"§ 5201. Definitions

"In this chapter:

"(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"§ 5211. Transactional authority

"To further the objectives of this chapter, the Secretary may make grants to, and enter into contracts, cooperative agreements, and other transactions with—

"(1) any person or any agency or instrumentality of the United States;

"(2) any unit of State or local government;

"(3) any educational institution; and

"(4) any other entity.

"SUBCHAPTER II—STRATEGIC PLANNING

"§ 5221. Strategic planning

"(a) AUTHORITY.—The Secretary shall establish a strategic planning process to—

"(1) determine national transportation research, development, and technology deployment priorities, strategies, and milestones over the next 5 years;

"(2) coordinate Federal transportation research, development, and technology deployment activities; and

"(3) measure the impact of the research, development, and technology investments described in paragraph (2) on the performance of the transportation system of the United States.

"(b) CRITERIA.—In developing strategic plans for intermodal, multimodal, and mode-specific research, development, and technology deployment, the Secretary shall consider the need to—

"(1) coordinate and integrate Federal, regional, State, and metropolitan planning research, development, and technology activities in urban and rural areas;

"(2) promote standards that facilitate a seamless and interoperable transportation system;

"(3) encourage innovation;

"(4) identify and facilitate initiatives and partnerships to deploy technology with the potential for improving transportation systems during the next 5-year and 10-year periods;

"(5) identify core research to support the long-term transportation technology and system needs of urban and rural areas of the United States, including safety;

"(6) ensure the ability of the United States to compete on a global basis; and

"(7) provide a means of assessing the impact of Federal research and technology investments on the performance of the transportation system of the United States.

"(c) IMPLEMENTATION.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary shall adopt such policies and procedures as are appropriate—

"(A) to provide for integrated planning, coordination, and consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research, development, and technology transfer important to national transportation needs;

"(B) to promote the exchange of information on transportation-related research and development activities among the operating elements of the Department, other Federal departments and agencies, State and local governments, colleges and universities, industry, and other private and public sector organizations engaged in the activities;

"(C) to ensure that the research and development programs of the Department do not duplicate other Federal and, to the maximum extent practicable, private sector research and development programs; and

"(D) to ensure that the research and development activities of the Department—

"(i) make appropriate use of the talents, skills, and abilities at the Federal laboratories; and

"(ii) leverage, to the maximum extent practicable, the research, development, and technology transfer capabilities of institutions of higher education and private industry.

"(2) CONSULTATION.—The procedures and policies adopted under paragraph (1) shall include consultation with State officials and members of the private sector.

"(d) REPORTS.—

"(1) IN GENERAL.—Concurrent with the submission to Congress of the budget of the President for each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the strategic plans, goals, and milestones developed under subsections (a) and (b) to help guide research, development, and technology transfer activities during the 5-year period beginning on the date of the report.

"(2) COMPARISON TO PREVIOUS REPORT.—The report shall include a delineation of the progress made with respect to each of the plans, goals, and milestones specified in the previous report.

"(3) PROHIBITION ON OBLIGATION FOR FAILURE TO SUBMIT REPORT.—Beginning on the date of the submission to Congress of the budget of the President for fiscal year 2000, and on the date of the submission for each fiscal year thereafter, none of the funds made available under this chapter or chapter 5 of title 23 may be obligated until the report required under paragraph (1) for that fiscal year is submitted.

"§ 5222. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $1,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.

"(c) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under subsection (a) exceed the amounts used to carry out section 5221 for the fiscal year, the excess amounts—

"(1) shall be apportioned in accordance with section 104(b)(3) of title 23;

"(2) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d) of that title; and

"(3) shall be available for any purpose eligible for funding under section 133 of that title.".

SEC. 2002. MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM.

Chapter 52 of title 49, United States Code (as added by section 2001), is amended by adding at the end the following:

"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

"§ 5231. Multimodal Transportation Research and Development Program

"(a) ESTABLISHMENT.—The Secretary shall establish a program to be known as the 'Multimodal Transportation Research and Development Program'.

"(b) PURPOSES.—The purposes of the Multimodal Transportation Research and Development Program are to—

"(1) enhance the capabilities of Federal agencies to meet national transportation needs, as defined by the missions of the agencies, through support for long-term and applied research and development that would benefit the various modes of transportation, including research and development in safety, security, mobility, energy and the environment, information and physical infrastructure, and industrial design;

"(2) identify and apply innovative research performed by the Federal Government, academia, and the private sector to the intermodal and multimodal transportation research, development, and deployment needs of the Department and the transportation enterprise of the United States;

"(3) identify and leverage research, technologies, and other information developed by the Federal Government for national defense and nondefense purposes for the benefit of the public, commercial, and defense transportation sectors; and

"(4) share information and analytical and research capabilities among the Federal Government, State and local governments, colleges and universities, and private organizations to advance their ability to meet their transportation research, development, and deployment needs.

"(c) PROCESS FOR CONSULTATION.—To advise the Secretary in establishing priorities within the Program, the Secretary shall establish a process for consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research.

"§ 5232. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $2,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2003. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Chapter 52 of title 49, United States Code (as amended by section 2002), is amended by adding at the end the following:

"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

"§ 5241. National university transportation centers

"(a) [Regionally Based Centers] *IN GENERAL.*—The Secretary shall make grants to, or enter into contracts with, the nonprofit institutions of higher learning selected under section 5317 (as in effect on the day before the date of enactment of this [section)] *section)*—

"(1) to operate 1 university transportation center in each of the 10 Federal administrative regions that comprise the Standard Federal Regional Boundary System; *and*

"(2) to continue operation of university transportation centers at the Mack-Blackwell National Rural Transportation Study Center, the National Center for Transportation and Industrial Productivity, the Institute for Surface Transportation Policy Studies, the Urban Transit Institute at the University of South Florida, the National Center for Advanced Transportation Technology, and the University of Alabama Transportation Research Center.

"(b) ADDITIONAL CENTERS.—

"(1) IN GENERAL.—The Secretary may make grants to nonprofit institutions of higher learning to establish and operate not more than [10] 4 additional university transportation centers to address—

"(A) transportation management, research, and development, with special attention to increasing the number of highly skilled minority individuals and women entering the transportation workforce;

"(B) transportation and industrial productivity;

"(C) rural transportation;

"(D) advanced transportation technology;

"(E) international transportation policy studies;

"(F) transportation infrastructure technology;

"(G) urban transportation research;

"(H) transportation and the environment;

"(I) surface transportation safety; or

"(J) infrastructure finance studies.

"(2) SELECTION CRITERIA.—

"(A) APPLICATION.—A nonprofit institution of higher learning that desires to receive a grant under paragraph (1) shall submit an application to the Secretary in such manner and containing such information as the Secretary may require.

"(B) SELECTION OF RECIPIENTS.—The Secretary shall select each grant recipient under paragraph (1) on the basis of—

"(i) the demonstrated research and extension resources available to the recipient to carry out this section;

"(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-term transportation problems;

"(iii) the establishment by the recipient of a surface transportation program that encompasses several modes of transportation;

"(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program; [and]

"(v) the strategic plan that the recipient proposes to carry out using the grant [funds.] *funds; and*

"(vi) the extent to which private funds have been committed to a university and public-private partnerships established to fulfill the objectives specified in paragraph (1).

"(c) OBJECTIVES.—Each university transportation center shall use grant funds under subsection (a) or (b) to carry out—

"(1) multimodal basic and applied research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation;

"(2) an education program that includes multidisciplinary course work and participation in research; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be readily implemented, used, or otherwise applied.

"(d) MAINTENANCE OF EFFORT.—Before making a grant under subsection (a) or (b), the Secretary shall require the grant recipient to enter into an agreement with the Secretary to ensure that the recipient will maintain, during the period of the grant, a level of total expenditures from all other sources for establishing and operating a university transportation center and carrying out related research activities that is at least equal to the average level of those expenditures in the 2 fiscal years of the recipient prior to the award of a grant under subsection (a) or (b).

"(e) ADDITIONAL GRANTS AND CONTRACTS.—

"(1) GRANTS OR CONTRACTS.—In addition to grants under subsection (a) or (b), the Secretary may make grants to, or enter into contracts with, university transportation centers without the need for a competitive process.

"(2) USE OF GRANTS OR CONTRACTS.—A noncompetitive grant or contract under paragraph (1) shall be used for transportation research, development, education, or training consistent with the strategic plan approved as part of the selection process for the center.

"(f) FEDERAL SHARE.—The Federal share of the cost of establishing and operating a university transportation center and carrying out related research activities under this section shall be not more than 50 percent.

"(g) PROGRAM COORDINATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) coordinate research, education, training, and technology transfer activities carried out by grant recipients under this section;

"(B) disseminate the results of the research; and

"(C) establish and operate a clearinghouse for disseminating the results of the research.

"(2) REVIEW AND EVALUATION.—

"(A) IN GENERAL.—Not less often than annually, the Secretary shall review and evaluate programs carried out by grant recipients under this section.

"(B) NOTIFICATION OF DEFICIENCIES.—In carrying out subparagraph (A), if the Secretary determines that a university transportation center is deficient in meeting the objectives of this section, the Secretary shall notify the grant recipient operating the center of each deficiency and provide specific recommendations of measures that should be taken to address the deficiency.

"(C) DISQUALIFICATION.—If, after the end of the 180-day period that begins on the date of notification to a grant recipient under subparagraph (B) with respect to a center, the Secretary determines that the recipient has not corrected each deficiency identified under subparagraph (B), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination—

"(i) disqualify the university transportation center from further participation under this section; and

"(ii) make a grant for the establishment of a new university transportation center, in lieu of the disqualified center, under subsection (a) or (b), as applicable.

"(3) FUNDING.—The Secretary may use not more than 1 percent of Federal funds made available under this section to carry out this subsection.

"(h) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.

"(3) TECHNOLOGY TRANSFER ACTIVITIES.—For each fiscal year, not less than 5 percent of the amounts made available to carry out this section shall be available to carry out technology transfer activities.

"(i) LIMITATION ON AVAILABILITY OF FUNDS.—Funds authorized under this section shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 5316 and 5317 of title 49, United States Code, are repealed.

(2) The analysis for chapter 53 of title 49, United States Code, is amended by striking the items relating to sections 5316 and 5317.

SEC. 2004. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Section 111 of title 49, United States Code, is amended—

(1) in subsection (b)(4), by striking the second sentence;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (J), by striking "and" at the end;

(ii) in subparagraph (K), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(L) transportation-related variables that influence global competitiveness.";

(B) in paragraph (2)—

(i) in the first sentence, by striking "national transportation system" and inserting "transportation systems of the United States";

(ii) by striking subparagraph (A) and inserting the following:

"(A) be coordinated with efforts to measure outputs and outcomes of the Department of Transportation and the transportation systems of the United States under the Government Performance and Results Act of 1993 (Public Law 103–62) and the amendments made by that Act;"; and

(iii) in subparagraph (C), by inserting ", made relevant to the States and metropolitan planning organizations," after "accuracy";

(C) in paragraph (3), by adding at the end the following: "The Bureau shall review and

report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103-62), and the amendments made by that Act, and shall carry out such other reviews of the sources and reliability of other data collected by the heads of the operating administrations of the Department as shall be requested by the Secretary."; and

(D) by adding at the end the following:

"(7) SUPPORTING TRANSPORTATION DECISIONMAKING.—Ensuring that the statistics compiled under paragraph (1) are relevant for transportation decisionmaking by the Federal Government, State and local governments, transportation-related associations, private businesses, and consumers.";

(3) by redesignating subsections (d), (e), and (f) as subsections (h), (i), and (j), respectively;

(4) by striking subsection (g);

(5) by inserting after subsection (c) the following:

"(d) TRANSPORTATION DATA BASE.—

"(1) IN GENERAL.—In consultation with the Associate Deputy Secretary, the Assistant Secretaries, and the heads of *the* operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

"(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

"(3) CONTENTS.—The data base shall include—

"(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;

"(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

"(C) information on the location and connectivity of transportation facilities and services; and

"(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

"(e) NATIONAL TRANSPORTATION LIBRARY.—

"(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

"(2) ACCESS.—The Bureau shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Bureau to make statistics readily accessible under subsection (c)(5).

"(3) COORDINATION.—The Bureau shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

"(f) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

"(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

"(A) transportation networks;

"(B) flows of people, goods, vehicles, and craft over the networks; and

"(C) social, economic, and environmental conditions that affect or are affected by the networks.

"(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

"(g) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State departments of transportation, metropolitan planning organizations, and institutions of higher education) for—

"(1) investigation of the subjects specified in subsection (c)(1) and research and development of new methods of data collection, management, integration, dissemination, interpretation, and analysis;

"(2) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (e); and

"(3) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (f) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.";

(6) by striking subsection (i) (as redesignated by paragraph (3)) and inserting the following:

"(i) PROHIBITION ON CERTAIN DISCLOSURES.—

"(1) IN GENERAL.—An officer or employee of the Bureau may not—

"(A) make any disclosure in which the data provided by an individual or organization under subsection (c)(2) can be identified;

"(B) use the information provided under subsection (c)(2) for a nonstatistical purpose; or

"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c)(2).

"(2) PROHIBITION ON REQUESTS FOR CERTAIN DATA.—

"(A) GOVERNMENT AGENCIES.—No department, bureau, agency, officer, or employee of the United States (except the Director [of the Bureau of Transportation Statistics] in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c)(2) with the Bureau [of Transportation Statistics] or retained by an individual respondent.

"(B) COURTS.—Any copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) APPLICABILITY.—This paragraph shall apply only to information that permits information concerning an individual or organization to be reasonably inferred by direct or indirect means.

"(3) DATA COLLECTED FOR NONSTATISTICAL PURPOSES.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.";

(7) in subsection (j) (as redesignated by paragraph (3)), by striking "On or before January 1, 1994, and annually thereafter, the" and inserting "The"; and

(8) by adding at the end the following:

"(k) STUDY.—

"(1) IN GENERAL.—The Director shall carry out a study—

"(A) to measure the ton-miles and value-miles of international trade traffic carried by highway for each State;

"(B) to evaluate the accuracy and reliability of such measures for use in the formula for highway apportionments;

"(C) to evaluate the accuracy and reliability of the use of diesel fuel data as a measure of international trade traffic by State; and

"(D) to identify needed improvements in long-term data collection programs to provide accurate and reliable measures of international traffic for use in the formula for highway apportionments.

"(2) BASIS FOR EVALUATIONS.—The study shall evaluate the accuracy and reliability of measures for use as formula factors based on statistical quality standards developed by the Bureau in consultation with the Committee on National Statistics of the National Academy of Sciences.

"(3) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study carried out under paragraph (1), including recommendations for changes in law necessary to implement the identified needs for improvements in long-term data collection programs.

"[(k)] *(l)* PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau [of Transportation Statistics] from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

"[(l)] *(m)* AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $26,000,000 for fiscal year 1998, $27,000,000 for fiscal year 1999, $28,000,000 for fiscal year 2000, $29,000,000 for fiscal year 2001, $30,000,000 for fiscal year 2002, and $31,000,000 for fiscal year 2003, except that not more than $500,000 for each fiscal year may be made available to carry out subsection (g).

"(2) AVAILABILITY.—Funds authorized under this subsection shall remain available for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23.".

(b) CONFORMING AMENDMENTS.—Section 5503 of title 49, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

SEC. 2005. RESEARCH AND TECHNOLOGY PROGRAM.

Title 23, United States Code, is amended—

(1) in the table of chapters, by adding at the end the following:

"5. Research and Technology ..... 501";

and

(2) by adding at the end the following:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"SUBCHAPTER I—RESEARCH AND TRAINING

"Sec.
"501. Definition of safety.
"502. Research and technology program.
"503. Advanced research program.
"504. Long-term pavement performance program.
"505. State planning and research program.
"506. Education and training.
"507. International highway transportation outreach program.
"508. National technology deployment initiatives and partnerships program.
"509. Infrastructure investment needs report.
"510. Innovative bridge research and construction program.
"511. Study of future strategic highway research program.
"512. Transportation and environment cooperative research program.

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"521. [Findings and p]*Purposes.*
"522. Definitions.
"523. Cooperation, consultation, and analysis.
"524. Research, development, and training.
"525. Intelligent transportation system integration program.
"526. Integration program for rural areas.
"527. Commercial vehicle intelligent transportation system infrastructure.
"528. Corridor development and coordination.
[**"528**] *"529.* Standards.
[**"529**] *"530.* Funding limitations.
"531. Use of innovative financing.
[**"530**] *"532.* Advisory committees.

"SUBCHAPTER III—FUNDING

"541. Funding.

"SUBCHAPTER I—RESEARCH AND TRAINING

"§ 501. Definition of safety

"In this chapter, the term 'safety' includes highway and traffic safety systems, research and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

"§ 502. Research and technology program

"(a) GENERAL AUTHORITY AND COLLABORATIVE AGREEMENTS.—

"(1) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary—

"(i) shall carry out research, development, and technology transfer activities with respect to—

"(I) motor carrier transportation;

"(II) all phases of transportation planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

"(III) the effect of State laws on the activities described in subclauses (I) and (II); and

"(ii) may test, develop, or assist in testing and developing any material, invention, patented article, or process.

"(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

"(i) independently;

"(ii) in cooperation with other Federal departments, agencies, and instrumentalities; or

"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

"(C) TECHNICAL INNOVATION.—The Secretary shall develop and carry out programs to facilitate the application of such products of research and technical innovations as will improve the safety, efficiency, and effectiveness of the transportation system.

"(D) FUNDS.—

"(i) IN GENERAL.—Except as otherwise specifically provided in other sections of this chapter—

"(I) to carry out this subsection, the Secretary shall use—

"(aa) funds made available under section 541 for research, technology, and training; and

"(bb) such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose; and

"(II) the funds described in item (aa) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF FUNDS.—The Secretary shall use funds described in clause (i) to develop, administer, communicate, and [achieve] *promote* the use of products of research, development, and technology transfer programs under this section.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State.

"(B) AGREEMENTS.—In carrying out this paragraph, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(C) FEDERAL SHARE.—

"(i) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(ii) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in clause (i).

"(D) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this paragraph, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(3) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

"(b) MANDATORY ELEMENTS OF PROGRAM.—The Secretary shall include in the surface transportation research, development, and technology transfer programs under this subsection and as specified elsewhere in this title—

"(1) a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation systems of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the system; and

"(2) a program to strengthen and expand surface transportation infrastructure research, development, and technology transfer, which shall include, at a minimum—

"(A) methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion;

"(B) a research and development program directed toward the reduction of costs, and the mitigation of impacts, associated with the construction of highways and mass transit systems;

"(C) a surface transportation research program to develop nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials;

"(D)(i) information technology, including appropriate computer programs to collect and analyze data on the status of infrastructure facilities described in subparagraph (C) with respect to enhancing management, growth, and capacity; and

"(ii) dynamic simulation models of surface transportation systems for—

"(I) predicting capacity, safety, and infrastructure durability problems;

"(II) evaluating planned research projects; and

"(III) testing the strengths and weaknesses of proposed revisions to surface transportation operation programs;

"(E) new innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of structures;

"(F) initiatives to improve the ability of the United States to respond to emergencies and natural disasters and to enhance national defense mobility; and

"(G) an evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety.

"(c) REPORT ON GOALS, MILESTONES, AND ACCOMPLISHMENTS.—The goals, milestones, and accomplishments relevant to each of the mandatory program elements described in subsection (b) shall be specified in the report required under section 5221(d) of title 49.''.

SEC. 2006. ADVANCED RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"§ 503. Advanced research program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish an advanced research program within the Federal Highway Administration to address longer-term, higher-risk research that shows potential benefits for improving the durability, mobility, efficiency, environmental impact, productivity, and safety of transportation systems.

"(2) DEVELOPMENT OF PARTNERSHIPS.—In carrying out the program, the Secretary

shall attempt to develop partnerships with the public and private sectors.

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts for advanced research.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $9,000,000 for fiscal year 2000, and $10,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary.".

SEC. 2007. LONG-TERM PAVEMENT PERFORMANCE PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2006), is amended by adding at the end the following:

"§ 504. Long-term pavement performance program

"(a) AUTHORITY.—The Secretary shall complete the long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) through the midpoint of a planned 20-year life of the long-term pavement performance program (referred to in this section as the 'program').

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(1) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(2) analyze the data obtained in carrying out paragraph (1); and

"(3) prepare products to fulfill program objectives and meet future pavement technology needs.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity funded under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2008. STATE PLANNING AND RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2007), is amended by adding at the end the following:

"§ 505. State planning and research program

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—Two percent of the sums apportioned for fiscal year 1998 and each fiscal year thereafter to any State under section 104 (except section 104(f)) and any transfers or additions to the surface transportation program under section 133 shall be available for expenditure by the State transportation [agency] *department*, in consultation with the Secretary, in accordance with this section.

"(2) USE OF FUNDS.—The sums referred to in paragraph (1) shall be available only for—

"(A) intermodal metropolitan, statewide, and nonmetropolitan planning under sections 134 and 135;

"(B) development and implementation of management systems referred to in section 303;

"(C) studies, research, development, and technology transfer activities necessary for the planning, design, construction, management, operation, maintenance, regulation, and taxation of the use of surface transportation systems, including training and accreditation of inspection and testing on engineering standards and construction materials for the systems; and

"(D) studies of the economy, safety, and convenience of surface transportation usage and the desirable regulation and equitable taxation of surface transportation usage.

"(b) MINIMUM EXPENDITURES ON STUDIES, RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—*For each fiscal year,* [N]*not* less than 25 percent of the funds of a State that are subject to subsection (a) shall be expended by the State transportation [agency] *department* for studies, research, development, and technology transfer activities described in subparagraphs (C) and (D) of subsection (a)(2) unless the State certifies to the Secretary for the fiscal year that the total expenditures by the State transportation [agency] *department* for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of the funds and the Secretary accepts the certification.

"(2) EXEMPTION FROM SMALL BUSINESS ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

"(c) FEDERAL SHARE.—The Federal share of the cost of a project financed with funds referred to in subsection (a) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(d) ADMINISTRATION OF FUNDS.—Funds referred to in subsection (a) shall be combined and administered by the Secretary as a single fund, which shall be available for obligation for the same period as funds apportioned under section 104(b)(1).".

SEC. 2009. EDUCATION AND TRAINING.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2008), is amended by adding at the end the following:

"§ 506. Education and training

"(a) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a transportation assistance program that will provide access to modern highway technology to—

"(A) highway and transportation agencies in urbanized areas with populations of between 50,000 and 1,000,000 individuals;

"(B) highway and transportation agencies in rural areas; and

"(C) contractors that do work for the agencies.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services that will—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

"(i) develop and expand their expertise in road and transportation areas (including pavement, bridge, safety management systems, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems;

"(C) operate, in cooperation with State transportation [agencies] *departments* and universities—

"(i) local technical assistance program centers to provide transportation technology transfer services to rural areas and to urbanized areas with populations of between 50,000 and 1,000,000 individuals; and

"(ii) local technical assistance program centers designated to provide transportation technical assistance to Indian tribal governments; and

"(D) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $7,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $7,000,000 for fiscal year 2000, $8,000,000 for fiscal year 2001, $8,000,000 for fiscal year 2002, and $8,000,000 for fiscal year 2003 to be used to develop and administer the program established under this section and to provide technical and financial support for the centers operated under paragraph (2)(C).

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(b) NATIONAL HIGHWAY INSTITUTE.—

"(1) ESTABLISHMENT; DUTIES; PROGRAMS.—

"(A) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (referred to in this subsection as the 'Institute').

"(B) DUTIES.—

"(i) INSTITUTE.—In cooperation with State transportation [agencies] *departments*, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

"(I) Federal Highway Administration, State, and local transportation agency employees;

"(II) regional, State, and metropolitan planning organizations;

"(III) State and local police, public safety, and motor vehicle employees; and

"(IV) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(ii) SECRETARY.—The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(C) TYPES OF PROGRAMS.—Programs that the Institute may develop and administer may include courses in modern developments, techniques, methods, regulations, management, and procedures relating to—

"(i) surface transportation;

"(ii) environmental factors;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance;

"(v) engineering;

"(vi) safety;

"(vii) construction;

"(viii) maintenance;

"(ix) operations;

"(x) contract administration;

"(xi) motor carrier activities;

"(xii) inspection; and

"(xiii) highway finance.

"(2) SET ASIDE; FEDERAL SHARE.—Not to exceed ¼ of 1 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by [transportation agencies of the State] *the State transportation department* for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding travel, subsistence, or salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(3) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

"(4) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

"(5) COLLECTION OF FEES.—

"(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

"(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(6) FUNDING.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for fiscal year 1998, $5,000,000 for fiscal year 1999, $5,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $6,000,000 for fiscal year 2002, and $6,000,000 for fiscal year 2003.

"(B) RELATION TO [OTHER] FEES.—The funds provided under this paragraph may be combined with or held separate from the fees collected under paragraph (5).

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(7) CONTRACTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this subsection.

"(c) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for fellowships for any purpose for which research, technology, or capacity building is authorized under this chapter.

"(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(A) IN GENERAL.—The Secretary shall carry out a transportation fellowship program, to be known as the 'Dwight David Eisenhower Transportation Fellowship Program', for the purpose of attracting qualified students to the field of transportation.

"(B) TYPES OF FELLOWSHIPS.—The program shall offer fellowships at the junior through postdoctoral levels of college education.

"(C) CITIZENSHIP.—Each recipient of a fellowship under the program shall be a United States citizen.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $2,000,000 for each of fiscal years 1998 through 2003.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(d) HIGHWAY CONSTRUCTION TRAINING PROGRAMS.—

"(1) USE OF FUNDS BY THE SECRETARY.—

"(A) IN GENERAL.—The Secretary, in cooperation with any other department or agency of the Federal Government, State agency, authority, association, institution, Indian tribal government, for-profit or nonprofit corporation, or other organization or person, may—

"(i) develop, conduct, and administer highway construction and technology training, including skill improvement, programs; and

"(ii) develop and fund Summer Transportation Institutes.

"(B) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into by the Secretary under this subsection.

"(C) FUNDING.—

"(i) IN GENERAL.—Before making apportionments under section 104(b) for a fiscal year, the Secretary shall deduct such sums as the Secretary determines are necessary, but not to exceed $10,000,000 for each fiscal year, to carry out this subsection.

"(ii) AVAILABILITY.—Sums deducted under clause (i) shall remain available until expended.

"(2) USE OF FUNDS APPORTIONED TO STATES.—Notwithstanding any other provision of law, upon request of a State transportation department to the Secretary, not to exceed ½ of 1 percent of the funds apportioned to the State for a fiscal year under paragraphs (1) and (3) of section 104(b) may be made available to carry out this subsection.

"(3) RESERVATION OF TRAINING POSITIONS FOR INDIVIDUALS RECEIVING WELFARE ASSISTANCE.—In carrying out this subsection, the Secretary and States may reserve training positions for individuals who receive welfare assistance from a State.".

SEC. 2010. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

(a) IN GENERAL.—Title 23, United States Code, is amended—

(1) by redesignating section 325 as section 507;

(2) by moving that section to appear at the end of subchapter I of chapter 5 (as amended by section 2009);

(3) in subsection (a) of that section, by inserting ", goods, and services" after "expertise"; and

(4) by striking subsection (c) of that section and inserting the following:

"(c) USE OF FUNDS.—

"(1) FUNDS DEPOSITED IN SPECIAL ACCOUNT.—Funds available to carry out this

section shall include funds deposited by any cooperating organization or person in a special account for the program established under this section with the Secretary of the Treasury.

"(2) USE OF FUNDS.—The funds deposited in the special account and other funds available to carry out this section shall be available to pay the cost of any activity eligible under this section, including the cost of promotional materials, travel, reception and representation expenses, and salaries and benefits of officers and employees of the Department of Transportation.

"(3) REIMBURSEMENTS.—Reimbursements for the salaries and benefits of Federal Highway Administration employees who provide services under this section shall be credited to the special account.

"(d) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out section 505 for any activity authorized under subsection (a).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 325.

SEC. 2011. NATIONAL TECHNOLOGY DEPLOYMENT INITIATIVES AND PARTNERSHIPS PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2010), is amended by adding at the end the following:

"§ 508. National technology deployment initiatives and partnerships program

"(a) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment initiatives *and partnerships* program *(referred to in this section as the 'program')*.

"(b) PURPOSE.—The purpose of the program is to significantly accelerate the adoption of innovative technologies by the surface transportation community.

"(c) DEPLOYMENT GOALS.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish not more than 5 deployment goals to carry out subsection (a).

"(2) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, or sustainability.

"(3) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(d) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

"(e) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology, including—

"(1) the testing and evaluation of products of the strategic highway research program;

"(2) the further development and implementation of technology in areas such as the Superpave system and the use of lithium salts to prevent and mitigate alkali silica reactivity; and

"(3) the provision of support for long-term pavement performance product implementation and technology access.

"(f) REPORTS.—Not later than 18 months after the date of enactment of this section, and biennially thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress and results of activities carried out under this section.

"(g) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) ALLOCATION.—To the extent appropriate to achieve the goals established under subsection (c), the Secretary may further allocate funds made available [to carry out] *under* this subsection to States for their use.".

SEC. 2012. INFRASTRUCTURE INVESTMENT NEEDS REPORT.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2011), is amended by adding at the end the following:

"§ 509. Infrastructure investment needs report

"Not later than January 31, 1999, and January 31 of every second year thereafter, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on estimates of the future highway and bridge needs of the United States.".

SEC. 2013. INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2012), is amended by adding at the end the following:

"§ 510. Innovative bridge research and construction program

"(a) IN GENERAL.—The Secretary shall establish and carry out a program to demonstrate the application of innovative material technology in the construction of bridges and other structures.

"(b) GOALS.—The goals of the program shall include—

"(1) the development of new, cost-effective innovative material highway bridge applications;

"(2) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

"(3) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(4) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures; and

"(5) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges.

"(c) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(A) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials; and

"(B) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrates the application of innovative materials.

"(2) GRANTS.—

"(A) APPLICATIONS.—

"(i) SUBMISSION.—To receive a grant under this section, an entity described in paragraph (1) shall submit an application to the Secretary.

"(ii) CONTENTS.—The application shall be in such form and contain such information as the Secretary may require.

"(B) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this section based on whether the project that is the subject of the grant meets the goals of the program described in subsection (b).

"(d) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (c) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account)—

"(A) to carry out subsection (c)(1)(A) $1,000,000 for each of fiscal years 1998 through 2003; and

"(B) to carry out subsection (c)(1)(B)—

"(i) $10,000,000 for fiscal year 1998;

"(ii) $15,000,000 for fiscal year 1999;

"(iii) $17,000,000 for fiscal year 2000; and

"(iv) $20,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

SEC. 2014. USE OF BUREAU OF INDIAN AFFAIRS ADMINISTRATIVE FUNDS.

Section 204(b) of title 23, United States Code, is amended in the last sentence by striking "326" and inserting "506".

SEC. 2015. STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2013), is amended by adding at the end the following:

"§ 511. Study of future strategic highway research program

"(a) STUDY.—

"(1) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, the Transportation Research Board of the National Academy of Sciences (referred to in this section as the 'Board') to conduct a study to determine the goals, purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under section 307(d) (as in effect on the day before the date of enactment of this section), or a similar effort.

"(2) CONSULTATION.—In conducting the study, the Board shall consult with the American Association of State Highway and Transportation Officials and such other entities as the Board determines to be necessary to the conduct of the study.

"(b) REPORT.—Not later than 2 years after making a grant or entering into a cooperative agreement or contract under subsection (a), the Board shall submit a final report on the results of the study to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.".

SEC. 2016. JOINT PARTNERSHIPS FOR ADVANCED VEHICLES, COMPONENTS, AND INFRASTRUCTURE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"§ 310. Joint partnerships for advanced vehicles, components, and infrastructure program

"(a) PURPOSES.—The Secretary of Transportation, in coordination with other government agencies and private consortia, shall encourage and promote the research, development, and deployment of transportation technologies that will use technological advances in multimodal vehicles, vehicle components, environmental technologies, and related infrastructure to remove impediments to an efficient and cost-effective national transportation system.

"(b) DEFINITION OF ELIGIBLE CONSORTIUM.—In this section, the term 'eligible consortium' means a consortium that receives funding under the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1876), and that comprises 2 or more of the following entities:

"(1) Businesses incorporated in the United States.

"(2) Public or private educational or research organizations located in the United States.

"(3) Entities of State or local governments in the United States.

"(4) Federal laboratories.

"(c) PROGRAM.—The Secretary shall enter into contracts, cooperative agreements, and other transactions as authorized by section 2371 of title 10 with, and make grants to, eligible consortia to promote the development and deployment of innovation in transportation technology services, management, and operational practices.

"(d) ELIGIBILITY CRITERIA.—To be eligible to receive assistance under this section, an eligible consortium shall—

"(1) for a period of not less than the 3 years preceding the date of a contract, cooperative agreement, or other transaction, be organized on a statewide or multistate basis for the purpose of designing, developing, and deploying transportation technologies that address identified technological impediments in the transportation field;

"(2) facilitate the participation in the consortium of small- and medium-sized businesses, utilities, public laboratories and universities, and other relevant entities;

"(3) be actively engaged in transportation technology projects that address compliance in [non-attainment] *nonattainment* areas under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(4) be designed to use Federal and State funding to attract private capital in the form of grants or investments to carry out this section; and

"(5) ensure that at least 50 percent of the funding for the consortium project will be provided by non-Federal sources.

"(e) PROPOSALS.—The Secretary shall prescribe such terms and conditions as the Secretary determines to be appropriate for the content and structure of proposals submitted for assistance under this section.

"(f) REPORTING REQUIREMENTS.—At least once each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects undertaken by the eligible consortia and the progress made in advancing the purposes of this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1998 through 2003, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"310. Joint partnerships for advanced vehicles, components, and infrastructure program.".

[SEC. 2017. CONFORMING AMENDMENTS.]

SEC. 2017. TRANSPORTATION AND ENVIRONMENT COOPERATIVE RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2015), is amended by adding at the end the following:

"§ 512. Transportation and environment cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a transportation and environment cooperative research program.

"(b) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—In consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, the Secretary shall establish an advisory board to recommend environmental and energy conservation research, technology, and technology transfer activities related to surface transportation.

"(2) MEMBERSHIP.—The advisory board shall include—

"(A) representatives of State transportation and environmental agencies;

"(B) transportation and environmental scientists and engineers; and

"(C) representatives of metropolitan planning organizations, transit operating agencies, and environmental organizations.

"(3) DEVELOPMENT OF RESEARCH PRIORITIES.—In developing recommendations for priorities for research described in paragraph (1), the advisory board shall consider the research recommendations of the National Research Council report entitled 'Environmental Research Needs in Transportation'.

"(4) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

"(c) NATIONAL ACADEMY OF SCIENCES.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities related to the research, technology, and technology transfer activities described in subsection (b)(1) as the Secretary determines to be appropriate.

"(2) ECOSYSTEM INTEGRITY STUDY.—

"(A) IN GENERAL.—The Secretary shall give priority to conducting a study of, and preparing a report on, the relationship between highway density and ecosystem integrity, including an analysis of the habitat-level impacts of highway density on the overall health of ecosystems.

"(B) PROPOSAL OF RAPID ASSESSMENT METHODOLOGY.—To aid transportation and regulatory agencies, the report shall propose a rapid assessment methodology for determining the relationship between highway density and ecosystem integrity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1998 through 2003.".

SEC. 2018. CONFORMING AMENDMENTS.

(a) Sections 307, 321, and 326 of title 23, United States Code, are repealed.

(b) The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 307, 321, and 326.

(c) Section 115(a)(1)(A)(i) of title 23, United States Code, is amended by striking "or 307" and inserting "or 505".

(d) Section 151(d) of title 23, United States Code, is amended by striking "section 307(a)," and inserting "section 506,".

(e) Section 106 of Public Law 89-564 (23 U.S.C. 403 note) is amended in the third sentence by striking "sections 307 and 403 of title 23, United States Code," and inserting "section 403 and chapter 5 of title 23, United States Code,".

Subtitle B—Intelligent Transportation Systems

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Intelligent Transportation Systems Act of 1997".

SEC. 2102. FINDINGS.

Congress finds that—

(1) numerous studies conducted on behalf of the Department of Transportation document that investment in intelligent transportation systems offers substantial benefits in relationship to costs;

(2) as a result of the investment authorized by the Intelligent Transportation Systems Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2189), progress has been made on each of the goals set forth for the national intelligent transportation system program in section 6052(b) of that Act; and

(3) continued investment by the Department of Transportation is needed to complete implementation of those goals.

SEC. 2103. INTELLIGENT TRANSPORTATION SYSTEMS.

Chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"§ 521. Purposes

"The purposes of this subchapter are—

"(1) to expedite deployment and integration of basic intelligent transportation system services for consumers of passenger and freight transportation across the United States;

"(2) to encourage the use of intelligent transportation systems to enhance international trade and domestic economic productivity;

"(3) to encourage the use of intelligent transportation systems to promote the

achievement of national environmental [and safety] goals;

"(4) to continue research, development, testing, and evaluation activities to continually expand the state-of-the-art in intelligent transportation systems;

"(5) to provide financial and technical assistance to State and local governments and metropolitan planning organizations to ensure the integration of interoperable, intermodal, and cost-effective intelligent transportation systems;

"(6) to foster regional cooperation, standards implementation, and operations planning to maximize the benefits of integrated and coordinated intelligent transportation systems;

"(7) to promote the consideration of intelligent transportation systems in mainstream transportation planning and investment decisionmaking by ensuring that Federal and State transportation officials have adequate, working knowledge of intelligent transportation system technologies and applications and by ensuring comprehensive funding eligibility for the technologies and applications;

"(8) to encourage intelligent transportation system training for, and technology transfer to, State and local agencies;

"(9) to promote the deployment of intelligent transportation system services in rural America so as to achieve safety benefits, promote tourism, and improve quality of life;

"(10) to promote the innovative use of private resources, such as through public-private partnerships or other uses of private sector investment, to support the development and integration of intelligent transportation systems throughout the United States;

"(11) to complete the Federal investment in the Commercial Vehicle Information Systems and Networks by September 30, 2003; [and]

"(12) to facilitate intermodalism through deployment of intelligent transportation systems, including intelligent transportation system technologies for transit systems to improve safety, efficiency, capacity, and utility for the [public.] *public;*

"(13) to enhance the safe operation of motor vehicles, including motorcycles, and nonmotorized vehicles on the surface transportation systems of the United States, with a particular emphasis on decreasing the number and severity of collisions; and

"(14) to accommodate the needs of all users of the surface transportation systems of the United States, including the operators of commercial vehicles, passenger vehicles, and motorcycles.

"§ 522. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'Commercial Vehicle Information Systems and Networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—The term 'commercial vehicle operations'—

"(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

"(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

"(3) COMPLETED STANDARD.—The term 'completed standard' means a standard adopted and published by the appropriate standards-setting organization through a voluntary consensus standardmaking process.

"(4) CORRIDOR.—The term 'corridor' means any major transportation route that includes parallel limited access highways, major arterials, or transit lines.

"(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(6) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(7) PROVISIONAL STANDARD.—The term 'provisional standard' means a provisional standard established by the Secretary under section [528(c)] *529(c).*

"(8) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may support the national architecture and promote—

"(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

"§ 523. Cooperation, consultation, and analysis

"(a) COOPERATION.—In carrying out this subchapter, the Secretary shall—

"(1) foster enhanced operation and management of the surface transportation systems of the United States;

"(2) promote the widespread deployment of intelligent transportation systems; and

"(3) advance emerging technologies, in cooperation with State and local governments and the private sector.

"(b) CONSULTATION.—As appropriate, in carrying out this subchapter, the Secretary shall—

"(1) consult with the heads of other interested Federal departments and agencies; and

"(2) maximize the involvement of the United States private sector, colleges and universities, and State and local governments in all aspects of carrying out this subchapter.

"(c) PROCUREMENT METHODS.—To meet the need for effective implementation of intelligent transportation system projects, the Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for intelligent transportation system projects, including innovative and nontraditional methods of procurement.

"§ 524. Research, development, and training

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, operational testing, technical assistance and training, national architecture activities, standards development and implementation, and other similar activities that are necessary to carry out the purposes of this subchapter.

"(b) INTELLIGENT VEHICLE AND INTELLIGENT INFRASTRUCTURE PROGRAMS.—

"(1) IN GENERAL.—

"(A) PROGRAM.—The Secretary shall carry out a program to conduct research, development, and engineering designed to stimulate and advance deployment of an integrated intelligent vehicle program and an integrated intelligent infrastructure program, consisting of—

"(i) projects such as crash avoidance, automated highway systems, advanced vehicle controls, and roadway safety and efficiency systems linked to intelligent vehicles; and

"(ii) projects that improve mobility and the quality of the environment, including projects for traffic management, incident management, transit management, toll collection, traveler information, and traffic control systems.

"(B) CONSIDERATION OF VEHICLE AND INFRASTRUCTURE ELEMENTS.—In carrying out subparagraph (A), the Secretary may consider systems that include both vehicle and infrastructure elements and determine the most appropriate mix of those elements.

"(2) NATIONAL ARCHITECTURE.—The program carried out under paragraph (1) shall be consistent with the national architecture.

"(3) PRIORITIES.—In carrying out paragraph (1), the Secretary shall give higher priority to activities that—

"(A) assist motor vehicle drivers in avoiding motor vehicle crashes;

"(B) assist in the development of an automated highway system; or

"(C) improve the integration of air bag technology with other on-board safety systems *and maximize the safety benefits of the simultaneous use of an automatic restraint system and seat belts.*

"(4) COST SHARING.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a research project carried out in cooperation with a non-Federal entity under a program carried out under paragraph (1) shall not exceed 80 percent.

"(B) INNOVATIVE OR HIGH-RISK RESEARCH PROJECTS.—The Federal share of the cost of an innovative or high-risk research project described in subparagraph (A) may, at the discretion of the Secretary, be 100 percent.

"(5) PLAN.—The Secretary shall—

"(A) not later than 1 year after the date of enactment of this subchapter, submit to Congress a 6-year plan specifying the goals, objectives, and milestones to be achieved by each program carried out under paragraph (1); and

"(B) report biennially to Congress on the progress in meeting the goals, objectives, and milestones.

"(c) EVALUATION.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall establish guidelines and requirements for the independent evaluation of field and related operational tests, and, if necessary, deployment projects, carried out under this subchapter.

"(B) REQUIRED PROVISIONS.—The guidelines and requirements established under subparagraph (A) shall include provisions to ensure

the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subchapter.

"(2) FUNDING.—

"(A) SMALL PROJECTS.—In the case of a test or project with a cost of less than $5,000,000, the Secretary may allocate not more than 15 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(B) MODERATE PROJECTS.—In the case of a test or project with a cost of $5,000,000 or more, but less than $10,000,000, the Secretary may allocate not more than 10 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(C) LARGE PROJECTS.—In the case of a test or project with a cost of $10,000,000 or more, the Secretary may allocate not more than 5 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(3) INAPPLICABILITY OF PAPERWORK REDUCTION ACT.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"(d) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) DELEGATION OF AUTHORITY.—

"(A) IN GENERAL.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation.

"(B) FEDERAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal assistance under this section.

"(e) TRAFFIC INCIDENT MANAGEMENT AND RESPONSE.—The Secretary shall carry out a program to advance traffic incident management and response technologies, strategies, and partnerships that are fully integrated with intelligent transportation systems.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $120,000,000 for fiscal year 1998, $125,000,000 for fiscal year 1999, $130,000,000 for fiscal year 2000, $135,000,000 for fiscal year 2001, $140,000,000 for fiscal year 2002, and $150,000,000 for fiscal year 2003, of which, for each fiscal year—

"(A) not less than $25,000,000 shall be available for activities that assist motor vehicle drivers in avoiding motor vehicle crashes, including activities that improve the integration of air bag technology with other onboard safety systems;

"(B) not less than $25,000,000 shall be available for activities that assist in the development of an automated highway system; and

"(C) not less than $3,000,000 shall be available for traffic incident management and response.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.

"§ 525. Intelligent transportation system integration program

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration and interoperability of intelligent transportation systems.

"(b) SELECTION OF PROJECTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall select for funding, through competitive solicitation, projects that will serve as models to improve transportation efficiency, promote safety, increase traffic flow, reduce emissions of air pollutants, improve traveler information, or enhance alternative transportation modes.

"(2) PRIORITIES.—Under the program, the Secretary shall give higher priority to funding projects that—

"(A) promote and foster integration strategies and written agreements among local governments, States, and other regional entities;

"(B) build on existing (as of the date of project selection) intelligent transportation system projects;

"(C) deploy integrated intelligent transportation system projects throughout metropolitan areas;

"(D) deploy integrated intelligent transportation system projects that enhance safe freight movement or coordinate intermodal travel, including intermodal travel at ports of entry into the United States; and

"(E) advance intelligent transportation system deployment projects that are consistent with the national architecture and, as appropriate, comply with required standards as described in section [528] *529*.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $100,000,000 for fiscal year 1998, $110,000,000 for fiscal year 1999, $115,000,000 for fiscal year 2000, $130,000,000 for fiscal year 2001, $135,000,000 for fiscal year 2002, and $145,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 526. Integration program for rural areas

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration or deployment of intelligent transportation systems in rural areas.

"(b) SELECTION OF PROJECTS.—Under the program, the Secretary shall—

"(1) select projects through competitive solicitation; and

"(2) give higher priority to funding projects that—

"(A) promote and foster integration strategies and agreements among local governments, States, and other regional entities;

"(B) deploy integrated intelligent transportation system projects that improve mobility, enhance the safety of the movement of passenger vehicles and freight, or promote tourism; or

"(C) advance intelligent transportation system deployment projects that are consistent with the national architecture and comply with required standards as described in section [528] *529*.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1998, $10,000,000 for fiscal year 1999, $15,000,000 for fiscal year 2000, $15,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $20,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 527. Commercial vehicle intelligent transportation system infrastructure

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program—

"(1) to deploy intelligent transportation systems that will promote the safety and productivity of commercial vehicles and drivers; and

"(2) to reduce costs associated with commercial vehicle operations and State and Federal commercial vehicle regulatory requirements.

"(b) ELEMENTS OF PROGRAM.—

"(1) SAFETY INFORMATION SYSTEMS AND NETWORKS.—

"(A) IN GENERAL.—The program shall advance the technological capability and promote the deployment of commercial vehicle, commercial driver, and carrier-specific safety information systems and networks and other intelligent transportation system technologies used to assist States in identifying high-risk commercial operations and

in conducting other innovative safety strategies, including the Commercial Vehicle Information Systems and Networks.

"(B) FOCUS OF PROJECTS.—Projects assisted under the program shall focus on—

"(i) identifying and eliminating unsafe and illegal carriers, vehicles, and drivers in a manner that does not unduly hinder the productivity and efficiency of safe and legal commercial operations;

"(ii) enhancing the safe passage of commercial vehicles across the United States and across international borders;

"(iii) reducing the numbers of violations of out-of-service orders; and

"(iv) complying with directives to address other safety violations.

"(2) MONITORING SYSTEMS.—The program shall advance on-board driver and vehicle safety monitoring systems, including fitness-for-duty, brake, and other operational monitoring technologies, that will facilitate commercial vehicle safety, including inspection by motor carrier safety assistance program officers and employees under chapter 311 of title 49.

"(c) USE OF FEDERAL FUNDS.—

"(1) IN GENERAL.—Federal funds used to carry out the program shall be primarily used to improve—

"(A) commercial vehicle safety and the effectiveness and efficiency of enforcement efforts conducted under the motor carrier safety assistance program under chapter 311 of title 49;

"(B) electronic processing of registration, driver licensing, fuel tax, and other safety information; and

"(C) communication of the information described in subparagraph (B) [to other] *among the* States.

"(2) LEVERAGING.—Federal funds used to carry out the program shall, to the maximum extent practicable—

"(A) be leveraged with non-Federal funds; and

"(B) be used for activities not carried out through the use of private funds.

"(d) FEDERAL SHARE.—The Federal share of the cost of a project assisted under the program shall be not more than 80 percent.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for fiscal year 1998, $25,000,000 for fiscal year 1999, $25,000,000 for fiscal year 2000, $35,000,000 for fiscal year 2001, $35,000,000 for fiscal year 2002, and $40,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§528. Corridor development and coordination

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements intended to promote regional cooperation, planning, and shared project implementation for intelligent transportation system projects.

"(b) FUNDING.—There shall be available to carry out this section for each fiscal year not more than—

"(1) $3,000,000 of the amounts made available under section 524(f); and

"(2) $7,000,000 of the amounts made available under section 525(e).

"§ [528] *529.* Standards

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—The Secretary shall develop, implement, and maintain a national architecture and supporting standards to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the standards shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the States.

"(3) USE OF STANDARDS-SETTING ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards-setting organizations as the Secretary determines appropriate.

"(b) REPORT.—

"(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report describing the status of all standards.

"(2) CONTENTS.—The report shall—

"(A) identify each standard that is needed for operation of intelligent transportation systems in the United States;

"(B) specify the status of the development of each standard;

"(C) provide a timetable for achieving agreement on each standard as described in this section; and

"(D) determine which standards are critical to ensuring national interoperability or critical to the development of other standards.

"(c) ESTABLISHMENT OF PROVISIONAL STANDARDS.—

"(1) ESTABLISHMENT.—Subject to subsection (d), if a standard determined to be critical under subsection (b)(2)(D) is not adopted and published by the appropriate standards-setting organization by January 1, 2001, the Secretary shall establish a provisional standard after consultation with affected parties.

"(2) PERIOD OF EFFECTIVENESS.—The provisional standard shall—

"(A) be published in the Federal Register;

"(B) take effect not later than May 1, 2001; and

"(C) remain in effect until the appropriate standards-setting organization adopts and publishes a standard.

"(d) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL STANDARDS.—

"(1) NOTICE.—The Secretary may waive the requirement to establish a provisional standard by submitting, not later than January 1, 2001, to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a notice that—

"(A) specifies the provisional standard subject to the waiver;

"(B) describes the history of the development of the standard subject to the waiver;

"(C) specifies the reasons why the requirement for the establishment of the provisional standard is being waived;

"(D) describes the impacts of delaying the establishment of the standard subject to the waiver, especially the impacts on the purposes of this subchapter; and

"(E) provides specific estimates as to when the standard subject to the waiver is expected to be adopted and published by the appropriate standards-setting organization.

"(2) PROGRESS REPORTS.—

"(A) IN GENERAL.—In the case of each standard subject to a waiver by the Secretary under paragraph (1), the Secretary shall submit, in accordance with the schedule specified in subparagraph (B), a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the progress of the adoption of a completed standard.

"(B) SCHEDULE OF REPORTS.—The Secretary shall submit a report under subparagraph (A) with respect to a standard—

"(i) not later than 180 days after the date of submission of the notice under paragraph (1) with respect to the standard; and

"(ii) at the end of each 180-day period thereafter until such time as a standard has been adopted and published by the appropriate standards-setting organization or the waiver is withdrawn under paragraph (3).

"(C) CONSULTATION.—In developing each progress report under subparagraph (A), the Secretary shall consult with the standards-setting organizations involved in the standardmaking process for the standard.

"(3) WITHDRAWAL OF WAIVER.—

"(A) IN GENERAL.—At any time, the Secretary may, through notification to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, withdraw a notice of a waiver of the requirement to establish a provisional standard.

"(B) IMPLEMENTATION.—If the Secretary submits notification under subparagraph (A) with respect to a provisional standard, not less than 30 days, but not more than 90 days, after the date of the notification, the Secretary shall implement the provisional standard, unless, by the end of the 90-day period beginning on the date of the notification, a standard has been adopted and published by the appropriate standards-setting organization.

"(e) REQUIREMENT FOR COMPLIANCE WITH STANDARD.—

"(1) IN GENERAL.—

"(A) STANDARD IN EXISTENCE.—Funds made available from the Highway Trust Fund shall not be used to deploy an intelligent transportation system technology if the technology does not comply with each applicable provisional standard or completed standard.

"(B) NO STANDARD IN EXISTENCE.—In the absence of a provisional standard or completed standard, Federal funds shall not be used to deploy an intelligent transportation system technology if the deployment is not consistent with the interfaces to ensure interoperability that are contained in the national architecture.

"(2) APPLICABILITY.—Paragraph (1) shall not apply to—

"(A) the operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter; or

"(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subchapter if the Secretary determines that the upgrade or expansion—

"(i) does not adversely affect the purposes of this subchapter, especially the goal of national or regional interoperability;

"(ii) is carried out before the end of the useful life of the system; and

"(iii) is cost effective as compared to alternatives that meet the compliance requirement of paragraph (1)(A) or the consistency requirement of paragraph (1)(B).

"(f) SPECTRUM.—

"(1) CONSULTATION.—The Secretary shall consult with the Secretary of Commerce, the Secretary of Defense, and the Chairman of the Federal Communications Commission to determine the best means for securing the necessary spectrum for the near-term establishment of a dedicated short-range vehicle-to-wayside wireless standard and any other spectrum that the Secretary determines to be critical to the implementation of this title.

"(2) PROGRESS REPORT.—After consultation under paragraph (1) and with other affected agencies, but not later than 1 year after the date of enactment of this subchapter, the Secretary shall submit a report to Congress on the progress made in securing the spectrum described in paragraph (1).

"(3) DEADLINE FOR SECURING SPECTRUM.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this subchapter, the Secretary of Commerce shall release to the Federal Communications Commission, and the Federal Communications Commission shall allocate, the spectrum described in paragraph (1).

"(g) FUNDING.—The Secretary shall use funds made available under section 524 to carry out this section.

"§ [529] *530*. Funding limitations

"(a) CONSISTENCY WITH NATIONAL ARCHITECTURE.—The Secretary shall use funds made available under this subchapter to deploy intelligent transportation system technologies that are consistent with the national architecture.

"(b) COMPETITION WITH PRIVATELY FUNDED PROJECTS.—To the maximum extent practicable, the Secretary shall not fund any intelligent transportation system operational test or deployment project that competes with a similar privately funded project.

"(c) INFRASTRUCTURE DEVELOPMENT.—Funds made available under this subchapter for operational tests and deployment projects—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

"(d) PUBLIC RELATIONS AND TRAINING.—For each fiscal year, not more than $15,000,000 of the funds made available under this subchapter shall be used for intelligent transportation system outreach, public relations, training, mainstreaming, shareholder relations, or related activities.

"§ 531. Use of innovative financing

"(a) IN GENERAL.—The Secretary may use up to 25 percent of the funds made available under this subchapter and section 541 to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this title and that have significant intelligent transportation system elements.

"(b) CONSISTENCY WITH OTHER LAW.—Credit assistance described in subsection (a) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1997.

"§ [530] *532*. Advisory committees

"(a) IN GENERAL.—In carrying out this subchapter, the Secretary shall use 1 or more advisory committees.

"(b) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 2104. CONFORMING AMENDMENT.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title VI (23 U.S.C. 307 note; 105 Stat. 2189).

Subtitle C—Funding

SEC. 2201. FUNDING.

Chapter 5 of title 23, United States Code (as amended by section 2103), is amended by adding at the end the following:

"SUBCHAPTER III—FUNDING

"§ 541. Funding

"(a) RESEARCH, TECHNOLOGY, AND TRAINING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out sections 502, 507, 509, and 511 $98,000,000 for fiscal year 1998, $101,000,000 for fiscal year 1999, $104,000,000 for fiscal year 2000, $107,000,000 for fiscal year 2001, $110,000,000 for fiscal year 2002, and $114,000,000 for fiscal year 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(1) any Federal share of the cost of an activity under this chapter shall be determined in accordance with this chapter; and

"(2) the funds shall remain available for obligation for a period of 4 years after the last day of the fiscal year for which the funds are authorized.

"(c) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

"(1) $98,000,000 for fiscal year 1998;
"(2) $101,000,000 for fiscal year 1999;
"(3) $104,000,000 for fiscal year 2000;
"(4) $107,000,000 for fiscal year 2001;
"(5) $110,000,000 for fiscal year 2002; and
"(6) $114,000,000 for fiscal year 2003.".

Mr. CHAFEE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, am I correct in assuming that the first committee amendment is the business pending before the Senate?

The PRESIDING OFFICER. The Senator is correct.

MODIFICATION TO FIRST COMMITTEE AMENDMENT

Mr. CHAFEE. In that case, on behalf of the committee, I send to the desk a modification to the first committee amendment. I understand the committee has the right to modify its amendment at this time.

The PRESIDING OFFICER. The amendment is modified.

The modification follows:

Strike all after the first word and insert:

. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intermodal Surface Transportation Efficiency Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition.

TITLE I—SURFACE TRANSPORTATION

Sec. 1001. Short title.

Subtitle A—General Provisions

Sec. 1101. Authorizations.
Sec. 1102. Apportionments.
Sec. 1103. Obligation ceiling.
Sec. 1104. Obligation authority under surface transportation program.
Sec. 1105. Emergency relief.
Sec. 1106. Federal lands highways program.
Sec. 1107. Recreational trails program.
Sec. 1108. Value pricing pilot program.
Sec. 1109. Highway use tax evasion projects.
Sec. 1110. Bicycle transportation and pedestrian walkways.
Sec. 1111. Disadvantaged business enterprises.
Sec. 1112. Federal share payable.
Sec. 1113. Studies and reports.
Sec. 1114. Definitions.
Sec. 1115. Cooperative Federal Lands Transportation Program.
Sec. 1116. Trade corridor and border crossing planning and border infrastructure.
Sec. 1117. Appalachian development highway system.
Sec. 1118. Interstate 4R and bridge discretionary program.
Sec. 1119. Magnetic levitation transportation technology deployment program.
Sec. 1120. Woodrow Wilson Memorial Bridge.
Sec. 1121. National Highway System components.
Sec. 1122. Highway bridge replacement and rehabilitation.
Sec. 1123. Congestion mitigation and air quality improvement program.
Sec. 1124. Safety belt use law requirements.
Sec. 1125. Sense of the Senate concerning reliance on private enterprise.
Sec. 1126. Study of use of uniformed police officers on Federal-aid highway construction projects.
Sec. 1127. Contracting for engineering and design services.

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

Sec. 1201. Administrative expenses.
Sec. 1202. Real property acquisition and corridor preservation.
Sec. 1203. Availability of funds.
Sec. 1204. Payments to States for construction.
Sec. 1205. Proceeds from the sale or lease of real property.
Sec. 1206. Metric conversion at State option.
Sec. 1207. Report on obligations.
Sec. 1208. Terminations.
Sec. 1209. Interstate maintenance.

CHAPTER 2—PROJECT APPROVAL

Sec. 1221. Transfer of highway and transit funds.
Sec. 1222. Project approval and oversight.
Sec. 1223. Surface transportation program.
Sec. 1224. Design-build contracting.
Sec. 1225. Integrated decisionmaking process.

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

Sec. 1231. Definition of operational improvement.

Sec. 1232. Eligibility of ferry boats and ferry terminal facilities.
Sec. 1233. Flexibility of safety programs.
Sec. 1234. Eligibility of projects on the National Highway System.
Sec. 1235. Eligibility of projects under the surface transportation program.
Sec. 1236. Design flexibility.

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

Sec. 1301. State infrastructure bank program.

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

Sec. 1311. Short title.
Sec. 1312. Findings.
Sec. 1313. Definitions.
Sec. 1314. Determination of eligibility and project selection.
Sec. 1315. Secured loans.
Sec. 1316. Lines of credit.
Sec. 1317. Project servicing.
Sec. 1318. Office of Infrastructure Finance.
Sec. 1319. State and local permits.
Sec. 1320. Regulations.
Sec. 1321. Funding.
Sec. 1322. Report to Congress.

Subtitle D—Safety

Sec. 1401. Operation lifesaver.
Sec. 1402. Railway-highway crossing hazard elimination in high speed rail corridors.
Sec. 1403. Railway-highway crossings.
Sec. 1404. Hazard elimination program.
Sec. 1405. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.
Sec. 1406. Safety incentive grants for use of seat belts.
Sec. 1407. Automatic crash protection unbelted testing standard.

Subtitle E—Environment

Sec. 1501. National scenic byways program.
Sec. 1502. Public-private partnerships.
Sec. 1503. Wetland restoration pilot program.

Subtitle F—Planning

Sec. 1601. Metropolitan planning.
Sec. 1602. Statewide planning.
Sec. 1603. Advanced travel forecasting procedures program.
Sec. 1604. Transportation and community and system preservation pilot program.

Subtitle G—Technical Corrections

Sec. 1701. Federal-aid systems.
Sec. 1702. Miscellaneous technical corrections.
Sec. 1703. Nondiscrimination.
Sec. 1704. State transportation department.

Subtitle H—Miscellaneous Provisions

Sec. 1801. Designation of portion of State Route 17 in New York and Pennsylvania as Interstate Route 86.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

Sec. 2001. Strategic research plan.
Sec. 2002. Multimodal Transportation Research and Development Program.
Sec. 2003. National university transportation centers.
Sec. 2004. Bureau of Transportation Statistics.
Sec. 2005. Research and technology program.
Sec. 2006. Advanced research program.
Sec. 2007. Long-term pavement performance program.
Sec. 2008. State planning and research program.
Sec. 2009. Education and training.
Sec. 2010. International highway transportation outreach program.
Sec. 2011. National technology deployment initiatives and partnerships program.
Sec. 2012. Infrastructure investment needs report.
Sec. 2013. Innovative bridge research and construction program.
Sec. 2014. Use of Bureau of Indian Affairs administrative funds.
Sec. 2015. Study of future strategic highway research program.
Sec. 2016. Joint partnerships for advanced vehicles, components, and infrastructure program.
Sec. 2017. Transportation and environment cooperative research program.
Sec. 2018. Conforming amendments.

Subtitle B—Intelligent Transportation Systems

Sec. 2101. Short title.
Sec. 2102. Findings.
Sec. 2103. Intelligent transportation systems.
Sec. 2104. Conforming amendment.

Subtitle C—Funding

Sec. 2201. Funding.

SEC. 2. DEFINITION.

In this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Surface Transportation Act of 1997".

Subtitle A—General Provisions

SEC. 1101. AUTHORIZATIONS.

For the purpose of carrying out title 23, United States Code, the following sums shall be available from the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—For the Interstate and National Highway System program under section 103 of that title $11,979,000,000 for fiscal year 1998, $11,808,000,000 for fiscal year 1999, $11,819,000,000 for fiscal year 2000, $11,916,000,000 for fiscal year 2001, $12,242,000,000 for fiscal year 2002, and $12,776,000,000 for fiscal year 2003, of which—

(A) $4,600,000,000 for fiscal year 1998, $4,609,000,000 for fiscal year 1999, $4,637,000,000 for fiscal year 2000, $4,674,000,000 for fiscal year 2001, $4,773,000,000 for fiscal year 2002, and $4,918,000,000 for fiscal year 2003 shall be available for the Interstate maintenance component; and

(B) $1,400,000,000 for fiscal year 1998, $1,403,000,000 for fiscal year 1999, $1,411,000,000 for fiscal year 2000, $1,423,000,000 for fiscal year 2001, $1,453,000,000 for fiscal year 2002, and $1,497,000,000 for fiscal year 2003 shall be available for the Interstate bridge component.

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title $7,000,000,000 for fiscal year 1998, $7,014,000,000 for fiscal year 1999, $7,056,000,000 for fiscal year 2000, $7,113,000,000 for fiscal year 2001, $7,263,000,000 for fiscal year 2002, and $7,484,000,000 for fiscal year 2003.

(3) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title $1,150,000,000 for fiscal year 1998, $1,152,000,000 for fiscal year 1999, $1,159,000,000 for fiscal year 2000, $1,169,000,000 for fiscal year 2001, $1,193,000,000 for fiscal year 2002, and $1,230,000,000 for fiscal year 2003.

(4) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title $200,000,000 for each of fiscal years 1998 through 2003.

(B) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title $90,000,000 for each of fiscal years 1998 through 2003.

(C) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title $172,000,000 for each of fiscal years 1998 through 2003.

(D) COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Cooperative Federal Lands Transportation Program under section 207 of that title $74,000,000 for each of fiscal years 1998 through 2003.

SEC. 1102. APPORTIONMENTS.

(a) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) and the set-asides authorized by subsection (f), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the National Highway System, the congestion mitigation and air quality improvement program, and the surface transportation program, for that fiscal year, among the States in the following manner:

"(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—

"(A) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

"(i) 50 percent in the ratio that—

"(I) the total lane miles on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997);

in each State; bears to

"(II) the total of all such lane miles in all States; and

"(ii) 50 percent in the ratio that—

"(I) the total vehicle miles traveled on lanes on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997);

in each State; bears to

"(II) the total of all such vehicle miles traveled in all States.

"(B) INTERSTATE BRIDGE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing bridges on the Interstate System, in the ratio that—

"(i) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the

Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in each State; bears to

"(ii) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in all States.

"(C) OTHER NATIONAL HIGHWAY SYSTEM COMPONENT.—

"(i) IN GENERAL.—For the National Highway System (excluding funds apportioned under subparagraph (A) or (B)), $36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remainder apportioned as follows:

"(I) 20 percent of the apportionments in the ratio that—

"(aa) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

"(II) 29 percent of the apportionments in the ratio that—

"(aa) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

"(III) 18 percent of the apportionments in the ratio that—

"(aa) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in each State; bears to

"(bb) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in all States.

"(IV) 24 percent of the apportionments in the ratio that—

"(aa) the total diesel fuel used on highways in each State; bears to

"(bb) the total diesel fuel used on highways in all States.

"(V) 9 percent of the apportionments in the ratio that—

"(aa) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

"(bb) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

"(ii) DATA.—Each calculation under clause (i) shall be based on the latest available data.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding subparagraphs (A) through (C), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

"(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

"(ii) the total of all weighted nonattainment and maintenance area populations in all States.

"(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

"(i) 0.8 if—

"(I) at the time of the apportionment, the area is a maintenance area; or

"(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under that subpart;

"(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under that subpart;

"(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under that subpart;

"(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under that subpart; or

"(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide.

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—

"(i) CARBON MONOXIDE NONATTAINMENT AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.

"(ii) CARBON MONOXIDE MAINTENANCE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was at one time also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide but has been redesignated as a maintenance area, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.1.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

"(i) 20 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 30 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 25 percent of the apportionments in the ratio that—

"(I) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in each State; bears to

"(II) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in all States.

"(iv) 25 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) DATA.—Each calculation under subparagraph (A) shall be based on the latest available data.

"(C) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(b) EFFECT OF CERTAIN AMENDMENTS.—Section 104 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

"(h) EFFECT OF CERTAIN AMENDMENTS.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the amendments made by section 901 of the Taxpayer Relief Act of 1997 shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Intermodal Surface Transportation Efficiency Act of 1997 and this title .".

(c) ISTEA TRANSITION.—

(1) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall determine, with respect to each State—

(A) the total apportionments for the fiscal year under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program;

(B) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding apportionments for the Federal lands highways program under section 204 of that title;

(C) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway

programs (as defined in section 101 of title 23, United States Code), excluding—

(i) apportionments authorized under section 104 of that title for construction of the Interstate System;

(ii) apportionments for the Interstate substitute program under section 103(e)(4) of that title (as in effect on the day before the date of enactment of this Act);

(iii) apportionments for the Federal lands highways program under section 204 of that title; and

(iv) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943);

(D) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (B); by

(ii) the applicable percentage determined under paragraph (2); and

(E) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (C); by

(ii) the applicable percentage determined under paragraph (2).

(2) APPLICABLE PERCENTAGES.—

(A) FISCAL YEAR 1998.—For fiscal year 1998—

(i) the applicable percentage referred to in paragraph (1)(D)(ii) shall be 145 percent; and

(ii) the applicable percentage referred to in paragraph (1)(E)(ii) shall be 107 percent.

(B) FISCAL YEARS THEREAFTER.—For each of fiscal years 1999 through 2003, the applicable percentage referred to in paragraph (1)(D)(ii) or (1)(E)(ii), respectively, shall be a percentage equal to the product obtained by multiplying—

(i) the percentage specified in clause (i) or (ii), respectively, of subparagraph (A); by

(ii) the percentage that—

(I) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for the fiscal year; bears to

(II) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for fiscal year 1998.

(3) MAXIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, in the case of each State with respect to which the total apportionments determined under paragraph (1)(A) is greater than the product determined under paragraph (1)(D), the Secretary shall reduce proportionately the apportionments to the State under section 104 of title 23, United States Code, for the National Highway System component of the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program so that the total of the apportionments is equal to the product determined under paragraph (1)(D).

(B) REDISTRIBUTION OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds made available under subparagraph (A) shall be redistributed proportionately under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program, to States not subject to a reduction under subparagraph (A).

(ii) LIMITATION.—The ratio that—

(I) the total apportionments to a State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of clause (i); bears to

(II) the annual average of the total apportionments determined under paragraph (1)(B) with respect to the State;

may not exceed, in the case of fiscal year 1998, 145 percent, and, in the case of each of fiscal years 1999 through 2003, 145 percent as adjusted in the manner described in paragraph (2)(B).

(4) MINIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall apportion to each State such additional amounts as are necessary to ensure that—

(i) the total apportionments to the State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of paragraph (3); is equal to

(ii) the greater of—

(I) the product determined with respect to the State under paragraph (1)(E); or

(II) the total apportionments to the State for fiscal year 1997 for all Federal-aid highway programs, excluding—

(aa) apportionments for the Federal lands highways program under section 204 of title 23, United States Code;

(bb) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943); and

(cc) demonstration projects under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240).

(B) OBLIGATION.—Amounts apportioned under subparagraph (A)—

(i) shall be considered to be sums made available for expenditure on the surface transportation program, except that—

(I) the amounts shall not be subject to paragraphs (1) and (2) of section 133(d) of title 23, United States Code; and

(II) 50 percent of the amounts shall be subject to section 133(d)(3) of that title;

(ii) shall be available for any purpose eligible for funding under section 133 of that title; and

(iii) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are apportioned.

(C) AUTHORIZATION OF CONTRACT AUTHORITY.—

(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this paragraph.

(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(d) MINIMUM GUARANTEE.—

(1) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Minimum guarantee

"(a) ADJUSTMENT.—

"(1) IN GENERAL.—In fiscal year 1998 and each fiscal year thereafter on October 1, or as soon as practicable thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that—

"(A) the ratio that—

"(i) each State's percentage of the total apportionments for the fiscal year—

"(I) under section 104 for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program; and

"(II) under this section and section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1997 for ISTEA transition; bears to

"(ii) each State's percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available;

is not less than 0.90; and

"(B) in the case of a State specified in paragraph (2), the State's percentage of the total apportionments for the fiscal year described in subclauses (I) and (II) of subparagraph (A)(i) is—

"(i) not less than the percentage specified for the State in paragraph (2); but

"(ii) not greater than the product determined for the State under section 1102(c)(1)(D) of the Intermodal Surface Transportation Efficiency Act of 1997 for the fiscal year.

"(2) STATE PERCENTAGES.—The percentage referred to in paragraph (1)(B) for a specified State shall be determined in accordance with the following table:

"State	Percentage
Alaska	1.24
Arkansas	1.33
Delaware	0.47
Hawaii	0.55
Idaho	0.82
Montana	1.06
Nevada	0.73
New Hampshire	0.52
New Jersey	2.41
New Mexico	1.05
North Dakota	0.73
Rhode Island	0.58
South Dakota	0.78
Vermont	0.47
Wyoming	0.76.

"(b) TREATMENT OF ALLOCATIONS.—

"(1) OBLIGATION.—Amounts allocated under subsection (a)—

"(A) shall be available for obligation when allocated and shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are allocated; and

"(B) shall be available for any purpose eligible for funding under this title.

"(2) SET-ASIDE.—Fifty percent of the amounts allocated under subsection (a) shall be subject to section 133(d)(3).

"(c) TREATMENT OF WITHHELD APPORTIONMENTS.—For the purpose of subsection (a), any funds that, but for section 158(b) or any other provision of law under which Federal-aid highway funds are withheld from apportionment, would be apportioned to a State for a fiscal year under a section referred to in subsection (a) shall be treated as being apportioned in that fiscal year.

"(d) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Minimum guarantee.".

(e) AUDITS OF HIGHWAY TRUST FUND.—Section 104 of title 23, United States Code, is amended by striking subsection (i) and inserting the following:

"(i) AUDITS OF HIGHWAY TRUST FUND.—From available administrative funds deducted under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.".

(f) TECHNICAL AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting "NOTIFICATION TO STATES.—" after "(e)";

(B) in the first sentence—

(i) by striking "(other than under subsection (b)(5) of this section)"; and

(ii) by striking "and research";

(C) by striking the second sentence; and

(D) in the last sentence, by striking ", except that" and all that follows through "such funds"; and

(2) in subsection (f)—

(A) by striking "(f)(1) On" and inserting the following:

"(f) METROPOLITAN PLANNING.—

"(1) SET-ASIDE.—On";

(B) by striking "(2) These" and inserting the following:

"(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These";

(C) by striking "(3) The" and inserting the following:

"(3) USE OF FUNDS.—The"; and

(D) by striking "(4) The" and inserting the following:

"(4) DISTRIBUTION OF FUNDS WITHIN STATES.—The".

(g) CONFORMING AMENDMENTS.—

(1) Section 146(a) of title 23, United States Code, is amended in the first sentence by striking ", 104(b)(2), and 104(b)(6)" and inserting "and 104(b)(2)".

(2)(A) Section 150 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150.

(3) Section 158 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(iii) in paragraph (1) (as so redesignated)—

(I) by striking "AFTER THE FIRST YEAR" and inserting "IN GENERAL"; and

(II) by striking ", 104(b)(2), 104(b)(5), and 104(b)(6)" and inserting "and 104(b)(2)"; and

(iv) in paragraph (2) (as redesignated by clause (ii)), by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraph (1)"; and

(B) by striking subsection (b) and inserting the following:

"(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.".

(4)(A) Section 157 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157.

(5)(A) Section 115(b)(1) of title 23, United States Code, is amended by striking "or 104(b)(5), as the case may be,".

(B) Section 137(f)(1) of title 23, United States Code, is amended by striking "section 104(b)(5)(B) of this title" and inserting "section 104(b)(1)(A)".

(C) Section 141(c) of title 23, United States Code, is amended by striking "section 104(b)(5) of this title" each place it appears and inserting "section 104(b)(1)(A)".

(D) Section 142(c) of title 23, United States Code, is amended by striking "(other than section 104(b)(5)(A))".

(E) Section 159 of title 23, United States Code, is amended—

(i) by striking "(5) of" each place it appears and inserting "(5) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) of"; and

(ii) in subsection (b)—

(I) in paragraphs (1)(A)(i) and (3)(A), by striking "section 104(b)(5)(A)" each place it appears and inserting "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)";

(II) in paragraph (1)(A)(ii), by striking "section 104(b)(5)(B)" and inserting "section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)";

(III) in paragraph (3)(B), by striking "(5)(B)" and inserting "(5)(B) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)"; and

(IV) in paragraphs (3) and (4), by striking "section 104(b)(5)" each place it appears and inserting "section 104(b)(5) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)".

(F) Section 161(a) of title 23, United States Code, is amended by striking "paragraphs (1), (3), and (5)(B) of section 104(b)" each place it appears and inserting "paragraphs (1) and (3) of section 104(b)".

(6)(A) Section 104(g) of title 23, United States Code, is amended—

(i) in the first sentence, by striking "sections 130, 144, and 152 of this title" and inserting "subsection (b)(1)(B) and sections 130 and 152";

(ii) in the first and second sentences—

(I) by striking "section" and inserting "provision"; and

(II) by striking "such sections" and inserting "those provisions"; and

(iii) in the third sentence—

(I) by striking "section 144" and inserting "subsection (b)(1)(B)"; and

(II) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(C)".

(B) Section 115 of title 23, United States Code, is amended—

(i) in subsection (a)(1)(A)(i), by striking "104(b)(2), 104(b)(3), 104(f), 144," and inserting "104(b)(1)(B), 104(b)(2), 104(b)(3), 104(f),"; and

(ii) in subsection (c), by striking "144,,".

(C) Section 120(e) of title 23, United States Code, is amended in the last sentence by striking "and in section 144 of this title".

(D) Section 151(d) of title 23, United States Code, is amended by striking "section 104(a), section 307(a), and section 144 of this title" and inserting "subsections (a) and (b)(1)(B) of section 104 and section 307(a)".

(E) Section 204(c) of title 23, United States Code, is amended in the first sentence by striking "or section 144 of this title".

(F) Section 303(g) of title 23, United States Code, is amended by striking "section 144 of this title" and inserting "section 104(b)(1)(B)".

SEC. 1103. OBLIGATION CEILING.

(a) GENERAL LIMITATIONS.—Subject to the other provisions of this section and notwithstanding any other provision of law, the total amount of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $21,800,000,000 for fiscal year 1998;

(2) $22,802,000,000 for fiscal year 1999;

(3) $22,939,000,000 for fiscal year 2000;

(4) $23,183,000,000 for fiscal year 2001;

(5) $23,699,000,000 for fiscal year 2002; and

(6) $24,548,000,000 for fiscal year 2003.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The limitations under subsection (a) shall not apply to obligations of funds under—

(A) section 105(a) of title 23, United States Code (but, for each of fiscal years 1998 through 2003, only in an amount equal to the amount included for section 157 of title 23, United States Code, in the baseline determined by the Congressional Budget Office for the fiscal year 1998 budget), excluding amounts allocated under section 105(a)(1)(B) of that title;

(B) section 125 of that title;

(C) section 157 of that title (as in effect on the day before the date of enactment of this Act);

(D) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(E) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

(F) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);

(G) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198); and

(H) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027).

(2) EFFECT OF OTHER LAW.—A provision of law establishing a limitation on obligations for Federal-aid highways and highway safety construction programs may not amend or limit the applicability of this subsection, unless the provision specifically amends or limits that applicability.

(c) APPLICABILITY TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations for Federal-aid highways and highway safety construction programs established by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code.

(d) OBLIGATION AUTHORITY.—Section 118 of title 23, United States Code, is amended by adding at the end the following:

"(g) OBLIGATION AUTHORITY.—

"(1) DISTRIBUTION.—For each fiscal year, the Secretary shall—

"(A) distribute the total amount of obligation authority for Federal-aid highways and highway safety construction programs made available for the fiscal year by allocation in the ratio that—

"(i) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to each State for the fiscal year; bears to

"(ii) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to all States for the fiscal year;

"(B) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State; and

"(C) notwithstanding subparagraphs (A) and (B), not distribute—

"(i) amounts deducted under section 104(a) for administrative expenses;

"(ii) amounts set aside under section 104(k) for Interstate 4R and bridge projects;

"(iii) amounts made available under sections 143, 164, 165, 204, 206, 207, and 322;

"(iv) amounts made available under section 111 of title 49;

"(v) amounts made available under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.);

"(vi) amounts made available under section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938);

"(vii) amounts made available under sections 1503, 1603, and 1604 of the Intermodal Surface Transportation Efficiency Act of 1997;

"(viii) amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 201);

"(ix) amounts made available under section 105(a)(1)(A) to the extent that the amounts are subject to any obligation limitation under section 1103(a) of the Intermodal Surface Transportation Efficiency Act of 1997;

"(x) amounts made available for implementation of programs under chapter 5 of this title and sections 5222, 5232, and 5241 of title 49; and

"(xi) amounts made available under section 412 of the Woodrow Wilson Memorial Bridge Authority Act of 1995.

"(2) REDISTRIBUTION.—Notwithstanding paragraph (1), the Secretary shall, after August 1 of each of fiscal years 1998 through 2003—

"(A) revise a distribution of the funds made available under paragraph (1) for the fiscal year if a State will not obligate the amount distributed during the fiscal year; and

"(B) redistribute sufficient amounts to those States able to obligate amounts in addition to the amounts previously distributed during the fiscal year, giving priority to those States that have large unobligated balances of funds apportioned under section 104 and under section 144 (as in effect on the day before the date of enactment of this subparagraph).".

(e) APPLICABILITY OF OBLIGATION LIMITATIONS.—An obligation limitation established by a provision of any other Act shall not apply to obligations under a program funded under this Act or title 23, United States Code, unless—

(1) the provision specifically amends or limits the applicability of this subsection; or

(2) an obligation limitation is specified in this Act with respect to the program.

SEC. 1104. OBLIGATION AUTHORITY UNDER SURFACE TRANSPORTATION PROGRAM.

Section 133 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the 3-fiscal year period of 1998 through 2000, and the 3-fiscal year period of 2001 through 2003, an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

"(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during each such period; by

"(B) the ratio that—

"(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

"(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

"(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).".

SEC. 1105. EMERGENCY RELIEF.

(a) FEDERAL SHARE.—Section 120(e) of title 23, United States Code, is amended in the first sentence by striking "highway system" and inserting "highway".

(b) ELIGIBILITY AND FUNDING.—Section 125 of title 23, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively;

(3) by inserting after the section heading the following:

"(a) GENERAL ELIGIBILITY.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

"(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

"(2) catastrophic failure from any external cause.

"(b) RESTRICTION ON ELIGIBILITY.—In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

"(c) FUNDING.—Subject to the following limitations, there are hereby authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

"(1) Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section, except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

"(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, provided that such funds are reimbursed from the appropriations authorized in paragraph (1) of this subsection when such appropriations are made.";

(4) in subsection (d) (as so redesignated), by striking "subsection (c)" both places it appears and inserting "subsection (e)"; and

(5) in subsection (e) (as so redesignated), by striking "on any of the Federal-aid highway systems" and inserting "Federal-aid highways".

(c) SAN MATEO COUNTY, CALIFORNIA.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide; and

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

SEC. 1106. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(j) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any Federal-aid highway project the Federal share of which is funded under section 104.

"(k) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds made available to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under section 104 and that provides access to or within Federal or Indian lands.".

(b) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to the pay the Federal share of the cost of the project.".

(c) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, and Indian reservation roads and bridges.

"(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

"(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

"(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

"(A) shall be developed in cooperation with States and metropolitan planning organizations; and

"(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

"(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

"(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.";

(2) in subsection (b), by striking the first 3 sentences and inserting the following: "Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe.";

(3) in the first sentence of subsection (e), by striking "Secretary of the Interior" and inserting "Secretary of the appropriate Federal land management agency";

(4) in subsection (h), by adding at the end the following:

"(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.";

(5) by striking subsection (i) and inserting the following:

"(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

"(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section."; and

(6) in subsection (j), by striking the second sentence and inserting the following: "The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a).".

SEC. 1107. RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

"§ 206. Recreational trails program

"(a) DEFINITIONS.—

"(1) MOTORIZED RECREATION.—The term 'motorized recreation' means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

"(2) RECREATIONAL TRAIL; TRAIL.—The term 'recreational trail' or 'trail' means a thoroughfare or track across land or snow, used for recreational purposes such as—

"(A) pedestrian activities, including wheelchair use;

"(B) skating or skateboarding;

"(C) equestrian activities, including carriage driving;

"(D) nonmotorized snow trail activities, including skiing;

"(E) bicycling or use of other human-powered vehicles;

"(F) aquatic or water activities; and

"(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

"(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails (referred to in this section as the 'program').

"(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—

"(1) a State may use apportionments received under this section for construction of new trails crossing Federal lands only if the construction is—

"(A) permissible under other law;

"(B) necessary and required by a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.);

"(C) approved by the administering agency of the State designated under paragraph (2); and

"(D) approved by each Federal agency charged with management of the affected lands, which approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(2) the Governor of a State shall designate the State agency or agencies that will be responsible for administering apportionments received under this section; and

"(3) the State shall establish within the State a State trail advisory committee that represents both motorized and nonmotorized trail users.

"(d) USE OF APPORTIONED FUNDS.—

"(1) IN GENERAL.—Funds made available under this section shall be obligated for trails and trail-related projects that—

"(A) have been planned and developed under the laws, policies, and administrative procedures of each State; and

"(B) are identified in, or further a specific goal of, a trail plan or trail plan element included or referenced in a metropolitan transportation plan required under section 134 or a statewide transportation plan required under section 135, consistent with the statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.).

"(2) PERMISSIBLE USES.—Permissible uses of funds made available under this section include—

"(A) maintenance and restoration of existing trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages;

"(C) purchase and lease of trail construction and maintenance equipment;

"(D) construction of new trails;

"(E) acquisition of easements and fee simple title to property for trails or trail corridors;

"(F) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment received by the State for a fiscal year; and

"(G) operation of educational programs to promote safety and environmental protection as these objectives relate to the use of trails.

"(3) USE OF APPORTIONMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), of the apportionments received for a fiscal year by a State under this section—

"(i) 40 percent shall be used for trail or trail-related projects that facilitate diverse recreational trail use within a trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;

"(ii) 30 percent shall be used for uses relating to motorized recreation; and

"(iii) 30 percent shall be used for uses relating to nonmotorized recreation.

"(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than 1 percent of all such fuel use in the United States, shall be exempted from the requirements of subparagraph (A) upon application to the Secretary by the State demonstrating that the State meets the conditions of this subparagraph.

"(C) WAIVER AUTHORITY.—Upon the request of a State trail advisory committee established under subsection (c)(3), the Secretary may waive, in whole or in part, the requirements of subparagraph (A) with respect to the State if the State certifies to the Secretary that the State does not have sufficient projects to meet the requirements of subparagraph (A).

"(D) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(F) shall be exempt from the requirements of subparagraph (A).

"(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project under this section shall not exceed 80 percent.

"(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

"(A) the share attributable to the Secretary of Transportation may not exceed 80 percent; and

"(B) the share attributable to the Secretary and the Federal agency jointly may not exceed 95 percent.

"(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law,

amounts made available by the Federal Government under any Federal program that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section;

may be credited toward the non-Federal share of the cost of the project.

"(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for a fiscal year does not exceed 80 percent.

"(5) STATE ADMINISTRATIVE COSTS.—The Federal share of the administrative costs of a State under this subsection shall be determined in accordance with section 120(b).

"(g) USES NOT PERMITTED.—A State may not obligate funds apportioned under this section for—

"(1) condemnation of any kind of interest in property;

"(2) construction of any recreational trail on National Forest System land for any motorized use unless—

"(A) the land has been apportioned for uses other than wilderness by an approved forest land and resource management plan or has been released to uses other than wilderness by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;

"(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—

"(A) has been apportioned for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to uses other than wildernessK by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved management plan; or

"(4) upgrading, expanding, or otherwise facilitating motorized use or access to trails predominantly used by nonmotorized trail users and on which, as of May 1, 1991, motorized use is prohibited or has not occurred.

"(h) PROJECT ADMINISTRATION.—

"(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—

"(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).

"(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to the Federal agency's share in accordance with subsection (f).

"(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.

"(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds made available under this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-8(f)(3)).

"(4) COOPERATION BY PRIVATE PERSONS.—

"(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the land will cooperate with the State and participate as necessary in the activities to be conducted.

"(B) PUBLIC ACCESS.—Any use of the apportionments to a State under this section on privately owned land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

"(i) APPORTIONMENT.—

"(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State that meets the requirements of subsection (c).

"(2) APPORTIONMENT.—Subject to subsection (j), for each fiscal year, the Secretary shall apportion—

"(A) 50 percent of the amounts made available to carry out this section equally among eligible States; and

"(B) 50 percent of the amounts made available to carry out this section among eligible States in proportion to the quantity of nonhighway recreational fuel used in each eligible State during the preceding year.

"(j) ADMINISTRATIVE COSTS.—

"(1) IN GENERAL.—Whenever an apportionment is made under subsection (i) of the amounts made available to carry out this section, the Secretary shall first deduct an amount, not to exceed 1 percent of the authorized amounts, to pay the costs to the Secretary for administration of, and research authorized under, the program.

"(2) USE OF CONTRACTS.—To carry out research funded under paragraph (1), the Secretary may—

"(A) enter into contracts with for-profit organizations; and

"(B) enter into contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations.

"(k) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $20,000,000 for fiscal year 1999, $22,000,000 for fiscal year 2000, $23,000,000 for fiscal year 2001, $24,000,000 for fiscal year 2002, and $25,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

(b) CONFORMING AMENDMENTS.—

(1) The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title I (16 U.S.C. 1261 et seq.).

(2) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 206 and inserting the following:

"206. Recreational trails program.".

SEC. 1108. VALUE PRICING PILOT PROGRAM.

(a) IN GENERAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in the subsection heading, by striking "CONGESTION" and inserting "VALUE"; and

(2) in paragraph (1), by striking "congestion" each place it appears and inserting "value".

(b) INCREASED NUMBER OF PROJECTS.—Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence by striking "5" and inserting "15".

(c) ELIGIBILITY OF PREIMPLEMENTATION COSTS.— Section 1012(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence—

(1) by inserting after "Secretary shall fund" the following: "all preimplementation costs and project design, and"; and

(2) by inserting after "Secretary may not fund" the following: "the implementation costs of".

(d) TOLLING.—Section 1012(b)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking "a pilot program under this section, but not on more than 3 of such programs" and inserting "any value pricing pilot program under this subsection".

(e) HOV PASSENGER REQUIREMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking paragraph (6) and inserting the following:

"(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 146(c) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.".

(f) FUNDING.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by adding at the end the following:

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY.—

"(i) IN GENERAL.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this subsection but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

"(I) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

"(II) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

"(III) shall be available for any purpose eligible for funding under section 133 of that title.

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of

title 23, United States Code, except that the Federal share of the cost of any project under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.".

(g) CONFORMING AMENDMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in paragraph (1), by striking "projects" each place it appears and inserting "programs"; and

(2) in paragraph (5)—

(A) by striking "projects" and inserting "programs"; and

(B) by striking "traffic, volume" and inserting "traffic volume".

SEC. 1109. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—Section 143 of title 23, United States Code, is amended to read as follows:

"§ 143. Highway use tax evasion projects

"(a) DEFINITION OF STATE.—In this section, the term 'State' means the 50 States and the District of Columbia.

"(b) PROJECTS.—

"(1) IN GENERAL.—The Secretary shall use funds made available under paragraph (7) to carry out highway use tax evasion projects in accordance with this subsection.

"(2) ALLOCATION OF FUNDS.—The funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary.

"(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

"(4) LIMITATION ON USE OF FUNDS.—Funds made available under paragraph (7) shall be used only—

"(A) to expand efforts to enhance motor fuel tax enforcement;

"(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

"(C) to supplement motor fuel tax examinations and criminal investigations;

"(D) to develop automated data processing tools to monitor motor fuel production and sales;

"(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

"(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

"(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

"(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY OF FUNDS.—Funds authorized under this paragraph shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(c) EXCISE FUEL REPORTING SYSTEM.—

"(1) IN GENERAL.—Not later than April 1, 1998, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development and maintenance by the Internal Revenue Service of an excise fuel reporting system (referred to in this subsection as the 'system').

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop and maintain the system through contracts;

"(B) the system shall be under the control of the Internal Revenue Service; and

"(C) the system shall be made available for use by appropriate State and Federal revenue, tax, or law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUND.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

"(A) $8,000,000 for development of the system; and

"(B) $2,000,000 for each of fiscal years 1998 through 2003 for operation and maintenance of the system.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 143 and inserting the following:

"143. Highway use tax evasion projects.".

(2) Section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is repealed.

(3) Section 8002 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2203) is amended—

(A) in the first sentence of subsection (g), by striking "section 1040 of this Act" and inserting "section 143 of title 23, United States Code,"; and

(B) by striking subsection (h).

SEC. 1110. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "pedestrian walkways and" after "construction of"; and

(B) by striking "(other than the Interstate System)";

(2) in subsection (e), by striking ", other than a highway access to which is fully controlled,";

(3) by striking subsection (g) and inserting the following:

"(g) PLANNING AND DESIGN.—

"(1) IN GENERAL.—Bicyclists and pedestrians shall be given consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively.

"(2) CONSTRUCTION.—Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

"(3) SAFETY AND CONTIGUOUS ROUTES.—Transportation plans and projects shall provide consideration for safety and contiguous routes for bicyclists and pedestrians.";

(4) in subsection (h)—

(A) by striking "No motorized vehicles shall" and inserting "Motorized vehicles may not"; and

(B) by striking paragraph (3) and inserting the following:

"(3) wheelchairs that are powered; and"; and

(5) by striking subsection (j) and inserting the following:

"(j) DEFINITIONS.—In this section:

"(1) BICYCLE TRANSPORTATION FACILITY.—The term 'bicycle transportation facility' means a new or improved lane, path, or shoulder for use by bicyclists or a traffic control device, shelter, or parking facility for bicycles.

"(2) PEDESTRIAN.—The term 'pedestrian' means any person traveling by foot or any mobility impaired person using a wheelchair.

"(3) WHEELCHAIR.—The term 'wheelchair' means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or powered.".

SEC. 1111. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I and II of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $16,600,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

SEC. 1112. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code (as amended by section 1106(a)), is amended—

(1) in each of subsections (a) and (b), by adding at the end the following: ''In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection.''; and

(2) by adding at the end the following:

''(l) CREDIT FOR NON-FEDERAL SHARE.—

''(1) ELIGIBILITY.—A State may use as a credit toward the non-Federal share requirement for any program under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) or this title, other than the emergency relief program authorized by section 125, toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain, without the use of Federal funds, highways, bridges, or tunnels that serve the public purpose of interstate commerce.

''(2) MAINTENANCE OF EFFORT.—

''(A) IN GENERAL.—The credit toward any non-Federal share under paragraph (1) shall not reduce nor replace State funds required to match Federal funds for any program under this title.

''(B) CONDITIONS ON RECEIPT OF CREDIT.—

''(i) AGREEMENT WITH THE SECRETARY.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreements as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding 3 fiscal years.

''(ii) EXCEPTION.—Notwithstanding clause (i), a State may receive a credit under paragraph (1) for a fiscal year if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 30 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years.

''(3) TREATMENT.—

''(A) IN GENERAL.—Use of the credit toward a non-Federal share under paragraph (1) shall not expose the agencies from which the credit is received to additional liability, additional regulation, or additional administrative oversight.

''(B) CHARTERED MULTISTATE AGENCIES.—When credit is applied from a chartered multistate agency under paragraph (1), the credit shall be applied equally to all charter States.

''(C) NO ADDITIONAL STANDARDS.—A public, quasi-public, or private agency from which the credit for which the non-Federal share is calculated under paragraph (1) shall not be subject to any additional Federal design standards or laws (including regulations) as a result of providing the credit beyond the standards and laws to which the agency is already subject.''.

SEC. 1113. STUDIES AND REPORTS.

(a) HIGHWAY ECONOMIC REQUIREMENT SYSTEM.—

(1) METHODOLOGY.—

(A) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the methodology used by the Department of Transportation to determine highway needs using the highway economic requirement system (referred to in this subsection as the ''model'').

(B) REQUIRED ELEMENT.—The evaluation shall include an assessment of the extent to which the model estimates an optimal level of highway infrastructure investment, including an assessment as to when the model may be overestimating or underestimating investment requirements.

(C) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the evaluation.

(2) STATE INVESTMENT PLANS.—

(A) STUDY.—In consultation with State transportation departments and other appropriate State and local officials, the Comptroller General of the United States shall conduct a study on the extent to which the highway economic requirement system of the Federal Highway Administration can be used to provide States with useful information for developing State transportation investment plans and State infrastructure investment projections.

(B) REQUIRED ELEMENTS.—The study shall—

(i) identify any additional data that may need to be collected beyond the data submitted, prior to the date of enactment of this Act, to the Federal Highway Administration through the highway performance monitoring system; and

(ii) identify what additional work, if any, would be required of the Federal Highway Administration and the States to make the model useful at the State level.

(C) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(b) INTERNATIONAL ROUGHNESS INDEX.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

(2) REQUIRED ELEMENTS.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(c) REPORTING OF RATES OF OBLIGATION.—Section 104 of title 23, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (m); and

(2) by inserting after subsection (i) the following:

''(j) REPORTING OF RATES OF OBLIGATION.—On an annual basis, the Secretary shall publish or otherwise report rates of obligation of funds apportioned or set aside under this section and sections 103 and 133 according to—

''(1) program;

''(2) funding category or subcategory;

''(3) type of improvement;

''(4) State; and

''(5) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.''.

SEC. 1114. DEFINITIONS.

(a) FEDERAL-AID HIGHWAY FUNDS AND PROGRAM.—

(1) IN GENERAL.—Section 101(a) of title 23, United States Code, is amended by inserting before the undesignated paragraph defining ''Federal-aid highways'' the following:

''The term 'Federal-aid highway funds' means funds made available to carry out the Federal-aid highway program.

''The term 'Federal-aid highway program' means all programs authorized under chapters 1, 3, and 5.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 101(d) of title 23, United States Code, is amended by striking ''the construction of Federal-aid highways or highway planning, research, or development'' and inserting ''the Federal-aid highway program''.

(B) Section 104(m)(1) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended by striking ''Federal-aid highways and the highway safety construction programs'' and inserting ''the Federal-aid highway program''.

(C) Section 107(b) of title 23, United States Code, is amended in the second sentence by striking ''Federal-aid highways'' and inserting ''the Federal-aid highway program''.

(b) ALPHABETIZATION OF DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by reordering the undesignated paragraphs so that they are in alphabetical order.

SEC. 1115. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code (as amended by section 1107(a)), is amended by inserting after section 206 the following:

''§ 207. Cooperative Federal Lands Transportation Program

''(a) IN GENERAL.—There is established the Cooperative Federal Lands Transportation Program (referred to in this section as the 'program'). Funds available for the program may be used for projects, or portions of projects, on highways that are owned or maintained by States or political subdivisions of States and that cross, are adjacent to, or lead to federally owned land or Indian reservations (including Army Corps of Engineers reservoirs), as determined by the State. Such projects shall be proposed by a State and selected by the Secretary. A project proposed by a State under this section shall be on a highway or bridge owned or maintained by the State, or 1 or more political subdivisions of the State, and may be a highway or bridge construction or maintenance project eligible under this title or any project of a type described in section 204(h).

''(b) DISTRIBUTION OF FUNDS FOR PROJECTS.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—The Secretary—

''(i) after consultation with the Administrator of General Services, the Secretary of the Interior, and other agencies as appropriate (including the Army Corps of Engineers), shall determine the percentage of the total land in each State that is owned by the Federal Government or that is held by the Federal Government in trust;

''(ii) shall determine the sum of the percentages determined under clause (i) for States with respect to which the percentage is 4.5 or greater; and

''(iii) shall determine for each State included in the determination under clause (ii) the percentage obtained by dividing—

''(I) the percentage for the State determined under clause (i); by

''(II) the sum determined under clause (ii).

''(B) ADJUSTMENT.—The Secretary shall—

''(i) reduce any percentage determined under subparagraph (A)(iii) that is greater than 7.5 percent to 7.5 percent; and

''(ii) redistribute the percentage points equal to any reduction under clause (i) among other States included in the determination under subparagraph (A)(ii) in proportion to the percentages for those States determined under subparagraph (A)(iii).

''(2) AVAILABILITY TO STATES.—Except as provided in paragraph (3), for each fiscal year, the Secretary shall make funds available to carry out eligible projects in a State

in an amount equal to the amount obtained by multiplying—

"(A) the percentage for the State, if any, determined under paragraph (1); by

"(B) the funds made available for the program for the fiscal year.

"(3) SELECTION OF PROJECTS.—The Secretary may establish deadlines for States to submit proposed projects for funding under this section, except that in the case of fiscal year 1998 the deadline may not be earlier than January 1, 1998. For each fiscal year, if a State does not have pending, by that deadline, applications for projects with an estimated cost equal to at least 3 times the amount for the State determined under paragraph (2), the Secretary may distribute, to 1 or more other States, at the Secretary's discretion, ⅓ of the amount by which the estimated cost of the State's applications is less than 3 times the amount for the State determined under paragraph (2).

"(c) TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a State and the Secretary may agree to transfer amounts made available to a State under this section to the allocations of the State under section 202 for use in carrying out projects on any Federal lands highway that is located in the State.

"(2) SPECIAL RULE.—This paragraph applies to a State that contains a national park that was visited by more than 2,500,000 people in 1996 and comprises more than 3,000 square miles of land area, including surface water, that is located in the State. For such a State, 50 percent of the amount that would otherwise be made available to the State for each fiscal year under the program shall be made available only for eligible highway uses in the national park and within the borders of the State. For the purpose of making allocations under section 202(c), the Secretary may not take into account the past or future availability, for use on park roads and parkways in a national park, of funds made available for use in a national park by this paragraph.

"(d) RIGHTS-OF-WAY ACROSS FEDERAL LAND.—Nothing in this section affects any claim for a right-of-way across Federal land.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $74,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 207 and inserting the following:

"207. Cooperative Federal Lands Transportation Program.".

SEC. 1116. TRADE CORRIDOR AND BORDER CROSSING PLANNING AND BORDER INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) BORDER REGION.—The term "border region" means—

(A) the region located within 60 miles of the United States border with Mexico; and

(B) the region located within 60 miles of the United States border with Canada.

(2) BORDER STATE.—The term "border State" means a State of the United States that—

(A) is located along the border with Mexico; or

(B) is located along the border with Canada.

(3) BORDER STATION.—The term "border station" means a controlled port of entry into the United States located in the United States at the border with Mexico or Canada, consisting of land occupied by the station and the buildings, roadways, and parking lots on the land.

(4) FEDERAL INSPECTION AGENCY.—The term "Federal inspection agency" means a Federal agency responsible for the enforcement of immigration laws (including regulations), customs laws (including regulations), and agriculture import restrictions, including the United States Customs Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, the Food and Drug Administration, the United States Fish and Wildlife Service, and the Department of State.

(5) GATEWAY.—The term "gateway" means a grouping of border stations defined by proximity and similarity of trade.

(6) NON-FEDERAL GOVERNMENTAL JURISDICTION.—The term "non-Federal governmental jurisdiction" means a regional, State, or local authority involved in the planning, development, provision, or funding of transportation infrastructure needs.

(b) BORDER CROSSING PLANNING INCENTIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall make incentive grants to States and to metropolitan planning organizations designated under section 134 of title 23, United States Code.

(2) USE OF GRANTS.—The grants shall be used to encourage joint transportation planning activities and to improve people and vehicle movement into and through international gateways as a supplement to statewide and metropolitan transportation planning funding made available under other provisions of this Act and under title 23, United States Code.

(3) CONDITION OF GRANTS.—As a condition of receiving a grant under paragraph (1), a State transportation department or a metropolitan planning organization shall certify to the Secretary that it commits to be engaged in joint planning with its counterpart agency in Mexico or Canada.

(4) LIMITATION ON AMOUNT.—Each State transportation department or metropolitan planning organization may receive not more than $100,000 under this subsection for any fiscal year.

(5) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,400,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(c) TRADE CORRIDOR PLANNING INCENTIVE GRANTS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States to encourage, within the framework of the statewide transportation planning process of the State under section 135 of title 23, United States Code, cooperative multistate corridor analysis of, and planning for, the safe and efficient movement of goods along and within international or interstate trade corridors of national importance.

(B) IDENTIFICATION OF CORRIDORS.—Each corridor referred to in subparagraph (A) shall be cooperatively identified by the States along the corridor.

(2) CORRIDOR PLANS.—

(A) IN GENERAL.—As a condition of receiving a grant under paragraph (1), a State shall enter into an agreement with the Secretary that specifies that, in cooperation with the other States along the corridor, the State will submit a plan for corridor improvements to the Secretary not later than 2 years after receipt of the grant.

(B) COORDINATION OF PLANNING.—Planning with respect to a corridor under this subsection shall be coordinated with transportation planning being carried out by the States and metropolitan planning organizations along the corridor and, to the extent appropriate, with transportation planning being carried out by Federal land management agencies, by tribal governments, or by government agencies in Mexico or Canada.

(3) MULTISTATE AGREEMENTS FOR TRADE CORRIDOR PLANNING.—The consent of Congress is granted to any 2 or more States—

(A) to enter into multistate agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of interstate trade corridor planning activities; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable to make the agreements effective.

(4) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $3,000,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(d) FEDERAL ASSISTANCE FOR TRADE CORRIDORS AND BORDER INFRASTRUCTURE SAFETY AND CONGESTION RELIEF.—

(1) APPLICATIONS FOR GRANTS.—The Secretary shall make grants to States or metropolitan planning organizations that submit an application that—

(A) demonstrates need for assistance in carrying out transportation projects that are necessary to relieve traffic congestion or improve enforcement of motor carrier safety laws; and

(B) includes strategies to involve both the public and private sectors in the proposed project.

(2) SELECTION OF STATES, METROPOLITAN PLANNING ORGANIZATIONS, AND PROJECTS TO RECEIVE GRANTS.—In selecting States, metropolitan planning organizations, and projects to receive grants under this subsection, the Secretary shall consider—

(A) the annual volume of commercial vehicle traffic at the border stations or ports of entry of each State as compared to the annual volume of commercial vehicle traffic at the border stations or ports of entry of all States;

(B) the extent to which commercial vehicle traffic in each State has grown since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103-182) as compared to the extent to which that traffic has grown in each other State;

(C) the extent of border transportation improvements carried out by each State since the date of enactment of that Act;

(D) the reduction in commercial and other travel time through a major international gateway expected as a result of the project;

(E) the extent of leveraging of Federal funds provided under this subsection, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding;

(F) improvements in vehicle and highway safety and cargo security in and through the gateway concerned;

(G) the degree of demonstrated coordination with Federal inspection agencies;

(H) the extent to which the innovative and problem solving techniques of the proposed project would be applicable to other border stations or ports of entry;

(I) demonstrated local commitment to implement and sustain continuing comprehensive border planning processes and improvement programs; and

(J) other factors to promote transport efficiency and safety, as determined by the Secretary.

(3) USE OF GRANTS.—

(A) IN GENERAL.—A grant under this subsection shall be used to develop project plans, and implement coordinated and comprehensive programs of projects, to improve efficiency and safety.

(B) TYPE OF PLANS AND PROGRAMS.—The plans and programs may include—

(i) improvements to transport and supporting infrastructure;

(ii) improvements in operational strategies, including electronic data interchange and use of telecommunications to expedite vehicle and cargo movement;

(iii) modifications to regulatory procedures to expedite vehicle and cargo flow;

(iv) new infrastructure construction;

(v) purchase, installation, and maintenance of weigh-in-motion devices and associated electronic equipment in Mexico or Canada if real time data from the devices is provided to the nearest border station and to State commercial vehicle enforcement facilities that serve the border station; and

(vi) other institutional improvements, such as coordination of binational planning, programming, and border operation, with special emphasis on coordination with—

(I) Federal inspection agencies; and

(II) their counterpart agencies in Mexico and Canada.

(4) CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.—At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more than $10,000,000 of the amounts made available under paragraph (5) to the Administrator of General Services for the construction of transportation infrastructure necessary for law enforcement in border States.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $125,000,000 for each of fiscal years 1998 through 2003.

(e) COORDINATION OF PLANNING.—

(1) PLANNING AND DEVELOPMENT OF BORDER STATIONS.—The General Services Administration shall be the coordinating Federal agency in the planning and development of new or expanded border stations.

(2) COOPERATIVE ACTIVITIES.—In carrying out paragraph (1), the Administrator of General Services shall cooperate with Federal inspection agencies and non-Federal governmental jurisdictions to ensure that—

(A) improvements to border station facilities take into account regional and local conditions, including the alignment of highway systems and connecting roadways; and

(B) all facility requirements, associated costs, and economic impacts are identified.

(f) COST SHARING.—A grant under this section shall be used to pay the Federal share of the cost of a project. The Federal share shall not exceed 80 percent.

(g) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this section but not allocated exceeds $4,000,000 as of September 30 of any year, the excess amount—

(1) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

(2) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

(3) shall be available for any purpose eligible for funding under section 133 of that title.

SEC. 1117. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 201(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the second sentence, by inserting before the period at the end the following: ", except that each allocation to a State shall remain available for expenditure in the State for the fiscal year in which the allocation is allocated and for the 3 following fiscal years"; and

(2) by inserting after the second sentence the following: "Funds authorized under this section for fiscal year 1998 or a fiscal year thereafter, and not expended by a State during the 4 fiscal years referred to in the preceding sentence, shall be released to the Commission for reallocation and shall remain available until expended.".

(b) SUBSTITUTE CORRIDOR.—Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "(b) The Commission" and inserting the following:

"(b) DESIGNATIONS.—

"(1) IN GENERAL.—The Commission"; and

(3) by adding at the end the following:

"(2) SUBSTITUTE CORRIDOR.—In lieu of Corridor H in Virginia, the Appalachian development highway system shall include the Virginia portion of the segment identified in section 1105(c)(29) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597).".

(c) FEDERAL SHARE FOR PREFINANCED PROJECTS.—Section 201(h)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "70 per centum" and inserting "80 percent".

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—

"(A) FISCAL YEARS 1998 THROUGH 2003.—For the continued construction of the Appalachian development highway system approved as of September 30, 1996, in accordance with this section, there shall be available from the Highway Trust Fund (other than the Mass Transit Account) $40,000,000 for each of fiscal years 1998 through 2000, $50,000,000 for fiscal year 2001, $60,000,000 for fiscal year 2002, and $70,000,000 for fiscal year 2003.

"(B) OBLIGATION AUTHORITY.—The Secretary shall provide equivalent amounts of obligation authority for the funds authorized under subparagraph (A).

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be determined in accordance with this section and the funds shall remain available in accordance with subsection (a).".

SEC. 1118. INTERSTATE 4R AND BRIDGE DISCRETIONARY PROGRAM.

(a) IN GENERAL.—Section 104 of title 23, United States Code (as amended by section 1113(c)(1)), is amended by inserting after subsection (j) the following:

"(k) SET-ASIDE FOR INTERSTATE 4R AND BRIDGE PROJECTS.—

"(1) IN GENERAL.—For each of fiscal years 1998 through 2003, before any apportionment is made under subsection (b)(1), the Secretary shall set aside $70,000,000 from amounts to be apportioned under subsection (b)(1)(A), and $70,000,000 from amounts to be apportioned under subsection (b)(1)(B), for allocation by the Secretary—

"(A) for projects for resurfacing, restoring, rehabilitating, or reconstructing any route or portion of a route on the Interstate System (other than any highway designated as a part of the Interstate System under section 103(c)(4) and any toll road on the Interstate System that is not subject to an agreement under section 119(e) (as in effect on December 17, 1991) or an agreement under section 129(a));

"(B) for projects for a highway bridge the replacement, rehabilitation, or seismic retrofit cost of which is more than $10,000,000; and

"(C) for projects for a highway bridge the replacement, rehabilitation, or seismic retrofit cost of which is less than $10,000,000 if the cost is at least twice the amount reserved under section 144(c) by the State in which the bridge is located for the fiscal year in which application is made for an allocation for the bridge under this subsection.

"(2) REQUIRED ALLOCATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each of fiscal years 1998 through 2003, the Secretary shall allocate on October 1, for use for highway bridge projects, at least $20,000,000 of the amounts set aside under paragraph (1) to any State that—

"(i) is apportioned for fiscal year 1998 under paragraphs (1)(B), (1)(C)(i)(III), and (3)(A)(iii) of subsection (b) an amount that is less than the amount apportioned to the State for the highway bridge replacement and rehabilitation program under section 144 for fiscal year 1997; and

"(ii) was apportioned for that program for fiscal year 1997 an amount greater than $125,000,000.

"(B) EXCEPTION.—A State that transferred funds from the highway bridge replacement and rehabilitation program during any of fiscal years 1995 through 1997 in an amount greater than 10 percent of the apportionments for that program for the fiscal year shall not be eligible for an allocation under subparagraph (A).

"(C) ADDITIONAL ALLOCATION.—An allocation to a State under subparagraph (A) shall be in addition to any allocation to the State under paragraph (1).

"(3) AVAILABILITY TO STATES OF INTERSTATE 4R FUNDS.—The Secretary may grant the application of a State for funds made available for a fiscal year for a project described in paragraph (1)(A) if the Secretary determines that—

"(A) the State has obligated or demonstrates that it will obligate for the fiscal year all of the apportionments to the State under subparagraphs (A) and (B) of subsection (b)(1) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project described in paragraph (1)(A) that has been submitted by the State to the Secretary for approval; and

"(B) the State is willing and able to—

"(i) obligate the funds within 1 year after the date on which the funds are made available;

"(ii) apply the funds to a project that is ready to be commenced; and

"(iii) in the case of construction work, begin work within 90 days after the date of obligation of the funds.

"(4) ELIGIBILITY OF CERTAIN BRIDGES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this subsection.

"(B) LIMITATION.—The amount of assistance under subparagraph (A) shall not exceed the cumulative amount that the agency has expended for capital and operating costs to subsidize the transit system.

"(C) DETERMINATION BY THE SECRETARY.—Before authorizing an expenditure of funds under this paragraph, the Secretary shall make a determination that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement, seismic retrofitting, or rehabilitation project.

"(D) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of expenditure.

"(5) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Amounts made available under this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 118 of title 23, United States Code, is amended by striking subsection (c).

SEC. 1119. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

"§ 322. Magnetic levitation transportation technology deployment program

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station.

"(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(4) PARTNERSHIP POTENTIAL.—The term 'partnership potential' has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 1978).

"(b) ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make available financial assistance to provide the Federal share of full project costs of eligible projects selected under this section.

"(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than ⅔.

"(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

"(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

"(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

"(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

"(2) require an amount of Federal funds for project financing that will not exceed the sum of—

"(A) the amounts made available under subsection (h)(1)(A); and

"(B) the amounts made available by States under subsection (h)(4);

"(3) result in an operating transportation facility that provides a revenue producing service;

"(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

"(5) satisfy applicable statewide and metropolitan planning requirements;

"(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

"(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

"(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

"(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

"(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

"(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

"(3) States, regions, and localities financially contribute to the project;

"(4) implementation of the project will create new jobs in traditional and emerging industries;

"(5) the project will augment MAGLEV networks identified as having partnership potential;

"(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

"(7) financial assistance would foster the timely implementation of a project; and

"(8) life-cycle costs in design and engineering are considered and enhanced.

"(f) PROJECT SELECTION.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 eligible project for financial assistance.

"(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

"(h) FUNDING.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1999 and $20,000,000 for fiscal year 2000.

"(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

"(II) the availability of the funds shall be determined in accordance with paragraph (2).

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

"(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

"(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Infrastructure Finance and Innovation Act of 1997, including loans, loan guarantees, and lines of credit.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

"322. Magnetic levitation transportation technology deployment program.".

SEC. 1120. WOODROW WILSON MEMORIAL BRIDGE.

(a) DEFINITIONS.—Section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 628) is amended—

(1) in paragraph (3), by striking ", including approaches thereto"; and

(2) in paragraph (5), by striking "to be determined under section 407. Such" and all that follows and inserting the following: "as described in the record of decision executed by the Secretary in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The term includes ongoing short-term rehabilitation and repairs to the Bridge.".

(b) OWNERSHIP OF BRIDGE.—

(1) CONVEYANCE BY THE SECRETARY.—Section 407(a)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by inserting "or any Capital Region jurisdiction" after "Authority" each place it appears.

(2) AGREEMENT.—Section 407 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by striking subsection (c) and inserting the following:

"(c) AGREEMENT.—

"(1) IN GENERAL.—The agreement referred to in subsection (a) is an agreement concerning the Project that is executed by the Secretary and the Authority or any Capital Region jurisdiction that accepts ownership of the Bridge.

"(2) TERMS OF THE AGREEMENT.—The agreement shall—

"(A) identify whether the Authority or a Capital Region jurisdiction will accept ownership of the Bridge;

"(B) contain a financial plan satisfactory to the Secretary, which shall be prepared before the execution of the agreement, that specifies—

"(i) the total cost of the Project, including any cost-saving measures;

"(ii) a schedule for implementation of the Project, including whether any expedited design and construction techniques will be used; and

"(iii) the sources of funding that will be used to cover any costs of the Project not funded from funds made available under section 412; and

"(C) contain such other terms and conditions as the Secretary determines to be appropriate.".

(c) FEDERAL CONTRIBUTION.—The Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 627) is amended by adding at the end the following:

"SEC. 412. FEDERAL CONTRIBUTION.

"(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $100,000,000 for fiscal year 1998, $100,000,000 for fiscal year 1999, $125,000,000 for fiscal year 2000, $175,000,000 for fiscal year 2001, $200,000,000 for fiscal year 2002, and $200,000,000 for fiscal year 2003, to pay the costs of planning, preliminary engineering and design, final engineering, acquisition of rights-of-way, and construction of the Project, except that the costs associated with the Bridge shall be given priority over other eligible costs, other than design costs, of the Project.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that—

"(A) the funds shall remain available until expended;

"(B) the Federal share of the cost of the Bridge component of the Project shall not exceed 100 percent; and

"(C) the Federal share of the cost of any other component of the Project shall not exceed 80 percent.

"(b) USE OF APPORTIONED FUNDS.—Nothing in this title limits the authority of any Capital Region jurisdiction to use funds apportioned to the jurisdiction under paragraph (1) or (3) of section 104(b) of title 23, United States Code, in accordance with the requirements for such funds, to pay any costs of the Project.

"(c) AVAILABILITY OF APPORTIONED FUNDS.—None of the funds made available under this section shall be available before the execution of the agreement described in section 407(c), except that the Secretary may fund the maintenance and rehabilitation of the Bridge and the design of the Project.".

(d) CONFORMING AMENDMENT.—Section 405(b)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 629) is amended by striking "the Signatories as to the Federal share of the cost of the Project and the terms and conditions related to the timing of the transfer of the Bridge to".

SEC. 1121. NATIONAL HIGHWAY SYSTEM COMPONENTS.

The National Highway System consists of the routes and transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled "Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals" and dated May 24, 1996.

SEC. 1122. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) in the section heading, by striking "**program**";

(2) by striking subsections (a) through (n), (p), and (q);

(3) by inserting after the section heading the following:

"(a) DEFINITION OF REHABILITATE.—In this section, the term 'rehabilitate' (in any of its forms), with respect to a bridge, means to carry out major work necessary—

"(1) to address the structural deficiencies, functional obsolescence, or physical deterioration of the bridge; or

"(2) to correct a major safety defect of the bridge, including seismic retrofitting.

"(b) BRIDGE INVENTORY.—

"(1) IN GENERAL.—In consultation with the States, the Secretary shall—

"(A) annually inventory all highway bridges on public roads that cross waterways, other topographical barriers, other highways, and railroads;

"(B) classify each such bridge according to serviceability, safety, and essentiality for public use; and

"(C) assign each such bridge a priority for replacement or rehabilitation based on the classification under subparagraph (B).

"(2) CONSULTATION.—In preparing an inventory of highway bridges on Indian reservation roads and park roads under paragraph (1), the Secretary shall consult with the Secretary of the Interior and the States.

"(3) INVENTORY OF HISTORICAL BRIDGES.—At the request of a State, the Secretary may inventory highway bridges on public roads for historical significance.

"(c) CERTIFICATION BY THE STATE.—Not later than 180 days after the end of each fiscal year beginning with fiscal year 1998, each State shall certify to the Secretary, either that—

"(1) the State has reserved, from funds apportioned to the State for the preceding fiscal year, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), an amount that is not less than the amount apportioned to the State under this section for fiscal year 1997; or

"(2) the amount that the State will reserve, from funds apportioned to the State for the period consisting of fiscal years 1998 through 2001, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), will be not less than 4 times the amount apportioned to the State under this section for fiscal year 1997.

"(d) USE OF RESERVED FUNDS.—A State may use funds reserved under subsection (c) to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures on a highway bridge on a public road that crosses a waterway, other topographical barrier, other highway, or railroad.

"(e) OFF-SYSTEM BRIDGES.—

"(1) REQUIRED EXPENDITURE.—For each fiscal year, an amount equal to not less than 15 percent of the amount apportioned to a State under this section for fiscal year 1997 shall be expended by the State for projects to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures on highway bridges located on public roads that are functionally classified as local roads or rural minor collectors.

"(2) USE OF FUNDS TO MEET REQUIRED EXPENDITURE.—Funds reserved under subsection (c) and funds made available under section 104(b)(1) for the National Highway System or under section 104(b)(3) for the surface transportation program may be used to meet the requirement for expenditure under paragraph (1).

"(3) REDUCTION OF REQUIRED EXPENDITURE.—After consultation with local and State officials in a State, the Secretary may, with respect to the State, reduce the requirement for expenditure under paragraph (1) if the Secretary determines that the State has inadequate needs to justify the expenditure.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be as determined under section 120(b).

"(g) BRIDGE PERMIT EXEMPTION.—

"(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to each bridge authorized to be replaced, in whole or in part, under this section.

"(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425; 33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title if the bridge is over waters that are—

"(A) not used and not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(B)(i) not tidal; or

"(ii) tidal but used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

"(h) INDIAN RESERVATION ROAD BRIDGES.—

"(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

"(2) RESERVATION OF FUNDS.—

"(A) IN GENERAL.—Of the amounts authorized for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $9,000,000 for projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

"(B) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

"(i) have an opening of 20 feet or more;

"(ii) be on an Indian reservation road;

"(iii) be unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; and

"(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

"(3) APPROVAL REQUIREMENT.—Funds to carry out Indian reservation road bridge projects under this subsection shall be made available only on approval of plans, specifications, and estimates by the Secretary.";

(4) by redesignating subsection (o) as subsection (l); and

(5) in subsection (l) (as so redesignated)—

(A) in paragraph (1), by inserting "for alternative transportation purposes (including bikeway and walkway projects eligible for funding under this title)" after "adaptive reuse";

(B) in paragraph (3)—

(i) by inserting "(regardless of whether the intended use is for motorized vehicular traffic or for alternative public transportation purposes)" after "intended use"; and

(ii) by inserting "or for alternative public transportation purposes" after "no longer used for motorized vehicular traffic"; and

(C) in the second sentence of paragraph (4)—

(i) by inserting "for motorized vehicles, alternative vehicular traffic, or alternative public transportation" after "historic bridge"; and

(ii) by striking "up to an amount not to exceed the cost of demolition".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge replacement and rehabilitation.".

SEC. 1123. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHED PROGRAM.—Section 149(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(b) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended in the first sentence—

(1) by striking "that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994" and inserting "that is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) or classified as a submarginal ozone nonattainment area under that Act, or if the project or program is for a maintenance area,";

(2) in paragraph (1)—

(A) in subparagraph (A), by striking "clauses (xii) and" and inserting "clause"; and

(B) in subparagraph (B), by striking "such section" and inserting "section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))";

(3) in paragraph (2), by inserting "or maintenance" after "State implementation";

(4) in paragraph (3), by inserting "or maintenance of the standard" after "standard"; and

(5) in paragraph (4), by inserting "or maintenance" after "attainment".

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

"(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project eligible under the surface transportation program under section 133.

"(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2) for any project in the State eligible under section 133.".

(d) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended in the first sentence by striking "The" and inserting "Except in the case of a project funded from sums apportioned under section 104(b)(2), the".

(e) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended by inserting after the undesignated paragraph defining "maintenance" the following:

"The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).".

(2) Section 149(b)(1)(A)(ii) of title 23, United States Code, is amended by striking "an area" and all that follows and inserting "a maintenance area; or".

SEC. 1124. SAFETY BELT USE LAW REQUIREMENTS.

Section 355 of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended—

(1) in the section heading, by striking "**AND MAINE**";

(2) in subsection (a)—

(A) by striking "States of New Hampshire and Maine shall each" and inserting "State of New Hampshire shall"; and

(B) in paragraph (1), by striking "and 1996" and inserting "through 2000"; and

(3) by striking "or Maine" each place it appears.

SEC. 1125. SENSE OF THE SENATE CONCERNING RELIANCE ON PRIVATE ENTERPRISE.

(a) IN GENERAL.—It is the sense of the Senate that each agency authorized to expend funds made available under this Act, or an amendment made by this Act, or a recipient of any form of a grant or other Federal assistance under this Act, or an amendment made by this Act—

(1) should, in expending the funds or assistance, rely on entities in the private enterprise system to provide such goods and services as are reasonably and expeditiously available through ordinary business channels; and

(2) shall not duplicate or compete with entities in the private enterprise system.

(b) PROCEDURES.—The Secretary should provide procedures to inform each agency that administers this Act and each recipient of a grant or other Federal assistance of the sense of the Senate expressed in subsection (a).

SEC. 1126. STUDY OF USE OF UNIFORMED POLICE OFFICERS ON FEDERAL-AID HIGHWAY CONSTRUCTION PROJECTS.

(a) IN GENERAL.—In consultation with the States and State transportation departments, the Secretary shall conduct a study on the extent and effectiveness of use by States of uniformed police officers on Federal-aid highway construction projects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a), including any legislative and administrative recommendations of the Secretary.

SEC. 1127. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)(i), by striking ", except to" and all that follows through "services";

(2) by striking subparagraph (C) and inserting the following:

"(C) SELECTION, PERFORMANCE, AND AUDITS.—

"(i) IN GENERAL.—All requirements for architectural, engineering, and related services at any phase of a highway project funded in whole or in part with Federal-aid highway funds shall be performed by a contract awarded in accordance with subparagraph (A).

"(ii) PROHIBITION ON STATE RESTRICTION.—A State shall not impose any overhead restriction that would preclude any qualified firm from being eligible to compete for contracts awarded in accordance with subparagraph (A).

"(iii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATIONS.—The process for selection, award, performance, administration, and audit of the resulting contracts shall comply with the cost principles and cost accounting principles of the Federal Acquisition Regulations, including parts 30, 31, and 36 of the Regulations."; and

(3) by adding at the end the following:

"(H) COMPLIANCE.—

"(i) IN GENERAL.—A State shall comply with the qualifications-based selection process, contracting based on the Federal Acquisition Regulations, and the single audit procedures required under this paragraph, or with an existing State law or a statute enacted in accordance with the legislative session exemption under subparagraph (G), with respect to any architecture, engineering, or related service contract for any phase of a Federal-aid highway project.

"(ii) STATES WITH ALTERNATIVE PROCESS.—Any State that, after November 28, 1995, enacted legislation to establish an alternative State process as a substitute for the contract administration and audit procedures required under this paragraph or was granted a

waiver under subparagraph (G) shall submit the legislation to the Secretary, not later than 60 days after the date of enactment of this subparagraph, for certification that the State legislation is in compliance with the statutory timetable and substantive criteria specified in subparagraph (G).".

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

SEC. 1201. ADMINISTRATIVE EXPENSES.

Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133, the congestion mitigation and air quality improvement program under section 149, or the Interstate and National Highway System program under section 103, the Secretary shall deduct a sum, in an amount not to exceed 1½ percent of all sums so made available, as the Secretary determines necessary to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2.

"(2) CONSIDERATION OF UNOBLIGATED BALANCES.—In making the determination described in paragraph (1), the Secretary shall take into account the unobligated balance of any sums deducted under this subsection in prior fiscal years.

"(3) AVAILABILITY.—The sum deducted under paragraph (1) shall remain available until expended.".

SEC. 1202. REAL PROPERTY ACQUISITION AND CORRIDOR PRESERVATION.

(a) ADVANCE ACQUISITION OF REAL PROPERTY.—Section 108 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 108. Advance acquisition of real property";

and

(2) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

"(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.".

(b) CREDIT FOR ACQUIRED LANDS.—Section 323(b) of title 23, United States Code, is amended—

(1) in the subsection heading, by striking "DONATED" and inserting "ACQUIRED";

(2) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

"(A) is obtained by the State, without violation of Federal law; and

"(B) is incorporated into the project.

"(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

"(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

"(B) the fair market value of donated land shall be established as of the earlier of—

"(i) the date on which the donation becomes effective; or

"(ii) the date on which equitable title to the land vests in the State.";

(3) by striking paragraph (3);

(4) in paragraph (4), by striking "to which the donation is applied"; and

(5) by redesignating paragraph (4) as paragraph (3).

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 108 and inserting the following:

"108. Advance acquisition of real property.".

SEC. 1203. AVAILABILITY OF FUNDS.

Section 118 of title 23, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of a project agreement, shall be credited to the same program funding category for which the funds were previously apportioned and shall be immediately available for obligation.

"(2) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—Any Federal-aid highway funds apportioned to a State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of this paragraph) and credited under paragraph (1) may be transferred by the Secretary in accordance with section 103(d).".

SEC. 1204. PAYMENTS TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second and third sentences and inserting the following: "The payments may also be made for the value of such materials as—

"(1) have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

"(2) are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in the vicinity.";

(2) by striking subsection (b) and inserting the following:

"(b) PROJECT AGREEMENTS.—

"(1) PAYMENTS.—A payment under this chapter may be made only for a project covered by a project agreement.

"(2) SOURCE OF PAYMENTS.—After completion of a project in accordance with the project agreement, a State shall be entitled to payment, out of the appropriate sums apportioned or allocated to the State, of the unpaid balance of the Federal share of the cost of the project.";

(3) by striking subsections (c) and (d); and

(4) by redesignating subsection (e) as subsection (c).

SEC. 1205. PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.

(a) IN GENERAL.—Section 156 of title 23, United States Code, is amended to read as follows:

"§ 156. Proceeds from the sale or lease of real property

"(a) MINIMUM CHARGE.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

"(b) EXCEPTIONS.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

"(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 156 and inserting the following:

"156. Proceeds from the sale or lease of real property.".

SEC. 1206. METRIC CONVERSION AT STATE OPTION.

Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking "Before September 30, 2000, the" and inserting "The".

SEC. 1207. REPORT ON OBLIGATIONS.

Section 104(m) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended—

(1) by inserting "REPORT TO CONGRESS.—" before "The Secretary";

(2) by striking "not later than" and all that follows through "a report" and inserting "a report for each fiscal year";

(3) in paragraph (1), by striking "preceding calendar month" and inserting "preceding fiscal year";

(4) by striking paragraph (2);

(5) in paragraph (3), by striking "such preceding month" and inserting "that preceding fiscal year"; and

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 1208. TERMINATIONS.

(a) RIGHT-OF-WAY REVOLVING FUND.—Section 108 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TERMINATION OF RIGHT-OF-WAY REVOLVING FUND.—

"(1) IN GENERAL.—Funds apportioned and advanced to a State by the Secretary from the right-of-way revolving fund established by this section prior to the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997 shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

"(2) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in paragraph (1), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

"(A) the Highway Trust Fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

"(B) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund.".

(b) PILOT TOLL COLLECTION PROGRAM.—Section 129 of title 23, United States Code, is amended by striking subsection (d).

(c) NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.—As soon as practicable after the date of enactment of this Act, the Secretary shall take such action as is necessary for the termination of the National Recreational Trails Advisory Committee established by section 1303 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1262) (as in effect on the day before the date of enactment of this Act).

(d) CONGRESSIONAL BRIDGE COMMISSIONS.—Public Law 87–441 (76 Stat. 59) is repealed.

SEC. 1209. INTERSTATE MAINTENANCE.

(a) INTERSTATE FUNDS.—Section 119 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (d); and

(3) by striking subsection (f) and inserting the following:

"(f) TRANSFERABILITY OF FUNDS.—

"(1) UNCONDITIONAL.—A State may transfer an amount not to exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).

"(2) UPON ACCEPTANCE OF CERTIFICATION.—If a State certifies to the Secretary that any part of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) is in excess of the needs of the State for resurfacing, restoring, rehabilitating, or reconstructing routes and bridges on the Interstate System in the State and that the State is adequately maintaining the routes and bridges, and the Secretary accepts the certification, the State may transfer, in addition to the amount authorized to be transferred under paragraph (1), an amount not to exceed 20 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).".

(b) ELIGIBILITY.—Section 119 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking "and rehabilitating" and inserting ", rehabilitating, and reconstructing";

(2) by striking subsections (b), (c), (e), and (g);

(3) by inserting after subsection (a) the following:

"(b) ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—A State—

"(A) may use funds apportioned under subparagraph (A) or (B) of section 104(b)(1) for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System, including—

"(i) resurfacing, restoring, rehabilitating, and reconstructing bridges, interchanges, and overcrossings;

"(ii) acquiring rights-of-way; and

"(iii) intelligent transportation system capital improvements that are infrastructure-based to the extent that they improve the performance of the Interstate System; but

"(B) may not use the funds for construction of new travel lanes other than high-occupancy vehicle lanes or auxiliary lanes.

"(2) EXPANSION OF CAPACITY.—

"(A) USING TRANSFERRED FUNDS.—Notwithstanding paragraph (1), funds transferred under subsection (c)(1) may be used for construction to provide for expansion of the capacity of an Interstate System highway (including a bridge).

"(B) USING FUNDS NOT TRANSFERRED.—

"(i) IN GENERAL.—In lieu of transferring funds under subsection (c)(1) and using the transferred funds for the purpose described in subparagraph (A), a State may use an amount of the sums apportioned to the State under subparagraph (A) or (B) of section 104(b)(1) for the purpose described in subparagraph (A).

"(ii) LIMITATION.—The sum of the amount used under clause (i) and any amount transferred under subsection (c)(1) by a State may not exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1).''; and

(4) by redesignating subsection (f) as subsection (c).

(c) CONFORMING AMENDMENTS.—

(1) Section 119(a) of title 23, United States Code, is amended in the first sentence by striking "; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in subsection (e)".

(2) Section 1009(c)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 119 note; 105 Stat. 1934) is amended by striking "section 119(f)(1)" and inserting "section 119(c)(1)".

CHAPTER 2—PROJECT APPROVAL

SEC. 1221. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code (as amended by section 1118), is amended by inserting after subsection (k) the following:

"(l) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of that chapter relating to the non-Federal share shall apply to the transferred funds.

"(3) TRANSFER TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Funds made available under this title or chapter 53 of title 49 and transferred to the National Railroad Passenger Corporation or to any publicly-owned intercity or intracity passenger rail line shall be administered by the Secretary in accordance with subtitle V of title 49, except that the provisions of this title or chapter 53 of title 49, as applicable, relating to the non-Federal share shall apply to the transferred funds.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) through (3) shall be transferred in the same manner and amount as the funds for the projects are transferred.".

SEC. 1222. PROJECT APPROVAL AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 106. Project approval and oversight";

(2) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(3) by striking subsections (a) through (d) and inserting the following:

"(a) IN GENERAL.—Except as otherwise provided in this section, the State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require. The Secretary shall act upon such plans, specifications, and estimates as soon as practicable after they have been submitted, and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval. The execution of such project agreement shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

"(b) PROJECT AGREEMENT.—The project agreement shall make provision for State funds required for the State's pro rata share of the cost of construction of the project and for the maintenance of the project after completion of construction. The Secretary may rely upon representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

"(c) SPECIAL RULES FOR PROJECT OVERSIGHT.—

"(1) NHS PROJECTS.—Except as otherwise provided in subsection (d) of this section, the Secretary may discharge to the State any of the Secretary's responsibilities for the design, plans, specifications, estimates, contract awards, and inspection of projects under this title on the National Highway System. Before discharging responsibilities to the State, the Secretary shall reach agreement with the State as to the extent to which the State may assume the responsibilities of the Secretary under this subsection. The Secretary may not assume any greater responsibility than the Secretary is permitted under this title as of September 30, 1997, except upon agreement by the Secretary and the State.

"(2) NON-NHS PROJECTS.—For all projects under this title that are off the National Highway System, the State may request that the Secretary no longer review and approve the design, plans, specifications, estimates, contract awards, and inspection of projects under this title. After receiving any such request, the Secretary shall undertake project review only as requested by the State.

"(d) RESPONSIBILITIES OF THE SECRETARY.—

"(1) IN GENERAL.—Subject to paragraph (2), nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under any Federal law other than this title.

"(2) LIMITATION.—Any responsibility or obligation of the Secretary under sections 113 and 114 of this title shall not be affected and may not be discharged under this section, section 133, or section 149.

"(e) VALUE ENGINEERING ANALYSIS.—In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid

highway shall be accompanied by a value engineering or other cost reduction analysis.

"(f) FINANCIAL PLAN.—The Secretary shall require a financial plan to be prepared for any project with an estimated total cost of $1,000,000,000 or more.".

(b) STANDARDS.—

(1) ELIMINATION OF GUIDELINES AND ANNUAL CERTIFICATION REQUIREMENTS.—Section 109 of title 23, United States Code, is amended—

(A) by striking subsection (m); and

(B) by redesignating subsections (n) through (q) as subsections (m) through (p), respectively.

(2) SAFETY STANDARDS.—Section 109 of title 23, United States Code (as amended by paragraph (1)), is amended by adding at the end the following:

"(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction.".

(c) PROGRAMS; PROJECT AGREEMENTS; CERTIFICATION ACCEPTANCE.—Sections 110 and 117 of title 23, United States Code, are repealed.

(d) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23 is amended—

(A) by striking the item relating to section 106 and inserting the following:

"106. Project approval and oversight.";

and

(B) by striking the items relating to sections 110 and 117.

(2) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining "project agreement" by striking "the provisions of subsection (a) of section 110 of this title" and inserting "section 106".

(3) Section 114(a) of title 23, United States Code, is amended in the second sentence by striking "section 117 of this title" and inserting "section 106".

SEC. 1223. SURFACE TRANSPORTATION PROGRAM.

(a) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "10" and inserting "8"; and

(B) in the first sentence of paragraph (3)(A), by striking "80" and inserting "82"; and

(2) in subsection (e)—

(A) in paragraph (3)(B)(i), by striking "if the Secretary" and all that follows through "activities"; and

(B) in paragraph (5), by adding at the end the following:

"(C) INNOVATIVE FINANCING.—

"(i) IN GENERAL.—For each fiscal year, the average annual non-Federal share of the total cost of all projects to carry out transportation enhancement activities in a State shall be not less than the non-Federal share authorized for the State under section 120(b).

"(ii) EXCEPTION.—Subject to clause (i), notwithstanding section 120, in the case of projects to carry out transportation enhancement activities—

"(I) funds from other Federal agencies, and other contributions that the Secretary determines are of value, may be credited toward the non-Federal share of project costs;

"(II) the non-Federal share may be calculated on a project, multiple-project, or program basis; and

"(III) the Federal share of the cost of an individual project subject to subclause (I) or (II) may be equal to 100 percent.".

(b) PROGRAM APPROVAL.—Section 133(e) of title 23, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) PROGRAM APPROVAL.—

"(A) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

"(i) certifies that the State will meet all the requirements of this section; and

"(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

"(B) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—As necessary, each State shall request from the Secretary adjustments to the amount of obligations referred to in subparagraph (A)(ii).

"(C) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.".

(c) PAYMENTS.—Section 133(e)(3)(A) of title 23, United States Code, is amended by striking the second sentence.

SEC. 1224. DESIGN-BUILD CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) in paragraph (2)(A), by striking "Each" and inserting "Subject to paragraph (3), each"; and

(3) by adding at the end the following:

"(3) DESIGN-BUILD CONTRACTING.—

"(A) IN GENERAL.—A State transportation department may award a contract for the design and construction of a qualified project described in subparagraph (B) using competitive selection procedures approved by the Secretary.

"(B) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter that involves installation of an intelligent transportation system or that consists of a usable project segment and for which—

"(i) the Secretary has approved the use of design-build contracting described in subparagraph (A) under criteria specified in regulations promulgated by the Secretary; and

"(ii) the total costs are estimated to exceed—

"(I) in the case of a project that involves installation of an intelligent transportation system, $5,000,000; and

"(II) in the case of a usable project segment, $50,000,000.".

(b) COMPETITIVE BIDDING DEFINED.—Section 112 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) COMPETITIVE BIDDING DEFINED.—In this section, the term 'competitive bidding' means the procedures used to award contracts for engineering and design services under subsection (b)(2) and design-build contracts under subsection (b)(3).".

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date specified in subsection (e), the Secretary shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENTS.—The regulations shall—

(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department of design-build contracting; and

(B) establish the procedures to be followed by a State transportation department for obtaining the Secretary's approval of the use of design-build contracting by the department and the selection procedures used by the department.

(d) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act.

(e) EFFECTIVE DATE FOR AMENDMENTS.—The amendments made by this section take effect 2 years after the date of enactment of this Act.

SEC. 1225. INTEGRATED DECISIONMAKING PROCESS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"§ 354. Integrated decisionmaking process

"(a) DEFINITIONS.—In this section:

"(1) INTEGRATED DECISIONMAKING PROCESS.—The term 'integrated decisionmaking process' means the integrated decisionmaking process established with respect to a surface transportation project under subsection (b).

"(2) NEPA PROCESS.—The term 'NEPA process' means the process of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a surface transportation project.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(4) SURFACE TRANSPORTATION PROJECT.—The term 'surface transportation project' means—

"(A) a highway construction project that is subject to the approval of the Secretary under title 23; and

"(B) a capital project (as defined in section 5302(a)(1)).

"(b) ESTABLISHMENT OF INTEGRATED DECISIONMAKING PROCESSES FOR SURFACE TRANSPORTATION PROJECTS.—The Secretary shall—

"(1) establish an integrated decisionmaking process for surface transportation projects that designates major decision points likely to have significant environmental effects and conflicts; and

"(2) integrate the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with the requirements established by the Secretary for transportation planning and decisionmaking.

"(c) INTEGRATED DECISIONMAKING GOALS.—The integrated decisionmaking process for surface transportation projects should, to the maximum extent practicable, accomplish the following major goals:

"(1) Integrate the NEPA process with the planning, predesign stage, and decisionmaking for surface transportation projects at the earliest possible time.

"(2) Integrate all applicable Federal, State, tribal, and local permitting requirements.

"(3) Integrate national transportation, social, safety, economic, and environmental goals with State, tribal, and local land use and growth management initiatives.

"(4) Consolidate Federal, State, tribal, and local decisionmaking to achieve the best overall public interest according to an agreed schedule.

"(d) STREAMLINING.—

"(1) AVOIDANCE OF DELAYS, PREVENTION OF CONFLICTS, AND ELIMINATION OF UNNECESSARY DUPLICATION.—The Secretary shall design the integrated decisionmaking process to avoid delays in decisionmaking, prevent conflicts between cooperating agencies and members of the public, and eliminate unnecessary duplication of review and decisionmaking relating to surface transportation projects.

"(2) INTEGRATION; COMPREHENSIVE PROCESS.—The NEPA process—

"(A) shall be integrated with the transportation planning and decisionmaking of the Federal, State, tribal, and local transportation agencies; and

"(B) serve as a comprehensive decisionmaking process.

"(3) OTHER REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall—

"(i) establish a concurrent transportation and environmental coordination process to reduce paperwork, combine review documents, and eliminate duplicative reviews;

"(ii) develop interagency agreements to streamline and improve interagency coordination and processing time;

"(iii) apply strategic and programmatic approaches to better integrate and expedite the NEPA process and transportation decisionmaking; and

"(iv) ensure, in appropriate cases, by conducting concurrent reviews whenever possible, that any analyses and reviews conducted by the Secretary consider the needs of other reviewing agencies.

"(B) TIME SCHEDULES.—To comply with subparagraph (A)(ii), time schedules shall be consistent with sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations (or any successor regulations).

"(4) CONCURRENT PROCESSING.—

"(A) IN GENERAL.—The integrated decisionmaking process shall, to the extent practicable, include a procedure to provide for concurrent (rather than sequential) processing of all Federal, State, tribal, and local reviews and decisions emanating from those reviews.

"(B) INCONSISTENCY WITH OTHER REQUIREMENTS.—Subparagraph (A) does not require concurrent review if concurrent review would be inconsistent with other statutory or regulatory requirements.

"(e) INTERAGENCY COOPERATION.—

"(1) LEAD AND COOPERATING AGENCY CONCEPTS.—The lead and cooperating agency concepts of section 1501 of title 40, Code of Federal Regulations (or any successor regulation), shall be considered essential elements to ensure integration of transportation decisionmaking.

"(2) RESPONSIBILITIES.—The Secretary shall—

"(A) not later than 60 days after the date on which a surface transportation project is selected for study by a State, identify each Federal agency that may be required to participate in the integrated decisionmaking process relating to the surface transportation project and notify the agency of the surface transportation project;

"(B) afford State, regional, tribal, and local governments with decisionmaking authority on surface transportation projects the opportunity to serve as cooperating agencies;

"(C) provide cooperating agencies the results of any analysis or other information related to a surface transportation project;

"(D) host an early scoping meeting for Federal agencies and, when appropriate, conduct field reviews, as soon as practicable in the environmental review process;

"(E) solicit from each cooperating agency as early as practicable the data and analyses necessary to facilitate execution of the duties of each cooperating agency;

"(F) use, to the maximum extent possible, scientific, technical, and environmental data and analyses previously prepared by or for other Federal, State, tribal, or local agencies, after an independent evaluation by the Secretary of the data and analyses;

"(G) jointly, with the cooperating agencies, host public meetings and other community participation processes; and

"(H) ensure that the NEPA process and documentation provide all necessary information for the cooperating agency to—

"(i) discharge the responsibilities of the cooperating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other law; and

"(ii) grant approvals, permits, licenses, and clearances.

"(f) ENHANCED SCOPING PROCESS.—During the scoping process for a surface transportation project, in addition to other statutory and regulatory requirements, the Secretary shall, to the extent practicable—

"(1) provide the public with clearly understandable milestones that occur during an integrated decisionmaking process;

"(2) ensure that all agencies with jurisdiction by law or with special expertise have sufficient information and data to discharge their responsibilities;

"(3) ensure that all agencies with jurisdiction by law or with special expertise, and the public, are invited to participate in the initial scoping process;

"(4) coordinate with other agencies to ensure that the agencies provide to the Secretary, not later than 30 days after the first interagency scoping meeting, any preliminary concerns about how the proposed project may affect matters within their jurisdiction or special expertise based on information available at the time of the scoping meeting; and

"(5) in cooperation with all cooperating agencies, develop a schedule for conducting all necessary environmental and other review processes.

"(g) USE OF TITLE 23 FUNDS.—

"(1) USE BY STATES.—A State may use funds made available under section 104(b) or 105 of title 23 or section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1997 to provide resources to Federal or State agencies involved in the review or permitting process for a surface transportation project in order to meet a time schedule established under this section.

"(2) USE AT SECRETARY'S DISCRETION.—At the request of another Federal agency involved in the review or permitting process for a surface transportation project, the Secretary may provide funds under chapter 1 of title 23 to the agency to provide resources necessary to meet the time schedules established under this section.

"(2) AMOUNT.—Funds may be provided under paragraph (1) in the amount by which the cost to complete a environmental review in accordance with a time schedule established under this section exceeds the cost that would be incurred if there were no such time schedule.

"(3) NOT FINAL AGENCY ACTION.—The provision of funds under paragraph (1) does not constitute a final agency action.

"(h) STATE ROLE.—

"(1) IN GENERAL.—For any project eligible for assistance under chapter 1 of title 23, a State may require, by law or agreement coordinating with all related State agencies, that all State agencies that—

"(A) have jurisdiction by Federal or State law over environmental, growth management, or land-use related issues that may be affected by a surface transportation project; or

"(B) have responsibility for issuing any environment related reviews, analyses, opinions, or determinations;

be subject to the coordinated environmental review process provided under this section in issuing any analyses or approvals or taking any other action relating to the project.

"(2) ALL AGENCIES.—If a State requires that any State agency participate in a coordinated environmental review process, the State shall require all affected State agencies to participate.

"(i) EARLY ACTION REGARDING POTENTIALLY INSURMOUNTABLE OBSTACLES.—If, at any time during the integrated decisionmaking process for a proposed surface transportation project, a cooperating agency determines that there is any potentially insurmountable obstacle associated with any of the alternative transportation projects that might be undertaken to address the obstacle, the Secretary shall—

"(1) convene a meeting among the cooperating agencies to address the obstacle;

"(2) initiate conflict resolution efforts under subsection (j); or

"(3) eliminate from consideration the alternative transportation project with which the obstacle is associated.

"(j) CONFLICT RESOLUTION.—

"(1) FORUM.—The NEPA process shall be used as a forum to coordinate the actions of Federal, State, regional, tribal, and local agencies, the private sector, and the public to develop and shape surface transportation projects.

"(2) APPROACHES.—Collaborative, problem solving, and consensus building approaches shall be used (and, when appropriate, mediation may be used) to implement the integrated decisionmaking process with a goal of appropriately considering factors relating to transportation development, economic prosperity, protection of public health and the environment, community and neighborhood preservation, and quality of life for present and future generations.

"(3) UNRESOLVED ISSUES.—

"(A) NOTIFICATION.—If, before the final transportation NEPA document is approved—

"(i) an issue remains unresolved between the lead Federal agency and the cooperating agency; and

"(ii) efforts have been exhausted to resolve the issue at the field levels of each agency—

"(I) within the applicable timeframe of the interagency schedule established under subsection (f)(5); or

"(II) if no timeframe is established, within 90 days;

the field level officer of the lead agency shall notify the field level officer of the cooperating agency that the field level officer of the lead agency intends to bring the issue to the personal attention of the heads of the agencies.

"(B) EFFORTS BY THE AGENCY HEADS.—The head of the lead agency shall contact the head of the cooperating agency and attempt to resolve the issue within 30 days after notification by the field level officer of the unresolved issue.

"(C) CONSULTATION WITH CEQ.—The heads of the agencies are encouraged to consult with the Chair of the Council on Environmental Quality during the 30-day period under subparagraph (B).

"(D) FAILURE TO RESOLVE.—If the heads of the agencies do not resolve the issue within the time specified in subparagraph (B), the referral process under part 1504 of title 40, Code of Federal Regulations (or any successor regulation), shall be initiated with respect to the issue.

"(k) JUDICIAL REVIEW.—Nothing in this section affects the reviewability of any final agency action in a district court of the United States or any State court.

"(l) STATUTORY CONSTRUCTION.—Nothing in this section affects—

"(1) the applicability of the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other statute; or

"(2) the responsibility of any Federal, State, tribal, or local officer to comply with or enforce any statute or regulation.".

(b) TIMETABLE; REPORT TO CONGRESS.—The Secretary, in consultation with the Chair of the Council on Environmental Quality and after notice and opportunity for public comment—

(1) not later than 180 days after the date of enactment of this Act, shall design the integrated decisionmaking process required by the amendment made by subsection (a);

(2) not later than 1 year after the date of enactment of this Act, shall promulgate a regulation governing implementation of an integrated decisionmaking process in accordance with the amendment made by subsection (a); and

(3) not later than 2 years after the date of enactment of this Act, shall submit to Congress a report identifying any additional legislative or other solutions that would further enhance the integrated decisionmaking process.

(c) CONFORMING AMENDMENT.—The analysis for subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"354. Integrated decisionmaking process.".

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

SEC. 1231. DEFINITION OF OPERATIONAL IMPROVEMENT.

Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining "operational improvement" and inserting the following:

"The term 'operational improvement' means the installation, operation, or maintenance, in accordance with subchapter II of chapter 5, of public infrastructure to support intelligent transportation systems and includes the installation or operation of any traffic management activity, communication system, or roadway weather information and prediction system, and any other improvement that the Secretary may designate that enhances roadway safety and mobility during adverse weather.".

SEC. 1232. ELIGIBILITY OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended by inserting "in accordance with sections 103, 133, and 149," after "toll or free,".

(b) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(5) of title 23, United States Code (as amended by section 1234), is amended by adding at the end the following:

"(R) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(c) SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following:

"(12) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(d) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (4) the following:

"(5) if the project or program is to construct a ferry boat or ferry terminal facility and if the conditions described in section 129(c) are met.".

SEC. 1233. FLEXIBILITY OF SAFETY PROGRAMS.

Section 133(d) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) SAFETY PROGRAMS.—

"(A) IN GENERAL.—With respect to funds apportioned for each of fiscal years 1998 through 2003—

"(i) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130;

"(ii) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 152; and

"(iii) an amount equal to 6 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130 or 152.

"(B) TRANSFER OF FUNDS.—If a State certifies to the Secretary that any part of the amount set aside by the State under subparagraph (A)(i) is in excess of the needs of the State for activities under section 130 and the Secretary accepts the certification, the State may transfer that excess part to the set-aside of the State under subparagraph (A)(ii).

"(C) TRANSFERS TO OTHER SAFETY PROGRAMS.—A State may transfer funds set aside under subparagraph (A)(iii) to the apportionment of the State under section 402 or the allocation of the State under section 31104 of title 49.".

SEC. 1234. ELIGIBILITY OF PROJECTS ON THE NATIONAL HIGHWAY SYSTEM.

Section 103(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

"(5) ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1)(C) for the National Highway System may be obligated for any of the following:

"(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

"(B) Operational improvements for segments of the National Highway System.

"(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, construction of a transit project eligible for assistance under chapter 53 of title 49, and capital improvements to any National Railroad Passenger Corporation passenger rail line or any publicly-owned intercity passenger rail line, if—

"(i) the highway, transit, or rail project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

"(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

"(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

"(D) Highway safety improvements for segments of the National Highway System.

"(E) Transportation planning in accordance with sections 134 and 135.

"(F) Highway research and planning in accordance with chapter 5.

"(G) Highway-related technology transfer activities.

"(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(I) Fringe and corridor parking facilities.

"(J) Carpool and vanpool projects.

"(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(L) Development, establishment, and implementation of management systems under section 303.

"(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101-640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction, except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

"(N) Publicly-owned intracity or intercity passenger rail or bus terminals, including terminals of the National Railroad Passenger Corporation and publicly-owned intermodal surface freight transfer facilities, other than seaports and airports, if the terminals and facilities are located on or adjacent to National Highway System routes or connections to the National Highway System selected in accordance with paragraph (2).

"(O) Infrastructure-based intelligent transportation systems capital improvements.

"(P) In the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, any project eligible for funding under section 133, any airport, and any seaport.

"(Q) Publicly owned components of magnetic levitation transportation systems.".

SEC. 1235. ELIGIBILITY OF PROJECTS UNDER THE SURFACE TRANSPORTATION PROGRAM.

Section 133(b) of title 23, United States Code (as amended by section 1232(c)), is amended—

(1) in paragraph (2), by striking "and publicly owned intracity or intercity bus terminals and facilities" and inserting ", including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus or rail";

(2) in paragraph (3)—

(A) by striking "and bicycle" and inserting "bicycle"; and

(B) by inserting before the period at the end the following: ", and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)";

(3) in paragraph (4)—

(A) by inserting ", publicly owned passenger rail," after "Highway";

(B) by inserting "infrastructure" after "safety"; and

(C) by inserting before the period at the end the following: ", and any other noninfrastructure highway safety improvements";

(4) in the first sentence of paragraph (11)—

(A) by inserting "natural habitat and" after "participation in" each place it appears;

(B) by striking "enhance and create" and inserting "enhance, and create natural habitats and"; and

(C) by inserting "natural habitat and" before "wetlands conservation"; and

(5) by adding at the end the following:

"(13) Publicly owned intercity passenger rail infrastructure, including infrastructure owned by the National Railroad Passenger Corporation.

"(14) Publicly owned passenger rail vehicles, including vehicles owned by the National Railroad Passenger Corporation.

"(15) Infrastructure-based intelligent transportation systems capital improvements.

"(16) Publicly owned components of magnetic levitation transportation systems.

"(17) Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.".

SEC. 1236. DESIGN FLEXIBILITY.

Section 109 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) REQUIREMENTS FOR FACILITIES.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

"(A) adequately serve the existing traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

"(B) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in subparagraph (A) and to conform to the particular needs of each locality.

"(2) CONSIDERATION OF PLANNED FUTURE TRAFFIC DEMANDS.—In carrying out paragraph (1), the Secretary shall ensure the consideration of the planned future traffic demands of the facility.".

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

SEC. 1301. STATE INFRASTRUCTURE BANK PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 162. State infrastructure bank program

"(a) DEFINITIONS.—In this section:

"(1) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

"(A) to provide credit enhancements;

"(B) to serve as a capital reserve for bond or debt instrument financing;

"(C) to subsidize interest rates;

"(D) to ensure the issuance of letters of credit and credit instruments;

"(E) to finance purchase and lease agreements with respect to transit projects;

"(F) to provide bond or debt financing instrument security; and

"(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which the assistance is being provided.

"(2) STATE.—The term 'State' has the meaning given the term under section 401.

"(b) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—

"(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

"(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

"(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

"(c) FUNDING.—

"(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

"(A)(i) the total amount of funds apportioned to the State under each of paragraphs (1) and (3) of section 104(b), excluding funds set aside under paragraphs (1) and (2) of section 133(d); and

"(ii) the total amount of funds allocated to the State under section 105 and under section 1102 of the Intermodal Surface Transportation Efficiency Act of 1997;

"(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49) under sections 5307, 5309, and 5311 of title 49; and

"(C) the total amount of funds made available to the State under subtitle V of title 49.

"(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

"(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

"(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

"(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

"(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

"(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

"(e) QUALIFYING PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under this title, for capital projects (as defined in section 5302 of title 49), or for any other project that the Secretary determines to be appropriate.

"(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under subparagraph (A) or (B) of section 104(b)(1) may be used only to provide assistance with respect to projects eligible for assistance under those subparagraphs.

"(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49 shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

"(f) INFRASTRUCTURE BANK REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

"(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c);

"(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

"(C) ensure that investment income generated by funds contributed to the bank will be—

"(i) credited to the bank;

"(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

"(iii) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

"(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

"(E) ensure that repayment of the loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

"(F) ensure that the term for repaying any loan will not exceed the lesser of—

"(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

"(ii) the useful life of the investment; and

"(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

"(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

"(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

"(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

"(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

"(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59) to comply with this section.

"(i) APPLICABILITY OF FEDERAL LAW.—

"(1) IN GENERAL.—The requirements of this title or title 49 that would otherwise apply to funds made available under that title and projects assisted with those funds shall apply to—

"(A) funds made available under that title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under section (f); and

"(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of that title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.

"(2) REPAYMENTS.—The requirements of this title or title 49 shall not apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall not be considered to be Federal funds.

"(j) UNITED STATES NOT OBLIGATED.—

"(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

"(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

"(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

"(l) PROGRAM ADMINISTRATION.—

"(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

"(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"162. State infrastructure bank program.".

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

SEC. 1311. SHORT TITLE.

This chapter may be cited as the "Transportation Infrastructure Finance and Innovation Act of 1997".

SEC. 1312. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 1313. DEFINITIONS.

In this chapter:

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) interest during construction, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

(3) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(4) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 1316 to provide a direct loan at a future date upon the occurrence of certain events.

(5) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(6) LOCAL SERVICER.—The term "local servicer" means—

(A) a State infrastructure bank established under title 23, United States Code; or

(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

(7) OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term "project" means any surface transportation project eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code.

(9) PROJECT OBLIGATION.—The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) SECURED LOAN.—The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 1315.

(11) STATE.—The term "State" has the meaning given the term in section 101 of title 23, United States Code.

(12) SUBSTANTIAL COMPLETION.—The term "substantial completion" means the opening of a project to vehicular or passenger traffic.

SEC. 1314. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

(A) shall be included in the State transportation plan required under section 135 of title 23, United States Code; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this chapter, shall be included in the approved State transportation improvement program required under section 134 of that title.

(2) APPLICATION.—A State, a local servicer identified under section 1317(a), or the entity undertaking the project shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) 50 percent of the amount of Federal-aid highway funds apportioned for the most recently-completed fiscal year under title 23, United States Code, to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

(2) SELECTION CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

(C) The extent to which assistance under this chapter would foster innovative public-private partnerships and attract private debt or equity investment.

(D) The likelihood that assistance under this chapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(F) The amount of budget authority required to fund the Federal credit instrument made available under this chapter.

(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

SEC. 1315. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs; or

(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 1314.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) AUTHORIZATION PERIOD.—The Secretary may enter into a loan agreement during any of fiscal years 1998 through 2003.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall be payable, in whole or in part, from revenues generated by any rate covenant, coverage requirement, or similar security feature supporting the project obligations or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be equal to the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of making a secured loan under this section.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

(4) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

(5) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—As soon as practicable after substantial completion of a project, the Secretary shall sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

SEC. 1316. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 1314.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—

(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay the costs specified in subsection (a)(2).

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

(5) SECURITY.—The line of credit—

(A) shall be made available only in connection with a project obligation secured, in whole or in part, by a rate covenant, coverage requirement, or similar security feature or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to

the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A line of credit under this section shall not be issued for a project with respect to which another Federal credit instrument under this chapter is made available.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and be fully repaid, with interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

SEC. 1317. PROJECT SERVICING.

(a) REQUIREMENT.—The State in which a project that receives financial assistance under this chapter is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this chapter.

(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

(1) shall act as the agent for the Secretary; and

(2) may receive a servicing fee, subject to approval by the Secretary.

(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

SEC. 1318. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.".

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 113. Office of Infrastructure Finance

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

"(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

"(c) FUNCTIONS.—The Director shall be responsible for—

"(1) carrying out the responsibilities of the Secretary described in section 301(9);

"(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

"(3) providing technical assistance to Federal, State, and local government agencies and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"113. Office of Infrastructure Finance.".

SEC. 1319. STATE AND LOCAL PERMITS.

The provision of financial assistance under this chapter with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 1320. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this chapter and the amendments made by this chapter.

SEC. 1321. FUNDING.

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter—

(A) $60,000,000 for fiscal year 1998;

(B) $60,000,000 for fiscal year 1999;

(C) $90,000,000 for fiscal year 2000;

(D) $90,000,000 for fiscal year 2001;

(E) $115,000,000 for fiscal year 2002; and

(F) $115,000,000 for fiscal year 2003.

(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this chapter, not more than $2,000,000 for each of fiscal years 1998 through 2003.

(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this chapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this chapter shall be limited to the amounts specified in the following table:

Fiscal year:	Maximum amount of credit:
1998	$1,200,000,000
1999	$1,200,000,000
2000	$1,800,000,000
2001	$1,800,000,000
2002	$2,000,000,000
2003	$2,000,000,000.

(d) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

(1) $60,000,000 for fiscal year 1998;

(2) $60,000,000 for fiscal year 1999;

(3) $90,000,000 for fiscal year 2000;

(4) $90,000,000 for fiscal year 2001;

(5) $115,000,000 for fiscal year 2002; and

(6) $115,000,000 for fiscal year 2003.

SEC. 1322. REPORT TO CONGRESS.

Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter, including a recommendation as to whether the objectives of this chapter are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter without Federal participation.

Subtitle D—Safety

SEC. 1401. OPERATION LIFESAVER.

Section 104 of title 23, United States Code (as amended by section 1102(a)), is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by striking "subsection (f)" and inserting "subsections (d) and (f)"; and

(2) in subsection (d), by striking paragraph (1) and inserting the following:

"(1) OPERATION LIFESAVER.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $500,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year to carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.".

SEC. 1402. RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

"(A) IN GENERAL.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.

"(B) ELIGIBLE CORRIDORS.—Funds made available under subparagraph (A) shall be expended for projects in—

"(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause); and

"(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D).

"(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

"(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph (B), the Secretary shall consider—

"(i) projected rail ridership volume in each corridor;

"(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

"(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

"(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

"(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.".

SEC. 1403. RAILWAY-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "structures, and" and inserting "structures,"; and

(B) by inserting after "grade crossings," the following: "trespassing countermeasures in the immediate vicinity of a public railway-highway grade crossing, railway-highway crossing safety education, enforcement of traffic laws relating to railway-highway crossing safety, and projects at privately owned railway-highway crossings if each such project is publicly sponsored and the Secretary determines that the project would serve a public benefit,";

(2) in subsection (d), by adding at the end the following: "In a manner established by the Secretary, each State shall submit a report that describes completed railway-highway crossing projects funded under this section to the Department of Transportation for inclusion in the National Grade Crossing Inventory prepared by the Department of Transportation and the Association of American Railroads."; and

(3) by striking subsection (e).

SEC. 1404. HAZARD ELIMINATION PROGRAM.

(a) IN GENERAL.—Section 152 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting ", bicyclists," after "motorists";

(2) in subsection (b), by striking "highway safety improvement project" and inserting "safety improvement project, including a project described in subsection (a)"; and

(3) in subsection (c), by striking "on any public road (other than a highway on the Interstate System)." and inserting the following: "on—

"(1) any public road;

"(2) any public transportation vehicle or facility, any publicly owned bicycle or pedestrian pathway or trail, or any other facility that the Secretary determines to be appropriate; or

"(3) any traffic calming measure.".

(b) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended—

(A) in the undesignated paragraph defining "highway safety improvement project", by striking "highway safety" and inserting "safety"; and

(B) by moving that undesignated paragraph to appear before the undesignated paragraph defining "Secretary".

(2) Section 152 of title 23, United States Code, is amended in subsections (f) and (g) by striking "highway safety improvement projects" each place it appears and inserting "safety improvement projects".

SEC. 1405. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1301(a)), is amended by adding at the end the following:

"§ 163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

"(a) DEFINITIONS.—In this section:

"(1) ALCOHOL CONCENTRATION.—The term 'alcohol concentration' means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

"(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

"(3) LICENSE SUSPENSION.—The term 'license suspension' means the suspension of all driving privileges.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

"(5) REPEAT INTOXICATED DRIVER LAW.—The term 'repeat intoxicated driver law' means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within 5 years after a conviction for that offense whose alcohol concentration with respect to the second or subsequent offense was determined on the basis of a chemical test to be equal to or greater than 0.15 shall receive—

"(A) a license suspension for not less than 1 year;

"(B) an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

"(C) either—

"(i) an assignment of 30 days of community service; or

"(ii) 5 days of imprisonment.

"(b) TRANSFER OF FUNDS.—

"(1) FISCAL YEARS 2001 AND 2002.—

"(A) IN GENERAL.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

"(i) from the apportionment of the State under section 104(b)(1);

"(ii) from the apportionment of the State under section 104(b)(3); or

"(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

"(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer 3 percent of the funds apportioned to the State on that date under each of paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out under section 402 with funds transferred under paragraph (1) or (2) shall be 100 percent.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

"(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

"(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

"(ii) the ratio that—

"(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

"(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

"(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under that section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1301(b)), is amended by adding at the end the following:

"163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.".

SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1405(a)), is amended by adding at the end the following:

"§ 164. Safety incentive grants for use of seat belts

"(a) DEFINITIONS.—In this section:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

"(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term 'multipurpose passenger motor vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

"(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term 'national average seat belt use rate' means, in the case of each of calendar years 1995 through 2001, the national average seat belt use rate for that year, as determined by the Secretary.

"(4) PASSENGER CAR.—The term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(5) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term 'savings to the Federal Government' means the amount of Federal budget savings relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII

and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

"(7) SEAT BELT.—The term 'seat belt' means—

"(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

"(8) STATE SEAT BELT USE RATE.—The term 'State seat belt use rate' means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

"(A) for each of calendar years 1995 through 1997, by the State, as adjusted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

"(B) for each of calendar years 1998 through 2001, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

"(b) DETERMINATIONS BY THE SECRETARY.—Not later than 30 days after the date of enactment of this section, and not later than September 1 of each calendar year thereafter through September 1, 2002, the Secretary shall determine—

"(1)(A) which States had, for each of the previous calendar years (referred to in this subsection as the 'previous calendar year') and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

"(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

"(2) in the case of each State that is not a State described in paragraph (1)(A)—

"(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1995 through the calendar year preceding the previous calendar year; and

"(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

"(c) ALLOCATIONS.—

"(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

"(2) OTHER STATES.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

"(d) USE OF FUNDS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

"(e) CRITERIA.—Not later than 180 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

"(f) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $60,000,000 for fiscal year 1998, $70,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $100,000,000 for each of fiscal years 2002 and 2003.

"(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

"(3) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts—

"(A) shall be apportioned in accordance with section 104(b)(3);

"(B) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

"(C) shall be available for any purpose eligible for funding under section 133.

"(4) ADMINISTRATIVE EXPENSES.—Not more than 2 percent of the funds made available to carry out this section may be used to pay the necessary administrative expenses incurred in carrying out this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1405(b)), is amended by adding at the end the following:

"164. Safety incentive grants for use of seat belts.".

SEC. 1407. AUTOMATIC CRASH PROTECTION UNBELTED TESTING STANDARD.

(a) IN GENERAL.—

(1) TESTING WITH SIMULTANEOUS USE.—Beginning on the date of enactment of this Act, for the purpose of certification under section 30115 of title 49, United States Code, of compliance with the motor vehicle safety standards under section 30111 of that title, a manufacturer or distributor of a motor vehicle shall be deemed to be in compliance with applicable performance standards for occupant crash protection if the motor vehicle meets the applicable requirements for testing with the simultaneous use of both an automatic restraint system and a manual seat belt.

(2) PROHIBITION.—In no case shall a manufacturer or distributor use, for the purpose of the certification referred to in paragraph (1), testing that provides for the use of an automatic restraint system without the use of a manual seat belt.

(b) REVISION OF STANDARDS.—The Secretary shall issue such revised standards under section 30111 of title 49, United States Code, as are necessary to conform to subsection (a).

Subtitle E—Environment

SEC. 1501. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1406(a)) is amended by adding at the end the following:

"§ 165. National scenic byways program

"(a) DESIGNATION OF ROADS.—

"(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as National Scenic Byways or All-American Roads.

"(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

"(3) NOMINATION.—To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.

"(b) GRANTS AND TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States to—

"(A) implement projects on highways designated as National Scenic Byways or All-American Roads, or as State scenic byways; and

"(B) plan, design, and develop a State scenic byway program.

"(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

"(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway or All-American Road and that is consistent with the corridor management plan for the byway;

"(B) each eligible project along a State-designated scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as a National Scenic Byway or All-American Road; and

"(C) each eligible project that is associated with the development of a State scenic byway program.

"(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

"(1) An activity related to the planning, design, or development of a State scenic byway program.

"(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

"(3) Safety improvements to a State scenic byway, National Scenic Byway, or All-American Road to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, National Scenic Byway, or All-American Road.

"(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, passing lane, overlook, or interpretive facility.

"(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

"(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

"(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

"(8) Development and implementation of a scenic byways marketing program.

"(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

"(e) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byways project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $17,000,000 for fiscal year 1999, $19,000,000 for fiscal year 2000, $19,000,000 for fiscal year 2001, $21,000,000 for fiscal year 2002, and $23,000,000 for fiscal year 2003.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. National scenic byways program.".

SEC. 1502. PUBLIC-PRIVATE PARTNERSHIPS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

"(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

"(B) cost sharing of any project expense;

"(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

"(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

"(A) may include the costs of vehicle refueling infrastructure and other capital investments associated with the project; and

"(B) shall—

"(i) include only the incremental cost of an alternative fueled vehicle compared to a conventionally fueled vehicle that would otherwise be borne by a private party; and

"(ii) apply other governmental financial purchase contributions in the calculation of net incremental cost.

"(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.".

SEC. 1503. WETLAND RESTORATION PILOT PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) surface transportation has unintended but negative consequences for wetlands and other water resources;

(2) in almost every State, construction and other highway activities have reduced or eliminated wetland functions and values, such as wildlife habitat, ground water recharge, flood control, and water quality benefits;

(3) the United States has lost more than ½ of the estimated 220,000,000 acres of wetlands that existed during colonial times; and

(4) while the rate of human-induced destruction and conversion of wetlands has slowed in recent years, the United States has suffered unacceptable wetland losses as a result of highway projects.

(b) ESTABLISHMENT.—The Secretary shall establish a national wetland restoration pilot program (referred to in this section as the "program") to fund mitigation projects to offset the degradation of wetlands, or the loss of functions and values of the aquatic resource, resulting from projects carried out before December 27, 1977, under title 23, United States Code (or similar projects as determined by the Secretary), for which mitigation has not been performed.

(c) APPLICATIONS.—To be eligible for funding under the program, a State shall submit an application to the Secretary that includes—

(1) a description of the wetland proposed to be restored by a mitigation project described in subsection (b) (referred to in this section as a "wetland restoration project") under the program (including the size and quality of the wetland);

(2) such information as is necessary to establish a nexus between—

(A) a project carried out under title 23, United States Code (or a similar project as determined by the Secretary); and

(B) the wetland values and functions proposed to be restored by the wetland restoration project;

(3) a description of the benefits expected from the proposed wetland restoration project (including improvement of water quality, improvement of wildlife habitat, ground water recharge, and flood control);

(4) a description of the State's level of commitment to the proposed wetland restoration project (including the monetary commitment of the State and any development of a State or regional conservation plan that includes the proposed wetland restoration); and

(5) the estimated total cost of the wetland restoration project.

(d) SELECTION OF WETLAND RESTORATION PROJECTS.—

(1) INTERAGENCY COUNCIL.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall establish an interagency advisory council to—

(A) review the submitted applications that meet the requirements of subsection (c); and

(B) not later than 60 days after the application deadline, select wetland restoration projects for funding under the program.

(2) SELECTION CRITERIA FOR PRIORITY WETLAND RESTORATION PROJECTS.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall give priority in funding under this section to wetland restoration projects that—

(A) provide for long-term monitoring and maintenance of wetland resources;

(B) are managed by an entity, such as a nature conservancy, with expertise in the long-term monitoring and protection of wetland resources; and

(C) have a high likelihood of success.

(e) REPORTS.—Not later than April 1, 2000, and April 1, 2003, the Secretary shall submit a report to Congress on the results of the program.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for fiscal year 1998, $13,000,000 for fiscal year 1999, $14,000,000 for fiscal year 2000, $17,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $24,000,000 for fiscal year 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle F—Planning

SEC. 1601. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Metropolitan planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—Congress finds that it is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

"(3) CONTENTS.—The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

"(4) PROCESS.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) REDESIGNATION.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(3) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(4) STRUCTURE.—Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

"(C) appropriate State officials.

"(5) OTHER AUTHORITY.—Nothing in this subsection interferes with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; or

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities under State law.

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, shall be retained, except that the boundaries may be adjusted by agreement of the affected metropolitan planning organizations and Governors in the manner described in subsection (b)(2).

"(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established by agreement between the appropriate units of general purpose local government (including the central city) and the Governor;

"(B) shall encompass at least the urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period;

"(C) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census; and

"(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(e) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—If more than 1 metropolitan planning organization has authority within a metropolitan planning area or an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each such metropolitan planning organization shall consult with the other metropolitan planning organizations designated for the area and the State in the development of plans and programs required by this section.

"(f) SCOPE OF PLANNING PROCESS.—The metropolitan transportation planning process for a metropolitan area under this section shall consider the following:

"(1) Supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) DEVELOPMENT.—In accordance with this subsection, each metropolitan planning organization shall develop, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long-range transportation plan for its metropolitan area.

"(B) FORECAST PERIOD.—In developing long-range transportation plans, the metropolitan planning process shall address—

"(i) the considerations under subsection (f); and

"(ii) any State or local goals developed within the cooperative metropolitan planning process;

as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process.

"(C) FUNDING ESTIMATES.—For the purpose of developing the long-range transportation plan, the State shall consult with the metropolitan planning organization and each public transit agency in developing estimates of funds that are reasonably expected to be available to support plan implementation.

"(2) LONG-RANGE TRANSPORTATION PLAN.—A long-range transportation plan under this subsection shall, at a minimum, contain—

"(A) an identification of transportation facilities (including major roadways and transit, multimodal, and intermodal facilities) that should function as a future integrated transportation system, giving emphasis to those facilities that serve important national, regional, and metropolitan transportation functions;

"(B) an identification of transportation strategies necessary to—

"(i) ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

"(ii) make the most efficient use of existing transportation facilities to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area; and

"(C) a financial plan that demonstrates how the long-range transportation plan can be implemented, indicates total resources from public and private sources that are reasonably expected to be available to carry out the plan (without any requirement for indicating project-specific funding sources), and recommends any additional financing strategies for needed projects and programs.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before adopting a long-range transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan.

"(5) PUBLICATION OF LONG-RANGE TRANSPORTATION PLAN.—Each long-range transportation plan prepared by a metropolitan planning organization shall be—

"(A) published or otherwise made readily available for public review; and

"(B) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

"(B) OPPORTUNITY FOR COMMENT.—In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(C) FUNDING ESTIMATES.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.—The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) CONTENTS.—The transportation improvement program shall include—

"(A) a list, in order of priority, of proposed federally supported projects and strategies to be carried out within each 3-year-period after the initial adoption of the transportation improvement program; and

"(B) a financial plan that—

"(i) demonstrates how the transportation improvement program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program (without any requirement for indicating project-specific funding sources); and

"(iii) identifies innovative financing techniques to finance projects, programs, and strategies (without any requirement for indicating project-specific funding sources).

"(3) INCLUDED PROJECTS.—

"(A) CHAPTER 1 AND CHAPTER 53 PROJECTS.—A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of this title shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of this title that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall, in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(5) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

"(i) by—

"(I) in the case of projects under chapter 1, the State; and

"(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

"(ii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project of higher priority in the program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—

"(A) REQUIRED DESIGNATIONS.—The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and any affected public transit operator.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies.

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—In addition to the transportation improvement program development required under subsection (h)(1), all federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a transportation management area on the National Highway System shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF FUNDS.—If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

"(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.—The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated metropolitan transportation plan and program that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, in the case of a transportation management area classified as nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be programmed in the area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project results from an approved congestion management system.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

"(l) LIMITATION.—Nothing in this section confers on a metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not eligible for assistance under this title or chapter 53 of title 49.

"(m) FUNDING.—

"(1) IN GENERAL.—Funds set aside under section 104(f) of this title and section 5303 of title 49 shall be available to carry out this section.

"(2) UNUSED FUNDS.—Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

"134. Metropolitan planning.".

SEC. 1602. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Statewide planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight throughout each State.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

"(3) CONTENTS.—The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal State transportation system and an integral part of the intermodal transportation system of the United States.

"(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) SCOPE OF PLANNING PROCESS.—Each State shall carry out a transportation planning process that shall consider the following:

"(1) Supporting the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(c) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall—

"(1) coordinate the planning with the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

"(2) carry out the responsibilities of the State for the development of the transportation portion of the State air quality implementation plan to the extent required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(d) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum, consider—

"(1) with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

"(e) LONG-RANGE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a long-range transportation plan, with a minimum 20-year forecast period, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the plan shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area, the plan shall be developed in consultation with local elected officials representing units of general purpose local government.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—The State shall develop a transportation improvement program for all areas of the State.

"(B) CONSULTATION WITH GOVERNMENTS.—

"(i) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(ii) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with units of general purpose local government.

"(iii) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(C) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall—

"(i) be consistent with the long-range transportation plan developed under this section for the State;

"(ii) be identical to the project as described in an approved metropolitan transportation improvement program; and

"(iii) be in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—

"(i) IN GENERAL.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(ii) LIMITATION.—Clause (i) does not require the indication of project-specific funding sources.

"(E) PRIORITIES.—The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

"(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out in areas described in subparagraph (A) on the National Highway System shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials.

"(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section and section 134, approved not less frequently than biennially by the Secretary.

"(5) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law,

action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project of higher priority in the program.

"(g) FUNDING.—Funds set aside under section 505 of this title and section 5313(b) of title 49 shall be available to carry out this section.

"(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section or section 134 are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section or section 134 shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 1603. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish an advanced travel forecasting procedures program—

(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as "TRANSIMS"); and

(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under this section to—

(1) provide funding for completion of core development of the advanced transportation model;

(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

(4) allocate funds to not more than 12 entities described in paragraph (3), representing a diversity of populations and geographic regions, for a pilot program to enable transportation management areas designated under section 134(i) of title 23, United States Code, to convert from the use of travel forecasting procedures in use by the areas as of the date of enactment of this Act to the use of the advanced transportation model.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for fiscal year 1998, $3,000,000 for fiscal year 1999, $6,500,000 for fiscal year 2000, $5,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2002, and $2,500,000 for fiscal year 2003.

(2) ALLOCATION OF FUNDS.—

(A) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1) shall be allocated to activities in described in paragraphs (1), (2), and (3) of subsection (b).

(B) FISCAL YEARS 2000 THROUGH 2003.—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of—

(A) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

(B) any activity described in subsection (b)(4) shall not exceed 80 percent.

SEC. 1604. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a comprehensive initiative to investigate and address the relationships between transportation and community and system preservation.

(b) RESEARCH.—

(1) IN GENERAL.—In cooperation with appropriate Federal agencies, State, regional, and local governments, and other entities eligible for assistance under subsection (d), the Secretary shall carry out a comprehensive research program to investigate the relationships between transportation, community preservation, and the environment.

(2) REQUIRED ELEMENTS.—The program shall provide for monitoring and analysis of projects carried out with funds made available to carry out subsections (c) and (d).

(c) PLANNING.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to plan, develop, and implement strategies to integrate transportation and community and system preservation plans and practices.

(2) PURPOSES.—The purposes of the allocations shall be—

(A) to improve the efficiency of the transportation system;

(B) to reduce the impacts of transportation on the environment;

(C) to reduce the need for costly future investments in public infrastructure; and

(D) to provide efficient access to jobs, services, and centers of trade.

(3) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) propose projects for funding that address the purposes described in paragraph (2);

(B) demonstrate a commitment to public involvement, including involvement of nontraditional partners in the project team; and

(C) demonstrate a commitment of non-Federal resources to the proposed projects.

(d) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) have instituted preservation or development plans and programs that—

(i) meet the requirements of title 23 and chapter 53 of title 49, United States Code; and

(ii) are—

(I) coordinated with adopted preservation or development plans; or

(II) intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment;

(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

(i) spending policies that direct funds to high-growth areas;

(ii) urban growth boundaries to guide metropolitan expansion;

(iii) "green corridors" programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

(iv) other similar programs or policies as determined by the Secretary;

(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment; and

(D) propose projects for funding that address the purposes described in subsection (c)(2).

(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

(4) USE OF ALLOCATED FUNDS.—

(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

(i) any project eligible for funding under title 23 or chapter 53 of title 49, United States Code; or

(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

(I) transit-oriented development plans;

(II) traffic calming measures; or

(III) other coordinated transportation and community and system preservation practices.

(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $20,000,000 for each of fiscal years 1998 through 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle G—Technical Corrections

SEC. 1701. FEDERAL-AID SYSTEMS.

(a) IN GENERAL.—Section 103 of title 23, United States Code, is amended to read as follows:

"§ 103. Federal-aid systems

"(a) IN GENERAL.—For the purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) DESCRIPTION.—The National Highway System consists of an interconnected system of major routes and connectors that—

"(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

"(B) meet national defense requirements; and

"(C) serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System consists of the following:

"(A) The Interstate System described in subsection (c).

"(B) Other urban and rural principal arterial routes.

"(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

"(D) A strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be highways on or off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(E) Major strategic highway network connectors consisting of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network. The highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(3) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 178,250 miles.

"(4) MODIFICATIONS TO NHS.—

"(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State or that is proposed by a State and revised by the Secretary if the Secretary determines that the modification—

"(i) meets the criteria established for the National Highway System under this title; and

"(ii) enhances the national transportation characteristics of the National Highway System.

"(B) COOPERATION.—

"(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

"(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

"(c) INTERSTATE SYSTEM.—

"(1) DESCRIPTION.—

"(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico), consists of highways—

"(i) designed—

"(I) in accordance with the standards of section 109(b); or

"(II) in the case of highways in Alaska and Puerto Rico, in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway; and

"(ii) located so as—

"(I) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

"(II) to serve the national defense; and

"(III) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

"(B) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation agencies of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

"(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

"(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

"(4) INTERSTATE SYSTEM DESIGNATIONS.—

"(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

"(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

"(i) IN GENERAL.—If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A), the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

"(ii) WRITTEN AGREEMENT OF STATES.—A designation under clause (i) shall be made only upon the written agreement of the State or States described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by the date that is 12 years after the date of the agreement.

"(iii) REMOVAL OF DESIGNATION.—

"(I) IN GENERAL.—If the State or States described in clause (i) have not substantially completed the construction of a highway designated under this subparagraph within the time provided for in the agreement between the Secretary and the State or States under clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

"(II) EFFECT OF REMOVAL.—Removal of the designation of a highway under subclause (I) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

"(iv) PROHIBITION ON REFERRAL AS INTERSTATE SYSTEM ROUTE.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as the highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a route on the Interstate System.

"(C) FINANCIAL RESPONSIBILITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

"(ii) CERTAIN HIGHWAYS.—Subject to section 119(b)(1)(B), a State may use funds available to the State under paragraphs (1) and (3) of section 104(b) for the resurfacing, restoration, rehabilitation, and reconstruction of a highway—

"(I) designated before March 9, 1984, as a route on the Interstate System under subparagraph (A) or as a future Interstate System route under subparagraph (B); or

"(II) designated under subparagraph (A) and located in Alaska or Puerto Rico.

"(d) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—

"(1) INTERSTATE CONSTRUCTION FUNDS NOT IN SURPLUS.—

"(A) IN GENERAL.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997), if the amount does not exceed the Federal share of the costs of construction of segments of the Interstate System in the State included in the most recent Interstate System cost estimate.

"(B) EFFECT OF TRANSFER.—Upon transfer of an amount under subparagraph (A), the construction on which the amount is based, as included in the most recent Interstate System cost estimate, shall be ineligible for funding under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) or 104(k).

"(2) SURPLUS INTERSTATE CONSTRUCTION FUNDS.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of surplus funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997), if the State has fully financed all work eligible under the most recent Interstate System cost estimate.

"(3) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.

"(e) UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS.—Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date.".

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining "Interstate System" by striking "subsection (e) of section 103 of this title" and inserting "section 103(c)".

(B) Section 104(f)(1) of title 23, United States Code, is amended by striking ", except that" and all that follows through "programs".

(C) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading, by striking "SUBSTITUTE,"; and

(ii) in paragraph (1)(A)(i), by striking "103(e)(4)(H),";

(D) Section 118 of title 23, United States Code (as amended by section 1118(b)), is amended—

(i) by striking subsection (d); and

(ii) by redesignating subsections (e), (f), and (g) (as added by section 1103(d)) as subsections (c), (d), and (e), respectively.

(E) Section 129(b) of title 23, United States Code, is amended in the first sentence by striking "which has been" and all that follows through "and has not" and inserting "which is a public road and has not".

(2)(A) Section 139 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 139.

(C) Section 119(a) of title 23, United States Code, is amended in the first sentence—

(i) by striking "sections 103 and 139(c) of this title" and inserting "section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A)"; and

(ii) by striking "section 139 (a) and (b) of this title" and inserting "subparagraphs (A) and (B) of section 103(c)(4)".

(D) Section 127(f) of title 23, United States Code, is amended by striking "section 139(a)" and inserting "section 103(c)(4)(A)".

(E) Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597) is amended by striking subparagraph (B) and inserting the following:

"(B) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as parts of the Interstate System under this paragraph shall be treated in the same manner as segments designated under section 103(c)(4)(A) of title 23, United States Code.".

SEC. 1702. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) DEFINITIONS AND DECLARATION OF POLICY.—

(1) CREATION OF POLICY SECTION.—Section 102 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 102. Declaration of policy";

(B) by redesignating subsection (a) as subsection (c) and moving that subsection to the end of section 146; and

(C) by redesignating subsection (b) as subsection (f) and moving that subsection to the end of section 118 (as amended by section 1701(b)(1)(D)(ii)).

(2) TRANSFER OF POLICY PROVISIONS.—Section 101 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 101. Definitions";

(B) in subsection (a), by striking "(a)";

(C) by striking subsection (b); and

(D) by redesignating subsections (c) through (e) as subsections (a) through (c), respectively, and moving those subsections to section 102 (as amended by paragraph (1)).

(3) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 101 and 102 and inserting the following:

"101. Definitions.
"102. Declaration of policy.".

(B) Section 47107(j)(1)(B) of title 49, United States Code, is amended by striking "section 101(a)" and inserting "section 101".

(b) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "PROJECTS" and all that follows through "When a State" and inserting "PROJECTS.—When a State";

(B) by striking paragraphs (2) and (3); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately;

(2) by striking subsection (c);

(3) in subsection (d), by striking "section 135(f)" and inserting "section 135"; and

(4) by redesignating subsection (d) as subsection (c).

(c) MAINTENANCE.—Section 116 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in the first sentence, by striking "he" and inserting "the Secretary"; and

(B) in the second sentence, by striking "further projects" and inserting "further expenditure of Federal-aid highway program funds"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) INTERSTATE MAINTENANCE PROGRAM.—Section 119(a) of title 23, United States Code, is amended in the first sentence by striking "the date of enactment of this sentence" and inserting "March 9, 1984".

(e) ADVANCES TO STATES.—Section 124 of title 23, United States Code, is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

(f) DIVERSION.—

(1) IN GENERAL.—Section 126 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126.

(g) RAILWAY-HIGHWAY CROSSINGS.—Section 130(f) of title 23, United States Code, is amended by striking "APPORTIONMENT" and all that follows through the first sentence and inserting "FEDERAL SHARE.—".

(h) SURFACE TRANSPORTATION PROGRAM.—Section 133(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(i) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended by striking subsection (m) and inserting the following:

"(m) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

(j) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

(k) NONDISCRIMINATION.—Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title," and inserting "section 106(a),";

(B) by striking "he" each place it appears and inserting "the Secretary";

(C) in the second sentence, by striking "He" and inserting "The Secretary";

(D) in the third sentence, by striking "In approving programs for projects on any of the Federal-aid systems," and inserting "Before approving any project under section 106(a),"; and

(E) in the last sentence, by striking "him" and inserting "the Secretary";

(2) by striking subsection (b);

(3) in the subsection heading of subsection (d), by striking "AND CONTRACTING"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(l) PRIORITY PRIMARY ROUTES.—

(1) IN GENERAL.—Section 147 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147.

(m) DEVELOPMENT OF A NATIONAL SCENIC AND RECREATIONAL HIGHWAY.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148.

(n) HAZARD ELIMINATION PROGRAM.—Section 152(e) of title 23, United States Code, is amended by striking "apportioned to" in the first sentence and all that follows through "shall be" in the second sentence.

(o) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—

(1) IN GENERAL.—Section 155 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155.

SEC. 1703. NONDISCRIMINATION.

(a) IN GENERAL.—Section 324 of title 23, United States Code, is amended—

(1) by inserting "(d) PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX.—" before "No person"; and

(2) by moving subsection (d) (as designated by paragraph (1)) to the end of section 140 (as amended by section 1702(k)).

(b) CONFORMING AMENDMENTS.—

(1) Section 324 of title 23, United States Code, is repealed.

(2) The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 324.

SEC. 1704. STATE TRANSPORTATION DEPARTMENT.

(a) IN GENERAL.—Section 302 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a)";

(B) by striking the second sentence; and

(C) by adding at the end the following: "Compliance with this section shall have no effect on the eligibility of costs."; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) Title 23, United States Code, is amended—

(A) by striking "State highway department" each place it appears and inserting "State transportation department"; and

(B) by striking "State highway departments" each place it appears and inserting "State transportation departments".

(2) The analysis for chapter 3 of title 23, United States Code, is amended in the item relating to section 302 by striking "highway" and inserting "transportation".

(3) Section 302 of title 23, United States Code, is amended in the section heading by striking "**highway**" and inserting "**transportation**".

(4) Section 410(h)(5) of title 23, United States Code, is amended in the paragraph heading by striking "HIGHWAY" and inserting "TRANSPORTATION".

(5) Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking "State highway department" and inserting "State transportation department".

(6) Section 138(c) of the Surface Transportation Assistance Act of 1978 (40 U.S.C. App. note to section 201 of the Appalachian Regional Development Act of 1965; Public Law 95-599) is amended in the first sentence by striking "State highway department" and inserting "State transportation department".

Subtitle H—Miscellaneous Provisions

SEC. 1801. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) IN GENERAL.—Subject to subsection (b)(2), notwithstanding section 103(c), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each segment of State Route 17 described in subsection (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, access-controlled, and grade-separated shall—

(A) be designated as a future Interstate System route; and

(B) become part of Interstate Route 86 at such time as the Secretary determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) TREATMENT OF ROUTE.—

(1) MILEAGE LIMITATION.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by section 103(c)(2) of title 23, United States Code.

(2) FEDERAL FINANCIAL RESPONSIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, to eliminate substandard features of, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

SEC. 2001. STRATEGIC RESEARCH PLAN.

Subtitle III of title 49, United States Code, is amended—

(1) in the table of chapters, by inserting after the item relating to chapter 51 the following:

"52. RESEARCH AND DEVELOPMENT ... 5201";

and

(2) by inserting after chapter 51 the following:

"CHAPTER 52—RESEARCH AND DEVELOPMENT

"Sec.

"5201. Definitions.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"5211. Transactional authority.

"SUBCHAPTER II—STRATEGIC PLANNING

"5221. Strategic planning.

"5222. Authorization of contract authority.

"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

"5231. Multimodal Transportation Research and Development Program.

"5232. Authorization of contract authority.

"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

"5241. National university transportation centers.

"§ 5201. Definitions

"In this chapter:

"(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"§ 5211. Transactional authority

"To further the objectives of this chapter, the Secretary may make grants to, and enter into contracts, cooperative agreements, and other transactions with—

"(1) any person or any agency or instrumentality of the United States;

"(2) any unit of State or local government;

"(3) any educational institution; and

"(4) any other entity.

"SUBCHAPTER II—STRATEGIC PLANNING

"§ 5221. Strategic planning

"(a) AUTHORITY.—The Secretary shall establish a strategic planning process to—

"(1) determine national transportation research, development, and technology deployment priorities, strategies, and milestones over the next 5 years;

"(2) coordinate Federal transportation research, development, and technology deployment activities; and

"(3) measure the impact of the research, development, and technology investments described in paragraph (2) on the performance of the transportation system of the United States.

"(b) CRITERIA.—In developing strategic plans for intermodal, multimodal, and mode-specific research, development, and technology deployment, the Secretary shall consider the need to—

"(1) coordinate and integrate Federal, regional, State, and metropolitan planning research, development, and technology activities in urban and rural areas;

"(2) promote standards that facilitate a seamless and interoperable transportation system;

"(3) encourage innovation;

"(4) identify and facilitate initiatives and partnerships to deploy technology with the potential for improving transportation systems during the next 5-year and 10-year periods;

"(5) identify core research to support the long-term transportation technology and system needs of urban and rural areas of the United States, including safety;

"(6) ensure the ability of the United States to compete on a global basis; and

"(7) provide a means of assessing the impact of Federal research and technology investments on the performance of the transportation system of the United States.

"(c) IMPLEMENTATION.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary shall adopt such policies and procedures as are appropriate—

"(A) to provide for integrated planning, coordination, and consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research, development, and technology transfer important to national transportation needs;

"(B) to promote the exchange of information on transportation-related research and development activities among the operating elements of the Department, other Federal departments and agencies, State and local governments, colleges and universities, industry, and other private and public sector organizations engaged in the activities;

"(C) to ensure that the research and development programs of the Department do not duplicate other Federal and, to the maximum extent practicable, private sector research and development programs; and

"(D) to ensure that the research and development activities of the Department—

"(i) make appropriate use of the talents, skills, and abilities at the Federal laboratories; and

"(ii) leverage, to the maximum extent practicable, the research, development, and technology transfer capabilities of institutions of higher education and private industry.

"(2) CONSULTATION.—The procedures and policies adopted under paragraph (1) shall include consultation with State officials and members of the private sector.

"(d) REPORTS.—

"(1) IN GENERAL.—Concurrent with the submission to Congress of the budget of the President for each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the strategic plans, goals, and milestones developed under subsections (a) and (b) to help guide research, development, and technology transfer activities during the 5-year period beginning on the date of the report.

"(2) COMPARISON TO PREVIOUS REPORT.—The report shall include a delineation of the progress made with respect to each of the plans, goals, and milestones specified in the previous report.

"(3) PROHIBITION ON OBLIGATION FOR FAILURE TO SUBMIT REPORT.—Beginning on the date of the submission to Congress of the budget of the President for fiscal year 2000, and on the date of the submission for each fiscal year thereafter, none of the funds made available under this chapter or chapter 5 of title 23 may be obligated until the report required under paragraph (1) for that fiscal year is submitted.

"§ 5222. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $1,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.

"(c) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under subsection (a) exceed the amounts used to carry out section 5221 for the fiscal year, the excess amounts—

"(1) shall be apportioned in accordance with section 104(b)(3) of title 23;

"(2) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d) of that title; and

"(3) shall be available for any purpose eligible for funding under section 133 of that title.".

SEC. 2002. MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM.

Chapter 52 of title 49, United States Code (as added by section 2001), is amended by adding at the end the following:

"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

"§ 5231. Multimodal Transportation Research and Development Program

"(a) ESTABLISHMENT.—The Secretary shall establish a program to be known as the 'Multimodal Transportation Research and Development Program'.

"(b) PURPOSES.—The purposes of the Multimodal Transportation Research and Development Program are to—

"(1) enhance the capabilities of Federal agencies to meet national transportation needs, as defined by the missions of the agencies, through support for long-term and applied research and development that would benefit the various modes of transportation, including research and development in safety, security, mobility, energy and the environment, information and physical infrastructure, and industrial design;

"(2) identify and apply innovative research performed by the Federal Government, academia, and the private sector to the intermodal and multimodal transportation research, development, and deployment needs of the Department and the transportation enterprise of the United States;

"(3) identify and leverage research, technologies, and other information developed by the Federal Government for national defense and nondefense purposes for the benefit of the public, commercial, and defense transportation sectors; and

"(4) share information and analytical and research capabilities among the Federal Government, State and local governments, colleges and universities, and private organizations to advance their ability to meet their transportation research, development, and deployment needs.

"(c) PROCESS FOR CONSULTATION.—To advise the Secretary in establishing priorities within the Program, the Secretary shall establish a process for consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research.

"§ 5232. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $2,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2003. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Chapter 52 of title 49, United States Code (as amended by section 2002), is amended by adding at the end the following:

"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

"§ 5241. National university transportation centers

"(a) IN GENERAL.—The Secretary shall make grants to, or enter into contracts with, the nonprofit institutions of higher learning selected under section 5317 (as in effect on the day before the date of enactment of this section)—

"(1) to operate 1 university transportation center in each of the 10 Federal administrative regions that comprise the Standard Federal Regional Boundary System; and

"(2) to continue operation of university transportation centers at the Mack-Blackwell National Rural Transportation Study Center, the National Center for Transportation and Industrial Productivity, the Institute for Surface Transportation Policy Studies, the Urban Transit Institute at the University of South Florida, the National Center for Advanced Transportation Technology, and the University of Alabama Transportation Research Center.

"(b) ADDITIONAL CENTERS.—

"(1) IN GENERAL.—The Secretary may make grants to nonprofit institutions of higher learning to establish and operate not more than 4 additional university transportation centers to address—

"(A) transportation management, research, and development, with special attention to increasing the number of highly skilled minority individuals and women entering the transportation workforce;

"(B) transportation and industrial productivity;

"(C) rural transportation;

"(D) advanced transportation technology;

"(E) international transportation policy studies;

"(F) transportation infrastructure technology;

"(G) urban transportation research;

"(H) transportation and the environment;

"(I) surface transportation safety; or

"(J) infrastructure finance studies.

"(2) SELECTION CRITERIA.—

"(A) APPLICATION.—A nonprofit institution of higher learning that desires to receive a grant under paragraph (1) shall submit an application to the Secretary in such manner and containing such information as the Secretary may require.

"(B) SELECTION OF RECIPIENTS.—The Secretary shall select each grant recipient under paragraph (1) on the basis of—

"(i) the demonstrated research and extension resources available to the recipient to carry out this section;

"(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-term transportation problems;

"(iii) the establishment by the recipient of a surface transportation program that encompasses several modes of transportation;

"(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program;

"(v) the strategic plan that the recipient proposes to carry out using the grant funds; and

"(vi) the extent to which private funds have been committed to a university and public-private partnerships established to fulfill the objectives specified in paragraph (1).

"(c) OBJECTIVES.—Each university transportation center shall use grant funds under subsection (a) or (b) to carry out—

"(1) multimodal basic and applied research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation;

"(2) an education program that includes multidisciplinary course work and participation in research; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be readily implemented, used, or otherwise applied.

"(d) MAINTENANCE OF EFFORT.—Before making a grant under subsection (a) or (b), the Secretary shall require the grant recipient to enter into an agreement with the Secretary to ensure that the recipient will maintain, during the period of the grant, a level of total expenditures from all other sources for establishing and operating a university transportation center and carrying out related research activities that is at least equal to the average level of those expenditures in the 2 fiscal years of the recipient prior to the award of a grant under subsection (a) or (b).

"(e) ADDITIONAL GRANTS AND CONTRACTS.—

"(1) GRANTS OR CONTRACTS.—In addition to grants under subsection (a) or (b), the Secretary may make grants to, or enter into contracts with, university transportation centers without the need for a competitive process.

"(2) USE OF GRANTS OR CONTRACTS.—A noncompetitive grant or contract under paragraph (1) shall be used for transportation research, development, education, or training consistent with the strategic plan approved as part of the selection process for the center.

"(f) FEDERAL SHARE.—The Federal share of the cost of establishing and operating a university transportation center and carrying out related research activities under this section shall be not more than 50 percent.

"(g) PROGRAM COORDINATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) coordinate research, education, training, and technology transfer activities carried out by grant recipients under this section;

"(B) disseminate the results of the research; and

"(C) establish and operate a clearinghouse for disseminating the results of the research.

"(2) REVIEW AND EVALUATION.—

"(A) IN GENERAL.—Not less often than annually, the Secretary shall review and evaluate programs carried out by grant recipients under this section.

"(B) NOTIFICATION OF DEFICIENCIES.—In carrying out subparagraph (A), if the Secretary determines that a university transportation center is deficient in meeting the objectives of this section, the Secretary shall notify the grant recipient operating the center of each deficiency and provide specific recommendations of measures that should be taken to address the deficiency.

"(C) DISQUALIFICATION.—If, after the end of the 180-day period that begins on the date of

notification to a grant recipient under subparagraph (B) with respect to a center, the Secretary determines that the recipient has not corrected each deficiency identified under subparagraph (B), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination—

"(i) disqualify the university transportation center from further participation under this section; and

"(ii) make a grant for the establishment of a new university transportation center, in lieu of the disqualified center, under subsection (a) or (b), as applicable.

"(3) FUNDING.—The Secretary may use not more than 1 percent of Federal funds made available under this section to carry out this subsection.

"(h) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.

"(3) TECHNOLOGY TRANSFER ACTIVITIES.—For each fiscal year, not less than 5 percent of the amounts made available to carry out this section shall be available to carry out technology transfer activities.

"(i) LIMITATION ON AVAILABILITY OF FUNDS.—Funds authorized under this section shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 5316 and 5317 of title 49, United States Code, are repealed.

(2) The analysis for chapter 53 of title 49, United States Code, is amended by striking the items relating to sections 5316 and 5317.

SEC. 2004. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Section 111 of title 49, United States Code, is amended—

(1) in subsection (b)(4), by striking the second sentence;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (J), by striking "and" at the end;

(ii) in subparagraph (K), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(L) transportation-related variables that influence global competitiveness.";

(B) in paragraph (2)—

(i) in the first sentence, by striking "national transportation system" and inserting "transportation systems of the United States";

(ii) by striking subparagraph (A) and inserting the following:

"(A) be coordinated with efforts to measure outputs and outcomes of the Department of Transportation and the transportation systems of the United States under the Government Performance and Results Act of 1993 (Public Law 103-62) and the amendments made by that Act;"; and

(iii) in subparagraph (C), by inserting ", made relevant to the States and metropolitan planning organizations," after "accuracy";

(C) in paragraph (3), by adding at the end the following: "The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103-62), and the amendments made by that Act, and shall carry out such other reviews of the sources and reliability of other data collected by the heads of the operating administrations of the Department as shall be requested by the Secretary."; and

(D) by adding at the end the following:

"(7) SUPPORTING TRANSPORTATION DECISIONMAKING.—Ensuring that the statistics compiled under paragraph (1) are relevant for transportation decisionmaking by the Federal Government, State and local governments, transportation-related associations, private businesses, and consumers.";

(3) by redesignating subsections (d), (e), and (f) as subsections (h), (i), and (j), respectively;

(4) by striking subsection (g);

(5) by inserting after subsection (c) the following:

"(d) TRANSPORTATION DATA BASE.—

"(1) IN GENERAL.—In consultation with the Associate Deputy Secretary, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

"(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

"(3) CONTENTS.—The data base shall include—

"(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;

"(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

"(C) information on the location and connectivity of transportation facilities and services; and

"(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

"(e) NATIONAL TRANSPORTATION LIBRARY.—

"(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

"(2) ACCESS.—The Bureau shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Bureau to make statistics readily accessible under subsection (c)(5).

"(3) COORDINATION.—The Bureau shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

"(f) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

"(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

"(A) transportation networks;

"(B) flows of people, goods, vehicles, and craft over the networks; and

"(C) social, economic, and environmental conditions that affect or are affected by the networks.

"(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

"(g) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State departments of transportation, metropolitan planning organizations, and institutions of higher education) for—

"(1) investigation of the subjects specified in subsection (c)(1) and research and development of new methods of data collection, management, integration, dissemination, interpretation, and analysis;

"(2) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (e); and

"(3) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (f) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.";

(6) by striking subsection (i) (as redesignated by paragraph (3)) and inserting the following:

"(i) PROHIBITION ON CERTAIN DISCLOSURES.—

"(1) IN GENERAL.—An officer or employee of the Bureau may not—

"(A) make any disclosure in which the data provided by an individual or organization under subsection (c)(2) can be identified;

"(B) use the information provided under subsection (c)(2) for a nonstatistical purpose; or

"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c)(2).

"(2) PROHIBITION ON REQUESTS FOR CERTAIN DATA.—

"(A) GOVERNMENT AGENCIES.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c)(2) with the Bureau or retained by an individual respondent.

"(B) COURTS.—Any copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) APPLICABILITY.—This paragraph shall apply only to information that permits information concerning an individual or organization to be reasonably inferred by direct or indirect means.

"(3) DATA COLLECTED FOR NONSTATISTICAL PURPOSES.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and

on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.";

(7) in subsection (j) (as redesignated by paragraph (3)), by striking "On or before January 1, 1994, and annually thereafter, the" and inserting "The"; and

(8) by adding at the end the following:

"(k) STUDY.—

"(1) IN GENERAL.—The Director shall carry out a study—

"(A) to measure the ton-miles and value-miles of international trade traffic carried by highway for each State;

"(B) to evaluate the accuracy and reliability of such measures for use in the formula for highway apportionments;

"(C) to evaluate the accuracy and reliability of the use of diesel fuel data as a measure of international trade traffic by State; and

"(D) to identify needed improvements in long-term data collection programs to provide accurate and reliable measures of international traffic for use in the formula for highway apportionments.

"(2) BASIS FOR EVALUATIONS.—The study shall evaluate the accuracy and reliability of measures for use as formula factors based on statistical quality standards developed by the Bureau in consultation with the Committee on National Statistics of the National Academy of Sciences.

"(3) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study carried out under paragraph (1), including recommendations for changes in law necessary to implement the identified needs for improvements in long-term data collection programs.

"(l) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

"(m) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $26,000,000 for fiscal year 1998, $27,000,000 for fiscal year 1999, $28,000,000 for fiscal year 2000, $29,000,000 for fiscal year 2001, $30,000,000 for fiscal year 2002, and $31,000,000 for fiscal year 2003, except that not more than $500,000 for each fiscal year may be made available to carry out subsection (g).

"(2) AVAILABILITY.—Funds authorized under this subsection shall remain available for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23.".

(b) CONFORMING AMENDMENTS.—Section 5503 of title 49, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

SEC. 2005. RESEARCH AND TECHNOLOGY PROGRAM.

Title 23, United States Code, is amended—

(1) in the table of chapters, by adding at the end the following:

"5. Research and Technology ..... 501"; and

(2) by adding at the end the following:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"SUBCHAPTER I—RESEARCH AND TRAINING

"Sec.
"501. Definition of safety.
"502. Research and technology program.
"503. Advanced research program.
"504. Long-term pavement performance program.
"505. State planning and research program.
"506. Education and training.
"507. International highway transportation outreach program.
"508. National technology deployment initiatives and partnerships program.
"509. Infrastructure investment needs report.
"510. Innovative bridge research and construction program.
"511. Study of future strategic highway research program.
"512. Transportation and environment cooperative research program.

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"521. Purposes.
"522. Definitions.
"523. Cooperation, consultation, and analysis.
"524. Research, development, and training.
"525. Intelligent transportation system integration program.
"526. Integration program for rural areas.
"527. Commercial vehicle intelligent transportation system infrastructure.
"528. Corridor development and coordination.
"529. Standards.
"530. Funding limitations.
"531. Use of innovative financing.
"532. Advisory committees.

"SUBCHAPTER III—FUNDING

"541. Funding.

"SUBCHAPTER I—RESEARCH AND TRAINING

"§ 501. Definition of safety

"In this chapter, the term 'safety' includes highway and traffic safety systems, research and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

"§ 502. Research and technology program

"(a) GENERAL AUTHORITY AND COLLABORATIVE AGREEMENTS.—

"(1) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary—

"(i) shall carry out research, development, and technology transfer activities with respect to—

"(I) motor carrier transportation;

"(II) all phases of transportation planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

"(III) the effect of State laws on the activities described in subclauses (I) and (II); and

"(ii) may test, develop, or assist in testing and developing any material, invention, patented article, or process.

"(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

"(i) independently;

"(ii) in cooperation with other Federal departments, agencies, and instrumentalities; or

"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

"(C) TECHNICAL INNOVATION.—The Secretary shall develop and carry out programs to facilitate the application of such products of research and technical innovations as will improve the safety, efficiency, and effectiveness of the transportation system.

"(D) FUNDS.—

"(i) IN GENERAL.—Except as otherwise specifically provided in other sections of this chapter—

"(I) to carry out this subsection, the Secretary shall use—

"(aa) funds made available under section 541 for research, technology, and training; and

"(bb) such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose; and

"(II) the funds described in item (aa) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF FUNDS.—The Secretary shall use funds described in clause (i) to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State.

"(B) AGREEMENTS.—In carrying out this paragraph, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(C) FEDERAL SHARE.—

"(i) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(ii) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in clause (i).

"(D) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this paragraph, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(3) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

"(b) MANDATORY ELEMENTS OF PROGRAM.—The Secretary shall include in the surface transportation research, development, and technology transfer programs under this subsection and as specified elsewhere in this title—

"(1) a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation systems of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the system; and

"(2) a program to strengthen and expand surface transportation infrastructure research, development, and technology transfer, which shall include, at a minimum—

"(A) methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion;

"(B) a research and development program directed toward the reduction of costs, and the mitigation of impacts, associated with the construction of highways and mass transit systems;

"(C) a surface transportation research program to develop nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials;

"(D)(i) information technology, including appropriate computer programs to collect and analyze data on the status of infrastructure facilities described in subparagraph (C) with respect to enhancing management, growth, and capacity; and

"(ii) dynamic simulation models of surface transportation systems for—

"(I) predicting capacity, safety, and infrastructure durability problems;

"(II) evaluating planned research projects; and

"(III) testing the strengths and weaknesses of proposed revisions to surface transportation operation programs;

"(E) new innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of structures;

"(F) initiatives to improve the ability of the United States to respond to emergencies and natural disasters and to enhance national defense mobility; and

"(G) an evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety.

"(c) REPORT ON GOALS, MILESTONES, AND ACCOMPLISHMENTS.—The goals, milestones, and accomplishments relevant to each of the mandatory program elements described in subsection (b) shall be specified in the report required under section 5221(d) of title 49.".

SEC. 2006. ADVANCED RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"§ 503. Advanced research program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish an advanced research program within the Federal Highway Administration to address longer-term, higher-risk research that shows potential benefits for improving the durability, mobility, efficiency, environmental impact, productivity, and safety of transportation systems.

"(2) DEVELOPMENT OF PARTNERSHIPS.—In carrying out the program, the Secretary shall attempt to develop partnerships with the public and private sectors.

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts for advanced research.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $9,000,000 for fiscal year 2000, and $10,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary.".

SEC. 2007. LONG-TERM PAVEMENT PERFORMANCE PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2006), is amended by adding at the end the following:

"§ 504. Long-term pavement performance program

"(a) AUTHORITY.—The Secretary shall complete the long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) through the midpoint of a planned 20-year life of the long-term pavement performance program (referred to in this section as the 'program').

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(1) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(2) analyze the data obtained in carrying out paragraph (1); and

"(3) prepare products to fulfill program objectives and meet future pavement technology needs.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity funded under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2008. STATE PLANNING AND RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2007), is amended by adding at the end the following:

"§ 505. State planning and research program

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—Two percent of the sums apportioned for fiscal year 1998 and each fiscal year thereafter to any State under section 104 (except section 104(f)) and any transfers or additions to the surface transportation program under section 133 shall be available for expenditure by the State transportation department, in consultation with the Secretary, in accordance with this section.

"(2) USE OF FUNDS.—The sums referred to in paragraph (1) shall be available only for—

"(A) intermodal metropolitan, statewide, and nonmetropolitan planning under sections 134 and 135;

"(B) development and implementation of management systems referred to in section 303;

"(C) studies, research, development, and technology transfer activities necessary for the planning, design, construction, management, operation, maintenance, regulation, and taxation of the use of surface transportation systems, including training and accreditation of inspection and testing on engineering standards and construction materials for the systems; and

"(D) studies of the economy, safety, and convenience of surface transportation usage and the desirable regulation and equitable taxation of surface transportation usage.

"(b) MINIMUM EXPENDITURES ON STUDIES, RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—For each fiscal year, not less than 25 percent of the funds of a State that are subject to subsection (a) shall be expended by the State transportation department for studies, research, development, and technology transfer activities described in subparagraphs (C) and (D) of subsection (a)(2) unless the State certifies to the Secretary for the fiscal year that the total expenditures by the State transportation department for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of the funds and the Secretary accepts the certification.

"(2) EXEMPTION FROM SMALL BUSINESS ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

"(c) FEDERAL SHARE.—The Federal share of the cost of a project financed with funds referred to in subsection (a) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(d) ADMINISTRATION OF FUNDS.—Funds referred to in subsection (a) shall be combined and administered by the Secretary as a single fund, which shall be available for obligation for the same period as funds apportioned under section 104(b)(1).".

SEC. 2009. EDUCATION AND TRAINING.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2008), is amended by adding at the end the following:

"§ 506. Education and training

"(a) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a transportation assistance program that will provide access to modern highway technology to—

"(A) highway and transportation agencies in urbanized areas with populations of between 50,000 and 1,000,000 individuals;

"(B) highway and transportation agencies in rural areas; and

"(C) contractors that do work for the agencies.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services that will—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

"(i) develop and expand their expertise in road and transportation areas (including pavement, bridge, safety management systems, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems;

"(C) operate, in cooperation with State transportation departments and universities—

"(i) local technical assistance program centers to provide transportation technology transfer services to rural areas and to urbanized areas with populations of between 50,000 and 1,000,000 individuals; and

"(ii) local technical assistance program centers designated to provide transportation technical assistance to Indian tribal governments; and

"(D) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $7,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $7,000,000 for fiscal year 2000, $8,000,000 for fiscal year 2001, $8,000,000 for fiscal year 2002, and $8,000,000 for fiscal year 2003 to be used to develop and administer the program established under this section and to provide technical and financial support for the centers operated under paragraph (2)(C).

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(b) NATIONAL HIGHWAY INSTITUTE.—

"(1) ESTABLISHMENT; DUTIES; PROGRAMS.—

"(A) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (referred to in this subsection as the 'Institute').

"(B) DUTIES.—

"(i) INSTITUTE.—In cooperation with State transportation departments, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

"(I) Federal Highway Administration, State, and local transportation agency employees;

"(II) regional, State, and metropolitan planning organizations;

"(III) State and local police, public safety, and motor vehicle employees; and

"(IV) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(ii) SECRETARY.—The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(C) TYPES OF PROGRAMS.—Programs that the Institute may develop and administer may include courses in modern developments, techniques, methods, regulations, management, and procedures relating to—

"(i) surface transportation;

"(ii) environmental factors;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance;

"(v) engineering;

"(vi) safety;

"(vii) construction;

"(viii) maintenance;

"(ix) operations;

"(x) contract administration;

"(xi) motor carrier activities;

"(xii) inspection; and

"(xiii) highway finance.

"(2) SET ASIDE; FEDERAL SHARE.—Not to exceed ¼ of 1 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding travel, subsistence, or salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(3) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

"(4) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

"(5) COLLECTION OF FEES.—

"(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

"(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(6) FUNDING.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for fiscal year 1998, $5,000,000 for fiscal year 1999, $5,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $6,000,000 for fiscal year 2002, and $6,000,000 for fiscal year 2003.

"(B) RELATION TO FEES.—The funds provided under this paragraph may be combined with or held separate from the fees collected under paragraph (5).

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(7) CONTRACTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this subsection.

"(c) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for fellowships for any purpose for which research, technology, or capacity building is authorized under this chapter.

"(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(A) IN GENERAL.—The Secretary shall carry out a transportation fellowship program, to be known as the 'Dwight David Eisenhower Transportation Fellowship Program', for the purpose of attracting qualified students to the field of transportation.

"(B) TYPES OF FELLOWSHIPS.—The program shall offer fellowships at the junior through postdoctoral levels of college education.

"(C) CITIZENSHIP.—Each recipient of a fellowship under the program shall be a United States citizen.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $2,000,000 for each of fiscal years 1998 through 2003.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(d) HIGHWAY CONSTRUCTION TRAINING PROGRAMS.—

"(1) USE OF FUNDS BY THE SECRETARY.—

"(A) IN GENERAL.—The Secretary, in cooperation with any other department or agency of the Federal Government, State agency, authority, association, institution, Indian tribal government, for-profit or nonprofit corporation, or other organization or person, may—

"(i) develop, conduct, and administer highway construction and technology training, including skill improvement, programs; and

"(ii) develop and fund Summer Transportation Institutes.

"(B) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into by the Secretary under this subsection.

"(C) FUNDING.—

"(i) IN GENERAL.—Before making apportionments under section 104(b) for a fiscal year, the Secretary shall deduct such sums as the Secretary determines are necessary, but not to exceed $10,000,000 for each fiscal year, to carry out this subsection.

"(ii) AVAILABILITY.—Sums deducted under clause (i) shall remain available until expended.

"(2) USE OF FUNDS APPORTIONED TO STATES.—Notwithstanding any other provision of law, upon request of a State transportation department to the Secretary, not to exceed ½ of 1 percent of the funds apportioned to the State for a fiscal year under paragraphs (1) and (3) of section 104(b) may be made available to carry out this subsection.

"(3) RESERVATION OF TRAINING POSITIONS FOR INDIVIDUALS RECEIVING WELFARE ASSISTANCE.—In carrying out this subsection, the Secretary and States may reserve training positions for individuals who receive welfare assistance from a State.".

SEC. 2010. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

(a) IN GENERAL.—Title 23, United States Code, is amended—

(1) by redesignating section 325 as section 507;

(2) by moving that section to appear at the end of subchapter I of chapter 5 (as amended by section 2009);

(3) in subsection (a) of that section, by inserting ", goods, and services" after "expertise"; and

(4) by striking subsection (c) of that section and inserting the following:

"(c) USE OF FUNDS.—

"(1) FUNDS DEPOSITED IN SPECIAL ACCOUNT.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person in a special account for the program established under this section with the Secretary of the Treasury.

"(2) USE OF FUNDS.—The funds deposited in the special account and other funds available to carry out this section shall be available to pay the cost of any activity eligible under this section, including the cost of promotional materials, travel, reception and representation expenses, and salaries and benefits of officers and employees of the Department of Transportation.

"(3) REIMBURSEMENTS.—Reimbursements for the salaries and benefits of Federal Highway Administration employees who provide services under this section shall be credited to the special account.

"(d) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out section 505 for any activity authorized under subsection (a).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 325.

SEC. 2011. NATIONAL TECHNOLOGY DEPLOYMENT INITIATIVES AND PARTNERSHIPS PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2010), is amended by adding at the end the following:

"§ 508. National technology deployment initiatives and partnerships program

"(a) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment initiatives and partnerships program (referred to in this section as the 'program').

"(b) PURPOSE.—The purpose of the program is to significantly accelerate the adoption of innovative technologies by the surface transportation community.

"(c) DEPLOYMENT GOALS.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish not more than 5 deployment goals to carry out subsection (a).

"(2) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, or sustainability.

"(3) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(d) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

"(e) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology, including—

"(1) the testing and evaluation of products of the strategic highway research program;

"(2) the further development and implementation of technology in areas such as the Superpave system and the use of lithium salts to prevent and mitigate alkali silica reactivity; and

"(3) the provision of support for long-term pavement performance product implementation and technology access.

"(f) REPORTS.—Not later than 18 months after the date of enactment of this section, and biennially thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress and results of activities carried out under this section.

"(g) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) ALLOCATION.—To the extent appropriate to achieve the goals established under subsection (c), the Secretary may further allocate funds made available under this subsection to States for their use.".

SEC. 2012. INFRASTRUCTURE INVESTMENT NEEDS REPORT.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2011), is amended by adding at the end the following:

"§ 509. Infrastructure investment needs report

"Not later than January 31, 1999, and January 31 of every second year thereafter, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on estimates of the future highway and bridge needs of the United States.".

SEC. 2013. INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2012), is amended by adding at the end the following:

"§ 510. Innovative bridge research and construction program

"(a) IN GENERAL.—The Secretary shall establish and carry out a program to demonstrate the application of innovative material technology in the construction of bridges and other structures.

"(b) GOALS.—The goals of the program shall include—

"(1) the development of new, cost-effective innovative material highway bridge applications;

"(2) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

"(3) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(4) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures; and

"(5) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges.

"(c) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(A) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials; and

"(B) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrates the application of innovative materials.

"(2) GRANTS.—

"(A) APPLICATIONS.—

"(i) SUBMISSION.—To receive a grant under this section, an entity described in paragraph (1) shall submit an application to the Secretary.

"(ii) CONTENTS.—The application shall be in such form and contain such information as the Secretary may require.

"(B) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this section based on whether the project that is the subject of the grant meets the goals of the program described in subsection (b).

"(d) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (c) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account)—

"(A) to carry out subsection (c)(1)(A) $1,000,000 for each of fiscal years 1998 through 2003; and

"(B) to carry out subsection (c)(1)(B)—

"(i) $10,000,000 for fiscal year 1998;

"(ii) $15,000,000 for fiscal year 1999;

"(iii) $17,000,000 for fiscal year 2000; and

"(iv) $20,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

SEC. 2014. USE OF BUREAU OF INDIAN AFFAIRS ADMINISTRATIVE FUNDS.

Section 204(b) of title 23, United States Code, is amended in the last sentence by striking "326" and inserting "506".

SEC. 2015. STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2013), is amended by adding at the end the following:

"§ 511. Study of future strategic highway research program

"(a) STUDY.—

"(1) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, the Transportation Research Board of the National Academy of Sciences (referred to in this section as the 'Board') to conduct a study to determine the goals, purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under section 307(d) (as in effect on the day before the date of enactment of this section), or a similar effort.

"(2) CONSULTATION.—In conducting the study, the Board shall consult with the American Association of State Highway and Transportation Officials and such other entities as the Board determines to be necessary to the conduct of the study.

"(b) REPORT.—Not later than 2 years after making a grant or entering into a cooperative agreement or contract under subsection (a), the Board shall submit a final report on the results of the study to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.".

SEC. 2016. JOINT PARTNERSHIPS FOR ADVANCED VEHICLES, COMPONENTS, AND INFRASTRUCTURE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"§ 310. Joint partnerships for advanced vehicles, components, and infrastructure program

"(a) PURPOSES.—The Secretary of Transportation, in coordination with other government agencies and private consortia, shall encourage and promote the research, development, and deployment of transportation technologies that will use technological advances in multimodal vehicles, vehicle components, environmental technologies, and related infrastructure to remove impediments to an efficient and cost-effective national transportation system.

"(b) DEFINITION OF ELIGIBLE CONSORTIUM.—In this section, the term 'eligible consortium' means a consortium that receives funding under the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1876), and that comprises 2 or more of the following entities:

"(1) Businesses incorporated in the United States.

"(2) Public or private educational or research organizations located in the United States.

"(3) Entities of State or local governments in the United States.

"(4) Federal laboratories.

"(c) PROGRAM.—The Secretary shall enter into contracts, cooperative agreements, and other transactions as authorized by section 2371 of title 10 with, and make grants to, eligible consortia to promote the development and deployment of innovation in transportation technology services, management, and operational practices.

"(d) ELIGIBILITY CRITERIA.—To be eligible to receive assistance under this section, an eligible consortium shall—

"(1) for a period of not less than the 3 years preceding the date of a contract, cooperative agreement, or other transaction, be organized on a statewide or multistate basis for the purpose of designing, developing, and deploying transportation technologies that address identified technological impediments in the transportation field;

"(2) facilitate the participation in the consortium of small- and medium-sized businesses, utilities, public laboratories and universities, and other relevant entities;

"(3) be actively engaged in transportation technology projects that address compliance in nonattainment areas under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(4) be designed to use Federal and State funding to attract private capital in the form of grants or investments to carry out this section; and

"(5) ensure that at least 50 percent of the funding for the consortium project will be provided by non-Federal sources.

"(e) PROPOSALS.—The Secretary shall prescribe such terms and conditions as the Secretary determines to be appropriate for the content and structure of proposals submitted for assistance under this section.

"(f) REPORTING REQUIREMENTS.—At least once each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects undertaken by the eligible consortia and the progress made in advancing the purposes of this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1998 through 2003, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"310. Joint partnerships for advanced vehicles, components, and infrastructure program.".

SEC. 2017. TRANSPORTATION AND ENVIRONMENT COOPERATIVE RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2015), is amended by adding at the end the following:

"§ 512. Transportation and environment cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a transportation and environment cooperative research program.

"(b) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—In consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, the Secretary shall establish an advisory board to recommend environmental and energy conservation research, technology, and technology transfer activities related to surface transportation.

"(2) MEMBERSHIP.—The advisory board shall include—

"(A) representatives of State transportation and environmental agencies;

"(B) transportation and environmental scientists and engineers; and

"(C) representatives of metropolitan planning organizations, transit operating agencies, and environmental organizations.

"(3) DEVELOPMENT OF RESEARCH PRIORITIES.—In developing recommendations for priorities for research described in paragraph (1), the advisory board shall consider the research recommendations of the National Research Council report entitled 'Environmental Research Needs in Transportation'.

"(4) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

"(c) NATIONAL ACADEMY OF SCIENCES.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities related

to the research, technology, and technology transfer activities described in subsection (b)(1) as the Secretary determines to be appropriate.

"(2) ECOSYSTEM INTEGRITY STUDY.—

"(A) IN GENERAL.—The Secretary shall give priority to conducting a study of, and preparing a report on, the relationship between highway density and ecosystem integrity, including an analysis of the habitat-level impacts of highway density on the overall health of ecosystems.

"(B) PROPOSAL OF RAPID ASSESSMENT METHODOLOGY.—To aid transportation and regulatory agencies, the report shall propose a rapid assessment methodology for determining the relationship between highway density and ecosystem integrity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1998 through 2003.".

SEC. 2018. CONFORMING AMENDMENTS.

(a) Sections 307, 321, and 326 of title 23, United States Code, are repealed.

(b) The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 307, 321, and 326.

(c) Section 115(a)(1)(A)(i) of title 23, United States Code, is amended by striking "or 307" and inserting "or 505".

(d) Section 151(d) of title 23, United States Code, is amended by striking "section 307(a)," and inserting "section 506,".

(e) Section 106 of Public Law 89–564 (23 U.S.C. 403 note) is amended in the third sentence by striking "sections 307 and 403 of title 23, United States Code," and inserting "section 403 and chapter 5 of title 23, United States Code,".

Subtitle B—Intelligent Transportation Systems

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Intelligent Transportation Systems Act of 1997".

SEC. 2102. FINDINGS.

Congress finds that—

(1) numerous studies conducted on behalf of the Department of Transportation document that investment in intelligent transportation systems offers substantial benefits in relationship to costs;

(2) as a result of the investment authorized by the Intelligent Transportation Systems Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2189), progress has been made on each of the goals set forth for the national intelligent transportation system program in section 6052(b) of that Act; and

(3) continued investment by the Department of Transportation is needed to complete implementation of those goals.

SEC. 2103. INTELLIGENT TRANSPORTATION SYSTEMS.

Chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"§ 521. Purposes

"The purposes of this subchapter are—

"(1) to expedite deployment and integration of basic intelligent transportation system services for consumers of passenger and freight transportation across the United States;

"(2) to encourage the use of intelligent transportation systems to enhance international trade and domestic economic productivity;

"(3) to encourage the use of intelligent transportation systems to promote the achievement of national environmental goals;

"(4) to continue research, development, testing, and evaluation activities to continually expand the state-of-the-art in intelligent transportation systems;

"(5) to provide financial and technical assistance to State and local governments and metropolitan planning organizations to ensure the integration of interoperable, intermodal, and cost-effective intelligent transportation systems;

"(6) to foster regional cooperation, standards implementation, and operations planning to maximize the benefits of integrated and coordinated intelligent transportation systems;

"(7) to promote the consideration of intelligent transportation systems in mainstream transportation planning and investment decisionmaking by ensuring that Federal and State transportation officials have adequate, working knowledge of intelligent transportation system technologies and applications and by ensuring comprehensive funding eligibility for the technologies and applications;

"(8) to encourage intelligent transportation system training for, and technology transfer to, State and local agencies;

"(9) to promote the deployment of intelligent transportation system services in rural America so as to achieve safety benefits, promote tourism, and improve quality of life;

"(10) to promote the innovative use of private resources, such as through public-private partnerships or other uses of private sector investment, to support the development and integration of intelligent transportation systems throughout the United States;

"(11) to complete the Federal investment in the Commercial Vehicle Information Systems and Networks by September 30, 2003;

"(12) to facilitate intermodalism through deployment of intelligent transportation systems, including intelligent transportation system technologies for transit systems to improve safety, efficiency, capacity, and utility for the public;

"(13) to enhance the safe operation of motor vehicles, including motorcycles, and nonmotorized vehicles on the surface transportation systems of the United States, with a particular emphasis on decreasing the number and severity of collisions; and

"(14) to accommodate the needs of all users of the surface transportation systems of the United States, including the operators of commercial vehicles, passenger vehicles, and motorcycles.

"§ 522. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'Commercial Vehicle Information Systems and Networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—The term 'commercial vehicle operations'—

"(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

"(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

"(3) COMPLETED STANDARD.—The term 'completed standard' means a standard adopted and published by the appropriate standards-setting organization through a voluntary consensus standardmaking process.

"(4) CORRIDOR.—The term 'corridor' means any major transportation route that includes parallel limited access highways, major arterials, or transit lines.

"(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(6) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(7) PROVISIONAL STANDARD.—The term 'provisional standard' means a provisional standard established by the Secretary under section 529(c).

"(8) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may support the national architecture and promote—

"(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

"§ 523. Cooperation, consultation, and analysis

"(a) COOPERATION.—In carrying out this subchapter, the Secretary shall—

"(1) foster enhanced operation and management of the surface transportation systems of the United States;

"(2) promote the widespread deployment of intelligent transportation systems; and

"(3) advance emerging technologies, in cooperation with State and local governments and the private sector.

"(b) CONSULTATION.—As appropriate, in carrying out this subchapter, the Secretary shall—

"(1) consult with the heads of other interested Federal departments and agencies; and

"(2) maximize the involvement of the United States private sector, colleges and universities, and State and local governments in all aspects of carrying out this subchapter.

"(c) PROCUREMENT METHODS.—To meet the need for effective implementation of intelligent transportation system projects, the Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for intelligent transportation system projects, including innovative and nontraditional methods of procurement.

"§ 524. Research, development, and training

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, operational testing, technical assistance and training, national architecture activities, standards development and implementation, and other similar activities that are necessary to carry out the purposes of this subchapter.

"(b) INTELLIGENT VEHICLE AND INTELLIGENT INFRASTRUCTURE PROGRAMS.—

"(1) IN GENERAL.—

"(A) PROGRAM.—The Secretary shall carry out a program to conduct research, development, and engineering designed to stimulate and advance deployment of an integrated intelligent vehicle program and an integrated intelligent infrastructure program, consisting of—

"(i) projects such as crash avoidance, automated highway systems, advanced vehicle controls, and roadway safety and efficiency systems linked to intelligent vehicles; and

"(ii) projects that improve mobility and the quality of the environment, including projects for traffic management, incident management, transit management, toll collection, traveler information, and traffic control systems.

"(B) CONSIDERATION OF VEHICLE AND INFRASTRUCTURE ELEMENTS.—In carrying out subparagraph (A), the Secretary may consider systems that include both vehicle and infrastructure elements and determine the most appropriate mix of those elements.

"(2) NATIONAL ARCHITECTURE.—The program carried out under paragraph (1) shall be consistent with the national architecture.

"(3) PRIORITIES.—In carrying out paragraph (1), the Secretary shall give higher priority to activities that—

"(A) assist motor vehicle drivers in avoiding motor vehicle crashes;

"(B) assist in the development of an automated highway system; or

"(C) improve the integration of air bag technology with other on-board safety systems and maximize the safety benefits of the simultaneous use of an automatic restraint system and seat belts.

"(4) COST SHARING.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a research project carried out in cooperation with a non-Federal entity under a program carried out under paragraph (1) shall not exceed 80 percent.

"(B) INNOVATIVE OR HIGH-RISK RESEARCH PROJECTS.—The Federal share of the cost of an innovative or high-risk research project described in subparagraph (A) may, at the discretion of the Secretary, be 100 percent.

"(5) PLAN.—The Secretary shall—

"(A) not later than 1 year after the date of enactment of this subchapter, submit to Congress a 6-year plan specifying the goals, objectives, and milestones to be achieved by each program carried out under paragraph (1); and

"(B) report biennially to Congress on the progress in meeting the goals, objectives, and milestones.

"(c) EVALUATION.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall establish guidelines and requirements for the independent evaluation of field and related operational tests, and, if necessary, deployment projects, carried out under this subchapter.

"(B) REQUIRED PROVISIONS.—The guidelines and requirements established under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subchapter.

"(2) FUNDING.—

"(A) SMALL PROJECTS.—In the case of a test or project with a cost of less than $5,000,000, the Secretary may allocate not more than 15 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(B) MODERATE PROJECTS.—In the case of a test or project with a cost of $5,000,000 or more, but less than $10,000,000, the Secretary may allocate not more than 10 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(C) LARGE PROJECTS.—In the case of a test or project with a cost of $10,000,000 or more, the Secretary may allocate not more than 5 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(3) INAPPLICABILITY OF PAPERWORK REDUCTION ACT.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"(d) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) DELEGATION OF AUTHORITY.—

"(A) IN GENERAL.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation.

"(B) FEDERAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal assistance under this section.

"(e) TRAFFIC INCIDENT MANAGEMENT AND RESPONSE.—The Secretary shall carry out a program to advance traffic incident management and response technologies, strategies, and partnerships that are fully integrated with intelligent transportation systems.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $120,000,000 for fiscal year 1998, $125,000,000 for fiscal year 1999, $130,000,000 for fiscal year 2000, $135,000,000 for fiscal year 2001, $140,000,000 for fiscal year 2002, and $150,000,000 for fiscal year 2003, of which, for each fiscal year—

"(A) not less than $25,000,000 shall be available for activities that assist motor vehicle drivers in avoiding motor vehicle crashes, including activities that improve the integration of air bag technology with other on-board safety systems;

"(B) not less than $25,000,000 shall be available for activities that assist in the development of an automated highway system; and

"(C) not less than $3,000,000 shall be available for traffic incident management and response.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.

"§ 525. Intelligent transportation system integration program

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration and interoperability of intelligent transportation systems.

"(b) SELECTION OF PROJECTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall select for funding, through competitive solicitation, projects that will serve as models to improve transportation efficiency, promote safety, increase traffic flow, reduce emissions of air pollutants, improve traveler information, or enhance alternative transportation modes.

"(2) PRIORITIES.—Under the program, the Secretary shall give higher priority to funding projects that—

"(A) promote and foster integration strategies and written agreements among local governments, States, and other regional entities;

"(B) build on existing (as of the date of project selection) intelligent transportation system projects;

"(C) deploy integrated intelligent transportation system projects throughout metropolitan areas;

"(D) deploy integrated intelligent transportation system projects that enhance safe freight movement or coordinate intermodal travel, including intermodal travel at ports of entry into the United States; and

"(E) advance intelligent transportation system deployment projects that are consistent with the national architecture and, as appropriate, comply with required standards as described in section 529.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $100,000,000 for fiscal year 1998, $110,000,000 for fiscal year 1999, $115,000,000 for fiscal year 2000, $130,000,000 for fiscal year 2001, $135,000,000 for fiscal year 2002, and $145,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 526. Integration program for rural areas

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to

in this section as the 'program') to accelerate the integration or deployment of intelligent transportation systems in rural areas.

"(b) SELECTION OF PROJECTS.—Under the program, the Secretary shall—

"(1) select projects through competitive solicitation; and

"(2) give higher priority to funding projects that—

"(A) promote and foster integration strategies and agreements among local governments, States, and other regional entities;

"(B) deploy integrated intelligent transportation system projects that improve mobility, enhance the safety of the movement of passenger vehicles and freight, or promote tourism; or

"(C) advance intelligent transportation system deployment projects that are consistent with the national architecture and comply with required standards as described in section 529.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1998, $10,000,000 for fiscal year 1999, $15,000,000 for fiscal year 2000, $15,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $20,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 527. Commercial vehicle intelligent transportation system infrastructure

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program—

"(1) to deploy intelligent transportation systems that will promote the safety and productivity of commercial vehicles and drivers; and

"(2) to reduce costs associated with commercial vehicle operations and State and Federal commercial vehicle regulatory requirements.

"(b) ELEMENTS OF PROGRAM.—

"(1) SAFETY INFORMATION SYSTEMS AND NETWORKS.—

"(A) IN GENERAL.—The program shall advance the technological capability and promote the deployment of commercial vehicle, commercial driver, and carrier-specific safety information systems and networks and other intelligent transportation system technologies used to assist States in identifying high-risk commercial operations and in conducting other innovative safety strategies, including the Commercial Vehicle Information Systems and Networks.

"(B) FOCUS OF PROJECTS.—Projects assisted under the program shall focus on—

"(i) identifying and eliminating unsafe and illegal carriers, vehicles, and drivers in a manner that does not unduly hinder the productivity and efficiency of safe and legal commercial operations;

"(ii) enhancing the safe passage of commercial vehicles across the United States and across international borders;

"(iii) reducing the numbers of violations of out-of-service orders; and

"(iv) complying with directives to address other safety violations.

"(2) MONITORING SYSTEMS.—The program shall advance on-board driver and vehicle safety monitoring systems, including fitness-for-duty, brake, and other operational monitoring technologies, that will facilitate commercial vehicle safety, including inspection by motor carrier safety assistance program officers and employees under chapter 311 of title 49.

"(c) USE OF FEDERAL FUNDS.—

"(1) IN GENERAL.—Federal funds used to carry out the program shall be primarily used to improve—

"(A) commercial vehicle safety and the effectiveness and efficiency of enforcement efforts conducted under the motor carrier safety assistance program under chapter 311 of title 49;

"(B) electronic processing of registration, driver licensing, fuel tax, and other safety information; and

"(C) communication of the information described in subparagraph (B) among the States.

"(2) LEVERAGING.—Federal funds used to carry out the program shall, to the maximum extent practicable—

"(A) be leveraged with non-Federal funds; and

"(B) be used for activities not carried out through the use of private funds.

"(d) FEDERAL SHARE.—The Federal share of the cost of a project assisted under the program shall be not more than 80 percent.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for fiscal year 1998, $25,000,000 for fiscal year 1999, $25,000,000 for fiscal year 2000, $35,000,000 for fiscal year 2001, $35,000,000 for fiscal year 2002, and $40,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 528. Corridor development and coordination

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements intended to promote regional cooperation, planning, and shared project implementation for intelligent transportation system projects.

"(b) FUNDING.—There shall be available to carry out this section for each fiscal year not more than—

"(1) $3,000,000 of the amounts made available under section 524(f); and

"(2) $7,000,000 of the amounts made available under section 525(e).

"§ 529. Standards

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—The Secretary shall develop, implement, and maintain a national architecture and supporting standards to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the standards shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the States.

"(3) USE OF STANDARDS-SETTING ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards-setting organizations as the Secretary determines appropriate.

"(b) REPORT.—

"(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report describing the status of all standards.

"(2) CONTENTS.—The report shall—

"(A) identify each standard that is needed for operation of intelligent transportation systems in the United States;

"(B) specify the status of the development of each standard;

"(C) provide a timetable for achieving agreement on each standard as described in this section; and

"(D) determine which standards are critical to ensuring national interoperability or critical to the development of other standards.

"(c) ESTABLISHMENT OF PROVISIONAL STANDARDS.—

"(1) ESTABLISHMENT.—Subject to subsection (d), if a standard determined to be critical under subsection (b)(2)(D) is not adopted and published by the appropriate standards-setting organization by January 1, 2001, the Secretary shall establish a provisional standard after consultation with affected parties.

"(2) PERIOD OF EFFECTIVENESS.—The provisional standard shall—

"(A) be published in the Federal Register;

"(B) take effect not later than May 1, 2001; and

"(C) remain in effect until the appropriate standards-setting organization adopts and publishes a standard.

"(d) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL STANDARDS.—

"(1) NOTICE.—The Secretary may waive the requirement to establish a provisional standard by submitting, not later than January 1, 2001, to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a notice that—

"(A) specifies the provisional standard subject to the waiver;

"(B) describes the history of the development of the standard subject to the waiver;

"(C) specifies the reasons why the requirement for the establishment of the provisional standard is being waived;

"(D) describes the impacts of delaying the establishment of the standard subject to the waiver, especially the impacts on the purposes of this subchapter; and

"(E) provides specific estimates as to when the standard subject to the waiver is expected to be adopted and published by the appropriate standards-setting organization.

"(2) PROGRESS REPORTS.—

"(A) IN GENERAL.—In the case of each standard subject to a waiver by the Secretary under paragraph (1), the Secretary shall submit, in accordance with the schedule specified in subparagraph (B), a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the progress of the adoption of a completed standard.

"(B) SCHEDULE OF REPORTS.—The Secretary shall submit a report under subparagraph (A) with respect to a standard—

"(i) not later than 180 days after the date of submission of the notice under paragraph (1) with respect to the standard; and

"(ii) at the end of each 180-day period thereafter until such time as a standard has been adopted and published by the appropriate standards-setting organization or the waiver is withdrawn under paragraph (3).

"(C) CONSULTATION.—In developing each progress report under subparagraph (A), the Secretary shall consult with the standards-setting organizations involved in the standardmaking process for the standard.

"(3) WITHDRAWAL OF WAIVER.—

"(A) IN GENERAL.—At any time, the Secretary may, through notification to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, withdraw a notice of a waiver of the requirement to establish a provisional standard.

"(B) IMPLEMENTATION.—If the Secretary submits notification under subparagraph (A) with respect to a provisional standard, not less than 30 days, but not more than 90 days, after the date of the notification, the Secretary shall implement the provisional standard, unless, by the end of the 90-day period beginning on the date of the notification, a standard has been adopted and published by the appropriate standards-setting organization.

"(e) REQUIREMENT FOR COMPLIANCE WITH STANDARD.—

"(1) IN GENERAL.—

"(A) STANDARD IN EXISTENCE.—Funds made available from the Highway Trust Fund shall not be used to deploy an intelligent transportation system technology if the technology does not comply with each applicable provisional standard or completed standard.

"(B) NO STANDARD IN EXISTENCE.—In the absence of a provisional standard or completed standard, Federal funds shall not be used to deploy an intelligent transportation system technology if the deployment is not consistent with the interfaces to ensure interoperability that are contained in the national architecture.

"(2) APPLICABILITY.—Paragraph (1) shall not apply to—

"(A) the operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter; or

"(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subchapter if the Secretary determines that the upgrade or expansion—

"(i) does not adversely affect the purposes of this subchapter, especially the goal of national or regional interoperability;

"(ii) is carried out before the end of the useful life of the system; and

"(iii) is cost effective as compared to alternatives that meet the compliance requirement of paragraph (1)(A) or the consistency requirement of paragraph (1)(B).

"(f) SPECTRUM.—

"(1) CONSULTATION.—The Secretary shall consult with the Secretary of Commerce, the Secretary of Defense, and the Chairman of the Federal Communications Commission to determine the best means for securing the necessary spectrum for the near-term establishment of a dedicated short-range vehicle-to-wayside wireless standard and any other spectrum that the Secretary determines to be critical to the implementation of this title.

"(2) PROGRESS REPORT.—After consultation under paragraph (1) and with other affected agencies, but not later than 1 year after the date of enactment of this subchapter, the Secretary shall submit a report to Congress on the progress made in securing the spectrum described in paragraph (1).

"(3) DEADLINE FOR SECURING SPECTRUM.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this subchapter, the Secretary of Commerce shall release to the Federal Communications Commission, and the Federal Communications Commission shall allocate, the spectrum described in paragraph (1).

"(g) FUNDING.—The Secretary shall use funds made available under section 524 to carry out this section.

"§ 530. Funding limitations

"(a) CONSISTENCY WITH NATIONAL ARCHITECTURE.—The Secretary shall use funds made available under this subchapter to deploy intelligent transportation system technologies that are consistent with the national architecture.

"(b) COMPETITION WITH PRIVATELY FUNDED PROJECTS.—To the maximum extent practicable, the Secretary shall not fund any intelligent transportation system operational test or deployment project that competes with a similar privately funded project.

"(c) INFRASTRUCTURE DEVELOPMENT.—Funds made available under this subchapter for operational tests and deployment projects—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

"(d) PUBLIC RELATIONS AND TRAINING.—For each fiscal year, not more than $15,000,000 of the funds made available under this subchapter shall be used for intelligent transportation system outreach, public relations, training, mainstreaming, shareholder relations, or related activities.

"§ 531. Use of innovative financing

"(a) IN GENERAL.—The Secretary may use up to 25 percent of the funds made available under this subchapter and section 541 to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this title and that have significant intelligent transportation system elements.

"(b) CONSISTENCY WITH OTHER LAW.—Credit assistance described in subsection (a) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1997.

"§ 532. Advisory committees

"(a) IN GENERAL.—In carrying out this subchapter, the Secretary shall use 1 or more advisory committees.

"(b) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 2104. CONFORMING AMENDMENT.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title VI (23 U.S.C. 307 note; 105 Stat. 2189).

Subtitle C—Funding

SEC. 2201. FUNDING.

Chapter 5 of title 23, United States Code (as amended by section 2103), is amended by adding at the end the following:

"SUBCHAPTER III—FUNDING

"§ 541. Funding

"(a) RESEARCH, TECHNOLOGY, AND TRAINING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out sections 502, 507, 509, and 511 $98,000,000 for fiscal year 1998, $101,000,000 for fiscal year 1999, $104,000,000 for fiscal year 2000, $107,000,000 for fiscal year 2001, $110,000,000 for fiscal year 2002, and $114,000,000 for fiscal year 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(1) any Federal share of the cost of an activity under this chapter shall be determined in accordance with this chapter; and

"(2) the funds shall remain available for obligation for a period of 4 years after the last day of the fiscal year for which the funds are authorized.

"(c) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

"(1) $98,000,000 for fiscal year 1998;

"(2) $101,000,000 for fiscal year 1999;

"(3) $104,000,000 for fiscal year 2000;

"(4) $107,000,000 for fiscal year 2001;

"(5) $110,000,000 for fiscal year 2002; and

"(6) $114,000,000 for fiscal year 2003.".

Mr. CHAFEE. The amendment I am submitting, Madam President, is a substitute for the text of the bill.

REMAINING COMMITTEE AMENDMENTS WITHDRAWN

Mr. CHAFEE. On behalf of the committee, I therefore now withdraw all of the other committee amendments, save the amendment I have just sent to the desk.

The PRESIDING OFFICER. The amendments are withdrawn.

The remaining committee amendments were withdrawn.

Mr. CHAFEE. I explain to the Senate this amendment was made necessary to correct certain provisions that are in technical violation of the Budget Act. The bill reported by the committee stays within the overall spending limitations imposed by the budget resolution, but not every dollar is in the right category. We have made adjustments in this substitute amendment that correct those deficiencies. The adjustments do not affect the allocation of the dollars to any State nor the certainty that those dollars will be delivered by the formula in the bill.

The amendment does not affect the substantive provisions of the bill in any other respect, but puts some of the spending authorized by the bill under

the obligation limitation to ensure that we meet the technical requirements of the Budget Act.

It is my understanding the committee has a right to modify its amendments in this way. I polled the committee yesterday, and a majority of the members agreed to this modification. The substitute amendment now is the only committee amendment and is open to amendment by any Senator and will be the vehicle for conducting debate on this bill.

AMENDMENTS NOS. 1310 AND 1311, EN BLOC

Mr. CHAFEE. Now, Madam President, I ask unanimous consent two amendments that I now send to the desk be considered as read and agreed to and the motion to reconsider be laid upon the table.

I have discussed this with the ranking member.

Mr. BAUCUS. Madam President, reserving the right to object, I ask the Senator if he could temporarily withdraw that request—I don't foresee any problems—until it is, in fact, cleared on this side.

Mr. CHAFEE. I think, perhaps if we went into a brief quorum call.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, it is my understanding that the unanimous-consent request I made is agreeable.

Mr. BAUCUS. Madam President, no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes en bloc amendments numbered 1310 and 1311.

Mr. CHAFEE. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 1310 and 1311) are as follows:

AMENDMENT NO. 1310

(Purpose: To prohibit the use of proceeds from the issuance by any State or local government of tax-exempt bonds for any project financing, prepayments, or repayments under the Transportation Infrastructure Finance and Innovation Act of 1997)

On page 195, line 1, strike "The" and insert "Other than for purposes of section 149 of the Internal Revenue Code of 1986, the".

On page 202, strike lines 13 through 15 and insert the following:

(4) DEDICATED REVENUE SOURCES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(B) USE OF PROCEEDS FROM TAX-EXEMPT FINANCING PROHIBITED.—For the purposes of this section and sections 1315 and 1316, the direct or indirect use of proceeds from the issuance by any State or local government of tax-exempt bonds for any portion of any project financing, prepayments, or repayments is prohibited.

On page 210, line 5, insert "taxable" before "project obligations".

AMENDMENT NO. 1311

(Purpose: To modify the exclusion from the general obligation limitations for the minimum guarantee program)

On page 39, line 15, after "budget" insert the following "(as specified in the letter from the Director of the Congressional Budget Office to the Chairman of the Senate Committee on Environment and Public Works, dated October 6, 1997".

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (Nos. 1310 and 1311) are agreed to en bloc.

AMENDMENT NO. 1312

Mr. CHAFEE. I send an amendment to the desk with a new amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. WARNER, proposes an amendment numbered 1312.

The amendment is as follows:

On page 250, between lines 18 and 19, insert the following:

"(6) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (2).

AMENDMENT NO. 1313

Mr. CHAFEE. I send to the desk an amendment to the text to be stricken.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr WARNER, proposes an amendment numbered 1313.

The PRESIDING OFFICER. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 21, after "139(a)", insert the following: "(as in effect on the day before the date of enactment)".

Mr. CHAFEE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1314 TO AMENDMENT NO. 1313

Mr. CHAFEE. Madam President, I send an amendment to the desk to my amendment to the stricken text and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. WARNER, proposes an amendment numbered 1314 to amendment No. 1313.

Mr. CHAFEE. I now move to recommit the bill to the——

Mr. BYRD. I ask that the amendment be read.

The PRESIDING OFFICER. The clerk will continue reading.

The assistant legislative clerk read as follows:

At the end of the amendment add the following: "of the Intermodal Surface Transportation Efficiency Act of 1997)".

Mr. BYRD addressed the Chair.

Mr. CHAFEE. I believe I have the floor.

The PRESIDING OFFICER. The Senator has lost the floor by offering an amendment.

QUORUM CALL

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DORGAN. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 4 Leg.]

Chafee	Dorgan	Warner
Collins	Faircloth	
Daschle	Lott	

The PRESIDING OFFICER (Mr. FAIRCLOTH). A quorum is not present. The clerk will call the names of the absent Senators.

The legislative clerk resumed the call of the roll

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to instruct. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—94

Abraham	Feinstein	Lugar
Akaka	Ford	McConnell
Allard	Frist	Mikulski
Ashcroft	Glenn	Moseley-Braun
Baucus	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Breaux	Gregg	Reed
Brownback	Hagel	Reid
Bryan	Harkin	Robb
Bumpers	Hatch	Roberts
Burns	Helms	Rockefeller
Byrd	Hollings	Roth
Campbell	Hutchinson	Santorum
Chafee	Hutchison	Sarbanes
Cleland	Inhofe	Sessions
Coats	Inouye	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Johnson	Smith (OR)
Conrad	Kempthorne	Snowe
Coverdell	Kennedy	Specter
Craig	Kerrey	Stevens
Daschle	Kerry	Thomas
DeWine	Kohl	Thompson
Dodd	Kyl	Thurmond
Domenici	Landrieu	Torricelli
Dorgan	Lautenberg	Warner
Durbin	Leahy	Wellstone
Enzi	Levin	Wyden
Faircloth	Lieberman	
Feingold	Lott	

NAYS—4

Bennett	Gramm
D'Amato	McCain

NOT VOTING—2

Biden	Mack

The motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished majority leader, the Senator from Mississippi.

MOTION TO RECOMMIT WITH INSTRUCTIONS

Mr. LOTT. Mr. President, a quorum being established, I now move to recommit the bill to the Environment and Public Works Committee with instructions to report back forthwith.

The PRESIDING OFFICER. Can we have order in the Chamber?

Mr. LOTT. I will repeat. I now move to recommit the bill, S. 1173, to the Environment and Public Works Committee with instructions to report back forthwith. And I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1317

(Purpose: To provide a complete substitute)

Mr. LOTT. Mr. President, I send an amendment to the desk to the instructions.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1317 to the instructions of the motion to recommit.

Mr. LOTT. I ask unanimous consent that further reading of the amendment be dispensed with. And I ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1318 TO AMENDMENT NO. 1317

Mr. LOTT. I send an amendment to my amendment to the desk.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for himself, Mr. CHAFEE and Mr. WARNER, proposes an amendment numbered 1318 to amendment No. 1317.

Mr. LOTT. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, strike line 6 and insert the following:

(e) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $301,905,000 for fiscal year 1998;
(2) $301,725,000 for fiscal year 1999;
(3) $302,055,000 for fiscal year 2000;
(4) $303,480,000 for fiscal year 2001;
(5) $310,470,000 for fiscal year 2002; and
(6) $320,595,000 for fiscal year 2003.

(f) APPLICABILITY OF OBLIGATION LIMITATIONS.—

Mr. LOTT. For the information of all Senators, this exercise, unfortunately, is necessary to keep the Senate's focus on the vital legislation to reauthorize our Nation's surface transportation programs for the next 6 years.

Really good work has been done by the Environment and Public Works Committee. In fact, I believe it was reported by a vote of 18 to 0—unanimous. While there are obviously some concerns—at any time you have concerns on a major transportation bill of this magnitude, there will be Senators on both sides of the aisle who will have amendments that will need to be offered and debated and voted on. And I am sure they will have support on both sides of the aisle.

In accordance with all Senate rules, I have now completed the amendment process with relevant and needed changes to the bill. It is the intention of the manager to eventually have these necessary amendments agreed to by the Senate. However, in the meantime, these amendments will remain pending and the manager will agree to a consent that will lay aside amendment No. 1312 at any time any Member desires to offer a relevant transportation amendment.

We have been in touch with Members who have relevant amendments they would like to offer. We will have Senators prepared to begin offering amendments this afternoon, and we will continue on that tomorrow.

I look forward to making progress on this bill prior to our recess at the end of the week. I thank all colleagues for their cooperation. We do have cooperation from Senator BAUCUS, who has been working on this with Senator CHAFEE from the committee and Senator WARNER and others on both sides.

I know that there has been an agreement reached on some amendments coming up later on after we come back from the religious holiday and the Columbus Day recess, but we will have full time for debate.

I think this is perhaps the most important bill left that we need to get done before we go out for the year sometime later on this month or early in November. So my intent would be to stay on it and try to make progress.

I do not intend for this to become a campaign finance reform forum. There will be votes on that issue tomorrow. They are already scheduled. There will be other opportunities to debate this issue. But I think that the transportation bill is a very important bill, and we have a limited amount of time. The Senate is leading the way on this legislation, so we need to go ahead and get the process underway. I am prepared to give as much time as it takes to try to get it completed.

Now, I might say for the information of all Senators, there is the possibility of at least one more vote. I had hoped we could clear the HUD-VA appropriations conference report. The chairman and the ranking member are ready to go but don't have the papers yet, so apparently we are not going to be able to do that tonight. We hope to do that tomorrow. Then, if we cannot work it out, we may even have to have a recorded vote to go out for the night.

Now, we do not know exactly what time that would come. But I presume around 6 or 6:30. Perhaps it will not be necessary. But the Members should be on notice there is at this point the likelihood of one more vote tonight.

Several Senators addressed the Chair.

Mr. BYRD. I do not want to go ahead of my own leader here. I prefer he go ahead of me.

Mr. LOTT. I will be glad to yield the floor or respond to questions.

Mr. BYRD. I want my own leader first. And then I would like to——

Mr. DASCHLE. Mr. President, if I could just respond, I appreciate very

much the consideration of the distinguished senior Senator from West Virginia.

Let me just say, I regret that we are back into a situation very similar to that which we were in during the debate on campaign finance reform. The leader, as is his right, has chosen to now fill the tree once more. In so doing, it will now require his consent before anybody has the opportunity to offer an amendment. He has the right. That is the prerogative of the majority leader. But he will determine the relevancy of any amendment.

I will say that it is our right to provide the unanimous consent required to move off this legislation for any other purpose. We will certainly invoke that right as the situation warrants. I regret that this is necessary.

I regret that we could not take these issues up one by one and resolve them, as I know many colleagues on both sides of the aisle would like to do. We are precluded from that. So we are now faced with a very difficult set of circumstances. I am hopeful that we can find a way to address it.

The majority leader has indicated this is an important bill. And certainly it is. I give great credit to the chairman and the ranking member for their work in committee to bring us to this point. There is a lot of work that needs to be done, and I hope we can get it done.

But it isn't the only important bill. There is another very important bill that we have been precluded from having a good debate on, and that is campaign finance. At least for the moment we are precluded under these circumstances. But, again, I repeat what I have said before. This is a temporary set of circumstances that will be addressed successfully before we move on conclusively.

I yield the floor. Again, I thank the senior Senator from West Virginia for his willingness to allow me to make my comments.

Mr. LOTT. Mr. President, if I could just respond. I am glad to hear the minority leader's comments. As the leader of the Democrats, certainly he has an obligation to represent their views.

I agree this is certainly important legislation, and we should continue to look for ways that we can have it freely debated and amended and move forward. We will keep talking, and maybe we will find a way to do that. It is my preference to have every Senator have a chance to make his case.

I would like to get out of the process we are in, but I want us to stay on the transportation bill and not have this become another debate on campaign finance reform. There are other ways that will be done. There are other opportunities that I am sure will come along, but we are trying to keep the focus on the highway bill.

I have discussed with other Senators amendments they have in mind. I am going to do everything I can to assure every Senator, he or she, who has an amendment will be able to offer it. I would prefer it not be done in this process, if we can work out some kind of arrangement whereby we would not go with this, where any Senator, as is usually the case, can get up and offer an amendment.

I know Senator BYRD, Senator GRAMM, and others are working on an amendment that there will be a lot of interest in. I want to make sure that amendment has a freestanding opportunity to be fully debated and voted upon. I do not think we can ever complete this legislation without that occurring. I would like for a lot of other amendments that you have—this is important to every Senator. Every State will be affected by this, by the formula and by various parts of this bill—urban mass transportation. It is not something that is partisan. It is not something that is regional. It cuts all kinds of different ways.

So if we can come up with a way over a period of time—I am not rushing to judgment, but I do want us to get on—I promised the chairman and the ranking member a week ago or more—and we had met earlier—that we would begin this bill today, the 8th of October. So I am trying to fulfill that commitment. I think we will find a way to get it done in a way that will allow us to complete our work, and then hopefully the House will follow our leadership on this.

I would be glad to yield to the Senator from West Virginia.

Mr. BYRD. Are you finished?

Mr. LOTT. As a matter of fact, I will yield the floor.

Mr. BYRD. No, I do not suggest you yield the floor.

I just wanted the recognition to state for the record that I do have a measure to the bill, to the ISTEA bill. I wanted all Senators to be aware of that. I would like them to take a look at my amendment when it is ready. Before they make any judgment to go with anybody else's amendment, I have an amendment that I think will appeal to them, to every State. But the leader has already stated that I have an amendment, so that takes care of that situation.

Secondly, I just want to say that whenever we can do our conference reports on appropriations, I would like to do them. They are privileged. I would like to get as many of those bills down as we can get down so we do not have to include them in a continuing resolution.

If the President is going to item veto any of them, I want him to do that in ample time for us to offer a resolution to put those items right back on his desk. If he wants to veto that, OK. He has that right under the Constitution. We, likewise, have the right to either override or sustain. But I would like for him to have time to veto those.

I hate that item veto with a passion. But it is there, until the Supreme Court knocks it down. I cannot see how the Supreme Court can avoid knocking that—killing that bill which most Senators voted for, which most Members voted for, but it is coming home to roost now.

Mr. LOTT. If the Senator will yield for a comment, I think there are probably more Senators and House Members that would agree with you this week than last week, I say to the Senator.

Mr. BYRD. Well, I am heartened by that. I thank the leader.

Mr. LOTT. I yield the floor, Mr. President.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I will be very brief. In my discussions with the majority leader over a period of discussions of the campaign finance reform bill, I told him that I would come back with an amendment that I wanted an up-or-down vote on. I want to repeat again my intentions to have that. I do not desire to tie up the Senate. I do not desire to cause problems with ISTEA or other pieces of legislation between now and when we go out, but I will have an amendment that I believe is important and one that I think should be considered by the Senate. This issue should be resolved, I hope, before we go to recess.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Vermont.

Mr. LEAHY. I thank the Chair.

Mr. President, I just want to make reference to the comments just made by the distinguished senior Senator from West Virginia, my friend and colleague of 23 years. He has served here much longer than that. I have had the opportunity to serve with him for now almost 23 years.

Mr. President, I have made it very clear in speeches on the floor and comments to the public and people back in my home State of Vermont that I completely agree with the distinguished Senator from West Virginia on the question of the line-item veto.

I was one of those, as he knows, who voted against the line-item veto. I recall when he first came trying to say something to me about it. He may well recall this: I said, "You don't even have to lay out the arguments. I can't imagine why anybody in any legislative body would want to give up the power of the purse strings to the Executive."

Again, I do not blame the Executive for asking for it. If any Executive thought that the legislative body would be foolish enough to just hand over the most significant part of their power to them, well, few Executives could resist the temptation.

Mr. BYRD. George Washington took the viewpoint that he had to veto the entire bill or sign it or let it become law without his signature. He could not do it piecemeal. Now the Senate and House have made it possible for any President to do just that. I do not think George Washington would have done that.

Mr. LEAHY. I say to my good friend from West Virginia, who has as strong and abiding history as any person I have had the privilege of serving with, that it goes back to George Washington, that more of us should say we want to go back to George Washington.

Unfortunately, we have a lot of people who give discussions about what were the Founders' intention, what was in the Constitution. I sometimes wonder if they have read either the Constitution, the Federalist Papers, or any history less recent than their latest poll.

I say this because I heard some Members say in the last couple days that they wonder whether they made the right decision in voting for that line-item veto but did not go on to say, "But it was so popular in the polls"—so popular in the polls.

My good friend from West Virginia has read much on decisions made by those who were at the drafting and introduction of the Magna Carta, has certainly read The Federalist Papers more than anybody else here. He has read the decisions that have been made at very difficult times in our history. And I suspect at most of those nobody was doing any polling.

I do not think that the Founders in Philadelphia—I do not think there were many polls being taken. There were certainly discussions among people who had a great sense of not only history but the history they were creating and the country they were putting together.

I suspect also, and my friend from West Virginia would probably agree with this, I suspect also there were many, many there who read, as the distinguished Senator from West Virginia knows, what happened to the Roman Senate. Caesar was given the power of the purse.

I think it is an interesting thing because shortly after the breakup of the Soviet Union, we had many visits here from parliamentarians coming to see how to set up a democracy. I am still struck by one group from Russia who sat in my office asking, how do you do some of these things? Suppose your President said, "No, we will build this weapon and we will do that," and you said, "No," how could you stop him? I said we would not give him the money, and they said, "You mean you can do that?" That is why, after 200 years of being the most powerful nation on Earth, we are still a democracy. We are not a dictatorship because there is that check and balance.

I hope some who feel set upon because their own projects may have been vetoed, if they would go back and read history and think not just to be concerned because they are discomfited for the moment, but be more concerned that they put an enormous hole in the walls that set up the checks and balances in our Nation.

Does a Congress always use the power of the purse wisely? Of course not. I can point to times I have been on the losing end in battles on appropriations and spending bills. The distinguished Senator from West Virginia rarely loses, but can still think, I am sure, of times he may have. But it was the Senate working its will. It was the other House working its will. And then, if the President doesn't like it, veto it, veto the bill.

I might say, and my friend from West Virginia will remember, we have had a number of times in appropriations bills that we pass where the President really was against one particular point, and we sent it down, and he vetoed it. Then we entered into a process of negotiation and the bill gets passed again, and maybe that item, that one item he wanted out, was taken out. But he had to make that whole decision of thinking they lost the whole bill in doing it, and we had to, too. It is a two-way street up and down Pennsylvania Avenue. Now we just send it to the other end of Pennsylvania Avenue.

I say to my friends here in the Senate, don't always jump to what is popular in the polls, especially if it hurts the country. The most popular part of the Contract With America, the most popular part, was term limits. Now, that struck so close to the bone that those who would sign the Contract With America made darn sure no term-length-limit bills went through.

There were five or six different versions, so everybody could vote for something, but no one version would pass. That struck close to home so that went through. Things that strike close to home like that are pay raises and what not.

What I say is, think about the country itself. The line-item veto is not a way in any democracy for a parliamentary party to give up its powers.

I thank my friend from West Virginia for raising the point. I yield the floor.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

EXPLANATION OF ABSENCE

Mr. BIDEN. Mr. President, I rise very briefly to explain my absence on roll-call vote No. 271. This was a procedural vote to instruct the Sergeant at Arms. I was attending a conference with Ambassador Richard Holbrooke and was involved in a discussion of Bosnia and the enforcement of the Dayton Peace accords. I was unable to return to the Senate for the vote.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 7, 1997, the Federal debt stood at $5,415,085,048,979.17. (Five trillion, four hundred fifteen billion, eighty-five million, forty-eight thousand, nine hundred seventy-nine dollars and seventeen cents)

One year ago, October 7, 1996, the Federal debt stood at $5,221,842,000,000. (Five trillion, two hundred twenty-one billion, eight hundred forty-two million)

Five years ago, October 7, 1992, the Federal debt stood at $4,061,155,000,000. (Four trillion, sixty-one billion, one hundred fifty-five million)

Ten years ago, October 7, 1987, the Federal debt stood at $2,377,991,000,000. (Two trillion, three hundred seventy-seven billion, nine hundred ninety-one million)

Fifteen years ago, October 7, 1982, the Federal debt stood at $1,131,630,000,000 (One trillion, one hundred thirty-one billion, six hundred thirty million) which reflects a debt increase of more than $4 trillion—$4,283,455,048,979.17 (Four trillion, two hundred eighty-three billion, four hundred fifty-five million, forty-eight thousand, nine hundred seventy-nine dollars and seventeen cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING OCTOBER 3

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending October 3, the United States imported 9,492,000 barrels of oil each day, 1,607,000 barrels more than the 7,885,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 59.9 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil by U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 9,492,000 barrels a day.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to

the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 629. An act to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

H.R. 998. An act for the relief of Lloyd B. Gamble.

H.R. 1127. An act to amend the Antiquities Act regarding the establishment by the President of certain national monuments.

H.R. 1211. An act for the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical Corporation.

H.R. 1313. An act for the relief of Nancy B. Wilson.

At 2:13 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 2:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following bills and joint resolution:

S. 1000. An act to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the "Robert J. Dole United States Courthouse."

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

H.J. Res. 75. Joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

At 4:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.

At 5:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 169. Concurrent resolution providing for an adjournment of the two Houses.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 998. An act for the relief of Lloyd B. Gamble; to the Committee on the Judiciary.

H.R. 1127. An act to amend the Antiquities Act regarding the establishment by the President of certain national monuments; to the Committee on Energy and Natural Resources.

H.R. 1211. An act for the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical Corporation; to the Committee on the Judiciary.

H.R. 1313. An act for the relief of Nancy B. Wilson; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 629. An act to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance, without amendment:

S. 1269. An original bill to establish objectives for negotiating and procedures for implementing certain trade agreements (Rept. No. 105–102).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1271. An original bill to reauthorize the mass transit programs of the Federal Government, and for other purposes (Rept. No. 105–103).

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 112. A resolution condemning the most recent outbreak of violence in the Republic of Congo and recognizing the threat such violence poses to the prospects for a stable democratic form of government in that country.

By Mr. HELMS, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amendment to the title and with a preamble:

S. Con. Res. 37. A concurrent resolution expressing the sense of the Congress that Little League Baseball Incorporated was established to support and develop Little League baseball worldwide and should be entitled to all of the benefits and privils available to nongovernmental international organizations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Ellen Seidman, of the District of Columbia, to be Director of the Office of Thrift Supervision for a term of five years.

Edward M. Gramlich, of Virginia, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1994.

Roger Walton Ferguson, of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1986.

Dennis Dollar, of Mississippi, to be a Member of the National Credit Union Administration Board for a term expiring April 10, 2003.

Paul R. Carey, of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2002.

Laura S. Unger, of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2001.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation:

George W. Black, Jr., of Georgia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2001. (Reappointment)

Harold W. Furchtgott-Roth, of the District of Columbia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1995.

William E. Kennard, of California, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1996.

Michael K. Powell, of Virginia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1997.

John Arthur Hammerschmidt, of Arkansas, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2000. (Reappointment)

Gloria Tristani, of New Mexico, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 1998.

Gloria Tristani, of New Mexico, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1998. (Reappointment)

James E. Hall, of Tennessee, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2002. (Reappointment)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HELMS, from the Committee on Foreign Relations:

Martin S. Indyk, of the District of Columbia, to be an Assistant Secretary of State.

Alphonse F. La Porta of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mongolia.

Nominee: Alphonse F. La Porta.

Post: Ulaan Baatar.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions: Amount, date, and donee

1. Self: none.
2. Spouse: Katherine A. Winget La Porta, none.
3. Children: Katherine Grace and Andrew Francis, none.
4. Parents: deceased.
5. Grandparents: deceased.
6. Brothers: none.
7. Sisters: Grace (deceased 1978); Sandra La Porta, none.

Stephen W. Bosworth, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

Nominee: Stephen W. Bosworth.

Post: Republic of Korea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions: Amount, date, and donee

1. Self: none.
2. Spouse: $1,000, 11/95, Clinton-Gore.
3. Children and Spouses: Andrew, Allison/Andre Spinard, none.
4. Parents: Mina Bosworth, none.
5. Grandparents: deceased.
6. Brothers and Spouses:

Barry/Nancy Bosworth: $100, 10/95, Maryland Democratic Party.

Brian Bosworth/Hilary Pennington: Less than $250, 1996, Clinton-Gore; Less than $250, 1996, Kerry; Less than $250, 1996, Edward Kennedy; Less than $250, 1996, Scott Harsberger.

Wyche Fowler, Jr., of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

Nominee: William Wyche Fowler, Jr.

Post: Ambassador to Saudi Arabia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions: Amount, date, and donee

1. Self:

$200, 02/25/93, Fowler for Senate;
$250, 01/12/94, George Mitchell for Senate;
$500, 07/14/94, Alex Crumbley;
$250, 09/13/94, Ben Jones for Congress;
$1,000, 11/01/94, Friends of Jim Sasser;
$1,000, 05/22/95, Clinton-Gore Primary Committee;
$1,000, 04/04/96, Democratic Senatorial Campaign Committee, Tribute to Clairborne Pell.

2. Spouse: Donna Fowler, none.
3. Children: Katherine Fowler, none.
4. Parents: deceased.
5. Grandparents: deceased.
6. Brothers: none.
7. Sisters and spouses: (Divorced) Gerald Fowler Skwira and Francis Skwira (Ex-brother in law), none.

Thomas S. Foley, of Washington, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.

Nominee: Thomas S. Foley.

Post: Ambassador to Japan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions: Amount, date, and donee

1. Self and spouse: Thomas S. Foley and Heather S. Foley:

1997:
$2,247.00—Akin, Gump, Strauss, Hauer and Feld Political Action Committee

1996:
$1,000.00—Thomas Foley to President Clinton's Campaign
$1,000.00—Heather Foley to President Clinton's Campaign
$500.00—Akin, Gump, Strauss, Hauer and Feld Political Action Committee to Eleanor Holmes Norton
$2,541.00—Akin, Gump, Strauss, Hauer and Feld Political Action Committee

1995:
$2,307.00—Akin, Gump, Strauss, Hauer and Feld Political Action Committee

2. Children and spouses: none.
3. Parents: Ralph & Helen, deceased.
4. Grandparents: deceased.
5. Brothers and spouses: none.
6. Sisters: Maureen Ann, none.

For information on the Foley Political Action Committee see attached.

FOLEY POLITICAL ACTION COMMITTEE

ITEMIZED DISBURSEMENTS OF THE HOUSE LEADERSHIP FUND

The following information includes, Full Name, Address & Zip Code, Purpose of Disbursement, Date, and Amount.

Rosa DeLauro for Congress Committee, 1 Trumell Street, New Haven, CT 06511; Member of Congress, 3rd, Connecticut; 1/17/92; $2,500.00 (Election: primary).

Byron for Congress Committee, P.O. Box 1188, Frederick, MD 21702; Member of Congress, 6th, Maryland; 2/28/92; $1,000.00 (Election: primary).

Lipinski for Congress, 5838 S. Archer Avenue, Chicago, IL 60638; Member of Congress, 5th, Illinois; 2/12/92; $5,000.00 (Election: primary).

Citibank Visa, P.O. Box 8501, Hagerstown, MD 21741; In-Kind Contribution of Travel to Rosa DeLauro, Member of Congress 3rd, Connecticut; 3/5/92; $524.00 (Election: primary).

Citibank Visa, P.O. Box 8501, Hagerstown, MD 21741; In-Kind Contribution of Travel to David Price, Member of Congress, 4th, North Carolina; 3/5/92; $696.00 (Election: primary).

Committee to Re-Elect Tom Foley, 406 E. 75th Street, Chicago, IL 60619; Member of Congress 1st, Illinois; 3/20/92; $2,500.00 (Election: primary).

Pat Williams Campaign Committee, P.O. Box 1992, Helena, Montana 59601; Member of Congress, 1st, Montana; 3/17/92; $2,500.00 (Election: primary).

Coleman for Congress Committee, P.O. Box 70047, Washington, D.C. 20024; Member of Congress, 16th, Texas; 3/5/92; $5,000.00 (Election: primary).

Albert Wynn for Congress, 8700 Central Avenue, Landover, MD 20785; Member of Congress, 4th, Maryland; 4/24/92; $2,000.00 (Election: primary).

Committee to Re-Elect Joe Kolter, P.O. Box 2, Beaver Falls, PA 15010; Member of Congress, 4th, Pennsylvania; 4/25/92; $1,000.00 (Election: primary).

Friends of Congressman Sikorski, 410 New Jersey Avenue, S.E., Washington D.C. 20003; Member of Congress, 6th, Minnesota; 4/24/92; $2,000.00 (Election: primary).

Hattery for Congress, P.O. Box 88, Mt. Airy, Maryland 21771; Member of Congress, 3rd, Maryland; 4/8/92; $2,500.00 (Election: primary).

McGowan for Congress '92, 4 Union Street, Bangor, Maine 04401; Member of Congress, 2nd, Maine; 4/16/92; $2,000.00 (Election: primary).

Nagle Campaign Committee, P.O. Box 792, Waterloo, Iowa 50704; Member of Congress, 3rd, Iowa; 4/25/92; $1,000.00 (Election: primary).

Pallone for Congress, P.O. Box 3176, Long Beach, NJ 07740; Member of Congress, 3rd, New Jersey; 4/16/92; $2,000.00 (Election: primary).

Reynolds for Congress, 525 103rd Street, Chicago, IL 60628; Member of Congress, 2nd, Illinois; 4/8/92; $2,500.00 (Election: primary).

Anthony for Congress Campaign Committee, P.O. Box 1871, El Dorado, Arkansas 71730; Member of Congress, 4th, Arkansas; 5/27/92; $5,000.00 (Election: primary).

Gutierriz for Congress, 730 N. Franklin, Chicago, IL 60610; Member of Congress, 4th, Illinois; 5/13/92; $1,000.00 (Election: primary).

Johnson for Congress, 1005 W. Jefferson Street, Dallas, TX 75208; Member of Congress, 30th, Texas; 5/13/92; $1,000.00 (Election: primary).

Kika De La Garza for Congress, P.O. Box 636, Hildalgo, TX 78557; Member of Congress, 15th, Texas; 5/26/92; $1,000.00 (Election: primary).

Margery Margolies Mezvinsky for Congress, 1 Presidential Boulevard, Bala Cynwyd, PA 19004; Member of Congress, 13th, Pennsylvania; 5/4/92; $1,000.00 (Election: primary).

Mary Rose Oakar for Congress Committee, P.O. Box 458, Cleveland, OH 44107; Member of Congress, 20th, Ohio; 5/4/92; $5,000.00 (Election: primary).

Pallone for Congress, P.O. Box 3176, Long Branch, New Jersey 07740; Member of Congress, 3rd, New Jersey, 5/26/92; $1,000.00 (Election: primary).

Ron Klink for Congress Committee, 107 S. 2nd Street, Jeannette, PA 15644; Member of Congress, 4th, Pennsylvania; 5/4/92; $1,000.00 (Election: primary).

Rush for Congress, 1507 E. 53rd Street, Chicago, IL 60615; Member of Congress, 1st, Illinois; 5/13/92; $1,000.00 (Election: primary).

Watt for Congress, 700 E. Stonewall, Charlotte, N.C. 28202; Member of Congress, 12th, North Carolina; 5/13/92; $1,000.00 (Election: primary).

American Express Company, P.O. Box 1270, Newark, N.J. 07101; In-Kind Contribution of Travel to DCCC; 6/8/92; $285.47 (Election: primary).

Anderson-Braude for Congress, 109 East Eighth Street, Long Beach, CA 90802; Member of Congress, 37th, California; 6/8/92; $1,000.00 (Election: primary).

Anita for Congress, P.O. Box 22046, Santa Barbara, CA 93121; Member of Congress, 23rd, California; 6/8/92; $1,000.00 (Election: primary).

Harlow for Congress, 814 River Oaks, Paducah, KY 42001; Member of Congress, 1st, Kentucky, 6/8/92; $1,000.00 (Election: primary).

Brown for Congress, 1626 W. 38th Street, Lorain, OH 44053; Member of Congress, 13th, Ohio; 6/22/92; $1,000.00 (Election: primary).

Clayton for Congress, P.O. Box 479, Warrenton, N.C. 27589; Member of Congress, 1st, North Carolina; 6/8/92; $1,000.00 (Election: primary).

Cordray for Congress, 4178 Croadway, Grove City, OH 43123; Member of Congress, 15th, Ohio; 6/8/92; $1,000.00 (Election: primary).

Eshoo for Congress, 525 Alma Street, Palo Alto, CA 94301; Member of Congress, 14th, California; 6/8/92; $1,000.00 (Election: primary).

Filner for Congress, P.O. Box 12786, San Diego, CA 92101; Member of Congress, 50th, California; 6/22/92; $1,000.00 (Election: primary).

Fingerhut for Congress, 200 National City, E. 6th Bldg., Cleveland, OH 44144; Member of Congress, 19th, Ohio; 6/8/92; $1,000.00 (Election: primary).

Friends of Jane Harmon, San Vincente Boulevard, Los Angeles, CA 90040; Member of Congress, 36th, California; 6/8/92; $1,000.00 (Election: primary).

Friends of Patti Garamendi, P.O. Box 690456, Stockton, CA 95269; Member of Congress, 11th, California; 6/9/92; $1,000.00 (Election: primary).

Furse for Congress, P.O. Box 399, Hillsboro, OR 97123; Member of Congress, 1st, Oregon; 6/8/92; $1,000.00 (Election: primary).

Lembert for Congress, 44 Waverly Wood, Helena, AR 72342; Member of Congress, 1st, Arkansas; 6/8/92; $1,000.00 (Election: primary).

Lucille Roybal-Allard for Congress, P.O. Box 2187, Bell Gardens, CA 90201; Member of Congress, 33rd, California; 6/8/92; $1,000.00 (Election: primary).

McCuen for Congress, P.O. Box 6251, Hot Springs, AR 72901; Member of Congress, 4th, Arkansas; 6/22/92; $1,000.00 (Election: primary).

Menendez for Congress, P.O. Box 848, Union City, N.J. 07087; Member of Congress, 13th, New Jersey; 6/8/92; $1,000.00 (Election: primary).

Ochoa for Congress, 815 De La Vina, Santa Barbara, CA 93101; Member of Congress, 22nd, California; 6/8/92; $1,000.00 (Election: primary).

Schenk for Congress, 8340 Clairemont Mesa Boulevard, San Diego, CA 92111; Member of Congress, 49th, California; 6/8/92; $1,000.00 (Election: primary).

Scott for Congress, P.O. Box 251, Newport News, VA 23607; Member of Congress, 3rd, Virginia; 6/24/92; $1,000.00 (Election: primary).

Williams for Congress, 520 Lennor Lance, Walnut Creek, CA 94958; Member of Congress, 10th, California; 6/8/92; $1,000.00 (Election: primary).

Wolsey for Congress, 1301 Redwood Way, Petaluma, CA 94954; Member of Congress, 6th, California; 6/8/92; $1,000.00 (Election: primary).

Andy Fox for Congress, 120 E. Sewell Drive, Hampton, VA 23666; Member of Congress, 1st, Virginia; 7/20/92; $1,000.00 (Election: general).

Friends of Congresswoman Barbara Rose Collins, P.O. Box 07167, Detroit, Michigan 48207; Member of Congress, 13th, Michigan; 7/22/92; $5,000.00 (Election: primary).

Mike Kreidler for Congress, P.O. Box 4839, Federal Way, WA 98063; Member of Congress, 9th, Washington; 7/20/92; $1,000.00 (Election: primary).

U.S. Bank Visa, P.O. Box 4342, Portland, OR 97208; In-Kind Contribution of travel to Donald Payne, Member of Congress, 10th, New Jersey; 7/7/92; $786.00 (Election: general).

Williams for Congress, P.O. Box 114, Boise, Idaho 83701; Member of Congress, 2nd, Idaho; 7/9/92; $1,000.00 (Election: general).

Bonior For Congress, 237 S. Grotiot, Mt. Clemens, MI 48043; Member of Congress, 12th, Michigan; 8/10/92; $2,500.00 (Election: general).

Citizens for Bacchus, P.O. Box 531146, Orlando, FL 32853; Member of Congress, 11th, Florida; 8/10/92; $2,000.00 (Election: primary).

Congressman Bob Clement Committee, P.O. Box 150608, Nashville, TN 37215; Member of Congress, 5th, Tennessee; 8/3/92; $2,000.00 (Election: primary).

Cox for Congress, 331 E. State Street; Rockford, IL 61104; Member of Congress, 16th, Illinois; 8/10/92; $2,000.00 (Election: general).

Don Johnson for Congress, 290 North Milledge, Athens, GA 30603; Member of Congress, 10th, Georgia; 8/10/92; $1,000.00 (Election: general).

Elaine Baxter for Congress Committee, 210 East Salem, P.O. Box 783, Indianola, IA 50125; Member of Congress, 3rd, Iowa; 8/3/92; $1,000.00 (Election: general).

Friends of Tom Andrews, P.O. Box 4400, Station A, Portland, MA 04101; Member of Congress, 1st, Maine; 8/10/92; $2,000.00 (Election: general).

Kilker for Congress, 3715 Springetts Drive, York, PA 17402; Member of Congress, 19th, Pennsylvania; 8/3/92; $1,000.00 (Election: general).

Margolins for Congress, 13899 Biscayne Boulevard, North Miami, FL 33181; Member of Congress, 22nd, Florida; 8/10/92; $1,000.00 (Election: primary).

Maria Cantwell for Congress Committee, P.O. Box 144, Mountainlake Terrace, WA 98043; Member of Congress, 1st, Washington; 8/3/92; $1,000.00 (Election: primary).

Pomeroy for Congress, P.O. Box 1482, Bismark, ND 58502; Member of Congress, North Dakota; 8/10/92; $1000.00 (Election: general).

Richard Ray for Congress, P.O. Box 1649, Byron, GA 31008; Member of Congress, 3rd, Georgia; 8/3/92; $2000.00 (Election: general).

Sarpalius for Congress, P.O. Box 7926, Amarillo, TX 79114; Member of Congress, 13th, Texas; 8/10/92; $2000.00 (Election: general).

Shepherd for Congress, 1261 2nd Avenue, Salt Lake City, UT 84103; Member of Congress, 2nd, Utah; 8/3/92; $1000.00 (Election: primary).

Takano for Congress, 3910 Market Street, Riverside, CA 92501; Member of Congress, 43rd, California; 8/10/92; $1000.00 (Election: general).

Thurman for Congress Committee, P.O. Box 2816, Gainsville, FL 32602; Member of Congress, 5th, Florida; 8/3/92; $1000.00 (Election: primary).

Tucker for Congress, 322 West Compton Boulevard, Compton, CA 90220; Member of Congress, 37th, California; 8/3/92; $1000.00 (Election: general).

VanWinkle for Congress Committee, P.O. Box 11541, Fort Smith, AR 72917; Member of Congress, 3rd, Arkansas; 8/3/92; $1000.00 (Election: general).

Wallace for Congress, P.O. Box 988, Montgomery, AL 36101; Member of Congress, 2nd, Alabama; 8/3/92; $1000.00 (Election: general).

Alaskans for John Devens, 1317 W. Northern Lights Blvd., Anchorage, Alaska 99503; Member of Congress, Al, Arkansas; 9/21/92; $1000.00 (Election: general).

American Express Company, P.O. Box 1270, Newark, New Jersey 07101; In-Kind Contribution of Travel to Ron Coleman, Member of Congress, 16th, Texas; 9/21/92; $3132.00 (Election: general).

Aucoin for Senate Committee, 809 N.E. 6th Street, Portland, Oregon 97232; U.S. Senator, 1st, Oregon; 9/29/92; $2000.00 (Election: general).

Bart Stupak for Congress, 4101 Michigan Shore Drive, Menominee, MI 49858; Member of Congress, 11th, Michigan; 9/11/92; $1000.00 (Election: general).

Becerra for Congress, P.O. Box 3096, Montbello, California 90640; Member of Congress, 30th, California; 9/21/92; $1000.00 (Election: general).

Bonior for Congress, 237 S. Grotiot, Mt. Clemens, Michigan 48043; Member of Congress, 12th, Michigan; 9/29/92; $1000.00 (Election: general).

Byrne for Congress, P.O. Box 2612, Falls Church, VA 22042; Member of Congress, 11th, Virginia; 9/11/92; $1000.00 (Election: general).

Callahan for Congress, P.O. Box 54, Gunison, Colorado 81230; Member of Congress, 3rd, Colorado; 9/21/92; $1000.00 (Election: general).

Cathey Steinberg for Congress, 1236 Wildcliff Circle, NE, Atlanta, Georgia 30329; Member of Congress, 4th, Georgia; 9/11/92; $1000.00 (Election: general).

Center for Congress, P.O. Box 88129, Dunwoody, Georgia 30356; Member of Congress, 6th, Georgia; 9/29/92; $1000.00 (Election: general).

Citizens for Deaton, 424 S. National, Springfield, Missouri 65802; Member of Congress, 7th, Missouri; 9/11/92; $1000.00 (Election: general).

Clyburn for Congress, P.O. Box 4490, Columbia, South Carolina 29240; Member of Congress, 6th, South Carolina; 9/29/92; $1000.00 (Election: general).

Committee for Nydia Velasquez in Congress, 92 Siegel Street, Brooklyn, New York 11206; Member of Congress, 12th, New York; 9/29/92; $1000.00 (Election: general).

Cynthia McKinney for Congress, P.O. Box 27115, Decatur, GA 30037; Member of Congress, 2nd, Georgia; 9/11/92; $1000.00 (Election: general).

David Mann for Congress, 568 Evanswood Place, Cincinnati, Ohio 45220; Member of Congress, 1st, Ohio; 9/11/92; $1000.00 (Election: general).

Eliot Engel for Congress, P.O. Box 546, Bronx, New York 10461; Member of Congress, 19th, New York; 9/11/92; $2000.00 (Election: primary).

Erdreich for Congress, P.O. Box 751, Birmingham, Alabama 35201; Member of Congress, 6th, Alabama; 9/29/92; $1000.00 (Election: general).

Friends of Cong. Gerry Sikorski, P.O. Box 32373, Fridley, MN 55432; Member of Congress, 6th, Minnesota; 9/11/92; $2000.00 (Election: general).

Friends of Tom Redder, Inc., P.O. Box 9626, Fort Collins, Colorado 80525; Member of Congress, 4th, Colorado; 9/21/92; $1000.00 (Election: general).

Gejdenson Re-Election Committee, P.O. Box 1818, Bozrah, Connecticut 06334; Member of Congress, 2nd, Connecticut; 9/29/92; $1000.00 (Election: general).

Glickman for Congress Committee, P.O. Box 3172, Wichita, Kansas 67201; Member of Congress, 4th, Kansas; 9/29/92; $1000.00 (Election: general).

Green for Congress, P.O. Box 16128, Houston, Texas 77222; Member of Congress, 29th, Texas; 9/21/92; $1000.00 (Election: general).

Hair for Congress, P.O. Box 447, Jacksonville, FL 32201; Member of Congress, 4th, Florida; 9/11/92; $1000.00 (Election: general).

Herschler for Congress, P.O. Box 368, Big Horn, Wyoming 82833; Member of Congress, AL, Wyoming; 9/21/92; $1000.00 (Election: general).

Hilliard for Congress, 1612 Third Avenue North, Birmingham, Alabama 35203; Member of Congress, 7th, Alabama; 9/21/92; $1000.00 (Election: general).

Hinchey for Congress, 20 Carriage Hill, Latham, New York 12110; Member of Congress, 26th, New York; 9/29/92; $1000.00 (Election: general).

Holden for Congress, 424 South 2nd Street, St. Clair, Pennsylvania 17970; Member of Congress, 6th, Pennsylvania; 9/29/92; $1000.00 (Election: general).

Jimmy Hayes for Congress, P.O. Box 30476, Lafayette, Louisiana 79593; Member of Congress, 7th, Louisiana; 9/11/92; $2500.00 (Election: general).

Mary Rose Oakar for Congress, P.O. Box 458, Cleveland, Ohio 44107; Member of Congress, 29th, Ohio; 9/11/92; $1000.00 (Election: general).

McMillen for Congress, P.O. Box 447, Millersville, Maryland 21108; Member of Congress, 1st, Maryland; 9/29/92; $1000.00 (Election: general).

Meek for Congress, 149 West Plaza, Miami, Florida 33147; Member of Congress, 17th, Florida; 9/21/92; $1000.00 (Election: general).

Nathan Dean for Congress, 311 Green Street, N.E., Gainesville, Georgia 30503; Member of Congress, 9th, Georgia; 9/21/92; $1000.00 (Election: general).

Patricia Danner for Congress, P.O. Box 143, Smithville, Missouri 64098; Member of Congress, 6th, Missouri; 9/11/92; $1000.00 (Election: general).

Peter Deutsch for Congress, P.O. Box 26778, Tampa, Florida 33320; Member of Congress, 20th, Florida; 9/29/92; $1000.00 (Election: general).

Ron Holt for U.S. Congress, P.O. Box 1647, Ogden, Utah 84402; Member of Congress, 1st, Utah; 9/11/92; $1500.00 (Election: general).

Sanford Bishop for Congress, P.O. Box 709; Columbus, Georgia 31902; Member of Congress, 3rd, Georgia; 9/11/92; $1000.00 (Election: general).

Schiliro for Congress Campaign Committee, 1002 Wood Park Drive, Baldwin, New York 11510; Member of Congress, 4th, New York; 9/29/92; $2000.00 (Election: general).

Sendelsky for Congress Committee, 3 Stephenville Parkway, Edison, New Jersey 08820; Member of Congress, 7th, New Jersey; 9/21/92; $1000.000 (Election: general).

Shepherd for Congress, 1261 2nd Avenue, Salt Lake City, Utah 84103; Member of Congress, 2nd, Utah; 9/11/92; $1000.00 (Election: general).

Smith for Congress, 6306 N. Cicero, Chicago, IL 60646; Member of Congress, 8th, Illinois; 9/11/92; $1000.00 (Election: general).

Strickland for Congress, P.O. Box 580, Lucasville, Ohio 45648; Member of Congress, 6th, Ohio; 9/21/92; $1000.00 (Election: general).

Walter Briggs for Congress, P.O. Box 1475, Birmingham, Michigan 48012; Member of Congress, 18th, Michigan 9/11/92; $1000.00 (Election: general).

Williams for Congress, 211 Riveria Drive, Oklahoma City, Oklahoma 73112; Member of Congress, 5th, Oklahoma 9/21/92; $1000.00 (Election: general).

Al Swift for Congress Committee, P.O. Box 941, Everett, WA 98296; Member of Congress, 2nd, WA; 10/13/92; $2000.00 (Election: general).

Barcia for Congress, 915 Harbor View, Bay City, MI 48706; Member of Congress 5th, MI; 10/13/92; $1000.00 (Election: general).

Brown for Congress, 1626 W. 38th Street, Lorain, OH 44053; Member of Congress, 13th, OH; 10/13/92; $1000.00 (Election: general).

Congressman Kildee Committee, P.O. Box 990, Washington, D.C. 20044; Member of Congress, 9th, MI; 10/13/92; $1000.00 (Election: general).

Friends of Jane Harman, 2250 East Imperial Highway, El Segundo, CA 90245; Member of Congress, 36th, CA; 10/13/92; $1000.00 (Election: general).

Friends of Rosa DeLauro, 49 Huntington Street, New Haven, CT 06511; Member of Congress, 3rd, CT; 10/13/92; $1000.00 (Election: general).

Gejdenson Re-Election Committee, P.O. Box 1818, Bozrah, CT 06334; Member of Congress, 2nd, CT; 10/13/92; $2,000.00 (Election: general).

Inslee for Congress, P.O. Box 160, Selah, WA 98942; Member of Congress, 4th, WA; 10/13/92; $1,000.00 (Election: general).

Lawlor for Congress, 193 Grand Street, Waterbury, CT 06702; Member of Congress, 5th CT; 10/13/92; $1,000.00 (Election: general).

Manburg for Congress, 1330 Booneville Road, Ikiah, CA 95482; Member of Congress, 1st, CA; 10/13/92; $1,000.00 (Election: general).

Mavroules for Congress Committee, P.O. Box 91283, Washington, D.C. 20090; Member of Congress, 6th, MA; 10/13/92; $1,000.00 (Election: general).

McCloskey for Congress, P.O. Box 70, Bloomington, IN 47402; Member of Congress, 8th, IN; 10/13/92; $2,000.00 (Election: general).

Minge for Congress, P.O. Box 364, Montevideo, MN 56265; Member of Congress, 2nd, MN; 10/13/92; $1,000.00 (Election: general).

Nagle Campaign Committee, P.O. Box 792, Waterloo, IA 50704; Member of Congress, 2nd, IA; 10/13/92; $2,000.00 (Election: general).

Pat Williams for Congress, P.O. Box 1992, Helena, MT 59601; Member of Congress, 1st, MT; 10/13/92; $2,000.00 (Election: general).

The Wilson Committee, 4604 Demming, Alexandria, VA 22312; Member of Congress, 2nd, TX; 10/5/92; $5,000.00 (Election: general).

Center for Congress, P.O. Box 88129, Dunwoody, GA 30356; Member of Congress, 6th Georgia; 10/20/92; $1,500.00 (Election: general).

Comerford for Congress, 4400 P.G.A. Boulevard, #304, Palm Beach Gardens, FL 33480; Member of Congress, 16th Florida; 10/29/92; $1,000.00 (Election: general).

Committee to Elect Gary L. Ackerman, 7424 Miller Fall Road, Derwood, MD 20855; Member of Congress, 5th New York; 10/20/92; $1,000.00 (Election: general).

Friends of Congressman Hochbrueckner, P.O. Box 426, Corman, NY 11727; Member of Congress, 1st New York; 10/20/92; $2,000.00 (Election: general).

Gejdenson Re-Election Committee, P.O. Box 1818, Bozrah, CT 06334; Member of Congress, 2nd, Connecticut; 10/23/92; $2,000.00 (Election: general).

Hefner for Congress Committee, P.O. Box 3016, Concord, N.C. 28025; Member of Congress, 8th North Carolina; 10/20/92; $3,000.00 (Election: general).

Kostmayer '92 Campaign Committee, P.O. Box 85 Old Dublin Pike, Doylestown, PA 18901; Member of Congress, 8th Pennsylvania; 10/20/92; $3,000.00 (Election: general).

Kreidler for Congress, P.O. Box 4839, Federal Way, WA 98063; Member of Congress, 9th Washington; 10/30/92; $1,000.00 (Election: general).

Maloney for Congress, 77 Seventh Avenue, New York, NY 10001; Member of Congress, 14th New York; 10/23/92; $1,000.00 (Election: general).

Mims for Congress, P.O. Box 2802, Lakeland, FL 33806; Member of Congress, 12th Florida; 10/29/92; $1,000.00 (Election: general).

Preston for Congress, Box 1991, Hampton, N.H. 03842; Member of Congress, 1st New Hampshire; 10/30/92; $1,000.00 (Election: general).

Victory '92, Suite 1120 Statler Office Bldg., Boston, MA 02116; contribution; 10/23/92; $1,000.00 (Election: general).

Barca for Congress, 2500 Washington Road, Kenosha, WI 53140; Member of Congress, 1st, Wisconsin; 4/8/93; $5,000.00 (Election: special).

Farr for Congress, 1010 S Street, Sacremento, CA 95814; Member of Congress, 17th, California; 4/20/93; $2,000.00 (Election: special).

Friends of Bennie Thompson, 107 W. Madison Street, Bolton, Miss. 39041; Member of Congress, 2nd, Mississippi; 4/8/93; $5,000.00 (Election: special).

1993 Democratic Special Election Fund, 430 S. Capitol Street, Washington, D.C. 20003; Farr for Congress, Member of Congress, 17th, California; 4/5/93; $3,000.00 (Election: special).

Citibank Visa, P.O. Box 8502, Hagerstown, MD 21748; In-Kind Contribution of Travel to Cleo Fields, Member of Congress, 4th, Louisiana; 5/17/93; $2083.00 (Election: primary).

Citibank Visa, P.O. Box 8502, Hagerstown, MD 21748; In-Kind Contribution of Travel to Eddie Bernice Johnson, Member of Congress, 30th, Texas; 5/17/93; $1440.02 (Election: primary).

Citibank Visa, P.O. Box 8502, Hagerstown, MD 21748; In-Kind Contribution of Travel to Peter A. DeFazio, Member of Congress, 4th, Oregon; 5/17/93; $1977.28 (Election: primary).

Farr for Congress, 1010 S Street, Sacramento, CA 95814; Member of Congress, 17th, California; 5/25/93; $5000.00 (Election: run-off).

Recount Fund, 430 South Capitol Street, S.E., Washington, D.C. 20003; contribution; 5/11/93; $5000.00 (Election: primary).

Minge for Congress, 360 10th Avenue, Granett Falls, MN 56214; Member of Congress, 2nd, Minnesota; 1/11/94; $1000.00 (Election: primary).

Peterson for Congress, 6 E Street, S.E., Washington, D.C. 20003; Member of Congress, 7th, Minnesota; 1/11/94; $1000.00 (Election: primary).

Craig A. Washington for Congress Committee, P.O. Box 2588, Houston, TX 77252; Member of Congress, 18th, Texas; 3/3/94; $1000.00 (Election: primary).

Dan Webber for Congress Committee, P.O. Box 890566, Oklahoma City, OK 73189; Member of Congress, 6th, Oklahoma; 3/24/94; $1000.00 (Election: primary).

Friends of Corrine Brown Committee, 11607 Longwood Drive, West Jacksonville, FL 32218; Member of Congress, 3rd, Florida; 3/24/94; $1000.00 (Election: primary).

Friends of Farr Committee, P.O. Box 2884, Washington, D.C. 20013; Member of Congress, 17th, California; 3/24/94; $1000.00 (Election: primary).

Friends of Farr Committee, P.O. Box 28814, Washington, D.C. 20013; Member of Congress, 17th, California; 3/3/94; $1000.00 (Election: primary).

Gene Green for Congress, 3130 N. Freeway, Houston, TX 77009; Member of Congress, 29th, Texas; 3/3/94; $1000.00 (Election: primary).

Kika de la Garza for Congress Committee, P.O. Box 636, Hidalgo, TX 78557; Member of Congress, 15th, Texas; 3/3/94; $1000.00 (Election: primary).

Mel Reynolds for Congress Committee, 7626 S. Racine, Chicago, IL 60620; Member of Congress, 2nd, Illinois; 3/3/94; $1000.00 (Election: primary).

Ron Coleman for Congress, P.O. Box 1045, El Paso, TX 79946; Member of Congress, 16th, Texas; 3/3/94; $1000.00 (Election: primary).

Rostenkowski for Congress Committee, 1349 N. Nobel, Chicago, Illinois 60622; Member of Congress, 5th, Illinois; 3/1/94; $1000.00 (Election: primary).

Blackwell for Congress, P.O. Box 42507, Philadelphia, PA 19101; Member of Congress, 2nd, Pennsylvania; 4/29/94; $1000.00 (Election: primary).

Citizens for David Mann, 2250 Kroger Bld., 1014 Vine St, Cincinnati, Ohio 45202; Member of Congress, 1st, Ohio; 4/29/94; $1000.00 (Election: primary).

Foglietta for Congress, P.O. Box 15052, Washington, D.C. 20003; Member of Congress, 1st, Pennsylvania; 4/29/94; $1000.00 (Election: primary).

Friends of Mike Parker, P.O. Box 229, Brookhaven, Mississippi 39601; Member of Congress, 4th, Mississippi; 4/29/94; $1000.00 (Election: primary).

Weber for Congress Committee, P.O. Box 890566, Oklahoma City, OK 73189; Member of Congress, 6th, Oklahoma; 4/29/94; $4000.00 (Election: primary).

Barlow for Congress '94, P.O. Box 1422, Paducah, KY 42002; Member of Congress, 1st, Kentucky; 5/17/94; $2000.00 (Election: primary).

Barlow for Congress '94, P.O. Box 1422, Paducah, KY 42002; Member of Congress, 1st, Kentucky; 5/20/94; $1000.00 (Election: primary).

Doggett for U.S. Congress Committee, P.O. Box 5843, Austin, TX 78763; Member of Congress, 10th, Texas; 5/18/94; $2000.00 (Election: primary).

Elizabeth Furse for Congress, 6200 S.W. Virginia, Portland, OR 97201; Member of Congress, 1st, Oregon; 5/17/94; $1000.00 (Election: primary).

Adkission for Congress, 4th & Allen, Owensboro, KY 42302; Member of Congress, 2nd, Kentucky; 6/30/94; $1,000.00 (Election: primary).

Aflac, Inc., 1932 Wynnton Road, Columbus, GA 31999; In-Kind Contribution of travel to Corrine Brown for Congress Comm., 2nd, Florida; 6/24/94; $1,644.00 (Election: primary).

Bob Filner for Congress, Box 127868, San Diego, CA 92112; Member of Congress, 50th, California; 6/27/94; $2,000.00 (Election: primary).

Citibank Visa, P.O. Box 8501, Hagerstown, MD 21748; In-Kind Contribution of travel to Earl F. Hiliard for Congress Comm., 7th, Alabama; 6/6/94; $1,874.00 (Election: primary).

Clute for Congress, 24318 Hemlock, Moreno Valley, CA 92557; Member of Congress, 44th, California; 6/29/94; $1,000.00 (Election: primary).

Committee to Elect Dan Hamburg, P.O. Box 155, Napa, CA 94559; Member of Congress, 1st, California; 6/2/94; $1,060.00 (Election: primary).

Cynthia Ruccia for Congress, 1936 Grandor Avenue, Columbus, OH 43209; Member of Congress, 12th, Ohio; 6/2/94; $1,000.00 (Election: primary).

Doyle for Congress, P.O. Box 17426, Pittsburgh, PA 15235; Member of Congress, 18th, Pennsylvania; 6/30/94; $1,000.00 (Election: primary).

Dutremble for Congress, P.O. Box 1133, Portland, Maine 04104; Member of Congress, 1st, Maine; 6/27/94; $1,000.00 (Election: primary).

Engel for Congress, 115 D Street, S.E., Washington, D.C. 20003; Member of Congress, 17th, New York; 6/29/94; $1,000.00 (Election: primary).

Friends for McGuire, P.O. Box 710, Boone, Iowa 50036; Member of Congress, 5th, Iowa; 6/30/94; $1,000.00 (Election: primary).

Friends of Major Owens, P.O. Box 2884, Washington, D.C. 20013; Member of Congress, 11th, New York; 6/27/94; $1,000.00 (Election: primary).

Gaul for Congress, 21717 Loraine Road, Fairview Park, Ohio 44126; Member of Congress, 10th, Ohio; 6/27/94; $1,000.00 (Election: primary).

Greg Didonato for U.S. Congress, 1260 Monroe Avenue, New Philadelphia, OH 44663; Member of Congress, 18th, Ohio; 6/27/94; $1,000.00 (Election: primary).

Hirning for Congress, P.O. Box 1201, Roseville, CA 95678; Member of Congress, 4th, California; 6/27/94; $1,000.00 (Election: primary).

Hogsett for Congress Committee, P.O. Box 535, Rushville, IN 46173; Member of Congress, 2nd, Indiana; 6/9/94; $1,000.00 (Election: primary).

Hottinger for Congress Committee, P.O. Box 3183, Monkato, MN 56002; Member of Congress, 1st, Minnesota; 6/9/94; $1,000.00 (Election: primary).

John Baldacci for Congress, 79 Palm Street, Bangor, Maine 04401; Member of Congress, 2nd, Maine; 6/30/94; $1,000.00 (Election: primary).

Ken Bentsen, Jr. for Congress Committee, 3260 S. Loop West, Houston, TX 77025; Member of Congress, 25th, Texas; 6/9/94; $1000.00 (Election: primary).

Levin for Congress Committee, 2107 East 17 Mile Road, Sterling Heights, MI 48310; Member of Congress, 12th, Michigan; 6/30/94; $1000.00 (Election: primary).

Luther for Congress Voluntary Committee, 1399 Geneva Avenue, Oakdale, MN 55128; Member of Congress, 6th, Minnesota; 6/9/94; $1000.00 (Election: primary).

Maggie Lauterer for Congress, P.O. Box 778, Asheville, NC 28802; Member of Congress, 11th, North Carolina; 6/27/94; $1000.00 (Election: primary).

Mark Takano for Congress, 3842 B Tyler Street, Riverside, CA 92503; Member of Congress, 43rd, California; 6/27/94; $1000.00 (Election: primary).

Nagle for Congress, P.O. Box 792, Waterloo, Iowa 50704; Member of Congress, 2nd, Iowa; 6/9/94; $1000.00 (Election: primary).

Peter Hoagland for Congress '94, 8441 West Center Road, Omaha, Nebraska 68124; Member of Congress, 2nd, Nebraska; 6/27/94; $2000.00 (Election: primary).

Pomeroy for Congress, P.O. Box 746, Bismark, ND 58502; Member of Congress, North Dakota; 6/9/94; $1000.00 (Election: primary).

Randy Perry for Congress, P.O Box 548, Stockton, CA 95201; Member of Congress, 11th, California; 6/30/94; $1000.00 (Election: primary).

Richard Moore for Congress, P.O. Box 40, Oxford, North Carolina 27565; Member of Congress, 2nd, North Carolina; 6/9/94; $1000.00 (Election: primary).

Sands for Congress, P.O. Box 1796, Reidsville, N.C. 27323; Member of Congress, 5th, North Carolina; 6/27/94; $1,000.00 (Election: primary).

Sarpalius for Congress, P.O. Box 8105, Wichita Falls, TX 76307; Member of Congress, 10th, Texas; 6/27/94; $1000.00 (Election: primary).

Sue Kupillas for Congress, P.O. Box 685, Medford, OR 97501; Member of Congress, 2nd, Oregon; 6/27/94; $1000.00 (Election: primary).

Walter Capps for Congress, 1724 Santa Barbara Street, Santa Barbara, CA 93101; Member of Congress, 22nd, California; 6/27/94; $1000.00 (Election: primary).

Ward for Congress, 1250 Bardstown Road, Louisville, KY 40204; Member of Congress, 3rd, Kentucky; 6/27/94; $1000.00 (Election: primary).

Webber for Congress, P.O. Box 2007, Salem, OR 97398; Member of Congress, 5th, Oregon; 6/27/94; $1000.00 (Election: primary).

Bill Leavens for Congress, P.O. Box 400, Sharon Pennsylvania; Member of Congress, 21st, Pennsylvania; 7/12/94; $1000.00 (Election: primary).

Citibank Visa, P.O. Box 1747, Hagerstown, MD 21748; In-Kind Contribution of travel to Alcee L. Hastings, Member of Congress, 23rd, Florida; 7/18/94; $976.00 (Election: primary).

Conyers for Congress, 18985 Livernois, Detroit, MI 48221; Member of Congress, 14th, Michigan; 7/18/94; $2000.00 (Election: primary).

Don Johnson for Congress, P.O. Box 390, Royston, GA 30622; Member of Congress, 10th, Georgia; 7/18/94; $1000.00 (Election: primary).

Friends of Jane Harman, P.O. Box 523024, Springfield, VA 22152; Member of Congress, 36th, California; 7/18/94; $1000.00 (Election: primary).

Congressman Kildee Committee, P.O. Box 317, Flint, MI 48501; Member of Congress, 9th, Michigan; 8/2/94; $1000.00 (Election: primary).

Nadler for Congress, 175 West 90th Street, New York, NY 10024; Member of Congress, 8th, New York; 8/2/94; $1000.00 (Election: primary).

Unsoeld Campaign, 609 Main Street, Vancouver, WA 98660; Member of Congress, 3rd, WA; 9/16/94; $2000.00 (Election: primary).

Bilbray for Congress, P.O. Box 1406, Las Vegas, NV 89125; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Bryan for Congress; Member of Congress; 11/3/94; $500.00 (Election: general).

Button for Congress Committee; Member of Congress; 11/3/94; $500.00 (Election: general).

Citizens for Brewster; Member of Congress; 11/3/94; $500.00 (Election: general).

Committee to Elect Chuck Blanchard; Member of Congress; 11/3/94; $500.00 (Election: general).

Congressman Bart Gordon Committee, P.O. Box 2008, Murfreesboro, TN 37133; Member of Congress; 11/2/94; $2,000.00 (Election: general).

Congressman Bart Gordon Committee; Member of Congress; 11/4/94; $1,000.00 (Election: general).

Don Johnson for Congress, P.O. Box 28, Athens, GA 30603; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Friends of M.M.M.; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Jay Bradford Congressional Committee; Member of Congress; 11/3/94; $500.00 (Election: general).

Jeff Worley for Congress Committee; Member of Congress; 11/3/94; $500.00 (Election: general).

Martin Frost Campaign Committee; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Mascara for Congress Committee; Member of Congress; 11/3/94; $500.00 (Election: general).

McCloskey for Congress; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Woolsey for Congress; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Brian Baird for Congress, P.O. Box 11189, Olympia, WA 98508–1189; election campaign; 9/26/96; $1,000.00 (Election: general).

Committee to Elect Judy Olsen, P.O. Box 2146, Spokane, WA 99210–2146; election campaign; 9/26/96; $2,000.00 (Election: general).

Gedjeson Reelection Committee, P.O. Box 1818, Bozrah, CT 06334; Election campaign; 12/10/96; $510.14 (Election: primary).

ITEMIZED DISBURSEMENTS—COMMITTEE TO RE-ELECT TOM FOLEY

Democratic Congressional Campaign Committee, 430 South Capitol Street, Washington, D.C. 20003; Contribution; 2/26/92; $5,000.00 (Election: primary).

People for Mrazek, 117 E. 29th Street, New York, New York 10016; Contribution; 1/29/92; $1,000.00 (Election: primary).

Bonker for Senate Committee, 4601 Yuma Street, N.W., Washington, D.C. 20016; Contribution; 12/16/92; $1,000.00 (Election: primary).

Democratic Congressional Campaign Committee, 430 South Capitol Street, Washington, D.C. 20003; Contribution; 12/16/92; $1,000.00 (Election: Primary).

Barca for Congress, 2500 Washington Road, Kenosha, WI 53140; Contribution; 5/3/93; $1,000.00 (Election: primary).

Bob Mitchell for Congress, 3401 East Saginaw, Lansing, MI 48912; Contribution; 11/3/94; $500.00 (Election: general).

Friends of George Brown, P.O. Box 1867, Colton, CA 92324; Contribution; 11/3/94; $500.00 (Election: general).

Ham Fish, Jr. for Congress, 666 Lexington Avenue, Mt. Kisco, NY 10549; Contribution; 11/3/94; $500.00 (Election: general).

Inslee for Congress, P.O. Box 686, Selah, WA 98942; Contribution; 11/3/94; $750.00 (Election: general).

John Bryant for Congress, 8035 East R.L. Thornton, Dallas, TX 75228; Contribution; 11/3/94; $500.00 (Election: general).

Lehman for Congress Committee, 2350 West Shaw, Fresno, CA 93711; Contribution; 11/3/94; $500.00 (Election: general).

Maloney for Congress, 185 Main Street, Danbury, CT 06810; Contribution; 11/3/94; $500.00 (Election: general).

Maria Cantwell for Congress, P.O. Box 144, Mountlake Terrace, WA 98043; Contribution; 11/3/94; $750.00 (Election: general).

Mike Kriedler for Congress Committee, P.O. Box 4839, Federal Way, WA 98063; Contribution; 11/3/94; $750.00 (Election: general).

Robert Connors for Congress Committee, P.O. Box 89, Lake Wales, FL 33859; Contribution; 11/3/94; $500.00 (Election: general).

Spanel for Congress, 3506 Broadway, Everett, WA 98206; Contribution; 11/3/94; $1,000.00 (Election: general).

Stupak for Congress, P.O. Box 143, Monominee, MI 49858; Contribution; 11/3/94; $500.00 (Election: general).

The Unsoeld Campaign, P.O. Box 10231, Olympia, WA 98502; Contribution; 11/3/94; $750.00 (Election: general).

Tierney for Congress, 76 Lafayette Street, Salem, MA 01970; Contribution; 11/3/94; $500.00 (Election: general).

Tom Sawyer Committee, 1540 W. Market Street, Akron, OH 44313; Contribution; 11/3/94; $500.00 (Election: general).

Vince Whibbs Jr. for U.S. Congress, 1602 North 9th Avenue, Pensacola, FL 32503; Contribution; 11/3/94; $500.00 (Election: general).

Volkmer for Congress Committee, 209 Broadway, Hannibal, MO 63401; Contribution; 11/3/94; $500.00 (Election: general).

Adam Smith for Congress, 28210 Redondo Beach Dr. South Redondo, WA 98054; Political contribution; 9/26/96; $1,000.00 (Election; general).

Coopersmith for Congress, P.O. Box 356, Lynnwood, WA 98046; Political contribution; 9/26/96; $1,000.00 (Election; general).

Rick Locke, Ind. Leadership for Cong., P.O. Box 900, Richland, WA 99352-0900; Political contribution; 9/26/96; $1,000.00 (Election; general).

Committee to Elect Judy Olsen, P.O.Box 2146, Spokane, WA 99210-2146; Political contribution; 9/26/96; $1,000.00 (Election; general).

Kevin Quigley for U.S. Cong. 2nd Dist. 1029 Springbrook Rd., Lake Stevens, WA 98258; Political contribution; 9/26/96; $1,000.00 (Election; general).

Tim Johnson for South Dakota, P.O. Box 88113, Sioux Falls, SD 57105; Political contribution; 9/26/96; $500.00 (Election; general).

Abercrombie for Congress; Political contribution; 9/26/96; $500.00 (Election; general).

Citizens for Harkin, P.O. Box 811, DesMoines, Iowa 50304; Political contribution; 11/1/96; $1,000.00 (Election; general).

Friends of Jane Harman, 1231 Cabrillo Ave., #105, Torrance, CA 90501; Political contribution; 11/1/96; $1,000.00 (Election; general).

Fazio for Congress Committee, 555 Capitol Mall, Suite #1425, Sacramento, CA 95814; Political contribution; 11/1/96; $1,000.00 (Election; general).

Louise Slaughter Reelection Committee, P.O. Box 14117, Rochester, NY 14614; Political contribution; 10/27/96; $500.00 (Election; general).

Susan Kaun for Congress Committee, P.O. Box 2183, Deer Park, WA 99006; Political contribution; 10/27/96; $1,000.00 (Election; primary).

Evan Bayh for Senate Committee, 10 W. Market St., #2100, Indianapolis, Ind 46284; Political contribution; 12/9/96; $500.00 (Election; primary).

COMMITTEE ON FOREIGN RELATIONS

Name: Thomas S. Foley. Nominated for: Ambassador to Japan. Date completed: June 9, 1997.

The attached is designed to assist the Committee on Foreign Relations in evaluating Presidential nominations. All questions must be answered in full.

Biographical information requested in Part A will be made public; answers supplied to questions in Parts B through E will be treated as confidential.

PART A—BIOGRAPHICAL INFORMATION

1. Name: Thomas S. Foley.

2. Address: 1253 C Street, SE, Washington, D.C. 20003.

3. Date and Place of Birth: 3-26-29, Spokane, Washington.

4. Marital Status: Married.

5. Spouse's Name: Heather Stachan Foley.

6. Names and ages of children: None.

7. Education—List each institution attended since high school and include the dates attended and any degree(s) awarded.

Gonzaga Prep, 1942-1946; Gonzaga University, 1947-1950; University of Washington, 1950-1951 BA; University of Washington Law School, 1957.

8. Employment Record—List all jobs held since college and include the title or description of job, the name of employer, the location and the dates of employment.

1995 to Present—Partner, Akin, Gump, Strauss, Hauer & Feld, Washington, D.C.; 1965-1994—United States Representative for the Fifth District of Washington, United States House of Representatives; 1961-1964—Special Counsel, Committee on Interior and Insular Affairs, United States Senate; 1960—Assistant Attorney General, State of Washington; 1958-1960—Deputy Prosecuting Attorney, Spokane County, Washington; 1957—Attorney, Higgins & Foley, Spokane, Washington.

9. Government Experience—List any experience in, or association with, Federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions not shown in question 8.

All shown in question 8.

10. Honors and Awards—List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements.

Honorary Degrees: University of Ulster, Ireland, Michigan State University, Washington State University, Gonzaga University, Whitman College. President's Medal from the University of Washington.

11. List all foreign languages spoken and include a self-assessment of your ability to speak, write and understand the language.

Limited French.

12. Published Writings—List the titles, publishers and dates of books, articles, reports and other published materials you have written.

Foreword—Speakers of the House by Judith Bentley.

13. Speeches—List the title of any speech you have delivered during the last two years which you have reduced to writing or which has been transcribed and which is on a topic related to the position for which you have been nominated, and include the date of delivery and the audience. Please provide a copy of each.

N/A.

14. Organizational Affiliations—List all civic, cultural, educational or philanthropic organizations you have been associated with in the past 10 years. Include any position held in the organization and the dates of service.

Council on Foreign Relations; Former Members of Congress Assoc.; Institute of Foreign Affairs; American Council on Germany; Bicycle Federation; Japan American Society of Washington; US/China Society; Fund for Democracy and Development.

15. Are there any factors, other than the information provided above, which particularly qualify you for the position to which you have been nominated?

Twenty-five years Chair of US/Japan Parliamentary of U.S. House of Representatives; visited Japan may times; broad knowledge of Japanese politics, economy and cultural affairs.

16. Have you ever been nominated or served in a position requiring Senate confirmation?

No.

PART B—FINANCIAL INFORMATION

1. Are you or your spouse now in default on any loan, debt or other financial obligation? Have you or your spouse been in default on any loan, debt or other financial obligation in the past five years? If the answer to either question is yes, please provide details.

No.

2. Are you or your spouse now serving as a trustee of any trust or the administrator of any estate? If so, please provide details.

Mother's estate, Helen Higgins Foley.

3. Do you or your spouse have power of attorney for any individual? If so, please provide details.

No.

4. Have you, your spouse or your dependents received gift(s) exceeding $1,000 per annum from anyone besides members of the family within the last three years? If so, list the gift, its value and the donor.

No.

5. Political Affiliations—List all positions you or your spouse have held with a political party or other multi-candidate committee, whether paid or as a volunteer, in the last five years.

None.

6. Political Contributions—List all financial contributions of $1,000 or more per annum made by you, your spouse or other members of your immediate family to any local, state or national party committee, to any individual candidate or to any multi-candidate committee within the last five years.

Heather S. Foley—$1,000 to Clinton campaign last year; Thomas S. Foley—$1,000 to Clinton campaign last year.

7. If asked, would you provide the Committee with copies of your and your spouse's Federal income tax returns for the past three years? (If returns are provided, they will be reviewed either by Senators or by a

staff member designated by the Chairman and Ranking Member. They will be treated as confidential.)

Yes.

8. Have your Federal or State tax returns been the subject of any audit, investigation or inquiry at any time? If so, please provide details, including the result of the investigation.

No.

9. As a condition of receiving the advice and consent of the Senate, do you agree to appear and testify upon request before any duly constituted committee of the Senate?

Yes.

PART C—FUTURE EMPLOYMENT PLANS

1. Do you intend to sever all connections with your present employers, business firms, business associations or business organizations in the event you are confirmed by the Senate? if not, please explain.

Yes.

2. Do you have any commitments or agreements to pursue outside employment, with or without compensation, during your service with the Government? If so, please explain.

No.

3. Do you have any commitments or agreements after completing Government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization other than those listed in the Office of Government Ethics Financial Disclosure Report (Form 278)? If so, please explain.

No.

4. Has anybody made an offer of employment to you in any capacity after you leave Government service? If so, please explain.

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

PART D—CONFLICT OF INTEREST

1. Have you read Section 208 of Title 18 of the United States Code, Acts affecting a personal financial interest? (A copy is attached to this form.)

Yes.

2. During the past five years, have you or your spouse received any compensation or personally been involved in any financial transaction with a foreign government or interest? If so, please explain.

No.

3. Have you ever been a registered agent of a foreign government or otherwise represented a foreign government or other foreign interest? If so, provide details.

No.

4. Describe briefly any lobbying activity during the past ten years, other than in an official Government capacity, in which you or your spouse have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. ("Lobbying activity" includes any activity performed as a representative or agent of another individual or of an organization which involves direct communication with Congressional or agency officials or employees. Activity directed at the administration and execution of law or public policy should be considered "lobbying activity" if it aims at influencing agency action in quasi-legislative proceedings, such as rule-making or rate-making, or other general policy determinations.) If you or your spouse have engaged in none, please state so.

None.

5. Describe any business relationship, dealing or financial transaction which you have had during the last five years, whether for yourself, on behalf of a client, or acting as an agent, which you believe may result in or constitute a potential conflict of interest in the position to which you have been nominated. If none, please state so.

None.

6. Is your spouse employed? If the nature of the employment is related in any way to the position for which you are seeking confirmation, please indicate your spouse's employer, the position and the length of time it has been held. If it is not, please state so.

Riggs Bank, NA, Board of Directors, one year.

PART E—ETHICAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, or charged or held by any Federal, state or other law enforcement authority for violation of any Federal, state, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been convicted of or entered a plea of guilty or nolo contendere to any criminal violation other than a minor traffic offense? If so, provide details.

No.

4. Are you presently or have you ever been a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

5. Have you been interviewed or asked to supply any information in connection with any administrative or grand jury investigation in the past 18 month? If so, provide details.

No.

6. Has any business of which you are or were an officer, director or partner been a party to any administrative agency proceeding or civil litigation relevant to the position to which you have been nominated? If so, provide details. (With respect to a business of which you are or were an officer, you need only consider proceedings and litigation that occurred while you were an officer of that business.)

No.

7. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

N/A.

AFFIDAVIT

I, Thomas S. Foley, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

Date: June 17, 1997.

THOMAS S. FOLEY.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to request to appear and testify before any duly constituted committee of the Senate.)

By Mr. SHELBY, from the Select Committee on Intelligence:

Lieutenant General John A. Gordon, U.S. Air Force, to be Deputy Director of Central Intelligence.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCAIN:

S. 1267. A bill to amend title 49, United States Code, to provide for enhanced intermodal transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST:

S. 1268. A bill to amend the Tennessee Valley Authority Act of 1933 to modify provisions relating to the Board of Directors of the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH:

S. 1269. An original bill to establish objectives for negotiating and procedures for implementing certain trade agreements; from the Committee on Finance; placed on the calendar.

By Mr. ROBB:

S. 1270. A bill to amend section 8339(p) of title 5, United States Code, to clarify the computations of certain civil service retirement system annuities based on part-time service, and for other purposes; to the Committee on Governmental Affairs.

By Mr. D'AMATO:

S. 1271. An original bill to reauthorize the mass transit programs of the Federal Government, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. REED:

S. 1272. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel ARCELLA; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM:

S. 1273. A bill to amend title 10, United States Code, to expand the National Mail Order Pharmacy Program of the Department of Defense to include covered beneficiaries under the military health care system who are also entitled to Medicare; to the Committee on Armed Services.

By Mr. CAMPBELL:

S. 1274. A bill to amend the Internal Revenue Code of 1986 to prohibit the Internal Revenue Service from using the threat of audit to compel agreement with the Tip Reporting Alternative Commitment or the Tip Rate Determination Agreement; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. AKAKA):

S. 1275. A bill to implement further the Act (Public Law 94-241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 1276. A bill to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON:

S. 1277. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate any portion of their income tax overpayments, and to make other contributions, for the benefit of units of the National Park System; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN:

S. 1267. A bill to amend title 49, United States Code, to provide for enhanced intermodal transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERMODAL TRANSPORTATION SAFETY ACT OF 1997

Mr. MCCAIN. Mr. President, today I am introducing the Intermodal Transportation Safety Act of 1997. I offer this measure as a starting point for reauthorizing the many surface transportation safety programs last considered in the Intermodal Surface Transportation Efficiency Act [ISTEA] of 1991.

These programs, which are under the jurisdiction of the Senate Committee on Commerce, Science, and Transportation, include provisions to improve travel safety on our Nation's roads, promote the safe shipment of hazardous materials, advance pipeline transportation safety, and ensure that our Nation's commercial motor vehicle fleet is well maintained and safely operated.

Mr. President, transportation safety must be at the forefront of our deliberations during the consideration of legislation to reauthorize ISTEA. The ISTEA bill contains necessary funding and policy authorizations to improve our transportation infrastructure and facilitate the efficient and economical transportation of people and goods. The legislation I am introducing is a vital component of that effort which is intended to meet our obligation to help ensure that people and goods are transported safely.

The need for improvements in Federal transportation safety policy is crystal clear. The National Transportation Safety Board [NTSB] recently reported that deaths from transportation accidents in the United States totaled more than 44,000 for calendar year 1996. For example, highway-related deaths, which account for more than 90 percent of all transportation fatalities, rose by 109, reaching a total of 41,907. The Federal Transit Administration reported 120 fatalities from accidents associated with the operations of light and commuter rail companies, compared to 98 in 1995. And, pipeline-related deaths totaled 20, against 21 in 1995.

Mr. President, the bill I am introducing addresses a wide range of issues and programs to promote and enhance surface transportation safety in our Nation. Using the administration's reauthorization submissions as a primary guidepost, my legislation extends key safety programs for 6 years. Many of the administration's safety proposals are included, but several new initiatives are added.

The primary differences between the administration's proposals and the bill I am introducing are based on the budget agreement enacted in August. While I m sure a case can be made for additional funding in some areas, the budget agreement simply does not allow for it. Consequently, the funding authorized under this measure fully complies within the budget agreement.

Mr. President, I would like to provide a broad overview of the various transportation safety provisions contained in this legislation. First, this bill addresses various programs under the National Highway Transportation Safety Administration [NHTSA]. The legislation reauthorizes various grant programs, administered by NHTSA, to improve safety on America's roadways. Those grant programs would provide over $1.1 billion to the States during the next 6 years. This portion of the bill is the administration's request which I'm introducing without modification as a starting point for discussion and debate. In regard to these grant programs, the legislation is identical to the administration's proposal, with the exception that the funds authorized have been scaled down to fit within the boundaries of the budget agreement.

Second, this bill reauthorizes funding for programs to ensure the safe transportation of hazardous materials. It also includes a number of changes intended to strengthen and improve the hazardous materials transportation program. For example, according to DOT s Research and Special Programs Administration [RSPA] statistics, there were hundreds of transportation related incidents involving undeclared or hidden hazardous materials. These incidents resulted in 110 deaths and 112 injuries from January 1990 through October 1996. This legislation would give DOT inspectors the authority to open and examine the contents of packages suspected of containing hazardous materials.

This provision would help ensure that packages containing undeclared hazardous materials shipments can be removed from transportation before they harm individuals. In the event a package is opened under the bill s authorities, DOT inspectors would be required to mark the package accordingly and notify the shipper before the parcel could continue in transport.

The legislation also expands hazardous materials training access by allowing States and Indian tribes to use a portion of their grants to help train small businesses in complying with hazardous materials shipment procedures. DOT has indicated that the majority of hazardous materials shipment and packaging mistakes occur at small businesses.

The legislation also authorizes the Secretary of Transportation to issue emergency orders when it is determined that an unsafe condition poses an imminent hazard. In such a situation, the Secretary is granted the authority to issue recalls, restrictions, or out-of-service orders to lessen the dangerous condition.

Third, at the request of the majority leader, this bill incorporates S. 1115, the Comprehensive One-Call Notification Act, introduced by Senators LOTT and DASCHLE on July 31, 1997. S. 1115 would encourage a national effort to encourage States to strengthen their laws that protect underground pipelines, telecommunication cables, and other infrastructure from excavation damage.

Discussions are ongoing concerning this and several of the administration's proposals and I m hopeful that we can reach agreement on some of the remaining technical issues. Quick and timely resolution on these outstanding matters will be necessary so we can address these issues as the Intermodal Transportation Safety Act of 1997 moves to the Senate Floor.

Fourth, this bill reauthorizes the Motor Carrier Safety Assistance Program [MCSAP] which provides funding for commercial driver and vehicle safety inspections, traffic enforcement, compliance reviews, and safety data collection. It further authorizes a performance-based approach for the MCSAP, removing many of the prescriptive requirements of the program. Instead, States would be given greater flexibility to implement safety activities and goals they design to evaluate and improve truck safety programs. This new performance-based approach, to be implemented by 2000, would enable States to spend their limited resources on those activities best able to address their unique motor carrier problem areas.

This legislation also contains several other important truck and bus safety enhancement provisions. It would strengthen safety enforcement by extending the Secretary s safety jurisdiction to intrastate trips made by interstate carriers. The bill would also help ensure greater safety oversight by permitting the Secretary to contract with private entities to conduct inspections and investigations to ensure compliance with Federal motor carrier safety regulations. Similar contractual authority is already afforded to the Department of Defense and the Federal Aviation Administration. The bill further strengthens safety oversight by extending safety regulations such as commercial drivers licensing and drug and alcohol testing requirements to for-hire passenger vans. It would also

permit the Secretary to order any unsafe carrier to cease operations. Currently this authority applies only to prevent unsafe operations of commercial passenger carriers and hazardous materials carriers.

I have also incorporated a number of provisions designed to promote the timely and accurate exchange of important carrier and driver safety records. This bill authorizes comprehensive information systems and strategic safety initiatives to support motor carrier regulatory and enforcement activities as requested by the administration.

It also establishes a pilot program to help facilitate the exchange of accurate driver records data history in an attempt to prevent such unacceptable tragedies as the one that occurred this summer on the streets of Washington DC, when an unfit driver of a dump truck killed a young man. Further, this legislation would permit carriers to provide safety records of former drivers to prospective employers without the fear of a former employee taking legal action against the carrier, provided the data exchanged is accurate.

Mr. President, like every time Congress considers legislation affecting Federal motor carrier safety regulations, various segments of the industry seek exemptions. Some are common sense, such as acknowledging the special transportation time constraints of farmers during the planting and harvesting seasons, or, for example, recognizing the need to permit road maintenance crews, such as for snow removal, to operate during weather emergencies. Legislation should not be needed to permit these and other exemptions. However, that is the process we go through today.

While the Secretary already has authority to grant waivers from some or all of the regulations, the authority is almost meaningless because prior to granting an exemption, it must first be proven the exemption would not diminish safety. However, it is not possible to make such a finding unless an exemption can first be tested on a limited basis. In an attempt to address this problem and recognize the Secretary should be permitted to examine innovative approaches or alternatives to certain rules, and in turn reduce unnecessary regulatory burdens that do not produce a safety return. This legislation would authorize the Secretary to carry out pilot programs to test the affects of certain limited regulatory exemptions.

However, safety must remain at the forefront of these pilot projects. The bill language clearly states that the Secretary can only approve pilot projects that are expected to meet or exceed the overall level of safety that would be achieved with existing regulatory requirements.

Mr. President, there are other important provisions in the Intermodal Transportation Safety Act. While I will not list each and every provision, there is another initiative I want to highlight.

Our transportation system is vulnerable to security threats. Almost 2 years ago today, Arizonans and citizens throughout the country were saddened to learn of an Amtrak derailment near Hyder, AZ, which claimed the life of 1 individual and injured 78 others. Shortly after the accident, the sadness turned to shock as we learned that the derailment could have been caused by someone who may have intentionally sabotaged the track. The Arizona accident is not unique. There have been other examples of acts against railroads. Therefore, as requested by the administration, this legislation would create criminal sanctions for violent attacks against railroads, their employees, and passengers. The penalties are similar to those which currently cover vessels, airlines, motor carriers, and pipelines.

As chairman of the Senate Committee on Commerce, Science, and Transportation, I invite my colleagues to join me in determining whether any refinements to this safety bill are warranted. I welcome my colleagues input and plan to work with all members to incorporate this comprehensive safety legislation during our work on legislation to reauthorize ISTEA.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Transportation Safety Act of 1997".

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Amendment of title 49, United States Code.
Sec. 3. Table of contents.
Title I—Highway Safety
Sec. 101. Highway safety programs.
Sec. 102. National driver register.
Sec. 103. Authorizations of appropriations.
Title II—Traffic Safety
Sec. 201. Amendment to title 23, United States Code.
Sec. 202. Amendments to chapter 301 (motor vehicle safety).
Title III—Hazardous Materials Transportation Reauthorization
Sec. 301. Findings and purposes; definitions.
Sec. 302. Handling criteria repeal.
Sec. 303. Hazmat employee training requirements.
Sec. 304. Registration.
Sec. 305. Shipping paper retention.
Sec. 306. Unsatisfactory safety rating.
Sec. 307. Public sector training curriculum.
Sec. 308. Planning and training grants.
Sec. 309. Special permits and exclusions.
Sec. 310. Administration.
Sec. 311. Cooperative agreements.
Sec. 312. Enforcement.
Sec. 313. Penalties.
Sec. 314. Preemption.
Sec. 315. Judicial review.
Sec. 316. Hazardous material transportation reauthorization.
Sec. 317. Authorization of appropriations.
Title IV—Comprehensive One-call Notification
Sec. 401. Findings.
Sec. 402. Establishment of one-call notification programs.
Title V—Motor Carrier Safety
Sec. 501. Statement of purpose.
Sec. 502. Grants to States.
Sec. 503. Federal share.
Sec. 504. Authorization of appropriations.
Sec. 505. Information systems and strategic safety initiatives.
Sec. 506. Improved flow of driver history pilot program.
Sec. 507. Motor carrier and driver safety research.
Sec. 508. Authorization of appropriations.
Sec. 509. Conforming amendments.
Sec. 510. Automobile transporter defined.
Sec. 511. Repeal of review panel; review procedure.
Sec. 512. Commercial motor vehicle operators.
Sec. 513. Penalties.
Sec. 514. International registration plan and international fuel tax agreement.
Sec. 515. Study of adequacy of parking facilities.
Sec. 516. National minimum drinking age—technical corrections.
Sec. 517. Application of regulations.
Sec. 518. Authority over charter bus transportation.
Sec. 519. Federal motor carrier safety investigations.
Sec. 520. Foreign motor carrier safety fitness.
Sec. 521. Commercial motor vehicle safety advisory committee.
Sec. 522. Waivers and pilot programs.
Title VI—Rail and Mass Transportation Anti-terrorism and Safety.
Sec. 601. Purpose.
Sec. 602. Amendments to the "Wrecking Trains" statute.
Sec. 603. Terrorist attacks against mass transportation.
Sec. 604. Investigative jurisdiction.
Sec. 605. Safety considerations in grants or loans to commuter railroads.
Sec. 606. Railroad accident and incident reporting.
Sec. 607. Vehicle weight limitations—mass transportation buses.

TITLE I—HIGHWAY SAFETY

SEC. 101. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended—

(1) by striking the fifth sentence; and

(2) by striking "section 4007" and inserting "section 4004".

(b) ADMINISTRATIVE REQUIREMENTS.—Section 402(b) of such title is amended—

(1) in paragraph (1) by striking the period at the end of each of subparagraphs (A) and (B) and inserting a semicolon;

(2) in paragraph (1)(C) by inserting ", including Indian tribes," after "subdivisions of such State";

(3) in paragraph (1)(C) by striking the period at the end and inserting "; and";

(4) by striking paragraph (1)(E); and

(5) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(c) APPORTIONMENT OF FUNDS.—Section 402(c) of such title is amended—

(1) in the 6th sentence by inserting "the apportionment to the Secretary of the Interior shall not be less than three-fourths of 1 percent of the total apportionment and" after "except that"; and

(2) by striking the 7th and 8th sentences.

(d) APPLICATION IN INDIAN COUNTRY.—Section 402(i) of such title is amended to read as follows:

"(i) APPLICATION IN INDIAN COUNTRY.—

"(1) IN GENERAL.—For the purpose of application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subparagraph (b)(1)(C) of this section, 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subparagraph (b)(1)(D) of this section shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

"(2) INDIAN COUNTRY DEFINED.—For the purposes of this subsection, the term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.".

(e) RULEMAKING PROCESS.—Section 402(j) of such title is amended to read as follows:

"(j) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.".

(f) SAFETY INCENTIVE GRANTS.—Section 402(k) of such title is amended to read as follows:

"(k)(1) SAFETY INCENTIVE GRANTS: GENERAL AUTHORITY.—The Secretary shall make a grant to a State that takes specific actions to advance highway safety under subsection (l), (m), (n), or (o) of this section. A State may qualify for more than one grant and shall receive a separate grant for each subsection for which it qualifies. Such grants may only be used by recipient States to implement and enforce, as appropriate, the programs for which the grants are awarded.

"(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under subsection (l), (m), (n), or (o) of this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for the specific actions for which a grant is provided at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this subsection.

"(3) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—Each grant under subsection (l), (m), (n), or (o) of this section shall be available for not more than 6 fiscal years beginning in the fiscal year after September 30, 1997, in which the State becomes eligible for the grant. The Federal share payable for any grant under subsection (l), (m), (n), or (o) shall not exceed—

"(A) in the first and second fiscal years in which the State receives the grant, 75 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year a program adopted by the State;

"(B) in the third and fourth fiscal years in which the State receives the grant, 50 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program; and

"(C) in the fifth and sixth fiscal years in which the State receives the grant, 25 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program.

"(l) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: BASIC GRANT ELIGIBILITY.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce traffic safety problems resulting from persons driving under the influence of alcohol. A State shall become eligible for one or more of three basic grants under this subsection by adopting or demonstrating the following to the satisfaction of the Secretary:

"(1) BASIC GRANT A.—At least 4 of the following:

"(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures.

"(B) UNDERAGE DRINKING PROGRAM.—An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

"(C) STOPPING MOTOR VEHICLES.—Either—

"(i) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol, or

"(ii) a statewide Special Traffic Enforcement Program for impaired driving that emphasizes publicity for the program.

"(D) REPEAT OFFENDERS.—Effective sanctions for repeat offenders convicted of driving under the influence of alcohol. Such sanctions, as determined by the Secretary, may include electronic monitoring; alcohol interlocks; intensive supervision of probation; vehicle impoundment, confiscation, or forfeiture; and dedicated detention facilities.

"(E) GRADUATED LICENSING SYSTEM.—A three-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first two stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

"(2) BASIC GRANT B.—Both of the following:

"(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as requested by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or receives notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures; and

"(B) .08 BAC PER SE LAW.—A law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

"(3) BASIC GRANT C.—Both of the following:

"(A) FATAL IMPAIRED DRIVER PERCENTAGE REDUCTION.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and

"(B) FATAL IMPAIRED DRIVER PERCENTAGE COMPARISON.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of such calendar years.

"(4) BASIC GRANT AMOUNT.—The amount of each basic grant under this subsection for any fiscal year shall be up to 15 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

"(5) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in no more than two fiscal years of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

"(A) OPEN CONTAINER LAWS.—The State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(i) as allowed in the passenger area, by a person (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(ii) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(B) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—The State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(C) VIDEO EQUIPMENT FOR DETECTION OF DRUNK DRIVERS.—The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

"(D) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—The State enacts and enforces a law providing that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated or driving under the influence of alcohol, and further provides for a minimum suspension of the person's driver's license for not less than 30 days.

"(E) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(F) REDUCING DRIVING WITH A SUSPENDED LICENSE.—The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a "zebra" stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

"(G) EFFECTIVE DWI TRACKING SYSTEM.—The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

"(H) ASSESSMENT OF PERSONS CONVICTED OF ABUSE OF CONTROLLED SUBSTANCES; ASSIGNMENT OF TREATMENT FOR ALL DWI/DUI OFFENDERS.—The State provides for assessment of individuals convicted of driving while intoxicated or driving under the influence of alcohol or controlled substances, and for the assignment of appropriate treatment.

"(I) USE OF PASSIVE ALCOHOL SENSORS.—The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

"(J) EFFECTIVE PENALTIES FOR PROVISION OR SALE OF ALCOHOL TO PERSONS UNDER 21.—The State enacts and enforces a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to any individual under 21 years of age.

"(6) DEFINITIONS.—For the purposes of this subsection, the following definitions apply:

"(A) 'Alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(B) 'Controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(C) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

"(D) 'Open alcoholic beverage container' means any bottle, can, or other receptacle—

"(i) which contains any amount of an alcoholic beverage; and

"(ii)(I) which is open or has a broken seal, or

"(II) the contents of which are partially removed.

"(m) OCCUPANT PROTECTION: BASIC GRANT ELIGIBILITY.—The Secretary shall make basic grants to those States that adopt and implement effective programs to reduce highway deaths and injuries resulting from persons riding unrestrained or improperly restrained in motor vehicles. A State may establish its eligibility for one or both of the grants by adopting or demonstrating the following to the satisfaction of the Secretary:

"(1) BASIC GRANT A.—At least 4 of the following:

"(A) SAFETY BELT USE LAW FOR ALL FRONT SEAT PASSENGERS.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever a person in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly secured about the person's body.

"(B) PRIMARY SAFETY BELT USE LAW OR PENALTY POINTS.—The State provides for primary enforcement of its safety belt use law or provides for the imposition of penalty points against a person's driver's license for a violation of its safety belt use law.

"(C) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires any child up to 4 years of age who is riding in a passenger motor vehicle to be properly secured in a child safety seat.

"(D) MINIMUM FINES.—The State requires a minimum fine of at least $25 for violations of its safety belt use law and a minimum fine of at least $25 for violations of its child passenger protection law.

"(E) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State demonstrates implementation of a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program.

"(2) BASIC GRANT B.—Both of the following:

"(A) STATE SAFETY BELT USE RATE.—The State demonstrates a statewide safety belt use rate in both front outboard seating positions in all passenger motor vehicles of 80 percent or higher in each of the first three years a grant under this paragraph is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant under this paragraph is received.

"(B) SURVEY METHOD.—The State follows safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

"(3) BASIC GRANT AMOUNT.—The amount of each basic grant for which a State qualifies under this subsection for any fiscal year shall equal up to 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

"(4) OCCUPANT PROTECTION PROGRAM: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in a fiscal year of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

"(A) PENALTY POINTS AGAINST A DRIVER'S LICENSE FOR VIOLATIONS OF CHILD PASSENGER PROTECTION REQUIREMENTS.—The State has in effect a law that requires the imposition of penalty points against a driver's license for violations of child passenger protection requirements.

"(B) ELIMINATION OF NON-MEDICAL EXEMPTIONS TO SAFETY BELT AND CHILD PASSENGER PROTECTION LAWS.—The State has in effect safety belt and child passenger protection laws that contain no nonmedical exemptions.

"(C) CHILD OCCUPANT PROTECTION EDUCATION PROGRAM.—The State demonstrates implementation of a statewide comprehensive child occupant protection education program that includes education about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraints systems.

"(D) OPEN BED LAWS.—The State has in effect a law that prohibits persons from riding in the open bed of a pickup truck.

"(E) SAFETY BELT USE IN REAR SEATS.—The State has in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat.

"(5) DEFINITIONS.—As used in this subsection—

"(A) 'Child safety seat' means any device except safety belts, designed for use in a motor vehicle to restrain, seat, or position children who weigh 50 pounds or less.

"(B) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

"(C) 'Multipurpose passenger vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

"(D) 'Passenger car' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(E) 'Passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(F) 'Safety belt' means—

"(i) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(ii) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

"(n) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—The Secretary shall make a grant to a State that takes effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the State's data needed to identify priorities within State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, and to link these State data systems, including traffic records, together and with other data systems within the State, such as systems that contain medical and economic data:

"(1) FIRST-YEAR GRANT ELIGIBILITY.—A State is eligible for a first-year grant under this subsection in a fiscal year if such State either:

"(A) Demonstrates, to the satisfaction of the Secretary, that it has—

"(i) established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary membership including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities) of highway safety and traffic records databases;

"(ii) completed within the preceding 5 years a highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and

"(iii) initiated the development of a multi-year highway safety data and traffic records strategic plan to be approved by the Highway Safety Data and Traffic Records Coordinating Committee that identifies and prioritizes its highway safety data and traffic records needs and goals, and that identifies performance-based measures by which progress toward those goals will be determined; or

"(B) Provides, to the satisfaction of the Secretary—

"(i) certification that it has met the provisions outlined in clauses (A)(i) and (A)(ii) of subparagraph (A) of this paragraph;

"(ii) a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; and

"(iii) certification that the Highway Safety Data and Traffic Records Coordinating Committee continues to operate and supports the multi-year plan described in clause (B)(ii) of this subparagraph.

"(2) FIRST-YEAR GRANT AMOUNT.—The amount of a first-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State eligible for such a grant under subparagraph (1)(A) of paragraph (A) of this subsection shall equal $125,000, subject to the availability of appropriations, and for any State eligible for such a grant under subparagraph (1)(B) of this subsection shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $225,000, subject to the availability of appropriations.

"(3) STATE HIGHWAY SAFETY DATA AND TRAFFIC RECORDS IMPROVEMENTS: SUCCEEDING-YEAR GRANTS.—A State shall be eligible for a grant in any fiscal year succeeding the first fiscal year in which the State receives a State highway safety data and traffic records grant if the State, to the satisfaction of the Secretary:

"(A) Submits or updates a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined;

"(B) Certifies that its Highway Safety Data and Traffic Records Coordinating Committee continues to support the multi-year plan; and

"(C) Reports annually on its progress in implementing the multi-year plan.

"(4) SUCCEEDING-YEAR GRANT AMOUNTS.—The amount of a succeeding-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State that is eligible for such a grant shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $225,000, subject to the availability of appropriations.

"(o) DRUGGED DRIVING COUNTERMEASURES.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce drug use and drugged driving:

"(1) GRANT ELIGIBILITY.—A State is eligible for a grant under this subsection in a fiscal year by meeting, to the satisfaction of the Secretary, 5 or more of the following criteria:

"(A) ZERO TOLERANCE FOR DRUGS.—The State has in effect a law that requires that any person with a measurable amount of a controlled substance, a combination of controlled substances, or a combination of alcohol and controlled substances when driving a motor vehicle shall be deemed to be driving under the influence of or impaired by a controlled substance.

"(B) DRUG IMPAIRED DRIVING.—The State has in effect a law that makes it unlawful for any person to drive or be in actual physical control of a motor vehicle while under the influence of or impaired by a drug or substance (licit or illicit).

"(C) MANDATORY TESTING FOR DRUGS OR SUBSTANCES.—The State has in effect a law that provides for mandatory chemical testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed a drug or substance-related traffic offense.

"(D) ADMINISTRATIVE LICENSE REVOCATION.—The State has in effect an administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of a drug or substance which requires that—

"(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of one or more chemical tests to have been operating a motor vehicle under the influence of a drug or substance or is determined to have refused to submit to such a test as requested by the law enforcement officer, the State agency responsible for administering drivers' licenses, upon receipt the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(ii) the suspension and revocation referred to under (D)(i) shall take effect not later than 30 days after the day on which the person was determined to have been driving under the influence of drugs or refused to take a chemical test in accordance with the State's procedures.

"(E) LICENSE REVOCATION OR SUSPENSION OF PERSONS CONVICTED OF DRUG OFFENSES.—The State has in effect a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

"(i) the revocation, or suspension for at least 6 months, of the driver's license of any person who is convicted, after the enactment of such law, of—

"(I) any violation of the Controlled Substances Act, or

"(II) any drug offense; and

"(ii) a delay in the issuance or reinstatement of a driver's license to such a person for at least 6 months after the person applies for the issuance or reinstatement of a driver's license if the person does not have a driver's license, or the driver's license of the person is suspended, at the time the person is so convicted.

"(F) GRADUATED LICENSING.—The State has adopted an effective three-stage graduated licensing system for young drivers, as determined by the Secretary, that includes drug use and drugged driving provisions.

"(G) ACTIVE ENFORCEMENT AND PUBLICITY.—The State provides for active enforcement and publicity, as determined by the Secretary, of drugged driving laws.

"(H) DRUG INTERVENTION.—The State has in effect a system that provides for an assessment of persons determined to have been operating a motor vehicle under the influence of or impaired by a drug or controlled substance, as determined by the Secretary, and referral to drug education, counseling, and treatment, as appropriate.

"(I) DRUG EDUCATION.—The State has adopted an effective educational program, as determined by the Secretary, under which drug information is provided to persons who apply for and who renew their driver's licenses, and drug-related questions are included on drivers' license examinations.

"(2) GRANT AMOUNT.—The amount of a grant made for drugged driving countermeasures for any fiscal year to any eligible State shall not be more than 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

"(3) DEFINITIONS.—For the purposes of this subsection—

"(A) 'Alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(B) 'Controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(C) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets,

roads, and highways, but does not include a vehicle operated only on a rail line.".

(g) CONFORMING AMENDMENT.—Section 410 of chapter 4 of this title is repealed, and the analysis for chapter 4 of this title is amended by striking the item relating to Section 410.

SEC. 102. NATIONAL DRIVER REGISTER.

(a) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—Section 30302 of title 49, United States Code, is amended by adding at the end thereof the following:

"(e) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—(1) The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

"(2) Any transfer of the National Driver Register's computer timeshare and user assistance functions to an organization that represents the interests of the States shall begin only after a determination is made by the Secretary that all States are participating in the National Driver Register's 'Problem Driver Pointer System' (the system used by the Register to effect the exchange of motor vehicle driving records), and that the system is functioning properly.

"(3) The agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative changes they may need to pay fees charged by the organization representing their interests for their use of the National Driver Register's computer timeshare and user assistance functions. During this transition period, the Secretary (through the National Highway Traffic Safety Administration) shall continue to fund these transferred functions.

"(4) The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register's computer timeshare and user assistance functions shall not exceed the total cost to the organization for performing these functions in such fiscal year.

"(5) Nothing in this subsection shall be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.".

(b) ACCESS TO REGISTER INFORMATION.—

(1) CONFORMING AMENDMENTS.—Section 30305(b) of title 49, United States Code, is amended—

(A) in paragraph (2), by inserting before the period at the end ", unless the information is about a revocation or suspension still in effect on the date of the request";

(B) In paragraph (8), as redesignated by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3908), by striking "paragraph (2)" and substituting "subsection (a) of this section"; and

(C) by redesignating paragraph (8), as redesignated by section 502(b)(1) of the Federal Aviation Reauthorization Act of 1996 (Public Law 104–264, 110 Stat. 3262), as paragraph (9).

(2) FEDERAL AGENCY ACCESS PROVISION.—Section 30305(b) of title 49, United States Code, is further amended by—

(A) redesignating paragraph (6) as paragraph (10) and inserting it after paragraph (9);

(B) inserting the following new paragraph (6):

"(6) The head of a Federal department or agency that issues motor vehicle operator's licenses may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual applicant for a motor vehicle operator's license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator's license by that department or agency for cause; whose motor vehicle operator's license is revoked, suspended or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in subsection 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in subsection 30304(b)."; and

(C) inserting the following at the end of the subsection:

"(11) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.".

SEC. 103. AUTHORIZATIONS OF APPROPRIATIONS.

(a) HIGHWAY SAFETY PROGRAMS.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

(A) For carrying out the State and Community Highway Safety Program under section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, except for the incentive programs under subsections (l), (m), (n), and (o) of that section—

(i) $116,370,000 for fiscal year 1998;
(ii) $121,838,000 for fiscal year 1999;
(iii) $125,125,000 for fiscal year 2000;
(iv) $128,505,000 for fiscal year 2001;
(v) $131,809,000 for fiscal year 2002; and
(vi) $139,732,000 for fiscal year 2003.

(B) To carry out the alcohol-impaired driving countermeasures incentive grant provisions of subsection (l) of section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $30,570,000 for fiscal year 1998;
(ii) $28,500,000 for fiscal year 1999;
(iii) $29,273,000 for fiscal year 2000;
(iv) $30,065,000 for fiscal year 2001;
(v) $38,743,000 for fiscal year 2002; and
(vi) $39,815,000 for fiscal year 2003.

Amounts made available to carry out subsection (l) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (l) to subsections (m), (n), and (o) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(C) To carry out the occupant protection program incentive grant provisions of subsection (m) of section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $13,950,000 for fiscal year 1998;
(ii) $14,618,000 for fiscal year 1999;
(iii) $15,012,000 for fiscal year 2000;
(iv) $15,418,000 for fiscal year 2001;
(v) $17,640,000 for fiscal year 2002; and
(vi) $17,706,000 for fiscal year 2003.

Amounts made available to carry out subsection (m) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (m) to subsections (l), (n), and (o) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(D) To carry out the State highway safety data improvements incentive grant provisions of subsection (n) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $8,370,000 for fiscal year 1998;
(ii) $8,770,000 for fiscal year 1999;
(iii) $9,007,000 for fiscal year 2000; and
(iv) $9,250,000 for fiscal year 2001.

Amounts made available to carry out subsection (n) are authorized to remain available until expended.

(E) To carry out the drugged driving countermeasures incentive grant provisions of section 402(o) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $3,488,000 for fiscal year 1998;
(ii) $3,654,000 for fiscal year 1999;
(iii) $3,752,000 for fiscal year 2000;
(iv) $3,850,000 for fiscal year 2001;
(v) $3,950,000 for fiscal year 2002; and
(vi) $4,071,000 for fiscal year 2003.

Amounts made available to carry out subsection (o) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (o) to subsections (l), (m), and (n) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(2) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 (National Driver Register) of title 49, United States Code, by the National Highway Traffic Safety Administration—

(i) $1,605,000 for fiscal year 1998;
(ii) $1,680,000 for fiscal year 1999;
(iii) $1,726,000 for fiscal year 2000;
(iv) $1,772,000 for fiscal year 2001;
(v) $1,817,000 for fiscal year 2002; and
(vi) $1,872,000 for fiscal year 2003.

TITLE II—TRAFFIC SAFETY

SEC. 201. AMENDMENT TO TITLE 23, UNITED STATES CODE.

Section 402 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(p) TRANSFER OF FUNDS AND PERFORMANCE OPTION: PRIMARY SAFETY BELT USE.—

"(1) TRANSFER.—

"(A) FISCAL YEAR 2002.—If, by the last day of fiscal year 2002, a State has not enacted and had in continuous effect a primary enforcement safety belt use law described in subsection (m), the Secretary shall transfer 1½ percent of the funds apportioned to the State for fiscal year 2003 under each of paragraphs (1), (3), and (5)(B) of section 104(b) of this title to the apportionment of the State under section 402 of this title. These transferred funds may be used only for occupant protection programs.

"(B) THEREAFTER.—If, by the last day of any fiscal year beginning after September 30, 2002, a State has not enacted and had in continuous effect a primary enforcement safety belt use law described in subsection (m), the Secretary shall transfer 3 percent of the

funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (3), and (5)(B) of section 104(b) of this title to the apportionment of the State under section 402 of this title. These transferred funds may be used only for occupant protection programs.

"(2) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 of this title with funds transferred to the apportionment of section 402 shall be 100 percent.

"(3) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 of this title for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway construction programs for carrying out only projects under section 402, which is determined by multiplying—

"(A) the amount of funds transferred to the apportionment of section 402 of the State under section 402 for such fiscal year, by

"(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for its Federal-aid highways and highway construction programs to the total of the sums apportioned to the State for its Federal-aid highways and highway construction programs (excluding sums not subject to any obligation limitation) for such fiscal year.

"(4) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 of this title shall apply to funds transferred under this subsection to the State apportionment of section 402.

"(5) PERFORMANCE OPTION.—Paragraph (1) of this subsection shall not apply to a State in a fiscal year beginning after September 30, 2002, if the Secretary certifies before each such fiscal year that the State has a statewide safety belt use rate of 85 percent or higher in both front outboard seating positions in all passenger motor vehicles, as defined in subsection (m) of this section. The State shall document its safety belt use rate by conducting an annual survey that conforms to guidelines issued by the Secretary ensuring that measurements are accurate and representative. The Secretary shall use this survey and may use additional surveys or other relevant information as necessary in deciding whether to certify that the State's safety belt use rate is 85 percent or higher.

"(6) DEFINITION.—For the purposes of this subsection, the term 'safety belt' means—

"(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system, consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.".

SEC. 202. AMENDMENTS TO CHAPTER 301 (MOTOR VEHICLE SAFETY).

(a) IN GENERAL.—Chapter 301 is amended by adding at the end the following new section:

"§ 30148. International motor vehicle safety outreach

"(a) ACTIVITIES.—The Secretary is authorized, in consultation with the Secretaries of State and Commerce where appropriate, to engage in activities that improve worldwide motor vehicle safety through appropriate activities. Such activities may include—

"(1) promoting the adoption of international and national vehicle standards that are harmonized with, functionally equivalent to, or compatible with United States vehicle standards;

"(2) participating in efforts to foster an international acceptance of globally harmonized and/or functionally equivalent or compatible motor vehicle regulations and standards to otherwise improve international highway and motor vehicle safety;

"(3) promoting international cooperative programs for conducting research, development, demonstration projects, training, and other forms of technology transfer and exchange, including safety conferences, seminars, and/or expositions to enhance international motor vehicle safety; and

"(4) providing technical assistance to other countries relating to their adoption of United States vehicle regulations or standards functionally equivalent to United States vehicle standards.

"(b) COOPERATION.—The Secretary may carry out the authority granted by this section, in cooperation with appropriate United States government agencies, any State or local agency, and any authority, association, institution, corporation (profit or nonprofit), foreign government, multinational institution, or any other organization or person.

"(c) CONSIDERATION.—When engaging in activities to improve worldwide motor vehicle safety, the Secretary shall ensure that these activities maintain or improve the level of safety of motor vehicles and motor vehicle equipment sold in the United States."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by adding at the end thereof the following:

"30148. International motor vehicle safety outreach".

TITLE III—HAZARDOUS MATERIALS TRANSPORTATION REAUTHORIZATION

SEC. 301. FINDINGS AND PURPOSES; DEFINITIONS.

(a) FINDINGS AND PURPOSES.—Section 5101 is amended to read as follows:

"§ 5101. Findings and purposes

"(a) FINDINGS.—The Congress finds with respect to hazardous materials transportation that—

"(1) approximately 4 billion tons of regulated hazardous materials are transported each year and that approximately 500,000 movements of hazardous materials occur each day, according the Department of Transportation estimates;

"(2) accidents involving the release of hazardous materials are a serious threat to public health and safety;

"(3) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple and conflicting registration, permitting, routings, notification, loading, unloading, incidental storage, and other regulatory requirements;

"(4) because of the potential risks to life, property and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials, including loading, unloading, and incidental storage, is necessary and desirable;

"(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable;

"(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required;

"(7) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner; and

"(8) primary authority for the regulation of such transportation should be consolidated in the Department of Transportation to ensure the safe and efficient movement of hazardous materials in commerce.

"(b) PURPOSES.—The purposes of this chapter are—

"(1) to ensure the safe and efficient transportation of hazardous materials in intrastate, interstate, and foreign commerce, including the loading, unloading, and incidental storage of hazardous material;

"(2) to provide the Secretary with preemption authority to achieve uniform regulation of hazardous material transportation, to eliminate inconsistent rules that apply differently from Federal rules, to ensure efficient movement of hazardous materials in commerce, and to promote the national health, welfare, and safety; and

"(3) to provide adequate training for public sector emergency response teams to ensure safe responses to hazardous material transportation accidents and incidents.".

(b) DEFINITIONS.—Section 5102 is amended by—

(1) by striking paragraph (1) and inserting the following:

"(1) 'commerce' means trade or transportation in the jurisdiction of the United States—

"(A) between a place in a State and a place outside of the State;

"(B) that affects trade or transportation between a place in a State and a place outside of the State; or

"(C) on a United States-registered aircraft.";

(2) by striking paragraphs (3) and (4) and inserting the following:

"(3) 'hazmat employee' means an individual who—

"(A) is—

"(i) employed by a hazmat employer,

"(ii) self-employed, or

"(iii) an owner-operator of a motor vehicle; and

"(B) during the course of employment—

"(i) loads, unloads, or handles hazardous material;

"(ii) manufactures, reconditions, or tests containers, drums, or other packagings represented as qualified for use in transporting hazardous material;

"(iii) performs any function pertaining to the offering of hazardous material for transportation;

"(iv) is responsible for the safety of transporting hazardous material; or

"(v) operates a vehicle used to transport hazardous material.

"(4) 'hazmat employer' means a person who—

"(A) either—

"(i) is self-employed,

"(ii) is an owner-operator of a motor vehicle, or

"(iii) has at least one employee; and

"(B) performs a function, or uses at least one employee, in connection with—

"(i) transporting hazardous material in commerce;

"(ii) causing hazardous material to be transported in commerce, or

"(iii) manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material.";

(3) by striking "title. " in paragraph (7) and inserting "title, except that a freight forwarder is included only if performing a function related to highway transportation";

(4) by redesignating paragraphs (9) through (13) as paragraphs (12) through (16);

(5) by inserting after paragraph (8) the following:

"(9) 'out-of-service order' means a mandate that an aircraft, vessel, motor vehicle, train, other vehicle, or a part of any of these, not be moved until specified conditions have been met.

"(10) 'package' or 'outside package' means a packaging plus its contents.

"(11) 'packaging' means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packaging requirements established by the Secretary of Transportation."; and

(6) by striking "or transporting hazardous material to further a commercial enterprise;" in paragraph 12(A), as redesignated by paragraph (4) of this subsection, and inserting a comma and "transporting hazardous material to further a commercial enterprise, or manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material".

(c) CLERICAL AMENDMENT.—The chapter analysis of chapter 51 is amended by striking the item relating to section 5101 and inserting the following:

"5101. Findings and purposes".

SEC. 302. HANDLING CRITERIA REPEAL.

Section 5106 is repealed and the chapter analysis of chapter 51 is amended by striking the item relating to that section.

SEC. 303. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.

Section 5107(f)(2) is amended by striking "and sections 5106, 5108(a)-(g)(1) and (h), and".

SEC. 304. REGISTRATION.

Section 5108 is amended by—

(1) by striking subsection (b)(1)(C) and inserting the following:

"(C) each State in which the person carries out any of the activities.";

(2) by striking subsection (c) and inserting the following:

"(c) FILING SCHEDULE.—Each person required to file a registration statement under subsection (a) of this section shall file that statement annually in accordance with regulations issued by the Secretary.";

(3) by striking "552(f)" in subsection (f) and inserting "552(b)";

(4) by striking "may" in subsection (g)(1) and inserting "shall"; and

(5) by inserting "or an Indian tribe," in subsection (i)(2)(B) after "State,".

SEC. 305. SHIPPING PAPER RETENTION.

Section 5110(e) is amended by striking the first sentence and inserting "After expiration of the requirement in subsection (c) of this section, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) of this section shall retain the paper or an electronic image thereof, for a period of 1 year after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.".

SEC. 306. UNSATISFACTORY SAFETY RATING.

Section 5113(d) is amended by striking "Secretary, in consultation with the Interstate Commerce Commission," and inserting "Secretary".

SEC. 307. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended by—

(1) by striking "DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in" in subsection (a) and inserting "UPDATING.—In";

(2) by striking "develop and" in the first sentence of subsection (a);

(3) by striking the second sentence of subsection (a);

(4) by striking "developed" in the first sentence of subsection (b);

(5) by inserting "or involving an alternative fuel vehicle" after "material" in subparagraphs (A) and (B) of subsection (b)(1); and

(6) by striking subsection (d) and inserting the following:

"(d) DISTRIBUTION AND PUBLICATION.—With the national response team, the Secretary of Transportation may publish a list of programs that use a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous material.".

SEC. 308. PLANNING AND TRAINING GRANTS.

Section 5116 is amended by—

(1) by striking "of" in the second sentence of subsection (e) and inserting "received by";

(2) by striking subsection (f) and inserting the following:

"(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team for Oil and Hazardous Substances and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee."; and

(3) by adding at the end thereof the following:

"(l) SMALL BUSINESSES.—The Secretary may authorize a State or Indian tribe receiving a grant under this section to use up to 25 percent of the amount of the grant to assist small businesses in complying with regulations issued under this chapter.".

SEC. 309. SPECIAL PERMITS AND EXCLUSIONS.

(a) Section 5117 is amended by—

(1) by striking the section caption and inserting the following:

"§ 5117. Special permits and exclusions";

(2) by striking "exemption" each place it appears and inserting "special permit";

(3) by inserting "authorizing variances" after "special permit" the first place it appears; and

(4) by striking "2" and inserting "4" in subsection (a)(2).

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5117 and inserting the following:

"5117. Special permits and exclusions".

SEC. 310. ADMINISTRATION.

(a) Section 5121 is amended by striking subsections (a), (b), and (c) and redesignating subsections (d) and (e) as subsections (a) and (b).

(b) Section 5122 is amended by redesignating subsections (a), (b), and (c) as subsections (d), (e), and (f), and by inserting before subsection (d), as redesignated, the following:

"(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

"(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

"(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

"(2) make the records, reports, and information available when the Secretary requests.

"(c) INSPECTION.—

"(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

"(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or

"(B) the transportation of hazardous material in commerce.

"(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.".

SEC. 311. COOPERATIVE AGREEMENTS.

Section 5121, as amended by section 310(a), is further amended by adding at the end thereof the following:

"(c) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the State Department), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, emergency response planning and training activities.".

SEC. 312. ENFORCEMENT.

Section 5122, as amended by section 310(b), is further amended by—

(1) by inserting "inspect," after "may" in the first sentence of subsection (a);

(2) by striking the last sentence of subsection (a) and inserting: "Except as provided in subsection (e) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order requiring compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.";

(3) by redesignating subsections (d), (e) and (f) as subsections (f), (g) and (h), and inserting after subsection (c) the following:

"(d) OTHER AUTHORITY.—

"(1) INSPECTION.—During inspections and investigations, officers, employees, or agents of the Secretary may—

"(A) open and examine the contents of a package offered for, or in, transportation when—

"(i) the package is marked, labeled, certified, placarded, or otherwise represented as containing a hazardous material, or

"(ii) there is an objectively reasonable and articulable belief that the package may contain a hazardous material;

"(B) take a sample, sufficient for analysis, of material marked or represented as a hazardous material or for which there is an objectively reasonable and articulable belief that the material may be a hazardous material, and analyze that material;

"(C) when there is an objectively reasonable and articulable belief that an imminent hazard may exist, prevent the further transportation of the material until the hazardous qualities of that material have been determined; and

"(D) when safety might otherwise be compromised, authorize properly qualified personnel to conduct the examination, sampling, or analysis of a material.

"(2) NOTIFICATION.—No package opened pursuant to this subsection shall continue its transportation until the officer, employee, or agent of the Secretary—

"(A) affixes a label to the package indicating that the package was inspected pursuant to this subsection; and

"(B) notifies the shipper that the package was opened for examination.

"(e) EMERGENCY ORDERS.—

"(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary decides that an unsafe condition or practice, or a combination of them, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary may immediately issue or impose restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, that may be necessary to abate the situation.

"(2) The Secretary's action under this subsection must be in a written order describing the condition or practice, or combination of them, that causes the emergency situation; stating the restrictions, prohibitions, recalls, or out-of-service orders being issued or imposed; and prescribing standards and procedures for obtaining relief from the order.

"(3) After taking action under this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5.

"(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.".

SEC. 313. PENALTIES.

(a) Section 5123(a)(1) is amended by striking the first sentence and inserting the following: "A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $27,500 for each violation.".

(b) Section 5123(c)(2) is amended to read as follows:

"(2) with respect to the violator, the degree of culpability, any good-faith efforts to comply with the applicable requirements, any history of prior violations, any economic benefit resulting from the violation, the ability to pay, and any effect on the ability to continue to do business; and".

(c) Section 5124 is amended to read as follows:

"§ 5124. Criminal penalty

"(a) IN GENERAL.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.".

SEC. 314. PREEMPTION.

(a) REQUIREMENTS CONTRARY TO PURPOSES OF CHAPTER.—Section 5125(a)(2) is amended by inserting a comma and "the purposes of this chapter," after "this chapter" the first place it appears.

(b) DEADWOOD.—Section 5125(b)(2) is amended by striking "prescribes after November 16, 1990." and inserting "prescribes.".

SEC. 315. JUDICIAL REVIEW.

(a) Chapter 51 is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

"§ 5127. Judicial review

"(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person disclosing a substantial interest in a final order issued, under the authority of section 5122 or 5123 of this title, by the Secretary of Transportation, the Administrators of the Research and Special Programs Administration, the Federal Aviation Administration, or the Federal Highway Administration, or the Commandant of the United States Coast Guard ('modal Administrator'), with respect to the duties and powers designated to be carried out by the Secretary under this chapter, may apply for review in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

"(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the modal Administrator, as appropriate. The Secretary or the modal Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

"(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or the modal Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the modal Administrator to conduct further proceedings. After reasonable notice to the Secretary or the modal Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the modal Administrator, if supported by substantial evidence, are conclusive.

"(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final order under this section, the court may consider an objection to a final order of the Secretary or the modal Administrator only if the objection was made in the course of a proceeding or review conducted by the Secretary, the modal Administrator, or an administrative law judge, or if there was a reasonable ground for not making the objection in the proceeding.

"(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.".

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

"5127. Judicial review.".

"5128. Authorization of appropriations.".

SEC. 316. HAZARDOUS MATERIAL TRANSPORTATION REAUTHORIZATION.

(a) IN GENERAL.—Chapter 51, as amended by section 315 of this Act, is amended by redesignating section 5128 as section 5129 and by inserting after section 5127 the following:

"§ 5128. High risk hazardous material; motor carrier safety study

"(a) STUDY.—The Secretary of Transportation shall conduct a study—

"(1) to determine the safety benefits and administrative efficiency of implementing a Federal permit program for high risk hazardous material carriers;

"(2) to identify and evaluate alternative regulatory methods and procedures that may improve the safety of high risk hazardous material carriers and shippers;

"(3) to examine the safety benefits of increased monitoring of high risk hazardous material carriers, and the costs, benefits, and procedures of existing State permit programs;

"(4) to make such recommendations as may be appropriate for the improvement of uniformity among existing State permit programs; and

"(5) to assess the potential of advanced technologies for improving the assessment of high risk hazardous material carriers' compliance with motor carrier safety regulations.

"(b) TIMEFRAME.—The Secretary shall begin the study required by subsection (a) within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997 and complete it within 30 months.

"(c) REPORT.—The Secretary shall report the findings of the study required by subsection (a), together with such recommendations as may be appropriate, within 36 months after the date of enactment of that Act.".

(b) SECTION 5109 REGULATIONS TO REFLECT STUDY FINDINGS.—Section 5109(h) is amended by striking "not later than November 16, 1991." and inserting "based upon the findings of the study required by section 5128(a).".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 51, as amended by section 315, is amended by striking the item relating to section 5128 and inserting the following:

"5128. High risk hazardous material; motor carrier safety study

"5129. Authorization of appropriations".

SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

Section 5129, as redesignated, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, and 5116) not more than—

"(1) $15,492,000 for fiscal year 1998;

"(2) $16,000,000 for fiscal year 1999;

"(3) $16,500,000 for fiscal year 2000;

"(4) $17,000,000 for fiscal year 2001;

"(5) $17,500,000 for fiscal year 2002; and

"(6) $18,000,000 for fiscal year 2003."; and

(2) by striking subsections (c) and (d) and inserting the following:

"(c) TRAINING CURRICULUM.—Not more than $200,000 is available to the Secretary of Transportation from the account established

under section 5116(i) of this title for each of the fiscal years ending September 30, 1999-2003, to carry out section 5115 of this title.

"(d) PLANNING AND TRAINING.—

"(1) Not more than $2,444,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999-2003, to carry out section 5116(a) of this title.

"(2) Not more than $3,666,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999-2003, to carry out section 5116(b) of this title.

"(3) Not more than $600,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999-2003, to carry out section 5116(f) of this title.".

TITLE IV—COMPREHENSIVE ONE-CALL NOTIFICATION

SEC. 401. FINDINGS.

The Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.

SEC. 402. ESTABLISHMENT OF ONE-CALL NOTIFICATION PROGRAMS.

(a) IN GENERAL.—Subtitle III is amended by adding at the end thereof the following:

"CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

"Sec.
"6101. Purposes
"6102. Definitions
"6103. Minimum standards for State one-call notification programs
"6104. Compliance with minimum standards
"6105. Review of one-call system best practices
"6106. Grants to States
"6107. Authorization of appropriations

"§ 6101. Purposes

"The purposes of this chapter are—

"(1) to enhance public safety;

"(2) to protect the environment;

"(3) to minimize risks to excavators; and

"(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

"§ 6102. Definitions

"For purposes of this chapter—

"(1) ONE-CALL NOTIFICATION SYSTEM.—The term 'one-call notification system' means a system operated by an organization that has as one of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

"(2) STATE ONE-CALL NOTIFICATION PROGRAM.—The term 'State one-call notification program' means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

"(3) STATE.—The term 'State' means a State, the District of Columbia, and Puerto Rico.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"§ 6103. Minimum standards for State one-call notification programs

"(a) MINIMUM STANDARDS.—A State one-call notification program shall, at a minimum, provide for—

"(1) appropriate participation by all underground facility operators;

"(2) appropriate participation by all excavators; and

"(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

"(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

"(1) damage to types of underground facilities; and

"(2) activities of types of excavators.

"(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for—

"(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

"(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

"(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a de minimis risk to public safety or the environment.

"(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

"(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

"(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

"(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

"(4) equitable relief; and

"(5) citation of violations.

"§ 6104. Compliance with minimum standards

"(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall, within 2 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, submit to the Secretary a grant application under subsection (b).

"(b) APPLICATION.—

"(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for implementation of the program and the record of compliance and enforcement under the program.

"(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

"(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

"(4) The Secretary shall prescribe the form of, and manner of filing, an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

"(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

"(c) ALTERNATIVE PROGRAM—A State may maintain an alternative one-call notification program if that program provides protection for public safety, the environment, or excavators that is equivalent to, or greater than, protection under a program that meets the minimum standards set forth in section 6103.

"(d) REPORT—Within 3 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

"(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

"(2) an analysis by the Secretary of the overall effectiveness of the State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

"(3) the impact of the State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

"(4) areas where improvements are needed in one-call notification systems in operation in the State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

"§ 6105. Review of one-call system best practices

"(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

"(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to assemble information in order to determine which existing one-call notification systems practices appear to be the most effective in preventing damage to underground facilities and in protecting the public, the environment, excavators, and public service disruption. As part of the study, the Secretary shall at a minimum consider—

"(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

"(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

"(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

"(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

"(5) the effectiveness and accuracy of mapping used by one-call notification systems;

"(6) the relationship between one-call notification systems and preventing intentional damage to underground facilities;

"(7) how one-call notification systems address the need for rapid response to situations where the need to excavate is urgent;

"(8) the extent to which accidents occur due to errors in marking of underground facilities, untimely marking or errors in the excavation process after a one-call notification system has been notified of an excavation;

"(9) the extent to which personnel engaged in marking underground facilities may be endangered;

"(10) the characteristics of damage prevention programs the Secretary believes could be relevant to the effectiveness of State one-call notification programs; and

"(11) the effectiveness of penalties and enforcement activities under State one-call notification programs in obtaining compliance with program requirements.

"(c) REPORT—Within 1 year after the date of the enactment of the Intermodal Transportation Safety Act of 1997, the Secretary shall publish a report identifying those practices of one-call notification systems that are the most and least successful in—

"(1) preventing damage to underground facilities; and

"(2) providing effective and efficient service to excavators and underground facility operators.

The Secretary shall encourage States and operators of one-call notification programs to adopt and implement the most successful practices identified in the report.

"(d) SECRETARIAL DISCRETION—Prior to undertaking the study described in subsection (a), the Secretary shall determine whether timely information described in subsection (b) is readily available. If the Secretary determines that such information is readily available, the Secretary is not required to carry out the study.

"§ 6106. Grants to States

"(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

"(1) the overall quality and effectiveness of one-call notification systems in the State;

"(2) communications systems linking one-call notification systems;

"(3) location capabilities, including training personnel and developing and using location technology;

"(4) record retention and recording capabilities for one-call notification systems;

"(5) public information and education;

"(6) participation in one-call notification systems; or

"(7) compliance and enforcement under the State one-call notification program.

"(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section the Secretary shall take into consideration the commitment of each State to improving its State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of the Intermodal Transportation Safety Act of 1997.

"(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

"§ 6107. Authorization of appropriations

"(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary in fiscal year 1999 no more than $1,000,000 and in fiscal year 2000 no more than $5,000,000, to be available until expended, to provide grants to States under section 6106.

"(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary during fiscal years 1998, 1999, and 2000 to carry out sections 6103, 6104, and 6105.

"(c) GENERAL REVENUE FUNDING.—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis of chapters for subtitle III is amended by adding at the end thereof the following:

"CHAPTER 61—ONE-CALL NOTIFICATION PROGRAM"

(2) Chapter 601 of title 49, United States Code, is amended

(A) by striking "sections 60114 and" in section 60105(a) of that chapter and inserting "section";

(B) by striking section 60114 and the item relating to that section in the table of sections for that chapter;

(C) by striking "60114(c), 60118(a)," in section 60122(a)(1) of that chapter and inserting "60118(a),";

(D) by striking "60114(c) or" in section 60123(a) of that chapter;

(E) by striking "sections 60107 and 60114(b)" in subsections (a) and (b) of section 60125 and inserting "section 60107" in each such subsection; and

(F) by striking subsection (d) of section 60125, and redesignating subsections (e) and (f) of that section as subsections (d) and (e).

TITLE V—MOTOR CARRIER SAFETY

SEC. 501. STATEMENT OF PURPOSE.

Chapter 311 is amended—

(1) by inserting before section 31101 the following:

"§ 31100. Purpose

"The purposes of this subchapter are—

"(1) to improve commercial motor vehicle and driver safety;

"(2) to facilitate efforts by the Secretary, States, and other political jurisdictions, working in partnership, to focus their resources on strategic safety investments;

"(3) to increase administrative flexibility;

"(4) to strengthen enforcement activities;

"(5) to invest in activities related to areas of the greatest crash reduction;

"(6) to identify high risk carriers and drivers; and

"(7) to improve information and analysis systems."; and

(2) by inserting before the item relating to section 31101 in the chapter analysis for chapter 311 the following:

"§31100. Purposes".

SEC. 502. GRANTS TO STATES.

(a) PERFORMANCE-BASED GRANTS.—Section 31102 is amended—

(1) by inserting "improving motor carrier safety and" in subsection (a) after "programs for"; and

(2) by striking "adopt and assume responsibility for enforcing" in the first sentence of paragraph (b)(1) and inserting "assume responsibility for improving motor carrier safety and to adopt and enforce".

(b) HAZARDOUS MATERIALS.—Section 31102 is amended—

(1) by inserting a comma and "hazardous materials transportation safety," after "commercial motor vehicle safety" in subsection (a); and

(2) by inserting a comma and "hazardous materials transportation safety," in the first sentence of subsection (b) after "commercial motor vehicle safety".

(c) CONTENTS OF STATE PLANS.—Section 31102(b)(1) is amended—

(1) by redesignating subparagraphs (A) through (Q) as subparagraphs (B) through (R), respectively;

(2) by inserting before subparagraph (B), as redesignated, the following:

"(A) implements performance-based activities by fiscal year 2000;"

(3) by inserting "(1)" in subparagraph (K), as redesignated, after "(c)"; and

(4) by striking subparagraphs (L) and (M), as redesignated, and inserting the following:

"(L) ensures consistent, effective, and reasonable sanctions;

"(M) ensures that the State agency will coordinate the plan, data collection, and information systems with the State highway safety programs under title 23;";

(5) by striking "activities—" in subparagraph (P), as redesignated, and inserting "activities in support of national priorities and performance goals including—";

(6) by striking "to remove" in clause (i) of subparagraph (P), as redesignated, and inserting "activities aimed at removing"; and

(7) by striking "to provide" in clause (ii) of subparagraph (P), as redesignated, and inserting "activities aimed at providing".

SEC. 503. FEDERAL SHARE.

Section 31103 is amended—

(1) by inserting before "The Secretary of Transportation" the following:

"(a) COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS AND ENFORCEMENT.—";

(2) by inserting "improve commercial motor vehicle safety and" in the first sentence before "enforce"; and

(3) by adding at the end the following:

"(b) OTHER ACTIVITIES.—The Secretary may reimburse State agencies, local governments, or other persons up to 100 percent for those activities identified in 31104(f)(2).".

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 31104(a) is amended to read as follows:

"(a) GENERAL.—Subject to section 9503(c)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(1)), there are available from the Highway Trust Fund (except the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102 of this title, not more than—

"(1) $80,000,000 for the fiscal year ending September 30, 1998;

"(2) $82,000,000 for the fiscal year ending September 30, 1999;

"(3) $84,000,000 for the fiscal year ending September 30, 2000;

"(4) $86,000,000 for the fiscal year ending September 30, 2001;

"(5) $88,000,000 for the fiscal year ending September 30, 2002; and

"(6) $90,000,000 for the fiscal year ending September 30, 2003.".

(b) AVAILABILITY AND REALLOCATION.—Section 31104(b)(2) is amended to read as follows:

"(2) Amounts made available under section 4002(e)(1) and (2) of the Intermodal Surface Transportation Efficiency Act of 1991 before October 1, 1996, that are not obligated on October 1, 1997, are available for obligation under paragraph (1) of this subsection.".

(c) ALLOCATION CRITERIA.—Section 31104(f) is amended to read as follows:

"(f) ALLOCATION CRITERIA AND ELIGIBILITY.—

"(1) On October 1 of each fiscal year or as soon after that date as practicable, the Secretary, after making the deduction described in subsection (e) of this section, shall allocate, under criteria the Secretary prescribes through regulation, the amounts available for that fiscal year among the States with plans approved under section 31102 of this title.

"(2) The Secretary may designate—

"(A) no less than 5 percent of such amounts for activities and projects of national priority for the improvement of commercial motor vehicle safety; and

"(B) no less than 5 percent of such amounts to reimburse States for border commercial motor vehicle safety programs and enforcement activities and projects. These amounts shall be allocated by the Secretary to State agencies and local governments that use trained and qualified officers and employees in coordination with State motor vehicle safety agencies.".

(d) OTHER AMENDMENTS.—

(1) Section 31104 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(2) Section 31104 is amended by striking subsection (i) and redesignating subsection (j) as subsection (h).

SEC. 505. INFORMATION SYSTEMS AND STRATEGIC SAFETY INITIATIVES.

Section 31106 is amended to read as follows:

"§ 31106. Information Systems and Strategic Safety Initiatives.

"(a) INFORMATION SYSTEMS.—

"(1) IN GENERAL.—The Secretary is authorized to establish motor carrier information systems and data analysis programs to support motor carrier regulatory and enforcement activities required under this title. In cooperation with the States, the information systems shall be coordinated into a network providing identification of motor carriers and drivers, registration and licensing tracking, and motor carrier and driver safety performance. The Secretary shall develop and maintain data analysis capacity and programs to provide the means to develop strategies to address safety problems and to use data analysis to measure the effectiveness of these strategies and related programs; to determine the cost effectiveness of State and Federal safety compliance, enforcement programs, and other countermeasures; to evaluate the safety fitness of motor carriers and drivers; to identify and collect necessary data; and to adapt, improve, and incorporate other information and information systems as deemed appropriate by the Secretary.

"(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT—

"(A) The Secretary shall include, as part of the motor carrier safety information network system of the Department of Transportation, an information system, to be called the Performance and Registration Information Systems Management, to serve as a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles and the safety system of the commercial motor vehicle registrants or the motor carriers operating the vehicles. The Secretary may include in the system information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on vehicle, driver, and motor carrier safety performance.

"(B) The Secretary shall prescribe technical and operational standards to ensure—

"(i) uniform, timely and accurate information collection and reporting by the States necessary to carry out this system;

"(ii) uniform State and Federal procedures and policies necessary to operate the Commercial Vehicle Information System; and

"(iii) the availability and reliability of the information to the States and the Secretary from the information system.

"(C) The system shall link the Federal motor carrier safety systems with State driver and commercial vehicle registration and licensing systems, and shall be designed—

"(i) to enable a State, when issuing license plates or throughout the registration period for a commercial motor vehicle, to determine, through the use of the information system, the safety fitness of the registrant or motor carrier;

"(ii) to allow a State to decide, in cooperation with the Secretary, the types of sanctions that may be imposed on the registrant or motor carrier, or the types of conditions or limitations that may be imposed on the operations of the registrant or motor carrier that will ensure the safety fitness of the registrant or motor carrier;

"(iii) to monitor the safety fitness of the registrant or motor carrier during the registration period; and

"(iv) to require the State, as a condition of participation in the system, to implement uniform policies, procedures, and standards, and to possess or seek authority to impose commercial motor vehicle registration sanctions on the basis of a Federal safety fitness determination.

"(D) Of the amounts available for expenditure under this section, up to 50 percent in each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 may be made available to carry out paragraph (a)(2) of this section. The Secretary may authorize the operation of the information system by contract, through an agreement with one or more States, or by designating, after consultation with the States, a third party that represents the interests of the States. Of the amounts made available to carry out subsection (a)(2) of this section, the Secretary is encouraged to direct no less than 80 percent to States that have not previously received financial assistance to develop or implement the Performance and Registration Information Systems Management system.

"(b) COMMERCIAL MOTOR VEHICLE DRIVER SAFETY PROGRAM.—The Secretary is authorized to establish a program focusing on improving commercial motor vehicle driver safety. The objectives of the program shall include—

"(1) enhancing the exchange of driver licensing information among the States and among the States, the Federal Government, and foreign countries;

"(2) providing information to the judicial system on the commercial motor vehicle driver licensing program; and

"(3) evaluating any aspect of driver performance and safety as deemed appropriate by the Secretary.

"(c) COOPERATIVE AGREEMENTS, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities, or by making grants to and entering into contracts and cooperative agreements with States, localities, associations, institutions, corporations (profit or nonprofit) or other persons.".

SEC. 506. IMPROVED FLOW OF DRIVER HISTORY PILOT PROGRAM.

The Secretary of Transportation shall carry out a pilot program in cooperation with one or more States to improve upon the timely exchange of pertinent driver performance and safety records data. The program shall—

(1) determine to what extent driver performance records data, including relevant fines, penalties, and failures to appear for a hearing or trial, should be included as part of any information systems under the Department of Transportation's oversight;

(2) assess the feasibility, costs, safety impact, and benefits of record exchanges; and

(3) assess methods for the efficient exchange of driver safety data available from existing State information systems and sources.

SEC. 507. MOTOR CARRIER AND DRIVER SAFETY RESEARCH.

Of the funds made available to carry out programs established by the amendments made by title II of the Intermodal Surface Transportation Efficiency Act of 1997, no less than $10,000,000 shall be made available for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 for activities designed to advance commercial motor vehicle and driver safety. Any obligation, contract, cooperative agreement, or support granted under this section in excess of $100,000 shall be awarded on a competitive basis. The Secretary shall submit annually a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the research activities carried out under this section, including the amount, purpose, recipient and nature of each contract, cooperative agreement or award.".

SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

Section 31107 is amended to read as follows:

"§ 31107. Authorization of appropriations for information systems and strategic safety initiatives.

"There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to incur obligations to carry out section 31106 of this title

the sum of $10,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. The amounts made available under this subsection shall remain available until expended.''.

SEC. 509. CONFORMING AMENDMENTS.

The chapter analysis for chapter 311 is amended—

(1) by striking the heading for subchapter I and inserting the following:

''Subchapter I—State Grants and Other Commercial Motor Vehicle Programs''

and

(2) by striking the items relating to sections 31106 and 31107 and inserting the following:

''31106. Information systems and strategic safety initiatives

''31107. Authorization of appropriations for information systems and strategic safety initiatives''.

SEC. 510. AUTOMOBILE TRANSPORTER DEFINED.

Section 31111(a) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) 'automobile transporter' means any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units.''.

SEC. 511. REPEAL OF REVIEW PANEL; REVIEW PROCEDURE.

(a) REPEAL.—Subchapter III of chapter 311 is amended—

(1) by striking sections 31134 and 31140; and

(2) by striking the items relating to sections 31134 and 31140 in the chapter analysis for that chapter.

(b) REVIEW PROCEDURE.—

(1) IN GENERAL.—Section 31141 is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), (e), (f), (g), and (h) as subsections (b), (c), (d), (e), (f), and (g), respectively;

(B) by striking so much of subsection (b), as redesignated, as precedes paragraph (2) and inserting the following:

''(b) REVIEW AND DECISIONS BY THE SECRETARY.—

''(1) The Secretary shall review the laws and regulations on commercial motor vehicle safety in effect in each State, and decide—

''(A) whether the State law or regulation—

''(i) has the same effect as a regulation prescribed by the Secretary under section 31136 of this title;

''(ii) is less stringent than that regulation; or

''(iii) is additional to or more stringent than that regulation; and

''(B) for each State law or regulation which is additional to or more stringent than the regulation prescribed by the Secretary, whether—

''(i) the State law or regulation has no safety benefit;

''(ii) the State law or regulation is incompatible with the regulation prescribed by the Secretary under section 31136 of this title; or

''(iii) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.'';

(C) by striking paragraph (5) of subsection (b)(5), as redesignated, and inserting the following:

''(5) In deciding under paragraph (4) of this subsection whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of all similar laws and regulations of other States.'';

(D) by striking subsections (d) and (e), as redesignated, and inserting the following:

''(d) WRITTEN NOTICE OF DECISIONS.—The Secretary shall give written notice of the decision under subsection (b) of this section to the State concerned.''; and

(E) by redesignating subsections (f) and (g), as redesignated, as subsections (e) and (f), respectively.

(2) CONFORMING CHANGES.—

(A) The caption of section 31141 of such title is amended to read as follows:

''§ 31141. Preemption of State laws and regulations''.

(B) The chapter analysis of chapter 311 of such title is amended by striking the item relating to section 31141 and inserting the following:

''31141. Preemption of State laws and regulations''.

(d) INSPECTION OF VEHICLES.—

(1) Section 31142 is amended—

(A) by striking ''part 393 of title 49, Code of Federal Regulations'' in subsection (a) and inserting ''regulations issued pursuant to section 31135 of this title''; and

(B) by striking subsection (c)(1)(C) and inserting the following:

''(C) prevent a State from participating in the activities of a voluntary group of States enforcing a program for inspection of commercial motor vehicles; or''.

(2) Subchapter IV of chapter 311 is amended—

(A) by striking sections 31161 and 31162; and

(B) by striking the items relating to sections 31161 and 31162 in the chapter analysis for that chapter.

(3) Section 31102(b)(1) is amended—

(A) by striking ''and'' at the end of subparagraph (P);

(B) by striking ''thereunder.'' in subparagraph (Q) and inserting ''thereunder; and''; and

(C) by adding at the end thereof the following:

''(R) provides that the State will establish a program (i) to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with funds authorized under section 31104 of this title; and (ii) to ensure that information is exchanged among the States in a timely manner.''.

(e) SAFETY FITNESS OF OWNERS AND OPERATORS.—Section 31144 is amended to read as follows:

''§ 31142. Safety fitness of owners and operators

''(a) PROCEDURE.—The Secretary of Transportation shall maintain in regulation a procedure for determining the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under section 13902 of this title. The procedure shall include—

''(1) specific initial and continuing requirements to be met by the owners, operators, and other persons to demonstrate safety fitness;

''(2) a means of deciding whether the owners, operators, or other persons meet the safety requirements under paragraph (1) of this subsection; and

''(3) specific time deadlines for action by the Secretary in making fitness decisions.

''(b) PROHIBITED TRANSPORTATION.—Except as provided in sections 521(b)(5)(A) and 5113 of this title, a motor carrier that fails to meet the safety fitness requirements established under subsection (a) of this section may not operate in interstate commerce beginning on the 61st day after the date of the determination by the Secretary that the motor carrier fails to meet the safety fitness requirements and until the motor carrier meets the safety fitness requirements. The Secretary may, for good cause shown, provide a carrier with up to an additional 60 days to meet the safety fitness requirements.

''(c) RATING REVIEW.—The Secretary shall review the factors that resulted in a motor carrier failing to meet the safety fitness requirements not later than 45 days after the motor carrier requests a review.

''(d) GOVERNMENT USE PROHIBITED.—A department, agency, or instrumentality of the United States Government may not use a motor carrier that does not meet the safety fitness requirements.

''(e) PUBLIC AVAILABILITY; UPDATING OF FITNESS DETERMINATIONS.—The Secretary shall amend the motor carrier safety regulations in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to update periodically, the safety fitness determinations of motor carriers made by the Secretary.

''(f) PENALTIES.—The Secretary shall prescribe regulations setting penalties for violations of this section consistent with section 521 of this title.''.

(f) SAFETY FITNESS OF PASSENGER AND HAZARDOUS MATERIAL CARRIERS.—

(1) IN GENERAL.—Section 5113 is amended—

(A) by striking subsection (a) and inserting the following:

''(a) PROHIBITED TRANSPORTATION.—

''(1) A motor carrier that fails to meet the safety fitness requirements established under subsection 31144(a) of this title may not operate a commercial motor vehicle (as defined in section 31132 of this title)—

''(A) to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under this chapter; or

''(B) to transport more than 15 individuals.

''(2) The prohibition in paragraph (1) of this subsection applies beginning on the 46th day after the date on which the Secretary determines that a motor carrier fails to meet the safety fitness requirements and applies until the motor carrier meets the safety fitness requirements.'';

(B) by striking ''RATING'' in the caption of subsection (b) and inserting ''FITNESS'';

(C) by striking ''receiving an unsatisfactory rating'' in subsection (b) and inserting ''failing to meet the safety fitness requirements'';

(D) by striking ''has an unsatisfactory rating from the Secretary'' in subsection (c) and inserting ''failed to meet the safety fitness requirements''; and

(E) by striking ''RATINGS'' in the caption of subsection (d) and inserting ''FITNESS DETERMINATIONS'';

(F) by striking '', in consultation with the Interstate Commerce Commission,'' in subsection (d); and

(G) by striking ''ratings of motor carriers that have unsatisfactory ratings from'' in subsection (d) and inserting ''fitness determinations of motor carriers made by''.

(2) CONFORMING AMENDMENTS.—

(A) The caption of section 5113 of such chapter is amended to read as follows:

''§ 5113. Safety fitness of passenger and hazardous material carriers''.

(B) The chapter analysis for such chapter is amended by striking the item relating to section 5113 and inserting the following:

"5113. Safety fitness of passenger and hazardous material carriers".

(g) DEFINITIONS.—

(1) Section 31101(1) is amended—

(A) by inserting "or gross vehicle weight, whichever is greater," after "rating"in subparagraph (A);

(ii) by striking "10,000" and inserting "10,001";

(B) by striking subparagraph (B) and inserting the following:

"(B) is designed or used to transport passengers for compensation, but does not include a vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;";

(C) by inserting "and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103" after "title" in subparagraph (C).

(2) Section 31132 is amended—

(A) by inserting "or gross vehicle weight, whichever is greater," after "rating" in paragraph (1)(A); and

(B) by adding at the end of paragraph (3) the following:

"For purposes of this paragraph, the term business affecting interstate commerce' means a business employing a commercial motor vehicle in interstate commerce and includes all operations of the business in intrastate commerce which use vehicles otherwise defined as commercial motor vehicles under paragraph (1) of this section.".

(h) EMPLOYEE PROTECTIONS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary of Labor, shall report to the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committee on Transportation and Infrastructure on the effectiveness of existing statutory employee protections provided for under section 31105 of title 49, United States Code. The report shall include recommendations to address any statutory changes as may be necessary to strengthen the enforcement of such employee protection provisions.

(i) INSPECTIONS AND REPORTS.—

(1) GENERAL POWERS OF THE SECRETARY.—Section 31133(a)(1) is amended by inserting "and make contracts for" after "conduct".

(2) REPORTS AND RECORDS.—Section 504(c) is amended by inserting "(and, in the case of a motor carrier, a contractor)" before the second comma.

SEC. 512. COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) REPEAL OF OBSOLETE GRANT PROGRAMS.—Chapter 313 is amended—

(1) by striking sections 31312 and 31313; and

(2) by striking the items relating to sections 31312 and 31313 in the chapter analysis for that chapter.

(b) COMMERCIAL DRIVER'S LICENSE REQUIREMENT.—

(1) IN GENERAL.—Section 31302 is amended to read as follows:

"§ 31302. Commercial driver's license requirement

"No individual shall operate a commercial motor vehicle without a commercial driver's license issued according to section 31308 of this title.".

(2) CONFORMING AMENDMENTS.—

(A) The chapter analysis for that chapter is amended by striking the item relating to section 31302 and inserting the following:

"31302. Commercial driver's license requirement".

(B) Section 31305(a) is amended by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively, and by inserting after paragraph (1) the following:

"(2) may establish performance based testing and licensing standards that more accurately measure and reflect an individual's knowledge and skills as an operator;".

(c) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Section 31309 is amended—

(1) by striking "make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section," in subsection (a) and inserting "maintain";

(2) by striking subsections (b) and (c) and redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d) respectively;

(3) by striking "Not later than December 31, 1990, the" in paragraph (2) of subsection (b), as redesignated, and inserting "The"; and

(4) by inserting after the caption of subsection (c), as redesignated, the following: "Information about a driver in the information system may be made available under the following circumstances:"; and

(5) by starting a new paragraph with "(1) On request" and indenting the paragraph 2 ems from the lefthand margin.

(d) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) is amended—

(1) by striking "31310(b)-(e)" in paragraph (15) and inserting "31310(b)-(e), and (g)(1)(A) and (2)";

(2) by striking paragraph (17); and

(3) by redesignating paragraph (18) as paragraph (17).

(e) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—Section 31314 is amended—

(1) by striking ", (2), (5), and (6)" and inserting "(3), and (5)"; and

(2) by striking "1992" in subsections (a) and (b) and inserting "1995";

(3) by striking paragraph (1) of subsection (c);

(4) by striking "(2)" in subsection (c)(2);

(5) by striking subsection (d); and

(6) by redesignating subsection (e) as subsection (d).

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31301 is amended—

(1) by inserting "or gross vehicle weight, whichever is greater," after "rating" each place it appears in paragraph (4)(A); and

(2) by inserting "is" in paragraph (4)(C)(ii) before "transporting" each place it appears and before "not otherwise".

(g) SAFETY PERFORMANCE HISTORY OF NEW DRIVERS; LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Chapter 5 is amended by adding at the end thereof the following:

"§ 508. Safety performance history of new drivers; limitation on liability

"(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against —

"(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

"(2) a person who has complied with such a request; or

"(3) the agents or insurers of a person described in paragraph (1) or (2) of this subsection.

"(b) RESTRICTIONS.—

"(1) Subsection (a) does not apply unless—

"(A) the motor carrier requesting the safety performance records at issue, the person complying with such a request, and their agents have taken all precautions reasonably necessary to ensure the accuracy of the records and have fully complied with the regulations issued by the Secretary in using and furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

"(B) the motor carrier requesting the safety performance records, the person complying with such a request, their agents, and their insurers, have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for their insurers, not directly involved in forwarding the records or deciding whether to hire that individual; and

"(C) the motor carrier requesting the safety performance records has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

"(2) Subsection (a) does not apply to persons who knowingly furnish false information.

"(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier.".

(2) CONFORMING AMENDMENT.—The chapter analysis for that chapter is amended by inserting after the item relating to section 507 the following:

"508. Safety performance history of new drivers; limitation on liability".

SEC. 515. PENALTIES.

(a) NOTIFICATION OF VIOLATIONS AND ENFORCEMENT PROCEDURES.—Section 521(b)(1) is amended—

(1) by inserting: "with the exception of reporting and recordkeeping violations,"in the first sentence of subparagraph (A) after "under any of those provisions,";

(2) by striking "fix a reasonable time for abatement of the violation,"in the third sentence of subparagraph (A);

(3) by striking "(A)" in subparagraph (A); and

(4) by striking subparagraph (B).

(b) CIVIL PENALTIES.—Section 521(b)(2) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed

under this section against an employee for a violation in an amount exceeding $2,500.";

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

"(B) RECORDKEEPING AND REPORTING VIOLATIONS.—

"(i) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, who—

"(I) does not make that report;

"(II) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered; or

"(III) does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary,

shall be liable to the United States for a civil penalty in an amount not to exceed $500 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $5,000.

"(ii) Any such person, or an officer, agent, or employee of that person, who—

"(I) knowingly falsifies, destroys, mutilates, or changes a required report or record;

"(II) knowingly files a false report with the Secretary;

"(III) knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction; or

"(IV) knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary,

shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each violation, provided that any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.".

SEC. 514. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Chapter 317 is amended—

(1) by striking sections 31702, 31703, and 31708; and

(2) by striking the items relating to sections 31702, 31703, and 31708 in the chapter analysis for that chapter.

SEC. 515. STUDY OF ADEQUACY OF PARKING FACILITIES.

The Secretary shall conduct studies to determine the location and quantity of parking facilities at commercial truck stops and travel plazas and public rest areas that could be used by motor carriers to comply with Federal hours-of-service rules. Each study shall include an inventory of current facilities serving corridors of the National Highway System, analyze where specific shortages exist or are projected to exist, and propose a specific plan to reduce the shortages. The studies may be carried out in cooperation with research entities representing the motor carrier and travel plaza industry.

SEC. 516. NATIONAL MINIMUM DRINKING AGE—TECHNICAL CORRECTIONS.

Section 158 of title 23, United States Code, is amended —

(1) by striking "104(b)(2), 104(b)(5), and 104(b)(6)" each place it appears in subsection (a) and inserting "104(b)(3), and 104(b)(5)(B)"; and

(2) by striking subsection (b) and inserting the following:

"(b) AVAILABILITY OF WITHHELD FUNDS.—No funds withheld under this section from apportionment to any State after September 31, 1988, shall be available for apportionment to such State.".

SEC. 517. APPLICATION OF REGULATIONS.

(a) APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES.—Section 31135 as redesignated, is amended by adding at the end thereof the following:

"(g) APPLICATION TO CERTAIN VEHICLES.—Effective 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this section shall apply to operators of commercial motor vehicles described in section 31132(1)(B) to the extent that those regulations did not apply to those operators before the day that is 6 months after such date of enactment.".

(b) DEFINITION.—Section 31301(4)(B) is amended to read as follows:

"(B) is designed or used to transport—

"(i) passengers for compensation, but does not include a vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places; or

"(ii) more than 15 passengers, including the driver, and not used to transport passengers for compensation; or".

(c) APPLICATION OF REGULATIONS TO CERTAIN OPERATORS.—

(1) Chapter 313 is amended by adding at the end thereof the following:

"§ 31318. Application of regulations to certain operators

"Effective 1 year after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this chapter shall apply to operators of commercial motor vehicles described in section 31301(4)(B) to the extent that those regulations did not apply to those operators before the day that is 1 year after such date of enactment.".

SEC. 518. AUTHORITY OVER CHARTER BUS TRANSPORTATION.

Section 14501(a) is amended—

(1) by striking "route or relating" and inserting "route;"; and

(2) by striking "required." and inserting "required; or to the authority to provide intrastate or interstate charter bus transportation.".

SEC. 519. FEDERAL MOTOR CARRIER SAFETY INVESTIGATIONS.

The Department of Transportation shall maintain the level of Federal motor carrier safety investigators as in effect on September 30, 1997, or provide for alternative resources and mechanisms to ensure an equivalent level of commercial motor vehicle safety inspections. Such funds as are necessary to carry out this section shall be made available within the limitation on general operating expenses of the Department of Transportation.

SEC. 520. FOREIGN MOTOR CARRIER SAFETY FITNESS.

(a) IN GENERAL.—No later than 90 days after enactment of this Act, the Secretary of Transportation shall make a determination regarding the willingness and ability of any foreign motor carrier that applied to operate in the United States prior to January 1, 1996, to meet the safety fitness and other regulatory requirements under this title. The Secretary shall notify each carrier of the determination.

(b) REPORT.—One year after the date of enactment this Act, the Secretary of Transportation shall submit a report to the Senate Commerce, Science, and Transportation Committee and the House Transportation and Infrastructure Committee on the application of section 13902(c)(9) of title 49, United States Code. The report shall include—

(1) information on which carriers have applied to the Department of Transportation under that section;

(2) a description of the process utilized to respond to such applications and to certify the safety fitness of those carriers; and

(3) a description of performance-based measurements that have been used, or are proposed, to ensure the prompt and accurate registration of such foreign motor carriers.

SEC. 521. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation may establish a Commercial Motor Vehicle Safety Advisory Committee to provide advice and recommendations on a range of regulatory issues. The members of the advisory committee shall be appointed by the Secretary from among individuals affected by rulemakings under consideration by the Department of Transportation.

(b) FUNCTION.—The Advisory Committee established under subsection (a) shall provide advice to the Secretary on commercial motor vehicle safety regulations and assist the Secretary in timely completion of ongoing rulemakings by utilizing negotiated rulemaking procedures.

SEC. 522. WAIVERS AND PILOT PROGRAMS.

Section 31315 is amended—

(1) by inserting "(a) IN GENERAL.—" before "After notice"; and

(2) by adding at the end thereof the following:

"(b) PILOT PROGRAMS.—

"(1) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this title.

"(2) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this subsection, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this title.

"(3) EXEMPTIONS.—A pilot project under this subsection—

"(A) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this subtitle; and

"(B) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

"(4) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under paragraph (3) if—

"(A) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

"(B) the Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.

TITLE VI—RAIL AND MASS TRANSPORTATION ANTI-TERRORISM; SAFETY

SEC. 601. PURPOSE.

The purpose of this title is to protect the passengers and employees of railroad carriers and mass transportation systems and

the movement of freight by railroad from terrorist attacks.

SEC. 602. AMENDMENTS TO THE "WRECKING TRAINS" STATUTE.

(a) Section 1992 of title 18, United States Code, is amended to read as follows:

"§ 1992. Terrorist attacks against railroads

"(a) GENERAL PROHIBITIONS.—Whoever willfully—

"(1) wrecks, derails, sets fire to, or disables any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

"(2) brings, carries, possesses, places or causes to be placed any destructive substance, or destructive device in, upon, or near any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, without previously obtaining the permission of the carrier, and with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

"(3) sets fire to, or places any destructive substance, or destructive device in, upon or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, knowing or having reason to know such activity would likely derail, disable, or wreck a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

"(4) removes appurtenances from, damages, or otherwise impairs the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad line used, operated, or employed by a railroad carrier;

"(5) interferes with, disables or incapacitates any locomotive engineer, conductor, or other person while they are operating or maintaining a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

"(6) commits an act intended to cause death or serious bodilyinjury to an employee or passenger of a railroad carrier while on the property of the carrier;

"(7) causes the release of a hazardous material being transported by a rail freight car, with the intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

"(8) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

"(9) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts; Provided however, that whoever is convicted of any crime prohibited by this subsection shall be:

"(A) imprisoned for not less than thirty years or for life if the railroad train involved carried high-level radioactive waste or spent nuclear fuel at the time of the offense;

"(B) imprisoned for life if the railroad train involved was carrying passengers at the time of the offense; and

"(C) imprisoned for life or sentenced to death if the offense has resulted in the death of any person.

"(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

"(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a passenger train of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a passenger train or in a passenger terminal facility of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a passenger train or a passenger terminal facility of a railroad carrier involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

"(4) Paragraph (1) shall not apply to:

"(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

"(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

"(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

"(D) an individual transporting a firearm on board a railroad passenger train (except a loaded firearm) in baggage not accessible to any passenger on board the train, if the railroad carrier was informed of the presence of the weapon prior to the firearm being placed on board the train.

"(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any locomotive or car of a train, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

"(d) DEFINITIONS.—In this section—

"(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

"(2) 'dangerous weapon" has the meaning given to that term in section 930 of this title;

"(3) 'destructive substance" has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

"(4) 'firearm' has the meaning given to that term in section 921 of this title;

"(5) 'hazardous material' has the meaning given to that term in section 5102(2) of title 49, United States Code;

"(6) 'high-level radioactive waste' has the meaning given to that term in section 10101(12) of title 42, United States Code;

"(7) 'railroad' has the meaning given to that term in section 20102(1) of title 49, United States Code;

"(8) 'railroad carrier' has the meaning given to that term in section 20102(2) of title 49, United States Code;

"(9) 'serious bodily injury' has the meaning given to that term in section 1365 of this title;

"(10) 'spent nuclear fuel' has the meaning given to that term in section 10101(23) of title 42, United States Code; and

"(11) 'State' has the meaning given to that term in section 2266 of this title.".

(b) In the analysis of chapter 97 of title 18, United States Code, item "1992" is amended to read:

"1992. Terrorist attacks against railroads".

SEC. 603. TERRORIST ATTACKS AGAINST MASS TRANSPORTATION.

(a) Chapter 97 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1994. Terrorist attacks against mass transportation

"(a) GENERAL PROHIBITIONS.—Whoever willfully—

"(1) wrecks, derails, sets fire to, or disables a mass transportation vehicle or vessel;

"(2) places or causes to be placed any destructive substance in, upon, or near a mass transportation vehicle or vessel, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

"(3) sets fire to, or places any destructive substance in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;

"(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including a train control system, centralized dispatching system, or rail grade crossing warning signal;

"(5) interferes with, disables or incapacitates any driver or person while they are employed in operating or maintaining a mass transportation vehicle or vessel, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

"(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a mass transportation provider on the property of a mass transportation provider;

"(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

"(8) attempts, threatens, or conspires to do any of the aforesaid acts—shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of a crime prohibited by this section shall also be subject to imprisonment for life if the mass transportation vehicle or vessel was carrying a passenger at the time of the offense, and imprisonment for life or sentenced to death if the offense has resulted in the death of any person.

"(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

"(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a mass transportation vehicle or vessel, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a mass transportation vehicle or vessel, or in a mass transportation passenger terminal facility, or attempts to do so, shall be fined under this title, or imprisoned not more than 5 years, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a mass transportation vehicle or vessel, or a mass transportation passenger terminal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

"(4) Paragraph (1) shall not apply to:

"(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

"(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

"(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

"(D) an individual transporting a firearm on board a mass transportation vehicle or vessel (except a loaded firearm) in baggage not accessible to any passenger on board the vehicle or vessel, if the mass transportation provider was informed of the presence of the weapon prior to the firearm being placed on board the vehicle or vessel.

"(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any mass transportation vehicle or vessel, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a mass transportation provider engaged in or substantially affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

"(d) DEFINITIONS.—In this section—

"(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

"(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

"(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

"(4) 'firearm' has the meaning given to that term in section 921 of this title;

"(5) 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

"(6) 'serious bodily injury' has the meaning given to that term in section 1365 of this title; and

"(7) 'State' has the meaning given to that term in section 2266 of this title.".

(b) The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end thereof:

"1994. Terrorist attacks against mass transportation.".

SEC. 604. INVESTIGATIVE JURISDICTION.

The Federal Bureau of Investigation shall lead the investigation of all offenses under sections 1192 and 1994 of title 18, United States Code. The Federal Bureau of Investigation shall cooperate with the National Transportation Safety Board and with the Department of Transportation in safety investigations by these agencies, and with the Treasury Department's Bureau of Alcohol, Tobacco and Firearms concerning an investigation regarding the possession of firearms and explosives.

SEC. 605. SAFETY CONSIDERATIONS IN GRANTS OR LOANS TO COMMUTER RAILROADS.

Section 5329 is amended by adding at the end the following:

"(c) COMMUTER RAILROAD SAFETY CONSIDERATIONS.—In making a grant or loan under this chapter that concerns a railroad subject to the Secretary's railroad safety jurisdiction under section 20102 of this title, the Federal Transit Administrator shall consult with the Federal Railroad Administrator concerning relevant safety issues. The Secretary may use appropriate authority under this chapter, including the authority to prescribe particular terms or covenants under section 5334 of this title, to address any safety issues identified in the project supported by the loan or grant.".

SEC. 606. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

"(a) GENERAL REQUIREMENTS.—On a periodic basis as specified by the Secretary of Transportation, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during that period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.".

SEC. 607. VEHICLE WEIGHT LIMITATIONS—MASS TRANSPORTATION BUSES.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (23 U.S.C. 127 note), is amended by striking "the date on which" and all that follows through "1995" and inserting "January 1, 2003".

By Mr. ROBB:

S. 1270. A bill to amend section 8339(p) of title 5, United States Code, to clarify the computations of certain civil service retirement system annuities based on part-time service, and

for other purposes; to the Committee on Governmental Affairs.

CIVIL SERVICE RETIREMENT SYSTEM ANNUITIES CLARIFICATION LEGISLATION

Mr. ROBB. Mr. President, I rise today to introduce legislation to correct a wrong that has been done to an unknown number of Federal retirees in computing their annuities.

Through a letter from Mr. L. David Jones, I was informed that the 1986 Civil Service amendments contained in the Consolidated Omnibus Budget Reconciliation Act were being misapplied to penalize career Federal civil servants who had some part-time service at the end of their careers. Mr. Jones, and I'm sure many others, was encouraged to transition to retirement by working part-time for several years rather than just retiring after a 30-year career. Imagine Mr. Jones' surprise when he calculated his annuity after 30 years of full-time service and five years of part-time service and realized that he would have been better off if he had just retired after 30 years.

At first I believed this problem was simply a matter of the Office of Personnel Management misunderstanding the intent of Congress and that the situation could be corrected through administrative action. The Office of Personnel Management, however, has firmly stated that they are carrying out the letter of the law, and any change to the current annuity calculation will require congressional action.

That is why I am here today. Mr. Jones, and any others who are in a similar situation, deserve to have an annuity that accurately reflects their many years of service. This bill will allow those retirees to have their annuities recalculated to ensure that they are not penalized for not retiring outright. Realize also, however, that this bill does not authorize back payments for any lost annuity—the legislation simply tries to put things right for future payments to retirees affected by this previous error and to ensure that no future retirees are similarly penalized.

We must also look ahead and realize that any policy which discourages part-time service in these situations threatens to lead to a "brain drain" as baby boomers begin to retire. Many agencies have already expressed concern about their graying workforce and the difficulties they will face as these experienced workers retire. One option often mentioned is to encourage part-time service, so that the experience remains and allows for a transition of responsibilities to younger workers. As it stands now, a civil servant would be ill-advised to agree to that part-time transition to retirement.

For both of these reasons, I encourage all of my colleagues to support this legislation, and I will work with my colleagues on the Governmental Affairs Committee to see that this bill is considered as quickly as possible.

By Mr. GRAHAM:

S. 1273. A bill to amend title 10, United States Code, to expand the National Mail Order Pharmacy Program of the Department of Defense to include covered beneficiaries under the military health care system who are also entitled to Medicare; to the Committee on Armed Services.

THE NATIONAL MAIL ORDER PHARMACY PROGRAM EXPANSION ACT OF 1997

Mr. GRAHAM. Mr. President, today, I stand before you to highlight an injustice which has been done to the men and women who have served this country with selfless dedication. They have devoted themselves to the mission of protecting our country while promoting peace and democracy around the world. For this contribution to our country, we reward their performance with a retirement package which includes health care. Unfortunately, through a series of independent laws, we have created a disjointed health care benefits package which treats retirees differently depending on their age and where they happen to live.

I am introducing a bill to correct this disjointed health care policy. There is clearly a double standard affecting our veterans. Under the current provisions of the law, military retirees are eligible to receive health care under the CHAMPUS program until they become 65 years old. After that time, their health care is provided by Medicare. Under the CHAMPUS program, retirees have access to a program known as the mail-order pharmacy program which allows military members and retirees to obtain prescription drugs through the mail. Retirees over the age of 65 years old cannot be supported through the CHAMPUS program under current legislative restrictions. Medicare has no such pharmacy benefit. This means that once retirees become 65 years old, they lose the benefit and convenience of a mail-order pharmacy program. This comes at a time in their lives when they are more likely to need prescription drugs.

I commend the Department of Defense on their initiative to develop the mail-order pharmacy program. This new program was established to provide better service to the military community and to enable them to maximize that level of service within their decreasing available resources.

Military retirees and their dependents are eligible to receive free medical care from military installations on a space available basis. However, as the military continues to downsize their medical corps, "space available" is becoming more and more elusive for retirees. Pharmacy services are likewise available to retirees at military installations on a space available basis. For those retirees who were receiving their medical care, including prescription services, from a military installation which was closed by Base Realignment and Closure [BRAC] decisions, we have made an exception to the law which allows these retirees to participate in the mail-order pharmacy program. We have created a conglomeration of rules which apply to military retirees depending on their personal circumstances.

My proposal is very simple. All military retirees, including their dependents, should have access to the same health care benefits. We should not differentiate between medical benefits based only on a retiree's age or where a retiree happens to live. All retirees should be allowed to use the mail-order pharmacy program.

The General Accounting Office estimates that this proposal will cost approximately $229 million. While I remain committed to reducing the budget deficit and maintaining a balanced budget, I feel that the current legislation has created an inequity in the retirement benefits provided to our military personnel which must be corrected. It is the right thing to do.

This Nation owes a debt of gratitude to our military retirees. They have endured many hardships during their careers, including separation from their families for extended periods of time and frequent moves to all corners of the globe. They have also risked their lives in the name of freedom and democracy.

Military retirees have given tirelessly of themselves throughout their careers, and this proposal is an opportunity to correct an unjust situation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF MEDICARE-ELIGIBLE COVERED BENEFICIARIES IN DEPARTMENT OF DEFENSE NATIONAL MAIL ORDER PHARMACY PROGRAM.

Section 1086 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i) Notwithstanding subsection (d)(1), the Secretary of Defense shall ensure that any program to make prescription pharmaceuticals available by mail to covered beneficiaries does not exclude covered beneficiaries who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) Such covered beneficiaries shall be eligible to receive pharmaceuticals available under the mail order program on the same terms and conditions as other covered beneficiaries included in the program.".

By Mr. CAMPBELL:

S. 1274. A bill to amend the Internal Revenue Code of 1986 to prohibit the Internal Revenue Service from using the threat of audit to compel agreement with the Tip Reporting Alternative Commitment or the Tip Rate Determination.

THE CITIZENS VOLUNTARY COMPLIANCE PARTNERSHIP ACT OF 1997

Mr. CAMPBELL. Mr. President, last week the Senate passed the Treasury and general Government appropriations bill for fiscal year 1998. Included in the final conference report to that bill was language regarding the Tip Reporting Alternative Commitment Program [TRAC].

TRAC is a voluntary agreement entered into by the Internal Revenue Service and restaurant employers across the country. Under TRAC, employers agree to better educate their employees on tip reporting and also to monitor the tips received by employees. Developed just a few short years ago, TRAC is seen as a way to combat the instances of underreporting and nonreporting of tips.

However, it has come to the attention of many in Congress that the IRS may be using the threat of an audit to compel restaurant owners to enter into this agreement. While the IRS does have the authority to perform audits, I do not feel it is appropriate for this agency to be utilizing this right as a means of intimidation.

The report language pertaining to TRAC, which I ask unanimous consent be printed in the RECORD, states that the IRS "should ensure compliance with tip reporting by stressing its customer service role while working with restaurant owners." The legislation I am introducing today would simply put some teeth into this report language.

All my bill does is prohibit the IRS from using the threat of making an examination or issuing a summons to compel a restaurant owner to enter into TRAC. It does not limit the IRS' authority to perform such functions. It simply prohibits the agency from using these tools as a means of forcing compliance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) the Tip Reporting Alternative Commitment Agreement and the tip Rate Determination Agreement are voluntary agreements developed by the Internal Revenue Service and the restaurant industry as a means of improving the reporting of tip income;

(2) there have been reports that the Internal Revenue Service may be compelling members of the restaurant industry to accept such voluntary agreement by using the possibility of audit to intimidate; and

(3) the Internal Revenue Service has the authority to perform audits to assure taxpayer compliance with the internal revenue laws.

SEC. 2. PROHIBITION ON USING THE THREAT OF AUDIT TO COMPEL AGREEMENT WITH THE TIP REPORTING ALTERNATIVE COMMITMENT.

Section 7602 of the Internal Revenue Code of 1986 (relating to examination of books and witnesses) is amended by adding at the end the following new subsection:

"(d) NO THREAT OF SUMMONS OR EXAMINATIONS TO COMPEL AGREEMENT WITH TIP REPORTING ALTERNATIVE COMMITMENT OR THE TIP RATE DETERMINATION AGREEMENT.—The Secretary shall not use the threat of making an examination or issuing a summons under subsection (1) to compel a taxpayer to agree to or sign the Tip Reporting Alternative Commitment Agreement (TRAC) or the Tip Rate Determination Agreement (TRDA)."

TIP REPORTING ALTERNATIVE COMMITMENT PROGRAM

The conferees agree with the House position that the IRS should work with taxpayers to ensure compliance with the Tip Reporting Alternative Commitment Agreement (TRAC). In too many instances, restaurant owners perceive that the IRS may be overzealous in their pursuit of voluntary agreement with TRAC by intimating that the business will be audited if there is no agreement. The conferees agree that IRS should ensure compliance with tip reporting by stressing its customer service role while working with the restaurant owners.

By Mr. MURKOWSKI (for himself and Mr. AKAKA):

S. 1275. A bill to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes; to the Committee on Energy and Natural Resources.

THE NORTHERN MARIANA ISLANDS CONVENANT IMPLEMENTATION ACT

Mr. MURKOWSKI. Mr. President, I send to the desk, for appropriate reference, legislation on behalf of myself and Senator AKAKA that the administration has provided me in response to my request for a drafting service. This legislation represents the language that the administration believes will implement its recommendations contained in the most recent report on the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement in the Commonwealth of the Northern Mariana Islands.

In 1994, Congress directed this Initiative in Public Law 103–332 and provided $7 million for fiscal years 1995 and 1996 with an additional $3 million for fiscal year 1997. In testimony before the Committee on Energy and Natural Resources, the administration committed to provide an annual report on the progress of the Initiative.

Partially in response to concerns that had been raised about conditions in the Commonwealth, Senator AKAKA and I visited Saipan in February of last year. In addition to extensive briefings and meetings with Commonwealth officials, we also met with Federal agency personnel and the U.S. attorney. We also visited a garment factory and talked with some Bangladesh workers who had not been paid and who were living in appalling conditions. We were assured that corrective action would be taken. I want to note that my concerns were not exclusively with the Commonwealth government, but also went to the willingness of the administration to commit the needed resources to address the problems that we saw. I specifically asked the Attorney General for the appointment of a full-time U.S. attorney for the Northern Marianas rather than having the U.S. attorney for Guam also serve the Northern Marianas. The Attorney General responded that there wasn't enough work to justify a U.S. attorney.

On June 26 of last year, I chaired a hearing that examined what progress had been made. In addition to the administration, the acting Attorney General of the Commonwealth appeared and requested that the committee delay any action until the Commonwealth could complete a study on minimum wage and assured me that the study would be completed by January. I agreed to the delay. My intention was to revisit this issue in the April-May period after the administration had transmitted its annual report. While the CNMI study was not finally transmitted until April, the Administration did not transmit its annual report, which was due in April, until July. On May 30, 1997, the President wrote the Governor of the Northern Marianas that he was concerned over activities in the Commonwealth and had concluded that Federal immigration, naturalization, and minimum wage laws should apply. That letter provoked a flurry of statements, letters, articles, stories, and legislation, most of which generated more heat than light.

It quickly became clear that unless there was some definition as to exactly what the problem was and what solution was being proposed, little would happen other than a series of bewildering and increasingly hostile statements. The atmosphere also made the possibility of a useful oversight hearing increasingly remote. I must say that I have not been particularly impressed by either the advocates of Federal legislation or the opponents. One side responds to concerns over workers living in barracks, abuse of domestics, prostitution, and other problems by suggesting that the answer is to raise the minimum wage. The response to allegations of abuse of workers, especially women, is not to propose raising the minimum wage. Paying a person more does not justify abuse. The other side of the argument seems to me to also miss the point. The last time we

heard a justification that economic advances would be jeopardized if workers were treated properly was shortly before Appomattox. Whatever economic benefits some may have realized, that does not justify worker abuse, indentured servants, or the conditions that I saw those Bangladesh workers living in.

There are certain issues that I believe need a full hearing and careful review. The minimum wage study that the Commonwealth commissioned noted at one point that the Marianas has used its control over immigration and minimum wage to import foreign workers who would be paid more than they would receive in their home countries, but less than the Federal minimum wage. These workers would produce garments that would be subject to quotas if produced in their home country, but which could be imported duty free into the mainland United States since the Marianas is outside the customs territory of the U.S. but subject to preferential treatment under General Note 3(a) of the Tariff Schedules. That is an issue that the Congress should review.

When we considered the Covenant for the Marianas, we were sensitive to the fact that the Marianas had been under the minimum wage provisions of the Trust Territory and that immediate introduction of the Federal minimum wage might have an adverse effect on a developing economy that was still heavily dependent on annual Federal grants for basic Government services. We also recognized the concern expressed by the negotiators for the Northern Marianas that their small population could be overrun easily by migration. In response, we permitted the Marianas to control the timing of minimum wage and to exercise control over immigration. We also provided restraints on land alienation to protect the population. We did not consider that entrepreneurs would discover a loophole that would allow a lower minimum wage and immigration to create a non-indigenous industry that is Marianas in name only. Congress should examine whether this is a situation that should be permitted under the tariff schedules.

There are also legitimate questions concerning minimum wage and immigration. We should now have sufficient experience to assess whether the Marianas is capable of providing the preclearance for any persons who attempt to enter the Marianas. The United States routinely does this in foreign countries as part of our visa process. The situation that I saw with the Bangladesh workers should never have happened. Reports of other workers who arrive only to find no jobs should also never happen. There should be no unemployment among the guest workers. These are legitimate immigration related issues. They do not necessarily lead to a Federal takeover, but they are legitimate issues and it serves no purpose to distort history and pretend that the current situation was the goal of the Covenant negotiators.

Minimum wage is also a fairly straightforward issue. It does not appear that any U.S. citizens in the Northern Marianas are paid less than the current Federal minimum wage. Is there a justification and a need to pay foreign workers less and to what extent does the ability to import skilled foreign labor at less than Federal minimum wages contribute to the unemployment rate in the Marianas? Is there a reason to pay less than the minimum wage to attract skilled positions? There are issues that should be reviewed in a hearing.

Given the furor that followed the President's letter, I decided to ask the administration to provide me with a drafting service of the language that would implement whatever the recommendations were in their report. The report was finally submitted in July, and I received the drafting service on October 6, 1997. On July 16, 1997, I wrote the Governor of the Commonwealth to inform him that I had made the request and the schedule that I intended to follow. I want to reiterate my statement. I am committed to holding hearings on this legislation. I am not wedded to any particular provision in the legislation, but I am not happy with the situation in the Commonwealth. I ask unanimous consent that a copy of my letter be printed in the RECORD as well as a copy of the transmittal letter from the administration, the text of the legislation, and a section-by-section analysis.

Mr. President, I appreciate that elections are only a few weeks away in the Marianas. I do not think that hearings prior to the elections would be particularly productive. Our committee has tried to be nonpartisan in our approach to our responsibilities for the territories and we have tried to avoid local politics. Given the seriousness of these issues, I think they should be raised after the elections. I want to make it clear, however, that whatever the results of the elections in the Marianas, the Energy and Natural Resources Committee intends to proceed impartially and expeditiously.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

This Act may be cited as the "Northern Mariana Islands Covenant Implementation Act". Public Law 94-241 (90 Stat. 263, 48 U.S.C. 1801), which approved the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as amended, hereinafter is referred to as the "Covenant Act".

SEC. 2. IMMIGRATION REFORM FOR THE NORTHERN MARIANA ISLANDS.

(a) COVENANT ACT AMENDMENTS.—The Covenant Act is amended to add the following new section 6 after section 5:

"SEC. 6. TRANSITION PROGRAM FOR IMMIGRATION.

"Pursuant to section 503 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved in Public Law 94-241, 90 Stat. 263)—

"(a) APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT AND ESTABLISHMENT OF A TRANSITION PROGRAM.—Effective on the first day of the first full month commencing one year after the date of enactment of this section, the provisions of the Immigration and Nationality Act, as amended, shall apply to the Commonwealth of the Northern Mariana Islands, with a transition period not to exceed ten years thereafter, during which the Attorney General, in consultation with the Secretaries of State, Labor, and Interior, shall establish, administer, and enforce a transition program for immigration to the Commonwealth of the Northern Mariana Islands (the "transition program"). The transition program established pursuant to this section shall provide for the issuance of nonimmigrant temporary alien worker visas pursuant to subsection (b), and, under the circumstances set forth in subsection (c), for family-sponsored and employment-based immigrant visas. The transition program shall be implemented pursuant to regulations to be promulgated as appropriate by each agency having responsibilities under the transition program.

"(b) TEMPORARY ALIEN WORKERS.—The transition program shall conform to the following requirements with respect to temporary alien workers who would otherwise not be eligible for nonimmigrant classification under the Immigration and Nationality Act, as amended:

"(1) Aliens admitted under this subsection shall be treated as aliens seeking classification as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act, as amended, including the right to apply, if otherwise eligible, for a change of nonimmigrant status under section 248 of the Immigration and Nationality Act, as amended, or adjustment of status, if eligible therefor, under subsection (c) of this section and section 245 of the Immigration and Nationality Act, as amended.

"(2)(A) The Secretary of Labor shall establish, administer, and enforce a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers for each temporary alien worker who would not otherwise be eligible for admission under the Immigration and Nationality Act, as amended. This system shall provide for a reduction in the allocation of permits for such workers on an annual basis, over a period not to exceed ten years. In no event shall a permit be valid beyond the expiration of the transition period. This system may be based on any reasonable method and criteria determined by the Secretary of Labor to promote the maximum use of, and to prevent adverse effects on wages and working conditions of, United States labor and lawfully admissible freely associated state citizen labor.

"(B) The Secretary of Labor is authorized to establish and collect appropriate user fees for the purpose of this section. Amounts collected pursuant to this section shall be deposited to a special fund of the Treasury.

Such amounts shall be available, to the extent and in the amounts as provided in advance in appropriations acts, for the purposes of administering this section. Such amounts are authorized to be appropriated to remain available until expended.

"(3) The Attorney General shall set the conditions for admission of nonimmigrant temporary alien workers under the transition program, and the Secretary of State shall authorize the issuance of nonimmigrant visas for aliens to engage in employment only as authorized in this subsection: *Provided*, That such visas shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act, as amended, except the Northern Mariana Islands. An alien admitted to the Northern Mariana Islands on the basis of such a nonimmigrant visa shall be permitted to engage in employment only as authorized pursuant to the transition program. No alien shall be granted nonimmigrant classification or a visa under this subsection unless the permit requirements established under paragraph (2) of this subsection have been met.

"(4) An alien admitted as a nonimmigrant pursuant to this subsection shall be permitted to transfer between employers in the Northern Mariana Islands during the period of such alien's authorized stay therein, provided that such transfer is authorized by the Attorney General in accordance with criteria established by the Attorney General and the Secretary of Labor.

"(c) *Immigrants.*—With the exception of immediate relatives, as defined in section 201(b)(2) of the Immigration and Nationality Act, as amended, and except as provided in paragraph (1) and (2) of this subsection, no alien shall be granted initial admission as a lawful permanent resident of the United States at a port-of-entry in the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Northern Mariana Islands.

"(1) FAMILY-SPONSORED IMMIGRANT VISAS.—The Attorney General, based on a joint recommendation of the Governor and Legislature of the Commonwealth of the Northern Mariana Islands, and in consultation with appropriate federal agencies, may establish a specific number of additional initial admissions as a family-sponsored immigrant at a port-of-entry in the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Northern Mariana Islands, pursuant to section 202 and 203(a) of the Immigration and Nationality Act, as amended, during the following fiscal year.

"(2) EMPLOYMENT-BASED IMMIGRANT VISAS.—

"(A) If the Secretary of Labor, upon receipt of a joint recommendation of the Governor and Legislature of the Commonwealth of the Northern Mariana Islands, finds that exceptional circumstances exist with respect to the inability of employers in the Northern Mariana Islands to obtain sufficient work-authorized labor, the Attorney General may establish a specific number of employment-based immigrant visas to be made available during the following fiscal year under section 203(b) of the Immigration and Nationality Act, as amended.

"(B) Upon notification by the Attorney General that a number has been established pursuant to subparagraph (A) of this paragraph, the Secretary of State may allocate up to that number of visas without regard to the numerical limitations set forth in sections 202 and 203(b)(3)(B) of the Immigration and Nationality Act, as amended. Visa numbers allocated under this subparagraph shall be allocated first from the number of visas available under section 203(b)(3) of the Immigration and Nationality Act, as amended, or, if such visa numbers are not available, from the number of visas available under section 203(b)(5) of such Act.

"(C) Persons granted employment-based immigrant visas under the transition program may be admitted initially at a port-of-entry in the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Northern Mariana Islands, as lawful permanent residents of the United States.

"(D) Any immigrant visa issued pursuant to this paragraph shall be valid only for application for initial admission to the Northern Mariana Islands. The admission of any alien pursuant to such an immigrant visa shall be an admission for lawful permanent residence and employment only in the Northern Mariana Islands during the first five years after such admission. Such admission shall not authorize permanent residence or employment in any other part of the United States during such five-year period. An alien admitted for permanent residence pursuant to this paragraph shall be issued appropriate documentation identifying the person as having been admitted pursuant to the terms and conditions of this transition program, and shall be required to comply with a system for the registration and reporting of aliens admitted for permanent residence under the transition program, to be established by the Attorney General, by regulation, consistent with the Attorney General's authority under Chapter 7 of Title II of the Immigration and Nationality Act, as amended.

"(E) Nothing in this paragraph shall preclude an alien who has obtained lawful permanent resident status pursuant to this paragraph from applying, if otherwise eligible under this section and under the Immigration and Nationality Act, as amended, for an immigrant visa or admission as a lawful permanent resident under the Immigration and Nationality Act, as amended.

"(F) Any alien admitted under this subsection, who violates the provisions of this paragraph, or who is found removable or inadmissible under section 237(a), or paragraphs (1), (2), (3), (4)(A), (4)(B), (6), (7), (8), or (9) of section 212(a), shall be removed from the United States pursuant to sections 239, 240, and 241 of the Immigration and Nationality Act, as amended.

"(G) The Attorney General may establish by regulation a procedure by which an alien who has obtained lawful permanent resident status pursuant to this paragraph may apply for a waiver of the limitations on the terms and conditions of such status. The Attorney General may grant the application for waiver, in the discretion of the Attorney General, if: (1) the alien is not in removal proceedings, (2) the alien has been a person of good moral character for the preceding five years, (3) the alien has not violated the terms and conditions of the alien's permanent resident status, and (4) the alien would suffer exceptional and extremely unusual hardship were such terms and conditions not waived.

"(H) The limitations on the terms and conditions of an alien's permanent residence set forth in this paragraph shall expire at the end of five years after the alien's admission to the Northern Mariana Islands as a permanent resident and the alien is thereafter fully subject to the provisions of the Immigration and Nationality Act, as amended. Following the expiration of such limitations, the permanent resident alien may engage in any lawful activity, including employment, anywhere in the United States. Such an alien, if otherwise eligible for naturalization, may count the five-year period in the Northern Mariana Islands towards time in the United States for purposes of meeting the residence requirements of Title III of the Immigration and Nationality Act, as amended.

"(d) INVESTOR VISAS.—The following requirements shall apply to aliens who have been admitted to the Northern Mariana Islands in long-term investor status under the immigration laws of the Commonwealth of the Northern Mariana Islands on or before the effective date of this Act and who have continuously maintained residence in the Northern Mariana Islands pursuant to such status:

"(1) Such aliens may apply to the Attorney General or a consular officer for classification as a nonimmigrant under the transition program. Any nonimmigrant status granted as a result of such application shall terminate not later than December 31, 2008.

"(2) During the six-month period beginning January 1, 2008, and ending June 30, 2008, any alien granted nonimmigrant status pursuant to paragraph (1) of this subsection shall be permitted to apply to the Attorney General for status as a lawful permanent resident of the United States effective on or after January 1, 2009, and may be granted such status if otherwise admissible. Upon granting permanent residence to any such alien, the Attorney General shall advise the Secretary of State who shall reduce by one number, during the fiscal year in which the grant of status becomes effective, the total number of immigrant visas available to natives of the country of the alien's chargeability under section 202(b) of the Immigration and Nationality Act, as amended.

"(e) PERSONS LAWFULLY ADMITTED UNDER THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IMMIGRATION LAW.—Subject to subsection (d) of this section, persons who would have been lawfully present in the Northern Mariana Islands pursuant to the immigration laws of the Commonwealth of the Northern Mariana Islands on the effective date of this subsection, shall be permitted to remain in the Northern Mariana Islands for the completion of the period of admission under such laws, or for two years, whichever is less.

"(f) TRAVEL RESTRICTIONS FOR CERTAIN APPLICANTS FOR ASYLUM.—Any alien admitted to the Northern Mariana Islands pursuant to the immigrant laws of the Commonwealth of the Northern Mariana Islands or pursuant to subsections (b) or (c) of this section who files an application seeking asylum in the United States shall be required, pursuant to regulations established by the Attorney General, to remain in the Northern Mariana Islands, during the period of time the application is being adjudicated or during any appeals filed subsequent to such adjudication. An applicant for asylum who, during the time his application is being adjudicated or during any appeals filed subsequent to such adjudication, leaves the Northern Mariana Islands of his own will without prior authorization by the Attorney General thereby abandons the application.

"(g) EFFECT ON OTHER LAWS.—Effective on the first day of the first full month commencing one year after the date of enactment of this section, the provisions of this section and the Immigration and Nationality Act, as amended, shall supersede and replace all laws, provisions, or programs of the Commonwealth of the Northern Mariana Islands

relating to the admission of aliens and the removal of aliens from the Northern Mariana Islands.

"(h) ACCRUAL OF TIME.—No time of 'unlawful presence' in the Northern Mariana Islands shall accrue for purposes of the ground of inadmissibility in section 212(a)(9)(B) prior to the date of enactment of this subsection.".

(b) CONFORMING AMENDMENTS.—(1) Effective on the first day of the first full month commencing one year after the date of enactment of this section, section 101(a) of the Immigration and Nationality Act, as amended, is amended as follows:

(A) in paragraph (36), by deleting "and the Virgin Islands of the United States." and substituting "the Virgin Islands of the United States, and the Northern Mariana Islands.", and;

(B) in paragraph (38), by deleting "and the Virgin Islands of the United States" and substituting "the Virgin Islands of the United States, and the Northern Mariana Islands.".

(2) Effective on the first day of the first full month commencing on date of enactment of this section, subsection (l) of section 212 of the Immigration and Nationality Act, as amended, is amended, as follows:

(A) in paragraph (1)—

(i) strike the words "stay on Guam", and insert the words "stay on Guam and the Northern Mariana Islands",

(ii) after the word "exceed" insert the words "a total of", and,

(iii) strike the words "after consultation with the Governor of Guam," and insert the words "after respective consultation with the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands,";

(B) in subparagraph (A) of paragraph (1), strike the words "on Guam", and insert the words "on Guam or the Northern Mariana Islands, respectively,";

(C) in subparagraph (A) of paragraph (2), strike the words "into Guam", and insert the words "into Guam or the Northern Mariana Islands, respectively,";

(D) in paragraph (3), strike the words "Government of Guam" and insert the words "Government of Guam or the Government of the Commonwealth of the Northern Mariana Islands".

(c) TECHNICAL ASSISTANCE PROGRAM.—The Secretaries of Interior and Labor, in consultation with the Commonwealth of the Northern Mariana Islands, shall develop a program of technical assistance, including recruitment and training, to aid employers in securing employees from among United States labor or lawfully admissible freely associated state citizen labor.

(d) DEPARTMENT OF JUSTICE AND DEPARTMENT OF LABOR OPERATIONS.—The Attorney General and the Department of Labor are authorized to establish and maintain Immigration and Naturalization Service, Executive Office of Immigration Review, and Department of Labor operations in the Northern Mariana Islands for the purpose of performing their responsibilities under the Immigration and Naturalization Act, as amended, and under the transition program. To the extent practicable and consistent with the satisfactory performance of their assigned responsibilities under applicable law, the Departments of Justice and Labor shall recruit and hire from among qualified applicants resident in the Northern Mariana Islands for staffing such operations.

(e) REPORT TO THE CONGRESS.—The President shall report to the Senate Committee on Energy and Natural Resources, and the House Committee on Resources, within six months after the fifth anniversary of the enactment of this Act, evaluating the overall effect of the transition program and the Immigration and Naturalization Act on the Northern Mariana Islands, and at other times as the President deems appropriate.

(f) LIMITATION ON NUMBER OF TEMPORARY WORKERS PRIOR TO APPLICATION OF THE IMMIGRATION AND NATURALIZATION ACT AND ESTABLISHMENT OF THE TRANSITION PROGRAM.—During the period between enactment of this section and the effective date of the transition program, the government of the Commonwealth of the Northern Mariana Islands shall not permit an increase in the total number of temporary alien workers who were present in the Northern Mariana Islands on the date of enactment of this section.

(g) APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section and of the Immigration and Naturalization Act, as amended, with respect to the Northern Mariana Islands.

SEC. 3. MINIMUM WAGE.

The Covenant Act is amended to add the following new section 7 after section 6:

"SEC. 7. MINIMUM WAGE.

"Pursuant to section 503 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved in Public Law 94-241, 90 Stat. 263)—

"(a) Effective thirty days after enactment of this Act, the minimum wage provisions of section 6 of the Fair Labor Standards Act of June 25, 1938 (52 Stat. 1062), as amended, shall apply to the Commonwealth of the Northern Mariana Islands, except—

"(1) the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be $3.35 per hour; and

"(2) effective January 1, 1999, and every January 1 thereafter, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be raised by thirty cents per hour or the amount necessary to raise the applicable minimum wage rate to the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act, whichever is less.

"(b) Once the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands is equal to the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall thereafter be the wage set forth in section 6(a)(1) of the Fair Labor Standards Act.".

SEC. 4. LABELING REQUIREMENTS FOR TEXTILE AND APPAREL PRODUCTS.

The Covenant Act is amended to add the following new section 8 after section 7:

"SEC. 8. LABELING OF TEXTILE AND APPAREL PRODUCTS.

"(a) No textile or apparel product that is produced in the Northern Mariana Islands shall have a stamp, tag, label, or other means of identification or substitute thereof on or affixed to the product stating 'Made in USA' or otherwise stating or implying that the product was produced in the United States unless the product is produced in a factory certified by the United States Department of Labor, in accordance with regulations issued by the Secretary of Labor, to use full-time employee equivalents of labor in the required percentage of qualified hours.

"(b) A textile or apparel product that does not meet the requirements of subsection (a), or where the certification by the United States Department of Labor is based on false or incomplete information provided to the United States Department of Labor, shall be deemed to be misbranded for the purposes of the Textile Fiber Products Identification Act (Public Law 85-897, 72 Stat. 1717).

"(c) In this section:

"(1) FREELY ASSOCIATED STATE.—The term 'freely associated state' means the Republic of Palau, the Republic of the Marshall Islands, or the Federated States of Micronesia.

"(2) QUALIFIED HOURS.—The term 'qualified hours' means the hours of labor performed by a person who is a citizen, national, or other protected individual as defined in section 274B(a)(3) of the Immigration and Nationality Act, as amended (without regard to application for naturalization), or who is a citizen of a freely associated state (as long as section 141 in the respective Compacts of Free Association with the Republic of the Marshall Islands, the Federated States of Micronesia or the Republic of Palau (Public Law 99-239 or Public Law 99-658) or equivalent provisions are in effect).

"(3) REQUIRED PERCENTAGE.—The term 'required percentage' means—

"(A) 20 percent, for the period beginning January 1, 1998, through December 31, 1998;

"(B) 35 percent, for the period beginning January 1, 1999, through December 31, 1999; and

"(C) 50 percent, for the period beginning January 1, 2000, and thereafter.".

SEC. 5 TARIFFS.

General Note 3(a)(iv) of the Harmonized Tariff Schedules of the United States is amended to add at the end the following:

"(E) No textile or apparel product that is produced in the Northern Mariana Islands shall be admitted duty-free into the customs territory of the United States as the product of an insular possession, unless the product is produced in a factory certified by the United States Department of Labor, in accordance with regulations issued by the Secretary of Labor, to use full-time employee equivalents of labor in the required percentage of qualified hours. In this subparagraph:

"(i) FREELY ASSOCIATED STATE.—The term 'freely associated state' means the Republic of Palau, the Republic of the Marshall Islands, or the Federated States of Micronesia.

"(ii) QUALIFIED HOURS.—The term 'qualified hours' means the hours of labor performed by a person who is a citizen, national, or other protected individual as defined in section 274B(a)(3) of the Immigration and Nationality Act, as amended (without regard to application for naturalization), or who is a citizen of a freely associated state (as long as section 141 in the respective Compacts of Free Association with the Republic of the Marshall Islands, the Federated Stats of Micronesia or the Republic of Palau (Public Law 99-239 or Public Law 99-658) or equivalent provisions are in effect).

"(iii) REQUIRED PERCENTAGE—The term 'required percentage; means—

"(A) 20 percent, for the period beginning January 1, 1998, through December 31, 1998;

"(B) 35 percent, for the period beginning January 1, 1999, through December 31, 1999; and

"(C) 50 percent, for the period beginning January 1, 2000, and thereafter.".

SECTION-BY-SECTION ANALYSIS

Section 1 would provide that this Act may be cited as the "Northern Mariana Islands Covenant Implementation Act." It further would provide that Public Law 94-241 (90 Stat. 263, 48 U.S.C. 1801) which approved the Covenant to Establish a Commonwealth of

the Northern Mariana Islands in Political Union with the United States of America would be referred in the Act as the "Covenant Act."

Section 2, entitled "Immigration Reform for the Northern Mariana Islands" contains a subsection (a) that would amend the Covenant Act by adding a new section 6 at the end of the Covenant Act with the following preamble and subsections:

Preamble: the immigration provisions in the new section 6 of the Covenant Act would be enacted pursuant to section 503 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved in Public Law 94–241, 90 Stat. 263), which provides that the Congress may enact immigration legislation regarding the Northern Mariana Islands after the termination of the Trusteeship Agreement with respect to the Northern Mariana Islands, which occurred on November 3, 1986. (Section 1 of Proclamation No. 5564, dated November 3, 1986. 51 F.R. 40399).

Section 6, subsection (a) would provide that, effective on the first day of the first full month commencing one year after the enactment date of section 6, the Immigration and Nationality Act, as amended (the "INA"), would apply in full to the Commonwealth of the Northern Mariana Islands (CNMI). At the same time, a transition program would become effective for the orderly phasing out of the CNMI's current temporary alien worker program. The Attorney General, in consultation with the Secretaries of State, Labor, and Interior, will be charged with establishing, administering, and enforcing this transition program. To implement this program, each agency having responsibilities under the program will be required to promulgate appropriate regulations. The details of this program are set forth in the subsections below.

Section 6, subsection (b) would set forth the requirements under the transition program for the admission of temporary alien workers who would not otherwise be eligible for nonimmigrant classification under the INA.

Paragraph (1) would provide that aliens who are admitted under the transition program, like most nonimmigrants admitted under the INA, will have the right to apply, if they are otherwise eligible, for a change of status to a nonimmigrant classification under the INA, or, if otherwise eligible, for adjustment of status to lawful permanent residence of the United States.

Paragraph (2)(A) would set out the responsibilities of the United States Department of Labor under the transition program. The Secretary of Labor would be charged with establishing, administering, and enforcing a reasonable system for the annual allocation of permits to be issued to prospective employers of temporary alien workers who would not be eligible for admission under the INA. This system would provide for a reduction in the allocation of permits for such workers on an annual basis, over a maximum period of ten years, with no such permit to be valid beyond the expiration of the transition period. The system would be designed to promote the maximum use of, and to prevent adverse effects on, United States labor and lawfully admissible freely associated state citizen labor. In carrying out its responsibilities under the subsection, the Department of Labor would be authorized to collect appropriate user fees. Paragraph (2)(B) would authorize the Secretary of Labor to establish and collect appropriate user fees for the purposes of this section.

Paragraph (3) would assign the Attorney General the responsibility of setting the conditions for admission of temporary alien workers under the transition program. In addition, this subsection would assign to the Secretary of State the responsibility for the issuance of nonimmigrant visas, which would not be valid for admission to other parts of the United States, to such persons. Aliens admitted to the NMI as temporary workers under this program would be permitted to engage in employment only as authorized in this subsection. Such temporary workers, therefore, would not engage open market employment in the NMI, but would be required to work for an employer approved by the Attorney General and the Secretary of Labor in accordance with this subsection.

Paragraph (4) would provide for job transfer rights for otherwise eligible temporary alien workers admitted under the transition program pursuant to criteria established by the Attorney General and the Secretary of Labor.

Section 6, subsection (c), would provide that, with the exception of certain close family relatives, and except as provided in section (6)(c)(1) and (2) aliens seeking to immigrate to the NMI under the INA would not be granted initial admission as a lawful permanent resident of the United States at a port-of-entry in the NMI, or at a port-of-entry in Guam for the purpose of immigration to the NMI.

Paragraph (1) would provide that, notwithstanding section 6(c) above, the Attorney General, based on the recommendation of the CNMI Government, and after consultation with appropriate federal agencies, may allow a specific number of additional initial admissions to the NMI (or through Guam to the NMI) as a family-sponsored immigrant under the INA.

Paragraph (2) would provide the Attorney General with the authority to admit to the NMI, under exceptional circumstances, a limited number of employment-based immigrants, without regard to the normal numerical limitations under the INA, during the transition program.

Subparagraph (a) would provide that the Secretary of Labor, upon receipt of a joint recommendation of the Governor and Legislature of the CNMI, may find that exceptional circumstances exist which preclude employers in the NMI from obtaining sufficient work-authorized labor. If the Secretary of Labor makes such a finding, the Attorney General may establish a specific number of employment-based "third preference" immigrant visas to be made available during the following fiscal year under the INA.

Subparagraph (B) would permit the Secretary of State to allocate up to the number of visas requested by the Attorney General without regard to the normal per-country or "other worker" employment-based third preference numerical limitations and visa issuance. These visas would be allocated first from unused employment-based third preference visa numbers, and then, if necessary, from unused alien entrepreneur visa numbers.

Subparagraph (C) would allow persons granted employment-based immigrant visas under the transition program to be admitted initially at a port-of-entry in the NMI (or through a port-of-entry in Guam to the NMI).

Subparagraph (D) would provide that any immigrant visa issued pursuant to this paragraph shall be valid only for application for initial admission to the NMI. Further, any employment-based immigrant visas issued on the basis of the above finding of "exceptional circumstances" would be valid for admission for lawful permanent residence and employment only in the NMI during the first five years after initial admission. Such visas would not authorize permanent residence or employment in any other part of the United States during this five-year period. The subsection also would provide for the issuance of appropriate documentation of such admission, and, consistent with Chapter 7 of Title II of the INA, would require an alien to register and report to the Attorney General during the five-year period.

Subparagraph (E) would provide that an alien who is subject to the five-year limitation under section 6(c) may, if otherwise eligible, apply for an immigrant visa or admission as a lawful permanent resident under the INA.

Subparagraph (F) would provide for the removal from the United States of any alien subject to the five-year limitation if the alien violates the provisions of section 6(c), or if the alien is found to be removable or inadmissible under various provisions of the INA.

Subparagraph (G) would allow certain aliens who have obtained lawful permanent resident status under the transition program to apply for a waiver of the terms and conditions of their status in certain extraordinary situations where the Attorney General finds that the alien would suffer exceptional and extremely unusual hardship were such conditions not waived. An example of such an extraordinary circumstance would be where the alien is a labor organizer and can demonstrate that, as a result of the alien's lawful labor activities, he or she has been "blacklisted" by local employers, and is therefore unable to find employment in the Northern Mariana Islands. The benefits of this provision would be unavailable to a person who has violated the terms and conditions of his or her permanent resident status, such as an alien who has engaged in the unauthorized employment.

Subparagrah (H) would provide that the limitations on the terms and conditions of an alien's permanent residence granted under section 6(c) shall expire at the end of five years after the alien's admission to the NMI as a permanent resident. Thereafter, such an alien would be fully subject to the provisions of the INA, and may engage in any lawful activity, including employment, anywhere in the United States. In addition, such an alien, if otherwise eligible for naturalization, may count the five-year period in the NMI towards time in the United States for purposes of meeting the residence requirements of Title III of the INA.

Section 6, subsection (d), would permit, upon the meeting certain requirements, that certain aliens who were admitted to the NMI in long-term investor status under CNMI immigration law on or before the effective date of this Act to remain in the NMI after the effective date of the Act. In order to enjoy the benefits of this subsection, such persons would be required to have continuously maintained residence in the NMI pursuant to such long-term investor status.

Paragraph (1) would provide that such long-term investors may apply to the Attorney General or a consular officer for nonimmigrant classification, to terminate no later than December 31, 2008, under the transition program.

Paragraph (2) would provide that an alien granted nonimmigrant status under this section may apply for adjustment of status to lawful permanent resident of the United

States during the six-month period beginning January 1, 2008, and ending June 30, 2008. If otherwise admissible, such an alien would be granted permanent resident status effective on or after January 1, 2009. Each such adjustment of status would be subject to the total per-country numerical limitations on immigrant visa issuance, and therefore would count against the total number of immigrant visas available to natives of the country of the alien's chargeability.

Section 6, subsection (e) would permit persons who would have been lawfully present in the NMI pursuant to local immigration law as of the effective date of this subsection to remain in the NMI for the completion of their period of admission under such local law, as long as such period does not extend beyond two years after such effective date.

Section 6, subsection (f) would impose travel restrictions on asylum aliens admitted to the NMI pursuant to the laws of the CNMI or as temporary workers or employment-based immigrants under the transition program who apply for asylum. Such persons will be required to remain the NMI during the period of time the application is pending or during any appeal period thereafter. An applicant for asylum who during such period leaves the CNMI on his own will without the prior permission of the Attorney General thereby abandons the application.

Section 6, subsection (g) would provide that, effective on the first day of the first full month commencing one year after the enactment date of this section, this section and the INA would supersede all laws, provisions, or programs of the CNMI Government relating to the admission of aliens to and the removal of aliens from the NMI.

Section 6, subsection (h) would provide that no time of "unlawful presence" in the NMI would accrue for purposes of the ground of inadmissibility in section 212(a)(9)(B) prior to the date of enactment of section 6.

Section 2, subsection (b) would provide for three "Conforming Amendments."

Paragraph (1)(A) would amend section 101(a)(36) of the INA, which defines the term "state" for purposes of the INA, to include the Northern Mariana Islands. This amendment would become effective on the first day of the first full month commencing one year after enactment date of section 2 of the Northern Mariana Islands Covenant Implementation Act.

Paragraph (1)(B) would amend section 101(a)(38) of the INA, which defines the term "United States" for purposes of the INA, to include the Northern Mariana Islands. This amendment would become effective on the first day of the first full month commencing one year after the enactment date of section 2 of the Northern Mariana Islands Covenant Implementation Act.

Paragraph (2) would amend section 212(l) of the INA to extend the Guam Visa Waiver Program to the CNMI.

Section 2, subsection (c) would obligate the Secretaries of Interior and Labor, in consultation with CNMI, to develop a technical assistance program to aid NMI employers in recruiting, training, and securing employees from among United States labor or lawfully admissible freely associated state citizen labor.

Section 2, subsection (d) would authorize the Attorney General to establish and maintain Immigration and Naturalization Service and Executive Office of Immigration Review operations, and the Secretary of Labor to establish and maintain operations in the NMI in order to perform their respective responsibilities under the INA and the transition program. Subsection (d) further provides for local recruitment and hiring, where appropriate, by the Departments of Justice and Labor.

Section 2, subsection (c) would provide that the President report to the Senate Committee on Energy and Natural Resources, and the House Committee on Resources, evaluating the overall effect of the transition program and the INA on the CNMI.

Section 2, subsection (f) would provide that the CNMI may not increase the total number of temporary alien workers who may be present in the NMI during the one year period after enactment of this section and before the effective date of the transition program from the number present on the date of enactment.

Section 2, subsection (g) would authorize the appropriation of such sums as may be necessary to carry out the purposes of this section and the INA with respect to the CNMI.

Section 3 would add a new section 7 to the Covenant Act that would, beginning thirty days after enactment, raise the minimum wage in the Commonwealth of the Northern Mariana Islands from the current CNMI rate of $3.05 per hour to the Federal minimum wage rate (currently $5.15 per hour), in 30-cent annual increments. This provision would be similar to the minimum wage increase law enacted by the CNMI legislature, but later repealed.

Section 4 would add a new section 8 to the Covenant Act that would require that textile and apparel products produced in the Northern Mariana Islands, which bear a "Made in USA" or similar label, be produced in a factory certified by the United States Department of Labor to use United States labor (including citizens, nationals, lawful permanent residents, refugees, or asylees) or freely associated state citizen labor in the following qualified hours of full-time employee equivalents—20 percent for the year beginning January 1, 1998, 35 percent for the year beginning January 1, 1999, and 50 percent beginning January 1, 2000, and thereafter. A textile or apparel product bearing a "Made in USA" label that is not produced in a certified factory would be deemed to be misbranded for the purposes of the Textile Fiber Products Identification Act, and sanctions would apply. Additionally, a product would be misbranded if certification by the United States Department of Labor were based on false or incomplete information provided to the Department of Labor.

Section 5 would amend General Note 3(a)(iv) of the Harmonized Tariff Schedules of the United States to prohibit a textile or apparel product produced in the Commonwealth of the Northern Mariana Islands from being admitted duty-free into the customs territory of the United States as a product of an insular possession unless the product is produced in a factory certified by the United States Department of Labor to use United States labor (including citizens, nationals, lawful permanent residents, refugees, or asylees) or freely associated state citizen labor in the following qualified hours of full-time employee equivalents—20 percent for the year beginning January 1, 1998, 35 percent for the year beginning January 1, 1999, and 50 percent beginning January 1, 2000, and thereafter.

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, July 16, 1997.

Hon. FROILAN C. TENORIO,
Governor of the Northern Mariana Islands, Saipan, MP.

DEAR GOVERNOR TENORIO: I am writing to you concerning the continuing reports of conditions in the Commonwealth of the Northern Mariana Islands and the various measures that have been suggested to address those problems. In February of last year, I had the opportunity to visit the Commonwealth with Senator Akaka. While our visit was brief, we did see conditions that simply should not be allowed to exist in any area under the sovereignty of the United States. In meetings with your staff, we were assured that your Administration was committed to prompt and effective law enforcement, and that we needed to give the joint Federal-CNMI initiative time to work.

On June 26 of last year, the Committee conducted a hearing that in part focused on oversight of the situation in the Northern Marianas. I stated that unless the Commonwealth took action to remedy the problems that existed, federal action was all but inevitable. While I support local authority, that authority must be responsibly exercised. At that hearing, your representative asked that the Committee delay any action until the Commonwealth could complete a report on minimum wage and that the report would be available in January of this year. I agreed. Although the report was not available until April, that delay did not appear to be a major problem since the Department of the Interior was due to submit its report on the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement in April.

Although the Administration's report has still not been submitted, on May 30, 1997 the President wrote you that he had concluded that federal immigration, naturalization, and minimum wage laws should now be applied to the Commonwealth. To date, although the Administration has not transmitted legislation to implement the President's conclusion, legislation extending those laws has been introduced in the House and I am aware of several Members of the Senate who are also considering similar measures.

I intend to schedule a hearing to consider what legislation, if any, should be enacted shortly after the Administration submits its report, which I understand is now under final review by the Office of Management and Budget. I have asked the Secretary of the Interior to draft legislation to implement the final recommendations of the report. I intend to introduce that draft in order to focus the testimony at the hearing. In addition to the measures that have been discussed, I also want the hearing to consider whether changes should be made in the application of Headnote 3(A) and what needs to be done to strengthen enforcement of federal and local laws.

Given the delay in transmittal of the Administration's report, I do not expect that we will be able to schedule a hearing prior to September. I want to be certain that you have had sufficient time to review the Administration's report and any legislation, but I also want to conduct the hearing so that there is sufficient time to consider whatever legislative measures appear warranted during this session of the Congress.

Sincerely,

FRANK H. MURKOSWKI,
Chairman.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, October 6, 1997.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of July 16, 1997, requesting a drafting service that would implement the Administration's recommendations for the Commonwealth of the Northern Mariana Islands (CNMI) contained in the Administration's July 1997 report on the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement. Pursuant to your request, I have enclosed a legislative proposal that addresses the recommendations in the Administration's report. The Administration strongly supports the enactment of this proposal.

While we are firm in our commitment to the proposals outlined in the recommendations, the Administration is, however, willing to consider amendments. A Federal policy framework is needed to respond to the use of CNMI as a platform for circumvention of United States' garment duties and quotas, the CNMI's ineffective immigration control, and the unhealthy and unsustainable dependence on temporary low-paid foreign workers in the islands.

President Clinton, in his May 30, 1997 letter to CNMI Governor Froilan Tenorio, stated that his Administration would consult with the Governor and other representatives of the Commonwealth regarding the application of laws to the CNMI. Following through on the President's commitment, the Departments of Labor, Justice (INS), State, Commerce, and Interior sent senior representatives to the CNMI in August to discuss legislative implementation of the recommendations contained in the report. While the Governor did not meet with this Federal delegation, it was able to convey to many local government and business leaders the long-standing concerns of the Federal government regarding the CNMI's garment and foreign labor policies, discuss details of the Administration's recommendations for addressing these problems, and hear local concerns regarding the recommendations. The information gained on the trip was carefully considered. In closing, let me note that the Administration looks forward to working with you and the CNMI to enact legislation that will reconcile Federal responsibilities with the CNMI's needs.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress, and that its enactment would be in accord with the Administration's program.

Sincerely,

ALLEN P. STAYMAN,
Director,
Office of Insular Affairs.

Mr AKAKA. Mr. President, I am pleased to join Senator MURKOWSKI in introducing the Commonwealth of the Northern Mariana Islands Covenant Implementation Act, legislation to curb trade, immigration, wage, and apparel labeling abuses in the CNMI.

On July 31, 1997, I introduced S. 1100, the CNMI Reform Act, S. 1100 extends the Immigration and Nationality Act to the Commonwealth, limits use of the "Made in USA" label, and applies the U.S. minimum wage to the CNMI. The measure we are introducing today is similar to S. 1100, but also imposes duties on CNMI garments unless garment companies employ a sufficient number of U.S. employees and establishes a comprehensive regime for CNMI immigration and naturalization.

This is a bipartisan bill, drafted by the Clinton administration at the request of the Republican chairman of the Senate Energy Committee. It contains more comprehensive reforms than the measure I introduced earlier this year. Under the Murkowski-Akaka bill, the CNMI garment industry will face severe restrictions because of continued abuses.

After a thorough analysis, the Commerce Department recently concluded that the Commonwealth is an "outpost for Chinese apparel production." The Commerce Department found that apparel manufacturers from the People's Republic of China have transplanted their operations to the CNMI, employing bonded and indentured Chinese leaders to sew Chinese fabric into garments labeled "Made in USA." By using the Commonwealth as an apparel manufacturing base, Chinese manufacturers avoid tariffs and escape United States quotas on finished goods.

Despite promises of the American dream if they work in the CNMI, laborers must sign contracts with the People's Republic of China that waive rights guaranteed to U.S. workers, forbid participation in religious and political activities while in the United States, prohibit workers from marrying, and subject employees to penalties in the PRC. Working conditions in the CNMI garment industry hardly justify granting "Made in USA" status and preferential duties to CNMI garments.

A recent investigative report by King World Productions-"Inside Edition" is evidence of the abuses which garment workers suffer. "Inside Edition" used hidden cameras to expose the overcrowded and squalid buildings workers are forced to live in. Employees described being confined to barracks ringed by barbed wire and being treated more like prisoners than employees.

IMMIGRATION CONCERNS

I am sure many Senators will find it hard to believe that the Immigration and Nationality Act does not apply to all territories in the United States. As surprising as it may be, the CNMI is exempt from U.S. immigration law and maintains its own policy on immigration.

After 20 years, CNMI immigration policy is a proven failure. In 1980, the Commonwealth's population was 16,780. Of these, 12 percent were alien residents. Today, CNMI's has a population of 59,000, more than half of whom are aliens.

Rather than preventing an influx of immigrants, the CNMI has established an aggressive policy of recruiting low-wage, foreign guest workers to operate an ever-expanding garment and tourism industry. According to the CNMI representative in Washington, local immigration policy has "no limit. It is wide open, unrestricted."

The U.S. Immigration and Naturalization Service reports that CNMI authorities have no reliable records of aliens who have entered the CNMI, how long they remain, and when, if ever, they depart. Ninety-one percent of the private sector work force are alien guest workers, and these workers have overwhelmed the CNMI to the point where the unemployment rate among U.S. citizens living in the Commonwealth is 14 percent. There is no justification for an immigration policy that admits foreign workers in such overwhelming numbers that it leads to double-digit unemployment.

Given these circumstances, the application of U.S. immigration law to the CNMI is long overdue.

"MADE IN USA" ABUSE

The evidence that garments sewn in the CNMI directly and unfairly compete with U.S. apparel manufacturers is very strong. According to the Commerce Department, 85 percent of CNMI apparel is classified as import sensitive. This classification means that CNMI garments compete with segments of the U.S. apparel industry that are experiencing significant decline due to heavy import penetration.

Apparel manufacturers in the CNMI enjoy benefits that far exceed those enjoyed by foreign or domestic manufacturers. CNMI garment factories are not subject to the U.S. minimum wage and pay no duty on fabrics they import. Furthermore, quotas do not apply to either fabric imported into the Commonwealth, or to finished garments cut and sewn in the CNMI using foreign labor. Yet these products are labeled "Made in the USA" and compete unfairly with apparel employment elsewhere in the United States.

LABOR ABUSE

The 1976 covenant exempts the CNMI from the Federal minimum wage. This exemption was granted with the understanding that as its economy grew and prospered, the CNMI would raise its minimum wage to the Federal level. Foreign workers typically enter the CNMI under 1-year work permits and are paid a minimum wage of $3.05.

According to the July 1997 report by the Department of the Interior, the lower minimum wage, combined with unlimited access to foreign labor, creates an incentive for employers to hire foreign labor for all jobs, including skilled and entry level jobs at or near the minimum wage. Employment statistics clearly supports the Interior Department's analysis.

The minimum wage is sometimes a lightning-rod for Republicans. However, in a labor market where there is an unlimited supply of guest workers, the low CNMI minimum wage means that low-wage alien laborers are displacing U.S. workers. Any policy that

favors foreign workers over the interests of employed and unemployed U.S. citizens is indefensible.

HUMAN RIGHTS AND SEXUAL ABUSE

The Commonwealth's immigration policy results in serious problems in other areas. The Justice Department has documented numerous cases of women and girls being recruited from the Philippines, China, and other Asian countries expressly for criminal sexual activity. These abuses are a direct consequence the Commonwealth's unrestricted immigration policy.

Typically, these women are told they will work in the CNMI as waitresses, but are forced into nude dancing and prostitution upon their arrival. The Justice Department described this situation as the "systematic trafficking of women and minors for prostitution," which may also involve illegal smuggling, organized crime, immigration document fraud, and pornography. Cases of sexual servitude have also been identified.

The U.S. Justice Department also found cases of female guest workers and aliens living in the CNMI being forced into prostitution through intimidation or threats of physical harm. In some instances, women who resist are kidnapped, raped, and tortured.

I thank Senator MURKOWSKI, the chairman of the Senate Energy and Natural Resources Committee, for his efforts to reform these abuses in the CNMI. I look toward to working with him on moving this bill through our committee so that it can be considered on the Senate floor.

By Mr. BINGAMAN:

S. 1276. A bill to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets, and for other purposes; to the Committee on Energy and Natural Resources.

THE FEDERAL POWER ACT AMENDMENTS OF 1997

Mr. BINGAMAN. Madam President, I rise today to introduce the Federal Power Act Amendments of 1997. This bill streamlines the Federal regulation of electric power and helps reduce costs for all factories, businesses, and homeowners. The changes in Federal regulation in this bill will also yield savings for consumers by providing new opportunities for competition in the wholesale market for electric power.

This bill improves the way the Federal Government regulates electric power to achieve three important goals. First, it will facilitate the ongoing transition to more competitive and efficient markets. Second, it will assure the continued reliability of the transmission system that carries the power in interstate commerce. And third, it will remove Federal regulatory ambiguities and barriers for those States that elect to give customers a choice in selecting their energy provider. Very importantly, my bill leaves for the States the issues that are best dealt with at that level and provides for Federal authority only over issues raising a clear national interest.

In the last 9 months the Energy and Natural Resources Committee has conducted seven workshops that helped bring forward many of the complex electric power issues facing State and Federal regulators. The debate today remains centered on whether or not the Federal Government should require the utilities in every State to implement competition at the retail level. There are, however, other important issues that underlie this central debate. These include the possible repeal of the Public Utilities Regulatory Policy Act, known as PURPA; changes in the Public Utility Holding Company Act, known to everyone here as PUHCA; and the treatment of past investments in powerplants that may no longer be economical, so called stranded costs, to name just a few.

Our electric power industry has a strong regional and local character with over 3,000 individual utilities, including investor-owned, municipal, Federal, and rural cooperatives. Several comprehensive bills have now been introduced in the House and Senate that promise to deregulate the Nation's electric power industry. Meanwhile, a number of individual States are moving forward with retail competition.

However, in list of the vast difference in the circumstance of 3,000 individual utility companies, it is going to be difficult to develop a consensus on comprehensive Federal legislation. If comprehensive electricity legislation does not move forward, I believe Congress must still address a number of important issues that can only be dealt with at the Federal level. I'd like to take a moment to explain what these issues are and how my bill differs from proposals that require retail competition for all electric utility customers.

Madam President, our electric power industry is made up of three main components: Powerplants that generate the power, high-voltage transmission lines that carry the power over long distances, and the local distribution systems that bring the power into our homes and businesses. Most of the other bills would require States to deregulate their utilities and implement retail competition. Still, for all the talk about deregulation, I hope everyone realizes they are talking about deregulating, only the first piece: The powerplants that use coal, natural gas, or other sources to generate the energy on which we all depend. The other two components of the industry, the transmission and local distribution systems, will remain regulated monopolies.

My bill takes a very different approach. It is not a restructuring bill. It will not overturn the established division between State and Federal regulation, and it does not require States to implement retail competition by a date certain. Rather, my bill forges new ground in the debate by focusing on the middle piece of the electric utility industry: The interstate transmission grid that is the critical link between generators and consumers. The transmission system clearly involves interstate commerce with a distinct national interest that can only be addressed at the Federal level.

Let me explain why it is important that we streamline the Federal regulation of interstate transmission and how that can save consumers money. The Nation's transmission system serves, if you will, like an interstate highway for electric power. We all know what can happen when the highway on-ramps or off-ramps are closed or when bottlenecks or breakdowns occur. The same is true of the electric transmission system. The smooth flow of electric power depends on having sufficient transmission capacity and on the system operating reliably and without disruptions. Problems in the electricity transmission system, like problems on interstate highways, can impede commerce. If some businesses are denied access, or if different highways operate under different rules, competition will suffer.

Madam President, I believe an efficient and reliable electric transmission system will be one of the most important factors in the development of robust regional and national markets for electric power. Over the last 100 years we have developed a complex grid of transmission lines owned by private, government, and cooperative utilities. With the Energy Policy Act of 1992, Congress took the first steps toward providing fair and open access to portions of the transmission system. Today, Federal and State regulators are continuing to push for increased competition. These dramatic changes in regulation are placing new demands on the transmission system. We are asking it to function increasingly like the interstate highways. However, the system we have was never planned to function in this more competitive environment.

Today we have a transmission system with many constraints and bottlenecks, with no uniform system of regulation, with some portions of the system closed to users, and without any assurance that all users of the system will follow the same rules. Clearly, we can't hope to realize the full benefits of competition if buyers and sellers of power can't deal equally in an open and fair market. Without fair competition, the cost of power is higher than it should be. My bill will help correct this situation.

Currently, the regulation of power sales over the Nation's electric power grid is split between various State and

Federal jurisdictions. The Federal Energy Regulatory Commission has authority over pricing of transmission service. The States have authority to license and site new transmission facilities. A growing portion of power transmission and sales is taking place on a regional and even a national scale. We are increasingly dependent on long-distance power transmission; sometimes from as far away as 1,000 miles. In the West, every single State from New Mexico to Montana and from California to Washington is electrically interconnected. All of the Eastern States except parts of Texas are similarly interconnected. My bill seeks to maintain a careful balance of State and national interests that assures the Nation's transmission system operates efficiently, all players are treated equitably, and reliability is maintained.

Madam President, I'd like now to describe briefly some of the key provisions in the bill.

FEDERAL AND STATE JURISDICTION

One of the important goals of this bill is to resolve ambiguities in Federal and State jurisdiction that have arisen since 1992 with the implementation of open transmission access. First, this bill removes once and for all any ambiguity over whether States, indeed, have the authority to implement retail competition. In addition, we used to have a clear line between Federal and State jurisdiction. However, now that some States are electing to implement retail competition, the bright line is increasingly blurred. If we don't clarify these ambiguities we could well find ourselves swamped with litigation that frustrates State and Federal efforts to expand competition.

TRANSMISSION ACCESS

Another provision in the bill requires all transmission systems to be operated under the same regulatory policies. Under current law, FERC's jurisdiction is primarily limited to transmission systems owned by investor-owned utilities. Only these utilities are required to provide open access to anyone who requests it. The goal is to bring all transmission systems, including those owned by Federal entities, municipalities, and rural electric coops, under the same system of regulation. My bill also extends fair and open access to transmission lines that cross the borders with Mexico and Canada. A uniform regulatory environment will promote the use of the transmission grid for fair and equitable competition.

RURAL AND LOW-INCOME CONSUMERS

Will all customers be able to benefit from competition? I have heard this concern expressed often. My bill makes sure the States that choose to implement retail competition do not forget about low-income and retired citizens on fixed incomes, or about rural consumers who might otherwise be left out because they are not as profitable to serve as urban consumers.

RECIPROCITY

A provision of this bill deals with the situation where one State elects competition and a neighboring State does not. Utilities in the State without competition could cross the State line and steal customers without fear of losing their own customers. My bill would prevent this practice by allowing a State to protect its own utilities from unfair competition. It also encourages utilities to open up their systems voluntarily so they can participate in the growing competition.

RELIABILITY

Finally, to assure fair and open competition on the Nation's interstate transmission system, the bill gives the Federal Energy Regulatory Commission authority in several new areas. First, to enhance system reliability, we provide the commission with regulatory authority to back up the existing voluntary system with rules and regulations that have the weight of Federal enforcement. The existing system under the National Electric Reliability Council has worked effectively. However, competition is bringing many new players to the interstate transmission grid, and effective enforcement of rules and standards requires there by some teeth in the system.

TRANSMISSION SITING

The bill provides a Federal role, in partnership with States, to assure that transmission lines that cross State boundaries are upgraded and expanded when needed. Any siting decision would be subject to all applicable State and Federal legislation, including the Environmental Protection Act. The interstate transmission system is one of the keys to maintaining system reliability and additional capacity will stimulate competition by allowing new players into the market.

INDEPENDENT SYSTEM OPERATORS

My bill also provides new authority to the Federal Energy Regulatory Commission to assure the transmission system is managed and operated in an open and fair way that does not discriminate against any users. With this new authority, the commission may require the formation of independent operators for regional transmission systems. Having an independent system operator provides greater efficiency in transmission pricing, makes sure there is fair and open access for all users, and that the owners of the transmission system do not use it to their own advantage. In some cases, these independent systems are already developing voluntary or under state mandates.

Madam President, I'd like to say a few words about an issue known as "stranded costs." Stranded costs are investments in powerplants made under past regulatory practices that may no longer be economic in the new competitive environment. Stranded costs are of critical concern to utility investors and to rural electric cooperatives. As I hope I have made clear, my bill focuses on the regulation and use of the interstate transmission system, a national issue that does not compel retail competition or the resulting stranded costs. I believe the States are the proper forum to deal with retail competition and to resolve thorny issues like stranded costs that are not national in nature. We in Congress are monitoring how the States are handling stranded costs from retail competition. If in the future it appears that States are not equitably addressing stranded costs, then I believe Congress should take a very serious look at the subject.

In putting forward the proposals in this bill I have listened to a number of suggestions and evaluated a variety of concepts. Not all of the ideas could be incorporated into the framework of a single bill, even though many of the approaches clearly have merit. As the debate on electricity regulation moves forward, I expect to refine and expand on the proposals I am putting forward today.

In summary, Madam President, this bill will reduce costs for consumers by encouraging the development of robust competition in the interstate market for electric power. We do this by streamlining Federal regulation of the interstate transmission system and by assuring that all transmissions owners and users play by the same rules. In addition, the bill will remove Federal regulatory barriers for those states that allow consumers to choose their source of electric power. I hope all Senators will consider the important proposals in this bill.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Power Act Amendments of 1997".

SEC. 2. CLARIFICATION OF JURISDICTION.

(a) DECLARATION OF POLICY.—Section 201(a) of the Federal Power Act (16 U.S.C. 824(a)) is amended by—

(1) inserting after "transmission of electric energy in interstate commerce" the following: ", including the unbundled transmission of electric energy sold at retail,"; and

(2) striking "such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States." and inserting the following: "such Federal regulation shall not extend, however, to the bundled retail sale of electric energy or to unbundled local distribution service, which are subject to regulation by the States.".

(b) APPLICATION OF PART.—Section 201(b) of the Federal Power Act (16 U.S.C. 824(b)(1)) is amended by—

(1) inserting after "the transmission of electric energy in interstate commerce" the following: ", including the unbundled transmission of electric energy sold at retail,"; and

(2) adding at the end the following:

"(3) The Commission, after consulting with the appropriate State regulatory authorities, shall determine, by rule or order, which facilities used for the transmission and delivery of electric energy are used for transmission in interstate commerce subject to the jurisdiction of the Commission under this Part, and which are used for local distribution subject to State jurisdiction.".

(c) DEFINITION OF INTERSTATE COMMERCE.—Section 201(c) of the Federal Power Act (16 U.S.C. 824(c)) is amended by inserting after "outside thereof" the following: "(including consumption in a foreign country)".

(d) DEFINITIONS OF TYPES OF SALES.—Section 201(d) of the Federal Power Act (16 U.S.C. 824(d)) is amended by—

(1) inserting "(1) after the subsection designation;

(2) adding at the end the following:

"(2) The term "bundled retail sale of electric energy" means the sale of electric energy to an ultimate consumer in which the generation and transmission service are not sold separately.

"(3) The term "unbundled local distribution service" means the delivery of electric energy to an ultimate consumer if—

"(A) the electric energy and the service of delivering it are sold separately, and

"(B) the delivery uses facilities for local distribution as determined by the Commission under subsection (b)(3).

"(4) The term "unbundled transmission of electric energy sold at retail" means the transmission of electric energy to an ultimate consumer if—

"(A) the electric energy and the service of transmitting it are sold separately, and

"(B) the transmission uses facilities for transmission in interstate commerce as determined by the Commission under subsection (b)(3).".

(e) DEFINITIONS OF PUBLIC UTILITY.—Section 201 of the Federal Power Act (16 U.S.C. 824) is amended by striking subsection (e) and inserting the following:

"(e) The term "public utility" when used in this Part or in the Part next following means—

"(1) any person who owns or operates facilities subject to the jurisdiction of the Commission under this Part (other than facilities subject to such jurisdiction solely by reason of section 210, 211, or 212); or

"(2) any electric utility or Federal power marketing agency not otherwise subject to the jurisdiction of the Commission under this Part, including—

"(A) the Tennessee Valley Authority,

"(B) a Federal power marketing agency,

"(C) a State or any political subdivision of a State, or any agency, authority, or instrumentality of a State or political subdivision,

"(D) a corporation or association that has ever received a loan for the purpose of providing electric service from the Administrator of the Rural Electrification Administration or the Rural Utilities Service under the Rural Electrification Act of 1936; or

"(E) any corporation or association which is wholly owned, directly or indirectly, by any one or more of the foregoing,

but only with respect to determining, fixing, and otherwise regulating the rates, terms, and conditions for the transmission of electric energy under this Part (including sections 217, 218, and 219).".

(f) APPLICATION OF PART TO GOVERNMENT UTILITIES.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by striking "No provision" and inserting "Except as provided in subsection (e)(2) and section 3(23), no provision".

(g) DEFINITION OF TRANSMITTING UTILITY.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by striking paragraph (23) and inserting the following:

"(23) TRANSMITTING UTILITY.—The term "transmitting utility" means any electric utility, qualifying cogeneration facility, qualifying small power production facility, Federal power marketing agency, or any public utility, as defined in section 201(e)(2), that owns or operates electric power transmission facilities which are used for the sale of electric energy.".

SEC. 3. FEDERAL WHEELING AUTHORITY.

(a) COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—

(1) Section 211(a) of the Federal Power Act (16 U.S.C. 824k(a)) is amended by striking "for resale".

(2) Section 212(a) of the Federal Power Act (16 U.S.C. 824k(a) is amended by striking "wholesale transmission services" each place it appears and inserting "transmission services".

(3) Section 212(g) of the Federal Power Act (16 U.S.C. 824k(g)) is repealed.

(b) LIMITATION ON COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—Section 212 of the Federal Power Act (16 U.S.C. 824k) is further amended by striking subsection (h) and inserting the following:

"(h) LIMITATION ON COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—No rule or order issued under this Act shall require or be conditioned upon the transmission of electric energy:

"(1) directly to an ultimate consumer in connection with a sale of electric energy to the consumer unless the seller of such energy is permitted or required under applicable State law to make such sale to such consumer, or

"(2) to, or for the benefit of, an electric utility if such electric energy would be sold by such utility directly to an ultimate consumer, unless the utility is permitted or required under applicable State law to sell electric energy to such ultimate consumer.".

(c) CONFORMING AMENDMENT.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by striking paragraph (24) and inserting the following:

"(24) TRANSMISSION SERVICES.—The term "transmission services" means the transmission of electric energy in interstate commerce.".

SEC. 4. STATE AUTHORITY TO ORDER RETAIL ACCESS.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 215. STATE AUTHORITY TO ORDER RETAIL ACCESS.

"(a) STATE AUTHORITY.—Neither silence on the part of Congress nor any Act of Congress shall be construed to preclude a State or State commission, acting under authority of state law, from requiring an electric utility subject to its jurisdiction to provide unbundled local distribution service to any electric consumer within such State.

"(b) NONDISCRIMINATORY SERVICE.—If a State or State commission permits or requires an electric utility subject to its jurisdiction to provide unbundled local distribution service to any electric consumer within such State, the electric utility shall provide such service on a not unduly discriminatory basis. Any law, regulation, or order of a State or State commission that results in unbundled local distribution service that is unjust, unreasonable, unduly discriminatory, or preferential is hereby preempted.

"(c) RECIPROCITY.—Notwithstanding subsection (b), a State or State commission may bar an electric utility from selling electric energy to an ultimate consumer using local distribution facilities in such State if such utility or any of its affiliates owns or controls local distribution facilities and is not itself providing unbundled local distribution service.

"(d) STATE CHARGES.—Nothing in this Act shall prohibit a State or State regulatory authority from assessing a nondiscriminatory charge on unbundled local distribution service within the State, the retail sale of electric energy within the State, or the generation of electric energy for consumption by the generator within the State.".

SEC. 5. UNIVERSAL AND AFFORDABLE SERVICE.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 216. UNIVERSAL AND AFFORDABLE SERVICE.

"(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

"(1) every consumer of electric energy should have access to electric energy at reasonable and affordable rates, and

"(2) the Commission and the States should ensure that competition in the electric energy business does not result in the loss of service to rural, residential, or low-income consumers.

"(b) CONSIDERATION AND REPORTS.—Any State or State commission that requires an electric utility subject to its jurisdiction to provide unbundled local distribution service shall—

"(1) consider adopting measures to—

"(A) ensure that every consumer of electric energy within such State shall have access to electric energy at reasonable and affordable rates, and

"(B) prevent the loss of service to rural, residential, or low-income consumers; and

"(2) report to the Commission on any measures adopted under paragraph (1).".

SEC. 6. NATIONAL ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 217. NATIONAL ELECTRIC RELIABILITY STANDARDS.

"(a) RELIABILITY STANDARDS.—The Commission shall establish and enforce national electric reliability standards to ensure the reliability of the electric transmission system.

"(b) DESIGNATION OF NATIONAL AND REGIONAL COUNCILS.—

"(1) For purposes of establishing and enforcing national electric reliability standards under subsection (a), the Commission may designate an appropriate number of regional electric reliability councils composed of electric utilities or transmitting utilities, and one national electric reliability council composed of designated regional electric reliability councils, whose mission is to promote the reliability of electric transmission system.

"(2) The Commission shall not designate a regional electric reliability council unless the Commission determines that the council—

"(A) permits open access to membership from all entities engaged in the business of selling, generating, transmitting, or delivering electric energy within its region;

"(B) provides fair representation of its members in the selection of its directors and the management of its affairs, and

"(C) adopts and enforces appropriate standards of operation designed to promote the reliability of electric transmission system.

"(c) INCORPORATION OF COUNCIL STANDARDS.—The Commission may incorporate, in whole or in part, the standards of operation adopted by the regional and national electric reliability councils in the national electric reliability standards adopted by the Commission under subsection (a).

"(d) ENFORCEMENT.—The Commission may, by rule or order, require any public utility or transmitting utility to comply with any standard adopted by the Commission under this section.

SEC. 7. SITING NEW INTERSTATE TRANSMISSION FACILITIES.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 218. SITING NEW INTERSTATE TRANSMISSION FACILITIES.

"(a) COMMISSION AUTHORITY.—Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may order a transmitting utility to enlarge, extend, or improve its facilities for the interstate transmission of electric energy.

"(b) PROCEDURE.—The Commission may commence a proceeding for the issuance of an order under subsection (a) upon the application of an electric utility, transmitting utility, or state regulatory authority, or upon its own motion.

"(c) COMPLIANCE WITH OTHER LAWS.—Commission action under this section shall be subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other applicable state and federal laws.

"(d) USE OF JOINT BOARDS.—Before issuing an order under subsection (a), the Commission shall refer the matter to joint board appointed under section 209(a) for advice and recommendations on the need for, design of, and location of the proposed enlargement, extension, or improvement. The Commission shall consider the advice and recommendations of the Board before ordering such enlargement, extension, or improvement.

"(e) LIMITATION ON AUTHORITY.—The Commission shall have no authority to compel a transmitting utility to extend or improve its transmission facilities if such enlargement, extension, or improvement would unreasonably impair the ability of the transmitting utility to render adequate service to its customers.".

SEC. 8. REGIONAL INDEPENDENT SYSTEM OPERATORS.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 219. REGIONAL INDEPENDENT SYSTEM OPERATORS.

"(a) Regional Transmission Systems.—Whenever the Commission finds such action necessary or desirable in the public interest to ensure the fair and non-discriminatory access to transmission services within a region, the Commission may order the formation of a regional transmission system and may order any transmitting utility operating within such region to participate in the regional transmission system.

"(b) OVERSIGHT BOARD.—The Commission shall appoint a regional oversight board to oversee the operation of the regional transmission system. Such oversight board shall be composed of a fair representation of all of the transmitting utilities participating in the regional transmission system, electric utilities and consumers served by the system, and State regulatory authorities within the region. The regional oversight board shall ensure that the independent system operator formulates policies, operates the system, and resolves disputes in a fair and non-discriminatory manner.

"(c) INDEPENDENT SYSTEM OPERATOR.—The regional oversight board shall appoint an independent system operator to operate the regional transmission system. No independent system operator shall—

"(1) own generating facilities or sell electric energy, or

"(2) be subject to the control of, or have a financial interest in, any electric utility or transmitting utility within the region served by the independent system operator.

"(d) COMMISSION RULES.—The Commission shall establish rules necessary to implement this section.".

SEC. 9. ENFORCEMENT.

(a) GENERAL PENALTIES.—Section 316(c) of the Federal Power Act (16 U.S.C. 825o(c)) is amended buy—

(1) striking "subsection" and inserting "section"; and

(2) striking "or 214" and inserting: "214, 217, 218, or 219".

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking "or 214" each place it appears and inserting: "214, 217, 218, or 219".

SEC. 10. AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.

Section 10 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

"(m) PROTECTION OF EXISTING WHOLESALE POWER PURCHASE CONTRACTS.—No State or State regulated electric utility from recovering the cost of electric energy the utility is required to purchase from a qualifying cogeneration facility or qualifying small power production facility under this section.".

THE FEDERAL POWER ACT AMENDMENTS OF 1997

(Federal Legislation Focused on Federal Regulation of Interstate Transmission and Wholesale Sales)

SECTION-BY-SECTION SUMMARY

Section 1. Short Title

This act may be cited as the "Federal Power Act Amendments of 1997." This bill does not mandate retail competition. The purpose is to facilitate the transition to more competitive and efficient markets for bulk power and to foster the development of state-directed efforts to establish retail competition.

Section 2. Clarification of Federal and State Jurisdiction

This section resolves ambiguities in federal and state jurisdiction that have arisen with the implementation of Title VII of the Energy Policy Act of 1992 and the ensuing trend to state-implemented retail competition. Unless clarified, these ambiguities could spawn protracted litigation and frustrate federal and state efforts to expand competition. This section also extends FERC's jurisdiction over the remaining 22% of interstate transmission systems not currently covered.

(a)(1) Clarifies that transmission of electric energy in interstate commerce, which is under FERC jurisdiction, includes the unbundled transmission of electric energy sold at retail. FERC has proceeded under the assumption it has authority to order transmission necessary to implement state-ordered retail competition, and utilities have filed transmission tariffs required to implement retail competition. Paragraph (2) reinforces existing state jurisdiction over the bundled retail sale of electric energy and the unbundled local distribution of electric energy.

(b) In Order No. 888, FERC took the position that the transmission component of unbundled sales is subject to FERC jurisdiction. Paragraph (1) establishes FERC's authority under Part II of the Federal Power Act over the transmission in interstate commerce of electric power as part of an unbundled sale of energy sold at retail. Paragraph (2) authorizes FERC, in consultation with state regulators, to draw the line between interstate transmission, which is subject to FERC authority, and local distribution, which is subject to state jurisdiction. FERC's jurisdiction over unbundled transmission necessitates a process for determining where FERC jurisdiction ends and state jurisdiction over unbundled distribution begins.

(c) Extends FERC's jurisdiction over transmission of electric energy in interstate commerce if the energy will be consumed in a foreign country. The ambiguity in existing law was raised in FERC's October 4, 1996, order on complaint in Docket No. EL96–74–000.

(d) Adds definitions to Part II for "bundled retail sale of electric energy," "unbundled local distribution service," and "unbundled transmission of electric energy sold at retail."

(e) Redefines "public utility" so as to extend FERC's authority to regulate transmission services (and only transmission) of non-jurisdictional utilities, including TVA, Power Marketing agencies, municipal utilities, and rural electric cooperatives. Currently, FERC's FPA jurisdiction is limited primarily to investor-owned utilities. Non-jurisdictional utilities control a significant portion of the nation's existing transmission capacity. The full benefits of wholesale competition may not be realized unless all transmitting utilities are subject to the same regulatory policies.

(f) Continues exemption of TVA, PMAs, municipal utilities and rural electric cooperatives from FERC jurisdiction under Part II, except with respect to regulation of transmission. This section leaves intact the exemption from FERC jurisdiction for any wholesale sales of power made by non-jurisdictional utilities.

(g) Redefines "transmitting utility" to cover all transmission systems, including any electric utility, qualifying cogeneration facility, qualifying small power production facility, federal power marketing agency, public utility (as redefined by subsection (e)) that owns or operates transmission facilities used for the sale of electric energy.

Section 3. Limitations on Federal Wheeling Authority

Sections 211 and 212 of the FPA currently prohibit FERC from ordering retail wheeling. This section clarifies FERC's authority to order interstate transmission service for wholesale sales and as part of a retail sale, but the latter only if authorized by state law.

(a) Clarifies FERC's authority to order transmission access under sections 211 and 212 for transmission in interstate commerce for both wholesale sales for resale and unbundled transmission of electric energy sold at retail.

(b) Limits FERC's authority to order unbundled transmission of electric energy sold at retail under sections 211 and 212 only if such sales are permitted or required under applicable state law.

(c) Conforming amendment that broadens the definition of transmission services to include both wholesale transmission and

unbundled transmission of electric energy sold at retail.

Section 4. State Authority To Order Retail Access

Adds a new section 215 at the end of Part II to clarify and extend state authority over access to retail customers.

New subsection (a) recognizes state authority to require an electric utility to provide unbundled local distribution service to any consumer. The Energy Policy Act of 1992 included in the FPA a savings clause at the end of subsection 212(h) that preserves whatever state authority may exist to order retail wheeling; however, it does not affirm conclusively that the states do in fact have such authority. Because retail wheeling is in interstate commerce, it could be argued states lack authority to order retail wheeling. This subsection removes the statutory ambiguity.

New subsection (b) requires states that authorize utilities to provide unbundled local distribution service to assure the utilities provide distribution service on a nondiscriminatory basis. This subsection will help assure that local distribution companies do not use state-regulated monopolies to favor, for example, their un-regulated subsidiaries.

New subsection (c) provides for retail reciprocity. States may bar an electric utility from selling power at retail in the state unless the utility is itself providing unbundled local distribution service. Currently, a state may not condition access to its retail markets without facing a challenge as an unlawful burden on interstate commerce. This subsection eliminates the inequity of out-of-state utilities competing for retail customers in states with open access without having to provide similar access to their own customers. This provision may also create an incentive for utilities to open their markets to retail competition.

New subsection (d) assures state authority to impose a nondiscriminatory charge on the unbundled local distribution service, retail sale, or generation for consumption of electric energy. Such a charge might be used to fund, for example, competitive transition costs, universal and affordable service under section 216, demand side-management programs, etc.

Section 5. Universal and Affordable Service

Adds a new section 216 at the end of Part II that puts Congress on record that every consumer should have access to electric power at reasonable and affordable rates and that FERC and the states should assure that competition does not result in the loss of service to rural, residential, or low-income customers. Requires states that adopt retail competition to consider adopting measures to assure universal and affordable service and to report to FERC on the measures adopted. Funds to cover the cost of such measures may be assessed under new section 215(d).

Section 6. National Electric Reliability Standards

Adds a new section 217 at the end of Part II to establish national electric reliability standards under FERC jurisdiction. Competition is bringing many new players to the interstate transmission grid. Such competition will place new and conflicting requirements on NERC's existing voluntary system, which lacks enforcement powers. There is a clear and legitimate federal role in ensuring system reliability. This section is consistent with the draft recommendations of the Secretary of Energy Advisory Board Task Force on Electric-System Reliability.

New subsection (a) authorizes FERC to establish and enforce national electric reliability standards to ensure the reliability of the electric transmission system.

New subsection (b) authorizes FERC to designate an appropriate number of regional reliability councils composed of electric utilities and transmitting utilities, and one national electric reliability council composed of the regional councils. The mission of the councils is to promote the reliability of the electric transmission system. FERC shall not designate a regional council unless the commission determines the council permits open access to membership from all electric utilities (IOUs, NUGs, power marketers, municipal utilities or TVA) and transmitting utilities in the region, provides fair representation in the selection of its directors and management, and adopts and enforces appropriate standards of operation.

New subsection (c) authorizes FERC to incorporate standards of operation adopted by the councils into the standards adopted under subsection (a).

New subsection (d) authorizes FERC, by rule or order, to require any public utility (electric utility plus the PMAs) or any transmitting utility to comply with the standards.

Section 7. Siting New Interstate Transmission Facilities

Adds a new section 218 at the end of Part II to authorize FERC to work with the states on siting new interstate transmission facilities. An integrated and well planned national transmission grid is a critical element in the development of open and fair competition, maintaining system reliability, reducing market power, and mitigating stranded costs. This section does not preempt the states' exclusive authority over siting of transmission lines.

New subsection (a) gives FERC authority, after notice and opportunity for hearing, to order a transmitting utility to extend, enlarge or improve its facilities for the interstate transmission of electric energy.

New subsection (b) defines when FERC may commence a proceeding under subsection (a).

New subsection (c) requires FERC to comply with the National Environmental Policy Act of 1969 and all other applicable state and federal laws.

New subsection (d) requires FERC to refer the matter to a joint board appointed under subsection (a) of section 209 for advice on the need for, design of, and location of the proposed extension or improvement. The Commission shall consider the advice and recommendations of the board before ordering such extension or improvement.

New subsection (e) limits FERC's authority to compel a transmitting utility to extend or improve its interstate transmission facilities if it would impair the utility's ability to serve its existing customers.

Section 8. Regional Independent System Operators

Adds a new section 219 at the end of Part II to allow for the establishment of regional independent system operators. Formation of ISOs could be a valuable tool in limiting market power and maintaining reliability. FERC in order 888 strongly encouraged the formation of ISOs, but did not address the issue of its authority to compel participation. This section authorizes FERC to require participation in an ISO to assure nondiscriminatory access to the transmission grid for all parties. ISOs could also play a role in siting of new transmission lines under Section 7.

New subsection (a) authorizes the commission to order the formation of a regional independent transmission system and to compel utilities in the region to participate. The FERC may order the formation of an ISO if such action is necessary or desirable in the public interest to ensure the fair and non-discriminatory access to transmission services.

New subsection (b) authorizes FERC to appoint a regional oversight board to oversee the operation of the regional transmission system. The board shall have fair representation of all utilities, consumers, and state regulators in the region.

New subsection (c) authorizes the oversight board to appoint an independent system operator to operate the regional transmission system. The operator may not own generating facilities, sell electric energy, or be subject to the control, or have a financial interest in, any utility in the region served by the independent system operator.

New subsection (d) authorizes FERC to establish rules necessary to implement this section.

Section 9. Enforcement

(a) Extends the exemption from general penalties (section 316) to sections 217, 218, and 219.

(b) Extends the enforcement provisions for violations and civil penalties in section 316A to sections 217, 218, and 219.

Section 10. Amendment to PURPA

Adds new subsection (m) at the end of section 210 of PURPA to protect wholesale contracts entered into in accordance with federal legislation. States may not bar a regulated utility from recovering the cost of any PURPA contracts. Such costs may be recovered, for example, through rates, charges assessed under section 215(d), exit fees, etc.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 358

At the request of Mr. DEWINE, the names of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 412

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. AKAKA], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 621

At the request of Mr. D'AMATO, the name of the Senator from Wyoming

[Mr. THOMAS] was added as a cosponsor of S. 621, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1997, and for other purposes.

S. 657

At the request of Mr. DASCHLE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 657, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 803

At the request of Mr. THURMOND, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 803, a bill to permit the transportation of passengers between United States ports by certain foreign-flag vessels and to encourage United States-flag vessels to participate in such transportation.

S. 1096

At the request of Mr. GRASSLEY, the names of the Senator from Ohio [Mr. DEWINE], the Senator from Wyoming [Mr. ENZI], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Kansas [Mr. ROBERTS], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1133

At the request of Mr. COVERDELL, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1133, a bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses and to increase the maximum annual amount of contributions to such accounts.

S. 1180

At the request of Mr. KEMPTHORNE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1215

At the request of Mr. ASHCROFT, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1215, a bill to prohibit spending Federal education funds on national testing.

S. 1226

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1226, a bill to dismantle the Department of Commerce.

At the request of Mr. NICKLES, his name was withdrawn as a cosponsor of S. 1226, supra.

S. 1260

At the request of Mr. GRAMM, the names of the Senator from Utah [Mr. BENNETT] and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1264

At the request of Mr. HARKIN, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1264, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. HOLLINGS, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Concurrent Resolution 52, a concurrent resolution relating to maintaining the current standard behind the "Made in USA" label, in order to protect consumers and jobs in the United States.

SENATE RESOLUTION 96

At the request of Mr. CRAIG, the names of the Senator from Tennessee [Mr. FRIST], the Senator from Nebraska [Mr. HAGEL], the Senator from New Hampshire [Mr. SMITH], the Senator from Colorado [Mr. ALLARD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Arkansas [Mr. BUMPERS], the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DURBIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from North Dakota [Mr. CONRAD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], the Senator from New York [Mr. MOYNIHAN], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Resolution 96, a resolution proclaiming the week of March 15 through March 21, 1998, as "National Safe Place Week."

SENATE RESOLUTION 124

At the request of Mr. ROTH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 124, a resolution to state the sense of the Senate that members of the Khmer Rouge who participated in the Cambodian genocide should be brought to justice before an international tribunal for crimes against humanity.

AMENDMENTS SUBMITTED

THE INTERMODAL TRANSPORTATION ACT OF 1997

CHAFEE AMENDMENTS NOS. 1310–1311

Mr. CHAFEE proposed two amendments to the bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes; as follows:

AMENDMENT NO. 1310

On page 195, line 1, strike "The" and insert "Other than for purposes of section 149 of the Internal Revenue Code of 1986, the".

On page 202, strike lines 13 through 15 and insert the following:

(4) DEDICATED REVENUE SOURCES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(B) USE OF PROCEEDS FROM TAX-EXEMPT FINANCING PROHIBITED.—For the purposes of this section and sections 1315 and 1316, the direct or indirect use of proceeds from the issuance by any State or local government of tax-exempt bonds for any portion of any project financing, prepayments, or repayments is prohibited.

On page 210, line 5, insert "taxable" before "project obligations".

AMENDMENT NO. 1311

On page 39, line 15, after "budget" insert the following: "(as specified in the letter from the Director of the Congressional Budget Office to the Chairman of the Senate Committee on Environment and Public Works dated October 6, 1997)".

CHAFEE (AND WARNER) AMENDMENTS NOS. 1312–1313

Mr. CHAFEE (for himself and Mr. WARNER) proposed two amendments to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1312

On page 250, between lines 18 and 19, insert the following:

"(6) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (2).

AMENDMENT NO. 1313

On page 9, line 21, after "139(a)", insert the following: "(as in effect on the day before the date of enactment)".

CHAFEE (AND WARNER) AMENDMENT NO. 1314

Mr. CHAFEE (for himself and Mr. WARNER) proposed an amendment to amendment No. 1313 proposed by Mr. CHAFEE to the bill, S. 1173, supra; as follows:

At the end of the amendment add the following: "of the Intermodal Surface Transportation Efficiency Act of 1997)".

THE BIPARTISAN CAMPAIGN REFORM ACT OF 1997

MURRAY AMENDMENTS NOS. 1315–1316

(Order to lie on the table.)

Mrs. MURRAY submitted two amendments intended to be proposed by her to the bill (S. 25) to reform the financing of Federal elections; as follows:

AMENDMENT NO. 1315

At the end of title III, insert the following:

SEC. . DISCLOSURE OF DONOR LISTS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"( ) REQUIRED DISCLOSURE.—An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that is required to file a report under this Act with respect to independent expenditures shall include in such report the name and address of any donor whose aggregate donations to the organization during the calendar year and the preceding calendar year exceed $5,000. The organization does not need to disclose donors that have been disclosed in a previous report and have not made any donations since the last disclosure.".

AMENDMENT NO. 1316

On page 29, strike lines 9 through 20 and insert the following:

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS IN ANY AMOUNT.

(a) SECTION 302.—Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "and if the amount of the contribution is in excess of $50"; and

(ii) by inserting a comma after "making a contribution" and

(B) in paragraph (2)(A), by inserting "and the name and address of the person making the contribution" after "such contribution"; and

(2) in subsection (c)(2), by striking "in excess of $50".

(b) SECTION 304.—Section 304(b)(93)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)(A)) is amended—

(1) by striking ", whose contribution" and all that follows through "together"; and

(2) by striking the semicolon at the end and inserting ", except that in the case of a person who makes contributions in an aggregate amount of $200 or less during the calendar year, the identification need include only the name and address of the person;".

THE INTERMODAL TRANSPORTATION ACT OF 1997

LOTT AMENDMENT NO. 1317

Mr. LOTT proposed an amendment to the instructions to the motion to recommit the bill, S. 1173, supra; as follows:

At the end of the instructions add the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intermodal Surface Transportation Efficiency Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition.

TITLE I—SURFACE TRANSPORTATION

Sec. 1001. Short title.

Subtitle A—General Provisions

Sec. 1101. Authorizations.
Sec. 1102. Apportionments.
Sec. 1103. Obligation ceiling.
Sec. 1104. Obligation authority under surface transportation program.
Sec. 1105. Emergency relief.
Sec. 1106. Federal lands highways program.
Sec. 1107. Recreational trails program.
Sec. 1108. Value pricing pilot program.
Sec. 1109. Highway use tax evasion projects.
Sec. 1110. Bicycle transportation and pedestrian walkways.
Sec. 1111. Disadvantaged business enterprises.
Sec. 1112. Federal share payable.
Sec. 1113. Studies and reports.
Sec. 1114. Definitions.
Sec. 1115. Cooperative Federal Lands Transportation Program.
Sec. 1116. Trade corridor and border crossing planning and border infrastructure.
Sec. 1117. Appalachian development highway system.
Sec. 1118. Interstate 4R and bridge discretionary program.
Sec. 1119. Magnetic levitation transportation technology deployment program.
Sec. 1120. Woodrow Wilson Memorial Bridge.
Sec. 1121. National Highway System components.
Sec. 1122. Highway bridge replacement and rehabilitation.
Sec. 1123. Congestion mitigation and air quality improvement program.
Sec. 1124. Safety belt use law requirements.
Sec. 1125. Sense of the Senate concerning reliance on private enterprise.
Sec. 1126. Study of use of uniformed police officers on Federal-aid highway construction projects.
Sec. 1127. Contracting for engineering and design services.

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

Sec. 1201. Administrative expenses.
Sec. 1202. Real property acquisition and corridor preservation.
Sec. 1203. Availability of funds.
Sec. 1204. Payments to States for construction.
Sec. 1205. Proceeds from the sale or lease of real property.
Sec. 1206. Metric conversion at State option.
Sec. 1207. Report on obligations.
Sec. 1208. Terminations.
Sec. 1209. Interstate maintenance.

CHAPTER 2—PROJECT APPROVAL

Sec. 1221. Transfer of highway and transit funds.
Sec. 1222. Project approval and oversight.
Sec. 1223. Surface transportation program.
Sec. 1224. Design-build contracting.
Sec. 1225. Integrated decisionmaking process.

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

Sec. 1231. Definition of operational improvement.
Sec. 1232. Eligibility of ferry boats and ferry terminal facilities.
Sec. 1233. Flexibility of safety programs.
Sec. 1234. Eligibility of projects on the National Highway System.
Sec. 1235. Eligibility of projects under the surface transportation program.
Sec. 1236. Design flexibility.

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

Sec. 1301. State infrastructure bank program.

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

Sec. 1311. Short title.
Sec. 1312. Findings.
Sec. 1313. Definitions.
Sec. 1314. Determination of eligibility and project selection.
Sec. 1315. Secured loans.
Sec. 1316. Lines of credit.
Sec. 1317. Project servicing.
Sec. 1318. Office of Infrastructure Finance.
Sec. 1319. State and local permits.
Sec. 1320. Regulations.
Sec. 1321. Funding.
Sec. 1322. Report to Congress.

Subtitle D—Safety

Sec. 1401. Operation lifesaver.
Sec. 1402. Railway-highway crossing hazard elimination in high speed rail corridors.
Sec. 1403. Railway-highway crossings.
Sec. 1404. Hazard elimination program.
Sec. 1405. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.
Sec. 1406. Safety incentive grants for use of seat belts.
Sec. 1407. Automatic crash protection unbelted testing standard.

Subtitle E—Environment

Sec. 1501. National scenic byways program.
Sec. 1502. Public-private partnerships.
Sec. 1503. Wetland restoration pilot program.

Subtitle F—Planning

Sec. 1601. Metropolitan planning.
Sec. 1602. Statewide planning.
Sec. 1603. Advanced travel forecasting procedures program.
Sec. 1604. Transportation and community and system preservation pilot program.

Subtitle G—Technical Corrections

Sec. 1701. Federal-aid systems.
Sec. 1702. Miscellaneous technical corrections.
Sec. 1703. Nondiscrimination.
Sec. 1704. State transportation department.

Subtitle H—Miscellaneous Provisions

Sec. 1801. Designation of portion of State Route 17 in New York and Pennsylvania as Interstate Route 86.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

Sec. 2001. Strategic research plan.
Sec. 2002. Multimodal Transportation Research and Development Program.
Sec. 2003. National university transportation centers.
Sec. 2004. Bureau of Transportation Statistics.
Sec. 2005. Research and technology program.
Sec. 2006. Advanced research program.
Sec. 2007. Long-term pavement performance program.
Sec. 2008. State planning and research program.
Sec. 2009. Education and training.
Sec. 2010. International highway transportation outreach program.

Sec. 2011. National technology deployment initiatives and partnerships program.
Sec. 2012. Infrastructure investment needs report.
Sec. 2013. Innovative bridge research and construction program.
Sec. 2014. Use of Bureau of Indian Affairs administrative funds.
Sec. 2015. Study of future strategic highway research program.
Sec. 2016. Joint partnerships for advanced vehicles, components, and infrastructure program.
Sec. 2017. Transportation and environment cooperative research program.
Sec. 2018. Conforming amendments.
Subtitle B—Intelligent Transportation Systems
Sec. 2101. Short title.
Sec. 2102. Findings.
Sec. 2103. Intelligent transportation systems.
Sec. 2104. Conforming amendment.
Subtitle C—Funding
Sec. 2201. Funding.

SEC. 2. DEFINITION.

In this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Surface Transportation Act of 1997".

Subtitle A—General Provisions

SEC. 1101. AUTHORIZATIONS.

For the purpose of carrying out title 23, United States Code, the following sums shall be available from the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—For the Interstate and National Highway System program under section 103 of that title $11,979,000,000 for fiscal year 1998, $11,808,000,000 for fiscal year 1999, $11,819,000,000 for fiscal year 2000, $11,916,000,000 for fiscal year 2001, $12,242,000,000 for fiscal year 2002, and $12,776,000,000 for fiscal year 2003, of which—

(A) $4,600,000,000 for fiscal year 1998, $4,609,000,000 for fiscal year 1999, $4,637,000,000 for fiscal year 2000, $4,674,000,000 for fiscal year 2001, $4,773,000,000 for fiscal year 2002, and $4,918,000,000 for fiscal year 2003 shall be available for the Interstate maintenance component; and

(B) $1,400,000,000 for fiscal year 1998, $1,403,000,000 for fiscal year 1999, $1,411,000,000 for fiscal year 2000, $1,423,000,000 for fiscal year 2001, $1,453,000,000 for fiscal year 2002, and $1,497,000,000 for fiscal year 2003 shall be available for the Interstate bridge component.

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title $7,000,000,000 for fiscal year 1998, $7,014,000,000 for fiscal year 1999, $7,056,000,000 for fiscal year 2000, $7,113,000,000 for fiscal year 2001, $7,263,000,000 for fiscal year 2002, and $7,484,000,000 for fiscal year 2003.

(3) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title $1,150,000,000 for fiscal year 1998, $1,152,000,000 for fiscal year 1999, $1,159,000,000 for fiscal year 2000, $1,169,000,000 for fiscal year 2001, $1,193,000,000 for fiscal year 2002, and $1,230,000,000 for fiscal year 2003.

(4) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title $200,000,000 for each of fiscal years 1998 through 2003.

(B) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title $90,000,000 for each of fiscal years 1998 through 2003.

(C) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title $172,000,000 for each of fiscal years 1998 through 2003.

(D) COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Cooperative Federal Lands Transportation Program under section 207 of that title $74,000,000 for each of fiscal years 1998 through 2003.

SEC. 1102. APPORTIONMENTS.

(a) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) and the set-asides authorized by subsection (f), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the National Highway System, the congestion mitigation and air quality improvement program, and the surface transportation program, for that fiscal year, among the States in the following manner:

"(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—

"(A) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

"(i) 50 percent in the ratio that—

"(I) the total lane miles on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997);

in each State; bears to

"(II) the total of all such lane miles in all States; and

"(ii) 50 percent in the ratio that—

"(I) the total vehicle miles traveled on lanes on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997);

in each State; bears to

"(II) the total of all such vehicle miles traveled in all States.

"(B) INTERSTATE BRIDGE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing bridges on the Interstate System, in the ratio that—

"(i) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in each State; bears to

"(ii) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in all States.

"(C) OTHER NATIONAL HIGHWAY SYSTEM COMPONENT.—

"(i) IN GENERAL.—For the National Highway System (excluding funds apportioned under subparagraph (A) or (B)), $36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remainder apportioned as follows:

"(I) 20 percent of the apportionments in the ratio that—

"(aa) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

"(II) 29 percent of the apportionments in the ratio that—

"(aa) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

"(III) 18 percent of the apportionments in the ratio that—

"(aa) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in each State; bears to

"(bb) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in all States.

"(IV) 24 percent of the apportionments in the ratio that—

"(aa) the total diesel fuel used on highways in each State; bears to

"(bb) the total diesel fuel used on highways in all States.

"(V) 9 percent of the apportionments in the ratio that—

"(aa) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

"(bb) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

"(ii) DATA.—Each calculation under clause (i) shall be based on the latest available data.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding subparagraphs (A) through (C), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

"(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

"(ii) the total of all weighted nonattainment and maintenance area populations in all States.

"(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—

Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

"(i) 0.8 if—

"(I) at the time of the apportionment, the area is a maintenance area; or

"(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under that subpart;

"(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under that subpart;

"(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under that subpart;

"(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under that subpart; or

"(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide.

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—

"(i) CARBON MONOXIDE NONATTAINMENT AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.

"(ii) CARBON MONOXIDE MAINTENANCE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was at one time also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide but has been redesignated as a maintenance area, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.1.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

"(i) 20 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 30 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 25 percent of the apportionments in the ratio that—

"(I) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in each State; bears to

"(II) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in all States.

"(iv) 25 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) DATA.—Each calculation under subparagraph (A) shall be based on the latest available data.

"(C) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(b) EFFECT OF CERTAIN AMENDMENTS.—Section 104 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

"(h) EFFECT OF CERTAIN AMENDMENTS.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the amendments made by section 901 of the Taxpayer Relief Act of 1997 shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Intermodal Surface Transportation Efficiency Act of 1997 and this title .".

(c) ISTEA TRANSITION.—

(1) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall determine, with respect to each State—

(A) the total apportionments for the fiscal year under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program;

(B) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding apportionments for the Federal lands highways program under section 204 of that title;

(C) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding—

(i) apportionments authorized under section 104 of that title for construction of the Interstate System;

(ii) apportionments for the Interstate substitute program under section 103(e)(4) of that title (as in effect on the day before the date of enactment of this Act);

(iii) apportionments for the Federal lands highways program under section 204 of that title; and

(iv) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943);

(D) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (B); by

(ii) the applicable percentage determined under paragraph (2); and

(E) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (C); by

(ii) the applicable percentage determined under paragraph (2).

(2) APPLICABLE PERCENTAGES.—

(A) FISCAL YEAR 1998.—For fiscal year 1998—

(i) the applicable percentage referred to in paragraph (1)(D)(ii) shall be 145 percent; and

(ii) the applicable percentage referred to in paragraph (1)(E)(ii) shall be 107 percent.

(B) FISCAL YEARS THEREAFTER.—For each of fiscal years 1999 through 2003, the applicable percentage referred to in paragraph (1)(D)(ii) or (1)(E)(ii), respectively, shall be a percentage equal to the product obtained by multiplying—

(i) the percentage specified in clause (i) or (ii), respectively, of subparagraph (A); by

(ii) the percentage that—

(I) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for the fiscal year; bears to

(II) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for fiscal year 1998.

(3) MAXIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, in the case of each State with respect to which the total apportionments determined under paragraph (1)(A) is greater than the product determined under paragraph (1)(D), the Secretary shall reduce proportionately the apportionments to the State under section 104 of title 23, United States Code, for the National Highway System component of the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program so that the total of the apportionments is equal to the product determined under paragraph (1)(D).

(B) REDISTRIBUTION OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds made available under subparagraph (A) shall be redistributed proportionately under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program, to States not subject to a reduction under subparagraph (A).

(ii) LIMITATION.—The ratio that—

(I) the total apportionments to a State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of clause (i); bears to

(II) the annual average of the total apportionments determined under paragraph (1)(B) with respect to the State;

may not exceed, in the case of fiscal year 1998, 145 percent, and, in the case of each of fiscal years 1999 through 2003, 145 percent as adjusted in the manner described in paragraph (2)(B).

(4) MINIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall apportion to each State such additional amounts as are necessary to ensure that—

(i) the total apportionments to the State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of paragraph (3); is equal to

(ii) the greater of—

(I) the product determined with respect to the State under paragraph (1)(E); or

(II) the total apportionments to the State for fiscal year 1997 for all Federal-aid highway programs, excluding—

(aa) apportionments for the Federal lands highways program under section 204 of title 23, United States Code;

(bb) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943); and

(cc) demonstration projects under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

(B) OBLIGATION.—Amounts apportioned under subparagraph (A)—

(i) shall be considered to be sums made available for expenditure on the surface transportation program, except that—

(I) the amounts shall not be subject to paragraphs (1) and (2) of section 133(d) of title 23, United States Code; and

(II) 50 percent of the amounts shall be subject to section 133(d)(3) of that title;

(ii) shall be available for any purpose eligible for funding under section 133 of that title; and

(iii) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are apportioned.

(C) AUTHORIZATION OF CONTRACT AUTHORITY.—

(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this paragraph.

(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(d) MINIMUM GUARANTEE.—

(1) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Minimum guarantee

"(a) ADJUSTMENT.—

"(1) IN GENERAL.—In fiscal year 1998 and each fiscal year thereafter on October 1, or as soon as practicable thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that—

"(A) the ratio that—

"(i) each State's percentage of the total apportionments for the fiscal year—

"(I) under section 104 for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program; and

"(II) under this section and section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1997 for ISTEA transition; bears to

"(ii) each State's percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available;

is not less than 0.90; and

"(B) in the case of a State specified in paragraph (2), the State's percentage of the total apportionments for the fiscal year described in subclauses (I) and (II) of subparagraph (A)(i) is—

"(i) not less than the percentage specified for the State in paragraph (2); but

"(ii) not greater than the product determined for the State under section 1102(c)(1)(D) of the Intermodal Surface Transportation Efficiency Act of 1997 for the fiscal year.

"(2) STATE PERCENTAGES.—The percentage referred to in paragraph (1)(B) for a specified State shall be determined in accordance with the following table:

"State	Percentage
Alaska	1.24
Arkansas	1.33
Delaware	0.47
Hawaii	0.55
Idaho	0.82
Montana	1.06
Nevada	0.73
New Hampshire	0.52
New Jersey	2.41
New Mexico	1.05
North Dakota	0.73
Rhode Island	0.58
South Dakota	0.78
Vermont	0.47
Wyoming	0.76.

"(b) TREATMENT OF ALLOCATIONS.—

"(1) OBLIGATION.—Amounts allocated under subsection (a)—

"(A) shall be available for obligation when allocated and shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are allocated; and

"(B) shall be available for any purpose eligible for funding under this title.

"(2) SET-ASIDE.—Fifty percent of the amounts allocated under subsection (a) shall be subject to section 133(d)(3).

"(c) TREATMENT OF WITHHELD APPORTIONMENTS.—For the purpose of subsection (a), any funds that, but for section 158(b) or any other provision of law under which Federal-aid highway funds are withheld from apportionment, would be apportioned to a State for a fiscal year under a section referred to in subsection (a) shall be treated as being apportioned in that fiscal year.

"(d) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Minimum guarantee.".

(e) AUDITS OF HIGHWAY TRUST FUND.—Section 104 of title 23, United States Code, is amended by striking subsection (i) and inserting the following:

"(i) AUDITS OF HIGHWAY TRUST FUND.—From available administrative funds deducted under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.".

(f) TECHNICAL AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting "NOTIFICATION TO STATES.—" after "(e)";

(B) in the first sentence—

(i) by striking "(other than under subsection (b)(5) of this section)"; and

(ii) by striking "and research";

(C) by striking the second sentence; and

(D) in the last sentence, by striking ", except that" and all that follows through "such funds"; and

(2) in subsection (f)—

(A) by striking "(f)(1) On" and inserting the following:

"(f) METROPOLITAN PLANNING.—

"(1) SET-ASIDE.—On";

(B) by striking "(2) These" and inserting the following:

"(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These";

(C) by striking "(3) The" and inserting the following:

"(3) USE OF FUNDS.—The"; and

(D) by striking "(4) The" and inserting the following:

"(4) DISTRIBUTION OF FUNDS WITHIN STATES.—The".

(g) CONFORMING AMENDMENTS.—

(1) Section 146(a) of title 23, United States Code, is amended in the first sentence by striking ", 104(b)(2), and 104(b)(6)" and inserting "and 104(b)(2)".

(2)(A) Section 150 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150.

(3) Section 158 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(iii) in paragraph (1) (as so redesignated)—

(I) by striking "AFTER THE FIRST YEAR" and inserting "IN GENERAL"; and

(II) by striking ", 104(b)(2), 104(b)(5), and 104(b)(6)" and inserting "and 104(b)(2)"; and

(iv) in paragraph (2) (as redesignated by clause (ii)), by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraph (1)"; and

(B) by striking subsection (b) and inserting the following:

"(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.".

(4)(A) Section 157 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157.

(5)(A) Section 115(b)(1) of title 23, United States Code, is amended by striking "or 104(b)(5), as the case may be,".

(B) Section 137(f)(1) of title 23, United States Code, is amended by striking "section 104(b)(5)(B) of this title" and inserting "section 104(b)(1)(A)".

(C) Section 141(c) of title 23, United States Code, is amended by striking "section 104(b)(5) of this title" each place it appears and inserting "section 104(b)(1)(A)".

(D) Section 142(c) of title 23, United States Code, is amended by striking "(other than section 104(b)(5)(A))".

(E) Section 159 of title 23, United States Code, is amended—

(i) by striking "(5) of" each place it appears and inserting "(5) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) of"; and

(ii) in subsection (b)—

(I) in paragraphs (1)(A)(i) and (3)(A), by striking "section 104(b)(5)(A)" each place it appears and inserting "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)";

(II) in paragraph (1)(A)(ii), by striking "section 104(b)(5)(B)" and inserting "section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)";

(III) in paragraph (3)(B), by striking "(5)(B)" and inserting "(5)(B) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)"; and

(IV) in paragraphs (3) and (4), by striking "section 104(b)(5)" each place it appears and inserting "section 104(b)(5) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)".

(F) Section 161(a) of title 23, United States Code, is amended by striking "paragraphs (1), (3), and (5)(B) of section 104(b)" each place it appears and inserting "paragraphs (1) and (3) of section 104(b)".

(6)(A) Section 104(g) of title 23, United States Code, is amended—

(i) in the first sentence, by striking "sections 130, 144, and 152 of this title" and inserting "subsection (b)(1)(B) and sections 130 and 152";

(ii) in the first and second sentences—

(I) by striking "section" and inserting "provision"; and

(II) by striking "such sections" and inserting "those provisions"; and

(iii) in the third sentence—

(I) by striking "section 144" and inserting "subsection (b)(1)(B)"; and

(II) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(C)".

(B) Section 115 of title 23, United States Code, is amended—

(i) in subsection (a)(1)(A)(i), by striking "104(b)(2), 104(b)(3), 104(f), 144," and inserting "104(b)(1)(B), 104(b)(2), 104(b)(3), 104(f),"; and

(ii) in subsection (c), by striking "144,,".

(C) Section 120(e) of title 23, United States Code, is amended in the last sentence by striking "and in section 144 of this title".

(D) Section 151(d) of title 23, United States Code, is amended by striking "section 104(a), section 307(a), and section 144 of this title" and inserting "subsections (a) and (b)(1)(B) of section 104 and section 307(a)".

(E) Section 204(c) of title 23, United States Code, is amended in the first sentence by striking "or section 144 of this title".

(F) Section 303(g) of title 23, United States Code, is amended by striking "section 144 of this title" and inserting "section 104(b)(1)(B)".

SEC. 1103. OBLIGATION CEILING.

(a) GENERAL LIMITATIONS.—Subject to the other provisions of this section and notwithstanding any other provision of law, the total amount of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $21,800,000,000 for fiscal year 1998;

(2) $22,802,000,000 for fiscal year 1999;

(3) $22,939,000,000 for fiscal year 2000;

(4) $23,183,000,000 for fiscal year 2001;

(5) $23,699,000,000 for fiscal year 2002; and

(6) $24,548,000,000 for fiscal year 2003.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The limitations under subsection (a) shall not apply to obligations of funds under—

(A) section 105(a) of title 23, United States Code (but, for each of fiscal years 1998 through 2003, only in an amount equal to the amount included for section 157 of title 23, United States Code, in the baseline determined by the Congressional Budget Office for the fiscal year 1998 budget), excluding amounts allocated under section 105(a)(1)(B) of that title;

(B) section 125 of that title;

(C) section 157 of that title (as in effect on the day before the date of enactment of this Act);

(D) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(E) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

(F) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);

(G) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198); and

(H) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027).

(2) EFFECT OF OTHER LAW.—A provision of law establishing a limitation on obligations for Federal-aid highways and highway safety construction programs may not amend or limit the applicability of this subsection, unless the provision specifically amends or limits that applicability.

(c) APPLICABILITY TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations for Federal-aid highways and highway safety construction programs established by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code.

(d) OBLIGATION AUTHORITY.—Section 118 of title 23, United States Code, is amended by adding at the end the following:

"(g) OBLIGATION AUTHORITY.—

"(1) DISTRIBUTION.—For each fiscal year, the Secretary shall—

"(A) distribute the total amount of obligation authority for Federal-aid highways and highway safety construction programs made available for the fiscal year by allocation in the ratio that—

"(i) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to each State for the fiscal year; bears to

"(ii) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to all States for the fiscal year;

"(B) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State; and

"(C) notwithstanding subparagraphs (A) and (B), not distribute—

"(i) amounts deducted under section 104(a) for administrative expenses;

"(ii) amounts set aside under section 104(k) for Interstate 4R and bridge projects;

"(iii) amounts made available under sections 143, 164, 165, 204, 206, 207, and 322;

"(iv) amounts made available under section 111 of title 49;

"(v) amounts made available under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.);

"(vi) amounts made available under section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938);

"(vii) amounts made available under sections 1503, 1603, and 1604 of the Intermodal Surface Transportation Efficiency Act of 1997;

"(viii) amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 201);

"(ix) amounts made available under section 105(a)(1)(A) to the extent that the amounts are subject to any obligation limitation under section 1103(a) of the Intermodal Surface Transportation Efficiency Act of 1997;

"(x) amounts made available for implementation of programs under chapter 5 of this title and sections 5222, 5232, and 5241 of title 49; and

"(xi) amounts made available under section 412 of the Woodrow Wilson Memorial Bridge Authority Act of 1995.

"(2) REDISTRIBUTION.—Notwithstanding paragraph (1), the Secretary shall, after August 1 of each of fiscal years 1998 through 2003—

"(A) revise a distribution of the funds made available under paragraph (1) for the fiscal year if a State will not obligate the amount distributed during the fiscal year; and

"(B) redistribute sufficient amounts to those States able to obligate amounts in addition to the amounts previously distributed during the fiscal year, giving priority to those States that have large unobligated balances of funds apportioned under section 104 and under section 144 (as in effect on the day before the date of enactment of this subparagraph).".

(e) APPLICABILITY OF OBLIGATION LIMITATIONS.—An obligation limitation established by a provision of any other Act shall not apply to obligations under a program funded under this Act or title 23, United States Code, unless—

(1) the provision specifically amends or limits the applicability of this subsection; or

(2) an obligation limitation is specified in this Act with respect to the program.

SEC. 1104. OBLIGATION AUTHORITY UNDER SURFACE TRANSPORTATION PROGRAM.

Section 133 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the 3-fiscal year period of 1998 through 2000, and the 3-fiscal year period of 2001 through 2003, an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

"(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during each such period; by

"(B) the ratio that—

"(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

"(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding

sums not subject to an obligation limitation) during the period.

"(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).".

SEC. 1105. EMERGENCY RELIEF.

(a) FEDERAL SHARE.—Section 120(e) of title 23, United States Code, is amended in the first sentence by striking "highway system" and inserting "highway".

(b) ELIGIBILITY AND FUNDING.—Section 125 of title 23, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively;

(3) by inserting after the section heading the following:

"(a) GENERAL ELIGIBILITY.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

"(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

"(2) catastrophic failure from any external cause.

"(b) RESTRICTION ON ELIGIBILITY.—In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

"(c) FUNDING.—Subject to the following limitations, there are hereby authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

"(1) Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section, except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

"(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, provided that such funds are reimbursed from the appropriations authorized in paragraph (1) of this subsection when such appropriations are made.";

(4) in subsection (d) (as so redesignated), by striking "subsection (c)" both places it appears and inserting "subsection (e)"; and

(5) in subsection (e) (as so redesignated), by striking "on any of the Federal-aid highway systems" and inserting "Federal-aid highways".

(c) SAN MATEO COUNTY, CALIFORNIA.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide; and

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

SEC. 1106. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(j) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any Federal-aid highway project the Federal share of which is funded under section 104.

"(k) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds made available to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under section 104 and that provides access to or within Federal or Indian lands.".

(b) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to the pay the Federal share of the cost of the project.".

(c) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, and Indian reservation roads and bridges.

"(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

"(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

"(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

"(A) shall be developed in cooperation with States and metropolitan planning organizations; and

"(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

"(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

"(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.";

(2) in subsection (b), by striking the first 3 sentences and inserting the following: "Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe.";

(3) in the first sentence of subsection (e), by striking "Secretary of the Interior" and inserting "Secretary of the appropriate Federal land management agency";

(4) in subsection (h), by adding at the end the following:

"(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.";

(5) by striking subsection (i) and inserting the following:

"(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

"(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section."; and

(6) in subsection (j), by striking the second sentence and inserting the following: "The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a).".

SEC. 1107. RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

"§ 206. Recreational trails program

"(a) DEFINITIONS.—

"(1) MOTORIZED RECREATION.—The term 'motorized recreation' means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

"(2) RECREATIONAL TRAIL; TRAIL.—The term 'recreational trail' or 'trail' means a thoroughfare or track across land or snow, used for recreational purposes such as—

"(A) pedestrian activities, including wheelchair use;

"(B) skating or skateboarding;
"(C) equestrian activities, including carriage driving;
"(D) nonmotorized snow trail activities, including skiing;
"(E) bicycling or use of other human-powered vehicles;
"(F) aquatic or water activities; and
"(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

"(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails (referred to in this section as the 'program').

"(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—
"(1) a State may use apportionments received under this section for construction of new trails crossing Federal lands only if the construction is—
"(A) permissible under other law;
"(B) necessary and required by a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.);
"(C) approved by the administering agency of the State designated under paragraph (2); and
"(D) approved by each Federal agency charged with management of the affected lands, which approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);
"(2) the Governor of a State shall designate the State agency or agencies that will be responsible for administering apportionments received under this section; and
"(3) the State shall establish within the State a State trail advisory committee that represents both motorized and nonmotorized trail users.

"(d) USE OF APPORTIONED FUNDS.—
"(1) IN GENERAL.—Funds made available under this section shall be obligated for trails and trail-related projects that—
"(A) have been planned and developed under the laws, policies, and administrative procedures of each State; and
"(B) are identified in, or further a specific goal of, a trail plan or trail plan element included or referenced in a metropolitan transportation plan required under section 134 or a statewide transportation plan required under section 135, consistent with the statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.).
"(2) PERMISSIBLE USES.—Permissible uses of funds made available under this section include—
"(A) maintenance and restoration of existing trails;
"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages;
"(C) purchase and lease of trail construction and maintenance equipment;
"(D) construction of new trails;
"(E) acquisition of easements and fee simple title to property for trails or trail corridors;
"(F) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment received by the State for a fiscal year; and
"(G) operation of educational programs to promote safety and environmental protection as these objectives relate to the use of trails.
"(3) USE OF APPORTIONMENTS.—
"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), of the apportionments received for a fiscal year by a State under this section—
"(i) 40 percent shall be used for trail or trail-related projects that facilitate diverse recreational trail use within a trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;
"(ii) 30 percent shall be used for uses relating to motorized recreation; and
"(iii) 30 percent shall be used for uses relating to nonmotorized recreation.
"(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than 1 percent of all such fuel use in the United States, shall be exempted from the requirements of subparagraph (A) upon application to the Secretary by the State demonstrating that the State meets the conditions of this subparagraph.
"(C) WAIVER AUTHORITY.—Upon the request of a State trail advisory committee established under subsection (c)(3), the Secretary may waive, in whole or in part, the requirements of subparagraph (A) with respect to the State if the State certifies to the Secretary that the State does not have sufficient projects to meet the requirements of subparagraph (A).
"(D) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(F) shall be exempt from the requirements of subparagraph (A).

"(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

"(f) FEDERAL SHARE.—
"(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project under this section shall not exceed 80 percent.
"(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—
"(A) the share attributable to the Secretary of Transportation may not exceed 80 percent; and
"(B) the share attributable to the Secretary and the Federal agency jointly may not exceed 95 percent.
"(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law, amounts made available by the Federal Government under any Federal program that are—
"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and
"(B) expended on a project that is eligible for assistance under this section;
may be credited toward the non-Federal share of the cost of the project.
"(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for a fiscal year does not exceed 80 percent.
"(5) STATE ADMINISTRATIVE COSTS.—The Federal share of the administrative costs of a State under this subsection shall be determined in accordance with section 120(b).

"(g) USES NOT PERMITTED.—A State may not obligate funds apportioned under this section for—
"(1) condemnation of any kind of interest in property;
"(2) construction of any recreational trail on National Forest System land for any motorized use unless—
"(A) the land has been apportioned for uses other than wilderness by an approved forest land and resource management plan or has been released to uses other than wilderness by an Act of Congress; and
"(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;
"(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—
"(A) has been apportioned for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to uses other than wilderness by an Act of Congress; and
"(B) the construction is otherwise consistent with the management direction in the approved management plan; or
"(4) upgrading, expanding, or otherwise facilitating motorized use or access to trails predominantly used by nonmotorized trail users and on which, as of May 1, 1991, motorized use is prohibited or has not occurred.

"(h) PROJECT ADMINISTRATION.—
"(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—
"(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).
"(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to the Federal agency's share in accordance with subsection (f).
"(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.
"(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds made available under this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(f)(3)).
"(4) COOPERATION BY PRIVATE PERSONS.—
"(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for

work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the land will cooperate with the State and participate as necessary in the activities to be conducted.

"(B) PUBLIC ACCESS.—Any use of the apportionments to a State under this section on privately owned land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

"(i) APPORTIONMENT.—

"(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State that meets the requirements of subsection (c).

"(2) APPORTIONMENT.—Subject to subsection (j), for each fiscal year, the Secretary shall apportion—

"(A) 50 percent of the amounts made available to carry out this section equally among eligible States; and

"(B) 50 percent of the amounts made available to carry out this section among eligible States in proportion to the quantity of nonhighway recreational fuel used in each eligible State during the preceding year.

"(j) ADMINISTRATIVE COSTS.—

"(1) IN GENERAL.—Whenever an apportionment is made under subsection (i) of the amounts made available to carry out this section, the Secretary shall first deduct an amount, not to exceed 1 percent of the authorized amounts, to pay the costs to the Secretary for administration of, and research authorized under, the program.

"(2) USE OF CONTRACTS.—To carry out research funded under paragraph (1), the Secretary may—

"(A) enter into contracts with for-profit organizations; and

"(B) enter into contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations.

"(k) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $20,000,000 for fiscal year 1999, $22,000,000 for fiscal year 2000, $23,000,000 for fiscal year 2001, $24,000,000 for fiscal year 2002, and $25,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

(b) CONFORMING AMENDMENTS.—

(1) The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title I (16 U.S.C. 1261 et seq.).

(2) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 206 and inserting the following:

"206. Recreational trails program.".

SEC. 1108. VALUE PRICING PILOT PROGRAM.

(a) IN GENERAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in the subsection heading, by striking "CONGESTION" and inserting "VALUE"; and

(2) in paragraph (1), by striking "congestion" each place it appears and inserting "value".

(b) INCREASED NUMBER OF PROJECTS.—Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence by striking "5" and inserting "15".

(c) ELIGIBILITY OF PREIMPLEMENTATION COSTS.— Section 1012(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence—

(1) by inserting after "Secretary shall fund" the following: "all preimplementation costs and project design, and"; and

(2) by inserting after "Secretary may not fund" the following: "the implementation costs of".

(d) TOLLING.—Section 1012(b)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking "a pilot program under this section, but not on more than 3 of such programs" and inserting "any value pricing pilot program under this subsection".

(e) HOV PASSENGER REQUIREMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking paragraph (6) and inserting the following:

"(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 146(c) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.".

(f) FUNDING.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by adding at the end the following:

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY.—

"(i) IN GENERAL.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this subsection but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

"(I) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

"(II) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

"(III) shall be available for any purpose eligible for funding under section 133 of that title.

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.".

(g) CONFORMING AMENDMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in paragraph (1), by striking "projects" each place it appears and inserting "programs"; and

(2) in paragraph (5)—

(A) by striking "projects" and inserting "programs"; and

(B) by striking "traffic, volume" and inserting "traffic volume".

SEC. 1109. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—Section 143 of title 23, United States Code, is amended to read as follows:

"§ 143. Highway use tax evasion projects

"(a) DEFINITION OF STATE.—In this section, the term 'State' means the 50 States and the District of Columbia.

"(b) PROJECTS.—

"(1) IN GENERAL.—The Secretary shall use funds made available under paragraph (7) to carry out highway use tax evasion projects in accordance with this subsection.

"(2) ALLOCATION OF FUNDS.—The funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary.

"(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

"(4) LIMITATION ON USE OF FUNDS.—Funds made available under paragraph (7) shall be used only—

"(A) to expand efforts to enhance motor fuel tax enforcement;

"(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

"(C) to supplement motor fuel tax examinations and criminal investigations;

"(D) to develop automated data processing tools to monitor motor fuel production and sales;

"(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

"(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

"(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

"(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY OF FUNDS.—Funds authorized under this paragraph shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(c) EXCISE FUEL REPORTING SYSTEM.—

"(1) IN GENERAL.—Not later than April 1, 1998, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development and maintenance by the Internal Revenue Service of an

excise fuel reporting system (referred to in this subsection as the 'system').

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop and maintain the system through contracts;

"(B) the system shall be under the control of the Internal Revenue Service; and

"(C) the system shall be made available for use by appropriate State and Federal revenue, tax, or law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUND.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

"(A) $8,000,000 for development of the system; and

"(B) $2,000,000 for each of fiscal years 1998 through 2003 for operation and maintenance of the system.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 143 and inserting the following:

"143. Highway use tax evasion projects.".

(2) Section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is repealed.

(3) Section 8002 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2203) is amended—

(A) in the first sentence of subsection (g), by striking "section 1040 of this Act" and inserting "section 143 of title 23, United States Code,"; and

(B) by striking subsection (h).

SEC. 1110. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "pedestrian walkways and" after "construction of"; and

(B) by striking "(other than the Interstate System)";

(2) in subsection (e), by striking ", other than a highway access to which is fully controlled,";

(3) by striking subsection (g) and inserting the following:

"(g) PLANNING AND DESIGN.—

"(1) IN GENERAL.—Bicyclists and pedestrians shall be given consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively.

"(2) CONSTRUCTION.—Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

"(3) SAFETY AND CONTIGUOUS ROUTES.—Transportation plans and projects shall provide consideration for safety and contiguous routes for bicyclists and pedestrians.";

(4) in subsection (h)—

(A) by striking "No motorized vehicles shall" and inserting "Motorized vehicles may not"; and

(B) by striking paragraph (3) and inserting the following:

"(3) wheelchairs that are powered; and"; and

(5) by striking subsection (j) and inserting the following:

"(j) DEFINITIONS.—In this section:

"(1) BICYCLE TRANSPORTATION FACILITY.—The term 'bicycle transportation facility' means a new or improved lane, path, or shoulder for use by bicyclists or a traffic control device, shelter, or parking facility for bicycles.

"(2) PEDESTRIAN.—The term 'pedestrian' means any person traveling by foot or any mobility impaired person using a wheelchair.

"(3) WHEELCHAIR.—The term 'wheelchair' means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or powered.".

SEC. 1111. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I and II of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $16,600,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

SEC. 1112. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code (as amended by section 1106(a)), is amended—

(1) in each of subsections (a) and (b), by adding at the end the following: "In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection."; and

(2) by adding at the end the following:

"(l) CREDIT FOR NON-FEDERAL SHARE.—

"(1) ELIGIBILITY.—A State may use as a credit toward the non-Federal share requirement for any program under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) or this title, other than the emergency relief program authorized by section 125, toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain, without the use of Federal funds, highways, bridges, or tunnels that serve the public purpose of interstate commerce.

"(2) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—The credit toward any non-Federal share under paragraph (1) shall not reduce nor replace State funds required to match Federal funds for any program under this title.

"(B) CONDITIONS ON RECEIPT OF CREDIT.—

"(i) AGREEMENT WITH THE SECRETARY.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreements as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding 3 fiscal years.

"(ii) EXCEPTION.—Notwithstanding clause (i), a State may receive a credit under paragraph (1) for a fiscal year if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 30 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years.

"(3) TREATMENT.—

"(A) IN GENERAL.—Use of the credit toward a non-Federal share under paragraph (1) shall not expose the agencies from which the credit is received to additional liability, additional regulation, or additional administrative oversight.

"(B) CHARTERED MULTISTATE AGENCIES.—When credit is applied from a chartered multistate agency under paragraph (1), the credit shall be applied equally to all charter States.

"(C) NO ADDITIONAL STANDARDS.—A public, quasi-public, or private agency from which the credit for which the non-Federal share is calculated under paragraph (1) shall not be subject to any additional Federal design standards or laws (including regulations) as a result of providing the credit beyond the standards and laws to which the agency is already subject.".

SEC. 1113. STUDIES AND REPORTS.

(a) HIGHWAY ECONOMIC REQUIREMENT SYSTEM.—

(1) METHODOLOGY.—

(A) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the methodology used by the Department of Transportation to determine highway needs using the highway economic requirement system (referred to in this subsection as the "model").

(B) REQUIRED ELEMENT.—The evaluation shall include an assessment of the extent to which the model estimates an optimal level of highway infrastructure investment, including an assessment as to when the model may be overestimating or underestimating investment requirements.

(C) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the evaluation.

(2) STATE INVESTMENT PLANS.—

(A) STUDY.—In consultation with State transportation departments and other appropriate State and local officials, the Comptroller General of the United States shall conduct a study on the extent to which the highway economic requirement system of the Federal Highway Administration can be used to provide States with useful information for developing State transportation investment plans and State infrastructure investment projections.

(B) REQUIRED ELEMENTS.—The study shall—

(i) identify any additional data that may need to be collected beyond the data submitted, prior to the date of enactment of this Act, to the Federal Highway Administration through the highway performance monitoring system; and

(ii) identify what additional work, if any, would be required of the Federal Highway Administration and the States to make the model useful at the State level.

(C) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(b) INTERNATIONAL ROUGHNESS INDEX.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

(2) REQUIRED ELEMENTS.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(c) REPORTING OF RATES OF OBLIGATION.—Section 104 of title 23, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (m); and

(2) by inserting after subsection (i) the following:

"(j) REPORTING OF RATES OF OBLIGATION.—On an annual basis, the Secretary shall publish or otherwise report rates of obligation of funds apportioned or set aside under this section and sections 103 and 133 according to—

"(1) program;

"(2) funding category or subcategory;

"(3) type of improvement;

"(4) State; and

"(5) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.".

SEC. 1114. DEFINITIONS.

(a) FEDERAL-AID HIGHWAY FUNDS AND PROGRAM.—

(1) IN GENERAL.—Section 101(a) of title 23, United States Code, is amended by inserting before the undesignated paragraph defining "Federal-aid highways" the following:

"The term 'Federal-aid highway funds' means funds made available to carry out the Federal-aid highway program.

"The term 'Federal-aid highway program' means all programs authorized under chapters 1, 3, and 5.".

(2) CONFORMING AMENDMENTS.—

(A) Section 101(d) of title 23, United States Code, is amended by striking "the construction of Federal-aid highways or highway planning, research, or development" and inserting "the Federal-aid highway program".

(B) Section 104(m)(1) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended by striking "Federal-aid highways and the highway safety construction programs" and inserting "the Federal-aid highway program".

(C) Section 107(b) of title 23, United States Code, is amended in the second sentence by striking "Federal-aid highways" and inserting "the Federal-aid highway program".

(b) ALPHABETIZATION OF DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by reordering the undesignated paragraphs so that they are in alphabetical order.

SEC. 1115. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code (as amended by section 1107(a)), is amended by inserting after section 206 the following:

"§ 207. Cooperative Federal Lands Transportation Program

"(a) IN GENERAL.—There is established the Cooperative Federal Lands Transportation Program (referred to in this section as the 'program'). Funds available for the program may be used for projects, or portions of projects, on highways that are owned or maintained by States or political subdivisions of States and that cross, are adjacent to, or lead to federally owned land or Indian reservations (including Army Corps of Engineers reservoirs), as determined by the State. Such projects shall be proposed by a State and selected by the Secretary. A project proposed by a State under this section shall be on a highway or bridge owned or maintained by the State, or 1 or more political subdivisions of the State, and may be a highway or bridge construction or maintenance project eligible under this title or any project of a type described in section 204(h).

"(b) DISTRIBUTION OF FUNDS FOR PROJECTS.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—The Secretary—

"(i) after consultation with the Administrator of General Services, the Secretary of the Interior, and other agencies as appropriate (including the Army Corps of Engineers), shall determine the percentage of the total land in each State that is owned by the Federal Government or that is held by the Federal Government in trust;

"(ii) shall determine the sum of the percentages determined under clause (i) for States with respect to which the percentage is 4.5 or greater; and

"(iii) shall determine for each State included in the determination under clause (ii) the percentage obtained by dividing—

"(I) the percentage for the State determined under clause (i); by

"(II) the sum determined under clause (ii).

"(B) ADJUSTMENT.—The Secretary shall—

"(i) reduce any percentage determined under subparagraph (A)(iii) that is greater than 7.5 percent to 7.5 percent; and

"(ii) redistribute the percentage points equal to any reduction under clause (i) among other States included in the determination under subparagraph (A)(ii) in proportion to the percentages for those States determined under subparagraph (A)(iii).

"(2) AVAILABILITY TO STATES.—Except as provided in paragraph (3), for each fiscal year, the Secretary shall make funds available to carry out eligible projects in a State in an amount equal to the amount obtained by multiplying—

"(A) the percentage for the State, if any, determined under paragraph (1); by

"(B) the funds made available for the program for the fiscal year.

"(3) SELECTION OF PROJECTS.—The Secretary may establish deadlines for States to submit proposed projects for funding under this section, except that in the case of fiscal year 1998 the deadline may not be earlier than January 1, 1998. For each fiscal year, if a State does not have pending, by that deadline, applications for projects with an estimated cost equal to at least 3 times the amount for the State determined under paragraph (2), the Secretary may distribute, to 1 or more other States, at the Secretary's discretion, ⅓ of the amount by which the estimated cost of the State's applications is less than 3 times the amount for the State determined under paragraph (2).

"(c) TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a State and the Secretary may agree to transfer amounts made available to a State under this section to the allocations of the State under section 202 for use in carrying out projects on any Federal lands highway that is located in the State.

"(2) SPECIAL RULE.—This paragraph applies to a State that contains a national park that was visited by more than 2,500,000 people in 1996 and comprises more than 3,000 square miles of land area, including surface water, that is located in the State. For such a State, 50 percent of the amount that would otherwise be made available to the State for each fiscal year under the program shall be made available only for eligible highway uses in the national park and within the borders of the State. For the purpose of making allocations under section 202(c), the Secretary may not take into account the past or future availability, for use on park roads and parkways in a national park, of funds made available for use in a national park by this paragraph.

"(d) RIGHTS-OF-WAY ACROSS FEDERAL LAND.—Nothing in this section affects any claim for a right-of-way across Federal land.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $74,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 207 and inserting the following:

"207. Cooperative Federal Lands Transportation Program.".

SEC. 1116. TRADE CORRIDOR AND BORDER CROSSING PLANNING AND BORDER INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) BORDER REGION.—The term "border region" means—

(A) the region located within 60 miles of the United States border with Mexico; and

(B) the region located within 60 miles of the United States border with Canada.

(2) BORDER STATE.—The term "border State" means a State of the United States that—

(A) is located along the border with Mexico; or

(B) is located along the border with Canada.

(3) BORDER STATION.—The term "border station" means a controlled port of entry into the United States located in the United States at the border with Mexico or Canada, consisting of land occupied by the station and the buildings, roadways, and parking lots on the land.

(4) FEDERAL INSPECTION AGENCY.—The term ''Federal inspection agency'' means a Federal agency responsible for the enforcement of immigration laws (including regulations), customs laws (including regulations), and agriculture import restrictions, including the United States Customs Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, the Food and Drug Administration, the United States Fish and Wildlife Service, and the Department of State.

(5) GATEWAY.—The term ''gateway'' means a grouping of border stations defined by proximity and similarity of trade.

(6) NON-FEDERAL GOVERNMENTAL JURISDICTION.—The term ''non-Federal governmental jurisdiction'' means a regional, State, or local authority involved in the planning, development, provision, or funding of transportation infrastructure needs.

(b) BORDER CROSSING PLANNING INCENTIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall make incentive grants to States and to metropolitan planning organizations designated under section 134 of title 23, United States Code.

(2) USE OF GRANTS.—The grants shall be used to encourage joint transportation planning activities and to improve people and vehicle movement into and through international gateways as a supplement to statewide and metropolitan transportation planning funding made available under other provisions of this Act and under title 23, United States Code.

(3) CONDITION OF GRANTS.—As a condition of receiving a grant under paragraph (1), a State transportation department or a metropolitan planning organization shall certify to the Secretary that it commits to be engaged in joint planning with its counterpart agency in Mexico or Canada.

(4) LIMITATION ON AMOUNT.—Each State transportation department or metropolitan planning organization may receive not more than $100,000 under this subsection for any fiscal year.

(5) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,400,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(c) TRADE CORRIDOR PLANNING INCENTIVE GRANTS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States to encourage, within the framework of the statewide transportation planning process of the State under section 135 of title 23, United States Code, cooperative multistate corridor analysis of, and planning for, the safe and efficient movement of goods along and within international or interstate trade corridors of national importance.

(B) IDENTIFICATION OF CORRIDORS.—Each corridor referred to in subparagraph (A) shall be cooperatively identified by the States along the corridor.

(2) CORRIDOR PLANS.—

(A) IN GENERAL.—As a condition of receiving a grant under paragraph (1), a State shall enter into an agreement with the Secretary that specifies that, in cooperation with the other States along the corridor, the State will submit a plan for corridor improvements to the Secretary not later than 2 years after receipt of the grant.

(B) COORDINATION OF PLANNING.—Planning with respect to a corridor under this subsection shall be coordinated with transportation planning being carried out by the States and metropolitan planning organizations along the corridor and, to the extent appropriate, with transportation planning being carried out by Federal land management agencies, by tribal governments, or by government agencies in Mexico or Canada.

(3) MULTISTATE AGREEMENTS FOR TRADE CORRIDOR PLANNING.—The consent of Congress is granted to any 2 or more States—

(A) to enter into multistate agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of interstate trade corridor planning activities; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable to make the agreements effective.

(4) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $3,000,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(d) FEDERAL ASSISTANCE FOR TRADE CORRIDORS AND BORDER INFRASTRUCTURE SAFETY AND CONGESTION RELIEF.—

(1) APPLICATIONS FOR GRANTS.—The Secretary shall make grants to States or metropolitan planning organizations that submit an application that—

(A) demonstrates need for assistance in carrying out transportation projects that are necessary to relieve traffic congestion or improve enforcement of motor carrier safety laws; and

(B) includes strategies to involve both the public and private sectors in the proposed project.

(2) SELECTION OF STATES, METROPOLITAN PLANNING ORGANIZATIONS, AND PROJECTS TO RECEIVE GRANTS.—In selecting States, metropolitan planning organizations, and projects to receive grants under this subsection, the Secretary shall consider—

(A) the annual volume of commercial vehicle traffic at the border stations or ports of entry of each State as compared to the annual volume of commercial vehicle traffic at the border stations or ports of entry of all States;

(B) the extent to which commercial vehicle traffic in each State has grown since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103-182) as compared to the extent to which that traffic has grown in each other State;

(C) the extent of border transportation improvements carried out by each State since the date of enactment of that Act;

(D) the reduction in commercial and other travel time through a major international gateway expected as a result of the project;

(E) the extent of leveraging of Federal funds provided under this subsection, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding;

(F) improvements in vehicle and highway safety and cargo security in and through the gateway concerned;

(G) the degree of demonstrated coordination with Federal inspection agencies;

(H) the extent to which the innovative and problem solving techniques of the proposed project would be applicable to other border stations or ports of entry;

(I) demonstrated local commitment to implement and sustain continuing comprehensive border planning processes and improvement programs; and

(J) other factors to promote transport efficiency and safety, as determined by the Secretary.

(3) USE OF GRANTS.—

(A) IN GENERAL.—A grant under this subsection shall be used to develop project plans, and implement coordinated and comprehensive programs of projects, to improve efficiency and safety.

(B) TYPE OF PLANS AND PROGRAMS.—The plans and programs may include—

(i) improvements to transport and supporting infrastructure;

(ii) improvements in operational strategies, including electronic data interchange and use of telecommunications to expedite vehicle and cargo movement;

(iii) modifications to regulatory procedures to expedite vehicle and cargo flow;

(iv) new infrastructure construction;

(v) purchase, installation, and maintenance of weigh-in-motion devices and associated electronic equipment in Mexico or Canada if real time data from the devices is provided to the nearest border station and to State commercial vehicle enforcement facilities that serve the border station; and

(vi) other institutional improvements, such as coordination of binational planning, programming, and border operation, with special emphasis on coordination with—

(I) Federal inspection agencies; and

(II) their counterpart agencies in Mexico and Canada.

(4) CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.—At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more than $10,000,000 of the amounts made available under paragraph (5) to the Administrator of General Services for the construction of transportation infrastructure necessary for law enforcement in border States.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $125,000,000 for each of fiscal years 1998 through 2003.

(e) COORDINATION OF PLANNING.—

(1) PLANNING AND DEVELOPMENT OF BORDER STATIONS.—The General Services Administration shall be the coordinating Federal agency in the planning and development of new or expanded border stations.

(2) COOPERATIVE ACTIVITIES.—In carrying out paragraph (1), the Administrator of General Services shall cooperate with Federal inspection agencies and non-Federal governmental jurisdictions to ensure that—

(A) improvements to border station facilities take into account regional and local conditions, including the alignment of highway systems and connecting roadways; and

(B) all facility requirements, associated costs, and economic impacts are identified.

(f) COST SHARING.—A grant under this section shall be used to pay the Federal share of the cost of a project. The Federal share shall not exceed 80 percent.

(g) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this section but not allocated exceeds $4,000,000 as of September 30 of any year, the excess amount—

(1) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

(2) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

(3) shall be available for any purpose eligible for funding under section 133 of that title.

SEC. 1117. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 201(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the second sentence, by inserting before the period at the end the following: ", except that each allocation to a State shall remain available for expenditure in the State for the fiscal year in which the allocation is allocated and for the 3 following fiscal years"; and

(2) by inserting after the second sentence the following: "Funds authorized under this section for fiscal year 1998 or a fiscal year thereafter, and not expended by a State during the 4 fiscal years referred to in the preceding sentence, shall be released to the Commission for reallocation and shall remain available until expended.".

(b) SUBSTITUTE CORRIDOR.—Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "(b) The Commission" and inserting the following:

"(b) DESIGNATIONS.—

"(1) IN GENERAL.—The Commission"; and

(3) by adding at the end the following:

"(2) SUBSTITUTE CORRIDOR.—In lieu of Corridor H in Virginia, the Appalachian development highway system shall include the Virginia portion of the segment identified in section 1105(c)(29) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597).".

(c) FEDERAL SHARE FOR PREFINANCED PROJECTS.—Section 201(h)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "70 per centum" and inserting "80 percent".

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—

"(A) FISCAL YEARS 1998 THROUGH 2003.—For the continued construction of the Appalachian development highway system approved as of September 30, 1996, in accordance with this section, there shall be available from the Highway Trust Fund (other than the Mass Transit Account) $40,000,000 for each of fiscal years 1998 through 2000, $50,000,000 for fiscal year 2001, $60,000,000 for fiscal year 2002, and $70,000,000 for fiscal year 2003.

"(B) OBLIGATION AUTHORITY.—The Secretary shall provide equivalent amounts of obligation authority for the funds authorized under subparagraph (A).

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be determined in accordance with this section and the funds shall remain available in accordance with subsection (a).".

SEC. 1118. INTERSTATE 4R AND BRIDGE DISCRETIONARY PROGRAM.

(a) IN GENERAL.—Section 104 of title 23, United States Code (as amended by section 1113(c)(1)), is amended by inserting after subsection (j) the following:

"(k) SET-ASIDE FOR INTERSTATE 4R AND BRIDGE PROJECTS.—

"(1) IN GENERAL.—For each of fiscal years 1998 through 2003, before any apportionment is made under subsection (b)(1), the Secretary shall set aside $70,000,000 from amounts to be apportioned under subsection (b)(1)(A), and $70,000,000 from amounts to be apportioned under subsection (b)(1)(B), for allocation by the Secretary—

"(A) for projects for resurfacing, restoring, rehabilitating, or reconstructing any route or portion of a route on the Interstate System (other than any highway designated as a part of the Interstate System under section 103(c)(4) and any toll road on the Interstate System that is not subject to an agreement under section 119(e) (as in effect on December 17, 1991) or an agreement under section 129(a));

"(B) for projects for a highway bridge the replacement, rehabilitation, or seismic retrofit cost of which is more than $10,000,000; and

"(C) for projects for a highway bridge the replacement, rehabilitation, or seismic retrofit cost of which is less than $10,000,000 if the cost is at least twice the amount reserved under section 144(c) by the State in which the bridge is located for the fiscal year in which application is made for an allocation for the bridge under this subsection.

"(2) REQUIRED ALLOCATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each of fiscal years 1998 through 2003, the Secretary shall allocate on October 1, for use for highway bridge projects, at least $20,000,000 of the amounts set aside under paragraph (1) to any State that—

"(i) is apportioned for fiscal year 1998 under paragraphs (1)(B), (1)(C)(i)(III), and (3)(A)(iii) of subsection (b) an amount that is less than the amount apportioned to the State for the highway bridge replacement and rehabilitation program under section 144 for fiscal year 1997; and

"(ii) was apportioned for that program for fiscal year 1997 an amount greater than $125,000,000.

"(B) EXCEPTION.—A State that transferred funds from the highway bridge replacement and rehabilitation program during any of fiscal years 1995 through 1997 in an amount greater than 10 percent of the apportionments for that program for the fiscal year shall not be eligible for an allocation under subparagraph (A).

"(C) ADDITIONAL ALLOCATION.—An allocation to a State under subparagraph (A) shall be in addition to any allocation to the State under paragraph (1).

"(3) AVAILABILITY TO STATES OF INTERSTATE 4R FUNDS.—The Secretary may grant the application of a State for funds made available for a fiscal year for a project described in paragraph (1)(A) if the Secretary determines that—

"(A) the State has obligated or demonstrates that it will obligate for the fiscal year all of the apportionments to the State under subparagraphs (A) and (B) of subsection (b)(1) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project described in paragraph (1)(A) that has been submitted by the State to the Secretary for approval; and

"(B) the State is willing and able to—

"(i) obligate the funds within 1 year after the date on which the funds are made available;

"(ii) apply the funds to a project that is ready to be commenced; and

"(iii) in the case of construction work, begin work within 90 days after the date of obligation of the funds.

"(4) ELIGIBILITY OF CERTAIN BRIDGES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this subsection.

"(B) LIMITATION.—The amount of assistance under subparagraph (A) shall not exceed the cumulative amount that the agency has expended for capital and operating costs to subsidize the transit system.

"(C) DETERMINATION BY THE SECRETARY.—Before authorizing an expenditure of funds under this paragraph, the Secretary shall make a determination that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement, seismic retrofitting, or rehabilitation project.

"(D) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of expenditure.

"(5) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Amounts made available under this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 118 of title 23, United States Code, is amended by striking subsection (c).

SEC. 1119. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

"§ 322. Magnetic levitation transportation technology deployment program

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station.

"(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(4) PARTNERSHIP POTENTIAL.—The term 'partnership potential' has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1978).

"(b) ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make available financial assistance to provide the Federal share of full project costs of eligible projects selected under this section.

"(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than ⅔.

"(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

"(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

"(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

"(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

"(2) require an amount of Federal funds for project financing that will not exceed the sum of—

"(A) the amounts made available under subsection (h)(1)(A); and

"(B) the amounts made available by States under subsection (h)(4);

"(3) result in an operating transportation facility that provides a revenue producing service;

"(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

"(5) satisfy applicable statewide and metropolitan planning requirements;

"(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

"(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

"(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

"(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

"(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

"(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

"(3) States, regions, and localities financially contribute to the project;

"(4) implementation of the project will create new jobs in traditional and emerging industries;

"(5) the project will augment MAGLEV networks identified as having partnership potential;

"(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

"(7) financial assistance would foster the timely implementation of a project; and

"(8) life-cycle costs in design and engineering are considered and enhanced.

"(f) PROJECT SELECTION.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 eligible project for financial assistance.

"(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

"(h) FUNDING.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1999 and $20,000,000 for fiscal year 2000.

"(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

"(II) the availability of the funds shall be determined in accordance with paragraph (2).

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

"(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

"(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Infrastructure Finance and Innovation Act of 1997, including loans, loan guarantees, and lines of credit.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

"322. Magnetic levitation transportation technology deployment program.".

SEC. 1120. WOODROW WILSON MEMORIAL BRIDGE.

(a) DEFINITIONS.—Section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 628) is amended—

(1) in paragraph (3), by striking ", including approaches thereto"; and

(2) in paragraph (5), by striking "to be determined under section 407. Such" and all that follows and inserting the following: "as described in the record of decision executed by the Secretary in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The term includes ongoing short-term rehabilitation and repairs to the Bridge.".

(b) OWNERSHIP OF BRIDGE.—

(1) CONVEYANCE BY THE SECRETARY.—Section 407(a)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by inserting "or any Capital Region jurisdiction" after "Authority" each place it appears.

(2) AGREEMENT.—Section 407 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by striking subsection (c) and inserting the following:

"(c) AGREEMENT.—

"(1) IN GENERAL.—The agreement referred to in subsection (a) is an agreement concerning the Project that is executed by the Secretary and the Authority or any Capital Region jurisdiction that accepts ownership of the Bridge.

"(2) TERMS OF THE AGREEMENT.—The agreement shall—

"(A) identify whether the Authority or a Capital Region jurisdiction will accept ownership of the Bridge;

"(B) contain a financial plan satisfactory to the Secretary, which shall be prepared before the execution of the agreement, that specifies—

"(i) the total cost of the Project, including any cost-saving measures;

"(ii) a schedule for implementation of the Project, including whether any expedited design and construction techniques will be used; and

"(iii) the sources of funding that will be used to cover any costs of the Project not funded from funds made available under section 412; and

"(C) contain such other terms and conditions as the Secretary determines to be appropriate.".

(c) FEDERAL CONTRIBUTION.—The Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 627) is amended by adding at the end the following:

"SEC. 412. FEDERAL CONTRIBUTION.

"(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $100,000,000 for fiscal year 1998, $100,000,000 for fiscal year 1999, $125,000,000 for fiscal year 2000, $175,000,000 for fiscal year 2001, $200,000,000 for fiscal year 2002, and $200,000,000 for fiscal year 2003, to pay the costs of planning, preliminary engineering and design, final engineering, acquisition of rights-of-way, and construction of the Project, except that the costs associated with the Bridge shall be given priority over other eligible costs, other than design costs, of the Project.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that—

"(A) the funds shall remain available until expended;

"(B) the Federal share of the cost of the Bridge component of the Project shall not exceed 100 percent; and

"(C) the Federal share of the cost of any other component of the Project shall not exceed 80 percent.

"(b) USE OF APPORTIONED FUNDS.—Nothing in this title limits the authority of any Capital Region jurisdiction to use funds apportioned to the jurisdiction under paragraph (1) or (3) of section 104(b) of title 23, United States Code, in accordance with the requirements for such funds, to pay any costs of the Project.

"(c) AVAILABILITY OF APPORTIONED FUNDS.—None of the funds made available under this section shall be available before the execution of the agreement described in section 407(c), except that the Secretary may fund the maintenance and rehabilitation of the Bridge and the design of the Project.".

(d) CONFORMING AMENDMENT.—Section 405(b)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 629) is amended by striking "the Signatories as to the Federal share of the cost of the Project and the terms and conditions related to the timing of the transfer of the Bridge to".

SEC. 1121. NATIONAL HIGHWAY SYSTEM COMPONENTS.

The National Highway System consists of the routes and transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled "Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals" and dated May 24, 1996.

SEC. 1122. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) in the section heading, by striking "**program**";

(2) by striking subsections (a) through (n), (p), and (q);

(3) by inserting after the section heading the following:

"(a) DEFINITION OF REHABILITATE.—In this section, the term 'rehabilitate' (in any of its forms), with respect to a bridge, means to carry out major work necessary—

"(1) to address the structural deficiencies, functional obsolescence, or physical deterioration of the bridge; or

"(2) to correct a major safety defect of the bridge, including seismic retrofitting.

"(b) BRIDGE INVENTORY.—

"(1) IN GENERAL.—In consultation with the States, the Secretary shall—

"(A) annually inventory all highway bridges on public roads that cross waterways, other topographical barriers, other highways, and railroads;

"(B) classify each such bridge according to serviceability, safety, and essentiality for public use; and

"(C) assign each such bridge a priority for replacement or rehabilitation based on the classification under subparagraph (B).

"(2) CONSULTATION.—In preparing an inventory of highway bridges on Indian reservation roads and park roads under paragraph (1), the Secretary shall consult with the Secretary of the Interior and the States.

"(3) INVENTORY OF HISTORICAL BRIDGES.—At the request of a State, the Secretary may inventory highway bridges on public roads for historical significance.

"(c) CERTIFICATION BY THE STATE.—Not later than 180 days after the end of each fiscal year beginning with fiscal year 1998, each State shall certify to the Secretary, either that—

"(1) the State has reserved, from funds apportioned to the State for the preceding fiscal year, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), an amount that is not less than the amount apportioned to the State under this section for fiscal year 1997; or

"(2) the amount that the State will reserve, from funds apportioned to the State for the period consisting of fiscal years 1998 through 2001, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), will be not less than 4 times the amount apportioned to the State under this section for fiscal year 1997.

"(d) USE OF RESERVED FUNDS.—A State may use funds reserved under subsection (c) to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures on a highway bridge on a public road that crosses a waterway, other topographical barrier, other highway, or railroad.

"(e) OFF-SYSTEM BRIDGES.—

"(1) REQUIRED EXPENDITURE.—For each fiscal year, an amount equal to not less than 15 percent of the amount apportioned to a State under this section for fiscal year 1997 shall be expended by the State for projects to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures on highway bridges located on public roads that are functionally classified as local roads or rural minor collectors.

"(2) USE OF FUNDS TO MEET REQUIRED EXPENDITURE.—Funds reserved under subsection (c) and funds made available under section 104(b)(1) for the National Highway System or under section 104(b)(3) for the surface transportation program may be used to meet the requirement for expenditure under paragraph (1).

"(3) REDUCTION OF REQUIRED EXPENDITURE.—After consultation with local and State officials in a State, the Secretary may, with respect to the State, reduce the requirement for expenditure under paragraph (1) if the Secretary determines that the State has inadequate needs to justify the expenditure.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be as determined under section 120(b).

"(g) BRIDGE PERMIT EXEMPTION.—

"(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to each bridge authorized to be replaced, in whole or in part, under this section.

"(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425; 33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title if the bridge is over waters that are—

"(A) not used and not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(B)(i) not tidal; or

"(ii) tidal but used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

"(h) INDIAN RESERVATION ROAD BRIDGES.—

"(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

"(2) RESERVATION OF FUNDS.—

"(A) IN GENERAL.—Of the amounts authorized for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $9,000,000 for projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

"(B) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

"(i) have an opening of 20 feet or more;

"(ii) be on an Indian reservation road;

"(iii) be unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; and

"(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

"(3) APPROVAL REQUIREMENT.—Funds to carry out Indian reservation road bridge projects under this subsection shall be made available only on approval of plans, specifications, and estimates by the Secretary.";

(4) by redesignating subsection (o) as subsection (i); and

(5) in subsection (i) (as so redesignated)—

(A) in paragraph (1), by inserting "for alternative transportation purposes (including bikeway and walkway projects eligible for funding under this title)" after "adaptive reuse";

(B) in paragraph (3)—

(i) by inserting "(regardless of whether the intended use is for motorized vehicular traffic or for alternative public transportation purposes)" after "intended use"; and

(ii) by inserting "or for alternative public transportation purposes" after "no longer used for motorized vehicular traffic"; and

(C) in the second sentence of paragraph (4)—

(i) by inserting "for motorized vehicles, alternative vehicular traffic, or alternative public transportation" after "historic bridge"; and

(ii) by striking "up to an amount not to exceed the cost of demolition".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge replacement and rehabilitation.".

SEC. 1123. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHED PROGRAM.—Section 149(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(b) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended in the first sentence—

(1) by striking "that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994" and inserting "that is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) or classified as a submarginal ozone nonattainment area under that Act, or if the project or program is for a maintenance area,";

(2) in paragraph (1)—

(A) in subparagraph (A), by striking "clauses (xii) and" and inserting "clause"; and

(B) in subparagraph (B), by striking "such section" and inserting "section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))";

(3) in paragraph (2), by inserting "or maintenance" after "State implementation";

(4) in paragraph (3), by inserting "or maintenance of the standard" after "standard"; and

(5) in paragraph (4), by inserting "or maintenance" after "attainment".

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

"(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project eligible under the surface transportation program under section 133.

"(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2) for any project in the State eligible under section 133.".

(d) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended in the first sentence by striking "The" and inserting "Except in the case of a project funded from sums apportioned under section 104(b)(2), the".

(e) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended by inserting after the undesignated paragraph defining "maintenance" the following:

"The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).".

(2) Section 149(b)(1)(A)(ii) of title 23, United States Code, is amended by striking "an area" and all that follows and inserting "a maintenance area; or".

SEC. 1124. SAFETY BELT USE LAW REQUIREMENTS.

Section 355 of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended—

(1) in the section heading, by striking "**AND MAINE**";

(2) in subsection (a)—

(A) by striking "States of New Hampshire and Maine shall each" and inserting "State of New Hampshire shall"; and

(B) in paragraph (1), by striking "and 1996" and inserting "through 2000"; and

(3) by striking "or Maine" each place it appears.

SEC. 1125. SENSE OF THE SENATE CONCERNING RELIANCE ON PRIVATE ENTERPRISE.

(a) IN GENERAL.—It is the sense of the Senate that each agency authorized to expend funds made available under this Act, or an amendment made by this Act, or a recipient of any form of a grant or other Federal assistance under this Act, or an amendment made by this Act—

(1) should, in expending the funds or assistance, rely on entities in the private enterprise system to provide such goods and services as are reasonably and expeditiously available through ordinary business channels; and

(2) shall not duplicate or compete with entities in the private enterprise system.

(b) PROCEDURES.—The Secretary should provide procedures to inform each agency that administers this Act and each recipient of a grant or other Federal assistance of the sense of the Senate expressed in subsection (a).

SEC. 1126. STUDY OF USE OF UNIFORMED POLICE OFFICERS ON FEDERAL-AID HIGHWAY CONSTRUCTION PROJECTS.

(a) IN GENERAL.—In consultation with the States and State transportation departments, the Secretary shall conduct a study on the extent and effectiveness of use by States of uniformed police officers on Federal-aid highway construction projects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a), including any legislative and administrative recommendations of the Secretary.

SEC. 1127. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)(i), by striking ", except to" and all that follows through "services";

(2) by striking subparagraph (C) and inserting the following:

"(C) SELECTION, PERFORMANCE, AND AUDITS.—

"(i) IN GENERAL.—All requirements for architectural, engineering, and related services at any phase of a highway project funded in whole or in part with Federal-aid highway funds shall be performed by a contract awarded in accordance with subparagraph (A).

"(ii) PROHIBITION ON STATE RESTRICTION.—A State shall not impose any overhead restriction that would preclude any qualified firm from being eligible to compete for contracts awarded in accordance with subparagraph (A).

"(iii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATIONS.—The process for selection, award, performance, administration, and audit of the resulting contracts shall comply with the cost principles and cost accounting principles of the Federal Acquisition Regulations, including parts 30, 31, and 36 of the Regulations."; and

(3) by adding at the end the following:

"(H) COMPLIANCE.—

"(i) IN GENERAL.—A State shall comply with the qualifications-based selection process, contracting based on the Federal Acquisition Regulations, and the single audit procedures required under this paragraph, or with an existing State law or a statute enacted in accordance with the legislative session exemption under subparagraph (G), with respect to any architecture, engineering, or related service contract for any phase of a Federal-aid highway project.

"(ii) STATES WITH ALTERNATIVE PROCESS.—Any State that, after November 28, 1995, enacted legislation to establish an alternative State process as a substitute for the contract administration and audit procedures required under this paragraph or was granted a waiver under subparagraph (G) shall submit the legislation to the Secretary, not later than 60 days after the date of enactment of this subparagraph, for certification that the State legislation is in compliance with the statutory timetable and substantive criteria specified in subparagraph (G).".

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

SEC. 1201. ADMINISTRATIVE EXPENSES.

Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133, the congestion mitigation and air quality improvement program under section 149, or the Interstate and National Highway System program under section 103, the Secretary shall deduct a sum, in an amount not to exceed 1½ percent of all sums so made available, as the Secretary determines necessary to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2.

"(2) CONSIDERATION OF UNOBLIGATED BALANCES.—In making the determination described in paragraph (1), the Secretary shall take into account the unobligated balance of any sums deducted under this subsection in prior fiscal years.

"(3) AVAILABILITY.—The sum deducted under paragraph (1) shall remain available until expended.".

SEC. 1202. REAL PROPERTY ACQUISITION AND CORRIDOR PRESERVATION.

(a) ADVANCE ACQUISITION OF REAL PROPERTY.—Section 108 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 108. Advance acquisition of real property";

and

(2) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

"(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.".

(b) CREDIT FOR ACQUIRED LANDS.—Section 323(b) of title 23, United States Code, is amended—

(1) in the subsection heading, by striking "DONATED" and inserting "ACQUIRED";

(2) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

"(A) is obtained by the State, without violation of Federal law; and

"(B) is incorporated into the project.

"(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

"(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

"(B) the fair market value of donated land shall be established as of the earlier of—

"(i) the date on which the donation becomes effective; or

"(ii) the date on which equitable title to the land vests in the State.";

(3) by striking paragraph (3);

(4) in paragraph (4), by striking "to which the donation is applied"; and

(5) by redesignating paragraph (4) as paragraph (3).

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 108 and inserting the following:

"108. Advance acquisition of real property.".

SEC. 1203. AVAILABILITY OF FUNDS.

Section 118 of title 23, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of a project agreement, shall be credited to the same program funding category for which the funds were previously apportioned and shall be immediately available for obligation.

"(2) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—Any Federal-aid highway funds apportioned to a State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of this paragraph) and credited under paragraph (1) may be transferred by the Secretary in accordance with section 103(d).".

SEC. 1204. PAYMENTS TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second and third sentences and inserting the following: "The payments may also be made for the value of such materials as—

"(1) have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

"(2) are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in the vicinity.";

(2) by striking subsection (b) and inserting the following:

"(b) PROJECT AGREEMENTS.—

"(1) PAYMENTS.—A payment under this chapter may be made only for a project covered by a project agreement.

"(2) SOURCE OF PAYMENTS.—After completion of a project in accordance with the project agreement, a State shall be entitled to payment, out of the appropriate sums apportioned or allocated to the State, of the unpaid balance of the Federal share of the cost of the project.";

(3) by striking subsections (c) and (d); and

(4) by redesignating subsection (e) as subsection (c).

SEC. 1205. PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.

(a) IN GENERAL.—Section 156 of title 23, United States Code, is amended to read as follows:

"§ 156. Proceeds from the sale or lease of real property

"(a) MINIMUM CHARGE.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

"(b) EXCEPTIONS.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

"(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 156 and inserting the following:

"156. Proceeds from the sale or lease of real property.".

SEC. 1206. METRIC CONVERSION AT STATE OPTION.

Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking "Before September 30, 2000, the" and inserting "The".

SEC. 1207. REPORT ON OBLIGATIONS.

Section 104(m) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended—

(1) by inserting "REPORT TO CONGRESS.—" before "The Secretary";

(2) by striking "not later than" and all that follows through "a report" and inserting "a report for each fiscal year";

(3) in paragraph (1), by striking "preceding calendar month" and inserting "preceding fiscal year";

(4) by striking paragraph (2);

(5) in paragraph (3), by striking "such preceding month" and inserting "that preceding fiscal year"; and

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 1208. TERMINATIONS.

(a) RIGHT-OF-WAY REVOLVING FUND.—Section 108 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TERMINATION OF RIGHT-OF-WAY REVOLVING FUND.—

"(1) IN GENERAL.—Funds apportioned and advanced to a State by the Secretary from the right-of-way revolving fund established by this section prior to the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997 shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

"(2) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in paragraph (1), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

"(A) the Highway Trust Fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

"(B) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund.".

(b) PILOT TOLL COLLECTION PROGRAM.—Section 129 of title 23, United States Code, is amended by striking subsection (d).

(c) NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.—As soon as practicable after the date of enactment of this Act, the Secretary shall take such action as is necessary for the termination of the National Recreational Trails Advisory Committee established by section 1303 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1262) (as in effect on the day before the date of enactment of this Act).

(d) CONGRESSIONAL BRIDGE COMMISSIONS.—Public Law 87–441 (76 Stat. 59) is repealed.

SEC. 1209. INTERSTATE MAINTENANCE.

(a) INTERSTATE FUNDS.—Section 119 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (d); and

(3) by striking subsection (f) and inserting the following:

"(f) TRANSFERABILITY OF FUNDS.—

"(1) UNCONDITIONAL.—A State may transfer an amount not to exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).

"(2) UPON ACCEPTANCE OF CERTIFICATION.—If a State certifies to the Secretary that any part of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) is in excess of the needs of the State for resurfacing, restoring, rehabilitating, or reconstructing routes and bridges on the Interstate System in the State and that the State is adequately maintaining the routes and bridges, and the Secretary accepts the certification, the State may transfer, in addition to the amount authorized to be transferred under paragraph (1), an amount not to exceed 20 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).".

(b) ELIGIBILITY.—Section 119 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking "and rehabilitating" and inserting ", rehabilitating, and reconstructing";

(2) by striking subsections (b), (c), (e), and (g);

(3) by inserting after subsection (a) the following:

"(b) ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—A State—

"(A) may use funds apportioned under subparagraph (A) or (B) of section 104(b)(1) for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System, including—

"(i) resurfacing, restoring, rehabilitating, and reconstructing bridges, interchanges, and overcrossings;

"(ii) acquiring rights-of-way; and

"(iii) intelligent transportation system capital improvements that are infrastructure-based to the extent that they improve the performance of the Interstate System; but

"(B) may not use the funds for construction of new travel lanes other than high-occupancy vehicle lanes or auxiliary lanes.

"(2) EXPANSION OF CAPACITY.—

"(A) USING TRANSFERRED FUNDS.—Notwithstanding paragraph (1), funds transferred

under subsection (c)(1) may be used for construction to provide for expansion of the capacity of an Interstate System highway (including a bridge).

"(B) USING FUNDS NOT TRANSFERRED.—

"(i) IN GENERAL.—In lieu of transferring funds under subsection (c)(1) and using the transferred funds for the purpose described in subparagraph (A), a State may use an amount of the sums apportioned to the State under subparagraph (A) or (B) of section 104(b)(1) for the purpose described in subparagraph (A).

"(ii) LIMITATION.—The sum of the amount used under clause (i) and any amount transferred under subsection (c)(1) by a State may not exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1)."; and

(4) by redesignating subsection (f) as subsection (c).

(c) CONFORMING AMENDMENTS.—

(1) Section 119(a) of title 23, United States Code, is amended in the first sentence by striking "; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in subsection (e)".

(2) Section 1009(c)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 119 note; 105 Stat. 1934) is amended by striking "section 119(f)(1)" and inserting "section 119(c)(1)".

CHAPTER 2—PROJECT APPROVAL

SEC. 1221. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code (as amended by section 1118), is amended by inserting after subsection (k) the following:

"(l) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of that chapter relating to the non-Federal share shall apply to the transferred funds.

"(3) TRANSFER TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Funds made available under this title or chapter 53 of title 49 and transferred to the National Railroad Passenger Corporation or to any publicly-owned intercity or intracity passenger rail line shall be administered by the Secretary in accordance with subtitle V of title 49, except that the provisions of this title or chapter 53 of title 49, as applicable, relating to the non-Federal share shall apply to the transferred funds.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) through (3) shall be transferred in the same manner and amount as the funds for the projects are transferred.".

SEC. 1222. PROJECT APPROVAL AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 106. Project approval and oversight";

(2) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(3) by striking subsections (a) through (d) and inserting the following:

"(a) IN GENERAL.—Except as otherwise provided in this section, the State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require. The Secretary shall act upon such plans, specifications, and estimates as soon as practicable after they have been submitted, and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval. The execution of such project agreement shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

"(b) PROJECT AGREEMENT.—The project agreement shall make provision for State funds required for the State's pro rata share of the cost of construction of the project and for the maintenance of the project after completion of construction. The Secretary may rely upon representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

"(c) SPECIAL RULES FOR PROJECT OVERSIGHT.—

"(1) NHS PROJECTS.—Except as otherwise provided in subsection (d) of this section, the Secretary may discharge to the State any of the Secretary's responsibilities for the design, plans, specifications, estimates, contract awards, and inspection of projects under this title on the National Highway System. Before discharging responsibilities to the State, the Secretary shall reach agreement with the State as to the extent to which the State may assume the responsibilities of the Secretary under this subsection. The Secretary may not assume any greater responsibility than the Secretary is permitted under this title as of September 30, 1997, except upon agreement by the Secretary and the State.

"(2) NON-NHS PROJECTS.—For all projects under this title that are off the National Highway System, the State may request that the Secretary no longer review and approve the design, plans, specifications, estimates, contract awards, and inspection of projects under this title. After receiving any such request, the Secretary shall undertake project review only as requested by the State.

"(d) RESPONSIBILITIES OF THE SECRETARY.—

"(1) IN GENERAL.—Subject to paragraph (2), nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under any Federal law other than this title.

"(2) LIMITATION.—Any responsibility or obligation of the Secretary under sections 113 and 114 of this title shall not be affected and may not be discharged under this section, section 133, or section 149.

"(e) VALUE ENGINEERING ANALYSIS.—In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid highway shall be accompanied by a value engineering or other cost reduction analysis.

"(f) FINANCIAL PLAN.—The Secretary shall require a financial plan to be prepared for any project with an estimated total cost of $1,000,000,000 or more.".

(b) STANDARDS.—

(1) ELIMINATION OF GUIDELINES AND ANNUAL CERTIFICATION REQUIREMENTS.—Section 109 of title 23, United States Code, is amended—

(A) by striking subsection (m); and

(B) by redesignating subsections (n) through (q) as subsections (m) through (p), respectively.

(2) SAFETY STANDARDS.—Section 109 of title 23, United States Code (as amended by paragraph (1)), is amended by adding at the end the following:

"(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction.".

(c) PROGRAMS; PROJECT AGREEMENTS; CERTIFICATION ACCEPTANCE.—Sections 110 and 117 of title 23, United States Code, are repealed.

(d) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23 is amended—

(A) by striking the item relating to section 106 and inserting the following:

"106. Project approval and oversight.";

and

(B) by striking the items relating to sections 110 and 117.

(2) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining "project agreement" by striking "the provisions of subsection (a) of section 110 of this title" and inserting "section 106".

(3) Section 114(a) of title 23, United States Code, is amended in the second sentence by striking "section 117 of this title" and inserting "section 106".

SEC. 1223. SURFACE TRANSPORTATION PROGRAM.

(a) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "10" and inserting "8"; and

(B) in the first sentence of paragraph (3)(A), by striking "80" and inserting "82"; and

(2) in subsection (e)—

(A) in paragraph (3)(B)(i), by striking "if the Secretary" and all that follows through "activities"; and

(B) in paragraph (5), by adding at the end the following:

"(C) INNOVATIVE FINANCING.—

"(i) IN GENERAL.—For each fiscal year, the average annual non-Federal share of the total cost of all projects to carry out transportation enhancement activities in a State shall be not less than the non-Federal share authorized for the State under section 120(b).

"(ii) EXCEPTION.—Subject to clause (i), notwithstanding section 120, in the case of projects to carry out transportation enhancement activities—

"(I) funds from other Federal agencies, and other contributions that the Secretary determines are of value, may be credited toward the non-Federal share of project costs;

"(II) the non-Federal share may be calculated on a project, multiple-project, or program basis; and

"(III) the Federal share of the cost of an individual project subject to subclause (I) or (II) may be equal to 100 percent.".

(b) PROGRAM APPROVAL.—Section 133(e) of title 23, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) PROGRAM APPROVAL.—

"(A) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

"(i) certifies that the State will meet all the requirements of this section; and

"(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

"(B) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—As necessary, each State shall request from the Secretary adjustments to the amount of obligations referred to in subparagraph (A)(ii).

"(C) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.".

(c) PAYMENTS.—Section 133(e)(3)(A) of title 23, United States Code, is amended by striking the second sentence.

SEC. 1224. DESIGN-BUILD CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) in paragraph (2)(A), by striking "Each" and inserting "Subject to paragraph (3), each"; and

(3) by adding at the end the following:

"(3) DESIGN-BUILD CONTRACTING.—

"(A) IN GENERAL.—A State transportation department may award a contract for the design and construction of a qualified project described in subparagraph (B) using competitive selection procedures approved by the Secretary.

"(B) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter that involves installation of an intelligent transportation system or that consists of a usable project segment and for which—

"(i) the Secretary has approved the use of design-build contracting described in subparagraph (A) under criteria specified in regulations promulgated by the Secretary; and

"(ii) the total costs are estimated to exceed—

"(I) in the case of a project that involves installation of an intelligent transportation system, $5,000,000; and

"(II) in the case of a usable project segment, $50,000,000.".

(b) COMPETITIVE BIDDING DEFINED.—Section 112 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) COMPETITIVE BIDDING DEFINED.—In this section, the term 'competitive bidding' means the procedures used to award contracts for engineering and design services under subsection (b)(2) and design-build contracts under subsection (b)(3).".

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date specified in subsection (e), the Secretary shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENTS.—The regulations shall—

(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department of design-build contracting; and

(B) establish the procedures to be followed by a State transportation department for obtaining the Secretary's approval of the use of design-build contracting by the department and the selection procedures used by the department.

(d) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act.

(e) EFFECTIVE DATE FOR AMENDMENTS.—The amendments made by this section take effect 2 years after the date of enactment of this Act.

SEC. 1225. INTEGRATED DECISIONMAKING PROCESS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"§ 354. Integrated decisionmaking process

"(a) DEFINITIONS.—In this section:

"(1) INTEGRATED DECISIONMAKING PROCESS.—The term 'integrated decisionmaking process' means the integrated decisionmaking process established with respect to a surface transportation project under subsection (b).

"(2) NEPA PROCESS.—The term 'NEPA process' means the process of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a surface transportation project.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(4) SURFACE TRANSPORTATION PROJECT.—The term 'surface transportation project' means—

"(A) a highway construction project that is subject to the approval of the Secretary under title 23; and

"(B) a capital project (as defined in section 5302(a)(1)).

"(b) ESTABLISHMENT OF INTEGRATED DECISIONMAKING PROCESSES FOR SURFACE TRANSPORTATION PROJECTS.—The Secretary shall—

"(1) establish an integrated decisionmaking process for surface transportation projects that designates major decision points likely to have significant environmental effects and conflicts; and

"(2) integrate the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with the requirements established by the Secretary for transportation planning and decisionmaking.

"(c) INTEGRATED DECISIONMAKING GOALS.—The integrated decisionmaking process for surface transportation projects should, to the maximum extent practicable, accomplish the following major goals:

"(1) Integrate the NEPA process with the planning, predesign stage, and decisionmaking for surface transportation projects at the earliest possible time.

"(2) Integrate all applicable Federal, State, tribal, and local permitting requirements.

"(3) Integrate national transportation, social, safety, economic, and environmental goals with State, tribal, and local land use and growth management initiatives.

"(4) Consolidate Federal, State, tribal, and local decisionmaking to achieve the best overall public interest according to an agreed schedule.

"(d) STREAMLINING.—

"(1) AVOIDANCE OF DELAYS, PREVENTION OF CONFLICTS, AND ELIMINATION OF UNNECESSARY DUPLICATION.—The Secretary shall design the integrated decisionmaking process to avoid delays in decisionmaking, prevent conflicts between cooperating agencies and members of the public, and eliminate unnecessary duplication of review and decisionmaking relating to surface transportation projects.

"(2) INTEGRATION; COMPREHENSIVE PROCESS.—The NEPA process—

"(A) shall be integrated with the transportation planning and decisionmaking of the Federal, State, tribal, and local transportation agencies; and

"(B) serve as a comprehensive decisionmaking process.

"(3) OTHER REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall—

"(i) establish a concurrent transportation and environmental coordination process to reduce paperwork, combine review documents, and eliminate duplicative reviews;

"(ii) develop interagency agreements to streamline and improve interagency coordination and processing time;

"(iii) apply strategic and programmatic approaches to better integrate and expedite the NEPA process and transportation decisionmaking; and

"(iv) ensure, in appropriate cases, by conducting concurrent reviews whenever possible, that any analyses and reviews conducted by the Secretary consider the needs of other reviewing agencies.

"(B) TIME SCHEDULES.—To comply with subparagraph (A)(ii), time schedules shall be consistent with sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations (or any successor regulations).

"(4) CONCURRENT PROCESSING.—

"(A) IN GENERAL.—The integrated decisionmaking process shall, to the extent practicable, include a procedure to provide for concurrent (rather than sequential) processing of all Federal, State, tribal, and local reviews and decisions emanating from those reviews.

"(B) INCONSISTENCY WITH OTHER REQUIREMENTS.—Subparagraph (A) does not require concurrent review if concurrent review would be inconsistent with other statutory or regulatory requirements.

"(e) INTERAGENCY COOPERATION.—

"(1) LEAD AND COOPERATING AGENCY CONCEPTS.—The lead and cooperating agency concepts of section 1501 of title 40, Code of Federal Regulations (or any successor regulation), shall be considered essential elements to ensure integration of transportation decisionmaking.

"(2) RESPONSIBILITIES.—The Secretary shall—

"(A) not later than 60 days after the date on which a surface transportation project is selected for study by a State, identify each Federal agency that may be required to participate in the integrated decisionmaking process relating to the surface transportation project and notify the agency of the surface transportation project;

"(B) afford State, regional, tribal, and local governments with decisionmaking authority on surface transportation projects the opportunity to serve as cooperating agencies;

"(C) provide cooperating agencies the results of any analysis or other information related to a surface transportation project;

"(D) host an early scoping meeting for Federal agencies and, when appropriate, conduct field reviews, as soon as practicable in the environmental review process;

"(E) solicit from each cooperating agency as early as practicable the data and analyses necessary to facilitate execution of the duties of each cooperating agency;

"(F) use, to the maximum extent possible, scientific, technical, and environmental data and analyses previously prepared by or for other Federal, State, tribal, or local agencies, after an independent evaluation by the Secretary of the data and analyses;

"(G) jointly, with the cooperating agencies, host public meetings and other community participation processes; and

"(H) ensure that the NEPA process and documentation provide all necessary information for the cooperating agency to—

"(i) discharge the responsibilities of the cooperating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other law; and

"(ii) grant approvals, permits, licenses, and clearances.

"(f) ENHANCED SCOPING PROCESS.—During the scoping process for a surface transportation project, in addition to other statutory and regulatory requirements, the Secretary shall, to the extent practicable—

"(1) provide the public with clearly understandable milestones that occur during an integrated decisionmaking process;

"(2) ensure that all agencies with jurisdiction by law or with special expertise have sufficient information and data to discharge their responsibilities;

"(3) ensure that all agencies with jurisdiction by law or with special expertise, and the public, are invited to participate in the initial scoping process;

"(4) coordinate with other agencies to ensure that the agencies provide to the Secretary, not later than 30 days after the first interagency scoping meeting, any preliminary concerns about how the proposed project may affect matters within their jurisdiction or special expertise based on information available at the time of the scoping meeting; and

"(5) in cooperation with all cooperating agencies, develop a schedule for conducting all necessary environmental and other review processes.

"(g) USE OF TITLE 23 FUNDS.—

"(1) USE BY STATES.—A State may use funds made available under section 104(b) or 105 of title 23 or section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1997 to provide resources to Federal or State agencies involved in the review or permitting process for a surface transportation project in order to meet a time schedule established under this section.

"(2) USE AT SECRETARY'S DISCRETION.—At the request of another Federal agency involved in the review or permitting process for a surface transportation project, the Secretary may provide funds under chapter 1 of title 23 to the agency to provide resources necessary to meet the time schedules established under this section.

"(2) AMOUNT.—Funds may be provided under paragraph (1) in the amount by which the cost to complete a environmental review in accordance with a time schedule established under this section exceeds the cost that would be incurred if there were no such time schedule.

"(3) NOT FINAL AGENCY ACTION.—The provision of funds under paragraph (1) does not constitute a final agency action.

"(h) STATE ROLE.—

"(1) IN GENERAL.—For any project eligible for assistance under chapter 1 of title 23, a State may require, by law or agreement coordinating with all related State agencies, that all State agencies that—

"(A) have jurisdiction by Federal or State law over environmental, growth management, or land-use related issues that may be affected by a surface transportation project; or

"(B) have responsibility for issuing any environment related reviews, analyses, opinions, or determinations;

be subject to the coordinated environmental review process provided under this section in issuing any analyses or approvals or taking any other action relating to the project.

"(2) ALL AGENCIES.—If a State requires that any State agency participate in a coordinated environmental review process, the State shall require all affected State agencies to participate.

"(i) EARLY ACTION REGARDING POTENTIALLY INSURMOUNTABLE OBSTACLES.—If, at any time during the integrated decisionmaking process for a proposed surface transportation project, a cooperating agency determines that there is any potentially insurmountable obstacle associated with any of the alternative transportation projects that might be undertaken to address the obstacle, the Secretary shall—

"(1) convene a meeting among the cooperating agencies to address the obstacle;

"(2) initiate conflict resolution efforts under subsection (j); or

"(3) eliminate from consideration the alternative transportation project with which the obstacle is associated.

"(j) CONFLICT RESOLUTION.—

"(1) FORUM.—The NEPA process shall be used as a forum to coordinate the actions of Federal, State, regional, tribal, and local agencies, the private sector, and the public to develop and shape surface transportation projects.

"(2) APPROACHES.—Collaborative, problem solving, and consensus building approaches shall be used (and, when appropriate, mediation may be used) to implement the integrated decisionmaking process with a goal of appropriately considering factors relating to transportation development, economic prosperity, protection of public health and the environment, community and neighborhood preservation, and quality of life for present and future generations.

"(3) UNRESOLVED ISSUES.—

"(A) NOTIFICATION.—If, before the final transportation NEPA document is approved—

"(i) an issue remains unresolved between the lead Federal agency and the cooperating agency; and

"(ii) efforts have been exhausted to resolve the issue at the field levels of each agency—

"(I) within the applicable timeframe of the interagency schedule established under subsection (f)(5); or

"(II) if no timeframe is established, within 90 days;

the field level officer of the lead agency shall notify the field level officer of the cooperating agency that the field level officer of the lead agency intends to bring the issue to the personal attention of the heads of the agencies.

"(B) EFFORTS BY THE AGENCY HEADS.—The head of the lead agency shall contact the head of the cooperating agency and attempt to resolve the issue within 30 days after notification by the field level officer of the unresolved issue.

"(C) CONSULTATION WITH CEQ.—The heads of the agencies are encouraged to consult with the Chair of the Council on Environmental Quality during the 30-day period under subparagraph (B).

"(D) FAILURE TO RESOLVE.—If the heads of the agencies do not resolve the issue within the time specified in subparagraph (B), the referral process under part 1504 of title 40, Code of Federal Regulations (or any successor regulation), shall be initiated with respect to the issue.

"(k) JUDICIAL REVIEW.—Nothing in this section affects the reviewability of any final agency action in a district court of the United States or any State court.

"(l) STATUTORY CONSTRUCTION.—Nothing in this section affects—

"(1) the applicability of the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other statute; or

"(2) the responsibility of any Federal, State, tribal, or local officer to comply with or enforce any statute or regulation.".

(b) TIMETABLE; REPORT TO CONGRESS.—The Secretary, in consultation with the Chair of the Council on Environmental Quality and after notice and opportunity for public comment—

(1) not later than 180 days after the date of enactment of this Act, shall design the integrated decisionmaking process required by the amendment made by subsection (a);

(2) not later than 1 year after the date of enactment of this Act, shall promulgate a regulation governing implementation of an integrated decisionmaking process in accordance with the amendment made by subsection (a); and

(3) not later than 2 years after the date of enactment of this Act, shall submit to Congress a report identifying any additional legislative or other solutions that would further enhance the integrated decisionmaking process.

(c) CONFORMING AMENDMENT.—The analysis for subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"354. Integrated decisionmaking process.".

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

SEC. 1231. DEFINITION OF OPERATIONAL IMPROVEMENT.

Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining "operational improvement" and inserting the following:

"The term 'operational improvement' means the installation, operation, or maintenance, in accordance with subchapter II of chapter 5, of public infrastructure to support intelligent transportation systems and includes the installation or operation of any traffic management activity, communication system, or roadway weather information and prediction system, and any other improvement that the Secretary may designate that enhances roadway safety and mobility during adverse weather.".

SEC. 1232. ELIGIBILITY OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended by inserting "in accordance with sections 103, 133, and 149," after "toll or free,".

(b) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(5) of title 23, United States Code (as amended by section 1234), is amended by adding at the end the following:

"(R) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(c) SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following:

"(12) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(d) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (4) the following:

"(5) if the project or program is to construct a ferry boat or ferry terminal facility and if the conditions described in section 129(c) are met.".

SEC. 1233. FLEXIBILITY OF SAFETY PROGRAMS.

Section 133(d) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) SAFETY PROGRAMS.—

"(A) IN GENERAL.—With respect to funds apportioned for each of fiscal years 1998 through 2003—

"(i) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130;

"(ii) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 152; and

"(iii) an amount equal to 6 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130 or 152.

"(B) TRANSFER OF FUNDS.—If a State certifies to the Secretary that any part of the amount set aside by the State under subparagraph (A)(i) is in excess of the needs of the State for activities under section 130 and the Secretary accepts the certification, the State may transfer that excess part to the set-aside of the State under subparagraph (A)(ii).

"(C) TRANSFERS TO OTHER SAFETY PROGRAMS.—A State may transfer funds set aside under subparagraph (A)(iii) to the apportionment of the State under section 402 or the allocation of the State under section 31104 of title 49.".

SEC. 1234. ELIGIBILITY OF PROJECTS ON THE NATIONAL HIGHWAY SYSTEM.

Section 103(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

"(5) ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1)(C) for the National Highway System may be obligated for any of the following:

"(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

"(B) Operational improvements for segments of the National Highway System.

"(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, construction of a transit project eligible for assistance under chapter 53 of title 49, and capital improvements to any National Railroad Passenger Corporation passenger rail line or any publicly-owned intercity passenger rail line, if—

"(i) the highway, transit, or rail project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

"(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

"(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

"(D) Highway safety improvements for segments of the National Highway System.

"(E) Transportation planning in accordance with sections 134 and 135.

"(F) Highway research and planning in accordance with chapter 5.

"(G) Highway-related technology transfer activities.

"(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(I) Fringe and corridor parking facilities.

"(J) Carpool and vanpool projects.

"(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(L) Development, establishment, and implementation of management systems under section 303.

"(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101-640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction, except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

"(N) Publicly-owned intracity or intercity passenger rail or bus terminals, including terminals of the National Railroad Passenger Corporation and publicly-owned intermodal surface freight transfer facilities, other than seaports and airports, if the terminals and facilities are located on or adjacent to National Highway System routes or connections to the National Highway System selected in accordance with paragraph (2).

"(O) Infrastructure-based intelligent transportation systems capital improvements.

"(P) In the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, any project eligible for funding under section 133, any airport, and any seaport.

"(Q) Publicly owned components of magnetic levitation transportation systems.".

SEC. 1235. ELIGIBILITY OF PROJECTS UNDER THE SURFACE TRANSPORTATION PROGRAM.

Section 133(b) of title 23, United States Code (as amended by section 1232(c)), is amended—

(1) in paragraph (2), by striking "and publicly owned intracity or intercity bus terminals and facilities" and inserting ", including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus or rail";

(2) in paragraph (3)—

(A) by striking "and bicycle" and inserting "bicycle"; and

(B) by inserting before the period at the end the following: ", and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)";

(3) in paragraph (4)—

(A) by inserting ", publicly owned passenger rail," after "Highway";

(B) by inserting "infrastructure" after "safety"; and

(C) by inserting before the period at the end the following: ", and any other noninfrastructure highway safety improvements";

(4) in the first sentence of paragraph (11)—

(A) by inserting "natural habitat and" after "participation in" each place it appears;

(B) by striking "enhance and create" and inserting "enhance, and create natural habitats and"; and

(C) by inserting "natural habitat and" before "wetlands conservation"; and

(5) by adding at the end the following:

"(13) Publicly owned intercity passenger rail infrastructure, including infrastructure owned by the National Railroad Passenger Corporation.

"(14) Publicly owned passenger rail vehicles, including vehicles owned by the National Railroad Passenger Corporation.

"(15) Infrastructure-based intelligent transportation systems capital improvements.

"(16) Publicly owned components of magnetic levitation transportation systems.

"(17) Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.".

SEC. 1236. DESIGN FLEXIBILITY.

Section 109 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) REQUIREMENTS FOR FACILITIES.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

"(A) adequately serve the existing traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

"(B) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in subparagraph (A) and to conform to the particular needs of each locality.

"(2) CONSIDERATION OF PLANNED FUTURE TRAFFIC DEMANDS.—In carrying out paragraph (1), the Secretary shall ensure the consideration of the planned future traffic demands of the facility.".

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

SEC. 1301. STATE INFRASTRUCTURE BANK PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 162. State infrastructure bank program

"(a) DEFINITIONS.—In this section:

"(1) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

"(A) to provide credit enhancements;

"(B) to serve as a capital reserve for bond or debt instrument financing;

"(C) to subsidize interest rates;

"(D) to ensure the issuance of letters of credit and credit instruments;

"(E) to finance purchase and lease agreements with respect to transit projects;

"(F) to provide bond or debt financing instrument security; and

"(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which the assistance is being provided.

"(2) STATE.—The term 'State' has the meaning given the term under section 401.

"(b) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—

"(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

"(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

"(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

"(c) FUNDING.—

"(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

"(A)(i) the total amount of funds apportioned to the State under each of paragraphs (1) and (3) of section 104(b), excluding funds set aside under paragraphs (1) and (2) of section 133(d); and

"(ii) the total amount of funds allocated to the State under section 105 and under section 1102 of the Intermodal Surface Transportation Efficiency Act of 1997;

"(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49) under sections 5307, 5309, and 5311 of title 49; and

"(C) the total amount of funds made available to the State under subtitle V of title 49.

"(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

"(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

"(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

"(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

"(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

"(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

"(e) QUALIFYING PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under this title, for capital projects (as defined in section 5302 of title 49), or for any other project that the Secretary determines to be appropriate.

"(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under subparagraph (A) or (B) of section 104(b)(1) may be used only to provide assistance with respect to projects eligible for assistance under those subparagraphs.

"(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49 shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

"(f) INFRASTRUCTURE BANK REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

"(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c);

"(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

"(C) ensure that investment income generated by funds contributed to the bank will be—

"(i) credited to the bank;

"(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

"(iii) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

"(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

"(E) ensure that repayment of the loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

"(F) ensure that the term for repaying any loan will not exceed the lesser of—

"(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

"(ii) the useful life of the investment; and

"(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

"(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

"(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

"(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

"(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

"(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59) to comply with this section.

"(i) APPLICABILITY OF FEDERAL LAW.—

"(1) IN GENERAL.—The requirements of this title or title 49 that would otherwise apply to funds made available under that title and projects assisted with those funds shall apply to—

"(A) funds made available under that title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under section (f); and

"(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of that title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.

"(2) REPAYMENTS.—The requirements of this title or title 49 shall not apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall not be considered to be Federal funds.

"(j) UNITED STATES NOT OBLIGATED.—

"(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

"(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

"(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

"(l) PROGRAM ADMINISTRATION.—

"(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

"(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"162. State infrastructure bank program.".

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

SEC. 1311. SHORT TITLE.

This chapter may be cited as the "Transportation Infrastructure Finance and Innovation Act of 1997".

SEC. 1312. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 1313. DEFINITIONS.

In this chapter:

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) interest during construction, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

(3) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(4) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 1316 to provide a direct loan at a future date upon the occurrence of certain events.

(5) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(6) LOCAL SERVICER.—The term "local servicer" means—

(A) a State infrastructure bank established under title 23, United States Code; or

(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

(7) OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term "project" means any surface transportation project eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code.

(9) PROJECT OBLIGATION.—The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) SECURED LOAN.—The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 1315.

(11) STATE.—The term "State" has the meaning given the term in section 101 of title 23, United States Code.

(12) SUBSTANTIAL COMPLETION.—The term "substantial completion" means the opening of a project to vehicular or passenger traffic.

SEC. 1314. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

(A) shall be included in the State transportation plan required under section 135 of title 23, United States Code; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this chapter, shall be included in the approved State transportation improvement program required under section 134 of that title.

(2) APPLICATION.—A State, a local servicer identified under section 1317(a), or the entity undertaking the project shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) 50 percent of the amount of Federal-aid highway funds apportioned for the most recently-completed fiscal year under title 23, United States Code, to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

(2) SELECTION CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

(C) The extent to which assistance under this chapter would foster innovative public-private partnerships and attract private debt or equity investment.

(D) The likelihood that assistance under this chapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(F) The amount of budget authority required to fund the Federal credit instrument made available under this chapter.

(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

SEC. 1315. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs; or

(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 1314.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) AUTHORIZATION PERIOD.—The Secretary may enter into a loan agreement during any of fiscal years 1998 through 2003.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall be payable, in whole or in part, from revenues generated by any rate covenant, coverage requirement, or similar security feature supporting the project obligations or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be equal to the yield

on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of making a secured loan under this section.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

(4) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

(5) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—As soon as practicable after substantial completion of a project, the Secretary shall sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

SEC. 1316. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 1314.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—

(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay the costs specified in subsection (a)(2).

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

(5) SECURITY.—The line of credit—

(A) shall be made available only in connection with a project obligation secured, in whole or in part, by a rate covenant, coverage requirement, or similar security feature or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A line of credit under this section shall not be issued for a project with respect to which another Federal credit instrument under this chapter is made available.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and be fully repaid, with interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

SEC. 1317. PROJECT SERVICING.

(a) REQUIREMENT.—The State in which a project that receives financial assistance under this chapter is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this chapter.

(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

(1) shall act as the agent for the Secretary; and

(2) may receive a servicing fee, subject to approval by the Secretary.

(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

SEC. 1318. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.".

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 113. Office of Infrastructure Finance

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

"(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

"(c) FUNCTIONS.—The Director shall be responsible for—

"(1) carrying out the responsibilities of the Secretary described in section 301(9);

"(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

"(3) providing technical assistance to Federal, State, and local government agencies

and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"113. Office of Infrastructure Finance.".

SEC. 1319. STATE AND LOCAL PERMITS.

The provision of financial assistance under this chapter with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 1320. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this chapter and the amendments made by this chapter.

SEC. 1321. FUNDING.

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter—

(A) $60,000,000 for fiscal year 1998;

(B) $60,000,000 for fiscal year 1999;

(C) $90,000,000 for fiscal year 2000;

(D) $90,000,000 for fiscal year 2001;

(E) $115,000,000 for fiscal year 2002; and

(F) $115,000,000 for fiscal year 2003.

(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this chapter, not more than $2,000,000 for each of fiscal years 1998 through 2003.

(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this chapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this chapter shall be limited to the amounts specified in the following table:

Fiscal year:	Maximum amount of credit:
1998	$1,200,000,000
1999	$1,200,000,000
2000	$1,800,000,000
2001	$1,800,000,000
2002	$2,000,000,000
2003	$2,000,000,000.

(d) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

(1) $60,000,000 for fiscal year 1998;

(2) $60,000,000 for fiscal year 1999;

(3) $90,000,000 for fiscal year 2000;

(4) $90,000,000 for fiscal year 2001;

(5) $115,000,000 for fiscal year 2002; and

(6) $115,000,000 for fiscal year 2003.

SEC. 1322. REPORT TO CONGRESS.

Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter, including a recommendation as to whether the objectives of this chapter are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter without Federal participation.

Subtitle D—Safety

SEC. 1401. OPERATION LIFESAVER.

Section 104 of title 23, United States Code (as amended by section 1102(a)), is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by striking "subsection (f)" and inserting "subsections (d) and (f)"; and

(2) in subsection (d), by striking paragraph (1) and inserting the following:

"(1) OPERATION LIFESAVER.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $500,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year to carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.".

SEC. 1402. RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

"(A) IN GENERAL.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.

"(B) ELIGIBLE CORRIDORS.—Funds made available under subparagraph (A) shall be expended for projects in—

"(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause); and

"(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D).

"(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

"(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph (B), the Secretary shall consider—

"(i) projected rail ridership volume in each corridor;

"(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

"(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

"(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

"(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.".

SEC. 1403. RAILWAY-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "structures, and" and inserting "structures,"; and

(B) by inserting after "grade crossings," the following: "trespassing countermeasures in the immediate vicinity of a public railway-highway grade crossing, railway-highway crossing safety education, enforcement of traffic laws relating to railway-highway crossing safety, and projects at privately owned railway-highway crossings if each such project is publicly sponsored and the Secretary determines that the project would serve a public benefit,";

(2) in subsection (d), by adding at the end the following: "In a manner established by the Secretary, each State shall submit a report that describes completed railway-highway crossing projects funded under this section to the Department of Transportation for inclusion in the National Grade Crossing Inventory prepared by the Department of Transportation and the Association of American Railroads."; and

(3) by striking subsection (e).

SEC. 1404. HAZARD ELIMINATION PROGRAM.

(a) IN GENERAL.—Section 152 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting ", bicyclists," after "motorists";

(2) in subsection (b), by striking "highway safety improvement project" and inserting "safety improvement project, including a project described in subsection (a)"; and

(3) in subsection (c), by striking "on any public road (other than a highway on the Interstate System)." and inserting the following: "on—

"(1) any public road;

"(2) any public transportation vehicle or facility, any publicly owned bicycle or pedestrian pathway or trail, or any other facility that the Secretary determines to be appropriate; or

"(3) any traffic calming measure.".

(b) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended—

(A) in the undesignated paragraph defining "highway safety improvement project", by striking "highway safety" and inserting "safety"; and

(B) by moving that undesignated paragraph to appear before the undesignated paragraph defining "Secretary".

(2) Section 152 of title 23, United States Code, is amended in subsections (f) and (g) by striking "highway safety improvement projects" each place it appears and inserting "safety improvement projects".

SEC. 1405. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1301(a)), is amended by adding at the end the following:

"§ 163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

"(a) DEFINITIONS.—In this section:

"(1) ALCOHOL CONCENTRATION.—The term 'alcohol concentration' means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

"(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

"(3) LICENSE SUSPENSION.—The term 'license suspension' means the suspension of all driving privileges.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

"(5) REPEAT INTOXICATED DRIVER LAW.—The term 'repeat intoxicated driver law' means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within 5 years after a conviction for that offense whose alcohol concentration with respect to the second or subsequent offense was determined on the basis of a chemical test to be equal to or greater than 0.15 shall receive—

"(A) a license suspension for not less than 1 year;

"(B) an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

"(C) either—

"(i) an assignment of 30 days of community service; or

"(ii) 5 days of imprisonment.

"(b) TRANSFER OF FUNDS.—

"(1) FISCAL YEARS 2001 AND 2002.—

"(A) IN GENERAL.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

"(i) from the apportionment of the State under section 104(b)(1);

"(ii) from the apportionment of the State under section 104(b)(3); or

"(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

"(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer 3 percent of the funds apportioned to the State on that date under each of paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out under section 402 with funds transferred under paragraph (1) or (2) shall be 100 percent.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

"(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

"(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

"(ii) the ratio that—

"(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

"(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

"(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under that section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1301(b)), is amended by adding at the end the following:

"163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.".

SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1405(a)), is amended by adding at the end the following:

"§164. Safety incentive grants for use of seat belts

"(a) DEFINITIONS.—In this section:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

"(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term 'multipurpose passenger motor vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

"(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term 'national average seat belt use rate' means, in the case of each of calendar years 1995 through 2001, the national average seat belt use rate for that year, as determined by the Secretary.

"(4) PASSENGER CAR.—The term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(5) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term 'savings to the Federal Government' means the amount of Federal budget savings relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

"(7) SEAT BELT.—The term 'seat belt' means—

"(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

"(8) STATE SEAT BELT USE RATE.—The term 'State seat belt use rate' means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

"(A) for each of calendar years 1995 through 1997, by the State, as adjusted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

"(B) for each of calendar years 1998 through 2001, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

"(b) DETERMINATIONS BY THE SECRETARY.—Not later than 30 days after the date of enactment of this section, and not later than September 1 of each calendar year thereafter through September 1, 2002, the Secretary shall determine—

"(1)(A) which States had, for each of the previous calendar years (referred to in this subsection as the 'previous calendar year') and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

"(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

"(2) in the case of each State that is not a State described in paragraph (1)(A)—

"(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1995 through the calendar year preceding the previous calendar year; and

"(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

"(c) ALLOCATIONS.—

"(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

"(2) OTHER STATES.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

"(d) USE OF FUNDS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

"(e) CRITERIA.—Not later than 180 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act

of 1997, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

"(f) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $60,000,000 for fiscal year 1998, $70,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $100,000,000 for each of fiscal years 2002 and 2003.

"(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

"(3) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts—

"(A) shall be apportioned in accordance with section 104(b)(3);

"(B) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

"(C) shall be available for any purpose eligible for funding under section 133.

"(4) ADMINISTRATIVE EXPENSES.—Not more than 2 percent of the funds made available to carry out this section may be used to pay the necessary administrative expenses incurred in carrying out this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1405(b)), is amended by adding at the end the following:

"164. Safety incentive grants for use of seat belts.".

SEC. 1407. AUTOMATIC CRASH PROTECTION UNBELTED TESTING STANDARD.

(a) IN GENERAL.—

(1) TESTING WITH SIMULTANEOUS USE.—Beginning on the date of enactment of this Act, for the purpose of certification under section 30115 of title 49, United States Code, of compliance with the motor vehicle safety standards under section 30111 of that title, a manufacturer or distributor of a motor vehicle shall be deemed to be in compliance with applicable performance standards for occupant crash protection if the motor vehicle meets the applicable requirements for testing with the simultaneous use of both an automatic restraint system and a manual seat belt.

(2) PROHIBITION.—In no case shall a manufacturer or distributor use, for the purpose of the certification referred to in paragraph (1), testing that provides for the use of an automatic restraint system without the use of a manual seat belt.

(b) REVISION OF STANDARDS.—The Secretary shall issue such revised standards under section 30111 of title 49, United States Code, as are necessary to conform to subsection (a).

Subtitle E—Environment

SEC. 1501. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1406(a)) is amended by adding at the end the following:

"§ 165. National scenic byways program

"(a) DESIGNATION OF ROADS.—

"(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as National Scenic Byways or All-American Roads.

"(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

"(3) NOMINATION.—To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.

"(b) GRANTS AND TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States to—

"(A) implement projects on highways designated as National Scenic Byways or All-American Roads, or as State scenic byways; and

"(B) plan, design, and develop a State scenic byway program.

"(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

"(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway or All-American Road and that is consistent with the corridor management plan for the byway;

"(B) each eligible project along a State-designated scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as a National Scenic Byway or All-American Road; and

"(C) each eligible project that is associated with the development of a State scenic byway program.

"(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

"(1) An activity related to the planning, design, or development of a State scenic byway program.

"(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

"(3) Safety improvements to a State scenic byway, National Scenic Byway, or All-American Road to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, National Scenic Byway, or All-American Road.

"(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, passing lane, overlook, or interpretive facility.

"(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

"(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

"(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

"(8) Development and implementation of a scenic byways marketing program.

"(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

"(e) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byways project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $17,000,000 for fiscal year 1999, $19,000,000 for fiscal year 2000, $19,000,000 for fiscal year 2001, $21,000,000 for fiscal year 2002, and $23,000,000 for fiscal year 2003.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. National scenic byways program.".

SEC. 1502. PUBLIC-PRIVATE PARTNERSHIPS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

"(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

"(B) cost sharing of any project expense;

"(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

"(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

"(A) may include the costs of vehicle refueling infrastructure and other capital investments associated with the project; and

"(B) shall—

"(i) include only the incremental cost of an alternative fueled vehicle compared to a conventionally fueled vehicle that would otherwise be borne by a private party; and

"(ii) apply other governmental financial purchase contributions in the calculation of net incremental cost.

"(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.".

SEC. 1503. WETLAND RESTORATION PILOT PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) surface transportation has unintended but negative consequences for wetlands and other water resources;

(2) in almost every State, construction and other highway activities have reduced or eliminated wetland functions and values, such as wildlife habitat, ground water recharge, flood control, and water quality benefits;

(3) the United States has lost more than ½ of the estimated 220,000,000 acres of wetlands that existed during colonial times; and

(4) while the rate of human-induced destruction and conversion of wetlands has slowed in recent years, the United States has suffered unacceptable wetland losses as a result of highway projects.

(b) ESTABLISHMENT.—The Secretary shall establish a national wetland restoration pilot program (referred to in this section as the "program") to fund mitigation projects to offset the degradation of wetlands, or the loss of functions and values of the aquatic resource, resulting from projects carried out before December 27, 1977, under title 23, United States Code (or similar projects as determined by the Secretary), for which mitigation has not been performed.

(c) APPLICATIONS.—To be eligible for funding under the program, a State shall submit an application to the Secretary that includes—

(1) a description of the wetland proposed to be restored by a mitigation project described in subsection (b) (referred to in this section as a "wetland restoration project") under the program (including the size and quality of the wetland);

(2) such information as is necessary to establish a nexus between—

(A) a project carried out under title 23, United States Code (or a similar project as determined by the Secretary); and

(B) the wetland values and functions proposed to be restored by the wetland restoration project;

(3) a description of the benefits expected from the proposed wetland restoration project (including improvement of water quality, improvement of wildlife habitat, ground water recharge, and flood control);

(4) a description of the State's level of commitment to the proposed wetland restoration project (including the monetary commitment of the State and any development of a State or regional conservation plan that includes the proposed wetland restoration); and

(5) the estimated total cost of the wetland restoration project.

(d) SELECTION OF WETLAND RESTORATION PROJECTS.—

(1) INTERAGENCY COUNCIL.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall establish an interagency advisory council to—

(A) review the submitted applications that meet the requirements of subsection (c); and

(B) not later than 60 days after the application deadline, select wetland restoration projects for funding under the program.

(2) SELECTION CRITERIA FOR PRIORITY WETLAND RESTORATION PROJECTS.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall give priority in funding under this section to wetland restoration projects that—

(A) provide for long-term monitoring and maintenance of wetland resources;

(B) are managed by an entity, such as a nature conservancy, with expertise in the long-term monitoring and protection of wetland resources; and

(C) have a high likelihood of success.

(e) REPORTS.—Not later than April 1, 2000, and April 1, 2003, the Secretary shall submit a report to Congress on the results of the program.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for fiscal year 1998, $13,000,000 for fiscal year 1999, $14,000,000 for fiscal year 2000, $17,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $24,000,000 for fiscal year 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle F—Planning

SEC. 1601. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Metropolitan planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—Congress finds that it is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

"(3) CONTENTS.—The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

"(4) PROCESS.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) REDESIGNATION.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(3) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(4) STRUCTURE.—Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

"(C) appropriate State officials.

"(5) OTHER AUTHORITY.—Nothing in this subsection interferes with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; or

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities under State law.

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, shall be retained, except that the boundaries may be adjusted by agreement of the affected metropolitan planning organizations and Governors in the manner described in subsection (b)(2).

"(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established by agreement between the appropriate units of general purpose local government (including the central city) and the Governor;

"(B) shall encompass at least the urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period;

"(C) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census; and

"(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(e) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—If more than 1 metropolitan planning organization has authority within a metropolitan planning area or an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each such metropolitan planning organization shall consult with the other metropolitan planning organizations designated for the area and the State in the development of plans and programs required by this section.

"(f) SCOPE OF PLANNING PROCESS.—The metropolitan transportation planning process for a metropolitan area under this section shall consider the following:

"(1) Supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) DEVELOPMENT.—In accordance with this subsection, each metropolitan planning organization shall develop, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long-range transportation plan for its metropolitan area.

"(B) FORECAST PERIOD.—In developing long-range transportation plans, the metropolitan planning process shall address—

"(i) the considerations under subsection (f); and

"(ii) any State or local goals developed within the cooperative metropolitan planning process;

as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process.

"(C) FUNDING ESTIMATES.—For the purpose of developing the long-range transportation plan, the State shall consult with the metropolitan planning organization and each public transit agency in developing estimates of funds that are reasonably expected to be available to support plan implementation.

"(2) LONG-RANGE TRANSPORTATION PLAN.—A long-range transportation plan under this subsection shall, at a minimum, contain—

"(A) an identification of transportation facilities (including major roadways and transit, multimodal, and intermodal facilities) that should function as a future integrated transportation system, giving emphasis to those facilities that serve important national, regional, and metropolitan transportation functions;

"(B) an identification of transportation strategies necessary to—

"(i) ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

"(ii) make the most efficient use of existing transportation facilities to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area; and

"(C) a financial plan that demonstrates how the long-range transportation plan can be implemented, indicates total resources from public and private sources that are reasonably expected to be available to carry out the plan (without any requirement for indicating project-specific funding sources), and recommends any additional financing strategies for needed projects and programs.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before adopting a long-range transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan.

"(5) PUBLICATION OF LONG-RANGE TRANSPORTATION PLAN.—Each long-range transportation plan prepared by a metropolitan planning organization shall be—

"(A) published or otherwise made readily available for public review; and

"(B) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

"(B) OPPORTUNITY FOR COMMENT.—In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(C) FUNDING ESTIMATES.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.—The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) CONTENTS.—The transportation improvement program shall include—

"(A) a list, in order of priority, of proposed federally supported projects and strategies to be carried out within each 3-year-period after the initial adoption of the transportation improvement program; and

"(B) a financial plan that—

"(i) demonstrates how the transportation improvement program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program (without any requirement for indicating project-specific funding sources); and

"(iii) identifies innovative financing techniques to finance projects, programs, and strategies (without any requirement for indicating project-specific funding sources).

"(3) INCLUDED PROJECTS.—

"(A) CHAPTER 1 AND CHAPTER 53 PROJECTS.—A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of this title shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of this title that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall,

in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(5) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

"(i) by—

"(I) in the case of projects under chapter 1, the State; and

"(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

"(ii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project of higher priority in the program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—

"(A) REQUIRED DESIGNATIONS.—The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and any affected public transit operator.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies.

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—In addition to the transportation improvement program development required under subsection (h)(1), all federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a transportation management area on the National Highway System shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF FUNDS.—If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

"(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.—The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated metropolitan transportation plan and program that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, in the case of a transportation management area classified as nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be programmed in the area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project results from an approved congestion management system.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

"(l) LIMITATION.—Nothing in this section confers on a metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not eligible for assistance under this title or chapter 53 of title 49.

"(m) FUNDING.—

"(1) IN GENERAL.—Funds set aside under section 104(f) of this title and section 5303 of title 49 shall be available to carry out this section.

"(2) UNUSED FUNDS.—Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

"134. Metropolitan planning.".

SEC. 1602. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Statewide planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight throughout each State.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

"(3) CONTENTS.—The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal State transportation system and an integral part of the intermodal transportation system of the United States.

"(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) SCOPE OF PLANNING PROCESS.—Each State shall carry out a transportation planning process that shall consider the following:

"(1) Supporting the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(c) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall—

"(1) coordinate the planning with the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

"(2) carry out the responsibilities of the State for the development of the transportation portion of the State air quality implementation plan to the extent required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(d) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum, consider—

"(1) with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

"(e) LONG-RANGE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a long-range transportation plan, with a minimum 20-year forecast period, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the plan shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area, the plan shall be developed in consultation with local elected officials representing units of general purpose local government.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—The State shall develop a transportation improvement program for all areas of the State.

"(B) CONSULTATION WITH GOVERNMENTS.—

"(i) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(ii) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with units of general purpose local government.

"(iii) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(C) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall—

"(i) be consistent with the long-range transportation plan developed under this section for the State;

"(ii) be identical to the project as described in an approved metropolitan transportation improvement program; and

"(iii) be in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—

"(i) IN GENERAL.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(ii) LIMITATION.—Clause (i) does not require the indication of project-specific funding sources.

"(E) PRIORITIES.—The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

"(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out in areas described in subparagraph (A) on the National Highway System shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials.

"(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section and section 134, approved not less frequently than biennially by the Secretary.

"(5) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project of higher priority in the program.

"(g) FUNDING.—Funds set aside under section 505 of this title and section 5313(b) of title 49 shall be available to carry out this section.

"(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section or section 134 are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section or section 134 shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 1603. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish an advanced travel forecasting procedures program—

(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as "TRANSIMS"); and

(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under this section to—

(1) provide funding for completion of core development of the advanced transportation model;

(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

(4) allocate funds to not more than 12 entities described in paragraph (3), representing a diversity of populations and geographic regions, for a pilot program to enable transportation management areas designated under section 134(i) of title 23, United States Code, to convert from the use of travel forecasting procedures in use by the areas as of the date of enactment of this Act to the use of the advanced transportation model.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for fiscal year 1998, $3,000,000 for fiscal year 1999, $6,500,000 for fiscal year 2000, $5,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2002, and $2,500,000 for fiscal year 2003.

(2) ALLOCATION OF FUNDS.—

(A) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1) shall be allocated to activities in described in paragraphs (1), (2), and (3) of subsection (b).

(B) FISCAL YEARS 2000 THROUGH 2003.—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of—

(A) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

(B) any activity described in subsection (b)(4) shall not exceed 80 percent.

SEC. 1604. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a comprehensive initiative to investigate and address the relationships between transportation and community and system preservation.

(b) RESEARCH.—

(1) IN GENERAL.—In cooperation with appropriate Federal agencies, State, regional, and local governments, and other entities eligible for assistance under subsection (d), the Secretary shall carry out a comprehensive research program to investigate the relationships between transportation, community preservation, and the environment.

(2) REQUIRED ELEMENTS.—The program shall provide for monitoring and analysis of projects carried out with funds made available to carry out subsections (c) and (d).

(c) PLANNING.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to plan, develop, and implement strategies to integrate transportation and community and system preservation plans and practices.

(2) PURPOSES.—The purposes of the allocations shall be—

(A) to improve the efficiency of the transportation system;

(B) to reduce the impacts of transportation on the environment;

(C) to reduce the need for costly future investments in public infrastructure; and

(D) to provide efficient access to jobs, services, and centers of trade.

(3) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) propose projects for funding that address the purposes described in paragraph (2);

(B) demonstrate a commitment to public involvement, including involvement of nontraditional partners in the project team; and

(C) demonstrate a commitment of non-Federal resources to the proposed projects.

(d) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) have instituted preservation or development plans and programs that—

(i) meet the requirements of title 23 and chapter 53 of title 49, United States Code; and

(ii) are—

(I) coordinated with adopted preservation or development plans; or

(II) intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment;

(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

(i) spending policies that direct funds to high-growth areas;

(ii) urban growth boundaries to guide metropolitan expansion;

(iii) "green corridors" programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

(iv) other similar programs or policies as determined by the Secretary;

(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment; and

(D) propose projects for funding that address the purposes described in subsection (c)(2).

(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

(4) USE OF ALLOCATED FUNDS.—

(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

(i) any project eligible for funding under title 23 or chapter 53 of title 49, United States Code; or

(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

(I) transit-oriented development plans;

(II) traffic calming measures; or

(III) other coordinated transportation and community and system preservation practices.

(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $20,000,000 for each of fiscal years 1998 through 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle G—Technical Corrections

SEC. 1701. FEDERAL-AID SYSTEMS.

(a) IN GENERAL.—Section 103 of title 23, United States Code, is amended to read as follows:

"§ 103. Federal-aid systems

"(a) IN GENERAL.—For the purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) DESCRIPTION.—The National Highway System consists of an interconnected system of major routes and connectors that—

"(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

"(B) meet national defense requirements; and

"(C) serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System consists of the following:

"(A) The Interstate System described in subsection (c).

"(B) Other urban and rural principal arterial routes.

"(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

"(D) A strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be highways on or off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(E) Major strategic highway network connectors consisting of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network. The highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(3) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 178,250 miles.

"(4) MODIFICATIONS TO NHS.—

"(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State or that is proposed by a State and revised by the Secretary if the Secretary determines that the modification—

"(i) meets the criteria established for the National Highway System under this title; and

"(ii) enhances the national transportation characteristics of the National Highway System.

"(B) COOPERATION.—

"(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

"(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

"(c) INTERSTATE SYSTEM.—

"(1) DESCRIPTION.—

"(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico), consists of highways—

"(i) designed—

"(I) in accordance with the standards of section 109(b); or

"(II) in the case of highways in Alaska and Puerto Rico, in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway; and

"(ii) located so as—

"(I) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

"(II) to serve the national defense; and

"(III) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

"(B) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation agencies of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

"(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

"(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

"(4) INTERSTATE SYSTEM DESIGNATIONS.—

"(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

"(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

"(i) IN GENERAL.—If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A), the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

"(ii) WRITTEN AGREEMENT OF STATES.—A designation under clause (i) shall be made only upon the written agreement of the State or States described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by the date that is 12 years after the date of the agreement.

"(iii) REMOVAL OF DESIGNATION.—

"(I) IN GENERAL.—If the State or States described in clause (i) have not substantially completed the construction of a highway designated under this subparagraph within the time provided for in the agreement between the Secretary and the State or States under clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

"(II) EFFECT OF REMOVAL.—Removal of the designation of a highway under subclause (I) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

"(iv) PROHIBITION ON REFERRAL AS INTERSTATE SYSTEM ROUTE.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as the highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a route on the Interstate System.

"(C) FINANCIAL RESPONSIBILITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

"(ii) CERTAIN HIGHWAYS.—Subject to section 119(b)(1)(B), a State may use funds available to the State under paragraphs (1) and (3) of section 104(b) for the resurfacing, restoration, rehabilitation, and reconstruction of a highway—

"(I) designated before March 9, 1984, as a route on the Interstate System under subparagraph (A) or as a future Interstate System route under subparagraph (B); or

"(II) designated under subparagraph (A) and located in Alaska or Puerto Rico.

"(d) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—

"(1) INTERSTATE CONSTRUCTION FUNDS NOT IN SURPLUS.—

"(A) IN GENERAL.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997), if the amount does not exceed the Federal share of the costs of construction of segments of the Interstate System in the State included in the most recent Interstate System cost estimate.

"(B) EFFECT OF TRANSFER.—Upon transfer of an amount under subparagraph (A), the construction on which the amount is based, as included in the most recent Interstate System cost estimate, shall be ineligible for funding under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) or 104(k).

"(2) SURPLUS INTERSTATE CONSTRUCTION FUNDS.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of surplus funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997), if the State has fully financed all work eligible under the most recent Interstate System cost estimate.

"(3) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.

"(e) UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS.—Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date.".

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining "Interstate System" by striking "subsection (e) of section 103 of this title" and inserting "section 103(c)".

(B) Section 104(f)(1) of title 23, United States Code, is amended by striking ", except that" and all that follows through "programs".

(C) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading, by striking "SUBSTITUTE,"; and

(ii) in paragraph (1)(A)(i), by striking "103(e)(4)(H),";

(D) Section 118 of title 23, United States Code (as amended by section 1118(b)), is amended—

(i) by striking subsection (d); and

(ii) by redesignating subsections (e), (f), and (g) (as added by section 1103(d)) as subsections (c), (d), and (e), respectively.

(E) Section 129(b) of title 23, United States Code, is amended in the first sentence by striking "which has been" and all that follows through "and has not" and inserting "which is a public road and has not".

(2)(A) Section 139 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 139.

(C) Section 119(a) of title 23, United States Code, is amended in the first sentence—

(i) by striking "sections 103 and 139(c) of this title" and inserting "section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A)"; and

(ii) by striking "section 139 (a) and (b) of this title" and inserting "subparagraphs (A) and (B) of section 103(c)(4)".

(D) Section 127(f) of title 23, United States Code, is amended by striking "section 139(a)" and inserting "section 103(c)(4)(A)".

(E) Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597) is amended by striking subparagraph (B) and inserting the following:

"(B) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as parts of the Interstate System under this paragraph shall be treated in the same manner as segments designated under section 103(c)(4)(A) of title 23, United States Code.".

SEC. 1702. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) DEFINITIONS AND DECLARATION OF POLICY.—

(1) CREATION OF POLICY SECTION.—Section 102 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 102. Declaration of policy";

(B) by redesignating subsection (a) as subsection (c) and moving that subsection to the end of section 146; and

(C) by redesignating subsection (b) as subsection (f) and moving that subsection to the end of section 118 (as amended by section 1701(b)(1)(D)(ii)).

(2) TRANSFER OF POLICY PROVISIONS.—Section 101 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 101. Definitions";

(B) in subsection (a), by striking "(a)";

(C) by striking subsection (b); and

(D) by redesignating subsections (c) through (e) as subsections (a) through (c), respectively, and moving those subsections to section 102 (as amended by paragraph (1)).

(3) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 101 and 102 and inserting the following:

"101. Definitions.
"102. Declaration of policy.".

(B) Section 47107(j)(1)(B) of title 49, United States Code, is amended by striking "section 101(a)" and inserting "section 101".

(b) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "PROJECTS" and all that follows through "When a State" and inserting "PROJECTS.—When a State";

(B) by striking paragraphs (2) and (3); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately;

(2) by striking subsection (c);

(3) in subsection (d), by striking "section 135(f)" and inserting "section 135"; and

(4) by redesignating subsection (d) as subsection (c).

(c) MAINTENANCE.—Section 116 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in the first sentence, by striking "he" and inserting "the Secretary"; and

(B) in the second sentence, by striking "further projects" and inserting "further expenditure of Federal-aid highway program funds"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) INTERSTATE MAINTENANCE PROGRAM.—Section 119(a) of title 23, United States Code, is amended in the first sentence by striking "the date of enactment of this sentence" and inserting "March 9, 1984".

(e) ADVANCES TO STATES.—Section 124 of title 23, United States Code, is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

(f) DIVERSION.—

(1) IN GENERAL.—Section 126 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126.

(g) RAILWAY-HIGHWAY CROSSINGS.—Section 130(f) of title 23, United States Code, is amended by striking "APPORTIONMENT" and all that follows through the first sentence and inserting "FEDERAL SHARE.—".

(h) SURFACE TRANSPORTATION PROGRAM.—Section 133(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(i) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended by striking subsection (m) and inserting the following:

"(m) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

(j) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

(k) NONDISCRIMINATION.—Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title," and inserting "section 106(a),";

(B) by striking "he" each place it appears and inserting "the Secretary";

(C) in the second sentence, by striking "He" and inserting "The Secretary";

(D) in the third sentence, by striking "In approving programs for projects on any of the Federal-aid systems," and inserting "Before approving any project under section 106(a),"; and

(E) in the last sentence, by striking "him" and inserting "the Secretary";

(2) by striking subsection (b);

(3) in the subsection heading of subsection (d), by striking "AND CONTRACTING"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(l) PRIORITY PRIMARY ROUTES.—

(1) IN GENERAL.—Section 147 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147.

(m) DEVELOPMENT OF A NATIONAL SCENIC AND RECREATIONAL HIGHWAY.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148.

(n) HAZARD ELIMINATION PROGRAM.—Section 152(e) of title 23, United States Code, is amended by striking "apportioned to" in the first sentence and all that follows through "shall be" in the second sentence.

(o) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—

(1) IN GENERAL.—Section 155 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155.

SEC. 1703. NONDISCRIMINATION.

(a) IN GENERAL.—Section 324 of title 23, United States Code, is amended—

(1) by inserting "(d) PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX.—" before "No person"; and

(2) by moving subsection (d) (as designated by paragraph (1)) to the end of section 140 (as amended by section 1702(k)).

(b) CONFORMING AMENDMENTS.—

(1) Section 324 of title 23, United States Code, is repealed.

(2) The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 324.

SEC. 1704. STATE TRANSPORTATION DEPARTMENT.

(a) IN GENERAL.—Section 302 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a)";

(B) by striking the second sentence; and

(C) by adding at the end the following: "Compliance with this section shall have no effect on the eligibility of costs."; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) Title 23, United States Code, is amended—

(A) by striking "State highway department" each place it appears and inserting "State transportation department"; and

(B) by striking "State highway departments" each place it appears and inserting "State transportation departments".

(2) The analysis for chapter 3 of title 23, United States Code, is amended in the item relating to section 302 by striking "highway" and inserting "transportation".

(3) Section 302 of title 23, United States Code, is amended in the section heading by striking "**highway**" and inserting "**transportation**".

(4) Section 410(h)(5) of title 23, United States Code, is amended in the paragraph heading by striking "HIGHWAY" and inserting "TRANSPORTATION".

(5) Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking "State highway department" and inserting "State transportation department".

(6) Section 138(c) of the Surface Transportation Assistance Act of 1978 (40 U.S.C. App. note to section 201 of the Appalachian Regional Development Act of 1965; Public Law 95-599) is amended in the first sentence by striking "State highway department" and inserting "State transportation department".

Subtitle H—Miscellaneous Provisions

SEC. 1801. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) IN GENERAL.—Subject to subsection (b)(2), notwithstanding section 103(c), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each segment of State Route 17 described in subsection (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, access-controlled, and grade-separated shall—

(A) be designated as a future Interstate System route; and

(B) become part of Interstate Route 86 at such time as the Secretary determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) TREATMENT OF ROUTE.—

(1) MILEAGE LIMITATION.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by section 103(c)(2) of title 23, United States Code.

(2) FEDERAL FINANCIAL RESPONSIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, to eliminate substandard features of, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

SEC. 2001. STRATEGIC RESEARCH PLAN.

Subtitle III of title 49, United States Code, is amended—

(1) in the table of chapters, by inserting after the item relating to chapter 51 the following:

"52. RESEARCH AND DEVELOPMENT ... 5201";

and

(2) by inserting after chapter 51 the following:

"CHAPTER 52—RESEARCH AND DEVELOPMENT

"Sec.
"5201. Definitions.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"5211. Transactional authority.

"SUBCHAPTER II—STRATEGIC PLANNING
"5221. Strategic planning.
"5222. Authorization of contract authority.
"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM
"5231. Multimodal Transportation Research and Development Program.
"5232. Authorization of contract authority.
"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS
"5241. National university transportation centers.

"§ 5201. Definitions

"In this chapter:

"(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"§ 5211. Transactional authority

"To further the objectives of this chapter, the Secretary may make grants to, and enter into contracts, cooperative agreements, and other transactions with—

"(1) any person or any agency or instrumentality of the United States;

"(2) any unit of State or local government;

"(3) any educational institution; and

"(4) any other entity.

"SUBCHAPTER II—STRATEGIC PLANNING

"§ 5221. Strategic planning

"(a) AUTHORITY.—The Secretary shall establish a strategic planning process to—

"(1) determine national transportation research, development, and technology deployment priorities, strategies, and milestones over the next 5 years;

"(2) coordinate Federal transportation research, development, and technology deployment activities; and

"(3) measure the impact of the research, development, and technology investments described in paragraph (2) on the performance of the transportation system of the United States.

"(b) CRITERIA.—In developing strategic plans for intermodal, multimodal, and mode-specific research, development, and technology deployment, the Secretary shall consider the need to—

"(1) coordinate and integrate Federal, regional, State, and metropolitan planning research, development, and technology activities in urban and rural areas;

"(2) promote standards that facilitate a seamless and interoperable transportation system;

"(3) encourage innovation;

"(4) identify and facilitate initiatives and partnerships to deploy technology with the potential for improving transportation systems during the next 5-year and 10-year periods;

"(5) identify core research to support the long-term transportation technology and system needs of urban and rural areas of the United States, including safety;

"(6) ensure the ability of the United States to compete on a global basis; and

"(7) provide a means of assessing the impact of Federal research and technology investments on the performance of the transportation system of the United States.

"(c) IMPLEMENTATION.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary shall adopt such policies and procedures as are appropriate—

"(A) to provide for integrated planning, coordination, and consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research, development, and technology transfer important to national transportation needs;

"(B) to promote the exchange of information on transportation-related research and development activities among the operating elements of the Department, other Federal departments and agencies, State and local governments, colleges and universities, industry, and other private and public sector organizations engaged in the activities;

"(C) to ensure that the research and development programs of the Department do not duplicate other Federal and, to the maximum extent practicable, private sector research and development programs; and

"(D) to ensure that the research and development activities of the Department—

"(i) make appropriate use of the talents, skills, and abilities at the Federal laboratories; and

"(ii) leverage, to the maximum extent practicable, the research, development, and technology transfer capabilities of institutions of higher education and private industry.

"(2) CONSULTATION.—The procedures and policies adopted under paragraph (1) shall include consultation with State officials and members of the private sector.

"(d) REPORTS.—

"(1) IN GENERAL.—Concurrent with the submission to Congress of the budget of the President for each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the strategic plans, goals, and milestones developed under subsections (a) and (b) to help guide research, development, and technology transfer activities during the 5-year period beginning on the date of the report.

"(2) COMPARISON TO PREVIOUS REPORT.—The report shall include a delineation of the progress made with respect to each of the plans, goals, and milestones specified in the previous report.

"(3) PROHIBITION ON OBLIGATION FOR FAILURE TO SUBMIT REPORT.—Beginning on the date of the submission to Congress of the budget of the President for fiscal year 2000, and on the date of the submission for each fiscal year thereafter, none of the funds made available under this chapter or chapter 5 of title 23 may be obligated until the report required under paragraph (1) for that fiscal year is submitted.

"§ 5222. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $1,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.

"(c) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under subsection (a) exceed the amounts used to carry out section 5221 for the fiscal year, the excess amounts—

"(1) shall be apportioned in accordance with section 104(b)(3) of title 23;

"(2) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d) of that title; and

"(3) shall be available for any purpose eligible for funding under section 133 of that title.".

SEC. 2002. MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM.

Chapter 52 of title 49, United States Code (as added by section 2001), is amended by adding at the end the following:

"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

"§ 5231. Multimodal Transportation Research and Development Program

"(a) ESTABLISHMENT.—The Secretary shall establish a program to be known as the 'Multimodal Transportation Research and Development Program'.

"(b) PURPOSES.—The purposes of the Multimodal Transportation Research and Development Program are to—

"(1) enhance the capabilities of Federal agencies to meet national transportation needs, as defined by the missions of the agencies, through support for long-term and applied research and development that would benefit the various modes of transportation, including research and development in safety, security, mobility, energy and the environment, information and physical infrastructure, and industrial design;

"(2) identify and apply innovative research performed by the Federal Government, academia, and the private sector to the intermodal and multimodal transportation research, development, and deployment needs of the Department and the transportation enterprise of the United States;

"(3) identify and leverage research, technologies, and other information developed by the Federal Government for national defense and nondefense purposes for the benefit of the public, commercial, and defense transportation sectors; and

"(4) share information and analytical and research capabilities among the Federal Government, State and local governments, colleges and universities, and private organizations to advance their ability to meet their transportation research, development, and deployment needs.

"(c) PROCESS FOR CONSULTATION.—To advise the Secretary in establishing priorities within the Program, the Secretary shall establish a process for consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research.

"§ 5232. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $2,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2003. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Chapter 52 of title 49, United States Code (as amended by section 2002), is amended by adding at the end the following:

"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

"§ 5241. National university transportation centers

"(a) IN GENERAL.—The Secretary shall make grants to, or enter into contracts with, the nonprofit institutions of higher learning selected under section 5317 (as in effect on the day before the date of enactment of this section)—

"(1) to operate 1 university transportation center in each of the 10 Federal administrative regions that comprise the Standard Federal Regional Boundary System; and

"(2) to continue operation of university transportation centers at the Mack-Blackwell National Rural Transportation Study Center, the National Center for Transportation and Industrial Productivity, the Institute for Surface Transportation Policy Studies, the Urban Transit Institute at the University of South Florida, the National Center for Advanced Transportation Technology, and the University of Alabama Transportation Research Center.

"(b) ADDITIONAL CENTERS.—

"(1) IN GENERAL.—The Secretary may make grants to nonprofit institutions of higher learning to establish and operate not more than 4 additional university transportation centers to address—

"(A) transportation management, research, and development, with special attention to increasing the number of highly skilled minority individuals and women entering the transportation workforce;

"(B) transportation and industrial productivity;

"(C) rural transportation;

"(D) advanced transportation technology;

"(E) international transportation policy studies;

"(F) transportation infrastructure technology;

"(G) urban transportation research;

"(H) transportation and the environment;

"(I) surface transportation safety; or

"(J) infrastructure finance studies.

"(2) SELECTION CRITERIA.—

"(A) APPLICATION.—A nonprofit institution of higher learning that desires to receive a grant under paragraph (1) shall submit an application to the Secretary in such manner and containing such information as the Secretary may require.

"(B) SELECTION OF RECIPIENTS.—The Secretary shall select each grant recipient under paragraph (1) on the basis of—

"(i) the demonstrated research and extension resources available to the recipient to carry out this section;

"(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-term transportation problems;

"(iii) the establishment by the recipient of a surface transportation program that encompasses several modes of transportation;

"(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program;

"(v) the strategic plan that the recipient proposes to carry out using the grant funds; and

"(vi) the extent to which private funds have been committed to a university and public-private partnerships established to fulfill the objectives specified in paragraph (1).

"(c) OBJECTIVES.—Each university transportation center shall use grant funds under subsection (a) or (b) to carry out—

"(1) multimodal basic and applied research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation;

"(2) an education program that includes multidisciplinary course work and participation in research; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be readily implemented, used, or otherwise applied.

"(d) MAINTENANCE OF EFFORT.—Before making a grant under subsection (a) or (b), the Secretary shall require the grant recipient to enter into an agreement with the Secretary to ensure that the recipient will maintain, during the period of the grant, a level of total expenditures from all other sources for establishing and operating a university transportation center and carrying out related research activities that is at least equal to the average level of those expenditures in the 2 fiscal years of the recipient prior to the award of a grant under subsection (a) or (b).

"(e) ADDITIONAL GRANTS AND CONTRACTS.—

"(1) GRANTS OR CONTRACTS.—In addition to grants under subsection (a) or (b), the Secretary may make grants to, or enter into contracts with, university transportation centers without the need for a competitive process.

"(2) USE OF GRANTS OR CONTRACTS.—A noncompetitive grant or contract under paragraph (1) shall be used for transportation research, development, education, or training consistent with the strategic plan approved as part of the selection process for the center.

"(f) FEDERAL SHARE.—The Federal share of the cost of establishing and operating a university transportation center and carrying out related research activities under this section shall be not more than 50 percent.

"(g) PROGRAM COORDINATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) coordinate research, education, training, and technology transfer activities carried out by grant recipients under this section;

"(B) disseminate the results of the research; and

"(C) establish and operate a clearinghouse for disseminating the results of the research.

"(2) REVIEW AND EVALUATION.—

"(A) IN GENERAL.—Not less often than annually, the Secretary shall review and evaluate programs carried out by grant recipients under this section.

"(B) NOTIFICATION OF DEFICIENCIES.—In carrying out subparagraph (A), if the Secretary determines that a university transportation center is deficient in meeting the objectives of this section, the Secretary shall notify the grant recipient operating the center of each deficiency and provide specific recommendations of measures that should be taken to address the deficiency.

"(C) DISQUALIFICATION.—If, after the end of the 180-day period that begins on the date of notification to a grant recipient under subparagraph (B) with respect to a center, the Secretary determines that the recipient has not corrected each deficiency identified under subparagraph (B), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination—

"(i) disqualify the university transportation center from further participation under this section; and

"(ii) make a grant for the establishment of a new university transportation center, in lieu of the disqualified center, under subsection (a) or (b), as applicable.

"(3) FUNDING.—The Secretary may use not more than 1 percent of Federal funds made available under this section to carry out this subsection.

"(h) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.

"(3) TECHNOLOGY TRANSFER ACTIVITIES.—For each fiscal year, not less than 5 percent of the amounts made available to carry out this section shall be available to carry out technology transfer activities.

"(i) LIMITATION ON AVAILABILITY OF FUNDS.—Funds authorized under this section shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 5316 and 5317 of title 49, United States Code, are repealed.

(2) The analysis for chapter 53 of title 49, United States Code, is amended by striking the items relating to sections 5316 and 5317.

SEC. 2004. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Section 111 of title 49, United States Code, is amended—

(1) in subsection (b)(4), by striking the second sentence;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (J), by striking "and" at the end;

(ii) in subparagraph (K), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(L) transportation-related variables that influence global competitiveness.";

(B) in paragraph (2)—

(i) in the first sentence, by striking "national transportation system" and inserting "transportation systems of the United States";

(ii) by striking subparagraph (A) and inserting the following:

"(A) be coordinated with efforts to measure outputs and outcomes of the Department of Transportation and the transportation systems of the United States under the Government Performance and Results Act of 1993 (Public Law 103–62) and the amendments made by that Act;"; and

(iii) in subparagraph (C), by inserting ", made relevant to the States and metropolitan planning organizations," after "accuracy";

(C) in paragraph (3), by adding at the end the following: "The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103-62), and the amendments made by that Act, and shall carry out such other reviews of the sources and reliability of other data collected by the heads of the operating administrations of the Department as shall be requested by the Secretary."; and

(D) by adding at the end the following:

"(7) SUPPORTING TRANSPORTATION DECISIONMAKING.—Ensuring that the statistics compiled under paragraph (1) are relevant for transportation decisionmaking by the Federal Government, State and local governments, transportation-related associations, private businesses, and consumers.";

(3) by redesignating subsections (d), (e), and (f) as subsections (h), (i), and (j), respectively;

(4) by striking subsection (g);

(5) by inserting after subsection (c) the following:

"(d) TRANSPORTATION DATA BASE.—

"(1) IN GENERAL.—In consultation with the Associate Deputy Secretary, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

"(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

"(3) CONTENTS.—The data base shall include—

"(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;

"(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

"(C) information on the location and connectivity of transportation facilities and services; and

"(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

"(e) NATIONAL TRANSPORTATION LIBRARY.—

"(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

"(2) ACCESS.—The Bureau shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Bureau to make statistics readily accessible under subsection (c)(5).

"(3) COORDINATION.—The Bureau shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

"(f) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

"(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

"(A) transportation networks;

"(B) flows of people, goods, vehicles, and craft over the networks; and

"(C) social, economic, and environmental conditions that affect or are affected by the networks.

"(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

"(g) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State departments of transportation, metropolitan planning organizations, and institutions of higher education) for—

"(1) investigation of the subjects specified in subsection (c)(1) and research and development of new methods of data collection, management, integration, dissemination, interpretation, and analysis;

"(2) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (e); and

"(3) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (f) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.";

(6) by striking subsection (i) (as redesignated by paragraph (3)) and inserting the following:

"(i) PROHIBITION ON CERTAIN DISCLOSURES.—

"(1) IN GENERAL.—An officer or employee of the Bureau may not—

"(A) make any disclosure in which the data provided by an individual or organization under subsection (c)(2) can be identified;

"(B) use the information provided under subsection (c)(2) for a nonstatistical purpose; or

"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c)(2).

"(2) PROHIBITION ON REQUESTS FOR CERTAIN DATA.—

"(A) GOVERNMENT AGENCIES.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c)(2) with the Bureau or retained by an individual respondent.

"(B) COURTS.—Any copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) APPLICABILITY.—This paragraph shall apply only to information that permits information concerning an individual or organization to be reasonably inferred by direct or indirect means.

"(3) DATA COLLECTED FOR NONSTATISTICAL PURPOSES.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.";

(7) in subsection (j) (as redesignated by paragraph (3)), by striking "On or before January 1, 1994, and annually thereafter, the" and inserting "The"; and

(8) by adding at the end the following:

"(k) STUDY.—

"(1) IN GENERAL.—The Director shall carry out a study—

"(A) to measure the ton-miles and value-miles of international trade traffic carried by highway for each State;

"(B) to evaluate the accuracy and reliability of such measures for use in the formula for highway apportionments;

"(C) to evaluate the accuracy and reliability of the use of diesel fuel data as a measure of international trade traffic by State; and

"(D) to identify needed improvements in long-term data collection programs to provide accurate and reliable measures of international traffic for use in the formula for highway apportionments.

"(2) BASIS FOR EVALUATIONS.—The study shall evaluate the accuracy and reliability of measures for use as formula factors based on statistical quality standards developed by the Bureau in consultation with the Committee on National Statistics of the National Academy of Sciences.

"(3) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study carried out under paragraph (1), including recommendations for changes in law necessary to implement the identified needs for improvements in long-term data collection programs.

"(l) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

"(m) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $26,000,000 for fiscal year 1998, $27,000,000 for fiscal year 1999, $28,000,000 for fiscal year 2000, $29,000,000 for fiscal year 2001, $30,000,000 for fiscal year 2002, and $31,000,000 for fiscal year 2003, except that not more than $500,000 for each fiscal year may be made available to carry out subsection (g).

"(2) AVAILABILITY.—Funds authorized under this subsection shall remain available for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23.".

(b) CONFORMING AMENDMENTS.—Section 5503 of title 49, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

SEC. 2005. RESEARCH AND TECHNOLOGY PROGRAM.

Title 23, United States Code, is amended—

(1) in the table of chapters, by adding at the end the following:

"5. Research and Technology ..... 501";

and

(2) by adding at the end the following:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"SUBCHAPTER I—RESEARCH AND TRAINING

"Sec.
"501. Definition of safety.
"502. Research and technology program.
"503. Advanced research program.
"504. Long-term pavement performance program.
"505. State planning and research program.
"506. Education and training.
"507. International highway transportation outreach program.
"508. National technology deployment initiatives and partnerships program.
"509. Infrastructure investment needs report.
"510. Innovative bridge research and construction program.
"511. Study of future strategic highway research program.
"512. Transportation and environment cooperative research program.

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"521. Purposes.
"522. Definitions.
"523. Cooperation, consultation, and analysis.
"524. Research, development, and training.
"525. Intelligent transportation system integration program.
"526. Integration program for rural areas.
"527. Commercial vehicle intelligent transportation system infrastructure.
"528. Corridor development and coordination.
"529. Standards.
"530. Funding limitations.
"531. Use of innovative financing.
"532. Advisory committees.

"SUBCHAPTER III—FUNDING

"541. Funding.

"SUBCHAPTER I—RESEARCH AND TRAINING

"§ 501. Definition of safety

"In this chapter, the term 'safety' includes highway and traffic safety systems, research and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

"§ 502. Research and technology program

"(a) GENERAL AUTHORITY AND COLLABORATIVE AGREEMENTS.—

"(1) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary—

"(i) shall carry out research, development, and technology transfer activities with respect to—

"(I) motor carrier transportation;

"(II) all phases of transportation planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

"(III) the effect of State laws on the activities described in subclauses (I) and (II); and

"(ii) may test, develop, or assist in testing and developing any material, invention, patented article, or process.

"(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

"(i) independently;

"(ii) in cooperation with other Federal departments, agencies, and instrumentalities; or

"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

"(C) TECHNICAL INNOVATION.—The Secretary shall develop and carry out programs to facilitate the application of such products of research and technical innovations as will improve the safety, efficiency, and effectiveness of the transportation system.

"(D) FUNDS.—

"(i) IN GENERAL.—Except as otherwise specifically provided in other sections of this chapter—

"(I) to carry out this subsection, the Secretary shall use—

"(aa) funds made available under section 541 for research, technology, and training; and

"(bb) such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose; and

"(II) the funds described in item (aa) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF FUNDS.—The Secretary shall use funds described in clause (i) to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State.

"(B) AGREEMENTS.—In carrying out this paragraph, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(C) FEDERAL SHARE.—

"(i) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(ii) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in clause (i).

"(D) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this paragraph, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(3) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

"(b) MANDATORY ELEMENTS OF PROGRAM.—The Secretary shall include in the surface transportation research, development, and technology transfer programs under this subsection and as specified elsewhere in this title—

"(1) a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation systems of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the system; and

"(2) a program to strengthen and expand surface transportation infrastructure research, development, and technology transfer, which shall include, at a minimum—

"(A) methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion;

"(B) a research and development program directed toward the reduction of costs, and the mitigation of impacts, associated with the construction of highways and mass transit systems;

"(C) a surface transportation research program to develop nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials;

"(D)(i) information technology, including appropriate computer programs to collect and analyze data on the status of infrastructure facilities described in subparagraph (C) with respect to enhancing management, growth, and capacity; and

"(ii) dynamic simulation models of surface transportation systems for—

"(I) predicting capacity, safety, and infrastructure durability problems;

"(II) evaluating planned research projects; and

"(III) testing the strengths and weaknesses of proposed revisions to surface transportation operation programs;

"(E) new innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of structures;

"(F) initiatives to improve the ability of the United States to respond to emergencies and natural disasters and to enhance national defense mobility; and

"(G) an evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety.

"(c) REPORT ON GOALS, MILESTONES, AND ACCOMPLISHMENTS.—The goals, milestones, and accomplishments relevant to each of the mandatory program elements described in subsection (b) shall be specified in the report required under section 5221(d) of title 49.".

SEC. 2006. ADVANCED RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"§ 503. Advanced research program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish an advanced research program within the Federal Highway Administration to address longer-term, higher-risk research that shows potential benefits for improving the durability, mobility, efficiency, environmental impact, productivity, and safety of transportation systems.

"(2) DEVELOPMENT OF PARTNERSHIPS.—In carrying out the program, the Secretary shall attempt to develop partnerships with the public and private sectors.

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts for advanced research.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $9,000,000 for fiscal year 2000, and $10,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary.".

SEC. 2007. LONG-TERM PAVEMENT PERFORMANCE PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2006), is amended by adding at the end the following:

"§ 504. Long-term pavement performance program

"(a) AUTHORITY.—The Secretary shall complete the long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) through the midpoint of a planned 20-year life of the long-term pavement performance program (referred to in this section as the 'program').

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(1) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(2) analyze the data obtained in carrying out paragraph (1); and

"(3) prepare products to fulfill program objectives and meet future pavement technology needs.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity funded under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2008. STATE PLANNING AND RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2007), is amended by adding at the end the following:

"§ 505. State planning and research program

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—Two percent of the sums apportioned for fiscal year 1998 and each fiscal year thereafter to any State under section 104 (except section 104(f)) and any transfers or additions to the surface transportation program under section 133 shall be available for expenditure by the State transportation department, in consultation with the Secretary, in accordance with this section.

"(2) USE OF FUNDS.—The sums referred to in paragraph (1) shall be available only for—

"(A) intermodal metropolitan, statewide, and nonmetropolitan planning under sections 134 and 135;

"(B) development and implementation of management systems referred to in section 303;

"(C) studies, research, development, and technology transfer activities necessary for the planning, design, construction, management, operation, maintenance, regulation, and taxation of the use of surface transportation systems, including training and accreditation of inspection and testing on engineering standards and construction materials for the systems; and

"(D) studies of the economy, safety, and convenience of surface transportation usage and the desirable regulation and equitable taxation of surface transportation usage.

"(b) MINIMUM EXPENDITURES ON STUDIES, RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—For each fiscal year, not less than 25 percent of the funds of a State that are subject to subsection (a) shall be expended by the State transportation department for studies, research, development, and technology transfer activities described in subparagraphs (C) and (D) of subsection (a)(2) unless the State certifies to the Secretary for the fiscal year that the total expenditures by the State transportation department for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of the funds and the Secretary accepts the certification.

"(2) EXEMPTION FROM SMALL BUSINESS ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

"(c) FEDERAL SHARE.—The Federal share of the cost of a project financed with funds referred to in subsection (a) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(d) ADMINISTRATION OF FUNDS.—Funds referred to in subsection (a) shall be combined and administered by the Secretary as a single fund, which shall be available for obligation for the same period as funds apportioned under section 104(b)(1).".

SEC. 2009. EDUCATION AND TRAINING.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2008), is amended by adding at the end the following:

"§ 506. Education and training

"(a) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a transportation assistance program that will provide access to modern highway technology to—

"(A) highway and transportation agencies in urbanized areas with populations of between 50,000 and 1,000,000 individuals;

"(B) highway and transportation agencies in rural areas; and

"(C) contractors that do work for the agencies.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services that will—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

"(i) develop and expand their expertise in road and transportation areas (including pavement, bridge, safety management systems, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems;

"(C) operate, in cooperation with State transportation departments and universities—

"(i) local technical assistance program centers to provide transportation technology transfer services to rural areas and to urbanized areas with populations of between 50,000 and 1,000,000 individuals; and

"(ii) local technical assistance program centers designated to provide transportation technical assistance to Indian tribal governments; and

"(D) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $7,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $7,000,000 for fiscal year 2000, $8,000,000 for fiscal year 2001, $8,000,000 for fiscal year 2002, and $8,000,000 for fiscal year 2003 to be used to develop and administer the program established under this section and to provide technical and financial support for the centers operated under paragraph (2)(C).

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(b) NATIONAL HIGHWAY INSTITUTE.—

"(1) ESTABLISHMENT; DUTIES; PROGRAMS.—

"(A) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (referred to in this subsection as the 'Institute').

"(B) DUTIES.—

"(i) INSTITUTE.—In cooperation with State transportation departments, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

"(I) Federal Highway Administration, State, and local transportation agency employees;

"(II) regional, State, and metropolitan planning organizations;

"(III) State and local police, public safety, and motor vehicle employees; and

"(IV) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(ii) SECRETARY.—The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(C) TYPES OF PROGRAMS.—Programs that the Institute may develop and administer may include courses in modern developments, techniques, methods, regulations, management, and procedures relating to—

"(i) surface transportation;

"(ii) environmental factors;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance;

"(v) engineering;

"(vi) safety;

"(vii) construction;

"(viii) maintenance;

"(ix) operations;

"(x) contract administration;

"(xi) motor carrier activities;

"(xii) inspection; and

"(xiii) highway finance.

"(2) SET ASIDE; FEDERAL SHARE.—Not to exceed ¼ of 1 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding travel, subsistence, or salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(3) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

"(4) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

"(5) COLLECTION OF FEES.—

"(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

"(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(6) FUNDING.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for fiscal year 1998, $5,000,000 for fiscal year 1999, $5,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $6,000,000 for fiscal year 2002, and $6,000,000 for fiscal year 2003.

"(B) RELATION TO FEES.—The funds provided under this paragraph may be combined with or held separate from the fees collected under paragraph (5).

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(7) CONTRACTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this subsection.

"(c) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for fellowships for any purpose for which research, technology, or capacity building is authorized under this chapter.

"(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(A) IN GENERAL.—The Secretary shall carry out a transportation fellowship program, to be known as the 'Dwight David Eisenhower Transportation Fellowship Program', for the purpose of attracting qualified students to the field of transportation.

"(B) TYPES OF FELLOWSHIPS.—The program shall offer fellowships at the junior through postdoctoral levels of college education.

"(C) CITIZENSHIP.—Each recipient of a fellowship under the program shall be a United States citizen.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $2,000,000 for each of fiscal years 1998 through 2003.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(d) HIGHWAY CONSTRUCTION TRAINING PROGRAMS.—

"(1) USE OF FUNDS BY THE SECRETARY.—

"(A) IN GENERAL.—The Secretary, in cooperation with any other department or agency of the Federal Government, State agency, authority, association, institution, Indian tribal government, for-profit or nonprofit corporation, or other organization or person, may—

"(i) develop, conduct, and administer highway construction and technology training, including skill improvement, programs; and

"(ii) develop and fund Summer Transportation Institutes.

"(B) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into by the Secretary under this subsection.

"(C) FUNDING.—

"(i) IN GENERAL.—Before making apportionments under section 104(b) for a fiscal year, the Secretary shall deduct such sums as the Secretary determines are necessary, but not to exceed $10,000,000 for each fiscal year, to carry out this subsection.

"(ii) AVAILABILITY.—Sums deducted under clause (i) shall remain available until expended.

"(2) USE OF FUNDS APPORTIONED TO STATES.—Notwithstanding any other provision of law, upon request of a State transportation department to the Secretary, not to exceed ½ of 1 percent of the funds apportioned to the State for a fiscal year under paragraphs (1) and (3) of section 104(b) may be made available to carry out this subsection.

"(3) RESERVATION OF TRAINING POSITIONS FOR INDIVIDUALS RECEIVING WELFARE ASSISTANCE.—In carrying out this subsection, the Secretary and States may reserve training positions for individuals who receive welfare assistance from a State.".

SEC. 2010. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

(a) IN GENERAL.—Title 23, United States Code, is amended—

(1) by redesignating section 325 as section 507;

(2) by moving that section to appear at the end of subchapter I of chapter 5 (as amended by section 2009);

(3) in subsection (a) of that section, by inserting ", goods, and services" after "expertise"; and

(4) by striking subsection (c) of that section and inserting the following:

"(c) USE OF FUNDS.—

"(1) FUNDS DEPOSITED IN SPECIAL ACCOUNT.—Funds available to carry out this

section shall include funds deposited by any cooperating organization or person in a special account for the program established under this section with the Secretary of the Treasury.

"(2) USE OF FUNDS.—The funds deposited in the special account and other funds available to carry out this section shall be available to pay the cost of any activity eligible under this section, including the cost of promotional materials, travel, reception and representation expenses, and salaries and benefits of officers and employees of the Department of Transportation.

"(3) REIMBURSEMENTS.—Reimbursements for the salaries and benefits of Federal Highway Administration employees who provide services under this section shall be credited to the special account.

"(d) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out section 505 for any activity authorized under subsection (a).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 325.

SEC. 2011. NATIONAL TECHNOLOGY DEPLOYMENT INITIATIVES AND PARTNERSHIPS PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2010), is amended by adding at the end the following:

"§ 508. National technology deployment initiatives and partnerships program

"(a) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment initiatives and partnerships program (referred to in this section as the 'program').

"(b) PURPOSE.—The purpose of the program is to significantly accelerate the adoption of innovative technologies by the surface transportation community.

"(c) DEPLOYMENT GOALS.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish not more than 5 deployment goals to carry out subsection (a).

"(2) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, or sustainability.

"(3) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(d) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

"(e) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology, including—

"(1) the testing and evaluation of products of the strategic highway research program;

"(2) the further development and implementation of technology in areas such as the Superpave system and the use of lithium salts to prevent and mitigate alkali silica reactivity; and

"(3) the provision of support for long-term pavement performance product implementation and technology access.

"(f) REPORTS.—Not later than 18 months after the date of enactment of this section, and biennially thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress and results of activities carried out under this section.

"(g) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) ALLOCATION.—To the extent appropriate to achieve the goals established under subsection (c), the Secretary may further allocate funds made available under this subsection to States for their use.".

SEC. 2012. INFRASTRUCTURE INVESTMENT NEEDS REPORT.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2011), is amended by adding at the end the following:

"§ 509. Infrastructure investment needs report

"Not later than January 31, 1999, and January 31 of every second year thereafter, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on estimates of the future highway and bridge needs of the United States.".

SEC. 2013. INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2012), is amended by adding at the end the following:

"§ 510. Innovative bridge research and construction program

"(a) IN GENERAL.—The Secretary shall establish and carry out a program to demonstrate the application of innovative material technology in the construction of bridges and other structures.

"(b) GOALS.—The goals of the program shall include—

"(1) the development of new, cost-effective innovative material highway bridge applications;

"(2) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

"(3) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(4) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures; and

"(5) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges.

"(c) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(A) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials; and

"(B) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrates the application of innovative materials.

"(2) GRANTS.—

"(A) APPLICATIONS.—

"(i) SUBMISSION.—To receive a grant under this section, an entity described in paragraph (1) shall submit an application to the Secretary.

"(ii) CONTENTS.—The application shall be in such form and contain such information as the Secretary may require.

"(B) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this section based on whether the project that is the subject of the grant meets the goals of the program described in subsection (b).

"(d) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (c) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account)—

"(A) to carry out subsection (c)(1)(A) $1,000,000 for each of fiscal years 1998 through 2003; and

"(B) to carry out subsection (c)(1)(B)—

"(i) $10,000,000 for fiscal year 1998;

"(ii) $15,000,000 for fiscal year 1999;

"(iii) $17,000,000 for fiscal year 2000; and

"(iv) $20,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

SEC. 2014. USE OF BUREAU OF INDIAN AFFAIRS ADMINISTRATIVE FUNDS.

Section 204(b) of title 23, United States Code, is amended in the last sentence by striking "326" and inserting "506".

SEC. 2015. STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2013), is amended by adding at the end the following:

"§ 511. Study of future strategic highway research program

"(a) STUDY.—

"(1) IN GENERAL.—Not later than 120 days after the date of enactment of this section,

the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, the Transportation Research Board of the National Academy of Sciences (referred to in this section as the 'Board') to conduct a study to determine the goals, purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under section 307(d) (as in effect on the day before the date of enactment of this section), or a similar effort.

"(2) CONSULTATION.—In conducting the study, the Board shall consult with the American Association of State Highway and Transportation Officials and such other entities as the Board determines to be necessary to the conduct of the study.

"(b) REPORT.—Not later than 2 years after making a grant or entering into a cooperative agreement or contract under subsection (a), the Board shall submit a final report on the results of the study to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.".

SEC. 2016. JOINT PARTNERSHIPS FOR ADVANCED VEHICLES, COMPONENTS, AND INFRASTRUCTURE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"§ 310. Joint partnerships for advanced vehicles, components, and infrastructure program

"(a) PURPOSES.—The Secretary of Transportation, in coordination with other government agencies and private consortia, shall encourage and promote the research, development, and deployment of transportation technologies that will use technological advances in multimodal vehicles, vehicle components, environmental technologies, and related infrastructure to remove impediments to an efficient and cost-effective national transportation system.

"(b) DEFINITION OF ELIGIBLE CONSORTIUM.—In this section, the term 'eligible consortium' means a consortium that receives funding under the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1876), and that comprises 2 or more of the following entities:

"(1) Businesses incorporated in the United States.

"(2) Public or private educational or research organizations located in the United States.

"(3) Entities of State or local governments in the United States.

"(4) Federal laboratories.

"(c) PROGRAM.—The Secretary shall enter into contracts, cooperative agreements, and other transactions as authorized by section 2371 of title 10 with, and make grants to, eligible consortia to promote the development and deployment of innovation in transportation technology services, management, and operational practices.

"(d) ELIGIBILITY CRITERIA.—To be eligible to receive assistance under this section, an eligible consortium shall—

"(1) for a period of not less than the 3 years preceding the date of a contract, cooperative agreement, or other transaction, be organized on a statewide or multistate basis for the purpose of designing, developing, and deploying transportation technologies that address identified technological impediments in the transportation field;

"(2) facilitate the participation in the consortium of small- and medium-sized businesses, utilities, public laboratories and universities, and other relevant entities;

"(3) be actively engaged in transportation technology projects that address compliance in nonattainment areas under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(4) be designed to use Federal and State funding to attract private capital in the form of grants or investments to carry out this section; and

"(5) ensure that at least 50 percent of the funding for the consortium project will be provided by non-Federal sources.

"(e) PROPOSALS.—The Secretary shall prescribe such terms and conditions as the Secretary determines to be appropriate for the content and structure of proposals submitted for assistance under this section.

"(f) REPORTING REQUIREMENTS.—At least once each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects undertaken by the eligible consortia and the progress made in advancing the purposes of this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1998 through 2003, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"310. Joint partnerships for advanced vehicles, components, and infrastructure program.".

SEC. 2017. TRANSPORTATION AND ENVIRONMENT COOPERATIVE RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2015), is amended by adding at the end the following:

"§ 512. Transportation and environment cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a transportation and environment cooperative research program.

"(b) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—In consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, the Secretary shall establish an advisory board to recommend environmental and energy conservation research, technology, and technology transfer activities related to surface transportation.

"(2) MEMBERSHIP.—The advisory board shall include—

"(A) representatives of State transportation and environmental agencies;

"(B) transportation and environmental scientists and engineers; and

"(C) representatives of metropolitan planning organizations, transit operating agencies, and environmental organizations.

"(3) DEVELOPMENT OF RESEARCH PRIORITIES.—In developing recommendations for priorities for research described in paragraph (1), the advisory board shall consider the research recommendations of the National Research Council report entitled 'Environmental Research Needs in Transportation'.

"(4) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

"(c) NATIONAL ACADEMY OF SCIENCES.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities related to the research, technology, and technology transfer activities described in subsection (b)(1) as the Secretary determines to be appropriate.

"(2) ECOSYSTEM INTEGRITY STUDY.—

"(A) IN GENERAL.—The Secretary shall give priority to conducting a study of, and preparing a report on, the relationship between highway density and ecosystem integrity, including an analysis of the habitat-level impacts of highway density on the overall health of ecosystems.

"(B) PROPOSAL OF RAPID ASSESSMENT METHODOLOGY.—To aid transportation and regulatory agencies, the report shall propose a rapid assessment methodology for determining the relationship between highway density and ecosystem integrity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1998 through 2003.".

SEC. 2018. CONFORMING AMENDMENTS.

(a) Sections 307, 321, and 326 of title 23, United States Code, are repealed.

(b) The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 307, 321, and 326.

(c) Section 115(a)(1)(A)(i) of title 23, United States Code, is amended by striking "or 307" and inserting "or 505".

(d) Section 151(d) of title 23, United States Code, is amended by striking "section 307(a)," and inserting "section 506,".

(e) Section 106 of Public Law 89-564 (23 U.S.C. 403 note) is amended in the third sentence by striking "sections 307 and 403 of title 23, United States Code," and inserting "section 403 and chapter 5 of title 23, United States Code,".

Subtitle B—Intelligent Transportation Systems

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Intelligent Transportation Systems Act of 1997".

SEC. 2102. FINDINGS.

Congress finds that—

(1) numerous studies conducted on behalf of the Department of Transportation document that investment in intelligent transportation systems offers substantial benefits in relationship to costs;

(2) as a result of the investment authorized by the Intelligent Transportation Systems Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2189), progress has been made on each of the goals set forth for the national intelligent transportation system program in section 6052(b) of that Act; and

(3) continued investment by the Department of Transportation is needed to complete implementation of those goals.

SEC. 2103. INTELLIGENT TRANSPORTATION SYSTEMS.

Chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"§ 521. Purposes

"The purposes of this subchapter are—

"(1) to expedite deployment and integration of basic intelligent transportation system services for consumers of passenger and freight transportation across the United States;

"(2) to encourage the use of intelligent transportation systems to enhance international trade and domestic economic productivity;

"(3) to encourage the use of intelligent transportation systems to promote the

achievement of national environmental goals;

"(4) to continue research, development, testing, and evaluation activities to continually expand the state-of-the-art in intelligent transportation systems;

"(5) to provide financial and technical assistance to State and local governments and metropolitan planning organizations to ensure the integration of interoperable, intermodal, and cost-effective intelligent transportation systems;

"(6) to foster regional cooperation, standards implementation, and operations planning to maximize the benefits of integrated and coordinated intelligent transportation systems;

"(7) to promote the consideration of intelligent transportation systems in mainstream transportation planning and investment decisionmaking by ensuring that Federal and State transportation officials have adequate, working knowledge of intelligent transportation system technologies and applications and by ensuring comprehensive funding eligibility for the technologies and applications;

"(8) to encourage intelligent transportation system training for, and technology transfer to, State and local agencies;

"(9) to promote the deployment of intelligent transportation system services in rural America so as to achieve safety benefits, promote tourism, and improve quality of life;

"(10) to promote the innovative use of private resources, such as through public-private partnerships or other uses of private sector investment, to support the development and integration of intelligent transportation systems throughout the United States;

"(11) to complete the Federal investment in the Commercial Vehicle Information Systems and Networks by September 30, 2003;

"(12) to facilitate intermodalism through deployment of intelligent transportation systems, including intelligent transportation system technologies for transit systems to improve safety, efficiency, capacity, and utility for the public;

"(13) to enhance the safe operation of motor vehicles, including motorcycles, and nonmotorized vehicles on the surface transportation systems of the United States, with a particular emphasis on decreasing the number and severity of collisions; and

"(14) to accommodate the needs of all users of the surface transportation systems of the United States, including the operators of commercial vehicles, passenger vehicles, and motorcycles.

"§ 522. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'Commercial Vehicle Information Systems and Networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—The term 'commercial vehicle operations'—

"(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

"(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

"(3) COMPLETED STANDARD.—The term 'completed standard' means a standard adopted and published by the appropriate standards-setting organization through a voluntary consensus standardmaking process.

"(4) CORRIDOR.—The term 'corridor' means any major transportation route that includes parallel limited access highways, major arterials, or transit lines.

"(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(6) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(7) PROVISIONAL STANDARD.—The term 'provisional standard' means a provisional standard established by the Secretary under section 529(c).

"(8) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may support the national architecture and promote—

"(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

"§ 523. Cooperation, consultation, and analysis

"(a) COOPERATION.—In carrying out this subchapter, the Secretary shall—

"(1) foster enhanced operation and management of the surface transportation systems of the United States;

"(2) promote the widespread deployment of intelligent transportation systems; and

"(3) advance emerging technologies, in cooperation with State and local governments and the private sector.

"(b) CONSULTATION.—As appropriate, in carrying out this subchapter, the Secretary shall—

"(1) consult with the heads of other interested Federal departments and agencies; and

"(2) maximize the involvement of the United States private sector, colleges and universities, and State and local governments in all aspects of carrying out this subchapter.

"(c) PROCUREMENT METHODS.—To meet the need for effective implementation of intelligent transportation system projects, the Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for intelligent transportation system projects, including innovative and nontraditional methods of procurement.

"§ 524. Research, development, and training

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, operational testing, technical assistance and training, national architecture activities, standards development and implementation, and other similar activities that are necessary to carry out the purposes of this subchapter.

"(b) INTELLIGENT VEHICLE AND INTELLIGENT INFRASTRUCTURE PROGRAMS.—

"(1) IN GENERAL.—

"(A) PROGRAM.—The Secretary shall carry out a program to conduct research, development, and engineering designed to stimulate and advance deployment of an integrated intelligent vehicle program and an integrated intelligent infrastructure program, consisting of—

"(i) projects such as crash avoidance, automated highway systems, advanced vehicle controls, and roadway safety and efficiency systems linked to intelligent vehicles; and

"(ii) projects that improve mobility and the quality of the environment, including projects for traffic management, incident management, transit management, toll collection, traveler information, and traffic control systems.

"(B) CONSIDERATION OF VEHICLE AND INFRASTRUCTURE ELEMENTS.—In carrying out subparagraph (A), the Secretary may consider systems that include both vehicle and infrastructure elements and determine the most appropriate mix of those elements.

"(2) NATIONAL ARCHITECTURE.—The program carried out under paragraph (1) shall be consistent with the national architecture.

"(3) PRIORITIES.—In carrying out paragraph (1), the Secretary shall give higher priority to activities that—

"(A) assist motor vehicle drivers in avoiding motor vehicle crashes;

"(B) assist in the development of an automated highway system; or

"(C) improve the integration of air bag technology with other on-board safety systems and maximize the safety benefits of the simultaneous use of an automatic restraint system and seat belts.

"(4) COST SHARING.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a research project carried out in cooperation with a non-Federal entity under a program carried out under paragraph (1) shall not exceed 80 percent.

"(B) INNOVATIVE OR HIGH-RISK RESEARCH PROJECTS.—The Federal share of the cost of an innovative or high-risk research project described in subparagraph (A) may, at the discretion of the Secretary, be 100 percent.

"(5) PLAN.—The Secretary shall—

"(A) not later than 1 year after the date of enactment of this subchapter, submit to Congress a 6-year plan specifying the goals, objectives, and milestones to be achieved by each program carried out under paragraph (1); and

"(B) report biennially to Congress on the progress in meeting the goals, objectives, and milestones.

"(c) EVALUATION.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall establish guidelines and requirements for the independent evaluation of field and related operational tests, and, if necessary, deployment projects, carried out under this subchapter.

"(B) REQUIRED PROVISIONS.—The guidelines and requirements established under subparagraph (A) shall include provisions to ensure

the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subchapter.

"(2) FUNDING.—

"(A) SMALL PROJECTS.—In the case of a test or project with a cost of less than $5,000,000, the Secretary may allocate not more than 15 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(B) MODERATE PROJECTS.—In the case of a test or project with a cost of $5,000,000 or more, but less than $10,000,000, the Secretary may allocate not more than 10 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(C) LARGE PROJECTS.—In the case of a test or project with a cost of $10,000,000 or more, the Secretary may allocate not more than 5 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(3) INAPPLICABILITY OF PAPERWORK REDUCTION ACT.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"(d) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) DELEGATION OF AUTHORITY.—

"(A) IN GENERAL.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation.

"(B) FEDERAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal assistance under this section.

"(e) TRAFFIC INCIDENT MANAGEMENT AND RESPONSE.—The Secretary shall carry out a program to advance traffic incident management and response technologies, strategies, and partnerships that are fully integrated with intelligent transportation systems.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $120,000,000 for fiscal year 1998, $125,000,000 for fiscal year 1999, $130,000,000 for fiscal year 2000, $135,000,000 for fiscal year 2001, $140,000,000 for fiscal year 2002, and $150,000,000 for fiscal year 2003, of which, for each fiscal year—

"(A) not less than $25,000,000 shall be available for activities that assist motor vehicle drivers in avoiding motor vehicle crashes, including activities that improve the integration of air bag technology with other onboard safety systems;

"(B) not less than $25,000,000 shall be available for activities that assist in the development of an automated highway system; and

"(C) not less than $3,000,000 shall be available for traffic incident management and response.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.

"§ 525. Intelligent transportation system integration program

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration and interoperability of intelligent transportation systems.

"(b) SELECTION OF PROJECTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall select for funding, through competitive solicitation, projects that will serve as models to improve transportation efficiency, promote safety, increase traffic flow, reduce emissions of air pollutants, improve traveler information, or enhance alternative transportation modes.

"(2) PRIORITIES.—Under the program, the Secretary shall give higher priority to funding projects that—

"(A) promote and foster integration strategies and written agreements among local governments, States, and other regional entities;

"(B) build on existing (as of the date of project selection) intelligent transportation system projects;

"(C) deploy integrated intelligent transportation system projects throughout metropolitan areas;

"(D) deploy integrated intelligent transportation system projects that enhance safe freight movement or coordinate intermodal travel, including intermodal travel at ports of entry into the United States; and

"(E) advance intelligent transportation system deployment projects that are consistent with the national architecture and, as appropriate, comply with required standards as described in section 529.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $100,000,000 for fiscal year 1998, $110,000,000 for fiscal year 1999, $115,000,000 for fiscal year 2000, $130,000,000 for fiscal year 2001, $135,000,000 for fiscal year 2002, and $145,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 526. Integration program for rural areas

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration or deployment of intelligent transportation systems in rural areas.

"(b) SELECTION OF PROJECTS.—Under the program, the Secretary shall—

"(1) select projects through competitive solicitation; and

"(2) give higher priority to funding projects that—

"(A) promote and foster integration strategies and agreements among local governments, States, and other regional entities;

"(B) deploy integrated intelligent transportation system projects that improve mobility, enhance the safety of the movement of passenger vehicles and freight, or promote tourism; or

"(C) advance intelligent transportation system deployment projects that are consistent with the national architecture and comply with required standards as described in section 529.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1998, $10,000,000 for fiscal year 1999, $15,000,000 for fiscal year 2000, $15,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $20,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 527. Commercial vehicle intelligent transportation system infrastructure

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program—

"(1) to deploy intelligent transportation systems that will promote the safety and productivity of commercial vehicles and drivers; and

"(2) to reduce costs associated with commercial vehicle operations and State and Federal commercial vehicle regulatory requirements.

"(b) ELEMENTS OF PROGRAM.—

"(1) SAFETY INFORMATION SYSTEMS AND NETWORKS.—

"(A) IN GENERAL.—The program shall advance the technological capability and promote the deployment of commercial vehicle, commercial driver, and carrier-specific safety information systems and networks and other intelligent transportation system technologies used to assist States in identifying high-risk commercial operations and

in conducting other innovative safety strategies, including the Commercial Vehicle Information Systems and Networks.

"(B) FOCUS OF PROJECTS.—Projects assisted under the program shall focus on—

"(i) identifying and eliminating unsafe and illegal carriers, vehicles, and drivers in a manner that does not unduly hinder the productivity and efficiency of safe and legal commercial operations;

"(ii) enhancing the safe passage of commercial vehicles across the United States and across international borders;

"(iii) reducing the numbers of violations of out-of-service orders; and

"(iv) complying with directives to address other safety violations.

"(2) MONITORING SYSTEMS.—The program shall advance on-board driver and vehicle safety monitoring systems, including fitness-for-duty, brake, and other operational monitoring technologies, that will facilitate commercial vehicle safety, including inspection by motor carrier safety assistance program officers and employees under chapter 311 of title 49.

"(c) USE OF FEDERAL FUNDS.—

"(1) IN GENERAL.—Federal funds used to carry out the program shall be primarily used to improve—

"(A) commercial vehicle safety and the effectiveness and efficiency of enforcement efforts conducted under the motor carrier safety assistance program under chapter 311 of title 49;

"(B) electronic processing of registration, driver licensing, fuel tax, and other safety information; and

"(C) communication of the information described in subparagraph (B) among the States.

"(2) LEVERAGING.—Federal funds used to carry out the program shall, to the maximum extent practicable—

"(A) be leveraged with non-Federal funds; and

"(B) be used for activities not carried out through the use of private funds.

"(d) FEDERAL SHARE.—The Federal share of the cost of a project assisted under the program shall be not more than 80 percent.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for fiscal year 1998, $25,000,000 for fiscal year 1999, $25,000,000 for fiscal year 2000, $35,000,000 for fiscal year 2001, $35,000,000 for fiscal year 2002, and $40,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 528. Corridor development and coordination

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements intended to promote regional cooperation, planning, and shared project implementation for intelligent transportation system projects.

"(b) FUNDING.—There shall be available to carry out this section for each fiscal year not more than—

"(1) $3,000,000 of the amounts made available under section 524(f); and

"(2) $7,000,000 of the amounts made available under section 525(e).

"§ 529. Standards

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—The Secretary shall develop, implement, and maintain a national architecture and supporting standards to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the standards shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the States.

"(3) USE OF STANDARDS-SETTING ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards-setting organizations as the Secretary determines appropriate.

"(b) REPORT.—

"(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report describing the status of all standards.

"(2) CONTENTS.—The report shall—

"(A) identify each standard that is needed for operation of intelligent transportation systems in the United States;

"(B) specify the status of the development of each standard;

"(C) provide a timetable for achieving agreement on each standard as described in this section; and

"(D) determine which standards are critical to ensuring national interoperability or critical to the development of other standards.

"(c) ESTABLISHMENT OF PROVISIONAL STANDARDS.—

"(1) ESTABLISHMENT.—Subject to subsection (d), if a standard determined to be critical under subsection (b)(2)(D) is not adopted and published by the appropriate standards-setting organization by January 1, 2001, the Secretary shall establish a provisional standard after consultation with affected parties.

"(2) PERIOD OF EFFECTIVENESS.—The provisional standard shall—

"(A) be published in the Federal Register;

"(B) take effect not later than May 1, 2001; and

"(C) remain in effect until the appropriate standards-setting organization adopts and publishes a standard.

"(d) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL STANDARDS.—

"(1) NOTICE.—The Secretary may waive the requirement to establish a provisional standard by submitting, not later than January 1, 2001, to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a notice that—

"(A) specifies the provisional standard subject to the waiver;

"(B) describes the history of the development of the standard subject to the waiver;

"(C) specifies the reasons why the requirement for the establishment of the provisional standard is being waived;

"(D) describes the impacts of delaying the establishment of the standard subject to the waiver, especially the impacts on the purposes of this subchapter; and

"(E) provides specific estimates as to when the standard subject to the waiver is expected to be adopted and published by the appropriate standards-setting organization.

"(2) PROGRESS REPORTS.—

"(A) IN GENERAL.—In the case of each standard subject to a waiver by the Secretary under paragraph (1), the Secretary shall submit, in accordance with the schedule specified in subparagraph (B), a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the progress of the adoption of a completed standard.

"(B) SCHEDULE OF REPORTS.—The Secretary shall submit a report under subparagraph (A) with respect to a standard—

"(i) not later than 180 days after the date of submission of the notice under paragraph (1) with respect to the standard; and

"(ii) at the end of each 180-day period thereafter until such time as a standard has been adopted and published by the appropriate standards-setting organization or the waiver is withdrawn under paragraph (3).

"(C) CONSULTATION.—In developing each progress report under subparagraph (A), the Secretary shall consult with the standards-setting organizations involved in the standardmaking process for the standard.

"(3) WITHDRAWAL OF WAIVER.—

"(A) IN GENERAL.—At any time, the Secretary may, through notification to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, withdraw a notice of a waiver of the requirement to establish a provisional standard.

"(B) IMPLEMENTATION.—If the Secretary submits notification under subparagraph (A) with respect to a provisional standard, not less than 30 days, but not more than 90 days, after the date of the notification, the Secretary shall implement the provisional standard, unless, by the end of the 90-day period beginning on the date of the notification, a standard has been adopted and published by the appropriate standards-setting organization.

"(e) REQUIREMENT FOR COMPLIANCE WITH STANDARD.—

"(1) IN GENERAL.—

"(A) STANDARD IN EXISTENCE.—Funds made available from the Highway Trust Fund shall not be used to deploy an intelligent transportation system technology if the technology does not comply with each applicable provisional standard or completed standard.

"(B) NO STANDARD IN EXISTENCE.—In the absence of a provisional standard or completed standard, Federal funds shall not be used to deploy an intelligent transportation system technology if the deployment is not consistent with the interfaces to ensure interoperability that are contained in the national architecture.

"(2) APPLICABILITY.—Paragraph (1) shall not apply to—

"(A) the operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter; or

"(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subchapter if the Secretary determines that the upgrade or expansion—

"(i) does not adversely affect the purposes of this subchapter, especially the goal of national or regional interoperability;

"(ii) is carried out before the end of the useful life of the system; and

"(iii) is cost effective as compared to alternatives that meet the compliance requirement of paragraph (1)(A) or the consistency requirement of paragraph (1)(B).

"(f) SPECTRUM.—

"(1) CONSULTATION.—The Secretary shall consult with the Secretary of Commerce, the Secretary of Defense, and the Chairman of the Federal Communications Commission to determine the best means for securing the necessary spectrum for the near-term establishment of a dedicated short-range vehicle-to-wayside wireless standard and any other spectrum that the Secretary determines to be critical to the implementation of this title.

"(2) PROGRESS REPORT.—After consultation under paragraph (1) and with other affected agencies, but not later than 1 year after the date of enactment of this subchapter, the Secretary shall submit a report to Congress on the progress made in securing the spectrum described in paragraph (1).

"(3) DEADLINE FOR SECURING SPECTRUM.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this subchapter, the Secretary of Commerce shall release to the Federal Communications Commission, and the Federal Communications Commission shall allocate, the spectrum described in paragraph (1).

"(g) FUNDING.—The Secretary shall use funds made available under section 524 to carry out this section.

"§ 530. Funding limitations

"(a) CONSISTENCY WITH NATIONAL ARCHITECTURE.—The Secretary shall use funds made available under this subchapter to deploy intelligent transportation system technologies that are consistent with the national architecture.

"(b) COMPETITION WITH PRIVATELY FUNDED PROJECTS.—To the maximum extent practicable, the Secretary shall not fund any intelligent transportation system operational test or deployment project that competes with a similar privately funded project.

"(c) INFRASTRUCTURE DEVELOPMENT.—Funds made available under this subchapter for operational tests and deployment projects—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

"(d) PUBLIC RELATIONS AND TRAINING.—For each fiscal year, not more than $15,000,000 of the funds made available under this subchapter shall be used for intelligent transportation system outreach, public relations, training, mainstreaming, shareholder relations, or related activities.

"§ 531. Use of innovative financing

"(a) IN GENERAL.—The Secretary may use up to 25 percent of the funds made available under this subchapter and section 541 to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this title and that have significant intelligent transportation system elements.

"(b) CONSISTENCY WITH OTHER LAW.—Credit assistance described in subsection (a) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1997.

"§ 532. Advisory committees

"(a) IN GENERAL.—In carrying out this subchapter, the Secretary shall use 1 or more advisory committees.

"(b) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 2104. CONFORMING AMENDMENT.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title VI (23 U.S.C. 307 note; 105 Stat. 2189).

Subtitle C—Funding

SEC. 2201. FUNDING.

Chapter 5 of title 23, United States Code (as amended by section 2103), is amended by adding at the end the following:

"SUBCHAPTER III—FUNDING

"§ 541. Funding

"(a) RESEARCH, TECHNOLOGY, AND TRAINING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out sections 502, 507, 509, and 511 $98,000,000 for fiscal year 1998, $101,000,000 for fiscal year 1999, $104,000,000 for fiscal year 2000, $107,000,000 for fiscal year 2001, $110,000,000 for fiscal year 2002, and $114,000,000 for fiscal year 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(1) any Federal share of the cost of an activity under this chapter shall be determined in accordance with this chapter; and

"(2) the funds shall remain available for obligation for a period of 4 years after the last day of the fiscal year for which the funds are authorized.

"(c) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

"(1) $97,999,999 for fiscal year 1998;
"(2) $101,000,000 for fiscal year 1999;
"(3) $104,000,000 for fiscal year 2000;
"(4) $107,000,000 for fiscal year 2001;
"(5) $110,000,000 for fiscal year 2002; and
"(6) $114,000,000 for fiscal year 2003.".

LOTT (AND OTHERS) AMENDMENT NO. 1318

Mr. LOTT (for himself, Mr. CHAFEE, and Mr. WARNER) proposed an amendment to amendment No. 1317 proposed by Mr. LOTT to the instructions of the motion to recommit the bill, S. 1173, supra; as follows:

On page 44, strike line 6 and insert the following:

(e) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $301,905,000 for fiscal year 1998;
(2) $301,725,000 for fiscal year 1999;
(3) $302,055,000 for fiscal year 2000;
(4) $303,480,000 for fiscal year 2001;
(5) $310,470,000 for fiscal year 2002; and
(6) $320,595,000 for fiscal year 2003.

(f) APPLICABILITY OF OBLIGATION LIMITATIONS.—

ROTH AMENDMENT NO. 1319

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the end of the bill add the following:

TITLE —REVENUE

SEC. 001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Intermodal Surface Transportation Revenue Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 002. EXTENSION AND MODIFICATION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) EXTENSION OF TAXES AND EXEMPTIONS.—

(1) The following provisions are each amended by striking "1999" each place it appears and inserting "2005":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels), as amended by section 907(a)(1) of the Taxpayer Relief Act of 1997.

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels), as amended by section 907(b) of the Taxpayer Relief Act of 1997.

(D) Section 4051(c) (relating to termination).

(E) Section 4071(d) (relating to termination).

(F) Section 4081(d)(1) (relating to termination).

(G) Section 4221(a) (relating to certain tax-free sales).

(H) Section 4481(e) (relating to period tax in effect).

(I) Section 4482(c)(4) (relating to taxable period).

(J) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(K) Section 4483(g) (relating to termination of exemptions).

(L) Section 6156(e)(2) (relating to section inapplicable to certain liabilities).

(M) Section 6412(a) (relating to floor stocks refunds).

(2) The following provisions are each amended by striking "2000" each place it appears and inserting "2007":

(A) Section 4041(b)(2)(C) (relating to termination).

(B) Section 4041(k)(3) (relating to termination).

(C) Section 4081(c)(8) (relating to termination).

(D) Section 4091(c)(5) (relating to termination).

(3) Section 6412(a) (relating to floor stocks refunds) is amended by striking "2000" each place it appears and inserting "2006".

(4) Section 6427(f)(4) (relating to termination) is amended by striking "1999" and inserting "2007".

(5) Section 40(e)(1) (relating to termination) is amended—

(A) by striking "December 31, 2000" and inserting "December 31, 2007", and

(B) by striking subparagraph (B) and inserting the following:

"(B) of any fuel for any period before January 1, 2008, during which the rate of tax under section 4081(a)(2)(A) is 4.3 cents per gallon.".

(6) Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are amended in the effective period column by striking "10/1/2000" each place it appears and inserting "10/1/2007".

(b) EXTENSION AND MODIFICATION OF HIGHWAY TRUST FUND.—

(1) EXTENSION.—Section 9503 (relating to Highway Trust Fund) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) by striking "1999" and inserting "2005",

(II) by striking subparagraph (C),

(III) in subparagraph (D), by striking "and tread rubber", and

(IV) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively,

(ii) in paragraph (2), by striking "1999" each place it appears and inserting "2005" and by striking "2000" and inserting "2006",

(iii) in the heading of paragraph (2), by striking "OCTOBER 1, 1999" and inserting "OCTOBER 1, 2005", and

(iv) in subparagraphs (E) and (F) of paragraph (4), as amended by section 901(a) of the Taxpayer Relief Act of 1997, by striking "1999" and inserting "2005", and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking "1997" and inserting "2003",

(II) in subparagraph (C), by striking "or" at the end,

(III) in subparagraph (D), by striking "1991." and inserting "1991, or",

(IV) by inserting after subparagraph (D) the following:

"(E) authorized to be paid out of the Highway Trust Fund under the Intermodal Surface Transportation Efficiency Act of 1997.", and

(V) by striking the last sentence and inserting the following:

"In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1997.",

(ii) in paragraph (2)(A)(i)—

(I) by striking "2000" and inserting "2006",

(II) in subclause (II), by adding "and" at the end,

(III) in subclause (IV), by striking "1999" and inserting "2005", and

(IV) by striking subclause (III) and redesignating subclause (IV) as subclause (III),

(iii) in paragraph (2)(A), by striking clause (ii) and inserting the following:

"(ii) the credits allowed under section 34 (relating to credit for certain uses of fuel) with respect to fuel used before October 1, 2005.",

(iv) in paragraph (3)—

(I) by striking "July 1, 2000" and inserting "July 1, 2006", and

(II) by striking the heading and inserting "FLOOR STOCKS REFUNDS",

(v) in paragraph (4)(A)(i), by striking "1997" and inserting "2003", and

(vi) in paragraph (5), by striking "1997" and inserting "2003".

(2) LIMITATION ON EXPENDITURES.—

(A) IN GENERAL.—Section 9503(c) (relating to expenditures from Highway Trust Fund), as amended by subsection (d)(2)(A), is amended by inserting after paragraph (5) the following:

"(6) LIMITATION ON EXPENDITURES FROM HIGHWAY TRUST FUND.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no expenditure shall be made from the Highway Trust Fund unless such expenditure is permitted under a provision of this title. The determination of whether an expenditure is so permitted shall be made without regard to—

"(i) any provision of law which is not contained or referenced in this title and which is not contained or referenced in a revenue Act, and

"(ii) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

"(B) EXCEPTION FOR PRIOR OBLIGATIONS.—Subparagraph (A) shall not apply to any expenditure to liquidate any contract entered into, or for any amount otherwise obligated, in accordance with the provisions of this section before October 1, 2003.".

(B) TRANSFER OF TAXES TO TRUST FUND TERMINATED IF EXPENDITURE LIMITATION VIOLATED.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund), as amended by subsection (b)(1)(A)(iv), is amended—

(i) in subparagraph (E), by striking "or" at the end,

(ii) in subparagraph (F), by striking the period at the end and inserting ", or", and

(iii) by adding at the end the following:

"(G) any provision described in paragraph (1) on and after the date of any expenditure not permitted by subsection (c)(6).".

(c) MODIFICATION OF SUBSIDIES FOR ALCOHOL FUELS.—

(1) IN GENERAL.—Subsection (h) of section 40 (relating to alcohol used as fuel) is amended to read as follows:

"(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—

"(1) IN GENERAL.—In the case of any alcohol mixture credit or alcohol credit with respect to any sale or use of alcohol which is ethanol during calendar years 2001 through 2007—

"(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting 'the blender amount' for '60 cents',

"(B) subsection (b)(3) shall be applied by substituting 'the low-proof blender amount' for '45 cents' and 'the blender amount' for '60 cents', and

"(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting 'the blender amount' for '60 cents' and 'the low-proof blender amount' for '45 cents'.

"(2) AMOUNTS.—For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

In the case of any sale or use during calendar year:	The blender amount is:	The low-proof blender amount is:
2001 or 2002	53 cents	39.26 cents
2003 or 2004	52 cents	38.52 cents
2005, 2006, or 2007 ...	51 cents	37.78 cents.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(b)(2) is amended—

(i) in subparagraph (A)(i), by striking "5.4 cents" and inserting "the applicable blender rate", and

(ii) by redesignating subparagraph (C), as amended by subsection (a)(2)(A), as subparagraph (D) and by inserting after subparagraph (B) the following:

"(C) APPLICABLE BLENDER RATE.—For purposes of subparagraph (A)(i), the applicable blender rate is—

"(i) except as provided in clause (ii), 5.4 cents, and

"(ii) for sales or uses during calendar years 2001 through 2007, 1/10 of the blender amount applicable under section 40(h)(2) for the calendar year in which the sale or use occurs.".

(B) Subparagraph (A) of section 4081(c)(4) is amended to read as follows:

"(A) GENERAL RULES.—

"(i) MIXTURES CONTAINING ETHANOL.—Except as provided in clause (ii), in the case of a qualified alcohol mixture which contains gasoline, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

"(I) in the case of 10 percent gasohol, the applicable blender rate (as defined in section 4041(b)(2)(A)) per gallon,

"(II) in the case of 7.7 percent gasohol, the number of cents per gallon equal to 77 percent of such applicable blender rate, and

"(III) in the case of 5.7 percent gasohol, the number of cents per gallon equal to 57 percent of such applicable blender rate.

"(ii) MIXTURES NOT CONTAINING ETHANOL.—In the case of a qualified alcohol mixture which contains gasoline and none of the alcohol in which consists of ethanol, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

"(I) in the case of 10 percent gasohol, 6 cents per gallon,

"(II) in the case of 7.7 percent gasohol, 4.62 cents per gallon, and

"(III) in the case of 5.7 percent gasohol, 3.42 cents per gallon.".

(C) Section 4081(c)(5) is amended by striking "5.4 cents" and inserting "the applicable blender rate (as defined in section 4041(b)(2)(C))".

(D) Section 4091(c)(1) is amended by striking "13.4 cents" each place it appears and inserting "the applicable blender amount" and by adding at the end the following new sentence: "For purposes of this paragraph, the term 'applicable blender amount' means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, 13.1 cents in the case of any sale or use during 2005, 2006, or 2007, and 13.4 cents in the case of any sale or use during 2008 or thereafter.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2001.

(d) ELIMINATION OF NATIONAL RECREATIONAL TRAILS TRUST FUND.—

(1) IN GENERAL.—Section 9511 (relating to National Recreational Trails Trust Fund) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(c) is amended by striking paragraph (6).

(B) The table of sections for subchapter A of chapter 98 is amended by striking the item relating to section 9511.

(e) AQUATIC RESOURCES TRUST FUND.—

(1) EXTENSION.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking "1998" and inserting "2004", and

(B) by striking "1988" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1997".

(2) LIMITATION ON EXPENDITURES.—Section 9504 (relating to Aquatic Resources Trust Fund) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

"(d) LIMITATION ON EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no expenditure shall be made from the Aquatics Resources Trust Fund unless such expenditure is permitted under a provision of this title. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title and which is not contained or referenced in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or

indirectly seeks to waive the application of this subsection.

"(2) EXCEPTION FOR PRIOR OBLIGATIONS FROM THE BOAT SAFETY ACCOUNT.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into, or for any amount otherwise obligated, in accordance with the provisions of subsection (c) before April 1, 2004.

"(3) TRANSFER OF TAXES TO TRUST FUND TERMINATED IF EXPENDITURE LIMITATION VIOLATED.—For purposes of the second sentence of subsection (a)(2), there shall not be taken into account any amount described in subsection (b)(1), section 9503(c)(4), or section 9503(c)(5)(A) on and after the date of any expenditure not permitted by paragraph (1).".

(3) CONFORMING AMENDMENTS.—Section 9504(b)(2) is amended—

(A) in subparagraph (A), by striking "1988" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1997", and

(B) in subparagraph (B), by striking "1990" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1997".

SEC. __003. MASS TRANSIT ACCOUNT.

(a) IN GENERAL.—Section 9503(e)(3) (relating to expenditures from Account) is amended—

(1) by striking "1997" and inserting "2003",

(2) in subparagraph (A), by striking "or" at the end,

(3) in subparagraph (B), by adding "or" at the end,

(4) by inserting after subparagraph (B) the following:

"(C) the Intermodal Surface Transportation Efficiency Act of 1997,", and

(5) by striking "Intermodal Surface Transportation Efficiency Act of 1991" the second place it appears and inserting "Intermodal Surface Transportation Efficiency Act of 1997".

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 9503(e) is amended to read as follows:

"(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account.".

(c) TECHNICAL CORRECTION.—

(1) IN GENERAL.—Section 9503(e)(2) is amended by striking the last sentence and inserting the following: "For purposes of the preceding sentence, the term 'mass transit portion' means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—

"(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

"(B) 1.77 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

"(C) 1.86 cents per gallon in the case of liquefied natural gas,

"(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

"(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendment made by section 901(b) of the Taxpayer Relief Act of 1997.

SEC. __004. TAX-EXEMPT FINANCING OF QUALIFIED HIGHWAY INFRASTRUCTURE CONSTRUCTION.

(a) TREATMENT AS EXEMPT FACILITY BOND.—A bond described in subsection (b) shall be treated as described in section 141(e)(1)(A) of the Internal Revenue Code of 1986, except that—

(1) section 146 of such Code shall not apply to such bond, and

(2) section 147(c)(1) of such Code shall be applied by substituting "any portion of" for "25 percent or more".

(b) BOND DESCRIBED.—

(1) IN GENERAL.—A bond is described in this subsection if such bond is issued after the date of the enactment of this Act as part of an issue—

(A) 95 percent or more of the net proceeds of which are to be used to provide a qualified highway infrastructure project, and

(B) to which there has been allocated a portion of the allocation to the project under paragraph (2)(C)(ii) which is equal to the aggregate face amount of bonds to be issued as part of such issue.

(2) QUALIFIED HIGHWAY INFRASTRUCTURE PROJECTS.—

(A) IN GENERAL.—For purposes of paragraph (1), the term "qualified highway infrastructure project" means a project—

(i) for the construction or reconstruction of a highway, and

(ii) designated under subparagraph (B) as an eligible pilot project.

(B) ELIGIBLE PILOT PROJECT.—

(i) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall select not more than 15 highway infrastructure projects to be pilot projects eligible for tax-exempt financing.

(ii) ELIGIBILITY CRITERIA.—In determining the criteria necessary for the eligibility of pilot projects, the Secretary of Transportation shall include the following:

(I) The project must serve the general public.

(II) The project is necessary to evaluate the potential of the private sector's participation in the provision of the highway infrastructure of the United States.

(III) The project must be located on publicly-owned rights-of-way.

(IV) The project must be publicly owned or the ownership of the highway constructed or reconstructed under the project must revert to the public.

(V) The project must be consistent with a transportation plan developed pursuant to section 134(g) or 135(e) of title 23, United States Code.

(C) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

(i) IN GENERAL.—The aggregate face amount of bonds issued pursuant to this section shall not exceed $15,000,000,000, determined without regard to any bond the proceeds of which are used exclusively to refund (other than to advance refund) a bond issued pursuant to this section (or a bond which is a part of a series of refundings of a bond so issued) if the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

(ii) ALLOCATION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall allocate the amount described in clause (i) among the eligible pilot projects designated under subparagraph (B).

(iii) REALLOCATION.—If any portion of an allocation under clause (ii) is unused on the date which is 3 years after such allocation, the Secretary of Transportation, in consultation with the Secretary of the Treasury, may reallocate such portion among the remaining eligible pilot projects.

(c) REPORT.—

(1) IN GENERAL.—Not later than the earlier of—

(A) 1 year after either ½ of the projects authorized under this section have been identified or ½ of the total bonds allowable for the projects under this section have been issued, or

(B) 7 years after the date of the enactment of this Act,

the Secretary of Transportation, in consultation with the Secretary of the Treasury, shall submit the report described in paragraph (2) to the Committees on Finance and on Environment and Public Works of the Senate and the Committees on Ways and Means and on Transportation and Infrastructure of the House of Representatives.

(2) CONTENTS.—The report under paragraph (1) shall evaluate the overall success of the program conducted pursuant to this section, including—

(A) a description of each project under the program,

(B) the extent to which the projects used new technologies, construction techniques, or innovative cost controls that resulted in savings in building the project, and

(C) the use and efficiency of the Federal tax subsidy provided by the bond financing.

SEC. __005. REPEAL OF 1.25 CENT TAX RATE ON RAIL DIESEL FUEL.

(a) IN GENERAL.—Section 4041(a)(1)(C)(ii) (relating to rate of tax on trains) is amended—

(1) in subclause (II), by striking "October 1, 1999" and inserting "May 16, 1999", and

(2) in subclause (III), by striking "September 30, 1999" and inserting "May 15, 1999".

(b) CONFORMING AMENDMENTS.—

(1) Section 6421(f)(3)(B) is amended—

(A) in clause (ii), by striking "October 1, 1999" and inserting "May 16, 1999", and

(B) in clause (iii), by striking "September 30, 1999" and inserting "May 15, 1999".

(2) Section 6427(l)(3)(B) is amended—

(A) in clause (ii), by striking "October 1, 1999" and inserting "May 16, 1999", and

(B) in clause (iii), by striking "September 30, 1999" and inserting "May 15, 1999".

SEC. __006. ELECTION TO RECEIVE TAXABLE CASH COMPENSATION IN LIEU OF NONTAXABLE QUALIFIED TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.— Paragraph (4) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

"(4) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of an employee solely because the employee may choose between any qualified transportation fringe and compensation which would otherwise be includible in gross income of such employee.".

(b) INCREASE IN MAXIMUM EXCLUSION FOR EMPLOYER-PROVIDED TRANSIT PASSES.—

(1) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$60" and inserting "$100".

(2) INFLATION ADJUSTMENT.—Paragraph (6) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

"(6) INFLATION ADJUSTMENT.—

"(A) ADJUSTMENT TO QUALIFIED PARKING LIMITATION.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amount contained in paragraph (2)(B) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins.

"(B) ADJUSTMENT TO OTHER QUALIFIED TRANSPORTATION FRINGES LIMITATION.—In the

case of any taxable year beginning in a calendar year after 2003, the dollar amount contained in paragraph (2)(A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2002' for 'calendar year 1992'.

"(c) ROUNDING.—If any increase determined under subparagraph (A) or (B) is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. _007. TAX TREATMENT OF CERTAIN FEDERAL PARTICIPATION PAYMENTS.

For purposes of the Internal Revenue Code of 1986, with respect to any Federal participation payment to a taxpayer in any taxable year made under section 149(e) of title 23, United States Code, as added by section 1502, to the extent such payment is not subject to tax under such Code for the taxable year—

(1) no credit or deduction (other than a deduction with respect to any interest on a loan) shall be allowed to the taxpayer with respect to any property placed in service or other expenditure that is directly or indirectly attributable to the payment, and

(2) the basis of any such property shall be reduced by the portion of the cost of the property that is attributable to the payment.

Mr. ROTH. Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL EXPLANATION OF THE "INTERMODAL SURFACE TRANSPORTATION REVENUE ACT OF 1997" RELATING TO EXTENSION OF HIGHWAY TRUST FUND EXCISE TAXES AND HIGHWAY TRUST FUND PROVISIONS

I. LEGISLATIVE BACKGROUND

Highway Trust Fund Authorizations

S. 1173, the "Intermodal Transportation Act of 1997," was ordered reported by the Senate Committee on Environment and Public Works on September 17, 1997, and the report was filed on October 1, 1997 (S. Rept. 105-95). S. 1173 would extend expenditure authorizations for the Highway Trust Fund (the "Highway Fund") for 6 years, from October 1, 1997 through September 30, 2003, and make various modifications to the highway programs financed through the Highway Fund. The Highway Fund is funded with amounts equivalent to revenues from certain excise taxes on motor fuels and on heavy trucks and tires. These excise taxes currently are scheduled to expire after September 30, 1999. The provisions dedicating revenues from these excise taxes to the Highway Fund, relevant expenditure provisions governing the purposes for which Highway Fund monies may be spent, and the period when those expenditures may occur are contained in the Internal Revenue Code (the "Code"). The Highway Fund expenditure authority expired after September 30, 1997.

The Senate Committee on Banking, Housing, and Urban Affairs ("Banking") and the Committee on Commerce, Science, and Transportation ("Commerce") have been requested to approve Highway Fund-related authorization provisions within their respective jurisdictions. The Senate Banking Committee marked up mass transit authorizations on September 25, 1997. Provisions adopted by these Committees are expected to be incorporated into S. 1173 when that bill is considered by the Senate.

Revenue Provisions

The Committee on Finance has been requested to provide a revenue title to S. 1173. The Committee on Finance was requested to include provisions in the revenue title extending the period when the highway excise taxes are imposed and when Highway Fund monies can be spent, and conforming the purposes for which Highway Fund monies can be spent to those authorized under S. 1173.

On October 1, 1997, the Committee on Finance marked up a revenue title to be offered as an amendment ("Committee amendment") to S. 1173. The Committee amendment was approved by voice vote.

II. EXPLANATION OF COMMITTEE AMENDMENT

A. PRESENT LAW

1. Highway Trust Fund Excise Taxes and Other Related Tax Provisions

Highway transportation excise taxes

The current highway transportation excise taxes consist of:

(1) taxes on gasoline, diesel fuel, kerosene, and special motor fuels;

(2) a retail sales tax imposed on trucks and trailers having gross vehicle weights in excess of prescribed thresholds;

(3) a tax on manufacturers of tires designed for use on heavy highway vehicles; and

(4) an annual use tax imposed on trucks and tractors having taxable gross weights in excess of prescribed thresholds.

Special motor fuels include liquefied natural gas ("LNG"), benzol, naphtha, liquefied petroleum gas (e.g., propane), natural gasoline, and any other liquid (e.g., ethanol and methanol) other than gasoline or diesel fuel. Compressed natural gas ("CNG") also is subject to tax as a special motor fuel, but at a lower rate than other special motor fuels.

With the exception of 4.3 cents per gallon of the motor fuels excise tax rates, these taxes are scheduled to expire after September 30, 1999.

Highway motor fuels taxes

The current highway motor fuels excise tax rates are shown in Table 1.

TABLE 1.—FEDERAL HIGHWAY TRUST FUND MOTOR FUELS EXCISE TAX RATES, AS OF OCTOBER 1, 1997

[Rates shown in cents per gallon]

Highway Fuel	Tax Rate[2]
Gasoline[3]	18.3
Diesel fuel[4]	24.3
Special motor fuels generally	[5] 18.3
CNG	[6] 4.3

[1] The rates shown include the 4.3-cents-per-gallon tax rate which is transferred to the Highway Fund beginning on October 1, 1997, pursuant to the Taxpayer Relief Act of 1997.

[2] Effective on October 1, 1997, an additional 0.1-cent-per-gallon rate is imposed on these motor fuels to finance the Leaking Underground Storage Tank Trust Fund.

[3] Gasoline used in motorboats and in certain off-highway recreational vehicles and small engines is subject to tax in the same manner and at the same rates as gasoline used in highway vehicles. 6.8 cents per gallon of the revenues from the tax on gasoline used in these uses is retained in the General Fund; the remaining 11.5 cents per gallon is deposited in the Aquatic Resources Trust Fund (motorboat and small engine gasoline), the Land and Water Conservation Fund ($1 million of motorboat gasoline tax revenues), and the National Recreational Trails Trust Fund (the "Trails Trust Fund") (off-highway recreational vehicles).

[4] Kerosene is taxed at the same rate as diesel fuel.

[5] The rate is 13.6 cents per gallon for propane, 11.9 cents per gallon for liquefied natural gas, and 11.3 cents per gallon for methanol fuel from natural gas, in each case based on the relative energy equivalence of the fuel to gasoline.

[6] The statutory rate is 48.54 cents per thousand cubic feet ("MCF").

Present law includes numerous exemptions (including partial exemptions for specified uses of taxable fuels or for specified fuels) typically for governments or for uses not involving use of (and thereby change to) the highway system. Because the gasoline and diesel fuel taxes generally are imposed before the end use of the fuel is known, many of these exemptions are realized through refunds to end users of tax paid by a party that processed the fuel earlier in the distribution chain. These exempt uses and fuels include:

(1) use in State and local government and nonprofit educational organization vehicles;

(2) use in buses engaged in transporting students and employees of schools;

(3) use in private local mass transit buses having a seating capacity of at least 20 adults (not including the driver) when the buses operate under contract with (or are subsidized by) a State or local governmental unit;

(4) use in private intercity buses serving the general public along scheduled routes (totally exempt from the gasoline tax and exempt from 17 cents per gallon of the diesel tax); and

(5) use in off-highway uses such as farming.

LNG, propane, CNG, and methanol derived from natural gas are subject to reduced tax rates based on the energy equivalence of these fuels to gasoline.

Ethanol and methanol derived from renewable sources (e.g., biomass) are eligible for income tax benefits (the "alcohol fuels credit") equal to 54 cents per gallon (ethanol) and 60 cents per gallon (methanol).[1] In addition, small ethanol producers are eligible for a separate 10-cents-per-gallon credit.[2] The 54-cents-per-gallon ethanol and 60-cents-per-gallon renewable source methanol tax credits may be claimed through reduced excise taxes paid on gasoline and special motor fuels as well as through credits against income tax.[3]

NON-FUEL HIGHWAY FUND EXCISE TAXES

In addition to the highway motor fuels excise tax revenues, the Highway Fund receives revenues produced by three excise taxes imposed exclusively on heavy highway vehicles or tires. These taxes are:

(1) A 12-percent excise tax imposed on the first retail sale of highway vehicles, tractors, and trailers (generally, trucks having a gross vehicle weight in excess of 33,000 pounds and trailers having such a weight in excess of 26,000 pounds);

(2) An excise tax imposed at graduated rates on highway tires weighing more than 40 pounds; and

(3) An annual use tax imposed on highway vehicles having a taxable gross weight of 55,000 pounds or more. (The maximum rate for this tax is $550 per year, imposed on vehicles having a taxable gross weight over 75,000 pounds.)

Excise tax on diesel fuel used in rail transportation

Diesel fuel used in trains is subject to a 5.65-cents-per-gallon excise tax. Of this amount, 0.1 cent per gallon is dedicated to the Leaking Underground Storage Tank Trust Fund; this rate is scheduled to expire after March 31, 2005. The remaining 5.55 cents

[1] The alcohol fuels credit is scheduled to expire after December 31, 2000, or earlier, if the Highway Fund excise taxes actually expire before that date.

[2] The small ethanol producer credit is available on up to 15 million gallons of ethanol produced by persons whose annual production capacity does not exceed 30 million gallons.

[3] Authority to claim the ethanol and renewable source methanol tax benefits through excise tax reductions is scheduled to expire after September 30, 2000 (or earlier, if the underlying excise taxes actually expire before September 30, 2000).

per gallon is a General Fund tax, with 4.3 cents per gallon being permanently imposed and 1.25 cents per gallon being imposed through September 30, 1999.

Tax-exempt State or local government-bonds

Present law exempts interest on State or local government bonds from the regular income tax if the proceeds of the bonds are used to finance governmental activities of those entities and the bonds are repaid with governmental revenues. Interest on bonds issued by States or local governments acting as conduits to provide financing for private persons is taxable unless a specific exception is provided in the Code. No such exception is provided for bonds issued to provide conduit financing for privately constructed and/or privately operated toll roads and similar highway infrastructure projects.

Exclusion from income for employer-provided transportation benefits

Under present law, up to $170 per month of employer-provided parking is excludable from gross income and wages for employment tax purposes. Effective with respect to taxable years beginning after December 31, 1997, no amount is includible in income or wages merely because an employer offers an employee a choice between cash and employer-provided parking. The amount of cash offered is includible in income only if the employee chooses the cash instead of parking. If an employee chooses parking, the value of the parking is excludable from income as under present law. Employees may exclude a maximum of $65 per month from gross income for the value of employer-provided transit passes or vanpooling in an employer-provided vehicle. In order for the exclusion to apply, the employer-provided transit passes and vanpooling must be provided in addition to and not in lieu of any compensation that is otherwise payable to the employee.

2. Highway Trust Fund Expenditure Provisions

In general

Dedication of excise tax revenues to the Highway Fund and expenditures from the Highway Fund are governed by provisions of the Code (sec. 9503).[4] Under present law, revenues from the highway excise taxes, as imposed through September 30, 1999, are dedicated to the Highway Fund. Also, the Highway Fund earns interest on its cash balances each year from investments in Treasury securities. Further, the Code authorizes expenditures (subject to appropriations) from the Fund through September 30, 1997, for the purposes provided in authorizing legislation, as in effect on the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

Highway Fund provisions also govern transfer of 11.5 cents per gallon of the revenues from the tax imposed on gasoline used in motorboats, small engines, and off-highway recreational vehicles. Those revenues are transferred from the Highway Fund (after being received from the General Fund) to the Aquatic Resources Trust Fund, the Land and Water Conservation Fund, and the National Recreational Trails Trust Fund, respectively, through September 30, 1997.

Present-law Highway Fund expenditure purposes

Overview

The Highway Fund is divided into two accounts, a Highway Account and a Mass Transit Account, each of which is the funding source for specific programs.

Highway and Mass Transit Account expenditure purposes have been revised with passage of each authorization Act enacted since establishment of the Highway Trust Fund in 1956. In general, expenditures authorized under those Acts (as the Acts were in effect on the date of enactment of the most recent such authorizing Act) are approved Highway Fund expenditure purposes.[5] Authority to make expenditures from the Highway Fund expired after September 30, 1997. Thus, no Highway Fund monies may be spent for a purpose not approved by the tax-writing committees of Congress. Further, no Highway Fund expenditures may occur after September 30, 1997, without such approval.

Highway Fund spending further is limited by two, internal to the Highway Fund, anti-deficit provisions. The first of these provisions limits the unfunded Highway Account authorizations at the end of any fiscal year to amounts not exceeding revenues projected to be collected for that Account by the dedicated excise taxes during the two following fiscal years. The second anti-deficit provision similarly limits unfunded Mass Transit Account authorizations to the dedicated excise taxes expected to be collected during the next fiscal year. Because of these two provisions, the highway transportation excise taxes typically are scheduled to expire at least two years after current authorizing Acts. If either of these provisions is violated, spending for specified programs funded by the relevant Trust Fund Account is to be reduced proportionately, in much the same manner as would occur under a general Budget Act sequester.

Highway Account

The Highway Fund's Highway Account receives revenues from all non-fuel highway transportation excise taxes and revenues from all but 2.85 cents per gallon (2.0 cents prior to October 1, 1997) of the highway motor fuels excise taxes. Programs financed from the Highway Account include expenditures for the following general purposes:

(1) Federal-aid highways, including the Interstate System, National Highway System, parkways and park roads, forest and public lands highways, Indian reservation roads, scenic highways, and certain overseas highways (includes construction and planning);

(2) Highway resurfacing and repair;

(3) Bridge replacement and repair;

(4) Surface transportation programs;

(5) Congestion mitigation and air quality improvement;

(6) Highway safety programs and research and development, including a share of the cost of National Highway Traffic Safety Administration ("NHTSA") programs and university research centers;

(7) Transportation research, technology, and training;

(8) Traffic control grants and traffic control signal projects;

(9) Intermodal urban projects and mass transit (including carpool and vanpool) grants;

(10) Magnetic levitation technology deployment;

(11) Intelligent transportation systems;

(12) Certain administrative costs of the Federal Highway Administration and NHTSA;

(13) Grants to the Internal Revenue Service for motor fuels tax and highway use tax enforcement activities;

(14) Wetlands and other habitat mitigation; and

(15) Certain other highway and transit-related programs (including bicycle pathways and pedestrian walkways and fringe and corridor parking facilities).

Mass Transit Account

The Highway Fund's Mass Transit Account receives revenues equivalent to 2.85 cents per gallon (2.0 cents prior to October 1, 1997) of the highway motor fuels excise taxes. Mass Transit Account monies are available through September 30, 1997, for capital and capital-related expenditures under sections 5338 (a)(1) and (b)(1) of Title 49, United States Code, or the Intermodal Surface Transportation Efficiency Act of 1991.

The capital and capital-related mass transit programs include new rail or busway facilities, rail rolling stock, buses, improvement and maintenance of existing rail and other fixed guideway systems, and upgrading of bus systems.

Transfers from Highway Fund to National Recreational Trails Trust Fund

The National Recreational Trails Trust Fund ("Trails Fund") was established in the Intermodal Surface Transportation Act of 1991 ("1991 Act"). Amounts are authorized to be transferred from the Highway Fund into the Trails Fund equivalent to revenues received from "nonhighway recreational fuel taxes" (not to exceed $30 million per year under an obligational ceiling set in the 1991 Act), subject to amounts actually being appropriated to the Trails Fund. No monies have been transferred to date, since no amounts have been appropriated to the Trails Fund. The authority to transfer revenues to the Trails Fund expired after September 30, 1997.

Nonhighway recreational fuels taxes are the taxes imposed (to the extent attributable to the 11.5 cents per gallon rate) on (1) fuel used in vehicles and equipment on recreational trails or back country terrain, or (2) fuel used in camp stoves and other outdoor recreational equipment. Such revenues do not include small-engine gasoline tax revenues which are transferred to the Aquatic Resources Trust Fund.

Expenditures are authorized from the Trails Fund, subject to appropriations, for allocations to States for use on trails and trail-related projects as set forth in the 1991 Act. Authorized uses include (1) acquisition of new trails and access areas, (2) maintenance and restoration of existing trails, (3) State environmental protection education programs, and (4) program administrative costs.

B. SUMMARY OF S. 1173 TRUST FUND AUTHORIZATIONS

S. 1173 would extend authorizations for Highway Fund expenditures for six years, fiscal years 1998–2003. S. 1173 also would modify the expenditure purposes of the Highway Fund as described below. As reported by the Committee on Environment and Public Works ("Environment and Public Works"), S. 1173 contains no revenue provisions or other Code amendments.[6]

[4] The Highway Trust Fund statutory provisions were placed in the Internal Revenue Code in 1982.

[5] The authorizing Acts which currently are referenced in the Highway Trust Fund are the Highway Revenue Act of 1956, Titles I and II of the Surface Transportation Assistance Act of 1982, the Surface Transportation and Uniform Relocation Act of 1987, and the Intermodal Surface Transportation Efficiency Act of 1991.

[6] See below for mention of authorization of amounts from the Highway Account for grants to the Internal Revenue Service for motor fuel tax evasion projects and motor fuel tax reporting system.

Highway Account Authorizations Under S. 1173

S. 1173, as reported by Environment and Public Works, would provide Highway Trust Fund (Highway Account) authorizations totaling $145.3 billion for the 6-year period, fiscal years 1998–2003.

New Highway Account expenditure programs under S. 1173 include the following:

6-year total

	(millions)
Recreational trails program[7]	$119.0
Motor fuel excise tax reporting system	20.0
International border crossing planning incentive grants	8.4
International trade corridor planning incentive grants	18.0
Infrastructure financing (loans, loan guarantees, credit lines, including State infrastructure banks)	470.0
Safety grants for seat belt use	470.0
Wetland restoration pilot program (where mitigation has not been performed)	100.0
Transportation and community and system preservation pilot program (research and planning regarding relationships between transportation and community and environment preservation)	120.0

The bill would extend for 6 years (at $5 million per year) the current authorization from the Highway Account for funds to the Internal Revenue Service and the States for highway use tax evasion projects.

Other Highway Account safety program authorizations are to be marked up by the Senate Committee on Commerce, Science, and Transportation, and are expected to be offered as an amendment to S. 1173 when the bill goes to the Senate Floor.

Mass Transit Account Authorizations Under S. 1173

The Senate Committee on Banking, Housing, and Urban Affairs ("Banking") marked up mass transit authorizations on September 25, 1997. These provisions are expected to be added to S. 1173, and include $31.6 billion authorized from the Mass Transit Account of the Highway Fund and $4.1 billion from the General Fund over the 6-year period, fiscal years 1998–2003.

The Banking Committee amendment would authorize a new clean fuels grant program to be financed one-half from the Mass Transit Account ($100 million per year) and one-half from the General Fund ($100 million per year). The clean fuels program includes grants to purchase or lease clean fuel vehicles or hybrid transit vehicles, construction or leasing of clean fuel vehicle fueling or electrical recharging facilities and equipment, improvements of existing transit facilities to accommodate clean fuel vehicles, incremental costs of biodiesel fuel, and projects relating to clean fuel, biodiesel, hybrid electric or zero emissions technology vehicles that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

[7] A "trail" is a thoroughfare or track across land or snow used for recreational purposes, such as pedestrian activities, skating or skateboarding, equestrian activities, skiing, bicycling, aquatic activities, and motorized vehicular activities (including all-terrain vehicles, motorcycles, snowmobiles, off-road vehicles). Eligible expenses include costs of State administration of the program and educational programs to promote trail safety and environmental protection.

C. EXPLANATION OF PROVISIONS

1. Highway Fund provisions

a. Extension of existing Highway Fund excise taxes

Under the Committee amendment, the scheduled expiration date of the current Highway Fund excise taxes on motor fuels and heavy highway vehicles and tires is extended for six years, from September 30, 1999 through September 30, 2005.

b. Extension and modification of ethanol tax provisions

The current tax benefits for ethanol and renewable source methanol are extended for seven years from their currently scheduled expiration dates; the ethanol benefits are modified to reduce the benefit levels during the extension period. The modified ethanol benefit levels are as follows: 2001 and 2002—53 cents per gallon; 2003 and 2004—52 cents per gallon; and, 2005 through 2007—51 cents per gallon. The extension and the modifications apply to both the alcohol fuels credit and the associated excise tax provisions.

c. Extension and modification of Highway Fund provisions[8]

The current September 30, 1997 expiration date of authority to spend monies from the Highway Fund is extended for six years, from October 1, 1997 through September 30, 2003.

The Code provisions governing purposes for which monies in the Highway Fund may be spent is updated to include the purposes provided in S. 1173, as enacted.

The anti-deficit provisions of the Mass Transit Account are conformed to those of the Highway Account so that permitted obligations will be determined by reference to two years of projected revenues.

Transfers of revenues on motorboat and small engine gasoline from the Highway Fund to the Aquatic Resources Trust Fund and the Land and Water Conservation Fund are extended for six years, from September 30, 1997 through September 30, 2003.

The Code provisions establishing the National Recreational Trails Trust Fund ("Trails Fund") and providing for transfer of revenues to the Trails Fund are repealed, effective on the date of enactment.

Provisions are incorporated into the Highway Fund clarifying that expenditures from the Highway Fund may occur only as provided in the Code. Clarification is further provided that the expiration date for expenditures allowed from the Highway Fund does not preclude disbursements to liquidate contracts which were validly entered into before that date. Expenditures for contracts entered into or for amounts otherwise obligated after that date (or for other non-contract authority purposes permitted by non-Code provisions) would not be permitted, notwithstanding the provisions of any subsequently enacted authorization or appropriations legislation. If any such subsequent non-tax legislation provided for expenditures not provided for in the Code, or if any executive agency authorized such expenditures in contravention of the Code restrictions, excise tax revenues otherwise to be deposited in the Highway Fund would be retained in the General Fund beginning on the date of any unauthorized expenditure (including an obligation of funds under contract authority) pursuant to such legislation or the date of such an action by an executive agency.[9] Similar clarifications are incorporated into the Aquatic Resources Trust Fund.

A technical amendment of the Taxpayer Relief Act of 1997 is included clarifying that excise tax revenues attributable to LNG, CNG, propane, and methanol from natural gas (all of which are subject to reduced, energy equivalent rates, as indicated in Table 1) are divided between the Highway and Mass Transit Accounts of the Highway Fund in the same proportions as gasoline tax revenues are divided between those two accounts.

A technical correction to the Taxpayer Relief Act of 1997 is included providing that, the amount of gasoline and diesel fuel tax revenues deposited into the Mass Transit Account would be 2.86 cents per gallon (rather than 2.85 cents per gallon as provided in that 1997 Act).

2. Repeal 1.25 cents per gallon of tax rate on rail diesel fuel

The Committee amendment repeals the 1.25-cents-per-gallon rate on rail diesel fuel that is scheduled to expire after September 30, 1999. The repeal is effective on May 16, 1999.

3. Authorize limited tax-exempt financing for toll road and certain similar highway infrastructure projects

S. 1173 would authorize the construction of up to 15 highway infrastructure projects, such as toll roads involving private business participation. The Committee amendment provides that these projects are to be eligible for tax-exempt private activity bond financing. Bonds for these projects generally are subject to all Code provisions governing issuance of tax-exempt private activity bonds except (1) the annual State volume limits (sec. 146) and (2) no proceeds of these bonds may be used to finance land. In lieu of the State volume limits, the aggregate amount of bonds that could be issued under this pilot project is $15 billion (as allocated by the Department of Transportation in consultation with the Department of the Treasury).

4. Exclusion from income for employer-provided transportation benefits

The Committee amendment permits employers to offer employees the option of electing cash compensation in lieu of any qualified transportation benefit, or a combination of any of these benefits. Qualified transportation benefits include employer-provided transit passes, parking and vanpooling. Thus, no amount is includible in gross income or wages merely because the employee is offered the choice of cash or such benefits. The amount of cash offered is includible in income and wages only to the extent the employee elects cash. In addition, the Committee amendment increases the exclusion for transit passes and vanpooling to

[8] S. 1173 would authorize expenditures for a Congestion Mitigation and Air Quality Program ("CMAQ") pursuant to which State transportation departments (or other project sponsors) would be permitted to enter into agreements with public and private entities to implement certain environmental projects, including programs to promote the use of alternative fuels by privately owned vehicles by underwriting the costs of converting vehicles to alternative fuels.

The Committee amendment provides that to the extent that payments received under the program are not taxable under present law when received, no credit or other deduction is allowed, and a reduction in basis may be required, with respect to property (or other expenditures) financed directly or indirectly with the CMAQ monies. No inference is intended from this provision as to the treatment of amounts received under other Federal grant programs.

[9] The Committee does not intend that tax deposits terminate as a result of inadvertent administrative errors provided those errors are corrected within a reasonable period and do not evidence a pattern of disregard of this provisions.

$100 per month for taxable years beginning after December 31, 2002. The $100 amount is indexed as under present law.

III. BUDGET EFFECTS OF THE COMMITTEE AMENDMENT

A. COMMITTEE ESTIMATE

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the revenue provisions of the Committee amendment. (See the following table.)

ESTIMATED BUDGET EFFECTS OF AN EXTENSION OF HIGHWAY TRUST FUND EXCISE TAXES AND RELATED TRUST FUND PROVISIONS, AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 1, 1997

[Fiscal years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	1998–2007
1. Extend Highway Trust Fund excise taxes through 9/30/05	10/1/99						No Revenue Effect						
2. Extend income tax credits for ethanol through 12/31/07 and ethanol excise tax exemptions through 9/30/07, and reduce tax subsidy from 54 cents/gallon to 53 cents/gallon in 2001–2002, 52 cents/gallon in 2003–2004, and 51 cents/gallon thereafter.	1/1/01				10	14	25	29	40	45	45	24	208
3. Extend Highway Trust Fund expenditure authority through 9/30/03	10/1/97						No Revenue Effect						
4. Clarification of tax treatment of environmental grant monies	DOE						No Revenue Effect						
5. Repeal the 1.25 cents/gallon rail diesel tax	5/16/99		−11									−11	−11
6. Tax-exempt bonds for private sector highway infrastructure construction	bia DOE			−2	−5	−7	−10	−13	−15	−17	−18	−13	−85
7. Allow employees to elect between cash compensation, qualified transportation fringe benefits or a combination of both [1].	tyba 12/31/02						−2	−3	−5	−5	−5		−21
8. Increase employer-provided mass transit pass income exclusion to $100 [2]	tyba 12/31/02						−2	−13	−17	−27	−30		−89
Net total			−11	−2	5	7	11		3	−4	−9		2

[1] Estimate includes change in receipts to Social Security trust fund (−$13 million for 1998–2007).
[2] Estimate includes change in receipts to Social Security trust fund (−$34 million for 1998–2007).

Legend for "Effective" column: bia=bonds issued after; DOE=date of enactment; tyba=taxable years beginning after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

Budget Authority

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the revenue provisions do not involve new or increased budget authority.

Tax Expenditures

In compliance with section 308(a)(2) of the Budget Act, the Committee states that the income tax reduction provisions (tax-exempt bonds for private sector highway infrastructure construction, allow employees to elect between cash compensation and qualified transportation fringe benefits, and increase employer-provided mass transit pass income exclusion) will increase tax expenditures by the amounts shown in the above table. The reduction in the income tax credit for ethanol fuels will reduce tax expenditures by $2 million. The excise tax provisions do not involve tax expenditures under the current statutory definition of tax expenditures.

C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office has submitted the following statement with respect to the Committee amendment.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 8, 1997.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office and the Joint Committee on Taxation (JCT) have reviewed the Committee on Finance's amendment to S. 1173, the Intermodal Transportation Act of 1997. The JCT estimate that this amendment would decrease governmental receipts by $11 million in fiscal year 1999 and have no net effect on receipts over fiscal years 1998 through 2002. CBO concurs with this estimate.

The revenue effect of the Committee's amendment to S. 1173 are summarized in the table below. Please refer to the enclosed table for a more detained estimate of the amendment.

REVENUE EFFECT OF THE COMMITTEE ON FINANCE'S AMENDMENT TO S. 1173

[By fiscal years in billions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2000
Proposed Changes:											
On-Budget	0	−11	−2	5	7	13	6	12	8	5	45
Off-Budget	0	0	0	0	0	−2	−6	−9	−12	−14	−43
Total	1	−11	−2	5	7	11	0	3	−4	−9	2

In accordance with the requirements of Public Law 104–4, the Unfunded Mandates Reform Act of 1995, JCT has determined that the Committee amendment contains no federal intergovernmental mandates. States, local, and tribal governments are exempt from income tax and from the motor fuels excise tax.

In addition, JCT has determined that the amendment contains one federal private sector mandate. The provision to reduce the tax credit or exemption from gasoline excise tax for ethanol users would impose direct costs on the private sector of $208 million over fiscal years 2001 through 2007. Please refer to the enclosed letter for a more detailed account of the mandates in the amendment.

FEDERAL PRIVATE SECTOR MANDATES

[By fiscal years, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2007
Total Mandate Cost	0	0	0	10	14	25	29	40	45	45	208

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 establishes pay-as-you-go procedures for legislation affecting receipts or direct spending through 2007. Because the Committee amendment would affect receipts, pay-as-you-go procedures would apply. These effects are summarized in the table below. Changes in Social Security taxes, which are off-budget, are not included.

PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal years, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2007
Receipts	0	−11	−2	5	7	13	6	12	8	5	45
Outlays						Not Applicable					

If you wish further details, please feel free to contact me or your staff may wish to contact Alyssa Trzeszkowski at 226–2720.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

ESTIMATED BUDGET EFFECTS OF AN EXTENSION OF HIGHWAY TRUST FUND EXCISE TAXES AND RELATED TRUST FUND PROVISIONS, AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 1, 1997

[Fiscal years 1998–2007, in million of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1996–2002	1998–2007
1. Extend Highway Trust Fund excise taxes through 9/30/05	10/1/99						No Revenue Effect						
2. Extend income tax credits for ethanol through 12/31/07 and ethanol excise tax exemptions through 9/30/07, and reduce tax subsidy from 54 cents/gallon to 53 cents/gallon to 53 cents/gallon in 2001–2002, 52 cents/gallon in 2003–2004, and 51 cents/gallon thereafter.	1/1/01				10	14	25	29	40	45	45	24	208
3. Extend Highway Trust Fund expenditure authority through 9/30/03	10/1/97						No Revenue Effect						
4. Clarification of tax treatment of environmental grant monies	DOE						No Revenue Effect						
5. Repeal the 1.25 cents/gallon rail diesel tax	5/16/99			−11								−11	−11
6. Tax-exempt bonds for private sector highway infrastructure construction	bia DOE			−2	−5	−7	−10	−13	−15	−17	−18	−13	−85
7. Allow employees to elect between cash compensation, qualified transportation fringe benefits or a combination of both [1].	tyba 12/31/02						−2	−3	−5	−5	−6		−21
8. Increase employer-provided mass transit pass income exclusion to $100 [2]	tyba 12/31/02						−2	−13	−17	−27	−30		−89
Net total			−11	−2	−5	7	11		3	−4	−9		2

[1] Estimate includes change in receipts to Social Security trust fund (−$13 million for 1998–2007).
[2] Estimate includes change in receipts to Social Security trust fund (−$34 million for 1998–2007).

Legend for "Effective" column: bia=bonds issued after; DOE=date of enactment; tyba=taxable years beginning after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

IV. VOTE OF THE COMMITTEE

In compliance with paragraph 7(b) of Rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the vote on the motion to approve the Committee amendment.

The Committee amendment was approved by a voice vote, with a quorum present.

V. REGULATORY IMPACT AND OTHER MATTERS

A. REGULATORY IMPACT

Pursuant to paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the Committee amendment.

Impact on individuals and businesses

The Committee amendment extends the present-law Federal Highway Trust Fund excises for 6 years, October 1, 1999–September 30, 2005, in order to provide funding for the 6-year extension of the Highway Fund authorizations in S. 1173. This extension of existing Highway Fund excise taxes will not change the tax burden on individual or business users of the Federal-aid highway system.

The Committee amendment also extends the income tax credits and partial excise tax exemptions for ethanol fuel, at a reduced subsidy rate beginning in 2001. This will increase the tax burden somewhat for individual and business users of ethanol fuels. (See revenue table in Part IV.A., above, for the estimated budget effects of this provision.)

The Committee amendment extends the authority to make expenditures from the Highway Fund for 6 years, October 1, 1997–September 30, 2003, and updates the purposes for which Highway Fund monies may be expended to include such purposes as included in S. 1173.

The Committee amendment clarifies the income tax treatment of certain environmental grant monies under a Congestion Mitigation and Air Quality Program. No inference is intended as to the treatment of amounts received under other Federal grant programs.

The Committee amendment repeals the 1.25 cents per gallon General Fund tax rate on rail diesel fuel, effective on May 16, 1999.

The Committee amendment provides that tax-exempt bonds may be issued to finance up to $15 billion of highway infrastructure projects, such as toll roads involving private business participation.

The Committee amendment permits employers to offer employees the option of electing cash compensation in lieu of any qualified transportation benefit. The amount of cash offered is includible in income and wages only to the extent the employees elect cash. Further, the Committee amendment increases the exclusion for transit passes and vanpooling to $100 per month for taxable years beginning after December 31, 2002.

Impact on personal privacy and paperwork

The Committee amendment will not affect personal privacy, and should not involve any increase in paperwork above that currently required of individual and business taxpayers.

B. UNFUNDED MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (P.L. 104–4).

The Committee on Finance has reviewed the provisions of the revenue title to S. 1173 ("Committee amendment") approved by the Senate Committee on Finance on October 1, 1997. In accordance with the requirements of Public Law 104–4, the Unfunded Mandates Reform Act of 1995, the Committee has determined that the following provision of the Committee amendment contains Federal private sector mandates: Extension and reduction in ethanol tax credit/excise tax exemption

As indicated in the revenue table (Part IV.A., above), this provision is estimated to increase tax revenue by $208 million over fiscal years 2001–2007, which is the estimated amount that the private sector will be required to spend in order to comply with this Federal private sector mandate. This provision will not impose a Federal intergovernmental mandate on State, local, or tribal governments, as such governmental entities are exempt from income tax and from the motor fuels excise taxes.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Tuesday, October 28, 1997, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on the potential impacts on, and additional responsibilities for Federal land managers by the Environmental Protection Agency's Notice of Proposed Rulemaking on regional haze regulations implementing section 169A and 169B of the Clean Air Act.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Thursday, October 30, 1997, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President, for the information of the Senate and the public I am announcing that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources, will hold an oversight hearing to receive testimony to review the Federal Energy Regulatory Commission's hydroelectric relicensing procedures.

The hearing will be held on Thursday, October 30, 1997, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building.

Those interested in testifying or submitting material for the hearing record should write to the Subcommittee on Water and Power of the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510 attn: Shawn Taylor or Howard Useem at (202) 224–7875.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, October 8, 1997, at 9 a.m. in SR–328A to examine food safety issues and recent food safety legislation proposed by the U.S. Department of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet in executive session during the session of the Senate on Wednesday, October 8, 1997, to conduct a markup of the following nominees: Laura S. Unger, of New York, to be a Commissioner of the Securities and Exchange Commission; Paul R. Carey, of New York, to be a Commissioner of the Securities and Exchange Commission; Dennis Dollar, of Mississippi, to be a member of the National Credit Union Administration Board; Edward M. Gramlich, of Virginia, to be a member of the Board of Governors of the Federal Reserve; Roger Walton Ferguson, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve; and Ellen Seidman, of the District of Columbia, to be a Director of Thrift Supervision.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Wednesday, October 8, 1997, at 9:30 a.m. on the nominations of George Black, James Hall, and John Hammerschmidt to be members of the National Transportation Safety Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Wednesday, October 8, 1997, immediately following the nomination hearing scheduled at 9:30 a.m. on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CHAFEE. Mr. President, the Finance Committee requests unanimous consent to hold a hearing on S. 1195, the "Promotion of Adoption, Safety, and Support for Abused and Neglected Children [PASS] Act" on Wednesday, October 8, 1997, beginning at 10 a.m. in SD–215 Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 8, 1997, at 10 a.m. and 2:15 p.m. to hold a hearing and a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CHAFEE. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Wednesday, October 8, at 10 a.m. for a hearing on campaign financing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, October 8, 1997, at 9:30 a.m., in room 485 of the Russell Senate Building to conduct an oversight hearing on the Indian provisions contained in the tobacco settlement between the Attorneys General and the tobacco industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Nomination of David Satcher to be Surgeon General and Assistant Secretary of HHS during the Session of the Senate on Wednesday, October 8, 1997, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 8, 1997, at 2:30 p.m., to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition, of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, October 8, 1997, at 2 p.m., to hold a hearing in room 226, Senate Dirksen Building, on: "Competition in the cable and video markets."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SECURITIES LITIGATION REFORM STANDARDS ACT

• Mr. DOMENICI. Mr. President, I am pleased to cosponsor S. 1260, the Securities Litigation Uniform Standards Act of 1997 that was introduced yesterday by Senator GRAMM, DODD, and myself. We were joined by a significant number of the Banking Committee members.

After an extensive series of hearings which established a pattern of widespread abuse of the securities laws by class action lawyers, the Congress, in 1995, passed a major overhaul of the class action rules for frivolous securities litigation. The law is also designed to increase the flow of information to investors.

The Act will be 2 years old at the end of the year. With benefit of these 2

years of experience there is evidence that plaintiffs' lawyers have simply moved their frivolous cases to State court to avoid the new Federal reforms.

A study by Stanford Law School professors Joseph Grunfest and Michael Perino found that since the passage of the Federal reforms in 1995, about 26 percent of class action litigation activity has moved from Federal courts to State courts—an unprecedented shift.

The Stanford study concluded that this shift to State court is calculated to "avoid the substantive or procedural provisions of the 1995 reform act—the very provision that deter abusive lawsuits."

Under State law, plaintiff's lawyers still can engage in practices that were prohibited by Congress in 1995.

State courts still allow "boilerplate" complaints; fishing expeditions in the name of discovery even before the plaintiffs' lawyers establish that they have the barest of facts to support their case.

State courts still allow pet plaintiffs. This is the perverse practice by which the lawyer hires the client, not the more customary arrangement under which a client hires the lawyer.

State courts still allow lawsuits simply if the price of the stock drops. Congress decided in 1995 that stock volatility is not stock fraud.

State courts still allow lawsuits if a prediction about the future of the company doesn't come true—even when the statement is accompanied with appropriate warnings that the prediction may not come true and that it is a prediction.

The lack of safe harbors for predictions about the company's future muzzle CEO's and chill the flow of information.

Corporate disclosures reduce the volatility of share prices and increase the liquidity of stock. Yet, State courts do not have safe harbors for predictions as a result, the information flow to investors is limited because State lawsuits are undermining the "safe harbors" that were crafted in the 1995 Act.

There is a tremendous value to corporate disclosures. Forward looking corporate disclosures dramatically lower the cost of capital. Firms that voluntarily disclose information increase their pool of potential investors, and those investors have a more accurate understanding of the firms' likely future performance. There is an overwhelming consensus in the academic, business and investor communities that these factors greatly enhance a firm's ability to attract capital and therefore contribute to economic growth.

The targets of these State-court securities class actions are the high-tech leaders of the future. These are the companies producing the exciting products, and creating excellent jobs.

One of these lawsuits can cripple a young high-tech company. During our first round of hearings, the general counsel for Intel stated that if Intel had been hit with one of these lawsuits in its early days, there might not be an Intel today. One of these frivolous lawsuits could have put them out of business.

These lawsuits are destructive, and the 1995 reforms were designed to protect innocent companies and to provide more information to investors.

The purpose of this legislation is to make sure that the 1995 act works the way that Congress intended.

The bill creates a very narrow preemption requiring that class action law suits involving nationally-traded securities be litigated in Federal court. This would ensure that remedies available to purchasers and sellers of these nationally-traded securities would be uniform and would not vary depending upon the State in which the purchaser or seller lives.

Specifically, the bill only affects class actions in which damages are sought on behalf of more than 25 people.

The legislation only applies to cases involving nationally traded securities.

State regulators retain full authority to bring enforcement actions.

Private class actions involving nationally traded securities that are filed in State court would be moved to Federal court.

Mr. President, I urge the Senate to expeditiously consider and pass this legislation.●

● Mr. HOLLINGS. Mr. President, occasionally there comes along an individual who inspires everyone with his compassion, dedication, and devotion. Alex English is such a person.

Mr. English was born in Columbia, S.C., amid great poverty. As a child, he faced overt racism from many of the city's white residents; in his neighborhood, there were few role models he could emulate. It would have been easy for Alex English to capitulate to the odds, to become a victim of the oppressive poverty and violence that surrounded him. But he did not.

Instead, Alex English became a basketball player. Not just any basketball player, but one of the greatest in the world. On Monday, September 29, 1997, he was inducted into the Naismith Memorial Basketball Hall of Fame. The hall of fame recognized him for his 15-year National Basketball Association career, during which he made the All-Star Team eight times and the All-NBA second team three times. Mr. English led the NBA in scoring in the 1985–86 season. Today, Alex English is No. 9 on the NBA's all-time scoring list.

But Alex English's greatest attributes are not his feather-soft jump shot or his patented, smooth-as-silk drive to the basket. They are his qualities as a warm and generous person. Alex English was first and foremost a team player, in life and in basketball. At his induction on Monday, he said, "Team play was the most important thing for me. I had players around me who knew their roles; there was no selfishness." This unselfish attitude and self-effacing manner is rare among today's famous athletes.

On and off the court, Alex English's grace and poise always have stood out. Lou Carnesecca, former St. John's coach and 1992 Hall of Fame inductee, noted that Alex "always comported himself so well—with class." Dr. Jack Ramsay, another Hall of Fame coach, seconded Carnesecca's praise. These great coaches are telling us what we in South Carolina already know: as a player and person, Alex English is in a league of his own.

We in South Carolina are proud to call Alex English our own. He has been inducted into the South Carolina Athletic Hall of Fame and the University of South Carolina Hall of Fame, as well as the Colorado Hall of Fame. Fortunately for us, Alex also has been quick to acknowledge his South Carolina roots. "I carry all of you with me," he said to the people of Columbia after his induction on Monday. "Columbia has been a very important part of my career; the people there have always treated me very kindly."

Alex English continues to reside in Columbia, preferring to live quietly among old friends rather than ostentatiously. He has not forgotten his old teammates at Dreher High School and the University of South Carolina. He is known to his neighbors and friends as a humanitarian, philanthropist, businessman, and ambassador of goodwill. He gives generously of his time and money. As George Glymph, Alex English's high school coach said, "When the good Lord wanted a role model for the ultimate professional, family man, warrior, he made Alex." Because of Alex English's contributions, his community—our community—is a better place.

At his induction, Alex English told the press, "I love the people of Columbia dearly." Alex, the feeling is mutual.●

TRIBUTE TO CHARLIE BOWMAN

● Mr. BOND. Mr. President, this year marks the culmination of a distinguished career in health care for an individual whose name has become synonymous with the respect and appreciation accorded Missouri hospitals. Charles L. Bowman joined the Missouri Hospital Association staff on October 1, 1975, as vice president of legislative services. He assumed the presidency in January 1986. During his 22 years of service, his word has been his bond, and he has established a solid reputation of integrity in the legislative arena for

himself, the association and the hospital industry.

Charles Bowman helped shape activities of the Missouri Hospital Association at a time when the health care delivery system was undergoing dramatic changes and health policy was assuming a greater importance on the country's public policy agenda. During this period, he charted an advocacy course for Missouri's hospitals through upheavals in the State tort reform laws, massive changes in reimbursement for the Medicare Program, and complete redesign of Missouri's Medicaid Program.

His interest always has been in developing sound health care policy that helps hospitals serve their communities more fully. He advanced landmark legislation in Missouri that provided consent for emergency health care to be rendered to minors, and legislation that provided a definition of death. He also provided the impetus for a statewide voluntary initiative among hospitals to release hospital charge data so that consumers might become more familiar with the price of health care services.

Charles Bowman has championed equity in reimbursement policy designed to preserve vital access to health care in rural and inner-city communities. And he has been a proponent of health system reform that gives hospitals and other providers the opportunity to organize local delivery systems of coordinated care that will allow seniors and others to continue the relationships with health care providers they have trusted over the years.

Charles Bowman has forged a remarkable partnership between Missouri hospitals and State agencies that led to expansions in health funding for poor Missourians, development of an innovative scholarship program to help increase the number of health care providers in underserved areas of the State, and creation of a process for assessing and improving community health that has become a model for other States.

Through his 22 years of leadership for Missouri hospitals and health systems, Charles Bowman has kept the focus of association activities on improving health care for all Missouri's citizens—by spearheading legislative programs, forging collaborative partnerships and seeking innovative solutions to problems of health delivery. He has been a credible voice for Missouri health and an advocate for a strong, unified health care community in Missouri.

His truly has been a distinguished career of health care service.•

TRIBUTE TO PATRICK CURTIS

• Mr. CLELAND. Mr. President, I rise today to honor a dear friend of mine, Patrick Curtis, who is being honored next week with the 100th star on The Palm Springs Walk of Stars in Palm Springs, CA.

Patrick first set off on the road to stardom when he played Baby Beau Wilkes in Gone with the Wind. As a young actor working his way through film school, he worked on dozens of westerns, the Ma and Pa Kettle comedies, nearly every Tony Curtis film made in the 1950's, and even on the Leave it to Beaver set.

Upon graduating from film school, Patrick received a naval ROTC commission. He later served his country in Vietnam in 1967 and 1968.

Patrick has risen to become a highly successful film director and producer. He has had the opportunity to work with many legends and personal heroes of mine. Recently, he produced Meanwhile, Back at the Ranch, a documentary western about John Wayne, Roy Rogers, Gene Autry, Hoppy, and other six-gun legends.

Even with his busy film schedule, Patrick has found time to give back to his community. He was asked by President Ronald Reagan to serve as president of the Vietnam Veterans Leadership Program, an organization of successful veterans with the purpose of helping veterans who have not been able to mainstream. For his continued support of Vietnam veterans, Patrick has been awarded the prestigious Air Force Association Humanitarian Award. He has also been presented lifetime membership in The Marine Corps League, The Navy League, and The Air Force League.

In addition to his work with veterans, Patrick has worked to gather together talent in the entertainment industry to create public service announcements for groups such as Mothers Against Drunk Driving, DARE, and Activities for Retarded Children—all paid for by funds raised from the entertainment industry.

Mr. President, I would like to honor Patrick Curtis for his outstanding and numerous contributions to the entertainment industry, to America's veterans, and to his community. Patrick's selfless service to his country and community are a great example of what it means to be a great, patriotic American.•

RIGHT TO LIFE OF MICHIGAN BANQUET

• Mr. ABRAHAM. Mr. President, I rise today to honor those of the Region 2 Affiliates of Right to Life of Michigan for their enduring commitment and dedication to one of today's most important social issues.

Mr. President, to those of us who are pro-life, being pro-life means protecting our families and respecting the sanctity of life. It also means maintaining the central role of the family in all our lives. I would like to take this opportunity to thank those of Right to Life of Michigan for their perseverance in support of those goals. Unfortunately, we still must spend much of our time in the political sphere, arguing against laws that promote the taking of unborn human lives, and I am grateful for all their efforts in that area as well.

Ending the tragedy of abortion will not be easy. But groups like Right to Life of Michigan and the National Right to Life Committee are fighting a winning battle. By their example, as well as their arguments, they are showing the power and the beauty of human life.•

MICHIGAN ASSOCIATION OF NON-PUBLIC SCHOOLS ANNIVERSARY

• Mr. ABRAHAM. Mr. President, I rise today to commemorate the Michigan Association of Non-public Schools (MANS) on their 25 years of service to this special group of educators and students. Founded in 1972, MANS has advocated on behalf of non-public schools, established an agenda for their advancement, and given witness to the communities in Michigan regarding their immense social, educational, and economic benefit.

With the voluntary support of over 540 schools, nearly 7,000 instructors and 140,000 students of Michigan's next generation are affected by the outreach and activities sponsored by MANS. Through the Michigan Non-public School Accrediting Association, its affiliated Parent Network, and its organization of school resources, MANS works toward school improvement, encourages greater parental participation, and provides a host of services vital to bringing non-public school students the best education they can receive.

Through the years, MANS has been instrumental in promoting equal education benefits and services for all children. Regular conferences are held and have gained the enthusiastic support of teachers and administrators, with as many as 6,000 participants having attended recent gatherings. Finally, MANS maintains a role as a respected partner and resource for all levels of government whose actions impact education in Michigan.

Mr. President, on behalf of the U.S. Senate, I would like to express appreciation for the many individuals who have given of their time and talent to bring about a better community through MANS. We are thankful for their dedication to Michigan's children.•

ITALIAN-AMERICAN COLUMBUS DAY CELEBRATION (LIVONIA)

• Mr. ABRAHAM. Mr. President, I rise today to celebrate the achievements of Italian-Americans as we join to commemorate the accomplishment of the

first Italian-American, Christopher Columbus. Italian-Americans came to this country with little, but have left a large mark. Therefore, it gives me great pleasure to celebrate with them today, Columbus Day.

Mr. President, certainly everyone in this country is grateful for the courage, dignity, and thrill for exploration given to this Nation by Christopher Columbus. As a grandson of Lebanese immigrants, I am convinced that the various ethnic heritages people bring with them when they come to the United States greatly benefit our country. Indeed, Italian-Americans have taken over where Columbus left off, building this Nation into the great power that it is. Certainly, without the leadership, insight, and continued support of one of this Nation's most valued resources, America would face a terrible emptiness.

Many Italian-Americans have given generously of their time and energy in preparation of this celebration, and they should be commended for their efforts. I am very pleased to have this opportunity to recognize this very meaningful event in the U.S. Senate.•

BYRON CENTER RIGHT TO LIFE BANQUET

• Mr. ABRAHAM. Mr. President, I rise today to honor members of Michigan's Right to Life in Byron Center for their enduring commitment and dedication to one of today's most important social issues.

Mr. President, to those of us who are pro-life, being pro-life means protecting our families and respecting the sanctity of life. It also means maintaining the central role of the family in all our lives. I would like to take this opportunity to thank those of Right to Life of Michigan for their perseverance in support of those goals. Unfortunately, we still must spend much of our time in the political sphere, arguing against laws that promote the taking of unborn human lives, and I am grateful for all their efforts in that area as well.

Ending the tragedy of abortion will not be easy. But groups like Right to Life of Michigan and the National Right to Life Committee are fighting a winning battle. By their example, as well as their arguments, they are showing the power and the beauty of human life.•

DONALD J. BABB

• Mr. BOND. Mr. President, I stand before you today to pay tribute to Mr. Donald J. Babb. Donald recently received the 1997 Shirley Ann Munroe Leadership Development Award, by the American Hospital Association, a distinction given to the rural hospital administrator across the Nation who "displayed outstanding leadership commitment to meet the challenges faced by small/rural hospitals."

Donald was chosen to be the administrator by the first board of directors for the Citizens Memorial Hospital in Bolivar, MO, in the early 1980's. With his experience in hospital administration and construction, Donald has taken what was once just a dream to new heights of reality. In the last 17 years he has built a huge rural facility as executive director of the Citizens Memorial Health Care Foundation. This facility provides excellent health care to more than 75,000 individuals in Bolivar and the surrounding areas. The Citizens Memorial Health Care Foundation now consists of an acute care hospital, three long-term care facilities, a residential care facility, independent living apartments, 12 physician clinics, including six certified rural health clinics—the first created in Missouri—home health, hospice, home medical equipment, homemaker services, a wellness and counseling center, a statewide health maintenance organization, and an extensive outpatient rehabilitation program. Donald also always makes time for his staff, patients, residents, and community members. He meets individually with each new employee and makes regular rounds of all of his health care facilities in the area.

It is a privilege to honor Citizens Memorial Hospital Administrator, Donald J. Babb, on this well deserved award. I know the hospital will continue to improve and grow for years to come. The State of Missouri is lucky to have such a facility and I want to express my sincere appreciation to Donald Babb, who makes Citizens Memorial Hospital excel.•

SERGEANT ALVIN C. YORK

• Mr. FRIST. Mr. President, today is an historic day for it was 79 years ago on this date, October 8, 1918, that Sgt. Alvin C. York faced a battery of German soldiers alone in the Battle of the Argonne. Sergeant York's bravery during World War I captured the imagination of the world. Here at home, he was heralded as a true hero, complete with the largest ticker tape parade New York City had ever seen. President Wilson and General Pershing offered their personal thanks, and Sergeant York received this Nation's Medal of Honor.

But home for Alvin York, despite his new found fame, was the hills of Tennessee in Fentress County. The values instilled in him by his family remained with him throughout his life, and he used his platform as a hero of the Tennessee hills to better the lives of his neighbors and friends. Sergeant York founded an industrial and agricultural school in Fentress County, built a church and Bible school, and when money ran short, he helped to pay the teachers' salaries himself.

Today, 79 years later, we salute the memory of Alvin C. York and his heroic deeds as a young soldier far from home on the battlefield in France. Despite his great fame, home and family were far more important to him. His heroism extends far beyond the battlefield. For the values that he lived each and every day as a citizen of Fentress County, TN, are values for all of us to emulate in our daily lives.

Mr. President, the Sergeant York Historical Association, of which I am proud to serve on the board of directors, is committed to keeping the memory of Sergeant York alive. I commend the association for its efforts to ensure that the York homeplace, his grist mill, his papers, and the history of World War I are not forgotten, but will live on for generations to visit, enjoy, and appreciate a piece of our Nation's fabric.

Sergeant York was a World War I hero, but in truth, he is a hero for all time.•

MEDICARE BENEFICIARY FREEDOM TO CONTRACT ACT

• Mr. MURKOWSKI. Mr. President, I rise in support of the Medicare Beneficiary Freedom to Contract Act of 1997. This legislation protects the right of the elderly to be treated by the physician of their choice.

Great reform of Medicare was achieved during the 1997 Balanced Budget Act: regulations were streamlined, greater flexibility was given to rural health care, and, most important, the Medicare trust fund—on the verge of bankruptcy—was salvaged for an additional 10 years.

However, due to the administration's threat to veto the entire Balanced Budget act, the conference committee to the act added a requirement clearly infringing on the rights of senior citizens. The President's provision prohibits providers who privately contract from treating Medicare patients for a period of 2 years. Therefore, upon enactment of the 1997 Balanced Budget Act, it is now unlawful for a doctor to take a private payment from a Medicare-eligible patient if during the previous 2 years he has billed Medicare for any service rendered to a patient over the age of 65.

What is the reality of the President's provision?

The reality is that it will be almost impossible for a senior citizen to contract privately for medical services because few or no physicians are going to be able to make ends meet if they can't accept Medicare patients for 2 years. The reality is that, unlike every other insured American, senior citizens have no option but to receive the services that their insurance carrier, Medicare, recognizes and is willing to pay for. In essence, upon turning the age of 65, you have now lost a significant right—a

right of choice in who provides your health care.

Mr. President, even in the socialized medical system of Great Britain, choice is offered to the elderly. In Great Britain, a senior citizen has the choice to pay privately for his or her medical services. Don't the elderly of America deserve that same choice?

To remedy this situation, I have sponsored legislation introduced by Senator KYL of Arizona and Senator NICKLES of Oklahoma. This legislation explicitly provides that any Medicare beneficiary can enter into an agreement with the physician or practitioner of their choice for any health care service and for any length of time when they choose to pay for such services out of their own pocket. In brief, the bill will ensure that Medicare-eligible beneficiaries who choose to pay out of pocket will have an unrestricted right to the health care provider of their choice. I cosponsored a similar bill 2 years ago.

The American Medical Association has strongly endorsed this legislation. In a letter dated September 18, 1997, the AMA executive vice-president writes:

The AMA believes that it is essential that Medicare-eligible seniors have the unfettered right to spend their own money to buy health care if and as they so choose, irrespective of coverage under the Medicare program. * * * (this) bill is an urgently needed clarification of the law and would greatly further the goal of providing Medicare beneficiaries with more choices in their pursuit of health care.

I ask my colleagues to join me in support of this important legislation.●

CHANGES TO THE APPROPRIATIONS COMMITTEE ALLOCATION

● Mr. DOMENICI. Mr. President, section 203 of House Concurrent Resolution 84, the Concurrent Resolution on the Budget for fiscal year 1998, allows the chairman of the Senate Budget Committee to adjust the allocation for the Appropriations Committee to reflect new budget authority and outlays provided for the renewal of expiring contracts for tenant- and project-based housing assistance under section 8 of the United States Housing Act of 1937.

I hereby submit revisions to the 1998 Senate Appropriations Committee budget authority and outlay allocations, pursuant to section 302 of the Congressional Budget Act.

The revisions follow:

	Budget authority	Outlays
Current allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	256,036,000,000	283,243,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	807,721,000,000	832,262,000,000
Adjustments:		
Defense discretionary	———	———
Nondefense discretionary	127,000,000	121,000,000
Violent crime reduction fund	———	———
Mandatory	———	———
Total allocation	127,000,000	121,000,000
Revised allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	256,163,000,000	283,364,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	807,848,000,000	832,383,000,000

QUORUM CALL

Mr. BAUCUS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COATS. I ask unanimous consent to rescind the call of the quorum on the condition of asking the Senator from Montana if he will allow that to happen for the purpose of speaking in morning business on something not related at all to campaign finance.

Mr. BAUCUS. I object.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent further proceedings under the quorum call be dispensed with.

Mr. BAUCUS. I object.

The PRESIDING OFFICER. The objection is heard.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BAUCUS. Mr. President, reserving the right to object. I would love to hear the speech by the Senator from Oklahoma. I wish I could have heard the speech of the Senator from Rhode Island. Very respectfully, I must object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 5 Leg.]

Abraham	Burns	Gorton
Akaka	Chafee	Inhofe
Baucus	Coats	Lott
Biden	Dorgan	McConnell
		Murray
		Santorum
		Stevens
		Warner

The PRESIDING OFFICER. A quorum is not present.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I move that the Senate now stand in adjournment.

Mr. BAUCUS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO ADJOURN

The PRESIDING OFFICER. The question is on agreeing to the motion. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 45, as follows:

CHANGES TO THE BUDGET RESOLUTION AGGREGATES AND APPROPRIATIONS COMMITTEE ALLOCATION

● Mr. DOMENICI. Mr. President, section 314(b)(2) of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect additional new budget authority and outlays for an earned income tax credit compliance initiative.

I hereby submit revisions to the budget authority, outlays, and deficit aggregates for fiscal year 1998 contained in sec. 101 of House Concurrent Resolution 84. The revisions follow:

	Deficit	Budget authority	Outlays
Current aggregates	173,341,000,000	1,390,786,000,000	1,372,341,000,000
Adjustments	121,000,000	127,000,000	121,000,000
Revised aggregates	173,462,000,000	1,390,913,000,000	1,372,462,000,000

[Rollcall Vote No. 272 Leg.]

YEAS—54

Abraham	Enzi	Lott
Allard	Faircloth	Lugar
Ashcroft	Frist	McConnell
Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Brownback	Grams	Roberts
Burns	Grassley	Roth
Byrd	Gregg	Santorum
Campbell	Hagel	Sessions
Chafee	Hatch	Shelby
Coats	Helms	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Inouye	Stevens
D'Amato	Jeffords	Thomas
DeWine	Kempthorne	Thurmond
Domenici	Kyl	Warner

NAYS—45

Akaka	Feinstein	Lieberman
Baucus	Ford	McCain
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Breaux	Hollings	Murray
Bryan	Johnson	Reed
Bumpers	Kennedy	Reid
Cleland	Kerrey	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Landrieu	Thompson
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Feingold	Levin	Wyden

NOT VOTING—1

Mack

The motion was agreed to.

ADJOURNMENT UNTIL TOMORROW

The PRESIDING OFFICER (Ms. COLLINS). The Senate stands adjourned. It will reconvene at 12 noon on Thursday, October 9, pursuant to the provisions of Senate Resolution 3.

Thereupon, the Senate, at 6:05 p.m, adjourned until Thursday, October 9, 1997, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 8, 1997:

THE JUDICIARY

GARR M. KING, OF OREGON, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF OREGON VICE HELEN J. FRYE, RETIRED.

NORMAN K. MOON, OF VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF VIRGINIA VICE JACKSON L. KISER, RETIRED.

FEDERAL EMERGENCY MANAGEMENT AGENCY

JAMES HUDSON BAILEY, OF WISCONSIN, TO BE DEPUTY DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE HARVEY G. RYLAND, RESIGNED.

DEPARTMENT OF STATE

CHRISTOPHER C. ASHBY, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ORIENTAL REPUBLIC OF URUGUAY.

JAMES A. LAROCCO, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF KUWAIT.

U.S INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

MARK ERWIN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1999, VICE GORDON D. GIFFIN, TERM EXPIRED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

CARL H. LEONARD, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

DONALD BOLYSTON CLARK, OF NEW HAMPSHIRE
TONI CHRISTIANSEN-WAGNER, OF COLORADO
KATHLEEN DOLLAR HANSEN, OF VIRGINIA
DONALD L. PRESSLEY, OF VIRGINIA
HENRY W. REYNOLDS, OF FLORIDA
JOHN A. TENNANT, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

HILDA MARIE ARELLANO, OF TEXAS
PRISCILLA DEL BOSQUE, OF OREGON
RONALD D. HARVEY, OF TEXAS
PETER BENEDICT LAPERA, OF FLORIDA
GEORGE E. LEWIS, OF WASHINGTON
WAYNE R. NILSESTUEN, OF MARYLAND
JOY RIGGS-PERLA, OF VIRGINIA
DAVID LIVINGSTONE RHOAD, OF VIRGINIA
F. WAYNE TATE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT AS CONSULAR OFFICERS AND SECRETARIES OF THE DIPLOMATIC SERVICE, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JOANNE T. HALE, OF CALIFORNIA

DEPARTMENT OF STATE

PHYLLIS E. OAKLEY, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF STATE, VICE TOBY TRISTER GOTI.

BETTY EILEEN KING, OF MARYLAND, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HER TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

SOCIAL SECURITY ADMINISTRATION

STANFORD G. ROSS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2002, VICE WILLIAM C. BROOKS.

THE JUDICIARY

MICHAEL B. THORNTON, OF VIRGINIA, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM OF 15 YEARS AFTER HE TAKES OFFICE, VICE LAPSLEY WALKER HAMBLEM, JR., RETIRED.

HOUSE OF REPRESENTATIVES—*Wednesday, October 8, 1997*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The Scriptures tell us that for everything there is a season and a time for every matter under Heaven. We pray, almighty God, that we will use our time with vitality and enthusiasm so that we are stewards of the days we have been given to be Your people and do those good works that flow from a grateful heart. We admit that we do not always use our days in ways that reflect Your will for us, but we earnestly pray that we will experience in our daily tasks the joys and opportunities of love to You, O God, and doing what we can to be of service to the people all about us. May Your peace that passes all understanding, be with us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Missouri [Mr. BLUNT] come forward and lead the House in the Pledge of Allegiance.

Mr. BLUNT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize fifteen 1-minutes on each side.

WHITE HOUSE VIDEOTAPES

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, let us go to the videotape. There we can see President Clinton schmooze with John Huang and Roger Tamraz at fundraisers held at the White House. The White House staff has videotaped 44 or more of these events, probably to help secure President Clinton's place in history.

I hope the White House has videotaped other history-making scenes by this administration, like when President Clinton supported the Internal Revenue Service over the taxpayers by threatening a veto of commonsense efforts to reform the IRS. That gesture will be remembered by every taxpayer in America. I hope the White House has videotaped the Vice President's claim that there was no controlling legal authority when he described why he broke campaign finance laws. Some Members of this House might want to keep that videotape really close at hand.

Mr. Speaker, when it comes to this White House, I say let us go to the videotape.

SUPPORT THE VENTO-RAHALL AMENDMENT TO THE AMERICAN LAND SOVEREIGNTY PROTECTION ACT

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, today we have a chance to vote on a good amendment, the Vento-Rahall amendment. We have the so-called American Land Sovereignty Protection Act which breaks really two treaties and repeals a protocol with hundreds of nations. The United States has led efforts of hundreds of nations to, in fact, provide the conservation and recognition of our areas.

But in this bill, last night we were able to offer an amendment which deals not just with conservation but deals with exploitation. We think if the Congress is going to approve the conservation measures in this Congress, it ought to also approve foreign firms that seek to exploit this, exploit our resources, and there are many of them. We know under the 1872 mining law that Canadian, United Kingdom, Danish, and Australian firms are coming in here and getting billions of dollars worth of important assets for mere thousands of dollars.

The Vento-Rahall amendment today gives us a chance to vote on that, to vote to provide parity; that is to say, if we are going to have conservation votes, we ought to have votes when we have exploitation.

MORE ON THE IRS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, the IRS wants to repent. They know they have been a little hard on Americans, but they are sorry and they will not do it anymore. The IRS is starting to begin to sound like campaign reform.

It starts out, "We did not do it. Nobody saw us. You cannot prove anything. We did not do it." Then the truth starts to become apparent and the excuses change. "Ok, we might have had some problems but it was not wrong." Then it is, "Yes, we did it but we will not do it anymore."

That is about where the IRS is today. They have done something wrong. Quotas for their IRS agents, singling out individuals like Paula Jones, harassing small business men and women, striking fear across America.

And some people like Martin Grimes of Wichita, an RV salesman, are just plain mad. In his last $3,500 check that he got for commission, $1,400 of it went directly to the IRS. Mr. Speaker, there are many good people who are working at the IRS who have been put in a very bad situation by their management. It is time to cut the IRS code and flatten the tax.

SUPPORT PUBLIC SCHOOLS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, Democrats strongly oppose spending taxpayer dollars on private and religious schools and have argued for making the necessary improvements in public schools instead. This week the Republicans hope to pass a bill that would make Washington, DC the first victim in a grand scheme to undermine public schools through taxpayer funded vouchers for private or religious schools. As much as $45 million in Federal funds would be made available to pay for private education for about 3

percent of the District of Columbia's students.

Mr. Speaker, in my opinion it makes no sense to take away $45 million that could be made available to the city of Washington to improve basic skills or to fix deteriorated buildings in the public schools and instead use this money for private schools. With 9 out of 10 children in America attending public schools, Democrats understand that we need to rebuild and reform public schools, not destroy them and waste public funding on private schools. I hope that my Republican colleagues will join us in moving a positive agenda for public education rather than wasting our time on vouchers.

IN SUPPORT OF HOUSE POSITION ON FOREIGN OPERATIONS BILL

(Mr. BLUNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUNT. Mr. Speaker, yesterday this body instructed our conferees working with the Senate on the foreign operations bill to stay with the House position that relates to taxpayer dollars spent for abortion. Abortion is an issue that there are many differences of opinion of on the floor of this House, but there has generally been broad agreement that taxpayers' dollars should not be spent for abortions in the United States. We need to ensure that that same policy is extended beyond our borders and with taxpayers money that is sent to other countries.

Certainly it was disturbing just a few days ago when the Vice President said that the biggest environmental danger in Third World countries was too many children, too many children in Mexico, too many children in Africa, too many children in Asia. That should not be the position of our Government. Our conferees need to stand firm. Taxpayers' dollars should not be used for abortions in America. They should not be used for abortions overseas.

COINCIDENCE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Patricia Mendoza heckled the President; she got audited. Kent Brown sued the First Lady; he got audited. The National Center for Public Policy criticized the White House; they got audited. Billy Dale got the White House mad; he got audited. Paula Jones refused a cash settlement; she got audited.

If that is not enough to tax your disgust, Shelly Davis, the author of Unbridled Power, who testified about IRS abuses before the Senate, got a notice in the mail yesterday; she is being audited.

Unbelievable. After all this, an IRS spokesman said, coincidence, all coincidence. I say, Mr. Speaker, the IRS has turned into a bunch of political prostitutes.

I want to apologize to all the hookers in America for having associated them with the IRS. I say beam me up, dot com, coincidence this.

A COMMISSION TO OVERSEE THE IRS

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, I associate myself with the general comments of the gentleman from Ohio. He is absolutely right, Mr. Speaker. In light of the hearings we had on the IRS, it is clear that there is immediate need for reform.

We Republicans have joined with some Democrats in urging a citizens oversight commission for the IRS. Incredibly, the White House has opposed this. The President's Chief Economic Advisor, Gene Sperling, called the proposal for citizen oversight of the IRS "a recipe for conflict of interest" and "a serious step backward". The President's comments were even worse than those of his advisor. He said, "I believe the IRS is functioning better today than it was five years ago." The President claimed that a citizens commission to oversee it would mean "less accountability" and "less trust in the agency."

I cannot conceive of how the IRS could possibly have less accountability and less trust from the American people than it does today. This administration has its head in the sand on this issue. The IRS must be held accountable by taxpayers and citizens, not by the White House and bureaucrats.

CRUMBLING SCHOOLS

(Mr. BLAGOJEVICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAGOJEVICH. Mr. Speaker, we have the privilege here in America to live in what is arguably the wealthiest country in the world. In fact, when we compare the wealth of our country with other countries in the span of human history, we are probably easily among the wealthiest. We are fortunate to live in a country that offers that kind of well-being.

Yet across America our school buildings are crumbling. Fourteen million American students this morning went to school in crumbling school buildings. Education in my view is not only a proper role for government, it is a moral imperative for those of us who are involved in government. It is a scandal and it is a shame that in one of the wealthiest countries in human history we can allow crumbling school buildings to exist in the United States of America.

This Congress recently passed an appropriation for $21 billion for B–2 bombers, B–2 bombers that cannot even fly in the rain. Yet this very Congress denied $5 billion to help improve our crumbling school buildings. We must get our priorities straight. Public schools need the help of the Federal Government and crumbling school buildings are a national scandal.

REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I come before the House today, to be followed by my good friend, the gentleman Michigan [Mr. DINGELL] to discuss the need to reauthorize the Endangered Species Act. I believe the time is now to reauthorize this granddaddy of all environmental laws.

It is vital that any piece of legislation that is developed is done so in a bipartisan way. I want to congratulate also the Senate in their effort to craft such a bill. This process must recognize the needs of people who are impacted by ESA as well as the issue of declining species.

I want to commend my colleague, the gentleman from Alaska [Mr. YOUNG], chairman of the Committee on Resources, and the ranking member, the gentleman from California [Mr. MILLER] for their recent efforts to craft a bipartisan bill.

This process has been supported by the involvement of my friend [Mr. DINGELL] as well as the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from California [Mr. POMBO].

We must set aside partisan politics. We must set aside personal interest and do what is right for the people of this country and for the species which this legislation protects.

HONEST TAXPAYING CITIZENS SHOULD NOT HAVE TO FEAR IRS

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, how many honest American citizens are going to be terrorized by the IRS before the IRS changes the way it does business?

Everyone knows that it is not just the tax cheats who panic when the IRS comes around to conduct an audit. Ordinary American citizens who pay taxes are driven to panic as well. It should not be that way.

Tax cheats should feel the cold, unrelenting power of the IRS when their

misdeeds are found out, but honest citizens who do their best to comply with an extremely complicated Tax Code should have nothing to fear from an audit.

But the IRS knows that many people who work for a living, who have family obligations, and are living from paycheck to paycheck do not have either the time or the money to do battle with the IRS when the auditors want to play hard ball. IRS agents know that and they can count on that advantage.

But an ordinary citizen who is not a tax cheat simply does not have the money to pay for all the legal leadership necessary to defend himself against the IRS. It is not a fair fight. It is a recipe for abuse and it must stop.

SUPPORT PUBLIC SCHOOL SYSTEM

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, our public schools are under attack. Across the country there are students trying to learn in conditions that we should be ashamed of: crumbling walls, leaky roofs, and overcrowding.

The Republicans' response to this crisis is amazing. They want to take money out of the public school system and give it to private schools.

A recent poll shows that the vast majority of Americans oppose Republicans' attempt to use tax dollars for private schools. The American people want to be able to provide all our children with a first class public education, but the Republicans do not. They want to allow public schools to continue to deteriorate while using taxpayers' dollars to subsidize private schools.

Mr. Speaker, we must not allow the Republicans to tear down our public school system. We must continue our commitment to providing every child in this country with a quality education.

NOW IS THE TIME FOR REAL ACTION IN REFORMING IRS

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, the Internal Revenue Service is bullying the American taxpayer, and it is time for this practice to stop.

I appreciate what my colleagues in both the Senate and the House have done to look into this problem with the IRS. Now it is time for real action. The Congress needs to build on the current momentum and take advantage of this opportunity for true tax reform.

To police the tax system, our government employs over 110,000 IRS agents at an annual cost of $9.8 billion a year. A fair, simpler tax system would eliminate the need for this tremendous and unethical bureaucracy.

The American taxpayers have known this for years, that the IRS needs drastic reform. Now it is time for the Congress to help the taxpayers of America and simplify the Tax Code. Let us give the taxpayers the relief they deserve.

CONGRESS SHOULD NOT ABANDON OUR PUBLIC SCHOOLS

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Mr. Speaker, they are at it again. The House majority has planned to help only a select few of the students that exist. Nine out of ten students attend our public school system. Once again, 9 out of 10 students attend our public school systems. We have to be responsive to those individuals, and our obligation as elected officials is to those people that attend our public school system.

We have to assure that they have the resources. We have to make sure our teachers have the training that is required. We have to make sure that our buildings are adequate and, at the same time, we have to make sure that they have access to the latest technology.

As taxpayers, our obligation is to the public schools, not to the private or religious schools. The majority's plan to abandon our public schools is not an option. Vouchers are not the answer. Abandoning our public schools will only make it worse.

What we need is a commitment of repairing our buildings, a commitment to our students that are out there, commitment to our teachers, a commitment to our communities. We must work for all our students that are out there. Let us not abandon our schools.

CAMPAIGN FINANCE REFORM IS ALIVE

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, some individuals have misinterpreted yesterday's vote in the Senate as an indication that campaign finance reform is dead. I think they are deceiving themselves. There was no knockout punch. It was a draw.

Campaign finance reform is alive and it is a golden opportunity for the House and our House colleagues to prove that. The spotlight will turn to the House and whether we can follow through on our promises to take the electoral process out of the hands of the highest bidder and put it back in the hands of the American bidder.

I applaud Speaker GINGRICH's comments that he will give campaign finance reform its due in the House, and the gentleman from California [Mr. THOMAS] for asserting that he will hold hearings on the reform effort and examine the different campaign finance bills, including the bill introduced by myself and my friend, the gentleman from Maine, Mr. TOM ALLEN.

Mr. Speaker, there has been some heated debate on this issue. Let us take that debate out of the pages of the newspapers and put it on the floor of the House of Representatives. Let us make it an open debate, hear all the sides, hear the viewpoints, and decide which direction we are going; and, Mr. Speaker, after that debate, then we can decide just how our campaigns should be run, by the highest bidder or by the American public.

VOTE "YES" ON FARR AMENDMENT TO H.R. 901

(Mr. FARR of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR of California. Mr. Speaker, I rise this morning because the second vote we are going to take today is on H.R. 901, and I have an amendment to that bill that is on the floor. It is the second vote we will take. It amends the Land Sovereignty Act.

I rise as a private landowner to urge my colleagues to protect private property rights. I rise as a former county supervisor to ask my colleagues to protect local control. I rise as a former member of the State legislature to ask my colleagues to protect State rights. And I rise as a Member of Congress to ask my colleagues to vote for that amendment to protect our information sources.

Vote "yes" on the Farr amendment, the second vote this morning.

PRESIDENT CLINTON READY TO IMPOSE NEW ENERGY TAXES

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, there he goes again. President Clinton has stepped up efforts to force compliance with the treaty limiting greenhouse gas emissions. And with a kneejerk reaction, how does he propose to accomplish this goal? Simply by raising taxes. That is right, a tax increase. A tax increase on energy.

The ink is not even dry on the newly enacted tax cut package and the President is proposing a new tax, a green tax, that will place an unbearable burden on our most vulnerable citizens. And for what? The treaty exempts 132 of the 166 nations of this world. This places the entire burden of reducing greenhouse emissions on the industrialized nations. That is us. This will not

eliminate greenhouse gases, it merely changes the point of origin, the point of production.

By itself the Clinton-Gore-Browner Treaty will have a devastating effect on the American workers, but now the President wants to add insult to injury with his green tax. I ask the President to think hard about his ill-conceived green tax.

EVERY AMERICAN CHILD DESERVES A QUALITY EDUCATION

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, I want to disassociate myself with any of this green tax stuff, but what I am here for this morning is to talk about the fact that every American child deserves a quality education. Quality education needs to be available to all students whether or not they can afford it.

Many families in our districts cannot afford to send their children to private schools even with vouchers. School vouchers only address a small percentage of the children and they take away scarce dollars from public education.

It is not our American heritage to make quality education only available to a few select children and then forget the rest. Unlike other countries, we strive to educate everyone, not just the elite. Education needs to be available to all Americans, not just the ones who can afford it. That is why in our Nation's recent history public education is for everyone.

In a recent poll, 71 percent of Americans want to reform public education. Almost the same number support public education. We need to listen to the American people. They want to improve our public schools. There are problems in public schools and we need to address these problems, but let us fix public education, not experiment with our Nation's future.

WHITE HOUSE SHOULD FORGET ABOUT ENERGY TAX INCREASE

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, just when we think our pocketbook is safe for a while, those folks over at the White House begin to dream up yet another new tax for the American people. Apparently, those same liberal economists who gave us the largest single peacetime tax increase in American history back in 1993 are now hard at work putting together an energy tax scheme that will increase the price of gasoline by up to 25 cents per gallon and the cost of home heating and electricity by hundreds of dollars a year.

Here is what one anonymous Clinton administration official reportedly said about this possible new energy tax. Obviously, we would want to do it in a way that is least obvious to consumers, but, any way we do it, consumers are going to pay the cost. That is scary.

Mr. Speaker, working Americans are finally going to benefit from some tax relief next year, thanks to the work of this Congress. Let us let them enjoy it and let us urge President Clinton to forget about any new taxes.

VOUCHERS PROVIDE PARENTS WITH A FALSE CHOICE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, our Republican friends are promoting a plan to take taxpayers' dollars out of the public school system and to put it into private schools, benefiting the few and the wealthy. The majority of the American people oppose this idea for a very good reason. This proposal would steal money from the public schools, money that could be used to fix leaky roofs or buying new textbooks or computers for our kids.

My Republican colleagues like to use the term "school choice." But vouchers provide parents with a false choice. Vouchers do not even come close to covering the high cost of tuition at the best private schools, making the voucher useless for working families and providing the greatest benefit for wealthy families who can already afford the cost of that tuition.

Democrats will oppose Republican efforts to try out this new experiment, because our children are not guinea pigs. We are not going to experiment with their lives and with their future. I urge my colleagues to oppose the Republican voucher plan.

AWESOME POWER OF IRS HAS CORRUPTING INFLUENCE ON ITS AGENTS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, what does it say about the IRS when its own agents fear the IRS? The IRS is an agency that puts extraordinary pressure on good people to do the wrong thing, even to the point of using criminal intimidation tactics to break the hard working men and women of America.

There is an old saying out there that power corrupts and absolute power corrupts absolutely. Well, the awesome power of the IRS has had a corrupting influence on its own agents and everyone knows that unchecked power that is accountable to no one is a guarantee of abuse.

Notice how IRS agents who have had the courage to come forward and expose the outrage never say they are talking about a few bad apples or even the occasional rogue acts who give everyone a bad name. No, these courageous agents have all willingly said the IRS has a corporate culture that gives a green light to bullies, gives free rein to intimidation tactics and positively institutionalizes a quota mentality where success is not defined by honest work but by how much money can be seized. This agency is a national disgrace.

CAMPAIGN FINANCE REFORM

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SNYDER. Mr. Speaker, yesterday the Republican leadership in the Senate successfully blocked meaningful campaign finance reform. So what do the rules now mean? It means that it is perfectly legal for us to donate, or a corporation or a union, this amount of money to the political party of our choice.

That might create some confusion in our minds about what that means for us. Does that mean that if we are an individual making $24,000, $25,000 a year, is it legal to donate $1 billion to the political party of our choice? Yes, it is. If we are a small business that grosses $100,000 a year, is it legal to donate $1 billion to the political party of our choice? Yes, it is. If we are a retiree living on a fixed income, is it legal for us to donate $1 billion to the political party of our choice? Yes, it is.

Those are the rules. Those are the rules the Republican leadership blocked from being changed yesterday.

□ 1030

WHERE ARE THE KEY WITNESSES?

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, a great article today in the Los Angeles Times: "The Hubbell Satellite Finds a New Star 25,000 Light-years Away," an amazing story.

I have got an idea. I am writing the UCLA scientist team who pulled this together saying: "Dear Scientists: I read with much interest and excitement your discovery of a star located 25,000 light-years away from Earth. I congratulate you on this amazing feat.

"I also have a question for you: We, in Congress, have been trying to hold hearings to determine if certain people gave a certain administration illegal contributions. Our problem is that key witnesses have inconveniently disappeared. This upset lots of good Democrats and Republicans who want to get to the bottom of this scandal.

"Question: Do you think that we could use the powerful infrared eyes of your amazing telescope to find the following people?" And I have them listed here. These are Charlie Trie, Ming Chen, Stanley Ho, John Muncy, Ng Lap Seng, folks who are big Democratic donors who have disappeared.

If we could use the Hubbell, we could find these folks and get to the bottom of this scandal. I hope the scientists write us back and tell us we can use the telescope.

IMPORTANCE OF EARLY CHILDHOOD DEVELOPMENT

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, I rise today to discuss the importance of early childhood development.

A few months ago, I attended the White House Conference on Early Childhood Development. Recent research suggests that the first 3 years of life are crucial for a child's emotional and intellectual development. The formation of neuropathways in the brain is directly related to the quality of care young children receive in the first 3 years of life.

Early and developmentally appropriate care and education are vital to the health and well-being of our children. But today, one-quarter of all children in this country are growing up in poverty. Teachers and principals of Maine elementary schools tell me that so many kids today lack the basic social skills that allow ordinary interaction with others.

We have had lots of rhetoric about education. What is missing is the national will to leave no child behind and the resources to make it happen. I believe that a country that can support the salaries of the NBA and NFL and major league baseball can take better care of our kids.

TRIBUTE TO CARLINVILLE HIGH SCHOOL PRINCIPAL DICK SPOHR

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, the building was destroyed by fire. The walls were the only thing left standing. In September 1987, the Carlinville High School, which lies in the 20th District of Illinois, was destroyed by fire.

In a move that is common in my area of Illinois, Carlinville High School Principal Dick Spohr rallied students, parents, and community leaders. Principal Spohr organized a community-wide effort to rebuild the school so that classes could resume immediately.

Ten years later, Mr. Spohr was named the 1997 Illinois Principal of the Year by Metlife Insurance and the National Association of Secondary School Principals. However, this kind of effort is nothing new for Mr. Spohr, who believes that people make up the real school. It is the teachers, the parents, the staff, and especially the students.

As Congress tackles the tough issues, like the voucher system, national testing, and higher education reauthorization, each Member must keep in mind Mr. Spohr's sacrifice and resolve. Principal Spohr believes in the system and is always willing to give the students the freedom to make their own mistakes and rejoice in their own victories.

IN SUPPORT OF PUBLIC EDUCATION OF ALL OUR CHILDREN

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, from the early days when the word was, "Go west, young man and young woman," and as the wagons circled in the West, the one-room schoolhouse was a symbol of opportunity for Americans. Those new Westerners, those pioneers, wanted to make sure that all of our children had the opportunity to be educated.

But, Mr. Speaker, what do we have today? We have our Republican friends pulling the plug on public education. Whom do they have as a guinea pig? Washington, DC, with the misguided proposal for 2,000 children, in a city with multitudes of children, some $3,200 voucher as a bribe to accept this thing called vouchers.

It is easy to escape from boosting the quality of public education, easy to escape from reinforcing the teaching of math and science throughout this Nation, easy to escape from rebuilding the infrastructure of our schools, fixing leaking roofs. The whole idea is to pull the plug on public education.

Well, Mr. Speaker, we will not stand for it. I am here to say that I stand for public education and the education of all of our children.

RAISING PRIVATE BONDING AUTHORITY

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listen with sadness to my colleague, the gentlewoman from Texas [Ms. JACKSON-LEE], because good people can disagree, and to impugn the motives of those who simply want to give parents parental choice, all parents parental choice.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. HAYWORTH. I have 1 minute, ma'am, and I will use my 1 minute.

Ms. JACKSON-LEE of Texas. I wish you would yield for false statements.

Mr. HAYWORTH. Mr. Speaker, I ask that the gentlewoman's words be taken down.

Ms. JACKSON-LEE of Texas. If he is accusing me, I will interrupt him.

Mr. HAYWORTH. Mr. Speaker, I regret to ask that the gentlewoman's words be taken down. She just issued a false statement.

Mr. Speaker, I will be happy to withdraw the request in the spirit of civility.

The SPEAKER pro tempore (Mr. CALVERT). Does the gentleman insist that the words be taken down?

Mr. HAYWORTH. No, Mr. Speaker. If I can indeed control the time and offer my point of view, I will be glad to do it.

The SPEAKER pro tempore. Does the gentleman withdraw his demand?

Mr. HAYWORTH. With respect to the civility of the House and with the knowledge that I control the time, I will withdraw the request.

Mr. Speaker, as I was saying, good people may disagree. It is sad when people cannot allow free and open debate.

What I am simply saying to my colleague, the gentlewoman from Texas [Ms. JACKSON-LEE], and to all my colleagues who may disagree with me on a myriad of issues, is that there is nothing wrong with parental choice, there is nothing wrong with giving parents of every race and political persuasion and every ethnic group a chance to decide how best to educate their children.

And for those who want to join with me to help educate in the public sector, as we should, I would invite them to cosponsor the Education Land Grant Act that I am working on for public schools and to join with my colleague, the gentleman from Georgia [Mr. LEWIS], and me in raising the private bonding authority through private banks and financial houses from $10 million to $25 million so we can get a handle on education.

The fact is, education is too big a problem to ignore and we will all do better when we quit impugning each other's motives.

NO CONSULTATION WITH RANKING MINORITY MEMBER

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise more in disappointment than in anger. I am the Democratic member of the task force on the contested election in the 46th District, the district of the gentlewoman from California [Ms. SANCHEZ]. I have not taken to the well of the House or to the podium upstairs in the press gallery to talk about the disturbing pattern that has developed in this investigation.

Several days ago, the House Oversight Committee adopted a resolution providing for the issuance of interrogatories. The resolution clearly stated that there would be consultation with the ranking minority member. There was none. There was no discussion regarding the process or the substance of these interrogatories, directly contrary to the resolution of the committee.

What happened last week, unfortunately, is consistent with the pattern that has been established in this case. It has not been, I repeat, it has not been, a fair one. It has not been a process which has reflected a desire to proceed in a cooperative way to effect the ends of a fair investigation.

SENATE FINANCE COMMITTEE HEARINGS ON IRS ABUSES

(Mrs. MYRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MYRICK. Mr. Speaker, when was the last time that the American people saw such a spectacle as last week, when the Senate Finance Committee conducted hearings on the IRS abuses? Listen to some of the shocking things that we heard.

IRS agent Jennifer Long, a 15-year veteran with the agency, actually told the Senators that the management of IRS systematically concluded that Americans who reported less than $20,000 in income a year were tax cheats because nobody can live on that income.

Well, I have got some people back home who would totally disagree with that, especially seniors who live on fixed incomes every day, and they get by on a lot less than that.

IRS agents are not told to go out and be just, to be fair, to use good judgment to enforce their laws. No; they are told to go out and raise as much money as possible. If they do not shake down enough money, their careers could be in jeopardy.

And now the White House is asking the very same agency that is out of control to reform itself. Maybe this is the most amazing spectacle of all.

STOP ATTACKS ON PUBLIC EDUCATION

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, the Republican assault on education is nothing new. The gentleman from Georgia [Mr. GINGRICH] and the radical Republican right have a plan to dismantle public education, abolish the Department of Education, cut the school lunch program, cut funding for safe and drug-free schools, for teacher training, for Head Start. To these attacks on our children, Democrats have said "no."

Now Republicans have a new scheme: Drain funding from public education and give it to a privileged few to attend private school. Reward the few and punish the many. That is the Republican plan. To that I say "no" and Democrats say "no." Democrats believe in investing in education for all of our children, improving, reforming, and strengthening our public schools.

Mr. Speaker, 99 percent of our children attend public school. We need to work to improve our public schools. Stop attacks on public education, Mr. Speaker. Our children deserve better.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 262 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 262

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House a single motion that the House concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore. The gentlewoman from North Carolina [Mrs. MYRICK] is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Ms. SLAUGHTER] pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purpose of debate only.

Mr. Speaker, yesterday afternoon, the Committee on Rules met to grant a rule that provides for a motion to concur to the Senate amendments to H.R. 1122, the Partial-Birth Abortion Ban Act of 1997 in the House. It is a simple rule that provides 1 hour of debate on the motion equally divided between the chairman and ranking minority member of the Committee on the Judiciary.

Supporting this rule and the motion to agree to the Senate amendments will allow us to complete the long legislative process on this bill. H.R. 1122 would then be ready to be sent to the other end of Pennsylvania Avenue, where the President will again have the opportunity to end the cruel procedure known as partial-birth abortion.

During the Committee on Rules hearing yesterday, we heard impassioned pleas to make two amendments in order, one by the gentlewoman from New York [Mrs. LOWEY] and one by the gentleman from Maryland [Mr. HOYER]. Neither of those amendments were ruled in order.

I respect their heartfelt sentiments on this emotional issue. But I would like to point out that if we went through the normal legislative process, going to conference with the other body and working out our differences, the subsequent conference report would not be amendable either.

It may be alleged that the majority on the Committee on Rules is trying to cut off debate on this issue. Nothing could be further from the truth. We are merely trying to complete this legislative process in a timely manner.

The two proposed amendments have not gone through the normal process. They have both expanded the scope of the bill and contain language that should be carefully deliberated by my colleagues so that we are all completely sure what they mean.

□ 1045

With respect to H.R. 1122 and the Senate amendments, the two substitute amendments offered by the minority are irrelevant. The amendments would ban third-trimester abortion except to save the mother's life or health.

While that may sound perfectly reasonable, the vast majority of partial-birth abortions are performed in the fifth and sixth month of pregnancy, not the third trimester. Further, the health exemption would effectively permit all abortions. The Supreme Court interprets health abortions so broadly as to include all those related to social, psychological, financial, or emotional concerns. I realize that the Hoyer amendment defined health in another manner.

The gentleman from Florida [Mr. CANADY], chairman of the Subcommittee on the Constitution, provided testimony that indicated that there was still a great deal of latitude given to abortionists to determine if the health exemption applied.

Despite all the attention that will be given to what is not on the floor today, I would now like to focus on what is going to be on the floor today, a ban on the brutal procedure known as partial-birth abortion, with protection for the life of the mother, and let me be perfectly clear that if her life is in jeopardy, the ban does not apply, and fines and possible prison terms for physicians who violate the ban and perform this atrocity.

This resolution will allow us to vote on accepting three acceptable, simple Senate amendments which delete some language in the life exception. The bill still bans partial-birth abortion unless it is necessary to save the life of the mother, clarifies the definition of partial-birth abortion, and allows a physician to present evidence in court from

the State medical licensing authority on whether the partial-birth abortion was necessary to save the life of the mother.

There is little debate about the brutality of this procedure. In fact, the gruesome and violent partial-birth abortions are unconscionable. It has been confirmed that thousands of these procedures are performed every year. Many of those are elective and performed on healthy mothers with healthy babies. More than 80 percent of the American people and the American Medical Association support banning this practice. We live in a civilized society, one that cannot consciously condone or tolerate such inhumane and uncivilized procedures.

I strongly urge my colleagues to support this rule and the Senate amendments to H.R. 1122. It is time we complete our work on this important bill, and take a step closer to banning this most monstrous type of abortion.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this rule. This rule would allow the Congress to take up once again one of the most shameful bills that has ever come before this Chamber. In their war against a woman's right to choose, antichoice forces have shown that they are willing to sacrifice a woman's health and her future fertility to pursue the extreme agenda by passing H.R. 1122.

The House will be asked today to adopt the Senate amendments to H.R. 1122. These amendments consist of three minor changes that were made in order to secure the controversial endorsement of the American Medical Association.

These changes do not alter the substance of the bill, which seeks for the first time ever, ever, Mr. Speaker, to make a specific medical procedure a Federal crime. Rather, these changes provide further protection for doctors who may face prosecution under this proposal if it becomes law. Evidently, antichoice advocates are more interested in protecting a doctor's license than a woman's health.

I would like to bring my colleagues' attention to part of a letter I received from a Texas women's health clinic. It states:

> Please do not make the mistake of thinking that the AMA speaks for all physicians on this issue. It does not speak for the American College of Obstetricians and Gynecologists, the doctors most intimately concerned with women's reproductive health; it does not speak for the 13,000 members of the American Women's Medical Association; and it does not speak for us, doctors who provide abortions to the women who need them.

Less than a year ago the President made it clear that he will veto any bill that does not pass the test of the four women who visited him in his office, explaining that the procedure we are discussing today was necessary to preserve their health, their lives, and their reproductive ability. This bill fails that test once more.

It is not the role of Congress to determine the appropriateness of medical procedures. The doctor-patient relationship has been accepted as totally private in this country. Congress is inserting itself into the most private of decisions, and saying that we are more competent than our women and their doctors to make medical judgments.

As one of the few Members of Congress with a background in public health, I can tell the Members this most assuredly is not the case. I would like to read from a letter dated October 3 from the American College of Obstetricians and Gynecologists.

They state:

> This organization, representing 38,000 physicians dedicated to improving women's health, continues to oppose the Partial-Birth Abortion Ban Act of 1997, and urges the House of Representatives to reject this legislation.

These physicians believe that H.R. 1122, as amended, continues to represent an inappropriate, ill-advised, and dangerous intervention into a medical decision.

The amended bill still fails to include an exception for the protection of the health of the woman. Further, the amended bill still violates a fundamental principle at the very heart of the doctor-patient relationship: that the doctor, in consultation with the patient, based on what the patient's individual circumstances are, must choose the most appropriate method of care for the patient.

This bill removes decisionmaking about medical appropriateness from the physician and from the patient. This bill is vague and broad. With the potential to restrict other techniques in obstetrics and gynecology, it fails to use recognized medical terminology and fails to define explicitly the prohibited medical techniques it criminalizes. Moreover, the ban applies to all stages of pregnancy. It thus would have a chilling effect on medical behavior and decisionmaking with a potential to outlaw techniques that are critical to the lives and health of American women.

Let us defeat this rule and defeat the previous question. If the previous question is defeated, I intend to offer an amendment that would make in order the Hoyer amendment, which was the same language offered by Senator DASCHLE during Senate consideration. It would ban all postviability abortions except where continuation of the pregnancy would endanger the life of the mother or risk grievous injury to her health.

Mr. Speaker, I urge my colleagues to defeat this rule, to defeat the previous question, and also to get rid of those Senate amendments to H.R. 1122.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], our illustrious chairman of the Committee on Rules.

Mr. SOLOMON. I thank the gentlewoman from North Carolina for yielding time to me, Mr. Speaker.

Mr. Speaker, I would rise in support of this rule and the Partial-Birth Abortion Ban Act. I would just take exception to the statement of the gentlewoman from Rochester, NY, that this is the most shameful bill ever brought to this floor. I think what is shameful is the fact that these heinous procedures are allowed against about-to-be-born helpless children. For us to delay even another hour would be, in itself, shameful.

Mr. Speaker, this rule will allow the House to consider a motion to agree with the Senate amendments, and this is the right procedure to use in this case because if the Senate-passed version is changed in any way, in other words, the legislation has to go back to the Senate for further action, and if that happens, that means that the window of opportunity for laying this bill on the desk of the President just will not happen this year.

Is it right to delay this bill? Some say, why can we not do it in January or February? I would just pose the question, how many partial-birth abortions would take place across this country between now and next January, February, or March? Given that our colleagues in the other body have no germaneness rules, who knows what could be hooked onto this legislation and just how long it could be tied up.

As we get into this debate, I want to provide just a little of the history of this legislation. In the last Congress, a similar bill was passed by both the House and Senate. After President Clinton vetoed the bill, the House voted to override the veto by a vote of 285 to 137, overwhelming. The Senate fell short of the two-thirds vote necessary to override the veto, with a vote of 58 to 40. In this Congress, the House passed this bill by an even wider margin of 295 to 136, which is more than sufficient to override the veto, far more.

On May 20 the Senate passed the bill with amendments by a vote of 64 to 36, again, widening that margin of support, just three votes short of the two-thirds necessary to override the veto. We are getting very close to crossing the goal line with this bill. I firmly believe we are going to make it.

The issue presented by this legislation is absolutely crystal clear: do we support or do we oppose the procedure called partial-birth abortion. For me, that answer is without doubt. As my

hero, Ronald Reagan, stated so well, we cannot diminish the value of one category of human life, the unborn, without diminishing the value of all human life. There is no cause more important, said Ronald Reagan.

With regard to this legislation, there are at least two things that are different in this Congress from the last Congress, which gives both pro-choice advocates and pro-life advocates, who oppose this heinous procedure, which gives us hope that we are going to make it this time.

In the last Congress, when the President vetoed the bill, he justified that veto by contending that partial-birth abortions occur only rarely, and only when necessary to save the life of the mother. That is what the President said. That was his reason for vetoing the legislation.

It has since become clear that much of the information which the President relied on in reaching that conclusion was erroneous. The information was so wrong that one of the strongest supporters of partial-birth abortion admitted publicly that he deliberately misled the American people, he deliberately misled this Congress, and he deliberately misled the President of the United States in making that statement on which he vetoed the bill.

On February 25 of this year Ron Fitzsimmons, the executive director of the second largest abortion provider in the Nation, admitted, and many Members saw this, and if not, I will recall it to them, admitted on Nightline, and later in the New York Times, and we have the publication of the New York Times, that he lied through his teeth, he lied through his teeth, about this terrible procedure. Partial-birth abortions do in fact happen far more often than previously acknowledged, and on healthy mothers bearing healthy babies. That is what he said.

There is a second thing that is different in this Congress from the last Congress. That is, the number of votes against partial-birth abortions has increased in both the House and Senate, which I have just outlined. This legislation is picking up momentum.

In order to build on that momentum, I would ask Members, whether they are pro-life or pro-choice, because we all gather together on this important issue, to support the rule and support the Partial-Birth Abortion Ban Act.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Maryland, a very respected Member on the other side of the aisle.

Mr. HOYER. Mr. Speaker, I appreciate the gentleman's thoughtful statement, and I am well aware of his strong feelings on this. But I want to pursue, if I might, just a couple of questions, because of the difficulty of this.

Mr. SOLOMON. Mr. Speaker, if the gentleman would let me reclaim my time, we are pressed with the time that we are allocating. If the gentleman would like to get his time, I will stay here and answer any questions, even though I have to go to the Committee on Rules in a few minutes. So I must reclaim, and ask the gentleman to get his time. I will be glad to speak to the gentleman.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I rise in strong opposition to this rule. I have great respect for Members of Congress who are genuinely pro-life. Some even believe if a woman is the victim of incest or rape, the Federal Government should prevent her from terminating the pregnancy. While I strongly disagree with that opinion, I can respect those who honestly believe it. But what I cannot respect is a bill that is designed for sound bites, not saving babies.

We all know this bill will pass today. Why? Because it is designed for maximum impact in 8-second sound bites and 30-second attack ads.

□ 1100

If we want to save babies, we do not outlaw one type of abortion procedure and allow all other types of late-term abortion procedures to be perfectly legal. That is why this bill might be good politics, but it will not save one baby.

If someone wants a late-term abortion under this bill, their doctor can just use a procedure not outlawed by the bill. As someone who helped pass, as a Texas Senator, a ban on late-term abortions in Texas in 1987, I think it is tragic that the supporters of this bill would not even allow us to offer an amendment similar to the Texas law, an amendment that would have outlawed all late-term abortion procedures, not just one procedure, and providing an exemption in rare cases where the mother's life or health are endangered. Denying us that amendment might have been good politics, but it is terrible policy.

The consequences of that political decision are real. First, now, today, we have a bill that will not prohibit all late-term abortion procedures, so no babies will be saved.

Second, the bill will be vetoed by the President, and is unconstitutional, because it has no health exception and limits women's choices in the second trimester, even before viability. Federal judges have already stopped such similar bills in 10 States across this Nation.

Third, women in tragic, tragic cases where their fetus has zero chance of survival, zero chance, will be forced by the Federal Government and politicians to go through a procedure that can endanger her health and stop her from ever having babies again.

I may be in the minority vote today, Mr. Speaker, but I, for one, am not willing to sacrifice one woman's fertility, one woman's chance to have the joy of having a baby in order to pass a sound bite bill that is unconstitutional. That is simply a price that no woman in America should have to pay for my political convenience or anyone else's.

Mr. Speaker, while I can respect genuine pro-life, I will not sit by silently and let some proponents of this bill suggest that those of us who oppose this bill support taking a healthy baby, just moments before a normal childbirth, and crushing the baby's skull. That is deceitful, it is dishonest, and it is wrong. It is not true, and they know it.

I strongly oppose late-term abortions. If there is one done for frivolous reasons, it should be illegal, but when a woman's health is in danger, I, like many Americans, believe that difficult choice should not be made by politicians in Washington, DC, but by a woman, her family, and her doctor.

Mr. Speaker, the reality is this: We could have passed 2 years ago, 2 years ago, the bill that pro-lifers supported in Texas as far back as 1987. That law would be saving babies today. Instead, because of the proponents' approach, their political approach, we have no Federal law. We could pass that Texas bill on this House floor today. The President would sign it tomorrow, and it could save babies the day after that. But sadly, this Committee on Rules has chosen not to even give us Members of the House the right to cast that vote of conscience and belief. That is wrong.

Mr. Speaker, the real tragedy is that to some, the politics of this bill has become more important than saving babies.

I believe it is time to save babies' lives, not sound bites. That is why I hope the President will once again have the courage to veto this bill, so that we can finally work together to pass a bill that will save babies rather than political careers.

Finally, Mr. Speaker, regardless of my colleagues' position on this difficult emotional issue, if Members of Congress believe that we should all have the right to express a vote of deep conscience and conviction, then my colleagues should oppose this unfair closed rule.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I thank the gentlewoman for yielding me this time. I want to express my gratitude to the Committee on Rules for bringing forward this rule.

Comments have been made about whether the proponents of this bill are

doing what they can to reduce abortions. It has been suggested that another proposal which has been advanced by the President would actually be more effective in dealing with reducing abortions. I will leave it to the candid judgment of the people of this country whether it is the supporters or the opponents of this bill who are interested in reducing the number of abortions performed in America. I think the record of those who are supporting this bill speaks pretty clearly on that subject.

It has been contended that partial-birth abortion is, in some cases, necessary to protect the health of the mother. That is simply untrue. Partial-birth abortion is never necessary to protect the health of a woman. Hundreds of obstetricians and gynecologists and maternal fetal specialists have come forward to unequivocally state that partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both.

The American Medical Association, which is on record in support of abortion rights, supports banning partial-birth abortion because it is not necessary and it is, and I quote,"not good medicine."

Furthermore, in an American Medical News article, Dr. Warren Hern, a late-term abortionist, disputed the safety of partial-birth abortion. I want to quote directly from this article. It says even some in the abortion-provider community find the partial-birth abortion procedure difficult to defend. "I have very serious reservations about this procedure," said Colorado physician Warren Hern, M.D.

The author of "Abortion Practice," the Nation's most widely used textbook on abortion standards and procedures, Dr. Hern specializes in late-term procedures. He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine. But of the procedure in question, he says, "You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it."

Dr. Hern's concerns center on claims that the procedure in late-term pregnancy can be safest for a pregnant woman and without this procedure, women would have died. "I would dispute any statement that this is the safest procedure to use," he said.

Turning the fetus to a breech position is potentially dangerous, he added. "You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that."

Pamela Smith, M.D., director of medical education, Department of Ob-Gyn at Mount Sinai Hospital in Chicago, added two more concerns: cervical incompetence in subsequent pregnancies caused by 3 days of forceful dilation of the cervix and uterine rupture caused by rotating the fetus within the womb.

Partial-birth abortion is used by some abortionists for their own convenience. It is never necessary to partially deliver a live child and jam scissors into the back of that child's head to preserve a mother's health. Think about it. Look at what they do. How is partially delivering the child, jamming scissors in the child's head, in any way calculated to protect the health of the mother? If the pregnancy must be terminated because of the health of the mother, if the child must be delivered, the child can be delivered without stabbing the child in the back of the head.

This is an argument that has absolutely no merit. It is an argument that is being advanced in defense of a procedure that simply cannot be defended.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, the women who undergo this late-term abortion procedure do so, they do so when they are left with no other choice. Often, this procedure is the only one which will save the life of the mother and preserve her fertility so that one day, in fact, she can have the chance to have another healthy child.

I received a letter from one of my constituents who underwent this procedure. The child that she was carrying was the victim of a chromosomal abnormality so rare that it does not even have a name. Her child was missing genetic information, was missing internal organs, and her digestive system was in difficulty.

After meeting with her rabbi, with a genetics counselor, talking with her doctor and with her family, my constituent decided to have this procedure because her doctor told her that it would preserve her ability to have another child.

She is now the proud mother of a young girl, realizing, fulfilling the dreams of herself and her family to be able to have a baby. She deeply mourns the child that she lost, but she is grateful that she had the chance to have that baby girl, a chance that she would not have had if she had been forced to carry that pregnancy to term.

This bill would have taken that decision out of the constituent's hands and out of the hands of her doctors, and yes, there are many, many doctors who believe that what my colleagues on the other side of the aisle are trying to do is to take the decision out of the hands of the doctors.

This is the most painful decision that any woman, any family will ever have to make. Families deserve to make it for themselves, and that is why I oppose this bill and this rule.

If my colleagues on the other side of the aisle truly wanted to ban this procedure, they would have made in order a Democratic alternative that would have included an exemption in the cases when the health of the mother is at risk. They refuse to deal with the issue of the health of the mother. The President has said that he will veto any bill that does not include a health exemption, and indeed, he has already vetoed a virtually identical bill.

Instead, what they do is they insist on playing partisan politics with women. We are not going to stand for it. The President is not going to stand for it, and my friends, the women of America are not going to stand for it. I urge my colleagues to oppose this rule and to oppose this bill.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, what we just heard was a very unfortunate story, but the most unfortunate thing about the story is the woman was lied to by her physician, for in fact there is never a medical reason to care for any anomaly associated with pregnancy in this way.

This debate is not going to be centered around truth. It has not been. There is never an indication to use this procedure to save the life of a woman. And if, in fact, that were not true, the bill still protects for that. So it is a specious argument to say that partial-birth abortion is required to save the life of a woman. It is just absolutely untrue.

Now, why would I say that? I have cared for every imaginable type of anatomic, genetic defect in the over 3,200 babies that I have cared for, let alone the other 1,000 or so pregnancies that did not come to fruition. Why? Why do we have the partial-birth abortion? We have the partial-birth abortion as a convenience to abortionists.

Now, it makes good rhetoric to say that this saves the life of a woman; it makes good rhetoric to say that this is the only way we can in fact allow that choice for that woman in a very unfortunate situation, but it is not medically true, it is not scientifically true. But it philosophically supports the idea that no matter what we want, if we want to terminate a life at any time, for any reason, for any cause, then we ought to do this.

The argument ought to be on the basis of what people think, and if one really believes that, then one ought to stand up and say that. Some 80 percent of the babies that have been aborted this way were absolutely normal, nothing wrong with them. Look at Bergen County, NJ. Look at the data. It is truly representative of what goes across this country, it is truly representative of what happens in the reproductive field in this country. It is OK if in fact one believes that one ought to be able to terminate a life at any time, for any reason, in any way, but stand up and say that. Do not distort what the medical information is.

□ 1115

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I understand what the gentleman is saying. His representation is that the doctor did not tell the patient the truth.

Mr. COBURN. Mr. Speaker, reclaiming my time, absolutely.

Mr. HOYER. Mr. Speaker, if the gentleman would continue to yield, in the instance if one accepts the premise that the condition existed, I would ask the gentleman what alternative would he have recommended.

Mr. COBURN. Mr. Speaker, again reclaiming my time, easy. The doctor would do the same thing in terms of preparing, if the life need to be terminated for the life of the woman, which in fact in this case I do not know the details, I cannot say.

Mr. HOYER. Mr. Speaker, I ask the gentleman to accept that as a premise.

Mr. COBURN. Mr. Speaker, if the gentleman would continue to yield, accepting that as a premise, that in fact if the life of the woman was in danger, could it have been done? Easy. It is called prostaglandin induction, and without putting the woman at risk.

The other false statement is that this procedure is known to put the woman's fertility at risk, not ensure her future fertility. Every major obstetrical textbook says doctors should not forcefully dilate the cervix. This procedure forcefully dilates the cervix.

Mr. HOYER. Mr. Speaker, if the gentleman would continue to yield, I did not get the term. What would have been the result?

Mr. COBURN. Mr. Speaker, again reclaiming my time, spontaneous abortion that would have occurred without a puncture vacuum evacuation of the cranium.

Mr. HOYER. Mr. Speaker, if the gentleman would again yield, and the fetus or the child would not have survived?

Mr. COBURN. Mr. Speaker, reclaiming my time, I do not know, and the gentleman does not know. Many times babies have been born in my care that would not survive. We chose not to make the decision on what their survival would be. Physicians are not that accurate in terms of life and death. We obviously are human, and we make those mistakes.

My point is, this woman, if in fact she needed to be evacuated, could be evacuated in many ways other than this method.

Mr. HOYER. Mr. Speaker, if the gentleman would again yield, I would ask the doctor, I am correct then that eliminating this prior would not necessarily eliminate the abortion?

Mr. COBURN. Mr. Speaker, reclaiming my time, it would not. The gentleman is correct.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if I may add for just a moment to what the doctor has said, if the doctor does not know, how does he expect Members of Congress to make this decision? Why should we be doing that?

Mr. COBURN. Mr. Speaker, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, it is not a matter of knowing life or death; it is a matter of knowing techniques that are used. There is a very big difference in saying that we can use a procedure that is a convenience to the abortionist that is heinous, that is totally cruel and inhumane, versus the methods that are available that are not.

Ms. SLAUGHTER. Mr. Speaker, reclaiming my time, I would ask the gentleman whether it bothers him at all as a physician that the Congress of the United States is outlawing for the first time and making a Federal crime a medical procedure?

Mr. COBURN. Mr. Speaker, if the gentlewoman would continue to yield, this is not a medical procedure in my estimation. This is murder. This has nothing to do with medicine. It has to do with murder at the convenience of the abortionist.

Ms. SLAUGHTER. Mr. Speaker, reclaiming my time, I am saddened beyond measure every time we debate this issue. Every one of us who has been brought up by a woman that we consider brilliant and wonderful suddenly decides here that the women in the country do not have any sense at all and, if this Congress did not act, they might do something really dreadful.

Well, for all of my colleagues who have never had the honor of carrying a baby, let me say it does not work that way. Women who undergo this procedure want these babies desperately. The fact that at almost the point of birth they find that they cannot carry that baby to term is heartbreaking for them.

Mr. Speaker, I pray that none of my colleagues, and none of their family members, ever have to reach that decision. But for heavens sake, I do not believe it is the province of the House of Representatives to determine whether or not that woman can get that procedure. In fact, I would wager to my colleagues, if that decision were to be made, a woman and her family facing that and this procedure was outlawed, I do not believe that the doctor would stop it.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, there truly is no rest for the weary. And I tell my colleagues, the women of this country are weary. They are just plain tired of the constant stream of attacks launched by the Republican leadership in this House.

Mr. Speaker, today's assault on women is especially dangerous. It is dangerous because it puts women's health at risk.

I rise in opposition to this rule today because it does not allow an amendment to safeguard the health of women in this country. The health of women should be what this bill is about, Mr. Speaker. Instead, this bill makes complicated medical pronouncements while ignoring the health of women, those who are most affected.

That is why the American College of Obstetricians and Gynecologists, the American Nurses Association, and the American Medical Women's Association all strongly oppose this legislation. These groups oppose the bill, Mr. Speaker, because it will hurt women, plain and simple, hurt women.

Mr. Speaker, it continues to amaze me that Members of this House have so little faith in women, the very people who bear and raise the children of this country, so little faith that they would deny them access to the lifesaving procedures out of some ridiculous notion that pregnant women do not care about their children, that they wait until the last moment to abort a pregnancy.

Mr. Speaker, I urge my colleagues, put women ahead of politics. I urge my colleagues, defeat the previous question. I urge my colleagues to let the decisions be made between the women and their doctors.

Mrs. MYRICK. Mr. Speaker, I yield 15 seconds to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I would just remind the body that the testimony before Congress is that over 80 percent of these that are performed were elective. That is the testimony before the committees of this Congress.

Ms. SLAUGHTER. Mr. Speaker, I yield 15 seconds to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I would ask the gentleman from Oklahoma [Mr. COBURN], in that testimony, was the testimony as to at what stage that was done?

Mr. COBURN. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, it was across the stage, most of them more than viable, greater than 22½ weeks.

Mr. HOYER. Postviability?

Mr. COBURN. Postviability.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for her courage and leadership in defending women of America, their lives and their safety.

Mr. Speaker, I rise in strong opposition to the amended version of H.R.

1122. This bill, in its original form and as amended, puts at great risk women's health and future fertility. The bill provides no exception to protect a woman's health. It would prevent a qualified doctor from using a medical procedure that could be the most medically appropriate one to save the life and health of a woman.

This House of Representatives lacks the extensive medical qualifications needed to determine what is in the best interest of the patient. Why are we in the House of Representatives now choosing and deciding about medical procedures? It is ridiculous.

Mr. Speaker, this bill forces qualified physicians to make a choice between their best medical judgment and a prison sentence. Doctors should not have to fear criminal prosecution for providing what they have determined to be the most compassionate care possible for a woman in an excruciating circumstance, and that circumstance is that the baby is not viable, that the baby is lost, that people who have been joyfully expecting a new baby have to face the terrible reality that the baby is not going to survive. This is just the most helpful way in terms of the woman to proceed, if the doctor, the woman, and her family decide to go this way.

Mr. Speaker, I urge my colleagues to protect the health of the woman and vote against this legislation which is both unconstitutional and inappropriate.

Let me say that I understand how difficult this issue is for all of us. It is not easy to have this kind of discussion. But I believe that this is not an issue that rests with Congress. This legislation destroys the family's right to face a devastating circumstance with safety and dignity.

The President will not sign a bill that threatens this right. This decision is appropriately made by the woman. I urge my colleagues to vote "no".

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, I would remind the gentlewoman from California [Ms. PELOSI] that the American Medical Association has not recognized this procedure as a medically necessary procedure.

Mr. Speaker, I rise in strong support today of this rule on H.R. 1122, which will ban this partial-birth procedure.

Each day we have an opportunity to craft legislation in this Chamber that is going to affect the lives of men and women and children all across this Nation. Today is no different. But today we have an opportunity also to restore some morality to this country.

Mr. Speaker, I believe that the decision that we are faced with, after hearing the graphic illustrations, after listening to the testimony, after listening to the gentleman from Oklahoma [Mr. COBURN] having delivered 2,200 babies, state that this is not a necessary medical procedure; listening to former people who were in charge of this issue who used to be pro-abortion who have now voted in favor of outlawing this procedure. The testimony is clear. The evidence is direct. There should be no divisiveness on this issue.

Protecting the life of unborn children after viability should not be an issue. As a Nation, as a family, we should come together on this issue. We should come to agree on this issue. Postviability abortion is wrong. Partial-birth abortions are wrong. Killing the unborn baby is wrong.

Mr. Speaker, this is not about the life of the mother. We have already heard from the testimony of Dr. COBURN and other people that there are other ways and other procedures and other things that can be done. Taking the life of an unborn child once viability is proven is clear-cut murder. It is wrong. We should not allow it.

We must come together as a body, we must come together as a Nation, to heal this situation. Today we have that opportunity. Vote in favor of H.R. 1122.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to put on the record a comment. Although Dr. COBURN has his opinion, that is just one doctor.

I would like to say that a panel convened by the American College of Obstetricians and Gynecologists says that while it is not the only option, "An intact D&X may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances, can make this decision."

Mr. Speaker, if we believe this is murder, we should be filing criminal charges, and I do not see anybody doing that.

Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, like most Americans, I wrestle with this issue more than any other. It hits in every possible way, moral, physical. It is a gut-wrenching issue.

Like most Americans, I oppose late-term abortion. Like most Americans, I would support late-term abortion only to save the life of the mother or to protect her health, to protect her from serious health endangerment.

This legislation does not do this. This legislation does not seek to protect the health of the mother. If people wanted to truly ban late-term abortions, we would not ban one procedure, we would ban all late-term abortions, which I have voted for, except to save the life of the mother or to protect her from serious health risks.

Mr. Speaker, agonizing about this, I called three physicians across the country, three ob/gyn's. I respect the opinion of the gentleman from Oklahoma. They do not agree with him. That is a fair statement that there is not agreement on this. But those three ob/gyn's who have done a wide range of deliveries, who each of them have been delivering babies at least 23 years, all of them said that this procedure in limited circumstances was necessary.

In fact, I believe in each case they had performed the procedure in many, many years of deliveries only twice, and in two cases at least then necessary to protect the health of the mother, because the child was going to be born dead, was hydrocephalic, and they felt there was no other way to do it and to protect the life of the mother.

The American College of Obstetricians and Gynecologists disagrees with what this Congress is about to do today. I have heard about the American Medical Association, but the physicians that actually deliver the babies, they disagree and they think that this is a bad piece of legislation.

Mr. Speaker, we can all agree that late-term abortions should not be allowed except when the mother's life or her health would be seriously in danger. But I cannot vote for this legislation, because that means I have to look a woman in the eye and say, even though there may have been a medical procedure that would have protected your health, the Congress voted not to let it be done.

Mrs. MYRICK. Mr. Speaker, I would like to inquire of the amount of time left for each side, please.

The SPEAKER pro tempore (Mr. CALVERT). The gentlewoman from North Carolina [Ms. MYRICK] has 7¾ minutes remaining, and the gentlewoman from New York [Ms. SLAUGHTER] has 8¾ minutes remaining.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT].

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Mr. SCOTT. Mr. Speaker, I rise in opposition to the rule because the rule leaves out the possibility that we can consider a bill that is constitutional. This bill is clearly unconstitutional, and State laws have been thrown out recently because the Supreme Court has said that we cannot restrict a woman's right to choose if the restriction endangers the life and health of the mother.

Mr. Speaker, nine State lawsuits have been decided just this year that have thrown out similar State laws. For example, in Michigan the court said that such a ban "would operate to eliminate one of the safest post-first-trimester abortion procedures," and the court therefore found that a

woman would have to go into riskier procedures and they threw out the law.

In Nebraska the ban was unconstitutional because it would subject patients to "appreciably greater risk of injury or death." That law was enjoined just this year.

In Montana, just this year, the court concluded that there would be an increase in the amount of risk and pain that must be suffered, and they enjoined the implementation of the law.

Louisiana, they found that it would be unduly burdensome by virtue of banning the safest, most common procedures used after the first trimester.

Mr. Speaker, State after State after State concluded that the law was unconstitutional. We need to defeat the previous question so that we can consider the amendment to be offered by the gentleman from Maryland that would make the law constitutional so that we can consider a constitutional law. I would hope that we would defeat the previous question, adopt the Hoyer amendment, or defeat the rule.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT]).

Mr. TIAHRT. Mr. Speaker, I have often wondered what would happen if Congress based our decisions on truth and logic. Today we are debating a rule for banning partial-birth abortion. Some will say the procedure is necessary but the gentleman from Oklahoma, Dr. COBURN, was very clear. He says that it is unnecessary, and he has delivered 3,200 children. I think he probably knows what he is talking about. Some will say it is needed to allow for the health of the mother. That is really undefined. It could mean a headache or perhaps an emotional strain.

The truth is this procedure is not needed. Its purpose is very simple. It is for the convenience of performing abortions. It is to satisfy a very specific group here in America, the abortion industry. That is why in my estimation an abortionist from Wichita, KS, traveled to Washington, DC, to attend a Presidential coffee, contributed $25,000 to the Democratic National Party, following the President's veto of the partial-birth abortion ban.

There is a letter then from the Pope condemning the President for this veto. It is very interesting the Pope has only written about six such letters this century, all the Popes this century. And they include people like Ayatollah Khomeini, Muámmar Qadhafi, Adolf Hitler, tyrants, all tyrants who placed a very low value on human life.

The opposition to this rule and the opposition to this ban is very simple. It is merely support for the abortion industry, purely to support those who want the convenience of this procedure. It is not necessary medically. It is not needed for the health of the mother. It is just a convenience for the abortion industry. That is the truth and the logic behind this debate. That is the truth and logic behind these arguments, simply to support the abortion industry.

I say to my colleagues, let us support H.R. 1122. Let us support this rule and let us ban this hideous procedure that is not necessary, not for medical reasons, not for political reasons, purely to support the abortion industry.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, this issue is one that generates a great deal of emotion. I appreciate that we all may agree and disagree. I think the strength of our democracy belongs in that opportunity to agree and disagree and to have our voices be heard.

I am compelled to speak on this issue, one, because the law does indicate that a woman in this Nation has a right to choose. I am distressed that our leaders did not see fit to provide an open rule so that all of our views could be expressed. I do not ask my colleagues to agree with me but I do ask them to allow me the opportunity to vote on my position and the rights of women to choose.

Yesterday afternoon at the Committee on Rules both the gentlewoman from New York [Mrs. LOWEY] and the gentleman from Maryland [Mr. HOYER] offered amendments. The committee, however, did not see fit to make either of these amendments in order. This should have been an open rule.

Mr. Speaker, I ask that this rule be opposed and defeated and, in the alternative, that these amendments be allowed so that all of our voices and all of our views can be represented, and the law can be represented, and a woman's right to choose.

Mr. Speaker, I rise today to voice my opposition to the closed rule on H.R. 1122 that is before us. There is a great deal of emotion surrounding the debate on H.R. 1122. While I may not agree with some of my colleagues views on this issue, I respect that those views are both thoughtful and deeply held. I believe that the strength of our democracy lies in the fact that we open the door to all voices and all opinions—both those that we disagree with and those that we do not.

It is for this reason that I am compelled to speak. I am distressed that this rule does not respect or acknowledge the divergence in our views. I do not ask my colleagues to agree with me on the issue of abortion, or to vote with me, but I do ask that they allow me the opportunity to cast a vote that reflects my views.

Yesterday afternoon at the Rules Committee meeting, both Representatives LOWEY and HOYER offered amendments to H.R. 1122. The committee, however, did not see fit to make either of these amendments in order. I would like to say that I was surprised upon hearing this decision, but I cannot. Once again the committee has issued a restrictive rule that denies the Members of this Congress the opportunity to vote on an alternative to their favored legislation.

I find it particularly interesting that the committee has denied this House a vote on Mr. HOYER'S amendment in the nature of a substitute. That amendment would have banned all abortions in the final trimester allowing only a very narrow exception for the life and physical health of the mother. In fact, this is a much broader ban than that currently in H.R. 1122. It seems to me that if the goal of this bill's sponsors was truly to protect life, then they would support the Hoyer amendment.

My colleagues this rule does not respect the divergence of our views. It does not allow Members to cast a vote for an alternative that reflects those views. For these reasons, I urge my colleagues to vote against this rule on H.R. 1122.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I rise today in support of the amendments to the Partial-Birth Abortion Ban Act. I urge my colleagues to really think for a moment about what we are debating here today.

This is not a bill that will end a persons's choice. This is not a vote that will overturn Roe versus Wade. This vote will not end a person's right to terminate their pregnancy. And this vote will not endanger the lives of pregnant women across this country.

This vote will save innocent children from having their lives ended before they have a chance to speak. This vote will simply prohibit one and only one type of particularly gruesome abortion, a type of abortion where a live baby, one that could usually survive outside the womb, is partially delivered, then has the first vision of light snuffed out forever.

With modern medical procedures available, we must ask ourselves if it is necessary to sacrifice innocent children because it is convenient or easier for the parents. I do not think so and neither do millions of Americans across this country who believe, just as I do, that life is too precious to waste.

A couple from Michigan could have chosen to abort their baby when they were told that the baby had a tumor that endangered her life. When she was only 4 inches long, Sarah Elizabeth was briefly removed from her mother's womb so doctors could remove the growing tumor. Sarah's heart stopped beating during the surgery and the surgeon performed CPR for 20 minutes to revive her before returning her to the safety of the womb. In July 1996, Sarah was delivered and is now a healthy toddler. Time and time again medical miracles like Sarah's show us that a child in the womb is a unique, irreplaceable and precious human being deserving of our help and protection.

Unfortunately, even as lives like Sarah's are being saved by scientific breakthroughs, other children's lives

are being extinguished by partial-birth abortions. The care Sarah received from a conscientious surgeon provides a stark contrast to the treatment her mother might have legally have chosen, a partial-birth abortion.

Sarah was not in perfect physical health when she was growing in her mother's womb. She had a life-threatening condition. But she, like every other precious unborn baby, was always a perfect child in need of love and care.

Support this bill and give thousands of children like Sarah at least a chance at life.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

I want to urge Members to defeat the previous question. If it is defeated, I will offer an amendment to the rule that will make in order an amendment in the nature of a substitute offered in the Committee on Rules yesterday by the gentleman from Maryland [Mr. HOYER]. The amendment is the same language offered by Senator DASCHLE during Senate consideration.

Members of this House deserve an opportunity to vote on this substitute. Vote "no" on the previous question.

Mr. Speaker, I include the text of the amendment:

AMENDMENT TO HOUSE RESOLUTION 262

Strike all after the resolved clause and insert in lieu thereof the following:

"That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House, any rule of the House to the contrary notwithstanding, a single motion offered by Representative Hoyer of Maryland that the House concur in the amendments of the Senate with an amendment. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the proponent and an opponent. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.".

HOYER AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1122 AS AMENDED BY THE SENATE

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Abortion Ban Act of 1997".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) As the Supreme Court recognized in *Roe* v. *Wade*, the government has an "important and legitimate interest in preserving and protecting the health of the pregnant woman . . . and has still another important and legitimate interest in protecting the potentiality of human life. These interests are separate and distinct. Each grow in substantiality as the woman approaches term and, at a point during pregnancy, each becomes compelling".

(2) In delineating at what point the Government's interest in fetal life becomes "compelling", *Roe* v. *Wade* held that "a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability", a conclusion reaffirmed in *Planned Parenthood of Southeastern Pennsylvania* v. *Casey*.

(3) *Planned Parenthood of Southeastern Pennsylvania* v. *Casey* also reiterated the holding in *Roe* v. *Wade* that the government's interest in potential life becomes compelling with fetal viability, stating that "subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother."

(4) According to the Supreme Court, viability "is the time at which there is a realistic possibility of maintaining and nourishing a life outside the womb, so that the independent existence of the second life can in reason and all fairness be the object of State protection that now overrides the rights of the woman."

(5) The Supreme Court has thus indicated that it is constitutional for Congress to ban abortions occurring after viability so long as the ban does not apply when a woman's life or health faces a serious threat.

(6) Even when it is necessary to terminate a pregnancy to save the life or health of the mother, every medically appropriate measure should be taken to deliver a viable fetus.

(7) It is well established that women may suffer serious health conditions during pregnancy, such as breast cancer, preeclampsia, uterine rupture or non-Hodgkin's lymphoma, among others, that may require the pregnancy to be terminated.

(8) While such situations are rare, not only would it be unconstitutional but it would be unconscionable for Congress to ban abortions in such cases, forcing women to endure severe damage to their health and in some cases, risk early death.

(9) In cases where the mother's health is not at such high risk, however, it is appropriate for Congress to assert its "compelling interests" in fetal life by prohibiting abortions after fetal viability.

(10) While many States have banned abortions of viable fetuses, in some States it continues to be legal for a healthy woman to abort a viable fetus.

(11) As a result, women seeking abortions may travel between the States to take advantage of differing State laws.

(12) To prevent abortions of viable fetuses not necessitated by severe medical complications, Congress must act to make such abortions illegal in all States.

(13) Abortion of a viable fetus should be prohibited throughout the United States, unless a woman's life or health is threatened and, even when it is necessary to terminate the pregnancy, every measure should be taken, consistent with the goals of protecting the mother's life and health, to preserve the life and health of the fetus.

CHAPTER 74—ABORTION PROHIBITION

Sec.
1531. Prohibition.
1532. Penalties.
1533. State regulations.
1534. Rule of construction.

1531. Prohibition.

(a) In General: It shall be unlawful for a physician to abort a viable fetus unless the physician certifies that the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

(b) Grievous Injury:

(1) In general: For purposes of subsection (a), the term "grievous injury" means—

(A) a severely debilitating disease or impairment specifically caused by the pregnancy; or

(B) an inability to provide necessary treatment for a life-threatening condition.

(2) Limitation: The term "grievous injury" does not include any condition that is not medically diagnosable or any condition for which termination of pregnancy is not medically indicated.

(c) Physician: In this chapter, the term "physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of subsection (a) shall be subject to the provisions of this section.

(d) No Conspiracy: No woman who has had an abortion after fetal viability may be prosecuted under this section for a conspiracy to violate this section or for an offense under section 2, 3, 4, or 1512 of title 18, United States Code.

1532. Penalties.

(a) Action by Attorney General: The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

(b) Relief:

(1) First offense: Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify the appropriate State medical licensing authority in order to effect the suspension of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(d), or shall assess a civil penalty against the respondent in an amount not exceeding $100,000, or both.

(2) Second offense: If a respondent in an action commenced under subsection (a) has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(d), or shall assess a civil penalty against the respondent in an amount not exceeding $250,000, or both.

(3) Hearing: With respect to an action under subsection (a), the appropriate State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine the penalty to be imposed under this subsection.

(c) Certification Requirements: At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved—

(1) has provided notice of the alleged violation of this section, in writing, to the Governor or chief executive officer and attorney

general or chief legal officer of the State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

(2) believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

1533. Regulations.

(a) Regulations of Secretary for Certification:

(1) In general: Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under section 1531(a).

(2) Requirement: The regulations under paragraph (1) shall require that a certification filed under section 1531(a) contain—

(A) a certification by the physician (on penalty of perjury, as permitted under section 1746 of title 28) that, in his or her best medical judgment, the abortion involved was medically necessary pursuant to such section; and

(B) a description by the physician of the medical indications supporting his or her judgment.

(3) Confidentiality: The Secretary of Health and Human Services shall promulgate regulations to ensure that the identity of the mother described in section 1531(a) is kept confidential, with respect to a certification filed by a physician under section 1531(a).

(b) Action by State: A State, and the medical licensing authority of the State, shall develop regulations and procedures for the revocation or suspension of the medical license of a physician upon a finding under section 1532 that the physician has violated a provision of this chapter. A State that fails to implement such procedures shall be subject to loss of funding under title XIX of the Social Security Act.

1534. Rule of Construction.

(1) In general: The requirements of this chapter shall not apply with respect to postviability abortions in a State if there is a State law in effect in the State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

(2) State law: In paragraph (1), the term "State law" includes all laws, decisions, rules or regulations of any State, or any other State action having the effect of law.

(b) Clerical Amendment: The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

74. Prohibition of post-viability abortions 1531. * * *

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, partial-birth abortions involve killing partially delivered babies, usually from the fifth month on into the later stages of pregnancy. This gruesome procedure consists of partially delivering the live baby feet first, with only the head inside the mother's womb, and then stabbing the child at the base of the skull.

Partial-birth abortions are performed mainly on healthy babies of healthy mothers. The American Medical Association says that the partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and doctors. The AMA could find no identified circumstance in which the procedure was the only safe and effective abortion method.

The worst tragedy of partial-birth abortions is that most are done for strictly elective reasons. We must take action to end this heinous act of killing the innocent unborn.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. HOYER].

The SPEAKER pro tempore (Mr. CALVERT). The gentleman from Maryland [Mr. HOYER], is recognized for 5½ minutes.

Mr. HOYER. Mr. Speaker, I rise in opposition to this rule. This rule precludes the one opportunity that Members will have to vote against late-term abortions, elective or otherwise.

Hear me now, Mr. Speaker. Voting against this rule will be the only opportunity they have to vote against late-term abortions.

Why do I say that? The American press has done a disservice to the American people in characterizing the bill before us as a late-term abortion bill. It is not. It does not mention late term. It is not about late term. It is about a procedure.

The gentleman from Oklahoma [Mr. COBURN] was accurate on that matter. I want to refer to some of the things that the gentleman from Oklahoma [Mr. COBURN] said, because the Republicans rightfully point to a man who has experience and, therefore, can speak with more experience than the rest of us.

First of all, he said that this bill that is pending before us does not preclude a single abortion, not one. It does not preclude one abortion, if we vote and pass this bill and the President signs it. It does prohibit a procedure.

I further asked the gentleman from Oklahoma how many of these abortions, as a matter of fact, he said, that were done through this procedure were elective. He said approximately 80 percent, that has been repeated a number of times, were elective.

I say to my colleagues, if they vote against the rule and allow the Hoyer amendment to be offered, they will have an opportunity to preclude every one of those 80 percent abortions that, as the gentleman from Oklahoma [Mr. COBURN] said, most were done postviability.

Let me make my statement absolutely accurate. Every postviability elective abortion, not just done with this procedure but any procedure, will be outlawed. I want my colleagues to understand, voting against this rule and voting for the Hoyer amendment, which is the Daschle-Snowe, Democratic minority leader and Republican Senator from Maine, the Daschle amendment, is the only opportunity we will have to vote against late-term abortions and have the Federal law essentially like 43 other States.

This is not an isolated judgment nor an independent act or amendment. This is an amendment that 43 legislatures have essentially said ought to be the law. What does it say? It says that it permits a postviability abortion only if the life of the woman is endangered, to that extent it tracks the Hyde language, or if carrying the fetus to term would present the, and I quote, risk of grievous injury to her physical health. It therefore precludes any claim that this is a Mack truck exception for mental health.

□ 1145

It specifically requires grievous physical risk. The amendment defines grievous injury as meaning that the continuation of the pregnancy would directly result in, and again I quote from the Hoyer-Daschle amendment, a severely debilitating disease or impairment, or prevents a physician from providing necessary treatment for a life-threatening condition; for example, a fast spreading cancer, the treatment of which, aggressive chemotherapy, would be incompatible with carrying a healthy fetus to term.

My colleagues, this imposes a $250,000 fine and possible revocation of license on the doctor who violates this.

I want to make it very clear to everybody in this House I am opposed to late term elective abortions. They should not happen in America. If, on the other hand, we have at risk the life of the mother, that is a wrenching judgment that the mother and her physician will have to make, and I will not interpose my judgment in that critical situation.

So I ask the Members of this House to give us an opportunity to state clearly the policy of the United States of America that late-term abortions are against public policy. The only way we can do that is to vote against this rule so that this amendment can be offered to this bill.

Mrs. MYRICK. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I would ask a question of the last speaker. How does the gentleman's definition in his bill trump the Supreme Court, which defined health in Doe versus Bolton as a state of emotional well-being? How does his mere statute trump the Supreme Court's definition of health?

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. HOYER. How does the Hyde statute, sir?

Mr. HYDE. Mr. Speaker, reclaiming my time, I do not talk about the Supreme Court.

Mr. HOYER. If the gentleman will continue to yield, nor do I.

Mr. HYDE. Does the gentleman not have an answer to my question?

Mr. HOYER. I do.

Mr. HYDE. Well, let us hear it, I am running out of time.

Mr. HOYER. It enunciates the policy of 43 States, I tell my friend from Illinois, and I think we should enunciate it as a Federal Congress as being the appropriate and right policy to preclude late-term abortions.

Mr. HYDE. I welcome the gentleman to the ranks of pro-lifers.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I want to talk about Mike and Nancy Johnson from Muscogee, OK. I have delivered five babies for them. One of their babies had a tremendous anencephalic complicated cystic structure on its brain. Now, this procedure that is supposedly so important that it has to be there for the life and health of a woman could have been used on her. But I want to tell my colleagues what they chose to do. They chose to deliver that baby. And in the delivery room, as that baby was born, I placed it in the hands of the father, and over the next 2 hours that baby was comforted in its death.

I want to contrast that with the idea of a child dying in its father's arms, with the idea of a physician ramming a hole in the back of a skull and sucking the brains out of a child. Tell me, my colleagues, which way is the right way to do it?

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. CALVERT). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 280, nays 144, not voting 9, as follows:

[Roll No. 499]

YEAS—280

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Flake
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Murtha
Myrick
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—144

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blagojevich
Blumenauer
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gilman
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hinchey
Hinojosa
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Pelosi
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—9

Foglietta
Gephardt
Gonzalez
Hilliard
Lewis (KY)
Nethercutt
Payne
Schiff
Visclosky

□ 1209

Messrs. KIND, SHAYS, SERRANO, HORN, GILMAN, and NEAL of Massachusetts changed their vote from "yea" to "nay."

Ms. KAPTUR and Mr. TURNER changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. VISCLOSKY. Mr. Speaker, I was unavoidably detained and unable to vote on rollcall vote Nos. 497 through 499. Had I been present, I would have voted "no" on roll call No. 497, passage of H.R. 629, to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact; "yes" on rollcall No. 498, the Vento amendment to H.R. 901, to exempt sites nominated under the Convention on Wetlands of International Importance from the provisions of the bill; and "yes" on rollcall No. 499, ordering the previous question on H. Res. 262, the rule governing House consideration of the Senate amendments to the Partial Birth Abortion Ban Act.

The SPEAKER pro tempore (Mr. CALVERT). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1215

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 262, I call up the bill (H.R. 1122), to amend

title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:

Page 2, line 16, strike out all after "injury" down to and including "purpose" in line 17.

Page 3, after line 10 insert:

(3) As used in this section, the term "vaginally delivers a living fetus before killing the fetus" means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

Page 3, after line 23, insert:

(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

Page 3, line 24, strike out "(d)" and insert "(e)".

MOTION OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CANADY of Florida moves that the House concur in each of the Senate amendments to the bill H.R. 1122.

The SPEAKER pro tempore. Pursuant to House Resolution 262, the gentleman from Florida [Mr. CANADY] and the gentlewoman from New York [Mrs. LOWEY], each will control 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise to urge the House to vote for the motion to concur in the Senate amendments to H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, a bill which bans an abortion procedure in which a living baby is partially delivered before the abortionist kills the baby and completes the delivery.

Under H.R. 1122, an abortionist who violates the ban would be subjected to fines or a maximum of 2 years imprisonment or both. The bill also establishes a civil cause of action for damages against an abortionist who violates the ban.

Mr. Speaker, thousands of partial-birth abortions are performed each year, primarily in the fifth and sixth months of pregnancy, on the healthy babies of healthy mothers. The infants subjected to partial-birth abortion are not unborn. Their lives instead are taken during a breech delivery.

A breech delivery, a procedure which obstetricians use in some circumstances to bring a healthy child into the world, is perverted and made into an instrument of death. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process, deliberately kills the child in the birth canal.

H.R. 1122 would end this cruel practice which bears an undeniable resemblance to infanticide.

The Senate amendment to H.R. 1122 makes three acceptable changes to the House-passed version of the bill. The first amendment deletes superfluous language in the life exception included in the act. The bill still bans partial-birth abortion unless it is necessary to save the life of the mother.

The second amendment clarifies the definition of partial-birth abortion. H.R. 1122 defines "partial-birth abortion" as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery." The Senate amendment further clarifies that "partially vaginally delivers a living fetus before killing the fetus" means "deliberately and intentionally delivers into the vagina a living fetus, or substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus."

The third Senate amendment allows the physician who is prosecuted for performing a partial-birth abortion to present evidence in court from the State medical licensing authority on whether the partial-birth abortion was necessary to save the life of the mother.

The Senate voted to approve these three clarifying amendments to H.R. 1122 and passed the Partial-Birth Abortion Ban Act in May of this year. Shortly thereafter, the American Medical Association House of Delegates voted to support H.R. 1122 with the Senate amendments because partial-birth abortion, quote, "is not good medicine."

As we have discussed in prior debates in this House, the realities of partial-birth abortion are truly horrible to contemplate, they are truly horrible to discuss. The partial-birth abortion procedure is performed from around 20 weeks to full term. It is well documented that a baby is highly sensitive to pain stimuli during this period and even earlier.

In his testimony before the Subcommittee on the Constitution in 1995, Prof. Robert White, director of the division of neurosurgery and brain research laboratory at Case Western Reserve School of Medicine, stated, "The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain." After analyzing the partial-birth abortion procedure, Dr. White concluded, "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure."

Abortion advocates have claimed that partial-birth abortion is rare and only used in extreme circumstances. That has been a focus of the debate that has been waged against the ban on partial-birth abortion. But this claim is contradicted by the evidence.

Dr. Martin Haskell, an Ohio abortionist, told the American Medical News that the vast majority of the partial-birth abortions he performs are elective. He stated, and I quote, "And I'll be quite frank: Most of my abortions are elective in that 20–24 week range. In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective."

Another abortionist, Dr. McMahon of California, used the partial-birth abortion method through the entire 40 weeks of pregnancy. He sent the Subcommittee on the Constitution a graph which showed the percentage of "flawed fetuses" that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks, half the babies that Dr. McMahon aborted were perfectly healthy, and many of the babies he described as "flawed" had conditions that were compatible with long life, either with or without a disability. For example, Dr. McMahon listed nine partial-birth abortions performed because the baby had a cleft lip.

In September 1996, the Sunday Record, a newspaper in Bergen, NJ, reported that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year, 3 times the supposed national rate. Moreover, doctors say only a minuscule amount are for medical reasons.

The article quotes an abortionist in New Jersey who describes his partial-birth abortion patients as follows: "Most are Medicaid patients, and most are for elective, not medical reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers."

Ron Fitzsimmons, the executive director of the second largest trade association of abortion providers in the country, admitted that he intentionally lied through his teeth when he told a Nightline camera that partial-birth abortion is rare and performed only in extreme medical circumstances.

The New York Times reported that Mr. Fitzsimmons "says the procedure

is performed far more often than his colleagues," that is, other advocates in the abortion rights community, "have acknowledged, and on healthy women bearing healthy fetuses." "The abortion rights folks know it," he said.

Ron Fitzsimmons' admission makes clear that the pro-abortion lobby has engaged in a concerted and ongoing effort to deceive the Congress and the American people about partial-birth abortion. They attempted to hide the truth, they attempted to conceal the facts about this procedure because they knew that the American people would be outraged by the facts.

When President Clinton vetoed H.R. 1833, the Partial-Birth Abortion Ban Act of 1995, he claimed that women needed partial-birth abortion for their health and future fertility. That claim has been proven to be completely false.

Former Surgeon General C. Everett Koop has said, "In no way can I twist my mind to see that the late-term abortion as described, you know, partial birth, and then destruction of the unborn child before the head is born, is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to partial-birth abortion."

In addition, a group of over 400 obstetricians and gynecologists and maternal-fetal specialists have unequivocally stated, and I quote, "Partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility."

The American Medical Association agrees with these doctors that partial-birth abortion is not good medicine and supports banning the procedure. I point out the American Medical Association is on record in strong support of abortion rights, but even they recognize that this procedure simply falls outside the pale.

However, the President has remained unmoved by these facts. He still threatens to veto this bill. He has tried to change the subject by supporting a purported ban on abortion in the seventh month of pregnancy and later. Of course, unfortunately, the President's supposed ban includes a broad health exception that would give the abortionist unfettered discretion to decide when an abortion would be performed.

The proposal would allow the abortionist to perform postviability abortions using any method, including partial-birth abortion, if the abortionist certified in his or her best medical judgment that the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health. Of course, the continuation of any pregnancy does involve at least some degree of risk, however small.

Dr. Warren Hern, a third-trimester abortionist in Colorado, says of this proposal, "I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health." Dr. Hern, using his best medical judgment, believes that any pregnancy threatens a mother's life and risks grievous injury to her physical health. He has said it unequivocally.

Dr. Hern is one of the leading experts on abortion in this country. He has written a textbook on the subject. He is a recognized authority. Now, if Dr. Hern signed a paper that asserted this belief, he would satisfy the certification exception in the President's proposal.

Mr. Speaker, all of this demonstrates beyond any doubt that the President's proposal would not do anything to stop any abortion. Furthermore, the President's proposal, which covers only postviability abortions, does not even purport to affect the vast majority of partial-birth abortions which take place in the fifth and sixth months of pregnancy, not in the third trimester.

To sum it all up, the President's proposal is a sham. Mr. Speaker, the President knows that partial-birth abortions are primarily performed before the seventh month of pregnancy, in the fifth and sixth months, on thousands of healthy babies of healthy mothers. His purported ban would not protect one of these babies. We will not allow the President to change the subject from the disturbing facts of partial-birth abortion, as he has attempted to do. The President is supporting an indefensible procedure that should not be allowed in a civilized society.

I would ask my colleagues to look at partial-birth abortion. We have described this procedure in this House before, but I ask my colleagues to consider again what is involved when an abortionist performs the procedure known as partial-birth abortion.

In the first step of this horrible procedure, the abortionist, guided by ultrasound, grabs the live baby's leg with forceps. In the next step, the baby's leg is pulled into the birth canal. The abortionist then delivers the baby's entire body, except for the head.

□ 1230

Of course, if the head came out, none of the rest of this could happen. If the head came out and the abortionist took any action against that child, that would undoubtedly be considered murder under our law. Then, after the baby is delivered, except for the head, the abortionist jabs scissors into the baby's skull. The scissors are then opened to enlarge the hole.

I ask my colleagues to look at this critical stage of this horrible procedure. This is what is going on when a partial-birth abortion is performed. Then, in the final stage of partial-birth abortion, the scissors are removed and a suction catheter is inserted into the hole which has been created by the abortionist in the baby's head, and the baby's brains are sucked out and the delivery is completed.

I ask the Members, how could jamming those scissors into the skull of the baby, into the back of the baby's head, be possibly required for the health of the mother? It simply makes no sense. The claims made by the President and other supporters of partial-birth abortion about the mother's health belong with all the other falsehoods that have been a part of the campaign against this bill, and are advanced by people who are desperate to escape from reality in their quest to defend the indefensible. They cannot defend this, therefore they are attempting to create a cloud of confusion and deceive the American people.

In this House we deal with many issues. We have hundreds of votes here. The issues come and go. Most of the votes we will cast here will soon be forgotten. Even those that seem rather important to us at the moment will fade away. They will become a distant memory. But I believe that today's vote on partial-birth abortion will be remembered. The Members of this House will not be able to escape responsibility for the votes they cast on this important issue. History will also remember the President, whose veto had to be overridden in order to protect helpless infants from this gruesome procedure.

I appeal to my colleagues, put aside all the myths that have been generated in this debate in opposition to this bill, put aside all the distortions, put aside all the misinformation that has been disseminated. Look at the facts, consider the truth, and face up to the reality of partial-birth abortion. This is it. This procedure cannot be defended.

I would ask that my colleagues support the Senate amendments to the Partial-Birth Abortion Ban Act, and help bring this cruel, this brutal practice to an end in America.

Mr. Speaker, I reserve the balance of my time.

Mrs. LOWEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to the bill. This is the fifth time that the House will vote on this issue. Unfortunately, it will not be the last. As my colleagues know very well, the President will veto this legislation because it does not contain an exception to ensure the health of American women, so we will be back here again next year.

We have repeatedly tried to offer an amendment to protect the health of the mother to this bill on the floor of this House, and the Republican leadership has consistently blocked us. We offered to sit down and work with the Republican leadership to craft a health

exception that we could all accept. The Republican leadership refused. The President will sign this legislation if it contains an exception that would protect the health of the mother, but the Republican leadership will not even give us a chance to put one in this legislation.

The Republican leadership does not want to ban this procedure. Unfortunately, it wants a political issue. Republicans would rather debate this again and again and again, rather than send the President a bill that he can sign into law.

Mr. Speaker, do not take my word for it. Let us listen to the words of Ralph Reed. On May 21 he told the New York Times that this was, and I quote, "A winning, gold-plated issue going into the 1996 election." No pious words about the defenseless unborn, no handwringing over moral decay, just a winning gold-plated issue. This, Mr. Speaker, sadly, is pure politics, plain and simple.

Mr. Speaker, we will hear a great deal today about the AMA and its endorsement of this bill. We will hear that changes made to the bill in the Senate have improved it. Nonsense. The Senate amendments are window dressing that provide cover to doctors while leaving women, frankly, out in the cold. The AMA struck a very cynical bargain with the Republican leadership to endorse this bill.

Thankfully, Mr. Speaker, the AMA is not the final word on this issue. The American College of Obstetricians and Gynecologists, ACOG, the health professionals who actually deliver babies and care for women, oppose this legislation. The American College of Obstetricians and Gynecologists oppose this legislation. Let us not forget, Mr. Speaker, that the AMA represents the doctors, not the women.

So while the changes made to this bill in the Senate may make it marginally more difficult to throw doctors in jail when they are making these very difficult decisions, they will do nothing, absolutely nothing, to save the lives or preserve the health of women.

So we are left with the same bill that we have voted on four times before, the same bill that puts the lives and health of women at risk, the same bill that violates the Constitution of the United States of America and tramples on the rights of American women. Women from around the Nation testified before Congress that this procedure protected their lives and their health, women like Tammy Watts, Claudia Addes, Maureen Britel, women who would have been harmed by this bill.

These women, Mr. Speaker, desperately wanted to have children. They had purchased baby clothes. They had picked out names. They did not abort because of a headache. What an insult, Mr. Speaker. They did not choose to abort because their prom dress did not fit. They chose to become mothers, and only terminated their pregnancies because of tragic circumstances.

Mr. Speaker, who in this body will stand in judgment of them? Which of the Members will stand in the operating room and limit their options? Who, at the agonizing moment, will decide? That is the question? Who is going to make this decision, the Congress of the United States, or the women and families of America?

The courts have been very clear on this question, and have consistently found bills of this type to be unconstitutional. Lawsuits have been filed in 10 States challenging State statutes similar to the bill before us. In 10 States courts have ruled that the laws were unconstitutional, struck them down, limited their scope, or enjoined them.

Mr. Speaker, when the House debated this issue in March, the distinguished gentleman from Florida [Mr. CANADY] assured us that this bill was constitutional and consistent with Roe. Since then this ban has been struck down, changed, or enjoined on constitutional grounds in 10 States, 10 States. States have moved ahead, passed these bans, and they have been struck down again and again. The courts have clearly spoken. This bill violates a woman's constitutionally protected right to choose.

Unfortunately, we know that the antichoice majority will not let a little thing like the Constitution of the United States of America stand in the way of their abortion ban. Mr. Speaker, the anti-choice Republican leadership has been waging war on the reproductive rights of American women since taking over this House in 1994.

In the last Congress alone, the leadership voted to limit abortion rights more than 50 separate times, a new record. It is clear that this leadership wants to ban every abortion, that is the ultimate goal, procedure by procedure, trimester by trimester. They want to rollback Roe versus Wade and push American women back into the back alley.

Mr. Speaker, we have a different vision. We will continue to fight to ensure that women are able to obtain safe, legal abortions, and we will work as hard as we can to reduce the number of abortions by providing women with greater access to family planning and contraceptives. We will work to empower women to make responsible choices about their own bodies.

Unfortunately, Mr. Speaker, the Republicans have chosen to make our bodies their battleground, and they will not succeed.

Mr. Speaker, I am pleased to yield 3½ minutes to my colleague, the gentleman from Virginia [Mr. SCOTT], the distinguished ranking member of the Subcommittee on the Constitution.

Mr. SCOTT. Mr. Speaker, I think it is important that we focus on what this bill does. It prohibits one procedure. Nothing in the bill affects the decision to have any abortion. If this bill passes, women who decide to have a legal abortion will still be able to get that abortion. Some will just have to be subjected to other procedures that their doctors conclude will be more likely to kill, maim, or sterilize them.

We have heard, and I assume we will hear more, graphic descriptions of this procedure, but the fact is that other alternatives which will be used have not been described graphically today, and probably will not be. So the point of this bill is not to reduce the number of abortions. In fact, the point of today's vote will not even be to enact a bill, because this version is clearly unconstitutional, so much so that similar laws in the States have been thrown out at least nine times this year alone.

Mr. Speaker, though abortion has always been a controversial issue, the fact is that since 1973 the Supreme Court decision Roe versus Wade decreed that abortion will be legal in this country. Roe, which is still the law of the land, held that a woman's right to have an abortion before fetal viability is a fundamental right.

The State may, however, prohibit post-viability abortions, but only if there is no substantial threat to the life or health of the mother. In Planned Parenthood versus Casey, 1992, the court reaffirmed this holding. Mr. Speaker, other Supreme Court decisions have added to this concept by prohibiting regulations that jeopardize a woman's health by chilling the physician's exercise of discretion in determining which abortion method may be used.

So interference with a physician's exercise of discretion jeopardizes the woman's health, and is therefore as dangerous as it is unconstitutional. Although the health of the mother must remain a primary interest in order to pass constitutional muster, today's bill includes no provision which allows an exception from the ban in those cases where the other methods pose serious health risks to the mother. The Partial-Birth Abortion Ban Act will not prevent a single abortion. It simply prevents one procedure which, in certain circumstances, is the safest procedure available.

Mr. Speaker, many of us support a total prohibition on post-viability abortions as long as it is consistent with Roe versus Wade, by protecting the health of the mother. But this bill only prohibits one procedure, not the decision to undergo the abortion. Therefore, if this bill passes, the only effect, as I have said, will be that some people will have to undergo a more dangerous procedure which will increase their chances of them being killed, maimed, or sterilized.

□ 1245

I hope that my colleagues will work to prevent this result.

This debate should not be about politics, it should be about the woman who may need this procedure to protect her health and reproductive ability but may not have access to it because Congress decided that it should play doctor and politics. Let us put women's health first and defeat the bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I rise in strong support of this partial-birth abortion ban.

Mr. Speaker, this has little to do with Roe versus Wade, little to do with politics, little to do with the majority versus the minority, and everything to do with banning a procedure that is, in effect, legalized infanticide. Let there be no doubt about what we are trying to do in this Chamber today.

Mr. Speaker, 295 of my colleagues, Democrats and Republicans, and men and women, some pro-choice and pro-life, have come together not to get into the rhetoric and the hyperbole but to try to do something to cut down on the number of abortions that take place in this country.

Mr. Speaker, the AMA has now endorsed this bill that I strongly support. Former Surgeon General C. Everett Koop, who has taken on big tobacco and fought for little children, has said this about partial-birth abortion: "Partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both."

Mr. Speaker, I think that states pretty much the case, and 64 Republicans and Democrats out of 100 in the Senate have agreed. We need to talk, Mr. Speaker, about ways to eliminate the large number of abortions in this country, to reduce the number of abortions in this country. We need to do it by passing this bill. We need to do it by talking about funding birth control methods.

Mr. Speaker, we have heard that we have voted already four times on this act. We should vote 40 times or 400 times to pass what is morally, ethically, and, I think, soundly politically the right thing to do. Let us pass this bill today and put it on the President's desk.

Mrs. LOWEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Speaker, last spring a woman came to my office with her infant son whom she loved, and you could tell the love was obvious. Tragically for this woman, this was not the first pregnancy she had had. She had lost a previous baby months along in the cycle through no fault of her own, and she had used this procedure after consulting with her husband, her family, and her doctor.

Mr. Speaker, not very many women are forced to use this procedure. In 1992, the most recent year for which we have statistics, only 0.4 percent of all abortions take place after 26 weeks when this procedure becomes necessary. Like the women in my office, like the women that my colleagues have talked about today, every single one of these women who are facing these late-term procedures are facing threats to their life or threats to their health or they are carrying a fetus with severe abnormalities that will not survive. That is why the American College of Obstetricians and Gynecologists opposes this legislation even now, and that is why this piece of legislation is unconstitutional and should not be passed.

Mr. Speaker, the terms are so vague that like the 10 States that have struck down the State legislation, this legislation will not be held constitutional and should not be passed.

Mr. Speaker, I have a question as a new Member of Congress. Why are we voting on this piece of legislation again and again and again and again and again? It is all we have talked about in my first 10 months of Congress.

Mr. Speaker, the reason is clear. In the 1998 elections, the Republicans think they can saddle people with this. The women of America are not going to accept it. The women of America need to make this decision in consultation with their families and their doctors. Let us move beyond this to rational family planning so we can avoid unwanted pregnancies.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I rise in strong support of H.R. 1122, the partial-birth abortion ban. I have spoken out repeatedly in support of this ban, and I will continue to do so however long it takes to get the necessary two-thirds majority in both the House and the Senate so that we can override the President's veto.

It was in 1993 when I was still practicing medicine when I first read about this procedure. It was published in the American Medical News. I had seen all of my patients for the day, I was sitting down at my desk, and, frankly, I was shocked and amazed that in a country that is supposed to be founded on the principle that we are endowed by our Creator with the right to life, that a procedure this barbaric would be legal and, furthermore, that some people who purport to be legal scholars would argue that it is somehow protected in our Constitution. It is nowhere mentioned anywhere in our Constitution.

I want to address two very important issues; No. 1, these so-called tragic circumstances. In that original article that appeared in the AMA News, the originators of this procedure admitted that 85 percent of the time it was on perfectly healthy fetuses and in the other 15 percent, the majority of them were cleft lip and cleft palate.

How many millions of Americans in this country who have a loved one with cleft lip or cleft palate would like to know that this kind of barbaric procedure could be done on a baby for a deformity as simple as that? It is absolutely tragic to me to think that somebody would make that kind of an argument.

Mr. Speaker, I am not finished. I also want to discuss this other so-called health exception. They had a health exception in California prior to Roe versus Wade, and they did thousands and thousands of abortions every year because we all know, I am a doctor, any doctor can say it is needed for health. That is a loophole you can drive a truck through.

This procedure is barbaric. I encourage all of my colleagues to vote in support of the bill.

Mrs. LOWEY. Mr. Speaker, I yield 10 seconds to the distinguished gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I would say to the doctor, he is also a Congressman and there is a constitutional basis for this measure that we have. Look at the fifth amendment, then read the U.S. Supreme Court decision.

Mrs. LOWEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the committee.

Ms. JACKSON-LEE of Texas. Mr. Speaker, there are physicians and people of many walks of life in this House, but though we come with different experiences, we do not stand for the thousands upon thousands of physicians across the Nation who deal with patients, in this instance women, women who are expecting and looking forward to the blessed day. As we debate this issue, none of us can stand in their shoes.

I am saddened that we now come for the fourth time to deny the opportunity for a mother who wants to bear children again to be protected and to have her health protected in a private and personal and religious and family decision.

Take the story of Eileen Sullivan, someone who brought tears to my eyes as she testified before the House Committee on the Judiciary. I ask you to stand in her shoes. Eileen Sullivan from Los Angeles, a Catholic with 10 brothers and sisters, Eileen had long awaited her first child. She and her husband were devastated at 26 weeks of pregnancy that testing revealed overwhelming fetal abnormalities in their son, including an improperly formed brain, a malformed heart, no lungs, and nonfunctioning liver.

Mr. Speaker, did she rush to have an abortion? No, she did not. She took test after test after test. And I imagine, as a devout Catholic, she prayed

and prayed and prayed, and yet the prognosis was: "Eileen, if you and your husband want a healthy child, we must terminate this pregnancy." In the law of the land, she had the right to choose. She did not voluntarily do so.

So Eileen had a procedure, a medical procedure for which, under this bill, the physician would be held liable and accountable, upon which the family decision, the prayer that was made that helped them to decide this.

Mr. Speaker, I simply say this is a bad piece of legislation. It is difficult to decide, but I would ask that my colleagues vote on behalf of Eileen. Vote against this legislation and give life.

Mr. Speaker, I rise today in opposition to H.R. 1122. The issue raised by this legislation is a very difficult and emotional issue for all of us here in this body. It is one that I, and I am sure many of my colleagues, have given a great deal of consideration. There is no question, however, but that I must oppose this legislation.

H.R. 1122 raises many concerns, but two in particular are worthy of discussion. First, as currently written this legislation is unconstitutional. Second, the legislation makes no provision for the protection of a mother's health.

Last May, the Senate passed H.R. 1122, the Late-Term Abortion Ban Act only making three minor amendments to the House-passed version. We are asked today to agree to these amendments. The Senate amendments are purely cosmetic, however, and do nothing to answer my concerns. While these amendments provide the physician additional protections, they do nothing to extend protection to the health and well-bring of American women and their families. As currently written, H.R. 1122 provides no exception to protect a woman's health and makes no distinction between abortions before and after fetal viability.

As a Member of Congress, I have, sworn to uphold the U.S. Constitution. H.R. 1122 is unconstitutional and we, in Congress, should not attempt to undercut the law of the land as set forth by the U.S. Supreme Court in Roe versus Wade.

In Roe versus Wade, the Supreme Court held that women had a privacy interest in electing to have an abortion. This right is qualified, however, and so most be balanced against the State's interest in protecting prenatal life. The Court determined that post-viability the State has a compelling interest in protecting prenatal life and may ban abortion, except when necessary to preserve the woman's life or health. In line with this decision, 41 States have already passed bans on late term abortions, except where the life or health of the mother is involved.

In Planned Parenthood versus Casey, the Court held that the States may not limit a woman's right to an abortion prior to viability when it places an undue burden on that right. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."

H.R. 1122 in its current form interferes with a woman's access to the abortion procedure that her doctor has determined to be safest for her, and so unduly burdens her right to choose. It is therefore inconsistent with the principles outlined in Roe and Casey, which have been reaffirmed by every subsequent Supreme Court on this issue, and so is unconstitutional.

Partial birth abortions are performed because a physician, with the benefit of his expertise and experience, determines that, given a woman's particular circumstances, this procedure is the safest available to her; that this is the procedure most likely to preserve her health and her future fertility. Only a doctor can make this determination. We, in Congress, should not interfere with the close relationship that exists between a doctor and his or her patient.

It is a tragic fact that sometimes a mother's health is threatened by the abnormalities of the fetus that she is carrying. She is faced with a terrible decision whether to carry a fetus suffering from fatal anomalies to term and in so doing jeopardize her own health and future fertility or whether to abort the fetus and preserve her chances of bringing a later healthy life into the world.

When a woman is faced with this type of painful circumstance, it is one that she should face free from Government interference. This is too intimate, too personal, and too fragile a decision to be a choice made by the Government. We should protect the sanctity of the woman's right to privacy and of the home by letting this choice remain in her hands. Families and their physicians, not politicians, should make these difficult decisions. It is a decision that should be between a woman, her spiritual leader and her god.

Proponents of the partial birth abortion ban maintain that this procedure is never the only option to save the life or preserve the health of a woman. ACOG, The American College of Obstetricians and Gynecologists stated that while this procedure may not be the only option to save a woman's life and health, it may be the best option.

I am reminded of the story of King Solomon. In that story Solomon is faced with deciding between two women who claim that a certain child is their own. The power and authority to determine to whom the child belongs rests with King Solomon, but he gave the mothers the power to choose the child's fate and from this decision the life of the child was saved.

Many of my colleagues have worked hard to amend the ban so that it would provide an exception to protect the mother when the continuation of the pregnancy would put her physical health at risk. This was rejected. Without such a provision, I am unable to support this ban. For these reasons I urge my colleagues to join me in opposing H.R. 1122.

Mr. CANADY of Florida. Mr. Speaker, I yield 2½ minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

Mr. Speaker, we have heard a whole lot about the American College of Surgeons and the American College of Obstetricians and Gynecologists. That is the same organization that refused to suggest that women who are pregnant get an HIV test, knowing that in fact it could prevent HIV infection from the baby, the same organization that ruled we should do that after this Congress stood up and morally said they should do it. So, they do not lead on what is right and wrong. They follow. They have already proven that they follow.

We have a choice. The child just described by the gentlewoman from Texas [Ms. JACKSON-LEE], there was a choice there. There was a choice that the doctor could end a life early through a very gruesome and horrible procedure, or there was a choice that a baby could have been delivered and died in its mother's and father's arms. We do have choices. There is no question about it.

Mr. Speaker, who is looking out for the infant girls that consume 85 percent of the elective abortions used on this procedure?

The thing that saddens me most about this debate, and I am tired of the debate as well, is we will not be truthful about what we are talking about. The truth is that this is never needed. The truth is that we have a lot of people who believe, and are respected in their belief, that women ought to be able to abort any baby any time for any reason.

The unfortunate thing is that there is not the integrity in this House, or the honesty, to stand up and say that is what I believe. So, therefore, we use disinformation, deceit, and untruth to cover what the real facts of the issues are.

So, Mr. Speaker, when, in fact, Members decide on whether or not we ought to be involved in banning a procedure that the vast majority of physicians in this country know is not needed to accomplish the purpose, they should ask themselves whether we are leaders or we are followers.

I do stand in the shoes every weekend and defend women and their rights and care for them and their problem pregnancies. I do know what I am talking about. It is a moral, ethical issue. It has nothing to do with the practice of medicine.

Mrs. LOWEY. Mr. Speaker, I yield 2¼ minutes to the gentleman from Massachusetts [Mr. FRANK], a distinguished member of the committee.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Indiana [Mr. ROEMER] said he is for this bill because he wants to reduce the number of abortions. This bill, of course, does not by any means reduce the number of abortions. It does say doctors cannot do one procedure versus another. This deals with one procedure. It does not purport even to ban abortion under any circumstances but simply says, do not use this procedure.

Now, when we ban one procedure and allow the others, we make this one mistake. On this bill, the majority has consistently refused to accept an amendment which says this procedure can be used if the doctor believes it is necessary to avoid grievous physical harm to the mother.

So I ask my colleagues to understand, this is a bill which says that even if there will be grievous physical harm in the opinion of the doctor, he has to use a different procedure.

Mr. Speaker, I am told the chairman of the committee, who is here, has said: Well, but we cannot just restrict it. Once we say "health," the Court will automatically say "mental health." That is simply, wholly untrue.

Mr. Speaker, when the Court interpreted health to mean mental health, they were not talking about a statute which specifically modified health with the word "physical." The Court has held that there is a general constitutional right of the health of the mother to be taken into account, and they have defined that as mental or physical.

□ 1300

If that governs, the whole bill is out. Understand, if that interpretation governs, then all health, all abortions are out. We are apparently believing here, the majority, that we cannot ban this particular procedure and make an exception. What we are saying is, OK, we will make an exception to the exception and if grievous physical harm will come, then it will be allowed. No, there is no argument that the court would not recognize that. The court has defined health when it was unmodified. There is not a single decision that suggests that the court will look at the words "grievous physical health consequences" and interpret those away. So either we must believe that the court will impose health, including mental health, across the board, or we must recognize the validity of this.

Without the amendments we have offered, by refusing to let us offer an amendment, the majority says not simply that we will ban the procedure but we will ban it even to avoid, if it is necessary, to avoid grievous physical health consequences. That is what this is about, whether or not grievous physical health consequences should be allowed into the bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, make no mistake about it, abortion is violence against children. The partial-birth method is an extraordinarily heinous manifestation of this violence. Today those who kill babies by jamming scissors in a baby's skull followed by insertion of a hose to suck out their brains have an unfettered license to kill.

Nurse Brenda Pratt Schaffer, who worked with the infamous Dr. Haskell, described the end of the life of one 6-month-old in this way, and I quote:

"The baby's body was moving. His little fingers were clasping together. He was kicking his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he stuck the high-powered suction tube into the hole and sucked the baby's brains out. I almost threw up," she said, "as I watched him do these things."

To mitigate this cruelty, Mr. Speaker, this cruelty to children, some States, about 15, have already enacted partial-birth bans into law but litigation has mostly precluded enforcement. Other States are considering such a ban. And in Florida, Missouri, and my own State of New Jersey, where at least 1,500 of these partial-birth abortions are done each year in northern New Jersey alone, the bills were sadly vetoed by our Governors.

Mr. Speaker, the United States needs a national law to ban this violence against kids. Today we can do that. Today we can revoke the license to kill babies in this fashion and protect at least some kids from this kiddie holocaust called abortion on demand. If the President vetoes the bill, he and he alone empowers abortionists to murder kids in this hideous way.

Let's not forget, Mr. Speaker, the leadership of the pro-abortion movement has been savvy in masking the violence and cruelty to baby girls and boys killed by abortion in general and this method in particular. But they have been exposed once again and by one of their own.

Members please recall that Ron Fitzsimmons, the ex-director of the National Coalition of Abortion Providers, has publicly confessed that he "lied through (his) teeth" when he told a TV interviewer, according to the New York Times, that partial-birth abortion was "used rarely and only on women whose lives were in danger or whose fetuses were damaged."

According to the AMA News and the New York Times, Mr. Fitzsimmons now says that his party line defense of this method of abortion was a deliberate lie—and that in the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along.

Most in the media believed and amplified as true the falsehoods and lies put out by Planned Parenthood Federation of America, the Alan Guttmacher Institute, the ACLU, NARAL, the National Family Planning and Reproductive Health Association, NOW, the National Republican Coalition for Choice, People for the American Way, Population Action International, Zero Population Growth [ZPG], to name a few signers of an October 25, 1995 letter to Members of Congress which stated:

This surgical procedure is used only in rare cases, fewer than 500 per year. It is most often performed in the case of wanted pregnancies gone tragically wrong, when a family learns late in pregnancy of severe fetal anomalies or a medical condition that threatens the pregnant woman's life or health.

These groups lied to us. And it's not the first time these groups have lied to us. Dr. Bernard Nathanson, a former abortionist and a founder of NARAL has said lying and junk science are commonplace in the pro-abortion movement. It is the way they sell abortion to a gullible public. Dr. Nathanson said that in the early days, they absolutely lied about the number of illegal abortions; today, he says they lie about the link of abortion and breast cancer—there is a link; and they lie about the safety of abortion. And of course, the big lie on partial-birth abortion has been exposed. The procedure is not rare—it is common—and it is used with devastating consequences on perfectly healthy mothers and babies.

In the debate on partial-birth abortion last year, remember the big lie about how anesthesia kills the baby? That falsehood was exposed by the president of the American Society of Anesthesiologists, Dr. Norig Ellison, who explained before the Senate Judiciary Committee:

I believe this . . . to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus. . . .

Mrs. LOWEY. Mr. Speaker, I yield 15 seconds to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, of those 15 States that have passed the law the gentleman advocates, 9 have been found to be unconstitutional.

Mrs. LOWEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, we can learn from our elders. Our first citizens, native Americans, have a phrase that I think bears repeating in this place: Do not judge a person until you have walked a mile in their moccasins.

So I say to the Members who are pushing this ban, they are probably very sincere but most of them do not know what they are talking about. They do not know the agony of a late failed pregnancy. They do not know in what circumstances a physician may have to counsel a family in order to protect the health of a particular woman. They do not know about the choices families must make when they have to choose between a woman's health and a badly damaged fetus.

So, my colleagues, I say it is time we step into the shoes of those women, of those families, of those doctors. It is time politicians stop making decisions that are best made by families, by women, by physicians. It is time to get the Government off the backs of our citizens. It is time to listen to the

38,000 Members of the American College of Obstetrics and Gynecology, because they do know and they are opposed to this ban. I would urge my colleagues to join those doctors and oppose this ban.

Mrs. LOWEY. Mr. Speaker, may I inquire of the Chair the time remaining?

The SPEAKER pro tempore. The gentlewoman from New York [Mrs. LOWEY] has 10 minutes remaining, and the gentleman from Florida [Mr. CANADY] has 7 minutes remaining.

Mrs. LOWEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we continue to oppose this bill for two very simple reasons. It endangers the life and health of American women. It is blatantly unconstitutional. The antichoice majority has trumpeted the AMA's support for this bill, but the changes made to this bill to win the AMA's support do nothing, nothing to protect the lives and health of American women.

Again, I want to remind my colleagues, whether one believes that the Constitution should say more or should say less, the point is that 10 courts have struck down, even, or changed abortion bans like the one before us because they violate Roe versus Wade. Ten courts have spoken. Why will not Congress listen? This bill tramples on Roe versus Wade and is a direct assault on the constitutionally protected right to choose.

Mr. Speaker, let me be very clear. As a mother, as a new grandmother, I respect and celebrate life with every ounce of my soul, with every ounce of my being. I find it very offensive when year after year my colleagues and I will go to the leadership, will go to the Committee on Rules and say, let us craft a bill that the President will sign. Let us craft a bill that will focus on postviability abortions, will disallow postviability abortions except as they protect the health and the life of the mother.

But unfortunately, the majority again, time and again, will not work with us to help craft this bill. So year after year this procedure, which they say they abhor, continues when we want to make sure that postviability we are eliminating a procedure except to save the life and health of the mother, which is consistent with Roe versus Wade.

I would ask my colleagues again, work with us. Let us craft the language that the President can sign, and we can get this enacted into law, that we feel is reasonable and that will protect a woman's life and health.

Mr. CONYERS. Mr. Speaker, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I wanted to thank the gentlewoman for her leadership, not just today but year after year, on this subject matter. I am hoping somebody raises the fact that the AMA has switched its position, because I have got the letter they sent NEWT GINGRICH on the same day they switched their position, detailing what they wanted for the switch.

That AMA, that is the American Medical Association. And what did they want? Well, they wanted some compromises. They detailed a plan to stall or minimize any cuts that might come from the physicians' incomes. Let us not wax lyrical about the AMA is now on the side of the conservatives in this country. They just sold out, very elementary, dear Watson, it happens in the Congress and in the body politic with great frequency.

Once again, we all know that the issue is about the health of the mother. The opponents keep trying to hope they can override our resistance. The Supreme Court still states what the law of the land is, and for all the doctors on the Republican side that do not know the fifth amendment is severely connected to this subject matter, believe me, it is.

Mrs. LOWEY. Mr. Speaker, I thank the distinguished ranking minority leader.

Mr. CANADY of Florida. Mr. Speaker, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Speaker, the gentlewoman raised an issue about proposed amendments dealing with the mother's health. The problem with the amendment that the President has proposed which would deal with the mother's health is that it would first not deal with the vast majority of partial-birth abortions at all, because it is restricted on its face to postviability abortions and most partial-birth abortions occur before viability. Furthermore, the President's proposal would give unfettered discretion to the abortionist to decide.

Mrs. LOWEY. Reclaiming my time, Mr. Speaker, I would rather the gentleman speak on his time since I have limited time.

Mr. Speaker, I yield 2 minutes and 30 seconds to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for yielding me the time and for her extraordinary leadership on a very hard bill to manage and carry, but one that has to be carried.

I want to make three points. One goes to the futility of this bill based on its unconstitutionality. The other goes to who gets protected. The final goes to the intolerable trade-off that this bill forces and that cannot be condoned under any circumstances. Why are we here on a bill that is unconstitutional on its face?

We have not had to deal with the exception for health of the mother in the Hyde amendment and other matters because we had not focused on postviability. But the Supreme Court has been clear. I want to quote the language, that a bill is unconstitutional if it "fails to require that maternal health be the physician's paramount concern." That is where the Catholic church has always been. That is where all of us have always been, if ever there is that kind of tragic decision to be made.

We must face that now as we have not had to because we are focusing postviability.

Why are we here on a bill that protects physicians and not women? The doctors got language that satisfied them and jumped ship. I thought they were supposed to have a paramount duty to their patients as well.

They better watch out, because there is language in this amendment that I think leaves them in jeopardy as well. It must be found that no other medical procedure would suffice. I can imagine that going before committee of doctors in the hospital, particularly when we consider how reluctant physicians are ever to use this procedure.

And finally, this forces the intolerable tradeoff of mother for fetus. It comes down on the side of fetus. It requires sacrifice of the mother because whatever the state of her health, it cannot be taken into consideration. For these reasons, I do not see how in good faith this body can pass this bill.

Mrs. LOWEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, again I just want to reach out to the gentleman from Florida [Mr. CANADY] and the gentleman from Illinois [Mr. HYDE], and ask them to work with us to craft a bill that would protect the health and the life of the mother. We could have had a bill today. This was first introduced in 1995.

□ 1315

It was vetoed by the President. It came back five times. We could have a bill today.

And I want the gentleman to know that I respect the passion of the opponents on this issue just as I hope the gentleman would respect the passion of women such as myself who have given birth to beautiful children, who is now a grandmother and respects life and celebrates life. I wish the gentleman would have more respect for those women like Claudia Addes, who suffered the pain of losing a child when she desperately wanted a child.

I am saying to the gentleman, with respect, let us sit down and work out a bill that would protect those women, protect all the women who may face this very difficult tragedy in their lives at some future time. I hope no one close to the gentleman ever faces that decision.

Let us work together, let us craft the bill, protect the women and the families who have to face these difficult decisions and, Mr. Speaker, let us not put

a doctor in the terrible position of making this decision that he does not or she does not feel is the correct decision.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I wish I had more time to answer the gentlewoman from New York. She is a wonderful person. She is a sincere person. Her motives are most noble, and I wish everyone on her side would understand this is not politics. This is a tough issue for anybody.

We happen to believe in protecting the unborn child. We happen to think the health of the mother does not equal the life of the unborn. That is not a good trade-off. That is where we get stuck.

We hear from doctors, like Dr. Hearn, who wrote the book on abortion, that if a woman is pregnant she is in a life-threatening condition. Do we want him to make the decision on what is grievous physical health? We have problems, but it is not that we are not willing to negotiate on them.

Mr. Speaker, abortion is not mentioned in the Constitution. The abortion license was an invention by seven Supreme Court justices. But cruel and unusual punishment is in the Constitution. And by any definition, partial-birth abortion is cruel and unusual punishment, punishment for the capital crime of being unloved and unwanted.

Every abortion happens over somebody's dead body. We hear a lot about the woman, and we should, but we do not hear a scintilla about the little girl baby, the little boy baby whose heart is beating wildly and who is flailing, their having been almost delivered and who want to live. We do not hear about them.

Every abortion results in a violent death, whether the abortionist uses dilatation and curettage or the chemical warfare of saline injection which scalds the little baby to death that is called salting out, or RU-486 chemical warfare against the little baby, or the infamous suction machine, abortion means violent death in the womb. But partial-birth abortion adds a gruesome dimension to this cruelty by reaching the level, or should I say the depth, of infanticide.

A word about truth. America is committed to truth. "We hold these truths," that great Virginian Jefferson wrote. "The truth will make you free," we tell our children. How many times have we sung the majestic words from the "Battle Hymn of the Republic," "His truth goes marching on?" Well, Mr. Speaker, the whole case for partial-birth abortion is based on deception and untruth.

And that is not surprising, because the history of the pro-abortion rights movement is replete with one falsehood after another. And I frankly get tired of being lied to.

Bernard Nathanson, a doctor who ran the biggest abortion clinic in America, wrote a book called "Aborting America." And he said "I cannot escape the notion that I have presided over 60,000 abortions." But concerning the number of back-alley abortions, he said we made the figures up. He is a founder of the National Abortion Rights Action League. He and a man named Lawrence Lader concocted figures because they sounded good about back alley abortions as a justification for their organization dedicated to legalizing abortion. "We made up the figure 10,000 because it had a nice round sound to it." That was a lie.

Roe versus Wade was a lie. Norma Jean Corvey, who was Jane Roe, said she never was raped. The case was presented as a rape situation to make it more poignant. But later, when she became pro-life, she admitted that she lied; that she was not raped. So the foundation of Roe versus Wade was a lie.

Then we have partial-birth abortions, where Planned Parenthood told us that anesthesia kills the little baby. The baby does not feel pain. The mother is anesthetized. The anesthesiologists came in and went ballistic. They said enough anesthesia to kill the little baby would kill the mother. "We do not want people to shy away from taking anesthesia" they told us. That is a lie.

Then, of course, we have the famous Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, who in an article in the American Medical News said on the night in November 1995, when he was on "Nightline," he "lied through his teeth." He lied through his teeth about how many of these abortions are done and at what time in the pregnancy. So deception. Lies. I get tired of it.

Now, we are not stopping abortion, as the gentlewoman points out, but we are stopping a loathsome, grisly by-product of the mindset that treats people as things and as objects. We are saying halt this cruelty now and not tomorrow.

I want to address the President, if I may presume to do so. On June 12 in 1987 at the Brandenburg Gate, Ronald Reagan challenged General Secretary Gorbachev. He said, "Mr. Gorbachev, tear down this wall." And as a result of that wall finally coming down, a new birth of freedom, that wonderful phrase, suddenly appeared for millions of people.

Well, there is another challenge that I would like to make, and I do not presume to be Ronald Reagan nor do I ascribe the President as Mr. Gorbachev, but the challenge is as noteworthy as the Berlin Wall, and that is because it means life and death to thousands of endangered tiny defenseless humans, sign this bill, Mr. President, then the prayers of millions and even the inaudible prayers of the little yet-to-be-born will be answered.

Mr. President, stand between them and a gruesome death. Cruel and unusual punishment. We can provide them with life and with hope, and I ask the President if he has not been lied to enough by these people who are so fearful that the abortion license will be encapsulated a little bit more than it is, be a little less free, a little less wanton. They are so fearful of that, they will not give an inch.

This procedure is inhuman. Animals of the forest would not treat their young this way. So all we say is we have been lied to enough. This does not impair abortions. They will go on merrily every day. We will get to them.

Mr. President, sign this bill.

Mr. UNDERWOOD. Mr. Speaker, I rise in strong support for this legislation which bans partial-birth abortions. Over the past year, the House expressed its opposition to this procedure: not once, not twice, but three times. The decision before us today is simple: do we ban this procedure which is incredibly inhumane and incredibly brutal? I join the National Right to Life Committee, the U.S. Catholic Conference, the American Medical Association, and many others in saying no to partial-birth abortions.

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, and other sources, it is estimated that partial-birth abortions are performed about 5,000 times. Do we really want to sanction the termination, no the killing of 5,000 babies? Have we given up on these unborn babies before they have a chance to live? Sadly, the majority of partial-birth abortions are performed in the 5th and 6th months of pregnancy, on healthy babies of healthy mothers. What has happened to our sense of morality and our sensibility?

The arguments that this bill does not take into account the health of the mother are not valid. This bill is narrowly crafted to outlaw only partial-birth abortions; the bill still leaves in place other legitimate medical procedures to protect the life and health of the mother. In September 1996, the former Surgeon General C. Everett Koop issued a statement that "partial-birth abortions is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both."

Mr. Speaker, the babies involved in this procedure are alive and experience great pain when they are subjected to partial-birth abortions. As a civilized society, we should outlaw this medical procedure; we should not be engaged in sanctioning the killing of human beings; once again, we should say no to partial-birth abortions. I urge my colleagues to join me in supporting the ban on partial-birth abortions.

Mr. LEVIN. Mr. Speaker, I do not favor late-term abortions and feel none should be allowed, whatever the procedure, unless necessary to preserve the life of the mother or prevent serious

consequences to her health. The bill we are considering today, like a similar bill I opposed last year, not only fails to address all late-term abortions, but it does not protect a woman from the severe health consequences which may be associated with tragic pregnancies.

For the majority, the repeated consideration of this legislation is not about reducing abortions in America. If that were the goal, the majority would allow for the consideration of a bill which protects a mother's health, as required by the Supreme Court in post-viability abortions, and a bill would be passed by this House and signed into law by the President.

We are asking the majority to be sensitive to and protective of the health of mothers who find themselves in medically and personally tragic situations. I am voting against moving the previous question so that we can consider the Hoyer amendment and ban all late-term abortions while ensuring the protection of a woman's life and health.

Mr. ABERCROMBIE. Mr. Speaker, today I rise in opposition to H.R. 1122, the Partial-Birth Abortion Ban Act. H.R. 1122 has been amended in an effort to clarify the bill's intentions. Yet, H.R. 1122 fails to provide women with the basic protections established in Roe versus Wade.

The new definition of what constitutes a partial-birth abortion is vague, convoluted, and confusing. What is a partial delivery of substantial proportion, for example? Doctors and lawyers will not have a clear idea of what is being banned.

H.R. 1122 gives any accused physician the right to have his or her conduct reviewed by the State Medical Board before a criminal trial begins. The provision does not give the State Medical Boards the authority to issue advisory positions. The provision only allows the State Medical Boards to comment on the doctor's conduct with respect to the necessity of saving the life of the woman. They cannot comment on whether or not the procedure meets the definition of a partial-birth abortion. Possible conflict of interest in the makeup of the medical boards is not addressed. The provision falsely implies that doctors have some type of protection; they do not. Doctors still have to go through criminal proceedings.

In Roe versus Wade, the U.S. Supreme Court recognized a woman's constitutional right of choice. Roe also established that this right is limited after viability, at which point States may ban abortion as long as an exception is provided for cases in which the woman's life or health is at risk. H.R. 1122 fails to make the distinction between pre- and post-viability abortion.

Forty States and the District of Columbia ban post-viability abortions. The U.S. Supreme Court has struck a balance between a woman's right to choose and the protection of potential life. H.R. 1122 unfortunately does not clarify the distinction.

Intervening in a lawful medical decision is inappropriate, ill advised, and dangerous. It is always in order to question laws and write legislation which may alter existing statutes. H.R. 1122 does not address what is now lawful in a manner which meets the necessary criteria for changing the law.

Mr. ADERHOLT. Mr. Speaker, I rise today in support of H.R. 1122 as amended by the Senate.

This bill would help to fight what Pope John Paul recently called an abominable crime and the shame of humanity—the crime of abortion.

On the Pope's recent visit to Brazil he asked, "How many times did we hear Mother Teresa's lips proclaim the priceless value of life from the moment of conception in the maternal womb? Death has silenced those lips, but Mother Teresa's message in favor of life continues to be more vigilant and convincing than ever."

It is my belief that our creator will not hold this Nation guiltless for our contribution to the killing of the unborn. Indeed, the Bible tells us in Proverbs that God hates "hands that shed innocent blood." Certainly, there can be none more innocent than the unborn.

And this procedure is particularly horrific. It has been called the closest thing to infanticide. I will not go into the gruesome details of this procedure but I believe that it is telling that many who support abortion on demand, do not support this procedure.

There are few moral questions that come before this body that are more clear-cut and simple than this one. The question we will vote on today is whether your support a method of abortion that involves partially delivering a baby and then killing it, or do you support allowing a newborn to live. Pure and simple.

I am proud to stand today with those who support life. I urge my colleagues to honor the words of the Pope and Mother Teresa by supporting life—and to vote in favor of the ban on partial birth abortions.

I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, let there be no mistake. The amendments that we are considering here today do not make this bill acceptable. They do not provide the critical exception necessary to protect women in tragic circumstances from serious harm to their health.

This bill is still unconstitutional, and is still in direct violation of the fundamental rights described in Roe versus Wade.

This bill would still criminalize doctors for using their best medical judgment to protect the lives and health of women.

This bill would still give a father who abused or abandoned a woman the right to sue her if she and her doctor determine that she needs to have this procedure. Not only does this bill infringe on the constitutional right to choose, but it rewards abusive fathers.

This bill is still fundamentally flawed, because it is based on the principle that politicians, not doctors, ought to make medical judgments about what procedures are appropriate.

I would urge every pro-choice Member who may be inclined to vote for this bill to carefully consider exactly why they are pro-choice. If you are pro-choice because you believe it is a woman's decision, not the government's, about whether or not to have an abortion, then I urge you to vote against this bill. If you believe that sometimes abortions are necessary to protect the health of a woman, then you ought to vote against this bill. If you believe that doctors should not be denied the option of using a medical procedure that they deem appropriate, then you must reject this bill. If you believe in the fundamental principles of Roe versus Wade, then you must not support this bill which severely restricts a woman's right to choose to have an abortion of a fetus that cannot live outside of the womb.

This bill, unfortunately, is not about protecting women's lives. Instead, it is the result of a multimillion dollar campaign aimed at fundamentally limiting women's rights. If this bill becomes law, it will most certainly be challenged in the courts and the result may be a reexamination of Roe versus Wade. So I hope my pro-choice colleagues, who may be inclined to vote for this bill, realize that they are in effect asking the Supreme Court to reexamine the issues resolved by Roe versus Wade.

Make no mistake, this bill is not about one particular procedure. It is about the right to choose. I urge my colleagues to defend a woman's right to choose, and to reject this dangerous bill.

And let me close by quoting a letter from a woman in New York City who faced a tragic situation involving a fetus with a severely deformed heart, and who would have been affected by this legislation had it already become law. She writes,

You must hear our voices before you vote on this misguided bill, as well as the voices of other mothers and fathers who weep over their empty cribs. We are not bad people. We are extremely unfortunate, suffering families trying to cope with personal tragedies. Please don't deepen our wounds by taking away our choices. Please vote against H.R. 1122.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to the bill, and I yield myself such time as I may consume.

This is the fifth time that the House will vote on this issue. Unfortunately, it won't be the last. As my colleagues know, the President will veto this legislation because it does not contain an exception to ensure the health of American women. So we will be back here again next year.

We have repeatedly tried to offer a health amendment to the bill on the floor of this House—and the Republican leadership has consistently blocked us. We offered to sit down and work with the Republican leadership to craft a health exception that we could all accept. The Republican leadership refused. The President will sign this legislation if it contains a health exception—but the Republican leadership won't even give us the chance to put one in.

The GOP leadership doesn't want to ban this procedure—it wants a political issue. Republicans would rather debate this again and again and again rather than send the President a bill that he can sign into law. But don't take my word for it—take Ralph Reed's. On May 21, he told the New York Times that this was a quote, winning gold-plated issue going into the 1996 elections.

No pious words about the defenseless unborn, no handwringing over moral decay. Just a winning gold-plated issue. This is pure politics, plain and simple.

My colleagues, you will hear a great deal today about the AMA and its endorsement of this bill. You will hear that changes made to this bill in the Senate have improved it.

Nonsense. The Senate amendments are window dressing that provide cover to doctors while leaving women out in the cold. Sadly, the AMA struck a very cynical bargain with the Republican leadership to endorse this bill.

Thankfully, Mr. Speaker, the AMA is not the final word on this issue. The American College of Obstetricians and Gynecologists, ACOG, the health professionals who actually deliver babies and care for women, oppose this legislation. And let's not forget, my colleagues, that the AMA represents doctors—not women. So while the changes made to this bill in the Senate may make it marginally more difficult to throw doctors in jail, they will do nothing—absolutely nothing—to save the lives or preserve the health of pregnant women.

So, we are left with the same bill that we have voted on four times before. The same bill that puts the lives and health of women at risk. The same bill that violates the Constitution and tramples on the rights of American women.

Women from around the Nation testified before Congress that this procedure protected their lives and health. Women like Tammy Watts, Claudia Addes, and Maureen Britel. Women who would have been harmed by this bill.

These women desperately wanted to have children. They had purchased baby clothes. They had picked out names. They did not abort because of a headache. They did not choose to abort because their prom dress did not fit. They chose to become mothers and only terminated their pregnancies because of tragic circumstances.

Who in this body will stand in judgment of them? Which of you will stand in the operating room and limit their options? Who, at the agonizing moment, will decide—the Congress of the United States or the women and families of America?

The courts have been very clear on this question, and have consistently found bills of this type to be unconstitutional.

Lawsuits have been filed in 10 States challenging State statutes similar to the bill before us. In 10 States, courts have ruled that the laws were unconstitutional and struck them down, limited their scope, or enjoined them.

Mr. Speaker, when the House debated this issue in March the distinguished gentleman from Florida assured us that this bill was constitutional and consistent with Roe. Since then this ban has been struck down, changed, or enjoined on constitutional grounds in 10 States. Ten States. States have moved ahead and passed these bans—and they have been struck down, again and again. The courts have clearly spoken: This bill violates a woman's constitutionally protected right to choose.

Unfortunately, we know that the anti-Choice majority won't allow a little thing like the Constitution to stand in the way of their abortion ban. Mr. Speaker, the anti-Choice Republican leadership has been waging war on the reproductive rights of American women since taking over this House in 1994. In the last Congress alone the GOP leadership voted to limit abortion rights more than 50 separate times—a new record. It is clear that the Republican leadership wants to ban every abortion, procedure by procedure, trimester by trimester. They want to roll back Roe versus Wade and push women into the back alley.

We have a different vision. We will continue to fight to ensure that women are able to obtain safe, legal abortions. And we will work to reduce the number of abortions by providing women with greater access to family planning and contraceptives. We will work to empower women to make responsible choices about their own bodies.

The Republicans have chosen to make our bodies their battlegrounds. They will not succeed.

Mr. Speaker, I submit the following for printing in the RECORD:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 1997.

HON. NEWT GINGRICH,
U.S. House of Representatives,
Capitol Building, Washington, DC.

DEAR SPEAKER GINGRICH: On behalf of the 300,000 physician and medical student members of the American Medical Association (AMA), I am writing to express our strong concern with the level of Medicare payment cuts proposed in the budget agreement with the Administration, as well as many of the specific physician payment changes included in the Administration's 1998 budget proposal.

A balanced budget and solvent Medicare Trust Fund are important goals which the AMA supports. However, we strongly object to reducing Medicare spending by $115 billion over five years almost entirely from cuts to physicians and other providers. It is clear that physician spending is not the problem with Medicare's overall growth. Physician spending growth is already well below overall Medicare growth and below the growth rate for any other major sector of Medicare. The Congressional Budget Office (CBO) estimates that under current law, physician payments per service will fall below current payment rates, while hospital and other Part B services are projected to rise. In fact, physicians are the only provider group who already face payment reductions in Medicare under current law.

More importantly, the combination of payment cuts under consideration, combined with pending payment changes, could seriously undermine the quality of care physicians deliver to Medicare patients and ultimately reduce beneficiary access to care, as low payment rates have resulted in access problems for Medicaid patients. CBO stated last month that "if payments are too tightly limited, beneficiaries could encounter difficulties in getting care from some providers or might not be able to obtain certain services." It is critical that any proposed budget cuts be considered in conjunction with other already pending physician payment changes, including the implementation of the resource-based practice expense, as discussed below.

The AMA believes Congress and the Administration should enact fundamental reforms to the Medicare program, such as those included in the Balanced Budget Act of 1995, instead of merely reducing payments and making minor modifications to the program. We have developed a comprehensive proposal, Transforming Medicare, which addresses both the short and long-term problems with Medicare, without relying on failsafe or lookback provisions. Our plan modernizes traditional Medicare, eliminating the need for Medigap, while preserving the security and quality of care beneficiaries now receive. It would create a broad menu of health plan choices of Medicare beneficiaries to choose from, including Provider Sponsored Organizations (PSOs) and Medical Savings Accounts (MSAs). It includes needed regulatory reforms to fraud and abuse and self-referral provisions, as well as cost-saving professional liability reforms. It also ensures that a healthy Medicare is available for future generations. We are pleased to enclose a copy of our Transforming Medicare proposal for your consideration.

IMPROVING THE PHYSICIAN PAYMENT SYSTEM

There is widespread agreement that the current method of updating physician payments, the Medicare Volume Performance Standard (MVPS) system, is fundamentally flawed. The Congress, the Administration, and the Physician Payment Review Commission (PPRC) have all proposed replace the current MVPS update formula with a sustainable growth rate (SGR) formula, which uses a real per capita gross domestic product (GDP) formula to adjust for volume and intensity.

In general, the AMA supports implementing the SGR approach as a needed correction for the MVPS. Fundamentally, the question for policymakers is determining the level of annual spending growth for physician services that best balances patient care needs and the federal budget. Under the current MVPS physician update formula, Medicare payments for physicians are actually projected to be rolled back, while hospital and other provider payment rates go up. Although these non-physician services are unlikely to see their full projected increases, their budget savings will be charged against this rising baseline, while further savings from physicians require even deeper cuts.

Physician practice costs, as measured by the Medicare Economic Index (MEI), continue to rise while physician reimbursement under Medicare is projected to fall. While we believe that MEI is the appropriate goal for physician updates, we understand that budgetary constraints may not presently allow for a full MEI update for physicians. We would be willing to accept GDP+2 under an SGR system, as was provided in the Balanced Budget Act of 1995, if there were assurances that this could be increased to cover MEI once the necessary Medicare savings were obtained. In contrast, under GDP+0 as the Administration proposes, physician payments would continue to fall well below MEI, as the chart below indicates.

Physicians are willing to do their part to put Medicare's fiscal house in order, as we have repeatedly done in the past. Physicians, who accounted for 32% of combined physician and hospital Medicare spending from 1987 to 1993, absorbed 43% of Medicare provider cuts over the same time. We are only asking for the opportunity to have Medicare payments keep up with the costs of providing care to Medicare beneficiaries, and are willing to accept the challenge of maintaining low volume growth. Budget reconciliation for Medicare should reflect the fact that physician spending is under better control than any other major Medicare segment. Physicians should not be penalized for having done the right thing in the first place.

SINGLE CONVERSION FACTOR

The Administration's 1998 budget also proposes moving to a single conversion factor and payment update for the physician fee schedule. Medicare payments to physicians are set through a conversion factor that translates the resource-based relative value scale (RBRVS) into dollars. Currently, there is a conversion factor for each of three types of physician services: for 1997 these are set at $40.96 for surgery; $35.77 for primary care;

and $33.85 for other services, as well as a separate conversion factor for anesthesiologists discussed below.

The AMA strongly supports the move to a single conversion factor, in conjunction with improvements to the flawed MVPS formula. However, we believe Congress must set the single conversion factor at an adequate level and provide for a reasonable transition in order to minimize the negative financial impact on surgical services and reduce potential financial disincentives for providing care for Medicare patients. We believe that, at a minimum, the conversion factor for 1998 should be set no lower than the default update under the current MVPS formula, and a single conversion factor should be fully phased-in no earlier than the year 2000.

Medicare reimburses anesthesiologists by a different conversion factor methodology than that applied to other physicians services. For 1997, the anesthesiology conversion factor is set at $16.68, and is therefore about 46% of the $36.24 average of the other three 1997 conversion factors. For purposes of determining the annual update, anesthesiology was assigned to the "other nonsurgical" category until 1996 when it was moved to the "surgical" category. The Administration has proposed to reduce the anesthesiology conversion factor by the same percentage as surgical services when surgery, primary care and other nonsurgical services are combined into a single conversion factor. However, that would clearly be inequitable since the cumulative increases over the life of the RBRVS are almost 17% higher for surgery than for anesthesiology. The AMA therefore supports PPRC's recommendation that in the move to a single conversion factor, the current ratio (46:100) should be maintained between the anesthesiology conversion factor and the new single conversion factor for other specialties.

RESOURCE-BASED PRACTICE EXPENSE

As mentioned above, many physicians face additional extreme payment reductions due to the implementation of the resource-based practice expense in 1998. The Social Security Act Amendments of 1994 requires the Health Care Financing Administration (HCFA) to implement a "resource-based" practice expense component of the Medicare fee schedule by January 1, 1998. That is, the payment for this component—which represents over 40 percent of the payment for physician services—is to be based on the actual expenses incurred in delivering each service. Currently, the practice expense allowance is derived from a formula based on the prior reasonable charge payment system.

The AMA supports resource-based practice expenses so long as they reflect actual practice expenses, but is seeking a one-year extension of the implementation date. The 1994 legislation said that HCFA should "recognize the staff, equipment, and supplies used in the provision of various medical and surgical services in various settings." HCFA contracted with Abt Associates to conduct a two-part study of 3,000 physician practices expenses. When the survey was pulled back due to poor response rates, HCFA was left without adequate data to meet the intent of the law.

HCFA is now relying primarily on data derived from clinical practice expert panels, or CPEPs. Early review of the recently-released CPEP findings suggest that they contain a number of errors. HCFA has even rejected certain direct costs that its expert panels found were part of the cost of surgery when doctors supply their own staff and supplies in hospital operating rooms. The AMA and medical specialties are working to identify and correct those flaws but more time is needed.

The cuts HCFA projected in January are so extreme that they would nearly eliminate practice cost reimbursement for some procedures and specialties. Many inpatient surgical procedures and two specialties could suffer cuts of more than 80% in their practice expense values, and at least 40% in their total payments. Under HCFA's projections, payments for many surgical procedures would fall below Medicaid levels. Thus, there is good reason to fear that if Medicare makes deep cuts in its payments for complex procedures, doctors performing these services may find that they can no longer afford to accept Medicare patients.

PPRC has advocated that HCFA should use a three year transition in phasing-in the new resource-based practice expense values in order to reduce the impact. The AMA believes that using a transition is pointless if the underlying data and methodology is invalid. Others argue that any problems can be corrected later through a refinement process similar to the one used when new work values were implemented in 1992. We strongly oppose this approach because we believe it is inappropriate to attempt to correct fundamentally flawed data. HCFA invested nearly three times as much time and money on the design of new work values as it has spent to revise practice expense values. Whereas thousands of doctors were surveyed to come up with the work values, in the end, there has been no broad survey of practice expenses.

Opponents of an extension also maintain that there is no point in waiting another year because the demise of the indirect cost survey shows that it will be possible to collect this information independently. We believe that with another year, HCFA could develop alternative relative values that bear some relationship to actual practice expenses. There would be adequate time to validate and correct the CPEP data. Better indirect cost allocation methodologies could be developed and tested. Missing data could be collected, perhaps through an expansion of existing surveys.

The AMA urges Congress to: (1) extend the resource-based practice expense implementation date by one year to January 1, 1999; (2) require HCFA to develop a new proposed rule to be published at least 8 months before implementation, with 90 days for public comments; (3) direct HCFA to use a new approach to data and methodology which recognizes all staff, equipment and supplies (not just those which can be tied to specific procedures); (4) require that the proposed rule include detailed impact projections which compare proposed payment amounts to data on actual physician practice expenses; and (5) require HCFA to consult with organizations representing physicians regarding resource-based practice expense methodology and data in order to ensure that sufficient input has been received from the affected physician community.

OTHER PHYSICIAN PAYMENT ISSUES

Assistants at Surgery

The Administration is proposing to save $400 million over the next five years by making a single payment for surgery. This means that the additional payment Medicare now makes for a physician assisting the principal surgeon in performing an operation would no longer be made. Instead, the payment amount for the operation would have to be split between the principal surgeon and the assistant at surgery. We believe this provision dangerously imposes financial disincentives for the use of an assistant at surgery and inappropriately interferes with physician medical decision-making. The AMA supports efforts to develop guidelines for the appropriate use of assistants at surgery, but believes that patient care should not be compromised in search of Medicare savings. The professional judgment of surgeons regarding the need for an assistant at surgery for a specific patient must be recognized, even for operations in which an assistant ordinarily may not be required. Congress has considered and rejected this proposal in the past, and we urge you to reject it again.

High Cost Medical Staff

The Administration proposes to reduce Medicare payments for so-called high cost hospital medical staffs. This proposal is not new. In its 1994 Annual Report to Congress, the PPRC concluded that such a "provision's disadvantages . . . outweigh its advantages." The Commission went on to note that such a provision: "May have unintended effects on physician behavior, including a shifting of admissions away from hospitals with the high-cost designation. The provision would also increase the cost and complexity [of] administering the Medicare program."

In some cases, the physicians responsible for a hospital's medical staff being designated "high cost" for a given year might simply take their patients elsewhere, leaving the remaining physicians on staff to bear the financial consequences, with potentially serious repercussions for the affected hospital. Finally, the proposal could inappropriately reduce payments to physicians who treat a sicker patient population. In the absence of a sound methodology to measure differences in the severity of illness of the patient population being treated by the medical staff, it is too risky to put in place a formula-driven process that could inappropriately lower payments for treating patients who are more expensive to treat because they are sicker.

Centers of Excellence

The Administration proposes to expand what it calls the "Centers of Excellence" demonstration project, under which Medicare makes a bundled payment to participating entities covering both physician and facility services for selected conditions, such as coronary artery bypass operations. We are concerned that these demonstration projects do not offer a potential increase in quality and cost-effectiveness, and that these "centers of excellence" in fact emphasize cost-cutting rather than excellence. We also find the name "centers of excellence" inappropriate in that it implies that institutions participating in this payment arrangement provide higher quality services than non-participating institutions.

Outpatient Drug Payments

The Administration also proposes to reduce payments for drugs administered in physicians' offices. Today Medicare pays the average wholesale price for these drugs, which include a number of therapies for treating patients who are critically ill with cancer and kidney disease.

Under the President's plan, however, payment would be based on a complicated "actual acquisition cost" methodology. Specifically, payment would be based on the lowest price that the physician paid for that type of drug in the previous six month. In addition, payment would be capped at the national median of prices paid for the drug in a period 6 to 18 months earlier. In other words, the so-called "actual acquisition cost" has nothing to do with the "actual cost" of the drug provided to an individual patient.

By definition, the half of all practices above the national median will be paid less than their purchase price for these drugs. Since all payments will be based on prices that are six to 18 months old, physicians will be forced to undertake a burdensome new tracking system and to absorb any increases imposed by drug manufacturers or wholesalers during that time. More important, patients could suffer as physicians, unable to recover the price of the drug let alone other associated costs, might be forced to discontinue providing the drug in their offices, requiring patients to have their drugs administered in hospitals where costs to the patient and Medicare may be higher. For all these reasons, the AMA urges Congress to reject this unfair and impractical proposal.

FRAUD AND ABUSE

The AMA strongly opposes the Administration's efforts to repeal the fraud and abuse safeguards included in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Specifically, the Administration has proposed to eliminate the obligation of the Departments of Justice and Health and Human Services to issue advisory opinions on the anti-kickback statute, reduce the government's burden of proof for civil monetary penalties, and repeal the risk sharing exception to the anti-kickback statute.

Fraud and abuse has no place in medical practice and the AMA is committed to setting the highest ethical standards for the profession. The incidence of misconduct can be greatly reduced by setting standards of appropriate behavior, disseminating this information widely, and designing and implementing programs to facilitate compliance. HIPAA provides new and much needed guidance by requiring HHS to establish mechanisms to modify existing safe harbors, issue advisory opinions, and issue special fraud alerts. This guidance will allow physicians, hospitals and insurers to develop efficient and effective integrated delivery systems that will benefit Medicare, Medicaid and the private health care marketplace.

In the area of civil monetary penalties (CMPs), HIPAA requires that the Inspector General establish that the physician either acted "in deliberate ignorance of the truth or falsity of the information." The AMA, along with many Members of Congress, fought long and hard to preserve this clarified standard in the face of strong opposition. This standard makes the burden of proof for imposing CMPs under HIPAA identical to the standard used in the federal False Claims Act, and there is no reason that two enforcement tools designed to address the same fraudulent behavior should have different standards of proof. Moreover, this section provides important protection for physicians who may unwittingly engage in behavior that is impermissible.

The AMA also strongly opposes the Administration's proposal to eliminate the new risk sharing exception to the anti-kickback law provided in HIPAA. The expansion of managed care in today's health care market requires additional exceptions to the anti-kickback laws so that more flexibility in marketing practices and contractual arrangements is afforded. The future of the Medicare and Medicaid programs depends upon the ability of competing plans to offer quality alternatives to the existing program. HIPAA provides a much needed exception to the anti-kickback law for certain risk-sharing arrangements which will facilitate the development of innovative and cost-effective integrated delivery systems.

Finally, the AMA has concerns with some of the proposals in the Administration's "Medicare/Medicaid Waste, Fraud and Abuse Act of 1997." While we have not seen any legislative language on the proposals, we are concerned that some of the provisions are overreaching and could impose unwarranted penalties on unwary physicians.

PHYSICIAN SELF-REFERRAL

The AMA supports reforms for physician self-referral laws (Stark I and II) to remove barriers to arrangements among physicians in the developing health care marketplace, including the development of Provider Sponsored Networks (PSNs). These laws were designed for the fee-for-service world, but now deter the development of risk sharing arrangements where there is no incentive for inappropriate referrals. In addition, inappropriate referrals of Medicare and Medicaid patients to outside laboratories and other designated diagnostic facilities are already prohibited under the federal anti-kickback law. Congress recognized the need for these reforms when it passed the Balanced Budget Act of 1995. We ask you to include these same needed reforms in Medicare legislation in the 105th Congress.

PROVIDER SPONSORED ORGANIZATIONS

The AMA strongly supports federal legislation which would facilitate the development of Provider Sponsored Organizations (PSOs). We believe PSOs should be subject to federally developed standards which account for the distinctions between provider networks that deliver services directly and insurers that purchase health care services and resell them, while also providing tough consumer protection standards for patients. By developing a federal framework, Congress will continue its precedent of encouraging innovative new ventures that stimulate competition and provide cost-saving efficiencies. The 1973 HMO Act created a federal regulatory scheme for HMOs, preempting state laws that interfered with their formation and operation. HMOs argued successfully then, as did the Blue Cross plans previously, that they represented different products and should be evaluated by different standards. In addition, we support PSO standards which allow as much flexibility as possible in the ownership and management structure of a PSO and which do not favor one provider group over another.

PROFESSIONAL LIABILITY REFORM

Medicare reform should also include the professional liability reforms that have been so successful in California, including a limit on non-economic damages of $250,000. Health care liability costs are built into the Medicare system in the form of physicians' and hospitals' liability premiums, defensive medicine, and coverage for distributors of medicines, blood services, and medical devices. In 1995, CBO scored $200 million in federal government savings over 7 years in physician malpractice premium costs alone, without considering similar hospital, HMO and medical supplier liability costs. These are millions of dollars that could go to patient care and extending the life of the HI Trust fund, instead of paying attorney fees and insurance premiums.

GRADUATE MEDICAL EDUCATION

The AMA believes that because all patients benefit from our nation's graduate medical education (GME) system, the private sector should participate in the funding of GME through the development of an "all payer" fund. In addition, GME funds should be carved out of Medicare's payments to HMOs (i.e. AAPCC), with all direct medical education (DME) funds paid directly to the entity that incurs the costs of training, whether that entity is a medical school, hospital, nursing home, or ambulatory clinic. However, federal support in the form of the indirect medical education (IME) adjustment should continue to be provided to teaching hospitals which incur higher costs than non-teaching hospitals in providing training and unreimbursed patient care. Finally, a national physician workforce advisory body should be established to monitor and periodically assess the adequacy of the size and specialty composition of the physician workforce in the context of the changing needs of the evolving health care delivery system and evolving patterns of professional practice by non-physician health professionals.

CONCLUSION

Congress can no longer postpone tackling fundamental reform of the Medicare program. Failure to do so is certain to prove even more costly for the millions of Americans who expect to be able to rely on this program in the future, as well as those working Americans who are called upon to help finance it. Chopping away at physician payments in hopes of getting more services for less money will ultimately divorce the Medicare system and its beneficiaries from the mainstream of American medical care.

However Medicare is reformed, it will be our overriding goal to ensure that the change not damage the essential elements of the patient-physician relationship. Above all, reform should not break the bond of trust between a patient and physician that makes medicine unique.

We look forward to working with you and the 105th Congress to enact urgently needed structural reforms to protect Medicare for our seniors and save it for our children.

Sincerely,

P. JOHN SEWARD, MD.

Mr. BENTSEN. Mr. Speaker, today we are considering the Senate amendment to the Late-Term Abortion Ban Act, H.R. 1122. I oppose this legislation because, like the House-passed bill, it is fundamentally flawed and would put at risk the life, health, and fertility of women facing one of the most difficult, anguished, and personal decisions imaginable.

First, let me say that I oppose late-term abortions except, as the U.S. Supreme Court requires, when necessary to protect the life or health of a woman. Both the House and Senate passed bills fall woefully short of meeting this critical standard. This legislation provides only a partial exception to protect the life of a woman, and even this partial exception may be invoked only under a very narrow set of circumstances.

Furthermore, it fails to provide a clear, humane, and necessary exception when a woman faces a severe threat to her health and specifically her ability to have children in the future. This bill bans abortion both before and after viability, and continues to criminalize physicians for using their best medical judgement to protect the lives and health of women. I know the proponents continue to argue that the Senate amendment protects physicians from criminal sanctions in lieu of State action, but it is only a fig leaf which does not preclude criminal prosecution. In short, this legislation sets the dangerous precedent of allowing government to dictate medical procedures and practices to doctors, taking away the authority of a physician to select the best medical procedure for protecting a woman's life and

health. This bill substitutes a politician's judgement for that of a physician.

Many of us are troubled by the procedure H.R. 1122 seeks to outlaw, yet believe it is dangerous and wrong to ban a medical procedure that in some circumstances represents the best hope for a woman to avoid serious risk to her health, including her future ability to bear children. Therefore we have attempted to offer a compromise that is consistent with the Supreme Court's rulings on the difficult issue of abortion. This bipartisan bill, which was never debated on the floor—in fact was never allowed to be debated—would ban all late-term abortions, not just one procedure, and also provide a necessary exception when there is a serious threat to the woman's life or health. This compromise bill is consistent with the Supreme Court's Roe versus Wade decision and subsequent rulings. It is consistent with the State law in 40 States, including my State of Texas, as well as the District of Columbia. In Texas, as in other States, late-term abortions are banned except when the woman's life or health is threatened. I believe this bipartisan compromise is consistent with the views of the American people. And I believe it is the right and humane thing to do. That is the approach this legislation should take as well, but I guess it is not the politic thing to do and that is why we are at this point today. The legislation before us today is, unfortunately, not about stopping a particular procedure, but about politics.

We will once again hear a lot of debate today about how often this procedure is performed. But this issue isn't about numbers. It is about each individual woman who faces the awful choice of what to do if she is told that her life, health, or ability to bear children is endangered by her pregnancy. The decision about what medical treatment and procedures are best for that woman should be made by her and her doctor, not the Congress of the United States.

Mr. CONYERS. Mr. Speaker, imagine that you—or your wife—or your daughter, learned when she is 7 months pregnant that the fetus had a lethal neurological disorder and all of its vital organs were atrophying. After consulting with specialists and being told that the pregnancy is seriously jeopardizing the mother's health, and possibly her life, your are told that an intact D&E procedure has the best chance of preserving the mother's health and her ability to become pregnant again.

Or imagine that the mother is 32 weeks pregnant when she learns that the baby has no brain. The fetus has no chance of survival. The mother is diabetic, so a Cesarian section and induced labor are more dangerous to her health and reproductive capacity than an intact D&E procedure.

Would you want 435 politicians to tell you—or your wife—or your daughter, the type of medical procedure she could use in this painful situation? Should Congress be able to determine whether a woman will lose her capacity to reproduce and bear children? Well that is precisely the situation that Coreen Costello and Vicki Stella were in. And if we adopt this bill, we will be telling many, many other women that Washington knows best when it comes to terminating pregnancies that have resulted in tragic circumstances.

H.R. 1122 is unconstitutional, because they contain no exception providing for the physical health of the mother. The Senate amendments on which we are voting today do nothing to correct that problem with the bill. Roe versus Wade, and its progeny, clearly hold that a woman's right to protect her life and health, in the context of reproductive choice, trumps the government, as big brother, in its desire to regulate.

And recently, several similar State statutes banning this procedure have been found unconstitutional. In fact, in my home State of Michigan, on July 31, 1997, Judge Gerald Rosen struck down Michigan's partial-birth abortion ban, finding that the definition of partial-birth was so vague that doctors lacked notice as to what abortion procedures were banned. Moreover, the court found that the State law unduly burdened women's ability to obtain an abortion. It is clear that H.R. 1122 and the Senate amendments violate that well established constitutional law long-settled by Roe.

The majority will try to tell you that this bill is OK, because they have the support of the American Medical Association. But don't let them fool you. The AMA had consistently remained neutral on this issue, and did not take a position on the bill when it was first introduced in 1995. And in mid-May of this year, the AMA stated that it did "not support any [abortion] legislative proposals at this time."

Yet, within weeks, the AMA board changed its position. Just like that. Why? Well, no one will really ever knew, but isn't it surprising that the very day that the AMA announced its switcheroo, its executive vice president, P. John Seward, sent an eight-page letter to NEWT GINGRICH that lists the AMA requests in the budget negotiations concerning Medicare spending. In that letter, the AMA laid out a detailed plan to stall or minimize any cuts that might come from physicians. All on the same day that the organization decided suddenly to support the partial-birth abortion bill. Well, well. So don't let them fool you. There was no substantive reason the AMA decided to vote for the bill. It was just another one of those political games.

Yesterday, the minority testified before the Rules Committee seeking an open rule that would make in order two amendments dealing with the physical health of the mother. But our request was denied, and neither amendment was made in order. The first alternative, offered by Mr. HOYER, would ban post-viability abortions unless a physician certifies that continuing of the pregnancy would threaten the woman's life or risk grievous injury to her physical health. The second alternative, an amendment offered by Ms. LOWEY, would provide that the restriction on abortion procedures in the bill would apply only to post-viability abortions and include exceptions to preserve the life of the woman or to avert serious adverse health consequences to the woman.

Both of these amendments comport with the standard established in Roe that the health of the mother should not be jeopardized in any circumstance. Either of them would have made the underlying amendment constitutional and the President would have signed it. But the President cannot, and will not, sign an unconstitutional bill that does not protect a mother's health, and has promised to veto this legislation if it passes.

Of course, the Republican leadership has little interest in developing a credible and serious constitutional proposal that could be signed into law. Instead, they prefer a wedge issue that can divide the American people. That's why they wouldn't make a single amendment concerning health in order.

But H.R. 1122 has no health exception, and we are led to believe that the reason is because its authors have determined that under no possible condition is a mother's health—no matter how serious—to be equated with the potential life of a fetus. To them, the partial birth abortion ban is merely a means of preventing any and all abortions, even where the mother's health is in jeopardy. But the reality is, the bill will do absolutely nothing to reduce the number of abortions performed in this country. Zero. It will only criminalize physicians for pursuing the safest alternative in dealing with a very painful, difficult, and terrifying circumstance when a pregnancy has gone bad, and the mother's physical health is in jeopardy.

Let's take the politicians out of this intensely personal issue. When it comes to a woman's life or health, Washington doesn't always know best.

Mrs. CHENOWETH. Mr. Speaker, I rise today in strong support of H.R. 1122, the Partial-Birth Abortion Ban Act. For over 2 years the abortion industry has conducted a systematic campaign of falsehoods and misinformation about the nature of partial-birth abortion.

Apologists for this abominable practice have attempted to raise a fog of mendacity during our deliberations.

Today we will hear that partial-birth abortions are extremely rare—only about 500 are performed in a year. We will also hear that partial-birth abortions are safe, and absolutely necessary to protect a woman's health.

Mr. Speaker, this information is completely false and an outright lie.

The truth can't be changed no matter how many times it's misrepresented. I would like to remind my colleagues of a leading abortion advocate, along with others in the abortion industry, who knowingly lied about the real reasons women seek partial-birth abortions.

Mr. Speaker, this procedure is medieval, and so is the logic of those who advocate and apologize for it.

The fog has been pierced and the truth has come to light. What everyone can clearly see today, Mr. Speaker, is that partial-birth is a practice that exposes abortion for what it truly is, the killing of an infant.

This debate is not about when life begins, for the infants targeted by this procedure are mostly alive. This debate is over a matter of inches.

And Mr. Speaker, I submit that the constitutional right to life has jurisdiction over those inches.

Our system of laws, our American heritage, is based on the idea that people have certain God-given rights. Those rights are life, liberty, and the pursuit of happiness.

As lawmakers we have a responsibility to protect the lives of our citizens, in this case, the very youngest, most vulnerable of American citizens.

I urge my colleagues to stand against this hideous, repugnant practice.

Let us stand up for a good principle and let us stop partial-birth abortion now.

Mrs. MALONEY of New York. Mr. Speaker, I rise today in opposition to this oppressive, extremist legislation. The American College of Obstetrics and Gynecology has called this ban "inappropriate, ill-advised, and dangerous." I call it an outright assault on women's lives.

Let's put this in perspective. There were more than 50 anti-choice votes in the 104th Congress. There have been over 20 anti-choice votes thus far in the 105th Congress. Choice opponents have said they intend to ban abortion procedure by procedure, and this bill is another step down that slippery slope.

President Clinton has said he would support a ban that includes exceptions to protect the life and health of the mother. Why is it so hard for so-called pro-life zealots to allow for compassionate exceptions, exceptions that could save a mother's life and perhaps her future fertility? The Rules Committee, by taking away our right to amend, refuses to allow us to include anything that would provide the safest, most compassionate way to handle a pregnancy that has no hope.

Let me remind my colleagues of the recent real-life trauma suffered by Coreen Costello. She came to Congress to tell her heart-wrenching story. A conservative, pro-life mother of two, Coreen and her family were devastated to learn that a lethal disease left their much-wanted, unborn daughter unable to survive outside the womb. Coreen attempted to carry the pregnancy to term, but the fetus' body stiffened and wedged dangerously into her body. Under this bill, the critical intact D&E procedure could not have been performed. This bill would have sacrificed Coreen Costello and her future fertility to the politics of anti-choice extremists.

The issue is not how many women undergo this procedure, but how many women who, like Coreen Costello, have no other choice but this particular procedure. The few women who need this procedure deserve our support and sympathy, not congressionally mandated limitations on their medical choices. By not permitting compassionate exceptions to the ban on the late-term procedure, this bill slams the door on a family's future, on a mother's health, and on a mother's life.

This Congress has absolutely no business passing legal judgments on life-saving medical procedures. This Congress has absolutely no business interfering in the decisions made by a woman and her doctor. We should be outraged.

This Congress dares to make criminals of doctors who have taken an oath to save lives. This Congress dares to presume it can legislate this profoundly intimate decision. This Congress dares to protect the natural death of a fetus over the life of a woman, a mother, a wife. Congress has no place in this decision, and no place in these tragedies.

Mr. Speaker, we must protect women's constitutional right to choose. We must protect women's right to life. I urge my colleagues to vote against this amendment.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 262, the previous question is ordered.

The question is on the motion offered by the gentleman from Florida [Mr. CANADY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 296, nays 132, not voting 6, as follows:

[Roll No. 500]

YEAS—296

Aderholt	Doyle	Kelly
Archer	Dreier	Kennedy (RI)
Armey	Duncan	Kildee
Bachus	Dunn	Kim
Baesler	Ehlers	Kind (WI)
Baker	Ehrlich	King (NY)
Ballenger	Emerson	Kingston
Barcia	English	Kleczka
Barr	Ensign	Klink
Barrett (NE)	Etheridge	Klug
Barrett (WI)	Everett	Knollenberg
Bartlett	Ewing	Kucinich
Barton	Fawell	LaFalce
Bass	Flake	LaHood
Bateman	Foglietta	Lampson
Bereuter	Foley	Largent
Berry	Forbes	Latham
Bilbray	Fowler	LaTourette
Bilirakis	Fox	Lazio
Bishop	Franks (NJ)	Leach
Bliley	Frelinghuysen	Lewis (CA)
Blunt	Gallegly	Linder
Boehner	Ganske	Lipinski
Bonilla	Gekas	Livingston
Bonior	Gibbons	LoBiondo
Bono	Gilchrest	Lucas
Borski	Gillmor	Maloney (CT)
Boswell	Gingrich	Manton
Boyd	Goode	Manzullo
Brady	Goodlatte	Martinez
Bryant	Goodling	Mascara
Bunning	Gordon	McCollum
Burr	Goss	McCrery
Burton	Graham	McDade
Buyer	Granger	McHale
Callahan	Gutknecht	McHugh
Calvert	Hall (OH)	McInnis
Camp	Hall (TX)	McIntosh
Canady	Hamilton	McIntyre
Cannon	Hansen	McKeon
Castle	Hastert	McNulty
Chabot	Hastings (WA)	Metcalf
Chambliss	Hayworth	Mica
Chenoweth	Hefley	Miller (FL)
Christensen	Hefner	Minge
Clement	Herger	Moakley
Coble	Hill	Mollohan
Coburn	Hilleary	Moran (KS)
Collins	Hinojosa	Moran (VA)
Combest	Hobson	Murtha
Condit	Hoekstra	Myrick
Cook	Holden	Neal
Cooksey	Hostettler	Nethercutt
Costello	Houghton	Neumann
Cox	Hulshof	Ney
Cramer	Hunter	Northup
Crane	Hutchinson	Norwood
Crapo	Hyde	Nussle
Cubin	Inglis	Oberstar
Cunningham	Istook	Obey
Danner	Jefferson	Ortiz
Davis (FL)	Jenkins	Oxley
Davis (VA)	John	Packard
Deal	Johnson (WI)	Pappas
DeLay	Johnson, Sam	Parker
Diaz-Balart	Jones	Pascrell
Dickey	Kanjorski	Paul
Dingell	Kaptur	Paxon
Doolittle	Kasich	Pease
Peterson (MN)	Sandlin	Stupak
Peterson (PA)	Sanford	Sununu
Petri	Saxton	Talent
Pickering	Scarborough	Tanner
Pitts	Schaefer, Dan	Tauzin
Pombo	Schaffer, Bob	Taylor (MS)
Pomeroy	Sensenbrenner	Taylor (NC)
Porter	Sessions	Thomas
Portman	Shadegg	Thornberry
Poshard	Shaw	Thune
Pryce (OH)	Shays	Tiahrt
Quinn	Shimkus	Traficant
Radanovich	Shuster	Turner
Rahall	Sisisky	Upton
Ramstad	Skeen	Visclosky
Rangel	Skelton	Walsh
Redmond	Smith (MI)	Wamp
Regula	Smith (NJ)	Watkins
Reyes	Smith (OR)	Watts (OK)
Riggs	Smith (TX)	Weldon (FL)
Riley	Smith, Linda	Weldon (PA)
Roemer	Snowbarger	Weller
Rogan	Solomon	Weygand
Rogers	Souder	White
Rohrabacher	Spence	Whitfield
Ros-Lehtinen	Spratt	Wicker
Roukema	Stearns	Wolf
Royce	Stenholm	Young (AK)
Ryun	Strickland	Young (FL)
Salmon	Stump	

NAYS—132

Abercrombie	Frank (MA)	Nadler
Ackerman	Frost	Olver
Allen	Furse	Owens
Andrews	Gejdenson	Pallone
Baldacci	Gilman	Pastor
Becerra	Green	Pelosi
Bentsen	Greenwood	Pickett
Berman	Gutierrez	Price (NC)
Blagojevich	Harman	Rivers
Blumenauer	Hastings (FL)	Rodriguez
Boehlert	Hinchey	Rothman
Boucher	Hooley	Roybal-Allard
Brown (CA)	Horn	Rush
Brown (FL)	Hoyer	Sabo
Brown (OH)	Jackson (IL)	Sanchez
Campbell	Jackson-Lee (TX)	Sanders
Capps	Johnson (CT)	Sawyer
Cardin	Johnson, E. B.	Schumer
Carson	Kennedy (MA)	Scott
Clay	Kennelly	Serrano
Clayton	Kilpatrick	Sherman
Clyburn	Kolbe	Skaggs
Conyers	Lantos	Slaughter
Coyne	Levin	Smith, Adam
Cummings	Lewis (GA)	Snyder
Davis (IL)	Lofgren	Stabenow
DeFazio	Lowey	Stark
DeGette	Luther	Stokes
Delahunt	Maloney (NY)	Tauscher
DeLauro	Markey	Thompson
Dellums	Matsui	Thurman
Deutsch	McCarthy (MO)	Tierney
Dicks	McCarthy (NY)	Torres
Dixon	McDermott	Towns
Doggett	McGovern	Velázquez
Dooley	McKinney	Vento
Edwards	Meehan	Waters
Engel	Meek	Watt (NC)
Eshoo	Menendez	Waxman
Evans	Millender-McDonald	Wexler
Farr	Miller (CA)	Wise
Fattah	Mink	Woolsey
Fazio	Morella	Wynn
Filner		Yates
Ford		

NOT VOTING—6

Gephardt	Hilliard	Payne
Gonzalez	Lewis (KY)	Schiff

□ 1349

Messrs. FARR of California, TORRES, FORD, and Ms. SANCHEZ changed their vote from "yea" to "nay."

Mr. KENNEDY of Rhode Island and Mr. PAXON changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

The SPEAKER. Pursuant to the order of the House of Tuesday, October 7, 1997, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 901.

□ 1352

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 901) to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, with Mr. SUNUNU in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, October 7, 1997, the Chair had been advised that the amendment regarding specific biosphere reserves would not be offered.

Pursuant to the order of the House of that day, no further amendments are in order.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the order of the House of yesterday, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 5 offered by the gentleman from California [Mr. FARR]; amendment No. 51 offered by the gentleman from Minnesota [Mr. VENTO]; and an unnumbered amendment offered by the gentleman from California [Mr. MILLER].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 5 OFFERED BY MR. FARR OF CALIFORNIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment No. 5 offered by the gentleman from California [Mr. FARR] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:.

Amendment No. 5 offered by Mr. Farr of California:

On page 10 of the bill, after line 8, insert the following:

"(d) Subsection (b) shall not apply to California Coastal Ranges Biosphere Reserve."

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 226, not voting 7, as follows:

[Roll No. 501]

AYES—200

Abercrombie	Hamilton	Obey
Ackerman	Harman	Olver
Allen	Hastings (FL)	Ortiz
Andrews	Hefner	Owens
Baldacci	Hinchey	Pallone
Barcia	Hinojosa	Pascrell
Barrett (WI)	Holden	Pastor
Becerra	Hooley	Payne
Bentsen	Horn	Pelosi
Bereuter	Houghton	Peterson (MN)
Berman	Hoyer	Pomeroy
Bilbray	Jackson (IL)	Porter
Blagojevich	Jackson-Lee (TX)	Poshard
Blumenauer	Jefferson	Price (NC)
Bonior	John	Rahall
Borski	Johnson (WI)	Ramstad
Boucher	Johnson, E.B.	Rangel
Boyd	Kanjorski	Reyes
Brown (CA)	Kaptur	Rivers
Brown (FL)	Kelly	Rodriguez
Brown (OH)	Kennedy (MA)	Roemer
Capps	Kennedy (RI)	Rothman
Cardin	Kennelly	Roybal-Allard
Carson	Kildee	Rush
Castle	Kilpatrick	Sabo
Clay	Kind (WI)	Sanchez
Clayton	Kleczka	Sanders
Clement	Klink	Sandlin
Clyburn	Kucinich	Sanford
Condit	LaFalce	Sawyer
Costello	Lampson	Saxton
Coyne	Lantos	Schumer
Cummings	Leach	Scott
Davis (FL)	Levin	Serrano
Davis (IL)	Lewis (GA)	Shays
DeFazio	Lipinski	Sherman
DeGette	Lofgren	Skaggs
Delahunt	Lowey	Skelton
DeLauro	Luther	Slaughter
Dellums	Maloney (CT)	Smith, Adam
Deutsch	Maloney (NY)	Snyder
Dicks	Manton	Spratt
Dingell	Markey	Stabenow
Dixon	Mascara	Stark
Doggett	Matsui	Stokes
Dooley	McCarthy (MO)	Strickland
Doyle	McCarthy (NY)	Stupak
Edwards	McDermott	Tanner
Engel	McGovern	Tauscher
Eshoo	McHale	Thompson
Etheridge	McKinney	Thurman
Evans	McNulty	Tierney
Farr	Meehan	Torres
Fattah	Menendez	Towns
Fazio	Millender-McDonald	Velázquez
Filner	Miller (CA)	Vento
Flake	Minge	Visclosky
Foglietta	Mink	Waters
Ford	Moakley	Watt (NC)
Frank (MA)	Mollohan	Waxman
Frost	Moran (VA)	Wexler
Furse	Morella	Weygand
Gejdenson	Murtha	Wise
Gilchrest	Nadler	Woolsey
Gordon	Neal	Wynn
Green	Oberstar	Yates
Gutierrez		
Hall (OH)		

NOES—226

Aderholt	Blunt	Cannon
Archer	Boehlert	Chabot
Armey	Boehner	Chambliss
Bachus	Bonilla	Chenoweth
Baesler	Bono	Christensen
Baker	Boswell	Coble
Ballenger	Brady	Coburn
Barr	Bryant	Collins
Barrett (NE)	Bunning	Combest
Bartlett	Burr	Conyers
Barton	Burton	Cook
Bass	Buyer	Cooksey
Bateman	Callahan	Cox
Berry	Calvert	Cramer
Biliraki s	Camp	Crane
Bishop	Campbell	Crapo
Bliley	Canady	Cubin
Cunningham	Jones	Riley
Danner	Kasich	Rogan
Davis (VA)	Kim	Rogers
Deal	King (NY)	Rohrabacher
DeLay	Kingston	Ros-Lehtinen
Diaz-Balart	Klug	Roukema
Dickey	Knollenberg	Royce
Doolittle	Kolbe	Ryun
Dreier	LaHood	Salmon
Duncan	Largent	Scarborough
Dunn	Latham	Schaefer, Dan
Ehlers	LaTourette	Schaffer, Bob
Ehrlich	Lazio	Sensenbrenner
Emerson	Lewis (CA)	Sessions
English	Linder	Shadegg
Ensign	Livingston	Shaw
Everett	LoBiondo	Shimkus
Ewing	Lucas	Shuster
Fawell	Manzullo	Sisisky
Foley	Martinez	Skeen
Forbes	McCollum	Smith (MI)
Fowler	McCrery	Smith (NJ)
Fox	McDade	Smith (OR)
Franks (NJ)	McHugh	Smith (TX)
Frelinghuysen	McInnis	Smith, Linda
Gallegly	McIntosh	Snowbarger
Ganske	McIntyre	Solomon
Gekas	McKeon	Souder
Gibbons	Metcalf	Spence
Gillmor	Mica	Stearns
Gilman	Miller (FL)	Stenholm
Goode	Moran (KS)	Stump
Goodlatte	Myrick	Sununu
Goodling	Nethercutt	Talent
Goss	Neumann	Tauzin
Graham	Ney	Taylor (MS)
Granger	Northup	Taylor (NC)
Greenwood	Norwood	Thomas
Gutknecht	Nussle	Thornberry
Hall (TX)	Oxley	Thune
Hansen	Packard	Tiahrt
Hastert	Pappas	Traficant
Hastings (WA)	Parker	Turner
Hayworth	Paul	Upton
Hefley	Paxon	Walsh
Herger	Pease	Wamp
Hill	Peterson (PA)	Watkins
Hilleary	Petri	Watts (OK)
Hobson	Pickering	Weldon (FL)
Hoekstra	Pickett	Weldon (PA)
Hostettler	Pitts	Weller
Hulshof	Pombo	White
Hunter	Portman	Whitfield
Hutchinson	Pryce (OH)	Wicker
Hyde	Quinn	Wolf
Inglis	Radanovich	Young (AK)
Istook	Redmond	Young (FL)
Jenkins	Regula	
Johnson, Sam	Riggs	

NOT VOTING—7

Gephardt	Johnson (CT)	Schiff
Gonzalez	Lewis (KY)	
Hilliard	Meek	

□ 1409

Mrs. KENNELLY of Connecticut and Mr. JOHN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut. Mr. Chairman, on rollcall No. 501, I was unavoidably detained. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the order of the House of yesterday, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 51 OFFERED BY MR. VENTO

The CHAIRMAN. The unfinished business is the demand for a recorded

vote on amendment No. 51 offered by the gentleman from Minnesota [Mr. VENTO] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 51 offered by Mr. VENTO:

Page 10, line 15, Following the word "special" insert the following: ", including commercial."

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 242, noes 182, not voting 9, as follows:

[Roll No. 502]

AYES—242

Abercrombie	Farr	Lipinski
Ackerman	Fattah	Lofgren
Allen	Fazio	Lowey
Andrews	Filner	Luther
Baesler	Flake	Maloney (CT)
Baldacci	Foglietta	Maloney (NY)
Barrett (WI)	Foley	Manton
Bass	Ford	Markey
Becerra	Fox	Martinez
Bentsen	Frank (MA)	Mascara
Berman	Franks (NJ)	Matsui
Berry	Frelinghuysen	McCarthy (MO)
Bilirakis	Frost	McCarthy (NY)
Bishop	Furse	McCollum
Blagojevich	Ganske	McDermott
Blumenauer	Gejdenson	McGovern
Boehlert	Gilchrest	McHale
Bonior	Gilman	McIntyre
Borski	Goode	McKinney
Boswell	Goodlatte	McNulty
Boucher	Gordon	Meehan
Boyd	Green	Meek
Brown (CA)	Gutierrez	Menendez
Brown (FL)	Gutknecht	Metcalf
Brown (OH)	Hall (OH)	Mica
Buyer	Hall (TX)	Millender-McDonald
Camp	Hamilton	Miller (CA)
Capps	Harman	Minge
Cardin	Hastings (FL)	Mink
Carson	Hefner	Moakley
Castle	Hinchey	Mollohan
Chabot	Hinojosa	Moran (VA)
Clay	Holden	Morella
Clayton	Hooley	Murtha
Clement	Horn	Nadler
Clyburn	Houghton	Neal
Condit	Hoyer	Oberstar
Cook	Jackson (IL)	Obey
Costello	Jackson-Lee (TX)	Olver
Coyne	Jefferson	Ortiz
Cramer	Johnson (CT)	Owens
Cummings	Johnson (WI)	Pallone
Danner	Johnson, E.B.	Pascrell
Davis (FL)	Jones	Pastor
Davis (IL)	Kanjorski	Payne
DeFazio	Kaptur	Pelosi
DeGette	Kelly	Peterson (MN)
Delahunt	Kennedy (MA)	Pickett
DeLauro	Kennedy (RI)	Pomeroy
Dellums	Kennelly	Portman
Deutsch	Kildee	Poshard
Dicks	Kilpatrick	Price (NC)
Dingell	Kind (WI)	Quinn
Dixon	Kleczka	Rahall
Doggett	Klink	Ramstad
Doyle	Klug	Rangel
Dreier	Kucinich	Regula
Duncan	LaFalce	Reyes
Edwards	Lampson	Riggs
Engel	Lantos	Rivers
English	Leach	Rodriguez
Eshoo	Levin	Roemer
Etheridge	Lewis (GA)	Rohrabacher
Evans	Lipinski	Turner
Rothman	Slaughter	Upton
Roukema	Smith, Adam	Velázquez
Roybal-Allard	Snyder	Vento
Rush	Spratt	Visclosky
Sabo	Stabenow	Walsh
Sanchez	Stark	Waters
Sanders	Stenholm	Watt (NC)
Sandlin	Stokes	Waxman
Sanford	Strickland	Weldon (PA)
Sawyer	Stupak	Wexler
Saxton	Tanner	Weygand
Schumer	Tauscher	Wise
Scott	Taylor (MS)	Woolsey
Serrano	Thompson	Wynn
Sherman	Thurman	Yates
Sisisky	Tierney	
Skaggs	Torres	
Skelton	Traficant	

NOES—182

Aderholt	Goodling	Paul
Archer	Goss	Paxon
Armey	Graham	Pease
Bachus	Granger	Peterson (PA)
Baker	Greenwood	Petri
Ballenger	Hansen	Pickering
Barcia	Hastert	Pitts
Barr	Hastings (WA)	Pombo
Barrett (NE)	Hayworth	Porter
Bartlett	Hefley	Pryce (OH)
Barton	Herger	Radanovich
Bateman	Hill	Redmond
Bereuter	Hilleary	Riley
Bilbray	Hobson	Rogan
Bliley	Hoekstra	Rogers
Blunt	Hostettler	Ros-Lehtinen
Boehner	Hulshof	Royce
Bonilla	Hunter	Ryun
Bono	Hutchinson	Salmon
Brady	Hyde	Scarborough
Bryant	Inglis	Schaefer, Dan
Bunning	Istook	Schaffer, Bob
Burr	Jenkins	Sensenbrenner
Burton	John	Sessions
Callahan	Johnson, Sam	Shadegg
Calvert	Kasich	Shaw
Campbell	Kim	Shays
Canady	King (NY)	Shimkus
Cannon	Kingston	Shuster
Chambliss	Knollenberg	Skeen
Chenoweth	Kolbe	Smith (MI)
Christensen	LaHood	Smith (NJ)
Coble	Largent	Smith (OR)
Coburn	Latham	Smith (TX)
Collins	LaTourette	Smith, Linda
Combest	Lazio	Snowbarger
Cox	Lewis (CA)	Solomon
Crane	Linder	Souder
Crapo	Livingston	Spence
Cubin	LoBiondo	Stearns
Cunningham	Lucas	Stump
Davis (VA)	Manzullo	Sununu
Deal	McCrery	Talent
DeLay	McDade	Tauzin
Dickey	McHugh	Taylor (NC)
Dooley	McInnis	Thomas
Doolittle	McIntosh	Thornberry
Dunn	McKeon	Thune
Ehlers	Miller (FL)	Tiahrt
Ehrlich	Moran (KS)	Wamp
Emerson	Myrick	Watkins
Ensign	Nethercutt	Watts (OK)
Everett	Neumann	Weldon (FL)
Ewing	Ney	Weller
Fawell	Northup	White
Forbes	Norwood	Whitfield
Fowler	Nussle	Wicker
Gallegly	Oxley	Wolf
Gekas	Packard	Young (AK)
Gibbons	Pappas	Young (FL)
Gillmor	Parker	

NOT VOTING—9

Conyers	Gephardt	Lewis (KY)
Cooksey	Gonzalez	Schiff
Diaz-Balart	Hilliard	Towns

□ 1418

Mr. RYUN changed his vote from "aye" to "no."

Mr. INGLIS of South Carolina and Ms. HARMAN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. MILLER], on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MILLER of California:

On page 9 of the bill, beginning at line 1, strike all through the end of line 16, and renumber subsequent subsections accordingly.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 199, noes 227, not voting 7, as follows:

[Roll No. 503]

AYES—199

Abercrombie	Fazio	Markey
Ackerman	Filner	Martinez
Allen	Flake	Mascara
Andrews	Foglietta	Matsui
Baldacci	Ford	McCarthy (MO)
Barrett (WI)	Frank (MA)	McCarthy (NY)
Becerra	Franks (NJ)	McDermott
Bentsen	Frelinghuysen	McGovern
Berman	Frost	McHale
Blagojevich	Furse	McKinney
Blumenauer	Gejdenson	McNulty
Bonior	Gilman	Meehan
Borski	Gordon	Meek
Boswell	Gutierrez	Menendez
Boucher	Hall (OH)	Millender-McDonald
Boyd	Hamilton	Miller (CA)
Brown (CA)	Harman	Minge
Brown (FL)	Hastings (FL)	Mink
Brown (OH)	Hefner	Moakley
Capps	Hinchey	Mollohan
Cardin	Hinojosa	Moran (VA)
Carson	Holden	Morella
Castle	Hooley	Murtha
Clay	Horn	Nadler
Clayton	Hoyer	Neal
Clement	Jackson (IL)	Oberstar
Clyburn	Jackson-Lee (TX)	Obey
Conyers	Jefferson	Olver
Costello	Johnson (CT)	Ortiz
Coyne	Johnson (WI)	Owens
Cramer	Johnson, E. B.	Pallone
Cummings	Kanjorski	Pascrell
Davis (FL)	Kaptur	Pastor
Davis (IL)	Kennedy (MA)	Payne
DeFazio	Kennedy (RI)	Pelosi
DeGette	Kennelly	Pomeroy
Delahunt	Kildee	Porter
DeLauro	Kilpatrick	Poshard
Dellums	Kind (WI)	Price (NC)
Deutsch	Kleczka	Rahall
Dicks	Klink	Ramstad
Dingell	Kucinich	Rangel
Dixon	LaFalce	Reyes
Doggett	Lampson	Rivers
Dooley	Lantos	Rodriguez
Doyle	Leach	Roemer
Edwards	Levin	Rothman
Ehlers	Lipinski	Roukema
Engel	Lofgren	Roybal-Allard
Eshoo	Lowey	Rush
Etheridge	Luther	Sabo
Evans	Maloney (CT)	Sanchez
Farr	Maloney (NY)	Sanders
Fattah	Manton	Sanford
Fawell		

Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—227

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Foley
Forbes
Fowler
Fox
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Lewis (CA)
Lewis (GA)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Gephardt
Gonzalez
Hilliard
Kasich
LaTourette
Lewis (KY)
Schiff

□ 1426

Mr. CRAMER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Pursuant to the previous order of the House, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. SUNUNU, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 901), to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, pursuant to the previous order of the House of October 7, 1997, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Pursuant to the order of the House of October 7, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 191, not voting 6, as follows:

[Roll No. 504]

AYES—236

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bateman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Ensign
Everett
Ewing
Foley
Forbes
Fowler
Fox
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—191

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (NE)
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Christensen
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gilchrest
Gilman
Gordon

Greenwood	Manton	Roybal-Allard
Gutierrez	Markey	Rush
Hall (OH)	Mascara	Sabo
Hamilton	Matsui	Sanchez
Harman	McCarthy (MO)	Sanders
Hastings (FL)	McCarthy (NY)	Sawyer
Hefner	McDermott	Saxton
Hinchey	McGovern	Schumer
Hinojosa	McHale	Scott
Hooley	McKinney	Serrano
Houghton	McNulty	Shays
Hoyer	Meehan	Sherman
Jackson (IL)	Meek	Skaggs
Jackson-Lee (TX)	Menendez	Slaughter
Jefferson	Millender-McDonald	Smith, Adam
Johnson (CT)	Miller (CA)	Snyder
Johnson (WI)	Minge	Spratt
Johnson, E. B.	Mink	Stabenow
Kanjorski	Moakley	Stark
Kaptur	Mollohan	Stokes
Kennedy (MA)	Moran (VA)	Strickland
Kennedy (RI)	Morella	Stupak
Kennelly	Murtha	Tauscher
Kildee	Nadler	Thompson
Kilpatrick	Neal	Thurman
Kind (WI)	Obey	Tierney
Kleczka	Olver	Torres
Klug	Ortiz	Towns
Kucinich	Owens	Velázquez
LaFalce	Pallone	Vento
Lampson	Pastor	Visclosky
Lantos	Payne	Waters
Leach	Pelosi	Watt (NC)
Levin	Porter	Waxman
Lewis (GA)	Poshard	Wexler
Lipinski	Price (NC)	Weygand
Lofgren	Rahall	Wise
Lowey	Reyes	Woolsey
Luther	Rivers	Wynn
Maloney (CT)	Rodriguez	Yates
Maloney (NY)	Roukema	

NOT VOTING—6

Gephardt	Hilliard	Rothman
Gonzalez	Lewis (KY)	Schiff

□ 1446

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1031

Ms. CHRISTIAN-GREEN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1031.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

CONFERENCE REPORT ON H.R. 2158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 261 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 261

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 261 waives all points of order against the conference report and against its consideration. The rule also provides that the conference report shall be considered as read.

The conference report for the VA-HUD and Independent Agencies Appropriations bill for fiscal year 1998 appropriates a total of $68.5 billion for fiscal year 1998, which is $1 billion below the President's request level.

As I mentioned in this House VA-HUD bill debate in July, this legislation continues to meet our obligations to our veterans. The conference report provides $18.9 billion for the Department of Veterans Affairs' discretionary programs, $17 billion for veterans' medical care, and $272 million for veterans' medical research, including $12.5 million for research related to Persian Gulf war illness. We owe a special debt of gratitude to all our veterans, and these appropriations are notable increases above the amounts the President requested.

I am also pleased that scientific research and our space program have been amply funded in this bill. We just marked the 40th anniversary of the launch of Sputnik, and with that in mind, I am pleased that the conferees have committed the United States toward a significant presence in space. The conferees have provided $2.9 billion for the Space Shuttle Program, $2.35 billion for the International Space Station, and $13.6 billion for NASA, which is $148 million more than the President requested.

I have one last point on the subject of science. I think it is very important to point out that this bill provides $631 million for science and technology research at the Environmental Protection Agency, including $49.6 million for particulate matter and ozone research. As proposed regulations are formulated by the EPA, it strikes me that it is high time we base these decisions on information from scientists calculated with scientific analysis.

EPA scientific research funding in this bill, especially funding directed for particulate matter and ozone research, is absolutely necessary at a time when the American people and American businesses face the prospect of additional regulations concocted without a shred of scientific inspection.

I want to commend the gentleman from California [Mr. JERRY LEWIS] and the ranking minority member, the gentleman from Ohio, [Mr. LOUIS STOKES] for the bipartisan manner in which they produced this conference report. It does not appear that there were any major complications during the conference with the Senate, and I am certain their good relationship helped to assure this very productive conference.

I urge my colleagues to support the rule so that we may proceed with general debate and consideration of the merits of this very important bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank my colleague, the gentleman from Georgia [Mr. LINDER], for yielding me the customary half-hour and I yield myself such time as I may consume.

Mr. Speaker, I want to congratulate my colleagues the gentleman from Ohio [Mr. STOKES] and the gentleman from California [Mr. LEWIS] for their excellent work on this conference report. I have had the pleasure of working with the gentleman from California and the ranking member on some small parts of this bill and I can tell my colleagues they have done yeoman's work.

They have managed to fully fund American housing and veterans programs as well as the Federal emergency management program and also NASA. The conference committee has done an excellent job taking care of our public housing programs. As someone who grew up in public housing, I can tell my colleagues it is a very important program. It does wonderful things for low-income families, particularly families with children, and I am pleased to see the conference committee agreed to support it.

Mr. Speaker, this country is facing a terrible loss of affordable housing. Three million American families just cannot find affordable housing, and the numbers are climbing. In response to this, the conference report renews all expiring section 8 contracts and preserves affordable housing at a time when we are losing affordable housing. It helps ensure that good housing will still be available to low-income families, it saves money, and it is a very well thought out policy.

The conference report also funds HOME grants to cities and States for building affordable housing. And one of these HOME grants went to the City of Brockton, MA, in my district, which helped 200 people buy homes last year. This year this program should help even more people.

The conference report also helps take care of America's veterans by providing over $17 billion for veterans' medical care and $15.5 million for research on Persian Gulf war illnesses.

So thanks to this conference report, the Consumer Product Safety Commission is fully funded, as is the Federal

Emergency Management Association. It also funds the Environmental Protection Agency, one of my personal favorites, which helps keep our water and our air clean.

Once again, Mr. Speaker, I just want to congratulate my colleagues for putting together such an excellent bill. I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio [Ms. PRYCE], my colleague on the Committee on Rules.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman from Georgia, my friend, for yielding me this time, and I rise in support of this rule and the VA–HUD conference report.

I would like to commend the gentleman from California [Mr. LEWIS], the chairman, and the gentleman from Ohio [Mr. STOKES], the ranking member, for ably guiding the VA–HUD appropriations bill through conference. The final bill they produced speaks very well of their efforts.

This year's fiscally responsible bill shaves $1 billion off the President's request and it successfully prioritizes spending to ensure that we fulfill our responsibility to our Nation's veterans, provide needed housing to less fortunate Americans, keep the exciting discoveries of the U.S. space program alive, and provide adequate resources to keep America's air clean and water safe.

There are many accomplishments in this legislation worth extolling, but I want to focus on a portion of the bill that is of special significance to me as a former member of the Subcommittee on VA, HUD and Independent Agencies. Since the 1970's, section 8 rental assistance contracts have helped provide private low-cost housing to seniors, disabled persons, and low-income families. However, these 20-year contracts have begun to expire, leaving millions of Americans unsure of the future of their housing.

The funding in this bill to renew expiring section 8 housing contracts is both important and necessary. However, I have long maintained that the program itself needs to be restructured to bring down the high cost of section 8 housing. In that vein, I joined with my friend from Virginia [Mr. MORAN] to sponsor legislation this year to achieve such reforms. Therefore, I am very grateful to the chairman, the gentleman from California, the gentleman from New York [Mr. LAZIO], and our colleagues in the Senate for their hard work to forge an agreement on the section 8 reforms included in this legislation. I know it was not easy, but I am convinced that it was well worth their efforts.

The timely reforms in this bill will ensure the stability of section 8 properties so that affordable housing will continue to be available for our citizens with the greatest need. The solutions this legislation provides will save hundreds of millions of taxpayer dollars while putting the power to reform the program where it belongs, right in the local communities.

For this achievement, and for the many good things in the VA–HUD conference report, I urge my colleagues to support this rule and move towards swift passage of the underlying legislation.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in reluctant support of the fiscal year 1998 VA–HUD appropriations bill.

I wish to thank the gentleman from Ohio [Mr. STOKES], my good friend and the ranking member, and the gentleman from California [Mr. LEWIS], the chairman, for their support in funding the International Space Station project and a robust NASA budget as well as ensuring quality public housing for our Nation's low-income families.

In particular, I appreciate the committee including a comprehensive reform of the section 8 program. While issues regarding the mark-to-market program remain, it is important that the Congress take this initial step to reform the program, and I look forward to the opportunity when the Committee on Banking and Financial Services, on which I serve, moves forward to try to address those concerns as well as possibly the Committee on Ways and Means, which may also have to address some of the issues.

However, Mr. Chairman, during previous consideration of this legislation in the House, both in this Congress and in the 104th Congress, I had successfully offered an amendment to prohibit the Environmental Protection Agency from using funds to allow for the importation of polychlorinated biphenyls, or PCB's, to be disposed of, including by incineration, in the United States. This directly affects my district as well as other districts around the country.

While the amendment that I offered was accepted by the House on both occasions, it was unfortunately struck in the conference, and I very much regret this decision by the conference committee once again.

□ 1500

Mr. Speaker, the EPA issued a final rule on March 18, 1996, to allow the importation of large quantities of PCB waste from foreign nations, reversing an EPA ban that has been in place since 1980. Later that same month, the Sierra Club Legal Defense Fund initiated a legal challenge to the EPA decision allowing the importation on PCB's based on the principle that it violated the Toxic Substances Control Act of 1976.

On July 8 of this year, the Ninth Circuit U.S. Court of Appeals ruled in a unanimous decision that the EPA had violated the Toxic Substances Control Act of 1976. Chief Judge Proctor Hug wrote, "EPA lacked the statutory authority to promulgate the Import Rule, which violates the PCB manufacture ban contained in the Toxic Substances Control Act."

I believe it is necessary to codify this decision in the event it is reversed on appeal, and that is what my amendment had sought to do. However, for now, the court action will forestall the further importation of this dangerous chemical.

PCB's are a dangerous class of chemicals that collect in the body and cause a range of adverse health effects including cancer, reproductive damage, and birth defects. When incinerated, PCB's release dioxin, one of the most toxic chemicals known. PCB's accumulate in the environment and move toward the top of the food chain, contaminating fish, birds, and ultimately humans. They are the only chemical Congress designated for phaseout under the Toxic Substances Control Act of 1976.

Mr. Speaker, I am disappointed that my amendment was not included in the conference. I assure the chair and the ranking member that I will be back next year again to pursue this issue because I think it is important both to my constituents and to the country. I do not think that PCB's are a good or a service that we ought to be importing into the United States.

But in light of the other issues in this bill, I do rise in support of the remainder of the bill and intend to vote for it.

I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding me the time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LaFALCE. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding me the time.

Mr. Speaker, I rise in support of H.R. 2158, a bill making appropriations for fiscal year 1998 for VA, HUD, and independent agencies. I am pleased that the HUD budget has not suffered dramatic cuts in this era of the balanced budget as it has in prior years.

Most of the administration's budget requests have been met in this conference report for HUD's core programs, for public housing, for CDBG, for drug elimination grants, for HOME, for McKinney homeless assistance grants, et cetera. Although I would support higher funding levels for HUD

programs, I believe the conference report represents a winning hand, considering the cards that we have been dealt.

Two issues deserve particular mention: The first, the lack of funding for new section 8 certificates; and the second, the very complicated issue of section 8 portfolio restructuring.

On the first subject, for the third year in a row, there is absolutely no new money for incremental section 8 housing assistance even in the face of continued strong evidence that greater numbers of very low-income families and working poor are finding it ever more difficult to find affordable housing. Some 5.3 million Americans have worst case housing needs, and that number grows by leaps and bounds. It is most regrettable that this conference report was unable to fund any new section 8 assistance.

On the second issue, section 8 renewals and mortgage restructuring, I applaud the approach of appropriators and the administration for their hard work and mutual efforts. The Committee on Appropriations took the most critical step in this bill. It provides sufficient funding for all renewals coming due in 1998, and, working with the authorizing committee, they took the necessary steps to provide the legislative framework for renewing section 8 contracts.

This was not done during the reconciliation process, but the appropriations bill provides housing policy that is good Federal policy, preserves affordable housing, and saves money all at the same time.

I believe that we have balanced all the disparate interests of the tenants, owners, communities, and the Federal Government in preserving as much affordable housing as possible, reducing the costs to the Federal Government, reasonably protecting the financial investments of the owners, and protecting the tenants from unnecessary displacement.

This is one of the most critical problems facing the administration and the Congress. It has been solved equitably for all concerned and saved $500 million for other domestic priorities in the process. So, on balance, this is a good bill, considering our budget constraints, and I would urge my colleagues to support it.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding me the time.

Mr. Speaker, I urge my colleagues to adopt the rule and the conference report on VA, HUD, independent agencies appropriations for fiscal year 1998.

As I noted in July when this bill was considered by the House, I remain concerned about the adequacy of VA health care resources, not only in the next fiscal year but in the next future years as well.

As most Members know, appropriations for VA health care have been essentially frozen. As years pass on, inflation will erode the value of this funding. Proponents of this freeze in appropriations for VA health care claim that allowing VA medical centers to keep VA copayments and third-party collections will replace appropriated funds. In its report earlier this year, however, the House Appropriations Committee noted that the accuracy of each year's estimated third-party collection effort is unknown.

With regard to the VA having sufficient resources to meet the health care needs of our Nation's veterans, the House has failed to enact H.R. 1362, which authorizes a 3-year demonstration program to provide for discounted Medicare reimbursement for health care services provided to certain Medicare-eligible veterans at selected VA health care facilities.

Dr. Kenneth Kizer, the under secretary for health, has recently told Members that enactment of this legislation is critical to the Department of Veterans Affairs. According to Dr. Kizer, without enactment of this legislation this year, VA will not have the resources needed to provide health care to veterans in future years.

H.R. 1362 was reported favorably by the Committee on Veterans' Affairs in July but has languished in the House since then. I urge its favorable consideration by the House as soon as possible.

I am pleased that the conferees have recognized the value of VA research not only to veterans but to all Americans and have appropriated a total of $272 million for VA medical research. This is a sound and wise investment.

The conference also provides an additional $8 million to meet the needs to help the VA to achieve the year 2000 computer compliance. Achieving this goal is critical to the delivery of health care and other earned benefits to our Nation's veterans, their dependents, and survivors.

So I want to thank the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the full Committee on Appropriations, and the gentleman from Wisconsin [Mr. OBEY], the Democratic ranking member, for their support. Likewise, I want to salute the chairman and Democrat of the Subcommittee on VA, HUD and Independent Agencies, the gentleman from California [Mr. LEWIS], and Carl Stokes for their efforts on behalf of veterans.

Again, I urge my colleagues to support this rule and adoption of the conference report.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, I want to thank the gentleman from Massachusetts [Mr. MOAKLEY], my friend and the ranking Democrat on the Committee on Rules, for yielding me the time.

Mr. Speaker, as the gentlewoman from Ohio [Ms. PRYCE] said earlier, the bill that we have been working for for some time that deals with project-based section 8 assistance is incorporated, virtually in its entirety, into this appropriations bill. I think this is a very important step, as the principal focus of our bill is to reduce the cost of the section 8 program and provide the certainty of continued housing assistance for those in need.

Our reform proposal reins in exorbitant rental contracts that can reach 180 percent of the fair market rent, and it helps kick the bad owners out of the program. Existing debts on all FHA-insured property are restructured to lower operating and maintenance costs and bring Federal rent subsidies down to local market levels. In return, owners of multifamily housing must agree to maintain the property for low-income tenants for at least another 20 years.

I think this proposal is a thoughtful and reasonable response to a complex and very difficult issue. So I was very pleased to see almost all of the elements of this proposal incorporated into this appropriations bill.

I want to particularly thank the gentlewoman from Ohio [Ms. PRYCE], my copatron, for her tireless work to make sure that this issue got resolved this year, the gentleman from California [Mr. LEWIS], the gentleman from Ohio [Mr. STOKES], the gentleman from New York [Mr. LAZIO], and the gentleman from Massachusetts [Mr. KENNEDY], of the authorizing committee and the House leadership for permitting this issue to be resolved through the appropriations process.

Hopefully, we will be able to start a new chapter in low-income housing programs that meet the needs of low-income families, the elderly, and the disabled with decent, fiscally responsible, and affordable housing.

I thank the chairman, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding me the time, the gentleman from Georgia [Mr. LINDER], I thank the Committee on Rules, and of course the chair and minority ranking member of the Committee on Appropriations. I think this is a very important step and certainly plan to vote for the bill.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I thank the distinguished ranking member, the gentleman from Massachusetts [Mr. MOAKLEY], for yielding me the time.

I rise, Mr. Speaker, with very, very strong concerns and reservations about this VA, HUD, independent agencies appropriations bill for fiscal year 1998.

I oppose this conference report due to funding increases for the international space station above the congressionally approved and NASA agreed to cap at $2.1 billion per year. Now that is not enough; $2.1 billion is not enough. We have to go in this bill much above that, to $2.35 billion, for the space station.

Now, certainly, I have argued with my colleagues, Republicans and Democrats, in this body that a $100 billion space station is too much, that we do not return the science, we do not return good science or good economics for our taxpayers. Now we are going up to a $2.35 billion per year space station, and last month the primary contractor estimated cost overruns to exceed $600 million, and NASA guessed $800 million cost overruns.

This means that we have to go into other very, very worthwhile important programs, Space Shuttle safety, education grants, a host of other programs, and take money away from good NASA programs that are working to reward cost overruns.

I think that we need to take a very, very careful look at this budget, Mr. Speaker, and enforce some physical discipline. We have fits around here when we have $600 toilet seats. This is a $600 million cost overrun.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I rise, obviously, in support of the rule. But let me talk about a little problem I have with some of the reforms that the Housing and Urban Development Department is doing.

I have had an ongoing dialog with HUD over the last 4 areas, and my main point of discussion is making sure that in the Houston area HUD offers all the program areas that serve the people in Houston, TX, the fourth largest city in the country, which they do not.

The problem we have now is, HUD has a reform plan to refocus, streamline, and downsize the Department. In our Houston office we have over 100 HUD employees now. Now I hear that we are going to reduce them to 14. So those 14 are going to have to do the work of those over 100 employees.

We do not even have all the program areas offered now in the Houston office, and yet, in this reorganization that has been going on now for a number of years, we are not going to have all the program areas offered in Houston. If they are offering them with 14 employees, they are not going to be able to do the job.

HUD now, under the HUD 20/20 reform plan, they have developed two mission statements. The first is to empower people in communities to improve themselves and succeed in today's time of transition, and the second is to restore public trust by achieving and demonstrating competence.

These are admirable goals, but I am not sure that releasing 85 employees or staffers will help achieve those goals and make HUD effective in the Houston markets. Again, this is not the first time I have said this and it will not be the last. I would hope Secretary Cuomo would be able to sit down with those of us who represent the Houston area and make sure that HUD can provide all the programs in Houston even if it is with reduced employees, but do not make it impossible.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1515

Mr. LEWIS of California. Mr. Speaker, pursuant to House Resolution 261, I call up the conference report on the bill (H.R. 2158), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 261, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 6, 1997 at page H8323.)

The SPEAKER pro tempore. The gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEWIS].

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 2158, and that I may include tables, charts and other extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we bring H.R. 2158 to the floor, I would like the Members to know that while this is a very complex bill that involves appropriations for fiscal year 1998 for agencies such as all of our public housing programs, for issues that flow around the Environmental Protection Agency, issues that are very important to the future of our general economy, this very controversial bill comes to us in a circumstance where these agencies are faced with the overall effort to reduce the pattern of growth of spending for the Federal Government. So we are dealing with a shrinking dollar circumstance and very important and competitive programs, and yet this bill comes to us in a way that very much reflects the best of bipartisan work in the House.

For that work I want to pay special tribute to my colleague and friend, the gentleman from Ohio [Mr. STOKES], as well as his very fine staff that has cooperated so much with us in developing this bill. Without their support we would have perhaps a lot of controversy today, but instead I think we have before us truly a model reflecting the way the Committee on Appropriations, working with their authorizing committees, should present bills on the House floor.

I think the Members should know that in that environment, so many important issues competing with one another, about 90 to 95 percent of our bill has not been authorized for one reason or another. That is, the authorizing committees have not, over several years in some instances, been able to move bills through the House and the Senate and send those bills to the President's desk for signature. So the bill finds itself in a position where much of the language in the bill reflects some of the priorities of our authorizers as well, as we go about trying to deal with the competition for dollars between these various programs.

Let me illustrate just a bit of that for the Members. The fiscal year 1998 VA–HUD bill reaffirms our commitment to serving veterans, protecting the environment, providing housing for the poorest of the poor, and ensuring America's continued leadership in space.

In spite of the difficult challenges in putting this conference report together, the final product represents a balance of tough choices as well as common interests.

The bill meets the important test of keeping the appropriations process on track to meet the vital objective of attempting to balance the budget shortly after the turn of the century. I might add that since the fiscal year 1995 rescission bill, this subcommittee has saved the American taxpayer nearly $25 billion from the President's request. Yes, I say some $25 billion as we make our contribution to reducing the rate of growth as we go forward with these very important programs.

Let me take just a moment to list some of the bill's funding highlights. Within the Department of Veterans Affairs, we have provided a total agency budget of $40.452 billion. We have increased the Medical Care account over the President's request by roughly $100

million to a total of $17.661 billion. That is $648 million over the 1997 level. We have increased the Medical and Prosthetic Research account by $38 million over the President's request to a total of $272 million.

Within the Department of Housing and Urban Development, we have provided a total agency budget of $24 billion.

Our bill increases housing for the elderly, section 202, by $345 million over the President's request to a total of $645 million. This measure also increases housing for the disabled by $20 million over the President's request to a total of $194 million.

We have increased funding for the Community Development Block Grant programs by some $75 million to a total of $4.675 billion. Furthermore, we funded the HOME investment partnership program at $1.5 billion. We also funded the Native American Housing Block Grant program at $600 million.

Finally, we provided the funding necessary to renew expiring Section 8 contracts, which have been discussed by more than one of my colleagues today. We have also accomplished a critical goal of both bodies, as well as the administration, by reducing Federal subsidized rent under Section 8 rental assistance programs to more closely resemble market rates. In fiscal year 1998 alone, this provision saves the committee nearly $560 million. Further, it fairly addresses the concerns of residents and taxpayers, as well as building owners who, after all, entered into this partnership with the Federal Government in the first place.

Within the Environmental Protection Agency, we have provided a total agency budget of $7.363 billion, an increase of $564 million over the 1997 level.

We increased the Superfund program by over $100 million over the 1997 level to nearly $1.5 billion, and provided also $650 million in additional Superfund funding which is subject to the enactment of an authorization bill in the year ahead of us.

Further, as a result of recently announced National Ambient Air Quality Standards, we have provided $49.6 million for particulate matter research, as an underpinning to try to make sense out of those standards and the impact they may very well have over time on our economy.

We have funded State and Tribal Assistance Grants at $3.2 billion. This represents a $300 million increase over fiscal year 1997 levels for important Safe Drinking Water and Clean Water programs.

Within the National Aeronautics and Space Agency, we have provided a total agency budget of $13.648 billion. This amount includes $5.5 billion for the Human Space Flight account, $5.69 billion for the Science, Aeronautics, and Technology account, and nearly $2.4 billion for Mission Support.

We have provided the National Science Foundation with a total agency budget of $3.429 billion.

The Federal Emergency Management Agency has been funded at $829 million, including $320 million for the Disaster Relief account in that package.

In closing, I want to express one more time my thanks to my ranking member and good friend for continuing to work in a spirit of bipartisanship and goodwill on this very important measure. Over the last several years the gentleman from Ohio [Mr. STOKES] and I have worked very closely together in the finest tradition of the Committee on Appropriations, and I am grateful to him for that.

I also want to thank and commend our very capable staff, beginning with Mr. Del Davis, who has been of great assistance to Mr. STOKES; to Dave Reich as well, Fredette West, Frank Cushing, Paul Thomson, Tim Peterson, Valerie Baldwin, Rose Roberts, a detailee who is spending time with us and carrying on very important assistance, Alex Heslop, Dave LesStrang and Jeff Shockey for their hard work and long hours in putting this diverse and complex bill together.

Mr. Speaker, I wish to note that within the Statement of Managers there are a few corrections that we want to clarify at this point, before I yield to the gentleman from Ohio [Mr. STOKES], if my colleagues will be patient with me. I wish to note that there are certain items contained within the Statement of Managers that were either printing errors or were inadvertently left out of the final draft.

Regarding particulate matter research under the EPA's Science and Technology account: on page 114 of the Conference Report and Statement of Managers, in the fourth line on the last paragraph, the word "near" should be included so the sentence would read, "Initiate key near-term research."

Regarding section 107 grants under Housing and Urban Development, the conferees included some $32 million. However, the breakdown of the funding levels was inadvertently omitted from the Statement of Managers.

The breakdown is as follows: $4 million for technical assistance, $6.5 million for Community Development Work Study, with a $3 million set-aside for Hispanic-serving institutions; $500,000 for the National Center for Revitalization of Central Cities; $7.5 million for the Community Outreach Partnership program; $7 million for Insular Areas; and $6.5 million for Historically Black Colleges and Universities.

Regarding Economic Development projects also under HUD, the fourth item down on page 96 of the Statement of Managers should be in the town of Arab, Alabama, not Arab, Illinois.

Regarding including the Hazardous Substance Superfund under EPA, the conferees failed to note in the Statement of Managers that $2.5 million is to be made available for the Gulf Coast Hazardous Substance Research Center.

Regarding NASA's Science, Aeronautics and Technology account list of projects on page 132, the Statement of Managers should include the following, which were inadvertently omitted: $2 million for the Bishop Museum in Honolulu, Hawaii.

Mr. Speaker, I include charts and graphs pertaining to my statement at this time in the RECORD:

VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2158)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I						
Veterans Benefits Administration						
Compensation and pensions	18,671,259,000	19,932,997,000	19,932,997,000	19,932,997,000	19,932,997,000	+1,261,738,000
Supplemental (P.L. 105-18)	928,000,000	.....	.....	.....	.....	-928,000,000
Readjustment benefits	1,377,000,000	1,366,000,000	1,366,000,000	1,366,000,000	1,366,000,000	-11,000,000
Veterans insurance and indemnities	38,970,000	51,360,000	51,360,000	51,360,000	51,360,000	+12,390,000
Veterans housing benefit program fund program account (indefinite)	.....	192,447,000	192,447,000	192,447,000	192,447,000	+192,447,000
(Limitation on direct loans)	.....	(300,000)	(300,000)	(300,000)	(300,000)	(+300,000)
Administrative expenses	.....	160,437,000	160,437,000	160,437,000	160,437,000	+160,437,000
Guaranty and indemnity program account (indefinite)	158,643,000	.....	.....	.....	.....	-158,643,000
Administrative expenses	105,226,000	.....	.....	.....	.....	-105,226,000
Loan guaranty program account (indefinite)	14,091,000	.....	.....	.....	.....	-14,091,000
Administrative expenses	33,810,000	.....	.....	.....	.....	-33,810,000
Direct loan program account (indefinite)	30,000	.....	.....	.....	.....	-30,000
(Limitation on direct loans)	(300,000)	.....	.....	.....	.....	(-300,000)
Administrative expenses	80,000	.....	.....	.....	.....	-80,000
Education loan fund program account	1,000	1,000	1,000	1,000	1,000	.....
(Limitation on direct loans)	(3,000)	(3,000)	(3,000)	(3,000)	(3,000)	.....
Administrative expenses	195,000	200,000	200,000	200,000	200,000	+5,000
Vocational rehabilitation loans program account	49,000	44,000	44,000	44,000	44,000	-5,000
(Limitation on direct loans)	(2,822,000)	(2,278,000)	(2,278,000)	(2,278,000)	(2,278,000)	(-544,000)
Administrative expenses	377,000	388,000	388,000	388,000	388,000	+11,000
Native American Veteran Housing Loan Program Account	205,000	515,000	515,000	515,000	515,000	+310,000
Total, Veterans Benefits Administration	21,327,936,000	21,704,389,000	21,704,389,000	21,704,389,000	21,704,389,000	+376,453,000
Veterans Health Administration						
Medical care	16,313,447,000	16,958,846,000	16,441,846,000	16,476,840,000	16,487,396,000	+173,949,000
Delayed equipment obligation	700,000,000	.....	565,000,000	550,000,000	570,000,000	-130,000,000
Total	17,013,447,000	16,958,846,000	17,006,846,000	17,026,840,000	17,057,396,000	+43,949,000
Medical collections guarantee	.....	.....	.....	.....	15,000,000	+15,000,000
Medical care cost recovery collections:						
Offsetting receipts	.....	-604,000,000	-604,000,000	-604,000,000	-604,000,000	-604,000,000
Appropriations (indefinite)	.....	604,000,000	604,000,000	604,000,000	604,000,000	+604,000,000
Total available	(17,013,447,000)	(17,562,846,000)	(17,610,846,000)	(17,630,840,000)	(17,661,396,000)	(+647,949,000)
Medical and prosthetic research	262,000,000	234,374,000	292,000,000	267,000,000	272,000,000	+10,000,000
Medical administration and miscellaneous operating expenses	61,207,000	60,160,000	60,160,000	60,160,000	59,860,000	-1,347,000
General Post Fund, National Homes:						
Loan program account (by transfer)	(7,000)	(7,000)	(7,000)	(7,000)	(7,000)	.....
Administrative expenses (by transfer)	(54,000)	(54,000)	(54,000)	(54,000)	(54,000)	.....
(Limitation on direct loans)	(70,000)	(70,000)	(70,000)	(70,000)	(70,000)	.....
General post fund (transfer out)	(-61,000)	(-61,000)	(-61,000)	(-61,000)	(-61,000)	.....
Total, Veterans Health Administration	17,336,654,000	17,253,380,000	17,359,006,000	17,354,000,000	17,404,256,000	+67,602,000
Departmental Administration						
General operating expenses	827,584,000	846,385,000	853,385,000	786,385,000	786,135,000	-41,449,000
Offsetting receipts	(32,000,000)	(36,000,000)	(36,000,000)	(36,000,000)	(36,000,000)	(+4,000,000)
Total, Program Level	(859,584,000)	(882,385,000)	(889,385,000)	(822,385,000)	(822,135,000)	(-37,449,000)
National Cemetery System	76,864,000	84,183,000	84,183,000	84,183,000	84,183,000	+7,319,000
Office of Inspector General	30,900,000	31,013,000	31,013,000	31,013,000	31,013,000	+113,000
Construction, major projects	250,858,000	79,500,000	159,600,000	92,800,000	177,900,000	-72,958,000
Construction, minor projects	175,000,000	166,300,000	176,500,000	166,300,000	175,000,000	.....
Parking revolving fund	12,300,000	.....	.....	.....	.....	-12,300,000
Grants for construction of State extended care facilities	47,397,000	41,000,000	54,500,000	80,000,000	80,000,000	+32,603,000
Grants for the construction of State veterans cemeteries	1,000,000	10,000,000	10,000,000	10,000,000	10,000,000	+9,000,000
Total, Departmental Administration	1,421,903,000	1,258,381,000	1,369,181,000	1,250,681,000	1,344,231,000	-77,672,000
Administrative Provision						
Medical collections guarantee (sec. 108)	.....	.....	15,000,000	.....	.....	.....
Total, title I, Department of Veterans Affairs	40,086,493,000	40,216,150,000	40,447,576,000	40,309,070,000	40,452,876,000	+366,383,000
(By transfer)	(61,000)	(61,000)	(61,000)	(61,000)	(61,000)	.....
(Limitation on direct loans)	(3,195,000)	(2,651,000)	(2,651,000)	(2,651,000)	(2,651,000)	(-544,000)
Consisting of:						
Mandatory	(21,187,993,000)	(21,542,804,000)	(21,542,804,000)	(21,542,804,000)	(21,542,804,000)	(+354,811,000)
Discretionary	(18,898,500,000)	(18,673,346,000)	(18,904,772,000)	(18,766,266,000)	(18,910,072,000)	(+11,572,000)

VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2158) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE II						
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
Public and Indian Housing						
Housing Certificate Fund		10,676,000,000	10,393,000,000	10,119,000,000	9,373,000,000	+9,373,000,000
Expiring section 8 contracts		(9,232,000,000)	(9,200,000,000)	(8,666,000,000)	(8,180,000,000)	(+8,180,000,000)
Section 8 amendments		(850,000,000)	(850,000,000)	(1,110,000,000)	(850,000,000)	(+850,000,000)
Section 8 relocation assistance		(594,000,000)	(343,000,000)	(343,000,000)	(343,000,000)	(+343,000,000)
Prevention of resident displacement	4,640,000,000					-4,640,000,000
Expiring section 8 contracts	(3,600,000,000)					(-3,600,000,000)
Section 8 amendments	(850,000,000)					(-850,000,000)
Section 8 relocation assistance	(190,000,000)					(-190,000,000)
Transfer from recaptures	(50,000,000)					(-50,000,000)
Subtotal	(4,690,000,000)	(10,676,000,000)	(10,393,000,000)	(10,119,000,000)	(9,373,000,000)	(+4,683,000,000)
Annual contributions (rescission)		-855,000,000	-565,000,000		-550,000,000	-550,000,000
Rescission (P.L. 105-18)	-3,650,000,000					+3,650,000,000
Public housing capital fund		2,500,000,000	2,500,000,000	2,500,000,000	2,500,000,000	+2,500,000,000
Public housing operating fund		2,900,000,000	2,900,000,000	2,900,000,000	2,900,000,000	+2,900,000,000
Preserving existing housing investment	5,750,000,000					-5,750,000,000
Public housing operating subsidies	(2,900,000,000)					(-2,900,000,000)
Public housing modernization	(2,500,000,000)					(-2,500,000,000)
Preservation	(350,000,000)					(-350,000,000)
Rescission of recaptures	-150,000,000					+150,000,000
Prepayment authority	2,000,000					-2,000,000
Supplemental (P.L. 105-18)	3,500,000					-3,500,000
Subtotal	(5,605,500,000)	(5,400,000,000)	(5,400,000,000)	(5,400,000,000)	(5,400,000,000)	(-205,500,000)
Drug elimination grants for low-income housing	290,000,000	290,000,000	290,000,000	290,000,000	310,000,000	+20,000,000
Revitalization of severely distressed public housing (HOPE VI)	550,000,000	524,000,000	524,000,000	550,000,000	550,000,000	
Homeownership and opportunity for people everywhere grants (HOPE grants) (transfer out) (P.L. 105-18)	(-30,200,000)					(+30,200,000)
Native American housing block grants		485,000,000	650,000,000	485,000,000	600,000,000	+600,000,000
Indian housing loan guarantee fund program account	3,000,000	3,000,000	3,000,000	6,000,000	5,000,000	+2,000,000
(Limitation on guaranteed loans)	(36,900,000)	(36,900,000)	(36,900,000)	(73,800,000)	(73,800,000)	(+36,900,000)
Development of additional new subsidized housing	1,039,000,000					-1,039,000,000
Housing for the elderly	(645,000,000)					(-645,000,000)
Housing for the disabled	(194,000,000)					(-194,000,000)
Indian housing development	(200,000,000)					(-200,000,000)
Capacity Building for Community Development and Affordable Housing						
National community development initiative (by transfer)	(30,200,000)					(-30,200,000)
Capital Grants/Capital Loans Preservation Account						
Capital grants/Capital loans preservation account					10,000,000	+10,000,000
Community Planning and Development						
Housing opportunities for persons with AIDS	171,000,000	204,000,000	204,000,000	204,000,000	204,000,000	+33,000,000
Transfer from recaptures	(25,000,000)					(-25,000,000)
Community development block grants	4,600,000,000	4,600,000,000	4,600,000,000	4,600,000,000	4,675,000,000	+75,000,000
Emergency appropriations (P.L. 105-18)	250,000,000					-250,000,000
Emergency appropriations, FY 1998 (P.L. 105-18)	250,000,000					-250,000,000
Section 108 loan guarantees:						
(Limitation on guaranteed loans)	(1,500,000,000)	(1,261,000,000)	(1,261,000,000)	(1,261,000,000)	(1,261,000,000)	(-239,000,000)
Credit subsidy	31,750,000	29,000,000	29,000,000	29,000,000	29,000,000	-2,750,000
Administrative expenses	675,000	1,000,000	1,000,000	1,000,000	1,000,000	+325,000
Brownfields redevelopment		25,000,000			25,000,000	+25,000,000
Empowerment Zones and Enterprise Communities		100,000,000		25,000,000	5,000,000	+5,000,000
HOME investment partnerships program	1,400,000,000	1,309,000,000	1,500,000,000	1,400,000,000	1,500,000,000	+100,000,000
Supportive housing program (rescission)		-6,000,000	-6,000,000	-6,000,000	-6,000,000	-6,000,000
Shelter plus care (rescission)		-4,000,000	-4,000,000	-4,000,000	-4,000,000	-4,000,000
Homeless assistance grants	823,000,000	823,000,000	823,000,000	823,000,000	823,000,000	
Youthbuild		30,000,000				
Housing counseling assistance		23,000,000				
Total, Public and Indian Housing (net)	16,003,925,000	23,657,000,000	23,842,000,000	23,922,000,000	22,950,000,000	+6,946,075,000
Housing Programs						
Housing for special populations		474,000,000	839,000,000	839,000,000	839,000,000	+839,000,000
Housing for the elderly		(300,000,000)	(645,000,000)	(645,000,000)	(645,000,000)	(+645,000,000)
Housing for the disabled		(174,000,000)	(194,000,000)	(194,000,000)	(194,000,000)	(+194,000,000)
Rental housing assistance:						
Rescission of budget authority, indefinite		-125,000,000	-125,000,000	-125,000,000	-125,000,000	-125,000,000
(Limitation on annual contract authority, indefinite)	(-2,000,000)					(+2,000,000)

VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2158) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Federal Housing Administration						
FHA - Mutual mortgage insurance program account:						
(Limitation on guaranteed loans)	(110,000,000,000)	(110,000,000,000)	(110,000,000,000)	(110,000,000,000)	(110,000,000,000)	.....
(Limitation on direct loans)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	.....
Administrative expenses	350,595,000	333,421,000	333,421,000	333,421,000	338,421,000	-12,174,000
Offsetting receipts	-350,595,000	-333,421,000	-333,421,000	-333,421,000	-333,421,000	+17,174,000
FHA - General and special risk program account:						
Program costs	85,000,000	81,000,000	81,000,000	81,000,000	81,000,000	-4,000,000
(Limitation on guaranteed loans)	(17,400,000,000)	(17,400,000,000)	(17,400,000,000)	(17,400,000,000)	(17,400,000,000)	.....
(Limitation on direct loans)	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	.....
Administrative expenses	207,470,000	222,305,000	222,305,000	222,305,000	222,305,000	+14,835,000
Subsidy - multifamily	-18,000,000	-18,000,000	-18,000,000	-18,000,000	-18,000,000	.....
Subsidy - single family	-64,000,000	-64,000,000	-64,000,000	-64,000,000	-64,000,000	.....
Subsidy - Title I	-25,000,000	-25,000,000	-25,000,000	-25,000,000	-25,000,000	.....
Total, Federal Housing Administration	185,470,000	196,305,000	196,305,000	196,305,000	201,305,000	+15,835,000
Government National Mortgage Association						
Guarantees of mortgage-backed securities loan guarantee program account:						
(Limitation on guaranteed loans)	(110,000,000,000)	(130,000,000,000)	(130,000,000,000)	(130,000,000,000)	(130,000,000,000)	(+20,000,000,000)
Administrative expenses	9,383,000	9,383,000	9,383,000	9,383,000	9,383,000	.....
Offsetting receipts	-218,000,000	-204,000,000	-204,000,000	-204,000,000	-204,000,000	+14,000,000
Policy Development and Research						
Research and technology	34,000,000	39,000,000	39,000,000	34,000,000	36,500,000	+2,500,000
Fair Housing and Equal Opportunity						
Fair housing activities	30,000,000	39,000,000	30,000,000	30,000,000	30,000,000	.....
Management and Administration						
Salaries and expenses	420,000,000	451,000,000	451,000,000	400,000,000	446,000,000	+26,000,000
(By transfer, limitation on FHA corporate funds)	(546,782,000)	(544,443,000)	(544,443,000)	(544,443,000)	(544,443,000)	(-2,339,000)
(By transfer, GNMA)	(9,383,000)	(9,383,000)	(9,383,000)	(9,383,000)	(9,383,000)	.....
(By transfer, Community Planning & Development)	(675,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(+325,000)
Total, Salaries and expenses	(976,840,000)	(1,005,826,000)	(1,005,826,000)	(954,826,000)	(1,000,826,000)	(+23,986,000)
Office of Inspector General	36,567,000	36,567,000	45,567,000	36,567,000	40,567,000	+4,000,000
(By transfer, limitation on FHA corporate funds)	(11,283,000)	(11,283,000)	(11,283,000)	(16,283,000)	(16,283,000)	(+5,000,000)
(By transfer from Drug Elimination Grants)	(5,000,000)	(10,000,000)	(10,000,000)	(5,000,000)	(10,000,000)	(+5,000,000)
Total, Office of Inspector General	(52,850,000)	(57,850,000)	(66,850,000)	(57,850,000)	(66,850,000)	(+14,000,000)
Office of federal housing enterprise oversight	15,500,000	16,312,000	16,312,000	15,500,000	16,000,000	+500,000
Offsetting receipts	-15,500,000	-16,312,000	-16,312,000	-15,500,000	-16,000,000	-500,000
Administrative Provisions						
Mark to market legislation	.....	.....	.....	-317,000,000	-562,000,000	-562,000,000
Sec. 203 - FHA Assignment Reform, 1997	-128,000,000	.....	.....	.....	.....	+128,000,000
Sec. 204 - Multifamily property disposition - FHA fund	-80,000,000	.....	.....	.....	.....	+80,000,000
Sec. 210 - financing adjustment	464,442	.....	.....	.....	.....	-464,442
Sec. 212 - demonstration	10,000,000	.....	.....	.....	.....	-10,000,000
Total, administrative provisions	-197,535,558	.....	.....	-317,000,000	-562,000,000	-364,464,442
Total, title II, Department of Housing and Urban Development (net)	16,303,809,442	24,573,255,000	25,123,255,000	24,821,255,000	23,661,755,000	+7,357,945,558
Appropriations	(19,453,809,442)	(25,563,255,000)	(25,823,255,000)	(24,956,255,000)	(24,346,755,000)	(+4,892,945,558)
Rescissions	(-3,650,000,000)	(-990,000,000)	(-700,000,000)	(-135,000,000)	(-685,000,000)	(+2,965,000,000)
Emergency appropriations	(250,000,000)	.....	.....	.....	.....	(-250,000,000)
Emergency appropriations, FY 1998	(250,000,000)	.....	.....	.....	.....	(-250,000,000)
(Limitation on annual contract authority, indefinite)	(-2,000,000)	.....	.....	.....	.....	(+2,000,000)
(Limitation on guaranteed loans)	(238,900,000,000)	(258,661,000,000)	(258,661,000,000)	(258,661,000,000)	(258,661,000,000)	(+19,761,000,000)
(Limitation on corporate funds)	(573,123,000)	(576,109,000)	(576,109,000)	(576,109,000)	(581,109,000)	(+7,986,000)
TITLE III						
INDEPENDENT AGENCIES						
American Battle Monuments Commission						
Salaries and expenses	22,265,000	23,897,000	26,897,000	23,897,000	26,897,000	+4,632,000
Chemical Safety and Hazard Investigations Board						
Salaries and expenses	.....	.....	.....	4,000,000	4,000,000	+4,000,000
Department of the Treasury						
Community Development Financial Institutions						
Community development financial institutions fund program account	50,000,000	125,000,000	125,000,000	.....	80,000,000	+30,000,000

VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2158) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Consumer Product Safety Commission						
Salaries and expenses	42,500,000	45,000,000	44,000,000	45,000,000	45,000,000	+2,500,000
Corporation for National and Community Service						
National and community service programs operating expenses	400,500,000	546,500,000	200,500,000	420,500,000	425,500,000	+25,000,000
Office of Inspector General	2,000,000	2,500,000	2,000,000	3,000,000	3,000,000	+1,000,000
Total	402,500,000	549,000,000	202,500,000	423,500,000	428,500,000	+26,000,000
Court of Veterans Appeals						
Salaries and expenses	9,229,000	9,380,000	9,319,000	9,320,000	9,319,000	+90,000
Department of Defense - Civil						
Cemeterial Expenses, Army						
Salaries and expenses	11,600,000	11,815,000	11,815,000	11,815,000	11,815,000	+215,000
Environmental Protection Agency						
Science and Technology	552,000,000	614,269,400	629,223,000	600,000,000	631,000,000	+79,000,000
Transfer from Hazardous Substance Superfund	35,000,000	39,755,900	35,000,000	35,000,000	35,000,000	.....
Subtotal, Science and Technology	587,000,000	654,025,300	664,223,000	635,000,000	666,000,000	+79,000,000
Environmental Programs and Management	1,752,221,000	1,887,590,900	1,763,352,000	1,801,000,000	1,801,000,000	+48,779,000
Office of Inspector General	28,500,000	28,500,000	28,501,000	28,500,000	28,501,000	+1,000
Transfer from Hazardous Substance Superfund	11,000,000	11,641,300	11,641,000	11,641,000	11,641,000	+641,000
Transfer from Leaking Underground Storage Tanks	577,000	.....	.....	.....	.....	-577,000
Subtotal, OIG	40,077,000	40,141,300	40,142,000	40,141,000	40,142,000	+65,000
Buildings and facilities	87,220,000	141,420,000	182,120,000	19,420,000	109,420,000	+22,200,000
Hazardous Substance Superfund	1,294,245,000	2,094,245,000	1,500,699,000	1,300,000,000	1,400,000,000	+105,755,000
Delay of obligation	100,000,000	.....	.....	100,000,000	100,000,000	.....
Advance appropriation, FY 1999	.....	.....	.....	.....	650,000,000	+650,000,000
Transfer to Office of Inspector General	-11,000,000	-11,641,300	-11,641,000	-11,641,000	-11,641,000	-641,000
Transfer to Science and Technology	-35,000,000	-39,755,900	-35,000,000	-35,000,000	-35,000,000	.....
Subtotal, Hazardous Substance Superfund	1,348,245,000	2,042,847,800	1,454,058,000	1,353,359,000	1,453,359,000	+105,114,000
Fiscal Year 1999	.....	.....	.....	.....	650,000,000	+650,000,000
Leaking Underground Storage Tank Trust Fund	60,000,000	71,210,700	60,000,000	65,000,000	65,000,000	+5,000,000
Transfer to Office of Inspector General	-577,000	.....	.....	.....	.....	+577,000
(Limitation on administrative expenses)	(7,000,000)	.....	(7,000,000)	(7,500,000)	(7,500,000)	(+500,000)
Subtotal, LUST	59,423,000	71,210,700	60,000,000	65,000,000	65,000,000	+5,577,000
Oil spill response	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	.....
(Limitation on administrative expenses)	(8,000,000)	.....	(8,000,000)	(8,500,000)	(9,000,000)	(+1,000,000)
State and Tribal Assistance Grants	2,236,000,000	2,043,000,000	2,275,925,000	2,322,000,000	2,468,125,000	+232,125,000
Categorical grants	674,207,000	750,257,000	750,257,000	725,000,000	745,000,000	+70,793,000
Subtotal, STAG	2,910,207,000	2,793,257,000	3,026,182,000	3,047,000,000	3,213,125,000	+302,918,000
Working capital fund	(101,526,000)	(101,000,000)	(101,000,000)	(101,000,000)	(101,000,000)	(-526,000)
Total, EPA	6,799,393,000	7,645,493,000	7,205,077,000	6,975,920,000	7,363,046,000	+563,653,000
Fiscal Year 1999	.....	.....	.....	.....	650,000,000	+650,000,000
Executive Office of the President						
Office of Science and Technology Policy	4,932,000	4,932,000	4,932,000	4,932,000	4,932,000	.....
Council on Environmental Quality and Office of Environmental Quality	2,436,000	3,020,000	2,506,000	2,436,000	2,500,000	+64,000
Unanticipated needs	.....	.....	.....	.....	1,000,000	+1,000,000
Total	7,368,000	7,952,000	7,438,000	7,368,000	8,432,000	+1,064,000
Federal Deposit Insurance Corporation						
Office of Inspector General (transfer)	.....	(34,365,000)	(34,365,000)	(34,265,000)	(34,365,000)	(+34,365,000)
Federal Emergency Management Agency						
Disaster relief	1,320,000,000	370,000,000	500,000,000	320,000,000	320,000,000	-1,000,000,000
Emergency appropriations (P.L. 105-18)	3,300,000,000	.....	.....	.....	.....	-3,300,000,000
Emergency approp (transfer out) (P.L. 105-18)	(-20,000,000)	.....	.....	.....	.....	(+20,000,000)
Disaster assistance direct loan program account:						
State share loan	1,385,000	1,495,000	1,495,000	1,495,000	1,495,000	+110,000
(Limitation on direct loans)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	.....
Administrative expenses	548,000	341,000	341,000	341,000	341,000	-207,000
Community disaster loans (by transfer) (emergency)	(20,000,000)	.....	.....	.....	.....	(-20,000,000)
Salaries and expenses	170,500,000	171,773,000	171,773,000	171,773,000	171,773,000	+1,273,000
Office of Inspector General	4,673,000	4,803,000	4,803,000	4,803,000	4,803,000	+130,000
Emergency management planning and assistance	218,701,000	202,146,000	261,646,000	207,146,000	243,546,000	+24,845,000
Pre-disaster mitigation	.....	.....	.....	(5,000,000)	.....	.....

VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2158) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Emergency food and shelter program	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	.....
National Flood Insurance Fund (limitation on administrative expenses):						
Salaries and expenses	(20,981,000)	(21,610,000)	(21,610,000)	(21,610,000)	(21,610,000)	(+629,000)
Flood mitigation	(78,464,000)	(78,464,000)	(78,464,000)	(78,464,000)	(78,464,000)	.....
Working capital fund	(16,816,000)	.....	.....	.....	.....	(-16,816,000)
Administrative provision: REP savings	-12,251,000	-12,000,000	-12,000,000	-12,000,000	-12,000,000	+251,000
Total, Federal Emergency Management Agency	5,103,558,000	838,558,000	1,028,058,000	793,558,000	829,958,000	-4,273,598,000
General Services Administration						
Consumer Information Center Fund	2,260,000	2,119,000	2,419,000	2,419,000	2,419,000	+159,000
Department of Health and Human Services						
Office of Consumer Affairs	1,500,000	1,800,000	.....	.....	.....	-1,500,000
National Aeronautics and Space Administration						
Human space flight	5,362,900,000	5,326,500,000	5,426,500,000	5,326,500,000	5,506,500,000	+143,600,000
Science, aeronautics and technology	5,767,100,000	5,642,000,000	5,690,000,000	5,642,000,000	5,690,000,000	-77,100,000
Mission support	2,562,200,000	2,513,200,000	2,513,200,000	2,503,200,000	2,433,200,000	-129,000,000
Office of Inspector General	17,000,000	18,300,000	18,300,000	18,300,000	18,300,000	+1,300,000
Administrative provision: Transfer authority	(177,000,000)	.....	(150,000,000)	.....	.....	(-177,000,000)
Total, NASA	13,709,200,000	13,500,000,000	13,848,000,000	13,490,000,000	13,648,000,000	-61,200,000
National Credit Union Administration						
Central liquidity facility:						
(Limitation on direct loans)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	.....
(Limitation on administrative expenses, corporate funds)	(560,000)	(203,000)	(203,000)	(203,000)	(203,000)	(-357,000)
Revolving loan program	1,000,000	.....	.....	.....	1,000,000	.....
National Science Foundation						
Research and related activities	2,432,000,000	2,514,700,000	2,537,526,000	2,524,700,000	2,545,700,000	+113,700,000
Major research equipment	80,000,000	85,000,000	175,000,000	85,000,000	74,000,000	-6,000,000
Delay of obligation	.....	.....	.....	.....	35,000,000	+35,000,000
Education and human resources	619,000,000	625,500,000	632,500,000	625,500,000	632,500,000	+13,500,000
Salaries and expenses	134,310,000	136,950,000	136,950,000	136,950,000	136,950,000	+2,640,000
Office of Inspector General	4,690,000	4,850,000	4,850,000	4,850,000	4,850,000	+160,000
Total, NSF	3,270,000,000	3,367,000,000	3,486,826,000	3,377,000,000	3,429,000,000	+159,000,000
Neighborhood Reinvestment Corporation						
Payment to the Neighborhood Reinvestment Corporation	49,900,000	50,000,000	70,000,000	50,000,000	60,000,000	+10,100,000
Selective Service System						
Salaries and expenses	22,930,000	23,919,000	23,413,000	23,413,000	23,413,000	+483,000
Total, title III, Independent agencies	29,505,201,000	26,200,933,000	25,890,762,000	25,237,210,000	26,620,799,000	-2,884,402,000
Appropriations	(29,505,201,000)	(26,200,933,000)	(25,890,762,000)	(25,237,210,000)	(25,970,799,000)	(-3,534,402,000)
Advance appropriation, FY 1999	.....	.....	.....	.....	(650,000,000)	(+650,000,000)
(Limitation on administrative expenses)	(114,445,000)	(100,074,000)	(115,074,000)	(116,074,000)	(116,574,000)	(+2,129,000)
(Limitation on direct loans)	(625,000,000)	(625,000,000)	(625,000,000)	(625,000,000)	(625,000,000)	.....
(Limitation on corporate funds)	(560,000)	(203,000)	(203,000)	(203,000)	(203,000)	(-357,000)
Grand total (net)	85,895,503,442	90,990,338,000	91,461,593,000	90,367,535,000	90,735,430,000	+4,839,926,558
Appropriations	(85,745,503,442)	(91,980,338,000)	(92,161,593,000)	(90,502,535,000)	(90,770,430,000)	(+5,024,926,558)
Rescissions	(-3,650,000,000)	(-990,000,000)	(-700,000,000)	(-135,000,000)	(-685,000,000)	(+2,965,000,000)
Emergency appropriations (net)	(3,550,000,000)	.....	.....	.....	.....	(-3,550,000,000)
Advance appropriation, FY 1999	.....	.....	.....	.....	(650,000,000)	(+650,000,000)
(By transfer)	(82,170,564,442)	(91,024,764,000)	(91,496,019,000)	(90,401,861,000)	(90,119,856,000)	(+7,949,291,558)
(Limitation on administrative expenses)	(114,445,000)	(100,074,000)	(115,074,000)	(116,074,000)	(116,574,000)	(+2,129,000)
(Limitation on annual contract authority, indefinite)	(-2,000,000)	.....	.....	.....	.....	(+2,000,000)
(Limitation on direct loans)	(985,095,000)	(984,551,000)	(984,551,000)	(1,021,451,000)	(1,021,451,000)	(+36,356,000)
(Limitation on guaranteed loans)	(238,900,000,000)	(258,661,000,000)	(258,861,000,000)	(258,861,000,000)	(258,861,000,000)	(+19,761,000,000)
(Limitation on corporate funds)	(573,683,000)	(576,312,000)	(576,312,000)	(576,312,000)	(581,312,000)	(+7,629,000)
Total amounts in this bill	85,895,503,442	90,990,338,000	91,461,593,000	90,367,535,000	90,735,430,000	+4,839,926,558
Scorekeeping adjustments	-3,832,100,000	32,100,000	32,100,000	32,100,000	-617,900,000	+3,214,200,000
Total mandatory and discretionary	82,063,403,442	91,022,438,000	91,493,693,000	90,399,635,000	90,117,530,000	+8,054,126,558
Mandatory	21,187,993,000	21,542,804,000	21,542,804,000	21,542,804,000	21,542,804,000	+354,811,000
Discretionary:						
Defense	125,930,000	128,919,000	129,413,000	128,413,000	128,413,000	+2,483,000
Nondefense	60,749,480,442	69,350,715,000	69,821,476,000	68,728,418,000	68,446,313,000	+7,696,832,558
Total, Discretionary	60,875,410,442	69,479,634,000	69,950,889,000	68,856,831,000	68,574,726,000	+7,699,315,558

Mr. LEWIS of California. Mr. Speaker, I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this conference agreement, and I urge my colleagues to vote for it. I must say there are several areas where I wish that we could have done more, but given the budgetary restraints within which we had to work, I believe the conferees have done a very commendable job.

First of all, Mr. Speaker, I want to salute the gentleman from California [Mr. LEWIS], the chairman of the subcommittee. Without his fairness, persistence and sense of humor, I might say, the task of putting this agreement together would have been immeasurably more difficult.

I also want to commend the majority staff, in particular Frank Cushing, Paul Thomson, Tim Peterson, Valerie Baldwin, Jeff Shockey, Alex Heslop and Rose Roberts also for the patience, professionalism, and courtesies they have demonstrated throughout the development of this legislation.

I also want to acknowledge the invaluable assistance I have received from the minority staff in the persons of Del Davis and David Reich, whose professionalism and advice and counsel have been enriching to me at all times, along with Ms. Fredette West of my own congressional staff who has also been invaluable.

Our chairman, the gentleman from California [Mr. LEWIS], has already indicated a number of the more important details of the conference agreement. I just wish to make a few additional observations about this package.

Recognizing the great contributions made by our Nation's veterans, this agreement provides more for the Veterans Health Administration and for the VA in total than either the House or the Senate bill did. Although total funding for the Department of Housing and Urban Development has been reduced from the amount in the House-passed bill, most of this change is a result of including Section 8 reforms, the so-called mark to market provisions, that resulted in substantial savings to the program, those provisions worked out in long negotiating sessions involving the administration and the authorization committees.

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I am grateful that the conferees were able to retain the higher Senate figure, $550 million for the HOPE VI program and the higher House figure of $1.5 billion for the HOME program.

The conferees also recommend a total of $138 million within HUD's Community Development Block Grant program for economic development activities. Some of these funds have been designated for specific purposes, and a significant portion are available at the discretion of the Secretary.

In many instances the designated funds will leverage State, local, and private funding, resulting in synergies that will greatly assist communities across the Nation. I am convinced that this relatively small amount of money will reap benefits far in excess of these funds invested in our cities and towns.

This agreement also reflects discussions held with White House officials before the conference was concluded. Although we were unable to provide everything that the administration indicated was required, I believe that the conferees went a long way to address their concerns. The largest single item in this category is the inclusion of $650 million for the Superfund program as an advance appropriation for fiscal year 1999, subject to authorization.

Mr. Speaker, I encourage the administration to work closely with the legislative committees of jurisdiction so we do not face a similar situation next year.

Regarding funding for the Environmental Protection Agency, I am pleased to report that the conferees recommend nearly $7.4 billion in 1998 funding, an increase above the amounts in both the Senate and the House bills, and more than $500 million above the 1997 total. In addition, there are no anti-environmental riders in this legislation.

There are other programs of great importance to the administration, the Corporation for National and Community Service and Community Development Financial Institutions. Although we could not provide the entire budget request, we were able to provide significant increases above the current year.

The conferees faced a difficult situation concerning the National Aeronautics and Space Administration. Just before the conference NASA indicated it needed $430 million more than their budget request for the International Space Station program. Although NASA was proposing to take the funding from other existing NASA activities, due to the detrimental impact that this could have on certain NASA programs, this request was not fully acceded to.

The conference agreement notes congressional concerns with the ongoing problems plaguing the Space Station, and directs NASA to take several actions to get the project back on track. Until these actions occur, some funding for the station will be withheld.

Mr. Speaker, once again, in concluding my remarks, I want to thank the gentleman from California, Chairman LEWIS, for the very evenhanded way in which he has guided this bill. I have taken great pleasure in serving on this committee with him and, as the ranking member, have been appreciative of the bipartisan manner in which he and I have approached our responsibilities relative to getting this legislation from the House over to the Senate and then back to the House. For that reason, I am very proud to be able to support this bill that is before the House today.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Speaker, it is my pleasure to yield 4 minutes to the gentleman from Michigan [Mr. KNOLLENBERG], a member of the committee, for his statement and a colloquy.

Mr. KNOLLENBERG. I want to thank the chairman for yielding me this time, Mr. Speaker.

I rise to address an issue that I believe strikes at the integrity of this committee. It came to my attention just last week, and it has serious implications on what we have done regarding fair housing activities.

Last week HUD announced the award of fiscal year 1997 funds under the Fair Housing Initiatives Program, also known as FHIP. As we know, the FHIP provides support to private, nonprofit organizations to assist in enforcement of the Fair Housing Act.

For fiscal year 1997, both the House and Senate committees specifically directed HUD to use FHIP funds only, only to address those forms of housing discrimination that are expressly proscribed by the Fair Housing Act. The report emphasized repeatedly that the Fair Housing Act makes no mention of the practices of property insurance. It further instructed that the FHIP funds not be allocated for purposes of enforcing the Act against insurers.

HUD's announcement, in direct contradiction to this committee's intent, awarded numerous grants specifically for activities including investigating property insurance and otherwise seeking to enforce the Fair Housing Act against property insurers. In taking this action, HUD appears to have ignored completely this committee's directive. This is, in my judgment, a very serious matter that has implications beyond fiscal year 1997.

The House in the legislation before us once again stated its intent that FHIP funds appropriated under this measure should not be used to address insurance practices.

Mr. Speaker, for the past two fiscal years this committee, including myself and my good friend the gentleman from Ohio [Mr. STOKES], the ranking member, have worked together to craft report language to everyone's agreement. We did not do this to have it ignored by HUD. Report language is meant to be adhered to, and I intend to question HUD about their intent and apparent neglect of our wishes.

The House Committee Report on the fiscal year 1997 VA–HUD appropriations legislation stated:

The Committee intends that funds appropriated to the Fair Housing Initiatives Program (FHIP) for enforcement of title VIII of

the Civil Rights Act of 1968, as amended, which prohibits discrimination in the sale, rental, and financing of housing and in the provision of brokerage services, be used only to address such forms of discrimination as they are explicitly identified and specifically described in title VIII. Recognizing that there are limited resources available for FHIP activities, the Committee believes that FHIP funds should serve the purposes of Congress as reflected in the express language of title VIII.

The Committee notes that HUD's Office of Fair Housing and Equal Opportunity has undertaken a variety of activities pertaining to property insurance under the authority of the Fair Housing Act. HUD recently testified that, due to Congressional concern about such activities, it does not intend to focus its regulatory initiatives on property insurance. The Committee is encouraged by this statement, but remains concerned about HUD's use of funds for other fair housing activities aimed at property insurance practices.

HUD's insurance-related activities duplicate state regulation of insurance. Every state and the District of Columbia have laws and regulations addressing unfair discrimination in property insurance and are actively investigating and addressing discrimination where it is found to occur. HUD's activities in this area create an unwarranted and unnecessary layer of federal bureaucracy.

The Fair Housing Act makes no mention of discrimination in property insurance. Moreover, neither it nor its legislative history suggests that Congress intended it to apply to the provision of property insurance. Indeed, Congress' intention, as expressly stated in the McCarran-Ferguson Act of 1945 and repeatedly reaffirmed thereafter, is that, unless a federal law "specifically relates to the business of insurance," that law shall not apply where it would interfere with state insurance regulation. HUD's assertion of authority regarding property insurance contradicts this statutory mandate.

This language, which was repeated almost verbatim in the Senate Committee report, makes extremely clear that no fiscal year 1997 funds appropriated for the FHIP were to be used to target the practices of insurance companies.

On February 7, 1997, I wrote to HUD to seek confirmation that the Department's Office of Fair Housing and Equal Opportunity [FHEO] would adhere to the directive expressed in the committee report. I specifically asked: "Will the FHEO Office honor any requests for FHIP funding for activities relating to enforcement of the FHA against insurers?"

In a letter to me dated March 13, 1997, HUD's Assistant Secretary for Congressional and Intergovernmental Relations responded: "All requests for funding under the fiscal year 1997 FHIP Notice of Funding Availability [NOFA] will be screened for proposed activities. The Department will not fund activities relating to enforcement of the FHAct against property insurers."

The letter also provided confirmation of intended adherence by the Department to the Report directive by responding to other questions as follows:

Question. Will the FHEO Office identify, in its public announcement of FHIP awards, whether any portion of those awards might be used for activities relating to applications of the FHA to insurance?

Answer. Yes, the NOFA will state that activities relating to application of the Fair Housing Act to property insurance will not be funded under any of the three Initiatives for which Congress has allocated funding in FY'97—i.e., Private Enforcement Initiative, Fair Housing Organization Initiative, or Education and Outreach Initiative. In addition, the application kit also will emphasize that such activities will not be funded, including as an "in-kind" contribution to the budget. Further, the Office of FHEO will place a special condition on all FY'97 awards regarding this restricted use of funds.

Question. How will the FHEO Office monitor whether any portion of its FHIP awards are used for activities relating to application of the FHA to insurance?

Answer. While the FHEO Office will make it clear that such activities will not be funded, the Office will monitor whether any portion of the FY'97 FHIP awards are used for activities relating to application of the FHA to insurance in several ways: (1) requiring submission of work products which would show the scope of planned activities, such as training outlines, conference agendas and materials, and testing methodologies; (2) a thorough review of reports submitted regarding actual activities under the grant, such as enforcement logs, quarterly progress reports and financial statements; and (3) on-site monitoring of grantees. Monitoring visits include interviews with grantee staff and testers, examination of financial and personnel records, review of testing and other enforcement records.

Subsequently, in a letter to me dated May 13, 1997 the Assistant Secretary qualified the above quoted answer by stating that the Department would seek to ensure that FHIP fund are "not used for narrowly focused enforcement purposes" and that FHIP funded projects "would not be focused upon a single issue, such as insurance discrimination."

Then on September 30, 1997, HUD announced 67 awards of fiscal year 1997 grants under the FHIP. Out of the total of $15,000,000 in funds awarded, HUD announced that almost one third, an amount of $4,170,002, was awarded for activities including investigations, testing, and other enforcement-related projects specifically targeting insurance companies. This is in direct contradiction of the statements in HUD's March 13, 1997, letter to me. More importantly, it flatly contravenes the intent expressed by Congress in the House and Senate Committee Reports on HUD's fiscal year 1997 appropriations.

Such a flagrant defiance of Congressional intent suggests the need for serious consideration about continued funding for the FHIP. I note that the House Committee Report on the fiscal year 1998 VA–HUD appropriations legislation states:

The Committee is encouraged by HUD's recent testimony and correspondence stating that the Office of Fair Housing and Equal Opportunity does not intend to use FHIP funds to solicit or fund applications that would address enforcement of the Fair Housing Act against property insurers. As the Committee has previously emphasized, given the limited resources available for enforcement of title VIII, it is appropriate that funds should serve the particular purposes expressly identified by Congress in the statute. The Committee appreciates HUD's acknowledgment of these budgetary priorities and looks forward to the agency's continued cooperation in adhering to them.

In light of HUD's recent actions, there no longer appear to be grounds for believing that the Department will, in fact, act in "continued cooperation and adhering to" our budgetary priories. This is a very serious matter that I strongly feel should be addressed promptly, including, if necessary, through cutbacks in funding for the Department.

Mr. Speaker, I rise to enter into a colloquy with the distinguished gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. KNOLLENBERG. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I am pleased to join in a brief colloquy with my colleague, the gentleman from Michigan.

Mr. KNOLLENBERG. Mr. Speaker, reclaiming my time, I am pleased to see that the conferees saw the need and the value to conduct a near-term research program for PM2.5 immediately. Specifically, as an initial phase of the program, the conferees noted the ongoing efforts to conduct research as well as the need to conduct new research with the goal to start and rapidly complete before the next NAAQS review in 2002. This would be in coordination with NAS and target broad-based research program, intensively peer-reviewed research in line with the near-term priorities that the gentleman cites, and to fully reanalyze the key epidemiologic studies in this program.

We have heard estimates that successful completion of this near-term research would be in the range of $5 million. I would ask the chairman, does this agree with the estimates that have been suggested to him?

Mr. LEWIS of California. Mr. Speaker, if the gentleman will continue to yield, the gentleman is correct, the near-term research is vital, and $5 million is a good estimate of what would be necessary to carry out this research.

Mr. KNOLLENBERG. Mr. Speaker, reclaiming my time, would the Health Effects Institute, HEI, be an example of the type of independent research institute that was suggested in the conference report that should have priority to undertake this work?

Mr. LEWIS of California. If the gentleman will continue to yield, Mr. Speaker, the gentleman is correct. It would be the intent of the conferees and this conference report that institutes such as HEI would receive priority in the process laid out in the conference report.

Mr. KNOLLENBERG. I thank the distinguished chairman for his time.

Mr. LEWIS of California. I reserve the balance of my time, Mr. Speaker.

Mr. STOKES of Ohio. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Ohio [Ms. KAPTUR], a very hard-working and highly respected member of the subcommittee.

Ms. KAPTUR. Mr. Speaker, I thank our ranking member, the gentleman

from Cleveland, OH [Mr. STOKES] for granting me this time, along with our chairman, the gentleman from California [Mr. LEWIS], who has been very gracious.

Mr. Speaker, I rise to engage the chairman in a colloquy on the proposed VA cemetery, Veterans Administration Cemetery in Guilford Township, OH. I am concerned about the potential conflict that could arise between Federal and local land and water uses between Medina County and Wayne County related to the development of that new veterans cemetery.

As ranking member of the Subcommittee on Agriculture, Rural Development Food and Drug Administration, and Related Agencies of the Committee on Appropriations and a member of this VA–HUD subcommittee as well, I have heard from many local officials and citizens in the community concerned about farmlands preservation being essential to the maintenance of a sound rural economy in this region of Ohio.

Before the final Federal water contracts are negotiated, I would urge the Veterans Administration to meet with township and other local officials in both counties to ensure that local land use is respected, the impact of the proposed VA water acquisition on productive farmland is assessed, and the best water source for the new national cemetery is developed.

Mr. LEWIS of California. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, first let me say that I very much appreciate the gentlewoman's work on our committee. She is a most effective member.

She and I have discussed the fact that water rights are really State and local issues, but at the same time, the gentlewoman is in a perfect position to make this point at a very appropriate time. I concur with the gentlewoman from Ohio, and encourage the VA to act expeditiously to resolve this conflict.

Ms. KAPTUR. Mr. Speaker, reclaiming my time, I thank the chairman very much for his leadership on this entire measure. Congratulations on a fine bill, and I want to thank the gentleman from Ohio [Mr. STOKES], the ranking member, as well.

Mr. LEWIS of California. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN], a very diligent and effective member of our subcommittee.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of the conference agreement. I especially want to congratulate the gentleman from California, Chairman LEWIS, and the gentleman from Ohio, Mr. STOKES, the ranking member, for their hard work on this bipartisan agreement, and thank their staffers for their excellent work in cooperation.

Mr. Speaker, this bill contains essential funding for our Nation's veterans for protection and preservation of the environment, and for meeting the housing needs of our older citizens, as well as citizens with disabilities, and for exploration and scientific research.

While I am pleased that this agreement provides full funding for our veterans health care system, I remain concerned about the way the VA is distributing these funds among their new network system and the effect it may have on our veterans in the Northeast, their access to medical care. That is why I am pleased that this agreement asks the General Accounting Office to review the network system and provide Congress with a report in 9 months on its findings. I look forward to the GAO's analysis.

In addition, this conference report contains increased funding for the EPA's Superfund program, and having visited 11 sites in my district over the last 2 weeks, I am very pleased that the committee has provided an additional $100 million, for a total of $1.5 billion. As I have said on previous occasions, there remains a desperate need to reform the Superfund program. With this agreement Congress is telling the EPA that we are committed to cleaning up these sites, and at the same time urges the EPA to work with Congress to reauthorize this important program.

As detailed in a recent GAO report, the current program spends less than 49 cents of every dollar on actual cleanups. This is simply not acceptable. When our citizens ask where the money is for cleanups, the answer is, the money is there, it is just not used, or in many cases not being used wisely and effectively. I remain optimistic, nonetheless, that by working together this program can achieve its goal of cleaning up all sites across America.

In summary, Mr. Speaker, this is a good, balanced conference report. I urge my colleagues to support it.

Mr. STOKES. Mr. Speaker, I am pleased to yield 4½ minutes to the gentleman from West Virginia [Mr. MOLLOHAN], a very valuable and hard-working member of our subcommittee.

Mr. MOLLOHAN. Mr. Speaker, I would first like to express my gratitude to the gentleman from Ohio [Mr. STOKES], the ranking minority member, for his hard work on this committee and the leadership he has provided. I have held him in high regard ever since I came here, and I appreciate his good efforts, and for yielding this time to me. Likewise, I would express my appreciation to the chairman of the committee for the excellent work he has done on this bill. I am pleased to join him and the gentleman from Ohio [Mr. STOKES] in supporting it.

Mr. Speaker, I rise for a colloquy with the chairman.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I am happy to participate in a colloquy with my colleague and member of the committee.

Mr. MOLLOHAN. First of all, I thank the chairman for agreeing to participate in this colloquy to discuss how EPA will proceed with the particulate matter research program. This program will determine the scientific soundness of EPA's newly announced national ambient air quality standards, and will ensure that the regulations promulgated under these standards are based on solid scientific evidence.

As we know, EPA has been criticized for its handling of the current research program. This criticism has undermined the credibility of the stated research results, and this in turn has called into question the recently finalized standards. While we want to move forward on air quality improvement, it must be justified, because the economic dislocation associated with the promulgation of new regulations is very real.

The chairman is to be commended for the inclusion of the $49.6 million in the conference report for the express purpose of developing a fair and comprehensive particulate matter research program. He is also to be commended for directing the National Academy of Sciences to develop and oversee the implementation of this research program and to periodically report back to the Congress. This process should give credibility to the program and foster confidence in research results, thereby laying a consensus scientific foundation for the standard-setting and promulgation of regulations.

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Since the National Academy of Sciences has until April 1998 to complete this planning agenda, and since EPA will continue research activities until then, I would like to clarify how EPA will proceed with this research program in the interim.

Mr. Chairman, I know that it is very likely that EPA will obligate some of the 1998 research funds before the completion of the National Academy of Sciences' planning agenda. It is important that when EPA does obligate funds, it does so in the spirit of the gentleman's directive, applying the principles of diversity and scientific integrity, and I ask if the gentleman would agree.

Mr. LEWIS of California. Mr. Speaker, if the gentleman would yield, I would respond by saying to my colleague that I very much appreciate his involvement in this critical issue, a critical issue to us, those of us who

focus on this problem in the Congress, but to the country as well.

Mr. Speaker, I would respond further to the gentleman by saying that I agree that EPA has worked closely with us in developing the particulate matter research program outlined in H.R. 2158. They have pledged to fulfill the requirements in the statement of managers to the best of their ability. I expect them to exercise sound judgment in the distribution of funds and be prepared to reorient certain of their efforts upon completion of the NAS research plan.

Mr. MOLLOHAN. Mr. Speaker, reclaiming my time, it is my understanding that the research program described in the report is intended to build on activities currently underway at EPA at the National Institute for Environmental Health Sciences, the National Academy of Sciences, the Health Effects Institute, and many other public and private entities.

Mr. Speaker, I would ask the gentleman from California whether we can be assured that EPA will establish diversity among the researchers such that all stakeholders should feel comfortable with the composition of the research community which would give credibility to the results of the research.

Mr. LEWIS of California. Mr. Speaker, if the gentleman would yield further, certainly the gentleman is correct. The legislation, in fact, directs EPA to ensure that quality researchers participate in broadly based, comprehensive, competitive, and peer-reviewed research programs. Only when we bring together a diverse community of the best scientific minds on this matter, both inside and outside of government, can we feel assured that science is being used to lay a credible foundation for policy.

Mr. Speaker, I very much appreciate the gentleman allowing me to participate in this colloquy.

Mr. MOLLOHAN. Mr. Speaker, again reclaiming my time, I thank the gentleman from California for his leadership in this matter and for these clarifications.

Mr. LEWIS of California. Mr. Speaker, I yield 1½ minutes to the gentleman from Arizona [Mr. STUMP], the chairman of the Veterans' Affairs Committee.

Mr. STUMP. Mr. Speaker, I rise in strong support of the conference report on H.R. 2158, and I particularly want to commend the gentleman from California [Mr. LEWIS], the chairman of the Subcommittee on VA, HUD and Related Agencies, for his insistence that veterans programs be funded at adequate levels.

Mr. Speaker, I also commend the gentleman from Ohio [Mr. STOKES] for his effort on behalf of the veterans, and I urge my colleagues to support this report.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BROWN], the distinguished ranking member of the Committee on Science.

Mr. BROWN of California. Mr. Speaker, I commend the gentleman from Ohio [Mr. STOKES] and the gentleman from California [Mr. LEWIS] for the excellent work that they have done in bringing this bill before us.

Mr. Speaker, I do not want to be overly enthusiastic, but in the roughly 32 years that I have worked with this committee, I think from the standpoint of the Committee on Science we have probably reached some sort of a peak of efficiency and effectiveness and concern and sharing. I want to say that I am grateful for this situation and hope that it can continue.

I, of course, as the chairman indicated, am the ranking member on the Committee on Science, which deals with a number of the programs contained in this bill, NASA, FEMA, EPA, NSF, as far as the research elements are concerned. I want to say that I feel that in every case these programs have been treated with sensitivity. Where there are problems within the agencies, they have been recognized and efforts have been made to guide them in the right direction.

And we will continue to have problems, of course, with some of these agencies, NASA and EPA, perhaps amongst the most, and we will need to continue to give them guidance and assistance in achieving their goals.

Mr. Speaker, I want to also indicate that for many, many years I have had a deep interest and a high priority in the areas of housing and veterans' concerns. I served 8 years on the Committee on Veterans' Affairs, and, again, I compliment the committee for the excellent way in which they have handled these. I am not as directly involved, but I am as deeply concerned about these programs as I am with the programs with research.

So, Mr. Speaker, I look forward to our continued cooperation. I will not indicate the scientific items on which I am extremely grateful for the chairman and the ranking member's concern, but I think they know what they are. But overall, I think the important message is that this committee in this bill has done more for research and development than the Administration has asked for. I have been critical of the Administration because I felt that it was shortchanging some of these very important investments, and we are now on the right track.

Mr. Speaker, I submit for the RECORD an article from the latest issue of Science magazine, the organ of the American Association for the Advancement of Science, which is headlined: "Friendly Finish Looms on Spending." Mr. Speaker, this article points out, if I may quote the first couple of sentences, "Congress is proving kind to most federal science and technology programs as it wraps up work on the 1998 budget."

I include the full article for the RECORD.

[From Science, Oct. 3, 1997]

FRIENDLY FINISH LOOMS ON SPENDING

(By Andrew Lawler)

Congress is proving kind to most federal science and technology programs as it wraps up work on the 1998 budget. The National Science Foundation (NSF) can look forward to a 5% boost in research, spending for defense R&D will rise enough to cover inflation, and most technology programs that the Republican Congress loved to hate only a year ago have sailed through both houses.

But some of the details are not so rosy. Cash-strapped NASA, for example, faces another delay in the space station. Congress also ordered the Department of Energy (DOE) to postpone for at least a year the restart of a troubled reactor used by neutron scientists at Brookhaven National Laboratory in Upton, New York. And it failed to grant NSF's wish to build a polar cap observatory near the magnetic North Pole.

Here are some highlights of the appropriations bills that emerged from joint House-Senate conferences last week. They must still be approved by each body and signed by the president:

NSF: The good news is that the agency's research account will increase by $113 million to $2.55 billion. The bad news is that NSF must spend $40 million of that increase on a plant genome initiative, a project promoted by agricultural lobbyists and championed by Senator Kit Bond (R-MO) that was not part of NSF's request (Science, 27 June, p. 1960). The agency's education programs will receive $633 million, a 2% rise that doubles the request.

The toughest decisions came in the agency's account for large facilities. Legislators did not fund a $25 million polar cap observatory to study solar-upper atmosphere interactions, asking for more information on the proposed site near the magnetic North Pole in northwest Canada. Senator Ted Stevens (R-AL) wants the facility built at an Alaskan defense lab, which scientists say would greatly reduce its value. But conferees added $4 million to complete the twin Gemini telescopes and maintained initial funding for the $200 million millimeter array. And they voted $70 million for a new South Pole station, a compromise between the Senate's $25 million increment and the House's $115 million that would have funded the full cost of construction. They also dropped a House plan to give $5 million more to two supercomputer centers being phased out.

NASA: The space agency received $13.65 billion, $100 million above the request and close to the 1997 level. But that windfall won't go far, as the agency failed to win approval to move money from other accounts into the station budget to meet cost overruns. Lawmakers like Senator Barbara Mikulski (D-MD) worried that other programs—particularly the space shuttle and science efforts—would suffer as a result, so it severely restricted the agency's flexibility. Congressional sources say the language is intended to force the Administration to request a bigger NASA budget, but NASA managers aren't heartened. "We're in a bad situation," says one. "This would force a slip in the station's schedule."

Mikulski also insisted that NASA use more competitive methods to distribute money set

aside for programs such as New Millennium, a new program administered by the Jet Propulsion Laboratory in Pasadena, California, that aims to test advanced technology for future space science missions. That move could open the door for Johns Hopkins University's Applied Physics Laboratory in Mikulski's home state.

DOE: There were few surprises in DOE's final 1998 budget, which meets the Administration's $2.36 billion request for science programs. Conferees did give high-energy physics and nuclear physics slight increases, and added nearly $25 million for several pork-barrel projects in biological and environmental research. DOE can continue to clean up the leaking High-Flux Beam Reactor at Brookhaven, but is forbidden from spending money on restarting it for 1 year, Martha Krebs, DOE energy research chief, says the reactor would not have been ready for a restart then anyway, but that decision on its future is due in January. However, opponents may try to extend the provision next year.

Environmental Protection Agency: The agency's science and technology account appears likely to receive $15 million more than the president request and $80 million above the 1997 level. But the $630 million figure includes $23 million more for a research program on the health effects of particle air pollution, with advice from the National Academy of Sciences. The conferees discarded proposals from the House to funnel this money through other agencies and a Senate plan to set up university-based research centers.

Defense Department (DOD): Funding for basic science at DOD has survived a roller-coaster ride to finish at about the same level—$1.08 billion—as this year. Applied research funds will increase 8.9% to $3.1 billion. This category includes grant money for university research activities, which increases by 7% to $230.8 million. Total R&D at the Pentagon rises 3.5% to $37.9 billion. In addition, the conferees have retained several popular biomedical programs, including $135 million for breast cancer studies and $45 million for prostate cancer research. "It's a mixed bag," says analyst George Leventhal of the Association of American Universities.

Meanwhile, the massive bill that includes funding for the National Institutes of Health was still in limbo after legislators met last Friday. Biomedical advocacy groups hope the conferees will split the difference between the House's offer of a 6% increase and the Senate offer of a 7.5% raise.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WALSH], the chairman of the Subcommittee on Legislative Appropriations.

Mr. WALSH. Mr. Speaker, I rise in strong support of this conference report, and I congratulate the gentleman from California [Mr. LEWIS], the chairman, and the gentleman from Ohio [Mr. STOKES], the ranking member.

Mr. LEWIS of California. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa [Mr. LEACH], the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Speaker, with reservation I rise today in support of this conference report.

Mr. Speaker, let me begin by offering my appreciation to the gentleman from California [Mr. LEWIS], my friend and colleague, as well as the gentleman from Ohio [Mr. STOKES], the ranking member, for their work in completing what is clearly a strong bipartisan agreement.

I would also like to thank the gentleman from New York [Mr. LAZIO], chairman of the Subcommittee on Housing and Community Opportunity, for his exceptional work in helping craft a solution to the problem of expiring section 8 multifamily housing contracts. The dedication of the gentleman from New York and the gentleman from California [Mr. LEWIS] to sound housing and community development policy is a credit to their respective chairmanships.

Mr. Speaker, so there is no misunderstanding, current section 8 programming symbolizes Congress being placed by prior Congresses in a catch-22 where good public intentions have, in too many cases, crossed wires with imperfect private sector motivations, which in turn have been exacerbated by unrealistic legislation.

The deferred obligations implicit in section 8 housing present Congress with an untenable choice: Either walk away from projects that serve hundreds of thousands of needy people, many of whom are elderly, or accept funding obligations far in excess of those originally conceived.

The end effect of the current program has been the classic scheme of advancing programs for the moment, with huge deferred funding liabilities. Those liabilities have now come due and are stretching the congressional budget process in an unseemly as well as expensive manner.

Mr. Speaker, from the authorizing committee's perspective, we have attempted to devise an approach correcting the deferred liability schematics of the past. It is clear that the status quo is unfair to taxpayers and unfavorable to tenants. Owners, on the other hand, have unintentionally been provided cost-plus incentives to maximize return without necessarily paying adequate attention to property maintenance.

The section 8 reforms presented by the Senate for consideration by the Committee on Appropriations were clearly improvements over the current system, but the House authorizing committee, in negotiations with the Senate, took the position that the public treasury would still be at risk and tenants in jeopardy unless systems were put in place that took owners out of the driver's seat.

Hence, the authorizing committee developed a legislative approach based on three broad premises: One, full and fair competition among administrative entities with a greater emphasis and utilization of nonprofit institutions; two, greater empowerment opportunities for program participants and the assumption that the greater the choices allowed tenants, the greater the accountability of landlords; and, three, stronger protections against potential fraud and abuse by building checks and balances into Administration decision-making.

Some of our approaches were embraced by the appropriations conference. We cannot say, however, that our concerns have fully been met or that we have been pleased with all of the processes of consideration that have taken place.

Finally, Mr. Speaker, let me just say I must express some concern with the significant number of targeted special purpose grants included in this report. At issue are questions of judgment as well as the proper constitutional role of the Congress, which may in the end be embarrassed by a President exercising proper line-item veto authority.

Mr. Speaker, with reservation I rise today in support of the fiscal year 1998 VA, HUD and independent agencies appropriations conference report.

Let me begin by offering my appreciation to my friend and colleague from California, the subcommittee chairman, and the ranking member from Ohio for their work in completing the bipartisan agreement we have before us today.

I must also thank the Housing Subcommittee chairman from New York, Mr. LAZIO, for his exceptional work in helping craft a solution to the problem of expiring section 8 multifamily housing contracts. His and Mr. LEWIS' sincere dedication to sound housing and community development public policy are a credit to their respective chairmanships.

So there is no misunderstanding, current section 8 programming symbolizes Congress being placed by prior Congresses in a catch–22, where good public intentions have in too many cases crossed wires with imperfect private sector motivations which in turn have been exacerbated by unrealistic legislation. The deferred obligations implicit in section 8 housing present Congress with an untenable choice: Either walk away from projects that serve hundreds of thousands of needy people many of whom are elderly, or accept funding obligations far in excess of those originally conceived.

The end effect of the current program has been the classic scheme of advancing programs for the moment, with huge deferred funding liabilities. Those liabilities have now come due and are stretching the congressional budget process in an unseemly as well as expensive manner.

The goal of the multifamily restructuring legislation contained in title V of the conference report is to reform today's system, but also to assure that taxpayers and tenants are better protected in the future.

In my view, this can only be done if it is clear to landlords that their ownership is jeopardized both by financial profligacy and by ill-service to tenants. Hopefully, the conference report lays out a legislative scheme which allows the Government to more easily say "no" and to allow intervention by nonprofits, as well as alternative voucher approaches. In my

judgment, without the possibility of Government intervention and vouchers, imperfect landlords will be given free rein.

A key element under the multifamily restructuring program is the determination of rents for comparable properties, or market rents. The conference report provides that "where applicable" comparable properties should be located in the same market area as the section 8 project. Thus, the conferees recognize that it may not be possible to find comparable properties in some areas. This is particularly true for projects in rural communities, and especially for specially designed properties for the elderly. In those cases the appraiser could look to other areas to locate comparable properties.

From the authorizing committee's perspective, we have attempted to devise an approach correcting the deferred liability schematics of the past. It is clear that the status quo is unfair to taxpayers and unfavorable to tenants. Owners, on the other hand, have unintentionally been provided cost-plus incentives to maximize return without necessarily paying adequate attention to property maintenance.

The section 8 reforms presented by the Senate for consideration by the Appropriations Committee were clearly improvements over the current system, but the House authorizing committee in negotiations with the Senate, took the position that the public treasury would still be at risk and tenants in jeopardy unless systems were put in place that took owners out of the driver's seat.

Hence the House authorizing committee developed a legislative approach based on three broad premises: first, full and fair competition among administrative entities with a greater emphasis on utilization of non-profit institutions; second, greater empowerment opportunities for program participants on the assumption that the greater choices allowed tenants, the greater the accountability of landlords; and third, stronger protections against potential fraud and abuse by building checks and balances into administration decisionmaking.

In this regard, it is interesting to note that the House authorizing committee's legislation scored savings of $759 million in fiscal year 1998 according to CBO, almost $200 million more than the Senate legislation. The Appropriations Conference unfortunately chose to lean to the Senate approach. Nevertheless, from an authorizing committee perspective, we are pleased that reform is underway and that some of our approaches were embraced by the Appropriations Committee.

We cannot say, however, that our concerns have been fully met or that we have been pleased with all the processes of consideration that have taken place.

Finally, I must express my concern with the significant number of targeted special purpose grants included in the conference report. For instance, almost 130 separate communities or projects will receive exclusive funding grants totaling more than $100 million in carve-outs under the $138 million Economic Development Initiative program. I must urge my colleagues to carefully consider the implications of stipulating so many projects for funding. At issue are questions of judgment as well as the proper constitutional role of a Congress, which may, in the end, be embarrassed by a President exercising proper line-item veto authority.

We in Congress are simply obligated to recognize that there is a place for professionalism in executive departments like HUD where individual program priorities should be set. Congress' role should be to pass broad laws with definitive policy parameters. Individual program decisions, on the other hand, should largely be left to the executive branch.

Mr. STOKES. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH], my friend and distinguished colleague who shares the representation of Cleveland, Ohio, with me.

Mr. KUCINICH. Mr. Speaker, I first want to congratulate the gentleman from California [Mr. LEWIS] for the work which he has done on this important appropriations bill. I also thank the gentleman from Ohio [Mr. STOKES], my friend, for sharing his knowledge and understanding of the process with me to enable me to more effectively participate as a freshman.

Mr. Speaker I rise in support of the conference agreement on the fiscal year 1998 VA–HUD appropriations bill. This bill provides $13.6 billion for the programs in the National Aeronautics and Space Administration, which fully funds the President's request, including the National Aeronautics and Space Administration's aeronautics program, and also provides for the work associated with Lewis Research Center, which I am proud to say is served by the gentleman from Ohio [Mr. STOKES], the gentleman from Ohio [Mr. LATOURETTE], the gentleman from Ohio [Mr. BROWN], and myself and the entire Ohio delegation.

I am pleased that the conference agreement provides increased funding for the International Space Station. This action by the Congress will help to keep the Space Station on schedule.

The bill also provides essential support for Mission to Planet Earth, the NASA program which will enable a system of Earth observing satellites to study global climate change.

In this Congress, we have seen important debates about the future of NASA and the International Space Station. This fiscal year 1998 appropriation will enable the agency to continue its progress on exploring the last frontier, the frontier of space, while bringing back to Earth the technological benefits of that exploration.

Mr. Speaker, for this I commend this bill to my colleagues and urge its support. And I want to express my continued appreciation to the men and women of the National Aeronautics and Space Administration for their vision, for their attention to detail, and for their commitment to our country.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I want to be sure that my understanding of the provisions in the bill before us is correct. As I read the bill, it appropriates $2.15 billion for the Superfund program, but $650 million of that money is effectively held in reserve. I ask the gentleman from California if that is correct.

Mr. LEWIS of California. Mr. Speaker, if the gentleman would yield, that is correct.

Mr. OXLEY. Mr. Speaker, reclaiming my time, let me further be sure that I understand the two events that are necessary to unlock the funding. First, the money will only be available after October 1, 1998; is that correct?

Mr. LEWIS of California. Mr. Speaker, if the gentleman would again yield, that is correct.

Mr. OXLEY. Mr. Speaker, again reclaiming my time, second, let me be very clear in how I ask this question. The money will only be available at that time if we enact comprehensive Superfund reform; is that correct?

Mr. LEWIS of California. Mr. Speaker, if the gentleman would continue to yield, the language requires that Superfund be reauthorized by May 15, 1998, in order to receive the additional funds. It certainly is my intent that such a reauthorization be comprehensive reform of the Superfund law.

Mr. OXLEY. Mr. Speaker, again reclaiming my time, is the committee trying to tell us that it shares our strong desire for fully funding toxic waste cleanups?

Mr. LEWIS of California. Mr. Speaker, the gentleman is correct.

□ 1600

Mr. OXLEY. So if we fix it, the Committee on Appropriations will fund it?

Mr. LEWIS of California. Mr. Speaker, that is correct.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for his time. We will get a new law as soon as we can.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS. Mr. Speaker, the Subcommittee on General Oversight and Investigations of the Committee on Banking and Financial Services undertook an investigation of the CDFI fund in the past year. As a result of that investigation, the two top officials of that fund have resigned. I have been working with the Committee on Appropriations to legislate some safeguards to end the type practices which resulted in their resignation. Among these practices, one that continues to go on is they still are paying outside consultants, one, $217,000 for a 15-month period. I am happy to report to this body today that the Committee on Appropriations and this conference report, this conference report has addressed most of these concerns.

There is, however, one concern that I think we are leaving hanging out

there. I do not think it was an intentional thing. I think it was just the conference language unintentionally may not have taken care of that.

Mr. Speaker, I wish to yield to the gentleman from California [Mr. LEWIS] for the purpose of engaging in a colloquy concerning this practice of hiring outside contractors.

Mr. Speaker, is it correct that the VA–HUD conferees sought to curtail the exorbitant use of management consultants and outside consultants at the CDFI fund? As we know, they spent a little over $2 million this past year.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, the gentleman is correct.

Mr. BACHUS. That being the case, would the gentleman join me in a request to the Department of Treasury that it immediately bring its contracting practices at the CDFI fund into conformance with the intent of the VA–HUD conference report language, that being that contractors, outside contractors not be paid more than the ES–3 rate?

Mr. LEWIS of California. Mr. Speaker, if the gentleman will continue to yield, that is my intention and I will be happy to join the gentleman.

Mr. BACHUS. Mr. Speaker, I have shared with the gentleman my concern, and I ask the gentleman and the committee to support me in separate legislation to achieve the goal of limiting abusive contracting practices at the CDFI fund. I intend to introduce legislation.

Mr. LEWIS of California. Mr. Speaker, I very much appreciate the gentleman's leadership on this matter. I will be happy to join him.

Mr. BACHUS. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, the Banking Oversight Subcommittee has conducted a review of the procedures of the CDFI fund administered by the Department of the Treasury. I think it is safe to say there is a consensus that the CDFI fund operated with very few safeguards against abuse during its first round of awards in 1996.

I am pleased that these concerns have been addressed in the VA, HUD, and independent agencies conference report. However, this conference report fails to address one area of concern.

One area of abuse by the CDFI Fund brought to the attention of the Appropriations Subcommittee is the exorbitant use of so-called management consultants by the CDFI Fund. In less than 2 full fiscal years, the CDFI fund has paid out approximately $1.2 million to these management consultants. Our review has shown that contracts were handed out without full or open competition to a network of contractors. Certain of these contracts are truly sweetheart deals: one consultant alone was paid $216,713.41 for part-time work over a period of approximately 15 months.

I appreciate that the VA, HUD, and independent agencies conferees seemed to recognize this problem and attempted to place limits on the amounts the CDFI Fund pays to outside contractors. The conference report to H.R. 2158 provides funds for the CDFI fund "including services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for ES–3.

Unfortunately, the conferees seemed to have failed in their goal of closing this loophole. The conference report language will have no impact whatsoever upon abuse of contracting authority by the CDFI fund as it is limited solely to the CDFI fund's use of contractors retained under 5 U.S.C. 3109. Although much confusion remains concerning the procedures used by the CDFI fund in selecting outside contractors and fixing their compensation, the one thing that has been established is that the CDFI fund did not rely upon 5 U.S.C. 3109 in retaining its contractors. As a result, the conference report fails to place any limitations upon the CDFI fund's use of contractors.

Mr. LEWIS of California. Mr. Speaker, I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. PRICE], a very distinguished and valuable member of the subcommittee.

Mr. PRICE of North Carolina. Mr. Speaker, I am proud to support this conference report. As a new member of this subcommittee, I am grateful to both the gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] for their evenhanded bipartisan work in putting together this difficult piece of legislation.

The bill has broad support from both parties and in both Chambers. In numerous ways this conference report addresses our Nation's critical priorities. For example, the report increases the appropriation for veterans' medical care to $17.7 billion, higher than either House initially approved, with $600 million coming from medical care cost recovery sources.

The report increases funding for the HOME program at the Department of Housing and Urban Development to $1.5 billion, $109 million above last year's level. The HOME program allows those providing affordable housing to use Federal block grants to leverage private sector money with a minimum of unnecessary regulation. It is an efficient and a practical way to open up homeownership to thousands of Americans. I am pleased that in a tight budget year we were able to find additional resources for HOME.

Funding for the EPA at a level of $7.4 billion is more than $500 million above the fiscal 1997 level. The budget for EPA includes $3 million for research and monitoring of Pfiesteria, an environmental threat that even now, the full dimensions of that threat are not known to us. In addition, nearly $50 million of the funding at the EPA is for research on fine particulate matter. Many of us may have differences over the new clean air regulations. No one can argue with the necessity of doing research to determine exactly what standard is justified.

Within the FEMA section, I was pleased that language that would have restricted States and municipalities from using disaster relief to clean up streams and parks and beaches was removed, giving full flexibility for the use of these funds which have been critical in allowing my State to recover from last year's devastation caused by Hurricane Fran.

The National Science Foundation receives a healthy 4.7 percent increase to a level of $3.4 billion. I am particularly pleased that in that NSF budget we have given good support to the Advanced Technology Education program, which for the first time has the NSF working effectively with our Nation's community colleges.

I am very appreciative, Mr. Speaker, of the leadership of the gentleman from Louisiana [Mr. LEACH] and the gentleman from California [Mr. LEWIS], the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Ohio [Mr. STOKES]. I want to add my appreciation for the excellent staff work that has been done on this bill, as fine as any I have ever seen. The help I received, particularly from Frank Cushing and Valerie Baldwin on the majority side, Del Davis and David Reich on the minority site, has been absolutely invaluable.

I urge my colleagues to support this conference report. I assure them they can do so with confidence.

Mr. STOKES. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY], distinguished ranking member of the full Committee on Appropriations, who has been of great assistance to both me and the gentleman from California [Mr. LEWIS] as we developed this bill and took it through to the point where we now bring it.

Mr. OBEY. Mr. Speaker, let me make clear that I think that this bill is very much short of what we need in a variety of areas, including environmental protection, housing and veterans' care. The problem, however, is that this committee was constrained in its ability to meet those needs by the budget agreement, and given that fact, I think the committee has done a perfectly reasonable job.

I am especially pleased by the fact that the committee did not do what is often done in this place, which is to dump amendments that are adopted in the House once they go to conference on important matters. I am happy that the committee retained the spirit of the amendment that I offered when this bill was on the floor, which removed a good many millions of dollars for the insider deal on the wind tunnel

and instead transferred that money to veterans' funding so that we could do a better job of providing for veterans' health care.

I am pleased that the committee retained the spirit of that amendment in conference and wound up providing a higher amount for veterans' health care than was in the original administration request or the committee bill. I appreciate that action on the part of the gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] and the committee.

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

I have no further requests for time. I will just take a moment once again to express my appreciation to my chairman, the gentleman from California [Mr. LEWIS] for the excellent manner in which we have been able to work together and bring this legislation to the floor. I think both of us take a great deal of pride in the fact that we think that our work together is a model for this institution and the manner in which bipartisanship can bring to the floor the kind of legislation that all of us can support. I do support this conference report, and I do urge all my colleagues to vote for it.

Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Let me echo my colleague's remarks about the bipartisanship of the work that we have done together. I want to express my appreciation to the gentleman from Wisconsin [Mr. OBEY], ranking member of the full committee, certainly the gentleman from Ohio [Mr. STOKES], my colleague. I am very appreciative of the help of the gentleman from Louisiana [Mr. LIVINGSTON], as well as all of our staff.

I would just note one item. The bill is a very complex bill, as we have suggested. We have operated in a circumstance where a very high percentage of our bill has not been authorized, in some instances for several years. It is very important, to help us with that work, that our authorizing committees go forward with their work as well. We will try to work with them positively in the next Congress or the next go around. Without authorization, it is very difficult to reflect all the needs of the Members of the House.

Mr. FAZIO of California. Mr. Speaker, I rise today to discuss the health care needs of Northern California's veterans, as the debate on the Conference Report to the VA, HUD and Independent Agencies Appropriations bill comes to a close. Included in the bill is the Department of Veterans Affairs' plan for veterans health care in Northern California. I recommended that the conference committee which negotiated the final version of bill accept and fully fund this plan, and I am pleased that they did.

Serving the health care needs of Northern California's veterans has always been and will always be one of my top priorities. The Loma Prieta earthquake of 1992 rendered the veterans' hospital in Martinez, CA unusable, and for the last several years I have worked with my colleagues in the House, the veterans in my district and the Veterans Administration to ensure the veterans in the area receive the medical care that they deserve. Since the Martinez Hospital closed, I have relied heavily on the input and feedback from the local veterans community, represented by Operation VA. Without question, Operation VA has been the voice of the veterans community, and their tireless commitment to this cause has kept the issue in the forefront for the last several years.

This has been a long hard fight. In 1994 and 1995, I worked with my colleagues in the House to secure funding for a new veterans hospital to be built at Travis Air Force Base, but several studies were commissioned that recommended against construction of a new hospital at Travis. The recommendations of the most recent study, completed by Price Waterhouse, did not adequately address the needs of Solano County's veterans. Working together with area veterans, led by Operation VA, through hard and dedicated work, we were able to convince the VA and Congress that the Price Waterhouse recommendations were an insult to the men and women in the Travis area who are dependent on the VA to address their health care needs. We persuaded the VA to re-evaluate the needs of the Travis area veterans. To that end, they recommended the Air Force give one-third of Travis's David Grant Medical Center's inpatient beds to the VA creating a wing that will be staffed by VA doctors and they recommended a comprehensive VA outpatient clinic at Travis.

This bill includes funding and a commitment that will allow Travis to become a viable veterans health care center. This is a bittersweet victory because while we fell short of our ultimate goal of a full fledged hospital at Travis, we were able to secure much more than the Price Waterhouse report recommended and our Congressional opposition was willing to provide us. I will continue to fight to make sure that the long-term health care interests of Solano County's veterans are addressed and I will work to make sure everyone involved honors their commitments.

Mr. DOYLE. Mr. Speaker, I would like to express my strong support for a provision in H.R. 2158, the fiscal year 1998 VA–HUD funding bill that would significantly improve the health care provided to the veterans of Western Pennsylvania.

Language included in this measure would allow the University Drive VA Medical Center (VAMC), located in Pittsburgh, PA, to go ahead with plans to renovate a number of the hospital's patient rooms and support facilities. The improvements are planned for the main building of the University Drive facility, which has not been significantly changed since it was built in 1954. The renovations will bring the medical center up to VA minimum standards for life safety, patient privacy and handicapped accessibility. Additionally, these changes are required to more adequately meet the needs of the increasing number of female veterans who are being treated at the medical center.

This project would improve the overall quality of health care provided at the University Drive VAMC, a facility that plays an important role in VA health care, not only in the Pittsburgh area where I live, but across the entire Veterans Integrated Service Network 4 (VISN 4) region. In addition to serving as the primary medical facility for many of the veterans in my district, the University Drive facility serves as a major medical-surgical tertiary care center for the entire western Pennsylvania VA health care network. The facility also operates a number of specialty services, such as liver transplantation, that benefit veterans across an even wider geographic area.

Even though the University Drive VAMC holds significant responsibilities within the VA health care system, current conditions at the facility are making it increasingly difficult for hospital staff to continue to provide high quality medical care. This past Spring, I revisited the facility and toured the main building where the renovations are planned. The conditions that I found, which would be alleviated under the renovation plans funded by this bill, would not be tolerated for a single day in a private hospital environment, let alone the years that such conditions have been present at University Drive.

The University Drive facility has patient rooms with such limited space that a patient must be removed from the room when another patient is brought in on an emergency room gurney to share that room. In other patient wards, as many as 16 veterans share quarters, with limited space and only hanging cloth screens between them. Congregate bath facilities create additional dilemmas for patients and hospital staff, especially with the number of female veterans being treated at the facility increasing. These and other problems associated with the aging building not only inconvenience patients, but also put unnecessary obstacles in the path of hospital employees and their efforts to provide quality medical care to these veterans. Such conditions are certainly not consistent with how we should be honoring and caring for our nation's veterans.

The VA health care system is a very important part of the Pittsburgh community. Our area has one of the largest populations of veterans in the Nation. Thus, VA benefits and services, including health care, have played a large part in the lives of many of our residents.

One of the things I am proudest of about the people of western Pennsylvania is that they understand the gifts our Nation's veterans have given to them. They realize that it is because of the sacrifices our veterans have made on battlefields around the globe that our Nation has been able to prosper, and this prosperity has allowed us to enjoy, among other things, a medical system that is one of the best in the world. I am pleased that H.R. 2158 would finally allow the veterans of western Pennsylvania to share a piece of that medical prosperity, a benefit that they helped secure for the rest of the Nation, and one that is long overdue to the veterans of western Pennsylvania.

Mr. PAYNE. Mr. Speaker, I would like to take this opportunity to commend the Chairman and Ranking Member of the VA/HUD and Independent Agencies Subcommittee for their hard work on this important funding bill. In addition to the crucial funding for affordable

housing, especially Section 8 units for low-income and the elderly, the measure includes provisions which will promote economic growth and development in communities throughout the Nation. I want to express my personal thanks for an important investment that my colleagues agreed to make in my home city of Newark. Let me especially thank Chairman JERRY LEWIS, Ranking Member LOUIS STOKES, and my good friend and New Jersey colleague RODNEY FRELINHUYSEN, for their responsiveness to our request to include $3 million for the restoration of Weequahic Park, a site which has great potential for stimulating our local economy and enhancing the quality of life for local residents.

Improvements in Weequahic Lake, which falls within Newark's Enterprise Community boundaries, make it accessible for families, school children, church groups and other members of the community.

We are all aware of the severe budget restraints under which Congress is operating, but I believe that investments in housing and in our communities are sound investments which will bring considerable future returns. I urge approval of the VA/HUD conference report.

Mr. SHUSTER. Mr. Speaker, I rise in support of the conference report on H.R. 2158, the VA–HUD-Independent agencies appropriations act for fiscal year 1998. This bill provides needed funding for, among other agencies, the Environmental Protection Agency (EPA) and the Federal Emergency Management Agency (FEMA).

First of all, as chairman of the Transportation and Infrastructure Committee which has jurisdiction over EPA and FEMA, I want to thank my colleagues on the Appropriations Committees for their cooperation. In particular, I want to thank the gentleman from California (Mr. LEWIS) for his leadership as chairman of the House Appropriations Subcommittee. As usual, he and his staff have worked hard to accommodate colleagues and produce a reasonable bill. While in a perfect world no Appropriations bill would include authorizations or policy-making provisions, provisions in this bill have generally attempted to take into account concerns of the authorizing committee.

With regard to EPA's clean water and drinking water programs, I would make a few comments and clarifications. I appreciate the efforts of the conferees to provide a level of funding ($1.35 billion) for the Clean Water Act's State revolving fund (SRF) that is higher than the level requested by the administration. The record compiled by our committee and other speaks for itself; adequate funding to capitalize and maintain clean water SRFs pays enormous dividends in terms of environmental protection and economic development.

I am also pleased to support provisions allowing the so-called "cross-collateralization" between the CWA SRF and Safe Drinking Water Act SRF. This flexibility can be extremely helpful to states as they strive to administer clean water and drinking water programs to meet infrastructure needs. I would note that Senate-passed language was modified in conference to clarify that nothing in the provision authorizes the transfer of funds between the SRFs or in any way conflicts with the combined financial administration provisions in Section 130(g) or transferability of funds provisions in section 302 of the Safe Drinking Water Act Amendments of 1996. In addition, nothing in this provision affects in any way the jurisdiction of or understanding between the House Transportation and Infrastructure Committee and the House Commerce Committee relating to the clean water act, the safe drinking water act, and the two SRF's.

I would also like to clarify provisions regarding the State and tribal assistance grants and accompanying joint explanatory statement of managers. The conferees included funds for wastewater and drinking water system needs in Clearfield, Mifflin, Snyder, and Fulton Counties. Unfortunately, the statement of managers inadvertently omitted the community of Wallace-Boggs as the recipient of $1,250,000; I have been assured the intent of the conferees was simply to include the language in the report of the House Appropriations Committee which did in fact specify Wallace-Boggs as the recipient. In addition, the reference in the statement of managers to Adams Township should instead be to Union Township. I appreciate the indulgence of my colleagues on the Appropriations Committee for the opportunity to correct this technical error.

Regarding Superfund, I would simply make a few observations. I am encouraged by the contingent appropriation of an additional $650 million if specific reauthorization of the Superfund Program occurs by May 15, 1998. The Superfund Program doesn't simply need more money. In fact, more money without reform can cause more harm than good. Superfund needs comprehensive, statutory reform and redirection. For too long, the program has been ineffective and unfair, resulting in far too few cleanups and too much litigation. I am hopeful the May 15, 1998 date will help our efforts to move comprehensive reauthorization and reform legislation through the Congress and to the President as soon as possible.

I would also note that the conferees have properly limited the use of Brownfields Grants. Brownfields initiatives are important, but EPA currently has no authority to spend superfund money for remedial actions at facilities that are not on the national priorities list. In addition, Congress must first review and authorize the use of revolving funds before the executive branch proceeds down that path.

Regarding appropriations for FEMA, I am pleased that the conferees resisted language proposed by the Senate prohibiting the use of disaster relief funds in certain instances. I share the conferees' concern regarding the escalating Federal cost of natural disasters but feel that solutions to this problem are better considered as part of a more comprehensive and deliberative reauthorization process.

In contrast, I would note that the uses specified in the statement of managers for portions of the pre-disaster mitigation fund are not authorized. Indeed, existing authority for such a fund is extremely narrow and it seems extremely likely that the vast bulk of the $30 million appropriated for this fund will be spent on unauthorized projects. I would encourage the appropriations committees and FEMA to work closely with the authorizing committees as these provisions are implemented and as we consider legislation to provide appropriate authority for pre-disaster mitigation efforts.

Mr. Speaker, I urge my colleagues to support the conference report.

Mr. WELDON of Florida. Mr. Speaker, for far too long, the veterans of east central Florida have had to travel great distances to receive quality inpatient medical care. This is an intolerable situation which I have worked hard to change. In the Fall of 1998, a new VA clinic will be opened in Brevard County which will help meet the outpatient medical needs of local veterans. This will be the first ever permanent facility to serve area veterans in east central Florida.

However, the long drives for hospital stays currently continue. That is why I led the effort in the last Congress to allow the VA to contract with local health care facilities for inpatient care. This year, language I wrote with my colleague BILL MCCOLLUM establishing this pilot program was included in H.R. 2158, the fiscal year 1998 VA/HUD Appropriation Bill. The program was funded at the level of $5 million in the House bill. This language was not included in the Senate version, but the final House-Senate agreement included the provision.

This pilot project represents the wave of the future, a new and more efficient way to deliver quality health care to those who have sacrificed so much for our freedoms. No longer should the brave men and women who served their country selflessly have to travel long distances for quality care. I am confident that this project will be a great success, and will lead to more widespread contracting efforts in the future.

I strongly support this conference report and I urge my colleagues to vote "yes" on behalf of our Nation's veterans.

Mr. LAZIO of New York. Mr. Speaker, I have strong reservations about the legislative approach the conference report takes toward resolving the problem of expiring section 8 multifamily housing projects under HUD. The House first recognized this problem in the 104th Congress by including in the House Budget Resolution language addressing the so-called mark-to-market dilemma. However, the Senate rejected the provision included in that act. Although the House has been working on this issue for the past two years, I remain concerned that legislation of this magnitude was formulated outside of the regular legislative process. Given the complexity of the program, lack of available data, and the short amount of time to negotiate, the authorizing committees or with outside groups have not vetted many of the details. I believe the conference report legislation may lead to unforeseen, unintended consequences.

The legislation included in the report raises a number of problems, including: First, the likelihood that owners will not participate in this program before their contracts expire because of the uncertainties surrounding the tax consequences of mortgage restructuring; second, the inadequate protection and representation of the taxpayer, third, an over-reliance on HUD, the only Federal Agency to be classified as high-risk, which would effectively control the office that administers this program and affects billions of taxpayers' dollars; and fourth, the lack of full and fair competition to select the most qualified entity to work one-on-one with owners in the restructuring process,

leaving housing finance agencies with a virtual monopoly.

UNKNOWN TAX CONSEQUENCES

The uncertainties surrounding the tax consequences of mortgage restructuring may undermine the legislation's effectiveness and ultimately reduce the savings of the reforms. The most responsible mark-to-market approach would motivate owners to restructure their mortgages before their contracts expire. Such proactivity on the owners' part is vital to the savings of the legislation. Under the conference report, owners will likely not participate in the program before their section 8 contracts expire because the tax consequences of mortgage restructuring are uncertain. Therefore, I am concerned not only that the reforms will not achieve the expected savings but, also that a better bill would achieve more savings.

On September 17, 1997, the Subcommittee on Housing and Community Opportunity held a hearing regarding the tax consequences of FHA-insured, section 8 multifamily housing mortgage restructuring. In that hearing, Ken Kies, Chief of Staff of the Joint Committee on Taxation testified that:

Absent legislation or a Treasury announcement clarifying the Federal income tax treatment under any of the HUD restructuring proposals, it is likely that many project owners will not elect to restructure the FHA-insured mortgages before the expiration of their section 8 contracts for fear of incurring immediate tax liabilities. . . . However, it is clear that if all project owners restructure their mortgages under any of the proposals it is likely that some of these taxpayers will recognize taxable income as a result of the transaction. The possibility of such recognition likely will inhibit many project owners from electing to restructure their mortgages under a proposal.

Moreover, under the conference report's legislation, up to 26 percent of the owners may be forced to choose foreclosure over a bifurcated mortgage restructuring or debt forgiveness because of the different tax treatment of the events. A foreclosure would result in increased costs to the taxpayers as well as a loss of valuable affordable housing stock for low-income families, seniors, and persons with disabilities. I do not want to force a decision based on tax issues that could result in low-income families—particularly seniors—being thrown out into the streets. I want the owners to be no better, nor substantially worse off, than they would have been had they not chosen to participate in this program.

LACK OF TAXPAYER PROTECTION AT THE FEDERAL LEVEL

The conference report legislation does not adequately represent and protect taxpayers against fraud and abuse. In 1996, the HUD inspector general concluded that HUD's Office of Multifamily Housing was "not equipped to provide reasonable stewardship over taxpayer funds expended for its programs." In addition, the Department's poor record in administering its existing programs has earned it the designation by the General Accounting Office of being at "high-risk" for waste, fraud and abuse—the only Cabinet-level Agency in history to receive such a designation. In this context, HUD is simply ill-equipped to handle complex financial restructurings so that the American taxpayer is protected. For this reason, I fought for a provision in this legislation to create an Office of Multifamily Housing Assistance Restructuring [OMHAR], a temporary office within HUD for purposes of administering the mark-to-market program. For any chance of success, the program must be administered by a highly professional staff with the proper technical knowledge, functioning as much as possible at arms-length from the standard HUD bureaucracy.

The Office will be led by a Director appointed by the President, with the advice and consent of the Senate, who must have proven experience in restructuring complex financial transactions. The President is required to choose the Director within 60 days after enactment of this legislation. Funding for the Office shall come from HUD salaries and expenses so there will be no net increase in expenditure of taxpayer funds in connection with the operations of the Office. The Office is limited in scope and mission, established solely to administer the mark-to-market program. Confusion and the possibility of "mission creep" or of being burdened with secondary objectives are thereby avoided. Although the Office will sunset at the end of fiscal year 2001, I expect Congress will need to reauthorize the Office through fiscal year 2003, at which time the majority of project-based contracts will have expired.

OMHAR is the taxpayer's proxy to assure that the restructuring process is administered as professionally and efficiently as possible. For this reason, the Secretary must not interfere with the independent functioning of this Office. I am disappointed that Congress has missed an opportunity to create a truly independent entity that would not be forced to answer to the HUD Secretary. However, as an alternative, this legislation requires the Director to report to Congress immediately on any action or directive by the Secretary that has an adverse impact on the functioning of the Office, or that may undermine its effectiveness. As chairman of the Subcommittee on Housing and Community Opportunity, the relevant authorizing and oversight subcommittee, I have every intention of closely monitoring the Department in this regard in order to ensure that the interests of the taxpayer are not ignored.

LACK OF TAXPAYER PROTECTION AT THE LOCAL LEVEL

The conference report legislation may also negatively impact taxpayer interests at the local level due to the selection process created for choosing participating administrative entities [PAE's]. Under the legislation, PAE's will work with owners to restructure their mortgages, making decisions on the size of the second mortgage and the amount that the mortgage must be written down to create a sustainable bifurcated mortgage. Both of these items will be paid for by the American taxpayer out of the FHA fund. Therefore, the PAE should be the most qualified entity for the job. As discussed in the conference report, such may not be the case. Instead, the selection process in the report gives housing finance agencies [HFA's] an effective monopoly. If an HFA meets minimum qualifications, it must be selected, even if another entity is more qualified. Although in many cases HFA's will be the most qualified entities, there is no reason to give them a priority.

Optimally, HFA's should form partnerships with other entities, such as experienced nonprofits, to better meet the needs of the restructuring program. When an entity is controlling millions of dollars of the Federal Government's budget, it should be the most qualified entity available. We owe that to Americans who work hard every day to pay their taxes. They expect Congress to spend their tax dollars wisely and efficiently. I do not believe that will be done if PAE's are not chosen in an open, competitive process. It is my hope that Congress will reconsider this provision in the near future.

TENANT EMPOWERMENT AND SELF-SUFFICIENCY

One important principle, for which I am gratified that the House conferees adopted the authorizing committee's position, is the greater emphasis on choice-based assistance. Vouchers bring a market mechanism to federally assisted housing by motivating owners to maintain their properties and compete for tenants. I seek to empower tenants before owners or bureaucrats. Tenants with vouchers often have a greater opportunity to reach self-sufficiency by choosing where to live. Rather than being forced to live in projects that are be rundown and in dangerous neighborhoods, tenants can make decisions based on the school system, the proximity to job opportunities, community safety, and the condition of the apartments. I fully expect that, for a large percentage of eligible projects, project-based assistance will be converted to vouchers, in large part because the legislation allows a 5-year transition period for gradual movement toward tenant-based assistance. This transition will provide owners time to rehabilitate projects and change their image in the communities in order to be financially viable after such a conversion.

CONCLUSION

Regardless of the uncertainty surrounding the unforeseen consequences of enacting the conference report legislation, the Appropriations Committee feels the need to enact legislation immediately to fill a $500 million shortfall in funding for nonhousing programs. Most parties involved admit that this legislation will need substantial revisions within the next year. Congress should not pass incomplete, flawed bills solely to generate savings for other programs but should, instead, pass good legislation that truly solves the problem.

HOUSE OF REPRESENTATIVES, COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC, September 23, 1997.

FLOYD L. WILLIAMS,
National Director of Legislative Affairs, Internal Revenue Service, Washington, DC.

DEAR MR. WILLIAMS: I am writing to seek your guidance on certain tax matters involving one of the most complex issues facing the Banking Committees of both the House and the Senate. As you may know, I refer to the restructuring of the FHA-insured Section 8 multifamily housing portfolio. Recently, I introduced H.R. 2447, the "Multifamily Housing Restructuring and Affordability Act of 1997," which creates a program for mortgage restructurings. Senator Mack has introduced S. 513, which has similar objectives.

With some differences, both bills provide for the use of bifurcated mortgages in restructuring existing debt. Inherent in this approach is the belief that the restructured debt would be excluded from the application of IRS Code Section 7872, based on the temporary regulations under section 1.7872-

5T(b)(5) regarding below-market interest rate loans. One of the required provisions under these temporary regulations is that these below market-interest rate loans be made available under "a program of general application to the public".

The proposed House and Senate legislation apply to projects with FHA debt that meet the following criteria:

1. rents must exceed the rent of comparable properties in the same market area;

2. the project must be covered in whole or in part by a contract for project-based assistance; and

3. the project must be financed by a mortgage insured under the National Housing Act.

In his written testimony before the House Subcommittee on Housing and Community Opportunity on September 16, 1997, Mr. Ken Kies of the Joint Committee on Taxation raised as an issue the possibility that "the HUD refinancing program will not qualify under this regulation on the basis that it is not a program of "general application," but only an offer made to certain owners." Since an integral component of the success of any legislation is an understanding of the likely tax consequences to owners associated with restructuring their Section 8 mortgages, your clarification of the meaning of "general application" in this regard is critical.

I would appreciate your immediate attention to this issue as legislation is moving forward quickly. If the approaches envisioned in either H.R. 2447 or S. 513 do not meet this "general application" requirement, please provide guidance as to what technical modifications are needed. If you have any questions or comments, you may contact Shanie Geddes or Joe Ventrone at 202/225-6634. I look forward to your response.

Sincerely,

RICK LAZIO,
Chairman, Subcommittee on Housing and Community Opportunity.

HOUSE OF REPRESENTATIVES, COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC, June 18, 1997.

Hon. ROBERT E. RUBIN,
Secretary, Department of Treasury, Washington, DC.

DEAR SECRETARY RUBIN: During yesterday's testimony before the Senate Subcommittee on Housing Opportunity and Community Development, HUD Secretary Andrew Cuomo stated that the Department of Treasury believes that the bifurcated mortgage restructuring "tool" included in S. 513, "The Multifamily Assisted Housing Reform and Affordability Act of 1997," would result in an immediate taxable event for most owners. The Secretary went on to note further that "while this provision purports to address owners' tax problems, it is unworkable—thus defeating the larger purpose of the legislation."

Apparently, there remains considerable confusion as to the tax treatment of a soft-second mortgage in the restructuring of FHA-insured mortgages subsidized by Section 8 project-based assistance. The issue of taxation in the mortgage restructuring is vital to the success of any bill that deals with the Section 8 crisis. You addressed this concern in your work on the tax provisions included in the Administration's legislation: H.R. 1433—Housing 2020: Multifamily Management Reform Act, which was introduced in the House by myself and Congressman JOSEPH KENNEDY at the request of the Administration. A workable bill must proactively bring project owners to the bargaining table early. Based on Secretary Cuomo's testimony, it is unclear that S. 513 would prevent participants in the program from being subject to negative tax consequences in the future, thus discouraging proactive restructuring.

A workable tax treatment of restructuring is critical in this matter. Otherwise, we risk simply perpetuating the FHA multifamily restructuring demonstration programs included in FY1996 and FY1997 appropriations. If the House is to agree to consider FHA multifamily restructuring legislation in expedited procedures (i.e. during the budget reconciliation process), the solution must not be simply an academic exercise that implements incremental change.

Please provide the Subcommittee with a clarification of the Administration's position on the taxation of soft-second mortgages as included in S. 513. Your timely response is critical to solving this dilemma.

Sincerely,

RICK LAZIO,
Chairman, Subcommittee on Housing and Community Opportunity.

Mr. LEWIS of California. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. PEASE). The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 21, not voting 7, as follows:

[Roll No. 505]

YEAS—405

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—21

Ballenger	Kanjorski	Royce
Campbell	McIntosh	Rush
Cox	Minge	Sanford
Crane	Neumann	Scarborough
Ehrlich	Paul	Smith (MI)
Hoekstra	Peterson (PA)	Souder
Hostettler	Roemer	Upton

NOT VOTING—7

Farr	Hilliard	Schiff
Foglietta	Lewis (KY)	
Gonzalez	Rangel	

□ 1630

Mr. SMITH of Michigan, Mr. SCARBOROUGH, and Mr. RUSH changed their vote from "yea" to "nay."

Mrs. NORTHUP, Mrs. ROUKEMA, Mr. ROHRABACHER, and Mr. BLUNT changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FARR of California. Mr. Speaker, I was unavoidably absent on rollcall No. 505. I was hosting an event with Secretary Shalala at the time concerning breast cancer awareness and could not make it back in the Chamber in time to vote. Had I been present, I would have noted "aye."

MOTION TO INSTRUCT CONFEREES ON H.R. 1757, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1998 AND 1999, AND EUROPEAN SECURITY ACT OF 1997

Mr. CALLAHAN. Mr. Speaker, I offer a motion to instruct conferees on the bill (H.R. 1757), to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and to ensure that the enlargement of the North Atlantic Treaty Organization [NATO] proceeds in a manner consistent with United States interests, to strengthen relations between the United States and Russia, to preserve the prerogatives of the Congress with respect to certain arms control agreements, and for other purposes.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. CALLAHAN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1757 be instructed to insist upon the provisions contained in title XXI of the House bill (relating to United States policy with respect to forced abortion and foreign organizations that perform or promote abortion).

The SPEAKER pro tempore (Mr. PEASE). Pursuant to the rule, the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Connecticut [Mr. GEJDENSON] each will control 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this issue was thoroughly debated yesterday when the Congress chose to instruct the conferees on the foreign operations bill to include Mexico City language.

I support Mexico City language, although I opposed, in a way, the Congress telling us that we ought to be forced to do authorization business in an appropriation bill. Generally, the arguments that take place on the floor are just the opposite.

But since the Congress saw fit, by a great majority, to instruct the conferees on the Committee on Appropriations, sitting and languishing for a couple of weeks in conference is the authorization bill where this issue should be addressed.

It is our understanding that even since yesterday, when the Committee on Appropriations was instructed to act on a policy matter, Senator HELMS has indicated and some of the Members of the House Committee on International Relations indicated that they are not going to be able to maintain this in the conference on the bill that it should be in. So what this does is just simply transfer the responsibility to the party of responsibility.

I do not think there is much need this afternoon to go into the merits and demerits of the pro-life issue or pro-choice issues or the population-control issues. The issue has already been addressed by this House, voted on by this House. All we are doing is making certain that the committee of responsibility act in a responsible manner according to the wishes of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN], the chairman of the committee.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Connecticut [Mr. GEJDENSON] for yielding me the time.

Mr. Speaker, I rise in opposition to the motion to instruct offered by the gentleman from Alabama [Mr. CALLAHAN]. I believe the motion is unnecessary. It delays the House from more productive work. The House has already voted five times on the Mexico City policy, and the result is always the same. Mr. Speaker, another vote today repeats the obvious. This will be our sixth vote on the Mexico City policy this very year.

Mr. Speaker, I am also disappointed in this motion. Until yesterday's motion, I was unaware of any motion to instruct to be offered by a member of the majority during this Congress. I appreciate the interest of the distinguished gentleman from Alabama [Mr. CALLAHAN], the chairman of the Subcommittee on Foreign Operations, Export Financing, and Related Programs, and the work of our Committee on International Relations as it relates to our conference and the issue addressed by this motion.

As the gentleman from Alabama [Mr. CALLAHAN] knows, the resolution of this issue is being addressed by our leadership, by the administration, and by others; and that is an ongoing attempt to resolve the issue.

Our House conferees are not trying to circumvent that process. Indeed, the House, during consideration of H.R. 1757, voted to defeat the Campbell substitute and support the Smith amendment. Our committee's conferees have been trying to do our job under that clear instruction of the House.

Notwithstanding the motion of the gentleman from Alabama [Mr. CALLAHAN], which I just learned of yesterday during his announcement, I believe that our conferees have been doing their work and doing it in line with the wishes of the House. I share the frustration of the gentleman from Alabama [Mr. CALLAHAN]. I believe both committees are working within the same constraints.

Given these constraints, it serves as no useful purpose to imply that our committee is not doing all it can to resolve that issue. I do not believe that the House should have instructed the Committee on Appropriations yesterday on this issue, and I opposed the motion. Likewise, I do not believe we should instruct the committee on this issue.

Accordingly, I oppose the motion, just as I opposed the motion yesterday. I urge our Members to reject the motion by the distinguished gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I forewarn the Members who are interested in speaking, since this issue has been thoroughly debated, even though we have an hour, I do not see a great sense of need to take a full hour, because we have still the motion to adjourn before the House, and I know that we want to adjourn relatively early tonight.

Mr. Speaker, I yield as much time as he may consume to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I thank the gentleman from Alabama [Mr. CALLAHAN] for yielding me the time.

Mr. Speaker, I rise in support of the Callahan motion. I do not do that because I fully agree with everything in the Smith amendment. I do not. I agree with about half of it. I do not support the gentleman's amendment to impose Mexico City policy. But I do want to see funding cut off to the United Nations population program so long as they remain in China, because I think that they have a coercive abortion policy in China.

But that is not the main reason that I support this amendment. I support it because if this amendment is to be attached anywhere, it should be attached to an authorization legislation and not an appropriation bill.

My favorite philosopher, as I have said many times on this floor, is Archie, the Cockroach. One of the things Archie said was that, "Now and then, a person is born who is so unlucky he runs into accidents that started out to happen to somebody else."

That is the way our Committee on Appropriations feels on this issue, because this is an authorization issue. It is an issue which ought to be dealt with in that committee, and yet we are now told that the authorizing committee may be dropping this amendment because they think it will make it impossible to pass their bill.

Well, boys and girls, if you think it is going to make it impossible to pass an authorization bill, what do you think it is going to do to the appropriation bill? It does not belong on the appropriations bill. It belongs on the authorization bill, if it belongs anywhere. So, at least to get this debate in the proper venue, I would urge the House to support the motion of the gentleman.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

My friend, the gentleman from Wisconsin [Mr. OBEY], will understand if I, along with most Members who are not on the Committee on Appropriations, do not show him great sympathy for his present plight. We in the authorization committee feel that appropriations members seem to do quite well around here in lots of areas. And I think Archie's little saying may not be as applicable as my friend, the gentleman from Wisconsin [Mr. OBEY], would like us to think.

It is easy to get caught up in the process of what we do here, but the substance is also terribly important. I would say, for both procedural reasons and substantive reasons, we should reject the proposition of my colleague that is before us today.

The substantive reasons are more important than any other, because, after all, we work in this process and process is important, but substance is what brings us to Congress. It is substance that we fight for in the policies, and the substance here is very clear.

As we have been able to expand family planning, we have not only improved the economic situation of the poorest of the poor in this world, we have not only been able to reduce death and injury to the mothers of the children of this world, but we have also reduced abortion, reduced abortion across the globe where U.S. family planning funds were able to exercise freely and compete in the globe.

America's influences in family planning were long before Mexico City, long before this debate tied up the Foreign Assistance Act, long before it tied up State Department authorizations and appropriations reduced abortion globally.

For the people who look at this issue and who care about abortion, take a look at some of the statistics. They will see across this country, across this planet, family planning has reduced abortions. In Kazakhstan, it has reduced abortions about 40 percent. All the debate on this floor about banning abortions and making them illegal has not reduced as many abortions as family planning has in Kazakhstan in the Soviet Union and across this planet.

So I would plead with my colleagues that we ought to reject this proposal from the Committee on Appropriations, we ought to reject it both in substance and in process.

Mr. Speaker, I reserve the balance of my time.

Mr. CALLAHAN. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I rise in very strong support of the Callahan motion. Just let me take a moment to digress.

Some of the leading appropriators in this House never lose the opportunity to admonish and even scold the rest of us and to tell us to look elsewhere when offering terms and conditions on policy. The appropriators just do the money, or so the thinking goes; the authorizers do policy.

All of that sounds neat and tidy, a true division of labor. But appropriations bills are stuffed to the hilt with policy. It may be useful to note that in years past, this "not on my appropriations bill" approach has been invoked in attempts to deter the offering of pro-life amendments or, once adopted, to try to strip out the pro-life language on appropriations bills, including the Hyde amendment on the health and human services bill.

The notion of "do it on the authorizing bill" has surface appeal. But had pro-lifers heeded that advice, the overwhelming majority of pro-life riders would never have become law, including the Hyde amendment, including the bans on taxpayer funding for abortion under the Federal Employees Health Benefits Program. I first offered that back in 1983, and everybody was telling me, "Do not do it on the appropriations bill," the D.C. appropriations bill, the Federal prisons ban, and other riders. If pro-lifers had bought into that line, the U.S. Government today would be paying for abortion on demand in most of the programs that we subsidize.

□ 1645

In the real world, appropriators are more equal, more essential, if you will, than the rest of us. In the end, their bills must pass, even if those bills are rolled into an omnibus bill or a CR. Authorizers, especially on the Committee on International Relations, are doubly disadvantaged.

First, we bring relatively unpopular bills to the floor, and who here has constituents who are clamoring for more foreign aid? And, second, appropriators often render our work product moot or redundant or superfluous by simply waiving the need for an authorization bill.

The simple fact of the matter is that the White House, be it Democrat or Republican, knows this and needs only to wait until the eleventh hour for the appropriators to waive authorization. The real world consequence of this waiver-of-authorization drill is to closely undermine Members on the authorizing committees in negotiations with the administration on tough issues like population and abortion.

The administration calculates, and I believe wrongly this time, that they can get a better deal by pushing the process to the zero hour, which is why we offered the pro-life Mexico City policy to both the foreign operations bill and the State Department authorization bill, which I would remind my colleagues is the bill that I wrote.

As the chairman of the Subcommittee on International Operations and Human Rights, the State bill, not the reorganization, which was the part of the gentleman from New York [Mr. GILMAN], and not some of the other policy considerations, but the State Department bill is my bill, and I chair the subcommittee that oversees it.

We put it on that bill and we also put it on the foreign operations bill. The gentleman from Oklahoma [Mr. LARGENT] and the gentleman from Illinois [Mr. HYDE], as everyone knows, moved yesterday to instruct the conferees to retain the Mexico City and will hopefully do the same today on the authorizing bill.

This year, the majority of us in the House who recognize the fact that abortion is violence against babies will not give in, nor will we accept bogus compromises like metering, or counterfeits like the Gilman-Pelosi amendment. This year we will simply not allow the approximately $400 million U.S. taxpayer dollars to enrich those who dismember and chemically poison unborn children.

Abortion is violence against children. Abortion is child abuse, and this year we are prepared to zero out U.N. arrearage payments, cut foreign aid and take any action necessary to ensure that the Hyde amendment for foreign aid, which is the Mexico City policy, is enacted.

Yesterday's vote to instruct conferees to insist on the Mexico City policy was no frivolous vote. We simply will not cave, not now, not next week, not the week after, or ever, because millions of children and the well-being of their mothers are at stake.

I can assure the gentleman from Alabama [Mr. CALLAHAN] that as chairman of the Subcommittee on International Operations and Human Rights, I will fight any effort to bring the State bill back to the floor without the Mexico City policy. If through some means, and I do not think one exists, my bill lands on the floor without the Mexico City policy, I give my colleagues my vow, I will lead the fight against my own bill on the floor of this House.

I can only ask the same of the gentleman from Alabama [Mr. CALLAHAN] on foreign operations. I urge support on the Callahan motion.

Mr. CALLAHAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of our full committee.

Mr. LIVINGSTON. Mr. Speaker, I rise in support of the motion by the gentleman from Alabama to instruct the conferees on this bill. Yesterday, I reluctantly rose to indicate to the membership that I was going to vote "present," and I would like to explain that vote. The fact: I have always supported the Mexico City policy. I believe very strongly that wherever possible, the United States needs to discourage abortion. I am concerned that members of our society are actually encouraging abortion around the world.

The fact is, I happen to have the role, the dual-hatted role of running the Committee on Appropriations. Thirteen bills of the Committee on Appropriations have to get out every year in an appointed time and hopefully without shutting down the government, and the Subcommittee on Foreign Operations, Export Financing and Related Programs is just one of those subcommittees which must report every single year.

Now, Mr. Speaker, it has been a reluctant or an unfortunate reality that the Mexico City language has been the source of debate year after year after year since we took office as the majority party in 1994. In three other separate cycles, it was the last issue resolved, not just in the foreign operations subcommittee interchange with the Senate in conference, but in fact, the last issue resolved in each separate session of Congress.

Mexico City, and whether or not we should induce family planning operations around the world to refrain from advocating abortion, is an authorization issue. It belongs in the authorization bill, and that is why I am very pleased to stand before my colleagues in this body to implore my colleagues, vote for the gentleman's motion, vote for the motion to instruct the conferees of the authorization committee to do the job that must be done in order to convince the Senate to accept this language, to change this language, and to do whatever is necessary to change policy so that abortion will be discouraged with family planning operations all around the world. If one gets settled in the authorization committee, one does not have to come to the Committee on Appropriations, and we can go ahead and finish our appropriations bills on time and get out without closing down the government.

Mr. Speaker, I urge the adoption of this proposal.

Mr. CALLAHAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Mr. Speaker, I will not use all of my allotted 2 minutes. We had this debate yesterday.

The only two things that I would like to say in reflection over the last 24 hours is this: People need to understand that the argument that people have raised about family planning money would be jeopardized with the addition of the Mexico City policy, need to understand that the Mexico City policy language that says that no taxpayer funds will go to organizations that fund abortions with any of their money, that that language was, in fact, the law of the land until 1993, when President Clinton rejected the Mexico City policy with an administrative order. So, family planning money was not jeopardized under the Mexico City policy for 12 years prior to 1993, so the argument is a fallacious argument.

The second thing that I would like to say is that the reason that the motion to instruct conferees was added to the appropriations bill is that I was fully confident that under the leadership of the gentleman from New Jersey, Mr. CHRIS SMITH, in conference, that it would only be over his dead body that that Mexico City policy language would be stripped from the authorizing bill before it came out.

So the appropriate vehicle was on the Committee on Appropriations, and I am in favor and voting in favor and urge all of my colleagues to support this motion to instruct as well, because as many times as we can reinforce doing the right thing, we should be for that.

So with that, Mr. Speaker, I urge my colleagues to continue to support this motion to instruct conferees and support the Mexico City language.

Mr. GEJDENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, I thank my friend, the gentleman from Connecticut [Mr. GEJDENSON], for yielding me this time and for his leadership on this issue, as well as a number of other colleagues who are trying to make the point that we are really at a point of absurdity on this issue.

Mr. Speaker, this is the second time now in 2 days to instruct conferees on the reinstatement of the Mexico City policy provisions. Yesterday we talked about the appropriations bill. Today we are talking about the authorization.

The fact is, it does not really matter what we are talking about here, it should be debated in conference. We have already debated it ad nauseam on the House floor, and to begin to offer a motion to instruct on every controversial issue that comes before this body and is not reconciled before conference is a waste of time and it is an assault on the legislative process. We cannot get our work done if we keep acting in this manner.

I urge my colleagues to allow the conferees on the foreign appropriations bill and the foreign relations authorization act to do their job in debating this issue, without these unnecessary and intrusive motions to instruct. Leave it to them. They know the issue. They are doing the best they can. They will come up with the best resolution. This is not a good use of our time. We need to defeat this instruction.

Mr. CALLAHAN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Speaker, I thank the chairman for yielding me this time.

This is not absurd. We are talking about saving the lives of unborn human beings here. And for those that are critical of us that are supporting this measure to instruct the conferees on the authorizing side, I would just like to point out a couple of weeks ago that those that felt frustrated and unable to offer their own amendment, and I speak of the Gilman-Pelosi amendment, they held this House hostage for several days in offering motions to adjourn or motions to this or motions to that.

I do not see this as absurd. We are talking about human beings. That is why the people of this country, by and large, have elected people that support protecting the vulnerable children, whether they are in the United States or any other place in the world, and I stand proudly supporting the chairman's motion to instruct.

Mr. CALLAHAN. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Speaker, I thank the gentleman for yielding me this time. I may not use the 3 minutes, but that is not a promise, I say to my colleagues.

I think the issue is clear, the same issue as the one we debated yesterday, although I think a much more appropriate vehicle here, and I am very glad the gentleman is offering this motion to instruct.

The issue is this. We do not use taxpayer dollars to fund abortions here in the United States. We should be clear and certain that we do not do so abroad as well, and that is what we are talking about here, making crystal-clear what I think is, people claim is implicit in the setup: making it crystal-clear that American taxpayer dollars are not

going to be used directly or indirectly to subsidize abortion or subsidize organizations that provide abortions, and if everybody agrees that we ought to do that, I cannot see the objection to making it clear with this particular language.

I am glad the gentleman offered the motion to instruct. I think it shows respect for the millions of people in this country who believe deeply as a matter of conscience, as I do, that this practice is wrong, and hope some day that we can eliminate it not just here, but around the world as well.

I want to say a word, also, about the particular vehicle for resolving this kind of issue. I know that there are many people in the House and many in the Senate who believe just as deeply and just as passionately on the other side, and they do not want to see this language go on. I am deeply concerned that if we fight this issue out on the appropriations bill, it may end up jeopardizing some other very important appropriations that do not have anything to do with this issue, and I do not see why we should do it.

The issue should be fought out on the authorization bill. We should take the whole issue, the whole issue of the population control money, the whole issue of this proposed language, take it out of the appropriations bill, resolve it in the authorization process where it belongs.

I know that my long-suffering friend, the gentleman from Alabama, who offers this motion to instruct, would much prefer not to have to deal with this in his appropriations bill, and he is right. Let us support this motion to instruct and let us all support taking this issue, the money, the policy, all of it off, effectively getting it off the appropriations process, onto the authorization bill, and then I hope come to a compromise. If not, fight it out in good faith and as between honorable people there.

I thank the gentleman for offering his motion. I intend to support it.

□ 1700

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would close for our side by simply saying that I understand the frustration of the gentleman from Alabama [Mr. CALLAHAN], but there is a substantive issue here and a process one.

In substance, if the individuals who seek to impose this straitjacket on the authorizing committee win, it is less likely that we can move forward. The administration has taken a very clear position. This is a very tough issue. Passing this instruction will not be helpful to achieve the goal that most people here have expressed.

I think also from a policy perspective it is important to recognize that if the proponents win with the Mexico City language, more abortions will occur. It is all a function of where we draw the circle. The Mexico City language now tries to take in entire organizations. I guess we could take continents or countries and draw the circle that broad.

But at the end of the day, if the proponents of the Mexico City language on family planning are successful, more abortions will occur across the globe. There is no debate on that.

I urge my colleagues to reject this motion.

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just remind the Members of this body that I strongly support the Mexico City policy, and I am going to support it because it is the will of the House and the conference, to the best of my ability.

But the proper avenue for addressing this is through this vehicle, through the authorizing committee. Because if we do not do it permanently in the authorizing committee, we are going to be faced with this battle year after year after year. The proper place to debate this is in that committee. Most of the proponents, such as the gentleman from New Jersey [Mr. SMITH], are on that conference committee.

Unfortunately, Mr. HELMS in the Senate has given strong indication that he is willing to drop the language in the Senate. I do not know if the gentleman from New Jersey [Mr. SMITH] can hold the votes. If indeed he can hold the votes, then we will not have to debate this issue on an appropriation bill in the near future. That is exactly what this resolution is intended to do.

That is exactly what we are encouraging the authorizing committee to do. It is exactly what the gentleman from New Jersey [Mr. SMITH] wants to do. We are going to probably receive a larger vote to have this done in a responsible manner than they did through the appropriations process yesterday.

I beg the Members to vote for this measure. Let us send it to the committee of jurisdiction and responsibility, and I am sorry to tie the House up this late in the evening.

Ms. PELOSI. Mr. Speaker, I rise with great respect and the highest esteem for the maker of this motion, Chairman CALLAHAN. However, while I agree with him on process, I cannot agree on the substance of this motion.

We debated a motion to instruct on this identical issue on an appropriations bill just yesterday. We have had at least seven votes on this issue on three or four separate bills this year. Although I oppose the gentleman's motion, I respect his desire to keep this issue in the appropriations bill. This authorization bill, not an appropriations bill, is the proper and appropriate place to discuss this difficult and contentious issue.

I oppose this motion because I oppose the Mexico City policy. Mexico City restrictions will cripple international family planning organizations in providing family planning and reproductive health services that have been proven to reduce the number of abortions performed worldwide.

This is not a pro-life issue. This is not a pro-choice issue. This is a women's reproductive health issue. During yesterday's debate, one of my colleagues who supported the Mexico City gag rule also stated that he supports responsible organizations that do engage in family planning. Yet he was one of 147 Members of this body who are on record voting to completely eliminate international family planning funding.

I agree with my colleagues who said yesterday that threat of a Presidential veto on a bill filled with other important issues should not be the sole basis for voting down this issue.

However, if some of my colleagues believe so passionately in the Mexico City gag rule provisions, and I respect that they do, I challenge them to introduce separate, free-standing legislation to do what you will effectively do with this language—to eliminate all international family planning.

The Mexico City provisions will crush our successful international family planning efforts, which work to reduce the number of abortions performed worldwide—in Russia, in Chile, in Colombia, in Hungary, the list goes on and on.

My message today is very simple. Family planning reduces abortions. Family planning saves lives. Mexico City restrictions gag family planning efforts. I urge my colleagues to vote against this motion to instruct.

Mr. GEJDENSON. Mr. Speaker, I yield back the balance of my time.

Mr. CALLAHAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HEFLEY). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Alabama [Mr. CALLAHAN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEJDENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 190, not voting 7, as follows:

[Roll No. 506]

AYES—236

Aderholt	Blunt	Cannon
Archer	Boehner	Chabot
Armey	Bonilla	Chambliss
Bachus	Bonior	Chenoweth
Baker	Bono	Christensen
Ballenger	Borski	Coble
Barcia	Brady	Collins
Barr	Bryant	Combest
Barrett (NE)	Bunning	Cook
Bartlett	Burr	Cooksey
Barton	Burton	Costello
Bateman	Buyer	Cox
Bereuter	Callahan	Cramer
Berry	Calvert	Crane
Bilirakis	Camp	Crapo
Bliley	Canady	Cubin

Cunningham	Kingston	Redmond
Danner	Kleczka	Regula
Deal	Klink	Riggs
DeLay	Knollenberg	Riley
Diaz-Balart	Kucinich	Roemer
Dickey	LaFalce	Rogan
Doolittle	LaHood	Rogers
Doyle	Largent	Rohrabacher
Dreier	Latham	Ros-Lehtinen
Duncan	LaTourette	Royce
Dunn	Lewis (CA)	Ryun
Ehlers	Linder	Salmon
Emerson	Lipinski	Sanford
English	Livingston	Saxton
Ensign	LoBiondo	Scarborough
Everett	Lucas	Schaefer, Dan
Ewing	Manton	Schaffer, Bob
Flake	Manzullo	Sensenbrenner
Foley	Mascara	Sessions
Forbes	McCollum	Shadegg
Fowler	McCrery	Shaw
Fox	McDade	Shimkus
Gallegly	McHugh	Shuster
Ganske	McInnis	Sisisky
Gekas	McIntosh	Skeen
Gillmor	McIntyre	Skelton
Goode	McKeon	Smith (MI)
Goodlatte	Metcalf	Smith (NJ)
Goodling	Mica	Smith (OR)
Goss	Miller (FL)	Smith (TX)
Graham	Moakley	Smith, Linda
Granger	Mollohan	Snowbarger
Gutknecht	Moran (KS)	Solomon
Hall (OH)	Murtha	Souder
Hall (TX)	Myrick	Spence
Hamilton	Neal	Stearns
Hansen	Nethercutt	Stenholm
Hastert	Neumann	Stump
Hastings (WA)	Ney	Stupak
Hayworth	Northup	Sununu
Hefley	Norwood	Talent
Herger	Nussle	Tauzin
Hill	Oberstar	Taylor (MS)
Hilleary	Obey	Taylor (NC)
Hoekstra	Ortiz	Thornberry
Holden	Oxley	Thune
Hostettler	Packard	Tiahrt
Hulshof	Pappas	Torres
Hunter	Parker	Traficant
Hutchinson	Paul	Walsh
Hyde	Paxon	Wamp
Inglis	Pease	Watkins
Istook	Peterson (MN)	Watts (OK)
Jenkins	Peterson (PA)	Weldon (FL)
John	Petri	Weldon (PA)
Johnson, Sam	Pickering	Weller
Jones	Pitts	Weygand
Kanjorski	Pombo	Whitfield
Kaptur	Portman	Wicker
Kasich	Poshard	Wolf
Kildee	Quinn	Young (AK)
Kim	Radanovich	Young (FL)
King (NY)	Rahall	

NOES—190

Abercrombie	Condit	Ford
Ackerman	Conyers	Frank (MA)
Allen	Coyne	Franks (NJ)
Andrews	Cummings	Frelinghuysen
Baesler	Davis (FL)	Frost
Baldacci	Davis (IL)	Furse
Barrett (WI)	Davis (VA)	Gejdenson
Bass	DeFazio	Gephardt
Becerra	DeGette	Gibbons
Bentsen	Delahunt	Gilchrest
Berman	DeLauro	Gilman
Bilbray	Dellums	Gordon
Bishop	Deutsch	Green
Blagojevich	Dicks	Greenwood
Blumenauer	Dingell	Gutierrez
Boehlert	Dixon	Harman
Boswell	Doggett	Hastings (FL)
Boucher	Dooley	Hefner
Boyd	Edwards	Hinchey
Brown (CA)	Ehrlich	Hinojosa
Brown (FL)	Engel	Hobson
Brown (OH)	Eshoo	Hooley
Campbell	Etheridge	Horn
Capps	Evans	Houghton
Cardin	Farr	Hoyer
Carson	Fattah	Jackson (IL)
Castle	Fawell	Jackson-Lee
Clayton	Fazio	(TX)
Clement	Filner	Jefferson
Clyburn	Foglietta	Johnson (CT)
Johnson (WI)	Millender-McDonald	Scott
Johnson, E. B.	Miller (CA)	Serrano
Kelly	Minge	Shays
Kennedy (MA)	Mink	Sherman
Kennedy (RI)	Moran (VA)	Skaggs
Kennelly	Morella	Slaughter
Kilpatrick	Nadler	Smith, Adam
Kind (WI)	Olver	Snyder
Klug	Owens	Spratt
Kolbe	Pallone	Stabenow
Lampson	Pascrell	Stark
Lantos	Pastor	Stokes
Lazio	Payne	Strickland
Leach	Pelosi	Tanner
Levin	Pickett	Tauscher
Lewis (GA)	Pomeroy	Thomas
Lofgren	Porter	Thompson
Lowey	Price (NC)	Thurman
Luther	Pryce (OH)	Tierney
Maloney (CT)	Ramstad	Towns
Maloney (NY)	Rangel	Turner
Markey	Reyes	Upton
Martinez	Rivers	Velázquez
Matsui	Rodriguez	Vento
McCarthy (MO)	Rothman	Visclosky
McCarthy (NY)	Roukema	Waters
McDermott	Roybal-Allard	Watt (NC)
McGovern	Rush	Waxman
McHale	Sabo	Wexler
McKinney	Sanchez	White
McNulty	Sanders	Wise
Meehan	Sandlin	Woolsey
Meek	Sawyer	Wynn
Menendez		Yates

NOT VOTING—7

Clay	Hilliard	Schumer
Coburn	Lewis (KY)	
Gonzalez	Schiff	

□ 1722

Mr. NADLER changed his vote from "aye" to "no."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR ADJOURNMENT OF THE HOUSE AND ADJOURNMENT OR RECESS OF THE SENATE TO A DATE CERTAIN.

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 169) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 169

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, October 9, 1997, it stand adjourned until 10:30 a.m. on Tuesday, October 21, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, October 9, 1997, Friday, October 10, 1997, or Saturday, October 11, 1997, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, October 20, 1997, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RANGEL. Mr. Speaker, on rollcall vote number 500, I was recorded as "yes"; however, my vote should have been recorded as a "no" vote.

PERSONAL EXPLANATION

Mrs. CLAYTON. Mr. Speaker, I was unavoidably detained during rollcall number 493, the Vento amendment. If I had been present, I would have voted in the affirmative.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the pending business is the question of agreeing to the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

REAUTHORIZING THE ENDANGERED SPECIES ACT

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. DINGELL. Mr. Speaker, I want to commend my good friend and colleague from New Jersey, Mr. SAXTON for his leadership in the effort to renew the Endangered Species Act.

The authorization of this precious piece of legislation expired 5 years ago, leaving one of our most important conservation laws vulnerable to attacks and lacking proper congressional oversight. Several years of ideological fighting and Beltway politics have kept interest groups busy while precious species of animals and plants decline and disappear. In the meantime, public and private land conflicts continue to hamper recovery efforts.

The administration has implemented needed reforms. The other body is building a consensus with the administration for improving the act. Sponsors of that effort are aware that their bill is not perfect but it is a product of good consensus and such efforts is never perfect.

The gentleman from New Jersey [Mr. SAXTON] and I have been engaged for several months in discussions, hoping to lead to the enactment of an improved Endangered Species Act. The

chairman of the committee, the gentleman from Alaska [Mr. YOUNG], is participating, as are the gentleman from California [Mr. POMBO] and the gentleman from Louisiana [Mr. TAUZIN], as well as the gentleman from California [Mr. MILLER], the ranking member, who has introduced a bill containing many common sense reforms. It is our hope that these talks will lead to enactment by this body of a bill which protects endangered species of wildlife for the future.

SAXTON, DINGELL URGE HOUSE TO REAUTHORIZE ENDANGERED SPECIES ACT

One week after a Senate Committee markup of changes to the federal Endangered Species Act, U.S. Rep. Jim Saxton (R-NJ) and U.S. Rep. John D. Dingell (D-MI) asked House colleagues for support to reauthorize the nation's most significant conservation law during the 105th Congress.

Saxton, who chairs the House Subcommittee on Fisheries, Conservation, Wildlife and Oceans, and Dingell, who authored the 1973 law, emphasized that reauthorization is five years overdue and further delay only places endangered species and other at-risk species in further danger of extinction.

Dingell and Saxton have participated for several months in bipartisan discussions to determine how the ESA should be improved. While not endorsing the Kempthorne-Chafee-Baucus-Reid compromise, both representatives expressed hope that adoption of a Senate bill would lead to accelerated efforts by the House to pass a bill the President can sign. A copy of their floor statements follows:

STATEMENT OF THE HONORABLE JIM SAXTON, OCTOBER 8, 1997

Mr. Speaker, I come before this body to discuss the need to reauthorize the Endangered Species Act.

I believe the time is now to reauthorize the grand daddy of all environmental laws. It is vital that any piece of legislation that is developed is done so in a bipartisan way. I congratulate the Senate in their effort to craft such a bill. Now, it is our turn in the House to find common ground that Democrats and Republicans alike can agree upon.

This process must recognize that people who are impacted by the ESA have legitimate concerns regarding the way it works. On the other hand our lack of progress in reauthorizing the act has seen the further decline of many species and the biological extinction of others. Now is the time to act.

I want to recognize Chairman Young and the ranking member on the Resources Committee, Congressman George Miller, for their recent efforts to craft a bipartisan bill in the House. The process has been supported by the involvement of Mr. Dingell, Mr. Tauzin and Mr. Pombo. We must set politics aside and do what's right for the people of this country and for the species in which this legislation protects.

STATEMENT OF THE HONORABLE JOHN D. DINGELL OCTOBER 8, 1997

Mr. Speaker, I want to commend my friend from New Jersey, Mr. Saxton, for talking about the need to renew the Endangered Species Act.

The authorization for the Endangered Species Act expired five years ago, leaving our most important conservation law vulnerable to piecemeal attacks and a lack of proper Congressional oversight. For several years, ideological fighting and beltway politics have kept interest groups busy while animals and plants decline and disappear. In the meantime, private and public land conflicts continue to hamper recovery efforts.

The Clinton Administration has implemented some needed reforms. And the other body is building a consensus with the Administration for improving the Act. Sponsors of that effort readily admit their bill is not perfect, but the product of good consensus is rarely perfect.

The gentleman from New Jersey and I have been engaged for several months in discussions about improving the Endangered Species Act. Chairman Young is participating as are Mr. Tauzin and Mr. Pombo; and so is Ranking Member Miller, who introduced a bill containing many common-sense reforms. It is our hope that these talks might give this House has a chance to pass a bill which makes a good law work better for species and landowners.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HEFLEY). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MARRIAGE TAX ELIMINATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I was unable to attend last night the special order by the gentleman from Illinois [Mr. WELLER] and the gentleman from Indiana [Mr. MCINTOSH], who brought attention to our body, and to the people who are interested in what goes on in this Chamber, about a very important piece of legislation. It is called the Marriage Tax Elimination Act.

□ 1730

This is something that will be of interest to all Americans. We have a situation in this country now where, believe it or not, among the many other facts that we see in our tax system and the way it is handled by the IRS, we see the extraordinary fact that there is a penalty, a tax penalty for marriage.

This is at a time when we realize the sanctity of marriage, how important it is to our family values, how important it is to the education of our youth, the well-being of our Nation in so many ways, and certainly just the quality of our life. We even talk here quite often about our family-friendly Congress and family values. So when we look at our Tax Code and we uncover the fact that there is a penalty for being married, we wonder why in the world that is.

The first thing you might want to say is, how much is this penalty? Is this really something that matters? The answer is yes.

I understand that the average penalty for marriage is $1,400. That is a fair amount of money. It seems to me that would matter to most Americans, to have to pay $1,400 more just because you were married. Then on top of that, if you say how many people does this really affect, clearly not everybody.

The answer is, when we take a look at statistics, it is about 21 million American couples which obviously means 42 million Americans. That is a huge amount of people to be impacted by a tax which we cannot quite figure out why we have got it.

So we now have a piece of legislation that we think is important to move forward and I am pleased to say that as a cosponsor, original cosponsor, that the Marriage Tax Elimination Act is going to see the light of day and we are going to, I believe, take action in this body to correct something that certainly needs to be corrected.

It is probably interesting to note for most Americans that the average family today pays more in taxes than for food, clothing and shelter combined. Many Members say that. But think about that, think about your hard-earned dollars, if you go out and go about your job, the sacrifices you make to work hard, the time away you have from your family, other pursuits you are interested in. You are giving away today in taxes more than you are paying for your food, your clothing and your shelter, which are of course the first areas of responsibility for those in the home. That is an amazing statistic and yet we just seem to sort of take it for granted.

We know now that we have got to completely overhaul our Tax Code and we are planning to do that. We are about to start a great debate across the Nation. Our colleagues, the gentleman from Texas [Mr. ARMEY], the gentleman from Louisiana [Mr. TAUZIN], and perhaps others are going to go out and bring the tax debate to the people in a meaningful and understandable way in the next few weeks.

I am sure they will be saying the same responses as we hear in our offices and that we hear back in our districts when we go home, from people who say the present tax system is unfair, it is inequitable to Americans, it is not efficient, it is not a good way to collect revenues for the government, but most of all, it is absolutely incomprehensible. And we all know the story about putting all the experts in the room with the same set of facts and they will all come up with a different tax liability, a different tax conclusion after reading the reams and reams of documents that are supposed to guide us through how we pay our taxes and go about that responsibility.

So while we are talking about overhauling the Tax Code, while we are talking about reining in the abuses of the family-unfriendly and the consumer-unfriendly IRS, we are also talking about a very narrow specific slice of American life, and that is married

people. I think it is very important that we send that message out, that for those people who are interested in fair treatment under the Tax Code and for those people who are interested in getting married and wanting to stay married, it seems to me they need to know that we are aware that there is a penalty. We think the penalty is wrong and unfair and we are going to do our best to remove that penalty.

The cloud on the horizon for us, sadly enough, is that we did this a few years ago in our Contract With America. Unfortunately President Clinton vetoed that. I hope if we give him a clearer picture of what is going on and how much this matters to Americans, that this time when we pass the legislation we will have his support to repeal the marriage tax rather than his veto.

H.R. 7, THE CITIZENSHIP REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BILBRAY] is recognized for 5 minutes.

Mr. BILBRAY. Mr. Speaker, I rise today to address an item that is being considered by this body, at least for markup, very soon. That is the Citizenship Reform Act of 1997, H.R. 7. For many of us, we may think that under the 14th amendment, the privilege of automatic citizenship is something that is automatic and applies to everyone born on U.S. soil.

H.R. 7 clarifies the fact that under the 14th amendment not every one born on U.S. soil gets automatic citizenship; that there is a conditioning clause in the 14th amendment that says you must be "subject to the jurisdiction thereof".

To clarify this fact, consider that the children of diplomats here in Washington, DC, or back in New York do not get automatic citizenship at this time because their parents are not "subject to the jurisdiction"; the same way that native Americans did not get automatic citizenship until the 1920's because Congress granted it, because basically Indians who were in the tribal environment were not subject to the jurisdiction of the United States, because they owed loyalty and obedience to their tribe before the United States.

H.R. 7 clarifies the fact that illegal aliens do not fall into the category of "subject to the jurisdiction" of the United States, because they first of all are not obedient to the immigration laws, and are committing by their presence on U.S. soil a violation of national sovereignty; and, No. 2, they do not owe allegiance or loyalty to the United States. I think everybody would agree that if an illegal alien was tried for treason and brought before a court for treason, that the most liberal to the most conservative American would be outraged at the fact that somebody who was illegally in the country was now being required to be loyal.

Mr. Speaker, the same argument goes to automatic citizenship. If the child is born of parents who do not owe loyalty to the United States, if that basic obligation is not being met by the parents, the child should not get the automatic citizenship.

This is a thing of fairness, too. Let me remind all of my colleagues, there are people waiting patiently to come into this country legally, and while they are waiting patiently they are, some of them, having children. Those children, whose parents are playing by the rules, do not get automatic citizenship, but right, today we are rewarding those parents who violate the law in coming to this country illegally.

Some people may say it is not that big a deal, why even talk about it? Mr. Speaker, I am here to tell you it is a big enough deal that 96,000 births in California alone were the children of illegal aliens. We are talking about 40 percent of the Medicaid births in the State of California are children of illegal aliens. We are talking about hundreds of millions of dollars a year that one State is spending with Federal funds.

It is an issue that needs to be addressed, and it is first and foremost an issue of fairness. Why should we require the children of people who are legally waiting to immigrate, to go through the naturalization process and ask for permission from the United States to become U.S. citizens? When at the same time, we will reward the parents who have broken the law and give their children automatic citizenship with no processing at all? It just is not rational. It is not fair.

Mr. Speaker, I think that we must also recognize that the Supreme Court has never ruled on the issue of automatic citizenship for the children of illegal aliens. In fact, in the one case that is pointed out so often, the Wong Kim Ark case back in the late 1880's, the court ruled specifically that his parents were legal residents and that legal residents owe allegiance and owe loyalty and must obey the law. And by their legally immigrating, they showed that they were obedient to the Federal Government and the Government of the United States, and that they were "subject to the jurisdiction" by getting permission to enter this country legally.

That definition does not fall on those who have broken our laws and immigrated illegally. In fact, the case that we are referred to again and again is a 1608 case in England, the Calvin case, that says that people who have obligational loyalties get citizenship; those who do not do not get automatic citizenship. In the words of the English, in their flowery way of saying it, they say it is the loyalty and the obedience, not the soil and not the climate that render citizenship.

I think in all fairness we have got to understand that those who are obedient and play by our laws should be rewarded. But, Mr. Speaker, those who have broken our laws, violated our national sovereignty and refused to recognize that they must be "subject to the jurisdiction" of the United States should not today have the right of automatic citizenship.

This Congress should finally tackle this issue, address this issue and send a very clear message, not just to our own citizens, that we believe in fair and equitable treatment but that we will no longer reward illegal immigration with automatic citizenship. I ask everyone to contact their Member of Congress to address this issue and support H.R. 7.

DOMESTIC VIOLENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STRICKLAND] is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I stand today to speak about a silent crime that victimizes 1.8 million individuals annually, most often in the place where they should be the most safe and secure, in their homes. This criminal act is multifaceted and nondiscriminatory in choosing its victims. It knows no boundaries of age, race, social class, income level or education. Its predominant traits are those of emotional and physical abuse. I am speaking of domestic violence.

In recent years an increasing number of new stories involving public figures both as victims and as perpetrators of domestic violence have raised our awareness of this problem. Through media coverage we are slowly beginning to realize the massive extent of this crime which is most often committed in secret. Although these stories are difficult to comprehend and painful to hear, we all need to be aware that this tragedy is more prevalent than we think and more horrible than we can even imagine.

Sometimes the evidence of this abuse is obvious. At other times it goes undetected and leaves its victims suffering in silence. Unfortunately, this problem still seems to be very distant to most of us until someone we know becomes a victim.

A few years ago in Hillsboro, Ohio I met a young woman who was in the process of rebuilding her life after the end of a very violent marriage. She returned to school, received her high school diploma and found a combination of jobs to support herself and her young child.

I was impressed that this self-assured woman had shown such incredible strength by removing herself and her child from a dangerous, intolerable situation. But only a few weeks after I met her, I learned that she had been killed by her estranged husband as she

approached the Highland County Courthouse. She was on her way to seek legal protection from the man she had married, who on that awful night became her killer.

This incident impressed upon me the heartbreaking circumstances that many victims, usually women and children, are subjected to every day all over this country. Unfortunately, many victims feel that they do not have the resources and the support available to remove themselves from such threatening and dangerous situations, and all too often, even if they can escape the immediate circumstances, they remain potential victims.

Thankfully, domestic violence is being driven from the shadows and exposed for the heinous crime that it is. Many individuals and groups now focus their energies on seeking ways to prevent domestic violence and to reach out to the victims and their families.

In my district a community-wide domestic violence protocol is being developed. This will help outline how agencies can handle the incidents of domestic violence in a cooperative way. Our hope is that we can establish a stronger effort to break this cycle of violence. I am proud of the fact that in one of the counties in my district, Highland County, Ohio, men and women have joined together to help those in need.

□ 1745

They are committed to reassuring victims of domestic violence that they are not alone and that hope is available.

At the Federal level, the Department of Justice has developed programs that train law enforcement officers, emergency room attendants and family physicians on how to recognize a domestic violence situation and how to appropriately assist victims who have suffered from this crime. All of these local, State and Federal efforts are working to reach victims like the young mother who recently and unnecessarily lost her life.

Preventing domestic violence is a task to which all of us should be absolutely committed. I applaud all individuals and groups, especially my constituents in Hillsboro, Ohio, who are working to combat this despicable crime.

LEGISLATION REGARDING BREAST CANCER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. Fox] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to speak on behalf of legislation that is in the House and the Senate which will do much to help the women of the United States affected by the terrible physical tragedy of breast cancer.

I am speaking of legislation that will prevent the drive-through mastectomies, where women who are being treated for breast cancer have been called to leave the hospital before 24 hours, sometimes the same day as the surgery.

Our legislation was put forth through the leadership of the gentlewoman from New York [Mrs. KELLY], the gentleman from New Jersey [Mr. FRANK LOBIONDO], Senator FEINSTEIN of California and Senator D'AMATO of New York, and earlier today they held a press conference to announce the importance of this legislation which would require a minimum of 48 hours for a stay in the hospital following a mastectomy.

We also have in that legislation a requirement for a second opinion from a doctor with regard to the length of stay and the treatment. And, finally, the legislation calls for reconstructive surgery for each woman that may be affected by the dreaded disease of breast cancer.

Much has been done and much more needs to be done in the way of treatment, detection and prevention of breast cancer in this country. I am proud to work with the national breast cancer officials who are working on a cure and who are working to increase the funding, and I am working with them on the DOD funding, the Department of Defense funding, as well as the National Institutes of Health.

For me this is priority number one in this 105th Congress, to pass this legislation and all legislation which will lead to additional research funding so that in our lifetime we can have a cure, we can have a vaccine, we can have a discovery that will eradicate breast cancer in our lifetime.

Mr. Speaker, this is the number one cancer death causing disease to women in the United States: 44,000 a year. We must do whatever we can from a medical, legislative and public point of view to make sure we eradicate this disease in our lifetime. Tomorrow is not soon enough.

So I thank my colleagues for sponsoring and cosponsoring this legislation and for working for its passage.

LEGISLATION TO ALLEVIATE CONSEQUENCES OF WELFARE REFORM BILL ON ELDERLY NONCITIZENS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, today I am introducing a bill to alleviate the harsh consequences that many of our elderly noncitizens are experiencing as a part of the Welfare reform bill enacted last year.

At age 94, one of my constituents is now being threatened with the loss of food stamps because she cannot prove she is a U.S. citizen. She entered the United States in 1919 from Japan. Her husband is now deceased. She has no support documentation that would show she is a citizen or that she worked 10 years in this country. Soon she will lose her $40 per month allotment.

The stated purpose of the welfare reform bill was to promote self-sufficiency and to eliminate the reliance of government assistance for able bodied individuals. The goal being to return these able bodied individuals back to work.

As a result of the Welfare Reform bill we witnessed a direct attack on our noncitizen elderly population. These individuals clearly should not have been included in the group targeted to return to work. Recognizing this, Congress and the President partially restored some of the benefits unfairly denied this population. However, even with the partial restoration of benefits, many of our elderly noncitizen population are still suffering.

This bill will remedy the unfair result imposed by Congress last year by restoring to a small group of our most vulnerable individuals their food stamps. These individuals are our most needy. We have a duty to assist them in their aging years. This bill eliminates these individuals from a law that clearly should not apply to them.

CONGRESS SHOULD DO MORE PROBLEM SOLVING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, frequently I am asked, when I am in my district, if Congress is making any progress in solving the problems that this country faces. I wish I could be more optimistic in my answer, yet I am optimistic about the people in the district and the people in the country, because I think they are beginning to see the problems correctly and they are beginning to sense that we should be doing more to solve the problems.

Truthfully, I cannot give them an optimistic answer about the progress we are making here within the House of Representatives and in the Senate. For instance, yesterday we had a piece of legislation come up rather quickly. It was the FDA legislation. There was no announcement the day before. There was no announcement last week. It came up suddenly, under suspension, with only minutes to prepare.

Actually, I came to the floor hoping that I could at least make a statement, asking for 1 minute, but because it was managed by both majority and minority that supported the bill, there just happened not to be any time available to discuss anything in the FDA legislation.

This legislation involved 177 pages. It was not available to me on the Internet. It is a complex piece of legislation, and something that I think is a very

important piece of legislation. I had received numerous pieces of correspondence critical of this legislation and urging caution on its passage. The bill was rushed through rather quickly. There was no vote taken on this and, actually, not one single thing said in a negative manner about this particular legislation.

The pretense of the legislation is to speed up the process, to get drugs approved more quickly, to avoid the bureaucracy of the Food and Drug Administration and, quite frankly, there probably is plenty of bureaucracy over there that slows up the process. But if they are not doing a good job, why would speeding up the process necessarily be helpful?

If they speeded up the process to get drugs out, like Dexfenfluramine, which is a drug now known to cause heart valve disease, I cannot see the purpose of trying to speed up a process that guarantees very little to the consumer. Quite frankly, the Good Housekeeping seal of approval that the FDA puts on it I question. I favor the original Good Housekeeping seal of approval, something done more privately.

But the serious parts of this legislation, which I believe will come back to haunt many in this Congress, and I am predicting they will hear from the constituents and from many groups interested in this issue, in the first way the bill itself internationalized regulations for the first time. The regulations are to conform with all other nations when possible. I do not see this as a positive step in any way.

Unfortunately, it diminishes the State's role in regulation and in food labeling and it allows more Federal regulation rather than less. This, to me, is not going in the right direction. We talk a lot about reducing the Federal control, but here is a piece of legislation that comes up rather quickly, no debate, no chance to really debate the issue at all and, at the same time, it enhances and empowers the Federal Government over the States and, at the same time, it introduces this notion that some of these regulations may well become internationalized.

In another area that I think we have done a poor job has to do with the budget. If the American people would go by what is said from here, so much optimism, that we are on the verge of having surpluses and we are running around arguing about how to spend the surpluses, I have to take a different side to that argument. I do not see the surpluses.

For instance, this past year they say the national debt is down to $30 billion, approximately. Well, $30 billion to a lot of people is still a significant amount of money. So a $30 billion deficit should not be ignored and, quite frankly, I think it is lower than was anticipated more by accident than by what we have done, especially if we look at the budget resolution, which actually introduced more welfare programs, not less. So the fact that we have a smaller deficit is not too reassuring to me.

If we look at the increase in the national debt, it suggests another story. The national debt has actually gone up nearly $200 billion in this past year. The national debt went from $5.22 trillion to $5.41 trillion. So why the discrepancy? Why is the deficit so small and yet the national debt is increasing rapidly? There is a very specific reason for this. More money is being borrowed from the trust funds, such as Social Security. That is not the solution. That is a problem.

ORDER OF BUSINESS

Mr. SNYDER. Mr. Speaker, I ask unanimous consent to take my time out of turn.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. SNYDER] is recognized for 5 minutes.

Mr. SNYDER. Mr. Speaker, yesterday the Senate had a series of votes which temporarily killed campaign finance reform. I know the general public is confused over what happened over there, but the bottom line is the majority of the Members of the U.S. Senate support campaign finance reform, the American people support campaign finance reform, but the Senate Republican leadership will not let there be a clean vote on campaign finance reform.

And I say to my friends on the Republican side of the aisle, I know there is Republican support. I know there are many Republicans that support campaign finance reform.

Here on the House side we have had no hearings, we have had no votes on campaign finance reform, we have had no bills brought to the floor. In almost a year we have been in session, we have had no debate on the floor on campaign finance reform. And, again, the problem is the Republican leadership of this House.

I say once again, I know there are many Republican Members who will vote for campaign finance reform if it is brought to the floor of the House. The problem is the Republican leadership.

What is the problem? What is the problem with our campaign finance laws? This morning I held up this phony check I had made out here for a billion dollars, and the reality is it is now currently legal to make unlimited donations to the political party of our choice, Democrat, Republican, Reform Party, or any other party. Whether we are an individual, whether we are a corporation, whether we are a union, we can write out a check for any amount of money we choose to, as long as the account is good, and it is legal under campaign finance reform.

That is wrong. It contributes to the cynicism of this country, and it is a problem that needs to be fixed.

To discuss possible fixes to this very real problem facing America, I would like to yield to the gentleman from California [Mr. FARR], a leader in campaign finance reform.

Mr. FARR of California. Mr. Speaker, I want to engage with the gentleman in this discussion because, obviously, the gentleman saw yesterday that the Republican leadership in the Senate broke things, and the U.S. public is asking for a campaign reform fix. We have legislation here before us. In fact, the legislation before this House does not require that the Senate has to fix their side, we can fix just this side.

I have H.R. 600, which has more cosponsors than any other bill in Congress. It is the bill that historically has passed this House under Democratic leadership. It is the bill that received the most votes when this issue came up before the 104th Congress. It is a bill that totally reforms campaign expenditures, campaign collections, the whole gamut from A to Z, and it is a substantive bill.

The issue here is that we are the legislative branch of government. We are here to fix things that are broken. This is not just about hearing and smearing, it is about acting and doing. We need to have on this floor a vote on campaign finance reform.

The gentleman and I cannot do much about it because we are in the minority party, but the majority party has indicated that they are some day going to do it. They have the ability to do it now, and we hope they will give us the date and the time soon and that there will be particular bills like this, H.R. 600, that are comprehensive, that allow us to have a vote on it, because I believe that this House, in a bipartisan way, can send a bill to the President that will reform campaign finance methods of collecting, spending and conducting campaigns in the United States of America for people who run for the House of Representatives.

I appreciate the gentleman's leadership. The gentleman has certainly brought about the evidence that there is too much money in politics and that we can fix it together.

Mr. SNYDER. I appreciate the gentleman's comments. There are several good ideas out there, and they are incorporated. I think we now have 85 bills filed. If no bill gets to the floor of this House, none of those bills are going to be discussed, and it is very discouraging, given the uproar in the last election cycle from the American people about the volume of money

spent, that we see that we are not doing anything about it this year.

Mr. FARR of California. So the question is when.

Mr. SNYDER. The question is when.

Mr. FARR of California. The question is how.

Mr. SNYDER. The gentleman knows how. We have other Members that know how. The issue is having the debate to make the final decision about the how.

Mr. FARR of California. Well, we have colleagues here, and we hope that they will join us, listening to us, and demand that a vote be brought on campaign finance reform so that together, in a bipartisan fashion, we can fix it in a comprehensive form. Not just plug up one little leak or two little leaks, but do the whole thing so that we limit how much money people spend on campaigns.

That is the issue. We have to take the big mass, obscene expenditures out of campaigns, and we have a way of doing it. It has gotten to the President before. President Bush vetoed it, unfortunately, the Senate Republicans filibustered in the past, but now we have the ability because we do not need to have it go to the Senate and we can get the President to sign it.

So all we need to do is get 218 votes here and the job is done and, hopefully, it will be done soon.

Mr. SNYDER. In closing, I will just say it comes down to the question of the Republican leadership, the leadership in this House saying to the Members, yes, it is okay to bring that bill on the floor of the House.

□ 1800

PROPOSAL BY FDA AND EPA TO BAN MEASURED-DOSE INHALANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I want to bring to the attention of the Members and Members outside of this Chamber a proposal by the FDA and EPA to ban measured-dose inhalants which contain CFC's, or chlorofluorocarbons, that are used by people suffering from asthma.

Now, clearly, the goal of the FDA and EPA is laudable. They want to remove CFC's from all products in order to protect the ozone. But let us start with the basic premise that, first and foremost, the measured-dose inhalants contribute insignificantly to the problem.

But let us also stress, the need for these is so great, 30 million Americans suffer from asthma. CFC's are able to propel the medication necessary to help a struggling asthmatic sustain life, receive that important breath, and go on living a reasonably healthy life.

In 1999, through the Montreal protocol, the EPA and FDA wanted to start removing from the list products that are currently available to substitute one item that currently is on the market. Clearly, we expect further research to indicate that there will be options and alternatives.

What we are asking in a bill that I have filed is that the EPA and FDA report back to the Congress with a wide range of options available for asthmatics so that they can find products suitable to solve their medical emergency when necessary. Currently there are over 70 types of inhalants available on the marketplace.

My colleague, the gentleman from Rhode Island [Mr. KENNEDY], testified that he uses three different types of inhalants during the day that help provide life-sustaining breath to his lungs. I was an asthmatic as a child and suffered greatly when I tried to strive for breath.

These products are not contributing to the problems in the ozone. I talked to Dr. C. Everett Koop on Friday, and he clearly indicates that this is the wrong approach by the FDA and EPA, that this is not the problem.

Now, I applaud them for banning refrigerators with CFC's, air conditioning compressors with CFC's, hair spray and underarm deodorants that were polluting the air because of the excess of chlorofluorocarbons. But an asthma inhaler pumps the measured dose into the system and does not leach it out into the air. It is not something you waste. It is not something you spray. It is something you ingest, inhale into the lungs, to gain greater capacity.

So I urge my colleagues to support me in this initiative and urge the Speaker to consider this initiative to allow us to have those agencies report back when there are adequate amounts of materials available that can clearly be CFC-free but also provide the needed relief for patients around our country, clearly a policy decision being made that has the right intentions but has devastating consequences to those that suffer from asthma.

Thirty million Americans suffer from asthma. Thirty million Americans will not find comfort in knowing that they are only allowed to use one inhalant. Right now, the one on the market, to some people, does not contain enough propellant to bring the medication into the lungs.

CONGRESS SHOULD NOT SPEND BUDGET SURPLUS

Mr. FOLEY. Mr. Speaker, the other thing I want to discuss quickly is Alan Greenspan's testimony today that Congress should not spend budget surplus. And I agree.

To get our fiscal house in order, we have got a $5.3 trillion debt, we should be reducing the deficit, reducing the outlay that we are spending on interest on the debt alone, finding ways to reduce that so we will then free up capital that is now being spent on interest to help the needed projects in America, the road construction and other things.

My colleague, the gentleman from Wisconsin [Mr. NEUMANN], and several of my colleagues have cosponsored his measure that would allocate additional increases or surpluses, 1 percent of those surpluses to Social Security Trust Fund restoration, Highway Trust Fund restoration, and, more importantly, reduction of the debt. That would bring us into a balance, if you will, allowing us to use legitimate business principles.

When we have debt, we reduce debt, it frees up capital to spend on other programs. It is very simple, very common sense. And it probably will fail in this city, because people like to spend more than they have, because they are used to it.

We clearly feel that Mr. Greenspan's testimony today indicates that we have significant benefits from running some surpluses. There is nothing wrong with running a surplus. We tell all Americans to save for a rainy day. We tell all Americans they should have a surplus in their checking account. We tell businesses that if they are profitable and have excess revenues, that they are a great thing, an American institution. Only in this building do we consider spending more than we take in. Excellent advice that we should spread around the world.

Five point three trillion dollars in debt, incurring about $265 billion in spending on interest alone on the debt, and not reducing it by a nickel. So if we are to get our fiscal house in order, we need to start now.

I yield back the balance of my time.

TRIBUTE TO DR. EDNA P. DAVIS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me tell my colleagues a story and why I love and respect what public school education can do for all of us.

Today I stand in tribute to Dr. Edna P. Davis. Some would wonder, is she a famous actress or has she dunked a shot on the basketball court? No; Dr. Edna P. Davis is a public school teacher who has taught for 47 years. She lives in Houston, TX. I had the pleasure of joining her colleagues and her church members at Williams Temple just a few short weeks ago in honoring this soldier on the battlefield of education.

Dr. Edna P. Davis is an educator, a humanitarian, and a scholar. I am moved by her words regarding all children when she says, "Every boy and girl, irrespective of race, ethnic group, or color, or below par in physical condition, should be taught to achieve and aspire to high ambitions of their capacity."

She loved education and religion so much that I would like to note, for the RECORD, she wrote "The Education and Religious Life of Dr. Edna P. Davis." No, this is not a self-study to promote herself but her virtues and values and pearls of wisdom, for Dr. Davis is a lover of the written word and the spoken word.

And as we listen to the testimony of her students and her friends and colleagues, they said that she was able to instill in her children and her pupils the love of the English word, the love of the ability to communicate. Her commitment to God's work and others is most appreciated by those who know her best. She is a model of good Christian conduct and academic excellence.

Dr. Davis believes that teachers should be dedicated, teachers should love children. She taught in a public school system. And Dr. Davis' contribution to education, she has taught from kindergarten through the 12th grade.

I am privileged to know one of her students, Dr. Elwin Lee, my husband, who was able to be under her tutelage at Blackshear Elementary School. The children she has taught have scored high on their tests. She never took "no" for an answer. There was no child who could not succeed or take these standardized tests. She has always been punctual, and we could count readily on her attendance record as almost perfect.

The in-depth analysis of Dr. Davis' education and her numerous accomplishments as an educator, her work in the church, and her volunteer work in education with children and extending charitable contribution to Riverside Hospital have made her a legendary figure in our community.

My colleagues would have been amazed at the numbers of individuals who came from far and wide to pay tribute, the representatives from the Houston Independent School District, classroom colleagues, school chums, next-door neighbors, and, most of all, her students, those who work at NASA, those who are law enforcement officers, those who are doctors, those who are individuals who benefited from her teachings.

At an early age, Dr. Davis was trained in the Christian concept of the golden rule. How many of us would benefit from understanding that we really should do unto others as we would want them to do unto us? And her training came from her parents, Mr. and Mrs. Thomas Jefferson Davis.

Growing up in Third Ward in Houston, TX, she noticed early the challenge for a black teenage girl from Douglas Elementary School. She went to Jack Yates High School, which was then on Elgin Street. She studied hard. And at graduation time, she was designated class valedictorian. She was noted as a quiet young woman but a studious young woman, again, someone who loved to understand and learn.

Upon leaving Jack Yates High School, she enrolled at Texas Southern University. At Texas Southern, she pursued her mission as a teacher in the School of Education. She graduated from TSU in 1953, receiving the B.A. and B.S. degree with the highest honors. Summa Cum Laude was bestowed on her for her diligent study.

Seeking intensively to learn as much as she could, Dr. Davis in 1960 received an M.A. in English and history with the same distinction.

Her further study leading to doctorate was centered at Texas Southern University, University of Houston, and New York University. Determined to get her doctorate, she enrolled at Albany State College, away from Texas. From 1974–77, she received the ED.D., the highest degree in the field of education.

Her teaching career began in 1953, when she taught at Booker T. Washington Junior High School under Principal Bryant and Principal J.R. Cunningham at Blackshear Elementary in 1954. For the past 25 years, she has taught at Blackshear Elementary School under Principal George Mundine.

Let me say, Mr. Speaker, that I am delighted to be able to rise today and pay tribute to truly a great American and American teacher, someone who loves children, loves the ability to teach children, and believes that all of our children, no matter who, can learn, truly learn. She is a wonderful American and a wonderful teacher.

Mr. Speaker, I rise to offer words of gratitude and recognition for the wonderful work done by Dr. Edna P. Davis, educator, humanitarian and scholar.

I am moved by her words regarding all children when she said:

* * * every boy and girl, irrespective of race, ethnic group or color or of a below par in physical conditions, should be taught to achieve and aspire to high ambitions of their capacity.

Her commitment to God's work and others is most appreciated by those who know her best. She is a model of good Christian conduct and academic excellence.

Dr. Davis believes that teachers should be dedicated. Teachers should love children. In Dr. Davis' contribution to education, she has taught from kindergarten through the twelfth grade. The children she has taught have scored high on their tests. She has always been punctual and we can count readily her attendance record as almost perfect.

The in-depth analysis of Dr. Davis' education and her numerous accomplishments as an educator, her work in the church and her volunteer work in education with children and extending charitable contributions to Riverside Hospital has made her a legendary character.

In an early age, Dr. Davis was trained in the Christian concepts of the "Golden Rule." Such training came from her parents, Mr. and Mrs. Thomas Jefferson Davis.

Growing up in the Third Ward, she noticed early the challenge for a black teenage girl from Douglas Elementary School; she went to Jack Yates High School, which was then on Elgin Street. She studied so hard and at graduation time she was designated class valedictorian.

Upon leaving Jack Yates High School, she enrolled at Texas Southern University. At TSU she pursued her mission as a teacher in the School of Education. She graduated from TSU in 1953 receiving the B.A. and B.S. degrees with the highest honors. Summa Cum Laude was bestowed on her for such diligent study. Seeking to learn as much as she could, Dr. Davis in 1960, received a M.A. in English and History with the same distinction.

Her further study leading to doctorate was centered at Texas Southern University, University of Houston, and New York University. Determined to get her doctorate, she enrolled at Albany State College, from 1974–77, and she received the E.D.D., the highest degree in the field of education.

Her teaching career began in 1953, when she taught at Booker T. Washington, Junior High School under principal Bryant and principal J.R. Cunningham at Blackshear Elementary in 1954. For the past 25 years, she taught at Blackshear Elementary School under principal George Mundine.

I am pleased to join Dr. Edna Davis' family, friends, and colleagues in congratulating her on her life's accomplishments in education. Dr. Davis your monumental effort has given the gift of knowledge to your students who have become valued members of our society. Your commitment to excellence in education provided many of our children with the good news that studious pursuits, hard work, determination and perseverance will lead to success in life. I would like to offer my heartfelt thanks for your commitment, without which, your students would not have the promise of an unlimited future. Your gift of knowledge to the Houston community will not be forgotten.

Mr. Speaker, I ask that all of my colleagues join me in recognition of a wonderful teacher, Dr. Edna P. Davis.

GROUNDHOG DAY IN WASHINGTON, DC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. PAXON] is recognized for 5 minutes.

Mr. PAXON. Mr. Speaker, I do not know how many of my colleagues have had the chance to enjoy a great movie; it is called "Groundhog Day." And in there, Bill Murray had the recurring problem of waking up and it was Groundhog Day again and again and again, and he had to live the same experiences over and over and over again.

Well, we have our own version of Groundhog Day right here in Washington, D.C., because it was just 4 years ago, it seems like yesterday, that the Clinton administration proposed a Btu tax, and it was met with absolute outrage from across this country. Republicans and Democrats, people from all corners of America, rose up in indignation over a Congress, then controlled

by the Democrats, that would move forward with such an onerous and burdensome tax that hits the elderly, the poor, the working middle class so unfairly, so regressively.

Well, it is Groundhog Day all over again. And we wake up to find what? That the Clinton administration has not learned the lessons; they want to relive that day over again of proposing another Btu tax on the American people.

Saturday, the Washington Times reported that the administration has an interagency analysis team that is looking at tax alternatives to fund the costs associated with the so-called global warming treaty that they are considering signing in Japan later this year. Of course, they want to keep this quiet. They did not want to let this get out. But out it has come.

That information from the Washington Times, combined with information uncovered by the Committee on Commerce, on which I serve, indicates that the severity of the tax that they are talking about makes what happened in 1993 look like child's play.

Let me just tell my colleagues about it. What they are talking about is, decreasing so-called greenhouse gases by just 20 percent by the year 2010 could require an increase in the Btu tax five times greater than that proposed by the Clinton administration in 1993.

What would that mean? A tax of just $200 per ton on carbon could result in a 60 cent per gallon gasoline tax increase. I did not say the total tax would be 60 cents a gallon. The increase would be 60 cents a gallon. Thank you, Mr. President.

They are also talking about, on top of that, a 50-percent increase in the cost of home heating fuel. For those of us who need to heat our homes in the winter, that is devastating. It harms older Americans disproportionately, the working poor, middle-class taxpayers. It will hit nursing homes, veterans' hospitals, right between the eyes.

It will result in economic disaster, a 4.2 percent reduction, or $350 billion reduction in our Nation's Gross Domestic Product in year one of this Btu tax, a loss of over a million jobs in the first year and 600,000 jobs lost every year after the first year right through the year 2020.

I just do not believe we can afford Groundhog Day, to live this nightmare all over again that we experienced in 1993. That is why I am filing a sense of Congress resolution putting us on record in opposition, making clear to the administration that we have no intention in this Congress, this Republican Congress, of passing any Btu taxes and putting that burden on the backs of the American people.

I am very pleased that the National Taxpayers Union, the foremost organization fighting higher taxes, has come out in favor of this sense of Congress resolution and is going to join with us in this effort. But there is going to be a fight. I know there are a lot of people in this body who think this is a no-brainer, there is no chance this is going to move.

Let me tell my colleagues, we have an administration official who was quoted, on background of course, or anonymously, in the Washington Times as saying, in regard to this, yeah, it is going to be tough, but "we have a lot of educating to do."

□ 1815

I do not think there is enough educating to do to convince the American people that this Congress should take out of their pockets that kind of money, a 60-cent-a-gallon gas increase, or a doubling of home energy costs. That is just wrong. We cannot afford it, families cannot afford it, and it has to stop.

This is particularly unfair when we consider the fact that the administration has already exempted countries like China and India, and of course they will not have to pay these energy costs to pay for the global treaty being put in effect, only American taxpayers. That is just wrong and it is going to harm us even more.

My colleagues, I do not think there is any question that this excessive greenhouse tax appears to have all of the makings of a global group hug, leaving America's working poor, the middle class and the elderly flat out in the cold. We cannot afford it. I just hope for a change that Washington learns its lessons.

Usually Washington, under this administration, learns lessons slowly. This time, I am hoping that the American people will contact their Congressmen and women and when we gather back here, I know we are going to hear about it from each other, that when folks at home find out about this they are going to be indignant. They are saying we cannot afford a 60-cent-a-gallon gas tax increase or anything close to that, or any increase in our home energy costs.

Mr. Speaker, it is time to send a message loud and clear to the administration: We are not going to repeat the mistakes that they have tried to put on the backs of this country in the past.

TROOPS IN BOSNIA

The SPEAKER pro tempore (Mr. COOKSEY). Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise tonight to speak briefly about three very important, but unrelated, topics.

First, it has now been more than 1 year since the President promised he would have our troops out of Bosnia. There is no vital U.S. interest there. There is no threat to our national security there. We should not send young American men and women to overseas battlefields unless there is a definite threat to our national security or a vital U.S. interest. The American people do not want us there.

I remember reading 3 or 4 years ago on the front page of the Washington Post that we had our troops in Haiti picking up garbage and settling domestic disputes. Now we have our military doing social work in Bosnia. U.S. soldiers should not be turned into international social workers.

We have spent many billions in Rwanda, Somalia, Haiti, and now Bosnia, trying to settle disputes that we cannot solve unless we continue pouring billions and billions and billions of dollars into those countries. These are billions that some day we will very much wish that we had back to help our own people.

INCREASE IN FUNDING FOR IRS IS UNFOUNDED

Mr. DUNCAN. Second, Mr. Speaker, a few days ago on the floor, I criticized on this floor as strongly as I could the Treasury-Postal appropriations bill for giving the Internal Revenue Service a $538 million increase in funding. What I did not know then and could hardly believe when I found it out later was that in conference $120 million more was added.

Many of us voted against this, but the Congress passed a $650 million increase for the IRS just at the conclusion of hearings on the IRS showing horrible abuse of the American people by that agency.

The cover of this week's Newsweek Magazine really says it all: "Inside the IRS: Lawless, Abusive, and Out of Control." Those are not my words, Mr. Speaker, those are the words of Newsweek magazine. Newsweek says the IRS is lawless, abusive, and out of control.

Mr. Speaker, the people want us to do away with the IRS, or at least drastically simplify the Tax Code. They especially do not want us giving the IRS huge increases in funding. If this is done next year, there is at least a small but fast-growing group of us that will attempt as hard as we can to defeat any increase in funding for the IRS.

SPORTS SALARIES HAVE GONE BERSERK

Mr. DUNCAN. Third and last, Mr. Speaker, is something that makes almost everyone in this country feel underpaid, and that is the scandal of ridiculously lavish sports salaries. The sports world quite simply has gone berserk.

A 21-year-old basketball player that very few people have even heard of signed a contract a few days ago for $123 million over the next 6 years. A couple of years ago my two sons and I were driving along and we heard that a

baseball pitcher signed for $18 million for 3 years.

I asked my sons, "Do you know how much $6 million a year is?" The average person in my district makes between $21,000 and $22,000 a year. If a person averaged $25,000 a year for 40 years he would make $1 million. If a person is way above average and making $50,000 a year he would make $2 million over a 40-year career. A person would have to average $150,000 a year for 40 years to make the $6 million this pitcher now makes pitching a baseball one day out of every four. This is totally out of whack, Mr. Speaker.

An earlier speaker tonight discussed what he called a matter of fairness. Americans pride themselves on being fair. This is not fair at all, to pay even mediocre athletes several million dollars a year. No one can really earn or deserve some of these salaries, yet we are all helping pay these salaries through higher prices for everything.

I have always fought against higher taxes, but we really should greatly increase the taxes on all of these athletes, movie stars and CEO's who make over $1 million a year, and lower taxes on middle-income people, even if only as a simple matter of fairness.

We also should begin a boycott of all of these major league sports teams who are paying these ridiculous salaries, and especially a boycott of all products with their nicknames on them because they take in so much money in this way.

I know we will not do this, Mr. Speaker, but if these salaries continue to escalate in such a crazy manner, the Congress should at least take action on the tax front. Already, mainly thanks to big government, the gap between the rich and the poor is growing rapidly. We need to recognize this problem and do everything we can to make sure that America once again becomes the fair Nation that it was in the past.

CONGRESS SHOULD NOT BE CAUGHT UNAWARES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. BACHUS] is recognized for 5 minutes.

Mr. BACHUS. Mr. Speaker, sometimes we are caught unawares without any warning. Last month there was a commuter strike in San Francisco where over 270,000 commuters found themselves without a way to work and a way home, when the 60-day cooling-off period expired on a labor dispute out there and the San Francisco Bay area's commuter railroads were shut down.

About the same time here in Washington, afternoon commuters who were going home on VRE suddenly found that their trains were not leaving Union Station, and tens of thousands of them were stranded when dispatchers at Norfolk Southern called a wildcat strike. Now, these were regional strikes, they were unforeseen but they caused a great deal of disruption.

What may be happening to our Nation that I think most of the Members of this body are unaware of is another strike on the magnitude of the UPS strike. The gentleman from New York mentioned "Groundhog Day," where suddenly Bill Murray woke up and it was the same day all over again.

We could very well be facing that again later this month. The date: October 22. Amtrak is faced on that day with a possible national shutdown because of an impasse between the Brotherhood of Maintenance of Way employees and themselves over wages and work rules.

What precipitated this latest crisis was a Presidential emergency board, actually ruling 232, recommending that Amtrak pay the union employees what amounts to $25 million in wage increases, including some retroactive payments, and left another $30 million in arbitration. If this pattern were to continue, if this Presidential emergency board ruling were applied to all 27,000 Amtrack employees, it would cost Amtrak an additional $136 million. Amtrak, which as we all know is financially strapped, has simply taken the position that it cannot pay what it does not have, and it cannot pay these increases.

As I said, this 30-day cool-off period expires on October 22. That is one day after we return from recess. At that time, I fully expect that Congress will be in the middle of resolving a strike or taking steps to prevent a strike. If Amtrak is shut down, it will not be a commuter authority, it will not be like San Francisco or Virginia, it will be nationwide. It will not be thousands of commuters, it will be millions.

On the northeast corridor alone, think about this impact: Not only does Amtrak operate several hundred trains, but also commuter authorities in Boston, the MBTA operates over Amtrak territory; Connecticut DOT, Long Island Railroad, New Jersey Transit, SEPTA, Southeastern Pennsylvania Transit Authority; MARC and VRE. We are talking about commuters all up and down the northeastern corridor being unable to get to and from work. We are also talking about 73 freight trains on the northeastern corridor alone that would not be able to get to and from their customers.

If this happens, the strike in San Francisco will pale by comparison and it will not be one city.

What can we do about this? I would urge the Members of this body to come together and push for reauthorization of the Amtrak bill, or to authorize the Amtrak bill that has been reported by the Committee on Transportation and Infrastructure on which I am a member.

I would also urge labor not to take this position of a win-at-all-costs position. Unfortunately, they are holding up the authorization legislation this year because they are opposed to the same language in the bill that two years ago they wrote, language which would have been enacted as part of this year's tax bill and given Amtrak access to funds. Now, these same unions are demanding a pay increase. They are now demanding that Amtrak pay this.

In conclusion, Mr. Speaker, we have got to start thinking about what we are going to do. If we do not, we will wake up October 22 or sometime thereafter faced with a national crisis, and the American people, and us, will be caught unawares.

Mr. Speaker, I include for the RECORD data in support of the topic of my special order this evening:

EFFECTS OF A 1 DAY STRIKE AGAINST AMTRAK

Amtrak either operates or allows access over its tracks to 10 commuter agencies serving communities in 12 states. A one day strike would strand or frustrate the communities of nearly 600,000 commuters.

Depending on the scope of the strike, all Amtrak trains could potentially cease operation. Amtrak's average daily ridership is 60,000 passengers. This would idle 253 trains, stop service to 510 communities, 130 of whom have no direct air service, and 113 of whom do not have intercity bus service.

Each day of the strike will likely cost $3.8 million of lost revenue while costs will likely go up. In addition, Amtrak receives nearly $200,000 each day in mail revenues which would likely be lost. Mail service would be delayed to 35 cities nationwide.

Freight train operations on Amtrak owned property would also be disrupted or canceled. On the Northeast Corridor alone, freight operators serve 308 customers, including such large industries as Chrysler, Proctor and Gamble, and Delco Battery. Twenty-seven of the 308 customers are listed as Fortune 500 companies. Amtrak is a vital link for all freight shippers and their customers along the Northeast Corridor. Each day approximately 73 freight trains use the Northeast Corridor and 2 daily trains serve 6 customers on the track Amtrak owns between Porter, Indiana and Kalamzaoo, Michigan.

There is currently nearly 250 non rail-related construction sites on or near the Northeast Corridor. To access these sites, construction crews must cross Amtrak property each day to access job sites adjacent to the corridor. In the event of a strike, Amtrak could not safely allow access over its property potentially curtailing or idling work at these sites.

In addition, to the lost revenues, Amtrak expects that additional costs will be incurred from the securing of facilities and equipment. This cost will escalate with each day the system is idled.

The effects of the strike will linger for several months and be reflected in lost reservations and customer uncertainty. The strike will also damage customer loyalties enjoyed by commuter authorities. Even a short strike could be devastating to the Virginia Rail Express still reeling from service disruptions in June and July.

Once any portion of the railroad right of way that Amtrak owns or inspects has had a complete shutdown, it could be up to 24 hours before any train can operate again.

This time is required to perform federally mandated safety inspections.

If a system shutdown lasts more than 2–3 days, condition such as rusty rails could keep the railroad shutdown for as much as 1½ days beyond resolution of the dispute. If a system shutdown lasts longer than 3 days, it will take as much as 1½ to 3 days before trains can operate again.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington, Mrs. LINDA SMITH, is recognized for 5 minutes.

[Mrs. LINDA SMITH of Washington addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

WHITE HOUSE INTENTIONS AT KYOTO CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, I rise today to talk about the Clinton White House and its intentions at the Kyoto Conference regarding global warming. Most Americans are not aware that there will be a conference in Japan.

Protecting and preserving the environment is a goal shared by all Americans. We all want to drink clean water, we want to breath clean air, and we want to pass on a cleaner America to our children. We could get there by taking common sense steps to clean up our environment, by encouraging smarter partnerships between State and Federal governments, and by relying on sound science while resisting media scares, but we cannot get there by increasing regulations, increasing taxes, limiting freedom, slowing economic growth, and hurting our Nation's competitiveness. We cannot get there with policies that encourage abortions worldwide.

Sadly, the Clinton administration has embarked on the second path. They have promulgated clean air regulations that will strangle economic growth and affect every American family's lives.

□ 1830

They have floated an energy tax that will hurt American consumers, proposing as much as a 60-cent increase in the cost of a gallon of gas. They have publicly supported policies that will lead to a worldwide assault on unborn children, and they may even sign off on a global warming treaty that will hurt our competitiveness at the expense of other nations, cost Americans thousands of jobs, all for a cause that makes, frankly, Chicken Little seem rational.

Today I want to focus on the Global Warming Treaty that will be discussed at the Kyoto conference later on this fall. Asthmatic children will be victimized by this treaty. Just look at what is going on today.

In order to stay in compliance with its provisions, the Environmental Protection Agency has embarked on a crusade to ban inhalers used by asthmatic children because they contain chlorofluorocarbons. Though CFC-powered inhalers account for less than 1½ percent of the world's CFC emissions and although these same inhalers are the best and cheapest way for inner city children to get relief from asthma, and I do not know if Members know, but inner city children are six times more likely to die from asthma attacks, these inner city children get relief by these cheap and good inhalers, but the EPA wants to eliminate these products from the market.

Dozens of medical groups have petitioned to bring some common sense to the EPA, but those pleas, unfortunately, have fallen on deaf ears. The regulations will go forward, no matter what will happen to the children of this country and around the world, for that matter, because many countries follow the lead of the EPA.

But it is not just asthmatic children who will be victimized by this treaty. Unborn children will also be victimized. Just last week the Vice President, AL GORE, implied that overpopulation fosters global warming and suggested that expanding abortion programs in developing countries would help protect the environment.

According to Washington Times, the Vice President said, and I quote,

> The Vice President, warning that the overpopulation fosters global warming, yesterday suggested expanding birth control and abortion programs in developing countries to help reduce the environmental threat.

Mr. Speaker, killing children is no way to protect the environment. Children will not be the only victims of this Global Warming Treaty. Our Nation's economic health is also at stake. At the Kyoto meeting the United States and other developed nations may enter into an agreement that will force them to reduce greenhouse gas emissions. That agreement, however, will let developing nations off the hook. In fact, developing nations such as China, South Korea, India, and many others, will not face any emissions reduction requirements. These nations will benefit at the expense of the United States and retroactivity of the developed world. The United States will be forced to raise taxes and impose harsh emissions restrictions and regulations, causing U.S. companies to ship jobs and factories overseas to those nations not bound by the Kyoto treaty.

Mr. Speaker, I think the real environmental disaster is this administration and its attitude towards our world's children and for America's working families.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2169, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–314) on the resolution (H. Res. 263) waiving points of order against the conference report to accompany the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2607, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–315) on the resolution (H. Res. 264) providing for consideration of the bill (H.R. 2607) making appropriations for the government of District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HOUR OF MEETING ON THURSDAY, OCTOBER 9, 1997

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the House adjourns today that it reconvene at 9:30 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THE INTERNAL REVENUE SERVICE CUSTOMER SERVICE IMPROVEMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. MORAN] is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, my constituents continually remind me of their frustration with the IRS. Not all the problems taxpayers have with the IRS are making headlines. The kinds of problems my constituents tell me about are less spectacular but no less frustrating. Oliver Wendell Holmes famed the quote, "Taxes are what we pay for a civilized society," but in my opinion, this does not justify the government's collection of taxes in an uncivilized manner.

I have introduced the IRS Customer Service Improvement Act. I have supported the IRS Customer Service Improvement Act legislation addressing

numerous taxpayer complaints in dealing with what most Americans consider to be one of the most onerous of all Federal agencies.

For example, I recently spoke with a CPA in Kansas who told me of his many experiences with the IRS. One of his greatest frustrations has always been the ability to reach anyone at the IRS when he had a question he needed answered. Recently, in an attempt to get some simple information, he was forced to assign an employee to staff a phone and wait to connect with an IRS agent. Well, patient paid off Mr. Speaker, and they finally did get through—5 hours later. This is just one example but it is simply unacceptable—and the list goes on.

The IRS Customer Service Improvement Act addresses seven areas of taxpayer concern.

First, it would require the IRS to implement a plan to have all phone calls answered promptly by IRS employees, not machines or voice mail mazes.

Second, the bill would require all letters and notices mailed out by the IRS to be signed by an IRS employee. Too often notices are mailed out, sometimes in error, to taxpayers who then have to sort out what their mistake was and what they need to do about it.

I hear this complaint repeatedly. And while we expect taxpayers to be accountable; IRS agents should be as well.

Third, the bill would equalize the interest rate you pay the IRS for underpayments, making it equal to the interest that the IRS owes from you for overpayments.

Currently, the IRS holds an unfair advantage.

Fourth, one of the really discouraging revelations of the oversight hearings has been the IRS's preference for targeting taxpayers who do not have the resources to defend themselves from audits.

The IRS Customer Service Improvement Act would address these injustices by shortening the period of limitations the IRS must meet to assess additional taxes on returns filed by middle-and low-income taxpayers. Current limitations allow the IRS to find errors on three-year-old returns that can snowball into 3 years' worth of penalties and interest for people who cannot afford to fight. The new limitation would not apply to fraudulent returns, so those who do, in fact, cheat would not be protected.

Fifth, simple mathematical and clerical errors should not lead to large, unexpected penalties. This bill would require the IRS to notify taxpayers of mathematical or clerical errors in their returns within 6 months. Late notice would cancel penalty and interest.

Six, taxpayers would have the opportunity to correct their errors quickly, within 60 days, without facing penalties. Most Americans are more than willing to make good on simple mistakes if given the opportunity.

Seventh, the bill would include a provision that makes electronic filing of taxes voluntary for small business.

[The Taxpayer Relief Act of 1997 included a 1-year delay in the enforcement of mandatory electronic filing, but this provision, like the bill sponsored by the gentleman from Washington [Mr. HASTINGS], makes the exemption permanent.]

Make no mistake, this legislation is certainly not a substitute for full-scale, long-term tax reform, which should be the goal of this body. If these provisions are successful in making the IRS more accessible and fair, it still would not change the fact that the U.S. Tax Code is far too complex and takes too much money out of the hands of working families.

Until the day that wholesale tax reform is in place, the American people will be forced to continue to deal with the IRS every day. With this bill we can help level the playing field for taxpayers, while making the IRS more accountable and accessible. if you want to remind the IRS what the "S" in its name stands for, please join me in supporting this bill.

I would now like to further elaborate on how our tax code in all its complexity, negatively weaves its way into all our lives. While acknowledging the fact that we must have some capability of collecting taxes, we must pursue avenues by which we do so more efficiently and accurately. Further we must leave behind what is perceived as a cold, heartless bureaucracy that cares little of the frustration and devastation it places upon those the IRS purports to serve: the American Taxpayers.

Mr. Speaker, I quote, "The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least amount of cost, serve the public by continually improving the quality of our products and services; and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency, and fairness."

Does this statement accurately reflect your view of the IRS? If you are like most Americans, probably not. However, this is the actual mission statement that guides the IRS in serving the American people.

With businesses throughout our Nation constantly reevaluating and retooling their efforts in improving customer services, too often our Federal Government remains unresponsive and behind the curve in serving its clients—the American taxpayers. Nowhere in government is this more frustrating or directly touches more lives than when dealing with the IRS.

Recently this Congress passed some healthy tax relief. In general, my constituents viewed this very positively. However, they also expressed justifiable criticism that the tax relief provisions that were passed further complicated an already complex Tax Code.

And while I agree, we must observe that this is the absurdity of the present tax code: to even cut taxes we must complicate the tax code further.

Mr. Speaker, let us look at some notable statistics involving the Internal Revenue Service: The IRS is twice as big as the CIA and five times the size of the FBI, with over 100,000 employees who control more information about individual Americans than any other agency. Currently there are 480 separate IRS tax forms. Over 10 million correction notices are sent out each year. Small businesses spend $4 dollars in compliance for every $1 dollar they actually pay in taxes to the IRS. Individuals and businesses spend at least 5.4 billion hours a year figuring out their taxes, more man-hours than we spend building every car, truck, and airplane manufactured in America. It is estimated that we spend between $200 and $300 billion each year paying others to complete their complex tax forms for them. According to the IRS, in 1995, 2.1 million tax returns were audited at a cost to the IRS of nearly $1 billion dollars.

The IRS has spent $4 billion dollars on upgrading its computer system that it now admits doesn't work. According to a recent General Accounting Office report that the IRS could not account for $216 billion in delinquent taxes in 1996. Other comprehensive GAO audits have shown consistently that the IRS cannot even balance its own financial books. Again, the agency charged with the collection and accounting of the nation's tax revenues has consistently failed to balance its own books.

Mr. Speaker, this is a pretty sad commentary on the current state of the IRS.

We now have a unique opportunity, and in fact an obligation, to begin a serious national debate on how best to fundamentally reform our Nation's broken tax system. It is a system where we spend simply too much time filling out too much paperwork to send too much money to Washington.

Under the current tax code the Federal Government simply has too much power and control over peoples' lives.

Since the income tax was first established, politicians have talked about reforming, fixing, or replacing the system, only to end up making it more unfair, more complex, and more intrusive. The New York Times, in a 1909 editorial opposing the very first income tax, predicted, "When men get in the habit of helping themselves to the property of others, they cannot easily be cured of it."

Eighty-eight years later, this prediction has proven disturbingly true. For the time being, however, let us implement the reforms included in the IRS Customer Service Improvement Act as we move toward further discussions over replacing the current Tax Code.

THE ISSUE OF PARTIAL-BIRTH ABORTION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. Mr. Speaker, I rise this evening to speak about a topic I do not want to generally talk about on the floor. And to my colleagues who follow C–SPAN on the afterhours quite regularly, I have never spoken on this

particular topic before, and frankly, I would rather not speak on the topic, because I do not think we should even be talking about this topic in the U.S. of America. It should be an issue that was dealt with a long time ago. It should be an issue we do not even need to talk about, because it is so simple and straightforward in terms of how wrong it is.

Two years ago, three years ago, when the good people from southeastern Wisconsin elected me to this office and gave me the privilege of serving here in the U.S. House of Representatives, one of the first things that happened out here in Washington, as I swore to uphold the Constitution of the United States of America, part of that Constitution guarantees life, liberty, and the pursuit of happiness to every American citizen.

When I think about the topic, and we dealt with this here in the House today, and it is the reason for being here this evening to talk about it, when I think about this issue and how it relates to our Constitution, and equally more important is how it relates to the moral values in the United States of America, and how we could let this continue in this great Nation we live in.

So I rise tonight to speak on partial-birth abortions, and I am going to spend a portion of the hour allocated here this evening on this topic. Again, it is a topic that I would rather not talk about, because I do not think the issue should even be discussed. It should very simply be solved. There should be no partial-birth abortions in the United States of America, or in any civilized society.

I think one thing that happens in our society is we take very difficult topics and we say they should be shoved under the rug. We would rather not see them and not know them, because if we do not know them, we do not have to be upset about them.

To be perfectly honest, when I was sworn in 2 years ago, I had no idea that partial-birth or live birth abortions were going on in this great Nation we live in. Some people gradually from the pro-life community forced me to focus on this particular topic. They forced me to focus on what a partial-birth or live birth abortion actually was.

What happened to me as I learned about this topic and learned what was actually happening is it became harder and harder and harder to not specifically address the topic, because it is so wrong. We cannot turn our backs on it. It does not go away by hiding the fact. It is an issue. It is a fact that partial birth or live birth abortions are going on in the United States of America today.

I have to say that if this was done to a dog or if it was done to an animal, the Humane Society, the people that protest these sorts of things, they would be standing out on the Capitol steps today protesting that this was being done to animals. Yet, we continue to do it in America to live babies.

I want to describe what a partial-birth abortion is. I want to show Members just how outrageous this process is. Again, I know most people in America do not want to know about it. They cannot believe this sort of thing is going on thousands of times in the United States of America each year. I think it is important, and it is something we as a society cannot turn our backs on.

What happens in a partial-birth abortion is a doctor takes a forceps and reaches into the womb of a pregnant woman. He finds the leg of the baby or the ankle of the baby, and he literally pulls the ankles and arms of the baby out of the woman.

At this point, with the ankle and the arms actually out of the woman and the legs moving around, the doctor sticks a scissors or a forceps in the back of the head of the baby, so just before the head is delivered the baby is killed. That is what a partial-birth abortion is. I have to tell the Members, back home when I talk about this topic, the room gets dead silent. Any time I am in a room talking about it there is dead silence, because people do not want to talk about it.

What is really amazing to me is they call me radical. I am willing to say we should end this practice in the United States of America. I am the one they call radical because I say this is wrong. Killing a baby whose arms and legs are moving around, putting a scissors in the back of the head of that child, makes me radical when I say that practice should be stopped? What kind of a Nation is it that we live in that would consider my position on this, that this practice should be stopped today, as radical, and the people that say it is OK if we go ahead and do this, for whatever excuse they want to, those are the normal people in this country? Wrong. Those are the radical people in this country.

It is about time it was brought to the attention of the American people just exactly what is going on in a partial-birth abortion or live birth abortion, and the process should be banned. I would like to bring folks up to speed on what is happening on this particular issue.

We have brought a bill to the floor of the House of Representatives to ban this outrageous practice. As a matter of fact, in the House of Representatives we have from the State of Wisconsin nine elected Representatives here in the House. Some are Democrats, some are Republicans, some are pro-choice, some are pro-life.

All nine elected Members from the House of Representatives from the State of Wisconsin voted to end this practice. Whether we were pro-life or pro-choice, wherever they are on that particular discussion, they all understand that this topic is far beyond normal, and it should be ended immediately, and all nine of us voted the same way on this issue again today.

□ 1845

As a matter of fact, in the House of Representatives 297 out of 435 of us looked at this picture and said this is outrageous. I know there are some others over there who said, well, we probably should end it in most cases but maybe sometimes it is all right.

And again the bill did make the exception for the life of the mother, but they want to add things like the "health" of the mother. We are not sure they are talking about financial health or mental health or physical health. But they want to make enough exceptions so that we can keep doing this in this Nation, and that is just plain wrong.

Mr. Speaker, I point out, this is not just a pro-life/pro-choice discussion. Looking at this picture, if this was an animal that we were describing up here, there would be activists all over this Capitol protesting this procedure. This is a life, a precious baby. I was there when all three of our children were born, and I cannot imagine on our worst day in this Nation that the good people in this country would be willing to understand this process and not stop it.

So in the House, 297 of us voted to end the process. In the Senate, the majority have already voted to end partial-birth abortions in America. The bill is about to go to the desk of the President of the United States, and he is expected to once again veto the bill. After the bill is vetoed, it will come back to the House of Representatives. When it comes back to the House, we will have another vote on it. We need two-thirds, or 290 votes on it, to override the President's veto.

Mr. Speaker, we had 297 votes here today, and we fully expect to overturn the veto in the House of Representatives. In the Senate, they are currently three votes short of the necessary votes to overturn a veto by the President of the United States.

So this evening to my colleagues I have two messages. First, I would like to encourage my colleagues to talk to the people in the House that did not vote the right way today and encourage them the next time to take a look at what a partial-birth abortion is. Get rid of the political rhetoric. Get rid of the idea that we are going to be called a radical if we vote to end live-birth abortion.

Mr. Speaker, the radical people are the ones who think it is all right that if the arms and legs of the baby are moving around, that it would somehow be acceptable to stick a scissors in the back of the baby's head. That is radical, and it is about time somebody

starts calling those people the radical people that they really are and starts understanding that the people that are fighting to stop this procedure are the normal people and represent the masses of people in the United States of America.

In the State of Wisconsin, people looked at this procedure the last time this vote came around, and they actually started recall petitions against the two Senators from Wisconsin who voted to allow this procedure to continue. They were short. They accumulated 300,000 petitions. They were short of the number necessary to actually do a recall.

Now, I do not know how I feel about recall elections; not real good about them for the most part. But the idea that this many people got motivated to do something about stopping this process, that says a lot. I think it says a lot about the people of Wisconsin and nationwide, because when people understand what a partial-birth abortion is, it is going to become clear that the process should be stopped.

What I expect to happen in the not too distant future, I expect the bill to go to the President of the United States, and I would expect the President to veto this. And I would hope my colleagues would talk to the President and with their friends on the other side of this body and do everything they can to make sure this is not vetoed and that this process is banned and outlawed in the United States of America.

I also hope when we get the bill back that we maintain the 290 votes necessary to override the veto here in the House. And I hope that the good Lord provides the wisdom to the Senators who voted for allowing this procedure to continue to see the wisdom to changing their vote the next time it comes back to them so that we can override the President's veto.

Mr. Speaker, I very seldom talk on this topic. Most folks who follow C-SPAN presentations know that I talk a lot about budget and budget procedures and tax cuts and so on. But before I go to that topic, I would like to go to another one that I have not talked about for some time, and that is the Social Security system.

There are a lot of senior citizens in America today that rely heavily on the Social Security system for their day-to-day living needs. In Washington, we have been bringing good news to people. We have been bringing the news that for the first time next year the budget will be balanced, the first time since 1969. We are lowering taxes, the first time in 16 years that has happened. Medicare has been restored for our senior citizens.

But all the problems have not gone away, and we need to understand that even after we balance the budget, the Social Security system remains in jeopardy. So before I go into other budgetary matters this evening, I want to talk briefly on the Social Security system and make sure that we make clear what is happening in the Social Security and what we need to do to solve the problem.

The Social Security system last year brought in $218 billion in revenue. They went into the paychecks of working families and people in America today and took out Social Security taxes. When they were done collecting those taxes, they collected $418 billion. They wrote out checks to our senior citizen of $353 billion. That is right, they actually collected more money in taxes than what they paid back out to our senior citizens in benefits. That is $65 billion, as a matter of fact, that they took in more than they paid back out to our senior citizens in benefits.

Mr. Speaker, the reason for that is because the baby boom generation is rapidly headed toward retirement. And when the baby boom generation gets there, these two numbers are going to be turning around. There will be less money coming in from taxes than money going back out to our senior citizens in benefits.

The idea is, we collect the extra money now and put it into a saving account, we let the savings account grow until the baby boom generation reaches retirement, and then when these two numbers turn around and there is not enough money coming in to pay the bills, we go to that savings account, get the money, and make good on the Social Security checks that have been promised to our senior citizens. That is what is supposed to be happening.

It should come as no great surprise to anyone who closely follows Washington that that is not what is going on. What Washington is doing is, they are taking that $65 billion, they are putting it into the big government checkbook. Think of this much the same as any household checkbook. They are putting it in the general fund or the big government checkbook.

When they are done writing checks out of the big government checkbook, they have overdrawn the checkbook. That is the deficit. So they write out more checks than what they have in the checkbook each year. That is why we have had a deficit each year since 1969.

With no money left to put down in the Social Security Trust Fund, or into that savings account, they simply at the end of the year write an IOU to the Social Security savings account.

This is what is going on today. Instead of that money being put aside in the Social Security Trust Fund the way it is supposed to be, the money is going into the government general fund, the big government checkbook. They spend all the money out of the big government checkbook so there is no money to put in the Social Security savings account, and they simply write an IOU to the Social Security savings account. Mr. Speaker, that is wrong and needs to be stopped.

It is important to understand that when Washington says they are going to balance the Federal budget, what Washington means by balancing the Federal budget is, when they are done writing these checks out of the government checkbook, there is an even or zero there.

Well, what that fails to take into account is, this $65 billion that came from Social Security that is supposed to be down here in the trust fund was put in the big government checkbook, and even if the big government checkbook is balanced, they still have not put the money down in the Social Security Trust Fund.

So even after we reach a balanced budget next year for the first time since 1969, and let us not downplay that, that is important and good, it is a great step in the right direction, but even after that is done and we reach a balanced checkbook or a balanced budget, they are still using the money that is supposed to be put in Social Security to make it look like it is actually balanced.

So what are we doing about that? In my office, we have drafted and introduced legislation. It is called the Social Security Preservation Act. And this legislation does not take Einstein to figure out. I think in most businesses across America today it is straightforward. It is what you should be doing with your pension fund. It simply says that the money collected for Social Security must be put directly into the Social Security Trust Fund.

Again, this is called the Social Security Preservation Act, and it is very simple. It simply says that that surplus money that is being collected today for Social Security to preserve and protect Social Security for our senior citizens must be put into the Social Security Trust Fund.

It never fails to amaze me. When I am at a town hall meeting and say, "How many people think we ought to be doing it this way?" it is virtually unanimous. Outside of Washington, everybody believes we ought to be doing this, not just a few or one or two here or there. It is pretty straightforward. If a business took the pension money, put it in the checkbook and spent it and put an IOU in the pension fund, it would be illegal and they would be arrested. There is no question about it.

So the second topic I wanted to deal with tonight before we get into some of the other budgetary matters is the idea that this money for Social Security needs to be set aside for the purposes of Social Security.

The third topic that I wanted to go into, and, again, as we go into this, it is important to note that we are going

to hit the first balanced budget for the first time since 1969 next year. We are going to start running surpluses. So what we should be doing is restoring that money for the Social Security Trust Fund.

Mr. Speaker, I think it is important that we know that we have hit a balanced budget for the first time since 1969. As we talk about these tax cuts, the tax cuts are part of the surplus that is being accumulated, and there is enough money in that surplus to both restore the Social Security Trust Fund, keep a balanced budget, and reduce taxes at the same time.

I am going to show why that is all possible in a few minutes, but before I do I that, we should go through what is in the tax cut package, because of everything else we have done out here in Washington, D.C., this year, this is going to have the most immediate, direct impact on the people who get up every morning and go to work for a living.

What we are really talking about when we talk about tax cuts are these folks who do get up and go to work for a living. Those folks, instead of sending money to Washington, they get to keep it for their own homes and their own families. That is what tax cuts are about.

Let us start with one that affects 550,000 Wisconsin families; 550,000 Wisconsin families alone will benefit from the $400 per child tax cut next year.

The way the tax cut works is this: For all the children under the age of 16, at the end of the year the folks figure out their taxes and how much they would have sent to Washington, D.C., and subtract $400 for each one of those kids. It is very simple to understand: Figure out how much would have been owed, subtract $400 off the bottom line. This is a tax credit, not a tax deduction.

But let me put this a better way. In January of next year, what should happen is, those 550,000 families should go into their place of employment and simply ask that they reduce the amount of money sent to Washington by $33 per month per child.

So on January 1 of next year, I would hope that the Wisconsin families and others like them all across America would go to their place of employment and reduce the amount of money that is being withheld for Federal tax purposes by $33 per month. The $33 per month is $400, the total tax credit, divided by the 12 months in the year.

So I hope on January 1, if it is a family of five out there, three young kids at home, 3 times 33, or roughly $100 a month that should be kept in their own home instead of sending it to Washington.

Mr. Speaker, there is more to it. A lot of times people ask me about education. I am a teacher by trade, and I think education is extremely important for the future of this country. If our education system is not strong and our young people are not well educated, there is no hope for this country. I think the significance and the importance that we place on education is seen in the tax cut package.

As a matter of fact, if he is a freshman or sophomore in college in virtually all the cases, if they are paying $2,000 or more to go to college, freshman or sophomore in college or tech school, they will get to keep $1,500 more in their own home next year to help pay for their college tuition. For freshmen and sophomores, it is basically $1,500 in most cases, and for juniors and seniors, it is 25 percent of the first $5,000 of cost, or roughly $1,000 in most cases. So when we talk about college students or people going back to school for an education, this is real dollar help.

A family of five in Wisconsin where one is in college and two of the kids are still home, they will be keeping $2,300 a year more of their own money in their own home starting January of next year. They should literally increase their take-home pay by $200 a month.

A family of five, one in college and two kids still home, they get $400 for each one of the kids still home, which is $800, plus $1,500 for the college tuition credit; $2,300 for a family of five, two kids at home and one off to college.

Mr. Speaker, it does not end there. I had a person at one of our town hall meetings ask me. She said to me, "I am married without any kids, and I am going back to school." This young lady apparently was working full-time as well as going to school at the same time. She said, "Does this affect me?" And the answer to that question is definitely yes.

As a matter of fact, to that young lady who asked me the question, what happens for her is, the tuition that she pays to go back to school while she is working full-time, if it is less than $1,000, will be fully refunded by decreasing the amount of taxes she sends out to Washington.

If we are talking about young people who are trying to get themselves a better opportunity by improving their education, that education cost will be deducted at the end of the year and will show up as a tax credit for them.

So it is not just the college-age students that we typically think of as college-age students. It is young people out in the work force, going back to school to provide a better opportunity for themselves and their family in the future.

One more thing. There are a lot of college graduates that take their first job and then, while they are working, go back to school to get their master's degree. That would fall under the classification of 20 percent of the first $5,000 of costs. So those folks that are back in school getting their master's degree after they have already graduated from either high school or college, they are eligible for this tuition tax credit.

Mr. Speaker, our commitment to education, however, did not end there. In addition to the college tuition credits, we have set up a program where, if there are young children in the family, up to $500 a year can be set aside for those young children, so that when they reach college age there will be money available for them to go to college. It works like this.

□ 1900

They can put up to $500 per year into the account. The money accumulates tax free until the child reaches the age to go to college. They can then take the money out of that account and use it for purposes of going to school.

Where I found that a lot of people are interested in this is that the grandparents, a lot of times there is a lot of grandparents with grandkids who wonder what they should get them for Christmas, birthdays, whatever. We found a lot of grandparents that are interested in using this educational savings account as a gift to the grandchild. And what better gift than something that will help them with their college education when they reach college age?

The tax cut package did not end there. A lot of young people asked me, "What about us? You have not talked about us yet." A lot of senior citizens asked me, "You really have not hit us yet in terms of helping lower our tax burden."

To them, if 74 percent of the seniors in Wisconsin own their own homes, and lots of young families own their homes and are transferred around the country from maybe a higher home cost area to a lower cost area, the home sale tax code has changed. If it is their personal residence and they have lived in the home for two years and they sell it, there are no Federal taxes due on the sale of that home. That impacts folks in a lot of ways.

We have people from California where home prices are higher than they are in Wisconsin, transferring to Wisconsin for whatever job purpose, to provide a job opportunity, for a better life for themselves and their family, so they sell that home in California and they come to Wisconsin where it is a little less priced for a home. Rather than owing big amounts of money to the Federal Government for taxes on the home they sold in California, there is no tax due on that sale.

It works also for senior citizens who used to have what is called the 55 exclusion. A lot of folks were very familiar with the one time age 55 exclusion. That is gone. A lot of our senior citizens took the one time age 55 exclusion, sold their big home and bought a

smaller home that they plan to live out their retirement in. If they bought that smaller home 10 or 15 years ago, they might have bought it for $40,000 or somewhere thereabouts, it has probably appreciated significantly.

Maybe now our senior citizens are ready to sell that home that they bought at age 55 or age 56. So they took the one time exclusion 10 years ago, they are in this other home. If they would have sold that home before, there would have been no exclusion, they would owe Federal taxes on it. Under the new law when the senior sells their home for whatever reason, there are no Federal taxes due provided they have lived in the home for a two-year period of time.

Again, there is an upper end cap in this, but in Wisconsin it will affect virtually none of the homes, and elsewhere in the country there may be some effect. But foremost cases, there are no Federal taxes due.

The other ones that talk to me about it is people where all their kids are grown and gone and they have left the home. Kids are saying none of these things have affected me yet. There is also what is called the Roth IRA. We have a lot of union workers in particular who say, "I am in a 401(k) so I cannot do anything more to save up for retirement." The Roth IRA is available even if people are already in a 401(k) or some other kind of retirement plan.

The Roth IRA works like this. They put in after-tax dollars but the money accumulates tax free to retirement, and when they reach retirement and take the money out, it is absolutely tax free. This is a dynamite way to save up for retirement. They put in after-tax dollars, the money accumulates tax free. When they take it out at retirement, it is absolutely tax free.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I think the important point of all this is there are a lot of different savings accounts that may work for a family, but the emphasis is that the tax system as we have passed it recognizes the importance of saving for the future. Right now I think the consumer debt is something like $4 trillion nationwide. It may even be bigger than that. But we as a society need to start saving money for the future. And by implementing these new IRA type savings accounts, that is what we are doing.

Mr. NEUMANN. Is it not great that instead of the government dictating and mandating what kind of program is going to fit all the people in America, instead of doing that, we set this plan up and we let people decide which way they would like to save up for their own retirement.

The other great thing about the Roth IRA is that if they are a young couple and they do not own their own home yet, they would like to save up to buy their first home, they can put the money into the Roth IRA. It earns interest tax free. They can take up to $10,000 to buy their first home, or if that same young couple would later like to go back to college and save up to go to college, they can take money out of the Roth IRA for purposes of either the first home or going back to college. It is really a good setup for an awful lot of people in this country.

I have not mentioned the capital gains tax cut. Maybe Mr. KINGSTON would like to go through a few of the details on the capital gains tax cut.

Mr. KINGSTON. Mr. Speaker, I appreciate the gentleman yielding to me.

The capital gains tax rate has been 28 percent on items that a person sells for a gain, the amount of money that they have made on it. Now, it is ironic because there again we are taxing savings and we are taxing money that has already had taxes paid on it.

The typical example that I see over and over again in my area, which is a growth area where we have a lot of senior citizens, many of them have saved all their lives. Now they are in their upper years and they want to cash in maybe some of the stock that they have saved and maybe use it for a medical emergency, maybe for some long-term care, whatever, residential care, but they are taxed at this 28 percent rate.

Under our plan, depending on what their bracket is, they would be taxed at 20 percent, possibly as low as 15 percent, depending on their income bracket. Personally speaking, I would love to have zero capital gains tax for people like that, but if we can start with that, I think it will help seniors a lot and, again, encourage people to save money.

Our office went back to 1956 Treasury records and every time that the capital gains tax rate was low, revenues from capital gains had increased. But when the rate is high, people hold their assets and as a result there is not much revenue from it. I believe that this is going to be extremely beneficial, not just for the economy but for deficit reduction.

The gentleman has been such a champion on deficit reduction, I almost would be willing to predict that with the surge of new sales of assets and so forth because of this capital gains tax reduction, that we will potentially as soon as next year be able to balance the budget.

Mr. NEUMANN. I do not know if you caught the new numbers now being talked about out here in Washington. We are looking at a $23 billion deficit, the lowest deficit since the early 1970s. As a percent of GDP, it is the lowest deficit we have had since the very early 1970s.

Mr. KINGSTON. Under the Neumann budget, which you authored and I supported, had that passed, that deficit would have been zero probably.

Mr. NEUMANN. That is absolutely correct. Do you remember when we first introduced that? I was three months here on the House floor. Our leadership was kind enough to allow us to have a vote on our package. We only got 89 votes on it. It would balance the budget by the year 2000. Everybody said we cannot possibly do this by the year 2000.

Here we are in 1997, and because of two things, the economy has remained strong, but while the economy remained strong this body out here, the people that are here now slowed the growth of Washington spending. In the past whenever the economy was strong, Washington spending exploded. They spent all those extra revenues.

I have a chart, if the gentleman would bring that chart; as long as we are on that topic, I think it helps us to see. I think it is important to be able to see a picture of what has happened with the strong economy, with the strong economy at the same time revenues were growing to the Federal Government.

The body that is here now since 1995, rather than increasing spending as they always did in the past, we have slowed the growth of Washington spending. Before we got here in 1995, back in 1993–94 spending was growing at 5.2 percent annually at the Washington level. At the same time revenues started growing very rapidly to the Federal Government, we have literally slowed the growth of Washington spending. So it is these two things together that have put us in a position where we can literally get the budget balanced in fiscal year 1998.

I am not afraid to go on record, 1998–99, we will have the first balanced budget since 1969. We can do all of this because of this picture.

Mr. KINGSTON. Does the gentleman plan to reintroduce a budget next year which will balance the budget by 1998–99?

Mr. NEUMANN. I believe that we should introduce a budget that is balanced in 1998, yes. I think it would be inexcusable for this body, short of some major change in the economy, to not get to a balanced budget by 1999 at the very latest. The revenues are there. Our spending growth has been curtailed. There is no reason in the world that we cannot hit a balanced budget.

We keep talking about this in Washington language, a balanced budget, and out there in the real world that does not always mean a lot. Let me translate it because Alan Greenspan did a great job of it today. He talked about the fact that if we could get to a balanced budget and actually go past that and start running surpluses so we start paying down the Federal debt, interest rates may drop another half to a full point, so we could see lower interest rates.

That means something to families. When they are making their home mortgage payment, if the interest rate is lower, they just keep more money in their own home instead of sending it out here to Washington. That is what this is about. It is about real people having the opportunity to be able to afford to buy the American dream, a home or a car of their choosing, because the interest rates have stayed low. And when the interest rates stay low, when people buy those houses and cars, others have to go to work.

We talked about welfare reform. We finally got welfare reform to a point where able-bodied welfare recipients are required to go back into the work force. If a person is capable of working in our society, they cannot stay on welfare all their life. There is child care available, there is health care help there, but they have to get a job if they are able to work in this society.

Mr. KINGSTON. The way I always explain it, we get a lot of criticism: Why are you trying to cut taxes? I say it is very fundamental. Middle class people have more of their money, more of their own money in their pocket because we in Washington confiscate less of it. Then what is going to happen is they are going to spend more. They will buy not necessarily a lot of glamorous things but lots and lots of very important things in the economic chain: more CDs, more socks, more pairs of shoes, hats, shirts, basketballs. When they do that, more jobs.

Mr. NEUMANN. More jobs here in America for our kids so they can have the opportunity to live the American dream.

Mr. KINGSTON. That is exactly right. Because what is going to happen, the local drug store and the sporting goods store, the local restaurant, local clothing store will all expand to meet the new demand because American consumers have $300 or $400 more disposable income in their pocket. And when they expand, they create those jobs. More people are working, less people are on welfare, more people are paying taxes and the revenues are going up. That is the situation that we are in.

Mr. NEUMANN. In the community I live in in Jaynesville, WI, we build Suburbans and Tahoes there. And we can see the direct result of this picture of the deficit coming down so the interest rates stay down low. People can afford to buy Suburbans and Tahoes. That is job security for our people.

It is a direct translation. Low interest rates mean people can afford to buy the Suburbans and the Tahoes. When they buy those, they can afford to make payments on it. When they buy those vehicles, that means our people in Jaynesville stay employed. That is what this is about. It is about job opportunities.

Mr. KINGSTON. Yet as we are discussing this, and with a lot of gleam, I would say, to the degree that the deficit has fallen, the numbers are roughly about $260 billion down to $23 billion.

Mr. NEUMANN. Actually I have a chart here. I have one that actually shows where it was when we came.

Mr. KINGSTON. I think it is important. Let us show how much that deficit has fallen.

Mr. NEUMANN. When we came here, many of our colleagues tonight are playing basketball, so this is no pun intended. There is a good spirited basketball charity game going on out here tonight, but if we had all played basketball and not done our job, this shows what would have happened to the deficit.

This is the deficit stream that we inherited in 1995 when we came here. Remember 1993 was that big tax increase where they were going to try to get this under control. Even after that big tax increase, this is what we inherited in 1995 when I was first elected to office. The gentleman is right. It was going all the way up to $350 billion, if we did not do something about it. This is our 12 months work. Our first year, 1995, our 12 months in office, we brought the projected deficit down to this yellow line.

But at the same time we laid this green line into place. And just like we had done before, we made a promise to the American people that we would get to a balanced budget. Only this group is very different. Before 1995, every time those promises were broke. But we made a promise, too. It is this green line on the chart. The blue line is what we are actually doing. I think it is so significant. We are now in the third year of a 7-year plan to balance the budget but instead of the broken promises before 1995, we are not only on track, we are ahead of schedule to the point where we will get it done next year.

Mr. KINGSTON. The gentleman has touched on a very important point. In between the blue line of where the money actually is and the green line of where the plan is, I am scared to death that even on a bipartisan basis we will rush out and spend the money. I always say this is like somebody who is on a six-month diet and finds out at the end of the second month that they are ahead of projections, so instead of finishing the diet, in three months they go out on an eating binge and eat lots of ice cream and cake to celebrate. Are we going to do that? Are we going to rush out and spend this money, or are we going to do the right thing and apply it to the national debt?

Mr. NEUMANN. The "rush out and spend it" part? Over my dead body. That really is the attitude of an awful lot of us out here in Washington right now. We have had it with those past practices of breaking the promises to the American people, and we have had it with the 1993 concept of raising taxes.

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I do not know if the gentleman has had the opportunity to hear some of our colleagues here on the floor tonight before us. During the 5-minute portions this evening, they were talking about this big conference that will go on in Japan where they are going to tax our energy here in America but leave countries like China out from under this tax. And they are going to tax energy as much as 60 cents a gallon for gas. Has everyone forgotten what 1993 was like?

Mr. KINGSTON. If the gentleman will yield a second; also exempt China, Brazil, maybe India, and a couple of others.

Mr. NEUMANN. North Korea.

Mr. KINGSTON. North Korea. Major U.S. competitors will be exempt from this Clinton gas tax proposal. And why the administration thinks the time is right to increase the gas tax 20 to 40 cents a gallon——

Mr. NEUMANN. Sixty cents a gallon is what they are projecting under this proposal.

Mr. KINGSTON. Can my colleague imagine what that will do to the economy, to small businesses?

Mr. NEUMANN. What amazes me is that in 4 short years, the amount of time it has taken to turn this picture around, that we have actually curtailed, slowed the growth of Washington spending, we have had these changes from 1993, everyone has forgotten that in 1993 they raised virtually every tax they could think of.

We have gone through the tax cuts here and we have had a good time talking about finally how we are going to leave more money in the pockets of the people. It is not a gift from us, it is their money. We finally had a good time talking about the fact that taxes are coming down for the first time in 16 years. Has everyone forgotten 1993?

The discussion was a Btu tax; 4.3 cents a gallon gasoline tax. They did not spend the money to build better roads, they just spent it on other Washington programs; a 2.5-cent a gallon extension of another gas tax, and for senior citizens, the Social Security tax rates from 50 to 85 percent. I cannot even get done with all the tax increases they did.

Mr. KINGSTON. It is interesting because some of our colleagues right now are really pushing a Federal takeover of local school construction. They want the Federal Government to go in and build school systems.

Now, as the gentleman knows, bricks and mortar has always been the domain of local school boards. And school boards in local communities that have been responsible and have kept up with it, do not have the problem.

But what is also interesting about this debate, this urge to go out and

spend the money that some of our liberal colleagues have, is that when the gentleman and I talk about education, when the gentleman and I talk about the strengths of education, when the gentleman and I reflect back on our own educational history, we do not talk about, hey, I went to this beautiful school; it was three stories tall, and the bricks were so wonderful and the glass windowpanes were so special and the light sockets were just out of this world. We do not talk about that. We talk about, hey, I had Miss. Jones, I had Miss. Reynolds, and I had Miss. Musey, and I had Miss. Smith, and they were great teachers and they made a difference in my life. And not one of them would have been any different in a different building.

Our children need to be in decent buildings, but the big problem in education today is we need to put money into the teacher in the classroom, not into the bureaucracy in Washington that is going to dole out on a political basis bricks and mortars and make-work projects for educational bureaucrats. It is ridiculous. Let us give the money to the kids in the classroom and the teachers.

Mr. NEUMANN. That is really the fallacy of this whole thing. What would lead anyone to believe that this Government, Washington, can reach into the pockets of the American people. This money is not manna from heaven. This money has to come from somewhere. So we will reach into pockets of the working families in America, the working people in America, and they will bring the money to Washington. They will pay hundreds of bureaucrats to decide how to spend the money, and then they will send 35 or 40 or 50, or whatever number they happen to get to in this particular case, back to build new schools. And they will pat themselves on the back because they collected $1 from the taxpayers and sent whatever the number is, 50 cents, if we are in a good day, back to build new schools with.

First off, why should Washington reach into the pockets of the people in Janesville, WI, bring the money out here to Washington and then Washington make a decision about who gets a new school? Why should that not be the responsibility of the parents and the teachers and the community to make those decisions? That is what it is all about.

Mr. KINGSTON. Can the gentleman imagine a Washington IRS-type bureaucracy building local schools? I know to some liberals that is a great deal.

It is interesting, as a matter of fact. Here is a copy of the Washington Times as of last Tuesday where the President opposes citizen oversight of the IRS. I mean is this the national Democratic Party now that has come down to supporting the IRS and the fact that many folks back home think it is time to overhaul the tax system, overhaul the IRS, to stop some of the harassment of our citizens and the President and the Democrats are defending the IRS?

It does not make any sense at all. I do not want an IRS-type bureaucracy to run the local school construction projects.

Mr. NEUMANN. I think it is important that folks know that, in addition to getting the budget balanced for the first time since 1969, taxes coming down for the first time in 16 years, restoring Medicare for our senior citizens, what is next on the horizon is a bill that has been introduced that would literally sunset the entire IRS Code. We would literally sunset the entire thing in the year 2001. And what that would effectively do is force us to come up with a new, fairer, simpler tax system.

When I describe this to folks in our town hall meetings, this is the one thing that absolutely brings an across-the-board cheer because everyone hates the complexity of the Tax Code.

Mr. KINGSTON. If the gentleman will yield. I thought we were together, on a bipartisan basis, on the IRS reform. I had no idea that the administration was going to defend the IRS and try to make tax reform a partisan issue.

But I will say this. If it is a partisan issue, the Republican Party is going to be on the side of the American taxpayer for simplicity and clarity, and let the President defend his 111,000 IRS employees.

Mr. NEUMANN. Would the gentleman hold that chart up. I had not seen that before and I would very much appreciate seeing it. The White House is now championing the IRS.

Mr. KINGSTON. This is not Republican propaganda. This is an actual newspaper headline. The Washington Times, a well-respected newspaper. The headline of it, Tuesday, September 30, 1997, "White House Champions The IRS. President opposes citizen oversight."

I will read the gentleman the first paragraph. "The White House yesterday came to the defense of the embattled IRS, vowing to vigorously oppose congressional efforts to create a citizen oversight board to protect Americans from agency abuses."

Mr. NEUMANN. There are a few things, I guess, that we really do think an awful lot different between the President and ourselves. He did sign the budget deal, and he did sign the bills that lowered our taxes and that stuff but, my goodness gracious, there is a huge difference of opinion in supporting the IRS or thinking we should come up with a new Tax Code, something simpler, something easier, fairer for our people, something they could actually fill out themselves instead of going to an accountant every year.

I see the gentleman from Minnesota has joined us.

Mr. GUTKNECHT. I thank the gentleman for yielding. I saw the gentleman here on the floor and he was talking earlier about the budget. I do not know if the gentleman had a chance to talk a little bit about it. The gentleman from Wisconsin and myself both serve on the Committee on the Budget, and I know the gentleman from Georgia has been interested in the budget, but I think sometimes we need to remind people how well we are actually doing.

I do not know if the gentleman shared this number with the folks who may be watching us in their offices, but when we passed our original 7-year balanced budget plan, we said that in fiscal year 1996 we would spend $1586 billion. Does anybody know how much we actually spent in fiscal year 1996? The answer is $1560 billion.

Mr. NEUMANN. Say that again real slow so we get that.

Mr. GUTKNECHT. We said we were going to spend $1586 billion, but this Congress actually spent $1560 billion.

Mr. NEUMANN. So we spent less money than what we said we were going to spend. Washington actually spent less money than what we originally said we were going to.

Mr. GUTKNECHT. The Republican Congress spent $26 billion less than we said we were going to spend.

But that is just part of the good news. That at a time when revenues actually increased by $20 billion more than we expected. Now, that is good news. I guess the problem with the media seldom does good news make the news.

But if I can share what happened in 1997, because the news gets even better, and I think a lot of people have said, well, there really is not much difference, but let me give one other quick number. In fiscal year 1997, going back to our original 7-year balanced budget plan, we said we were going to spend in fiscal year 1997, $1624 billion. We actually spent, and, in fact, it may actually, when the final books are closed October 1st, and we do not have the final numbers yet, but the preliminary numbers of the Congressional Budget Office said we would spend $1612 billion.

Mr. NEUMANN. If the gentleman will yield, it is down to 1602. The most current numbers, we just got them yesterday, as a matter of fact. I apologize for not getting them out yet. It is down to 1602. So we are now $22 billion under. This is less Washington spending than what we promised.

When I tell folks this, they absolutely do not believe it until I actually show it to them. It is there in the budget. I challenge any of our colleagues to go back to the budget resolution, check out what we promised we were going to spend not more than and

find out that when he actually spent less than what was in the original plan.

Mr. GUTKNECHT. So if the gentleman's numbers are correct, in fiscal year 1997, we took in over $110 billion more than we expected and we spent over $22 billion less.

Now, here is the question. Here is the question for anybody who happens to be listening to this, for any Member of Congress. Does anybody really believe that Congress would have actually hit its spending targets, in fact gone below its spending target, at a time when revenue increased by more than $100 billion? Does anybody really believe we would have spent less if the other party still controlled Congress?

Mr. NEUMANN. The first night when I found these numbers, I called my wife and said, "You are not even going to believe this. I found out that, when we go back to our 1995 promises, we had over $100 billion more revenue coming in and we actually spent less money." She said to me, "Someone is giving you bad numbers." So my wife would not even believe it at first.

I have gone through these numbers time and time again. I challenge each and every one of my colleagues to take the time, sit down and look at these numbers, and really understand just how far we have come as a Nation when we could have over $100 billion extra revenue come in and spend less money. Because what this really means is that we borrowed less money on our children and our grandchildren's backs, and that is what this is about.

Mr. KINGSTON. If the gentleman will yield. Regardless of the deficit reduction and potentially balancing the budget next year, we still spend about $300 billion a year on interest on the $5.4 trillion national debt. Now, that is the second or third largest single item on the entire budget every year.

That is money that could be in the pockets of the American families, the moms and dads out there for their children, or it is money that could go to other projects, education, health care and so forth. But we only begin the job when we balance the budget. And the fear that I have is that because the revenue is so much higher than projected, what is going to happen is we will have a lot of liberals coming out there with new spending programs.

We are already hearing it on let us go out and build a new Federal school program. And I am scared to death we will go back down the donnybrook we were in in 1993 and 1994.

Mr. NEUMANN. That is exactly why it is so important that folks understand that even after we get to a balanced budget we still have a $5.3 trillion debt that an average family of five sends $580 a month just to pay the interest on the debt.

That is what we are doing today. And even after we have a balanced budget, that debt goes on. And that is why it is important that we have introduced legislation to deal with that.

Mr. GUTKNECHT. I know that this chart is too small for people to see, but if people want to contact my office, I will certainly be happy to send them a copy, but it says that for the last 20 years, the 20 years from 1975 until 1995, on average, for every dollar that Congress took in it spent $1.21. For fiscal year 1997 that number will be less than $1.02.

So when people say we are not making a difference, we are actually spending less than our original spending targets at a time when revenues are exceeding our wildest expectations. And I think the real good news, and the gentleman from Georgia is correct, balancing the budget is not just an accounting exercise. Sometimes we have to even remind people on the Committee on the Budget. It really is about what kind of a future are we going to leave to our kids. It is about generational fairness.

For a long time those of us out in the Midwest, and I do not know if the gentleman has the same kind of feeling, I suspect he does in rural parts of Georgia, but the American dream, to a large degree, was to pay off the mortgage and leave the kids the farm. What Congress had been doing for so many years is we had literally been selling off the farm in small pieces and leaving our kids the mortgage. We all know that is morally wrong. And we were going to consign them to a lower standard of living.

So balancing the budget is good. I believe we will do it next year. And that is just a start. We have a long ways to go. But it is really about leaving our kids a better future.

Mr. NEUMANN. Reclaiming my time, I think the gentleman hit the nail right on the head. What a lot of families do is pay off their mortgage and hope to leave their children and grandchildren something other than a mortgage to be paying off.

We have introduced legislation, I know that both gentlemen are cosponsors, so we are doing this together, that would literally put the United States of America on a mortgage repayment plan of that $5.3 trillion debt. Would it not be nice to think that we could actually pay down that debt, much the same as a homeowner pays off their home mortgage?

Mr. KINGSTON. I want to say something else, if the gentleman will yield, that ties into this. This week, for the first time in history, the United States President used the line item veto and zapped out about, I think something like 160 different projects for nearly $200 million in savings.

Now, those included Republican projects. Those included Democrat projects. Those included some from just about every State in the country. But that is what we had in mind with the line item veto. And I think it is good that if I put a project in the budget that it gets that extra scrutiny. I like the idea that it has to get through a House committee, then through the full House, then a Senate committee, then the full Senate, and now it is to the President of the United States. Because the more scrutiny we put our spending under, the better fiscal House we will have.

And with that in mind, if we think about what we could potentially do with this line item veto to get to that last $23 billion, I urge the President to keep using it and make sure that we, as Republicans, are responsible, and that our Democrat colleagues are responsible for what we put in the budget.

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Mr. NEUMANN. I have to tell my colleagues about my dream when we talk about this, because this is my dream for my own personal future. My wife dreams about going to Hawaii, and I think that is a wonderful dream, too.

But my dream is, I wake up some morning and I get a phone call, and the phone is sitting right by my bed, and it is the President of the United States. And I do not care if it is a Democrat President or Republican President. But he says, "Mark, we are going to balance the budget. I am giving you the veto pen. So get over here, line-item enough junk out of this budget that is wasteful Washington spending, get the budget balanced, here is the pen." That is my dream in life, is that some morning I wake up and the President says, "Mark, you've got the line-item veto. Get over here and do it."

I cannot agree with my colleague more. I was one of the original cosponsors on line-item veto. And I would hope that the President does use it more, not less.

Mr. KINGSTON. If the gentleman will yield, I do want to say one thing to keep in mind. The line-item veto only applies for deficit reduction. So if, in fact, the deficit is zeroed out next year and the budget is balanced, which we all hope that it is, we will effectively not have a line-item veto.

The gentleman from Michigan [Mr. UPTON] has sponsored legislation which I have cosponsored, and my colleagues probably should look at it if they have not, that says, even if there is no deficit, the President would still have a line-item veto for the purpose of continuing to ferret out wasteful spending.

Mr. NEUMANN. I think that it is important that he keep in mind that even when we have no deficit, a "Washington balanced budget," that we are still using that money out of the Social Security Trust Fund. And we need to address that problem.

What we have introduced is the National Debt Repayment Act. What happens in the National Debt Repayment

Act is, after we get to a balanced budget, we cap the growth of Washington spending at a rate at least 1 percent lower than the rate of revenue growth.

I brought a picture to show what happens. The red line shows spending going up, and too fast probably for the three of us, but spending going up, but at a slower rate than the revenue line.

Mr. GUTKNECHT. If the gentleman would yield, I think his assumptions are that we would still increase Federal spending at faster than the inflation rate.

Mr. NEUMANN. This is correct.

Mr. GUTKNECHT. So we are not talking about draconian cuts in any Federal spending.

Mr. NEUMANN. Absolutely not. And I think my colleague and I would probably not do that. We would not want it to increase faster than the rate of inflation for sure. But even if it goes up faster, it has got to go up slower than the rate of revenue growth.

By doing so, we create this middle area here. That is the surplus. We take one-third of the surplus and supply additional tax cuts. And Alan Greenspan today said, as we are going through this process, the interest rates will come down, and that will promote a stronger economy. And he suggested if we are going to do tax cuts, that we make them across the board, reduce the marginal rate kind of thing. And I think he is right there.

The other two-thirds of this surplus, we start making mortgage payments on the Federal debt. When we pay off the Federal debt, the money that has been taken out of the Social Security Trust Fund would be returned, because that Social Security Trust Fund money is all part of the Federal debt.

So under this plan, three things happen. First, the senior citizens who are worried about their Social Security can rest assured that Social Security would be restored. As we are paying off the debt, the money taken out of Social Security would be put back. Second, the people in the work force today would be entitled to additional tax cuts each and every year as far as the eye can see. And third, and I would say, to me, most important of all, we can look forward to paying off the mortgage, as my colleague suggested earlier, and passing this great Nation of ours on to our children debt free instead of giving them a legacy of a $5.3 trillion debt.

That is what this bill is about. I think it is the right thing. I know my colleagues are both cosponsors on it. We are working very hard to get it to the floor of the House. I am optimistic that between the senior citizens who want their Social Security restored and care an awful lot about the future of this country, the people in the work force who would prefer to pay less taxes and not more taxes, and, most important, all of us who care about the future and what kind of a country we give our kids, that we would bring this to the floor and pass the bill.

Mr. GUTKNECHT. If the gentleman would continue to yield, I have explained this program at town hall meetings in speeches around my State district. And almost everywhere, in fact everywhere, we get almost unanimous support for this plan. It is common sense. I think it is what the American people want.

As I said earlier, it really is the American dream: Pay off the mortgage, leave your kids the farm. That is what we want to do for the next generation of Americans.

Mr. KINGSTON. One thing I would like to see discussion on, instead of just straight more tax relief, perhaps move towards tax simplification, with the intent of accelerating the debt paydown, because if we can do it this way in the year 2026, if we just change taxes to make it simple, I believe many, many people in America, given the choice of reducing their tax rate 5 percent versus going to a flat tax or a consumption tax, they would probably say, give me this tax simplification, because the extra money I am having to pay my accountant and lawyer to file my taxes is a tax anyhow. So just give me tax simplification.

I am very proud that the Republican party has taken the initiative on that. I am proud that the gentleman from Texas [Mr. ARMEY] and the gentleman from Louisiana [Mr. TAUZIN] are going to be going around the country having debates on consumption versus flat taxes.

I have not fully decided which route we should go in terms of the folks back home, but I welcome the dialogue in the debate.

Mr. GUTKNECHT. If the gentleman would continue to yield, I want to make it real clear, they are not mutually exclusive. We can balance the budget, we can actually pay off the debt, and we can simplify the Tax Code all at once. All it requires is the kind of discipline we have demonstrated for the last 3 years.

I think the gentleman from Wisconsin [Mr. NEUMANN] is putting up a chart now. We have to continually reduce the rate of growth in Federal spending. We have literally cut it almost in half in terms of the real rate of growth, inflation-adjusted dollars, almost any way we want to measure it.

And as the numbers I indicated before, in fiscal year 1997, Congress took in over $110 billion more than we expected but we spent $20 billion less. It is that kind of discipline that will allow us to balance the budget, pay off the national debt, and simplify the Tax Code so that the average American can understand it.

Mr. NEUMANN. Reclaiming my time, concluding tonight, isn't it exciting to be here having this conversation? How different it is currently than it was in 1993 when they were debating which taxes we had to raise and how high we had to raise them because, after all, we could not reel in Washington spending.

That was 1993, broken promises of a balanced budget and higher taxes. But in our first 3 years here, we have literally slowed the growth of Washington spending. We did not reach into the pockets of the American people and take out more taxes to balance the budget. We slowed the growth rate of Washington spending.

By slowing the growth rate of Washington spending, we are now in a position where we are not only going to balance the budget 3 or 4 years ahead of our promised schedule, but we are also lowering taxes on families and workers all across America. Senior citizens, middle-age folks, union members, all Americans are going to benefit from the tax cut packages. Isn't it exciting to be here having this conversation? What a changed America.

Again, I think we should point out the discussions that are starting at the other end of Pennsylvania Avenue again. When they are talking about tax increases, it is almost like they forgot 1993. We are not going to let that happen. We have got a different vision for the future.

What is next? Next is, we abolish the IRS Code 3 or 4 years from now so we have time to replace it with something that is simpler, fairer, easier for our people to understand. We are going to put the Nation on a mortgage repayment plan so that we pay off the Federal debt by the year 2026, or sooner, so we can give this Nation to our children debt-free. As we are paying off the debt, we restore the Social Security Trust Fund. And, of course, we are going to continue to lower taxes on the working folks in America.

People say we cannot do all those things. Three years ago they said we could not do all these things either. If we just realized that people in America can do a better job spending their own money than the people out here in Washington can do spending it for them, that is what this is all about. Slow the growth of Washington spending programs. Keep the absolutely necessary programs, but slow the growth of Washington spending so people can keep more of their own money. We can do the right thing, start making payments on the debt, restore the Social Security Trust Fund, and come up with a new, simpler Tax Code.

It is exciting to think about what possibilities lay in front of us, how far we have come, and how far we still can go to make this a better Nation for our children and grandchildren.

Mr. KINGSTON. Dwight Eisenhower said that, "Once the American people have made up their mind to do something, there is little that can be done to stop them." I agree with that. I think the American people have made

up their mind. Congress has to keep their own feet to the fire.

EARLY CHILDHOOD DEVELOPMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Massachusetts [Mr. MCGOVERN] is recognized for 60 minutes as the designee of the minority leader.

Mr. MCGOVERN. Mr. Speaker, we in the Congress are charged with the task of finding the best course for our Nation, and the debate on this floor is the compass with which we chart that course.

None of the issues debated in this Chamber has an easy answer, and very often agreement does not guarantee an immediate solution. President Clinton, during his State of the Union address in January, called upon us to act on behalf of children, saying that politics should stop at the schoolhouse door.

Well, I certainly agree. I would add to the President's sentiment by declaring that that effort to improve the climate of learning and development for our children must start long before our children ever reach the schoolhouse door. Partisan politics should play no role in the development of our children. Politics should stop at the foot of the crib.

Newspapers across the Nation have highlighted new scientific findings in the field of early childhood development. For years, conventional wisdom taught us that if a child was intelligent, she must have been born intelligent. But, as an April 28 editorial in the New York Times so appropriately stated, "After birth, experience counts even more than genetics."

Talking to our children from birth, holding and playing with newborns, and even looking them in the eye during play can have a profound impact on the development of their intellect, making them better students and making them more confident and productive members of society. These early years are critically important to our children's full and healthy development.

That is why we must invest more time, more study, and more resources in our efforts to promote a healthy start to life for our kids. Getting this message out to the public today will play a key role in our Nation's ability to compete in the global economy of the future.

Imagine, a child's ability to relate to others is a permanent part of a child's personality by the age of 2, and the brain connections needed for math and logic are formed by the age of 4. Who would have thought that so much about our kids' future and social, academic performance would be determined by such an early age? But yet, it is.

When I visit with people in my district of Massachusetts, parents and child-care providers did not miss these news stories. The people in my district care deeply about this issue. Let me give my colleagues just one example.

Over the past several months, a working group of parents, child-care providers, education specialists, and medical personnel have developed a parent and provider survey under the auspices of the Central Massachusetts United Way "Success-by-Six" program. The survey is an effort to gather information about conditions affecting young children and their families in the Greater Worcester area. The survey seeks to discover what is working well, what the strengths in the community are, and how things can be better.

The overwhelming response to the survey thus far has resulted in a need for second printing, and the response from both parents and providers who have mailed in responses to the survey has been a phenomenal 50 percent.

Parents from central Massachusetts are no different from parents all across the Nation. And do parents across America think we are doing enough? Well, according to a Newsweek poll, over half of our Nation's parents do not believe that the Government and business policies adequately support families with very young children.

Mr. Speaker, the studies that I have mentioned regarding early childhood development indicate that environmental factors affect children's intelligence and healthy development much more than we have ever believed. These environmental factors are largely under our control. I repeat, these environmental factors are largely under our control.

I strongly believe that we cannot look at these findings and simply do nothing. The issue here is children, children all across the Nation, who need more than we have given them to date. The debate here in this House should be how best we can help our children or families in our Nation.

Let us look at the facts. In the United States, over five million of our youngest children are cared for by other adults while their parents work. According to a 1995 national study conducted by the University of Colorado Economics Department, many of the child-care centers to which we entrust our children are unlicensed, staffed by poorly-paid adults, and over 90 percent of these facilities lack adequate services to respond to the developmental needs of each child in their care. About half of these facilities actually provide care that is deemed unhealthy for our Nation's children.

In some of America's poorest neighborhoods, some 70 percent of children have difficulty with simple communication. This deficiency can be directly attributed to poor nutrition, a lack of health education, and inadequate personal care.

Nobel Laureate economist Robert Solow estimated that the cost of child poverty to the United States is as high as $177 billion per year. I would argue that the cost of the most basic principles of our society is far higher if we ignore the basic needs of our youngest children.

The suffering is felt in economic as well as human terms. I have met with business owners who tell me that finding people equipped with the necessary skills to compete in today's economy is increasingly difficult. Without giving our kids the help they need at an early age, it will get no easier.

Mr. Speaker, the child poverty rate here in the United States is among the highest in the developed world.

□ 1945

According to the General Accounting Office, studies estimate that of the approximately 100,000 American children who are homeless, nearly half are under the age of 6 years old. These children will not be on an even footing developmentally and they are likely to lag behind their peers for the rest of their lives.

No resident of Westport, MA, which is in my district, would sail the waters of Buzzard's Bay with an anchor dragging behind their boat. Neither can we allow our children to hang off the stern of this Nation. We have work to do, we have much more work to do. Parents want us to address these issues now and the call to action could not be more clear.

I am proud to have joined with my distinguished colleagues in this House, the gentlewoman from Connecticut [Ms. DELAURO] and the gentleman from Maryland [Mr. HOYER] in introducing a bill to address the issues of early childhood development. Our legislation provides greater funding like Head Start and Early Start and various family support services. Our bill also offers State competitive grants to identify and reward those early childhood programs that are working today, that are working.

We are reaching across the aisle to address the needs of children, and I hope that this call will be answered by my colleagues on the other side of the aisle. Let us enter into the debate on this issue and make early childhood development a national priority today.

Mr. Speaker, I would just like to add that we should also applaud the interest and the leadership that the President of the United States and the First Lady have demonstrated on this issue. On October 23 there will be a White House Conference on Child Care similar to the one held earlier this spring on early childhood development. I would urge the President to continue his leadership, to continue his interest on this issue, and I would further urge that these issues be the centerpiece of his State of the Union Address and of his agenda next year.

At this point, Mr. Speaker, I would like to yield to my colleague from New

Jersey [Mr. PALLONE] who has been a strong advocate for early childhood development issues and all other education issues.

Mr. PALLONE. Mr. Speaker, first of all, I want to thank the gentleman for leading this special order tonight, because as he mentioned, the topic is early childhood development, but this is really part of the overall Democratic education agenda. As Democrats, we as a party from the very beginning of this Congress, and even before this Congress, have said that it is important that we prioritize education.

I know our colleagues before were talking about the budget, and the gentleman and I and my colleague here from Maine and others were all very insistent that during that balanced budget debate, that education, primarily higher education, be prioritized. We managed to basically tell the Republicans on the other side that if they did not put in programs so that there would be more money available for higher education, we would not agree to the budget, the proposal that they put forward.

Mr. MCGOVERN. Mr. Speaker, I would just say, I wish our colleagues on the other side of the aisle would appreciate that one of the ways to save money, one of the ways to keep the budget in balance and to have a healthy economy is by investing in our children, by investing in education, beginning at age zero.

We had to fight tooth and nail, as the gentleman knows, to get them to agree to modest concessions on education and the budget. What good there is in this budget on education is due to the efforts of the Democrats, and I would like to point that out to my colleagues on the Republican side of the aisle.

Mr. PALLONE. Mr. Speaker, there is no question about that. Not to keep being partisan, because I do not want to just say bad things about our Republican colleagues, but the bottom line is that the Republican leadership in the last few years has repeatedly tried to cut back or even eliminate some of the education programs that impact the secondary schools, impact the kindergarten-through-12 grade level.

For example, Goals 2000, which provides a small amount of money to local school districts to try innovative programs in the public schools, they have repeatedly said that they did not want to fund any more. But tonight, as part of this education agenda, we are stressing early childhood development.

I know that the gentleman from Massachusetts [Mr. ALLEN] has been a leader. The bill that he mentioned, the Early Learning and Opportunity Act, is a tremendous piece of legislation, and if we do manage to get it passed in this Republican Congress, I think it will go far towards helping basically low-income families, primarily, but a lot of people, get an early start in teaching their children to read, speak and interact with others. It basically dovetails with the existing Head Start program, but starts the kids at an earlier age.

Head Start, from what I understand right now, is strictly above 3 years old. There is the Early Start program that the gentleman mentioned which deals with kids under 3, but that is a very small program. I think the statistics show that Early Start impacts or enrolls less than 2 percent of the eligible kids, whereas Head Start reaches about half of the eligible kids. So both programs need to be expanded, but the gentleman is zeroing in on the zero-to-3.

I just wanted to say from my own experience, right now I have a 4-year-old, a 2½-year-old, and a baby that was just born 10 days ago, my daughter, Celeste.

Mr. MCGOVERN. Congratulations.

Mr. PALLONE. I thank the gentleman.

I listened to what the gentleman said, and I have watched this amazing development with the 3 children, in Celeste's case, only 10 days now, and what the gentleman said is true. I feel bad because I am not always there and my wife has to do the interaction most of the time, because we are down here in Washington and they are back in New Jersey. But it is amazing how they begin to learn from the very beginning, and the environmental factors are so important.

I watch my wife, who just insists on reading to them and having books around all the time, and stressing the importance of learning the alphabet and watching programs on TV that provide instruction in pre-reading skills, and it is just so crucial. We can just see that they are absorbing everything every day, and if they are not constantly involved in some way in an effort to learn, they will not learn as quickly.

So that really has brought home to me the value of what we are trying to do by expanding Head Start to reach out to children from zero to 3. I think it is so crucial. It is just one of the most important things we can do in terms of investing in education, and in the long term providing children as they are growing up with a really good start, so to speak, so that they learn and they can become valuable members of society.

I have a lot more to say about the gentleman's bill, but there are other Members here, and maybe I can defer to them and come back to some of the other things that I wanted to point out.

Mr. MCGOVERN. I yield at this point to the gentleman from Maine [Mr. ALLEN], my distinguished colleague who has also been a champion on these issues and on all education issues.

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding. I want to thank the gentleman for the bill that the gentleman and the gentlewoman from Connecticut [Ms. DELAURO] have put forward. I am proud to be a cosponsor of that bill.

I would like to talk a little bit about the science. What the gentleman from New Jersey [Mr. PALLONE] was just saying about his child and what he is seeing in a baby that is only now a few days old, we know a lot more about the brain of infants than we ever did before.

About 15 years ago, neuro scientists assumed that brain structure was genetically determined at birth. They did not recognize how important a child's early years are and how the experiences of those early years have an effect on the brain itself, and how important environmental conditions are, such as nourishment, care, surroundings and stimulation.

The impact of the environment is particularly compelling and it affects how the brain is wired. To explain that, during the first 3 years of life the number of synapses in the brain increase rapidly, all of these connections between different parts of the brain. But then the number of those synapses holds steady through the first decade of life, and those that are not used decline and atrophy and basically disappear. So the formation of neuro pathways in the brain is directly related to the quality of care that young children receive.

I went to the White House Conference on Early Childhood Development a few months ago, and one of the speakers said quality child care is brain food. The fact is that too many of our young people today are not being fed enough brain food, and in fact, for too many working parents in this country, the cost of quality child care is really not affordable. It is too high for many of them, and we need to do more than we have.

I want to connect that research with some of the stories that I am hearing back in Maine. When I go and talk to superintendents or teachers right now, they are telling me that when kids come to them in kindergarten, there are now an increasing number who seem unable to sit still. They will spit at their classmates, they will fight with their classmates. They are really not ready for school because they are not able to interact productively with other kids in that kind of session.

What they are saying is, we need to do something about these kids, because most kids have good parents, most kids get a decent start in life, but there are some, some really who do not.

It points out the need as a matter of Federal policy, as a matter of State policy, as a matter of policy for every school board that we look to what happens before kids come to school. In Bath, ME, there is a program called Success By Age Six, and part of that

program involves home visits, prenatal, postnatal, the kind of encouragement for parents, the kind of help for parents so that they can be productive in stimulating their children, helping them develop the skills that they will need to get along with adults, to get along with other kids, to start to have the ability and interest in learning to read or start to have the ability and interest in learning mathematical concepts.

When we think about our children, when we think about the kind of stimulation they need in those early years, we need a set of Federal, State and local policies that makes sense, that reflects what we know in terms of science and what we know in terms of our own common sense, what we are hearing around the country. I think that is the direction we need to go in.

Mr. MCGOVERN. Mr. Speaker, I would just say to the gentleman that he is right on target when he says the science exists, the science is there. We know how important those early years are.

The White House conference that occurred earlier this year highlighted how important those early years are, those years, zero to 3, and yet this Congress right now is not doing nearly enough to help complement that science.

We are trying very desperately to get Republican support for the bill that the gentlewoman from Connecticut [Ms. DELAURO] and I have introduced. We are trying to build a bipartisan consensus here that more Federal resources need to go into helping States, for example, support innovative programs that help early childhood development, that help promote child health care. Those things are vitally important, and yet it is a constant struggle to try to get that bipartisan support.

Again, I wish my colleagues were still here. They talk very passionately about numbers. They talk very passionately in a very sterile way about numbers, but I would suggest to them, as I said earlier, that investing in our children, investing in these programs that help our children develop into healthy adults and into productive adults is a wise and important investment that will save this country tons of money in the future.

Mr. ALLEN. Mr. Speaker, an earlier speaker on the other side said that he had a dream, and that his dream was that the President called him and he was given an authority to exercise the line-item veto.

Well, I have a dream as well. I think we on this side of the aisle, we as Democrats have a dream as well, and it is to leave no child behind, and that what we need to do as a country is recognize that the Cold War is over. We have balanced the Federal budget. We look out ahead for the next 10 years and we see a Federal budget that is close to balance, either a modest surplus or a modest deficit for 10 years.

It is time for people in this country to say that the great mission, the great challenge that we have as a country in the next 10 years is to leave no child behind, to make sure that children in this country have adequate health care, a solid education; that they are prepared before they ever get to kindergarten with the appropriate child care and the kind of stimulation they need, and that we are going to make this country strong for our children. If we do that, I think our prospects for the next century are very, very bright indeed, but we need the national will.

Rob Reiner, who has been a leader in promoting child care, quality, affordable child care, has said what is missing today is that we do not have the national will to treat this problem with the seriousness that it deserves. I believe on this side of the aisle we are determined to do that, and I look forward to working with all of my colleagues on that.

□ 2000

Mr. MCGOVERN. I just wish my colleagues on the other side of the aisle had the passion with regard to children that they do about B–2 bombers. The fact of the matter is that we should be able to, in a bipartisan way, be able to come together and to support these kinds of programs that help our children develop into healthy adults.

I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I do not mean to keep using my own experience, but I cannot help it. When I listen to my colleague, the gentleman from Maine, talk about the interaction, he pointed out how it is important for kids at that age not only to interact with their parents, but even to interact with other kids.

One of the things that I notice with my son, who is 2½ now, is how much he has learned from just interaction with his older sister, who is 4. And she did not have that advantage because she was by herself. She was not able to have somebody who was teaching her. But it is just constant.

She will pick up a book and she will say, can we read? And neither one of them can read, but they sit there and try to make up the stories as they look at the pictures, and just the advantages that some kids have. Obviously we can buy them the videotape and they will learn something from the videotape. We have books we can provide them.

If a kid is at home and does not have the books and the opportunity, maybe if they go and spend some time in child care, where there is someone who provides them with the educational materials and has other children there who will interact with them, it makes such a difference. I can just see it myself. I just want to stress that, because it is really crucial.

Mr. MCGOVERN. Mr. Speaker, I yield to the gentlewoman from Connecticut [Ms. ROSA DELAURO], who has been a leader on this whole issue to promote early childhood development legislation here in the House.

Ms. DELAURO. Mr. Speaker, I want to thank my colleagues. I am delighted to join with them. I am really excited about this piece of legislation, and about introducing it along with my colleague, the gentleman from Massachusetts [Mr. MCGOVERN], and with my two colleagues here, the gentleman from Maine [Mr. ALLEN] and the gentleman from New Jersey [Mr. PALLONE], who are aboard this very exciting effort.

Mr. Speaker, it is trite, but these are exciting times with what the science has uncovered. Think back to your own childhood. I can remember my father used to read to me all the time. It got so sometimes you are tired, and you figure you skip some of the pages because you are tired, and you want your son or daughter to go to sleep. But he would tell me later on that I would just trip him up. He would start to leave something out, and I would say, oh, you missed that piece, or something like that. But that is the kind of thing.

When the gentleman said he hated to bring it back to his own experience, that is what the experience needs to be about. When we take a look, I think the science is so exciting, not for the science itself but for what it translates into, and what we are able to do. We are given a wonderful opportunity here to do something with this.

Before age 3, the brain has the ability to learn and organize new information 10,000 times more effectively than the brain of a 50-year-old. This is these little, teeny people. They have all of this capacity, and the kinds of experiences that affect the brain.

I think it is important for parents to know this, for grandparents, for child care providers, for public officials, that when children under a year old experience severe stress, that is whether they are hurt or whether they have a fear or something, or whether they are hungry, that the brain changes, the brain changes. You have what they say, and I am not a scientist. I do not know if some of my colleagues are scientists. But the way the neurons are patterned and so forth, some are used more and some are used less, so the physical surroundings that a child has can often explain the later link, if you will, to some of the problems that we have today like school failure, juvenile delinquency, antisocial behavior.

I think it is important for us to realize that, again, in terms of our own obligation as elected officials, one-third of America's victims of child abuse are babies under 1-year-old. That is not only the problem for today, that is the problem in the future.

Mr. ALLEN. Mr. Speaker, I want to raise a fascinating study that I heard about a couple of weeks ago in Sacramento County, California. The study period looked at all of those 9- to 12-year-olds who had been arrested for a crime.

During the study period there were 132 9- to 12-year-olds who were arrested for a crime. It turned out that exactly one-half, 66 of those children, were already known to the California Department of Human Services as being alleged victims of abuse or neglect, and half of them were not known to the department. That is very interesting, because in Sacramento County at that time there were 1,100 children between the ages of 9 and 12 who were known to the Department of Human Services as being victims of abuse or neglect. There were 73,900 other children who were not so known.

So if we think about the likelihood that someone who has been a victim of abuse or neglect will commit a crime, it is not double or triple or ten times or 20 times or 50 times. On the basis of that study, you are 67 times more likely to commit a crime between the ages of 9 and 12 than a child who is not a victim of abuse or neglect.

Every conservative, every person who believes we have to conserve our public money, ought to support investment in children, because dollars put into taking care and improving the lot of kids who are victims of abuse or neglect will pay off a thousandfold down the road.

Ms. DELAURO. The opposite pole is if babies do have trusting and reliable relationships, and that is with parents, grandparents, and caregivers, because we know today that men and women are in the workplace. Families cannot afford to stay home all of the time with their children. So we want to make sure that when they have day care, that needs to be sound and solid, where parents can trust the quality of that day care, the quality of the individuals who are providing that care.

The one thing that really, excuse me, just blows my mind is that while babies have an enormous capacity to learn, as I understand it, if it is not used, it is not that you can draw on the reserve and use it at another time. It goes away. It is gone. It loses the ability.

They have studies in animals, for instance, that if their eyes are covered right after birth, the brain then loses the ability to deal with visual information. So just to sum that up, with the brain, you either use it or you lose it. That is why, given the information, what we do not want to do with this information is put it on a shelf.

Mr. PALLONE. If I could just interrupt for a moment, one of the things that I often notice with little kids, and I do not know how young we can go, but obviously very small kids, is if the parents are bilingual, or if they know one, two, three or more languages, that the kids very easily go back and forth between the languages. Yet if you go a few years later, you cannot learn the language. It is much harder.

Is that basically the explanation for that?

Ms. DELAURO. It is, because you are not using, and again, I am not a scientist, but you are not using the part of the brain that differentiates those sounds. So children can learn languages, they learn languages easier at a much earlier age. Again, if we think about ourselves, or if we had that experience or learned a language in high school or earlier, if you had that experience at home, you can draw on both pieces.

My colleague, the gentleman from Maine, said if we miss this opportunity to provide children who are from the zero to 3, some places have programs that are from zero to 6, and you get that interaction with parents and caregivers, and you read to children, and you may think it is not coming through, but it is in many ways. I think if we do not take advantage of this opportunity we are not doing our jobs. We are not doing the job we were sent here to do.

Mr. MCGOVERN. I fully agree with my colleague, the gentlewoman from Connecticut. I just want to pick up on one thing that the gentleman from Maine said about the cost effectiveness of early childhood care. I want to read two statistics.

Long-term studies of the Perry Preschool Program for poor children found that after 27 years, each $1 invested saved over $7 billion by increasing the likelihood that the children would be literate, employed, and enrolled in post-secondary education, and decreasing the likelihood that they would be school dropouts dependent on welfare or arrested for criminal delinquency.

Another study of the short-term impact of the Colorado pre-kindergarten program found it resulted in a cost savings of over $3 million over 3 years in reduced special education costs alone. So there is a very conservative, fiscally conservative argument to be made in favor of investing more in these preschool programs, in these early childhood care programs, because we save money. It is the fiscally responsible thing to do.

I do not think we can stress that enough, because there are some who would say, well, we are just talking about more taxpayers' money being invested into education, more into kids, and for what? Well, the reason why we are doing it is because these programs work. They also save us money in the long term.

Mr. PALLONE. The other thing that I think is so crucial is that a lot of people are not even aware of the fact that right now we are not providing the funding even for Head Start. My understanding is that only about even less than half of the kids that are eligible for Head Start, which basically goes from 4 to 5, are now in a program.

So even if we were just able to expand the amount of money available for Head Start and allow those eligible kids to be participating in that, that would go far. Early Start, less than 2 percent who are eligible are being cared for.

So the gentleman, and my colleague also, the gentlewoman from Connecticut, they are talking about, really, trying to make a major investment here that we need to make, but it is not being made. I do not want our constituents out there to think that right now Head Start is fully funded, because it is not. There are long waiting lines. I know in my district a lot of these Head Start programs, they have long waiting lines for the kids to get in, and they have not been able to accommodate even half of the kids that want to participate and are eligible.

Mr. MCGOVERN. What we are doing here is a call to action, urging our colleagues here, urging the White House, to continue its leadership on this issue. Much more needs to be done, much more needs to be invested. It is the right thing to do.

As my colleague, the gentleman from Maine [Mr. ALLEN] pointed out, we know the science. We are not making this all up. There are studies too numerous to mention that document the importance of these programs and the importance of focusing attention on those early years.

Ms. DELAURO. Sometimes people say, why should the Federal Government—some of our colleagues on the other side of the aisle say, why should the Federal Government get involved in this? The Federal Government, in terms of preschool education, has been involved, for the very serious commitment in terms of Head Start. Head Start works. We know we have to make sure that it has continued quality, and that is the effort.

Therefore, this is a natural progression, even the wealth of information that we have, to look at how we then can expand this effort and be able to get to our children as quickly as possible, to have them get a good start on life and an ability to be able to ultimately compete.

Mr. MCGOVERN. Mr. Speaker, I yield to our colleague, the gentleman from North Carolina [Mr. MCINTYRE]. I welcome him.

Mr. MCINTYRE. Mr. Speaker, I thank the gentleman for yielding to me.

As we look ahead to the continuing of what we do with young children coming up through the schools, there are programs like Head Start that are making a big difference in counties such as I come from, in Robeson County, N.C. Also there are other programs

that I wanted to briefly address that will help us in this continuum from the young, early childhood right through growing up, children in elementary, middle, junior high, and high school, and even our community colleges and universities.

As a former chairman of a weekday school and day care program in my own church back home in Lumberton, NC, I share this great endeavor to help our children get a good start and a head start and great start in life.

As we look at our children getting a head start in living and learning, we can also look at exemplary programs we have here in our Nation. One of them was referred to by President Clinton in his State of the Union Address back in early February, when he referred to Gov. Jim Hunt of North Carolina, a program called Smart Start that our State legislature has endorsed and that is growing by leaps and bounds in counties throughout our State. I commend this exemplary program on giving young children that smart start to get going in life, such as we have in North Carolina.

There is also another program that we have been directly involved in at the Federal level that we can support. I hope that in the conference committee that will be coming forth with its report very soon, that we will support the Communities in Schools Program. As the old adage goes, if something is not broke, let us not try to fix it.

The Communities in Schools Program is one that has worked. In my home county of Robeson County, we are the only county that has a fully federally funded program that works with at-risk youth and also young children to help keep them on the right path. So as those young children have the opportunity to go into school from their early years to their early school years, they can be involved in computer programs, they can be involved in learning programs, they can be involved in constructive programs to help prepare them, not only as better students, but ultimately as better citizens.

□ 2015

The Communities in Schools program in Robeson County is one that has worked with educators, local community leaders, law enforcement officers, and students working together. And it has helped in the health, social, education, and cultural aspects to give support for youth who may not have the advantages at home that we all would hope that our children would have but, in reality, so many, unfortunately, do not have.

The Communities in Schools program in our area has benefited more than 10 schools, starting with young children coming into the elementary schools right on through the elementary, middle schools, junior highs, and even at my alma mater, Lumberton Senior High School, where we had part of the Internet Learning Program, which I spoke on to several students back in February of this year.

When we look at the successes of a program like the Communities in Schools, we realize this is one area where the Federal Government can help on the local level. We all know we do not want Federal intervention and the Federal Government telling us how to run our schools. I do not believe anybody really wants that. We know what is best for our local communities. But the local communities need help from a Federal level. Whether it is from a program like Head Start or Smart Start like in North Carolina or where it is a situation where we can come in with a Federally funded program in a low-wealth county such as Robeson County and work to help children who are trying to maintain that Smart Start or that Head Start, we can carry it forward with a program like Communities in Schools.

When something is already helping families, already helping youth, already helping teenagers push them in the desire and direction that we all would have for them to be constructive, positive citizens for tomorrow, then it is a program that we should continue to support. And I am urging my colleagues in the conference report to support this program.

Another thing I wanted to mention is that we are having an education forum in my district on November 3. It is a day before a bond referendum is being voted on in part of our district, and we had another bond referendum voted on in my district today to support schools. But we realize there are three essential elements to help support our kids move through these years as they prepare and go through school. And that is supporting a commitment, supporting construction where necessary, and supporting the age of technology in computers.

First of all, when we talk about commitment, it is ourselves having that commitment. One thing we are going to do in our district is have an education forum to bring together those who have worked with young children right on through high school, parents, teachers, school volunteers, as well as those who are professionally equipped to work with young people to talk about what can we do to sustain this opportunity for young people.

As one myself who has volunteered the last 17 years in the classroom of both public and private schools throughout my area, I have sought to teach these kids the attributes of good citizenship which I call the "Three R's of Citizenship": Understanding their "Rights," something we all love to hear about and want to maintain as children and youth and definitely as adults, but also matching those rights with "Responsibility," that for every right that we claim, there is a duty or responsibility that we also must sustain. And then third, as we teach our young people to balance these rights and responsibilities, they will then come to the perspective of understanding what we all want, and that is "Respect."

So as we work with young people in our area in teaching them their rights and their responsibilities to ultimately lead to respect, we realize that that is the goal of so many of these programs, that we are working with kids to give them that start so that they ultimately can fulfill their role as a good citizen.

When we talk about, in addition to commitment, we talk about construction, making sure that our outdated school buildings in a lot of rural areas and inner city areas especially cannot sustain a positive learning environment if there is not a positive facility in which to learn.

There are several bills pending now we have in the Congress which I am cosponsoring that I hope we will join together with our other colleagues to push through: The Partnership to Rebuild America's Schools Act and also the sponsorship of the State Infrastructure Bank, which would allow States to decide where their greatest concern is with local school boards and then support and get the revolving loan funds that a poorer county may not have to make sure that school construction occurs where needed.

And then, finally, the other area besides commitment and construction is that area of knowing that we can move forward with computers and technology, when we realize that there is an opportunity to allow businesses to donate to the schools computer equipment and get a tax deduction, like they currently get for charitable institutions but they do not get it when they give it to a school. And I believe that in order to give incentives to businesses in the private sector to support our schools, that we can give them that opportunity to work with that.

So often when we talk about looking ahead, and we are all concerned about jobs, we are all concerned about the economic environment that families have, we realize that as new industry moves into an area, they will talk a lot about rail and utilities and water and the other kind of things to bring in positive employment. But then they always lean over and say, "Tell me about your schools," because not only will the management bring their children into that school district, but they will be drawing their labor pool for the future from those very schools.

And when we decry the lack of role models today in society for our young people, they are not all going to be the movie stars or athletic stars. The other

99 percent of our children are crying for role models. And where are they? They are standing right here in this Congress. They are back home in our communities and our businesses. They are in all aspects of our community leaders.

Mr. Speaker, if we will take the time ourselves to call up the teacher and say, I will come talk to your class about law or government or health or private enterprise, or if I cannot get up and talk well on my feet to a classroom, I will come read to little Johnny, or, better yet, I will come listen to little Janie read to me, that kind of private, personal involvement that all of us as citizens can take will make a big difference in supporting our children for the future.

Robin Cooke once wrote that, "Education is more than a luxury, it is a responsibility that society owes to itself." And I hope and pray that, with God's help, we will have the wisdom to make the tough decisions not only to understand that responsibility but to have the courage to fulfill that responsibility beginning right here in the highest halls of government, to our going back to the halls of our schools at home to work with children. Our children, our Nation, our future require that we do no less.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman for his very eloquent and passionate statement. And he said something that I think is worth repeating, and that is that what we are advocating here today is not having the Federal Government dictate to the States and localities what they should be doing in their respective school districts, but what we are advocating here today is that we step up to the plate and provide the resources necessary so they can do their jobs.

I, like the gentleman, have traveled my district and talked to schools at every grade level. I have been impressed and inspired by the intelligence of these young kids, by the quality of the teachers. But what has concerned me in some of the visits that I have made is the lack of equipment, the crumbling schools.

Mr. Speaker, there are schools in my district in Massachusetts that were built when Ulysses Grant was President of the United States. That is a great tribute to the architect and the builder. But when Ulysses Grant was President of the United States, they did not think about the Internet, about the need to rewire classrooms and all the things that we have to deal with in this day and age.

So what we here are all advocating is that the Federal Government do what it can to help our local school districts. We know how expensive it is to rebuild a school. It can cripple a community. I have been impressed by the fact that a number of small towns and cities in my district have made the sacrifices to try to finance new school buildings. But they need help, and we should be here to help them.

Mr. Speaker, we spend a lot of money on things that I think are foolish. I think that our defense budget, for example, is way over budget. The fact of the matter is, it is so big that I think even Dr. Strangelove would be impressed by the incredibly high number. Why are we not investing more in our kids?

I think the quality of education that we provide our young people is just as essential to our national defense as some of these newfangled weapons that we keep hearing about. Again, I commend the gentleman for his statement and I agree with everything he said.

Mr. ALLEN. Mr. Speaker, if the gentleman will yield, I came to this Congress from the Portland City Council, 1 year as mayor and 6 years on the Portland City Council. And while I was there, I heard from, I think, almost every person in my district about the significance of high property taxes.

I have only been here for 9 months, but I will bet that in the course of the debates in this Chamber over the last few years about education, that no one has stood up and said, "I am for abolishing the Department of Education," or, "I am for cutting funding for Head Start or other education programs," and in the same breath said, "And I will advocate at the local level for an increase in property taxes to support additional education programs." I bet that has never happened, because the same people who would say we want the Federal Government out of education would say also that we are not going to support increases in local property taxes to fund education.

The fact is that when it comes to 0 to 3, 0 to 6, the Federal Government is the funding agency. This Government, we already fund Head Start, and, as the gentleman from New Jersey said, we do not provide Head Start for all the kids who need it or for all the kids who qualify according to our regulations. What we have to do is to make sure that we take seriously the problems around this period, 0 to 3, 0 to 6.

But it is going to be a partnership between the Federal Government and the State governments and local governments and school boards and the private sector. We cannot do it alone here, but we have to set the goals and urge the people in this country to take this issue seriously.

Ms. DELAURO. Mr. Speaker, if the gentleman would yield for a second, we all represent different areas and different parts of the country, whether they are urban or suburban or rural areas.

I keep going back to the fact that we have been privy to some of the most recent, the most up-to-date, the most scientific data about how we can make the biggest impact on our children. Startling data. We cannot have it more clearly, as my colleague from Massachusetts pointed out earlier. This is it. We have this period of time when we can make the biggest impact for this child's future.

And all that research is wonderful, again, wherever we live, but if it does not spur us to action, the kind of action that we are talking about, and the gentleman from New Jersey and the gentleman from North Carolina have spoken about, if we do not act on that, then, one, I think we are derelict in our responsibility, and I think that we really are shortchanging our kids.

Just two or three statistics that I think are important to note which then trigger off a number of things that say, what are the responses? What ought to be the responses? One-third of victims of child abuse are children under 1 year of age. Parents of all ages and income levels say they need more information on care for their children and how to stimulate their healthy development.

The United States is the only industrialized country in the world which does not have paid maternity leave. We have got millions of mothers and fathers who have to leave their kids and return to their jobs in those critical years. We are talking about the 0 to 3, the 0 to 6 years, and those early months of a child's life.

No one is suggesting that folks do not have to work today. Families have two people in the work force because they need to. But talking about tools, government cannot do everything. Government should not do everything. Government should provide some tools to people.

More than half of the mothers of babies under 1 year of age work outside of the home. But studies show that nearly half of the child care available for these infants is of such substandard quality that it threatens those babies' health and safety. We are not talking about bells and whistles; we are talking about basics for good development.

Mr. Speaker, if we do not take advantage of the scientific information, of that national will that has been talked about, to take some of the resources that have been the tradition of the Federal Government in early childhood education now with what we know, and as we extend it to help the families from 12 years of education to 14 years of education with the tax bill that was passed, and we provided some help there to make 14 years of education universal, what we now have to really apply ourselves to and commit ourselves to is looking at those ages from 0 to 6 so that that period of time is accounted for and all of the positive stimulus that a child can have to develop needs to happen, which is why I am so excited, not the legislation itself, but it is the science and what the legislation can do together for early learning and opportunity.

And I think this kind of a conversation is just the kind of thing that we need to do, and all Members on both sides of the aisle ought to be engaging in this kind of discussion.

Mr. PALLONE. Mr. Speaker, if the gentlewoman would yield, the other thing I wanted to mention, I know that my colleague from North Carolina touched upon it as well, is that Head Start now and Early Start and the legislation that the gentleman has proposed for expanding Early Start, basically it is not just a situation where we are providing child care; we are also providing parents with parenting skills and families with support skills.

□ 2030

I have seen in the Head Start programs where they try to get the parents involved. It is amazing to me sometimes how little some parents know about basically raising kids or doing certain things.

I remember when I was, going back to my own experience again, I remember when I was in the hospital when my first child was born, my daughter Rose Marie. And at that time they had not changed the insurance yet so you were able to stay a few extra days in the hospital and then, of course, we got into the whole thing with the HMOs and the managed care tried to cut back on that. We had to pass a law to extend the days again.

But they would have programs with the mothers and some fathers, too, where they would teach you how to bathe the child or do different things. I was surprised because a lot of people really did not know how to do some of these things.

One of the nice things about the Head Start program and Early Start is not that we are just talking about bathing skills, but they really do try to get the parents involved and teach them skills so it is not just a question of just providing funding for child care. This is a way of providing support and getting people together so that they become more self-sufficient ultimately. There are even programs involved in some of the Head Start programs where they will get involved in employment and help people find jobs, that type of thing. So it is a whole, there is a lot involved.

I just think it is so wonderful that you are talking about expanding this. I just wish that it were possible one day that every child who was eligible for Head Start and every child who is eligible for Early Start was able to take advantage of it. We know how successful it is, not only for the child but also for the whole family experience.

Mr. MCGOVERN. I think that is the type of bold thinking that we need more of in this Congress. I again will commend the President and the First Lady for their leadership on this issue. Head Start is a program that works. We should fully fund it.

The gentleman is absolutely right about some of the skills and support that these programs provide. There was a front page story in the Los Angeles Times a few weeks ago discussing the alarmingly high number of young children who do not brush their teeth on a regular basis. I mean very simple things that we all kind of take for granted here, but it is a disturbing statistic, and programs like Head Start help combat that kind of trend. They deserve our support.

Mr. ALLEN. Mr. Speaker, I do not know that we have talked enough about one of the conclusions of the White House Conference on Early Childhood Development, which is, and I gather there is a new report coming out that will also emphasize the importance of this particular point, home visits, prenatal and postnatal home visits are critical to helping parents cope.

Let us face it, in this country today we have too many teen parents, too many youngsters who are parents at a time when they still need parents themselves. If they are going to be able to bring up their kids, parenting skills are essential.

In the Bath-Brunswick area in Maine, the Bath-Brunswick child care agency has started a program of home visits. It works. It is very helpful.

In the Charlotte-Mecklenburg area in North Carolina the school system has developed a series of brochures that they will give, they will do prenatal visits and postnatal visits, and a series of brochures that will help young parents sort of get some basic information about how to encourage stimulation in their kids.

In Hawaii there is, I am told they have a very comprehensive prenatal, postnatal set of home visits. There is one statistic out of what Hawaii has done that just amazes me. It has to do with usefulness of home visits, not just as a matter of parenting education, not just as a matter of improving our kids' chances in life, but as a way of reducing child abuse.

That number is this. As a result of this program, repeat instances of child abuse have been reduced from 62 to 3 percent. Repeat instances of child abuse have been reduced from 62 to 3 percent. That is a large part of the reason, home visits.

The fact is if we are going to deal with the phenomenon of young people today growing up in the kinds of families with all the stresses and strains that modern families have, we need to focus like a laser on zero to three and zero to six and make sure that all our kids have a chance to grow up in a healthy, productive home.

Ms. STABENOW. On that point, if the gentleman will continue to yield, I congratulate all of my colleagues for standing up for children and for public education. These are such important issues. We will have in front of us tomorrow issues dealing with public education.

But to share with my colleague from Maine, we in Michigan have been focused on those very same issues. I was very proud back in 1982 to sponsor something called the Children's Trust Fund in Michigan, focusing on parent education and child abuse prevention. We have done a 10-year study of the dollars spent on working with young parents when children come home from the hospital.

It is a Big Brothers, Big Sisters kind of concept. The fancy name is perinatal coaching, but it is based on the idea of giving support to young parents from the moment they step into their own home with that newborn, to help them as they learn new parenting skills and be able to work with them through the first year of the child's life to raise that child, to give it the kinds of skills you talked about.

Michigan State University followed this kind of effort and the efforts of working with parents of young children up through Head Start for 10 years. And they compared the amount of money spent on prevention with the amount of money spent in school later on, on substance abuse problems, mental health, dropouts, and ultimately crime. And they were able to measure that for every $1 we put into the kinds of things you are talking about this evening, we saved in Michigan $19. We literally have an ounce of prevention worth a pound of cure.

We now can demonstrate. One of the frustrating things about prevention is that folks always say you cannot measure it. When you lock somebody up, you know you are creating a safe community. When you are doing preventing on the front end and stopping abuse in the first place, so children do not grow up and potentially end up in those prisons, we do not have a way to measure it. In Michigan, in working with important efforts in Lansing, important efforts around the State, we have measured that and can demonstrate that from a taxpayer's standpoint, as well as just plain common sense for children and families, focusing on what we are talking about tonight makes sense.

Mr. MCGOVERN. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. MCINTYRE].

Mr. MCINTYRE. I was going to mention this briefly to tie in with the coordination and cooperation not only from the Federal level but State and local. I think it is important to emphasize that the support mechanisms cannot of course come up from here in Washington. We want to target help where we can try to give the maximum use of any Federal dollars that are spent in situations to help those on the local level best meet those crying needs of our young children in early childhood.

A practical way to do this is something that I know we have done in North Carolina. Ten years ago I had the privilege of being a charter member of the very first North Carolina Commission on Children and Youth. One of the key things you can do is bring together concerned private citizens and those who serve in the public sector, as well as those from social agencies and churches and synagogues, other houses of faith, to come together and tackle the problem on the State level and then of course to bring it down to the local.

Our Commission on Children and Youth was so successful that just within two years the State legislature redesignated it and started a new commission called the Commission on the Family. Then we dealt with these issues that would carry from early childhood right on through the sunrise right on through the sunset of life.

But when we looked at that, we took it yet another step. We encouraged local communities to start commissions on children and youth and the family, to help support these kind of programs so that when we come into an area and make a difference, you have local leaders involved from the public and the private sector.

In my home town of Lumberton, we were one of the first four communities in North Carolina 8 years ago to start a local commission on children, youth and the family. I served as a charter member of that. What we sought to do is exactly what my good friend from Maine was just talking about, and that is, we offered programs not only to help support families and offer them ways to increase their parenting skills but we actually said to the local churches and the local civic organizations, if you would like to offer a class on parenting skills, we will offer it for a set time and you can become involved.

That brought it right home. It was amazing the number of people that signed up and said, "Yes, I want to be a good parent. I want to help my kid in those early years, but show me how because I have never been a parent before."

I think when we can find ways to bring the Federal, State and local level together and encourage these types of local commissions, it will make all the difference.

Mr. MCGOVERN. I would say to my colleague that he is absolutely right. We need to reach out to the local level. There are some amazing things going on in my district in Worcester and Attleboro and Fall River. It is inspiring, some of the programs that are now being implemented. But they need the help. They need the support.

When I go back home, what they tell me is, "We would like to duplicate our efforts and triplicate our efforts but we do not have the resources." We will have a forum on November 1st in my home city of Worcester to try to bring people together to try to find ways to promote some of what works. I hope we can bring that message back here to Washington and get the necessary resources and backing.

I thank all my colleagues for joining in this special order tonight.

CAMPAIGN FUND-RAISING INVESTIGATION

The SPEAKER pro tempore (Mr. COOKSEY). Under the Speaker's announced policy of January 7, 1997, the gentleman from Indiana [Mr. SOUDER] is recognized for 60 minutes.

Mr. SOUDER. Mr. Speaker, I think before moving into the general topic I am getting into tonight, I want to express my support for many of the education initiatives, although I think sometimes we get it backwards and think Washington is the fount; unless something is done out of Washington, it will not be done.

I know that it was under a Republican President that Head Start was created, and Ed Ziegler of Yale University worked with then President Nixon because he felt there were some gaps. We ought to look to Washington to fill gaps, not to be the end-all, be-all of education.

Sometimes I think while the motives are correct on the other side, that is, that we need to help our children, and all of us who are parents of young children, older children, are very concerned about education and it is not a partisan type of thing, but we do have some substantive disagreements over whether it should come out of Washington and be controlled out of Washington or whether it should start with the parents and back home.

I am joined tonight by my friend, the gentleman from Arizona [Mr. HAYWORTH]. I know he wanted to make some opening comments, too.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield, likewise, I thank those who preceded us this evening in this Chamber for discussing the issue of education. I think the gentleman from Indiana makes a very salient point when he distinguishes part of the difference of how best to deal with schools, how best to deal with this precious notion of educating our children and what is at stake in the future.

I was pleased to hear many of our friends on the other side talk about local initiatives but this, I believe, is the key. That is that initiatives can develop at home rather than be Washington-based, with a Washington community then trying to send those notions down to the schools, if you will. Things can happen at home on the front lines with volunteerism, with innovative teaching, with people taking time in their respective communities to adopt a school. But my colleague from Indiana is quite right when he mentions that there are ways for government to fill in the blanks.

I would take this time, Mr. Speaker, to inform my colleagues on the other side, as I have through many interoffice letters, of a couple of pieces of legislation that I think are vitally important, both of which are drawn on a rich history of bipartisan cooperation. The first I would commend to everyone in terms of attention is the Education Land Grant Act of 1997, a bill I developed for those rural school districts that live adjacent to federally controlled land.

It is based on what happened in the Sixth District of Arizona in the 104th Congress, where the small town of Alpine, Arizona did not really have any resources to build a new school. Its tax base had been eviscerated because the folks there were not really allowed to ranch or to harvest timber any longer because of some court orders. So they came to me and said, "Do you think we could get a conveyance of 30 acres of Forest Service land, so that we could save what scarce resources we have on books and bricks and mortar and teachers and students and building a new school?" I was pleased that during the 104th Congress we passed a conveyance of land of 30 acres to the Alpine School District.

I got to thinking, based on our history, is there something else we could do. I looked back to the Morrill Act of the 1800s during the Lincoln administration where through land grant opportunities, Federal land was given back to the States for the creation of institutions of higher learning. Out of that grew the notion of the Education Land Grant Act where we can go and convey acres, up to 30 acres at a time to those school districts adjacent to Federal lands, so that they can save their precious resources for school construction and for improving the quality of instruction within those schools.

I would commend that to my colleagues on both sides of the aisle. And also a bipartisan bill I coauthored and cosponsored with my friend the gentleman from Georgia [Mr. LEWIS]. We do not agree on a lot, but one thing that we think is important has to do with mathematics rather than philosophy. It is the notion of raising the ceiling for private bonding authority for local school districts working with banks and financial houses that are private.

□ 2045

Right now Congress has a ceiling of $10 million there. When we checked, we have seen that banks and other financial houses say we can raise that level to $25 million with no problem whatsoever and that can help school districts across the country as well.

One other note on the Education Land Grant Act, or as some have come

to calling it, with an acronym, HELGA, the Hayworth Education Land Grant Act, we should stipulate, Mr. Speaker, that the lands we are talking about are not Park Service lands nor wildlife refuges. Those areas would not be available for conveyance to local school districts. But so much other land is federally controlled from coast to coast, and specifically in the American West, that there is a variety of land that could be available that is not Park Service land nor wildlife refuges that could make a real difference for many different school districts.

So I am pleased to join my friend from Indiana, and based on what we heard in the previous hour, in offering other approaches to education, which we believe may be more practical and certainly can have profound effects for all congressional districts, for all school districts from coast to coast.

But, Mr. Speaker, I would be remiss in joining my friend from Indiana if we were to neglect the reason we are primarily here tonight, and it is something as basic as education and, indeed, one of the first things we learn, and that is the notion of what is right and what is wrong. And, sadly, recent events in Washington force us, really compel us to come to this floor to discuss inaccuracies, discrepancies and what, sadly, may in fact be widespread breaking of laws.

I yield to my colleague from Indiana, because I know in his role on the committee overseeing this, he has had firsthand experience on this legislative day.

Mr. SOUDER. And it is important to note, because people may get confused sometimes in these special orders when we, some of us in particular, have been trying to point out some of these problems that have developed in basic justice in this country and abuse of the political process, it does not mean we are not doing lots of other things. I also serve on the Committee on Economic and Educational Opportunities. It was my first choice. For 4 years in the House and for 4½ years as a Senate staffer, my first focus was children and family issues. I was Republican staff director of the Children-Family Committee; worked on many of these issues, and worked on them with Senator COATS in the Senate.

I have a deeply held conviction of the importance of education in the system, and I get tired of hearing we do not care about public schools. My kids have gone through public schools, I went through public schools, my wife went through public schools, and that is an important issue to us. But I am also on the Committee on Government Reform and Oversight, and we have also seen a perversion of our political process.

I wanted to, first, on the eve of an important day, because tomorrow the House investigation begins on the abuses in the political process, and particularly the campaign process, I would like to sketch a little background. I know the hearings that we held today, where we gave our opening statements, will probably be aired later tonight if not later this week, and then tomorrow we have our first witnesses in the House investigation, but I wanted to put a little bit of context into what we are doing and how this developed.

I want to start with a little bit different spin. A man named Dick Morris, who has become relatively infamous around the United States, has written a book. While it may not be the most interesting book that has ever been written, and quite frankly is a little bit self-serving, as many of these type of books are, nevertheless gives us some very interesting insights as to how the political process can become corrupted.

Let me give my colleague a brief book synopsis that really outlines how we got to what has been happening since we came into Congress. And that was, basically, in 1994, after the election that brought the gentleman from Arizona [Mr. HAYWORTH] here, brought me here, the President was in deep trouble. Much like happened in Arkansas when he was defeated after one term as Governor, he realized he needed to change his strategy, and he brought Dick Morris back.

One thing Dick Morris suggested, and he writes about it, and he writes about it proudly, was they needed to have a permanent campaign. An interesting thing happens when are going to have a permanent campaign. It means one has to have a permanent fundraising operation. And early money is hard to raise, so one has to go to some places that may or may not be quite as up front and a little different, plus there is the need for huge quantities of this money.

They wanted to run ads in the district of the gentleman from Arizona [Mr. HAYWORTH] from day one, pounding him, from the time he got elected until his reelection came up. They wanted ads running while we were in this government shutdown debate trying to spin to the American public. Quite frankly, our side sat back and waited until the election.

In this process, a man named Harold Ickes, Jr., it is clear in Morris' book, and some is not as clear in the book, Ickes and Morris fought when they were in New York City growing up. Because Harold Ickes is most liberal he has been committed to the liberal cause. Dick Morris is committed to the latest poll. It is not that he does not have some convictions of his own, but his convictions are a little movable and he is willing to try to win elections first.

Harold Ickes did not like that and he found himself getting cut out of the process from the White House. It is documented in other places too, but Morris more or less ignores him in the first part of the book. Then an amazing thing happens. Harold Ickes, whose memos, quite frankly, have been very important in this, because he had some with the President's initials on them and Mrs. Clinton's initials on them, Harold Ickes was suddenly brought in and Morris delineates why: Through praise. He praises him for his fund-raising efforts and how much money he has been able to bring in.

And Ickes got access in the decision-making process of the White House by being the point person with the outside in how the money came into the system. This is documented by the memos he left the White House with.

So Morris takes over and takes it in a polling direction. So we get things like welfare reform, that Ickes did not like, and the liberal Democrats did not like. Ickes gets back into the process through fund-raising.

Interestingly, also, the Vice President of the United States is praised repeatedly in this book for his wonderful efforts in fundraising.

Now, in the book there is no indications there was illegal fund-raising, but that gives us the ideas of the pressures in the system that were occurring that lead to the dramatic fund-raising abuses. And that has not really been laid out exactly why did this happen and what was different and why were there such massive amounts of money. It was because they decided to do a permanent campaign.

But some of this actually started earlier. In the Committee on Government Reform and Oversight, from the time we took over and we started to investigate, we heard there was this problem in the Travel Office. And we started looking at the Travel Office and we wondered, well, why is this person walking around the White House without a security clearance? Why is this person walking around? Why are the Thomasons involved in such a little thing? Because it did not seem that many dollars. And even though they owned the travel agency, why were they involved in this?

And as it evolved, we discovered they were trying to get the travel budget elsewhere; that there was this person over here who was a girlfriend or boyfriend of this person and there was a Clinton distant cousin over here. And we started to see the pattern we are now seeing in full bloom a couple years later. So as we were investigating the Travel Office, we started to check on where did these security clearances come from.

The next thing we know we turn up the FBI files case, because we start saying how did they get these clearances. Hey, some of these names, they do not have any business having. These people are Republicans. They have not been in this administration. John Towers is dead, as a matter of fact.

Mr. HAYWORTH. If my colleague from Indiana would yield for just a second, if I am fully cognizant of the reports and our recent history, we are not talking about a few files. We are not talking about a dozen files. Could the gentleman from Indiana provide for the record how many files are we talking about?

Mr. SOUDER. We honestly do not know. We know there were at least 200, then 400. It appears there were at least 800. Chuck Colson went to prison after the Nixon administration for showing one.

We documented that interns had them, that multiple people had them. We know they were out there. What has not been documented yet is whether they have been abused. But merely having people's secret files, with any allegations, raw allegations, unproven allegations are in these files.

Mr. HAYWORTH. Indeed, to draw the proper analogy, and I thank my colleague from Indiana for yielding, but it would seem to me these FBI files contain very personal information. And it would be akin to someone, a pickpocket, having hundreds of wallets that he had purloined from different folks. Now, maybe the pickpocket never used the credit cards in the wallet, maybe the pickpocket never took the currency out of the wallet to spend, but yet that wallet, something very close to someone, personal possessions, were taken away and in the possession of someone else who could have used that information, that currency, if you will, in this information age, in a very disparaging way.

Sadly, again, it seems that was another example of some folks in the executive branch running roughshod over constitutional rights and, indeed, our traditions of law in this country.

Mr. SOUDER. And to take the gentleman's analogy further, in addition to, in effect, pickpocketing people's billfolds and private things that were official and on record, this is not a matter of FBI files where they just have whether an individual has been picked up for a parking ticket or where they went to college. These are when an individual applies for a secure government job and they go try to find out what anybody says about them.

So there are raw unedited transcripts of if somebody says I saw him at dinner somewhere and he was having an affair. I saw him at a gay bar one time. I heard that he beats his kids. These things are in those files and individuals do not even know they are in their files, and yet we have kids, we had all sorts of people walking around with these.

The question comes, were they potential blackmail files for people who were holdover, or for people who they had to do business with outside, or for, quite frankly, staff members who used to work in the administration and came over. We do not know, and that is still unanswered.

But as we moved through this, we turned up Craig Livingstone, and he was in charge of White House security and the files, along with Anthony Marceca, who had been kicked out of different campaigns for multiple questions, had had various problems in their lives. The question was who hired these people? Craig Livingstone would not say who hired him. The attorneys would not say who hired him. They said maybe Vince Foster did, which was always the convenient answer. It was always the dead guy when we tried to get an answer.

But then we found out they had a data bank. And from the files investigation we turned up they had this data bank. And as we looked at the data bank, they had these piles of documents with little codes on them. And we found out that the codes were amounts of money that the people gave, and they had a code so they could know at the White House how much money these people gave. And that was the codes for coffees and Lincoln bedroom. And that is how we evolved into the coffees and the Lincoln bedroom question.

So this has been an unfolding process as we go through this, and we are now seeing the last phase of this, which is the foreign money, in what appears to be at least on the surface. And we are trying to get the evidence, and that is the purpose of these hearings, of were we penetrated by foreign governments? Was national security compromised? Did they make land deals or other government decisions based on who was at the Lincoln bedroom; based on who was at a coffee? Because we have seen this pattern.

And I want to relate two other things that make us extra suspicious. The American people are generous people, and they will give people the benefit of the doubt, but we have seen a repetitive pattern of stonewalling through all these investigations. And every one we get into, there is this excuse as to why they cannot give us the information of why this person has fled overseas. Sixty witnesses pleading the Fifth Amendment. Twenty-five so far have fled overseas. They always have an excuse.

I also happen to have, for a variety of reasons, chaired two investigations of the INS. I, quite frankly, and bluntly, was reluctant, because the chairman was not here at that point. Mr. Zeliff, who had led much of this, decided to run for governor of New Hampshire, and I wound up chairing the subcommittee.

But I was reluctant, because I was afraid that in investigating these things would be perceived as anti-Hispanic. But at some point the truth just stares us in the face. We saw the piles of documents that civil servants, many of them Democrats, were bringing in bundles of tests, citizenship tests filled out in the same pencil, in the same handwriting; there are people coming in and saying we had eight boxes of applications that never had a background check; and we watched and heard these people say that the deadline was the voter registration deadline.

The deadline was not to try to get people in. We wanted legal aliens to become citizens. And out of the 1.1 million who came in, at least a million were completely legitimate. But it appears that up to 100,000 were not. We had rapists. We had all sorts of people brought in because of the pressure to get the voters registered for an election, which ties in with Morris' whole scenario.

So we already have the public acknowledgment that the INS has fired people and cleaned up their process, and are working hard to do this, but the INS clearly violated the law.

Now, interestingly, Mr. Zeliff and, then full committee chairman, Mr. Clinger, were pursuing another category. In this other category was the White House communications agency. I wound up at that hearing as well and chaired part of the hearing, and found it, quite frankly, one of the more boring hearings I have been to. I confess that not everything we do here is interesting, even when we pretend it is interesting.

We heard GAO tell us that the White House Communications Office had major reporting problems; that it was funded under the Department of Defense, and the Department of Defense was accountable, but the political people at the White House, because usually they had a fairly low to mid level defense person over there, was being pressured by White House high ranking political people. And we, in particular, were looking at a major waste of a huge broadcast system they had purchased with a high percentage of their budget that then they could not get on one plane so they were not using it.

Also came out charges of a variety of different things that they were looking at.

□ 2100

One the charges of this office that we said could easily be abused, that GAO said could be abused, that we were holding a hearing on, one of their charges was to videotape key events at the White House.

As of last night, the media started to ask questions, because we turned in fraud potential in this office a year and a half ago, and it is clear in the process not only has this committee, full committee, been requesting tapes and they only turned up yesterday edited, but these tapes, we had a hearing where we were investigating this agency and they did not come up. And then when the tapes come up, it is, "Sorry, the audio is missing."

Some people did not seem to have read Watergate. And that is, when there is a missing 14½ minute gap in Rosemary Woods' transcript at a very key point, people jump to logical conclusions. And when the tapes come back without the audio in the part where the allegations have been that there was fund-raising, we have doubts.

One of the things I went to this chairman of this subcommittee today to follow up on is, I think we need immediate hearings in this subcommittee that is already investigated, on top of the hearings from Chairman Burton that are starting, and say, "Okay, who filmed the stuff, the stuff that was played on C-Span the other night that was clearly edited? Where is the full tape? Did you doctor these tapes? What happened to the audio of these tapes? Who did this? Who authorized you to do this?"

This is shocking, that they went through and did this and abused a Defense Department agency, which we had already been warning about, that they had potential fraud in the way that they were setting it up.

As the gentleman from Arizona [Mr. HAYWORTH] knows, I am on the same committee with the gentleman that is looking into this issue, the Government Reform and Oversight Committee, and was there for the opening statements today.

My colleague raised some serious points about this issue of the tapes. I just want to bring a little levity here because, quite frankly, there are parts of this thing that I find incredibly humorous. Let me just kind of walk through it.

The tapes the gentleman has been referring to are videotapes of the so-called coffees that the White House conducted, where they invited in these individuals, most of them, coincidentally, major donors to the Democrat party and of the White House and of the President, but maintained, and had maintained for months now, that these were not fund-raisers, "Look, these are reasonable and legitimate, and we are having nice discussions, but they were not fund-raisers."

What I find humorous about it is a couple of different things that reveal how we got the revelation of these tapes. For example, when the White House, first in response to our committee's subpoena, searched for the names of the individuals we knew had attended those coffees, according to press reports, and I am quoting here from George Lardner, Junior's Washington Post story the day before yesterday, they searched for those individuals' names, the White House database came up empty.

As a matter of fact, they could not find anything on those individuals in the White House database. So they said, what we really should do is search under the name "coffees." And, in fact, they did come up with what they call, I think it is a total of 44 hits, under the name "coffees," and that is how we led to the discovery of these tapes. They only bothered to wait from March, when we subpoenaed this information, until, we are in October, are we not? until October to decide, well, let us look under "coffees."

But the fascinating thing is that in Mr. Lardner's story, he goes beyond that and he says, guess what? Somebody had the bright idea of searching under "coffees" to look under "DNC." What is "DNC"? Democratic National Committee. And to look under "fund-raiser."

Now, I do not know why they would look under "DNC" or "fund-raiser," because, as we all know and as the American people have already come to believe in their heart and soul, these were not DNC fund-raisers. And yet the curious thing is, when they did search that same White House computer database under "DNC" or "DNC fund-raiser," they did not get 44 hits, they got 150 hits.

Mr. SOUDER. Mr. Speaker, reclaiming my time, people who put that in there never would have acknowledged it in their own computer system.

Mr. SHADEGG. After all, the White House spin machine has been running around the clock to spin this thing as coffees, get-togethers.

What did my colleague say the other night? What is the coffee shop, prominent coffee shop?

Mr. SOUDER. Starbuck's.

Mr. SHADEGG. This is Starbuck's on Pennsylvania Avenue.

Mr. SOUDER. Only a lot more expensive.

Mr. SHADEGG. Only a lot more expensive. And the fascinating thing is, well, all 44 coffees also happened to be hit under the same computer system for DNC fund-raisers.

Now, let me see, the White House spin machine has been saying these were not fund-raisers, "We were not using public property for fund-raisers." But when they searched DNC fund-raisers, the same 44 turned up. And we know that. Now, what is the difference between 44 and 150? There are 106 others out there that we do not know anything about. I find it absolutely fascinating and tremendously humorous.

But there is one more point in all of this that I want to bring out. When this came out, I happened to be in Arizona en route back to Washington when I first heard this story of the tapes released: "White House releases tapes of White House coffees," not fund-raisers, even though the White House itself in their own computer called them DNC fund-raisers. But when the tapes came out, the national news reporter I heard on this radio story said, "But they do not show any breaking of the law; they actually back up the President's story."

I kind of listened to that for a minute. Then I got here, and I happened to see the tapes the other night. There are fascinating things in the tapes; for example, the missing gap of time. Rosemary Woods surfaces again, and there is, you know, a human gap. Now it just so happens that the gap appears on the one tape where we see none other than John Huang. It is kind of, huh, I wonder how that happened.

Mr. SOUDER. Coincidence. We are jumping to conclusions.

Mr. SHADEGG. Mere coincidence. We are leaping to conclusions. "These were clearly not fund-raisers." They will call them fund-raisers in their database, but that was a goof.

Mr. SOUDER. They had to have some way to distinguish it from other coffees.

Mr. SHADEGG. Of course.

But one last point I want to make on this that is also humorous is that while the news spin was that these were, in fact, clearly not fund-raisers, and indeed nothing in the tape shows the President saying, "give me the money," that is true, it is not there, what is there is the understanding of the people who attended.

The understanding of the people who attended is quite clearly shown on a tape for which they accidentally released the audio. And you know what it is? It is this gentleman in the audience saying, "Hey, I got the checks. I got the checks."

As a matter of fact, the White House spin is, "Well, these were not fund-raisers because the DNC official in the room turned the checks down." Now, I mean, I am certain this is one lost soul who happened to make it to these coffees and had the mistaken notion that he should be offering up these five checks. Clearly, he was a mistaken soul.

The fact that there was a DNC official who said, "Wait until later; wait until later," I am certain these were not fund-raisers. Thank goodness the White House has come forward.

The last point I want to make: Because the White House has been so incredibly forthcoming, I am certain that within minutes of when we discover there are over 150 events, take away the 44, 106 events, the White House will be forthcoming. They will give us all the tapes of those events, computer records, all the lists of people identified; they had never stalled or delayed in any way of providing information; they have never stonewalled or failed to respond to a subpoena until we threatened contempt. I am certain that within minutes the President himself is going to run down here and say, "Here is everything."

As a matter of fact, in this morning's paper, the President said, "Well, they have the evidence." The chairman of our committee, the gentleman from Indiana [Mr. BURTON], pointed out they

do not have the evidence. They, in fact, stonewalled. But I am sure it is just a glitch.

Mr. SOUDER. The key thing is, as the gentleman from Arizona [Mr. SHADEGG] knows, he is an attorney, what we need to do is check out the statute of limitations on a lot of these things.

Mr. SHADEGG. If the gentleman would yield again, I understand. Now they will surface the day after the statute of limitations. How foolish of me.

Mr. SOUDER. What a pattern.

Mr. HAYWORTH. I thank my colleague, the gentleman from Indiana [Mr. SOUDER]. And I am very pleased that we are joined by the gentleman from Arizona [Mr. SHADEGG], because he has distinguished himself in the legal profession as he distinguishes his work here in this body.

I would simply offer one different take on one aspect, because I know my colleague is laughing to keep from crying, because none of this should bring us joy.

It is one thing to have political differences with folks and to have philosophical discussions. In a free society, we champion that. The problem now is a pattern, as my colleague said tongue in cheek, that is really not coincidence, that seems to be a habitual pattern of lawbreaking.

I thought it was very important when he mentioned the videotapes and how they had obviously been edited and when my colleague mentioned the lone, soundless tape.

Let me read today from the Omaha World Herald on this point. Quoting now the Omaha World Herald, "The lone, soundless tape in Clinton's collection is one of the potentially more important videotapes made. It shows DNC fund-raiser John Huang introducing the President at a coffee on June 18, 1996. A Johns Hopkins University professor has testified that Huang said, 'Elections cost money, lots and lots of money. And I am sure that every person in this room will want to support the re-election of President Clinton.'"

Mr. SOUDER. This is the part that is missing.

Mr. HAYWORTH. That is the audio that is missing, according to the testimony of a professor from Johns Hopkins University.

What is also fascinating, and my colleagues have distinguished themselves, I believe, in these special orders where they have helped to inform the American people, but I want to call on my colleague, the gentleman from Arizona [Mr. SHADEGG], for some free legal advice here in the people's House, and it has to do with some other things we have heard now dealing with these issues, because there are some at the White House, some attorneys there, who tell us that if a law is an old law, it should not count any longer.

I refer specifically to the Pindleton Act. Let me ask my colleague, the gentleman from Arizona [Mr. SHADEGG], has he ever seen a situation where a cogent, logical defense is, a law is old, therefore, it should not be observed?

Mr. SHADEGG. Well, certainly I have not. Indeed, perhaps the first laws enacted in the world are laws against murder, therefore the oldest, certainly laws we ought to respect before any other. The notion that an old law is due less deference than a new one is, on its face, absurd. Actually, the existence of a law for a long period of time establishes that it truly embodies the consensus of the society.

Clearly, these are searched-for excuses by the White House to try to get out from under what they have done.

A fascinating parallel is the line, "Everybody else does it." Another one is, "Well, we certainly thought we were complying with the law."

I love that one with regard to the issue of phone calls by the President himself from the White House, because if my colleagues recall the sequence of events, his first story on phone calls from the White House was, "I don't recall making any." And then his second story some several weeks later was, "Well, I know that at the time we did this, whatever it is we did, we believed we were complying with the law."

Now, spare me, and maybe my colleagues can help with this. I have problem with the logic that says, "I do not remember doing it, but if I did it, I remember that I thought I was complying with the law." That one is tough for me.

Mr. HAYWORTH. And even more astounding, as the gentleman from Arizona [Mr. SHADEGG] and the gentleman from Indiana [Mr. SOUDER] will acknowledge, even more astounding was the explanation that we heard from the Vice President of the United States, who stood before a gathering of the press and said that he was proud of his actions but, from that day forward, he would not repeat them.

And he developed for that press conference one of the most infamous phrases that I believe has been hoisted upon the American people, because the Vice President of the United States, the man who, if circumstance and tragedy struck, would be elevated to this Nation's highest office, the Vice President of the United States said, "There is no controlling legal authority that pertains to my conduct."

Mr. Speaker, my colleagues, and those who join us through the miracle of television, coast to coast and around the world, ponder those words, because words mean something.

For the Vice President of the United States to presume and to protest that there is no controlling legal authority can only lead us to conclude, sadly, that the Vice President of the United States believes himself to be above the law, believes his conduct, which is and has been and is suspected of being illegal in this regard, somehow should result in no sanction, somehow should result in no punishment, but instead should be blithely dismissed as just one of those things, because as my colleague, the gentleman from Arizona [Mr. SHADEGG], to paraphrase so many who work in the fourth estate here in Washington in the news rooms here so eager to explain things, so eager to change the agenda for our Nation, as they try to say, "Everybody does it."

□ 2115

Mr. Speaker, I would like to go on the record tonight with my colleagues here to protest that notion; to say most certainly, not everyone does it. Indeed, when we came to this Chamber, when we started to help change the way Washington works, one of the first things we were taught was that these offices are government offices provided by the taxpayers, belonging to the taxpayers and our constituents; they are not to be used in any way, shape, fashion or form, for fund-raising.

This is an elemental lesson in the education of a public servant in this role in the people's House, in the other Chamber, and dare I say at the other end of Pennsylvania Avenue. This is one of the first things we are told and we are taught, and sadly, there are some who have ignored the lesson, some who would presume that they are above the law because they claim there is no controlling legal authority. How tragic, how shameful that utterance truly is.

Mr. SOUDER. Mr. Speaker, reclaiming my time, clearly the Vice President of the United States first was warned by the legal counsel in a memo that has been circulated all over the country in newspapers. He was a Member of this body in the House and knew that we could not do it. Then he was a Member of the other body, the Senate, and told that he could not do it. He has no excuse. We are tired of hearing these kinds of excuses.

The gentleman read earlier from the Omaha World Herald, and in Hotline today, now admittedly, these are audio only; I do not have any video, and also, I only have highlights from some of these editorials. But if I was at the White House, I would not complain about me editing. They are not in a real strong position here.

But I want to show the reaction around the country and express my disappointment with, quite frankly, a lot of members in the other party for not agreeing to speak up. As my colleagues will see if they watch C–SPAN and the upcoming opening statements of the members of this committee, there were a lot of excuses and a lot of dancing around about how everybody does it, which, A, is not true; how we ought to be investigating Congress, which we have no jurisdiction over, we are an oversight committee on the White

House and the executive branch. Our duty is to look into misconduct. That is what our committee's charge is to do and we are going to do that.

Back in the days of the Grant administration when they looked into the Credit Mobilier scandal, they did not say well, Philmore did it; well, so-and-so did it before. They looked at the scandal that was in front of them.

Back in the days of the Teapot Dome, the excuses were not, oh, other people did it. They looked into the scandal of Teapot Dome. Quite frankly, in Watergate, some, including myself, initially felt they were picking on Nixon, but we had the courage to say as it unfolded, what he did was wrong, what the Vice President did was wrong, and that we did not say, look, because Lyndon Johnson bugged Barry Goldwater's room and because Lyndon Johnson covered up, therefore, Nixon should not be kicked out of office just because Johnson did it.

First off, we have not established that other people did what Clinton did. Particularly we are looking at all these scandals put together in one administration. But it is no defense, and when is the other party going to start to step forward?

I want to read these newspapers and show that newspapers around the country have come to this conclusion. Where are the members of the other party?

Mr. HAYWORTH. Mr. Speaker, I just simply want to make the point, and I thank my colleague from Indiana for yielding, because he makes the point that I can recall many of the arguments as I was coming through school, as my colleague from Indiana was, in the wake of the Watergate scandal. And I do wish that many on the other side of the aisle would heed the words of the late Democratic Senator from North Carolina, Sam J. Ervin, who said in response to those types of protestations, well, does that make it right?

Are we to ignore it in this situation because it may have gone on before? That is the type of selective analysis that is akin to saying that if a traffic cop pulls me over and I try to say, "Well, everyone else is speeding," is the traffic cop simply supposed to say "Well, you are right, so I will let you go on your merry way." No, of course not.

By definition, it is going to be selective, but how I wish that others would speak up and remember those words of Senator Ervin: Just because it happened before and perhaps was not prosecuted or investigated, does that dismiss the current problem? Of course it does not.

Again, it brings us no joy to do this, but it is a sad tale of woe that goes to the very fabric of our constitutional republic, and to ignore these problems, these discrepancies, these misdeeds would be to do our country a grave disservice.

Mr. SOUDER. Mr. Speaker, I know this will take a couple of minutes, but I want to show how overwhelming public reaction has been around the country.

New Mexico, Albuquerque Journal: "The administration could save itself considerable trouble and criticism if only it learned to be candid."

Georgia, Augusta Chronicle: "It's time for Congress to start drawing up articles of impeachment against Reno. She is open to charges to both conflict of interest and incompetence. It's time to get rid of the worst Attorney General in the Nation's history."

Alabama, Birmingham News: "Apparently, Ms. Reno believes she must have photographs of illegal transactions taking place before she can proceed with a special investigation. Perhaps the videotapes of the coffees and other fund-raising functions at the White House will give her what she's looking for."

New York, Buffalo News: "President Clinton can insist that no money changed hands and no policies changed at all when he schmoozed with donors in White House receptions caught on videotape. But the reality is that the public is entitled to suspect the worst."

West Virginia, Charleston Post and Courier: "Clearly the White House is not cooperating fully with Ms. Reno's probe. That puts her in an impossible bind. The sooner Ms. Reno hands off this investigation to an independent counsel, the better it will be for her and for the reputation of the Justice Department, which is sinking fast."

Ohio, Cleveland Plain Dealer: "If the failure to reveal these tapes to the congressional investigative committees isn't obstruction of justice, it's far from the 'full cooperation' the President and his men keep claiming."

Texas, Corpus Christi Caller-Times: "The President's team is either spectacularly inept or willfully obstructionist."

Michigan, Detroit Free Press: "Janet Reno is part of the problem, not part of the solution."

Indiana, my hometown, Fort Wayne Journal Gazette, another Democratic paper, which many of these have been: "You hear no claims of executive privilege this time. No excuses about controlling legal authority. No accusations that the Republicans did it, too."

New York, Long Island Newsday: "The tapes made Reno look clueless in denying once again the need for an independent counsel."

New Hampshire, Manchester Union Leader: "Of course only the Clintonoids know whether these tapes, under subpoena for six months, were tampered with, altered or edited. Only the Clintonoids know whether these are all of the tapes or whether there were others of a more incriminating nature that have since disappeared. And so it goes in the Clinton klepocracy."

New York Times, New York: "Justice has been conducted in a slipshod investigation."

We already heard from Nebraska and the Omaha World Herald.

Pennsylvania, Philadelphia Inquirer: "Janet Reno needs to get her head out of the sand, tune in to the conflict-of-interest problem, and hand these allegations over to a preeminent lawyer free of political pressure."

Oregon, Portland Press Herald: "Only an independent special prosecutor can bring the credibility needed to determine whether the President and Vice President of the United States violated the law."

Missouri, St. Louis Post Dispatch: "Ms. Reno should seek a special prosecutor for the Clinton-Gore telephone solicitations and ask the prosecutor to investigate the other White House fund-raising investigations as well."

Now, once again, these are not Republican conservative papers.

Minnesota, St. Paul Pioneer Press: "No more than Richard Nixon could 'circle the wagons' during Watergate can a modern White House keep 'losing' documentation of its actions and hold onto its credibility."

California, San Diego Union Tribune: "The Justice Department's investigation of possible White House campaign finance violations has lost all credibility."

California, San Francisco Chronicle: "The long-sought videotapes may show nothing incriminating, but the Clinton administration's history of stonewalling, delay and obfuscation only add to the public perception that an independent counsel is needed to finally untangle the mess and find the truth."

California Stockton Record: "President Nixon had to resort to the infamous Saturday Night Massacre to get the Justice Department to his political bidding, and it ultimately failed. Reno's Justice Department is just rolling over and playing dead."

Washington Post: "The attitude of this White House toward the truth whenever it is in trouble is the same. Don't tell it, or tell only as much of it as you absolutely must, or as helps."

Washington Times: "There has been so much obstructionism in document and evidence production that only someone as naive as Attorney General Janet Reno could believe that it hasn't been intentional."

Kansas, Wichita Eagle: "Many Americans and most Republican lawmakers doubt whether Ms. Reno, a Clinton appointee, has conducted a thorough and honest investigation. And who can blame them?"

North Carolina, Winston-Salem Journal: "The lesson the White House keeps failing to learn is that any attempt at a cover-up usually makes matters worse."

This is overwhelming, from nearly every part of the country, and this is just a sampling, of liberal press for the most part, some conservatives, saying this is outrageous.

Mr. SHADEGG. Mr. Speaker, if the gentleman would yield, I commend the gentleman from Indiana for bringing that information forward. I must say as I stood here I was shocked to listen to that. I had no idea that the editorials across the country and the editorial page editors were that unanimous.

I do want to point out the significance of this particular point the gentleman is raising right now. In any free society, we can only survive if people, largely voluntarily, choose to comply with the law. That is, in a democracy, the success or failure of that democracy is dependent upon respect for the law and respect for the government that creates that law.

It seems to me that it is absolutely patently clear that Janet Reno is not only not doing her job and covering up and rolling over and playing dead, but most importantly, in not doing her job, in covering up, in rolling over and playing dead, in, for example, ruling as recently as this weekend that the Justice Department for the 18th time was going to refuse to open an investigation or authorize a special prosecutor for the President because he had done nothing wrong; moments, literally moments before the White House released these tapes, her conduct, I would suggest, is eating away at the most fundamental aspect of what our society depends upon, and that is faith and credit by the American people in the integrity of this government.

If she continues to cover up for him and to not be forthcoming and to not acknowledge the flagrant conflict of interest she has, and to refuse to recognize the evidence that is staring her in the face, she is helping to destroy the faith that the American people need to have in this government if we are to survive as a Nation.

Mr. SOUDER. Mr. Speaker, I wanted to talk about a couple of actual cases and refer to something else as people look at the opening statements today, and I want people to remember all of these editorials around the country and the universal outrage, and then watch the kind of creative excuses that people come up with here in Washington to defend why they are not speaking out. I believe that eventually we will have more and more Members on the other side, like there were Republicans, say, "I cannot defend this any more. This is too humiliating. This is undermining the core of our system."

Mr. HAYWORTH. Mr. Speaker, I thank my friend from Arizona for joining us here tonight, and the American people.

What my friend from Indiana has pointed out from newspapers, both liberal and conservative, is tantamount to a litany of shame. What is even more compelling and even more difficult are some reports we hear that perhaps White House attorneys met with the Attorney General on Wednesday night, perhaps those people even had knowledge of those tapes and they did not share that knowledge with the Attorney General. Very, very disturbing and serious questions need to be answered.

I would simply point out to those who would wrap themselves in that rather infamous excuse of no controlling legal authority that yes, Mr. Speaker, there is a controlling legal authority. It is called the Constitution of the United States, which gives this body and the other body in the legislative branch oversight ability to check on allegations and to deal with these growing concerns, and it is the role of the people's House and the other body here in the Capitol to exercise that oversight, because our constitutional Republic and those who live in it can demand nothing less.

□ 2130

Mr. SOUDER. Reclaiming my time, Mr. Speaker, I had a series of pictures, but I want to use this to illustrate another point. This is a picture of the Vice President with Jorge Cabrera. I want to go through this case to illustrate that the things that we are going to hear tomorrow in our first House hearing are not isolated. There are so many that the Senate has already done, that we have pending, it is overwhelming.

I want to go through this case to illustrate several points. The Vice President has been a good student of President Clinton's in more ways than one in fundraising. He attended a fundraiser in Florida for 60 wealthy contributors. One of the attendees was Jorge Cabrera, a drug trafficker with links to a Colombian cartel, and Dr. Joseph Douze, a fugitive who once blew up a bridge. The host for the evening was Jerome "Jerry" Berlin. He was indicted in 1990 and later acquitted on Federal conspiracy charges of bribing public officials. One of the politicians allegedly targeted in that charge was Senator AL GORE, who prosecutors said did not know of the alleged plot.

One guest who paid the minimum $10,000 cover charge said, maybe the reason I got to sit with the Vice President is I was the only honest person in the room. To be fair, a GORE spokeswoman pointed out that the Vice President was disappointed to learn that his picture had been taken with a longtime drug dealer. This is my favorite quote so far of the whole investigation. "He never wants to be associated with people who break the law." That probably makes for real interesting cabinet meetings.

Some of the same donors at the fundraiser later received personal greetings from President Clinton and the First Lady. Only days later the Cali-connected Cabrera was sipping eggnog at the White House at a Christmas party. Cabrera, who gave $20,000 to the DNC, was later sentenced to 19 years in prison for helping to import 6,000 pounds of Colombian cocaine. He was indicted, mind you, when he was going to all of these fundraisers.

At the time of the Gore fundraising and the White House visit, he had already been arrested twice on drug charges in the eighties, and pleaded guilty to nine drug-related charges. Court papers said that by 1995 he was deeply involved with the Cali Colombian drug cartel, the largest in the world.

Ross Perot put it nicely: I never thought I would live to see a major drug dealer give $20,000 bucks in Florida, and then be invited to a big Democratic reception by the Vice President of the United States, AL GORE, and then be invited to the White House for a reception. An invitation to the White House Christmas party was also sent to Dr. Douze, who the government had confiscated his passport, another branch of the government had taken his passport, yet this man was at the Christmas party, and they restricted his travel after his arrest on 11 counts of Federal mail fraud and conspiracy. The Federal judge denied his request to leave the area to visit the White House, but Douze, who was arrested in 1988 for blowing up a bridge in Haiti, received the judge's permission to visit his dying mother in Haiti a few weeks after the Gore fundraiser. He has not returned from Haiti since. How does this happen? They let it.

Rule number one is follow the current law. The moral equivalency crowd is saying everybody does it. No, not everybody does. Everybody does not take pictures with drug dealers who have already been convicted or fugitives or swindlers. This happens when cash and contributions guide, and as I said at the beginning, when your driving force is you have to have money to hold your power, and your goal is to get power in Washington, and then you start chasing the almighty dollar, pretty soon you make mistakes like this.

What we are going to see in the hearing, in the opening statements today, as one Member of Congress said, we are applying guilt by showing fuzzy pictures, because this makes the Vice President look seedy and this Cali cartel person look seedy.

Do Members know what? If I call up Vice President GORE and say, will you give me a fresh color picture of you posing with that member of the Cali Colombian cartel, I do not think he is going to give it to me. The only way I can get a picture is to get it out of a newspaper.

I did not deliberately make this picture fuzzy, just like we do not make

the pictures at our committee fuzzy. But the White House does not want to give us pictures of them posing with John Huang. They do not even want to have videotapes with audio on them being with John Huang. They do not want to give us pictures with John Chung. They do not want to give us pictures with the swindler who bilked new Americans coming into our country in one of the biggest credit card scams.

So the picture tends to be a little fuzzy. But Members know what? Part of the problem here is not that we are making them look like violators of the law, they are. If you pose with drug dealers, there is not a whole lot you can do to clean up the picture, because you are posing with a drug dealer. It is particularly disappointing that in the background checks of this administration, that they have been so sloppy in doing that.

I hope that Members will watch as we go through the hearing process and as we try to bring some of these points out. This is very difficult. I realize a lot of people think it is partisan, but our democracy is at stake. If money can buy this much influence across the board, if agencies can be corrupted, if our national security can be at risk, that is what we are trying to find out. If we do not find it, the President will get off free. If we do not find it, the Vice President will be fine.

But our job as Members of the United States Congress is to look into what appears to be repeated across-the-board types of that, and we need the White House to start cooperating and the Attorney General to start cooperating.

I agreed to lend the last few minutes of this special order time to my friend, the gentleman from Arizona [Mr. SHADEGG]. I want to thank the gentleman from Arizona [Mr. HAYWORTH], too, for his great efforts, not only tonight but at other times, because there is another matter pending right now in conference committee on national testing, and earlier tonight the gentleman from Arizona [Mr. HAYWORTH] and I were talking about education, as well as some of the Democratic Members. I thought that might be a fitting way to close here, too.

EDUCATION AND NATIONAL TESTING IN AMERICA

Mr. SHADEGG. Mr. Speaker, I thank the gentleman very much for yielding to me. This is in fact a very important topic and a very timely topic. Indeed, the gentleman was just talking about how the campaign fundraising scandals are sadly partisan. This is one on which I would hope we could be mutually bipartisan. In fact, on the floor of this House within the last few weeks we voted, 290-plus Members voted to oppose national Federal school testing as proposed by President Clinton, a national test.

The Senate went a different route, and the Senate has proposed that we should allow national testing, but rather than allow the Federal Department of Education to write that test, they would be comfortable with letting what they claim is an independent body write the test.

In point of fact, when we last discussed this issue on the floor, my colleague from Indiana pointed out quite accurately that that so-called independent body would not in fact be independent, but would consist of people appointed by the President, be totally administration-dominated, and not be independent.

I have a passion about this issue, because I think it is one where many Americans, mainstream middle-class Americans, do not understand why some of us would be so vehemently opposed to testing; why we would stake out such a tough fight on this issue; why, indeed, we believe that if the provision in our bill that says there should be no national testing gets stripped, we are willing to fight, and fight, quite frankly to the death to put it back in.

But let me explain that. I am holding a series of columns which I want to mention tonight. This one, "National Exams Provide Few Benefits for Students," is written by Mark F. Bernstein. I do not know Mr. Bernstein, but he lays the first premise of this fight. He says, point blank, in a very bright and elucidating article, what is tested will be taught. Think of that. What is tested will be taught. That is the first plank in this argument.

The President has not come forward and said, I want to have a national curriculum or national standards. The reality is that if we have a national test written by the Federal Government in the Federal Department of Education, what is in that test will be taught to my daughter, Courtney, and to my son, Stephen, in Phoenix, AZ.

So once we get to that point, we have to say to ourselves, wow, the content of that test then becomes vitally important, because Courtney's teacher will want Courtney to know what is going to be on that test and she will teach it. And Stephen's teacher will want Stephen to know what they are going to test, and that teacher will teach Stephen the information in that test. So what is tested will be taught.

Why should we be concerned about that? Well, many people say these are controversial topics, and some of these articles we have here tonight talk about the fact that when the Federal Government, for example, proposed history standards, those history standards were not what you and I would think about history. They painted a grim and gloomy view of America, of American and western civilization, ignoring many of our heroes and accomplishments and emphasizing our failings.

When the Federal Government proposed English and language art standards, they were so bad and considered such a muddle that the Clinton Department of Education threw them out. So the President came in and said, well, we will not test history, because that is subjective, and we will not test English and language, we will test math and science. Who can object to a uniform standard? How can my Arizonans oppose that?

The sad truth is as Lynne Cheney detailed in an article in the Wall Street Journal on September 29, there are national experts who believe that we should never teach children simple mathematics skills. Indeed, the expert is a man by the name of Steven Leinwand. He sits on President Clinton's committee to do this.

He says, it is downright dangerous to teach children mathematics skills. He wants to test my child on a national test so I can compare my children's performance to those of the children in New Jersey, but he says we should not teach them basic math skills. This is a battle which is going forward soon.

Lynne Cheney wrote another article, "The Latest Education Disaster, Whole Math." That is the kind of math where you do not teach children math skills such as addition, subtraction, multiplication, and division. Marianne Jennings wrote an article, "MTV Math Doesn't Add Up," pointing out how bad this is.

National testing is a potential disaster for the Nation because it would set one standard driven by the Federal Department of Education, and it is a standard that I think we ought to all be concerned about. I trust the people in Arizona, the Arizona education department, and the experts at my children's school board to make the right decisions about what we need to learn. National testing is scary and dangerous.

I urge America to listen up to this debate, and to join us in opposing the President, who may have a well-intended idea but an idea which would be disastrous.

FOOD SAFETY AND FAST-TRACK AUTHORITY FOR TRADE AGREEMENTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan [Mr. STUPAK] is recognized for 60 minutes.

LET US GET ON WITH REAL CAMPAIGN FINANCE REFORM

Mr. STUPAK. Mr. Speaker, I appreciate the opportunity to address the House and the country tonight. I could not help but overhear my colleagues who are talking about campaign finance, and the evilness they see about that. But I think it is time for us to stop talking about it and really get on with it.

We have a number of pieces of campaign finance legislation. I think we all

know what the problems are with campaign finance, and we should really go at it and bring those bills to the House floor and actually address it. I think maybe this country and the integrity of this body could be better served in that manner and method.

I find it ironic that they would get up and rail about campaign finance, while it was the majority party here that caught a plane about 4 o'clock in the afternoon and takes corporate jets to go up to New York to raise funds. I think that is the soft money that causes problems in campaigns, and we have some bills like McCain-Feingold and the Shays-Meehan bill here in the U.S. House of Representatives, and I wish we could get at it. We all know what the problem is. Let us cut the rhetoric and get on with the business of campaign finance. Unfortunately, that does not appear to be what is going to happen with majority party in control here in this Congress.

What I do want to talk about is something that is coming forward, something that should be discussed openly, and I hope that the American public joins with me. That is on food safety.

I sit on the Committee on Commerce, the Subcommittee on Health and Environment. We have been devoting some time there to the outbreak of E. coli and other problems throughout this country of our food supply. There is no greater security that a family can provide or the providers of that family provide for young people but to make sure that the food they serve each night is safe for their family's security.

Unfortunately, what we have seen here in the last few years in the U.S. Congress and across this Nation is that the food coming into this country, we have more and more imports of food coming into this country, and the safety of that food has been very questionable, to say the least.

What brings this issue to a head is recently the President came about 3 weeks ago to the Democratic Caucus and presented his legislation to outline his fast-track authority. Fast-track authority, of course, is to allow the President and his negotiators to enter into trade agreements. The trade agreements would then come before the U.S. Senate and the U.S. House of Representatives, and we do not have the opportunity to change, amend, or alter those trade agreements.

In those trade agreements, when we take a look, we can see many difficulties have developed in recent years. This new fast-track authority that the President is requesting is to actually increase our trade with the Caribbean nations and South American countries.

While that is admirable and something we would all like to do, we must ask ourselves, why are we increasing trade at this point in time when our economy is doing so well, and what is the rush to enter into another trade agreement, especially when we take a look at it, and the trade deficit in this country is so high, and every year it continues to go up?

Every President, be it Democrat or Republican, has come to the White House and has said, we are going to cut down on this trade deficit. Well, it has never happened. We have had fast-track legislation for the past five Presidents. That includes President Clinton, President Bush, President Reagan, President Carter, President Ford, and the trade deficit continues to spiral out of control.

Our economy is doing so well, but yet we seem to be in this hurry to fast-track into another trade agreement. We must ask ourselves, why are we doing this? Why are we doing this? What is the rush to enter into another trade agreement? What is the rush to enter into another trade deficit that continues to go up?

When I came to Congress in 1993, January 1993, the issue then was the budget deficit. We have basically erased that budget deficit, but the other deficit, the trade deficit, continues to go up.

□ 2145

Our economy is growing, more jobs ever in this country, yet our trade deficit continues to spiral out of control.

So what is the rush to give the President more authority, authority to actually enter into more trade agreements which would actually lower our standards here in the United States, especially when we deal with food safety?

Mr. Speaker, that is where I would like to direct my comments here tonight. What is the rush to lower our standards, especially when it comes to food safety?

When I say lowering standards, understand the safety and security of our Nation's food supply has recently been in the news because of the contamination at the Hudson plant in Nebraska. And recently we had Beef America we have seen splash across our screens about E. coli.

If we take the Hudson plant situation in Nebraska, over 20 million pounds of beef was recalled by the company when it was determined that some of the meat was contaminated with the deadly E. coli virus. In response, Secretary of Agriculture Glickman wants more authority to inspect and take action against meat and poultry factories. I think that is probably a step in the right direction.

But at the same time the administration is saying to us, let us increase and give us more authority to inspect and recall meat here in this country, why is the administration then proposing to weaken inspection standards of our supply of food coming into this country by opening up our borders to more and more imported foods? Our border cannot keep up with the increased flow of traffic.

In fact, if we take a look at what has happened to food safety and food inspection in this country since the passage of NAFTA, and I am going to look at NAFTA here tonight because that is the real trade agreement that came under fast-track authority, it came up in 1993, and if we take a look at 1993, here we are 4 years later, Mexican imports to the U.S. are up by 82 percent and nearly 70 percent of those imports are carried into the United States on trucks.

Mr. Speaker, how many do we actually inspect? Let me comment briefly that while the food imports have doubled now in the last 4 years to more than 2.2 million shipments a year, and if we take a look at it, that comes out to about 9,000 trucks per day, 70 percent of those trucks are carrying some type of food products, yet only 2 percent are actually inspected at border.

Yet under this new fast-track authority, the President is saying, let us allow more and more food to come into this country. The trade deficit goes up, our inspection, our food safety, continues to go down. Imports are up, less inspections are taking place, and we have more problems with food safety here in this country.

If we take a look at what has happened, the increased traffic has caused great outbreaks of disease in the United States. After the passage of NAFTA in 1993, the rate of hepatitis A in the border regions rose two to five times greater than the national average.

In Maverick County, TX, the rate of hepatitis A has doubled from 5.3 in 1993 to over 10 times the State average in 1994. That also is true in Webb County, where the rate of hepatitis A has nearly tripled, and in El Paso County and Cameron County the rate has nearly doubled. But yet we are asking, under the fast-track legislation, to allow more and more food to come into the country.

While we are having more food come in the country, what has happened to food inspection here in the United States? If we take a look at the records, and again I sit on the Subcommittee on Health and Environment, and this is some of the information made available to us.

Mr. Speaker, take the U.S. domestic food supply. In 1981, we conducted on the domestic food supply in this country 21,000 inspections. In 1996, how many inspections did we have? We had just 5,000. Why did we go from 21,000 to 5,000? We are not even keeping up with the food being processed here in the United States, yet foreign food imports have doubled in the last 4 years. So while we have more food being processed in the United States, doubling the food coming into the United States, inspections are down six times what they were in 1981.

Is it any wonder then that our food supply has been under real, constant attack by pathogens previously unknown, and like cyclospora that was found in the Guatamalan raspberries that came in earlier this year that sickened some 1,400 Americans? We did not know about those pathogens a few years ago, but now we are finding they are in our food supply. Whether they are Guatemalan raspberries or melons or carrots or lettuce, we are finding them and finding health problems associated with it, but we have less and less inspections here in the United States or in other countries. And again, the food coming into this country from foreign countries has actually doubled.

So the President recently, and I will give him some credit, he took a good first step in trying to say, what can we do to help out and make sure that the food produced in other countries, fruits and vegetables especially, meet the U.S. standards, meet certain safety standards? And what the President suggested was a $24 million program which would help to increase inspections in foreign countries at the farm level, and also U.S. farmers would also face some new sanitation guidelines.

Well, the problem with that is, and if I can go to my home State of Michigan, earlier this year we had strawberries come in the United States from I believe it to be Mexico, that were tainted, and they were only 1 or 2 percent of those strawberries that were tainted with the hepatitis A bacteria, and they were put in with a bigger shipment of strawberries, and they were distributed to schoolchildren throughout this country.

In my home State of Michigan, approximately 140 children were very, very sick. While we only had 1 or 2 percent, it was mixed with a clean batch, and young children all across this country, 140 in my own State of Michigan, got very, very sick.

So while we may inspect on the farm in Mexico or Guatamala, once it is put into a wholesaler and distributor and mixed in with clean fruit and it comes to this border, we are only inspecting 2 percent of the some 9,000 trucks entering the country each day. We are only inspecting 2 percent. We can see how healthy good, safe fruits or vegetables mixed in with bad, because we do not catch it all, can cause a serious outbreak throughout this country.

When I talk about serious outbreaks and food standards, I am talking about making sure that the irrigation water is clean, that there are lavatories, latrines out in the field, field latrines for the berry pickers, and make sure that they are taught to wash their hands, make sure that the water they use that they put on our fruits and vegetables is actually clean water and not already contaminated.

While we have to comply with those standards here in the United States, we cannot, under fast-track agreements or trade agreements, enforce them on other countries because then it becomes a condition or tariff or barrier to free trade.

If we look closely at chapter 7 and chapter 9 of the NAFTA agreement that was passed in 1993, many of those provisions were very weak in chapter 7 and 9 about inspection and what we can and cannot inspect and look for at the border. When we do that, what do we do? We lower our standards.

While we have the world's healthiest food in the food we place before our family each night, we have some assurance, because it is inspected by U.S. inspectors, that it is relatively free of anything that may harm us, we have found that under these fast-track agreements it has prevented our ability, our ability to make sure that the food we put on our table each night is safe.

Let us take a look back, and, again, on the committee I sit on, we received a report in May of 1997 from the General Accounting Office which released a study of the Animal Plant Health and Inspection Service and their efforts to minimize the risk from agricultural products which we may put on our table.

The GAO reported that the NAFTA and the political muscle from importers had put pressure on their agency, their service, to carry out increased inspections more quickly. And, as I said, almost 9,000 trucks per day enter the U.S., but only 1 or 2 percent are actually inspected.

If we look at it, because of staff shortage, one work unit along the U.S.-Mexican border can provide inspector coverage at a very busy area only 8 hours in a 24-hour day. So the port inspections have not been there. Increased inspections, of course, would only help to prevent the problems we are seeing throughout this country with food safety and food health problems.

Mr. Speaker, earlier, about 2 weeks ago, the gentleman from Ohio (Mr. Brown) and I wrote a letter to the President, and we had almost one-fourth of the Members of this House join in that letter. We said we are very concerned about the lack of inspection processes, that NAFTA has contributed to a sharp increase in food imports from Mexico, and the imports of Mexican fruit have increased 45 percent, vegetable imports have risen 31 percent. More than 30 percent of these imports are carried in the U.S. on trucks, but yet we find 1 or 2 percent of these trucks are being inspected.

The provisions of NAFTA, and we have to look at NAFTA because that is the only free trade agreement we have to base decisions on, and the new fast-track that the President has requested will take in South America and Latin American countries. And when we took a look at NAFTA, it has resulted in the imports of fruits and vegetables which have been contaminated with diseases and unhealthy pesticides.

We are alarmed that Michigan schoolchildren contacted hepatitis A from strawberries, and in order to prevent future incidents, we urged the President to do three things:

Number one, renegotiate the provisions of NAFTA which relate to border inspections and food safety and ensure that any future requests, this current request for fast-track authority, include strong food safety protections.

We wanted to increase the funding for border inspections or, in the alternative, if he cannot do that, limit the increasing rate of food imports coming into this country to ensure safe food supplies.

And last but not least, we asked that he begin an aggressive program to label all foodstuffs, I am talking about fresh and frozen fruits, vegetables and meats, and their country of origin, so the American consumer, before they pick that batch of carrots or the head of lettuce, that they know if it was grown in the United States or if it was grown in Chile or if it was grown if Mexico, and then the consumer makes the decision, what is best for themselves and their family.

We look forward to working with the President on these vital public health issues. What we are saying is, let us not lower our standards as we enter into these fast-track agreements.

There are many reasons probably to oppose fast-track. It could be because of environmental standards, it could be because of labor standards, but I think most importantly it is because of food safety standards.

It was interesting today in the Committee on Ways and Means, which was the first committee to actually look at the President's fast-track authority. I was speaking to the Members after the vote. They reported out the President's fast-track authority in a weak vote. It did not contain strong provisions for food safety. It did not attempt in any way or shape to renegotiate fast-track with the NAFTA agreement, the North American Free Trade Agreement, which related to border inspections of food safety. It did not have strong food safety protections. It did not increase any funding for border inspections. And it certainly did not contain any food labeling program.

When we look at that and the report on how the vote came out in the Committee on Ways and Means tonight, we will find it a weak vote. A very small majority of the committee reported out the fast-track legislation.

So, Mr. Speaker, as we begin consideration of this fast-track legislation, I would hope that Members of Congress would take a very, very close look at it. This is not a trade issue. It is really a safety issue. Can we provide for our

families safe, reliable food? Do we have the inspectors to do the job? Can we assure that the fruit or vegetables or meat or poultry coming into this country have been certified, have been inspected? Have the hands, the human hands that handled it, whether it is in the United States or whether it is in another country, have they used proper sanitation practices? Has the water that has been used for irrigation, has it been clean, fresh water?

These are the questions we must all ask ourselves, or we will have more and more E. coli bacteria, cyclospora, or even E. coli contamination.

Mr. Speaker, this is, again, not a trade issue, this is really a safety issue. We urge the President, before he comes and once again asks Members of Congress to approve fast-track, which is a broad trade negotiating authority, that he make sure that those three provisions we have asked for, labeling, food inspection, and make sure we have agreement that does not limit our right to inspect as chapter 7 and chapter 9 of NAFTA does.

□ 2200

We want to make sure that we have every guarantee for the American family. I do not know why we would want to compromise our strong food safety standards in this country to increase trade with other countries. Our economy is doing well. Our trade deficit continues to go up. We must get that under control. Let us not fast track this Nation's health and our children's health for another fast track agreement.

When we take a look at it, I find it really sort of ironic that at a time when the administration is pushing for more regulation of meats and poultry and continues to raise concerns about pesticide safety in this country, those who want fast track extended to other countries want to make it easier for unsafe food to enter into this country.

I find it amazing that when one goes on vacation, if one is from the north land, like I am from northern Michigan, one goes down to maybe the Caribbean or other parts to vacation during the long winter months, what do they say? Do not eat this; do not drink that. But yet that same food is going to come into this country without any kind of label or knowledge.

How do we then guarantee our family's health and safety, especially when we find that back in 1981 we used to make 21,000 inspections. Last year we only made 5,000 inspections. Yet the food coming into this country over the last four years has doubled. Less inspectors, twice as much food coming in, but there is no mechanism to do the inspection.

We certainly hope that as we begin this debate on fast track legislation, that the debate will be on its merits, that we will look at the inspection of not only U.S. domestic food supply but most certainly the food supply that is coming into this country from foreign countries. As I said, imports have doubled to over 2.2 million shipments per year, and we have to have more than just a 2 percent inspection.

The FDA certainly has been pushing for changes since 1993, but unfortunately we have not kept pace with America's food supply. That is why we see the outbreaks of things like cyclospora or *E. coli* or hepatitis A throughout this country. They say, well, it is just along the border of Texas. But I live in Michigan, and when we have 130 to 140 children ill because of strawberries and we have reasons to believe it came from Mexico, a tainted batch, but yet they can make it all the way to Michigan, we know it is a national issue.

So while trade agreements and the standards are something we should all look at, by "standards" I just mean our own standards in this country, before we allow other products, especially food from other nations, into this country, they must meet our standards. I think that is only fair.

I think it was only a year ago when the administration was very concerned about CDs, compact discs, and how they were ready to have a trade war with China because they did not honor our intellectual property rights on things like CDs. What about our health and safety rights on things like food, food safety, fruits, vegetables, meats, poultry? So while there may be many reasons, and we hear many reasons to oppose fast track authority, or at least fast track agreements where the U.S. Congress does not have the right to alter, amend or change, when the agreement comes here we must vote yes or no with no amendments, we always hear about labor standards We hear about environmental standards. But how about consumer protection? How about food safety? How about the safety of the American family?

So I would urge my colleagues, as we begin this debate, as I said, the Committee on Ways and Means has recommended that the bill be considered by the full House, that we have a debate, a debate on the food standards, what has happened, what is happening throughout this country with *E. coli*, with hepatitis A and many of the other pathogens that we did not know about a few years ago which contaminate our food sources. What are the chemicals that other countries use on their fruits and vegetables as they grow them? DDT is one of them used in Mexico that has been outlawed for many years in this country.

Those are the questions that we must ask. So I come to the floor tonight to offer my hand to extend to the administration to assist them as we debate these issues, and at the same time I hope I bring awareness to the other Members who are maybe listening in their office or to constituents throughout this country that they raise the same issues that I am raising here tonight. I do not have all the answers. But if we work together in a collective way, we can guarantee that the fast track agreement has the protections, that we do not lower our standards for food safety, for the health and security of our families.

OMITTED FROM THE CONGRESSIONAL RECORD OF THURSDAY, SEPTEMBER 18, 1997

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 910.—To authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1998 and 1999, and for other purposes.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SNYDER) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. SNYDER, for 5 minutes, today.

(The following Members (at the request of Mr. PAUL) to revise and extend their remarks and include extraneous material:)

Mr. JONES, for 5 minutes, on October 9.

Mrs. LINDA SMITH of Washington, for 5 minutes, today and October 9.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. DELAY, for 5 minutes, today.

Mr. ENGLISH of Pennsylvania, for 5 minutes, on October 9.

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. PICKERING, for 5 minutes, today.

Mr. BACHUS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SNYDER) and to include extraneous matter:)

Mr. FORD.

Mr. LIPINSKI.

Mr. KUCINICH.

Mr. FRANK of Massachusetts.
Mr. HAMILTON.
Mr. BONIOR.
Mr. SKELTON.
Ms. ROYBAL-ALLARD.
Mr. TOWNS.
Mr. HOYER.
Mr. DELLUMS.
Ms. FURSE.
Mr. STARK.
Mr. MATSUI.
Mr. KIND.
Mr. BARCIA.
Mr. VISCLOSKY.

(The following Members (at the request of Mr. PAUL) and to include extraneous matter:)

Mr. GILMAN.
Mr. GALLEGLY.
Mr. NEY.
Mr. SOLOMON.
Mr. DREIER.
Mr. GOODLING.
Mr. OXLEY.
Mr. YOUNG of Alaska.
Mr. LIVINGSTON.
Mr. SAM JOHNSON of Texas.
Mr. MANZULLO.

(The following Members (at the request of Mr. STUPAK) and to include extraneous matter:)

Mr. GINGRICH.
Mr. EVANS.
Mr. WEYGAND.
Mr. FARR of California.
Mr. REYES.
Mr. BENTSEN.
Mr. KILDEE.
Mr. BOB SCHAFFER of Colorado.
Mr. BURTON of Indiana.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

H.J. Res. 75. Joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1000. An act to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the "Robert J. Dole United States Courthouse."

ADJOURNMENT

Mr. STUPAK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, October 9, 1997, at 9:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5409. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Developing Software Life Cycle Processes for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.173] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5410. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Software Requirements Specifications for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.172] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5411. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Software Unit Testing for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.171] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5412. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Software Test Documentation for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.170] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5413. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Configuration Management Plans for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.169] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5414. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Verification, Validation, Reviews, and Audits for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.168] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5415. A letter from the Acting Director, Office of Personnel Management, transmitting the Office's final rule—Prevailing Rate Systems; Abolishment of the Orlando, Florida, Appropriated Fund Wage Area (RIN: 3206–AI04) received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5416. A letter from the Chairman, Board of Directors, Tennessee Valley Authority, transmitting the Authority's strategic plan covering fiscal years 1997 through 2002, pursuant to Public Law 103-62; to the Committee on Government Reform and Oversight.

5417. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Offshore Component in the Bering Sea Subarea [Docket No. 961107312–7021–02; I.D. 100197D] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5418. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Ohio Regulatory Program [OH–241; Amendment Number 74] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5419. A letter from the General Counsel, Department of Justice, transmitting the Department's final rule—Suspension of Deportation and Cancellation of Removal [EOIR No. 1181; AG ORDER No. 2118–97] (RIN: 1125–AA19) received October 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LINDER: Committee on Rules. House Resolution 263. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–314). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 264. Resolution providing for consideration of the bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–315). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1849. A bill to establish the Oklahoma City National Memorial as a unit of the National Park System, to designate the Oklahoma City Memorial Trust, and for other purposes; with an amendment (Rept. 105–316). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LANTOS (for himself, Mrs. MORELLA, Mr. LEWIS of Georgia, Mr. MCGOVERN, Mr. OBERSTAR, Mr. SABO, Mr. SERRANO, Ms. FURSE, Mr. SANDERS, and Mr. MEEHAN):

H.R. 2635. A bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras; to the Committee on Government Reform and Oversight.

By Mr. BUYER:

H.R. 2636. A bill to provide for the acceptance of an application for payments for fiscal year 1996 under the Impact Aid program from the Maconaquah School Corporation, Bunker Hill, Indiana, and to provide that data included in that application be used for purposes of determining payments for fiscal year 1997 under a related Department of Defense assistance program; to the Committee

on Education and the Workforce, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASTLE:

H.R. 2637. A bill to provide for the minting and circulation of $1 coins, and for other purposes; to the Committee on Banking and Financial Services.

By Mrs. MINK of Hawaii:

H.R. 2638. A bill to permit lawfully admitted permanent resident aliens who are not less than 80 years of age and who reside in the United States continuously for not less than 50 years to receive food stamp benefits if such individuals are otherwise eligible under the Food Stamp Act of 1977 to receive such benefits; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MURTHA (for himself, Mr. ACKERMAN, Mr. MORAN of Virginia, and Mr. LEACH):

H.R. 2639. A bill to amend the Balanced Budget Act of 1997 to provide for prostate cancer screening benefits as of January 1, 1998; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK (for himself and Mrs. THURMAN):

H.R. 2640. A bill to amend title XVIII of the Social Security Act to combat fraud and abuse under the Medicare Program with respect to partial hospitalization services; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 2641. A bill to direct the Commandant of the Coast Guard to convey certain property in Sault Sainte Marie, Michigan, to the local American Legion Post; to the Committee on Transportation and Infrastructure.

By Mr. VISCLOSKY (for himself, Mr. LIPINSKI, Mr. JACKSON, and Mr. SANDERS):

H.R. 2642. A bill to amend the Internal Revenue Code of 1986 to clarify the standards for determining whether an employer-employee relationship exists; to the Committee on Ways and Means.

By Mr. ARMEY:

H. Con. Res. 169. Concurrent resolution providing for an adjournment of the two Houses; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LAMPSON introduced A bill (H.R. 2643) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel M/V SAND ISLAND; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 146: Mr. GIBBONS.
H.R. 292: Mr. BURTON of Indiana.
H.R. 335: Mr. MICA.
H.R. 339: Mr. GOODLING.
H.R. 367: Mr. BARRETT of Nebraska.
H.R. 588: Mr. ENGLISH of Pennsylvania.
H.R. 591: Ms. SLAUGHTER.
H.R. 715: Mr. DEFAZIO.
H.R. 777: Mr. FOX of Pennsylvania and Mr. GEJDENSON.
H.R. 789: Mr. ROHRABACHER and Mr. KASICH.
H.R. 814: Mr. GUTIERREZ and Mrs. MALONEY of New York.
H.R. 857: Mr. BARCIA of Michigan.
H.R. 859: Mr. CHAMBLISS.
H.R. 900: Mr. MOAKLEY.
H.R. 915: Mr. PAYNE, Mr. WEYGAND, Mr. KING of New York, Mr. ADAM SMITH of Washington, and Mrs. JOHNSON of Connecticut.
H.R. 965: Mr. GINGRISH, Mr. ARMEY, and Mr. ROYCE.
H.R. 991: Mr. ADAM SMITH of Washington.
H.R. 1023: Mr. GOODLING and Mr. DUNCAN.
H.R. 1025: Mr. WAXMAN.
H.R. 1031: Mr. SESSIONS.
H.R. 1059: Mr. CALVERT.
H.R. 1061: Mr. LEWIS of Georgia.
H.R. 1114: Ms. KAPTUR, Mr. Cooksey, Mr. THORNBERRY, Mr. LAHOOD, and Mr. TALENT.
H.R. 1151: Mr. CUNNINGHAM.
H.R. 1202: Mr. SMITH of New Jersey, Mr. CLYBURN, Mr. GUTIERREZ, and Mr. FRANKS of New Jersey.
H.R. 1232: Ms. HOOLEY of Oregon, Mr. HINCHEY, and Mr. EVERETT.
H.R. 1234: Mr. JACKSON, and Mr. CUMMINGS.
H.R. 1288: Mr. MALONEY of Connecticut.
H.R. 1362: Mr. SUNUNU.
H.R. 1373: Mr. CUMMINGS.
H.R. 1383: Mr. KUCINICH.
H.R. 1425: Mr. MILLER of California, Mr. SERRANO, Mr. NEAL of Massachusetts, and Ms. KILPATRICK.
H.R. 1526: Mr. SNOWBARGER.
H.R. 1534: Mr. SHUSTER
H.R. 1714: Mr. LEWIS of Georgia and Mr. DEAL of Georgia.
H.R. 1800: Mr. NUSSLE and Mr. PAXON.
H.R. 1807: Mr. SANDLIN, Mr. FOLEY, Mr. FALEOMAVAEGA, Mrs. LOWEY, Mr. LEWIS of Georgia, and Mr. DAVIS of Illinois.
H.R. 2023: Mr. BONIOR.
H.R. 2067: Mr. ROEMER and Ms. KILPATRICK.
H.R. 2088: Mrs. MCCARTHY of New York.
H.R. 2116: Mrs. ROUKEMA.
H.R. 2340: Mr. SENSENBRENNER.
H.R. 2347: Mr. MARTINEZ and Mr. ROTHMAN.
H.R. 2377: Mr. FAZIO of California, Mr. JOHN, Mr. BLUMENAUER, Mr. GILLMOR, and Mr. BURR of North Carolina.
H.R. 2431: Mr. FRANK of Massachusetts, Mr. CRAPO, Mr. BAKER, Mr. BARCIA of Michigan, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BACHUS, Mr. BOEHLERT, Mr. BUNNING of Kentucky, Mr. BURTON of Indiana, Mr. CANADY of Florida, Mr. COBURN, Mr. COX of California, Mr. DIAZ-BALART, Mr. DOOLITTLE, Mrs. EMERSON, Mr. ETHERIDGE, Mr. EVANS, Mr. FARR of California, Mr. FOLEY, Ms. FURSE, Mr. GOODE, Mr. GOODLING, Mr. HALL of Texas, Mr. HEFLEY, Mr. HOEKSTRA, Mr. HORN, Mr. HUNTER, Mr. INGLIS of South Carolina, Mr. KENNEDY of Rhode Island, Mr. LATOURETTE, Mr. LEWIS of Kentucky, Ms. LOFGREN, Mr. LUCAS of Oklahoma, Mr. MARKEY, Mr. MCINTOSH, Mr. MILLER of Florida, Mr. MILLER of California, Mr. PAPPAS, Mr. REDMOND, Mr. RUSH, Mr. SENSENBRENNER, Ms. SANCHEZ, Mr. SCARBOROUGH, Mr. SCHIFF, Mrs. LINDA SMITH of Washington, Mr. SOLOMON, Mr. SOUDER, Mr. SPENCE, Mr. STARK, Mr. STRICKLAND, Mr. TALENT, Mr. TORRES, Mr. TURNER, Mr. WICKER, Mr. UNDERWOOD, Mr. UPTON, and Mr. YATES.
H.R. 2439: Mr. LOBIONDO, Mr. COBLE, Mr. BARRETT of Wisconsin, Mr. KILDEE, Mr. BARRETT of Nebraska, Mr. WAMP, Mr. MINGE, Mr. BALLENGER, Mr. FRANK of Massachusetts, Mr. PARKER, Mr. GILCHREST, Mr. MCHALE, Mr. POSHARD, Mr. SOUDER, Ms. PRYCE of Ohio, and Mr. SHAYS.
H.R. 2454: Mr. UNDERWOOD, Mr. GUTIERREZ, Mr. HILLIARD, Mr. POSHARD, and Mr. BROWN of California.
H.R. 2456: Mr. BARCIA of Michigan, Mr. GOODE, Mr. HALL of Texas, Mr. MORAN of Virginia, Mr. GILLMOR, Mr. SMITH of Oregon, and Mrs. MORELLA.
H.R. 2457: Mr. HILLIARD, Mr. POSHARD, and Mr. BROWN of California.
H.R. 2474: Mr. BUNNING of Kentucky and Mr. LAHOOD.
H.R. 2476: Mr. CLEMENT and Mr. FALEOMAVAEGA.
H.R. 2495: Mr. TURNER, Mr. BROWN of Ohio, and Mr. ENGEL.
H.R. 2519: Mr. WEYGAND and Mr. FALEOMAVAEGA.
H.R. 2524: Mr. GORDON.
H.R. 2563: Mr. BUNNING of Kentucky.
H.R. 2568: Mr. MINGE and Mr. MANZULLO.
H.R. 2588: Mr. SHERMAN, Mr. METCALF, Mr. ORTIZ, and Mr. CAPPS.
H.R. 2597: Ms. LOFGREN and Ms. VELAQUEZ.
H.R. 2602: Ms. LOFGREN and Mr. MANTON.
H.R. 2604: Mr. BARTLETT of Maryland, Mr. HOBSON, Mr. PARKER, Mr. ABERCROMBIE, Mr. HEFNER, Mr. CALLAHAN, Mr. FARR of California, Mr. GILCHREST, Mr. MCDADE, and Mr. EVERETT.
H.R. 2616: Mr. ROEMER.
H.R. 2631: Mr. HILL, Mrs. FOWLER, Mr. COOK, Mr. MCHUGH, Mr. TIAHRT, Mr. LEWIS of Kentucky, Mr. MCINTYRE, Mr. BATEMAN, and Mr. WHITFIELD.
H.J. Res. 89: Mr. SKAGGS, Mr. OLVER, and Mr. SAWYER.
H. Con. Res. 19: Ms. FURSE.
H. Con. Res. 65: Mr. GILLMOR and Ms. DEGETTE.
H. Con. Res. 80: Mr. WISE, Mr. COBURN, Mr. BURTON of Indiana, Mr. HULSHOF, and Mr. GOODLING.
H. Con. Res. 107: Mr. KUCINICH, Ms. LOFGREN, Mr. OBEY, and Mr. HOLDEN.
H. Con. Res. 130: Mr. ROYCE, Mr. MENENDEZ, and Mr. PAYNE.
H. Con. Res. 153: Mr. LAZIO of New York.
H. Res. 111: Mr. PETERSON of Minnesota.
H. Res. 235: Ms. HARMAN, Mr. LAMPSON, Mr. CHAMBLISS, Mr. OBERSTAR, and Mr. MEEHAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1031: Ms. CHRISTIAN-GREEN.

EXTENSIONS OF REMARKS

QUALITY CHILD CARE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. HOYER. Mr. Speaker, we are learning new information each day about just how critical the first 3 years of life are for a child's brain development, intellectual growth, and emotional, social, and moral development. These factors will help determine the health and productivity of a child in later life. In 1993, the National Education Goals Panel reported that nearly half of infants in the United States do not have what they need to grow and thrive. High quality care from a parent or other adult is necessary to facilitate growth and development. Five million children under age 3 are in the care of other adults while their parents work outside the home. Parents of very young children have few child care service options. Many cannot afford to stay home with their children or to pay for safe, high quality developmental child care services. The Federal Government's involvement in the development of our children and grandchildren has become even more critical.

Child care providers are a valuable asset to their communities. Their contributions to providing quality child care is the backbone to economic stability throughout this country. For example, over 85 percent of the children in child care in southern Maryland participate because their parents work. Without quality child care options, parents will not be able to provide their children with the early childhood development they need to get a quality start to their future.

Child care needs in Calvert, Charles, and St. Mary's Counties in southern Maryland are a prime example of the national need for quality child care. In 1990, the number of children under age 3 in these three counties ranged between 2,500 and 5,000. Child care providers in southern Maryland, and throughout the country, are doing a good job at meeting child care needs, but there is the possibility that resources will become strained in the future. Child care providers cannot provide quality services without the Federal Government's support.

I have been committed to ensuring that the Federal Government provide sufficient resources to increase the quality of child care throughout the country. One of the programs that I have focused on is the Child Care and Development Block Grant. This program makes funds available for child care services and activities to improve the availability, accessibility, and affordability of child care. A portion of the funding is set aside to improve the quality and availability of healthy and safe child care for all families, including quality activities such as training.

The Child Care and Development Block Grant was reauthorized last year as part of the welfare reform bill. A portion of this legislation permitted a slight increase in funding for the Child Care and Development Block Grant. But, in order for child care providers to be able to provide the type of quality care we all want for our children and grandchildren, they need to have access to sufficient resources.

This is why Congresswoman DELAURO, Congressman MCGOVERN, and I are working toward getting child care providers the resources they need by further increasing the amount of funding that goes toward the Child Care and Development Block Grant. The Early Learning and Opportunity Act, which we introduced, does just that. The bill creates flexible, competitive State grants to improve the quality of care for children under age 3. In addition, it increases funding for Head Start and more than doubles funding for Early Head Start, a crucial component to quality child care.

The White House is hosting a conference in October on child care. The national attention to be focused on quality child care during this conference will be critical. I am confident that it will lead to local and national quality child care improvements. I look forward to participating in this conference and working with other Members of Congress to ensure that early childhood education and child care funding this country so desperately needs becomes available.

IN MEMORY OF REV. FERRIS A. KLEEM

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the memory of Rev. Ferris Kleem, a Catholic and Maronite priest, a scholar, and a philanthropist.

Father Kleem was born in Wilkes-Barre, PA. After high school, he served in Italy in the infantry and medical corps of the U.S. Army. He earned a bachelor's degree in biology and chemistry from King's College and went on to study medicine at the American University of Beirut, Lebanon. His international experiences did not end there. He earned a degree in sacred theology at Catholic University in Angers, France and was ordained as a Roman Catholic priest in the Holy Cross order in LeMans, France. His passion for learning led him to pursue further studies at Catholic University of America, Johns Hopkins, McGill and Cleveland State Universities, and the University of the Holy Spirit in Lebanon. He received a doctorate in higher education from Wayne State University.

As an assistant at St. Brendan Church in North Olmsted and at SS. Cyril & Methodius Church in Lakewood, Father Kleem shared his spirituality, international experiences, and knowledge with many Catholics in northeast Ohio. During this time, he also counseled divorced and separated Catholics in Cleveland. He led pilgrimages to Lourdes, Fatima, the Holy Land, and other religious sites. In 1991, he founded a philanthropic group, Our Lady of the Cedars Society.

My fellow colleagues, please join me in honoring a man whose countless contributions and achievements will never be forgotten.

A RECOGNITION OF FEDEX'S DONATION TO THE NATIONAL DIGITAL LIBRARY

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. FORD. Mr. Speaker, today I would like to take the opportunity to recognize FedEx Corp. for its $1 million donation to the National Digital Library Program at the Library of Congress.

As you know, Mr. Speaker, the Library of Congress is the world's largest library, with a collection of more than 111 million items, which until recently was only available to those who could visit its hallowed halls. Thanks to recent advancements in technology, however, that has all begun to change.

Over the last 7 years the Library has been able to begin digitizing a wide array of its archives, ranging from Civil War photographs and panoramic maps to Thomas Edison's early films and Walt Whitman's writings. Moreover, since 1994, when the National Digital Library Program was launched, these and other invaluable historical documents have been available via the World Wide Web to millions of people across the globe, including elementary and secondary students right here in America. And thanks to FedEx's generous gift last week, even more of this priceless information will become widely accessible in the next century.

It goes without saying that the residents of Memphis and the mid-South region are extremely fortunate to have a corporate partner in their community that is lead by an innovative and visionary chairman, Fred Smith, who recognizes the nexus between technology and education. Mr. Speaker, FedEx understands that if this Nation is to compete and win in tomorrow's marketplace—driven and dominated by digitalization, deregulation, diversity, and globalization—then we must develop a workforce that is more highly skilled and computer literate than ever before.

By donating resources to ensure that every young person with access to a computer can be exposed to the world of ideas, FedEx is helping to fulfill its role as a partner with its community and the Federal Government. The challenge now is for Congress to step up to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the plate and muster the political will and resources to partner with States and the private sector to rebuild and computerize every schoolhouse in America, so our young people can lead this Nation from what has been to what can be in the new millennium.

CONGRATULATIONS TO THE SIKHS OF KHALISTAN ON THEIR INDEPENDENCE ANNIVERSARY

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. EVANS. Mr. Speaker, I rise today to salute the Sikhs of Khalistan on the 10th anniversary of their declaration of independence. Khalistan declared its independence from India on October 7, 1987. A decade later things have not changed in Punjab, Khalistan. India continues to enforce a brutal tyranny that the Indian Supreme Court described as "worse than a genocide."

When India had its 50th anniversary in August, we heard a lot about Indian democracy and we heard about the elections in Punjab. India is a democracy only for the elites. For the Sikhs of Khalistan, the Muslims of Kashmir, the Christians of Nagaland, and so many other living under Indian occupation, it is not a democracy at all. Let me share with my colleagues the statement of Narinder Singh, a spokesman for the Golden Temple in Amritsar, the holiest of Sikh shrines, which was attacked by the Indian regime in June.

On August 11, Narinder Singh was interviewed on National Public Radio. Here is what he said:

"The Indian Government all the time they boast that they're democratic, they're secular, but they have nothing to do with democracy, they have nothing to do with secularism. They try to crush Sikhs just to please the majority." In view of the fact that a quarter of a million Sikhs have been murdered by the regime since 1984, I believe that Narinder Singh is exactly right.

Despite the elections in Punjab and throughout India, the repression is still going on. Ram Narayan Kumar, a Hindu human-rights activist who has exposed disappearances and mass cremations in Punjab, was threatened with death if he does not drop his work. Justice Ajit Singh Bains, chairman of the Punjab Human Rights Organization, had to go to the Supreme Court to get permission to visit his terminally ill brother in Canada. By the time the papers were issued, his brother had died. Hundreds of political opponents of the Punjab government have been arrested, and the government conducted a warrantless search of an opposition newspaper editor's home. Sikh activist Simranjit Singh Mann faces new charges under the repressive TADA law, although this brutal law expired in May 1995. Human-rights activist Jaswant Singh Khalra is still missing over 2 years after he was kidnapped by the Punjab police. On September 4, a Sikh church, known as a Gurdwara, in Chandigarh, was raided on the pretense of looking for a terrorist. No terrorist was found, so the police contented themselves with beating and torturing six of the clergy, known as Granthis. On June 29, the elected mayor of the village of Khiala Khurd, Gurdial Singh, was stripped naked, held upside down, beaten, and tortured in front of the townspeople. His crime? He is a baptized Sikh. Mr. Speaker, these are not the acts of a democratic government.

When police in Los Angeles beat Rodney King, they were eventually punished. The New York policemen who violated a Haitian immigrant with a plunger are in the process of begin punished for this terrible act. In India, police officers murder innocent Sikhs like 3-year-old Arvinder Singh and collect cash bounties for it. According to the PHRO and other human rights organizations, more than 60,000 of these bounties have been paid out by the Indian regime. How can a moral country like America stand by and allow these events to pass by unnoticed?

Mr. Speaker, it is time to take action against this brutal tyranny. India has initiated unconditional talks with the Christian nation of Nagaland. We must demand that it undertake similar talks with the Sikhs of occupied Khalistan. We should declare our support for a free and fair plebiscite on independence in Khalistan, end our aid to India, and declare it a country that practices religious persecution. We should place an embargo on India similar to the one we had on South Africa and the one we still maintain against Cuba, ending only when these conditions are met and freedom is allowed to flourish in South Asia. Then and only then can India legitimately claim that it is a democracy. I look forward to the day when we can welcome India into the fold.

DISTINCTION BETWEEN EMPLOYEES AND INDEPENDENT CONTRACTORS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. VISCLOSKY. Mr. Speaker, I rise to call your attention to legislation that I am introducing today that will clarify the distinction between employees and independent contractors. My legislation will tighten and simplify the definition of independent contractor in order to prevent employers from inappropriately classifying their employees as independent contractors.

The Internal Revenue Service [IRS] currently uses a complex and ambiguous 20-point common law test to determine whether a worker should be classified as an employee or an independent contractor. The main problem with this test is that it isn't really a test at all. It is simply a set of guidelines that companies and the IRS refer to when determining whether workers should be classified as employees or independent contractors. Because the test is so ambiguous, different companies, IRS inspectors, and courts can—and have—classified the same type of workers differently.

In recent years, employers have increasingly exploited the test's ambiguity, or purposely misinterpreted the test, in order to designate many of their present employees as independent contractors. Doing so cuts down on employers' costs, but it hurts workers because employees and independent contractors are treated very differently under Federal law. Those who are classified as employees are covered by worker safety standards, have the right to bargain collectively, and are eligible to receive unemployment compensation. Independent contractors, on the other hand, are not covered by the same stringent worker safety standards, do not have the right to bargain collectively, and are not entitled to receive unemployment benefits.

The practice of improperly designating workers as independent contractors has negatively affected tens of thousands of workers, including those who work in the construction, service, agriculture, and garment industries. The problem is particularly troublesome in the trucking industry, where it is relatively easy to classify owner-operators as independent contractors. As a result, there are thousands of workers in Indiana's First Congressional District, and throughout the country, who have been—or fear that they soon will be—classified as independent contractors.

Although I opposed the measure, the House of Representatives came dangerously close to forcing thousands of employees to become independent contractors when, on June 26, 1997, it approved a provision to expand the definition of independent contractor as part of omnibus tax legislation. Fortunately, this provision was not included in the final version of the legislation. Public Law 105–34, but it further convinced me of the need to address the standards for determining whether a worker is an employee or an independent contractor.

The legislation I am introducing would replace the current 20-point test with a simpler and stronger 8-point test as follows:

The Internal Revenue Code of 1986 shall be amended to clarify the standards for determining whether an employer-employee relationship exists.

An individual who performs services for any person (in this section referred to as the "service recipient") shall be presumed to be an employee of such person unless all of the following requirements are met:

(1) The individual makes comparable services available to the general public on a regular and consistent basis and represents himself as an independent contractor with respect to such services.

(2) The individual has performed, or is available to perform, services for more than one recipient at the same time.

(3) The service recipient does not have the right (and does not attempt) to control the manner or means of the individual's performance of such services.

(4) The individual controls the means of performing the services, including setting the sequence and hours of work.

(5) The individual operates under contracts to perform specific services for specific amounts of money, the rate of which is negotiated for every service performed.

(6) The individual may realize a profit or suffer a loss under contracts to perform work or services.

(7) The individual is responsible for the satisfactory completion of the work that the individual contracts to perform and is liable for a failure to complete the work.

(8) The individual incurs significant unreimbursed capital expenses (not typically incurred by employees) in carrying on the business activity in which such services are performed.

By preventing employers from improperly classifying their workers as independent contractors, my legislation will protect the rights and benefits of those employees who fear that they will soon be classified as independent contractors. Finally, I would like to point out that the test I am proposing today is balanced in such a way that workers who truly are independent contractors would continue to be classified as such.

Mr. Speaker, I urge you and my other colleagues to prevent us from becoming a nation of independent contractors by cosponsoring this important legislation.

JOHN LIVINGSTONE AMERICAN LEGION POST 1466 HONORED FOR 50 YEARS OF SERVICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. SOLOMON. Mr. Speaker, on November 15, 1997, the John Livingstone American Legion Post 1466 in Poughkeepsie, NY, celebrates 50 years of tireless service to the veterans, their families, and the communities of my congressional district. As a lifetime American Legion member, it gives me tremendous pride to recognize the valuable work done by this post to further the American Legion's efforts toward adequate programs and benefits for America's veterans and the vitality and well-being of its community.

Of all of my experiences as a Member of Congress, I would have to say that I cherish the work which I have done with the American Legion above nearly all else. The members of the Legion are true American heroes, serving their country first in uniform, then later by ensuring the respect and proper treatment of their fellow veterans. Legion posts also further the welfare and spirit of their communities, by sponsoring and supporting scholarships and sports teams for youths, as well as other communitywide events.

Post 1466 exemplifies the Legion's tradition, with its Legionnaires presenting on a daily basis examples of patriotism and pride in flag and country which we can all follow. Good citizens like Leonard W. Peluso, Joseph Carao, Arthur Marx, and Robert Sheedy, the four surviving charter members of American Legion Post 1466, helped make this country the great Nation that it is. They will continue, through their selfless service to America's veterans and national defense, to ensure that the United States will remain a secure global powerhouse into the next millenium.

At this time, Mr. Speaker, I ask that you and all members join me in paying tribute to all the members of the John Livingstone American Legion Post 1466 for their 50 years of unwavering and invaluable devotion to their community and our Nation as a whole.

TRIBUTE TO JUANITA GITTINGS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. BONIOR. Mr. Speaker, today I rise in honor of a woman who I have had the pleasure to work with and know. A woman who has dedicated 13 years of service to the people of St. Clair County. On September 30, 1997, Juanita Gittings retired from her position as director of St. Clair County Family Independence Agency. Her friends and colleagues will honor Juanita with a retirement roast on October 10, 1997.

Throughout the years, I have had the pleasure to work with Juanita. I have always thought of Juanita as a problem solver and strong leader. She is a decisive, cooperative, intelligent, and a dedicated team player. Juanita's participation on various community boards gave her the insight to meet the needs of the people within St. Clair County. Since 1984, Juanita has been a witness to many changes in policy. She has used her abilities to work with the various government agencies to implement programs that will benefit families and individuals in need.

Juanita has always been willing to help neglected and abused children and people who were affected by poverty. Yet through her compassion and understanding, Juanita empowered people to get their lives back on the right track. Juanita knew that ultimately people had to help themselves. Her job was to give them the tools that they needed to be self sufficient. For these reasons, Juanita was awarded the Public Citizen of the Year Award for 1997.

St. Clair County has been lucky to have a leader like Juanita Gittings. Few people give to their community the same time and energy that Juanita has given to hers. Juanita's commitment and contributions have touched the lives of many people. On behalf of the citizens of St. Clair County, I would like to thank Juanita for all of her hard work and dedication.

TRIBUTE TO DAVID H. GOLDSTEIN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. SKELTON. Mr. Speaker, I rise today to say a special word in tribute to David H. Goldstein, who has served as executive director of the Jewish Community Relations Bureau/American Jewish Committee of Greater Kansas City since 1972. Goldstein, an expert in community relations, is celebrating his 25th anniversary as executive director.

A native of Cleveland, OH, Goldstein began his career in public relations by earning a bachelor's degree in sociology from Case Western Reserve University and a master's degree in education from Butler University. After college, Goldstein went to work for the Anti-Defamation League of B'nai B'rith in New England. He then took a post at the Jewish Community Relation Council in Indianapolis. While at that job, Goldstein designed one of the earliest Head Start programs. Head Start is a program designed to prepare underprivileged children for school, and Goldstein became its first director in Indianapolis. Later, Goldstein went on to direct a Head Start program in Washington, DC, and then to work in fair housing at the Federal Department of Housing and Urban Development before coming to Kansas City to head the JCRB.

While at his post in Kansas City, Goldstein has helped coordinate a working relationship between the Jewish community and the community at large. Other major areas of Goldstein's involvement have centered around fostering good relations with the African-American community, fighting anti-Semitism, and working for freedom for Soviet Jewry.

Goldstein is a member of the board of directors of the Kansas City chapter of the Southern Christian Leadership Conference and a life member of the National Association for the Advancement of Colored People. He has served on the boards of the American Civil Liberties Union and the Urban League, and was cochairperson of the Kansas City, MO Human Rights Commission.

Mr. Speaker, for 25 years David H. Goldstein has served the people of the Kansas City area with pride and honesty. I am certain that the Members of the House will join me in paying tribute to this great American.

IN HONOR OF MAYOR JOHN M. COYNE OF BROOKLYN, OHIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise today to honor the life long work of Mayor John M. Coyne of Brooklyn, OH. Mayor Coyne is currently completing his 50th consecutive year as mayor of Brooklyn. Mayor Coyne was first elected in 1948 and holds the record for being the longest serving mayor of a city in the United States. On October 22, 1997, Cleveland State University will honor Mayor Coyne for his lifetime achievement of 58 years in public office. The celebration will benefit the John M. Coyne Endowed Public Service Scholarship at the Maxine Goodman Levin College of Urban Affairs at Cleveland State University.

Mayor Coyne has had a long and distinguished career in public service. Prior to being elected mayor of Brooklyn, he served 2 years as treasurer and 6 years as clerk-auditor for the city. In 1966, Mayor Coyne pioneered legislation for the first mandatory seat belt law in the country. Brooklyn was the first city in the country to implement a mandatory seat belt law. Mayor Coyne also recommended and implemented a mandatory curbside recycling program as part of the city's solid waste management plan. As a result of his efforts Brooklyn was the first city in Cuyahoga County and the second in the State of Ohio to enact a mandatory recycling program.

Mayor Coyne has also served on various political and civic committees during his career and has been recognized for his commitment

to the community. He served five consecutive terms as Chair of the Cuyahoga County Democratic Party from 1982–93. He also served as a member of the Cuyahoga County Board of Elections from March of 1990 to August of 1991 and as a suburban representative on the Greater Cleveland Regional Transit Authority from March of 1981 to August of 1982. He was the first recipient of the Ernest J. Bohn Award for outstanding execution of public business. In addition, Mayor Coyne was recognized by the Waterford Society as their 1993 Man of the Year and received the Irish Good Fellowship Club Award in 1984.

Mayor John M. Coyne is a proven public servant. He has dedicated his life to improving his community and I applaud his efforts. I am proud to honor Mayor Coyne and wish him continued success in the future.

INDIA RAIDS SIKH CHURCH, SHOWS ITS RELIGIOUS INTOLERANCE

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. EVANS. Mr. Speaker, on September 4, the same day that this Congress voted against an amendment to cut aid to India, Indian security forces attacked a Sikh church, which is called a Gurdwara. They claimed to be looking for a terrorist, but they had no search warrant and they did not ask the Gurdwara management to send the alleged terrorist out. Instead, they just stormed this house of worship and tortured six Granthis, the clergy of the Gurdwara.

India tells the world that it is a secular democracy. This raid on a Sikh house of worship proves otherwise. Clearly, Sikhs, among others, do not enjoy religious freedom under Indian rule. Narinder Singh, a spokesman for the Golden Temple in Amritsar, the center and seat of the Sikh religion, puts it in perspective. On August 11, he told National Public Radio,

> The Indian government all the time they boast that they're democratic, they're secular, but they have nothing to do with democracy, they have nothing to do with secularism. They try to crush Sikhs just to please the majority.

This is the same Golden Temple that was subjected to a brutal military assault on June 4, 1984. To this day, it remains under police surveillance.

On June 29, a man named Gurdial Singh, who is the elected mayor of the village of Khiala Khurd, was stripped by the police in front of the people of his village. He was then held upside down while Indian forces beat and tortured him. All this happened to Gurdial Singh because he is a baptized Sikh.

The most revered mosque in Kashmir was subjected to an attack similar to the massacre at the Golden Temple. Many Muslim prisoners are force-fed pork, which is against their dietary laws. This is a form of emotional and spiritual torture.

India still enforces an old law against encouraging a Hindu to change his religion. This law expired years ago, but is treated as if it is still on the books. It is as if the United States still enforced the Alien and Sedition Acts of the Fugitive Slave Law. Some of the more militant Hindus even suggested that the late Mother Teresa might not be worthy of honor because the Sisters of Mercy persuaded some people to embrace Christianity. This is secular India.

Secular India is a land marked by the government-sponsored murders of over 200,000 Christians since 1947, more than 250,000 Sikhs since 1984, over 53,000 Muslims since 1988, and thousands upon thousands of other minorities. Here is a land in which religious persecution reigns.

America is the moral voice of the world, the bastion of freedom for the oppressed peoples all over this globe. It is our moral duty to do what we can to end this kind of oppression. We should formally declare India a country that practices religious oppression and impose appropriate sanctions, up to and including an embargo if necessary. We should stop providing monetary support for a government that practices religious persecution, violates human rights, and continues to develop nuclear weapons. And we should speak out strongly in support of the freedom movements in Punjab, Khalistan, in Christian Nagaland, in Kashmir, and throughout South Asia and the world.

Let freedom ring in South Asia.

TRIBUTE TO HENRY B. GONZALEZ

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. REYES. Mr. Speaker, I rise to recognize my esteemed colleague, HENRY B. GONZALEZ. He has been an outstanding leader for San Antonio, the Hispanic community, and for all Americans due to his dedicated service to this Congress for 36 years. As the dean of the Texas delegation, HENRY B. has been a state leader who has represented our state with great commitment. Congressman GONZALEZ has truly been working for the citizens of this country his entire life. Starting a career of public service in 1945, he began working on critical issues for San Antonio. After a number of different community positions, he began a political career in 1953 with a position on the San Antonio city council, graduating to the State senate, and culminating with his long membership in this body beginning in 1961. Throughout his storied career he relentlessly advocated for veterans, small business, labor, housing, economic development, education, the environment, and civil rights. He took difficult positions and never wavered in standing for what was just and right.

Never shying away from responsibility, he took the helm of the House Banking Committee in 1989 and for 5 years dealt with the daunting problems of the savings and loan crisis, and other complex banking issues during his tenure. Currently, as the ranking member to the committee he has continued to be a voice of wisdom, bringing his expertise and experience to current issues. He has been a wealth of knowledge for all Members of this House and a source of inspiration for those new and old.

As a fellow Texas Congressman, I commend HENRY B. for his guidance, numerous accomplishments, and know that his career will be a benchmark for all of us to aspire to reach. Farewell and buena suerte amigo.

A TRIBUTE TO STATE REPRESENTATIVE JACK L. KUBIK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. LIPINSKI. Mr. Speaker, I would like to pay tribute to an outstanding public servant who serves some of the same constituents I do—State Representative Jack L. Kubik of Illinois.

After nearly 14 years of service in the general assembly Representative Kubik recently announced he was retiring at the end of his current term in 1998. He will be difficult to replace.

Representative Kubik was first elected in 1984 at the age of 28, bringing a youthful perspective to the Illinois House of Representatives. He quickly proved to be a true leader in the legislature as he worked to represent the needs of his constituents while reaching out to all of his colleagues, regardless of party, for the betterment of Illinois.

Representative Kubik has been a leader in the area of property tax reform, senior issues, judicial reform, and the rights of the disabled. He has sponsored legislation to increase penalties for car-jacking; limit property taxes; assist those seeking hospice care; crack down on gangs; and help the deaf and hearing impaired. He sponsored one of the most comprehensive stalking laws in the United States and has been a leader in working to improve the backlog of child support collection in Illinois.

Representative Kubik's leadership and political abilities have been recognized by his colleagues. He currently serves as an assistant house minority leader and chaired the house Republican campaign committee in 1994 that helped bring his party a majority in the legislature for the first time in more than a decade.

Representative Kubik, whose family has a long tradition of public service, has been recognized by numerous organizations for his efforts to improve his community and his State. These honors include the Suburban Area on Aging's Legislator of the Year Award; VietNow President's Award; the Illinois Press Association's Legislative Service Award; and the Illinois Hearing Aid Society Award.

Representative Kubik's retirement will afford him the opportunity to spend more time with his new bride, Aggie, and pursue his work in the public relations field and the family business, Life Newspapers.

Mr. Speaker, I salute Representative Kubik on his 14 years of public service and give he and Mrs. Kubik my best wishes for the future.

CAPE VERDEAN VETERANS HONOR THE MEMORY OF PVT. EDWARD ALMEIDA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. FRANK of Massachusetts. Mr. Speaker, on November 10, the Cape Verdean American Veterans Association headquartered in New Bedford, MA will be holding a military ball, which will be an occasion of mixed feelings. As with any ball, the occasion will be one for good friends to enjoy each others company, as well as some good music. But there will be a sad note to this particular ball because it will commemorate the death in July 1965 of Pvt. Edward Almeida, who was the first New Bedford resident to be killed in action during the conflict in Vietnam.

It is typical of the Cape Verdean veterans that they are honoring the memory of their fallen comrade on this occasion, and that they will be on this Veteran's Day tempering their good fellowship with a remembrance of the ultimate sacrifice made by Private Almedia, whose dedication to duty, honor, and country stand as a model for others. Because of a previous commitment I made some time ago to speak to university students, I will myself be unable to join the Cape Verdean Veterans and Auxiliary, and their friends in the Greater New Bedford community in this evening. But I believe with Veteran's Day approaching that it is important that all of us take this occasion to pay tribute to Private Almeida and all of those who, like him, made the ultimate sacrifice for their country and their fellow Americans. The cape Verdean American veterans deserve to be congratulated for their dedication to the memory of their fallen colleague, and to the important work they continue to do to make sure that America remembers both those who gave their lives for their country, and those who have returned from foreign wars and are entitled to our gratitude and support for their efforts.

IN MEMORY OF WILLIAM AUGUSTINE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the memory of William Augustine of Cleveland, OH, a dedicated father of seven children.

William Augustine was born in Cleveland. He was one of eight children. He served in the Merchant Marine during World War II, then joined the Air Force. He was a self-made man.

Mr. Augustine and his ex-wife, Ruth, raised seven children on a small farm in Seville, OH. He worked as a convention decorator for a large firm in Cleveland all day, then returned home for dinner with his family before working on the farm. Mr. Augustine dedicated his life to showing his children that having an education would make their lives easier. When his eldest son attempted to drop out of school, Mr. Augustine encouraged him to return. His son is now a lawyer in San Antonio, TX. His other six children have also prospered.

My fellow colleagues, please join me in honoring William Augustine, a man who recognized the value of a good education. He wanted nothing more than for his children to enjoy an easier, more prosperous life than his own, and he instilled in them the significance of education. His efforts are reflected in the prosperity of his children who will, no doubt, pass this legacy on to Mr. Augustine's eight grandchildren.

HONORING GLORIA SHEAFFER, A CAREER OF DEDICATED SERVICE TO OTHERS AND THE AMERICAN RED CROSS OF GREATER HANOVER, CELEBRATING THEIR 80TH ANNIVERSARY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. GOODLING. Mr. Speaker, I am pleased to have the opportunity to honor a woman who has dedicated her life to the well being of others. Gloria Sheaffer, executive director of the American Red Cross's Hanover Chapter, will be retiring after 20 years of service to the people of Hanover, PA.

Since 1977, under the leadership of Mrs. Sheaffer, the Greater Hanover Chapter has been able to deliver many essential services to the surrounding community. Her dedicated staff and volunteers have provided food to families, health care related services to veterans, assisted seniors in the community, and provided services for children.

A dedicated mother, Gloria knows that the key to serving the community starts with serving the family. She initiated programs such as Home Alone which helped working parents who must leave their children unattended for a portion of the day, an HIV/AIDS education program to provide the facts on this disease, and reached out to families affected by Operation Desert Storm.

While these programs represent only a small portion of Gloria Sheaffer's accomplishments over the last 20 years, I believe Gloria's mark will be left in the heart and mind of each staff member and volunteer with whom she has served. I commend her on a successful career and know she will continue to serve throughout her retirement.

Mr. Speaker, at this time, I would also like to recognize the 80th anniversary of the American Red Cross of Greater Hanover. While we most often associate the work of the Red Cross with disaster assistance, we forget how they touch our lives on a daily basis. In fact for the last 80 years, they have been serving more than 20,000 area residents annually. This local chapter has worked above and beyond their basic mission and I am honored to associate myself with them on this important historical milestone. It is the work of many coming together with a single mission—to serve others in their immediate time of need—which has made this quality organization a longstanding national and local success story.

I extend my heartfelt appreciation and congratulations to the staff and volunteers of the American Red Cross of Greater Hanover and wish them continued success in years to come.

CHINA NUCLEAR CERTIFICATION THREATENS UNITED STATES TROOPS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. SOLOMON. Mr. Speaker, the Clinton administration recently announced that it is preparing to certify that China is in compliance with its international nonproliferation obligations and no longer exporting nuclear weapons-related material to countries such as Iran and Pakistan. According to United States law, such a certification is required before American corporations may trade in nuclear technology with China. Conveniently, this announcement came just a month before the United States visit by China's president Jiang Zemin, at which the certification would be the keystone of a successful summit. China's historical and current actions, however, indicate that it is still and will continue to pursue its dangerous nuclear proliferation activities. In an effort to score public relations points, President Clinton is willing to risk the lives and security of the American troops which will inevitably be called to deal with the crises created by China's nuclear trade in the world's hot spots.

In an attempt to justify this illogical and foolhardy plan, the Clinton administration claim that certification would engage China's nuclear and military elite into the international nuclear regime. The administration seems to have convinced itself that China's assertions that it is no longer supplying nations like Iran and Pakistan with nuclear technology are genuine. After even minimal analysis, these weak justifications prove themselves meritless.

The Clinton administration's engagement policy toward China has already proven itself a failure. In 1996, China sold ring magnets, used in centrifuges for the construction of nuclear weapons, to Pakistan. The administration accepted China's promise that it had recommitted to nuclear non-proliferation and decided, consistent with its engagement policy, not to sanction China. Despite this "promise," however, the Chinese then proceeded to sell a special industrial furnace to an unsafeguarded nuclear facility in Pakistan, falsifying the related documents. China has continued to persist in its dealings with such nations, including a recent incident in which a Chinese merchant ship was found to be transporting illegal chemicals intended for the production of missile fuel from China to the Middle East. China's "commitment" to non-proliferation remains a lie. There is no reason to think that this latest undeserved concession by the United States will succeed in curbing China's dangerous and irresponsible nuclear trade with unregulated nations.

The predictions of huge profits for the U.S. area is also misleading. China's own nuclear

engineers admit that their interest in U.S. nuclear technology will last only as long as it takes them to reverse engineer the technology and produce the plants themselves. This short-term gain for one industry is hardly worth the enormous potential risk to international security and the U.S. troops which are charged with its protection.

Finally, and most important, certification is unacceptable because China and its nuclear proliferation activities have been and remain to this day a serious threat to the security of U.S. troops in the region. Through its irresponsible and illegal transfers of weapons of mass destruction to unregulated states such as Pakistan and Iran, China contributes to regional instability. As we all know, it is American troops, whether as part of a U.N. force, an Allied mission, or independently, which are committed to quelling regional conflicts in the very areas, including the Middle East and Asia, where China markets weapons. These weapons of mass destruction could easily be used against American troops if the United States were to become involved, as in the Persian Gulf war, in protecting national security obligations abroad.

Certification that China is in compliance with its nonproliferation obligations is not only undeserved, it is dangerous. By allowing the Chinese to obtain American nuclear technology, the administration will aid China in further destabilizing already volatile regions such as the Middle East, where U.S. troops will be called in to reinstate order. The Clinton administration cannot and will not be allowed to sacrifice the safety of American troops simply to record a public relations victory.

COMMEMORATING THE 75TH ANNIVERSARY OF THE WEBB SCHOOLS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. DREIER. Mr. Speaker, in 1922, in the foothills of the San Gabriel Mountains, Vivian and Thompson Webb opened the Webb School of California, an all boys high school dedicated to developing men of character. In 1981, the Vivian Webb School for girls was established to reinforce the traditions of service, leadership, and honor upon which the school was founded. As the Webb Schools celebrate their 75th anniversary on October 25, I want to recognize the faculty and staff for their commitment to educational excellence and the highest standard of academic achievement.

The Webb Schools have provided several generations of students with a strong foundation for leadership, personal advancement, and ethical and social responsibility. Many of the schools' 3,080 alumni have gone on to distinguished careers in business, government, medicine, education, media, the law, and the arts.

Today, the academic curriculum offers students from 12 States and 11 countries a choice of 71 different courses in English, literature, mathematics, languages, history, fine arts, and the sciences. Of the Webb graduates, 100 percent go on to 4 year colleges and universities, including such highly selective institutions as Harvard, Stanford, Yale, Columbia, Duke, Georgetown, Pepperdine, Purdue, Northwestern, Princeton, Dartmouth, Amherst, Boston College, Boston University, the Claremont Colleges, UCLA, USC, and UC Berkeley.

Webb students have a combined SAT median score of 1320, and they excel in State, regional, and national competitions. Webb students received the 1994 Tapestry Award from Toyota Motor Corp. for designing a multimedia exhibit explaining the physics of dinosaur motion. A team of students placed second in the 1996 Toshiba/NSTA ExploraVision Awards, the largest K–12 science contest in the world, with a design for a self-powered artificial heart. Webb students also placed first in California and third in the country in the 1996 National Physics Bowl, and they finished in the top 10 nationally in the 1996 and 1997 National French Contests.

An example of the technical skill and creativity of Webb students can be seen in the Web site they created on the Internet at www.webb.org. The Webb Schools are committed to the application of computers and related technologies in education to prepare their students for the academic rigors of postsecondary education, and to ensure that they can compete and prosper in the 21st century information economy.

Mr. Speaker, in June, I had the honor of giving the commencement address to the Webb School of California's 1997 graduating class. I told the students that they will always be able to think back to the day of their graduation and draw upon the inspiration of a job well done. Today, as we approach the 75th anniversary of the Webb Schools, I want to echo those sentiments to the faculty, staff, and alumni. They have done a tremendous job of carrying out Vivian and Thompson Webb's founding vision of an institution dedicated to distinguished academic achievement, and unwavering ethical behavior and personal responsibility.

TRIBUTE TO ALVIN R. BELL

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. OXLEY. Mr. Speaker, I am proud to recognize Alvin R. Bell, a constituent of mine who for the second straight year participated in CIVITAS@Bosnia and Herzegovina, an intensive program from August 1 through August 17, 1997, designed to train teachers from throughout Bosnia and Herzegovina with materials and methods developed to educate for democracy. Mr. Bell was part of a team of 20 American educators who were assigned to 16 locations throughout Bosnia and Herzegovina, including the Republic of Srpska; the Americans teamed with 18 teachers from the Council of Europe in nine of these sites. This education for democracy program reached 550 teachers from both entities of Bosnia and Herzegovina.

The summer training program was developed by the Center for Civic Education as part of a major civic education initiative in Bosnia and Herzegovina. The goals of the program are to provide teachers with the tools necessary to help prepare students and their communities for competent and responsible citizenship, including participation in elections and other opportunities to take part in the political life of their communities. Achieving this goal will contribute to the reconstitution of a sense of community, cooperation, tolerance, and support for democracy and human rights in this war torn area.

I am also pleased to announce that the curricular materials being used for the program in Bosnia and Herzegovina have been adapted from the we the people * * * the citizen and the Constitution foundations of democracy, and the project citizen programs, which are supported by Congress and used in schools throughout the United States. Initial reports evaluating the summer program indicate that materials (selected and adapted by educators from Bosnia and Herzegovina) and teaching methods were enthusiastically received and will be adapted for use in classrooms in both entities of the country.

Alvin Bell is a teacher at Findlay High School in my hometown of Findlay, OH. Mr. Bell has guided five different teams of students to Washington, DC, to participate in the we the people * * * the citizen and Constitution national finals. This impressive academic competition simulates a congressional hearing and provides students an opportunity to demonstrate their knowledge and understanding of the U.S. Constitution and Bill of Rights.

Mr. Speaker, I wish to commend Alvin Bell for his dedication and commitment during the CIVITAS@Bosnia and Herzegovina summer training program. His work is helping to achieve the overall objective of building democracy in Bosnia and Herzegovina.

ETHICS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 8, 1997 into the CONGRESSIONAL RECORD:

REFORMING THE HOUSE ETHICS PROCESS

The House recently passed reforms of its procedures for considering charges of misconduct against a Member. The reforms were based upon the recommendations of a bipartisan task force set up in the wake of the highly contentious, widely criticized handing of the ethics charges against Newt Gingrich last year. The reforms make some modest improvements, but overall are a disappointment.

CURRENT PROCESS

One of the major responsibilities of the House of Representatives is to police its Members to make sure that their actions are not bringing discredit upon the House. This is a key responsibility; the American system of government depends upon the confidence of the people in their elected representatives.

Since the 1960s, the House has considered charges of Member misconduct—such as accepting bribes, misusing campaign funds, or lying to investors—through its Standards of Official Conduct Committee. This is the only bipartisan committee in the House with equal numbers of Democrats and Republicans. It reviews charges of misconduct, launches investigations, and recommends to the full House whether and how a Member should be punished. The full House then makes the final decision on disciplining the Member.

Over the years this system has worked reasonably well, but in recent years the process has become increasingly politicized, with charges often brought against Members for political purposes and with the Standards Committee increasingly deadlocking along partisan lines.

REFORMS

The reform package passed by the House made some modest improvements to the process, but also had serious flaws.

On the plus side, it would make the operations of the Standards Committee less partisan, by allowing both the chairman and ranking minority member to set the Committee's agenda and by making the staff nonpartisan. It also expedites consideration of complaints, lessens the time burdens on Committee members, and helps to protect the rights of an accused Member by guarding against leaks of confidential matters at the early stages of an investigation.

But overall I voted against the package. Since the Committee was set up, outside groups have generally been able to file charges against Members if they believe there is good evidence of possible misconduct that should be investigated. Some important cases have been brought before the Standards Committee in this way, including the charges against Speaker Gingrich that resulted in his being reprimanded by the full House and paying a $300,000 penalty.

Under the new Committee rules, however, people outside Congress can no longer file complaints with the Committee, even if they have personal and direct knowledge of egregious conduct by a Member. Now only a Member of the House could file charges against another Member. I believe the new rules make it even harder to hold Members accountable for serious misconduct. By this action the House does further damage to the integrity of the institution.

INVOLVING OUTSIDERS IN INVESTIGATIONS

I was also disappointed that the reform package failed to include a bipartisan proposal that I had introduced to involve outsiders in the investigation of charges against Members.

Under my proposal, the Speaker and the Minority Leader would jointly appoint a pool of "independent fact-finders" to be called upon by the Standards Committee to help in ethics investigations as needed, on a case-by-case basis. These individuals would be private citizens, and might include, for example, retired judges, former members, or just ordinary citizens. The findings and recommendations of these independent fact-finders would be reported back to the full Committee, which then makes recommendations to the full House. The basic idea is to restore credibility to the process by involving outsiders at a key point in the consideration of the charges against a Member—investigating the evidence and making recommendations on possible discipline—with the final judgment on the case still resting with the full House, as it must under the Constitution.

Our current process has simply lost too much credibility with the public and the media. There have always been inherent conflicts of interest when Members judge fellow Members—either to protect a friend or Member of the same party or to go after an opponent for political purposes. But in recent years those tensions have come to the forefront, as the ethics process has become highly partisan, bitter, and contentious.

Various other professions are increasingly calling on outsiders to help them police their membership—to reduce the tensions, stalling, and conflicts of interest. Several state legislatures, for example, are now successfully using independent ethics panels to help consider charges of misconduct against legislators. The House should do the same.

However, the House leadership opposed the idea of allowing outsiders to help investigate Member misconduct—perhaps fearing a loss of control over the disciplinary process—and it was not allowed to be considered by Members on the floor.

CONCLUSION

The unfortunate fact is that the House usually moves to reform its ethics process only after a major ethics scandal or a widely perceived failure of the system. The major problems we experienced with the Gingrich case gave us a rare opportunity to make some serious reforms that go to the heart of our difficulties in policing ourselves and, in turn, help restore credibility to the institution of the Congress. We should have passed more meaningful reforms.

Although we were not successful this time in including outsiders in the process, I believe that House movement in that direction is almost inevitable. I agree fully with the new Chairman of the Standards Committee, who said that next time the "use of non-House Members will be a fait accompli". Involving outsiders in the ethics process is not a panacea, but it is a significant step in the right direction. It means more openness in the spirit of good government, and it reflects confidence within the House that it is able to withstand the scrutiny.

IN HONOR OF ALOYSIUS HEPP

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise today to congratulate Dr. Aloysius Hepp, recipient of NASA's Exceptional Achievement Medal. Dr. Hepp, a senior materials scientist at Cleveland's NASA Lewis Research Center, received the Exceptional Achievement Medal for his significant support of the socioeconomic business programs in the small business, technical, and procurement arenas.

Dr. Hepp graduated from Carnegie Mellon University as the top chemistry major in his class. After earning a Ph.D. from the Massachusetts Institute of Technology, Dr. Hepp spent a year with NASA Lewis before moving onto stints with the Center for Naval Analyses and the Polaraid Corp. Dr. Hepp returned to NASA Lewis in 1987 to continue his accomplished career. In fact, 5 out of the last 7 years, NASA Lewis honored Dr. Hepp by awarding him the Research Achievement Award. In addition to his position with NASA Lewis, Dr. Hepp serves as an adjunct professor at the State University of New York-Albany and Cleveland State University. Dr. Hepp also spent a year as a visiting scholar at Harvard University.

Dr. Hepp has played an active role in promoting diversity at NASA Lewis and increasing opportunity for minorities in education and business. For example, Dr. Hepp works with a NASA Lewis program to provide high school and college minority students with summer internships. Over the years, these internships have provided a valuable experience to many of Cleveland's youth. In many cases, these students have collaborated with scientists to produce presentations and publications.

The work done by Dr. Hepp is yet another example of the excellent work done by the scientist, engineers, and administrative personnel at the NASA Lewis Research Center. My fellow colleagues, please join me in recognizing the contributions made by Dr. Aloysius Hepp to the scientific community and the community of Cleveland in general.

HONORING KATHY WALLACE OF BELLAIRE, OH

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. NEY. Mr. Speaker, I commend the following to my colleagues.

Kathy Wallace, of Bellaire, OH, has been named the Ohio Valley Medical Center's 1997 Ree Cook-Reiter Women's Center Woman of the Year. Kathy is the first recipient of the award which honors women who are devoted to helping their communities.

Kathy is special to many people in the Ohio Valley whose lives she has touched through her caring and giving attitude. Some of those people are residents of the Country Club Retirement Center in Bellaire where she gives weekly manicures. She always has a warm smile and friendly conversation for them. Kathy also donates sweet treats to nursing home residents from the Dairy Queen she owns in Martins Ferry, OH.

Kathy has taught Bellaire and Belmont County about the importance of volunteering and dedication to one's community. She leads by example. Mr. Speaker, I ask that my colleagues join me in thanking Kathy Wallace for her service to Belmont County, and to congratulate her as she is honored as the first recipient of the 1997 Ree Cook-Reiter Women's Center Woman of the Year. I wish Kathy Wallace continued success, health and prosperity.

TENNESSEE GENERAL ASSEMBLY SYMBOLICALLY POST-RATIFIES CONSTITUTION'S 15TH AMENDMENT

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. FORD. Mr. Speaker, the recently concluded 1997 regular session of the 100th Tennessee General Assembly took a very historic

and symbolic action. On April 2, 1997, both the Tennessee House of Representatives and the Tennessee Senate adopted House Joint Resolution 32, "to post-ratify Amendment 15 to the Constitution of the United States of America guaranteeing the right of citizens to vote regardless of race, color, or previous condition of servitude". On April 8, 1997, the Governor of Tennessee officially signed House Joint Resolution 32.

Mr. Speaker, the Federal Constitution's 15th amendment is a fundamental legacy from the Reconstruction period following the Civil War. While the 13th amendment abolished slavery in 1865, and the 14th amendment defined citizenship by 1868, it was not until the 15th amendment came along in 1870 that the right to cast a vote was extended to African-American males uniformly in all regions of the Nation. Of course, the 19th amendment, ratified in 1920, further extended ballot access to females of all ethnic backgrounds.

Mr. Speaker, up until just this year, Tennessee was the only State—which had been in the Union both well before the 15th amendment was proposed and long after it had gained ratification in 1870—to have never gone on record, albeit symbolically, in support of this vital section of our Nation's highest legal document. As a matter of fact, a resolution specifically denouncing the 15th amendment was adopted by the 36th Tennessee General Assembly in 1870 and that resolution of rejection had remained Tennessee's only official pronouncement on the matter for the ensuing 127 years. But this embarrassing chapter of history was duly remedied when House Joint Resolution 32 was presented last spring in the Tennessee House of Representatives by the Honorable Tommie F. Brown of Chattanooga, who was joined by the other 15 members of the legislative black caucus as cosigners. Subsequently, all remaining members of both chambers of the general assembly added their names to House Joint Resolution 32 as cosigners.

To appropriately document this notable correction of history, I respectfully ask that the full text of House Joint Resolution 32 be inserted in the CONGRESSIONAL RECORD immediately following my remarks. After that, I request that an article appearing in the April 21, 1997, issue of Jet magazine, reporting on Tennessee's action, likewise be placed in the RECORD. And, finally, to recognize the person who discovered and confirmed this historical omission, and who labored to bring it to the attention of my State's 16 African-American lawmakers, I would like to have entered in the RECORD the full text of a proclamation executed in the city of Nashville on April 28, 1997, and cosigned by the Speaker of the Tennessee House and by all members of the Tennessee legislative black caucus, which pays tribute to Mr. Gregory D. Watson of Texas, a constitutional scholar of some renown. The material follow:

STATE OF TENNESSEE HOUSE JOINT RESOLUTION NO. 32

By Representatives Brown, Brooks, Bowers, Langster, Armstrong, Towns, Ulysses Jones, Pruitt, Miller, Larry Turner, Cooper, Lois DeBerry, John DeBerry, Arriola, Beavers, Bird, Bittle, Bone, Boner, Boyer, Buck, Burchett, Caldwell, Chumney, Clabough, Ralph Cole, Ronnie Cole, Cross, Curtiss, Davidson, Davis, Dunn, Eckles, Farguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Gunnels, Haley, Halteman Harwell, Hargett, Hargrove, Hasell, Head, Hicks, Hood, Huskey, Jackson, Sherry Jones, Kent, Kernell, Kerr, Kisber, Lewis, Maddox, McAfee, McDaniel, McDonald, McKee, McMillan, Mumpower, Newton, Odom, Patton, Phelan, Phillips, Pinion, Pleasant, Rhinehart, Ridgeway, Rinks, Ritchie, Roach, Robinson, Sands, Sargent, Scroggs, Sharp, Stamps, Stulce, Tidwell, Tindell, Brenda Turner, Walker, Walley, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood and Mr. Speaker Haifeh; and Senators Atchley, Burks, Carter, Cohen, Cooper, Crowe, Crutchfield, Davis, Dixon, Elsea, Ford, Fowler, Gilbert, Graves, Harper, Haun, Haynes, Henry, Herron, Jordan, Koella, Kurita, Kyle, Leatherwood, McNally, Miller, Person, Ramsey, Rochelle, Springer, Williams, Womack and Mr. Speaker Wilder.

A Resolution to post-ratify Amendment 15 to the Constitution of the United States of America guaranteeing the right of citizens to vote regardless of race, color, or previous condition of servitude.

Whereas, on February 26, 1869, the Fortieth Congress of the united States of America, at its third session, by a two-thirds (2/3) majority of both Houses, submitted to the legislatures of the several states for ratification a proposal to amend the Constitution of the United States of America in the following words, to wit:

"AMENDMENT 15

"Section 1. The right of citizens of the united States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"Section 2. The Congress shall have power to enforce this article by appropriate legislation."; and

Whereas, by proclamation of Federal Secretary of State Hamilton Fish, dated March 30, 1870 (16 Stat. 1131-2), this proposed amendment to the United States Constitution was officially declared to have been duly ratified by the legislatures of the constitutionally-required margin of at least three-fourths (3/4) of the several states, there being at the time 37 states in the Union; and

Whereas, after Amendment 15 had made its way into our Nation's highest law in early 1870, the legislatures of five other states which had been in the Union prior to its adoption—but which, like Tennessee, had not approved the amendment—post-ratified it, many years after 1870, as follows: Delaware in 1901 (Senate Joint Resolution No. 13); Oregon in 1959 (Senate Joint Resolution No. 7); California in 1962 (Senate Joint Resolution No. 9); Maryland in 1973 (Senate Joint Resolution No. 56); Kentucky in 1976 (House [Joint] Resolution No. 75); and

Whereas, for the past 21 years, Tennessee has stood alone as the only State in the Union, both well before Amendment 15 was proposed and long after it was adopted, whose legislature has never placed its own unique imprimatur upon these fundamental two sentences of the United States Constitution; now, therefore,

Be it Resolved by the house of Representatives of the one Hundredth General Assembly of the State of Tennessee, the Senate concurring, That Amendment 15 to the United States Constitution, quoted above, is hereby post-ratified by the Tennessee General Assembly.

Be it further Resolved, That House Joint Resolution No. 98 (Act "Number LXXX") of the Thirty-Sixth General Assembly of the State of Tennessee, in which Amendment 15 was rejected by the Tennessee House of Representatives and by the Tennessee Senate, be hereby revoked, repealed, and utterly rescinded.

Be it further Resolved, That a properly inscribed copy of this Resolution be transmitted by the Secretary of State of Tennessee to the Archivist of the United States, Washington, D.C., in compliance with Pub. L. 98-497.

Be it further Resolved, That properly inscribed copies of this Resolution be individually transmitted by the Secretary of State of Tennessee to each of the following persons in Washington, D.C. with the respectful request that this Resolution be published in the Congressional Record: the Vice-President of the United States, as presiding officer of the United States Senate; the Parliamentarian of the United States Senate; the Speaker of the United States House of Representatives; and the Parliamentarian of the United States House of Representatives.

Adopted: April 2, 1997.

JIMMY NAIFEH,
Speaker, House of Representatives.
JOHN S. WILDER,
Speaker of the Senate.

Approved this 8th day of April 1997.

DON SUNDQUIST,
Governor.

[From Jet Magazine, Apr. 21, 1997]

TENNESSEE BECOMES LAST STATE TO RATIFY 15TH AMENDMENT

Just after the Civil War, the 15th Amendment to the U.S. constitution guaranteed that no one could be denied the right to vote because of their "race, color or previous condition of servitude."

Today, 127 years later, Tennessee recently became the last state to formally agree with the amendment.

The state's House of Representatives and the Senate voted to make amends by unanimously approving a resolution that ceremoniously ratified what has been the law of the land since 1870.

The resolution was sponsored by Rep. Tommie Brown of Chattanooga, who learned in September from constitutional scholar Gregory Watson of Austin, TX, that Tennessee had never post-ratified the amendment.

The 15th amendment was submitted to the states for ratification after it was approved by the 40th U.S. Congress in February 1989. Three-quarters of the 37 states in existence at the time approved it; the bill was ratified in March 1870.

Sen Keith Jordan of Franklin reminded his colleagues that because Tennessee was the first state to rejoin the Union after the civil War, it was not required to ratify the 13th, 14th and 15th Amendments as were other Southern states.

Many states post-ratified the amendment later, including Delaware in 1901; Oregon in 1959; California in 1962; Maryland in 1973 and Kentucky in 1976.

STATE OF TENNESSEE, HOUSE OF REPRESENTATIVES

PROCLAMATION

Whereas, it is appropriate for this Legislative Body to honor those persons who through their outstanding accomplishments in public service have established a legacy that others can merely hope to emulate; and

Whereas, Gregory D. Watson of Austin, Texas is one such noteworthy public servant, whose watchful eye and attention to microscopic, and often overlooked, detail are legendary to all who have come to know, or know of, him; and

Whereas, during his meritorious tenure with the Texas Legislature, Gregory Watson championed numerous and varied causes in the quest for better government at both state and federal levels; and

Whereas, Mr. Watson is best known for the May 1992 ratification of the 27th Amendment to the United States Constitution; the ratification of the 27th amendment was the culmination of a decade of hard work on his part and on the part of those state lawmakers across the nation who joined with him in the endeavor; and

Whereas, in March of 1982, a government class at the University of Texas in which Mr. Watson was enrolled was assigned by the instructor the task of writing a report about "a governmental process'. While at the Austin Public Library, Mr. Watson happened upon a book about the U.S. Constitution which contained a chapter devoted exclusively to those constitutional amendments which the U.S. Congress had adopted and transmitted to the state legislatures for ratification, but which a sufficient number of the state legislatures had never ratified; and

Whereas, in the chapter, Mr. Watson noticed the proposal: "No law, varying the compensation for the services of the (U.S.) Senators and (U.S.) Representatives, shall take effect, until an election of (U.S.) Representatives shall have intervened"; having researched the issue of time constraints on the ratification of proposed amendments to the U.S. Constitution, Mr. Watson knew intuitively that the quoted amendment, which had been submitted by Congress to the state legislatures with no expiration date, was not only still pending business before the state legislatures, but indeed, was a vehicle to correct what many Americans during recent years had come to view as something of a conflict of interest within the Congress; and

Whereas, to his astonishment, Mr. Watson received a grade of "C" on the report, because the professor disagreed with his conclusion that what was then a 192-year-old constitutional amendment could still be subject to full ratification by modern-day legislative bodies; and

Whereas, not only to provide her wrong, but also to achieve something positive for the nation as a whole, Mr. Watson, in April of 1982, vigorously embarked on a nationwide crusade to secure ratification of the constitutional amendment; and

Whereas, Mr. Watson's astute efforts with respect to the 27th Amendment have been chronicled in many different places; he was featured in the June 1, 1992, issue of People's magazine and in the February 22, 1993, issue of U.S. News and World Report magazine; he was also prominently featured in such legal periodicals as 10 Glendale Law Review (92–109) during 1991 and 61 Fordham Law Review (497–557) in late 1992; he was cited in the Congressional Record by U.S. Representative J.J. Pickle on March 24, 1987; and

Whereas, Mr. Watson is an integral part of the 393 page novel, Amending America, by Richard B. Bernstein with Jermone Agel, which novel explores various amendments proposed to (some of which later successfully became part of) the U.S. Constitution; and

Whereas, Mr. Watson's work has been noted in countless newspaper articles, including, such trusted as the Los Angeles Times, The New York Times, USA Today and The Washington Post; and

Whereas, the 15th Amendment to the U.S. Constitution of the United States of America, guaranteeing the right of citizens to vote regardless of race, color, or previous condition of servitude, made its way into our Nation's highest law in early 1870, the legislatures of five other states which were part of the Union prior to its adoption, but which, like Tennessee, had not approved the amendment, post-ratified its many years after 1870; and

Whereas, for the past 21 years, Tennessee has stood alone as the only state in the Union, both well before Amendment 15 was proposed and long after is was adopted, whose legislature had never placed its own unique imprimatur upon these fundamental two sentences of the United States Constitution; and

Whereas, on April 8, 1997, the 15th Amendment of the Constitution of the United States of America was ratified and signed by the Honorable Don Sundquist, Governor of the State of Tennessee; and

Whereas, it is fitting and appropriate that the elected Representatives of the State of Tennessee should pause to pay tribute to an exemplary gentleman who has given unreservedly of himself, his time and his talent to perpetuate the public good; now, therefore,

I Jimmy Naifeh, Speaker, of the House of Representatives of the One-Hundredth General Assembly of the State of Tennessee, at the request of and in conjunction with Representative Joe Armstrong, Chairman, Tennessee Legislative Black Caucus and its members do hereby proclaim that we recognize, honor and thank Gregory D. Watson for the intregal part he played in "Amending America" and his many contributions to constitutional law.

Proclaimed in Nashville, Tennessee on this the 28th day of April, 1997.

Jimmy Naifeh, Speaker of the House of Representatives. Joe Armstrong, Representative, Knoxville. Henri Brooks, Representative, Memphis. John Deberry, Representative, Memphis. Larry Turner, Representative, Memphis. Joe Towns, Representative, Memphis. Barbara Cooper, Representative, Memphis. Tommie Brown, Representative, Chattanooga. Roscoe Dixon, Senator, Memphis. Thelma Harper, Senator, Nashville. Edith Taylor Langster, Representative, Nashville. Mary Pruitt, Representative, Nashville. Kathryn Bowers, Representative, Memphis. Lois Deberry, Speaker Pro Tempore, Memphis. John Ford, Senator, Memphis. Ulysses Jones, Jr., Representative, Memphis. Larry Miller, Representative, Memphis.

EDUCATIONAL CHOICE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. GINGRICH. Mr. Speaker, I want to encourage my colleagues to read the following articles about educational choice. One is an editorial from the Wall Street Journal, the other, an article by Lindsay Sobel from The Hill, entitled "Voucher Opponents Send Own Children to Private Schools." I believe that it is crucial that every child of every background in every neighborhood is given the opportunity to access the best education possible. It amazes me that many of our colleagues continue to arrogantly refuse to offer the children in the failing District of Columbia schools the same educational opportunities that are available to their own children.

[From the Wall Street Journal, Sept. 8, 1997]

SIDWELL LIBERALS

Our vote for the worst scandal in America right now is the education monopoly that keep poor, inner-city kids trapped in awful public schools. Special mention here goes to the politicians who oppose giving these children the choice to escape even as they send their own kids to private schools.

Let's call them Sidwell Liberals, after the famous Washington, D.C., school where President and Mrs. Clinton sent their daughter. That school turned out to be a splendid choice for Chelsea Clinton, who is now moving on in impressive style to her freshman year at Stanford. Vice President Al Gore and his four children have also benefited from elite private education. Despite this personal experience, both men oppose giving the same kind of choice to kids who must walk through school metal detectors within miles of the White House.

Now comes a survey of Congress showing the same kind of Sidwell hypocrisy. Nina Shokraii, an education analyst at the Heritage Foundation, spent the summer asking Members of Congress where their kids go to school. She got answers from about nine of 10 House members and 77 Senators. Of those responding, 34.4% in the House and 50% of Senators with school-age or older kids have sent them to private schools.

Members of Congress are upper-middle-class folk with the income to afford private school tuition. This isn't true of most American families, which is one reason only 14% of school-age kids go to private school nationwide. For black and Hispanic children, the number is 8%. Yet the Heritage study shows that 32% of the Congressional Black Caucus, and 44% of the Hispanic Caucus, educate their children outside the same public school system they claim to hold so dear.

Many parents are satisfied with public schools, of course, and if you live in the likes of Winnetka, Ill., or Scarsdale, N.Y., or the state of Utah this is at least rational. Many of these parents figure they've already exercised "choice" in where they've decided to live. Their "tuition," if you will, comes in the form of high-priced real estate. This is one reason many middle-class voters have been reluctant to embrace a full-fledged voucher program, especially with the teachers' union demagoging the issue.

But where this opposition is insane, and becomes a form of national self-destruction, is in the big urban school systems that work like the Mir space station. Some of the best of these schools have 50% dropout rates. Many teachers wouldn't dream of sending their own kids to the same urban schools they work in everyday.

It is precisely these horrendous schools that education reformers have begun to target with school-choice proposals that offer some kind of financial or tax help to low-income families. The Republican House passed a bill last year for the District of Columbia, 241–177, only to see it opposed by Senators who send their children to private schools. Ted Kennedy's kids went to private school, of course. Arlen Specter, a Republican from Pennsylvania, has also opposed the D.C. choice bill, but chose private schools.

The Heritage study doesn't get into individuals, but our own reporting shows plenty

of Sidwell Liberals in the House, too. A couple of them belong to committees holding hearings this week on both the D.C. proposal and broader school choice. Missouri's Bill Clay is the ranking Democrat on the Education Committee and voted against the D.C. bill last year. So did Democrat Matthew Martinez of California. Yet both didn't object to private schools for their own offspring. Overall, according to the Heritage study, nearly 40% of the Members on the House Education committee, which has jurisdiction over school choice, have chosen private schools for their kids.

The political fashion among GOP pollsters now is that "school choice" doesn't sell to the middle class. But how about junking the polls for once and making the case based on justice and the national interest? America can't stay a great nation with millions of inner-city kids held hostage to a public school monopoly that turns them into truants or worse. Not every American kid can go to Sidwell, but none of them should be consigned to schools no liberal would accept for his own flesh and blood.

[From The Hill, Wednesday, Oct. 1, 1997]

VOUCHER OPPONENTS SEND OWN CHILDREN TO PRIVATE SCHOOLS

(By Lindsay Sobel)

Sen. Carol Moseley-Braun (D-Ill.) sends her only son to a private parochial school in Illinois. Sen. Edward M. Kennedy (D-Mass) sent his children to private schools in the D.C. area, while Del. Eleanor Holmes Norton (D-D.C.) sent at least one of her children to Georgetown Day School, a private school.

Others who sent their children to D.C. area private schools include Senate Minority Leader Tom Daschle (D-S.D.) and Sens. James Jeffords (R-VT.) and Byron Dorgan (D-N.D.)

But none of them favor a proposal to give 2,000 D.C. students federally funded vouchers that would enable them to attend private schools.

Mosely-Braun said such a program would be "a dilution of support for public education," a sentiment echoed by the others.

But supporters of the measure argue that low-income families should have the same choices about where to send their children to school that members of Congress do. "The nation should be outraged that [congressional opponents" insist that school choice should not be an option when they send their children to private schools," said Star Parker, president of the Coalition on Urban Renewal and Education.

Although at least 20 members of Congress whose families live in the Washington area have school-age children, a survey by. The Hill revealed none who send their children to the beleaguered District of Columbia's public schools.

Most of these members support a proposal that would provide 2,000 D.C. students with scholarships to attend private schools, because they consider the D.C. schools so inferior. But some do not support a nationwide voucher program because they believe that most public schools provide an adequate education.

The measure is part of the House's District of Columbia Appropriations bill, but it failed in the Senate.

But Moseley-Braun said money spent on vouchers could be used "to fix up the crumbling public schools." She said everyone has the right to send their children to a prviate school, but added, "Taxpayers should not be forced to pay for it" because that is "paying twice."

The D.C. provision is different from most voucher proposals in several ways: The scholarship money for students to attend private schools does not come out of the public school budget. Families must be below the poverty level to receive the full scholarship.

Del. Norton opposes the plan on the basis that it violates D.C. home rule. Donna Brazile, Norton's chief of staff, said that supporters of the bill do not want to help D.C. students. "This is a form of national said Brazile, adding, "They can't impose their will anywhere else in America, but they can impose it here."

Those who support the measure include those who sent their children to both public and private schools, Virginia Reps. Jim Moran (D) and Tom Davis (R) both send their children to public schools in their districts in the Virginia suburbs.

Moran said that while he supports vouchers in Washington because District schools are in a severe crisis, "I believe in public schools and wanted my kids to have a diverse experience.'His first-grade daughter and third-grade son attend Cora Kelly Elementary School in Alexandria, which is 80 percent minority.

Asked if he would have sent his children to public schools if he lived in the District, Moran replied. "I would make the decision that almost every black middle-class parent has already made and not subject my kids to the D.C. public schools. "Most low-income parents would do the same if they had the option," he added.

Davis, too, said he opposes vouchers in general. But he supports the proposal for D.C. because, "The city can't even certify that the schools are safe."

Acknowledging that he would never send his kids to D.C. public schools and doesn't know any members of Congress who do, Davis said he has three children in the public schools in Virginia. He called the difference between the two systems like night and day, adding. "The reason the middle-class has left the city is the schools."

IRS LESSONS FROM THE INS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. GALLEGLY. Mr. Speaker, like millions of Americans around the country, I am still reeling from the Internal Revenue Service hearings a few weeks ago. Not all that was brought to light was very surprising. Anyone who has ever had to deal with the IRS knows just getting a phone call answered is comparable to climbing K–2.

But when confirmation of the agency's abusive practices and mismanagement turned to outright disregard for the law, I was not only outraged, but began to see striking similarities with another very political Federal agency, the Immigration and Naturalization Service.

In 1996, the Department of Justice Inspector General's Office found that high ranking INS officials had lied to Congress, instructed others to do the same and obstructed the subsequent investigation. The events leading to the investigation occurred during a congressional fact finding visit to the Krome Detention Facility in Miami.

Several individuals were eventually disciplined, however some received promotions during the investigation. And while the disciplinary recommendations from the inspector general ranged from demotion and suspension to termination, to date, almost all have been reinstated or reassigned and not one was terminated.

Mr. Speaker, the IRS hearings and the Krome case illustrate a disturbing pattern for this administration. Wrong doing is not only tolerated but encouraged and rewarded. The IRS now has the opportunity to do the right thing. Learn from the errors of another agency, put politics aside, identify those responsible and administer the fair hand of justice. This is a simple first step in restoring the confidence of the American people in their government.

A TRIBUTE TO CLIFF BARBER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. GILMAN. Mr. Speaker, I would like to make our colleagues aware that one of my distinguished constituents will be celebrating his 80th birthday this coming weekend.

Clifford Barber of the town of Montgomery, NY, has earned renown in our community as one of the most prominent and respected attorneys in Orange County. In his capacity as a counselor as well as a local judge in the town of Montgomery, Cliff became known as the embodiment of integrity and dedication.

In 1977, Cliff Barber became the Republican County chairman of Orange County. In that role, Cliff personified fairness and even-handedness in keeping the Republican Party synonymous with good government. An early and enthusiastic supporter of Governor Ronald Reagan for President, the people of my congressional district elected Cliff as a delegate to the Republican National Convention in Detroit in 1980.

Soon after President Reagan took office, he appointed Cliff as Superintendent of the U.S. Mint at West Point. The newest of our Nation's Mints, West Point was considered a stepchild in many ways. Under Cliff's leadership, the West Point Mint assumed the responsibility for most of our commemorative coins, which as we all know has earned a great deal of revenue for the Federal Government without burdening the taxpayers. West Point also continued to produce the bulk of our one cent pieces.

It was during his tenure as Superintendent of the Mint that Cliff became known as the champion of the rights of our Federal employees. He never hesitated to make certain that the health, safety and well-being of the employees at the Mint were never forgotten, and when Cliff retired in 1989 he was genuinely beloved by all who worked under him.

Cliff Barber's retirement from the West Point Mint freed him to resume his political activities in Orange County. Despite the 8-year hiatus, Cliff was re-elected Republican chairman in 1989, and served until 1995. His second tenure as party chairman was even more noted

than his first, and he retired as the grand old man of the Grand Old Party.

Mr. Speaker, I am pleased to join with his wife Jane, his children, his family, and his many loved ones in coming together to wish Cliff the best on this milestone occasion, and our sincerest wishes that Cliff's coming years will be as eventful, productive, and healthy as the first 80 have been.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KIND. Mr. Speaker, I rise today to offer a word of warning to House of Representatives leadership. Yesterday's failure to consider campaign finance reform in the Senate should not be used as an excuse against allowing a vote in this body.

I was very disappointed to see that a minority of the Senate was able to block consideration of the McCain-Feingold legislation. It is clear that the will of the majority is being denied by the procedural tricks of the Senate leadership. In the House, the will of the majority is being denied by the refusal of the House leadership to allow a vote.

While it may be easy for Members of Congress who oppose reform to point to the failure in the Senate as the excuse for inaction in this House, I will not accept that excuse. I will continue to demand that the House of Representatives be given the opportunity to vote on campaign finance reform.

TRIBUTE TO GERALD DAVID LLOYD

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. FARR of California. Mr. Speaker, I rise today to honor a man who served his country, his community and his family. Gerald David Lloyd, known to family and friends as Joe, was a man whose civic responsibility was the foundation of his life.

Mr. Lloyd enlisted in the U.S. Marine Corps in 1968 where he served for 6 years, achieving the rank of Sergeant E–5 and receiving a number of prestigious awards and medals: National Defense Service Medal; Rifle Marksman; Vietnamese Service Medal with three stars; Vietnamese Campaign Medal with Device; Good Conduct Medal; and RVN Cross of Gallantry with Palm.

In 1974, Mr. Lloyd served as a fighter with the California Division of Forestry. Immediately thereafter, he began a career as a plumber and maintenance worker. In 1980, he returned to Federal employment working for: the U.S. Marine Corps Air Station, El Toro, CA; the Department of the Army, Fort Ord, CA; and most recently, the Department of the Navy, Naval Support Activity Monterey Bay, CA. In his position as maintenance worker at the Naval Support Activity Monterey Bay, Mr. Lloyd was responsible for plumbing, carpentry, painting, and electrical work.

As during his military service, Mr. Lloyd's career as a Federal employee includes numerous awards. He received the Special Act Award and Performance Act Award three times each. In May of this year, he was honored with the Unsung Hero Award.

Just 1 month later, Mr. Lloyd performed the most heroic act of all, he gave his life while saving that of another. On the morning of June 9, 1997, while reporting to work, Mr. Lloyd heard gun shots. Reacting immediately, Mr. Lloyd ran to the assistance of James P. Gaughran who had been wounded in an unprovoked attack. Mr. Lloyd used his scan card to access a secured building so Mr. Gaughran could get inside to safety. In the process, Mr. Lloyd was shot and killed. He is survived by his wife Marilyn and their two children, Jennifer and Adam.

This tragedy was a grievous loss to the entire community. Mr. Lloyd's death was mourned by the many who knew him through his involvement in the American Legion, as a coach and referee for the American Youth Soccer Organization and as a volunteer with Boy Scout Troop 285.

The Department of the Navy, Naval Support Activity Monterey Bay, Naval Post Graduate school will present Mrs. Lloyd with the Good Samaritan Award for the selfless actions of her husband. This award also speaks to the kind of life Mr. Lloyd lived and hoped to inspire in others.

Mr. Lloyd will be missed by many and admired by all who hear of his heroic act. This is a tragedy felt by our entire community. Our hearts go out to the Lloyd family.

AUTOMOTIVE EXCELLENCE BEGINS WITH AWARD-WINNING TEAM MEMBERS

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. BARCIA. Mr. Speaker, in today's increasingly competitive global marketplace, if any of our manufacturers are to hold positions of world preeminence, it will only happen because of skilled members of the manufacturing team who are recognized by their peers for their excellence and capabilities. I am proud to tell our colleagues that two such individuals, Subir Chowdhury and Ken Zimmer, are vital honored members of the Delphi Saginaw Steering Systems division of General Motors.

Earlier this year, these two engineers won the Henry Ford II distinguished Award for Excellence in Engineering from the Society of Automotive engineers. This international award is given to those individuals who use their engineering skills to achieve product or manufacturing process contributions that have been assessed to have had the greatest positive effect on the passenger car, truck, and business industries. They won this award for their work in coauthoring "QS9000 Pioneers: Registered Companies Share Their Strategies for Success," a work intended to help companies develop quality systems that provide improvement in products, preventing defects, and reducing variation and waste in the supply chain. This work has already achieved world acclaim. J.D. Powers himself has said "QS9000 is the means by which original equipment manufacturers will make added contributions to automotive quality." The work has also received praise from Fortune Magazine, U.S. Auto Scene, and Automotive News.

Subir Chowdhury and Ken Zimmer are no strangers to acclaim. They have also earned the Golden Quill Award from the American Society for Quality Control [ASQC] automotive division, nominated for the Shingo Prize for Excellence in Manufacturing, won the Section Leadership Award at the 50th ASQC Congress, and received a Certificate of Commendation from Gov. John Engler. Mr. Chowdhury has also earned the Young Leadership and Excellence Award from the Automotive Hall of Fame, the Ralph E. Cross Outstanding Young Manufacturing Engineer Award from the Society of Manufacturing Engineers, and the Judson C. Jarvis Service Award by the American Society for Quality Control. Their other extensive work with the ASQC and the Automotive Industry Action Group has rightly put them in a position to be world leaders in the future development of top quality automotive products.

I was pleased to have been of assistance to Subir's family when they wanted to come from their home in India to be at last fall's presentation of the Young Leadership and Excellence Award from the Automotive Hall of Fame, because families should be able to celebrate the successes of one another. Their years of support earns them the moment of glory that comes from the hard work that is an example to all young people who want to know if what they do can make a difference.

Mr. Speaker, I am proud to have these two fine gentlemen as constituents, and I know General Motors is proud to have them as members of its team. I urge you and all of our colleagues to join me in congratulating Subir Chowdhury and Ken Zimmer on their tremendous accomplishments. They are two people who make our Nation proud.

TRIBUTE TO THE GREATER BATON ROUGE FOOD BANK IN LOUISIANA

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. GINGRICH. Mr. Speaker, since becoming the majority party, my Republican colleagues and I have sought ways to downsize the Federal government, lower taxes, and return power, money, and influence to the American people. We believe that local problems are best solved at the local level by local citizens who have a greater knowledge of the issue at hand and more passion to solve the problem that a team of removed Federal bureaucrats in Washington, DC.

However, as government is asked to do less to solve our Nation's problems, individuals must do more. Today I proudly celebrate the Greater Baton Rouge Food Bank in Louisiana, which embodies the essence of what we believe in: local citizens and businesses pulling

together to solve a local problem. It is neighbor helping neighbor in the true volunteeristic spirit which so attracted de Tocqueville to this great country during his tour of America in the early 1830's.

In June of this year, I had the privilege of visiting the Greater Baton Rouge Food Bank with Congressman BAKER, who personally raised from private sources nearly all of the $525,000 needed to purchase and renovate an old warehouse that now houses the food bank. In addition to the purchase and renovation funds coming primarily from private sources, a full 95 percent of the food distributed to the food bank is donated from private sources.

The food bank has a partnership with Associated Grocers in the Greater Baton Rouge area and houses its reclamation center. Bent boxes and cans are sent to the center from the member grocery stores, credits are given to the stores for write-offs on damaged goods, and the usable items are given to the food bank.

The food bank's mission is to meet emergency, short-term needs of the hungry in the greater Baton Rouge area. In 1996, 3,200 people per day were assisted by the food bank. Of those needy individuals, 44 percent were children and 16 percent were elderly.

The food bank also developed and coordinates a program called Lagniappe du Coeur ("something extra from the heart") which collects leftover food area restaurants like Popeye's, packages it in single meal units, and distributes it to shelters. The goal is to have zero waste of food in the Baton Rouge community. This is the State's first and only perishable food recovery program.

Those who wish to learn more about the Greater Baton Rouge Food Bank can do so by accessing its web page at www.challenger.net/GBRFB. The food bank can also be e-mailed at: BRFOODBANK@AOL.

I am a strong believer in volunteerism. Some can donate money or goods; some can donate their time. But everyone can donate something. My philosophy is simple: if America has been good to you, go find a fellow American to be good to. I hold up the Greater Baton Rouge Food Bank as a shining example of this spirit.

CONGRATULATIONS TO NIKE, INC.

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Ms. FURSE. Mr. Speaker, it is my pleasure today to congratulate the world's largest sports company, Nike, whose headquarters is in the First Congressional District of Oregon. Nike was recently named one of the 100 best companies for working mothers by Working Mother magazine.

Nike has recognized that creating a work atmosphere that meets the needs of their employees results in a successful company. Working mothers employed by Nike enjoy competitive pay, opportunities to advance, a large child care facility, and flexible hours. Nike has given working mothers the opportunity to participate in a professional career without having to worry that their children are well cared for.

I offer my sincere congratulations to Nike for their efforts to make their corporation family friendly. It is quite an honor for Nike to be recognized as one of the 100 best companies for working mothers.

ON THE RETIREMENT OF LOUISIANA NATIONAL GUARD ADJUTANT GENERAL, MAJ. GEN. ANSEL M. "BUDDY" STROUD, JR.

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. LIVINGSTON. Mr. Speaker, I rise today to offer my most sincere appreciation and thanks to Maj. Gen. Ansel M. Stroud, Jr., upon his retirement from a distinguished career of dedicated service as Adjutant General of the Louisiana National Guard. We will miss his leadership.

General "Buddy" Stroud gallantly served the U.S. Army, the State of Louisiana, and the United States of America for over 53 years.

General Stroud, while you will be most remembered for your 17-year tenure as Adjutant General which began in 1980—the longest of any AG in our Nation—Louisiana has been benefiting from your exemplary leadership since 1947, when you first joined the National Guard. And I want to particularly thank you for building the Louisiana National Guard into one of the premier State Guards in America. In addition, your personal efforts have made Louisiana's Emergency Preparedness Office and the Hurricane and Disaster Response Organization a model for the rest of the country.

Your career has been as distinguished as it has been long. In fact, few others in our Nation can lay claim to such an outstanding lifetime of achievement.

General, you are the definition of selfless service and the embodiment of what Douglas MacArthur called "those three hallowed words": duty, honor, country.

Mr. Speaker, General Stroud has earned the undying gratitude of the people of Louisiana and, in fact all Americans.

Thank you General Stroud. You and your wonderful wife Jane have my best wishes for the coming years.

RECOGNIZING CRISSIA REAY, WINNER OF THE NATIONAL YOUTH ESSAY CONTEST

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. MANZULLO. Mr. Speaker, I am delighted today to extend my sincerest congratulations to 15-year-old Crissia Reay of Wonder Lake, IL. Crissia is the winner of the National Youth Essay Contest for her essay comparing the lives and voyages of explorers Christopher Columbus and Amerigo Vespucci. The contest is sponsored by the National Italian American Foundation and the Daughters of the American Revolution. Crissia's essay was selected from hundreds of entries from across the country. As a well-deserved reward for her dedication and hard work, Crissia will receive a $1,000 prize and a trip to Washington, DC later this month where she will participate in ceremonies honoring Columbus by reading aloud her winning essay.

I am proud to have Crissia as one of my constituents. Her accomplishment reflects a love of learning and the discipline and motivation to accept a challenge and meet with success. I join with Crissia's parents, relatives, teachers, and friends in commending her and her remarkable achievement. Crissia's winning essay, entitled "Christopher Columbus and Amerigo Vespucci: The Men and Their Discoveries," appears below.

CHRISTOPHER COLUMBUS AND AMERIGO VESPUCCI: THE MEN AND THEIR DISCOVERIES

(by Crissia Ahnna Reay)

Christopher Columbus and Amerigo Vespucci were both explorers, born in the same country in the same time frame, but there the similarities end. They were worlds apart from each other in their personal lives and significant differences were also visible in their voyages.

Columbus was born Cristoforo Colombo near Genoa, Italy in 1451. His father was a weaver and Columbus' family were humble, common folk. He had very little schooling in his early life. Bordering on illiterate when he left his home in Italy, he learned to read and write in Portugal. Vespucci was born in Florence, Italy in 1454. However, his early life was very different from Columbus' owing to the fact that Vespucci was born into a noble Florentine family. Vespucci was described as having a "sagacious" (scientific) mind and was educated in the areas of commercial science, cosmology, astronomy and geography. Consequently, we can understand why money and titles were so important to Columbus, while they seemed to play a lower key role in Vespucci's life and explorations. Having grown up with a common, almost low background, explains why Columbus felt that land, titles and wealth were symbols of success. Whereas, Vespucci's affluent background sheds light as to why he didn't seem driven to obtain those symbols of success and could explore for the simple quest of knowledge without stipulating what he must receive in return (as Columbus felt he must).

Columbus made four voyages to the new world, Vespucci only two that can be proven. In his explorations Columbus visited mainly the islands of the West Indies, San Salvador, Cuba, Jamaica and what is now modern day Mexico; touching only lightly on the continent of South America. Vespucci mainly explored and charted the eastern coastline of South America (from this experience, he concluded that it extended too far and couldn't be Asia). Columbus was interested in settling the places he found, Vespucci in mapping them.

There are other important discoveries that came from their journeys that are rarely mentioned. Columbus found the most efficient way to use the North Atlantic wind system for transatlantic sailing. He was the first to notice the equatorial current and made the first observations of the westerly compass variation. It was because of Vespucci that people found out that there were two oceans separating Europe from Asia instead of one. He created his own method of

celestial navigation by which he obtained longitude and came within 50 miles of being correct in his estimation of the earth's circumference one of the closest guesses of that time.

Columbus and Vespucci were both undoubtedly great men. Their voyages, although each holding its own different significance, greatly complement one another. Columbus (though unable to claim title as the first European setting foot on the Americas due to previous Icelandic adventurers) was the first to make the discovery stick. In that essence Columbus discovered the new world. Columbus was the rock that started the landslide of exploration and settlement of the Americas. Vespucci, picking up where Columbus left off, was the one to conclude that it was not Asia that his predecessor had found (Columbus died thinking it was) but it was indeed a new, previously unknown land. In Vespucci's own words. "These regions we may rightly call Mundus Novus, a New World, because our ancestors had no knowledge of them."

Vespucci actually outfitted and helped prepare far more voyages than he was part of himself. In fact, it was in that way he and Columbus first met. In collaboration with Berardi, a ship builder in Seville, Vespucci prepared a ship for Columbus' second voyage in 1493. In 1498, he and Columbus first became personally acquainted when Vespucci made even more ships for Columbus' third voyage.

Though there was much friction between their supporters, there is nothing to suggest any personal rivalry on the parts of these two renowned explorers. In fact, towards the end of Columbus' life when he was ailing and virtually deserted, he found in Vespucci a caring, sympathetic friend. This is apparent in the words Columbus wrote of Vespucci a year before Columbus' death in 1506. "He has at all times shown a desire to serve me, and is an honorable man."

Whatever else is said about them, one thing remains outstanding and undeniable; they were bold and courageous explorers, who made remarkable discoveries that have permanently changed the face of the world's geography and in a great part shaped the history of the world that followed after.

TRIBUTE TO THE J. C. PENNEY COMPANY

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. JOHNSON of Texas. Mr. Speaker, the J. C. Penney Company is honored for its outstanding accomplishments in expanding the participation of people with disabilities in American life.

The company's philosophy has always embraced the core idea that it is ability, not disability, that counts in a job and in life. Indeed, the company has been true to the belief that its founder, John Cash Penney, who in 1913 called for partnership between the company and the people of the communities it serves, including those with disabilities.

In its policies and practices, J. C. Penney recognizes and utilizes the talents of individuals with disabilities. Hiring, training, and career development reflect this commitment.

As J. C. Penney has become a model for corporate citizenship, its customers have benefited. Stores nationwide exceed legal requirements for accessibility. With careful attention to the requirements of the Americans With Disabilities Act, personnel are trained to serve customers with disabilities. J. C. Penney publishes a catalogue of special needs merchandise. Its catalogues and national advertising feature people with disabilities. The company generously supports the work of disability organizations and encourages its employees at all levels to volunteer.

The National Organization on Disability, on behalf of 49 million Americans with disabilities, proudly presents the 1997 Hats Off Corporate Citizenship Award to one of America's foremost corporate citizens, the J. C. Penney Co.

COUNCIL OF KHALIST CELEBRATES ITS 10TH ANNIVERSARY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. BURTON of Indiana. Mr. Speaker, October 7, 1997, marks a significant occasion in the history of the Sikh Nation. Ten years ago today, the Sikh nation declared its independence and forged the Nation of Khalistan. Led by Dr. Gurmit Singh Aulakh, the Council of Khalistan has brought the Sikh struggle for freedom to the attention of world leaders. Dr. Aulakh and the Council of Khalistan should be applauded for their efforts to liberate Khalistan through peaceful, non-violent means.

As you know, the Sikhs had ruled themselves for over 80 years before the British conquered the subcontinent and created the artificial entity called India for their own administrative convenience. At the time of India's independence 50 years ago, the Sikhs joined with India on the promise of Gandhi and Nehru that they would enjoy the glow of freedom, and that no law affecting the Sikhs would be enacted without their consent. Well Mr. Speaker, that promise was soon broken, and no representative of the Sikhs has ever signed India's Constitution.

India cannot survive as one political entity for much longer. In actuality, India is a conglomerate of Nations held together through oppression. It has as many as 18 official languages, and the central government is run by an unstable 13-party coalition. The only remaining question is whether India's inevitable breakup will be peaceful like the Soviet Union's or violent like Yugoslavia's. I join with the leaders of the Khalistani freedom movement in expressing the hope that it will be peaceful. However, if India continues its policy of genocide, it may preclude that possibility.

Since 1984, more than 250,000 Sikhs have been murdered by Indian forces. According to various human rights groups, more than 60,000 police officers received cash bounties for their participation in these murders. According to a 1995 report published by human rights activist, Mr. Jaswant Singh Khalra, at least 25,000 young Sikh men have been abducted, tortured, and killed, then their bodies are declared "unidentified" and finally they are cremated. On September 6, 1995, shortly after this report was published, Mr. Khalra was kidnapped by the police. Over 2 years later, his whereabouts remain a mystery. I would submit, Mr. Speaker, that Mr. Khalra has probably been murdered like so many before him.

Furthermore, India's own Central Bureau of Investigation [CBI] conducted a brief investigation at just one cremation site and was able to confirm about 1,000 mass cremations. Now, the National Human Rights Commission says that it will investigate this brutal policy that Indian's own Supreme Court has called "worse than a genocide." So far, no one has been punished for these murders.

Religious persecution continues in India as well. On September 4, 1997, a Sikh church was invaded by security forces without a search warrant. Six Granthis, who serve as the guardians and teachers of the Sikh holy scriptures, were subsequently beaten and tortured. Police occupation of the Golden Temple, the holiest Sikh shrine, continues to this day. The mayor of a village in Punjab was tortured in front of the people because he is an Amritdhari, or baptized, Sikh. Amritdhari Sikhs are considered a criminal class. Sikhs have been raped, beaten, tortured, and even killed because they would not renounce their religious beliefs. Meanwhile, an expired law that made it illegal to convert a Hindu to any other religion continues to be enforced despite the fact that is has expired.

It is clear from events like this that the Sikhs are a captive nation in the Indian Empire, colonized and enslaved for the benefit of a Brahmin elite that is grossly out of touch with its people, many of whom live in abject poverty. The only real solution is a fully independent Khalistan.

We must end our financial support of tyrants. We need to send strong messages to India, and put a stop to the endless amount of foreign aid we send to them until the repression ends. We should also use our influence as the world's preeminent superpower to affect a vote on freedom for Khalistan, similar to the vote the United States conducts in Puerto Rico. Mr. Speaker, many of my colleagues in this Congress calls India "the largest democracy in the world." Well, if that is true, than what's good for the United States must be good for "the largest democracy in the world." I challenge India to follow the path of democracy, and let the people of Khalistan and all the nations under its occupation choose their own destiny at the ballot box. Only then can India be considered a truly democratic nation.

HONORING SHERMAN SPEARS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. DELLUMS. Mr. Speaker, I rise to recognize the achievement of one of my constituents, Mr. Sherman Spears. He will be honored on October 14, 1997 as a recipient of the Ameritech Award of Excellence in Crime Prevention on behalf of the National Crime Prevention Council. Out of 140 nominations, Mr. Spears was selected along with eight extraordinary individuals who are fighting crime and building community.

Mr. Spears was shot at the age of 19 and fortunate to have survived. The incident, which left him a paraplegic, motivated him to dedicate his life to doing what he can to help at-risk young people make choices to keep themselves and others alive, and to teach them how to build safer communities. Since 1993, he has been the coordinator of Teens on Target, a youth violence prevention program in my hometown of Oakland, CA. He began the Caught in the Crossfire hospital peer visitation program in 1994.

Mr. Spears used his experience and understanding to develop the Caught in the Crossfire program. This program provides adolescents, who are recovering from violent injuries in the Highland Hospital trauma center, with educational materials about violent crime to dissuade victims and their friends from retaliating against their attackers. Upon discharge, Mr. Spears contacts the patients to see if they have used the referrals given to them, such as joining a program to help them get their GED, changing friendship groups, or joining and attending a physical rehabilitation program.

Caught in the Crossfire provides visitation to all recovering adolescents who are referred by the Highland Hospital staff. This averages 50 visits per year. The average length of hospital stay of each patient is 2–3 days; Mr. Spears responds to the call for help within 24 hours.

Teens on Target approaches at-risk youth in an attempt to reform their perspectives and to help them understand the repercussions of violence. The program trains multiethnic urban youth to educate their peers about the causes of violence and how to prevent it at home, in their neighborhood, and in their city. Each year, 25 youth from two high schools in Oakland are trained by Mr. Spears to: First, provide peer violence prevention education at schools, conferences and community events; second, educate professionals on the impact of violence on youth and strategies for prevention that will work; third, provide an informed voice to the media about how youth can be leaders in preventing violence; fourth, provide positive role models for youth; and fifth, provoke policy makers to take action to prevent violence. The youth, at risk for dropping out of school themselves, are referred to Teens on Target by probation officers, principals, counselors, and teachers. They provide four interactive violence prevention workshops to approximately 2,000 youth per year addressing the issues of gun violence, street and gang violence, alcohol and drug violence, and family violence. Over 5,000 youth have received this training since Mr. Spears has coordinated the project.

I would like to thank the National Crime Prevention Council and Ameritech for their commitment in helping individuals fight crime and build community, and for recognizing and honoring the work of Mr. Spears and others.

Sherman Spears did not let his experience with violence become an excuse for defeat. He has not allowed the physical difficulties resulting from that incident to keep him from making a contribution to his community. Instead, he has used his unique insight to create programs to address crime throughout Oakland. We, in Oakland, are fortunate and proud to have Mr. Spears working on the front lines, to help break the vicious cycle of violence. Thank you so much for your commitment and work on our behalf. I also ask my colleagues to join me in congratulating Sherman Spears and hardworking individuals like him who make a difference in their communities.

AMERICAN TEACHERS IN BOSNIA AND HERZEGOVINA HELP DEVELOP SUPPORT FOR DEMOCRACY AND FREE ELECTIONS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. YOUNG of Alaska. Mr. Speaker, I am proud to recognize Doug Phillips of Anchorage, AK, who participated in CIVITAS at Bosnia and Herzegovina from August 1 through August 17, 1997. This intensive program is designated to train teachers from throughout Bosnia and Herzegovina with materials and methods developed to educate for democracy. Mr. Phillips was part of a team of 20 American educators who were assigned to 16 locations throughout Bosnia and Herzegovina, including the Republika Srpska; the American teamed with 18 teachers from the Council of Europe in nine of these sites. This education for democracy program reached 550 teachers from both entities of Bosnia and Herzegovina.

The summer training program was developed by the Center for Civic Education as part of a major civic education initiative in Bosnia and Herzegovina supported by the U.S. Information Agency and the U.S. Department of Education and built on a program begun in 1996. The U.S. Information Service in Sarajevo provided valuable assistance to the program. The goals of the program are to provide teachers with the tools necessary to help prepare students and their communities for competent and reasonable citizenship, including participation in elections and other opportunities to take part in the political life of their communities. Achieving this goal will contribute to the reconstitution of a sense of community, cooperation, tolerance, and support for democracy and human rights in this war torn area.

I am also pleased to announce that the curricular materials being used for the program in Bosnia and Herzegovina have been adapted from the "we the people * * * the citizens and the Constitution, foundations of democracy," and the project citizen programs, which are supported by Congress and used in schools throughout the United States. Initial reports evaluating the summer program indicate the materials—selected and adapted by educators from Bosnia and Herzegovina—and teaching methods were enthusiastically received and will be adapted for use in classrooms in both entities of the country.

Mr. Phillips is the social studies program coordinator for the Anchorage public schools. He also serves as the state coordinator for the "we the people * * * the citizens and the Constitution" program in Alaska.

Mr. Speaker, I wish to commend Doug Phillips for his dedication and commitment during the CIVITAS at Bosnia and Herzegovina summer training program. His work is helping to achieve the overall objective of building democracy in Bosnia and Herzegovina.

TRIBUTE TO HENRY B. GONZALEZ

SPEECH OF

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Ms. ROYAL-ALLARD. Mr. Speaker, it is an honor and privilege to participate in tonight's special order honoring the service provided to our Nation by my friend and colleague, the Honorable HENRY B. GONZALEZ.

Over the course of his distinguished career, Congressman HENRY B. GONZALEZ has served his home State of Texas and our Nation in many important capacities. He was elected to the San Antonio City Council in 1953 and served in the Texas State Senate from 1957 to 1961.

In 1961, the voters of Texas' 20th Congressional District elected him to the U.S. House of Representatives, where he served honorably as a Member of Congress and a member of the Banking Committee for 36 years.

He was appointed chairman of the Subcommittee on Housing and Community Development in 1981 and chairman of the full Banking Committee in 1989.

Throughout his 36 years of service Mr. GONZALEZ has always been a leader in the fight for basic human rights and needs, including safe and affordable housing, consumer protections, and economic opportunity and equity.

As chairman of the Committee on Banking and Financial Services, Mr. GONZALEZ served as a strong and productive leader.

He managed and led to enactment of numerous bills, including complex legislation reforming the savings and loan industry, fundamental reform of bank regulation, and the last major public housing legislation to become law.

As ranking member last term, Mr. GONZALEZ, helped to defeat several banking proposals that weakened consumer protections.

HENRY B. GONZALEZ is a leader who opened doors of opportunity and set the standard for Latino-Elected officials throughout the Nation. I am pleased to join my colleagues in memorializing his accomplishments and wishing him happiness in his retirement.

HONORING CLARA PADILLA ANDREWS

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Ms. FURSE. Mr. Speaker, I rise today in honor of Hispanic Heritage Month to recognize an outstanding individual, a constituent and friend of mine in the First Congressional District of Oregon, Ms. Clara Padilla Andrews. Ms. Andrews has dedicated her life to serving others.

Ms. Andrews is the owner and publisher of the El Hispanic News, a bilingual English/Spanish weekly community newspaper in Oregon. Previously, Ms. Andrews has served as a Community and Family Services Integration of Services Supervisor and the Hispanic Services Coordinator for Multnomah County in Portland. Through her tenure with the county, she demonstrated her strong will, dedication, and commitment to sharing her talents and knowledge to promote networking partnerships. Her ability as a community organizer and strong encouragement of project collaboration were essential ingredients in the work she did and continues to do in creating a better society for all.

Ms. Andrews is known for her "behind-the-scenes" advocacy on behalf of disenfranchised Hispanic families in Multnomah County. She was instrumental in obtaining monetary support to staff positions at three high schools to reduce the Hispanic student drop-out rate.

She was also essential in the renovation of the Galaxy Apartment complex. This cluster of apartments in their original condition were a Northeast Portland neighborhood eyesore in deplorable condition with a prevalence of drugs and prostitution, crime and poverty.

Today the Galaxy Apartments are the Villa de Clara Vista Apartments named in honor of Ms. Andrews. Through her relentless efforts, she founded the Hacienda Community Development Corp. and recruited board members to spearhead the renovation effort to make affordable family housing available. The project today also includes a one-stop center for coordinated social services for area occupants. This project now serves as a national model.

Ms. Andrews has worked at all levels of government. Her civic involvement is admirable, as she served as the Secretary of State for New Mexico from 1983 to 1986 and was the highest ranking Latina elected official at that time. When Ms. Andrews lost her granddaughter, Susana Gurule, to cancer, she founded the Susana Maria Gurule Foundation which focuses its efforts on increasing the number of minority volunteers for the national marrow donor program registry. As a result of her work, she has also been named to the national marrow donor program board.

Ms. Andrews is a 1986 recipient of a Congressional Hispanic Caucus Distinguished Service Award, the 1994 Doernbecker Hospital Hero's Award, Executive Women in State Government Distinguished Award and several others. She has also been named one of the 100 Most Influential Hispanics four times.

Ms. Andrews is an exemplary citizen. Her lifetime of achievements and contributions to making society a better place for all serves as a model for all of us to learn from and follow. In recognition of National Hispanic Heritage month, it is my honor to recognize my friend, Ms. Clara Padilla Andrews.

HONORING UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER'S 25TH ANNIVERSARY

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. BENTSEN. Mr. Speaker, I rise to honor the University of Texas Health Science Center in Houston for 25 years of excellence in medical education and research. A vital component of the Texas Medical Center in my district, UTHSC's research and academic institutions have trained some of our Nation's finest medical professionals and led to pioneering treatments for many diseases.

The University of Texas Health Science Center in Houston was launched on October 20, 1972, with the mission of becoming one of the Nation's outstanding academic health centers. By any measure, UTHSC has achieved that lofty goal. From an initial enrollment of 1,260 students, the university now educates over 3,000 students in its six medical institutions—the graduate school of biomedical sciences, and dental branch, the school of public health, the medical school, the school of nursing, and the school of allied health sciences. These students receive hands-on training in the finest teaching hospitals in the world, learning their trade alongside doctors at the M.D. Anderson Cancer Center, Hermann Hospital, and LBJ General Hospital.

Staying ahead of the curve has been the hallmark of UTHSC. From its earliest days, UTHSC's leaders foresaw the evolving trends in medical research and practice—from the rise of managed care to the recognition that the best medicine is often preventative medicine, and the revolution in treating diseases through medicine at the molecular level. Their leadership has helped create a new model for academic health centers to follow. Leaders such as Cheves Smythe, M.D., founding dean of the medical school; Reul A. Stallones, M.D., founding dean of the school of public health; Alton Hodges, Ph.D., founding dean of the School of Allied Health Sciences; and Elizabeth C. Jones, founding dean of the school of nursing, all played key roles in building an institution that is on the cutting edge of education and research.

Their success in anticipating the future direction of medical science culminated in 1995 with the establishment a new institute for the 21st century. The Institute of Molecular Medicine for Prevention of Human Diseases. This institute will help doctors and scientists at UTHSC continue to develop breakthrough therapies for widespread chronic diseases such as atherosclerosis, diabetes, and cancer. UTHSC has also been conducting groundbreaking research on the disaster relief and emergency medical services [DREAMS] telemedicine project, which will provide state-of-the art, emergency medical services to military personnel in remote areas and help field-test recent advances in military telemedicine. This project will test innovative technologies and apply them to real world situations, helping our soldiers in hot spots around the world, and then translate those breakthroughs to civilian medicine to help patients of industrial accidents, natural disasters, and other traumas.

The University of Texas Health Science Center is setting the pace for biomedical research. Between 1989 and 1996, a time when other research institutions struggled, UTHSC research funding by contracts, grants and gifts nearly doubled, growing from $49 million to $95 million. Through aggressive research fundraising and the new institute of molecular medicine, the foundation has been laid for even greater success in the years to come.

Mr. Speaker, I congratulate the University of Texas Health Science Center for 25 years of excellence and innovation in medicine and wish them greater success as they build for the 21st century.

TRIBUTE TO NATALIE GITELMAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. MATSUI. Mr. Speaker, I am pleased today to pay tribute to Mrs. Natalie Gitelman, for exceptional service to the House of Representatives as our first director of the House Child Care Center. After a decade of dedicated service, she is retiring.

A graduate of the University of Massachusetts, Mrs. Gitelman has committed herself to working with the most delicate among us, our children. Her service and commitment to children dates back to 1953 when, upon receiving her bachelors degree, Mrs. Gitelman began work as a child care worker.

Mrs. Gitelman began her career as a counselor to children destined for foster and adoptive families. Her recruitment endeavors and preparatory counseling with natural, foster, and adoptive parents ensured homes for children ranging in age from birth through adolescence.

1966 saw the advent of Mrs. Gitelman's career in education. As the head teacher at Green Acres School in Rockville, MD, she developed and implemented classroom programs for the cooperative school. Over the course of her tenure Mrs. Gitelman handled much of the admissions work, served on the new director search committee and as one of two staff representatives on the board of trustees.

In 1975, she was named head teacher of the early childhood department of Pingry School in Short Hills, NJ and later named director and teacher of Prospect Cooperative Nursery School in Mapelwood, NJ. Again she was responsible for the development and implementation of the department's teaching program and admissions criteria.

The following 2 years produced two more teaching opportunities for Mrs. Gitelman at the Prospect Cooperative Nursery School in Maplewood, NJ the Summit Child Care Center in Summit, NJ. And from 1979 until 1984 Mrs. Gitelman served as one of six education coordinators with the Newark Pre-School Council, the Head Start Grantee Agency for Newark, NJ.

Mrs. Gitelman's lifelong endeavor of working with children should not obscure her commitment to learning about them. Though she received her master of science in education

from the Bank Street College of Education in 1978 she would continue with nondegree course work on early childhood education and its administration for years thereafter.

In 1984 Mrs. Gitelman was adopted founding director of the United Nations Day Care Centre. It was here that Ms. Gitelman could use her inherent love of children and well fostered administrative skills to construct a model day care program others would strive to emulate.

In fact, in 1987 Mrs. Gitelman was called upon by the House of Representatives to recreate with success a day care program fit for the institution and staff it would support.

Over the past 10 years the House of Representatives Child Care Center has become such a place. Mrs. Gitelman's vision of a warm and healthy sanctuary for children has provided some respite as well for parents, who rest in the knowledge that their children are in a safe and caring environment.

Mr. Speaker, in recognition of HRCCC's success as a premier child day care facility and Natalie Gitelman's 10 years of commitment, I ask my colleagues to join me in saluting her and wishing her a very happy and active retirement.

TRIBUTE TO NORMAN WAYNE WRIGHT

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I stand before you today to pay tribute to Mr. Norman Wayne Wright of Colorado, who was taken from us and sent to the Lord on August 19, 1997. Norman was a dedicated Republican committed to the beliefs and ideals of the Republican party. He never failed to lend support when it was needed. The Baca Weekly in Colorado described Mr. Wright the following way:

As one who entered this life on August 17, 1954, in Hutchinson, Kansas, to bless the home of George and Madge Wright. There he joined two brothers, Gary and Jerry, and was later joined by a brother Mark, and two sisters, Carol and Melinda. He lived in several different states during his childhood and was graduated from the Lovington High School in Lovington, NM in 1972.

In 1973, Norman joined the Armed Services, where he served for 3 years in the Army until 1976. During that time he was stationed in Fort Leonard Wood, Fort Polk, Fort Riley and for 1 year in Germany. During the early part of his Armed Services stint, he met Paulette Alfrey, and they were married on January 12, 1974. They have shared the blessing and direction of the Lord upon their lives for more than 23 years and their children Shade Harley, Lea Ann, and Gabriel Henry.

When Norman was around 10 years of age, he accepted Christ as his personal savior. The story of the rest of his life could be told in terms of God's gracious dealings in his heart. In July of 1974, he joined the membership of First Baptist Church of Walsh, CO, where he faithfully served the Lord until his passing. He grew to believe that the greatest possession of his life was his relationship to Christ, and the sharing of that relationship with others was his greatest accomplishment. Norman had an open heart and an open home, and he ministered to many people because of it.

Norman had varied interests and abilities. He loved horses; riding them, breaking them, shoeing them, training them and working them. He liked to braid cowboy gear, go hunting, fishing, looking for arrowheads, guiding people through the canyons while explaining the writings and the ancient paintings on the canyon walls, or just sitting down with a good history book, or even Baxter Black's poetry. He enjoyed good simple music with a clear message like one might hear from the Chuckwagon Gang, and he also liked to sing along with friends and his guitar. Family activities were special to him, and getting together with friends, whether for coffee or for branding, brought him a great deal of joy.

Norman volunteered his time to serve in his church, taught a Sunday School class, and ushered faithfully. He has served as a municipal judge, a city council chairman, a representative for "Colorado For Family Values" and as a guest speaker for the Baca County Historical Society. Some of the recent, cherished highlights of his life include fishing with Gabe, taking his family out, going to Indianapolis with John to see Shade and watch the Speedway Races with him, speaking to Boy Scout Troop #71 in Colorado Springs on commitment, sharing in the 25th Anniversary of his parents' pastorate in Junction City, KS, and celebrating his 43rd birthday on Sunday, August 17.

Norman was preceded in death by his brother George Henry Wright Jr. in 1952. He leaves to mourn his passing his wife Paulette and children Shade, Lea, and Gabe of the home in Walsh, CO; his parents George and Madge of Junction City, KS; his three brothers, Gary and wife Sheila also of Junction City, KS; Jerry and wife Nita of Chapman, KS; Mark and Alicia of Fredonia, KS; and two sisters, Carol and husband Lionel Martin of Queses, Portugal; and Melinda and husband Rod Thompson of Moore, OK. Also missing him are his father-in-law and mother-in-law Eugene and Verna Lee Alfrey of Walsh, CO, brother-in-law Loyd Brown and wife of Granada, CO; John Brown and wife Patricia of Campo, CO; sister-in-law Cheryl and husband Paul George of Amarillo, TX; plus many nieces and nephews, and a host of friends and relatives.

Mr. Speaker, I would also like to share some thoughts his wife Paulette shared with me. "I can truthfully say my husband was honorable. His heart dictated what was true and honest. In my eyes, many times, he always took the hard road. The easy way out was never the right way. For every situation God had already set the standard."

Mr. Speaker, Norman Wayne Wright is a symbol of what America stands for, family values, hard work and a solid faith in the Lord. Thank you for giving me this opportunity to share his memory with the House today.

PERSONAL EXPLANATION

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. WEYGAND. Mr. Speaker, I was unfortunately detained in my district Monday, October 6, 1997 and a portion of Tuesday, October 7, 1997 and missed several votes as a result.

Had I been here, I would have voted in the following way: I would have voted "yea" on rollcall votes 490, 491, 492, 493 and 496; I would have voted "nay" on rollcall votes 494 and 495.

As exporting becomes increasingly more important to U.S. businesses, the role of the Export-Import Bank must be maintained. The Export-Import Bank places businesses in my district and districts across the nation on a level playing field when competing against foreign businesses subsidized by foreign governments. This program allows for the expansion of U.S. markets thereby increasing the stability of our economy and preserving American jobs. I would, therefore, have voted in favor of reauthorizing the Export-Import Bank.

I would also have voted for the conference report on the Department of Agriculture Appropriations bill for Fiscal Year 1998. Among many important programs, this conference report includes full funding for the Food and Drug Administration's initiative to curb underage smoking in our country. In addition, the bill provides over $3.9 billion—$118 million more than approved by the House of Representatives—for the important Women Infant and Children's (WIC) nutritional program.

I would also have voted in favor of instructing the House conferees to Foreign Operations Appropriations Conference Committee to insist on the House approved provisions to reinstate the "Mexico City" policy. It is my belief that federal funds should not be used to fund abortions here or abroad.

MEDICARE PARTIAL HOSPITALIZATION INTEGRITY ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. STARK. Mr. Speaker, on behalf of Representative KAREN THURMAN and myself, I am today introducing legislation to reform Medicare's partial hospitalization benefit.

The partial hospitalization benefit is an important addition to Medicare, helping people with substantial mental health needs, who in the absence of this service would need to be hospitalized.

Unfortunately, Congress' effort to provide this improved benefit has become prey to some unethical and corrupt "health care providers." In some areas, the benefit is being badly abused. I include an article from the Miami Herald of September 2, 1997, which describes the situation in Florida.

The bill we are introducing today will deny coverage of services in home and nursing home settings; establish quality standards that will prevent fly-by-night operators from being eligible to participate; establish a prospective payment system for the partial hospitalization benefit, so that costs are brought under control; and provide a demonstration project to determine whether more comprehensive services by quality providers can indeed save Medicare some revenues.

The administration proposed most of these changes this summer, but the partial hospitalization problem was new to Congress and

we did not have time to consider these proposals in this summer's Balanced Budget Medicare Title.

I hope that these provisions can be considered early in the next session of Congress, so that this abuse of the system can be stopped. The situation in Florida indicates that we cannot afford to wait.

The partial hospitalization benefit—when done right—is an important and cost-effective tool to reduce the length of stay of an inpatient hospitalization and to prevent the need for inpatient hospitalization altogether. The reforms we are suggesting have the support of the partial hospitalization, who are as anxious as we are to expel the bad actors from this specialty.

Why partial hospitalization is a useful service is well described in the following materials provided by the Association of Behavioral Healthcare, Inc.

[From the Miami Herald, September 2, 1997]

MEDICARE ABUSES SPARK CRY FOR ANTI-FRAUD LAW

(By Peggy Rogers)

Florida's notorious Medicare cheats have yet another type of record—abusing a special psychiatric program out of all proportion to the rest of the nation.

Patient snatching is among the homegrown scams employed in this "partial hospitalization" program, which is supposed to provide several hours a day of intensive psychiatric care. The unwitting elderly and mentally ill, often told they are going on recreational outings, are lured from boarding homes each day to be used as patients.

The boom is astounding. In 1993, Florida outfits billed federal insurers $2.9 million for partial hospitalization. Last year, Florida's total was $112 million—half of the $220 million Medicare spent nationwide for partial hospitalization, federal anti-fraud authorities say.

So "aberrant" and "alarming" are Florida's numbers that state health-care administrators are proposing a state law to clamp down on abusers. If authorities with the Florida Agency for Health Care Administration secure a sponsor, the law requiring licensure of partial hospitalization programs would be considered during the next legislative session.

At the same time, federal authorities in Miami this summer have recommended a moratorium on Medicare billing by new companies.

In 1991, Washington expanded partial hospitalization payments to facilities outside of hospitals. It was intended to save mentally disturbed patients from full hospitalization and save taxpayers money. Services include therapy and stabilization, several hours a day, several days a week.

While Florida consumes half of the program's entire national budget, the state has 26 percent of the private companies providing the service and only 6 percent of the recipients inapplicable Medicare plans, according to a recent report by a Miami-based Medicare anti-fraud squad, Operation Restore Trust.

Eighty percent of the Florida companies are in Dade, Broward and Palm Beach counties.

"We believe that the situation in Florida . . . warrants immediable action," warned Dewey Price, leader of Operation Restore Trust's Miami office.

A moratorium and other recommended actions "should be adopted as quickly as possible to protect both the [Medicare] Trust Fund and the beneficiaries who are supposed to receive partial hospitalization services at these facilities." Price urged policymakers in this report earlier this summer.

Audits in Florida report a "high incidence" of kickbacks to boarding homes for use of their residents, as well as other "widespread, fundamental abuses"—including a lack of medical eligibility by most of the people purportedly receiving treatment.

A temporary ban on admitting new companies to the program would allow Medicare time to regain control of the situation and create lighter policies, authorities say.

One policy now allows partial hospitalization programs to provide care outside their centers. One review found billings for patients from locations as distant as 150 miles.

The companies, typically for-profit outfits, are virtually unregulated.

They are supposed to provide patients with several hours a day of therapy and stabilizing treatment. But spot federal audits found that "none of the group sessions are being led by licensed staff as required by state law to provide psychotherapy" and that "no active treatment is being provided.".

The state does not pay for partial hospitalization and has lost little money. But controlling quality is a big concern, along with helping Medicare safeguard public money, said spokeswoman Colleen David of the Agency for Health Care Administration.

"Our fundamental problem is that these programs are not licensed, and licensing is a proxy for monitoring quality," David said. "The program has clearly grown exponentially over a very short period of time."

The number of partial hospitalization centers billing Medicare in Florida grew from none in 1991, the year the federal government expanded the category, to 87 in 1994.

Since then, the number has tripled. Of the 259 Florida companies today, Dade County alone has 167, Broward County has 22 and Palm Beach, 20.

There is also a nationwide problem with increases in spending per patient. Operation Restore Trust's Dewey Price noted, "and nowhere is the situation more alarming than in the state of Florida."

In 1993, three of the state's partial hospitalization programs ranked among the 30 nationwide with the highest per-patient claims. A year later, Florida had 10 of the 30 highest billers. And in 1995, Florida had 22 out of 30.

"Data for 1996 has been requested, and we expect even more aberrant results," Price reported.

[Excerpts from recent publications of the Association for Ambulatory Behavioral Healthcare, Inc.]

The huge and expanding older adult population continues to pose a tremendous challenge to the mental health delivery system, including payers, providers, and purchasers. As the elderly cohort grows, the demands on all levels of services grows exponentially. Depression and other later life psychiatric issues such as anxiety secondary to loss of health or a permanent change in physical condition, difficulty coping with dementia in a spouse, severe grief and loss, and panic over the inability to live independently and the subsequent placement in a nursing home facility are all common events. These problems are generally acute and debilitating and frequently present themselves simultaneously as well as in the context of a limited or nonexistent social support system. At the same time, it has been well documented that the elderly tend to underutilize mental health services because of stigma surrounding psychiatric care, cost and transportation limitations, and both patient and professional bias and misunderstanding that surrounds the detection, need for treatment, and cooperation with follow through for care.

Geriatric partial hospitalization programs are a viable option to improve the mental health services available to the elderly population. First, partial hospitalization addresses the problems of accessibility and acceptability. Generally transportation for patients is provided, and since patients return home each day the stigma associated with an inpatient stay in a psychiatric care facility is averted. Additionally, the treatment takes place in the environment of an age-similar group which has been shown to foster cohesion, therapeutic learning, and consistent application to daily life problems. Second, a geriatric partial hospitalization program is able to respond to diverse patient needs on both the individual and group level, as each patient receives a specifically tailored personalized treatment plan, and the therapy provided in the groups is relevant to a wide variety of patient problems. Treatment specifics are flexible within the standards set forth by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO, 1995) and the Medicare revisions of the guidelines for partial hospitalization (HCFA, 1995). Third, the availability of intensive treatment in partial hospitalization will often avert the need for inpatient care. This fact allows the health care provider to treat the patient at the most appropriate level of care, maintain him or her in the least restrictive environment, and places less stress on the patient, as the partial hospitalization program allows the patient to participate in an intensive psychiatric care program while still maintaining outpatient status. Finally, a geriatric partial hospitalization program is designed to reduce and control psychiatric symptoms, prevent relapse or exacerbation of problems, and improve mental, emotional, and physical functioning, all of which contribute to building in the patient the ability to live as independently as possible while enjoying the highest level of health.

A geriatric partial hospitalization program should be a separate, identifiable, organized unit that provides a significant link within a comprehensive continuum of mental health services, and thus, improves the overall continuity of care for the elderly patient. It is defined as a distinct, organized, time-limited, ambulatory, coordinated, active treatment program that offers structured, therapeutically intensive clinical services, less than 24 hours per day, to elderly patients. . . . The partial hospitalization program is a complex treatment that is intended for patients who exhibit profound or disabling conditions related to an acute phase of mental illness or an exacerbation of a severe and persistent mental disorder. The program generally operates as an outpatient unit in a hospital or as a part of a community mental health center and is to operate under the direct supervision of a physician. The program is to provide regular, coordinated, diagnostic, medical, psychiatric, psychosocial, occupational therapy, and multi-disciplinary treatment modalities on a more intensive level than is generally provided in an outpatient clinic setting.

Geriatric partial hospitalization programs are designed to serve elderly patients with

appropriate clinical diagnoses, diverse medical problems, and a broad band of variability in socioeconomic and educational backgrounds. The geriatric partial hospitalization program must provide active psychiatric treatment and should be clearly distinguishable from an adult day care program, which provides primarily social, custodial, and respite services. An appropriate geriatric partial hospitalization program employs an integrated, comprehensive, and complementary schedule of active treatment approaches that are behaviorally tied to the identified problems and the specific goals contained in the individualized patient treatment plan. Specifically, active treatment refers to the ongoing provision of clinically recognized therapeutic interventions which are goal-directed and based on a written treatment plan. For treatment to be considered active the following criteria must be met:

1. treatment must be directed toward the alleviation of the impairments that precipitated entry into the program, or which necessitate this continued level of intervention,

2. treatment enhances the patient's coping abilities, and

3. treatment is individualized to address the specific clinical needs of the patient.

Geriatric partial hospitalization programs typically serve individuals 65 years of age and older who are experiencing acute psychiatric problems or decompensating clinical conditions which markedly impair their capacity to function adequately on a day-to-day basis. Usually outpatient therapy has not been effective, and without the ongoing structure, support, and active treatment provided by the geriatric partial hospitalization program these patients would require inpatient psychiatric care.

Ambulatory behavioral health services are designed for persons of all ages who present with a psychiatric and/or chemical dependency diagnosis and the need for treatment which is more intensive than outpatient office visits and less restrictive than 24-hour care.

Ambulatory behavioral health services consist of a coordinated array of active treatment components which are determined by an individualized treatment plan based upon a comprehensive evaluation of patient needs.

Ambulatory behavioral health services treat patients requiring intensive therapeutic intervention in a manner which simulates real-life experience and with the least amount of disruption to their normal daily functioning.

Ambulatory behavioral health services are available to patients on a consistent basis and are augmented with 24-hour crisis backup.

Ambulatory behavioral health services require active involvement of the service team and patient with both community and family resources.

Finally, due to the matching of patient needs with targeted interventions, the provision of treatment in the most appropriate, least restrictive environment, and the reliance on patient strengths, resources and family and community support systems, ambulatory behavioral health services are cost efficient.

[From Medicare Explained, 1996, published by CCH Inc.]

PARTIAL HOSPITALIZATION COVERAGE

Medicare also covers partial hospitalization services connected with the treatment of mental illness. Partial hospitalization services are covered only if the individual otherwise would require inpatient psychiatric care. [Soc. Sec. Act §§1833(c), 1835(a)(2)(F), 1861(s)(2)(B).]

Under this benefit, Medicare covers: (1) individual and group therapy with physicians or psychologists (or other authorized mental health professionals); (2) occupational therapy; (3) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients; (4) drugs and biologicals furnished for therapeutic purposes that cannot be self-administered; (5) individualized activity therapies that are not primarily recreational or diversionary; (6) family counseling (for treatment of the patient's condition); (7) patient training and education; and (8) diagnostic services. Meals and transportation are excluded specifically from coverage. [Soc. Sec. Act. §1861(ff)(2).]

The services must be reasonable and necessary for the diagnosis or active treatment of the individual's condition. They also must be reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization. The course of treatment must be prescribed, supervised, and reviewed by a physician. The program must be hospital-based or hospital-affiliated and must be a distinct and organized intensive ambulatory treatment service offering less than 24-hour-daily care. [Soc. Sec. Act §1861(ff).] Effective October 1, 1991, partial hospitalization services also are covered in community health centers (see ¶382). [Soc. Sec. Act §1861(ff)(3).]

HONORING PETER DANNER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KILDEE. Mr. Speaker, I rise today to honor the recipient of the 1997 Golden Door Award, Mr. Peter Danner. The award will be given posthumously to Mr. Danner at the annual dinner meeting of the International Institute of Flint on Tuesday, October 14. The International Institute of Flint presents this award annually to a foreign-born citizen who has substantially improved life in the Flint community.

Peter Danner was born in Hungary in 1931. His family owned a wholesale grocery business serving southern Hungary. During World War II the business was invaded first by the Germans and then later by the Russians who looted the food for the soldiers. After graduating from high school Peter joined the Hungarian military. He planned to study engineering but the military did not cooperate and he was assigned to work in an office.

In 1956 Peter started his long journey to the United States. Leaving Hungary during the revolution he arrived in this country on December 24, 1956. Peter often reminisced about his arrival on Christmas Eve. He was living in New Jersey and the decorations fascinated him. Peter was excited to leave behind the drab Communism of Hungary for the bright cheerfulness of his new home.

Pursuing his dream of studying engineering, Peter enrolled in Bard College in New York. The lure of abundant jobs with General Motors prompted him the move to Flint in 1957. His first job there was not with the automotive giant but as a bellboy at the Durant Hotel. Peter still held onto his dream and enrolled that same year at the University of Detroit. He studied engineering in earnest and eventually graduated and became employed by General Motor. He worked as a design engineer for many years.

In 1963 Peter became a U.S. citizen and 1 year later he met and married his wife, Martha. They have three children, Dr. Stephanie Danner Paluda, Ava Danner, and Nicholas Danner.

Peter lived his life guided by the principles that family, community, education, and harmony of existence were of the utmost importance. His involvement with the International Institute of Flint, the Rotary Club of Flint, the Boy Scouts, the Saginaw Valley Engineering Council, Holy Cross Hungarian Church of Detroit and Most Blessed Sacrament Church exemplified his beliefs. Out of his experience as a immigrant forty years ago came his compassion for those seeking a new life in this country.

Mr. Speaker, it is with great honor that I ask the House of Representatives to rise with me today and pay tribute to a great American, Peter Danner. He will be missed by his family, his friends and his community but his legacy lives on.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 9, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 20

10:00 a.m.

Indian Affairs

To hold hearings on H.R. 79, to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe, and S. 156, to provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe.

SR–485

OCTOBER 21

9:30 a.m.
Labor and Human Resources
To hold hearings on S. 1124, to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment.
SD–430

10:00 a.m.
Indian Affairs
To hold hearings on H.R. 700, to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians, and H.R. 976, to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians.
SR–485

OCTOBER 22

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD–430

10:00 a.m.
Judiciary
To hold hearings on the nomination of Bill Lann Lee, of California, to be Assistant Attorney General, Department of Justice.
SD–226

OCTOBER 23

9:00 a.m.
Environment and Public Works
To hold hearings to examine the Army Corps of Engineers flood control project at Devils Lake, North Dakota.
SD–406

9:30 a.m.
Indian Affairs
To hold hearings on S. 1077, to amend the Indian Gaming Regulatory Act.
SD–106

10:00 a.m.
Armed Services
To hold hearings on the nominations of Lt. Gen. Peter J. Schoomaker, USA, to be Commander-in-Chief, United States Special Operations Command and for appointment to the grade of general, and Lt. Gen. John A. Gordon, USAF, to be Deputy Director of Central Intelligence and for appointment to the grade of general.
SR–222
Labor and Human Resources
To hold hearings on S. 869, to prohibit employment discrimination on the basis of sexual orientation.
SD–430

OCTOBER 27

10:00 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the social impact of music violence.
SD–342
Indian Affairs
To hold oversight hearings on the contemporary status of the Bureau of Indian Affairs of the Department of the Interior.
Room to be announced

2:00 p.m.
Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to examine proposals to deter youth from using tobacco products.
SD–430

OCTOBER 28

10:00 a.m.
Labor and Human Resources
To resume hearings to examine an Administration study on the confidentiality of medical information and recommendations on ways to protect the privacy of individually identifiable information and to establish strong penalties for those who disclose such information.
SD–430

OCTOBER 30

10:00 a.m.
Labor and Human Resources
To hold hearings to examine recent developments and current issues in HIV/AIDS.
SD–430

NOVEMBER 5

9:30 a.m.
Indian Affairs
To hold oversight hearings on proposals to extend compacting to agencies of the Department of Health and Human Services.
SR–485

CANCELLATIONS

OCTOBER 29

9:30 a.m.
Indian Affairs
To resume oversight hearings on proposals to reform the management of Indian trust funds.
Room to be announced

POSTPONEMENTS

OCTOBER 9

10:00 a.m.
Armed Services
To hold hearings on the nominations of Robert M. Walker, of Tennessee, to be Under Secretary of the Army, Jerry MacArthur Hultin, of Virginia, to be Under Secretary of the Navy, and F. Whitten Peters, of the District of Columbia, to be Under Secretary of the Air Force, all of the Department of Defense.
SR–222

HOUSE OF REPRESENTATIVES—*Thursday, October 9, 1997*

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. LATOURETTE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 9, 1997.

I hereby designate the Honorable STEVEN C. LATOURETTE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

Whatever our need, O God, whatever our concern, whatever our hopes and dreams, we pray this day that You would breathe into us the spirit of understanding and peace. Pervade our hearts with Your spirit of goodness and mercy and cause us to hear Your still small voice, calling us to repentance for when we have missed the mark and endowing us with all the wonderful gifts of life. As we look to this new day of grace, give our minds a vision of justice, give our hands opportunities to do good work, and give our hearts a full measure of Your abiding love. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DREIER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that he will postpone 1 minute recognition until the end of the business day.

PROVIDING FOR CONSIDERATION OF H.R. 2607, DISTRICT OF COLUMBIA APPROPRIATIONS, MEDICAL LIABILITY REFORM, AND EDUCATION REFORM ACT OF 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 264 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 264

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. The amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 or 6 of rule XXI are waived. No further amendment shall be in order except those printed in part 2 of the report of the Committee on Rules. Each further amendment may be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in the report are waived. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Dallas, TX [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a modified closed rule providing for consideration of H.R. 2607, the District of Columbia appropriations bill for fiscal year 1998. The rule provides for 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Appropriations, waives all points of order against consideration of the bill, and provides that the amendment printed in part 1 of the Committee on Rules report shall be considered as adopted.

The rule waives points of order against provisions in the bill, as amended, for failure to comply with clause 2 and clause 6 of rule XXI regarding unauthorized appropriations, legislative provisions, and reappropriations in appropriations bills.

The rule provides for consideration of only those amendments printed in part 2 of the Committee on Rules report, by the Member designated, shall be considered as read, shall be debatable for the time specified, shall not be subject to amendment except as specified in

the report, and shall not be subject to a division of the question. All points of order against the amendments are waived.

The rule also grants the authority to the chairman of the Committee of the Whole to postpone recorded votes on amendments and to reduce the voting time on amendments to 5 minutes provided that the first vote in a series is not less than 15 minutes.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, earlier this year the Congress passed the National Capital Revitalization Act which transferred certain State functions to the Federal Government and eliminated the traditional Federal payment. The committee's bill reflects those actions, providing for a total of $828 million in Federal funds, including funds to provide pay raises to police officers, firefighters, and teachers.

Mr. Speaker, of all the troubles and problems facing our Nation's Capital, I believe the most sad and distressing is in the school system. The district's children, especially those at the lower end of the economic spectrum, are having their futures stolen from them by a failed education system that eats up over half a billion dollars and spends more per student than schools offering a far better education. In the D.C. school system, money is not the problem.

Education is first, last and always, Mr. Speaker, about children. Children are the future of the Nation. That is why we must do whatever it takes to improve the education system here. While I believe that parents and local communities can best solve our education problems, this is our Nation's Capital. This Congress has the obligation to step in and do what is right.

Every child in America has the right to a safe, drug-free environment in which to learn. That is all too often an unrealized dream for children in this city. We must put parents at the head of the line when it comes to making decisions about education, not government bureaucrats or union bosses. Most important, every child, regardless of income, should receive a quality education. Not one should be left behind because of where she or he lives or because her parents' financial situation is not that strong.

Mr. Speaker, this bill is first and foremost prochild because it supports education. Opposition to the education section of this bill cannot be about money. The committee bill spends more on the D.C. public school system than actually was requested by the city. Instead, the opposition to the parental choice provisions in the bill are driven by politics and ideology.

It is sad that there are special interests that will do anything to block parental choice. Where we should expect overwhelming support for bold experiments to empower parents to give their children the best education possible, we get extremism in defense of a failed bureaucracy. Well, I believe that we owe it to children starting in this city to give them a better opportunity for a brighter future.

Mr. Speaker, I urge Members on both sides of the aisle to look beyond the blinders of special interest ideology and support both the rule and the committee bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule gives the Members of this House an opportunity to do the right thing for the residents of the District of Columbia. The rule provides Members the opportunity to vote for a fair deal for the District and its citizens and to reject the unfair bill reported from the committee. The Moran substitute deserves the support of the House, and because the majority has made this substitute in order, I will support the rule. But Mr. Speaker, I cannot support the bill unless it is amended by the Moran substitute.

Because of the deplorable financial condition this city was in 2 years ago, the Congress and the President have sought through tough measures to bring about drastic change. But in doing so, I fear that the residents of the District of Columbia have been denied democratic representation. The Mayor, the council, and the school board have been effectively removed as voices in or for the city. I am not a defender of the old order, but at the same time I cannot support what the Republican majority has proposed as a remedy.

Mr. Speaker, if the Republican majority wants to revoke home rule for the District, then the Republican majority ought to deal straight with the residents of this city instead of micromanaging every aspect of the city's government. Using the city as a Petri dish for experimentation in Republican social engineering is unacceptable. I urge every Member to reject the committee bill and support the Moran substitute.

There are many reasons why Members should oppose the committee bill, not the least of which is inclusion of $7 million for a school voucher program. The state of affairs in the schools of this city is sorry. We have all read the papers and know what is going on. But, Mr. Speaker, taking $7 million away from the public schools to provide scholarships for poor students to attend parochial and private schools will not repair the roofs and buy the books for the hundreds of students who will be left in the classrooms of the public schools.

Mr. Speaker, if the Republican majority is determined to implement school vouchers as an educational alternative to public schools in this country, I call upon them and the supporters of vouchers to bring out a bill and let us debate it fair and square. Do not use the kids in the District to further their social agenda and provide them with photo ops.

This bill seeks to completely revamp the medical malpractice system in the District of Columbia and to cap damages for injury at $250,000. Mr. Speaker, the medical malpractice system in the District is not in any way related to providing the funding for the operations of the government and services of this city in fiscal year 1998. How the Republican majority thinks the inclusion of this 16-page title will make this government work more effectively for the benefit of the citizens of this city is beyond my understanding. This provision is clearly irrelevant to the appropriations process and deserves to be stricken from the bill. However, I should point out to my colleagues that the only opportunity Members will have to strike this provision is by voting for the Moran substitute.

Mr. Speaker, this rule also makes in order an important amendment which will be offered by the gentleman from Minnesota [Mr. SABO]. The Republican majority has included in the bill a provision which waives the Davis-Bacon prevailing wage standards for school construction projects. The Sabo amendment seeks to strike that provision and deserves the support of the House.

Mr. Speaker, this is a bad bill which, if the House supports the Moran substitute and the Sabo amendment, can be made acceptable. The people of the District do not deserve the bill reported by the Committee on Appropriations. They want their city to work for the benefit of its residents and the many millions of visitors it receives each year. I think the Congress should help the city recover, not use it to further the Republican social agenda.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. CUNNINGHAM], my very good friend and fellow Californian.

□ 0945

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of the D.C. appropriations bill, and first of all I would like to commend the chairman, the gentleman from North Carolina [Mr. TAYLOR]. The gentleman underwent a stroke, and he fought through a very difficult situation, and he is back to 100 percent now, but during that time he persevered.

I would like to go through a couple of things. My colleague on the other side said this is a bad bill. The reason that the Democrats do not like this bill is because it is the unions that support

their particular issues. The unions, with the voucher system, and the unions with Davis-Bacon, both hurt, and both are opposed by the National School Board Association and the majority of the residents in every category.

Now, the District of Columbia only has about 14 percent Republicans, yet over 60 percent of the parents with school age children in the District support removing Davis-Bacon, which inflates the cost of construction between 20 and 30 percent. Now, if they really care about children, like the other side purports all the time, they will do this for the children, waive Davis-Bacon, because it saves over 20 percent.

The average age of a school in Washington, DC is 86 years. They had trouble even getting the roofs repaired so that the children could go to school this year. There are safety hazards. We need the dollars to be infused after generations of neglect in the D.C. school system. That is why the residents of Washington, DC, want to waive the Davis-Bacon Act.

The bill gives D.C. schools the authority to waive the act. It does not do anything with Davis-Bacon. It just gives Washington the right to waive the act themselves. Congress does not do that. But it reduces the inflationary cost if they do that and they have chosen that exact thing. The National School Boards Association supports this provision.

The study by Dr. Thiebolt found that States with Davis-Bacon laws pay 13 percent more for their classrooms than the 20 States without them. Yet I say to my colleague that just spoke, who is working with the DNC, the unions have, time after time, and time again, infused illegal money into the campaigns of Democrats. That is under investigation right now. Of course, they do not want this. This is their power base, both in construction and with the teachers unions. They do not want it.

My wife is an elementary school principal with a doctorate degree. The last thing we want to do is hurt public education, but this program is needed. Of the over 20 Members of Congress that live in the D.C. area, not a single one have their students in public schools. They put them in private schools. Why? There are good teachers in Washington, DC, and there are some good schoolhouses as well, but the great majority are failing and the teachers are not credentialed. I would not put my children here. I do not think many of my colleagues would either.

All we are asking for is an opportunity for these parents to have their children go into a school that is free of drugs, that is free of crime, where they have a shot at the 21st century. That is not the case now, Mr. Speaker. That is why the gentleman from North Carolina, in this bill, has done everything he can to help the schools.

Now, if the other side really wants to help the children instead of their union bosses and support the DNC and their fundraising, then they will support this. They say this is a terrible bill. What they mean to say is it is terrible against the unions, their big supporters.

I would say that time and time again we have our groups that are like a domino effect. We feel that if something passes, that it will domino the rest of the issues that we support. And I am sure that that is what it is with the unions and Davis-Bacon, but this is an emergency situation, Mr. Speaker, an emergency situation with schoolhouses that are over 86 years old.

The schoolchildren have almost zero chance at the American dream. This is a chance where we can help them instead of helping the unions for once. And, again, it does not waive Davis-Bacon, it just gives the city the right to waive it because it saves between 20 and 30 percent in construction costs. That is not asking too much, I do not think. Yet that is why my colleague says this is a terrible bill.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

The gentleman on the other side seems to be a little confused, and I can understand that because it is difficult to follow all these things, but I am not affiliated with the DNC. I am chairman of the Democratic Congressional Campaign Committee.

Also, I would point out to my friend on the other side that there has been one conviction of a sitting Member of Congress during this session for campaign violations. It was a Republican Member, who pleaded guilty to accepting over $200,000 in illegal corporate contributions.

Mr. Speaker, I yield 5 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, today we will have before us an appropriation bill that is at odds with our core beliefs. It takes the tough, fiscally responsible work of a district that is not our own, presided over by a no-nonsense control board, and tears it up.

No amount of rhetoric about the constitutional obligation to run, or is it run over, the Nation's capital will work this time, not when the control board and the city have submitted a budget that uses almost all its small surplus for deficit reduction. No righteous rhetoric will explain some 60 instances of legislating on an appropriation in fine detail, some of it quickly altered to appropriation language, but just as devastating to the work of the control board and the city.

No amount of crocodile tears for the District's children, from Members with a long history of not supporting these children or District bills for these children will make credible the ideological baggage, especially vouchers, they have stuffed into this bill.

Here are five questions we should ask ourselves as we hear today's debate.

One. Ask yourselves: "If my District had voted 89 percent against vouchers in a referendum, would I then vote for vouchers on the basis of manipulative polls that ask poor people and ministers not whether they desire vouchers for public money but whether they would like some free money for scholarships." It is a scam on poor people and I resent it.

If my colleagues are from one of the many States that have turned down vouchers, they must vote for the substitute. They should know who they are: New York, Michigan, Nebraska, Oregon, Idaho, Maryland, Washington State, Missouri, Alaska, California, Massachusetts, Utah, Colorado.

The so-called free "scholarships" or vouchers come from the District's own meager surplus funds. The District's public schools desperately need every cent of public money. Every child in the District could have a place in an after school program with the $7 million that would go to private and religious schools in the District, Maryland, and Virginia. Think of what that money would do for our kids' education and for elimination of juvenile crime in this city.

Two. Will it help or hurt the District if we prevent a contract for a state-of-the-art financial management system to be awarded on a competitive basis after years of delay?

Should the Congress override all of the experts who advise that the upgrade of the present nonfunctional system is unworkable and wasteful? Is this body prepared to take responsibility for the serious delay in the congressionally mandated management and financial reforms that will result from preventing the contract?

Three. Should Congress cancel a contract for the annual audit now in progress that was won through a competitive bid about which no question whatsoever has been raised?

Four. Will it help or hurt the District's fragile recovery to cancel the city's authority to eliminate its accumulated deficit using exactly the same approach that was necessary to bring New York and Philadelphia out of insolvency? Why would we want to retract this authority when we just gave it to the control board in the Balanced Budget Act?

Five. Does Congress want to keep the control board from using self-generated interest to do studies, such as those that are the basis for wholesale reform of the police department and the school system now in progress?

I believe my colleagues will be puzzled by these provisions. They reveal only the tip of a volcano of an appropriation that is dangerously capricious.

I do not believe that a substitute for an entire appropriation bill has ever been offered in 23 years of home rule.

When the substitute is copied from the fiscally conservative bill of a conservative North Carolina Senator that even has my support, Members perhaps get a sense of how radically damaging to my constituents, how arbitrary the bill before us is.

I ask my colleagues to reject this bill and to vote for the rule so we can vote for the Moran substitute that rejects this bill.

Mr. DREIER. Mr. Speaker, I yield myself 1½ minutes to respond to my friend, and let me say that I have the highest regard for the gentlewoman from the District of Columbia. She and I have worked together on a wide range of issues.

I do not seek to stand here and speak as the greatest authority on the District of Columbia. I do happen to reside here when I am in Washington, DC. But I think that it is important for us to look at a couple of facts.

First of all, District voters have never actually voted on a voucher or scholarship referendum. In 1981, which is over a decade and a half ago, voters rejected a referendum that would have permitted tax credits for educational expenses, but this is not actually a tax credit, because a tax credit would primarily help those who pay taxes and are generally not poor. In contrast, the scholarship legislation is targeted at children from low-income families.

In addition, I think it is important for us to recognize that an awful lot has changed since 1981, including public opinion on a wide range of issues. Polls show that parental choice enjoys strong support in the District of Columbia, especially among African-Americans. There was a recent poll that was conducted of District residents showing that 44 percent favor scholarships while only 31 percent oppose them, and among African-Americans support outweighs opposition by a margin of 48 to 29.

A poll conducted by the Joint Center for Political and Economic Studies, an African-American think tank that opposes school choice, found that 57 percent of African-Americans actually support parental choice.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, in the last session of Congress our friends on the Republican side of the aisle made clear that they were willing to shut down all of Government in order to get what they wanted on certain ideological issues. This year it appears that they have more modest goals and are simply talking about shutting down or severely crippling only portions of Government if they do not get their way.

For instance, many of them would like to hold hostage the Labor, Health, and Education appropriation bill unless they get their way on school testing. A number of them have said publicly they are willing to shut down the foreign operations appropriation bill unless they get their way on Mexico City policy and abortion. A number of others have indicated they would just as soon shut down the Interior appropriation bill unless they get their way so they can continue to see Yellowstone polluted and continue to see redwoods cut in California. And now we see that a significant number indicate to the press that they are willing to hold hostage the District of Columbia bill for the next year unless they get their way on vouchers.

□ 1000

I would simply suggest that the time for that is past. We are now 1 week into the new fiscal year. We ought to be resolving differences, not continuing to exacerbate them. That is why I support this rule, because it gives us an opportunity to deal with this bill in the fastest way possible.

I would hope that after the rule passes, that we pass the Moran amendment, which corrects a wide variety of gross overreaches by this Congress.

The Moran amendment would, essentially, simply have the House adopt the House version of the D.C. appropriations bill, which is brought to the House by Senator FAIRCLOTH. He is not, as my colleagues know, exactly a left wing liberal. I think conservatives are safe with him. And it just seems to me that that is the best way to approach this issue if we want to do our duty by the District and if we want to get all of our business done across the board.

I would invite my colleagues' attention to the Washington Post editorial this morning, which says as follows:

> The House of Representatives should not dishonor itself today by adopting the long list of wide-ranging riders tacked onto the D.C. appropriations bill by the subcommittee.

I agree with that editorial. I think that the proper course is to support this rule and then to support the Moran amendment so that we can overcome Congress's efforts to try to use Washington, DC, as a social experiment for pet ideas of right wing think tanks around the country.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, besides thanking the chairman, the gentleman from North Carolina [Mr. TAYLOR], there is another gentleman that should be thanked, and that is General Becton. General Becton has taken on an enormous job in saving the schools in Washington, DC. He did so where he came before.

But I would say that, speaking to the bill itself, who supports removing Davis-Bacon? Sixty-five percent support allowing D.C. officials to repair the D.C. schools without mandating higher Federal wages, 53 percent of union households support it, 60 percent of the Democrats in the District agree, 68 percent agree it is more important to remove Davis-Bacon, and 56 percent give D.C. schools a D or an F. It is time, and it is an emergency.

Here is what "20/20" said: "That's the argument: We need Davis-Bacon to guarantee good wages to make sure Government buildings are well-built. Sounds logical, 'til you realize that most buildings in America are not Government-built buildings. In fact, three-fourths of construction is private work. Are these buildings lower quality than Government buildings? Of course not. They may be better built. In most American life, we do quite well without Government setting wages and prices." That is John Stossel and "20/20."

We would also say that, who supports it? The National School Board Association, for vouchers and for both removing Davis-Bacon, the U.S. Chamber of Commerce, the Associated Builders and Contractors.

D.C. Board chairman Dr. Andrew Brimmer told the Committee on Education and the Workforce that, "Waiving the Davis-Bacon Act would be helpful in our ability to attract donated services." And 65 percent of D.C. residents support this provision.

Florida eliminated its State Davis-Bacon law in 1974 for schools. They saved 15 percent. Kentucky, likewise, they reinstated it and increased their construction cost by $35 million. Ohio is saving millions.

We ask for the support of the opportunity scholarships and removal of Davis-Bacon and support the rule.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank the gentleman from Texas [Mr. FROST] for yielding me the time.

I rise in support of this rule. The Committee on Rules yesterday considered a number of amendments to the District of Columbia Appropriations Act. There was an amendment offered by the gentleman from California [Mr. DIXON], who had been the chair of this D.C. Appropriations Act that would have struck the vouchers provision. He made an eloquent argument in the full Committee on Appropriations against that provision.

There was an amendment offered by the gentleman from California [Mr. HORN] that limited the application of the bill's voucher provision to only schools located within the District of Columbia.

There was an amendment offered by the gentlewoman from Florida [Mrs. MEEK] to correct the provisions that condition funding for the University of the District of Columbia School of Law. And they are receiving accreditation next year by the American Bar Association.

There was an amendment offered by the gentleman from Maryland [Mr.

HOYER] to strike the provisions in the bill that reopen Pennsylvania Avenue. There was an amendment that I sought to offer that would have struck a number of provisions through which the Committee on Appropriations was attempting to micromanage the District of Columbia government, and particularly micromanaging its financial management system, which is essential to getting the D.C. government back on its feet. But none of these amendments were made in order.

Yet, this is a fair rule because it has made in order a substitute amendment that we will offer. This substitute amendment will strike all of the provisions included in the House version of the D.C. Appropriations Act except the provisions that grant a pay raise to public safety employees.

In its place, my amendment will substitute the version of the D.C. Appropriations Act that was drafted by the, may I say, conservative Republican Senator from North Carolina, and it was approved by a nearly unanimous Senate Committee on Appropriations and passed out of the other body last night.

That is what we want to do. It incorporates the consensus budget from the Control Board, the Mayor, D.C. City Council. We think that is the way to go. It leaves these kinds of legislative decisions to the legislative committee. This is a fair rule because this substitute amendment incorporates all the amendments that Democrats and Republicans sought to offer in the Committee on Rules.

The substitute will strike provisions in the bill that give a sole-source contract for the District's financial management system to a vendor that has not even bid for it. The vendor does not want it, and yet it would insist that they take it and take it away from a vendor that, in fact, was approved and has the capability and qualifications to carry out the financial management system that the city desperately needs.

It will strike the provisions of the bill that prohibit private companies from operating helicopter tours over the Nation's Capitol. Maybe this is a good idea, but it is not up to us to make those kinds of decisions.

It will ensure that no vouchers are made for the schools outside of the District of Columbia. In fact, it will ensure that no voucher provision is enacted, because this is a poison pill, it is a killer amendment. If it is included, the bill will be vetoed.

My substitute amendment will ensure that the budget submitted by the District's governing bodies, the governing bodies that Congress set up in terms of the Financial Control Board, a budget that is balanced 1 year earlier than required, just exactly what we asked them to do, a budget that reduces the District's operating deficit by two-thirds, and it cuts spending from last year.

That bill deserves to be signed into law. If this substitute amendment is approved, that bill will be signed into law. This is a modified closed rule that does limit debate and it limits our freedom to offer amendments, yet it is a fair rule. It allows Members to make a fundamental choice as to whether they are going to allow the District's government and the congressionally created budget process to work or whether they are going to continue to try to micromanage the District of Columbia and make this, the smallest of the 13 appropriations bills, one of the most controversial and contentious.

I support the rule, and I support the substitute that I will be offering pursuant to it. I hope every Member will join me in supporting this rule and in supporting my substitute amendment and, in fact, reaffirming the very concept that the other side has been urging, devolution: Give power back to the people at the local level. Let them make the decisions that they are entitled to make under a democratic process. I urge my colleagues very strongly not only to support this rule, but to support the amendment.

Mr. DREIER. Mr. Speaker, I thank the gentleman from Virginia [Mr. MORAN] also for his very strong support of this bipartisan rule, which I am happy to say that we have been able to work out.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. DAVIS], chairman of the District of Columbia Subcommittee on Government Reform and Oversight and my very dear friend.

Mr. DAVIS of Virginia. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding me the time.

Mr. Speaker, I rise in support of the rule as well. It is not perfect, but with a bill like this within so many different agendas, it is difficult to frame them.

I am in a bit of a bind because, on the one hand, I certainly have supported the scholarship program, support and spoke for it the last time, support the Davis-Bacon repeal, and yet there are other pieces of this bill that I find really contrary to what we have been trying to do at our committee level. But we will sort this out as it moves, and there are a number of amendments that we will have a chance to address.

I think the legislative process, though, has to move along. It has many steps along the way, and at each one of these steps changes can be made. But if he were to terminate this process, defeat this rule, defeat this bill in whatever form today, and send it back, we are playing a very dangerous game.

Brinkmanship like this in the past has resulted in the Government closing down, the District of Columbia government closing down, through no fault of their own, because of Congress' inability to act. It is unnecessary, because instead of playing beat-the-clock, with one continuing resolution after another, it is far more prudent to move the process along after making whatever changes are possible at this time.

With the District of Columbia appropriations bill, there are other reasons as well for advancing to the next stage of the legislative process. We all know the D.C. Revitalization Act, which passed the Congress as part of the Balanced Budget Act of 1997. Medicaid changes and tax incentives were included as well in that enactment and in the equally historic Tax Reform Act of 1997.

To have enacted such significant reforms, and these were the most significant reforms enacted in the District of Columbia in the last 25 years, and to see them signed by the President is a legislative accomplishment we can all take pride in helping to achieve.

With patience and perseverance, the reforms that we have enacted for the District of Columbia have begun to have their intended effect. In fact, the President's proposals, which we used as the starting point for our Revitalization Act, were made possible by the previous effective measures which Congress had taken in establishing the District of Columbia Control Board.

We now have a rare opportunity, sanctioned by both Congress and the White House, to restructure and improve the complex relationship between the Federal Government and the Nation's Capital. But time is of the essence, and we are at a moment of truth.

Many of the issues addressed in the D.C. Revitalization Act are particularly urgent and time sensitive. To take just one example, a trustee must be up and running to help establish reforms in the District's prison system. Just last week, the court-appointed monitor said of the medium-security security facility at Lorton, "It has deteriorated to a level of depravity that is unparalleled in its troubled history."

Many of the changes this Congress enacted for the Nation's Capital simply cannot be implemented within the limited framework of a continuing resolution. They can only be achieved within the framework of a duly enacted budget.

I must respectfully remind my colleagues that we are talking about an actual living and breathing city. It is tragic enough when Congress reaches an impasse in consideration of a budget for one of our executive departments, but if we are unable to enact a budget for the Nation's Capital, that real city which exists just beyond the monuments is placed at a grave risk of immediate harm. And when you consider most of the District's budget consists of self-generated funds, it makes the spectacle of congressional delay even more difficult to explain.

Some of us have differences with various sections of the bill before us. Many have reservations which I share.

But I appeal to all of my colleagues, as chairman of the authorizing subcommittee for the District, to join me in voting for this bill in its final form, whatever it may take today, letting it pass to the next phase of the legislative process. There really is no alternative to that.

If I can take another minute to talk about the procurement in terms of the management reforms and the District's financial management system, there has been a duly authorized procurement. It has been competed widely and openly. It was won fairly. Most of the work is under a fixed-cost arrangement. A very small portion of the work is under an hourly billing arrangement. But the total hours are capped.

A company previously in a previous version, I think we will be taking care of the manager's version today, that was going to be earmarked, is not interested in the business and does not want the business. I think the manager's amendment on this is absolutely essential if we are to move ahead.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentleman from Texas [Mr. FROST] for yielding me this time.

Mr. Speaker, I stand to support the rule. And, hopefully, the Moran amendment will be passed following this rule.

This rule has several things in it with which I do not agree. But it has a lot of good things in it, this particular rule does. With the Moran amendment passing, it certainly will clear up, in my mind and for the people I represent, the District of Columbia's dilemma. But I cannot take my seat unless I say a word or two about this process, which at many times is not a good one.

I had an amendment before the Committee on Rules yesterday concerning the University of the District of Columbia's Law School. I was given permission to bring that rule to the floor. I was given permission to have 10 minutes for debate. And through some kind of chicanery, it did not reach here this morning.

I want this Congress to understand that I shoot from the hip and will always shoot from the hip, I deal straightforward, and some of the kinds of intramural kinds of gymnastics I see here I do not appreciate.

□ 1015

But I can say to my colleagues that I hope that this rule will pass and that the Moran amendment will follow, in spite of some of the arcane kinds of methodologies that some of my colleagues use to fight what they do not want to see. Now, that applies to both parties, both Democrat and Republican. Do not try that with CARRIE MEEK.

Mr. DREIER. Mr. Speaker, I yield 3½ minutes to my very good friend, the gentleman from Kansas [Mr. TIAHRT], a hard-working member of the Subcommittee on the District of Columbia of the Committee on Appropriations.

Mr. TIAHRT. Mr. Speaker, I thank the gentleman from California and a former Kansas native. We miss the gentleman up there in the State of Kansas, by the way.

Mr. Speaker, I think this is a very fair rule. It does limit the number of amendments, but we do have, I think, an opportunity to deal with the issues that are contentious in this legislation.

Frankly, the District of Columbia is in need of some change. If we look at the bureaucracy, it seems very heavy. It is laden with inefficiency. If we look at some of the political motivations that have been behind the programs that have been experimented with, they seem to be liberal to most of America.

One of the problems that is very common here is the welfare benefits inside the District of Columbia are much higher than any welfare benefits in the surrounding area. There needs to be some adjustment down.

In the area of safety, many of the people feel unsafe in Washington, D.C. It has often been referred to as the murder capital of America, rather than the Capital of the United States, and that is sad. So we do need to have some changes to the police. We found out recently that 90 percent of the arrests are made by 10 percent of the police force. So there need to be some changes in the police department, some incentives for them to be on the street, in the communities, in the neighborhoods. This incentive is in the D.C. appropriations bill.

We also have a way of dealing with the degenerating schools in the District of Columbia by allowing a limited voucher program to take the most difficult situations in education, the children that are having the least hope, that are getting the worst grades, and in a poverty level, and allow them the opportunity with this voucher to have the same ability to go to a private school like the Vice President and the President have. They can take these vouchers and try to increase their ability to compete in the employment market in the future. So it deals with education.

This bill also deals with abortion. A majority of Americans do not want to have their tax dollars coming to Washington, D.C. to fund someone else's abortion. The bill that we have here will prohibit that. It will also prohibit funding of domestic relationships.

There are a myriad of other changes that are necessary, I believe, for us to attempt for the District of Columbia to try to move this into the shining city that we would like to see sitting here on the Hill.

I think what we have is an opportunity for the proponents of these new ideas to come up and defend the status quo, to strike down these new ideas. Through an amendment, they could repeal a lot of initiatives that we have to change the way life is going here in the District of Columbia, to try to reclaim areas of this city, to try to make tax incentives to bring businesses and new people into the area.

So I would urge my colleagues to support the rule and support the D.C. appropriations bill.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, if I could quote from today's Washington Post editorial: This bill shows the House at its worst. The bill has been loaded down with heavy ideological and political baggage that ultimately may doom the city's $4.2 billion budget if it reaches the White House. There is a good chance that the school voucher add-on to the appropriations bill will invite a Presidential veto. The House of Representatives need not do this to the Nation's Capital or to itself.

Mr. Speaker, Democrats have made education a top priority this Congress, and our emphasis has been on improving public schools, including raising educational standards and addressing infrastructure needs. My concern is that the Republican leadership, after trying to make the deepest education cuts in history last year, are now emphasizing vouchers to pay for private schools as a way to reform our education system.

In my opinion, vouchers will not help public schools; just the opposite. They will drain away resources that could be used to improve public school standards and rebuild crumbling or overcrowded schools.

The Republican leadership's latest experiment with vouchers will be considered today as part of this bill. As much as $45 million in Federal funds will be made available for pay for private education for only 3 percent of the District of Columbia students. This GOP voucher plan provides a select few D.C. public school students, about 2,000, with vouchers, while providing no answers for the 76,000 students left behind in the D.C. public schools. The D.C. public schools, like all of America's schools, need to be improved, not abandoned. The GOP voucher plan is nothing but a strategy of failure, of giving up on the Nation's public schools here and throughout this Nation.

Mr. Speaker, I would urge my colleagues to oppose this bill and support the Moran substitute. Let us take out the voucher program and all of the other ideological and political baggage that hurts the District of Columbia and will delay passage of this appropriation bill that is so vital to the city of Washington's future.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise to oppose this bill. The headline in the Washington Post editorial page this morning reads, and I quote: "The House at Its Worst on D.C." "Republican and Democratic Members ought to be embarrassed even to consider such a small-minded measure on the House floor."

It certainly is the truth. For after proposing the biggest cuts in education in this Nation's history, after attempting to shut down the Department of Education, the Republican majority is now trying to end public education in this country.

Education is the single-most important issue that faces us today. It is education that opens the doors for opportunity in our society. It is education that levels the playing field, provides every single American child with the opportunity to make the most of his or her God-given talents. Mr. Speaker, 89 percent of American students attend public schools, and our schools need fixing. They have serious problems, and we all know that.

But the Republican voucher plan, an experimental plan, would do nothing to improve the D.C. schools. It would drain precious taxpayer funds from these schools and put money into private schools, money that could be used to repair leaky roofs, buy new computers and books.

We need to spend our time focused on improving public schools for all of our children, not providing an out for a select few which will further degrade educational equality for those who remain in the system. Mr. Speaker, 2,000 kids. What about the 76,000 other children?

Proponents of vouchers argue that they will enable poor families to have the same choice of school as wealthy ones. This is a false promise. Not only do vouchers weaken the public schools by siphoning off funds, they typically do not even cover the high cost of tuition at private schools.

Example: The bill would provide a D.C. student with $3,200 toward tuition at a private school, yet this does not come close to paying for tuition at the District's most prestigious schools, Georgetown Day School, Sidwell Friends cost $11,000. Vouchers will not solve the problems in our public schools; they will create new ones.

Speaker GINGRICH wants to test this program on children who live here in the Nation's Capital. It is an experiment, an experiment that they want to try to foist on this entire country. I have a message for the Speaker. Our children are not guinea pigs and the American public understands that. They do not want to see taxpayer dollars put into private education, and that is a poll number by 54 to 39 percent. The American public says no to taking taxpayers' dollars and putting them into private education. Democrats are not going to allow the experiment to go forward; neither will be American public.

I urge my colleagues to vote against this bill. Let us work to find ways in which we can rebuild America's schools, not to destroy them.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

My very good friend from Connecticut just quoted the town crier of liberalism, the Washington Post, and I would like to actually share a little bit of a Post editorial that was carried about 10 days ago in which they said:

A modest voucher experiment might help energize the public schools. It won't replace them. People who think of vouchers as a way somehow of evading the responsibility for public education are blowing smoke. And such a program, we believe, will not do harm to the system or by implication suggest that it is a permanent loser. As we say, the schools in this city do not present one solid, bleak picture such as the political critics somehow paint. The point, the hope, would be that such an experiment could be one small part of the effort being undertaken with vigor and optimism by the new school team to bring the District system to a higher, more even standard of achievement, one that reflects the quality of our best schools, which are the models.

Mr. Speaker, I yield 1 minute to my very good friend, the gentleman from San Diego, CA [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, the gentlewoman from Connecticut [Ms. DELAURO], states her own opinion as fact, and I would say that the gentlewoman is factually challenged in the fact that it does not go just to private schools, the opportunity scholarship. If a parent in the D.C. school system finds that there is an unsafe school where it does not offer a fair education, then that parent, like anyone that would want their child to get a good education.

Second, the gentlewoman says Republicans cut education. Mr. Speaker, $10 billion we saved. We cut the President's direct lending program out of bureaucracy, $10 billion, because it inflated $5 billion capped at 10 percent, but yet we increase scholarships by 50 percent, we put money into the IDEA program for special education, we increased the Pell grant to the highest level ever, we increased Eisenhower grants for teacher training. What we cut is the liberals' precious bureaucracy. That is the same thing that they are trying to do here, is fight for the unions. We are trying to fight for the children.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I thank the gentleman for yielding.

I have been listening to the debate on TV and I was reminded that H.I. Hayakawa is no longer in the Chamber, but seemed to be in language and thought and action, all the snarl and pearl words that were being thrown back and forth here.

I noticed with interest my friend from California cited the Washington Post about this great experiment. What the Washington Post says and fails to say is that if 2,000 children get vouchers, what happens to the other 76,000?

There is no doubt that there are good public education schools. There is no doubt that there are good schools in our country, and in fact, we are going to talk about some that are good in Washington, DC. And there is no doubt that there are private schools in this country and in Washington DC, that are good. But the issue is, What happens to these kids that are left behind?

Mr. Speaker, 2,000 out of 76,000 is a noble experiment, but what does it prove? We already know that there are problems in public education. We already know that there are some success stories both in the private and public sector.

I would note to my friend from California [Mr. DREIER], that he cited a poll. That poll, he said, said that 60 percent of the people here in the District supported the voucher system. That is not correct. It is a joint center poll. I think the figure is 57.8 percent. However, it is a sampling of 800 and some odd people.

Now, we have had a great debate on this floor about sampling, and the gentleman from California now has extracted that for all of the people in the District. So what is good for the goose is good for the gander.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut [Ms. DELAURO].

□ 1030

Ms. DELAURO. Mr. Speaker, my colleague who pointed out that I was factually incorrect in fact is factually incorrect. I would like to make a clarification with regard to the bill.

It says directly in the bill with regard to the District that tuition scholarships may be used at private schools in the District. It is right here in the language of the bill.

Mr. CUNNINGHAM. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from California.

Mr. CUNNINGHAM. I did not say it was not used, I said it was not restricted to private use; that you can choose to go to another public school if you desire.

Ms. DELAURO. It says private schools in the District. The gentleman is incorrect.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would respond to my good friend, the gentleman from Los

Angeles, who I should say has spent a good deal of time working on behalf of the issues of concern here in the District of Columbia.

I would simply point to the fact that under our proposal that exists here, the amount spent for public schools is literally twice that that would be expended under the voucher program. In fact, for those 76,000 students, we propose spending $570 million, which is twice as much per student than those who would actually receive the parental choice scholarships.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, I say to the gentleman from California [Mr. DREIER], my point is, what is this all about? Let us concede that 2,000 children will get a better education. I am not sure of that, but let us concede that. Then what? Is the suggestion that in the District of Columbia we will turn all the schools over to private? What is the point? We have been through this exercise.

Mr. DREIER. Reclaiming my time, Mr. Speaker, the point is to try and encourage competition, to try to improve education, to try to get a system into place which can be successful, rather than the one that we have seen which virtually everyone has acknowledged is a failure.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, I would say to my friend, the issue is not private versus public schools. It is trying to bring a school system that is in an emergency up to a level to help.

Sure, we would like more money than for just the 2,000, but if we take a look, and I would like to submit, it is a civil right, fighting for school choice, per Dr. King. Here, school choice finds satisfaction, parents are pleased and pupils improve scores.

If we look at national scores, the African-American community supports school choice. Bishop McKinney in my own city takes at-risk children, and 97 percent of them end up going to school.

Mr. DIXON. Mr. Speaker, If the gentleman will continue to yield, this debate is not about whether private or public schools are good or bad.

Mr. CUNNINGHAM. I have not yielded.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from California [Mr. DREIER] controls the time at the moment.

Mr. DREIER. I continue to yield to my friend, the gentleman from San Diego, CA [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, we are saying that the school system, especially in Washington, DC, is in an emergency situation, that we would like to take a look at that, that it has succeeded in other places in the country.

Yes, there are good teachers here. I have met some of them. General Becton is trying to change things. But we are saying that yes, there are only 2,000 students, but we would like to help the system as we can, and in the future bring up the public schools to the same level.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

This is all, Mr. Speaker, about giving parents some choice and control over these decisions that are made here. If the Washington Post can advocate pursuing this sort of experiment, I think that we responsibly can do that.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I would say to the gentleman from southern California that the issue is not whether private schools do good work or whether public schools do good work, and some are in trouble. I would suggest that there are a lot of schools in our society that do good work.

The issue is not whether Martin Luther King said some statement that you are now using to support this, or the bishop in San Diego. The issue here is what the District should do in their school system.

The gentleman has been a big supporter of the general that has been appointed superintendent. That was a bold step. We need to give him an opportunity, and if we are to do anything at the Federal level, it is to support his bold efforts, not to take off 2,000 kids, to prove what? That is my point.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Falls Church, VA [Mr. DAVIS], the chairman of the Subcommittee of the District of Columbia of the Committee on Government Reform and Oversight.

Mr. DAVIS of Virginia. Mr. Speaker, I thank the gentleman for yielding me the time.

Just to correct some misunderstandings, this 2,000-student system where they will get the scholarships, I think that is a good idea. I will tell the gentleman why. I generally do not support vouchers. I am a strong supporter of the public schools, where I have three kids.

But the city's public schools today, as the gentleman knows, are in a state of disarray. There is a dropout rate of about 40 percent. The most difficult thing is we cannot even certify to some of the parents that the schools are safe.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Virginia. I yield to the gentleman from California.

Mr. DIXON. What is the inference of what the gentleman is saying?

Mr. DAVIS of Virginia. The inference of what we are saying is while we are fixing the public schools, while we are putting more resources into public schools with this bill, that some of these kids that are there now and will be there next year, they will only be in third grade once. You do not take that year away from them. Let us give them the same kinds of opportunities that our children have.

Not one Member of Congress, not the President, not the Vice President, sends their kids to the District of Columbia public schools. What it means is we would like to give some of these parents, the poorest of the poor, some of the opportunities that the rest of us have while we are trying to fix the system and make it work better.

Mr. DREIER. Mr. Speaker, I am happy to yield 2 minutes to my good friend and congressional classmate, the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in strong support of the scholarship program. I have had five kids. All have attended public schools in Fairfax County.

To verify what the gentleman from Virginia [Mr. DAVIS] said, I would just tell the gentleman from California [Mr. DIXON], my daughter taught for a year in the D.C. schools. If all of us had children in the D.C. schools, we would be up in arms trying to change it.

I know of a family that took a young boy out of the District of Columbia and put him in, and he was not doing very well in school, put him in the Fairfax County schools, where he is now excelling and getting a B, and doing very, very well.

We have an obligation. We have an obligation. None of us in this body, and there may be one or two, and if I am wrong, I apologize, but I do not believe there are more than two in this body that send their children to the D.C. schools. If they did, they would be up in arms.

I strongly support the scholarship program. I commend the gentleman from Texas [Mr. ARMEY], the majority leader. I think the gentleman from Virginia [Mr. DAVIS] has it exactly right. We have an obligation. If we were a mom or dad and we had a youngster in that school, we would be revolutionaries, trying to change that school system. Here is an opportunity trying to help at least 2,000.

As Mother Teresa said when she went into Calcutta to help one, she could not help everybody in Calcutta, but she could help one. If we can help 1 or 10 or 2,000, we ought to do it. I strongly support it, and hope we get a majority on our side, but also a majority from this side.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Palm Bay, FL [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I encourage all my colleagues on both sides of the aisle to support this school choice experiment for the District of Columbia. Twenty percent of Americans have school choice. They are the wealthy, they are the upper middle class. The people who do not are the poor and needy. I believe we have a responsibility to try to do something to try to make a change.

It has been demonstrated that just pouring more money into the system is not working. By looking at this and studying this, we can see firsthand if it is going to work. Frankly, I think it is irrational for anybody to be opposed to such a small school choice study right here in the capital city of the United States. For the life of me, I do not understand why anybody would oppose something this small, just to see if it works. If it fails, they will have their day. They can all rise up and say, "It has been a disaster."

But if it works, we have set a new model, a new standard for communities all over the country.

Mr. DIXON. Mr. Speaker, if the gentleman will yield, we know some private schools work.

Mr. FROST. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. HOYER].

The SPEAKER pro tempore. The gentleman from Maryland [Mr. HOYER] is recognized for 2½ minutes.

Mr. HOYER. Mr. Speaker, I came late to the floor. I understand that my colleagues are for this rule because the Moran amendment is made in order. I understand that rationale and I am for the Moran amendment.

I do not believe the majority has the intent of supporting the Moran amendment. I do not know that. Some will vote for it, I hope, on the other side. If not, this process is a sham, it is an ideological quest that will ultimately clearly and unequivocally fail. It will be the closing down of Government of November 1995. Everybody knows if the Moran amendment is not adopted, this bill is deader than a doornail. They are wasting our time and America's time with this ideological quest they are about.

Why do we waste time pretending that we are going to make policy when everybody knows, America knows and we all know, that this bill will be deader than a doornail if the Moran amendment is not adopted?

I rise, in addition to that, to say that I lament the failure of the Committee on Rules to be responsible on this legislation, and precluded me from making an amendment to strike a provision which puts at risk the President of the United States, his family's safety, the staff of the White House's safety, and the visitors to the White House's safety.

After a bipartisan group, of which Bill Webster, the former head of the FBI and the CIA, was a member, former General Jones, chairman of the Joint Chiefs was a member, unanimously recommended the closing of Pennsylvania Avenue, and I know that is controversial, but to change that policy in the twinkling of an eye denies the reality of the bombing in New York, denies the reality of the deaths of 168 people in Oklahoma City, denies the reality of the deaths of over 100 military personnel in Saudi Arabia.

It is irresponsible, I say to my colleagues, to not give this House the opportunity to strike the provision which puts at risk the symbol of executive leadership, not just of America but of the world, knowing full well that we have terrorists throughout this country who would use that as a symbol for some demented objective. I urge the rejection of this rule.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

I should say, Mr. Speaker, I have a very brief 1 minute remaining, so I do not plan to yield, even to my friend, the gentleman from Los Angeles, CA [Mr. DIXON].

Mr. Speaker, let me say that what we have come down to here, Mr. Speaker, is a very important question. My friend, the gentleman from Maryland [Mr. HOYER] just talked about partisanship and ideology. The fact of the matter is we should get beyond those things. I agree with that. What we should do is look at why it is that we are here dealing with this very important question.

What is it? We want to empower parents to have some choice to do what? Help their children, improve their plight. Everyone acknowledges that the education system here in the District of Columbia is in very serious trouble. The Washington Post has said we should try this experiment of parental choice, and when we do that, with this experiment we will be spending half as much as is being expended on a per student basis today here in the District of Columbia.

So let us put this issue of partisanship and ties to these special interests to the side, and at least try some creativity, an innovative way to deal with this very serious question.

I urge support of this bipartisan rule. I said on WAMU this morning, in response to Mark Plotkin, we have a bipartisan agreement on the rule. Let us pass the rule, and then move ahead with what obviously will be a very interesting debate.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed until later today.

The point no quorum is considered withdrawn.

□ 1045

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2169, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 263 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 263

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 263 waives all points of order against the conference report and against its consideration. The rule also provides that the conference report shall be considered as read.

Mr. Speaker, in brief, the transportation appropriations bill for fiscal year 1998 provides vital transportation resources that will ensure a strong infrastructure for the United States and contains significant safety and security protections for American families across the Nation.

The conferees have provided $9.07 billion for the Federal Aviation Administration and assured the necessary funding to ensure aviation safety and security, enhance the capacity of the aviation system, improve weather forecasting systems, and provide automatic alerting systems to prevent runway collisions. These are provisions that are vital to provide the effective services and protection that the American public deserves.

Mr. Speaker, the conference report also provides $333.5 million to reduce

fatalities on the Nation's roadways, $3.9 billion for the Coast Guard, and $354.1 million for the Coast Guard's drug interdiction program, $1.7 billion for the airport improvement program, and highway spending that is consistent with levels assumed in the bipartisan budget agreement.

Mr. Speaker, I also want to compliment the gentleman from Virginia [Mr. WOLF], the subcommittee chairman, for providing no special highway demonstration projects and for cutting unnecessary administrative expenses that will help ensure that America's transportation and safety needs are met as we enter the 21st century.

In closing, I commend the gentleman from Virginia [Mr. WOLF] and the gentleman from Minnesota [Mr. SABO], the ranking member, for their productive work in crafting this conference report. I urge my colleagues to support the rule so that we may proceed with general debate and consideration of the merits of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I congratulate the gentleman from Virginia [Mr. WOLF] and the gentleman from Minnesota [Mr. SABO] for their very, very hard work on this bill. They and the conferees have come up with a very good bill that funds Amtrak, the Coast Guard, and the Federal Aviation Administration.

Mr. Speaker, we in the Northeast do not have many tornadoes, we do not have many floods, not many of us need crop insurance or disaster relief, but one thing we do need more than just about any other part of the country is improvements to our infrastructure.

Mr. Speaker, when a Member represents cities and towns that were established in the 1630's, they realize that we need to do much more than the rest of the country to be sure that our infrastructure is sound. We need to shore up our roads, our bridges, our bus lines, our highways, which are obviously some of the oldest in this country. And we rely particularly heavily on passenger rail.

The Northeast corridor, which stretches from Boston to Washington, is the most traveled rail route in the entire country. It carries over 100 million passengers a year. Unfortunately, the U.S. rail system is also one of the most outdated in the world, and before the conferees fixed this bill, Amtrak's operating costs were seriously cut to the point that our national passenger rail system would probably have stopped "dead in its tracks," so to speak.

But luckily for all Americans who use passenger rail, the conferees reversed the decision to cut Amtrak and provided $344 million for operating subsidies. The conferees also provided $250 million for the Northeast corridor which will allow many, many much-needed improvements.

This conference report, Mr. Speaker, does not stop at trains and automobiles. It also provides $2.7 billion for the Coast Guard, which is an increase over last year's funding.

Finally, Mr. Speaker, this conference report provides over $9 billion for the Federal Aviation Administration. This money will enable the FAA to improve its safety measures, which should reduce the dangers of acts of terrorism on American airplanes and in American airports.

Mr. Speaker, this rule is a good rule. The conference report is a good conference report. I urge my colleagues to support the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas [Ms. GRANGER].

Ms. GRANGER. Mr. Speaker, I reluctantly rise in opposition to the rule and to the underlying Transportation appropriations bill.

My opposition to this bill is reluctant because of my deep respect and admiration for the gentleman from Virginia [Mr. WOLF], our committee chairman, and my regard for the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the full Committee on Appropriations.

Mr. Speaker, the gentleman from Virginia runs his committee with the utmost thoughtfulness and respect for every Member of this body. He works hard to make sure that our Nation's roads, airplanes, and infrastructure will meet our 21st century needs, and the gentleman conducts himself personally and professionally with candor, class, and character.

Nevertheless, Mr. Speaker, I oppose this bill because it contains changes to the Wright amendment that are wrong on both policy and process grounds.

The Wright amendment was enacted almost 20 years ago at the behest of the cities of Fort Worth and Dallas in order to permit the safe development and operation of Dallas/Fort Worth International Airport while still permitting limited flights from Dallas Love Field. This legislation protects safety, safeguards taxpayers' investments in Dallas/Fort Worth Airport, and ensures local control by respecting the desires of the local communities.

The changes to the Wright amendment contained in this bill are bad policy because they will injure Dallas/Fort Worth International Airport, risk the hard-earned taxpayer dollars that have developed this airport, and trample on the desires of the local communities. And as so often happens, this bad policy was forced upon this House by the other body in a complete disregard for regular order or process.

Mr. Speaker, this changes almost 20 years of aviation law and was inserted without a single hearing or public forum, no discussion, no debate, no consideration, just a decision, Mr. Speaker, a decision made over the opposition of both Texas Senators, most of the local Members of Congress, the mayors of Fort Worth and Dallas, the city councils of Fort Worth and Dallas, the chambers of commerce of Fort Worth and Dallas, and the North Texas Commission.

As a strong supporter of local control, as a fiscal conservative who believes in the prudent use of taxpayers' dollars, and as a believer in regular order, I must oppose this rule and this conference report.

Mr. WOLF. Mr. Speaker, will the gentlewoman yield?

Ms. GRANGER. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Speaker, I just wanted to thank the gentlewoman from Texas for her effectiveness and for the commitment that she had on this issue with regard to safety.

Mr. Speaker, had it not been for the efforts of the gentlewoman and the effort of a couple of other Members, and I would like to put myself in that category, there would not have been the provision with regard to safety.

As the gentlewoman knows, this was going to be much broader. There was initially going to be a complete repeal of the Wright amendment, which I did not support. They also had other areas.

Mr. Speaker, I just want to thank the gentlewoman and let the body know, because a lot of the meetings were private, and let the gentlewoman's constituents know and the country know that she is an advocate and a champion and, I respect very much her vote against this rule. And, Mr. Speaker, if I were the gentlewoman, I would vote against this rule, too, and I would try to get as many people to vote against the rule.

But, Mr. Speaker, I thank the gentlewoman for her effectiveness and her staying in to the very end in a very, very difficult process.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield time, I want to congratulate the gentleman from Virginia [Mr. WOLF], who is now here, for a wonderful job. He was not here when I spoke. But between the gentleman from Virginia and the gentleman from Minnesota [Mr. SABO], they did an outstanding job on this conference report.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. FROST], a diligent, very hard-working member of the Committee on Rules who has got a very, very germane point which Members should listen to.

Mr. FROST. Mr. Speaker, I rise in opposition to this rule and in opposition to this conference report.

Mr. Speaker, yesterday when the Committee on Rules met to consider

this rule, I offered an amendment to the rule which would have, in essence, stricken section 337 from the conference report. I offered this amendment to the rule since this section of the conference report has an immediate and negative impact on my congressional district, as well as the entire Dallas area.

Section 337 alters a longstanding agreement between the Federal Government and the cities of Fort Worth and Dallas relating to air service out of Dallas Love Field. However, the committee majority did not see fit to agree to my amendment, and for that reason I will oppose this rule.

Mr. Speaker, I do support the content of the conference report, except for this provision in section 337, and I would like to take a few minutes to explain the importance of this matter to the Dallas area and as has previously been indicated by the gentlewoman from Texas [Ms. GRANGER], who spoke just a moment ago.

Mr. Speaker, in the early 1960's, the cities of Dallas and Fort Worth each wanted to have their own airport and the competition between the cities resulted in intense disagreements and fragmented air service. The old Civil Aeronautics Board, frustrated with this rivalry, forced the cities to coordinate their efforts and resources. This coordination resulted in the construction of a regional airport now known as Dallas/Fort Worth International Airport, the second busiest airport in the United States.

Before construction began, however, Dallas and Fort Worth executed concurrent bond ordinances to finance the airport and agreed under contract to phase out commercial traffic from each city's local airport in order to protect both cities' substantial investment in the new airport.

To further facilitate this agreement, in 1979 Congress enacted the Love Field amendment, popularly known as the Wright amendment. The Wright amendment expanded allowable service from Love Field by permitting flights to Texas and its four contiguous States, Oklahoma, Louisiana, Arkansas, and New Mexico. Exempted altogether from the provisions of the Wright amendment were commuter airlines operating aircraft with passenger capacity of 56 passengers or less.

The Wright amendment has served the communities of Dallas and Fort Worth well in the 18 years it has been in place. It protected neighborhoods surrounding Love Field, which is, after all, right in the middle of the city, from the noise and other hazards of a full-fledged commercial airport. And it has preserved relations between the two cities on an issue which many consider to be the most important to the economic development of the entire north Texas region.

This conference report does grave injustice to my district as well as to the cities of Dallas and Fort Worth. The Chairman of the Senate Appropriations Subcommittee on Transportation has seen fit to insert language in the Senate-passed bill and this conference report, which expands the area of service as well as the type of service allowed from Dallas Love Field.

He has done this in spite of the fact that the city councils of the affected cities, the mayors of the two cities, as well as myself, the gentlewoman from Texas, Ms. GRANGER, the former mayor of Fort Worth, and the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON, in whose district Love Field lies, as well as the two Senators from Texas, are opposed to this change in the Wright amendment.

Mr. Speaker, this is a local matter, and it is one that should be settled locally, not by an appropriations conference report, and this body should not allow itself to be bullied by one U.S. Senator who does not represent the area affected.

Mr. Speaker, I urge the rejection of this rule and the rejection of this conference report.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. Mr. Speaker, I want to say that what we just heard about the Wright amendment ought to be discussed a little bit, because it has been in place 18 years. The Wright amendment was put in place to protect Dallas/Fort Worth International Airport, which is now the second busiest airport in the world.

Mr. Speaker, they are working on their eighth runway. Dallas/Forth Worth Airport houses the largest airline in the United States, American Airlines and it has a virtual monopoly on travel in and out of the Dallas/Fort Worth area.

What this change to the Wright amendment does is allow traffic in and out of Love Field, which adds a little competition to American Airlines. Well, that lack of competition has had an effect on the surrounding area. According to the U.S. Department of Transportation, travelers going in and out of Dallas have had to spend, in 1992, an additional $183 million in higher fares. Much of that is burdened by Kansas travelers who are trying to get in and out of the Dallas/Fort Worth area, just because of lack of competition.

Well, this provision allows that competition to happen. This is America. This is free enterprise. This is the strength of our country.

□ 1100

It is not bullying by one Senator. It is a whole nation that believes we ought to have competition, who thinks this Wright amendment is a virtual monopoly that has created a very high profit for one airline and allow growth to the Dallas/Fort Worth International Airport.

So it is time for change. It is time for a little competition. This minor change to the Wright amendment does not strike it down, although that would have been my preference. Thanks to the hard work of a freshman Congresswoman, the gentlewoman from Texas [Ms. GRANGER] on the House side, it was not completely stricken down. I still believe it should be, but we are making minor changes to allow competition, particularly in the Kansas area, which will allow Kansas to have lower airfares, and to break the virtual monopoly that American Airlines has held.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I appreciate my friend from Georgia yielding me this time. I rise in strong support of this fair and customary rule.

One critical component of our war on drugs is the Coast Guard drug interdiction program. By providing full funding for this initiative in this bill, we are sending a clear message to drug runners that drug trafficking in our waters will not be tolerated and will be punished. We are willing to commit the resources necessary to win the war on drugs. I emphasize that, to win the war on drugs, not to settle for stalemate or not to go backward, as we are in some areas now.

I am also pleased that the committee has once again held the line on highway demonstration projects. These are projects that infuriate Americans because it is not wise expenditure of their tax dollars. Once again this year, the gentleman from Virginia [Mr. WOLF] has resisted these projects, and he should be commended for sticking with what is sometimes a difficult position in this Chamber.

I urge adoption of this noncontroversial rule, as well as the underlying bill.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 413, nays 4, not voting 16, as follows:

[Roll No. 507]

YEAS—413

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—4

Barcia
Frost
Granger
Oberstar

NOT VOTING—16

Abercrombie
Barton
Brown (FL)
Chambliss
Dingell
Foglietta
Gonzalez
Hilliard
Lewis (KY)
Miller (CA)
Murtha
Oxley
Saxton
Schiff
Tanner
Young (AK)

□ 1121

Mr. COBURN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. OXLEY. Mr. Speaker, on rollcall No. 507, I was unavoidably detained. Had I been present, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF H.R. 2607, DISTRICT OF COLUMBIA APPROPRIATIONS, MEDICAL LIABILITY REFORM, AND EDUCATION REFORM ACT OF 1998

The SPEAKER pro tempore (Mr. LATOURETTE). The pending business is the question de novo on agreeing to House Resolution 264.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the Speaker's approval of the Journal.

The vote was taken by electronic device, and there were—yeas 370, nays 50, not voting 13, as follows:

[Roll No. 508]

YEAS—370

Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chenoweth
Christensen
Clay
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Flake
Foglietta
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez

Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Velázquez
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—50

Andrews
Baesler
Bentsen
Bonior
Clayton
Conyers
DeGette
Delahunt
Deutsch
Dixon
Fazio
Filner
Ford
Frank (MA)
Gephardt
Goode
Green
Hastings (FL)
Hinchey
Horn
Hoyer
Jackson-Lee (TX)
Jefferson
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kucinich
Lewis (GA)
Markey
McGovern
McKinney
Meehan
Meek
Mink
Olver
Owens
Payne
Rangel
Rivers
Rothman
Scott
Sherman
Slaughter
Stark
Stokes
Taylor (MS)
Tierney
Vento
Waters
Wexler

NOT VOTING—13

Abercrombie
Brown (FL)
Chambliss
Dingell
Gonzalez
Hilliard
Lewis (KY)
Miller (CA)
Murtha
Saxton
Schiff
Tanner
Young (AK)

□ 1141

Mrs. MINK of Hawaii, Mrs. CLAYTON, and Messrs. KENNEDY of Massachusetts, DELAHUNT, GREEN, PAYNE, DEUTSCH, HOYER, BAESLER, and ROTHMAN changed their vote from "yea" to "nay."

Mr. DAVIS of Illinois changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SAXTON. Mr. Speaker, this morning I attended the signing of the National Wildlife Refuge bill by President Clinton at the White House. As a consequence, I was unable to vote on rollcall Nos. 507 and 508. Had I been present, I would have voted "aye" on both rollcalls: For the rule waiving points of order against the consideration of the conference report to accompany H.R. 2169, Transportation appropriations for fiscal 1998, and for the rule providing for the consideration of H.R. 2607, District of Columbia appropriations for fiscal 1998.

THE JOURNAL

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to clause 5 of rule I, the pending business is the question of agreeing to the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PAPPAS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 352, noes 58, not voting 23, as follows:

[Roll No. 509]

AYES—352

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady
Brown (OH)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Ewing
Farr
Fattah
Flake
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefner
Herger
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Lipinski
Livingston
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKinney
Meehan
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schaefer, Dan
Schumer
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tierney
Torres
Traficant
Turner
Upton
Velázquez
Vento
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOES—58

Becerra
Borski
Brown (CA)
Clay
Clyburn
Costello
DeFazio
Deutsch
English
Ensign
Evans
Everett
Fazio
Filner
Foglietta
Fox
Gibbons
Gutierrez
Gutknecht
Hastings (FL)
Hefley
Hill
Hilleary
Hinchey
Hulshof
Kilpatrick
Kucinich
Lewis (GA)
LoBiondo
McDermott
McGovern
McNulty
Meek
Menendez
Oberstar
Pallone
Pascrell
Pastor
Payne
Pickett
Pombo
Poshard
Ramstad
Rangel
Sabo
Salmon
Schaffer, Bob
Scott
Sessions
Stokes
Stupak
Taylor (MS)

Thompson	Visclosky	Wexler
Towns	Weller	Wicker

NOT VOTING—23

Abercrombie	Gonzalez	Saxton
Bonior	Hilliard	Schiff
Brown (FL)	Hunter	Tanner
Burr	Lewis (KY)	Tiahrt
Chambliss	Manzullo	Waters
Dingell	McKeon	Watt (NC)
Fawell	Miller (CA)	Young (AK)
Gephardt	Murtha	

□ 1149

So the Journal was approved.

The result of the vote was announced as above recorded.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2204, COAST GUARD AUTHORIZATION ACT OF 1997

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. 105–317), on the resolution (H. Res. 265) providing for consideration of the bill (H.R. 2204) to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 2169, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. WOLF. Mr. Speaker, pursuant to House Resolution 263, I call up the conference report on the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to House Resolution 263, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 7, 1997, at page 21531.)

The SPEAKER pro tempore. The gentleman from Virginia, [Mr. WOLF] and the gentleman from Minnesota [Mr. SABO] each will control 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. WOLF].

GENERAL LEAVE

Mr. WOLF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report to accompany H.R. 2169, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. WOLF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2169, the fiscal year 1998 Department of Transportation and Related Agencies Appropriations Act, represents the eighth conference report from the Committee on Appropriations. As my colleagues are aware, only 3 legislative days remain to complete action on the five remaining individual appropriation bills before October 23 when the continuing resolution expires.

The conference agreement represents a compromise between the House and the Senate bills, and with any compromise there are elements in this agreement that were difficult for the House and the Senate to accept. But in the end, and all things considered, this conference agreement is a good bill and one that I believe the President has indicated he will sign, and Secretary Slater called to say that he agreed with the bill. The agreement reflects this Congress's desire to spend additional funding on the Nation's infrastructure and to protect the safety of the traveling public.

In total, the conference agreement provides $12.4 billion in new discretionary budget authority in fiscal year 1998. When accounting for a rescission of contract authority enacted last year, funding contained in this bill represents an increase of $240 million in discretionary budget authority over the last year. In addition, trust fund expenditures, namely, from the highway trust fund and the aviation and airway trust, are up $3.5 billion, indicating this Congress's resolve in approving the transportation infrastructure.

Allow me, Mr. Speaker, to highlight a number of items in the conference. One, Federal-aid highways is funded at $21.5 billion, the same as the House-passed level and $3.5 billion over last year.

Also, there are no highway demonstration projects in this bill. I know this has created some heartburn. There have been people on both sides of the aisle that quite frankly have been mad at me, good people, decent people that just have not agreed. But we felt the fairest way was to reallocate the money back to the States with a formula whereby everyone in this body, whether they be Republican or Democrat or wherever they may come from, would be treated fairly.

I would just say, if anybody on my side is listening in the leadership, I would hope and I would pray that during this consideration, as long as I have the privileged to serve as chairman of this Subcommittee on Transportation of the Committee on Appropriations, that the leadership on both sides of the aisle, but particularly as a Republican Member for my side, that they would support my efforts, whether they completely like it or dislike it, whereby we will treat everybody fair, and there will be no highway demonstration projects in this legislation. Because what we would basically do, Mr. Speaker, is we would be taking general fund money out which could go to the Coast Guard and go to many other things, and I think that should be done in another bill.

Second, $2.5 billion of the transit formula grants, the same level as last year, or an increase of 16 percent. The conference agreement also includes $2 billion for transit discretionary grants and $150 million for transit operating assistance.

I want to particularly thank the gentleman from Minnesota [Mr. SABO] and the gentleman from Wisconsin [Mr. OBEY] for their support on this effort. There was a motion to instruct the conferees on this. We have been faithful to that instruction, and in many respects with the support of both of the gentlemen, we have also been able to change the definitions which will mean actually more for buses.

Mr. Speaker, $9.1 billion for the Federal Aviation Administration, an increase of $785 million over last year, which includes $1.7 billion for the airport improvement program. The administration only requested $1 billion, and we are at $1.7 billion as a commitment with regard to aviation.

I might add parenthetically that Secretary Slater called and expressed some interest with regard to explosive device research. I would tell the Secretary that with the increase of $1.7 billion, $700 million over what the administration actually requested, he does have the authority, and I think both sides of this aisle have been very faithful with regard to aviation safety, to take some of this money and use it for explosive devices and what he hoped to be able to do.

Mr. Speaker, $3.9 billion for the Coast Guard, an increase of $440 million over the 1997 enacted level. The bill fully funds the Coast Guard's drug interdiction activities at $354 million.

Mr. Speaker, $333 million for the highway safety activities of the National Highway Traffic Safety Administration, and $543 million for Amtrak, together with an additional $250 million for the Northeast corridor improvement program.

There were a number of difficult issues before the conference and I would like to briefly share with the Members of the House just a few of them.

Certain Members of the Texas Delegation had expressed an objection to the Senate language on the Wright amendment. Working with the gentlewoman from Texas [Ms. GRANGER] and the majority leader, the gentleman from Texas [Mr. ARMEY], in the conference, we attempted to reach a compromise which was significantly less than what the Senate wanted. I believe the conference accomplished that and, in the end, I believe that the House obtained considerable concessions from the Senate in the spirit of compromise.

And for those on both sides who were interested in the issue of safety, there is very difficult, very tough language with regard to safety. The conference report provides that the FAA administrator shall take whatever, whatever, whatever actions are needed to protect the public safety, even if it means restricting air traffic. So I would direct Members' attention to that language printed in the conference report on page 25, and the conference agreement does protect safety. I also plan on meeting with the FAA administrator on this issue to make sure, and there was a consensus agreement on both sides of the aisle and also on the Senate side with regard to that.

Bus allocations. The conference agreement allocates some $400 million in bus funds. While the Senate indicated that it preferred to allocate bus funding on a case-by-case basis, the House insisted that a formula approach be employed such that no member, Republican or Democrat, was advantaged by his or her position on the committee, tenure in Congress, or position of leadership. The House prevailed in conference and all bus funding was apportioned by a rational, fair and defensible formula.

□ 1200

I might say to Members, if anyone is listening back in their offices, next year as we begin to get into this issue, I would urge Members to meet with their Senators from their States, call them up, go over and visit them, talk to them, and tell them that based on the formula it is important not only for the great job that the House Members have done with regard to representing their areas but also it is important that the Senate do the same. I think that would be helpful to remove any disagreements.

Third, funding for the Appalachian Development Highway System. The conference report provides $300 million for the Appalachian Development Highway System construction, the same level as provided by the Senate bill. The House bill, I might state, contains no appropriation. Agreeing to the $300 million was a concession to the Senate in the spirit of compromise.

Funding for the ADHS benefits 13 States which comprise the Appalachian Regional Commission. This money is provided from the general fund, which I find somewhat disturbing, because that money could be used for other things with regard to aviation safety. I believe it would be more appropriate to expend the money from the highway trust fund for these roads and bridges, which would be subject to the annual limitation on obligations.

I would also note, if anyone from the administration or from the Office of Management and Budget is listening, to crystallize a certain issue and note that $300 million exceeds the President's request by $100 million. With that $100 million, it could be put into the explosive devices, or do some of those other things.

This was not something easy to swallow, but I personally, nor did Members on our side, did not want to do anything to hold up the Nation's entire transportation budget over this issue. In the end, all things considered, it is a good bill. The President has indicated he will sign it, Secretary Slater called us and said he agrees with it. I urge my colleagues to support the conference agreement.

In closing, I want to acknowledge the assistance and support of the gentleman from Minnesota [Mr. SABO], the ranking member of the subcommittee. We never had a difference. I do not believe there was ever a partisan difference in the whole process. The bill passed 403 to 5, or something like that. I just want to thank the gentleman from Minnesota [Mr. SABO] publicly and the gentleman from Wisconsin [Mr. OBEY] for their cooperation.

I also want to thank all the Republican members, who were very, very helpful and worked together in a good team effort.

If I may also, Mr. Speaker, I would like to thank the staff, John Blazey, Rich Efford, Stephanie Gupta, Linda Muir, Cheryl Smith, and also the associate staff, who have done a tremendous job. I do not want murder their names but out of a courtesy to them I would like to mention them: David Whitestone, Monica Vegas Kladakis, Connie Veillette, Steve Carey, Eric Mondero, Todd Rich, Joe Cramer, Mark Zelden, Paul Cambon, Marjorie Duske, Barbara Zylinski-Mizrahi, Albert Jacquez, Nancy Alcalde, David Oliveira, Blake Blake Gable and Paul Carver. I apologize if I did not say all those words appropriately, but I hope for the RECORD's sake they will be there.

Last, Mr. Speaker, I urge my colleagues to support the conference bill. I include for the RECORD the following information:

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES, 1998 (H.R. 2169)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF TRANSPORTATION						
Office of the Secretary						
Salaries and expenses	52,966,000	56,136,000	60,009,000	66,703,000	61,000,000	+8,034,000
Office of civil rights	5,574,000	5,574,000	5,574,000	5,574,000	5,574,000	.....
Transportation planning, research, and development	3,000,000	6,008,000	4,400,000	4,400,000	4,400,000	+1,400,000
Transportation Administrative Service Center	(124,812,000)	.....	(121,800,000)	.....	(121,800,000)	(-3,012,000)
Payments to air carriers (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(25,900,000)	.....	.....	.....	.....	(-25,900,000)
(Limitation on obligations)	(25,900,000)	.....	.....	.....	.....	(-25,900,000)
Rescission of contract authorization	(-12,700,000)	(-38,600,000)	.....	(-38,600,000)	(-38,600,000)	(-25,900,000)
Rescission	(-1,133,000)	.....	.....	.....	.....	(+1,133,000)
Rental payments	127,447,000	10,567,000	.....	.....	.....	-127,447,000
Minority business resource center program	1,900,000	1,900,000	1,900,000	1,900,000	1,900,000	.....
(Limitation on direct loans)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	.....
Minority business outreach	2,900,000	2,900,000	2,900,000	2,900,000	2,900,000	.....
Total, Office of the Secretary	193,787,000	83,085,000	74,783,000	81,477,000	75,774,000	-118,013,000
(Limitations on obligations)	(25,900,000)	.....	.....	.....	.....	(-25,900,000)
Total budgetary resources	(219,687,000)	(83,085,000)	(74,783,000)	(81,477,000)	(75,774,000)	(-143,913,000)
Coast Guard						
Operating expenses	2,319,725,000	2,440,000,000	2,408,000,000	2,435,400,000	2,415,400,000	+95,675,000
Defense function (050)	.....	300,000,000	300,000,000	.....	300,000,000	+300,000,000
(Transfer from DOD)	(300,000,000)	.....	.....	(300,000,000)	.....	(-300,000,000)
Supplemental (P.L. 105-18)	1,600,000	.....	.....	.....	.....	-1,600,000
Acquisition, construction, and improvements:						
Offsetting collections	.....	-9,000,000	-9,000,000	-9,000,000	-9,000,000	-9,000,000
Vessels	216,500,000	186,900,000	191,650,000	214,700,000	212,100,000	-4,400,000
Aircraft	18,040,000	26,400,000	33,900,000	26,400,000	25,800,000	+7,760,000
Other equipment	41,700,000	49,700,000	47,050,000	51,200,000	44,650,000	+2,950,000
Shore facilities and aids to navigation facilities	52,350,000	69,000,000	59,400,000	73,000,000	68,300,000	+15,950,000
Personnel and related support	46,250,000	47,000,000	47,000,000	47,000,000	47,000,000	+750,000
Subtotal, A C & I appropriations	374,840,000	370,000,000	370,000,000	403,300,000	388,850,000	+14,010,000
Environmental compliance and restoration	22,000,000	21,000,000	21,000,000	21,000,000	21,000,000	-1,000,000
Port Safety Development	5,000,000	.....	.....	.....	.....	-5,000,000
Alteration of bridges	16,000,000	.....	16,000,000	26,000,000	17,000,000	+1,000,000
Retired pay	608,084,000	645,696,000	645,696,000	653,196,000	653,196,000	+45,112,000
Supplemental (P.L. 105-18)	9,200,000	.....	.....	.....	.....	-9,200,000
Reserve training	65,890,000	65,000,000	67,000,000	65,535,000	67,000,000	+1,110,000
Research, development, test, and evaluation	19,200,000	19,000,000	19,000,000	20,000,000	19,000,000	-200,000
Boat safety (Aquatic Resources Trust Fund)	35,000,000	50,000,000	35,000,000	35,000,000	35,000,000	.....
Total, Coast Guard	3,476,539,000	3,910,696,000	3,881,696,000	3,659,431,000	3,916,446,000	+439,907,000
Federal Aviation Administration						
Operations	4,925,500,000	5,036,100,000	5,300,000,000	5,325,900,000	5,301,934,000	+376,434,000
Appropriation of user fees	.....	300,000,000	.....	.....	.....	.....
Offsetting Collections	-75,000,000	.....	.....	.....	.....	+75,000,000
Emergency appropriations	(32,400,000)	.....	.....	.....	.....	(-32,400,000)
Facilities and equipment (Airport and Airway Trust Fund)	1,793,500,000	1,875,000,000	1,875,000,000	1,889,004,883	1,875,477,000	+81,977,000
Emergency appropriations	(144,200,000)	.....	.....	.....	.....	(-144,200,000)
Research, engineering, and development (Airport and Airway Trust Fund)	187,412,000	200,000,000	185,000,000	214,250,000	199,183,000	+11,771,000
Emergency appropriations	(21,000,000)	.....	.....	.....	.....	(-21,000,000)
Grants-in-aid for airports (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(1,500,000,000)	(1,500,000,000)	(1,600,000,000)	(1,600,000,000)	(1,600,000,000)	(+100,000,000)
(Limitation on obligations)	(1,460,000,000)	(1,000,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(+240,000,000)
Rescission of contract authorization	(-800,000,000)	.....	.....	(-190,000,000)	(-412,000,000)	(+388,000,000)
Total, Federal Aviation Administration	6,831,412,000	7,411,100,000	7,360,000,000	7,429,154,883	7,376,594,000	+545,182,000
(Limitations on obligations)	(1,460,000,000)	(1,000,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	(+240,000,000)
Total budgetary resources	(8,291,412,000)	(8,411,100,000)	(9,060,000,000)	(9,129,154,883)	(9,076,594,000)	(+785,182,000)
Federal Highway Administration						
Limitation on general operating expenses	(521,114,000)	(494,376,000)	(510,313,000)	(558,440,000)	(552,266,000)	(+31,152,000)
Highway-related safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(2,049,000)	(4,000,000)	.....	(4,000,000)	.....	(-2,049,000)
Rescission of contract authority	(-9,100,000)	.....	.....	.....	.....	(+9,100,000)
Appalachian Development Highway system	.....	.....	.....	300,000,000	300,000,000	+300,000,000
Federal-aid highways (Highway Trust Fund):						
(Limitation on obligations)	(18,000,000,000)	(20,170,000,000)	(21,500,000,000)	(21,800,000,000)	(21,500,000,000)	(+3,500,000,000)
Supplemental obligation authority (P.L. 105-18)	(694,810,534)	.....	.....	.....	.....	(-694,810,534)
(Exempt obligations) (sec. 310 a-d)	(1,783,237,000)	(1,510,571,000)	(1,390,570,000)	(1,390,600,000)	(1,390,570,000)	(-392,667,000)
(Bonus program) (sec. 310 e)	(241,173,000)	.....	(269,656,000)	.....	.....	(-241,173,000)
(Liquidation of contract authorization)	(19,800,000,000)	(19,800,000,000)	(20,800,000,000)	(20,850,000,000)	(20,800,000,000)	(+1,000,000,000)
Emergency appropriations	(82,000,000)	.....	.....	.....	.....	(-82,000,000)
Emergency relief program (P.L. 105-18)	(650,000,000)	.....	.....	.....	.....	(-650,000,000)
Right-of-way revolving fund	.....	.....	.....	8,000,000	.....	.....

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES, 1998 (H.R. 2169) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Motor carrier safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(74,000,000)	(90,000,000)	(85,000,000)	(85,000,000)	(85,000,000)	(+11,000,000)
(Limitation on obligations)	(78,225,000)	(100,000,000)	(85,325,000)	(84,300,000)	(84,825,000)	(+6,600,000)
Rescission of contract authorization	(-12,300,000)	.....	.....	.....	.....	(+12,300,000)
State infrastructure banks	150,000,000	.....	.....	.....	.....	-150,000,000
State infrastructure banks (Highway Trust Fund)	.....	150,000,000	.....	.....	.....	.....
Transportation infrastructure credit program (Highway Trust Fund)	.....	100,000,000	.....	.....	.....	.....
Total, Federal Highway Administration	150,000,000	250,000,000	.....	308,000,000	300,000,000	+150,000,000
(Limitations on obligations)	(18,773,035,534)	(20,270,000,000)	(21,585,325,000)	(21,884,300,000)	(21,584,825,000)	(+2,811,789,466)
(Sec. 310 obligations)	(2,024,410,000)	(1,510,571,000)	(1,660,226,000)	(1,390,600,000)	(1,390,570,000)	(-633,840,000)
Total budgetary resources	(20,947,445,534)	(22,030,571,000)	(23,245,551,000)	(23,582,900,000)	(23,275,395,000)	(+2,327,949,466)
National Highway Traffic Safety Administration						
Operations and research	80,900,000	.....	74,492,000	74,760,000	74,901,000	-5,999,000
Operations and research (Highway Trust Fund)	51,712,000	147,500,000	72,415,000	71,740,000	72,061,000	+20,349,000
Subtotal, Operations and research	132,612,000	147,500,000	146,907,000	146,500,000	146,962,000	+14,350,000
Highway traffic safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(168,100,000)	(185,000,000)	(186,000,000)	(186,000,000)	(186,000,000)	(+17,900,000)
State and community highway safety grants (Sec. 402) (limitation on obligations)	(128,700,000)	(140,200,000)	(140,200,000)	(150,700,000)	(149,700,000)	(+21,000,000)
National Driver Register (Sec. 402) (limitation on obligations)	(2,400,000)	(2,300,000)	(2,300,000)	(2,300,000)	(2,300,000)	(-100,000)
Contract authorization (P.L. 105-18)	2,500,000	.....	.....	.....	.....	-2,500,000
Highway safety grants (Sec. 1003(a)(7)) (limitation on obligations)	(11,500,000)	.....	.....	.....	.....	(-11,500,000)
Occupant protection incentive grants (limitation on obligations)	.....	(9,000,000)	(9,000,000)	.....	.....	.....
Alcohol-impaired driving countermeasures programs (Sec. 410) (limitation on obligations)	(25,500,000)	(34,000,000)	(35,000,000)	(34,000,000)	(34,500,000)	(+9,000,000)
Contract authorization (P.L. 105-18)	500,000	.....	.....	.....	.....	-500,000
Rescission of contract authorization	(-24,800,000)	.....	.....	.....	.....	(+24,800,000)
Total, National Highway Traffic Safety Administration	135,612,000	147,500,000	146,907,000	146,500,000	146,962,000	+11,350,000
(Limitations on obligations)	(168,100,000)	(185,500,000)	(186,500,000)	(187,000,000)	(186,500,000)	(+18,400,000)
Total budgetary resources	(303,712,000)	(333,000,000)	(333,407,000)	(333,500,000)	(333,462,000)	(+29,750,000)
Federal Railroad Administration						
Office of the Administrator	16,739,000	20,559,000	19,434,000	19,800,000	20,290,000	+3,551,000
Railroad safety	51,407,000	57,067,000	56,967,000	57,067,000	57,067,000	+5,660,000
Railroad research and development	20,100,000	21,638,000	21,038,000	24,906,000	20,758,000	+658,000
Northeast corridor improvement program	175,000,000	.....	250,000,000	273,450,000	250,000,000	+75,000,000
High-speed rail trainsets and facilities	80,000,000	.....	.....	.....	.....	-80,000,000
Next generation high-speed rail	24,757,000	19,595,000	18,395,000	26,000,000	20,395,000	-4,362,000
Trust fund share of next generation high-speed rail (Highway Trust Fund): (Liquidation of contract authorization)	(2,855,000)	.....	.....	.....	.....	(-2,855,000)
Alaska Railroad rehabilitation	10,000,000	.....	.....	17,000,000	15,280,000	+5,280,000
Rhode Island Rail Development	7,000,000	10,000,000	10,000,000	10,000,000	10,000,000	+3,000,000
Direct loan financing program	58,680,000	.....	.....	.....	.....	-58,680,000
Direct loan financing program limitation	(400,000,000)	.....	.....	.....	.....	(-400,000,000)
Grants to the National Railroad Passenger Corporation:						
Operations	364,500,000	.....	283,000,000	344,000,000	344,000,000	-20,500,000
Capital	223,450,000	.....	260,000,000	.....	199,000,000	-24,450,000
Subtotal, Grants to Amtrak	587,950,000	.....	543,000,000	344,000,000	543,000,000	-44,950,000
Capital grants to the National Railroad Passenger Corporation (Highway Trust Fund)	.....	445,450,000	.....	.....	.....	.....
(Northeast corridor improvements)	.....	(200,000,000)	.....	.....	.....	.....
(Pennsylvania Station Redevelopment Project)	.....	(23,450,000)	.....	.....	.....	.....
Operating grants to the National Railroad Passenger Corporation (Highway Trust Fund)	.....	344,000,000	.....	.....	.....	.....
Emergency railroad rehabilitation and repair:						
Emergency funding (P.L. 105-18)	(18,900,000)	.....	.....	.....	.....	(-18,900,000)
Total, Federal Railroad Administration	1,031,633,000	918,309,000	918,834,000	772,223,000	936,790,000	-94,843,000
Federal Transit Administration						
Administrative expenses	41,497,000	.....	45,738,000	41,497,000	45,738,000	+4,241,000
Administrative expenses (Highway Trust Fund, Mass Transit Account)	.....	47,018,000	.....	.....	.....	.....
Formula grants	490,000,000	.....	290,000,000	190,000,000	240,000,000	-250,000,000
Formula grants (Highway Trust Fund):						
(Limitation on obligations)	(1,659,185,000)	.....	(2,210,000,000)	(2,210,000,000)	(2,260,000,000)	(+600,815,000)
Operating assistance grants	(400,000,000)	.....	(200,000,000)	.....	(150,000,000)	(-250,000,000)
Subtotal, Formula grants	(2,149,185,000)	.....	(2,500,000,000)	(2,400,000,000)	(2,500,000,000)	(+350,815,000)

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES, 1998 (H.R. 2169) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Formula programs (Highway Trust Fund, Mass Transit Account):						
(Limitation on obligations)		(3,498,500,000)				
(Liquidation of contract authorization)		(1,500,000,000)				
University transportation centers	6,000,000		6,000,000	6,000,000	6,000,000	
Transit planning and research	85,500,000		86,000,000	77,250,000	92,000,000	+6,500,000
Metropolitan planning	(39,500,000)		(39,500,000)	(39,500,000)	(39,500,000)	
Rural transit assistance	(4,500,000)		(4,500,000)	(4,500,000)	(4,500,000)	
Transit cooperative research	(8,250,000)		(8,250,000)			(-8,250,000)
National planning and research	(22,000,000)		(22,500,000)	(22,000,000)	(36,750,000)	(+14,750,000)
State planning and research	(8,250,000)		(8,250,000)	(8,250,000)	(8,250,000)	
National transit institute	(3,000,000)		(3,000,000)	(3,000,000)	(3,000,000)	
Subtotal, Transit planning and research	(85,500,000)		(86,000,000)	(77,250,000)	(92,000,000)	(+6,500,000)
Transit planning and research (Highway Trust Fund, Mass Transit Account)		91,800,000				
Metropolitan planning		(39,500,000)				
Transit cooperative research		(8,250,000)				
Statewide planning		(8,250,000)				
National planning and research		(16,800,000)				
National mass transportation institute		(3,000,000)				
University transportation centers		(6,000,000)				
Advanced Technology Transit Bus		(10,000,000)				
Subtotal, Transit planning and research		(91,800,000)				
Trust fund share of expenses (Highway Trust Fund) (liquidation of contract authorization)	(1,920,000,000)		(2,210,000,000)	(2,210,000,000)	(2,210,000,000)	(+290,000,000)
Rescission of contract authorization	(-271,000,000)					(+271,000,000)
Discretionary grants (Highway Trust Fund) (limitation on obligations):						
Fixed guideway modernization	(760,000,000)		(800,000,000)	(780,000,000)	(800,000,000)	(+40,000,000)
Bus and bus-related facilities	(380,000,000)		(400,000,000)	(440,000,000)	(400,000,000)	(+20,000,000)
New starts	(760,000,000)		(800,000,000)	(788,000,000)	(800,000,000)	(+40,000,000)
Subtotal, Discretionary grants	(1,900,000,000)		(2,000,000,000)	(2,008,000,000)	(2,000,000,000)	(+100,000,000)
Rescission of contract authorization	(-588,000,000)					(+588,000,000)
Major capital investments (Highway Trust Fund, Mass Transit Account) (limitation on obligations)		(650,000,000)				
Mass capital investments (Highway Trust Fund, Mass Transit Account) (liquidation of contract authority)		(2,350,000,000)				
Mass transit capital fund (Highway Trust Fund) (liquidation of contract authorization)	(2,300,000,000)		(2,350,000,000)	(2,350,000,000)	(2,350,000,000)	(+50,000,000)
Washington Metropolitan Area Transit Authority	200,000,000		200,000,000	160,000,000	200,000,000	
Washington Metropolitan Area Transit Authority (Highway Trust Fund, Mass Transit Account)		200,000,000				
Total, Federal Transit Administration	822,997,000	338,818,000	627,738,000	474,747,000	583,738,000	-239,259,000
(Limitations on obligations)	(3,559,185,000)	(4,148,500,000)	(4,210,000,000)	(4,218,000,000)	(4,260,000,000)	(+700,815,000)
Total budgetary resources	(4,382,182,000)	(4,487,318,000)	(4,837,738,000)	(4,692,747,000)	(4,843,738,000)	(+461,556,000)
Saint Lawrence Seaway Development Corporation						
Operations and maintenance (Harbor Maintenance Trust Fund)	10,337,000		11,200,000		11,200,000	+863,000
Research and Special Programs Administration						
Research and special programs	26,886,000	30,102,000	27,934,000	28,450,000	28,450,000	+1,564,000
Hazardous materials safety	(15,472,000)		(15,024,000)	(15,492,000)	(15,342,000)	(-130,000)
Emergency transportation	(993,000)		(993,000)	(1,443,000)	(1,443,000)	(+450,000)
Research and technology	(3,580,000)		(3,596,000)	(3,296,000)	(3,446,000)	(-134,000)
Program and administrative support	(6,841,000)		(8,321,000)	(8,219,000)	(8,219,000)	(+1,378,000)
Subtotal, research and special programs	(26,886,000)		(27,934,000)	(28,450,000)	(28,450,000)	(+1,564,000)
Emergency appropriations	(3,000,000)					(-3,000,000)
Pipeline safety (Pipeline Safety Fund)	28,460,000	30,660,000	28,186,000	28,000,000	28,000,000	-460,000
Pipeline safety (Oil Spill Liability Trust Fund)	2,528,000	2,328,000	3,300,000	3,000,000	3,300,000	+772,000
Subtotal, Pipeline safety	30,988,000	32,988,000	31,486,000	31,000,000	31,300,000	+312,000
Emergency preparedness grants: Emergency preparedness fund	200,000	200,000	200,000	200,000	200,000	
Total, Research and Special Programs Administration	58,074,000	63,290,000	59,620,000	59,650,000	59,950,000	+1,876,000
Office of Inspector General						
Salaries and expenses	37,900,000	40,889,000	42,000,000	38,900,000	42,000,000	+4,100,000
Surface Transportation Board						
Salaries and expenses	12,344,000	14,300,000	15,853,000	12,300,000	13,853,000	+1,509,000
Offsetting collections		-14,300,000	-2,000,000			

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES, 1998 (H.R. 2169) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
General Provisions						
Bureau of Transportation Statistics (transfer from Federal-aid Highways)	(25,000,000)	(31,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	
Transportation Administrative Service Center reduction	-10,000,000		-25,000,000		-3,000,000	+7,000,000
Railroad safety offsetting collections		-60,000,000				
Net total, title I, Department of Transportation	11,983,102,000	13,065,087,000	13,111,631,000	12,753,782,883	13,009,707,000	+1,026,605,000
Appropriations	(12,750,635,000)	(13,103,687,000)	(13,111,631,000)	(12,982,382,883)	(13,460,307,000)	(+709,672,000)
Rescissions	(-1,719,033,000)	(-38,600,000)		(-228,600,000)	(-450,600,000)	(+1,268,433,000)
Emergency appropriations	(951,500,000)					(-951,500,000)
(Limitations on obligations)	(23,986,220,534)	(25,604,000,000)	(27,681,825,000)	(27,989,300,000)	(27,731,325,000)	(+3,745,104,466)
(Sec. 310 obligations)	(2,024,410,000)	(1,510,571,000)	(1,660,226,000)	(1,390,600,000)	(1,390,570,000)	(-633,840,000)
Net total budgetary resources	(37,993,732,534)	(40,179,658,000)	(42,453,682,000)	(42,133,682,883)	(42,131,602,000)	(+4,137,869,466)
TITLE II - RELATED AGENCIES						
Architectural and Transportation Barriers Compliance Board						
Salaries and expenses	3,540,000	3,640,000	3,640,000	3,640,000	3,640,000	+100,000
National Transportation Safety Board						
Salaries and expenses	42,407,000	40,000,000	46,000,000	49,700,000	48,371,000	+5,964,000
Appropriation of user fees		6,000,000				
Emergency appropriations	(6,000,000)					(-6,000,000)
Emergency funding (P.L. 105-18)	(29,859,000)					(-29,859,000)
Emergency fund		1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000
Emergency fund (emergency appropriations)	(1,000,000)					(-1,000,000)
Total, National Transportation Safety Board	42,407,000	47,000,000	47,000,000	50,700,000	49,371,000	+6,964,000
Total, title II, Related Agencies	82,806,000	50,640,000	50,640,000	54,340,000	53,011,000	-29,795,000
Appropriations	(45,947,000)	(50,640,000)	(50,640,000)	(54,340,000)	(53,011,000)	(+7,064,000)
Emergency appropriations	(36,859,000)					(-36,859,000)
TITLE III - GENERAL PROVISIONS						
National Civil Aviation Review Commission	2,400,000					-2,400,000
Net total appropriations	12,068,308,000	13,115,727,000	13,162,271,000	12,808,122,883	13,062,718,000	+994,410,000
Scorekeeping adjustments:						
Emergency appropriations	-289,600,000					+289,600,000
Emergency funding (P.L. 105-18)	-698,759,000					+698,759,000
General provision: Bonuses & awards	-513,604					+513,604
Pipeline safety	1,000,000		1,000,000	2,000,000	1,000,000	
Railroad Safety	-3,000,000					+3,000,000
Total, adjustments	-990,872,604		1,000,000	2,000,000	1,000,000	+991,872,604
Net grand total	11,077,435,396	13,115,727,000	13,163,271,000	12,810,122,883	13,063,718,000	+1,986,282,604
Appropriations	(12,796,468,396)	(13,154,327,000)	(13,163,271,000)	(13,038,722,883)	(13,514,318,000)	(+717,849,604)
Rescissions	(-1,719,033,000)	(-38,600,000)		(-228,600,000)	(-450,600,000)	(+1,268,433,000)
(Limitations on obligations)	(23,986,220,534)	(25,604,000,000)	(27,681,825,000)	(27,989,300,000)	(27,731,325,000)	(+3,745,104,466)
(Sec. 310 obligations)	(2,024,410,000)	(1,510,571,000)	(1,660,226,000)	(1,390,600,000)	(1,390,570,000)	(-633,840,000)
Net grand total budgetary resources	(37,088,065,930)	(40,230,298,000)	(42,505,322,000)	(42,190,022,883)	(42,185,613,000)	(+5,097,547,070)
RECAP						
Total mandatory and discretionary	11,077,435,396	13,115,727,000	13,163,271,000	12,810,122,883	13,063,718,000	+1,986,282,604
Mandatory	617,284,000	645,696,000	645,696,000	653,196,000	653,196,000	+35,912,000
Discretionary:						
Defense (050)		300,000,000	300,000,000		300,000,000	+300,000,000
Nondefense	10,460,151,396	12,170,031,000	12,217,575,000	12,156,926,883	12,110,522,000	+1,650,370,604
Total, Discretionary	10,460,151,396	12,470,031,000	12,517,575,000	12,156,926,883	12,410,522,000	+1,950,370,604

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind all Members that remarks should be directed at the Chair or other Members in the Chamber.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER] for the purpose of a colloquy.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Minnesota [Mr. SABO], the ranking member on the subcommittee, for yielding time to me.

I rise to say, Mr. Speaker, that I will support this conference report. I know the work of both sides has been very hard. Obviously, compromises have been made. But I rise to talk about something that is not in the conference report that greatly concerns me.

Over the last 6 or 7 years, the Congress, prior to 1995, was about the business of fixing up one of the roads it owns. It was the Baltimore-Washington Parkway. The first 19 miles of that road are Federal property. We have appropriated substantial sums to rehabilitate that road, which was some 40 years of age and needed to be fixed or it was not going to be usable. It is a major artery along the Atlantic Coast and a major artery between two of America's great cities, Washington and Baltimore.

It is, I might add, the direct route to Camden Yards, the home of the Baltimore Orioles, which ought to give it added impetus. I would ask the attention of the gentleman from Virginia [Mr. WOLF], who did not hear my comments.

Mr. WOLF. Mr. Speaker, if the gentleman will yield, I apologize, I did not.

Mr. HOYER. I know the gentleman did not. I want to repeat it, because this is the major artery to get to Camden Yards, the home of the Baltimore Orioles. I know the gentleman from Virginia, Mr. TOM DAVIS, is a big fan of the Orioles, and I hope the gentleman from Virginia, Mr. WOLF, is as well.

Mr. WOLF. Yes, I am. The gentleman from Virginia [Mr. DAVIS] is a bigger fan.

Mr. HOYER. That is serious.

But on a transportation note, as the chairman and I have been discussing, it is vital that we complete this project. We are now $18½ million short of completion of rehabilitation and restoration of the federally owned road.

Mr. Speaker, I would ask the chairman, he knows my concern, the concern I have had that we have not been able to fund this over the last 3 years. We are now coming to the end of the funding stream. If we do not get the balance, this project will be in abeyance. I would like to ask, if the chairman could, to give me his comments on that, so we could determine where we are.

Mr. WOLF. Mr. Speaker, if the gentleman will yield, I completely agree with the gentleman. I hope we can do something. I would say there is a discretionary set-aside of $440 million out of the Federal lands program that the administration does have the ability to use. After this is over, I will do a letter to Secretary Babbitt.

Second, I will also ask Senator WARNER from my State to look at this. I think there ought to be a category in the ISTEA bill to deal with the BWI Parkway, and also the unmet needs in a lot of the national parks. I think the gentleman is exactly right. I will attempt to do everything I can to help. I completely agree with the gentleman.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments, and I would thank him for his help in seeing that we could complete this project.

I want to thank my good friend, the gentleman from Minnesota [Mr. SABO], the ranking member, who I know has been trying to help with this as well. I look forward to working with both of them so we can see the completion of this project, which is essentially 90 percent funded and just needs this balance to be completed.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me begin by thanking the gentleman from Virginia [Mr. WOLF], the chairman of the subcommittee, for his good work. This is a good bill. He has done an outstanding job chairing this subcommittee. He has been fair and worked hard at it. It is a product that we should pass by a huge margin today.

Let me also acknowledge all of the staff mentioned by the gentleman from Virginia [Mr. WOLF], both majority and minority, who worked very hard on this bill. It is an outstanding staff, and they do outstanding work.

Let me particularly mention Cheryl SMITH and the minority staff and Marge Duske on my personal staff who have worked on this bill, along with all the majority staff members and associate staff as doing outstanding work. We deeply appreciate it.

Mr. Speaker, let me just highlight a couple of issues. When this bill passed the House I expressed concern that we were underfunding the operating account for Amtrak. The conference report that is back today funds Amtrak at the level requested by the administration. I think that was a good change from what the House passed and represents a significant improvement in this bill.

Second, at the point this bill went to conference we moved to instruct the conferees to stay with the House position of $200 million for operating costs of transit agencies in this country. The House had $200 million in its original bill. The conference report maintains $150 million, which is 75 percent of that amount, and, in addition, it has a provision allowing transit agencies to use some of the capital money for maintenance costs, which previously they have had to use operating dollars for. So in essence, this bill complies with the instructions given by the House at the point that we went to conference.

It is a good bill, and I urge Members to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me the time. I rise in opposition to the language in the bill drafted by the Senate dealing with Dallas' Love Field. I will include a statement expressing my concern about the safety implications of that position.

Mr. SABO. Mr. Speaker, I reserve the balance of my time.

Mr. WOLF. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I rise to participate in a colloquy with the gentleman from Virginia [Mr. WOLF], the chairman.

Mr. Speaker, it has come to my attention that language in the conference report pertaining to technical automation contains two typographical errors. In the first line of the language it should read "DDM 2800 series monitors" rather than "DDM 2300 monitor series," as is printed in the report.

The last line of this language should also read "The conferees direct the FAA to report to the House and Senate Committees on Appropriations by December 15, 1997, explaining how the agency will locate the resources necessary to continue monitor production during fiscal year 1998."

The report reads "to continue to monitor production." The second "to" was added by the Government Printing Office and should be omitted. I just want to make sure that this is clarified and that this is the intent of the conferees.

I would ask, is this the chairman's understanding?

Mr. WOLF. Mr. Speaker, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Speaker, the gentleman is correct. That change was made I think by an English major at GPO who felt a mistake had been made and wanted to save the Congress an embarrassment, and they were thinking of monitor not as the monitor, but to monitor. And the gentleman is exactly right, although we do thank the GPO for the great job they do to edit some of the things we say. The agreement does relate to the 2800 series of monitor and the second "to" was a printing error. I agree with the gentleman.

Mr. PACKARD. I want to thank the gentleman, and I certainly support the conference report.

Mr. SABO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I rise in support of this conference report, which supports the Westside-Hillsboro light rail project.

Mr. Speaker, I rise today in strong support of the conference report on H.R. 2169, Fiscal year 1998 Transportation Appropriations. I want to thank Mr. WOLF, Mr. SABO, and every member of the conference committee for their hard work in crafting an excellent conference report.

I believe the conference report before the House is a good bill in many respects, but particularly because it promotes livable communities. For example, the conference report supports the Westside-Hillsboro Light Rail Project, one of the Nation's leading examples of sustainable development. The Westside Project, which receives the full $63.4 million in this conference report, has already begun operating and will be complete to downtown Hillsboro by September of 1998. Light rail in the Portland area works in conjunction with Oregon's unique land-use laws, and is critical to the future vitality and livability of our region. Oregonians are anxious to reap the benefits of this public investment: reduced congestion, improved air quality, sustainable economic development, and maintaining the quality of life that we treasure in the Pacific Northwest.

We can make a difference in our communities by planning for growth in an effective and environmentally friendly fashion, and this conference report helps achieve this goal. I want to thank Mr. WOLF and Mr. SABO, as well as appropriations staff members John Blazey and Cheryl Smith, for their long-time support of the Westside Project.

We only have 1 year left of funding to complete the Westside Project, Mr. Speaker. I urge my colleagues to support the conference report.

Mr. SABO. Mr. Speaker, I yield to the gentleman from Tennessee [Mr. FORD] for the purposes of a colloquy.

Mr. FORD. Mr. Speaker, I rise to engage the gentleman from Virginia [Mr. WOLF], the chairman of the Subcommittee on Transportation of the Committee on Appropriations, for a colloquy regarding the Memphis International Airport.

Mr. Speaker, the Senate report accompanying S. 1048, the Senate version of the fiscal year 1998 Transportation appropriations bill, included a recommendation that the FAA issue a letter of intent to the Memphis International Airport for reconstruction and extension of runway 18C/36C, a project vitally important to my region's capacity to remain a force in tomorrow's competitive marketplace.

However, my understanding is that this recommendation was not included in the conference report, based on erroneous information that may have been conveyed to staff by the Department of Transportation.

Is that the gentleman's understanding?

Mr. WOLF. Mr. Speaker, will the gentleman yield?

Mr. FORD. I yield to the gentleman from Virginia.

Mr. WOLF. The gentleman is correct, Mr. Speaker. The conferees believed that the FAA already had issued a letter of intent to the Memphis International Airport when in fact it had not occurred. I agree that the Memphis International Airport should have been included on the list of airports for which the conferees encouraged the FAA to consider signing letters of intent, and the FAA should treat the list of airports identified in the statement of managers as if it included Memphis International Airport. I regret and apologize for this inadvertent error that was made.

Mr. FORD. Mr. Speaker, I thank the gentleman for his leadership, and certainly his willingness to address this problem, and for his clarification that indeed Memphis International Airport should receive the same consideration for a letter of intent as the six other airports listed in the statement of managers on H.R. 2169.

Mr. WOLF. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, this is a great institution, and the national media always focuses on the sensationalism of what is happening in Washington. They want to talk about campaign reform, and they want to talk about who had coffee with whom at the White House and how much money was raised, or anything negative.

But meanwhile, we in Congress have a responsibility. One of the greatest responsibilities we have, if not the chief responsibility, is to distribute the tax dollars that the American people sends to us.

□ 1215

While the spotlights are focusing on all the glamorous Members of the Senate and the chairmen of committees about the sensationalism type of media events, there are some in this House who are doing responsible work.

During the last 6 or 7 months, the gentleman from Virginia [Mr. WOLF], chairman of this subcommittee, and the gentleman from Minnesota [Mr. SABO], the ranking Democrat, have been working with a great degree of sensationalism, not publicized sensationalism but responsible, dedicated service, trying to distribute the moneys that have been allocated towards transportation in this country.

It is important. We are talking about highways. We are talking about Amtrak. We are talking about buses. We are talking about the U.S. Coast Guard. We are talking about a myriad of responsible activities that have been taking place under the leadership of the gentleman from Virginia and the gentleman from Minnesota.

So, Mr. Speaker, while I recognize that this is not a perfect bill, because a perfect bill would include a little bit more for the Coast Guard and a little bit more for the State of Alabama, even though admittedly Alabama does pretty doggone well, I just rise and ask my colleagues to reward these gentlemen for the work that they have done for the last 6 or 7 months in bringing to this body, finally, a bill that will provide the necessary moneys for the transportation needs of this country during the next fiscal year.

Mr. Speaker, I urge my colleagues to reward the gentleman from Virginia and the gentleman from Minnesota by voting "yes" in favor of this conference report.

Mr. SABO. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Minnesota has 23 minutes remaining.

Mr. SABO. Mr. Speaker, Members come and go. Somebody who has served here for many years now and did an outstanding job is the gentleman from Colorado [Mr. SKAGGS], my friend. The gentleman flirted for a while with the notion of running for an institution where speech is unlimited and speeches go on forever. In the House, we are disciplined.

Mr. Speaker, being that the gentleman decided not to run for that institution with endless speeches, and the fact that I have 23 minutes left and I need to reserve 2 minutes for the ranking member of the full committee, I yield 21 minutes to the gentleman from Colorado [Mr. SKAGGS], and we are going to test to see what kind of discipline the gentleman has to not use it all.

Mr. SKAGGS. Mr. Speaker, I think that I appreciate the kindness of the gentleman from Minnesota [Mr. SABO], yielding me most of his remaining time, which I will not consume, but I thank the gentleman very much. It has been a delight working with him on the Committee on Appropriations.

Mr. Speaker, I want to thank the gentleman from Virginia [Mr. WOLF], the chairman of the subcommittee, for the predictably good work that the gentleman and his members and staff have done in bringing a bill to the floor that I intend to support.

I have a little bit of a good news and not so good news set of comments I would like to make, which will not take long. But in particular, Mr. Speaker, I wish to recognize and express the thanks of the people that I represent in Colorado for the inclusion of several very important provisions in this bill:

Mr. Speaker, funding for the light rail southwest corridor being constructed by the Regional Transportation District in the Greater Denver

Metropolitan area; funding for a very important mass transit project along the Roaring Fork Valley in western Colorado. There is an impossibly congested situation along the routes leading into Aspen, which is renowned for its spectacular homes and perhaps its well-to-do, but there are an awful lot of working people that need to get to work in that community that will be well served by this inventive effort to bring rail back to the Roaring Fork Valley.

Bus money for Colorado; and, finally, a healthy amount for aviation weather research, extremely important for the national aviation system and an important provision in this funding bill.

Mr. Speaker, there are a couple of points that I do want to raise a question of concern about. For some reason, Mr. Speaker, they seem to have to do with things emanating from the Denver International Airport, a project that has enjoyed the special affection of the chairman of the subcommittee over the years.

I wanted to say both thanks for the provision in section 323 that permits some of the noise studies to move forward that are very important in determining the advisability or not of the construction of a sixth runway at DIA, as well as expressing some regret that there remains a unique provision in the bill prohibiting funds for such construction. But I know the gentleman from Virginia will keep an open mind if it turns out that for safety, noise, and general good management of the airport, it may be advised to proceed with such a sixth runway.

The second point I just wanted to note was the very creative linkage that seems to have been included in the report accompanying the conference report between the southwest rail corridor moneys and the possible acquisition by the city and county of Denver of rights-of-way having to do with a rail line from downtown Denver out to the airport.

Mr. Speaker, I am not quite sure what to make of this report language. It would seem to suggest that if Denver proceeds with right-of-way acquisition, that somehow the light rail project run by an entirely different legal and political entity could be put at risk. I do not suppose that that is really what the committee intends here, but the report language is somewhat fuzzy in this respect.

Obviously, what Denver may do with regard to the airport as one legal entity, one political entity, really should not have much of an impact on what an entirely separate political jurisdiction is doing in trying to solve the needs of the Denver metropolitan area for a rail alternative.

Again, I intend to support the conference report. I appreciate very much the time yielded to me by the gentleman from Minnesota.

Mr. Speaker, I yield back the balance of my time.

Mr. WOLF. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. Mr. Speaker, I have enjoyed sitting on the Subcommittee on Transportation and working with the gentleman from Minnesota as well as the gentleman from Virginia.

Mr. Speaker, I wanted to talk about one of the provisions in this conference report and why I am such an active supporter of it, and that provision deals with the merger of the Union Pacific and Southern Pacific railroads. This merger has created a significant potential safety and environmental problem which this legislation addresses.

Currently, there is a mitigation study being conducted by the Surface Transportation Board, and this study is based on certain data and criteria, that establish how many trains will be coming through Wichita and what the environmental and safety impact, that it will have on the community.

In this legislation we have report language that provides a safeguard that will deal with future safety and environmental problems, and I would like to quote just a part of it. It says, "After the Board has approved the final environmental measures for Wichita, if the Union Pacific Corp. or any of its divisions or subsidiaries materially changes or is unable to achieve the assumptions on which the Board based its final environmental mitigation measures, then the Board should reopen Finance Docket 32760 if requested by interested parties, and prescribe additional mitigation properly reflecting these changes if shown to be appropriate."

This is the safeguard that I referred to, Mr. Speaker, and it allows us to change this study or reconvene a second study if the circumstances demand it so.

Mr. Speaker, the second provision that is in here that is significant for the Fourth District of Kansas as well as the greater south central United States is changes that we have in the Wright amendment. The changes are going to significantly weaken the Wright amendment, which is one of the few remaining monopolies that exist in air travel here in America today.

This was a provision put in place by former Speaker Jim Wright about 18 years ago, and the purpose was to develop the Dallas/Fort Worth International Airport. I have to tell my colleagues that this provision was a success. That airport now is the second largest airport in the world in terms of flight activity. It houses the largest American air carrier, American Airlines. But that success has come at a high cost.

Mr. Speaker, in 1992, the U.S. Department of Transportation did a study and they found that the Wright amendment costs air travelers each year an additional $183 million per year because of the lack of competition. Well, if we take 1992 dollars and escalate them to 1997 dollars, that would be closer to $250 million a year, a quarter of a billion dollars that are paid by air travelers in the form of higher airfares, which go directly in the profit line of those air carriers which benefit from the Wright amendment.

The changes to the Wright amendment are in basically two areas. One, we are changing the description of the 56-seat aircraft exemption. Now, airlines can fly an aircraft out of Love Field that can hold 56 passengers and room for cargo. This change will open up some opportunities for air carriers in the future.

Second, we are changing the definition of "contiguous States" to add three States to it. One of those three States is the State of Kansas. Now, Kansans can fly directly to Love Field. As a result of the Wright amendment, my constituents have had limited travel between Dallas and Wichita, and as a result we have lost some of our corporate headquarters. Pizza Hut's world headquarters transferred to Dallas because of the higher airline cost. Recently, Brite Voice transferred because of higher airline costs.

So these changes in this conference report will be good for the economy not only in south central Kansas, but the economy of the south central United States of America.

Mr. Speaker, I support the provisions in this transportation conference report, and I would like to urge all of my colleagues to vote for this conference report.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY], ranking member of the full Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I would simply note that I certainly do not agree with everything in this bill. In fact, there are items that I have fairly strong disagreement with. But it is a reasonable approach to transportation problems in this country, and I think because of that, it deserves our support.

I simply want to congratulate the gentleman from Virginia [Mr. WOLF] and the gentleman from Minnesota [Mr. SABO] for the job they did in producing this bill. In politics, we often have two kinds of people: we have the show horses and the workhorses. In these two gentlemen, I think we have workhorses and the House is the better for it.

Mr. Speaker, I would also make the point that I think this demonstrates that if these issues are left to the Committee on Appropriations to try to work out in as bipartisan a manner as possible, they can usually be worked out.

We have some other bills which at this point are stuck, even though we are well into the new fiscal year, because other outside considerations have intruded and, as a result, the committee is not being allowed to work out its differences the way it would normally work them out.

If left to their own devices, I think on all four of those remaining bills the Committee on Appropriations could reach an agreement that could satisfy the country in a week. But even though at this point we have not been fortunate enough to have those bills unleashed, this one is, and it is in no small measure due to the fact that we have persons with the attitude represented by the gentleman from Virginia and the gentleman from Minnesota, and I for one appreciate their working style, and I thank them on behalf of our Members for the work they have done on behalf of the House.

Mr. SABO. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. OBEY] for his kind comments.

I have no further requests for time.

Mr. Speaker, I yield back the balance of my time.

Mr. WOLF. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. OBEY] for his comments, and I thank all the Members on both sides and urge an "aye" vote for the conference report.

Mr. OBERSTAR. Mr. Speaker, I would like at this time to raise one aspect of the Transportation appropriations bill that gives me concern. I believe modifying the Wright amendment without a careful and serious debate about the safety issues involved is premature. At the outset, I want to make it clear that I am not against competition in the airline industry. In fact, I have worked many years as chairman of the Aviation Subcommittee and now as the ranking Democratic member on the Transportation and Infrastructure Committee to ensure that competition is alive and well and that consumers are protected. My concerns focus entirely on the safety of permitting greatly expanded traffic growth at Love Field in Dallas, which might complicate the air traffic patterns in the Dallas-Fort Worth area.

Let me begin by saying that the Wright amendment was a carefully crafted compromise which resolved a heated and long standing dispute between the cities of Dallas and Fort Worth. Today, Dallas Fort Worth is a vibrant international airport and Love Field is very successful and the home of Southwest Airlines. I will not go into the history of the Wright amendment except to say that it has served the Nation well.

Dallas Fort Worth and Love Field airports are only 8 miles apart. Only 2 nautical miles separate the approach patterns between DFW and Love Field. The runways at Love Field point into Dallas Fort Worth's most heavily used arrival routes. Over the years, FAA has developed air traffic control procedures to prevent planes from coming too close to one another. The approach procedures into Love Field are more circuitous in order to facilitate a more direct approach into Dallas Fort Worth. These procedures work well with the Wright amendment in place. Safety is assured. Congestion is controlled.

With the modification of the Wright amendment, I am concerned about the potential safety impacts from the anticipated growth at two airports in such close proximity. The Federal Aviation Administration's data shows that Dallas Forth Worth totaled almost 900,000 operations in 1995, making it the second most active U.S. airport. Analysts at the Federal Aviation Administration Believe that this will increase to over 1.2 million operations per year by 2010, an increase of almost 40 percent. Love Field, on the other hand, experienced about 208,700 operations in 1995 and is expected to grow by about 5.9 percent by 2010. But that was before any thought was given to modifying the Wright amendment. If airlines move into Love Field, the airport will quickly reach capacity and significant delays may become commonplace. The safety impacts of these developments in such confined airspace, particularly in poor weather, are uncertain at best.

In September 1991, the House Aviation Subcommittee held exhaustive hearings on this issue and explored the competitive and safety impacts of repealing or modifying the Wright amendment. At that time, we heard from experts in the aviation community, local and State leaders, and many others. The subcommittee explored the safety and competitive issues in great depth. Najeeb Halaby, a former FAA Administrator cautioned against repealing the Wright amendment on safety grounds and told us that the margin of safety would be compromised. Again, we need to examine the facts, analyze the safety issues, an get a full understanding of all the complexities of traffic flow and air traffic control before such a major change is even considered.

Mr. Speaker, let me say in closing that the burden now falls on the Federal Aviation Administration to make sure that both Dallas Forth and Love Field can operate safely and can handle growth. The conferees to this bill expressed similar concerns and have directed the Federal Aviation Administration to report on the additional equipment or air traffic control support necessary to enhance traffic flow, airspace management, and safety in the Dallas-Fort Worth metropolitan area. Also, FAA is to review the implications of increased traffic levels on the area and recommend the appropriate steps. We should have had the answers to these questions before we voted on this provision.

Ms. STABENOW. Mr. Speaker, today I am voting against the conference agreement on Transportation Appropriations for Fiscal Year 1998. Although the House approved a level of $15 billion for my State of Michigan for the coming fiscal year, a questionable deal was cut in the conference committee. Inexplicably the levels in those two bills were cut to just $7.5 million. This is a perfect example of the need for funding equity in our transportation programs, and a reworking of the formulas for transit which have continuously resulted in Michigan's citizens getting the short end of the transit funding stick.

Transportation funding is one of the most critical commitments that our government makes each year. Therefore, I support the base bill. However, I cannot continue to stand by, Mr. Speaker, while the transit customers of Michigan are given no guarantee of a return of Michigan's gas tax dollars.

Therefore, today I voted with the majority of the Michigan delegation against this conference agreement, despite the fact that it included a provision that I strongly support—a provision that bars Members of Congress from exercising the option of switching from the Civil Service Retirement System to the Federal Employees Retirement System.

At the very least, Mr. Speaker, we must find some way to assure that each State receives a minimum allocation from the Transit account of our highway trust fund. Today, Mr. Speaker, I vote against this bill to protest its perpetuation.

Mr. KILPATRICK, Mr. Speaker, I rise today in opposition to the conference report accompanying H.R. 2169, the Transportation Appropriations bill for fiscal year 1998. In this bill, the State of Michigan was allotted $15 million in the House bill, and $14 million in the Senate bill. What does the conference report contain? Not $15 million for the State of Michigan, nor does it contain $14 million for the State of Michigan. It contains only $7.5 million for the federally funded roads, bridges, and highways for the next fiscal year for the State of Michigan. While I support the basic tenets of this bill, this level of funding is simply ludicrous and does a disservice to the hard-working taxpayers of my State and of the 15th Congressional District of Michigan, and I will vote against final passage of this conference report.

Once again, Michigan taxpayers are donating our dollars to the rest of the Nation. I refuse to stand idly by while our constituents get fiscally abused. Paraphrasing a country song, while the donee States get the gold mine, the donor States get the shaft. The funding formula for the donor States must be corrected, and I will continue to fight for full and fair equity in transportation funding for the State of Michigan and the 15th Congressional District. Our taxpayers and our constituents deserve no less than our full and devoted effort to this end.

Mr. ADERHOLT. Mr. Speaker, I rise today in strong support of the conference report on H.R. 2169, the Transportation and Related Agencies Appropriation Act for Fiscal Year 1998. Chairman FRANK WOLF and Senate Chairman RICHARD SHELBY have worked hard to ensure the transportation infrastructure needs of the country are adequately funded. Funding for surface transportation in this bill has been increased by 20 percent and includes $300 million for the Appalachian Development Highway System [ADHS].

Funding for the ADHS will help expedite completion of corridor X and corridor V which run through the Fourth Congressional District, that I am privileged to represent.

Corridor X is the proposed four-lane superhighway that will connect the cities of Memphis, TN and Birmingham, AL. It is an unthinkable omission from our National Highway System that there is no four-lane route between these two important cities in the Southeast.

Corridor V is the proposed highway that begins east of Tupelo, MS, and runs through northern Alabama to Chattanooga, TN. Once

completed, this highway will increase economic activity in northern Alabama and provide an important link with corridor X.

Traditionally, the entire ADHS has been without a stable and significant funding source and this has resulted in the completion of only 78 percent of the corridors. By contrast, the Interstate Highway System is 99 percent completed. The $300 million provided in H.R. 2169 is a giant step in the right direction for ADHS, corridor X and corridor V.

In addition, President Clinton and the Congress have both submitted legislation to reauthorize the Intermodel Surface Transportation Efficiency Act [ISTEA] that include a specific funding category for the ADHS. While there are numerous disputes over funding formulas and overall funding levels in that debate, I am hopeful that whatever version to reauthorize ISTEA becomes law includes a specific category for ADHS. With a steady, stable source of funding, we can ensure that the transportation infrastructure of the Appalachian region is ready to meet the challenges of the twenty-first century.

Once again, I commend Chairman WOLF and Chairman SHELBY for their hard work and look forward to working with them next year to build on this year's success.

Mr. WOLF. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 21, not voting 11, as follows:

[Roll No. 510]

YEAS—401

Abercrombie	Boucher	Cummings
Ackerman	Boyd	Cunningham
Aderholt	Brady	Danner
Allen	Brown (CA)	Davis (FL)
Andrews	Brown (OH)	Davis (IL)
Archer	Bryant	Davis (VA)
Armey	Bunning	Deal
Bachus	Burr	DeFazio
Baesler	Burton	DeGette
Baker	Buyer	Delahunt
Baldacci	Callahan	DeLauro
Ballenger	Calvert	DeLay
Barcia	Canady	Dellums
Barr	Cannon	Deutsch
Barrett (NE)	Capps	Diaz-Balart
Barrett (WI)	Cardin	Dickey
Bartlett	Carson	Dicks
Barton	Castle	Dixon
Bass	Chabot	Doggett
Bateman	Chenoweth	Dooley
Becerra	Christensen	Doolittle
Bentsen	Clay	Doyle
Bereuter	Clayton	Dreier
Berman	Clement	Duncan
Berry	Clyburn	Dunn
Bilbray	Coble	Edwards
Bilirakis	Collins	Ehrlich
Bishop	Combest	Emerson
Blagojevich	Condit	Engel
Bliley	Cook	English
Blumenauer	Cooksey	Ensign
Blunt	Costello	Eshoo
Boehlert	Cox	Etheridge
Boehner	Coyne	Evans
Bonilla	Cramer	Everett
Bono	Crane	Ewing
Borski	Crapo	Farr
Boswell	Cubin	Fattah
Fawell	Leach	Reyes
Fazio	Lewis (CA)	Riggs
Filner	Lewis (GA)	Riley
Flake	Linder	Rivers
Foglietta	Lipinski	Rodriguez
Foley	Livingston	Roemer
Forbes	LoBiondo	Rogan
Ford	Lofgren	Rogers
Fowler	Lowey	Rohrabacher
Fox	Lucas	Ros-Lehtinen
Frank (MA)	Luther	Rothman
Franks (NJ)	Maloney (CT)	Roukema
Frelinghuysen	Maloney (NY)	Roybal-Allard
Furse	Manton	Royce
Gallegly	Manzullo	Rush
Ganske	Markey	Ryun
Gejdenson	Martinez	Sabo
Gekas	Mascara	Salmon
Gephardt	Matsui	Sanchez
Gibbons	McCarthy (MO)	Sanders
Gilchrest	McCarthy (NY)	Sandlin
Gillmor	McCollum	Sawyer
Gilman	McCrery	Saxton
Goode	McDade	Schaefer, Dan
Goodlatte	McDermott	Schaffer, Bob
Goodling	McGovern	Schumer
Gordon	McHale	Scott
Goss	McHugh	Sensenbrenner
Graham	McInnis	Serrano
Green	McIntosh	Sessions
Greenwood	McIntyre	Shadegg
Gutierrez	McKeon	Shaw
Gutknecht	McKinney	Shays
Hall (OH)	McNulty	Sherman
Hall (TX)	Meehan	Shimkus
Hamilton	Meek	Shuster
Hansen	Menendez	Sisisky
Harman	Metcalf	Skaggs
Hastert	Mica	Skeen
Hastings (FL)	Millender-McDonald	Skelton
Hastings (WA)	Miller (CA)	Slaughter
Hayworth	Miller (FL)	Smith (NJ)
Hefley	Minge	Smith (OR)
Hefner	Mink	Smith (TX)
Herger	Moakley	Smith, Adam
Hill	Mollohan	Smith, Linda
Hilleary	Moran (KS)	Snowbarger
Hinchey	Moran (VA)	Snyder
Hinojosa	Morella	Solomon
Hobson	Myrick	Souder
Holden	Nadler	Spence
Hooley	Neal	Spratt
Horn	Nethercutt	Stark
Houghton	Neumann	Stearns
Hoyer	Ney	Stenholm
Hulshof	Northup	Stokes
Hunter	Norwood	Strickland
Hutchinson	Nussle	Stump
Hyde	Oberstar	Sununu
Inglis	Obey	Talent
Istook	Olver	Tanner
Jackson (IL)	Ortiz	Tauscher
Jackson-Lee (TX)	Owens	Tauzin
Jefferson	Oxley	Taylor (MS)
Jenkins	Packard	Taylor (NC)
John	Pallone	Thomas
Johnson (CT)	Pappas	Thompson
Johnson (WI)	Parker	Thornberry
Johnson, Sam	Pascrell	Thune
Jones	Pastor	Thurman
Kanjorski	Paxon	Tiahrt
Kaptur	Payne	Tierney
Kasich	Pease	Torres
Kelly	Pelosi	Towns
Kennedy (MA)	Peterson (MN)	Traficant
Kennelly	Peterson (PA)	Turner
Kildee	Petri	Velázquez
Kim	Pickering	Vento
Kind (WI)	Pickett	Visclosky
King (NY)	Pitts	Walsh
Kingston	Pombo	Wamp
Kleczka	Pomeroy	Waters
Klink	Porter	Watkins
Klug	Portman	Watt (NC)
Knollenberg	Poshard	Watts (OK)
Kolbe	Price (NC)	Weldon (FL)
Kucinich	Pryce (OH)	Weldon (PA)
LaFalce	Quinn	Weller
LaHood	Radanovich	Weygand
Lampson	Rahall	White
Lantos	Ramstad	Whitfield
Latham	Rangel	Wicker
LaTourette	Redmond	Wise
Lazio	Regula	Wolf
		Woolsey
		Wynn
		Yates
		Young (AK)
		Young (FL)

NAYS—21

Camp	Granger	Sanford
Campbell	Hoekstra	Scarborough
Coburn	Hostettler	Smith (MI)
Conyers	Johnson, E. B.	Stabenow
Dingell	Kilpatrick	Stupak
Ehlers	Levin	Upton
Frost	Paul	Wexler

NOT VOTING—11

Bonior	Hilliard	Murtha
Brown (FL)	Kennedy (RI)	Schiff
Chambliss	Largent	Waxman
Gonzalez	Lewis (KY)	

□ 1250

Messrs. CAMP, SMITH of Michigan, and LEVIN changed their vote from "yea" to "nay."

Mr. GUTIERREZ changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DISTRICT OF COLUMBIA APPROPRIATIONS, MEDICAL LIABILITY REFORM, AND EDUCATION REFORM ACT OF 1998

The SPEAKER. Pursuant to House Resolution 264 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2607.

□ 1252

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes, with Mr. CAMP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina [Mr. TAYLOR] and the gentleman from Virginia [Mr. MORAN] each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. TAYLOR].

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I apologize for my speech at the moment, but considering where it was 6 or 8 weeks ago, it is much better and I appreciate the comments from my fellow colleagues about my health.

I want to also thank the members of my subcommittee, the gentleman from Wisconsin [Mr. NEUMANN], the gentleman from California [Mr.

CUNNINGHAM], the gentleman from Kansas [Mr. TIAHRT], the gentlewoman from Kentucky [Mrs. NORTHUP], the gentleman from Alabama [Mr. ADERHOLT], the gentleman from Virginia [Mr. MORAN], the gentleman from Minnesota [Mr. SABO], and the gentleman from California [Mr. DIXON] for all their hard work on this bill.

The gentleman from Virginia [Mr. MORAN], the ranking member and I have disagreed on many parts of the bill, but he has always been very supportive in his efforts, with polite debate and working with us in those areas where we could agree.

It is often a thankless job, but a necessary one, for we frequently hear about the residents of the District, but we have a responsibility to the 260 million Americans to whom this city is very special.

H.R. 2607, the District of Columbia appropriations bill, fully funds the District of Columbia at $4.8 billion. It pays down $200 million of the District's short-term debt and provides $100 million additional if savings are provided. It provides $269 million for needed capital improvements, school and street repairs. It reforms medical malpractice. It provides scholarship choice for Washington, DC students.

With the enactment of the Balanced Budget Act early this summer, the Congress relieved the District of some $700 million in spending responsibilities and provided the District with some $235 million in net savings. Now, this was not saved by the District, but it was able to be used toward reducing the District's debt. Our bill uses these savings to pay down debt and to fix the crumbling schools and streets which have been disregarded in many cases in the Nation's Capital.

The bill provides that additional management savings the District promised in its fiscal year 1999 budget be moved to fiscal year 1998, with any savings realized devoted to further deficit reduction.

Finally, District revenues over estimates will be placed in a D.C. taxpayer's relief fund. That fund will perhaps provide somewhere between $75 million and $100 million in much needed taxpayer relief.

With over 100,000 taxpayers having left the District in the past few years, our bill tries to reach the twin goals of making the city government more effective and keeping in place a tax base. It really does not matter how efficient we make D.C., because if we continue driving taxpayers out of the District then all we may be doing is just processing welfare payments.

Our bill also includes groundbreaking provisions to provide educational scholarships for the District's children and places noneconomic damage limits on medical malpractice awards up to $250,000, and permits the schools to waive Davis-Bacon so that needed school repairs can get done in a timely, cost effective manner.

The House passed education scholarships as part of the fiscal year 1996 bill, and the medical malpractice reform in this bill is based on the House passed medical malpractice provisions of this year's budget bill.

Our bill also removed the tax exemption for the National Education Association and devotes their property tax payment to charter schools.

Our bill also funds the University of the District of Columbia Law School. However, if it does not receive full and unconditional accreditation, the funds appropriated will be used for those students currently enrolled to gain an education elsewhere.

We provide District of Columbia police officers and fire fighters with a needed pay raise based on merit—and performance, for officers on the street, not behind a desk. And we make sure that school teachers have valid credentials before they can receive a raise.

And, finally, our bill contains a number of important provisions to strengthen the independence of the D.C. inspector general and the chief financial officer, and to provide the D.C. Control Board with congressional direction and priorities.

Our manager's amendment, drafted with the full support of the gentleman from Virginia [Mr. MORAN], my ranking minority member, and incorporated into the rule just passed, resolves several thorny issues, including making sure that the control board selects an independent vendor qualified by the Office of Management and Budget to update the District's current financial management system.

Our bill also recognizes the policing activity made by the U.S. Park Police by providing, for the first time, funds to reimburse the Park Police for their major contributions to public safety.

Regarding Federal funds, the bill provides a total $827 million, including: $180 million in Federal contribution to the District, $169 million to corrections for operations, $302 million to corrections for facilities, $123 million for courts, $23 million for pre-trial services, $5.4 million for police merit raise, $2.6 million for firefighters payraise, $12.5 million for Park Police, $7 million for Parental Choice Educational Scholarships, $1 million for District Educational Learning Technology Advancement Council [DELTA Council], and $2 million for the DC Inspector General.

The windfall of $235,000,000 realized from the Revitalization Act is allocated as follows: $200 million in deficit reduction, $30 million in PAYGo street and school repairs, and $5 million in management performance fund.

In the bill we establish a D.C. taxpayer relief fund and require that any District revenue in excess of estimates be deposited into the fund. It is estimated that perhaps $75 will be deposited. Tax cuts will be enacted by the District City Council based on the recommendations of the D.C. Tax Revision Commission and the Business Regulatory Reform Commission. The bill also moves up to $100 million in fiscal year 1999 management savings initiatives to fiscal year 1998, savings realized devoted to deficit reduction.

In addition the bill includes several other provisions.

Law School: Fully funds UDC School of Law contingent upon receive full and unconditional accreditation. If accreditation is not received by February 28, 1998, school closes and remaining funds re for D.C. resident student scholarships at area law schools.

Davis-Bacon waiver, Permits D.C. public schools to waive Davis-Bacon requirements for school construction and repairs, saving the District up to 20 percent. Similar waiver have been granted for natural disaster like Hurricane Hugo, the D.C. school situation is a man made disaster but a disaster nevertheless.

Pennsylvania Avenue reopening: At the recommendation of a District City Council Member, the bill re-opens that section of Pennsylvania Avenue in front of the White House to traffic. The closure has disrupted the flow of traffic and impeded citizen access to the White House.

Welfare Cap: Places District Council enacted welfare caps—holding payments to the higher of surrounding jurisdictions—into that portion of the D.C. Code which is unamendable by the District Council. This provision ensures that the District will not again become a welfare payment magnet.

Medical Malpractice Reform: District physicians continue to pay medical malpractice premiums as much as two times greater than in neighboring States, reducing the number of physicians willing to practice in the city and limiting access to health care. The bill's $250,000 cap on noneconomic damages, and joint and several liability reform could reduce such premium by 20 percent. Five of the District's thirteen hospitals operated at a loss last year, and the cash strapped city government paid $15 million in tort recoveries last year.

The District of Columbia is the only jurisdiction in the country with no limits on malpractice awards.

Repeal of National Education Association Tax Exemption: The bill eliminate the property tax exemption for the National Education Association. Currently, some 34 organizations are congressionally chartered and exempt from paying District of Columbia property taxes. Only one, the National Education is a labor union. The NEA has announced that it agrees, it principal to pay it's one million, one hundred thousand dollar tax bill.

There are many changes in this legislation that are very much needed, and

many of the provisions are not in the Senate bill.

□ 1300

The Senate bill does not restrict pay raises to those teachers who have valid teaching credentials. The House bill does. The House bill also on a bipartisan basis strengthens the independence of the District's inspector general and chief financial officer so they can carry out their duties without interference. The Senate does not.

The House bill also tightens up the use of detailees and requires the user office to pay for the detailees. This is very much needed based on recent reports showing certain city offices with more employees than they admit to. The Senate bill does not address this issue.

The House bill also caps the outrageous tort awards which are driving medical providers out of the District and making medical care more difficult and more expensive to get. The Senate bill does not.

The House bill also cuts the size of the Mayor's security in half, from 30 members to 15, and puts those highly trained police officers on the street to go after criminals. The Senate bill allows the mayor to keep the largest security detail in the Nation.

The House bill gives the city important tools to improve its finances by allowing for the recovery of fees and costs for bad checks and by clarifying the city's authority over unclaimed property. These are tools that are essential if the city is to improve its finances. The Senate bill is silent on those issues.

The Senate bill does not provide the District with the authority to make direct deposits for all payments. The House bill does. The House bill makes sure that the congressionally created Control Board is audited and that the funds it earns as interest are appropriated by this body. The Senate bill does not.

The House bill caps the District's welfare payments at the higher of the surrounding jurisdictions. The Senate bill permits the District to raise welfare payments to as high as 50 percent above the surrounding jurisdictions, once more making Washington the welfare capital of America.

The House bill includes language restoring fairness in the application of the local property tax among labor organizations in the District. This provision will generate an additional $1.3 million in local tax revenues. The Senate bill does not address this issue at all.

Those are just a few of the differences between the House and the Senate bills. The work that we provide in this bill is certainly commendable. We urge Members' support for this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to begin by taking this opportunity to express my appreciation for the gentleman from North Carolina [Mr. TAYLOR] and the work that he has put into this appropriations bill.

He and I do disagree on many of the provisions in this bill and, in fact, on many of the issues considered by this Congress. We come from different parts of the country and very different congressional districts. We have very different ideologies, philosophies, and influences that govern our decisions. Despite all of this and despite our disagreements, the gentleman from North Carolina [Mr. TAYLOR] and his staff have been honest, forthright, and fair throughout consideration of this bill.

I am also deeply impressed with the way that the gentleman from North Carolina [Mr. TAYLOR] has been able to bounce back from his stroke last summer. Such an ailment would challenge any of us as we try to continue to resume a normal life. Through it all, he has not only worked to resume his responsibilities as a Member of the House but has also carried forth his responsibilities as chairman of the District of Columbia Appropriations Subcommittee.

I say to the gentleman from North Carolina [Mr. TAYLOR], he has remained a gentleman from the day he took over as chairman of this subcommittee, and I appreciate the opportunity to have worked with him.

Mr. Chairman, the District of Columbia Appropriations Act is never an easy bill to pass. The Congress has the responsibility to ensure that Federal funds appropriated to the District of Columbia are spent wisely. We have the responsibility to ensure that congressionally created entities operate properly. We have the statutory responsibility to approve the local expenditure of locally raised revenues.

Yet, some Members are willing to abdicate that responsibility and vote against the District of Columbia Appropriations Act unless, they can interject national and ideological issues into this debate. The District of Columbia Appropriations Act is the smallest appropriations bill, yet it becomes a magnet for controversial and extraneous riders.

Congress has never been able to resist the opportunity to play city council for a day and impose its will on this city. In fact, when I first ran for Congress in 1990, my opponent boasted of how he attached a rider to the D.C. bill that prohibited the University of the District of Columbia from spending money to buy a controversial painting. My colleagues may remember that issue. He probably does. That was 6 years ago.

Every Member, well, not every Member, but a number of Members attempt to advance their own political careers at the expense of the District of Columbia.

Since then, I have seen amendment after amendment being offered to the D.C. appropriations bill that addressed national or ideologic concerns. Prohibitions on the use of funds for abortion, prohibitions on the use of funds to allow individuals to include domestic partners in their health insurance policies have been perennial amendments.

In fact, they have become so common that the District of Columbia's city council is unwilling to fight them anymore and already included these riders in their own budget submission. So all those issues that have been given that they have accepted them, they are already in the D.C. Council's budget.

Recently, there have been amendments on vouchers, on charter schools, on Davis-Bacon. In the Senate, there have been amendments changing the Senate procedures on the use of holds. Now, what does that have to do with the District of Columbia changing an arcane procedure within the District's own rules? That is not even relevant to the House, never mind the Nation or the District of Columbia. But it was an amendment that was attempted to be attached to this bill.

The House bill is more of the same. The actual appropriations language in the bill ends on page 27. The next 102 pages is dedicated to general provisions. Think of that. The appropriations process is concluded after 27 pages, and then we have got 102 pages trying to do what is properly under the purview of the authorizing committee and does not belong in an appropriations bill.

Some of the provisions are good. I would like to see some of these things enacted. Some of them are clearly wrong. Almost all of them go beyond the city's request, and they interject ancillary issues into this debate.

Now, in defense of the gentleman from North Carolina [Mr. TAYLOR], I have to say that the bill we are dealing with today is much better than the bill that was considered by the subcommittee. Of course, that is faint praise, since the gentleman from North Carolina [Mr. TAYLOR] put those provisions in the subcommittee. But we have been able to work closely together and we have struck those provisions that cut the local budget by $300 million. It would have reduced the city employment by more than 2,000 positions and imposed a residency requirement on city employees.

Those issues were struck. Those are not part of this bill, and that is very fortunate. But the manager's amendment that we will offer today still is necessary, because that further does improve this bill, stakes out more things that we both now agree ought not to be in the bill. It strikes a number of provisions that have unintended

consequences, things that we never intended to do, that would have adverse consequences on the District or are simply not appropriate for inclusion in the bill.

But there remains, Mr. Chairman, much more to be done. And that is why I will be offering a substitute amendment that will not only remove the remaining problems in this bill but will also ensure that we can actually pass the bill and have it enacted into law before the continuing resolution expires.

We owe that to this country, to the responsibility we assume as national representatives in this Congress, and we certainly owe it to the District of Columbia residents to give the District of Columbia its spending bill, not to force them into a continuing resolution situation where the Control Board cannot even issue any long-term contracts it is going to cost them much more money to operate. It is not right to force them into a continuing resolution situation.

The only way to avoid that is to agree to the amendment that brings us back to the Senate version. We have 3 more working days before the existing congressional continuing resolution expires. Let us pass my substitute amendment and get this bill signed into law during those 3 days.

After that has passed, we will have plenty of time to debate school vouchers, Davis-Bacon, medical malpractice, welfare caps, prohibiting helicopter flights, restricting the use of automobiles under 26 miles per gallon, new financial management system contracts, charter school leases, cutting school administrators, closing Pennsylvania Avenue, repealing the NEA's tax exemption, restricting the ability to fire the chief financial officer and the Inspector General, and every other ancillary provision that have been added to this appropriations bill.

Nobody wants me to repeat that long, long list again. But it makes a point. Those are all issues that do not belong in this bill. I support many of these provisions, though. I mean, I would like to see them done. Get them done by the authorizing committee.

I would also support, though, the District's Control Board. We set it up. It is doing a good job. The District's authorizing committee knew what they were doing. They have a responsibility. Let them fulfill their responsibility. Let local governments, this is a basic fundamental Republican premise, let local governments plan their own affairs. Let them raise their own revenue, and let them spend their own money. Let them best determine how to serve their citizens. It is their responsibility under our democratic form of government. Let them fulfill their responsibility. Let us fulfill our responsibility.

Support my amendment that will let us go back to the Senate version, which is the consensus budget. Get the bill enacted. Do the right thing.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, of course taking the suggestion of the gentleman from Virginia [Mr. MORAN], we could just abolish the House and just let the Senate make our determinations and we could all go home. But many of us think we have additional ideas that we would like to put forth.

There is some hypocrisy, Mr. Chairman, about the items that we have inserted here. First of all, the Constitution lays at the steps of the Congress, the management of the District of Columbia. It is our full responsibility. And we can certainly work with the city council and the administration, but we bear the responsibility for legislation for the Nations Capital.

Second, many times it serves the minority's interests well when they do not go with the city, and sometimes they want to go with the city. For instance, the administration, without any consultation with Congress, without any consultation with the city council, closed a section of Pennsylvania Avenue, at great inconvenience to the people of this city.

Now, without getting into the debate, I have put language in our bill to reopen that closed section because we have no evidence that that was closed with good reason.

□ 1315

We think that the city council, which has asked us to insert the reopening provision is acting within their powers and that they should be consulted since this being a city street rather than just the administration making the decision.

Also, Congress enacted a few years ago on a bill that moved the city's residency requirement for its 30,000 employees to live within the city. The District wanted to keep that residency requirement. It was the Congress that removed that, as it was pandering to the unions, and that has worked a severe hardship upon the city.

Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I think the diligence of the chairman, the gentleman from North Carolina [Mr. TAYLOR], is extraordinary, especially in the case of his medical problem, and he has fought back, and I want to thank the chairman.

I would also like to thank the ranking minority member, the gentleman from Virginia [Mr. MORAN]. As he knows, I just gave Mary a box of candy from California and there is another one where that comes from, I would say to the gentleman, to sweeten him up.

I would also like to thank the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the full committee. I have never voted for a D.C. bill in the 6 years I have been here, because it has been general practice to just have business as normal. The gentleman from Louisiana [Mr. LIVINGSTON] says, "Well, Duke, you complain about it. If you think it is broke, fix it." So I get my pittance on the D.C. appropriations bill, but I want to tell my colleagues something that is rewarding: The gentleman from California [Mr. DIXON] has been wonderful, and I even thank the gentleman from Wisconsin [Mr. OBEY] for his mellowing in his later years.

Mr. Chairman, I have spoken to Members, and I realize that on the political side of this, it is difficult. It is difficult in some cases for our Republican Members to go against the special interests of the unions. I understand it is difficult for Members on the other side at the same time, and I have talked to them about it. The actual issues, they wish they could support, but they cannot.

Mr. Chairman, when we talk about campaign finance reform, we talk about the essence of it is taking out special interests so that we can actually help. I would also like to thank the gentlewoman that represents the District [Ms. NORTON]. Although we may disagree on issues, she was there, she participated with her city. She had hearings, she was present, she is not on the subcommittee, but yet she took the time to show up and do that.

I think it is just a shame, though, that in the case of special interests that we cannot pass legislation, or we may have difficulty passing legislation that will actually help the city, will help children, will help parents, and I think that the gentleman from North Carolina [Mr. TAYLOR], the chairman of the subcommittee, has done a good job.

But what have we tried to do? I want to assure my friends on the other side, although we may talk about ideology, and there may be some portions in this, I want to tell my colleagues that my motives are pure. I want to get the most amount of dollars down to a school system to where the school, the average is 86 years old, and they have to replace school roofs. A lot of the schools, the fire department has had to take over because they are dangerous. And if we can get the maximum amount of dollars into those schools, and it has been proven time and time again in many, many States by waiving Davis-Bacon for school construction that we save a lot of dollars, and that is the intent. This is an emergency situation. It is not ideological to me. To look at charter schools, in which many cases the unions blasted charter schools, but I think the sweeping, overwhelming good that they do and allowing the District of Columbia to go into those, I think it is a benefit.

There is an union group that is exempt from taxes. It will get $1.3 million a year into the school system. That is good. It gets more money to upgrade the computers, because when we have schools that age, I guarantee my colleagues that the technology and the science equipment, the math, and we have large amounts of students that do not even finish and graduate from those schools, we have to do something to help that and to get the most amount of dollars to do that.

We recognize the Jaime Escalante type of teachers by increasing the funding for those teachers that are credentialed. There are many, and I have met them because I live in the District of Columbia, and there are many good teachers in Washington, DC, but yet they are plagued by teachers that are not, like in many of our innermost cities, and we want to recognize those that do a good job and reward them for that.

But I think most of all that there is an area in which parents feel like they are hopeless. Children do not have a chance, and I would like to read this. It is from Dr. King. He said,

In this spirit, House Majority Leader Dick Armey of Texas and Representative Floyd Flake, a Democrat from New York, and several other Congressmen have proposed the District of Columbia Student Opportunity Scholarship Act.

Low-income, low-income parents that feel denied will have a chance, for the first time, to offer their children a chance at a good education.

Mr. MORAN of Virginia. Mr. Chairman, I yield 4½ minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking Democrat on the full Committee on Appropriations.

Mr. OBEY. Mr. Chairman, my first assignment in this House was the District of Columbia appropriations subcommittee after I went on the Committee on Appropriations, and I have seen the Congress for many years treat the District of Columbia almost as its private plantation.

The very first fight I ever had in this House was when the Congress tried to hold up money for construction of the D.C. subway until they could reach agreement that the District of Columbia would proceed to build more highways and another bridge into Georgetown. I thought that kind of leverage was improper then, and I think it is improper now.

We have a problem when Congress tries to impose its own judgment on how the city ought to run. We are providing governance without representation, because when we make decisions that affect the lives of people in the District of Columbia, they have no remedy if we make the wrong decision because they cannot vote us out of office. That is why it is essential for the Congress to exercise restraint in its oversight of the District of Columbia.

Now, I have seen a lot of efforts through the years to have this Congress micromanage the District. This bill, in my view, is the worst effort that I have ever seen on the part of the Congress in all of the years I have been here, going back to the time when this Congress held up for 2 years needed money to build the subway until the subway became more expensive because of the delay. I do not believe that it is in the public interest of the District or our taxpayers for us to get in the way of the ability of the fiscal control board to try to bring order to District of Columbia affairs. This bill guts their ability to do that.

It imposes Congress's judgment on vouchers. It requires vouchers be provided in order to send children in some cases to private schools. Now, maybe they ought to make that judgment, but the Congress should not make that judgment when they have no recourse if they disagree with that judgment. The Congress has overstepped its bounds, in my view, in a good many areas which the gentleman from Virginia [Mr. MORAN] has already described.

The issue here in my view is not whether some of these policy judgments should have been arrived at; the issue is who should arrive at those judgments. It is not the Congress; it is the fiscal control board which was appointed to do the job.

So what the Moran amendment is going to do, instead of unilaterally imposing actions on the District, the Moran amendment is going to simply ask the House to take the approach already adopted by Senator FAIRCLOTH, hardly a raving left-wing radical; it takes the approach which he has suggested and would substitute that for the approach taken by the subcommittee.

Under ordinary circumstances, I do not like to do that, because I do not like to adopt Senate judgments without further consideration. But given the gross committee overreaching in this case, by dictating to the District on what it ought to do on airplane flights, what it ought to do on the District of Columbia Law School, what it ought to do on other financial arrangements, it gives us no choice but to look for a more responsible way, and that more responsible way has been pointed out by Senator FAIRCLOTH. So in my view, we ought to adopt the Moran amendment.

In addition to being the right thing to do, it is the one thing that will produce a real bill. We will not produce a real bill by having the Congress dictate to the District of Columbia. We will produce a real bill, which demonstrates that Congress also knows how to exercise restraint, because that will enable us to get a bill with a presidential signature on it and that the President shall not veto.

We are now 1 week into the fiscal year. We should not be continuing to push our ideological preferences, we should be looking for practical solutions. The Moran amendment is that practical solution, and I would urge support for it when the time comes.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS of Virginia. Mr. Chairman, I appreciate the chairman yielding me this time, and I thank him for one of the most thankless tasks in Congress, and that is chairing the Subcommittee on the District of Columbia of the Committee on Appropriations; and also the gentleman from Virginia [Mr. MORAN], my friend from my neighboring district.

I actually share a lot of concerns that my friend from Virginia has expressed in terms of this bill over-authorizing and in some areas going contrary to where these authorizers have gone. We want to strengthen the control board. They have cut over $100 million from the city budget over the last 2 years, I think very constructive financial abilities, and there have been some misrepresentations to the contrary.

There have been some comments made that we could not get the streets plowed during the snowstorm and the big blizzard and the control board could have paid the bills directly. This legislation would not allow that, because they would have to come back to Congress to reprogram under contracts. Of course at the time of the big blizzard, the control board was not even up and operating.

Nevertheless, there are some very good things in this bill that the chairman has put in. He has attempted to work and try to bring us closer together on issues on which we have disagreed, and I want to thank him and express my appreciation for that.

Two years ago, consistent with my sponsorship of the law creating the control board for the District of Columbia, I supported what was then known as the Gunderson amendment. This was sponsored by our former colleague, Steve Gunderson, and it sought to enact educational reforms in the District.

Along with the education commission of the States, I believed then and I believe now that low-income scholarships are a good vehicle for providing poor students with choices and opportunities more financially advantaged children enjoy, thus promoting equity. While many of the Gunderson reforms were enacted, this one was not, and at that time a Senate filibuster eventually killed the proposal.

Today, the opponents of opportunity scholarships in the District of Columbia find themselves in an ever-shrinking minority of public opinion. Opponents are increasingly hard-pressed to

justify their obstruction to change. Though many opponents of reform send their own children to private schools, they persist in standing in the schoolhouse door when it comes to poor children in the District of Columbia.

I stand with those who want to open the schoolhouse door. I stand with my colleagues in this House, like the gentleman from New York [Mr. FLAKE], and colleagues in the Senate like JOE LIEBERMAN, MARY LANDRIEU, and PAT MOYNIHAN. I stand with advocates like Alveda King,, the niece of Martin Luther King, who supports scholarships of this type as fulfilling the dreams of her uncle.

Only the ostrich who sticks his head in the sand would deny that our public schools in our urban centers are in crisis. In the District, eighth grade test scores are 79-percent below the national average for math and 29-percent below the national average for reading. That is why the control board created an emergency board of trustees last year. They are continuing to struggle with crises as diverse as violence, leaky roofs, and poor attendance, and for the fourth straight year schools were not able to open on time in the District of Columbia.

The reforms contained in the D.C. appropriations bill would provide $7 million for student opportunity scholarships, and some 2,000 poor kids would benefit.

□ 1330

Parents would have to apply for the money. Nobody is making them apply for the money, but it gives them the opportunity that the rest of us have. I dare say not one Member of Congress sends their kids to public schools. We would like to extend these opportunities to some of the poorest in our urban centers.

Mr. MORAN of Virginia. Mr. Chairman, I yield 5 minutes to the gentlewoman from the District of Columbia, Ms. ELEANOR HOLMES NORTON.

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me the time, and I thank the gentleman for his very hard work for the District of Columbia. I thank the gentleman from North Carolina [Mr. TAYLOR] for his hard work as well, and I want to say that what I will say today is in no way meant to detract from the hard work and good faith that both the chairman and the ranking member have shown as they have worked for this budget.

I do hold up the statement of policy of the administration to tell Members why there are at least a half-a-dozen reasons why this bill will be vetoed. When we are talking about the Capital of the United States, which is on its knees, we ought to be after a bill that will be passed swiftly.

On behalf of the people of the District of Columbia, I rise to ask for Members' support for the Moran substitute. I do so because the bill before us violates basic democratic principles, will cripple the District's recovery, and will undermine the difficult job we ourselves have given to the Control Board, whose efforts have the respect and confidence of the majority of this body.

The substitute we offer is not a Democratic substitute. The substitute is the work of North Carolina Senator LAUCH FAIRCLOTH, who has been described as the most conservative Member of the U.S. Senate. I can tell Members all about that. In negotiations on the D.C. rescue package just before the balanced budget bill, I was unable to keep the Senator from taking down much of home rule and putting the Control Board in charge of the city.

The Senator's bill largely respects home rule, but not because he cares about that. Rather, it is because the Control Board and the District submitted a consensus budget that is itself so conservative a document that even the North Carolina Senator found no reason to substantially alter it.

While Members here are lining up for ways to spend a predicted surplus, the Senate supported the District appropriation because the District uses its surplus largely to pay down debt. The Senate bill supported the District's decision to come into balance a year early. It is the prudent, even conservative, fiscal policy that is at the core of the Moran substitute that has recommended it across party lines. It was reported out of the Senate Committee on Appropriations 26 to 1.

Vouchers, of course, is the House bill's high profile controversial provision, but the people from Members' districts already know what to do when that issue is put to them: 20 referenda, 20 defeats. I have already called the roll on that during the rule.

For 30 years residents from States in the north and south, east and west, have rejected vouchers. Even when the voucher advocates lose, however, they double back and lose again, always by more than they lost the first time. In California they lost first by 61 percent, and then by 70 percent; in Washington State, first by 61 percent and then by 65 percent; in Massachusetts, first by 62 percent, and then they lost by 70 percent. They cannot win for losing, Mr. Chairman.

Here in the District the vote against vouchers was the largest of all, an almost unanimous 89 percent. Unable to trump that, the majority asked that we substitute a Republican-worded poll for the votes of the people I represent.

I respectfully disagree with the gentleman from California [Mr. DREIER], who suggested during debate on the rule that the vote in D.C. was not a voucher vote. It was exactly that. D.C. residents rejected a tax credit for parents who would send their children to private or religious schools, money that otherwise would have gone to the District's general fund. A voucher by any other name is still a voucher, and until D.C. residents vote again on this issue, this body cannot impose vouchers without wiping away each and every claim they have to American principles of democracy.

Mr. Chairman, this bill represents a compendium of provisions the majority has been unable to pass despite their control of both Houses: vouchers, medical liability, Davis-Bacon. The strategy is simple: find a jurisdiction that cannot fight back and simply impose their will, like any old dictatorship; find a jurisdiction whose delegate votes you seized and work your will. They call themselves a devolution Congress? Shame on them. If they pass this bill, they will be unable to make any claim to devolution or democracy. I say to the Members, if you want these ideologically charged measures, do them on your own dime with your open bill for your own majority, not on the backs of the taxpaying residents that I represent.

The ideological baggage may be the most apparent, but it is not the most appalling. After all, the majority often cannot resist ideological targets but it has refrained from targeting the five distinguished citizens who sit on the Control Board. Not content to go after city officials, this bill unwinds much of the most painstaking and vital work of the Control Board. The bill does reckless damage, to name only some of the most irrational provisions.

Mr. Chairman, I include for the RECORD the following Statement of Administration Policy:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 9, 1997.

STATEMENT OF ADMINISTRATION POLICY—H.R. 2607—DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FY 1998

This Statement of Administration Policy provides the Administration's views on H.R. 2607, the District of Columbia Appropriations Bill, FY 1998, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration strongly opposes section 342 of the Committee bill, which would provide for the use of $7 million in Federal taxpayer funds for private school vouchers. Instead of investing additional resources in public schools, vouchers would allow a few selected students to attend private schools, and would draw attention away from the hard work of reforming public schools that serve the overwhelming majority of D.C. students. Establishing a private school voucher system in the Nation's Capital would set a dangerous precedent for using Federal taxpayer funds for schools that are not accountable to the public. If this language were included in the bill presented to the President, the President's senior advisers would recommend that the President veto the bill.

While the Administration appreciates the support of the Committee in developing a bill that provides sufficient Federal funding to implement the National Capital Revitalization and Self-Government Improvement

Act of 1977 (the Revitalization Act), we strongly oppose a number of the provisions of the Committee bill, as described below. Even if the provision concerning school vouchers were to be stricken, the Committee bill would remain unacceptable. Unless the Administration's concerns are satisfactorily resolved, the President's senior advisers would recommend that the President veto the bill. The Administration urges the House to approve the Moran substitute amendment, which would address a number of the concerns detailed below.

PENNSYLVANIA AVENUE

The Administration strongly opposes section 159 of the bill, which would require that Pennsylvania Avenue in front of the White House be opened on January 1, 1998. On May 20, 1995, the Department of the Treasury implemented the security action to prohibit vehicular traffic on Pennsylvania Avenue between 15th and 17th Streets. A White House Security Review concluded that there was no alternative to prohibiting vehicular traffic on Pennsylvania Avenue that would ensure the protection of the President of the United States, the first family, and those working in or visiting the White House Complex from explosive devices carried in vehicles near the perimeter. The Committee's action would jeopardize the safety of those inside the White House Complex.

PUBLIC ASSISTANCE PAYMENTS

The Administration opposes section 149 of the bill, which would prohibit the District from increasing public assistance payments under the Temporary Assistance for Needy Families Program beyond the level provided under the District of Columbia Public Assistance Act of 1982. This restriction is inconsistent with the broad flexibility provided under Federal welfare reform and could hinder the District's efforts to invest resources in areas necessary to move individuals off welfare and into work.

DAVIS-BACON ACT

The Administration strongly opposes section 363 of the Committee bill. As drafted, this provision would permit waiver of the application of the Davis-Bacon Act to construction and repair work for the District of Columbia schools. Waiving these protections would deny payment of locally prevailing wages to workers on Federally funded construction sites. The Administration supports the Sabo amendment to strike this provision.

ABORTION

The Administration strongly opposes the abortion language of the Committee bill, which would prohibit the use of both Federal and District funds to pay for abortions except in those cases where the life of the mother is endangered or in situations involving rape or incest. Further, the Department of Justice has advised that the language would be unconstitutional regarding funds provided to the District of Columbia Corrections Trustee, to the extent the language places an undue burden on a woman's right to obtain an abortion. The Administration continues to view the prohibition on the use of local funds as an unwarranted intrusion into the affairs of the District and would support an amendment, if offered, to strike this prohibition.

MICROMANAGEMENT

The Administration opposes the provisions of the Committee bill, that would further restrict or otherwise condition management of the District government and expenditure of funds, thereby undercutting the Financial Responsibility and Management Assistance Authority's (the Authority's) oversight role and responsibility for the District's annual budget.

Specifically, the Administration opposes provisions of the bill that would require the District to direct surplus FY 1998 revenues to a taxpayer relief fund and earmark $200 million in local funds for deficit reduction. These provisions do not reflect the consensus agreement reached by the Authority, the Council, and the Executive Branch on the FY 1998 budget for the District. Moreover, Congress has given to the Authority the responsibility for guiding the District toward long-term financial health, and that role should not be undercut by unnecessary micromanagement.

The Administration also opposes a provision that would amend the District's tort laws and impose a cap on punitive damages at an arbitrary level. The Administration believes that these limits undermine the very purpose of punitive damages, which is to punish and deter misconduct. Furthermore, the Administration strongly opposes any differentiation between so-called "economic" and "non-economic" damages. "Non-economic" damages are just as real as economic damages, and limiting them imposes a hardship on the most vulnerable members of our society.

In addition, we oppose House language that would restrict the District's authority to improve its financial management systems. The District has been told by Congress, by the General Accounting Office, and by the Administration for some time that it needs to improve its financial management systems. The DC Chief Financial Officer and the Authority have taken steps to implement the necessary improvements. The Congress should not use this appropriations bill to block those efforts.

TREASURY BORROWING AUTHORITY

The Committee bill includes language that would prohibit the District from borrowing to finance its accumulated general fund deficit. It is not uncommon for cities recovering from severe cash flow problems to finance accumulated deficits through long-term borrowing. The Revitalization Act allows the District to borrow up to $300 million from Treasury for deficit financing if the District can show that it does not have private market access. The District needs the flexibility to use the treasury window for long-term borrowing in case the private markets are not accessible.

D.C. COURTS AND OFFENDER SERVICES FUNDING

The Administration strongly opposes language in the Committee bill that provides for funding the District of Columbia Courts and Offender Services through the Office of Management and Budget. The Administration urges the Committee to consider passing funding through stand alone accounts. The Administration's original proposal called for funding to be passed through the State Justice Institute.

Additionally, the Administration would recommend that the House include language that would make available funds collected by the District of Columbia Courts for necessary expenses, including the funding of pension costs.

The Administration is committed to working with the House to produce a bill that will assist the District in its continued efforts toward financial recovery.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Members are reminded not to characterize individual Members of the U.S. Senate.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of our full committee.

Mr. LIVINGSTON. Mr. Chairman, the gentlewoman who just spoke cares deeply about the lives of the constituents that she represents and about the welfare of this great city. I think to charge the majority with the label of being ideologically motivated, though, is unfair. I heard it from the gentleman from Wisconsin as well.

The fact is I do not think it is ideological to say to the NEA that is housed in a great big facility here in the city, that they ought to pay taxes like everybody else. I do not think it is ideological to try to tell the parents of a youngster who is bound to go to a school that has proven itself inferior and incapable of delivering a decent education. It is in these schools where the youngster is effectively sentenced to try to survive in that school, which in turn yields a high probability that he may ultimately be sentenced to prison, if he survives. I do not think it is ideological to say that he should have another opportunity to go to another school.

I do not think it is ideological to say that we should come up with a system that makes it cheaper to build new schools, or repair older schools so they can be habitable for youngsters, rather than being bound and hogtied by ideological Davis-Bacon laws that say that you have to pay higher wages and thus have less money to repair the facilities.

I do not think it is ideological to say that a law school ought to quit conning its students, giving them diplomas that they cannot use, and simply get itself accredited, so it gives the people that participate in the enrollment in that school an opportunity for a quality legal education. Those are not ideological propositions. They are simply common sense.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would make it clear that the National Education Association has agreed to pay all of its property taxes, and in fact, in this bill, it would do so.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, I thank the gentleman for yielding me the time.

First, Mr. Chairman, let me say to the ranking member that I can clearly understand the most difficult job that he has in this bill.

To the chairman of the subcommittee, I have great respect for him. I just think that he is entirely wrong on this issue, and I admire the way and the courage the gentleman has shown in coming back and improving his own health.

Let me say that this is a very, very sorry hour for the House of Representatives. I am reminded of the song that "It Cuts Both Ways," because men and women on this floor have tried to cut it both ways. When they wanted something, they stuck it in the bill, whether it was on my right or on my left.

We had a concept of home rule, and I will take my fair share of the blame for not moving faster. But I worshipped at the altar of home rule. We decided that we wanted to place an intermediary between us and Congress, and we put a Financial Control Board in place. This bill has taken us from home rule back to the plantation for 600,000 people.

If Members listen to what our chairman said, the things in this bill stem from City Council actions. There will be a time today that we will have a chance to speak on the voucher system and have a healthy discussion. The gentleman from San Diego, CA [Mr. CUNNINGHAM], I appreciate that he is operating in good will.

Mr. Chairman, the gentleman from North Carolina [Mr. TAYLOR] has attacked the Control Board in a Dear Colleague letter that he sent out, the instrument that Congress set up. Why? Because he does not like a lot of the things that it has done.

Just for one second, let me contrast that with part of the voucher system. The Control Board is selected by the President. All the D.C. residents receive no money. They work at this for nothing. It is a labor of love. These are people who have good backgrounds from diverse areas and do not need this.

In the voucher system, we compensate them for reviewing and giving out 2,000 vouchers no more than $5,000 a year. Instead of letting the District appoint these people, the Speaker and the majority leader in the Senate give a list to the President of the United States to decide on who should get 2,000 vouchers. What are we kidding ourselves about here? We are not interested in improving the quality of the public or private schools; we are interested in beating our own political horse here.

If Members listen to the rhetoric of my good friend, the gentleman from southern California, as I said before, it was loaded with purr and snarl words: "The labor bosses;" he even called the gentleman carrying the rule, the chairman of the DNC.

Let us get serious about what we are doing here. If we want to take back home rule, let us do it cleanly, but let us not do it in this very obscure way.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 30 seconds to the gentleman from Arkansas [Mr. DICKEY].

Mr. DICKEY. Mr. Chairman, I thank the gentleman for yielding time to me for the purposes of having a colloquy.

Mr. Chairman, I would like to state that he is to be commended for the work that he has done, the outstanding efforts and hard work in bringing this bill to the floor, and during that time, for being such a shock absorber for the media criticism that he has received. The same goes for the gentleman from Virginia [Mr. MORAN].

I have brought to the attention of the chairman and to the D.C. appropriations a bill that would prevent two individuals who are unmarried from adopting a child. This amendment has been included in the House version of the D.C. appropriations bill in the past. I feel that the responsible adoption amendment should be included in the fiscal year 1998 bill.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. DICKEY. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I appreciate the gentleman's concerns, and I will make every effort to accommodate the gentleman's request in conference.

Mr. MORAN of Virginia. Mr. Chairman, I yield 5 seconds to myself.

Mr. Chairman, I would say that I will make every effort to ensure that provision is not accommodated in conference, for what it is worth.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan [Ms. STABENOW].

Ms. STABENOW. Mr. Chairman, I appreciate the opportunity to speak on a subject that, while it affects the District of Columbia, it affects the entire country.

Mr. Chairman, those of us in Michigan care very deeply about the children of the District of Columbia and this city. I want to first congratulate the very effective voice of the gentlewoman from the District of Columbia, Ms. ELEANOR HOLMES NORTON, the Delegate, for her advocacy on behalf of her constituency. This in particular to me is a philosophical debate, an ideological debate around the issue of education. This is the provision I wish to speak to today in strong opposition in this bill.

We saw this year children starting school 3 weeks late, some later, because the roof was falling in in some D.C. schools.

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The Republican ideology says the response is to send 3 percent of the children to private schools with vouchers. The Democratic response is, fix the roof. Fix the roof. Support public education. Care about all of the children, not just 3 percent that would be given the opportunity to go to private schools through the vouchers in this bill.

We have today in USA Today a headline, "Schools struggle to utilize technology." Only a fraction of America's schools are integrating technology to benefit their students, says an alliance of prominent business and education leaders, the CEO Forum.

I mention this because the $7 million in this bill that goes to 3 percent of the children for vouchers would rewire 65 public schools in the District of Columbia for children. This is about a commitment for all children in the District of Columbia to be successful and compete in that world economy that they will face.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, I am an educator. I have spent 30 years of my life in education, and I have long opposed vouchers generally, but I have favored vouchers to build competition within public schools. Mr. Chairman, we are in such a crisis in this city that I will vote today to support vouchers.

In the 1960's, I lived in the District. My two children went to desegregated public schools. They received a first rate education. But since the 1960's, we have had a failure in management, a failure in discipline, a failure in overcoming dilapidated quarters, and that is part of our problem.

Mr. Chairman, we simply cannot let another generation of African-American students get out of school improperly educated so they do not have any opportunities in this society. I think it has come to the point where we have to face reality, and reality is to give a shock to that system and get the job done and get back to education.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I thank the gentleman from Virginia [Mr. MORAN] for allowing me to speak and also for his hard work. I also would like to recognize the work of the gentleman from North Carolina [Mr. TAYLOR].

Mr. Chairman, although I disagree with much in the bill, I do agree that we do need to give a raise to our local police officers in the District of Columbia, and that is included in the bill. For that, I am appreciative.

On the other hand, I do take great exception to this notion of vouchers that is included in the bill. We should make no mistake; when we hear the Republicans say they are providing scholarships, which sounds like a great idea, they are not; they are providing vouchers, which takes taxpayers' money out of public schools and puts that taxpayers' money into private schools. I think that is wrong.

Mr. Chairman, the District of Columbia government is not without its shortcomings. I represent Prince George's and Montgomery Counties. I am their neighbor, and I know. But they have also made tremendous progress. The fact of the matter is, the District of Columbia is not a plantation to accommodate the whims of certain Members of Congress, nor is it a

laboratory in which we can experiment on the people of the District of Columbia. It is an elected democratic government, and it deserves respect, and it deserves the right to make its own decisions.

Government does have a role. We in Congress do have a role. We exercise that role by putting in place the Control Board to assist in the management of the District of Columbia. But now this bill would supersede the role of the Control Board and try to micromanage government. It does so particularly in the area of vouchers.

Mr. Chairman, this bill takes $45 million over 5 years out of the District of Columbia and it gives it to 2,000 students. That leaves behind 76,000 students who need their roof repaired in their schools, that need new books, that need technological improvements, that need teachers with better pay, that need better overall facilities.

They say, "We are doing this to help the poorest of the poor. We are doing this to help the people who are really needy." The problem is, it leaves behind the middle class, the working class, the people who pay the taxes in the District of Columbia. Their children do not get the benefit of this latest experiment, and, again, I think that that is wrong.

Mr. Chairman, I urge that this body adopt the Moran substitute. It is a balanced, fair approach, and it respects the sovereignty and dignity of the citizens of the District of Columbia.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I would like to inquire how much time we have remaining on both sides.

The CHAIRMAN. The gentleman from Virginia [Mr. MORAN] has 4¼ minutes remaining, and the gentleman from North Carolina [Mr. TAYLOR] has 5½ minutes remaining.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan [Ms. KILPATRICK].

Ms. KILPATRICK. Mr. Chairman, I offer thanks to the gentleman from Virginia [Mr. MORAN], our ranking member, for giving me the opportunity to come before this body today, as well as to the gentleman from California [Mr. DIXON], who has shown his leadership as we discuss the life of over 600,000 people in this city of ours, our Capital City, who have no representation who can vote in this Congress.

Mr. Chairman, 600,000 people, more than 4 States' population, and yet they have no vote here in this Congress. And if they did, I do not think we would be debating as we are today how they would run their schools.

I stand here opposed to this legislation for many reasons. First of all, it repeals the Davis-Bacon provision that says that prevailing wages and safety regulations will be had for the workers who work on construction and repair projects here in the District of Columbia district with over 600,000 people.

It also closes the UDC Law School. It is not a time to close our law school. It is an opportunity for people to go to law school who would otherwise not have it. I think it is a tragedy.

Mr. Chairman, this bill talks about school vouchers. Over 90 percent of children in America go to public schools. I am a parent and former high school teacher and a graduate of all-public universities. I have two children who graduated from public school. One is now a lawyer; the other owns her own business. Many of us in this Congress are products of public education.

Why then are we putting our will on over 600,000 people in the District of Columbia who have said over and over again, and in a vote of over 60 percent, that they do not want vouchers?

Mr. Chairman, I say to the gentlewoman from the District of Columbia [Ms. NORTON], Madam D.C. Congresswoman, for your efforts we praise you.

Mr. Chairman, to all of my colleagues who want to run the District of Columbia I say, leave them alone. Give them D.C. statehood. That is what they want, 600,000 people, more than the population of four States. I think it is unfortunate, and I urge my colleagues to vote against this legislation.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, let me just say very quickly that I do not think that the debate today is a matter of who cares more about children. I think both sides care deeply and passionately about children, and that is something to celebrate.

But I have come to the conclusion that it is not possible for the public schools to reform internally without the pressure that is put on them from the outside through the concept of competition. I think we all need to think about it. The purpose of competition is not to destroy the public school, the purpose of competition is to improve the public school so that the public school can be a viable institution and a critical part of the culture of America.

But I really believe that without the competition that puts the pressure on those within the public school to have to begin to stand up, which many are now beginning to do, and bring about the essential reforms that are necessary to give our children a chance to become successful in life, it is not going to work.

Mr. Chairman, this is the beginning of a very important debate, and ultimately the public will be set free, both private schools will be effective and public schools will be improved.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I rise in opposition to this bill for several important reasons, and I want to congratulate the gentleman from Virginia [Mr. MORAN], the ranking member of this committee, on his substitute.

First, the bill contains a very harmful private school voucher provision. I am very concerned that private schools that receive Federal funding would not be held accountable to the taxpayers. I am also very concerned that funding private religious schools with public money is a clear violation of the constitutional principle of state-church separation.

As we all know by now, the funding for the bill would provide vouchers for approximately 3 percent of all D.C. students. Mr. Chairman, I ask my colleagues, what about the other 97 percent who do not win this educational sweepstakes? What kind of message does a random lottery send to our youth? It tells them that their future is based on the luck of the draw, not their effort and ambition and not equal opportunity for all.

Mr. Chairman, in my judgment, the answer is not a limited voucher program, it is tougher academic standards, safer school buildings, smaller classes, more teacher training.

This bill also repeals the Davis-Bacon law for D.C. school construction projects. This repeal will not improve the District's crumbling schools but will discriminate against the District's construction workers. These workers deserve to earn a decent wage. A recent study, in fact, comparing school construction costs in five States with State prevailing wage laws and four States without such laws found that costs were actually lower in those States governed by State prevailing wages.

If those on the other side really care about the District's crumbling schools, they should support H.R. 1104, the Partnership to Rebuild America's Schools, which would provide the District with $15 million to rebuild its schools and $5 billion nationwide.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I do not have a lot of time to reserve.

The CHAIRMAN. The gentleman from Virginia has 15 seconds remaining.

Mr. MORAN of Virginia. Mr. Chairman, with that amount of time I really ought to reserve for rebuttal, would be my preference. Perhaps the gentleman from North Carolina would like to conclude or at least to use up a little more of his.

Mr. TAYLOR of North Carolina. Mr. Chairman, we have one remaining speaker to close. We have the right to close, I believe, do we not?

The CHAIRMAN. The gentleman from North Carolina has the right to

close. The gentleman from Virginia, Mr. Moran, has used approximately 15 seconds to announce that he would like to say something else. The gentleman has 4 seconds remaining.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would urge my colleagues to support the substitute amendment which gives us the Senate bill. The Senate bill means that we will have an enacted bill, we will do the right thing by the citizens of the District of Columbia and, in my opinion, the right thing by the Congress of the United States.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. WALSH], the former chairman of the subcommittee.

Mr. WALSH. Mr. Chairman, I thank the distinguished gentleman from North Carolina [Mr. TAYLOR], chairman of the Subcommittee on the District of Columbia, and the gentleman from Virginia [Mr. MORAN], the ranking member, for their hard work.

Mr. Chairman, when the gentleman from North Carolina took over this responsibility, I urged him to be bold, and he has been bold. This city needs dramatic attention, and this bill provides attention and it provides solutions to many of the problems.

Mr. Chairman, I would like to dedicate my time at the podium to talk about this D.C. Opportunity Scholarships Program. Whether we call them scholarships or we call them vouchers, they are a lifeline to the poor kids in this city and their families.

Mr. Chairman, I would like to tell my colleagues a little bit about my hometown in Syracuse, where I was first married and raised my kids in a strong middle-class neighborhood in Syracuse. There were two schools, a private school, a parochial school, and public school.

Mr. Chairman, these two schools competed with each other for the kids. The PTO's from each school would go up and down the street knocking on doors, encouraging young parents to send their kids to their schools. Both schools taught kids, rich and poor and middle-class.

The public school had eminently better facilities. They had better bonding. They had better gyms. They had better science labs and all kinds of better facilities. The Catholic school provided more nurturing and discipline. Kids in trouble in one school could leave that school and go to the other, and vice versa. All of the kids were served. It was great for the kids.

Mr. Chairman, I am convinced, I am absolutely convinced, that we cannot have good public schools if we do not have good private schools.

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We cannot have good private schools if we do not have good public schools. In that middle class neighborhood, that worked. In the poor neighborhoods, the choice was not there because the poor people could not afford the private schools. This will give them that opportunity in this city.

This is not a union vote or an anti-union vote. We have the highest respect for teachers. They are a national treasure. They take all of society's ills upon their shoulders and try to help these kids to get through what otherwise would be a difficult, difficult existence. This is not anti-teacher. This is pro-teacher. The teachers need help. Go to the inner city schools, go to the public schools, ask the teachers, they are stressed out. They are burned out. This will help them. This will make their schools better. It will make the entire educational system of this country better.

Specifically, though, we are talking about the District of Columbia. The teachers want better schools as much as the parents do, if not more so, and they are fighting a losing battle. Poor families should have choices like moderate income and wealthy families do.

In Syracuse, our public school superintendent sends his child to a private school; so do some of the Members of the school board. They do it for the right reasons; that is a good decision. Why? Because they could get the education that they want at those schools. In Washington, DC, the President of the United States made a decision to send his daughter to a private school. Why? I do not care why. That is his decision. But he has the resources to do that.

Why should not poor families have that choice? There is no ideological or philosophical argument. There is no argument. To argue to the contrary is hypocrisy. There is no solid, firm standing to argue for public schools, against vouchers, when they are sending their kids to private schools.

Let us do this for the children. Forget about ideology, forget about union or nonunion. This is not that issue. This is about breaking the cycle of poverty and violence for the kids in our cities, especially this city, this city which we have so much love for and respect for and compassion for.

I do not understand it, Mr. Chairman. I do not understand how anyone could argue against this simple program to help some kids in this great city.

The CHAIRMAN pro tempore (Mr. LAHOOD). All time for general debate has expired.

Pursuant to the rule, the amendment printed in part I of House Report 105–315 is adopted and the bill is considered read for the amendment under the 5-minute rule.

The text of H.R. 2607, as amended by part I of House Report 105–315, is as follows:

H.R. 2607

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I—FISCAL YEAR 1998 APPROPRIATIONS

FEDERAL FUNDS

FEDERAL CONTRIBUTION TO THE OPERATIONS OF THE NATION'S CAPITAL

For a Federal contribution to the District of Columbia towards the costs of the operation of the government of the District of Columbia, $180,000,000; as authorized by section 11601 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105–33.

OFFICE OF THE INSPECTOR GENERAL

For the Office of the Inspector General, $2,000,000, to prevent and detect fraud, waste, and abuse in the programs and operations of all functions, activities, and entities within the government of the District of Columbia.

METROPOLITAN POLICE DEPARTMENT

For the Metropolitan Police Department, $5,400,000, for a 5 percent pay increase for sworn officers who perform primarily non-administrative public safety services and are certified by the Chief of Police as having met certain minimum standards referred to in section 148 of this Act.

FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

For the Fire and Emergency Medical Services Department, $2,600,000, for a 5 percent pay increase for uniformed fire fighters.

FEDERAL CONTRIBUTION TO PUBLIC SCHOOLS

For the public schools of the District of Columbia, $1,000,000, which shall be paid to the District Education and Learning Technologies Advancement (DELTA) Council established by section 2604 of the District of Columbia School Reform Act of 1995, Public Law 104–134, within 10 days of the effective date of the appointment of a majority of the Council's members.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA CORRECTIONS TRUSTEE OPERATIONS

For payment to the District of Columbia Corrections Trustee for the administration and operation of correctional facilities, $169,000,000, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105–33.

PAYMENT TO THE DISTRICT OF COLUMBIA CORRECTIONS TRUSTEE FOR CORRECTIONAL FACILITIES, CONSTRUCTION AND REPAIR

For payment to the District of Columbia Corrections Trustee for Correctional Facilities, $302,000,000, to remain available until expended, of which not less than $294,900,000 is available for transfer to the Federal Prison System, as authorized by section 11202 of the National Capital Revitalization and Self-Government Improvement Act of 1997; and $7,100,000 shall be for security improvements and repairs at the Lorton Correctional Complex.

EXECUTIVE OFFICE OF THE PRESIDENT

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

CRIMINAL JUSTICE SYSTEM

(INCLUDING TRANSFER OF FUNDS)

Pursuant to the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33) $146,000,000 for the Office of Management and Budget, of which: (1) not to exceed $121,000,000 shall be

transferred to the Joint Committee on Judicial Administration in the District of Columbia for operation of the District of Columbia Courts; (2) not to exceed $2,000,000 shall be transferred to the District of Columbia Truth in Sentencing Commission to implement section 11211 of the National Capital Revitalization and Self-Government Improvement Act of 1997; (3) not to exceed $22,200,000 shall be transferred to the Pretrial Services, Defense Services, Parole, Adult Probation, and Offender Supervision Trustee for expenses relating to pretrial services, defense services, parole, adult probation and offender supervision in the District of Columbia, and for operating expenses of the Trustee; and (4) not to exceed $800,000 shall be transferred to the United States Parole Commission to implement section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997.

UNITED STATES PARK POLICE

For payment to the United States Park Police for policing services performed within the District of Columbia, $12,500,000.

FEDERAL CONTRIBUTION TO THE DISTRICT OF COLUMBIA SCHOLARSHIP FUND

For the District of Columbia Scholarship Fund, $7,000,000, as authorized by section 342 of this Act for scholarships to students of low-income families in the District of Columbia to enable them to have educational choice.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

DISTRICT OF COLUMBIA TAXPAYERS RELIEF FUND

For the District of Columbia Taxpayers Relief Fund, an amount equal to the difference between the amount of District of Columbia local revenues provided under this Act and the actual amount of District of Columbia local revenues generated during fiscal year 1998 (as determined and certified by the Chief Financial Officer of the District of Columbia): *Provided*, That such amount shall be deposited into an escrow account held by the District of Columbia Financial Responsibility and Management Assistance Authority, which shall allocate the funds to the Mayor, or such other District official as the Authority may deem appropriate, in amounts and in a manner consistent with the requirements of this Act: *Provided further*, That these funds shall only be used to offset reductions in District of Columbia local revenues as a result of reductions in District of Columbia taxes or fees enacted by the Council of the District of Columbia (based upon the recommendations of the District of Columbia Tax Revision Commission and the Business Regulatory Reform Commission) and effective no later than October 1, 1998.

DISTRICT OF COLUMBIA DEFICIT REDUCTION FUND

For the District of Columbia Deficit Reduction Fund, $200,000,000, to be deposited into an escrow account held by the District of Columbia Financial Responsibility and Management Assistance Authority, which shall allocate the funds to the Mayor, or such other District official as the Authority may deem appropriate, at such intervals and in accordance with such terms and conditions as the Authority considers appropriate: *Provided*, That an additional amount shall be deposited into the Fund each month equal to the amount saved by the District of Columbia during the previous month as a result of cost-saving initiatives of the Mayor of the District of Columbia (described in the fiscal year 1998 budget submission of June 1997), as determined and certified by the Chief Financial Officer of the District of Columbia: *Provided further*, That the District government shall make every effort to implement such cost-saving initiatives so that the total amount saved by the District of Columbia during all months of fiscal year 1998 as a result of such initiatives is equal to or greater than $100,000,000: *Provided further*, That the Chief Financial Officer shall submit a report to Congress not later than January 1, 1998, on a timetable for the implementation of such initiatives under which all such initiatives shall be implemented by not later than September 30, 1998: *Provided further*, That amounts in the Fund shall only be used for reduction of the accumulated general fund deficit existing as of September 30, 1997.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $119,177,000 and 1,479 full-time equivalent positions (including $98,316,000, and 1,400 full-time equivalent positions from local funds, $14,013,000 and 9 full-time equivalent positions from Federal funds, and $6,848,000 and 70 full-time equivalent positions from other funds): *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That $240,000 shall be available for citywide special elections: *Provided further*, That all employees permanently assigned to work in the Office of the Mayor shall be paid from funds allocated to the Office of the Mayor.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $120,072,000 and 1,283 full-time equivalent positions (including $40,377,000 and 561 full-time equivalent positions from local funds, $42,065,000 and 526 full-time equivalent positions from Federal funds, and $25,630,000 and 196 full-time equivalent positions from other funds and $12,000,000 collected in the form of Business Improvement Districts tax revenue collected by the District of Columbia on behalf of business improvement districts pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11–134; D.C. Code, sec. 1–2271 et seq.) and the Business Improvement Districts Temporary Amendment Act of 1997 (Bill 12–230).

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $502,970,000 and 9,719 full-time equivalent positions (including $483,557,000 and 9,642 full-time equivalent positions from local funds, $13,519,000 and 73 full-time equivalent positions from Federal funds, and $5,894,000 and 4 full-time equivalent positions from other funds): *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Department of Fire and Emergency Medical Services of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further*, That the District of Columbia Fire Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the District of Columbia Fire Department's delegated small purchase authority shall be $500,000: *Provided further*, That the District of Columbia government may not require the District of Columbia Fire Department to submit to any other procurement review or contract approval process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved: *Provided further*, That the Metropolitan Police Department is authorized to maintain 3,800 sworn officers, with leave for a 50 officer attrition: *Provided further*, That no more than 15 members of the Metropolitan Police Department shall be detailed or assigned to the Executive Protection Unit, until the Chief of Police submits a recommendation to the Council for its review: *Provided further*, That $100,000 shall be available for inmates released on medical and geriatric parole: *Provided further*, That not less than $2,254,754 shall be available to support a pay raise for uniformed firefighters, when authorized by the District of Columbia Council and the District of Columbia Financial Responsibility and Management Assistance Authority, which funding

will be made available as savings are achieved through actions within the appropriated budget: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1998, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, Sec. 16–2304), for the fiscal year ending September 30, 1998, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1998, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further*, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $673,444,000 and 11,314 full-time equivalent positions (including $531,197,000 and 9,595 full-time equivalent positions from local funds, $112,806,000 and 1,424 full-time equivalent positions from Federal funds, and $29,441,000 and 295 full-time equivalent positions from other funds), to be allocated as follows: $560,114,000 and 9,979 full-time equivalent positions (including $456,128,000 and 8,623 full-time equivalent positions from local funds, $98,491,000 and 1,251 full-time equivalent positions from Federal funds, and $5,495,000 and 105 full-time equivalent positions from other funds), for the public schools of the District of Columbia; $5,250,000 (including $300,000 for the Public Charter School Board) from local funds for public charter schools: *Provided*, That if the entirety of this allocation has not been provided as payments to one or more public charter schools by May 15, 1998, and remains unallocated, the funds will revert to the general fund of the District of Columbia in accordance with section 2403(a)(2)(D) of the District of Columbia School Reform Act of 1995 (Public Law 104–134); $8,900,000 from local funds for the District of Columbia Teachers' Retirement Fund; $1,000,000 from local funds for the District Education and Learning Technologies Advancement (DELTA) Council to be paid to the Council within 10 days of the effective date of the appointment of a majority of the Council's members; $70,687,000 and 872 full-time equivalent positions (including $37,126,000 and 562 full-time equivalent positions from local funds, $12,804,000 and 156 full-time equivalent positions from Federal funds, and $20,757,000 and 154 full-time equivalent positions from other funds) for the University of the District of Columbia (excluding the U.D.C. School of Law); $3,400,000 and 45 full-time equivalent positions (including $665,000 and 10 full-time equivalent positions from local funds and $2,735,000 and 35 full-time equivalent positions from other funds) for the U.D.C. School of Law; $22,036,000 and 409 full-time equivalent positions (including $20,424,000 and 398 full-time equivalent positions from local funds, $1,158,000 and 10 full-time equivalent positions from Federal funds, and $454,000 and 1 full-time equivalent position from other funds) for the Public Library; $2,057,000 and 9 full-time equivalent positions (including $1,704,000 and 2 full-time equivalent positions from local funds and $353,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for official purposes: *Provided further*, That not less than $1,200,000 shall be available for local school allotments in a restricted line item: *Provided further*, That not less than $4,500,000 shall be available to support kindergarten aides in a restricted line item: *Provided further*, That not less than $2,800,000 shall be available to support substitute teachers in a restricted line item: *Provided further*, That not less than $1,788,000 shall be available in a restricted line item for school counselors: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1998, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further*, That not less than $584,000 shall be available to support high school dropout prevention programs: *Provided further*, That not less than $295,000 shall be available for youth leadership and conflict resolution programs: *Provided further*, That not less than $10,000,000 shall be available to support a pay raise for principals and assistant principals and for teachers of the schools of the District of Columbia Public Schools with valid teaching credentials who are primarily engaged in classroom instruction during the SY 1997–1998: *Provided further*, That not less than $250,000 shall be available to support Truancy Prevention Programs: *Provided further*, That by the end of fiscal year 1998, the District of Columbia Schools shall designate at least 2 or more District of Columbia Public School buildings as "Community Hubs" which, in addition to serving as educational facilities, shall serve as multi-purpose centers that provide opportunities to integrate support services and enable inter-generational users to meet the lifelong learning needs of community residents, and may support the following activities: before and after school care; counseling; tutoring; vocational and career training; art and sports programs; housing assistance; family literacy; health and nutrition programs; parent education; employment assistance; adult education; and access to state-of-the art technology.

HUMAN SUPPORT SERVICES

Human support services, $1,718,939,000 and 6,096 full-time equivalent positions (including $789,350,000 and 3,583 full-time equivalent positions from local funds, $886,702,000 and 2,444 full-time equivalent positions from Federal funds, and $42,887,000 and 69 full-time equivalent positions from other funds): *Provided*, That $21,089,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That a Peer Review Committee shall be established to review medical payments and the type of service received by a disability compensation claimant: *Provided further*, That the District of Columbia shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles $241,934,000 and 1,292 full-time equivalent positions (including $227,983,000 and 1,162 full-time equivalent positions from local funds, $3,350,000 and 51 full-time equivalent positions from Federal funds, and $10,601,000 and 79 full-time equivalent positions from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business: *Provided further*, That $3,000,000 shall be available for the lease financing, operation, and maintenance of two mechanical street sweepings, one flusher truck, 5 packer trucks, one front-end loader, and various public litter containers: *Provided further*, That $2,400,000 shall be available for recycling activities.

WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, $5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $366,976,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit

as of September 30, 1990, $39,020,000 from local funds, as authorized by section 461(a) of the District of Columbia Home Rule Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)(1)).

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, $12,000,000 from local funds.

CERTIFICATES OF PARTICIPATION

For lease payments in accordance with the Certificates of Participation involving the land site underlying the building located at One Judiciary Square, $7,923,000.

HUMAN RESOURCES DEVELOPMENT

For Human resources development, including costs of increased employee training, administrative reforms, and an executive compensation system, $6,000,000.

MANAGEMENT REFORM AND PRODUCTIVITY FUND

For the Management Reform and Productivity Fund, $5,000,000, to improve management and service delivery in the District of Columbia.

CRITICAL IMPROVEMENTS AND REPAIRS TO SCHOOL FACILITIES AND STREETS

For expenditures for immediate, one-time critical improvements and repairs to school facilities (including roof, boiler, and chiller renovation or replacement) and for neighborhood and other street repairs, to be completed not later than August 1, 1998, $30,000,000, to be derived from current local general fund operating revenues, to be expended on a pay-as-you-go basis.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), $3,220,000.

WATER AND SEWER AUTHORITY AND THE WASHINGTON AQUEDUCT

For the Water and Sewer Authority and the Washington Aqueduct, $297,310,000 from other funds (including $263,425,000 for the Water and Sewer Authority and $33,885,000 for the Washington Aqueduct) of which $41,423,000 shall be apportioned and payable to the District's debt service fund for repayment of loans and interest incurred for capital improvement projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $213,500,000 and 100 full-time equivalent positions (including $7,850,000 and 100 full-time equivalent positions for administrative expenses and $205,650,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,467,000 and 8 full-time equivalent positions (including $2,135,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds).

PUBLIC SERVICE COMMISSION

For the Public Service Commission, $4,547,000 (including $4,250,000 from local funds, $117,000 from Federal funds, and $180,000 for other funds).

OFFICE OF THE PEOPLE'S COUNSEL

For the Office of the People's Counsel, $2,428,000 from local funds.

DEPARTMENT OF INSURANCE AND SECURITIES REGULATION

For the Department of Insurance and Securities Regulation, $5,683,000 and 89 full-time equivalent positions from other funds.

OFFICE OF BANKING AND FINANCIAL INSTITUTIONS

For the Office of Banking and Financial Institutions, $600,000 (including $100,000 from local funds and $500,000 from other funds).

STARPLEX FUND

For the Starplex Fund, $5,936,000 from other funds for expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, $103,934,000 of which $44,335,000 shall be derived by transfer from the general fund and $59,599,000 shall be derived from other funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; D.C. Code, sec. 1–711), $4,898,000 and 8 full-time equivalent positions from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88–622), $3,332,000 and 50 full-time equivalent positions from other funds.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $46,400,000 of which $5,400,000 shall be derived by transfer from the general fund.

CAPITAL OUTLAY

For construction projects, $269,330,000 (including $105,485,000 from local funds, $31,100,000 from the highway trust fund, and $132,745,000 in Federal funds), as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1999, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1999: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse: *Provided further*, That the District has approved projects to finance capital related items, such as vehicles and heavy equipment, through a master lease purchase program. The District will finance $13,052,000 of its equipment needs up to a 5 year-period. The fiscal year 1998 operating budget includes a total of $3,741,000 for the debt associated with the lease purchase.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provision of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the Subcommittee on the District of Columbia of the House Committee on Government Reform and Oversight, the Subcommittee on Oversight of Government Management and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 111. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 112. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 113. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 114. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 115. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 116. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.): *Provided,* That for the fiscal year ending September 30, 1998 the above shall apply except as modified by Public Law 104–8.

SEC. 117. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 119. (a) Notwithstanding section 422(7) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for Level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1997 shall be deemed to be the rate of pay payable for that position for September 30, 1997.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 120. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 121. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), based upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 122. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1998, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1998 revenue estimates as of the end of the first quarter of fiscal year 1998. These estimates shall be used in the budget request for the fiscal year ending September 30, 1999. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 123. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Emergency Transitional Education Board of Trustees rules and procedures.

SEC. 124. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit

Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 125. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 126. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, secs. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council of the required reorganization plans.

SEC. 127. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1998 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided*, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 128. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 129. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

PROHIBITION ON DOMESTIC PARTNERS ACT

SEC. 130. None of the funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Code, sec. 36–1401 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples (whether homosexual, heterosexual, or lesbian), including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis as such benefits are extended to legally married couples.

MONTHLY REPORTING REQUIREMENTS—PUBLIC SCHOOLS

SEC. 131. The Emergency Transitional Education Board of Trustees shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(3) a list of all active contracts in excess of $10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(4) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(5) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

MONTHLY REPORTING REQUIREMENTS

UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 132. The University of the District of Columbia shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections versus budget broken out on the basis of control center, responsibility center, and object class, and for all funds, non-appropriated funds, and capital financing;

(2) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(3) a list of all active contracts in excess of $10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(4) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(5) changes made in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

ANNUAL REPORTING REQUIREMENTS

SEC. 133. (a) IN GENERAL.—The Emergency Transitional Education Board of Trustees of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1996, fiscal year 1997, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) SUBMISSION.—The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 15 of each year.

ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 134. (a) No later than October 1, 1997, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1998, whichever occurs later, and each succeeding year, the Emergency Transitional Education Board of Trustees and the University of the District of Columbia shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the District of Columbia Financial Responsibility and Management Assistance Authority, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted

in the format of the budget that the Emergency Transitional Education Board of Trustees and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Home Rule Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301).

EDUCATIONAL BUDGET APPROVAL

SEC. 135. The Emergency Transitional Education Board of Trustees, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Home Rule Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301), or before submitting their respective budgets directly to the Council.

PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 136. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

SEC. 137. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

MISCELLANEOUS PROVISIONS RELATING TO DISTRICT OF COLUMBIA EMPLOYEES

SEC. 138. (a) RESTRICTIONS ON USE OF OFFICIAL VEHICLES.—(1) None of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace (except in the case of a police officer who resides in the District of Columbia).

(2) The Chief Financial Officer of the District of Columbia shall submit, by December 15, 1997, an inventory, as of September 30, 1997, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

(b) SOURCE OF PAYMENT FOR EMPLOYEES DETAILED WITHIN GOVERNMENT.—For purposes of determining the amount of funds expended by any entity within the District of Columbia government during fiscal year 1998 and each succeeding fiscal year, any expenditures of the District government attributable to any officer or employee of the District government who provides services which are within the authority and jurisdiction of the entity (including any portion of the compensation paid to the officer or employee attributable to the time spent in providing such services) shall be treated as expenditures made from the entity's budget, without regard to whether the officer or employee is assigned to the entity or otherwise treated as an officer or employee of the entity.

(c) MODIFICATION OF REDUCTION IN FORCE PROCEDURES.—The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1–601.1 et seq.), as amended by section 140(b) of the District of Columbia Appropriations Act, 1997 (Public Law 104–194), is amended by adding at the end the following new section:

"SEC. 2408. ABOLISHMENT OF POSITIONS FOR FISCAL YEAR 1998.

"(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1998, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

"(b) Prior to February 1, 1998, each personnel authority (other than a personnel authority of an agency which is subject to a management reform plan under subtitle B of title XI of the Balanced Budget Act of 1997) shall make a final determination that a position within the personnel authority is to be abolished.

"(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

"(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to one round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

"(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the United States Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

"(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except that—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977 (D.C. Code, sec. 1–2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) were not properly applied.

"(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

"(1) four years for an employee who qualified for veterans preference under this Act, and

"(2) three years for an employee who qualified for residency preference under this Act.

"(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

"(j) With respect to agencies which are not subject to a management reform plan under subtitle B of title XI of the Balanced Budget Act of 1997, the Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1998 or upon the delivery of termination notices to individual employees.

"(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this Act shall not be deemed negotiable.

"(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1998, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section.

"(m) In the case of an agency which is subject to a management reform plan under subtitle B of title XI of the Balanced Budget Act of 1997, the authority provided by this section shall be exercised to carry out the agency's management reform plan, and this section shall otherwise be implemented solely in a manner consistent with such plan.".

(d) RESTRICTING PROVIDERS FROM WHOM EMPLOYEES MAY RECEIVE DISABILITY COMPENSATION SERVICES.—

(1) IN GENERAL.—Section 2303(a) of the District of Columbia Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1–624.3(a)) is amended by striking paragraph (3) and all that follows and inserting the following:

"(3) By or on the order of the District of Columbia government medical officers and hospitals, or by or on the order of a physician or managed care organization designated or approved by the Mayor.".

(2) SERVICES FURNISHED.—Section 2303 of such Act (D.C. Code, sec. 1–624.3) is amended by adding at the end the following new subsection:

"(c)(1) An employee to whom services, appliances, or supplies are furnished pursuant to subsection (a) shall be provided with such services, appliances, and supplies (including reasonable transportation incident thereto) by a managed care organization or other health care provider designated by the Mayor, in accordance with such rules, regulations, and instructions as the Mayor considers appropriate.

"(2) Any expenses incurred as a result of furnishing services, appliances, or supplies which are authorized by the Mayor under paragraph (1) shall be paid from the Employees' Compensation Fund.

"(3) Any medical service provided pursuant to this subsection shall be subject to utilization review under section 2323.".

(3) REPEAL PENALTY FOR DELAYED PAYMENT OF COMPENSATION.—Section 2324 of such Act (D.C. Code, sec. 1–624.24) is amended by striking subsection (c).

(4) DEFINITIONS.—Section 2301 of such Act (D.C. Code, sec. 1–624.1) is amended—

(A) in the first sentence of subsection (c), by inserting "and as designated by the Mayor to provide services to injured employees" after "State law"; and

(B) by adding at the end the following new subsection:

"(r)(1) The term 'managed care organization' means an organization of physicians and allied health professionals organized to and capable of providing systematic and comprehensive medical care and treatment of injured employees which is designated by the Mayor to provide such care and treatment under this title.

"(2) The term 'allied health professional' means a medical care provider (including a nurse, physical therapist, laboratory technician, X-ray technician, social worker, or other provider who provides such care within the scope of practice under applicable law) who is employed by or affiliated with a managed care organization.".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to services, supplies, or appliances furnished under title XXIII of the District of Columbia Merit Personnel Act of 1978 on or after the date of the enactment of this Act.

(e) APPLICATION OF BINDING ARBITRATION PROCEDURES UNDER NEW PERSONNEL RULES.—

(1) IN GENERAL.—Section 11105(b)(3) of the Balanced Budget Act of 1997 is amended in the matter preceding subparagraph (A) by striking "pursuant" and inserting "in accordance with binding arbitration procedures in effect under a collective bargaining agreement, or pursuant".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Balanced Budget Act of 1997.

CEILING ON OPERATING EXPENSES AND DEFICIT

SEC. 139. (a) CEILING ON TOTAL OPERATING EXPENSES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1998 under the caption "DIVISION OF EXPENSES" may not exceed the lesser of—

(A) the sum of the total revenues of the District of Columbia for such fiscal year less $192,741,000; or

(B) $4,493,375,000 (excluding intra-District funds of $118,269,000) of which $2,655,232,000 is from local funds; $1,072,572,000 is from Federal grants; and $765,571,000 in private and other funds.

(2) ENFORCEMENT.—The Chief Financial Officer of the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this section referred to as the "Authority") shall take such steps as are necessary to assure that the District of Columbia meets the requirements of this section, including the apportioning or reprogramming by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 1998, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the Authority a report setting forth detailed information regarding such grant; and

(B) the Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District of Columbia shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

(c) PROHIBITING USE OF NON-APPROPRIATED FUNDS BY CERTAIN ENTITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the District of Columbia Financial Responsibility and Management Assistance Authority and the District of Columbia Water and Sewer Authority may not obligate or expend any funds during fiscal year 1998 or any succeeding fiscal year without approval by Act of Congress.

(2) REPORT ON EXPENDITURES BY FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY.—Not later than November 15, 1997, the District of Columbia Financial Responsibility and Management Assistance Authority shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Government Reform and Oversight of the House, and the Committee on Governmental Affairs of the Senate providing an itemized accounting of all non-appropriated funds obligated or expended by the Authority at any time prior to October 1, 1997. The report shall include information on the date, amount, purpose, and vendor name, and a description of the services or goods provided with respect to the expenditures of such funds.

(3) EFFECT OF EXPENDITURE OF NON-APPROPRIATED FUNDS.—Any obligation of funds by any officer or employee of the District of Columbia government (including any member, officer or employee of the District of Columbia Financial Responsibility and Management Assistance Authority) in violation of the fourth sentence of section 446 of the District of Columbia Home Rule Act shall have no legal effect, and the officer or employee involved shall be removed from office and personally liable for any amounts owed as a result of such obligation.

POWERS AND DUTIES OF CHIEF FINANCIAL OFFICER

SEC. 140. (a) CLARIFICATION OF AUTHORITY OVER FINANCIAL PERSONNEL.—

(1) IN GENERAL.—Section 424(a) of the District of Columbia Home Rule Act (D.C. Code, sec. 47–317.1) is amended—

(A) in paragraph (2), by striking ", who shall be appointed" and all that follows through "direction and control"; and

(B) by striking paragraph (4) and inserting the following:

"(4) AUTHORITY OVER FINANCIAL PERSONNEL.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or regulation (including any law or regulation providing for collective bargaining or the enforcement of any collective bargaining agreement), the heads and all personnel of the offices described in subparagraph (B), together with all other District of Columbia accounting, budget, and financial management personnel (including personnel of independent agencies but not including personnel of the legislative or judicial branches of the District government) shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer, and shall be considered at-will employees not covered by the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

"(B) OFFICES DESCRIBED.—The offices referred to in this subparagraph are as follows:

"(i) The Office of the Treasurer (or any successor office).

"(ii) The Controller of the District of Columbia (or any successor office).

"(iii) The Office of the Budget (or any successor office).

"(iv) The Office of Financial Information Services (or any successor office).

"(v) The Department of Finance and Revenue (or any successor office).

"(vi) During a control year, the District of Columbia Lottery and Charitable Games Control Board (or any successor office).

"(C) REMOVAL OF PERSONNEL BY AUTHORITY.—In addition to the power of the Chief Financial Officer to remove any of the personnel covered under this paragraph, the Authority may remove any such personnel for cause, after written consultation with the Mayor and the Chief Financial Officer.".

(2) CONFORMING AMENDMENTS.—(A) Section 152(a) of the District of Columbia Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321-102) is hereby repealed.

(B) Section 142(a) of the District of Columbia Appropriations Act, 1997 (Public Law 104–194; 110 Stat. 2375) is hereby repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 1996, except that the amendment made by paragraph (2)(B) shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 1997.

(b) PERSONNEL AUTHORITY UNDER MANAGEMENT REFORM PLANS.—

(1) IN GENERAL.—Section 11105(b) of the Balanced Budget Act of 1997 is amended—

(A) in paragraph (1), by striking "paragraph (3)" and inserting "paragraphs (3) and (4)"; and

(B) by adding at the end the following new paragraph:

"(4) EXCEPTION FOR PERSONNEL UNDER DIRECTION AND CONTROL OF CHIEF FINANCIAL OFFICER.—This subsection shall not apply with respect to any personnel who are appointed by, serve at the pleasure of, and act under

the direction and control of the Chief Financial Officer of the District of Columbia pursuant to section 424(a)(4) of the District of Columbia Home Rule Act.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 11105(b) of the Balanced Budget Act of 1997.

(c) MONTHLY REPORTS ON REVENUES AND EXPENDITURES; INCLUSION OF INFORMATION ON ALL ENTITIES OF DISTRICT GOVERNMENT.—Section 424(d) of the District of Columbia Home Rule Act (D.C. Code, sec. 47–317.4) is amended by adding at the end the following new paragraphs:

"(8) Preparing monthly reports containing the following information (and submitting such reports to Congress, the Council, the Mayor, and the Authority not later than the 21st day of the month following the month covered by the report):

"(A) The cash flow of the District government, including a statement of funds received and disbursed for all standard categories of revenues and expenses.

"(B) The revenues and expenditures of the District government, including a comparison of the amounts projected for such revenues and expenditures in the annual budget for the fiscal year involved with actual revenues and expenditures during the month.

"(C) The obligations of funds made by or on behalf of the District government, together with a statement of accounts payable and the disbursements paid towards such accounts during the month and during the fiscal year involved.

"(9) Ensuring that any regular report on the status of the funds of the District government prepared by the Chief Financial Officer includes information on the funds of all entities within the District government (including funds in any accounts of the Authority and interest earned on such accounts).".

(d) CLARIFICATION OF GROUNDS FOR REMOVAL FROM OFFICE.—Section 424(b)(2) of the District of Columbia Home Rule Act (D.C. Code, sec. 47–317.2(2)) is amended by adding at the end the following new subparagraph:

"(C) CONSULTATION WITH CONGRESS.—The Authority or the Mayor (whichever is applicable) may not remove the Chief Financial Officer under this paragraph unless the Authority or the Mayor (as the case may be) has consulted with Congress prior to the removal. Such consultation shall include at a minimum the submission of a written statement to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate, explaining the factual circumstances involved.".

POLICE AND FIRE FIGHTER DISABILITY RETIREMENTS

SEC. 141. (a) DETERMINATIONS OF DISABILITY STATUS.—Notwithstanding any other provisions of the District of Columbia Retirement Reform Act or any other law, rule, or regulation, for purposes of any retirement program of the District of Columbia for teachers, members of the Metropolitan Police Department, or members of the Fire Department, no individual may have disability status unless the determination of the individual's disability status is made by a single entity designated by the District to make such determinations (or, if the determination is made by any other person, if such entity approves the determination).

(b) ANALYSIS BY ENROLLED ACTUARY OF IMPACT OF DISABILITY RETIREMENTS.—Not later than January 1, 1998, and every 6 months thereafter, the Mayor of the District of Columbia shall engage an enrolled actuary (to be paid by the District of Columbia Retirement Board) to provide an analysis of the actuarial impact of disability retirements occurring during the previous 6-month period on the police and fire fighter retirement programs of the District of Columbia.

SEC. 142. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each agency of the Federal or District of Columbia government shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

BUDGETS OF DEPARTMENTS OR AGENCIES SUBJECT TO COURT-APPOINTED ADMINISTRATOR

SEC. 143. If a department or agency of the government of the District of Columbia is under the administration of a court-appointed receiver or other court-appointed official during fiscal year 1998 or any succeeding fiscal year, the receiver or official shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia for the year, annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the department or agency. All such estimates shall be forwarded by the Mayor to the Council, for its action pursuant to sections 446 and 603(c) of the District of Columbia Home Rule Act, without revision but subject to the Mayor's recommendations. Notwithstanding any provision of the District of Columbia Home Rule Act, the Council may comment or make recommendations concerning such annual estimates but shall have no authority under such Act to revise such estimates.

"SPECIAL MASTERS' BUDGETS

"SEC. 445B. All Special Masters appointed by the District of Columbia Superior Court or the United States District Court for the District of Columbia to any agency of the District of Columbia government shall prepare and annually submit to the District of Columbia Financial Responsibility and Management Assistance Authority, for inclusion in the annual budget, annual estimates of expenditures and appropriations. Such annual estimates shall be approved by the District of Columbia Financial Responsibility and Management Assistance Authority and the Council of the District of Columbia pursuant to section 202 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart 1 of part D of title IV of the District of Columbia Home Rule Act is amended by inserting after the item relating to section 445A the following new item:

"Sec. 445B. Special masters' budgets.".

COMMENCING OF ADVERSE ACTIONS FOR POLICE

SEC. 144. Section 1601(b–1) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–617.1(b–1)), is amended as follows:

(a) Paragraph (1) is amended by striking the phrase "Except as provided in paragraph (2)" and inserting the phrase "Except as provided in paragraphs (2) and (3)" in its place.

(b) A new paragraph (3) is added to read as follows:

"(3) Except as provided in paragraph (2) of this subsection, for members of the Metropolitan Police Department, no corrective or adverse action shall be commenced pursuant to this section more than 120 days, not including Saturdays, Sundays, or legal holidays, after the date that the agency knew or should have known of the act or occurrence allegedly constituting cause, as that term is defined in subsection (d) of this section.".

NOTICE TO POLICE OFFICERS FOR OUT-OF-SERVICE ASSIGNMENTS

SEC. 145. (a) Notwithstanding any other provision of law or collective bargaining agreement, the Metropolitan Police Department shall change the advance notice that is required to be given to officers for out-of-schedule assignments from 28 days to 14 days.

(b) No officer shall be entitled to overtime for out-of-regular schedule assignments if the Metropolitan Police Department provides the officer with notice of the change in assignment at least 14 days in advance.

SEC. 146. Except as provided in this Act under the heading "DISTRICT OF COLUMBIA TAXPAYERS RELIEF FUND", any unused surplus as of the end of the fiscal year shall be used to reduce the District's outstanding accumulated deficit.

RETIREMENT PROGRAMS

SEC. 147. (a) CAP ON STIPENDS OF RETIREMENT BOARD MEMBERS.—Section 121(c)(1) of the District of Columbia Retirement Reform Act (D.C. Code, sec. 1–711(c)(1)) is amended by striking the period at the end and inserting the following: ", and the total amount to which a member may be entitled under this subsection during a year (beginning with 1998) may not exceed $5,000.".

(b) RESUMPTION OF CERTAIN TERMINATED ANNUITIES PAID TO CHILD SURVIVORS OF DISTRICT OF COLUMBIA POLICE AND FIREFIGHTERS.—

(1) IN GENERAL.—Subsection (k)(5) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–622(e)) is amended by adding at the end the following new subparagraph:

"(D) If the annuity of a child under subparagraph (A) or subparagraph (B) terminates because of marriage and such marriage ends, the annuity shall resume on the first day of the month in which it ends, but only if the individual is not otherwise ineligible for the annuity.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to any termination of marriage taking effect on or after November 1, 1993, except that benefits shall be payable only with respect to amounts accruing for periods beginning on the first day of the month beginning after the later of such termination of marriage or such date of enactment.

PREMIUM PAY FOR CERTAIN POLICE OFFICERS

SEC. 148. Effective for the first full pay period following the date of the enactment of this Act, the salary of any sworn officer of the Metropolitan Police Department shall be increased by 5 percent if—

(1) the officer performs primarily nonadministrative public safety services; and

(2) the officer is certified by the Chief of the Department as having met the minimum "Basic Certificate" standards transmitted by the District of Columbia Financial Responsibility and Management Assistance Authority to Congress by letter dated May 19, 1997, or (if applicable) the minimum standards under any physical fitness and performance standards developed by the Department in consultation with the Authority.

PROHIBITING INCREASE IN WELFARE PAYMENTS

SEC. 149. (a) IN GENERAL.—The Council of the District of Columbia shall have no authority to enact any act, resolution, or rule during a fiscal year which increases the amount of payment which may be for any individual under the Temporary Assistance for Needy Families Program to an amount greater than the amount provided under such program under the District of Columbia Public Assistance Act of 1982, as in effect on the day after the effective date of the Public Assistance Temporary Amendment Act of 1997.

(b) EFFECTIVE DATE.—Subsection shall apply with respect to fiscal year 1998 and each succeeding fiscal year.

SEC. 150. Effective as if included in the enactment of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, section 517 of such Act (110 Stat. 1321–248) is amended by striking "October 1, 1991" and inserting "the date of the enactment of this Act".

LIENS OF WATER AND SEWER AUTHORITY

SEC. 151. (a) REQUIRING IMPOSITION OF LIEN FOR UNPAID BILLS.—The District of Columbia Water and Sewer Authority shall take action to impose a lien against each commercial property with respect to which any payment owed to the Authority is past due in an aggregate amount equal to or greater than $3,000, but only if the payment is past due for 120 or more consecutive days.

(b) DISPOSITION OF LIENS THROUGH PRIVATE SOURCES.—Beginning January 31, 1998, the District of Columbia Water and Sewer Authority shall dispose of all pending liens imposed for the collection of amounts owned to the Authority by assigning the right to collect under such liens to a private entity in exchange for a cash payment, or by issuing securities secured by such liens.

DEEMED APPROVAL OF CONTRACTS BY AUTHORITY

SEC. 152. Section 203(b) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (D.C. Code, sec. 47–392.3(b)), as amended by section 5203(d) of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–1456), is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) DEEMED APPROVAL.—

"(A) IN GENERAL.—If the Authority does not notify the Mayor (or the appropriate officer or agent of the District government) that it has determined that a contract or lease submitted under this subsection is consistent with the financial plan and budget or is not consistent with the financial plan and budget during the 30-day period (or, if the Authority meets the requirements of subparagraph (B), such alternative period as the Authority may elect, not to exceed 60 days) which begins on the first day after the Authority receives the contract or lease, the Authority shall be deemed to have determined that the contract or lease is consistent with the financial plan and budget.

"(B) ELECTION OF LONGER PERIOD BY AUTHORITY.—The Authority meets the requirements of this subparagraph if, prior to the expiration of the 30-day period described in subparagraph (A), the Authority provides a notice to the Mayor (or the appropriate officer or agent of the District government) and Congress which describes the period elected by the Authority, together with an explanation of the Authority's decision to elect an alternative period.".

FINANCIAL MANAGEMENT SYSTEM

SEC. 153. (a) IN GENERAL.—The Chief Financial Officer of the District of Columbia shall enter into a contract with a private entity under which the entity shall carry out the following activities (by contract or otherwise) on behalf of the District of Columbia:

(1) In accordance with the requirements of subsection (b), the establishment and operation of an update of the present financial management system for the government of the District of Columbia by not later than June 30, 1998, to provide for the complete, accurate, and timely input and processing of financial data and the generation of reliable output reports for financial management purposes.

(2) To execute a process in accordance with "best practice" procedures of the information technology industry to determine the need, if any, of further improving the updated financial management system in subsection (a).

(b) SPECIFICATIONS FOR SHORT-TERM FINANCIAL MANAGEMENT SYSTEM IMPROVEMENTS.—For purposes of subsection (a)(1), the requirements of this subsection are as follows:

(1) A qualified vendor, in accordance with Office of Management and Budget standards, shall update the District of Columbia government's financial management system in use as of October 1, 1996.

(2) An information technology vendor shall operate the financial data center environment of the District government to ensure that its equipment and operations are compatible with the updated financial management system.

(3) A financial consulting vendor shall carry out an assessment of the District government employees who work with the financial management system, provide training in the operation of the updated system for those who are capable of effectively using the system, and provide recommendations to the Chief Financial Officer regarding those who are not capable of effectively using the system, including recommendations for reassignment or for separation from District government employment.

(c) CERTIFICATION OF POLICIES AND PROCEDURES FOR ACQUISITION OF LONG-TERM FINANCIAL MANAGEMENT SYSTEM IMPROVEMENTS.—

(1) IN GENERAL.—The Chief Financial Officer of the District of Columbia shall enter into a contract with a private entity under which the entity shall conduct an independent assessment to certify whether the District government (including the District of Columbia Financial Responsibility and Management Assistance Authority) has established and implemented policies and procedures that will result in a disciplined approach to the acquisition of a financial management system for the District government, including policies and procedures with respect to such items as—

(A) software acquisition planning,

(B) solicitation,

(C) requirements, development, and management,

(D) project office management,

(E) contract tracking and oversight,

(F) evaluation of products and services provided by the contractor, and

(G) the method that will be used to carry out a successful transition to the delivered system by its users.

(2) MODEL FOR ASSESSMENT.—The independent assessment shall be performed based on the Software Acquisition Capability Maturity Model developed by the Software Engineering Institute or a comparable methodology.

(3) REVIEW OF ASSESSMENT.—A copy of the independent assessment shall be provided to the Comptroller General, the Director of the Office of Management and Budget, and the Inspector General of the District of Columbia, who shall review and prepare a report on the assessment.

(d) RESTRICTIONS ON SPENDING FOR OTHER FINANCIAL MANAGEMENT SYSTEM PROCUREMENT AND DEVELOPMENT.—

(1) IN GENERAL.—None of the funds made available under this or any other Act may be used to improve or replace the financial management system of the government of the District of Columbia (including the procuring of hardware and installation of new software, conversion, testing, and training) until the expiration of the 30-day period which begins on the date the Comptroller General, Director of the Office of Management and Budget, and Inspector General of the District of Columbia submit a report under subsection (c)(3) to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Governmental Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate, which certifies that the District government has established and implemented the policies and procedures described in subsection (c)(1).

(2) EXCEPTIONS.—Paragraph (1) shall not apply to funds used to carry out subsection (a) or to carry out the contract described in subsection (c).

POWERS AND DUTIES OF INSPECTOR GENERAL

SEC. 154. (a) CLARIFICATION OF AUTHORITY TO CONDUCT AUDITS.—

(1) EXCLUSIVE AUTHORITY TO CONTRACT FOR INDEPENDENT ANNUAL AUDIT.—None of the funds made available under this Act or any other Act may be used to carry out any contract to conduct the annual audit of the complete financial statement and report of the activities of the District government for fiscal year 1997 or any succeeding fiscal year unless the contract is entered into by the Inspector General of the District of Columbia.

(2) SCOPE OF AUDITS.—Section 208(a) the District of Columbia Procurement Practices Act of 1985 (sec. 1–1182.8(a), D.C. Code) is amended by adding at the end the following new paragraph:

"(5) The Inspector General may include in any audits conducted pursuant to this subsection (by contract or otherwise) of the activities of the District government such audits of the activities of the Authority as the Inspector General considers appropriate.".

(6) CLARIFICATION OF GROUNDS FOR REMOVAL FROM OFFICE.—Section 208(a)(1) of such Act (sec. 1–1182.8(a)(1), D.C. Code), as amended by subsection (b), is further amended by adding at the end the following new subparagraph:

"(G) The Authority or the Mayor (whichever is applicable) may not remove the Inspector General under this paragraph unless the Authority or the Mayor (as the case may be) has consulted with Congress prior to the removal. Such consultation shall include at a minimum the submission of a written statement to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate, explaining the factual circumstances involved.".

(c) REQUIRING PLACEMENT OF INSPECTOR GENERAL HOTLINE ON PERMIT AND LICENSE APPLICATION FORMS.—

(1) IN GENERAL.—Each District of Columbia permit or license application form printed after the expiration of the 30-day period which begins on the date of the enactment of this Act shall include the telephone number established by the Inspector General of the District of Columbia for reporting instances of waste, fraud, and abuse, together with a brief description of the uses and purposes of such number.

(2) QUARTERLY REPORTS ON USE OF NUMBER.—Not later than 10 days after the end of such calendar quarter of each fiscal year (beginning with fiscal year 1998), the Inspector General of the District of Columbia shall submit a report to Congress on the number and nature of the calls received through the telephone number described in paragraph (1) during the quarter and on the waste, fraud, and abuse detected as a result of such calls.

REQUIRING USE OF DIRECT DEPOSIT OR MAIL FOR ALL PAYMENTS

SEC. 155. (a) IN GENERAL.—Notwithstanding any other provision of law (including any law or regulation providing for collective bargaining or the enforcement of any collective bargaining agreement) or collective bargaining agreement, any payment made by the District of Columbia after the expiration of the 45-day period which begins on the date of the enactment of this Act to any person shall be made by—

(1) direct deposit through electronic funds transfer to a checking, savings, or other account designated by the person; or

(2) a check delivered through the United States Postal Service to the person's place of residence or business.

(b) REGULATIONS.—The Chief Financial Officer of the District of Columbia is authorized to issue rules to carry out this section.

REVISION OF CERTAIN AUDITING REQUIREMENTS

SEC. 156. (a) INFORMATION INCLUDED IN INDEPENDENT ANNUAL AUDIT.—Effective with respect to fiscal year 1997 and each succeeding fiscal year, the independent annual audit of the government of the District of Columbia conducted for a fiscal year pursuant to section 4(a) of Public Law 94–399 (D.C. Code, sec. 47–119(a)) shall include the following information in the Comprehensive Annual Financial Report:

(1) An audited budgetary statement comparing actual revenues and expenditures during the fiscal year with the amounts appropriated in the annual appropriations act for the entire District government and for each fund of the District government (and each appropriation account with each such fund as a supplemental schedule) for the fiscal year, together with the revenue projections on which the appropriations are based, to determine the surplus or deficit thereof.

(2) An unaudited statement of monthly cash flows (on a fund-by-fund basis) showing projected and actual receipts and disbursements (with variances) by category.

(3) A discussion and analysis of the financial condition and results of operations of the District government prepared by the independent auditor.

(b) AUDIT OF FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY.—

(1) IN GENERAL.—Section 106 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (D.C. Code, sec. 47–304.1), as amended by section 11711(a) of the Balanced Budget Act of 1997, is amended by adding at the end the following new subsection:

"(e) ANNUAL FINANCIAL AUDIT.—

"(1) IN GENERAL.—For each fiscal year (beginning with fiscal year 1997), the Authority shall enter into a contract, using annual appropriations to the Authority, with an auditor who is a certified public accountant licensed in the District of Columbia to conduct an audit of the Authority's financial statements for the fiscal year, in accordance with generally accepted government auditing standards, and the financial statements shall be prepared in accordance with generally accepted accounting principles.

"(2) CONTENTS.—The auditor shall include in the audit conducted under this subsection the following information:

"(A) An audited budgetary statement comparing gross actual revenues and expenditures of the Authority during the fiscal year with amounts appropriated, together with the revenue projections on which the appropriations are based, to determine the surplus or deficit thereof.

"(B) An unaudited statement of monthly cash flows, showing projected and actual receipts and disbursements by category (with variances).

"(C) A discussion and analysis of the financial condition and results of operations of the Authority prepared by the independent auditor.

"(3) SUBMISSION.—The Authority shall submit the audit reports and financial statements conducted under this subsection to Congress, the President, the Comptroller General, the Council, and the Mayor.".

(2) RESPONSIBILITIES OF AUTHORITY.—The District of Columbia Financial Responsibility and Management Assistance Authority shall—

(A) with respect to the annual budget of the Authority for fiscal year 1999 and each succeeding fiscal year, provide the Mayor of the District of Columbia (prior to the transmission of the budget by the Mayor to the President and Congress under section 446 of the District of Columbia Home Rule Act) with an item-by-item accounting of the planned uses of appropriated and non-appropriated funds (including all projected revenues) of the Authority under the budget for such fiscal year; and

(B) with respect to the annual budget of the Authority for fiscal year 1997 and each succeeding fiscal year, provide the person conducting the independent annual audit of the government of the District of Columbia pursuant to section 4(a) of Public Law 94-399 (D.C. Code, sec. 47–119(a)) (prior to the completion of the audit) with the actual uses of all appropriated and non-appropriated funds of the Authority under the budget for such fiscal year.

(3) INCLUSION IN INDEPENDENT ANNUAL AUDIT.—For purposes of the independent annual audit of the government of the District of Columbia conducted pursuant to section 4(a) of Public Law 94-399 (D.C. Code, sec. 47–119(a)) for fiscal year 1997 and each succeeding fiscal year, the District of Columbia Financial Responsibility and Management Assistance Authority shall be considered to be an entity within the government of the District of Columbia accountable for appropriated funds in the District of Columbia annual budget, and included as such in the District of Columbia government's Comprehensive Annual Financial Report.

TREATMENT OF UNCLAIMED PROPERTY

SEC. 157. (a) DEFINITIONS OF CERTAIN TERMS.—Section 102 of the Uniform Disposition of Unclaimed Property Act of 1980 (D.C. Code, sec. 42–202) is amended—

(1) by amending paragraph (4) to read as follows:

"(4) 'Business association' means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability, business trust, trust company, financial organization, insurance company, mutual fund, utility, or other business entity consisting of one or more persons, whether or not for profit."; and

(2) by adding at the end the following new paragraphs:

"(18) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"(19) 'Property' means a fixed and certain interest in or right in property that is held, issued, or owed in the course of a holder's business, or by a government or governmental entity, and all income or increments therefrom, including an interest referred to as or evidenced by any of the following:

"(A) Money, check, draft, deposit, interest, dividend, and income.

"(B) Credit balance, customer overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused airline ticket, unused ticket, mineral proceed, and unidentified remittance and electronic fund transfer.

"(C) Stock or other evidence of ownership of an interest in a business association.

"(D) Bond, debenture, note, or other evidence of indebtedness.

"(E) Money deposited to redeem stocks, bonds, coupons, or other securities or to make distributions.

"(F) An amount due and payable under the terms of an insurance policy, including policies providing life insurance, property and casualty insurance, workers compensation insurance, or health and disability benefits insurance.

"(G) An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.".

(b) SHORTENING PERIOD FOR PRESUMPTION OF ABANDONMENT.—

(1) IN GENERAL.—Section 103(a) of such Act (D.C. Code, sec. 42–203(a)) is amended by striking "5 years" and inserting "3 years".

(2) BANK DEPOSITS AND FUNDS IN FINANCIAL ORGANIZATIONS.—Section 106 of such Act

(D.C. Code, sec. 42–206) is amended by striking "5 years" each place it appears in subsections (a) and (d) and inserting "3 years".

(3) FUNDS HELD BY LIFE INSURANCE COMPANIES.—Section 107 of such Act (D.C. Code, sec. 42–207) is amended by striking "5 years" each place it appears in subsections (a) and (c)(2)(C) and inserting "3 years".

(4) DEPOSITS AND REFUNDS HELD BY UTILITIES.—Section 108 of such Act (D.C. Code, sec. 42–208) is amended by striking "5 years" each place it appears and inserting "1 year".

(5) STOCK AND OTHER INTANGIBLE INTERESTS IN BUSINESS ASSOCIATIONS.—Section 109 of such Act (D.C. Code, sec. 42–209) is amended—

(A) by striking "5 years" each place it appears in subsections (a) and (b)(1) and inserting "3 years"; and

(B) in subsection (b)(2), by striking "5-year" and inserting "3-year".

(6) PROPERTY HELD BY FIDUCIARIES.—Section 111(a) of such Act (D.C. Code, sec. 42–211(a)) is amended by striking "5 years" and inserting "3 years".

(7) PROPERTY HELD BY PUBLIC OFFICERS AND AGENCIES.—Section 112 of such Act (D.C. Code, sec. 42–212) is amended by striking "2 years" and inserting "1 year".

(8) EMPLOYEE BENEFIT TRUST DISTRIBUTIONS.—Section 113 of such Act (D.C. Code, sec. 42–213) is amended by striking "5 years" and inserting "3 years".

(9) CONTENTS OF SAFE DEPOSIT BOX.—Section 115 of such Act (D.C. Code, sec. 42–215) is amended by striking "5 years" and inserting "3 years".

(c) CRITERIA FOR PRESUMPTION OF ABANDONMENT.—

(1) IN GENERAL.—Section 103 of such Act (D.C. Code, sec. 42–203) is amended by adding at the end the following new subsection:

"(d) A record of the issuance of a check, draft, or similar instrument by a holder is prima facie evidence of property held or owed to a person other than the holder. In claiming property from a holder who is also the issuer, the Mayor's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge, and want of consideration are affirmative defenses that may be established by the holder.".

(2) SPECIAL RULES REGARDING STOCK AND OTHER INTANGIBLE INTERESTS IN BUSINESS ASSOCIATIONS.—Section 109 of such Act (D.C. Code, sec. 42–209) is amended by adding at the end the following new subsections:

"(d) For purposes of subsection (b), the return of official shareholder notifications or communications by the postal service as undeliverable shall be evidence that the association does not know the location of the owner.

"(e) In the case of property consisting of stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distribution, or other sums payable as a result of the interest, the property may not be presumed to be abandoned under this section unless either of the following applies:

"(1) The records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within 3 years communicated in any manner described in subsection (a).

"(2) 3 years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or by the postal service as undeliverable, and the owner has not within those 3 years communicated in any manner described in subsection (a). The 3-year period from the return of official shareholder notifications or communications shall commence from the earlier of the return of the second such mailing or the time the holder discontinues mailings to the shareholder.".

(3) SPECIAL RULE REGARDING PROPERTY DISTRIBUTED THROUGH LITIGATION OR SETTLEMENT OF DISPUTE.—Section 110 of such Act (D.C. Code, sec. 42–210) is amended—

(A) by striking "All intangible" and inserting "(a) All intangible"; and

(B) by adding at the end the following new subsection:

"(b) All intangible property payable or distributable to a member or participant in a class action suit, either one allowed by the court to be maintained as such or one essentially handled as a class action suit and remaining for more than one year after the time for the final payment or distribution is presumed abandoned, unless within the preceding one year, there has been a communication between the member or participant and the holder concerning the property. Intangible property payable or distributable as the result of litigation or settlement of a dispute before a judicial or administrative body and remaining unclaimed for more than one year after the time for the final distribution is presumed abandoned.".

(d) REQUIREMENTS FOR PERSONS HOLDING PROPERTY PRESUMED ABANDONED.—

(1) DEADLINE FOR FILING REPORT WITH MAYOR.—Section 117(d) of such Act (D.C. Code, sec. 42–217(d)) is amended to read as follows:

"(d)(1) The report as of the prior June 30th must be filed before November 1st of each year, but a report with respect to a life insurance company must be filed before May 1st of each year as of the prior December 31. The Mayor may postpone the reporting date upon written request by any person required to file a report.

"(2) In calendar year 1998, a report concerning all property presumed to be abandoned as of October 31, 1997, must be filed no later than January 2, 1998.".

(2) NOTIFICATION OF OWNER.—Section 117(e) of such Act (D.C. Code, sec. 42–217(e)) is amended to read as follows:

"(e) Not earlier than 120 days prior to filing the report required under this section (and not later than 60 days prior to filing such report), the holder of property presumed abandoned shall send written notice to the apparent owner of the property stating that the holder is in possession of property subject to this Act, but only if—

"(1) the holder has in its records an address for the apparent owner, unless the holder's records indicate that such address is not accurate; and

"(2) the value of the property is at least $50.".

(3) PAYMENT OR DELIVERY OF PROPERTY TO MAYOR.—Section 119 of such Act (D.C. Code, sec. 42–219) is amended by striking subsections (a), (b), and (c) and inserting the following:

"(a) Upon the filing of the report required under section 117 with respect to property presumed abandoned, the holder of the property shall pay or deliver (or cause to be paid or delivered) to the Mayor the property described in the report as abandoned, except that—

"(1) in the case of property consisting of an automatically renewable deposit for which a penalty or forfeiture in the payment of interest would result if payment were made to the Mayor at such time, the holder may delay the payment or delivery of the property to the Mayor until such time as the penalty or forfeiture will not occur; and

"(2) in the case of tangible property held in a safe deposit box or other safekeeping depository, the holder shall pay or deliver (or cause to be paid or delivered) the property to the Mayor upon the expiration of the 120-day period which begins on the date the holder files the report required under section 117.

"(b) If the Mayor postpones the reporting date with respect to the property under section 117(d), the holder, upon receipt of the extension, may make an interim payment under this section on the amount the holder estimates will ultimately be due.".

(4) CLARIFICATION OF USE OF ESTIMATED PAYMENTS AND REPORTS.—Section 130(d) of such Act (D.C. Code, sec. 42–230(d)) is amended to read as follows:

"(d) If a holder fails to maintain the records required by section 132 and the records of the holder available for the periods for which this Act applies to the property involved are insufficient to permit the preparation of a report and delivery of the property, the holder shall be required to report and pay such amounts as may reasonably be estimated from any available records.".

(5) RETENTION OF RECORDS.—Section 132(a) of such Act (D.C. Code, sec. 42–232(a)) is amended to read as follows:

"(a) Except as provided in subsection (b) and unless the Mayor provides otherwise by rule, every holder required to file a report under section 117 shall retain all books, records, and documents necessary to establish the accuracy of such report and the compliance of the report with the requirements of this Act for 10 years after the property becomes reportable, together with a record of the name and address of the owner of the property in the case of any property for which the holder has obtained the last known address of the owner.".

(e) DUTIES AND POWERS OF MAYOR.—

(1) INFORMATION INCLUDED IN PUBLISHED NOTICE OF ABANDONED PROPERTY.—Section 118(b)(3) of such Act (D.C. Code, sec. 42–218(b)(3)) is amended to read as follows:

"(3) A statement that property of the owner is presumed to be abandoned and has been taken into the protective custody of the Mayor, except in the case of property described in section 119(a)(1) which is not paid or delivered to the Mayor pursuant to such section.".

(2) INFORMATION INCLUDED IN MAILED NOTICE.—Section 118(e)(3) of such Act (D.C. Code, sec. 42–218(e)(3)) is amended to read as follows:

"(3) A statement explaining that property of the owner is presumed to be abandoned, the property has been taken into the protective custody of the Mayor (other than property described in section 119(a)(1) which is not paid or delivered to the Mayor pursuant to such section), and information about the property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the Mayor.".

(3) TRANSITION RULE FOR 1997.—Section 118(g) of such Act (D.C. Code, sec. 42–218(g)) is amended to read as follows:

"(g) With respect to property reported and delivered on or before January 2, 1998, pursuant to section 117(d)(2), the Mayor shall cause the newspaper notice required by subsection (a) and the notice mailed under subsection (d) to be completed no later than May 1, 1998.".

(4) IMPOSITION OF ONE-YEAR WAITING PERIOD FOR SALE OF PROPERTY.—The first sentence of section 122(a) of such Act (D.C. Code, sec. 42–222(a)) is amended by striking "may be sold" and inserting the following: "which remains unclaimed one year after the delivery to the Mayor may be sold".

(5) SPECIAL RULE FOR SALE OF PROPERTY CONSISTING OF SECURITIES.—Section 122 of such Act (D.C. Code, sec. 42–222) is amended by adding at the end the following new subsection:

"(d)(1) Notwithstanding subsection (a), abandoned property consisting of securities delivered to the Mayor under this Act may not be sold under this section until the expiration of the 3-year period which begins on the date the property is delivered to the Mayor, except that the Mayor may sell the property prior to the expiration of such period if the Mayor finds that sale at such time is in the best interests of the District of Columbia.

"(2) If the Mayor sells any property described in paragraph (1) prior to the expiration of the 3-year period described in such paragraph, any person making a claim with respect to the property pursuant to this Act prior to the expiration of such period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, less any deduction for fees pursuant section 123(c). If the Mayor does not sell any such property prior to the expiration of such 3-year period, a person may make a claim with respect to the property in accordance with section 124 and other applicable provisions of this Act.".

(6) STATUTE OF LIMITATIONS.—Section 129(b) of such Act (D.C. Code, sec. 42–229(b)) is amended to read as follows:

"(b) No action or proceeding may be commenced by the Mayor to enforce any provision of this Act with respect to the reporting, delivery, or payment of property more than 10 years after the holder specifically identified the property in a report filed with the Mayor or gave express notice to the Mayor of a dispute regarding the property. The period of limitation shall be tolled in the absence of such a report or other express notice, or by the filing of a report that is fraudulent.".

(f) INTEREST AND PENALTIES.—

(1) IN GENERAL.—Section 135 of such Act (D.C. Code, sec. 42–235) is amended by striking subsections (b), (c), and (d) and inserting the following:

"(b) Except as otherwise provided in subsection (c), a person who fails to report, pay, or deliver property within the time prescribed under this Act, or fails to perform other duties imposed by this Act, shall pay (in addition to the interest required under subsection (a)) a civil penalty of $200 for each day the report, payment, or delivery is withheld or the duty is not performed, up to a maximum of $10,000.

"(c) A person who willfully fails to report, pay, or deliver property within the time prescribed under this Act, or fails to perform other duties imposed by this Act, shall pay (in addition to the interest required under subsection (a)) a civil penalty of $1,000 for each day the report, payment, or delivery is withheld or the duty is not performed, up to a maximum of $25,000, plus 25 percent of the value of any property that should have been paid or delivered.

"(d) The Mayor may waive the imposition of any interest or penalty (or any part thereof) against any person under subsection (b) or (c) if the person's failure to pay or deliver property is satisfactorily explained to the Mayor and if the failure has resulted from a mistake by the person in understanding or applying the law or the facts involved.".

(2) FAILURE OF HOLDER TO EXERCISE DUE DILIGENCE WITH RESPECT TO ITEMS SUBJECT TO REPORTING.—Section 135 of such Act (D.C. Code, sec. 42–235) is amended by adding at the end the following new subsection:

"(f) A holder who fails to exercise due diligence with respect to information required to be reported under section 117 shall pay (in addition to any other interest or penalty which may be imposed under this section) a penalty of $10 with respect to each item involved.".

(g) MISCELLANEOUS REVISIONS.—

(1) RESTRICTION ON AMOUNT CHARGED FOR HOLDING CERTAIN BANK DEPOSITS AND FUNDS.—(A) Section 106(e) of such Act (D.C. Code, sec. 42–206(e)) is amended by adding at the end the following new paragraph:

"(4) The amount of the deduction is limited to an amount that is not unconscionable.".

(B) Section 106(f) of such Act (D.C. Code, sec. 42–206(f)) is amended by adding at the end the following new paragraph:

"(3) The amount of the deduction is limited to an amount that is not unconscionable.".

(2) CLARIFICATION OF APPLICATION OF LAW TO WAGES AND OTHER COMPENSATION.—Section 116 of such Act (D.C. Code, sec. 42–216) is amended by striking "Unpaid wages or outstanding payroll checks" and inserting "Wages or other compensation for personal services".

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of any property which is presumed to be abandoned under the Uniform Disposition of Unclaimed Property Act of 1980 (as amended by this Act) during the 6-month period which begins on the date of the enactment of this Act and which would not be presumed to be abandoned under such Act during such period but for the amendments made by this Act, the property may not be presumed to be abandoned under such Act prior to the expiration of such period.

RESTRICTIONS ON BORROWING

SEC. 158. (a) PROHIBITING USE OF BORROWING TO FINANCE OR REFUND ACCUMULATED GENERAL FUND DEFICIT.—None of the funds made available in this Act or in any other Act may be used by the District of Columbia (including the District of Columbia Financial Responsibility and Management Assistance Authority) at any time before, on, or after the date of the enactment of this Act to obtain borrowing to finance or refund the accumulated general fund deficit of the District of Columbia existing as of September 30, 1997.

(b) RESTRICTIONS ON USE OF FUNDS FOR DEBT RESTRUCTURING.—None of the funds made available in this Act or in any other Act may be used by the District of Columbia (including the District of Columbia Financial Responsibility and Management Assistance Authority) during fiscal year 1998 or any succeeding fiscal year to obtain borrowing (including borrowing through the issuance of any bonds, notes, or other obligations) to repay any other borrowing of funds or issuance of bonds, notes, or other obligations unless—

(1) the aggregate cost to the District of the new borrowing or issuance does not exceed the aggregate cost of the original borrowing or issuance; and

(2) the date provided for the final repayment of the new borrowing or issuance is not later than the date provided for the final repayment of the original borrowing or issuance.

(2) CLERICAL AMENDMENT.—The table of sections for subpart 1 of part E of title IV of the District of Columbia Home Rule Act is amended by adding at the end the following new item:

"Sec. 468. Restrictions on restructuring of debt.".

(c) PROHIBITING USE OF FUNDS FOR PRIVATE BOND SALES.—None of the funds made available in this Act or in any other Act may be used by the District of Columbia (including the District of Columbia Financial Responsibility and Management Assistance Authority) during fiscal year 1998 or any succeeding fiscal year to sell any bonds at a private sale.

REOPENING OF PENNSYLVANIA AVENUE

SEC. 159. Notwithstanding any other provision of law or any other rule or regulation, beginning January 1, 1998, the portion of Pennsylvania Avenue in front of the White House shall be reopened to regular vehicular traffic.

INDEPENDENCE IN CONTRACTING FOR CHIEF FINANCIAL OFFICER AND INSPECTOR GENERAL

SEC. 160. (a) IN GENERAL.—Notwithstanding any other provision of law, neither the Mayor of the District of Columbia or the District of Columbia Financial Responsibility and Management Assistance Authority may enter into any contract with respect to any authority or activity under the jurisdiction of the Chief Financial Officer or Inspector General of the District of Columbia without the consent and approval of the Chief Financial Officer or Inspector General (as the case may be).

(b) EFFECT ON OTHER POWERS AND DUTIES OF AUTHORITY.—Nothing in this section may be construed—

(1) to affect the ability of the District of Columbia Financial Responsibility and Management Assistance Authority to remove the Chief Financial Officer or Inspector General of the District of Columbia from office during a control year (as defined in section 305(4) of the District of Columbia Financial Responsibility and management Assistance Act of 1995); or

(2) to exempt any contracts entered into by the Chief Financial Officer or Inspector General from review by the Authority under section 203(b) of such Act.

MISCELLANEOUS PROVISIONS

SEC. 161. (a) DEPOSIT OF ANNUAL FEDERAL CONTRIBUTION WITH AUTHORITY.—

(1) IN GENERAL.—The District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by section 11601(b)(2) of the Balanced Budget Act of 1997, is amended by inserting after section 204 the following new section:

"SEC. 205. DEPOSIT OF ANNUAL FEDERAL CONTRIBUTION WITH AUTHORITY.

"(a) IN GENERAL.—

"(1) DEPOSIT INTO ESCROW ACCOUNT.—In the case of a fiscal year which is a control year, the Secretary of the Treasury shall deposit any Federal contribution to the District of Columbia for the year authorized under section 11601(c)(2) of the Balanced Budget Act of 1997 into an escrow account held by the Authority, which shall allocate the funds to the Mayor at such intervals and in accordance with such terms and conditions as it considers appropriate to implement the financial plan for the year. In establishing such terms and conditions, the Authority shall

give priority to using the Federal contribution for cash flow management and the payment of outstanding bills owed by the District government.

"(2) EXCEPTION FOR AMOUNTS WITHHELD FOR ADVANCES.—Paragraph (1) shall not apply with respect to any portion of the Federal contribution which is withheld by the Secretary of the Treasury in accordance with section 605(b)(2) of title VI of the District of Columbia Revenue Act of 1939 to reimburse the Secretary for advances made under title VI of such Act.

"(b) EXPENDITURE OF FUNDS FROM ACCOUNT IN ACCORDANCE WITH AUTHORITY INSTRUCTIONS.—Any funds allocated by the Authority to the Mayor from the escrow account described in paragraph (1) may be expended by the Mayor only in accordance with the terms and conditions established by the Authority at the time the funds are allocated.".

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 204 the following new item:

"Sec. 205. Deposit of annual Federal contribution with Authority.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of the Balanced Budget Act of 1997.

(b) DISHONORED CHECK COLLECTION.—The Act entitled "An Act to authorize the Commissioners of the District of Columbia to prescribe penalties for the handling and collection of dishonored checks", approved September 28, 1965 (D.C. Code, sec. 1-357) is amended—

(1) in subsection (a) by inserting after the third sentence the following: "The Mayor may enter into a contract to collect the amount of the original obligation."; and

(2) by adding at the end the following new subsections:

"(c) In a case in which the amount of a dishonored or unpaid check is collected as a result of a contract, the Mayor shall collect any costs or expenses incurred to collect such amount from such person who gives or causes to be given, in payment of any obligation or liability due the government of the District of Columbia, a check which is subsequently dishonored or not duly paid. In a case in which the amount of a dishonored or unpaid check is collected as a result of an action at law or in equity, such costs and expenses shall include litigation expenses and attorney's fees.

"(d) An action at law or in equity for the recovery of any amount owed to the District as a result of subsection (c), including any litigation expenses or attorney's fees may be initiated—

"(1) by the Corporation Counsel of the District of Columbia; or

"(2) in a case in which the Corporation Counsel does not exercise his or her authority, by the person who provides collection services as a result of a contract with the Mayor.

"(e) Nothing in this section may be construed to eliminate the Mayor's exclusive authority with respect to any obligations and liabilities of the District of Columbia.".

(c) REQUIRING DISTRICT GOVERNMENT OFFICIALS TO PROVIDE INFORMATION UPON REQUEST TO CONGRESSIONAL COMMITTEES.—Notwithstanding any provision of law or any other rule or regulation, during fiscal year 1998 and each succeeding fiscal year, at the request of the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Government Reform and Oversight of the House of Representatives, or the Committee on Governmental Affairs of the Senate, any officer or employee of the District of Columbia government (including any officer or employee of the District of Columbia Financial Responsibility and Management Assistance Authority) shall provide the Committee with such information and materials as the Committee may require, within such deadline as the Committee may require.

(d) PROHIBITING CERTAIN HELICOPTER FLIGHTS OVER DISTRICT.—None of the funds made available in this Act or in any other Act may be used by the District of Columbia to grant a permit or license to any person for purposes of any business in which the person provides tours of any portion of the District of Columbia by helicopter.

(e) CONFORMING REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Section 4(28A) of the District of Columbia Income and Franchise Act of 1947 (D.C. Code, sec. 47-1801.4(28A)) is amended to read as follows:

"(28A) The term 'Internal Revenue Code of 1986' means the Internal Revenue Code of 1986 (100 Stat. 2085; 26 U.S.C. 1 et seq.), as amended through August 20, 1996. The provisions of the Internal Revenue Code of 1986 shall be effective on the same dates that they are effective for Federal tax purposes.".

(f) STANDARD FOR REVIEW OF RECOMMENDATIONS OF BUSINESS REGULATORY REFORM COMMISSION IN REVIEW OF REGULATIONS BY AUTHORITY.—Section 11701(a)(1) of the Balanced Budget Act of 1997 is amended by striking the second sentence and inserting the following: "In carrying out such review, the Authority shall include an explicit reference to each recommendation made by the Business Regulatory Reform Commission pursuant to the Business Regulatory Reform Commission Act of 1994 (D.C. Code, sec. 2-4101 et seq.), together with specific findings and conclusions with respect to each such recommendation.".

(g) TECHNICAL CORRECTIONS RELATING TO BALANCED BUDGET ACT OF 1997.—(1) Effective as if included in the enactment of the Balanced Budget Act of 1997, section 453(c) of the District of Columbia Home Rule Act (D.C. Code, sec. 47-304.1(c)), as amended by section 11243(d) of the Balanced Budget Act of 1997, is amended to read as follows:

"(c) Subsection (a) shall not apply to amounts appropriated or otherwise made available to the Council, the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, or the District of Columbia Water and Sewer Authority established pursuant to the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996.".

(2) Section 11201(g)(2)(A)(ii) of the Balanced Budget Act of 1997 is amended—

(A) in the heading, by striking "DEPARTMENT OF PARKS AND RECREATION" and inserting "PARKS AUTHORITY"; and

(B) by striking "Department of Parks and Recreation" and inserting "Parks Authority".

(h) REPEAL OF PRIOR NOTICE REQUIREMENT FOR FEDERAL ACTIVITIES AFFECTING REAL PROPERTY IN DISTRICT OF COLUMBIA.—Effective October 1, 1997, the Balanced Budget Act of 1997 (Public Law 105-33) is amended by striking section 11715.

This title may be cited as the "District of Columbia Appropriations Act, 1998".

TITLE II—DISTRICT OF COLUMBIA MEDICAL LIABILITY REFORM

Subtitle A—Standards for Health Care Liability Actions and Claims in the District of Columbia

SEC. 201. SHORT TITLE.

This title may be cited as the "District of Columbia Medical Liability Reform Act of 1997".

SEC. 202. STATUTE OF LIMITATIONS.

A District of Columbia health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 203. TREATMENT OF NONECONOMIC DAMAGES.

(a) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a District of Columbia health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(b) JOINT AND SEVERAL LIABILITY.—In any District of Columbia health care liability action, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

SEC. 204. CRITERIA FOR AWARDING OF PUNITIVE DAMAGES; LIMITATION ON AMOUNT AWARDED.

(a) IN GENERAL.—Punitive damages may, to the extent permitted by applicable District of Columbia law, be awarded in any District of Columbia health care liability action if the claimant establishes by clear and convincing evidence that the harm suffered was the result of—

(1) conduct specifically intended to cause harm, or

(2) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(b) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded in any District of Columbia health care liability action may not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This subsection shall be applied by the court and shall not be disclosed to the jury.

(c) APPLICABILITY.—This subsection shall apply to any District of Columbia health care liability action brought on any theory under which punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any law to the extent that such law would further limit the award of punitive damages.

(d) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable District of Columbia law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

SEC. 205. TREATMENT OF PUNITIVE DAMAGES IN ACTIONS RELATING TO DRUGS OR MEDICAL DEVICES.

(a) PROHIBITING AWARD OF PUNITIVE DAMAGES WITH RESPECT TO CERTAIN APPROVED DRUGS AND DEVICES.—

(1) IN GENERAL.—In any District of Columbia health care liability action, punitive damages may not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm if—

(A) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(B) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(2) EXCEPTION.—Paragraph (1) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(A) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(C) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(b) SPECIAL RULE REGARDING CLAIMS RELATING TO PACKAGING.—In a District of Columbia health care liability action relating to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) DRUG.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(2) MEDICAL DEVICE.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(3) PRODUCT SELLER.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "product seller" means a person who, in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing, a product in the stream of commerce, or

(ii) installs, repairs, or maintains the harm-causing aspect of a product.

(B) EXCLUSION.—Such term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

SEC. 206. PERIODIC PAYMENTS FOR FUTURE LOSSES.

(a) IN GENERAL.—In any District of Columbia health care liability action in which the damages awarded for future economic and noneconomic loss exceeds $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(b) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this section may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(c) LUMP-SUM SETTLEMENTS.—This section may not be construed to preclude a settlement providing for a single, lump-sum payment.

SEC. 207. TREATMENT OF COLLATERAL SOURCE PAYMENTS.

(a) INTRODUCTION INTO EVIDENCE.—In any District of Columbia health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(b) NO SUBROGATION.—No provider of collateral source payments may recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a District of Columbia health care liability action.

(c) APPLICATION TO SETTLEMENTS.—This section shall apply to an action that is settled as well as an action that is resolved by a fact finder.

(d) COLLATERAL SOURCE PAYMENTS DEFINED.—In this section, the term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(1) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(2) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(3) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(4) any other publicly or privately funded program.

SEC. 208. APPLICATION OF STANDARDS TO CLAIMS RESOLVED THROUGH ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—Any alternative dispute resolution system used to resolve a District of Columbia health care liability action or claim shall contain provisions relating to statute of limitations, non-economic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this title.

(b) ALTERNATIVE DISPUTE RESOLUTION SYSTEM DEFINED.—In this title, the term "alternative dispute resolution system" means a system that provides for the resolution of District of Columbia health care liability claims in a manner other than through District of Columbia health care liability actions.

Subtitle B—General Provisions

SEC. 211. GENERAL DEFINITIONS.

(a) DISTRICT OF COLUMBIA HEALTH CARE LIABILITY ACTION.—

(1) IN GENERAL.—In this title, the term "District of Columbia health care liability action" means a civil action brought against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product within the District of Columbia, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(2) HEALTH BENEFIT PLAN.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract, or

(D) a Medicare+Choice plan (as described in section 1859(b)(1) of the Social Security Act),

that provides benefits with respect to health care services.

(3) HEALTH CARE PROVIDER.—The term "health care provider" means any person that is engaged in the delivery of health care services in the District of Columbia and that is required by the laws or regulations of the District of Columbia to be licensed or certified to engage in the delivery of such services in the District of Columbia, and includes an employee of the government of the District of Columbia (including an independent agency of the District of Columbia).

(b) DISTRICT OF COLUMBIA HEALTH CARE LIABILITY CLAIM.—The term "District of Columbia health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services within the District of Columbia.

(c) OTHER DEFINITIONS.—As used in this title:

(1) ACTUAL DAMAGES.—The term "actual damages" means damages awarded to pay for economic loss.

(2) CLAIMANT.—The term "claimant" means any person who brings a District of Columbia health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(4) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable District of Columbia law.

(5) HARM.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(6) HEALTH CARE SERVICE.—The term "health care service" means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(7) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(8) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(9) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

SEC. 212. NONAPPLICATION TO CERTAIN ACTIONS; PREEMPTION.

(a) APPLICABILITY.—This title shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) PREEMPTION.—This title shall preempt any District of Columbia law to the extent such law is inconsistent with the limitations contained in this title. This title shall not preempt any District of Columbia law that provides for defenses or places limitations on a person's liability in addition to those contained in this title or otherwise imposes greater restrictions than those provided in this title.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this title may be construed to—

(1) waive or affect any defense of sovereign immunity asserted by the District of Columbia under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt any choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

SEC. 213. RULES OF CONSTRUCTION REGARDING JURISDICTION OF FEDERAL COURTS.

(a) AMOUNT IN CONTROVERSY.—In an action to which this title applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(b) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over District of Columbia health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

Subtitle C—Effective Date

SEC. 221. EFFECTIVE DATE.

This title shall apply to any District of Columbia health care liability action and to any District of Columbia health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this title, except that any such action or claim arising from an injury occurring prior to such date shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

TITLE III—DISTRICT OF COLUMBIA EDUCATION REFORM ACT OF 1997

Subtitle A—Amendments to District of Columbia School Reform Act of 1995

SEC. 301. SHORT TITLE.

This title may be cited as the "District of Columbia Education Reform Amendments Act of 1997".

SEC. 302. GENERAL EFFECTIVE DATE.

Section 2003 of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 1321–112; D.C. Code §31–2851) is amended by striking "shall be effective" and all that follows through the period at the end and inserting "shall take effect on the date of the enactment of this Act.".

SEC. 303. TIMETABLE FOR APPROVAL OF PUBLIC CHARTER SCHOOL PETITIONS.

Section 2203(i)(2)(A) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 3009–504; D.C. Code §31–2853.13(i)(2)(A)) is amended to read as follows:

"(A) IN GENERAL.—

"(i) ANNUAL LIMIT.—Subject to subparagraph (B) and clause (ii), during calendar year 1997, and during each subsequent calendar year, each eligible chartering authority shall not approve more than 10 petitions to establish a public charter school under this subtitle.

"(ii) TIMETABLE.—Any petition approved under clause (i) shall be approved during an application approval period that terminates on April 1 of each year. Such an approval period may commence before or after January 1 of the calendar year in which it terminates, except that any petition approved at any time during such an approval period shall count, for purposes of clause (i), against the total number of petitions approved during the calendar year in which the approval period terminates.".

SEC. 304. INCREASE IN PERMITTED NUMBER OF TRUSTEES OF PUBLIC CHARTER SCHOOL.

Section 2205(a) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 1321–122; D.C. Code §31–2853.15(a)) is amended by striking "7," and inserting "15,".

SEC. 305. LEASE TERMS FOR PERSONS OPERATING CHARTER SCHOOLS.

(a) LEASING FORMER OR UNUSED PUBLIC SCHOOL PROPERTIES.—

(1) IN GENERAL.—Section 2209(b)(1)(A) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 3009–505; D.C. Code §31–2853.19(b)(1)(A)) is amended to read as follows:

"(A) IN GENERAL.—Notwithstanding any other provision of law relating to the disposition of a facility or property described in subparagraph (C), the Mayor and the District of Columbia Government—

"(i) subject to clause (ii), shall give preference to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), or a Board of Trustees, with respect to the purchase of a facility or property described in subparagraph (C), if doing so will not result in a significant loss of revenue that might be obtained from other dispositions or uses of the facility or property; and

"(ii) shall lease a facility or property described in subparagraph (C), at an annual rate of $1, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), or a Board of Trustees, if—

"(I) the eligible applicant or Board of Trustees requests a lease pursuant to this paragraph for the purpose of operating the facility or property as a public charter school under this subtitle; and

"(II) the facility or property is not yet otherwise disposed of (by sale, lease, or otherwise).".

(2) TERMINATION OF LEASE.—Section 2209(b)(1) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 3009–505; D.C. Code §31–2853.19(b)(1)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

"(B) TERMINATION OF LEASE.—Any lease entered into pursuant to this paragraph with respect to a public charter school shall be deemed to terminate—

"(i) upon the denial of an application to renew the charter granted to the school under section 2212, or, in a case where judicial review of the denial is sought under section 2212(d)(6), upon the entry of an order, not subject to further review, upholding a decision to deny such an application, whichever occurs later;

"(ii) upon the revocation of the charter granted to the school under section 2213, or, in a case where judicial review of the revocation is sought under section 2213(c)(6), upon the entry of an order, not subject to further review, upholding the revocation, whichever occurs later; or

"(iii) in the case of a lease to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), upon the termination of such conditional approval by reason of the applicant's failure timely to submit the identification and information described in section 2202(6)(B)(i).".

(3) CONFORMING AMENDMENT.—Section 225(d) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8; 110 Stat. 3009–508; D.C. Code §47–392.25(d)) is amended by striking "section 2209(b)(1)(B) of the District of Columbia School Reform Act of 1995" and inserting "section 2209(b)(1)(C) of the District of Columbia School Reform Act of 1995, other than a facility or real property that is

subject to a lease under section 2209(b)(1)(A)(ii) of such Act,".

(b) CONVERSIONS OF PUBLIC SCHOOLS.—Section 2209(b) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 3009–505; D.C. Code §31–2853.19(b)) is amended by adding at the end the following:

"(3) SPECIAL RULE FOR PERSONS CONVERTING PUBLIC SCHOOL INTO CHARTER SCHOOL.—

"(A) IN GENERAL.—Notwithstanding any other provision of law relating to the disposition of a facility or property described in this paragraph, the Mayor and the District of Columbia Government shall lease a facility or property, at an annual rate of $1, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), or a Board of Trustees, if—

"(i) the facility or property is under the jurisdiction of the Board of Education;

"(ii) the eligible applicant or Board of Trustees requests a lease pursuant to this paragraph for the purpose of operating the facility or property as a public charter school under this subtitle; and

"(iii) immediately prior to the date of such request, the facility or property—

"(I) was operated as a District of Columbia public school, and the requirements of section 2202(a) were met; or

"(II) was operated as a public charter school under this subtitle.

"(B) TERMINATION OF LEASE.—Any lease entered into pursuant to this paragraph with respect to a public charter school shall be deemed to terminate—

"(i) upon the denial of an application to renew the charter granted to the school under section 2212, or, in a case where judicial review of the denial is sought under section 2212(d)(6), upon the entry of an order, not subject to further review, upholding a decision to deny such an application, whichever occurs later;

"(ii) upon the revocation of the charter granted to the school under section 2213, or, in a case where judicial review of the revocation is sought under section 2213(c)(6), upon the entry of an order, not subject to further review, upholding the revocation, whichever occurs later; or

"(iii) in the case of a lease to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), upon the termination of such conditional approval by reason of the applicant's failure timely to submit the identification and information described in section 2202(6)(B)(i).".

(c) LEASING CURRENT PUBLIC SCHOOL PROPERTIES.—

(1) IN GENERAL.—Section 2209(b)(2)(A) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 3009–506; D.C. Code §31–2853.19(b)(2)(A)) is amended to read as follows:

"(A) IN GENERAL.—Notwithstanding any other provision of law relating to the disposition of a facility or property described in subparagraph (C), but subject to paragraph (3), the Mayor and the District of Columbia Government shall lease a facility or property described in subparagraph (C), at an annual rate of $1, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), or a Board of Trustees, if the eligible applicant or Board of Trustees requests a lease pursuant to this paragraph for the purpose of—

"(i) operating the facility or property as a public charter school under this subtitle; or

"(ii) using the facility or property for a purpose directly related to the operation of a public charter school under this subtitle.".

(2) TERMINATION OF LEASE.—Section 2209(b)(2) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 3009–506; D.C. Code §31–2853.19(b)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

"(B) TERMINATION OF LEASE.—Any lease entered into pursuant to this paragraph with respect to a public charter school shall be deemed to terminate—

"(i) upon the denial of an application to renew the charter granted to the school under section 2212, or, in a case where judicial review of the denial is sought under section 2212(d)(6), upon the entry of an order, not subject to further review, upholding a decision to deny such an application, whichever occurs later;

"(ii) upon the revocation of the charter granted to the school under section 2213, or, in a case where judicial review of the revocation is sought under section 2213(c)(6), upon the entry of an order, not subject to further review, upholding the revocation, whichever occurs later; or

"(iii) in the case of a lease to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), upon the termination of such conditional approval by reason of the applicant's failure timely to submit the identification and information described in section 2202(6)(B)(i).".

SEC. 306. AUTHORIZATION OF APPROPRIATIONS FOR PUBLIC CHARTER SCHOOL BOARD.

Section 2214(g) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 1321–133; D.C. Code §31–2853.24(g)) is amended by inserting "to the Board" after "appropriated".

SEC. 307. ADJUSTMENT OF ANNUAL PAYMENT FOR RESIDENTIAL SCHOOLS.

Section 2401(b)(3)(B) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 1321–137; D.C. Code §31–2853.41(b)(3)(B)) is amended—

(1) in clause (i), by striking "or";

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(iii) to whom the school provides room and board in a residential setting.".

SEC. 308. ADJUSTMENT OF ANNUAL PAYMENT FOR FACILITIES COSTS.

Section 2401(b)(3) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 1321–137; D.C. Code §31–2853.41(b)(3)) is amended by adding at the end the following:

"(C) ADJUSTMENT FOR FACILITIES COSTS.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, shall adjust the amount of the annual payment under paragraph (1) to increase the amount of such payment for a public charter school to take into account leases or purchases of, or improvements to, real property, if the school, not later than April 1 of the fiscal year preceding the payment, requests such an adjustment.".

SEC. 309. PAYMENTS TO NEW CHARTER SCHOOLS.

(a) IN GENERAL.—Section 2403(b) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 1321–140; D.C. Code §31–2853.43(b)) is amended to read as follows:

"(b) PAYMENTS TO NEW SCHOOLS.—

"(1) ESTABLISHMENT OF FUND.—There is established in the general fund of the District of Columbia a fund to be known as the 'New Charter School Fund'.

"(2) CONTENTS OF FUND.—The New Charter School Fund shall consist of—

"(A) unexpended and unobligated amounts appropriated from local funds for public charter schools for fiscal year 1997 that reverted to the general fund of the District of Columbia;

"(B) amounts credited to the fund in accordance with this subsection upon the receipt by a public charter school described in paragraph (5) of its first initial payment under subsection (a)(2)(A) or its first final payment under subsection (a)(2)(B); and

"(C) any interest earned on such amounts.

"(3) EXPENDITURES FROM FUND.—

"(A) IN GENERAL.—Not later than June 1, 1998, and not later than June 1 of each year thereafter, the Chief Financial Officer of the District of Columbia shall pay, from the New Charter School Fund, to each public charter school described in paragraph (5), an amount equal to 25 percent of the amount yielded by multiplying the uniform dollar amount used in the formula established under section 2401(b) by the total anticipated enrollment as set forth in the petition to establish the public charter school.

"(B) PRO RATA REDUCTION.—If the amounts in the New Charter School Fund for any year are insufficient to pay the full amount that each public charter school described in paragraph (5) is eligible to receive under this subsection for such year, the Chief Financial Officer of the District of Columbia shall ratably reduce such amounts for such year on the basis of the formula described in section 2401(b).

"(C) FORM OF PAYMENT.—Payments under this subsection shall be made by electronic funds transfer from the New Charter School Fund to a bank designated by a public charter school.

"(4) CREDITS TO FUND.—Upon the receipt by a public charter school described in paragraph (5) of—

"(A) its first initial payment under subsection (a)(2)(A), the Chief Financial Officer of the District of Columbia shall credit the New Charter School Fund with 75 percent of the amount paid to the school under paragraph (3); and

"(B) its first final payment under subsection (a)(2)(B), the Chief Financial Officer of the District of Columbia shall credit the New Charter School Fund with 25 percent of the amount paid to the school under paragraph (3).

"(5) SCHOOLS DESCRIBED.—A public charter school described in this paragraph is a public charter school that—

"(A) did not enroll any students during any portion of the fiscal year preceding the most recent fiscal year for which funds are appropriated to carry out this subsection; and

"(B) operated as a public charter school during the most recent fiscal year for which funds are appropriated to carry out this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Chief Financial Officer of the District of Columbia such sums as may be necessary to carry out this subsection for each fiscal year.".

(b) REDUCTION OF ANNUAL PAYMENT.—

(1) INITIAL PAYMENT.—Section 2403(a)(2)(A) of the District of Columbia School Reform Act (Public Law 104–134; 110 Stat. 1321–139; D.C. Code §31–2853.43(a)(2)(A)) is amended to read as follows:

"(A) INITIAL PAYMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), not later than October 15, 1996, and not later than October 15 of each year thereafter, the Mayor shall transfer, by electronic funds transfer, an amount equal to 75 percent of the amount of the annual payment for each public charter school determined by using the formula established pursuant to section 2401(b) to a bank designated by such school.

"(ii) REDUCTION IN CASE OF NEW SCHOOL.—In the case of a public charter school that has received a payment under subsection (b) in the fiscal year immediately preceding the fiscal year in which a transfer under clause (i) is made, the amount transferred to the school under clause (i) shall be reduced by an amount equal to 75 percent of the amount of the payment under subsection (b).".

(2) FINAL PAYMENT.—Section 2403(a)(2)(B) of the District of Columbia School Reform Act (Public Law 104–134; 110 Stat. 1321–139; D.C. Code §31–2853.43(a)(2)(B)) is amended—

(A) in clause (i)—

(i) by inserting "IN GENERAL.—" before "Except"; and

(ii) by striking "clause (ii)," and inserting "clauses (ii) and (iii),";

(B) in clause (ii), by inserting "ADJUSTMENT FOR ENROLLMENT.—" before "Not later than March 15, 1997,"; and

(C) by adding at the end the following:

"(iii) REDUCTION IN CASE OF NEW SCHOOL.—In the case of a public charter school that has received a payment under subsection (b) in the fiscal year immediately preceding the fiscal year in which a transfer under clause (i) is made, the amount transferred to the school under clause (i) shall be reduced by an amount equal to 25 percent of the amount of the payment under subsection (b).".

SEC. 310. ELIGIBILITY CRITERIA FOR PRIVATE, NONPROFIT CORPORATION.

Section 2603 of the District of Columbia School Reform Act (Public Law 104–134; 110 Stat. 1321–144; D.C. Code §31–2853.63) is amended to read as follows:

"SEC. 2603. ELIGIBILITY CRITERIA FOR PRIVATE, NONPROFIT CORPORATION.

"A private, nonprofit corporation shall be eligible to receive a grant under section 2602 if the corporation is a business organization incorporated in the District of Columbia, that—

"(1) has a board of directors which includes members who are also executives of technology-related corporations involved in education and workforce development issues;

"(2) has extensive practical experience with initiatives that link business resources and expertise with education and training systems;

"(3) has experience in working with State and local educational agencies with respect to the integration of academic studies with workforce preparation programs; and

"(4) has a structure through which additional resources can be leveraged and innovative practices disseminated.".

Subtitle B—Student Opportunity Scholarships

SEC. 341. DEFINITIONS.

As used in this subtitle—

(1) the term "Board" means the Board of Directors of the Corporation established under section 342(b)(1);

(2) the term "Corporation" means the District of Columbia Scholarship Corporation established under section 342(a);

(3) the term "eligible institution"—

(A) in the case of an eligible institution serving a student who receives a tuition scholarship under section 343(d)(1), means a public, private, or independent elementary or secondary school; and

(B) in the case of an eligible institution serving a student who receives an enhanced achievement scholarship under section 343(d)(2), means an elementary or secondary school, or an entity that provides services to a student enrolled in an elementary or secondary school to enhance such student's achievement through activities described in section 343(d)(2);

(4) the term "parent" includes a legal guardian or other person standing in loco parentis; and

(5) the term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

SEC. 342. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—There is authorized to be established a private, nonprofit corporation, to be known as the "District of Columbia Scholarship Corporation", which is neither an agency nor establishment of the United States Government or the District of Columbia Government.

(2) DUTIES.—The Corporation shall have the responsibility and authority to administer, publicize, and evaluate the scholarship program in accordance with this subtitle, and to determine student and school eligibility for participation in such program.

(3) CONSULTATION.—The Corporation shall exercise its authority—

(A) in a manner consistent with maximizing educational opportunities for the maximum number of interested families; and

(B) in consultation with the District of Columbia Board of Education or entity exercising administrative jurisdiction over the District of Columbia Public Schools, the Superintendent of the District of Columbia Public Schools, and other school scholarship programs in the District of Columbia.

(4) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this subtitle, and, to the extent consistent with this subtitle, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(5) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(6) FUND.—There is established in the Treasury a fund that shall be known as the District of Columbia Scholarship Fund, to be administered by the Secretary of the Treasury.

(7) DISBURSEMENT.—The Secretary of the Treasury shall make available and disburse to the Corporation, before October 15 of each fiscal year or not later than 15 days after the date of enactment of an Act making appropriations for the District of Columbia for such year, whichever occurs later, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year in which such disbursement is made.

(8) AVAILABILITY.—Funds authorized to be appropriated under this subtitle shall remain available until expended.

(9) USES.—Funds authorized to be appropriated under this subtitle shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(10) AUTHORIZATION.—

(A) IN GENERAL.—There are authorized to be appropriated to the District of Columbia Scholarship Fund—

(i) $7,000,000 for fiscal year 1998;

(ii) $8,000,000 for fiscal year 1999; and

(iii) $10,000,000 for each of fiscal years 2000 through 2002.

(B) LIMITATION.—Not more than 7.5 percent of the amount appropriated to carry out this subtitle for any fiscal year may be used by the Corporation for salaries and administrative costs.

(b) ORGANIZATION AND MANAGEMENT; BOARD OF DIRECTORS.—

(1) BOARD OF DIRECTORS; MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors (referred to in this subtitle as the "Board"), comprised of 7 members with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives and the majority leader of the Senate.

(B) HOUSE NOMINATIONS.—The President shall appoint 3 of the members from a list of 9 individuals nominated by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 3 members from a list of 9 individuals nominated by the majority leader of the Senate in consultation with the minority leader of the Senate.

(D) DEADLINE.—The Speaker of the House of Representatives and majority leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member of the Board not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), then the Speaker of the House of Representatives and the Majority Leader of the Senate shall each appoint 2 members of the Board, and the Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 1 of the Board, from among the individuals nominated pursuant to subparagraphs (A) and (B), as the case may be. The appointees under the preceding sentence together with the appointee of the Mayor, shall serve as an interim Board with all the powers and other duties of the Board described in this subtitle, until the President makes the appointments as described in this paragraph.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of the Board.

(3) ELECTIONS.—Members of the Board annually shall elect 1 of the members of the Board to be chairperson of the Board.

(4) RESIDENCY.—All members appointed to the Board shall be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia Government when appointed to or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

(6) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(7) GENERAL TERM.—The term of office of each member of the Board shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each. A partial term shall be considered as 1 full term. Any vacancy on the Board shall not affect the Board's power, but shall be filled in a manner consistent with this subtitle.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee of the Corporation, except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS OR EMPLOYEES.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subtitle, shall be provided a stipend. Such stipend shall be at the rate of $150 per day for which the member of the Board is officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of $5,000.

(c) OFFICERS AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation, not to exceed level EG–16 of the Educational Service of the District of Columbia, to be fixed by the Board.

(2) STAFF.—With the approval of the Board, the Executive Director may appoint and fix the salary of such additional personnel as the Executive Director considers appropriate.

(3) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay greater than the annual rate of pay of the Executive Director.

(4) SERVICE.—All officers and employees of the Corporation shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out this subtitle.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

(1) AUDITS.—The financial statements of the Corporation shall be—

(A) maintained in accordance with generally accepted accounting principles for nonprofit corporations; and

(B) audited annually by independent certified public accountants.

(2) REPORT.—The report for each such audit shall be included in the annual report to Congress required by section 350(c).

(f) RESPONSIBILITIES OF THE CORPORATION.—

(1) APPLICATION SCHEDULE AND PROCEDURES FOR CERTIFICATION.—Not later than 60 days after the Board has been appointed, the Corporation shall implement a schedule and procedures for processing applications for awarding student scholarships under this subtitle that includes a list of certified eligible institutions, distribution of information to parents and the general public (including through a newspaper of general circulation), and deadlines for steps in the scholarship application and award process.

(2) APPLICATION.—An eligible institution that desires to participate in the scholarship program under this subtitle shall file an application with the Corporation for certification for participation in the scholarship program under this subtitle which shall—

(A) demonstrate that the eligible institution has operated with not less than 25 students during the 3 years preceding the year for which the determination is made unless the eligible institution is applying for certification as a new eligible institution under subsection (c);

(B) contain an assurance that the eligible institution will comply with all applicable requirements of this subtitle;

(C) contain an annual statement of the eligible institution's budget; and

(D) describe the eligible institution's proposed program, including personnel qualifications and fees.

(3) CERTIFICATION.—

(A) IN GENERAL.—Not later than 60 days after receipt of an application in accordance with paragraph (2), the Corporation shall certify an eligible institution to participate in the scholarship program under this subtitle.

(B) CONTINUATION.—An eligible institution's certification to participate in the scholarship program shall continue unless such eligible institution's certification is revoked in accordance with paragraph (5).

(4) NEW ELIGIBLE INSTITUTION.—

(A) IN GENERAL.—An eligible institution that did not operate with at least 25 students in the 3 years preceding the year for which the determination is made may apply for a 1-year provisional certification to participate in the scholarship program under this subtitle for a single year by providing to the Corporation not later than July 1 of the year preceding the year for which the determination is made—

(i) a list of the eligible institution's board of directors;

(ii) letters of support from not less than 10 members of the community served by such eligible institution;

(iii) a business plan;

(iv) an intended course of study;

(v) assurances that the eligible institution will begin operations with not less than 25 students;

(vi) assurances that the eligible institution will comply with all applicable requirements of this subtitle; and

(vii) a statement that satisfies the requirements of paragraphs (2) and (4) of subsection (a).

(B) CERTIFICATION.—Not later than 60 days after the date of receipt of an application described in paragraph (2), the Corporation shall certify in writing the eligible institution's provisional certification to participate in the scholarship program under this subtitle unless the Corporation determines that good cause exists to deny certification.

(C) RENEWAL OF PROVISIONAL CERTIFICATION.—After receipt of an application under subparagraph (A) from an eligible institution that includes a statement of the eligible institution's budget completed not earlier than 12 months before the date such application is filed, the Corporation shall renew an eligible institution's provisional certification for the second and third years of the school's participation in the scholarship program under this subtitle unless the Corporation finds—

(i) good cause to deny the renewal, including a finding of a pattern of violation of requirements described in paragraph (6)(A); or

(ii) consistent failure of 25 percent or more of the students receiving scholarships under this subtitle and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(D) DENIAL OF CERTIFICATION.—If provisional certification or renewal of provisional certification under this paragraph is denied, then the Corporation shall provide a written explanation to the eligible institution of the reasons for such denial.

(5) REVOCATION OF ELIGIBILITY.—

(A) IN GENERAL.—The Corporation, after notice and hearing, may revoke an eligible institution's certification to participate in the scholarship program under this subtitle for a year succeeding the year for which the determination is made for—

(i) good cause, including a finding of a pattern of violation of program requirements described in paragraph (6)(A); or

(ii) consistent failure of 25 percent or more of the students receiving scholarships under this subtitle and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(B) EXPLANATION.—If the certification of an eligible institution is revoked, the Corporation shall provide a written explanation of its decision to such eligible institution and require a pro rata refund of the payments received under this subtitle.

(6) PARTICIPATION REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—

(A) REQUIREMENTS.—Each eligible institution participating in the scholarship program under this subtitle shall—

(i) provide to the Corporation not later than June 30 of each year the most recent annual statement of the eligible institution's budget; and

(ii) charge a student that receives a scholarship under this subtitle not more than the cost of tuition and mandatory fees for, and transportation to attend, such eligible institution as other students who are residents of the District of Columbia and enrolled in such eligible institution.

(B) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subsection (a), but neither the Corporation nor any governmental entity may impose additional requirements upon an eligible institution as a condition of participation in the scholarship program under this subtitle.

SEC. 343. SCHOLARSHIPS AUTHORIZED.

(a) ELIGIBLE STUDENTS.—The Corporation is authorized to award tuition scholarships under subsection (d)(1) and enhanced achievement scholarships under subsection (d)(2) to students in kindergarten through grade 12—

(1) who are residents of the District of Columbia; and

(2) whose family income does not exceed 185 percent of the poverty line.

(b) SCHOLARSHIP PRIORITY.—

(1) FIRST.—The Corporation shall first award scholarships to students described in subsection (a) who—

(A) are enrolled in a District of Columbia public school or preparing to enter a District of Columbia kindergarten, except that this subparagraph shall apply only for academic years 1997, 1998, and 1999; or

(B) have received a scholarship from the Corporation in the year preceding the year for which the scholarship is awarded.

(2) SECOND.—If funds remain for a fiscal year for awarding scholarships after awarding scholarships under paragraph (1), the Corporation shall award scholarships to students described in subsection (a) who are not described in paragraph (1).

(c) RANDOM SELECTION.—Except as provided in subsections (a) and (b), if there are more applications to participate in the scholarship program than there are spaces available, a student shall be admitted using a random selection process.

(d) USE OF SCHOLARSHIP.—

(1) TUITION SCHOLARSHIPS.—A tuition scholarship may be used for the payment of the cost of the tuition and mandatory fees at a public, private, or independent school located within the geographic boundaries of the District of Columbia or the cost of the tuition and mandatory fees at a public, private, or independent school located within Montgomery County, Maryland; Prince Georges County, Maryland; Arlington County, Virginia; Alexandria City, Virginia; Falls Church City, Virginia; Fairfax City, Virginia; or Fairfax County, Virginia.

(2) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An enhanced achievement scholarship may be used only for the payment of the costs of tuition and mandatory fees for, or transportation to attend, a program of instruction provided by an eligible institution which enhances student achievement of the core curriculum and is operated outside of regular school hours to supplement the regular school program.

(e) NOT SCHOOL AID.—A scholarship under this subtitle shall be considered assistance to the student and shall not be considered assistance to an eligible institution.

SEC. 344. SCHOLARSHIP AWARDS.

(a) AWARDS.—From the funds made available under this subtitle, the Corporation shall award a scholarship to a student and make payments in accordance with section 345 on behalf of such student to a participating eligible institution chosen by the parent of the student.

(b) NOTIFICATION.—Each eligible institution that accepts a student who has received a scholarship under this subtitle shall notify the Corporation not later than 10 days after—

(1) the date that a student receiving a scholarship under this subtitle is enrolled, of the name, address, and grade level of such student;

(2) the date of the withdrawal or expulsion of any student receiving a scholarship under this subtitle, of the withdrawal or expulsion; and

(3) the date that a student receiving a scholarship under this subtitle is refused admission, of the reasons for such a refusal.

(c) TUITION SCHOLARSHIP.—

(1) EQUAL TO OR BELOW POVERTY LINE.—For a student whose family income is equal to or below the poverty line, a tuition scholarship may not exceed the lesser of—

(A) the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $3,200 for fiscal year 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

(2) ABOVE POVERTY LINE.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, a tuition scholarship may not exceed the lesser of—

(A) 75 percent of the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $2,400 for fiscal year 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

(d) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An enhanced achievement scholarship may not exceed the lesser of—

(1) the costs of tuition and mandatory fees for, or transportation to attend, a program of instruction at an eligible institution; or

(2) $500 for 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

SEC. 345. SCHOLARSHIP PAYMENTS.

(a) DISBURSEMENT OF SCHOLARSHIPS.—The funds may be distributed by check or another form of disbursement which is issued by the Corporation and made payable directly to a parent of a student participating in the scholarship program under this subtitle. The parent may use such funds only as payment for tuition, mandatory fees, and transportation costs associated with attending or obtaining services from a participating eligible institution.

(b) PRO RATA AMOUNTS FOR STUDENT WITHDRAWAL.—

(1) BEFORE PAYMENT.—If a student receiving a scholarship withdraws or is expelled from an eligible institution before a scholarship payment is made, the eligible institution shall receive a pro rata payment based on the amount of the scholarship and the number of days the student was enrolled in the eligible institution.

(2) AFTER PAYMENT.—If a student receiving a scholarship withdraws or is expelled after a scholarship payment is made, the eligible institution shall refund to the Corporation on a pro rata basis the proportion of any scholarship payment received for the remaining days of the school year. Such refund shall occur not later than 30 days after the date of the withdrawal or expulsion of the student.

SEC. 346. CIVIL RIGHTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this subtitle shall not engage in any practice that discriminates on the basis of race, color, national origin, or sex.

(b) EXCEPTION.—Nothing in this Act shall be construed to prevent a parent from choosing or an eligible institution from offering, a single-sex school, class, or activity.

(c) REVOCATION.—Notwithstanding section 342(f), if the Corporation determines that an eligible institution participating in the scholarship program under this title is in violation of any of the laws listed in subsection (a), then the Corporation shall revoke such eligible institution's certification to participate in the program.

SEC. 347. CHILDREN WITH DISABILITIES.

Nothing in this subtitle shall affect the rights of students, or the obligations of the District of Columbia public schools, under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

SEC. 348. RULE OF CONSTRUCTION.

(a) IN GENERAL.—Nothing in this Act shall be construed to bar any eligible institution which is operated, supervised, or controlled by, or in connection with, a religious organization from limiting employment, or admission to, or giving preference to persons of the same religion as is determined by such institution to promote the religious purpose for which it is established or maintained.

(b) SECTARIAN PURPOSES.—Nothing in this Act shall preclude the use of funds authorized under this Act for sectarian educational purposes or to require an eligible institution to remove religious art, icons, scripture, or other symbols.

SEC. 349. REPORTING REQUIREMENTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this subtitle shall report not later than July 30 of each year in a manner prescribed by the Corporation, the following data:

(1) Student achievement in the eligible institution's programs.

(2) Grade advancement for scholarship students.

(3) Disciplinary actions taken with respect to scholarship students.

(4) Graduation, college admission test scores, and college admission rates, if applicable for scholarship students.

(5) Types and amounts of parental involvement required for all families of scholarship students.

(6) Student attendance for scholarship and nonscholarship students.

(7) General information on curriculum, programs, facilities, credentials of personnel, and disciplinary rules at the eligible institution.

(8) Number of scholarship students enrolled.

(9) Such other information as may be required by the Corporation for program appraisal.

(b) CONFIDENTIALITY.—No personal identifiers may be used in such report, except that the Corporation may request such personal identifiers solely for the purpose of verification.

SEC. 350. PROGRAM APPRAISAL.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Comptroller General shall enter into a contract, with an evaluating agency that has demonstrated experience in conducting evaluations, for an independent evaluation of the scholarship program under this subtitle, including—

(1) a comparison of test scores between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

(2) a comparison of graduation rates between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

(3) the satisfaction of parents of scholarship students with the scholarship program; and

(4) the impact of the scholarship program on the District of Columbia public schools, including changes in the public school enrollment, and any improvement in the academic performance of the public schools.

(b) PUBLIC REVIEW OF DATA.—All data gathered in the course of the study described

in subsection (a) shall be made available to the public upon request except that no personal identifiers shall be made public.

(c) REPORT TO CONGRESS.—Not later than September 1 of each year, the Corporation shall submit a progress report on the scholarship program to the appropriate committees of Congress. Such report shall include a review of how scholarship funds were expended, including the initial academic achievement levels of students who have participated in the scholarship program.

(d) AUTHORIZATION.—There are authorized to be appropriated for the study described in subsection (a), $250,000, which shall remain available until expended.

SEC. 351. JUDICIAL REVIEW.

(a) IN GENERAL.—The United States District Court for the District of Columbia shall have jurisdiction in any action challenging the scholarship program under this subtitle and shall provide expedited review.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

SEC. 352. EFFECTIVE DATE.

This subtitle shall be effective for each of the fiscal years 1998 through 2002.

Subtitle C—Other Education Reforms

SEC. 361. REDUCTION IN ADMINISTRATIVE STAFF.

At any time after June 30, 1998, the total number of full-time-equivalent employees of the District of Columbia Public Schools whose principal duty is not classroom instruction may not exceed the number of such full-time-equivalent employees as of September 30, 1997, reduced by 200.

SEC. 362. DEVELOPMENT OF PERFORMANCE CRITERIA FOR TEACHERS.

The District of Columbia Public Schools shall develop and implement performance benchmarks for teachers, based on the ability of students to improve by at least one grade level each year in performance on standardized tests, and shall establish incentives to encourage teachers to meet such benchmarks.

SEC. 363. PERMITTING WAIVER OF CERTAIN CONTRACTING REQUIREMENTS FOR SCHOOL CONSTRUCTION AND REPAIR.

In carrying out any construction or repair project for the District of Columbia Public Schools, the Contracting Officer for the District of Columbia Public Schools may waive any statutory requirements referred to under the headings 'Davis-Bacon Act' and 'Copeland Act' in the document entitled "District of Columbia Public Schools Standard Contract Provisions" (as such document was in effect on November 2, 1995 and including any revisions or modifications to such document) published by the District of Columbia public schools for use with construction or maintenance projects, except that nothing in this section may be construed to permit the waiver of any requirements under Executive Order 11246 or other civil rights standards.

SEC. 364. REPEAL OF TAX EXEMPTION FOR LABOR ORGANIZATIONS.

(a) IN GENERAL.—Notwithstanding any provision of any Federally-granted charter or any other provision of law, the real property of any labor organization located in the District of Columbia shall be subject to taxation by the District of Columbia in the same manner as any similar organization.

(b) LABOR ORGANIZATION DEFINED.—In subsection (a), the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

SEC. 365. TREATMENT OF SUPERVISORY PERSONNEL AS AT-WILL EMPLOYEES.

Notwithstanding any other provision of law or regulation (including any law or regulation providing for collective bargaining or the enforcement of any collective bargaining agreement), all supervisory personnel of the District of Columbia Public Schools shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Emergency Transitional Education Board of Trustees, and shall be considered at-will employees not covered by the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

SEC. 366. DETERMINATION OF NUMBER OF STUDENTS ENROLLED.

Not later than 30 days after the date of the enactment of this Act, and not later than 30 days after the beginning of each semester which begins after such date, the District of Columbia Auditor shall submit a report to Congress, the Mayor, the Council, the Chief Financial Officer of the District of Columbia, and the District of Columbia Financial Responsibility and Management Assistance Authority providing the most recent information available on the number of students enrolled in the District of Columbia Public Schools and the average daily attendance of such students.

SEC. 367. BUDGETING ON SCHOOL-BY-SCHOOL BASIS.

(a) PREPARATION OF INITIAL BUDGETS.—Not later than 30 days after the date of the enactment of this Act, the District of Columbia Public Schools shall prepare and submit to Congress a budget for each public elementary and secondary school for fiscal year 1998 which describes the amount expected to be expended with respect to the school for salaries, capital, and other appropriate categories of expenditures.

(b) USE OF BUDGETS FOR FUTURE AGGREGATE BUDGET.—The District of Columbia Public Schools shall use the budgets prepared for individual schools under subsection (a) to prepare the overall budget for the Schools for fiscal year 1999.

SEC. 368. REQUIRING PROOF OF RESIDENCY FOR INDIVIDUALS ATTENDING SCHOOLS AND SCHOOL CHILD CARE PROGRAMS.

None of the funds made available in this Act or any other Act may be used by the District of Columbia Public Schools in fiscal year 1998 or any succeeding fiscal year to provide classroom instruction or child care services to any minor whose parent or guardian does not supply the Schools with proof of the State of the minor's residence.

SEC. 369. DISTRICT OF COLUMBIA SCHOOL OF LAW.

(a) REQUIRING FULL ACCREDITATION.—

(1) IN GENERAL.—If the District of Columbia School of Law is not fully, unconditionally accredited by the American Bar Association as of at its midyear meeting in February 1998 none of the funds made available in this Act or any other Act may be expended for or on behalf of the School except for purposes of providing assistance to assist students enrolled at the School as of such date who are residents of the District of Columbia in paying the tuition for enrollment at other law schools in the Washington Metropolitan Area, in accordance with a plan submitted to Congress.

(2) RESTRICTIONS ON USE OF FUNDS PRIOR TO ACCREDITATION.—None of the funds made available in this Act or any other Act may be used by or on behalf of the District of Columbia School of Law for recruiting or capital projects until the School is fully, unconditionally accredited by the American Bar Association.

(b) NO OTHER SOURCE OF FUNDING PERMITTED.—None of the funds made available in this Act or any other Act for the use of any entity (including the University of the District of Columbia) other than the District of Columbia School of Law may be transferred to, made available for, or expended for or on behalf of the District of Columbia School of Law.

SEC. 370. WAIVER OF LIABILITY IN PRO BONO ARRANGEMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law or any rule or regulation—

(1) any person who voluntarily provides goods or services to or on behalf of the District of Columbia Public Schools without the expectation of receiving or intending to receive compensation shall be immune from civil liability, both personally and professionally, for any act or omission occurring in the course of providing such goods or services (except as provided in subsection (b)); and

(2) the District of Columbia (including the District of Columbia Public Schools) shall be immune from civil liability for any act or omission of any person voluntarily providing goods or services to or on behalf of the District of Columbia Public Schools.

(b) EXCEPTION FOR INTENTIONAL ACTS OR ACTS OF GROSS NEGLIGENCE.—Subsection (a)(1) shall not apply with respect to any person if the act or omission involved—

(1) constitutes gross negligence;

(2) constitutes an intentional tort; or

(3) is criminal in nature.

(c) EFFECTIVE DATE.—This section shall apply with respect to the provision of goods and services occurring during fiscal year 1998 or any succeeding fiscal year.

This Act may be cited as the "District of Columbia Appropriations, Medical Liability Reform, and Education Reform Act of 1998".

The CHAIRMAN pro tempore. No further amendment shall be in order except those printed in House Report 105–315, which may be considered only in the order specified, may be offered only by a Member designated in the report, shall be considered read, shall be debated for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report and shall not be subject to a demand for a division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any proposed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider amendment No. 1 printed in part II of House Report 105–315.

AMENDMENT NO. 1 OFFERED BY MR. SABO

Mr. SABO. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SABO:

Page 173, strike line 21 and all that follows through page 174, line 9 (and redesignate the succeeding sections accordingly).

The CHAIRMAN pro tempore. Pursuant to House Resolution 264, the gentleman from Minnesota [Mr. SABO] and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, over 65 years ago, Davis-Bacon passed the Congress, named after a Republican Member of the House and a Republican Secretary of Labor. It has served good public policy for 65 years. Some want to change it. I would simply say to those who want to change it, go through the committees, bring it to the floor and let us debate it on its merits. We cannot do that in 10 minutes today.

What does this bill do? It suspends Davis-Bacon in the District of Columbia on certain construction contracts subject to the desire of the contracting officer. Let me say that again. We are going to change 65 years of public policy in this country subject to the desires and whims of a contracting officer in the District of Columbia; not any elected body, not even the control board, but a contracting officer. What a horrendous way to run this place. This provision does not belong in this bill. Let us take it out.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentlewoman from Kentucky [Mrs. NORTHUP].

Mrs. NORTHUP. Mr. Chairman, today there are several Washington, DC schools that are still closed due to construction problems. Earlier this year there were many that were delayed most of September because of construction problems. We need to not prescribe Davis-Bacon because it is expensive and it is an accounting nightmare. These schools need to stretch their construction money so that they can deal with the construction problems they have.

This is not about fair labor rates. The fact is, this is about taking advantage of working Americans and the taxes they pay all across this country to subsidize labor rates to extraordinarily high levels. My taxpayers in Kentucky are paid far less than the wages we would prescribe. We have factory workers, policemen, teachers, gas station attendants, hair stylists, lots of people that go to work every day, and pay their taxes. We are asking them to subsidize wages at much higher rates. Their Federal tax money should not be wasted on these extraordinarily high rates. We should have the Government able to bid for these jobs just like we do everything else the Government purchases.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Chairman, I rise this afternoon in support of the Sabo amendment. As we consider this amendment this afternoon I want to point out to my colleagues three quick points.

First of all, this is not the way that we should be altering a very significant Federal law. If we are interested in looking into the effects of Davis-Bacon on construction costs, we should conduct hearings, we should have a fair and open debate and then we should do it the right way and not legislate on appropriations.

Second, Davis-Bacon simply ensures that wages and working conditions at a given locality are observed on federally funded construction programs. It does not require a payment of a minimum wage.

Thirdly, if the prevailing wage laws are repealed, it would in essence allow contractors to use the vast procurement power of the Federal Government to depress wages of construction workers and then cut those wages to win the Federal projects that they desire.

In closing, I would ask our colleagues to protect construction workers this afternoon. Do not circumvent the legislative process by legislating through appropriations, and vote "yes" on the Sabo amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT], a member of the subcommittee.

Mr. TIAHRT. Mr. Chairman, I rise to oppose this motion to strike the Davis-Bacon waiver. This is not a repeal of Davis-Bacon. This is a waiver.

Last March, TV ads were aired in Wichita. Let me quote them. They said: "My son's school is literally falling apart, plaster is falling from the ceiling. It is just not safe. Millions of kids go to school each day in buildings that are aging, crumbling, even unsafe, but instead of spending our money to fix America's schools, Washington gives it away. Call Congressman Tiahrt, tell him to protect our kids, not special interests." Paid for by the AFL–CIO.

This very provision would strike the waiver for Davis-Bacon. This means that only union workers can work on the schools in the District of Columbia. Americans all know that this will be limiting competition, that it will be driving up repair costs, that it will be hurting the children in the District of Columbia, at the expense of the children, so that we could favor special interests.

It will protect special interests, special interests of the AFL–CIO, of the labor unions, at the cost of better schools for District of Columbia children. Exactly opposite of what the ad that was run by the AFL–CIO. Yet the ads which appeared in my district were paid for by the same group, the AFL–CIO.

They are asking to protect, asking us to protect special interests instead of our children here in the District of Columbia. Let us not protect the special interests. As the ad says, instead of spending our money to fix American schools, let us protect the kids and not special interests. Let us use this money more efficiently by waiving the Davis-Bacon provisions, by protecting our children, by giving them better schools, and do so by voting against the Sabo provision and by continuing to vote for this bill.

Mr. SABO. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I rise in strong support of this amendment. Repealing the Davis-Bacon law for D.C. school construction projects will not improve the district's crumbling schools. It will discriminate against the District's construction workers. These workers deserve to earn a decent wage. In fact, a recent study found that school construction costs were actually lower in those States governed by State Davis-Bacon laws.

The Federal Government has a responsibility to help our local communities address the crisis of crumbling schools, but not by denying hard-working construction workers and their families a decent wage. The Members who support this Davis-Bacon repeal say they want to help the District's crumbling schools. If they really care about crumbling schools, support my bill that would provide $5 billion nationwide and $15 million to rebuild the schools in the D.C. school district.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Chairman, we have a simple choice today. We can vote to support schools and public education or we can vote to support corruption and Washington union bosses.

Let there be no mistake about this amendment. This is an amendment that protects Davis-Bacon, which is a giveaway to Washington union bosses. Precious education dollars are being siphoned off from classrooms, from supplies and other needed repairs. They cannot even open the schools in Washington. All because big labor wants to get their pound of flesh.

I have got to tell my colleagues, Mr. Chairman, essentially Davis-Bacon requirements result in wasted dollars, reduced funds for students and fewer job

opportunities. I do not see any reason why we should not give local officials the option to waive these onerous requirements. A vote for this amendment is a vote against the children of Washington, DC and a vote to pad the pockets of Washington union bosses.

Mr. SABO. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, Davis-Bacon is one of the finest laws we have on the books. Davis and Bacon were both leading Republicans in the Congress of 1931. We faced the same thing now that they faced then, people coming in undercutting the prevailing wage rate.

That is what it is all about. It is about fairness. It is about helping our neighbors who are electricians and plumbers and masons and ironworkers. That is what it is about. We should not tamper with Davis-Bacon. It is a good law. Let us keep it.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, this Sabo amendment will save the District of Columbia from being another experimental ground for a bad piece of legislation. Davis-Bacon saves money. There is a study by Peter Phillips, a professor of the University of Utah, which showed that Davis-Bacon actually saves money on school construction.

Davis-Bacon has many other benefits. Davis-Bacon provides programs for apprentices and training in a way that no other construction programs do. Davis-Bacon has been around for a long time. It operates to the benefit of construction industry workers.

I submit this for the RECORD to answer the lies about Davis-Bacon:

DISTRICT OF COLUMBIA APPROPRIATIONS BILL
DAVIS-BACON ACT PROVISIONS

Section 363 of the D.C. Appropriations bill would allow the D.C. Contracting Officer for Public Schools to waive Davis-Bacon prevailing wages for workers on school construction and repair projects. Despite a 1995 Congressional Budget Office scoring indicating that repealing Davis-Bacon would not produce sizable savings, opponents continue to assert that if you do away with labor protections on school construction projects, the taxpayer will save money on construction costs.

Repealing or waiving Davis-Bacon will not save money on school construction. Peter Phillips, a professor in the university of Utah Economics Department has prepared a report for the legislative Education Study Committee of the New Mexico State Legislature which tests the proposition that eliminating state prevailing wage laws will lower school construction costs.

For the period of 1992–1994, he compares the average square foot cost of construction for elementary, middle and high schools in 9 Intermountain and Southwestern states—5 states with prevailing wage laws (New Mexico, Texas, Oklahoma, Wyoming and Nevada) to 4 states without prevailing wage laws (Utah, Colorado and Idaho). These results show that if anything, square foot construction costs are lower in states with prevailing wage laws to those without these laws: for elementary schools, average square foot new construction costs are $67 in the states with prevailing wage laws and $73 per square foot in the 4 states without prevailing wage laws—a real difference of $6; the 76 middle schools built in the prevailing wage law states cost an average of $66 per square foot while the 28 middle schools built in the 4 states without prevailing wage laws cost an average of $77 per square foot; and similarly, the 31 high schools built in the prevailing wage law states cost an average $70 while the 22 schools in states without prevailing wage laws cost an average of $81.

Furthermore, more new public construction took place in the 5 states with state prevailing wage law compared to the 4 states without prevailing wage laws during the period under study (1992–1994).

There will be long-run cost to the construction industry. The basic conclusion of this study is that there is no evidence to suggest that the repeal of the state's prevailing wage law would save substantial costs in the construction of public schools. Lower wage rates for construction workers will not reduce costs, particularly in the long run. Peter Phillips finds that prevailing wage laws encourage the apprenticeship and training programs that have created the skilled construction workforce that has resulted in higher labor productivity. In the long run, repealing state prevailing wage laws will result in a migration of trained workers out of construction and a decline in the training of new construction workers leading to lower productivity, thereby canceling out any savings from lower wages. It is clear that without Davis-Bacon the use of low-wage untrained workers will degrade the quality of public construction.

Section 363 will discriminate against D.C. construction workers. Allowing prevailing wages to be waived on school construction and repair projects in D.C. construction workers who are largely minority. Workers on school construction projects in Maryland, for example, will continue to be paid the prevailing wage. The inequity will also invite fly-by-night contractors from other areas to come into D.C., using lowered wage for construction workers to "low-ball" school construction contracts in the District.

Mr. SABO. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. LOBIONDO].

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Mr. LOBIONDO. Mr. Chairman, since I have become a Member of Congress, and I am sure well before that, some in Congress have called for the repeal of Davis-Bacon. I have opposed these efforts and will continue to oppose any weakening of this important law.

As an operator of a small business, with unionized workers, for years before I entered public life, I learned that in general you truly do get what you pay for. It is not as simple as some claim, that there would be a major cost saving by eliminating this requirement. Studies have been shown that prove differently.

I support Davis-Bacon. I will vote for the gentleman's amendment, and I urge all of my colleagues to vote for the gentleman's amendment.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in support of the amendment of the gentleman from Minnesota, and I support Davis-Bacon.

Mr. SABO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, a 65-year policy should not be reversed by the choice of a contracting officer in the District of Columbia. Davis-Bacon is not about union bosses; it is about being sure that people who build our buildings and construct our roads are paid a fair price and we get quality in return.

Mr. Chairman, let us remove this inappropriate rider from this bill.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I wish to thank the gentleman from Minnesota [Mr. SABO], and I agree that we need more than 5 minutes to discuss this issue. It is a very important issue.

Sixty-five years is too long. That is what this House is about, taking antiquated wasteful spending out. If we look at Florida, Kentucky, Ohio, Montgomery, Preston County, all of them have saved money. The one institution of Utah, the study was paid for by the unions. All other studies show that Davis-Bacon inflates costs.

A poll, this is Washington, DC, 65 percent support the bill of local option, Davis-Bacon, to a take it out. Sixty percent of Democrats agree. Sixty-eight percent agree that it is more important to create entry level jobs than to have Davis-Bacon. Seventy-two percent agree that the law should be changed to permit volunteers to take part in construction and repair work, which Davis-Bacon prevents.

We are trying to get the most amount of money to fix schools that are 86 years old. It is a sad day, Mr. Chairman, when special interests, when we talk about campaign finance reform, stops good legislation.

Mr. RIGGS. Mr. Chairman, the Early Childhood, Youth, and Families Subcommittee urges you to support an important initiative to help children in the District of Columbia. Just yesterday, a District school was ordered closed by the D.C. fire marshal because of roof leaks—the second school violation in 2 days.

Education dollars should not have to be diverted away from needed facility repairs or away from the classroom because of outdated Federal laws that inflate the cost of school construction. Local school districts need the flexibility to appropriately spend their educational resources. Valuable funds should not have to go toward inflated construction costs, when they could instead go toward additional

repairs and facility improvements, books, computers, and other educational services that actually improve classroom learning and benefit school children.

The Appropriations Committee has recognized this and has included a voluntary waiver of Davis-Bacon for school construction in Washington, DC, in the fiscal year 1998 District of Columbia appropriations bill. By allowing District facility contracting officers the opportunity to waive Davis-Bacon when appropriate for school projects, the District could gain more construction for the dollar and be able to allocate more resources to better meet students' needs.

Additionally, Davis-Bacon Act regulations prevent entry-level workers from gaining employment and on-the-job-training on federally funded projects. Because the regulations do not allow the use of helpers, contractors are limited in employing local, low-skilled workers. Thus, lifting Davis-Bacon requirements would not only stretch educational dollars farther, it would also help provide job opportunities for entry-level workers in the District to gain valuable job experience in their community.

Congress can take an important step to help local school children by allowing D.C. officials the authority to choose to waive restrictive Davis-Bacon Act requirements for school construction and repairs. It will provide the local control necessary to award contracts based on quality and cost, guarantee more construction for the dollar, and help ensure Federal funds are not diverted away from the classroom.

The CHAIRMAN pro tempore [Mr. LAHOOD]. All time has expired.

The question is on the amendment offered by the gentleman from Minnesota [Mr. SABO].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SABO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 188, not voting 11, as follows:

[Roll No. 511]

AYES—234

Abercrombie	Clement	Etheridge
Ackerman	Clyburn	Evans
Allen	Condit	Ewing
Andrews	Conyers	Farr
Baesler	Costello	Fattah
Baldacci	Coyne	Fazio
Barcia	Cramer	Filner
Barrett (WI)	Cummings	Flake
Becerra	Danner	Foglietta
Bentsen	Davis (FL)	Forbes
Berry	Davis (IL)	Ford
Bilbray	DeFazio	Fox
Bishop	DeGette	Frank (MA)
Blagojevich	Delahunt	Franks (NJ)
Blumenauer	DeLauro	Frost
Boehlert	Dellums	Furse
Bonior	Deutsch	Gejdenson
Borski	Diaz-Balart	Gephardt
Boswell	Dicks	Gilman
Boucher	Dingell	Gordon
Boyd	Dixon	Green
Brown (CA)	Doggett	Hall (OH)
Brown (OH)	Dooley	Hamilton
Capps	Doyle	Harman
Cardin	Edwards	Hastings (FL)
Carson	Engel	Hill
Clay	English	Hinchey
Clayton	Eshoo	Hinojosa
Holden	McHale	Sanchez
Hooley	McHugh	Sanders
Horn	McIntyre	Sandlin
Houghton	McKinney	Sawyer
Hoyer	McNulty	Saxton
Jackson (IL)	Meehan	Schumer
Jackson-Lee (TX)	Meek	Scott
Jefferson	Menendez	Serrano
Johnson (CT)	Metcalf	Shays
Johnson (WI)	Millender-McDonald	Sherman
Johnson, E. B.	Miller (CA)	Shimkus
Kanjorski	Minge	Sisisky
Kaptur	Mink	Skaggs
Kelly	Moakley	Skelton
Kennedy (MA)	Mollohan	Slaughter
Kennedy (RI)	Moran (VA)	Smith (NJ)
Kennelly	Murtha	Smith, Adam
Kildee	Nadler	Smith, Linda
Kilpatrick	Neal	Snyder
Kind (WI)	Ney	Spratt
King (NY)	Oberstar	Stabenow
Kleczka	Obey	Stark
Klink	Olver	Stokes
Kucinich	Ortiz	Strickland
LaFalce	Owens	Stupak
LaHood	Pallone	Tanner
Lampson	Pappas	Tauscher
Lantos	Pascrell	Thompson
LaTourette	Pastor	Thurman
Lazio	Payne	Tierney
Levin	Pelosi	Torres
Lewis (CA)	Peterson (MN)	Towns
Lewis (GA)	Petri	Traficant
Lipinski	Pickett	Turner
LoBiondo	Pomeroy	Velázquez
Lofgren	Poshard	Vento
Lowey	Price (NC)	Visclosky
Luther	Quinn	Walsh
Maloney (CT)	Rahall	Waters
Maloney (NY)	Rangel	Watt (NC)
Manton	Regula	Waxman
Markey	Reyes	Weldon (PA)
Martinez	Rivers	Weller
Mascara	Rodriguez	Wexler
Matsui	Roemer	Weygand
McCarthy (MO)	Rothman	Wise
McCarthy (NY)	Roukema	Woolsey
McDade	Roybal-Allard	Wynn
McDermott	Rush	Yates
McGovern	Sabo	Young (AK)

NOES—188

Aderholt	Crane	Hobson
Archer	Crapo	Hoekstra
Armey	Cubin	Hostettler
Bachus	Cunningham	Hulshof
Baker	Davis (VA)	Hunter
Ballenger	Deal	Hutchinson
Barr	DeLay	Hyde
Barrett (NE)	Dickey	Inglis
Bartlett	Doolittle	Istook
Barton	Dreier	Jenkins
Bass	Duncan	John
Bateman	Dunn	Johnson, Sam
Bereuter	Ehlers	Jones
Bilirakis	Ehrlich	Kasich
Bliley	Emerson	Kim
Blunt	Ensign	Kingston
Boehner	Everett	Klug
Bonilla	Fawell	Knollenberg
Bono	Foley	Kolbe
Brady	Fowler	Largent
Bryant	Frelinghuysen	Latham
Bunning	Gallegly	Leach
Burr	Ganske	Linder
Burton	Gekas	Livingston
Buyer	Gibbons	Lucas
Callahan	Gilchrest	Manzullo
Calvert	Gillmor	McCollum
Camp	Goode	McCrery
Campbell	Goodlatte	McInnis
Canady	Goodling	McIntosh
Cannon	Goss	McKeon
Castle	Graham	Mica
Chabot	Granger	Miller (FL)
Chenoweth	Greenwood	Moran (KS)
Christensen	Gutknecht	Morella
Coble	Hall (TX)	Myrick
Coburn	Hansen	Nethercutt
Collins	Hastert	Neumann
Combest	Hayworth	Northup
Cook	Hefley	Norwood
Cooksey	Herger	Nussle
Cox	Hilleary	Oxley
Packard	Royce	Stump
Parker	Ryun	Sununu
Paul	Salmon	Talent
Paxon	Sanford	Tauzin
Pease	Scarborough	Taylor (MS)
Peterson (PA)	Schaefer, Dan	Taylor (NC)
Pickering	Schaffer, Bob	Thomas
Pitts	Sensenbrenner	Thornberry
Pombo	Sessions	Thune
Porter	Shadegg	Tiahrt
Portman	Shaw	Upton
Pryce (OH)	Shuster	Wamp
Radanovich	Skeen	Watkins
Ramstad	Smith (MI)	Watts (OK)
Redmond	Smith (OR)	Weldon (FL)
Riggs	Smith (TX)	White
Riley	Snowbarger	Whitfield
Rogan	Souder	Wicker
Rogers	Spence	Wolf
Rohrabacher	Stearns	Young (FL)
Ros-Lehtinen	Stenholm	

NOT VOTING—11

Berman	Gutierrez	Lewis (KY)
Brown (FL)	Hastings (WA)	Schiff
Chambliss	Hefner	Solomon
Gonzalez	Hilliard	

□ 1437

The Clerk announced the following pair:

On this vote:

Mr. Berman for, with Mr. Chambliss against.

Messrs. BARRETT of Nebraska, PORTMAN, HERGER, and HASTERT changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. LAHOOD). It is now in order to consider amendment No. 2 printed in part II of House Report 105-315.

AMENDMENT NO. 2 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 2 in the nature of a substitute offered by Mr. MORAN of Virginia:

Strike all after the enacting clause and insert the following:

That, the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1998, and for other purposes, namely:

FEDERAL FUNDS

FEDERAL PAYMENT FOR MANAGEMENT REFORM

For payment to the District of Columbia, as authorized by section 11103(c) of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105-33, $8,000,000, to remain available until September 30, 1999, which shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority, pursuant to section 205 of Public Law 104-8 (109 Stat. 131), and shall be disbursed from such escrow account pursuant to the instructions of the Authority only for a program of management reform pursuant to sections 11101-11106 of the District of Columbia Management Reform Act of 1997, Public Law 105-33.

FEDERAL CONTRIBUTION TO THE OPERATIONS OF THE NATION'S CAPITAL

For a Federal contribution to the District of Columbia toward the costs of the operation of the government of the District of Columbia, $190,000,000: *Provided*, That these funds may be used by the District of Columbia for the costs of advances to the District government as authorized by section 11402 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105–33: *Provided further*, That not less than $30,000,000 shall be used by the District of Columbia to repay the accumulated general fund deficit.

METROPOLITAN POLICE DEPARTMENT

For the Metropolitan Police Department, $5,400,000, for a 5 percent pay increase for sworn officers who perform primarily non-administrative public safety services and are certified by the Chief of Police as having met the minimum "Basic Certificate" standards transmitted by the District of Columbia Financial Responsibility and Management Assistance Authority to Congress by letter dated May 19, 1997, or (if applicable) the minimum standards under any physical fitness and performance standards developed by the Department in consultation with the Authority.

FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

For the Fire and Emergency Medical Services Department, $2,600,000, for a 5 percent pay increase for uniformed fire fighters.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA CORRECTIONS TRUSTEE OPERATIONS

For payment to the District of Columbia Corrections Trustee, $169,000,000 for the administration and operation of correctional facilities, as authorized by section 11202 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105–33.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA CORRECTIONS TRUSTEE FOR CORRECTIONAL FACILITIES, CONSTRUCTION AND REPAIR

For payment to the District of Columbia Corrections Trustee for Correctional Facilities, $302,000,000, to remain available until expended, of which not less than $294,900,000 is available for transfer to the Federal Prison System, as authorized by section 11202 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105–33.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

Notwithstanding any other provision of law, $116,000,000, for the Administrative Office of the United States Courts, to be available only for obligation by the Joint Committee on Judicial Administration in the District of Columbia for operation of the District of Columbia Courts, of which not to exceed $750,000 shall be available for establishment and operations of the District of Columbia Truth in Sentencing Commission as authorized by section 11211 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105–33.

Notwithstanding any other provision of law, for an additional amount, $30,000,000, for the Administrative Office of the United States Courts, to be available only for obligation by the Offender Supervision Trustee, for Pretrial Services, Defense Services, Parole, Adult Probation, and administrative operating costs of the Office of the Offender Supervision Trustee, of which not to exceed $800,000 shall be transferred to the United States Parole Commission to implement section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997.

DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $105,177,000 (including $84,316,000, from local funds, $14,013,000 from Federal funds, and $6,848,000 from other funds): *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That $240,000 shall be available for citywide special elections: *Provided further*, That all employees permanently assigned to work in the Office of the Mayor shall be paid from funds allocated to the Office of the Mayor.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $120,072,000 (including $40,377,000 from local funds, $42,065,000 from Federal funds, and $37,630,000 from other funds), together with $12,000,000 collected in the form of BID tax revenue collected by the District of Columbia on behalf of business improvement districts pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11–134; D.C. Code, sec. 1–2271 et seq.), and the Business Improvement Districts Temporary Amendment Act of 1997 (Bill 12–230).

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase or lease of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $529,739,000 (including $510,326,000 from local funds, $13,519,000 from Federal funds, and $5,894,000 from other funds): *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Department of Fire and Emergency Medical Services of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved: *Provided further*, That the Metropolitan Police Department is authorized to maintain 3,800 sworn officers, with leave for a 50 officer attrition: *Provided further*, That no more than 15 members of the Metropolitan Police Department shall be detailed or assigned to the Executive Protection Unit, until the Chief of Police submits a recommendation to the Council for its review: *Provided further*, That $100,000 shall be available for inmates released on medical and geriatric parole: *Provided further*, That not less than $2,254,754 shall be available to support a pay raise for uniformed firefighters, when authorized by the District of Columbia Council and the District of Columbia Financial Responsibility and Management Assistance Authority, which funding will be made available as savings achieved through actions within the appropriated budget: *Provided further*, That, commencing on December 31, 1997, the Metropolitan Police Department shall provide to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and quarterly reports on the status of crime reduction in each of the 83 police service areas established throughout the District of Columbia.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $672,444,000 (including $530,197,000 from local funds, $112,806,000 from Federal funds, and $29,441,000 from other funds), to be allocated as follows: $564,129,000 (including $460,143,000 from local funds, $98,491,000 from Federal funds, and $5,495,000 from other funds), for the public schools of the District of Columbia; $1,235,000 from local funds for public charter schools: *Provided*, That if the entirety of this allocation has not been provided as payments to one or more public charter schools by May 1, 1998, and remains unallocated, the funds will revert to the general fund of the District of Columbia in accordance with section 2403(a)(2)(D) of the District of Columbia School Reform Act of 1995 (Public Law 104–134); $74,087,000 (including $37,791,000 from local funds, $12,804,000 from Federal funds, and $23,492,000 from other funds) for the University of the District of Columbia; $22,036,000 (including

$20,424,000 from local funds, $1,158,000 from Federal funds, and $454,000 from other funds) for the Public Library; $2,057,000 (including $1,704,000 from local funds and $353,000 from Federal funds) for the Commission on the Arts and Humanities: *Provided further*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for official purposes: *Provided further*, That not less than $1,200,000 shall be available for local school allotments in a restricted line item: *Provided further*, That not less than $4,500,000 shall be available to support kindergarten aides in a restricted line item: *Provided further*, That not less than $2,800,000 shall be available to support substitute teachers in a restricted line item: *Provided further*, That not less than $1,788,000 shall be available in a restricted line item for school counselors: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1998, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $1,718,939,000 (including $789,350,000 from local funds, $886,702,000 from Federal funds, and $42,887,000 from other funds): *Provided*, That $21,089,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That a peer review committee shall be established to review medical payments and the type of service received by a disability compensation claimant: *Provided further*, That the District of Columbia shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles $241,934,000 (including $227,983,000 from local funds, $3,350,000 from Federal funds, and $10,601,000 from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business: *Provided further*, That $3,000,000 shall be available for the lease financing, operation, and maintenance of two mechanical street sweepers, one flusher truck, five packer trucks, one front-end loader, and various public litter containers: *Provided further*, That $2,400,000 shall be available for recycling activities.

FINANCING AND OTHER USES

Financing and other uses, $454,773,000 (including for payment to the Washington Convention Center, $5,400,000 from local funds; reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648), section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219), section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515), and sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $384,430,000 from local funds; for the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $39,020,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)(1); for payment of interest on short-term borrowing, $12,000,000 from local funds; for lease payments in accordance with the Certificates of Participation involving the land site underlying the building located at One Judiciary Square, $7,923,000 from local funds; for human resources development, including costs of increased employee training, administrative reforms, and an executive compensation system, $6,000,000 from local funds); for equipment leases, the Mayor may finance $13,127,000 of equipment cost, plus cost of issuance not to exceed two percent of the par amount being financed on a lease purchase basis with a maturity not to exceed five years: *Provided*, That $75,000 is allocated to the Department of Corrections, $8,000,000 for the Public Schools, $50,000 for the Public Library, $260,000 for the Department of Human Services, $244,000 for the Department of Recreation and Parks, and $4,498,000 for the Department of Public Works.

ENTERPRISE FUNDS

ENTERPRISE AND OTHER USES

Enterprises and other uses, $15,725,000 (including for the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,467,000 (including $2,135,000 from local funds and $332,000 from other funds); for the Public Service Commission, $4,547,000 (including $4,250,000 from local funds, $117,000 from Federal funds, and $180,000 from other funds), for the Office of the People's Counsel, $2,428,000 from local funds; for the Office of Banking and Financial Institutions, $600,000 (including $100,000 from local funds and $500,000 from other funds); for the Department of Insurance and Securities Regulation, $5,683,000 from other funds.

WATER AND SEWER AUTHORITY AND THE WASHINGTON AQUEDUCT

For the Water and Sewer Authority and the Washington Aqueduct, $297,310,000 from other funds (including $263,425,000 for the Water and Sewer Authority and $33,885,000 for the Washington Aqueduct) of which $41,423,000 shall be apportioned and payable to the District's debt service fund for repayment of loans and interest incurred for capital improvement projects.

LOTTERY AND CHARITABLE GAMES CONTROL BOARD

For the Lottery and Charitable Games Control Board, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $213,500,000: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

STARPLEX FUND

For the Starplex Fund, $5,936,000 from other funds for expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, $97,019,000, of which $44,335,000 shall be derived by transfer from the general fund and $52,684,000 shall be derived from other funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; D.C. Code, sec. 1–711), $16,762,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $46,400,000, of which $5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), $3,220,000.

CAPITAL OUTLAY

For construction projects, $269,330,000 (including $31,100,000 for the highway trust fund, $105,485,000 from local funds, and $132,745,000 in Federal funds), to remain available until expended: *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1999, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1999: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

DEFICIT REDUCTION AND REVITALIZATION

For deficit reduction and revitalization, $201,090,000, to be deposited into an escrow account held by the District of Columbia Financial Responsibility and Management Assistance Authority (Authority), which shall allocate the funds to the Mayor, or such other District official as the Authority may deem appropriate, at such intervals and in accordance with such terms and conditions as the Authority considers appropriate: *Provided*, That these funds shall only be used for reduction of the accumulated general fund deficit; capital expenditures, including debt service; and management and productivity improvements, as allocated by the Authority: *Provided further*, That no funds may be obligated until a plan for their use is approved by the Authority: *Provided further*, That the Authority shall inform the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform and Oversight of the House of Representatives of the approved plans.

GENERAL PROVISIONS

SECTION 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the Subcommittee on the District of Columbia of the House Committee on Government Reform and Oversight, the Subcommittee on Oversight of Government Management and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 111. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 112. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 113. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 114. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 115. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 116. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.): *Provided*, That for the fiscal year ending September 30, 1998 the above shall apply except as modified by Public Law 104–8.

SEC. 117. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 119. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for Level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year,

the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1997 shall be deemed to be the rate of pay payable for that position for September 30, 1997.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 120. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 121. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), based upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 122. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1998, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1998 revenue estimates as of the end of the first quarter of fiscal year 1998. These estimates shall be used in the budget request for the fiscal year ending September 30, 1999. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 123. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical: *Provided*, That the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and said determination has been reviewed and approved by the District of Columbia Financial Responsibility and Management Assistance Authority.

SEC. 124. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 125. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 126. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, secs. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council of the required reorganization plans.

SEC. 127. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1998 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided*, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 128. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

SEC. 129. The University of the District of Columbia shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections versus budget broken out on the basis of control center, responsibility center, and object class, and for all funds, non-appropriated funds, and capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes made in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

SEC. 130. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

SEC. 131. Funds authorized or appropriated to the government of the District of Columbia by this or any other act to procure the necessary hardware and installation of new software, conversion, testing, and training to improve or replace its financial management system are also available for the acquisition of accounting and financial management services and the leasing of necessary hardware, software or any other related goods or services, as determined by the District of Columbia Financial Responsibility and Management Assistance Authority.

SEC. 132. Section 456 of the District of Columbia Self-Government and Governmental Reorganization Act (secs. 47–231 et seq., D.C. Code) is amended—

(1) in subsection (a)(1), by—

(A) striking "1995" and inserting "1998";

(B) striking "Mayor" and inserting "District of Columbia Financial Management and Assistance Authority"; and

(C) striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight";

(2) in subsection (b)(1), by—

(A) striking "1997" and inserting "1999";

(B) striking "Mayor" and inserting "Authority"; and

(C) striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight";

(3) in subsection (b)(3), by striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight";

(4) in subsection (c)(1), by—

(A) striking "1995" and inserting "1997";

(B) striking "Mayor" and inserting "Chief Financial Officer"; and

(C) striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight";

(5) in subsection (c)(2)(A), by—

(A) striking "1997" and inserting "1999";

(B) striking "Mayor" and inserting "Chief Financial Officer"; and

(C) striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight";

(6) in subsection (c)(2)(B), by striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight"; and

(7) in subsection (d)(1), by—

(A) striking "1994" and inserting "1997";

(B) striking "Mayor" and inserting "Chief Financial Officer"; and

(C) striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight".

SEC. 133. For purposes of the appointment of the head of a department of the government of the District of Columbia under section 11105(a) of the National Capital Revitalization and Self-Improvement Act of 1997, Public Law 105-33, the following rules shall apply:

(1) After the Mayor notifies the Council under paragraph (1)(A)(ii) of such section of the nomination of an individual for appointment, the Council shall meet to determine whether to confirm or reject the nomination.

(2) If the Council fails to confirm or reject the nomination during the 7-day period described in paragraph (1)(A)(iii) of such section, the Council shall be deemed to have confirmed the nomination.

(3) For purposes of paragraph (1)(B) of such section, if the Council does not confirm a nomination (or is not deemed to have confirmed a nomination) during the 30-day period described in such paragraph, the Mayor shall be deemed to have failed to nominate an individual during such period to fill the vacancy in the position of the head of the department.

SEC. 134. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 135. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9-188, signed by the Mayor of the District of Columbia on April 15, 1992.

SEC. 136. The Emergency Transitional Education Board of Trustees shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections versus budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

SEC. 137. (a) IN GENERAL.—The Emergency Transitional Education Board of Trustees of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1996, fiscal year 1997, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) SUBMISSION.—The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 15 of each year.

SEC. 138. (a) No later than October 1, 1997, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1998, whichever occurs later, and each succeeding year, the Emergency Transitional Education Board of Trustees and the University of the District of Columbia shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the District of Columbia Financial Responsibility and Management Assistance Authority, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Emergency Transitional Education Board of Trustees and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301).

SEC. 139. The Emergency Transitional Education Board of Trustees, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301), or before submitting their respective budgets directly to the Council.

SEC. 140. (a) CEILING ON TOTAL OPERATING EXPENSES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1998 under the caption "Division of Expenses" shall not exceed the lesser of—

(A) the sum of the total revenues of the District of Columbia for such fiscal year; or

(B) $5,166,304,000 (of which $129,946,000 shall be from intra-District funds), which amount may be increased by the following:

(i) proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs approved by the District of Columbia Financial Responsibility and Management Assistance Authority; and

(ii) additional expenditures which the Chief Financial Officer of the District of Columbia certifies will produce additional revenues during such fiscal year at least equal to 200 percent of such additional expenditures, and which are approved by the District of Columbia Financial Responsibility and Management Assistance.

(C) to the extent that the sum of the total revenues of the District of Columbia for such fiscal year exceed the total amount provided for in subsection (B) above, the Chief Financial Officer of the District of Columbia, with the approval of the District of Columbia Financial Responsibility and Management Assistance Authority, may credit up to ten percent (10%) of the amount of such difference, not to exceed $3,300,000, to a reserve fund which may be expended for operating purposes in future fiscal years, in accordance

with the financial plans and budgets for such years.

(2) ENFORCEMENT.—The Chief Financial Officer of the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority shall take such steps as are necessary to assure that the District of Columbia meets the requirements of this section, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 1998.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Mayor in consultation with the Chief Financial Officer of the District of Columbia during a control year, as defined in section 305(4) of Public Law 104–8, as amended, 109 Stat. 152, may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104–8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104–8, as amended, the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

SEC. 141. Section 145(a)(2) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 882; D.C. Code 1–725(a)(2)) is amended by adding subsections (a)(2)(A) and (a)(2)(B) to read as follows:

"(A) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1998 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec. 1–725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

"(B) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122, approved November 17, 1979; D.C. Code, secs. 1–722(d) and 1–724(d)).".

SEC. 142. The District of Columbia Emergency Transitional Education Board of Trustees shall, subject to the contract approval provisions of Public Law 104–8—

(A) develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy and water savings;

(B) enter into innovative financing and contractual mechanisms including, but not limited to, utility demand-side management programs and energy savings performance contracts and water conservation performance contracts: *Provided*, That the terms of such contracts do not exceed twenty-five years; and

(C) permit and encourage each department or agency and other instrumentality of the District of Columbia to participate in programs conducted by any gas, electric or water utility of the management of electricity or gas demand or for energy or water conservation.

SEC. 143. The District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 774; D.C. Code, sec. 1–201 et seq.), is amended by adding a new section 445a to read as follows:

"SEC. 445a. SPECIAL MASTERS' BUDGETS.

"All Special Masters appointed by the District of Columbia Superior Court or the United States District Court for the District of Columbia Circuit to any agency of the District of Columbia government shall prepare and annually submit to the District of Columbia Financial Responsibility and Management Assistance Authority, for inclusion in the annual budget, annual estimates of expenditures and appropriations. Such annual estimates shall be approved by the District of Columbia Financial Responsibility and Management Assistance Authority and the Council of the District of Columbia pursuant to section 202 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 109; D.C. Code, sec. 47–392.2)."

SEC. 144. (a) Notwithstanding the provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056, note) in carrying out the protection of the President and Vice President of the United States, pursuant to section 3056(a) of Title 18 of the United States Code, the Secretary of the Treasury is authorized to reimburse the District of Columbia government for the utilization of law enforcement services, personnel, equipment, and facilities of the District of Columbia in furtherance of such protection. All claims for such reimbursement by the District of Columbia government will be submitted to the Secretary of the Treasury on a quarterly basis.

(b) Section 1537 of Title 31 of the United States Code is repealed.

SEC. 145. In addition to amounts appropriated or otherwise made available, $5,000,000 is hereby appropriated to the National Park Service and shall be available only for the United States Park Police operations in the District of Columbia.

SEC. 146. The District government shall maintain for fiscal year 1998 the same funding levels as provided in fiscal year 1997 for homeless services in the District of Columbia.

SEC. 147. The District of Columbia Financial Responsibility and Management Assistance Authority and the Chief Executive Officer of the District of Columbia public schools are hereby directed to report to the Appropriations Committees of the Senate and the House of Representatives, the Senate Committee on Governmental Affairs and the Committee on Government Reform and Oversight of the House of Representatives not later than April 1, 1998, on all measures necessary and steps to be taken to ensure that the District's public schools open on time to begin the 1998–99 academic year.

This Act may be cited as the "District of Columbia Appropriations Act, 1998".

The CHAIRMAN. Pursuant to House Resolution 264, the gentleman from Virginia [Mr. MORAN] and a Member opposed each will control 45 minutes.

The Chair recognizes the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very simple amendment. It simply substitutes the Senate version of the District of Columbia Appropriations Act for the bill that is being considered today on the House floor.

There is one important exception. The substitute retains the language in the House bill that provides federally funded premium pay for District of Columbia police officers and fire fighters.

This substitute amendment, Mr. Chairman, is not my creation, it is not that of the gentleman from Wisconsin [Mr. OBEY], it is not that of the gentleman from Missouri [Mr. GEPHARDT], or that of any other Democratic Member. This substitute amendment was drafted by the Republican Senator from North Carolina, who is chairman of the Senate District of Columbia Appropriations Subcommittee.

Mr. Chairman, as I was saying, the substitute that we are offering is the very same as the Senate bill that Mr. FAIRCLOTH and the Senate sponsored and which passed, just passed, the Senate floor. It was created by the congressionally created District of Columbia Control Board, working with the District of Columbia's mayor and the D.C. City Council. It was a consensus budget, and it was in accordance with all of the procedures that this Congressman stated be followed.

The substitute balances the District's budget 1 year ahead of schedule. Think of that. The substitute we are asking for balances the District of Columbia's budget 1 year ahead of schedule. We cannot do that for ourselves. And it dedicates $201 million toward deficit reduction.

Would it not be nice if we could do that? But the D.C. government is going to reduce its deficit by $200 million, balance its budget a year ahead of schedule. And that is what we are asking this House to agree to.

The substitute provides money for charter schools. It prohibits the District of Columbia from using Federal and local funds to pay for abortions or to allow individuals to include domestic partners on their health insurance policies. This is not the kind of bill that we would generally favor, but we want the District of Columbia citizens to get the money that they need and to get it now, when they need it.

My substitute, however, does not embroil the Congress and the District of Columbia in a number of very unnecessary and ancillary controversies that will prevent this bill from being enacted into law. If this substitute is not passed, this bill will not be enacted into law.

The substitute will eliminate the need for this Congress, thus, to pass another continuing resolution and to further delay the necessary budget and management reforms from being implemented in the District of Columbia.

Our reforms will not be implemented if we do not pass the substitute. It will eliminate more than 50 legislative provisions that are contained in this D.C. Appropriations Act. And it will shrink this bill, it will save hundreds of trees, it will shrink this bill by about 100 pages.

One hundred pages will not be necessary of extraneous provisions if we agree to this substitute. These include provisions on school vouchers, Davis-Bacon, medical malpractice, welfare caps, prohibiting helicopter flights, restricting the use of automobiles, school leases, cutting school administrators, closing Pennsylvania Avenue, repealing the NEA tax exemption, restricting the ability to fire the Chief Financial Officer and Inspector General, and on, and on, and on.

Finally, the bill would order the Control Board to aggregate a critical contract to provide a new financial management system.

□ 1445

Of all the issues we talked about, this may be the most important.

The District desperately needs a new financial management system. When this bill orders an end to the financial management system contract, Chairman Arthur Brimmer, the chairman of our created control board, said it would force the control board into a sole-source contract that we would never otherwise agree to, and it will force them to upgrade the current, the failing system, by the very company that installed the failing system, a company that does not even want the contract. It requires that a contract be given to a company that does not want it and who did not win it. But it would force it upon them through a sole-source contract. Is this what we want to pass?

The District's current financial management system is more than 18 years old. The original system was installed after a study showed that the District's financial systems and policies were in disarray. It was created to eliminate the manual operations then used by the government and to adopt a standard modern fiscal reporting procedure that was necessary to improve financial and program management.

It sounded great, but the system never worked, Mr. Chairman. The necessary subsystems that were to coordinate the flow of data were never installed. The training necessary to enable District employees to properly use the system was never conducted.

Numerous studies and outside experts agreed that the District is saddled with a system that cannot provide accurate and timely reports about the city spending and tax budget. We demand the reports, but they cannot give them to us, on how their money is being spent. Everyone agreed it needed to be replaced. This bill, if we do not pass this amendment, will prevent it from being replaced, will continue the old system.

As part of its effort to reform the District's finances, the control board, along with the chief financial officer, a panel of the highest level of public and private sector advisors, began a procurement effort, began an effort that we wanted them to do, and they purchased and implemented a new financial management system that would rein in the District's out-of-control budget. That was their intent. It was done through a competitive process, a process we insisted upon.

The control board received bids from three firms and following all the proper procedures, they awarded a $26 million contract to Peat Marwick, which is an accounting consulting firm, a large Washington office, we are familiar with them. The financial management system did not even submit a bid for the new contract, and yet we would force it upon them.

This new system that this substitute will provide for will greatly improve the District's financial management and will enable the District of Columbia for the first time to cross-reference rent income, tax receipts, comparative cash balances, to actually ensure that the District's tax assessments and tax returns are accurate. It will enable the District, for the first time, to measure the performance of public services. We have been asking them to do this year in and year out. They will do it if we allow them to, and it will ensure that they are not only doing the job they are supposed to, but doing it within the congressionally appropriated budget levels.

We all know how much technology has changed over the last 20 years. A new financial management system for the District will enable the city to take advantage of the technology revolution, use it to its benefit. In the words of the control board chairman, the subcommittee's efforts, in other words, if we do not pass this amendment, it will force the city to upgrade its old financial system just in the same way that we would ask IBM to upgrade manual typewriters instead of replacing them with computers. It is comparable to that. That is why we cannot let it happen. Without buying a modern financial system, the chairman of the control board said, the board will not be able to fulfill its congressional mandate.

We cannot require it to do something and then take from them the means to accomplish what we forced them, Mr. Chairman, to do. We have to approve financial accountability in the city, and that is why, as important as any other reason, that is why we need the substitute amendment.

We created the board to reform the District's financial management. We created the chief financial officer to rein in their spending. Both entities that we created are unequivocally opposed to this bill. They unequivocally support what we are trying to do with the substitute amendment, which is the Senate bill.

My substitute amendment will ensure that they can do their jobs, and that, as much as anything else, is a compelling reason to vote for the substitute amendment. If we fail to pass it, the D.C. appropriations bill will not be enacted before the continuing resolution expires. It will not. It will not be enacted before Congress adjourns in November, and this will mean that Congress must pass a long-term CR for the District that is comparable to the 6-month continuing resolution in 1995, which wreaked havoc, havoc that we are still paying a price for.

This continuing resolution will prevent the District from entering into long-term contracts. It is going to cost us millions of dollars, wasted money. It will delay the implementation of the management reforms that we have been begging the District and the control board to undertake. It will further delay the day when the District stops being the whipping boy of the Nation and begins to fundamentally restructure and improve its operations. That is what we want. That is what we said we have got to have. Do not deny them the means to accomplish it.

The District of Columbia needs us to pass this substitute. Pass this appropriations bill, have it signed into law, begin the step-by-step process of turning the Capital City around, turning it into a capital of which we can all be proud. That is why I urge my colleagues to vote for the Moran substitute.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. LAHOOD). Does the gentleman from North Carolina seek the time in opposition?

Mr. TAYLOR of North Carolina. I do, Mr. Chairman.

Mr. Chairman, I yield myself such time as I may consume.

First of all the Moran amendment in effect, could be called the Rubber Stamp Act of 1997, because we would be merely putting forth what the Senate put forth, and we found a number of deficits.

I outlined in my early comments that there are many things that our bill does that the Senate bill does not do, and we are going to have folks to explain that during our 45 minutes. But to mention one of the areas that the gentleman from Virginia [Mr. MORAN] just spoke about, we do differ about the FMS.

There was $31 million to be spent on the FMS. Now, our committee did not arbitrarily say we are going to prevent this from happening. We investigated. We got reports from the GAO, we got reports from our S&I staff, and I have the essence of those reports. One of them says, after going through a list of reasons why we should not spend that $31 million—they conclude by saying that, "This acquisition should be considered premature and would only result in continued system inaccuracies and rising costs."

One of the other reports says that, "We believe there is a higher risk that the District will be driven by its ambitious acquisition schedule and will not allow itself time to develop the kind of quality analysis that it must have in order to manage this important project, which is so critical to the District's financial recovery."

What they said was that it is much better for us to hire professional staff to augment what we have in the District of Columbia, and to produce an honest, clear, accounting, and until we do that, we should not be spending $31 million and getting the same inaccurate analysis and reports that we have had in the past.

So if we want to rely on GAO, S&I, and other testimony we had in the Committee, then we should not be spending $31 million of the taxpayers' funds in this manner. We have not been disputed in this during any of the hearings, and that is one of the reasons that we held this position. We believe that we should spend that money only when we are absolutely sure that we are getting adequate accounting, and not just because there is some reason to spend $31 million.

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding to me and for his hard work, and I thank the gentleman from California [Mr. DIXON] for his leadership. I rise to support the Moran substitute.

I do want to acknowledge the chairman, because I think it is important that we pay District of Columbia fire fighters and police, that is a good thing in this bill. But I cannot be as appreciative of the rest of the aspects of this bill, because the Republican carpetbaggers are here in Washington, DC with their bag of tricks, to gut home rule for their citizens.

This is a plantation mentality. This is also a clear showing of disrespect for the financial control board that this Congress set up to implement a cooperative relationship with an oversight board and the local government of the city of Washington, DC. This legislation is a striking undermining of the rights of taxpaying residents and saying that they are not in charge, but this Republican Congress is in charge.

This legislation refers to helicopters flying in the District of Columbia. It also includes the issue of limiting medical malpractice lawsuits. It cuts positions in public schools. It puts in school vouchers. A clear denunciation of public school education, and a misleading attempt to bribe poorer D.C. residents who want a better education. Vouchers will not do that. And, unfortunately, though we do not have the amendment of the gentlewoman from Florida [Mrs. MEEK], regarding saving the U.D.C. Law School the Moran substitute does save the University of the District of Columbia School of law for the hundreds of law students training to be lawyers to serve their community.

The Moran substitute is the right approach that will recognize that the District of Columbia does deserve to have home rule, can rule itself and institute a balanced budget and protects public education. Let us get rid of this plantation mentality; let us send the Republican carpetbaggers with their bag of tricks home. There is good leadership in this city and they do have the ability to educate their children with strong support from the Congress of public school education.

Vouchers are not the right way. Ditching the work force and eliminating the Davis-Bacon Act was not the right way. We must have the Moran substitute. This Congress must return home rule to the District of Columbia. This is not a time for politeness, I am outraged at how the majority is treating the residents of the District of Columbia.

Mr. Chairman, I believe that the responsibility to effectively manage the practical and fiscal concerns of our Capital is one that should not be taken lightly by the Congress. To this regard, I am asking this House to vote in favor of the Moran substitute to the D.C. appropriations bill for fiscal year 1998.

Frankly, as it stands, this legislation leaves many relevant areas of concerns for the residents of the District of Columbia in a state of total disarray. The bill needs further reproof and correction, of which, I believe the Moran substitute is the best available option. The Moran substitute would do the service to the residents of the District of Columbia of removing over 60 controversial policy riders attached to this legislation. First of all, these riders have no place in an appropriations bill, and second, they create a poorer quality of life, with a few notable exceptions like the pay raise for D.C. classroom teachers, for the citizens of the District.

There are two points of concern, for myself, and many other members of this body with regard to H.R. 2607, one, is the school scholarship or vouchers provision included in subtitle B of title III of the bill, commonly referred to as the District of Columbia Education Reform Act of 1997, and, two, the policy rider that would eliminate funding for the University of the District of Columbia Law School. First, I will discuss the voucher provision.

This provision would authorize the distribution of scholarships of up to $3,200 to the District of Columbia resident students in grades K–12 from low to moderate income families to attend public or private schools in the District or nearby suburbs or to pay the costs of supplementary academic programs outside regular school hours for students attending D.C. public schools. However, only 2,000 students will receive tuition scholarships, and possibly another 2,000 D.C. students will receive achievement scholarship moneys.

This legislative initiative could obviously set a dangerous precedent from this body as to the course of public education in America for decades to come. If the U.S. Congress abandons public education in the District, and sends that message to localities nationwide, a fatal blow could be struck to public schooling. The impetus behind this legislative agenda is clearly suspect. Instead of using these funds to improve the quality of public education for all D.C. residents, a number of 78,000 D.C. public school students, this policy initiative enriches fiscally successful, local private and public institutions. Furthermore, if this policy initiative is so desirable, why are 76,000 D.C. students left behind? Can this plan be a solution. I would assert that it can not. Unless all of our children are helped, what value does this grand political experiment have?

I see this initiative as a small step in trying to position the Government behind private elementary and secondary schools. The ultimate question is why do those in this body who continue to support public education with their lipservice, persist in trying to slowly erode the acknowledged sources of funding for our public schools? Public education, and its future, is an issue of the first magnitude. One that affects the constituency of every member of this House, and thus deserves full and open consideration.

School vouchers, have not been requested by public mandate from the Congress, actually, they have failed every time they have been offered on a State ballot by 65 percent or greater. If a piece of legislation proposes to send our taxpayer dollars, whether in the District of Columbia, or elsewhere, to private or religious schools, the highest levels of scrutiny are in order, and an amendment that may correct such a provision is unquestionably germane. Nine out of ten American children attend public schools, we must not abandon them, their reform is our hope.

As for the D.C. School of Law, I believe that it is a place of opportunity for the residents of this city who wish to gain a legal education, but often can not afford to receive that education elsewhere. The removal of this school's funding is a blatant attack on the course of public professional education in the District. The majority of the students in the U.D.C. Law School are African-American, as are a vast majority of the residents of the District of Columbia, plainly stated, these are the people that will be hurt by the removal of these vital funds.

In light of these facts, I must support the Moran amendment to restore funding to the U.D.C. Law School, and ask that it receive the full support of this House. The statement that this action makes to the people of the District, is that the House, is not in favor of affordable and accessible public legal education for its citizen. Are the citizens of this city any less deserving of a legal education than other Americans? I say that they are not. I agree that the U.D.C. Law School needs improvement, it needs to strengthen its accreditation, but the answers to these problems is not the removal of the school's funding.

I believe that the best hope for the District of Columbia is a fully funded and stabilized U.D.C. Law School, because the school is simply too valuable to the community and its citizens. For these reasons, I ask this body to support the Moran substitute to the D.C. appropriations bill.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3½ minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, this is an incredible debate. As I sat here listening to the debate it was obvious to me that this is a defining issue between liberals and conservatives. This debate is about empowering the people of the District of Columbia and parents or empowering bureaucrats.

If we listen to the words of the gentleman from Virginia and the gentlewoman from Texas, just listen to what they are saying: Let the Democrats work. Let the bureaucrats make the decision. Keep the power in the hands of the bureaucrats. Do not let people in D.C. make these decisions, do not let parents decide what schools their children would go to.

So I rise in opposition to this amendment, which strikes a number of very important reforms in this bill, but the one I want to focus on that is defining in this debate is the fact that this Moran amendment strips the ability of D.C. parents to choose where their children should go to school.

Now, I ask my colleagues, what are they afraid of when it comes to school choice for parents in D.C.? The D.C. school system has failed. Those bureaucrats have failed. It has failed to provide the children of this city the kind of education that will help them succeed. It has failed to provide its students an atmosphere where they can learn. Those bureaucrats have failed to prepare the students of this city for the future. The system has failed, the bureaucrats have failed, and we need to change the system.

But some of my colleagues do not want any change. They want to protect that status quo. They have those bureaucrats aboard, in place, and they have done a wonderful job getting those bureaucrats there. They want the money to continue to flow to a bureaucracy that continues to waste money.

Since 1979, the D.C. school system has lost 33,000 students, but the bureaucracy has doubled in that period of time.

□ 1500

In 1996, the Board of Education allocated $1.4 million for itself. That is more than five times the amount Fairfax County's board has spent, and more than twice the amount that Montgomery County's board has spent, the two counties right next-door to Washington, DC.

Over and over again the school officials have broken the law in order to save their jobs. They are paying tens of millions of dollars to administrators who have been ordered to be laid off by these bureaucrats. They keep paying them. What have the residents of Washington, DC, gained with all this bigger bureaucracy and this wonderful board? Lower test scores, more dangerous hallways, and schools that cannot even be opened. They cannot even open up the schools.

The bottom line is, who is more capable of choosing a child's education, the child's parents, or the bureaucrats of the gentleman from Virginia [Mr. MORAN]? Who are we trying to protect, the child in Washington, DC, or that school administrator's job that keeps getting paid, that was supposed to be laid off by the bureaucrats of the gentleman from Virginia [Mr. MORAN]?

The time has come for school choice. The time has come to give parents the opportunity to have a greater role in choosing the right school for their own children, and not have bureaucrats make that decision. The time has come to inject accountability into this system that has avoided accountability for too many years. The time has come to stop the bureaucrats. Vote against the Moran amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself 35 seconds to point out to the gentleman from Texas [Mr. DELAY] that this bill that I support, the portion that I support, reduces personnel in the school system from 11,253 down to 9,960.

I also have a letter I have just received from Dr. Brimmer, who chairs the Board that this Congress established, that urges us to vote for the Moran substitute. It is because without the Moran substitute, they will not have the local control that we guaranteed them in the D.C. Revitalization Act.

Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY], who I am sure will be more than happy to respond to the comments of the gentleman from Texas [Mr. DELAY].

Mr. OBEY. Mr. Chairman, this debate has nothing whatsoever to do with the District of Columbia. As was evidenced by the last speech on that side of the aisle, what we have here is an attempt by a number of Members of the majority party to use the District of Columbia as a pawn for the purpose of reading from the playbook of their well-known pollster, Frank Luntz, who has given them a whole series of sound bites, so they can try to deliver messages on other issues around the country by using the District of Columbia as a political pawn in the process. That is what is going on. Read the Luntz playbook, and we have virtually seen a copy of the previous speech from that side of the aisle.

Mr. Chairman, I want to show the Members something. We just passed the military construction bill, 17 pages, to spend $9.2 billion. The D.C. bill is so loaded down with legislative proscriptions that it takes 179 pages to spend one-tenth of the amount that was spent in the military construction bill. We passed a defense bill, spending $247 billion, 100 pages. This D.C. bill is 180 pages. We spent 300 times as much in the defense bill with one-half the language ordering somebody else around that we have in the D.C. bill.

There is absolutely no reason for this Congress to endanger the safety of the President of the United States by taking away the security that we now have on Pennsylvania Avenue around the White House. Yet, this bill does it. There is no reason to impose our own judgment on education vouchers on the District of Columbia, yet this bill does it. There is no reason for this Congress to tell States that they should handle their own welfare problems, but then take away from the District of Columbia the ability to design their own welfare reform programs. Yet this bill does it. There is no reason for this Congress to get in the way of the Fiscal Control Board's reforming the financial practices of the District, and yet this bill does it.

This bill is a political document for political purposes. It imposes once again its plantation mentality on the District of Columbia, to no good purpose, and it is going nowhere. We are already one week into the fiscal year. We are past the time when politicians are supposed to be sending messages. We are at the time when we are supposed to be resolving differences so we can complete our action on the budget.

Yet, on the Labor-HEW bill, that portion of the government is in danger of being shut down until they get their way on a key item in that bill, on testing. We are in danger of seeing the Interior Department budget shut down

unless they get their way so they can keep cutting the redwoods in California and keep polluting Yellowstone Park. We are in danger of seeing the foreign policy budget of this country under the foreign operations bill shut down unless they get their way on the Mexico City policy.

Now we are in danger of seeing the D.C. bill held hostage unless they get their way on their social experiments for D.C. It is about time to quit the political posturing, recognize the President will not sign this bill without the passage of the Moran amendment, and pass the Moran amendment. It is the only fiscally responsible and politically responsible act to take.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentlewoman from Kentucky [Mrs. NORTHUP].

Mrs. NORTHUP. Mr. Chairman, public schools are always going to be important in this country. They have been important across the country and they are important right here in Washington, DC. But our public schools are broken in this city. We have tried a lot of things in the last couple of years to try to bring them away. The truth is, the minority party had their way for years in developing this city and this city's schools, and we have an entirely broken system. We are looking for solutions. We believe that the public school system will continue to be very important for the children in this community, but we need to stop talking about what is good for the adults in this system. We need to think about the children. You only get to be 6 years old one time in your life. You only get to be 7 years old one time in your life. If we get it right, if we put our heads together and we deal with the systemic, broken system, maybe in 5 years, maybe in 10 years we can fix this entirely broken system. But in the meantime, the 6-year-olds that only get to be 6 once should not be trapped in an absolutely broken school system.

Every mom and dad, and I think of me and my six children, go to sleep every night worrying about the school their child is going to go to the next morning: Will they be safe and will they learn something? There is nothing more tortuous than when your child gets into a classroom and you do not believe that they can learn in that classroom. You go and talk to the principal. You try to move your child to another classroom. You look around for what your other opportunities are. But in this case, it is an entirely broken system. There is not just another teacher across the hall that will change everything. There is not just another opportunity down the street. You send your six-year-old to school trapped in a school that is neither safe nor will they learn. This is our gift to children who are going to be 6 years old, this year for the one time in their life, to the 7-year-olds who are going to be 7 years old only one time in their whole life. It is a chance for their families to make a decision to take the same action each and every one of us will.

If we fight that that is not enough, that we leave behind 75,000, then let us fight about how many other children we can find the money to give the same opportunity to, so that every 6-year-old will not be trapped in a school that is going to guarantee a bad start, guarantee going to sleep every night afraid.

Mr. Chairman, I ask Members to support the bill as it is written, so we can give children the chance they will only get this year.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

I want to emphasize this is Mr. FAIRCLOTH's bill that we are asking the House to pass.

Mr. Chairman, I yield 2½ minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I rise in support of the Moran substitute, and in opposition to the Republican voucher scheme in the D.C. appropriation bill. This Republican assault on public education is nothing new. The radical Republican right have a plan to dismantle public education, abolish the Department of Education, cut the school lunch program, cut funding for safe- and drug-free schools, for teachers' training, for Head Start.

Two days ago the Republican leadership went to a public school in the District of Columbia to promote that radical plan, a private school voucher scheme that would drain needed resources from our public schools. Here today we consider a deal that includes the voucher scheme, a scheme that would drain $45 million in Federal funds away from public schools in the District.

So do not be fooled. The Republicans' agenda is a hidden agenda to destroy public education. To this radical plan, to this extreme plan, I say no, and the Democrats say no. This morning the Democratic Members marched in celebration of public education from the steps of the Capitol to the steps of Brent Elementary School in Southeast Washington. We marched to support our public schools. We marched to protest the Republican private school voucher scheme. We marched to make a very simple and elementary case: public schools in every State, city, town, village, and hamlet need and deserve our support. Nine out of every ten students attend public schools. We should be working and building together to improve our public schools, not giving up on them and selling them down the river.

Mr. Chairman, our children deserve better than the easy scheme and quick-fix solution, our students deserve better. They deserve good schools, good teachers, and an education that takes them into the 21st century. Stop attacking our public schools.

Mr. Chairman, I urge all of my colleagues to support the Moran substitute.

Early this morning during the debate on the rule a Member on the other side tried to imply that Martin Luther King, Jr., would support vouchers. Let me say that I knew Martin Luther King, Jr. He was a friend of mine. He was my leader. If he were here today, he would not be supporting what the Republicans are trying to do to the District of Columbia.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, I rise today against many of the tenets of this bill that we have before us, the D.C. bill, because I think it does take away basic responsibilities of government, of people to govern themselves and pay their taxes, and they ought to be given the same privileges as any other municipality in this Nation.

□ 1515

However, I also rise because I have heard my name mentioned on several occasions during this debate, and I came over from my office because I think it is imperative, as one who has stood in favor of vouchers, that at least I state my position for the record in this House.

Mr. Chairman, I think it is important for us to understand, as far as I am concerned, and let me give my credentials so those that wonder if I have a right to even speak on education, I spent 7 years in higher education as a dean at Boston University and at Lincoln University. I have started my own school 15 years ago, pre-K to eighth grade. So I think I have some understanding of the educational process here.

I also understand that in the communities that are most impacted by the issues that have been raised at least by this bill, that many of our young people are not getting the kind of education that prepares them to function competitively in a global society.

Our reality becomes one of trying to determine whether our moral obligation is to continue to maintain a monolith that does not seem to understand that there has emerged and developed within it a two-tiered system. There is a system that does educate properly those young people who represent the highest economic brackets of American society. There is also a lower tier. The young people in the lower tier are generally represented in those communities that I represent and many of my colleagues in this Congress represent.

Mr. Chairman, I think it is time for us to try to remove the politics, Republican or Democrat, and deal with the

reality that our children are not being properly educated in many of our schools. They are not being readied for the testing that they must face as they try to move forward in life. No matter where we go in urban America, we must admit, whether we want to or not, that our public schools in certain communities are failing our children.

I started out my career as a social worker in Head Start. We tested kids at the second grade level when they were leaving Head Start. Two years later, we tested those kids at the second grade level in public education.

I am not against public education, but I would say that when the borders of America opened up and the Big Three thought they had a monopoly in the automobile business, when they felt there was competition, they improved. Everywhere where choice has been introduced in this country, schools have improved in the public sector as well.

I would argue that if it was good for the automobile industry, certainly our children are more valuable than that. If we made changes in telecommunications to create competition, certainly our children are more valuable than that. My argument is: Let us put the emphasis where it ought to be. That is for the children.

I do not support this bill, but I do support vouchers, and I think it is time for us to wake up, because we cannot afford to keep losing generations of our children and sending them to jail because we do not believe that we ought to continue to try to reform public education.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself 5 seconds.

Mr. Chairman, I would just ask the gentleman whether he supports the Moran substitute, the amendment that we are proposing.

Mr. FLAKE. Mr. Chairman, if the gentleman will yield, I will look at it.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I would say to the gentleman from New York [Mr. FLAKE], my dear friend, Reverend Congressman FLAKE, whose career has been preeminent since I have been here, I hold a letter from Dr. Andrew Brimmer, I hold a letter from the Executive Office of the President of the United States. One begs us to support the Moran substitute; the other guarantees that the Gingrich bill will be vetoed if it ever gets near passage of law.

Now, while the gentleman from New York is busy studying for the next 2 hours the Moran substitute, I want him to have this heavy on his heart. We need the gentleman's support. This is one of the most important final measures that the gentleman will pass on, and we want to remember him in all the spirit of excellence in which he has served in the Congress.

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. FLAKE. Mr. Chairman, if the gentleman remembers me as a person who has spent a lifetime building schools and preparing young people for the future, then I think he will be able to remember me in that way. Children first, education first, and I will do what is appropriate for the bill.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. Mr. Chairman, I commend the gentleman from North Carolina [Mr. TAYLOR] for doing a fine job, and I rise in opposition to the Moran amendment because I believe it will weaken the city and weaken the ability of the city to recover from the financial stress it has been under. It will also weaken the management capability that they have.

Mr. Chairman, if my colleagues oppose this amendment, they will improve the city's finances by allowing for the recovery of fees and costs from bad checks. By opposing this amendment, they will clarify the city's authority over unclaimed property. By opposing this amendment, they will provide more accountability in tightening the detailees. There are some city offices that hide the size of their bureaucracy by detailees, and by opposing this amendment, my colleagues will allow the city to make direct deposits and payments.

Also, if my colleagues support this amendment, they will strike $12 million to collect unpaid taxes, which will net an additional $50 million for this city. If my colleagues allow this amendment to pass, they will remove many of the management tools that are necessary to manage this city.

Mr. Chairman, there are some limitations on the Control Board in this bill, but they are related to accountability. And in the public sector, there is nothing wrong with accountability.

Let us look at the schools. They are desperately in need of attention here. This amendment protects the status quo. It protects the crumbling schools. It protects the dropout rate. It protects the status quo. It does not restrict pay raises to teachers with valid credentials, nor does it remove the bureaucracy in the school administration office.

Mr. Chairman, D.C. schools spends $9,400 a year per student, with a third going to administration, a third going to overhead, and only a third getting to the classroom. We need to focus our resources on the classroom. That is where the rubber meets the road. It is not in the school administration. It is not in the overhead. It is in the classroom.

Mr. Chairman, vouchers seem to be the driving force of this amendment. I must say that vouchers are in full sense a freedom. During Reconstruction, it was the radical Republicans who believed in full citizenship for African-Americans, and today it is radical Republicans, if my colleagues listen to the gentleman from New York [Mr. FLAKE], that believe in freedom of choice for children of color here in the District of Columbia.

We want to take the most impoverished children and give them the opportunity to go to a school where there is hope, where they can rise above the desperation they see in their daily lives. What is wrong with us allowing them the opportunity to select a different option?

Well, this amendment I think is, again, protecting the status quo. It is trying to defend something that I think is indefensible. So let us not bind up the opportunity for children in poverty to move out of their bondage of a school that is crumbling and unsafe, but give them the opportunity to select the type of school that will give them the opportunity they can use in the future.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. TIAHRT. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, I would ask the gentleman how much his school district spends on its children in his district per student.

Mr. TIAHRT. Mr. Chairman, reclaiming my time, in Kansas we spend about $4,100 per student.

Ms. WATERS. Mr. Chairman, if the gentleman would continue to yield, what is the ratio to administrators?

Mr. TIAHRT. Mr. Chairman, again reclaiming my time, I am sorry, I do not know that.

Ms. WATERS. Mr. Chairman, if the gentleman would again yield, that is what I thought.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, I rise in support of the Moran amendment, particularly because it eliminates the voucher program which constitutes a frontal assault on the idea of universal education for all, and it also violates church-state separation.

Mr. Chairman, we ought to be asking as we consider vouchers whether or not this program will help improve education for all of our children, whether it will foster discrimination, and whether there are better ways to use the money.

First of all, Mr. Chairman, many cite the polls, and they asked in the poll question: Do you support a voucher plan that will allow parents to send their children to a public, private, or parochial school of their choice?

Mr. Chairman, let me offer a few facts on the table. Only 3 percent might get a voucher, 97 percent will

not. There are not enough seats in the Washington, D.C., area for 2,000 additional children to go to private school. Most of those are religious schools, where there will be constitutional challenges, so most of the 3 percent will not even be able to use the vouchers.

We have to differentiate, Mr. Chairman, between the cost of the school and the tuition. Unless there is significant private underwriting, there are not going to be any additional seats for people to go to.

So the polls should be asking, Mr. Chairman, whether or not people support a plan that will give 3 percent a voucher that most cannot use, and divert money from a school system that needs new roofs, and do nothing for 97 percent of the students.

Mr. Chairman, we know how to improve education. We need to invest in education, and we can make significant improvements if we do that.

Mr. Chairman, we know the voucher program is also an insult to the residents of Washington, D.C., who have voted against it in the polls, and their elected representatives have repeatedly rejected it. So we know what they think about the voucher program, and we should not substitute what we know they have done with the results of a misleading poll which generates political sound bites.

Mr. Chairman, let us invest in our education funds and public education to improve education for all. I urge my colleagues to reject vouchers and support the Moran amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio, [Ms. PRYCE].

Ms. PRYCE of Ohio. Mr. Chairman, just the other day I visited Hine Junior High School with some of my colleagues just a few blocks away from the Capitol, and while there, I spoke with the students. They are wonderfully bright, capable students. They deserve the best in education, just like young people all across America do.

Unfortunately, Mr. Chairman, many children in the District of Columbia are made to endure some of the lowest school standards and some of the most dangerous conditions in the country, despite the fact that the D.C. public schools spend some of the most money per student in the Nation. Clearly, throwing money at the problem is not working to improve these schools.

Mr. Chairman, some fortunate students in the District have families who can afford to send their children to private schools, parochial schools, or to move to the suburbs where the schools might be better. But many in the District do not have that luxury.

It is a crime that some would suggest simply maintaining the status quo for those families who have no choice, relegating their children to the prison of the same tired, dangerous, underperforming public school system that we have been observing with horror for too many years now.

Mr. Chairman, it is important to note that this bill does not take money from the D.C. public school budget. It adds scholarships on top of that budget. This bill will, in fact, enable more money to be spent on the children who remain in the D.C. public schools, enhancing education for all students across the board.

Mr. Chairman, by providing parents some choice, we will be sending a wake-up call to the public school system telling them they can no longer take the children of D.C. for granted. By passing this reform, we will be telling the D.C. public schools, you must change, you must produce, you must live up to the hopes and dreams of the children and the families of the District of Columbia. Now is the time, and here are the resources.

Mr. Chairman, I strongly urge the defeat of the Moran amendment that would critically strip out this critical reform.

Mr. MORAN of Virginia. Mr. Chairman, I am glad that [Ms. PRYCE] mentioned Hine Junior High School, which is a very fine public junior high school.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I first of all want to thank the gentleman from Virginia [Mr. MORAN], my good friend who has done such hard work on this bill.

Mr. Chairman, I rise in strong support of his substitute bill. Now, I want to talk about vouchers for just a second here. I find it tough to listen to some people on the other side of the aisle that all of a sudden say they want to help low-income people in D.C., when we had proposals coming from them a few weeks ago saying that we do not want even welfare recipients moving from welfare to work to get the minimum wage. But they are "real concerned" about low-income people in D.C.

Now, the voucher program in D.C. would maybe help a few thousand people out of 76,000 students in the public education system. That is like saying to Americans, well, we found out the IRS is terribly broken, but let us just fix it for a few people and let everybody else have the IRS completely mess up their lives.

We need to take on the tough reforms in public education to solve it for all public school students in California, in Indiana, and in D.C. That means public school choice and charter schools. That means firing teachers that do not do the job and getting rid of principals that are not doing the job. That means safety and discipline in the schools. That means teacher academies to teach the next generation of 2 million new teachers that we need to hire for the next 10 years.

Mr. Chairman, it is not a bumper-sticker solution like private school vouchers that is going to fix this public education system. It is hard work. It is public choice. It is safety and discipline. It is parental involvement.

I think all Americans know we all need to work together to save our public education system and not posture with bumper-sticker solutions to save a few thousand children here or there and suck away precious resources from rural and suburban and inner-city schools.

Mr. Chairman, I strongly urge my colleagues to support the amendment of the gentleman from Virginia.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas [Ms. GRANGER].

Ms. GRANGER. Mr. Chairman, I rise today in support of school choice for the parents of the District of Columbia. I do so because I believe a good education is an American right, not a privilege, and today too many of our young people have had their rights denied.

□ 1530

I support school choice. As a teacher and a mother, no one supports America's teachers more than I do. As a former public school teacher myself I realize, recognize and respect the vital role that teachers play in shaping and challenging young lives and eager minds. I believe our teachers are America's heroes. And as I like to say, most people spend their lives building careers, but teachers spend their careers building lives.

It is precisely because of my support for teachers that I support school choice. I believe allowing parents to choose a school will allow schools to treat teachers with the respect and authority and dignity they deserve. Schools will be able to hire good teachers at good pay for doing good work, and teachers will be empowered to teach sound basics and in safe classrooms.

For too long we have allowed our teachers to be taken for granted while our students have just been taken. I believe school choice will empower our schools, our communities, our teachers and our students. We can do no less for our children, although they deserve much more.

School choice is good news for America's teachers but it is even better news for America's parents. As the mother of three, I know how important it is to be able to send my children to schools I trust with teachers I know and parents I can work with.

Of my children, one graduated from private school, one from church school, and one from public school. Each of these schools was tailor made to serve the specific interests and individual needs of my children, yet not one of these schools could have served all

three of my children. Why? Because each school is different and every child is unique. The one-size-fits-all approach of yesterday does not work in the classrooms of today. Yet it is exactly what millions of inner city parents are faced with each year, no choice of a better school, no chance of a good education, and thus no change in the status quo.

As this Congress begins to address the issue of school choice for the children of the District of Columbia, I think it might be helpful if we asked ourselves a simple question: Why not? Why not allow our schools the chance to improve and our teachers the chance to teach? Why not allow our parents a chance to spend their own money sending their own kids to their own school of choice? I would ask those in the opposition, if it were their child, what choice would they make?

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the honorable gentlewoman from Maryland [Mrs. MORELLA], vice chairman of the Subcommittee on the District of Columbia.

Mrs. MORELLA. I thank the gentleman for yielding the time.

Mr. Chairman, as was mentioned, as vice chairman of the Subcommittee on the District of Columbia under the Committee on Government Reform and Oversight, I have, like my colleagues, worked hard on legislation that I believe will help to revitalize the District of Columbia. That legislation allows the Federal Government to assume some burdensome responsibilities that had been borne by the District and puts into place some important management controls.

I believe the House bill that is before us would undo some of this carefully crafted legislation. That is why I am supporting the Moran substitute. It is my understanding that there are more than 60 provisions in the House bill that are not in the Senate bill. I believe that many of these provisions are an undue attempt to micromanage the District government. We have no business doing that. The day-to-day operations of the District should still be in the hands of the Mayor and City Council with oversight by the financial control board. Congress set up the Financial Control Board. We should allow the panel to do its job.

I believe it is essential to move this legislation along and pass on a D.C. appropriations bill in a timely fashion. Many of the micromanagement provisions in the House bill would really gravely stall the legislative process and prevent the District from receiving its funding. This has happened in the past. It has impacted millions of people in the Washington region who depend on an efficient budget process. So I want to move this process ahead.

I appreciate the hard work by the chairman and the members of the subcommittee. I know this bill was crafted with a great deal of care and diligence. However, the Senate bill is free of those controversial riders that could unfortunately hold captive the District's much-needed funds. For that reason, I urge my colleagues to support the Moran substitute.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN. Mr. Chairman, I respect the gentlewoman from Maryland's opinions but I disagree with them. Today I rise to say that the District of Columbia's students and their parents ought to have a choice.

Americans have differing opinions on many issues today but we all want our children to have the world's best education. That is precisely why I support educational choice scholarships for D.C. students. Tuition scholarships offer real educational opportunities to families whose children simply do not have the option of attending the best schools possible.

The Democrat substitute before us today would deny educational choice to poor working families in the District, and that is why we should oppose it. The scholarship opportunities provided in our bill offer hope to children who are now confined to failing, often violence-filled public schools. Passing our bill into law will mean that low income families will be able to send their children to public or private schools that are successful, and that the District's struggling public schools will be compelled to compete and then get better in order to attract students.

In short, parents must have a choice if the District's children are to have a chance. Parents should be able to hold schools accountable.

For instance, D.C. parents know that 85 percent of the District's public school graduates who enter the University of the District of Columbia need 2 years of remedial education before beginning to earn their degrees. Parents know that the current leaking roof problems are minor when compared to the problems of violence and academic failure in many of the D.C. public schools. That is why parents in the District, regardless of ethnicity, overwhelmingly support opportunity scholarships.

We must do better. We must provide an alternative; namely, the scholarship program on which the gentleman from Texas [Mr. ARMEY], the majority leader, has provided such clear leadership. Vote against the Democrat substitute. Vote for educational scholarships and real opportunity for the less affluent children of the District, and join me in looking forward to the day when parents try to get their children into D.C. public schools.

Mr. MORAN of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Chairman, I wholeheartedly and strongly support the Moran amendment. It is a good substitute for the House bill. The House bill is flawed and we know it.

Much of what is in the House bill has an overriding concern behind it and it is money, m-o-n-e-y. It is what is drawing and flying through this country with the voucher movement. Do we not know, are we not sensible enough to know that if the Congress of the United States had not appropriated $7 million or more for this school voucher program here in Washington, D.C., the same people who are perpetuating it would have nothing to say about helping the kids in the District?

We need to understand that the District is not a laboratory school for this Congress. The proponents do not know enough about education to even set up a laboratory school. We have not had a committee look at this, but the proponents want to attach it to an appropriation bill without any substance.

The District deserves a thorough analysis before we change their school system. Bring to me one ounce of support that shows that the voucher system will improve on any current system in this country. We can go to Wisconsin and they can show me some minimal things but, overall, show me the impact of the voucher system on regular school systems in this country. I have been an educator for 42 years. Show me, instead of talking.

I know that money drives the voucher. None of these private schools wanted the kids from my district five years ago. They did not want them two years ago. But now there is a movement through this country, that they feel that the money that is in public education will now go to their schools.

Let the District have its own schools. Let them educate their children. We are sick and tired of this beltway colonialism. That is the only word I can say for it. We are going to superimpose our feelings on the District.

These are smart people. They know what they are doing. Give them a chance. It is flawed.

I want to say a word or two about the law school of the University of the District of Columbia. Let us preserve that law school. Let us keep it going.

I want to yield to the gentleman from Michigan [Mr. CONYERS], but before I do I want to say, keep this law school. We need it. We need it to keep the principles of educating our children here. Do not give it any kind of standards that it cannot meet.

Mr. Chairman, I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I do want to take this opportunity during the gentlewoman's time on the debate to praise her for the unstinting, unswerving commitment that she has shown on the floor, in the committee, in the Committee on Rules for preserving the University of the District

of Columbia Law School. The gentlewoman has our undying gratitude.

Mrs. MEEK of Florida. Mr. Chairman, I thank the gentleman.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes and 15 seconds to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank my very good friend for yielding me the time.

I want to say to my colleagues, it is unfortunate we cannot, I speak as a subcommittee chairman of the Committee on Education and the Workforce, we cannot have today, although I believe it is coming in the near future, a debate on giving low income parents the full range of choice across all competing institutions. I wish we could have a separate debate.

I am opposed to the Moran substitute, which would effectively gut the bill of the gentleman from North Carolina [Mr. TAYLOR] and the very important and I think very necessary reforms that he is trying to enact in the District of Columbia. And I am fascinated that just in terms of the politics of this debate, it is pretty clear, I hope, to those that are watching and listening, who the progressives are and who the conservatives are, the conservatives that are trying to defend an indefensible status quo.

Do not take my word for it. Listen to the Washington Post that last February ran a 5 part series. I hope my colleagues saw it. For those that want to stand up here and defend the District of Columbia public schools on that particular school system, they concluded that D.C. public schools are "a well-financed failure."

A well financed failure. A school system that employs almost two times more administrators than the national average. Despite spending between $7,500 to $9,000 per student, which is one of the highest averages in the country, the District of Columbia public schools have one of the highest, in fact the highest, the highest failure rate amongst their students, the lowest graduation rates, the lowest test scores of any inner city school district in the country.

We are afraid to experiment by allowing a few more parents and a few more families a way out. Last year, because we had a break in the congressional schedule, I was able to coach basketball at my son's high school. We came into the District of Columbia and we played games at Gonzaga High School just a couple of blocks away, Carroll High School and St. Johns High School right up the road. The student bodies there were predominantly, if not exclusively, African American, old facilities.

I just found myself saying, why cannot all District of Columbia families have the opportunity to send their children to these type of schools. Schools should be a magnet, not a trap. As the majority leader pointed out, schools exist to serve our children, not bureaucracies. Believe me, if I say nothing else that my colleagues recall today, the District of Columbia public school system will reform itself only when parents are able to choose the schools that they think are best able to educate their children.

The CHAIRMAN pro tempore. The Chair would advise all Members that the gentleman from North Carolina [Mr. TAYLOR] has 20½ minutes remaining, and the gentleman from Virginia [Mr. MORAN] has 15½ minutes remaining. The gentleman from North Carolina [Mr. TAYLOR] has the right to close the debate.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1¼ minutes to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, I would like to address a question to my colleague, the gentleman from California [Mr. RIGGS]. He used the term "experiment." I think we all agree it is an experiment.

My question to him is, what is this experiment going to prove at the end of it? What will we do in response to that experiment?

This relates back to a dialogue that I had with the Speaker, the gentleman from Georgia [Mr. GINGRICH] on this floor two years ago. We have increased the bill from $42 million to $45 million. So if this experiment demonstrates that these private schools are excellent, is the Federal Government, are we willing to take taxpayer money and finance all 78,000 students? What is this experiment about?

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from California.

Mr. RIGGS. Mr. Chairman, I believe it is about challenging public schools to improve as well as giving more opportunity to the families of the District of Columbia.

Mr. DIXON. Mr. Chairman, what is the experiment? After we look at this, then what do we do next? Because it is an experiment to prove or disprove something.

I will concede to the gentleman that there are good public schools and there are good private schools. What does it mean to take 2,000 vouchers and give to people, 185 percent of poverty, some do well, others do not do well? Are we prepared to spend taxpayers' money to fund 78,000 kids in the District of Columbia and private schools?

□ 1545

Mr. RIGGS. If the gentleman will continue to yield, personally I am very prepared to make that commitment, and I think that debate is coming in the near future.

But what this is all about, bottom line, is trying to create bootstrap improvement in the public schools and not lose another generation of D.C. schoolchildren.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LAHOOD). The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings is a violation of the House rules.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2–¾ minutes to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Chairman, I thank the gentleman for yielding me this time, and for my colleagues' indulgence, especially since I have spoken a couple of times in the last 2 days, which is more commonly than I normally speak on the House floor.

This is an issue I feel strongly about, Mr. Chairman. I think it is a shame. I think it is sad that so many people inside this House and outside this House have been fighting to the last ditch on behalf of the system that has trapped thousands and thousands of poor parents and their children in schools where they are not safe, where they do not learn, and where none of us would send our own children: The D.C. public schools.

Now, we have had discussions, on this side of the aisle anyway, about the problems these schools are having. One of my colleagues said it needs some improvement. Well, that is correct. Seventy-eight percent of the 4th graders in the D.C. Public School System cannot read up to the national average. What will happen to those kids, Mr. Chairman? Do my colleagues know what happens to children if by the 4th grade they cannot read?

This is a system that closed down the schools for 3 weeks at the beginning of the year without any notice to the parents, closed down all the schools because the roofs were falling in.

We have heard a lot of arguments against this little scholarship program in this bill. It only affects 3 percent of the kids. That is because we are having difficulty getting the money even to do that. Another one: We cannot let any of these kids escape. We have to hold them all hostage to this system until we can make the whole system better.

How many of us would put our own kids in this system on the gamble that the system will change fast enough so that our kids will not be mired in a career and a life that will not be successful? Very few people do. Last year this provision was filibustered to death in the Senate by 41 Senators, none of whom sent their kids to the D.C. public schools.

And the argument I like the best is, we cannot use scarce public resources for this. What is scarce in the District of Columbia is not resources, but education. The District has $7,300 per pupil to spend on education. The Washington

Post had it right in its headline on this subject. It is a well-financed failure. The system protects jobs while short-changing classrooms. That is why the roofs are not fixed.

Mr. Chairman, I feel kind of personal about this. I have stood with a lot of these parents as they have asked desperately for the right to give their kids a future. I have stood with them in the District of Columbia and I have stood with them in Indianapolis. I asked them there how important school choice was to them, because I knew how controversial it was here. They answered the way myself and colleagues would answer.

Look, I know where the money and the strings and the power is on this. Stand with the parents and these kids. It is their future that is at stake. We should do for them what we would do for ourselves if we were in the same situation. Vote against the Moran substitute and sustain this bill.

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, I rise in support of the Moran amendment and in opposition to the bill, and say that the Republicans do nothing to reform school and to provide that basic opportunity, the most basic of all, the opportunity to learn.

Mr. Chairman, I rise to express my strong and unequivocable opposition to the inclusion of a provision instituting vouchers in the District of Columbia. Vouchers are not only bad policy but in this instance have clearly become the political tool of the Republican leadership to bash the public school system of this country and to play on the fears of our Nation's parents.

Vouchers have received a significant amount of attention over the past few weeks as we have seen a major push by the Republican leadership to politically capitalize on the education of our children. We have heard our Republican colleagues use words like "scholarships" instead of vouchers to portray the message which their pollsters have said is so vital. I am pleased to see so much effort being put into ensuring that this message is not being lost.

I have never been one to craft my views or modify my position just because the latest questionably accurate poll has produced certain conclusions. Instead, we should be concentrating on proposals and ideas that will increase the quality of education in this country rather than destroy it.

Regardless, as I am sure it does not come as a surprise to any which have followed this issue, I am adamantly opposed to any use of public tax dollars for any voucher-like proposal, including the provisions included in this bill authorizing vouchers to be used in the District of Columbia. Not only do these provisions raise some very serious constitutional questions, but they will do little to help only a few students while greatly benefiting those whose interests are entrenched in private schools.

In fact, Representative ARMEY himself has admitted that this bill will provide vouchers for only 2,000 D.C. children. Last time I checked this would not come close to helping the more than 80,000 school age children which reside in the District. We cannot and should not ignore the problems of today's educational system while attempting to capitalize on political rhetoric. The Republicans have sought to use D.C. vouchers as the answers to our Capital City's problems in its school system. This is wrong.

Any proposal which invites the idea of providing private school vouchers dismantles an educational system which guarantees access for all by leaving "choice" in the hands of private school admissions officers.

In addition to the destruction of equality in the most basic opportunity—the opportunity to learn—there is not one research study, which accurately provides evidence that vouchers improve student learning.

Because of this lack of evidence, I see little reason to establish any type of Federal voucher program, including one in the District of Columbia. We have seen the existing voucher programs in Milwaukee and Cleveland provide no improvement in student achievement levels despite the fact that they have been in operation, at least in the case of Milwaukee, for over 6 years.

In addition to the complete lack of a policy basis for enacting any type of private school voucher proposal, the American people have spoken repeatedly that they have no interest in such programs. Over 20 States, including the District of Columbia, have held referenda on this issue and the citizens of all 20 States have rejected voucher programs.

Our goal as public policy makers should be to construct broad policy which will improve the educational results of all of our children—not a select few.

One of the most deeply rooted values in this country has been that all children are guaranteed access to an education. The public school system has been the institution in this country which has provided this opportunity. Yes, there are problems in our public schools, problems which deserve and need our attention. All of us in Congress realize that the District has a great share of problems in its public school system. However, we should not look for quick fixes to a situation which deserves careful consideration.

As I said at a recent hearing in the Education and Workforce Committee on this subject, those who support vouchers want to abandon our public schools and the vast majority of children who would remain in what is already an underfunded system.

Those of us in Congress need to show leadership in combating the problems that face us as elected leaders—not run away from them.

Only by working within the public school system, both in the District and throughout the Nation, can we build upon the successes and learn from our failures in our attempts to educate our Nation's children.

In closing, I would urge Member to vote for the Moran amendment, which in addition to its lack of a voucher proposal is a much improved version of this bill in many other areas. Now is not the time to go back on our educational commitments to our children.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland [Mr. HOYER], the ranking member of the Appropriations Subcommittee on Treasury Postal Service, and General Government.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me this time.

Those watching this debate on this floor or otherwise must think that Lewis Carroll must have written most of the speeches, because they are Alice in Wonderland types.

I do not come to speak about the voucher system. The gentleman from California [Mr. RIGGS] was on the floor and talked about that system. Let him report a bill and we will debate the bill, and we will send it to the other body and they can send it to the President. And if the President decides to veto it, we will have an issue for the 1998 election.

This bill is deader than a doornail and every one of my colleagues know it. The Moran amendment that the gentlewoman from Washington [Ms. DUNN] referred to as the Democratic alternative, my friends, the Moran amendment is the Republican bill passed by the U.S. Senate. That is what it is.

This is a game. This is a game to appeal to some very good spirited people who want to have greater opportunity for their children. God bless them. Every one of us does as well. But this is the D.C. appropriation bill, not the authorizing bill, and this is a contentious issue.

Not only that, my colleagues, the House, without any debate, any discussion, and against the advice and counsel of the Secret Service and Lew Merletti, the head of the Secret Service, and the Treasury Secretary, and General Jones, the former Chairman of the Joint Chiefs of Staff, and Bill Webster, the former Chairman of the CIA and FBI, has said open Pennsylvania Avenue. That in the face of the Murrah Building, I tell my good friend from Oklahoma, that saw a car bomb parked close to the Murrah Building and 168 Americans lost their lives. That is why Pennsylvania Avenue was closed.

But without hearings, without discussion, without any thoughtful consideration, we say expose the White House to that threat. My colleagues, remember in Saudi Arabia our troops housed there, but with a not big enough perimeter, had a car bomb explode and kill over 100 American troops. Who on this floor wants to expose the President of the United States, his family, the staff and the visitors to the White House to that risk? If we do not vote for the Moran amendment, that is what we do.

Again, the Moran amendment is the Republican alternative passed to us by the other body. It will be signed by the President. That is the difference between that and the committee's recommendation. Vote for Moran.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. WATTS].

Mr. WATTS of Oklahoma. Mr. Chairman, I thank the gentleman from North Carolina for yielding me this time.

Mr. Chairman, I ask my 435 colleagues in the House of Representatives how can the Government say to any American parent, regardless of their economic status, that they cannot send their children to schools that work? How can they force their kids to go to school on a daily basis, terrorized to walk down the halls, having to pass through metal detectors to enter the building, where discipline, achievement and values have been swept away by drugs and violence? Which of us in this Chamber, which of us, I would love for one of us to stand up and say that we would send our children to such a school.

How many years of our children's education would we waste waiting for officials, whose children go to schools across town, by the way, to the schools that work, waiting for the latest experiment to solve these problems? How many of us would put our children into these schools tomorrow based on a politician's promise that they will be better next year?

For these children, these schools are not the great equalizer the other side talks about. These are forgotten kids, the victims of a terrible experiment in education that has gone terribly wrong, an experiment that has failed them for life.

We have heard people say that we should not treat our children as guinea pigs. Well, I have to tell my colleagues what any one of these children's parents will tell us. These children are being treated much worse than guinea pigs. The experiment we have run on them has been much more cruel, and it has failed a long, long time ago. The lost generations of our inner city kids that cannot read and write and do the arithmetic are walking witnesses to that fact.

I ask my colleagues to look at the terrible cost of the status quo, the cruel consequences of our inability as public officials to come up with solutions to a problem that has been with us for the last two decades. The time for empty promises is over. The time for positive action is upon us. The only question left to ask is how many more children will lose out on their most basic birthright as Americans: A quality education? We should promise the kids in the inner cities the same quality of education as the kids in the suburbs.

It has been said that the President will veto this legislation because of the D.C. scholarship program. I ask my colleagues this question: If the President can live in public housing and send his child to private schools, why can poor people not live in public housing and send their children to private school?

We can start to fulfill this promise today by voting against the Moran substitute.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Chairman, I rise in strong opposition to portions of the D.C. appropriation measure, which undermines the ability of the people of the District to govern themselves.

It is instructive that the gentlewoman from the District of Columbia will not vote on this bill and will not vote on any of the amendments. It is symbolic of the fact that the people of the District are without any choice in this matter.

It is especially troubling that language was included in this bill that will impose a school voucher program in the District. Let me remind my colleagues that the District has already rejected school voucher programs by wide margins. And if things have changed since then, then give the District the money for the scholarships and let them decide whether to use it for vouchers, and that will be real choice.

If we let this ideology of the proponents of school choice, then surely Congress would be willing to entertain other choice initiatives. Let us see if we can improve public transportation, reduce traffic, and improve road conditions by giving individual citizens a voucher to buy a car rather than investing resources into highways and public transportation.

Support the Moran substitute.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1¾ minutes to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding me this time.

I wanted to read my colleagues a letter we received from the U.S. Hispanic Chamber of Commerce. It says, "As in many areas where education opportunities are poor, a disproportionate number of the children attending failing schools in our Nation's capital are Hispanic."

We strongly support H.R. 1797, the Taylor bill, not the Democrat substitute. And that is parenthetically. I am explaining. Students would benefit from this. This is from the Hispanic Chamber of Commerce. They support this.

Here is a resolution from the Baptist Convention of D.C. They support it. Here, Mr. Chairman, is a group called Save the Kids. Over 100 ministers from inner city churches; Baptist churches, Episcopalian, CME, Christian, Catholic, AME, full gospel and Methodist churches, all that support student choice and the voucher scholarship program proposed in the Taylor bill.

Here is a petition signed by over 2,000 Washington, DC residents, people who are interested in having their children compete.

Mr. Chairman, earlier this year we were contacted in our office to see if we could hire, temporarily, give an opportunity to a child from Washington, DC to work in our office because she was a junior in high school but did not have her school open this year because the schools in Washington, DC are in such disrepair. We had this young lady working in our office. I believe that she deserves the opportunities that other kids have from all over the country have from affluent families, of being able to pick and choose her school that she could go out and compete in the international and national marketplace.

This is about children. This is not about inner city power. This is about kids of America; giving them a choice.

□ 1600

Mr. MORAN of Virginia. Mr. Chairman, I would like to ask the gentleman what bill he was referring to. He said H.R. 1797. We are not debating H.R. 1797. That must be some outdated bill.

Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina [Mr. ETHERIDGE].

Mr. ETHERIDGE. Mr. Chairman, I thank the gentleman from Virginia [Mr. MORAN] for yielding me the time.

Mr. Chairman, I rise in strong support of the Moran substitute and in opposition to the risky scheme to provide taxpayer-funded vouchers.

I served as superintendent of schools in my State for a total of 8 years. That State is North Carolina. I know what it takes to improve the quality of education, because in the latest release of the National Assessment of Educational Progress, our fourth-graders gained three times the national average in growth and our eighth-graders gained a full year in this past decade, and our African American students had achieved some of the same gains, only greater than other students.

Vouchers will only divert attention away from improving public schools. Vouchers will increase the cost of education. Vouchers will reduce the accountability of schools to the American taxpayers. And vouchers will rob our communities of the resources needed to improve education.

Mr. Chairman, improving schools takes bold, visionary leadership, it takes a commitment to improving educational opportunity for all children, and it takes setting high standards, holding the school administrators, teachers, parents, and students accountable for these standards. Vouchers are the exact opposite of what is needed.

I urge my colleagues to reject this cowardly act of surrender and support the Moran amendment and against vouchers.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from South Dakota [Mr. THUNE].

Mr. THUNE. Mr. Chairman, I come from the fine tradition of public schools in the State of South Dakota. Frankly, we do not need a voucher system in South Dakota. But last year, our legislature approved open enrollment with the full support of the educational community because we recognize the value of parental choice.

When I moved to this area this year, we decided to live in Arlington, Virginia, because of the school system. We predicated that decision based upon the school system. I happen to believe that parents and kids here in DC deserve better than what we have got. The system is broken.

I do not know how anybody can defend the status quo. We have an opportunity here to help provide a better future for the kids and parents who live in this area. We probably see here a culture in which we spend more dollars for less results than anywhere in the country. We need innovation here. And I think it is very important that we move this forward, defeat the Moran amendment, and advance an issue and a cause which I think is going to be very beneficial to the community and to the parents and the kids who live in this area.

The CHAIRMAN pro tempore [Mr. LAHOOD]. The Chair would advise all Members that the gentleman from North Carolina [Mr. TAYLOR] has 12 minutes remaining, and the gentleman from Virginia [Mr. MORAN] has 9¼ minutes remaining, and the gentleman from North Carolina [Mr. TAYLOR] has the right to close.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, where one stands is what one does and not what one says. The opposition says we are supporting a good public school. What we have heard is a problem of public schools. The solution we have is to give 2,000 students an opportunity to live.

Where are the 76,000 students that need that help? We need to find ways to improve the school for the majority and not hold up the false pretense of choice. This is not about choice. I am for choice. This is not anti-parochial school. I am a product of a parochial school.

One needs not to say this is about having income that they can go to private school or not. Parochial school gives opportunity to disadvantaged schools. That is how I got through parochial school. We do not take away the needed resources to make the school work. It is not working. But they are going to ensure that it does not work.

Yes, we wish we had open choice here that anyone could go to any public school. That is not true. We must improve the school. The only way to do that is to support the Moran bill and defeat the House bill.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I thank the gentleman from North Carolina [Mr. TAYLOR] for yielding me the time.

I am very disappointed that I have to stand on this side of the House of Representatives to talk on behalf of this voucher bill.

I first became interested in choice vouchers, scholarships, whatever we want to call them, back in 1979, when I became the chairman of the education committee in the Chicago City Council. At that time, a number of minority aldermen came to my meeting that I was having on education, and they are the ones that brought choice to my attention. Since that time, it is something I have been very much supportive of.

Over the course of the 15 years that I have been in the United States House of Representatives, there are several bills that have I put in dealing with voucher choice programs. Unfortunately, they never went anyplace. So today I find myself on the other side of the aisle speaking on behalf of a program I do support. And I support it because there are two other locations in this country where this type of program is going on. One is in Cleveland; one is in Milwaukee.

In both of those communities, choice has improved, the reading level, the math level of the students in the choice voucher program. The program that is going to be established here in Washington, D.C., is a small program, but I believe it is a step in the right direction for these students.

I think choice is not going to do away with the public school system. I certainly do not want to do away with the public school system, but I do sincerely believe that the competition that choice will provide will motivate the public school system to do a better job across the board.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, as the debate nears to a close, I think just about everybody has figured out the Gingrich scheme. This Republican bill is supposed to fail. Of course it will fail, and of course the District will be plunged further into chaos.

That is the whole idea, and that is why even moderate Republicans have to jump bail, and that is why our conservative Democrats are joining us in the Moran substitute. The whole idea is that we finally got a Republican measure in the substitute that the Republicans are attacking as if it was a Democratic bill. It is just the best we can do.

I have never in my life supported a Faircloth measure, and I find myself doing it today. And it is not bad.

PARLIAMENTARY INQUIRY

Mr. RIGGS. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN pro tempore [Mr. LAHOOD]. The gentleman from California [Mr. RIGGS] will state his parliamentary inquiry.

Mr. RIGGS. Mr. Chairman, I would like to know if it is permitted under the Rules of the House to refer to a Member of the other body by name.

The CHAIRMAN pro tempore. Referring to a Member of the other body in a factual reference to sponsorship of a companion measure is not out of order.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. ARMEY], the majority leader.

Mr. ARMEY. Mr. Chairman, the gentleman from Virginia [Mr. MORAN] brings us the bill from the other side of the body, a bill that is acutely interesting to me in that it does not include the parental choice language for 2,000 school scholarships that I authored. A bitter disappointment to me.

The language, exact language, that we have in our bill was offered on the other side by Senator LIEBERMAN and would have been included in this bill, in this substitute, except for the fact that it did not make the cut on a filibuster offered by the distinguished Senator from Massachusetts [Mr. KENNEDY].

It did have 58 votes, though, instead of the required 60. It might have had the other two votes if there had not been 22 National Educational Association lobbyists working the halls of Congress on that day. So on a square vote, your substitute would include this parental choice language.

I have worked on this for a long time, and I have to tell you something. While so many times I deal with legislation in somewhat of an objective, abstract way, this is personal, this is very, very deeply personal with me. It is not about my party. It is not about your party. It is not about the city of D.C., although I should tell you, this committee has been generous in that it has put in this bill $1 million more for the D.C. education budget than what was asked. And we support every effort to rehabilitate the D.C. schools.

But what is upsetting people is, we add, in addition to that extra $1 million, $7 million to go directly to the families, directly to the children, for them to pick a school with $3,200 scholarships for the children.

I know these children. I want to talk to you about two of these children, two of these children that have made it personal for me. There is 9-year-old Sherard. Nine-year-old Sherard should

be in the fourth grade. And if he were in public school, he would be. But he can only read at the second-grade level.

By the generosity of some private source, his family received for him a scholarship to go to a private school. When he went to that school, they told him they would have to hold him back to the second grade. And they would have done so but for two very dedicated people who said, "We will continue to tutor this child." And on the basis of that commitment, Sherard was not dropped back to the second grade but was held to the third grade.

And Sherard is happy. His mother told me that, 2 weeks after Sherard had been in school, 1 week before he would have been in school had he been in the D.C. schools, she had already had more contact from this school about what to do with Sherard, how to help Sherard, how she can attend better to Sherard than she had ever had for any of her other children from the D.C. public schools.

The school reached out to this child. Some private benefactor reached out to this child, his mother is reaching out to this child, two tutors are reaching out to this child, because they love this child too much to let him be the victim of social promotion.

There is another young man that I know of. My neighbor runs a prison ministry. In a prison in D.C. right now, he is teaching a young man in his early twenties how to read out of second- and third-grade primers, despite the fact the young man has a high school diploma from the D.C. schools.

I refuse to let Sherard, and if I can help 2,000 other children in a way that Sherard has been helped to escape the victimization of social promotion from schools that are dysfunctional, so bad that the Washington Post characterized them as well-financed failures, to happen.

This is not about me. It is about some concept. It is not about some experiment. It is not about partisan politics. It is about whether or not we can take an extra $7 million, an extra $7 million and help 2,000 precious children. If I had put in this bill $7 million of extra money to fix potholes, there would not have been one voice raised in protest.

□ 1615

I would ask my colleagues, look in your hearts, think about these children. Are my colleagues going to tell me that fixing children is less important than fixing potholes? I do not think so. Soften your hearts, get beyond the politics, get beyond the big, powerful, well-financed special interests, get beyond the National Education Association. Get in touch with these children and these parents.

I had another couple of parents that I talked to one evening. They were in their early 20's. Neither one had finished school. They had a child; I thought that child was their younger brother. They said, "No matter what, our child will have more."

They got a scholarship, again, from a private funding organization, a Washington scholarship fund, that paid for half that child's expense to go to a private school where it would cost $3,200, as over and against the $9,000 that is spent on children in the D.C. schools to fail the children. And this very, very young and dedicated mother took a second job so she could make up the difference between that $1,500 and the $3,200.

The slots are there. We know that there are positions available, there are places, little desks for little people, for 2,200 children at least. I personally documented that in my own office by making the phone calls. The schools are there, and the schools are there because the people in the communities saw the need and put the schools in place.

I must tell my colleagues, there is nothing that could be sadder than a school system that has been such a failure to these very, very precious children, and a Congress of the United States that would support a filibuster against their help in the other body, and deny that help in this body.

The only thing that I can think that could break these children's hearts more than to realize that the Congress of the United States think of them has nothing other than a social experiment. They are real children. They are no less precious than my children, they are no less precious than your children, and each and every one of these children deserves the support of my colleagues over and above any disdain one has for those who brought the language to the floor.

Mr. MORAN of Virginia. Mr. Chairman, I yield 45 seconds to the gentlewoman from the Virgin Islands [Ms. CHRISTIAN-GREEN].

Ms. CHRISTIAN-GREEN. Once again, Mr. Chairman, we are here on the floor of the House attempting to reverse an assault on the District by our colleagues on the other side of the aisle as they embark on their annual journey to use the District of Columbia as a laboratory and to experiment with their favorite political and ideological issues, ones that they would not attempt in their own districts.

On top of everything else that is abhorrent in this bill, Mr. Chairman, the bill would impose what the authors of the bill would admit is another experiment, the school voucher program, one which might help 3 percent of D.C. students but would definitely keep needed funds from the D.C. public school system.

This is not about parental choice, Mr. Chairman. This is about writing off almost 78,000 children in the District of Columbia, and Democrats are not going to allow you to do that.

As a mother of two public school students who plan to be public school teachers, and as a PTA president for many years, I urge my colleagues to support the Moran amendment and reject this regressive bill.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield 45 seconds to the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Mr. Chairman, I rise in strong support of the Moran substitute for three basic reasons.

One, it eliminates the opportunity to waive the prevailing wage. Anybody working, no matter what they work on, should be adequately paid. It takes the caps off of medical malpractice, which is nothing more than an attempt to backdoor tort reform to the detriment of consumers. And of course it eliminates vouchers, which have been spoken to all evening.

The fact of the matter is that public education has been the greatest equalizer existing on the face of this Earth. It is the main way that most of us were able to move beyond the immediacy of our burden, of our circumstances.

I believe that if we want to equalize America, public education is the way.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I rise in support of the Moran substitute.

Today we are witnessing perhaps the grossest abuse of power that many of us have ever seen or will ever see. I remember a movie that I saw, "To Kill a Mockingbird," and the moral and the lesson of that movie was never to use one's strength and power against the vulnerable, or do not just run over the powerless, do not take advantage of those who cannot fight back.

Today Washington, DC, is that mockingbird. The gentlewoman from the District of Columbia [Ms. NORTON]) the Delegate here, does not have a vote. They do not have representation over in the Senate. But we are not only disregarding that fact, we are disregarding the fact that we have a finance control board controlled by and run by conservative economists, a city council, a mayor, those people who are elected to do the work at the local level.

We have 62 riders in this bill that we are trying to defend against with this amendment; 62 riders that talk about everything from how many people can be the security for the Mayor, or whether or not one can have a lease for helicopters, on and on and on. And the most egregious part of this is that you would shove vouchers down the throats of the District of Columbia, despite the fact that over 80 percent of the people voted against vouchers in this District.

Do my colleagues care about education? Many of the people on the

other side of the aisle want to get rid of the Department of Education. Where would these people, when many people from communities around this world wanted choice through busing and they stood up and they said, "No, we will not allow you that choice, to open up the District's line so you can have your children go to any of the schools they would choose."

I tell my colleagues, we have to support this amendment. We have to support it because it is the only right thing to do.

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. MILLENDER-MCDONALD].

Ms. MILLENDER-MCDONALD. Mr. Chairman, as a former educator, I have sat here to try and listen to a plan for our children. I have not heard it, and so I will say that I am for the Moran amendment, and I oppose anyone who has not given us a plan for absolutely educating our children in this country.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1¼ minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I come to the floor to say that my colleagues can cite their deceptive letters and free money petitions all they want to, but I got 90 percent of the vote in the last election in the District of Columbia, and I think I can say with confidence that the people I represent would deeply resent the imposition of vouchers paid for out of our own rescue package money when we have rejected such a measure by 89 percent.

There is another reason for voting against this bill, and I will let the conservative Washington Times have the last word on that, and I am quoting:

> Charles Taylor, whose litany of amendments which at one point numbered an incredible 62, threatens to unravel the very fiscally conservative and sound management reforms Congress has been working on for the past 2½ years. It is one thing to question the resolve of a few of D.C.'s elected officials to get the job done, but has Mr. Taylor no confidence in even the efforts of his colleagues on Capitol Hill?

R-E-S-P-E-C-T spells respect. Show some respect for me and for the people I represent. Support the Moran substitute.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, despite all the rhetoric, this amendment is not about vouchers. It is about choice: Whether the residents of the District of Columbia are able to choose their own government, are able to choose their own budget. Their democratically elected government did submit a budget. The mayor, the city council, the congressionally-created control board submitted a consensus budget.

The other body agreed with that budget. All this substitute amendment does is it enables the House to agree with it so that the District of Columbia can run its own affairs.

The chairman of the District of Columbia control board said that this bill, if it is approved as presented to the House, will further weaken the District of Columbia by severely undercutting the ability of the District of Columbia financial responsibility and management authority, the control board that the Congress set up to carry out the mandate of Congress, to restore the District's financial base and implement management reforms. That is all this amendment is all about.

The gentlewoman cited the Washington Times. Here is The Washington Post. It says that this is the House at its worst on D.C. The House of Representatives need not do this to the Nation's Capital or to itself. The city needs an appropriations bill that will help it manage its own affairs competently as both a locality and the Nation's Capital. It does not need and cannot conceivably be helped in this effort to reform itself by what it calls the silly, showboating indulgences of Congressmen who act as if they have nothing else to do.

We have something better to do. The gentleman from North Carolina [Mr. TAYLOR] certainly can do better than to submit this bill. Our House will be proud of the bill that we agreed to if we agree to this substitute amendment. We can get the bill enacted. We can give the money to the District and to the control board that we created to carry out their affairs according to their own priorities.

That is all this is about. It is not about vouchers. It is about giving local government the authority that they deserve. We need to respect them and to respect the democratic process. That is all our amendment is all about.

The alternative is not to have vouchers, the alternative is to have nothing, to have no bill. D.C. will not get its funding. D.C. will not be able to carry out its contracts. The control board we created will not be able to function. That is not fair. It is not right. It certainly is not what the Congress intended.

Do not do this to our Nation's Capital, do not do this to the House of Representatives. Support this amendment. Do the right thing.

Mr. TAYLOR of North Carolina. Mr. Chairman, despite all the loud rhetoric we have heard today, this chairman holds the people of DC in respect. That is why I have so suffered the editorials and the charges in the press, and I sometimes wonder whether the editorial writers are talking to their reporters, because the press each morning runs an article showing problems in the city and at the same time on their editorial page they criticize this body for trying to fix those problems.

□ 1630

Mr. TAYLOR of North Carolina. Mr. Chairman, it is my pleasure to yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], the Speaker of the House.

The CHAIRMAN pro tempore. The gentleman from Georgia [Mr. GINGRICH], the Speaker of the House, is recognized for 4½ minutes.

Mr. GINGRICH. Mr. Chairman, I want to commend the gentleman from Virginia [Mr. MORAN] for a very clever motion. Rather than have a straight-up vote on the issue of whether or not the poorest children in this city should have a chance to get a decent education instead of ending up illiterate and going to jail, rather than having a straight-up debate about the failure of a school system that spends $10,000 per child, according to the U.S. Department of Education statistics, instead of talking about saving children who are being destroyed by being trapped in buildings in which they have no future, while we prattle on about reform some day and we talk about all sorts of abstract rights as the children are destroyed, the gentleman from Virginia cleverly said, I will take LAUCH FAIRCLOTH's, a North Carolina conservative, Senate bill and try to substitute it entirely, so we can talk in general about how you might change this gentleman from North Carolina's bill by substituting Senator FAIRCLOTH of North Carolina's bill. It is a wonderful ploy.

But that is not what this vote is really about. The truth is, we will go to conference. The truth is, many of the things they are most concerned about will be fixed or changed. The truth is, that is the normal process. This is not the final passage on the final day. This is moving a bill to conference.

But what the gentleman cleverly did, and it was clever, is he just happened in his motion to drop out the chance for 2,000 children to have a better future. He just happened to drop out the chance for families whose income is below the poverty level to have a better future.

I want every Member of this House to think about this, because I am, frankly, sickened by 14 years of excuses. For 14 years, since A Nation At Risk was printed in 1983, for 14 years we have been promised by the education bureaucrats, the education certifiers, the education professionals, the education unions, that some day we will get decent schools, and the kids are destroyed and they end up in prison.

I talked to Mayor Riordan of Los Angeles, a man who has personally given millions of dollars to literacy programs, a man who has been personally engaged in helping poor children learn how to read. He told me in August, in his estimate in Los Angeles in the poorest neighborhoods, 12 percent of the 18-year-olds are learning to read at the eighth grade level. Eighty-eight

percent of the children in the poorest neighborhoods read below the eighth grade at 18 years of age.

There is something tragically, profoundly wrong. We all know it. We know that despite all the promises, despite all the university studies, despite all the committees, today, while we are debating, poor children in America are being destroyed. We know that. We know that when they cannot read, in the age of the computer, they are going to end up in jail. We know that. We know it is not a function of money, because if money would have done it, then in a school system that spends $10,000 a child, D.C., it would have been fixed.

I have heard Democrats come in here and promise to fix it, and I have heard Republicans promise to fix it, and nobody has fixed it. They closed the school for 3 weeks, every school in this city for 3 weeks, to fix the roofs. Last week they had to close one of the schools to fix the roof.

We had a picture in the Washington Post of what the gentleman from North Carolina [Mr. TAYLOR] was referring to on the news page, not the editorial page. There was a picture of children being led, walking, to another building, because their building had been closed. This is the circumstance we are faced with. This is the circumstance we are all faced with.

Let us be honest about it, that thousands of children today in the Nation's Capitol, at $10,000 a child, are being cheated. They are being cheated by the politicians, they are being cheated by the unions, they are being cheated by the bureaucracy. The answer of my good friend, the gentleman from Virginia [Mr. MORAN] is, well, some day, some day.

We have at least a start. It is not a great start, it is not perfect, but it says to 2,000 children in this city, you will have a chance, if your parents are below poverty, and the gentleman from Texas has shown great courage in standing up and saying he wants those children now to have a chance to go to a school that is safe, that is drug-free, and that actually teaches kids, so they can go to college and not go to jail.

What, I would say to my liberal friends, what are they afraid of? Do they think these 2,000 children will have less education? Do they think these 2,000 children will have less of a chance to avoid jail? Do they think these 2,000 children will somehow magically disappear? No.

They are not even afraid the money will come from the schools, because the gentleman from Texas [Mr. ARMEY] has met that objection, because he was offering $7 million additional. Normally a person who comes and says, I will give the inner city $7 million additional, is viewed as a good person. So it does not even come out of the $10,000.

That means the D.C. schools will have $20 million additional to spend if those 2,000 kids leave, because the $10,000 per child stays in the school. So the gentleman from Texas [Mr. DICK ARMEY] is offering $7 million over and above the budget, and that will increase to $20 million to be spent per capita, and the kids are already in the school, and now they are still complaining, they are still against it. And do Members know why they are afraid? Because if this works, if this succeeds and these kids have a decent future, the failure and the bankruptcy of the unions and the bureaucracies will be proven.

I just want to say to all of the Members to vote their conscience, but I will tell the Members this. What this vote is about is whether or not 2,000 children have a chance to go to college and not go to jail. And if Members vote no, they know that they can at least say, I did everything I could to save those children from jail, and everything I could to give those children an education, and everything I could to send a signal that we are fed up with children being destroyed by bureaucracies that refuse to reform.

If Members vote yes, then one day down this road, when they meet those children and they are illiterate, ignorant, and helpless, and going to jail, they should look in the mirror when they want to know what happened.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Virginia [Mr. MORAN].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORAN of Virginia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 212, answered "present" 1, not voting 24, as follows:

[Roll No. 512]

AYES—197

Abercrombie	Clayton	Farr
Ackerman	Clyburn	Fattah
Allen	Conyers	Fawell
Andrews	Costello	Fazio
Baesler	Coyne	Filner
Barcia	Cramer	Flake
Barrett (WI)	Cummings	Foglietta
Becerra	Danner	Ford
Bentsen	Davis (FL)	Frank (MA)
Berry	Davis (IL)	Frost
Bishop	DeFazio	Furse
Blagojevich	DeGette	Gejdenson
Blumenauer	Delahunt	Gephardt
Boehlert	DeLauro	Goode
Bonior	Dellums	Gordon
Borski	Deutsch	Green
Boswell	Dicks	Gutierrez
Boucher	Dingell	Hamilton
Boyd	Dixon	Harman
Brown (CA)	Doyle	Hastings (FL)
Brown (OH)	Edwards	Hinchey
Capps	Engel	Hinojosa
Cardin	Eshoo	Holden
Carson	Etheridge	Hooley
Clay	Evans	Hoyer
Jackson (IL)	McNulty	Sanchez
Jackson-Lee (TX)	Meehan	Sanders
Jefferson	Meek	Sandlin
John	Menendez	Sawyer
Johnson (CT)	Millender-McDonald	Scott
Johnson (WI)	Minge	Serrano
Johnson, E. B.	Mink	Sherman
Kanjorski	Moakley	Sisisky
Kaptur	Mollohan	Skaggs
Kennedy (MA)	Moran (VA)	Skelton
Kennedy (RI)	Morella	Slaughter
Kennelly	Murtha	Smith, Adam
Kildee	Nadler	Snyder
Kilpatrick	Neal	Spratt
Kind (WI)	Oberstar	Stabenow
Kleczka	Obey	Stark
Klink	Olver	Stenholm
Kucinich	Ortiz	Stokes
LaFalce	Owens	Strickland
Lampson	Pallone	Stupak
Lantos	Pascrell	Tanner
Leach	Pastor	Tauscher
Levin	Payne	Thompson
Lewis (GA)	Pelosi	Thurman
Lofgren	Peterson (MN)	Tierney
Lowey	Pickett	Towns
Luther	Pomeroy	Traficant
Maloney (CT)	Poshard	Turner
Maloney (NY)	Price (NC)	Velázquez
Manton	Rahall	Vento
Markey	Ramstad	Visclosky
Martinez	Rangel	Waters
Mascara	Reyes	Watt (NC)
Matsui	Rivers	Waxman
McCarthy (NY)	Rodriguez	Wexler
McDermott	Roemer	Weygand
McGovern	Rothman	Wise
McHale	Roukema	Woolsey
McHugh	Roybal-Allard	Wynn
McIntyre	Rush	Yates
McKinney	Sabo	

NOES—212

Aderholt	Doolittle	Johnson, Sam
Archer	Duncan	Jones
Armey	Dunn	Kasich
Bachus	Ehlers	Kelly
Ballenger	Ehrlich	Kim
Barr	Emerson	King (NY)
Barrett (NE)	English	Kingston
Bartlett	Ensign	Klug
Barton	Everett	Knollenberg
Bass	Ewing	Kolbe
Bateman	Foley	LaHood
Bereuter	Forbes	Largent
Bilbray	Fowler	Latham
Bilirakis	Fox	LaTourette
Bliley	Franks (NJ)	Lazio
Blunt	Frelinghuysen	Linder
Boehner	Gallegly	Lipinski
Bonilla	Ganske	Livingston
Bono	Gekas	LoBiondo
Brady	Gibbons	Lucas
Bryant	Gilchrest	Manzullo
Bunning	Gillmor	McCollum
Burr	Gilman	McCrery
Burton	Gingrich	McDade
Callahan	Goodlatte	McInnis
Calvert	Goodling	McIntosh
Camp	Goss	McKeon
Campbell	Graham	Metcalf
Canady	Granger	Mica
Cannon	Greenwood	Miller (FL)
Castle	Gutknecht	Moran (KS)
Chabot	Hall (TX)	Myrick
Chenoweth	Hansen	Neumann
Christensen	Hastert	Ney
Coble	Hayworth	Northup
Coburn	Hefley	Norwood
Collins	Herger	Nussle
Combest	Hill	Oxley
Condit	Hilleary	Packard
Cook	Hobson	Pappas
Cooksey	Hoekstra	Parker
Cox	Horn	Paul
Crane	Hostettler	Paxon
Crapo	Houghton	Pease
Cubin	Hulshof	Peterson (PA)
Cunningham	Hunter	Petri
Davis (VA)	Hutchinson	Pickering
Deal	Hyde	Pitts
DeLay	Inglis	Pombo
Diaz-Balart	Istook	Porter
Dickey	Jenkins	Portman

Pryce (OH)	Sessions	Taylor (MS)
Quinn	Shadegg	Taylor (NC)
Radanovich	Shaw	Thomas
Redmond	Shays	Thornberry
Regula	Shimkus	Thune
Riggs	Shuster	Tiahrt
Riley	Skeen	Upton
Rogan	Smith (MI)	Walsh
Rogers	Smith (NJ)	Wamp
Rohrabacher	Smith (TX)	Watkins
Ros-Lehtinen	Smith, Linda	Watts (OK)
Royce	Snowbarger	Weldon (FL)
Ryun	Solomon	Weldon (PA)
Salmon	Souder	Weller
Sanford	Spence	White
Saxton	Stearns	Whitfield
Scarborough	Stump	Wicker
Schaefer, Dan	Sununu	Young (AK)
Schaffer, Bob	Talent	Young (FL)
Sensenbrenner	Tauzin	

ANSWERED "PRESENT"—1

Nethercutt

NOT VOTING—24

Baker	Dooley	Lewis (KY)
Baldacci	Dreier	McCarthy (MO)
Berman	Gonzalez	Miller (CA)
Brown (FL)	Hall (OH)	Schiff
Buyer	Hastings (WA)	Schumer
Chambliss	Hefner	Smith (OR)
Clement	Hilliard	Torres
Doggett	Lewis (CA)	Wolf

□ 1656

The Clerk announced the following pairs:

On this vote:

Mr. Hall of Ohio for, with Mr. Wolf against.

Mr. Berman for, with Mr. Chambliss against.

Mr. Baldacci for, with Mr. Lewis of California against.

Mr. HEFLEY changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. MCCARTHY of Missouri. Mr. Chairman, on rollcall No. 512, the Moran substitute amendment to DC Appropriations bill, I was unavoidably detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. CLEMENT. Mr. Speaker, on rollcall vote No. 512, I was unavoidably detained on official business. Had I been present, I would have voted "aye."

Ms. PELOSI. Mr. Chairman, I rise in opposition to the school voucher proposal for the District of Columbia.

Our focus as a Federal Government should be on improving our public schools rather than abandoning them. Diverting public money to private schools is not a way to improve education. It is, however, an experiment that is doomed to fail leaving this city's schoolchildren as the casualties.

Not one of us is going to contest the assertion that the D.C. public schools need help. But the way to do this is through efforts like comprehensive school reform, by engaging parents, teachers, and the community in creating and maintaining high performance centers of learning with challenging academic standards.

Creating a voucher system does not solve the problem, it merely shifts the responsibility elsewhere. It also does not guarantee that students from low-performing schools will meet the admission standards of private institutions. Public school choice, magnet schools, charter schools, and comprehensive school reform efforts can provide effective alternatives to passing our problems off on private schools.

The GOP voucher plan offers this ill-conceived alternative to 2,000 of the school system's 78,000 students. General Julius Becton, the superintendent of the D.C. Public Schools has set out on a serious effort to provide the best education we can for all of the children of the District of Columbia.

Our Federal responsibility in education is to support States and local school districts in their efforts to make better public schools and better learners. It is not an acceptable solution to engage in misguided social engineering by draining funds that would be used to improve the public schools. The Democrats of this House have a plan, a good plan that raises the prospects for all of America's public schoolchildren, not just a select few at the expense of all the rest.

Mr. CALVERT. Mr. Chairman, I rise to speak in opposition to the Sabo amendment to H.R. 2607, the District of Columbia Appropriations Act for fiscal year 1998. H.R. 2607 includes a provision allowing public school contractors to waive Davis-Bacon requirements for construction and repair laborers. This provision is voluntary, not mandatory. This provision would help the District attract volunteer services to help with the emergency repairs needed at the District's public schools. Residents in the entire Washington metropolitan area, as well as most of the Nation, are aware of the dilapidated state of the District's schools. Clearly, the first priority should be to get the schools opened as soon as possible. Yet, an offer by the Promise Keepers to volunteer their services and make repairs at all the schools was denied. They were only allowed to repair one school. This is incomprehensible. Their offer was denied. Why? Davis-Bacon. Why force schools to spend scarce funding to make repairs that could be made for free? Our children cannot learn if they cannot attend school. There is no reason to give rigid David-Bacon rules a veto over the needs of Washington, DC's students. I urge all of my colleagues to oppose the Sabo amendment.

Mr. CLAY. Mr. Chairman, I rise to support the Moran substitute. I support it because it eliminates many of the harmful riders that the majority has added to the D.C. appropriations bill, including the $7 million to fund tuition vouchers for district students.

It is appalling that the majority would blackmail the citizens of this great city into accepting a congressional mandated school voucher program that the District voters overwhelmingly rejected, and is opposed by District school officials.

This voucher plan is seriously flawed. First, it does nothing for 97 percent of the District students who would not receive a voucher. We should be helping all 78,000 of the district's children, not draining taxpayer dollars from the public schools for just a lucky few that may benefit from a voucher program. Further, the amount of the voucher would not even pay entry into many private schools, and many of those that would be affordable have limited slots and barriers to admission.

The real Republican agenda is to undermine public support for public education, and ultimately close down our neighborhood schools. We saw the real Republican agenda in action when they tried and failed to abolish the Department of Education, attempted to block grant education programs, and worked to slash Federal funding for education. Now, desperate to advance their right wing agenda, they are looking to drain taxpayer dollars out of public schools and into private and religious schools.

I call on the majority to stop playing politics with our public schools and join with Democrats to invest more in early childhood education, give relief of our crumbling and overcrowded schools, give Federal support for local school renewal plans, and ensure that we have well-trained teachers.

I urge support for this substitute.

Mr. METCALF. Mr. Chairman, let me rise in support of this amendment and describe why I believe the philosophy behind the Davis-Bacon Act is so important. It is my belief that the Federal Government should not use its vast procurement power to depress the wages and living standards of construction workers across this country. That philosophy is as valid today as it was when the law was first enacted.

Let's remember the Davis-Bacon Act does not require the payment of the union wage. The Department of Labor is charged with determining the prevailing wage rates for each job classification required for a project based on the area where the particular job is located.

I don't want and don't believe anyone in this body wants to go back over 50 years to a time when low-paid workers move into an area and depress wages for local workers. That is the basis for this legislation and that is why it is important to support this amendment.

Mr. BALLENGER. Mr. Chairman, I strongly support providing the District of Columbia with the flexibility and choice to waive the Davis-Bacon Act to help complete emergency school repair projects.

Opponents of this modest effort claim the sky is falling in and that this is really a vote on repeal—it is not. The bill does not repeal the Davis-Bacon Act. It is not a mandate and it is not an order. It simply grants D.C. schools the option of waiving Davis-Bacon requirements. This is a vote to promote fairness, flexibility and choice.

Rather than forcing D.C. school districts to comply with an expensive, antiquated, out-of-date Government requirement, Congress has the chance to provide flexibility to the school system. D.C. schools may have the opportunity to fix more roofs, paint more classrooms, or expand classroom learning opportunities.

Instead of putting more taxpayer funds into the pockets of big labor, let's use it to help children—to repair schools and provide a better educational environment. Oppose the Sabo motion to strike, free the District of Columbia schools.

Mr. PAYNE. Mr. Chairman, I would like to offer my support for Representative MORAN's substitute that will eliminate the school voucher proposal from the D.C. appropriations bill. While Majority Leader ARMEY may call this provision a scholarship opportunity please do not fail to see this as a voucher program in its purest form. This voucher will do nothing to

solve the real problems of the D.C. public schools and only separate children into a two tiered public education system. There will be the lucky few who can find a private school that has a tuition of less than $3,200 out in the suburbs of Virginia and Maryland. The parents of these children will then be forced to scrape together enough money to pay for the transportation, books, and supplies private schools require an this voucher does not cover. The rest of the children will be left to spend their days in a less than stellar school system. The rest of these children are being ignored by those who support this voucher as castoffs and less than worthy of quality education.

We must ask ourselves what exactly this provision of the bill will achieve? I am not sure but I can tell you what it will not achieve: It will not be cost effective but waste precious tax dollars that will send children away from their neighborhoods to a few select Virginia and Maryland private and religious schools. It will not reflect what the residents of the District of Columbia really want. Instead it allows the Republican leadership to use the children of this city as guinea pigs for their misguided programs. It will not give parents a better opportunity to educate their children but provide federal, public funds for private and religious schools. It will not ensure equity for all students because the bill does not have adequate antidiscrimination language. To make matters worse, voucher programs have been continually voted down in State legislatures in 19 States including the District of Columbia. Therefore, Republican leaders are asking us to support a measure for this city that many of their own constituents have voted against back home.

Finally, I would like to say that I find this measure included in the D.C. appropriations bill an antihome rule violation and a failure of our Government to reform and help mend our inner-city public schools for not just here in the District of Columbia but in cities across this Nation.

Mr. GOODLING. Mr. Chairman, I strongly urge my colleagues to oppose the motion to strike and to support the provision waiving the Davis-Bacon prevailing wage law when awarding construction and repair contracts for District of Columbia schools. This provision is voluntary.

Davis-Bacon prevailing wage requirements increase the cost of school construction—forcing taxpayers to pay more and receive less in return. Government estimates, economic studies, and those involved in the construction industry believe that the Davis-Bacon Act inflates the cost of a construction project by an estimated 5 to 38 percent. The Congressional Budget Office estimates that Davis-Bacon adds about $2.8 billion, over 5 years, to the cost of all Federal construction projects.

Recent headlines in the Washington Post, highlight the problem with D.C. schools. Every conceivable problem plagues the school system—from fire code violations to water pouring into leaking roofs to boilers that don't work forcing children to wear coats and mittens to class. The General Services Administration surveyed every D.C. school and found that the typical building is more than 50 years old and repair or replacement costs are estimated to be $2 billion.

The D.C. appropriation bill gives the District a choice—officials can opt to waive the Davis-Bacon Act. This is voluntary, not a mandatory requirement. It is one small step that may help resolve some of the problems facing a school system in deplorable shape—and in the process help the children of the District of Columbia receive the education they deserve.

Support the voluntary waiver, oppose the motion to strike.

Mr. COSTELLO. Mr. Chairman, I rise today in opposition to H.R. 2607, the District of Columbia Appropriations Act for fiscal year 1998. This bill not only sets dangerous precedents, it is just plain bad policy. The leadership of this body claims to want to expand the role of State and local authority while shrinking the size of the Federal Government. However, this bill is yet another attempt to micromanage the District of Columbia. There are at least 60 extraneous policy riders on this bill, two of which are so egregious they deserve specific criticism.

Mr. Speaker, I strongly oppose this bill because of its unfair treatment of school children in our Nation's capitol. The bill we consider today establishes a voucher program which purports to allow poor children in Washington, DC to attend private schools. Under this bill, we will allocate nearly $45 million in Federal funds to pay for the private school education of approximately 3 percent of the District's students—about 2,000 school children. While I in no way would favor denying educational opportunities to children, is this really the best use of Federal dollars? Instead of siphoning money into private and parochial schools, I believe we should focus on fixing the problems in our public schools so that all school children will benefit. We should rebuild our educational foundation to make our public schools a safe haven for learning. Here in the District of Columbia, some schools remain closed because of construction problems. It is a great travesty that in the most influential city in the world students cannot go to school because of fire code violations. It is shameful that today we debate ways to put more children in private schools rather than working on improving our public schools. A free public school education for all Americans is one of the basic tenets of our Nation. We must not abandon this principle.

Another issue that some are trying to claim as a school issue is the waiver of the Davis-Bacon Act. Davis-Bacon for years has guaranteed American workers an honest day's pay for an honest day's work. This law helps promote greater productivity, cost-effective construction and stable economies for America's communities. This should be no exception in the District of Columbia. I have heard from some of my colleagues that eliminating Davis-Bacon will save money on school construction. However, gutting the income of workers will not lower the costs of school construction for taxpayers. In fact, a recent study showed that repeal of Davis-Bacon indicated that square foot construction costs are lower in States with prevailing wage laws compared to those where this law no longer exists. I support the Sabo amendment to strike this provision of the bill. Eliminating Davis-Bacon is unfair to workers in D.C.

Mr. Speaker, I cannot, in good conscience, support this bill. it is bad for children, bad for workers and insulting for District residents who continue to be denied fair representation. This bill represents a step backward for the people of D.C.

I support the Moran substitute amendment which eliminates the dangerous and extraneous riders to this bill. The Moran amendment enables funding to continue to our Federal city without imposing burdensome new policies on D.C. residents. I urge my colleagues to support this amendment.

The CHAIRMAN pro tempore [Mr. LAHOOD]. There being no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. PEASE] having assumed the chair, Mr. LAHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes, pursuant to House Resolution 264, he reported the bill, as amended pursuant to that rule, back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1700

MOTION TO RECOMMIT OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. PEASE). Is the gentleman opposed to the bill?

Mr. MORAN of Virginia. I am opposed to the bill, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MORAN of Virginia moves to recommit the bill, H.R. 2607, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 203, nays 202, answered "present" 1, not voting 28, as follows:

[Roll No. 513]

YEAS—203

Aderholt	Gilman	Paxon
Archer	Gingrich	Pease
Armey	Goodlatte	Peterson (PA)
Bachus	Goodling	Petri
Ballenger	Goss	Pickering
Barr	Graham	Pitts
Barrett (NE)	Granger	Pombo
Bartlett	Greenwood	Porter
Bass	Gutknecht	Portman
Bateman	Hansen	Pryce (OH)
Bereuter	Hastert	Quinn
Bilbray	Hayworth	Radanovich
Bilirakis	Hefley	Redmond
Bliley	Herger	Regula
Blunt	Hill	Riggs
Boehner	Hilleary	Riley
Bonilla	Hobson	Rogan
Bono	Hoekstra	Rogers
Brady	Horn	Rohrabacher
Bryant	Hostettler	Ros-Lehtinen
Bunning	Houghton	Royce
Burr	Hulshof	Ryun
Burton	Hunter	Salmon
Callahan	Hyde	Sanford
Calvert	Inglis	Saxton
Camp	Istook	Scarborough
Canady	Jenkins	Schaefer, Dan
Cannon	Johnson (CT)	Schaffer, Bob
Chabot	Johnson, Sam	Sensenbrenner
Chenoweth	Jones	Sessions
Christensen	Kasich	Shadegg
Coble	Kelly	Shaw
Coburn	Kim	Shays
Collins	King (NY)	Shimkus
Combest	Kingston	Shuster
Cook	Klug	Skeen
Cooksey	Knollenberg	Smith (MI)
Cox	Kolbe	Smith (NJ)
Crane	LaHood	Smith (TX)
Crapo	Largent	Smith, Linda
Cubin	Latham	Snowbarger
Cunningham	LaTourette	Solomon
Davis (VA)	Lazio	Souder
Deal	Linder	Spence
DeLay	Livingston	Stearns
Diaz-Balart	Lucas	Stump
Dickey	Manzullo	Sununu
Doolittle	McCollum	Talent
Dunn	McCrery	Tauzin
Ehlers	McDade	Taylor (NC)
Ehrlich	McInnis	Thomas
Emerson	McIntosh	Thornberry
English	McKeon	Thune
Ensign	Metcalf	Tiahrt
Everett	Mica	Upton
Ewing	Miller (FL)	Walsh
Fawell	Moran (KS)	Wamp
Foley	Myrick	Watkins
Forbes	Nethercutt	Watts (OK)
Fowler	Neumann	Weldon (FL)
Fox	Ney	Weldon (PA)
Frelinghuysen	Northup	Weller
Gallegly	Norwood	White
Ganske	Nussle	Whitfield
Gekas	Oxley	Wicker
Gibbons	Packard	Young (AK)
Gilchrest	Pappas	Young (FL)
Gillmor	Parker	

NAYS—202

Abercrombie	Boucher	Cummings
Ackerman	Boyd	Danner
Allen	Brown (CA)	Davis (FL)
Andrews	Brown (OH)	Davis (IL)
Baesler	Campbell	DeFazio
Barcia	Capps	DeGette
Barrett (WI)	Cardin	Delahunt
Becerra	Carson	DeLauro
Bentsen	Castle	Dellums
Berry	Clay	Deutsch
Bishop	Clayton	Dicks
Blagojevich	Clyburn	Dingell
Blumenauer	Condit	Dixon
Boehlert	Conyers	Doyle
Bonior	Costello	Duncan
Borski	Coyne	Engel
Boswell	Cramer	Eshoo
Etheridge	Lewis (GA)	Rangel
Evans	Lipinski	Reyes
Farr	LoBiondo	Rivers
Fattah	Lofgren	Rodriguez
Fazio	Lowey	Roemer
Filner	Luther	Rothman
Flake	Maloney (CT)	Roukema
Foglietta	Maloney (NY)	Roybal-Allard
Ford	Manton	Rush
Frank (MA)	Markey	Sabo
Franks (NJ)	Martinez	Sanchez
Frost	Mascara	Sanders
Furse	Matsui	Sandlin
Gephardt	McCarthy (NY)	Sawyer
Goode	McDermott	Scott
Gordon	McGovern	Serrano
Green	McHale	Sherman
Gutierrez	McIntyre	Sisisky
Hall (TX)	McKinney	Skaggs
Hamilton	McNulty	Skelton
Harman	Meehan	Slaughter
Hastings (FL)	Meek	Smith, Adam
Hinchey	Menendez	Snyder
Hinojosa	Millender-McDonald	Spratt
Holden	Minge	Stabenow
Hooley	Mink	Stark
Hoyer	Moakley	Stenholm
Hutchinson	Mollohan	Stokes
Jackson (IL)	Moran (VA)	Strickland
Jackson-Lee (TX)	Morella	Stupak
Jefferson	Murtha	Tanner
John	Nadler	Tauscher
Johnson (WI)	Neal	Taylor (MS)
Johnson, E. B.	Oberstar	Thompson
Kanjorski	Obey	Thurman
Kaptur	Olver	Tierney
Kennedy (MA)	Ortiz	Towns
Kennedy (RI)	Owens	Traficant
Kennelly	Pallone	Turner
Kildee	Pascrell	Velázquez
Kilpatrick	Pastor	Vento
Kind (WI)	Payne	Visclosky
Kleczka	Pelosi	Waters
Klink	Peterson (MN)	Watt (NC)
Kucinich	Pickett	Waxman
LaFalce	Pomeroy	Wexler
Lampson	Poshard	Weygand
Lantos	Price (NC)	Wise
Leach	Rahall	Woolsey
Levin	Ramstad	Wynn
		Yates

ANSWERED "PRESENT"—1

Paul

NOT VOTING—28

Baker	Dreier	McCarthy (MO)
Baldacci	Edwards	McHugh
Barton	Gejdenson	Miller (CA)
Berman	Gonzalez	Schiff
Brown (FL)	Hall (OH)	Schumer
Buyer	Hastings (WA)	Smith (OR)
Chambliss	Hefner	Torres
Clement	Hilliard	Wolf
Doggett	Lewis (CA)	
Dooley	Lewis (KY)	

□ 1732

Mr. HOYER (during the vote). Regular order.

The SPEAKER (during the vote). The Chair would note that if, in fact, Members would read the Rules, 15 minutes is the minimum and the Chair has the option of keeping the vote open longer. The Chair would point out, this is regular order.

PARLIAMENTARY INQUIRY

Mr. HOYER (during the vote). Parliamentary inquiry, Mr. Speaker.

The SPEAKER. Only if it relates to the vote.

Mr. HOYER. Mr. Speaker, it does relate to the vote.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. HOYER. Mr. Speaker, can you, by any chance, give me the page number on which the CONGRESSIONAL RECORD reflects the views of the minority when Jim Wright held the vote open so that we can review those comments?

The SPEAKER. That is not a parliamentary inquiry. But the Chair will get that for the distinguished gentleman in the near future.

Mr. HOYER. Mr. Speaker, I would appreciate it

□ 1737

The Clerk announced the following pairs:

On this vote:

Mr. Wolf for, with Mr. Hall of Ohio against.

Mr. Lewis of California for, with Mr. Baldacci against.

Mrs. JOHNSON of Connecticut, Mr. ENGLISH of Pennsylvania, and Mr. FAWELL changed their vote from "nay" to "yea."

Mr. PAUL changed his vote from "nay" to "present."

So the bill was passed.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WOLF. Mr. Speaker, I was unavoidably detained this afternoon and was not present for several rollcall votes on H.R. 2607, the FY 1998 District of Columbia Appropriations Act.

I ask that the RECORD reflect that if I had been present and voting, I would have voted as follows: "No" on the Moran substitute amendment and "yes" on passage of H.R. 2607.

PERSONAL EXPLANATION

Ms. McCARTHY of Missouri. Mr. Speaker, on rollcall No. 513, final passage of the D.C. Appropriations bill, I was unavoidably detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. CLEMENT. Mr. Speaker, on rollcall vote No. 513, I was unavoidably detained on official business. Had I been present, I would have voted "nay".

The SPEAKER. Without objection, a motion to reconsider is laid on the table.

Mr. FRANK of Massachusetts. Mr. Speaker, I ask for the yeas and nays on the motion to reconsider.

The SPEAKER. The Chair, having voted yea, the question is, "Shall the House reconsider the vote by which the bill was passed?"

Mr. FRANK of Massachusetts. Objection. Mr. Speaker, I ask for the yeas and nays on the motion to reconsider. No one has made the motion to reconsider.

MOTION TO TABLE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I move to lay the motion to reconsider on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] to lay on the table the motion to reconsider the vote as stated by the Chair.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 135, not voting 136, as follows:

[Roll No. 514]

AYES—162

Aderholt	Hayworth	Portman
Archer	Hefley	Pryce (OH)
Armey	Herger	Quinn
Bachus	Hill	Radanovich
Ballenger	Hilleary	Ramstad
Barr	Hobson	Redmond
Bartlett	Hoekstra	Regula
Bateman	Horn	Riggs
Bereuter	Hostettler	Riley
Bilbray	Houghton	Rogan
Bilirakis	Hulshof	Rohrabacher
Bliley	Hunter	Roukema
Boehlert	Hutchinson	Royce
Brady	Inglis	Ryun
Bunning	Istook	Salmon
Burr	Johnson (CT)	Sanford
Burton	Johnson, Sam	Saxton
Camp	Jones	Scarborough
Campbell	Kasich	Schaefer, Dan
Canady	Kelly	Schaffer, Bob
Castle	Kim	Sessions
Chenoweth	King (NY)	Shadegg
Christensen	Klug	Shaw
Collins	Knollenberg	Shays
Combest	Kolbe	Shimkus
Cook	LaHood	Skeen
Cox	Latham	Smith (MI)
Crane	Lazio	Smith (NJ)
Crapo	Leach	Smith (TX)
Cubin	Linder	Smith, Linda
Cunningham	Livingston	Snowbarger
Davis (VA)	LoBiondo	Solomon
DeLay	Lucas	Souder
Dickey	Manzullo	Stearns
Doolittle	McCrery	Stump
Dunn	McInnis	Sununu
Ehlers	McIntosh	Talent
Ehrlich	McKeon	Tauzin
English	Mica	Taylor (NC)
Ensign	Moran (KS)	Thomas
Fawell	Nethercutt	Thornberry
Foley	Ney	Thune
Fox	Northup	Tiahrt
Franks (NJ)	Nussle	Traficant
Gibbons	Oxley	Upton
Gilchrest	Pappas	Walsh
Gillmor	Paul	Watkins
Gilman	Paxon	Weldon (FL)
Goss	Pease	Weldon (PA)
Granger	Peterson (PA)	Weller
Greenwood	Pickering	White
Gutknecht	Pitts	Whitfield
Hansen	Pombo	Young (AK)
Hastert	Porter	Young (FL)

NOES—135

Abercrombie	DeFazio	Jackson-Lee (TX)
Allen	DeGette	Jefferson
Andrews	Delahunt	Johnson (WI)
Baldacci	DeLauro	Johnson, E. B.
Barcia	Dellums	Kanjorski
Barrett (WI)	Dingell	Kaptur
Becerra	Dixon	Kildee
Bentsen	Engel	Kilpatrick
Bishop	Eshoo	Kind (WI)
Blumenauer	Etheridge	Kleczka
Bonior	Evans	Klink
Boucher	Farr	Kucinich
Boyd	Fattah	LaFalce
Brown (CA)	Fazio	Lampson
Brown (OH)	Filner	Lantos
Capps	Flake	Levin
Cardin	Frank (MA)	Lewis (GA)
Carson	Frost	Lofgren
Clayton	Furse	Lowey
Condit	Gephardt	Maloney (NY)
Conyers	Goode	Manton
Coyne	Gordon	Markey
Cramer	Green	Matsui
Cummings	Hamilton	McGovern
Danner	Hinojosa	McHale
Davis (FL)	Hoyer	McIntyre
Davis (IL)	Jackson (IL)	McKinney
McNulty	Price (NC)	Stabenow
Meek	Rahall	Stenholm
Millender-McDonald	Rangel	Stokes
Minge	Reyes	Strickland
Mink	Rivers	Stupak
Moakley	Rodriguez	Taylor (MS)
Mollohan	Roemer	Thurman
Moran (VA)	Roybal-Allard	Towns
Nadler	Sabo	Turner
Obey	Sanchez	Visclosky
Ortiz	Sanders	Waters
Pallone	Sandlin	Watt (NC)
Pascrell	Scott	Waxman
Payne	Serrano	Wexler
Pelosi	Sherman	Weygand
Peterson (MN)	Skaggs	Wise
Pickett	Slaughter	Woolsey
	Smith, Adam	Wynn
	Spratt	

NOT VOTING—136

Ackerman	Fowler	Miller (CA)
Baesler	Frelinghuysen	Miller (FL)
Baker	Gallegly	Morella
Barrett (NE)	Ganske	Murtha
Barton	Gejdenson	Myrick
Bass	Gekas	Neal
Berman	Gonzalez	Neumann
Berry	Goodlatte	Norwood
Blagojevich	Goodling	Oberstar
Blunt	Graham	Olver
Boehner	Gutierrez	Owens
Bonilla	Hall (OH)	Packard
Bono	Hall (TX)	Parker
Borski	Harman	Pastor
Boswell	Hastings (FL)	Petri
Brown (FL)	Hastings (WA)	Pomeroy
Bryant	Hefner	Poshard
Buyer	Hilliard	Rogers
Callahan	Hinchey	Ros-Lehtinen
Calvert	Holden	Rothman
Cannon	Hooley	Rush
Chabot	Hyde	Sawyer
Chambliss	Jenkins	Schiff
Clay	John	Schumer
Clement	Kennedy (MA)	Sensenbrenner
Clyburn	Kennedy (RI)	Shuster
Coble	Kennelly	Sisisky
Coburn	Kingston	Skelton
Cooksey	Largent	Smith (OR)
Costello	LaTourette	Snyder
Deal	Lewis (CA)	Spence
Deutsch	Lewis (KY)	Stark
Diaz-Balart	Lipinski	Tanner
Dicks	Luther	Tauscher
Doggett	Maloney (CT)	Thompson
Dooley	Martinez	Tierney
Doyle	Mascara	Torres
Dreier	McCarthy (MO)	Velázquez
Duncan	McCarthy (NY)	Vento
Edwards	McCollum	Wamp
Emerson	McDade	Watts (OK)
Everett	McDermott	Wicker
Ewing	McHugh	Wolf
Foglietta	Meehan	Yates
Forbes	Menendez	
Ford	Metcalf	

□ 1757

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DEUTSCH. Mr. Speaker, I was unavoidably absent from the Chamber for rollcall vote No. 514. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, regrettably I was not present to vote on rollcall vote No. 514 on the motion to table the motion to reconsider. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Ms. McCARTHY of Missouri. Mr. Speaker, on rollcall No. 514, the motion to reconsider the DC bill I was unavoidably detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. CLEMENT. Mr. Speaker, on rollcall vote No. 514, I was unavoidably detained on official business. Had I been present, I would have voted "nay."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 169. Concurrent resolution providing for an adjournment of the two Houses.

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2158) "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.".

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2169) "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.".

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, in my considered opinion, I believe every Member of this body has had enough fun for today. We have a few Members that want to conduct some routine business, a unanimous-consent request, to help with the general orderly business of the House.

It would be my preference, Mr. Speaker, that these Members be allowed to do that. I see the distinguished minority whip is there. I would like to ask the whip if perhaps he might be able to give me some assurance that these Members could conduct that business in an orderly fashion, and I could release the rest of the body to begin their district work period.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I would say to my colleague that we do not expect any other votes on this side of the aisle.

But I would also say to my colleague, and with respect to the Speaker as well, it is my understanding at the beginning of this Congress it was decided that we would have votes held to 17 minutes. I want to note that that vote that we just had went over 40 minutes.

When the Speaker says in the middle of a vote that he has prerogatives under the House to extend the vote beyond the 15 minutes, I suspect under the Rules, and I do not know this, but I suspect he perhaps is right. But it was the announced policy of the Speaker and of the majority that we would hold votes to 17 minutes, and the public should take note that that vote went over 40 minutes.

Mr. ARMEY. I thank the gentleman for his observation.

The SPEAKER. The Chair would simply like to observe for the distinguished gentleman from Michigan [Mr. BONIOR] that on one recent occasion, at the request of the Democratic cloakroom, a vote was held open for more than 17 minutes because Members were at the White House meeting with the President, and that the Chair always has the prerogative to lengthen a vote at the Chair's discretion, and that is clear in the rules.

The Chair recognizes the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I believe I am correct in understanding, Mr. Speaker, that it is the assurance of the gentleman from Michigan [Mr. BONIOR] that there should be no more recorded votes expected.

That being the case, I would encourage everyone to return to their districts, have a productive work period, and please do enjoy time with their families.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2579

Mr. BISHOP. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 2579.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1984

Mr. PORTER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1984, on which my name appeared in error.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, I would like to explain to the chair the rollcall numbers on which I missed votes, due to being at the White House this morning.

On rollcall No. 507, I would have voted "yes." That was the District of Columbia Appropriation. On rollcall No. 508, the Transportation Appropriation Conference Report, I would have voted "yes." On rollcall No. 509, approving the reading of the Journal, I would have voted "yes."

The reason, Mr. Speaker, that those votes were missed was the signing of the National Wildlife Refuge reform bill at the White House this morning.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2332

Mr. SPRATT. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of the bill, H.R. 2332.

The SPEAKER pro tempore [Mr. PEASE]. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON EDUCATION AND THE WORKFORCE TO HAVE UNTIL THURSDAY, OCTOBER 16, 1997, TO FILE REPORT ON H.R. 2616, THE CHARTER SCHOOLS AMENDMENTS ACT OF 1997

Mr. RIGGS. Mr. Speaker, I ask unanimous consent that the Committee on Education and the Workforce may have until 5 p.m. on Thursday, October 16, 1997, to file a report on the bill, H.R. 2616, the Charter Schools Amendments Act of 1997, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WISE. Reserving the right to object, Mr. Speaker, has this been cleared with the minority?

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. WISE. I yield to the gentleman from California.

Mr. RIGGS. Yes, Mr. Speaker, it has. As a matter of fact, this unanimous-consent request is to allow additional time for minority views to be added to the report.

Mr. WISE. Continuing to reserve the right to object, Mr. Speaker——

Mr. FRANK of Massachusetts. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL TUESDAY, OCTOBER 14, 1997, TO FILE LEGISLATIVE REPORTS ON H.R. 1534, THE PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997, AND H.R. 2578, EXTENDING THE VISA WAIVER PROGRAM

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until 6 p.m. Tuesday, October 14, 1997, to file legislative reports on the bills, H.R. 1534, the Private Property Rights Implementation Act of 1997, and H.R. 2578, Extending the Visa Waiver Program.

The ranking minority member, the gentleman from Michigan [Mr. CONYERS], has agreed to this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WISE. Reserving the right to object, Mr. Speaker, once again, it is my understanding that the minority has not been consulted on that.

Would the gentleman from Texas [Mr. SMITH] like to withdraw that until the minority has been consulted?

Mr. SMITH of Texas. Mr. Speaker, that is simply not correct. The ranking minority member, the gentleman from Michigan, Mr. JOHN CONYERS, has in fact been consulted, and has in fact agreed to this.

Mr. WISE. Mr. Speaker, I will have to object until I hear otherwise.

I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

REQUEST TO APPOINT CONFEREES ON S. 1139, SMALL BUSINESS REAUTHORIZATION ACT OF 1997

Mr. TALENT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1139) to reauthorize the programs of the Small Business Administration, and for other purposes, with House amendments thereto, insist on the House amendments, and request a conference with the Senate thereon.

I perhaps can anticipate the gentleman by saying that the ranking member of the Committee on Small Business not only does not object, but asked me to bring the motion at this time, and it has been cleared for a number of days with the minority.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. WISE. Reserving the right to object, Mr. Speaker, once again, there seems not to have been communication on this. I will have to object at this time.

I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

DESIGNATION OF THE HONORABLE CONSTANCE A. MORELLA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH TUESDAY, OCTOBER 21, 1997

The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 9, 1997.

I hereby designate the Honorable CONSTANCE A. MORELLA to act as Speaker pro tempore to sign enrolled bills and joint resolutions through Tuesday, October 21, 1997.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection the designation is agreed to.

There was no objection.

REQUEST TO APPOINT CONFEREES ON S. 830, AMENDING THE FOOD, DRUG, AND COSMETIC ACT AND THE PUBLIC HEALTH SERVICE ACT TO IMPROVE REGULATION

Mr. GREENWOOD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, with a House amendment thereto, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. By the events of the past few minutes the Chair has been made aware that there will be objection. Under those circumstances, the Chair will not entertain the request at this time.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1415

Mr. DICKEY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1415.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

COMMUNICATION FROM THE HONORABLE FLOYD H. FLAKE, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from the Honorable FLOYD H. FLAKE, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 8, 1997.

Hon. ALEXANDER TREADWELL,
Secretary of State,
Albany, NY.

DEAR SECRETARY TREADWELL: After considering the needs of my constituents and the short time remaining in this session, I intend to remain in Congress at least until our legislative business is completed.

I have reviewed section 31 of the Public Officers law, and I understand that my retirement announcement to the Governor on August 4, 1997 was an erroneous interpretation of the statutory requirements for resignations. Therefore, it is also my belief that, according to section 31, any record of my resignation is not effective since I have never directly notified your office of my plans. I will, however, inform you of my plans at the appropriate time, which in this case will be no more than thirty days prior to my resignation.

If there are any questions regarding my plans, please feel free to contact me, or Sean Peterson, my Chief of Staff.

With warmest regards, I am

Sincerely,

FLOYD H. FLAKE,
Member of Congress.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY OCTOBER 22, 1997

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, October 22, 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, October 21, 1997, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND REMARKS AND INCLUDE EXTRANEOUS MATERIAL IN CONGRESSIONAL RECORD FOR TODAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that today all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extensions of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REQUEST TO APPOINT CONFEREES ON S. 1139, SMALL BUSINESS REAUTHORIZATION ACT OF 1997

Mr. TALENT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1139) to reauthorize the programs of the Small Business Administration, and for other purposes, with House amendments thereto, insist on the House amendments, and request a conference with the Senate thereon.

Mr. Speaker, I have the same connection with the request, that I have been meeting with my friends on the minority side, and I believe we have cleared up the communication problems.

The Speaker pro tempore. The Chair has not been advised that any matter is resolved.

Is there objection to the request of the gentleman from Missouri?

Mr. SISISKY. Reserving the right to object, I will not object, but I will just reiterate that it has been cleared, Mr. Speaker.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Under these particular circumstances, the Chair will not entertain the gentleman's request at this point. The Chair has been advised that the minority leader is constrained to object to the request.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute requests.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS. Is it my understanding that the Chair has ruled that notwithstanding that the ranking minority member has agreed that the procedure is appropriate and proper, the Democratic leadership wishes to override those people who are otherwise in positions of responsibility to mindlessly object to everything? Is that my understanding?

Mr. WISE. Regular order, Mr. Speaker.

The SPEAKER pro tempore. Being aware of the pending situation, the Chair is honoring the position communicated by the minority leader.

Mr. THOMAS. Mr. Speaker, so the minority leader——

Mr. WISE. Regular order, Mr. Speaker.

Mr. THOMAS. Parliamentary inquiry, Mr. Speaker. The Chair's response to Members on this side who request unanimous-consent requests, notwithstanding the appropriate minority member agreeing that it is appropriate, cannot be honored because the minority leader says it is not to be honored?

Is that the way the rule works, Mr. Speaker?

The SPEAKER pro tempore. The Chair can tell the gentleman from California only that, at this point, the

Chair has not recognized the gentleman from Missouri [Mr. TALENT].

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute requests.

THE PRESIDENT SUPPORTS THE IRS, THE REPUBLICANS SUPPORT THE TAXPAYERS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, the President has announced that he is supporting the IRS, and we are announcing here in Congress that the Republicans are supporting the taxpayers. We are on their side. In a nutshell, that is about what it comes down to.

Of course, that is not the news to anyone who has followed politics in this country since the 1960s. Conservatives are the only friends the taxpayers have had since the 1960's. Taxpayers have known ever since the death of John F. Kennedy that liberal Democrats have a soft spot for the IRS and their heavy-handed ways.

It seems that the tradition continues. After having exposed the IRS abuses before a congressional committee, conservatives in Congress propose a bipartisan plan to fix the IRS and bring real accountability to that agency for the first time in a long time.

But the White House does not agree. The White House thinks that the creation of a politically appointed panel that has absolutely no power will really shake things up at the IRS. Hello?

Mr. Speaker, if the White House thinks the IRS is going to change the way it does business as a result of this panel, things are even worse there than I thought. Then again, maybe it is just reflective of their attitude to support the leadership of the IRS over the taxpayers.

WELCOME TO TYLER ADAM GORSUCH

(Mr. CRAPO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAPO. Mr. Speaker, I rise today to welcome a new Member to the Crapo organization, Tyler Adam Gorsuch, the adopted son of my administrative assistant Jane Gorsuch and her husband, George. Jane has been with me since I was first sworn into Congress in 1993, and Tyler is their first child.

Tyler arrived in the United States from Seoul, South Korea, on September 4, and now he is 7 months old, happy, and healthy. Tyler is already busy supporting our majority party. He has indicated as only a child can his total support for the family friendly practices in our office, and he is also politically active, as he has volunteered to assist me in my next election. He came to visit my office last week and provided the day's entertainment to my staff. During his second visit to our office he provided invaluable advice to me on the political outlook for my home State of Idaho.

As a father of five children, I understand firsthand the joys of parenthood. My wife Susan and I enjoy watching our children grow through each stage of development, and I know that Jane and George will love and enjoy Tyler just as much.

Congratulations to Jane and George, and best of luck to them as they embark on the most fantastic journey of their lives, parenthood.

BUREAUCRATIC MALAISE AT THE IRS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, last year, what did 8 out of 10 taxpayers hear when they called the IRS heartline seeking help to tax questions? Nothing, zip, nada. That is right, 8 out of 10 taxpayers could not even get a hello.

What could possibly explain this pathetic bureaucratic malaise? Is the IRS understaffed? No, one hundred and six thousand employees should be adequate, even if all they did was just pick up the phone and say hello.

□ 1815

Is the problem underfunding? No; $7.3 billion in an annual budget; clearly, that is not the problem. The problem lies with the IRS's lack of accountability.

For years the IRS has bullied, harassed, terrorized the citizens of this country while answering to no one, not even answering the phone. Now, with allegations of taxpayer abuse coming to light, layer of Washington bureaucrats after layer shifted the blame for the sorry state of affairs at the IRS until the President has finally been forced to address the issue. How did he respond? He said, quote: "I believe the IRS is functioning better today than it was 5 years ago."

Come on, Mr. Speaker. It is time for the President to get real, get serious, and join the Republican Congress and fix the IRS.

CFC-CONTAINING INHALERS SHOULD NOT BE BANNED

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I call again the Members' attention to a concern I have that the EPA and FDA will ban measured-dose inhalers containing CFC that are vitally needed by asthmatics to treat them when they are suffering from a lack of air to their lungs.

The EPA and FDA clearly are on the wrong side of this issue. There are over 70 types of inhalers today used by asthmatics at a time of critical need. We commend the EPA for attempting to ban CFC in all of our products as they have in hair spray, underarm deodorant, car refrigeration, air conditioning systems, and other things. But the amount of CFC sent into the air by inhalers used by asthmatics is minimal and marginal.

Mr. Speaker, Dr. C. Everett Koop joins us in an attempt to block the EPA and FDA from embarking on this rule that will have devastating consequences to those who suffer from asthma. Thirty million Americans suffer from asthma. Thirty million Americans need this vital medication. Thirty million Americans asked the EPA and FDA to relax this idea and not institute a ban and allow medical science to prove that when we do have adequate medication available, we will then take those products containing CFC off the market.

NAFTA DOES NOT KEEP ITS PROMISES

The SPEAKER pro tempore (Mr. THUNE). Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, they are your typical working family, husband, wife, two kids. Both parents work in an auto plant, but they are still having trouble making ends meet.

They dream of moving into a little nicer home and providing an education for their children, but it is hard to get ahead when they only make $40 a week apiece, barely enough to put food on the table and keep their kids in clothes.

Rafael and Felicia Espinoza work for a large multinational corporation in a maquiladora plant in Reynosa, Mexico, across the border from McAllen, Texas. They make 90 cents an hour. For them, as for thousands of American workers with whom they compete for jobs, NAFTA, the North American Free Trade Agreement, is a series of broken promises.

I sat with Rafael and Felicia last Thursday afternoon in their ramshackle home in one of the hundreds of colonias that have sprung up around Reynosa in Mexico. They have no electricity, no running water. They have a propane tank to fuel their cooking stove, and they have hooked up a cheap little television to a car battery.

They told me their roof leaked. They said they suffer in the winter because the house is poorly constructed. As we talked, their children, happy as most children are when they have loving parents, ran barefoot on the dirt floor. Rafael is a proud man, but he worries about the future because a kilogram of chicken costs up to 30 pesos, about 10 percent of his weekly wage.

NAFTA has failed Rafael and Felicia in part because the Mexican Government refuses to enforce its labor laws. Companies under Mexican law are required to distribute 10 percent of their profits to their workers. Needless to say the Espinosas and their coworkers have yet to see a peso of these profits. The American company claims that it has no profits from its Mexican operations, which they say operates as a cost center, not a profit center.

The NAFTA side agreement on labor has been no help to the Espinoza family. Indeed, they have seen other workers lose their jobs by trying to form an independent union to replace the company controlled syndicate, leaders of which have been known to inform on the reformers.

They are undaunted. "I am going to continue going forward," Rafael said in Spanish, all the while looking straight at me. "There is no law that says it is a crime to have a real union. Even if they fire us, we will continue fighting until we have a union that will wake up and defend our rights under the law.

"The company says it is losing money, but we know it is not. We need the maquiladoras because of our terrible necessity to be working, but they are taking advantage of us for their own interests. We know the company does not want bad publicity, so why is there such injustice? I am not afraid," he continued, "on going forward for myself and my family for my children. We will not quit."

A neighbor, Rita Gonzalez, earns about a dollar an hour. Out of her $40 weekly paycheck, her employer deducts $9 for a very small stove which she proudly showed off in her tiny home, one-quarter of her paycheck for the next 52 weeks for an appliance that would not cost $200 in the United States.

While the Gonzalez family was lucky enough to have electricity, they have no running water and no indoor plumbing. Her brother-in-law, who is 25, suffered nerve damage to his face. They think it is because he worked around massive doses of lead at this American company doing business in Mexico, this American company, of course, which does not use lead in its operations in the United States.

The NAFTA agreement has failed utterly to keep its promises to Rafael and Felicia and Rita and thousands of Mexican workers. They have no effective representation in their workplace. NAFTA has failed to keep its promises to thousands of working American families. They cannot be expected to compete for a dollar an hour. And it has failed to keep its promise of a cleaner environment. The border is a disaster area of polluted water and chemical poisons.

A trip to the border exposes almost immediately NAFTA's broken promises. And those promises should be kept before we rush headlong into another trade agreement that punishes workers on both sides of the border.

The SPEAKER pro tempore. The Chair will entertain further 1 minutes at this point.

PAYCHECK PROTECTION ACT

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, yesterday 158 colleagues joined me in a bill that I introduced called the Paycheck Protection Act. This legislation was introduced to address a problem that occurs throughout the country and is a shame when we begin to think about it. It is a problem that not many people know about, except those individuals who are hard-working wage earners throughout the country who happen to belong to labor unions.

Mr. Speaker, what labor unions are able to do in America today is skim off a portion of workers' union dues and put that cash toward political purposes to support candidates which the wage earner may, in fact, not support, and they do this without securing the consent of the worker who earns the cash in the first place.

Mr. Speaker, that is what the Paycheck Protection Act is all about and designed to help, those hard workers throughout the country who are union members who believe they ought to have some say in where their political cash goes, which kind of candidates they might decide to support, and which kinds of political causes they identify with.

Mr. Speaker, it is an interesting battle that is about to begin here in Congress over the Paycheck Protection Act. This is an issue that divides the labor bosses from the rank-and-file union members. The Republican party stands firmly behind rank-and-file union workers, and we hope to get this legislation passed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MERGERS AND LOGJAMS ON THE RAILROADS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, as ranking member of the Subcommittee on Railroads, I want to talk a little about the problems that I believe many Members, particularly western Members, are going to be hearing about, if they have not already, and those are the increasing tie-ups in the Union Pacific lines dealing from the recent merger of Union Pacific and Southern Pacific.

In some ways it is estimated, if continued under the present direction, this could end up causing as many problems to our economy as the UPS strike. There are many reasons for this. The purpose of my talk is not to point fingers but mainly to look at what are the causes and, more importantly, what can be done about them.

Mr. Speaker, there are many reasons, but basically it stems from the takeover of Southern Pacific by Union Pacific, two large railroads now having to merge their operations, and the logistics have proved to be overwhelming in some cases.

The Wall Street Journal yesterday estimated that there are 10,000 railroad cars a day stuck in limbo; 300,000 cars normally operating under UP and SP have now grown to 340,000, further increasing the congestion.

What has compounded the problems, the slowdowns in deliveries, in some cases the nondeliveries for many days, if not weeks, what has compounded the problem has been the oncoming Christmas season as many manufacturers try to get their products to market.

Also, the predicted good harvests in the Midwest, the fact that the chemical industry has had a good year, particularly along the Gulf Coast, as well as the plastics industry, all of this has overloaded a system that was going through significant transition.

Union Pacific reports some good news, that on September 1, where there were 145 trains a day caught on sidings, that number has been reduced to over 90. However, the speed at which trains have been able to move now has been significantly reduced. That, in turn, means they have to use more locomotives, more crews, to get trains to where they are supposed to go. All of this has resulted in significant economic hardship and could result in more.

Mr. Speaker, the Surface Transportation Board will hold oversight hearings. This has implications for my State of West Virginia because, of course, while we are not a Union Pacific service area, we do have a merger under consideration, an acquisition, as Norfolk Southern and CSX have applied to the STB to take over Conrail.

There are obviously significant differences. Here we are not having one

system completely take over another, but at the same time this should be a warning to the Surface Transportation Board and to those who will be involved in that process, the shippers, the consumer groups, and others, to look carefully at this.

Members should be aware that there are significant issues at stake here. What is it exactly that the Federal Government could be doing today, if anything, to improve the situation? How do we deal with this logistical snafu? Also, the adequacy of the Surface Transportation Board.

This body will be renewing and reauthorizing the Surface Transportation Board next year. Is the staffing adequate to do a number of different functions, to review a merger that is presently before the board such as the Conrail-Norfolk Southern-CSX acquisition or merger, and also to review past mergers such as the Union Pacific-Southern Pacific merger in which there is a 5-year ongoing review period? Is there adequate staffing and resources to review pricing issues and also abandonment issues?

This Congress is going to get firsthand a laboratory experiment that it can view in terms of how UP, SP, and the Surface Transportation Board all work their way through this.

As I say, it becomes important because now the Surface Transportation Board has in front of it another significant merger, this one in the East, unlike the one in the West with Norfolk Southern, Conrail, and CSX. There are some similarities, and yet there are also some great differences.

I do urge all shippers and consumer groups and others who might be involved to look closely, since it is presently in the public comment period, about what role they want to play, because what we are learning today is that once this merger is done, we cannot put the genie back in the bottle and we cannot undo it.

It is important that all parties in this situation of Union Pacific, Southern Pacific, Burlington Northern, Kansas City, and the others, be involved in helping resolve the short-term economic problem that is being caused, logistical problems that are being caused, and then look to see how they can be avoided in the future.

It is very likely that when the Congress comes back in another week, Mr. Speaker, there are going to be significant rail issues before it. Amtrak reauthorization will be one, perhaps the Amtrak PEB, but certainly we need to be paying attention to this as well.

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TRIBUTE TO THOMAS R. BROWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. RODRIGUEZ] is recognized for 5 minutes.

Mr. RODRIGUEZ. Mr. Speaker, I rise today to honor Mr. Thomas R. Brown, Chief of Recreation Therapy Service at the Veterans Administration Medical Center in San Antonio and national advisor to the National Veterans Wheelchair Games, for receiving the 17th annual Olin E. Teague Award for outstanding work with disabled veterans. The Teague Award, named for the late Texas Congressman Olin E. "Tiger" Teague, is given once a year to the VA employee or group of employees whose work benefits veterans with service-connected problems.

Mr. Brown has been involved with recreational therapy at the VA since 1976. A world-class athlete in his own right, he served from 1986–89 as Chairman of the VA's National Sports and Recreation Committee, which oversees the National Veterans Wheelchair Games, the Disabled Veterans Winter Sports Clinic, the National Veterans Golden Age Games, and the National Veterans Creative Arts Festival. Each year, these events inspire thousands of veterans to get out of the hospital and be active and competitive in the community. Mr. Brown continues to serve as national advisor of the Wheelchair Games, which he helped found in 1980.

Mr. Brown's work in the daily therapy of veterans at the VA Medical Center and his leadership in organizing events for disabled veterans at the national level serve as an inspiration, not only to disabled veterans, but to all of our citizens. In dealing with those who have suffered injury while in the service of our Nation, Mr. Brown stands as a beacon to take the road less traveled, and we commend him for his initiative and industriousness.

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, as an American citizen concerned about our Nation's children and as a member of the Missing and Exploited Children's Caucus, I have always admired the work of the National Center for Missing and Exploited Children. This organization, among numerous other tasks, works in cooperation with law enforcement agencies to help locate missing children.

Regrettably, I had the opportunity to see this process firsthand during the August recess. I received a phone call in my eastern North Carolina district office from the parents of a young girl who was missing. I telephoned the National Center for Missing and Exploited Children and was relieved to hear that the center was already working on the case.

Although the following days must have seemed like years to the young girl's parents, the center worked efficiently with the Lenoir County Sheriff's Department and other law enforcement agencies to locate the missing girl. I am pleased to report that those parents got their daughter back safely. The young girl was returned to them as a result of the hard work of the National Center for Missing and Exploited Children and their cooperation with local law enforcement.

Unfortunately, not all parents with missing children see this positive outcome. Each year more than 4,600 children are abducted by nonfamily members. It pains me to say that 800 of these abductions end in murder.

The good people at the National Center for Missing and Exploited Children and a number of law enforcement agencies respond to reports of child abduction quickly, but saving each child is too often impossible. For this reason, the organization not only helps to locate missing children but it also works to raise public awareness about ways to prevent child abduction and exploitation.

Mr. Speaker, America's children are the future of this Nation. I cannot emphasize enough the importance of protecting them from the many dangers that unfortunately exist in today's world.

I would like to take this opportunity to thank the National Center for Missing and Exploited Children and law enforcement agencies throughout America for their hard work and dedication, not only in the case I just spoke of but in their efforts to protect all of our Nation's children. If we all continue to work together, I am confident that we can make the world a safer place for our children.

BROKEN PROMISES MADE TO UTAH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, many of us know that Utah was not too happy on September 18, 1996 when the President of the United States went safely to the South Rim of the Grand Canyon and declared 1.7 million acres a national monument. The President failed to talk to the governor, Senators, Members of Congress, including one from his own party, and did this thing.

Well, we talked about that this week and a bill went through to try to make sure that does not happen again. I commend my colleagues on both sides of the aisle for helping us out on that issue.

But the part that was not mentioned and that I think is very interesting was a promise that was made by the President on the South Rim of the Grand Canyon. I quote:

I will say again, creating this national monument should not and will not come at the expense of Utah's children. Today is also the beginning of a unique three-year process to set up a land management process that will be good for the people of Utah and good for Americans.

What is he talking about? What he was talking about is buried in this thing, the largest supply of compliance coal in the world, over a trillion dollars, trillion with a T, and that money, over a billion or so, would inure to the benefit of the education of the children of Utah.

Mr. Speaker, we are still looking for that to be set up. That was an election year promise. I thought it was interesting. He went on to say: "And I will now use my office to accelerate the exchange process." However, that has been 371 days. It would only take an hour of his time to fulfill that promise, but it has never, never, never, never occurred.

I feel a little bad about this.

I will say again, creating this national monument should not come at the expense of Utah's children who just lost a billion dollars on this in royalties.

Now, Mr. Speaker, I think that is interesting. Now we find the thing the other day, that the President of the United States used the line item veto, and he had the right to do that. I have no problem with that, but I sure wish he would talk to the Department of Defense. I sure wish he would talk to the people of Utah.

Because we had another interesting thing happen on June 16, 1995. In Budapest what happened is they stood up and they made the statement, they said 2002 Winter Games will go to Salt Lake City, and America is euphoric, we got the Winter Games. The Governor of the State stood up. And then we got a call. It was on nationwide TV. And who was it? It was from the White House. What did he say? "Truly, Salt Lake City offers the Olympic family and the people of the world an ideal place to enjoy this peaceful gathering of the world's champions."

He went on to say: "I want to congratulate Salt Lake City on their successful pursuit of the Olympics in 2002. This will be an historic event. It's a great event for Salt Lake City. It's a great event for the western part of the United States." It is a great thing for the United States of America, and we had the entire support of the Federal Government behind it.

So we went with that. We moved out. We started working on an Olympic village, and part of making this Olympic village would be moving 11 acres from the University of Utah and turning it into an Olympic place for all the world's athletes to come, and they could have nice, new facilities as they compete. And the world, 3 billion people at a time, watches the Winter Olympics.

Gosh, Mr. Speaker, do my colleagues know what happened? He vetoed it. I mean, this was the thing, just like what happened on the $1.7 million promise to the children on education. Another promise to take care of this, and vetoed. Sure would have been handy if we just had a phone call. We could have explained to the President.

The Salt Lake Tribune, the largest newspaper in Utah, in its editorial called it a veto in the dark. I think that says it, because no one was alerted, and out of that, back to point zero.

Well, Mr. Speaker, I do not know where we are going to put all these athletes. I hope somebody can think of something. Possibly there are some World War II tents out there. We can put them out on the west desert, maybe bring in some facilities for them. I sure hope somebody with the vision and planning ability can see how to do this.

It is surely difficult to run a State and run a country when we do not think about it, when we veto things and make hollow promises.

IMPRISONED CHINESE PASTOR XU

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, now and then an occasion will occur to shatter our complacency, stir our indignation and seize us with outrage. Too often we take our priceless freedoms in America for granted, but a recent event in China symbolizes the stark contrast between liberty and tyranny.

On September 25, a court in China sentenced Pastor Xu Yongze to 10 years in prison. Pastor Xu, the leader of a movement of more than 3 million Christians in China, was charged with the so-called crime of disrupting public order.

Mr. Speaker, this charge would be laughable were it not so cruel. Pastor Xu is often described as the Billy Graham of China, and he is one of the most well known and widely respected pastors in China.

The Communist authorities first arrested him back in March and engaged in a vicious smear campaign. Their propaganda described Pastor Xu as an evil cult abettor who plays evil tricks on his parishioners. In reality Pastor Xu is a sincere, devout believer who only seeks to serve his Lord and spread the gospel. We have seen this so many times in Communist countries, whether it be Cuba or Nicaragua or Russia, but it is particularly gruesome in China.

Persecution and imprisonment are nothing new for Pastor Xu. In 1988, on the day before he was scheduled to meet with Dr. Billy Graham in China, Pastor Xu was arrested and spent the next three years in prison. Following his release, he courageously resumed his ministry activities.

Reliable reports indicate that Pastor Xu has been beaten and tortured while in prison, and from what we know of the heinous conditions in China's prison labor camps, I fear that his treatment may only worsen.

Mr. Speaker, I believe in a comprehensive, balanced and sophisticated approach in American policy towards China. I believe in trade engagement, a patient dialogue with China. But I also believe in liberty and justice. The time has come to speak out with force against China's outrageous assault on Pastor Xu, human dignity and religious freedom. The values that America stands for and my own conscience demand nothing less.

Mr. Speaker, I have no doubt that my words today may upset some members of the Chinese government. Let me tell my colleagues, I do not care. Let me remind them that I and many others in America have been very patient, and our patience has worn thin, worn very thin.

In May, I quietly wrote to the Chinese Ambassador to politely express my concern over Pastor Xu's arrest. He remained in prison. In June, I led a bipartisan coalition of 44 of my colleagues in writing to President Jiang Zemin, further politely expressing our concern about Pastor Xu. Again, he remained in prison, and we never even received the courtesy of a reply.

In July, August and September, I sponsored and encouraged quiet discussions with Chinese officials about Pastor Xu's situation. Not only did Pastor Xu remain in prison, but the Chinese regime has now given him a 10-year sentence, which I am told is the harshest sentence handed down to a Christian in China since 1982.

Meanwhile, Mr. Speaker, President Jiang Zemin will be arriving in the United States in just a few weeks. I really look forward to the Chinese President's visit. I believe it presents me with an opportunity for dialogue, strong dialogue, and cooperation on issues of mutual interest and concern to the United States and to China.

But I must say, Mr. Speaker, that I am so upset and puzzled by this horrific sentence on such contrived charges that were given to Pastor Xu. Such brazen disregard for American concerns causes me to question China's commitment to a positive, constructive relationship with the United States. As China modernizes its economy, refines its political system and seeks to fully participate in the marketplace of nations, I frankly do not understand why its leadership continues to insist on persecuting innocent people of faith.

I guarantee my colleagues, I personally will make sure that President Zemin's trip here to the United States will not be a happy one.

So, Mr. Speaker, China finds itself at a crossroads. Pastor Xu has been sentenced, but reports indicate that his case may come up for appeal. On the eve of President Jiang Zemin's visit, I believe that the Chinese government

has a valuable opportunity to demonstrate its commitment to the rule of law and to positive relations with the United States.

As Pastor Xu's case comes up for review, I believe it would be a very meaningful gesture if the Chinese government were to guarantee that Pastor Xu's constitutional rights are respected, that his personal welfare is ensured, and his situation is favorably resolved.

Mr. Speaker, let me close by simply quoting an earnest plea from Pastor Xu's son:

Dear friends, I hope that you can help my father. For God and for the church he has sacrificed all that he had. The church in China needs him.

BREAST CANCER LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. MCINTYRE] is recognized for 5 minutes.

Mr. MCINTYRE. Mr. Speaker, today I wish to address an issue of extreme importance to all women in American society, breast cancer. As the most commonly diagnosed cancer among women, breast cancer is the second leading cause of cancer deaths among American women. The impact of this disease cannot be overstated. This year alone over 180,000 women will be diagnosed with breast cancer and 43,000 will die from it.

In a nationwide attempt to raise awareness about this problem, this deadly disease, the month of October has been designated as Breast Cancer Awareness Month. And October 17, next week, has been named National Mammography Day in an effort to encourage women to get mammograms and to make sure that they are joined in the fight against this deadly disease.

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I am joining many of my colleagues in the House, both here in Washington and other concerned citizens back home in southeastern North Carolina, in making sure that National Breast Cancer Awareness Month and National Mammography Day are used as an opportunity to push for the consideration of two bills that have been pending for too long here in this Congress. It is time for these bills to come out of committee, it is time for this Congress to take a stand in fighting a deadly disease that day in and day out is taking the lives of too many women, young, middle aged and old, in our society.

The Breast Cancer Patient Protection Act would end the practice of drive-through mastectomies, and the Reconstructive Breast Surgery Benefits Act would require health insurance companies to provide coverage for reconstructive breast surgery resulting from mastectomies.

Finding a cure for breast cancer is essential, but until it arrives we must address the vital importance of early detection, treatment and recovery from this deadly killer. It is time to take action, it is time to stop the talk and to get on with the walk to walk toward a recovery of this dreaded disease and do all that we can to get these bills out of committee and on this floor and voted on so that our women in this Nation can receive the help they need against this deadly killer. We can and should demand no less.

FAST TRACK LEGISLATION AND THE FUTURE OF AMERICA'S TRADE AGREEMENTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, before I begin my remarks on fast track legislation this evening, let me congratulate the Fighting Elephants in their victory over the Dunking Donkeys last night in the congressional basketball game. It is a biannual game that we have at Galaudet University, which is the national university for the deaf and hearing impaired. We raise money for that school, and we thank all those on the staff of the Congress and Members who came out. We had over 40 Members participate.

We also thank the Speaker for his participation and for the singing of the National Anthem with the Capital Four. It was a wonderful part of the evening.

Mr. Speaker, I want to talk today about fast track. Last spring a little girl from Michigan, named Lindsay Doneth, was rushed to a hospital with a fever of 103. Her lips were bleeding, she was nauseous and she had sharp pains. As Lindsay screamed in agony, her mom and dad sat by her hospital bed unsure whether their 10-year-old would live or die.

Doctors said Lindsay had contracted hepatitis, a potentially deadly blood disorder. And she was not alone. Area hospitals were being flooded with her classmates from Madison Elementary School. Fortunately, Lindsay and the other students survived the outbreak. Today she and her classmates are back in class. As it turns out, all 179 of them had eaten contaminated Mexican strawberries in the school cafeteria.

Now, I tell this story today because it relates directly to the most important issue Congress is now debating: Fast track and the future of America's trade agreements.

Now, some might ask, well, what is the connection here? What do Mexican strawberries and sick children in Michigan have to do with our Nation's trade policies? Absolutely everything. Every day some 10,000 Mexican trucks line up in the sweltering heat waiting to cross into the United States, honking their horns as the traffic barely crawls forward. I have seen it down on the border.

Overburdened customs inspectors have to wave most of them through because they only have time to check about 1 percent. They call this the wave line down there. They just send the trucks on through. So how many go without inspection? More than 3 million trucks a year. Three million.

Unfortunately, under the NAFTA agreement that was signed into law almost 4 years ago, it prevents us from increasing inspections at the border. Under section 717 of that agreement, searching more diligently for pesticides, toxins, parasites and infectious disease could be considered a constraint, or I should say a restraint of trade.

And it is not just tainted food that is slipping into the country. According to the Drug Enforcement Agency, 70 percent of the cocaine entering the United States now rolls across the Mexican border. One former DEA official called NAFTA, and I quote him, a deal made in narco heaven.

Now, I know that some of my colleagues are thinking to themselves and saying, "There goes DAVID BONIOR again, attacking NAFTA." And it is true I have attacked NAFTA over the years, and for good reason, but my remarks this evening are primarily about the future and about how we can avoid repeating the mistakes of the past.

I bring the case of Lindsay Doneth and the contaminated strawberries only because it raises a critical issue in this debate on fast track. Will the trade deals we negotiate promote rising living standards at home and abroad or will they lead to a downward spiral of dangerous food, of dirtier environment, and of lower wages and benefits?

Let me emphasize here that I believe cultivating healthy trade relationships is critical to America's future. But our prosperity will depend not just on the quantity but the quality of that trade. That is why we must negotiate strong and sensible trade agreements.

As an analogy I sometimes compare foreign trade with a wild horse. With a bit between its teeth, the reins in our grasp, and a firm sense of purpose, we can harness the power and ride it where we want it to go. But if we fail to assert ourselves, we run the risk of being thrown and trampled and left behind.

And so I pose the following question: Will our trade deals carry us into the future or drag us into the past?

At stake in this debate is nothing less than the safety of the food we eat, the water we drink and the air that we breathe. At stake in this debate is the safety of our factories, the stability of our farms and the economic security of working families everywhere. And at

stake in this debate are the very values that give our economy strength and our democracy meaning.

There are those who denigrate such talk. They dismiss it as mere idealism. Almost derisively they ask, are these issues really related to trade? And without a doubt, the answer is yes. The world has changed, and the people who would segregate health and safety and the environmental issues during trade negotiations fail to grasp the new reality of this global economy.

Those pushing fast track see trade only in two dimensions, like the flat dusty pages of an accountant's ledger. Like those who scoffed at Columbus for claiming the Earth was round, they cling to the old notions that no longer apply to a modern world. With a lot of talk about the 21st century, they are pulling us back to 19th century conditions: Lower wages, weaker consumer protections, and a dirtier environment. I call that the past masquerading as the future.

Four years ago, when we debated NAFTA, its supporters made some pretty big promises. And today, as we consider fast track negotiations to expand NAFTA to other countries, it is incumbent upon us to review the impact that that agreement has already had. So let us look at it for a second.

In 1993 NAFTA supporters promised that the agreement would generate hundreds of thousands of new jobs. They were wrong. According to the Clinton administration's own assessment, NAFTA-related exports have generated somewhere between 90,000 and 160,000 new jobs. And they quietly say that the agreement has had a modest positive effect on the U.S. economy.

But those figures do not account for nearly 150,000 Americans who lost their jobs as a direct result of the agreement. That figure comes from the Labor Department, and it only includes those workers who received health under NAFTA's narrow trade adjustment assistance program. Other estimates of NAFTA job-related job losses run much, much higher. The Economic Policy Institute issued a report last month that indicated NAFTA has cost nearly 395,000 American jobs.

Whatever the exact figure may be, the Labor Department found, this is our own Government, they found that two-thirds of Americans who lost their jobs due to foreign trade end up with work that pays less than they earned before. Two-thirds of the people. Now, I do not call that progress. I call that slipping backwards.

In 1993, NAFTA supporters promised that the agreements would generate higher wages on both sides of the United States-Mexican border, and they were wrong. Mexican wages along the border dropped from $1.00 an hour, as abysmal as that is, to 70 cents an hour, according to the International Monetary Fund. And tragically that is despite the fact of a 26-percent increase in Mexican productivity over the past 3 years.

So the Mexican workers are working harder, they are producing more, they are more efficient, things are increasing by 26 percent, and they are getting paid 70 as opposed to a dollar when NAFTA was first established.

All this is putting downward pressure on wages here in the United States, affecting our own workers. Last year a Cornell University study found that 62 percent of U.S. companies have used the threat of shutting their doors or moving abroad to hold down wages and cut back benefits and undermine collective bargaining here at home.

Now, imagine that. Sixty-two percent of our companies go to the bargaining table with their workers and say, listen, if you do not take a cut in wages, if you do not take a cut in benefits, we will shut the doors, or we are moving south to Mexico.

One Michigan factory even loaded an entire assembly line on a flatbed truck, put it in front of the company with a sign that read, "Mexico transfer jobs." The workers got the message very soon, and soon they dropped their push for union representation and a better contract. So it is intimidation, not good faith bargaining, and that apparently has become the coin of the realm.

In 1993, the NAFTA supporters promised the agreement would help boost American exports. United States exports to Mexico have risen. But what NAFTA supporters will not tell us is that most of these are what we call revolving door exports. They come in, they come right back out. United States components sent to the maquiladora factories along the United States-Mexican border for a quick assembly by low wage workers, with no protections and no environmental protections, and immediately shipped back to the United States. They are not even there long enough to have a visa, if they were required to have one. They are just shipped, assembled and right back here.

Dr. Harley Shaiken, an economist at the University of California at Berkeley, found that such exports represented more than 60 percent of the products we shipped to Mexico last year. That is up by half from 1993. And our trade balance? Worse than ever. In 1993 we enjoyed a $2 billion trades surplus with Mexico. That is right before NAFTA. Four years later, after it passed, that surplus has become a $16 billion deficit. I do not call that progress. I call that slipping backward.

NAFTA, which was negotiated on a fast track, has been a self-destructive trade policy. It is one that enriches the economic elites and leaves working families poorer on both sides of the border.

Now, is this really, is this really the model that we want to replicate elsewhere in Latin America and throughout the world? Is fast track a process that we should repeat?

Let us take a closer look at the food safety issue.

Last week, and I encourage anybody who has not seen it, front page of the New York Times, they reported a dramatic rise in disease linked to imported foods, especially fruits and vegetables. Evidence suggest Lindsay Doneth and her Michigan classmates are but a few of the victims of poisoned produce.

In 1996, thousands of Americans fell seriously ill after eating tainted Guatemalan raspberries. The fruit was apparently contaminated with a parasite living in the water used to irrigate the fields. But when an American inspector informed the Guatemalan growers of the problem, the growers got angry. They banished our inspectors and accused the United States of trumping up the health issue as a way to protect California berry growers.

Gabriel Biguria, a leading Guatemalan exporter, called the United States complaint, and I quote, "a very dangerous tool for protectionism." So when we stand on the side of making sure our kids do not get poisoned because they are eating contaminated vegetables or fruits, we are a protectionist. He said that protectionist forces find bugs or whatever to protect their market. It is a commercial war.

Now, I wish I could say that Guatemalan raspberries were the only threat to our health, but they are not.

□ 1900

Contaminated Peruvian carrots, Mexican cantaloupes, Chinese mushrooms, and the list goes on and on and on. The New York Times also reported that while food imports into the U.S. have doubled since the 1980's, inspections have dropped to less than half of what they were 5 years ago. No, I do not call that progress, I call it slipping backward.

As the former FDA commissioner, someone who has immense respect in his field in this country, and around the world, I might add, David Kessler said, "We built a system back 100 years ago that served us very well for a world within our borders. We didn't build a system for the global marketplace."

Because crops are, by necessity, exposed to air and water, the safety of the our food is closely linked to the conditions of our environment. I say "our environment" because polluted air and water respect no international boundaries; they do not follow the dotted lines on our maps.

When we debated NAFTA the last time around, its supporters promised environmental cleanup on a massive scale. In order to get the votes, they promised a $2 billion set-aside to clean up toxic sites along the border. Today, not even 1 percent of that fund has

been spent and factories there continue to pollute at will.

I have seen the pollution along the border firsthand. I visited a field littered with used batteries. It looked like a moonscape covered in white powder, and lead was leaking into the ground right across from the region's largest dairy farm that served literally millions and millions of people. The cows were grazing not 20 feet from the poisons that cause low IQ's and aggressive behavior in children who drink their milk. I have seen Mexican mothers drinking from the same ditches used to flush out factory waste and domestic sewage. I have seen their children playing and bathing in it. It is no wonder birth defects are common in these slums.

The American Medical Association called the border area that I am describing to my colleagues right now "a cesspool of infectious disease," and for good reason; a full 17 percent of Mexican children get hepatitis from contaminated drinking water.

To paraphrase Edward R. Merrill, this is an industrial harvest of shame along the border, an industrial harvest of shame, people living in subhuman conditions, all under our sanction.

In essence, NAFTA gives multinational corporations a financial incentive to relocate environmental regulations where they are the weakest, to locate where environmental regulations are the weakest. So why adhere to higher standards north of the border when they can move south and pollute with impunity?

When multinationals do this, they are just following the market incentives NAFTA negotiators set up, and then they are passing the hidden cost down to us. This sets off a race to the lowest common denominator. While multinational corporations might be able to avoid pollution standards, you and I will not be able to avoid the pollution that they produce.

That is because, as I mentioned earlier, polluted air and water and food do not stop at the dotted line on the map. We breathe it. We drink it. We eat it. A factory spilling filth in Juarez, Mexico, might as well be located in El Paso, Texas, whose residents breathe the same air and they pump the water from the same river as their Mexican neighbors.

So while the economy may not yet be completely integrated, the global environment surely is. And that makes pollution a bona fide trade issue, one with real economic and human cost. Recognizing that requires us to think about trade in a new way and to develop our trade policy accordingly. Addressing these issues in the so-called side agreements, executive orders, and other measures will not work. That was done during NAFTA, and it has not worked.

Last week the President addressed the issue of food safety by seeking to expand the power of the Food and Drug Administration and increase the number of inspectors. He proposed empowering the FDA to ban produce imports from countries which failed to comply with health standards.

Well, I respect his intent, but I respectfully suggest that such unilateral, reactive action divorced from our trade agreements would not be nearly as effective as a proactive negotiation with our trading partners.

By establishing a minimum standard in our trade agreements, we could work together to prevent potential problems from developing in the first place and avoid rancorous disputes down the line. We must adopt this proactive posture if we hope to preserve the standards of our parents and our grandparents and our great grandparents, the standards that they struggled to establish for us.

Just to review history briefly, and I think it is important to do that, we do not talk about history enough and what our folks did before us. Just remember that, at the turn of the century, industrial accidents were killing 35,000 American workers each year. An additional 500,000, a half million, were being maimed. It took a fire that claimed the lives of 146 immigrant women locked inside the Triangle Shirt Waist Company to ignite a movement for workplace safety. And we got workplace safety standards.

Today, most Americans take their right to a safe workplace for granted. In the fall of 1913, some 9,000 Colorado miners and their families went on strike for an 8-hour day. To break the strike, the mining companies mounted a machine gun on an armored vehicle and dubbed it "Death Special" and sent it rumbling out to intimidate the workers. Fighting broke out. The strikers' tent colony was burned to the ground. Twenty-one people were killed, including 11 children. Today, most Americans take an 8-hour day for granted.

At the turn of the century, unscrupulous meat packers were selling carloads of rotten beef to a powerless public. It took Upton Sinclair's 1906 novel "The Jungle" to expose this deadly fraud and spark a movement for food safety.

And I could go on and on and on and talk about the movements, the sitdown strike in Detroit, Michigan, that helped create the unions that brought the largest and most bondable middle class in the history of the world in this country.

I can talk about what happened at Homestead in Pennsylvania with the steelworkers. I could spend 5 hours going over example after example of people who came before us who established with their heart and their guts the standards that we enjoy today, people who bled for, were jailed for, were beaten for, and some died for the rights that we so much enjoy.

Until recently, Americans thought they could shop at a supermarket without worrying about the safety of their food. They are not so sure anymore.

I cite these historical examples because I think it is vital to remember where we come from and the sacrifices previous generations made so that ordinary people might enjoy a decent standard of living.

As we approach a new century, these historic gains are being undermined. They are being undermined by powerful multinationals which have no allegiance to this country or any other, only to the bottom line of their quarterly earnings reports. But just as Teddy Roosevelt and the Progressive Movement rose up against the great industries that stomped like giants across America's economic landscape, we will not permit today's multinationals to trample our rights.

As citizens of the United States, we have a vested interest in developing a trade policy that provides market incentives, responsible incentives, responsible behavior on the part of everybody engaged in international commerce.

Fast-track supporters will argue that the United States cannot expect less developed countries to adhere to our standards. Well, they did not make that argument when they insisted on protections in NAFTA for intellectual property produced by major corporations like Disney and Microsoft. We should protect intellectual property. But we should also insist that Lindsey Doneth gets as much protection as Donald Duck. And right now, that is not the case.

Recognizing this requires us to think about trade in a new way and to develop our trade policies accordingly. I am not arguing that other countries must establish the exact same minimum wage as we have, not at all. But we know, we know from our history, that the living standards we enjoy, the consumer protections we rely on, the freedoms that we cherish, the rights that we claim, they just did not happen, and if we are not careful, they could disappear.

From the American Revolution, to the Civil War, to the battlefields of Europe, to the strawberry fields of Watson, CA, to the factories of Flint, MI, Americans have had to fight for opportunity and justice every step of the way. Nothing has been automatic. This should tell us something, that similar progress outside the United States will not be automatic either.

Unchecked market forces alone did not generate safer food, better wages, or a cleaner environment here in the United States, and unchecked market forces alone will not generate them abroad either. There are brave people struggling today for basic rights throughout Latin America, just as our ancestors fought earlier this century

for the rights we enjoy in the United States. Our trade policy should help working people get ahead in life, not keep them mired in poverty as NAFTA does.

It has always taken some constructive countervailing pressure to ensure that free market benefits the broad majority, not just the economic elites. That is what the Progressive Movement at the turn of the century was all about.

Today, as the United States embraces a growing international market, our trade policy must help to provide that countervailing pressure, harnessing economic growth for the benefit of many, not just the few. And that is why we need to negotiate tough trade agreements, trade deals that include strong environmental labor and consumer protections, trade deals that promote prosperity and reflect our commitment to democratic values and a decent standard of living. It is not an either/or choice; we can do both. That choice lies in how we structure our trading relationships. America should be negotiating tough trade deals that harness the power of trade and reflect our commitment to democratic values.

Global trade is here to stay. The question is, what are the rules going to be and who is going to benefit? If we do not stand firm against the international tug of lower standards and lower wages and lower benefits and a dirtier environment, then nobody will. If we do not stand firm, all of us will pay the price and so will generations to come.

America must stand up for what is right, just as we have so many times in the past. We must point the way to the future. We must exercise what they call "leadership." Those who support Fast Track often like to bandy that term about. "America must be a leader," they say.

Well, I agree. But what they are proposing is that America lead a retreat to the past. What they are proposing is a policy that has already failed. What they are proposing leads us in the wrong direction. America needs a trade policy that helps build a better future. Hammering this out with our trading partners will not be easy. But that is what leadership is all about, convincing people of a better direction, not just following the comfortable ruts of the past. Leadership is about standing up for what is right, not about caving in to what is easy.

It would be easy to negotiate trade agreements that surrender hard-fought gains of this century, but that would be wrong. It would be easy to set aside the toughest trade issues for the sake of a quick agreement, but that would be sowing the seeds of our own decline.

Fast Track supporters claim that this process is necessary to land important new trade deals. But the administration has already negotiated more than 200 such deals without Fast Track.

Fast Track supporters claim that that process is essential if the United States hopes to boost trade with South America. But in the past year alone, our trade surplus with South America has doubled to $3.6 billion, far outstripping all of our rivals.

Fast Track supporters claim that this is a philosophical struggle, and they label me and my friends wrongly as protectionists. Well, to them I say, the old argument between protectionism and free trade, that died a long time ago. Ours is the debate about America's capacity to shape the future.

But I will tell them, and I will tell them with pride, that I do believe in protecting the air we breathe, I do believe in protecting the water that we drink, I do believe in protecting Lindsey Doneth and the children of America from unsafe food, and I do believe in protecting the American values that endowed our democracy with direction and purpose and spirit and with meaning.

So, as we approach the 21st century, I refuse to trade these away, on a fast track or any other track. America can do better, and we must do better. With a new progressive approach to foreign trade, one built on our democratic values, we can both honor our history and embrace our future.

Mr. Speaker, it is now my distinct honor to recognize and yield to the gentleman from New Jersey [Mr. PASCRELL], my distinguished colleague, who has been a real champion on this issue and has been here late into the evening talking about this, educating our colleagues.

The gentleman from New Jersey [Mr. PASCRELL] has been a wonderful inspiration. We are just so honored and delighted to have him in the Congress. At this point, I would yield to him.

Mr. PASCRELL. Mr. Speaker, tonight I rise to discuss a matter of great importance to my district and to the Nation as a whole, the issue of the renewal of fast-track trade negotiating authority. This is first a consumer issue, second a jobs issue, and third a wage issue.

□ 1915

The previous speaker, the distinguished gentleman from Michigan [Mr. BONIOR], has clearly defined the parameters of this debate very differently than the administration.

As the debate moves forward, and as supporters and detractors of the measure voice their positions, I rise tonight for the purpose of clarification and to share the conclusions that I have come to regarding this important issue.

The President's measure seeks to extend fast track authority for 8 years. As such, it sets our national trade policy as we approach and then enter the 21st century.

No one doubts the fact that we do live in a global economy and that nations are more interconnected than ever before. No one doubts that if we are to retain our preeminent position in the world, we must lead from strength, both economically and morally.

For me, global leadership in the area of international trade means that fair trade should not be subordinated to the notion of free trade. We must trade with other nations on an equal footing and not sacrifice American jobs to those earning a lower wage, particularly when that nation has not yet achieved our level of social, economic and environmental development.

The proponents of fast track argue that the administration deserves this ability based on what they perceive as a successful NAFTA policy. They point to the creation of 311,000 new jobs. I take exception, and many take exception, to this figure and cite an alternative one documented which states that 600,000 jobs have been lost during NAFTA's first 34 months. In northern New Jersey alone where I live, statistics show that approximately 15,000 jobs have been lost since 1993. Many companies in my district, small machinery, apparel, textile, foot wear, specifically point to NAFTA as the proximate cause of the reduction in their business.

This leads me to my next point. Fast track is about jobs, but just as importantly, it is about consumer safety in areas like imported food; it is about the environment and environmental degradation; about labor rights and the viability of small businesses; and finally, it is about the consumers paying a reasonable price for goods. We should not lower our standards and sacrifice consumer safety and environmental protections and labor rights simply because we subscribe to the notion of free trade, which has proven to be a myth in the last 4 years.

Trade policy needs to be inclusive regarding these important elements, not exclusive. Labor and environmental provisions need to be in the core agreements, not in unenforceable side agreements which put our workers and our jobs at risk and in jeopardy. If we do not lead from the high ground, we will relinquish all that we have accomplished in our long process to achieve the society that we now live in, the greatest democracy in the world.

The argument that this fast track legislation represents forward progress rings hollow to my ears and to many of my colleagues. The facts and figures and anecdotes we are about to discuss will bear this out. We need a forward-looking trade policy, not one that looks backward.

Mr. Speaker, in the very short period of the last 3 years, the consumer in this country is now in a position never before, never before experienced, and

that is, imported apparel to the United States of America is now 2.2 percent higher than domestic apparel.

Yet, when we look at these charts, we see that in imported apparel to the United States of America there is a retail market of 55 percent, compared to 50 percent in those domestic goods made here. Yet, when we look down lower to imported goods, only 1 percent of the total picture goes to manufacturing labor. In our chart to my far right, the domestic apparel takes up 15 percent for labor.

How can our workers compete against these figures? And yet, at the same time, our wives and our loved ones go into stores and pay much more for goods that are being paid for and manufactured for literally bowls of rice in certain parts of this world. This is not an open market, this is constriction. This is not helping the American consumer, this is hurting the American consumer. This is not creating jobs, this is hurting jobs in America. We need to stop exporting those jobs.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, my colleague makes a wonderful point here. What he is saying is that the wage being paid to workers in other countries to manufacture this apparel is one-fifteenth, if I am correct, of what was being paid to American workers to manufacture the apparel here.

Mr. PASCRELL. That is exactly what I am saying.

Mr. BONIOR. And yet, Mr. Speaker, those products when they come here have a price tag on them comparable to what the prices are here, or even more, so someone is doing very, very well.

Mr. PASCRELL. Very well.

Mr. BONIOR. It is not the worker here, because they are losing their jobs to people who are getting paid less there. It is not the worker there, in Mexico. As I pointed out, their wages have gone from $1 an hour to 70 cents an hour, despite the fact that they are producing 26 percent more. It is not the consumer that is getting the benefit, because the rates they are charging for this apparel are the same or even more when they come in here, so what is going on here?

Mr. SCARBOROUGH. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Florida.

Mr. SCARBOROUGH. Mr. Speaker, the gentleman asked the question, and I think everyone knows the answer: Who is making the money? It is certainly not Main Street, it is Wall Street.

The gentleman and I certainly disagree on several issues, but I think people understand, throughout their districts across America, who is making the profits. It is very, very obvious that it is a quick kill, it is a quick buck. And regrettably we have too many people in this Chamber on both sides of the aisle, and in this administration and in past administrations, that are so concerned about their friends on Wall Street, so concerned about some businesses that might make a quick buck, that they forget all of the people that are getting crushed in the meantime.

It is something that concerns me greatly. It concerns me when we have the debate over China MFN, it concerns me when we talk about other countries. It seems to me that in this day and age, everybody is open to the highest bidder.

In a fireside chat F.D.R. made in 1938, he said at the end of his speech, and in the deepest, darkest time of the Depression, he said, "My fellow Americans, things are bad, but at least we are having a financial crisis and not a spiritual one."

I would say when we turn our jobs over to the lowest bidder across the world, be it in Mexico or China, or now in the areas that we are talking about going into, that we are having a crisis of the American spirit that F.D.R. warned about 50, 60 years ago. And despite our disagreements on other issues, I thank the gentleman for bringing this very important issue up.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his contribution. I think he has hit it right on the head.

The regrettable part of all this, of course, is that people look at the economy and the unemployment rates today and they say gosh, unemployment rates are down. But as we illustrated in our discussion just this evening, those 395,000 Americans who lost their jobs in the last less than 4 years as a result of NAFTA, according to the Economic Policy Institute, almost 400,000 people, what they did, they found other jobs, most of them, but two-thirds of them found jobs that paid less.

That is what we mean when we talk about downward pressure on wages, downward pressure. Because of the leverage that the multinationals hold over workers, the leverage because they can go to places like Mexico or Malaysia or other places and they do not have to adhere to these environmental standards; they do not have to adhere to any wage and safety laws; all of the things, as I said earlier, our parents and grandparents and great grandparents fought for and that we take for granted today.

Mr. PASCRELL. Mr. Speaker, before I yield to my colleagues, I just wanted to bring out something that both of my colleagues have mentioned, and that is in terms of wages. Just today in the papers in New Jersey, and that is in 1990, if one was making in the area of $44,000 to $45,000 a year, since that time, in that 5- or 6-year period that we have the statistics for, one's wages increased $104 in those 5 years. Anything below that, anything below that, and that means a lot of folks in my district, the Eighth District in New Jersey, the losses can be anywhere from $800 to $2,000. Those are astonishing numbers.

Now, we want and believe in trade, but we want our workers and our businesses to benefit. We have redefined the debate very significantly, because this is not labor versus business. Many of those who oppose fast track in my district own businesses and are very conservative, austere business people who are being hurt, and they understand what is going on very well.

So to define this as this against that, we are not going to accept that this time, are we?

Mr. SCARBOROUGH. And if the gentleman will yield again, the numbers, there is such a difference between those two numbers, and I think it illustrates very vividly that we can seek middle ground. I am a conservative, laissez-faire free trader, and yet, that does not mean we have to be dumb.

We can fight for fair trade, but for some reason, if we engage in this debate and say, "Hey, wait a second, let us just make sure, maybe we will not have a level playing field with Mexico, let us just make sure we can at least get in the game," then all of a sudden we are attacked for being an isolationist or a protectionist or having our head in the sand and not understanding the realities of global economics in the 21st century.

I think they are setting up false choices and I think the numbers that the gentleman points out illustrate that vividly. We can find middle ground on an issue like this, but this certainly is not middle ground, this is extremism on the side of just blatantly unfair trade.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Florida [Mr. SCARBOROUGH] for his comments, and I thank the gentleman from New Jersey [Mr. PASCRELL].

A SCANDAL-RIDDEN ADMINISTRATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 30 minutes as the designee of the majority leader.

The SPEAKER pro tempore [Mr. THUNE]. Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 45 minutes as the designee of the majority leader.

Mr. SCARBOROUGH. Mr. Speaker, I certainly appreciate the gentleman yielding me some time to discuss some very important issues regarding trade, and we certainly did find some agreement on that issue, and we have found agreement on several other issues.

One area, though, where obviously I have been in disagreement with several friends on the other side of the aisle and that many of us have found disagreement with many of the other Members on the other side of the aisle has to do with some of the horrifying, more horrifying aspects of the current campaign fund-raising scandal that is gripping the White House and actually forcing them to engage in a bunker mentality that is really bringing about some pretty devastating results, and I would say could possibly be causing a constitutional crisis.

□ 1930

I say that because this scandal reaches far beyond the walls of the White House. We found over the past several years, mostly from very astute reporting from The Washington Post and from The New York Times and from other media outlets, print media outlets that had to investigate this because, regrettably, the Justice Department has not been doing the job, we found some very, very shady activities going on between the White House, the Democratic National Committee, the CIA, the FBI, the National Security Council, the INS, possibly the IRS, the Office of the Presidency, the Office of the Vice Presidency, the Commerce Department, the Energy Department, and just about every other administrative agency across Washington, DC.

Mr. Speaker, what is causing a constitutional crisis is the Justice Department's apparent willingness to sacrifice its role as a fair and impartial observer of scandals that are swirling around the White House. In fact, in 1993, a more independent Janet Reno, the Attorney General, talked about the inherent conflict between the Attorney General and the President, saying that it was very hard for these two people to work together in investigations.

Maybe that is why The New York Times wrote just last week that Bill Clinton and Janet Reno could no longer be trusted to investigate these matters. Now we find the President's past chief counsel coming to the Senate this past week talking about these coffees. Now, I think most Americans have heard about the infamous White House coffees where the President would bring in donors, they would have a coffee, then they would sort of get shaken down, they would get the finances, and there would be a fundraiser on Federal property, then they would leave and give the checks to the DNC.

Well, it is very obvious that these were fundraisers. And, in fact, I hardly think there is a reputable member of the mass media or this Chamber that could tell my colleagues with a straight face that they were not fundraisers. But, unfortunately, the White House continues to underestimate the intelligence of the American people.

Mr. Speaker, a headline in yesterday's newspaper talks about Harold Ickes. "Ickes insists coffees were legal," says the headline, "testifies that the sessions were not fundraisers." The article says the following, "Harold Ickes, the former White House aide who ran the Clinton-Gore reelection campaign, deflected questions from a Senate panel yesterday and insisted that the slew of Presidential coffees that raised more than $26 million were not fundraisers. 'There was no admission charged,' said Ickes. 'There were people who came to the coffees who never gave a dime.'"

Mr. Speaker, this strains all credibility. We know that $26 million was raised at those coffees. We also know that there is a Democratic Senator who, after investigating this, said that, yes, we Democrats have to admit that at least 103 of those coffees were fundraisers. Over 100 of the coffees were fundraisers. A Democratic Senator admits on the investigating panel, and yet Mr. Ickes claims with a straight face that these were not fundraisers.

There was a memo to the President of the United States talking about these fundraisers, explaining how they needed to have fund-raisers, more coffees, explaining how they needed to sell access to the Lincoln bedroom through fundraisers. Mr. Speaker, despite that, despite the fact that the President signed off on those memos approving fundraising coffees and fundraising sleepovers at the White House, they still come to us with a straight face and say they were not fund-raisers. How stupid do they think the American people are?

I think most telling though, and I am going to ask the gentleman from Indiana [Mr. SOUDER] for some clarification here, perhaps most telling is the fact that we had a White House that obstructed justice, in my opinion, and in the opinion of many other people, by refusing to turn over tapes that they had in their possession for 7 months.

Mr. Speaker, it is a tape scandal, and it smells an awful lot like the Watergate tape scandal of 20 years ago. But it is a tape scandal where they were asked to turn over the evidence, they claimed they did not have the evidence, just like the First Lady claimed she did not have billing records on Whitewater issues and then they turned up mysteriously 2 years later.

So they did a computer check to try to find out whether they had these tapes or not. When they did the computer check, they checked under "coffees" and what did they find? 40 hits? 43?

Mr. SOUDER. Mr. Speaker, if the gentleman would yield, I think that they initially found 44, and now they found 140 allegedly under "Democratic fundraisers."

Mr. SCARBOROUGH. Mr. Speaker, reclaiming my time, but then The Washington Post editorializes, when they redid their search and typed in "Democratic fundraisers," they came up with over 100 hits and over 100 tapes. So we get these tapes turned over, and what do we find magically? That the tape with John Huang, a central figure in this investigation, mysteriously has the audio erased.

Mr. Speaker, I think maybe they had Richard Nixon's secretary who erased 18 minutes or so of tape, possibly, 20 or 30 years ago working for the White House, because now we find that we have an entire coffee erased, and yet they come to us with a straight face and they say that these were not fundraisers.

It is absolutely unbelievable. So unbelievable is the charge that The Washington Post wrote an editorial earlier this week called, "Giving faith a bad name." I have got to tell my colleagues, this is what is disturbing to me, a conclusion reached by The Washington Post, because as a student of history, as somebody who cites Harry Truman and Bobby Kennedy as two of my biggest heroes, I do not think it is in this country's best interest for us to have a failed presidency. It is not in my interest to have a failed presidency. It is not in anybody's interest in this Chamber to have a failed presidency.

I think even more dangerous for us is if we allow the entire system of the United States Federal Government to fail. If we allow this constitutional crisis to come and go with the President, the Vice President, and other Members of the administration being able to do the bait and switch on the American people, being able to engage in coverups, being able to engage in illegal activity and not at least be called on it.

This is what The Washington Post said earlier this week: "The attitude of the White House towards telling the truth whenever it is in trouble is the same: Don't tell it."

It is The Washington Post saying the White House's policy on telling the truth if it gets uncomfortable is to simply lie. That is not a lesson that I want my two boys to learn when reading American history.

The Post goes on to say, "Don't tell the truth or tell only as much of the truth as you absolutely must, only if it helps."

They go through a laundry list about the White House firing Travel Office officials in the first term, then they tried to get, and this is a direct quote, "they tried to get the FBI to sign off on a press release suggesting that the firings had been a result of suspected wrongdoing." And why were they doing this? They were doing this because the President had a cousin and they had some friends in Hollywood and Arkansas that wanted to get the business. So when they got caught trying to divert business over to their buddies in Arkansas and Hollywood and to the President's cousin, they then pick up the phone, call the FBI, and try to pressure

the FBI into saying these people were fired for wrongdoing. That is unbelievably shameful.

Yet, Mr. Speaker, I have yet to hear a Democrat in this House condemn that behavior. I have yet to hear a Democrat in this House once raise their voice in concern over the fact that later on this administration used Craig Livingstone to illegally seize 900 FBI files of their political opponents. I remember Chuck Colson being sent to jail two decades ago because he misused one FBI file. This administration illegally seizes and misuses 900 FBI files of average American citizens for their own political purposes, it was the President's political hit list, and yet nobody, not one person on the Democratic side raises their voice in concern.

The Washington Post continues: "It's still not clear who may have taken what and at who's orders out of the Office of Deputy White House Counsel Vince Foster after he committed suicide and while the police were still investigating it in 1993. Whitewater prosecutors want some of Mrs. Clinton's billing records having to do with her work at the Rose Law Firm before coming to Washington. They cannot be found," says The Washington Post. "Then miraculously turn up one day in a box on a table in the White House. Webster Hubbell is driven to resign as Associate Attorney General and before he is being sent to jail, he is being pressed by prosecutors to tell what he may know regarding the looting of a savings and loan at the heart of the Whitewater affair. Lucrative jobs are found for him, which prosecutors think may have been to keep him quiet."

The Washington Post says, quote, "First the White House says that no one there, including the President, even knew about the jobs. But then it turns out, yes, they knew, but, quote, 'The key thing is that with regard to the main job, neither the President nor his top aides had,' quote, 'any knowledge of Mr. Hubbell's retention prior to his being retained.' ".

As to the campaign stuff, The Washington Post continues, this week, "Their first reaction to the name of John Huang is to suggest they have never heard of him. That was before it turned out that he had visited the White House 78 times in 15 months."

The Washington Post continues. "Vice President GORE first said he thought the purpose of the fund-raiser he attended in a Buddhist Temple in California in 1996 was community outreach. When his recollection was refreshed by documents to the contrary" says The Washington Post, "he authorized an aide to say he had known the event was, quote, 'finance-related' and should have said the purpose was, quote, 'political outreach.' Later another aide said the purpose was donor maintenance."

And then The Washington Post asks the question, "Who thinks of these things?" And the Post concludes, "and they go on and on. They keep asking," the White House, "indignantly, even a little petulantly over there where they are not believed as to why they keep putting out their successive version of the story. Can anyone really believe they do not know the answer and can anyone believe that this is on the up and up?"

Mr. Speaker, I have got to tell my colleagues when The Washington Post is writing things like this, when they write the attitude of the White House toward the truth is whenever it is in trouble, it is the same, "Don't tell it," when The New York Times editorializes last week that you cannot trust the President or the Attorney General to investigate some of the most serious campaign-related charges in this republic's history, I have got to tell my colleagues, it causes me grave, grave concerns.

If we read through this and read what the Post says and read what the Times says and then say why is there not a single Democrat standing up other than JOE LIEBERMAN in the Senate, and saying that they have a concern? Is it because that maybe all of them are illegally profiting from this?

I mean, when the New York Times on Wednesday September 10, 1997, writes in its headline, "Democrats Skim $2 Million to Aid Candidates, Records Show," this is very serious. Even their own donors are concerned. Even good Democrats across the country who have contributed to this White House and to these Members in Congress are being set up. One was quoted in the New York Times as saying the following: "Whoever did this should go to jail. This is illegal, and they knew it."

□ 1945

This is illegal and they knew it. The Times said that was a Democratic Party contributor who requested that their name was not to be used.

We go on and we find out on the same day, Wednesday, September 10, that the chairman of the Democratic National Committee admitted arranging access for donors. In fact, the DNC chairman admitted that he arranged for an international fugitive to get into the White House.

Now, how did he do it? The first thing he did was he had a meeting with the international fugitive. The international fugitive said, "I have this business deal, I want to get it through the White House." The international fugitive goes to the DNC chairman, says, "Can you get me in there?"

The DNC chairman writes on his notes of this meeting that he is having with this international fugitive, "Go to CIA." It is that clear. He said, "Call CIA Bob."

The National Security Council in the meantime had an aide that said we should not be letting an international fugitive into the White House to meet with the President. But then the DNC chairman calls the National Security Council and says, "Go ahead and let him in. We will have the CIA call you up and tell you that everything is okay."

In fact the White House aide testified that she was being pressured to let this international fugitive in. She also cited Energy Department officials and the CIA during her testimony before the Senate hearing. She was quoted as saying, "I was shocked. I said, what the hell is going on? Why are you guys working with Fowler?" Who is the Democratic National Chairman.

Well, when we finally had the international fugitive come and testify before the committee, he admitted he got access by giving the Democrats money. And when he was asked if he had any concerns about it, he gave them $300,000, he said, "Yes, I did have a concern. I think next time I will give $600,000."

So what did the New York Times say about the White House using the CIA, using the NSC, using the Energy Department and using the Democratic Chairman to get an international fugitive an audience with the President of the United States so he could give them $300,000? The New York Times editorialized that the international fugitive actually was affirming that in the shadowy regions of the international business world it was believed accurately that during 1996 dubious entrepreneurs could buy White House audiences, particularly if they did not quibble about the cost of the ticket.

The Times went on to say, that so many high level people even took the party's role into consideration is one of the most shocking lapses of judgment. That is the New York Times, usually a friend of Democratic White Houses.

Then we go on talking about the Democratic National Chairman's selective memory. Remember, this guy had sat down with an international fugitive. The international fugitive wanted access to the White House but the National Security Council would not let the international fugitive into the White House. So the international fugitive goes to the Democratic Chairman, "I am an international fugitive. I need to get into the White House. I got a friend at the CIA. Can you give Bob a call?"

So the DNC chairman says, "Sure." Chairman of the Democratic National Committee, I guess he had contacts. He said, "I will call the FBI or the CIA." So he calls the CIA. The CIA lets the international fugitive into the White House. They circumvent the NSC. International fugitive goes in.

And then when he is asked by the Senators what happened, he says, "I have no recollection." Now, that is going around in Washington these

days. I think if you mix water from Washington, normal tap water from Washington with a subpoena regarding the White House, it is an instant formula for amnesia.

And this is what the New York Times said about the DNC chairman who used improper contacts to get international fugitives into the White House: "Yesterday's testimony yet again punctuates the fiction that abuses that occurred were solely the responsibility of the Democratic Party and not this White House."

I will say one more thing, and then I will yield to the gentleman from Indiana, who has some great points about this. This is what the Democratic National Chairman wrote on a paper he had during a meeting with the international fugitive. He said, "Go to CIA."

Of course, the caption here says, "Democratic National Committee Chairman Donald Fowler handwritten notes reminding himself to use the CIA to intervene on behalf of an international fugitive for Democratic Party fundraising." That is not New York Times language. That is my language on what "go to CIA" was all about. Go to CIA. Yet despite the fact he wrote this down, "go to CIA," he claims he did not remember.

Let me tell you something, Mr. Speaker, I have got to say, if I am the chairman of the largest political party in the United States of America and I am approached by an international fugitive, first of all, I stop right there. Say, "Sorry, bud, we are not dealing in international fugitives this election. You can try another party."

But let us just say that we get past that. An international fugitive says, "Okay, I have got this problem. So maybe I embezzled $3 billion from a Lebanese bank, but I have to get in to see the President because I have this pipeline deal and I think it is going to make me some good money. But I have to get in to see the President. Can you get me in to see the President?"

If I were the chairman I would say, "What is the problem? Why can you not get in to see the President?" Then if he said to me, "Because the National Security Council committee staff member told me I could not get in because I am an international fugitive," I would end the conversation there. I have got nothing to say. Go on your way.

But he went on anyway. He said, "I got this friend at the CIA called Bob." And so he wrote down, "Go to CIA Bob," the Democratic Chairman did. And he called CIA Bob and he said, "Bob, can you help this international fugitive get into the White House? He has got 300,000 to give." Bob says, "Sure, no problem."

So Bob calls the National Security Council and tells this do-good staffer that she really needs to let this international fugitive in to talk to the White House. And just for good measure they call an Energy Department official to lean on this do-good staffer who thinks, I guess in 1996 this was a radical thought, but who thinks that there is something improper about allowing an international fugitive into the White House to give $300,000 to lobby on another shady international deal.

Yet despite all of this, we have the chairman of Democratic National Committee going before the Senate panel and saying, "I have no recollection."

I think I would remember if I wrote down "go to CIA on behalf of an international fugitive." I think most people in my district would remember that. I can remember the last parking ticket I got. I can remember the last speeding ticket I got.

This has nothing to do, my life is very boring. I have never had to try to get an international fugitive into the White House by circumventing the NSC or the using the CIA or the Energy Department. Maybe he lives in such a wheeler dealer international finance world that maybe this is all very boring and bland to him. But if it is, that is very disturbing to me.

Mr. Speaker, I yield to the gentleman from Indiana [Mr. SOUDER]. Maybe this happens in Indiana. It does not happen in Florida.

Mr. SOUDER. You are jumping to the conclusion that that is the famous CIA. It could be a local agency. It could be a grocery store with those initials or something.

Mr. SCARBOROUGH. Commercial International Ant collectors.

Mr. SOUDER. I had a couple of points that I wanted to make. I hope we can take a little bit of time tonight to review our first day of hearings in our Committee on Government Reform and Oversight. But one of the things that you have already referred to eloquently a few times is this problem of the videotapes, in particular the missing audio on the most critical tape thus far that we know.

I wanted to read a little bit from an opening statement of the chairman of the Subcommittee on National Security, International Affairs, and Criminal Justice, when he was talking about the White House communications agency better known as WHCA. A clear picture is emerging and it has four distinct components: the utter lack of internal controls at WHCA, the problem of WHCA mission creep, the absence of accountability, and the disturbing pattern of White House obstructionism. Because it is most disturbing, I want to start with White House obstructionism we have encountered in this investigation.

Now, the reason I wanted to open with that, because I am vice chairman of this subcommittee, at the time this was Congressman Bill Zeliff's opening remarks. This hearing was over a year ago. The agency we are talking about, WHCA, one of things we were raising a concern about, little did we know what we were up against here and why, was the White House Audiovisual Unit, with 111 personnel, which provides sound and light systems, lecterns, flags, seals and teleprompter support for White House media events. It also makes audio and video recordings of all presidential events for the national archives.

Now, we thought we were dealing, we had no idea that there were tapes of coffees marked supposedly as democratic fund-raisers in their own system. But these were the statements written a long time ago, long before we knew about these particular tapes.

Beginning in March 1994, the White House stubbornly opposed an audit as a potential breach of national security. When Congress pointed out that most of the information involved was not classified in any way, to my dismay, now that we have an audit report and are conducting hearings, the White House again is doing its best to obstruct and hinder these hearings by withholding witnesses and by altering testimony.

We had the person they sent change his testimony several times. The GAO did a study that said that one of the problems was a separation of the accountability of this division, which is funded by the Department of Defense, and control, which was under the White House, to the point of writing and editing the statements of the Defense people we had.

It is time for our subcommittee to have investigations where we call in the Defense personnel and say, where are the tapes? The tapes that were played on C-SPAN were clearly edited. They clearly were only short parts, key audio is missing.

Mr. SCARBOROUGH. If the gentleman would just say, what does it say on the tape?

Mr. SOUDER. "Sorry, audio missing." In other words, even in their editing they showed part of a tape with John Huang, who in this case is the person who allegedly made the statements about fund-raising there, and miraculously, like the missing Rosemary Woods section in the Watergate tapes, it is gone.

We need to have immediate investigations into what has happened to these tapes because my impression, although we had a different impression at the time, was that what we were looking into, which was some purchases that were questionable and procedures in the WHCA office, that the reason the administration may have been stonewalling us long before this committee, the full Committee on Government Reform and Oversight ever looked at it, is they knew these tapes were in there and they have been

stonewalling us long before March 4. They were stonewalling us way back to June.

One of the things I also wanted to point out tonight is that one of the concerns that we have had is what are the linkages. As we talk about today's first hearing, we are going to be dealing with little pieces here and there that are hard to understand in the big picture.

The big picture really has two parts. One is, has foreign money penetrated our system and what did we lose because that foreign money penetrated? And secondly, the other party keeps throwing up things, "Dole did this." If Dole was President, first off, if anybody violated the law, they should be found guilty, as is the case with some people who contributed to the Dole campaign. If Dole was President, we would be asking questions of him. But nobody is even saying there is a fraction of the amount of money that dealt with the Dole campaign that is dealing with others.

When we looked, as I have pointed out, in the past at other scandals in American history, you do not say, this one or this one could have been, you look at what is in front of you.

We have a second problem, not just the foreign money but what else is for sale in our government. I want to give you the example of one case that I would like to insert into the RECORD, the full article. It has to do with the man who was recently nominated for Ambassador to Singapore.

He is a friend of Mark Middleton, who certainly has been involved in this and called, because Mark Middleton has been tied to the Indonesian Riady family who have given hundreds of thousands of dollars of questionable contributions to Democrats; to Charlie Trie, an Arkansas restauranteur suspected of funneling campaign money from China; and to disgraced former associate attorney and Clinton friend Webster Hubbel. He had been in the White House prior to this. Then post-White House he went on the payroll of Steve Green. Steve Green has been a long time friend of the President of the United States. He has been a fund-raising star for him, worked for Mack McLarty, a boyhood friend and right hand man.

He has given lots of funds to the Democratic Party, $11,000 at one point and others. He has slept in the Lincoln bedroom. He and his wife spent the night of their 28th anniversary in the Lincoln bedroom. If you are a friend of the President and you have given legal money, I am not complaining that you stayed in the Lincoln bedroom. We are a little concerned that there seems to be some tit-for-tat there, but okay, that is going to happen currently.

But it is really interesting because this man has several times asked for favors, which included Samsonite luggage, of which his conglomerate is a primary owner. He flew on three of the late Commerce Secretary Ron Brown's overseas trade missions. He also happened to sit with Ron Brown at the swearing in of the President last time. Furthermore, just recently, just recently the company that he heads, actually it is not just recently, it was about a year ago, they announced that Samsonite, which has an 80 percent controlling interest in Luggage Distributors of Singapore, has decided to expand into Asia and that Singapore is now going to be their launching point for expanding Samsonite.

I want to reestablish this point because this stuff gets confusing, but it is here and this is the type of thing we are looking for. I am not saying there is guilt here, but I am saying this is why time after time after time people are becoming suspicious. This man is a friend of Bill's. He stays in the Lincoln bedroom on his anniversary night. He gives $11,000 to the committee. He flies with Ron Brown overseas on several missions. He sits with Ron Brown at the inauguration. Then his company that he is working with targets Singapore and moves into Singapore. Now he is nominated for Ambassador to Singapore.

What do we have for sale in our country? It is one thing to say you gave to the President so we are going to give you an ambassadorship. We have had that problem for a long time. It would be nice if we could clean up our government that way. But usually we do not give ambassadorships to people who have direct business interests in the country they are about to head to, and what we have done is seen this system, which was marginal in the beginning, and I, for one, favor reform of the system, taken to a degree that we have never seen before. It is shocking.

Mr. SCARBOROUGH. It is shocking that we now have a White House that sells access not only to the Lincoln bedroom, not only fund-raises on Federal property, which is illegal, but allows business people who are trying to muscle in to a new market to get ambassadorships.

The thing is, I have heard about this moral equivalency that everybody does. That is the most cynical, cynical tack I think I have heard. Everybody does not do it. The Bush administration never sold access like this. The Reagan administration never sold access like this. You see piles and piles and piles of newspapers, independent newspapers, and the New York Times, the Washington Post, talking about unprecedented financial campaign abuses. Yet it is just their tack.

They talk about how we are somehow partisan. Yesterday in the hearing, the opening day of the hearing, they said we were evil, that it was a witch-hunt, that it was a fishing expedition, the same thing they were saying when they got frantic when we found out that they had illegally seized 900 FBI files of the President's enemy list about a year or so ago.

Another thing, they talked, yesterday, they are doing anything they can to change the subject. Yesterday in the opening testimony we actually heard that because we were investigating the President in that one committee, that children were starving and that children were freezing to death and going homeless, because we wanted to do what the New York Times, the Washington Post, and every other reputable media outlet has said we should do.

□ 2002

One other thing. I started out talking about how I thought Ickes played us all for fools. I guess they think anybody between flyover space between New York, D.C. and L.A. are somehow hayseed fools, and a lot of them really do believe that, by the way. They are talking about how it is legal to raise money in the White House; that the Republicans are making something out of nothing and that the media is making something out of nothing.

I wanted to read to my colleague what was in Investor's Business Daily yesterday. This is a quote from the President's first counsel, Bernie Nussbaum, not a Republican loving man. Very partisan. This is what he wrote to the White House. And this was on July 12, 1993, well before all this mess started. So they were on notice. This was from Bernard Nussbaum to all the White House officials. "A number of criminal statutes prohibits the use of Federal programs, property or employment for political purposes."

Nussbaum went on to explain, "This means that fund-raising events may not be held in the White House; that no fund-raising calls or mail may emanate from the White House or any other Federal buildings."

Nussbaum went on to explain to the President and his people. "No campaign contributions may be accepted at the White House or in any other Federal building."

Maggie Williams did that. We find out now the President, the Vice President, the First Lady made official phone calls, made campaign phone calls from the White House.

And he concluded by saying, "White House telephones must not be used even locally for regular committee activities such as recruiting volunteers or fund-raising." That was Bernie Nussbaum.

Judge Abner Mickva said the same thing a year later when he came on. He said it was very illegal. He said stay away from it or it is going to get you an independent counsel.

Mr. SOUDER. So if the gentleman will yield. What the gentleman is saying is that Vice President GORE, who was a member of this body and knew

full well he could not use any Federal buildings for fundraising, had been through that here, and Vice President GORE had been a United States Senator and knew that he could not use Federal buildings for fundraising, was also told by two legal counsel at the White House that he could not do it? So he has ignored four warnings?

Mr. SCARBOROUGH. He ignored an explicit warning, as did the President, according to Washington Post reports. They ignored explicit warnings from their own attorneys: Do not raise money by making phone calls from the White House.

And, of course, we remember their first tact was, well, we cannot remember making calls; do not think we made the calls. Later on they said they did make the calls. The Vice President said he made the calls, he was proud of what he did, and he promised never to do it again. Of course, he had that pathetic legalistic excuse that there was no controlling authority.

But it is a shameful episode. They think Americans are stupid. While they obstruct justice, they think Americans are stupid. While they ignore the advice of their own counsel, they think Americans are so stupid, and they think that there are so many scandals swirling around this White House, that Americans will simply lose interest and turn on the baseball game. I do not underestimate the American people as much as the White House does.

I just wish they would have followed their own attorneys' advice. I remember the day we were first sworn in, even before then. It was the gentleman from California, Mr. BILL THOMAS, who talked to us in the Cannon Caucus Room, the entire incoming Republican class. What is the first thing he told us? Do not raise money on Federal property. Do not make fund-raising phone calls from Federal property. He said if we needed to do that, to walk across the street. It is illegal.

Our people were saying that, the President's attorneys were saying that, the Vice President's attorneys were saying that. Janet Reno cannot hide behind her legalistic excuse, cannot continue to politically obstruct justice for this White House. She needs to read the memo and the law that Bernie Nussbaum and the President's other attorneys read and expressed to the President and the Vice President 3 or 4 years ago.

Mr. SOUDER. If the gentleman will continue to yield, I ask if he could put my Charlie Trie picture up. We started today our first hearings that will be broadcast, I am not sure when, here on C-SPAN. In actuality, I have to correct myself. They are not going to be broadcast, because the witnesses invoked an old rule that says they did not want to be filmed. So we will see little bits and pieces and hear some in the news.

So I will tell my colleague briefly some of what happened. We started to put some of the pieces out there that we are going to focus on. And one of the big pieces is Charlie Trie.

And I wanted to acknowledge tonight that I actually have a colored picture, because we have had trouble and some criticism because we have had black and white and grainy pictures. This is a little grainy because this is from a magazine, because the White House does not want to send us color pictures of the President with Charlie Trie either.

So if we can get a clear photo, and if they can see fit to send us one, we will be happy to print it. But up until now these things are going to be a little grainy and I apologize. I am not trying to say they are criminals because they are grainy, I am saying they are not really cooperating very much.

Today we had Manlin Foung, Charlie Trie's sister, and her boyfriend, in what to me was pretty shocking testimony. In other words, usually people, when given $12,500, in the first case of each one, when they did not have it in the bank account and told to send it to the Democratic National Committee, they would think twice about that. And is it not even illegal to cut a check. They said they knew Charlie was going to get them the money right away. He had always been good before.

Furthermore, we saw another 10,000 come in that way. These are people who had never been to a political event, who did not know anything about politicians, who did not know what the Democratic National Committee was. But she was trustingly laundering money for her brother.

Furthermore, as it was brought out from numerous members' testimony, her name also appears with her sister and her mother, who have also never been involved before, in giving $2,000 checks, $1,000 each, one for primary and one for general election, all on the same date, to Senator TOM DASCHLE, minority leader of the other party. This is a web that is spreading farther and farther, and it is very disconcerting.

Interestingly, rather than express outrage and shock, the minority attacked the chairman, they attacked the hearing, they attacked the witnesses, they attacked the staff. And rather than seeking the truth, it seems to be to try to obscure the truth or to blame it on other people or say maybe this has happened before. This is shocking stuff.

We heard today the first connections, because while Charlie Trie set it up and called his sister, the money came from Antonio Pan, who is a former Lippo executive. What we are going to see over the next months, and we have another pending immunity proffer out to us from the Lums, who tie together and who have worked with Pauline Kanchanalak, they have worked with Charlie Trie, they have worked with——

Mr. SCARBOROUGH. These are all people that have fled the United States?

Mr. SOUDER. These are people that have fled the United States and will not testify. And we are having to get fairly small fish, documenting how their money is going through. And we know the Lums are the next step in this process.

Mr. SCARBOROUGH. Reclaiming my time for one second. All these people that have fled. How many have fled?

Mr. SOUDER. I believe between 25 and 30 that have fled and 60 that have pleaded the fifth amendment.

Mr. SCARBOROUGH. And the White House and Justice Department will do absolutely nothing, will they? Will not lift their finger to bring these possible international fugitives to justice because of what it might do to the White House; is that correct?

Mr. SOUDER. And the quote that is on there, "Trie bragged on NBC that he could continue to hide out in Asia for 10 years. They will never find me." He said. His sister today said that she talks to him when she needs to; that she had not had a direct conversation, but that there had been a discussion that when the statute of limitation runs out, he will come back.

And that seems to be the other mark of the way things are going. It is why this investigation is so hard. We will stay at this, but we could really use some help from the other side, rather than trying to say everybody does it, to get to the bottom of this.

One last point that came up today. Miss Foung said that she felt that Asian citizens had a right to speak out and they were being picked on. My comment to her was very simple. This has been an incredible abuse of Asian Americans. Because what we have seen, for example, in the case of her brother putting approximately a half million dollars of illegal money, it looks like, in all cases certainly laundered money if not illegal foreign money into this, that he has a right to speak up.

And he, right after he gave the $500,000, sent a letter, which was responded to by a personal letter from the President; also notes from Anthony Lake to the President explaining why they needed to respond to Charlie Trie about why we should not overreact to the so-called People's Republic of China's threats to Taiwan when they were threatening their coastal waters.

Mr. SCARBOROUGH. And also when they threatened to nuke Los Angeles, California.

Mr. SOUDER. And part of the problem here is that as we see these interconnections relate to policy, the question was we do not see the systematic abuse of Latin Americans or of African Americans or of Greek Americans. We did not hear how other groups were manipulated, but we saw Asian Americans basically being told if they want

to have influence in the White House, as Johnny Chung says, "It is like a subway; you have to put the coins in," and it is unfortunate that many of these people are Asian Americans, but it is not our fault. It is who abused them, who used them, who sold democracy to them.

And they should be so angry right now and so irate at this administration for how they abused Asian Americans in these instances.

Mr. SCARBOROUGH. And, regretfully, we cannot just say it was a couple of Asian Americans who abused the democratic process, because the White House is sort of doing the nod and wink, "Yeah, Charlie Trie and John Huang, we just never knew what was going on here." And yet the Los Angeles Times reported earlier this week that in 1991, then chairman of the Democratic National Committee, Ron Brown, actually had memos sent to him and he sent memos around talking about how they needed to start raising money and basically exploiting Asia. Said there were a lot of great opportunities for 1992.

We saw him later on move to the Commerce Department from his position at the Democratic National Committee. And of course that is where some of the most shameful episodes of this type of behavior occurred, where we actually had John Huang getting security clearance in the Commerce Department so he could get Commerce Department and CIA top-secret briefings, and then he would jump into a cab, drive to the Chinese Communist Chinese embassy and have meetings with them supposedly to tell them all that was revealed to him during those briefings.

□ 2015

As Newsweek said a year ago, this may be more than campaign finance scandal, this may be espionage.

Mr. SOUDER. And we are committed to getting to the bottom of this, regardless of the smears that are done on our committee or the chairman, because we must for the preservation of American democracy.

Mr. Speaker, I include for the RECORD the following:

FEDERAL DOCUMENT CLEARING HOUSE—TESTIMONY JUNE 13, 1956—HOUSE OF REPRESENTATIVES, GOVERNMENT REFORM, NATIONAL SECURITY, INTERNATIONAL AFFAIRS AND CRIMINAL JUSTICE

WHITE HOUSE COMMUNICATIONS AGENCY MISMANAGEMENT

Opening Remarks of Chairman Bill Zeliff.

Oversight Hearing on White House Communications Agency.

Good morning. Four weeks ago we began oversight hearings of the White House Communications Agency, or WHCA. As most of you know, this subcommittee initiated a thorough investigation of WHCA's operations two years ago. We met three times with the White House to try to get the White House to agree that GAO could do this investigation. For reasons that remain unclear, even now, the White House objected and prevented GAO from investigating. We then sought an IG's investigation and, after overcoming further objections, we got the IG into the White House. The result is the first comprehensive audit of WHCA in 55 years.

A clear picture is emerging and it has four distinct components: the utter lack of internal controls at WHCA, the problem of WHCA mission creep, the absence of accountability, and the disturbing pattern of White House obstructionism. Because it is most disturbing, I want to start with the White House obstructionism we have encountered in this investigation.

Without reason or legal argument, this White House continuously opposed any congressional oversight of WHCA. Even though WHCA had never been comprehensively audited in over half a century of existence—and was clearly in need of some oversight—the White House did its best for almost two years to prevent an audit.

Beginning in March of 1994, the White House stubbornly opposed an audit as a potential breach of national security. When Congress pointed out that most of the information involved was not classified in any way—and that there were routine mechanisms for auditing defense organizations which deal with classified information—the White House still refused to allow an audit by the General Accounting Office. We finally got the DOD IG involved.

To my dismay, now that we have an audit report and are conducting hearings, the White House, again, is doing its best to obstruct and hinder these hearings by withholding witnesses, and by altering testimony. Let's get some basic facts straight: WHCA takes its orders from the White House Military Office, or WHMO, whose director is a Mr. Alan Sullivan. Mr. Sullivan directs the mission of WHCA, and he also writes the Officer Evaluation Report for the Commander of WHCA, which means that he determines that Commander's future career prospects. Mr. Sullivan, in tern, reports to Ms. Jodie Torkelson, who is the Assistant to the President for Management and Administration. Together, these two individuals—Mr. Sullivan and Ms. Torkelson—hold the figurative whip over WHCA, and so we requested their testimony today.

Obviously, when a government agency has problems in need of correction, it is absolutely essential to hear from the folks in charge. However, both Mr. Sullivan and Ms. Torkelson have repeatedly refused to attend these hearings, and Mr. Quinn, the President's lawyer, has written letters seeking to block their appearance. The White House political appointees have, instead, sent Colonel Joseph Simmons the Commander of WHCA, as their surrogate. The truth is fairly obvious: when it is time to use WHCA and benefit from it on a day-to-day basis, the White House is perfectly ready to do that. But when it is time to take a hard look at problems with the agency's mission and its execution of that mission, the White House sends its regrets. We have deferred the subpoena decision today, but I would direct anyone interested in more information on this obstructionism to the letters on the back table.

Lastly, as many of you will recall, we appear to have had some serious monkeying around with the prepared testimony of Colonel Simmons, who is here to testify today. First we received a version of his prepared testimony which made it absolutely clear that WHCA takes its order from the White House. That is something we all knew anyway. Then we received a second version of Colonel Simmons' testimony which left out the parts about White House control, and proceeded to blame all of WHCA's shortcomings on the Defense Information Systems Agency, or DISA. Later still, Colonel Simmons and the White House told us that they didn't know anything about the first version of the testimony; but we subsequently learned that Colonel Simmons' office did deliver the testimony—both the first and second versions—and he is now prepared to live with either one. That was the clarification we needed and why we recessed the hearing four weeks ago.

Now, let's turn to the internal controls. When it comes to managing its property and finances, WHCA has unfortunately been, in a word, a disaster. For years it has ignored the laws and regulations which govern its contracting property management, and maintenance activities, with the result that millions of dollars in taxypayers' money has been wasted.

For example, WHCA has consistently failed to submit spending requests to authorized contract officers for proper approval, as required by law. Instead, WHCA has effectively approved its own contracts, or sometimes even made purchases without a contract. The most notable recent result of this approach was the expenditure of 4.9 million dollars on two mobile communications systems which are almost never used, because they do not fit on the airplane as originally intended. This is the kind of mistake which can only be made in the absence of White House oversight.

WHCA has also ignored regulations requiring competitive bidding in government contracting. It has spent millions of dollars per year on sole-source contracts which give no guarantee that the American taxpayers are getting their money's worth.

From an accounting standpoint, WHCA has not kept track of its financial obligations and expenditures, and recently had 14.5 million dollars in invalidated obligations. The IG found that due to this lack of oversight, WHCA has been paying for some equipment and services which are no longer necessary; and has been paying for some items which were never even delivered to the agency; and has occasionally paid for the same items twice. In addition, the IG found that WHCA was only paying 17% of its bills on time, which means that the taxpayer is paying for interest and penalties on the remaining 83%.

Nor has WHCA followed regulations governing maintenance management. According to the IG, WHCA spent $303,000 on a maintenance control system in 1993, but the system was generally not used.

WHCA has also failed to keep track of its own property. The IG found that WHCA acquired a great deal of equipment—for example, $555,000 worth of computers—without recording it in the unit property book, which is the central record of all the unit's property.

Now, let me give you a snapshot of WHCA's mission creep. Today, WHCA spends over $122 million dollars a year. It has an authorized strength of roughly 950 military personnel, with about 850 actually on duty at the present time. Moreover, the WHCA mission has expanded to include a whole list of services provided to the President, the Vice-President, the First Lady, and the entire White House staff.

Far from its early telecommunications mission, consider a few of the tasks now performed by WHCA:

WHCA provides stenographic services—a steno pool—for all White House events and functions.

WHCA runs a frame shop, where pictures are framed for White House personnel.

WHCA provides camera equipment, and developing and printing services, to White House photographers.

WHCA provides comprehensive wire services—including the AP wire, UPI, Reuters, etc.—to White House staffers.

And so on. The point is that this White House agency, without proper oversight, has gotten well off the reservation.

Finally, there is a real accountability problem. Call it—problem number four—which helps to cause problems two and three. There is a complete separation of accountability from control. DOD has to spend all of the money requested by WHCA, and it is technically responsible for ensuring that WHCA follows all the laws and regulations governing DOD activities. However, WHCA is actually controlled by White House staffers, who have gotten used to using WHCA for all sorts of non-military jobs, because they are not held accountable for the expense. In other words, the White House holds the credit card, and DOD has to pay the bills.

In closing, let me say that it is time for common sense to return, and that's why we are here today.

TODAY'S HEARING IS NOT DUPLICATIVE

The Minority has claimed that today's hearing is duplicative of the Senate testimony of Xiping Wang (pronounced Zipping Wang) and Yuefang Chu (pronounced You-Fang Chew). The Minority's charges are false because Manlin Foung and Joseph Landon are testifying about completely different matters, and have offered the Committee important new evidence.

Xiping Wang and Yuefang Chu both testified about conduit payments they made to the DNC. So have Joseph Landon and Manlin Foung. The similarities end there. Neither Xiping Wang nor Yuefang Chu ever met Charlie Trie or Antonio Pan. Rather, they were asked by a receptionist for Daihatsu International Trading Corporation, Keshi Zhan, to make the contributions.

The present witnesses, Manlin Foung and Joseph Landon, have established Charlie Trie's direct involvement in the solicitation and direction of conduit payments to the DNC.

Foung and Landon have also established a link between Antonio Pan and Charlie Trie, showing they were involved in illegal fundraising practices together. This link had not been established in the Senate testimony of Yuefang Chu or Xiping Wang.

These hearings have provided critical new evidence. Under the standard erected by the Minority, this panel would be prohibited from ever investigating or discussing other conduit payments made to the DNC. Considering that conduit payments are (1) illegal and (2) the apparent method by which Charlie Trie directed money to the DNC, this standard would effectively keep this Committee from uncovering the crimes committed in last year's elections.

MOTHER JONES—THURSDAY, 17, 1997

A PROBE NOT TAKEN: CONGRESS SHOULD TAKE A LOOK AT OPIC'S TAXPAYER-BACKED SWEETHEART DEALS. WE DID. (OVERSEAS PRIVATE INVESTMENT CORP.) (INCLUDES RELATED INFORMATION)

(By Rachel Burstein, Janice C. Shields)

As Republicans convene hearings on foreign contributions to the Clinton campaign, attention has drifted away from big domestic donors and what they might have gained from their investments—apart from a coffee or a (reportedly bad) night's sleep at the White House.

And while everyone knows that political donors often "happen" to receive impressive diplomatic appointments, or their firms wind up with lucrative government contracts, Mother Jones has discovered an even more direct way the politically well-connected can cash in: multimillion-dollar overseas investments backed by taxpayer dollars. These private investments, set up through the government's Overseas Private Investment Corp., are often made in developing areas expected to become boom markets—such as Eastern Europe, southern Africa, and India. "The idea behind the funds is to replace direct foreign aid," says Mildred Callear, OPIC's acting president.

To do that, OPIC has launched 24 "private" investment funds that, on average, are matched 2-to-1 by OPIC in guaranteed loans. Many of these funds are insured against loss. As OPIC's then-president Ruth Harkin said in 1995, when the funds started taking off, "If you're an investor in an OPIC-supported fund, the worse you can do is get your money back at the end of 10 years."

For the past two decades, OPIC has been one of the government's best-kept secrets. Before Clinton, the agency was little more than a small insurance company for U.S. firms willing to set up shop in countries with unstable regimes or fledgling markets. As late as the Bush administration, the agency's venture funds totaled less than $100 million. By 1996, however, OPIC's investment funds had ballooned to $3 billion.

So who exactly gets in on these "private" deals? Even though these investors are in partnership with a government agency, OPIC maintains that revealing their names would violate both their privacy and the Trade Secrets Act. But a Mother Jones investigation of some of these equity funds suggests another possible reason for OPIC's silence: The funds appear to benefit not only corporate heavyweights, but also people linked to President Clinton and at least two Republican senators.

Not surprisingly, when we looked at these OPIC deals, we found a connection to at least one character at the center of the Democrats' fundraising scandal: former White House administrative aide Mark Middleton, who has been alleged to have peddled his Democratic connections in order to set up his own foreign investment deals. Evidence suggests that Middleton also may have had his eye on OPIC's ash-rich foreign investment opportunities, having forged ties to a financier and friend of Clinton's who was setting up a $240 million fund.

It's impossible to know just how big a part political nepotism plays in getting OPIC deals, since they won't disclose all of its investors. Still, we decided to do some digging.

How good a deal are OPIC's exclusive investors getting? One private equity fund investing in Africa reportedly has had earnings that would make the most buttoned-down broker's head spin: a $9.50 return on every $1 invested. Meanwhile, projects financed by a Russian fund reportedly provided returns in the 30 to 50 percent range. That sure beats current CD rates of 5.7 percent.

In order to see what it takes to get a piece of this kind of action, we dressed up in our high-finance best and made several house calls to Washington, DC, firms managing OPIC funds. Along the way, we found several notable political connections:

The contact for the South America Private Equity Growth Fund, which landed $100 million in OPIC-guaranteed loans in 1995, is Westsphere Equity Investors' John Lugar, son of Sen. Richard Lugar (R-Ind.). Luger was put off by our visit, grilling us repeatedly about the nature of this article. He refused to share a copy of the fund's annual report, saying that the fund had stopped accepting investments in 1995 and had been open only to "sophisticated" investors anyway.

At the address for the Poland Partners Management Co., we discovered the law firm Landon Butler & Co., which runs the fund. According to the man answering the door, the Poland Partners fund closed to further investment three years ago. "The minimum investment," he added with a sneer, "[was] $1 million." He also said that although he knew who the investors were, it was privileged information. And he refused to provide an annual report, saying it was only available to investors in the $65 million fund, which has received OPIC loan guarantees. (OPIC acting president Callear later informed Mother Jones that the fund's initial investors included the pension funds of the AFL-CIO and other unions—big Democratic heavyweights.)

Neither the Bancroft Eastern Europe Fund nor its manager, the Bancroft Group, was in the directory of the building listed as the fund's address in the phone book. A concierge directed Mother Jones to the eighth-floor office of the law firm Perkins Coie. According to a receptionist, the Bancroft Group had moved to Italy; OPIC's address for Bancroft is in France. The fund received $70 million in OPIC financing in 1995.

Mother Jones later learned that Bancroft's president is Fred Martin, who founded the group in 1989—right after serving as campaign manager for Al Gore's 1988 presidential bid. Martin also served as a special assistant to Walter Mondale during Mondale's vice presidency.

Locating Newbridge Andean Partners was even more confounding. The address, "1429 G St. N.W., Suite 410," turned out to be a Mail Boxes Etc. store. When asked for directions to "Suite 410," a helpful clerk pointed to one of the small mailboxes lining the wall.

ACON Investments, the fund's manager, requires a minimum investment of close to $1 million. ACON's chairman is Bernard Aronson, another longtime politico, who has connections to presidents Bush and Clinton (assistant secretary of state from 1989–93) and was a speechwriter for President Carter (1977–79).

Each of the other funds we visited (Global Environment Emerging Markets Fund II, Aqua International Partners) cited enormous minimum investments ($2 million and $5 million, respectively) that would prohibit all but the wealthiest people and institutions from investing.

Since these OPIC investments are shrouded in secrecy, few of us will ever even hear about them. Because the deals are set up as private placements—limiting public involvement—the funds are exempt from much oversight by the Securities and Exchange Commission, as well as from public disclosure requirements.

The companies that manage these funds have a serious reason to keep a low profile: competition from other potential fund sponsors. Agribusiness Partners International, for example, generated more than $3 million in commissions from sales to 15 investors. Apax-Leumi Partners Inc., the general partner of the Israel Growth Fund, collects an annual investment advisory fee of 2.5 percent

of the fund's gross proceeds, and the first installment totaled $1 million. With such staggering proceeds, why let others in on the secret?

The more we looked at the funds, however, the more we found that many of those who were in on the secret had one notable qualification in common: powerful political ties. The $150 million South Asia Integration Fund, for example, is run by Ziff Bros. Investments, whose co-chair, Dirk Ziff, is one of the largest Democratic contributors in the country (No. 6 on the Mother Jones 400; see May/June). Another Democratic contributor, Maceo Sloan, received $120 million in guaranteed loans from OPIC for his New Africa Opportunities Fund. The North Carolina millionaire also received help from his senator, Republican Jesse Helms, who, according to a September 1996 Barron's report, asked OPIC officials about Sloan's application.

And when we took a close look at one of OPIC's largest private equity funds, we found businessman Steven J. Green, a close friend of Bill Clinton's who seems to have mastered the use of government access for professional gain.

Green was a crucial early supporter of Clinton. As a result, he has enjoyed the conventional presidential perks (he and his wife spent the night of their 28th wedding anniversary in the Lincoln Bedroom) without having given the Democrats enormous amounts of money recently ($11,000 to the DNC in 1995–96).

Green sits on the influential President's Export Council, along with 10 members of Congress and the secretaries of Commerce, Labor, Agriculture, State, and the Treasury. The council advises the president on government policies and programs that affect trade. Green's right-hand man, Noel Gould, serves as national director of the Virtual Trade Mission Program, a project launched by the council and Clinton's special adviser Mack McLarty to educate high school and junior college students about trade issues.

Green's business ventures have been flying high—with considerable help from the Clinton administration. Green or other executives from his Astrum conglomerate, which included Samsonite luggage and Culligan Water Technologies, flew on three of the late Commerce Secretary Ron Brown's overseas trade missions, including trips to Russia and the Middle East. Green also traveled on four overseas OPIC investment missions. Deals blossomed along the way, leading to a development in Russia and a water-bottling contract for Culligan in the Gaza Strip.

Then Green went into business with OPIC, setting up the Central and Eastern European Newly Independent States fund (CEENIS). The fund needs to raise $80 million in order for OPIC to finance $160 million in double-matching funds. Green's real estate firm, Auburndale Properties—which has offices in Florida, Massachusetts, New Jersey, Washington, D.C., Bucharest, and Warsaw—is the fund's manager and a primary investor.

In the fall of 1994, before he secured OPIC's approval for the fund, Green reportedly went scouting for investors among some of his big-name former business partners—including media baron Rupert Murdoch and convicted S&L swindler Michael Milken's family trust. He also attracted the attention of Mark Middleton, who at the time was a White House administrative aide looking to branch out on his own.

Nicknamed the "Aryan Rotarian" for his blond good looks and business acumen, Middleton, a 34-year-old Clinton fundraising star, came to Washington to become the protege of Mack McLarty, a boyhood friend and former right-hand man of President Clinton. After McLarty stepped down as Clinton's chief of staff in mid-1994, Middleton reportedly decided against a run for Arkansas attorney general and prepared to move to the private sector.

He subsequently has been connected in news reports to virtually every aspect of the Democratic National Committee's fundraising scandal. It was Middleton who apparently passed out his White House business card to Asian businessmen during trips overseas—months after resigning from his post. The card listed his still-active White House voicemail number—which also allowed callers to leave messages for McLarty. Most controversially, during one of these trips Middleton is alleged by foreign reports to have received an illegal $15 million campaign pledge from the chief financial officer of a conglomerate run by Taiwan's ruling party.

Middleton has also been tied to the Indonesian Riady family, which gave hundreds of thousands of dollars in questionable contributions to the Democrats; to Charlie Trie, an Arkansas restaurateur suspected of funneling campaign money from China; and to disgraced former associate attorney general and Clinton friend Webster Hubbell.

But before the controversies—before Middleton had even left the White House—he managed to secure a job with Steve Green. According to a close associate of Green's, Middleton approached Green in November 1994 and asked to discuss job opportunities. "He pretty much said, 'I want to be just like you when I grow up,"' says the associate.

In January 1995, President Clinton announced OPIC's approval of CEENIS. It appears that around the same time, Middleton may have been prematurely representing Green. According to a source close to the congressional investigation into Democratic fundraising, Middleton received at least one letter addressed to him as a representative of Green's Astrum conglomerate in January 1995—before he left the White House on February 17.

It also appears, from what Middleton has told the press, that he wanted in on Green's OPIC deal. Just before leaving the White House in February, Middleton told the Arkansas Democrat-gazette that he was going to work for Green and would be "putting together large international infrastructure deals in emerging countries . . . such as central and Eastern Europe." Green adviser Noel Gould confirms that Middleton went to work at Auburndale.

By March, Middleton had escorted Green to the White House. And by June, Green had formally secured enough funding for CEENIS to begin operations.

But there is no evidence Middleton ever actually got in on the CEENIS deal. Both Gould and OPIC officials say he was not involved. And a former Astrum associate maintain that Middleton took advantage of the company. When Middleton went to work for Green, according to the source, he asked for a salary advance to take a foreign vacation—which was the start of Middleton's now-controversial trips to Asia. When he returned, the source says, Middleton told Green he had found clients for his own fledgling overseas investment firm, CommerceCorp International, which he intended to pursue while working for Green. Feeling used, the source says, Green asked Middleton to leave.

Middleton, who has refused to testify before House investigators, declined to the interviewed for this story.

Astrum has since broken up into several separate companies, and Green now appears to be focusing solely on his real estate ventures, including CEENIS. CEENIS has yet to formally begin any of its projects, and it remains cagey about its investors. Initially, CEENIS managers told Mother Jones that there were no private investors, only corporate ones, including MCI and Bank Boston. But Gould says that the initial backers also included Green's Auburndale and "two to three private investors" who were longtime Green associates.

Green, according to his agreement with OPIC, can invest up to $40 million of his own money in the project. Since January, Gould says, Auburndale has opened the fund to new investors.

OPIC maintains that anybody can apply for the private funds and that it doesn't play favorites. "Lots of times we would meet with people and it didn't go anywhere, even if they invoked the names of very important members of Congress," says Susan Levine, a former OPIC senior vice president for investment development and policy and a former friend of the Clintons'. But she concedes, "Odds are that knowing people helps you get in the door."

The OPIC deals continue. In April, a bipartisan bill in the House, the Africa Growth and Opportunity Act, proposed that OPIC back new funds in Africa valued at $650 million. Unless OPIC can be prodded into opening its books, investors can continue to escape public scrutiny—while walking away with millions.

Rachel Burnstein is a Mother Jones investigative reporter Janice C. Shields is a researcher and coordinator of the Corporate Wealthfare Project & TaxWatch. Romesh Ratnesar also contributed reporting for this story. All are based in Washington, D.C.

Where did the $3 billion go?

OPIC (headquarters at right) is a federal agency that helps U.S. companies invest in developing overseas markets. OPIC chooses from among plans submitted by companies and private investors and finances $3 billion worth of opportunities that don't exist in the regular marketplace, such as providing insurance against political risks or loans for risky, long-term projects. OPIC matches its "private" funds 2-to-1 and often insures the investments against loss. The funds generate a huge profit for OPIC—$209 million last year—and their lucky investors. But these private funds like to remain just that—private.

Our search for the NEWBRIDGE ANDEAN fund led to a Mail Boxes Etc. store. When we asked for "Suite 410," a clerk showed us this mailbox.

WESTSPHERE EQUITY INVESTORS manages a fund that is only for "sophisticated" investors.

The GLOBAL ENVIRONMENT EMERGING MARKETS FUND II is open to anyone able to cough up a minimum investment of $2 million.

We found the POLAND PARTNERS MANAGEMENT CO. fund at the law firm Landon Butler. The fund's investors include the AFL–CIO.

THE MANAGERS

OPIC-backed investments are shrouded in secrecy—and for good reason: Many of the funds appear to be cash cows for the politically well-connected. A look at the people who run them reveals a high-finance jobs program for Washington players, including a former speechwriter, a campaign manager, and a White House staffer. And, of course, big political contributors are well-represented.

DIRK ZIFF is co-chair of Ziff Bros. investments, which manages a $150 million South

Asia fund that received OPIC loan guarantees. Ziff, a prominent Democratic donor, was No. 6 on the Mother Jones 400.

JOHN LUGAR is Sen. Richard Lugar's (R-Ind.) son. His South America Private Equity fund, which has received $100 million in loan guarantees from OPIC, stopped accepting investments in 1995.

BERNARD ARONSON is chairman of ACON Investments, which runs the OPIC-supported Newbridge Andean fund. He was an assistant secretary of state under Bush and a speechwriter for Carter.

Mr. SCARBOROUGH. I thank the gentleman from Indiana [Mr. SOUDER]. He is exactly correct. When Newsweek is talking about espionage, when the Washington Post is talking about how the White House does not tell the truth, as they editorialized yesterday, when the New York Times writes, "It is obvious we can no longer trust the President or the Attorney General," then something has to be done. There has to be an oversight function.

I just hope that one Democrat will have the moral courage to stand up and break through and step forward and be a hero, like Howard Baker, a Republican Senator, who back during the Watergate hearings had the guts to stand up and say, "What did the President know and when did he know it?" And by doing that, he broke the logjam, brought down a very corrupt administration, a Republican administration, and American democracy is better for it today.

I just pray to God that, for the sake of this country, Americans can see a Democrat step forward and do the same thing and that they will stop the political obstruction of justice in what clearly has become the largest fundraising scandal in the history of this great Republic.

SCHOOLS AND EDUCATION IN A STATE OF CRISIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, I want to address two major issues tonight. They are related in the long run. One is, schools and education are still in a state of crisis despite the fact that the American people have indicated that education is one of their number-one priorities, probably the number-one priority by the majority of the American people.

This first year of the 105th Congress session of Congress is coming to a close, and we are not dealing with the crisis. We have done nothing which really addresses the crisis in the manner that it requires. Certainly, the crisis in our inner-city schools, where most of the African American children attend school, where the poorest Americans attend school in the inner-city schools and crisis in the rural schools is not being addressed. We are still going backwards in New York City, for example, in terms of addressing the education crisis. So I want to talk about that.

I also want to talk about an issue that would seem unrelated, but it is related, and that is the present preoccupation concern with the Internal Revenue Service. The Internal Revenue Service is important. I said before that people who are part of a care majority, liberals, progressives, whatever you want to call them, people who care about campaign finance reform and they really want it, there are a number of different elements, what you might call the caring majority. The people want to see an American system that operates fairly, democracy that is not distorted by big-money contributions.

All of those are part of the caring majority. The caring majority, in general, neglects revenue, neglects issues related to revenue. So the IRS and the taxpayer concern issues are likely not to get that kind of attention from that side of the aisle, this side of the aisle, that it deserves. And I would like to see that not happen.

I would like to see my colleagues pay close attention to the debate that is shaping up on the IRS, Internal Revenue Service, and to take that debate and discuss it at a new level. Let us not talk about how to beat up on IRS clerks and the agents. Let us talk about broad policies that are handed down from the very top, from Congress and from the White House, policy direction which leads to situations where large amounts of money that should be collected from corporations, those amounts are not collected.

It leads to situations where we have to beat up on middle-class taxpayers in order to get the kind of revenue that is expected because the IRS is being directed not to spend too much of its time or to wade into the complex situations presented by corporate financing.

I am particularly concerned about section 531 to 535 of the Internal Revenue Code. I have talked about that before. That is the section which prohibits corporations from buying their own stock except under certain conditions. Stock buy-backs are big business nowadays, multi-billion-dollar business. Yet, there is a section in the Code that nobody wants to explain to me why it is not being enforced.

I have talked to quite a number of important people in the tax structure and have not been able to find out. If they were to collect that revenue, that is one of the areas where, if that bit of corporate welfare was ended, that is one of the areas where we gain additional funding to deal with some of the problems related to school construction and other problems that require money and education.

In other words, I do not really think we have a real problem with no money for school construction. Yes, I do think it is a problem. I think we lack the will to deal with school construction to spend the money that is necessary. We could get it if we wanted to, but we throw up a roadblock with the fact that there is no money. And, of course, the same problem is occurring at the local level and at the State level.

The argument is made that there is just not enough money to provide decent education. We are wasting money in many different ways. And not until the full wrath of public opinion and the wrath of the voters and not until the common sense of the voters comes down harder on public officials have to make these decisions, we have an understanding that we cannot just talk about education, we have to put some real dollars behind the effort to reform education and make it adequate for people at every level of our society.

Let me start by talking about schools first and education, because they were on the agenda of this Congress this week. They were on our agenda right up until the very last minute today. In fact, I think our last vote taken today on a bill was on passage of the D.C. appropriations bill. And that contest, that vote, it was a very close vote.

It was a situation where the time had to be broken by the Speaker of the House, it was that close, where many of us felt the House of Representatives had gone far in the direction of extreme control of local government and extreme control of decision-making that should be taking place at the local level.

We were shocked to see that the Republican majority which has consistently emphasized local control, local decision-making, which has made a great deal out of ending mandates by the Federal Government on local government, we were quite shocked to see to what extent the Republican majority in the House is willing to go with respect to mandating local control of Washington, D.C., going right into the school system and telling them what they have to do in terms of how to take care of their ongoing problem.

There is a very serious problem in the education in D.C. The District of Columbia spends more than $9,000 per child and has some of the worst education in the Nation. The problem has to be addressed. The people of the District of Columbia made a decision last year. Little more than a year ago, I think, they made a decision, had a referendum on whether or not they wanted vouchers, and they voted that they did not want vouchers as part of their solution to the school problem. We had local citizens involved in seeking a solution to a problem, and they rejected one possible approach.

The D.C. voters said, "No, we do not want vouchers." On the other hand, D.C. voters decided they would like to

try an experiment with charter schools. The charter schools are a good alternative to vouchers, even among those people who insist that we have to have vouchers, for the purpose of shaking up the public school system, the bureaucracy, we need vouchers in order to provide competition for the public school system; to show innovative approaches, we need vouchers to provide an alternative.

Well, charter schools provide an alternative, and the residents of the District of Columbia voted, "We want the charter school alternative. We do not want vouchers." Yet, here we worked until late this afternoon pressing to push, the majority was pushing, and they finally won by one vote a solution on the people of D.C., which requires that they experiment with the voucher program for the next 5 years.

Now, I hope that that does not prevail, because the other body has already acted on this matter. The President says he will not accept a bill, he will veto any bill that forces the people of the District of Columbia to experiment with vouchers. So I hope it does not prevail. But it did pass this House. So here we were in a situation where the majority party, which has pushed for maximum local control, was trying to force it down the throats of the people here.

We had another problem today in our Committee on Education and the Workforce. I serve on the committee, and we had a Reading Excellence Act that was on the agenda for markup today. The Reading Excellence Act is designed to replace the President's proposal for America Reads.

The President's proposal has great emphasis on volunteers being used to tutor young people, students, to read. And the Reading Excellence Act takes a different approach and moves in the direction of teaching teachers to teach reading better and have teachers do the coaching of the reading and having professional groups contracted to provide the tutorial services.

Now, it is an interesting approach. There may be grounds for some kind of compromise. I hope so, because I would not like to see this first year of the 105th Congress end without doing something positive about the problem that clearly has been identified as a major problem.

If children cannot read, they cannot advance in school, they are bound to fail. That is well established. Everybody agrees they must learn to read. So the emphasis on teaching students to read as soon as possible and as thoroughly as possible is an appropriate emphasis. It is a place where there is no debate.

Surely, in an area where we do not have any debate, we ought to be able to go forward in this first year of the 105th Congress. Surely, we will not leave here with nothing being done in terms of a new Federal initiative when the President started the year with the State of the Union Address proposing an initiative, the America Reads was proposed. And now we have the Republican majority in the Committee on Education and the Workforce proposing the Reading Excellence Act.

We did not get to it today because we were on another bill. But in that Reading Excellence Act, there was another one of those mandates to the local level. It even goes beyond the local government right into the classroom. There is a mandate that they must use the phonics method.

Never before has the Federal Government gone so far in a matter that relates to education as this Reading Excellence Act proposes to go. That is to mandate, if you are going to get these funds and be a part of this program, phonics has to be used as a method of teaching reading.

We are going to go right into the pedagogy instruction processes and we, the Federal Government, are going to put our finger on a method that has to be used. That is one of the serious drawbacks of the Reading Excellence Act.

I hope some other features of that act can be combined with the President's America Reads program in the next 20 days or 15 days, whatever we have left here, that we do reach some agreement on some kind of program to push some new initiative in the area of teaching children to read.

We did not get to the markup of that bill because we spent a lot of time on a bill to encourage expansion of charter schools, which was proposed by the majority. But I voted for it because I think it is a small step forward in the area of the Federal Government encouraging the development of charter schools. It is a small step forward.

It is woefully inadequate. I hope that we come back next year and that we do something which is far more thorough with respect to charter schools. I worry about charter schools in several respects. The first is that we are playing around the edges of educational reform with this whole matter of charter schools.

We have about 700 charter schools now and 86,000 traditional public schools. If we want to really experiment with charter schools, we have got to have enough charter schools in enough different situations to be able to really study whether they are of any relevance or not.

We also cannot leave charter schools out there on the fringes so that elite groups only will be experimenting with charter schools. We need a greater variety of groups. We also cannot let charter schools become little pet projects of people who want to play around with education for a few years.

Maybe it is parents, while their children are in a particular school, they want to have a charter school. But when that is over and their children graduate from that elementary school, the interest dies down and the school collapses. We have to safeguard against creating problems in education. We ought to have some kind of Federal encouragement of the States to develop sound systems for regulating and developing charter schools.

There is a serious problem out there. If public funds are going to go to a group, they ought to be a stable group, ought to be a group that has some kind of promise of continuity, ought to be a group that is going to do a thorough job beyond just their individual or family interests.

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So we cannot have charter schools that are set with just a handful of teachers and a handful of parents and their immediate interests taken care of, and that is all. We need a more soundly grounded effort where we have a board of directors of some kind of group that is going to continue and really build an educational institution.

We should not waste funds on dilatory experience. That is one problem we are really going to have to come to grips with. The Federal Government cannot do it, but we can encourage States to do it by conditioning the funding of, Federal funding of charter schools for those States that take different approaches to the regulation of charter schools, to the development of accountability standards. They can take different approaches. We would not dictate the approaches, but take a sound approach to guaranteeing accountability, have a sound approach to guaranteeing longevity. Do not leave children to be victimized by dilatory experimentation.

I think all of this happened in one day with respect to education, and it is altogether fitting and proper that we should be that preoccupied with education on the floor and in the committee. Education is a number one issue for the majority of people and that is the way it should be. Common sense dictates that we ought to be more concerned and involved.

I do not think there can be too much discussion of education matters. I do think that we have to understand that no one person has the answers, and that the danger of fads and the danger of powerful people pushing through their particular remedies is always there, so we have to have the broadest possible participation and decisionmaking, and legislation ought to be based on some kind of set of fundamental principles.

Reform, in my opinion, ought to go forward across the board where we have a lot of different components of the effort to reform our schools. Charter schools are just one component. Whole school reform is another. There

are many different components that ought to be there so that we can have a good look at what works and what does not work, and as fast as possible move on to institutionalize those things that do work.

Schools are very important back in New York. We have education in schools as a number one issue in the mayoral campaign. We have a great debate there as to what has happened to our schools and who is to blame. We had a situation where the schools were radically cut, the budget of the school system was radically cut under the present mayor, and now that it is an issue, there is an insistence that it was not really cut, that the cut did no damage, and that it is a figment of everybody's imagination that our schools are overcrowded.

Mr. Speaker, 91,000 children in 1996 could not find a place to sit. I understand it went down to about 80,000 in 1997. When school opened, they were that short of places, decent places for children to sit. A desk of their own was not there for large numbers of young people, even in this election year, and strange things are happening to make the problem disappear before the eyes of the citizens of New York.

There are efforts being made to keep one candidate out of schools. Ruth Messinger was not allowed to go into certain schools, or if she went into the schools, the press was not allowed to accompany her. That is unusual. In all previous mayoral campaigns, the schools have been open to candidates. We have had here in Washington in the last few days Members of Congress attend a school and go into the school to announce a program. The Republican majority went into a school just before they announced a new initiative on education.

So the fact that the present mayor has maneuvered to ban his opponent from schools is very unusual. New York is, unfortunately, not up in arms about this, even in the city university system, at the college level where college students certainly are able to determine, make up their own minds about the truth or falsity of a situation with respect to candidates, and they certainly ought to have the benefit of the maximum open debate. However, certain colleges have refused to allow the mayor's opponent to speak there. So education is such a hard issue, until there are some oppressive, totalitarian tactics that are being developed to keep the issue at a certain level and to avoid confronting it fully.

A few days ago we had a school in Harlem closed also because of the fact that it was a newly renovated building and the fumes were so strong in the building that they had to evacuate the students. Now, that is a building that used to be a dry cleaning plant, it is a building that was renovated to make it a school, and before it was purchased for renovation, the board of education was warned that it was on the site of a dry cleaning plant. Even after, as it progressed and they made some renovations, tests were done and the fumes were detected. They were warned again, but the bureaucracy pressed on.

I do not want to place the blame on the mayor's office; the mayor's office certainly was not involved with this, it is bureaucracy that might be corrupt or may not be corrupt. It may be that somebody paid somebody off to guarantee that the test of the fumes was not anything alarming, and the children could be put in there. But now they are in there, and the tests show that the fumes are too strong to keep young children in the building. These are fumes that could very much affect the development of young people in various ways and they should not be subjected to this. But this is the bureaucracy.

This is one of the reasons why in a school system as large as New York, no matter what we do, there is a need to have some way to shake up that bureaucracy. Competition is one way. Alternative schools, charter schools, some ways must be found to show them that we do not have to do business this way.

We do not have to have situations where somebody in the bureaucracy for some reason allows a building which is unfit for habitation to be renovated, paid for by the board of education, and actually march youngsters in there and start having classes and then to have to evacuate. It is one more example of how a system of 1,100 schools and more than 1 million children and more than 60,000 teachers is kind of unimaginable, certainly in its present form, and something needs to happen to come to grips with the fact that time goes by, reforms come and go, and we still have these horrendous problems such as the occupation of a building that costs millions of dollars to renovate for children and they are exposed to deadly fumes.

There is some good news in New York. On November 4 there is a referendum on the ballot which will deal with $2 billion for school construction. So maybe we will have the kind of school construction funds which will allow for the construction of new buildings, and we will not be renovating old dry cleaning plants in the first place. We will not be renovating some other sites that are undesirable that have been called to my attention, schools near dumps and schools in just other predicaments. With a $2 billion initiative for school construction, maybe New York City will be a part of the State which gets priority and we can eliminate more than 250 schools that still have furnaces that burn coal.

There is a great deal of alarm about youngsters being exposed to dry cleaning fumes. Well, dry cleaning fumes are pretty pungent and can be identified easily, but when we have furnaces burning coal in an area, it spews its filth into the air, it pollutes the air all around, and we have come to accept it as almost normal, those little granules out there. The things that make up soot that poisons the lungs of young children and increases the asthma rate are not alarming enough people. The whole sense of urgency and emergency is not there when it comes to dealing with furnaces in schools that burn coal.

In other words, there is a state of crisis certainly in big city schools, and I am not privy to the facts, but I am certain that New York is probably not the only city still with schools that burn coal in their furnaces. Asthma is a problem in a lot of other cities, as well as New York City, but we certainly are not moving with dispatch in New York to deal with something as obviously unhealthy as coal-burning furnaces in schools.

I have also talked before about the fact that I think it is child neglect and child abuse to force children to eat lunch at 10 o'clock in the morning because schools are overcrowded and they have to have several different rounds of feeding in the cafeteria, and in order to feed all of the children in an overcrowded school they have to start feeding some lunch at 10 o'clock. Ten o'clock is when they have just had their breakfast, and some do not eat lunch until after 2 o'clock when they are getting ready to go home for supper. All of these things go on and on, and they are accepted as normal.

My problem is, they are accepted as normal at the local level, and even in this mayoral campaign there does not seem to be much alarm about the fact that it continues this way. They accept it as normal at the national level. The school construction initiative, which made a lot of sense, has now been put on the back burner. Nothing will be done about it this year. Our only hope is that with the gentlewoman from New York [Mrs. LOWEY] and the cosponsors of that bill growing every day, almost all the Democrats are now on the school construction initiative, we will have some action on school construction in the next half of the 105th Congress.

However, if we have a child in school, we know that they only live one life. Postponing these urgent matters is serious business. Postponing school reform or saying that we will get around to it and eventually in 5 or 10 years schools will be better, that is not enough. Our children go through the process only once, and in the African-American communities across the country the anger and the frustration is moving toward panic.

The panic results in a cry for vouchers in many cases, without really knowing the full story as to how vouchers are going to work. Anything

that is offered becomes a cure when we are in desperate need of some relief, and parents see their children as going through a process that they will only go through once, and nothing of any great momentum has developed to change the way public schools in our big cities are being administered. We have to have a greater sense of urgency and understand that there is an emergency that has to be addressed.

America's concern for education is on target, but the sense of urgency is not great enough. We do not have at this point real momentum behind the Federal school construction initiative. I hope we will get it next year. We must work harder to bring some relief by having a Federal stimulus. The Federal Government cannot do it all. If we start it, the States are more likely to pick up on it and the local governments also.

Budget cuts at the local level are still devastating schools. This year, an election year, the mayor of New York has put computers in junior high schools and restored some funds cut, but the budget cuts that were instituted a few years ago still have a devastating effect on schools. The devastating impact is still there because they encouraged the school system to cut its budget by laying off, encouraging the retirement of the most experienced principals and administrators and teachers.

We have lost our most experienced principals, administrators and teachers as a result of the encouraging of those people to retire, because they are at the high end of the salary scale and we save money. When a teacher in the system for 20 years, 25 years, retires and a new teacher comes in, we save a lot of money. But in the process of saving money, we cut radically into the quality of education and administration.

Money is always there. Money is a great roadblock to making even the most obvious kinds of changes. Education reform, a lot of controversial items are involved but some are not so controversial, and one is construction, and that requires money. The purchase of equipment for laboratories, the purchase of books, a number of education reform items are clear of any controversy.

□ 2045

They do not require debate. We know they are needed. Money is the obstacle. Which brings me to the second part of my discussion today. Money is the obstacle, and it has been always thrown up as a reason for not taking action.

The reason we do not have a construction initiative is because in the process of the negotiation of the balanced budget, that was on the table, and the Republican majority decided they did not want to support it. The President, in the process of negotiation, he had to take some of his items off the table. He took off the school construction initiative.

We do not have the money, we say. We give the impression to the American people that this is an almost bankrupt Nation and that we cannot afford to reform our schools. At the same time, there is a tremendous amount of waste. I want to go into a discussion of where all the waste is.

Obviously, there is plenty of it in the military budget, still. The President vetoed some items that were sent to him recently in terms of military construction. There are a lot of items in that military budget that have not been vetoed and are not even being discussed.

NATO is still our primary responsibility, while very prosperous nations in Europe do not shoulder their part of the burden.

We still are spending far more for weapons systems than we need to spend. In an era when the cold war is no longer existing, there is no great sense of need for emergency development of weapons systems.

There are a number of places where we could cut the budget, Mr. Speaker, but I am not going to talk about that tonight. I want to talk about the revenue side, and the fact that one area that we have been pursuing is the fact that corporate welfare takes many forms. One form of corporate welfare is the refusal of the IRS to enforce the Internal Revenue Code against corporations.

Corporations enjoy corporate welfare in many ways. The list is very long. We have heard discussions of it. We have taken some steps to lower the amount of corporate welfare. There have been some reductions in the agricultural subsidies, there have been some reductions in the overseas advertising budgets for American products. There have been some reductions in a number of different items that were identified as corporate welfare 2 years ago. But there is still a great deal left to be done.

In the area of reforming the Internal Revenue Service, we ought to take a hard look. The whole discussion and debate about the Internal Revenue Service should not go forward as a debate dominated by the right, by people who want to change the Tax Code in order to make it easier for people who are wealthy to hold on to more of their wealth, a greater percentage of their wealth than poor people do, or to take advantage of the marvelous economic system that we have and not pay back to that system.

Corporations in particular, if they are not subjected to what Congress has decided in the Tax Code should be done in terms of taxation, then they are, in a way, being subsidized. Every time we refuse to carry out one of the items, one of the sections of the Internal Revenue Code Congress has put in there, we imbalance the whole situation, because each part of the Tax Code was put in to realize a certain amount of revenue.

I am very concerned about an area that was identified by a friend of mine who works with an agency that prepares corporate taxes, that led me to inquire of the Internal Revenue Service why it was not being enforced. Sections 531 to 537 of the Internal Revenue Tax Code was called to my attention by a friend who noticed that large amounts of buy-backs of stock are underway by corporations. Some corporations have been buying back their stock for many years, and there has been an escalation in the number of big corporations that buy back their stock.

The question was raised, and I have talked about it on the floor here before, as to why are they violating sections 531 to 537 of the Internal Revenue Tax Code, which says that you cannot do that except for certain specified reasons.

This friend of mine did further research, and a staff member of mine helped to do research also, which identified that the buy-backs which are made in order to distribute them as stock options to the employees, buy-backs which are made in terms of specific things that are being done in that particular financial game plan, they are all legal and they are there.

But then he subtracted those kinds of purposes for buying back stock from the non-stated purposes, and he had a big amount left. Billions of dollars have been bought back by corporations for no reason, other than that they are stockpiling their own wealth, which raises some serious questions.

I guess Congress must have been concerned when they passed 531 to 537, that section, they must have been concerned about the fact that when corporations buy back their own stock it does set up a situation where you could manipulate or seem to be manipulating the market, because they are in a position to sort of keep the prices up artificially by buying back their stock. But I do not want to go speculating. I am not an expert in taxes. That direction is not the direction I want to take tonight.

I merely want to say that if it is on the books, if there is a clear prohibition against buying back stock, except for certain stated purposes, then why is it being allowed in such great amounts? Why is it escalating? If we want to get more revenue, then instead of the Internal Revenue Service pursuing middle class taxpayers with such fervor, instead of going overboard to guarantee that they squeeze every penny out of taxpayers who do not have the wherewithal to hire expensive tax lawyers and accountants, who get frightened by the fact that they got a letter from the IRS, instead of pursuing that course, which is reflected in

the fact that over the years, since 1944, more and more of the tax burden has shifted from corporations to individuals and families.

I have talked several times about the fact that families and individuals pay an inordinate amount of this burden of the income tax, up to about 44 percent. They used to pay somewhere down near 28 percent, and the corporations paid the greatest percentage. Now corporations pay around 11 percent, and individuals are still up there and families are still up at 44 percent. So it could be attributed to the way Congress has written the law. That is part of it. The laws have been written to favor corporations. There are laws, as we have noted before, which really amount to corporate welfare. Part of the Tax Code does that.

There may be another factor. As we pursue the reform of IRS, as we pursue hearings related to what the Internal Revenue Service is doing to families and individuals, let us bear in mind that the question ought to be asked, what are they not doing to corporations? Why are they, in a very zealous manner, pursuing middle class taxpayers and families and individuals, while they are not pursuing certain clear aspects, certain clear items of the Tax Code with respect to corporations?

I sent a letter to the commissioner of IRS, Mrs. Richardson at that time, and she has resigned since, I think, and I asked about the enforcement of sections 531 to 537 of the Internal Revenue Tax Code, and why is the section, called unreasonable accumulation of surplus provisions, why was that unreasonable accumulation of surplus section not being enforced.

I never got an answer from the then commissioner of IRS. It was sent to one of her agents, who then sent it to his secretary. I got an answer finally from a person who identified themselves, it sounds as if they were a low-level clerk. They really had no title of any great significance.

That is the kind of answer I got, and it was not a letter that I wrote alone, but there were 30 Members of Congress, 29 Members of Congress, who joined me. So 30 Members of Congress wrote a letter to the IRS requesting, and I read this letter before on this floor, requesting that we get an explanation as to why sections 531 to 537 of the Internal Revenue Tax Code were not being enforced.

I got no letter back from the commissioner. I got an answer back from a low-level person who, in part of the letter, implied that it is too difficult to pursue these cases. That statement, that it is too difficult to pursue these cases, certainly runs parallel to a statement that I had heard made in one or two previous administrations. It was either the Nixon administration or the Reagan administration.

A statement was leaked out that the word had come down from the White House to the Tax Commissioner at that time that they should stop wasting so much time pursuing corporations, that corporations had lawyers and accountants and it was very difficult to get them to pay their taxes properly, so revenue collection was lagging. In order to make sure revenue collections did not lag, they were being advised from the top to pursue middle class taxpayers more vigorously and leave corporations alone.

The answer that I got sort of implied that that is pretty much the strategy that is used. If we are going to have hearings, then let us ask that question. If we are going to have hearings on reform, then let us include in the reform some kind of reporting system which tells us how many audits are being done of corporations, and in what ways; why is a provision like sections 531 to 537 not being pursued?

It has a penalty built in, but it is not unlawful. In other words, if you do not follow sections 531 to 537, they are not going to put you in jail. However, if you are caught you pay a very stiff penalty.

It is a very interesting part of the tax law. We know there are many provisions in the tax law which say if you do not comply, you go to jail. If you do not file, you are at risk of going to jail. There are a number of items that are pretty clear. You can be jailed if you do not do them. Yet, here is a provision which has no threat of jail, but it says if you are caught, you pay a penalty.

The penalty is a very stiff penalty, 39 percent. If you are caught violating that section of the law and the amount of buy-backs is $1 million, say, then 39 percent of $1 million is the penalty. That is in the law. It is clear. It used to be fuzzy as to what the target was. They said at one time it was written only for closely-held corporations, family corporations, but in 1984 they clarified that.

There is a section in the law, in the revision of the Tax Code in 1984 or 1987, 1984, Congress in the Revenue Act of 1984 amended the statute by adding section 532(c) which reads, "The application of this part to a corporation shall be determined without regard to the number of shareholders of such corporation." So not small, closely-held corporations only, but all corporations are subject to sections 531 and 537.

If we are going to have hearings, the Committee on Ways and Means, and certainly I serve on the Committee on Government Reform and Oversight, and we are now having hearings on campaign finance reform, I hope we can go to some more productive hearings related to the IRS and the IRS's methods of targeting people for collection; why corporations are not being given the same kind of scrutiny that individuals and families are given; why are we letting corporate welfare take place by not enforcing the Tax Code?

There are some good articles that have emerged over the last few weeks related to the IRS, and there is one I would like to quote from, here, related to what needs to happen at the IRS. This is written by a gentleman who used to be an IRS commissioner. His name is Fred Goldberg. He was IRS commissioner from 1989 to 1991.

Mr. Goldberg agrees with me in one very important area. That is, "The buck stops at the top. When things go wrong in any organization, the temptation is to blame the workers. Don't. What's missing is top-down focus on what we want from the IRS, and the expertise, continuity, and accountability to meet those expectations. That's why the restructuring commission recommended sweeping changes in IRS management, governance, and oversight. IRS commissioners now have no set term. Most serve for only a couple of years. They have neither the tenure nor the tools to build a management team and hold that team accountable. Give the commissioners a 5-year term and the power to reward employees who do the job and fire those who don't."

□ 2100

Instead of wildly fluctuating budgets, give the IRS stable, long-term funding that will let them get the job done. Require coordinated, ongoing congressional oversight that focuses on broad strategic issues.

I repeat, I am quoting from an article that appeared in Newsweek magazine, October 13, an item written by Fred Goldberg, a former commissioner of the IRS from 1989 to 1991. "Require coordinated ongoing congressional oversight that focuses on broad strategic issues." I cannot emphasize that too much: Broad strategic issues.

Yes, we ought to deal with the fact that people had their homes taken away from them. Mistakes have been made in arithmetic that have led to endless anguish. Papers were lost and records confused. All kinds of things have happened which require attention.

But we need to focus on the broad strategic issues of what is the IRS here for and why should it be in the business of fervently pursuing middle-class taxpayers who are easy to pursue, while it neglects corporations that would yield a far bigger dividend if they were made to obey the law?

Mr. Goldberg continues by saying, and I quote,

> Mind what you measure, because that is what you will get. Congress and the administration talk a lot about fair and reasonable treatment of taxpayers. But at present, the primary IRS performance measures are limited to raw enforcement data like how much money the agency claims taxpayers owe after audits . . . Congress, the administration, and senior IRS management make the rules. When they start measuring and rewarding fair and reasonable treatment of taxpayers, that is what we will get.

In other words, I sent the letter asking the question about section 531 to 537 to Commissioner Richardson. I got no answer from her. I got an answer from a low-level employee. I sent back another letter asking her to provide me with a better answer and please do it herself. I got no answer.

I sent the letter to Secretary Rubin. In the structure of the Federal Government, the IRS is under the Secretary of the Treasury. The Secretary of the Treasury is under the President.

Now, I am not going to blame the Democrats or the Republicans for what the IRS does, because despite the fact that this is a Federal agency, it is part of the executive branch of government, and the IRS commissioner does report to the Secretary of the Treasury. The Secretary of the Treasury does report to the President. It is a huge institution of 100,000 employees, and only a handful of them are appointed through any political process.

So the vast majority of IRS employees have been there through Democratic and Republican administrations. We cannot move them politically. It is not a political problem. There is a management problem, there is a philosophy problem, and there is a problem of administrative philosophy.

Congress makes the laws, and the administration is supposed to enforce the laws. If there is a section 531 to 537 and nobody from the top is willing to even reply to Members of Congress who inquire as to why they are not enforcing it, then we have a problem.

Do not blame the IRS clerks, do not blame the agents who are in that system who are going to respond to the pressure from the top. Ask the basic question: What is coming down from the top?

Mr. Goldberg talks about how important it is to make any reform effort bipartisan. The IRS would be a fat political target, but we should not fall into partisan politics. In this present effort since we have focused a lot of attention, begun to focus a lot of attention, on the IRS, let us have a bipartisan effort to reform the IRS. Let us have a bipartisan effort on behalf of the average ordinary taxpayer out there who wants to be treated fairly.

Let us have a bipartisan effort, because in the whole scheme of collecting revenue, which, again, as I said before, liberals and progressives, people who make up the "Caring Majority," have traditionally ignored the revenue side of the fiscal operation of government. We have not paid attention enough to what happens in terms of how revenue is collected. We have only campaigned for improvements in expenditures. We have campaigned against waste. We campaigned in favor of setting new sets of priorities.

The priority we set in education is constantly being pushed aside and frustrated by the claims being made that the Nation is too poor to afford expenditures for programs like education that are needed. The effort is being made to balance the budget as a top priority, and we cannot balance the budget unless we stop all new programs.

The school construction initiative is considered a new program. That is one of the reasons why it is receiving such stiff opposition from the Republican Majority. No new programs unless we identify the source of the money we are going to get to pay for it.

So, Mr. Speaker, that is why I am here. Being primarily concerned about education, I am here talking about revenue because we must wade into that side of the equation and prove that without unbalancing the budget, without affecting the present move toward a balanced budget, we could, in addition to cutting waste elsewhere, we could improve the revenue side without hurting the average American citizen out there. There is revenue to be collected by enforcing the Internal Revenue Code in a way which is impartial and does not back away from the enforcement of the Code with respect to corporations.

We are going to have a new tax bill next year. Probably in this 105th Congress there will be a different kind of tax reform. Since I have been here, I have gone through the Reagan tax reform and gone through the Clinton tax improvements, reforms, and they all dealt with the ways we deal with the brackets and new deductions, and there are a number of things that have happened which most of the reformers are claiming are complicating the Tax Code even more.

This kind of reform is being proposed to deal with some items that certainly should have been dealt with before. It is unthinkable that we have not had more oversight hearings on the Internal Revenue Service.

During the 15 years that I have been here, I have served on the Committee on Government Reform and Oversight. It used to be called Government Operations Committee, but it has the same mission. Never has there been a thorough review of the Internal Revenue Service.

We have dealt with a lot of issues which I consider trivial, but we have never dealt in a serious way with looking at the IRS and its major role in the life of every American and deciding that we want a first class agency administratively, we want the most modern equipment, we want procedures that are second to none. In a Nation which prides itself on the most advanced computers in the world and the most advanced business procedures, certainly the IRS should lead the way.

The gentleman from Ohio [Mr. PORTMAN] has an article in this week's Hill newspaper, the Wednesday, October 8, issue of Hill under the Opinion section. Mr. PORTMAN talks about the fact that there will be new legislation proposed and it is called the IRS Restructuring and Reform Act of 1997. He is cosponsoring that with the gentleman from Maryland [Mr. CARDIN], and Senators BOB KERREY and CHARLES GRASSLEY, one Democrat and one Republican in the Senate.

They are sponsoring a bill which will deal with these very vital fundamental issues related to the administration of the IRS that is long overdue. They point out the fact that we recently had to pay a $4 billion bill, if we want an example of government waste, we had to pay $4 billion for a failed computer modernization effort at the IRS. A failed computer modernization effort cost us $4 billion. They are going to have to redo it.

The IRS requires that we file accurate returns, but they have never balanced their own books. We have an outrageous situation like this in Federal agencies, and recall that the CIA, Central Intelligence Agency, lost $4 billion in their petty cash fund. That was on the front pages of the New York Times and the Washington Post, yet most people just do not believe it happened. They reported it, and finally there was a statement made that the Agency had discovered, rediscovered, $4 billion that it did not know it had.

So in big government agencies that do not have oversight, these kinds of problems would occur. It is up to Congress to take a more vigilant role in terms of oversight. In the process of exercising oversight, my point, as I come to a close here, is that we should do more than dwell on the clerical, administrative problems. They need to be resolved. We need the best information technology. We need customer service that flows out of the IRS that is the best in the world. We need to show that we have a great concern for the people who pay taxes at every level.

There is no reason why we cannot get from the IRS service as good as we get from our local bank. After all, all taxes are local, and they come from ordinary people, and they deserve to be treated with great respect. All of that needs to be done.

But, Mr. Speaker, we also need to address ourselves to the question of, what are the priorities and how is the Tax Code being uniformly enforced across the board? Who is the beneficiary of special treatment? Are we using the IRS, the Tax Code, for corporate welfare by choosing not to enforce certain portions? What corporations benefit, and how much? By choosing not to enforce certain portions, how are we placed in a situation where more pressure has to be applied on the middle-class taxpayer because we are not reaping, not collecting, the kind of revenue that was projected and predicted when Congress developed the codes in the IRS, in the Internal Revenue Code? All of that should be on the table.

Why is it that over the years since 1944, the amount of taxes collected, the percentage of taxes collected from corporations, although corporations have been booming, we have had unparalleled prosperity, why is the percentage of the income tax burden that they bear, why has it gone down while the percentage of income tax burden borne by individuals and families has gone up?

Why can the IRS give us some statistics without divulging individuals', and I am sure they can, categories? They can tell us exactly what kinds and how much revenue was produced in each section of the Code. There are ways to analyze without getting into individual discussions of corporations and individuals. All of that can be done, and it will give us a fairer system.

The time we spend on the IRS will be far more productive. We will do more than give our constituents a joyful feeling that finally somebody is going after those guys. It is long overdue. But we should also get to the root of the matter. Why are they pursuing, relentlessly pursuing, the average taxpayer, the families and individuals, when there is so much that they are not doing with respect to corporations?

And when they do make the revenue collections, we can identify the fact that there is money available for the priorities that we have identified in education. We want to know where the money can come from. It can come from corporations paying their penalties for the violations of section 531 and 537. That section alone will produce all the money we need for school construction over the next 5 to 10 years. The two are very much related.

Education is very important. The IRS review is very important. Both parties in a nonpartisan, bipartisan way should pursue both of these objectives, and I would certainly hope that we will spend part of the remaining weeks of the first year of the 105th Congress doing this. But in the 105th Congress in the second year, we will give our full attention to a bipartisan effort to collect the taxes that are not being collected in the corporate welfare and divert the money that we raise that way into the coffers for the improvement of the public schools across America, starting with a new school construction initiative.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HASTINGS of Washington (at the request of Mr. ARMEY), for today after 2 p.m., on account of attending his daughter's wedding.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative programs and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of California, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. RODRIGUEZ, for 5 minutes, today.

(The following Members (at the request of Mr. JONES) to revise and extend their remarks and include extraneous material:)

Mr. HANSEN, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. DELAY, for 5 minutes, today.

Mr. THUNE, for 5 minutes, today.

Mr. CRAPO, for 5 minutes, today.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 1122: An act to amend title 18, United States Code, to ban partial-birth abortions.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. SCARBOROUGH). Pursuant to the provisions of House Concurrent Resolution 169 of the 105th Congress, the House stands adjourned until 10:30 a.m. on Tuesday, October 21, 1997, for morning hour debates.

Thereupon (at 9 o'clock and 15 minutes p.m.) pursuant to House Concurrent Resolution 169, the House adjourned until Tuesday, October 21, 1997, at 10:30 a.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5420. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Standards for Approval of Cold Storage Warehouses for Peanuts (RIN: 0560–AF04) received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5421. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—HUD Disaster Recovery Initiative [Docket No. FR–4254–N–01] received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5422. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans of New Source Review (NSR) Implementation Plan Addressing NSR in Nonattainment Areas; Louisiana; Louisiana Administrative Code (LAC), Title 33, Environmental Quality, Part III. Air, Chapter 5. Permit Procedures, Section 504, Nonattainment NSR Procedures [LA–14–1–7239; FRL–5905–7] received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5423. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—California State Implementation Plan Revision; Interim Final Determination That State Has Corrected Deficiencies [CA 198–0056; FRL–5907–2] received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5424. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plan; Minnesota; Evidentiary Rule [MN40–03–6988; FRL–5906–3] received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5425. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants: Approval of Delegation of Authority to New Mexico [FRL–5904–8] received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5426. A letter from the AMD—Performance Evaluation and Records Management, Federal Communication Commission, transmitting the Commission's final rule—Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System [FO Docket 91–301, FO Docket 91–171] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5427. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services (Transmittal No. 98–07), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5428. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Turkey for defense articles and services (Transmittal No. 98–06), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5429. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services (Transmittal No. 98–05), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5430. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Available for New Jersey [Docket No. 961210346–7035–02; I.D. 100197A] received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5431. A letter from the Director, Office of Regulatory Management and Information,

Environmental Protection Agency, transmitting the Agency's final rule—Withdrawal from Federal Regulations of Nineteen Acute Aquatic Life Water Quality Criteria Applicable to Alaska [FRL–5903–7] received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5432. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Revocation of the Polychlorinated Biphenyl Human Health Criteria in the Water Quality Guidance for the Great Lakes System [FRL–5907–4] (RIN: 2040–AC08) received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5433. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Withdrawal From Federal Regulations of Arsenic Human Health Water Quality Criteria Applicable to Idaho [FRL–5903–4] received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5434. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit or abatement; determination of correct tax liability [Rev. Proc. 97–48] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIAZ-BALART: Committee on Rules. House Resolution 265. Resolution providing for consideration of the bill (H.R. 2204) to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes (Rept. 105–317). Referred to the House Calendar.

Mr. ARCHER: Committee on Ways and Means. H.R. 2513. A bill to amend the Internal Revenue Code of 1986 to restore and modify the provision of the Taxpayer Relief Act of 1997 relating to exempting active financing income from foreign personal holding company income and to provide for the nonrecognition of gain on the sale of stock in agricultural processors to certain farmers' cooperatives; with an amendment (Rept. 105–318 Pt. 1). Ordered to be printed.

Mr. STUMP: Committee on Veterans' Affairs. S. 923. An act to deny veterans benefits to persons convicted of Federal capital offenses; with amendments (Rept. 105–319). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUMP: Committee on Veterans' Affairs. H.R. 2367. A bill to increase, effective as of December 1, 1997, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans (Rept. 105–320). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ARCHER (for himself and Mr. CRANE):

H.R. 2644. A bill to provide to beneficiary countries under the Caribbean Basin Economic Recovery Act benefits equivalent to those provided under the North American Free Trade Agreement; to the Committee on Ways and Means.

By Mr. ARCHER (for himself and Mr. RANGEL):

H.R. 2645. A bill to make technical corrections related to the Taxpayer Relief Act of 1997 and certain other tax legislation; to the Committee on Ways and Means.

By Mr. ARCHER (for himself and Mr. GINGRICH):

H.R. 2646. A bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes; to the Committee on Ways and Means.

By Mrs. FOWLER (for herself, Mr. COX of California, Mr. GIBBONS, Mr. GILMAN, Mr. HUNTER, Mr. HYDE, Mr. SAM JOHNSON, Mr. MCINTOSH, Mr. MARKEY, Ms. PELOSI, Mr. ROHRABACHER, Mr. ROYCE, Mr. SHADEGG, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. SPENCE, and Mr. WOLF):

H.R. 2647. A bill to ensure that commercial activities of the People's Liberation Army of China or any Communist Chinese military company in the United States are monitored and are subject to the authorities under the International Emergency Economic Powers Act; to the Committee on International Relations.

By Mr. BACHUS (for himself, Mr. RILEY, Mr. KING of New York, Mr. SMITH of New Jersey, Mr. FRANKS of New Jersey, Mr. WATTS of Oklahoma, Mr. LARGENT, Mr. COOKSEY, and Mr. ADERHOLT):

H.R. 2648. A bill to amend title 18, United States Code, to make illegal all private possession of child pornography; to the Committee on the Judiciary.

By Mr. SKAGGS:

H.R. 2649. A bill to repeal the Line Item Veto Act and to amend the Congressional Budget and Impoundment Control Act to provide for the expedited consideration of certain proposed rescissions of budget authority; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKAGGS:

H.R. 2650. A bill to repeal the Line Item Veto Act of 1996; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEFAZIO (for himself, Mr. FILNER, Ms. KAPTUR, Mr. BONIOR, Mr. LIPINSKI, Mr. MILLER of California, Mr. SANDERS, Mr. DELLUMS, Mr. STARK, Mr. PASCRELL, Mr. TIERNEY, Mr. COSTELLO, Mr. HINCHEY, Ms. SLAUGHTER, Mr. BROWN of Ohio, Mr. ABERCROMBIE, Mr. EVANS, Ms. WATERS, Mr. STUPAK, Mr. PALLONE, Mr. BALDACCI, Mr. DELAHUNT, and Ms. DELAURO):

H.R. 2651. A bill to establish an Emergency Commission To End the Trade Deficit; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 2652. A bill to amend title 17, United States Code, to prevent the misappropriation of collections of information; to the Committee on the Judiciary.

By Mr. COOKSEY:

H.R. 2653. A bill to direct the Director of the United States Fish and Wildlife Service to conduct a study of the feasibility of establishing a national recreational fishing license; to the Committee on Resources.

By Mr. GREENWOOD:

H.R. 2654. A bill to amend the Solid Waste Disposal Act to permit States and political subdivisions to control the disposal of out-of-State municipal solid waste within their boundaries; to the Committee on Commerce.

By Mr. HOEKSTRA (for himself, Mr. NORWOOD, Mr. MCKEON, Mr. GREENWOOD, Mrs. EMERSON, Mr. MCINTOSH, Mr. BOEHNER, Mr. WICKER, Mr. BALLENGER, Mr. TALENT, Mr. BUYER, Mr. SAM JOHNSON, Mr. HILLEARY, Mr. PITTS, Mr. KNOLLENBERG, Mr. PETRI, Mr. BARRETT of Nebraska, Mr. HOSTETTLER, Mr. HASTINGS of Washington, Mr. GRAHAM, Mr. SCARBOROUGH, and Mr. BURTON of Indiana):

H.R. 2655. A bill to repeal certain Federal education programs; to the Committee on Education and the Workforce.

By Mr. HOEKSTRA:

H.R. 2656. A bill to prohibit Federal funding for the election of officers and trustees of the International Brotherhood of Teamsters; to the Committee on Education and the Workforce.

By Mr. SAM JOHNSON (for himself, Mr. HERGER, Mr. CHRISTENSEN, Mr. HOUGHTON, Mr. RAMSTAD, Ms. DUNN of Washington, Mr. ENGLISH of Pennsylvania, Mr. WELLER, and Mr. HAYWORTH):

H.R. 2657. A bill to amend the Internal Revenue Code of 1986 to prohibit the summons and examination of source codes for third-party computer programs and the disclosure of executable computer software obtained by the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. KINGSTON (for himself, Mr. MCNULTY, and Mr. RAMSTAD):

H.R. 2658. A bill to amend the Internal Revenue Code of 1986 to prohibit the Internal Revenue Service from using the threat of audit to compel agreement with the Tip Reporting Alternative Commitment or the Tip Rate Determination Agreement; to the Committee on Ways and Means.

By Mr. LEWIS of Georgia:

H.R. 2659. A bill to prohibit non-emergency take-off and landing at the Fulton County Airport, Brown Field, located in Atlanta, Georgia, when the airport's tower is closed; to the Committee on Transportation and Infrastructure.

By Mr. LEWIS of Georgia (for himself, Ms. CARSON, Mr. LEACH, Mr. DELLUMS, Mr. PAYNE, Ms. FURSE, Mr. TOWNS, Ms. PELOSI, Mr. FRANK of Massachusetts, Mr. CONYERS, Mr. OBERSTAR, Ms. RIVERS, Mr. BROWN of California, Mr. DEFAZIO, Mr. MARKEY, Mr. OWENS, and Mr. HINCHEY):

H.R. 2660. A bill to affirm the religious freedom of taxpayers who are conscientiously opposed to participation in war, to provide that the income, estate, or gift tax payments of such taxpayers be used for nonmilitary purposes, to create the Religious Freedom Peace Tax Fund to receive such tax payments, to improve revenue collection, and for other purposes; to the Committee on Ways and Means.

By Mr. MCINNIS (for himself, Mr. BAESLER, Mr. BONILLA, Mr. BOYD, Mr. BUNNING of Kentucky, Mr. COOKSEY, Mr. CUNNINGHAM, Mr. LINDER, Mrs. MORELLA, Mrs. NORTHUP, Mr. PETERSON of Pennsylvania, Ms. PRYCE of Ohio, Mr. BOB SCHAFFER, Mr. SNOWBARGER, and Mr. WICKER):

H.R. 2661. A bill to establish peer review for the review of standards promulgated under the Occupational Safety and Health Act of 1970; to the Committee on Education and the Workforce.

By Mr. MENENDEZ (for himself, Mr. STARK, Mrs. MALONEY of New York, Ms. KILPATRICK, Mr. GREEN, and Ms. LOFGREN):

H.R. 2662. A bill to amend the Truth in Lending Act to prevent credit card issuers from advertising and offering one type of credit card and then issuing another type of credit card without the informed consent of the consumer, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. METCALF:

H.R. 2663. A bill to provide technical corrections to the Native American Housing Assistance and Self-Determination Act of 1996, to improve the delivery of housing assistance to Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. PALLONE (for himself, Mr. MEEHAN, Mr. MCDERMOTT, Mr. KLUG, Mr. FILNER, Ms. LOFGREN, Mr. PETRI, Mr. BROWN of Ohio, Mr. FROST, Mr. MCNULTY, Mr. WEXLER, and Ms. FURSE):

H.R. 2664. A bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. PASTOR (for himself, Mr. KILDEE, Mr. MARTINEZ, Mr. TOWNS, Mr. FROST, Mrs. MINK of Hawaii, Mr. HAYWORTH, Ms. ROYBAL-ALLARD, and Mr. KENNEDY of Rhode Island):

H.R. 2665. A bill to improve Indian reservation roads and related transportation services, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. ROS-LEHTINEN:

H.R. 2666. A bill to provide for adjustment of status of certain Nicaraguans; to the Committee on the Judiciary.

By Mr. ROYCE (for himself, Mr. KASICH, Mr. TAUZIN, Mr. ARMEY, Mr. BASS, Mr. BOEHNER, Mr. BONO, Mrs. CHENOWETH, Mr. COBURN, Mr. CRANE, Mr. EHRLICH, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HILLEARY, Mr. HOBSON, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. INGLIS of South Carolina, Mr. KINGSTON, Mr. KLUG, Mr. LARGENT, Mr. LIVINGSTON, Mr. MILLER of Florida, Mrs. MYRICK, Mr. NEUMANN, Mr. NUSSLE, Mr. PARKER, Mr. PAUL, Mr. PITTS, Mr. RADANOVICH, Mr. ROHRABACHER, Mr. RYUN, Mr. SANFORD, Mr. SCARBOROUGH, Mr. SHADEGG, Mr. SOLOMON, Mr. STEARNS, Mr. SUNUNU, Mr. TALENT, Mr. THORNBERRY, Mr. TIAHRT, and Mr. WELDON of Florida):

H.R. 2667. A bill to dismantle the Department of Commerce; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, Banking and Financial Services, International Relations, National Security, Agriculture, Ways and Means, Government Reform and Oversight, the Judiciary, Science, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SALMON (for himself, Mr. STUMP, Mr. HAYWORTH, Mr. SHADEGG, Mr. GOSS, Mrs. KELLY, Mr. FOLEY, Mr. COBURN, Mr. CAMPBELL, Mr. PAUL, Mr. MCCRERY, Mr. SESSIONS, Mr. ROYCE, Mr. PAPPAS, Mr. MCINTOSH, Mr. ENSIGN, Mr. HOEKSTRA, Mr. TALENT, Mr. HASTERT, Mr. SENSENBRENNER, and Mr. SOUDER):

H.R. 2668. A bill to amend title XVIII of the Social Security Act to remove the sunset and numerical limitation on Medicare participation in Medicare+Choice medical savings account (MSA) plans; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANFORD:

H.R. 2669. A bill to amend the Social Security Act to provide simplified and accurate information on the Social Security trust funds, and personal earnings and benefit estimates to eligible individuals; to the Committee on Ways and Means.

By Mr. SAXTON (for himself and Mr. PALLONE):

H.R. 2670. A bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of New Jersey (for himself, Mr. STEARNS, Mr. WELDON of Florida, Mr. KENNEDY of Rhode Island, Mr. FOLEY, and Mr. CAMPBELL):

H.R. 2671. A bill to amend title XVIII of the Social Security Act to assure payment for ultrasonic nebulizers as items of durable medical equipment under the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WISE:

H.R. 2672. A bill to amend the Higher Education Act of 1965 to prevent Federal student assistance need analysis from penalizing parents for investing in prepaid tuition programs; to the Committee on Education and the Workforce.

By Ms. MILLENDER-MCDONALD:

H.R. 2673. A bill to ensure the safety of children in regard to firearms; to the Committee on the Judiciary.

By Mr. DAVIS of Virginia (for himself, Mr. WYNN, and Mrs. MORELLA):

H.J. Res. 96. A joint resolution granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact; to the Committee on the Judiciary.

By Mr. CRANE (for himself, Mr. STUMP, Mr. HOSTETTLER, Mr. BARR of Georgia, Mr. GIBBONS, and Mr. SNOWBARGER):

H. Con. Res. 170. Concurrent resolution expressing the sense of the Congress that the President should seek to negotiate a new base rights agreement with the Government of Panama to permit the United States Armed Forces to remain in Panama beyond December 31, 1999, and to permit the United States to act independently to continue to protect the Panama Canal and to guarantee its regular operation; to the Committee on International Relations.

By Mr. MOAKLEY:

H. Res. 266. A resolution recognizing and congratulating Northeastern University on its one-hundredth anniversary; to the Committee on Education and the Workforce.

By Mr. PAPPAS (for himself, Mr. ENSIGN, Mr. PORTMAN, Mr. HASTERT, Mr. BARRETT of Nebraska, Mrs. LINDA SMITH of Washington, Mr. WATTS of Oklahoma, Mr. REDMOND, Mrs. CHENOWETH, Mr. HYDE, Mr. RILEY, Mr. HALL of Texas, Mr. SUNUNU, and Mr. HUTCHINSON):

H. Res. 267. A resolution expressing the sense of the House of Representatives that the citizens of the United States must remain committed to combat the distribution, sale, and use of illegal drugs by the Nation's youth; to the Committee on Education and the Workforce.

By Mr. PAXON (for himself, Mr. MCHUGH, Mr. KNOLLENBERG, Mr. HOSTETTLER, Mr. EWING, Mr. NEUMANN, Mr. HERGER, Mrs. EMERSON, and Mr. THORNBERRY):

H. Res. 268. A resolution expressing the sense of the House of Representatives that no new energy taxes or fees should be imposed on the American public for the purposes of complying with the global warming treaty; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GEJDENSON introduced a bill (H.R. 2674) to authorize issuance of a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel PRINCE NOVA; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. LAHOOD.

H.R. 44: Mr. KILDEE, Mr. HINCHEY, Mr. OLVER, and Mr. DAVIS of Virginia.

H.R. 100: Mr. REYES.

H.R. 158: Mr. STUPAK.

H.R. 303: Mr. TURNER.

H.R. 339: Mr. SHIMKUS.

H.R. 404: Mr. TORRES and Mr. ROTHMAN.

H.R. 414: Mr. CRAPO.

H.R. 465: Mr. BLILEY.

H.R. 536: Ms. LOFGREN.

H.R. 746: Mr. HASTERT.

H.R. 754: Mr. SMITH of New Jersey.

H.R. 758: Mr. REDMON and Mr. CHABOT.

H.R. 789: Mr. LUCAS of Oklahoma.

H.R. 805: Mr. BARTON of Texas.

H.R. 815: Mrs. MCCARTHY of New York, Mr. TOWNS, Mr. MOAKLEY, Mr. ANDREWS, MR. DOOLEY of California, and Mr. DAN SCHAEFER of Colorado.

H.R. 859: Mr. THORNBERRY.
H.R. 883: Mr. LUCAS of Oklahoma.
H.R. 939: Mr. HOLDEN.
H.R. 965: Mr. BONO, Mr. COLLINS, and Mr. SALMON.
H.R. 981: Mr. GUTIERREZ.
H.R. 983: Mr. BARRETT of Wisconsin and Mr. GUTIERREZ.
H.R. 991: Mr. ROTHMAN.
H.R. 1018: Mr. KILDEE.
H.R. 1025: Mr. SHERMAN.
H.R. 1054: Mr. LEWIS of California, Mr. SESSIONS, Mr. BURTON of Indiana, Mr. SPRATT, Mr. FARR of California, Mr. CALLAHAN, Mrs. TAUSCHER, Mr. RADANOVICH, Mrs. MORELLA, and Mr. MOAKLEY.
H.R. 1063: Ms. SLAUGHTER, Ms. DELAURO, Mr. BURTON of Indiana, Mr. HEFLEY, Mr. WAMP, Ms. DUNN of Washington, and Mr. HALL of Ohio.
H.R. 1070: Ms. HARMAN and Mr. MATSUI.
H.R. 1071: Mr. BROWN of California.
H.R. 1114: Mr. ETHERIDGE.
H.R. 1151: Mr. SERRANO, Ms. WOOLSEY, and Mr. COSTELLO.
H.R. 1234: Mr. DELLUMS, Ms. BROWN of Florida, Mr. GUTIERREZ, Mr. JEFFERSON, and Ms. VELÁZQUEZ.
H.R. 1289: Mr. FOX of Pennsylvania.
H.R. 1371: Mr. SMITH of Michigan.
H.R. 1378: Mr. CHABOT, Mr. WELDON of Florida, and Mr. LARGENT.
H.R. 1415: Mr. MARTINEZ, Mr. BOYD, Mr. CLYBURN, Ms. STABENOW, Mr. LOBIONDO, Mr. EWING, and Mr. BUNNING of Kentucky.
H.R. 1441: Mrs. EMERSON.
H.R. 1534: Mr. BURR of North Carolina and Mr. TAYLOR of Mississippi.
H.R. 1565: Mr. NEY, Mr. BAKER, and Mr. EVANS.
H.R. 1586: Mr. DEFAZIO.
H.R. 1595: Mr. BLILEY and Mr. HOBSON.
H.R. 1608: Mr. KUCINICH, Mr. SPENCE, Mr. TAYLOR of Mississippi, Mrs. THURMAN, and Mr. BOB SCHAFFER.
H.R. 1614: Mr. SCHUMER.
H.R. 1625: Mr. WAMP, Mr. SMITH of Michigan, Mr. SMITH of Oregon, Mr. SMITH of Texas, Mr. FOX of Pennsylvania, Mr. UPTON, Mr. CHRISTENSEN, Mr. PITTS, Mr. GANSKE, Mr. JONES, Mr. HANSEN, Mr. STUMP, Mr. BUNNING of Kentucky, Mr. TAUZIN, Mr. BAKER, Mr. SHUSTER, Mr. EHRLICH, Mr. COBLE, Mr. OXLEY, and Mr. HYDE.
H.R. 1679: Mrs. KENNELLY of Connecticut.
H.R. 1689: Mr. ADAM SMITH of Washington, Mr. FRELINGHUYSEN, and Mr. FORBES.
H.R. 1697: Mr. ENGLISH of Pennsylvania, Mr. BARCIA of Michigan, Mr. FRANK of Massachusetts, Mr. DOYLE, and Mr. DELLUMS.
H.R. 1735: Mr. FROST.
H.R. 1737: Ms. WOOLSEY, Mr. BARRETT of Wisconsin, Mr. EVANS, Mr. MEEHAN, and Mrs. MORELLA.
H.R. 1741: Mr. THORNBERRY.
H.R. 1753: Mr. GRAHAM.
H.R. 1763: Mr. GILMAN and Mrs. LOWEY.
H.R. 1872: Mr. FOLEY, Mr. DAVIS of Florida, and Mr. LARGENT.
H.R. 1891: Mr. BUNNING of Kentucky, Mr. CRAMER, Mr. ENGLISH of Pennsylvania, Mr. HOUGHTON, Mr. HOLDEN, Mr. MCCRERY, Mr. NETHERCUTT, and Mr. HERGER.
H.R. 1913: Mr. TURNER.
H.R. 2185: Mr. MCGOVERN.
H.R. 2202: Mr. BILBRAY and Mr. CHRISTENSEN.
H.R. 2221: Mr. STUMP.
H.R. 2224: Mr. LIPINSKI and Mr. LANTOS.
H.R. 2253: Mr. FARR of California.
H.R. 2273: Ms. WOOLSEY, Mr. KILDEE, Mr. MCHALE, Mr. ETHERIDGE, Mr. BEREUTER, Mr. MCINTYRE, Mr. FAZIO of California, Mr. TOWNS, Mr. BORSKI, Mr. TURNER, Mr. MURTHA, Mr. MASCARA, Mr. PALLONE, and Mr. SISISKY.
H.R. 2276: Mr. KIND of Wisconsin, Mr. KLECZKA, Mr. BROWN of Ohio, Mr. BARRETT of Wisconsin, Mr. FROST, Ms. LOFGREN, and Mr. LUTHER.
H.R. 2292: Mr. BACHUS, Mr. WHITFIELD, Mr. LAHOOD, Mr. HUNTER, Mr. MCINTYRE, Mr. WHITE, Mrs. NORTHUP, Mr. BOB SCHAFFER, Mr. INGLIS of South Carolina, Mr. COBURN, Mr. LUCAS of Oklahoma, Mr. TAYLOR of Mississippi, Mr. KINGSTON, Mr. SAXTON, Mr. WOLF, Mr. TURNER, Mr. HEFLEY, and Mrs. EMERSON.
H.R. 2302: Mr. MORAN of Virginia, Mr. BLAGOJEVICH, Mr. DOOLEY of California, Mr. BURR of North Carolina, and Mr. PETERSON of Minnesota.
H.R. 2313: Mr. MCHALE.
H.R. 2362: Mrs. TAUSCHER.
H.R. 2377: Mr. EWING and Mr. LUCAS of Oklahoma.
H.R. 2397: Mr. WOLF and Mr. GOODE.
H.R. 2403: Mr. PORTER, Mr. GRAHAM, and Mr. HULSHOF.
H.R. 2404: Mr. EVANS.
H.R. 2438: Mr. HAYWORTH, Mr. CANADY of Florida, Mr. SMITH of Texas, and Mr. MCCRERY.
H.R. 2449: Mr. NETHERCUTT, Mr. GOODE, Mr. GOODLATTE, Mr. HAYWORTH, Mr. WATTS of Oklahoma, Mr. COOKSEY, Mr. BLILEY, and Mr. EHRLICH.
H.R. 2451: Mr. GUTIERREZ, Mr. KENNEDY of Rhode Island, Mr. ACKERMAN, and Ms. PELOSI.
H.R. 2456: Mr. KNOLLENBERG, Mr. KLUG, Mr. TAYLOR of Mississippi, Mr. CALVERT, Mr. PORTER, Mr. EVERETT, Mr. LEACH, Mr. LIPINSKI, Mr. STUPAK, Mr. LUCAS of Oklahoma, Mr. REGULA, Ms. LOFGREN, Mr. PETRI, Mr. MATSUI, Mr. QUINN, Mr. LAZIO of New York, Mr. SHAYS, and Mr. FRANKS of New Jersey.
H.R. 2462: Mr. HOEKSTRA, Ms. GRANGER, Mr. LARGENT, Mr. NEUMANN, Mr. PITTS, and Mr. EHRLICH.
H.R. 2476: Mr. MCGOVERN and Mr. STARK.
H.R. 2480: Mr. MCDERMOTT.
H.R. 2481: Mr. OBERSTAR, Mr. PAXON, Mr. WALSH, Mr. SOLOMON, Ms. DUNN of Washington, Mr. GOODE, Mr. NETHERCUTT, Mr. LEVIN, Ms. DANNER, Ms. FURSE, Mr. GILLMOR, and Mr. SMITH of Michigan.
H.R. 2483: Mr. MCINTOSH, Mr. TALENT, Mrs. CHENOWETH, Mr. PETERSON of Minnesota, Mr. MILLER of Florida, Mr. PETERSON of Pennsylvania, Mr. CAMPBELL, Mr. ENSING, Mr. PAUL, and Mr. MCCRERY.
H.R. 2490: Mr. ADERHOLT, Mr. COX of California, Mr. BALLENGER, Mrs. CUBIN, Mr. DEAL of Georgia, Mr. FOLEY, Mr. LUCAS of Oklahoma, Mr. MCINTOSH, Mr. METCALF, Mrs. MYRICK, Mr. PETERSON of Minnesota, Mr. SALMON, Mr. SANFORD, Mr. BOB SCHAFFER, Mr. SHADEGG, Mr. STUMP, Mr. TALENT, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WHITFIELD, Mr. HUTCHINSON, Mr. BLUNT, Mr. BURTON of Indiana, Mr. CHRISTENSEN, Ms. GRANGER, Mr. KLUG, Mr. HASTERT, Mr. SMITH of New Jersey, Mr. SPENCE, and Mr. WICKER.
H.R. 2493: Mr. THOMAS and Mr. DOOLITTLE.
H.R. 2495: Mr. ANDREWS, Mrs. MINK of Hawaii, Ms. FURSE, and Mr. COLLINS.
H.R. 2503: Mr. MEEHAN and Mr. OLVER.
H.R. 2509: Mr. GRAHAM, Mr. HOLDEN, and Mr. LATHAM.
H.R. 2515: Mr. PETERSON of Minnesota, Mr. DEAL of Georgia, Mr. PICKERING, Mr. SKEEN, Mr. CHAMBLISS, and Mr. HERGER.
H.R. 2517: Mr. MCGOVERN, Ms. CARSON, and Mr. HOSTETTLER.
H.R. 2519: Mr. MEEHAN and Mr. COOK.
H.R. 2523: Mr. BROWN of California and Mr. ETHERIDGE.
H.R. 2525: Mr. CLAY, Ms. DEGETTE, and Mr. HINCHEY.
H.R. 2527: Mr. KUCINICH, Mr. KILDEE, Mr. BOEHLERT, Mr. DOYLE, Mr. BOYD, Mr. BALDACCI, Ms. HOOLEY of Oregon, Mr. TORRES, Mr. TIERNEY, and Mr. MANTON.
H.R. 2535: Mr. WELLER.
H.R. 2551: Mr. HILLEARY, Mr. PETERSON of Minnesota, Mr. QUINN, and Mr. PAXON.
H.R. 2560: Mr. SAWYER, Mr. LAMPSON, Mr. EVANS, Mr. KENNEDY of Rhode Island, Mrs. MORELLA, and Ms. FURSE.
H.R. 2593: Mr. HULSHOF, Mr. SMITH of New Jersey, Mr. EVANS, Mr. ANDREWS, and Mr. KENNEDY of Rhode Island.
H.R. 2597: Mr. FROST and Mr. HINOJOSA.
H.R. 2598: Mr. BLUNT, Mr. BRADY, Mrs. EMERSON, Mr. EWING, Mr. FROST, Mr. GIBBONS, Mr. PICKERING, Mr. RILEY, and Mr. SNOWBARGER.
H.R. 2602: Ms. FURSE.
H.R. 2609: Mr. CUNNINGHAM, Mr. STEARNS, Mr. WELDON of Florida, Mr. FOLEY, Mr. BARCIA of Michigan, Mr. HERGER, Mr. WHITFIELD, and Mr. NORWOOD.
H.R. 2610: Mr. SOUDER, Mr. BURTON of Indiana, Mr. BARR of Georgia, Mr. SESSIONS, Mr. MCCOLLUM, Mr. PORTMAN, Mr. CONDIT, and Mr. GOSS.
H.R. 2611: Mr. BOB SCHAFFER and Mr. DOOLITTLE.
H.R. 2624: Mr. LEWIS of Kentucky, Mr. HOSTETTLER, Mr. SCARBOROUGH, and Mr. SKEEN.
H.R. 2631: Mr. HOSTETTLER, Mr. NETHERCUTT, Mr. MURTHA, Mr. BUYER, Mr. HANSEN, Mr. BRYANT, Mr. MOLLOHAN, Mr. SCARBOROUGH, Mr. HILLEARY, Mr. HEFLEY, Mr. RAHALL, Mr. BISHOP, Mr. SHAW, Ms. ROS-LEHTINEN, Mr. MCCOLLUM, Mr. WELDON of Florida, Mr. SCOTT, Mr. CANNON, and Mr. THUNE.
H.R. 2635: Mr. PORTER, Mr. BROWN of Ohio, and Mr. BROWN of California.
H. Con. Res. 80: Mr. JOHN.
H. Con. Res. 106: Mr. DAVIS of Illinois and Mr. GEJDENSON.
H. Con. Res. 107: Mr. GOODLING and Mr. DAN SCHAEFER of Colorado.
H. Con. Res. 121: Mr. TALENT, Mr. LAZIO of New York, Mr. SOUDER, Mrs. MORELLA, Mr. LATOURETTE, Mr. RAHALL, Mr. TIAHRT, Mr. WEXLER, Mr. CHAMBLISS, Ms. WOOLSEY, Mr. PORTER, Mr. JONES, Mr. METCALF, Ms. RIVERS, Mr. ROTHMAN, and Mr. FOX of Pennsylvania.
H. Con. Res. 127: Mr. BLILEY, Mr. HAMILTON, Mr. HALL of Texas, and Mrs. LINDA SMITH of Washington.
H. Con. Res. 130: Mr. BEREUTER.
H. Con. Res. 144: Mr. ROTHMAN.
H. Con. Res. 148: Mr. BLAGOJEVICH, Mr. KLINK, Mr. HORN, Mr. TIERNEY, Mrs. KELLY, Mr. MCNULTY, and Mr. HOLDEN.
H. Con. Res. 150: Mr. ADAM SMITH of Washington, Mr. PETERSON of Minnesota, and Mr. METCALF.
H. Con. Res. 156: Ms. SLAUGHTER, Mr. MCGOVERN, Mr. MEEHAN, and Ms. FURSE.
H. Con. Res. 158: Mr. BARTON of Texas.
H. Con. Res. 164: Mr. MILLER of California and Mr. FILNER.
H. Con. Res. 165: Mr. WYNN.
H. Con. Res. 166: Mr. PORTER.
H. Con. Res. 168: Mr. DELLUMS, Mr. EVANS, Mr. KUCINICH, Mr. RAHALL, Mr. BROWN of Ohio, Mr. MARTINEZ, Mr. BLAGOJEVICH, Mr. DAVIS of Illinois, Mr. GUTIERREZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KLINK, Ms. MCKINNEY, Ms. ROYBAL-ALLARD, Mr. EHRLICH, and Mr. FROST.
H. Res. 96: Mr. MATSUI.
H. Res. 224: Mr. LATOURETTE, Mr. POSHARD, Mr. GEKAS, and Ms. RIVERS.

H. Res. 235: Mr. PETERSON of Pennsylvania, Mr. DEUTSCH, Mr. CANADY of Florida, and Mr. YOUNG of Florida.

H. Res. 236: Mr. MORAN of Virginia, Mr. NADLER, Mr. MCDERMOTT, Mr. BALDACCI, Mr. CLEMENT, Mr. KLECZKA, Mr. BARRETT of Wisconsin, Mr. ENGEL, Mr. STRICKLAND, Ms. PELOSI, Mr. ETHERIDGE, Mr. STARK, Mr. YATES, Ms. STABENOW, Mr. ACKERMAN, Mr. TORRES, Ms. RIVERS, Mr. LEWIS of Georgia, Mr. DELAHUNT, Ms. LOFGREN, and Mr. MCHALE.

H. Res. 237: Mrs. THURMAN.

H. Res. 245: Mr. HILLIARD, Mr. HEFLEY, Mr. HASTINGS of Florida, Mr. TORRES, Mr. BORSKI, Mr. MORAN of Virginia, Mr. PITTS, Mr. BOEHNER, Mr. HALL of Ohio, Mr. BERMAN, Mr. DREIER, Mr. BEREUTER, and Mr. LATHAM.

H. Res. 246: Mr. BURTON of Indiana, Mr. WATTS of Oklahoma, Mr. FOLEY, Mr. TRAFICANT, Mr. SNOWBARGER, Ms. ROS-LEHTINEN, Mr. SAXTON, Mr. HORN, Mr. LOBIONDO, Mrs. KELLY, Mr. MCGOVERN, Mr. MCCOLLUM, Mrs. MORELLA, Mr. ENGEL, Mr. WAXMAN, Mr. SHAYS, Mr. KING of New York, Mr. MENENDEZ, Mr. MEEHAN, and Mr. MCNULTY.

H. Res. 259: Mr. TURNER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1415: Mr. DICKEY.
H.R. 1984: Mr. PORTER.
H.R. 2332: Mr. SPRATT.
H.R. 2579: Mr. BISHOP.

DISCHARGE PETITIONS

Under clause 3, rule XXVII the following discharge petitions were filed:

Petition 2, October 9, 1997, by Mr. PETERSON of Minnesota on H.R. 1984, has been signed by the following Members: Collin C. Peterson, Virgil H. Goode, Jr., Mike McIntyre, Norman Sisisky, Max Sandlin, Scotty Baesler, Jim Turner, Leonard L. Boswell, Sanford D. Bishop, Jr., Pat Danner, Charles W. Stenholm, and Marion Berry.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. YATES on House Resolution 141: Henry A. Waxman.

SENATE—*Thursday, October 9, 1997*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Blessed God, whose love never lets us go, whose mercy never ends, whose strength is always available, whose guidance shows us the way, whose spirit provides us supernatural power, whose presence is our courage, whose joy invades our gloom, whose peace calms our pressured hearts, whose light illuminates our paths, whose goodness provides the wondrous gifts of loved ones and family and friends, whose will has brought us to the awesome tasks of today, and whose calling lifts us above self-centeredness to others-centered servanthood. We dedicate all that we have and are to serve You today with unreserved faithfulness and unfailing loyalty.

You are with us today watching over all that happens to us. You go before us to guide each step of the way. You are beside us as our companion and friend, and You are behind us to gently prod us when we lag behind with caution or reluctance. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the routine requests through the morning hour be granted, and that the Senate immediately proceed to 1 hour of debate.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

SCHEDULE

Mr. LOTT. Mr. President, following 1 hour of debate, a vote will occur on the motion to invoke cloture with respect to the campaign finance reform bill. If cloture is not invoked, a cloture vote will then occur on the Lott amendment dealing with paycheck protection to S. 25. Therefore, Members can anticipate two back-to-back rollcall votes at approximately 1 p.m. I will notify Members as to the rest of the day. We are working now with the Democratic leader to see if we can get some understanding as to how we will proceed throughout the remainder of the day and, of course, how we will conclude the week's schedule.

It is hoped that the Senate will be able to vote on the VA–HUD appropriations conference report. I believe that is pretty well agreed to. We are also hoping we will be able to get the papers and have a vote on the Transportation appropriations conference report, if a recorded vote is required. And we hope to have some discussion today on the ISTEA authorization bill. We have requests from Senators for a block of time around 4 o'clock. But we are trying now to get an understanding of how we will proceed through the remainder of the day. Once that is worked out, we will notify all the Members. Of course, we could have some action on the Executive Calendar, in addition, before we go out tonight.

I yield the floor, Mr. President.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997—CLOTURE MOTION

Mr. ROBERTS. Mr. President, I am making today one of those "I did not intend to make a speech, but here I am making a speech" speeches. I think most would agree that opponents of so-called campaign reform—a term, by the way, which should top the oxymoron list of the 1990's—the opponents of this ill-advised attack on free speech have just about worn everybody out, even in Washington where people actually talk about such topics over dinner.

Some months ago, thanks to the distinguished Senator from Kentucky, I spoke on this issue and made what I thought was a pretty fair defense of free political discourse when the distinguished Senator from South Carolina proposed withdrawing first amendment protection from that same political discourse. Senator HOLLINGS, by the way, was up front. He was candid in his approach, as opposed to the current proposals of so-called reform.

Having been through at least three campaign reform efforts in the House of Representatives as a member of the then Administration Committee and goodness knows how many campaign task forces, and having paid attention to the current debate, I have been hard pressed to figure out what can be said that has not been said. However, it appears as if there is a sure bet in regard to this topic. It is that those who insist that they propose reform, regardless of the consequences, and wave their reform banners from self-consecrated, high moral ground, they never seem to suffer from arm fatigue. When it comes to campaign reform, the high road of humility is not bothered by heavy traffic in this town.

Despite the fact there is no clear consensus or a majority in the Senate regarding alleged campaign reform, there is no mercy from the proponents of the effort to further federalize the American electoral system, and we will apparently debate and vote, debate and vote and say the same things over and over and over again. I would surmise this is going to get a little tiresome, if not painful. But apparently the failure of past reforms does not deter or change the minds of current reformers.

Well, when you know all the answers, you haven't asked all the questions. But in this debate, there is a new axiom: The fewer the facts, the stronger the opinions, and apparently the less a thing can be proven, the angrier we get when we argue about it.

Nevertheless, I think we have an obligation to at least try to set the record straight in regard to this issue and, in that regard, I would like to make the following observations:

First, the distinguished Democratic leader of the Senate, Senator DASCHLE, a good friend, stated on the floor that there should be no confusion—no confusion—that the question is, do you support meaningful reform in response to the hearings regarding all of the illegal campaign activities apparently conducted in the last Presidential campaign.

The only problem with the Senator's statement is that the campaign finance reform bill is not reform. Let me repeat that, it is a reform bill that is not reform. It will not work. It again leads us down the road to a maze of election laws, rules, and regulations that favor incumbents, restricts desired political participation on the part of the American people, and would tripwire honest candidates and citizens into criminal acts. To make matters worse, the bill is fundamentally flawed and is what I hope—I hope—is an unintended attack on the most basic right of individuals guaranteed by our Constitution, and that is the right of free speech, the right written first, the right without which no other right can long exist.

Well, I know that people who think they know it all often annoy those of us who really do, but for the life of me, how this concoction can be labeled or disguised as "reform" is beyond me.

Senator MCCONNELL said it best when he stated:

My goal is to redefine reform, to move the debate away from arbitrary limits and toward expanded citizen participation and political discourse.

He said McCain-Feingold is a failed approach. It is. We already have it in the Presidential system. It is a failure.

So, for all the good press and good intentions, McCain-Feingold is a bad bill. Why? The basic premise of the bill is flawed, Mr. President. That premise is that too much money is corrupting politics. No, it is not.

Oh, now, now, I realize that our opponents and all of the so-called special interest groups—those groups who do not agree with us—they have too much money, I know that. And I realize when they spend it on negative ads opposing me or positions that I favor, that spending should be banned or limited—boy, I'm for that—or at least capped.

Too much spending? Compared to what? The Citizens Research Foundation has reported that campaign spending for all offices in 1996 added up to about $4 billion. All offices of the United States, $4 billion. That is a lot of money. But that compares to one-twentieth of 1 percent of the gross domestic product in our country of $7.6 trillion. One-twentieth of 1 percent is too much to set priorities on how those trillions will affect our daily lives and pocketbooks in the next generations of Americans? Compared to what?

Americans spend $20 billion on dry cleaning and laundry. One 30-second Super Bowl ad could finance three campaigns for Congress. Columnist George Will points out that millions of Americans gave $2.6 billion to 476 congressional campaigns and still had enough left over to spend $4.6 billion on potato chips. We can apply the same thing to yogurt or almost anything the American people will spend their hard-earned dollars on.

While having the privilege of presiding in this body, I remember well the chart displayed by proponents of this bill. It showed the so-called dramatic increase in campaign spending since 1976. It did not show the causes—the increase in postage, radio, TV, newspaper ads, printing, phone banks, campaign workers, all of that. It did not show virtually everything else that Americans must purchase in this country has also increased—homes, education, automobiles, health care—not to mention the purchasing power of the individual citizen.

Senator MCCONNELL has pointed out that in 1996, we had a pretty high-stakes election, a very important election. There was a fierce ideological battle over the future of this country. On a per eligible voter basis, the congressional elections cost $3.89. Every voter in America, dividing it up equally, is $3.89, about 4 bucks. The Senator pointed out that that is roughly the cost of a McDonald's extra value meal.

The second major flaw I think in McCain-Feingold is that no matter how you try to regulate or cap the flow of money to campaigns, it reappears, most of the time in the murky and illegal shadows with little or no public disclosure. Witness the circumvention of current campaign laws in regard to the money laundering scheme among certain interest groups, the Democratic National Committee and the Teamsters Union.

To make matters worse, McCain-Feingold compounds the felony. Instead of focusing on blatant violations of current law, the reformers want to place limits on money spent to support or defeat candidates for election.

And therein, Mr. President, lies the "Aha!" of this current debate, what is really going on. As Paul Harvey says, the rest of the story. It is pretty simple, really. Just take the interest groups who are pushing for this so-called reform and then take a look at their legislative agenda. I wrote it down. I had a staff member go through it. All the interest groups that are for campaign finance reform and then their legislative agenda:

Nationalized health insurance; status quo on Medicare and Social Security—this is my version; increased Federal role in education; opposition to liability and tort reform; opposition to tax cuts; increased Federal role in environmental protection. I might support part of that. Opposition to a balanced budget; reduced defense spending; opposition to current welfare reform.

I am not trying to perjure these positions. They are honest positions. The AARP, AFL–CIO, Common Cause, and the many so-called nonprofit consumer groups have every right to express their views, and they do. These issues are bigtime stuff. How we decide these issues will affect the daily lives, pocketbooks, and future of every member of these organizations, every American.

Organized labor should weigh in. Boy, they sure as heck did in the last election in my campaign. But so should the business community and farmers and ranchers and small business Main Street America, and all of the folks who might just disagree on how we get there from here on these issues. The truth of it is this reform is skewed to a particular political point of view. It is called unilateral retreat from the political playing field for those who have a political view different from you, but we will continue our vote, our vote buying, really, through the Federal budget.

Take the proposal to ban so-called soft money. Ban soft money and all of the interest groups whose future is and will be decided in part by the decisions of those who propose the ban will simply bypass the Republican and Democratic Parties and will conduct their own campaigns, and we will have a further weakening of the two-party system. That is wrong. That is detrimental.

I know soft money has become a pejorative, but, in fact, it is the only money spent today on campaigns by the American people that is not under control of the Federal Government. We haven't got our fishhooks into the regulations and redtape and all that goes with it.

Are we really saying, Mr. President, are we really saying that in America citizens and various interests groups whose very economic future depends on the decisions we make in this Congress cannot support or oppose those candidates? Think about it. "I'm sorry, you cannot invest in good government, you cannot express your point of view independent from the FEC." There are many countries in which that is the case—China, Iraq, Iran, North Korea. I do not think we want to go down that road.

"I am sorry, Farmer Jones, you cannot run an ad or distribute a handbill opposing PAT ROBERTS in his freedom-to-farm bill 60 days before the election. That's soft money. You can't do it." The same thing for farm organizations or commodity groups—unless, of course, you are a newspaper or a labor union.

How do you define a newspaper, by the way? It used to be to be a newspaper you had a hatrack, and then you had a typewriter, and you had a letter press, and you had somebody run it. You had a list. You had advertisers. You had to get your printing equipment somewhere. You had the local printing contract for the county.

Today, a newspaper is when you have a computer. You can manufacturer your own newspaper—Pat Roberts Weekly News, published every day. I do not know how you are going to define this. Who is going to be in charge?

Finally, let me stress the most serious flaw in the McCain-Feingold bill, and that is money spent to express your views or the views of voters cannot be regulated or banned without being at odds with the first amendment. We simply cannot improve the integrity of any political system by restricting the political speech under the banner of reform.

Speech controls in the last 60 days of a campaign envisioned in the bill represent the lawyer full-employment act. Just read the provisions exempting the voter guides and try to figure it out.

Well, finally, I must say, with all due respect—this may be viewed as a little partisan on my part—but with all due respect, that the administration's position in regard to campaign finance represents a new threshold for what is political chutzpah. Here we have evidence presented before the Senate Governmental Affairs Committee itemizing campaign malfeasance that includes

everything from Buddhist nuns; unprecedented misuse of our Nation's intelligence agencies—let me repeat, unprecedented misuse of the CIA for campaign activities—that is unprecedented; money laundering in exchange for taking sides in a Teamsters election; a fugitive influence peddler bribing his way to the President's side—he did not get his way, thank goodness—soft money turned to hard, circumventing existing campaign limits; and now missing tapes of the White House coffees or fundraisers.

In answer to all of this, Mr. President, the people who have been caught with their hands in the campaign violation cookie jar say we need a new cookie jar. President Clinton stating he will take the bully pulpit for campaign finance reform is like somebody charged with drunk driving insisting we lower the speed limit for everybody else.

Mr. President, in regard to President Clinton, the administration and the proponents of reform that is not reform, the greatest of faults is to be conscious of none. In this regard, I do not mean to malign the President or my dear friends across the aisle, but this is not reform. I urge a "no" vote on cloture. Let us get on with the business of the Senate in the United States.

Oh, and real campaign reform? As stated by Robert Samuelson in his column in Newsweek, "The best defense against the undue influence of money is to let candidates raise it from as many sources as possible—and most important—" most important, do not infringe upon the first amendment, "let the public see who is giving." They can figure it out. They are six jumps ahead of Washington and any proponent of reform we have in this body. "That would be genuine reform."

I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I want to take a moment to thank my good friend from Kansas for really an excellent speech and important contribution in this debate. Not only was he right on the mark, he was fun to listen to.

Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I, too, commend the Senator from Kansas for his illuminating remarks and the Senator from Kentucky for enduring this process for now years.

I want to come to the reference to the Constitution by the Senator from Kansas. The Constitution that says that: Congress shall enact no law to abridge speech.

It does not say there are no exemptions. It says the Congress shall enact no law to abridge speech.

Let us put this in context. This language is in the first amendment of the Bill of Rights which grants us the right to speak as we would, the right to worship as we would, the right to assemble, which is also part of this debate, and the right to petition our Government without fear.

All of us would like to see the campaign process improved. There have been many who have mentioned transparency or disclosure, making sure that the American people know what is happening and when it is happening and trust in their judgment to make good decisions about whether they like it or do not.

This legislation abridges the Constitution, begins to manage speech, picks winners and losers, and attacks the fundamental rights of assembly.

You have to go back. In the early days, particularly 1775, before you could create a society or an association in the United Kingdom—which was the genesis of all the secret societies. The forefathers here knew of all of this activity. So that is why they framed the language that Congress shall enact no law to abridge freedom of speech or the right to associate. They had vivid memories of governments that prohibited and managed speech and threatened and intimidated people who spoke freely and forbid organizations from joining together for the purpose of petitioning or speaking out. The language in the Constitution is derived from the fear those people had of what goes on when governments tell people what they can say and when they can say it.

This legislation picks corporations that can say anything they want and picks other corporations and says they cannot say anything. People up here in the gallery are represented by corporations that would have no prohibition whatsoever. Cox Broadcasting, one of the largest communications institutions in the world, could say anything it chose through all of its affiliates, the Atlanta papers, their cable television, whatever, could say anything they chose about any candidate, their motives for or against any vote as often as they wanted at any time they chose under this legislation, but Georgia Pacific, which grows trees, could not.

I want to know, what is the difference between corporation A that happens to print a newspaper and corporation B that happens to grow trees? The forefathers said there shall be no difference. But this legislation says that we will manage the difference here. Cox Communications, say anything you want. Georgia Pacific, you're out. Shove off.

It picks certain kinds of corporations that are at liberty to participate and others that are removed from participation. That is an abridgement of the Constitution.

Let us come to this business of association, the right to associate, to say what you want, and what constitutes free speech.

In those days there were pamphlets. Now it is television and radio, telecommunications and computers. This legislation says free speech is only given to certain kinds of institutions and it is denied others. You know, the basic right to assemble, it says to those people, you can assemble, but, boy, you cannot say anything about a campaign for the 2 months before it. You cannot mention a candidate's name. You cannot participate. You cannot express your view, if you are for or against a candidate.

So it is not only a violation of the principle of freedom of speech, but it is a violation of the principle of assembly. The forefathers envisioned people—the Farm Bureau—people coming together to make a case, to speak to an issue. This says, "No; that's a deterrent in our society. We're going to have to manage you. And we're going to remove you from the political process."

The last point I will make, Mr. President, is this: After you have tried to manage these processes, and you have given some people freedom of speech and others not, some that can assemble and some that cannot, what have you ended up with, outside of abridging the Constitution? You have reinforced the power of incumbents. Because if the money can only flow to candidates, which candidate is it going to flow to? The incumbent in power or the challenger? The person that is more known and has access to the facilities of that power or the person that is on the outside?

Well, you do not have to be a rocket scientist to know the money will flow to the incumbent. You can call this the Incumbent Protection Act. It will be a magnet. It will move money to power. And it intimidates and chills people from speaking out, which has been—you know, the genesis of all American glory is our freedom. The genesis of all American glory is that we have been a free people, and it has made us behave in unique ways. We are bold. We are visionary. We are builders. And we are not afraid. This kind of legislation chills and separates and is not healthy to the Republic.

Mr. President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President.

This morning we have another opportunity to speak again about this issue, campaign finance reform, which many people wish would go away but it is not going to. Again, it is a chance to review sort of the kaleidoscope of arguments that have been used to condemn our efforts on the McCain-Feingold bill and other campaign finance reform proposals.

Listening to the Senator from Georgia, we hear again the claim that what

is really wrong with this bill is that it violates the first amendment—which, of course, we dispute and also find just a little amusing when you consider, first of all, that if there is any problem with this bill under the first amendment, we still do have nine people across the street who know how to handle that.

But many of the same Senators who are condemning our bill from the point of view of the first amendment are some of the first in line who are ready to amend the first amendment. That is part of the agenda of many of the folks on the other side of the aisle.

There is no compunction at all on the part of some of these folks to pass a flag-burning amendment to the first amendment, to make an exemption of free speech there. No concerns at all with regard to the first amendment and related rights in passing a school prayer amendment, which many of our opponents believe would not be a violation of the first amendment and which I think would be.

Virtually every opponent of this bill had no problem at all coming out here on the floor of the Senate and voting for the Communications Decency Act, which to me was the most blatantly anticonstitutional censorship bill we have seen in a very long time, and every single Member of the Supreme Court agreed; 9–0 they ruled that this bill, the Communications Decency Act, was unconstitutional. Where were all the Senators out here talking about the first amendment when I came out here in a rather lonely manner and said, "By the way, this on its face cannot possibly pass muster"? Where was the concern for the first amendment? It was not there.

So I am puzzled about what the fear is. If it is so easy to play with the first amendment when it comes to school prayer and flag burning and the Internet, what is the problem with sending up a bill that reasonable people disagree about with regard to one aspect of its constitutionality? What is the threat to the Republic? Nothing, unless we have somehow eliminated the third branch.

Then, of course, we have been treated again to my favorite argument in opposition to this bill, that there is not enough money in politics. We heard it again today.

I have to tell you, that argument has proven to be the biggest loser of all with the American people. Does anyone really believe that the best thing that can happen in this society is that more money gets spent on election?

Let's remember what Mr. Tamraz said before the Governmental Affairs Committee on September 18, 1997. He is one who certainly understands what to do and what it means if we are going to keep expanding the role of money in politics. This is what he had to say in response to a question from our colleague, the Senator from Connecticut [Mr. LIEBERMAN].

Senator LIEBERMAN. So, do you think you got your money's worth? Do you feel badly about having given the $300,000?

Mr. TAMRAZ. I think next time I'll give $600,000.

Our colleague from Michigan, Senator LEVIN, asked a very direct question:

Senator LEVIN. Was one of the reasons you made these contributions because you believed it might get you access? That's my question.

Mr. TAMRAZ. Senator, I'm going even further. It's the only reason—to get access, but what I am saying is once you have access what do you do with it? Is it something bad or is it something good? That's what we have to see.

Mr. President, this is a picture, a portrayal of the vision that some of my colleagues have. The more money, the merrier. The more Mr. Tamrazes, the more $300,000 contributions, the continuing buying of access.

Their answer is to do absolutely nothing, to do nothing, to let this campaign financing arms race continue. Another tactic is to somehow pretend—this is the tactic of the majority leader—that the whole problem is just one group of people, the working people of this country as represented through unions. As if anyone in the United States of America honestly believes that the only group that has participated too much in the money aspect of the system is organized labor. As if it doesn't involve corporate spending. As if it doesn't involve the spending of ideological groups. I have to tell you I have absolutely no concern that even the most conservative antilabor person in America doesn't believe that the whole campaign finance system problems have been caused by labor. Nobody believes that. Yet that has been the strategy employed on the floor—to say unless you interfere with the basic rights of people that join together in a union on a voluntarily basis, that the whole issue isn't worth discussing.

Then of course we heard again from the Senator from Georgia, this notion that our bill would protect incumbents. Well, it is rare I'm on the floor and I just laugh out loud, but how can a system that already exists and has a 90-percent reelection rate for incumbents get much more proincumbent? What are we going to do, force people to stay in office? Are we going to have instead of term limits, term requirements—you have to stay here? It is absurd to suggest that our bill would have any impact to protect incumbents. It is just the opposite.

If we had a fair chance to raise the issue, we would have brought up what Senator MCCAIN and I like to call the challenger amendment to provide incentives and opportunities for candidates who cannot afford a great deal to participate in the process by getting the benefit of reduced costs in their television time.

These are some of the arguments that have been used that I think are pretty well worn. In fact, let me just illustrate how serious this ratification of the current system is by going back to one example. This is the example of the Federal Express Corp. This is what is being ratified, by the attempt to kill campaign finance reform. We are doing nothing to prevent the episode that I'm about to describe. In fact, we are telling Corp.s in this country if you are going to protect your shareholders and fulfill your fiduciary duties, you better play this soft money game and play it hard and fast or otherwise you will lose out in the competitive world.

In other words, it is the opposite of what I thought the other party was about—free enterprise. This is the antithesis of free enterprise. This encourages the purchasing of access and power in Washington, not the fair, free-market competition that so many of us believe is the underpinning of our economy. This is the polar opposite of that.

Now, the Federal Express Corp. wanted, for a very long time, to get a provision into the law that would prevent their unions from organizing in a way that would be meaningful and allow them to get the benefits that they need and the salaries they want from the Federal Express Corp. The record of FedEx with regard to employees and unionization is not a good one, and the Federal Express Corp. tried repeatedly to get a rider attached to various bills that would do this. They never had a hearing on a rider in the House Aviation Subcommittee; they tried to attach it to the fiscal year 1996 omnibus appropriations bill and failed; the House Republicans tried to attach it to the fiscal year 1996 omnibus, another appropriations bill, and failed; they tried to attach it to the National Transportation Safety Board Authorization Act and failed; they tried to attach it to the Railroad Unemployment Act and failed; the Senate Republicans supported attaching the Labor-HHS Appropriations Act in the Appropriations Committee and failed; it was not included when the FAA Reauthorization Act passed the House; it was not included when it passed the Senate.

And only at the end of the road, with no positive vote in favor of this provision at any point, it was placed in conference committee and brought out to the floor. We remember well last year the fact that we had to actually keep the Senate a few days in session to make the point on this. This was not a technical correction, as was argued. In fact, what happened here was that at the very same time this effort was being made by FedEx Corp., some campaign contributions were being made.

Mr. MCCONNELL. Will the Senator yield?

Mr. FEINGOLD. After I finish this.

Mr. MCCONNELL. About getting speakers in before 1 o'clock.

Mr. FEINGOLD. I will try to conclude quickly.

Mr. President, at this time, the Federal Express Corp., according to Congressional Quarterly on October 2, 1996, had contributed, between October 17 and November 25, $200,000 to the Democratic Senatorial Campaign Committee and $50,000 to the national Republican Senatorial Campaign Committee. Specifically, the company also gave $100,000 to the Democratic National Committee and $100,000 to the Republican National Committee right before this provision was stuffed into conference committee.

Now, this is the kind of democracy that we are ratifying.

I ask unanimous consent to have printed in the RECORD an article from the New York Times dated October 12, 1996, entitled "This Mr. Smith Gets His Way in Washington, Federal Express Chief Twists Some Big Arms."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 12, 1996]

THIS MR. SMITH GET HIS WAY IN WASHINGTON—FEDERAL EXPRESS CHIEF TWISTS SOME BIG ARMS

(By Neil A. Lewis)

WASHINGTON, Oct. 11.—As the Senate rushed to adjournment earlier this month, one odd and seemingly inconsequential item stood in the way: the insertion of a few words in a 1923 law regulating railway express companies.

It was not the kind of thing that would ordinarily seize the attention of senators eager to go home barely a month before Election Day. But they stayed in session until the language was enacted, because the beneficiary of the arcane language was the Federal Express Corporation, which has become one of the most formidable and successful corporation lobbies in the capital.

Federal Express wanted the language change because it might exempt its operations from the National Labor Relations Act and, as a result, help it resist efforts by unions to organize its workers. Despite passionate speeches by opponents on behalf of organized labor, the company was able to engineer a remarkable legislative victory, prevailing upon the Senate to remain in session two extra days solely to defeat a filibuster by its opponents.

"I was stunned by the breadth and depth of their clout up here," said Senator Russell D. Feingold, a first-term Democrat from Wisconsin who had opposed the change. In the end, Mr. Feingold was one of 31 senators who voted against Federal Express.

Senators say the ingredients in Federal Express's success are straightforward, distinguished from other corporate lobbying by degree and skillful application: a generous political action committee, the presence of popular former Congressional leaders from both parties on its board, lavish spending on lobbying, and a fleet of corporate jets that ferry dozens of officeholders to political events around the country.

Mr. Feingold said that as he tried to rally support against the Federal Express legislation, he was frequently and fervently rebuffed by colleagues who said they had acquired obligations to the company.

"The sense I got was that this company had made a real strong effort to be friendly and helpful to Congress," Mr. Feingold said. He would not identify the lawmakers but said that as he approached them about the legislation, he discovered that many just wanted to talk about how Federal Express had helped them. "In these informal conversations, people mentioned that they had flown in a Fedex plane or gotten other favors," he said.

Senator Ernest F. Hollings, a South Carolina Democrat who proposed the amendment to help Federal Express, said he did so because he was grateful to the company for its willingness to use its planes to fly hay to his state during droughts.

But others say lawmakers benefit more directly. Senator Paul Simon, an Illinois Democrat who is retiring this fall, said that in a caucus of the Senate's Democrats just before the recess, one senior senator refused to oppose the company, bluntly telling his colleagues, "I know who butters my bread."

Mr. Simon would not identify the lawmaker except to say he was a longtime member of the Senate.

"I know that I have ridden in their planes several times," said Mr. Simon, who opposed Federal Express on this bill. "But what happened here was just a blatant example of the power of their political efforts. If the John Smith company came along and asked for the same thing, it wouldn't have a prayer."

Federal Express, Tennessee's biggest private employer, makes no apologies either for the merits of the legislation it sought or for its efforts to establish relationships with members of Congress.

"We play the game as fairly and aggressively as we can," said Doyle Cloud, the vice president of regulatory and government affairs for Federal Express. "We have issues constantly in Washington that affect our ability to deliver the services our customers demand as efficiently as possible."

For example, Mr. Cloud said, Federal Express regularly seeks to make clearances through customs easier to increase efficiency. "To do things like that, it's absolutely necessary that we are involved politically as well as regulatorily," he said.

In addition to its cargo fleet, Federal Express maintains four corporate jets that when not used for company trips are made available to members of Congress. Mr. Cloud said that they were used mostly to ferry groups of lawmakers to a fund-raising event and only rarely for an individual lawmaker.

Congressional regulations require that lawmakers using corporate aircraft reimburse the company for the equivalent of first-class air fare, and Mr. Cloud said that was always done. Records maintained publicly by Congress do not show how often members use corporate flights. Federal Express declined to make the company's records available, but Mr. Cloud said that during political seasons, Federal Express might fly a group of lawmakers, about once a week.

Two popular former lawmakers, meanwhile, serve on the Federal Express board: George J. Mitchell of Maine, the former Democratic leader of the Senate, and Howard H. Baker Jr., the former Republican leader of the Senate.

The company's political action committee is one of the top five corporate PAC's in the nation. In the 1993-94 election cycle it gave more than $800,000 to 224 candidates for the House and Senate. According to the Federal Election Commission, it gave $600,500 to candidates in this cycle through August. The company has also donated more than $260,000 this year to the Democratic and Republican parties.

In the first six months of 1996, Federal Express reported spending $1,149,150 to influence legislation, an investment that included the hiring of nine Washington lobbying firms. Typically, a company hires a number of lobbying firms because each one has a relationship with an individual lawmaker who may be important on particular issues.

"The sky's the limit for Federal Express when it wants to get its own customized regulatory protection made into law," said Joan Claybrook, president of Public Citizens, a Washington-based government watchdog group.

During the legislative debate last week, it appeared that the company also used a United States Ambassador to press its case, but the diplomat and company have denied that.

When a lobbyist for organized labor sought to talk to Senator J. Bennett Johnston about the Federal Express issue, Mr. Johnston replied in the presence of several witnesses that he already had made up his mind, because he had just been successfully lobbied on the issue on behalf of Federal Express by James R. Sasser, Mr. Sasser, a former Democratic senator from Tennessee, is the current Ambassador to China and would be prohibited from lobbying on behalf of Federal Express.

Mr. Johnston, a retiring Democrat from Louisiana, said through his spokeswoman that his comment was a "terrible slip of the tongue." The spokeswoman said that Mr. Johnston had just been lobbied by Frederick Smith, the founder and chairman of Federal Express, and that he had meant to use Mr. Smith's name.

The spokeswoman, Audra McCardell, said that Senator Johnston had lunch earlier in the week with Ambassador Sasser and that the Federal Express matter had come up "in chitchat." She said that Mr. Johnston had merely told Mr. Sasser how he was going to vote on the issue. For his part, Mr. Sasser, who was retained as a consultant by Federal Express before his confirmation as an ambassador, said in a telephone interview that he did not lobby Mr. Johnston, although they might have discussed the issue.

Mr. Smith spends considerable time in Washington, where he is regarded as Federal Express's chief advocate. It was Mr. Smith who hit a lobbying home run in 1977 when he persuaded Congress to allow the fledgling company to use full-sized jetliners to carry its cargo, rather than the small planes to which it had been restricted. Mr. Cloud said that was the watershed event that allowed the company to grow to its present dominating position in the industry, with almost $10.1 billion in annual business.

Federal Express has also been able to get other special provisions written into the law. In 1995, for example, Congress gave it an exemption from certain trucking regulations. It has also won exemptions from noise abatement requirements.

The provision that Federal Express successfully sought last week was insertion of the words "express company" in legislation that designates companies that can be organized by unions only under the Railway Labor Act. Under that law, unions are allowed to organize only in national units, rather than locally. Federal Express is fighting efforts by the United Automobile Workers to unionize its drivers. Of the 130,000 domestic employees of the company, only its 3,000 pilots are unionized.

Allen Reuther, the U.A.W.'s chief lobbyist, said that the union found it "especially outrageous for the Senate to provide this special interest provision for just one company."

Federal Express and its supporters in the Senate attached the legislative language as a rider to an airport bill that promised dozens of local airport improvements and enhanced security measures. Many lawmakers who usually vote with labor decided the bill had to pass, even with the Federal Express provision.

But the votes of 17 Democrats to help Federal Express by ending a filibuster against the provision—including that of Senator Thomas A. Daschle of South Dakota, the minority leader—angered labor officials, especially John J. Sweeney, president of the A.F.L.-C.I.O. Some union leaders said they might withhold future contributions to the Democratic Senate Campaign Committee.

But after Senator Edward M. Kennedy of Massachusetts, who led the filibuster, visited Mr. Sweeney on Thursday with a note of thanks for his support, the tension eased and union officials relented. President Clinton signed the airport measure into law on Wednesday.

Mr. FEINGOLD. I ask unanimous consent a related article a year later in the New York Times, August 25, 1997, entitled, "Face Time for Federal Express" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times Aug. 25, 1997]

FACE TIME FOR FEDERAL EXPRESS

When a big corporate political donor is invited to press his company's case at the White House before the President, he is probably going to expect results. But the attempt by Federal Express to buy influence with the Clinton Administration over an economic dispute with Japan, which was disclosed last week, has not helped anyone.

Instead of advancing his company's interests, Frederick Smith, the Federal Express chairman, has probably set them back. Thanks to the now well-documented tendency in this White House to mix policy-making with insatiable political fund-raising, a sensible objective for the United States has been tainted and the 1996 Democratic fund-raising effort has been revealed once again as structurally corrupt.

President Clinton says he is proud of the fund-raising he and his party carried out in recent years, and that there were no direct quid pro quos for donors. But the episode involving Federal Express, first reported in the Washington Post, provides a case study in why the system he embraces not only has polluted American politics but has actually damaged American interests abroad.

At issue is a long-running demand by Federal Express to fly cargo through Japan to its new hub at Subic Bay, the former American naval base in the Philippines. A 45-year-old aviation agreement between the United States and Japan clearly requires Tokyo to grant access to Federal Express, as this page argued to years ago. Both the Bush and Clinton Administrations have supported the company's cause, by Federal Express wanted sterner action. Mr. Smith used his meeting with Mr. Clinton to press for sanctions against Japan. Federal Express also ponied up $506,000 in campaign contributions to the Democrats last year, along with $540,000 to the Republicans.

Federal Express has been a major success story in the competitive global economy, and is worthy of American support. Its gamble in setting up a hub at Subic Bay has revitalized the area around the old naval base. It makes sense in the new age of commercial diplomacy for the United States to help American companies in their attempts to win contracts and market access. But such an approach is simply undercut in the eyes of the world when it looks like nothing more than a payoff for a large political donation.

In addition, the United States needs to be sensitive to the risks of favoring one company's interests over another's, however plausible that company's case. The appearance of evenhandedness was undermined by Mr. Clinton's ill-advised meeting with Mr. Smith. Until now, the United States has refrained from the tougher approach of the sanctions demanded by Federal Express. Though sanctions might well be justified and certainly would be legal, there was good reason to hesitate. Sanctions could well invite Japanese retaliation, which, in turn, would almost certainly damage other American companies doing business in Japan. In negotiating with Tokyo, the United States has to weigh the interests of everyone, not just Federal Express.

The point is that the United States' bargaining position with Japan has been weakened because of Mr. Smith's clumsy intervention and the Administration's willingness to peddle White House meetings. Even among those in the White House who opposed the idea of sanctions, there was agreement that Mr. Smith had a legitimate complaint. It will be understandable now if Japan takes less seriously an American demand that looks so obviously like a favor to a political contributor.

Other airlines have reason to fear that Federal Express will gain an upper hand over them. The way to remove such suspicions is obvious. Enacting legislation banning open-ended contributions by individuals and corporations is the only way to restore integrity to the process in Washington.

Mr. FEINGOLD. That article details a similar series of activities that had to do with FedEx's desires with regard to trade and Japan. Here is the real conclusion of the story, and I want others to have a chance to speak, so let me continue by saying we all remember that the United Parcel Service had a strike not too long ago. It was the biggest news in America. Who is their competitor? The Federal Express Corp. The Federal Express Corp. used this process, this fundraising process, this access process, this soft money process, to get a special benefit so they don't have that kind of union. They don't have that kind of strike because their folks can't get together to do that because of Federal law.

What happened? Apparently, as a result of the UPS strike, FedEx benefited. The Federal Express Corp., according to one report, is gaining market share because of its adroit handling of additional business during the recent UPS strike, analysts say. Some analysts estimate that the UPS market share slipped to about 70 percent of the U.S. package delivery market from 80 percent before the strike.

Mr. President, there is a difference between FedEx and UPS, and the difference was the ability of campaign money to prevent FedEx employees from organizing the way they want. That is the kind of democracy and economy that we will have if the filibusterers prevail.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I rise today along with my colleague from Vermont to express my disappointment and regret that the Senate has missed an opportunity today to coalesce around a middle ground that would allow campaign finance reform to advance.

Together with Senator MCCAIN, who deserves our gratitude for his courage and tenacity in bringing this issue to the fore, along with Senator JEFFORDS and Senator SPECTER, I have worked over the past week to forge a compromise that would address the two concerns that have emerged as the chief stumbling blocks to Senate passage of campaign fiance reform. Namely, the objection of Republicans to a package that does not address the issue of protecting union members from having their dues used without their permission for political purposes with which they may disagree. And the objection of Democrats to singling out unions while not providing similar protections for members of other organizations, or for shareholders in corporations.

Last week, in response to concerns which had been raised by the minority leader, we proposed an alternative that would provide the same protections to members of organizations across the board, and to shareholders of corporations. Together with Senator JEFFORDS, Senator SPECTER and Senator MCCAIN, we fine-tuned the proposal into a balanced approach with the potential to move this debate forward. It appeared our plan was the best hope of preventing a filibuster and advancing campaign finance reform.

Unfortunately, our efforts to make the process work in this instance will not succeed today. Despite our willingness to forge a compromise which would address the concerns of both sides—we have not been able to secure an agreement to ensure passage of the compromise.

The criticisms of our proposal from both sides are typical of the concerns when a proposal strikes a balance between two dies. Nobody really likes it. One side feels we go too far. The other side feels we don't go far enough.

But in the legislative arena, when both sides are committed to moving forward and finding a solution, that is how we do it. Both sides give. While we have not been able to reach a conclusion today, given the artificially short time limits imposed by the nature of the parliamentary procedure under which we are forced to consider this issue, I believe if Senators are truly committed to campaign finance reform, then it is definitely dead in this session of Congress.

I am saddened, because we have not only an obligation to provide legislative solutions, but to restore the public's faith in the integrity of the process. If we ultimately fail to coalesce around a middle ground, it would serve only to confirm the public's belief that we lack the will to address this issue in a fair and bipartisan manner. And it will certainly point to the consequences of a shrinking middle in American public life.

Mr. President, I have worked hard over the last week with my colleagues on this compromise because I earnestly believe that's what people expect of us. They expect that the U.S. Senate will conduct itself as the deliberative body it was designed to be, and they have a right to that expectation.

We should be putting our heads together, not building walls between us with intractable rhetoric and all-or-nothing propositions.

I have been part of the legislative process in Congress for over 18 years. I am here because I believe in finding solutions. That is our job, Mr. President: finding solutions. Now, I've been here long enough to know that that is not always possible. And I've been here long enough to know that it is always difficult. But then we were sent here to do a difficult job. So I say let's have the difficult conversations and really give thoughtful consideration to how we can hurdle our most challenging obstacles. That's the way it should be—that's how we end up with better legislation.

The fact is, this issue will not go away. The public disillusionment with our campaign finance system will not disappear absent meaningful reform. It will come back again and again and again.

I believe each and every time it will come down to the basic issue of enacting reform that does not unfairly disadvantage either party. As long as we have two-party government, no reform will ever pass unless it truly levels the playing field.

This is an issue that need not be intractable, as we demonstrated with the proposal we put forward in this debate. It is my belief that eventually the basis for evenhanded reform is embodied in the middle ground approach we proposed. Unfortunately, that day will not be today.

Finally, I want to issue a challenge to the majority leader and the minority leader. It is the duty of leaders to lead. I urge them to do just that by appointing a bipartisan working group of Senators who want to make the system work.

I entered public service to help make Government work. It is a task made more daunting by the mounting chorus of partisanship that has engulfed our Nation's politics.

The status quo, Mr. President, is unacceptable to virtually everyone except apparently to many Members of this body. There are, however, those of us on both sides who want to resolve this problem. What we need is the leadership to bring this spirit to life.

We need to devote less energy to criticizing and judging each other and more to forging consensus and understanding. Only then can we come together and enact legislation that the majority of Americans feel is sensible and long overdue. Let's make, then, a historic statement that the old ways of doing business must be relegated to the annals of history. Let's return elections to the American people and restore confidence in our Government.

Mr. President, I would like to yield to my colleague and friend, the Senator from Vermont, who has worked so hard on the compromise that we try to put forward today.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Senator for a very eloquent statement on where we are and where we ought to be.

I think it is incredibly important that those of us who are as dedicated as she is and as I am—perhaps those of us in the middle, as so often happens in this body—have to take a look at what we can do to pull things together.

Now, I am personally convinced, having talked with a number of Democratic Senators and a number of Republican Senators, that there are at least 60 Senators who want meaningful campaign reform. However, we have postured ourselves at this time and particular moment in a situation where that will not occur. I am pleased in a way that we are going into a brief period of recess. I am dedicated, as I know the Senator from Maine is, to using that period of time to try to find, if we can, a common ground.

I think it is important for us to take a look at what we really need to do and where the real stumbling blocks are. We are two political parties, Republicans and Democrats. Some things advantage one and some things advantage another. So we have to find ways to reform the campaign finance system and do whatever is necessary to make sure that we can find something that both sides can—not willingly, but certainly with the public pressure out there now—do something. We can find a way to do that.

What needs to be done? The Senator from Maine has done superb work in trying to find a middle ground on one issue with the Democratic Party, and that is how to handle the situation with unions—and we would say all groups—to make sure that the people that are involved, that have to contribute the money, or do contribute the money, have a say in how that money is spent; first, so that they know how it has been spent in the past so they can better judge what happens in the future, but also that they have full disclosure and the ability to say no, or the ability to at least say "not my money," which is what our amendment does. I think that is a very big step forward.

Now, there have been all sorts of technical problems raised with this, that, and the other thing. But the substance of it is one in which all America can agree. When you are in the situation where you have money taken from you, you ought to have at least a say as to where it is going and, even more important, to say "not my money." "You can spend your money and the rest of the money, but not mine." I think that is a pretty simple philosophy with which many Americans would agree.

The next area we have to take a look at—and this is critical for the Republicans and it is also the center of debate nationwide—is what happened at the White House with all this money pouring in, hundreds of thousands over here, and all that so-called soft money. We have to do something about that. But to say that, especially under the Constitution, we can just ban it, or we can set up rules where you can't use any of it, that is not going to work. It is not going to work because people have the right under our first amendment to be able to spend money on political campaigns, but how much and for what purposes, that can be controlled, as we have found.

I will tell you, the money will find a way, some way, to be spent. If we don't have it spent for "party building" as "soft money," it will be in "issue advocacy" or "independent expenditures." So the best thing to do is to make sure that there are limits placed on it, that there is full disclosure, and that there are ways to make sure that these funds are not abused or become dominant in the process. There are ways to do that. They are not ones that everybody is going to readily agree upon. But on the other hand, from a first amendment perspective, the way people want to help a political party ought to be something that we can find a solution for. So I hope now that we are in this situation where it is obvious that no final decision can be made, no way will be found in the next few hours for us to solve this, that we step back and work together. The Senator from Maine and I are both dedicated to finding those Senators in the middle that are willing to help us pull something together so that we can get at least 60 votes.

I hope now that we can move back to the regular legislative process in the interim, to move legislation along which is necessary to be moved along, and, hopefully, as the Senator suggested, the leaders will get together and we can find a way to pull that middle together. There may be kicking and screaming in order to do that, but possibly we can find a way to let this Nation know that we want campaign finance reform, we want the process to

be one we can be proud of, one which is acceptable to the American people, and one which allows everybody to know what is going on. I thank the Senator for her statement. I am sorry that we are in this situation, but I think it is important that we take a breath of fresh air and come back in the next week or so and, hopefully, make some progress.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine still has the floor.

Mr. KERRY. Mr. President, under the regular order, the Senator from Maine cannot yield the floor.

Mr. KYL. Mr. President, for several days now the Senate has debated campaign finance reform legislation. Advocates of the so-called McCain-Feingold proposal deserve credit for advancing the issue. Unfortunately, in the view of a majority, they have been unable to construct a bill that does not violate the first amendment to the Constitution. There are other proposals for reform that I believe can address the problems without compromising the Constitution. Therefore, I will vote to bring at least one of those proposals—the Paycheck Protection Act—to a vote but not yet support consideration of McCain-Feingold.

Some have argued that details are less important than the general principle of reform. But reform to one is not necessarily reform to another. For example, most Republicans believe that all contributions to politics should be voluntary. Most Democrats, on the other hand, say they agree but they are unwilling to give up compulsory union dues that are then contributed to candidates. Thus, reform to us is not reform to them.

Recognizing that we approach the need for reform from different perspectives, I have tried to evaluate the issue by applying some basic principles that I think most of us would agree with. For example, our laws should be clear, simple, and enforceable. They should insist on full and timely disclosure. They should place constituent interest over special interest. They should ensure voluntary participation for all. And, they should protect our right to free speech—unregulated by the government. This last principle is significant because our constitutional rights to free speech, free assembly, and the right to petition our Government were specifically established to protect our political expression. The Supreme Court has confirmed this, declaring that political expression is "at the core of our electoral process and of the first amendment freedoms." (*Buckley* v. *Valeo*, 424 U.S. 44 (citing *Williams* v. *Rhodes*, 393 U.S. 23 (1968))).

The McCain-Feingold proposal incorporates some of these important principles. For example, the bill requires more timely and detailed disclosure of campaign spending. This allows people to make more informed decisions regarding contributions made to their elected leaders. The bill calls for tougher penalties for campaign violations. This might make people think twice about breaking the law. The bill attempts to tighten the restrictions on fundraising on federal property and strengthen the restriction on foreign money ban. Both of these provisions would address some of the Clinton-Gore campaign finance improprieties. The bill prohibits those under 18 from contributing to campaigns, ensuring that only those who vote can contribute, again addressing a problem with the Clinton-Gore campaign. The bill also extends the ban on mass mailing by House and Senate Members from 60 days before an election to January 1 of an election year, thereby reducing an incumbent advantage.

I support the intent, if not the exact language, of each of these provisions. I also believe that any reform legislation should include a requirement that candidates raise a majority of their campaign contributions from within their respective States and that all political activities be funded with voluntary contributions and not extracted in the form of compulsory union dues. The first of these proposals is not included in the McCain-Feingold legislation, and I believe it is necessary to meet the principles of putting constituent interest over special interest. The second proposal is not adequately dealt with because of opposition from Senator MCCAIN's Democratic cosponsor.

The most extensive provisions of the McCain-Feingold proposal address so-called soft money and issue/express advocacy. While these provisions are well intentioned, I believe they would dramatically restrict party building activities and free speech for individuals, associations, and citizens.

The McCain-Feingold approach to so-called soft money contributions is to completely prohibit them. These are contributions of citizens and organizations to political parties and cannot be spent for individual candidates. Hard money, on the other hand, is contributed directly to candidates to be spent by them.

Unlike hard money, soft money can be contributed in unlimited amounts to support political party organizations by helping them to engage in grassroots volunteer activities. The bill's total ban on soft money contributions would restrict State and local campaign committees from supporting the following election activity: voter registration activity within 120 days before a Federal election; voter identification, get-out-the-vote activity, or general campaign activity conducted in connection with any election that includes a candidate for Federal offices—generally referred to as party building activity; and a communication that refers to a clearly identified candidate for Federal office and that is made for the purpose of influencing a Federal election. Thus, if the law were to completely ban soft money, it is not the candidates, but the political parties that would suffer the most. Is this the type of political activity we really want to get rid of?

The McCain-Feingold proposal also explicitly forbids so-called issue ads, ads that mention a candidate's name within 60 days of a Federal election. Issue advocacy can best be defined as any speech relating to issues and the policy positions taken by candidates and elected officials. It can be as simple as a statement such as, "Senator Smith's position on school vouchers is dead wrong." Or it can be as involved as a multimillion dollar campaign of broadcast and print advertisements that spreads the same message. The Constitution protects the right of any group or individual to engage in issue advocacy. It is the essence of free speech.

Attempts to regulate and require disclosure of issue advocacy expenditure through statute and through FEC regulation have repeatedly been declared unconstitutional by the Supreme Court and lower Federal courts. The Court has always viewed issue advocacy as a form of speech that deserves the highest degree of protection under the first amendment. Not only has the Court been supportive of issue advocacy, the justices have affirmatively stated that they are untroubled by the fact that issue advertisements may influence the outcome of an election. In fact, in Buckley versus Valeo, the court stated:

> The distinction between discussion of issues and candidates and advocacy of the election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are often intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest. *Buckley* v. *Valeo*, 424 U.S.1, 42 (1976).

Moreover, defenders of the first amendment know that the freedom to engage in robust political debate in our democracy will be at risk if the Congress or the FEC is given the authority to ban issue ads close to an election, or evaluate the content of issue ads to determine if they are really a form of express advocacy. The Supreme Court recognized this danger long before Buckley versus Valeo. In 1945, in Thomas versus Collins, the Court states:

> . . . the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning. Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels

the speaker to hedge and trim *Thomas* v. *Collins* 323 U.S. 516 (1945).

McCain-Feingold would impose regulations on issue advocacy in violation of Court declarations. Advocacy groups such as the National Right to Life, Sierra Club, and National Taxpayers Union, to name just a few, would be severely circumscribed in the exercise of their first amendment rights. The FEC has a poor track record of trying to broadly interpret current election statues to encompass issue advocacy speech.

In fact, as recently as October 6, 1997, the Supreme Court let stand a circuit court decision striking FEC regulations because they infringed upon a group's right to characterize a candidate's position on abortion rights. *Maine Right to Life* v, *FEC* (1997WL274826, 65USWL3783) (October 6, 1997) (Case number 96-1818).

The result of the McCain-Feingold 60-day ban on issue advocacy before an election will be that associations or groups of citizens could not characterize a candidate's record on radio and television during that period. It would, thus, severely limit citizen involvement and speech.

The only recourse would be for such associations—nonprofit 501(c)3 and 501(c)4 organizations—to create new institutional entities—political action committees [PAC's]—to legally speak within 60 days before an election. Such groups would, thereby, also be forced to disclose all contributors to the new PAC.

Not all members of nonprofit organizations want to become members of PAC's. Separate accounting procedures, new legal costs, and separate administrative processes would be imposed on these groups, merely so that their members could preserve their first amendment rights.

It is noteworthy that none of these proposals seek to regulate the ability of the media to exercise its enormous license to editorialize in favor or against candidates at any given time.

Finally, as noted, McCain-Feingold does not ensure that American citizens have the right to voluntarily participate in the political process. I am specifically referring to the protection from mandatory withdrawals of dues from a worker's paycheck for political activities without prior approval. Contrary to the claims of its supporters, McCain-Feingold does not provide such protection.

As written, the McCain-Feingold legislation applies only to nonunion member employees. These are workers who choose not to join a union, but who under a collective bargaining agreement must pay dues—that is, agency fees—to support the costs of union representation. McCain-Feingold covers only 10 percent of the roughly 18 million dues-paying employees nationwide. I support Senator LOTT's Paycheck Protection Act, which covers all 18 million.

McCain-Feingold also requires labor unions to notify these nonunion members that they are entitled to request a refund of the portion of their dues or agency fees used for political purposes. The effect of this proposal is to place the burden on the worker—after the fact—to petition for a refund of these automatically withdrawn dues. By contrast, Senator LOTT's Paycheck Protection Act requires unions to obtain union and nonunion employee's written permission first before using any portion of his or her dues for political activities.

Simply put, I believe all contributions to political activities should be voluntary. No one should have automatic political withdrawals from his or her paycheck unless consent is first given. The Paycheck Protection Act codifies this right. McCain-Feingold does not.

To conclude, I strongly believe certain aspects of our campaign finance system need reform. But reform that is consistent with the principles I outlined earlier. Although well intentioned, McCain-Feingold layers more regulation on top of current regulation and also infringes upon the constitutional rights to free speech and association. And it does not guarantee voluntary participation in the political process. For these reasons I cannot support it in its current form.

Mr. DODD. Mr. President, I rise today in strong support of the campaign finance reform legislation sponsored by Senators MCCAIN and FEINGOLD.

The McCain/Feingold bill is a beginning, and is an important step towards reforming how we finance campaigns. It ends soft money contributions to national parties, expands disclosure requirements, and strengthens election law. It puts guidelines on hard money contributions and begins to address the problem of so-called ''issue advocacy'' advertisements that may be designed to persuade the public about a candidate instead of educating the public about an issue. It also requires labor unions to notify non-union members that they are entitled to request a refund of the portion their agency fees used for political purposes. Make no mistake about it—one bill cannot end the spiraling cost of campaigns or stop the coercive influence of money in our government. But it is a beginning.

I am more convinced than ever that our current approach to funding political campaigns is broken and desperately in need of repair. My good friend, Senator FORD from Kentucky, cited the great cost of campaigns and the immense time needed to raise money as the reason for his retirement from the United States Senate. He explained that to run for re-election in 1998, he would need to spend the next two years raising $100,000 per week. Today, a run for the Senate may require over $5 million. On average, a Senator needs to raise $16,000 per week during their six year term to accumulate the funds needed to run a credible campaign.

Not only are distinguished elected officials leaving public service due to the daunting cost of running for office, but many Americans have decided not to seek office because it simply costs too much money. This robs us of leaders with new ideas and diverse backgrounds, and it threatens to undermine our country's participatory democracy.

Our democracy rests upon the fundamental principle that every person's vote is equal. A citizen walks into a voting booth, casts his or her vote, and the majority rules. But only fifty percent of Americans vote and only four percent of the population contribute to campaigns.

The American people worry that those who wrote the checks now expect to write the laws. They see powerful lobbyists working to turn back the clock on 25 years of environmental protection, and to unravel laws that keep our workplaces safe and protect the food we eat. This appearance of undue influence supports the public's cynicism.

Incredibly, those who defend politics as usual are not concerned about the amount of money in our political process. These leaders insist that the political process is fine, even though a record $765 million was consumed on House and Senate campaigns in 1996. In fact, Speaker GINGRICH and other leaders in his party complain that too little, not too much, money is spent today on political campaigns.

We all know that the Government Affairs Committee is, even as we speak, holding extensive hearings on the campaign finance practices of the last Presidential election. Yet, as we have seen here on the floor this week, the Majority Leader and most of those in his party would do nothing. However, there are a few Republicans, including one of the leaders on this issue Senator MCCAIN, who have voted the responsible way and I commend them. It is now time to come together in a bipartisan manner and focus on the future of elections in America for all Americans.

Since I was elected to Congress as part of ''Class of 1974,'' I have consistently fought for campaign finance reform. Since 1985, I have cosponsored seven campaign finance reform bills to remove the influence of money in elections and bring democracy back to the people of this country. In an attempt to curb the threatening influence of money, I have supported prohibitions in ''soft money'' in federal elections, and as the General Chairman of the Democratic National Committee, I challenged my counterparts to do the same. In another effort to limited the

influence of money, I have supported caps on PAC contributions to candidates and limits on the total amount Senate candidates can accept from PACs. To level the playing field, and help challengers gain exposure, I have agreed to proposals for free or reduced response advertisement costs for candidates attacked by independent expenditures. I have supported requirements that Senate candidates raise most of their money from their home states in an attempt to bring elections back home to the people. Finally, I voted for a Constitutional amendment allowing Congress to set campaign spending limits. I know many of my fellow colleagues share my commitment to reform.

As we debate reform, I am concerned that we stand behind the Federal Election Commission, which is charged with monitoring and watching campaign finance violations. The FEC must have the finances and resources it needs to promptly and effectively enforce the laws that govern our campaigns. Between 1994 and November 1996, the FEC's caseload rose 36 percent, and because complaints related to the 1996 election are still being filed, the FEC expects the caseload to ultimately rise by 52 percent. Of the 262 complaints filed with the FEC in the latest election cycle, only 88 are currently under active review.

To address the effectiveness of the FEC, earlier this year I authored the FEC Improvement Act. I am pleased that most of the proposals from my bill—including electronic filing, authorizing the FEC to conduct random audits, and stiffer penalties—have been incorporated into the McCain/Feingold legislation.

Time after time, Congress has talked about reform but in the end done nothing. Over the past 10 years, Congress has produced over 6,742 pages of hearings, members have made over 3,361 speeches, committees have produced more than 1,063 pages of reports, the Senate has recorded over 113 votes and formed one bipartisan commission. Yet in the end, it's just been business as usual, while the voice of the average American in our democratic process grows fainter, quality candidates say no to public service, and our democracy withers.

I regret that the Senate this week has again missed an opportunity to pass comprehensive reform. The Senate missed another opportunity even though 53 Senators voted to fully consider the bill. I am saddened that the majority leader, along with the majority of his Republican colleagues, deployed procedural tactics that thwarted real reform. I lament this maneuver.

It saddens me that the Republicans have chosen to sabotage this bipartisan bill. It saddens me even more that this procedural sabotage occurred after concerted efforts to accommodate Republican concerns. Important provisions including voluntary spending limits, free or discounted television and advertising time, and curbs on contributions to PAC's have all been modified in the spirit of bipartisanship. However, the Senate now may not even have a clean vote on campaign finance reform legislation this session.

I have voted against Senator LOTT's amendment because it was not a bipartisan effort. The Lott amendment was a partisan maneuver to end efforts for comprehensive campaign finance reform. I will continue to vote against any amendments that lack solid bipartisan support and harm a constructive effort for real reform. Conversely, I will consider supporting any amendments to the current legislation that have bipartisan support and would improve this bill. I will also continue to support any positive efforts by both sides to have campaign finance reform considered by the Senate for a full and complete debate this session.

I call on all my colleagues to chart a new course, to put aside our differences, and to put first and foremost in our deliberations the good of the Nation. As leaders, we must not shirk our responsibility to do all we can to the reform campaign finance system. The McCain-Feingold bill begins that process, and I believe that as a body we have a solemn responsibility to embrace this legislation.

Ms. MOSELEY-BRAUN. Mr. President, S. 25, the Campaign Finance Reform Act of 1997 does not represent my ideal package of reform. In fact, S. 25 is far from it. I believe, however, that this legislation does bring us one step closer to getting the kind of real, comprehensive campaign finance reform we so desperately need.

We need to get Americans back into the system and get them involved in decisions that affect their lives. We need campaign finance reform to restore the American people's faith in the electoral process. Americans are frustrated; many believe that the current system cuts them off from their government. A League of Women Voters study found that one of the top three reasons people do not vote is the belief that their vote will not make a difference. We saw the result of this cynicism in 1994 when just 38 percent of all registered voters headed to the polls. And we saw it again in 1996 when only 49 percent of the voting age population turned out to vote—the lowest percentage of Americans to go to the polls in 72 years.

I have noticed a difference in voter turnout since my own election. In 1992, I won with 2.6 million votes, which was 53 percent of Illinois' total vote. In 1996, Senator DURBIN won with a vote total of 2.3 million, which was 55.8 percent of the total vote. Senator DURBIN won by a greater margin but with fewer total votes cast.

Unfortunately, the effort needed to raise the average of $4 million per Senate race decreases the time Senators need to meet their obligations to all of their constituents. According to recent Federal Election Commission figures, congressional candidates spent a total of $765.3 million in the 1996 elections, up 5.5 percent from the record-setting 1994 level of $725.2 million. That figure does not include the huge amounts of ''soft money'' spent by political parties.

Furthermore, when voters see that the average amount contributed by PACs to House and Senate candidates is up from $12.5 million in 1974 to $178.8 million in 1994—a 400 percent rise even after factoring in inflation over that period—there is a perception that lawmakers are too reliant on special interests to make public policy that serves the national interest. More and more voters believe that Members of Congress only listen to these special interest contributors, while failing to listen to the very constituents who put them into office.

That is part of the reason why there is overwhelming public support for reform. And make no mistake, there is a real public consensus that reform is needed—now. Ordinary Americans want—and deserve—government that is responsive to their needs and problems. The way to do that is through spending limits. Spending limits will make our system more open and more competitive. Spending limits can help focus elections more on the issues, instead of on advertising.

We must be sure that we don't have a process that only further empowers political elites that are already empowered. We want campaign finance reform that allows candidates more time to talk to voters. Voters want to know that the system works for ordinary Americans and not just those few who can devote substantial time and money to politics. They deserve better than the present system.

S. 25 addresses some of these needs. This bill prohibits soft money contributions to national political parties, increases the amount of ''hard'' money individuals may contribute to State parties for use in Federal elections, and increases the amount of ''hard'' money an individual may contribute in aggregate to all Federal candidates and parties in a single year.

In addition, S. 25 expands disclosure requirements and strengthens election law violations to lessen the influence of ''big money'' in campaigns.

I believe that these are vital first steps toward addressing the problems of the current system. Campaign finance reform cannot work for every American, however, unless it also works for every candidate, including minority candidates and women. Minority and women candidates currently have less access to the large sums

needed to run for office than other candidates. That financial inequity is one of the primary reasons both women and minorities have long been under represented in both the Senate and House. The increased occurrence of big money candidates feeding their own campaigns and driving up the costs of campaigns overall only adds to the barriers keeping women and minorities out of public office.

Unfortunately, S. 25 does little to stop or control these upward spiraling costs, and that is disappointing, because self-financing candidates continue to be a rapidly growing phenomenon in our current political system. While it is true that these millionaires don't always win, no one can honestly deny that these individuals contribute to the increasing campaign costs that turn so many voters off. In 1994, for example, one candidate for the Senate spent a record setting $29 million, 94 percent of which was his own money. And during the last election cycle, a presidential candidate spent $30 million of his own money for just the primary elections.

Even more appalling is the fact that self-financing candidates do not have to demonstrate broad financial support to either launch or support their candidacies. Allowing these self-financing candidates to avoid having to show a broad range of support is, I believe truly undemocratic. In fact, I believe that every candidate should be able to demonstrate that they have the support of a broad range of individuals and organizations, that their candidacy has, in fact, come about as a true desire of the "people."

If we could prove that spending exorbitant amounts of money on campaigns increased voter turnout, we would have an excuse for allowing the costs of campaigns to continue escalating. But we cannot. While the total amount raised for the 1996 election by both Democrats and Republicans increased by 70 percent over the same period during the 1991–92 cycle, voter turnout has plummeted to its lowest point since 1924. What's more, these funds are often used to finance negative, nongermane, and personally distasteful ads that do nothing more than turn off the voters and take attention away from issues of vital importance to all Americans, such as retirement security, education, and children's health. If we continue this trend, the wealthiest Americans will be the only ones who will be able to afford to participate in our political system, leaving the rest of us to only dream about contributing to this democracy.

If candidates were required to seek and demonstrate support from a broad range of individuals—an important component of the democratic process—the Supreme Court might see the First Amendment issue somewhat differently. An appropriate analogy would be the laws that require candidates to obtain a certain number of signatures as a requirement for access to the ballot. In other words, the reason for this limit would not be to equalize resources, but to ensure that the amounts candidates spend have some relation to breadth of support. This proposal may be at least arguably consistent with Buckley, since the Court in that case recognized that the government has "important interests in limiting places on the ballot to those candidates who demonstrate substantial popular support."

In fact, it is that statement by the Court which demonstrates the flaw in the Buckley versus Valeo decision. In the not too distant past, a candidate had to have the endorsement of a political party, or have his or her own strong, grass roots organization in order to have the large number of people it takes to gather sufficient petitions to be put on the ballot. Now, however, it is actually possible to hire people to collect petition signatures, so petitioning does not necessarily demonstrate broad support the way it used to. In fact, a wealthy candidate, under the current state of the law, doesn't have to have any broad support at all to gain access to the ballot, only enough money to hire enough petition collectors. If the important government interest the Buckley Court acknowledged is to be protected, therefore, some limits on the use of money by wealthy candidates is required. The use of money by wealthy candidates has to be brought into the bill's reforms.

This bill could have only been strengthened by a provision that would have created some mechanism to control this form of campaign financing. It is unfortunate that this bill does not have such a provision, as I have no doubt that, ultimately, unregulated financing will have no result but to drive voters, and talented but less wealthy candidates, out of the electorate.

Despite this shortcoming, I fully support the goals and the spirit of S. 25. It is a solid bill, and a firm step toward the type of comprehensive campaign finance reform that our nation needs to ensure that our electorate becomes involved and has more faith in the people they send to Congress to represent them. S. 25 has the potential to reduce some of the cynicism many Americans feel toward the electoral process, and therefore has the potential to ignite in many Americans the type of desire to become more involved in debates on fundamental issues like retirement security, healthcare security, and education.

Voters, and not money, should determine election results. The money chase has gotten out of control, and voters know that big money stifles the kind of competitive elections that are essential to our democracy. S. 25 is a crucial first step in bringing campaigns back to the people. I urge my colleagues to support S. 25, and I urge my colleagues to continue considering ways in which we can encourage the American people to continue playing a role in our democracy.

Mr. ABRAHAM. Mr. President, I rise today to explain my vote against cloture on the McCain-Feingold Campaign Finance Reform legislation.

As a supporter of campaign finance reform, I have previously outlined the standards which any reform legislation MUST meet in order to gain my support. In addition, I insist that there be some objectives which should be evident in any reform bill. The McCain-Feingold bill, unfortunately, falls short of reaching both of these standards, thus I voted against cloture.

First in the "must" category is that any reform legislation must be consistent with the First Amendment of the Constitution of the United States. Mr. President I could not support McCain-Feingold because some provisions of the bill would establish prior restraint on political speech. Specifically, section 201 of the bill which seeks to redefine "express advocacy" raises serious constitutional questions and would in my judgement fall short of the constitutional standard established in Buckley Valeo (1976), the landmark case on campaign finance reform.

Second in the "must" category is that the legislation must not impede or intrude on the prerogatives of the states and local units of government with respect to how they conduct political campaigns. Mr. President, there are provisions in the McCain-Feingold legislation that will limit the ability of the state and local political party committees to conduct legitimate election activity. Moreover, I feel that as presently constituted, McCain-Feingold would set in motion a process which ultimately would result in even further intrusion of state and local government election law.

Any campaign finance reform legislation must also, in my judgement, maintain a proper balance between the first amendment rights of the actual candidates and the political parties they represent and the rights of those who are not directly in the arena. Unfortunately, McCain-Feingold tilts the balance strongly in the direction of special interest groups. As these special interest groups grow in dominance, they simultaneously diminish the roles of the candidates and political parties. This, Mr. President, is not the way our founding fathers envisioned that our democratic electoral system would conduct itself. Candidates, political parties and interest groups should all be able to participate in the electoral system under the first amendment, however one entity should not be able to dominate the political speech arena.

Otherwise, Mr. President we will end up with a system in which the candidates themselves are more bystanders than participants and in which the various interest groups on all sides of all the issues are doing all of the talking.

Furthermore, any campaign reform legislation we pass must be balanced. I believe that McCain-Feingold was not balanced and clearly contained provisions that would protect and enhance the ability of the Democratic Party to raise funds from its traditional sources, while disproportionately limiting the ability of the Republican Party to conduct itself.

Finally Mr. President, to have my support, any new campaign finance legislation must address what I find in my state to be the most disturbing aspect of the way American federal elections are funded: namely, the increasing extent to which the campaigns of candidates for the House and Senate are financially supported by people who are not even constituents of the candidates themselves. McCain-Feingold does not even address this problem. There was no attempt in this bill to limit out of state or non-constituent contributions to a candidate.

As I mentioned previously, I do support reforming the method by which our federal campaigns are financed. Any campaign finance reform bill I support must be consistent with the Constitution, not impede on local and state government prerogatives, affect both parties fairly and equally, and address the problem of special interest, out-of-state money. Unfortunately, the McCain-Feingold legislation failed to meet these tests and, therefore, did not have my support.

While Congress will continue to work on this issue, I feel it is unnecessary to wait for legislation before those of us who are concerned take action. In fact, during my campaign in 1994, I voluntarily imposed my own limits on the flow of PAC and out-of-state dollars to my campaign. Instead of simply waiting around for Congress to act, I will continue to observe voluntary caps and encourage other Members to act themselves in ways they might choose to address concerns they have with our system.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, in an effort to try to accommodate the Senators here, we have about 9 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCONNELL. Would it be agreeable to the Senator from Massachusetts and the Senator from Wyoming that they each take 4 minutes, and I will have the last minute, as I have not spoken in this hour? Would that be fair?

Mr. KERRY. Mr. President, is it possible to get an extra 2 minutes?

Mr. MCCONNELL. It is 9 minutes until the vote. I say to my friend from Massachusetts, if we quit talking about it and enter into an agreement, you will have 4 minutes, Senator ENZI will have 4 minutes, and I will have 1.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes.

Mr. KERRY. Mr. President, let me speak rather quickly as to where we find ourselves. Notwithstanding the comments just heard with respect to the desire for campaign finance reform, there is one simple fact that the country is about to witness. The U.S. Senate is about to see campaign finance reform stay off the calendar and only come back, not as a matter of automatic debate on the floor of the Senate, only come back if the majority leader decides he wants to bring it back.

Effectively, we are witnessing 45 Democrat U.S. Senators prepared to vote today for McCain-Feingold, for campaign finance reform, and we have at least 4 Republican Senators prepared to vote for it today, and we are being denied the ability to be able to have that up-or-down vote on campaign finance reform. That is the bottom line. That is what is happening here.

The fact is that we have had an awful lot of straws sort of put up as the reason for doing this—people hiding behind the first amendment, people hiding behind the notion that incumbency is at stake. Incumbents get most of the money today. The current system protects incumbents.

Under McCain-Feingold and under the Supreme Court, both have said you can't limit issue advocacy. There is nothing in this bill that restrains the capacity of any American to go out and talk about an issue. There is something in this bill that tries to say we are going to draw a distinction between that which is really advocacy for an issue and that which is trying to elect or defeat a candidate.

The bottom line, Mr. President, is here is what this fight is about. We have a group of people who believe that their hold on power and their ability to be elected is dependent on the money that they spend. They are seeking a partisan political advantage in whatever structure they try to form as campaign finance reform. Now, that is not new here. I have seen that on this side of the aisle, too. My colleagues are fairly—and I underscore "fairly"—concerned about whether or not, if they are limited in some regard, people who oppose them—in some instances labor—are going to have an unfair advantage. We ought to have a fairer playing field.

But what Senator SNOWE and Senator JEFFORDS offered us as we tried to negotiate was not a fair playing field. We wound up with labor having to have its members give their written consent as to what they would allow their dues to do. But a member of the National Rifle Association, a stockholder of AT&T whose money also winds up going into political purposes, would not be treated the same.

So, in effect, we will see a failure today because the Republicans decided they wanted to try to legislate an unfair advantage to themselves. We are simply not going to allow that to happen. It is a tragedy for the American people that partisan efforts are going to take precedence over what is an overwhelming desire by the American people to see their democracy protected and not to have it increasingly become a dollar-ocracy or whatever you want to call it. Increasingly, this system is broken. Everybody knows it. For the Senate simply to sort of fall prisoner to a parliamentary process of partisanship rather than a genuine effort to try to come to agreement, I think, does not serve any of us well here. I regret that. I regret it for the institution. For the 13 years I have been here, we have been trying to deal with campaign finance reform. One side or the other is always trying to find that advantage. We have shown how you can do it fairly. Everybody in the country, I think, has a pretty good definition of that fairness. I hope my colleagues will recognize as they go home that their citizens and constituents are really fed up and want change.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in favor of campaign reform, but not the proposal before us. I resent that we must apparently be for this bill before us or we are pictured as being opposed to reform.

This bill has gone through somewhat of a transformation, but not much. Rather than reform the way campaigns are financed, this legislation would infringe on the first amendment rights of millions of American citizens and place enormous burdens on candidates running for office. We must ensure the enforcement of the current law before we build a whole new bureaucracy. That is what we are talking about.

I believe this debate over changes in campaign laws is especially timely in light of the recent discovery of the video tapes of the White House coffees. It is illegal to campaign, it is illegal to raise money on Federal property. They are more suspicious since the White House withheld the critical evidence from the investigative committee for over 8 months. They just found the tapes? They just found part of the tapes—44 out of 150? How hard can tapes be to find? Don't they have a procedure for storing tapes? If they are

important enough for history in the first place, should there not be a mechanism for finding them?

While it's not clear what took place, it calls out for a serious investigation and the appointment of a special prosecutor.

Now we want to add extra criteria. If we just add them, will Congress be the only ones who have to abide by them? Will an acceptable defense be that everybody is doing it, even if that is not true? One of the lessons I learned in my 18 years in elected office is that you don't increase compliance with existing laws by increasing the complexity. We haven't talked about truth in advertising. We haven't talked about how much money is being spent and a way to disclose and to get accurate and complete disclosure from all groups that are involved in the process. We are only touching on campaign finance reform, and we are calling it the whole ball of wax, the whole answer to everything.

Mr. President, while the McCain-Feingold legislation claims to clean up elections, it does so by placing unconstitutional restrictions on citizen's ability to participate in the political process. For the past few weeks, we have heard Members of this Senate bemoan the fact that various citizen groups have taken out ads criticizing them during their elections. Having just run my first statewide campaign last year, I can sympathize with my colleagues who have been the object of often pointed and critical campaign ads. I've said frequently that campaigns need a good truth in advertising law. That's not restriction of free speech. That's requiring honest speech. Yes, there are fine lines of spin, but we haven't even tried to clean up the blatantly wrong ads. Instead we want to restrict the right to even tell the truth. I believe that in a free society it is essential that citizens have the right to articulate their positions on issues and candidates in the public forum. The first amendment to our Constitution was drafted to ensure that future generations would have the right to engage in public political discourse that is vigorous and unfettered. Throughout even the darkest of chapters in our Nation's history, our first amendment has provided an essential protection against inclinations to tyranny. Our political future relies on the protection of free speech.

The Supreme Court has consistently held that the first amendment protects the right of individual citizens and organizations to express their views even through issue advocacy and even if its aimed at an individual. The Court has consistently maintained that individuals and organizations do not fall within the restrictions of the Federal election code simply by engaging in this advocacy.

Issue advocacy includes the right to promote any candidate for office and his views as long as the communication does not in express terms advocate the election or defeat of a clearly identified candidate. As long as independent communication does not cross the bright line of expressly advocating the election or defeat of a candidate, individuals and groups are free to spend as much as they want promoting or criticizing a candidate and his views. While these holdings may not always be welcome to those of us running campaigns, they represent a logical outgrowth of the first amendment's historic protection of core political speech. We talk about how much money is spent that way for advocacy, but we are just guessing. We are jumping to the step of precluding that right of free speech talking about how much the cost of campaigns have gone up, but we don't even have a mechanism for reporting that in any meaningful way. That should be the first step. We need quick and complete disclosure of all funds spent in a campaign, directly and indirectly. That means hard money and soft. We need to know from where and whom it comes and for what it was spent. Obviously we need to know how the money got there. We need to know that the laws on collecting it apply to everyone. That's a simpler step than what is proposed and more constitutional too.

These unconstitutional restrictions of this bill would increase the power of the media elites at the expense of the average American voter. Our Founding Fathers drafted the first amendment to protect against attempts such as these to prohibit one segment of our society from entering into public discourse on issues that greatly affect them.

I commend the sponsors for eliminating from the most recent version of their legislation the provision that forced businesses to give away their product in the form of free broadcast time. I also appreciated them taking out the complicated funding formulas. Nonetheless, I still cannot support legislation that stifles the free speech of the American citizens and gives expanded new powers to a Washington bureaucracy. For these reasons, I must oppose the revised McCain-Feingold legislation. I ask my colleagues to join me in paying trouble to the first amendment and opposing the McCain-Feingold legislation.

I thank the Chair and yield the remainder of my time.

Mr. MCCONNELL. I thank the Senator from Wyoming for his important contribution to this debate. We have 25 speakers in opposition to McCain-Feingold, and a growing number of our Members want to speak out in opposition to this piece of legislation.

I think a very encouraging thing happened this morning that I would like to report to my colleagues right before the vote.

I had an opportunity to attend an announcement of a new organization called the James Madison Center for Free Speech. What the James Madison Center for Free Speech is going to do is handle litigation all across the country in cases involving political speech. We have heard it announced that the forces of reform who want to shut Americans out of the political process and being frustrated in Washington are taking their cases out around America. There have been various State laws and referenda that have passed—all of them, so far, struck down in the Federal courts. But the James Madison Center is going to be there to represent litigants all across America who stand up for first amendment free speech.

I think that is an important announcement. The proponents of campaign finance reform have said they are not going to go away. The opponents are not going to go away. The James Madison Center is going to be there every time free speech is threatened anywhere in America.

Mr. President, I ask unanimous consent that the mandatory quorum call under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 25, as modified, the campaign finance reform bill:

Thomas A. Daschle, Carl Levin, J. Lieberman, Wendell Ford, Byron L. Dorgan, Barbara Boxer, Jack Reed, Richard H. Bryan, Daniel K. Akaka, Christopher Dodd, Kent Conrad, Robert Torricelli, Charles Robb, Joe Biden, Dale Bumpers, Carol Moseley-Braun, John Kerry.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 25, a bill to reform the financing of Federal elections, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida, [Mr. MACK] is necessarily absent.

The yeas and nays resulted—yeas 52, nays 47, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—52

Akaka	Boxer	Byrd
Baucus	Breaux	Chafee
Biden	Bryan	Cleland
Bingaman	Bumpers	Collins

Conrad	Johnson	Murray
Daschle	Kennedy	Reed
Dodd	Kerrey	Reid
Dorgan	Kerry	Robb
Durbin	Kohl	Rockefeller
Feingold	Landrieu	Sarbanes
Feinstein	Lautenberg	Snowe
Ford	Leahy	Specter
Glenn	Levin	Thompson
Graham	Lieberman	Torricelli
Harkin	McCain	Wellstone
Hollings	Mikulski	Wyden
Inouye	Moseley-Braun	
Jeffords	Moynihan	

NAYS—47

Abraham	Faircloth	Lugar
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Coats	Hatch	Shelby
Cochran	Helms	Smith (NH)
Coverdell	Hutchinson	Smith (OR)
Craig	Hutchison	Stevens
D'Amato	Inhofe	Thomas
DeWine	Kempthorne	Thurmond
Domenici	Kyl	Warner
Enzi	Lott	

NOT VOTING—1

Mack

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment No. 1258 to Calendar No. 183, S. 25, the campaign finance reform bill:

Trent Lott, D. Nickles, Jon Kyl, Slade Gorton, Mitch McConnell, Connie Mack, Larry Craig, Strom Thurmond, Gordon Smith, Jesse Helms, Kay Bailey Hutchison, Christopher S. Bond, Bill Frist, Charles Grassley, Thad Cochran, Rick Santorum.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on amendment No. 1258 to S. 25, a bill to reform the financing of Federal elections, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—51

Abraham	Enzi	Lugar
Allard	Faircloth	McCain
Ashcroft	Frist	McConnell
Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Brownback	Grams	Roberts
Burns	Grassley	Roth
Campbell	Gregg	Santorum
Chafee	Hagel	Sessions
Coats	Hatch	Shelby
Cochran	Helms	Smith (NH)
Collins	Hutchinson	Smith (OR)
Coverdell	Hutchison	Stevens
Craig	Inhofe	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Domenici	Lott	Warner

NAYS—48

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Breaux	Hollings	Murray
Bryan	Inouye	Reed
Bumpers	Jeffords	Reid
Byrd	Johnson	Robb
Cleland	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Snowe
Dodd	Kohl	Specter
Dorgan	Landrieu	Torricelli
Durbin	Lautenberg	Wellstone
Feingold	Leahy	Wyden

NOT VOTING—1

Mack

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

PROVIDING FOR CONDITIONAL ADJOURNMENT OF BOTH HOUSES OF CONGRESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the adjournment resolution, House Concurrent Resolution 169; that the resolution be agreed to; and that the motion to reconsider be laid upon the table, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 169) was agreed to, as follows:

H. CON. RES. 169

Resolved by the House of Representatives (the Senate concurring) That when the House adjourns on the legislative day of Thursday, October 9, 1997, it stand adjourned until 10:30 a.m. on Tuesday, October 21, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, October 9, 1997, Friday, October 10, 1997, or Saturday, October 11, 1997, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, October 20, 1997, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I don't have a complete schedule yet, but I believe we are ready to go to the HUD–VA appropriations conference report. We are trying to get clearance to go to Transportation appropriations conference report after that. We are still working with Senator DASCHLE so that we can outline the schedule for the remainder of the day. We are arranging for some debate time. We are also working on clearing some Executive Calendar nominations. Hopefully, within the next few minutes, we will be able to make some further specific announcement and try to get a UC on all of that. I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order. The Senator from Arizona is recognized.

CAMPAIGN FINANCE REFORM

Mr. MCCAIN. Mr. President, a minority has prevailed for the moment in blocking campaign finance reform. They will not prevail forever. Sponsors of campaign finance reform knew from the outset that our legislation faced long odds. We knew that finding a supermajority of Senators to cut off debate would be very difficult. Not impossible, but difficult.

What we had hoped might occur is that as the amending process on the bill proceeded, Senators from both sides of the aisle would begin to find common ground on this subject, and the basis for a fair bipartisan compromise would be discovered. That was not to be the case, however, because the rules of this debate were structured to prevent anyone from offering any amendment. No vote on any single aspect of campaign finance reform was allowed, and that's unfortunate.

The chief opponent of our bill, the Senator from Kentucky, very forthrightly claimed that he would proudly cast a vote against any bill that sought to reduce the amount of money that currently soaks our Federal election system. I commend him for his candor and having the courage of his convictions.

Mr. President, I wish all opponents of campaign finance reform were so forthright. I wish all Members of the Senate

could have had the opportunity to unambiguously register their support for or opposition to campaign finance reform in all its forms so that the American people would have a clear public record of where we all stood on the subject. I can only assume that the public was denied a clear record because some of us are apprehensive about how the public would react to our votes. I cannot find any other explanation for the elaborate lengths opponents of the bill went to in order to prevent a single vote on any amendment to this legislation.

I do not resent the use of the filibuster to obstruct reform. I regret it, but I do not resent it. It is a frequent roadblock to action in the Senate, and I and the other sponsors of the bill always understood that we must overcome it to prevail. Necessary to our efforts to overcome this institutional obstruction, however, is the amendment process. We believe that if Senators are obliged to vote yea or nay on various aspects of reform, the public's reaction to our votes might persuade 60 Senators to vote to limit debate. But as I have noted, we were precluded from offering and disposing of amendments.

As I made clear to everyone before debate on this bill began, if the supporters of McCain-Feingold were denied an up-or-down vote on the bill or on amendments to the bill, we would exercise our rights as Members of the Senate to offer amendments related to reform on legislation subsequently considered by the Senate. Now we are confronting a parliamentary tactic that is intended to deny us the opportunity to offer amendments to the highway funding bill. I don't think that it is fair, even if it is sanctioned by Senate rules. Nor do I think the tactic will permanently preclude us from offering reform amendments to other legislation.

Mr. President, no Member of this body can be permanently disenfranchised from the right to offer amendments. It is a practical impossibility. Unanimous consent is required for nearly all the work of the Senate, and Members who are denied their right to amend legislation are not likely to consent to moving that legislation forward. Every Senator knows that their colleagues who intend to offer campaign finance reform amendments will eventually succeed in doing so. At some point, the support or opposition of Senators will be a matter of public record. Therefore, I am at a loss to understand what purpose is served by attempting to temporarily prevent us from offering these amendments.

We cannot be disenfranchised permanently, Mr. President, because to do so would disenfranchise the American people. The people have a right to know where their elected representatives stand on the issue of campaign finance reform so that they may render an informed judgment at election time about how fairly we represent their concerns.

The supporters of reform intend to offer amendments related to various aspects of reform, and as I have stated previously, I intend to offer an amendment banning soft money, the unregulated ocean of money which is drowning the integrity of our political system and which occasioned so much scandal in the last election. I am looking forward to the great debate on the first amendment that supporters of soft money will offer in opposition to the ban.

I know that the Senator from Kentucky will enthusiastically engage in that debate, and I again commend him for having the courage of his convictions, for his clear willingness to have his opposition to reform recorded unambiguously for the people to judge. Will the other Senators join him? I don't know. I don't think support for unlimited soft money is quite so clear as his opposition to other reform proposals. I think we would win a vote banning soft money. I am not certain, but I am fairly confident, and I intend to find out.

We will keep trying until the Senate agrees to provide the people we serve with an honest, clear record of our support or opposition to campaign finance reform. They will then make a judgment as to whether they approve of our position or not.

Finally, again, Mr. President, I am hopeful that at some point, there will be sufficient requests by the American people, including a million signatories, 1 million Americans signing a petition asking us to address this issue of campaign finance reform. I hope that sooner or later that and the better angels of our nature will persuade us that it is time to sit down and work out a campaign finance reform which is fair to everyone and gives and restores the American people control of their Government.

I yield the floor.

Mr. KERRY addressed the Chair.

Mr. BOND. Without objecting, may I say, we are trying to arrange for the expeditious consideration of the VA–HUD report.

Mr. KERRY. I just ask for 3 minutes or so. I want to respond to Senator MCCAIN.

Mr. BOND. I have no objection.

THE SENATE WILL ULTIMATELY BE HEARD

Mr. KERRY. Mr. President, I would like to thank the Senator from Arizona for his comments, for his steadfast efforts and leadership on this and, speaking for Senator DASCHLE who is not here at this moment and for the leadership on this side, we would like to make it very clear that what Senator MCCAIN has said we are determined to try to help effect. We are determined that we will bring back campaign finance reform again and again and again until we have the ability to vote up or down on either McCain-Feingold or on some measure of full reform. I think Senator MCCAIN has appropriately suggested that ultimately the will of the Senate can't be held down on a matter like this. Senators will have to vote one way or the other in order to make their positions clear, and the will of the Senate ultimately will be heard.

We, on our side, are particularly grateful to Senator FEINGOLD for his leadership, but, Mr. President, we regret enormously that the American people were not permitted to have one amendment properly voted on and debated. Not one. Not once in this important issue, where 88 percent of the American people believe we ought to have reform, was the U.S. Senate, known as the world's greatest deliberative body, able to truly deliberate. Some would argue deliberation comes in many forms and a filibuster is a form of that deliberation. But everyone knows that a majority of this Senate was prepared to vote for this bill as it is today. This bill will come back again and again until the Senate has a chance to work its will.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING H.R. 2158

Mr. BOND. Mr. President, I ask unanimous consent that the Senate now turn to the VA–HUD conference report; that the report be considered read; and that there be 20 minutes equally divided between the majority and the minority, plus 5 minutes for the Senator from Washington, Senator GORTON; that following the conclusion or yielding back of time, the conference report be agreed to and the motion to reconsider be laid upon the table, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

Mr. BOND. Mr. President, I submit a report of the committee of conference on the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2158) having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 6, 1997.)

Mr. BOND. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I am pleased to present the Senate with the conference report accompanying H.R. 2158. The bill provides a total of $90.7 billion in new budget authority, including $21.5 billion in mandatory spending, which is $855 million less than the President's request.

As with most legislative activity in this body, the bill is not perfect, but I do think it reflects a very balanced approach to a number of particularly difficult funding and policy decisions. In achieving that balance, I owe a special debt of gratitude and express my sincerest thanks to my hard-working ranking member, Senator MIKULSKI, whose cooperation, guidance, and wise counsel has helped to craft a consensus in reaching many of these difficult decisions.

We have done our best to ensure that both the spirit of the budget agreement and the highest priorities of the President have been met without jeopardizing key programs, such as veterans' medical care and the space program which were not protected in the budget agreement.

For the VA, the highest priority in the VA–HUD conference report is afforded to veterans' programs which total $40.45 billion and veterans' medical care in particular. The conference report provides $17,060,000,000 for VA medical care, which is $100 million more than the President's request and more than $300 million above the amount assumed for veterans' medical spending in the budget agreement. This level should ensure continued care to all eligible veterans and continued improvements to the VA medical system. Increases also are provided for the State Nursing Home Program construction and research.

For the Department of Housing and Urban Development, the conference report provides close to $25 billion for fiscal year 1998, including full funding of $8.2 million for section 8 contract renewals as provided through the budget resolution.

Other key programs include $310 million for drug elimination grants; $1.5 million for HOME; $4.7 billion for community development block grants; $600 million for the Native American Block Grant Program; $823 million for homeless assistance programs; $35 million for Youth Build; $25 million for Brownfields; and $138 million for the economic development initiative.

Unfortunately, we were unable to fund the preservation program due to the high cost of the program, reported fraud and abuse, and HUD's lack of capacity to administer the program. To continue the program would cost some $2 billion over the next several years. Therefore, we have included instead $10 million to reimburse costs expended by project owners and nonprofit and tenant purchasers under the program.

This bill also authorized enhanced—or "sticky"—vouchers which will protect tenants from being forced to move if an owner chooses to prepay a mortgage and higher rents are charged.

Mr. President, I also point out that we have worked with the Department of Housing and Urban Development and colleagues in the authorizing committee to craft an ongoing solution to the high-cost rental program under multifamily projects in a program known as mark-to-market.

We believe that the Senate's position, which finally has been accepted by the House, to deal with these programs to provide a continuation of housing services to those residents in particularly elderly and other projects funded under a multifamily basis, is the best approach to dealing with what otherwise would be a budgetary nightmare and potentially totally disruptive to the residents.

For EPA, the conference report provides $7.4 billion for fiscal year 1998, an increase of over $400 million over fiscal year 1997; and an additional $650 million for fiscal year 1999 for the Superfund program. The appropriation includes $3.3 billion for the operating programs, an increase of $200 million or 6 percent over fiscal year 1997.

State revolving funds would receive a total of $2.075 billion, including $1.35 billion for clean water and $725 million for drinking water. The President's proposed reduction of $275 million from the clean water State revolving fund was fully restored.

For Superfund, the conference report includes $2.1 billion, an increase of $750 million over the current level. This funding includes an advance appropriation of $650 million to be made available on October 1, 1998, so long as a Superfund reform bill is enacted by May 15, 1998. This reflects the budget agreement which assumed this additional funding only upon a comprehensive reform of the Superfund program.

In addition, given the priority the administration places on funding for Boston Harbor, the conference report provides $50 million, which is $27 million more than proposed by the House.

For NASA, the conference agreement recommends $13.6 billion, the same amount as proposed by the House and an increase of $148 million over the Senate level and the administration's budget request. This amount will help NASA deal with the recent problems with the space station program without jeopardizing critical programs, such as space science, earth science, and aeronautics.

For the National Science Foundation, appropriations would total almost $3.5 billion, a $60 million increase above the budget request. This funding includes an additional $40 million for plant genome research. Mr. President, this new comprehensive initiative is critical to the future of U.S. crop production, the ability of our strong agriculture sector to provide the food and fiber needed in this country and the world.

For the Federal Emergency Management Agency, this agreement recommends $830 million, including $320 million for disaster relief and $30 million for a new predisaster mitigation grant program intended to improve the Nation's ability to reduce the costs and impacts of natural disasters, particularly in communities with significant disaster risks.

For the National and Community Service Program, funding is $425.5 million, an increase of $25 million over the current year. Despite continued concerns many of us have with this program, we have acknowledged the priority the President has placed on the program. And, in addition, the $25 million is targeted directly to the critical issue of child literacy.

Community development financial institutions are provided $80 million. While this funding is $45 million less than the President's request of $125 million, the conference report funding represents a compromise which reflects significant concerns raised in the last several months over the lack of administrative capacity and accountability at CDFI, including concerns relating to the contracting of services. We expect that the Treasury Department will continue to put in systems, procedures and policies that will ensure that the CDFI program will be administered appropriately in the future.

As I said before, on the section 8 mark-to-market reforms, title V of the bill provides, beginning in fiscal year 1999, a comprehensive reform program that provides a mortgage and rent restructuring program to reduce the costs of oversubsidized section 8 multifamily housing properties insured under the FHA. Under this mark-to-market program, FHA-insured properties with above-market rents are eligible for debt restructuring to reduce the rent levels to market-rate rents or the project base rents needed to support operations and maintenance.

In response to concerns about HUD's capacity, the legislation shifts the management, administration, and restructuring of the portfolio to capable

local entities with a public purpose. In most cases, State and local housing finance agencies will be responsible for the restructuring of projects and consultation with project owners, the tenants and the affected community.

In addition, the legislation requires the continuation of project-based assistance for projects that serve elderly and disabled families, thus ensuring the availability and affordability of low-income housing for the elderly and disabled.

I note that a number of provisions, some of which I do not support, were added in conference to ensure the passage of the bill in both the House and the Senate and to promote signing by the President.

In addition, we reached a number of accommodations with the White House with the cooperation and assistance of Senator MIKULSKI, Congressman STOKES, Congressman OBEY, and other members of the conference. We are grateful for their assistance.

I yield to Senator MIKULSKI for her opening statement.

Ms. MIKULSKI. Thank you very much, Mr. Chairman.

The PRESIDING OFFICER [Mr. INHOFE]. The Senator from Maryland.

Ms. MIKULSKI. Thank you, Mr. President.

I rise today to join my very distinguished colleague, the Senator from Missouri, to offer for the Senate's consideration the conference agreement on the VA-HUD bill.

This bill contains $99 billion—$99 billion—in outlay spending, of which almost $20 billion is in mandatory spending. This isn't just about numbers though. And it will not be about statistics; this is about people.

The VA-HUD bill is probably one of the most complex that comes before the Senate. In terms of dollar amounts, it ranks up there with defense, and it ranks up there with the Labor, Health and Human Services budget. What it does in terms of dollar amounts, though, is it really is focused on two policy objectives. No. 1, how do we respond to the day-to-day needs of our constituents, those veterans who need health care or access to a mortgage, or constituents who need housing, whether it is housing for the elderly, or housing for neighborhoods trying to rebuild themselves, or in response to the need for emergency assistance?

At the same time, this subcommittee gets America ready for its future. It is significant in public investments in science and technology. That is where we have tried to make wise and prudent choices, on how we respond to the day-to-day needs of the American people and at the same time help our country get ready for the future. I believe that, working on a bipartisan basis, we have been able to do this.

I thank my colleague, Senator BOND, for the collegial manner in which he and his staff have worked with my staff and myself to craft a bipartisan bill that represents the best interests of the American people.

I am very pleased to say that when it has come to meeting the health needs of our veterans, whether it has been making sure that the housing needs are met, and at the same time whether it is our space program or our investments in information technology, we have not played politics.

Isn't this what the American people want us to do? For the people who risked their lives at Iwo Jima, Pork Chop Hill, Desert Storm, the Mekong delta, they want us to get out there and get up every day and see how we can be responsible in meeting their needs and not play politics with their needs. Well, we looked at people who need public housing or subsidized housing, how we can ensure that housing is not a way of life but a way to a better life. Isn't that what the American people want us to do?

When they look to not only the Stars and Stripes, but they look out there to the stars of the universe, they want the United States of America to lead the way. They do not want us to play politics with our space program. And we have not done that.

At the same time, they know a new century is coming, a new economy is on its way. We need groups like the National Science Foundation, in its investments in information technology and other basic scientific research, to do that basic research which the Federal laboratories and our universities are best at, so that we can then turn to the private sector to value add where public investments in publicly funded research will lead to the private-sector jobs. And they do not want us to play politics with that. And guess what? We did not.

So, Mr. President, as we come before you with this VA-HUD bill, I think that is what we have done. We have moved this legislation forward. I think the numbers speak for themselves.

We have provided $300 million more for VA medical care than the budget agreement because we said, "Promises made should be promises kept to our veterans."

We wanted to be sure that the VA medical research could continue to be funded in a way that meets the important practical clinical research that is important. I am so pleased that we are going to be doing research on gulf war syndrome. I am particularly pleased that we have the set-aside for both Parkinson's disease and prostate cancer. With quality VA medical care and research, we are providing real help for real people.

When we look at our housing and urban development, we once again make sure that we adequately fund the very successful program that funds housing for the elderly in our local communities.

This committee was concerned, though, about two things. First, we were concerned that the way section 8 was being funded could inadvertently result in yet one more unfunded liability to taxpayers and a hollow opportunity for the poor. The Senator from Missouri, Senator BOND, has been an architect of reform in this area. I have noted with great pleasure the way he worked with the administration in terms of fashioning a compromise where we meet our fiscal and social responsibility simultaneously.

We also fund something called HOPE VI which says that public housing should not be a way of life but a way to a better life. We have come up with not only a new physical infrastructure, but a new social infrastructure that says, if you get a subsidy, you have to get yourself, your family, and your community ready for the future because it mandates that you must be in job training and it mandates also that you must be engaged in community service in your own area.

This way we build the capacity of the individual, we build the community in which that individual lives, and we get value not only for the taxpayer, but the lives of residents will be transformed forever.

Again, this committee provided real help for real people. This year, when we looked at the environment, the President's request had many items we worked on, from Superfund to Brownfields, clean air to clean water. What we have been able to do is not only work on these issues, but also lay the groundwork for the research that needs to be done to be sure that we have sufficient science for a regulatory framework.

I am very grateful for the response of the Senator from Missouri when I came to him when Maryland was hit by a terrible tragedy in which we had a fish kill over on our Eastern Shore. We had thousands of fish die. Our great medical community was concerned that it was having a dire effect on the physical and public health of our community.

Before we responded inappropriately, we felt that we needed to have our Federal laboratories engaged so that they could support not only Maryland, but other affected States like Virginia and North Carolina, so we could come up with wise solutions to protect public health and also maintain the community.

I want to thank Senator BOND for responding to my request for $3 million that will fund EPA to find a solution to a problem called the pfiesteria, an "X Files"-like organism that goes from a vegetable to an animal and then attacks fish in a vicious way. What we are able to do now is to provide the best science to come up with the best solutions to be able to protect lives, protect the Chesapeake Bay, and protect our economy. I want to thank the

Senator for responding to that because it was a last-minute, but certainly a much needed request.

In NASA, we also talked about how we maintain our core programs—safety for the shuttle, we will fly high in the space station, and we will once again have adequate funding for Mission to Planet Earth. While we study the great universe, we also need to look back on the one planet where we do believe there is intelligent life, and that is our own dear planet Earth. Thanks to this we will be able to study our planet as if it were a distant planet and come up with new ways of doing business, where we can predict earthquakes, where we can predict floods, where we can predict famine, and using the tools of science, we can help countries all over this planet be able to protect themselves from either the dire effects of nature or the dire effects that we bring upon ourselves.

I am also particularly pleased that, once again, the chairman responded to a request from both the administration and from this side of the aisle to maintain the National Service Program. This is a program where we ask young people to volunteer in their communities, and while they are doing that, receive a voucher to reduce their student debts, and at the same time give back to their community.

There are many aspects of this bill which we could elaborate on, but the one that we probably have to respond to most immediately is the Federal Emergency Management Agency. FEMA is the 9-1-1 agency for the American people. Unfortunately, just about every Senator's State had a call on FEMA. We were able to respond to that, and once again, we worked on a bipartisan basis. What we are also going to do now is to practice the three R's of emergency management: readiness and preparedness, response when a disaster hits, and restoration. Only this time when we restore, we are not going to only restore, we will take steps to help communities reduce the impact from future natural disasters like hurricanes and floods.

Mr. President, we could talk about the legislation, but what I am here to say today is that what we have done in this subcommittee is that we have responded to the needs of the American people, we have gotten ourselves ready for the future, we have been fiscally responsible, and we have done it on a bipartisan basis. At the end of the day, I don't think we can do better than that. I will be able to go back to my constituents in Maryland and say, "We think we have done a good job for you. We think we have done a good job for America."

I thank Senator BOND and his staff for the way they worked with us, particularly John Kamarck, Carrie Apostolou, and a wonderful detailee, Sarah Horrigan. I also want to thank my staff, Andy Givens, David Bowers, and also another detailee, a science whiz kid like Sarah, Stacy Closson, who came to us to learn about how the Senate works, while we have a better insight into how science works.

Mr. President, I think that concludes my remarks. I yield the floor and I will look forward to the passage of the bill.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, my remarks are directed at the two distinguished managers of the bill, and I hope they will be able to respond to the concerns I am about to raise.

On July 22, while this bill was being debated on the floor of the Senate, I shared with the Members of the Senate a series of scandals across Indian country with respect to a housing program for low-income Indian reservation residents. The scandal occurred in my own State in Washington in the construction of a 5,000 square foot, $400,000 home under this low-income program for the chairman of the housing council of the particular tribe, and similar activities in other reservations across the country in which money had been misused not for the benefit of low-income Indians on reservations but for the benefit of the people who were managing the money themselves, most of whom were above average in income.

As a result of that set of facts, themselves a result of a long investigation on the part of the Seattle Times, the Senate unanimously passed an amendment that says "The Secretary of Housing and Urban Development shall bar any person from participating in any activity under the native American housing block grants program under title I of the Native American Housing Self-Determination Act of 1996 or any activity under the jurisdiction of the Department of Housing and Urban Development where such person has substantially, significantly, or materially violated the requirements of any such activity. The Secretary shall pursue reimbursement for any losses or costs associated with these violations."

Now, Mr. President, the two managers were delighted to accept that amendment. The Senator from Missouri told me a week or so ago that the House was greatly resistant to these provisions and that he greatly feared he would have to drop them. In fact, he has done so, Mr. President. I simply would like to get his explanation as to why Members of the House of Representatives seem to feel that someone can "substantially, significantly, and materially violate the requirements of the law" and suffer no consequences for doing so?

This seems to me to be a ratification of this widespread fraud. At least two people working for the Department of Housing and Urban Development were transferred, another has been forced into early retirement as a result. But why is it that a simple prohibition against what amounts to total fraud—effectively stealing not just the money of the people of the United States, but of poor members of these tribes, now is suddenly dropped from the bill?

What sanction contained in this amendment was regarded as so obnoxious by Members of the House of Representatives, I ask my distinguished friend and chairman, that they refused to include it in the final bill?

Mr. BOND. Mr. President, to respond to my good friend, I first commend him for calling attention to some of the abuses that occurred. When we accepted on the floor his proposal, it was in light of the abuses and the problems that were uncovered. As I have advised my colleague from Washington, the House had grave concerns about the breadth of this issue, fearing that it might bar not only people actively engaged in fraud but people with other problems in their background or in other time periods or in other areas. I cannot do a good job of explaining their objection because it was not my objection. We were unable to include it because we did not have adequate support from our side to overcome the resistance of their side.

I point out to my colleague from Washington that HUD currently has authority under this program to address fraud and abuse in this program and they have assured us that they will.

Having said that, Mr. President, I assure my friend from Washington, I am from Missouri, and assurances—frothy substances do not satisfy me; I am from Missouri, and you must show me.

I expect that the new Native American Housing Block Grant Program which is under consideration in the Banking Committee will include program administrative and oversight requirements. At this point we must defer to the Banking Committee which is currently looking at native American housing block grant reforms as part of a HUD extender bill which would extend the authorization of a number of the programs such as FAA and multifamily risk programs. We expect this bill will be considered by the House and the Senate before the end of the session.

I hope there would be an opportunity once again, for the Senator from Washington to address the very real concerns he noted.

Mr. GORTON. Mr. President, I appreciate those expressions on the part of my friend from Missouri and I emphasize that I know he supported this provision and that he did his best to keep it included in the bill.

I hope that at some future time in authorizing legislation or otherwise we will be able to do something similar to this. I, too, have heard the assurances of the Department of Housing and Urban Development that this will not

happen again, but we have gotten those assurances in the past without them having been carried out.

I summarize by saying how anyone could say that a person who "has substantially, significantly, or materially violated the requirements" of this law should somehow or another not even receive so much as a tap on the wrist and should be allowed to go on doing in the future what that person has done in the past, is beyond my understanding. I am sorry this is not in the bill. I don't think the excuses of its opponents and the House conferees are adequate in the slightest, but I do know that the chairman and the ranking minority member sympathize with me on this and will support us as we continue on a crusade for honesty and straightforward dealing and using this money for the purposes for which it was intended. I know they will support that in the future.

Mr. BOND. Mr. President, I thank the Senator from Washington for his comments.

MULTIFAMILY ASSISTED HOUSING REFORM

Mr. D'AMATO. Mr. President, I wish to express my strong support for the inclusion of the Senate's "Mark to Market" reform legislation in the Fiscal Year 1998 VA-HUD Appropriations Conference Report. The conference report effectively incorporates The Multifamily Assisted Housing Reform and Affordability Act of 1997 (S. 513), as passed by the Banking Committee and full Senate with minor modification.

This legislation averts a serious affordable housing crisis by restructuring the Department of Housing and Urban Development's [HUD] Federal Housing Administration [FHA] insured section 8 project-based assisted portfolio. This legislation will save taxpayer money by reducing above-market rents on section 8 properties, will protect residents, and will help maintain a stock of affordable housing which will remain available for the future. The financial viability of assisted projects will be protected by refinancing and restructuring mortgages which are insured by the FHA.

I salute my friend and colleague Senator CONNIE MACK, Chairman of the Subcommittee on Housing Opportunity and Community Development, for his outstanding efforts in crafting this legislation and ensuring its swift enactment. Through his extraordinary leadership this legislation has been developed in a bipartisan, measured and thoughtful manner. I thank my friend Senator KIT BOND for the critical role he played in the development of this bill as a member of the Banking Committee in the last Congress and for his leadership as chairman of the VA–HUD Appropriations Subcommittee in bringing this measure to final passage.

Mr. President, this legislation is supported by a broad range of interest groups including resident organizations, owners, nonprofit housing associations, the National Governors Association, the National Affordable Housing Management Association, the National Housing Conference, the National Association of Home Builders, and the National Council of State Housing Finance Agencies. The New York Housing Conference and the New York State Tenants and Neighbors Coalition have been instrumental in the development of this bill and I thank them for their valuable input and support.

This legislation addresses the escalating costs of the HUD section 8 program and achieves fiscal year 1998 savings of $562 million. Importantly, this legislation will save the American taxpayer $4.6 billion over the next 10 years by reducing exorbitant rents in the section 8 program. At the same time, the legislation will protect the FHA multifamily insurance fund from losses due to defaults. The mortgage restructuring provisions contained in this bill will allow projects to continue to operate effectively with reduced rent levels.

Mr. President, millions of needy Americans depend on section 8 housing to provide them with affordable shelter. The average income of these families, elderly and disabled persons is similar to those in Federal public housing—approximately 17 percent of the local area median income. In addition, over 35 percent of these persons are elderly. Many more are disabled or families with children. It is essential that we protect these residents.

Mr. President, the legislation protects residents from displacement and provides them with a meaningful voice in the restructuring process. Resident involvement is essential to prevent physical deterioration of buildings, identify criminal activity and threats to health and safety, and contribute to the long-term viability of the affected buildings and communities. The legislation provides for a strong role on the part of residents to participate in activities such as the determination of eligibility for restructuring, decisions to renew project-based contracts, the formation of the rental assistance assessment plan, capital needs and management assessments, and physical inspections.

In addition, resident involvement in the decisions which affect their communities and lives will be further ensured by the selection of resident-friendly participating administrative entities [PAE]. The legislation mandates that any organization selected as a PAE must have a demonstrated track record of working directly with residents of low-income housing projects and with community-based organizations. It is imperative that these PAE's provide for resident input that is meaningful. This will be achieved by the PAE providing residents timely, adequate and effective written notice of proposed decisions, timely access to relevant information and an adequate time period for analysis and provision of comments to the PAE and HUD. The PAE and HUD will take into account resident comments in a thoughtful and constructive manner.

Mr. President, the bill seeks to preserve affordable housing throughout our nation for the benefit of current and future residents. Criteria have been developed to assess whether a project should maintain project-based assistance or be converted, in whole or in part, to tenant-based assistance. Projects in disrepair will be rehabilitated, where feasible, and their proper maintenance will be ensured. The legislation contains important new enforcement tools for HUD to employ to crack down on fraud, waste and abuse by unscrupulous landlords. Landlords who break the rules will be banned from the program. New protections against equity skimming, as well as expanded civil money penalties will greatly assist efforts to eliminate owners who have cheated the Federal Government. In addition, the legislation refocuses HUD's efforts on oversight and enforcement. By devolving the primary responsibility for conducting mortgage restructurings to the State and local level, HUD staff will be able to concentrate on rooting out abuses within the system.

Rents on restructured properties will be set at local market rates based on comparable properties, or where comparables are unavailable, at 90 percent of HUD's Fair Market Rent [FMR]. The legislation provides that up to 20 percent of a given PAE's inventory may receive budget-based rents, capped at 120 percent of FMR, in order to maintain the financial viability of the projects.

The HUD Secretary may waive the 20 percent limitation upon a demonstration of special need. Report language accompanying The Balanced Budget Act of 1997 (S. 947), which passed the Senate on June 25, 1997, states:

> The Committee expects that the Secretary shall utilize this important discretionary tool to address the unique circumstances of various communities and regions throughout the nation. The Secretary should consider relevant local or regional conditions to determine whether good cause exists in granting such a waiver. Such factors should include, but should not be limited to: (1) whether the jurisdiction is classified as a "high cost area" under other federal statutes or programs; (2) prevailing costs of constructing or developing housing; (3) local regulatory barriers which may have contributed to increased development costs; (4) State or local rent control or rent stabilization laws; (5) the costs of providing necessary security or services; high energy costs; the relative age of housing in a jurisdiction; or (6) other factors which may have contributed to high development or operational costs of affordable housing in a given jurisdiction."

By providing a priority to State and local housing finance agencies [HFA] to serve as PAE's, we recognize and build upon the increasing financial and housing management expertise of these public entities. HFA's are accountable to State and local governments and the public and are dedicated to increasing the availability of affordable housing. In addition, they have extensive experience with the section 8 portfolio itself and will be able to leverage additional resources for its benefit.

Mr. President, this legislation protects the interests of the Federal taxpayer, the security of our residents and the future of affordable housing. It is with great pride that I commend my colleagues in the Senate for working together to avoid the social and fiscal crisis which would have occurred had HUD's multifamily inventory not been reformed. This legislation was carefully crafted with the spirit of bipartisanship for over 2 years. I salute all who contributed to this important and essential effort and support immediate passage.

MARK TO MARKET REFORMS

Mr. D'AMATO. Mr. President, I would like to engage in a colloquy with the distinguished chairman of the VA–HUD Appropriations Subcommittee, Senator KIT BOND, for the purposes of clarifying the intent of the VA–HUD Conferees in regard to several aspects of the section 8 reforms included in the conference report.

First, I would like to clarify the intent of the conferees regarding determination of market rent levels. In my home State of New York, there are some 1.2 million apartments which are covered by State rent control and rent stabilization laws. It is particularly important that the participating administrative entities [PAE] which conduct mortgage restructurings in New York have the flexibility to consider the rents of these apartments, particularly those subject to rent stabilization or rent control regulation, in making determinations of market rents.

Mr. President, I note with regret that the Fair Market Rent [FMR] System currently used by HUD has numerous flaws, especially when applied to a metropolitan area as large and diverse as New York City and its surrounding suburbs. For instance, HUD utilizes a single Fair Market Rent estimate for the entire municipality which fails to take into account the various differences in true market rents between such disparate markets as Queens, Brooklyn, Manhattan, and Rockland County. These markets are vastly different, but HUD's FMR system does not reflect these variations.

This legislation, which originated in the Banking Committee, takes into account the shortcomings and limitations of the FMR System. Instead of relying on this flawed system, the bill adopts an approach which would allow participating administrative entities to estimate true market rents based on comparable properties. While it is true that rent levels which are subject to State and local rent regulation may not fully reflect true market rents, nevertheless they can often form the basis for estimating such true market rents. Indeed, many rent stabilized apartments in New York City are far closer to true market rent levels than HUD's FMR estimates.

Mr. President, I thank the conferees for including legislative amendments to the original Senate bill, S. 513, in the final legislation which will allow participating administrative entities to consider rent stabilized units for the purposes of estimating local market rents. I would ask my friend, Senator BOND, if my statements are consistent with the intent of the conferees?

Mr. BOND. Mr. President, my friend Senator D'AMATO, the chairman of the Committee on Banking, Housing and Urban Affairs, is entirely correct. His statements are consistent with the intent of the conferees to devolve decisionmaking responsibility to the State and local level. Clearly, the conferees recognize that participating administrative entities in some jurisdictions may find it necessary to take into account rents on units which are subject to local rent stabilization regulations in order to determine comparable market rent levels.

The conferees are mindful of the unique circumstances of New York rental markets. For that reason, the legislation was crafted to allow the consideration of rent stabilized apartments within the definition of comparable properties for the purposes of determining market rent levels.

Mr. D'AMATO. Mr. President, I thank the distinguished Senator for his clarifying remarks. I would ask for one additional point of clarification.

Mr. President, the section 8 reform provisions include a mandatory renewal of project-based assistance for restructured properties which have a significant number of elderly or disabled persons, or which are located in tight rental markets, such as New York City. In addition, there is a local option to replace project-based assistance contracts with section 8 vouchers, after completion of a rental assistance assessment plan by the PAE with meaningful consultation with the owner of the affected project.

This plan, as with all aspects of the overall mortgage restructuring and rental assistance sufficiency plan, shall also be developed with an opportunity for meaningful input by the affected residents as well. It is imperative that residents be kept informed of the process for mortgage restructuring and the possibility of receiving tenant-based assistance, and be offered ample opportunity to voice their preferences as to the type of assistance provided. It would not be outside the authority of the PAE to conduct a survey, on a project-by-project basis, as to resident preferences in this regard.

Mr. President, I would like to emphasize the role of State and local decisionmaking in making this determination. It is not the intent of the drafters of the legislation that HUD attempt to micromanage or second-guess the determination of the PAE. Neither is it their intent that the HUD implementing regulations include one-sided interpretations of the statutory language which will force a preference for tenant-based assistance upon the local decisionmakers. The criteria are intentionally objective and neutral and the final decision for applying them rests at the local level.

In addition, in interpreting these criteria, the participating administrative entities should, to the fullest extent possible, consider the local experience of the various forms of housing assistance. For instance, the PAE should consider the actual effectiveness of tenant-based assistance. In many cases, voucher-holders are unable to utilize their vouchers. In many areas too, voucher-holders often find their choices constrained to certain areas, neighborhoods and projects. The lease-up rates and need to utilize section 8 reserves in order to improve these rates by the local public housing authorities would be relevant in determining the local effectiveness of the voucher program.

Also, in determining the relative affordability of vouchers, the PAE should consider whether a resident's rental contribution could rise above 30 percent of his or her income. Recent data from HUD indicate that a large percentage of voucher-holders pay more than 30 percent of their incomes for rent, and many pay more than half of their incomes in rent. This data is extremely disturbing. The rent burden of voucher-holders is especially relevant in making these determinations. The PAE could consider the impact of reductions in the FMR to the 40th percentile of available units on tenant-choice and rent burden as well.

Whenever possible, the PAE should use local experience in making this determination rather than relying on national averages, which often are rendered meaningless when applied locally. PAE's should asses the need for a stock of affordable housing which will be available on a long-term basis, when judged in light of the housing needs identified in the local consolidated plan. PAE's should consider the amount of multifamily housing currently being developed in that area which is affordable to low-income families.

Mr. President, it is imperative that PAE's consider the characteristics of specific projects. For instance, a particular project could contain a number

of apartments with three or more bedrooms in a geographic area where there is a dearth of such affordable housing available to large families. In all cases, PAE's should consider the long-term consequences of their decisions. I would ask my friend, Senator KIT BOND, whether my statements are fully consistent with the intent of the conferees?

Mr. BOND. Mr. President, the statements of the chairman of the Committee of Banking, Housing and Urban Affairs are indeed consistent with the intent of the conferees. Indeed, devolving responsibility and decisionmaking to the State and local level is one of the primary goals of this mark to market legislation. Not surprisingly, that is also the reason for the priority in selecting State and local housing finance agencies to be PAE's.

The decisions made by these entities will have long-term consequences. The PAE's therefore should be granted great deference in assessing the impact of these decisions on local housing markets. Also, I would reiterate the Senator's statement on the importance of resident and owner involvement in the decisionmaking process. We believe the local PAE's will be in a better position to make these determinations than Federal officials at HUD or the Office of Management and Budget.

Mr. D'AMATO. Mr. President, I once again thank my colleague for his clarifying remarks and I offer my congratulations to him on the passage of legislation which is fair, balanced and very effectively serves the needs of the American people.

DISQUALIFIED PROPERTIES UNDER "MARK-TO-MARKET"

Mr. SARBANES. Mr. President, I am pleased that the mark-to-market legislation that is incorporated in the VA–HUD conference report contains some measures that deal with properties that are disqualified from the restructuring program. I believe that it is critical that flexibility is provided to the participating administrative entity [PAE] and HUD in dealing with disqualified properties. I am, however, concerned about those properties that are not part of the mark-to-market program but are disqualified from the renewal process.

Mr. MACK. I agree with Senator SARBANES that this flexibility is extremely important in dealing with disqualified properties and that with input from local governments, communities, and residents, hopefully some creativity can be used. I strongly believe that it is important that the Federal Government terminate its relationship with those owners who have abused the program and those properties where it is simply infeasible to continue to subsidize. However, we should not take a "one-size-fits-all" approach and ensure that the interests of residents, communities, and local governments are carefully considered.

I am also concerned about those properties, not eligible for mark-to-market, whose contracts are not renewed due to noncompliance actions by owners or the poor physical condition of the property. I have some reservations about HUD's policy to simply voucher out those properties instead of exploring other creative options such as transfers or sales to resident-supported nonprofit entities.

Mr. BOND. In addressing the Senators' concerns, it is my expectation that the Secretary of HUD will use the same procedures outlined in the mark-to-market legislation for those properties affected by the nonrenewal policy. The Secretary should not only explore the use sales or transfers to nonprofit organizations, but also allow these properties to retain project-based assistance if the ownership or physical condition problems are adequately addressed. I agree with Senator MACK that under no circumstances should we continue to subsidize bad landlords or bad properties, but that we need to be careful about how we handle these situations.

CONFLICTS OF INTEREST UNDER "MARK-TO-MARKET"

Mr. MACK. Mr. President, under the "mark-to-market" title that is contained in the VA–HUD appropriations conference report, a strong priority to public entities is provided to act as participating administrative entities [PAE]. It is expected that qualified public entities will handle most of the work under this program. However, in instances where a qualified public entity is not available, the Secretary of Housing and Urban Development [HUD] is provided flexibility in selecting other qualified entities such as nonprofit and for-profit entities.

To ensure that these entities do not use their positions as PAE's for unfair financial benefit, the bill contains an important provision that would prevent conflicts of interests by PAE's. It is my understanding that this provision was included to permit the Secretary to establish guidelines that would prevent conflicts of interest by a PAE that provides financing or credit enhancement as part of the restructuring process. Further, the provision allows the Secretary to establish guidelines to deal with other conflicts of interest issues that would prevent PAE's, especially nonprofit and for-profit private entities, from using their roles as PAE's in the restructuring program that go beyond the public purposes outlined in the legislation.

I would like to ask Senator BOND if this is also his understanding of the bill.

Mr. BOND. The Senator is correct. To handle the workload and complexity of transactions under mark-to-market, a significant amount of flexibility is provided to the PAE's. However, it is expected that the Secretary establish strict and coherent guidelines to ensure that PAE's do not go beyond their restructuring duties as intended under the bill. To further prevent any abuses, the bill forbids private entities that act as PAE's to share, participate in, or benefit from any equity in the restructuring program. Last, it is expected that those most affected by restructuring, namely residents, communities, and owners, are involved in the process to protect the public interests.

SECTION 8 RENEWAL POLICY

Mr. MACK. Mr. President, I understand that the VA–HUD appropriations conference report contains important renewal policy provisions related to expiring section 8 contracts. I would like to ask Senator BOND if my understanding is correct.

Mr. BOND. The Senator is correct. The bill provides renewal policies for projects which undergo restructuring under the mark-to-market program and those which do not.

Briefly, for fiscal year 1998, the conferees have approved a 1-year extension of the basic rent renewal policies in section 211(b) of the fiscal year 1997 VA–HUD Appropriations Act and the mark-to-market demonstration program to cover contracts expiring in fiscal year 1998.

This means that projects which undergo restructuring under the demonstration program—those with rents in excess of 120 percent of the fair market rent [FMR]—will receive rents determined under the restructuring plan. For projects that do not enter the demonstration program, contracts will be renewed at rents in effect upon expiration, but not to exceed 120 percent of FMR. The 120 percent of FMR limit, however, does not apply to rents for certain exception projects enumerated in the bill. These projects, which include section 202 elderly projects and publicly financed projects, for example, will be renewed at existing rent levels.

The legislation also establishes permanent renewal policy for fiscal year 1999 and beyond when the permanent mark-to-market program is implemented. Projects which are subject to the program—those with rents in excess of comparable market rents—will receive rents in accordance with the restructuring plan. For projects that do not undergo restructuring, the Secretary may provide section 8 assistance for all units assisted by an expiring contract at rents up to comparable market rent.

I also note to the Senator that to ensure consistency with the permanent mark-to-market program, we expect that the Secretary will use the definition of comparable market rents in section 514(g)(1) of title V of the bill when establishing guidelines for the permanent renewal policy.

Under the permanent renewal authority, there again will be certain exceptions. Generally, these contracts

would be renewed at the lower of existing rents—subject to an operating cost adjustment factor—or budget-based rents—subject to a budget-based rent adjustment.

The approach agreed to by the conferees provides policy continuity for the expected 1 year period during which the new mark-to-market program is being developed, provides an incentive for projects to participate in the mark-to-market program, and makes clear a cost effective permanent renewal policy which will take effect in fiscal year 1999.

TENANT PARTICIPATION

Mr. KERRY. Mr. President, I want to again express my gratitude to my colleagues Senator MACK and Senator BOND for their unrelenting efforts to include the mark-to-market legislation in this bill, and congratulate them on their success.

As originally passed by the Banking Committee and the Senate, the mark-to-market legislation had more detailed language imposing specific requirements on PAE's with regards to tenant participation in the decisions regarding the restructuring and ongoing treatment of eligible properties. At the request of HUD, the conference report provides for a more streamlined approach. We accommodated the administration on this issue because we do not want to unnecessarily bog down the restructuring and rehabilitation process.

However, I want to make clear that the Congress fully expects that PAE's will establish procedures that ensure meaningful and effective participation for residents of the restructured projects and other affected parties, and that a streamlined process should not be construed to in any way allow the process of participation to be circumvented.

Is that your understanding?

Mr. MACK. Thank you, Senator KERRY. Let me say that I strongly support tenant and community participation in this process. As you know, I have consistently advocated for such a role for tenants and other community residents in both the mark-to-market legislation and the public housing legislation, which passed the Senate unanimously. So I would concur that we expect PAE's to take this provision seriously, while balancing this with the need to complete the restructuring process in a timely fashion.

Mr. BOND. I agree with my colleagues. In accommodating HUD's desire to streamline the tenant participation process, the Congress in no way intends to minimize the importance of meaningful and effective participation of project residents and others with a stake in the restructuring process, including local governments. I agree with my colleagues that this must be done in a way that also ensures that the mark-to-market process is completed in the 3-year window created by this legislation.

SECTION 517(C)

Mr. FAIRCLOTH. Mr. President, I want to clarify section 517(c) of the pending conference report. Let me be clear that the intent of this provision is solely to encourage the Government-sponsored housing enterprises, Fannie Mae and Freddie Mac, to provide technical assistance and other support for maintaining the availability of affordable housing.

Mr. MACK. The Senator from North Carolina is correct. This provision was contained in the legislation as it was initially reported out of the Banking Committee as part of the committee's reconciliation bill. At that time, the Banking Committee's report made it clear that nothing in the section was intended to be interpreted to impose any new regulatory mandate on Fannie Mae and Freddie Mac to continue existing section 8 contracts in their current subsidized form.

HUD ECONOMIC DEVELOPMENT GRANT, LEHIGH COUNTY, PA

Mr. SPECTER. Mr. President, I have sought recognition to thank my colleague, Chairman BOND, for including in the conference report $700,000 for a targeted grant for economic development for Lehigh County, PA. I am advised that these funds will be used to establish an aquatic and wellness center on the grounds of Cedar Crest College.

The center has much local support because it is designed to stimulate economic development in the Lehigh Valley. For example, the center is expected to host athletic events and bring as much as $3 million annually in economic benefits to the region. The center is also envisioned as a means of reducing juvenile crime in the Lehigh Valley. According to the center's planners, underprivileged inner-city youths will be provided free access to the center in the hope that it will provide a drug-free, healthy environment to juveniles and thus help break the temptations of street life and crime. We need to do much more to reduce juvenile crime, and offering civic diversions is an important means of accomplishing this goal. There will also be improved civic health for all social groups, particularly the elderly and the disabled.

Private sources have raised $2 million of the $9 million cost of constructing the facility, and the Commonwealth of Pennsylvania has included this project in its capital budget. Accordingly, I am pleased that the Congress has chosen to make available economic development funds for the center.

Mr. BOND. I thank my colleague for his comments and want to confirm his understanding that the $700,000 in the conference report is intended to be made available for this center at Cedar Crest College, which should contribute to economic development in the Lehigh Valley region.

Mr. COCHRAN. Mr. President, I would like a clarification of an item included in the fiscal year 1998 Veterans Affairs, Housing and Urban Development, and independent agencies appropriations bill.

The item on which I would like clarification was included under the Economic Development Initiative Program section of the bill and provides a grant of $1,000,000 to the city of Jackson, MS. The conference report states that the grant should be used for training facilities and equipment for a downtown multimodal transit center, phase II. The conference report incorrectly identifies what the grant is to be used for. In fact, the grant is for the acquisition and rehabilitation of facilities and related improvements for a downtown multimodal transit center, phase II, in the city of Jackson, MS.

These funds are specifically to be used for the aquisition and rehabilitation of a trolley barn, downtown employee shuttle park and ride lots, and a long-term intermodal passenger parking lot. This funding will help revitalize an area of the city of Jackson that has been federally designated as an enterprise community.

It is my understanding that the conference report incorrectly identified the purpose of the economic development initiative grant and that congressional intent for the $1,000,000 grant to the city of Jackson, MS, is for the purposes as I have described them. Would the chairman clarify this understanding?

Mr. BOND. Yes. The conference report does mistakenly identify the purpose of Jackson, MS, grant. The economic development initiative grant for the city of Jackson should be used for the purposes as Senator COCHRAN describes them.

Mr. COCHRAN. I thank the chairman.

ELDERLY HOUSING

Mr. HARKIN. Mr President, I want to express my appreciation to the chairman of the VA–HUD Subcommittee and to Chairman of the Subcommittee on Housing for working with me to address the special difficulties concerning the treatment of rural elderly housing projects under the new Multifamily Housing Restructuring Program contained in the conference report. As the statement of managers states

> A large portion of the properties in the upper Midwest are elderly facilities in rural areas, which are particularly disadvantaged under the Department's fair market rent system because these properties were built to a different standard compared to general rental properties, and the nature of the rental housing depresses the FMR's.

The statement of managers clearly recognizes the situation confronting a large number of projects in my state of

Iowa and in other states in the Midwest. There are a variety of factors causing an especially difficult problem for many rural elderly projects. First, they were logically built with common rooms, elevators and other amenities to serve their elderly occupants which added to construction costs and are rarely found in the rental housing surveyed by HUD for FMR-setting purposes. Second, the nature of rural rental housing in much of the rural upper Midwest creates very low FMR's. Third, a very large share of the projects built in the late 1970's which are now coming up for renewal were rural elderly projects in many States. That means that those States will see a large number of projects needing exceptions from the rent limitations requiring actions by the Secretary. The measure provides for some waiver authority with limits set by geographic areas.

I want to clarify that the waiver authority and other requirements placed in the legislation during conference are intended to provide maximum flexibility for restructuring projects to ensure that elderly projects, and especially rural elderly projects, are preserved as project-based, low-income housing. This valuable resource is needed to ensure the availability of affordable, low-income housing for the elderly and disabled.

Mr. BOND. Mr. President, I appreciate the concerns and efforts of the Senator from Iowa in this area. I share his concern about preserving elderly rural housing and that any adverse effect on elderly residents be minimized. Clearly, we expect that there will be instances in which participating administrative entity may need to look at rents outside the jurisdiction to best determine comparable rents. This concept is borne out in the definition of "comparable properties" in section 512(1) where such properties are defined as meaning "properties in the same market areas, where practicable, that (A) are similar" in various indicated ways to the project at issue, including "type of location," "unit amenities," and "other relevant characteristics." The addition of the words "type of" was added to meet the concerns you and others expressed that the lack of comparable housing for the elderly in relatively low population markets calls for appraisers to, within the normal practices, to use comparables in similar types of locations in other markets when there are not two comparable properties in the market.

I presume in such a case where it has been determined appropriate to look at other market areas for comparable properties, that the use of the phrase "in the same market area" with respect to comparable properties in the definition of "eligible multifamily housing projects" in section 512(2)(A) would be guided by the same standards as apply in connection with determining comparable properties, i.e., the limitation to the same market area would be to the extent it was practicable and that as indicated in the statement of managers, the participating administrative entity may look at rents outside the project's jurisdiction.

And, we expect that the Secretary will grant the waiver authorities allowed to him regarding the 20 percent limit on properties receiving an FMR of up to 120 percent and for granting appropriate properties FMR's in excess of 120 percent up to the limits allowed in the legislation.

Again, I thank you for your efforts in this area.

PARTICULATE MATTER RESEARCH

Mr. SHELBY. Mr. President, I would like to take this opportunity to thank the chairman for including language on particulate matter research in the VA, HUD, and independent agencies appropriations bill for fiscal year 1998. This bill allocates approximately $50 million for research on the possible health effects of airborne particulate matter. The administration based its most far-reaching and costly air quality standards on inadequate research and methodology. The language in this bill ensures that critically needed research is carefully and objectively mapped-out.

The emotionally charged debate on this issue, the concern expressed by State, local, and Federal officials over the rules, and the numerous unanswered questions and uncertainties identified by EPA's science advisers and other independent scientists only serves to underscore the pressing need for further research. There is widespread disagreement in the scientific community over the adequacy of the studies the EPA used as a basis for the new air quality standards.

I am greatly disturbed that these costly standards were promulgated without any form of scientific consensus that the regulations will provide any measurable improvement in human health. Currently, these standards are subjective in nature not based on available objective scientific evidence. It is critical to our Nation that a well organized and thought out scientific review of these matters occurs. Premature implementation of the standards is far more damaging to our Nation than taking the time to allow a larger portion of the scientific community to study and review these standards. I believe my colleague from Alabama would like to share his thoughts on this matter.

Mr. SESSIONS. Numerous scientists, including several who have testified on this issue before the Environment and Public Works Committee, have stated that the size, shape, or chemical composition of the PM that is causing the alleged adverse health effects is unknown. There are various theories—sulfates, acids, transmetals, ultrafines—regarding the potential bad actor.

During testimony before the Senate Environment and Public Works Committee, we learned that the EPA based its setting of the new particulate matter standard on inconclusive scientific data. In one EPA study, which attempted to show a relationship between levels of particulate matter and mortality and morbidity in Birmingham, AL, the author of the study admitted that if humidity was considered in the model, the effects of particulate matter on morbidity and mortality was statistically insignificant.

Billions will need to be spent by individuals, industry, and State and local governments to meet compliance with the administration's PM2.5 standard. Unless the problem is clearly identified before control programs are implemented, there is no assurance that there will be any health benefits resulting from the new standards. In fact, the new standards themselves may bring adverse health effects as an unintended consequence caused by a lower standard of living.

Mr. Chairman, I am pleased that your bill addresses the lack of scientific evidence to justify the newly promulgated air quality standards. Science on this matter needs to be completed in order to obtain a clearer understanding if there is a problem and then what needs to be done to address the problem. This measure will begin the process of a strong scientific overview. I support the immediate direction for scientific research.

Mr. BOND. I believe research, as outlined in this bill, will begin to improve our understanding of the relationship between particulate exposure and adverse health effects. The funding and direction provided in the bill will put into place a needed mechanism to establish a comprehensive, peer-reviewed research program which will benefit all parties involved with the decisionmaking activities regarding particulate matter in the years to come. The EPA was one of several organizations that worked with us to develop the research directives in this bill and I fully expect the EPA to follow the direction and spirit of the statement of managers.

Mr. SHELBY. When the administration promulgated these rules, they acknowledged the need for additional scientific studies to attempt to validate their actions. Considering the current controversy surrounding the lack of scientific evidence for the air quality rule, I am pleased that your language opens future research to a diverse section of our Nation's scientists. Mr. Chairman, how does this language ensure that the EPA will establish a collaborative relationship with the participating organizations.

Mr. BOND. The research program is intended to build on the research that

is planned or underway at the EPA, National Institute of Environmental Health Sciences, National Academy of Sciences [NAS], Health Effects Institute and several other public and private entities. Within 30 days of the enactment of this legislation, the EPA is required to enter into a cooperative agreement with the National Academy of Sciences [NAS] to develop a comprehensive, prioritized, near- and long-term particulate matter research program, as well as a plan to monitor how this research program is being carried out by all participants. All parties, including Congress, will be apprised of the research plans and all subsequent steps throughout the process. The EPA is expected to implement NAS's plan, including appropriate peer reviews. NAS will monitor the implementation of the research plan and periodically report to Congress as to the progress of the research program. We believe the language included in this bill set forth a realistic and thoughtful plan to address the numerous scientific questions that need to be investigated prior to the next NAAQ's review for particulate matter.

Mr. SHELBY. Thank you, Mr. Chairman and Senator SESSIONS, for participating in the colloquy.

COORDINATED TRIBAL WATER QUALITY PROGRAM

Mrs. MURRAY. Mr. President, I want to thank the subcommittee for its hard and diligent work on this bill. In particular, I appreciate the recognition of the Coordinated Tribal Water Quality Program in Washington State [CTWQP].

The CTWQP is a most important model for demonstrating how tribes can solve their water quality protection problems by coordinating with local, State, and Federal Government agencies. This program began in 1990 when the 26 tribes and tribal organizations in Washington State came together with a cooperative intergovernmental strategy to accomplish national clean water goals and objectives. As a result of Federal court decisions, the State of Washington has recognized the tribes as comanagers of water quality in the State. This program has been an effective tool for leveraging scarce public funds to create viable, watershed-based water quality protection plans.

It is my understanding Congress has increased EPA's General Assistance Program [GAP] and other funding mechanisms over the years which includes the base program efforts for the CTWQP in Washington State.

Mr. BOND. Mr. President, the Senator from Washington is correct. The GAP and other funding mechanisms in EPA have increased over the years to meet the needs of tribal governments. These needs include the CTWQP in Washington State. The funding will allow the tribes to fulfill their roles as comanagers of water quality in Washington State.

Mrs. MURRAY. I thank the distinguished chairman for this clarification.

Ms. MOSELEY-BRAUN. Mr. President, while I congratulate Senators BOND and MIKULSKI on their efforts to craft this year's VA, HUD, and independent agencies appropriations bill, I would like to take exception to language contained in the Senate committee report regarding the Fair Housing Act and property insurance.

The report contains two paragraphs regarding the Office of Fair Housing and Equal Opportunity's continued exercise of regulatory authority over property insurance under the Fair Housing Act. I would like to remind my colleagues that discrimination in the provision of property insurance is a clear violation of the Fair Housing Act.

In 1988, Congress gave the Department of Housing and Urban Development [HUD] the authority to promulgate regulations to enforce the Fair Housing Act. At that time, HUD under then-President George Bush and HUD Secretary Jack Kemp—issued a regulation which defined conduct prohibited under the Fair Housing Act to include: "refusing to provide property or hazard insurance for dwellings, or providing such insurance differently, because of race, color, religion, sex, handicap, familial status, or national origin."

The reason for this prohibition is simple. Without property insurance, no lender will provide a mortgage. Without a mortgage, few individuals can buy a house.

Recently, Federal courts of appeal in two different circuits have held that the Act applies to insurance discrimination, and the Supreme Court has denied petitions to review those holdings. [See *NAACP* v. *American Family*, 978 F.2nd (7th Cir. 1992) cert. denied, 508 US 907 (1993); *Nationwide* v. *Cisneros*, 52 F3d 1352 (6th Cir. 1995), cert. denied, 64 U.S.L.W. 3560, (Feb. 20, 1996)]

Some have maintained that combating insurance discrimination has nothing to do with civil rights, but rather is a regulatory issue. Enforcement of antiredlining provisions, however, is not insurance regulation—rather, it is about prohibiting discrimination, a subject that, under our Constitution, is clearly the responsibility of the Federal Government. The law works to ensure that insurance—like all other goods and services—is available to all citizens, regardless of race.

The Senate report contains language stating that the "McCarran-Ferguson Act of 1945 explicitly states that unless a Federal law specifically relates to the business of insurance, that law shall not apply where it would interfere with State insurance regulations." Current law does not violate the McCarran-Ferguson Act. Federal courts have consistently held that the Fair Housing Act only adds remedies for illegal discrimination—it does not preempt any State regulation.

The Senate language also states that "HUD's insurance-related activities duplicate State regulation of insurance." While most State insurance codes do address issues pertaining to unfair discrimination, referring to treating the same insurance risks differently, these State insurance laws generally lack the protections and remedies provided by the Fair Housing Act.

Congress has consistently rejected the argument that the Federal Government should leave the enforcement of civil rights to the exclusive jurisdiction of the States. Even in States whose civil rights laws address discrimination in property insurance, protection equal to the Fair Housing Act is all too often lacking. Currently, only 29 States have laws and enforcement mechanisms that have been certified as substantially equivalent to the Federal Fair Housing Act. Federal enforcement must continue if we are to eliminate property insurance discrimination nationwide.

Nothing is more central to the American dream than owning your own home. Millions of Americans work hard and play by the rules to reach that goal. But if homeowners, or would-be homeowners, are redlined by insurance companies, they are denied their chance at the American dream.

The Fair Housing Act is the basic protection against property-insurance discrimination. I will continue to do everything in my power to ensure that homeowners and their families can continue to enjoy the protections of the Fair Housing Act and realize the American dream free from discrimination.

Mr. DOMENICI. Mr. President, I rise in strong support of the conference agreement on H.R. 2158, the VA–HUD appropriations bill for 1998.

This bill provides new budget authority of $90.7 billion and new outlays of $52.9 billion to finance operations of the Departments of Veterans Affairs and Housing and Urban Development, the Environmental Protection Agency, NASA, and other independent agencies.

I congratulate the distinguished subcommittee chairman and ranking member for producing a bill that is within the Subcommittee's 302(b) allocation. When outlays from prior-year BA and other adjustments are taken into account, the bill totals $89.9 billion in BA and $100 billion in outlays. The total bill is exactly at the Senate subcommittee's 302(b) nondefense allocation for budget authority and outlays. The bill is under the Senate Subcommittee's defense allocation by $2 million in BA and by $1 million in outlays.

Further, I am pleased that the conferees have produced a bill that largely is in accord with the budget agreement reached with the Administration earlier this year.

Mr. President, I ask unanimous consent to have printed in the RECORD a

table displaying the Budget Committee scoring of the conference agreement on H.R. 2158.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2158, VA–HUD APPROPRIATIONS, 1998, SPENDING COMPARISONS—CONFERENCE REPORT

[Fiscal year 1998, in millions of dollars]

	Defense	Non-defense	Crime	Mandatory	Total
Conference report:					
Budget authority	128	68,447	.....	21,332	89,907
Outlays	128	79,833	.....	20,061	100,022
Senate 302(b) allocation:					
Budget authority	130	68,447	.....	21,332	89,909
Outlays	129	79,833	.....	20,061	100,023
President's request:					
Budget authority	129	76,965	.....	21,332	98,426
Outlays	128	80,313	.....	20,061	100,502
House-passed bill:					
Budget authority	128	69,823	.....	21,332	91,283
Outlays	128	80,403	.....	20,061	100,592
Senate-passed bill:					
Budget authority	128	68,729	.....	21,332	90,189
Outlays	128	79,559	.....	20,061	99,748
CONFERENCE REPORT COMPARED TO:					
Senate 302(b) allocation:					
Budget authority	−2	.....	.....	.....	−2
Outlays	−1	.....	.....	.....	−1
President's request:					
Budget authority	−1	−8,518	.....	.....	−8,519
Outlays	.....	−480	.....	.....	−480
House-passed bill:					
Budget authority	.....	−1,376	.....	.....	−1,376
Outlays	.....	−570	.....	.....	−570
Senate-passed bill:					
Budget authority	.....	−282	.....	.....	−282
Outlays	.....	274	.....	.....	274

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conversions.

Mr. MACK. Mr. President, I want to congratulate the chairman of the VA-HUD Subcommittee, Senator BOND, for crafting a measure that carefully balances a wide range of competing and diverse interests. I believe this conference report deserves the strong support of all Senators.

I am especially pleased that this bill contains legislation I introduced, along with Senators D'AMATO, BOND, and BENNETT, and cosponsored by Senators DOMENICI, CHAFEE, FAIRCLOTH and GRAMS, to reform the Nation's assisted and insured multifamily housing portfolio. It is unusual to have extensive authorizing language in an appropriation. However, title V of this bill, the Multifamily Assisted Housing Reform and Affordability Act, balances both fiscal and public policy goals. It will save scarce Federal resources over both the short and long term while preserving the affordability and availability of decent and safe rental housing for lower income households.

About 20 years ago, the Federal Government encouraged private developers to construct affordable rental housing by providing mortgage insurance through the Federal Housing Administration [FHA] and rental housing assistance through the Department of Housing and Urban Development's [HUD] project-based section 8 program. In addition, tax incentives for the development of low-income housing were provided through the tax code until 1986.

HUD's section 8 assisted and FHA-insured multifamily housing program has created thousands of decent, safe and affordable housing properties. However, the current program allows some owners to receive more—often far more Federal dollars than necessary to maintain their properties. Further, a portion of the rental stock suffers from poor management or has become physically distressed. Thus, in some cases, taxpayers are paying costly subsidies for inferior housing.

We are on the verge of a funding crisis in the renewal of HUD's expiring section 8 rental assistance contracts. Indeed, HUD Secretary Cuomo has called the section 8 contract renewal problem "the greatest crisis HUD has ever faced." Over the next several years, a majority of the section 8 contracts on the 8,500 FHA-insured properties will expire. If contracts continue to be renewed at existing levels, the cost of renewing these contracts will grow from about $2 billion in fiscal year 1998 to $5.2 billion in fiscal year 2002 and more than $7.7 billion 10 years from now. The total cost of renewing all section 8 project-based and tenant-based assistance would grow from $9 billion in fiscal year 1998 to as much as $18 billion in fiscal year 2002 without policy changes.

Federally assisted and insured housing serves almost 1.6 million families with an average annual income of $7,000. About half of the households are elderly or contain persons with disabilities. Many of these developments are located in rural areas where no other rental housing exists. Some of these properties serve as anchors of neighborhoods where the economic stability of the neighborhood is dependent on the vitality of these properties. If the project-based contracts are not renewed, residents and communities would be adversely affected. Further, most of the underlying FHA-insured mortgages—with an unpaid principal balance of $18 billion—will be forced into default.

The Banking Committee began its examination of what is commonly referred to as the "mark-to-market" issue more than 2 years ago. Since that time, we have received extensive input from all of the potential stakeholders in this issue, including residents, project managers, low-income advocates and project residents, State and local interests, the financial community, and HUD.

The version of the bill we are considering today reflects negotiations with all parties that have occurred since its original introduction as S. 513 in March. It is a consensus bill that helps to ensure that residents, communities and the Federal investment in the housing are protected at a cost we can afford.

At a Housing Subcommittee hearing in June, HUD Secretary Cuomo raised some administration concerns about S. 513. We have attempted to address those concerns and provide a reasonable degree of flexibility for HUD in its overall administration of the mortgage restructuring program and also to provide reasonable opportunities for the use of tenant-based assistance after restructuring. I appreciate the cooperation of Secretary Cuomo in helping to move this important legislation forward.

I want to thank Senator D'AMATO, chairman of the Banking Committee, for his ongoing, strong support for this legislation. In addition, I appreciate the support of Senators SARBANES and KERRY. From the outset, mark-to-market has been a bipartisan effort, and those Senators have made invaluable contributions to the final version of the legislation.

I want to touch briefly on some of the bill's major provisions and the compromises that are reflected in the conference agreement.

First, the bill "marks" rents on oversubsidized properties to comparable market rents or to 90 percent of area fair market rents. The underlying mortgages would be restructured so they could be supported by the new rents. In some cases, higher rents could be permitted if necessary to support proper operations and maintenance costs. These exceptions are principally intended to assure the continued viability of projects, generally serving the elderly, located in rural areas.

Second, the bill also recognizes that HUD lacks the staffing capacity and expertise to oversee effectively its portfolio of multifamily housing properties or to administer a debt restructuring program. Accordingly, the bill would transfer the functions and responsibilities of the restructuring program to capable third parties, preferably State and local housing finance agencies, who would act as participating administrative entities [PAE's] in managing this program.

The language concerning third parties has been modified from its original form partially in order to accommodate concerns raised by the administration. These changes will increase HUD's flexibility to partner with a variety of public, nonprofit, and for-profit entities that have expertise in affordable housing, while also providing an exclusive time period for applications submitted by publicly accountable entities.

Under the revised language, public entities—State and local housing finance agencies [HFA's]—would be given an exclusive time period to submit proposals to serve as PAE's. Criteria for the selection of PAE's would be based on the applicant's demonstrated experience and expertise in multifamily financing and restructuring and the capacity to work with low-income residents and communities. Further, selection would be based on

the PAE's ability to perform the portfolio restructuring in a timely, efficient, and cost-effective manner. I would like to emphasize that the Secretary would be required to select housing finance agencies as PAE's if they meet the selection criteria.

I strongly believe that, based on the housing finance agencies' track records and mission that they are by far the most viable entities to carry out the responsibilities under this program and to balance the financial and social policy goals of the bill. Accordingly, it is my expectation that State and local HFA's would be responsible for most of the properties under mark-to-market, as evident by the significant participation of public entities under HUD's fiscal 1997 mark-to-market demonstration program.

Third, owners who clearly violate housing quality standards would no longer be tolerated. The bill screens out bad owners and managers and nonviable projects from the inventory and provides tougher and more effective enforcement tools that will minimize fraud and abuse of FHA insurance and assisted housing programs.

Fourth, the conference bill revises the original version of S. 513, which had called for the exclusive use of project-based rental assistance after restructuring. Under the conference agreement, project-based assistance would be maintained on properties located in markets where there is inadequate available affordable housing and for those that predominantly serve elderly or disabled populations. For the remaining inventory, PAE's would be provided the discretion of either maintaining project-based assistance or providing tenant-based assistance. The PAE's decision on the form of assistance would be based on factors related to the local market, the stability of the project, resident choice, and the impact on the community. This decision would only be made after consultation with affected owners and appropriate public officials, and significant participation by affected residents.

Fifth, the conference agreement establishes a new Office of Multifamily Housing Assistance Restructuring, headed by a Presidentially appointed Director, within HUD to oversee the restructuring process. The bill makes it clear that the Director will be answerable and be accountable to the Secretary, but will free of undue Secretarial interference in the conduct and decisionmaking of the office.

Last, the bill provides tools to recapitalize the assisted stock that suffers from deferred maintenance. It provides the opportunity for tenants, local governments and the community in which the project is located to participate in the restructuring process in a meaningful way. Residents would also be empowered through opportunities to purchase properties.

Mr. President, I would like to emphasize how important it is that we are addressing this issue this year. Delays will only harm the assisted housing stock, its residents and communities, and the financial stability of the FHA insurance funds. I would add that, as we face an explosion in the cost of section 8 contract renewals, we cannot afford to pay more than is reasonable to renew expiring contracts.

This legislation will protect the Federal Government's investment in assisted housing and ensure that participating administrative entities are held accountable for their activities. It is also our goal that this process will ensure the long-term viability of these projects with minimal Federal involvement. It is a sincere effort to reduce the cost to the Federal Government while recognizing the needs of low-income families and communities throughout the Nation.

In closing, I want to commend Senator BOND and his counterpart in the House, Congressman JERRY LEWIS, for their cooperation in acting to avert a potential section 8 contract renewal crisis. This is a bipartisan proposal that both reduces unnecessary Federal expenditures and represents good and thoughtful Federal housing policy.

REGULATION OF INSURANCE BY HUD

Mr. BOND. Mr. President, the Senate committee report on the fiscal year 1997 VA/HUD appropriations bill regarding HUD's regulation of insurance stated that:

> The Committee intends that funds appropriated to the fair housing initiatives program for enforcement of title VIII of the Civil Rights Act of 1968, as amended, which prohibits discrimination in the sale, rental, and financing of housing and in the provision of housing and in the provision of brokerage services, be used only to address such forms of discrimination as they are explicitly identified and specifically described in title VIII. Recognizing that there are limited resources available for FHIP activities, the Committee believes that FHIP funds should serve the purposes of Congress as reflected in the express language of title VIII.
>
> The Committee notes that HUD's Office of Fair Housing and Equal Opportunity has undertaken a variety of activities pertaining to property insurance under the authority of the Fair Housing Act. HUD recently testified that, due to congressional concern about such activities, it does not intend to focus its regulatory initiatives on property insurance. The Committee is encouraged by this statement, but remains concerned about HUD's use of funds for other fair housing activities aimed at property insurance practices.
>
> HUD's insurance-related activities duplicate State regulation of insurance. Every State and the District of Columbia have laws and regulations addressing unfair discrimination in property insurance and are actively investigating and addressing discrimination where it is found to occur. HUD's activities in this area create an unwarranted and unnecessary layer of Federal bureaucracy.
>
> The Fair Housing Act makes no mention of discrimination in property insurance. Moreover, neither it nor its legislative history suggests that Congress intended it to apply to the provision of property insurance. Indeed, Congress' intention, as expressly stated in the McCarran-Ferguson Act of 1945 and repeatedly reaffirmed thereafter, is that, unless a Federal law specifically relates to the business of insurance, that law shall not apply where it would interfere with State insurance regulation. HUD's assertion of authority regarding property insurance contradicts this statutory mandate.

Near-identical language was contained in the House Committee report on the fiscal year 1997 appropriations bill. Both reports make it clear that Congress does not intend for HUD to use any fiscal year 1997 FHIP funds for activities targeted toward the regulation and practices of insurance companies.

Nevertheless, on September 30, 1997, HUD announced 67 awards of fiscal year 1997 grants under the FHIP. Out of the total of $15,000,000 in funds awarded, HUD announced that almost one third, an amount of $4,170,002, was awarded for activities including investigations, testing, and other enforcement-related projects specifically targeting insurance companies. This is in contradiction of the intent expressed in both the House and Senate Committee reports on HUD's fiscal year 1997 appropriations. I am very concerned about the improper use of these limited and precious resources in a manner inconsistent with the law and urge HUD to revisit these grants to ensure all awards are consistent with the intent of Congress.

Mr. KERRY. Mr. President, I rise in support of the VA–HUD conference report. This bill funds many programs that are crucial to the Nation's economic vitality. For example, the funding for the National Institutes of Health and the National Science Foundation contained in this bill both expands our basic knowledge and helps promote small, innovative businesses that create well-paying jobs throughout the country.

This bill also provides the funds that support important environmental programs, and, of course, allows us to keep faith with America's veterans by providing them with the health care they have earned, in some cases at great personal cost.

This bill also funds the Department of Housing and Urban Development. These funds will help families struggling to attain the dream of home ownership or simply to find or maintain affordable rental housing. It provides funds for homeless programs, programs that provide both shelter and the supportive services that are so important in the effort to stabilize the lives of these most unfortunate Americans and create opportunities for self-sufficiency.

I commend Chairman BOND and the ranking member, Senator MIKULSKI, for their efforts to serve so many important needs with so little money. In

fact, Mr. President, while I support this legislation, I must point out that housing programs continue to suffer in our Nation's budget. Homeless programs continue to be funded at levels more than 25 percent below 1995 levels. We ask more from public housing authorities every day, but provide no more resources to them to do the job. We are facing an increasing housing crisis in America, but with decreasing resources, and that is an issue that we must, eventually, confront.

I specifically appreciate the willingness of Senators BOND and MIKULSKI to work with me, Senator D'AMATO, Senator MACK, and Senator SARBANES to include in this conference report important legislation commonly known as the Mark-to-Market [MTM] legislation. Senator MACK, in particular, deserves special mention for his efforts to get this legislation passed.

Passage of the MTM legislation is the first step in solving the problem that Secretary Cuomo called the biggest crisis facing HUD—the problem of oversubsidized section 8 projects that are threatened with default when their rental assistance contracts expire in the next few years. The problem is truly huge: up to 10,000 projects serving about 1.6 million families, including hundreds of thousands of elderly and disabled families, were facing possible default. This would have resulted in billions of dollars of losses to the American taxpayer through the FHA fund, and would have led to the outright loss or slow deterioration of increasingly scarce affordable housing.

Mr. President, the mark-to-market legislation—Title V of the appropriations bill—will allow HUD, primarily through State and local partners, to start pushing down excess rents to supportable market levels while providing funds to rehabilitate those properties that need capital investments. The bill will eliminate bad owners from the program. In such cases, the legislation encourages HUD or the PAE's to transfer these properties to new ownership, preferably to community-based nonprofits.

Most importantly, Mr. President, this legislation will help preserve hundreds of thousands of units of affordable housing for the foreseeable future. As I noted, we are seeing an overall reduction in the commitment to affordable housing by the Federal Government. The legislation we are passing today represents an important exception to that disturbing trend. The clear and resounding intent of this bill is to preserve and improve this important stock of affordable housing. I applaud my colleagues and the Secretary for embracing this goal, and I wholeheartedly support it.

In implementing this legislation, HUD will most often do the restructuring through a participating administrative entity, or PAE. We expect that State or local housing finance agencies, because of their experience with the financing and management of assisted housing, and their commitment to the long-term preservation of affordable housing, will typically be the PAE.

At the same time, we gave the Secretary the discretion to choose the PAE. There will be thousands of projects and hundreds of thousands of units that will have to go through the restructuring process. In order to get this done in a timely and cost-effective way, the Secretary may have to reach out to more than one entity in a given area, or HUD may decide to do some of the restructurings itself.

It is important to point out that the legislation requires that crucial decisions regarding the long-term disposition of the property such as, for example, whether the assistance is to remain project-based or, in a few cases, may be turned into tenant-based, shall be made by a public agency with a public mission whose interest is to preserve affordable housing.

Similarly, the ongoing oversight of the projects after restructuring is completed will be in the hands of HUD or State or local HFA's. The important point here is that public funds continue to be at risk; therefore, public agencies must take the responsibility for ensuring their safety.

To further ensure that HFA's are chosen to be the PAE's, I urge HFA's to strengthen their applications by creating partnerships with other experienced parties to strengthen their applications. Such partners would include community-based non-profits, residents groups, financial and other relevant experts.

Mr. President, I want to emphasize that the overriding, primary goal of this legislation is to preserve affordable housing for the long term. As a result, we expect the PAE's to continue to provide project-based assistance except in certain rare circumstances. The bill provides for the final decision to be taken only after consultation with residents and owners of the projects, local government officials, and other affected parties. Moreover, the PAE must take into consideration the availability of other affordable housing in the area, the ability of tenants to use vouchers successfully, the financial stability of the project, and other factors which, when taken as a whole, would lead a PAE to conclude that project-based assistance continues to be the best choice in most cases.

Mr. President, the legislation creates an office within HUD to oversee the restructuring process called the "Office of Multifamily Housing Assistance and Restructuring" [OMHAR]. The Director of this office will be appointed by the President and subject to Senate confirmation. The Director will work under the Secretary, subject to the Secretary's direction and oversight. Section 573(d)(2) of the bill gives the Director the authority to report directly to the Congress, in certain circumstances, when the Director determines, in his discretion, such a report would be appropriate.

Mr. President, let me reiterate a point also made by my colleagues regarding tenant participation in the restructuring process. It is our clear intent that HUD and the PAE's work with tenants in a meaningful and effective way with regards to all aspects of the restructuring process. This means timely access to relevant information, adequate time to analyze such information, the right to meet with the PAE, and the right to be included in physical inspections of the property, capital needs assessments, proposals to transfer the property, and other decisions that have significant impacts on the residents.

Finally, I want to point out that this bill also includes important provisions regarding the renewal of other section 8 contracts. These provisions authorize HUD to renew contracts on high-value properties that do not need to go through the restructuring process at comparable market rents. The Congress expects HUD to exercise this discretion so as to avoid displacement of current tenants and, whenever possible, consistent with the purposes of this title, to preserve the housing for the long term.

In conclusion, Mr. President, I strongly support the MTM provisions in the VA–HUD conference report. They will be essential in restoring this valuable housing resource to sound financial and physical condition.

Mr. SARBANES. Mr. President, I rise in support of the VA-HUD conference report. This bill funds many important programs, programs that are crucial to America's veterans and to poor and working families struggling to attain the dream of home ownership or simply to find affordable rental housing. It will help ensure our Nation's environmental vitality, our Nation's health and scientific progress. The bill will maintain our commitment to the exploration of space. I commend the chairman, Senator BOND, and my good friend and colleague from Maryland, the ranking member, Senator MIKULSKI for their hard work to serve so many important needs with an ever-shrinking pot of money.

I also appreciate their willingness to work with me, Senator D'AMATO, Senator MACK, and Senator KERRY to include in this report important legislation designed to restructure HUD's portfolio of FHA-insured, assisted housing. This legislation is commonly known as the mark-to-market (MTM) legislation. Senator MACK, in particular, deserves credit for his tireless efforts to have this legislation included in the VA-HUD appropriations bill and

for his willingness to work with the administration and the House authorizers to craft this final consensus. Again, I thank Senators BOND and MIKULSKI for their partnership in this important achievement.

Mr. President, the mark-to-market legislation—title V of the appropriations bill—will save the American taxpayers billions of dollars. It will allow HUD, primarily through State and local partners, to squeeze excess rents down to supportable market levels. It will provide for funds to rehabilitate those properties that need capital investments. It will eliminate bad owners from the program. Most importantly, Mr. President, this legislation will help preserve hundreds of thousands of units of affordable housing for the foreseeable future. At a time when we are cutting back on the Federal commitment to build new affordable housing while simultaneously facing growing needs for such housing, the long-term commitment established by this legislation is truly a landmark achievement.

In implementing this legislation, HUD will most often do the restructuring through a participating administrative entity, or PAE. The legislation clearly indicates that we expect that, with some exceptions, State or local housing finance agencies will act as the PAE. In fact, HUD has signed 14 management contracts with State housing finance agencies [HFA's] to implement the fiscal year 1997 MTM demonstration, which was based on the legislation in the current appropriations bill. The experience HFA's have in restructuring section 8 as a result of their participation in the demonstration, or in restructuring equivalent properties, along with their experience in FHA risk sharing, overseeing low-income housing tax credit deals, mortgage revenue bond deals, and in underwriting and managing market rate and assisted low-income multifamily housing, clearly makes the HFA's the most qualified candidates to be chosen as the PAE in most cases. In addition to all these financial engineering and management qualifications, the legislation requires the use of highly qualified HFA's because these public agencies have a public purpose and share with the Congress the commitment to preserve these projects as low-income housing far into the future. This factor was paramount in the decision to give the HFA's such a prominent role in the MTM process.

At the same time, we gave the Secretary the discretion to make the final choice of PAE because we did not want the Secretary to be required to choose an unqualified housing finance agency to be a PAE. There will be thousands of projects and hundreds of thousands of units that will have to go through the restructuring process. In order to get this done in a timely and cost-effective way, the Secretary may have to reach out to more than one entity in a given area, or HUD may decide to do the restructurings itself. In all cases, however, the crucial decisions that have major impacts on the residents, the projects, or their surrounding communities, such as, for example, whether the assistance is to remain project-based or, in a few cases, may be turned into tenant-based, shall be made by a public agency with a public mission whose interest is to preserve affordable housing.

In addition, the ongoing oversight of the projects, after restructuring is completed, will have to be in the hands of the public. This requirement can be satisfied by HUD doing the contract monitoring and oversight, or by contracting this function out to a State or local HFA. Again, this is a public trust, and the legislation requires that a public agency carry it out.

The Congress clearly expects HFA's who seek the role of PAE to strengthen their applications by reaching out to other experienced parties, particularly non-profits with experience in real estate development and/or management and with deep roots in their communities, to develop partnerships. In addition, PAE's may want to find financial and other relevant experts to ensure that they present the best possible application to the Secretary.

Mr. President, tenants, owners, HFA's, HUD, and the Congress all agree that the majority of the portfolio of affordable housing that will go through the MTM process should continue to have project-based section 8 assistance. For example, the legislation requires that elderly and disabled housing projects and housing in tight rental markets continue to receive project-based section 8 assistance.

It is the clear intent of the Congress that we preserve the existing section 8 project-based portfolio of affordable housing to the greatest extent possible. To do this effectively, we expect the PAE's to continue to provide project-based assistance except in certain rare circumstances. The bill provides for the final decision to be taken only after consultation with owners, residents of the projects, local government officials, and other affected parties. Moreover, the PAE must take into consideration the availability of other affordable housing in the area, the ability of tenants to use vouchers successfully, the financial stability of the project, and other factors which, when taken as a whole, would lead a PAE to conclude that project-based assistance continues to be the best choice in most cases.

Mr. President, in the course of the final negotiations to include the MTM legislation in the appropriations conference report, it was agreed to create an office within HUD to oversee the restructuring process. The office, called the Office of Multifamily Housing Assistance and Restructuring [OMHAR] will have a director that is appointed by the President and subject to Senate confirmation. The Congress clearly intends, as the legislation language states, that the Director will work under the Secretary, subject to the Secretary's direction and oversight. Section 573(d)(2) of the bill gives the Director the authority to report directly to the Congress, in certain circumstances, when the Director determines, in his discretion, such a report would be appropriate.

Finally, Mr. President, let me reiterate a point also made by my colleagues regarding tenant participation in the restructuring process. It is our clear intent that HUD and the PAE's work with tenants in a meaningful and effective way with regard to all aspects of the restructuring process. This means timely access to relevant information, adequate time to analyze such information, the right to meet with the PAE, and the right to be included in physical inspections of the property, capital needs assessments, proposals to transfer the property, and other decisions that have significant impacts on the residents.

In conclusion, Mr. President, I strongly support the MTM provisions in the VA-HUD conference report, thank my colleagues for their hard work, and look forward to seeing this important Federal resource restored to sound financial and physical condition.

Mr. BOND. Mr. President, a number of items in the conference report or statement of the managers require further clarification or correction due to printers' errors. The items are as follows:

Within the housing certificate fund, the legislation requires HUD to provide enhanced or sticky vouchers to residents to prevent displacement where an owner of a property chooses to prepay the outstanding indebtedness under a preservation mortgage (which prepayment can now be authorized at the option of a property owner). These enhanced vouchers, including those provided in prior years, are not just for the first year after prepayment but must renewed for each subsequent year so long as the assisted family continues to live in the property.

Within the $32 million for section 107 grants under the CDBG Program, $4 million for technical assistance, $7.5 million for the Community Outreach Program, $6.5 million for Historically Black Colleges and Universities, $6.5 million for Community Development Work Study, with a $3 million set-aside for Hispanic-serving institutions, $7 million for insular areas, and $500 thousand for the National Center for the Revitalization of Central Cities.

Within the Economic Development Initiative grants, there is a grant to Arab, AL. The statement inadvertently refers to Arab, IL.

Within the Economic Development Initiative grants, the grant to the city of Jackson, MS, should be used for the acquisition and rehabilitation of facilities and related improvements for a downtown multimodal transit center in the city of Jackson. This project was incorrectly identified in the statement of managers.

In addition, with respect to EDI, the intent of the conferees is for HUD to use the maximum flexibility in funding the specified EDI grants in the statement of managers. HUD is not expected to establish special requirements but should work with the entities specified in each grant to ensure that activities can be funded and completed in an expeditious manner.

Within the Superfund research appropriation, there is a $2.5 million appropriation for the Gulf Coast Hazardous Substance Research Center. This item was included in both the House and Senate versions of the bill but not expressly identified in the statement of the managers.

Within NASA Science, Aeronautics and Technology is a $2 million appropriation for the Bishop Museum in Honolulu, HI. This item was included in the Senate version of the bill, and the House receded to the Senate in conference, but it was inadvertently not included in the statement of the managers.

Mr. JOHNSON. Mr. President, I rise today to express my strong support for the conference report on the fiscal year 1998 appropriations for VA, HUD and related agencies. While this bill continues to focus on the commitments this Nation has made to our veterans, and provides for the important scientific and environmental protection priorities that the administration has put forth, I want to take a moment to express my support for the steps the conferees have taken to address a serious and pressing issue facing low income housing assistance in this country.

Since its inception, the HUD section 8 housing program has provided rental assistance for low-income individuals through project-based contracts as well as vouchers which help to preserve low income housing availability. This conference report not only includes funding for the renewal of section 8 contracts, but contains the extremely important mark-to-market contract restructuring program which, beginning in 1999, will preserve affordable housing for millions of low-income tenants while saving the taxpayers billions over time as well. I want to commend my Banking Committee colleagues, particularly Senator MACK who authored the initial section 8 restructuring bill, for their tireless efforts to insure that this restructuring program was accepted.

Nationwide, section 8 contracts covering 1.8 million assisted units are expected to expire in fiscal year 1998. The mark-to-market Program is a mortgage and rent restructuring program to reduce the costs of over-subsidized section 8 multifamily housing properties insured through the FHA. Under this restructuring program, FHA insured properties with above market rents are eligible for debt restructuring to bring the rent levels in line with market rate rent levels, or the project-based rents needed to support operation and maintenance of the housing facilities. The bill directs the HUD Secretary to work with State and local housing entities to reduce expiring section 8 contract costs, address troubled projects, and correct management and ownership deficiencies.

Because Congress has been unsuccessful in past attempts to move the type of section 8 overhaul necessary for the preservation of low-income housing assistance in this climate of budget cuts, HUD has been renewing all longer term expiring Section 8 contracts with quick-fix, 1-year contracts. The short-term renewals have led to confusion and fear among recipients of housing assistance in my State and across the country.

Many assisted housing residents in South Dakota have been worried for several months as to whether they will continue to have a roof over their heads in the coming year. As these residents received notice of expiring short-term and long-term section 8 contracts, families were concerned they would be forced from their homes. Some of these families have spent half their lives in these homes. Many of these residents are senior citizens. Many are widows and widowers. Many are disabled. These residents were told that unless Congress acted, they may be forced from their two-, three-, and four-bedroom homes or one- and- two-bedroom apartments and displaced into smaller sized units or homes.

For many residents in communities such as Northgate Community Homes and Lakota Homes in western South Dakota, this is not an option. Housing at every level of affordability is extremely scarce in my rural State. After raising families in these homes, senior citizen couples living in two- or three-bedroom homes have been told that they would have to downsize to one-bedroom homes. However, at the Northgate and Lakota developments, there are no one bedroom options. Thus these individuals and families have feared displacement into the surrounding area, with great uncertainty about their futures. I have been informed by city officials that the low-income housing stock currently available is inadequate to absorb the extra burden of these individuals and families forced from their section 8-subsidized homes and complexes.

Already, many elderly and disabled couples and individuals have left the developments over uncertainty about their homes. They are leaving behind years of improvements they made in their homes, as well as the cherished memories of raising families in these communities. They have been forced out because of confusion and expiring contracts.

People like Hazel Holmes of Sturgis, SD, who raised her family in a small two-bedroom home at Northgate Community Homes have been threatened by uncertainty. Hazel's husband died almost 10 years ago and she has continued to live independently in her home. With the expiring section 8 contract, she became very worried—like her neighbors—that she would be forced to leave her home and the neighbors she cherished. Couples like Ruth and Carl Kittleman and Ralph and Dorothy Iverson have already moved from Northgate due to inaction and confusion over this issue. Others fret on a daily basis about their futures. Seniors like Chuck Alberts have persevered each day with the pressure and stress of having his beloved wife Bev in a nursing home. He should not have the added worry about whether he will be able to stay in his home.

These are just a few examples of the serious section 8 scare that recipients of low-income housing assistance have faced in my State. I am extremely thankful that throughout consideration of the section 8 restructuring proposal my colleagues took special notice of the unique needs of rural housing contract restructuring. Because of continued pressure from myself and other rural members, the mark-to-market proposal contains language for a more flexible approach to determining market rents in rural communities—communities where market is difficult to determine, where the project in need of contract restructuring might be the only market for hundreds of miles. The broadened definition of market included in this bill will help to insure appropriate restructuring throughout my State.

In rural South Dakota, the 244 project-based section 8 contracts provide 6113 housing units, primarily for elderly South Dakotans. With full funding up to $8.2 billion provided through the fiscal year 1998 VA HUD bill, 1070 housing units up for renewal in South Dakota in the immediate future will continue to receive section 8 rental assistance. This volume pales in comparison to the hundreds of thousands of section 8 housing units in jeopardy in states like New York and Illinois, and I appreciate my colleagues' continued sensitivity for awareness of the unique needs of rural States.

Additionally, I commend my colleagues for relying on the qualified existing State housing finance agencies

for the administration of contract restructuring, and on local housing entities for management and planning decisions, both subject to the approval of the HUD Secretary. With public input at every level, HUD will be able to reign in excessive subsidies to appropriate levels so that our Federal housing assistance funds go further, and maintain assistance for low-income individuals for the long term. While the majority of current project-based Section 8 will remain available, local communities will be involved in determining whether tenant-based assistance is more practical in certain communities. This freedom at the local level is important, yet I applaud my colleagues for including distinct protection for elderly and disabled project-based assistance, which will eliminate the type of fear and uncertainty that seniors in my state have been subject to in recent years.

Without the commitment to fund section 8 for the coming year, and the inclusion of the mark-to-market restructuring program, cuts in other programs for the elderly and disabled, and for preserving available low-income housing would be required. By addressing section 8 restructuring and providing adequate funding, this bill reaffirms the Congress' long term commitment to low-income housing assistance.

HUD and the States have a daunting task ahead, as thousand of projects under contract throughout the country are pending restructuring. In all cases, I am confident that the involvement and participation of local ad State housing interests at every level will protect the public interest, and all affected parties, including tenants, will have a voice in the future of low-income housing assistance.

Again, I commend my colleagues for including the section 8 restructuring program in the fiscal year 1998 VA, HUD appropriations bill, and I look forward to working toward continued security for low-income housing in the coming years.

FUNDING FOR THE HEALTH CARE NEEDS OF VETERANS IN NORTHERN CALIFORNIA

Mrs. FEINSTEIN. Mr. President, I rise today to weigh in on the provisions included in the VA–HUD conference report regarding the health care needs of Northern California's veterans. The conference report provides a total of $70.8 million for renovations to the existing McClellan Air Force Hospital at Mather Air Force Base in Sacramento, as well as for outpatient clinics in Fairfield, Mare Island, Martinez, Auburn, Chico, Eureka, and Merced. While I applaud this much-needed expansion of services in Northern California, I remain deeply disappointed by Congress' decision not to build a veterans hospital at Travis Air Force Base.

Since 1991, veterans in Northern California have been waiting for a new hospital to replace the Martinez hospital, which was closed for seismic reasons. I made a commitment with Vice President GORE to help bring a full veterans hospital to Fairfield, and I have been fighting for 4 years to get this project fully funded. Two previous Congresses appropriated funding to construct the Travis VA Hospital.

Now, unfortunately, we are turning our back on that commitment. It is truly a sad day when the men and women who have served our country without question—and who have the right to expect their government to fulfill its promises—are simply told "tough luck."

The fact is that a clear majority in Congress oppose the hospital's construction. This opposition has only grown stronger after two independent reports—one by the General Accounting Office and one by Price Waterhouse—concluded that the Travis VA hospital was not justified. Key Committee chairmen in both the House and Senate have made it clear that Congress will provide no Federal funds for a replacement hospital at Travis.

The VA–HUD conference report does appropriate $70.8 million for veterans' health care needs in Northern California, including:

A sharing agreement between VA and the Department of Defense for 100 VA beds at David Grant Medical Center at Travis. These beds will be serviced by VA doctors.

A new $13.5 million VA clinic, to be built adjacent to David Grant Medical Center. This clinic will include emergency room facilities, ambulatory surgery, mental health, some specialty services, and offices for doctors.

Conversion of McClellan Hospital at Mather Air Force Base to a VA Hospital. This will provide 55 new VA beds.

Upgrades to the VA outpatient clinics at Mare Island and Martinez.

New outpatient clinics in Auburn, Chico, Eureka and Merced.

Contracts with community hospitals in Martinez and Redding.

While this plan does not fulfill the promise that the VA made to Solano County veterans and does not establish the hospital that veterans groups like Operation VA fought so hard for so long to obtain, when examined in light of the position of current congressional leaders, it does provide health care for many veterans who presently cannot access the VA system. The new outpatient clinics and additional hospital beds will make it far easier for veterans in Northern California to benefit from the VA health system. For the first time, vets living along the North Coast and in the Sierra will have real and meaningful access to the VA. They will not have to drive for 4 hours or more for basic care. Their visits to the five new VA outpatient clinics will undoubtedly result in higher utilization of the VA inpatient facilities at Travis and Mather Air Force Bases.

I know that the people of Solano County have a lot of unanswered questions about the VA proposal, and I pledge that I will work with them to make sure that VA offers the high quality and accessibility of care that our veterans deserve. I am sure that groups like Operation VA will continue to fight for improved veterans health care in Northern California, and I am proud to join in that fight.

Mr. KERRY. Mr. President, as the ranking Democratic member of the Housing subcommittee, I spoke earlier today about very significant housing provisions in the VA-HUD conference agreement. I would like now to address some other components of this legislation which I believe to be very important to the Commonwealth of Massachusetts and the nation.

Mr. President, I appreciate the hard work of the Chairman of the VA-HUD appropriations subcommittee, Senator BOND, and the ranking member, Senator MIKULSKI, in crafting a bill which gives such serious consideration to the needs of the people of Massachusetts.

Mr. President, the subcommittee has allocated $50 million for the clean-up of Boston Harbor, a modest sum given the magnitude of the challenge and the scope and cost of the clean-up project. While the residents of Boston continue to face rising water and sewer rates, these rates are not nearly as high as they would be without the assistance of the federal government. The Boston Harbor clean-up project construction will be completed in the next two years. Federal assistance in these two remaining years will be crucial to ratepayers in the 43 greater Boston area communities who must shoulder most of the burden of the $3.5 billion project, which also includes the $2 billion required for combined sewer overflows (CSOs) and other water infrastructure upgrades.

The President s fiscal year 1998 budget provided $200 million over the next two years for the Boston Harbor clean-up—which we anticipate will be the last increment of funding assistance needed from the federal government for this important infrastructure project. Even if this amount is forthcoming, the federal share of the Boston Harbor clean-up project still will be well below the federal share provided for many other clean water projects across the country, and is certainly well below the full federal funding called for by Congress when it passed the Unfunded Mandates Act in 1995.

The Massachusetts Water Resources Authority (MWRA), which is in charge of the Harbor cleanup, has continually worked to reduce project costs. Last year, Mr. President, the EPA approved a revised CSO plan developed by the MWRA, with assistance from the state Department of Environmental Protection and local communities, which is estimated to save ratepayers nearly one billion dollars.

During the early 1990s, under the past two Administrations—one Republican and one Democratic—the federal government provided $100 million per year to assist the citizens of the greater Boston area with this project. In FY 1996, although the President requested $100 million and I supported his request, Congress appropriated only $50 million for the cleanup of Boston Harbor. For FY 1997, while the President again requested $100 million, the Congress appropriated $75 million as the federal share. All federal assistance is needed and appreciated, so in that respect, I and the people of the Boston area are grateful for the $50 million contained in this year's VA/HUD bill. Nonetheless, we are disappointed the Congress, again, did not provide the amount contained in the President's budget.

I am extremely pleased that the conference report includes $3 million for water projects for Bristol County, Massachusetts. This amount is the same as the President's fiscal year 1998 budget request and will continue the support which the Committee provided in the past two years. Both Fall River and New Bedford, two major cities in Bristol County, are implementing court-ordered construction under the Clean Water Act that will cost hundreds of millions of dollars. These urban industrial communities continue to be burdened by high unemployment and an ongoing recession.

In addition, Mr. President, I am delighted the conference report includes a $1.7 million appropriation for water projects in the South Essex Sewage District and surrounding communities such as Lynn, Gloucester and elsewhere. These communities are struggling with the prospect of incurring obligations from $12,000 to $22,000 per household to come into compliance with current clean water regulations. Despite successful efforts to control costs, the projected costs are still huge and growing in the South Essex Sewage District: In 1993 the projected costs were $12.6 million and now, for 1998, the projected costs are estimated at $29 million. Federal assistance is critical to ease the burden of compliance on these communities and to further the national goal of protecting our environment.

Mr. President, the conference report also includes funding of $2 million for the Tapley Street project in Springfield, Massachusetts, which involves renovation of a former U.S. Postal Service distribution facility that was purchased by Springfield, in 1986 and is now vacant. This building will make an ideal site for consolidated public works operations that are currently scattered among several inadequate facilities, including a condemned yard and a makeshift garage in a different town. These deficiencies take a serious toll on city-owned public works equipment, employee morale and efficiencies of city services. The renovation will create 300 construction jobs in an area that has been hard-hit by an economic downturn and defense cut-backs.

Mr. President, among the important national program in this conference report, several are of particular interest to me. YouthBuild, which is funded at $35 million in this conference agreement for fiscal year 1998, is an extremely worthwhile program and a demonstrated success. YouthBuild programs around the country have been providing disadvantaged young people with the opportunity to finish their education while also providing leadership training and job skills through work on projects producing affordable housing. I am pleased that the conference report recognizes the need to continue and fund this program. I hope that next year, the amount of funding provided for it will be much closer to the $70 million 48 other Senators joined me in requesting for fiscal year 1998 in order to enable establishment of YouthBuild programs in communities around the country where there currently is no program.

Another important national program in the conference report is the Housing Opportunities for People With AIDS program, which is the heart of the federal housing response for people living with HIV/AIDS. I am pleased that HOPWA is funded at $204 million for fiscal year 1998. Mr. President, ninety percent of the HOPWA funds are distributed by formula grants to states and localities hit hardest by the AIDS epidemic; these states and localities control the use of these funds. Communities may use HOPWA funds to meet whatever housing needs they may have, from providing short-term supportive housing or rental assistance for low-income persons with HIV/AIDS to building community residences or providing coordinated home care services.

Finally, Mr. President, the Community Development Block Grant (CDBG) program and the HOME investment partnership program are arguably the most important federal programs for addressing the economic development and affordable housing needs of our nation's communities. I strongly urged the conferees to provide funding for both programs at levels at least equal to the FY 1996 appropriation of $4.6 billion for CDBG and $1.5 billion for HOME in addition to any Congressional set-asides. Both programs share the important feature of providing local flexibility within broad federal goals and purposes. The success of both programs merits continued strong federal support for CDBG and HOME even as other federal programs are being cut back. The conference agreement does, in fact, include those amounts for the two programs, but I am concerned because Congressional set-asides will be deducted from those levels. I will continue to support additional funding for both CDBG and HOME in future appropriations bills.

Mr. President, in total, this conference report is a laudable effort by the subcommittee and especially its Chairman and ranking member, especially as they continue to struggle with the imperative to achieve significant spending reductions resulting from the balanced budget the Congress approved earlier this year. I appreciate their consideration for the interests of the people of Massachusetts, and am pleased to support this agreement.

Mr. REED. Mr. President, I rise to express my support for the VA–HUD Conference Report and to commend the conferees for their work in resolving a number of contentious issues with the House.

First, I would like to commend the conferees for providing adequate funding to renew all expiring section 8 contracts. In my State of Rhode Island, it is expected that section 8 contracts on 4000 units will expire in fiscal year 1998, and I am pleased that this bill will ensure that all of these contracts are renewed.

I would also like to commend the conferees on their successful effort to include the section 8 mark-to-market reforms in the conference report. The Senate Banking Committee passed a mark-to-market bill in June that was initially attached to the balanced budget legislation, but was subsequently dropped in conference.

The significance of inclusion of the mark-to-market reforms in the conference report cannot be overstated because these reforms address an increasingly serious problem, which, if left uncorrected, will threaten the future viability of the section 8 program. The problem I am referring to is the projected increase in section 8 costs as the number of expiring section 8 contracts increases in coming years. In fiscal year 1997, approximately $3.6 was provided to renew expiring contracts. However, absent mark-to-market reforms, the costs of renewing expiring section 8 contracts is expected to increase to $9 billion in fiscal year 1998, and to $18 billion in fiscal year 2002.

The reforms included in this bill address this issue by enabling landlords of section 8 properties to restructure their mortgage contracts, which will reduce the escalating costs of the section 8 program. The reforms will also reduce the subsidy levels that HUD pays to landlords for section 8 assistance. Because of the high costs to build many of these section 8 properties, HUD has been forced in many cases to pay subsidies that are in excess of 120 percent of fair market rent. In fact, a recent study found that 75 percent of HUD's newer assisted housing projects had rents above fair market rent, and that 50 percent of this housing had rents greater that 120 percent of fair

market rent. I am pleased that this bill will address this problem by reducing rents to below fair market rents, or fair market rents for most section 8 housing. These changes will produce $500 million in savings for taxpayers.

Also, the mark-to-market provisions will improve the quality of section 8 housing by requiring landlords to evaluate the rehabilitation needs of their property and undertake necessary repairs. For too long, many of our section 8 properties have been in an embarrassing state of disrepair. In a recent study, it was found that 24 percent of the section 8 properties were distressed. Sadly, some of these section 8 properties have become havens for crime and drug activities. I am pleased that the mark-to-market reforms will begin to attack this problem by requiring landlords to make repairs to their properties and become more responsible owners.

The bill also includes provisions that will enable HUD to screen out rogue owners and managers, as well as provide more effective enforcement tools that will minimize fraud and abuse of HUD insurance and assisted housing programs.

Most importantly, the reforms in this bill will require landlords who are restructuring their mortgages to maintain their property as section 8 housing throughout the life of the mortgage. This provision is particularly important in ensuring the preservation of the existing stock of section 8 housing.

The mark-to-market reforms included in this bill could affect five Rhode Island housing developments in the near term, and could affect countless other developments in the future, as these provisions are fully implemented by HUD. Overall, I believe these reforms will improve the quality of life for tenants of section 8 housing, half of whom are seniors, and most of whom are very low income.

However, it should be noted that these reforms are not a panacea, and we should be mindful that there is much more to be done. For example, we must take steps to address the ever-worsening affordable housing crisis facing this Nation. Unfortunately, this bill follows HUD appropriations bills in recent years and fails to provide funds for new section 8 vouchers. Indeed, such funds have not been appropriated since 1993.

Also, there is the issue of the term of section 8 contracts. In years past, section 8 contracts have had terms that ranged from 5 to 40 years, with budget authority being allocated in accordance with the terms of the contract. However, because of the adverse budgetary implications of providing long-term contracts, expiring contracts are now being renewed for 1-year terms which require annual appropriations. These 1-year renewals have created a great degree of uncertainty among tenants of section 8 housing who are being notified annually by HUD that they may not have housing if Congress fails to provide section 8 funding. In a meeting with constituents, I was informed that some seniors who are residents of section 8 housing have suffered strokes and other ailments after being notified that their housing was in jeopardy if Congress failed to appropriate funding for section 8 renewals. Mr. President, this is a very serious issue which must be addressed.

While HUD is required to notify tenants about contract renewals, something must be done to ensure that this notification does not unnecessarily alarm seniors and other residents of section 8 housing. I understand that HUD is currently working with a number of tenant groups to craft a notification letter that is less alarming than letters in years past. I intend to work with HUD to see that future notices provide adequate information, without unnecessarily alarming section 8 residents.

Mr. President, I am pleased that this bill increases funding relative to fiscal year 1997 for a number of important programs to Rhode Island. For example, funding for the Community Development Block Grant Program, which provides flexible funding to States and localities for community development initiatives, is increased by $75 million. In fiscal year 1997, Rhode Island cities used over $20 million in CDBG money to fund initiatives ranging from job training to neighborhood revitalization.

In addition, funding for the HOME Program, which is aimed at expanding the supply of affordable housing, is increased by $100 million over fiscal year 1997. Last year, Rhode Island received $3 million in HOME funding which was used to provide 283 units of affordable housing.

Finally, the VA–HUD appropriations bill maintains level funding for a number of important programs such as the section 202 and section 811 programs that provide housing for the Nation's elderly and disabled. A number of Rhode Island groups have successfully used section 202 and section 811 grants to build housing for the elderly and disabled, ameliorating the shortage of affordable housing for these groups in Rhode Island.

In conclusion, I would again like to commend the work of the conferees. Their efforts will help preserve and maintain the section 8 program, in addition to a number of other important housing and community development programs.

Mr. MCCAIN. Mr. President, the Senate will act shortly to approve the conference agreement on the Fiscal Year 1998 VA–HUD Appropriations Act, and I intend to vote for the bill. The bill contains many very worthwhile programs that are vital to our Nation's veterans, to the economic development and viability of our cities, to rural communities, to environmental preservation and remediation, and for other important Government functions. The conferees have done an excellent job of crafting a bill that is balanced and fair, while staying within the budgetary allocations for these programs.

However, once again, I must highlight the myriad of programs that are included in this conference agreement that were not considered in the normal budgetary review process. These programs may very well have a great deal of merit, but unless one is a member of the Appropriations Committee, it is nearly impossible to determine what, if any, criteria were applied to determine the relative worthiness of each of the earmarks and set-asides in the agreement.

For example:

Five million dollars is earmarked for a study on the cost-effectiveness of contracting with local hospitals in east central Florida for the provision of nonemergent inpatient health care needs of veterans. This earmark was contained in the House bill, but I find it difficult to determine from the conference agreement or the House report why such a study is so urgently needed in east Florida, rather than other areas of the country that may be considering this type of contracting.

As I noted when the Senate considered the bill, $10 is earmarked for demolition and replacement of the Heritage House in Kansas City, MO. I still do not understand the urgency of proceeding with this, rather than other similar projects.

The bill earmarks $99.6 million for 120 specific Economic Development Initiative grants, as specified in the report language. While both bills contained these kinds of earmarks, my colleagues might be interested to know that the amount earmarked in the conference agreement is more than twice the amount earmarked in the Senate bill which was $40 million. I suspect that a scrupulous comparison of the lists of earmarked projects in the two bills would conclude that every project earmarked in either bill is included in this conference agreement, and then some.

The bill contains an earmark of $15 million for the county of San Bernardino, CA, for neighborhood initiatives. I have not been able to find this earmark in either the House or Senate bill, neither of which contain any explanatory language on this initiative.

The bill contains a section which was also included in the Senate bill, transferring a previous $7.1 million earmark for a Kansas City industrial park at 18th Street and Indiana Avenue instead to the rehabilitation and infrastructure development associated with the Negro Leagues Baseball Museum and jazz museum at 18th and Vine.

The bill authorizes and appropriates $90 million additional funding for construction of a consolidated EPA research facility at Research Triangle Park, NC, and raises the total construction cap on the project, including a child care center and computer center, to $272.7 million. I recognize that this provision was included in the House bill, but I have not been able to find any justification in the bill or report for earmarking $90 million as part of a nearly $300 million expenditure for this project, versus other worthy projects.

The bill retains the earmarks in the Senate bill for a $50 million in grants to Texas, requiring State matching of 20 percent, for improving water and wastewater treatment facilities for the colonias; and a $15 million grant to Alaska to address drinking water and wastewater infrastructure needs.

The bill also includes an earmark of $253.1 million for 39 specific wastewater and water treatment facilities and ground water protection infrastructure, earmarked as stated in the report. Again, this type of earmark was included in the Senate and House bills, but the conference earmarked almost three times the amount in the Senate bill.

The bill also contains three earmarks which I believe were not included in either the Senate or House bill:

Four million dollars is earmarked for each of three areas—a native American area in Alaska, a rural area in Iowa, and a rural area in Missouri—for rural economic development grants, to test comprehensive approaches to developing a job base through economic development, developing affordable low- and moderate-income rental and homeownership housing, and increasing the investment of both private and nonprofit capital. While I understand the need to provide funding for rural communities to improve their living standards, housing availability, and the like, I question whether the three areas singled out in this language are the most deserving of 4 million dollars each. And I note that the earmarks for rural areas in Iowa and Missouri were not contained in either bill, but were added by the conferees.

The bill includes a section, which I have not found in either the Senate or House bill, directing FEMA to make a grant of $1.5 million to resolve issues under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 involving the city of Jackson, MS. Again, the justification provided for this project is sketchy, to say the least.

The bill contains a section which cancels the indebtedness of the village of Robbins, IL, for HUD-guaranteed water and sewer bonds, including principal, interest, and any fees and other charges. Again, I could find no mention of this proposal in either the Senate or House bills.

As I have said many times, these types of earmarks added in conference are an egregious evasion of the normal budget review process, which this body should not condone.

I will not elaborate on the many earmarks and set-aside in the report language of the conference agreement.

I ask unanimous consent that the objectionable provisions be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

OBJECTIONABLE PROVISIONS IN H.R. 2158, CONFERENCE AGREEMENT ON FISCAL YEAR 1998 VA/HUD/INDEPENDENT AGENCIES APPROPRIATIONS

BILL LANGUAGE

$5 million earmarked for a study on the cost-effectiveness of contracting with local hospitals in East Central Florida for the provision of non-emergent inpatient health care needs of veterans.

Prohibition on relocating the loan guaranty divisions of the Department of Veterans Affairs Regional Office in St. Petersburg, Florida to the Department of Veterans Affairs Regional Office in Atlanta, Georgia, because the conferees do not believe the VA has adequately justified the proposed relocation and has not provided a detailed cost-benefit analysis including comparison of savings for the cost of space and personnel.

$10 earmarked for demolition and replacement of the Heritage House in Kansas City, Missouri.

$4 million earmarked for each of three areas—a Native American area in Alaska, a rural area in Iowa, and a rural area in Missouri—for rural economic development grants, to test comprehensive approaches to developing a job base through economic development, developing affordable low- and moderate-income rental and homeownership housing, and increasing the investment of both private and nonprofit capital.

$99.6 million earmarked for 120 specific Economic Development Initiative grants as specified in the report language.

$15 million earmarked for the County of San Bernardino, California, for neighborhood initiatives.

$3.5 million earmarked for the non-Federal cost-share of the levee project at Devils Lake, North Dakota.

Sec. 203—Waives the requirement that the City of Oglesby, Illinois, hold public hearings concerning an environmental assessment for a warehouse project.

Sec. 206—$7.1 million transferring an earmark for a Kansas City industrial park at 18th Street and Indiana Avenue instead to the rehabilitation and infrastructure development associated with the Negro Leagues Baseball Museum and jazz museum at 18th and Vine.

Sec. 218—Cancels the indebtedness of the Village of Robbins, Illinois, for HUD-guaranteed water and sewer bonds, including principal, interest, and any fees and other charges.

Authorizes and appropriates $90 million additional funding for construction of a consolidated EPA research facility at Research Triangle Park, North Carolina, and raises the total construction cap on the project, including a child care center and computer center, to $272.7 million.

Earmarks $50 million for grants to Texas, requiring state matching of 20 percent, for improving water and wastewater treatment facilities for the colonias.

$15 million earmarked for grants to Alaska to address drinking water and wastewater infrastructure needs.

Earmarks $253.1 million for 39 specific wastewater and water treatment facilities and groundwater protection infrastructure, earmarked as stated in the report.

Directs FEMA to make a grant of $1.5 million to resolve issues under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 involving the City of Jackson, Mississippi.

Sec. 415—"Buy America" protections.

REPORT LANGUAGE

[NOTE: Conferees state that they endorse all language in the House and Senate reports that is not explicitly contradicted in the conference agreement. Therefore, all earmarks and set-aside in the underlying reports remain valid unless reversed in the conference agreement.]

Earmarks $6 million for the Musculoskeletal Disease Prevention and Treatment Research Center at the Jerry L. Pettis Memorial VA Medical Center in Loma Linda, California.

Explicit emphasis on report language regarding expanding an outpatient clinic in Williamsport, Pennsylvania, activation costs for construction projects at the medical centers in Wilkes-Barre, Pennsylvania, and Phoenix, Arizona; and the demonstration project involving the Clarksburg VA Medical Center and Ruby Memorial Hospital.

Urges VA to establish a community-based outpatient clinic in Brookhaven, New York.

Supportive language for the two-year pilot project in New England and Hawaii, funded through the Department of Defense, to explore improved and innovative methods of diabetes detection, prevention, and care.

Encourages VA to examine carefully the work in Detroit associated with Population and Resources Management Information Network, and to consider setting aside an appropriate amount of funds for development and analytical work associated with that system.

Earmarks $98.4 million for 7 major construction projects of the VA, including a $4 million add-on for a cemetery in Arizona.

Earmarks $1.5 million for expansion of the existing national cemetery in Mobile, Alabama.

Earmarks $1.5 million to increase the number of niches at the columbarium at the National Memorial Cemetery of the Pacific.

Earmarks $48.3 million for 23 specific science and technology projects.

Earmarks $8 million of the funding set aside for research on EPA particulate matter standards to create "up to five university-based research centers focused on PM-related environment and health effects;" establishes certain governing criteria and guidelines for selection of these centers, although the report states the selection is to be competitive.

Earmarks $76.5 million from the budget for environmental programs and management at EPA for 60 specific projects.

Earmarks $2.5 million of the EPA's hazardous substance Superfund to continue a study on the health effects of consuming Great Lakes fish, and 2 million for continued work on the Toms River, New Jersey cancer evaluation and research project.

Encourages EPA to implement a fixed-price, at-risk contracting proposal for clean-up of the Carolina Transformer Site in North Carolina.

Urges immediate construction at the Pepe Field Superfund site in Boonton, New Jersey.

Recognizes the acute need for additional water treatment capacity in San Diego County, California, although limited funds prevented the conferees from earmarking an amount for this project.

States awareness of San Diego's application for grant assistance through the U.S.-Mexico border programs for the South Bay Water Reclamation Facility, and urges that the matter be reviewed carefully for appropriate support.

Notes support for construction of the Jonathan Rogers plant in El Paso, Texas, and encourages EPA to provide an appropriate amount from the border infrastructure fund to support the project.

Earmarks $500,000 from FEMA's emergency management planning funds for a comprehensive analysis and plan of evacuation alternatives for the New Orleans metropolitan area.

States awareness of proposals by the International Hurricane Center at Florida International University to apply advanced high-accuracy satellite laser altimeter surveying techniques to coastal and flood plain modeling and post natural disaster damage assessments, and urges FEMA to consider funding such proposals from discretionary funds.

Notes that Point Coupee Parish, Louisiana, faces the potential threat of multiple

disasters, including weather-related threats, and urges FEMA to provide support for installation and testing of a prototype communications system.

Urges NASA to make available underutilized facilities at the Stennis Space Center for use by industry in launch vehicle development activities.

Earmarks $19.65 million from NASA's aeronautics and technology funds for 9 specific projects.

Earmarks $5 million of NASA's mission support funds for facilities enhancements at Stennis Space Center.

Prohibition on relocating NASA aircraft based east of the Mississippi River (at the Wallops Island flight facility) to the Dryden Flight Research Center in California.

Earmarks $1 million of National Science Foundation funds for the U.S./Mexico Foundation.

Mr. MCCAIN. Mr. President, this is not an exhaustive list of all the earmarks the conferees endorsed. As with previously submitted conference agreements, the conferees explicitly state in the report that they endorse all the provisions of the Senate and House reports on the bill, unless they are explicitly contradicted or addressed in the conference report. So there are a lot more earmarks that the conferees intend that the agencies will adhere to in allocating appropriated funds.

Again, Mr. President, I hesitate to say that all of these earmarks and set-asides are wasteful, or unnecessary. I want to stress that these projects may very well have merit and may very well be worthy of inclusion in this bill.

But the process the Congress established for itself, which involves both authorization and appropriation of spending items, is routinely ignored in the appropriations bills. These unauthorized and locality specific earmarks and add-ons have bypassed the normal agency review process and have bypassed the authorization process. They have simply been included in the appropriations bill because a small segment of the Senate or House, those who serve on Appropriations Committee, decided to include them.

Mr. President, the American people deserve to know how their money is spent, and why. Millions of dollars will be spent for the projects on the attached list, and I doubt that most Senators know why these projects were chosen for earmarks or set-asides. The American people certainly don't have access to that information.

I intend to send a letter to the President asking that he consider using his line-item veto authority to eliminate these spending items from this bill. That is why we gave him a line-item veto—to eliminate wasteful, unnecessary, and low-priority spending. He has already demonstrated his willingness to use the line-item veto, and I hope he continues to exercise that authority when clearly necessary.

Mr. President, as I said, I support the majority of the provisions of this bill, and I intend to vote for it. I am thankful, however, that a mechanism now exists that could, if utilized, eliminate the earmarks and set-asides in this bill to which I must object.

PARTICULATE MATTER RESEARCH

Mrs. BOXER. Mr. President, I would like to mention one issue of concern in the conference report on appropriations for the Environmental Protection Agency. It is in regard to report language on the Particulate Matter Research Program.

I agree that we need more research on the sources and the health effects of particulate matter and strongly support this bill's appropriation of funds for new research. However, I would like to make it clear, for the record, that I do not agree with the conference report language that says that "we do not yet have available sufficient facts necessary to proceed with future regulations for a new particulate matter standard."

The EPA standards are based on the best available science regarding the health effects of exposure to particulate matter. Some argue that we should not proceed until we have scientific proof of the exact relationship between exposures to particulate matter, and health effects.

If we applied that principle in the late 1970's, we would not be enjoying the benefits of our current standards which have led to, for example, air pollution from carbon monoxide being reduced by 28 percent, from sulphur dioxide 41 percent, and from lead 98 percent.

The PRESIDING OFFICER. All time has expired.

Under the previous order, the conference report to accompany H.R. 2158 is agreed to.

The conference agreement was agreed to.

Mr. BOND. Mr. President, I thank all of my colleagues and the leadership for allowing us to proceed in a timely fashion on this matter.

I have mentioned only briefly my appreciation for the work of my ranking member, Senator MIKULSKI. Truly, there is no better person to have in a very complicated matter like this than to have someone of Senator MIKULSKI's ability, perspicacity, and dedication to right and justice to carry through on this.

I am deeply grateful for her cooperation, the cooperation of the leadership on her side, and particularly the leadership of both sides of the aisle on the Banking Committee which authorizes housing programs without which we would not have been able to accomplish mark-to-market. Senator MACK and his staff, in particular, Senator D'AMATO, Senator SARBANES, Senator KERRY have been helpful.

I express my thanks to Andy Givens, Stacy Closson, and David Bowers on the minority. We could not have done this on our side without the dedicated work of John Kamarck, Carrie Apostolou, and of Sarah Horrigan, who assisted us as representatives on loan from the Office of Management and Budget.

Mr. President, again, I express my appreciation to my ranking member.

Ms. MIKULSKI. Mr. President, now that we have concluded our bill, I too want to express my appreciation to Senator BOND and his very able staff—I am sorry Sarah Horrigan is not with us, her able cooperation—and, to my own staff, Andy Givens, David Bowers, and Stacy Closson.

I wish all bills could move as quickly and as rigorously and thoroughly as ours did. I yield the floor.

Mr. BOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the privilege of the floor be granted to the following detailee to my staff: Mr. Peter Neffinger.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 1283 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

Mr. SHELBY. Mr. President, I submit a report of the committee of conference on the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the

amendment of the Senate to the bill (H.R. 2169) having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 7, 1997.)

Mr. SHELBY. Mr. President, I ask unanimous consent that the conference report be considered read, and that there be 20 minutes equally divided; that, following the conclusion or yielding back of the time, the conference report be agreed to and the motion to reconsider be laid upon the table, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I am pleased to present the conference report on the fiscal year 1998 Department of Transportation and related agencies appropriations bill. This bill is very similar to the transportation appropriations bill that the Senate approved 98 to 1 on July 30. It provides the highest level of funding for Federal-aid highways in history—$22.9 billion. That's slightly less than the amount we had included in the Senate bill because, in conference, we agreed to fund some other House priorities, but it's still a record level.

The actual distribution of those funds among the States will depend on reauthorization of ISTEA—the Intermodal Surface Transportation Efficiency Act of 1991—which has provided authorization for Federal surface transportation programs for the past 6 years and which expired at the end of fiscal year 1997. But this increase of almost $3 billion over fiscal year 1997 will almost certainly mean more Federal highway spending for each State.

The conference report also includes $300 million for the Appalachian Development Highway System as proposed by the Senate. This is a downpayment toward meeting the Federal Government's commitment to completing that System.

The bill includes $4.7 billion for transit grants, including $200 million for Washington Metro. I ask unanimous consent that a table which shows the distribution of these funds under current law be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1998 DISTRIBUTION OF APPROPRIATED TRANSIT FORMULA AND DISCRETIONARY PROGRAM FUNDS BY STATE—ILLUSTRATIVE

State	Section 5307, urban area formula apportionment	Section 5311, nonurbanized area formula apportionment	Section 5310, elderly and persons with disabilities apportionments	Section 5309, fixed guideway modernization apportionment	Section 5338, discretionary grants—bus and bus facilities	Section 5338, discretionary grants—new starts	Total	Percent of total
Alabama	$11,185,758	$3,186,673	$1,077,887	0	$25,600,000	0	$41,050,318	0.92
Alaska	1,804,936	475,202	181,007	0	0	0	2,461,144	.05
American Samoa	0	67,731	52,205	0	0	0	119,936	0
Arizona	25,641,598	1,395,042	951,941	$753,784	5,500,000	$4,000,000	38,242,365	0.85
Arkansas	3,979,267	2,547,613	757,178	0	0	0	7,284,057	0.16
California	359,319,983	6,217,892	5,780,115	73,004,558	38,400,000	141,600,000	624,322,548	13.93
Colorado	26,861,907	1,327,272	741,382	872,588	5,500,000	25,000,000	60,303,148	1.35
Connecticut	36,082,253	1,203,960	847,581	33,127,313	6,950,000	0	78,211,107	1.74
Delaware	4,544,322	300,359	266,380	371,459	1,500,000	0	6,982,520	.16
District of Columbia	21,487,762	0	264,504	20,304,678	0	0	42,056,943	.94
Florida	110,965,452	3,997,135	3,904,781	6,261,059	20,000,000	50,800,000	195,928,427	4.37
Georgia	40,275,089	4,659,255	1,393,706	8,377,647	9,000,000	45,600,000	109,305,697	2.44
Guam	0	192,815	132,335	0	0	0	325,149	.01
Hawaii	19,104,500	522,930	335,201	302,560	5,000,000	0	25,265,191	.56
Idaho	2,361,119	1,054,997	342,719	0	0	0	3,758,834	.08
Illinois	162,182,847	4,274,606	2,528,911	108,300,140	4,500,000	3,000,000	284,786,504	6.35
Indiana	25,432,292	4,129,173	1,333,234	0	4,000,000	5,250,000	40,144,699	.90
Iowa	6,711,334	2,655,925	812,986	0	4,000,000	0	14,180,245	.32
Kansas	6,233,630	2,112,704	683,737	0	1,000,000	0	10,030,071	.22
Kentucky	12,693,258	3,487,613	1,033,565	0	0	0	17,214,437	.38
Louisiana	21,173,354	2,884,508	1,036,865	2,192,506	13,900,000	8,000,000	49,187,234	1.10
Maine	1,693,773	1,391,888	425,143	0	0	0	3,510,805	.08
Maryland	59,427,457	1,737,705	1,041,705	16,644,799	8,000,000	31,000,000	117,851,667	2.63
Masaschusetts	87,078,919	1,862,292	1,494,500	54,823,484	6,200,000	47,250,000	198,709,196	4.43
Michigan	47,254,939	5,043,404	2,165,608	152,149	7,500,000	0	62,116,100	1.39
Minnesota	22,554,929	2,902,188	1,056,203	2,156,921	10,500,000	12,000,000	51,170,241	1.14
Mississippi	3,639,708	2,832,159	735,995	0	2,000,000	3,000,000	12,207,861	.27
Missouri	26,095,820	3,380,302	1,351,855	1,484,601	16,000,000	30,500,000	78,812,577	1.76
Montana	1,786,660	854,630	315,546	0	0	0	2,956,836	.07
Nebraska	6,471,591	1,289,529	486,039	0	0	0	8,247,158	.18
Nevada	11,496,750	421,012	365,038	0	9,500,000	5,000,000	26,782,800	.60
New Hampshire	2,503,259	1,114,728	345,598	0	0	0	3,963,585	.09
New Jersey	136,678,638	1,593,825	1,791,542	69,082,137	6,000,000	87,000,000	302,146,143	6.74
New Mexcico	5,357,480	1,252,988	429,081	0	7,750,000	0	14,789,549	.33
New York	410,451,112	5,610,456	4,133,626	276,062,566	34,325,000	25,500,000	756,082,760	16.87
North Carolina	20,069,428	5,959,962	1,583,185	0	6,000,000	13,000,000	46,612,575	1.04
North Dakota	1,741,653	632,037	270,610	0	0	0	2,644,300	.06
Northern Marianas	0	62,767	52,014	0	0	0	114,781	0
Ohio	65,501,156	6,067,655	2,638,627	12,722,165	12,500,000	6,000,000	105,429,604	2.35
Oklahoma	8,527,934	2,593,860	893,771	0	0	1,600,000	13,615,566	.30
Oregon	19,592,547	2,059,548	831,880	1,292,018	3,000,000	63,400,000	90,175,992	2.01
Pennsylvania	112,985,990	6,768,533	3,160,912	92,157,105	27,350,000	5,500,000	247,922,540	5.53
Puerto Rico	36,532,549	2,022,651	789,842	775,726	0	15,000,000	55,120,768	1.23
Rhode Island	7,598,014	259,105	379,890	1,062,810	0	0	9,299,820	.21
South Carolina	9,080,065	2,982,991	864,379	0	6,000,000	1,500,000	20,427,434	.46
South Dakota	1,256,376	770,404	291,151	0	2,250,000	0	4,567,931	.10
Tennessee	16,849,421	3,850,700	1,270,291	32,983	8,000,000	1,000,000	31,003,395	.69
Texas	119,735,859	8,129,898	3,264,108	3,046,639	14,950,000	74,100,000	223,226,504	4.98
Utah	15,889,161	584,009	400,773	0	8,900,000	67,400,000	93,173,843	2.08
Vermont	631,418	688,808	243,018	0	2,500,000	5,000,000	9,063,244	.20
Virgin Islands	0	147,427	134,313	0	0	0	281,740	.01
Virginia	45,207,104	3,414,019	1,320,940	517,018	5,650,000	4,000,000	60,109,081	1.34
Washington	60,260,229	2,392,160	1,186,078	7,835,369	21,000,000	18,000,000	110,673,835	2.47
West Virginia	3,044,128	2,034,025	635,242	0	16,250,000	0	21,963,396	.49
Wisconsin	26,270,709	3,514,557	1,210,642	283,218	14,000,000	0	45,279,126	1.01
Wyoming	872,428	491,550	208,724	0	0	0	1,572,702	.04
Total Apportioned	2,292,177,864	133,407,177	62,226,089	794,000,000	400,975,000	800,000,000	4,482,786,130	100.00
Agency Oversight	11,518,482	670,388		6,000,000			18,188,870	
Total Program	2,303,696,346	134,077,565	62,226,089	800,000,000	400,000,000	800,000,000	4,500,000,000	

Mr. SHELBY. Mr. President, the bill also provides $1.7 billion for airport improvement grants, which is $700 million more than the administration requested. In total, this bill contains

$30.1 billion for investment in infrastructure that the public uses, that is, highways, transit, airports, and railroads. That represents an 8-percent increase over the administration's request.

This legislation will improve safety: It provides an 11-percent increase in funds to improve highway safety and will permit FAA to hire an additional 235 aviation safety inspectors and 500 air traffic controllers.

Major changes in the bill as a result of conference deliberations include the addition of $150 million in transit operating assistance and reductions of less than 1 percent in the multi-billion dollar FAA and Coast Guard operating accounts.

The Senate accommodated requests we received from Senators as fully as we could. In conference, of course, we had to accommodate requests from Members of both the Senate and House with no increase in funds over the Senate bill to cover these requests. That was a very difficult process. We tried to be fair and balanced in our treatment of Members' requests.

I want to reiterate a point I made when I brought the Senate bill to the floor in July. Many Senators wanted funds for highway projects of special interest to them and their States. This year, ISTEA reauthorization is providing a vehicle for special project funding, especially in the House where there is very active consideration of such funding. I assure my colleagues that I believe that the Congress has at least as legitimate a role in designating funding for specific highway projects as it does in designating which transit projects will be funded. I intend to review the situation after enactment of ISTEA reauthorization legislation and to work with my Senate and House colleagues in the year ahead to ensure that we have an opportunity to designate funding for highway projects of special interest to our States and communities.

There are a great number of people to thank for getting this bill completed. I want to single out a few for special thanks for all their efforts.

First, the chairman, my good friend from Alaska. I know he wanted to move this bill along promptly, but he was patient and allowed me to work out the issues that were holding up conference and was always willing to lend his compelling voice to support the Senate position in our discussions with the House.

The majority leader as well played a critical role in the negotiations with the House. I want to thank him for his leadership, advice, and guidance, as well as for his personal involvement on this bill.

I want to thank my distinguished ranking member on the subcommittee, Senator LAUTENBERG, for his part in moving the process forward. We don't always take the same position on transportation issues or funding priorities, but he is always a strong advocate for meeting the transportation priorities of the Northeast and presents a perspective on this bill that comes from a great deal of hands-on experience with transportation issues. In addition, this bill has provided an opportunity for me to work closely with the distinguished ranking member of the full committee, Senator BYRD. One of the common priorities Senator BYRD and I share in the Transportation appropriations bill is the completion of the Appalachian Development Highway System. Through his leadership and support, we have been able to provide substantial support for meeting that priority.

I also want to thank the other members of the subcommittee for their efforts and the efforts of their staffs in support of the Senate's position during the conference. This subcommittee works well together, and I am blessed with the luxury of having subcommittee members who take transportation issues very seriously and are quick to let me know of their positions on issues. In particular, I want to commend the senior Senator from Missouri, my good friend, Senator KIT BOND. Senator BOND has been a major force in transportation funding issues this year as he has the uncommon responsibilities of sitting on the Budget Committee, the Environment and Public Works Committee, and on the Appropriations Subcommittee on Transportation. He was a primary advocate for higher highway funding during the budget process; he is a major force in the Senate consideration of reauthorization legislation, and is one of the most thoughtful and effective members of the Transportation Appropriations Subcommittee. Senator BOND can be a dogged advocate for issues of interest to the Show Me State. He was in a position to put passage of the Transportation appropriations bill in jeopardy if his legitimate interest in a matter before the conference was not met. In a display of the statesmanship that shows me why he is such an effective Senator, he refused to hold the bill up—instead, he sought a creative way of meeting both the interests of his State and the needs of the Congress to move this legislation along. I pledge to him here that I will work with him to ensure the satisfactory resolution of this issue.

In addition, I want to thank a few staff members who worked hard to put this bill together. The staff director of the Senate Appropriations Committee, Steve Cortese played a critical role in resolving issues between the House and the Senate so that we could have this conference report before the Senate today. His counterpart on the House side, Jim Dyer, as well, deserves note and a word of thanks for his efforts to that end. Although they work in different bodies, these two professionals work together well and are a credit to the appropriations process and the Congress. Further, the subcommittee staff, Joyce Rose, Reid Cavnar, Wally Burnett, and for a short time, George McDonald, as well as my legislative director Kathy Casey and Chief of Staff Tom Young, worked long and hard to put this bill together and I thank them. In addition, Jim English, Peter Rogoff, Peter Neffenger, Carole Geagley, and Mike Brennan have helped make this a truly bipartisan bill, and I thank them.

I am proud of what we have been able to accomplish in this bill. It will benefit all Americans as it helps improve transportation services in this country so that the economy and personal mobility are better served.

I now turn to my distinguished ranking member from New Jersey, Senator LAUTENBERG, who has worked with me in a bipartisan spirit to produce this bill.

Mr. President, I believe overall that this is a good transportation appropriations bill. It is not perfect. Nothing is perfect. But Senator LAUTENBERG, my colleague from New Jersey, former chairman, now the ranking member of the committee, worked diligently together with our staffs to put this bill together. We had protracted discussions with the House, and at the end of the day we are here with a completed conference report, one which I believe that most people in this body can support.

I want to take a minute and thank my staff director, Wally Burnett, for all the work that he has put into this night and day. He knows the subject. He has been very, very diligent and the bill reflects that diligence.

I also want to thank my colleague, Senator LAUTENBERG, for the work and the knowledge that he has of these transportation issues. Knowledge that he is beginning to share with me as time goes on. And, to his staff director, Peter Rogoff, I thank you for cooperating with us on so many of the issues. And, at the end of the day, at the end of the week, and at the end of this conference we are here.

At this point, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I, too, view this report as does my friend and colleague and chairman of the subcommittee. It reflects what I think is a good outcome after being forced to work with less resources than I would like to see devoted to transportation. But that is life in the present fiscal climate and consistent with our determination to have a balanced budget by 2002. As a matter of fact, the news is fairly good on that front. We may actually achieve that balance before then.

But, meanwhile, we are taking the appropriate steps to our transportation bill to conform with the responsibility that we have undertaken as a result of the budget agreement. We spent a lot of time and energy trying to ensure that transportation would be treated as the appropriate priority, as we see it. And it has some very positive results.

The Coast Guard is going to get a 12.7 percent boost so that it can continue to execute its many essential missions.

Funding for FAA will increase by almost 10 percent. Within that amount, we have rejected the proposal by the administration to cut airport improvement grants by more than 33 percent. Instead, we have provided an increase for airport grants of more than 16 percent.

Funding for Federal-aid highways went to a historically high level of $21.5 billion. This increased funding will be especially critical as we address the many vexing challenges that currently surround the reauthorization of the Intermodal Surface Transportation Efficiency Act, or ISTEA, or ISTEA II, or whatever the name is that we are going to give the next 6-year or 5-year program.

Funding for formula assistance for the Nation's transit systems will increase by 16.3 percent. I want to point out that in my view this includes a balanced approach in addressing the needs of all of our States in all transportation modes.

When the bill was first marked up, I voiced concern that while we were providing a much needed increase in funding for highways, the needs of the transit agencies were not getting appropriate attention.

I am pleased to say that between the amendment I offered during full committee consideration of the bill and the final deliberations of the conference committee, the increase in formula funding for transit was brought to a level comparable with the increases in formula funding provided for other infrastructure investment programs in the bill.

Moreover, I am pleased that the conference agreement includes my amendment to provide greater flexibility to all transit agencies, large and small, in the use of the Federal transit formula funds.

Mr. President, all in all, as I said, I think it is a good outcome.

The funding level for Amtrak is one that concerns me because Amtrak plays such an important part in the transportation of people throughout the Northeast corridor—and other parts of the country as well but predominantly in the Northeast corridor, and were we not to have Amtrak, which could be the outcome if we failed to fund it properly, we would need 10,000 additional flights of 737's a year between Boston and Washington and New York to accommodate the requirements for transportation. So that certainly does not look to be an outcome we can tolerate. But nevertheless the Congress has insisted on cutting Amtrak's operating subsidy at a much faster rate than they say they can absorb.

Almost 3 years ago, the leadership of Amtrak developed an operating plan to reduce its dependency on Federal operating support. Their plan called for reduced appropriations in each and every year for 6 years. Unfortunately, for the last 2 years, the Congress has insisted on cutting Amtrak's operating subsidy at a much faster rate than Amtrak said it could absorb. Their financial status, therefore, is in dire straits.

The bill initially laid down proposed some truly severe cuts, some of which could certainly put Amtrak into bankruptcy. But the subcommittee amended the funding level for Amtrak's operations account in the subcommittee and the full committee to get that level up to $344 million, which was the level requested by the administration.

Also, Chairman SHELBY agreed to hold a special hearing of the subcommittee to take a fresh look at Amtrak's operating needs. I am pleased to say that the final conference agreement includes the full $344 million for Amtrak's operations as passed by the Senate. It also includes needed boosts in Amtrak's critical capital accounts, and it will only be through this kind of capital investment that Amtrak can one day become free of Federal operating subsidies, which I, and I am sure all of us here, would like to see.

However, we are not, I warn all Members, "out of the woods" with Amtrak. Amtrak has to gain access to more than $2 billion which was provided in the recently enacted tax bill so it can make the kind of capital investments that will bring us a real first-class passenger railroad, and we need to find a mechanism to do that without exacting punitive measures against the hard-working employees at Amtrak.

On another issue, more parochial perhaps, Mr. President, I call attention to that portion of the conference agreement which pertains to the closure of Bader Field Airport in Atlantic City, NJ. The conferees carefully reviewed the statutory provisions pertaining to Bader Field as well as another airport that deserves to be closed. And after careful review, it was determined that statutory language was not necessary for the FAA to make the necessary findings. So I am pleased that the conference agreement continues our progress toward the closure of these airports as soon as possible.

I want to take a minute, Mr. President, to thank my friend and colleague, Senator SHELBY, for his ability to work closely with others to try to resolve disputes and see if we could do the best possible job with the resources that were available to us, and I think he has done just that. It was a pleasure working with him. As Senator SHELBY noted, I was once the chairman of the committee, and I promised that should I become chairman again I would work with Senator SHELBY just as carefully and courteously as he has worked with me.

He has been consistently fair-minded in the distribution of funds between transportation modes and between projects. He has sought to accommodate the priorities of all Members of the Senate. That has been the long-standing tradition in the Transportation Subcommittee and it continues to be the tradition under Senator SHELBY's leadership.

I close by thanking my staff also, Peter Rogoff, and thank Senator SHELBY's chief of staff, Tom Young, and Wally Burnett. It is a pleasure getting this done, and I am pleased to see that we have come fairly close to the beginning of the fiscal year in having a transportation bill which can take care of our needs for next year.

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement accompanying H.R. 2169, the Department of Transportation and related agencies appropriations bill for fiscal year 1998.

I congratulate the distinguished chairman of the subcommittee, Senator SHELBY, for completing his first bill as chairman of the Transportation Appropriations Subcommittee. I commend the chairman for bringing the Senate a balanced bill.

As all members know, transportation spending was a priority area within the bipartisan budget agreement. With passage of this bill, we begin to increase funding for our Nation's infrastructure as we promised during negotiations on the balanced budget agreement.

The conference agreement provides $13.1 billion budget authority [BA] and $13.5 billion in new outlays to fund the programs of the Department of Transportation, including Federal-aid highways, mass transit, aviation activities, the U.S. Coast Guard, and transportation safety agencies.

When outlays from prior-year budget authority and other adjustments are taken into account, the bill totals $13.1 billion in budget authority and $37.9 billion in outlays for fiscal year 1998.

The reported bill is $0.1 billion in budget authority below the subcommittee's revised section 302(b) allocation, and at the subcommittee's allocation for outlays.

The spending is less than $0.1 billion in budget authority below the President's fiscal year 1998 budget request for the subcommittee, and $0.4 billion in outlays above the President's request.

Mr. President, it is my pleasure to serve on the subcommittee and to be a part of the Conference Committee.

I support the conference agreement, and I urge its adoption.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

H.R. 2169, TRANSPORTATION APPROPRIATIONS, 1998, SPENDING COMPARISONS—CONFERENCE REPORT

[Fiscal Year 1998, in millions of dollars]

	De-fense	Non-defense	Crime	Manda-tory	Total
Conference report:					
Budget authority	300	12,111	.....	698	13,109
Outlays	299	36,905	.....	665	37,869
Senate 302(b) allocation:					
Budget authority	300	12,211	.....	698	13,209
Outlays	299	36,905	.....	665	37,869
President's request:					
Budget authority	300	12,173	.....	698	13,171
Outlays	299	36,502	.....	665	37,466
House-passed bill:					
Budget authority	300	12,217	.....	698	13,215
Outlays	299	36,855	.....	665	37,819
Senate-passed bill:					
Budget authority	.....	12,157	.....	698	12,855
Outlays	59	36,892	.....	665	37,616
CONFERENCE REPORT COMPARED TO:					
Senate 302(b) allocation:					
Budget authority	.....	−100	.....	.....	−100
Outlays	.....	.....	.....	.....	.....
President's request					
Budget authority	.....	−62	.....	.....	−62
Outlays	.....	403	.....	.....	403
House-passed bill:					
Budget authority	.....	−106	.....	.....	−106
Outlays	.....	50	.....	.....	50
Senate-passed bill:					
Budget authority	300	−46	.....	.....	254
Outlays	240	13	.....	.....	253

Note: Details may not add to total due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. ROTH. Mr. President, I rise today to oppose the fiscal year 1998 Department of Transportation conference report. Due to a provision added in conference, the Treasury Department will be forced to reduce the Amtrak tax refund by $200 million. This conference report violates the budget agreement, amends the recently enacted tax bill, and unnecessarily straps Amtrak as it is facing a possible strike in the next few weeks.

Mr. President, as chairman of the Senate Finance Committee and a strong Amtrak supporter, I find this action by the Appropriations Committee to be outrageous.

As my colleagues in the Senate know, one of my top priorities has been to create a dedicated source of capital funding for Amtrak. Congress has voted time and time again that capital funding is critical to Amtrak's survival. For that reason, a tax provision was included in the Taxpayer Relief Act of 1997 to provide Amtrak with a tax refund of $2.3 billion for capital expenses.

The bottom line is Amtrak desperately needs capital. According to GAO, Amtrak must have the capital funding that was provided in the Taxpayer Relief Act as well as what is provided through the normal appropriation's process. Without both Amtrak faces bankruptcy.

The language the conferees included in the fiscal year 1998 Department of Transportation conference report would undermine the efforts Congress has already taken to give Amtrak the capital funding it needs to survive.

Mr. President, I fully intend to reverse this provision as soon as the next opportunity arises. It is a clear violation of the spirit and intent of the budget agreement and of the tax bill signed into law in August. If this is not reversed, I believe this provision may be the final straw that finally breaks the financial back of Amtrak.

Mr. McCAIN. Mr. President, the Senate will vote today to adopt the conference agreement on the fiscal year 1998 transportation appropriations bill. As chairman of the Commerce Committee, I intend to support the measure, because it contains the funding for vitally important transportation programs.

However, once again, I am compelled to note the various earmarks and setaside and low priority spending that is included in this package.

This conference agreement contains legislation mandating specific actions and spending that the Administration either does not support or did not request. For instance:

The bill directs the Secretary of the Navy to transfer the USNS EDENTON (ATS–1), which is currently in inactive status, to the Coast Guard.

The legislation earmarks Federal Aviation Administration [FAA] Operations funds and mandates that the FAA provide personnel at Dutch Harbor, AK, to provide weather and runway observations.

The conference report goes on to highlight millions of dollars that exceed the Administration's request, and that are targeted for specific projects.

$8.4 million, for instance, is set aside for the relocation of Coast Guard Station New Orleans, with $3 million of that amount directed to improve the adjacent waterway. Incidentally, I understand that the adjacent waterway improvements are aimed primarily at benefitting private users of the waterway, not the Coast Guard.

The conference report earmarks all intelligent transportation operational test funds—nearly $84 million—for 41 specific projects, even though the Administration requested zero funds for intelligent transportation operational tests.

The report earmarks all but $3 million of the $400 million provided for the discretionary bus and bus-related facilities program.

It earmarks all of the $800 million provided for the discretionary fixed guide way modernization program.

Although the legislation does not mandate certain airport grants, the conference report and the Senate report, in particular, urge priority consideration for funding for several specific airport development projects. I urge the Administration to adhere to its own established safety and capacity-enhancement criteria in allocating discretionary airport grants and letters of intent.

The FAA is bound to receive a great deal of guidance in this respect. However, if it becomes evident that discretionary grants are being used to satisfy political whims rather than the national interest, I pledge to review the FAA's discretionary authority in the context of the FAA reauthorization bill next year.

As I have said many times before, my criticism of this earmarking process should not be interpreted as a criticism of each of these projects. I recognize that these projects may be beneficial, and that several would merit full funding in an objective, competitive allocation process. Nevertheless, Congress needs to give that process a chance.

Mr. President, I ask unanimous consent that the entire list of earmarked transportation projects be printed in the RECORD. As on prior occasions, I plan to write to the President with a list of projects for him to consider in exercising his line item veto authority.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

OBJECTIONABLE PROVISIONS IN H.R. 2169, CONFERENCE AGREEMENT ON FISAL YEAR 1998 TRANSPORTATION APPROPRIATIONS

COAST GUARD

Bill language

Withholds $34.3 million in Coast Guard operating expenses unless the Director, Office of National Drug Control Policy (ONDCP) approves the Coast Guard's planned drug interdiction activities to be funded by that $34.3 million. Allows ONDCP to transfer some or all of those funds to other agencies. The Administration request included no such restriction on Coast Guard.

Directs the Secretary of the Navy to transfer the USNS EDENTON (ATS–1), which is currently in inactive status, to the Coast Guard. The Administration request did not include this provision.

Conference Report

Earmarks $10.0 million to convert the USNS EDENTON (ATS–1) to a flight deck equipped Coast Guard cutter. This provision was not included in the Administration's budget request.

Earmarks $4.0 million to renovate a hanger at the Coast Guard Kodiak, AK facility. This provision was not included in the Administration's budget request.

Provides $8.4 million in FY 1998 for the relocation of Coast Guard Station New Orleans and directs that $3.0 million of that amount be used to improve the adjacent waterway (including dredging, bulkhead repair, and bulkhead replacement). The Administration requested $4.2 million in FY 1998 to start the relocation project. However, the adjacent waterway improvements funded by the Conference Report were not included in the Administration's request for this project and are primarily aimed at benefitting private users of the waterway, not the Coast Guard.

Encourages the Coast Guard to maintain a seasonal (April 15, 1998 to October 15, 1998) air facility at the Hampton, NY Air National Guard facility at Coast Guard expense. The Administration request did not include this

provision. The Coast Guard previously announced plans to close its air stations in Cape May, NJ and Brooklyn, NY and replace them with an air station in Atlantic City, NJ as a cost-savings measure.

AVIATION

Bill Language

The bill includes legislative language reauthorizing the Aviation Insurance Program. The authorizing committees in both the House of Representatives and the Senate have approved reauthorization bills that make minor modifications to the program. Floor action in the House and Senate is imminent. (Title I)

The legislation earmarks Federal Aviation Administration (FAA) Operations funds and mandates that the FAA provide personnel at Dutch Harbor (AK) to provide real-time weather and runway observation and other such functions to help ensure the safety of aviation operations. (Title III, Sec. 335)

Conference Report

The conference report earmarks $400,000 from the FAA Operations account for satellite communications in Anchorage (AK), per Senate direction.

The conference report earmarks $400,000 from the FAA Operations account for a human intervention and motivation study, per Senate direction.

The conference report directs the FAA to study air traffic in New Bern (NC), Hickory (NC) and Salisbury/Wicomico County Airport (MD), and to open contract towers at those airports in FY 1998 if the studies show that these airports (1) meet the existing benefit-cost criteria for contract air traffic control towers, or (2) are justified after consideration of cost-sharing agreements with non-federal parties.

The report adopts the House recommendation of $15,000,000 for aeronautical data link applications. The Administration requested no funds for this category.

Per the House direction, the conference report earmarked $45,440,000 for air traffic management, $27,200,000 above the Administration request.

The conference report included $24,400,000 for the weather and radar processor program, in line with the House recommendation. The Administration did not request funds for this program.

Like the House recommendation, the conference report earmarks $970,000 for innovative infrared deicing technology. There was no Administration request for these funds.

The conference report provides $152,830,000 for continued development of the GPS wide area augmentation system, as proposed by the Senate. This amount is $51,300,000 above the Administration request.

The conference report earmarks $3,140,000 for the expansion and relocation of remote communications facilities. The Senate proposed this amount, which is $1,700,000 above the Administration recommendation.

The conference report incorporates the House recommendation of $6,700,000 for the Omega termination cost. There was no budget request for this item.

The conference report includes $67,000,000 for the replacement of terminal air traffic control facilities. Both the House and Senate Appropriations Committees recommended more than the $62,000,000 budget request.

As did the House, the conference report allocates $27,600,000 for construction of the Potomac Metroplex, instead of the budget request of $2,600,000.

The conference report sets aside $20,000,000 for the Atlanta Metroplex, $4,400,000 more than the Administration requested, but $5,400,000 less than the House proposed.

The conference report earmarks $7,500,000 for airport surface detection equipment (ASDE–3). The Administration made no budget request, although the House recommended $8,600,000.

The conference report earmarks $11,600,000 for the airport movement area safety system (AMASS), which is below the House recommendation, but well above the Administration budget request of zero.

The conference agreement includes funds of $10,000,000 above the budget request, per the Senate, for the acquisition of additional automated surface observing systems.

At the direction of the House, the conference report earmarks $3,000,000 for LORAN–C upgrades, although the Administration did not make a request for this budget item.

The Administration requested no funds for precision approach path indicators. The conference agreement earmarks $3,000,000, which is less than both the House and Senate recommendations.

Per Senate direction, the conference report earmarks $3,500,000 for anemometers and related equipment in Juneau (AK). The Administration did not include a budget request for this item.

The conference agreement allocated $19,200,000 for sustaining and supporting electrical power systems, $3,000,000 above the Administration request, but less than the Senate recommendation.

In line with the House recommendation, the report earmarks $4,000,000 for a display system replacement simulator at the Mid-America Aviation Resource Consortium (MN).

The conference report sets aside $12,100,000 of the "ARTCC building/plant improvements" funds for relocation of the Honolulu center/radar approach control, as proposed by the Senate.

The conference report directs the FAA to conduct a study to determine if the air traffic control tower at the Tucson International Airport needs to be relocated to ensure the continued safety of flight operations at this airport.

In the Research, Engineering, and Development account, the conference report sets aside $21,258,000 for capacity and air traffic management technology, above the Administration request of $9,108,000.

The conference report provides $15,300,000 for weather research, above the Administration request of $3,982,000. The conferees further directed that $500,000 of these funds be allocated to the Center for Wind, Ice and Fog (NH), $3,000,000 to Project SOCRATES, and $11,000,000 to the National Center for Atmospheric Research.

The conference report earmarks $49,202,000 for aircraft safety technology, in excess of the Administration request of $26,625,000. The conferees further directed that of the $21,540,000 provided for "aging aircraft," $3,000,000 is to go for direct support of the Aging Aircraft Nondestructive Inspection Validation Center; $1,000,000 for aging aircraft-related activities at the Center for Aviation Systems Reliability; $6,000,000 for the Airworthiness Assurance Center of Excellence; $1,500,000 to conduct research at the Center for Intelligent Aviation Technologies; and $4,400,000 to further engine titanium component inspection.

The conference report earmarks $26,550,000, above the Administration request of $10,737,000, for human factors and aviation medicine. Of that amount, $500,000 is available only for additional research into assessment, evaluation and development of training methodologies related to the English language proficiency problem.

Of the "explosives and weapons detection" account, $1,250,000 is earmarked for the continued development of pulsed fast neutron transmission spectroscopy technology.

SURFACE TRANSPORTATION

The conference report reminds the Executive Branch that the best evidence of Congressional intent can be found in reports. The conference report specifically states that earmarks and instructions in the House and Senate reports that accompany the Transportation Appropriations Act of 1998 remain the intent of the conferees. Unless otherwise discussed in the statement of managers, the House and Senate earmarks and instructions stand.

Earmarks all intelligent transportation operational test funds ($83,900,000) for 41 specific projects, including a convention center passenger information system to an emergency weather system. The Senate version originally had 24 earmarks. Specific dollar amounts are established for each and every project listed. The Administration requested ZERO for intelligent transportation operational tests.

Earmarks all but $3 million of the $400,978,000 provided for the discretionary bus and bus-related facilities program. The Senate version originally had 87 earmarks, the conference report now has 118. The Administration did not request any earmarked projects for the discretionary bus and bus-related facilities program.

Earmarks all of the $800 million provided for the discretionary fixed guide way modernization program. The Senate version originally had 40 projects, the conference report now lists 65 projects. The Administration requested $634,000,000, all of which was earmarked to fund the federal share of 15 authorized projects or projects with regional transit operator systems having Full Funding Grant Agreements with the Federal Transit Administration.

Conferees "encourage" FHWA's central federal lands highway division to conduct an engineering study of a landslide affecting parts of a highway within the boundaries of Badlands National Park.

Directs the Federal Railroad Administration to support the implementation of short term railroad operating and long term relocations between railroads and local communities, including Metairie, Louisiana.

Earmarks $17 million for life and safety improvements for the Pennsylvania station redevelopment project in New York City.

Directs NHTSA to provide $100,000 to develop a biofidelic child crash test dummy.

Earmarks $700,000 for a new state pilot program for States experiment with alternative safety restraint bar devices on school buses.

The Intelligent Transportation System Operational Testing Earmarks are:

$775,000 for an advanced transportation weather information system at the University of North Dakota; $1 million for the Arizona National Center for Traffic and Logistics Management; $1.5 million for commercial vehicle operations on I–5 in California; $1.55 million for the Cumberland Gap tunnel in Kentucky; $1 million for a toll collection system in Dade County, Florida; $875,000 for a traveler information system in Franklin County, Massachusetts; $5.5 million for a freeway traffic management system in Milwaukee; $1.5 million for Houston, Texas; $1.7 million for a rural intelligent transportation system corridor in Wisconsin; $500,000 for Inglewood, California.

$5.5 million for intelligent transportation systems in Louisiana; $325,000 for a passenger information center at a convention center in Philadelphia; $6 million for Minnesota Guidestar; $750,000 for a traffic guidance system in Nashville, Tennessee; $6 million for National capital regional congestion mitigation; $1 million for an organization called National Institute for Environmental Renewal; $1.25 million for the I–90 connector at Resselaer County, New York; $1 million for I–275 at St. Petersburg, Florida; $1 million for an advanced transportation management system in Syracuse, New York; and $1 million for the Texas Transportation Institute.

$500,000 for intelligent transportation systems at Rte. 236/I–495 in Northern Virginia; $1 million for the Western Transportation Institute in Montana; $1.150 million for the Southeast Michigan snow and ice management system; $3.5 for intelligent transportation systems in Utah; $1 million for an intermodal common communications technology project in Kansas City, Missouri; $1.875 million for intelligent transportation systems in Reno, Nevada; $8 million for traffic management new Barboursville, West Virginia; $600,000 for an advanced traffic analysis center at North Dakota State University; $1 million for an emergency weather system in Sullivan County, New York; $250,000 for the Urban Transportation Safety Systems Center in Philadelphia; and $1.1 for toll plaza scanners in New York City.

$1 million for the computer integrated transit maintenance environment project at Cleveland, Ohio; $1 million to the ATR Institute to conduct an intermodal technology demo project at Santa Teresa, New Mexico; $1 million for hazardous materials emergency response software for Operation Respond; $750,000 for radio communication emergency call boxes in Washington State; $1.250 million for a statewide roadway weather information system in Washington; $1 million for an I–95 multi-state corridor coalition; $9 million for truck safety improvements on I–25 in Colorado; $2.2 million for traffic integration and flow control in Tuscaloosa, Alabama; $6 million for intelligent transportation systems for the Pennsylvania Turnpike Commission; and $1 million for cold weather intelligent transportation system sensing in Alaska.

The Bus and bus-related facilities discretionary program earmarks:

$25.5 million for Alabama projects (10 projects); $5.5 million for Arizona projects (2 projects); $38.4 million for California projects (23 projects); $5.5 million for Colorado; $5.750 million for Connecticut (3 projects); $1.5 million for Delaware; $20 million for Florida (10 projects); $9 million for Georgia (2 projects); $5 million for Hawaii; $4.5 million for Illinois; $4 million for Indiana (2 projects); $4 million for Iowa (2 projects); $1 million for Kansas; $13.9 million for Louisiana; $8 million for Maryland; $6 million for Massachusetts (5 projects); $7.5 million for Michigan; $10.5 million for Minnesota (2 projects); and $2 million for Mississippi.

$16 million for Missouri (3 projects); $9.5 million for Nevada (2 projects); $6 million for New Jersey; $7.750 for New Mexico (5 projects); $34.325 million for New York (12 projects); $6 million for North Carolina (2 projects); $12.5 million for Ohio; $3 million for Oregon (3 projects); $27.350 million for Pennsylvania (20 projects); $6 million for South Carolina (3 projects); $2.250 million for South Dakota; $8 million for Tennessee; $14.950 million for Texas (7 projects); $8.9 million for Utah (5 projects); $2.5 million for Vermont (2 projects); $6.050 million for Virginia (4 projects); $19.5 million for Washington (12 projects); $16.250 million for West Virginia (2 projects); and $14 million for Wisconsin (2 projects).

The Discretionary Fixed Guide way Earmarks are as follows: Projects marked with an asterisk were requested by the Administration

*$44.6 million for the Atlanta-North Springs Project; $ 1 million for the Austin Capital metro; *$46.250 million for Boston Piers MOS–2 project; $1 million for the Boston urban ring; $5 million for commuter rail in Vermont; $2 million for a commuter rail project in Canton-Akron-Cleveland, Ohio; $1.5 million for the Charleston monobeam rail project in South Carolina; $1 million for the Charlotte South corridor transitway project; $500,000 for the Cincinnati Northeast/Northern Kentucky rail line project; $5 million for a fixed rail line project in Clark County, Nevada; $800,000 for a rail line extension to Highland Hills in Ohio; $700,000 for a Cleveland rail line extension to Hopkins International Airport; $1 million for a waterfront line extension project in Cleveland; $8 million for the RAILTRAN project in Dallas-Fort Worth, Texas; $11 million for the DART North central light rail extension project; $1 million for a light rail project in DeKalb County, Georgia; *$23 million for the Denver Southwest corridor project; $20 million for an East Side access project in New York; $8 million for the commuter rail project in Florida's Tri-County area; $2 million for the Galveston rail trolley system project; $1 million for Houston's advanced regional bus plan project; $51.1 million for Houston's regional bus project; and $1.250 million for Indianapolis' Northeast corridor project;

$3 million for an intermodal corridor project in Jackson, Mississippi; *$61.5 million for Los Angeles' MOS–3 project; *$31 million for MARC commuter rail improvements in Maryland; $1 million for a regional rail project in Memphis, Tennessee; $5 million for a transit east-west corridor project in Florida; $5 million for Miami's North 27th Avenue project; $1 million for a corridor project called Mission Valley East; $500,000 for a Nassau hub rail link EIS; *$60 million for New Jersey-Hudson-Bergen project; *$27 million for New Jersey Secaucus project; $6 million for New Orleans Canal Street corridor project; $2 million for New Orleans streetcar Desire project; $12 million for North Carolina Research Triangle Park project; $4 million for Northern Indiana South Short commuter rail project; $3 million for Oceanside-Escondido light rail; $1.6 million for Oklahoma City's MAPS corridor transit project; $2 million for a transitway project in Orange County; and $31.8 million for Orlando's Lynx light rail project.

$500,000 for Pennsylvania's Strawberry Hill/Diamond Branch rail project; $4 million for Phoenix's metropolitan area transit project; $5 million for Pittsburgh's airport busway project; *$63.4 million for Portland-Westside/Hillsboro project; $2 million for a project called Roaring Fork Valley rail; *$20.3 million for Sacramento's light rail transit project; *$63.4 million for Salt Lake City's South light rail transit project; $4 million for regional commuter rail in Salt Lake City; $1 million for San Bernardino's Metrolink project; $1.5 million for San Diego's Mid-Coast corridor project; *$29.9 million for San Francisco's BART extension to the airport; *$15 million for San Juan Tren Urbano; *$21.4 million for San Jose Tasman light rail transit project; $18 million Seattle-Tacoma commuter and light rail projects; *$30 million for St. Louis-St. Clair light rail transit project; $2.5 million for a St. George ferry terminal project; $500,000 for commuter rail between Springfield & Branson, Missouri; $1 million for a regional rail project in Tampa Bay; $2 million for a rail project in Tidewater, Virginia; $1 million for a rail project in Toledo, Ohio; $12 million for transitways projects in the Twin Cities; $2 million for commuter rail projects at Virginia Railway Express; $2.5 million for the Whitehall ferry terminal project; and $3 million for the central commuter rail project in Wisconsin.

Mr. KERRY. Mr. President, I would like to express my support for the conference agreement on H.R. 2169, the Transportation Appropriations bill for fiscal year 1998. I would like to express particular gratitude to the diligent efforts of Senator LAUTENBERG of New Jersey who has a keen understanding of the need to modernize and upgrade the aging transportation infrastructure of the congested Northeast. I also want to thank Senator SHELBY of Alabama for his leadership this year on transportation matters.

This bill is very important for Massachusetts and for the Nation. For Massachusetts, it contains funding for several important projects. I am very pleased that the conference report provides $3 million for the Worcester Union Station Intermodal Center. This facility, which has been recognized as a model for both urban revitalization and transportation planning, will be situated in a newly renovated Union Station and will provide convenient regional access to commuter rail, Amtrak, inter-city and intra-city buses, taxis, airport shuttles, bikes and private passenger vehicles for Worcester County's 710,000 residents.

I am also pleased that the report provides continued funding—$1 million in fiscal year 1998—for the restoration of historic Union Station in Springfield, MA, as an active intermodal center. Once restored, Springfield Union Station will provide an essential gateway to the Pioneer Valley to alleviate congestion and better serve the local and interstate bus and Amtrak passenger traffic which is growing by 9 percent annually. This facility will also help connect the city's two largest job districts which are currently divided by disjointed traffic and development patterns. With the Federal funds provided last year and over $1 million in local funds, the city has quickly moved forward on project planning, land assembly and demolition of a deteriorated adjacent building. Indeed, the State legislature has approved $10 million to date for this important project.

I welcome the Conference Committee's support in the form of $2 million in funding for the Urban Ring transit system in the Boston region. The need for such a system arises from the strongly radial structure of Greater Boston's existing transit system. It consists of spokes emanating from the downtown core to neighborhoods of Boston and cities and towns throughout eastern Massachusetts. With an

Urban Ring transit route, Massachusetts will begin to link these spokes in an arc around downtown, providing easier access to centers of economic growth outside the core and reducing congestion in the subway system by allowing commuters the opportunity to travel between home and workplace without the necessity of traveling into the downtown area and back out again.

I appreciate the Conference Committee's continued strong support for the South Boston Piers Transitway project, a vital element in the Commonwealth's State Implementation Plan required under the Clean Air Act. The Transitway, expected to carry approximately 6.4 million riders annually, will be integrated with the extensive network of transit, commuter rail, and bus services now available at Boston's South Station and will catalyze the development of the South Boston Piers area which has the highest potential for development and job creation in the City of Boston.

I'm also pleased that the conference report includes $875,000 for the Franklin County Visitors Information System. In western Massachusetts, many small, renowned cultural and historical museums and attractions are spread over distances where the lack of an effective road system hinders potential visitors. The Franklin County Chamber of Commerce, in conjunction with the University of Massachusetts at Amherst, hopes to develop a guidance system that makes use of the latest interactive kiosk technologies and mapping capabilities simultaneously to improve the road network for western Massachusetts and enhance access to the multiplicity of community resources.

I support the Conference Committee's decision to provide greater funding for Amtrak than the amount of funding in the Senate bill. However, it is my hope that the Senate and the House will devote extraordinary efforts over the next few weeks to enact Amtrak reauthorization legislation so that the capital funding set aside during budget reconciliation can be released and spent. Only then will Amtrak receive sufficient capital funding over the next several years. It is no secret that the year-to-year battles over capital funding for Amtrak have greatly inhibited Amtrak's ability to operate an efficient, and financially stable national passenger rail service. Congress must act on this matter as soon as possible.

I also support the Conference Committee's decision to provide $4.8 billion in Federal transit assistance. Though ISTEA has not yet been reauthorized, I strongly believe that making investment in public transportation a top priority will bear rich economic, social and environmental dividends for the Nation.

The Conference Committee is to be commended for the fiscal year 1998 Coast Guard budget. This budget represents a significant increase from fiscal year 1997 funding and certainly represents Federal dollars well spent. But I must add that my enthusiasm is somewhat tempered by my deep concern regarding the current state of resource allocation and usage within the Coast Guard. The Coast Guard's responsibilities have grown with the many new fisheries enforcement requirements that came with the passage of the Sustainable Fisheries Act last year and continuing pressure in the constant battle in the war on drugs. I am concerned that, in the effort to cover all of these responsibilities, we may be making tradeoffs that may come back to haunt us later.

As you well know, I represent a coastal State that has a 200-year-plus history of reliance on the Coast Guard. For that reason, I probably have a better understanding than many Senators of the value of the Coast Guard to the citizens of our Nation that make a living in the coastal regions or on the high seas. In fact, the Massachusetts coastal zone contributes 53.3 percent, or $70.7 billion, to the state economy. Further, there are over 10,000 fishing families in New England that depend on the Coast Guard for their safety and are in fact viewed as their "real" guardian angels. One of many concerns that I have for these families is that with the recent catastrophic failure of the New England groundfish fishery that our fishermen are traveling further, in rougher weather, to catch fewer fish. Additionally, because of the personal financial hardship that has resulted from the collapse of the fishery, I fear that they are cutting corners to save a dollar such as not outfitting their boats and crews with the vital safety equipment that are required by law. I am concerned that we may cutting corners at their expense.

We may be at a point where we need to stop and reassess the current condition of the Coast Guard. As we continue to examine the Federal budget for those areas where cost savings can be achieved, we need to realize that there exists a point beyond which most Americans are not willing to go in order to save a dollar, and I believe we are at a point where we need to take a strategic look at the ability of the Coast Guard to continue to meet the demands of the American public into the 21st century.

In sum, taking the concerns I have voiced into account, I support this bill because it approaches transportation spending from a national perspective, and it strives to maintain and improve the transportation infrastructure that is so vital to the economic well-being of our Nation. I hope my colleagues will join me in supporting it. Thank you, Mr. President.

Mr. SHELBY. Mr. President, I have an agreement we have worked on which basically says that on some appropriate vehicle in the future I will work with Chairman STEVENS and other members to include a technical correction to this conference report to accomplish the following:

At section 337(c) we will insert, after the words: "House and Senate Committees on Appropriations," "and the Senate Committee on Commerce, Science, and Transportation."

I am doing this at the suggestion of Senator HUTCHISON from Texas, and we have agreed to this.

Mr. President, at this time I will yield back the remainder of my time if the Senator from New Jersey will.

Mr. LAUTENBERG. I yield the remainder of my time.

Mr. SHELBY. I yield the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the conference report accompanying H.R. 2169 is agreed to.

The conference report was agreed to.

Mr. ROBERTS. Mr. President, I ask unanimous consent that I may address the Senate for 12 minutes as if we were in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. ROBERTS pertaining to the introduction of S. 1284 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Oklahoma is recognized.

THE ABM TREATY

Mr. INHOFE. Mr. President, 10 days ago was the 25th anniversary of a policy in this country that was articulated in a treaty called the ABM Treaty. It was a treaty that many of us at that time did not think was in the best interests of this country. It was a treaty that came from the Nixon administration, a Republican administration. Of course, Henry Kissinger was the architect of that treaty in 1972.

Essentially what it did was say to any adversaries out there that we will agree to disarm and not to be prepared to defend ourselves if you agree to do the same thing. Some people refer to it as mutual assured destruction, a policy I certainly did not adhere to at the time, did not feel was good policy for this country. However, there was an argument at that time, because we had two superpowers—we had the then Soviet Union and of course the United States—and at that time we had pretty good intelligence on them, they had pretty good intelligence on us, so I suppose we would be overly critical if we said there was just no justification for that program, even though I personally disagreed with it at that time.

Since that time, starting in 1983 in the Reagan administration, we have

elevated the debate that there is a great threat out there and that threat is from the many countries that now have weapons of mass destruction. Over 25 nations now have those weapons, either chemical, biological, or nuclear weapons. The critics, those who would take that money and apply it to social programs as opposed to defending our Nation, use such titles as "star wars," and they talk about the billions of dollars that have been invested.

Anyway, we are at a point right now where something very interesting has happened just recently. That is, on this 25th anniversary, we have found that the Clinton administration, just about 10 days ago, agreed to create new parties to the ABM Treaty. That would be Belarus, Kazakhstan, Ukraine, and Russia. This is going to have to come before this body. I think this is an opportunity that we need to be looking for, because all it would take is 34 Senators to reject this multilateralization of the ABM Treaty.

Right now we have a number of systems that we are putting into place to defend the United States of America, both the national missile defense as well as a theater defense. Certainly, with what is going on right now in Russia and Iran, the need for such a system has been elevated in the minds of most Americans.

We have right now, as we speak, 22 Aegis ships that are floating out there in the ocean, already deployed. They have the capability of knocking down missiles when they are coming in. All we have to do is take them to the upper tier, and we will have in place a national missile defense system. Certainly that is something that could take care of our theater missile needs. So several of us feel that we should go ahead and conclude that is the system that we need. However, that does violate, probably violates, the ABM Treaty, as it is in place today. So I believe we should take this opportunity that is there, when it comes before this body for ratification, to reject this and thereby kill the ABM Treaty, which certainly is outdated.

By the way, it is interesting, the very architect of that treaty, Dr. Henry Kissinger, someone whose credentials no one will question, even though they may question some of his previous policy decisions, Dr. Kissinger, who is the architect of the 1972 ABM Treaty, now says it is nuts to make a virtue out of your vulnerability. He is opposed to continuing the ABM Treaty at this time.

So I hope we will take this opportunity to get out from under a treaty that imposes restrictions on our ability to defend ourselves and reject the upgraded system, or the treaty, as it comes before us and take this opportunity to defend America.

We have an opportunity to get out from under the restriction imposed upon us by the ABM Treaty.

We have an opportunity to elevate our Aegis system.

We have an opportunity to defend America.

After all, Mr. President, isn't that what we are supposed to be doing?

I ask unanimous consent that a decision brief from the Center for Security Policy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A DAY THAT WILL LIVE IN INFAMY: 25TH ANNIVERSARY OF THE A.B.M. TREATY'S RATIFICATION SHOULD BE ITS LAST

(Washington, D.C.): Twenty-five years ago tomorrow, the United States ratified the Anti-Ballistic Missile (ABM) Treaty; this Friday will mark the 25th anniversary of that Treaty's entry into force. With those acts, America became legally obliged to leave itself permanently vulnerable to nuclear-armed ballistic missile attack.

It is highly debatable whether such a policy of deliberately transforming the American people into hostages against one means of delivering lethal ordnance against them (in contrast to U.S. policy with respect to land invasion, sea assault or aerial attack) made sense in 1972. It certainly does not today, in a world where the Soviet Union no longer exists and Russia no longer has a monopoly on threatening ballistic missiles or the weapons of mass destruction they can carry.

THE REAGAN LEGACY

Indeed, as long ago as March 1983, President Reagan dared to suggest that the United States might be better off defending its people against nuclear-armed ballistic missile attack rather than avenging their deaths after one occurs. And yet, while Mr. Reagan's address spawned a research program that became known as the Strategic Defense Initiative (SDI)—into which tens of billions of dollars have been poured over the past fourteen years, the ABM Treaty remains the "supreme law of the land." As a consequence, the United States continues to fail what has been called "the one-missile test". No defenses are in place today to prevent even a single long-range ballistic missile from delivering nuclear, chemical or biological warheads anywhere in the country.

This is all the more extraordinary since Republicans and like-minded conservatives have generally recognized that such a posture has become not just dangerous, but also reckless in the "post-Cold War" world. In fact, one of the few commitments of the 'Contract With America' that remains unfulfilled was arguably among its most important—namely, its promise to defend the American people against ballistic missile attack. Successive legislative attempts to correct this breach-of-contract have all foundered for essentially two reasons.

WHY ARE WE STILL UNDEFENDED?

First, most Republicans have shied away from a fight over the ABM Treaty. Some deluded themselves into believing that the opportunity afforded by the Treaty to deploy 100 ground-based anti-missile interceptors in silos at a single site in Grand Forks, North Dakota would allow the U.S. to get started on defenses. Even though such a deployment would neither make strategic sense (it would not cover the entire United States from even a limited attack) nor be justifiable from a budgetary point of view (while estimates vary widely, costs of this minimal system could be well over $10 billion), some missile defense proponents rationalized their support for it by claiming that the anti-defense crowd would not object to this "treaty-complaint" deployment and that it would be better than nothing. To date, however, all these "camel's-nose-under-the-tent" schemes have come to naught.

Such a system would create a basis for addressing new-term missile threats and complement space-based assets that may be needed in the future. The only problem is that the ABM Treaty prohibits such an affordable, formidable sea-borne defensive system. It must no longer be allowed to do so.

THE BOTTOM LINE

As it happens, the opening salvos in what may be the endgame of the ABM Treaty fight were sounded this weekend at the first International Conservative Congress (dubbed by one participant "the Conintern"). One preeminent leader after another—including House Speaker Newt Gingrich, former British Prime Minister Margaret Thatcher, once-and-future presidential candidate Steve Forbes, former UN Ambassador Jeane Kirkpatrick, Senator Jon Kyl and nationally syndicated columnist Charles Krauthammer—denounced the idea of making it still harder to defend our people against ballistic missile attack. Several, notably Senator Kyl and Mr. Forbes, have explicitly endorsed the AEGIS option to begin performing that task.

In an impassioned appeal for missile defenses as part of a robust military posture, Lady Thatcher said yesterday:

"A strong defense, supported by heavy investment in the latest technology, including ballistic missile defense, is as essential now, when we don't know who our future enemy may be, as in the Cold War era. And my friends, we must keep ahead technologically. We must not constrain the hands of our researchers. Had we done so in the past, we would never have had the military superiority that in the end, with the dropping of the atomic bomb, won the war in the Far East and saved many, many, lives, even through it destroyed others. We must always remain technologically ahead. If not, we have no way in which to be certain that our armed forces will prevail. And the research and technology of the United States is sheer genius, and it always has been."

With such leadership, there now looms a distinct possibility that the American people can finally be acquainted with the ominous reality of their vulnerability and empowered to demand and secure corrective actions. Thanks to the Clinton ABM amendments and the new technical options for defending America, we have both the vehicle for getting out from under an accord that was obsolete even in Ronald Reagan's day and the means for making good and cost-effective use of the freedom that will flow from doing so.

Mr. INHOFE. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

THE DEFENSE BUDGET

Mr. BUMPERS. Mr. President, about 10 days ago the Senate adopted the appropriations bill on defense. I sit on the appropriations committee. I was one of five Senators who voted no. I think the bill passed 95 to 5.

I don't enjoy voting against a defense budget. I am not running again, so I

am not worried about somebody accusing me of being soft on defense. That has always been the mortal fear of Members of the Senate when you are voting on weapons system, that their opponent in the next election will accuse them of being soft on defense.

Sometimes I think we should be accused of being soft in the head. We passed a bill that contained $247.5 billion for defense, and that did not include nuclear weapons and weapons development. That is all handled in the energy and water appropriations bill. And it did not include military construction, which is also in a separate bill. When you add those together, the appropriations for national defense total $268.2 billion. That is right up there with what we spent in the cold war.

If, in 1985, you had asked the Chairman of the Joint Chiefs of Staff, indeed, if you had asked all the chiefs, "If the Soviet Union were to suddenly be dissolved and disappear, how much do you think we could cut the defense budget," I promise you the answer would have been anywhere from $50 billion to $100 billion. Today the Soviet Union has been dissolved. It does not exist anymore. The military forces of Russia are in shambles. And we are appropriating $268 billion—big, big figures.

What are we thinking about? There is not a major enemy in sight. How much do we spend? And who are we afraid of? Here is a little chart that I believe my colleagues will find interesting. When we appropriate $268 billion, we are spending twice as much as all of the eight potential enemies we could possibly conjure up. Here is what the United States spent, $268 billion; Russia, $82 billion; China, $32 billion; and the six rogue countries, $15 billion. So we spend twice as much as all of those countries, twice as much as Russia, China, Iran, Iraq, North Korea, Syria, Libya, Cuba combined. And when you add the NATO alliance, Japan and South Korea to what we are spending, it comes to four times as much. The United States and its allies are now spending four times as much for defense as virtually everybody else in the world.

That is the macro overlook of what I think is terribly wrong with the way we are appropriating money. But within that $268 billion, let me just tell you some of the reasons I could not stomach it. Between 1998 and 2001, under that bill, we are going to retire 11 Los Angeles class submarines that have an average of 13 years left on their lives. What are we doing? When we appropriated the money to build Los Angeles class submarines, we were assured these submarines were the best in the world and that they had a 30-year life. Everybody beat themselves on the chest and said isn't that wonderful, we are building submarines that have a 30-year life. So now we are retiring 11 of them that still have 13 years left on their lives. Why? So we can build one new attack submarine in fiscal 1998 at a cost of $2.3 billion.

You talk about penny-wise and pound-foolish; we are going to spend $3.4 billion for four DDG–51 destroyers. That is even one more than the Pentagon requested. How are we going to pay for that? Well listen to how we are going to pay for it. First of all, I am offended because they are retiring a ship that Betty Bumpers is the chief sponsor of. We christened the CGN–41, a guided missile nuclear ship, back in 1979. That ship had a life expectancy of 38 years, and we are about to scrap it. It is as modern as tomorrow. We are going to scrap it so we can build four new DDG–51 class destroyers, to keep the shipyards busy. We are retiring one of the most beautiful ships you will ever see, and it has 18 years left on its life.

We are also retiring three Perry-class frigates that have 20 years left on their life. What in the name of all that is good and holy do we care what the life expectancy of a ship is if we are going to retire them in order to make room for some more ships? The first thing you know, we will be building them and retiring them before they go into service so we can keep the shipyards busy.

Then, Mr. President, there is the $331 million in this bill for the B–2 bomber. Let me say in all fairness, as long as William Jefferson Clinton is President, we are not going to start building B–2 bombers. I heard him speak on that subject. But what are we doing? We are saying, "Well, Mr. President, we know you don't like the B–2, so what we're going to do is give you $331 million to start building nine more B–2 bombers, but if you don't want to do that, then spend this money on spare parts on the ones we have."

The Pentagon and the Air Force didn't ask for an additional $331 million in spare parts, and we are not going to build the B–2. Why in the name of all that is good and holy are we putting $331 million in the budget?

I come finally to the two items that really burn me worse than any other part of the budget. First, the F–22 fighter. When you start seeing full-page pictures in the New York Times and the Washington Post and in Roll Call and The Hill newspaper of this magnificent F–22 fighter, you can bet your bottom dollar the full-court press is on. I have no more ability to stop the F–22 fighter than I can keep the Earth from revolving. Once a plane like that develops the kind of momentum the F–22 has, nobody can stop it. Nobody can stop it no matter how foolish it is.

Let me wedge the F–22 fighter for you in between two other fighter planes. Right now we are beginning to build a new version of the Navy's F–18 fighter plane called the F–18 E/F. It is the most advanced version of the F–18 to date. Cost? Mr. President, $90 million each. Number? Probably around 600.

The Navy says, and the intelligence community confirms, that the F–18 fighter will be superior to any other non-American fighter plane in the world through the year 2015. I repeat: The 500 to 600 F–18 E/F's we are going to build will be superior to any non-American fighter plane known in the world between now and the year 2015. The Navy says it will provide air dominance until the year 2020. I am for it. We are building it. It is a magnificent airplane.

So what are we going to do now in the year 1998 to 2000? We are going to start building this F–22. Do you want to know the cost of that? Sixty-two billion dollars for 339 airplanes. That comes to somewhere between $180 million and $190 million each, which makes it precisely twice as expensive as the most expensive fighter plane ever built in the United States.

If we needed it, we might justify the cost. But if we don't need it, we couldn't justify it at any cost. An Air Force official has said, "I promise you, we will build these 339 planes for $61.7 billion."

We just happened to be debating the authorization bill for defense at that time. I said, "OK, we'll take you at your word. I can't stop the plane, which I would divinely like to do, but we will hold you to your word. You say you can build it for $61.7 billion. Let's put that in the bill, that you may not spend more than that."

Do you know what? They are already hollering like a pig under a gate: "We can't live with it."

So when you talk about a $190 million airplane, that is what they are saying today. Anybody who has been in the Senate as long as I have knows they are not about to build that plane for that. They already cut the number of planes because they faced a $16 billion cost overrun.

To proceed with the sequence, in the year 2005, we are going to start building what we call the Joint Strike Fighter, and we are going to build about 2,800 of those. I happen to support the Joint Strike Fighter because it is going to be used by the Navy, the Air Force, and the Marine Corps. It is supposed to cost much less than $100 million each and be a state of the art fighter plane.

So why are we sandwiching this F–22 fighter at a cost of $62 billion between the F–18 and the Joint Strike Fighter? Why? Because the lobbyists have the power to make it happen, not because we need it. It is a cold-war relic.

You might ask, "Well, who dreamed up the F–22?" I will tell you who dreamed it up. The Russians. Back

when the old Soviet Union kept us from sleeping at night, they announced in the early 1980's, back in the heyday of the Soviet Union, "We're going to build a fifth-generation fighter that's going to be superior to anything ever built in the history of the world."

That is all you have to do to get the Pentagon's attention. So the Air Force went to the drawing board and started designing the F–22 to meet the threat of the Soviet Union and their fifth generation fighter.

What happened? The Soviet Union went bankrupt, and the fifth generation remained on the drawing board where it is today, unless they have lost it. What are we doing? We are getting ready to produce an airplane designed to compete with a plane that is still on the drawing board in Russia and may never come off the drawing board.

The F–22 has virtually no ground-attack capability. They put a couple bombs on it just so they could say it has ground-attack capability. It is a good airplane. I am not arguing that. You can build all kinds of airplanes that are good airplanes, but I want to tell you something, while it has a good air superiority capability, in Desert Storm and Iraq, we flew four times more ground-attack flights than we did flights to achieve air dominance and air superiority. Mr. President, this cold war relic should never have been built.

Finally, the argument that I thought I was going to finally win—I don't win many arguments on defense. I don't know of anybody who ever tries to kill a weapons system or bring some sanity to defense spending that ever wins. I can only remember two or three weapons systems in my 23 years in the Senate that we have ever stopped. They take on a life of their own, and the minute Congress starts looking at them, the manufacturers start running full-page ads in every newspaper and magazine in the United States, giving the American people the impression that we will be seriously threatened if we don't build that particular weapons system.

The one I thought I was going to win was to stop plans to backfit our Pacific fleet submarines with new ballistic missiles. We have 10 Trident submarines in the Atlantic and 8 in the Pacific. The ones in the Atlantic are furnished with what we call the D–5 missile. A fine missile, very accurate. It is the most modern, accurate ballistic missile we have. Our eight Trident submarines in the Pacific are equipped with an older missile called the C–4.

The C–4 is not quite as accurate as the D–5. Do you know what the difference is, Mr. President? According to unclassified data from the Congressional Budget Office, the C–4 lacks having the accuracy of the D–5, and the accuracy shortage is about 450 feet, or the distance from where the Presiding Officer is sitting right now to where the Speaker of the House is sitting down the hall.

When you consider the smallest warhead that goes on these missiles, the 100 kiloton W–76 warhead, would wipe the District of Columbia completely off the map, why, again, in the name of all that is good and holy are we getting ready to spend $5.6 billion to take the C–4 missiles off our Pacific fleet and replace them with the D–5 missiles? Do you know why? Because the Navy wants it, and the Navy and the industrial complex have the power to get it.

We had a serious debate in the appropriations committee on this, and as I started to say earlier, I thought I had won that debate. I thought the committee was agreeing with me. I thought the committee agreed that it would be the height of foolishness to retrofit those submarines in the Pacific when the warheads and the missiles on them will last longer than the submarines. No question about it.

So what are we going to do here when the cold war has long since ceased to exist? We are going to scare the life out of the Russians by modernizing our ballistic missile submarine fleet and spend $5.6 billion that we could save doing it. We may also keep the Russians from ratifying START II.

Oh, I could go on and on about what an utter waste of money that is. Did you know that those C–4 warheads I just described for you and the missiles on which they sit will last longer than the submarines? We are not even going to backfit four of the submarines because they are going to be retired before the C–4 missile will have lived out its usefulness.

So, Mr. President, I do, indeed, get agitated about these things, and I get frustrated.

The people sent us here to do a job as best we see fit.

When I see the needs of this country, when I see an educational system that needs to be fixed, when I see a planet threatened by environmental concerns, and when I see us fighting over who is going to get highway money to take care of the 200 million vehicles in this country, I get frustrated. Mr. President, do you know, just sort of digressing for a moment, when I was a young marine in World War II, I remember seeing in one of the papers in California that we had 30 million vehicles on the road.

You know how many we have today? Two hundred million. By the year 2050, at the rate we are going, we will have 400 million. Mother Teresa was the exemplification of a woman who lived the consummate Judeo-Christian life, God bless her soul, but she was fighting a losing battle from the very beginning. When she was a young novitiate, India had 250 million people. Today, they have almost 800 million. Mother Teresa was fighting a losing battle.

The highway commissions in our respective 50 States are fighting a losing battle, too. They are trying to build more highways, wider highways to accommodate 30 percent of all the vehicles in the world. Those 200 million vehicles in this country are 30 percent of all the vehicles in the world.

We are going to have to think differently and act differently if we are going to deal with our transportation needs in the future, or every city in America is going to be in gridlock.

In that connection, in putting that in the context of another burning issue around here called global warming, those 200 million vehicles contribute 27 percent of all the world's greenhouse gases that the United States throws into the stratosphere.

When you think of what it is going to cost to clean up all the Superfund sites in this country. To try to keep our water and air clean, and when I looked at the kind of money we spend on defense, so much of which is wasted, I had to come to the floor to make this speech.

I did not want to vote against the defense budget. I just simply say I thought it was too much money. It was a lot more than too much money. It was putting weapons systems in mothballs that have long lives left. It was buying weapons systems we do not need. It was cold war mentality at its worst when the cold war is over.

Mr. President, I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Thank you, Mr. President.

CHILD SAFETY LOCKS

Mr. KOHL. Mr. President, today eight of the largest gun manufacturers voluntarily agreed to include safety locks with every handgun they sell. I rise today to commend the President and the gun industry for their historic efforts.

This agreement addresses a very serious problem. Every year, many hundreds of children die from accidental shootings and thousands more try to take their own lives with guns. Encouraging parents to use safety locks will not save all of these young lives, to be sure, but it will save many of them. It will make a difference.

This deal, however, would not have been possible without the public outcry over these tragedies and the growing momentum for bipartisan child safety lock legislation. Our measure, which lost by a single vote in the Judiciary Committee this summer, requires the sale of a safety lock with every handgun.

Mr. President, in my opinion voluntary action is always better than Government regulation. For that reason, when we entered into negotiations

with gun manufacturers, we asked them to take this dramatic step on their own initiative. Today we are very pleased that most of the industry has responded so that 80 percent of all handguns manufactured in the United States will now be sold with child safety locks. But we will continue to push until the half million more handguns, including those manufactured abroad, are also covered.

We will also continue to encourage voluntary compliance, but until we have the support of the entire industry, we will move to enact our legislation. It should be easier now because most of the industry is already on board.

Mr. President, today's announcement is an important step for safety and a victory for families and children everywhere. We should all be grateful.

I thank you and yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

TERRORISM

Mr. D'AMATO. Mr. President, I would like to speak to an issue which confronts us nationally and which we, as a nation, seem to be ducking. I am talking about terrorism. I am talking about the need for this country to stand up and be counted in its fight against international terrorism whenever and wherever it occurs.

Today, Americans are threatened by two very distinct but serious kinds of terrorism. The first is international terrorism.

Mr. President, I am proud of my efforts that helped to pass the Iran-Libya Sanctions Act, a law designed to stop two renegade nations from having the means necessary to finance international terrorism—by punishing those companies who do business with them. The French oil company, Total, is trying to test our resolve. Total has struck a lucrative oil deal with Iran. This company is thumbing its nose at the United States. I believe it is incumbent upon us to remain strong in the face of these efforts to undermine our fight against terrorism. I call upon the French Government to join the fight against international terrorism, not to thumb its nose at the United States, not to applaud the efforts of Total.

I believe that our laws must be enforced and its strict sanctions must be brought to bear on Total. Every Member of this body, Mr. President, voted for the Iran-Libya Sanctions Act.

It is only when we see planes being shot down, it is only when the victims and their families come and say, What are you doing? that we stand up and take action. Every Member of this body should be outraged that Total has thumbed its nose at this ban. They did so deliberately. Its actions are an insult not only to this body but to all of the nations of the world who should be working together in a united front against terrorism.

Fighting international terrorism requires every nation to unite together, and it requires that we remain resolute. It requires that we put corporate greed and profits on the back burner. Many of our own companies are so worried about international profits.

But let me tell you, when terrorism strikes here, when you see what takes place, then an aroused American public gets us to do something. Only when we see the bombing at the World Trade Center—that is real; impacting people's lives—and when we see the Iranians and the Libyans give sanctuary to terrorists, only then will we maybe do something. But then some say, Not when corporate profits get in the way. Or our allies may say, Oh, no, don't do this, knowing that these are renegade governments and countries who sponsor terrorist attacks, who are responsible for over 300 U.S. citizens being killed—and the Libyans were and they now give sanctuary to two men who have been indicted.

No. Sadly, we have to do something. I am very concerned that the administration will shirk its responsibility.

Sadly, I also rise today to describe another kind of terrorism, Mr. President. It is one that is too often seen but little done. It is one that permeates our Nation's school systems, particularly inner-city schools. It is a terrorism in which violent juveniles prey upon good kids. And it has to stop.

Just as we must be united and remain resolute in our fight against international terrorism, we must be united and remain resolute in the fight at home. Once again, each and every one of us has a responsibility to stand up and fight this terrorism to make a difference. Business as usual is no longer acceptable. There is no more fundamental right in our democracy than the right of our children to have a good education. That requires that they be safe. That requires that a school be an oasis for learning.

Many people have asked me why I have taken such a public and outspoken position as it relates to education reforms. New Yorkers may have been shocked when they read yesterday's newspapers of gang violence in the public schools.

I point to those headlines. "Probe Rips Principals for Turning Blind Eye to the Gangs." The story in the New York Post turns to the issue of the gangs which have taken over schools.

The Daily News: "Fear Stalks Hallways as Hoods Take Over." One student says that he feels at times safer—safer—in dangerous neighborhoods at night than he does walking in the hallways.

We are not talking about violence in streets and alleys. This violence is taking place inside our schools, which should be sanctuaries to our children. That means that the real victims are our children. Just as we must stand up to Total and other companies who give aid and comfort to international regimes, we must stand up to the terrorism that is occurring in our classrooms. We must get violent and disruptive juveniles out of the classrooms so good kids can learn. We need fundamental sweeping reforms throughout our educational system.

In addition to getting violent and disruptive juveniles out of the classrooms, Mr. President, we need to give merit pay to the outstanding teachers, those who are dedicated, those who want to make a difference and those who do make a difference. We have to see that we have tenure reform in order to get those teachers who are not performing, who are bad teachers out of the classroom.

We need school choice so that parents can make educational decisions instead of Government bureaucrats.

Finally, Mr. President, we have to stand up to the teachers unions and tell them to put our children first. Unfortunately, the unions are more interested in their perks and privileges than they are in providing a good education for our children.

Above all, we must get violent and disruptive juveniles out of schools. I want to see more power given to our school principals to remove violent juveniles from the classrooms. We cannot tolerate the kind of situation that is taking place in more and more of our schools in more and more of our cities to more and more of our children.

Principals should have fast-track authority. You want to talk about fast-track authority for trade? Give our principals fast-track authority to expel gang members and other violent offenders. That is what we really need to be doing to help this country and to help the educational system.

Just like in the fight against international terrorism, more pressure has to be brought to bear on terrorism in our schools. The fight against terrorism in our schools must be a united fight. The teachers unions, who opposed every commonsense reform, surely can agree with the notion that violence in schools must be stopped. Instead of pushing for more pay and less work for teachers, the teachers unions should join me and others in a united effort to combat violence in our schools.

That is why I have been standing up to those who ask the question, "Why do you talk about this?" We have had debates about educational reform and getting more money directly to the District so they can spend it on students, not bureaucrats. We have had debates about giving parents choice so they can give their kids an opportunity to receive a quality education. But let me say something. In every one of

those situations we have seen the teachers unions come down and oppose this. They are against merit pay. They are against getting bad teachers out. They want to ensure lifetime contracts. They are interested in perks and privileges.

By gosh, for one time, join with us and see to it that we have meaningful reforms so that we can fast track violent students out of the schools, so that good and decent kids have an opportunity to have a good education, so that children can learn in safety.

Mr. President, I do not think there is a more important fight against terrorism that we can and must and should win than that which confronts our children every day, unfortunately, in too many of the schools throughout this country.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. CHAFEE. Mr. President, yesterday the Senate began consideration of the Intermodal Surface Transportation Efficiency Act of 1997, or sometimes referred to as ISTEA II.

This legislation is the product of well over a year of hard work and careful negotiation.

We had three different proposals, Mr. President, all commendable, and the requirement before us was to integrate these different proposals into one unified plan that all of us could rally around. When I say us, I was, of course, talking about the committee at the time, the 18 members of the Environment and Public Works Committee, but hopefully the entire Senate. When I am taking about 18 members, I, of course, am referring to Democrats and Republicans.

I am pleased that the bill before the Senate truly represents a consensus effort with cosponsors from all regions of the country and from both sides of the aisle. The results of these efforts, so-called ISTEA II—ISTEA, again, referring to Intermodal Surface Transportation Efficiency Act of 1997—provides $145 billion over the next 6 years for our Federal highway, highway safety, and other surface transportation systems.

Mr. President, this is a 20-percent increase for the Federal aid highway program over the level provided in the original ISTEA, which stretched from 1991 to 1997 a, 6-year bill. This bill preserves and builds upon the laudable goals of intermodalism, flexibility, and efficiency, all of which goals were found in the original ISTEA legislation.

It does so within the parameters of the balanced budget agreement that Congress passed just 2 months ago, Mr. President. In my view, the most important aspect of this bill is that it works within the context of a balanced budget. We were given x amount of dollars, we stayed within that x amount of dollars. I feel very strongly about that, Mr. President.

On the Nation's highways you get to where you are going by staying within the lines and playing by the rules. The budget is no different. I am very proud that the program that we brought out of the Environment and Public Works Committee, so-called ISTEA II, stays within the parameters of the balanced budget, a budget, as I say, we only adopted 2 months ago.

S. 1173 addresses the concerns of the State by making the program easier to understand and by providing greater flexibility to States and localities. It reduces the number of ISTEA program categories. Under the existing ISTEA legislation there are five categories that we drop to three. It includes more than 20 improvements to reduce the red-tape involved in carrying out transportation projects. Moreover, this bill significantly reforms the ISTEA funding formulas to balance the diverse needs of the various regions of the Nation. Forty-eight of the 50 States share in the growth of the overall program and the bill guarantees 90 cents back for every dollar of State moneys contributed into the highway trust fund. This is a very, very significant advancement and change from the ISTEA legislation currently on the books.

Now, this ISTEA II recognizes the diversity and uniqueness of the country and all its transportation needs. The aging infrastructure and congested areas of the Northeast, the growing population and capacity limitations in the South and Southwest, and the rural expanses in the West, all of these require different types of transportation investments. By making the surface transportation program more responsible to all regions of the country, S. 1173 will ensure that the integrity of the original ISTEA program is upheld.

Now, Mr. President, to bridge the gap between limited Federal funds and formidable infrastructure needs, this bill makes a strategic investment in the Nation's transportation system. During the 1950's and the 1960's it made more sense for the Nation to build—that is what we were concentrating on, building an interstate system. Today we need to be more creative. We must carefully plan and allocate our limited resources.

ISTEA II includes a number of innovative ways to finance transportation projects. It establishes a Federal credit assistance program for surface transportation. This new program leverages limited Federal funds by allowing up to $10.6 billion Federal line of credit for transportation projects at a cost to the Federal budget of just over $500 million—in other words, for half a billion we are able to leverage up to $10.6 billion of a Federal line of credit for transportation projects.

To enable States to make the most of their transportation dollars, this bill expands and simplifies the State infrastructure bank program. One of the wisest transportation investments we can make is to do everything we can on behalf of the safety of drivers and passengers. ISTEA II substantially increases the Federal safety commitment. In the United States alone there are more than 40,000 fatalities and 3.5 million auto crashes every year. Those are staggering statistics—3.5 million automobile crashes every year, and 40,000 deaths on our U.S. highways per year. Between 1992 and 1995 the average national highway fatality rate increased by more than 2,000 deaths a year while the annual national injury rate increased by over 38,000. We must work vigorously to reverse this trend. This bill will help us to do so.

The funds set aside for safety programs such as hazard elimination, railroads, highway crossings under this bill total $690 million a year, 55 percent over the current level increase. According to the National Highway Safety Traffic Administration, the use of seatbelts is by far the most important step vehicle occupants can take to protect themselves in the event of a collision. Wearing a seatbelt increases a person's chance of surviving a crash by 45 percent, and of avoiding serious injury by 50 percent. Think of that—by simply wearing a seatbelt, one's chances of avoiding serious injury are increased by 50 percent, chances of surviving a crash are increased by 45 percent. To encourage the increased use of seatbelts, the bill before us establishes a new safety belt incentive program rewarding those States that increase their seatbelt usage or take other measures to increase seatbelt use.

To combat the serious problem of drunk driving, the ISTEA bill establishes a new program that encourages States to enact laws with maximum penalties for repeat drunk driving offenders.

As valuable as transportation is to our society, we have to remember, Mr. President, yes, transportation obviously is valuable to our society, but it has taken a tremendous toll on the Nation's air, land, and water. The costs of air pollution alone that can be attributed to cars and trucks has been estimated to range from $30 to $200 billion a year.

ISTEA II upholds the original ISTEA legislation, strong commitment to preserving and protecting our environment. ISTEA provides States and localities with tools to cope with the growing demands on our transportation system and the corresponding strain on our environment.

I am proud that the bill before the Senate increases funding for ISTEA's key programs to offset transportation's impact on the environment. Clearly, all these automobiles and trucks on our roads contribute to a strain on our environment.

ISTEA II provides an average of $1.18 billion per year over the next 6 years for the so-called congestion mitigation and air quality improvement programs, also known as CMAQ. This is an 18-percent increase over the current funding levels for transit improvement, shared ride services, and other activities to help fight air pollution. Over the past 6 years, the transportation enhancement program has offered a remarkable opportunity for States and localities to use their Federal transportation dollars to preserve and create more livable communities. ISTEA II therefore, provides a 24-percent increase in funding for transportation enhancements such as bicycle and pedestrian facilities, billboard removal, historic preservation, and rails-to-trails program.

In addition to CMAQ and enhancements, the ISTEA II bill establishes a new wetland restoration pilot program. Why are we doing this, spending highway money to restore wetlands? We are doing it to fund projects to offset the loss or degradation of wetlands resulting from Federal aid transportation projects. There is no question that all kinds of wetlands have been lost across our Nation over the last 25 to 30 years as a result of the construction and the resulting damage to our wetlands.

When it was enacted in 1997, ISTEA expanded the focus of the national policy, transforming what was once simply a program for building roads and bridges into a surface transportation program dedicated to the mobility of passengers and goods. Mr. President, I call your attention to the very name of this program. This is not a highway bill. This is a surface transportation efficiency bill. So we do more than just focus on highways. The purpose is to move people and goods in the most efficient manner possible. S. 1173 continues this spirit of intermodalism by extending the eligibility of the National Highway System and surface transportation programs to passenger rail such as Amtrak and magnetic levitation systems.

The statewide metropolitan planning provisions of ISTEA have yielded highway returns by bringing all interests to the table, and increasing the public's input into the decisionmaking process. ISTEA continues to strengthen the planning provisions of the original legislation. Admittedly, the transition from old policies and practices to those embodied in ISTEA has not always been easy. The bill before the Senate will carry forward ISTEA's strengths, but it will also correct ISTEA's weakness and provide a responsive transportation program to take us into the next century.

Now I would like to turn, if I might, to an issue of great concern. Over the past few days there has been some discussion of the distressing prospect of going around the balanced budget agreement to increase funds for the Federal aid highway program. Some Members of Congress are trying to ensure that the 4.3-cent gas tax, which is what the tax reconciliation redirects into the highway trust fund, actually is spent on highways. Although I support increased funding for transportation, I cannot support the proposition of spending the 4.3-cent gas tax.

Let me add that transportation nearly fares better than every other national program in the Federal budget resolution. From 1997 through the year 2002—the 5-year budget period which deals with highways—the budget resolution increases transportation spending by almost 7 percent. In contrast, other nondefense discretionary programs increase by roughly 2 percent. In other words, transportation will grow at a rate of three times that of other nondefense discretionary programs.

It is imperative that we look at transportation funding in the context of countless other important legislative priorities of Congress. During the consideration of the bill before the Senate, Senators WARNER, DOMENICI, and I plan to offer an amendment that will resolve the issue of potential budget surplus in an orderly manner through the budget process next spring. Determining what the Nation's priorities are during the budget process when all programs and policies can compete fairly is a responsible way to resolve this complex issue.

Before I conclude, I want to express my appreciation to Senators WARNER and BAUCUS and other members of the environment committee for their hard work and determination in developing this program.

As I mentioned, Mr. President, this came out of the committee by a vote of 18–0, Democrats and Republicans alike supporting it, those from the West, the Midwest, the South, the Southeast, the Northeast, all supported it. Transportation is not a partisan issue as much as it is a regional issue. Senators WARNER, BAUCUS, and I represent three distinct regions of the country with very different points of view. It has not been easy and we still have a way to go before reaching the finish line.

I look forward to working with other Members of the Senate as well as the House leadership to enact a bill this year that will take the Nation's transportation system into the 21st century.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I recognize others are seeking recognition but I would like first to thank my distinguished chairman because this bill represents the efforts brought about by his leadership, together with my distinguished colleague, our ranking member, Senator BAUCUS.

Mr. BAUCUS. Mr. President, I am pleased today to join Senators CHAFEE and WARNER in bringing the Intermodal Surface Transportation Efficiency Act of 1997 to the floor.

What will the bill do? It will help this Nation meet its growing transportation demands. It will help reduce congestion. Make highways safer. Make our economy more efficient. Ease travel for businesses, farmers, and families on vacation. Develop new transportation technologies for a new century. And protect our environment as we do it.

WHY SPEND THE MONEY?

The bill before us today, ISTEA II, is a very big commitment. It will provide over $145 billion for highway and highway safety programs over the next 6 years. That is an increase of more than 20 percent from the funding of today.

And some may ask why we do it. Why should we invest billions of dollars each year in transportation?

Mr. President, the reason is simple. A good transportation system makes life better for everyone. For many years—really, since John Quincy Adams, Henry Clay, and the internal improvement program of the 1820's, which involved postal roads and canals—we have recognized how important it is to put some money into a system that works for everyone.

Montana wheatgrowers bringing their produce to the mill; manufacturers shipping goods across the country; families driving off for a weekend in the mountains—all need a safe, efficient transportation network.

Today, we benefit enormously from the work President Eisenhower began with the Interstate Highway System in the 1950's. We have the largest transportation system in the world. And we need the money to keep it the best transportation system in the world.

We enjoy the premier system of highways—the 45,000 mile Interstate System—and almost 4 million miles of other roads. Our 265 million people drive over 2.4 trillion miles each year—about half the distance from Earth to the nearest star.

And transportation investment means jobs. We create over 42,000 jobs with each $1 billion of Federal transportation spending. And let's not forget that these are good jobs. Jobs that support families throughout the Nation.

So that is why we need to make the investment in a national transportation program. And this bill represents policy choices that will serve the Nation well.

That much driving means the roads need a lot of fixing. The Department of Transportation estimates that we will need almost $50 billion a year just to maintain current conditions on our highways. And we need almost $9 billion each year just to maintain current bridge conditions.

Finally, transportation investment comes with its own benefits. As hearings before our Environment and Public Works Committee show, transportation is one of the largest sectors of our economy—accounting for nearly 11 percent of our gross domestic product. Only housing and food account for more.

ISTEA AND ISTEA II

ISTEA II builds upon the successes of its predecessor, the ISTEA legislation of 1991. Authored by my colleague from New York, Senator MOYNIHAN, that landmark law has helped create a truly seamless, intermodal transportation system. Air and seaports link easily with roads, railways and transit, meaning that travelers lose the least possible time making connections and businesses move their goods as cheaply and efficiently as possible.

Likewise, our transportation program is flexible. States and local governments choose transportation projects that meet their diverse needs. States can build highways, transit facilities, bikepaths, pedestrian walkways, and interomodal facilities—whatever fits the needs of Montanans or New Yorkers or Californians best.

Mr. President, the bill before us, ISTEA II, continues along that path. And with the experience of 6 years behind us, I believe we have made a good product even better.

This bill will give us a transportation program that meets four basic criteria. First, it will meet our economic needs.

Second, it will use the most up-to-date technologies and helps develop new ones so highways are easier and travel is safer. Third, it will remember small communities as well as broad national needs. And fourth, it will be fair to all parts of the country.

Finally, it will be administratively simpler. Today we have 11 categories of funding. With the new bill we will have five: the Interstate/National Highway System, the Surface Transportation Program, the Congestion Mitigation and Air Quality Program, and two equity accounts. Let me explain each one of these in turn.

THE INTERSTATE/NATIONAL HIGHWAY SYSTEM

When Congress enacted the original ISTEA legislation in 1991, it was with the clear understanding that the Interstate System was complete and the interstate era was over. It was not time to recognize the importance of a larger network of roads and bridges in this country.

Since the inception of the Interstate System in the 1950's, things have changes around the country. No longer is the Interstate the only system of roads that connect businesses to markets and jobs to homes. It is now a larger system, the National Highway System or NHS.

In 1995, Congress formally approved this transition—a transition from the interstate era to the National Highway System era—when it approved the National Highway System Designation Act of 1995.

The National Highway System is a system of almost 170,000 miles or roads and bridges—including the 45,000 mile Interstate System—that carries the vast majority of our commercial and passenger traffic. NHS roads provide access to rural and urban areas. These roads connect our homes to our jobs, our farms to markets, and ultimately our export products to their overseas markets.

So it is only appropriate that under ISTEA II we devote the majority of resources to the maintenance and improvement of the National Highway System. Under the bill, we will spend almost $12 billion a year on these roads, at least $6 billion of that going directly to maintain the Interstate System roads and bridges.

And while we have eliminated the current bridge program, we have folded it into other categories. States will receive over $4.2 billion under bridge apportionment factors and will have to spend at least what they are spending today on bridges. This will ensure we continue to make improvements in the condition and performance of our bridges.

SURFACE TRANSPORTATION PROGRAM

Second, the present Surface Transportation Program or STP will continue in the new highway program at an annual funding level of $7 billion. The STP is a flexible funding category that provides for all types of transportation projects, and is particularly valuable for small towns and communities with innovative ideas.

It allows new construction and, improvements to current highways; but also bikepaths, pedestrian walkways, transit capital projects, transportation enhancement projects, rail/highway crossing safety improvements, and hazard elimination projects.

CONGESTION MITIGATION AND AIR QUALITY

Third, we will continue to improve air quality and reduce congestion around the country through the Congestion Mitigation and Air Quality Program or CMAQ. One of the key features of the original ISTEA legislation was the link developed between the environment and transportation. The CMAQ Program is that link.

CMAQ provides funds to nonattainment areas so they may undertake projects to improve their air quality. The past 6 years have demonstrated the benefits of such investments. CMAQ projects have contributed to many areas reaching attainment and have improved traffic flows to reduce congestion.

TRANSPORTATION TECHNOLOGY

Fourth, as well as improving the physical infrastructure, the bill before us today funds new research and deployment of transportation technologies in rural and urban areas.

Technologies, such a the Intelligent Transportation System or ITS technologies, will increase the capacity of existing transportation systems without having to add new lanes. ITS also increases safety on our roads by providing information to the traveling public about roadside hazards, weather conditions, and alternate routing. These technologies will improve safety and the environment.

In the past 25 years, together with seatbelt and drunk driving laws, earlier versions of these projects have helped to reduce the rate of fatal automobile accidents by more than half, from 44.5 deaths per 100,000 registered vehicles in 1972 to 21.2 last year. The new program will build on this remarkable success to help keep our highways the safest in the world.

FAIR FUNDING FORMULAS

Finally, fairness. Policy is very important in its own right; but it is also important that every part of the country sees the benefits. And that is what we do.

Our bill recognizes the diverse transportation needs of the country. For large, sparsely populated States, the bill recognizes their dependence upon highways.

In Montana, for example, we do not have mass transit, we do not have large seaports. We rely upon our highways to get from place to place. So the bill uses formula factors that recognize the extent or size of a State's highway system. That only makes sense. After all, this is a bill that provides funding for States to maintain and improve their highway systems.

States in the densely populated Northeast region have an aging infrastructure in need of repairs. The bill recognizes these needs by using formula factors such as vehicle miles traveled or vmt. Vmt measures the use or wear on your roads. The bill also continues to provide funding for deficient bridges—a very important component of the transportation system in the Northeast region.

And for fast-growing, so-called donor States, the bill uses formula factors that take into account this growth. The vmt factor that I mentioned above is an example, since it measures how much people are driving in your State. But the bill goes even further.

The bill uses contributions to the highway account of the highway trust

fund as a formula factor. And of the amount apportioned to the States, every State will receive at least 90 percent of its share of contributions to the highway trust fund.

And let's not forget that his bill is not just about highways. In the coming days, the Banking Committee will add their title to this bill to reauthorize the mass transit program. Over $24 billion has been authorized for those programs by that committee.

So as my colleagues decide whether or not to view the highway formulas as fair or not, I urge them to examine this bill in its entirety. Because many States receive large sums of funding for their mass transit programs, while others rely solely upon highway funding to meet their transportation needs.

CONCLUSION

In sum, we have a good product that will help the country. It will update and improve an already excellent highway program. And we should not wait.

Some suggest that we should do only a 6-month extension of ISTEA, hoping for more transportation funding in the future. Both Senator WARNER and I believe we need more funding. But waiting will not guarantee that we get it, and it will come with its own cost.

States and local governments must plan for the future, and to do so they need to know that we will not be changing the rules every 6 months. The lack of a long-term transportation program will mean chaos and uncertainty across the country for government, businesses, agriculture, and citizens.

So I believe we should get the job done. We have known for 6 years that ISTEA would expire in 1997. And I believe the bill we bring to the floor today will serve the Nation well. I hope it will get the Senate's support.

Thank you, Mr. President, and I yield the floor.

Mr. WARNER. Mr. President, I am pleased to bring before the Senate for consideration S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997, or ISTEA II.

ISTEA II is a 6-year bill that reauthorizes our Nation's highway construction, highway safety, and research programs. It provides $145 billion over 6 years and meets the requirements of the balanced budget agreement.

Our funding level of $145 billion is 20 percent greater than the $120 billion funding level provided in ISTEA I.

Our funding level of $145 billion exceeds the funding level of $135 billion proposed in the administration's NEXTEA bill.

Mr. President, along with my strong working partner, Senator BAUCUS, I have worked throughout the year for higher funding levels for our Nation's surface transportation programs.

Unfortunately, our amendment to the budget resolution earlier this year failed by one vote. Later, during the conference on the budget resolution, Senator BAUCUS and I, along with 83 other Senators, urged the conferees to raise the allocation to the highway program so that a portion of the 4.3-cent Federal gas tax could be spent.

Regrettably, these efforts were not successful. As such, I accepted the decision of the Senate and our commitment to the American people to balance the Federal budget by the year 2002.

With the spending limitations set in the balanced budget agreement, Chairman CHAFEE, Senator BAUCUS and I drafted a six-year reauthorization bill that complies with the budget agreement.

Mr. President, it is also critical that the Congress move forward to enact a 6-year, comprehensive transportation bill. Not a 6-month bill as some in the other House are advocating.

Our State and local transportation partners deserve nothing less. Due to the significant length of time required to plan and design any transportation project—an average of 7 years—our states, our Government, and their respective highway authorities must be able to efficiently respond to transportation demands.

Mr. President, in bringing this bill before the Senate, I urge every member to examine the bill in its entirety and to evaluate its provisions on the merits of balance and fairness.

Those are the two principles that guided my efforts in the drafting of this bill.

I am well aware that every Senator may not be entirely pleased with this bill. Most of the concern rests, not with the substantive measures, but with the level of funding. I am convinced, however, that overall we bring to the Senate a bill—that addresses the mobility demands of the American people and the growing freight movements of American goods;—that will continue to ensure America's competitiveness in a one-world market; and that, for the first time, provides a fair and equitable return to every State based on the amount of funds we spend. Every State will be guaranteed 90 percent of the funds we send to the States based on each State's contributions to the highway trust fund.

How much will each State get at a minimum under this bill? Let me describe this calculation as there are many different ways to explain the 90-percent guarantee.

Let's start first with what each State sends to Washington to the highway trust fund.

Under the formula, each's State's share of contributions to the highway trust fund each year is calculated.

Then, that percent is compared to the percent share each State receives under the formula.

If necessary, the 90-percent minimum guarantee is applied to any State whose percent share under the formula is below their 90-percent share of contributions to the highway trust fund.

For those States, the 90-percent guarantee, will ensure that each State's percentage return under the formula is adjusted upward to equal their 90-percent share of contributions to the highway trust fund.

I want to thank Senator CHAFEE and Senator BAUCUS, and all the members of the committee for their contributions, in developing a compromise bill that represents a balance among the 50 States.

This legislation is the product of months of spirited discussions.

It is a compromise that addresses the unique transportation needs in the different regions of the country—the congestion demands of the growing South and Southwest, the aging infrastructure needs of the Northeast, and the national transportation needs of the rural West.

In putting together this bipartisan and comprehensive measure, great care was taken to preserve fundamental principles of ISTEA I that worked well.

ISTEA II upholds and strengthens ISTEA's laudable goals of mobility, intermodalism, efficiency, and program flexibility.

We were committed to continuing those hallmarks of ISTEA which have proven to be successful and are strongly supported by our State and local transportation partners, including: ensuring that our transportation programs contribute to and are compatible with our national commitment to protect our environment; building upon the shared decision-making between the Federal, state, and local governments; and ensuring that the public continues to participate fully in the transportation planning process.

Mr. President, perhaps the most critical issue that the committee addressed in this legislation is the development of equitable funding formulas.

ISTEA I failed to distribute funding to our States based on current contemporary data that measures the extent, use, and condition of our transportation system. ISTEA I apportioned funds to the States based on each State's historical share of funds received in 1987.

As we prepare for the transportation challenges of the 21st century, reforms to the funding formulas are long overdue. This legislation uses indicators that measure the current needs of our transportation system. Many of the factors used to distribute funds are consistent with the alternatives identified in GAO's 1995 report entitled, "Highway Funding, Alternatives for Distributing Federal Funds."

These indicators are standard measurements of lane miles which represent the extent of the system in a State, vehicle miles traveled which represent the extent of congestion, and structural and capacity deficiencies of our Nation's bridges.

Using current measurements of our transportation system were called for in every major reauthorization bill introduced this session—including the administration's NEXTEA bill, STEP-21, STARS 2000, and ISTEA Works.

For those of my colleagues who do not believe their States should see a change in their share of transportation funds from what they have previously received, I simply respond that we must move forward and update our formulas to ensure that our national transportation program responds to the many needs across our Nation.

In revising these funding formulas, I believe we have made significant progress to address one of the major shortfalls of ISTEA—namely, providing every state a fair return based on their contributions to the highway trust fund.

Our bill today ensures fairness. Every State will receive a minimum guarantee of 90 percent of the funds apportioned to the States equal to 90 percent of their contributions to the Highway Trust Fund.

This guarantee is very different from the so-called 90 percent minimum allocation in ISTEA I.

ISTEA II provides a real and true guarantee of 90 percent of the funds distributed to the States. The minimum guarantee is applied to 100 percent of apportioned funds.

Second, the minimum guarantee calculation is reformed so that the 90 percent guarantee is actually achieved. We all know that ISTEA I gave many States less than 90 percent because it did not include all the funds that were distributed to States.

While I started with a goal of 95-percent return for every State, a true 90-percent return calculated on a larger share of the program is a major achievement for donor States.

I am also pleased to report that ISTEA makes great progress in consolidating and streamlining the program.

Under ISTEA I there are five major program categories. Under ISTEA II, those program categories have been consolidated into three major programs—the Interstate and National Highway System Program, the Surface Transportation Program, and the Congestion Mitigation and Air Quality Program.

Under ISTEA I there are five apportionment adjustments—most of them designed to address concerns of donor States—that have not worked. ISTEA II provides for two simple adjustments. First, for donor States and small States to provide them a minimum share of funding. The second, to provide a transition for States based on part of their ISTEA funding.

The committee bill also includes many revisions to Federal highway procedures to streamline the complex process of Federal reviews of State projects. It is my very strong hope that these provisions will enable our States to improve project delivery—the time it takes for a project to move from design to construction to completion.

Today, it takes on average 7 years to complete a project. We must provide our States with the tools to do better. I believe many provisions in this bill will free them from Federal redtape which has delayed many projects.

Mr. President, those are some of the important highlights of the committee bill.

I look forward to the Senate's consideration of this bill and will work with my colleagues to resolve as many amendments as possible.

Mr. BYRD. Mr. President, this request has been cleared with the distinguished Republican leader.

I ask unanimous consent that I, Senator GRAMM, Senator WARNER, Senator BAUCUS, not necessarily in that order, may have as much as a total, if needed, of one hour among us to discuss an amendment which we are going to offer at a later date.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Just a question, if I might. In other words, you would start now and go until 5:15?

Mr. BYRD. Yes.

Mr. CHAFEE. Thank you.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Taxpayer Relief Act of 1997, which was enacted as part of the balanced budget agreement, included a provision which ended the use of the 4.3 cents per gallon gas tax for deficit reduction and instead placed this tax into the Highway Trust Fund beginning on October 1, 1997. That was a very important first step in restoring integrity to the Highway Trust Fund. It ended the practice of using any Federal gasoline taxes for deficit reduction. This Senator was not alone in seeking to end the practice of using Federal gasoline taxes for deficit reduction. On July 14 of this year, I joined 82 other Senators in signing a letter addressed to the Senate majority and minority leaders, as well as the chairman and ranking Member of the Senate Finance Committee, Senators ROTH and MOYNIHAN, and that letter is fairly brief.

I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 14, 1997.

Hon. TRENT LOTT,
Majority Leader.
Hon. TOM DASCHLE,
Minority Leader.
Senator WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance.
Senator DANIEL P. MOYNIHAN,
Ranking Minority Member, Committee on Finance.

DEAR COLLEAGUES: We are writing to express our view that additional funding for transportation programs is urgently needed. As you know, Section 704 of the Senate's version of the Revenue Reconciliation Act transferred 3.8 cents of the federal fuel tax from the general fund to the Highway Trust Fund. While that transfer is an important first step, it does not, by itself, provide the needed additional funds. Therefore, we ask that you urge the conferees to ensure that at least a significant portion of the 3.8 cents be made available for expenditure on highway and transit programs, similar to the manner in which the Senate provided funding for intercity passenger rail service.

The reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA) will seek to meet the growing demands on our highway and transit systems. Yet the scale and diversity of these national needs combined with the requests for discretionary funds to address local and regional transportation issues requires funding levels greater than that currently available.

We are concerned that without additional funding, the reauthorization of ISTEA and the distribution of funds in a fair manner will prove to be impossible and will lead to divisive debate in the Senate.

Therefore, we respectfully urge you to provide the means to spend a portion of the 3.8 cents for our highway and transit programs.

Sincerely,

Max Baucus, Herb Kohl, Byron L. Dorgan, Jeff Bingaman, Dale Bumpers, Carol Moseley-Braun, John Warner, James M. Jeffords, Fritz Hollings, ——— ———, Bob Kerrey, Jack Reed, Wendell Ford, Barbara Boxer.

Kay Bailey Hutchison, ——— ———, Ted Stevens, Pat Roberts, Daniel K. Akaka, Larry E. Craig, Judd Gregg, Dick Kempthorne, Orrin Hatch, Mike DeWine, Jeff Sessions, Lauch Faircloth, Spencer Abraham, Daniel Coats.

Chuck Robb, Robert Torricelli, Carl Levin, Mary Landrieu, ——— ———, ——— ———, Kent Conrad, Robert Byrd, Tom Harkin, ——— ———, Dianne Feinstein, Frank R. Lautenberg, Patty Murray, Jay Rockefeller.

Ben Nighthorse Campbell, Conrad R. Burns, Rod Grams, Michael B. Enzi, Chuck Hagel, ——— ———, Kit Bond, Wayne Allard, Mitch McConnell, Olympia Snowe, Craig Thomas, Paul Wellstone, Bill Frist, Arlen Specter.

Barbara A. Mikulski, Harry Reid, Bob Smith, Ted Kennedy, Tim Johnson, Max Cleland, Joe Biden, Christopher J. Dodd, ——— ———, John Breaux, Ron Wyden, Bob Bennett, Paul Sarbanes, Tim Hutchinson.

Dick Lugar, Chuck Grassley, John Glenn, Susan Collins, John Ashcroft, Paul Coverdell, Richard Shelby, Jesse Helms, Rick Santorum, Patrick Leahy, Russ Feingold, Thad Cochran, Frank H. Murkowski.

Mr. BYRD. Mr. President, the important first step, as I say, which we 83 Senators sought in our letter has now

been achieved; namely, the transfer of the 4.3 cents per gallon gasoline tax from deficit reduction into the Highway Trust Fund. I believe it was Senator GRAMM who offered the amendment to do that. He offered that amendment in the Finance Committee and the Finance Committee adopted that amendment. So that was accomplished in the Taxpayer Relief Act of 1997.

Unfortunately, the six-year ISTEA reauthorization bill reported by the Environment and Public Works Committee does not allow the use of one penny—not one copper penny—of this 4.3 cents gas tax for highway construction over the next six years. In effect, it allows these additional gas tax revenues to build up huge surpluses over the next six years. The time has come to put our money where our mouth is. We either mean it or we don't mean it when we write letters urging our leadership not only to place the 4.3 cents per gallon gas tax into the Highway Trust Fund, but also to take the next step and allow it to be used in the ISTEA bill before the Senate.

Did we place the 4.3 cents gas tax into the trust fund simply so that the unspent balance of the trust fund could skyrocket to historic levels, while our bridges crumble, while our constituents sit in ever-worsening traffic jams, and while congestion chokes off the economic potential of our Nation? Is that what we meant? That was not my intention in championing the transfer of this tax, and I don't believe it was the intention of my colleagues, those who supported placing the revenue into the Highway Trust Fund.

And so, today, three of my colleagues and I—Senators GRAMM, WARNER, and BAUCUS—are joining in saying to the Senate that we are preparing an amendment to the pending ISTEA bill to authorize the use of the full amount raised by the highway account share of the 4.3 cents gas tax for highway infrastructure and bridge programs over fiscal years 1990–2003. Over the life of this bill, this will mean that an additional $31 billion in contract authority will be made available for the National Highway System.

Mr. President, we must do more to address the continuing and destructive trend of Federal disinvestment in our Nation's transportation infrastructure. According to the Federal highway administration, our investment in our Nation's highways is a full $15 billion short each year, just to maintain the current inadequate conditions of our National Highway System. Put another way, we would have to increase our national highway investment by more than $15 billion a year to make the least bit of improvement in the status of our national highway network each year.

Now, as I say, joining me in offering this amendment as principal cosponsors are Senators GRAMM, BAUCUS, and WARNER. Although our amendment is still in the process of being drafted, we nevertheless have reached agreement as to the distribution of formula funds among the various States.

I will now ask unanimous consent to have printed in the RECORD a table which sets forth the total amount of highway contract authority for each State in the bill, as reported by the committee, as well as the additional amount of contract authority that each State will receive under the Byrd-Gramm-Baucus-Warner amendment over a 5-year period.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FY 1999–2003 TOTAL—INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT II, BYRD/GRAMM AMENDMENT, PRELIMINARY DATA

[In thousands of dollars]

State	S. 1173 FY 1999–2003 total as reported by committee	Byrd/Gramm amendment[1]	Total
Alabama	2,211,500	556,579	2,768,080
Alaska	1,373,201	345,600	1,718,802
Arizona	1,719,893	432,854	2,152,748
Arkansas	1,472,869	370,684	1,843,553
California	10,134,190	2,550,537	12,684,727
Colorado	1,412,391	355,465	1,767,856
Connecticut	1,895,552	477,038	2,372,590
Delaware	520,488	130,994	651,481
Dist. of Col.	500,536	125,973	626,508
Florida	5,099,176	1,283,335	6,382,510
Georgia	3,882,378	977,098	4,859,476
Hawaii	561,113	166,380	827,492
Idaho	908,085	228,542	1,136,627
Illinois	3,683,946	927,157	4,611,103
Indiana	2,693,608	877,914	3,371,522
Iowa	1,461,433	367,807	1,829,240
Kansas	1,450,185	364,977	1,815,162
Kentucky	1,921,071	483,486	2,404,557
Louisiana	1,967,553	495,201	2,462,754
Maine	636,102	160,097	796,199
Maryland	1,668,720	419,975	2,088,696
Massachusetts	1,968,441	495,412	2,463,853
Michigan	3,493,538	879,236	4,372,775
Minnesota	1,655,828	416,732	2,072,558
Mississippi	1,396,953	351,580	1,748,533
Missouri	2,835,864	663,387	3,299,251
Montana	1,173,866	295,433	1,469,295
Nebraska	929,790	234,004	1,163,794
Nevada	808,417	203,458	1,011,875
New Hampshire	575,859	144,929	720,788
New Jersey	2,668,883	671,691	3,340,574
New Mexico	1,162,791	292,646	1,455,437
New York	5,640,544	1,419,503	7,060,046
North Carolina	3,129,880	787,713	3,917,593
North Dakota	808,417	203,458	1,011,875
Ohio	3,812,849	959,599	4,772,448
Oklahoma	1,745,495	439,300	2,184,796
Oregon	1,426,177	358,934	1,785,111
Pennsylvania	4,199,341	1,056,906	5,256,247
Rhode Island	642,304	161,652	803,956
South Carolina	1,759,595	442,846	2,202,441
South Dakota	863,788	217,394	1,081,182
Tennessee	2,506,281	630,768	3,137,049
Texas	7,623,695	1,918,693	9,542,388
Utah	955,428	240,460	1,195,888
Vermont	520,488	130,994	651,481
Virginia	2,834,290	713,320	3,547,610
Washington	2,035,955	512,401	2,548,356
West Virginia	1,131,708	284,833	1,416,541
Wisconsin	2,011,684	506,291	2,517,975
Wyoming	841,639	211,820	1,053,459
Puerto Rico	508,260	127,917	636,178
Total	110,741,037	27,871,000	138,613,037

[1] Source of additional contract authority.

Mr. BYRD. Mr. President, I encourage all Members to review carefully these tables. They will show that each and every State in the Nation will receive a sizable boost in funding under this amendment. Each and every State will receive increases under the same percentage distribution called for in the underlying bill.

We have not put together a new formula in this amendment. For the donor States, the amendment still ensures that they will receive a minimum of 90 percent return on their percentage contribution to the Highway Trust Fund. Moreover, our amendment, like the committee reported bill, utilizes 10 percent of the total available resources for discretionary purposes. Increased discretionary amounts of contract authority will be available for the Multi-State Trade Corridors initiative, as well as the 13-State Appalachian Highway Development System.

Mr. President, we understand that a point of order will be raised against this amendment by its opponents. But I think it is important to remind Members that the bill before us is not an appropriations bill; it is an authorization bill. A point of order lies against this amendment because it causes the Environment and Public Works Committee to exceed the levels that they can authorize to be spent. Adoption of this amendment will not change the scoring of the deficit by one thin dime.

Opponents of this amendment claim that the increased highway spending authorized by the amendment will cause drastic cuts over the next 5 years in other discretionary spending. Included on the possible list for elimination or drastic cuts—I am talking about a list that I understand has been circulated by opponents—are such things as Navy ship building, law enforcement, Section 8 housing, EPA, National Forest Service, Title I education, Head Start, NIH, and on and on.

Mr. President, that argument is an obvious red herring. First of all, because highway construction requires a number of years to complete projects, the amount of outlays that would be necessary in the discretionary portion of the budget to pay for the pending amendment is not $30 billion. We are told instead by the experts at the CBO that the figure is $21.6 billion.

Secondly, the enactment into law of the Byrd-Gramm-Baucus-Warner amendment will not cause any cut in any Federal program. Let me say that again. The enactment into law of the Byrd-Gramm-Baucus-Warner amendment will not cause any cut in any Federal program.

In other words, each year's transportation appropriations bill from fiscal years 1999–2003 will contain an obligation limit for total highway spending. That limitation will be set each year in light of the circumstances being faced by the Appropriations Committees in any particular year. Let me put it another way. If we do not adopt this amendment, we will have precluded, for the next 5 years, any consideration of additional highway spending.

Third, regarding the question of outlay caps on discretionary spending, I fully support and will strongly urge the Budget Committee chairman and the

Senate to include in the budget resolution for fiscal year 1999 the necessary provisions to increase discretionary caps for the following 5 years if the economy continues to perform, so that those savings will accrue. As Senators are aware, since the adoption of the balanced budget agreement earlier this year, the projections of revenues have dramatically increased and the projections for spending have been dramatically cut. The result is a far better forecast than was thought to be the case even when we all voted for the balanced budget agreement this past spring. In fact, OMB's recent midsession review now projects revenues over the next 5 years to be $129.8 billion greater—greater—than those projected in the balanced budget agreement. On the spending side of the budget—and this is important—the forecast is also much brighter than it was a few short months ago. Compared to the balanced budget agreement, OMB now projects in its midsession review that total spending over the period 1998–2002 will be $71.6 billion less than was projected in that agreement.

Our amendment will provide that if the savings and spending for fiscal 1998–2002, which I have just identified, are still projected to exist in connection with the fiscal year 1999 budget resolution, and if that budget resolution calls for using any of those spending savings, then those spending savings must go toward fully funding the highway program.

In conclusion—and I say "in conclusion" because I only intended to take 15 minutes of the hour, I am not here to debate this amendment this afternoon. There will be plenty of time for that. Nobody is going to run for the doors when that time comes. There will be plenty of time to debate it when my colleagues and I have fully fleshed out the amendment. But we wanted to put Senators and the country on notice that we have an amendment, and we wanted to do that before this upcoming recess begins.

Let me point out again that our amendment would provide the authorization of an additional $31 billion of contract authority within a 5-year period, 1999–2003. It doesn't add to the deficit. It will call for a consideration, in the fiscal year 1999 budget process, of using additional spending savings to cover the outlays that will occur from the contract authority provided in this amendment.

So I urge all colleagues to favorably consider this amendment during the next week, look at the tables, and understand that your State—I am talking to all 100 Senators, to each of them individually—your State will have its highway moneys increased under this amendment. Your State will benefit from this amendment. So I hope that you will examine the benefits that will accrue to your State in additional highway spending under this amendment.

Mr. President, let me, in yielding the floor, thank my three colleagues who are the main cosponsors of the amendment.

Let me also thank the two leaders for allowing us to impinge upon the time of the Senate at this point for a whole hour if it is needed.

Let me say to all Senators who want to debate our amendments that there come a time to debate it. This is an important amendment. This is a major amendment, and its importance to the country cannot be exaggerated.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me first say that I am very proud to join with Senator BYRD and our two other colleagues in this amendment. Our purpose today is not to introduce the amendment as a formal pending amendment before the Senate but to basically put the facts out on the table so that we can have a full and informed debate, and so that over the recess people will have an opportunity to know what this amendment does, why it is important to every State in the Union, and why it is important to the future of the country.

I want to try to make two points as briefly as I can make them.

The first point is that in 1993, for the first time in the history of America, the Congress adopted a permanent gasoline tax that did not go to the highway trust fund. Instead, that permanent gasoline tax went to general revenues and was spent for general purposes. We had a strong base of support in the Senate and in the House to take the action which was consummated in the Taxpayer Relief Act. The amendment that I offered in the Finance Committee was adopted as part of that bill. We were able to put the 4.3-cents-a-gallon tax on gasoline into the highway trust fund where it belonged. That became the law of the land. But our problem was that when the bill that will be before us when we debate ISTEA was reported from the committee, it did not include any of the money that was transferred into the trust fund when we took the 4.3-cents-a-gallon tax from gasoline and put it where it belonged, in the highway trust fund, to fund highways and to fund mass transit.

That produced a situation which is portrayed in this chart. I hope every Member of the Senate will become familiar with this chart because it really shows the sleight of hand that has been underway now for quite a while and will certainly be perpetuated and expanded in the future if our amendment is not adopted.

We currently collect the money from gasoline taxes and transportation fuels taxes that are dedicated in the trust fund to highways and mass transit. But, yet, as of today, we have $23.7 billion in that account that have not been expended for the purpose that they were collected. Over the years they have, in fact, for all practical purposes, been spent for other purposes.

As a result of our decision to put the 4.3-cents-a-gallon tax on gasoline where it belongs, in the highway trust fund, under the ISTEA bill as reported from the committee, this surplus in the highway trust fund would grow from $23.7 billion today to a whopping $90 billion in the trust funds collected for the purpose of building highways and mass transit but never expended for that purpose. In the year 2003 we would have $90 billion in the trust fund, and we would have told the American people that they were paying gasoline taxes to fund highways and transportation, and, yet, that $90 billion would have been spent for other purposes.

What the Byrd-Gramm amendment does—I am very proud that we have the two most knowledgeable people in the Senate on highway matters who have now joined us as cosponsors—but what our bill does is assure that the area you see in blue here, this 4.3-cents-a-gallon tax on gasoline, is spent for the purposes that it was collected.

This is a truth-in-government provision. This is a provision where you tell people you are going to do something in government and you do it.

Let me also make note of the fact that, even if our amendment is adopted, the balance in the highway trust fund will grow from the current $23.7 billion to a whopping $39 billion surplus by the year 2003. So under our amendment the unspent balance in the trust fund will grow every year even if we spend the 4.3-cents-a-gallon tax on gasoline where we told the American people that we would spend it.

Let me also make note that our amendment is very conservative and very responsible because we don't spend the money in the year that it is collected. We spend it the year after it is collected. So even though we will be collecting the 4.3-cents-a-gallon tax on gasoline and putting it into the trust fund for the first time in 1998, we don't spend any of that money in 1998. We only spend what was collected in 1998 in fiscal year 1999. And the same process continues throughout the period of this highway bill through the year 2003.

We are talking about highways today because we have the highway portion of the bill before us. But, as everyone knows, the mass transit title of this bill was reported from the Banking Committee, and they have delayed reporting their precise spending figures for technical reasons. When that portion of the bill is before the Senate, we intend our amendment to apply to it as well because mass transit receives 20 percent of the 4.3-cents-a-gallon tax on gasoline, and we want to be sure that

this portion of the highway taxes can also be spent.

Under this provision, every State in the Union will get additional funds. The increase per State will be about 25 percent. I think it is important to note and for every Member of the Senate to understand that under this amendment the ratio of funds going to States, the proportion going to any one State, is totally unchanged.

But the result of truth in government, the result of spending money for the purpose that it was collected, is pretty remarkable. The result is, if we are going to spend $27.8 billion, if this full program is carried out through the year 2003, on highways, the purpose for which the tax was collected to begin with, that will make a very substantial difference to every State in the Union.

Arkansas, we know from the very effective arguments that have been made by our colleagues from Arkansas, has felt slighted by this bill. Under the existing bill, they would get $1.47 billion over the five years covered by our amendment. But with the adoption of our amendment, that would grow to $1.84 billion.

A similar proportional increase in each State would occur as a result of this amendment.

I want to make it clear that we are going to hear arguments throughout this debate that we are, through this amendment, taking money away from other programs. I want to address this head on. I want to address it in two ways.

First of all, those who are making that argument are in essence claiming that they have the right to spend this $90 billion on other programs, that they have that right.

It reminds me of an argument that might be made by a rustler. There is this rustler who has been rustling cattle off the Byrd and the Gramm ranch. We call the sheriff, and the sheriff comes out. The sheriff hunts him down, and he brings him to us. We decided, well, we know this guy. We are not going to put him in jail. But the sheriff says to him, "You have to quit rustling these cattle." So the rustler says, "But I am used to eating all this beef. You know. It is easy for you to say, but where am I going to get my beef?" Well, I think the answer of Rancher Byrd, Rancher Gramm, Rancher Baucus, and Rancher Warner under this circumstance would be, "That ain't my problem."

The point is they never had the right to spend the $90 billion for anything other than highways to begin with. And we are going to have an extensive debate about that.

Let me address in a little bit of detail the provisions that Senator BYRD talked about where we are dedicating, at least in terms of a commitment about the future, funds to fulfill our commitment to build these highways. We have, I believe, very artful language. Senator BYRD and Senator BYRD's staff are responsible for the language. I think it is language that every Member of the Senate can be supportive of. We are not trying to judge what kind of budgets we are going to write in the future. We are not trying to make a judgment about what the economy is going to be like in the future, or what kind of expenditure savings we are going to have in the future. We are not making any judgment as to how those savings might be used.

But what we are saying—I think if every Member of the Senate will look at this language, they will be in agreement—we are saying, if there are spending savings that occur in the future and if the Budget Committee decides that any of those spending savings are going to be used to spend money through the Federal Government—two ifs—that, if there are savings in other spending programs, and if any of those savings are spent, they have to be used in total or part to fund our commitment to the highway trust fund before any of those savings can be used for any other purpose.

There is only one reason that anybody would be against that language. The only reason that anybody would be against that language would be if they intend to spend this money for some other purpose.

Our point is we are collecting this gasoline tax. It has been put into the trust funds by the decision of the House and the Senate. We made a commitment that it was going to go to build highways and for mass transit. What our amendment does is guarantee that if any funds are spent, they are going to be spent for this purpose and spent for this purpose first.

So I think this is a good amendment. I hope that we are going to get a strong vote. We have a point of order. Senator BYRD made the point, but I want to reiterate this. This point of order is not that we are busting the budget or raising the deficit. Both of those things are not the case. The point of order is really based on a technicality in the budget because we are allowing funds, if they are spent, to be spent on transportation needs and highways beginning in fiscal year 1999.

So, in the technical language of the budget, we are changing the 302(a) allocation of budget authority to the Environment and Public Works Committee. We are not raising the total level of outlays. We are not busting the budget. This is a simple technicality. There ought not to be a point of order against it. But there is. So, as a result, we are going to have to get 60 votes.

So, if you want truth in government, if you want to have a program whereby when people are going to the gas pump and they are looking at that big tax they are paying, and they are saying, "Well, you know, at least it is being spent on highways," we want that to be true. If you believe that the highway trust fund ought to be used to build the highways and to build mass transit, then we believe that you are going to vote for this amendment. We are very hopeful that we are going to be successful.

I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I first want to give by deepest respects and thanks to the chairman of the Environment and Public Works Committee, Senator CHAFEE. He has put together a bill that has passed our committee unanimously 18 to 0. Not many committees can come up with a unanimous vote on major bills.

But since that bill passed the committee, it has become quite apparent that some Members want us to improve upon it. So we are going to try to do that with this amendment. So, I am going to give five reasons why I think the amendment offered by Senator GRAMM, Senator BYRD, Senator WARNER, and myself is such an improvement to this bill.

First, as has been pointed out, the dollars we are discussing are trust fund dollars. I would point out that the American motorist who pays these fuel taxes expect those dollars to go into transportation, including highways.

Second, despite what some are going to state on this floor later, this amendment does not break the budget. Let me repeat that. It does not break the budget.

Third, despite what some might say later, this amendment does not take one penny—as Senator BYRD mentioned, "not one thin dime"—from any other program.

Fourth, this amendment is needed to meet our infrastructure needs. We are not spending enough in America to maintain our transportation system and our highways. We certainly are not spending at the level of other countries.

And fifth, a point which I do not think is fully understood by Senators, the amounts provided for in the committee bill lock the Senate into those amounts for the next 6 years. So it is important that if we are going to increase spending that we do so now. Unlike some other spending programs, this program is funded from a trust fund.

So this is a much different animal, and therefore this amendment must be addressed and hopefully passed. So let me elaborate on my five points. Mr. President, I think it is clear, when people pay their fuel taxes, they expect those dollars to go to their highways and transportation so we have the best transportation system in the world. There is not little dispute about that. I filled up my gas tank this morning

coming to work. I know how expensive it is. Today about 18.4 cents of a gallon goes to Federal taxes, and then there are D.C. taxes and State taxes. There are a lot of taxes that go into the cost of a gallon of gas. All we ask is that these taxes are used for transportation. That is what we want, and that is what we expect when we pay our fuel taxes at the pump.

I must remind Senators that the balance in the highway trust fund is increasing. Every year it is increasing. American motorists are not getting their money's worth.

Why is it not being spent? It is not being spent because it is being used to mask the true Federal deficit. That is why it is not being spent. A lot of appropriators and the budget folks around here like those big balances in the trust funds because it masks the true deficit. Again, I say. If this amendment does not pass, the balance in the trust fund is going to continue to grow dramatically over the period of this bill. So Americans should know that when they pay their fuel taxes today, they are not being spent. A lot of it is just accumulating. It is a charade. It is a phony game that is being played with American taxpayers. Using fuel tax revenue to mask the true budget deficit is not right and it is not fair. And I have argued this many times.

To my second point. This amendment in no way breaks the budget. Now, there are going to be some on the floor later, perhaps today or later, saying, "Oh, this breaks the budget." It does not break the budget. It does not break the budget at all.

Why? Because all this amendment does is raise the contract authority or authorizations. It would increase contract authority by $31.6 billion over 5 years. This is the 3.45 cents of the 4.3 cents just transferred to the trust fund on October 1. The amendment would provide new contract authority beginning in 1999. But it does not tell the Budget Committee this year or next year that they have to raise transportation spending. It does not tell the Appropriations Committee to raise budget caps. It does not touch the budget resolution or obligation limitations for highways. Again, it is just contract authority. Therefore, it does not break the budget. It does not require any additional spending. The amendment just says that if the projected savings from OMB are realized, and if the Congress decides to spend these savings, then they should be available for transportation.

It does not require that spending increases. It just says that the Congress may spend more for transportation if there are new savings and if Congress agrees to spend them on transportation. We are just increasing contract authority. That is all. We increase contract authority by $31.6 billion over 5 years. So, again, this does not break the budget. Yes, we will have at least one point of order. But is not a point of order that we have increased spending. It is a point of order that the Environment and Public Works Committee has exceeded its contract authority allocation. That is all. But that is a minor technicality. What really counts is, does it require any additional spending? The answer is no, not one cent of additional spending is required. It does not break the budget agreement in any way. I cannot make that point enough.

Point 3. Does this amendment take anything away from any other Federal program? Some are going to claim that it does. The answer is not one red cent. Nothing is taken away from other programs—nothing. Now, someone may claim that it will. They are going to say that. Not true. Not true at all.

Again, because this amendment only provides for raising contract authority. It does not increase spending. I say again, Congress must still decide to spend any new savings, if those savings are in fact even available. It is clear that if today OMB projects a savings, that savings may be greater or lower next year. But if that is the case, Congress may choose not to increase spending at all. That is fine. Again, the amendment will only provide new spending if savings are available and if Congress decides to spend them.

Again, this amendment takes nothing from any program at all. To my fourth point, the infrastructure needs of this country. I will talk about this in greater detail when we debate the amendment. But I do want to state that the Department of Transportation says that there is about a $15 billion annual deficit in combined infrastructure spending in America. We in America spend far less on highways and infrastructure than other countries do as a percent of their gross domestic product. Japan spends four times what we do. European countries spend at least twice as much.

I fear that if this amendment does not pass, 6 years from now we are going to find that our highways in America have deteriorated more. We will continue to fall behind. Our highways and transit systems are not all in good shape today. There are a lot of bridges in our country that need repair. There are a lot of roads in our country that need repair. I just cannot emphasize too much how important it is for America to have the best highways and transportation system if we are going to remain competitive. We need to pass this amendment to make progress on our transportation needs.

And to my fifth point. Let's not lock into the contract authority numbers that are in this bill unless we have to. Let's have this vote and see what happens. I think the case is there to increase transportation spending. We need to do it now and not wait.

So I will sum up, Mr. President. I want to again thank all who have worked so hard on this amendment, particularly the authors of the amendment. They have come up with a very sound way of solving the problem of needing more money. Again, it does not break the budget in any way. And it does not take any dollars from any other programs.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I know there are others who are anxious to speak, so therefore I will not go over the points that were very clearly enunciated by the distinguished senior Senator from West Virginia, my colleague from Texas, and my partner, Senator BAUCUS, who worked with me throughout the formulation of the underlying bill together with our leadership, the committee chairman, Senator CHAFEE. Senator BAUCUS has worked with me throughout this process.

As subcommittee chairman, I started with a group called Step 21 and then eventually we joined forces with a group headed by Senator BAUCUS—Stars 2000 is my recollection—and eventually our distinguished chairman joined us. We were able to craft a bill which became the subject of a markup and then gained full support of the committee.

It is, I must say, of some personal and professional concern that for the moment I am at odds with my distinguished lifetime friend and chairman, Senator CHAFEE, on this matter, but I hope that in due course I and others can persuade him to the wisdom of this amendment. He will speak for himself, I hope, momentarily.

As Senators BYRD and GRAMM and BAUCUS have said very clearly, when I met with them last night, I was given the assurance we did not break the budget, and I think the Senators have gone through that very clearly.

We assure that every State gets a fair return, and 90 percent of the funds sent to the States under the formula is a fundamental principle of ISTEA II. And to give absolute credence to that statement I have just made, which was the basic criteria for my joining in this effort, I ask unanimous consent to print in the RECORD statistical tables prepared by the Federal Highway Administration at my request.

Mr. DOMENICI. Might I ask the Senator, what is that again?

Mr. WARNER. If I may, I will just pass it to the Senator. It is a statistical table showing that the formula of a 90 percent return that we established in the bill is followed in the amendment.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. WARNER. Absolutely. Let me just finish——

Mr. DOMENICI. Where is the amendment you are following? I haven't found it.

Mr. WARNER. Mr. President, if I can just finish my remarks, then I will be glad to yield the floor.

Mr. DOMENICI. Excuse me.

Mr. WARNER. I suggest that the Senator consult with the distinguished senior Senator from West Virginia, who has put certain documentation into the RECORD earlier today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF SHARES UNDER ISTEA, FY 1996 HTF CONTRIBUTIONS, S. 1173 AND BYRD/GRAMM

[Dollars in thousands]

State	ISTEA avg. percent (incl. demos)	FY 1996 HTF Pymts (percent)	90% HTF Pymts	S. 1173 5yr Avg. (1999–2003)	Percent	Byrd/Gramm 5yr Avg. (1999–2003)	Percent
Alabama	1.815	2.219	1.997	$442,300	1.997	$553,616	1.997
Alaska	1.160	0.256	0.230	274,640	1.240	343,760	1.240
Arizona	1.399	1.726	1.553	343,979	1.553	430,550	1.553
Arkansas	1.437	1.445	1.300	294,574	1.330	368,711	1.330
California	9.133	10.096	9.086	2,026,838	9.151	2,536,945	9.151
Colorado	1.098	1.277	1.149	282,478	1.275	353,571	1.275
Connecticut	1.929	1.000	0.900	379,110	1.712	474,518	1.712
Delaware	0.398	0.288	0.259	104,098	0.470	130,296	0.470
Dist. of Col.	0.504	0.126	0.114	100,107	0.452	125,302	0.452
Florida	4.201	5.116	4.605	1,019,835	4.605	1,276,502	4.605
Georgia	2.975	3.895	3.506	776,476	3.506	971,895	3.506
Hawaii	0.692	0.259	0.233	132,223	0.597	165,498	0.597
Idaho	0.683	0.549	0.494	181,617	0.820	227,325	0.820
Illinois	3.735	3.696	3.327	736,789	3.327	922,221	3.327
Indiana	2.231	2.703	2.432	538,722	2.432	674,304	2.432
Iowa	1.206	1.165	1.049	292,287	1.320	365,848	1.320
Kansas	1.148	1.156	1.040	290,037	1.310	363,032	1.310
Kentucky	1.561	1.927	1.735	384,214	1.735	480,911	1.735
Louisiana	1.443	1.763	1.587	393,511	1.777	492,551	1.777
Maine	0.643	0.523	0.470	127,220	0.574	159,240	0.574
Maryland	1.678	1.674	1.507	333,744	1.507	417,739	1.507
Massachusetts	4.537	1.846	1.661	393,688	1.778	492,771	1.778
Michigan	2.812	3.505	3.155	698,708	3.155	874,555	3.155
Minnesota	1.534	1.430	1.287	331,165	1.495	414,512	1.495
Mississippi	1.106	1.325	1.193	279,391	1.261	349,707	1.261
Missouri	2.211	2.585	2.326	527,173	2.380	659,850	2.380
Montana	0.884	0.479	0.431	234,773	1.060	293,860	1.060
Nebraska	0.778	0.810	0.729	185,958	0.840	232,759	0.8940
Nevada	0.641	0.640	0.576	161,683	0.730	202,375	0.730
New Hampshire	0.483	0.408	0.367	115,172	0.520	144,158	0.520
New Jersey	2.848	2.607	2.346	533,777	2.410	668,115	2.410
New Mexico	0.975	0.869	0.782	232,558	1.050	291,087	1.050
New York	5.475	4.358	3.922	1,128,109	5.093	1,412,009	5.093
North Carolina	2.618	3.140	2.826	625,976	2.826	783,519	2.828
North Dakota	0.636	0.360	0.324	161,683	0.730	202,375	0.730
Ohio	3.584	3.826	3.443	762,570	3.443	954,490	3.443
Oklahoma	1.420	1.686	1.517	349,099	1.576	436,959	1.576
Oregon	1.163	1.302	1.172	285,235	1.288	357,022	1.288
Pennsylvania	4.865	4.160	3.744	839,868	3.792	1,051,249	3.792
Rhode Island	0.580	0.275	0.247	128,461	0.580	160,791	0.580
South Carolina	1.279	1.765	1.589	351,919	1.589	440,488	1.589
South Dakota	0.653	0.359	0.324	172,758	0.780	216,236	0.780
Tennessee	1.998	2.515	2.263	501,256	2.263	627,410	2.263
Texas	6.423	7.649	6.884	1,524,739	6.884	1,908,478	6.884
Utah	0.711	0.855	0.770	191,086	0.683	239,178	0.863
Vermont	0.435	0.293	0.264	104,098	0.470	130,296	0.470
Virginia	2.267	2.844	2.559	566,858	2.559	709,522	2.559
Washington	1.865	1.962	1.765	407,191	1.838	509,671	1.838
West Virginia	1.147	0.806	0.725	226,342	1.022	283,308	1.022
Wisconsin	1.926	2.018	1.817	402,337	1.817	503,595	1.817
Wyoming	0.629	0.466	0.419	168,328	0.760	210,692	0.760
Puerto Rico	0.448	0.000	0.000	101,652	0.459	127,235	0.459
Total	00.000	100.000	90.000	22,148,407	100.000	27,722,607	100.00

Mr. WARNER. Mr. President, throughout this debate of many, many months on the highway bill, I have expressed the need to raise the amount of money that had to be put forward to replenish America's infrastructure. And together with Senator BAUCUS, we cosponsored an amendment which lost by one vote in this Chamber to augment the spending under this bill. I felt a certain loyalty to that coalition which had joined with me and had fought so hard to get additional funding.

Second, the formula that we devised in the underlying bill, ISTEA II, I now recognize, while it was essential in my judgment we establish that 90 percent return—thereby eliminating the donor-donee distinction that existed, I think most unfairly, for these 6 years, and we achieved that result—but I find, in consulting with many of my colleagues, that the transition is very abrupt to their States, those donee States in particular. This amendment, as proposed by the four of us, will help ease that transition.

That point I want to make very clearly, it will help ease that transition, because Senators in clear conscience on both sides of the aisle have come to the members of the transportation committee and said please, we must have some relief as we begin to transition into ISTEA II. This bill provides the added funds to give that needed relief, badly needed in many instances. I think now with this important amendment as part of the bill if so adopted—the Senate will adopt an ISTEA II bill.

I am reasonably confident it will be along the lines of the committee bill. But there have been reports from the other House, and they may be rumor but I think there is some documentation, all the way from, "We are not even going to conference. There won't be a bill this year." Or it will be just a 6-month bill. And I have heard a 90-day bill.

At another time I will explain why, in my judgment, that is not good for the United States of America. Our transportation infrastructure and the need for upgrading is critical for this Nation to remain competitive in a one-world market. A 6-year bill has always been the format, beginning with ISTEA I, by which the Governors and the respective highway authorities in the several States have done the long-term planning necessary to improve their own State transportation systems. They need 6 years to develop the contracts which must be guaranteed to have a flow of funds over that period of time. They are not simple contracts, they are very complex contracts.

I can go on, on that point. But we will be strengthened, the U.S. Senate will strengthen its bill to the point where I think the House will see the wisdom of the course we have charted

in this body for a highway bill which is anxiously being awaited by the 50 States. This amendment, I think, will ensure the ability of the Senate to go in with a strengthened position and persuade the House to the wisdom of having a 6-year bill, and hopefully along the funding profile as outlined in this amendment.

The House was deeply concerned, as was the Senate, that next year, with the forecast and projections of additional revenues, that they could be forthcoming for transportation. What this amendment does is literally solidifies—no longer "bet on the come"—that next year we will have additional funds for highways. But this amendment in a sense puts that certainty into this legislation, which will enable the several States to do their planning.

So, those are the three basic reasons and I shall add further, such that other Senators can have an opportunity to speak on this, and I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from West Virginia.

Mr. BYRD. Mr. President, in the remaining time let me also thank the distinguished Senator from Rhode Island and others on the committee who worked long and hard, in putting together the bill that was reported.

Now, I have discussed with the distinguished chairman of the committee, the need of the Appalachian corridor States for additional moneys, and that need hasn't been met by this bill. The distinguished chairman from Rhode Island, Mr. CHAFEE, came to my office and listened to my concerns. He listened courteously, and I thank him for the consideration that he gave me. But we have a bill here that does not meet those needs that have languished for 31 years. So I feel compelled to do what I can for the Appalachian States and the people therein who have been promised for 31 years that those Appalachian corridors would be funded. I feel the need to do what I can to advance their cause.

And other Senators have come to me saying, "We need more money. We need more money." Six years ago, when we had the ISTEA bill before the Senate, I found, as chairman of the Appropriations Committee, I found $8 billion, a little over $8 billion which enabled the Senate to get off the dime, as it were, where it was stalled. That bill wouldn't move. So we divided the $8 billion, half I think among the donor States and half to those States which had acted to increase the resources for transportation within their own borders, such as my own State, which had raised its gasoline tax. It had done more than many of the other States had done within the respective borders of those States to try to meet those needs.

So, I was able in that instance to find that $8 billion, so Senators have again come to me and said listen, we need more money. We need more money. So I have done my best to find that money. There will be a time, as I have said, when we will debate this matter. But I did want to thank the distinguished chairman for his work and I hope he will understand the necessity that compelled me to try to get more contract authority for highway construction all over this country. I will be ready to do my best to defend the amendment when we are ready to introduce it.

Mr. President, at this time I would like to state the names of additional Senators who have indicated they want to cosponsor the amendment: Mr. AKAKA, Mr. BREAUX, Mr. FORD, Mr. INOUYE, Mr. KENNEDY, Mr. ROBERT KERREY, Mr. HARRY REID, Mr. SHELBY. That completes the list as of now.

I urge all Senators who, having heard this discussion today and who, feeling that they would like to be cosponsors—I urge them to be in touch with my office, Mr. GRAMM's office, Mr. WARNER's, or Mr. BAUCUS', and let us know that.

Mr. GRAMM. Mr. President, Senator SANTORUM, who presided over our presentations, asked to be added as a cosponsor. Mr. FAIRCLOTH would also like to be listed. We are not offering the amendment today, but in terms of putting people on notice, putting the tables out, I wanted to be sure that they were listed as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I appreciate the lovely bouquets that have been thrown my way. I think I would swap them for more support than I am currently receiving. But, nonetheless, I appreciate it. I thank the distinguished senior Senator from West Virginia and all around here, Senator BAUCUS, Senator WARNER, others. I would ask the sponsors of the amendment that we would like to see it. We are going away, now, for a week, and I think it would be helpful if we could see this amendment. When will it be available?

Mr. BYRD. Mr. President, the distinguished chairman has asked a pertinent question. I think I have already answered it. The amendment is still being drafted, but, in view of the fact that the Senate is about to go into recess—I understand there won't be a session here tomorrow—we, who are the chief cosponsors, felt that we ought to announce to Senators that there will be an amendment. We put tables in the RECORD, and at such time as the amendment is ready to be offered, all Senators will then have it made available to them. Senators are entitled to see it when it has been finished.

Mr. CHAFEE. Mr. President, I would ask if it is possible to see it before we leave? In other words tonight, tomorrow, something like that?

Mr. BYRD. As the distinguished chairman knows, the department has had some difficulty in calculating the numbers even for the bill that is before the Senate. Now we have an amendment that only last night the four chief cosponsors finally agreed upon, and it takes some time for the department to run the tables, run the figures and get them ready. Senators know that. The Senator from Rhode Island and other Senators know that. We could have waited until we came back to announce that we have an amendment, but we felt it was the better part of wisdom, because it is being talked around here. This amendment, without its having yet been produced, is already being criticized, and things are being said about the amendment that are not true. So we felt that before we go into recess we ought to make that clear, that there are mistaken conceptions of what the amendment does. We ought to set that record straight. But the amendment will be made available in due time.

And while I am on my feet, I would like to say we ought to have an ISTEA bill this year. We ought not settle for a 6-months extension. We ought not settle for a year's bill. Next year is an election year. If we can't reach an agreement this year, how easy is it going to be to reach an agreement next year, during an election? We ought to focus our energies and our attention and our talents on promoting action on the bill this year, a full 6-year bill.

Now, that's the best I can give the Senator in answer.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, as I understood there is a table being passed around that shows the allocations to the various States. That's really the tough part of the amendment. So, what is left?

Mr. BYRD. I will give——

Mr. CHAFEE. The language of the amendment must be available if——

Mr. BYRD. I am pleased to give the Senator the table. It will also be in the CONGRESSIONAL RECORD in the morning, for all to see.

Mr. WARNER. If the Senator will yield, I will give him the table that I have quickly prepared when I first learned of the amendment, which shows the consistency between this amendment and the distribution of funds under our underlying bill, ISTEA II.

Mr. CHAFEE. Mr. President, I know the distinguished chairman of the Budget Committee has some comments. But let me just say briefly, I want to put one thing to bed around here, to rest, and that is that this gas tax has been collected with the people who are paying it believing it is all going into a highway trust fund.

Let me just review the bidding a little bit. Many of us—I certainly was here, the Senator from Montana was on the Finance Committee at the time, I

don't know whether the Senator from Texas was. But in 1990, there was a 5-cent-per-gallon tax started; 5-cent-per-gallon tax; 2.5 cents of that was to go to the general fund, 2.5 cents to the highway trust fund. This was no secret. It wasn't something that was slipped over anybody. We all voted for it up or down, knowing 2.5 cents of that 5 cents was going into the general fund of the United States. There is none of this business of coming to the pump, looking at it and thinking that tax you are paying all goes into building highways.

Then in 1993, we added a 4.3-cent tax, all to go to the general fund, and that was no secret either.

So, Mr. President, I just want to say that this idea that we are somehow deceiving the public by piling up money in the general fund from the gasoline tax is just not accurate, and everybody who was in the Senate at the time—that is everybody here—certainly those on the Finance Committee clearly knew where the money was going to go.

Let me just say something else. I know the Senator from New Mexico is going to deal with this further, but I must say, this is a world record around here. We passed a budget in August. That is when it was signed, August. September, October we are going to deviate from it.

The proponents are riding two horses here. One they are saying, "Oh, it's not going to affect anything," and that is right, because under this amendment, it goes out to the States but can't be spent until one of two things happen: until the other domestic discretionary accounts are cut or the cap is, or the overall discretionary cap is raised. That is true.

So on one hand you can say what marvelous things are going to be done for the highways, every State is going to get more, how wonderful it is, and then you say, "Oh, no, none of it is going to be spent; therefore, it is not going to affect the budget at all."

When the time comes and the decision is made, you radically alter the budget that was just signed by the President a month and a half ago, probably it is 2 months ago now. That is a world record for this Chamber. Usually we don't deviate from a budget until we have gotten into it a little bit, but here we change it after a little less than 2 months. I don't think that is a very good record we should be proud of in this Chamber. I know the distinguished chairman of the Budget Committee will be speaking, and I look forward to hearing his remarks.

Mr. WARNER. Will the Senator yield for a point? I want to make it clear for the record I voted against that 4.3-cent tax.

Mr. CHAFEE. Maybe you did, but the idea that this was adopted by some masquerade, somehow the impression "when my wife goes to the gasoline station she is thinking that all that tax money is going into the highway trust fund and that if we send it anywhere else we are deceiving her," that is nonsense. It was nonsense right from the beginning, as I said, in delineating the history of what took place in 1990 and then in 1993.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. CHAFEE. Sure. Let me say one thing, if I might, Mr. President. I am now in my, I guess, 20th year here, and I have been on the side of the distinguished senior Senator from West Virginia. I remember lifting the Turkish arms embargo about the first year I came here. And then I have been on the other side, against him. As a general rule, I would far prefer to be on his side than against him. I find it is a much more comfortable position, perhaps a safer position in many ways. So I am very, very conscious that when I duel with the distinguished senior Senator from West Virginia, I have to be on the alert.

I will buckle on my breastplate of righteousness, I shall seize my cap of salvation, I shall grab my sword of the spirit and prepare for combat.

Mr. BYRD. Come one, come all. This rock will fly from its firm base as soon as I.

Mr. President, the distinguished Senator from Rhode Island has made some comments questioning the fact that people in this country—I think it is a fact—the people in this country go to the gas pump and buy gasoline under the impression that their tax money goes into the highway trust fund and that it comes back to meet their transportation needs.

Was the Senator here in 1956? I was here in 1956. I was here and I supported President Eisenhower's interstate system. I was here. My wife was buying gas at the pump then. In 1956, Congress created that highway trust fund. She was buying gas at the gas pump then, and the people were told that the gas tax was going into the trust fund tax, and that money was going to be used for highways.

And so for over 40 years the American people have believed that their money that they were spending at the gas tank, that portion that was the Federal tax, was going into the highway trust fund. That is no Alice in Wonderland story. That is no make-believe story. That has been a fact. I voted for it 41 years ago.

In 1990, it was diverted. That is when it was diverted, 1990. I was here. I voted for that. I went over to those long meetings that we had with Mr. Sununu and Mr. Darman and Mr. DOMENICI and I guess Mr. WARNER was there, Mr. Hatfield was there. Anyhow, Senators on both sides of the aisle were there. And we came up with a package. Yes, we diverted it. We voted to do that.

But recently the Senator from Texas offered an amendment, which said that the gasoline tax should again go into the highway trust fund.

So let's not break faith with the American people. They have been told it is for highways, and that is what this amendment says it will be used for if the savings are there. I just wanted to make that point.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I left a very important meeting because I thought I had the time at 5:15 or at least after they used an hour or so. I think I am being fair in saying they used an hour, and I was supposed to follow for a half-hour.

Mr. BAUCUS. I wonder if the Senator will yield for 1 minute on this last point.

Mr. DOMENICI. Will you set it for 1 minute?

Mr. BAUCUS. Very briefly.

Mr. DOMENICI. I will be pleased to yield.

Mr. BAUCUS. In 1990, we enacted 2.5 cents to deficit reduction. In 1993, the 4.3 was passed. In 1995, due to pressure from the public, we undid the 2.5 cents so that went to the highway trust fund. And right now, because of the public pressure, we are going to put the 4.3 cents in the trust fund.

In the past, Congress has diverted, but the public is now telling us—and we enacted in 1995 to put 2.5 cents back in the trust fund, and now we are putting 4.3 cents in because the public wants it back in the trust fund.

Mr. DOMENICI. Mr. President, since there is going to be a week or more intervening before we can debate the so-called amendment, I hope it is available for us to look at before then. I am always a little suspicious when a bill isn't ready, especially when everybody is clamoring to get on it because it seems to me they know something I don't know.

Mr. BYRD. Will the Senator yield?

Mr. DOMENICI. And I bet they do. I bet they know this bill is going to promise them all a lot more money, so why don't they all get on? Right, I ask Senator GRAMM? Every Senator should get on it. You can count on it, it is going to give you more money, you can count on it, whether it is the Appalachia Regional Commission, Texas, New Mexico—all of you are going to get a lot more money.

Mr. BYRD. Will the Senator yield?

Mr. DOMENICI. I will yield as much as you like.

Mr. BYRD. I have two things to say. I hear that the distinguished Senator from New Mexico has an amendment. I hear that he has one. I have seen papers to that extent, memos, or letters something like that. I didn't read them, but I have seen them around the desks. So he, too, has an amendment. I haven't seen it. We four sponsors think

that even though our amendment is not ready, we should clear the air and clear the record as to what it will not do, because many things are being said in the Senate about our amendment that are absolutely incorrect. I have seen some of the papers on the desks around here saying what this amendment purportedly will do. We Senators wanted to clear the record today to say that it will not do this and it will not do that and it will not do other things stated in the propaganda that is being spread. That is all. I thank the Chair.

Mr. DOMENICI. I was delighted to yield. First, I would like to make a part of the record and I would like Senators to know a little history about the trust fund and whether or not there really is a surplus. At least on the Republican side I would like them to read the Republican policy statement issued on October 6, just a few days ago, that analyzes the history of this. It will be good reading. If there ever was a myth, it is the myth about the great, great trust fund buildup that is there for highways that we ought to be using, everybody says; this budget process is just building that big reserve and that big slush fund. This will tell you that is kind of a paper tiger. I would call it one of the greatest myths around.

Having said that, let me clear up the second point. No Republican voted for the 4.3-cent-gasoline tax. So I say to Senator WARNER, you can get up and say you didn't. You are in good company. None of them did.

On the other hand, I can say to my friend from West Virginia, you did, because every Democrat voted for it. The important thing is, what was it for? I understand that in 1956 Senator BYRD's wife was buying gasoline at the pump. I was just a small guy then, but I was buying gasoline at the pump. I had a little Chevrolet, secondhand car that my dad gave me, and it was secondhand from his business.

Let me tell you, this 4.3 cents was adopted in a balanced budget proposal by this President, voted for by Democrats. I will tell you, some of us said that it wouldn't work, and maybe it worked better than we thought, but I say to my good friend from West Virginia, there was no diversion of highway trust fund moneys. It was voted up or down in the General Treasury to reduce the deficit. We can bring that down here and talk about it. It was not a gasoline tax for highway use. It was a gasoline tax to reduce the deficit.

I submit, since we think we have balanced the budget, Mr. President, maybe the time is to give the 4.3 cents back to the States. That might be a good idea. Its original purpose was to help balance the budget. Let's say to the American people, "We're giving it back to you because we don't need it to balance the budget."

I say to Senator BYRD, I know you want me to yield, but you have been down here a long time. You used the word "propaganda" about what I sent around. I want to make sure this attack on propaganda is equal, so I can attack propaganda about how great this amendment is and what it isn't going to do.

Frankly, we are going to have a lot longer discussion about this, but it is wonderful to just visualize and think for a minute how far we have come.

June the 5th—anybody waiting around for me to say what year—this year, June the 5th, 1997, we overwhelmingly adopted a balanced budget resolution. And everybody was praising us. And JOHN WARNER, a wonderful Senator from Virginia, you are hugging DOMENICI saying, "You finally got it done"—June 5th.

Just a little while later, July 31st, this year—not 10 years ago—we adopted two bills, one by a vote of 85–15. Now, I imagine in this debate some can stand and say I did not vote for it. Maybe PHIL GRAMM can say that. I was not one of the 15. He did not vote for the budget resolution, anyway.

Anyway, 85 Senators voted for the bill to implement that balanced budget. And lo and behold, on the same day, 92 Senators voted on a new tax bill for the United States of America—all part of a big plan to balance the budget.

What actually has happened, Mr. President, and fellow Senators, is that along comes a highway bill, after all that is done, and by an accident of time it comes after the Budget Act and on to the floor comes Senators saying, "Let's spend $31 billion more on highways than we expected just on June 5th, 1997."

Now, is Senator DOMENICI saying you are breaking the budget? Well, I don't know. I am just telling you that on June the 5th you voted in a budget resolution that sets obligation authority for highways, and now before the year ends you are saying, without another budget, without another debate, without any decision about where the money is going to come from—I will talk about that in a minute—we all decide we are going to add $31 billion to the highway program.

Anybody that thinks Senator PETE DOMENICI is not for highways has Senator PETE DOMENICI wrong. In fact, about my own State, I have to say that we are not spending enough on highways. And it is going to be very detrimental to the future of our State. Most of it is because we do not want to spend any of our own money. And in our urban areas we put in about $80 million every 2 or 3 years in a bond election. We ought to put $250 million, in my opinion.

The point is, I am for spending more money on highways. And I will present an amendment that does justice to the votes of these Senators on June 5th and July 31st. For my amendment will say: Early next year when we do a new budget resolution and we thoroughly debate—what?—prospects for a surplus—I am hearing people running around saying there is going to be a big surplus. We are going to debate that.

I hope there is a great national debate because, to tell you the truth, the deficits are going to be down in the year 1998, 1999, and the next year dramatically from what we predicted. And I believe, absent some catastrophe, in the short term we will balance the budget and have a lot of money left over in the year 2002.

But before we get too excited, during that debate we will have a presentation, if not by others, by me, telling you what is going to happen in about 12 years or 14 when the baby boomers hit this. Just like one of these giant pythons when they swallow some big monster animal, they can hardly digest; it gets about that big. That is the way the budget is going to go—huge.

Frankly, I want to tell you what I think this amendment does. I believe there is a disagreement in philosophy between the distinguished Senator from West Virginia, Senator BYRD, and his cosponsor, Senator GRAMM of Texas. Senator GRAMM has said—and he put it in a circular that has gone to everybody around to muster up support—and the fourth point he makes in his circular is that we will not spend any more money as a result of spending $31 billion more on highways than we expected, we will not spend any more money.

That does not sound possible, does it? Of course, it does. Senator GRAMM says we will take it out of the rest of Government. So what we had planned to spend in Government, which incidentally for those who think we were going to spend a lot of money, get ready. The appropriated accounts on the domestic side are expected to increase five-tenths of 1 percent in each of the next 4 years, I say to my friend from West Virginia. That is the number built in the law.

Now, think with me. Senator GRAMM says, $31 billion more spent on highways than contemplated, but we are not going to spend any more. Where is it going to come from? Now, the version of the Senator from Texas is to take it out of the rest of Government, except defense, I assume. Wait a minute—you shake your head—it is not right.

It is impossible that you can spend $31 billion and not break the caps that are currently established or reduce the level of spending in the appropriated accounts other than transportation. It is arithmetically impossible. That is not philosophy; that is just plain old numbers.

Now, Senator BYRD is saying, if I hear him right, "Now wait a minute."

Mr. BYRD. Be careful now. Be careful.

Mr. DOMENICI. "I want to spend this 4.2-cent gasoline tax. I want to spend it

on highways. On the other hand, I'm willing, when the time comes, to increase the domestic caps so we don't have to cut appropriations."

Now, is this amendment a budget buster or is it not? I guess one could say we are not breaking the budget because somehow the money is going to come down from Heaven and come into this trust fund, or some will say we are just going to go to the NIH and we are not going to get rid of it like Senator DOMENICI suggested, we are just going to cut it 5 percent. And we are not going to get rid of all those items that somebody read off my letter, we are just going cut them off 5, 6 percent. Well, everybody ought to know what we are going to cut to spend $31 billion. And the problem with this process: They will not know until we have already put on the new map $31.6 billion in highway funds.

That is the truth of it. Why do I think we should do it another way? And I urge you all to do it another way. I urge that we not spend the money, the 4.3 cents, the $31.6 billion, that we not obligate it now but, rather, we say the following in an amendment—and if Senator BYRD wants to know what my amendment is, I am explaining it right now—that we adopt an amendment that says, when the budget process is finished, and the debate has concluded on what we should do with our money next year, including surpluses, and the following years, when we have decided, if Congress decides to spend more money on highways then, put it right in the budget resolution, an automatic supplemental appropriation. An amendment to the Highway Act will occur so that you have accomplished it and everybody has had their chance to debate where the $31 billion comes from.

And I surmise that some of you might say, including my wonderful debating friend, Senator GRAMM, you might say, "DOMENICI, you know, they're going to put it in highways anyway." Well, that works both ways. If you know they are going to vote to put it in highways, why don't you wait and do it when everybody can vote on the difference between spending it here and not spending it in education or spending a surplus to build highways?

That is a fair proposal on our part. I will draw the language for you. I will let you help me. Then I will tell you, if you prevail in this debate that you want some surplus going in here, that you want to cut other programs to put more here, I will be on the floor supporting you to the best of my ability right on through.

Frankly, I do not think—you know, I used to be, in all honesty—I will not tell you when it stopped happening, I say to Senator BYRD—but I used to really fret when I thought I had to come down here and argue with you. Because I figured I did not know enough. And by the time you got through with the process down here, you taught me a lesson. You taught me it early. The rules are made for you. If you do not use them, it is your fault. And if I use them, it is because I have a right to.

I did not feel up to it back yonder. But I welcome this debate. And if you all win, you know, I am not going to lose any sleep. But I think I will make the point that this is not the way to run the Government of the United States 4 months after you pass a balanced budget and you put caps on what you can spend for each of the next 5 years, literally dollar numbers written in the law for all the domestic accounts, including highways. They are all in that cap. You cannot raise the cap without 60 votes saying, "Raise the cap."

And along comes the appropriations process, which is the other vehicle you can use, and you cannot—you cannot—mysteriously find $31 billion to spend. You put new commitments in with the same amount of money to spend for everything—not one penny less or one penny more. It does not change. There is no inflation built into those caps. They are not tied to the economy of the United States. They are flat literal numbers.

And why are they numbers? Because we found the only thing that worked to control spending on the appropriated side was to say if you exceed the caps, the Executive must put in an automatic sequester so it is the only thing that works. And it works because twice the White House—not this one—sent us a little signal. We were $40 million-some over the cap once, and Dick Darman said, just so you will all know that it works, he sequestered every account in Government to the tune of a total of $43 million, which I think was one-tenth of one-hundredth of one-thousandth of a percent, but to prove it works.

It was sort of a bit of the leftover of Gramm-Rudman-Hollings. Probably the one notion of real consequence was the notion of a sequester, which most people never heard the word before. In fact, I had not until you introduced the bill—or until we helped you rewrite the bill or whatever. I worked on it for a long time, I say to the Senator.

I am going to quit for now because if I am going to bore the Senate with my entire speech tonight they will not listen to me the next time. And I want to make sure that they all hear this and that they all hear my version of this. And then they can vote as they please because that is what we were elected for.

I want to close by saying to all that big lobby group, believe you me, when you say "lobby groups," don't think that the highway people are not lobbying. Man, oh, man, you would think that the only ones lobbying are the manufacturers of America. They are all out there now that you have spoken tonight. When these Senators go home on this recess, they will claw at them. They will already know how much more is going to be spent on their highway projects. It will not be the citizens. It will be the highway builders. Nothing wrong with that. There is not one Senator that said they should not, but, boy, they are going to tell you every penny is needed. And they aren't going to know one diddly about the process going on up here or what they are competing with. It is just: Build the roads.

Someday we are going to build more roads. Maybe I will be voting for building more roads. But I tell you for now, you have not come close to convincing me that this is the way to do it. I urge that you go back and find a way to draft a contingent bill, draft a bill contingent upon the Congress of the United States in the budget process increasing the obligational authority that you think we ought to have.

I am willing to help you draft that and say if Congress votes that in as it sets its new priorities—and, yes, I would even say decides whether it wants to spend more money—then I will be right there with you when the time comes seeing that you get it. But I just believe that, you know—I cannot yet tonight tell you, but I will be able to in a week, how this changes the system that was working.

I do not mean by that, spending the trust fund reserves. There can be a big argument about the unified budget and taking it off budget. I just mean, to come in at this date just because a highway bill is due and add $31 billion this way without having to face up to any competing needs, and leaving that competition to another day, or as one would say, "Don't worry about the competition. We'll just increase the caps and spend more," I think that ought to be done not in the context of a highway bill that gives everybody some goodies that they are all prone to vote for, I think it should be done in a framework of the U.S. Senate at its best, determining what the overall expenditures of Government ought to be, and maybe I will even say tonight how much of the surplus we want to spend and how much you want to leave, how much you want to put in the Social Security trust fund, and all kinds of nice things.

I yield the floor.

Mr. BYRD. Mr. President, I will be very brief because we have other business that is going to come before the Senate.

Before the Senator from New Mexico leaves, the Senator talks in terms of waiting, waiting until we can consider other competing needs. We are saying, "Let's keep faith with the American people." If there are savings, let's spend the money in the trust fund for

that which the American people think it is to be spent for, not other competing needs. That is just what we are saying it is being spent now for—for other competing needs. We are saying, stop it, keep faith with the American people. Spend it for highways if it is going to be spent.

Other competing needs—like what? Cutting taxes? Is that what it is? The distinguished Senator mentioned how the budget is going to bulge when the baby boomers get on the scene. I voted against a tax cut, Senator. I said let's put it against the deficit, let's take what you would spend on a tax cut and apply it on the budget. Let's balance the budget with it. I said I'm against a tax cut that the Republicans proposed and I'm against the cuts that the President proposed.

Now, we are simply saying, let's spend it for highways if it is going to be spent and if the savings are there. Of course, the chairman of the Budget Committee and the members of the Budget Committee are going to make that decision. But the people need to know something now. Why do we do it now? Because, we have a highway bill before the Senate, that is why. Now is the time. Don't wait until the opportunity has passed and say, "Well, we should have done it when the highway bill was before the Senate." Let's do it now.

The distinguished Senator says he will welcome the debate.

I, too, welcome the debate, and we won't be running for the mountains crying for the rocks to fall on us. When the debate comes, we will be ready.

As I say, we just wanted to put to rest some misunderstandings that were being spread. I don't blame anybody for that. They were jumping to unmerited conclusions. We wanted to set that straight. When the time comes, the amendment will be offered, and I welcome any and all cosponsors, as do the other sponsors. I don't intend to convince my friend from New Mexico. I honor and respect him. He is one of the brightest minds I have ever seen come in this Senate, but let's keep faith with the American people.

Ananias dropped dead, and so did Sapphira, his wife. They lied, they lied to God. I'm not saying anybody has lied, but I am saying we are not keeping faith with the American people. The American people were told by us in 1956, Senator—I was here; I was over in that other body—they were told that the money was going into that trust fund and would be coming back home to meet the transportation needs of the people.

So, let's keep faith with the American people. And we will renew this debate on another day, I say with great respect to all my friends.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me say it is awfully tempting to get into a debate here, and I will try to avoid that as well. We will have an opportunity to do that the week after the recess when our amendment will be before us, the bill will be before us.

In the words of Ronald Reagan, let me ask Senator DOMENICI to take a little walk with me down memory lane. When his budget was on the floor, I offered an amendment to take a position in the Senate that said that the 4.3-cents-a-gallon tax on gasoline should be put in the trust fund and should be spent for highways and for mass transit. By a vote of 83–16 Members of the U.S. Senate said yes. When the tax bill was before the Finance Committee I offered an amendment to put the 4.3-cents-a-gallon tax on gasoline into the trust fund. By a vote of 15–5 the Finance Committee said yes, and that amendment was never challenged on the floor of the U.S. Senate. So, whatever the Senator from New Mexico would like the world to be, 83 Members of the Senate said put the gasoline tax in the trust fund and spend it for the purpose that gasoline taxes have always been spent every time there has been a permanent gasoline tax in history before this gasoline tax, spend it for that purpose on highways and mass transit.

Now, in terms of this debate about the budget, what Senator DOMENICI is saying is, "Don't amend the highway bill; let me amend the budget. Don't do it today, decide it next year."

We have the highway bill before us. The last highway bill that we wrote lasted without a change in the amount of money being spent for 6 long years. The reason we debate a highway bill is to write a highway bill. The point here is as simple as it can be. Do you believe that the gasoline tax which is in the highway trust fund should be spent for highways? If you do, then you are going to end up supporting the amendment that Senator BYRD and I are offering. If you don't believe that, you are going to end up opposing it.

Finally, in terms of the whole debate about the budget, this amendment does not bust the budget. What this amendment does do is it raises the contract authority for highways so that we have an opportunity to compete for funds in appropriations to build highways. Our amendment is very clear on this point. I don't want to go much further because it is not fair to Senator DOMENICI, given that we don't have the amendment before us, but it simply says two things, and I think it is clear there are Members of the Senate who do not support these two things—but I do.

It says, No. 1, that if you have savings by lower spending —it doesn't say anything about higher revenues from economic growing, any of that stuff. It just says if we spend less than we have in the budget and if you decide to spend that money somewhere else—two ifs; it doesn't say you will have the savings and it doesn't say you will spend it anywhere else—but it says if you do have the savings and you decide to spend it, you have to fund the highway trust fund first. You have to fund it first.

Now, other people say, well, what is so important about it relative to all these other things we spend money on? What is important about it is we already have a surplus of $23.7 billion where we told the American people their money was going to build highways and we spent it on something else, as we are doing this very day. That surplus is going to grow to $90 billion. Senator BYRD believes, I believe, Senator WARNER, and Senator BAUCUS believe that it is fundamentally dishonest for us to tell people the trust fund is for building roads and to be building up a surplus of $90 billion where that money is being spent on other things.

So we are not making a decision here. We are not trying to write Senator DOMENICI's budget next year. We are trying to write the highway bill now. Senator DOMENICI says, "Well, let's debate next year's budget." We are not debating next year's budget. There is no guarantee that all of us will be on the same side of that debate. What we are doing is debating highways. We are saying, we have said by overwhelming votes, including on Senator DOMENICI's budget this year, that we want gasoline taxes to go to the trust fund. We want those taxes to be spent on highways. All we are saying is that we want to have a highway bill that reflects the position that we have taken not once but twice. Once in the budget this year, once in the tax cut this year.

This is not a new idea. This is something that we have approved over and over and over again. We think the time has come to make it clear in the highway bill—not in some future budget we may write, but in the highway bill—that when we tell people their gasoline tax is going to highways, we want it to go into highways.

In terms of our language on the budget, we are just simply saying if you have outlay savings and if you spend them—two big ifs; if you have outlay savings and you spend them—you have to fund the highway trust fund first.

I think the overwhelming majority of the American people are for it. I know there are other spending interests that would rather have the money. That is not the debate today. The debate today is about highways, and we are for them and we want to build them.

I yield the floor.

Mr. STEVENS. Mr. President, at a later date I will enjoy entering into the discussion that has just been commenced. I assure the Senate it is not

finished. I have great fondness for all participants, but I have two worries. One worry is the worry that the head of the Federal Reserve just announced we are coming into a period of inflation, and the second worry is whether the impact of the amendment as supported by the Senator from Texas would require a reduction in discretionary spending for other accounts in the years covered by the amendment of the Senator from West Virginia. That still has to be examined, in my opinion.

(The remarks of Mr. STEVENS and Mr. BYRD pertaining to the introduction of S. 1292 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, first, I see the Democratic leader here. I will be very pleased to yield to my friend. We have a series of items and we have not yet introduced our bill, but we would be pleased to listen to the leader who has this time reserved.

Mr. DASCHLE. I thank the Senator from Alaska. I have a short tribute I would like to make.

Mr. STEVENS. I shall wait.

Mr. DASCHLE. I appreciate very much the indulgence of the senior Senator from Alaska. I appreciate very much the opportunity to have heard my distinguished colleague from West Virginia, our former leader, who is, in spirit, still our leader.

The PRESIDING OFFICER. The Democratic leader is recognized.

LENNY OURSLER

Mr. DASCHLE. Mr. President, Lenny Oursler is somebody who has been with us here in the Senate for a long time. Tomorrow he will be leaving the Senate to work in the Congressional Affairs Office of the Internal Revenue Service.

Lenny began work in the Senate stationery store in September 1981. He began work in the Democratic cloakroom in April of 1987. He has worked over 16 years of Government service, 10 in the cloakroom, and he has been running the cloakroom, now, for the last 5 years. His tasks have been varied, including keeping Senators and staff apprised of floor action, acting as soothsayer in predicting upcoming schedules with amazing accuracy, making sure that all Democrats reach the floor in time to cast their votes, extending his exuberant hotlines with his trademark "thank you."

I don't know of anybody who has worked in that capacity who is more respected, and that respect is well earned. He is always available. He frequently works long, long hours and autographs his work with excellence. There will be a large void in the cloakroom that will be clearly difficult to fill. He is well liked by Senators and staff alike. He always has a cheerful disposition, always has something nice to say, a very positive person with an incredible outlook on life. Occasionally he even has a funny story to share that I can repeat.

Indeed, the only fault I can think of is that he is a diehard Cubs fan and he may never be broken of that terrible habit. I have been told by some of his friends that on the golf course he has a painfully ugly slice and his most valuable club is a ball retriever.

I know that Lenny will miss his family here. I know, too, he is looking forward to the new challenges at IRS. He is looking forward to more predictable and regular hours so he can spend more time with his young sons, Nathan and Benjamin, and wife Sara. I know I speak for all my colleagues on both sides of the aisle in wishing him luck and telling Lenny we will truly miss him.

I yield the floor and again thank the senior Senator from Alaska.

DISAPPROVING THE CANCELLATIONS TRANSMITTED BY THE PRESIDENT ON OCTOBER 6, 1997

Mr. STEVENS. Mr. President, we have a bill at the desk.

The PRESIDING OFFICER. The bill will be introduced and referred to the appropriate committee.

Mr. STEVENS. I wish to have it read.

The PRESIDING OFFICER. The clerk will read the bill by title.

The bill clerk read as follows:

S. 1292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves of cancellations 97–4, 97–5, 97–6, 97–7, 97–8, 97–9, 97–10, 97–11, 97–12, 97–13, 97–14, 97–15, 97–16, 97–17, 97–18, 97–19, 97–20, 97–21, 97–22, 97–23, 97–24, 97–25, 97–26, 97–27, 97–28, 97–29, 97–30, 97–32, 97–33, 97–34, 97–35, 97–36, 97–37, 97–38, 97–39, and 97–40, as transmitted by the President in a special message on October 6, 1997, regarding Public Law 105–45.

Mr. STEVENS. That is cosponsored by the Senator from West Virginia and a series of other Senators, Mr. President. I do wish to have it referred.

I had it read because I think the Senate and those who are watching this proceeding should know how sanitized this process is. Those projects listed by the simple numbers in the President's message were denied the use of $287 million for the men and women of the armed services. As was pointed out by Senator FAIRCLOTH of North Carolina, that is approximately the amount of money we are spending per month in Bosnia. Yet, each one of these projects was very much sought after by the Department of Defense, was reviewed by eight committees of the Congress, was reviewed on the floor of the House and here on the floor of the Senate and in conference, and once again brought back to each House.

I say again, the Senator from West Virginia makes a compelling case for his position, if this is to be the policy of this administration, if there is to be an indiscriminate use of the line-item veto without regard to waste, without regard to the necessity of the money that Congress says must be spent.

So, I look forward to this bill being referred to our committee. When we return from the coming recess we shall proceed expeditiously. Senator BYRD and I have agreed these matters will be kept in full committee so we will not have to go through the subcommittee process. And we will return this bill to the Senate as quickly as possible.

UNANIMOUS-CONSENT AGREEMENT—S. 830

Mr. STEVENS. I now would like to perform a series of missions for the leadership. Therefore, I ask unanimous consent when the Senate receives a message from the House accompanying S. 830, the Senate would disagree with amendment or amendments of the House, and the Senate would insist upon its amendment, agree to the request for a conference with the House, and finally the Chair would be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 595, S. 916, S. 973

Mr. STEVENS. Mr. President, I ask unanimous consent the Governmental Affairs Committee be discharged from further consideration of the following bills and the Senate proceed to their immediate consideration on en bloc: S. 595, S. 916, S. 973. These bills are various post office naming bills.

I ask unanimous consent that the bills then be considered read for a third time and passed as amended, if amended; further, I ask consent that the motions to reconsider be laid upon the table and any statements related to any of these bills appear at this point in the RECORD with the preceding occurring en bloc to the bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOHN GRIESEMER POST OFFICE BUILDING

A bill (S. 595) to designate the United States Post Office building located at Bennett Street and Kansas Expressway in Springfield, Missouri, as the "John Griesemer Post Office Building" was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JOHN GRIESEMER POST OFFICE BUILDING.

The United States Post Office building located at Bennett Street and Kansas Expressway in Springfield, Missouri, shall be known and designated as the "John Griesemer Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "John Griesemer Post Office Building".

BLAINE H. EATON POST OFFICE BUILDING

The bill (S. 916) to designate the United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, as the "Blaine H. Eaton Post Office Building", was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BLAINE H. EATON POST OFFICE BUILDING.

The United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, shall be known and designated as the "Blaine H. Eaton Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Blaine H. Eaton Post Office Building".

DAVID B. CHAMPAGNE POST OFFICE BUILDING

The bill (S. 973) to designate the United States Post Office building located at 551 Kingstown Road in Wakefield, Rhode Island, as the "David B. Champagne Post Office Building", was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF DAVID B. CHAMPAGNE POST OFFICE BUILDING.

The United States Post Office building located at 551 Kingstown Road in Wakefield, Rhode Island, shall be known and designated as the "David B. Champagne Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "David B. Champagne Post Office Building".

LARRY DOBY POST OFFICE

Mr. STEVENS. Mr. President, I ask unanimous consent the Governmental Affairs Committee be discharged from further consideration of S. 985 and the Senate proceed to its immediate consideration

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk read as follows:

A bill (S. 985) to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the "Larry Doby Post Office."

The Senate proceeded to consider the bill.

AMENDMENT NO. 1322

Mr. STEVENS. I now ask unanimous consent the amendment No. 1322, at desk, submitted by Senator THOMPSON to S. 985, be considered as read and agreed to.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. THOMPSON, proposes an amendment numbered 1322.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike lines 14 through 16.

The amendment (No. 1322) was agreed to.

Mr. STEVENS. I ask unanimous consent that the bill be considered read for a third time and passed as amended, further, I ask consent that the motion to reconsider be laid upon the table and any statements appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 985), as amended, was considered read the third time, and passed, as follows:

S. 985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) Larry Eugene Doby was born in Camden, South Carolina, on December 12, 1923, and moved to Paterson, New Jersey, in 1938.

(2) After playing the 1946 season in the Negro League for the Newark Eagles, Larry Doby's contract was purchased by the Cleveland Indians of the American League on July 3, 1947.

(3) On July 5, 1947, Larry Doby became the first African-American to play in the American League.

(4) Larry Doby played in the American League for 13 years, appearing in 1,533 games and batting .283, with 253 home runs and 969 runs batted in.

(5) Larry Doby was voted to 7 all-star teams, led the American League in home runs twice, and played in 2 World Series. He was the first African-American to play in the World Series and to hit a home run in a World Series game, both in 1948.

(6) After his stellar playing career ended, Larry Doby continued to make a significant contribution to his community. He has been a pioneer in the cause of civil rights and has received honorary doctorate degrees from Long Island University, Princeton University, and Fairfield University.

SEC. 2. DESIGNATION OF LARRY DOBY POST OFFICE.

(a) IN GENERAL.—The post office located at 194 Ward Street in Paterson, New Jersey, shall be known and designated as the "Larry Doby Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in subsection (a) shall be deemed to be a reference to the "Larry Doby Post Office".

MEASURES DISCHARGED AND PLACED ON THE CALENDAR—H.R. 1057 AND H.R. 1058

Mr. STEVENS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of the following bills and, further, that they be placed on the calendar: H.R. 1057 and H.R. 1058.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORAL REEF ECOSYSTEMS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 186, House Concurrent Resolution 8.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 8) recognizing the significance of maintaining the health and stability of coral reef ecosystems.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Energy and Natural Resources with an amendment.

(The parts of the concurrent resolution intended to be stricken are shown in boldface brackets and the parts of the concurrent resolution intended to be inserted are shown in italic.)

H. CON. RES. 8

[Whereas coral reefs are among the world's most biologically diverse and productive marine habitats, and are often described as the tropical rain forests of the oceans;

[Whereas healthy coral reefs provide the basis for subsistence, commercial fisheries, and coastal and marine tourism and are of vital economic importance to coastal States and territories of the United States including Florida, Hawaii, Georgia, Texas, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

[Whereas healthy coral reefs function as natural, regenerating coastal barriers, protecting shorelines and coastal areas from high waves, storm surges, and accompanying losses of human life and property;

[Whereas the scientific community has long established that coral reefs are subject to a wide range of natural and anthropogenic threats;

[Whereas the United States has taken measures to protect national coral reef resources through the designation and management of several marine protected areas, containing reefs of the Flower Garden Banks in the Gulf of Mexico, the Florida Keys in south Florida, and offshore Hawaii, Puerto Rico, the Virgin Islands, and American Samoa;

[Whereas the United States, acting through its agencies, has established itself as a global leader in coral reef stewardship by launching the International Coral Reef Initiative and by maintaining professional networks for the purposes of sharing knowledge and information on coral reefs, furnishing near real-time data collected at coral reef sites, providing a repository for historical data relating to coral reefs, and making substantial contributions to the general fund of coral reef knowledge; and

[Whereas 1997 has been declared the "International Year of the Reef" by the coral reef research community and over 40 national and international scientific, conservation, and academic organizations: Now, therefore, be it]

Whereas coral reefs are among the world's most biologically diverse and productive marine habitats, and are often described as the tropical rain forest of the oceans;

Whereas healthy coral reefs provide the basis for subsistence, commercial fisheries, and coastal and marine tourism and are of vital economic importance to coastal States and territories of the United States including Florida, Hawaii, Georgia, Texas, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

Whereas healthy coral reefs function as natural, regenerating coastal barriers, protecting shorelines and coastal areas from high waves, storm surges, and accompanying losses of human life and property;

Whereas the scientific community has long established that coral reefs are subject to a wide range of natural and anthropogenic threats;

Whereas a wide variety of destructive fishing practices, including the use of cyanide, other poisons, surfactants, and explosives, are contributing to the global decline of coral reef ecosystems;

Whereas the United States has taken measures to protect national coral reef resources through the designation and management of several marine protected areas, containing reefs of the Flower Garden Banks in the Gulf of Mexico, the Florida Keys in south Florida, and offshore Hawaii, Puerto Rico, the Virgin Islands, and American Samoa;

Whereas the United States, acting through its agencies, has established itself as a global leader in coral reef stewardship by launching the International Coral Reef Initiative and by maintaining professional networks for the purposes of sharing knowledge and information on coral reefs, furnishing near real-time data collected at coral reef sites, providing a repository for historical data relating to coral reefs, and making substantial contributions to the general fund of coral reef knowledge; and

Whereas 1997 has been declared the "International Year of the Reef" by the coral reef research community and over 40 national and international scientific, conservation, and academic organizations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

[That the Congress recognizes the significance of maintaining the health and stability of coral reef ecosystems, by—

[(1) promoting comprehensive stewardship for coral reef ecosystems;

[(2) encouraging research, monitoring, and assessment of and education on coral reef ecosystems; and

[(3) improving the coordination of coral reef efforts and activities of Federal agencies, academic institutions, nongovernmental organizations, and industry.]

That the Congress recognizes the significance of maintaining the health and stability of coral reef ecosystems, by—

(1) promoting comprehensive stewardship for coral reef ecosystems;

(2) discouraging unsustainable fisheries or other practices that are harmful to coral reefs and human health;

(3) encouraging research, monitoring, and assessment of and education on coral reef ecosystems;

(4) improving the coordination of coral reef efforts and activities of Federal agencies, academic institutions, nongovernmental organizations, and industry; and

(5) promoting preservation and sustainable use of coral reef resources worldwide.

Mr. INOUYE. Mr. President, I am pleased to rise today in support of House Concurrent Resolution 8. The United States is beginning to take steps to maintain and protect our coral reef ecosystems. This resolution encourages us to continue to improve our stewardship of these treasures in the sea. Coral reefs are among the most biologically diverse and productive marine habitats. They occur throughout the world's tropical and subtropical regions and in the waters of two U.S. states, including my home state of Hawaii.

Mr. President, coral reefs are vital to coastal economies, serving as the basis for coastal and marine tourism in several U.S. states and territories. Reefs also make substantial economic contributions by supporting subsistence and commercial reef fisheries. Coral reefs and the ecosystems they support are under increasing pressure, primarily from human activity. Of approximately 600,000 square kilometers of coral reefs worldwide, estimates are that 10 percent have been degraded beyond recovery and an additional 30 percent are likely to decline significantly within the next 20 years.

We must strengthen our commitment to be stewards of coral reefs, to discourage harmful fisheries and other practices, to monitor and assess the health of these unique systems; and improve research of and education about coral reef ecosystems. Further, we must ensure that we balance preservation with sustainable use of our coral reef resources. We must identify factors contributing to the global decline of coral reef ecosystems and discourage overfishing and other practices that are harmful to coral reefs and human health.

It is significant that this resolution is passed during the International Year of the Reef to focus attention on research and public awareness of coral reef issues. The resolution is an important step to promote preservation and sustainable use of coral reef resources worldwide. I appreciate the help of other Senators who have worked to see that our coral reefs are provided the attention that they deserve.

Mr. STEVENS. Mr. President, I ask unanimous consent that the committee amendment to the concurrent resolution be agreed to; that the concurrent resolution, as amended, be agreed to; that the amendment to the preamble be agreed to; and that the preamble, as amended, be agreed to. I further ask unanimous consent that the motions to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The concurrent resolution (H. Con. Res. 8), as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

MEASURE DISCHARGED AND REFERRED—S. 813

Mr. STEVENS. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of S. 813 and that the bill be referred to the Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the following bills, en bloc: S. 587, S. 588, S. 589, and S. 591. I ask unanimous consent that any committee amendments be agreed to; that the bills be read a third time and passed; that the motions to reconsider be laid upon the table; and that any statements relating to the bills appear at the appropriate place in the RECORD, with the above occurring en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

HINSDALE COUNTY LANDS EXCHANGE ACT

The Senate proceeded to consider the bill (S. 587) to require the Secretary of the Interior to exchange certain lands located in Hinsdale County, Colorado, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. LARSON AND FRIENDS CREEK EXCHANGE.

(a) IN GENERAL.—In exchange for conveyance to the United States of an equal value of offered land acceptable to the Secretary of the Interior that lies within, or in proximity to, the Handies Peak Wilderness Study Area, the Red Cloud Peak Wilderness Study Area, or the Alpine Loop Backcountry Bi-way, in Hinsdale County, Colorado, the Secretary of the Interior shall convey

to Lake City Ranches, Ltd., a Texas limited partnership (referred to in this section as "LCR"), approximately 560 acres of selected land located in that county and generally depicted on a map entitled "Larson and Friends Creek Exchange", dated June 1996.

(b) CONTINGENCY.—The exchange under subsection (a) shall be contingent on the granting by LCR to the Secretary of a permanent conservation easement, on the approximately 440-acre Larson Creek portion of the selected land (as depicted on the map), that limits future use of the land to agricultural, wildlife, recreational, or open space purposes.

(c) APPRAISAL AND EQUALIZATION.—

(1) IN GENERAL.—The exchange under subsection (a) shall be subject to—

(A) the appraisal requirements and equalization payment limitations set forth in section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716); and

(B) reviews and approvals relating to threatened species and endangered species, cultural and historic resources, and hazardous materials under other Federal laws.

(2) COSTS OF APPRAISAL AND REVIEW.—The costs of appraisals and reviews shall be paid by LCR.

(3) CREDITING.—The Secretary may credit payments under paragraph (2) against the value of the selected land, if appropriate, under section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

The committee amendment was agreed to.

The bill (S. 587), as amended, was read the third time and passed.

EAGLES NEST WILDERNESS EXPANSION ACT

The Senate proceeded to consider the bill (S. 588) to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the Slate Creek Addition, which has been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SLATE CREEK ADDITION TO EAGLES NEST WILDERNESS, ARAPAHO AND WHITE RIVER NATIONAL FORESTS, COLORADO.

(a) SLATE CREEK ADDITION.—If, before December 31, 2000, the United States acquires the parcel of land described in subsection (b)—

(1) on acquisition of the parcel, the parcel shall be included in and managed as part of the Eagles Nest Wilderness designated by Public Law 94–352 (16 U.S.C. 1132 note; 90 Stat. 870); and

(2) the boundary of Eagles Nest Wilderness is adjusted to reflect the inclusion of the parcel.

(b) DESCRIPTION OF ADDITION.—The parcel referred to in subsection (a) is the parcel generally depicted on a map entitled "Slate Creek Addition-Eagles Nest Wilderness", dated February 1997, comprising approximately 160 acres in Summit County, Colorado, adjacent to the Eagles Nest Wilderness.

The committee amendment was agreed to.

The bill (S. 588), as amended, was read the third time and passed.

COLORADO BOUNDARY ADJUSTMENT AND LAND CONVEYANCE ACT

The Senate proceeded to consider the bill (S. 589) to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. BOUNDARY ADJUSTMENT AND LAND CONVEYANCE, RAGGEDS WILDERNESS, WHITE RIVER NATIONAL FOREST, COLORADO.

(a) FINDINGS.—Congress finds that—

(1) certain landowners in Gunnison County, Colorado who own real property adjacent to the portion of the Raggeds Wilderness in the White River National Forest, Colorado, have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that the landowners reasonably believed were accurate;

(2) in 1993, a Forest Service resurvey of the Raggeds Wilderness established accurate boundaries between the wilderness area and adjacent private lands; and

(3) the resurvey indicates that a small portion of the Raggeds Wilderness is occupied by adjacent landowners on the basis of the earlier erroneous land surveys.

(b) PURPOSE.—It is the purpose of this section to remove from the boundaries of the Raggeds Wilderness certain real property so as to permit the Secretary of Agriculture to use the authority of Public Law 97–465 (commonly known as the "Small Tracts Act") (16 U.S.C. 521c et seq.) to convey the property to the landowners who occupied the property on the basis of erroneous land surveys.

(c) BOUNDARY ADJUSTMENT.—The boundary of the Raggeds Wilderness, Gunnison and White River national Forests, Colorado, as designated by section 102(a)(16) of Public Law 96–560 (94 Stat. 3267; 16 U.S.C. 1132 note), is hereby modified to exclude from the area encompassed by the wilderness a parcel of real property approximately 0.86–acres in size situated in the SW¼ of the NE¼ of Section 28, Township 11 South, Range 88 West of the 6th Principal Meridian, as depicted on the map entitled "Encroachment-Raggeds Wilderness", dated November 17, 1993.

(d) MAP.—The map described in subsection (c) shall be on file and available for inspection in the appropriate offices of the Forest Service, Department of Agriculture.

(e) CONVEYANCE OF LAND REMOVED FROM WILDERNESS AREA.—The Secretary of Agriculture shall use the authority provided by Public Law 97–465 (commonly known as the "Small Tracts Act") (16 U.S.C. 521c et seq.) to convey all right, title, and interest of the United States in and to the real property excluded from the boundaries of the Raggeds Wilderness under subsection (c) to the owners of real property in Gunnison County, Colorado, whose real property adjoins the excluded real property and who have occupied the excluded real property in good faith reliance on an erroneous survey.

The committee amendment was agreed to.

The bill (S. 589), as amended, was read the third time and passed.

DILLON RANGER DISTRICT TRANSFER ACT

The Senate proceeded to consider the bill (S. 591) to transfer the Dillon Ranger District in the Arapaho National Forest to the White River National Forest in the State of Colorado, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. INCLUSION OF DILLON RANGER DISTRICT IN WHITE RIVER NATIONAL FOREST, COLORADO.

(a) BOUNDARY ADJUSTMENTS.—

(1) WHITE RIVER NATIONAL FOREST.—The boundary of the White River National Forest in the State of Colorado is hereby adjusted to include all National Forest System lands located in Summit County, Colorado, comprising the Dillon Ranger District of the Arapaho National Forest.

(2) ARAPAHO NATIONAL FOREST.—The boundary of the Arapaho National Forest is adjusted to exclude the land transferred to the White River National Forest by paragraph (1).

(b) REFERENCE.—Any reference to the Dillon Ranger District, Arapaho National Forest, in any existing statute, regulation, manual, handbook, or other document shall be deemed to be a reference to the Dillon Ranger District, White River National Forest.

(c) EXISTING RIGHTS.—Nothing in this section affects valid existing rights of persons holding any authorization, permit, option, or other form of contract existing on the date of the enactment of this Act.

(d) FOREST RECEIPTS.—Notwithstanding the distribution requirements of payments under the sixth paragraph under the heading "FOREST SERVICE" in the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine", approved May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500), the distribution of receipts from the Arapaho National Forest and the White River National Forest to affected county governments shall be based on the national forest boundaries that existed on the day before the date of enactment of this Act.

The committee amendment was agreed to.

The bill (S. 591), as amended, was read the third time and passed.

AUTHORIZING PRODUCTION OF RECORDS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 135, submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 135) to authorize the production of records by the Committee on Rules and Administration.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, the Committee on Rules and Administration has received requests from various law enforcement entities for copies of committee records related to the committee's inquiry into the 1996 Louisiana

U.S. Senate election. The committee anticipates future similar requests.

In accord with standard Senate practice, this resolution would authorize the Rules Committee to provide committee records in response to these requests.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 135) was agreed to.

The preamble was agreed to.

The resolution, and its preamble, is as follows:

S. RES. 135

Whereas, federal, state, and local law enforcement officials have requested that the Committee on Rules and Administration provide them with copies of records held by the committee related to the 1996 United States Senate election in Louisiana;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Committee on Rules and Administration, either through formal action or by joint action of the Chairman and Ranking Member, is authorized to provide to federal, state, and local law enforcement officials copies of records held by the committee related to the 1996 United States Senate election in Louisiana.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

REGISTRATION OF MASS MAILINGS

The filing date for 1997 third quarter mass mailings is October 27, 1997. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records Office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records Office on (202) 224–0322.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, October 8, 1997, the Federal debt stood at $5,412,240,204,620.07. (Five trillion, four hundred twelve billion, two hundred forty million, two hundred four thousand, six hundred twenty dollars and seven cents)

One year ago, October 8, 1996, the Federal debt stood at $5,221,529,000,000. (Five trillion, two hundred twenty-one billion, five hundred twenty-nine million)

Five years ago, October 8, 1992, the Federal debt stood at $4,052,485,000,000. (Four trillion, fifty-two billion, four hundred eighty-five million)

Ten years ago, October 8, 1987, the Federal debt stood at $2,372,340,000,000. (Two trillion, three hundred seventy-two billion, three hundred forty million)

Fifteen years ago, October 8, 1982, the Federal debt stood at $1,132,671,000,000 (One trillion, one hundred thirty-two billion, six hundred seventy-one million) which reflects a debt increase of more than $4 trillion—$4,279,569,204,620.07 (Four trillion, two hundred seventy-nine billion, five hundred sixty-nine million, two hundred four thousand, six hundred twenty dollars and seven cents) during the past 15 years.

AMTRAK CRISIS

Mrs. HUTCHISON. Mr. President, Amtrak is at a crisis point. Actually, it faces two crises: a strike and the financial crisis brought about by failure to reform the railroad. Reform is a prerequisite to accessing the much-needed capital Congress provided for the railroad in the Balanced Budget bill. Congress decided when that bill was passed that it did not make sense to provide that money unless the railroad was able to act more like a business. I strongly support intercity passenger rail but believe that reform is essential before putting this major financial commitment in place.

First, and most immediately, Amtrak is facing a possible national shut down because of an impasse between the Brotherhood of Maintenance of Way Employees (BMWE) and Amtrak over wages and work rules. At question is Amtrak's ability to pay for any increase in wages during the difficult financial times the railroad is currently going through.

Using the Railway Labor Act, the President has named a Presidential Emergency Board to recommend a solution to the dispute. It concluded its investigation and made its recommendations. The parties are now in a 30 day "cooling off" period to consider the recommendations. If no agreement is reached by the end of this period, which falls on October 22nd, we could have a strike or a management "lockout of employees". Either action would have the effect of shutting down all commuter operations, as well as other services, across the country. A strike would not be confined to the Northeast Corridor, but would affect all of the passengers in the entire Amtrak system.

Amtrak's largest operations are in the Northeast Corridor, where a large number of commuter authorities between Washington, New York and Boston depend on that infrastructure to operate their railroads.

They include: the MBTA or Massachusetts Bay Transportation Authority, CONNDOT, Long Island Railroad, NJ Transit, the SEPTA or Southeastern Pennsylvania Transportation Authority, and the two local services, the MARC or Maryland Commuter service and the VRE or Virginia Railway Express. Each one of these commuter authorities use the Northeast Corridor. If Amtrak cannot operate the Corridor, these services come to a halt. In addition, freight carriers such as Conrail who use the Corridor would be seriously affected, because Amtrak operates much of the track on the Northeast corridor.

Mr. President, let me put this in perspective. When a 60-day cooling off period recently expired in California, the San Francisco Bay Area's commuter railroad was shut down by a strike which stranded 270,000 commuters.

Dispatchers at Norfolk Southern, which carries commuters between Manassas, Virginia, and Washington, DC recently called a "wildcat" strike for three hours and the VRE had to cancel one-half of its afternoon trains.

But if Amtrak is shut down, it won't be one commuter authority paralyzed as we saw in San Francisco or Virginia, it will be many. It won't be thousands of commuters, it will be millions.

If this happens, the strike in San Francisco will pale by comparison.

Mr. President, my colleagues need to be aware of this situation, because the Senate needs to address it head-on before we leave in November.

Congress has to act because the future of America's railroad depends on it. Amtrak is simply in a no-win situation. Amtrak cannot afford the terms of the PEB and it cannot afford a strike.

The PEB recommended a package of wage increases recently implemented by the profitable freight railroads. The freight deal for the BMWE would cost Amtrak $25 million in FY98. If it were extended to all of Amtrak's employees, it would cost Amtrak $250 million. I seriously doubt that Congress would appropriate funds for these wages. As it is, the railroad is currently borrowing just to meet existing daily expenses.

Mr. President, my colleagues have to be realistic. I look forward to working with both the Majority Leader and Senate Labor Committee Chairman to find the right solution to this dilemma.

Mr. President, in that spirit, I plan to move forward on Amtrak's reform legislation. I have had extensive discussions with the Majority Leader on this matter and he feels the same way.

Mr. LOTT. The Senator from Texas is correct. Amtrak is an important part of the national transportation system, not just for the Northeast Corridor, but for the entire interstate passenger rail system. This summer, in the Taxpayer Relief Act, Congress provided Amtrak with a secure source of funding for capital assets—some $2.3 billion for infrastructure. I worked hard for those funds, against considerable opposition, as did the Chairman of the Senate Finance Committee and the Chairman of the Subcommittee on Surface Transportation.

Rail transportation will continue to play a critical role in the American intermodal passenger system through the 21st century. However, rail transportation of passengers cannot be done without federal and state funding. It simply cannot be done. Just as commercial air transportation of passengers would have never gotten off the ground without federal and state assistance, rail transportation of passengers will not progress unless Congress provides infrastructure assistance.

Congress is willing to support Amtrak, on the condition that Amtrak be reformed. That is why we insisted that not one dime of that $2.3 billion be spent until a reform package is approved by Congress.

If Amtrak is to survive, it is critical that we complete our work on the authorizing legislation. However, the Senate still has some colleagues who are holding up the authorization bill over labor provisions. These provisions are essentially identical to language that labor supported just last year. Now some of our colleagues find them unacceptable. Organized labor has joined the Administration in creating a moving target. If this continues, Amtrak may never get the capital we provided.

Mr. President, there will be no capital, I repeat, no $2.3 billion in capital funds provided until an authorization is enacted.

I support a national rail system, but I will not support continued inefficient use of taxpayers money.

If Amtrak is ever going to operate like a business, it must have flexibility. It needs freedom from federal laws that tie its hands at the collective bargaining table. Amtrak's labor rules must be the same as the private sector's, just like in other transportation modes. Labor's unwillingness to negotiate makes it appear that severance packages are more important than rail passenger service.

Mayor John Robert Smith, of Meridian, Mississippi, has noted that rail labor's message seems to be that they are more willing to allow Amtrak to go under and sacrifice all 23,000 Amtrak employees to unemployment than to allow collective bargaining in the reform bill. Like me, he is appalled that the rail union leadership, supposedly representing its workers, would abandon them for its own purposes. Equally amazing is the fact that the Amtrak reform language is language that the union leadership itself once drafted, supported, and came in my office to ask me to support. And I did.

Mrs. HUTCHISON. The Majority Leader has summed up this situation exactly. If we really care about our national rail passenger system, the communities that it serves, the employees that work there and the role it plays in our transportation infrastructure, then we need to take up and pass the Amtrak authorization bill that has been reported from the Commerce Committee. If the Senate wants to give Amtrak the tools it needs to run a national system and collectively bargain with the employees, the Senate needs to act now.

The clock is ticking and time is running out. Congress needs to act or there most likely will be a national rail strike, crippling transportation of people and goods across the country. Congress also needs to act on the Amtrak reforms to ensure it receives adequate capital funding and becomes solvent. If Congress doesn't act, there will be no national rail passenger system.

Mr. LOTT. Senator HUTCHISON and I are committed to bring the Amtrak reform bill to the floor, but not against a swell of opposition. It's a very clear cut choice. My colleagues need to decide if they want a national rail system or not.

HISPANIC HERITAGE MONTH

Mr. DASCHLE. Mr. President, it is with great pleasure that I join with my colleagues in celebrating Hispanic Heritage Month. Hispanic Heritage Month pays a special tribute to a group of Americans that have made important and lasting contributions to this country's political, cultural and intellectual life.

Hispanic Americans are people of diverse background. Their forebears came from Mexico, Cuba, Puerto Rico, Central and South America, and Spain—at different times and for different reasons. Nonetheless, they share a common culture and a deeply held belief in the American Dream. They came here to share in the freedom and prosperity that we have achieved as a nation and have added greatly to that richness.

It is true that Hispanic-Americans faced discrimination in this country. In recent years, however, we have made great strides to eliminate legal and societal barriers to their full integration into American life. Since the passage of laws barring employment discrimination, Hispanics have made great advancements economically and, with the passage of the Voting Rights Act, have increased their participation in the political process. There are currently 17 members of the Congressional Hispanic Caucus.

Just recently, a great Hispanic Congressional leader, Congressman HENRY B. GONZALEZ, announced his retirement to the great sadness of his colleagues. HENRY GONZALEZ has served as the dean of the Hispanic Caucus and is the former chairman, and now ranking member, of the Committee on Banking and Financial Services.

I proudly worked with him when I served in the House of Representatives and witnessed for myself his hard work and commitment to doing what is right. Dean GONZALEZ has given 36 years of dedicated service to his constituents in Texas, the Hispanic community and the American people. He came to Washington in 1961, after serving in the San Antonio City Council and the Texas State Legislature, and was the first Hispanic Congressman ever elected from the State of Texas. And back in December, 1976, Dean GONZALEZ, with 4 other members of Congress, founded the Congressional Hispanic Caucus.

Dean GONZALEZ has served as a leader and trail blazer for Hispanic-Americans and an inspiration to all Americans. He demonstrated to all of us that, as a nation, we are capable of coming together, of overcoming discrimination, and of celebrating the cultural bounty brought by people of all backgrounds. When he leaves the House later this year, I know that he will be sorely missed by his colleagues in the House of Representatives and by those of us in the Senate who had the good fortune to work with him.

Dean GONZALEZ is just one of many great Hispanic-Americans. I am proud to add my tribute to these Americans and thank them for enriching our social, intellectual and artistic life.

THE STRATEGIC RATIONALE FOR NATO ENLARGEMENT

Mr. BIDEN. Mr. Prsident, this week the Committee on Foreign Relations began a comprehensive series of six hearings on NATO enlargement. I commend Chairman HELMS for holding these hearings at this busy time. He and I have met at great length to construct the agenda as preparation for the committee's acting expeditiously next year to consider the enlargement amendment to the Washington Treaty.

At the committee's first hearing on October 7, Secretary of State Madeleine Albright outlined the adminsitration's strategic rationale for enlargement. Mr. President, I ask permission for the text of Secretary Albright's statement be printed in the RECORD. Following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BIDEN. The second hearing today will feature testimony of distinguished experts who are for and against enlargement. Later in the month the committee will hear examinations of cost and burden-sharing, of the qualifications for membership of the three candidate countries—Poland, the Czech Republic, and Hungary, and of the new relationship between NATO and Russia. The final hearing will be reserved for public testimony from individuals and groups with special interest in the NATO enlargement issue.

Through these hearings, the Committee on Foreign Relations hopes to inform not only the entire Senate on this critically important issue, but also the American public.

Mr. President, as my colleagues know, I have spoken many times in some detail on this floor about the issue of NATO enlargement. As the Committee on Foreign Relations launches its series of hearings, I would like briefly to recapitulate why I believe NATO enlargement is in the best interest of the United States.

Europe remains a vital area of interest for the United States for political, strategic, economic, and cultural reasons. A sizable percentage of the world's democracies are in Europe, and the continent remains a major global economic player and partner of the United States. The European Union, with a combined population a third larger than ours, has a combined gross domestic product that exceeds ours.

While the United States has a larger and less balanced trading relationship with Asia than with Europe, we invest far more in Europe. Several new democracies in Central and Eastern Europe have highly educated work forces, already boast rapidly expanding economies, and already attract considerable American investment. Moreover, most Americans trace their ethnic and cultural roots to Europe, and millions retain personal ties to it.

Other than North America, no other part of the world can match Europe's combination of political, economic, military, and cultural power. By any geopolitical standard, it would be a catastrophe for U.S. interests if instability would alter the current situation in Europe.

Of course no one believes that the Russian Army is poised to pour through the Fulda Gap in Germany—NATO's horror scenario for 45 years. Rather, the threats to stability in Europe have changed, but they are, if anything, even more real than those of the cold war: ethnic and religious hatred as horrifyingly shown in the hundreds of thousands killed, raped, made homeless, or otherwise brutalized in Bosnia, and the well-organized forces of international crime, whose tentacles extend from Moscow and Palermo to New York and Los Angeles.

Unfortunately, the history of the 20th century has demonstrated that out of enlightened self-interest the United States must play a leading role in organizing the security of Europe. In two world wars and lately in Bosnia without American leadership the countries of Europe have been unable to resolve their differences peacefully.

Translated into 1997 terms it means that we must lead the Europeans to create a new security architecture to guarantee stability to the areas most vulnerable to disruption, namely Central and Eastern Europe, where newly independent states are striving to create and soldify political democracy and free markets. It is a difficult process, which if not put into a larger framework could spin out of control.

It is in this context that the enlargement of NATO must be seen. During the cold war, NATO provided the security umbrella under which former enemies like France and Germany were able to cooperate and build highly successful free societies.

It was the framework in which former pariahs like Germany, Italy, and Spain could be reintegrated into democratic Europe. And it was NATO that kept the feud between Greece and Turkey from escalating to warfare.

The enlargement of NATO can now serve to move the zone of stability eastward to Central Europe and thereby both prevent ethnic conflicts from escalating and forestall a scramble for new bilateral and multilateral pacts along the lines of the 1930's from occurring.

In fact, it is already happening. In anticipation of NATO membership, several Central and East European countries have recently settled long-standing disputes.

If NATO were not to enlarge, however, the countries between Germany and Russia would inevitably seek other means to protect themselves. The question for today is not, as is often assumed, enlarge NATO or remain the same. The status quo is simply not an option.

Finally, there is the moral argument for enlargement. For 40 years the United States loudly proclaimed its solidarity with the captive nations who were under the heel of communist oppressors. Now that most of them have cast off their shackles, it is our responsibility to live up to our pledges to readmit them into the West through NATO and the European Union when they are fully qualified.

NATO enlargement, of course, like any venture, is not cost-free. Earlier this year the Pentagon issued a study that estimated the cost to the United States to be around $200 million per year for 10 years. Other estimates by the Congressional Budget Office and by the Rand Corp. have varied considerably, according to risk assumptions. At the July NATO Summit in Madrid, the North Atlantic Council directed the Alliance to come up with a definitive cost estimate for the NATO ministerial meeting in December.

Whatever the final, authoritative cost estimate turns out to be, we must be certain that our current allies, and our future allies, pay their fair share of the enlargement costs.

Similarly, before we in the Senate vote on whether or not to admit Poland, the Czech Republic, and Hungary to NATO, we must settle what we plan to do in Bosnia after the expiration of the mandate for SFOR in June 1998. That in itself is an immensely complicated topic, for which there is inadequate time to discuss today. After my latest trip to Bosnia at the end of August, I am more convinced than ever that we are making progress and that we must not abandon the international effort to reach a lasting, peaceful, and just solution for that troubled land. But whatever post-SFOR plan we hammer out, it must be done on the basis of sharing the risks and costs with our European allies and with non-NATO contributors to SFOR.

NATO enlargement need not adversely affect our relations with Russia. In fact, we must redouble our peaceful engagement with Russia in the hope that its nascent democracy and free market system will mature sufficiently so that some day it may fully join the Western world. The NATO-Russia Founding Act of May 1997 is a significant step in the right direction.

Enlargement plans have been accompanied by a redefinition of NATO's mission and force posture. The alliance's primary mission remains the same: treating an attack on one member as an attack on all, and responding through the use of armed force if necessary.

NATO's new strategic concept emphasizes rapid and flexible deployment. The three new members, plus other countries like Slovenia and Romania in the near future, will enhance NATO's ability to project power, if necessary, into crisis areas like the Middle East.

In addition, in the current post-cold war situation, missions like peacekeeping, sometimes in cooperation with non-NATO powers, have become possible. The SFOR joint effort in Bosnia with Russia and several other non-NATO countries, which I mentioned earlier, is an excellent example.

NATO enlargement corresponds to America's security requirements in the 21st century. As long as the costs of enlargement are equitably shared among current and future NATO members, and as long as we have agreed upon a fair and coherent plan for Bosina after SFOR, I believe that my Senate colleagues will vote to ratify NATO enlargement when it comes before us next spring.

EXHIBIT 1

STATEMENT BY SECRETARY OF STATE MADELEINE K. ALBRIGHT BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, OCTOBER 7, 1997

Chairman Helms, Senator Biden, members of the committee: It is with a sense of appreciation and anticipation that I come before you to urge support for the admission of the Czech Republic, Hungary and Poland to NATO.

Each of us today is playing our part in the long unfolding story of America's modern partnership with Europe. That story began not in Madrid, when the President and his fellow NATO leaders invited these three new democracies to join our Alliance, nor eight years ago when the Berlin Wall fell, but half a century ago when your predecessors and mine dedicated our nation to the goal of a secure, united Europe.

It was then that we broke with the American aversion to European entanglements, an aversion which served us well in our early days, but poorly when we became a global power. It was then that we sealed a peacetime alliance open not only to the nations which had shared our victory in World War II, but to our former adversaries. It was then that this committee unanimously recommended that the Senate approve the original NATO treaty.

The history books will long record that day as among the Senate's finest. On that day, the leaders of this body rose above partisanship and they rose to the challenge of a pivotal moment in the history of the world.

Mr. Chairman, I believe you are continuing that tradition today. I thank you for your decision to hold these hearings early, for the bipartisan manner in which you and Senator Biden are conducting them, and for the serious and substantive way in which you have framed our discussion.

I am honored to be part of what you have rightly called the beginning of the process of advice and consent. And I am hopeful that with your support, and after the full national debate to which these hearings will contribute, the Senate will embrace the addition of new members to NATO. It would be fitting if this renewal of our commitment to security in Europe could come early next year, as Congress celebrates the 50th anniversary of its approval of the Marshall Plan.

As I said, and as you can see, I am very conscious of history today. I hope that you and your colleagues will look back as I have on the deliberations of 1949, for they address so many of the questions I know you have now: How much will a new alliance cost and what are its benefits? Will it bind us to go to war? Will it entangle us in far away quarrels?

We should take a moment to remember what was said then about the alliance we are striving to renew and expand today.

Senator Vandenberg, Chairman Helms' extraordinary predecessor, predicted that NATO would become "the greatest war deterrent in history." He was right. American forces have never had to fire a shot to defend a NATO ally.

This Committee, in its report to the Senate on the NATO treaty, predicted that it would "free the minds of men in many nations from a haunting sense of insecurity, and enable them to work and plan with that confidence in the future which is essential to economic recovery and progress." Your predecessors were right. NATO gave our allies time to rebuild their economies. It helped reconcile their ancient animosities. And it made possible an unprecedented era of unity in Western Europe.

President Truman said that the NATO pact "will be a positive, not a negative, influence for peace, and its influence will be felt not only in the area it specifically covers but throughout the world." And he was right, too. NATO gave hope to democratic forces in West Germany that their country would be welcome and secure in our community if they kept making the right choices. Ultimately, it helped bring the former fascist countries into a prosperous and democratic Europe. And it helped free the entire planet from the icy grip of the Cold War.

Thanks in no small part to NATO, we live in a different world. Our Soviet adversary has vanished. Freedom's flag has been unfurled from the Baltics to Bulgaria. The threat of nuclear war has sharply diminished. As I speak to you today, our immediate survival is not at risk.

Indeed, you may ask if the principle of collective defense at NATO's heart is relevant to the challenges of a wider and freer Europe. You may ask why, in this time of relative peace, are we so focused on security?

The answer is, we want the peace to last. We want freedom to endure. And we believe there are still potential threats to our security emanating from European soil.

You have asked me, Mr. Chairman, what these threats are. I want to answer as plainly as I can.

First, there are the dangers of Europe's past. It is easy to forget this, but for centuries virtually every European nation treated virtually every other as a military threat. That pattern was broken only when NATO was born and only in the half of Europe NATO covered. With NATO, Europe's armies prepared to fight beside their neighbors, not against them; each member's security came to depend on cooperation with others, not competition.

That is one reason why NATO remains essential, even though the Cold War is over. It is also one reason why we need a larger NATO, so that the other half of Europe is finally embedded in the same cooperative structure of military planning and preparation.

A second set of dangers lies in Europe's present. Because of conflict in the Balkans and the former Soviet Union, Europe has already buried more victims of war since the Berlin Wall fell than in all the years of the Cold War. It is sobering to recall that this violence has its roots in the same problems of shattered states and hatred among ethnic groups that tyrants exploited to start this century's great wars.

Finally, Mr. Chairman, and most important, we must consider the dangers of Europe's future. By this I mean direct threats against the soil of NATO members that a collective defense pact is designed to meet. Some are visible on Europe's horizon, such as the threat posed by rogue states with dangerous weapons that might have Europe within their range and in their sights. Others may not seem apparent today, in part because the existence of NATO has helped to deter them. But they are not unthinkable.

Within this category lie questions about the future of Russia. We have an interest in seeing Russian democracy endure. We are doing all we can with our Russian partners to see that it does. And we have many reasons to be optimistic. At the same time, one should not dismiss the possibility that Russia could return to the patterns of its past. By engaging Russia and enlarging NATO, we give Russia every incentive to deepen its commitment to democracy and peaceful relations with neighbors, while closing the avenue to more destructive alternatives.

We do not know what other dangers may arise 10, 20, or even 50 years from now. We do know enough from history and human experience to believe that a grave threat, if allowed to arise, would arise. We know that whatever the future may hold, it will be in our interest to have a vigorous and larger alliance with those European democracies that share our values and our determination to defend them.

We recognize NATO expansion involves a solemn expansion of American responsibilities in Europe. It does not bind us to respond to every violent incident by going to war. But it does oblige us to consider an armed attack against one ally an attack against all and to respond with such action as we deem necessary, including the use of force, to restore the security of the North Atlantic area.

As Americans, we take our commitments seriously and we do not extend them lightly. Mr. Chairman, you and I do not agree on everything, but we certainly agree that any major extension of American commitments must serve America's strategic interests.

Let me explain why welcoming the Czech Republic, Hungary and Poland into NATO meets that test.

First, a larger NATO will make us safer by expanding the area in Europe where wars simply do not happen. This is the productive paradox at NATO's heart: By imposing a price on aggression, it deters aggression. By making clear that we will fight, if necessary, to defend our allies, it makes it less likely our troops will ever be called upon to do so.

Now, you may say that no part of Europe faces any immediate threat of armed attack today. That is true. And I would say that the purpose of NATO enlargement is to keep it that way. Senator Vandenberg said it in 1949: "[NATO] is not built to stop a war after it starts, although its potentialities in this regard are infinite. It is built to stop wars before they start."

It is also fair to ask if it is in our vital interest to prevent conflict in central Europe. There are those who imply it is not. I'm sure you have even heard a few people trot out what I call the "consonant cluster clause," the myth that in times of crisis Americans will make no sacrifice to defend a distant city with an unpronounceable name, that we will protect the freedom of Strasbourg but not Szczecin, Barcelona, but not Brno.

Let us not deceive ourselves. The United States is a European power. We have an interest not only in the lands west of the Oder river, but in the fate of the 200 million people who live in the nations between the Baltic and Black Seas. We waged the Cold War in part because these nations were held captive. We fought World War II in part because these nations had been invaded.

Now that these nations are free, we want them to succeed and we want them to be safe, whether they are large or small. For if there were a major threat to the security of their region, if we were to wake up one morning to the sight of cities being shelled and borders being overrun, I am certain that we would choose to act, enlargement or no enlargement. Expanding NATO now is simply the surest way to prevent that kind of threat from arising, and thus the need to make that kind of choice.

Mr. Chairman, the second reason why enlargement passes the test of national interest is that it will make NATO stronger and more cohesive. The Poles, Hungarians and Czechs are passionately committed to NATO and its principles of shared responsibility. Experience has taught them to believe in a

strong American leadership role in Europe. Their forces have risked their lives alongside ours from the Gulf War to Bosnia. Just last month, Czech soldiers joined our British allies in securing a police station from heavily armed Bosnian Serb extremists.

Mr. Chairman, I know you have expressed concern that enlargement could dilute NATO by adding too many members and by involving the alliance in too many missions. Let me assure you that we invited only the strongest candidates to join the Alliance. And nothing about enlargement will change NATO's core mission, which is and will remain the collective defense of NATO soil.

At the same time, it is important to remember that NATO has always served a political function as well. It binds our allies to us just as it binds us to our allies. So when you consider the candidacy of the Czech Republic, Hungary and Poland, Mr. Chairman, I ask you to consider this:

When peace is threatened somewhere in the world and we decide it is in our interest to act, here are three nations we have been able to count on to be with us. In the fight against terror and nuclear proliferation, here are three nations we have been able to count on. In our effort to reform the UN, here are three nations we have been able to count on. When we speak out for human rights around the world, here are three nations we will always be able to count on.

Here are three nations that know what it means to lose their freedom and who will do what it takes to defend it. Here are three democracies that are ready to do their dependable part in the common enterprise of our alliance of democracies.

Mr. Chairman, the third reason why a larger NATO serves our interests is that the very promise of it gives the nations of central and eastern Europe an incentive to solve their own problems. To align themselves with NATO, aspiring countries have strengthened their democratic institutions. They have made sure that soldiers serve civilians, not the other way around. They have signed 10 major accords that taken together resolve virtually every old ethnic and border dispute in the region, exactly the kind of disputes that might have led to future Bosnias. In fact, the three states we have invited to join NATO have resolved every outstanding dispute of this type.

I have been a student of central European history and I have lived some of it myself. When I see Romanians and Hungarians building a genuine friendship after centuries of enmity, when I see Poles, Ukrainians and Lithuanians forming joint military units after years of suspicion, when I see Czechs and Germans overcoming decades of mistrust, when I see central Europeans confident enough to improve their political and economic ties with Russia, I know something remarkable is happening.

NATO is doing for Europe's east precisely what it did—precisely what this Committee predicted it would do—for Europe's west after World War II. It is helping to vanquish old hatreds, to promote integration and to create a secure environment for economic prosperity. This is another reminder that the contingencies we do not want our troops to face, such as ethnic conflict, border skirmishes, and social unrest are far more easily avoided with NATO enlargement than without it.

In short, a larger NATO will prevent conflict, strengthen NATO, and protect the gains of stability and freedom in central and eastern Europe. That is the strategic rationale. But I would be disingenuous if I did not tell you that I see a moral imperative as well. For this is a policy that should appeal to our hearts as well as to our heads, to our sense of what is right as well as to our sense of what is smart.

NATO defines a community of interest among the free nations of North America and Europe that both preceded and outlasted the Cold War. America has long stood for the proposition that this Atlantic community should not be artificially divided and that its nations should be free to shape their destiny. We have long argued that the nations of central and eastern Europe belong to the same democratic family as our allies in western Europe.

We often call them "former communist countries," and that is true in the same sense that America is a "former British colony." Yes, the Czechs, Poles, and Hungarians were on the other side of the Iron Curtain during the Cold War. But we were surely on the same side in the ways that truly count.

As Americans, we should be heartened today that so many of Europe's new democracies wish to join the institutions Americans did so much to build. They are our friends and we should be proud to welcome them home.

We should also think about what would happen if we were to turn them away. That would mean freezing NATO at its Cold War membership and preserving the old Iron Curtain as its eastern frontier. It would mean locking out a whole group of otherwise qualified democracies simply because they were once, against their will, members of the Warsaw Pact.

Why would America choose to be allied with Europe's old democracies forever, but its new democracies never? There is no acceptable, objective answer to that question. Instead, it would probably be said that we blocked the aspirations of our would-be allies because Russia objected. And that, in turn, could cause confidence to crumble in central Europe, leading to a search for security by other means, including costly arms buildups and competition among neighbors.

We have chosen a better way. We have chosen to look at the landscape of the new Europe and to ask a simple question: Which of these nations that are so clearly important to our security are ready and able to contribute to our security? The answer to that question is before you today, awaiting your affirmation.

I said at the outset, Mr. Chairman, that there are weighty voices on both sides of this debate. There are legitimate concerns with which we have grappled along the way, and that I expect you to consider fully as well. Let me address a few.

First, we all want to make sure that the costs of expansion are distributed fairly. Last February, at the behest of Congress and before the Alliance had decided which nations to invite to membership, the Administration made a preliminary estimate of America's share. Now that we have settled on three candidates, we are working with our allies to produce a common estimate by the December meeting of the North Atlantic Council. At this point, the numbers we agree upon as 16 allies are needed prior to any further calculations made in Washington.

I know you are holding separate hearings in which my Pentagon colleagues will go into this question in detail. But I will say this: I am convinced that the cost of expansion is real but affordable. I am certain our prospective allies are willing and able to pay their share, because in the long run it will be cheaper for them to upgrade their forces within the alliance than outside it. As Secretary of State, I will insist that our old allies share this burden fairly. That is what NATO is all about.

I know there are serious people who estimate that a larger NATO will cost far more than we have anticipated. The key fact about our estimate is that it is premised on the current, favorable security environment in Europe. Obviously, if a grave threat were to arise, the cost of enlargement would rise. But then so would the cost of our entire defense budget.

In any case, there are budgetary constraints in all 16 NATO democracies that will prevent costs from ballooning. That is why the main focus of our discussion, Mr. Chairman, and in our consultations with our allies, needs to be on defining the level of military capability we want our old and new allies to have in this favorable environment, and then making sure that they commit to that level. We must spend no more than we must, but no less than we need to keep NATO strong.

Another common concern about NATO enlargement is that it might damage our cooperation with a democratic Russia. Russian opposition to NATO enlargement is real. But we should see it for what it is: a product of old misperceptions about NATO and old ways of thinking about its former satellites in central Europe. Instead of changing our policies to accommodate Russia's outdated fears, we need to encourage Russia's more modern aspirations.

This means that we should remain Russia's most steadfast champion whenever it seeks to define its greatness by joining international institutions, opening its markets and participating constructively in world affairs. It means we should welcome Russia's decision to build a close partnership with NATO, as we did in the NATO-Russia Founding Act.

But when some Russian leaders suggest that a larger NATO is a threat, we owe it candor to say that is false—and to base our policies on what we know to be true. When they imply that central Europe is special, that its nations still are not free to choose their security arrangements, we owe it to candor to say that times have changed, and that no nation can assert its greatness at the expense of its neighbors. We do no favor to Russian democrats and modernizers to suggest otherwise.

I believe our approach is sound and producing results. Over the past year, against the backdrop of NATO enlargement, reformers have made remarkable gains in the Russian government. We have agreed to pursue deeper arms reductions. Our troops have built a solid working relationship on the ground in Bosnia. Russia was our full partner at the Summit of the Eight in Denver and it has joined the Paris Club of major international lenders.

What is more, last week in New York we signed documents that should pave the way for the Russian Duma to ratify the START II treaty. While this prospect is still by no means certain, it would become far less so if we gave the Duma any reason to think it could hold up NATO enlargement by holding up START II.

As you know Mr. Chairman, last week, NATO and Russia held the first ministerial meeting of their Permanent Joint Council. This council gives us an invaluable mechanism for building trust between NATO and Russia through dialogue and transparency.

I know that some are concerned NATO's new relationship with Russia will actually

go too far. You have asked me for an affirmation, Mr. Chairman, that the North Atlantic Council remains NATO's supreme decision making body. Let me say it clearly: It does and it will. The NATO-Russia Founding Act gives Russia no opportunity to dilute, delay or block NATO decisions. NATO's allies will always meet to agree on every item on their agenda before meeting with Russia. And the relationship between NATO and Russia will grow in importance only to the extent Russia uses it constructively.

The Founding Act also does not limit NATO's ultimate authority to deploy troops or nuclear weapons in order to meet its commitments to new and old members. All it does is to restate unilaterally existing NATO policy: that in the current and foreseeable security environment, we have no plan, no need, and no intention to station nuclear weapons in the new member countries, nor do we contemplate permanently stationing substantial combat forces. The only binding limits on conventional forces in Europe will be set as we adapt the CFE treaty, with central European countries and all the other signatories at the table, and we will proceed on the principle of reciprocity.

Another important concern is that enlargement may create a new dividing line in Europe between a larger NATO and the countries that will not join in the first round. We have taken a range of steps to ensure this does not happen.

President Clinton has pledged that the first new members will not be the last. NATO leaders will consider the next steps in the process of enlargement before the end of the decade. We have strengthened NATO's Partnership for Peace program. We have created a new Euro-Atlantic Partnership Council, through which NATO and its democratic partners throughout Europe will shape the missions we undertake together. We have made it clear that the distinction between the nations NATO invited to join in Madrid and those it did not is based purely on objective factors—unlike the arbitrary line that would divide Europe if NATO stood still.

Among the countries that still aspire to membership, there is enthusiastic support for the process NATO has begun. Had you seen the crowds that cheered the President in Romania in July, had you been with me when I spoke to the leaders of Lithuania and Slovenia, you would have sensed how eager these nations are to redouble their efforts.

They understand a simple fact: With enlargement, no new democracy is permanently excluded; without enlargement, every new democracy would be permanently excluded. The most important thing the Senate can do to reassure them now is to get the ball rolling by ratifying the admission of the first three candidates.

Mr. Chairman, a final concern I wish to address has to do with Bosnia.

Some have suggested that our debate on NATO enlargement simply cannot be separated from our actions and decisions in that troubled country. I agree with them. Both enlargement and our mission in Bosnia are aimed at building a stable undivided Europe. Both involve NATO and its new partners to the east.

It was our experience in Bosnia that proved the fundamental premise of our enlargement strategy: there are still threats to peace and security in Europe that only NATO can meet. It was in Bosnia that our prospective allies proved they are ready to take responsibility for the security of others. It was in Bosnia that we proved NATO and Russian troops can work together.

We cannot know today if our mission in Bosnia will achieve all its goals, for that ultimately depends on the choices the Bosnian people will make. But we can say that whatever may happen, NATO's part in achieving the military goals of our mission has been a resounding success. Whatever may happen, our interest in a larger, stronger NATO will endure long after the last foreign soldier has left Bosnia.

We can also say that NATO will remain the most powerful instrument we have for building effective military coalitions such as SFOR. At the same time, Bosnia does not by itself define the future of a larger NATO. NATO's fundamental purpose is collective defense against aggression. Its most important aim, if I can paraphrase Arthur Vandenberg, is to prevent wars before they start so it does not have to keep the peace after they stop.

These are some of the principal concerns I wanted to address today; I know you have many more questions and I look forward to answering them all.

This discussion is just beginning. I am glad that it will also involve other committees of the Senate, the NATO Observers' Group and the House of Representatives. Most important, I am glad it will involve the people of the United States. For the commitment a larger NATO entails will only be meaningful if the American people understand and accept it.

When these three new democracies join NATO in 1999, as I trust they will, it will be a victory for us all, Mr. Chairman. And on that day, we will be standing on the shoulders of many.

We will be thankful to all those who prosecuted the Cold War, to all those on both sides of the Iron Curtain who believed that the goal of containment was to bring about the day when the enlargement of our democratic community would be possible.

We will be grateful to all those who championed the idea of a larger NATO—not just President Clinton, or President Havel, or President Walesa, but members of Congress from both parties who voted for resolutions urging the admission of these three nations. We will owe a debt to the Republican members who made NATO enlargement part of their Contract with America.

Today, all of our allies and future allies are watching you for one simple reason. The American Constitution is unique in the power it grants to the legislative branch over foreign policy, especially over treaties. In this matter, Mr. Chairman, members of the Committee, you and the American people you represent are truly in the driver's seat.

That is as it should be. In fact, I enjoy going to Europe and telling our allies: "This is what we want to do, but ultimately, it will be up to our Senate and our people to decide." I say that with pride because it tells them something about America's faith in the democratic process.

But I have to tell you that I say it with confidence as well. I believe we will stand together, Mr. Chairman, when the time comes for the Senate to decide, because I know that the policy we ask you to embrace is a policy that the Administration and Congress shaped together, and because I am certain that it advances the fundamental interests of the United States.

Thank you very much.

CONGRATULATIONS TO KENTUCKY FORD AND TOYOTA WORKERS

Mr. FORD. Mr. President, I want to take just a moment today to talk about some hard working Kentuckians. Earlier this month marked the close of the 1997 year for car models. With that closing came the news that the Toyota Camry was the best-selling car in the United States and that Ford's F-Series trucks are the number one selling trucks in the nation for the 16th year in a row. Also at the top were the Ford Explorer as the number one sports utility vehicle and the Ranger as the number one compact pickup.

I'm proud to say that the number one car, truck and sports utility vehicle all have "made in Kentucky" stamped inside. The Camry is built in Georgetown and two of the Ford trucks—the F–250 and the F–350—along with both the Ranger and the Explorer, are all made in Louisville. About 80 percent of the Camrys sold in the nation come from Kentucky, while the Kentucky-made Ford trucks account for about 26 percent of the F-Series sales.

Behind those impressive sales figures are thousands of hard-working Kentuckians committed to doing the best job possible.

Their hard work not only put Toyota and Ford at the top of the charts, but their local communities and the state come out winners as well. A strong company with productive workers is a boost to the local economy and a successful plant is a powerful recruitment tool for the state.

Mr. President, number one sales mean a number one production team. I know I speak for my fellow Kentuckians when I say we're awfully proud of all the hard work that put the Toyota and Ford vehicles at the top.

Keep up the good work and know that you've made all Kentuckians proud.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in execution session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2169) making appropriations for the Department of

Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

At 2:34 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 901. An act to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

At 6:19 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2607. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 901. An act to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands; to the Committee on Energy and Natural Resources.

The Committee on Veterans' Affairs was discharged from further consideration of the following measure which was referred to the Committee on the Judiciary:

S. 813. A bill to amend chapter 91 of title 18, United States Code to provide criminal penalties for theft and willful vandalism at national cemeteries.

MEASURES PLACED ON THE CALENDAR

The following measures were discharged from the Committee on Governmental Affairs and ordered placed on the calendar:

H.R. 1057. An act to designate the building in Indianapolis, Indiana, which houses the operations of the Circle City Station Post Office as the "Andrew Jacobs, Jr. Post Office Building."

H.R. 1058. An act to designate the facility of the United States Postal Service under construction at 150 West Margaret Drive in Terre Haute, Indiana, as the "John T. Myers Post Office Building."

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 2607. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation To Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1998" (Rept. No. 105–104).

By Mr. ROTH, from the Committee on Finance, without amendment:

S. 1278. An original bill to extend preferential treatment to certain products imported from Caribbean Basin countries (Rept. No. 105–105).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 660. A bill to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes (Rept. No. 105–106).

By Mr. THOMPSON, from the Committee on Government Affairs, with amendments and an amendment to the title:

S. 207. A bill to review, reform, and terminate unnecessary and inequitable Federal subsidies (Rept. No. 105–107).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 10. A bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes (Rept. No. 105–108).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1847. A bill to improve the criminal law relating to fraud against consumers.

S. 900. A bill to provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1024. A bill to make chapter 12 of title 11 of the United States Code permanent, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1149. A bill to amend title 11, United States Code, to provide for increased education funding, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1189. A bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Charles J. Siragusa, of New York, to be United States District Judge for the Western District of New York.

Richard Conway Casey, of New York, to be United States District Judge for the Southern District of New York.

Ronald Lee Gilman, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

Raymond C. Fisher, of California, to be Associate Attorney General.

James S. Gwin, of Ohio, to be United States District Judge for the Northern District of Ohio.

Algenon L. Marbley, of Ohio, to be United States District Judge for the Southern District of Ohio.

Dale A. Kimball, of Utah, to be United States District Judge for the District of Utah.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 1278. An original bill to extend preferential treatment to certain products imported from Caribbean Basin countries; from the Committee on Finance; placed on the calendar.

By Mr. CAMPBELL (for himself and Mr. MURKOWSKI):

S. 1279. A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 1280. A bill to provide technical corrections to the Native American Housing Assistance and Self-Determination Act of 1996, to improve the delivery of housing assistance to Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes; to the Committee on Indian Affairs.

By Mr. MURKOWSKI (for himself and Mr. CAMPBELL):

S. 1281. A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to facilitate the creation of employment opportunities for American Indians and Alaska Natives, and for other purposes; to the Committee on Indian Affairs.

By Mr. AKAKA (for himself, Ms. MOSELEY-BRAUN, and Mrs. MURRAY):

S. 1282. A bill to provide for the establishment of the National Museum for the Peopling of America within the Smithsonian Institution, and for other purposes; to the Committee on Rules and Administration.

By Mr. BUMPERS (for himself, Ms. MOSELEY-BRAUN, and Mr. HUTCHINSON):

S. 1283. A bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly

referred collectively as the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROBERTS:

S. 1284. A bill to prohibit construction of any monument, memorial, or other structure at the site of the Iwo Jima Memorial in Arlington, Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FAIRCLOTH (for himself, Mrs. HUTCHISON, Mr. MACK, Mr. LOTT, Mr. ABRAHAM, Mr. SHELBY, Mr. ALLARD, Mr. ASHCROFT, Mr. BROWNBACK, Mr. BURNS, Mr. CAMPBELL, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. KYL, Mr. BENNETT, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. THOMAS, Mr. THURMOND, Mr. WARNER, and Ms. SNOWE):

S. 1285. A bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals; to the Committee on Finance.

By Mr. JEFFORDS:

S. 1286. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts received as scholarships by an individual under the National Health Corps Scholarship Program; to the Committee on Finance.

S. 1287. A bill to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants; to the Committee on Environment and Public Works.

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 1288. A bill to amend the Harmonized Tariff Schedule of the United States to provide duty-free treatment for certain in-line skates; to the Committee on Finance.

By Mr. ALLARD (for himself and Mr. CAMPBELL):

S. 1289. A bill to temporarily decrease the duty on certain industrial nylon fabrics; to the Committee on Finance.

By Mr. HATCH:

S. 1290. A bill for the relief of Saeed Rezai; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. FEINGOLD, Mr. THOMAS, Mr. BROWNBACK, Mr. ROBERTS, and Mr. BURNS):

S. 1291. A bill to permit the interstate distribution of State-inspected meat under certain circumstances; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STEVENS (for himself, Mr. BYRD, Mr. BURNS, Mrs. MURRAY, Mr. AKAKA, Mr. ALLARD, Mr. BOND, Mr. BAUCUS, Mr. BENNETT, Mr. BINGAMAN, Mrs. BOXER, Mr. CAMPBELL, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. FORD, Mr. FRIST, Mr. GRAHAM, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. INOUYE, Mr. KEMPTHORNE, Mr. LEAHY, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MOYNIHAN, Mr. REID, Mr. ROBERTS, Mr. SANTORUM, Mr. SARBANES, Mr. SPECTER, Mr. THOMPSON, and Mr. WARNER):

S. 1292. A resolution disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45; to the Committee on Appropriations, pursuant to the order of section 1025 of Public Law 93–344 for seven days of session.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 1293. A bill to improve the performance outcomes of the child support enforcement program in order to increase the financial stability and well-being of children and families; to the Committee on Finance.

By Mr. JEFFORDS:

S. 1294. A bill to amend the Higher Education Act of 1965 to allow the consolidation of student loans under the Federal Family Loan Program and the Direct Loan Program; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. BOXER (for herself, Mr. KOHL, Mr. CHAFEE, Ms. MOSELEY-BRAUN, Mr. KENNEDY, Mr. BIDEN, Mr. KERRY, Mrs. FEINSTEIN, Mr. JEFFORDS, Mr. HARKIN, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, Mr. INOUYE, Mr. AKAKA, Mr. LEVIN, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. WELLSTONE, and Mr. ROBB):

S. Res. 133. A resolution expressing the sense of the Senate that every handgun sold in the United States should include a child safety device; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself and Mr. LUGAR):

S. Res. 134. A resolution expressing the sense of the Senate that the United States should give high priority to working with partners in the Americas to address shared foreign policy and security problems in the Western Hemisphere; to the Committee on Foreign Relations.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 135. A resolution to authorize the production of records by the Committee on Rules and Administration; considered and agreed to.

By Mr. BIDEN (for himself, Mr. MACK, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mrs. BOXER, Mr. BRYAN, Mr. CAMPBELL, Mr. CHAFEE, Mr. COCHRAN, Mr. COVERDELL, Mr. D'AMATO, Mr. DASCHLE, Mr. DEWINE, Mr. DORGAN, Mr. DURBIN, Mr. FAIRCLOTH, Mr. FRIST, Mr. FORD, Mr. GLENN, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LOTT, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SMITH of Oregon, Mr. SPECTER, Mr. THOMAS, Mr. THURMOND, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 136. A resolution designating October 17, 1997, as "National Mammography Day."; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL (for himself and Mr. MURKOWSKI):

S. 1279. A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN EMPLOYMENT TRAINING AND RELATED SERVICES DEMONSTRATION ACT AMENDMENTS OF 1997

Mr. CAMPBELL. Mr. President, today I am pleased to introduce legislation which amends the Indian Employment, Training, and Related Services Demonstration Act of 1992 (P.L. 102–477). The current Act has proven successful and represents one of the few programs that works for Indian country. I want to thank Senator MURKOWSKI for his work on his own "477" bill that takes aim at the specific problems experienced by Alaska natives in administering the 477 program. I am pleased to co-sponsor his and that he is co-sponsoring my legislation.

It is my hope that together we can develop amendments that will clarify and strengthen the program for American Indians and Alaska natives and lead to better training programs and higher job placements. The main reason for the success of the 477 program is that it relies on the tribes themselves to make the key decisions involving the design and implementation of employment training and related matters. This program puts tribes, not federal bureaucrats, in the driver's seat.

The Act empowers tribal governments to consolidate formula funds they receive for employment training and education services into one program—which in turn enables tribes to streamline services provided, while cutting administrative time and costs. The Act does contain certain limitations and in practice tribes have faced a few roadblocks.

This bill removes these limitations, expands programs affected by the Act, and broadens permissible job creation activities. The unemployment problem in Indian country is well-documented. Tribes currently suffer from a national unemployment rate of approximately 52%, with some like the Oglala Sioux Tribe suffer from a rate of 95%. In comparison, the national unemployment rate is 6%. The lack of employment opportunities in Indian country has exacerbated an already-poor health situation, and has lead to grinding social problems such as crime, domestic abuse, and alcohol and drug abuse. While gaming has aided a few tribal economies over the past decade, the great majority of tribes continue to

struggle with joblessness and poverty. Gaming is not the long term solution to the goal of tribal self-determination and economic self-sufficiency. Diverse job creation is.

The Indian Employment, Training, and Related Services Demonstration Act provides tribes with a valuable tool in combating reservation unemployment. Indian tribes, like many American communities, are struggling to comply with the work requirements of the new welfare reform law. By focusing on job creation as a necessary component to any employment training program, tribes can add a new weapon in their battle against joblessness and poverty.

One of the more consistent obstacles to greater success with the Act is the Bureau of Indian Affairs management of the program. To remedy this problem, the bill transfers lead agency responsibilities from the Bureau of Indian Affairs (BIA) to the Office of Self-Governance (OSG), both agencies contained within the Department of the Interior. On May 13, 1997, the Committee on Indian Affairs conducted an oversight hearing to discuss the progress made by tribes under the Act. Tribe after tribe testified and revealed that this program is working, and working well. Tribes participating in the program testified that the program has reduced the federal paperwork burden associated with applying for related programs by as much as 96%, reduced administration time and costs of delivering job training services to tribal customers while enhancing the quality of services rendered.

Most importantly, witnesses indicated great increases in job placements for tribal members. One of the reasons for the success of this program is that it is voluntary. It is not another imposition, by the federal government, of what we think will work for them. I would like to highlight the fact that this Demonstration Act has cost the federal government nothing— the attraction of the program is in streamlining paperwork and other administrative burdens and operating primarily at the local level. The philosophy of the program is similar to that of the Self-Governance model under which tribes, under contract with the United States, manage services and programs formerly provided by the federal government.

The witnesses at the May hearing discussed problems that they have had with the lead agency, the BIA. Of the four tribal participants testifying, all expressed dissatisfaction with the BIA. One testified that "the Bureau of Indian Affairs has been the biggest obstacle to the implementation of P.L. 102–477." 20 tribal applicants representing more than 175 tribes currently participate in this demonstration, yet the BIA states that it has only two full-time employees committed to working on this program, and that number is in dispute. Additionally, all tribal witnesses reported significant delays in receiving programs funds consolidated under their approved plans.

Reasons for the delays ranged from deliberate withholding to poor accounting procedures on the part of the BIA. The May hearing, as well as subsequent meetings held with the Tribal Working Group for the Demonstration Act, have made clear that there is a consensus among participating tribes that the OSG should undertake this program. The bill proposes to transfer authority to the OSG because that office has a proven track record in working with tribes to consolidate programs and services and to achieve more effective delivery to tribal members.

If this Congress is serious about encouraging self-determination and self-sufficiency, we must provide tribes with the tools they need to further these goals. Reservation economic development and job creation go hand-in-hand and we cannot ignore this basic fact.

The current Act has gone far in permitting tribes to do more with less, as the quality of training and education services has risen with increased job placements. These amendments take the next logical step, which is to encourage job creation and make the promise of the program a reality for those that want to work and want to be productive and want to improve their lives and the lives of their families.

With that, Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment, Training and Related Services Demonstration Act Amendments of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) Indian tribes and Alaska Native organizations that have participated in carrying out programs under the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) have—

(A) improved the effectiveness of services provided by those tribes and organizations;

(B) enabled more Indian people to secure employment;

(C) assisted welfare recipients; and

(D) otherwise demonstrated the value of integrating education, employment, and training services.

(2) The initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should be strengthened by ensuring that all programs that emphasize the value of work may be included within a demonstration program of an Indian tribe or Alaska Native organization.

(3) The initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 shares goals and innovative approaches of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(4) The programs referred to in paragraph (2) should be implemented by the unit within the Department of the Interior responsible for carrying out the Indian Employment, Training and Related Services Demonstration Act of 1992.

(5) The initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should have the benefit of the support and attention of the officials of—

(A) the Department of the Interior; and

(B) other Federal agencies involved with policymaking authority with respect to programs that emphasize the value of work for American Indians and Alaska Natives.

SEC. 3. AMENDMENTS TO THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.

(a) DEFINITIONS.—Section 3 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3402) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2) the following:

"(1) FEDERAL AGENCY.—The term 'Federal agency' has the same meaning given the term 'agency' in section 551(1) of title 5, United States Code.".

(b) PROGRAMS AFFECTED.—Section 5 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3404) is amended by striking "employment opportunities, or skill development" and all that follows through the end of the section, and inserting "securing employment, retaining employment, or creating employment opportunities. The programs referred to in the preceding sentence may include the program commonly referred to as the general assistance program established under the Act of November 2, 1921 (commonly known as the 'Snyder Act') (42 Stat. 208, chapter 115; 25 U.S.C. 13) and the program known as the Johnson-O'Malley Program established under the Johnson-O'Malley Act (25 U.S.C. 452 through 457).".

(c) PLAN REVIEW.—Section 7 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3406) is amended—

(1) by striking "Federal department" both places it appears and inserting "Federal agency";

(2) by striking "Federal departmental" and inserting "Federal agency";

(3) by striking "department" each place it appears and inserting "agency"; and

(4) in the third sentence, by inserting "statutory requirement," after "to waive any".

(d) PLAN APPROVAL.—The second sentence of section 8 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3407) is amended by inserting before the period at the end the following: ", including reconsidering the disapproval of any waiver requested by the Indian tribe".

(e) JOB CREATION ACTIVITIES.—Section 9 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3408) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The plan submitted";

(2) by striking "if such expenditures" and all that follows through the end of subsection (a) (as redesignated by paragraph (1) of this subsection); and

(3) by adding at the end the following:

"(b) LIMITATION.—The funds used for an expenditure described in subsection (a) may only include funds made available to the Indian tribe by a Federal agency under a statutory or administrative formula.".

(f) PRIVATE SECTOR TRAINING PLACEMENTS.—Section 11(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3410(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "Bureau of Indian Affairs" and inserting "Office of Self-Governance of the Department of the Interior";

(2) in paragraph (4)—

(A) by inserting "delivered under an arrangement subject to the approval of the Indian tribe participating in the project," after "appropriate to the project,"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out demonstration projects under this Act, in consultation with each such Indian tribe, of a meeting not less than 2 times during each fiscal year for the purpose of providing an opportunity for all Indian tribes that carry out demonstration projects under this Act to discuss issues relating to the implementation of this Act with officials of each department specified in subsection (a).".

(g) PERSONNEL.—In carrying out the amendment made by subsection (f)(1), the Secretary of the Interior shall transfer from the Bureau of Indian Affairs to the Office of Self-Governance of the Department of the Interior such personnel and resources as the Secretary determines to be appropriate.

By Mr. CAMPBELL:

S. 1280. A bill to provide technical corrections to the Native American Housing Assistance and Self-Determination Act of 1996, to improve the delivery of housing assistance to Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes; to the Committee on Indian Affairs.

THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT AMENDMENTS OF 1997

Mr. CAMPBELL. Mr. President, in 1996 the Congress enacted historic legislation involving the financing, construction, and maintenance of housing for Indian people. With the enactment of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), Indian housing is no longer solely in the province of the Department of Housing and Urban Development (HUD).

With NAHASDA tribes have the opportunity to develop and implement housing plans that meet their needs and values, and can do so in a way that is more efficient. I am hopeful that the success achieved by tribes participating in the Indian Self-Determination and Education Act and the Self-Governance Act programs can be duplicated in the housing arena with the implementation of NAHASDA.

The Act requires that funds for Indian housing be provided to Indian tribes in block grants with monitoring and oversight appropriately provided by HUD. By empowering the tribes themselves and decreasing tribal reliance on the federal bureaucracy, this Act is consistent with principles of tribal self-determination and self-sufficiency that have been the hallmark of federal Indian policy for nearly thirty years.

By the terms of the Act, NAHASDA becomes effective October 1, 1997. This will mean sweeping changes in the way housing is built and financed in Indian country. It is my hope that we can build on the NAHASDA model and encourage related initiatives such as banking, business development, and infrastructure construction.

Even though NAHASDA has yet to be implemented, both HUD and the tribes agree that there are sections in the Act that need clarification. The bill I am introducing, the "Native American Housing Assistance and Self-Determination Act Amendments of 1997", provides the required clarification and changes that will help tribes and HUD in achieving a smoother transition from the old housing regime to the new framework of NAHASDA.

The proposed amendments contained in this bill are partly the result of a hearing held by the Committee on Indian Affairs in March, 1997, which focused on the management of Indian housing under the old HUD-dominated regime.

Tribal leaders, Indian housing experts, and federal officials testified about funding problems and other matters, including the proper level of oversight and monitoring. The focus of the hearing was constructive and with an eye toward encouraging a better managed and more efficient Indian housing system.

After auditing Indian housing programs from around the nation, and after reviewing HUD's monitoring and enforcement provisions, HUD's Inspector General testified as to perceived problems in the old housing regime and the NAHASDA framework. The IG's testimony included her opinion that clarifications were needed in the NAHASDA including minor changes to the Act's enforcement provisions.

My goal as Chairman of the Committee on Indian Affairs is to ensure that housing funds are used properly and within the bounds permitted by law. I also want to ensure that, consistent with federal obligations to Indian tribes, tribal members are properly housed and living in decent conditions.

I am confident that with the implementation of NAHASDA, tribes will be able to better design and implement their own housing plans and in the process will be able to provide better housing to their members. In making the transition from dominating the housing realm to monitoring the activities of the tribes, HUD needs guidance from the Committee as to its proper role and responsibilities under the Act.

The Act, and the amendments I am proposing today, will go a long way in making sure that the management problems that were associated with the old, HUD-dominated housing system will not be part of NAHASDA.

I ask unanimous consent that a copy of the bill be printed in the RECORD, and urge my colleagues to join me in enacting these reasonable amendments.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Housing Assistance and Self-Determination Act Amendments of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Restriction on waiver authority.
Sec. 3. Organizational capacity; assistance to families that are not low-income.
Sec. 4. Elimination of waiver authority for small tribes.
Sec. 5. Expanded authority to review Indian housing plans.
Sec. 6. Oversight.
Sec. 7. Allocation formula.
Sec. 8. Hearing requirement.
Sec. 9. Performance agreement time limit.
Sec. 10. Block grants and guarantees not Federal subsidies for low-income housing credit.
Sec. 11. Technical and conforming amendments.

SEC 2. RESTRICTION ON WAIVER AUTHORITY.

Section 101(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(b)(2)) is amended by striking "if the Secretary" and all that follows before the period at the end and inserting the following: "for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to extreme circumstances beyond the control of the Indian tribe".

SEC. 3. ORGANIZATIONAL CAPACITY; ASSISTANCE TO FAMILIES THAT ARE NOT LOW-INCOME.

(a) ORGANIZATIONAL CAPACITY.—Section 102(c)(4) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4112(c)(4)) is amended—

(1) by redesignating subparagraphs (A) through (K) as subparagraphs (B) through (L), respectively; and

(2) by inserting before subparagraph (B), as redesignated by paragraph (1) of this subsection, the following:

"(A) a description of the entity that is responsible for carrying out the activities under the plan, including a description of—

"(i) the relevant personnel of the entity; and

"(ii) the organizational capacity of the entity, including—

"(I) the management structure of the entity; and

"(II) the financial control mechanisms of the entity;".

(b) ASSISTANCE TO FAMILIES THAT ARE NOT LOW-INCOME.—Section 102(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112) is amended by adding at the end the following:

"(6) CERTAIN FAMILIES.—With respect to assistance provided by a recipient to Indian families that are not low-income families under section 201(b)(2), evidence that there is a need for housing for each such family during that period that cannot reasonably be met without such assistance.".

SEC. 4. ELIMINATION OF WAIVER AUTHORITY FOR SMALL TRIBES.

Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

SEC. 5. EXPANDED AUTHORITY TO REVIEW INDIAN HOUSING PLANS.

Section 103(a)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4113(a)(1)) is amended—

(1) in the first sentence, by striking "limited"; and

(2) by striking the second sentence.

SEC. 6. OVERSIGHT.

(a) REPAYMENT.—Section 209 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4139) is amended to read as follows:

"SEC. 209. NONCOMPLIANCE WITH AFFORDABLE HOUSING REQUIREMENT.

"If a recipient uses grant amounts to provide affordable housing under this title, and at any time during the useful life of the housing the recipient does not comply with the requirement under section 205(a)(2), the Secretary shall take appropriate action under section 401(a).".

(b) AUDITS AND REVIEWS.—Section 405 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 1465) is amended to read as follows:

"SEC. 405. REVIEW AND AUDIT BY SECRETARY.

"(a) REQUIREMENTS UNDER CHAPTER 75 OF TITLE 31, UNITED STATES CODE.—

"(1) IN GENERAL.—An entity designated by an Indian tribe as a housing entity shall be treated, for purposes of chapter 75 of title 31, United States Code, as a non-Federal entity that is subject to the audit requirements that apply to non-Federal entities under that chapter.

"(2) PAYMENT OF COSTS.—

"(A) IN GENERAL.—The Secretary may arrange for, and pay the cost of, any audit required under paragraph (1).

"(B) WITHHOLDING OF AMOUNTS.—If the Secretary pays for the cost of an audit under subparagraph (A), the Secretary may withhold, from the assistance otherwise payable under this Act, an amount sufficient to pay for the reasonable costs of conducting an audit that meets the applicable requirements of chapter 75 of title 31, United States Code, including, if appropriate, the reasonable costs of accounting services necessary to ensure that the books and records of the entity referred to in paragraph (1) are in such condition as is necessary to carry out the audit.

"(b) ADDITIONAL REVIEWS AND AUDITS.—

"(1) IN GENERAL.—In addition to any audit under subsection (a)(1), to the extent the Secretary determines such action to be appropriate, the Secretary may conduct an audit of a recipient in order to—

"(A) determine whether the recipient—

"(i) has carried out—

"(I) eligible activities in a timely manner; and

"(II) eligible activities and certification in accordance with this Act and other applicable law;

"(ii) has a continuing capacity to carry out eligible activities in a timely manner; and

"(iii) is in compliance with the Indian housing plan of the recipient; and

"(B) verify the accuracy of information contained in any performance report submitted by the recipient under section 404.

"(2) ONSITE VISITS.—To the extent practicable, the reviews and audits conducted under this subsection shall include onsite visits by the appropriate official of the Department of Housing and Human Development.

"(c) REVIEW OF REPORTS.—

"(1) IN GENERAL.—The Secretary shall provide each recipient that is the subject of a report made by the Secretary under this section notice that the recipient may review and comment on the report during a period of not less than 30 days after the date on which notice is issued under this paragraph.

"(2) PUBLIC AVAILABILITY.—After taking into consideration any comments of the recipient under paragraph (1), the Secretary—

"(A) may revise the report; and

"(B) not later than 30 days after the date on which those comments are received, shall make the comments and the report (with any revisions made under subparagraph (A)) readily available to the public.

"(d) EFFECT OF REVIEWS.—Subject to section 401(a), after reviewing the reports and audits relating to a recipient that are submitted to the Secretary under this section, the Secretary may adjust the amount of a grant made to a recipient under this Act in accordance with the findings of the Secretary with respect to those reports and audits.".

SEC. 7. ALLOCATION FORMULA.

Section 302(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4152(d)(1)) is amended—

(1) by striking "The formula," and inserting the following:

"(A) IN GENERAL.—Except with respect to an Indian tribe described in subparagraph (B), the formula"; and

(2) by adding at the end the following:

"(B) CERTAIN INDIAN TRIBES.—With respect to fiscal year 1998 and each fiscal year thereafter, with respect to any Indian tribe having an Indian housing authority that owns or operates fewer than 250 public housing units, the formula under subparagraph (A) shall provide that the amount provided for a fiscal year in which the total amount made available for assistance under this Act is equal to or greater than the amount made available for fiscal year 1996 for assistance for the operation and modernization of the public housing referred to in subparagraph (A), the amount provided to that Indian tribe as modernization assistance shall be equal to the average annual amount of funds provided to the Indian tribe (other than funds provided as emergency assistance) under the assistance program under section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*) for the period beginning with fiscal year 1992 and ending with fiscal year 1997.".

SEC. 8. HEARING REQUIREMENT.

Section 401(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting each such subparagraph 2 ems to the right;

(2) by striking "Except as provided" and inserting the following:

"(1) IN GENERAL.—Except as provided";

(3) by striking "If the Secretary takes an action under paragraph (1), (2), or (3)" and inserting the following:

"(2) CONTINUANCE OF ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1)"; and

(4) by adding at the end the following:

"(3) EXCEPTION FOR CERTAIN ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, if the Secretary makes a determination that the failure of a recipient of assistance under this Act to comply substantially with any material provision (as that term is defined by the Secretary) of this Act is resulting, and would continue to result, in a continuing expenditure of Federal funds in a manner that is not authorized by law, the Secretary may take an action described in paragraph (1)(C) before conducting a hearing.

"(B) PROCEDURAL REQUIREMENT.—If the Secretary takes an action described in subparagraph (A), the Secretary shall—

"(i) provide notice to the recipient at the time that the Secretary takes that action; and

"(ii) conduct a hearing not later than 60 days after the date on which the Secretary provides notice under clause (i).

"(C) DETERMINATION.—Upon completion of a hearing under this paragraph, the Secretary shall make a determination regarding whether to continue taking the action that is the subject of the hearing, or take another action under this subsection.".

SEC. 9. PERFORMANCE AGREEMENT TIME LIMIT.

Section 401(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(b)) is amended—

(1) by striking "If the Secretary" and inserting the following:

"(1) IN GENERAL.—If the Secretary";

(2) by striking "(1) is not" and inserting the following:

"(A) is not";

(3) by striking "(2) is a result" and inserting the following:

"(B) is a result:

(4) in the flush material following paragraph (1)(B), as redesignated by paragraph (3) of this section—

(A) by adjusting the margin 2 ems to the right; and

(B) by inserting before the period at the end the following: ", if the recipient enters into a performance agreement with the Secretary that specifies the compliance objectives that the recipient will be required to achieve by the termination date of the performance agreement"; and

(5) by adding at the end the following:

"(2) PERFORMANCE AGREEMENT.—The period of a performance agreement described in paragraph (1) shall be for 1 year.

"(3) REVIEW.—Upon the termination of a performance agreement entered into under paragraph (1), the Secretary shall review the performance of the recipient that is a party to the agreement.

"(4) EFFECT OF REVIEW.—If, on the basis of a review under paragraph (3), the Secretary determines that the recipient—

"(A) has made a good faith effort to meet the compliance objectives specified in the agreement, the Secretary may enter into an additional performance agreement for the period specified in paragraph (2); and

"(B) has failed to make a good faith effort to meet applicable compliance objectives,

the Secretary shall determine the recipient to have failed to comply substantially with this Act, and the recipient shall be subject to an action under subsection (a).".

SEC. 10. BLOCK GRANTS AND GUARANTEES NOT FEDERAL SUBSIDIES FOR LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 42(i)(2) of the Internal Revenue Code of 1986 (relating to determination of whether building is federally subsidized) is amended to read as follows:

"(E) BUILDINGS RECEIVING HOME ASSISTANCE OR NATIVE AMERICAN HOUSING ASSISTANCE.—

"(i) IN GENERAL.—

"(I) INAPPLICABILITY.—Assistance provided under the HOME Investment Partnerships Act or the Native American Housing Assistance and Self-Determination Act of 1996 as in effect on the day before the date of enactment of the Native American Housing Assistance and Self-Determination Act Amendments of 1997 with respect to any building shall not be taken into account under subparagraph (D) if 40 percent or more of the residential units in the building are occupied by individuals whose income is 50 percent or less of the area median gross income.

"(II) APPLICABILITY OF OTHER LAW.—Subsection (d)(5)(C) does not apply to any building to which subclause (I) applies.

"(ii) SPECIAL RULE FOR CERTAIN HIGH-COST HOUSING AREAS.—In the case of a building located in a city described in section 142(d)(6), clause (i) shall be applied by substituting '25 percent' for '40 percent'.".

(b) APPLICABILITY.—The amendment made by this section shall apply to determinations made under section 42(i)(2) of the Internal Revenue Code after the date of enactment of this Act.

SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—Section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended in the table of contents—

(1) by striking the item relating to section 206; and

(2) by striking the item relating to section 209 and inserting the following:

"209. Noncompliance with affordable housing requirement.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended to read as follows:

"SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for each of fiscal years 1998 through 2001—

"(1) to provide assistance under this title for emergencies and disasters, as determined by the Secretary, $10,000,000; and

"(2) such sums as may be necessary to otherwise provide grants under this title.".

(c) CERTIFICATION OF COMPLIANCE WITH SUBSIDY LAYERING REQUIREMENTS.—Section 206 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4136) is repealed.

(d) TERMINATIONS.—Section 502(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181(a)) is amended by adding at the end the following: "Any housing that is the subject of a contract for tenant-based assistance between the Secretary and an Indian housing authority that is terminated under this section shall, for the following fiscal year and each fiscal year thereafter be considered to be a dwelling unit under section 302(b)(1).".

By Mr. MURKOWSKI (for himself and Mr. CAMPBELL):

S. 1281. A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to facilitate the creation of employment opportunities for American Indians and Alaska Natives, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN EMPLOYMENT AND TRAINING IMPROVEMENTS ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise to introduce the Indian Employment and Training Improvements Act of 1997, making technical amendments to the Indian Job Training and Consolidation Act of 1992. I was an original cosponsor of this law because I saw a need to reduce unnecessary, repetitive administrative costs in job development programs geared toward American Indians and Alaska Natives.

I am glad to say that after only a few years, it is clear that this program is working. Alaska tribal groups tell me that they have reported great savings in administering employment and training programs through consolidation of application and reporting requirements. The Cook inlet Tribal Corporation in Alaska alone reports a near tripling of jobs in the Anchorage area since the passage of this act, from 500 to nearly 1,500 jobs. The Aleutian Pribiloffs Island Association, the Bristol Bay Native Association, Tlingit-Haida Indian Tibes in southeast Alaska, and Kawerak corporation in Norton Sound all report satisfaction with this program. I thank these Alaska Native groups for working with my staff to complete these amendments.

I would also like to thank Senator CAMPBELL for his work on this issue and for introducing his fine bill. I look forward to combining the best aspects of our bills at a mark-up to be held later this year. I appreciate his sensitivity to Alaska-specific concerns on this and other Indian Affairs issues.

Mr. President, my bill would make several technical corrections that would encourage more tribes to take advantage of this demonstration. Let me highlight a few of these changes. First, it would establish the Office of Self Governance as the lead agency, replacing the Bureau of Indian Affairs. This change is needed because the BIA has shown resistance to allowing two of its programs to be included in the program: the Johnson O'Malley education program and general assistance dollars. The Office of Self governance, in contrast, has shown itself to be an effective administration in working with tribes to meet their needs.

Second, it would allow the regional non-profit corporations in Alaska to act on behalf of the tribes, without having specific authorizing resolutions on the exact subject at hand, though the tribes could always object and opt out of the regional's actions. Third, it would enable tribes to establish one consolidated advisory committee to encompass all the advisory councils currently required by the programs that are included in the demonstration.

All these changes will allow the participating tribes to get more out of the Indian Job Training and consolidation Act by enabling them to better tailor their programs for their individual needs and by reducing regulatory barriers to efficient consolidation of Indian job training programs.

Mr. President, the drop-out rate from college of Alaska Native kids in the Anchorage area is usually between 80–90 percent. We need to provide these young Alaskans with both educational and job skills so they can fully participate in Alaska's economy. The technical amendments I am introducing today will lead to further economic growth and more efficient use of Indian job training dollars. I urge my colleagues to support these amendments.

By Mr. AKAKA (for himself, Ms. MOSELEY-BRAUN, and Mrs. MURRAY):

S. 1282. A bill to provide for the establishment of the National Museum for the Peopling of America within the Smithsonian Institution, and for other purposes; to the Committee on Rules and Administration.

THE PEOPLING OF AMERICA MUSEUM ACT

Mr. AKAKA. Mr. President, last year marked the 150th anniversary of the Smithsonian Institution, an establishment dedicated to the "increase and diffusion of knowledge among men." Since its founding, the Smithsonian has promoted excellence in research and public education in all fields of human and scientific interest. To continue this great tradition of excellence, and to ensure its relevance to its patrons and beneficiaries, the American people, today I am introducing legislation, cosponsored by Senator CAROL MOSELEY-BRAUN and Senator PATTY MURRAY, to establish a new Smithsonian entity, the National Museum for the Peopling of America.

The Peopling of America Museum would be dedicated to presenting one of the most significant experiences in American history, the complex movement of people, ideas, and cultures across boundaries—both internal or external—that resulted in the peopling of the Nation and the development of our unique, pluralist society. This movement transformed us from strangers from different shores into neighbors unified in our inimitable diversity—Americans all.

Under our bill, the Museum would have a number of different functions. These include serving as: A location for exhibits and programs depicting the history of America's diverse peoples and their interactions with each other. The exhibits would collectively form a

unified narrative of the historical processes by which the United States was developed; A center for research and scholarship to ensure that future generations of scholars will have access to resources necessary for telling the story of American pluralism; A repository for the collection of relevant artifacts, artworks, and documents to be preserved, studied, and interpreted; A venue for integrated public education programs, including lectures, films, and seminars, based on the Center's collections and research; and A location for a standardized index of resources within the Smithsonian dealing with the heritages of all Americans. The Smithsonian's holdings contain millions of artifacts which have not been identified or classified for this purpose.

A clearinghouse for information on ethnic documents, artifacts, and artworks that may be available through non-Smithsonian sources, such as other federal agencies, museums, academic institutions, individuals, or foreign entities.

A folklife center highlighting the cultural expressions of the peoples of the United States. The existing Smithsonian Center for Folklife Programs and Cultural Studies, which already performs this function, could be integrated with the museum.

A center to promote mutual understanding and tolerance. The Museum would facilitate programs designed to encourage greater understanding of, and respect for, each of America's diverse ethnic and cultural heritages. The Museum would also disseminate techniques of conflict resolution currently being developed by social scientists.

An oral history center developed through interviews with volunteers and visitors. The museum would also serve as an oral history repository and a clearinghouse for oral histories held by other institutions.

A visitor center providing individually tailored orientation guides to Smithsonian visitors. Visitors could use the museum as an initial orientation phase for ethnically or culturally related artifacts, artworks, or information that can be found in each of the Smithsonian's many facilities.

A location for training museum professionals in museum practices relating to the life, history, art, and culture of the peoples of the United States. The museum would sponsor training programs for professionals or students involved in teaching, researching, and interpreting the heritage of America's peoples.

A location for testing and evaluating new museum-related technologies that could facilitate the operation of the museum. The facility could serve as a test bed for cutting-edge technologies that could later be used by other private or public museums.

Our legislation also stipulates that the museum would be located in new or existing Smithsonian facilities on or near the National Mall. Additionally, the measure establishes an Advisory Committee on American Cultural Heritage to provide guidance on the operation and direction of the proposed museum.

Mr. President, aside from the first Americans, whose precedence must be acknowledged, we Americans were travelers from other lands. From the first Europeans who came as explorers and conquerors to the African slaves who endured the middle passage and labored in the fields of our early plantations, from the people of Nuevo Mexico to the French of the Louisiana Territory who became Americans through annexation, from the Irish who fled poverty and famine at home to the Chinese who came in search of Gold Mountain—all were once visitors to this great country.

America is defined by the grand, entangled progress of its individual peoples to and across the American landscape—through exploration, the slave trade, immigration, or internal migration—that gave rise to the rich interactions that make the American experience unique. We embody the cultures and traditions that our forebears brought from other shores, as well as the new traditions and cultures that we adopted on arrival.

Whether we settled in the agrarian West, the industrialized North, the small towns of the Midwest, or the genteel cities of the South, our forebears inevitably formed relationships with peoples of other backgrounds and cultures. Our rich heritage as Americans is comprehensible only through the histories of our various constituent cultures, carried with us from other lands and transformed by encounters with other cultures. As one eminent cultural scholar has noted:

> How can one learn about slavery, holocausts, immigration, ecological adaptation or ways of seeing the world without some type of comparative perspective, without some type of relationship between cultures and peoples. How can we understand the history of any one cultural group—for example, the Irish—without reference to other groups—for example, the British. How can we understand African American culture without placing it in some relationship to its diverse African cultural roots, the creolized cultures of the Caribbean, the Native American bases of Maroon and Black Seminole cultures, the religious, economic and linguistic cultures of the colonial Spanish in Columbia, the French in Haiti, the Dutch in Suriname, and the English in the United States?

Unfortunately, Mr. President, the Smithsonian, perhaps our most prestigious educational institution, has never attempted to explore this comparative perspective of how our Nation came to be peopled. For whatever reason, the institution has failed to examine the college of relationships that shaped the values, attitudes, and behaviors of our various constituencies. Aside from occasional, temporary exhibits on a specific immigration or migration topic, such as the Museum of American History's recent exhibit on the northern migration of African-Americans, none of the Smithsonian's many museums and facilities has tasked itself to examine any aspect of this phenomenon, the peopling of America experience, much less offered a global review of the subject.

This shortcoming derives, in part, from the fact that the Smithsonian, for all its reputation as a world-class research and educational organization, remains an institution rooted in 19th century intellectual taxonomy. For example, during the early years of the Smithsonian, the cultures of Northern and Western European Americans were originally represented at the Museum of Science and Industry, which eventually became the Museum of American History. However, African Americans, Asian Americans, Native Americans, and others were treated ethnographically as part of the Museum of Natural History. This artificial bifurcation of our cultural patrimonies is still in place today. Consequently, the collections of various ethnic and cultural groups have been fragmented among various Smithsonian entities, making it difficult to view these groups in relation to each other or as part of a larger whole.

The establishment of the Peopling of America Museum would address this glaring deficiency. The museum would instantly create a national venue where all Americans, regardless of ethnic origin, could visit in order to discover and celebrate their diverse historical roots. More important, the museum would facilitate an exploration of our commonalities, the historical and cultural experiences that created the unique American identity and sensibility.

Mr. President, in May 1995, the Commission on the Future of the Smithsonian Institution, a blue ribbon panel charged with pondering the future of the 150-year-old institution, issued its final report. In its preface, the Commission noted:

> The Smithsonian Institution is the principal repository of the nation's collective memory and the nation's largest public cultural space. It is dedicated to preserving, understanding, and displaying the land we inhabit and the diversity and depth of American civilization in all its timbres and color. It holds in common for all Americans that set of beliefs—in the form of artifacts—about our past that, taken together, comprise our collective history and symbolize the ideals to which we aspire as a polity. The Smithsonian—with its 140 million objects, 16 museums and galleries, the national Zoo, and 29 million annual visits—has been, for a century and a half, a place of wonder, a magical place where Americans are reminded of how much we have in common.
>
> The story of America is the story of a plural nation. As epitomized by our nation's

motto, America is a composite of peoples. Our vast country was inhabited by various cultures long before the Pilgrims arrived. Slaves and immigrants built a new nation from "sea to shining sea," across mountains, plains, deserts and great rivers, all rich in diverse climates, animals, and plants. One of the Smithsonian's essential tasks is to make the history of our country come alive for each new generation of American children.

We cannot even imagine an "American" culture that is not multiple in its roots and in its branches. In a world fissured by differences of ethnicity and religion, we must all learn to live without the age-old dream of purity—whether of bloodlines or cultural inheritance—and learn to find comfort, solace, and even fulfillment in the rough magic of the cultural mix. And it is the challenge to preserve and embody that marvelous mix—the multi-various mosaic that is our history, culture, land, and the people who have made it—that the Smithsonian Institution, on the eve of the twenty-first century, must rededicate itself.

Mr. President, what more compelling argument in favor of the Peopling of America Museum can be found than in these words? What initiative other than the Peopling of America Museum would more directly address the Smithsonian's role in presenting the diversity and depth of American civilization in all its timbres and color, or making the history of our country come alive for each new generation of American children, or preserving the multivarious mosaic that is our history, culture, land, and the people who have made it?

In conclusion, Mr. President, I believe that this initiative will foster a much-needed understanding of our diversity, of the rich cultural and historical differences that constitute our uniqueness as individuals. Conversely, and more important, I believe that the Peopling of America Museum will promote an appreciation of the common values, relationships, and experiences that bind our citizens together. A museum dedicated to the celebration of our unity in diversity will sustain and invigorate our sense of national purpose; surely this is a mission worthy of the Smithsonian to undertake.

Thank you, Mr. President. I hope that this legislation will initiate a national dialog about the central role that the Smithsonian should play in preserving, researching, and exhibiting America's cultural and historical patrimony. I look forward to beginning this conversation with my colleagues, the academic community, and the interested public.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Peopling of America Museum Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The history of the United States is in large measure the history of how the United States was populated.

(2) The evolution of the American population is broadly termed the "peopling of America" and is characterized by the movement of groups of people across external and internal boundaries of the United States as well as by the interactions of the groups with each other.

(3) Each of the groups has made unique, important contributions to American history, culture, art, and life.

(4) The spiritual, intellectual, cultural, political, and economic vitality of the United States is a result of the pluralism and diversity of the population.

(5) The Smithsonian Institution operates 16 museums and galleries, a zoological park, and 5 major research facilities. None of these public entities is a national institution dedicated to presenting the history of the peopling of the United States, as described in paragraph (2).

(6) The respective missions of the National Museum of American History of the Smithsonian Institution and the Ellis Island Immigration Museum of the National Park Service limit the ability of those museums to present fully and adequately the history of the diverse population and rich cultures of the United States.

(7) The absence of a national facility dedicated solely to presenting the history of the peopling of the United States restricts the ability of the citizens of the United States to fully understand the rich and varied heritage of the United States derived from the unique histories of many peoples from many lands.

(8) The establishment of a Peopling of America Museum to conduct educational and interpretive programs on the multiethnic and multiracial character of the history of the United States will assist in inspiring and better informing the citizens of the United States concerning the rich and diverse cultural heritage of the citizens.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHAIRPERSON.—The term "Chairperson" means the Chairperson of the Committee.

(2) COMMITTEE.—The term "Committee" means the Advisory Committee on American Cultural Heritage established under section 7(a).

(3) DIRECTOR.—The term "Director" means the Director of the Museum.

(4) MUSEUM.—The term "Museum" means the National Museum for the Peopling of America established under section 4(a).

SEC. 4. ESTABLISHMENT OF THE NATIONAL MUSEUM FOR THE PEOPLING OF AMERICA.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a facility that shall be known as the "National Museum for the Peopling of America".

(b) PURPOSES OF THE MUSEUM.—The purposes of the Museum are—

(1) to promote knowledge of the life, art, culture, and history of the many groups of people who comprise the citizens of the United States;

(2) to illustrate how such groups cooperated, competed, or otherwise interacted with each other; and

(3) to explain how the diverse, individual experiences of each group collectively helped forge a unified national experience.

(c) COMPONENTS OF THE MUSEUM.—The Museum shall include—

(1) a location for permanent and temporary exhibits depicting the historical process by which the United States was populated;

(2) a center for research and scholarship relating to the life, art, culture, and history of the groups of people of the United States;

(3) a repository for the collection, study, and preservation of artifacts, artworks, and documents relating to the diverse population of the United States;

(4) a venue for public education programs designed to explicate the multicultural past and present of the United States;

(5) a location for the development of a standardized index of documents, artifacts, and artworks in collections that are held by the Smithsonian Institution, classified in a manner consistent with the purposes of the Museum;

(6) a clearinghouse for information on documents, artifacts, and artworks relating to the groups of people of the United States that may be available to researchers, scholars, or the general public through non-Smithsonian collections, such as documents, artifacts, and artworks relating to the groups that are held by—

(A) other Federal agencies;

(B) other museums;

(C) universities;

(D) individuals; and

(E) foreign institutions;

(7) a folklife center committed to highlighting the cultural expressions of various groups of people within the United States;

(8) a center to promote mutual understanding and tolerance among the groups of people of the United States through exhibits, films, brochures, and other appropriate means;

(9) an oral history library developed through interviews with volunteers, including visitors;

(10) a location for a visitor center that shall provide individually tailored orientation guides for visitors to all Smithsonian Institution facilities;

(11) a location for the training of museum professionals and others in the arts, humanities, and sciences with respect to museum practices relating to the life, art, history, and culture of the various groups of people of the United States; and

(12) a location for developing, testing, demonstrating, evaluating, and implementing new museum-related technologies that assist in fulfilling the purposes of the Museum, enhance the operation of the Museum, and improve the accessibility of the Museum.

SEC. 5. LOCATION AND CONSTRUCTION.

(a) LOCATION.—The Museum shall be located—

(1) in a facility of the Smithsonian Institution that is, or is not, in existence on the date of enactment of this Act; and

(2) on or near the National Mall located in the District of Columbia.

(b) CONSTRUCTION.—The Board of Regents of the Smithsonian Institution may plan, design, reconstruct, or construct appropriate facilities to house the Museum.

SEC. 6. DIRECTOR AND STAFF.

(a) IN GENERAL.—

(1) APPOINTMENTS.—The Secretary of the Smithsonian Institution shall appoint and fix the compensation and duties of—

(A) a Director, Assistant Director, Secretary, and Chief Curator of the Museum; and

(B) any other officers and employees that are necessary for the operation of the Museum.

(2) QUALIFICATIONS.—Each individual appointed under paragraph (1) shall be an individual who is qualified through experience

and training to perform the duties of the office to which that individual is appointed.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees under subsection (a), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and the 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification of positions and General Schedule pay rates.

SEC. 7. ADVISORY COMMITTEE ON AMERICAN CULTURAL HERITAGE.

(a) ESTABLISHMENT OF ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an advisory committee to be known as the "Advisory Committee on American Cultural Heritage".

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of 15 members, who shall—

(i) be appointed by the Secretary of the Smithsonian Institution;

(ii) have expertise in immigration history, ethnic studies, museum science, or any other academic or professional field that involves matters relating to the cultural heritage of the citizens of the United States; and

(iii) reflect the diversity of the citizens of the United States.

(B) INITIAL APPOINTMENTS.—The initial appointments of the members of the Committee shall be made not later than 6 months after the date of enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold its first meeting.

(5) MEETINGS.—The Committee shall meet at the call of the Chairperson, but shall meet not less frequently than 2 times each fiscal year.

(6) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—The Committee shall select a Chairperson and Vice Chairperson from among its members.

(b) DUTIES OF THE COMMITTEE.—The Committee shall advise the Secretary of the Smithsonian Institution and the Director concerning policies and programs affecting the Museum.

(c) COMMITTEE PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL MEMBERS.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

(B) FEDERAL MEMBERS.—Members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(B) COMPENSATION.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

By Mr. BUMPERS (for himself, Ms. MOSELEY-BRAUN, and Mr. HUTCHINSON):

S. 1283. A bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas; to the Committee on Banking, Housing, and Urban Affairs.

CONGRESSIONAL GOLD MEDALS LEGISLATION

Mr. BUMPERS. Mr. President, I rise today to introduce a bill on behalf of Senator CAROL MOSELEY-BRAUN and myself authorizing the award of the Congressional Gold Medal to the extraordinary group of Americans known as the Little Rock Nine. We speak often of heroes in this body. Sometimes we worry that there are no heroes in our country today, no one for our children to look up to, no one to inspire us to be our best selves. But a couple of weeks ago, we had a vivid reminder that there are still heroes among us. The Little Rock Nine returned to Little Rock Central High School to stride through the doors again. This time those doors were held open by the Governor of Arkansas and the President of the United States.

Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas. Their names are not so familiar to the American public, but they ought to be.

On a fall day in 1957, these nine Americans were teenagers, children really, and they marched up the steps of Little Rock Central High School, young black teenagers through a huge crowd—actually a mob—of angry white people who despised them just for being there and presuming to attend a public school in their own home town. They marched up the steps with a cool courage that remains awesome today, no matter how many times we see the grainy newsreels.

In 1957, Little Rock was not a very big city, but for a few days, it became the center of the world. Arkansas was not the most staunchly segregationist State in the South, but politics, history and fear conspired to make it the crucible for the authority of *Brown* v. *Board of Education*. And through that storm of controversy marched these nine young people, frightened but dignified, barely comprehending what was happening but sensing that they were helping to move aside a profound obstacle.

Now, even the people who jeered at them will admit that they were impressed and moved by the courage of those nine kids. The images of those days in Little Rock, and the extraordinary lives these nine sons and daughters of Arkansas have led are proud symbols of the progress we have made in America and a solemn reminder of the progress we have yet to make.

Any ordinary teenager is sensitive to the tiniest insult, the most innocent slight. It is hard to imagine what these nine felt as they were cursed and spat upon, peppered with every slur and threat the crowd could muster. They were opposed by the Governor, by most every local leader, by their peers and by a fully armed unit of the National Guard. They were able to enter the school when President Eisenhower ordered in units of the airborne division to escort them and enforce the order of the Supreme Court. But it was not the power of the soldiers or the authority of the law that won the day. It was the grace and courage of those nine young people.

Their grace and courage prevailed that day and has inspired us for 40 years. They deserve our thanks and admiration. They deserve a medal. We should present those nine heroes of Little Rock with the Congressional Gold Medal as a permanent remembrance of their unforgettable moment of courage. I hope all of my colleagues will cosponsor this bill and see that it quickly becomes law.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1283

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress hereby finds the following:

(1) Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, hereafter in this section referred to as the "Little Rock Nine", voluntarily subjected themselves to the bitter stinging pains of racial bigotry.

(2) The Little Rock Nine are civil rights pioneers whose selfless acts considerably advanced the civil rights debate in this country.

(3) The Little Rock Nine risked their lives to integrate Central High School in Little Rock, Arkansas, and subsequently the Nation.

(4) The Little Rock Nine sacrificed their innocence to protect the American principle that we are all "one nation, under God, indivisible".

(5) The Little Rock Nine have indelibly left their mark on the history of this Nation.

(6) the Little Rock Nine have continued to work towards equality for all Americans.

SEC. 2. CONGRESSIONAL GOLD MEDALS.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of Congress, to Jean Brown Trickey, Carlotta Walls LaNier, Malba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to the "Little Rock Nine", gold medals of appropriate design, in recognition of the selfless heroism such individuals exhibited and the pain they suffered in the cause of civil rights by integrating Central High School in Little Rock, Arkansas.

(b) DESIGN AND STRIKING.—For purposed of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary for each recipient.

(c) AUTHORIZATION OF APPROPRIATION.—Effective October 1, 1997, there are authorized to be appropriated such sums as may be necessary, to carry out this section.

SEC. 3. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medals struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(b) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out section 2 shall be reimbursed out of the proceeds of sales under subsection (a).

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

By Mr. ROBERTS:

S. 1284. A bill to prohibit construction of any monument, memorial, or other structure at the site of the Iwo Jima Memorial in Arlington, VA, and for other purposes; to the Committee on Energy and Natural Resources.

CONSTRUCTION PROHIBITION LEGISLATION

Mr. ROBERTS. Mr. President, today I am introducing legislation that really should not have to be introduced to address a controversy that should not be taking place. The legislation is intended to prevent further construction of any memorial on the parcel of Federal land surrounding the U.S. Marine Corps memorial commonly known as the Iwo Jima memorial located in Arlington, VA.

Mr. President, the reason I am introducing this legislation is that, unfortunately, this site has been selected for a 50-foot high Air Force memorial approximately 500 feet from the Iwo Jima statue.

Mr. President, I realize full well that this legislation and this issue will and has caused considerable emotional debate and difference of opinion within our Marine and Air Force communities. I stress that in my opinion it does not have to be that way.

First, the points that I will raise should not be construed as any denigration or challenge to the worthiness of a memorial to the proud men and women of the U.S. Air Force who have served our Nation so very well. In fact, one of my points is that our U.S. Air Force deserves its own special place that will not compete with any other memorial.

In discussing this legislation, I am going to leave the legal issues to those with better expertise in the nuance of law. The point I would like to stress is very basic. It supersedes reports and hearings and commission recommendations and whether or not the proponents of construction of another memorial have successfully—and apparently they have—traversed the procedural obstacle course and the tripwires necessary to gain approval for construction.

Simply put, the Iwo Jima memorial represents and memorializes an absolutely unique and special time in our Nation's history. Just as Bunker Hill and Saratoga and Yorktown and Gettysburg, Belleau Wood and Bataan, Normandy, Chosin Reservoir, and other battles have been etched in our national psyche as touchstones and reminders of courage, valor and bravery in defense of freedom, and have special meaning for this Nation and the valiant members of our Armed Forces that fought bravely in each of those campaigns, Iwo Jima became a rallying point for this country and the U.S. Marine Corps during the dark days of the war in the Pacific.

Mr. President, on a personal note, for me, the Iwo Jima memorial has special meaning. My dad, then a Marine major, Wes Roberts, took part in the battle of Iwo Jima. His accounts of the bravery and sacrifice are part of our family's history and inspiration. Fifteen years later, then Marine Lt. PAT ROBERTS, stationed in Okinawa with the 3d Marine Division, revisited Iwo Jima, along with the first official Marine party to pay a personal tribute and visit to that island. My assignment was to cover the visit and dedication for the Stars and Stripes newspaper.

I shall never forget the experience. Iwo Jima veterans, enlisted and officers, stood on Mt. Suribachi in the quiet of the gentle wind overlooking a now lush green island in the blue of the Pacific, and there was not a sound. Then, in hushed tones, mixed with emotion and tears, the Iwo Jima veterans relived, recounted that battle and said many a prayer for their fallen comrades.

Lt. General Thomas A. Wornham placed a 5th Marine Division insignia on the flagpole atop famous Suribachi. Former members of his old unit, the 27th Marines, stood with visiting dignitaries. They listened quietly. The general said, "We landed over there by those two rocks. The terraces were much higher then. I crawled on my hands and knees right by that small hill."

In a low whisper, Col. John W. Antonelli, former 2d battalion Commander in the 27th, said, "I cannot look at this scene, this island, without thinking of my Marines who died in order to capture it. From the top of Suribachi, I can see where they fell. One of my best friends was killed in that ravine. Every time the Marines would take cover there, they invited the incoming artillery."

Then Col. Donn J. Robertson, former 3d battalion commander in the famous regiment, told listeners how the island had changed. "This new lush vegetation would have given our boys much needed cover then. As I stand here looking down from Suribachi, I realize how the enemy had us covered in interlocking fire. We landed on a beautiful day just like this, sun shining, blue sky, blue ocean. I am thankful to be alive."

Standing on Suribachi, it was difficult for any of us to imagine how anyone could have survived the landing and day-after-day assault. The day after the island was declared secure more marines suffered casualties than they had in the last 10.

But survive they did, and Old Glory was raised over Iwo Jima on the 23d of February, 1945, and captured on film to become a pictorial moment in history unequaled in portraying uncommon valor. Almost 10 years later, that special event in our Nation's history was recreated and consecrated forever in the dedication of the Iwo Jima memorial here in our Nation's Capital and now attracts over 1 million visitors every year.

Let me stress, Mr. President, that Iwo Jima is not purely a Marine Corps

memorial. It does, of course, represent an extremely important event in the proud history of our corps, but it is, in a larger sense, a memorial for the American people. Many consider the Iwo Jima site as hallowed ground and certainly not a site where there should be a competing memorial.

I also wish to acknowledge that the Air Force Association has been forthright and aboveboard in the process to find a suitable site for their proposed memorial. I applaud and support their efforts to properly recognize the superb contribution the men and women of the U.S. Air Force have made to this country. The point is that I do not believe it serves any purpose for either memorial to compete with or stand in the shadow of the other.

I also realize the proponents of the Air Force memorial will say it will not interfere with Iwo Jima, and it will be located behind a line of trees so that it cannot be seen from the Iwo site.

Now, the sense I get from those statements is that the Air Force memorial will figuratively be in the shadow of Iwo Jima. If so, that, quite frankly, is not fair to the Air Force and to those the memorial is intended to honor. A location should be found where the memorial can stand clearly, proudly, and in its own place without competition from any other structure.

In addition, the National Planning Commission report recognizes that the site for the proposed Air Force memorial is, "fragile and delicate." The report further recognizes that the area encompassing the Iwo Jima memorial and the Netherlands Carillon and the Arlington National Cemetery is "reverent space whose beautiful nature is already heavily disrupted by heavy automobile and bus traffic on the periphery and by tour bus traffic within the area itself. The planned construction of 40 additional parking spaces adjacent to the memorial, which is currently a wooded area, would further diminish the natural beauty of the memorial and the park surroundings."

I realize in the passage of time, even the most memorable acts of courage and valor and bravery tend to fade into yesterday's history books. Succeeding generations tend to forget the lessons of the past, and the world, indeed, is a different place. Today, great historical events, and even the lives and lessons of our Founding Fathers are many times mere footnotes in a fast-paced society, or worse, subject to revision depending on what is politically correct at the moment.

But, let us not add to or hasten this erosion by unnecessarily competing or infringing upon what has been accurately called "sacred and reverent space."

This so-called controversy about the location of the proposed Air Force memorial in conjunction with the Iwo Jima memorial is, in fact, a paradox of enormous irony. The battle of Iwo Jima was fought to secure a safe haven and staging area for bomber aircraft flown by the forerunners of the U.S. Air Force. Marines fought and died to help save the lives of the fliers of the Army Air Corps. For 43 years, ever since the memorial was dedicated on the Marine Corps birthday in 1954, the Iwo Jima memorial has been in fact a memorial to both brave marines and fliers of World War II.

Why, why then, why indeed, should any memorial so inspired, so true to the memory and sacrifice of both marines and Army Air Corps fliers, why should such hallowed ground be subject to encroachment and duplication of yet another memorial for the same purpose, a memorial that should stand in its own right and on its own site?

We should preserve the sanctity of a memorial that has come to be viewed by all Americans as a de facto memorial to World War II. Nothing should detract from the serene and hallowed setting of the Iwo Jima memorial.

In a letter I have received from the Commandant of the U.S. Marine Corps, Gen. C.C. Krulak, the Commandant eloquently sums up what all marines feel in their hearts and what I have tried to explain in my remarks. I quote from his letter:

> Although I was just a young boy, I remember watching as the Iwo Jima memorial was erected on the edge of Arlington Cemetery. I remember that November day in 1954 when my godfather, Gen. Holland "Howlin Mad" Smith, stood before that magnificent statue and, with tears slowly streaming down his cheeks, softly said, "My marines, my marines. . . ." Truly, this is a sacred place.

Mr. President, the commandant went on to say that, as the last marine on active duty to have witnessed the Iwo dedication, he truly believes that this Nation must preserve its sanctity. For, as General Krulak said, the Iwo Jima memorial is more than a monument; it is a place for reflection, a place to pay respect, and a place to gain inner strength. Over 23,000 marines were killed or injured on Iwo Jima, and each year, over 1 million Americans pay tribute to those marines.

General Krulak closed his letter by saying:

> In speaking for them, for their survivors, and for all marines past, present and future, the sanctity of the Iwo Jima memorial must be preserved.

Semper fidelis, general, semper fidelis.

I ask my colleagues to join me in this effort.

By Mr. FAIRCLOTH (for himself, Mrs. HUTCHISON, Mr. MACK, Mr. LOTT, Mr. ABRAHAM, Mr. SHELBY, Mr. ALLARD, Mr. ASHCROFT, Mr. BROWNBACK, Mr. BURNS, Mr. CAMPBELL, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. KYL, Mr. BENNETT, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. THOMAS, Mr. THURMOND, Mr. WARNER and Ms. SNOWE):

S. 1285. A bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals; to the Committee on Finance.

THE MARRIAGE TAX PENALTY ELIMINATION ACT OF 1997

Mr. FAIRCLOTH. Mr. President, today I am pleased to introduce legislation that will eliminate the marriage penalty tax. This is similar to legislation in the House, H.R. 2456, which has 218 cosponsors, including the Speaker of the House.

According to the Joint Economic Committee, in 1996, more than 23 million married couples paid a marriage penalty, totaling an extra $28 billion in taxes. This would mean the average couple is paying $1,200 more in income taxes simply because they are married. I think it is time to change the tax code so that we do not punish people simply for being married.

From 1913 to 1969, the federal income tax treated married couples either just as well as or better than if they were single. Since then, married couples have had to pay a marriage penalty. This is even more ironic if you consider that the number of married couples where both work has increased dramatically. Finally, the tax increase in 1993 made the problem worse by raising the tax rates.

This legislation is supported by Americans for Tax Reform and the National Taxpayers Unions. I am pleased to be joined by Senators HUTCHINSON and MACK, making a total of 35 Senators that are original cosponsors.

I would hope that we could end this penalty against marriage. Marriage should be cherished, not punished by the Federal Government. I would urge other Senators to cosponsor this bill, and I would hope that we could take up this legislation as soon as possible.

By Mr. JEFFORDS:

S. 1287. A bill to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants; to the Committee on Environment and Public Works.

THE ASIAN ELEPHANT CONSERVATION ACT OF 1997

Mr. JEFFORDS. Mr. President, today I rise today to introduce a bill to assist

in the preservation of Asian elephants. The bill, the "Asian Elephant Conservation Act of 1997", is modeled after the highly successful African Elephant Conservation Act of 1988 and the Rhinoceros and Tiger Conservation Act of 1994. It will authorize up to $5 million per year to be appropriated to the Department of the Interior to fund various projects to aid in the preservation of the Asian elephant.

Since the challenges of the Asian elephants are so great, resources to date have not been sufficient to cope with the continued loss of habitat and the consequent diminution of Asian elephant populations

Among the threats to the Asian elephant in addition to habitat loss are population fragmentation, human-elephant conflict, poaching for ivory, meat, hide, bones and teeth, and capture for domestication. To reduce, remove, or otherwise effectively address these threats to the long-term viability of populations of Asian elephants in the wild will require the joint commitment and effort of nations within the range of Asian elephants, the United States and other countries, and the private sector.

On April 22, 1997, I introduced the African Elephant Conservation Reauthorization Act of 1997 (S. 627). By the late 1980's, the population of African elephants had dramatically declined from approximately 1.3 million animals in 1979 to less than 700,000 in 1987. The primary reason for this decline was the poaching and illegal slaughter of elephants for their tusks, which fueled the international trade policy. Today, as a result of the bill, the African elephant population has stabilized, international ivory prices remain low, and wildlife rangers are better equipped to stop illegal poaching activities.

I am a strong proponent of the protection and conservation of endangered species. If we do not act now, the world's future generations may not be able to enjoy many of the species of wildlife now in existence. This small, but critical investment of U.S. taxpayer money will be matched by private funds and will significantly improve the likelihood that wild Asian elephants will exist in the 21st Century. It is my hope that the Asian Elephant Conservation Act of 1997 will hopefully see the same successes that the African elephant bill has seen.

By Mr. ALLARD (for himself and Mr. CAMPBELL):

S. 1289. A bill to temporarily decrease the duty on certain industrial nylon fabrics; to the Committee on Finance.

TARIFF REDUCTION LEGISLATION

Mr. ALLARD. Mr. President, today I am introducing this legislation to lessen a financial burden on American companies. I am pleased that my colleague from Colorado, Senator CAMPBELL is joining me as an original cosponsor. For approximately 20 years, various U.S. manufacturers have been paying substantial tariffs on a product that is not produced in this country.

Mr. President, my legislation would significantly reduce the tariff on this particular product from 16 to 6.7 percent. This product is an industrial nylon fabric used in the manufacture of automotive timing belts. United States companies that use this product in their manufacturing processes have no choice but to import it since it has not been produced domestically since the mid-1970's.

There is no domestic industry to harm by lowering this tariff, consumers will clearly benefit, and many domestic industries will benefit by becoming more competitive.

My bill would temporarily reduce the tariff on the nylon fabric product for 3 years. After that period, if there are still no U.S. producers, further action would then be in order. Mr. President, reducing American competitiveness to protect non-existent domestic industries simply does not make sense. It is my hope that this situation will be rectified.

By Mr. HATCH:

S. 1290. A bill for the relief of Saeed Rezai; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. HATCH. Mr. President, I rise today to introduce private relief legislation on behalf of my constituents, Mr. Saeed Rezai, and his wife, Mrs. Julie Rezai.

As my colleagues are aware, those immigration cases that warrant private legislation are extremely rare. In fact, in nearly 8 years, I have introduced just one bill to grant such relief—a bill for the relief of Saeed Rezai in the last Congress. As I said before the Senate when I introduced that bill in 1995, I had hoped that this case would not require congressional intervention. Unfortunately, it is clear that private legislation is the only means remaining to ensure that the equities of Mr. and Mrs. Rezai's case are heard and that a number of unresolved questions are answered without imposing a terrible hardship on Mr. and Mrs. Rezai and on their marriage.

I wish to take a moment, Mr. President, to provide something by way of background to this somewhat complicated case and to explain the urgency of this legislation. Mr. Rezai first came to the United States in 1986. On June 15, 1991, he married his current wife, Julie, who is a U.S. citizen. Shortly thereafter, she filed an immigrant visa petition on his behalf. Approval of this petition has been blocked, however, by the application of §204(c) of the Immigration and Nationality Act. Section 204(c) precludes the approval of a visa petition for anyone who entered, or conspired to enter, into a fraudulent marriage. The Immigration and Naturalization Service [INS] applied this provision in Mr. Rezai's case because his previous marriage ended in divorce before his 2-year period of conditional residence had expired. In immigration proceedings following the divorce, the judge heard testimony from witnesses on behalf of Mr. Rezai and his former wife. After considering that testimony, he found there was insufficient evidence to warrant lifting the conditions on Mr. Rezai's permanent residency and, in the absence of a qualifying marriage, granted Mr. Rezai voluntary departure from the United States. The judge was very careful to mention, however, that there was no proof of false testimony by Mr. Rezai, and he granted voluntary departure rather than ordering deportation because, in his words, Mr. Rezai "may be eligible for a visa in the future."

Despite these comments by the immigration judge, who clearly did not anticipate the future application of the §204(c) exclusion to Mr. Rezai's case, the INS has refused to approve Mrs. Rezai's petition for permanent residence on behalf of her husband based on that very exclusion. An appeal of this decision has been pending before the Board of Immigration Appeals [BIA] for 3 years. In the meantime, Mr. Rezai appealed the initial termination of his lawful permanent resident status in 1990. In August 1995, the 10th Circuit Court of Appeals denied this appeal and reinstated the voluntary departure order. Under current law, there is no provision to stay Mr. Rezai's deportation pending the BIA's consideration of Mrs. Rezai's current immigrant visa petition.

Mr. President, there is no question that Mr. Rezai's deportation will create extraordinary hardship for both Mr. and Mr. Rezai. Throughout all the proceedings of the past 6 years, not a single person that I know of—including the INS—has questioned the validity of Mr. and Mrs. Rezai's marriage. In fact, many that I have heard from have emphatically told me that Mr. and Mrs. Rezai's marriage is as strong as any they have seen. Given the prevailing political and cultural climate in Iran, I would not expect that Mrs. Rezai will choose to make her home there. Thus, Mr. Rezai's deportation will result in either the breakup of a legitimate family or the forced removal of a U.S. citizen and her husband to a third country foreign to both of them.

It should also be noted that Mr. Rezai has been present in the United States for more than a decade. During this time he has assimilated to American culture and has become a contributing member of his community. He has been placed in a responsible position of employment as the security field supervisor at Westminster College where he has gained the respect and admiration of both his peers and his supervisors. In fact, I received a letter

from the interim president of Westminster College, signed by close to 150 of Mr. Rezai's associates, attesting to his many contributions to the college and the community. This is just one of the many, many letters and phone calls I have received from members of our community. Mr. Rezai's forced departure in light of these considerations would both unduly limit his own opportunities and deprive the community of his continued contributions.

Finally, Mr. Rezai's deportation would create a particular hardship for his wife, who was diagnosed just a few years ago with Multiple Sclerosis [MS]. Mrs. Rezai's doctor has recommended that her husband be designated as her primary caregiver for what is expected to be a lifelong debilitating illness. It is doubtful that adequate medical care would be available should she be forced to return with her husband to Iran or to some other country willing to accept them as immigrants. Finally, her doctor has suggested that severe symptoms and rapid deterioration of Mrs. Rezai's condition are possible as a result of the stress being placed upon her by her husband's protracted immigration proceedings and the uncertainty of their future.

Mr. President, I firmly believe that we must think before enforcing an action that will result in such severe consequences as the destruction of Mr. and Mrs. Rezai's marriage and the endangering of Mrs. Rezai's already fragile health. The legislation I am introducing today, if enacted, will put an end to what has been a long and drawn-out ordeal for the Rezais by granting Mr. Rezai full permanent resident status. At a minimum, the outstanding questions regarding the propriety of the denial of Mr. Rezai's current immigrant visa petition need to be addressed. With the introduction of this legislation today and its consideration by the Judiciary Committee's Subcommittee on Immigration, we can ensure that Mr. Rezai's deportation will be stayed pending the thorough review of these questions by the Board of Immigration Appeals. I urge each of my colleagues to support this immigration bill.

By Mr. HATCH (for himself, Mr. FEINGOLD, Mr. THOMAS, Mr. BROWNBACK, Mr. ROBERTS and Mr. BURNS):

S. 1291. A bill to permit the interstate distribution of State-inspected meat under certain circumstances; to the Committee on Agriculture, Nutrition, and Forestry.

THE INTERSTATE DISTRIBUTION OF STATE-INSPECTED MEAT ACT OF 1997

Mr. HATCH. Mr. President, I rise to introduce the Interstate Distribution of State-inspected Meat Act of 1997. This legislation will lift the ban on interstate distribution of State-inspected meat and poultry, providing some long-term relief to our livestock producers and finally ending a long-standing inequity in meat inspection laws that affects about 3,000 meat processors in 26 States.

In the 1960's, the Federal Meat Inspection Act and the Poultry Products Inspection Act allowed States to implement their own inspection programs. At the time, there remained some uncertainty as to how well the State inspection programs would function, so a provision was included banning meat inspected by States from interstate distribution. There was also a provision included requiring the U.S. Department of Agriculture to periodically recertify that the State programs are "at least equal to" the Federal standards. In the 30 years since this program was instituted, a State program has never failed to achieve recertification.

Mr. President, today the ban on interstate distribution has clearly outlived its purpose. Instead of protecting the health of our citizens, it only stifles competition in the meat packing industry and impounds the available market to State-inspected plants. Right now, State-inspected ostrich, venison, buffalo, and pheasant are freely distributed across State lines; yet, a perfectly good steak is banned.

Furthermore, foreign competitors are allowed to send their meat products throughout the United States without regard for State boundaries. These foreign companies do not face a higher standard than our State-inspected processing plants. The only difference is that the State-inspected plants have much tighter oversight by the USDA. There is no reason that U.S. plants should be restricted from competing with foreign countries.

Monte Lucherini runs a State-inspected plant in Logan, UT. He runs a good business and makes an excellent product, but is still not allowed to do business outside of Utah. He writes:

I believe that my gross sales would increase 30 to 40 percent. . . . Employment would be increased also. I would need two to three more butchers, and probably five to six more part-time workers. . . . It has always been a thorn in our side that we couldn't service the customers that want our products.

David H. Yadron runs a state-inspected plant in Orem, Utah. He says:

By scrimping and saving, this "mom and pop" operation was built to federal standards two years ago. Nevertheless, large companies and foreign competitors enjoy the privilege of shipping their meat products interstate even though our facility and products are equal or superior to theirs. This injustice limits our profitability while providing an unfair marketing advantage to foreign companies and large domestic operations. Unless Congress repeals the unfair prohibition, we could be forced out of business. Conversely, if Wind River grows, then our suppliers, including the local, federal meat inspected packers, would also grow.

Mr. President, there are restaurants and food retailers in many States that would love to purchase meat products from Utah's State-inspected plants. Utah's State inspection program receives the highest marks possible by the USDA, and many of our plants produce unique and hard-to-find products. Instead of purchasing from Utah, these restaurants and retailers are forced to purchase from foreign competitors, even though the quality of the foreign product is often inferior.

There is no sense to this, Mr. President; it cuts into the profits of our retailers, raises the prices for our consumers, stifles business for our processors, and limits the market for our livestock and poultry producers.

Mr. President, the time has come to lift the ban in State-inspected meat and poultry. There is no reason whatever to believe that permitting interstate distribution for State-inspected meat would compromise safety in any way. In fact, I believe we would have even greater assurances about the safety of meat than we do now. The USDA would continue to set and ensure inspection standards.

I am aware that the USDA has recently begun looking into the merits of lifting the prohibition on interstate distribution, and I am eager to work with the USDA on a workable plan for bringing this law up-to-date. I call on my colleagues to support this effort to introduce equity into the meat packing industry.

Mr. FEINGOLD. Mr. President, I am pleased to be an original cosponsor of the Interstate Distribution of State-inspected Meat Act of 1997 introduced today by my colleague from Utah [Mr. HATCH] and I thank him for his leadership on this issue.

This is a very important bill for my State of Wisconsin which has nearly 300 State-inspected meat plants which provide jobs and income for rural communities. The quality meat products processed by these plants such as the Lodi Sausage Co. in Lodi, WI, Gunderson Food Service in Mondovi, WI, Goodfella's Pizza Corp. in Medford, WI, The Ham Store in Brookfield, WI, Country Fresh Meats in Hatley, WI, and Louie's Finer Meats, Inc. in Cumberland, WI are prohibited from being sold across State lines. These small businesses face the interstate marketing prohibition not because their products haven't been inspected—in fact all these businesses are inspected by the State of Wisconsin—but because of an archaic provision of Federal law which prohibits interstate shipment of State-inspected meats even though the State inspection program is certified as equal to Federal meat inspection programs.

These plants, and hundreds like them in Wisconsin, produce quality specialty meat products which are demanded by consumers in other States. But the owners of these facilities are unable to capitalize on their specialties and meet

that market demand. By limiting these plants to markets within their home-State borders, Federal law effectively prevents them from expanding their markets, increasing the number of people they employ, and generating additional economic activity in rural areas.

These small plants pose no competitive threat to larger processors who are federally inspected. In most cases, State-inspected plants are small family owned businesses, employing between 1 and 20 people, producing specialty products to fill a small market niche. These plant owners and operators pay special attention to the quality of their products and because of this they cannot grow very large. Wisconsin's small-scale meat processors take great pride in their products which reflect the ethnic diversity in my State. In fact, it is my understanding that Wisconsin specialty meat products win nearly 25 percent of the awards at the American Association of Meat Processors' nationwide product show.

Furthermore, these small State-inspected plants play a critical role in sustaining rural communities and helping to ensure diversity of size in the livestock industry. Most of these plants buy livestock locally which helps maintain the viability of nearby small family livestock operations. By buying locally they know exactly where their inputs bar coming from and how they are produced, which allows them to control the quality of their products. These local buying practices help counteract trends toward concentration in the livestock and poultry production and processing industries providing small livestock and dairy producers with marketing alternatives in any industry dominated by a few large meat packers.

The owners of these small businesses in Wisconsin correctly point out that they face even more meat shipment restrictions than their competitors from foreign countries. Under our trade agreements, meat products from foreign countries are allowed into the United States and across State borders as long as the country has an inspection program that is "equivalent" to U.S. programs. Meanwhile, even if State inspection programs are "equal to" Federal inspection programs, meats inspected under State programs are still precluded from interstate shipment Mr. President, it simply isn't fair and it is time to eliminate this inequity.

The bill we are introducing today makes a simple but important change to Federal law to allow State-inspected meats to be sold across State lines after the State inspection program is favorably reviewed and certified by the Secretary of Agriculture as at least "equal to" Federal meat inspection programs. If State programs are not equal to the Federal inspection program, they will not be certified by USDA and State-inspected meats will not cross State lines. The Secretary is also required by this bill to certify that the State inspection program is on schedule in implementing USDA's new Hazard Analysis and Critical Control Points [HAACP] regulations. The bill also requires the Secretary to annually recertify the State program. To provide further safeguards, Federal meat inspectors may also randomly inspect State plants to ensure that they continue to meet Federal standards. The Secretary will have the authority to reinstate the interstate shipment ban on plants that fail to meet Federal standards. This bill is responsible to consumers while providing equity to small State-inspected plants.

Mr. President, I think the best arguments in favor of this legislation are made by those small business owners who are directly affected by the interstate shipment prohibition imposed on their meat products. I want to share with my colleagues some comments made by owners of some State-inspected processing businesses in Wisconsin.:

Louis Muench, owner of Louie's Finer Meats, Inc. In Cumberland, WI writes:

> We are the operators of a small meat processing and sausage making operation in a small town in northern Wisconsin . . . Our plant is 30 miles from the Minnesota border and we cannot even provide sausage for a pancake supper in Minnesota, let alone any wholesaling to supermarkets and convenience stores. We have received over 100 State and National awards for our sausage products. We cannot even market these products on a regional basis, let alone a national basis. This past May [1996], we were honored to receive two international gold medals for our sausage in Frankfurt, Germany. We are not allowed to market these products anywhere but Wisconsin. These kinds of restrictions make it difficult to maintain a profitable business.

Dan Kubly, one of the owners of LazyBones Ham Store, in Brookfield, WI writes:

> We work very closely with our state inspectors and consider them an ally in our overall business. We constantly consult with them on equipment conditions, labeling and handling procedures in our plant. It makes no sense that we are permitted to ship our products anywhere as long as the retail customer buys the product at our stores, but are not allowed to ship the same product across state lines through a distributor . . . Our volume is increasing rapidly and we are interested in contracting with a multi-state distributor, however we are unable to do this because we do not have USDA inspection. We feel our business will suffer significantly and job creation will end if we are not permitted to expand due to this unnecessary prohibition.

James Weber, owner of Gunderson Food Service, in Modovi, WI writes:

> We are operating a small meat plant in northwest Wisconsin and employ 9 people. We slaughter and and custom process for the local farm community, smoke ham and bacon, manufacture sausage and sell retail and wholesale. We are under Wisconsin meat inspection and are required to be equal to or better than Federal inspection. In the last 4 years we have taken 18 Wisconsin, national and international awards for our ham, jerky, beef sticks and sausage; but because I am in Wisconsin I am discriminated against by the Federal government. We are 30 miles from the Minnesota border but cannot sell our product there. If my products are of high enough quality to be sent 250 miles to Milwaukee, Wisconsin, then why is there a problem with me selling it 25 miles away in Waubaska, Minnesota?

Bill Ruef, owner of Ruef's Meat Market in New Glarus, WI who processes a Swiss ready-to-eat snack called "Landjaeger" writes:

> This [Landjaeger] is our most popular item, and I get asked on a regular basis by business owners from other states—we are about 25 miles from the Illinois border—if we can ship our Landjaegers to them for resale in their establishments. It really hurts me and my business when I have to tell them "no" because we aren't federally inspected. This kind of unfair prohibition will only continue to drive small businesses to fold and allow large conglomerates to monopolize the industry.

Mr. President, these business owners say it best. The current prohibition on interstate shipment of State-inspected meats is obsolete and patently unfair to small meat processors. It is time to correct this inequity and I urge my colleagues to support this important legislation.

Mr. BROWNBACK. Mr. President, today I join with the distinguished Senators from Utah, Wisconsin, and Wyoming in introducing a bill which addresses an injustice that has developed out of current law.

Under current law, meat and poultry products that are processed in plants which are inspected by State departments of agriculture are not allowed to be shipped over State lines. This restriction is an unfair restraint on competition which is especially discriminatory toward small processing facilities.

State inspection programs are required to maintain standards are "at least equal to" federal inspection standards. The U.S. Department of Agriculture periodically recertifies that State programs continue to meet that standard. meeting an "equal to" standard is the same requirement that foreign meat processors must meet in order to sell their product within U.S. borders. Not allowing State inspected facilities the freedom to sell their product throughout the country after having met the same standard that allows their foreign competitors to market their product unimpeded is, quite simply, unfair.

This arbitrary restriction has been troublesome to me ever since I was Secretary of Agriculture for Kansas. I've seen firsthand that this restriction impedes competition. In fact, I would like to insert in the RECORD a letter that I received from a professional in the State of Kansas who operates a State inspected plant. My constituent

presents a credible case for why her business is limited because of the restriction on interstate shipment.

Proprietors of State-inspected plants are not the only advocates of changing the law. USDA's packer concentration panel recommended an immediate repeal of this prohibition as a way to slow packer concentration. The National Association of State Department of Agriculture, which represents the Secretaries and Commissioners of Agriculture which have responsibility for overseeing State programs, strongly endorses the repeal of interstate shipment restrictions. Based on public comment solicited in the Federal Register and public hearings that were held throughout the country, the U.S. Department of Agriculture recently announced its support of lifting the ban on interstate shipment.

Mr. President, I would like to address the issue of food safety in relation to my proposal. Food safety is paramount. This measure would not in any way undermine the consumer's access to a reliable and safe product. However, this bill is not about food safety. Rather, this bill addresses an issue of commerce and trade.

In other words, food safety is an issue of enforcing the inspection standards that are in place, whether under State or Federal oversight. If State-inspected meat is safe to be distributed in Kansas, it is safe to be shipped to Missouri, or Oklahoma, or wherever else an entrepreneur finds a customer. Conversely, if the food is not safe to be shipped over State lines, it shouldn't be distributed with the State either.

And, as both State and federally inspected plants implement the Hazard Analysis and Critical Control Point system, we can be even more assured that plants throughout the country are conforming to a uniformly high set of standards. Now, more than ever, a focus on who does the inspecting has no relevance in determining where the product can be consumed safely.

I would like to highlight the paper that the U.S. Department of Agriculture recently released in support of allowing the interstate shipment of State-inspected meat and poultry products. In this paper, the administration states its concept for legislative action and establishes certain recommendations for what that legislation should include. I believe that there is much common ground between the Secretary's guidelines and the bill that my colleagues and I are introducing today.

I look forward to working with the USDA, as well as my colleagues here in the Senate, in order to pass and implement this legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOME ON THE RANGE & CO.,
Scott City, KS, September 11, 1997.

Congressman SAM BROWNBACK,
Washington, DC.

DEAR CONGRESSMAN BROWNBACK: On September 6 of last week I was asked to attend a meeting called by Secretary of Agriculture Dan Glickman concerning the interstate shipment of State inspected meat and poultry products. I was a Kansas representative of small processors that are affected by this issue.

This is not a food safety issue. Our plants meet or exceed the provisions provided by the USDA. In many cases we are even more careful of our products standards because we live in the communities where we work. If our customers do not like the quality of products we produce they tell their friends and so on. We want to produce the safest and highest quality of products.

It is an unfair competition issue. With the passage of the NAFTA and other trade agreements, foreign meat and poultry products have free access to United States interstate commerce. These foreign inspection systems must meet requirements similar to those that the states must meet in assuring that their systems meet the requirements found in the federal acts. Why should beef inspected in Mexico have free access to interstate commerce when beef I process can not be sold in Colorado?

Expanding the market for state inspected plants will create jobs and the economy in all our communities. These plants provide "value added" and specialty products to the market that the larger plants do not want to produce.

Another issue that does not make sense is the fact that the Buffalo Jerky I produce by the exact process as the Beef Jerky I produce is able to be sold across the United States because the USDA does not regulate them as species which require mandatory federal inspection.

Please give your support to Bill number S. 1862 that is being introduced concerning this matter. It is very important this be passed now. Time is running out for the small processors. In Kansas alone, 6-7 plants are closing a year because we are not able to access the trade we need to stay in business.

Kansas Secretary of Agriculture, Allie Devine is in favor of this bill. She would be happy to answer any questions you may have on this issue.

Thank you very much for your time.

Sincerely,

LORI ROBBINS, *Owner.*

By Mr. STEVENS (for himself, Mr. BYRD, Mr. BURNS, Mrs. MURRAY, Mr. AKAKA, Mr. ALLARD, Mr. BOND, Mr. BAUCUS, Mr. BENNETT, Mr. BINGAMAN, Mrs. BOXER, Mr. CAMPBELL, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. FORD, Mr. FRIST, Mr. GRAHAM, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. INOUYE, Mr. KEMPTHORNE, Mr. LEAHY, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MOYNIHAN, Mr. REID, Mr. ROBERTS, Mr. SANTORUM, Mr. SARBANES, Mr. SPECTER, Mr. THOMPSON, and Mr. WARNER):

S. 1292. A resolution disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105-45; to the Committee on Appropriations, pursuant to the order of section 1025 of Public Law 93-344 for seven days of session.

DISAPPROVAL LEGISLATION

Mr. STEVENS. Mr. President, I have sought the floor now to introduce a disapproval bill to reverse the President's use of the line-item veto in the fiscal year 1998 military construction appropriations bill. I believe at least 37 of my colleagues will join as cosponsors of this bill.

The Line-Item Veto Act, public law 104-130, provides very specific fast-track procedures for consideration of a disapproval bill. I want to discuss those in detail later in these comments.

Congress received the President's special message listing the 38 cancellations in the military construction bill on Monday, October 6. The bill we introduce today is within the 5 calendar days of session timeframe provided for fast-track process.

Let me take a minute on the merits of this bill, Mr. President. In June, the President reached a budget agreement with the bipartisan leadership of the Congress. That agreement provided an increase of $2.6 billion for national defense over the amount that the President had requested in the budget for fiscal year 1998. The President's action on the military construction bill, in my judgment, reneges on the budget agreement he reached with the Congress. We were given our spending caps under the agreement and the Appropriations Committee presented the Senate with 13 appropriations bills consistent with the spirit, terms and limits of the revised budget.

We upheld our end of the agreement with the President. The President has not. This afternoon the Appropriations Committee met to evaluate the President's use of the line-item veto authority.

I called this hearing after consultation with Senator BYRD because of the manner in which the President had used this new prerogative on this military construction bill. I asked the committee to consider whether that tool was used as intended by Congress, and that intention was that the line-item veto would be used to eliminate wasteful or unnecessary spending. The committee heard testimony from the Air Force, Navy and Army regarding the merits of the 38 military construction projects. Today's hearings afforded our committee the chance to review the status of these projects in the military's future budget plans and whether or not they could be executed in 1998. Our military witnesses testified that in fact these projects were mission-essential and that they could be commenced in 1998. These military witnesses stated that the military services were not consulted in deciding which projects should be vetoed on this bill. These

witnesses also informed us that 33 of the 38 projects in the President's message on the line-item veto are in the Department's future year defense plan. Let me repeat that. Thirty-three of the 38 projects the President indicated he wished to line-item veto were in a plan he had approved himself.

They told us that the President's January budget constraints had prohibited them from including many of these projects in this year's budget. If the military services at the beginning of the year had had the extra $2.6 billion that the President agreed to in July, it is my judgment that all of the projects listed in the disapproval bill could and probably would have been included in the President's fiscal year 1998 budget request, if he listened to the military departments.

It's my belief that we will be successful in what we are starting today, which is an effort to overturn these line-item vetoes because the projects that the President has attempted to eliminate are meritorious, are sought by the Department, are within the budget agreement, and they are not wasteful or excessive spending.

These projects reflect a combination of quality of life, safety, readiness and infrastructure enhancement initiatives, Mr. President. A substantial number of them would significantly improve the day-to-day working conditions for men and women in uniform. Our soldiers, sailors, airmen and marines are the ones that are being shortchanged by the President's veto, not officials in the Pentagon or in the White House.

I will urge my colleagues to support us in this important endeavor. We must stand together to require that the President live up to the bargain he made with the Congress this summer. The Line-Item Veto Act provides a process to resolve the issue quickly, so I want to take the time of the Senate to outline that process so that we all know this is a new process for all of us.

Under this act, the President sent to Congress one special message for each law in which the President exercises his cancellation authority under the Line-Item Veto Act. That special message must contain a numbered list of each item the President seeks to cancel. The Line-Item Veto Act includes a fast track—a process for the speedy consideration of one disapproval bill for each message. Our action today only pertains to the military construction bill.

In order to overturn one or more of the cancellations in a special message, the Congress must send a bill to the President disapproving the cancellations. That bill may be vetoed by the President using his constitutional veto authority. As with any other bill, the President's veto then may be overturned only by an affirmative vote of two-thirds of the Members of each House. In order to qualify for this expedited process, the provisions of the Line-Item Veto Act require that a disapproval bill must be introduced within five calendar days of session after the Congress receives a special message from the President. With respect to the Senate, a calendar day of session is a day in which both Houses of Congress are in session. This fast-track procedure applies only in the House for 30 calendar days of session. There is no time limit on the Senate's consideration of the bill, other than the time for introduction of the bill and the discharge from the committee.

A disapproval bill in the House must contain a list of all the items canceled in the special message. A disapproval bill in the Senate may contain any or all of the items canceled. I might say, Mr. President, that the bill I will introduce with my cosponsors will not include all of the measures, because some Senators have indicated they do not want to move forward with their items. The format for the disapproval bill is spelled out in the Line-Item Veto Act, and the fast track process is available only if that exact format is followed.

The addition of anything other than the numbers from the list of the items canceled in the special message, whether on the floor or in conference, results in the loss of the fast track process in both the House and the Senate. In other words, no amendments to this bill, other than dealing with the specific items by number as listed in the President's message, are in order. Once introduced, the disapproval bill is referred to the committees with jurisdiction over the items that have been canceled, and it must be reported within 7 calendar days of session. After 7 calendar days of session, it is in order in either the House or the Senate to have the committees discharged. Special rules then apply in the House and the Senate with respect to debate and amendments on a disapproval bill.

In the Senate, there are no more than 10 hours of debate with one extension of time for up to 5 additional hours. That is possible at the request of the leadership. Debate on any amendment is limited to one hour with up to a limit of 10 hours, at which time all amendments then pending are voted on.

Special rules are also provided in the act for the conference committee. The conferees are directed to accept any item in a disapproval bill that was included in both the House and the Senate and are limited to accepting or rejecting any item in disagreement. In other words, there can be nothing added in conference that is not in one bill or the other.

Debate in the Senate on a conference report is limited to four hours. This will be an expedited process, Mr. President. We intend to start it as soon as we return. Let me say again that there is a learning curve for us on the line-item veto process, and I am also constrained to say to the Senate what I just said at the conclusion of the hearing on the subject of the President's special message before the Appropriations Committee.

It is obvious to me that the use of the line-item veto by the White House in this instance was very excessive. It is also obvious to me that the information process in getting the details to the President concerning the items in the bill that he used the line-item veto on were very, very badly handled. We are now awaiting the President's action on the Defense Appropriations bill. As chairman, I have been notified that the Department of Defense wishes to discuss that bill with our staff and with Members, and there was an indication that we might be asked to "negotiate" to see what items would be subject to a veto under the Line-Item Veto Act and what items the President would yield to that Congress desires to not have vetoed.

I have notified the Department of Defense and the White House that we are not prepared—Senator BYRD and I have agreed—to negotiate with regard to any of those items. We will—and our door is open—explain to the White House or the Department why we put in any of the items, or why we left them out, but we will not negotiate. Our constitutional duty is to pass legislation. As a matter of fact, the Congress is given the specific authority for the legislative process. The President may recommend to the Congress, but he cannot dictate to the Congress, and he is not going to dictate to the Congress during the watch of this Senator. I think I am joined in that regard by the Senator from West Virginia. We do not intend to negotiate with regard to items that have already been passed by the Congress. We do discuss it before we pass a bill with the administration and we listen to them at times about threats of vetoes. But we are not going to listen to those threats after a bill is passed.

I urge the Senate to understand this process that we are going through now because it is obvious that the process will be followed again and again. I announced at the conclusion of the hearings on this message on the Military Construction bill that if the same process is followed on the Department of Defense bill, an arrogant abuse of power, I intend to introduce a bill to repeal the Line-Item Veto Act. I was a supporter of the Line-Item Veto Act; as a matter of fact, I was chairman of the conference on the Senate side of that act. But I believed it should be used for a stated purpose, only to eliminate wasteful or unnecessary spending. We make mistakes at times and we make compromises at times, which perhaps could lead to what a President could class as being wasteful or unnecessary

spending. But a wholesale condemnation of an act passed by Congress by use of the line-item veto pen, to me, is arrogance. From my point of view, I will persist in trying to repeal that statute and take it away from this administration—it will only be extended to the executive branch for a short period of time anyway—if it is abused again.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves of cancellations 97-4, 97-5, 97-6, 97-7, 98-8, 97-9, 97-10, 97-11, 97-12, 97-13, 97-14, 97-15, 97-16, 97-17, 97-18, 97-19, 97-20, 97-21, 97-22, 97-23, 97-24, 97-25, 97-26, 97-27, 97-28, 97-29, 97-30, 97-32, 97-33, 97-34, 97-35, 97-36, 97-37, 97-38, 97-39, and 97-40, as transmitted by the President in a special message on October 6, 1997, regarding Public Law 105-45.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I am pleased and I am proud to join with the distinguished chairman of the Appropriations Committee, my friend, a friend in every sense of the word, TED STEVENS, in offering legislation to put back on the President's desk those projects which were line-item vetoed, at least those projects that Senators want to put back before the President for his consideration, and if he wants to veto that bill, he can do so, and then Congress can override or sustain his veto.

Mr. President, I think that one of the most significant things that has happened in the history of this country was the passage of the Line-Item Veto Act. To me, it was one of the most shocking abdications of duty that Members of the Congress have committed. I am not here today to say "I told you so," but I am here today to say that this pernicious act should be repealed.

I hope that the Supreme Court of the United States will strike it down, but there has to be a case brought. I attempted that with other colleagues in both Houses, and the Supreme Court, as everybody knows, said we didn't have standing, even though the act itself anticipated that such a case would be brought by Members of Congress.

I am not here today to argue that. But I am here today to just take a few minutes to point out for the record why the Line Item Veto Act is an unconstitutional act. No matter what the Supreme Court ultimately says, I will always think it is an unconstitutional act. The distinguished chairman has already stated the law and what the instructions were in that law as to what actions Congress may take and when, and all of that. So I will not attempt to go into that. He has already indicated what was brought out in the hearings this afternoon. One thing was that the administration's right hand doesn't know what the left hand is doing.

I was called by Mr. Raines on Monday as to the one item that I had that was line-item vetoed. I was told that certain criteria governed the actions of the President in using the line-item veto pen. I was told that the one item that is to be located in West Virginia was, in the face of the governing criteria, to be line-item vetoed. I stated to Mr. Raines, "That is an incorrect statement of the case. This item is in the Defense Department's 5-year plan, and the design has already been started. It is under way. So your criteria don't fit this project." And he indicated that he would have to take another look, therefore, and asked me to send down the papers from which I was reading, which I did, and he indicated that he would get back to me, which he did not. And I don't fault him for not getting back to me. He has other things to do, I am sure.

But what I am saying is that this action on the part of the administration was an abuse even of a bad law; an abuse even of a bad law.

In the very first section of the very first article of the Constitution these words are to be found. It is one sentence. Section 1:

All legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and a House of Representatives.

That is very plain. It says that only the Congress has the constitutional authority to make laws. "All legislative powers" —not "some powers"; not a "few powers"; but "All legislative powers herein granted shall be vested in a Congress of the United States." It doesn't say the President may share in that. The President doesn't have any lawmaking power. He is limited to the veto power insofar as making the laws are concerned—the veto power as set forth in the Constitution of the United States.

So he has no lawmaking power. The Constitution states the limits of his veto authority.

It states in section 7 of article I that, and I read:

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it.

I will not read the rest of the language dealing with the veto.

But Congress in the passing of the Line-Item Veto Act went far afield from the Constitution of the United States. Congress in the Line Item Veto Act said, in essence, that when the President signs an appropriation bill into law, he has 5 days thereafter during which time he can cancel out certain portions of that bill which has already become law.

So that is what he did in this instance. He signed into law a bill, and then, unilaterally, he came along 5 days later and changed that law. He amended it. He struck out certain items. If that bill were before the Senate and if Senator STEVENS or Senator GRASSLEY or Senator BENNETT or any other Senator wished to move to strike an item in the bill, which, in this case, was to be at Camp Dawson in Preston County, WV—if any one of those Senators moved to strike that item, they could do it. But before they could succeed in striking that item, they would have to have a majority of the Senate to support them by a vote.

The vote could be by voice. It could be by division. It could be by rollcall. But they would have to have a majority of a quorum in the Senate in order to be successful in striking that item. They would not yet have fully accomplished their aim, however. A majority of the Members in a quorum of the other body would likewise have to support the striking of that item. If all 100 Senators were present, they would have to have 51 votes. If all 435 Members of the House were present, they would have to have at least 218 votes in order to successfully strike that item. A majority of each House would have to support the conference report. But in any event, in the first instance, a majority of each body would have to support the amendment in order to strike the item from the bill.

Striking an item from a bill is amending a bill. After the President has signed a bill into law, then under this Line-Item Veto Act, a President—Democrat or Republican, it doesn't make any difference—may after the first 10 minutes, after the first 5 minutes, after the first 2 days, 3 days, or 4 days, even on the fifth day, he may go back and singlehandedly, unilaterally cancel out an item in the law; in other words, strike it out; change the law. He could, if he wished to, line-item out 90 percent of the law, which in that form, as a bill, would probably not have passed either body. But one man, or woman, if it should be, as the President of the United States may unilaterally amend a bill. That is amending a bill.

The Senator from Iowa if he offers a motion to strike my item from the bill is moving to amend the bill. He is pursuing the legislative process. That is the lawmaking process. He is amending a bill. As I have already said, he can't do it alone. His vote only counts for 1 out of 100. He has to have a majority.

But not so with the President. The President may amend unilaterally, after he signs the bill into law. According to the Constitution, if he approve

the bill, he shall sign it. Well, he must have approved it, or he wouldn't have signed the bill. He approved it. He signed the bill into law. Up to 5 days later, he may go back and change that law unilaterally. And that is what he did in this instance. He changed the law unilaterally. He struck out Camp Dawson.

Did Senators really intend to give one man in the White House that kind of power, that kind of legislative power? Can they really believe that the Framers who wrote this Constitution would have ever intended that that be done? It is mind-boggling—mind-boggling. It is mind-boggling to me to think that a majority of these two Houses would give any President—any President, Republican or Democrat—that kind of power. And with that kind of power the President, be he Republican or Democrat, holds the sword of Damocles over the head of every Senator and every House Member.

Am I going to vote against a certain treaty, or some nomination? The President may say, "Look, you have an item in the bill. You have done a great job. You have done a great job for the State of West Virginia. I am really proud of you. The people down in your State love you. You did this, you did that. And I want you to have this item. But can we bargain a little here? Can we negotiate a little bit? Can you help me on what I want that is in the bill? Can you help me on this nomination?" Or whatever. "Maybe we can reach an amicable agreement here where you will get your item, and I will get mine."

Now, I do not want to say that I am not willing to listen to the administration. We do that all the time when the subcommittees bring these bills to the floor. The subcommittees on appropriations work for weeks in hearings. They listen to witnesses. They talk with their staffs. They look over the correspondence. They study the needs of the various agencies and departments. And then they get together and they mark up the bill in the subcommittee. Then it goes to the full committee. Then it comes to the Senate. During all of this time, the administration is telling us what they want and what they don't want. We understand that. We know all about that. We know what they want and what they don't want. But it may be the collective judgment of the subcommittee to do otherwise. So the subcommittee brings this bill to the full committee, and it is then brought to the Senate. And we act on it, and it goes to conference. Then what happens?

Well, I have been treated to just a little bit of it lately. This is no surprise to me. We pass an amendment like this—a bill like this—and give it to any President. He will hold over your head a hammer. So, as we go to conference, the administration people come into the conference, or they come into our offices, or wherever they meet with the leadership, and they say, "Look, this item the President will veto. If that item is in there, the President is going to veto it. This item we want. This item the President will veto unless you modify it."

I knew that would be the situation in which we were going to find ourselves once this Line-Item Veto Act was passed.

So, as far as I am concerned, it impinges upon a Senator's or a House Member's freedom of speech. They have to be a little bit more careful about what they say about any administration.

It impinges on a Senator's freedom to act in accordance with the wishes of the constituents who send him here. And to that extent he is that much less a free man, less able to exercise his own independence. The distinguished Senator from Alaska has said we do not intend to negotiate. We intend to send this down to the White House if the majority of each body will vote for it.

Let me say here what I said in the committee today. If the President wants to line-item veto a West Virginia item, I am not going to negotiate with the administration.

Negotiating is over as far as I am concerned. When the subcommittee works its will, has its hearings, marks up its legislation, brings it to the full committee, the full committee acts, amends, modifies, changes, or whatever, and when the House does the same, when the collective wisdom and judgment of the subcommittee and the full committee and both Houses has been reached, if the President wants to veto it, go to it. Why should we sit down and negotiate in order to keep him from wielding his line-item veto pen? Let him use his veto pen only as instructed in the original Constitution. Let him use it. And then Congress can work its will. It can either sustain his veto or override it, but there should be no negotiating.

That is what every administration will want us to do. They want us to get in a position where we will continue to negotiate and they will continue to ratchet us down, they will continue to get what they want, but they want you to negotiate for whatever your constituents need. Whatever your constituents need, how you feel about your constituents, that is negotiable. Then they throw out that threat: "Well, the President will veto that." The President will line item that out. Well, so what! "Lay on, Macduff; And damn'd be him that first cries 'Hold, enough.'"

We like to know what the administration is thinking. It is worthwhile to have their judgment. It helps to guide us in our deliberations. But once both bodies have acted and get into conference, then for the administration to come up here and say, "Well, this is vetoable, if you don't change that. We don't like it," I am not for negotiating now. Let the President use his line-item veto pen. I hope that Senators and House Members who voted for the line-item veto will get their bellies full. I hope they get a bellyful of it and they probably will, because this is just a start. There are several other appropriations bills coming along.

Think of the time that this costs. Senator STEVENS held a hearing today, had a good attendance, a lot of Senators were there. They weren't elsewhere doing other things which were important likewise. It took a lot of their time. It took the time of the generals and admirals who were up from the Defense Department, and that is going to be repeated over and over and over again. Look at the time it is taking now. We have already taken time. The subcommittee took time. The full committee took time. And there are Members on those subcommittees and full committee who have great expertise in legislative areas under the jurisdiction of those subcommittees. And then all that goes for naught because a President, Republican or Democrat, wants this or wants that or does not want to go along with a Member whose constituents feel there are needs to be met and acts accordingly.

The administration has been given a hammer to use over the heads of Senators and could threaten anything that a Senator wants as a way to get the President's way on unrelated matters. It greatly enhances the President's bargaining position in the legislative process. Go home tonight, all Senators, and before you close your eyes in slumber, think of what we have done. We have given one man, who puts his britches on just as I put mine on—one leg at a time—we have said you may amend a bill unilaterally. You do not have to worry about a majority in the other body or a majority here. You may amend a bill all by yourself. You may strike an item out. That is amending a bill. You are the super lawmaker.

Not by this Constitution he isn't. I cannot understand how, or whatever got into the Members' minds when they voted to give any President the line-item veto. But it is done. It is done. I hope they will think now and that somebody will bring a case and the Supreme Court will strike down this infernal, pernicious, illegitimate gimmick.

But in the meantime, I will follow the Senator from Alaska. If he gets ready to introduce legislation to repeal the Line Item Veto Act, I am ready. I am ready to join him. Just go home and read once again, Senators who are listening, section 1 of article I. "All legislative powers herein granted"—and if those legislative powers are not herein granted, they do not exist. "All legislative powers herein granted shall be vested in a Congress of the United States . . ."

And then go over to section 7 of article I and read the language: "Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve," meaning the bill, the resolution, "he shall sign it, but if not he shall return it." It does not say he may amend it unilaterally. "If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it."

Now, that is the Constitution. And we have no right as Members by legislation to give any President the right unilaterally to amend a bill. We do not have that power. I do not think Congress has the power. I do not think it can give away its constitutional power to make all laws.

There is only one other thing I would say, and then I am going to sit down. I have said already there is a strong probability that the Senate will have to consider items that it has already considered in the committee process over and over again, amounting to a tremendous waste of precious time. Senator INOUYE cited a number of vital systems that have been added by the Congress to the defense bill over the years such as greatly increasing the purchase of stealth fighters, the Osprey helicopter, C–130 aircraft, C–17's and other systems which at the time were opposed by the administration and probably would have been subject to the line-item veto and killed. Where would we then have been during Desert Storm?

This is a strong case that the administration does not have a corner on wisdom, and that if it uses the line-item veto to simply protect its budget as delivered, we will lose the great benefit of that wisdom and shortchange the historic contributions that have been made over the years.

I thank all Senators for indulging me. I have fought this battle over and over and over again. And I am willing to fight it over and over and over again. I do not believe that I took an oath to support and defend the Constitution, then only to turn around and vote, in violation of that Constitution, to give any President the unilateral right, power or prerogative to, in essence, amend a law by striking an item.

I hope more than anything else, before God sees fit to call me home, that the line-item veto will be struck down either by the Supreme Court or by the Congress itself. That is my prayer.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 1293. A bill to improve the performance outcomes of the child support enforcement program in order to increase the financial stability and well-being of children and families; to the Committee on Finance.

THE CHILD SUPPORT PERFORMANCE IMPROVEMENT ACT OF 1997

Mr. ROCKEFELLER. Mr. President, I am pleased to join my colleague and friend, Senator SNOWE, in introducing the Child Support Performance Improvement Act of 1997. I have long been impressed with Senator SNOWE's commitment to the health, safety, and well-being of children, and I believe that this legislation will go far to improve the financial security of thousands of American children.

As a country, our most fundamental measure of success is how well we treat our children. We have a responsibility as Members of Congress and as a community to do our utmost to make sure that American children live happy, healthy, and stable lives. At the same time, we must acknowledge that much of the responsibility in ensuring children's happiness and security falls squarely at the feet of their parents. Sadly, many parents neglect their emotional and financial responsibilities, maintaining that because they are no longer living in the same house as their children, they no longer have to support them.

It is estimated that each year, $15 to $25 billion in child support go uncollected. One study reported that four out of five parents have attempted to shirk their court-ordered child support responsibilities at one time or another. In many of these cases, families, already fragile from the absence of one parent, are forced to turn to welfare as the only reliable source of monetary support. In 1975, Congress created the Child Support Enforcement Program to help stop this disturbing pattern. The goal of that program was and still remains to reduce public welfare expenditures by forcing absent parents to provide child support as a regular and reliable source of income for their children. As part of this goal, the Federal Government provides incentive payments to encourage State child support agencies to enforce child support collections as efficiently and effectively as possible. Unfortunately, in the past several years, these incentives have become disincentives; handsomely rewarding even the most poorly performing States with the most dismal collection rates.

Last year, the welfare reform bill took a positive step by commissioning a task force composed of child support experts from the Department of Health and Human Services and State child support agencies to come up with a new set of incentives that would put State agencies back on the road to efficient collections. The Child Support Performance Improvement Act of 1997 incorporates the consensus findings of this working group. For the first time, the new incentive structure takes into account, not just a State's cost effectiveness in collecting child support, but that State's overall success is establishing paternity and child support orders as well as collecting current and back child support.

The bill also requires the Secretary of HHS to create and implement a sixth incentive: a medical support incentive. As we are all aware, health care is an essential part of any financial package provided for a child. For the first time, this bill requires the implementation of a medical incentive which will require States to seek medical and health coverage as part of the overall child support order. All children deserve comprehensive health coverage, and there is no reason it should be a public expenditure when a child's parent is perfectly able to pay for it.

The Child Support Performance Improvement Act of 1997 also takes an important step in requiring States to pay families back first. The bill ensures that States will not be allowed to count toward incentive payments the collection of arrearages that are not first returned to former welfare families who need such payments to remain financially independent. While the overall incentive structure rewards the States for good performance, the families first provision keeps the States from receiving a double bonus—allowing them to keep arrearages to reimburse themselves and then getting an incentive payment for it.

Finally, the bill adds tough but reasonable data requirements to make sure child support incentive payments are based on complete and reliable data from the States. States that do not have accurate data on their child support collections and on other aspects of child support enforcement should not be qualified to receive incentives. This provision will encourage States to make their collection systems even more efficient and, in turn, this will mean millions of additional dollars being directed to the children who need it.

The Child Support Performance Improvement Act of 1997 is the first vital step in assuring that the States have the most efficient and effective ways possible of collecting child support from parents who have the responsibility to care for their children. Increasing child support collections will not only save Federal and State Governments and taxpayers billions of dollars each year in public expenditures, it will accomplish the most important goal of all: improving the financial stability and general well-being of thousands of American children.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being, no objection the bill was ordered to be printed in the RECORD, as follows:

S. 1293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Performance Improvement Act of 1997".

SEC. 2. INCENTIVE PAYMENTS TO STATES.

(a) IN GENERAL.—Part D of title IV of the Social Security Act (42 U.S.C. 651–669) is amended by inserting after section 458 the following:

"SEC. 458A. INCENTIVE PAYMENTS TO STATES.

"(a) IN GENERAL.—In addition to any other payment under this part, the Secretary shall, subject to subsection (f), make an incentive payment to each State for each fiscal year in an amount determined under subsection (b).

"(b) AMOUNT OF INCENTIVE PAYMENT.—

"(1) IN GENERAL.—The incentive payment for a State for a fiscal year is equal to the sum of the applicable percentages (determined in accordance with paragraph (3)) of the maximum incentive amount for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

"(A) The paternity establishment performance level.

"(B) The support order performance level.

"(C) The current payment performance level.

"(D) The arrearage payment performance level.

"(E) The cost-effectiveness performance level.

"(F) Subject to section 2(d)(2)(C) of the Child Support Performance Improvement Act of 1997, the medical support performance level.

"(2) MAXIMUM INCENTIVE AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the maximum incentive amount for a State for a fiscal year is—

"(i) subject to subsection (e)(2), with respect to the performance measures described in subparagraphs (A), (B), and (C) of paragraph (1), 0.49 percent of the State collections base for the fiscal year;

"(ii) subject to subsection (e)(2), with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (1), 0.37 percent of the State collections base for the fiscal year; and

"(iii) with respect to the performance measure described in subparagraph (F), such percentage of the State collections base for the fiscal year as the Secretary by regulation may determine in accordance with subsection (e)(2).

"(B) STATE COLLECTIONS BASE.—For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of—

"(i) 2 times the sum of—

"(I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this title or title XIX; and

"(II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and

"(ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.

"(3) DETERMINATION OF APPLICABLE PERCENTAGES BASED ON PERFORMANCE LEVELS.—

"(A) PATERNITY ESTABLISHMENT.—

"(i) DETERMINATION OF PATERNITY ESTABLISHMENT PERFORMANCE LEVEL.—The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV–D paternity establishment percentage determined under section 452(g)(2)(A) or the statewide paternity establishment percentage determined under section 452(g)(2)(B).

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's paternity establishment performance level is as follows:

"If the paternity establishment performance level is: At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's paternity establishment performance level is 50 percent.

"(B) ESTABLISHMENT OF CHILD SUPPORT ORDERS.—

"(i) DETERMINATION OF SUPPORT ORDER PERFORMANCE LEVEL.—The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's support order performance level is as follows:

"If the support order performance level is: At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's support order performance level is 50 percent.

"(C) COLLECTIONS ON CURRENT CHILD SUPPORT DUE.—

"(i) DETERMINATION OF CURRENT PAYMENT PERFORMANCE LEVEL.—The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's current payment performance level is as follows:

"If the current payment performance level is: At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74

"If the current payment performance level is: At least:	But less than:	The applicable percentage is:
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's current payment performance level is 50 percent.

"(D) COLLECTIONS ON CHILD SUPPORT ARREARAGES.—

"(i) DETERMINATION OF ARREARAGE PAYMENT PERFORMANCE LEVEL.—The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's arrearage payment performance level is as follows:

"If the arrearage payment performance level is: At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76

"If the arrearage payment performance level is: At least:	But less than:	The applicable percentage is:
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's arrearage payment performance level is 50 percent.

"(E) COST-EFFECTIVENESS.—

"(i) DETERMINATION OF COST-EFFECTIVENESS PERFORMANCE LEVEL.—The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's cost-effectiveness performance level is as follows:

"If the cost-effectiveness performance level is: At least:	But less than:	The applicable percentage is:
5.00		100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0.

"(F) MEDICAL SUPPORT.—Subject to section 2(d)(2)(C) of the Child Support Performance Improvement Act of 1997, the medical support performance level for a State for a fiscal year, and the applicable percentage for a State with respect to such level, shall be determined in accordance with regulations implementing the recommendations required to be included in the report submitted under section 2(d)(2)(B) of such Act.

"(c) TREATMENT OF INTERSTATE COLLECTIONS.—In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 455(e) shall be excluded.

"(d) ADMINISTRATIVE PROVISIONS.—The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at or before the beginning of the fiscal year on the basis of the best information available, as obtained in accordance with section 452(a)(12). The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made not later than the beginning of the quarter involved), in the amounts so estimated, reduced, or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

"(e) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction, and regulations excluding from the calculations of the current payment performance level and the arrearage payment performance level any case in which the State used State funds to make such payments for the primary purpose of increasing the State's performance levels in such areas.

"(2) REGULATIONS IMPLEMENTING THE MEDICAL SUPPORT PERFORMANCE LEVEL.—Subject to section 2(d)(2)(C) of the Child Support Performance Improvement Act of 1997, the Secretary shall prescribe regulations implementing the recommendations required to be included in the report submitted under section 2(d)(2)(B) of such Act. To the extent necessary to ensure that the implementation of such recommendations does not result in total Federal expenditures under this section in excess of the amount of such expenditures in the absence of such implementation, such regulations may increase or decrease the percentages specified in clauses (i) and (ii) of subsection (b)(2)(A).

"(f) REINVESTMENT.—

"(1) IN GENERAL.—Until such time as the State qualifies for the maximum incentive amount possible, as determined under subsection (b)(2), payments under this section and section 458 shall supplement, not supplant, State child support expenditures under the State program under this part to the extent that such expenditures were funded by the State in fiscal year 1996.

"(2) PENALTY.—Failure to satisfy the requirement of paragraph (1) shall result in a proportionate reduction, determined by the Secretary, of future payments to the State under this section and section 458.".

(b) PAYMENTS DURING TRANSITION PERIOD.—Notwithstanding section 458A of the Social Security Act (42 U.S.C. 658A), as added by subsection (a), the amount of an incentive payment for a State under such section shall not be—

(1) in the case of fiscal year 2000, less than 80 percent or greater than 120 percent of the incentive payment for the State determined under section 458 of the Social Security Act

(42 U.S.C. 658) for fiscal year 1999 (as such section was in effect for such fiscal year);

(2) in the case of fiscal year 2001, less than 60 percent or greater than 140 percent of the incentive payment for the State (as so determined);

(3) in the case of fiscal year 2002, less than 40 percent or greater than 160 percent of the incentive payment for the State (as so determined); and

(4) in the case of fiscal year 2003, less than 20 percent or greater than 180 percent of the incentive payment for the State (as so determined).

(c) REGULATIONS.—Within 9 months after the date of enactment of this section, the Secretary of Health and Human Services shall prescribe regulations governing the implementation of section 458A of the Social Security Act, when such section takes effect, and the implementation of subsection (b) of this section.

(d) STUDIES.—

(1) GENERAL REVIEW OF NEW INCENTIVE PAYMENT SYSTEM.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall conduct a study of the implementation of the incentive payment system established by section 458A of the Social Security Act, in order to identify the problems and successes of the system.

(B) REPORTS TO CONGRESS.—

(i) REPORT ON VARIATIONS IN STATE PERFORMANCE ATTRIBUTABLE TO DEMOGRAPHIC VARIABLES.—Not later than October 1, 2000, the Secretary shall submit to Congress a report that identifies any demographic or economic variables that account for differences in the performance levels achieved by the States with respect to the performance measures used in the system, and contains the recommendations of the Secretary for such adjustments to the system as may be necessary to ensure that the relative performance of States is measured from a baseline that takes account of any such variables.

(ii) INTERIM REPORT.—Not later than March 1, 2001, the Secretary shall submit to Congress an interim report that contains the findings of the study required by subparagraph (A).

(iii) FINAL REPORT.—Not later than October 1, 2003, the Secretary shall submit to Congress a final report that contains the final findings of the study required by subparagraph (A). The report shall include any recommendations for changes in the system that the Secretary determines would improve the operation of the child support enforcement program.

(2) DEVELOPMENT OF MEDICAL SUPPORT INCENTIVE.—

(A) IN GENERAL.—The Secretary, in consultation with State directors of programs operated under part D of title IV of the Social Security Act and representatives of children potentially eligible for medical support, such as child advocacy organizations, shall develop a new medical support performance measure based on the effectiveness of States in establishing and enforcing medical support obligations, and shall make recommendations for the incorporation of the measure, in a revenue neutral manner, into the incentive payment system established by section 458A of the Social Security Act.

(B) REPORT.—Not later than October 1, 1998, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report that describes the performance measure and contains the recommendations required under subparagraph (A).

(C) CONGRESSIONAL DISAPPROVAL REQUIRED.—

(i) IN GENERAL.—The Secretary shall, by regulation, implement the recommendations required to be included in the report submitted under subparagraph (B) unless a joint resolution is enacted, in accordance with subparagraph (D), disapproving such recommendations before the end of the 1-year period that begins on the date on which the Secretary submits such report.

(ii) EXCLUSION OF CERTAIN DAYS.—For purposes of clause (i) and subparagraph (D), the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded from the computation of the period.

(D) CONGRESSIONAL CONSIDERATION.—

(i) TERMS OF THE RESOLUTION.—For purposes of subparagraph (C)(i), the term "joint resolution" means only a joint resolution that is introduced within the 1-year period described in such subparagraph and—

(I) that does not have a preamble;

(II) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Secretary of Health and Human Services regarding the implementation of a medical support performance measure submitted on _____", the blank space being filled in with the appropriate date; and

(III) the title of which is as follows: "Joint resolution disapproving the recommendations of the Secretary of Health and Human Services regarding the implementation of a medical support performance measure.".

(ii) REFERRAL.—A resolution described in clause (i) that is introduced—

(I) in the House of Representatives, shall be referred to the Committee on Ways and Means; and

(II) in the Senate, shall be referred to the Committee on Finance.

(iii) DISCHARGE.—If a committee to which a resolution described in clause (i) is referred has not reported such resolution by the end of the 20-day period beginning on the date on which the Secretary submits the report required under subparagraph (B), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(iv) CONSIDERATION.—On or after the third day after the date on which the committee to which a resolution described in clause (i) has reported, or has been discharged from further consideration of such resolution, such resolution shall be considered in the same manner as a resolution is considered under subsections (d), (e), and (f) of section 2908 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

(e) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 658 note) is amended—

(A) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(B) in subsection (c) (as so redesignated)—

(i) by striking paragraph (1) and inserting the following:

"(1) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—The amendments made by subsection (a) of this section shall become effective with respect to a State as of the date the amendments made by section 103(a) (without regard to section 116(a)(2)) first apply to the State."; and

(ii) in paragraph (2), by striking "(c)" and inserting "(b)".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(f) ELIMINATION OF PREDECESSOR INCENTIVE PAYMENT SYSTEM.—

(1) REPEAL.—Section 458 of the Social Security Act (42 U.S.C. 658) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 458A of the Social Security Act (42 U.S.C. 658a) is redesignated as section 458.

(B) Paragraphs (1) and (2) of section 458(f) (as so redesignated) are each amended by striking "and section 458".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2003.

(g) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on October 1, 1999.

SEC. 3. DATA INTEGRITY.

(a) DUTY OF THE SECRETARY TO ENSURE RELIABLE DATA.—Section 452(a) of the Social Security Act (42 U.S.C. 652(a)) is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(12) ensure that data required for the operation of State programs is complete and reliable by providing Federal guidance, technical assistance, and monitoring.".

(b) DENYING INCENTIVE PAYMENTS WHEN FEDERAL AUDITS FIND THAT CLAIMS ARE BASED ON INCOMPLETE OR UNRELIABLE DATA.—Section 409(a)(8)(A) of the Social Security Act (42 U.S.C. 609(a)(8)(A)) is amended by striking the period and inserting the following: ", and, in addition to the reductions specified in subparagraph (B), no State shall be eligible for incentive payments pursuant to section 458 or 458A for any fiscal year in which its claim is based on data found to be incomplete or unreliable pursuant to an audit or audits conducted under section 452(a)(4)(C).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999.

By Mr. JEFFORDS:

S. 1294. A bill to amend the Higher Education Act of 1965 to allow the consolidation of student loans the Federal Family Loan Program and the Direct Loan Program; to the Committee on Labor and Human Resources.

THE EMERGENCY STUDENT LOAN CONSOLIDATION ACT OF 1997

Mr. JEFFORDS. Mr. President, I rise to introduce the Emergency Student Loan Consolidation Act of 1997. This bill will provide emergency relief to the nearly 70,000 students nationwide whose efforts to consolidate their student loans have been thwarted by the collapse of the Department of Education's Direct Loan Consolidation Program. In addition this bill makes conforming changes in the Higher Education Act to ensure that students who receive the Hope Tax Credit are able to receive all of the financial aid to which they are entitled. The Emergency Student Loan Consolidation Act of 1997 is

the companion bill to H.R. 2535 which was favorably reported by the House Committee on Education and the Workforce on September 24, 1997, by a bipartisan vote of 43–0.

The rapidly rising cost of attending college is producing students with overwhelming student loan debt loads. The College Board reports that tuition at 4-year private institutions has risen by 89 percent over the past 15 years while median family income has risen by only 5 percent. Students are responding by borrowing at record levels—in fact, student borrowing under Title IV since 1990 exceeds student borrowing in the 1960's, 1970's, and 1980's combined. Between 1993 and 1995, graduate and professional student borrowing increased by over 74 percent.

In order to ease the burden of repaying these debts, Congress created the student loan consolidation program. This program allows students to consolidate their student loans into a single loan that has a variety of repayment options. Current law allows students to consolidate all of their Direct Student Loans and their Federal Family Education Loan Program [FFELP] loans into a Direct Lending Consolidation loan administered by the Department of Education. A student may consolidate his or her FFELP loans into a FFELP Consolidation Loan but may not consolidate his or her Direct Loans into the FFELP Program. As a result, borrowers who wish to consolidate both Direct Student Loans and FFELP loans into a single loan must go to the Department of Education.

Last August, the Department of Education announced that it had accumulated a backlog of 85,000 applications for consolidated loans and would cease accepting new applications until this backlog was eliminated. This decision places more than 70,000 students in limbo with no place to turn for help. This bill will provide temporary authority to allow them to consolidate all of their loans, both FFELP and Direct through the FFELP program.

In addition, this legislation makes technical corrections to the need analysis provisions of the Higher Education Act of 1965 to conform with changes made to the Tax Code earlier this year which provide students and parents with higher education tax credits. The bill addresses an oversight in the tax legislation which will result in some students receiving reduced student aid under Title IV of the Higher Education Act simply because they qualify for and receive the new tax credits. By adopting this change to the need analysis formula now, the Department can begin the process of revising the student aid application forms well in advance of the 1999 academic year.

Mr. President, I ask unanimous consent that a Washington Post article detailing the problems with the loan consolidation program be included in the RECORD.

I urge my colleagues to support this legisation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EDUCATION DEPARTMENT SUSPENDS PROGRAM FOR RESTRUCTURING STUDENT LOANS

(By Rene Sanchez)

The Education Department, long maligned by congressional Republicans who say its management is a mess, has just give its critics new reason to howl.

The department announced last week that it will not accept any more applications from recent college graduates trying to consolidate or refinance their tuition loans until the contractor it hired for the job clears up an enormous backlog of those requests.

There are more than 70,000 college students nationwide whose loan payments may soon be in limbo because of the lengthy processing delays, and the waiting list has been growing longer each month. The department said that it had no choice but to suspend the popular program indefinitely in order to begin fixing the problem.

"It's a terrible embarrassment," said David Longanecker, the assistant secretary for postsecondary education. "We were falling farther and farther behind, but by doing this we are confident that we'll get on top of the problem soon."

The department faced a similar predicament last year when more than 900,000 student aid applications handled by private contractors it hired were delayed because of serious management problems. The incidents are raising new questions about the department's ability to manage its direct lending program, which allows students to get tuition loans straight from the federal government and offers them a range of repayment options.

Direct lending, one of President Clinton's most important education initiatives, has been under fire from Republicans and many private lenders—who no longer have a monopoly on the nations' massive student loan industry—ever since it was created five years ago. There have been several campaigns in Congress to abolish or severely limit the program, but it is still largely intact, serving more than 1,200 universities. Many college officials say they have been quite pleased with the program so far.

But to some Republican leaders, the latest trouble is proof that the department is not up to the task of handling the complexities of managing college loans at a time when a record number of students—at last count, more than 7 million—depend on them.

"From the very start of the program, I doubted the department's ability to become one of the largest banks in this country," Rep. William F. Goodline (R-Pa), chairman of the House Committee on Education and the Workforce, said last week. He called the department's inability to consolidate student loans quickly and efficiently "irresponsible."

With tuition costs at most campuses continuing to exceed inflation, and college loan debt soaring, more and more students are taking advantage of new opportunities to restructure their loans over longer periods of time or in ways that are based on what they earn after graduation.

Education department officials said that often in the last year they have received nearly 150,000 applications a month from students to consolidate loans, a rate that is nearly twice what they said they had expected when the program began.

But they adamantly reject criticism that direct lending is in shambles.

"I can understand the frustration, but I think we have to keep it in perspective," Longanecker. "One reason we have this problem is because of the great popularity of the program."

Longanecker said that the department is disappointed with the work of the contractor that it hired last year for the job. Electronic Data Systems, which was founded by billionaire Ross Perot. Longanecker said there were start-up problems in processing student requests, and that ever since the volume of applications has overwhelmed the system.

Some officials said that it had been taking more than seven months in same cases—an unpaid student loan falls into default after six months—to process applications. Because recent steps to improve performance had only put a small dent in the backlog of applications, Longanecker said the department decided instead to stop taking them for a while.

"It was like we were trying to fix a 747 while it was still in their air," he said.

The department has no estimates yet as to when the loan-consolidation program will be re-opened. But Longanecker said that he expects it certainly will be before December, which is a peak time for applications from students because that is when the most recent class of college graduates are supposed to start repaying their tuition loans.

That is hardly satisfying some critics, however. And some lawmakers say they are also losing confidence in how the department chooses its contractors, suggesting that the process does not seem as rigorous as it should be.

Education Department leaders scoff at much of the criticism coming from Republicans about direct lending, saying that many of them have never wanted the program to succeed anyway. But alarm over the latest management problem extends well beyond Capitol Hill.

"Up to now, they've done a pretty good job on this," said Terry Hartle, a vice president for the American Council on Education, a Washington group that represents more than 1,500 universities. "But what we have here is a huge embarrassment in one of the president's signature education programs."

Mrs. HUTCHISON. Mr. President, Americans should not have to choose between love and money. In a country that values families, the Federal Tax Code shouldn't punish people for being married. The number of unmarried-couple households increased 80 percent from 1980 to 1990, according to census figures. The percentage of people who never marry has doubled, from 5 percent in the 1950's to 10 percent today.

Today, I am pleased to introduce legislation with Senators FAIRCLOTH and MACK that will abolish the Federal income tax marriage penalty. Under this legislation, families will have the choice of filing as single or married, depending on which method works best for them.

There is something wrong with a law that imposes higher taxes on married people with two incomes than on single people. The hallmark of a fair tax system is even-handedness, and the current law flunks this test. From 1913 through 1969, the Federal income tax treated married couples either better

or as well as if single. Since then, progressive tax rates have meant that married couples with two incomes have to pay more in Federal taxes than they would as individuals. The Congressional Budget Office reports that in 1996, more than 21 million married couples paid the marriage penalty. The average couple now pays $1,400 in additional income tax simply because they're married. One thousand four hundred dollars could mean six or seven car payments, a family vacation, or a computer for the family.

For example, a single person earning $24,000 a year is taxed at the rate of 15 percent. But, by taxing them on their combined income, the IRS collects 28 percent in tax from a working couple in which each spouse earns $24,000. It is wrong for two people living together to pay less taxes than if they were married.

Because American families increasingly have had two breadwinners, instead of one, more Americans are impacted by the marriage penalty. In 1969, 52 percent of American families had only one bread winner. Today that figure is 28 percent.

Mr. President, under current law, the only way to avoid the marriage penalty is not to marry or to leave your spouse if already married. This is wrong. We need a Tax Code to encourage marriage, not penalize it. This legislation is supported by Americans for Tax Reform and the National Taxpayers Union. We are introducing this bill with 34 co-sponsors, including every Member of the Republican leadership. I am very pleased to be working with Senators FAIRCLOTH and MACK and I hope Members from both sides of the aisle will join us in rectifying this unfair tax treatment of married couples.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. NICKLES, the name of the Senator from Tennessee [Mr. THOMPSON] was added as a cosponsor of S. 9, a bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

S. 22

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 22, a bill to establish a bipartisan national commission to address the year 2000 computer problem.

S. 61

At the request of Mr. LOTT, the names of the Senator from Alabama [Mr. SESSIONS], the Senator from Vermont [Mr. LEAHY], the Senator from Connecticut [Mr. DODD], and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 89

At the request of Ms. SNOWE, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 219

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 219, a bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States.

S. 230

At the request of Mr. THURMOND, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 230, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 295

At the request of Mr. JEFFORDS, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 295, a bill to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

S. 343

At the request of Mr. THOMAS, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 343, a bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Mongolia.

S. 428

At the request of Mr. KOHL, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 437

At the request of Mr. DOMENICI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 437, a bill to improve Indian reservation roads and related transportation services, and for other purposes.

S. 497

At the request of Mr. COVERDELL, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 497, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment.

S. 623

At the request of Mr. INOUYE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 623, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 813

At the request of Mr. THURMOND, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 813, a bill to amend chapter 91 of title 18, United States Code, to provide criminal penalties for theft and willful vandalism at national cemeteries.

S. 845

At the request of Mr. LUGAR, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 845, a bill to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes.

S. 852

At the request of Mr. SESSIONS, his name was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1024

At the request of Mr. GRASSLEY, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 1024, a bill to make chapter 12 of title 11 of the United States Code permanent, and for other purposes.

S. 1084

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 1084, a bill to establish a research and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act, and for other purposes.

S. 1096

At the request of Mr. GRASSLEY, the names of the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Missouri [Mr. BOND], and the Senator

from Indiana [Mr. COATS] were added as cosponsors of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1113

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1113, a bill to extend certain temporary judgeships in the Federal judiciary.

S. 1115

At the request of Mr. SESSIONS, his name was added as a cosponsor of S. 1115, a bill to amend title 49, United States Code, to improve one-call notification process, and for other purposes.

S. 1124

At the request of Mr. KERRY, the names of the Senator from Kansas [Mr. BROWNBACK] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1124, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 1153

At the request of Mr. BAUCUS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1153, a bill to promote food safety through continuation of the Food Animal Residue Avoidance Database program operated by the Secretary of Agriculture.

S. 1194

At the request of Mr. KYL, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from Texas [Mrs. HUTCHISON], the Senator from Kansas [Mr. ROBERTS], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the medicare program.

S. 1196

At the request of Mr. MCCAIN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1196, a bill to amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers.

S. 1204

At the request of Mr. COVERDELL, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 1204, a bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution.

S. 1213

At the request of Mr. HOLLINGS, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1213, a bill to establish a National Ocean Council, a Commission on Ocean Policy, and for other purposes.

S. 1233

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1233, a bill to terminate the taxes imposed by the Internal Revenue Code of 1986 other than Social Security and railroad retirement-related taxes.

SENATE RESOLUTION 116

At the request of Mr. LEVIN, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of Senate Resolution 116, a resolution designating November 15, 1997, and November 15, 1998, as "America Recycles Day."

SENATE RESOLUTION 133—RELATIVE TO A CHILD SAFETY DEVICE

Mrs. BOXER (for herself, Mr. KOHL, Mr. CHAFEE, Ms. MOSELEY-BRAUN, Mr. KENNEDY, Mr. BIDEN, Mr. KERRY, Mrs. FEINSTEIN, Mr. JEFFORDS, Mr. HARKIN, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, Mr. INOUYE, Mr. AKAKA, Mr. LEVIN, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. WELLSTONE, and Mr. ROBB) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 133

Whereas eight leading American gun manufacturers have now agreed to include child safety devices on their handguns;

Whereas each year, nearly 40,000 Americans are killed by firearms;

Whereas more than 500 children are killed accidentally each year by gunshots;

Whereas many of these deaths and injuries are caused by handguns manufactured in the United States;

Whereas a simple child safety device could have prevented at least some of these deaths and injuries;

Whereas there are still a number of American gun makers, including some of the nation's largest, who have not committed to including a child safety device on their guns: Now, therefore, be it

Resolved, That it is the sense of the Senate that every American handgun manufacturer should voluntarily begin equipping all new handguns with child safety devices.

SENATE RESOLUTION 134—RELATIVE TO THE WESTERN HEMISPHERE

Mr. GRAHAM (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 134

Whereas the worldwide democratic revolution has spread throughout the Western Hemisphere to include democratically elected governments in all countries but Cuba;

Whereas market economic principles have been adopted by most countries in the Western Hemisphere, resulting in remarkable economic growth and substantial increases in international trade and investment;

Whereas the end of the Cold War has opened up opportunities to address country-specific, regional, and Hemisphere-wide concerns relating to economic development, political reform, security problems, and other social and environmental issues in the Americas;

Whereas there are numerous foreign policy and security concerns in the Americas, including the defense of democracy and free markets, illicit narcotics trafficking, terrorism, organized criminal activities, immigration flows, arms control and nonproliferation, environment degradation, and other regional and Hemisphere-wide issues that can best be addressed by collaborative, multilateral means;

Whereas the President of the United States announced on August 1, 1997, a revision of the unilateral policy prohibiting the sale or transfer of advanced weapons systems to countries of South America, Central America, and the Caribbean, and the restoration of United States military sales policy based on a case-by-case basis comparable to other regions of the world;

Whereas the defense ministers of the Hemisphere meet on a regular basis, as evidenced by the Defense Ministerial of the Americas held in 1995 and 1996, to address problems of mutual security and to deepen the security dialogue in the Western Hemisphere; and

Whereas it is in the national security interest of the United States to promote security and stability with our Hemispheric neighbors by engaging with them as equal partners to address security-related matters of mutual concern: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should give high priority to working with United States partners in the Americas to address shared foreign policy and security problems in the Western Hemisphere;

(2) the United States should encourage efforts to increase the transparency of defense planning, military acquisitions, military exercises, and military deployments as well as other mutual-confidence and security-building measures in the Hemisphere in order to strengthen the environment of trust, confidence, and mutual restraint;

(3) the United States should immediately begin discussions with United States partners in the Hemisphere on steps that could lead to a voluntary multilateral restraint regime on the acquisition of advanced weapons systems in the Hemisphere;

(4) the United States, in consultation with other countries in the Americas, should explore areas for enhancing cooperation and collaboration, including the strengthening of existing inter-American organizations and arrangements, in order to address shared

problems relating to subregional and Hemisphere-wide foreign policy and security-related issues;

(5) the United States should—

(A) encourage countries in the Hemisphere to implement the Santiago Declaration on Confidence and Security-Building Measures (CSBM) resolution adopted by the Organization of American States (OAS) on November 10, 1995; and

(B) take steps to bring about the implementation of the resolution on Conventional Arms Transparency and Confidence Building in the Americas relating to conventional arms acquisitions adopted by the OAS on June 5, 1997;

(6) the United States should increase the number of civilian and military personnel in foreign policy and defense-related training, education, and exchange programs from and to eligible countries in the Western Hemisphere and encourage similar programs between countries in the region;

(7) the United States should conduct an in-depth study of the roles, requirements, missions, and priorities of the United States Armed Forces in the Western Hemisphere in the post-Cold War environment, including recommendations for additional steps that should be taken to improve Hemispheric security and areas of possible cooperation with the armed forces of other countries in the region;

(8) the study should be completed within 12 months of the date of adoption of this resolution, and the appropriate committees of Congress should be notified of the findings of the study upon its completion; and

(9) the President should submit a report to Congress every 90 days on progress towards achieving the policy goals stated in this resolution.

Mr. GRAHAM. Mr. President, today I am submitting a resolution, together with my friend and colleague Senator LUGAR, which expresses the sense of the Senate that the United States should give high priority to working with our partners in the Americas to address shared foreign policy and security problems in the Western Hemisphere.

Over the past several years we have witnessed unprecedented progress in our hemisphere. This sweeping wave of democratization and free market economics now provides us with a unique opportunity to consolidate these gains and to create a new security regime in the Americas. This new regime must be based upon the premise that we will work with our neighbors as equal partners to address security-related matters of mutual concern.

On August 1, 1997, the President revised the unilateral policy prohibiting the sale or transfer of advanced weapons systems to countries of South America, Central America, and the Caribbean, and restored the policy based on a case-by-case analysis comparable to that used in other regions of the world. This alone is not a security policy. It is an action that must be wrapped in a broader security policy for the region. This resolution urges the President to work towards such a broader policy and provides some direction for that policy.

We must recognize the great progress that the democratically elected civilian governments of the region have made. For this they deserve to be treated as we treat our other democratic friends and allies. At the same time, we must work with them to find ways to enhance security through defense cooperation, transparency, and confidence and security building measures. We urge the President to emphasize these themes in his meetings with our hemisphere partners.

Mr. President, I urge all of our colleagues to join Senator LUGAR and myself in supporting this resolution. It will provide the President with the support of the Congress as he pursues these objectives, and demonstrate to our partners that we remain committed to building a secure environment so that all nations of the hemisphere can prosper in peace.

SENATE RESOLUTION 135—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 135

Whereas, federal, state, and local law enforcement officials have requested that the Committee on Rules and Administration provide them with copies of records held by the committee related to the 1996 United States Senate election in Louisiana;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Committee on Rules and Administration, either through formal action or by joint action of the Chairman and Ranking Member, is authorized to provide to federal, state, and local law enforcement officials copies of records held by the committee related to the 1996 United States Senate election in Louisiana.

SENATE RESOLUTION 136—DESIGNATING OCTOBER 17, 1997, AS NATIONAL MAMMOGRAPHY DAY

Mr. BIDEN (for himself, Mr. MACK, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mrs. BOXER, Mr. BRYAN, Mr. CAMPBELL, Mr. CHAFEE, Mr. COCHRAN, Mr. COVERDELL, Mr. D'AMATO, Mr. DASCHLE, Mr. DEWINE, Mr. DORGAN, Mr. DURBIN, Mr. FAIRCLOTH, Mr. FRIST, Mr. FORD, Mr. GLENN, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LOTT, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SMITH of Oregon, Mr. SPECTER, Mr. THOMAS, Mr. THURMOND, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 136

Whereas according to the American Cancer Society, in 1997, 180,200 women will be diagnosed with breast cancer and 43,900 women will die from this disease;

Whereas in the decade of the 1990's, it is estimated that about 2,000,000 women will be diagnosed with breast cancer, resulting in nearly 500,000 deaths;

Whereas the risk of breast cancer increases with age, with a woman at age 70 having twice as much of a chance of developing the disease as a woman at age 50;

Whereas at least 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives;

Whereas mammograms can reveal the presence of small cancers up to 2 years or more before a regular clinical breast examination or breast self-examination (BSE), saving as many as 30 percent more lives;

Whereas the Medicare program will cover mammograms on an annual basis for women over 39 years of age, beginning in January, 1998; and

Whereas 47 States have passed legislation requiring health insurance companies to cover mammograms in accordance with recognized screening guidelines: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 17, 1997, as "National Mammography Day"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

AMENDMENTS SUBMITTED

THE ENHANCED INTERMODAL TRANSPORTATION SAFETY ACT OF 1997

BURNS AMENDMENT NO. 1320

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mr. BURNS submitted an amendment intended to be proposed by him to the bill (S. 1267) to amend title 49, United States Code, to provide for enhanced intermodal transportation safety, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. EXEMPTION FROM CERTAIN REGULATIONS FOR UTILITY SERVICE COMMERCIAL MOTOR VEHICLE DRIVERS.

(a) IN GENERAL.—Section 31502 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(e) EXCEPTION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, regulations promulgated under this section or section 31136 regarding—

"(A) maximum driving and on-duty times applicable to operators of commercial motor vehicles;

"(B) physical testing, reporting, or recordkeeping; and

"(C) the installation of automatic recording devices associated with establishing the maximum driving and on-duty times referred to in subparagraph (A),

shall not apply to any driver of a utility service vehicle.

"(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) DRIVER OF A UTILITY SERVICE VEHICLE.—The term 'driver of a utility service vehicle' means any driver who is considered to be a driver of a utility service vehicle for purposes of section 345(a)(4) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).

"(B) UTILITY SERVICE VEHICLE.—The term 'utility service vehicle' has the meaning given that term in section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).".

(b) CONTINUED APPLICATION OF SAFETY AND MAINTENANCE REQUIREMENTS.—

(1) IN GENERAL.—The amendment made by subsection (a) may not be construed—

(A) to exempt any utility service vehicle from compliance with any applicable provision of law relating to vehicle mechanical safety, maintenance requirements, or inspections; or

(B) to exempt any driver of a utility service vehicle from any applicable provision of law (including any regulation) established for the issuance, maintenance, or periodic renewal of a commercial driver's license for that driver.

(2) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(A) COMMERCIAL DRIVER'S LICENSE.—The term "commercial driver's license" has the meaning given that term in section 31301(3) of title 49, United States Code.

(B) DRIVER OF A UTILITY SERVICE VEHICLE.—The term "driver of a utility service vehicle" has the meaning given that term in section 31502(e)(2)(A) of title 49, United States Code, as added by subsection (a) of this section.

(C) REGULATION.—The term "regulation" has the meaning given that term in section 31132(6) of title 49, United States Code.

(D) UTILITY SERVICE VEHICLE.—The term "utility service vehicle" has the meaning given that term in section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).

THE TRANSPORTATION SAFETY IMPROVEMENT ACT OF 1997

BURNS AMENDMENT NO. 1321

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mr. BURNS submitted an amendment intended to be proposed by him to the bill (S. 1234) to improve transportation safety, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. WAIVERS FOR CERTAIN FARM VEHICLES.

(a) DEFINITIONS.—In this section:

(1) CUSTOM HARVESTING FARM MACHINERY.—The term "custom harvesting farm machinery" includes vehicles used for custom harvesting that—

(A) are classified under subpart F of part 383, of title 49, Code of Federal Regulations, as being included in Group A, B, or C (as those terms are used in section 383.91 of that part); and

(B) are used on a seasonal basis to provide transportation of—

(i) agricultural commodities from field to storage or processing; and

(ii) harvesting machinery and equipment from farm to farm.

(2) COMMERCIAL DRIVER'S LICENSE.—The term "commercial driver's license" has the meaning given that term in section 31301(3) of title 49, United States Code.

(b) WAIVERS.—In addition to the authority granted to States to waive the application of chapter 313 of title 49, United States Code, with respect to farm vehicles described in 53 Fed. Reg. 37313 through 37316 and farm-related service industries described in 57 Fed. Reg. 13650 through 13654, each State that issues commercial drivers' licenses in accordance with chapter 313 of title 49, United States Code, may waive the application of any requirement for obtaining a commercial driver's license for operators of custom harvesting farm machinery or employees of farm-related service industries (or both) that would otherwise apply.

THE LARRY DOBY POST OFFICE DESIGNATION ACT OF 1997

THOMPSON AMENDMENT NO. 1322

Mr. STEVENS (for Mr. THOMPSON) proposed an amendment to the bill (S. 985) to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the "Larry Doby Post Office"; as follows:

On page 2, strike lines 14 through 16.

THE ENVIRONMENTAL POLICY AND CONFLICT RESOLUTION ACT OF 1997

McCAIN AMENDMENT NO. 1323

Mr. STEVENS (for Mr. MCCAIN) proposed an amendment to the bill (S. 399) to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes; as follows:

Beginning on page 14, strike line 17 and all that follows through page 15, line 3, and insert the following:

SEC. 6. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

(a) REDESIGNATION.—Sections 10 and 11 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5608, 5609) are redesignated as sections 12 and 13 of that Act, respectively.

(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by subsection (a)) is amended by inserting after section 9 the following:

"SEC. 10. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 13(b) and amounts paid into the Fund under section 11.

"(b) EXPENDITURES.—The Foundation shall expend from the Fund such sums as the Board determines are necessary to establish and operate the Institute, including such amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary.

"(c) DISTINCTION FROM TRUST FUND.—The Fund shall be maintained separately from the Trust Fund established under section 8.

"(d) INVESTMENT OF AMOUNTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

"(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

"(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

"(A) on original issue at the issue price; or

"(B) by purchase of outstanding obligations at the market price.

"(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.".

SEC. 7. USE OF THE INSTITUTE BY A FEDERAL AGENCY.

The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by section 6) is amended by inserting after section 10 the following:

"SEC. 11. USE OF THE INSTITUTE BY A FEDERAL AGENCY.

On page 15, strike lines 13 through 16 and insert the following:

"(2) PAYMENT INTO ENVIRONMENTAL DISPUTE RESOLUTION FUND.—A payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Environmental Dispute Resolution Fund established under section 10.

On page 17, line 1, strike "**sec. 7.**" and insert "**sec. 8.**".

On page 17, line 2, strike "Section 12" and insert "Section 13".

On page 17, strike lines 11 through 13 and insert the following:

"(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—There are authorized to be appropriated to the Environmental Dispute Resolution Fund established under section 10—

On page 17, line 21, strike "**sec. 8.**" and insert "**sec. 9.**".

On page 18, line 4, strike "12" and insert "13(a)".

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Monday, October 20, 1997 at 10:00 a.m. in room 485 of the Russell Senate Office Building to conduct a Hearing on H.R. 79, Hoopa Valley Reservation South Boundary Adjustment Act; and S. 156, Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Tuesday, October 21, 1997 at 10:00 a.m. in room 485 of the Russell Senate Office Building to conduct a Hearing on H.R. 700, the Agua Caliente Equalization Act; and H.R. 976, the Mississippi Sioux Judgment Fund Distribution Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, for the information of the Senate and the public I am announcing that the Committee on Energy and Natural Resources, will hold an oversight hearing to receive testimony on the issue of peaceful nuclear cooperation with China.

The hearing will be held on Thursday, October 23, 1997, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building.

Those interested in testifying or submitting material for the hearing record should write to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510 attn: David Garman or Shawn Taylor at (202) 224–8115.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, October 23, 1997 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 633 to amend the Petroglyph National Monument Establishment Act of 1990 to adjust the boundary of the monument.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224–5161.

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, October 29, 1997 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 638 to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the monument, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Natural Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 9, 1997 at 9:30 a.m. on the tobacco agreement public health analysis.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 9, 1997, at 2:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Thursday, October 9, at 10:00 a.m. for a hearing on campaign financing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold an executive business meeting during the session of the Senate on Thursday, October 9, 1997, at 10:00 a.m., in room 226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion be authorized to meet during the session of the Senate on Thursday, October 9, 1997, at 9:30 am to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 9, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this oversight hearing is to receive testimony on the feasibility of using bonding techniques to finance large-scale capital projects in the National Park System.

SUBCOMMITTEE ON PUBLIC HEALTH AND SAFETY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources Subcommittee on Public Health and Safety be authorized to meet for a Hearing on NIH Clinical Research during the session of the Senate on Thursday, October 9, 1997, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, October 9, 1997, to conduct an oversight hearing on the financial accounting standards board and its proposed derivatives accounting standard.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROTECTING THIS NATION'S AIR

• Mr. ABRAHAM. Mr. President, late last month, the Subcommittee on Manufacturing and Competitiveness held a hearing to examine the impact of EPA's new air quality standards on American manufacturing, especially small manufacturers.

On July 18 of this year, the Environmental Protection Agency announced new air quality standards that call for more severe restrictions on ground-level ozone and microscopic dust particles called particulate matter. These new standards are the most far-reaching—and potentially the most costly—regulatory mandates implemented in U.S. history.

Despite the administration's having promulgated these regulations, I believe a number of questions remain unanswered. To begin with, are these standards necessary? It seems clear that the scientific community is not of one mind on the EPA's new standards. Indeed, from the reading I have done it seems clear that a substantial amount of scientific evidence exists to the effect that the new rules will have negligible positive impact whatsoever on the public health. Not even the EPA's own Science Advisory Committee could conclude that public health would be substantially improved by adopting new standards more stringent than those already in effect. Moreover, Kay Jones, President Jimmy Carter's top air quality adviser, says there are serious flaws in the studies cited by the EPA to justify these new regulatory mandates.

Nevertheless, the EPA wants Americans to incur substantial costs in implementing their new standards. By the EPA's own estimate, implementing the new standards will cost Americans almost $50 billion. And that estimate is very low if we are to believe some of the estimates made by other organizations. The highly regarded Reason Foundation, as an example, has determined that the costs of the new clean air rules should be conservatively pegged at $122 billion. If this figure is correct, then the economic cost of EPA's new regulations will wipe out the entire economic benefit of the tax relief that we just enacted for America. In my judgment, this would not bode well for our Nation's financial health, or for the economic well-being of our working families.

We must also keep in mind that there are alternative means by which we can save lives. Taking the EPA's own estimates, the new standards will save the equivalent of 1,100 lives, at a cost of $2,400,000 per life year saved. Meanwhile, universal influenza vaccination would save 7,100,000 equivalent lives at a cost of only $140 per life year saved. And mammography for women over 50, an issue which many Members of this Senate have been personally involved with, would save 1,500,000 equivalent lives at a cost of $810 per life year saved. This is according to an article in the journal "Risk Analysis" by a group of researchers led by Dr. Tengs. These discrepancies in lives saved and programs' bang for the buck if you will, should not be ignored.

Furthermore, if the Reason Foundation cost estimate is correct, 70,000 Michiganites could lose their jobs under these new regulations. Many of those jobs—well-paying, blue-collar jobs—would be in my State's crucial manufacturing sector. That is one reason the president of Flint's United Auto Workers Local 599, Arthur McGee, testified in opposition to the new standards. UAW Local 599 notes that workers at the Buick complex in that city already are fighting for their jobs.

In a full page advertisement taken out in the Wall Street Journal, Local 599 proclaims that by working carefully, quickly, and efficiently, these workers have earned for themselves and their families a "healthy way of life for their families and their community." Good pay, good health care benefits, and safe neighborhoods, all of which promote healthy children, would be lost if the new EPA standards forced plant closings in Flint. After evaluating the new standards and their potential impact, UAW Local 599 has concluded, "Poverty is more dangerous to our children than the current low levels of air pollution."

However, perhaps most surprising, some of the latest studies actually show that many more jobs would be lost in the service than in the manufacturing sector. Dry cleaning establishments, hair salons, and other small businesses will not be able to absorb the increased costs imposed by these regulations. According to Decision Focus, leading environmental policy consultants, compliance with the new ozone and particulate levels will cost 200,000 jobs nationwide, with the bulk of the loss occurring in small service and retail businesses. This kind of job loss would cause a particular problem for this Nation's larger urban areas.

I worry when I hear Harry Alford, president of the National Black Chamber of Commerce, say that "EPA's new rules will create such an air of economic uncertainty that they might well be the last straw for inner-city investments." In my view, Mr. Alford's warning should lead us to proceed very cautiously. It seems to me that the burden of proof is on the EPA to demonstrate conclusively that the costs to be borne, in particular by our job creating enterprises, can be borne without significant damage to those businesses and to our workers. It also seems to me that this burden, in the case of these regulations, is considerable.

The effects of the clean air standards, however, will not be limited to America's cities. There are a number of reports that the new regulations may bar farmers from plowing during the dry summer months for fear of stirring up dust, that is, particulate matter. The EPA has signaled farmers that they need not worry about complying with the rules, but it is the States, not EPA, that will have the burden of controlling emissions and targeting their sources. And this begs a separate question: Who will bear the costs if the EPA, in order to quell likely opposition, keeps telling various groups that they needn't worry about complying with the new rules?

Many within the agriculture community fear that much of these likely costs—increased energy and fuel expenses—will be borne by them. As one witness, a member of the Kansas Farm Bureau, testified, many U.S. commodity prices are tied to world markets, so farmers will not be able to pass these costs on to consumers and could be forced to concede some crop production to foreign competitors.

Meanwhile, the manufacturing sector fears that small businessowners will lack the resources to pay the cost of expensive pollution reduction equipment and will be unwilling or unable to comply with still more regulations. Most experts acknowledge that heavy industries will likely face significant additional regulatory controls to reduce NO_x and other particulates. Small business owners, however, maintain they will shoulder a similarly heavy load because they typically lack the technical expertise and the financial and human resources to consistently engage with State officials to shape the outcome of emissions control plans. During the hearing, two different small businessowners testified that the new standards could result in a dramatic reduction in business expansion—or stop it altogether—in many U.S. cities. These owners admitted that they were unlikely to go out of business as a result of the NAAQS, but they noted that their increased costs could be reflected in reduced hiring and the reduction, or elimination, of some employee benefits.

We are all concerned with making our country a more healthy place for our children and grandchildren to live. The key is striking a responsible balance. Not only should our children have clean air, clean water, and safe food in their future, they must also have good jobs, high wages, and good benefits, and a robust economy waiting for them when they grow up, enter the work force, and start their own families.

The new air quality standards have been the subject of intense scrutiny and often acrimonious debate over the course of this year. In the face of such uncertainty, I believe it is incumbent

upon the administration to consider again its plans for enacting these regulations. The current implementation process seeks to give the Nation ample time to adjust to the new standards. I applaud the President for this approach: It is a step in the right direction. However, I believe EPA's implementation plan will last only as long as the first lawsuit and result in the immediate enforcement of the new standards.

If, as the President says, these new standards are not intended to harm this Nation's economy then I urge the President to support the legislation offered in both the House and the Senate to codify a 5-year delay of the regulations. This postponement will allow for continued research into the cause and effects of pollution and allow the 1990 amendments to the Clean Air Act to continue to clean the air and make the effects of any future new standards less drastic. I hope that other Members will join in urging the administration to consider this approach.

These are my concerns. I am worried about my children's health and want to make sure we are doing everything we can to protect it. But I am also concerned whether the new rules represent the best means by which we can protect that health.•

WORLD FOOD DAY AND RUSSELL ULREY

• Mr. LEVIN. Mr. President, I rise today to celebrate World Food Day. World Food Day takes place on October 16 and in the words of Catherine Bertini, executive Director of the U.N. World Food Program, is an opportunity to "not only rededicate ourselves to the battle against hunger and poverty but also acknowledge that millions of people have been saved from the scourge of famine because of the commitment of the United States and other members of the international community." I would also like to honor the many humanitarian relief workers who often risk their lives to deliver assistance.

Natural disasters and civil unrest can produce countless refugees with no way of feeding themselves. Humanitarian relief workers often brave grave dangers in these situations to deliver food to the hungry. One of the many heroes who risk their lives to feed the needy is, Russell Ulrey, of Detroit, MI. In 1993, Mr. Ulrey served as emergency logistics coordinator in southern Sudan for the World Food Program, the largest international food aid organization in the world. During his time in Sudan, Russell Ulrey led a barge trip up the Nile to feed hungry Sudanese. This dangerous trip led Ulrey through the heart of that nation's bloody civil war. Ulrey's mission came under fire several times but succeeded in delivering eight barges carrying 2,600 tons of food. Ulrey's trip up the Nile was the first of 25 that WFP made, delivering 65,000 tons of food.

Mr. President, I am pleased to highlight the exploits of Russell Ulrey and the thousands of other relief workers that risk their lives daily to feed the world's needy. I know my Senate colleagues join me in honoring their efforts and World Food Day.•

U.S. RELATIONS WITH TAIWAN

• Mr. MURKOWSKI. Mr. President, as Congress prepares to leave for the Columbus Day recess, I notice that there are other celebrations going on around Washington, including "National Day" celebrations in Chinatown. These celebrations brought to mind several issues that I wanted to share with my colleagues regarding United States relations with Taiwan.

As Washington prepares for the State visit of President Jiang Zemin of the People's Republic of China, some press reports have speculated that the issue of Taiwan might be on the summit agenda. First, let me say that I welcome the visit of President Jiang. High-level dialogue with the Chinese should be regular and routine, and this summit presents an opportunity to discuss many issues of mutual concern to our two countries. But let me add that improving relations with the PRC need not, and indeed, should not, come at the expense of our relationship with Taiwan.

Therefore, I sent a letter, signed by 10 of my colleagues including Majority Leader TRENT LOTT, Minority Leader TOM DASCHLE, chairman of the Foreign Relations Committee JESSE HELMS; and East Asia and the Pacific Subcommittee Chairman CRAIG THOMAS, to President Clinton urging him to oppose any efforts at the summit by the PRC leadership to diminish American support for Taiwan.

Mr. President, I ask that a copy of that letter be printed in the RECORD.

Mr. President, I wish President Clinton and his administration success at the upcoming summit, and I urge him to respect the views of me and my colleagues, which I think represents the views of many Americans, that our support for Taiwan's democracy and freedom cannot be sacrificed.

I also want to use this opportunity to express my gratitude to Secretary of State Madeleine Albright for her efforts to consult more closely with Members of Congress with regard to issues related to Taiwan. I refer specifically to consultations regarding the recent selection of Richard Clarence Bush III as Chairman of the American Institute in Taiwan [AIT].

Some of my colleagues, Senate Foreign Relations Committee Chairman JESSE HELMS, in particular, will remember that the consultation process did not work when the prior AIT Chairman, Mr. James Wood, was selected. Mr. James Wood resigned from his position on January 1997 among various charges and countercharges with regard to foreign contributions during the election campaign. I leave the legitimacy of those charges to the investigators, but I simply wanted to note that congressional concerns regarding Mr. Wood were ignored by our State Department.

In response to this incident, I considered offering an amendment to the State Department authorization legislation that would have required establishing a post within the State Department that would be directly responsible for Taiwan Affairs. As part of negotiations over that amendment, I had the opportunity to discuss with the Secretary my dissatisfaction with the consultation process on matters relating to Taiwan.

The Secretary promised that she would rectify this situation and would in the future consult with Congress prior to naming future officers of AIT. She followed up on this oral promise with a letter dated July 30, 1997, that states that if the Foreign Relations Committee "expresses reservations about a prospective trustee, we will undertake to discuss and resolve the matter fully with the Committee before proceeding."

Mr. President, I ask that a copy of the July 30 letter be printed in the RECORD.

The Secretary held to her word and consulted with me and others prior to the selection of Richard Bush. I must admit, Mr. President, that this was an easy case. Mr. Bush is a talented individual who is well qualified to take this sensitive position. I had the opportunity to negotiate with Mr. Bush when he was advising Congressman LEE HAMILTON on Taiwan-related issues, and I found him well-spoken and honest. I look forward to the opportunity to continue to work with him in his new role.

I hope that Mr. Bush will use his new position to further strengthen and enhance United States relations with the people and the Government of Taiwan. Taiwan is our eighth largest trading partner, and I am confident that trade will increase further when Taiwan joins the World Trade Organization. In addition, I encourage the administration to send high-level officials to Taiwan to further strengthen our relationship and to work out the occasional disputes that cloud our relationship.

The letters follow:

U.S. SENATE,
Washington, DC, September 23, 1997.

Hon. WILLIAM J. CLINTON,
The President, The White House.

DEAR MR. PRESIDENT: As you prepare for your summit with the President of the People's Republic of China, we thought it appropriate to share with you our thoughts regarding U.S. relations with the people and the government of Taiwan. We believe Taiwan has made extraordinary progress in recent years as the Republic of China has

moved to establish a vibrant democracy with free elections, free press, strong trade unions and improved trading practices.

We believe the American people are united in their support for freedom and democracy on Taiwan. Time and again, Congress has made clear our commitment to Taiwan, beginning with the 1979 Taiwan Relations Act, and through many resolutions and bills since then.

With your important meetings in Washington with the leadership of the People's Republic of China scheduled for late October, there has been much discussion about how the U.S. government would respond to possible demands by the PRC Government regarding U.S. relations with the people and the government of Taiwan.

Mr. President, we urge you to oppose any efforts at the summit by the PRC leadership to diminish American support for Taiwan. We urge you to reject any plans for a "Fourth Communique" on issues related to Taiwan; to not weaken our defensive arms sales commitment to Taiwan; and, to not make any commitment to limit future visits by the elected representatives of the Republic of China.

We in Congress are prepared to reiterate the commitment of the American people to freedom and democracy for the people and government of Taiwan. We look forward to working with you and your Administration team on these issues in the weeks ahead.

Sincerely,

Frank H. Murkowcki; Trent Lott; Jay Rockefeller; Tom Daschle; Craig Thomas; Sam Brownback; ——— ——— Jesse Helms; Robert G. Torricelli; Charles Robb; Larry E. Craig.

THE SECRETARY OF STATE,
Washington, July 30, 1997.

Hon. FRANK MURKOWSKI,
U.S. Senate.

DEAR SENATOR MURKOWSKI: I refer to our conversation of June 17, in which you underscored the concern of the Foreign Relations Committee about the role of the Senate in monitoring our Taiwan policy and the Committee's specific desire that the Department consult with the Committee before appointing to the Board of Trustees of the American Institute in Taiwan (AIT) a Chairman/Managing Director for AIT.

As you know, under the bylaws of the American Institute in Taiwan, the Secretary of State appoints and removed trustees of the Institute. The Department continues to hold the view, expressed by Secretary Vance in his letter to then-Chairman Church at the time of AIT's establishment in 1979, that because the Institute is not an agency or instrumentality of the Government, and because its trustees are not officers of the United States, it would not be appropriate for the Senate to advise and consent to the appointment of trustees or officers. However, let me assure you, as did Secretary Vance, that the names of prospective trustees will be forwarded to the Foreign Relations Committee. If the Committee expresses reservations about a prospective trustee, we will undertake to discuss and resolve the matter fully with the Committee before proceeding.

This arrangement will enable the Institute to retain its character as a private corporation and assist the Senate in fulfilling its responsibilities for monitoring the implementation of the Taiwan Relations Act and the operation of the Institute.

Sincerely,

MADELEINE K. ALBRIGHT.●

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. SARBANES. Mr. President, October has been designated National Domestic Violence Awareness Month, and I rise today to speak briefly about our need to continue our struggle against this national problem.

Mr. President, over the past several years, the Congress, the Clinton administration, our State and local governments, and our community-based organizations have taken enormous steps toward eradicating the scourge of domestic violence—a scourge that for too long had been ignored as a family problem outside the scope of government responsbility. Congress' passage of the Violence Against Women Act [VAWA] as part of the 1994 crime bill, and the wide variety of enforcement and prevention grants available under that legislation, has ensured that our Federal, State, and local authorities have at their disposal the resources and legal authority needed to educate our citizens about domestic violence, and to prosecute those who have chosen to engage in such reprehensible conduct. The administration's development of informational initiatives, such as a toll-free nationwide domestic violence hotline and a Violence Against Women information homepage, have buttressed Congress' efforts, and provided law enforcement officials with a direct link to those who need assistance.

My State of Maryland has been at the forefront of these national efforts to combat domestic violence. With the assistance of over $400,000 in grant funds made available under the 1994 crime bill, Maryland has formulated its Stop Violence Against Women plan, under which the State identifies cases of domestic abuse, safeguards victims, and coordinates and funds local community responses to incidents of domestic violence. To implement this plan, the Governor's office has established a statewide Family Violence Council, headed by Maryland's attorney general and Lieutenant Governor, which will continue to keep this issue in the public eye and to formulate additional initiatives in this area.

The Federal authorities in Maryland have been no less vigilant in their efforts to combat domestic violence. Maryland's U.S. attorney's office has developed a specific training program for prosecutors on VAWA, has drafted a VAWA manual now available to local law enforcement and community groups, and is in the process of prosecuting only the second interstate stalking case brought under that law.

In short, Federal, State, and local authorities in Maryland, as elsewhere, have embarked on a cooperative effort designed to educate our citizens about the plague of domestic violence, and to bring to justice those who violate our increasingly strict laws in this area.

At the same time, Mr. President, we still have a long way to go before domestic violence is evicted from our homes and communities. Last year alone, almost 4 million women were physically abused by their husbands or boyfriends. Women continue to be the victims of domestic abuse more frequently than they are victims of burglary, muggings, and all other physical crimes combined. The damage done by such abuse extends directly to the most vulnerable in our society—our children, who are subject to abuse in 75 percent of the cases in which their mothers are subject to abuse.

Mr. President, I have long supported efforts to stamp out domestic violence in our communities. I once again urge my colleagues to continue on the path on which we embarked in 1994, and to ensure continued full funding for VAWA in future years. I also urge my colleagues on the Appropriations Committee to preserve the $10 million provided for community police to combat domestic violence in this year's Commerce, State, Justice Appropriations bill. This money, expressly authorized under the 1994 crime law, is essential if we are to address the domestic violence problem at its local, root level.

While October is National Domestic Violence Awareness Month, no month should go by without our attention to this issue. Domestic violence is directly contrary to the community and family values we hold most dear, and its eradication should continue to be one of our most pressing national priorities.

IN RECOGNITION OF THE 41ST ANNIVERSARY OF THE HUNGARIAN REVOLUTION

● Mr. ABRAHAM. Mr. President, today I rise in honor of the 41st anniversary of the Hungarian Revolution. On October 19, the Hungarian-American community will commemorate that fall day in 1956 when Hungarians attempted to throw off the shackles of oppression and gain freedom.

In an era of Soviet domination, the brave citizens of Hungary rose against the Communist regime. Although the revolution was unsuccessful, it set a precedent that the Hungarian people wanted freedom. It was not until some 30 years later, with the reforms of the late 1980's, that Hungary greatly increased freedom. The most dramatic example occurred in May 1989 when the border between Austria and Hungary was opened. Thousands streamed across and spontaneous celebrations broke out on both sides of the border as Hungarians displayed their freedom to the world.

A few years ago on a fall day in November, the entire world watched the most imposing symbol of the cold war tumble down. The Berlin Wall had been torn asunder. Had those individuals so many years ago not stood against the tanks that rumbled through the streets

of Budapest, the momentous occasion in Berlin might not have occurred. Their bravery proved that freedom cannot be suppressed.

I am proud of the Hungarian-American community's continual efforts to foster relationships of goodwill. These efforts will go far in enhancing and promoting the community's image and understanding throughout the United States and beyond. We can all be proud of these efforts.•

PAT BARR'S CRUSADE

• Mr. LEAHY. Mr. President, October is Breast Cancer Awareness Month. I would like bring to the attention of the Senate a breast cancer survivor in Vermont who has poured herself into reaching out to others who are dealing with this devastating disease, and who has made finding a cure her lifetime crusade.

Pat Barr of Bennington, VT, is a true example of one person being able to make a difference.

It was a visit in early 1992 from Pat and several other Vermont women—grassroots organizers and survivors of breast cancer—that led to my long involvement in working with others to address the urgent need for more intensive research on breast cancer, which has taken the lives of more than 1 million women over the past 35 years.

Soon after that visit I was joined by several Members of Congress in starting a congressional campaign to help eradicate breast cancer. We began by introducing a resolution urging the Secretary of Health and Human Services to declare breast cancer a public health emergency. The resolution raised public awareness about breast cancer and sent a strong message that we needed to accelerate the investigation into the causes, treatments, and prevention of this illness.

Pat Barr's support, energy, and determination to make a difference has immeasurably helped me in efforts to elevate breast cancer research as a Federal priority, including in the annual Department of Defense budget, where we have been able to allocate $737.5 million for breast cancer research over the past 6 years.

She also worked closely with Congressman SANDERS and with me in envisioning and crafting a new tool in the struggle to find a cure for all cancers: the National Program for Cancer Registries. Cancer registries serve as a foundation for a national, comprehensive prevention strategy. They monitor trends in the incidence of breast cancers and other cancers and in mortality rates, as well as offering a source for population-based epidemiologic research at NIH and other research institutions.

For a decade, Pat has tirelessly volunteered her time and energy to this effort. Pat is the founder of the Breast Cancer Network of Vermont. She has been a board member of the National Breast Cancer Coalition since its inception in 1991. She has served as a consumer advocate on panels at the National Cancer Institute, the Centers for Disease Control, and the Army Breast Cancer Research Program.

Earlier this year, Vermonters honored Pat by dedicating the annual Vermont Race for the Cure in her honor.

A recent editorial in the Bennington Banner said it best: "Pat Barr is a hero worth honoring."

I ask that the text of the editorial be printed in the RECORD.

The editorial follows:

PAT BARR IS A HERO WORTH HONORING

You can make a difference. One local woman has shown the way. Pat Barr of Shaftsbury has taken her experience with the disease of breast cancer and turned it into a crusade for better research with impacts from Bennington to Washington, D.C.

And because of that personal achievement, the Annual Susan G. Komen Breast Cancer Foundation Vermont Race for the Cure was dedicated this year to Barr. The Sunday race is designed to raise funds for breast cancer research, with 75 percent of the money staying in Vermont.

Barr's own experience with breast cancer began in 1987, when she was diagnosed. It has reoccurred since then, but despite that Barr has not turned from her decade of tireless work.

Barr founded the Breast Cancer Network, a Vermont advocacy and service organization based in Bennington and also serving New York and Massachusetts. The network helps area women get tests, information and services.

She joined Vermont's U.S. Sen. Patrick Leahy and U.S. Rep. Bernard Sanders in developing the National Cancer Registry. She worked with Leahy in his fight to secure an additional $300 million toward breast cancer research in 1992.

Her efforts eventually took her to Washington with 2.6 million signatures to convince President Clinton to approve a national action plan to fight breast cancer.

Barr, a mother, attorney and businesswoman, has also been active in the Vermont Civil Liberties Union and the Vermont Bar Association and was a member of the State Board of Education.

Barr has kept her faith—she is a member of the Congregation Beth El in Bennington and was instrumental in its resurgence.

She is a role model and a credit to this community.

Barr is a local hero who cannot be honored enough for her work for Vermont women.•

THE TENNESSEE VALLEY AUTHORITY MODERNIZATION ACT

• Mr. FRIST. Mr. President, when the Tennessee Valley Authority formed in 1933, the region suffered under the weight of economic despair and the unforgiving forces of nature. The great Depression and rural isolation served to keep much of the valley's population in poverty and without some of the basic tools to sustain even a marginal existence. The mighty Tennessee River and its tributaries, which have sustained life and commerce along their banks since prehistory, wreaked havoc on life and property as the unpredictable and uncontrollable floods rushed from the slopes of the southern Appalachians and Cumberland Plateau. Flooding and poor farming practices were of nearly epidemic proportions as loss of topsoil and low crop yields reached catastrophic levels. Access to electricity was both expensive and limited to only a few metropolitan areas, thus serving to even further widen the gap between the Tennessee Valley and the rest of the country as the already hamstrung national economy passed the region by.

President Roosevelt designed the Tennessee Valley Authority as a unique Federal agency whose mission was defined by providing a range of essential services to the entire region rather than fulfilling a single, specific function nationwide. TVA undertook many duties that other Federal agencies were actively pursuing in other parts of the country, just as it does today, but TVA also undertook services which addressed the economic and natural problems unique to the Tennessee River watershed. TVA's charter was very broad and designed to give the agency leeway to address the region's interrelated needs of flood control, improved farming methods and conservation, rural electrification, and economic development as a single coordinating and executing body.

TVA undertook ambitious conservation, economic development, flood control, and electrification projects. The Tennessee River was tamed and became more readily navigable; topsoil loss and declining agricultural productivity had been stopped or even reversed; isolated families received electricity in their homes and workplaces; and the economy was expanding. By the 1950's the Nation's economy was strong and growing, and the economic gap between the Tennessee Valley region and the Nation as a whole was narrowing. By the 1980's, that gap no longer existed.

In a region that boasted a strong independent tradition and a general skepticism about the benefits of the Federal Government, the TVA had become viewed as more than just a benevolent hand providing economic opportunity and security to the depressed region, it became an integral part of the region's identity. In the minds of Tennesseans, TVA was credited with bringing the region out of poverty, depression, and existence at the mercy of nature.

Since its inception, TVA's mission has evolved, and the organization today is very different than in 1933. In 1959 the TVA Act was amended to fully separate the U.S. Treasury from the rapidly expanding TVA power program, which had seen an initial round of growth associated with the national security activities in Oak Ridge during

the Second World War, but had continued to expand its size and revenues for regional industrial and residential consumption. TVA power would no longer rely on the support of taxpayers nationwide, but was thereafter dependent on the ratepayers and lenders to provide all operation expenses. TVA's power program far eclipsed the other original missions of conservation, flood control, and navigation from which had been separated. Today, TVA is one of the largest electric utilities in the world, with a revenue stream in excess of $5 billion per year.

That's an impressive growth, but it didn't come without associated problems—some of them very serious. In the 1960's and 1970's, TVA began an ambitious nuclear powerplant construction program, borrowing heavily from public and private sources. Like other utilities that invested in nuclear power, TVA overextended itself badly as the costs of construction and fueling the plants rose dramatically and the regulatory bar moved ever higher. TVA continued to go further into debt, and today its liability now exceeds a truly staggering $27 billion.

TVA's benevolent role in the life of the region has also come into question. Decisions and behavior that many Tennesseans are now viewing as simply an extension of a grossly overgrown Federal bureaucracy in general, and a betrayal of the original benevolent mission envisioned for TVA in the formative act, served to end an era of trust between ratepayers and TVA. More worrisome, though, is that the errors in strategy and judgment have put the health, liability, and even the existence of TVA in jeopardy.

At its root, I believe, is the fact that TVA was allowed to fundamentally change its mission and to begin operating as a self-financing electric utility without the necessary structural changes. While TVA power grew rapidly as consequence, it still maintained the management and corporate structure of its original Depression-era mission of conservation, flood control, navigation, and economic development.

Yesterday, I introduced legislation to address those problems, and to make changes in the decisionmaking body of TVA that will more closely reflect its needs and the demands of the ratepayers and taxpayers. These are changes which, in truth, should have been incorporated into the TVA Act the day TVA became a self-financing corporation in 1959.

Under my TVA Modernization Act, the board of directors will grow from three full-time members to nine part-time members, and each member must have corporate management or a strong strategic decisionmaking background. My bill also shortens the members' terms from the current 9 years to staggered 5-year terms.

The expanded board would establish long-range goals and policies for TVA, as well as approve the annual budget and conduct public hearings on policies that have a major effect on ratepayers in the valley. The board will also determine electricity rates and ensure that independent audits of the corporation's management are conducted.

But unlike the current board, the expanded board will not be involved in the day-to-day management of TVA. Instead, it will appoint an independent chief executive officer to manage the corporation—much like businesses of its size throughout the country have done for decades.

While the President will retain the sole authority to appoint new board members, my bill will ensure that candidates have the business background necessary to take this $6 billion corporation into the 21st century and a new era of deregulation. By requiring that no more than five members come from a single party affiliation, it will also help ensure that the board never becomes politicized. Together with an independent CEO, we can help avoid the type of decisions and missteps that have saddled TVA with more than $27 billion in debt over the years.

Once enacted, the bill would take effect on May 18, 1999—exactly 66 years after the original TVA Act took effect. Current board members whose terms don't expire until after 1999 may remain on the board as part-time members, along with the President's seven new appointees. Part-time board members will receive an annual stipend and per diem pay for their services, the total of which will not exceed $35,000 per year. And instead of having a Presidentially designated chairman of the board, members will elect their chairman.

TVA has experienced enormous growth over the years, from a Depression-era conservation and public works program to a multibillion-dollar electric utility. It's time we give TVA and ratepayers in the valley a management structure that's more responsive and stable and that can help this important agency face the upcoming dramatic changes in the electric utilities industry as effectively and efficiently as possible.•

EXPLANATION OF VOTES ON THE AGRICULTURE APPROPRIATIONS BILL

• Mr. ABRAHAM. Mr. President, I rise today to explain my final vote on the fiscal year 1998 appropriations bill. The last amendment to this legislation was a second attempt by Senator HARKIN to fully fund FDA efforts to prevent underage smoking. Specifically, the amendment sought to fully fund a program which was established to punish establishments that sell tobacco to individuals under 18 years of age.

I support efforts to curb underage smoking. Unfortunately, I was forced to vote against Senator HARKIN's first attempt to fund this program because the amendment's offset would have imposed a new $34 million tax. The majority of Senators shared my concerns and the amendment failed by a 52 to 48 margin. In recognition of that shortfall, the amendment which Senator Harkin reintroduced identified a new, noncontroversial offset from a minor USDA program. In light of this new funding source, I was pleased to vote in support of the Harkin amendment. The motion to table the Harkin amendment subsequently failed by a 28 to 70 margin and the amendment was agreed to.

It is my hope, Mr. President, that the conferees can move quickly to resolve the differences between the House and Senate bills and allow us to vote on the conference report in the coming weeks.•

SOJOURNER TRUTH

• Mr. LEVIN. Mr. President, I rise today to honor Sojourner Truth, a leader in the abolitionist movement and a ground breaking speaker on behalf of equality for women. The 200th anniversary of Sojourner Truth's birth is being celebrated this year throughout the United States.

Sojourner Truth was born Isabella Baumfree in 1797 in Ulster County, NY and served as a slave under several different masters. She bore four children who survived infancy, and all except one daughter were sold into slavery. Baumfree became a freed slave in 1828 when New York State outlawed slavery. She remained in New York and instituted successful legal proceedings to secure the return of her son, Peter, who had been illegally sold to a slave-owner from Alabama.

In 1843, Baumfree, in response to a perceived command from God, changed her name to Sojourner Truth and dedicated her life to traveling and lecturing. She began her migration west in 1850, where she shared the stage with other abolitionist leaders such as Frederick Douglass. In October 1856, Truth came to Battle Creek, MI, with Quaker leader Henry Willis to speak at a Friends of Human Progress meeting. She eventually bought a house and settled in the area. Her antislavery, women's rights, and temperance arguments brought Battle Creek both regional and national recognition. Sojourner Truth died at her home in Battle Creek, November 26, 1883, having lived quite an extraordinary life.

Sojourner Truth was a powerful voice in the women's suffrage movement, playing a pivotal role in ensuring the right of all women to vote. She was a political activist who personally conversed with President Abraham Lincoln on behalf of freed, unemployed slaves, and campaigned for Ulysses S. Grant in the Presidential election in 1868. Sojourner was a woman of great

passion and determination who was spiritually motivated to preach and teach in ways that have had a profound and lasting imprint on American history.

In 1851, Sojourner delivered her famous "Ain't I a Woman?" speech at the Women's Convention in Akron, OH. She spoke from her heart about the most troubling issues of her time. Her words on that day in Ohio are a testament to Sojourner Truth's convictions and are a part of the great legacy she left for us all.

Mr. President, I ask that the text of the Sojourner Truth "Ain't I a Woman" speech be printed in the RECORD.

The speech is as follows:

AIN'T I A WOMAN

(By Sojourner Truth)

Well, children, where there is so much racket there must be something out of kilter. I think that 'twixt the negroes of the South and the women at the North, all talking about rights, the white men will be in a fix pretty soon. But what's all this here talking about?

That man over there says women need to be helped into carriages, and lifted over ditches and to have the best place everywhere. Nobody ever helps me into carriages, or over mud puddles, or gets me any best place!

And Ain't I a Woman?

Look at me! Look at my arm! I have ploughed, and planted, and gathered into barns, and no man could head me!

And Ain't I a Woman?

I could work as much and eat as much as a man—when I could get it—and bear the lash as well!

And Ain't I a Woman?

I have borne five children and seen most all sold off to slavery, and when I cried out with a mother's grief, none but Jesus heard me.

And Ain't I a Woman?

Then they talk about this thing in the head; what's this they call it? (member of the audience whispers "intellect") That's it, honey.

What's that got to do with women's right or negroes' rights? If my cup won't hold but a pint, and your holds a quart, wouldn't you be mean not to let me have my little half measure full?

Then that little man in black there, he says women can't have as much rights as men, cause Christ wasn't a women?

Where did your Christ come from? Where did your Christ come from? From God and a woman! Man had nothing to do with Him.

If the first woman God ever made was strong enough to turn the world upside down all alone, these women together ought to be able to turn it back, and get it right side up again! And now they is asking to do it, the men better let them.

Obliged to you for hearing me, and now old Sojourner ain't got nothing more to say.•

CHILD SUPPORT INCENTIVE BILL

• Ms. SNOWE. Mr. President, I am extremely pleased to join my colleague, Senator ROCKEFELLER, in introducing the Child Support Performance Improvement Act of 1997. This bill establishes a new formula for State child support incentive payments, in order to reward those States which truly excel at collecting child support. Over the years, Senator ROCKEFELLER has shown an extraordinary commitment to children and families across America, and his leadership on this bill represents more of the same.

Mr. President, States need to crack down on deadbeat parents who renege on their financial responsibilities to their children. While noncustodial parents owed $47 billion in child support in 1995, States collected only $14 billion. Collections increased to approximately $16 billion in 1996, and are likely to further increase as the result of tough new child support reforms which I authored and which were contained in the Welfare Reform Act.

States performance in collecting child support varies tremendously. For example, Maine has worked very hard to successfully improve its child support collections. While Maine has collected over $580 million since 1975, half of that amount—$286 million—was collected within the past 5 years. Last year alone, Maine collected almost $72 million, representing a 10-percent increase over the previous year. This considerable improvement is due to comprehensive State reforms pioneered under Governor John McKernan in 1993, and Federal child support reforms contained in the Welfare Act. But not all States share this heightened commitment to collecting support. That is why my child support provisions in the Welfare Reform Act required the Secretary of HHS, in consultation with the States, to develop a new formula for State incentive payments that is based on performance, in order to further improve State collections, and to report back to Congress on the subject. The bill that Senator ROCKEFELLER and I introduce today is based on that report.

Under current law, the Federal Government provides States with an extra incentive payment in order to increase child support collections. The current formula for incentive payments is based on the cost-effectiveness of a State's child support collection program—the collection-to-cost ratio—meaning that States are rewarded for bringing in more dollars for each dollar they invest in the program. Incentive payments start at 6 percent of collections, and rise as high as 10 percent for the most cost-effective States. In fiscal year 1995, Federal incentive payments to States were $400 million, nearly 33 percent of the gross Federal share of child support collections.

Mr. President, the current system does not make sense in that every State, no matter how dismal its record in collecting child support, receives a minimum incentive payment. This perpetuates mediocrity and does not serve children. Instead, States should be rewarded on the basis of performance outcomes that will help children, such as establishing paternity and support orders quickly, obtaining medical support, and collecting support on a regular basis so families can rely on it.

The Child Support Performance Improvement Act establishes a formula which takes into account performance-based measures and standards in five areas: establishing of paternity; establishing child support orders; collecting currently-owed support; cost-effectiveness; and collection of past-due support. The first three measures receive the most weight in the formula because they translate most directly into support that helps keep families financially self-sufficient. Giving them more weight will help concentrate State efforts where they matter most.

Under our bill, States would only qualify for incentive payments if they meet threshold performance requirements in these five areas. States that perform below the threshold level can qualify for minimum incentive payments only if they significantly improve their performance compared to performance in a prior year. The bill also requires the Secretary of HHS to establish standards for collecting medical support to be implemented later, to ensure that children of divorced parents have health insurance. Finally, the bill requires States, for the first time, to reinvest their incentive payments back into the child support system, so they can further improve collections and better serve children.

Mr. President, this bill will significantly help families to obtain the child support owed to them so they can remain financially self-sufficient. I urge my colleagues to support this important legislation.•

SENATOR WILLIAM B. SPONG, JR.

• Mr. HOLLINGS. Mr. President, Bill Spong and I go back a long way. We were the only Democrats elected to the Senate in 1966. Back then, new Senators were expected to be seen and not heard. Bill and I were dutiful—we took the last two seats on the back row of the Democratic side of the Senate floor and swapped afternoons and evenings presiding as Speaker Pro Tempore. In those days they gave Golden Gavels to members who presided over the Senate for more than 100 hours; Bill and I each received one.

Bill Spong was one of the quietest and most thoughtful men ever to serve in the Senate. He brought his considerable experience in law and banking to bear on every issue before the Senate and carefully analyzed each piece of legislation on which he voted. He set an example of what a Senator in a deliberative democracy should be.

The Senate was a different place then. Republicans and Democrats worked closely together in a collegial atmosphere. Though they differed on

many issues, a majority of Senators from both parties came together to produce legislation for the good of the Nation. Now the Members of the two parties meet only to ambush one another. In today's climate of partisan warfare, it is hard to find anyone who can match Bill Spong's civility.

Senator Spong made many friends for Virginia in his 6 years of service. He was an outstanding and committed representative of the people of his state. His election loss in 1972 deprived Virginia and the United States of an able and promising Senator. Undoubtedly, Senator Spong would have won reelection and served for many more years had the public confusion and division caused by Vietnam and his seat on the Foreign Relations Committee not placed him in an untenable position.

After leaving the Senate, he served with great distinction as a noted mediator and as Dean of the School of Law at William and Mary. In these capacities, he continued to serve his community.

Bill Spong's death yesterday shocked and saddened us all. It deprives us of a much-needed model of dedication, service, and leadership. Let us all hope that his great qualities will find their incarnation in future servants of the public good.•

NATIONAL LITERACY MONTH

• Mr. ABRAHAM. Mr. President, I rise to comment on an issue which concerns my home State of Michigan and the entire country. It seems as though every year another study is published which concludes American children are behind other nations of the world in subjects such as math and science. Often, when concern is expressed with such findings a more basic issue is overlooked: literacy.

From the youngest schoolchild to the most senior adult, I believe everyone should be able to read and write. Besides serving as the foundation of education, reading provides new opportunities and expands horizons. Through reading, an individual can visit exotic lands, travel in time, participate in fantastic adventures, and learn of events happening in both their hometown and around the globe. Reading allows a person to soar, with only their imagination to limit them. As the father of three young children, one of my favorite activities is reading a story to my children, or as the older ones now do, read the story to me. Helping a child learn to read is one of the most pleasurable activities I know.

Ensuring America's children are literate is one of the most important goals this Nation should have. Rather than involving the heavy hand of the Federal Government, I believe local governments are in the best position to accomplish this goal. But, I also think the Federal Government has a role in helping to eradicate illiteracy from among the Nation's youth. For this reason, Congress has allocated $260 million to the Department of Education to disburse to the states for carrying out a child literacy initiative beginning in October 1998.

I strongly believe every child in America should be literate. However, we cannot and must not concern ourselves solely with the young. It is a sad fact that many adults across the country do not possess the ability to read and write. While some individuals have rudimentary skills, many cannot read well enough to fill out a job application. Without these needed skills, advancement in the workplace is almost impossible. Fortunately, Congress is taking strong steps toward remedying this problem. Presently, Federal adult literacy programs have been funded at over $350 million. Given to States in the form of grants, these funds help provide community-based agencies with the money necessary to reduce and hopefully eliminate illiteracy.

In recognition of the efforts to educate both children and adults, I join in honoring those individuals who dedicate themselves to this noble pursuit. I am pleased to have this opportunity to express my appreciation for their hard work, and encourage my colleagues to demonstrate their support of National Literacy Month.•

PETER KARMANOS, JR.

• Mr. LEVIN. Mr. President, I rise today to recognize the achievements of Mr. Peter Karmanos, Jr., Peter who is being honored on November 4, 1997, by the Detroit B'nai B'rith Foundation with the 1997 Great American Traditions Award.

B'nai B'rith is awarding its highest honor, the Great American Traditions Award, to Peter Karmanos for ". . . his concern for the sick, for his understanding of the abused, and for the quiet, unassuming way he provides for others."

Peter Karmanos is a name with which many people around the Nation are familiar. Some know him because he is the chairman, CEO, and cofounder of Compuware Corp., which is one of the largest independent software vendors in the world. Peter helped to make a small startup company into Michigan's fifth largest exporter, a company with more than 7,000 employees worldwide. Peter has striven to make Compuware a healthy and friendly place to work, providing a company-subsidized cafeteria, day-care center, and wellness center, as well as racquetball and basketball courts at its world headquarters in Farmington Hills, MI.

Others know of Peter Karmanos because he co-owns the Carolina Hurricanes of the National Hockey League and the Plymouth Whalers of the Ontario Hockey League. Peter's passion for hockey has led him to sponsor youth hockey teams, which have given countless young people the opportunity to play the sport Peter loves so much.

Peter Karmanos has earned a reputation as an outstanding leader in his industry and in the world of sports. But he is perhaps most remarkable for the extraordinary support he has given to efforts to make his community a healthier and safer place. In 1995, Peter made the single largest contribution in Michigan history to fight cancer, donating $15 million to establish the Barbara Ann Karmanos Cancer Institute, in honor of his first wife. The institute integrated the efforts of the major cancer-fighting organizations in Detroit—the Michigan Cancer Foundation, the Meyer L. Prentis Comprehensive Cancer Center, the Detroit Medical Center, and Wayne State University. Peter and his wife, Debra, have involved Compuware in the nationwide cancer research fundraiser "A Race for the Cure." Debra and Peter also cochaired the first ever major fundraiser for HAVEN, a shelter for abused women.

Mr. President, Peter Karmanos truly exemplifies the spirit of the B'nai B'rith Great American Traditions Award. His corporate citizenship and dedication to improving the lives of others are truly an inspiration. I hope my colleagues will join with me in offering congratulations and best wishes to Peter Karmanos on this important occasion.•

WELFARE TO WORK

• Mr. ABRAHAM. Mr. President, I rise today to congratulate Ottawa County, MI, for moving all, by which I mean a full 100 percent, of its welfare recipients to work. As in so many other things, Ottawa County should be an inspiration to us all as we seek fundamental welfare reform that will end dependence on government by putting people in real jobs with real futures.

When we debated welfare reform in this Chamber, there were those who said that returning greater welfare policy control to our States and localities would produce only hardship and failure. The naysayers claimed that healthy people on welfare could not or would not take jobs—or that jobs could not be found for them. The naysayers claimed that America's local communities lacked the resources and the compassion to meet the challenge of helping welfare recipients end their dependence on government and work their way into decent jobs and an independent life.

The naysayers claimed it would be cruel to impose work requirements and limit benefits because this would simply hurt the self-esteem of recipients and take food out of the mouths of their children. Compassion, they claimed, dictated the status quo.

Well, Mr. President, Ottawa County has proved the naysayers wrong. The good people of Holland and surrounding communities in Ottawa County have shown what real compassion can do. Real compassion—compassion aimed at helping people rebuild productive, independent lives—works. It has worked in Ottawa County and it can work throughout our country if we will give our States and local communities the freedom they need to put their compassion in action.

Welfare numbers fluctuate and new applications are filed all the time, but Ottawa County last month reached the point where none of its residents was receiving a welfare check without earning some income. How did Ottawa County accomplish this? By expecting more of people. By instituting work requirements. By doing everything necessary to make work available for welfare recipients. And by tapping into the vast reservoir of skill and good will available in our faith-based charities.

Ottawa County is in a particularly good position from which to deal with welfare issues. Its Dutch and German communities are, in the words of one USA Today reporter "infused with conservative values and a strong work ethic." They have produced a thriving economy with a low unemployment rate. They also have opened their arms to recent immigrants, including a significant number of Asians and Hispanics, and have set about, in a determined manner, to give welfare recipients a chance to work. The rare combination of hard work and generosity we in Michigan have come to expect of the people of Ottawa County once again has produced great results.

County officials have contracted to expand subsidized day care for working and job-seeking mothers. The county also hired a firm to provide 24-hour shuttle buses to take welfare recipients to work. And they hired Kan Du Industries, a local picture-frame manufacturer that also runs vocational programs for the disabled, to provide training and help in job placement skills. The county has engaged in a truly comprehensive effort to help people become self-supporting.

The State of Michigan also deserves credit for this accomplishment. Through its Project Zero, Michigan has spent more than $5 million in Ottawa County to provide transportation, mentoring, and day-care services to help welfare recipients get and keep jobs. But this is not just a handout. Those who refuse to comply with work requirements have their welfare checks cut by 25 percent, and face the prospect of losing aid altogether if they do not find work in 3 months.

Mr. President, this policy has worked. It has gotten people off welfare and into jobs. It has changed lives. Particularly effective has been Ottawa County's decision to look to local churches for help. For example, a cover story in USA Today reports on Maria Gonzalez. Miss Gonzalez went through a painful divorce, two out-of-wedlock births, a breakdown, and homelessness, all before she reached the age of 27. Then, according to the newspaper, she "found salvation . . . Through an increasingly common government ally: the church."

Miss Gonzalez receives assistance from the State. State programs helped her find work and continue to give aid in the form of day care and transportation to and from work. But, as a struggling, working mother of four, she has emotional needs as well. That is why Ottawa County paired her with Jan Tuls, a mentor from Calvary Christian Reformed Church. Miss Gonzalez continues to attend her own Pentecostal Church—no one has tried to change her faith. But the guidance she has received from Jan Tuls makes her believe that Miss Tuls is "more of a mom to me than my own."

Or take the case of Sylvia Ornelas. Mrs. Ornelas moved herself and her four children to Holland 6 months ago, in the midst of severe marital difficulties. As a front page story in the Washington Post tells the story, Mrs. Ornelas went to the local welfare office. But instead of simply a check, Holland gave her a community of friends and mentors.

Neighbors took her children shopping for school clothes. Executives for a local manufacturer helped her find work. Bob and Mary Ann Baker bought her a used car to get around. Ginny Weerstra helped her find an apartment. Parishioners at Hardewyk Reformed Christian Church took up a collection to get her phone installed, and when her husband reentered her life, Pastor Andrew Gorter provided the couple with marital counselling.

Or take Gloria Garcia. This 27-year old mother of five young children was homeless and jobless when her caseworker asked if she would like to be coupled with mentors from one of the area churches. Miss Garcia agreed, and parishioners at Hardewyk Christian Reformed Church stepped in to help.

Miss Garcia had lost her job because she had missed too many days of work in caring for her children. Ginny Weerstra, a parishioner at Hardewyk, put a call in to the temporary employment service at which Miss Garcia had worked and asked that she be given a second chance. Now that she had people behind her, willing to sit for her children when necessary, Miss Garcia was rehired, and has been working full time since September. The church also lent Miss Garcia $2,000—since paid back—for bad debts, and sent a parishioner who is an auto mechanic to help her buy a used car. Parishioners even helped Miss Garcia find an affordable home.

And these are not isolated incidents, Mr. President. Literally hundreds of residents of Ottawa County have been helped off welfare by a community committed to helping them rebuild their lives. A community that has been freed to call on its churches, to implement innovative day care, transportation, and job training and placement programs by our welfare reform legislation. A community that knows that neighbors can do far more to help people in need than a simple check from the government.

The close-knit relationships fostered in communities like Holland, Mr. President, are helping welfare recipients find their way to a better life—to stable jobs, stable homes, and the stable habits needed to keep both together. State-fostered training centers can provide job skills, but it takes a more personal relationship to spur the drive to pull one's life together in the way needed to lead a good, settled life.

It is my hope, Mr. President, that other States will follow Michigan's example in sponsoring programs like Project Zero. The result would be a more stable and prosperous America. It is my hope that we will protect and expand our welfare reforms so that Ottawa County can become an example followed by communities all over the country.

Already today, Ottawa is not the only site involved in Project Zero. Five other sites—Alpena, Menominee, and Midland Counties and Romulus and Tireman in Wayne County all have participated in Project Zero. And all have seen significant progress in getting people off of welfare and into good jobs. Since the program began in July 1996, Mr. President, target cases without income have declined by 62 percent. That is, people receiving cash assistance who are not exempt, for example for health reasons, have been targeted to obtain paying jobs, and 62 percent of them have.

This is the kind of progress we need, Mr. President, to repair the damage done to our local communities by too many years of government programs that fed the bodies but starved the souls of struggling Americans. Tough love—work requirements combined with a determined effort to make work possible—can help thousands upon thousands of Americans as they seek a better life. I hope we all will learn from the excellent example provided by Ottawa County. The care and generosity of her people, the grounding of daily life in faith, and traditional values that are so much a part of this wonderful county should inspire us all to greater efforts.

The naysayers are being proved wrong every day. Americans can and will help one another if only the Federal Government will give back the freedom they need to do so.●

CHILD SOLDIERS

● Mr. LEAHY. Mr. President, I would like to bring to the attention of the

Senate a profoundly disturbing report issued by Human Rights Watch on July 18 about the abduction of children by a heavily armed Ugandan rebel group called the Lord's Resistance Army.

While the precise number of children abducted by the Lord's Resistance Army is unknown, estimates indicate that over the past 2 years, 3 to 5 thousand children have escaped from the rebel group. It is reported that an equal number of abducted children remain in captivity and an unknown number have died.

According to Human Rights Watch, abduction is only the beginning of the extreme violence and degradation faced by these children. Often as young as 8 years old, the children are tortured, raped, and sometimes killed by members of the Lord's Resistance Army. They are forced to take part in combat, serving as front line forces in battles against the Ugandan Army and the rebel Sudan People's Liberation Army. The children also tell of being made to beat and kill fellow captives who have been apprehended in their efforts to escape. The physical and emotional trauma resulting from such experiences can cause lifelong problems to those children that do survive.

The abduction of children for military purposes not only violates the provisions of common article 3 of the Geneva conventions of 1949, international standards established by protocol II to the Geneva conventions of 1949, and the Convention of the Rights of the Child, it violates the most basic principles of human morality.

It is reported that the camps established by the Ugandan Government to contend with displaced children and their families are extremely inadequate. Crowded conditions and a lack of food and sanitation facilities have resulted in malnutrition, disease, and death among those who have sought refuge in these camps. Trauma counseling centers for children who have escaped from the rebels are sorely in need of basic supplies and qualified staff. Human Rights Watch reports that the children who are told to leave in order to make room for new arrivals often have nowhere to go and no means of support.

Mr. President, the phenomenon of the child soldier is growing not only in Uganda, but around the world. If a more concerted effort is not made to address the outrageous abuses these children face, Uganda and the rest of the international community will be contending with the consequences far in the future.●

TRIBUTE TO VERMONT EDUCATIONAL TELEVISION

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Vermont Educational Television, or Vermont ETV as it is known, on the occasion of its 30th anniversary. The station, which is a member of the Public Broadcasting Service, will begin to celebrate its long track record of success in October. A series of brief clips will be shown throughout the year to take a look back at some of the more memorable moments in its programming.

Vermont ETV understands that learning is a lifelong process. Through community support, this station is able to provide exceptional programming 24 hours a day with something for every age group. Some of my favorite shows are produced locally by Vermont ETV, presenting a unique perspective for issues and events important to people in the region. The station's impeccable selection of shows provides both an entertainment and educational value for all Vermonters.

Of noteworthy importance is their efforts to address the needs of pre-school children through the Ready To Learn and Early Education Initiative. In close cooperation with the Corporation for Public Broadcasting as well as the Department of Education, these programs are designed to assist children and prepare them for the challenges they will face in school. Vermont ETV is dedicated to providing children, from a wide array of backgrounds, with the opportunity to start off on equal ground.

Vermont ETV is one of the finest examples of a successful community partnership, with almost 78% of its budget financed through donations from the public. I believe that Vermont ETV sets the standard similar stations in other States should strive to emulate. That is why I have been an active supporter for over 20 years. I would like to extend my congratulations and best wishes to Vermont ETV, its employees as well as its supporters, for many more years of continued success.●

CHARISSE TILLMAN AND THE UNITED NATIONS WORLD FOOD PROGRAM

● Mrs. BOXER. Mr. President, on October 13, the United States and more than 150 nations will mark the observance of World Food Day. Every year since 1980, World Food Day has been a time to raise awareness of worldwide hunger, and recognize those who have dedicated their lives to help people in need.

Many of the individuals who are fighting the war against hunger do so through the World Food Program [WFP]. The WFP is the largest international food aid organization in the world. Last year, 45 million people in 84 countries benefited from the 2.2 million tons of food distributed by the WFP.

The southern part of Sudan is an example of a region where the WFP helps alleviate the suffering and illnesses caused by hunger. The situation in the Sudan is extremely desperate and countless children have died due to starvation.

One person who deserves special mention is Charisse Tillman of Culver City, CA. She is an assessment coordinator for the WFP in Sudan. When a village or a community is targeted by the WFP for assistance, Ms. Tillman is one of the first to arrive on the scene. She determines how much food is needed by the community and much it can actually produce. This is extremely important so that WFP does not in any way discourage local agricultural production.

The World Food Program is home to many dedicated people like Charisse Tillman. I hope my colleagues will join me in honoring her and all the unselfish humanitarians at the WFP.●

CELEBRATING HISPANIC HERITAGE MONTH

● Mr. DODD. Mr. President, America's greatest asset is its people, and what makes the American population unlike any other country's is our diversity. No other nation draws strength from so many different cultures, and the American population is a mosaic of the world's many nationalities. Through time, the traditions from these many nations have become part of our own society, enriching our national culture. But our Nation would not be nearly as strong without the contributions of Americans who are of Hispanic descent. In recognition of these contributions, our Nation is currently celebrating Hispanic Heritage Month.

Hispanic Heritage Month provides a wonderful opportunity for us to honor the diverse achievements and contributions of Hispanics in this country. I know that in my home State of Connecticut there have been parades and dances to mark this occasion, as well as readings of works by Hispanic authors at public libraries. All of these events give Hispanic-Americans a deeper appreciation for their roots, and make all Americans more aware of the contributions that Hispanics make to our Nation.

Perhaps the easiest way to understand and appreciate the extent to which Hispanics have become entwined in the American landscape would come from reading the newspaper. On the front page, you could read an article about our Secretary of Energy or the U.S. Ambassador to the United Nations who are both Hispanic. In the business section you could read an article on the Latino Administrator of the Small Business Administration who released a report showing that the number of new businesses owned by Hispanic women has grown at three times the overall rate of business growth. In the arts section you could read about a recital by a Spanish guitarist playing flamenco music at a local theater. The

food section could have an writeup of a new Mexican restaurant that just opened up downtown. And in the Sports section you could read about the Major League Baseball playoffs where every single team has Hispanic players that are responsible for their team's success. In fact, in the Washington Post sports pages you could read coverage of World Cup Soccer, in Spanish.

When we talk about Hispanics and how their contributions make our Nation more vibrant and diverse, it is important that we recognize the great diversity that exists within the Hispanic community itself. Hispanic-Americans come from a variety of nations, ranging from Central America to South America to Europe to the Caribbean.

What unites Hispanic-Americans is a fundamental respect for the traditions and values of their native lands combined with a strong commitment to the American dream. Life in America requires that they strike a balance between embracing their roots and assimilating into this new culture. Reaching this balance can be a struggle, but it is a struggle that will leave them enriched as individuals, while at the same time enriching our Nation.

Hispanic-Americans should take great pride in their heritage, and I am glad that Hispanic Heritage Month gives our Nation an opportunity to honor and celebrate their contributions.•

EXPLANATION OF VOTES ON THE FY98 INTERIOR APPROPRIATIONS BILL

• Mr. ABRAHAM. Mr. President, a few weeks ago the Senate finished consideration of the Fiscal Year 1998 Interior appropriations bill. I would like to speak for a moment on the amendments to this legislation.

One of the first amendments to be considered was offered by Senator BRYAN of Nevada. The Bryan amendment proposed to cut $10 million from the Forest Service's timber roads construction budget and to eliminate the Purchaser Credit Program. As I understand it, Senator BRYAN believes the monies used by the Forest Service to assist with the construction and maintenance of roads used by loggers constitutes a subsidy and he targets it accordingly. Proponents of this program, however, argue that there is no road subsidy because the Forest Service takes possession of the roads after the timber harvest and uses them to fight forest fires, manage the forestlands and provide recreational access.

The Purchaser Credit Program, meanwhile, credits timber companies for the cost to build roads when it bids out a timber sale. The logging company will then build the roads, harvest the timber and pay the Forest Service for the timber minus the cost of the road. Meanwhile, that same company is able to use the credit it received from the first sale to bid on other timber sales. The ability to use this credit toward other timber sales benefit is particularly beneficial to small logging companies with limited capital. Elimination of this program, therefore, would do little to reduce logging on federal lands, but would greatly reduce the ability of small timber companies to bid on timber sales.

Finally, I am concerned that the Bryan amendment could make it even more difficult to conduct timber sales on Forest Service lands. In the past decade, timber sales on federal lands have declined by over two-thirds. Timber harvests on private lands have necessarily increased in order to make up for the lost wood. Private timber harvests have proven insufficient to meet market demand, however, and the shortfalls are increasingly being made up with imported, Canadian lumber. If this trend continues, I fear that the resulting timber shortages will raise the price per board-foot of lumber and increase housing and furniture costs.

Nevertheless, while I opposed the 49–51 vote to table the Bryan amendment, I reserve the right to reconsider my vote on this issue in the future. At this time, I am concerned, but not convinced, that the timber program represents a subsidy to the timber industry. In order to clarify this question, I urge the chairman of the Senate Energy and Natural Resources Committee to hold hearings on this issue.

The Senate next turned to consideration of a Hutchinson amendment to authorize the President to implement the recently announced American Heritage Rivers Initiative subject to Congressional approval. The goal of this amendment was both to ensure that Congress has a say in such designation and define what constitutes a river community.

Proposed by the President, the American Heritage Rivers Initiative seeks to identify polluted rivers which are important to this nation's history and provide a new avenue for funding cleanup efforts. While I believe this amendment was well-intentioned, after careful review I became convinced that the Hutchinson amendment would actually serve to greatly increase the cost for a community to designate their river as an American Heritage site. As long as property owners are assured of their rights, the American Heritage Rivers Initiative could play a significant role in cleaning up some of this nation's most polluted rivers. In order to keep the Heritage River designation a viable option for Michigan's rivers, I voted in support of the motion to table the Hutchinson amendment which passed on a 57–42 vote.

Shortly after dispensing with the Hutchinson amendment, the Senate took up a Kyl Amendment to provide $4.8 million for law enforcement to combat gangs on Indian Tribal Lands. While these gangs have yet to present themselves in Michigan, states such as Arizona are having to confront this problem with increasing frequency. In an effort to address this problem before it becomes a national phenomenon, I supported Senator KYL's amendment. Nevertheless, it was defeated on a 34–64 vote.

The next legislation to be considered was a Bumpers amendment to impose a royalty of five percent of the net return on the profits from mining gold, silver and platinum. In addition, in order to raise funds to pay for the cleanup of abandoned mines, the amendment would also charge a reclamation fee for those mines which have patented their lands.

In his speech on the Senate floor, Senator BUMPERS indicated that the reclamation fee served as a much needed tax on the industry. Shortly after, a point of order was raised which noted that the introduction of a tax measure such as this in the Senate was unconstitutional. A vote was called to determine the merit of the point of order. Whether Senator BUMPERS legislation had merit or not, it was clear to me that the amendment did violate the Constitutional law stating all tax measures must originate in the House of Representatives. I agreed that the Point of Order was well taken and, on a 59–39 vote, the Bumpers amendment was deemed out of order.

Shortly after disposing of the Bumpers Amendment, the Senate turned to final consideration of the FY98 Interior Appropriations bill. I was pleased to support its 93–3 passage and urge the conferees to work as quickly as possible to finalize the conference report before the end of the fiscal year.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the Senator from Utah [Mr. BENNETT] as a member of the Senate Delegation to the North Atlantic Assembly during the First Session of the 105th Congress, to be held in Bucharest, Romania, October 9–14, 1997.

AUTHORITY FOR COMMITTEES TO FILE LEGISLATIVE AND EXECUTIVE REPORTED ITEMS

Mr. STEVENS. Mr. President, I ask unanimous consent that on Wednesday, October 15, committees have from the hours of 11 a.m. to 3 p.m. in order to file legislative or executive reported items.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENVIRONMENTAL POLICY AND CONFLICT RESOLUTION ACT OF 1997

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 142, S. 399.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 399) to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Policy and Conflict Resolution Act of 1997".

SEC. 2. DEFINITIONS.

Section 4 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5602) is amended—

(1) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (9), (7), and (8), respectively;

(2) by inserting after paragraph (3) the following:

"(4) the term 'environmental dispute' means a dispute or conflict relating to the environment, public lands, or natural resources;";

(3) by inserting after paragraph (5) (as redesignated by paragraph (1)) the following:

"(6) the term 'Institute' means the United States Institute for Environmental Conflict Resolution established pursuant to section 7(a)(1)(D);";

(4) in paragraph (7) (as redesignated by paragraph (1)), by striking "and" at the end;

(5) in paragraph (8) (as redesignated by paragraph (1)), by striking the period at the end and inserting "; and"; and

(6) in paragraph (9) (as redesignated by paragraph (1))

(A) by striking "fund" and inserting "Trust Fund"; and

(B) by striking the semicolon at the end and inserting a period.

SEC. 3. BOARD OF TRUSTEES.

Section 5(b) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5603(b)) is amended—

(1) in the matter preceding paragraph (1) of the second sentence, by striking "twelve" and inserting "thirteen"; and

(2) by adding at the end the following:

"(7) The chairperson of the President's Council on Environmental Quality, who shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.".

SEC. 4. PURPOSE.

Section 6 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5604) is amended—

(1) in paragraph (4), by striking "an Environmental Conflict Resolution" and inserting "Environmental Conflict Resolution and Training";

(2) in paragraph (6), by striking "and" at the end;

(3) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(8) establish as part of the Foundation the United States Institute for Environmental Conflict Resolution to assist the Federal government in implementing section 101 of the National Environmental Policy Act of 1969 (42 U.S.C. 4331) by providing assessment, mediation, and other related services to resolve environmental disputes involving agencies and instrumentalities of the United States; and

"(9) complement the direction established by the President in Executive Order 12988 (61 Fed. Reg. 4729; relating to civil justice reform).".

SEC. 5. AUTHORITY.

Section 7(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5605(a)) is amended—

(1) in paragraph (1), by adding at the end the following:

"(D) INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION.—

"(i) IN GENERAL.—The Foundation shall—

"(I) establish the United States Institute for Environmental Conflict Resolution as part of the Foundation; and

"(II) identify and conduct such programs, activities, and services as the Foundation determines appropriate to permit the Foundation to provide assessment, mediation, training, and other related services to resolve environmental disputes.

"(ii) GEOGRAPHIC PROXIMITY OF CONFLICT RESOLUTION PROVISION.—In providing assessment, mediation, training, and other related services under clause (i)(II) to resolve environmental disputes, the Foundation shall consider, to the maximum extent practicable, conflict resolution providers within the geographic proximity of the conflict."; and

(2) in paragraph (7), by inserting "and Training" after "Conflict Resolution".

SEC. 6. USE OF THE INSTITUTE BY A FEDERAL AGENCY.

(a) REDESIGNATION.—Sections 10 and 11 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5608, 5609) are redesignated as sections 11 and 12, respectively.

(b) USE OF THE INSTITUTE.—The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) is amended by inserting after section 9 the following:

"SEC. 10. USE OF THE INSTITUTE BY A FEDERAL AGENCY.

"(a) AUTHORIZATION.—A Federal agency may use the Foundation and the Institute to provide assessment, mediation, or other related services in connection with a dispute or conflict related to the environment, public lands, or natural resources.

"(b) PAYMENT.—

"(1) IN GENERAL.—A Federal agency may enter into a contract and expend funds to obtain the services of the Institute.

"(2) PAYMENT INTO TRUST FUND.—A payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Trust Fund.

"(c) NOTIFICATION AND CONCURRENCE.—

"(1) NOTIFICATION.—An agency or instrumentality of the Federal Government shall notify the chairperson of the President's Council on Environmental Quality when using the Foundation or the Institute to provide the services described in subsection (a).

"(2) NOTIFICATION DESCRIPTIONS.—A notification under paragraph (1) shall include a written description of—

"(A) the issues and parties involved;

"(B) prior efforts, if any, undertaken by the agency to resolve or address the issue or issues; and

"(C) other relevant information.

"(3) CONCURRENCE.—

"(A) IN GENERAL.—In a case that involves a dispute or conflict between 2 or more agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality), an agency or instrumentality of the Federal Government shall obtain the concurrence of the chairperson of the President's Council on Environmental Quality before using the Foundation or Institute to provide the services described in subsection (a).

"(B) INDICATION OF CONCURRENCE OR NONCONCURRENCE.—The chairperson of the President's Council on Environmental Quality shall indicate concurrence or nonconcurrence under subparagraph (A) not later than 20 days after receiving notice of the dispute or conflict.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 12 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (as redesignated by section 6(a)) is amended—

(1) by striking "There are authorized to be appropriated to the Fund" and inserting the following:

"(a) TRUST FUND.—There is authorized to be appropriated to the Trust Fund"; and

(2) by adding at the end the following:

"(b) ADDITIONAL AMOUNTS.—There are authorized to be appropriated to the Trust Fund to carry out this Act an additional amount of—

"(1) $4,250,000 for fiscal year 1998, of which—

"(A) $3,000,000 shall be for capitalization; and

"(B) $1,250,000 shall be for operation costs; and

"(2) $1,250,000 for each of fiscal years 1999 through 2002 for operation costs.".

SEC. 8. CONFORMING AMENDMENTS.

(a) The second sentence of section 8(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5606) is amended—

(1) by striking "fund" and inserting "Trust Fund"; and

(2) by striking "section 11" and inserting "section 12".

(b) Sections 7(a)(6), 8(b), and 9(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5605(a)(6), 5606(b), 5607(a)) are each amended by striking "Fund" and inserting "Trust Fund" each place it appears.

AMENDMENT NO. 1323

(Purpose: To separate funds used for environmental conflict resolution from scholarship funds)

Mr. STEVENS. Mr. President, Senator MCCAIN has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. MCCAIN, proposes an amendment numbered 1323.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 14, strike line 17 and all that follows through page 15, line 3, and insert the following:

SEC. 6. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

(a) REDESIGNATION.—Sections 10 and 11 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5608, 5609) are redesignated as sections 12 and 13 of that Act, respectively.

(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by subsection (a)) is amended by inserting after section 9 the following:

"SEC. 10. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 13(b) and amounts paid into the Fund under section 11.

"(b) EXPENDITURES.—The Foundation shall expend from the Fund such sums as the Board determines are necessary to establish and operate the Institute, including such amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary.

"(c) DISTINCTION FROM TRUST FUND.—The Fund shall be maintained separately from the Trust Fund established under section 8.

"(d) INVESTMENT OF AMOUNTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

"(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

"(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

"(A) on original issue at the issue price; or

"(B) by purchase of outstanding obligations at the market price.

"(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.".

SEC. 7. USE OF THE INSTITUTE BY A FEDERAL AGENCY.

The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by section 6) is amended by inserting after section 10 the following:

"SEC. 11. USE OF THE INSTITUTE BY A FEDERAL AGENCY.

On page 15, strike lines 13 through 16 and insert the following:

"(2) PAYMENT INTO ENVIRONMENTAL DISPUTE RESOLUTION FUND.—A payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Environmental Dispute Resolution Fund established under section 10.

On page 17, line 1, strike "**SEC. 7.**" and insert "**SEC. 8.**".

On page 17, line 2, strike "Section 12" and insert "Section 13".

On page 17, strike lines 11 through 13 and insert the following:

"(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—There are authorized to be appropriated to the Environmental Dispute Resolution Fund established under section 10—

On page 17, line 21, strike "**SEC. 8.**" and insert "**SEC. 9.**".

On page 18, line 4, strike "12" and insert "13(a)".

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1323) was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the committee amendment, as amended, be agreed to; that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment, as amended, was agreed to.

The bill (S. 399), as amended, was read the third time and passed, as follows:

S. 399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Policy and Conflict Resolution Act of 1997".

SEC. 2. DEFINITIONS.

Section 4 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5602) is amended—

(1) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (9), (7), and (8), respectively;

(2) by inserting after paragraph (3) the following:

"(4) the term 'environmental dispute' means a dispute or conflict relating to the environment, public lands, or natural resources;";

(3) by inserting after paragraph (5) (as redesignated by paragraph (1)) the following:

"(6) the term 'Institute' means the United States Institute for Environmental Conflict Resolution established pursuant to section 7(a)(1)(D);";

(4) in paragraph (7) (as redesignated by paragraph (1)), by striking "and" at the end;

(5) in paragraph (8) (as redesignated by paragraph (1)), by striking the period at the end and inserting "; and"; and

(6) in paragraph (9) (as redesignated by paragraph (1))

(A) by striking "fund" and inserting "Trust Fund"; and

(B) by striking the semicolon at the end and inserting a period.

SEC. 3. BOARD OF TRUSTEES.

Section 5(b) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5603(b)) is amended—

(1) in the matter preceding paragraph (1) of the second sentence, by striking "twelve" and inserting "thirteen"; and

(2) by adding at the end the following:

"(7) The chairperson of the President's Council on Environmental Quality, who shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.".

SEC. 4. PURPOSE.

Section 6 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5604) is amended—

(1) in paragraph (4), by striking "an Environmental Conflict Resolution" and inserting "Environmental Conflict Resolution and Training";

(2) in paragraph (6), by striking "and" at the end;

(3) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(8) establish as part of the Foundation the United States Institute for Environmental Conflict Resolution to assist the Federal government in implementing section 101 of the National Environmental Policy Act of 1969 (42 U.S.C. 4331) by providing assessment, mediation, and other related services to resolve environmental disputes involving agencies and instrumentalities of the United States; and

"(9) complement the direction established by the President in Executive Order 12988 (61 Fed. Reg. 4729; relating to civil justice reform).".

SEC. 5. AUTHORITY.

Section 7(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5605(a)) is amended—

(1) in paragraph (1), by adding at the end the following:

"(D) INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION.—

"(i) IN GENERAL.—The Foundation shall—

"(I) establish the United States Institute for Environmental Conflict Resolution as part of the Foundation; and

"(II) identify and conduct such programs, activities, and services as the Foundation determines appropriate to permit the Foundation to provide assessment, mediation, training, and other related services to resolve environmental disputes.

"(ii) GEOGRAPHIC PROXIMITY OF CONFLICT RESOLUTION PROVISION.—In providing assessment, mediation, training, and other related services under clause (i)(II) to resolve environmental disputes, the Foundation shall consider, to the maximum extent practicable, conflict resolution providers within the geographic proximity of the conflict."; and

(2) in paragraph (7), by inserting "and Training" after "Conflict Resolution".

SEC. 6. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

(a) REDESIGNATION.—Sections 10 and 11 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5608, 5609) are redesignated as sections 12 and 13 of that Act, respectively.

(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by subsection (a)) is amended by inserting after section 9 the following:

"SEC. 10. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 13(b) and amounts paid into the Fund under section 11.

"(b) EXPENDITURES.—The Foundation shall expend from the Fund such sums as the Board determines are necessary to establish and operate the Institute, including such amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary.

"(c) DISTINCTION FROM TRUST FUND.—The Fund shall be maintained separately from the Trust Fund established under section 8.

"(d) INVESTMENT OF AMOUNTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

"(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

"(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

"(A) on original issue at the issue price; or

"(B) by purchase of outstanding obligations at the market price.

"(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.".

SEC. 7. USE OF THE INSTITUTE BY A FEDERAL AGENCY.

The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by section 6) is amended by inserting after section 10 the following:

"SEC. 11. USE OF THE INSTITUTE BY A FEDERAL AGENCY.

"(a) AUTHORIZATION.—A Federal agency may use the Foundation and the Institute to provide assessment, mediation, or other related services in connection with a dispute or conflict related to the environment, public lands, or natural resources.

"(b) PAYMENT.—

"(1) IN GENERAL.—A Federal agency may enter into a contract and expend funds to obtain the services of the Institute.

"(2) PAYMENT INTO ENVIRONMENTAL DISPUTE RESOLUTION FUND.—A payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Environmental Dispute Resolution Fund established under section 10.

"(c) NOTIFICATION AND CONCURRENCE.—

"(1) NOTIFICATION.—An agency or instrumentality of the Federal Government shall notify the chairperson of the President's Council on Environmental Quality when using the Foundation or the Institute to provide the services described in subsection (a).

"(2) NOTIFICATION DESCRIPTIONS.—A notification under paragraph (1) shall include a written description of—

"(A) the issues and parties involved;

"(B) prior efforts, if any, undertaken by the agency to resolve or address the issue or issues; and

"(C) other relevant information.

"(3) CONCURRENCE.—

"(A) IN GENERAL.—In a case that involves a dispute or conflict between 2 or more agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality), an agency or instrumentality of the Federal Government shall obtain the concurrence of the chairperson of the President's Council on Environmental Quality before using the Foundation or Institute to provide the services described in subsection (a).

"(B) INDICATION OF CONCURRENCE OR NONCONCURRENCE.—The chairperson of the President's Council on Environmental Quality shall indicate concurrence or nonconcurrence under subparagraph (A) not later than 20 days after receiving notice of the dispute or conflict.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 13 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (as redesignated by section 6(a)) is amended—

(1) by striking "There are authorized to be appropriated to the Fund" and inserting the following:

"(a) TRUST FUND.—There is authorized to be appropriated to the Trust Fund"; and

(2) by adding at the end the following:

"(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—There are authorized to be appropriated to the Environmental Dispute Resolution Fund established under section 10—

"(1) $4,250,000 for fiscal year 1998, of which—

"(A) $3,000,000 shall be for capitalization; and

"(B) $1,250,000 shall be for operation costs; and

"(2) $1,250,000 for each of fiscal years 1999 through 2002 for operation costs.".

SEC. 9. CONFORMING AMENDMENTS.

(a) The second sentence of section 8(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5606) is amended—

(1) by striking "fund" and inserting "Trust Fund"; and

(2) by striking "section 11" and inserting "section 13(a)".

(b) Sections 7(a)(6), 8(b), and 9(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5605(a)(6), 5606(b), 5607(a)) are each amended by striking "Fund" and inserting "Trust Fund" each place it appears.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 65, 281, 289, and 307. I further ask unanimous consent that the nominations be confirmed; that the motions to reconsider be laid upon the table; that any statements relating to the nominations appear at the appropriate place in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NATIONAL CREDIT UNION ADMINISTRATION

Yolanda Townsend Wheat, of Missouri, to be a Member of the National Credit Union Administration Board for the term of six years expiring August 2, 2001.

DEPARTMENT OF STATE

Thomas J. Dodd, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Costa Rica.

Corinne Claiborne Boggs, of Louisiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Holy See.

NATIONAL CREDIT UNION ADMINISTRATION BOARD

Dennis Dollar, of Mississippi, to be a Member of the National Credit Union Administration Board for a term expiring April 10, 2003.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nominations on the Executive Calendar: Nos. 163, 273, and 319. I also ask unanimous consent that the Labor Committee be discharged from further consideration of the nomination of Katharine G. Abraham, to be Commissioner of Labor Statistics, and that the Senate proceed to its consideration. I further ask unanimous consent that the nominations be confirmed; that the motions to reconsider be laid upon the table; that any statements relating to the nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

THE JUDICIARY

Anthony W. Ishii, of California, to be United States District Judge for the Eastern District of California.

DEPARTMENT OF STATE

Susan E. Rice, of the District of Columbia, to be an Assistant Secretary of State.

Martin S. Indyk, of the District of Columbia, to be an Assistant Secretary of State.

DEPARTMENT OF LABOR

Katharine G. Abraham, of Iowa, to be Commissioner of Labor Statistics, United States Department of Labor, for a term of four years.

NOMINATION OF ANTHONY ISHII

Mrs. BOXER. Mr. President, having recommended Anthony W. Ishii to President Clinton to be U.S. District Judge for the Eastern District in California, I am gratified to see his nomination come before the full Senate today, and I urge my colleagues to vote to confirm him.

Anthony Ishii, a third generation Californian, will be the first Asian-American to serve on the Eastern District federal bench. He has had a long and distinguished legal career. Currently, he serves as a Municipal Court Judge for the Central Valley Municipal Court in Fresno, California.

For ten years prior to his service on the Municipal Court bench, he served as a Justice Court Judge for the Parlier-Selma Judicial District in Fresno County. He was initially appointed to the Justice Court position by the Fresno County Board of Supervisors, and has since stood for election

three time. He won his first reelection and has been unopposed in each of the two subsequent ones.

Judge Ishii received his Juris Doctor from Boalt Hall, the law school at the University of California, Berkeley. Early in his career, he was a Deputy City Attorney in Sacramento and a Deputy Public Defender for the County of Fresno. Prior to his service on the bench, he was an attorney in private practice. He has extensive trial experience, handling over 70 jury trials before becoming a judge.

For years, Judge Ishii has been involved in numerous professional activities. He was appointed to the prestigious California Judicial Council by California Supreme Court Chief Justice Malcolm Lucas. Additionally, he served as a member of the Judicial Council Advisory Committee on the Administration of Justice in the rural counties for three years. He served from 1991 to 1993 on the Commission on the Future of the California Courts. From 1983 to 1993, he was a member of the Fresno County Justice Court Judges Association and served a term as president of the organization.

Judge Ishii is also a leader in his community. He is a member of the Japanese American Citizens League, where he has served in numerous capacities for over nineteen years. His community service includes the Selma Public Education Foundation, the Selma Hospital Foundation, the Selma Delinquency Prevention Committee, and service on the Board of Valley Public Television. He has been a member of the California Small Business Development Board, the California Task Force on Rural Economy, and the Asian and Pacific Islander Advisory Committee.

Judge Ishii has received numerous letters illustrating his broad, bipartisan support. The Sheriff of Fresno County, Steve Magarian, who has known Judge Ishii for 15 years, says he "has earned the deep respect from law enforcement".

The Chief of Police, William Eldridge, of the Livingston Police Department says Judge Ishii is "highly respected by both the citizens of the community and law enforcement."

The President of the Merced County Sheriff's Employee Association, Brian Miller, writes Ishii "has a strong commitment to law enforcement, and has the background and knowledge that makes him an invaluable asset to the Federal Judicial System."

The President of the 700-member Fresno Police Officers Association, Larry Bertao, says that Judge Ishii has an "outstanding reputation among local law enforcement . . . and will serve his community in an effective and distinguished manner as a federal court judge."

The President of the Fresno Deputy Sheriffs Association, Victor Wisemer, says Judge Ishii is "well-respected by his colleagues, has a strong commitment to quality law enforcement, and is equitable in the decisions he renders."

Judge Ishii has the unanimous support of the Fresno County Board of Supervisors, an all-Republican Board. Their letter states that Ishii is "recognized for his exemplary judicial tenure and has universal community support."

The President of the Fresno Chamber of Commerce, Doug Davidian, says he is "well respected by law enforcement, the judiciary and by the legal and business communities."

I strongly believe Judge Ishii will make an outstanding addition to the federal bench. I believe his intelligence, judicial temperament, broad experience, professional and community service, and deep commitment to justice qualify him to serve on the federal bench with great distinction.

I am very proud to have had the opportunity to recommend Anthony Ishii for the Federal District Court, and I urge my colleagues to vote to approve his nomination.

Mr. LEAHY. Mr. President, I am delighted that the majority leader had decided to take up the nomination of Judge Anthony W. Ishii to be a United States District Judge for the Eastern District of California. Judge Ishii is an outstanding nominee. He is currently a municipal court judge in Fresno, California. The ABA found him to be well-qualified, its highest rating.

We first received Anthony Ishii's nomination on February 12, 1997, almost eight months ago. He had a confirmation hearing on June 25, where he was strongly supported by both California Senators. He was favorably reported by the Judiciary Committee back on July 10. There has been no explanation or justification for the delay in bringing this nomination forward from the Senate calendar. I am sure that Judge Ishii and his family are happy that their long wait is now over. I congratulate them and look forward to his service on the District Court.

Unfortunately, the Republican leadership has chosen again to skip over the nomination of Margaret Morrow. In spite of the adoption of the Wyden-Grassley amendment earlier this month, an amendment that calls upon Senators to come forward within two days of exercising a hold to identify themselves, Margaret Morrow's nomination has been the subject of an anonymous and mysterious hold over a period of two years and most recently since being reported on June 12, almost four months ago.

On September 29 Senator HATCH reiterated his continuing support for the nomination of Margaret Morrow and announced that he will vote for her. He said: "I have found her to be qualified and I will support her. Undoubtedly, there will be some who will not, but she deserved to have her vote on the floor. I have been assured by the majority leader that she will have her vote on the floor. I intend to argue for and on her behalf."

I have looked forward to that debate since June 12. I ask, again, why not now, why not today, why not this week? This is a nomination that has been pending for far too long and that has been stalled here on the floor twice over two years without justification. Last year this nomination was unanimously reported by the Judiciary Committee and was left to wither without action for over three months. This year, the Committee again reported her nomination favorably and it has been pending for another four months. There has been no explanation for this delay and no justification. This good woman does not deserve this shameful treatment.

Meanwhile, the people served by the District Court for the Central District of California continue to suffer the affects of this persistent vacancy—cases are not heard, criminal cases are not being tried. This is one of more than 28 vacancies that have persisted for so long that they are classified as "judicial emergency" vacancies by the Administrative Office of the United States Courts.

When the President spoke out in his national radio address, he asked that the delay in the consideration of judicial nominees come to an end. Unfortunately, the delay continues with respect to too many nominations, including that of Margaret Morrow.

NOMINATION OF KATHARINE G. ABRAHAM

Mr. MOYHIHAN. Mr. President, the record should reflect that there is a growing body of evidence that the Consumer Price Index, as complied by the Bureau of Labor Statistics, is not an accurate measure of the cost of living. The BLS itself so states in its brochure, "Understanding the Consumer Price Index: Answers to Some Questions," which in answer to the question "Is the CPI a cost of living index?" says "No, although it frequently and mistakenly is called a cost of living index."

That the CPI is an upward-biased measure of changes in the cost of living is not in dispute. The Advisory Commission to Study the Consumer Price index appointed by the Finance Committee in 1995 concluded as follows:

* * * The Commission's best estimate of the size of the upward bias looking forward is 1.1 percentage points per year. The range of plausible values is 0.8 to 1.6 percentage points per year.

In testimony on February 11, 1997 before the Finance Committee, Commissioner Abraham herself acknowledged that the CPI "gives you an upper bound on what is happening to the cost of living."

I would also note that Dr. David Wilcox, who was recently nominated to

be Assistant Secretary of the Treasury for Economic Policy, has reached conclusions remarkably similar to those of the Boskin Commission. While serving as Senior Economist at the Federal Reserve Board, Dr. Wilcox and Matthew Shapiro, Professor of Economics at the University of Michigan, published a study entitled "Mismeasurement in the Consumer Price Index: An Evaluation" in which they wrote:

* * * we [find] the overall bias in the CPI at just under 1.0 percentage point per year. We also estimate that the [range] lies between 0.6 percentage point per year and 1.5 percentage points per year.

So the issue is not whether the CPI an accurate measure of changes in the cost-of-living, but rather how large is the upward bias?

Yet despite evidence from experts both inside and outside the government, last spring we began to hear repeated the argument that questioning the accuracy of the Consumer Price Index as a measurement of the cost of living somehow constituted political interference with the BLS. I hope that in her second term, Commissioner Abraham will help to dispel this perception by working closely with price experts inside and outside the government. For as Federal Reserve Chairman Alan Greenspan said in testimony before the Finance Committee on January 30, 1997:

* * * assuming zero for the remaining bias is the political fix. On this issue we should let evidence, not politics, drive policy.

Policies based on inaccurate statistics can have dramatic consequences for the economy. For example, overstating the increase in the cost of living reduces the growth in real wages. With an overstated cost of living measure, it appears that real hourly wages have been stagnant for the past 30 years. Yet with a one percentage point correction, it turns out that real hourly earnings have actually increased by 35 percent.

It is important that our Bureau of Labor Statistics, which is comprised of many superb professionals, even so be humble enough to recognize that it may not be the repository of all expertise on this subject. There are other views, and they need to be considered carefully by the BLS. Commissioner Abraham would do well to be mindful of this in her second term.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL MAMMOGRAPHY DAY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 136, submitted today by Senators BIDEN, MACK, ABRAHAM and others.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. 136) designating October 17, 1997, as "National Mammography Day."

The Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. 136) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 136

Whereas according to the American Cancer Society, in 1997, 180,200 women will be diagnosed with breast cancer and 43,900 women will die from this disease;

Whereas in the decade of the 1990's, it is estimated that about 2,000,000 women will be diagnosed with breast cancer, resulting in nearly 500,000 deaths;

Whereas the risk of breast cancer increases with age, with a woman at age 70 having twice as much of a chance of developing the disease as a woman at age 50;

Whereas at least 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of earlydetection of breast cancer, and early detection is the key to saving lives;

Whereas mammograms can reveal the presence of small cancers up to 2 years or more before a regular clinical breast examination or breast self-examination (BSE), saving as many as 30 percent more lives;

Whereas the medicare program will cover mammograms on an annual basis for women over 39 years of age, beginning in January, 1998; and

Whereas 47 States have passed legislation requiring health insurance companies to cover mammograms in accordance with recognized screening guidelines: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 17, 1997, as "National Mammography Day"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

Mr. STEVENS. Mr. President, I might state that all of those items were cleared by the Democratic side, as well as the Republican side of the Senate.

ORDERS FOR MONDAY, OCTOBER 20, 1997

Mr. STEVENS. Mr. President, I announce that when the Senate adjourns this evening, it will reconvene under the provisions of House Concurrent Resolution 169 at 12 noon on Monday, October 20. I ask unanimous consent that immediately following the prayer, the routine requests through the morning hour be granted; and that there then be a period for the transaction of morning business until the hour of 2:30 p.m., with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. STEVENS. Mr. President, the Senate will not be in session tomorrow, Friday, October 10. The Senate will reconvene on Monday, October 20, and at 2:30, the Senate will resume consideration of the ISTEA legislation. However, no votes will occur during the session of the Senate on Monday, October 20. Votes could occur as early as the morning of Tuesday, October 21. The continuing resolution expires on October 23. Therefore, the Senate will be considering available appropriations conference reports throughout the week the Senate returns from the Columbus Day recess.

AUTHORITY FOR COMMITTEES TO FILE REPORTED LEGISLATION

Mr. STEVENS. Mr. President, I ask unanimous consent that committees have until 7 p.m. this evening to file reported legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, OCTOBER 20, 1997

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of House Concurrent Resolution 169, until 12 noon on Monday, October 20, 1997.

Thereupon, the Senate, at 6:57 p.m., adjourned until Monday, October 20, 1997, at 12 noon.

NOMINATIONS

EXECUTIVE OFFICE OF THE PRESIDENT

Executive nominations received by the Senate October 9, 1997:

ROBERT S. WARSHAW, OF NEW YORK, TO BE ASSOCIATE DIRECTOR FOR NATIONAL DRUG CONTROL POLICY, VICE ROSE OCHIE, RESIGNED.

DEPARTMENT OF STATE

MARY MEL FRENCH, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF OF PROTOCOL, AND TO HAVE THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE.

ROBERT T. GREY, JR., OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. REPRESENTATIVE TO THE CONFERENCE ON DISARMAMENT.

DAVID B. HERMELIN, OF MICHIGAN, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO NORWAY.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

HARRIET C. BABBIT, OF ARIZONA, TO BE DEPUTY ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE CAROL J. LANCASTER, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

RICHARD B. HOWARD, OF CALIFORNIA

U.S. INFORMATION AGENCY

ROBERT JAMES BIGART, JR., OF NEW YORK
SUE K. BROWN, OF TEXAS
CATHY TAYLOR CHIKES, OF VIRGNIA
RENATE ZIMMERMAN COLESHILL, OF FLORIDA
JAMES R. CUNNINGHAM, OF VIRGINIA
THOMAS E. FACHETTI, OF PENNSYLVANIA
LINDA GRAY MARTINS, OF VIRGINIA
NIKITA GRIGOROVICH-BARSKY, OF MARYLAND
SUSAN M. HEWITT, OF VIRGINIA
JOHN D. LAVELLE, JR., OF VIRGINIA
JO ANN QUINTON-SAMUELS, OF FLORIDA
VINCENT P. RAIMONDI, OF NEW YORK
RAYMOND E. SIMMERSON, OF MARYLAND
ROBERT D. SMOOT, OF FLORIDA
CAROL J. URBAN, OF THE DISTRICT OF COLUMBIA
PATRICIA L. WALLER, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CAREY N. GORDON, OF FLORIDA
CECIL DUNCAN MC FARLAND, OF KENTUCKY
STEPHEN HUXLEY SMITH, OF NEW HAMPSHIRE

U.S. INFORMATION AGENCY

ERGIBE A. BOYD, OF MARYLAND
TIMOTHY JAMES DODMAN, OF NEBRASKA
SAMUEL G. DURRETT, OF VIRGINIA
STANLEY E. GIBSON, OF OHIO
PAUL LAWRENCE GOOD, OF CALIFORNIA
GAYLE CARTER HAMILTON, OF TEXAS
BETTY DIANE JENKINS, OF VIRGINIA
GERALD K. KANDEL, OF NEVADA
MARY A. MC CARTER-SHEEHAN, OF KANSAS
MARGARET C. OSOSKY, OF THE DISTRICT OF COLUMBIA
DELORIS D. SMITH, OF MARYLAND
MICHELE ISA SPRECHMAN, OF NEW YORK

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

TIMOTHY H. ANDERSON, OF VIRGINIA
JOHN A. BEED, OF MARYLAND
PETER R. HUBBARD, OF CALIFORNIA
GEORGE R. JIRON, JR., OF NEW MEXICO
CYNTHIA DIANE PRUETT, OF TEXAS
GLENN ROY ROGERS, OF TEXAS
DAVID P. YOUNG, OF VIRGINIA

U.S. INFORMATION AGENCY

MIRIAM W. ADOFO, OF MARYLAND
SANDRA L. DAVIS, OF MARYLAND
BARBARA J. DEJOURNETTE, OF NORTH CAROLINA
LONNIE KELLEY, JR., OF TEXAS
DIANE M. LACROIX, OF NEW HAMPSHIRE
BARBARA L. MC CARTHY, OF VIRGINIA

DEPARTMENT OF STATE

RHONDA J. WATSON, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

JOSEPH M. CARROLL, OF THE DISTRICT OF COLUMBIA
DAVID N. KIEFNER, OF PENNSYLVANIA

DEPARTMENT OF STATE

STEPHEN C. ANDERSON, OF MISSOURI
ALINA ARIAS-MILLER, OF INDIANA
ROBERT LLOYD BATCHELDER, OF COLORADO
ROBERT STEPHEN BEECROFT, OF CALIFORNIA
DREW GARDNER BLAKENEY, OF TEXAS
RICHARD C. BOLY, OF WASHINGTON
KATHERINE ANN BRUCKER, OF CALIFORNIA
MARILYN JOAN BRUNO, OF FLORIDA
SALLY A. COCHRAN, OF FLORIDA
STEPHEN A. DODSON, OF TEXAS
CHRISTINA DOUGHERTY, OF VIRGINIA
PATRICK MICHAEL DUNN, OF FLORIDA
SAMUEL DICKSON DYKEMA, OF WISCONSIN
RUTA D. ELVIKIS, OF TEXAS
LISA B. GREGORY, OF PENNSYLVANIA
KATHLEEN M. HAMANN, OF WASHINGTON
JEFFREY J. HAWKINS, OF CALIFORNIA
LISA ANN HENDERSON HARMS, OF PENNSYLVANIA
JOHN ROBERT HIGI, OF FLORIDA
ROBYN A. HOOKER, OF FLORIDA
RAYMOND ERIC HOTZ, OF KENTUCKY
JAMES J. HUNTER, OF NEW JERSEY
MARY B. JOHNSON, OF INDIANA
WENDY MEROE JOHNSON, OF CALIFORNIA
LISA S. KIERANS, OF NEW JERSEY
DOUGLAS A. KONEFF, OF FLORIDA
EVAN A. KOPP, OF CALIFORNIA
KIMBERLY CONSTANCE KRHOUNEK, OF NEBRASKA
DANIEL J. KRITENBRINK, OF VIRGINIA
TIMOTHY P. LATTIMER, OF CALIFORNIA
SUSAN M. LAUER, OF FLORIDA
JESSICA SUE LEVINE, OF MASSACHUSETTS
ALEXIS F. LUDWIG, OF CALIFORNIA
NICHOLAS JORDAN MANRING, OF WASHINGTON
PAUL OVERTON MAYER, OF KANSAS
JAMES A. MC NAUGHT, OF FLORIDA
STEPHEN HOWARD MILLER, OF MARYLAND
MARGARET GRAN MITCHELL, OF MARYLAND
JAMES D. MULLINAX, OF WASHINGTON
NELS PETER NORDQUIST, OF MONTANA
MARK BRENDAN O'CONNOR, OF FLORIDA
STUART EVERETT PATT, OF CALIFORNIA
BETH A. PAYNE, OF VIRGINIA
JOAN A. POLASCHIK, OF VIRGINIA
ASHLEY R. PROFAIZER, OF TEXAS
JOHN ROBERT RODGERS, OF VIRGINIA
PAUL F. SCHULTZ III, OF VIRGINIA
DONALD MARK SHEEHAN, OF VIRGINIA
ROGER A. SKAVDAHL, OF TEXAS
PHILIP JOHN SKOTTE, OF NEW YORK
ANTON KURT SMITH, OF ARKANSAS
WILLARD TENNEY SMITH, OF TEXAS
SEAN B. STEIN, OF UTAH
LESSLIE C. VIGUERIE, OF VIRGINIA
PEGGY JEANNE WALKER, OF ARIZONA
BENJAMIN WEBER, OF NEW JERSEY
KENNETH M. WETZEL, OF VIRGINIA
STEPHANIE TURCO WILLIAMS, OF TEXAS
MARGRET G. WOODBURN, OF MINNESOTA
BARBARA ANN BOOTES YODER, OF FLORIDA

U.S. INFORMATION AGENCY

ELIZABETH A. CEMAL, OF VIRGINIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ROBERT LESLIE BARCO, OF VIRGINIA
JENNIFER BARLAMENT, OF VIRGINIA
ROBERT H. BATES, OF VIRGINIA
MICHAEL RICHARD BELANGER, OF MARYLAND
RALPH W. BILD, OF VIRGINIA
TIMOTHY HAYES BOUCHARD, OF VIRGINIA
NANCY E. BONE, OF VIRGINIA+
MARY SUSAN BRACKEN, OF VIRGINIA
MARK B. BURNETT, OF CALIFORNIA
GERALD CHEYNE, OF CONNECTICUT
KAREN KYUNG WON CHOE, OF NEW YORK
LYNN M. CLEMONS, OF VIRGINIA
KENT E. CLIZBE, OF VIRGINIA
MICHAEL A. COLLIER, OF MARYLAND
TIMOTHY EDWARD CORCORAN, OF VIRGINIA
GLENN A. CORN, OF VIRGINIA
WHITNEY ANTHONY COULON, III, OF VIRGINIA
ERIN JAMES COYLE, OF VIRGINIA
ALLEN BRUCE CRAFT, OF MARYLAND
DANIEL T. CROCKER, OF NEW CAROLINA
ANNE ELIZABETH DAVIS, OF GEORGIA
SHIRLEY NELSON DEAN, OF VIRGINIA
CHRISTOPHER JAMES DEL CORSO, OF NEW YORK
LIBBURN S. DESKINS III, OF MISSOURI
JOSEPH MARCUS DETRANI, OF VIRGINIA
STEWART TRAVIS DEVINE, OF FLORIDA
PETER M. DILLON, OF MARYLAND
MARK DUANE DUDLEY, OF VIRGINIA
ELIZABETH A. DUNCAN, OF ILLINOIS
ELLEN M. DUNLAP, OF FLORIDA
IAN FALLOWFIELD DUNN, OF VIRGINIA
EDITH D. EARLY, OF VIRGINIA
CYNTHIA C. ECHEVERRIA, OF ILLINOIS
DAVID ABRAHAM EL-HINN, OF CALIFORNIA
G. MICHAEL EPPERSON, OF MARYLAND
ELIZABETH A. FERNANDEZ, OF VIRGINIA
ROMULO ANDRES GALLEGOS, OF ILLINOIS
JAMES GARRY, OF THE DISTRICT OF COLUMBIA
HEATHER GIFFORD, OF THE DISTRICT OF COLUMBIA
JAIME A. GONZALEZ, OF VIRGINIA
ALISON E. GRAVES, OF VIRGINIA
HARRIET ANN HALBERT, OF VIRGINIA
DONOVAN JOHN HALL, OF VIRGINIA
RUTH I. HAMMEL, OF OHIO
ROBERT W. HENRY, OF VIRGINIA
ELLEN MACKEY HOFFMAN, OF VIRGINIA
DERECK J. HOGAN, OF NEW JERSEY
MIMI M. HUANG,OF MICHIGAN
GREGORY H. JESSEMAN, OF VIRGINIA
ANTHONY L. JOHNSON, OF VIRGINIA
JOCELYN HERNRIED JOHNSTON, OF MARYLAND
LAUREL M. KALNOKY, OF VIRGINIA
MARGARET LYNN KANE, OF OHIO
LAURA VAUGHN KIRK, OF VIRGINIA
TAN VAN LE, OF MARYLAND
GABRIELLE T. LEGEAY, OF VIRGINIA
MARK EDWARD LEWIS, OF VIRGINIA
MARC DANIEL LIEBERMANN, OF MARYLAND
MARVIN SUTTLES MASSEY III, OF VIRGINIA
DOUGLAS JOHN MATHEWS, OF VIRGINIA
MICHAEL H. MATTEI, OF VIRGINIA
TIMOTHY JOHN MC CULLOUGH, OF VIRGINIA
CHRISTOPHER ANDREW MC ELVEIN, OF VIRGINIA
VICTOR MANUEL MENDEZ, OF VIRGINIA
ANDREW BENJAMIN MITCHELL, OF TEXAS
TREVOR W. MONROE, OF VIRGINIA
STEPHEN B. MUNN, OF ALABAMA
BRIAN PATRICK MURPHY, OF VIRGINIA
PHILIP T. NEMEC, OF WASHINGTON
PAUL FRANCIS CROCKER NEVIN, OF FLORIDA
STEPHEN P. NEWHOUSE, OF CALIFORNIA
DENISE E. NIXON, OF VIRGINIA
MAI-THAO T. NGUYEN, OF TEXAS
LAWRENCE E. O'CONNELL, OF VIRGINIA
ELIZABETH ANNE O'CONNOR, OF VIRGINIA
MICHAEL T. OSWALD, OF CONNECTICUT
KATHLEEN G. OWEN, OF VIRGINIA
TODD HAROLD PAVELA, JR., OF VIRGINIA @
RICHARD T. PELLETIER, OF MARYLAND
DAVID M. RABETTE, OF VIRGINIA
DEBORAH L. REYNOLDS, OF VIRGINIA
PHILIP C. REYNOLDS, OF VIRGINIA
SARA DARROCH ROBERTSON, OF VIRGINIA
WYLMA CHRISTINA SAMARANAYKE ROBINSON, OF VIRGINIA
ELBERT GEORGE ROSS, OF VIRGINIA
FRANCES S. ROSS, OF VIRGINIA
JAMES P. SANCHEZ, OF VIRGINIA
STELIANOS GEORGE SCARLIS, OF VIRGINIA
JONATHAN ANDREW SCHOOLS, OF TEXAS
NICHOLAS E. T. SIEGEL, OF CONNECTICUT
HOWARD SOLOMON, OF KANSAS
ANNE R. SORENSEN, OF NEW YORK
SUSAN SCOPETSKI SYNDER, OF VIRGINIA
DANA EDWARD SOTHERLUND, OF VIRGINIA
MICHAEL CHRISTOPHER SPECKHARD, OF VIRGINIA
BONNIE PHILLIPS SPEROW, OF VIRGINIA
DAVID T. STADELMYER, OF VIRGINIA
WILLIAM M. SUSONG, OF VIRGINIA
MARY G. THOMPSON, OF VIRGINIA
MELANIE F. TING, OF VIRGINIA
ALEXANDER TOUNGER, OF VIRGINIA
W. JEAN WATKINS, OF FLORIDA
SONYA ANJALI ENGSTROM WATTS, OF IOWA
RICHARD MARC WEISS, OF VIRGINIA
STEVEN J. WHITAKER, OF FLORIDA
AUSTIN ROGER WIEHE, OF VIRGINIA
SHELLY MONTGOMERY WILLIAMS, OF THE DISTRICT OF COLUMBIA
ERIC MARSHALL WONG, OF CALIFORNIA
ROBERT P. WOODS, OF VIRGINIA

FOR APPOINTMENT AS CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE JULY 12, 1994:

U.S. INFORMATION AGENCY

SUSAN ZIADEH, OF WASHINGTON

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 16, 1994:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

KENNETH ALAN DUNCAN, OF CONNECITCUT

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE NOVEMBER 28, 1993:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

RICHARD T. MILLER, OF TEXAS

EXECUTIVE OFFICE OF THE PRESIDENT

RICHARD W. FISHER, OF TEXAS, TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE CHARLENE BARSHEFSKY.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

THOMAS H. FOX, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE HENRIETTA HOLSMAN FORE.

DEPARTMENT OF THE INTERIOR

KEVIN GOVER, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE ADA. E. DEER, RESIGNED.

SMALL BUSINESS ADMINISTRATION

FRED P. HOCHBERG, OF NEW YORK, TO BE DEPUTY ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION, VICE GINGER EHN LEW.

U.S. INFORMATION AGENCY

CARL SPEILVOGEL, OF NEW YORK, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 1999. (REAPPOINTMENT)

DEPARTMENT OF THE TREASURY

DONALD C. LUBICK, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE LESLIE B. SAMUELS, RESIGNED.

DEPARTMENT OF LABOR

IDA L. CASTRO, OF NEW YORK, TO BE DIRECTOR OF THE WOMEN'S BUREAU, DEPARTMENT OF LABOR, VICE KAREN BETH NUSSBAUM, RESIGNED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JOY HARJO, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2002, VICE WILLIAM E. STRICKLAND, JR., TERM EXPIRED.

IN THE COAST GUARD

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 14, UNITED STATES CODE, SECTION 729:

To be rear admiral

REAR ADM. (LH) J. TIMOTHY RIKER, x...

To be rear admiral (lower half)

CAPT. CARLTON D. MOORE, x...

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, UNITED STATES CODE, SECTION 271:

To be rear admiral

REAR ADM. (1H) JOSEPH J. MCCLELLAND, JR., x...
REAR ADM. (1H) JOHN L. PARKER, x...
REAR ADM. (1H) PAUL J. PLUTA, x...
REAR ADM. (1H) THAD W. ALLEN, x...

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, UNITED STATES CODE, SECTION 271:

To be rear admiral (lower half)

CAPT. DAVID S. BELZ, x...
CAPT. JAMES S. CARMICHAEL, x...
CAPT. ROY J. CASTO, x...
CAPT. JAMES A. KINGHORN, x...
CAPT. ERROL M. BROWN, x...

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5035:

To be admiral

VICE ADM. DONALD L. PILLING, x...

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. CONRAD C. LAUTENBACHER, x...

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT AS PERMANENT PROFESSORS OF THE U.S. NAVY MILITARY ACADEMY IN THE GRADES INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 4333:

To be colonel

RUSSELL D. HOWARD, x...
ANDRE H. SAYLES, x...

To be lieutenant colonel

STEPHEN J. RESSLER, x...

CONFIRMATIONS

Executive nominations confirmed by the Senate October 9, 1997:

NATIONAL CREDIT UNION ADMINISTRATION

YOLANDA TOWNSEND WHEAT, OF MISSOURI, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF 6 YEARS EXPIRING AUGUST 2, 2001.

DEPARTMENT OF STATE

SUSAN E. RICE, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE.

THOMAS J. DODD, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COSTA RICA.

CORINNE CLAIBORNE BOGGS, OF LOUISIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HOLY SEE.

NATIONAL CREDIT UNION ADMINISTRATION BOARD

DENNIS DOLLAR, OF MISSISSIPPI, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING APRIL 10, 2003.

DEPARTMENT OF STATE

MARTIN S. INDYK, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF LABOR

KATHARINE G. ABRAHAM, OF IOWA, TO BE COMMISSIONER OF LABOR STATISTICS, UNITED STATES DEPARTMENT OF LABOR, FOR A TERM OF 4 YEARS.

THE JUDICIARY

ANTHONY W. ISHII, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA.

EXTENSIONS OF REMARKS

THE WAR ON DRUGS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. GINGRICH. Mr. Speaker, I want to encourage my colleagues to read the following article from the Atlanta Journal Constitution dated September 24, 1997. I believe this is a blatant example of how our country has lost some major battles with the war on drugs, but the war itself is not lost. To many people it's become painfully apparent in the last few years the war on drugs has been failing. America has spent millions of dollars on efforts to rid our society of the ravages of illegal drugs, only to find ourselves in a situation that's worse than when we began. We must now have the resolve and fortitude to carry the fight to the dealers and traffickers themselves.

This is exactly why I introduced H.R. 41, the Drug Importer Death Penalty Act, to assist in curbing the quantities of drugs entering the United States. The legislation would call for a mandatory life sentence if someone is found to have brought a commercial quantity of drugs into the United States. On the second offense, a sentence of death would be imposed. It is time for us to send a serious and unmistakable message to those individuals who are profiting from destroying lives and irrevocably chaining our youth to the tragedy of illegal drugs. We will not tolerate the use of illegal drugs, and furthermore we will defend our country from those who wish to enter our borders with the intent to distribute these drugs that are poison to our society.

SUITCASES PACKING HEROIN

(By Ron Martz)

The second major heroin seizure in Atlanta in less than a month is raising concerns among law enforcement officials that the city has become a target for organizations trafficking in the drug.

Nine pounds of heroin believed to have come from Pakistan were discovered hidden in the linings of two large suitcases at Hartsfield International Airport on Monday night, bringing to 22 pounds the amount of the drug found in recent raids, the Drug Enforcement Administration announced Tuesday.

Police allegedly found 13 pounds of heroin from Thailand in the Atlanta apartment of John McGrath, 53, a native of Australia, on August 28. McGrath and three others have been arrested and charged with running an international heroin trafficking ring that brought the drug into Atlanta.

Kashis Rashid Rana, 22, of Kennesaw, was arrested and charged in Monday's seizure at the airport, which DEA officials said was worth about $4 million.

The street value for a kilogram (2.2 pounds) of heroin can range from $70,000 to $200,000, DEA officials said.

The two seizures are not related, according to John Andrejko, head of the Atlanta office of the DEA, who called them "two of the largest ever" in the state.

"But what we're seeing in Atlanta is indicative of what we're seeing in the larger cities across the country," he said. "The seizures are getting larger and the purity is going up."

McGrath pleaded not guilty Tuesday and was released on $50,000 bond.

IN PRAISE OF SGT. KEITH NOWLIN

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. HALL of Texas. Mr. Speaker, one of my constituents, Army Sgt. 1st Class Keith H. Nowlin, son of William H. and Mary E. Nowlin of Ivanhoe, TX, was recently involved in specialized military training that is deserving of our recognition.

Sergeant Nowlin was part of an elite group of soldiers from Fort Hood, TX, who traveled to the Army's National Training Center in Fort Irwin, CA, to test the world's most advanced military technology that could transform the battlefield of the 21st century. He is a member of the 4th Infantry Division's 1st Brigade, a unit charged with learning and testing new software, computers and weapon systems that could be used in refitting conventional tanks, artillery equipment, air defense weapon systems, infantry fighting vehicles, and attack helicopters.

The unit traveled to California's Mojave Desert to do battle with a highly trained opposition unit called the OPFOR, which is made up of some of the Army's best soldiers trained in former Soviet Union tactics and using Soviet-style equipment. Nowlin and his unit used their new technology in a series of mock battles to see how well they performed against the OPFOR. Nowlin was a platoon sergeant in this high-tech battle. His training included two years of classes and field testing of over 70 different pieces of high tech equipment and software packages. The information gathered from this exercise is being processed to help determine what systems work and what do not.

Mr. Speaker, I am proud that my congressional district is represented in this type of training, which is so important to our strategic defense planning. The future security of our great Nation will depend on the training and expertise of our enlisted men and women as well as advanced technologies such as those being tested in the deserts of California. I commend Sergeant Nowlin's efforts and the efforts of all those in our military who are dedicating their lives and their careers to the defense of our Nation. As we adjourn today, I ask my colleagues to join me in expressing to them our gratitude and our support, and to let Sergeant Nowlin know that we are very proud of his accomplishments of the past—and of his service today and in the future.

INTRODUCTION OF H.R. 2635—THE HUMAN RIGHTS INFORMATION ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. LANTOS. Mr. Speaker, yesterday with a number of our distinguished colleagues in the House, I introduced H.R. 2635, the Human Rights Information Act. Joining me to introduce this bill were my colleagues CONSTANCE MORELLA of Maryland, JAMES MCGOVERN of Massachusetts, ELIZABETH FURSE of Oregon, JOHN LEWIS of Georgia, JAMES OBERSTAR of Minnesota, MARTIN SABO also of Minnesota, JOSE SERRANO of New York, BERNIE SANDERS of Vermont, and MARTIN MEEHAN of Massachusetts. Our legislation is a companion bill to S. 1220, which Senator CHRISTOPHER DODD of Connecticut introduced in the Senate with a number of his distinguished colleagues in that House.

Our legislation will dramatically improve the current declassification procedures of human rights documents pertaining to gross human rights violations in Guatemala and Honduras. This important bill strikes an appropriate balance between the need for speedy and comprehensive declassification and the need to protect legitimate U.S. national security interests. It will be of invaluable assistance to the work of my good friend, Dr. Leo Valladares, the Honduran Human Rights commissioner, who came to testify before the Congressional Human Rights Caucus, which I cochair with Congressman JOHN EDWARD PORTER. It also will support the work of the Guatemalan Clarification Commission, as well as the people of Guatemala and Honduras in general. Only full consideration and investigation of human rights abuses in these two countries can achieve the full accountability needed to rebuild a peaceful and reconciled civil society in those areas.

The Government of Guatemala and the rebels, the Guatemalan National Revolutionary Unity [URNG], formally ended their hostilities at the end of 1996. But peace cannot exist without truth, a principle which these parties recognized in agreeing to establish a truth commission—The Commission for the Historical Clarification of Human Rights Violations and Acts of Violence which have Caused Suffering to the Guatemalan People. Given this monumental task, the commission has only a very short period to accomplish its important work. The commission's work by law is to take only 6 months, but that time limit can be extended for another 6 months. The clock began ticking when the work of the commission formally began on July 31, 1997. Therefore swift

and comprehensive declassification of all relevant United States agency documents is critical to the success for peace and democracy in Guatemala.

The same applies to Honduras. In 1979, the first disappearance took place in Honduras and dozens of others followed, along with extrajudicial killings. This nightmare followed the implementation of the Honduran military's National Security Doctrine which embarked on a deliberate policy of eliminating people suspected of having links with insurgencies in Honduras and El Salvador or with the Sandinistas in Nicaragua. In May 1992, a law created the National Commissioner for the Protection of Human Rights and in November appointed Leo Valladares Lanza to lead this work. By December 1993, the Commissioner had published a report entitled "The Facts Speak for Themselves" detailing the disappearance of close to 200 persons since 1980.

Before Dr. Valladares concluded his preliminary report, he asked the U.S. Government for files and information. With a number of members of the Congressional Human Rights Caucus, I have supported the requests made by Dr. Valladares in several letters to the President and to other administration officials. Despite a Presidential Executive order, declassification of relevant documents has been very narrowly focused and extremely slow. Thus far, the State Department has responded by releasing 3,000 pages of documents, while other agencies fell dramatically short in their efforts to comply with Dr. Valladares' requests.

Mr. Speaker, The Human Rights Information Act will make a number of important changes in the law that will assure prompt and complete declassification of important human rights documents, while at the same time fully respecting and protecting our legitimate national security concerns. The legislation requires Government agencies to review human rights records within 120 days after inquiries by the Honduran Human Rights Commissioner or the Guatemalan Clarification Commission and ensure the release 30 days thereafter. The legislation also applies to requests from appropriate human rights organizations in other Latin American or Caribbean countries requesting information relating to human rights abuses in their countries. The legislation will ensure that an interagency appeals panel reviews agencies' decisions to withhold information, and it provides that two outside human rights specialists suggested by human rights NGO's and appointed by the President will be members of this appeals panel. The declassification standards in this legislation follow the same standards as the Congress has already enacted in the John F. Kennedy Assassination Records Act.

Yesterday, Mr. Speaker, at a press conference on the steps of the U.S. Capitol, I publicly announced the introduction of this legislation. Joining me on this occasion—in addition to our colleagues ELIZABETH FURSE and JAMES MCGOVERN—were a number of outstanding leaders in the struggle for human rights in Central America. They included:

Jennifer Harbury, U.S. attorney, author, and wife of disappeared Guatemalan Guerrilla commander Efraín Bámaca Velásquez; founding member of Coalition "Missing." Ms. Harbury, who now lives in Texas, came to Washington yesterday especially for this event.

Sister Dianna Ortiz, OSU, an Ursuline nun subjected to horrifying torture in 1989 following her abduction. She is a human rights activist and founding member of Coalition "Missing."

Calixto Torres, a Guatemalan community worker who was forced to flee because of his work. He has been granted political asylum and currently works with Guatemala Partners and the Latin American Youth Center.

Meredith Larson, a human rights worker attacked by knife-wielding assailants in 1989, is a founding member of Coalition "Missing." She is a resident of the beautiful city of San Francisco and came to Washington especially for this event.

Oscar Reyes, editor of Washington metro Hispanic newspaper "El Pregonero" who himself is a victim of torture in Honduras.

Eileen Connolly, sister of Father Carney who disappeared in Honduras in 1983, and her husband.

Mr. Speaker, I ask that the text of H.R. 2635 be placed in the RECORD at this point. I urge my colleagues to join me as a cosponsor of this important legislation.

H.R. 2635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Human Rights Information Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Agencies of the Government of the United States have information on human rights violations in Guatemala and Honduras.

(2) Members of both Houses of Congress have repeatedly asked the Administration for information on Guatemalan and Honduran human rights cases.

(3) The Guatemalan peace accords, which the Government of the United States firmly supports, has as an important and vital component the establishment of the Commission for the Historical Clarification of Human Rights Violations and Acts of Violence which have Caused Suffering to the Guatemalan People (referred to in this Act as the "Clarification Commission"). The Clarification Commission will investigate cases of human rights violations and abuses by both parties to the civil conflict in Guatemala and will need all available information to fulfill its mandate.

(4) The National Commissioner for the Protection of Human Rights in the Republic of Honduras has been requesting United States Government documentation on human rights violations in Honduras since November 15, 1993. The Commissioner's request has been partly fulfilled, but is still pending. The request has been supported by national and international human rights nongovernmental organizations as well as members of both Houses of Congress.

(5) Victims and survivors of human rights violations, including United States citizens and their relatives, have also been requesting the information referred to in paragraphs (3) and (4). Survivors and the relatives of victims have a right to know what happened. The requests have been supported by national and international human rights nongovernmental organizations as well as members of both Houses of Congress.

(6) The United States should make the information it has on human rights abuses available to the public as part of the United States commitment to democracy in Central America.

SEC. 3. DEFINITIONS.

In this Act:

(1) HUMAN RIGHTS RECORD.—The term "human rights record" means a record in the possession, custody, or control of the United States Government containing information about gross human rights violations committed after 1944.

(2) AGENCY.—The term "agency" means any agency of the United States Government charged with the conduct of foreign policy or foreign intelligence, including the Department of State, the Agency for International Development, the Department of Defense (and all of its components), the Central Intelligence Agency, the National Reconnaissance Office, the Department of Justice (and all of its components), the National Security Council, and the Executive Office of the President.

SEC. 4. IDENTIFICATION, REVIEW, AND PUBLIC DISCLOSURE OF HUMAN RIGHTS RECORDS REGARDING GUATEMALA AND HONDURAS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the provision of this Act shall govern the declassification and public disclosure of human rights records by agencies.

(b) IDENTIFICATION OF RECORDS.—Not later than 120 days after the date of enactment of this Act, each agency shall identify, review, and organize all human rights records regarding activities occurring in Guatemala and Honduras after 1944 for the purpose of declassifying and disclosing the records to the public. Except as provided in section 5, all records described in the preceding sentence shall be made available to the public not later than 30 days after a review under this section is completed.

(c) REPORT TO CONGRESS.—Not later than 150 days after the date of enactment of this Act, the President shall report to Congress regarding each agency's compliance with the provisions of this Act.

SEC. 5. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLOSURE OF RECORDS.

(a) IN GENERAL.—An agency may postpone public disclosure of a human rights record or particular information in a human rights record only if the agency determines that there is clear and convincing evidence that—

(1) the threat to the military defense, intelligence operations, or conduct of foreign relations of the United States raised by public disclosure of the human rights record is of such gravity that it outweighs the public interest, and such public disclosure would reveal—

(A) an intelligence agent whose identity currently requires protection;

(B) an intelligence source or method—

(i) which is being utilized, or reasonably expected to be utilized, by the United States Government;

(ii) which has not been officially disclosed; and

(iii) the disclosure of which would interfere with the conduct of intelligence activities; or

(C) any other matter currently relating to the military defense, intelligence operations, or conduct of foreign relations of the United States, the disclosure of which would demonstrably impair the national security of the United States;

(2) the public disclosure of the human rights record would reveal the name or identity of a living individual who provided confidential information to the United States

and would pose a substantial risk of harm to that individual;

(3) the public disclosure of the human rights record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest; or

(4) the public disclosure of the human rights record would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest.

(b) SPECIAL TREATMENT OF CERTAIN INFORMATION.—It shall not be grounds for postponement of disclosure of a human rights record that an individual named in the human rights record was an intelligence asset of the United States Government, although the existence of such relationship may be withheld if the criteria set forth in subsection (a) are met. For purposes of the preceding sentence, the term an "intelligence asset" means a covert agent as defined in section 606(4) of the National Security Act of 1947 (50 U.S.C. 426(4)).

SEC. 6. REQUEST FOR HUMAN RIGHTS RECORDS FROM OFFICIAL ENTITIES IN OTHER LATIN AMERICAN CARIBBEAN COUNTRIES.

In the event that an agency of the United States receives a request for human rights records from an entity created by the United Nations or the Organization of American States similar to the Guatemalan Clarification Commission, or from the principal justice or human rights official of a Latin American or Caribbean country who is investigating a pattern of gross human rights violations, the agency shall conduct a review of records as described in section 4 and shall declassify and publicly disclose such records in accordance with the standards and procedures set forth in this Act.

SEC. 7. REVIEW OF DECISIONS TO WITHHOLD RECORDS.

(a) DUTIES OF THE APPEALS PANEL.—The Interagency Security Classification Appeals Panel (referred to in this Act as the "Appeals Panel"), established under Executive Order No. 12958, shall review determinations by an agency to postpone public disclosure of any human rights record.

(b) DETERMINATIONS OF THE APPEALS PANEL.—

(1) IN GENERAL.—The Appeals Panel shall direct that all human rights records be disclosed to the public, unless the Appeals Panel determines that there is clear and convincing evidence that—

(A) the record is not a human rights record; or

(B) the human rights record or particular information in the human rights record qualifies for postponement of disclosure pursuant to section 5.

(2) TREATMENT IN CASES OF NONDISCLOSURE.—If the Appeals Panel concurs with an agency decision to postpone disclosure of a human rights record, the Appeals Panel shall determine, in consultation with the originating agency and consistent with the standards set forth in this Act, which, if any, of the alternative forms of disclosure described in paragraph (3) shall be made by the agency.

(3) ALTERNATIVE FORMS OF DISCLOSURE.—The forms of disclosure described in this paragraph are as follows:

(A) Disclosure of any reasonably segregable portion of the human rights record after deletion of the portions described in paragraph (1).

(B) Disclosure of a record that is a substitute for information which is not disclosed.

(C) Disclosure of a summary of the information contained in the human rights record.

(4) NOTIFICATION OF DETERMINATION.—

(A) IN GENERAL.—Upon completion of its review, the Appeals Panel shall notify the head of the agency in control or possession of the human rights record that was the subject of the review of its determination and shall, not later than 14 days after the determination, publish the determination in the Federal Register.

(B) NOTICE TO PRESIDENT.—The Appeals Panel shall notify the President of its determination. The notice shall contain a written unclassified justification for its determination, including an explanation of the application of the standards contained in section 5.

(5) GENERAL PROCEDURES.—The Appeals Panel shall publish in the Federal Register guidelines regarding its policy and procedures for adjudicating appeals.

(c) PRESIDENTIAL AUTHORITY OVER APPEALS PANEL DETERMINATION.—

(1) PUBLIC DISCLOSURE OR POSTPONEMENT OF DISCLOSURE.—The President shall have the sole and nondelegable authority to review any determination of the Appeals Board under this Act, and such review shall be based on the standards set forth in section 5. Not later than 30 days after the Appeals Panel's determination and notification to the agency pursuant to subsection (b)(4), the President shall provide the Appeals Panel with an unclassified written certification specifying the President's decision and stating the reasons for the decision, including in the case of a determination to postpone disclosure, the standards set forth in section 5 which are the basis for the President's determination.

(2) RECORD OF PRESIDENTIAL POSTPONEMENT.—The Appeals Panel shall, upon receipt of the President's determination, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to the postponement of disclosure of a human rights record.

SEC. 8. REPORT REGARDING OTHER HUMAN RIGHTS RECORDS.

Upon completion of the review and disclosure of the human rights records relating to Guatemala and Honduras, the Information Security Policy Advisory Council, established pursuant to Executive Order No. 12958, shall report to Congress on the desirability and feasibility of declassification of human rights records relating to other countries in Latin America and the Caribbean. The report shall be available to the public.

SEC. 9. RULES OF CONSTRUCTION.

(a) FREEDOM OF INFORMATION ACT.—Nothing in this Act shall be construed to limit any right to file a request with any executive agency or seek judicial review of a decision pursuant to section 552 of title 5, United States Code.

(b) JUDICIAL REVIEW.—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

SEC. 10. CREATION OF POSITIONS.

For purposes of carrying out the provisions of this Act, there shall be 2 additional positions in the Appeals Panel. The positions shall be filled by the President, based on the recommendations of the American Historical Association, the Latin American Studies Association, Human Rights Watch, and Amnesty International, USA.

TRIBUTE TO AMBASSADOR JASON HU

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. HINCHEY. Mr. Speaker, over the past 15 months, many of us in the House have had the opportunity to meet and work with the Representative of the Republic of China in Washington, Ambassador Jason Hu. Ambassador Hu will be leaving Washington soon to return to Taipei, and I want to take this opportunity to thank him for his service and his friendship, and to honor him for the great diplomatic skills he brought to his job here.

Our two countries have many interests in common, most importantly our shared commitment to freedom and democratic principles. Ambassador Hu has been effective in emphasizing those common interests during his stay in Washington, and keeping us informed about Taiwan's concerns and its hopes for the future. He has demonstrated his skill in helping to define the limits and the possibilities of the relationship between our two countries, and in helping to find ways to assure that our formal and informal relations serve those common interests.

While we are sad to see Ambassador Hu leaving us, I also want to congratulate him on his new assignment as the Republic of China's foreign minister. I am confident that his work in the Ministry will continue to build friendship between our countries and to build on those shared interests. I believe Ambassador Hu understands our people and our country well. The same is true, of course, of Taiwan's President, Lee Teng-hui, who once lived in my congressional district when he attended Cornell University.

Let me add to my personal congratulations to Ambassador Hu my congratulations to all the people of Taiwan on their national day.

TRIBUTE TO TEODORO VIDAL, HIS GIFT TO AMERICAN CULTURE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Mr. Teodoro Vidal, a Puerto Rican businessman and art collector, who has donated his splendid collection of colonial artwork from Puerto Rico to the Smithsonian Institution.

"Colonial Art From Puerto Rico: Selections From the Gift of Teodoro Vidal", part of Vidal's remarkable endowment to the Smithsonian, is now on exhibit through March 8, 1998 at the National Museum of American Art. Most of his collection will be exhibited in July when the National Museum of American History opens "Teodoro Vidal: A Collector and His Collection."

Mr. Vidal, believed in the need to preserve the Puerto Rican patrimony. Forty years ago he started collecting santos, figures of saints and other religious personalities carved in wood, when he saw that tourists were buying most of the pieces and taking them out of the island.

His collection—3,200 historical and cultural artifacts from Puerto Rico—includes paintings by José Campeche, recognized as the greatest Latin American painter of the 18th century, portrait miniatures, costumes, amulets, jewelry, masks, toys, photographs, and 700 "santos". Some of the pieces date back to the 17th century.

Vidal's treasure is one of the largest donations by an individual to the Smithsonian Institution. Today the Smithsonian will honor Teodoro Vidal for his breathtakingly valuable gift to the American people. Exhibitions of this magnitude will contribute to the understanding of Latin American peoples, their histories, and diverse cultures.

Mr. Speaker, I urge my colleagues and their staff to visit this extraordinary exhibit, and to join me in recognizing Mr. Teodoro Vidal for his magnanimous gift to the Smithsonian Institution, a gift which is a blessing for the peoples of this Nation.

NORTHEASTERN UNIVERSITY'S CENTENNIAL YEAR

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. MOAKLEY. Mr. Speaker, I rise today to introduce the following resolution recognizing the beginning of Northeastern University's centennial year.

Initially, founded in 1898 in a few rooms at the Y.M.C.A. in Boston, Northeastern University is now a national research institution enrolling more than 11,000 undergraduates, 5,000 graduate students, and 10,000 part-time students in seven colleges and nine graduate and professional schools. It offers a variety of educational programs including nursing, pharmacy, health sciences, business, computer science, engineering, liberal arts, and sciences.

Northeastern University holds a special place in the heart of Boston and in the higher education community. The university was initially created to provide educational opportunity for working families in Boston and its surrounding towns, and has remained fully committed to that mission as it has developed into a world-class research university. Today, the school boasts of its reputation for a top-notch faculty and it attracts students from across the United States and dozens of other countries.

Northeastern University developed an innovative model of cooperative education that is practical in today's workplace. Throughout their schooling, students combine their classroom instruction with on-the-job experience. Cooperative education has enabled Northeastern students to gain practical experience and job skills, thus giving them an edge over other recent college graduates.

Northeastern University has never forgotten its roots. It is deeply committed to its original purpose and it continuously reaches out to its surrounding communities by helping to prepare middle- and high-school students for college. In addition to providing health care services for children and families, and scholarships for hard-working students, the university generates innovative housing and economic development proposals to improve the quality of city life.

Northeastern University's 100 experience years of worthy of congressional and national acclaim.

CONGRATULATIONS TO MICHAEL BUSE

HON. JACK METCALF

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. METCALF. Mr. Speaker, I rise today to congratulate Michael Buse of Stanwood, WA, who was selected as the winner of the 1997 Voice of Democracy broadcast scriptwriting contest for Washington State.

His essay "Democracy—Above and Beyond" compares American democracy to an eagle perched for flight as we look into the new millennium. American democracy soars above and beyond all other forms of government. He concludes that it is our duty to go above and beyond as citizens to preserve and protect our form of democracy.

I would like to congratulate Michael again for his success in this program and thank the Veterans of Foreign Wars for their support of America's youth. I ask unanimous consent that Michael's award-winning essay be included in the RECORD:

"DEMOCRACY—ABOVE AND BEYOND"

Like an eagle perched for flight, American Democracy stands ready, looking into the twenty-first century; a new millennium. As it spreads its wings and gazes over the Earth, American Democracy soars above and beyond all other forms of government.

Why? Perhaps it is because our democracy is above indifference to the wants, needs, and wishes of its citizens. Our democracy is run for, of, and by its people. American Democracy is beyond the control of a single despot or a celebrated few.

Our democracy is founded on the idea that there are extraordinary possibilities in ordinary individuals. Abe Lincoln, our sixteenth President, comes to mind as a young man who rose from the depths of poverty to become perhaps the greatest President our country has ever known. His example—and a number of others—have proven repeatedly that no matter how humbly a child is born, he or she has a chance to engage the minds and capture the imaginations of our whole country. Our democracy is above and beyond all others simply because we have a chance. Under American Democracy we may do as we please, as long as we remain responsible citizens.

The beauty of American Democracy is that we all—man or woman, rich or poor, of whatever race, creed, or religion, have value and are valued. General Joshua Lawrence Chamberlain, "Hero of the Little Round Top", addressing his soldiers before the Battle of Gettysburg explained the notion of American Democracy by saying, "It's not the land, there's always more land, it's the idea that we all have value."

Today, our American Democracy is the wealthiest, most powerful and freest nation on Earth. Our people are free to criticize their leaders and to elect new ones. We have freedom of the press, religion, and speech. We are free from unjustified arrest by police and have the right to trial by a jury of our peers. Our system of Democracy, as laid out originally in the Constitution and Bill of Rights, was not perfect, but our forefathers anticipated the future, and insured us the power of amendment, which has allowed us over time to continue to work for civil rights for all of our people. Perhaps that is why the world looks to American Democracy as a model. Of the 191 nations listed in the World Almanac, 167 have written constitutions that were either influenced by or modeled after American Democracy.

In a speech delivered to the U.S. Congress, Vaclav Havel, President of the newly formed Czech Republic, asked: "Wasn't it the best minds of your country who wrote your famous Constitution and Bill of Human Rights? Those great documents which insure American Democracy inspire the world. They inspire us to be citizens."

As participants in what George Washington called the "great experiment of American Democracy" it is our duty to go above and beyond as citizens to preserve and protect our form of Democracy.

IN MEMORY OF RAY PEELER

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. HALL of Texas. Mr. Speaker, I rise today in memory of Ray Peeler, Jr., whose death on June 26 at the age of 68 marked a great loss for the city of Bonham, TX. Ray was a popular local attorney, banker, and community leader. He also was a loyal Democrat whose close friends included the late President Lyndon Baines Johnson and the late Speaker of the U.S. House of Representatives Sam Rayburn. For many years Speaker Rayburn kept his local office on the third floor of the Peeler Building on the Bonham Square.

Ray was the third generation of his family to live in Fannin County. He graduated covaledictorian from Bonham High School, received his B.A. with high honors from the University of Texas at Austin and his L.L.B. in 1951. He served as a captain in the U.S. Air Force from 1951 to 1953 during the Korean conflict.

He returned to Bonham, where he began his practice of law in 1953 and served as district and county attorney from 1960 to 1961. He was a member of the American Bar Association, State Bar of Texas, and served as vice president of the State Jr. Bar of Texas from 1959 to 1960. He was active in Democratic politics and was a delegate to the Democratic National Convention in 1960.

Ray was a prominent member of the community and devoted his professional and personal talents to a variety of civic organizations. he served as chairman of the Bonham United Fund and was active in bringing new industry to Fannin County through his service as president of Bonham Industrial Foundation for 10

years. Ray was an honorary life sponsor of the Fannin County Historical Society and was past president and member of the Bonham Chamber of Commerce, Texas Pecan Growers Association and Texas Horticulture Society. He also was a member of the Bonham Rotary Club and the Masonic Lodge. Ray served as president and chairman of the board of directors of Fannin Bank and chairman of the board of First National Bank.

Ray was selected for membership in Phi Beta Kappa, Phi gamma Delta and Phi Alpha Delta and was named to Who's Who in the South and Southwest in 1993. He was a member of the First Christian Church, Disciples of Christ, where funeral services were held.

He is survived by his wife, R'Cella Dean Peeler, son and daughter-in-law William Bryan Peeler and Amy Peeler of Bonham, daughter and son-in-law Maribel Peeler Griffon and Mark Griffon of Friendswood; stepchildren, Cressie Renfrow Todd and Larry Renfrow; sister Virginia Cothran of Forth Worth; and several grandchildren.

Mr. Speaker, as we adjourn today, it is a privilege for me to pay my last respects to a man who gave so much of himself to his profession, his community, and his country—Ray Peeler. He will be missed by all those who knew him and who loved him, and I am honored to have been his friend.

TRIBUTE TO DR. STANLEY B. PRUSINER, A "MOZART OF SCIENCE," ON HIS RECEIVING THE NOBEL PRIZE IN MEDICINE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. LANTOS. Mr. Speaker, it is my privilege and pleasure to hail the accomplishments of Dr. Stanley B. Prusiner, the 1997 recipient of the Nobel Prize in Medicine. Dr. Prusiner, a professor at the University of California San Francisco, joins 30 other Nobel laureates in the UC system, including UCSF's two previous medical honorees—microbiologists J. Michael Bishop and Harold Varmus, the current head of the National Institutes of Health. Dr. Prusiner was awarded this premier distinction for his landmark discovery of prions, rogue protein particles that function as infectious agents. This remarkable innovation could eventually lead to a cure for dreaded neurological diseases such as Alzheimer's, Parkinson's, Huntington's, and amyotropic lateral sclerosis, ALS, better know as Lou Gehrig's disease. In the citation announcing Prusiner's $1 million prize, Sweden's noted Karolinska Institute lauded the social impact of his achievement.

"Stanley Prusiner's discovery provides important insights that may furnish the basis to understand the biological mechanisms underlying other types of dementia-related diseases, for example Alzhemier's disease, and establishes a foundation for drug development and new types of medical treatment strategies."

For Dr. Prusiner and for his entire research team at UCSF, this recognition marks the zenith of a 15-year battle for a revolutionary theory that flew in the face of earlier scientific judgments about the causes of communicable brain diseases.

Prusiner's commitment to using his medical genius to helping others began long before his discovery of prions. Born in Des Moines, IA, he graduated from the University of Pennsylvania Medical School and, after long doing biochemistry research at the National Institutes of Health, moved to the Bay Area in 1972 to begin his residency in neurology at UCSF. That year, a pivotal event shaped the direction of Prusiner's expertise: He began treating a Marin County woman affected with Creutzfeldt-Jakob disease, an exceptionally rare and always fatal condition that mercilessly destroys the brain. Prusiner's patient passed away after 7 weeks in the hospital, but her sickness impelled her doctor to examine further links between Creutzfeldt-Jakob and similar neurological illnesses, and to seek the cause of these devastating diseases. "At that time," said Prusiner years later, "most people believed that the brain diseases were caused by slow viruses, but since I didn't know any virology, I figured I ought to look for some other explanation—and that's when I started hunting for proteins that might be involved." This research continued throughout his tenure as a Howard Hughes Investigator at UCSF from 1976 to 1981, culminating in his development of the prion theory in 1982.

Prusiner's then-radical pronouncement stated that the cause of Creutzfeldt-Jacob and related maladies was not a virus at all; rather, these illnesses emanate from prions, biologically unique proteins which contain no DNA. Rather, in place of genetic reproduction, prions convert neighboring proteins, creating more disease-causing agents. This phenomenon has a devastating effect on nerve cells in the brain, ravaging tissue and leading to a certain death.

The scientific community greeted the prion theory with disbelief and outright criticism that targeted not only Prusiner's conclusions, but his ethics as well. His financial grants quickly vanished, and he was forced to operate for years with only in-house grants from the loyal UCSF administration. These frustrations strengthened Prusiner's dedication to his work and as the years progressed, the case for the prion theory became stronger and stronger. His opponents found little evidence to discredit his conclusions, and Prusiner and his dedicated team of researchers, notably brain pathologist Stephen DeArmond and pharmacologist Stephen Cohen, published hundreds of papers substantiating the role of the prion in a variety of contagious neurological diseases.

The grants returned, with significant contributions including a $2.5 million prize from the W.M. Keck Foundation in Los Angeles and the Israeli Government's prestigious $100,000 Wolf prize. Such resources enabled Prusiner to tie the existence of prions to the recent British epidemic of bovine spongiform encepalopathy, BSE, better known as mad cow disease, and to chart the course for eventual cures to BSE and other disorders. He also won the coveted Albert Lasker Basic Medical Research Award in 1994, generally regarded as a strong indicator of a future Nobel Prize. In the words of his colleagues, neurologist and biochemist Jiri G. Safar, Prusiner "carried on his shoulders the burden of proving this extraordinary new idea. * * * He single-handedly validated his theory. To do that, it takes a person of strong conviction and real guts." Mr. Speaker, we are all in debt to the courage of this outstanding man.

Dr. Prusiner's next challenge is to eradicate these diseases from the face of this planet. In the aftermath of the BSE outbreak in Great Britain, he has used his findings concerning the replicating and infectious nature of prions to lobby the Food and Drug Administration and the Department of Agriculture to protect our food supply and make sure that such a plague will never occur in this country. Prusiner's research will also continue to seek the causes of Alzheimer's, Parkinson's, Huntington's, and ALS. Once the origins of these diseases are discovered, treatments such as gene therapy and prion-blocking medications may be created to cure them or to prevent them from spreading. Prusiner expects that within the next 5 to 10 years we will see a drug to stop the progression of Creutzfeldt-Jakob, the disease that led him to this area of neurological research a quarter century ago.

Mr. Speaker, Dr. Prusiner has earned our utmost gratitude and respect. As his UCSF colleague Dr. DeArmond remarked, he is truly a "Mozart of science." Prusiner's brilliance, dedication, and, most of all, his persistence are a credit to his country and to the San Francisco community where he has lived with his wife, Sandy, and his family for over 25 years. I ask all of my colleagues to join me in congratulating the 1997 recipient of the Nobel Prize in Medicine, Dr. Stanley B. Prusiner, for his most-deserved award, for his devotion to finding answers to questions that have vexed the scientific world for generations, and for his dogged commitment to standing up for his life-saving beliefs in the face of cynicism and skepticism.

SALUTING PEG LEG BATES ON HIS 90TH BIRTHDAY

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. HINCHEY. Mr. Speaker, I would like to ask my colleagues to join me in saluting Peg Leg Bates on his 90th birthday. Mr. Bates is a world renowned entertainer, a successful businessman, and a local legend for Kerhonkson, NY, who has been a good friend to many people and warmed the hearts of even more.

Mr. Bates performed with some of the greatest names in show business: Pearl Bailey, Ed Sullivan, Sarah Vaughn, Cab Calloway, Nat King Cole, Lena Horne, Billy Eckstein, and many others. With his indefatigable spirit, determination, and considerable charm, Mr. Bates showed the world that there were not obstacles, only opportunities, and not insurmountable barriers, but barriers to be danced over. He did this, and so much more, with class, poise, and brilliance.

So on his 90th birthday this weekend I would like to have my fellow Members of the

House of Representatives join me in saluting Pet Leg Bates and wish him many years of good health and happiness to come.

TRIBUTE TO CELIA CRUZ, THE QUEEN OF LATIN MUSIC

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Celia Cruz—world renowned singer of Latin music. The Smithsonian Institution will honor her on October 16, during a special program entitled "'¡Azúcar!,' The Smithsonian Honors Celia Cruz".

The Smithsonian will present Celia Cruz with the Lifetime Achievement Award for Excellence in Music from the National Museum of American History's Programa Latino. Celia Cruz, popularly known as the "Queen of Latin Music", will dontate one of her most famous costumes to the National Museum of American History.

Cruz first rose to fame in her native Cuba as one of the most exciting and creative performers of "mambo" of the late 40's. Since then, Cruz has achieved one success after another. In 1950, she joined the legendary orchestra La Sonora Matancera with whom she recorded 20 gold albums and toured the United States and Latin America. Her artistic alliance with Tito Puente—"the King of Latin Music"—as well as with Johnny Pacheco, Willie Colon, and the Fania All-Stars in the 1970's resulted in numerous albums and enduring fame. More recently, she has performed with David Byrne, Ray Barretto, Emilio Estefan, Willie Chirino, and Olga Tañón.

During her successful 50-year career, Celia Cruz has recorded over 70 albums, won a Grammy Award and 10 Grammy nominations. She performed in various films, including "The Perez Family" and "The mambo Kings", and has been recognized with more than 100 awards from publications and institutions around the world. Among other honors, Cruz received an honorary doctorate from Yale University, a star on Hollywood Boulevard, and recognition from the National Endowment for the Arts.

Mr. Speaker, I ask my colleagues to join me in recognizing Celia Cruz for her extraordinary talent, her vibrant contributions to the history of music, and her generous gift to the Smithsonian Institution.

THE REPUBLIC OF CHINA'S 86TH NATIONAL DAY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. ORTIZ. Mr. Speaker, for many years now, I have joined my colleagues in congratulating the leaders of the Republic of China [ROC] on their National Day.

Today I congratulate President Lee Tenghui and the people of Taiwan on the ROC's 86th National Day.

President Lee has just completed a very successful Latin American tour and Taiwan has been invited to join the System of Central American Integration. President Lee is an energetic man who is moving forward on a number of diplomatic recognitions for Taiwan.

In the months and years ahead, I hope that Taiwan will continue to enjoy its prosperity and freedom.

FDA APPROVAL OF LEADCARE

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. MEEHAN. Mr. Speaker, I am very pleased to rise today to inform the House that on September 10, 1997, the Food and Drug Administration announced the approval of a new portable, easy to use, medical screening device that can quickly detect high levels of lead in blood. The Leadcare In Office Test System was developed by ESA, Inc., of Chelmsford, MA, and AndCare, Inc., of Durham, NC, in conjunction with the Centers for Disease Control and Prevention.

Located in my congressional district, ESA, Inc., is a biotechnology research company whose products and services have played a significant role in advancing the health care of Americans for over a quarter century. Since its establishment in 1970, ESA has designed and manufactured numerous high technology analytical instruments used for analyzing minute quantities of substances, often at the molecular level. The company's products are frequently utilized in biomedical research projects, clinical laboratories, and environmental quality control studies.

The recently approved Leadcare System promises to dramatically improve the rate at which children in the Untied States and abroad are screened for lead poisoning. Currently, blood samples from children tested for exposure to lead must be sent to a laboratory for clinical evaluation. This process could take several days or even weeks. With the Leadcare System, a sample of a patient's blood obtained by a finger stick can be analyzed by the system within 3 minutes, and the results are instantly displayed. Moreover, clinical studies conducted by ESA indicate that the new test is as reliable as established laboratory screening methods. Both ESA and the Department of Health and Human Services believe that the expediency of the Leadcare System will allow heath care professionals practicing in urban, underserved areas to screen more high-risk children in transient innercity communities.

The FDA's approval of the Leadcare System is also a major victory for the many countries around the world currently losing the battle against lead poisoning. Following the FDA's decision, HHS Secretary Donna Shalala, stated that "thanks to the FDA and CDC, and to memorandums of understanding we have developed with other countries, this new technology can soon be applied to fighting lead poisoning throughout many areas of the world." To this end, ESA plans to introduce the Leadcare System to public health officials and primary care physicians in countries with high incidents of lead poisoning.

Mr. Speaker, the FDA's approval of the Leadcare System is truly a landmark in the fight against childhood lead poisoning.

TRIBUTE TO BOB TEDFORD

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to the late Robert A. (Bob) Tedford, one of the most influential citizens and civic leaders of Farmersville, TX, during the past quarter of a century. Bob died recently after a sudden illness, and he was such a pervasive presence in the community that his absence is difficult to accept and to measure.

Bob's influence in Farmersville began in 1963, when he moved there to establish the Bob Tedford Chevrolet Co., which, under his leadership, developed into a thriving business. His energy, enthusiasm, and ability to relate to people were keys to his success in business and also to his community leadership. Bob's imprint could be seen in almost every civic organization and leadership position in Farmersville.

Bob served as mayor, city councilman, and school board president. He was instrumental in obtaining funding to rebuild a State highway through downtown Farmersville. He was president of Farmersville Centennial and a founder of Old Time Saturday, an annual civic fundraising event that has raised an estimated $200,000 over the years for the library and other civic projects.

Bob was past president of the Rotary Club, Chamber of Commerce, and library board and was chairman of the board of First Bank of Farmersville. He was a lifetime charter member of the local Veterans of Foreign Wars, member of the Royal Order of Jesters, and member of Masonic Lodge No. 214 for 30 years—serving as past master and secretary. He was a patron of the Farmersville Order of the Eastern Star No. 940 and a member of the Hella Temple and Scottish Rites of Dallas.

Sports were a particular passion. He was an avid golfer, a great baseball fan, and an ardent supporter of high school sports. He operated the game clock at Farmersville High School football games for 30 years and attended the state basketball tournament every year except for one when he suffered a heart attack. He took special interest in the young people of Farmersville and was active in Little League and Boy Scouts.

A native of Clearwater, TX, Bob served in the U.S. Army just after the end of the Korean war and earned the rank of sergeant. Afterwards, he worked for the railroad in Gene Autry, OK, where he met and married the former Sandra Haney in 1955. He is survived by Sandra, son and daughter-in-law Robbie and Kailyn Tedford, daughter and son-in-law Beverly and David Toney, sister Mrs. Glennis Lilley, brother Nelo Tedford, and four grandchildren.

Mr. Speaker, Bob Tedford was a friend to many and a friend of mine. He was a driving

force in Farmersville and an inspiration to all who had the pleasure of knowing him—and he will be truly missed. He leaves behind a community service and compassion, however, that will be remembered for years to come, and as we adjourn today, let us do so in memory of and in honor of Robert A. "Bob" Tedford.

NOW MORE THAN EVER, IT'S TIME FOR AN INDEPENDENT COUNSEL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. SOLOMON. Mr. Speaker, I would like to direct your attention to the following "Tale of the Tapes" editorial from the Albany Times Union, a newspaper circulated in my district. The editorial criticizes the Clinton administration for its feeble attempt to explain away its delay in forwarding videotapes of the White House coffees. The administration's most recent and abominable excuse for its inadvertent overlooking of the video tapes is that they entered the wrong word search on the computer.

The administration's the buck-stops-there philosophy seems to now have gone beyond the customary excuses and is reliant on more creative ones. The mishaps, stalling, and inadvertent overlooking is at an all time high in the White House. And in the midst of all this, Attorney General Janet Reno remains hesitant to appoint an independent counsel to investigate the campaign finance violations and abuses originating in the White House and risks being seen as a cohort in all of this. It has become apparent that Ms. Reno cannot carry-the-ball and shed some light on these campaign finance illegalities, I thinks it's time that she hand the ball over to an independent counsel who can.

[From the Albany Times Union, Oct. 8, 1997]

TALES OF THE TAPES

THE WHITE HOUSE STRAINS CREDULITY IN ITS LATEST ATTEMPT TO EXPLAIN WHY VIDEOS OF COFFEES WERE LATE TO SURFACE

The Clinton administration is repeating a tawdry chapter of history in its feeable attempt to explain away its delay in forwarding videotapes of President Clinton attending White House coffees where campaign contributors were guests. The White House has, however, added a new cyberspace twist to it all.

The tapes had been sought by the Senate committee looking into 1996 campaign fundraising practices by both Democrats and Republicans. Though filmed in 1995 and 1996, the videos weren't anywhere to be found until last weekend, when a 90-minute sampler was forwarded to Senate investigators and the Justice Department.

In the words of Lanny J. Davis, a special White House counsel, the tapes had been "inadvertently" overlooked.

Never mind that this administration has used "inadvertent" to explain away so many lapses that the word now ranks in the political lexicon right along with such staples as "stonewall" and "plausible deniability." This time, however, the twist is that the computer made them do it.

How so? The White House says it ordered a search for the tapes, just as the Senate committee requested. Somehow, though, the diligent, trusted White House aides came up empty handed. Turns out they were entering the wrong word search in the computer.

Instead of searching under the word coffee, they were busy searching under the words fund raising.

Thus a new blame-it-on-technology excuse enters the political lexicon, right along with the tried and true evasion of blaming the secretary for an 18-minute erasure on a Nixon audiotape.

It's difficult to decide who looks more foolish in the wake of these revelations—Mr. Davis and has boss, or Attorney General Janet Reno, who wasn't told of the tapes until after she announced that her Justice Department had found no evidence that President Clinton had violated any laws by attending the coffees.

Now there is talk of even more tapes of political fund-raisers that have yet to be released by the White House. Little wonder that Sen. John McCain, the Arizona Republican who is co-sponsor of major campaign finance reform legislation, is shaking his head and saying, "I've never seen anything like it."

All the more reason for Ms. Reno to face up to her obligation to appoint a special prosecutor.

PERSONAL EXPLANATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. SCHUMER. Mr. Speaker, I was unable to be in Washington on the evening of October 8, to cast my vote on the motion to instruct conferees on the foreign operations appropriations bill. This motion to instruct is superfluous and serves only to increase unwanted pregnancies. Had I been here, I would have voted "no" on restricting family planning activities just as I voted "no" when this motion came to the floor yesterday.

RESCUE MISSIONS DESERVE OUR ATTENTION

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. GINGRICH. Mr. Speaker, I want to encourage my colleagues to read the following article from Policy Review by Rev. Stephen Burger.

On May 30, I had the opportunity to visit the Atlanta Union Mission, a private, faith-based rescue mission. The Atlanta Union Mission serves men, women, and children throughout the city and in part of a 250-member International Union of Gospel [IUGM]. During my visit, I listened to participants of the mission's program, who talked about their experiences. Many of them stressed that they had been through other programs in the past, and eventually relapsed, but that the Union Mission had been effective in dramatically changing their lives for good. The key to this effectiveness, was that the mission stressed a Higher Power, and recognized the benefits of faith in counseling and rehabilitation programs.

Collectively, the International Union of Gospel Missions represents the sixth largest charity in the United States. Last year IUGM missions provided more than 30 million meals, 22 million pieces of clothing, and 11 million beds to homesless men, women, and children.

I would encourage my colleagues to visit a rescue mission in their districts in the near future. Although most of these missions receive very little, if any, Government funding, they have proven to be the most cost effective, dollar for dollar, and, most important, they have the highest success rate in drug treatment and rehabilitation. As Rev. Stephen Burger has written, the approach that rescue missions take toward helping the homeless become productive members of our society deserves our attention.

[From the Policy Review, Oct., 1997]

ARISE, TAKE UP THY MAT AND WALK

(By Rev. Stephen Burger)

Spend a little time in virtually any city in America and you'll see them—in doorways, under bridges, poking through trash cans, begging for loose change. They are America's homeless. They no longer wear the face of the 55-year-old alcoholic man; they look more and more like young crack addicts, battered women and children, prostitutes, gamblers, and AIDS sufferers. On any given day, about 600,000 people are living either on the streets or in shelters trying to stay alive.

Americans are a compassionate people. But traditional approaches to the problem—promoted through government initiatives and many private charities—have been so ineffective at treating the fundamental causes of homelessness that we must reconsider what it means to help our neighbors in need.

Many government programs assume that homelessness is simply the absence of four walls and a roof. Usually it is not: The lack of affordable housing, though a problem, is not why most of these people have no permanent address. Most people in trouble economically have friends and families whose homes they could share temporarily if they choose to. The level of government spending on the problem likewise leaves deeper issues untouched. There are more than 60 separate federal programs that provide some form of help. The federal Department of Housing and Urban Development (HUD) now operates homeless shelters and drug rehabilitation programs in every major city in the United States. But the rates at which the able-bodied homeless graduate to independence from these programs rarely rise above single digits.

America used not settle for this level of failure. If anyone can testify to that, we can.

The International Union of Gospel Missions—whose staff members often emerge from the ranks of the formerly homeless—has been helping the destitute break the cycle of dependence since 1913. Last year, our emergency services and long-term rehabilitation programs helped 14,000 homeless men and women achieve self-sufficiency. These were not "easy" cases. Thousands walked into our doors addicted to alcohol, heroin, crack cocaine, and other drugs. Many have been prostitutes, or veterans who couldn't adjust to civilian life. Many have committed crimes, served time in prison, and failed other rehabilitation programs.

Our experience teaches us that America needs nothing less than a reformation in the way we think about homelessness. Many traditional and government-funded approaches

fail not for lack of money but for a deficit of vision: They do not treat the whole person. They neglect the familial and moral aspects of a person's life. They refuse to challenge the homeless person's fundamental way of thinking. Says Rev. Mickey Kalman, the executive director of City Rescue Mission in Oklahoma City: "The philosophy of government homeless programs is to respect and protect lifestyles that produce homelessness."

Most significantly, these programs ignore the central dimension of the problem—the spiritual. After more than 35 years of trying to help homeless people with every imaginable problem, I cannot escape this fact: Men and women who walk away from their jobs, their families, and their homes do so because, fundamentally, they are turning away God and His claim on their lives. But government funded policies, by definition, must exclude this vital dynamic from the discussion. It is a prescription predestined for failure.

Not only are government approaches not working, but government regulations continue to impede or thwart the most innovative programs. Labor laws, zoning issues, licensing requirements are all getting in the way of private, religiously based efforts to deliver effective care. Authorizing block grants and returning power to the states will not by themselves make much of a difference, because it's state and local governments that throw up some of the most egregious obstacles to our faith-based shelter programs. Moreover, much of government's regulatory itch is aggravated by blindness to the moral and spiritual causes of homelessness.

What follows are some of the dynamics of change: We make sure that these elements are present in all of our 245 rescue missions in the 210 cities in which we operate nationwide. Though our missions offer various educational, job-training, relational, and other skills, these three principles establish an ethical and religious foundation without which all our other efforts would amount to nothing.

THE FAITH FACTOR

It is very difficult to overstate the importance of the spiritual aspect of this problem. Spiritual renewal is the fountainhead for personal transformation.

Enoch Walker was married and had a child he loved, a job he enjoyed, and a house in Washington, D.C. Then he began abusing alcohol and drugs, what he calls "the great removers" in his life, because they became more important to him than his family and friends. Soon his wife left him, taking their child. He became so abusive that even his dog left him. He lost his job, smashed his car, and started living on the streets.

Walker went through several rehabilitation programs. He doesn't know the precise number because he doesn't even remember some of them. Yet each time, he slipped back into addiction. "When I was functional, I would put on a nice three-piece suit and go and get the good jobs," he says. "But it was like putting a three-piece suit on a fish. Nothing would happen on the inside."

Then he checked himself into the Gospel Rescue Ministries of Washington, D.C. There, he received not only mental and physical counseling, but something else—spiritual guidance. As he says, "They reached my heart and . . . gave me an awakening." He has now been clean for three years, and is a self-employed carpenter with two other men working for him.

Walker's story is important because his background is so typical of America's homeless population. Homeless advocates are quick to point out that many of the homeless suffer serious or acute mental illness. They are correct. There are no easy answers for how to help heal these people and restore balance and normality to their lives. Many of them may never leave an institutionalized or group-home setting.

The mentally ill, however, do not make up the majority of the people who walk into our centers. About 80 percent of the homeless who enter the City Mission in Cleveland, for example, show symptoms of substance abuse. At our Mel Trotter Ministries in Grand Rapids, Michigan, perhaps 90 percent struggle with addictions that have helped spawn and sustain a whole set of destructive attitudes and behaviors. There is simply no way to get at those behaviors without first helping the addict break his or her addiction for good. Most government and traditional shelter rehabilitation programs are notoriously poor in curing addictions. Many do not even try.

But those that do suffer from a crucial flaw. Although grounded in the best of intentions, federal programs by law can only administer to mental and physical maladies, not the spiritual. Any homeless programs that receive federal funds "must provide shelter and other eligible activities in a manner free from religious influence," writes Michael Stover, HUD's assistant general counsel for the Rocky Mountain region, in a 1995 legal brief. "It may not provide religiously oriented services to persons using the homeless shelter and must not hire only persons from a particular religious persuasion." There it is; an explicit rejection of faith as the crucial component of change. This is why the overwhelming majority of our mission directors steer clear of government funding.

We've seen countless people wander into our shelters with a mind-wrenching addiction to crack cocaine; for example, and it's obvious to us that it takes more than physical and mental counseling to break that grip. Simply telling that addict to eat his vegetables and study the multiplication tables just isn't enough. Ask any of our mission directors, many of whom have 20 to 30 years experience helping the homeless. The spectrum of addictions and difficulties from which the homeless suffer have no long-term care outside of a heartfelt commitment of faith.

"Skid Row is not a geographical location," says Kalman, a former drug addict. "It's a heart condition. Unless you change a homeless individual's heart—not just his mind and body—he will remain homeless.

For this reason, all of our missions instill in homeless people the reality of a God who loves them, cares for them, and wants to help change them. In our view, based not only on our theology but on our experience, it is Jesus Christ, not any program, who transforms a man's or woman's life, who gives them the strength to summon the courage to break their destructive habits.

A MORAL INCUBATOR

Hand in hand with faith commitment is the sustained determination—both from shelter staff and the homeless themselves—to stay clean, hold down a job, or save a marriage. The homeless need and environment in which they are challenged to acknowledge and consistently renounce unhealthy behaviors; otherwise, they won't acquire the practical or emotional skills they need to succeed.

Mouthing a religious commitment is not enough; there must be actions to match. Our shelters insist not on perfection, but on repeated, good-faith efforts to change. And with god's grace, and a disciplined environment, they do. "We not only place responsibility on our clients." says Rev. Carl Resener, the executive director of the Nashville Union Rescue Mission, "we demand that, as a condition of living at the mission and participating in its programs, these men and women change their destructive habits."

This is one reason our shelter programs span several months. It gives the homeless time not only to rid themselves of their addictions, but also to build a foundation of faith, education, and social skills necessary to succeed in life. Consider our Regeneration Program at our Miami Rescue Mission. Rev. Frank Jacobs, the executive director, oversees an eight-month recovery program for 130 men. Bible study is mandatory. The men commit to memory biblical passages—they call them "arsenal verses"—that address behavioral problems such as drunkenness, laziness, and theft. The mission also offers a three- to four-month period of daily instruction on coping and social skills, with a heavy emphasis on relapse prevention.

Listen to Raymond Nastu, a drug addict arrested more than 80 times for offenses ranging from drug possession to brawling. He checked into the Bridgeport Rescue Mission in Connecticut. "I should have been dead so many times I can't keep track of them," he says. But the mission's strict regimen and climate of tough love turned him around. "I never had people care about me the way they do here, and that gave me the hope and courage to believe I could change." Today, Nastu is drug free and works as a carpenter.

Now compare that to some of the larger shelters in the country that place virtually no conditions on their residents. The results have not been pretty. Take the Mitch Snyder Shelter, in Washington, D.C. It is named after the homeless activist whose 1983 hunger strike prompted the Reagan administration to renovate a Federal building so that it could be used as a homeless shelter. As documented by a *60 Minutes* exposé, this shelter has been a haven for the selling of crack cocaine and liquor, as well as misuse of charitable funds and general corruption.

FRIENDS AND FAMILY

Our missions place a heavy emphasis on rebuilding relationships to one's family, friends, and religious community. *Positive relationships are a vital link between the homeless and lasting rehabilitation.*

"We don't always want to put our clients back with their old friends because sometimes the old friends are the problem," says Rev. George Verley of the Union Gospel Mission in St. Paul. "However, the worst thing in the world is for them to be alone, so we teach them to establish relationships. It's vital that they have this support structure when they leave us."

This is probably one of the most overlooked elements of most traditional and government-funded shelter programs. The homeless typically are treated in utter isolation; little attempt is made to reconnect them to family members. Yet when caregivers don't know a person's family background, it often becomes much more difficult to discern the most effective ways to help.

Many shelters, fearful of crossing church-state lines, do not even introduce the homeless to religious communities that could offer support. The Salvation Army shelters are a noteworthy exception here, but the majority of shelters have no process for helping a recovering addict plant roots in his or her community.

There may be no more important step for a formerly homeless person, however, than

to be grounded in a community of caring, committed individuals. Listen to Enoch Walker again: "If you do not have people surrounding you who care about you and give you unconditional love and give you the time that it takes to work yourself through it and work with you, I do not really see too many people who can make it." The pressures of life, the temptations of the street, the siren call of old habits—all can easily prove to be too much for the men and women struggling to get back on their feet.

THE GOVERNMENT ALBATROSS

We know that these and other principles are crucial to effectively helping the homeless help themselves. Though we don't expect the people we serve to pay us a dime—most couldn't—that doesn't mean we have no expectations of them "There are two root causes of homelessness," says Rev. Mike Edwards from the Los Angeles Mission. "Lack of relationships and lack of responsibility. Re-establishing a sense of both is key to our long-term success."

Success for us means much more than feeding people and keeping them safe, as important as those objectives are. Our aim is to help people break their addictions, learn basic life skills, and become honest, productive members of their communities. Over the last few years, we've conducted internal studies of our programs and the results are truly encouraging: The vast majority of our missions achieve success rates of more than 50 percent, with many achieving success rates of 70 or 80 percent. That means that most of the people who graduate from one of our programs become independent; a few slip back into old habits, but most remain addiction free, employed, and connected to family and friends.

Our success is also reflected in support from our communities. Eight years ago, the cumulative budgets of the 210 U.S.-based member missions in the International Union of Gospel Missions totaled $50 million. Today, IUGM counts 245 missions as members, and their cumulative budgets add up to more than $300 million. The overwhelming majority of our programs are funded privately, through individual donors, churches, and corporate sponsors. We don't require or expect government to lend a hand—and it hasn't.

Nor do we expect government to get in the way of our efforts—but it has. There are several areas where government bureaucrats have been unsupportive or downright hostile to rescue ministries' efforts. These include labor laws, zoning issues, licensing, surplus food distribution, and disaster relief.

Most of their objections stem from their reading (misreading, actually) of the First Amendment's religion clauses, designed to ensure citizens' basic religious freedoms. To which we respond: If we want a person to be truly free, that person must first be free of drugs. This is the promise rescue ministry fulfills.

Consider the following trouble areas:

Labor. For years, rescue missions have struggled with the issue of whether homeless men and women who do work in the missions as part of rehabilitation qualify as employees under the Fair Labor Standards Act. In September 1990, the Labor Department determined that the Salvation Army had to pay the minimum wage to clients performing work as part of rehabilitation, unless the Army's location registered as a "sheltered workshop." (Sheltered workshops historically have been places handicapped people went for training, not live-in facilities.)

After much political and legal wrangling, the Labor Department suspended enforcement pending further study. They policy remains in suspension, but has not been formally revoked.

Zoning. City and county boards have stopped or interfered with mission programs across the nation. The Denver Rescue Mission is located in an area known as Lower Downtown or "LoDo." This was formerly Denver's Skid Row, an area where the destitute congregated. In recent years, however, the area has been redeveloped and now supports a burgeoning night life.

That welcome development has had a most unwelcome side effect: City officials have ratcheted up their efforts to curb the mission's work. For example, on cold nights, the 110-bed mission used to set up about 40 cots in the chapel to meet the increased need. City officials never raised any objection because it took people off the street. Today, city officials flatly prohibit this practice.

City officials in Daytona Beach, Florida, have not allowed the Daytona Rescue Mission to locate within the city. The mission has gone to federal court. In Albany, New York, the Capital City Rescue Mission has been trying to relocate in order to expand its services. Recently, the city rejected the mission's request to move to a previously agreed-upon property. Other missions that have encountered significant roadblocks include the Union Gospel Missions of Dallas, Spokane, and Yakima, Washington.

Licensing. The licensing of faith-based programs, beyond issues of health and safety, has become a major impediment to many missions' spiritual integrity. Licensing has brought regulations such as a "client's bill of rights" in Tennessee, which originally included the right not to be presented with religious teaching. (That's somewhat like organizing a football team and including the right not to be touched!)

Then there is the case of the City Mission in Schenectady, New York. It was cited by New York's Department of Social Services because it prohibited pornographic materials from its facilities. Only after three months of negotiation did the mission and state authorities reach agreement that the mission was within its rights to prohibit pornography.

"We determined that on health and safety issues, we would submit to government regulations," says Eivion Williams, the mission's executive director. "But this was an issue of morality—what was right and what was wrong—and we stood firm. And in the end, we wound up getting what we asked for."

Food Distribution. For many years, rescue missions accepted federal surplus food and distributed it to the needy without excessive oversight or regulation. In December 1993, however, the U.S. Department of Agriculture mailed a memo to missions in its Western region that stated that USDA commodities were not to be used in meals where individuals were required to attend religious services. This caused confusion among many mission directors who were uncertain how to interpret the new rules. On advice of counsel, some missions have turned down USDA commodities because they believe accepting the food would subject them to federal regulations that compromise religious teachings.

Indeed, one of the interesting contradictions of federal policy is that schools, day-care programs, and early childhood development classes operated by churches may serve surplus food—even though their programs are grounded in religious beliefs. The government seems to believe that children in religious programs need good food, but homeless in religious programs do not.

Tonight 27,000 people in America are staying in rescue missions. Each is being fed, sheltered, and assisted. Last year, rescue missions served more than 28 million meals to the poor and homeless. That's enough to provide a meal to every resident in the state of California. Yet each person is also being challenged with hope and opportunity. Our rehabilitation programs involve over 11,500 men, women, and children.

Rescue missions are poised to continue their dramatic growth and success. Drug rehabilitation programs are expanding to meet the increasing need. Computer training and educational programs are now staples at many missions, providing GED preparation, core curriculum classes, drivers education, and job training. Missions are also setting up joint ventures with local businesses to give reformed addicts on-the-job training.

Unfortunately, our optimism at the progress of our missions is tempered by the cold realities of the street. The face of homelessness in America in changing. It is getting younger and more female. Children, once a rarity at shelters, are showing up with increasing frequency—and this cannot bode well for American society.

There are other problems. As Rev. Tom Laymon, the executive director of Mel Trotter Ministries in Grand Rapids, observes. "There is an aging population in our prisons that will eventually be given back to society. Many will have spent decades in prison. This means a whole new generation of 'older homeless' will be out on the streets and in need of our services."

Amidst this trend, federal and state homeless and anti-poverty programs—devoid of moral, spiritual, or religious counseling—will continue to fail. The answer is not for government to get into the religion business, but at the very least, to get out of the way of religiously based groups that are making a decisive difference in people's lives.

We have identified more than 100 American cities with populations of over 40,000 that are without a rescue mission. In 10 years IUGM wants to have programs in each of these. Our hope and prayer is that missions around the country will demonstrate the power of a well-rounded program that nourishes mind and body, spirit and soul.

"HEY—I'M HUNGRY."

Those involved with rescue missions know the difficulties and dangers of inner-city life. Many, like Mickey Kalman, spent years on the street—drifting, stealing, begging, and doing drugs—until they reached out for help. Kalman, now the executive director of City Rescue Mission in Oklahoma City, was invited to speak at the 1996 Republican National Convention, in San Diego.

Mickey Kalman's young life centered around alcohol. "I grew up with drunks and learned to drink," he says. He joined a gang. When he wasn't travelling and getting into mischief, he found trouble locally. At one point he pulled a gun on his teacher, threatening to "blow his brains out." By the age of 12, he was on probation.

Later Kalman got involved with drugs. "Once I ran away with a shipment of dope, sold it, and hid out in Wyoming," he remembers. "When I didn't have money for gas, I siphoned it out of construction trucks."

One day he found himself in Stockton, California, alone and hungry. He'd been living on the streets for the better part of two years. He walked up to the door of a rescue mission and said. "Hey—I'm hungry." The man at the mission offered Kalman some food and some work. He didn't usually get offers for work, but he agreed. Kalman decided

to enter the rehabilitation program, where he found faith in God and the power to turn his life around.

Today, Rev. Mickey Kalman oversees a mission budget of $1.4 million, with a staff of 21. Thousands are helped by his mission every year. "Rescue mission work isn't easy," he says. "It's hard to love some of the people who come to us . . . [but] when they knock, I say, 'Come on in. My name is Mickey Kalman. How would you like to stick around and do a little work?'"

CHRISTENING OF MADISON WHITFIELD WILSON

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. WHITFIELD. Mr. Speaker, it is with pride that I announce the christening of my granddaughter, Madison Whitfield Wilson, on Sunday, October 12 at Lakewood Presbyterian Church in Jacksonville, FL

Madison is the first child of my daughter Katie and her husband George. She was born at 5:15 p.m., Thursday, July 31, 1997, at Jacksonville Memorial Medical Center and weighed 8 pounds, 6 ounces at birth.

This wondrous event is a poignant reminder that the primary purpose of our service here as Members of the U.S. Congress is to build a better future for America, for our children, and their children.

In that spirit, I share the joy of Madison Whitfield Wilson's arrival with my colleagues and urge our renewed dedication to ensuring that America's tomorrows will be even better than her yesterdays.

HONORING THE THIRD ANNIVERSARY OF THE WOMEN'S HEALTH INITIATIVE AT BAYLOR COLLEGE OF MEDICINE

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. BENTSEN. Mr. Speaker, I rise to honor the Women's Health Initiative [WHI] at Baylor College of Medicine in Houston as they celebrate their third anniversary and build on their landmark research on women's health. A vital component of the Texas Medical Center in my district, the Women's Health Initiative is one of 40 clinical centers across the country taking part in the WHI, the largest ever women's health study in the United States.

Three years ago, the National Institutes of Health awarded Baylor College of Medicine a grant of $11.8 million to conduct the largest, longest clinical trial in Baylor's history. This study is examining the health of more than 5,400 women over a 12-year period, and focuses on diseases that are critically important to the health of women: cardiovascular diseases, breast cancer, colorectal cancer and osteoporosis. Cardiovascular diseases are the leading killer of postmenopausal women, and breast cancer is the second killer among cancer in women. Colorectal cancer is responsible for at least 4 percent of the deaths of women aged 50 to 79 and is the third-leading killer among cancer in women. Osteoporosis is the condition resulting from a weakening of the bone after menopause. The information provided by the Women's Health Initiative will lead to breakthrough treatments for these diseases and improve the lives of women in Texas and across the Nation.

The Baylor Clinical Center has recruited 3,300 women for an observational study to gather information regarding risk factors for these diseases. The Baylor Clinical Center will also recruit an additional 2,100 women for a clinical trial to research whether diet and hormone replacement therapy help women lead healthier lives. Information gathered from this clinical study will help women to make informed decisions about which therapies to use to prevent disease and stay healthy.

I also want to highlight the efforts of Dr. Jennifer Cousins, director for the Center for Women's Health, to bring this critical WHI study to the Houston area. I believe Dr. Cousins is critical to the success of this study and she should be commended for her hard work.

I am honored to have worked closely with Dr. Cousins and Baylor College of Medicine to expand the WHI's study to ensure even more women benefit from their groundbreaking research. I look forward to continuing to work with Baylor and the Women's Health Initiative to further expand this study and provide more funding for the National Institutes of Health [NIH] and the Office of Women's Health, which funds this important program.

Mr. Speaker, I congratulate the Women's Health Initiative at Baylor College of Medicine for 3 years of excellence and innovation in medicine and wish to congratulate the 2,000 study participants who will participate in a birthday party on Thursday, October 23, 1997. I look forward to even greater successes as they work to ensure healthier lives for women in the 21st century.

HONORING RALPH LISTON

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. HALL of Texas. Mr. Speaker, it is a privilege for me to rise today in memory of Ralph Moody Liston, a prominent member of the Wills Point, TX, community who died recently at the age of 73.

Ralph Liston was a successful farmer, rancher, and businessman. He owned a propane company, exterior design company, and lumber community. As a farmer, he was once named Outstanding Conservation Farmer of the Year.

Ralph also was active in his community. He was a longtime member of the school board, served as election judge, Chamber of Commerce president, chairman of Van Zandt County Building Committee and a member of the Farmers Home Administration Board. He was a member of Masonic Lodge 422 and was active in the Methodist Church, where he served in various capacities through the years.

I felt a special kinship to Ralph—in that I was always told by my mother that we were both named after the same distant relative—Mary Katherine Moody. I knew his wonderful mother and dad as Cousin Mary and Cousin Jim. It seems that part of our family came to Texas from Arkansas. Ralph carried on the great tradition of love of family and success in business and faithfulness to his church—a tradition handed down through the years. I will miss him.

Survivors include his wife of 54 years, Helen; sons, Rickey and Ralph Moody Jr.; daughters, Linda Wehr and Teena Liston; seven grandchildren and one great-grandchild.

Mr. Speaker, I would like to extend my sympathy to his family and many friends in Wills Point and Van Zandt County. As we adjourn today, I would like to take this opportunity to pay my last respects to this great citizen—Ralph Moody Liston.

TRIBUTE TO HENRY B. GONZALEZ

SPEECH OF

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. EDWARDS. Mr. Speaker, today it is with great pride yet with heartfelt sorrow that I ask members to join me in honoring our colleague, HENRY B. GONZALEZ, on 36 years of service in the U.S. House of Representatives.

At the end of this year, HENRY B. GONZALEZ will take his leave of this body. A great void will be left in our ranks when he is gone. His towering presence, financial expertise, and willingness to take a stand for causes large and small will be sorely missed.

Although the country and this Congress have changed dramatically since HENRY B. GONZALEZ assumed his congressional seat in November 1961, he has always remained true to this country, to his beloved 20th Congressional District in San Antonio and to this Congress.

Like so many of us, HENRY B. GONZALEZ dedicated his life to serving his community and his country. I was extremely blessed to follow in his footsteps first to the Texas State Senate and then to the U.S. House of Representatives.

My relationship with HENRY B. GONZALEZ began long before we served together here in the U.S. House. In a way, we served together in the Texas Senate although he had left that body two decades before I set foot there in 1983.

In the chamber of the Texas Senate hangs a painted portrait of HENRY B. GONZALEZ who served from 1956 to 1961. As a young senator, I remember looking at his portrait and the paintings of other famous Texans that hang there including Stephen F. Austin, the father of Texas; and Lyndon B. Johnson and Barbara Jordan who both served the State and the Nation with distinction.

I always considered myself fortunate to be serving in the State legislative body where HENRY B. GONZALEZ broke new ground for improved race relations in Texas. In 1957, HENRY B. GONZALEZ proudly and bravely stood

on the senate floor to fight and filibuster nine bills that would have expanded the then common practice of segregation.

After 36 hours HENRY B. GONZALEZ and his allies had successfully stopped seven of the segregation bills. He was subjected to fierce personal and professional attacks, but refused to retreat or surrender. His determination to do what was right for all Texans began the process of tearing down the wall of racial separation that existed in the State.

I never had the privilege of serving with him in the Texas Senate. But when I saw the portrait, I always tried to adhere to the principles he brought to office—honesty, integrity, and loyalty. His reputation, then as now, is that of a legislator who would fight for all people no matter their race, color, creed, or religion.

It was Texas' loss and the country's gain when HENRY B. GONZALEZ resigned his senate seat to make a successful run for the U.S. House of Representatives.

On November 4, 1961, HENRY GONZALEZ took his congressional seat and immediately found his calling on the House Committee on Banking, Finance, and Urban Affairs. Although the name of the committee has changed through the years, his commitment to consumers, small business owners, and taxpayers has never wavered.

He served as Banking Committee chairman from 1989 to 1994. Under his leadership the panel conducted more than 500 hearings and moved 71 bills through the legislative process. During his tenure laws were passed that protected bank depositors, made credit available to small business owners, cracked down on financial fraud and other crimes, and made housing more accessible to Americans.

Despite the long hours and hectic schedule of a Congressman and committee chairman, HENRY and his wife of 57 years, Bertha, raised eight children. Henry and Bertha now have 21 grandchildren and 3 great-granddaughters who will continue to bring joy in the years to come.

It has been a great privilege to serve with HENRY B. GONZALEZ and to work with him on so many issues of importance to Texas and the United States. Although HENRY B. GONZALEZ is heading home, he will always be remembered for his selfless service and willingness to fight for principle.

I ask Members to join with me in honoring HENRY B. GONZALEZ for his many contributions in the past and for his success in the future. HENRY B. GONZALEZ may be leaving this House, but he will never be forgotten either here or at home.

His portrait will hang in the Texas State Senate and his memory will remain in the hearts of his many friends and colleagues here in the U.S. House of Representatives. Goodbye, Mr. Chairman.

HONORING IRENE V. SHUMAN

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to recognize an outstanding citizen of the 11th district on her 80th birthday. On October 22, 1997, Irene Shuman will celebrate her 80th birthday surrounded by many family and friends. Irene has been a member of the Glen Forest community for the past 42 years where she is known to and loved by everyone in the neighborhood.

Irene is known as the ombudsman of the Glen Forest community and is often called the mayor of Glen Forest. She knows all of the children's names, she can tell you who lives where, and she knows everyone from the surrounding neighborhoods that work with the Glen Forest Civic Association. Irene's love for people has helped Glen Forest remain a tight knit community where the people look out for one another and work together to make the neighborhood a better place to live. She has been the keeper of the oral history of Glen Forest for more than 30 years and has passed on neighborhood legends to successive generations of children.

Irene is and has been involved in every aspect of the Glen Forest community. She has been active in community affairs since the early 1960's. For 15 years, she held the community rummage sale that raised money for the neighborhood pool. People would donate items for the sale throughout the year and Irene would sort and price them for the annual event. She has also run the summer program for Glen Forest for 28 years. This duty includes the opening and closing pool picnics for which she buys and prepares 100 chickens. Irene has always done this because she believes it brings the community together. This is also why she has worked tirelessly to improve the community pool for the past 25 years.

Irene has mowed the pool lawn for the past 24 years and she is the oldest licensed pool operator in Fairfax County. Irene has maintained the pool by painting the bath houses inside and out every year as well as tarring and repairing the roof. Many in the community do not even know that she has done all of this, even though she hates to swim. Irene was also a mainstay of the Garden Club for the 20 years of its existence. Every year, no matter the weather, she sold Christmas wreaths to raise funds for the Garden Club.

Irene's many accomplishments include work outside the Glen Forest Civic Association. She has worked with all of the Mason District supervisors to the Fairfax County Board of Supervisors for the past 30 years, including myself when I held that position from 1979 to 1991. Irene often appeared before the Board of Supervisors to testify about issues affecting the community. She has held the Membership Chair for the Civic Association for the past 10 years and has worked ceaselessly to keep the Glen Forest neighborhood a nice place to raise children. Irene helped keep Glen Forest Street from becoming a through street from Route 7 to Carlyn Springs Road so parents did not have to worry about speeding traffic when their children played outside. She also rid the neighborhood of a pornographic book store by going down to the store to confront the owners and customers.

I know my colleagues will join me in saluting a woman who has made her neighborhood a beautiful and better place to live. Irene Shuman is a remarkable individual who has an energetic spirit that inspires those around her to become involved. I share the celebration of her 80th birthday and her lifetime of civic achievements.

IN RECOGNITION OF OCTOBER AS NATIONAL MEDICAL LIBRARIANS MONTH

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. OWENS. Mr. Speaker, I rise today to recognize October as National Medical Librarians Month, and to honor the more than 5,000 medical librarians working in hospitals, academic health centers and libraries across the country for their role in improving the health of all Americans by increasing access to health care information.

As a former librarian, I can appreciate the specialized skills needed in today's electronic information age to access, filter and evaluate the most up-to-date medical information for the medical community and for the general public. The ability of medical librarians to maneuver quickly through the wealth of health care information on the Internet, and to identify the most credible, relevant and appropriate sources of information for each request, underscores the increasing importance medical librarians will play in the future.

Studies show information provided by medical librarians improves patient outcomes. Physicians report a reduction in mortality, hospital admissions, surgery, and hospital acquired infections due to information obtained by medical librarians. They say information from the medical librarians allows them to make more accurate diagnoses, reduce unnecessary tests, select more appropriate drugs, and give accurate and current information and advice to their patients.

As we celebrate National Medical Librarians Month, I also honor the longstanding partnership between the medical library community and the National Library of Medicine [NLM] at the National Institutes of Health. For over a century, medical librarians have benefitted from the extraordinary work being done at NLM, the world's premiere medical library. Through access to NLM's state-of-the-art medical databases and telemedicine project sites, medical librarians are able to provide doctors and patients, often in underserved rural and urban areas, with the most current and accurate health-related information.

Mr. Speaker, as we move into the 21st century, it is clear that the advancement of telecommunications technology will continue to revolutionize the delivery of health care in America. I believe by being wired to the world, medical librarians will lead the health care industry in this revolution.

During the month of October, I ask all Members to join me in saluting this county's medical librarians for their role in keeping America better informed about health care and encouraging more active participants in the health status of this country.

HONORING BENNY MARTIN

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. HILLEARY. Mr. Speaker, I rise today to pay tribute to the man whom Country Music Magazine has called the "World's Greatest Fiddle Player," Mr. Benny Martin.

Benny recently added another honor to his very long list of impressive accomplishments when his hometown of Sparta, TN, dedicated new city limit signs which designate the town as the "Home of Benny Martin." When you look at everything Benny Martin has done over the course of his distinguished musical career, it's easy to see why Sparta is so eager to call him a native son.

Benny began his musical career in his childhood more than 50 years ago, and he became a member of the Grand Ole Opry in 1946. Since then, he has performed in person on at least three continents on some of the world's most prestigious stages, including Buckingham Palace in London, Carnegie Hall in New York, and of course, the Grand Ole Opry House in Nashville. Benny has also performed on many television shows, including "The Steve Lawrence Show" and Dick Clark's "American Bandstand."

But perhaps the most important impact Benny Martin has had is on the musical heritage of the great State of Tennessee. Mr. Speaker, I think my home State of Tennessee has the richest musical heritage of any State in our Union. From old-time mountain bluegrass in east Tennessee to the soulful blues of west Tennessee, from the Grand Ole Opry in Music City to Elvis Presley in Memphis, Tennessee's musical roots run deep.

Mr. Speaker, Benny Martin and his fiddle have a very prominent place in that rich history, and I'm proud to call him a Tennessean, a constituent, and like the residents of Sparta, I'm also proud to call him a native son.

SISTER JOHN MARIE SAMAHA HONORED FOR COMMUNITY SERVICE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. STARK. Mr. Speaker, I would like to take this opportunity to commend the work of Sister John Marie Samaha of the Sisters of the Holy Family of Nazareth.

Sister Samaha entered the Sisters of the Holy Family on July 2, 1943. Sister Samaha began her ministry at a day care center, and soon afterward served as religious instruction teacher at various locations in northern California. In 1960, she became supervisor of religious instruction for the Archdiocese of San Francisco. In 1967 she became supervisor of religious education for the Sister of the Holy Family. From 1970 to 1975, Sister Samaha served as the superior of Holy Family Convent in San Jose, and from 1975 to 1979 she was the vice president of the Sisters of the Holy Family Community.

Sister Samaha is currently pastoral associate at St. Joseph Parish in Mission San Jose. She has cared for the sick and visited the terminally ill. She has planned activities for seniors, and helped families deal with the death of loved ones. She has encouraged a spirit of family among parishioners, and assisted the needy with food, rent, and bill payments.

Through groups like the Tri-City Homeless Coalition, the Centerville Free Dining Room, Second Chance, SAVE, and CAUS, Sister Samaha has helped supply food, clothing, and a range of support to needy individuals throughout our community.

On October 10, 1997, Sister Samaha will be honored by her friends and colleagues at the Ohlone College Foundation's annual luncheon. I join in recognition of her lifetime of giving to the community.

HONORING BERTHA GORDON MILLER AND THE SEVEN ACRES JEWISH GERIATRIC CENTER

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. BENTSEN. Mr. Speaker, I rise to honor Bertha Gordon Miller of Houston, who on October 21, 1997, will be honored by the Seven Acres Jewish Geriatric Center with its 1997 Spirit of Life Award.

Mrs. Miller has spent a lifetime giving and working for charitable causes and is described by Punkin Hecht and Barbara Schneidler, cochairs of the Seven Acres award luncheon, as a role model among role models.

A native Houstonian, Mrs. Miller attended Rice University. She was married to the late Isadore Miller for more than 50 years, and they have two children, Dede Weil and Arnie Miller, and five grandchildren.

A member of Seven Acres' Board of Directors since 1953, Mrs. Miller continues to contribute her time and talents to the Jewish home, which has benefited from endless hours of dedication on her part. Although she is said to have worked for every fundraising drive in Houston, she has narrowed her activities in recent years to three organizations: Seven Acres, the Houston Symphony, and the Retina Research Foundation.

Through her good work, Bertha Gordon Miller has touched the lives of Houstonians in countless ways. But most of all, she has helped ensure a high quality of life for the residents of Seven Acres, the largest and only Jewish geriatric facility serving the Texas gulf coast.

Seven Acres provides the highest standards in adult day health care through the Wolfe Center and specialized geriatric care and services through its 290-bed residential facility. Funds raised by the awards luncheon will help provide financial aid and other benefits for the residents.

The annual Spirit of Life Award celebrates and recognizes long-term community service performed with the highest standards of integrity. The exemplary individuals so honored have demonstrated extraordinary commitment and serve as role models of dedicated service on behalf of others. The award recipients are persons whose energy and community spirit have earned them the respect and admiration of all those touched by their accomplishments.

In addition to Mrs. Miller, Edward Asner, the award-winning actor, noted activist, and humanitarian, has been named by Seven Acres as recipient of its 1997 National Spirit of Life Award and will be guest speaker at the luncheon.

Bertha Gordon Miller and Edward Asner certainly meet the high standards of the Spirit of Life Award and serve as examples for all of us of outstanding community service.

INDIAN GOVERNMENT APPEARS TO BE BEHIND BOMBINGS OF MARKET AND TRAIN IN DELHI AREA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. TOWNS. Mr. Speaker, the recent bombing of a market in New Delhi and a train outside New Delhi are terrorist acts that must be condemned by all decent people. The loss of life and the injuries to people are tragic, but I especially want to note that the explosions injured five Australians and two Japanese visitors to India. I note that the Council of Khalistan, the organization leading the Sikhs in their struggle for freedom from Indian oppression, issued an excellent press release condemning these bombings as "a cowardly and reprehensible act against God and man."

The Indian regime blames the bombings on a "Sikh terrorist" organization called Shaheed Khalsa. If they are responsible, they deserve the condemnation of the civilized world. But even the Indian press is reporting that no one has ever heard of this organization before. It just appeared on the scene very suddenly, at the moment when it is most convenient for the Indian Government. Even the Decca Herald newspaper reports that this organization is a fraud. It is likely that Shaheed Khalsa is a front for the Indian Government.

The bombings were apparently carried out using RDX explosives, a weapon known to be in common use by the Government. This is the same explosive the regime planted on American citizen Balbir Singh Dhillon, a Sikh businessman, father of two, and activist who went to Punjab to visit family and some Sikh religious sites.

India has a record of state terrorism. In November 1994, the newspaper Hitavada reported that the Indian Government paid the late governor of Punjab, Surendra Nath, $1.5 billion to create terrorism both in Punjab, Khalistan, where Sikhs are in the majority, and in the neighboring state of Kashmir, which has Muslim majority.

The terrorism creates an excuse to crack down and kill even more Sikhs. More than 250,000 Sikhs have already died at the hands of the Indian Government since 1984, according to numbers issued by the Punjab State Magistracy and by a coalition of human rights groups. It has also killed more than 200,000

Christians since 1947, over 53,000 Muslims in Kashmir since 1988, and tens of thousands of Assamese, Manipuris, and others. It has also killed thousands of Dalits, black untouchables, the aboriginal people of South Asia. Over 60,000 cash bounties have been paid to police officers for killing Sikhs like little Arvinder Singh, a 3-year-old child who was killed along with his father and uncle. The police claimed that the three were terrorists and received a $30,000 cash bounty for their murders.

On September 4, over 1,000 Indian security forces launched a raid on a Sikh church, called a Gurdwara, in Chandigarh. They illegally arrested nine Granthis, the local clergy. Three of the Granthis were severely beaten and tortured. No charges were filed against any of the Granthis. This happened on the very same day that we were voting on whether to cut aid to India and just a week before the state funeral of Mother Teresa.

Mr. Speaker, we must ask the question, who benefits from these bombings? Clearly, no one could believe that the Sikhs benefit. They will only suffer more bloodshed and repression as a result of these horrible acts. The Government of India, however, sees its country falling apart from the weight of its domination of a diverse land with many nations and 18 official languages. They are desperate to keep their empire together. These bombings provide a perfect excuse to suspend the elected government in Punjab, impose direct rule from New Delhi, and increase the repression and bloodshed.

Responsible Members of Congress and decent people everywhere must speak out against this genocidal policy. We should support all the freedom movements of South Asia by word and deed. We must go on record in support for freedom for Khalistan and all the nations of South Asia, and we must stop U.S. aid to this terrorist regime and place it under embargo until the freedom of all peoples and nations in the region is respected. Only then will India truly be able to call itself a responsible, secular democracy.

I am placing the Council of Khalistan's press release on the bombings into the RECORD.

DR. AULAKH CONDEMNS INDIAN GOVERNMENT BOMBINGS OF MARKET AND TRAIN IN DELHI AREA

WASHINGTON, D.C., October 2.—Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, today strongly condemned the bombing of a market in New Delhi and a train outside New Delhi. "This is a cowardly and reprehensible act against God and humanity," he said.

Although the Indian government blames the bombings on a "Sikh terrorist" group called Shaheed Khalsa, Dr. Aulakh pointed out that no one has ever heard of this organization. "It appeared out of thin air," he said. "I suspect that it is yet another terrorist organization convened, armed and controlled by Indian security and intelligence services, if it even exists at all."

"These bombings are desperate acts of a desperate political party," he said. "If you want to find out who is really responsible, investigate Congress politicians who have lost electoral support. Ask the question: Who benefits from these bombings?" Dr. Aulakh said. The Congress Party supports the ruling 13-party coalition.

"Every time the ruling party, in particular Congress, loses control of State government in Punjab," Dr. Aulakh said. "These bombings begin to occur throughout Punjab and Delhi. It then allows Delhi to suspend the government and impose direct rule in the name of maintaining law and order. At that point, police and security personnel shut down the press, the courts, rights groups and Sikh temples and the slaughter of our Sikh brothers and sisters begin anew. These bombings allow the police to continue their extortion, kidnapping and murder-for-cash bounty rackets." He noted that Delhi has suspended Punjab state government nine times, every time a Sikh party wins power they are never allowed to finish their term of office.

On September 4, a week before the state funeral for Mother Teresa, 1000 Indian security troops raided a Sikh church (Gurdwara) in Chandigarh and illegally arrested nine clergy (Granthis). Three were severely beaten in jail. None of the Granthis was charged with a crime. The government has murdered more than 250,000 Sikhs since 1984, according to Punjab State Court and human rights groups findings. Over 60,000 cash bounties have been paid to police for killing Sikhs.

"The bombings show that India stops at nothing to end the freedom struggle," Dr. Aulakh said. On Oct. 7, 1987, the Sikh Nation declared its independence from India, forming the separate country of Khalistan. The Council of Khalistan was formed at that time to serve as the government pro tempore of Khalistan. It leads the peaceful, democratic, nonviolent independence struggle.

"India's artificial empire is collapsing around them, so the regime resorts to acts of terrorism to keep it together." said Dr. Aulakh. "The democratic nations of the world must rise up and condemn this cowardly act and the reign of terror it advances."

86TH ANNIVERSARY OF THE ROC

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. ACKERMAN. Mr. Speaker, October 10 marks the 86th anniversary of the founding of the Republic of China [ROC]. In Taiwan, October 10 is known as National Day and is a day of celebration and remembrance. I think it is important that my colleagues and I take a moment to send our congratulations to the 21 million people on Taiwan for developing a strong participatory democracy.

The ROC government began 11 years ago to take the final steps toward true political maturity. They broadened the scope of local and national elections, increased licensing of private TV and radio stations, and privatized government-owned monopolies. These reforms culminated with the popular, direct election of Lee Teng-hui as Taiwan's President.

Mr. Speaker, the Republic of China's current representative to the United States, Dr. Jason C. Hu has been an integral part of the positive political developments of the past 11 years. In 1991, as a cabinet official under President Lee, Dr. Hu helped to open the political system to greater participation. As the President's spokesman during the last election, Dr. Hu helped to get out President Lee's message of political inclusion which helped garner Lee more than 54 percent of the vote in a four-way race. As representative to the United States, Dr. Hu has worked to strengthen ties between the United States and the ROC.

Later this month, Dr. Hu will be returning to the ROC to become the Minister of Foreign Affairs. In this very senior position within the President's cabinet, Dr. Hu will build on the work he has begun here in the United States. I am sure he will help guide the ROC to even better relations with the United States. I hope my colleagues will join me in congratulating the ROC on its National Day, and in wishing Dr. Hu well and thanking him for all his assistance.

TRIBUTE TO PRESIDENT LEE AND DR. HU

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. OWENS. Mr. Speaker, there is one worthy country in the world that deserves much wider recognition. It is the Republic of China in Taiwan. Even though it is the 14th largest training entity in the world and a full democracy. Taiwan is recognized by only 30 countries in the world. Recently President Lee Teng-hui of Taiwan visited several Central American countries to shore up diplomatic support for Taiwan.

To help him win more international friends and support, President Lee has announced that Taiwan's representative in Washington, Dr. Jason Hu, will be Taiwan's new foreign minister.

We were delighted to hear the good news. We know Dr. Hu will make an excellent foreign minister. During his past 15 months in Washington, Dr. Hu is known as a hard-working diplomat who conducts his country's business with charm and intelligence.

It is my hope that Taiwan's diplomatic fortunes will dramatically improve in the months and years ahead now that President Lee has chosen Jason Hu as his country's top diplomat.

IN HONOR OF PULASKI DAY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. KUCINICH. Mr. Speaker, I rise today to remember Casimir Pulaski, a Polish patriot and a military hero. The Polonia Foundation, the Polish Legion of American Veterans, U.S.A., and many other organizations in the Cleveland area are holding a memorial ceremony in honor of Casimir Pulaski, Saturday, October 11, 1997.

Pulaski originally made his name fighting the Russian domination of Poland. When he met Benjamin Franklin in Paris in 1777, he was already one of the most renowned cavalrymen in Europe. Sympathetic to the American cause, he sailed to America and was made head of the newly formed American cavalry during the Revolutionary War.

Pulaski was involved in many significant battles during the Revolution. His last took

pace at Savannah, GA in October 1779 where he led a valiant charge against British artillery. He was shot and died a few days later. Pulaski was one of the more dashing European volunteers to join the Americans in the Revolution. He reportedly wore a plumed hat, flashing saber, and an elaborate uniform and spent his own money to feed and equip his troops.

He fought valiantly for the ideals of the American Revolution and made important contributions to American history. Because of his courage and bravery, Casimir Pulaski is an American hero and an significant figure in the role Polish immigrants have played in American history.

SHIRLEY SISK HONORED FOR DEDICATED SERVICES TO THE RESIDENTS OF THE 13TH DISTRICT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. STARK. Mr. Speaker, I would like to take this opportunity to honor Shirley Sisk, the executive director of the League of Volunteers. Shirley Sisk founded the League of Volunteers in 1979. She served as president until accepting the position of executive director in 1989. For three decades, Shirley has worked in numerous ways to make our community a better place.

From 1972 to 1993 Shirley served on the Newark City Council. During that time she was committed to responsible management of the city's policies, programs, and budgets. Her leadership resulted in a range of programs including the Human Relations Element of the General Plan, Music at the Grove, School/City Youth Committee, Volunteer of the Year Recognition, and Newarks of the World.

Shirley is the founder and president of the annual Newark Days Celebration. The celebration is a shining example of volunteer support which is enthusiastically anticipated by the community each year.

Shirley is also the founder and president of the Bay Area Cable Excellence Awards Program and the Society for the Preservation of Carter Railroad Resources. She is actively affiliated with the Ohlone College Foundation, the Business Leadership Council, and the Fremont Kiwanis.

In 1994 the State of California recognized her outstanding service and numerous achievements by naming her Woman of the Year.

On October 10, 1997, Shirley will be honored by her friends and colleagues at the Ohlone College Foundation's annual luncheon. I would like to join their commendation of her hard work on behalf of our community.

TAIWAN'S NATIONAL DAY AND DR. JASON HU

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. ENGLISH of Pennsylvania. Mr. Speaker, on the eve of Taiwan's National Day, I wish to pay tribute to President Lee Teng-hui of the Republic of China. This first democratically elected head of state in Chinese history has recently led his country through major constitutional reforms and visited several Central American countries in his effort to shore up diplomatic support for Taiwan.

In addition, President Lee has announced that Dr. Jason Hu, Taiwan's top diplomat in Washington, will become Taiwan's new Foreign Minister.

I believe Dr. Hu is the right person to help President Lee win more international friends in the months and years ahead. Even though Taiwan is a major political and economic power in the world, it hasn't received proper international recognition.

In his new position as foreign minister, Dr. Hu will have the right platform to tell the world why Taiwan deserves a much louder voice in the international arena.

Best wishes and good luck to both President Lee and Representative Hu.

POLICE OFFICIAL STRIPS AND TORTURES WIDOW, SON IN FRONT OF EACH OTHER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. TOWNS. Mr. Speaker, another disturbing violation of human rights has occurred in Punjab, Khalistan. On August 21, according to several reports, a police subinspector in Bathinda forced a local widow and her adult son to strip naked, then tortured them in front of each other. Apparently, the widow's other son eloped a few months before that and for some reason, the police were seeking information about his elopement. In their unwarranted pursuit of this private information, they took the extreme measure of torturing two people. Unfortunately, this is not unusual in India. Torture, rape, and even murder are common, everyday occurrences in Punjab, Kalistan, in Kashmir, in Nagaland, in so many parts of India's brutal and corrupt empire.

An elected mayor was tortured in front of the people merely for being an Amritdhari Sikh. In Bombay, 33 Dalits—"Black untouchables"—the aboriginal people of South Asia were killed during a peaceful protest. In Kashmir, at least 20 reporters were beaten during a protest at the Chief Minister's office. They were protesting the police beating of a fellow reporter from Agence France Presse who had instructed his photographer to take a picture of a woman being beaten by the police. These are recent incidents, not old information. Sadly, these are just a few of many recent incidents of torture, brutality, and murder by the Government of India. This is completely unacceptable.

We must stop taxing our own people to support these brutal rulers. The time has come to impose stringent economic sanctions on this regime until basic human liberties are observed. Finally, this Congress must put itself on record in support of freedom for all the nations of South Asia. This is what our principles demand of us. We must do our duty to the people of the world.

HONORING CHARLOTTE AUSTIN JORDAN

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. McKEON. Mr. Speaker, the National Crime Prevention Council and Ameritech have honored a constituent of mine, Charlotte Austin Jordan of Winnetka, CA, with the Ameritech Award of Excellence in Crime Prevention. Ms. Jordan is 1 of 8 winners selected from 140 nominations. Her work and perseverance deserves to be recognized.

Charlotte Austin Jordan is not a stranger to adversity. In May 1988, her 13-year-old daughter was brutally murdered by gang members in a case of mistaken identity. Further, in 1996, her 24-year-old son was also murdered by gang members. The death of her first child prompted Ms. Jordan to volunteer at the California Youth Authority in impact of crime on victim's classes. This program provided a meeting place for victims of crime to confront juvenile offenders and to verbalize what effects crime had on their lives.

Next, Ms. Jordan formed Save Our Future, a community-based nonprofit organization dedicated to educating, protecting, and empowering our youth. SOF provides many programs such as parenting, substance abuse, tutoring conflict resolution, and college and career development.

As an innovator, she recognized the need for housing for paroled youth who are unable to return to their homes. She consequently developed Ja'mee's house to provide a structured environment for formerly incarcerated young men who have exhibited a willingness to change. She also became involved with Partnership for Change, a mentoring program for at-risk children ages 8 to 19 who have been paroled or are on probation.

I would like to thank the National Crime Prevention Council and Ameritech for honoring Charlotte Austin Jordan with this award and applaud her dedication to helping individuals fight crime and build communities. Ms. Jordan knows all too well the firsthand experiences, her faith in the ability to reform offenders has never been shaken. I ask my colleagues to join me in congratulating this brave woman and hard-working individuals like her who make a difference in their communities.

YOM KIPPUR HOLOCAUST OBSERVANCE AT TEMPLE BETH DAVID

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. ACKERMAN. Mr. Speaker, I rise today full of joy and fulfillment as my constituents and the other members of Temple Beth David of Commack, Suffolk County, prepare to join together to observe a most special Yom Kippur service.

This Saturday, on Yom Kippur 5758, the most sacred of all days in the Jewish calendar, Rabbi Leonard Troupp of Temple Beth David and his congregants will reunite a sacred Holocaust Torah scroll from the town of Dobris, in what was then Czechoslovakia, with Petr Herrmann, a resident of that village prior to the Holocaust. Thus, the congregation will, in the words of Rabbi Troupp, "witness the victory over evil and glimpse the possibility of God's promise for all mankind."

Mr. Herrmann's biography is one from which great novels can be written. It is full of adventure, good and evil and is filled with the indomitable human spirit to survive and maintain justice, love and freedom.

The Herrmann family lived in Dobris from 1793 until the tragedy of the Holocaust. Uncles, cousins, friends, neighbors and even Mr. Herrmann's father, Alois, became B'nai Mitzvah as they stood before the Torah scroll that now has found a home at Temple Beth David. That Torah was a part of their lives that was viciously torn from them in 1939 as the Holocaust descended upon Europe. Mr. Herrmann, his parents, relatives and friends were taken from Dobris and sent to locations whose names evoke the most unbelievable horrors and cruelty that have yet been devised: Theresienstadt, Auschwitz, Birkenau. Sadly, many of the Dobris Jews perished at these death camps.

On this Yom Kippur, 55 years since he and the Jewish community of Dobris were deported, Petr Herrmann will show that he has done more than just survive. He and his wife, Jarmilla, will stand once more before the Dobris Torah and recite the traditional Jewish blessing that gives thanks for having been able to observe and participate in this event. He will proudly recite the family names from Dobris—Arnstein, Bloch, Bohm, Fleischmann, Frankl, Gluck, Katz, Kosiner, Lederer, Lion, Oppenheimer, Pollack and Porges—families that were proud members of the Dobris Jewish community; families who are now but memories.

Mr. Speaker, as we observe this solemn and moving occasion, it is fitting that we pay tribute to those self-effacing people who in the times of greatest adversity still reflect the compassion and courage of our society. I ask all my colleagues in the House of Representatives to join me now in commending the efforts of Pamela Gershowitz, head of the Dobris Committee at Temple Beth David; Werner Reich, who led the search that brought Mr. Herrmann to Commack, Rabbi Leonard Troupp, and other members of the Temple Beth David congregation, in recognizing the heroic tale of Petr Herrmann, and in welcoming the Herrmann family back to the Dobris Torah in Commack.

CONFERENCE REPORT ON H.R. 2158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise to comment on the VA–HUD appropriations bill, H.R. 2158 that has emerged from a conference committee between the House and the Senate.This legislation provides resources for a wide variety of programs, two of the most notable concern section 8 housing subsidies and the service coordinators that are supported through the Department of Housing and Urban Development [HUD].

In the State of Ohio, there are more than 50,000 apartment units in which citizens receive rent subsidies from the HUD section 8 program. My congressional district on the west side of Cleveland has a substantial concentration of section 8 projects and eligible persons, many of whom are elderly and disabled. Our Nation has made a compact with these residents to help them maintain a decent place to live. As we know, many of the section 8 contracts will be expiring in the next few years. Fortunately, this appropriations bill provides a total of $9.4 billion in fiscal year 1998 for the renewal of section 8 rental housing contracts. This is more than twice the amount that was provided last year for similar activities. This money will be available for HUD to work with apartment owners at section 8 properties to ensure that rent subsidies will continue for elderly, disabled, low income and other persons who depend on rent subsidies. Although this amount is less than what was originally requested by the President for section 8 renewals, I am confident that HUD can meet the challenge of using this money in a cost-effective and sensitive manner.

The other good news concerns service coordinators. These staff persons work in section 8 projects to assess the daily living activities of residents and tailor a package of services that gives residents access to community services. Every day service coordinators help to save the lives of elderly and disabled persons who need help. When I learned that the money for this program had expired, and that service coordinators at the Westerly Apartments in Cleveland and other locations would soon be dismissed, I wrote to members of the Appropriations Committee asking that money be made available to keep this important program operating. I was very pleased to see that this appropriations bill states that "at least $7,000,000 shall be used for grants for service coordinator and congregate services for the elderly and disabled." This money will allow HUD to renew all of the service coordinator grants that are expiring in the near future. The bill states that it is the intention of the U.S. Congress that the service coordinator program extend into the future. I commend the House and Senate conference committee for their willingness to maintain this vital assistance to elderly and disabled citizens.

During an era in which all government agencies are called upon to make hard decisions about how our tax dollars are used, this appropriations bill makes a number of wise choices. I therefore urge my colleagues to support this measure.

CONGRATULATIONS TO GAIL A. HOFFMAN FOR HELPING TO BUILD A BETTER ATLANTA

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. LEWIS of Georgia. Mr. Speaker, I am proud to announce that Gail A. Hoffman, a resident of Georgia's Fifth Congressional District, once again has been recognized for her work to improve communities in Atlanta. The National Crime Prevention Council and Ameritech have selected Ms. Hoffman to receive the Ameritech Award of Excellence in Crime Prevention. Ms. Hoffman's efforts to work with troubled communities and to bring individuals from all walks of life together makes her worthy of this acknowledgment.

Ms. Hoffman is the president and executive director of the Bridging the Gaps project. BTG is a nonprofit organization with a mission to empower ethnically diverse communities, public and private organizations, and law enforcement with the ability to improve the quality of life for Georgia's refugee and immigrant communities.

BTG was created in 1987, after Ms. Hoffman and then Detective M.C. Cox began convening meetings with the Multicultural Crime Task Force to help confront increasing gang activity in the Asian community. Through these meetings, Ms. Hoffman recognized that, because of cultural differences and communication barriers, non-English speaking people feared the police and felt unsafe because they believe that they are not protected from crime. As a result, Ms. Hoffman developed BTG and several related projects.

To help bridge the cultural divide, BTG created a computerized language bank that contains the names of bilingual officers and civilians interested in translating for public safety officers and the courts. Law enforcement training courses, including language specific classes and community education programs, have helped eliminate communication barriers and cultural stereotypes among non-English speaking people and public safety officers. BTG has published a "Personal and Home Safety Orientation Manual for Refugees and Immigrants" manual in 11 different languages.

BTG also has convened approximately 120 meetings between public safety officials and ethnic communities. The project provides homework assistance, peer counseling, and English as a second language assistance to Southeast Asian youth who are vulnerable to gang recruitment activities. BTG provides youth support groups in five counties to assist over 150 refugees make positive life choices.

States throughout the country are interested in creating similar programs like BTG. Thanks to Ms. Hoffman's problem solving and leadership, better communication and understanding exist among Atlanta's diverse ethnic groups.

I thank Ms. Hoffman for the hard work and dedication that allowed her to earn the Ameritech Awards of Excellence in Crime Prevention. I applaud the National Crime Prevention Council's dedication to helping individuals fight crime and build community. I appreciate Ameritech's commitment to supporting crime prevention initiatives. I ask my Colleagues to join me in congratulating Gail Hoffman and other hard-working individuals who make a difference in their communities.

THE CLOCK IS TICKING ON THE PANAMA CANAL'S TRANSFER

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. CRANE. Mr. Speaker, in just over 2 years, the United States will transfer control of the Panama Canal and our adjacent bases to Panama under the terms of the 1977 Panama Canal Treaties. Already, preparations for this transition are underway. At this moment, U.S. military forces are scheduled to be drawn down in the region from the 5,600 that remain, out of the traditional 10,500 U.S. troops stationed there, to 4,400. The significance of this process, its imminent completion, and the impact it could have on the U.S. economy and the security of the region cannot be understated. For this reason, I am reintroducing a resolution today calling for the negotiation of a base rights, canal operation and security agreement with Panama that provides for a continued U.S. military presence in the region after December 31, 1999.

More than 80 years ago, the United States completed construction of the 51-mile-long interoceanic ship canal across the Isthmus of Panama, one of the great engineering marvels of its or any age. Since then, this man-made waterway has served the maritime nations of the world almost without interruption, enabling ships to travel from the Atlantic to the Pacific and vice versa much faster and cheaper than would have been otherwise possible. For more than 80 years, the U.S. military has stood watch over the canal from a series of bases located in a 10-mile-wide strip of territory adjacent to the canal. From that position, the United States has been prepared to respond effectively not only to immediate threats to the canal itself, but also to other problems that could have eroded hemispheric peace and security. By December 31, 1999, however, the United States forces on these bases must be withdrawn and control over them and the canal will be transferred to Panama. In preparation for this date, the U.S. Southern Command recently moved to its new headquarters just west of Miami.

The great importance of the Panama Canal to our country cannot be overlooked when you consider that 15 percent of U.S. seaborne trade, and 5 percent of the world's, passes through its locks. These figures become even more significant when you take into account that trade comprises nearly 30 percent of our gross domestic product [GDP], and that roughly 25 percent of U.S. economic growth in the last 4 years has come from increased exports. As a mature economy, it is clear that the United States must seek to open new markets to our products for our economy to continue to grow and create high paying jobs. For this reason, as chairman of the Ways and Means Trade Subcommittee, I have supported Chile's accession to the North American Free Trade Agreement [NAFTA], as well as the trade liberalization underway through the Summit of the Americas and the Asian-Pacific Economic Cooperation [APEC] forum, and the initiation of a trade policy toward sub-Saharan Africa. However, it only takes one look at a globe to recognize the critical importance of the Panama Canal to getting U.S. exports to their destinations overseas. Absent the canal, U.S. products would have to be transported via more expensive routes, adding to their overall cost and decreasing their competitiveness in foreign markets. On this basis, it is clear that continued growth in U.S. exports and job creation is, at least in part, dependent on the regular operation of the Panama Canal well into the 21st century.

For all of these reasons, the United States national interest compels us to seek the negotiation of an agreement with Panama that will: First, allow the United States to leave military bases in Panama past the turn of the century; second, permit U.S. military forces to operate out of those bases; and third, enable the United States to guarantee the regular operation of the canal. At present, the administration is conducting negotiations with the Panamanians to provide for a continued United States presence in Panama. However, I believe that a continued U.S. presence is meaningless without also having the ability to intervene to guarantee the canal's security and insure its regular operation.

It is clear that the conclusion of such an arrangement would also benefit Panama, as 6,000 Panamanian citizens are currently employed on U.S. bases, and $200 to $600 million in additional income for Panama is tied directly to the United States military presence in the region. Moreover, a poll of Panamanians published in March found that 72 percent of those surveyed would like the United States bases to remain open after their scheduled closure date. Similar polls have shown that Americans support a continued U.S. presence in the region as well.

Unfortunately, time is growing very short and urgent action is needed to negotiate an agreement with Panama before the United States withdrawal is complete. I ask my colleagues to join me as cosponsors of the critical resolution that I am introducing today and to support swift action on this issue.

TRIBUTE TO TAIWAN AND DR. JASON HU

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to the Republic of China on Taiwan on the 86th anniversary of the founding of their nation. Congratulations are in order for President Lee Teng-hui and Vice President Lien Chan, who have strived diligently to maintain strong economic growth and advance democracy for their country. Aided by the tireless efforts of people like Dr. Jason Hu, they have also expanded Taiwan's official and unofficial ties abroad. As Taiwan's representative to the United States, Dr. Hu has been in our Nation's Capital since June 1996. But a farewell and congratulations is in order as he is leaving our country soon to become Taiwan's foreign minister, a post for which he has proven to be well-suited.

During his tenure in our country, Dr. Hu has helped us to understand the complex issues affecting our two nations. His knowledge and tact have served his country well. His hard work and positive attitude have helped to bridge the gaps between our two peoples, helping us avoid the pitfalls that misunderstandings can bring.

As a dedicated and intelligent diplomat, Dr. Hu promises to be an excellent foreign minister. I wish him luck in his new position.

RECOGNITION OF MARY L. TOBIAS FOR HER LEADERSHIP AND COMMITMENT TO THE CITIZENS OF THE STATE OF OREGON

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Ms. FURSE. Mr. Speaker, I rise today to commend Mary L. Tobias, of Washington County, OR, who has contributed immensely to the democratic process and, through her leadership of the Tualatin Valley Economic Development Corp., epitomizes the spirit of public-private partnership.

Under Mary's leadership, TVEDC has developed into a model private nonprofit business organization serving to connect businesses and government, introducing an articulate, collective insight to the public policy discussion. Today, TVEDC's opinions and recommendations in land use and transportation, environmental regulations, education funding, and sensible growth management are valued by representatives at all levels of government.

As a mother, grandmother, successful small business owner, and former mayor, Mary has given back to her community through countless personal commitments and honorable deeds. Her records of selfless service is truly remarkable.

Embarking on a new path, I wish Mary the best, congratulate her on all that she has accomplished, and thank her for her making my community a better place to live.

STOP HUMAN RIGHTS ABUSES IN KOSOVA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. TRAFICANT. Mr. Speaker, Since the spring of 1989, when the regime of Slobodan

Milosevic brutally occupied Kosova, the Serbian authorities have violated the human rights of the Albanian population. I would point out that ethnic Albanians comprise more than 92 percent of the total population of Kosova. Shortly after the Serbian occupation, all Albanian-language educational institutions were closed, and Albanian students were forced to attend makeshift classrooms in private homes throughout the province.

Thirteen months ago, an agreement was signed by President Ibrahim Rugova of Kosova and Serbian President Milosevic to enable Albanian students and teachers to return to their schools and to reopen the Albanian-language University of Prishtina. The international community hailed this agreement as the first step towards the settlement of the crisis in Kosova. However, no progress has been made towards implementing the agreement because of the Serbian regime's intransigence. Last week, the lack of Serbian willingness to comply with the agreement prompted students in Kosova to peacefully protest to bring world attention to their plight.

More than 50,000 students gathered in Velanija on October 1, the beginning of the new academic year in Kosova, to begin their protest. There they were met by Serbian police, who informed them that their protest was illegal because it had not been cleared by the occupation authorities. When the students refused to disband, the police encircled the crowd and brutally attacked the nonviolent protesters with truncheons and tear gas.

Throughout Kosova, Serbian police have attacked students and teachers, barricaded Albanian primary and secondary school buildings, and sealed off entire towns and cities. Yet the Albanian people of Kosova refuse to abandon their struggle for self-determination. The Albanian-American community has called on the international community to take measures to prevent the conflict from escalating further. Inaction and silence by the world will only encourage the Serbian occupiers of Kosova to pursue a more aggressive and repressive policy, as they did in Bosnia. Such a result could happen without timely action and a firm resolve on the part of the United States and the world's democracies.

The gross violation of the human rights of Albanian students, teachers, and defenseless citizens of Kosova must be stopped. The daily reality of Albanians in Kosova was illustrated for me today when a member of the Albanian American Civic League called me in desperation over the plight of his brother Hazyr Dervishi. Mr. Dervishi, who suffers from a heart problem, was brutally beaten by the Serbian police for teaching Albanian students the Albanian language out of his home in Gjakova, Kosova. He was then taken by force to the Albanian border, and warned not to return to his home and family. Under the Serbian police system, Hazyr Dervishi is a marked man in Kosova. Yet, he plans to risk his life in order to rejoin his family.

On behalf of Hazyr Dervishi and so many other innocent Albanian victims, the United States State Department must make a public and unambiguous statement condemning the ongoing human rights violations in Kosova. Our Government should make it clear to the Serbian Government that we will not tolerate the continued abuse of ethnic Albanians in Kosova and the denial of their basic human and civil rights.

When will we learn how to deal with the barbaric Communist regime of Slobodan Milosevic, who rose to power on the dead bodies of so many innocent Albanian citizens of Kosova? When will we learn that only timely action and resolve will have an impact on dictators like Milosevic? I implore you, Mr. Speaker, and I implore our Government, not to let Kosova, which many have described as the modern-day equivalent of the Warsaw Ghetto under the Nazis, become the next Bosnia. We need to change a failed foreign policy that has allowed the victimization of Albanians in Kosova and Macedonia to continue unabated. Our policy must change now before it is too late.

SERBIAN SISTERS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. VISCLOSKY. Mr. Speaker, it is my great honor to commend the Circle of Serbian Sisters of Northwest Indiana. This distinguished organization is holding its fifth annual benefit at St. Elijah's Serbian Orthodox Church Hall in Merrillville, IN, this Sunday, October 12, 1997.

The Circle of Serbian Sisters of Northwest Indiana is the combined effort to four Circle of Serbian Sisters organizations, each of which has about 200 members. The presidents of the Circle of Serbian Sisters organizations are: Ms. Helen Tezich, from St. George Serbian Orthodox Church in East Chicago; Ms. Natalie Tica, from St. George Serbian Orthodox Church in Schererville; Ms. Ann Rudman, from St. Sava Serbian Orthodox Church in Merrillville; and Ms. Milica Bodrozic, from St. Elijah Serbian Orthodox Church in Merrillville.

Some 5 years ago, these organizations unified to assemble this humanitarian fundraiser in order to provide aid to orphaned and refugee children in the former Yugoslavia. This year alone, three women—Milica Bodrozic, Mira Radakovich, and Violet Sekulich—who are from various kolos—circles—personally distributed monie's to various orphanages and families in financial need. And 2 years ago, the Circle of Serbian Sisters sent over 7,000 packages and vaccines to displaced children, who are forced to live in refugee camps and shelters. These individually wrapped packages consisted of underwear, sweat suits, and candy. The Circle of Serbian Sisters of Northwest Indiana works with the International Orthodox Christian Charities and Serbian Orthodox Church in the former Yugoslavia.

Four priests who have supported this effort from the very beginning are: Father Steve Kovacevich, from St. George Serbian Orthodox Church in East Chicago; the Very Reverend Father Milan Savich, from St. George Serbian Orthodox Church in Schererville; the Arch Priest John Todorovich, from St. Sava Serbian Orthodox Church; and Father Lazar Kostur, from St. Elijah Serbian Orthodox Church.

This year, the Circle of Serbian Sisters will be honored with the presence of His Grace Right Reverend Longin, Bishop of Dalmatia and Auxiliary Bishop to His Holiness Patriarch Pavale. His Grace Right Reverend Longin is also the Administrator of New Gracanica, seated in Third Lake, IL.

Mr. Speaker, during this difficult time in the former Yugoslavia, the mission of the Circle of Serbian Sisters of Northwest Indiana offers renewed hope in the humanity of all people. I ask you and my other distinguished colleagues to join me in commending the Circle of Serbian Sisters and wishing them well on their fifth annual banquet, as well as the continued success of their humanitarian efforts.

THE SPIRIT OF ATONEMENT AND THE MILLION MAN MARCH

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Ms. KILPATRICK. Mr. Speaker, as you know, we will soon leave for a week-long district work period. However, I did not want my colleagues to leave before pointing out a key event that will occur next week in many cities in our Nation. Two years ago on October 16, 1997, the largest nonviolent demonstration in the history of the United States took place less than 100 yards from where I now stand. This demonstration, the Million Man March, saw African-American men stand up and dedicate themselves to take control of their lives, their destiny, and their communities. A larger theme of the march was that of atonement, to reconcile our differences with one another so that we may face all of the challenges that oppress African-Americans in a solid wall of unity, in a united front of understanding and peace. Despite entreaties by the media and other sources, initially questioning whether any men would show up for this march, combined with the media's sub rosa notions of violence that was expected from such a gathering of African-American men, this march was a fantastic success. Many of our States, cities, and communities are budding with new organizations, large and small, dedicated toward making our neighborhoods a safer place.

I am an avid, ardent, and enthusiastic supporter of the goals and ideals of the march: acknowledging past mistakes, confessing these errors to those whom we have wronged, asking for forgiveness, and having the restoration of spirit that is encompassed in taking these steps. Collectively, African-Americans must atone for the destruction that is going on in our communities. Collectively, America must atone for the divisiveness that has wreaked so much dissension among all of God's children. And, it is collectively how these challenges will be solved. The theme of the Holy Day of Atonement, "To be Young, Gifted and Atoning," will emphasize a focus on what needs to be done, with and for our youth, to save us all.

It is in this spirit that I honor and support the goals and ideals of October 16, 1997, as a day of atonement. Each city will observe this day in its own manner. "To be Young, Gifted and Atoning," emphasizing the condition of our youth, will allow all Americans to discover where we the power is located to solve these

problems—the power is located within ourselves.

I support the effort of African-American men to build the strength within themselves to forge better men, better sons, better homes, better communities, and better nations. I support the effort of African-American women to work with African-American men toward these desperately-needed ideals. I support the effort of every American to improve our country, reach out and help those willing to help themselves. The Holy Day of Atonement is an excellent vehicle to continue upon the success of two years ago, and I applaud the hard work of its dedicated staff and volunteers in the 15th Congressional District of Michigan and in other cities throughout our great Nation.

DOMESTIC VIOLENCE AWARENESS MONTH

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Ms. ROYBAL-ALLARD. Mr. Speaker, October is the month set aside to bring national attention to the crime of domestic violence in this country. It is a crime that affects people in all communities, transcending economic, geographic, and racial lines. With a woman battered every 13 seconds it has reached epidemic proportions and is the greatest cause of injury to women in the United States today. Yet, the nature and seriousness of domestic violence as a crime is often ignored.

To combat domestic violence, education is a vital component to helping society understand the problem, and to changing attitudes and perceptions about this crime. By raising the level of awareness and understanding about domestic violence we can overcome the shameful stigma and psychological barriers and associated with this epidemic that prevent us from effectively ending the cycle of violence.

As co-chair of the Violence Against Women Working Group, I will co-host a reception in Los Angeles with California State Senator Hilda Solis on October 14, 1997, to honor organizations and individuals that work tirelessly against domestic violence. This year's reception will honor Alana Bowman, special assistant to the Los Angeles City attorney, the Domestic Violence Coalition at California Hospital Medical Center, Junior Leagues of California's Silent Witness Project, and El Monte City mayor, Pat Wallach.

Alana Bowman has been a champion for victims of domestic violence for over 10 years. As the former head of the Domestic Violence Unit for the city attorney, she set the standard for prosecution of offenders in the city of Los Angeles. Ms. Bowman has played a key role in the development of landmark legislation of domestic violence and continues to do so in her new position as special assistant and as a member of the National Advisory Council on Violence Against Women. She is the author of numerous legal manuals and article on domestic violence.

To meet the needs of the surrounding community and as a response to the request from the Los Angeles Police Department's Central Division, California Hospital Medical Center formed the Domestic Violence Coalition in 1996, under the direction of Dr. Robert Splawn. The coalition is comprised of representatives from the LAPD, city and district attorney's offices, elected officials, shelter, advocacy agencies, and hospital staff. Its mission is to provide immediate, compassionate support services to victims, and to work towards the prevention of domestic violence.

The mission of Junior Leagues of CA Silent Witness Project is to "promote peace, healing and responsibility in adult relationships in order to eliminate domestic murders in the United States by the year 2010." The project is a memorial to personalize the individual woman behind the horrifying statistics of domestic violence. The exhibit educates and galvanizes public and legislative support to the domestic violence.

Mayor Pat Wallach of El Monte has been a steadfast supporter of services for domestic violence victims. Most recently, she led the fight that resulted in the city's contribution of $167,000 in HOME funds to buy a building that was transformed into a shelter for battered women and their children.

Mr. Speaker, in honor of Domestic Violence Awareness Month, I urge my colleagues to join me and Senator Solis in recognizing and congratulating these individuals and organizations who are devoted to the elimination of the domestic violence cycle and to educating our communities about this hideous crime.

TRIBUTE TO FATHER WILLIAM CUNNINGHAM AND FOCUS: HOPE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. LEVIN. Mr. Speaker, on Sunday, October 12, there will be held the Annual Walk of Focus: HOPE.

This year's walk possesses a special significance and poignancy. It will be held without its founder and inspiration Father William Cunningham.

His death on May 26 of this year left a void that can never be filled.

The riots of 1967 changed life in the metropolitan area and the life of William Cunningham.

In turn, his response changed the life of the entire area. He decided to dedicate his service to the community. Combining his deep spirituality with brilliant organizational skills, he started the embryonic organization Focus: HOPE. That seed has grown from its initial food program to a broad-scale attack on the manifestations and causes of poverty.

Father Cunningham's dream was that people from all walks of life, races, and creeds could, and would, work together to enhance individual lives and the fabric of society.

With each new creative idea and its effective implementation, Focus: HOPE took another step toward fulfillment of his dream. Working with Eleanor Josaitis and an increasing group of volunteers and a diverse, talented staff, Focus: HOPE introduced food and health support for low-income mothers and exceptional job training and specialized production units. The Machine Training Institute and the Center for Advanced Technologies today stand as testimony that education can be for virtually all a ticket out of poverty into a new world of opportunity.

The power of his faith, his ideas and his personality assure that Father Bill Cunningham's dreams for Focus: HOPE will continue to be realized. There are too many of us who had the privilege to work with him over the years who will stand for nothing less.

Indeed, the strongest challenge is whether the work of Father Bill Cunningham can be replicated in other places.

Father Cunningham asked that no monuments be erected to his memory. When thousands of us walk in his memory on October 12, we will be carrying his message and his achievements with us for all the world to see.

PERSONAL EXPLANATION

HON. JON CHRISTENSEN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. CHRISTENSEN. Mr. Speaker, on October 8, 1997, I inadvertently voted "no" on final passage of the American Land Sovereignty Protection Act (rollcall vote No. 504). I ask that the RECORD show that my intention was to vote "aye."

THE INTRODUCTION OF THE COLLECTIONS OF INFORMATION ANTIPIRACY ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. COBLE. Mr. Speaker, today I am proud to introduce the Collections of Information Antipiracy Act, a bill to encourage continued investment in the production and distribution of valuable new collections of information.

Electronic collections, and other collections of factual material, are absolutely indispensable to the American economy on the verge of the new century. These information products put a wealth of data at the fingertips of business people, professionals, scientists, scholars, and consumers, and enable them to retrieve from this haystack of information the specific factual needle that they need to solve a particular economic, research, or educational problem. Whether they focus on financial, scientific, legal, medical, bibliographic, news, or other information, collections of information are essential tools for improving productivity, advancing education and training, and creating a more informed citizenry. They are also the linchpins of a dynamic commercial information industry in the United States.

Developing, compiling, distributing, and maintaining commercially significant collections requires substantial investments of time, personnel, and money. Information companies must dedicate massive resources when gathering and verifying factual material, presenting

it in a user-friendly way, and keeping it current for and useful to customers. U.S. firms have been the world leaders in this field. They have brought to market a wide range of valuable collections of information that meet the information needs of businesses, professionals, researchers, and consumers worldwide. But several recent legal and technological developments threaten to cast a pall over this progress, by eroding the incentives for the continued investment needed to maintain and build upon the U.S. lead in world markets for electronic information resources.

I recently received a report from Dr. Laura D'Andrea Tyson, former National Economic Advisor to the President and former Chair of the White House Council on Economic Advisors. Dr. Tyson's study demonstrates strong economic reasons for providing adequate statutory protection for the data base industry, and points out that failure to act may result in adverse effects on technological progress, on economic growth, and possibly on the research, education, and scientific communities. Noted authors and scholars have also endorsed the need to provide some protection to collections of information, to prevent freeloaders from appropriating the fruits of others' investments.

Here in the United States, the 1991 Supreme Court decision in Feist Publications versus Rural Telephone Service Co. marked a tougher attitude toward claims of copyright in data bases. While reaffirming that most—although not all—commercially significant collections of information satisfy the "originality" requirement for protection under copyright, the Court emphasized that this protection is "necessarily thin." Several subsequent lower court decisions have underscored that copyright cannot stop a competitor from lifting massive amounts of factual material from a copyrighted collection to use as the basis for its own competing product. Producers are concerned that some of these cases may also cast doubt on the ability of a proprietor to use contractual provisions to protect itself against unfair competition from such free riders.

In cyberspace, technological developments represent a threat as well as an opportunity for collections of information, just as for other kinds of works. Copying factual material from another's proprietary collection, and rearranging it to form a competing information product—just the kind of behavior that copyright protection may not effectively prevent—is cheaper and easier than ever through digital technology that is now in widespread use.

When all these factors are added together, the bottom line is clear: it is time to consider new federal legislation to protect developers who place their materials in interstate commerce against piracy and unfair competition, and thus encourage continued investment in the production and distribution of valuable commercial collections of information.

While copyright, on the Federal level, and State contract law underlying licensing agreements remain essential for protecting the enormous investment in collections of information, there are gaps in the protection that can best be filled by a new Federal statute which will complement copyright law. The Collections of Information Antipiracy Act would prohibit the misappropriation of valuable commercial collections of information by unscrupulous competitors who grab data collected by others, repackage it, and market a product that threatens competitive injury to the original collection. This new Federal protection is modeled in part on the Lanham Act, which already makes similar kinds of unfair competition a civil wrong under Federal law. Importantly, this bill maintains existing protections for collections of information afforded by copyright and contract rights. It is intended to supplement these legal rights, not replace them.

The Collections of Information Antipiracy Act is a balanced proposal. It is aimed at actual or threatened competitive injury from misappropriation of collections of information or their contents, not at uses which do not affect marketability or competitiveness. The goal is to stimulate the creation of even more collections, and to encourage even more competition among them. The bill avoids conferring any monopoly on facts, or taking any other steps that might be inconsistent with these goals.

This bill differs dramatically from H.R. 3531, introduced in the last Congress by then-Chairman Carlos Moorhead. H.R. 3531 proposed to enact a new form of sui generous copyright protection of data bases. This bill is a minimalist approach grounded in unfair competition principles as a complement to copyright, and the damage that can be done from substantial copying of collections of information.

In drafting this bill, I was particularly mindful of the concerns of the library, scientific research, and educational communities. Concerns raised in response to the introduction of H.R. 3531 last year by these groups warned of the dramatic consequences that could result from legislation in this area. My staff and I heard these concerns, through personal meetings and through the Copyright Office report on this issue presented to the Congress earlier this year. This bill alleviates those concerns by specifically allowing access and use for those purposes, while still providing necessary protection to ensure continued investment and production of collections of information.

This legislation provides the starting point for legislative activity on an important and complex subject. I look forward to hearing the suggestions and reactions of interested parties and of my colleagues at a hearing later this month.

TRIBUTE TO JAMES W. MEREDITH

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. THOMPSON. Mr. Speaker, I rise before you today to pay tribute to Mr. James W. Meredith, the first African-American to enroll in a segregated university in Mississippi.

October 1, 1962 marked the date when James Meredith became the first African-American to enroll at the University of Mississippi. Mr. Meredith was born in Koskiusko, MS, on June 25, 1933. After living serveral years in Mississippi, James moved to live with his uncle in St. Petersburg, FL, where he enrolled in high school and finished. He enlisted into the U.S. Air Force at age 18, where he served for 9 years.

After graduating from the University of Mississippi, James Meredith went to study abroad in Africa where he wrote his first of numerous books entitled "Three Years in Mississippi." After his stay in Africa, James Meredith returned to Mississippi to start an organization called March Against Fear in order to empower and encourage African-Americans to register to vote. This organization went on to register 300,000 people in Mississippi.

In addition to his efforts to register African-Americans to vote, James Meredith started the James Meredith Library Clubs of America. This organization was created to lure African-American males into the library and encourage them to read.

Mr. Speaker, because of these many accomplishments, I would like to take time out to honor Mr. James Meredith for his vision and courage.

IN RECOGNITION OF SHERIFF BRAD GATES

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. PACKARD. Mr. Speaker, I rise today in recognition of an outstanding member of my community in southern California. On October 30 of this year, 1997, the Boy Scouts of America will honor Orange County, CA, Sheriff Brad Gates with the William H. Spurgeon III Award.

Sheriff Gates has given both his support and service to the Boy Scout's Explorer program and the youth of Orange County for the past twenty-three years. Almost from the day he joined Troop 12 of the Scouts as a boy, Brad Gates has been a positive force in our community.

The list of Sheriff Gates' contributions to the citizens of Orange County is extensive. Since his days as a Scout, Brad has served as a member of the Orange County Council, as a board of directors member for both the Boy Scouts of America and the Big Brothers/Big Sisters program in Orange County and has cofounded Drug Abuse is Life Abuse, a community coalition of drug awareness and prevention programs.

Brad Gates is not just one of Orange County's most active volunteers, Gates has served officially as sheriff-coroner of Orange County since 1974. As one of our communities most important officials, Brad continues to provide outstanding leadership while managing the largest law enforcement agency in Orange County.

And in undoubtedly his most important position, Brad is both a husband and father as well as a good personal friend to many throughout our community. Mr. Speaker, Sheriff Brad Gates truly deserves the honor of being recognized today by our Nation's leaders, as he himself is clearly among them.

STATEMENT ON THE SPILL OF NATIONAL SIGNIFICANCE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. CLEMENT. Mr. Speaker, I recently had the fortune of attending a seminar entitled "Spill of National Significance," or "SONS." As ranking member on the Coast Guard and Maritime Transportation Subcommittee, I feel that it is important to alert you to innovative research being conducted in this field.

SONS was a 3-day exercise that brought together notable individuals ranging from Transportation Secretary Rodney Slater and Coast Guard Commandant Robert Kramek, to representatives from FEMA, the EPA, and countless other agencies. They gathered in Philadelphia and Washington, DC, using interactive technology to find solutions for a simulated catastrophe.

The scenario involved three oil spills at two different sites, occurring within 6 hours of each other. SONS' participants were then required to resolve this crisis from various perspectives, ranging from political to environmental to financial.

Rather than wait for disasters to strike, attendees at this Coast Guard-sponsored event developed methods for dealing effectively with future oil spills. This is an example of an agency at its finest. I encourage other organizations to take a lesson from SONS and address future concerns today.

TRIBUTE TO CHLOE CONEY

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. DAVIS of Florida. Mr. Speaker, I rise today to honor Chloe Coney, a constituent of mine from Tampa, FL, who has been selected as one of eight national award winners for the Ameritech Awards of Excellence in Crime Prevention. This recognition is a fitting tribute to her tireless efforts over the past decade in developing a comprehensive and collaborative plan to revitalize low-income areas of east Tampa. I applaud the National Crime Prevention Council and Ameritech for honoring Ms. Coney's dedication.

Ms. Coney grew up in Tampa's North Boulevard Public Housing Project and her personal experiences in this economically disadvantaged area have given her great insight into the needs and opportunities of citizens living in east Tampa. She began her career of service as a parole officer and counselor where she implemented conflict resolution strategies in the Citizen's Dispute Settlement Programs for the Thirteenth Judicial Court.

Currently, Ms. Coney is the executive director of the Corporation to Develop Communities of Tampa [CDCT]. This community-based nonprofit organization plans, promotes, and assists the redevelopment of the east Tampa area through a wide range of programs including community building, youth leadership, family stabilization, and economic development. Her efforts should serve as a model for comprehensive and collaborative approaches to community-based crime prevention initiatives. Ms. Coney recognized early on that creating a safe and secure environment in east Tampa requires a multifaceted approach focusing not only on community policing but also on strengthening families, developing youth leadership, and creating economic opportunity.

One of Ms. Coney's successful programs is the CDCT's Men II Boys Mentoring Program which pairs 100 at-risk African-American youth, ages 11–14, with responsible adult men. These adults are willing to share their experiences and serve as role models, nurturing the healthy development of these youth into men. Ms. Coney has also created constructive programs such as the Inner-City Boys Choir, a medical apprenticeship program, a substance abuse prevention program entitled Striving To Achieve Rewarding Tomorrows [START], and Saturday Academy which improves the academic and social skills of at-risk seventh graders.

These programs can be successful only if strong family support exists to back them up. Ms. Coney recognizes this and established an annual Parent Enhancement Conference to educate parents on ways to better support their children's development. In addition, she offers workshops twice a month for parents and launched the East Tampa School-Community Partnership which is a network of social service agencies, school representatives, and parents.

Finally, recognizing that these efforts to build up our youth must be coupled with opportunities for the future, Ms. Coney has dedicated much of the CDCT's efforts toward economic development. This year, the Nehemiah Project has focused on "community building brick by brick," with the goal of stimulating commercial development and transforming abandoned buildings. These efforts represent a commitment to matching increased educational opportunities with increased job opportunities.

This short tribute cannot begin to describe Ms. Coney's outstanding efforts in redeveloping and revitalizing east Tampa and providing a safer community for citizens of all ages. Her impact on individuals, families, and communities is immeasurable. Therefore, I would ask my colleagues to join me in congratulating Ms. Coney for her hard work and dedication in developing strategies for successful crime prevention and to thank all those individuals like her throughout America who have dedicated their lives to service in their communities.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. KIND. Mr. Speaker, today I stood on the steps of the Capitol with my fellow Democratic colleagues urging the leadership in the House and the Senate to allow a fair vote on campaign finance reform. A majority of the U.S. Senate, all the Democrats and a small number of courageous Republicans, have voted in favor of the McCain-Feingold campaign finance legislation. In the House we have not been given the opportunity to vote on any reform bill.

After we leave today for the Columbus Day recess, with the leadership's stated desire to adjourn on November 7, we have only 3 weeks remaining in the 1997 legislative session. We must move quickly to take action before we run out of time. I encourage the leadership to give the public what it desperately wants, campaign finance reform.

Mr. Speaker, during the next week I will be traveling throughout my district in western Wisconsin. I will have to tell the people I represent that we have failed to even consider any of the campaign finance bills we currently have pending before Congress. I know that the people of western Wisconsin will not accept this answer. The people are tired of Congress unwilling to clean up our own house. Please give us a vote on this issue.

TRIBUTE TO NORFOLK COMMISSIONER OF THE REVENUE SAM T. BARFIELD

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. PICKETT. Mr. Speaker, I rise to pay tribute to the Honorable Sam T. Barfield, who is retiring this year after serving as commissioner of the revenue of the city of Norfolk for the past 28 years.

Sam was born in Charleston, SC in 1917. He enlisted in the U.S. Marine Corps in 1941 and was discharged 5 years later with honors and the rank of major. He entered private business in Norfolk, VA following his service in the Marine Corps and has continued to live there until the present.

He began his public service work early in his business career by serving on the board of directors for the Norfolk Chamber of Commerce from 1949 until 1968. He also sought public office and was elected to the Norfolk City Council, where he served from 1959 to 1969. During the difficult period following the Supreme Court decision in 1954 abolishing segregation in public schools, Sam took a public stand in favor of integrating the Norfolk city schools in order to keep them open.

He has been instrumental in the planning and construction of many downtown Norfolk landmarks, including Scope, Chrysler Hall, and the City Hall Complex.

He was elected to the office of commissioner of the revenue in 1969. One of his first innovations was the introduction and use of paper decals on windshields in place of metal city plates which resulted in a considerable cost savings to the taxpayers.

As commissioner, Sam worked cooperatively with the State's Governors, general assembly, and congressional delegation to effect tax reform, obtain payments in-lie of taxes for federally-owned property, and protect the role of the commissioners of revenue under the

Virginia Constitution. He also served as president of the commissioners of the Revenue Association and the Virginia Association of Locally Elected Constitutional Officers.

Sam was outspoken and colorful politician who enjoyed people and took great pride in his community and his work. I know that his many friends and admirers join me in saluting him for his long, dedicated, and loyal public service.

HONORING PROJECT INFO COMMUNITY SERVICES, INC. ON THE OCCASION OF ITS 25TH ANNIVERSARY, AND MOCTESUMA ESPARZA AND DR. NELBA CHAVEZ

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. TORRES. Mr. Speaker, I rise today to recognize an outstanding and invaluable community service organization, Project INFO, located in my congressional district. On Thursday, October 9, 1997, Project INFO will celebrate 25 years of dedicated community service.

Established in 1972 as a private nonprofit organization, Project INFO responded to the call for help from the Whittier Union High School District to assist in the prevention of student drug abuse. Since its inception, its purpose has been to strengthen the family unit by promoting mental health and well-being through proactive programs of education, prevention, and early intervention, and to strengthen the individual through personal development. Project INFO programs are particularly sensitive to the multicultural communities it serves.

Since 1972, Project INFO has expanded its services in a variety of areas to meet the needs challenging today's families. Most services are delivered by bilingual/bicultural staff. Project INFO offers eight different programs.

Windows/Ventanas is a program which works with families on developing communication skills. This program has been honored by State and national organizations for its effectiveness in the prevention of substance abuse through the strengthening of families.

Through drop-in centers located in the cities of El Monte, La Puente, and Glendora, Community Prevention and Recovery Programs [CPRP] offers a full range of alcohol prevention and recovery services. Each site has tailored a program to address its community's needs. At the El Monte site a domestic violence program for "batterers" called Domestic & Other Violence Education [DOVE] has been created to address the needs expressed by the judicial system and the community. The La Puente site initiated a Youth Federation to develop student leadership and Glendora has created a support group for middle school children.

Serving People In Recovery & In Transition [SPIRIT] is an outpatient drug free counseling program for recovering addicts and their families. This program is offered for both juveniles and adults. Counseling services are offered in all six schools of the Whittier Union High School District.

Building Employment Skills Training [BEST] is a program funded by the Job Training Partnership Act to provide job training and placement for economically disadvantaged individuals through partnerships with private employers.

Assistance with Alcohol and Sobriety Uniting Latinas [AASUL] is a media campaign designed to educate Latinas in California about alcohol abuse and related problems and offers a network of support services.

Child Abuse Risk Intervention and Neighborhood Outreach [CARIÑO], Spanish for "tender affection", is a program that works with families to prevent and break the cycle of child abuse.

Challenging Latinos to Access Resource Opportunities [CLARO] uses positive role models and culturally appropriate support groups to challenge high-risk male youth to explore alternatives and prevent involvement in gang, alcohol and drug abuse, premature and/or irresponsible sexual activity and teen pregnancy. A pilot program, Self Empowerment Resources to Educate, Nurture and Advocate [SERENA], was developed to address, in a gender appropriate manner, the prevention strategies of CLARO for high-risk female youth.

Community Organizations Linking Optimum Resource Services [COLORS] is a family preservation program designed to provide a strong base of support for families dealing with abuse and neglect.

To celebrate the 25th anniversary of Project INFO, a special dinner will be held tonight. The theme of this year's celebration is "Twenty-Five Years of Touching Lives." Through its outstanding programs, Project INFO has provided exemplary service, addressing the vast and difficult barriers that our young people and families confront each day. Fortunately for those youth and families in need of assistance and guidance, for 25 years Project INFO has remained solidly committed to reaching out and touching those lives.

Also, tonight, Project INFO will honor Moctesuma Esparza and Dr. Nelba Chavez for their contributions to Project INFO and its mission. Moctesuma Esparza, a well known talented movie producer, has dedicated his time as a guest speaker at the Project INFO youth conferences, leaving a lasting impression on the youth participants. Dr. Nelba Chavez, Administrator for Substance Abuse and Mental Health Services Administration, Department of Health and Human Services, has been a strong supporter of Project INFO and has spoken at several conferences for women sponsored by Project INFO.

Mr. Speaker, it is with pride that I rise to recognize Project INFO for its 25 years of unwavering dedication to the needs of our youth and families and tonight's honorees, Moctesuma Esparza and Dr. Nelba Chavez. I ask my colleagues to join me in saluting this fine organization and sending our gratitude and congratulations to the honorees and Project INFO on its 25th anniversary.

THE SENIOR CITIZEN RESPIRATORY CARE ACT OF 1997

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing legislation to restore Medicare coverage for ultrasonic nebulizers—medical devices used to treat patients with severe asthma, cystic fibrosis, chronic obstructive pulmonary disease [COPD], and other respiratory diseases.

In April 1997, the Durable Medical Equipment Carriers [DMERC's], under the authority of the Health Care Financing Administration [HCFA], made a significant change in Medicare reimbursement policy that will put senior citizens and disabled persons with respiratory illnesses at serious risk. My legislation is very simple. It restores Medicare coverage for ultrasonic nebulizers to the same terms and conditions that existed prior to this change.

The device in question uses ultrasonic sound waves to turn medicine into a fine mist that is inhaled by the patient into the lungs. Ultrasonic nebulizers are extremely efficient at delivering medication where it is needed—the lungs—and in the optimum particle sizes.

Without any clinical justification and without any public notice or comment, the DMERC's have either eliminated Medicare coverage for ultrasonic nebulizers entirely, or reduced reimbursement rates so drastically that suppliers will no longer provide them.

The DMERC's decision was made despite the fact that ultrasonic nebulizers have been considered safe, effective, and medically necessary for years, and notwithstanding a large body of evidence that ultrasonic nebulizers are more efficient at delivering medication than the most similar alternative, the jet nebulizer or pneumatic compressor.

Furthermore, beneficiaries are being forced to switch to a metered-dose inhaler [MDI], which is not covered by Medicare. This has led to a significant increase in the out-of-pocket-costs of Medicare beneficiaries. I am particularly concerned that the additional costs borne by senior citizens may cause some to forego needed treatments—an outcome which could put their lives in jeopardy.

Mr. Speaker, in addition to the increased costs to seniors, the lack of openness and public accountability, the new "one-size fits all" Medicare respiratory care policy is downright dangerous. While metered-dose inhalers [MDI's] are wonderful devices, they are not the appropriate therapy for every person.

Indeed, a number of well-controlled studies suggests that up to 50 percent of senior citizens do not use MDI's properly—even after repeated instruction. What these studies imply is that if HCFA does not reverse the decision of the DMERC's and restore Medicare coverage for ultrasonic nebulizers, there will be seniors, forced to switch to MDI's, who could require hospitalization because they cannot use their MDI properly.

Asthma and cystic fibrosis are not diseases to be taken lightly—if a person does not have the proper medicine, they can die. It is that simple. In fact, of the nearly 5,000 people who

die every year from asthma, most deaths resulted from patients who failed to take their medication.

For those with severe arthritis or poor hand-eye coordination, they cannot use an MDI at all. They will be the real victims of the new HCFA/DMERC policy on ultrasonic nebulizers. The HCFA/DMERC decision to deny ultrasonic nebulizer coverage is a clear case of a policy that is "penny wise and pound foolish." If a single inpatient hospital admission results from improper MDI usage, it will cost Medicare tens of thousands of dollars in increased costs.

Lastly, Mr. Speaker, I am concerned about the impact on seniors if the Food and Drug Administration [FDA] is allowed to begin banning metered-dose inhalers that contain chlorofluorocarbons [CFC's], as they proposed on March 6, 1997. If HCFA removes coverage for ultrasonic nebulizers, forcing seniors to use metered-dose inhalers, and FDA in turn removes most metered-dose inhalers from the market, seniors will be left with a dramatically reduced range of therapeutic options at significantly higher prices.

This outcome is completely unacceptable, and that is why my good friend and colleague from Florida, Mr. CLIFF STEARNS, and I have joined in introducing the Senior Citizen Respiratory Care Act of 1997. Congress must act soon to reverse HCFA's "stealth" coverage change, and restore Medicare reimbursement to devices which are safe and effective therapeutic options for seniors with serious respiratory illnesses.

TRIBUTE TO JUDGE MANUEL REAL

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. CALVERT. Mr. Speaker, California's 43d Congressional District has been extremely fortunate to have many dedicated citizens who have been willing to contribute their time and talents to help make our community an exceptionally good place in which to live and work. One of the most dedicated and active of these citizens has been Judge Manuel Real.

Manuel Real is a U.S. district judge for the Central District of California, a position he has held since being appointed by then-President Lyndon Johnson in 1966. On Friday, October 10, 1997, I will be honored to participate in the opening of a new elementary school in Mead Valley, CA named in honor of Judge Real for is many years of service to the great State of California.

Judge Real first began his distinguished legal career as an assistant U.S. attorney. He left for a short time to enter into private practice before rejoining U.S. Attorney's office until he was appointed a U.S. district judge. During his tenure with the central district court, Judge Real served as the chief judge of the court from 1982–1993.

The students of the new Manuel Real Elementary School should strive to emulate the accomplishments of their school's namesake as well as his dedication to improving the community and its overall quality of life. On behalf of the citizens of the 43d Congressional District, I want to add to this tribute my congratulations, and to wish Manuel, his wife Stella, and their four children best wishes for a happy and productive future.

TRIBUTE TO IRWIN ROSENBERG

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to celebrate the spirit of volunteerism and community involvement and to honor Irwin Rosenberg as the recipient of the 1997 Nelle Reagan Award for Distinguished Community Service. This honor is bestowed upon Irwin for his extensive support for the Olive View-UCLA Medical Center Foundation and his long history of outstanding philanthropic and volunteer leadership in our community.

This prestigious award, named for President Ronald Reagan's mother, Nelle, was developed with the assistance of the Reagan family to honor dedicated community service. Long-term dedication has been a characteristic of Irwin Rosenberg's long volunteer career, which began at age 14 as a police explorer. By the age 17, he had received 22 commendations, including 1 for bravery.

Throughout his life, Irwin has developed relations with countless volunteer associations in our community. Some of these associations include the City Council for the Disabled, California Association of Physically Handicapped, and the Fair Housing Council of the San Fernando Valley. Irwin has also served as a board member for the United Way, Southern California Association of Governments, Grenada Hills Little League and many other organizations. Currently, he serves as the vice-president and commissioner of the Los Angeles City Commission on Children, Youth and Their Families, commissioner of the Los Angeles County Private Industry Council, chairman-elect of New Directions for Youth, and vice-chair/board of managers of North Valley YMCA in addition to various other board memberships. This service represent a mere sampling of Irwin's involvement in our community and his commitment to all facets of helping people.

A former Nelle Reagan Award winner, Tim McBride, said "Irwin brought himself up to be somebody to be admired. He is a mentor and an example of someone who gives unselfishly of himself to help so many." It is this unselfish dedication that has earned Irwin the respect of our community and this award.

Mr. Speaker, distinguished colleagues, please join me in recognizing Irwin Rosenberg for his dedication to our community and in congratulating him on receipt of the 1997 Nelle Reagan Award for Distinguished Community Service. His service stands for all to admire.

IN RECOGNITION OF ST. LOUIS CARDINAL MARK McGWIRE

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. GEPHARDT. Mr. Speaker, the city of St. Louis and its baseball Cardinals have been blessed with great teams and great players over the years. Generations of baseball legends wearing the St. Louis Cardinals uniform—Dizzy Dean, Stan Musial, Bob Gibson, Lou Brock, and Ozzie Smith—all played before adoring crowds of St. Louis fans. This past year, we witnessed a legend-in-the-making when slugger Mark McGwire joined the Cardinals and chased baseball immortality. After hitting 58 home runs this season, Mark McGwire's name now joins the record books behind only Roger Maris and the legendary Babe Ruth on the all-time single season home run list.

Mark McGwire was embraced in St. Louis like few sports figures have in the city's history. But it was not only his tremendous feats on the baseball field that attracted fans but also his generous actions off the field. Mark McGwire stands as a role model for our children, teaching them that there are more important things in life than money and fame. His actions off the field show us the importance he places in the values we hold dear—responsibility, community involvement, and family.

The city of St. Louis recently celebrated Mark McGwire's decision to sign a long-term contract to remain a Cardinal. McGwire demonstrated his generosity and commitment to the St. Louis community by pledging to donate $1 million of his salary every year to his foundation for sexually and physically abused children. Mark McGwire's baseball statistics show his excellence on the baseball field but his decision to give $1 million of his salary demonstrates what makes up his character.

I'm proud to be a St. Louis Cardinals fan—the greatest fans in all of baseball. Mark McGwire is the best home run hitter in the game today and someone in which the entire city can take pride. Mr. Speaker, I rise today to congratulate Mark McGwire on his outstanding baseball achievements and his decision to stay in St. Louis. I join the entire city in welcoming Mark McGwire and I look forward to admiring his work—both on and off the field—in the years to come.

A BILL TO END THE U.S. TRADE DEFICIT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. DEFAZIO. Mr. Speaker, trade deficits matter. They represent millions of lost jobs—mostly in high wage manufacturing industries. They help keep U.S. interest rates at abnormally high levels, depressing economic growth. And large, persistent trade deficits with low wage nations inevitably depress

wages in the United States and contribute to one of America's most vexing problems: the growing disparities in the wealth and incomes of our citizens.

The United States has not had a positive trade balance since 1975. The 1996 total trade deficit—including services—was $111 billion. The merchandise-only trade deficit was $192 billion—a new record. It's true that exports create jobs. But when imports—especially imports of goods that were once produced in U.S. factories—exceed exports by nearly $200 billion a year, the result is a net loss of some of the best jobs our economy has to offer. That's exactly what this Nation's trade policies have delivered to the American people.

Today I am introducing a bill to establish the emergency commission to end the trade deficit. My bill would establish a commission to develop a comprehensive trade policy plan by examining the economic policies, trade, tax, investment laws, and other legal incentives and restrictions that are relevant to reducing the U.S. trade deficit. The commission would be composed of members with expertise in economics, international trade, manufacturing, labor, environment, and business. Senators DORGAN and BYRD have introduced companion legislation in the Senate.

Trade policy developed on a fast track has been disastrous for our people and our economy. It is time to slow down and carefully develop a trade policy whose principle objective is the generation of decent jobs and rising wages for the majority of our people.

TRIBUTE TO DALLAS LIGHTHOUSE FOR THE BLIND

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. SESSIONS. Mr. Speaker, I rise today to commend a great American and a great organization. The Dallas Lighthouse for the Blind has a long history in Dallas of providing blind individuals with work opportunities. The six decades of work improve and enhance the job opportunities for sight-disabled Dallas residents. I am proud to have this modern industrial center in the Fifth Congressional District of Texas.

This year the fifth district has been doubly blessed. One of my constituents, Jeddie Alexander, has been named the Dallas Lighthouse for the Blind's Ronald Pearce Blind Employee of the Year. Jeddie is a machine operator in the molding department of the lighthouse. In addition, he helped produce eyeglass cases and binders. Jeddie is completely blind, but his uncommon ability has allowed him to run a sewing machine.

Jeddie's story vividly shows that we should focus on abilities, not disabilities. In 1985, Jeddie was shot. He lost the use of both eyes and has no light perception. As he recounts, "When I lost my sight, I had the impression that that was the end of myself. I would have to wait on other people to do things for me. After about a month and a half, I realized I didn't have to do that."

I applaud Jeddie's commitment to improving his life and the lives of the people around him. He has truly taken advantage of the opportunities the Lighthouse has given him. As a father of a young Down's syndrome boy, I understand the desperate need for organizations like the Dallas Lighthouse for the Blind. Organizations like this give the greatest gift in all of the world—freedom, independence, and self-reliance to individuals that need an extra boost on the road of life.

WHY I SUPPORT "FAST TRACK"

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. MANZULLO. Mr. Speaker, many people have diverse opinions on the issue of fast track and its potential impact in a wide range of areas. I wanted to take this opportunity to define fast track and explain what it is intended to do and what it is not designed to do.

Fast track is simply the process by which Congress provides limited authority to the President to enter into more trade negotiations in order to lower barriers to our U.S. exports. All fast track does is allow the President the ability to negotiate these trade agreements and then present the agreement to Congress for a final "yes" or "no" vote on the entire package without adding or taking away specific words or sections from the agreement. During the negotiations and the drafting of the final agreement, fast track mandates that there is sufficient consultation with Congress so that the President will not present an agreement that does not have the support of a majority in Congress. That, simply, is fast track, nothing more, nothing less.

Fast track is not a new concept. It has been a common practice for over 60 years, in some form, for every President since Franklin Roosevelt as tariffs became less and less a source of revenue for the U.S. Government and foreign trade policy grew in complexity and importance to the U.S. economy. The Reciprocal Trade Agreement Act of 1934 was the first time Congress delegated to the President the broad authority to set, within specific limits and for a limited time, tariff and other foreign trade policy.

Up until 1945, 32 bilateral tariff-reducing agreements were reached. In 1947, the United States became a founding member of the multilateral General Agreement on Tariffs and Trade [GATT], whose aim is a mutual reduction of barriers to trade among all the free market nations of the world. During this time, Congress extended the 1934 act 11 times to open up more markets to U.S. products by lowering tariffs.

Then, in 1962, Congress gave President Kennedy a 5-year authority to participate in the first major GATT round or negotiation to not just lower tariffs but eliminate duties on specific products. These global trade talks became more commonly known as the Kennedy round, named after his untimely death.

The Kennedy round concluded in 1967 when agreements were reached to reduce not only tariffs but, for the first time, non-tariff or redtape barriers. But more controversial, the executive branch, under President Johnson, also negotiated an international antidumping agreement that was not contained within the authority Congress originally gave President Kennedy. Congress subsequently enacted a law in 1968 nullifying any provision of this antidumping agreement that was not consistent with U.S. law.

Because of this dispute between the executive and legislative branch, a compromise was reached after a 7-year period when there were no significant global trade barrier reduction negotiations. Thus, the fast track procedures were formally adopted for the first time as part of the Trade Act of 1974. This legislation granted then President Ford another 5-year time period to negotiate a further reduction in trade barriers. These talks became more commonly known as the Tokyo round of the GATT. This round eventually produced a package of 14 international trade agreements that eventually became part of the Trade Agreements Act of 1979, negotiated by President Carter.

As part of this renewed fast-track authority, the executive branch agreed to more closely consult with Congress, even to the point of accrediting 10 Members of Congress to serve as advisors to trade negotiating teams. But, in return, Congress agreed not to amend or change the final agreement. Countries will not negotiate with the United States until they are assured that the final agreement will not be changed. However, the legislative branch established an informal process with the executive branch, from the beginning of the negotiating process to crafting the implementing legislation, that the final agreement reflects the will of a majority of Congress.

Fast track was further extended again to President Reagan as part of the Trade and Tariff Act of 1984. Thus, the U.S.-Israel Free Trade Agreement in 1985 and the U.S.-Canada Free Trade Agreement in 1988 was negotiated and enacted into law under this authority.

Fast track was extended again to President Reagan as part of the Omnibus Trade and Competitiveness Act of 1988. This authority allowed him and, subsequently Presidents Bush and Clinton to negotiate and enact the North American Free-Trade Agreement [NAFTA] in 1993 and the third major GATT agreement, otherwise known as the Uruguay round, in 1994.

Thus, President Clinton's fast-track proposal is nothing new. It has been used by 11 Presidents of both political parties for over the last 60 years. The previous fast-track authority expired in 1994. In the specific proposal before Congress, the President would be given until 2001, which can be extended until 2005 unless one House of Congress disapproves, the ability to negotiate further reductions to trade barriers around the world.

Once again, fast track does not take any power away from Congress. In fact, this procedure requires constant congressional review and input throughout each stage of the process from deciding which country to negotiate with to proposing the final legislative bill to implement the agreement. No President will submit a trade agreement that has not been thoroughly analyzed and supported by a majority

in Congress. Without fast track, we would never have any more major agreements.

That's why I support providing any President, regardless of party affiliation, the ability to enter into comprehensive trade agreements to help boost our exports as long as the negotiations stick closely to resolving trade problems, not unrelated issues. Most observers believe Chile would be the next logical candidate to enter a free-trade agreement with the United States.

A free-trade agreement with Chile will be very beneficial to the United States. The average tariff or tax on United States exports to Chile is 11 percent. Yet, the average tariff rate for Chilean imports into the United States is less than 1 percent. Essentially, Chile already has a one-sided free-trade zone with the United States. Obviously, a free-trade agreement with zero tariffs on both sides is of greater benefit to the United States.

Chile has already entered into a variety of free-trade agreements with other nations, such as Canada and Mexico. There are documented cases when U.S. workers lost approximately $500 million in export opportunities in 1996 to foreign competitors because the U.S. product had an 11-percent tax added on top of the base price. For example, workers at a major United States telecommunications firm lost the opportunity to help rebuild Chile's phone system to Northern Telecom of Canada because of the lack of a free-trade agreement with the United States. With fast-track authority, we can knock down these trade barriers, not just with Chile but with other countries and in specific sectors such as agriculture, automobiles, and environmental technology to help United States workers make products that will be sold abroad.

I understand that many oppose fast track because they sincerely believe that this vote serves as a referendum on the North American Free-Trade Agreement [NAFTA]. Many opponents of fast track believe that NAFTA has cost the United States hundreds of thousands of jobs. First, the analysis is based on a false assumption that any trade deficit automatically translates into job loss. In some cases, imports create job opportunities here at home, from longshoremen to clerks in retail stores. In other cases, goods are imported into the United States for final assembly for consumption here or exported abroad. Thus, no one should assume that because there is a trade deficit with a certain country, then that automatically translates into U.S. job loss. If that were the case, then oil producing countries like Saudi Arabia and Venezuela would be the greatest displacer of United States jobs because oil imports comprise most of our global trade deficit.

In the specific case of Mexico, it is important to remember that NAFTA actually prevented a bad situation from turning worse. United States exports to Mexico suffered a decline in 1995 because of the peso devaluation and the ensuing economic downturn, which had nothing to do with NAFTA.

A less serious economic crisis affected Mexico during the early 1980's but the impact on United States exports was much greater than 1995. Mexico's economic growth rate dropped by a significant 7 percent in 1995 as compared to a growth rate decrease of 0.6 percent in 1982 and 4.2 percent in 1983. United States exports to Mexico dropped by 35 percent in 1982 and 24 percent in 1983. However, in 1995, United States exports to Mexico decreased by only 13 percent. Why? Because Mexico honored the tariff reduction commitments it made in 1993 as part of NAFTA.

In 1982, Mexico responded to its economic downturn by raising tariffs and other import barriers against United States products to protect their industries. But in 1995, while Mexico significantly raised tariffs and trade barriers against other nations not part of NAFTA such as Europe and Japan, Mexico did not do so against the United States and Canada because that action would have violated NAFTA. Thus, while United States exports to Mexico dropped off by half in the early 1980's, they only decreased by 13 percent in 1995 during a much more severe economic crisis thanks to legal protections contained in NAFTA. In other words, whatever United States job loss can be associated with trade with Mexico after NAFTA would have been much greater in 1995 if NAFTA was not in place. Thus, NAFTA prevented the loss of more United States jobs because under the terms of NAFTA, Mexico was prohibited from raising tariffs and more red-tape regulations to restrict U.S. exports.

While many northern Illinois exporters faced a rocky road with Mexico in 1995, prospects now look brighter. I see news headlines such as: "Midwest Boom Fueled by Mexico Trade," "Spurred by NAFTA, Illinois Exports Finally Rebound," and "NAFTA's Impact on Jobs Has Been Slight, Study Says." I have heard from many companies in the 16th District of Illinois whose workers have specifically benefited because of the increased openness in Mexico thanks to NAFTA. For example, Eclipse Corp. closed up their factory in Mexico and relocated operations back to Rockford because NAFTA now allows their product to be shipped much more easily into Mexico.

But regardless of anyone's position on NAFTA, opposing fast track will not do anything to solve any remaining trade problems the United States has with Mexico. To defeat fast track will not stop United States companies from moving their factories to Mexico or slow down Mexican imports into the United States. It is very important to remember this because many who oppose fast track sincerely believe defeating this initiative will stop these practices.

In conclusion, Mr. Speaker, I support fast track as one tool in our trade arsenal to help lower barriers around the world to U.S. exports. I have been fighting to make sure that our trade policy has all tools at its disposal, from antidumping laws, which helped Brake Parts of McHenry keep 400 jobs by fighting off unfair competition from unscrupulous Chinese brake rotor manufacturers, to the Export-Import Bank of the United States, which allowed Beloit Corp. with a manufacturing facility in Rockton, IL, keep 2,000 union workers employed along the Wisconsin-Illinois stateline border by providing a major loan to help sell two large, fine papermaking machines to Indonesia.

Mr. Speaker, fast track is simply another method to help break down trade barriers so that workers and farmers in the 16th District of Illinois can continue to build and grow products that will be shipped around the world. We cannot rest on our laurels during these good economic times, which have been caused, to a large degree, by the growth in U.S. exports, as we enter the next millennium. We need continued, further progress on the global elimination of barriers to U.S. exports. There is much more work that needs to be done. That's why we need fast track.

CONGRESSMAN KILDEE HONORS EDWARD J. KURTZ

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. KILDEE. Mr. Speaker, it is truly an honor to rise before you today to pay tribute to an individual who exemplifies the very best in civic pride and responsibility. On Tuesday, October 14, the Flint, MI, area Chamber of Commerce will honor Dr. Edward J. Kurtz with their Charles Stewart Mott Citizen of the Year Award.

Dr. Kurtz's name has become synonymous with education. In 1968, Dr. Kurtz introduced himself to Baker college as a student. Little did he know that this was the beginning of a relationship that would span over 30 years. Upon completing courses at Baker, Dr. Kurtz continued his education, receiving his bachelor of science degree at Ferris State University in 1968. He then returned to Baker where he worked as an instructor and later served as executive director of the school until 1974. Dr. Kurtz was then named president and chief executive officer of Baker College System, a position he maintains to this day. While serving as president, Dr. Kurtz managed to find the time to obtain his master's degree from Eastern Michigan University in 1974 and his doctorate from Tiffin University in Ohio in 1987.

Because Dr. Kurtz has experience in all aspects of the educational arena at Baker, Dr. Kurtz provides a pleasing sense of familiarity and empathy for the students, staff, and faculty under his care. Due to Dr. Kurtz's leadership, Baker College System has set a new standard for growth and expansion. During his tenure the college has grown from its humble beginning to a nine-campus, career-oriented, regionally accredited family of institutions. Offering over 80 academic programs, Baker's enrollment has seen a meteoric rise from 200 to over 15,000 students, rivaling many of the State's public 4-year institutions. Revenue for the school has increased from under $500,000 to a current rate of more than $70 million.

Dr. Kurtz's commitment to our community is evident in the number of organizations that seek his experience and insight. He has served in prominent leadership positions with groups such as the Greater Flint Educational Consortium, Community Foundation of Greater Flint, Flint Chamber of Commerce, and the Association of Independent Colleges and Universities of Michigan just to name a few. The honors and awards that have been bestowed on Dr. Kurtz are evidence of the regard in which he is held. However, we can never properly thank Dr. Kurtz for his dedication to

educating our students and ensuring that no barriers exist to prevent an individual from obtaining the necessary skills to achieve.

Mr. Speaker, it is with a tremendous amount of pride that I appear before you today to recognize my colleague, my constituent, and my friend, Dr. Edward J. Kurtz. The Charles Stewart Mott Citizen of the Year Award is given to individuals who show leadership, integrity, credibility, inspiration to other people, and commitment to the community. Therefore, Dr. Kurtz is the perfect candidate to receive this prestigious award. His love and dedication has made our community a much better place. I urge my colleagues in the house of Representatives to join me in congratulating Dr. Edward J. Kurtz on this tremendous honor.

NATIONAL FIRE PREVENTION WEEK

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. HULSHOF. Mr. Speaker, as you know, October 5 through October 11 is National Fire Prevention Week. Today I want to take time out to recognize the firefighters back home in Missouri's Ninth Congressional District. While there are many local fire departments who demonstrate excellence within the community, one shining example is the Palmyra volunteer fire department.

Celebrating its 100th anniversary, the eighteen members of the Palmyra volunteer fire department received an award earlier this year, naming it the top fire department in the entire State of Missouri.

While they fight fires with the best of them, they truly are public servants. Nominated because of the community service performed by its members, the Palmyra fire department enjoys wide support from the local residents.

Fire Chief Chuck Hoehne, a 30-year veteran of the department, said it well, "Everything we do, the community is behind us. They support us 100 percent." Mr. Speaker, that is easy to believe once you learn more about the group.

When the team is not busy with their jobs, such as bank managers, sales clerks, construction workers, and insurance salesmen, they are out in Palmyra educating residents about the importance of fire safety. They make trips to all the schools with the Stay Alive House, a model used to teach people how to escape from a burning building. Students also are invited to tour the fire station.

Due in large part to the education provided by this exceptional team, I am pleased to report that fires are on the decrease in Palmyra—something to celebrate during National Fire Prevention Week.

Congratulations are in order for the Palmyra fire department, making northeastern Missouri a safer place to live.

IN HONOR OF THE 90TH ANNIVERSARY OF GRACE EVANGELICAL LUTHERAN CHURCH

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. MENENDEZ. Mr. Speaker, I rise to pay tribute to the members and clergy of Grace Evangelical Lutheran Church in Bayonne, NJ. This year the church is celebrating its 90th anniversary. When the church first opened its doors in 1907, it was the culmination of a dream 30 years in the making.

As early as 1877, the congregation was considering the idea that they had to build a church in Bayonne. At the time, since there was no church in Bayonne, worshipers had to row across the Kill Van Kull to Staten Island, a situation which presented many hardships to the Lutherans of Bayonne.

The church has not only survived for 90 years, it has also thrived, and in the process it has enriched the community. The church's numerous humanitarian public service projects and the friendly outgoing nature of the congregation's members, have helped make Bayonne and the surrounding area a better place to live.

For 90 years, congregants and clergy have worked diligently to ensure the success of the church and the community. Over their long and varied history the Grace Evangelical Lutheran Church relocated, expanded, built nursery and parish additions to their church building, and merged with the fellow Lutheran congregation of St. Pauls'.

This important work was performed and done under the guidance, patients, and love of brave clergy who desired the best for their congregation and their community. Clergy such as the Rev. Bergwater, the ground breaking first pastor of the congregation, Revs. Willis and Clare, Rev. Schrum who built the parish house, Rev. Jaxheimer who oversaw major renovations and the historic merger with St. Paul's, and Rev. Larson who introduced new elements into the liturgy. During the past 10 years the mission of Grace Evangelical Lutheran has continued under the guidance of Pastors Ficken, Wright, and Carter.

The congregation is reflective of our Nation's greatest treasure—its people. A people who are not afraid to face the future. A people that know that with perseverance anything can be achieved.

It is an honor to have such an outstanding congregation in my district. I ask that my colleagues join me in recognizing the excellent work of Grace English Evangelical Lutheran Church.

HONORING THE SERVICE OF CHIEF JAMES E. ANTHONY OF THE GLENDALE POLICE DEPARTMENT

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to a dear friend who has dedicated his life to serving his family, his community and his country. Glendale Chief of Police James E. Anthony has spent the last 34 years protecting the lives of others, and investing in the lives of those around him.

Chief Anthony followed both his father and his uncle into law enforcement. He began his career with the FBI in Washington where he quickly rose through the ranks to become special messenger to John Edgar Hoover.

In 1969, he returned to his native southern California and accepted a post with the West Covina Police Department. In his seventeen years of service there, he distinguished himself as a man of honor, integrity and determination. His efforts paid off when he was appointed to the position of department commander.

Chief Anthony is a natural leader, and his abilities were not to go untapped. In 1980 he became the Chief of Police of the Chino Police Department and served that community until his move to Glendale in 1992.

Mr. Speaker, over the last five years, Chief Jim Anthony has tirelessly served the people of Glendale, which is one of the largest cities in Los Angeles County. He has led a staff of over three hundred people by inspiring and encouraging others to offer their best for our community.

Chief Anthony has exemplified the spirit of law enforcement. In over thirty years of public service, he has seen the methods of fighting crime go from pen and paper to laser and infrared. As he looks forward to his retirement, I know my colleagues join me on behalf of the Congress of the United States in saluting Chief James E. Anthony, for his life of service to our community.

CONGRATULATIONS ON TAIWAN'S 86TH NATIONAL DAY

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. UNDERWOOD. Mr. Speaker, October 10, 1997, marks the 86th anniversary of the Republic of China's emergence as Asia's first republic. I heartily congratulate not only the Republic of China, but Taiwanese nationals all over the world on this momentous occasion.

For years, the people of Guam have welcomed Taiwanese citizens, whether as permanent residents or visitors, to our island. Our cultural, economic, and political collaborations have proven beneficial not only on an official level, but on social planes as well. The recent renovation of the Chinese Park in Upper Tumon is a perfect example of our appreciation of each other's cultures and ways of living.

I also take this opportunity to commend the work of the Taipei Economic and Cultural Office in Guam under the guidance of Director General Leo Fu-tien Liu. Through capable leaders such as Mr. Leo Fu-tien Liu, Guam is sure to benefit further from cordial relations with the Republic of China.

Guam benefits from the diversity of its residents, and certainly from the Chinese community on our island. Through their expertise, diligence and charity, Taiwanese nationals and

residents have helped Guam become what it is today, an island with a vibrant economy and satisfied residents.

I again congratulate the Republic of China on this propitious occasion. Happy Double Ten.

THE CONFRATERNIDAD GUINERA VEINTIOCHO DE ENERO HONORED

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to the members and officials of the Confraternidad Guinera Veintiocho de Enero.

This organization, founded on the 8th of October in 1972 in Union City by Mr. Manuel Rodriguez and other residents from the town of Guines on the beautiful island of Cuba, is celebrating their 25th anniversary. The sons and daughters of Guines living in the United States have made us proud of their service and dedication on behalf of their community in Union City, NJ.

This organization came together at a time when Union City, like many inner cities in the United States, was facing financial hardship because their businesses were moving to the suburbs. The Guineros, as part of the Cuban community in exile, contributed to the city's renaissance, not only in Union City, but also in the neighboring towns of North Bergen, West New York, Guttenberg, and Weehawken. It is gratifying to know that this organization brought together the sons and daughters of a land left behind and also of an entire community.

I am certain my colleagues will rise with me to honor this wonderful celebration of a job well done.

IN HONOR OF STEVE DILLENBECK, EXECUTIVE DIRECTOR OF THE PORT OF LONG BEACH

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. HORN. Mr. Speaker, I rise today to pay tribute to a distinguished public servant, Mr. Steve Dillenbeck, executive director of the Port of Long Beach, California. Steve is retiring after 34 years in port administration—more than 6 of which were spent as executive director in Long Beach.

This great port which is located in the 38th Congressional District, has grown significantly under Steve Dillenbeck's management. His extensive seaport experience has helped make the Port of Long Beach a centerpiece of the Pacific rim economy and a keystone of U.S. global trade.

When Steve became executive director in 1991, Long Beach was one of the busiest ports in the country. Today, the Port of Long Beach is No. 1. The city of Long Beach and the surrounding regional economy are better off today because of this economic growth, due in no small part to the dedicated effort of Steve Dillenbeck and his talented staff.

Mr. Speaker, I join the Long Beach City Council and Board of Harbor Commissioners as well as the Los Angeles County Board of Supervisors and all the other local officials who are honoring Steve Dillenbeck for a job "well done."

HONORING THE LIONS CLUB INTERNATIONAL OF PICO RIVERA FOR 60 YEARS OF OUTSTANDING AND INVALUABLE SERVICE TO THE COMMUNITY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. TORRES. Mr. Speaker, I rise today to recognize the men and women of the Lions Club International of Pico Rivera on the occasion of its 60th anniversary. I am proud to be an honorary member of the Lions Club International of Pico Rivera and commend my fellow Lions for 60 years of outstanding leadership and dedicated community service. On October 11, 1997, my fellow Lions will join to celebrate this milestone.

The Lions Club International began in June 1917, founded by Chicago Insurance agent Melvin Jones. He presented to a group of small business clubs his proposal of consolidating their clubs into a strong, influential club. Its goal would be to serve the community and humanity. At the first annual convention in October 1917, 23 clubs participated. Today, there are over 40,000 Lions Clubs around the world.

Recognized as the oldest continuous service club in Pico Rivera, the Lions Club of Pico Rivera was chartered on September 24, 1937. It is a part of the International Association of Lions Clubs, known worldwide for its contributions to goodwill, fellowship, and humanitarian service. The primary focus of this fine organization is service to all of mankind, in the local community and throughout the world. For 60 years, the Pico Rivera Lions Club has shared in this vision and commitment.

The men and women of the Lions Club of Pico Rivera have played major roles in the advancement of the city of Pico Rivera, working diligently to establish a positive spirit of cooperation among the citizens of our community. They provide assistance for persons who are visually impaired and who lack the resources needed for specialized eye surgery. The Lions Club of Pico Rivera works with merchants, local government, and other service clubs to build a strong community.

The Lions Club of Pico Rivera is under the leadership of my dear friend, Lion Hilda Lopez, president, an outstanding community activist who follows in the tradition of her late husband, Lion Laree, in assuming the helm of this valued community organization. She is assisted by Vincent Chavez, vice president; Jess Benavidez, co-vice president; Mary Kambourian, secretary; John Diaz, treasurer; Mario Diaz, tail twister; Jack Thomas, lion tamer, Dr. Fred Winnen, director; Carlos Garcia, director; Lupe Quintana, director; and Phillip Barnecut, central region chairman.

Mr. Speaker, it is with pride that I ask my colleagues to join me in paying tribute to the men and women of the Lions Club of Pico Rivera on the occasion of its 60th anniversary and in the recognition of its outstanding and selfless service to our community.

IN HONOR OF VARDA AND ARNOLD WENDROFF FOR OUTSTANDING CONTRIBUTION TO THE BAYONNE JEWISH COMMUNITY CENTER ON ITS 45TH ANNIVERSARY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay special tribute to an outstanding family, Varda and Arnold Wendroff, who together through their tireless efforts and altruism have devoted 20 years to the workings of the Jewish Community Center in Bayonne. This year the Center will be honoring the Wendroffs at the 45th Annual Sustaining Dinner Dance on October 9, 1997 at the Jewish Community Center in Bayonne, NJ.

The Jewish Community Center has been a gathering place for the entire Bayonne community for the last 45 years. The excellent nonsectarian programs are sought after by community members of all ages—2 to 102—for nursery classes, youth basketball, concerts, lectures, a nutritious lunch program for the elderly, services for children with special needs, summer camp, children's summer theater workshop, and an adult peer learning program.

Varda Wendroff is the immediate past president of the Bayonne Jewish Community Center where she demonstrated skill, generosity, and good humor throughout her successful term. She has chaired the membership, nursery school, and Holocaust remembrance committees. Varda currently serves as president of the Bayonne Jewish Community Council. In her professional life, Varda teaches German, French and ESL at Bayonne High School. She was recognized with the Governor's Award for Excellence in Teaching and named in "Who's Who Among American Teachers."

Arnold Wendroff is vice president of the Bayonne Jewish Community Center and chairperson of the Personnel Committee. Arnold had served as chairperson of the Drama Committee and has received the Nathan Secunda Award for dedication and devotion. Professionally, Arnold is a second vice president of Chase Manhattan Bank, where he has worked for 33 years. He was the recipient of the prestigious Excalibur Award given to outstanding Chase employees.

I ask that my colleagues join me in recognizing the outstanding work of the Bayonne Jewish Community Center and the Wendroffs, who are being honored at its Annual Sustaining Dinner. This exceptional family has shown the diligent and unselfish work which exemplifies the qualities of caring citizens working to better their community. It is an honor to have such outstanding community leaders residing in my district.

CONGRATULATIONS TO THE YWCA WOMEN OF INFLUENCE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. PAYNE. Mr. Speaker, on Saturday, October 18, the YWCA of Essex and West Hudson will honor the winners of their Annual Women of Influence Awards. I ask my colleagues here in the U.S. House of Representatives to join me in congratulating these special women of achievement.

Among the honorees is Ms. Antoinette (Tony) O'Flagherty, a dear friend of mine and a person whom I greatly admire for her strong spirit, her generosity, and her tremendous contributions to our community. Ms. O'Flagherty, who holds a degree in economics from Mount Holyoke College, has been a tireless crusader in behalf of the poor and homeless of our community. After a distinguished career in the labor movement and county government where she held a number of positions including public information officer and coordinator for the Essex County Department of Citizen Services, Ms. O'Flagherty devoted her considerable talent and energy to community service. She served as chairperson of the Homeless Task Force established by the Newark Emergency Services for Families. Under her creative leadership, the task force brought together a group of homeless women from hotels and shelters to exchange information and ideas. It also provided a forum for exchanges among service providers, State, county and government representatives. Ms. O'Flagherty has championed the cause of those who are still struggling to succeed in our society, giving a voice to their concerns, hopes and aspirations for the future. Her many volunteer commitments include service on the New Jersey Child Care Advisory; the Newark Preschool Council, Inc.; chairperson of the Newark Emergency Services for Families Homeless Task Force; chair of the Essex County Advisory Board of the Salvation Army; board member of the Isaiah House; board member of the United Labor Agency; member of the League of Women Voters; and chair of the Essex Advisory Board of the Catholic Community Services.

One of her many accomplishments while working with the county was that Ms. O'Flagherty was able to create employment opportunities for qualified minorities who had previously encountered difficulties in breaking barriers. She understood that employment was the key to the economic success of the community. After I was elected to Congress, I was honored that she agreed to serve on my child care task force, sharing her vast knowledge and expertise for the betterment of the 10th congressional district.

Ms. O'Flagherty remains a vibrant force in our community. Just yesterday, she was personally greeted by President Clinton when he arrived at the Metropolitan Baptist Church in Newark, where he discussed an issue close to her heart—child care.

The other Women of Influence honorees who have also distinguished themselves through outstanding professional achievements and dedicated community service are: Susan Jenkins, business, executive at Merck and a member of the YWCA Board; Bernice Davis, education, past superintendent, Orange Board of Education; Cheryl Hudson, entrepreneur, proprietor/publisher, Just Us Books; Dr. M. Calhoun Thomas, medicine, pediatrician with 21 years of service to the Orange community; Dr. Byrte Johnson, religion, a life of dedication to the ministry of music and youth; Michele Williams, religion, youth Sunday school teacher, and minister of music; Angela Hayes, youth president of Senior Teens of Jack and Jill of America; Harriett Johnson, nursing, assistant executive director, Board of Nursing, Orange.

Mr. Speaker, our community is proud of these women of accomplishment, and I know my colleagues join me in extending congratulations and best wishes for continued success.

HONORING CHARO FOR 30 YEARS OF OUTSTANDING AND INVALUABLE SERVICE TO THE COMMUNITY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. TORRES. Mr. Speaker, I rise today to recognize CHARO Community Development Corporation on the occasion of its 30 Anniversary. For 30 years, CHARO has provided exemplary service to the greater East Lo Angeles community.

Incorporated as a non-profit in 1967, Richard Amador, then Chief of Field Operations, Office of the President and Federal Coordinator, President's Committee on Manpower, took a leave of office from the President Johnson administration to start CHARO. CHARO is an innovative and progressive community organization that seeks to develop self sustaining economic development initiatives that create jobs and wealth for the community.

Its first program was initiated to bridge Federal, State, and local government agencies with community based organizations. CHARO developed the Manpower Information and Technical Assistance Services Program (MITAS) to more effectively provide human resource development services to communities. Since its inception it has continued to expand and develop the services it offers to address the needs of the community.

In 1969, CHARO created HEART (Hospital Employment and Related Training Project). HEART was the first program to design and develop new job classifications and on the job training in non-certified positions in health services. This was the first program of its kind to link community residents with training in the health care profession.

In 1970, CHARO was the first non-government entity to develop an On the Job Training (OJT) Program in the private sector with support services called Instant Job. Previously OJT was only available through a trade union. This program expanded the opportunities for the community to learn a trade through apprenticeship.

In 1971, with the assistance from the Carnegie Foundation and the PEDR Corporation, CHARO developed the Institute for Leadership Development, a certificate Management Development Program. Through the certificate program, Hispanic business professional were empowered with the tools to succeed in business and become community leaders.

CHARO developed the first Vocational Training with English as a second language program to serve non-English and limited English proficient clients. VocESL was established in 1972, opening the doors for Latinos, stymied by a language barrier, to gainful employment.

CHARO Industries, established in 1972, addresses the lack of vocational opportunities for the developmentally disabled population. CHARO met this need by establishing the first bilingual/bicultural sheltered workshop for developmentally disabled adults. CHARO contracted assembly, packaging, and fulfillment services with private and public entities.

In 1973, CHARO created the first non-government employment and training center, CHARO Career Center. For over 20 years, the Center has facilitated in the placement of over 10,000 individuals. CHARO has been a leader in fixed price contract services, often placing long term unemployed and those formerly on welfare assistance or recently released from correctional facilities in to full time employment.

To serve families visiting relatives or friends in the hospital, CHARO established in 1976 an emergency drop-in child care center at the U.S.C.–Los Angeles County Medical Center. And in 1978, CHARO created the Child Development Center to address the child care needs of the Los Nietos-Whittier School District. Now serving over 150 pre-school children, the program operates as a child development center, providing educational enhancement exercises and food service program to local low income families. Seeing a rise in latch-key children, the Los Nietos-Whittier School District again called upon CHARO to meet the needs of working families. Using its own funds, in 1983, CHARO established two before and after school care facilities. Both programs provide homework assistance and tutoring programs for the after school youth program.

Addressing the need for affordable housing, in 1989, CHARO developed one of the first complexes in East Los Angeles, Morengo Apartments, comprised of 24 one, two, three, and four bedroom units for low and moderate income families. In 1991, AMCAL, a subsidiary of CHARO, developed Arroyo Villas, a 22 unit complex of one, two, and three bedroom units for very low, low, and moderate income families in Highland Park.

In 1990, the CHARO Industrial Park was established on 2.7 acres in East Los Angeles for economic development. Recognizing that CHARO could provide competitive quality services, employing local residents, CHARO became the first non-profit to contract with Los Angeles Department of Water and Power, providing environmental services and installation of energy and water saving devices in home located in the City of Los Angeles. In 1993, CHARO created the Mid City Property Management to provide design and remodeling services to CHARO subsidiaries and divisions, and property management.

Since 1993, CHARO has trained over 400 Angelenos through the Entrepreneur Training Center. Utilizing the Cornell University/Wharton School of business, CHARO established the first bilingual/bicultural entrepreneur training program, resulting in over 110 new jobs and over 102 new businesses. The Los Angeles Career Center was established in 1994 as one of the first One Stop Employment and Training Center serving East Los Angeles. Over the last two years, the Center has assisted over 700 residents in re-employment, generating over $18.5 million in new wages. This year, CHARO implemented the East Los Angeles Business Assistance Center. Close to 100 clients received services, totaling over 500 hours of technical assistance, with a number of businesses referred to lenders for banking and financial services.

Mr. Speaker, it is with pride that I rise to recognize the 30 years of dedicated community service and exemplary leadership CHARO has provided the residents on my congressional district and throughout the greater East Los Angeles area. I ask my colleagues to join me in paying tribute to Richard Amador and the men and women of CHARO Community Development Corporation on its 30th Anniversary.

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

SPEECH OF

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 901) to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding these public lands and acquired lands:

Mr. GREENWOOD. Mr. Chairman, I rise today to express my support for H.R. 901, the American Land Sovereignty Act.

Unfortunately, on October 8, 1997, when the full House of Representatives voted on final passage of H.R. 901, I, in error, cast a "nay" vote on final passage. Mr. Speaker, I had intended to vote "yea" on final passage for H.R. 901.

I had assumed that when I cast my "nay" vote, that I was voting against a Miller of California amendment that would have weakened the bill. Mr. Speaker, only when I returned to my office did I realize that I made this error.

Mr. Chairman, I have always been a supporter of the American Land Sovereignty Act and voted in favor of similar legislation that the House acted on in the 104th Congress.

Furthermore, in the 105th Congress I voted in favor of several amendments, that were offered by my colleague, Congressman COBURN, to various appropriations bills, that would prohibit any funds appropriated in those bills from being used to support the U.S. Man and the Biosphere Program or the World Heritage Program.

Mr. Chairman, I regret that I made this error and wanted to take this opportunity to reiterate my support for this type of legislation.

FOOD AND DRUG ADMINISTRATION REGULATORY MODERNIZATION ACT OF 1997

SPEECH OF

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. STUPAK. Mr. Speaker, I will support this bill today, because I believe this legislation will begin an important process in modernizing and improving the operations of the Food and Drug Administration. In addition, the bill will reauthorize and improve the highly successful Prescription Drug User Fees Act.

However, I am concerned that we should not take up a bill of this magnitude on the Suspension Calendar. While it is true that Chairman BLILEY and Ranking Member DINGELL informed members of the Commerce Committee of their intentions, I do not believe this is an appropriate process.

First, not every member of this body is a member of the Commerce Committee. We should not restrict the rights of the members of the House to debate and offer amendments to this legislation. We cannot know if members planned to offer amendments, since the regular order was not followed and the Rules Committee did not meet on this bill.

Second, the Suspension of the Rules procedure is generally used to approve measures that are non-controversial or do not require large authorizations. This historical practice is reflected in Rule 28 of the House Republican Conference Rules that admonishes the Speaker not to schedule Suspension bills of over $100 million in authorization, except if he seeks a waiver from the leadership. When Democrats had control of the House, they instituted a similar procedure. This legislation authorizes user fees in great excess of the $100 million threshold and should be debated through regular order.

Third, this legislation creates a number of new responsibilities for the Food and Drug Administration. In addition, the FDA will need to divert a substantial amount of resources to implement the new policy changes contained in this legislation. This year the President requested $68 million less than in FY 1997. Even though Congress appropriated substantially more, we must continue to ensure that the FDA has the resources to meet all its mandates, not just prescription drug reviews. I co-signed a letter with 85 other members of the House to request the President to expend more resources inspecting imported food. I have included a copy of the letter for the record and want to urge this body not to stretch the FDA so thin that it cannot perform its necessary public health functions.

Finally, I intended to speak in support of my amendment to the legislation authorizing a notification procedure at the FDA in relation to Food Contact Substances. Although the substance of my legislation was adopted by the Committee, a portion of my proposed authorizing user fees, a concept supported by the industry that would pay the user fees, was not accepted. I want to make it clear that although I acceded to the request of the majority to drop the user fees, it is my sincere hope and belief that the House should accede to the Senate position in conference and adopt the user fees.

In short Mr. Speaker, the issues surrounding this legislation are very complex. They do not lend themselves to suspending the rules of the House and expediting consideration, just because it is convenient. The Rules of the House protect the members in their rights to debate and thoughtfully consider legislation. I do not believe they should be suspended so lightly.

CONGRESS OF THE UNITED STATES,
WASHINGTON, DC, SEPTEMBER 24, 1997.

Hon. WILLIAM JEFFERSON CLINTON,
Washington, DC.

DEAR MR. PRESIDENT: We urge you to give serious consideration to remedying the inadequate food safety provisions in the North American Free Trade Agreement (NAFTA). Because of your commitment to ensuring the safety of our nation's food supply, we expect that you will not agree to fast track authority that does not contain adequate food safety protections. Current fast track proposals do not address these concerns.

In an effort to increase trade with Mexico, NAFTA limited border inspections of food and allowed Mexican trucks to enter the U.S. with limited inspection.

These lax inspection practices contributed to a sharp increase in food imports from Mexico: imports of Mexican fruit have increased 45 percent, and vegetable imports have risen 31 percent. More than 70 percent of these imports are carried into the U.S. on trucks. The General Accounting Office (GAO) recently found that 99 percent of Mexican trucks enter the U.S. without any inspection.

These provisions in NAFTA have resulted in imports of fruits and vegetables contaminated with diseases and unhealthy pesticides. We were alarmed earlier this year when 179 Michigan school children contracted hepatitis after eating tainted Mexican strawberries. In order to prevent similar incidents in the future, we urge you to take the following action:

Renegotiate the provisions in NAFTA that relate to border inspections and food safety, and ensure that any fast track authority include strong food safety protections.

Increase the funding for border inspections or, alternatively, limit the increasing rate of food imports to ensure the safety of our food supply.

Begin an aggressive program to label all food stuffs—including fresh and frozen fruits, vegetables and meats—with their country of origin.

We look forward to working with you on these vital public health issues.

Sincerely,

Sherrod Brown (D–13–OH), Bart Stupak (D–1–MI), Neil Abercrombie (D–1–HI), Tom Allen (D–1–ME), John E. Baldacci (D–2–ME), Jim Barcia (D–5–MI), Rod Blagojevich (D–5–IL), David Bonior (D–10–MI), Sonny Bono (R–44–CA), Bob Borski (D–3–PA), George Brown Jr. (D–42–CA), Julia Carson (D–1–OR), Tom Coburn (R–2–OK), Jerry Costello (D–12–IL), John Conyers (D–14–MI), William J. Coyne (D–14–PA), Pat Danner (D–6–MO), Danny Davis (D–7–IL), Jim Davis (D–11–FL), Peter DeFazio (D–4–OR),

Rosa Delauro (D–3–CT), William Delahunt (D–10–MA), Ronald Dellums (D–9–CA), Mike Doyle (D–18–PA).

Eliot Engel (D–17–NY), Lane Evans (D–17–IL), Vic Fazio (D–3–CA), Marc Foley (R–16–FL), Martin Frost (D–24–TX), Elizabeth Furse (D–1–OR), Sam Gejdenson (D–2–CT), Luis Gutierrez (D–4–IL), Maurice D. Hinchey (D–26–NY), Jay Johnson (D–8–WI), Paul E. Kanjorski (D–11–PA), Marcy Kaptur (D–9–OH), Joseph Kennedy (D–8–MA), Patrick Kennedy (D–1–RI), Dale Kildee (D–9–MI), Ron Kind (D–3–WI), Ron Klink (D–4–PA); Dennis Kucinich (D–10–OH),

Tom Lantos (D–12–CA), John Lewis (D–5–GA), William O. Lipinski (D–3–IL). James H. Maloney (D–5–CT), Thomas Manton (D–7–NY), Matthew Martinez (D–31–CA), Frank Mascara (D–20–PA), Carolyn McCarthy (D–4–NY), Jim McGovern (D–3–MA), Cynthia Ann McKinney (D–4–GA), Marty Meehan (D–5–MA), Jack Metcalf (R–2–WA), George Miller (D–7–CA), Patsy Mink (D–2–HI), Jerrold Nadler (D–8–NY), Jim Oberstar (D–8–MN), David R. Obey (D–7–WI), John Olver (D–1–MA), Frank Pallone (D–6–NJ), William J. Pascrell (D–8–NJ), Colin Peterson (D–7–MN), Glen Poshard (D–19–IL), Steve Rothman (D–9–NJ), Lynn Rivers (D–13–MI), Bobby Rush (D–1–IL).

Martin Sabo (D–5–MN), Bernard Sanders (I–At Large–VT), Adam Smith (D–9–WA), Debbie Stabenow (D–8–MI), Pete Stark (D–13–CA), Ted Strickland (D–6–OH), Karen Thurman (D–5–FL), John Tierney (D–6–MA), Ed Towns (D–10–NY), James A. Traficant, Jr. (D–17–OH), Bruce Vento (D–4–MN), Nydia Velasquez (D–12–NY), Peter J. Visclosky (D–1–IN), Maxine Waters (D–35–CA), Mel Watt (D–12–NC), Henry Waxman (D–29–CA), Robert Wexler (D–19–FL), Robert A. Weygand (D–2–RI), Sid Yates (D–9–IL).

IN HONOR OF JOSE ROSARIO: FOUNDER OF FOCUS AND A LEADER IN THE HISPANIC COMMUNITY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to an outstanding gentleman, Jose Rosario, who served as the founding father of FOCUS and contributor for the endowment of the Hispanic American community. On October 10, 1997, the Puerto Rican Congress Inc. will posthumously honor Mr. Rosario with a special reception at the Hilton in Secaucus, NJ.

Mr. Rosario, born in Moca, PR, passed away on August 29, 1997, in Carolina, PR. He was a hardworking accountant and a licensed real estate agent. Before moving to New Jersey 40 years ago with his wife Phyllis, he worked for the commonwealth of Puerto Rico. It is through his roots and heritage that he left a legacy of determination for improving human services in the Hispanic-American community.

Mr. Rosario, El Viejo as he was known to his friends, founded FOCUS, the Newark based social services agency, in 1967. Its mission was to provide education, job training, and other services for underprivileged Hispanics from the Newark area. Today, known as the Focus Hispanic Center for Community Development, the agency, led by Casto Maldonado, executive director, and Frank Morales, chairman of the FOCUS board of trustees, serves more than 9,000 clients every year through grants and donations to fund an annual budget of over $1 million.

Mr. Rosario also established the New Jersey Office of Hispanic Affairs which set up the first bilingual education program in New Jersey schools and successfully pushed for passage of a law requiring Spanish interpreters in the courts. Mr. Rosario pressed for the State high school equivalency examination to be given in Spanish, helped establish the New Jersey Puerto Rican Statewide Parade Committee, and in 1977 was awarded a seton hall honorary degree in humanities or improving the way of life for Hispanics in New Jersey.

I thank the Puerto Rican Congress for this tribute and it is an honor and a pleasure to recognize the accomplishments of this celebrated man. He is deeply respected for his tenacity in seeking the advancement of all Hispanic-Americans. I am certain that my colleagues will join me in paying tribute to this remarkable gentleman.

TRIBUTE TO HENRY B. GONZALEZ

SPEECH OF

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. HALL of Texas. Mr. Speaker, it is an honor for me to pay tribute today to a longtime friend and dean of the Texas delegation, the Honorable HENRY B. GONZALEZ, who has announced that he will resign from Congress this year after 36 years of outstanding service.

For most of his life, HENRY GONZALEZ has been a dedicated public servant, both in Congress and previously in local and State government in Texas. As chairman and ranking minority member on the Committee on Banking and Financial Services in the House of Representatives, he has made his imprint on our Nation's banking, financial, and housing laws. As Representative of the 20th Congressional district of Texas, he has been a formidable advocate for policies and programs affecting his constituents. And as dean of the Texas delegation, he has been a respected and influential colleague.

I knew HENRY GONZALEZ when he first served in the Texas State Senate. Previously, he had been a member and mayor pro-tem of the San Antonio City Council, deputy director of the San Antonio Housing Authority and probation officer for Texas County. He worked as a civilian cable and radio censor during World War II and operated a Spanish/English translating business with his father. He also taught math to veterans and citizenship classes to resident aliens. HENRY was born and raised and educated in San Antonio schools, with the exception of studying civil engineering for 3 years at the University of Texas at Austin before graduating from St. Mary's University school of law. His life has been one of giving to those who needed him.

In all that he has done in public service, HENRY GONZLEZ has been an outstanding Representative for his constituents in Texas, the Hispanic community, and our Nation. During Hispanic Heritage Month, I can think of no one more deserving of our respect and our gratitude for 36 years of dedicated service in the House of Representatives than my good friend and colleague, HENRY B. GONZALEZ. As we adjourn today, I ask that my colleagues join me in bidding him a fond farewell and in wishing him God speed in his retirement.

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

SPEECH OF

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 901) to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands:

Mr. RILEY. Mr. Chairman, I rise today in strong support of H.R. 901, The American Land Sovereignty Act. No longer can we sit back and let the United Nations dictate US domestic policy or infringe on our national sovereignty.

This is not a new argument. How many times do we have to hear about the abuses of the United Nations. In Alabama we hear that the United Nations is mired in one boondoggle after another, how we owe them $1 billion, or how our troops are going to be forced to miss Christmas because some foreign dignitary believes it is reassuring to have our military guarding his personal possessions. Now we learn that the UN has declared certain pieces of United States soil to possess international status, independent of US sovereignty.

This is becoming unacceptable and borders on ridiculous. How much of this are we going to stomach before we tell the UN that it does not control the United States. The People govern the United States, and, as Representatives, we here in Congress are given the honor of governing this nation on behalf of our constituents. We need to unequivocally inform the UN that this is our country, not theirs. We need to tell the UN that we are going to hold it under close scrutiny and question all its actions.

Today, the House of Representatives passed H.R. 901. This important piece of legislation is a first step into curtailing the greedy clutches of the United Nations. It requires the Administration to seek Congressional approval before it can nominate any US land for inclusion on the World Heritage List. In addition, H.R. 901 stipulates that all lands that are to be included as a Biosphere Reserve must also be brought before Congress.

This bill sends a clear message to the UN and President Clinton that we are not going to

allow any organization to disregard American Sovereignty. If the UN wants to make decrees that affect the United States, it must learn that it has to go through proper channels and ask permission.

The citizens of the United States, not the UN, will determine their own lives and their own futures.

TRIBUTE TO THE ARTIST WYLAND

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. LEVIN. Mr. Speaker, I rise today to recognize the dedication of the 76th Wyland Whaling Wall in the city of Detroit on October 13, 1997. Wyland has chosen his home town to paint the 76th and final wall as part of his Great Lakes Midwest Tour.

In the tradition of Jacques Cousteau, by whom he was inspired as a youngster, Wyland has dedicated his career to educating and raising public awareness of the critical importance of our oceans and marine life. He is internationally renowned, with murals in Canada, Japan, Australia, France, and Mexico. His work will continue as he has set a goal of, 100 murals worldwide by the year 2011.

While 1998 has been declared the "International Year of the Ocean," the people of Michigan, surrounded by the Great Lakes, have always treasured the unique habitat and wildlife fostered by marine environments. Each of Wyland's whaling walls will serve to heighten awareness and encourage future generations to appreciate and recognize the importance of marine habitats.

Mr. speaker, I ask my colleagues to join me in commanding Wyland, a native Detroiter, for his vision, dedication to our environment, and commitment to educating children and the public at large about our endangered oceans. I extend my gratitude for his donation of time and talent to beautifying our city, and encouragement as he continues to his 100th Whaling Wall Mural in the year 2011.

DEPARTMENT OF VETERAN AFFAIRS EMPLOYMENT DISCRIMINATION RESOLUTION AND ADJUDICATION ACT

SPEECH OF

HON. STEPHEN E. BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. BUYER. Mr. Speaker, my colleagues and I on the House National Security Committee, are in the process of completing the congressional review of sexual misconduct in the military. As difficult and shocking as that review has been, it pales in comparison to the problems that are coming to light in the Department of Veterans Affairs.

The Department of Veterans Affairs, this Nation's second largest agency, is a department that possesses a climate and culture that can only be described as openly hostile to women.

This culture not only allows the harassment of women, it aggressively moves to cover-up any allegations made by employees and often rewards those who have been convicted of wrong-doing.

There is a bunker mentality prevalent at the VA. It appears that the VA, when faced with accusations of sexual harassment, hunkers down and waits out the controversy while speaking aggressively. In reality, the attitude is that the VA winks at the claims of sexual harassment, protects the accused and victimizes the accusers.

As Kathy Lyons, a nurse with the VA described the VA process as, "The way they handle the thing is to punish the victims."

In 1993, this committee considered enacting legislation to re-organize the VA equal opportunity reporting system in light of abuses at the Atlanta VA hospital by the director, associate director, and chief of staff. At that time, Secretary Brown convinced the committee that he had a "Zero tolerance" for sexual harassment and the committee did not pass the legislation.

My good friend and colleague, Congressman JAMES CLYBURN stated at that time that, "I don't care what you try to do, how many procedures you put in, how many training sessions you have, if your employees do not perceive the process or whatever you've done to be an adequate response to their past problems, there is going to be absolutely no trust in the process at all."

The problem has persisted. The pattern of reward and coverup, had it been undertaken in the military, would result in a major scandal. In the VA, it merely constitutes business as usual.

In April, the VA Committee held hearings that revealed, as described by Subcommittee of VA Oversight TERRY EVERETT, a pattern of "Club MED" treatment for senior VA employees that had been accused of sexually harassing their employees.

Following that hearing, Chairman EVERETT also stated that, "I have a concern there is a Good-Ole-Boy network out there and that there is a culture within the VA that protects the managers."

Specifically, the committee found that:

A hospital director in North Carolina who groped and abused female employees who was transferred to Florida to a job specifically created for him that preserved his six-figure salary;

A VA Director in Virginia who was reassigned to Atlanta after he was accused of seven accounts of sexual harassment.

A VA personnel director in California has been reprimanded but not severely punished after an investigation into his rape and sodomy of employees in his hospital.

Reports that since 1993, the VA has punished nine VA managers for various sexual harassment complaints.

Reports that the VA Headquarters in Washington alone has 73 equal opportunity complaints pending by employees at that facility.

Overall, the VA work force is 8.52 percent of the total Federal work force, but files 14.1 percent of all harassment cases filed within the Government.

These cases illustrate that the VA's culture is one of paying off the accusers and covering for the perpetrators.

The overall culture starts with the leadership at the highest levels of the VA. The fact that Acting VA Secretary and Secretary designate Hershel Gober is married to VA counsel Mary Lou Keener and that Mr. Gober's nomination has been placed on hold for irregularities in his background investigation is evidence of problems and conflict of interest at the top. I am deeply concerned this situation has been allowed to exist at the VA.

During consideration of this bill in committee, I offered an amendment that would establish an independent panel to assess the culture of the VA with regards to sexual harassment, equal opportunity, and hostility in the workplace.

I am pleased and honored that my colleagues accepted my amendment on a bipartisan basis. This is a sign that Members on both sides of the aisle recognized the problems within the VA and the need to look at those problems.

Four years after this committee's initial hearings, egregious problems still exist. I have doubts in the VA's ability to police themselves. They simply have no grasp on the scope of these problems.

H.R. 1703 is designed to establish a new VA employment discrimination complaint resolution system. This legislation addresses the problem with the system within the VA.

My amendment tasks a panel to look at the people, their attitudes and practices within the VA. We need a baseline look at the culture within the VA, and recommendations on how to change that culture.

Some of the cases that the VA Committee has probed could have been handled even with the old EEO system in place. Within the VA, there was merely a failure to aggressively pursue. We need to know why those within the VA have this attitude, and what can be done to correct the situation.

RECOGNITION OF "A SAFE PLACE" FOR WOMEN AND CHILDREN

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. DELLUMS. Mr. Speaker, I rise today with gratitude and admiration to acknowledge A Safe Place which will be honored on Saturday, October 11, 1997 for its dedication, service, and tireless commitment to the bay area community.

A Safe Place provides crucial supportive and transitional services to battered women and their children. The mission of this organization is to decrease the number of battered women and educate the community on the issue of domestic violence. This extraordinary organization also provides personal support and attention to battered women, assisting them in becoming self-sufficient and providing skills to develop positive self images which in my opinion, is crucial in breaking the cycle of violence. I cannot emphasize enough the value of these services to our community. All those who have tirelessly cared, and passionately struggled to create this organization and expand its resources must be commended.

In 1976, a small group of women working in a shelter in San Francisco, La Casa de las Madres, began a shelter in the East Bay. Soon after, they began providing referral services and crisis counseling from a small office in Bethlehem Lutheran Church in Oakland run solely by volunteers. The initial, attentive activist focused on the needs of the community, and created the basis for a holistic and nurturing environment for women and children, and a community outreach violence prevention program.

With this objective as the foundation for A Safe Place, the L.C. and Mary J. Scaggs Foundation provided a grant in 1978 which made it possible to fund three half-time positions. Over time, with grants, corporate contributions, and individual donations, the staff was expanded.

In December of 1980, A Safe Place was forced to find new facilities, or shut down completely. With the help of the media, the organization received a $100,000 anonymous donation and a $75,000 interest-free loan, which enabled them to purchase a house to be used as their new permanent facility. In March of 1981, the doors were opened and the house welcomed 20 women and their children. The resolution of this crisis situation illustrated not only the dedication of the staff and volunteers of A Safe Place, but also the value and appreciation that the bay area community had for its services.

That was over 15 years ago. Since then, countless women have benefited from the care and dedication of this organization. Those who have entered A Safe Place receive much more than shelter, they experience physical, emotional and spiritual comfort and support which empowers them to begin a new way of life. In my opinion, the entire community reaps the benefits from the seeds planted and sown by A Safe Place which through its educational focus attacks domestic violence at its source and establish new patterns of productive living.

Mr. Speaker, I am proud to salute A Safe Place and the role it has played in creating a safer, healthier, and more peaceful bay area community. I ask my colleagues to join me in recognizing and thanking this organization for its invaluable service.

IN HONOR OF MIGUEL PEREZ: AN OUTSTANDING INDIVIDUAL AND VALUED COMMUNITY MEMBER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a special gentleman, Miguel Perez, who has distinguished himself through continuous dedication and hard work for the Latino community. Mr. Perez will be honored by the Bergen County Hispanic-American Advisory Commission on October 16, 1997 at the board of freeholders in Hackensack, NJ.

Throughout his long career, Mr. Perez has been an educator, role model, and strong voice for the downtrodden. He entered the United States as a refugee at an early age. He didn't speak a word of English, but by the time he reached high school, he became the sports editor of the Miami High Times. This was the beginning of a long and illustrious career in the media. Mr. Perez went on to become editor of two college newspapers, including, "The Falcon Times" of Miami Dade Community College, which received the Pacemaker Award, given to top six college newspapers in the nation. He was also founder and first editor of the Good Times of Florida International University, where he graduated in 1974 with a bachelor's degree in political science. Mr. Perez continued his passion and advocacy for those who are ignored, misunderstood, and victims of discrimination, serving as a bridge to non-Latinos. "Teaching important lessons about our community," stated Latin New York magazine, "and tries to instill a sense of pride in Latinos."

Mr. Perez's commitment to serving his community extends beyond his journalism. In 1979 he was instrumental in helping police persuade three Spanish speaking gunmen to release two dozen hostages held in a Brooklyn supermarket. Two years later he spent three months disguised as an illegal alien and wrote a four-part series for the Daily News on sweatshops: "The new slavery," for which he was awarded the Public Service Award of the Public Relations Society of America, New York chapter. Upon graduation from Columbia, he went to work for the Daily News as one of the few English-language Latino columnists in the country at that time. In 1982 Perez won the Mike Berger Award, considered the top print journalism award in New York. This year he won a fellowship from the Newspaper Association of America to study interactive media at the prestigious Poytner Institute in St. Petersburg, FL.

A journalist more than twenty-four years, born in Havana, Cuba, 47 years ago, Mr. Perez has been covering the New York metropolitan area's Latino community relentlessly. He epitomizes excellence in community service, and it is an honor and a pleasure to have him residing in my district. I am certain that my colleagues will rise with me and honor this remarkable individual.

SENATE—*Monday, October 20, 1997*

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, trustworthy Sovereign of this Nation, and Lord of our lives in whom we trust, we join with others throughout this land in seeking to have trustworthiness a pillar of our character and an essential mainstay of our culture. We know that we should not pray for a quality of life like this for society unless we are willing to begin with ourselves.

Lord, You desire to implant Your character in us. Everything we know about being trustworthy we've learned from You. Your faithfulness never fails; You are consistent in Your loving kindness; You are always true to Your Word. May our trust in You as our God be the inspiring motivation of trustworthiness in us. May integrity be the basic fiber of our character. We dedicate ourselves to speaking the truth, to saying what we mean and meaning what we say. Make us totally dependable to keep our promises. May others be able to count on us and always be able to say, "What you see is what you get." We pray that our actions will build a confidence of trust in others. We commit ourselves to making trustworthiness a reliable, consistent quality of our character. Help us, Lord, to keep this promise to You. Through our Lord and Saviour. Amen.

Congress has designated the third week of October as "Character Counts" week. During this week, six pillars of character are to be emphasized. The focus of our prayers this week will be to make these pillars a part of our personal character and of our society.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. DEWINE. I thank the Chair.

SCHEDULE

Mr. DEWINE. Mr. President, I make the following statement this morning on behalf of the majority leader. Today the Senate will be in a period of morning business until the hour of 2:30 this afternoon. At 2:30 the Senate will resume consideration of S. 1173, the ISTEA legislation. As the leader announced before the recess, no rollcall votes will occur during today's session. The leader further hopes the Senate will be able to make progress on this important legislation regarding highway construction and highway safety programs. As Members are aware, the first session of this Congress will be concluding before too long and there is much work left to be done. This week the Senate must act on a continuing resolution as we attempt to pass the remaining appropriations bill and conference reports. As the conferences finish their work, the full Senate awaits these conference reports. The majority leader encourages all Senators to cooperate as we schedule the remaining legislative period.

The majority leader also reminds colleagues that typically these closing weeks of session are some of the busiest. Senators should be prepared, therefore, for busy sessions with rollcall votes occurring each day unless other notification is given. The majority leader thanks all Senators for their attention.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

Mr. BINGAMAN. Mr. President, I ask unanimous consent I be allowed to speak up to 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Rena Subotnik, a fellow in my office, be permitted privileges of the floor for the duration of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 1295 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I ask unanimous consent to be permitted to speak for 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-CHINA SUMMIT

Mr. THOMAS. Mr. President, I wanted to come to the floor to talk a little bit about the summit that is coming up soon—as a matter of fact, the 29th and 30th of this month. President Jiang Zemin of China will visit Washington to have a summit meeting with President Clinton. It is a good time I think for us to do two things. One is to think a little bit about our role with respect to the summit, our role as Congress. Another is that it is a good time for us to take another look at our policy and our bilateral relationships and reevaluate both of those with respect to China and its goals.

As chairman of the Subcommittee on East Asia and Pacific Affairs, this relationship, of course, and its ramifications in the future, its impact on the United States and the world is something that is very important to me. East Asia, of course, will be a source of one of our most important economic and strategy challenges as we move into the next century. China, with 1.2 billion people and an increasingly expanding economy, will continue, and increasingly, to be a center of attention in Asia. To adequately meet those kinds of challenges, obviously, why, we need to continue to articulate and develop a workable policy with respect to China and then, of course, to all of the countries in Asia.

This administration has and continues to refer to our China policy as a constructive engagement, which has a nice sound, a nice ring to it, but I am not sure anybody really knows what that means. Apparently, it can mean whatever one would like it to mean. If you ask 10 or 12 different people, each of them might give you a different explanation of what it is. Moreover, and probably even more important, the Chinese do not know what constructive engagement means. Many of them are not persuaded and talk often about the idea that our relationship with China is one of containment, which it really is not.

So I think it is a good opportunity to make clear what our policy is with respect to China. And it seems to me

that that policy ought to reflect those things that are of concern to us, those things that are important to us, those things that will over time allow us to have a relationship with China. I happened to have the opportunity to visit there in August. Most of the leadership was at the coast because of the summertime, but I did go there and visit with the Foreign Minister. We talked a good deal about the upcoming summit and what it is that it might be.

I was, and am still, a bit concerned that when you have a summit there may be a compelling interest among the administration people to be able to announce great things at the summit, which would be fine if, indeed, they are based on the kind of arrangements and the kind of agreements that really need to be made in order to have great things to announce. It would be a shame, on the other hand, if we rushed to agreement on some things and came up with unsatisfactory agreements simply in order to make the summit look as good as it should.

I agreed with the Foreign Minister that, indeed, it would be better to just have a summit to help our relationships, to talk about problems, if that is all we could do, than to have some artificial arrangements made in order to make some announcements.

So I think that is a little bit where we are. One of the things that I believe is important is that the Congress should be involved. In most countries like China and Indonesia that have a different system, of course, the people do not really understand that Congress has something to do with foreign policy, that Congress is involved in foreign policy. That is not the case in most countries. So I am hopeful, and I am now fairly confident, there will be some congressional involvement in this summit.

One of the things I am glad has not occurred, however, as sometimes does is that—of course, we are free here and should speak out on whatever we want—often you see a whole series of sense-of-the-Congress resolutions that are not very conducive to having a good meeting—some of them saying, well, if you do not behave, we will take away your visas and all that sort of business, which may have merit but it does not seem it is useful as we come up to a summit with the intention to try to improve the relationships we have. I think those things are counterproductive, as is the case generally with sanctions; sanctions do not work. There are less than a handful of objectives that the Chinese simply can't get somewhere else. We have sanctions on something when they are bargaining with Boeing for 777's and they go to France and buy Airbuses. That is kind of the way that works. We hurt our own relationship for no positive reason.

Now, I am not an apologist for China. There are many things that are being done there that we think should be done differently, many things that are being done there that are not consistent with our values, but I think probably as important as anything, if China wishes to be part of the family of business in the world, then there are some rules they have to abide by or else they are not part of the family. Countries have to stay with agreements that they have, the contracts they have.

So there are many things that make it more difficult to embrace people in the international community. In the case of China, there are concerns about Tibet, concerns about human rights, religious persecution, rule of law, intellectual property rights, relationships with Taiwan. All of those things are concerns. But the issue is how do we best deal with them. Nobody denies that there are problems we have to deal with, but as in the case of most favored nation, then you say I understand the problem. The question is how do we best deal with it. Do we best deal with it by standing away? Do we best deal with it by sanctions? Or do we best deal with it by articulating a foreign policy and then saying we are going to stay with that policy? I believe that is the best answer for us.

There are a number of things that ought to be talked about, I believe, at this summit. I have met with Sandy Berger, who is the President's adviser and the person I think most responsible for the meeting, who seems also to be in tune with this. There are about four real issues that I hope are talked about very candidly and talked about in depth. One is nuclear proliferation —the idea of parts shipped to Pakistan, the idea that Iran and the PRC have a nuclear cooperation agreement, changes to domestic law to prevent dual use. These kinds of things. Now, we are in the course of the President certifying that these things are not in fact happening, and I hope they are not. But we need to talk about that. We need to have an understanding. We need to be able to have visibility to see if, indeed, that is happening.

Another is human rights. I think we need to continue to speak out about religious freedom. We need to continue to speak out about personal freedom. Those are our values. We are not going to be able to tell everybody else how to live, but we can promote values that we believe are important. And among those at the top is human rights.

Trade. China, of course, wants to belong to the World Trade Organization, and I, indeed, hope they do. I think it would be better for us so that when you have trade problems, it is not a unilateral kind of thing but, indeed, would fall within the purview of the World Trade Organization. And some measures could be put on by other countries as well as ours.

Finally, security. We have had good cooperation from the PRC with regard to North Korea. But one of the reasons that we are involved as we are in China and in Asia is, of course, to stabilize the security of this part of the world, which is terribly important to us. I think we have been relatively successful in doing that.

Mr. President, as this summit comes close, I am pleased that the Congress is somewhat involved. I am actually pleased that these have kind of been four issues that at least the National Security Council has set forth. I hope we have honest, candid talks with the President of China. I hope we say in very understandable terms what our policy is in regard to human rights, in understandable terms what our policy is with regard to trade. We obviously have to open up China so that our trade deficit doesn't worsen.

So we have real problems to resolve. We do not resolve them by simply saying we are going to have "constructive engagement." I think we need to be specific on a relatively small number of things that are important to us and then, by golly, stick with them. If we have an agreement on intellectual property and it is not adhered to, then we need to do something about it. We should not try to run everything that everybody else does in another country, but those things that are important to us I think we ought to stay with. I look forward to the summit. I hope it is a useful one. I hope it contributes to world peace. I hope it contributes to stability in world trade and perhaps most of all the improvement of human rights in that part of the world.

FEDERAL MARITIME COMMISSION'S ACTIONS AGAINST RESTRICTIVE JAPANESE PORT PRACTICES

Mr. HOLLINGS. Mr. President, I would like to take this opportunity to commend the Chairman of the Federal Maritime Commission [FMC], Mr. Harold Creel, and the other Federal Maritime Commissioners, Mrs. Ming Hsu, Mr. Joe Scroggins, and Mr. Delmond Won for their resolve in pursuing trade liberalization of Japan's restrictive port practices.

The problem of unfair, restrictive port practices in Japan is a long standing one. The United States carriers and United States Government have asked the Japanese to reform their system for over a decade. The Japanese had refused even to acknowledge that this was a problem, much less to resolve it.

Two years ago, the carriers, weary of the futility of diplomatic and commercial pressure, asked the FMC to address this. This was not a matter of the FMC grandstanding or attempting to justify its existence. In fact, I would note that the same Japanese restrictive port practices were challenged at the World Trade Organization [WTO] by European carriers. To date, the WTO has not

acted on the European carrier petition. However, the FMC acted vigorously at the request of United States industry interests to address a long-standing, Japanese-created situation that could not be resolved through more amicable means. In September 1995, the FMC issued orders to gather information on the subject.

In November 1996, the FMC issued a proposed rule, with monetary sanctions to go into effect April 1997.

In April 1997, an agreement between the United States and Japanese Governments resulted in Japanese commitments to achieve certain steps toward reform by July 1997. Accordingly, the FMC postponed the effective date of the sanctions until September 1997.

But then the Japanese failed to meet their April commitments. In September, the Japanese again asked for a postponement of the FMC rule. The FMC refused, and beginning in September, fees of $100,000 per voyage began accruing. The fees for the month of September, which totaled $4 million, were due and payable October 15, 1997.

Despite frequent assurances by the Japanese carriers that they would pay the fees, when the October deadline was reached, they refused to do so. Accordingly, the FMC took the next step, which is authorized by statute and specifically spelled out in the final rule: to request that Customs deny clearance of Japanese vessels at United States ports, and to request the Coast Guard to detain the vessels. This action is entirely avoidable upon payment by the Japanese carriers of their now overdue debts to the United States.

The Japanese port practices at issue result in costly, arbitrary, and unnecessary expenditures by United States carriers and prevent them from making their own decisions on whom to hire for stevedoring services, from being licensed to operate their own terminals, and from operating efficiently. These practices are injurious not only to U.S. carriers, but to all U.S. importers and exporters who rely on ocean shipping, and to the American consumer. Japanese port costs are the highest in the world, and American consumers of Japanese goods ultimately foot the bill. Moreover, Japanese carriers are not subject to such restrictions in their operations in the United States.

None of these achievements of the FMC would have been possible were the FMC not an independent agency, separate from the executive branch departments. Only an independent agency, free from political pressure and the host of other concerns which frequently paralyze larger executive branch agencies, could have acted so swiftly and effectively. We must ensure that the FMC continue to retain its independent status.

It is my understanding that United States and Japanese negotiators are coming close to an agreement that would resolve this issue. This issue would not be resolved, but for the actions of the FMC. Bravo, keep up the good work, and ensure that whatever issues the Japanese Government agrees to are enforced for the benefit of the shipping public.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, October 17, 1997, the Federal debt stood at $5,418,064,201,028.31. (Five trillion, four hundred eighteen billion, sixty-four million, two hundred one thousand, twenty-eight dollars and thirty-one cents)

One year ago, October 17, 1996, the Federal debt stood at $5,226,593,000,000 (Five trillion, two hundred twenty-six billion, five hundred ninety-three million)

Twenty-five years ago, October 17, 1972, the Federal debt stood at $436,027,000,000 (Four hundred thirty-six billion, twenty-seven million) which reflects a debt increase of nearly $5 trillion—$4,982,037,201,028.31 (Four trillion, nine hundred eighty-two billion, thirty-seven million, two hundred one thousand, twenty-eight dollars and thirty-one cents) during the past 25 years.

RICHARD JOHNSON: 43 YEARS OF OUTSTANDING SERVICE

Mr. DASCHLE. Mr. President, it is my privilege today to honor Richard Johnson of Baltic, SD. Richard recently retired after 43 years of service in the Baltic Fire Department—half of the department's 86 years of existence. His friends describe him as a man who can always be relied upon and who never failed to answer the call when an emergency struck his community.

Nearly 20 years ago, a grain elevator exploded in this quiet town in southeastern South Dakota, tragically killing two people, and starting a furious blaze that could be seen for miles. Richard, an assistant manager at the elevator, was the first firefighter on the scene. Fighting large fires is a particular challenge in rural South Dakota, where fire departments depend upon teams of volunteers and often lack adequate supplies of water. On this day, firefighters were called in from all over the region and a pump truck was brought from Sioux Falls to draw water from the Big Sioux River. Together, they worked throughout the afternoon to bring the blaze under control before finally extinguishing it. For all of that long, exhausting afternoon, and for the 3 days of cleanup that followed, Richard was there.

These days tell us a lot about Richard. Quiet and reserved, he never asked for the spotlight, but for 43 years he was always there when he was needed. After all his long years of service, it is an honor to recognize his accomplishments before the Senate. Mr. President, September 26 was declared Richard Johnson Day in Baltic, and he was named parade marshal for the Baltic Homecoming Parade held that same day. As part of the celebration, 14 of the 18 fire chiefs Richard served under during those 43 years came to honor him—a testament to the respect Richard earned during his years with the department.

I wish Richard the best as he begins his retirement, and hope that he has many happy years together with his friends and his family.

RECESS

Mr. THOMAS. Mr. President, seeing no one else in the Chamber, I ask unanimous consent that the Senate now stand in recess until 2 p.m.

There being no objection, the Senate, at 12:59 p.m. recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERTS).

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a continued period for the transaction of morning business not to extend beyond the hour 2:30, with Senators permitted to speak therein for up to 5 minutes each. Who seeks time?

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for as much time as I consume in morning business.

The PRESIDING OFFICER. The Senator is recognized, without objection.

THE FAST-TRACK TRADE DEBATE

Mr. DORGAN. Mr. President, I am going to visit today about the fast-track trade debate that we are expected to take up here in the U.S. Senate in the next couple of weeks. It is an interesting topic. I expect it will be a hotly contested debate as it deals with international trade.

I was in North Dakota last week, and I assume the presiding officer was in Kansas and my other colleagues from here in the Senate were in their home States. I saw an interesting editorial in the largest newspaper in North Dakota, the Fargo Forum. The editorial says: Farm Economy Is at Risk. Then it describes the problems that our family farmers are facing in North Dakota including, problems of lower production because of crop disease, the lack of moisture in some parts of our State, too much moisture in other parts of our State, and very low prices that they receive for their grain. The editorial talks about an average size farm

penciling out to a $23,000 loss in net worth this year. This is for the average size farm with average production this year.

I was thinking about this because as I travel in North Dakota I see a great many family farmers. Most of them are descendants of the homesteaders in this country, the people who moved out to build a farm, and try to make a living. For some people it has been very, very hard.

In North Dakota about 200 years ago, in fact just about 7 or 8 years less than 200 years ago, we had a visit from Louis and Clark. Thomas Jefferson, then President of the United States, bought from Napoleon Bonaparte the Louisiana Purchase, as it was called, for 3 cents an acre. He bought all that land out there for 3 cents an acre. Some jumped up in the Senate and said, why on Earth would you buy land out there? There is nothing out there. There are Indians and sagebrush. Why would you want that land?

If you were to equate what he paid for the Louisiana Purchase and compared to our current budget, he paid the equivalent of $3 trillion. This is as a percentage of what we spend today at the Federal Government level versus what Jefferson proposed to spend on the Louisiana Purchase. He bought for 3 cents an acre on all of that land. This is equivalent of about $3 trillion of what we would have to pay today. Then he sent Louis and Clark to go look at what he had purchased to try to find a water route to the ocean out west.

I read, as the Presiding Officer and many others may have, the wonderful book that was just published about Louis and Clark's journey. I discovered that when Thomas Jefferson gave them the charge to go explore that new territory, he gave Mr. Louis the opportunity to sign vouchers for whatever he needed for the trip. Mr. Louis went to St. Louis, MO, and he began signing vouchers. He was buying all kinds of things in St. Louis that he felt were necessary, because he didn't know what he was going to confront on that trip or how long it would take him.

He hired a bunch of folks and signed vouchers for a lot of things. They said he bought 120 gallons of whiskey for the trip. I wonder if today the Citizens Against Government Waste would let somebody get by with that. Well, probably not. Not 120 gallons of whiskey. Apparently, the theory was he needed enough whiskey to get him up into and through Montana, because at that point it was too late to turn back. I don't know whether that was said tongue-in-cheek or not.

In any event, the chronicles of the Louis and Clark expedition are quite wonderful. It is interesting to see our part of the country through their eyes 200 years ago because they stayed the winter in North Dakota. It was kind of chilly. They got hunkered down for the winter in North Dakota. They chronicled that in their book as well.

Then, about 100 years passed, and toward the turn of this century we had something called the Homestead Act, which led people to move out to States like North Dakota and claim 160 acres of land and build a house and operate a farm and raise a family, and the land would be theirs under the Homestead Act. So my State was populated by these homesteaders about 100 years ago. It is about as difficult a life as one can imagine, trying to start a farm out in the prairies of North Dakota, facing the wind, and the uncertainty of the weather. Then there was the question of, if you plant some seeds in the ground, will you get a crop? Will you have grasshoppers? Will you have crop disease? Will a hailstorm come along? And then, if you get a crop will there be a price sufficient so you can sell the crop and make a living?

Now, 100 years after the homesteaders, we discover fewer and fewer yard lights in rural North Dakota. More family farmers are going broke. Fewer family farmers can make a living. We continue to see the type of editorial I just described, "The Farm Economy Is at Risk," which describes the net loss of so many family farms in North Dakota this year.

Family farmers are the last of the free marketers in this country. They don't ask for much. They don't get much. And they risk virtually everything they have, based on the marketplace. Yet, one by one those tens of thousands of family farmers, as small producers, confront a marketplace of very large producers whose economic clout is enormous. If you are raising a beef cow when you go to the marketplace you confront the large beef packers, four of which control over 80 percent of the beef packing plants in this country. So you face an economic pressure that really is not particularly fair. The result is, generally speaking, lower prices than one would expect to exist in a free market.

When you try to market your wheat, you confront other economic enterprises. You confront the big millers, you confront the grocery manufacturers, you confront the folks who are involved in the grain trade, all of whom are large economic enterprises. Yet a family farmer competes in the marketplace against these larger economic interests which want lower prices. They want lower prices for family farmers, which means family farmers lose and they win.

The reason I describe all that is we come around now to this question about trade. The discussion in the Congress will be negotiating new trade agreements, because the President says, and a lot of both Republicans and Democrats say that the route to economic health is trade. That may be. The theory is the more you trade, the better off you are. If you read the doctrine of comparative advantage from the great economic thinkers going back to Adam Smith and Ricardo and others, the presumption was that every part of the world would do what it could do best and trade back and forth. This was the doctrine of comparative advantage. Of course, what they were talking about was trade from nation to nation, because there were no corporations at the advent of that kind of economic theory. But, notwithstanding that, the provision still exists, I suppose, in the minds of some, that the route to economic health is through trade. They believe that discussion should not be about what kind of trade. Instead, the question should be how much trade.

Some of us are concerned about our situation with trade. It is not because we believe we should not have aggressive trade practices or that we should not find ways to market our goods overseas in foreign markets that might need those goods. It is not because we believe that American consumers should not be able to take advantage of goods produced elsewhere that they may want. Instead, we are concerned because we see a pattern of trade in this country that is not fair to this country and that in the long-term inevitably weakens and injures our production and manufacturing base in America. The manufacturing base is the center pole of a strong economy. If you weaken your manufacturing base, you weaken the sector that provides the good jobs that pay well and have good benefits.

We have been led into thinking, I expect, by some, that a measure of economic health in America is not what you produce but what you consume. Think to yourself, what are the economic indices that are used every month to evaluate how healthy America is? It is what we consume every month. Were sales up or down? That's the basis by which we evaluate is America doing very well. Yet there is very little discussion about what we produce.

I want to hold up a chart that describes the aggregate trade deficits in recent years. Even though we have been negotiating trade agreements and we have done a number of these trade agreements under the procedure called fast track, which I will describe in a moment, it is very hard to determine that we are moving in the right direction. This particular chart demonstrates that for 21 straight years we have run merchandise trade deficits in this country, and in most recent years we have had the largest deficits in America's history. Last year, the year before, the year before that, and, incidentally, this year, we will once again see the largest merchandise trade deficit in this country's history. It is very hard to take a look at all of this red

ink and discern that somehow we are doing very, very well.

I had written a piece about trade. Then there was an article in the Washington Post recently. The writer of this article described this trade agreement in ways so that apparently I and others could understand it, suggesting that we just don't understand this. He said that we don't understand that this is not a sign of economic trouble, but that this is a sign of economic health. He reported the bigger the deficits the better off you are. Let me read the description by the writer from the Washington Post:

> If someone offered to trade you $10,000 worth of apples for $5,000 worth of pears, you'd jump at the deal. In the same vein, we Americans can hardly be considered unfairly treated if we obtain more imports that foreigners have slaved to produce for our consumption in exchange for fewer exports that we have slaved to produce for theirs.

Those of us from the middle of the country would have missed this entire economic theory had he not written this. In fact, I have an uncle, Uncle Harold, who would love to get involved in some of this pear and apple trade. If someone offered to pay you $10,000 worth of apples for $5,000 worth of pears would you jump at the deal? Yes, I suppose you would, unless you didn't need the apples and you didn't have the money to go in debt for the balance. That is the problem. This is always the thoughtlessness we get on trade debate. It is that somehow America is getting something for free. The fact is, America is inheriting the largest trade deficits in its history and no one seems to care very much. This writer says the economists make the point that this is very healthy, it is a wonderful thing.

In fact, in this same article they were talking about why we have a trade deficit. There is kind of an incestuous relationship between all the sources. The same people go to the same sources for the same quotes. This uses these same sources. The source, an economist, says the reason we had a trade deficit is because America doesn't save enough. There is an interesting thought. Companies close their American plant and move it to Mexico because somebody in Detroit doesn't save enough or somebody in Russell, KS, doesn't save enough? I'm sorry, I studied economics and I taught economics and that's not a theory with which I find credible. Maybe it's another theory that those of us in the middle of the country don't understand.

This same source that said our problem is that we don't save enough and that's why we have huge trade deficits said many months ago that we have a huge trade deficit because we have mounting budget deficits. He said that when the budget deficit goes down the trade deficit will go down.

Well, guess what? The budget deficit has gone down 4 years in a row. What has happened to the trade deficit? The trade deficit has continued to increase to new record levels. So much for that theory. The same source says, and some others say, that we have a trade deficit because of our currency valuation. They say that we have a strong dollar and that causes the trade deficit. But, the dollar goes up and the dollar goes down, we still have the trade deficit, and the trade deficit continues to grow. So much for that theory.

My point is, those who give us this malarkey about the trade deficit somehow don't understand that these deficits, the largest deficits in this country's history, mean that we are buying from abroad much more than we are selling overseas, and the result is an outflow of American jobs.

That may not mean much to people who write in the newspapers. It probably doesn't mean very much to economists, and it probably doesn't mean much to politicians. Because I don't know of any journalist, politician, or economist who has ever lost a job because of a bad trade agreement. In fact, I want someone to come to the floor of the Senate and advise me, as we have this debate in the next couple of weeks. Give me one name. Tell me the name of one economist, one politician, or one journalist who has ever lost his or her job because their plant moved overseas. It didn't happen. That is why to them this is all theory, and when their theories are wrong, they just wake up with a new theory. It doesn't matter.

Will Rogers used to say when there is no place left to spit, you either have to swallow the tobacco juice or change with the times. I say to all these economists who have delivered all this nonsense in recent years, there's no place left to spit on these issues. You have given us eight reasons for the trade deficit, and all of them have been disproved. All of them have been wrong, and maybe it is time for some new sources. Maybe it is time for some new discussion about what this deficit means to our country.

Let me talk just for a moment about so-called free markets. The free-market system is a wonderful system. I am not suggesting that we get involved in managing the economy. We have a free-market system that works pretty well. Inside our country, it is interesting, the free-market system says, for example, that those farmers out there who get up and do chores at 6 in the morning and do evening chores at 6 in the evening, risk all their money and wonder what is going to happen, they can lose $23,000 a year. At the same time the three supporting characters on "Seinfeld," a leading television program, can get $600,000 a week. That is $600,000 a week for each of the three supporting characters; $13 million a year in salaries. That is our market system. That is fine.

If you are 7-foot tall and can dunk a basketball, and you are 21 years old and play for a certain team in the Midwest, you can get a $121 million contract for 6 years playing basketball. Pay somebody to play basketball or hire 1,000 teachers. It is the same price. One 7-foot basketball player or 1,000 teachers; one 7-foot basketball player, or a thousand family farmers making a profit. The market system determines what is what, and the market system is a wonderful system, but it produces some aberrations from time to time.

One of the problems, as we describe a market system in the context of trade, is this: People say, "Well, what we need to have is a market system in which when we trade back and forth, it would be absolutely free and unfettered." That leads to another question. If it is free and unfettered trade between us and Canada, us and Mexico, us and Japan, or us and China, why is it then that they can get their goods into this country so much easier than we can get our goods into their country? Why?

Let me give some examples. Canada and wheat. We have a virtual flood of wheat coming into this country from Canada. We had kind of an agreement about how much would come in. Last year, Canada sent in 21,000 semi-truckloads of wheat above the agreed-upon level. What can we do about it? Nothing, because we don't have a trade remedy that works here. Canada sends it in through a State trading enterprise, which would be illegal in this country, and with secret prices, so no one knows at what price they are selling it in America. Nonetheless, we have a wheat trade problem with Canada.

Is that free trade? No; I don't think so. I went to the border in an orange truck, a 12-year-old 2-ton truck, with a man named Earl Jenson. We took 200 bushels of Durum wheat from the United States to try to get it into Canada. Guess what happened to us at the border? They stopped us. They said you can't take wheat into Canada. All the way from the border, we had watched semi-truckloads filled with Canadian wheat that were coming south.

Is it fair trade? I don't think so. Is it free trade? I don't think so.

I can describe chapter and verse about the Mexico situation, but let me talk about both Canada and Mexico. We had the last free-trade agreement considered under what is called fast-track procedures. First, the agreement is reached through negotiations that are not public but private negotiations. Then after they come from behind closed doors and say, "We reached an agreement," it comes to Congress, and Congress, because of fast-track procedures, is prevented from offering an amendment. The last one was called NAFTA, the North American Free-Trade Agreement.

Just prior to the NAFTA trade agreement, our country had an $11 billion trade deficit with Canada. Now some

years later, the trade deficit has doubled. We now have a $23 billion trade deficit with Canada. Just prior to the North American Free-Trade Agreement, we had a $2 billion trade surplus with Mexico. Now we have a $16 billion trade deficit with Mexico. Yet, we have people crowing on the floor of Congress, the House and the Senate, that these have been wonderful agreements. What kind of adding machines do they have? What kind of logic are they using to suggest that when you find yourself in a deep hole that things are going just great? The NAFTA agreement has been a disastrous agreement.

In fact, the Economic Policy Institute just did a study that said we have lost 395,000 jobs in this country as a result of the NAFTA agreement. Those who claim, incidentally, there have been new jobs created in this country take a look at only one side of the ledger, and that is the amount of exports we send out. They do not consider the amount of imports that are sent in to displace what had previously been produced here.

For example, they would take a look at Canada and Mexico and say, "Well, gee, we sent a little more to Canada, to Mexico, things are doing just great." The problem is, we have had much, much more coming in from each of those countries, and we have gone from a positive trade balance with Mexico to a substantial negative trade balance. We have doubled our trade deficit with Canada. Who on Earth can conclude that is a trade policy on the right path?

Let's take China just for a moment. China's trade deficit has ratcheted up, up, up and way up, and now our trade deficit with China is $40 billion a year and moving up toward $50 billion a year. They say, "Well, we're supposed to have free trade with all these folks." There is no free trade with China. We can't get much American pork into China. When China wants wheat, it shops elsewhere for wheat. It buys some from us. With the $40 billion to $50 billion trade surplus it has with us, it ought to be buying wheat from us.

When China needs airplanes and wants to buy airplanes, guess what it says? "We will buy American airplanes only if they are manufactured in China." It is another way of saying, "We want to trade with you, but we want American jobs to move to China." That is not fair trade.

Japan this year will have a trade deficit increased by 20 percent above last year. This year it is projected to reach $65 billion in trade deficits that we will have with Japan. Year after year, every year, the trade deficit with Japan goes on ranging and from around $50 billion to over $60 billion.

Is our trade relationship with Japan a mutually productive relationship? We could talk chapter and verse forever today about the amount of American goods we cannot get into Japan because their markets are not open to us.

The administration says it wants fast-track authority because it wants to open foreign markets. I want to prevent fast-track authority because I am sick of having trade negotiators negotiate bad agreements on the front end and then fail to enforce them on the back end. I say, "You go out and negotiate, go right ahead, come back and let's see what you have done. If you think these are fair agreements, you will get them passed through the Congress. If not, you are going to get a resounding no." They say, "We can't negotiate under those circumstances."

It is interesting to me, there have only been five trade agreements reached under fast-track trade authority granted by the Congress ever in history. We haven't granted fast-track authority for complicated nuclear arms agreements or test ban treaties. We haven't granted fast-track authority for any of those. Only a handful of trade agreements have had fast-track trade authority, and I ask my colleagues to evaluate what has been the result of those trade agreements.

Mr. President, I am going to propose a number of things when we talk about fast track. I think that we ought to establish some principles that evaluate what is right for this country. I said when I started that I think we ought to have expanded trade. The more trade the better, as far as I am concerned, but I demand that the trade that we have as a country be fair trade with other countries. We ought not continue to swallow huge deficits year after year only to find the countries that move their goods into our marketplace with impunity decide their marketplace is closed to us. That is not free trade, and that is not fair trade.

When we discuss fast track, what I am going to propose is a number of principles that represent the basis of our trade policy:

No. 1: A principle ought to be to end chronic, escalating trade deficits. Is that a goal of this country? If it is, we sure are not doing well. I just showed you that the trade deficits have increased every year. We ought to decide as a country that we ought to end the escalating trade deficits by increasing U.S. net exports.

No. 2: A trade agreement ought to result in real growth in the U.S. economy, provide more and better jobs and improve living standards. Incidentally, there is no such principle that guides today's trade negotiating.

No. 3: We ought to provide mandatory performance standards for trade agreements together with enforcement to ensure full reciprocity. It seems to me that when you go from a $2 billion trade surplus with Mexico to a $15 billion trade deficit, someplace there ought to be some snapback provision that allows Congress to look at that and say, "Oops, that's not what we meant; that's not headed in the right direction."

No. 4: No trade agreement ever ought to be negotiated that doesn't include adjustment mechanisms to prevent currency exchange rate fluctuations from distorting the trade flows. You can't have trade agreements and then have someone devalue their currency which wipes out every single gain, plus 50 percent more, in the trade agreement on lowering tariffs. That doesn't make sense. Everybody understands you must include these. These are the principles, I think, that we must consider when we evaluate whether we want to provide fast-track trade authority for new negotiations dealing with international trade.

I look forward to the debate we are going to have, because this country, I think, needs a new blueprint for trade negotiations. The old trade blueprints are tired, worn and not working. It is no longer good enough to have trade policies that allow those corporations who decide that they will personally profit by finding a place in the world to produce at very low cost and then ship the production to Pittsburgh or Los Angeles or Fargo or Topeka just because that is good for their profits. It is no longer acceptable to me that this ought to be a model for trade.

If a company which is now an international concern says, look, "My model for the future is I want to produce in Bangladesh, I want to produce in Indonesia, I want to produce in Sri Lanka, and I want to ship the product to America," you say to them, "Why do you want to produce there?

"I want to produce there because we can hire people for pennies an hour, a dime, 12 cents, 14 cents, a quarter, or 50 cents an hour. We don't have the problem with pollution. We can pollute the air and the water. We can hire kids. We won't have OSHA looking over our shoulder because we don't have safe workplace standards, and we can just pole vault over all those things we have negotiated and fought about for 50 to 75 years in this country. We can pole vault over all of those problems as a producer and go overseas, close the U.S. manufacturing plant, hire foreign workers, have no problems on pollution, child labor and wage standards and then produce the same garage-door opener or produce the same toothbrush or produce the same vacuum cleaner and ship it to America."

That might be good for these corporations, but it is not good for America because inevitably that means diminishing America's manufacturing base. It means moving American jobs overseas and it means injuring this country's long-term economic strength.

That is what this debate has to be about: What is in America's economic

interests; what is in our country's long-term economic interest; and, what will best represent the opportunity to create new jobs and advance our country's economic interests? That is what this debate must be about.

I hope in the coming couple of weeks, on behalf of farmers and wage earners, and, yes, American businesses, we can decide we have a trade strategy that doesn't now work, that causes substantial trade deficits, and substantial amounts of American jobs leaving and moving overseas. I hope we can decide that there is a better way and a different way. My purpose is not to promote some kind of xenophobic, isolationist, protectionist strategy. It is not to put walls around our country, but to decide that the trade between us and our trading partners must be mutually productive. We must have trade between us and Japan be balanced trade. If they get their goods into our marketplace, then we have a right to demand we get our goods into theirs. The trade between us and China should be mutually beneficial; that if we have something they want, they have a responsibility to buy it from us, and not demand that we manufacture it on Chinese soil at a time when they have a $50 to $60 billion trade surplus with us or we a deficit with them. It seems to me now is the time for us to demand that.

One of the reasons that I am pleased that we are finally going to have a debate about trade is that we have not been able to have any discussion about it. This turns instantly to a thoughtless discussion—instantly—the minute you start turning to the issue of trade.

Finally, maybe in discussing fast track this will become a thoughtful discussion about what is in this country's best interests. Yes, expanded trade, but, yes, especially better trade agreements that are better for this country and trade agreements that are enforced with tough, no-nonsense standards, saying we represent the economic interests of our country—not other countries but our country.

The current trade strategy, resulting in huge recurring trade deficits, hurts rather than helps our country. Those are trade deficits we can solve by requiring that we be able to sell more goods around the world and by requiring that trade agreements be fair and enforced.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BISHOP ROBERT CARLSON

Mr. DASCHLE. Mr. President, the people of our State, and certainly all Catholics of the Sioux Falls diocese, are keeping Bishop Robert Carlson in our hearts and prayers today.

Bishop Carlson has been a vibrant leader within our communities and the Catholic Church in South Dakota. His outreach and partnership with social, religious and civic leaders for the past 3 years have been responsible for significant accomplishment.

I join with all South Dakotans in wishing him success as he endures his operation for cancer this afternoon. We certainly hope that with all of the good will, our faith, and the many prayers that are with him at this very difficult time, he will fully recover and that we see him back in good health.

We have no doubt that he will continue to provide the kind of strong religious and social leadership for which he is so well known. After some rest and recuperation his voice and involvement will be welcome, once again, on an array of issues confronting our country and the church. I wish him well.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

Mr. CHAFEE. Mr. President, it is my understanding we will return to the bill.

The PRESIDING OFFICER. The Senator is correct.

The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Chafee/Warner Amendment No. 1312, to provide for a continuing designation of a metropolitan planning organization.

Chafee/Warner Amendment No. 1313 (to language proposed to be stricken by the committee amendment, as modified), of a perfecting nature.

Chafee/Warner Amendment No. 1314 (to Amendment No. 1313), of a perfecting nature.

Motion to recommit the bill to the Committee on Environment and Public Works, with instructions.

Lott Amendment No. 1317 (to instructions of the motion to recommit), to authorize funds for construction of highways, for highway safety programs, and for mass transit programs.

Lott Amendment No. 1318 (to Amendment No. 1317), to strike the limitation on obligations for administrative expenses.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I urge my colleagues in the Senate, if they have statements in connection with this legislation, to come over and deliver them. Now is an excellent opportunity. I do not envision a great deal else happening this afternoon. But this is an ideal chance for those who have statements or questions that they wish to pose or to discuss the bill in some substance. Now is the opportunity.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. The chairman of the committee is accurate. We all know that very often there is the tendency to wait until the last moment, and we do not get an opportunity sometimes to say what we want to say or offer amendments. Now is the opportunity to speak on the bill. Senators may have questions about the bill. This is an excellent opportunity to take advantage of that because there may not be another opportunity.

So I, first of all, encourage Senators who have an interest in one of the more important pieces of legislation, certainly one of the more expensive bills that this Congress is going to pass this year, to come on over. Tell us what you think. If you may have a problem with the bill, perhaps we can work it out. But now is the time. I urge Senators on both sides of the aisle to do so because this is an opportune time.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. It is my understanding that there would be an objection to amendments being considered. But absent that, Senators could come over and discuss amendments that they might subsequently be filing or be permitted to be considered. So there is a chance to get a lot done this afternoon if those Senators in their offices would come on over and give us the benefit of their wisdom on this matter, which we seek.

So, Mr. President, I suggest, until such occurs, the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I came back this week after our recess very enthusiastic about moving forward on

ISTEA. The people in my State are very anxious about it. It is an important issue to us, the funding of Federal highways. Our State, of course, has lots of highways and not too many people.

I must tell you I am disappointed we are not moving along a little faster on something I think is probably the highest priority that we have now before we adjourn for the fall, the funding of our Interstate Highway Program in the ISTEA. I hope we do find a way to move forward with it. It seems like it is discouraging to us, discouraging to the American people, when we find ourselves in gridlock here in the Senate, not able to do the kind of things we want to do, the kind of things that people want us to do, the kind of things that we came here to do.

In the meantime, however, I did want to give my thanks to our chairman, Senator CHAFEE, and our ranking member, Senator BAUCUS, for the work they have done to bring this bill to the floor. It is a bill that is not easy to manage, certainly, because it affects everyone.

Everyone has a little different idea of what the formula distribution ought to be. I understand that. But they have, with the support of their committee, come to this floor with a bill that is, I think, a very good bill. It is one of the things that has changed America, this idea of having an Interstate Highway System. The current ISTEA has made some important changes through the years on surface transportation, but now we are moving forward into another changing time. The President has used for several years the metaphor of a bridge to the 21st century. This is, literally, a bridge to the 21st century. This is literally a movement through our transportation system to the 21st century.

No one would argue this bill is perfect. It does not fit everybody's view of what it ought to be, but none do. This one is good and it is close. It will create some new rules of the road that I think serve the national interest and will help us to build highways and bridges to the 21st century.

First, ISTEA is what it says, a national interstate transportation system. That means that it goes clear across the country. That means a great deal to the people in Wyoming. We are what you call a bridge State. We are between the east and the west coast. We are between the heavily populated areas. Of course, to get from here to there, you have to go through Wyoming, or Kansas, either of us which is a great treat.

Interestingly enough, Wyoming taxpayers contribute more to the highway trust fund per person than any taxpayers in the country—it is because we do have lots of roads—nearly $200 per person. Yet we have, as do others, a deteriorating highway system, and roads and bridges that are, at best, in fair to poor condition.

We are not satisfying national needs, either. The U.S. Department of Transportation reports this country only invests about 70 percent of what it needs to be investing in the infrastructure to maintain it. These shortfalls hurt us all as taxpayers. What we need is a set of efficient and well-maintained roads that interconnect cities. They are as important as cities. They are a part of how we export our goods and transfer business throughout the country. ISTEA makes smooth movement of people and merchandise throughout the year.

We have a couple of areas that are difficult. One, of course, is to find the level of spending that is correct. We have, through the years, not spent as much on Federal highways as we take in in Federal highway funds, for obvious reasons. One is to help balance the budget. There will be arguments about that, and certainly we would like to spend more money, take more money out of the fund and put it into the place for which it was taxed. It will be controversial. And part of the problem is maintaining our commitment to a balanced budget. The other is the formula through which the dollars that are spent are allocated throughout the country in various States. Each of us seeks to do the best we can for our State. I understand that.

This bill, I believe, achieves a fair funding formula. It recognizes a national system. There is an area which I have special concern that I intend to raise during the course of this and that is our Federal parks. We have considered Federal lands, and in the bill they are considered, including Indian reservations, including BLM lands, and it includes forest lands. I have to tell you the one that I think stands out the most are the national parks, for several reasons.

One reason is forests and BLM get some cooperation and coordination with counties and States to help build roads in those areas, but the national parks do not. National parks are responsible for national park roads in national parks. They belong to all the people of this country. In addition, those who drive in the parks, and there are many miles there, each of them are taxed for every mile that goes into the Federal program. About 40 percent of existing parks and roads and bridges are in poor or failed condition. There is approximately $1.8 billion backlog in national park needs for roads—$1.8 billion. Yellowstone Park, the largest park in our State and indeed the country, has road needs of $250 million. It will receive only $8 million under the current law. The U.S. Department of Transportation and the National Park Service estimate that a minimum of $161 million annually should be spent on park roads.

So we take a small step toward resolving that problem. I think we need to take a larger one. I hope we will give some consideration to that. I expect to explore those opportunities.

ISTEA II as it exists, however, will streamline the program structure that we have, give State and local governments more flexibility. I think that is extremely important. This is a very diverse country. Each of our needs are much different. The needs for highway construction in Montana and Wyoming are much different than they are in New Hampshire, Florida, and New York. So we need to give to the States the flexibility to use those dollars to the best advantage.

The bill consolidates five major programs into three. I think that is useful. It is efficient. It saves money. It provides more flexibility in the safety program, and I think that is very important. It will always ensure that taxpayers get more for their fuel dollars. We need to do that.

I am very excited about ISTEA II. I think if we can get it on the floor as we should it will get great support. It is my feeling we should pass this bill through the Congress. I am not enthusiastic about the proposition of a 6-month extension. I think State highway departments need to have security and knowledge of what will happen in the future so they can make the contracts that are necessary to implement ISTEA.

I particularly thank Senators WARNER, CHAFEE, and BAUCUS for their leadership. They have done an excellent job. I intend to support the bill. Senator BAUCUS and KEMPTHORNE and I introduced earlier an ISTEA reauthorization bill, STARS 2000, and much has been incorporated into this bill. We appreciate that.

Mr. President, ISTEA II maintains the integrity of the original ISTEA law and improves it by more equitable investment in taxpayers' fees and ensures people all across the country will have access to all of the country and increases the flexibility. I urge our colleagues to step aside from all the difficulties in holding up this bill for other reasons and move forward with this. There are other things that are important, of course. This happens to be before the Senate. We ought to do it. The reauthorization has expired. We need to go forward with it. This is an excellent bill. I urge we move forward with it and approve it as it is.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Wyoming for his statement. I agree we ought to move forward. This is a bill of tremendous importance everywhere in the Nation. It affects every State. I hope we can get to it and take up the amendments and deal with them up or down and move on to completion of this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, while the chairman is waiting for Senators to come over and give their views on the bill, I thought I would explain the main provisions in our bill and how the formula works so that Senators will better understand these items. If at any time a Senator wants to come over and speak, I will be more than pleased to interrupt my statement and let that Senator say whatever he or she wishes to say.

Mr. President, today we are currently operating under a 6-year ISTEA highway bill. The bill before us is a new 6-year ISTEA bill. This new bill will bring up to date some of the provisions that are in the current law. By up to date, I refer to the formulas. Believe it or not, our current formula uses some historical factors such as the 1980 census data, as well as the 1916 postal road miles. That outdated data is included in the current funding formula to allocate dollars among the States. When writing the new bill, the committee thought it made a lot of sense to dispense with the use of the old data. After all, some of the data are pretty old. The 1980's is old enough, but the 1916 postal road miles is going a bit far.

The current ISTEA program also has a lot of accounts. Eleven to be exact. It is difficult for States to work with all the different accounts. And it is a bit complex. So the new bill we are debating today eliminates that old historical data and brings the funding formulas up to date. This new bill also reduces the number of accounts from 11 to 5. This provides States with a lot more flexibility.

Let me briefly discuss how the current formulation works. As I said, the new bill has five major accounts. One is the Interstate National Highway System, which has two components—the Interstate component as well as the National Highway System component. Another is the Surface Transportation Program and another is the Congestion Mitigation and Air Quality Program, more commonly known inside the beltway as CMAQ. And we have two equity accounts to kind of even things out for States.

Let me say a little bit about the Interstate National Highway System account. It has two components—the interstate component and the National Highway System component. We all know what Interstates are; that is pretty obvious. Let me say that the National Highway System component is essentially our other principal Federal roads. What do we do with the interstate components? How are dollars allocated to States with respect to the Interstate System that they have? It is very simple. Fifty percent of the formula for interstate use is interstate lane miles. So the more interstate lane miles a State has, the more dollars that State is going to receive under our formula in the bill.

Well, what about the States that have, say, not quite so many interstate lane miles, but the ones they do have are traveled very heavily? Those States feel they should receive adequate interstate funds because their maintenance costs are higher because they have more traffic on their interstates. We take care of that. Fifty percent of the interstate component is lane miles and the other 50 percent is what we call interstate vehicle miles traveled, otherwise known as VMT. So there is a balance here with respect to the interstate dollars that are sent out to States. Fifty percent of the interstate component is based upon the number of interstate lane miles that a State has. This helps a State like my State of Montana which has a lot of interstate lane miles. For States without a lot of interstate lane miles, the other 50 percent measures congestion as vehicle miles traveled. So my State does not have a lot of vehicle miles traveled. Contrast that with the State, say, of my distinguished colleague from Rhode Island, the chairman of the committee. I suppose he does not have a lot of lane miles, but his vehicle miles traveled is probably high in Rhode Island compared with my State of Montana. That is how we allocate dollars that go to interstate highways. Virtually all of that money is for maintenance, because we have completed the interstate construction in our country. Those dollars go to maintenance. And again, we feel we have a fair formula that measures the extent and use of the interstate system. I should mention that about $6 billion a year that goes into the interstate account.

The other portion of the Interstate National Highway System we call the National Highway System component. That is for non-interstate highways or highways that have a lot of traffic. Again, $6 billion a year goes into the National Highway System component. The formula for dividing this money among the States is also fair. It measures the extent and use of the other highways. Twenty percent of it is apportioned to what we call principal arterial lane miles. Twenty-nine percent is apportioned according to principal arterial vehicle miles traveled. So a larger percentage goes to those States that have more traffic on principal arterials. Eighteen percent is allocated according to what we call arterial bridge square foot deficiencies. That is, if you look at bridges that are deficient and calculate the number of square feet on the bridge, 18 percent of the dollars in our bill in the National Highway System account go to States that have those deficiencies. Twenty-four percent is allocated according to the State's diesel fuel consumption. That is to measure truck use because the large trucks that travel our highways do pound our highways much more than average cars. Those States that have a lot of diesel fuel consumption are probably States that have a lot of truck use and, therefore, need more dollars to maintain their highways. Twenty-four percent of the National Highway System component is divided according to diesel fuel consumption. Nine percent is allocated according to what we call principal arterial lane miles per person. This measures the population density on principal arterials. So that is the first main component of the funding formulas in this bill —the Interstate National Highway System.

Let me mention the next major portion in this bill. It is called the Surface Transportation Program. The Surface Transportation Program is used for other transportation needs, and it is about $7 billion a year; 20 percent is allocated according to Federal aid lane miles, 30 percent according to Federal aid VMT, vehicle miles traveled—again, congested States—25 percent to Federal aid for bridge square foot deficiency, and 25 percent according to contributions to the Highway Trust Fund. That totals $7 billion. Again, that is the Surface Transportation Program.

The next major program is the Congestion Mitigation Air Quality Program. This is designed to allow our highway spending to merge, in some sense, with our Clean Air Act. That is, we want our highway spending to be planned to meet our environmental concerns. CMAQ helps States meet the requirements of the Clean Air Act. We don't want our bill to encourage States to be not in compliance with the Clean Air Act. Rather, we would like our bill to encourage cities and States to be in compliance with the standards in the Clean Air Act.

So this bill spends about $1.15 billion a year, according to the severity of air quality nonattainment for ozone and carbon monoxide, and also for populations living in nonattainment areas. I must say, Madam President, that ISTEA, this bill, led the way on programs like congestion mitigation air quality, otherwise known as CMAQ, and flexibility for States. The person who is principally responsible is Senator MOYNIHAN from New York. When he wrote the ISTEA legislation about 6 years ago, which we are currently operating under, he was the main person that added those provisions in there.

So I might repeat, Madam President, that our current bill, ISTEA II, uses updated data, not old historical data, 1980 census data and 1916 postal road data. Rather, we use the latest census data available each year. We also use

data based upon current fuel consumption because we think that is somewhat of an indication—not a perfect indication—of how much State highways get used, therefore, the number of dollars that State would need for maintenance and upkeep.

I think this is a pretty good formula. It is one that is fair to different regions of the country. We have a very diverse nation. There is a wide variety of transportation needs among the States. From Maine, the State of the current occupant of the chair, to California to Nevada or my State of Montana, every State is different. We have done our very best to try to balance the different needs. I think that passage of this bill out of committee by a vote of 18 to 0 somewhat reflects the views of the Senators on that committee that this is a balanced and fair bill. Those eighteen Senators come from the West, from the East, from the South. We have Senators from so-called donee States and Senators from so-called donor States. I think we have done a good job.

I hope that Senators who have ideas on how to further improve this bill will come down and speak with the chairman of the committee and with me because we are more than open to ways to improve this bill.

Madam President, I will pause now to allow Senators to come down and speak.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Madam President, I ask unanimous consent that John Hemphill and Elizabeth Cummings of my staff be given floor privileges during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, I ask unanimous consent that Ms. Cherlye Tucker, a detailee from the Department of Transportation, who has been assisting the EPW staff with ISTEA, be given floor privileges during the ISTEA debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, I ask unanimous consent that two letters written by the Congressional Budget Office be printed in the RECORD. The first letter dated October 7, 1997, includes the cost estimate for S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997, the ISTEA bill we are considering now, as reported by the Committee on Environment and Public Works.

This letter points to certain technical violations of the Budget Act in S. 1173. We have made adjustments in the committee substitute for S. 1173 which was agreed to on October 8 to correct those deficiencies.

So that is the first letter, Madam President.

The second letter, dated October 6, 1997, includes more detailed information on the Minimum Allocation Program, one of the components of the Federal Aid Highway Program that is exempt from the annual obligation limitation. The Committee on Environment and Public Works used the information in the October 6 Congressional Budget Office letter to make the technical budget corrections found in the committee substitute amendment to S. 1173.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 7, 1997.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Clare Doherty (for federal costs), Pearl Richardson (for federal revenues), and Marc Nicole (for the state and local impact).

Sincerely,

PAUL VAN DE WATER
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1173 INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

(As reported by the Senate Committee on Environment and Public Works on October 1, 1997)

Summary

S. 1173 would reauthorize the Intermodeal Surface Transportation Efficiency Act of 1991 (ISTEA) and would provide $145.3 billion in contract authority for the Federal Highway Administration's (FHWA's) Federal-Aid Highways program for the fiscal years 1998 through 2003. In addition to providing contract authority, S. 1173 would authorize the appropriation of $2.1 billion for programs managed by the Department of Transportation for the same six-year period. The bill would create a new credit program that would likely result in an increase in tax-exempt financing, and a consequent loss of federal revenues. Because S. 1173 would affect direct spending and receipts, pay-as-you go procedures would apply to the bill.

S. 1173 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments except as a condition of receiving federal assistance or participating in a voluntary federal program.

Description of the bill's major provisions

S. 1173 would reauthorize many of the existing components of the Federal-Aid Highways program and would authorize some new activities within the program. Over the 1998–2003 period, contract authority under the bill would total $137.5 billion for Federal-Aid activities that are subject to annual obligation limitations in appropriation acts, and $7.7 billion for activities that are exempt from such obligation limitations. In addition, the bill would authorize the appropriation of $2.1 billion over the same six-year period for new highway-related spending.

	By fiscal year, in millions of dollars						
	1997	1998	1999	2000	2001	2002	2003
Baseline spending under current law:							
Estimated budget authority [1]	22,428	23,047	23,378	23,884	24,385	24,900	25,425
Estimated outlays	2,057	2,052	1,650	1,346	1,162	1,064	980
Proposed changes:							
Estimated budget authority	0	665	238	−85	−324	−283	59
Estimated outlays	0	73	245	333	407	482	552
Total spending under S. 1173:							
Estimated budget authority	22,428	23,712	23,617	23,800	24,060	24,617	25,484
Estimated outlays	2,057	2,126	1,895	1,679	1,570	1,546	1,532
SPENDING SUBJECT TO APPROPRIATION							
Spending under current law:							
Budget authority	364	0	0	0	0	0	0
Estimated outlays [2]	18,366	18,595	18,853	19,242	19,670	20,215	20,755
Proposed changes:							
Estimated authorization level	0	190	182	382	382	432	482
Estimated outlays [3]	0	532	2,184	2,904	2,938	2,841	2,884
Spending under S. 1173:							
Estimated authorization level	364	190	182	382	382	432	482
Estimated outlays	18,366	19,127	21,037	22,146	22,607	23,056	23,639

	By fiscal year, in millions of dollars						
	1997	1998	1999	2000	2001	2002	2003
CHANGES IN REVENUES							
Estimated Revenues[4]	0	−1	−3	−9	−16	−22	−28

[1] The 1997 level is the amount of contract authority provided under ISTEA. The 1998–2003 levels are the amounts included in CBO's March 1997 baseline, which assumes annual increases for anticipated inflation.
[2] Outlays from the mandatory contract authority for programs that are subject to annual obligation limitations, and from discretionary appropriations.
[3] Outlays from new authorizations in addition to the programs subject to annual obligation limitations.
[4] Minus signs denote a loss of revenue.

CBO estimates that spending under the bill would total about $142 billion over the 1998–2003 period. Of that amount, $131.6 billion would be discretionary outlays and $10.3 billion would be direct spending. Of the $131.6 billion in total estimated outlays subject to appropriation, about $129 billion would come from contract authority, and $2.6 billion would come from amounts authorized to be appropriated by S. 1173 or already appropriated in prior years. Under the CBO baseline, direct spending outlays would total $8.3 billion over the 1998–2003 period (about $2 billion less than the six-year total for S. 1173), and discretionary outlays from contract authority would total about $117 billion over the same period (approximately $12 billion less than under S. 1173). The costs of this legislation fall within budget function 400 (transportation).

Enacting S. 1173 would also affect revenues. The Joint Committee on Taxation estimates that the new credit program would increase tax-exempt debt, resulting in a loss of revenues to the federal government totaling $79 million over the 1998–2003 period.

Basis of estimate

Enacting S. 1173 would affect direct spending, spending subject to appropriation, and revenues. In particular, the bill would provide $145.3 billion in contract authority, which is a form of direct spending, for the Federal-Aid Highways program. Most of the outlays from this contract authority would be controlled by annual obligation limitations imposed through the appropriation process. All of the projected outlays controlled by appropriation action, whether from appropriated budget authority or annually limited contract authority, are shown in the table under "Spending Subject to Appropriation." Because a portion of the new minimum guarantee program would be exempt from obligation limitations, some of the outlays for that program as well as all of the outlays for other exempt programs are included in the table under "Direct Spending."

Direct spending

S. 1173 would authorize funding for a new Federal-Aid Highways activity that would be partly exempt from obligation limitations—the minimum guarantee program. Under this bill, a portion of the minimum guarantee spending would be subject to annual obligation limitations and the remainder would be exempt. Outlays from the exempt portion of the minimum guarantee program would be direct spending.

Under the baseline, CBO assumes continued funding for the minimum allocation program (which would be replaced by minimum guarantee funding), one of the exempt programs under current law. Based on projections from the FHWA that CBO used in its March 1997 baseline, the estimated funding for minimum allocation would be $4.1 billion over the 1998–2003 period—$639 million for 1998, $654 million for 1999, $670 million in 2000, $687 million in 2001, $704 million in 2002, and $721 million in 2003.

Under the formula contained in S. 1173, we expect that the minimum guarantee program would cost more than the minimum allocation program. CBO assumes that this new program would have the same obligation rates and outlay rates as assumed for minimum allocation. Based on FHWA projections, CBO estimates that funding for the portion of the minimum guarantee program that would be exempt from obligation limitations would total $5.7 billion over six years—$896 million in 1998, $898 million in 1999, $909 million in 2000, $926 million in 2001, $991 million in 2002, and $1,096 million in 2003.

The emergency relief program, the other Federal-Aid activity under current law that is exempt from obligation limitations, is permanently authorized. S. 1173 would not change the emergency relief program, which receives $100 million each year.

For the Woodrow Wilson Memorial Bridge project, S. 1173 would provide contract authority of $100 million a year for 1998 and 1999, $125 million in 2000, $175 million in 2001, and $200 million a year for 2002 and 2003. The bill would exempt that spending from obligation limitations, so outlays relating to the bridge project would be direct spending. CBO estimates that outlays for the bridge project would total about $640 million over the 1998–2003 period.

The contract authority authorized for transportation infrastructure finance and innovation credit would also be exempt from obligation limitations. CBO estimates that the outlays for this new credit activity would total about $470 million over the 1998–2003 period. The authorized funding for the new credit program is assumed to be for the costs of the subsidies to support the direct loans and loan guarantees that would be provided under the bill. CBO estimates the subsidy amount provided for each year would be spent over a two-year period. (Subsidy outlays are recorded in the year that loans are disbursed; we assume that loans obligated or guaranteed under S. 1173 would be disbursed—on average—over two years.)

Spending subject to appropriation

For purposes of this estimate, CBO assumes that the amounts authorized for highway programs would be appropriated by or near the start of each fiscal year. Outlay estimates for all of the spending subject to appropriation are based on historical spending rates for the affected FHWA and NHTSA programs. Because most of the outlays from contract authority are governed by obligation limitations in appropriation acts, they are discretionary and so are included in the table as estimated outlays subject to appropriation. To estimate such outlays, CBO used the obligation limitations specified in the bill.

One of the new programs that would be controlled by Federal-Aid obligation limitations is safety belt incentive grants. A provision in the bill would require the Secretary of Transportation to calculate the budgetary savings relating to federal medical costs, including savings in the Medicare and Medicaid programs attributable to increased seat belt usage, and distribute that savings to the states that had caused those budgetary savings. CBO estimates that there would be no significant budgetary savings from this provision because the likelihood that the provisions of the bill would increase seat belt usage significantly is small and the impact of any change in seat belt usage on Medicare and Medicaid spending would likely be negligible and difficult to identify. CBO assumes that states would only receive the authorized amounts in the bill with no additional funds from budgetary savings.

S. 1173 would give states some additional flexibility in the use of their Federal-Aid Highways dollars, especially funds for the National Highway System (NHS), and the Surface Transportation Program (STP). The bill would give states the ability to put a significant portion of their Federal-Aid Highways dollars in a state infrastructure bank (SIB). Under the bill, a SIB is an infrastructure investment fund that could be created at the state or local level to make loans and provide other forms of financial assistance to surface transportation projects. In addition, a SIB could enhance credit, serve as a capital reserve, subsidize interest rates, ensure letters of credit, and provide security for debt financing. The bill includes language ensuring that the federal disbursements to SIBs do not exceed more than 20 percent of the total federal funds obligated annually for such purposes.

S. 1173 would give states the flexibility to use NHS and STP funds for capital improvements for Amtrak or a publicly owned passenger line, publicly owned intracity or intercity passenger rail or bus terminals, capital improvements for intelligent transportation systems, and publicly owned magnetic levitation projects. Given this additional flexibility, outlays could occur at faster rates for the Federal-Aid Highways program than assumed in the CBO baseline. The outlay pattern assumed for the Federal-Aid program is rather slow, with outlays for each year's obligations spent over nine years because of the significant amount of capital expenditures within the program. If a significant number of states were to spend a large portion of their Federal-Aid Highways funds on Amtrak or other passenger rail expenditures, magnetic levitation projects, or other nontraditional Federal-Aid expenditures, the funds would be spent more quickly than under the traditional program structure.

S. 1173 would authorize the appropriation of $2.1 billion over the 1998–2003 period for new highway programs. The bill would authorize appropriations over the six-year period totaling $750 million for grants to states for trade corridor and border crossing grants, $300 million for the joint partnership for advanced vehicles program, $30 million for the transportation and environmental cooperative, and $20 million for developing and maintaining a reporting system for excise taxes on motor fuels. In addition, the bill would authorize a total appropriation of $950 million for magnetic levitation grants from 2000 through 2003.

S. 1173 would require the FHWA to conduct studies and publish subsequent reports. It would require the Secretary of Transportation to report on the extent and use by states of uniformed police officers on Federal-Aid Highway construction projects. It would also require the Secretary to report

annually on the rates of obligation of funds apportioned under the Federal-Aid Highway program. A third provision would direct the Secretary to submit a report on the activities and results of the new federal credit assistance activity under the bill. Based on information from the FHWA, CBO estimates that the cost of completing the studies and preparing the reports would be less than $100,000 per year. In addition, the bill would require the General Accounting Office (GAO) to complete three highway studies and subsequently publish reports. According to GAO, the cost of completing these studies and reports would not be significant.

Revenues

Subtitle C, Chapter 2 of S. 1173 provides for a federal credit program for such facilities as border crossings, multistate trade corridors, intermodal facilities, toll roads and other facilities that generate their own revenue streams through user charges. The credit program, which is intended to complement other funding and to leverage private co-investment, could include secured loans, loan guarantees, and lines of credit, up to a maximum amount of credit ranging from $1.2 billion in 1998 to $2.0 billion in 2003. That program could leverage new issues of tax-exempt bonds and result in a net increase in the volume of outstanding tax-exempt debt. The Joint Committee on Taxation estimates that this program would result in revenue losses totaling $79 million over the 1998–2003 period.

Pay-as-you-go considerations

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO's estimate of the bill's impact on outlays from direct spending is summarized in the following table for fiscal years 1998 through 2007. The table also contains estimates of changes in revenues (governmental receipts) provided by the Joint Committee on Taxation. For purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted. Also, only direct spending outlays are subject to pay-as-you-go requirements; the discretionary outlays from contract authority subject to obligation limitations are not included as pay-as-you-go effects because those outlays are controlled by appropriation acts.

SUMMARY OF EFFECTS ON DIRECT SPENDING AND RECEIPTS

	By fiscal year, in millions of dollars									
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Changes in outlays	73	245	333	407	482	552	517	384	361	336
Changes in receipts	−1	−3	−9	−16	−22	−28	−34	−40	−46	−51

Intergovernmental and private-sector impact

S. 1173 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments except as a condition of receiving federal assistance or participating in a voluntary federal program. Most of funding authorized in this bill would be redistributed to states in the form of grants for transportation purposes.

Estimate prepaid by:

Federal Costs: Clare Doherty;
Federal Revenues: Pearl Richardson;
Impact on State, Local, and Tribal Government: Marc Nicole.

Estimate approved by:

Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 6, 1997.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, we are providing the following information on the minimum allocation program, one of the components of the Federal-Aid Highways program that is exempt from annual obligation limitations. The minimum allocation program is funded under section 157 of Title 23, United States Code. Based on information from the Federal Highway Administration, we included the following amounts of mandatory budget authority for fiscal years 1998 through 2003 in CBO's March 1997 baseline, which underlies the 1998 budget resolution.

	By fiscal year, in millions of dollars					
	1998	1999	2000	2001	2002	2003
Estimated budget authority	639	654	670	687	704	721

The funding level for 1997 was $603 million.

If you wish further details, we will be pleased to provide them. The CBO staff contact is Clare Doherty.

Sincerely,

JUNE E. O'NEILL,
Director.

Mr. CHAFEE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi is recognized.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN pertaining to the introduction of S. 1296 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COCHRAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from New York.

Mr. MOYNIHAN. Mr. President, as a member of the Committee on Environment and Public Works for nigh on to 21 years now, I rise with a great sense of pleasure and even pride at what our committee has done in the legislation before you, the Intermodal Surface Transportation Efficiency Act of 1997, known informally as ISTEA II. It is a work of great complexity, yet clarity of principle. It is a tribute to our chairman, Senator CHAFEE, to his distinguished and wholly informed, carefully attentive ranking member, Senator MAX BAUCUS of Montana. One would not wish to overlook the work of Senator JOHN WARNER of Virginia, whose subcommittee had to produce this measure. Nine months ago—and this might be an augury for many of the matters that remain for the Senate in this session—9 months ago it was thought that this bill would bring about some of the fiercest interregional battles of this time in our national life. And, yet, to the amazement of all and to the very great credit of the managers of the bill, it was reported out of committee unanimously. The committee has a long-standing tradition of bipartisanship, which is always challenged when the elemental and legitimate interests of different regions, and different States, come into play. It is a matter of great satisfaction to me that the authors of the bill chose to give it the same name, the Intermodal Surface Transportation Efficiency Act, which we gave to the bill in 1991, ISTEA I, if you like. Robert A. Roe of New Jersey, then chairman of the House Public Works Committee and a public servant of the highest capacity, and I, as the person charged with the task in the Committee on Environment and Public Works, developed principles for the first highway bill to mark the post-Interstate era. And here I would like to make a point to which I will return at the conclusion of my remarks

The point is, Mr. President, that the Department of Transportation in 1990–91 faced the unavoidable fact that the Interstate and Defense Highway System, the Eisenhower Interstate System, as it was named at the behest of our beloved John Heinz, was finished. It was built, and they could think of no other thing, no better move, no different task, than to build another.

I think the distinguished managers will recall, as I will not forget, the occasion on which we were summoned to an event in the auditorium at the Executive Office Building. President Bush came, and stood on the stage by a great map of the United States with white background and red lines, just moving here and there, up and down, right, left. I thought, "Oh, my Heaven, is this the new interstate map?" However, I was reassured finally by the then Secretary of Transportation, that no, these were just illustrative lines

drawn, presumptively for aesthetic effect, as might be an abstract expressionist painting exhibited in New York's Museum of Modern Art in the 1980's. They had no idea what to do and had no instinct, save to go on doing what they had done.

Congress thought differently. Congress chose, in a cooperative mode, to devise the first post-Interstate era transportation program for the country.

The Interstate System was a long time in the making, Mr. President. It began as a concept at the 1939 World's Fair. I may be one of the only Members of the body who went to that fair, which was in Flushing Meadows in Queens, NY. The General Motors Co., had an exhibit which was the great sensation and joy of the fair. It was called "Futurama."

Under a great plexidome, it showed a map of a portion of the United States with Chevrolets and Buicks driving steadily through these great divided highways with cloverleaf intersections, passing through mountains, stopping, in one instance, at the 40th floor, as I recall, of the Empire State Building. It was just a huge success as displays go.

In 1944, President Roosevelt, having in mind the possibility that the Depression of the 1930's would return at the end of the Second World War—this was a widely held belief—had Congress authorize an interstate highway system to be built when the war was over and peace resumed.

This was done. The Interstate System was authorized. No funds were made available. Then President Eisenhower came to office. One of the current ideas was the creation of an Interstate system. He appointed a commission to look into it, because this had a particular hold on his personal experience.

His first command in 1919 had been to assume that enemy action had destroyed the national railroad system, and he was to take a convoy of military trucks from Fort Meade, on the outskirts of Washington, to the Presidio in California. He got there, but it was a tale to tell, and he would tell it. It is a wonderful passage in a book he put out, "Stories I Like To Tell."

He crossed the Mississippi River to the Pacific. He averaged about 4 miles an hour. That wouldn't do if, indeed, there was a military emergency. And so the Interstate System became the Interstate Defense System. A dedicated gasoline tax was imposed—this was very much the work of Jim Wright of Texas—and we began the largest engineering public works project in the history of the world.

Indeed, we had already begun it in New York State where Governor Dewey, in 1946, simply took it upon himself to build such a road with funding from the sales of bonds. He built this road from the outskirts of New York City across the path of the New York Central Railroad and the Erie Canal to Buffalo and down to Pennsylvania. It is called the New York State Thruway. And the inspired civil engineer who built it, Bertram Tallamy, was asked down by the Eisenhower administration to take over the small Bureau of Public Roads in the Department of Commerce to build this national system. Previously, the Bureau of Public Roads managed a very small Federal program, mostly involved with what we call farm-to-market roads for rural areas.

The Interstate System was a vast success, in many ways too much of a success. It changed the outlay of the American economy, the regions, the regional distribution. Cities emptied out, suburbs grew up, factories moved, and a great change took place in our system. The use of automobiles doubled, and then redoubled. The time came, however, when this Interstate System, which really was a misnomer because most of the expanse was in and around cities, was finished and the time had come to do something more.

The new legislation in 1991 established the principle of a balanced national transportation investment policy, an intermodal policy to improve mobility and access to jobs. Because as jobs left the inner cities all over our country, there was no public transportation available to people who didn't have automobiles.

It provided for environmental protection. Sometime in the 1970's, we began to notice the phenomenon of air pollution in our cities. A scientist at the University of California identified the process by which smog is formed. Air quality became a genuine and urgent issue. We said we would look at the environment generally and see to it that local communities participated in decisions affecting their environment.

This, Mr. President, sounds like a routine statement. But before ISTEA, participation by local communities was not a routine event for our National Highway Program. These plans were drawn up in Washington and administered from highway departments in State capitals. Local governments had little or no say. The money, the 90–10 money, the 95–5 money, could scarcely be resisted and decisions were centralized at the State level in a way that would surprise many who began the program.

If you would like to see an example of devolution, look to what our committee has done in these two bills in moving decisionmaking from the States to regional and local groups. In the hearings that have been held all over the country, there has been, as I understand, very strong endorsement of this legislation on this ground.

A hearing held at the Alexander Hamilton Custom House in Bowling Green, NY, by Senator WARNER brought the Governor of New Jersey, the Governor of New York, the mayor of New York City, persons from the surrounding counties in Connecticut, New Jersey, and New York to say this has been a revelation to us that we could have something to say in the expenditure of Federal moneys. Federal funds didn't just have to go for another highway, there was something called efficiency involved.

We would say in 1991 that there is no such thing as a free lunch and there is no such thing as a free way. We have to introduce pricing principles where the users of the highways pay tolls, varied by hour of the day or night. Electronics could be introduced to efficiently do that.

At the time of the 1991 legislation, at the Triborough Bridge in New York, which had been opened in time for the 1939 World's Fair, there still were men, now women as well, standing at toll booths collecting tolls. Sixty years had gone by and not a bit of productivity had been introduced into the system. Today, you go through with something called EZ Pass, which electronically collects the toll, and it has quite transformed the system.

We talked about air quality. We talked about efficiency. We talked about the need to maintain existing infrastructure, and we have been successful. The present bill before you, ISTEA II, contains those principles, reasserts them and will continue them.

The bill does another important thing, and more important to some States than to others. The 1991 legislation provided that States that had built highways that were contributed to the Interstate System would be reimbursed for the expense. This was clearly contemplated by the original authors of the Eisenhower legislation—a committee headed by Gen. Lucius D. Clay. The bill before you continues that principle by including the interstate reimbursement program in the base amounts paid to States under the new formulas.

This is especially important to New York State, which was authorized to obtain $5 billion over the course of 15 years, and has already received some $600 million. The installments are about a third of a billion each year.

There are other important problems yet to be resolved. There is an issue of the transit title of our bill. Transit is one aspect of national legislation in which one region will be very much more involved than in others.

For example, a third of the transit rides in the United States are in the New York region. Yet we receive only 18 percent of the funds, despite having twice that much transit ridership. On balance, we do not get much in the way of flood plain protection. Our agricultural subsidies are minimal. Our defense outlays are almost nonexistent.

Transit is one of the key Federal programs that addresses New York's needs.

We are a big nation, and not every part is exactly like another part. I see the brilliant chairman of our committee has returned. I want to tell him how grateful I am to him. But I say that if the transit formulas in this bill become radically different from those which existed for many, many years, then it will be difficult for any number of us to support the final legislation. This need not happen, and it should not.

We have a bill here before us from a unanimous committee that can really solidify an enormous and important change. We are talking about transportation policy for the next century. It is not going to be good enough just to go on building those superhighways of this century.

One of the measures that inspired us in 1991 was a report by a committee that had been established by the State of Florida to look into what would it require to accommodate the automobile traffic from Miami to the Disney complex in northern Florida by the year 2020. The report said it would require 40 lanes of interstate highway. Well, you keep that up and there is nothing left of Florida. You have to do better, and you have to think differently than in the past. Today we must increase innovation and investment in infrastructure, while including the absolutely essential Federal labor protections that are written into law today and have been, in some cases, for 60 years.

Here, Mr. President, I have one final thing I would like to say. I do not find any pleasure in it, but from time to time such statements are necessary. I am not sure that the Department of Transportation is able to think differently. It is an organization created with one program to administer, and that one program having concluded, it seems incapable of doing anything else.

As I said at the outset, in 1990, having completed the Interstate System, the only thing the Department of Transportation could think to do, was to build another. In our legislation in 1991, without meaning to be particularly partisan, we provided $725 million to build some prototype magnetic levitation trains and other intelligent transportation systems to get us past the point of a highway automobile driver.

Magnetic levitation—it is the most important scientific idea in the history of ground transportation since the wheel. It is the first mode of transportation since persons got up on their hind feet, you might say, which does not depend on friction. It is a frictionless mode of ground transportation. The simple principles are magnets which lift a vehicle and moves it as if it were flying on the rails.

The idea, sir, was invented on the Bronx-Whitestone Bridge, which connects Long Island with the mainland, by a young nuclear engineer, still thriving, working at the Brookhaven Laboratory, who was going back to MIT. As you can do only when you are a nuclear engineer and you are 26 years old, he thought up maglev, between the time he got on the bridge and the time he got off. A colleague patented it the other day.

I do not assert that it is the necessary new mode of transportation within city regions or in densely populated corridors. But I do say, sir, that they have a train running in Japan now that just broke some new speed records.

By pure chance, this morning I received an invitation to the opening of the German system this next spring. It was in this morning's mail. I have been on that system. I believe our distinguished chairman has also been there. In Germany, for what it is worth, they have decided to no longer have intracountry air service. They will move by new high-speed technology such as this.

Sir, in the 6 years since ISTEA, the DOT did nothing, or nothing that I know of—and I will be very pleased to retract these remarks if they are inaccurate—to advance maglev. They pour concrete, or rather they know the contractors that pour the concrete for them. When an institution gets so fixed on one mission that it cannot adapt to a new challenge, to a new time, some of my radical friends in this body, and perhaps most especially in the other body, ought to ask whether that institution is really necessary. Under the legislation as written, this program could be run from an office of perhaps 10 people in the Office of Management and Budget, or what you will.

In the present legislation, the chairman, the ranking member, and Senator WARNER, also said: We will give another try. And $30 million has been provided for the program. And another $920 million is authorized. It could be done.

We are entitled to hear from the Secretary of Transportation whether he intends to try? Does he have anybody in the employ of the Department who knows what the Congress is proposing? Is there any explanation why no effort was made to spend the money previously provided for maglev? You know, organizations go brain dead, sir, in the history of the world, in the history of governments that cannot adapt to new circumstances.

I hope that the Department of Transportation would hear what was said. In that first legislation, we wrote at the outset a set of principles about efficiency, adaptability, local involvement, intermodalism because it seemed necessary. It was stipulated in law, black and white law, that these principles should be printed and every member of the Department of Transportation be given a copy. It was stipulated in law, black and white law, that the principles be printed in larger form and posted in every office of the Department. But I wish I could say there has been more of a response.

I hope I have not done an injustice to individuals in the Department who have tried. But in fact, sir, we have little to show. And that is not good enough. I do not think it is good enough for the managers or for the Congress. They have done their work. Congress will have made this law. It is now for the Executive to see that the law is faithfully executed.

We have had a good beginning. But we are no way at the conclusion. We are not as far as we had hoped to be, but this continues us in the direction we set out in. I can only once again congratulate the esteemed Senator from Rhode Island, his colleague from Montana, and our colleague from Virginia. They have brought to the Senate floor a bill with the unanimous support of the Committee on Environment and Public Works. What 9 months ago seemed something not possible, surely not probable, has now been done. It is an effort that should be acknowledged, praised and rewarded.

If I may speak just briefly in the colloquial, there is an old saying which, translated from the Gaelic, says, "If you want an audience, start a fight." Well, yes, true enough. But if you want legislation, find unanimity, find consensus.

The managers have done this. I just want to congratulate them once more. I know I shall have the opportunity when the final bill comes to the floor.

I ask that the principles of the 1997 legislation as printed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE REPORT 102–404—INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

* * * * *

DECLARATION OF POLICY: INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.

It is the policy of the United States to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the Nation to compete in the global economy, and will move people and goods in an energy efficient manner.

The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the Nation's preeminent position in international commerce.

The National Intermodal Transportation System shall include a National Highway System which consists of the National System of Interstate and Defense Highways and those principal arterial roads which are essential for interstate and regional commerce

and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.

The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to world commerce.

The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion and other aspects of the quality of life in the United States.

The National Intermodal Transportation System must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth, and accountability. Practices that resulted in the lengthy and overly costly construction of the Interstate and Defense Highway System must be confronted and ceased.

The National Intermodal Transportation System shall be adapted to "intelligent vehicles", "magnetic levitation systems", and other new technologies wherever feasible and economical, with benefit cost estimates given special emphasis concerning safety considerations and techniques for cost allocation.

The National Intermodal Transportation System, where appropriate, will be financed, as regards Federal apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.

The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the Nation for the 21st century.

The Secretary shall distribute copies of the Declaration of Policy to each employee of the Department of Transportation and shall ensure that such Declaration of Policy is posted in all offices of the Department of Transportation.

Mr. CHAFEE. Mr. President, I want to thank the distinguished senior Senator from New York for his very fine comments. Coming from him they mean a lot. As we all know, he was the principal author of the bill that emerged from the conference in 1997, the so-called ISTEA legislation. It is due, principally, to Senator MOYNIHAN, that that bill came out as it did. All of us were there. The Senator from Montana and I and others were there during those negotiations. The Senator from New York was not the chairman of that conference, the chairman was the Representative from New Jersey, Mr. Roe. But the chairman of the Senate in the conference was the chairman of the Environment and Public Works Committee at that time, the Senator from New York.

Out of that came a bill that I think has been a model. I have always said it and I will say it again that the principal credit for doing that, achieving that, was what the Senator from New York did.

Regarding the magnetic levitation, I agree with him, the Senator from New York. Based upon his urgings, I went over to Bremen, Germany, to see the magnetic levitation demonstration tracks. It is about a 10-mile track that is in the form of a figure 8. We attained at that time speeds of over 300 miles an hour with a cruising speed of 240 miles an hour. It was so calm you could rest a glass of water on the table or you could write a letter with ease.

As the Senator from New York mentioned, there were considerable sums in the ISTEA legislation, but those sums, as I recall, were not spent but were taken back by the appropriators over the years. So we have $30 million more from that in here. From that, we believe the Department of Transportation can arrive at the site. We ought to try one of these. Where it will be, I don't know. It could well be in Texas or Florida, moving vast amounts of people back and forth in some fashion wherever it might be. I am sure it will not be in the State of Rhode Island, but I am for it. And I am not necessarily saying we have to develop new technology. I think the Germans have developed some outstanding technology. I have not seen the one in Japan.

I think we ought to get on with it and see how it works in this country and see not only if the construction costs can be amortized but the operating costs, likewise.

Again, I thank the splendid Senator from New York for his comments and appreciate the support he has given this legislation from the word go.

Mr. BAUCUS. Mr. President, I join my colleague and chairman of the Environment and Public Works Committee in recognizing and praising the intelligence and the vision of the senior Senator from New York. I think I can state without reservation and categorically that the Senator from New York is the most interesting Senator in the U.S. Senate. He is most interesting not because he makes outrageous statements but for a lot of reasons. One is his historical knowledge. The Senator from New York has a deeper historical knowledge of many facets, whether it is American history, world history, technical history——

Mr. CHAFEE. Architectural history.

Mr. BAUCUS. Than anyone else in this entity. Very often he draws upon his vast reservoir to enlighten us and remind us of something that happened in the past and how it is relevant to what we are attempting to do in the future.

He is also most interesting because he is, I think, the most profound. He comes up with more new ideas, has a broader perspective on what is happening, which enables him to approach a subject from more angles, more ways, and he thinks more outside the box, if you will.

There are many examples of that but one that comes to mind is what he did in the last ISTEA bill, focusing on intermodality, a big word but very important concept. Not just building concrete highways but all the various ways that transportation has to and should be connected.

For example, the Senator will remember we had a field hearing in New York. I flew up to New York on an airplane. I didn't drive. I took a water taxi in the Delta terminal over to some pier in New York and then a taxi over to where the hearing was located. The point is that States, under the vision of the Senator from New York, can spend ISTEA dollars on a Delta water taxi. That is permissible. I don't know whether any dollars were spent, maybe, but they can be.

In addition, in our bill we give States added flexibility. Our bill allows States to spend money on Amtrak if they choose. In some States, Amtrak is a lot more important, or in parts of some States Amtrak it is more important than others.

The intermodality, that flexibility, is made available here, to say nothing of spending money on transit. Highway dollars can be spent on mass transit. We don't have much mass transit in my State of Montana, but certainly in the State of New York and other States transit is very, very important. Bus lines, bike paths, you name it, States have a lot more flexibility and there are many more uses on the various components of transportation that make up the totality of transportation instead of just highways.

Again, that was a vision of the Senator from New York that put in place that concept 6 years ago and is continued and improved upon in this bill. That is why we named it ISTEA II, and the next one, I am sure, will be ISTEA III.

There is no Senator who, as I said, is more interesting and can contribute more than the Senator from New York. We deeply appreciate it.

Mr. CHAFEE. Mr. President, it is curious that both the Senator from Montana and I serve on the Finance Committee, likewise on the Environment Committee with the Senator from New York. So I have served with the Senator from New York for some 21 years on this committee and 18 years or so on the Finance Committee. And then we both were on the Intelligence Committee back and forth at different times. The Senator from Montana has been on the Finance Committee, likewise, 15, 16 years or so. So I have always felt, Mr. President, because of serving on those committees with the Senator from New York that I received

a Harvard education without having to pay for it, and it has been worth it.

I know the story the Senator has told about then, I believe, Second Lieutenant Eisenhower leading a convoy across the country. I think it took about 40 days. And from that, as the Senator from New York pointed out, came this inspiration for the then Lieutenant Eisenhower, later General Eisenhower, and then President Eisenhower, that we ought to build superhighways to get across this Nation.

So I echo what the Senator from Montana says. It has really been a pleasure to work with the Senator from New York.

Mr. MOYNIHAN. I am beyond words but not beyond gratitude. I could not thank my colleagues enough.

Mr. CHAFEE. On a separate subject, Mr. President, I know there are efforts made to get cosponsors on the so-called Byrd-Warner-Baucus, et al., amendment.

I say to my colleagues that might be listening, we have not seen that yet. That has not emerged. I hope people would go slow on cosponsorship of measures such as that because Senator DOMENICI and I have an approach that we think is a very good one and we want to make sure that people just don't get committed in advance, particularly on a measure they have not even seen yet.

I believe I am correct in saying that the Senator from Montana, that measure which was discussed on Thursday a week ago, in other words, something like the 9th of October and was imminent, has not yet appeared, am I correct?

Mr. BAUCUS. If the Senator will yield, I will enthusiastically describe the contents of the amendment so Senators know what it is.

The amendment, it is true, has not been finalized in its final form but it certainly will be very quickly, and I might say to my good friend from Rhode Island, it is a very good amendment because it is an amendment which does not take money from other programs, as has been said by opponents. It is an amendment that does not require any additional spending, a claim sometimes made by its opponents.

I might also say that the proposed amendment to be offered apparently by the Senator from New Mexico to be cosponsored by the Senator from Rhode Island which is an amendment that I think will cause much more mischief than is currently realized because under that amendment it gives vast additional powers to the Budget Committee above which that committee now has which would necessarily take it away from the authorizing committees.

In addition, that amendment the Senator described in conjunction with the Senator from New Mexico would also be very mischievous because it would require reauthorizing committees to go back and at least go to conference with the House every year on the highway bill, which would be the cause of all kinds of disruption.

I urge Senators to be very careful and not be taken in by the language of that amendment.

Again, the amendment we will provide will not mandate additional spending this year or any other year and will not take dollars from any other program that are important to people. It only says if there are savings next year beyond those provided for by the budget resolution, and if there is discretion of the Budget Committee and the Appropriations Committee that those committees want to spend on highway, that is their discretion. I think the Senators will find it is a very good amendment and it is good for the country.

Mr. CHAFEE. Mr. President, the point I was making is on October 9, Thursday, before we left here, we were promised that this amendment was imminent. As a matter of fact, I thought I would be handed a copy then. But now, 11 days have gone by and we still have not seen the amendment.

All I am saying to my colleagues is, just be cautious before leaping on as cosponsors of something that no one has seen yet. I don't know what the problem is, the hold up in this piece of legislation is, but all I know, it is not here yet, and while the prediction is it will be soon, all I can say is that is exactly what was said 11 days ago, and despite the time off that staffs and others had during the recess, nothing has emerged.

I ask my colleagues to just hold their fire and keep their ammunition dry and let's see what the different proposals are that are inside here, including the one which I wouldn't characterize in the same fashion as the Senator from Montana did, namely, the Domenici amendment, which I will be part of.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO IDA BAIRD, CELEBRATING HER 95TH BIRTHDAY

Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Ida Baird of Overland Park, KS, who will celebrate her 95th birthday on October 27. Ida is a truly remarkable individual. She has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of Ida's life has meant much more, however, to the many relatives and friends whose lives she has touched over the last 95 years.

Ida's celebration of 95 years of life is a testament to me and all Missourians. Her achievements are significant and deserve to be recognized. I would like to join her many friends and relatives in wishing her health and happiness in the future.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CANCELLATION OF DISCRETIONARY BUDGET AUTHORITY (97–42)—MESSAGE FROM THE PRESIDENT—PM 72

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to Public Law 93–344, to the Commmittee on Appropriations and to the Committee on the Budget.

THE WHITE HOUSE,
Washington, October 14, 1997.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the "Department of Defense Appropriations Act, 1998" (Public Law 105–56; H.R. 2266). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachments, constitute a special message under section 1022 of the Congressional Budget and Compoundment Act of 1974, as amended.

Sincerely,

WILLIAM J. CLINTON.

REPORT OF THE CANCELLATION OF DISCRETIONARY BUDGET AUTHORITY (97–56)—MESSAGE FROM THE PRESIDENT—PM 73

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to Public Law 93–344, to the Committee on Appropriations and to the Committee on the Budget.

THE WHITE HOUSE,
Washington, October 16, 1997.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: In accordance with the Line Item Veto Act, I hereby cancel the dollar amount of discretionary budget authority, as specified in the attached report, contained in the "Treasury and General Government Appropriations Act, 1998" (Public Law 105–61; H.R. 2378). I have determined that the cancellation of this amount will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachment, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

WILLIAM J. CLINTON.

REPORT OF THE CANCELLATION OF DISCRETIONARY BUDGET AUTHORITY (97–57)—MESSAGE FROM THE PRESIDENT—PM 74

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to Public Law 93–344, to the Committee on Appropriations and to the Committee on the Budget.

THE WHITE HOUSE,
Washington, October 16, 1997.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: In accordance with the Line Item Veto Act, I hereby cancel the dollar amount of discretionary budget authority, as specified in the attached reports, contained in the "Energy and Water Development Appropriations Act, 1998" (H.R. 2203, approved October 13, 1997). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachments, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

WILLIAM J. CLINTON.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on October 15, 1997, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mrs. MORELLA) has signed the following enrolled bills:

H.R. 2158. An act making appropriations for the Departments of Veterans' Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.

H.R. 2169. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

Under the authority of the order of the Senate of January 7, 1997, the enrolled bills were signed on October 15, 1997, during the adjournment of the Senate by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

Pursuant to the order of March 3, 1988, the following bill was referred to the Committee on Commerce, Science, and Transportation for a period not to exceed 30 days of session:

S. 1046. A bill to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on October 10, 1997, he had presented to the President of the United States, the following enrolled bill:

S. 1000. An act to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the "Robert J. Dole United States Courthouse."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3093. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled "Migratory Bird Hunting" (RIN1018–E14) received on September 24, 1997; to the Committee on Indian Affairs.

EC–3094. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, three rules including a rule entitled "Nonmineral Entries on Mineral Lands" (RIN1004–C65, AC92, AC98); to the Committee on Energy and Natural Resources.

EC–3095. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, a draft of proposed legislation to amend the Act which established the Frederick Law Olmsted National Historic Site; to the Committee on Energy and Natural Resources.

EC–3096. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, a draft of proposed legislation to amend the Act which established the Richmond National Battlefield Park; to the Committee on Energy and Natural Resources.

EC–3097. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled "The Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies Program"; to the Committee on Energy and Natural Resources.

EC–3098. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, a rule entitled "Grants and Cooperative Agreements to State and Local Governments"; to the Committee on Energy and Natural Resources.

EC–3099. A communication from the Director of the Office of Surface Mining, Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, a rule entitled "Ohio Regulatory Program (VA106FOR) received on October 8, 1997; to the Committee on Energy and Natural Resources.

EC–3100. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, a rule entitled "Delegation of Authority (RIN1004-AD09) received on September 18, 1997; to the Committee on Energy and Natural Resources.

EC–3101. A communication from the Secretary of Defense, transmitting, notices of a retirement; to the Committee on Armed Services.

EC–3102. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison relative to Kennel Management; to the Committee on Armed Services.

EC–3103. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison from the Chief of the U.S. Strategic Command; to the Committee on Armed Services.

EC–3104. A communication from the Assistant Secretary of Defense (Force Management Policy), transmitting, pursuant to law, a report relative to institutions of higher education; to the Committee on Armed Services.

EC–3105. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "The Modification of Requirement for Conversion of Military Positions to Civilian Positions"; to the Committee on Armed Services.

EC–3106. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report of Defense Manpower Requirements; to the Committee on Armed Services.

EC–3107. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, a notice relative to the Strategic Plan for Arlington National Cemetery; to the Committee on Veterans' Affairs.

EC–3108. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, seven rules including a rule entitled "Survivors and Dependents Education" (RIN2900–AI45, AI21, AI50, AI92, AI65, AI72, AI70); to the Committee on Veterans' Affairs.

EC–3109. A communication from the Acting Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report on veterans' employment in the Federal government for fiscal year 1996; to the Committee on Veterans' Affairs.

EC–3110. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "Federally-Sponsored Research on Persian Gulf Veterans' Illnesses"; to the Committee on Veterans' Affairs.

EC–3111. A communication from the Secretary-Designate of Veterans' Affairs, transmitting, a draft of proposed legislation to redesignate the title of the National Cemetery System; to the Committee on Veterans' Affairs.

EC–3112. A communication from the Executive Director of the National Capital Planning Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar years 1992 through 1996; to the Committee on the Judiciary.

EC–3113. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, three rules including a rule entitled "Inmate Discipline and Good Conduct Time" (RIN1120–AA34, AA62, AA33) received on September 26, 1997; to the Committee on the Judiciary.

EC–3114. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, a report relative to capital habeas petitions and motions; to the Committee on the Judiciary.

EC–3115. A communication from the Attorney General, transmitting, pursuant to law, the report of the Department of Justice Strategic Plan for calendar years 1997 through 2002; to the Committee on the Judiciary.

EC–3116. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report relative to the operation of the premerger notification program; to the Committee on the Judiciary.

EC–3117. A communication from the Chairperson of the U.S. Commission on Civil Rights, transmitting, pursuant to law, a report entitled "Equal Educational Opportunity and Nondiscrimination for Students with Disabilities: Federal Enforcement of Section 504"; to the Committee on the Judiciary.

EC–3118. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, a rule entitled "Changes to Patent Practice and Procedure" (RIN0651–AA80) received on October 2, 1997; to the Committee on the Judiciary.

EC–3119. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, two rules including a rule entitled "Interim Designation of Acceptable Documents for Employment Verification" (RIN1115–AE94, AB93); to the Committee on the Judiciary.

EC–3120. A communication from the Director of the U.S. Arms Control and Disarmament Agency, transmitting, pursuant to law, the report on the verifiability of the Comprehensive Nuclear Test Ban Treaty; to the Committee on Foreign Relations.

EC–3121. A communication from the Administrator of the U.S. Agency For International Development, transmitting, pursuant to law, a report relative to Niger; to the Committee on Foreign Relations.

EC–3122. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report of the Five Year Stategic Plan (1997–2002); to the Committee on Foreign Relations.

EC–3123. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report of Conventions, Recommendations and Protocol; to the Committee on Foreign Relations.

EC–3124. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–3125. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–3126. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to Ireland; to the Committee on Foreign Relations.

EC–3127. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled "Visas" received on September 18, 1997; to the Committee on Foreign Relations.

EC–3128. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a notice of a proposed issuance of an export license; to the Committee on Foreign Relations.

EC–3129. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a notice of a proposed issuance of an export license; to the Committee on Foreign Relations.

EC–3130. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a notice of a proposed issuance of an export license; to the Committee on Foreign Relations.

EC–3131. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a notice of a proposed issuance of an export license; to the Committee on Foreign Relations.

EC–3132. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a notice of a proposed issuance of an export license; to the Committee on Foreign Relations.

EC–3133. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a notice of a proposed issuance of an export license; to the Committee on Foreign Relations.

EC–3134. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a notice of a proposed issuance of an export license; to the Committee on Foreign Relations.

EC–3135. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a notice of a proposed issuance of an export license; to the Committee on Foreign Relations.

EC–3136. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a rule entitled "The Indian Highway Safety Program Competitive Grant Selection Criteria" (RIN1076–AD82) received on October 17, 1997; to the Committee on Indian Affairs.

EC–3137. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the Ballistic Missile Defense; to the Committee on Armed Services.

EC–3138. A communication from the Director of the Office of Insular Affairs, Department of the Interior, transmitting, a draft of proposed legislation entitled "The Northern Mariana Islands Covenant Implementation Act"; to the Committee on Energy and Natural Resources.

EC–3139. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, two rules including a rule entitled "Informed Consent for Patient Care" (RIN2900–AH72, AI16) received on October 14, 1997; to the Committee on Veterans' Affairs.

EC–3140. A communication from the Staff Director of the U.S. Commission On Civil Rights, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–3141. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, a rule entitled "Drug Abuse Treatment and Intensive Confinement Center Programs" (RIN1120–AA66) received on October 10, 1997; to the Committee on the Judiciary.

EC–3142. A communication from the General Counsel of the Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, a rule entitled "Suspension of Deportation and Cancellation of Removal" (RIN1125–AA19) received on October 16, 1997; to the Committee on the Judiciary.

EC–3143. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a rule entitled "Affidavits of Support on Behalf of Immigrants" (RIN1115–AE58) received on October 16, 1997; to the Committee on the Judiciary.

EC–3144. A communication from the National Commander of the American Ex-Prisoners of War, transmitting, pursuant to law, the report of the audit of the financial statements for the years ended August 31, 1996 and 1997; to the Committee on the Judiciary.

EC–3145. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the reports of notices of the proposed issuance of export licenses; to the Committee on Foreign Relations.

EC–3146. A communication from the Deputy Director of the Russia-NIS Program Office, U.S. and Foreign Commercial Service, Department of Commerce, transmitting, pursuant to law, a rule entitled "The Cooperative Agreement Program" received on September 18, 1997; to the Committee on Foreign Relations.

EC–3147. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the U.S. government voluntary contributions to international organizations for the period October 1, 1996 through March 31, 1997; to the Committee on Foreign Relations.

EC–3148. A communication from the Administrator of the U.S. Environmental Program Agency, transmitting, pursuant to law, a report relative to the Program Fraud Civil Remedies Act for fiscal year 1997; to the Committee on Governmental Affairs.

EC–3149. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the report under the Inspector General Act for fiscal year

1997; to the Committee on Governmental Affairs.

EC–3150. A communication from the President of the Inter-American Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–3151. A communication from the Executive Director of the Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1997 and the report of the Office of Inspector General; to the Committee on Governmental Affairs.

EC–3152. A communication from the Co-Chair of the Franklin Delano Roosevelt Memorial Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1997 and the report of the Office of Inspector General; to the Committee on Governmental Affairs.

EC–3153. A communication from the Acting Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report of the Civil Service Retirement and Disability Fund for fiscal year 1996; to the Committee on Governmental Affairs.

EC–3154. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report entitled "The Costs and Benefits of Federal Regulations"; to the Committee on Governmental Affairs.

EC–3155. A communication from the U.S. Office of Special Counsel, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Governmental Affairs.

EC–3156. A communication from the Chairman of the National Capital Planning Commission, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Governmental Affairs.

EC–3157. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1998 through 2002; to the Committee on Governmental Affairs.

EC–3158. A communication from the Archivist of the United States, transmitting, pursuant to law, the report of the strategic plan; to the Committee on Governmental Affairs.

EC–3159. A communication from the Acting Assistant Secretary of the Interior for Policy, Management and Budget, transmitting, pursuant to law, a rule entitled "Department of the Interior Acquisition Regulation System" (RIN1090–AA65) received on October 2, 1997; to the Committee on Governmental Affairs.

EC–3160. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–106 adopted by the Council on July 1, 1997; to the Committee on Governmental Affairs.

EC–3161. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–127 adopted by the Council on July 1, 1997; to the Committee on Governmental Affairs.

EC–3162. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "District's Purchase of Presidential Inaugural Tickets"; to the Committee on Governmental Affairs.

EC–3163. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Audit of the District of Columbia's Crime Victims Compensation Program For the Period October 1, 1993 through February 28, 1997"; to the Committee on Governmental Affairs.

EC–3164. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, additions to the procurement list received on September 29, 1997; to the Committee on Governmental Affairs.

EC–3165. A communication from the Director for Executive Budgeting and Assistance Management, Department of Commerce, transmitting, pursuant to law, a rule entitled "Grants and Cooperative Agreements" received on September 15, 1997; to the Committee on Governmental Affairs.

EC–3166. A communication from the Acting Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, two rules including a rule entitled "Prevailing Rate Systems" (RIN3206–AI04, AI02); to the Committee on Governmental Affairs.

EC–3167. A communication from the Acting Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a report for a notice and order received on October 14, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3168. A communication from the Chief of the Natural Resources Conservation Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "The Wildlife Habitat Incentives Program" (RIN0578–AA21) received on September 26, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3169. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, three rules including a rule entitled "Funding and Fiscal Affairs" (RIN3052–AB75, AB64, AB73); to the Committee on Agriculture, Nutrition, and Forestry.

EC–3170. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3171. A communication from the Chief Financial Officer of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1998 through 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3172. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the report of a rule received on September 23, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3173. A communication from the Administrator of Rural Development, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Settlement of Debt Owed by Electric Borrowers" (RIN0572–AB26) received on September 24, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3174. A communication from the Acting Administrator of the Food and Consumer Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Food Distribution Programs" received on October 16, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3175. A communication from the Administrator of the Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Fees for Official Inspection" (RIN0580–AA56) received on September 19, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3176. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, three rules including a rule entitled "The Tree Assistance Program" (RIN0560–AF17, AF04, AF23); to the Committee on Agriculture, Nutrition, and Forestry.

EC–3177. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Deparmtent of Agriculture, transmitting, pursuant to law, seven rules including a rule entitled "Commuted Traveltime Periods"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3178. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, eleven rules including a rule entitled "Almonds Grown in California"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3179. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, a rule entitled "Allocation of Assets in Single-Employer Plans" received on October 9, 1997; to the Committee on Labor and Human Resources.

EC–3180. A communication from the Director of Defense Procurement, Assistant Secretary of Labor for Veterans' Employment and Training, transmitting, pursuant to law, a report relative to Federal contractors; to the Committee on Labor and Human Resources.

EC–3181. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, a rule entitled "Federal Perkins Loan Program" (RIN1840–AC40) received on September 23, 1997; to the Committee on Labor and Human Resources.

EC–3182. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Comprehensive Community Mental Health Services for Children and Adolescents with Serious Emotional Disturbances and Their Families Program; to the Committee on Labor and Human Resources.

EC–3183. A communication from the Secretary of Education and the Secretary of Labor, transmitting jointly, pursuant to law, a report relative to the School-to-Work Opportunities Act; to the Committee on Labor and Human Resources.

EC–3184. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Labor and Human Resources.

EC–3185. A communication from the Director of the Institute of Museum and Library Services, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Labor and Human Resources.

EC–3186. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Labor and Human Resources.

EC–3187. A communication from the Chairman of the U.S. Equal Employment Opportunity Commission, transmitting, pursuant

to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Labor and Human Resources.

EC–3188. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, the report of the strategic plan; to the Committee on Labor and Human Resources.

EC–3189. A communication from the Inspector General of the U.S. Railroad Retirement Board, transmitting, a report relative to an Inspector General; to the Committee on Labor and Human Resources.

EC–3190. A communication from the Acting Administrator of the Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "Grants for Residency Training and Advanced Education in the General Practice of Dentistry" received on October 2, 1997; to the Committee on Labor and Human Resources.

EC–3191. A communication from the Director of Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, twelve rules entitled "Investigational Device Exemptions"; to the Committee on Labor and Human Resources.

EC–3192. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the report of the strategic plan; to the Committee on Banking, Housing, and Urban Affairs.

EC–3193. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend section 1129 of the Bankruptcy Code; to the Committee on Banking, Housing, and Urban Affairs.

EC–3194. A communication from the Inspector General of the Department of Commerce, transmitting, pursuant to law, the report on improving export control mechanisms and on military assistance; to the Committee on Banking, Housing, and Urban Affairs.

EC–3195. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation entitled "The Urban Empowerment Zones Partnership Act of 1997"; to the Committee on Banking, Housing, and Urban Affairs.

EC–3196. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the reports entitled "The Impact of Recent Technological Advances on the Securities Markets" and "State Licensing Requirements for Associated Persons of Broker-Dealers"; to the Committee on Banking, Housing, and Urban Affairs.

EC–3197. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report relative to the national flood insurance program; to the Committee on Banking, Housing, and Urban Affairs.

EC–3198. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, a rule entitled "Revision of Financing Corporation Operations Regulation" (RIN3069–AA57) received on September 26, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–3199. A communication from the Acting General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, a rule entitled "Assessment of the Reasonable Revitalization Potential of Certain public Housing Required by Law" received on October 9, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–3200. A communication from the Director of the Bureau of the Census, Department of Commerce, transmitting, pursuant to law, a rule entitled "Revision of Section 30.56(b)" (RIN0607–AA23) received on September 16, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–3201. A communication from the Legislative and Regulatory Activities Division, Administrator of National Banks, Comptroller of the Currency, transmitting, pursuant to law, a rule entitled "Assessment of Fees" received on October 16, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–3202. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, a rule received on October 6, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–3203. A communication from the Acting Assistant Secretary of Commerce for Export Administration, transmitting, pursuant to law, two rules including a rule entitled "Satellite Fuel" (RIN0694–AB09, AB60); to the Committee on Banking, Housing, and Urban Affairs.

EC–3204. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a notice relative to Ginnie Mae; to the Committee on Banking, Housing, and Urban Affairs.

EC–3205. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, a rule entitled "Technical Amendment to the Community Support Requirement" (RIN3069–AA35) received on September 18, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–3206. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a rule received on September 19, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–3207. A communication from the President of the United States, transmitting, pursuant to law, a report relative to Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC–3208. A communication from the President of the United States, transmitting, pursuant to law, a report relative to national emergencies; to the Committee on Banking, Housing, and Urban Affairs.

EC–3209. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, a report on the privatization of EDGAR; to the Committee on Banking, Housing, and Urban Affairs.

EC–3210. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, a report relative to shareholder proposals; to the Committee on Banking, Housing, and Urban Affairs.

EC–3211. A communication from the Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, four rules including a rule entitled "Transfer Agent's Obligations to Search for Lost Securityholders" (RIN3235–AG99, AG85, AG72); to the Committee on Banking, Housing, and Urban Affairs.

EC–3212. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, a report relative to trade; to the Committee on Finance.

EC–3213. A communication from the Acting Commissioner of Social Security, transmitting, pursuant to law, a report entitled "Options for Enhancing the Social Security Card"; to the Committee on Finance.

EC–3214. A communication from the Acting Commissioner of Social Security, transmitting, pursuant to law, a report relative to continuing disability reviews for fiscal year 1996; to the Committee on Finance.

EC–3215. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the report of the strategic plan; to the Committee on Finance.

EC–3216. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report of the strategic plan; to the Committee on Finance.

EC–3217. A communication from the Assistant Commissioner (Examination), Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of two rules received on September 23, 1997; to the Committee on Finance.

EC–3218. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, a rule received on September 25, 1997; to the Committee on Finance.

EC–3219. A communication from the Executive Secretary of the Foreign-Trade Zones Board, Department of Commerce, transmitting, pursuant to law, a rule entitled "Technical Amendments To Regulations of the Foreign-Trade Zones Board" (RIN0625–AA49) received on October 10, 1997; to the Committee on Finance.

EC–3220. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, two rules including a rule entitled "Import Restrictions Imposed On Archaeological Artifacts From Maili" (RIN1515–AC22, AC24); to the Committee on Finance.

EC–3221. A communication from the Chief, Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Announcements 97–103 and 97–107; to the Committee on Finance.

EC–3222. A communication from the Chief, Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Notices 97–51, 97–54, 97–57; to the Committee on Finance.

EC–3223. A communication from the Chief, Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedures 97–44, 97–45, 97–46, 97–47, 97–48; to the Committee on Finance.

EC–3224. A communication from the Chief, Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Rulings: 97–38, 97–41, 97–42, 97–43; to the Committee on Finance.

EC–3225. A communication from the Chief, Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of four Treasury Regulations (RIN1545–AU92, AT60, AU88, AU79); to the Committee on Finance.

EC–3226. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Commerce, Science, and Transportation.

EC–3227. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the report of the strategic plan for fiscal years

1997 through 2002; to the Committee on Commerce, Science, and Transportation.

EC–3228. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Commerce, Science, and Transportation.

EC–3229. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Commerce, Science, and Transportation.

EC–3230. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the strategic plan; to the Committee on Commerce, Science, and Transportation.

EC–3231. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report of the strategic plan; to the Committee on Commerce, Science, and Transportation.

EC–3232. A communication from the Chairman, Interagency Coordinating Committee on Oil Pollution Research, Department of Transportation, transmitting, pursuant to law, a report relative to oil pollution; to the Committee on Commerce, Science, and Transportation.

EC–3233. A communication from the Director of the Bureau of Transportation Statistics, Department of Transportation, transmitting, pursuant to law, the report for 1997; to the Committee on Commerce, Science, and Transportation.

EC–3234. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a certification relative to Suriname; to the Committee on Commerce, Science, and Transportation.

EC–3235. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to voluntary consensus technical standards; to the Committee on Commerce, Science, and Transportation.

EC–3236. A communication from the Assistant Secretary of Commerce for Communications and Information, transmitting, pursuant to law, a report relative to the Telecommunications and Information Infrastructure Assistance Program grants for fiscal year 1997; to the Committee on Commerce, Science, and Transportation.

EC–3237. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to quieter airplanes; to the Committee on Commerce, Science, and Transportation.

EC–3238. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, a report relative to spectrum auctions; to the Committee on Commerce, Science, and Transportation.

EC–3239. A communication from the Assistant Administrator of the Office of Oceanic and Atmospheric Research, Department of Commerce, transmitting, pursuant to law, a rule concerning the Dean John A. Knauss Marine Policy Fellowship Program (RIN0648–ZA30) received on September 29, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3240. A communication from the Director of the Office of Global Programs, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule concerning the Climate and Global Change Program received on October 7, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3241. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, four rules; to the Committee on Commerce, Science, and Transportation.

EC–3242. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, a rule received on September 26, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3243. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, eight rules; to the Committee on Commerce, Science, and Transportation.

EC–3244. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, twenty-eight rules; to the Committee on Commerce, Science, and Transportation.

EC–3245. A communication from the Acting Managing Director, Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, twelve rules; to the Committee on Commerce, Science, and Transportation.

EC–3246. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of the clean water needs survey; to the Committee on Environment and Public Works.

EC–3247. A communication from the Inspector General of the Department of Defense, transmitting, pursuant to law, the report of the audit of Department of Defense Superfund financial transactions for fiscal year 1997; to the Committee on Environment and Public Works.

EC–3248. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Successful Telecommuting Programs in the Public and Private Sectors"; to the Committee on Environment and Public Works.

EC–3249. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Implementation of the National Intelligent Transportation System Program"; to the Committee on Environment and Public Works.

EC–3250. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule received on October 7, 1997; to the Committee on Environment and Public Works.

EC–3251. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of the strategic plan for fiscal years 1997 through 2002; to the Committee on Environment and Public Works.

EC–3252. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule received on October 14, 1997; to the Committee on Environment and Public Works.

EC–3253. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule received on October 14, 1997; to the Committee on Environment and Public Works.

EC–3254. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule received on October 15, 1997; to the Committee on Environment and Public Works.

EC–3255. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule received on October 15, 1997; to the Committee on Environment and Public Works.

EC–3256. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report on the benefits and costs of the Clean Air Act from 1970 to 1990; to the Committee on Environment and Public Works.

EC–3257. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule received on September 30, 1997; to the Committee on Environment and Public Works.

EC–3258. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules received on October 1, 1997; to the Committee on Environment and Public Works.

EC–3259. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule received on October 2, 1997; to the Committee on Environment and Public Works.

EC–3260. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, five rules received on October 2, 1997; to the Committee on Environment and Public Works.

EC–3261. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, seven rules received on October 9, 1997; to the Committee on Environment and Public Works.

EC–3262. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, ten rules received on October 16, 1997; to the Committee on Environment and Public Works.

EC–3263. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a notice relative to the strategic plan; to the Committee on Environment and Public Works.

EC–3264. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a river bank erosion control and bluff stabilization project; to the Committee on Environment and Public Works.

EC–3265. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a storm damage reduction and shoreline protection project; to the Committee on Environment and Public Works.

EC–3266. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a storm damage reduction project; to the Committee on Environment and Public Works.

EC–3267. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a flood damage reduction and agricultural water supply project; to the

Committee on Environment and Public Works.

EC–3268. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to navigation improvements for Boston Harbor, Massachusetts; to the Committee on Environment and Public Works.

EC–3269. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a flood damage reduction project; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–242. A resolution adopted by the Council of the City of South Dayton, Florida relative to the Intermodal Surface Transportation Efficiency Act; to the Committee on Environment and Public Works.

POM–243. A resolution adopted by the Board of Commissioners of the Borough of Allenhurst, New Jersey relative to the proposed "Ocean Celebration Day"; to the Committee on Environment and Public Works.

POM–244. A resolution adopted by the Council of the City of Plantation, Florida relative to the Intermodal Surface Transportation Efficiency Act; to the Committee on Environment and Public Works.

POM–245. A resolution adopted by the National Association of State Treasurers relative to the automated standard application for payments system; to the Committee on Governmental Affairs.

POM–246. A resolution adopted by the Junior Order United American Mechanics relative to illegal aliens; to the Committee on the Judiciary.

POM–247. A resolution adopted by the Junior Order United American Mechanics relative to the American Flag; to the Committee on the Judiciary.

POM–248. A resolution adopted by the Junior Order United American Mechanics relative to prayer and Bible in public schools; to the Committee on the Judiciary.

POM–249. A resolution adopted by the Junior Order United American Mechanics relative to American security and sovereignty; to the Committee on the Judiciary.

POM–250. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs.

ASSEMBLY JOINT RESOLUTION NO. 5

Whereas, The debate surrounding the impacts of chemical weapon agents and the Gulf War Syndrome are both overdue and have not been far-reaching enough; and

Whereas, The White House, Congress, and the Department of Defense struggle to understand the enigmatic illnesses troubling our Gulf War veterans; and

Whereas, The basic question of whether the illnesses experienced by troops serving in the Gulf War were the result of some specific and unusual exposure related to that service has not been answered conclusively; and

Whereas, The Department of Defense has confirmed that American forces had been in the presence of Iraqi chemical munitions at Khamisiyah, a weapons storage site destroyed by American forces at the end of the war, and that exposure was possible; and

Whereas, The Department of Defense, in cooperation with the CIA and other agencies, are conducting extensive investigations, reaching out to more than 20,000 service personnel who may have been in the vicinity of Khamisiyah at the time of the possible release of chemical agents; and

Whereas, The Department of Defense has committed to continue efforts to investigate this incident, and any similar incidents that are identified, and spare no resource in this effort; and

Whereas, The Pentagon is seeking proposals on studies focusing on the impact of low-level exposure to chemical weapons and has earmarked $10 million for the study; and

Whereas, The Presidential Advisory Committee on Gulf War Veterans Illnesses established by President Clinton on May 26, 1995, has released its final report calling for continued and extensive investigation and study of this issue; and

Whereas, Nobel Prize winning geneticist, Dr. Joshua Lederberg, may revise the findings of his investigation into veterans' claims regarding Gulf War Syndrome, because of new information; and

Whereas, The Pentagon and Congress of the United States are attempting to limit research to approximately two years to identify problems in connection with Gulf War Syndrome; and

Whereas, The California Legislature finds this action unacceptable and therefore supports continued research to address this extremely serious problem: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress to continue efforts to ensure that veterans of the Gulf War are appropriately cared for, to do everything possible to understand and explain Gulf War illnesses, to put into place those military doctrines, personnel, and medical policies, procedures, and equipment that will minimize any future problems from exposure to biological or chemical agents or other environmental hazards, and to use all means necessary to ensure that Gulf War veterans who placed themselves in harms way on behalf of all Americans are provided the assistance, support, and care they deserve; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–251. A concurrent resolution adopted by the Legislature of the State of Ohio; to the Committee on Veterans' Affairs.

HOUSE CONCURRENT RESOLUTION NO. 13

Be it resolved by the House of Representatives of the State of Ohio (the Senate concurring):

Whereas, Self-employed and other recalled reservists, including many of our farmers, doctors, and small-business people, served with great distinction during Operation Desert Storm; and

Whereas, Those reservists contributed to the readiness, preparedness, and combat capability of the coalition forces that participated in Operation Desert Storm; and

Whereas, Often those reservists have found themselves in dire financial straits resulting from their absence from their businesses, professions, or occupations for this active duty service; and

Whereas, Some of those reservists' families and businesses suffered financial damage as serious as that caused by a hurricane or other natural disaster: Now, therefore be it

Resolved, That the General Assembly of the State of Ohio urges the Congress of the United States to identify existing sources of financial relief for the financially damaged families and businesses of self-employed and other recalled reservists; and be it further

Resolved, That the General Assembly urges Congress to pass legislation in accordance with other disaster loan critieria to provide long-term, low-interest loans to self-employed and other recalled reservists; and be it further

Resolved, That the Legislative Clerk of the House of Representatives transmit duly authenticated copies of this Resolution to the President of the United States, to the President Pro Tempore and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, to the members of the Ohio Congressional delegation, and to the news media of Ohio.

POM–252. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Labor and Human Resources.

HOUSE JOINT RESOLUTION NO. 31

Be it resolved by the Legislature of the State of Alaska:

Whereas improving patient access to quality health care is paramount national goal; and

Whereas the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products, and medical devices; and

Whereas minimizing the delay between discovery and eventual approval of a new drug, biological product, or medical device derived from research conducted by innovative pharmaceutical and biotechnology companies could improve the lives of millions of United States citizens; and

Whereas current limitations on the dissemination of information about pharmaceutical products reduce the availability of information to physicians, other health care professionals, and patients and unfairly limit the right of free speech guaranteed by the First Amendment to the Constitution of the United States; and

Whereas the current rules and practices governing the review of new drugs, biological products, and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive: Be it

Resolved, That the Alaska State Legislature respectfully urges the Congress of the United States to address the important issues described above by enacting comprehensive legislation to amend the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301–395) to facilitate the rapid review and approval of innovative new drugs, biological products, and medical devices, without compromising patient safety or product effectiveness.

Copies of this resolution, property certified, shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice President of the United States and President of the U.S. Senate; to the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

POM–253. A concurrent resolution adopted by the Legislature of the State of Louisiana;

to the Committee on Labor and Human Resources.

SENATE CONCURRENT RESOLUTION NO. 158

Whereas, a settlement agreement based on a law suit originally filed by six states, including Louisiana, has been reached which would provide three hundred fifty-eight billion dollars over the next twenty-five years payable to all the fifty states and which would provide for stringent regulations by the United States Food and Drug Administration to regulate the tobacco industry has been reached; and

Whereas, Louisiana, as one of the leaders in the litigation and among one of the first to join with other states to aggressively pursue litigation against the tobacco industry, unfortunately also has one of the highest incidence of deaths attributable to smoking and the use of tobacco products in the nation, thus an expeditious approval of the agreement and disbursement of much needed moneys to the state is respectfully requested: Therefore, be it,

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to act promptly and approve this historic settlement agreement with the tobacco industry and enact legislation to authorize the United States Food and Drug Administration to promulgate necessary regulations to protect children from tobacco marketing and access; and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation.

POM–254. A resolution adopted by the Legislature of the State of Alaska; to the Committee on the Judiciary.

HOUSE JOINT RESOLUTION NO. 30

Be it Resolved by the Legislature of the State of Alaska:

Whereas the State of Alaska is within the jurisdiction of the United States Court of Appeals for the Ninth Circuit; and

Whereas the Court of Appeals for the Ninth Circuit consists of the States of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington and the federal territories, possessions, and protectorates in the Pacific; and

Whereas United States Senators Stevens and Murkowski of Alaska, Senators Craig and Kempthorne of Idaho, Senator Smith of Oregon, Senator Burns of Montana, and Senator Gorton of Washington have introduced S. 431, a bill that would amend Title 28 of the United States Code to divide the Court of Appeals for the Ninth Circuit into two circuits, and that has the short title of the "Ninth Circuit Court of Appeals Reorganization Act of 1997"; and

Whereas S. 431 proposes to remove the states of Alaska, Idaho, Montana, Oregon, and Washington from the Court of Appeals for the Ninth Circuit and place them in a new Court of Appeals for the Twelfth Circuit to be headquartered in Portland, Oregon and Seattle, Washington; and

Whereas S. 431 would make each circuit judge of the Court of Appeals for the Ninth Circuit whose duty station is in Alaska, Idaho, Montana, Oregon, or Washington a circuit judge of the new Court of Appeals for the Twelfth Circuit; and

Whereas the membership of the Court of Appeals for the Ninth Circuit is heavily weighted toward the State of California and the court seems to concern itself predominately with issues arising out of California and the southwestern United States; and

Whereas the Court of Appeals for the Ninth Circuit's case filings in 1995 were greater than any other federal circuit and in 1996 were the second greatest; and

Whereas the Court of Appeals for the Ninth Circuit serves a population of more than 45,000,000 people, well over one-third more than any other federal circuit; and

Whereas members of the Court of Appeals for the Ninth Circuit have shown a surprising lack of understanding of Alaska's people and geography that has resulted in decisions that have often caused the people of Alaska unnecessary hardship; and

Whereas, in the so-called "Katie John" subsistence case, which is of tremendous importance to the people of the State of Alaska, even though the Court of Appeals for the Ninth circuit granted expedited consideration of that case, the court did not issue its decision for over 13 months; and

Whereas Attorney General Bruce Botelho estimates that there are more than 200 Alaska cases currently pending before the Court of Appeals for the Ninth Circuit; and

Whereas the Attorneys General of the States of Idaho, Montana, Oregon, and Washington have also found previously that similar issues of unnecessary delay concerning, lack of understanding of, and lack of consideration for cases and issues by the Court of Appeals for the Ninth circuit exist in regard to those states; and

Whereas the Attorneys General of the States of Alaska, Idaho, Montana, Oregon, and Washington endorsed S. 965, introduced in the previous Congress to create a new Twelfth Circuit Court of appeals and the forerunner to S. 431; and

Whereas the creation of a new Court of Appeals for the Twelfth Circuit encompassing the States of Alaska, Idaho, Montana, Oregon, and Washington by S. 431 would benefit these similar states by providing speedier and more consistent rulings by jurists who have a greater familiarity with the social, geographical, political, and economic life of the region: Be it

Resolved, That the Alaska State Legislature supports creation of a new Court of Appeals for the Twelfth Circuit for the States of Alaska, Idaho, Montana, Oregon, and Washington headquartered in the Pacific Northwest; and respectfully requests the United States Congress to act in an expeditious manner.

Copies of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Trent Lott, Majority Leader of the U.S. Senate; the Honorable Dick Armey, Majority Leader of the U.S. House of Representatives; the Honorable Thomas Daschle, Minority Leader of the U.S. Senate; the Honorable Richard A. Gephardt, Minority Leader of the U.S. House of Representatives; the Honorable Orrin G. Hatch, Chair of the U.S. Senate Committee on the Judiciary; the Honorable Henry J. Hyde, Chair of the U.S. House Committee on the Judiciary; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

POM–255. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

ASSEMBLY CONCURRENT RESOLUTION NO. 36

Whereas, the American Medical Association has stated that a "woman is raped every 46 seconds in the United States" and that sexual assault is a "silent epidemic"; and

Whereas, women, children, and men are all victims of sexual assault and it is estimated that one in three women, one in four girls, one in six boys, and one in 11 men will be victims at least once in their lifetimes; and

Whereas, women, children, and men suffer multiple types of sexual violence, including, but not limited to, stranger rape, date rape, spousal rape, gang rape, serial rape, trafficking and prostitution, pornography, ritual abuse, sexual harassment, incest, child sexual molestation, and stalking; and

Whereas, women, children, and men should be free from sexual violence in their homes, in the streets, in their workplaces, and in their recreational activities; and

Whereas, the Federal Bureau of Investigation estimates that only one in nine women who are sexually assaulted report the crime; and

Whereas, rape and sexual assault affect women, children, and men of all racial, cultural, and economic backgrounds; and

Whereas, it is not uncommon for women to experience multiple forms of sexual violence in the course of their lifetimes; and

Whereas, emotional and physical scars resulting from sexual violence are often severe and longlasting; and

Whereas, a coalition of rape crisis centers, known as the California Coalition Against Sexual Assault, has emerged to directly confront this crisis with the cooperation of law enforcement agencies, churches, health care providers, and other helping professionals from California's diverse communities; and

Whereas, it is important to recognize the compassion and dedication of the individuals involved in this effort, applaud their commitment, and increase public understanding of this significant problem; and

Whereas, it is important to recognize the strength, courage, and challenges of the victims and survivors of sexual assault and their family and friends as they struggle to cope with the reality of sexual assault; and

Whereas, it is important to recognize that not all victims of sexual assault survive, either at the time of the assault or later, due to the horrific long-term trauma that sexual assault often inflicts upon victims; and

Whereas, there are rape prevention and education efforts underway throughout California to challenge the societal myths and behaviors that perpetuate rape and to engage communities in a common goal of ending sexual assault; and

Whereas, there is a Sexual Assault Awareness Week in October; and

Whereas, that one week has now grown to a full month of recognition and activities promoted by the National Coalition Against Sexual Assault to increase awareness of sexual assault and to create solutions: Now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims that, henceforth, the month of April shall be designated as Sexual Assault Awareness Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Governor, to the United States Director on Victims of Crime, and to each Senator and Representative from California in the Congress of the United States.

POM–256. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 25

Whereas, the constitution of 1789 gave future generations liberty through the right of speech and assembly, the rights of women to vote, and economic interest protection by the government; and

Whereas, our constitution provides personal security and protection and is the heart of the American system, and seeks to ensure that each person is free from the threat of attack, free of actions by others that diminish life, liberty, health, or property or that prevent the "pursuit of happiness"; and

Whereas, the people of the nation are surrounded by attacks on their personal security, their health and the health of their families, and their rights to enjoy the air, water and resources of the nation; and

Whereas, the dangers of toxic pollutants and contaminants created by others that enter our bodies and homes, and natural environment with an increasing threat to the public health and the nation's natural resources is the challenge to our generation of the kind other generations faced and overcame: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to adopt an amendment to the constitution providing that the right of each citizen to clean and healthful air and water and to the protection of other natural resources of our nation shall not be infringed upon by any person; and be it further

Resolved, That a copy of this Resolution be immediately transmitted to the President of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress.

POM–257. A resolution adopted by the House of the Legislature of the State of Louisiana; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 120

Whereas, Article III, Section 1 of the Constitution of the United States, provides in part that ". . . The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, . . ."; and

Whereas, this clause has been interpreted to mean that ". . . (a) person appointed to office of United States district judge becomes entitled to draw salary of office so long as he continues to "hold office", and he "holds office" until he voluntarily relinquishes it or is ousted by impeachment or death." *Johnson* v. *U.S.*, 79 F. Supp. 208 (1948); and

Whereas, this clause has been further interpreted to mean ". . . Judges of federal "constitutional" courts which have been invested with the judicial power of the United States pursuant to this article are guaranteed life tenure during good behavior and compensation which may not be reduced during their term of office. . . ." *Montanez* v. *U.S., 226 F. Supp. 593(1964). affirmed 371 F.2d. 79;* and

Whereas, a common complaint that the public makes about federal district judges is that they are not accountable to the people because of this life tenure; and

Whereas, this public complaint continues that these judges, because of their insulation and isolation after a certain length of time in office, lose touch with the problems facing and feelings of the majority of the American people; and

Whereas, state district, appellate, and supreme court justices in Louisiana have specific limited terms of office, as do other inferior federal courts, such as bankruptcy judges whose term is fourteen years; and

Whereas, this constitutional amendment would not give the people the right to vote for a federal judge, but only the right to voice their opinion on whether the appointment of federal district judges should be for a limited term short of life tenure; and

Whereas, the system appears to still maintain an independent judiciary uninfluenced by undue public pressure in the inferior federal courts in which judges are not granted life tenure; and

Whereas, Article V of the Constitution of the United States provides that an amendment to the constitution may be proposed by congress which shall become part of the constitution when ratified by three-fourths of the several states. Therefore, bet it

Resovled, That the House of Representatives of the Legislature of Louisiana does hereby urge and request the Congress of the United States to propose an amendment to the Constitution of the United States, for submission to the states for ratification, to provide for election of members of the federal judiciary; and be it further

Resolved, That certified copies of this Resolution be transmitted by the secretary of state to the president and the secretary of the United States Senate, to the speaker and clerk of the United States House of Representatives, to each member of this states's delegation to the congress and to the presiding officer of each house of each state legislature in the United States.

POM–258. A joint resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Finance.

HOUSE JOINT RESOLUTION 2

Whereas, over 80,000 private individuals and corporations own 87 percent of New Hampshire's forestland; and

Whereas, forest-based business, both timber and recreation, have a profound impact on the economy of the state; and

Whereas, these forests serve as important sources of clean air, clean water, and wildlife habitat; and

Whereas, conservation of these multiple forest values requires long-term stewardship; and

Whereas, long-term forest stewardship is discouraged by federal estate taxes that force heirs to liquidate timber or sell forest land; and

Whereas, long-term forest stewardship is discouraged by federal income taxes that discourage long-term ownership and management: Now, therefore, be it

Resolved by the Senate and House of Representatives in General Court convened, That copies of this resolution be sent to the house clerk to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the chairpersons of committees of the United States Congress having jurisdiction over estate taxes and capital gains taxes, the Administrator of the United States Environmental Protection Agency, and each member of the New Hampshire congressional delegation.

POM–259. A resolution adopted by the House of the Legislature of the Commonwealth of Massachusetts; to the Committee on Finance.

RESOLUTION

Whereas, President William J. Clinton has asked Congress to pass a bill called "The Medicare and Medicaid Fraud and Abuse Prevention Act", which would help bar unscrupulous doctors and medical firms from the Government health care programs for the elderly and poor; and

Whereas, among other things, the legislation would let Medicare and Medicaid administrators deny anyone convicted of a felony the right to take part in the programs and require participants to furnish their Social Security numbers so that applicants could be checked for past fraudulent activity; and

Whereas, President Clinton's initiative reflected concern about the extent to which unlicensed doctors and others were bilking taxpayers: Therefore be it

Resolved, That the Massachusetts House of Representatives urges the Congress of the United States to enact legislation called "The Medicare and Medicaid Fraud and Abuse Prevention Act"; and be it further

Resolved, That copies of these resolutions be forwarded by the clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of Congress, and to the members thereof from this Commonwealth.

POM–260. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 160

Whereas, Sections 1814 and 1815 of the Social Security Act state: "With respect to the physician certification . . . for home health services furnished by the individual by a home health agency (other than an agency which is a governmental entity) and with respect to the establishment and review of a plan for such services, the Secretary shall prescribe regulations which shall become effective no later than July 1, 1981, and which prohibit a physician who has a significant ownership in, or a significant financial or contractual relationship with such home health agency from performing such certification and from establishing or reviewing such plan"; and

Whereas, federal regulation 42 CFR 424.22, prepared pursuant to said sections of the Social Security Act and entitled "Requirements for home health services" states: ". . . need for home health services to be provided by an HHA [Home Health Agency] may or may not be certified or recertified, and a plan of treatment may not be established and reviewed by any physician who has a significant ownership interest, or a significant financial or contractual relationship with the HHA"; and

Whereas, 42 CFR 424.22(d)(3) provides that "significant financial interest" means an individual either "receives any compensation as an officer or director of the HHA" or "has direct or indirect business transactions with the HHA that, in any fiscal year amount to more than $25,000 or 5 percent of the agency's total expenses, whichever is less. Business transactions means . . . salaried employment."; and

Whereas, a top official of the Health Care Financing Administration issued the "Hoyer letters" stating that hospitals which self-referred for profit to their own home health agencies were in violation of 42 CFR 424.22, but withdrew these letters (Federal Register, November 29, 1996, Vol. 61, No. 231); and

Whereas, it is imperative that a patient be allowed, without coercion or manipulation from hospital discharge staff, the freedom to choose his post-acute provider and that choice must be honored by a hospital and enforced by HCFA; therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States

Congress to require the Health Care Financing Administration to enforce existing regulations prohibiting the improper downstreaming of hospital self-referrals from physicians they compensate and to instruct the Health Care Financing Administration to reinstitute the two "Hoyer letters" stating that hospitals are in violation of federal regulations on self-referral when referring to their own home health agencies for profit, and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–261. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

SENATE CONCURRENT RESOLUTION NO. 21

Whereas, the Lafourche Basin Levee District is a state agency created by the Louisiana Legislature in 1892; and

Whereas, the Lafourche Basin Levee District is the only levee board in the State of Louisiana that is not participating in the Louisiana State Employees' Retirement System; and

Whereas, the Lafourche Basin Levee District has previously requested that it be allowed to withdraw from participation in the Social Security System so that its employees could participate in the Louisiana State Employees' Retirement System; and

Whereas, the Lafourche Basin Levee District has certified that it will abide by all laws, rules, and regulations of the Louisiana State Employees' Retirement System, will deduct monthly employee contributions and pay employer contributions for all eligible members, and will submit same to the Louisiana State Employees' Retirement System in the prescribed manner: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to enact legislation to allow the employees of the Lafourche Basin Levee District to opt-out of the Social Security System and to join the Louisiana State Employees' Retirement System, effective January 1, 1998; be it further

Resolved, That the Lafourche Basin Levee District desires to retain the final option of acceptance of the Louisiana State Employees' Retirement System once all conditions and costs have been presented to the district; be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation.

POM–262. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

SENATE CONCURRENT RESOLUTION NO. 35

Whereas, at the current time federal statute prohibits the withholding of income tax by states on the wages due or accruing to a master or a seaman; and

Whereas, federal statute also prohibits the attachment of the wages due or accruing to a master seaman; and

Whereas, the state of Louisiana has thousands of dollars of income taxes annually that are due and not collectible each year as a result of federal statute; and

Whereas, federal statute does not allow for the withholding of income tax by states on the wages due or accruing to individuals in the service of the armed forces: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to allow states to withhold income tax on the wages due or accruing to a master seaman residing in that state; and to allow states to attach the wages due or accruing to a master or seaman residing in that state for the payment of taxes; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officer of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana Congressional delegation.

POM–263. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 170

Whereas, rural health care providers have neither the funds nor the staff to maintain a clinic providing care twenty-four hours a day, seven days a week; and

Whereas, emergencies, life-threatening and not, occur in rural areas twenty-four hours a day, seven days a week; and

Whereas, citizens in rural areas who experience medical emergencies which are not life-threatening outside of clinic hours or on weekends or holidays have no place to seek relief or treatment except in the hospital emergency room; and

Whereas, reimbursement claims for the emergency room treatment of medical emergencies which are not considered life-threatening are being denied by third party payors because the emergencies are not life-threatening; and

Whereas, rural hospitals are not equipped or staffed to handle complex medical situations, such as heart catheterization, cardiac bypass surgery, and organ transplants; and

Whereas, rural hospitals normally stabilize these patients and refer them to larger and more suitably equipped facilities; and

Whereas, expensive medication and procedures are often administered to the patient, frequency over an extensive period of time, before he or she can be stabilized and transferred; and

Whereas, when a Medicare acute care patient is referred to another hospital, reimbursement for the small, rural hospital is limited to the deductible and coinsurance while the larger hospital receives the DRG reimbursement; and

Whereas, this type of discrimination and payment inequity in reimbursing small, rural hospitals places additional financial burden on the smaller facilities: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to enact legislation which would provide for consideration of geographical location and the availability of patient options in the reimbursement of claims for emergencies treated in rural hospital emergency rooms which are necessary but which are not life-threatening and to enact legislation which would correct the current inequity in reimbursing rural hospitals for costs of stabilizing patients who are to be referred to larger, more suitably equipped facilities; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–264. A resolution adopted by the House of the Legislature of the State of Louisiana; to the Committee on Finance.

HOUSE RESOLUTION NO. 97

Whereas, in 1987, the loan was retired, yet the temporary surcharge has remained; and

Whereas, the federal Fiscal Year 1998 budget contemplates continuance of the surcharge; and

Whereas, FUTA revenue may only be used for limited purposes, and, presently, the federal unemployment accounts have adequate funds for the foreseeable future: Therefore, be it

Resolved, That the House of Representatives of the Legislature of Louisiana does hereby memorialize the United States Congress not to renew the temporary two-tenths percent unemployment insurance tax; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–265. A resolution adopted by the House of the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 99

Whereas, the citizens of parishes that border the Mississippi River are subject to an inordinate amount of noise and pollution, due to the volume of river traffic and commercial operations on and near the river; and

Whereas, this inordinate amount of noise and pollution poses health and safety hazards to the citizens of these parishes; and

Whereas, despite this potential exposure to such hazards, the citizens of these parishes have no authority, discretionary or otherwise, to control or abate the noise and pollution; and

Whereas, the residents of the parishes of St. John the Baptist and St. James and the other parishes bordering the Mississippi River have been plagued with noise and dust pollution arising from ship traffic, midstream transfer facilities, and barges on the Mississippi River; and

Whereas, the state and local governing entities should have some authority to control commercial operations on the river, in order to protect the citizens and to provide a safe and healthy work and living environment: Therefore, be it

Resolved, That the House of Representatives of the Legislature of Louisiana does hereby memorialize the United States Congress to enact legislation to return control of the Mississippi River to state and local governing authorities; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and House of Representatives of the Congress of the United States and to each member of the Louisiana congressional delegation.

POM–266. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 10

Whereas, the federal Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA), Title III, P.L. 101–646, 1990, and P.L. 102–212, 1991, 16 U.S.C.A. 777c and 3951–3956, authorizes the granting of funds to coastal states to carry out coastal wetlands conservation projects; and

Whereas, the act is the nation's most extensive wetlands enhancement law and is of vital importance to Louisiana; and

Whereas, since Louisiana possesses approximately forty percent of the coastal wetlands of the lower forty-eight states, and has suffered as much as eighty percent of the nation's annual wetland losses, the state receives the "lion's share" of project funding under the act; and

Whereas, if the current loss rate of wetlands in Louisiana is not slowed, an additional 800,000 acres of wetlands could disappear by the year 2040 and the Louisiana shoreline could advance inland as much as thirty-three miles in some areas; and

Whereas, through CWPPRA and state funding, coastal restoration projects, including barrier island and shoreline restoration, have been undertaken in Louisiana to avert a potential catastrophe and economic and ecological loss to our state and the nation; and

Whereas, the CWPPRA project program is an example of a federal/state partnership that can work in a practical and effective manner to solve a national problem requiring local action, and should therefore be continued; and

Whereas, such continuation should include the dedication of at least twenty percent of total CWPPRA project funding to restoration of Louisiana's barrier shoreline, including but not limited to barrier islands and cheniers; and

Whereas, such continuation should further include the feasibility of streamlining the planning process to eliminate unnecessary duplication of effort and taxpayer expense, and establish a "block grant" program for CWPPRA project funding similar to other block grant programs recently revised or established by congress; and

Whereas, by law CWPPRA project funding is dependent upon the federal aid highway trust fund, as the portion of revenues from such fund attributed to fuel tax receipts from small engine power equipment usage are annually allocated to funding of CWPPRA projects; and

Whereas, the federal aid highway trust fund was last authorized by congress in 1991 in the Intermodal Surface Transportation Efficiency Act (ISTEA), P.L. 102-240; and

Whereas, such act expires in 1997, as does the authority to transfer fuel tax receipts from small engine power equipment usage, and must be reauthorized by congress; and

Whereas, if reauthorization does not occur, CWPPRA project funding will lose its revenue source; and

Whereas, in the reauthorization act, reauthorization is further needed for the gasoline tax, revenues from which go into the highway trust fund; therefore be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to reauthorize laws providing for the federal highway trust fund and continuing funding for Coastal Wetlands Planning, Protection and Restoration Act projects; be it

Further resolved, That the Legislature of Louisiana does hereby request that congress amend the Coastal Wetlands Planning, Protection and Restoration Act or other law as necessary to dedicate at least twenty percent of overall CWPPRA project funding to restoration of Louisiana barrier shoreline, including but not limited to barrier islands and cheniers; be it

Further resolved, That congress undertake review, study and, if necessary, amendment of the Coastal Wetlands Planning, Protection and Restoration Act or other law in order to streamline the project planning process to eliminate unnecessary duplication of effort, save taxpayer expense, and ensure maximum efficient use of funds; be it

Further resolved, That such review, study and, if necessary, amendment by congress include the feasibility of creating a "block grant" program in the 1999 reauthorization act for CWPPRA funds similar to other block grant programs recently created or revised by congress; be it

Further resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-267. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 77

Whereas, the highways of the state of Louisiana are necessary, not only to the economic development of the state and the quality of life to its people, but also to the national interest of the United States which is meant to be served by the distribution of federal highway funding; and

Whereas, Louisiana ranked twenty-third in the amount of money contributed to the federal Highway Trust Fund, but ranked only thirty-eighth in the amount of money received from the fund; and

Whereas, many states receive more funds from the trust fund than they contribute and some states receive over two dollars for each dollar contributed, but the state of Louisiana receives only eighty-three cents for each dollar it contributes; and

Whereas, the funding formula used to determine the distribution of federal highway funds, is not only antiquated, but unfair and discriminatory and must be replaced with a new formula that recognizes the vital role Louisiana's transportation system plays in the economic well-being of the nation: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States of America to revise the federal highway formulas to ensure that Louisiana gets its fair share of federal highway funds; and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation.

POM-268. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

Whereas, prior to laws prohibiting its use, lead-based paint was used to coat bridges throughout the United States, including the Crescent City Connection in New Orleans; and

Whereas, since the prohibition of use of such paint, the Crescent City Connection has been painted by an encapsulation process which covered the original paint, thereby, preventing its exposure to the environment; and

Whereas, current regulations of the Environmental Protection Agency require the capture and disposal of lead-based paint residue during the repainting process; and

Whereas, these stringent requirements will increase the cost of painting the bridge from approximately ten million dollars to approximately forty million dollars; and

Whereas, the Crescent City Connection Bridge Authority and the Louisiana Department of Environmental Quality are effectively negotiating to address the excessive cost of the project without compromising the environmental quality for and the safety of the people of the state: therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress to provide for the grant of an exemption relative to the painting of the Crescent City Connection which would limit the requirements for the removal and capture of residue from previous coatings during the painting procedure; and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation.

POM-269. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 98

Whereas, the Highway Safety Act passed by Congress in 1973 created the section 130 program to provide funding to the states for rail-highway crossing safety; and

Whereas, the current distribution formula, based on ten percent of a state's surface transportation program fund, does not take into consideration such essential criteria as the total number of crossings, the amount of train traffic, and the number of accidents and fatalities; and

Whereas, based on the current formula, many of the states with the highest concentration of crossings, accidents, and fatalities receive less funding than those states which have less need; and

Whereas, it is imperative that improvement be made to the way the federal government targets existing resources to enhance safety along rail corridors in order to develop a more equitable and effective distribution of existing highway funds to states to enhance safety at dangerous highway rail grade crossings: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to examine formulas and to adjust the current flat percentage allocation by using risk factors in determining the distribution of section 130 federal highway dollars to the states for rail safety purposes; and be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and to the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation.

POM-270. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 194

Whereas, the federal Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA), enacted by congress in 1990, provided for the development of a state coastal wetlands conservation plan by Louisiana; and

Whereas, the state of Louisiana, through the Department of Natural Resources, has prepared and will submit for federal approval the Louisiana Coastal Wetlands Conservation Plan (Plan); and

Whereas, the United States Army, United States Fish and Wildlife Service, and United

States Environmental Protection Agency are the federal agencies authorized under CWPPRA to approve the Plan; and

Whereas, as provided by CWPPRA, the goals and purposes of such Plan include:

(1) To achieve no net loss of wetlands in the coastal areas of Louisiana as a result of developmental activities initiated subsequent to approval of the Plan, exclusive of any wetlands gains achieved through implementation of certain restoration projects; and

(2) To provide a program for the review, evaluation, and identification of regulatory and nonregulatory options to be adopted by the state to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands; and

(3) To provide a system for the state to implement that accounts for gains and losses of coastal wetlands within coastal areas, for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained; and

(4) To provide a program to be carried out by the state for the purpose of educating the public concerning the necessity to conserve wetlands in Louisiana, which presently comprise approximately forty percent of the continental United States coastal wetlands but are currently disappearing at a rate of twenty-five to thirty-five square miles per year, and which are of local, state, national, and international significance as a resource for protection of coastal communities from storms, fishery resources, wildlife habitats, water quality management, and extensive sporting and tourism; and

(5) To provide a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

Whereas, in addition to the above programs and benefits, approval of the Louisiana Coastal Wetlands Conservation Plan will have a direct financial benefit by reducing the state's cost share for CWPPRA projects from a current twenty-five percent match to ten percent for Priority Lists 5 (1996) and 6 (1997), and to fifteen percent on other Priority Lists for expenditures incurred subsequent to approval of the Plan; and

Whereas, such cost share reductions will allow for more or larger CWPPRA projects in Louisiana and an increased number of state-only funded projects to be implemented to sustain wetlands functions and values; and

Whereas, the Plan will also demonstrate the state's willingness to address the question of wetland loss, thus assisting in CWPPRA reauthorization set for congressional vote in 1998; and

Whereas, under the authority of R.S. 49:214.1 through 214.5, the Louisiana Department of Natural Resources is the state agency responsible for the conservation, restoration, and enhancement of the state's coastal wetlands resources, and the Plan will provide for the Department of Natural Resources to be the single state agency with responsibility for implementing and enforcing the Plan; and

Whereas, development of the Plan involved extensive public participation and input, including more than ten public hearings during 1996 and 1997, and also the opportunity to provide written comments; and

Whereas, the Plan should be approved by the appropriate federal agencies and should be implemented by the Department of Natural Resources in an expeditious manner: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress and the appropriate federal agencies, consisting of the United States Army, United States Fish and Wildlife Service, and United States Environmental Protection Agency, to approve the Louisiana Coastal Wetlands Conservation Plan; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America, to each member of the Louisiana congressional delegation, and to the secretary of the United States Army, the director of the United States Fish and Wildlife Service, the administrator of the United States Environmental Protection Agency, and the secretary of the Louisiana Department of Natural Resources.

POM–271. A concurrent resolution adopted by the House of the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 253

Whereas, the citizens of parishes that border the Mississippi River are subject to an inordinate amount of noise and pollution, due to the volume of river traffic and commercial operations on and near the river; and

Whereas, this inordinate amount of noise and pollution poses health and safety hazards to the citizens of these parishes; and

Whereas, despite this potential exposure to such hazards, the citizens of these parishes have no authority, discretionary or otherwise, to control or abate the noise and pollution; and

Whereas, the residents of the parishes of St. John the Baptist and St. James and the other parishes bordering the Mississippi River have been plagued with noise and dust pollution arising from ship traffic, midstream transfer facilities, and barges on the Mississippi River; and

Whereas, the state and local governing entities should have some authority to control commercial operations on the river, in order to protect the citizens and to provide a safe and healthy work and living environment: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to enact legislation to return control of the Mississippi River to state and local governing authorities; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and House of Representatives of the Congress of the United States and to each member of the Louisiana congressional delegation.

POM–272. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

ASSEMBLY JOINT RESOLUTION NO. 1

Whereas, The unprecedented flooding across California has caused the loss of life, destruction of homes, and an unprecedented disruption in the web of neighbors, transportation, commerce, services, and communications that bind communities together; and

Whereas, Forth-eight counties in California have qualified for federal disaster relief because of damage caused by the recent flooding; and

Whereas, The State of California is entitled to $100 million in federal emergency relief funds for transportation infrastructure repair for this disaster; and

Whereas, California state agencies have already identified well over $300 million worth of flood-caused transportation damages that are eligible for state and federal funding for urgently needed repairs; and

Whereas, California has already requested the release of the $100 million in federal transportation disaster relief funds of which only $50 million have been received to date; and

Whereas, These moneys are ugently needed to rebuild the lands, lives, and livelihood of thousands of Californians; Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California strongly urges the Federal Highway Administrator to immediately release all of the requested transportation funds for which California is eligible, so that the flood-ravaged people of California may more speedily recover from their plight; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, and to the Federal Highway Administrator.

POM–273. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Environment and Public Works.

SENATE JOINT RESOLUTION NO. 13

Whereas, The point at which U.S. Route 93 crosses the Hoover Dam on the border of the states of Nevada and Arizona is the major commercial corridor between the states of Arizona and Utah and is on the North American Free Trade Agreement (NAFTA) "CANAMEX" route between Mexico and Canada; and

Whereas, Presently, this portion of the highway is one of the most congested sections of two-lane highway in the country with continual traffic each day of approximately 1,500 trucks and buses and 12,427 cars, and drivers often cross the double yellow line into oncoming traffic in an attempt to negotiate the serpentine curves; and

Whereas, Every time there is an accident, the lack of shoulders on the side of the highway interferes with the access of persons delivering emergency medical assistance and causes significant road closures; and

Whereas, This traffic situation poses a serious safety hazard to the more than 1 million visitors who tour Hoover Dam each year; and

Whereas, Other alternative commercial routes between Arizona and the states to the north are through California, an additional distance of more than 250 miles and the other northbound highways are also more unsuitable for this amount of traffic than the present U.S. Route 93; and

Whereas, The traffic congestion caused by the inadequacy of the highway across Hoover Dam imposes serious economic burdens on the states of Nevada, Arizona and Utah and interferes with commerce on the vital "CANAMEX" corridor; and

Whereas, The traffic on the existing highway has increased many times since it was opened 60 years ago and is expected to increased by 50 percent in the next 10 years; and

Whereas, Construction of a bridge with four traffic lanes with connecting roadways to the existing U.S. Route 93 will serve as a vital link between Interstate Highway No. 40 and Interstate Highway No. 15; and

Whereas, The states of Nevada and Arizona have an interest in the maintenance of their respective portions of U.S. Route 93; and

Whereas, Over $3,000,000 has been spent by the Federal Government and the states of Nevada and Arizona to study the possibility of a bypass of the present highway over Hoover Dam; and

Whereas, Presently the states of Nevada and Arizona are cooperating with the Federal Highway Administration, the U.S. Bureau of Reclamation and the National Park Service to complete and environmental impact statement for a bypass of the present highway over Hoover Dam; and

Whereas, The portion of U.S. Route 93 over Hoover Dam is owned and controlled by the Federal Government and is not maintained by either of the states of Nevada or Arizona; and

Whereas, The Federal Government has the sole responsibility to fund future costs associated with any upgrades on this portion of the highway; and

Whereas, U.S. Route 93 was designated a NAFTA corridor and identified as a "high priority corridor" in the National Highway System Designation Act of 1995; Now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, jointly, That the members of the 69th session of the Nevada Legislature hereby urge Congress to approve legislation to include among the highway projects to be federally funded a bridge with four traffic lanes that would serve as a bypass to the existing highway over Hoover Dam and would connect existing highways to U.S. Route 93; and be it further

Resolved, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage and approval.

POM–274. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Environment and Public Work.

HOUSE CONCURRENT RESOLUTION NO. 137

Whereas, With the advent of the North American Free Trade Agreement (NAFTA), Texas roadways have borne the brunt of the 5,000 to 7,000 trucks that cross between Mexico and Texas daily, carrying 80 percent of all U.S. trade with Mexico; and

Whereas, With the total number of border crossings estimated at 1.8 million for Texas in 1994 alone, and expectations of an increase to eight million crossings by the year 2000, this ever-increasing free trade is imposing an unfair burden not only on Texas taxpayers, but on those in the border states of New Mexico, Arizona, and California; and

Whereas, Overland trade traffic has not been effectively limited to designated NAFTA corridors, and the illegal use of county, farm-to-market, and other peripheral roads by overweight trade vehicles has caused untold damage to roadways and created financial hardships for county and local governments; and

Whereas, The Texas Department of Transportation (TXDoT) estimates that damage to the Texas highway system from overweight trucks costs $450 million annually and a 1994 study by the Texas Transportation Institute found that a truck that weighs 4,000 pounds over the 80,000 pound limit could effectively shorten the 40-year lifespan of a highway to eight years; and

Whereas, Of the 4,800 Texas bridges on the NAFTA trade route, 28 percent currently fail to meet structural standards and if Canadian and Mexican weight limits are imposed on the United States, the percentage of structurally deficient bridges jumps to 64 percent; and

Whereas, A recent report by Shiner, Mosely, and Associates on infrastructure requirements in the Texas border region estimated the cost for all transportation infrastructure needed over the next decade to be approximately $3.25 billion; and

Whereas, The Intermodal Surface Transportation Efficiency Act (ISTEA), authorized by Congress in 1991, provides innovative financing options for the construction and improvement of highways, but the funds allocated to Texas since the Act's inception have only met 33 percent of the state's highway needs; Now, therefore, be it

Resolved, That the 75th Legislature of the State of Texas hereby urge the United States Congress to crease a NAFTA Trade Impact Fund under the Intermodal Surface Transportation Efficiency Act to provide border states and communities with funding for transportation infrastructure for the facilitation of free trade and NAFTA-generated passenger and commercial traffic; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–275. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

RESOLUTION NO. 26

Whereas a new northern railroad route will provide majestic views of Mt. McKinley, the opportunity to enjoy a wilderness experience, and the chance to encounter wildlife in its natural habitat, and would connect to the Alaska Railroad corridor; and

Whereas a new northern railroad access would enhance the Mt. McKinley experience for visitors to Denali National Park and Preserve, promote tourism statewide through greater visitor satisfaction, and provide a foundation for year-round visitation; and

Whereas insufficient transportation access to premier viewing areas in Denali National Park and Preserve and the lack of facilities at these areas are major obstacles to enhancing the wilderness experience that the park offers; and

Whereas a new northern railroad transportation system and visitor facilities can be designed and constructed so as not to detract from the qualities that make Denali National Park and Preserve the state's premier visitor attraction; and

Whereas the Wonder Lake area, located on the north side of Denali National Park and Preserve, has a dry interior climate, long daylight hours, and splendid viewing opportunities, and offers the potential to promote both summer and winter activities; and

Whereas creating a new northern railroad access into Denali National Park and Preserve, taking advantage of a long-established and historic transportation route previously used by the mining industry, would offer an opportunity for the private sector to meet the increased demand for tourism facilities; and

Whereas, without making a substantial claim on the state's financial resources, the state is uniquely able to assist in this effort to develop a new northern railroad route by supporting the private sector efforts underway, by making available for use the state land adjacent to Denali National Park and Preserve for the creation of a railroad route corridor, and by monitoring negotiations that would encourage development opportunities involving the private sector: Be it

Resolved, That the Alaska State Legislature strongly supports the efforts of the federal and state governments and the private sector to complete the necessary studies and acquire the necessary permits that would identify and open a new northern railroad route to the vicinity of Wonder Lake and spur the appropriate development of visitor facilities in the Wonder Lake area; and be it further

Resolved, That the Alaska State Legislature respectfully urges the Governor and the state's executive branch agencies to be aggressive in their resolve to support the consensus of Alaska opinion in supporting the creation of a new northern railroad access into Denali National Park and Preserve, as represented by resolutions of endorsement from the city councils of North Pole, Fairbanks, Nenana, and Seward, the Assembly of the Municipality of Anchorage, and the Assemblies of the Denali, Fairbanks North Star, and Matanuska-Susitna Boroughs, to enhance the Mt. McKinley experience for visitors and the creation of a rail connection between the Wonder Lake area and the Alaska Railroad; and be it further

Resolved, That appropriate state agencies should work with the National Park and interested government officials and representatives of the private sector to investigate the potential of establishing a new northern railroad route into the Wonder Lake area of Denali National Park and Preserve, for the appropriate development of facilities in this area that would serve the needs of park visitors.

POM–276. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Commerce, Science, and Transportation.

HOUSE CONCURRENT RESOLUTION NO. 75

Whereas, the municipalities of the state of Louisiana provide essential services to their citizens; and

Whereas, municipalities rely on their pool of citizens to find suitable employees to perform these essential functions; and

Whereas, a commercial driver's license is required even though the employees of small municipalities operate municipal vehicles solely on city streets while performing the functions of the municipality; and

Whereas, it is too onerous a demand to require employees of small municipalities who drive solely on city streets, as opposed to state and federal highways, to maintain a commercial driver's license; Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to exempt from the commercial driver's license requirement employees of municipalities with a population of five thousand or less who operate municipal vehicles solely on city streets; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–277. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Commerce, Science, and Transportation.

HOUSE CONCURRENT RESOLUTION NO. 80

Whereas, the historic gulfward boundary of the state of Louisiana extends a distance into the Gulf of Mexico three marine leagues from the coast; and

Whereas, three leagues is approximately 10.35 miles; and

Whereas, after much litigation, Texas holds title to a three-league gulfward boundary; and

Whereas, as a result of holding title to such three-league gulfward boundary, the Texas public school fund has received literally billions of dollars from leases, rentals, and royalties on such property, and numerous oil and gas wells have been discovered on such property; and

Whereas, Mississippi has also sought a similar gulfward boundary; and

Whereas, the gulfward boundary of the state of Louisiana should be at least equal to that of Texas and Mississippi, therefore, be it

Resolved That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to extend the coastal boundary in Louisiana to be at least equal to that of Texas and Mississippi, be it further

Resolved That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–278. A resolution adopted by the Judicial Conference of the United States relative to a cost-of-living salary adjustment; to the Committee on the Judiciary.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the Order of the Senate of October 9, 1997, the following reports of committees were submitted on October 15, 1997:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1186. A bill to provide for education and training, and for other purposes (Rept. No. 109).

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, without amendment:

S. 1046. A bill to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes (Rept. No. 110).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 439. A bill to provide for Alaska State jurisdiction over small hydroelectric projects, to address voluntary licensing of hydroelectric projects on fresh waters in the State of Hawaii, to provide an exemption for a portion of a hydroelectric project located in the State of New Mexico, and for other purposes (Rept. No. 111).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 846. A bill to amend the Federal Power Act to remove the jurisdiction of the Federal Energy Regulatory Commission to license projects on fresh waters in the State of Hawaii (Rept. No. 112).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1092. A bill to provide for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay, Alaska, and King Cove, Alaska, and for other purposes (Rept. No. 113).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a committee was submitted:

By Mr. HELMS, from the Committee on Foreign Relations: International Telecommunications Union Constitution and Convention (Exec. Rept. 105–3)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Constitution and Convention of the International Telecommunication Union (ITU), with Annexes, signed at Geneva on December 22, 1992, and Amendments to the Constitution and Convention, signed at Kyoto on October 14, 1994, together with Declarations and Reservations by the United States contained in the Final Acts (Treaty Doc. 104–34), subject to declarations and reservations Nos. 68, 73 and 82 of the 1992 Final Acts; declarations and reservations Nos. 84, 92, 97, and 98 of the 1994 Final Acts; and the understandings of subsection (a), the declarations of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDINGS.—The Senate's advice and consent is subject to the following two understandings, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) BROADCASTS TO CUBA.—The United States of America, noting the Statement (No. 40) entered by the delegation of Cuba during the Plenipotentiary Conference of the International Telecommunication Union, in Kyoto Japan, affirms its rights to broadcast to Cuba on appropriate frequencies free of jamming or other wrongful interference and reserves its rights to address existing interference and any future interference, by Cuba with United States broadcasting. Furthermore, the United States of America notes that its presence in Guantanamo is by virtue of an international agreement presently in force; the United States of America reserves the right to meet its radio communication requirements there as heretofore.

(2) GEOSTATIONARY-SATELLITE ORBITS.—The United States understands that the reference in Article 44 of the Constitution to the "geographical situation of particular countries" does not imply a recognition of claim to any preferential rights to the geostationary-satellite orbit.

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) ASSESSED PAYMENTS TO THE UNITED NATIONS INTERNATIONAL TELECOMMUNICATION UNION.—Payments by the United States to the International Telecommunication Union shall be limited to assessed contributions, appropriated by Congress. This provision does not apply to United States payments voluntarily made for a specific purpose other than the payment of assessed contributions. The United States shall seek to amend Article 33(3) of the ITU Convention to eliminate the ITU's authority to impose interest payments on ITU members.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The Senate's resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 1295. A bill to provide for dropout prevention; to the Committee on Labor and Human Resources.

By Mr. COCHRAN:

S. 1296. A bill to reform the laws relating to Postal Service finances, and for other purposes; to the Committee on Governmental Affairs.

By Mr. COVERDELL:

S. 1297. A bill to redesignate Washington National Airport as "Ronald Reagan Washington National Airport"; to the Committee on Commerce, Science, and Transportation.

By Mr. SHELBY:

S. 1298. A bill to designate a Federal building located in Florence, Alabama, as the "Justice John McKinley Federal Building"; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1295. A bill to provide for dropout prevention; to the Committee on Labor and Human Resources.

THE NATIONAL DROPOUT PREVENTION ACT OF 1997

Mr. BINGAMAN. Mr. President, today I am introducing the National Dropout Prevention Act. I will talk just a bit about the issue and talk about the problem that I am trying to address and that this act is intending to address. It is a problem, I think, all Senators should join me in trying to resolve and I believe will join me in trying to resolve.

We have a serious problem on our hands that is a threat to the youth of America. The problem is that far too many of our kids are dropping out of high school before they graduate. Some, even, are dropping out of middle school before they proceed on to high school.

Each fall, starting about a month ago, students begin dropping out of

school and they drop out in very, very large numbers. Nationwide, nearly half a million kids leave school each year. That is, leaving school not by graduating but leaving school early and deciding not to stay in school and graduate. That is 2,700 dropouts for each school day. Studies show that our children are dropping out at a younger and younger age.

Who are these kids who are dropping out of school? The charts that I have here make the case fairly well. They are largely from low-income and middle-income families, and as a percent they are largely minority. The numbers are disturbing across the board, but they are particularly alarming for Hispanic students.

First, on the income level. If you look at this chart, the top line shows the period from 1975 to 1995, a 20-year period. On the left-hand side we show the dropout rates for grades 10–12, ages 15–24, by family income. What this means is that among students from low-income families at times it has been as high as 17 percent that have dropped out in a particular year. In middle-income families, it is closer to 6 to 8 percent, and in high-income families it is substantially lower than that. When you break it down not just by income level but by ethnic background, you can see that the problem is concentrated and particularly alarming for Hispanic students who are dropping out at a rate more than double that of non-Hispanic students. Also, black students drop out at a rate about 50 percent higher than the rate for white students.

You can see from this chart the point I am making here, the top line, the red line, represents the percentage of Hispanic students dropping out. This is called status dropout rates for persons 16–24, and you can see somewhere between 30 and 35 percent of Spanish students nationwide drop out rather than compete high school. It is a very serious problem, particularly in that group, and of course that is a great concern in my State where a very large percent of the student population is Hispanic.

Why are they dropping out? With all the emphasis on self-reliance these days it is tempting to ask what is wrong with kids that so many of them are leaving school. When you actually sit down and talk to these young people, as I have done across New Mexico, you soon learn that it is not the kids that are failing the schools as much as it is the schools that are failing our young people. Ask groups of high school students why they and their friends are leaving school and you will hear the same answers again and again. Some of them are bored with the dumbed-down lessons that they don't see as having any relevance to their own lives. They are lost in giant school buildings with endless corridors and teachers who have very little time to give them or to use in encouraging them to succeed in their school work. They are trapped in an educational system that does not meet the individual needs of individual students.

With all the focus on education these days you would think this issue would be getting substantial attention but, in fact, it is not getting any real attention. It has been 8 years since President Bush and the Nation's Governors established as a national goal that we would graduate 90 percent of high school seniors by the year 2000. Obviously, we are much closer to the year 2000, but we are nowhere near the goal of graduating 90 percent of our students before they drop out of school.

Now, let's talk a little about the bill we are introducing, this National Dropout Prevention Act of 1997. This is the only comprehensive effort that we have seen, that we have come up with, or that we are aware of anyone coming up with, that will prevent students from dropping out of school and take this issue head on.

Let me outline the proposal very briefly. First, two basic points. The reasons that kids drop out of school cut across racial and ethnic lines. The solutions we are proposing are aimed at helping all at-risk students make it through high school. Second, the emphasis here is on preventing students from dropping out of school by reforming the schools that they are in rather than trying to help students later after they have made the decision to leave school.

But what I am proposing in this bill sets out to achieve four basic goals:

First, to focus greater national attention on the problem and to coordinate our Federal efforts to deal with the issue.

Second, to provide more resources to help communities to fight back at this problem.

Third, to enable school districts to try effective prevention strategies that have been shown to work.

Fourth, to enlist the States where most of the resources are and most of the policy is related to education in the effort to keep more kids in school.

The bill directs the President to appoint a "dropout czar" within the Department of Education who would coordinate efforts at the national level, would streamline programs, would recommend changes and, most importantly, could be held accountable for progress on dropout prevention. This czar would make sure that existing Federal programs such as the Upward Bound Program and vocational education do their level best to help at-risk kids to complete high school.

Second and third, this bill creates a new $100 million grant program to reach the 1,000 schools across the country with the highest dropout rates. With these funds, schools would be able to try proven strategies that have been shown to work—strategies like breaking larger schools down into smaller learning communities so that kids can have regular and closer contact with the adults in the school, particularly with their teachers, and can have challenging and relevant work to do.

Finally, because States are so much a part of our educational system, we would ask them to place a greater emphasis on dropout prevention as well. We have asked in this bill that instead of awarding education dollars based on how many students are enrolled in school 40 days into the year, as my State does and as many States do, the States change their laws so that they monitor enrollment levels throughout the school year. Because gathering accurate data is the first step toward fixing the problem, we also ask that States keep track of who is leaving school.

Let me show you a chart. This chart takes the 23 States that presently collect data on the number of students dropping out of school and it ranks them. It shows that, according to the statistics we have, as a percentage dropout rate, New Mexico —and this is on an annual basis—ranks third in the country. Each Senator can look at this list and determine very quickly, first, whether his or her State collects data on this subject and, second, where his or her State ranks in dealing with the problem.

In conclusion, Mr. President, let me just summarize what our bill does. It coordinates the Federal dropout prevention initiatives; it streamlines the unconnected and overlapping dropout prevention programs; it provides additional Federal resources for dropout prevention programs at the State level and local school district level; it targets and expands participation by at-risk students in the programs, and it calls on State and local agencies to coordinate and expand their own efforts.

Mr. President, this is a difficult problem. It is one that we are not going to solve by waving some magic wand. The effort will demand a concerted effort, a real commitment by State and local leaders, parents, educators and, of course, students. But if the issue is not placed on the national agenda and done so immediately, our chances of meeting this 90 percent graduation target any time in the near future will be greatly diminished. Clearly, it will be impossible to meet that by the year 2000. But, hopefully, we can meet it some time in the next decade if we get about the business of trying to do so.

This legislation is being introduced, Mr. President, with the hope that we can begin to educate others in the Congress about the seriousness of the problem, begin to educate others in the country about the seriousness of the problem. I hope we can get colleagues to cosponsor the legislation and that

we can move toward hearings on the bill some time in the Labor and Human Resources Committee early after we reconvene in the second session of this Congress.

By Mr. COCHRAN:

S. 1296. A bill to reform the laws relating to Postal Service finances, and for other purposes; to the Committee on Governmental Affairs.

THE POSTAL FINANCING REFORM ACT OF 1997

Mr. COCHRAN. Mr. President, today I am introducing the Postal Financing Reform Act of 1997. This bill gives the Postal Service the authority to deposit funds in private sector institutions, invest in the open market, and borrow from private credit markets.

The statutory restrictions of current law on postal finances, borrowing, and purchasing were designed for a Postal Service that required regular infusions of appropriated funds to maintain public service levels. For almost two decades now, the Postal Service has been a self-supporting system.

The maintenance of U.S. Treasury control over Postal Service banking, investing, and borrowing is no longer necessary or justified. Current law prevents the Service from obtaining the most favorable combination of prices and services and results in added operating costs of over $100,000,000 annually. Under this new approach, the Treasury Department would retain much of its current oversight, but it would no longer be the sole provider of certain financial services to the Postal Service. This bill makes the relationship between the Treasury and the Postal Service similar to the relationship other government sponsored enterprises such as Fannie Mae and Freddie Mac have with the Treasury.

The bill I am introducing includes four main sections—those being sections 2 through 5. Section 2 amends title 39 of the United States Code to authorize the Postal Service to deposit its revenues in the Postal Service Fund within the U.S. Treasury or any Federal Reserve banks or depositories for public funds. The requirement to obtain the Secretary of the Treasury's approval before any funds deposited elsewhere would be eliminated.

The third section terminates Treasury control of Postal Service investments. This will permit the Postal Service to invest any excess funds either in obligations of, or guaranteed by, the Government of the United States, or in such other obligations or securities as it deems advisable, provided that such investment is determined to be closely related to Postal Service operations by the Postal Board of Governors. By providing the Postal Service with an opportunity to invest in U.S. Government obligations or other obligations on its own accord without unnecessary constraints, this section of the bill would permit the Postal Service to take advantage of favorable market conditions, and give it the ability to make equity investments which fit its business strategies.

Section 4 removes the control of the Secretary of the Treasury over the Postal Service's financial borrowing decisions. The Postal Service would still be required to consult with the Secretary of the Treasury regarding the terms and conditions of the sale of any obligations issued by the Postal Service under section 2006(a) of title 39, and the Secretary would still exercise a power of approval over the timing of a sale of obligations, in much the same manner as the Treasury acts as a traffic cop with regard to the timing of obligations issued by other government-sponsored enterprises.

Finally, this bill removes the requirement of the Secretary of the Treasury to purchase up to $2 billion in obligations of the Postal Service. This section would still permit the Secretary of the Treasury to purchase Postal Service obligations, but only upon mutual agreement between the Secretary and the Postal Service. Removing this put on the Treasury would be consistent with the purpose of directing the Postal Service borrowing to the private sector where it would be able to take advantage of a broader market. This section would also make Treasury purchases of Postal Service obligations exempt from the various borrowing limits in title 39 of the United States Code thus enabling the Postal Service and the Treasury by mutual agreement to address an unforeseen emergency situation. Such exempt purchases would themselves be capped at $2.5 billion of outstanding obligations at any one time.

I invite Senators to consider this proposal for reform and support this effort to ensure a more efficient and financially sound U.S. Postal Service.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1296

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Postal Financing Reform Act of 1997".

SEC. 2. END OF TREASURY CONTROL OF POSTAL SERVICE BANKING.

(a) IN GENERAL.—Subsection (d) of section 2003 of title 39, United States Code, is amended to read as follows:

"(d) The Postal Service, in its sole discretion—

"(1) may provide that amounts which would otherwise be deposited in the revolving fund referred to in subsection (a) shall instead, to the extent considered appropriated by the Postal Service, be directly deposited in a Federal Reserve bank or a depository for public funds selected by the Postal Service; and

"(2) may provide for transfers of amounts under this subsection between or among—

"(A) Federal Reserve banks;

"(B) depositories for public funds; and

"(C) the revolving fund referred to in subsection (a).".

(b) SAVINGS PROVISION.—Until the authority under section 2003(d) of title 39, United States Code, as amended by subsection (a), becomes available, the provisions of such section 2003(d), as last in effect before being so amended, shall be treated as if still in effect.

(c) STATUS OF MONEYS UNCHANGED.—

(1) Any amounts invested under section 2003(c) of title 39, United States Code, as amended by this Act, shall be considered to be part of the Postal Service Fund, to the same extent as if such amounts had been invested under section 2003(c) of such title 39, as last in effect before the date of enactment of this Act.

(2) Any amounts deposited or transferred under section 2003(d) of title 39, United States Code, as amended by this Act, shall be considered to be part of the Postal Service Fund, to the same extent as if such amounts had been transferred under section 2003(d) of such title 39, as last in effect before the date of enactment of this Act.

SEC. 3. POSTAL SERVICE INVESTMENTS.

Section 2003(c) of title 39, United States Code, is amended by striking all after "it may" and inserting the following: "invest such amounts as it considers appropriate in—

"(1) obligations of, or obligations guaranteed by, the Government of the United States; and

"(2) such other obligations or securities as it deems appropriate, if such investment is closely related to Postal Service operations as determined by the Board of Governors.".

SEC. 4. ELIMINATION OF TREASURY PREEMPTION OF BORROWING BY THE POSTAL SERVICE.

Section 2006(a) of title 39, United States Code, is amended to read as follows:

"(a) Before selling any issue of obligations under section 2005 of this title, the Postal Service shall advise the Secretary of the Treasury of the amount, proposed date of sale, maturities, terms and conditions, and expected maximum rates or interest of the proposed issue in appropriate detail. The Postal Service shall consult with the Secretary of the Treasury, or the designee of the Secretary, under this subsection for a reasonable period of time as determined by the Postal Service. The sale and issue of obligations described under this subsection shall not be subject to approval by the Secretary of the Treasury.".

SEC. 5. ELIMINATION OF POSTAL SERVICE "PUT" ON TREASURY.

Section 2006(b) of title 39, United States Code, is amended to read as follows:

"(b)(1) Upon request of the Postal Service, the Secretary of the Treasury may purchase obligations of the Postal Service in such amount as the Secretary and the Postal Service, in their discretion, may agree.

"(2) The obligations purchased by the Secretary pursuant to paragraph (1) shall be exempt from the maximum amount limitations of section 2005(a), if—

"(A) the total outstanding amount of obligations exempt from section 2005(a) does not exceed $2,500,000 at any one time; and

"(B) the Secretary and the Postal Service jointly determine that such exemption is necessary to carry out the purposes of this chapter.".

SEC. 6. EFFECTIVE DATE.

The Act, and the amendments made by this Act, shall become effective 90 days after the date of enactment of this Act.

By Mr. SHELBY:

S. 1298. A bill to designate a Federal building located in Florence, Alabama, as the "Justice John McKinley Federal Building"; to the Committee on Environment and Public Works.

THE JUSTICE JOHN MCKINLEY FEDERAL BUILDING

Mr. SHELBY. Mr. President, I am pleased to rise today to introduce legislation to honor John McKinley. John McKinley was a statesman, an influential State legislator, one of the founding trustees of the University of Alabama, U.S. Senator, and the first U.S. Supreme Court Justice from the State of Alabama.

Born on May 1, 1780, in Culpepper County, VA, John McKinley began his career in Kentucky after learning the law on his own. In 1818, he moved to Alabama and shortly after his arrival, McKinley, along with Andrew Jackson and John Coffee, became a member of the Cypress Land Co. This company was the largest single purchaser of land in north Alabama in the land boom of 1818. In addition to pursuing his fortune, John McKinley almost immediately entered Alabama politics. In 1820, he was elected to the State legislature.

In 1826, McKinley was elected by the State legislature to the U.S. Senate where he served until 1831. In the Old Senate Chamber, just down the hall, he espoused a political theory that to many in Washington may seem quaint. He believed that the national government's sovereignty was limited solely to the powers granted by the Constitution unless expressly relinquished by the States. As chairman of the Committee on Public Lands, he promoted transferring Federal lands to the States for economic development. Defeated for a second term in the Senate, McKinley returned to the Alabama legislature.

In the legislature, McKinley gained considerable influence by denouncing the national bank and endorsing President Jackson s efforts to dismantle it. He also supported Martin Van Buren, Jackson's candidate for President in 1836. When the Jacksonian Democrats regained control of the State legislature, the new majority re-elected McKinley to the Senate. Shortly thereafter, as a reward for his loyalty to Jackson and endorsement of Van Buren, the newly elected President nominated McKinley for a seat on the Supreme Court. The Senate confirmed his nomination 1 week later on September 25, 1837, by voice vote.

Justice John McKinley was assigned to the ninth circuit, which encompassed Alabama, Arkansas, Louisiana, and Mississippi. While riding circuit in Mobile, AL, Justice McKinley heard the first of three cases collectively known as *Bank of Augusta* versus *Earle*. In this controversial decision, McKinley upheld an Alabama statute prohibiting out-of-State banks from making loans in Alabama. The case which was appealed to the Supreme Court was heard in 1839.

The Court overturned the McKinley decision, and only McKinley dissented. Chief Justice Roger Taney wrote the majority opinion which declared that there was a law of comity that applied among the States. Therefore, a bank had as much a legal right to offer interstate loans as they do in the charter State. In the lone dissent, however, McKinley made the interesting point that the Court's majority had applied the State sovereignty doctrine in the extreme and that the States ceased to be nations when they ratified the Constitution.

His most significant contribution to the Court was writing the majority opinion in *Pollard's Lesse* versus *Hagan* (1845). This opinion declared that the Federal Government held public lands in trust until a territory became a State. At the time a territory entered the Union, the public land was rightfully State property. This decision provided a legal basis for opening public lands and for furthering economic development.

In addition to Pollard, Justice McKinley wrote nine other opinions in 1845, his most prolific year on the Court. After 1845, his work became sporadic due to general poor health. He attended, however, the Court's sessions as regularly as possible and contributed as best he could. John McKinley remained a member of the Court until his death in the spring of 1852.

There is no Federal building to honor Justice McKinley, and the legislation that I am introducing will correct this oversight. The bill designates the Federal courthouse and U.S. Post Office complex in Florence, AL as the "Justice John McKinley Federal Building." The legislation has received the endorsement of the following: Mayor Frost and the Florence City Council, the Lauderdale County Commission, Tennessee Valley Historical Society, Florence Historical Board, Heritage Preservation, Inc., the Alabama State Bar Association, the Lauderdale County Bar Association, and the McKinley Young Lawyers of the Shoals.

I urge my colleagues to support this legislation and pay tribute to this Alabama statesman.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 263

At the request of Mr. MCCONNELL, the names of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Rhode Island [Mr. REED] were added as cosponsors of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 375

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 412

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 567

At the request of Mr. SMITH, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 567, a bill to permit revocation by members of the clergy of their exemption from Social Security coverage.

S. 813

At the request of Mr. THURMOND, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 813, a bill to amend chapter 91 of title 18, United States Code, to provide criminal penalties for theft and willful vandalism at national cemeteries.

S. 852

At the request of Mr. LOTT, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 995

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island [Mr. REED] was added as a cosponsor of S. 995, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1096

At the request of Mr. CAMPBELL, his name was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1129

At the request of Mr. WELLSTONE, the name of the Senator from California

[Mrs. BOXER] was added as a cosponsor of S. 1129, a bill to provide grants to States for supervised visitation centers.

S. 1135

At the request of Mr. MCCONNELL, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 1135, a bill to provide certain immunities from civil liability for trade and professional associations, and for other purposes.

S. 1189

At the request of Mr. SMITH, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 1189, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 1194

At the request of Mr. KYL, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of Medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the Medicare Program.

S. 1195

At the request of Mr. CHAFEE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1195, a bill to promote the adoption of children in foster care, and for other purposes.

S. 1215

At the request of Mr. ASHCROFT, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1215, a bill to prohibit spending Federal education funds on national testing.

S. 1222

At the request of Mr. CHAFEE, the names of the Senator from Mississippi [Mr. LOTT], the Senator from New Hampshire [Mr. GREGG], the Senator from Hawaii [Mr. AKAKA], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 1222, a bill to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes.

S. 1256

At the request of Mr. HATCH, the names of the Senator from Virginia [Mr. WARNER], the Senator from Texas [Mrs. HUTCHISON] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1256, a bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other Government officials, or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions in which no State law claim is alleged; to permit certification of unsettled State law questions that are essential to Federal claims arising under the Constitution; to allow for efficient adjudication of constitutional claims brought by injured parties in the U.S. district courts and the Court of Federal Claims; to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution; and for other purposes.

S. 1285

At the request of Mr. MACK, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1285, a bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals.

SENATE CONCURRENT RESOLUTION 48

At the request of Mr. KYL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Concurrent Resolution 48, a concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran.

SENATE RESOLUTION 116

At the request of Mr. LEVIN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Resolution 116, a resolution designating November 15, 1997, and November 15, 1998, as "America Recycles Day."

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Tuesday, October 21, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is S. 1124, Workplace Religious Freedom Act. For further information, please call the committee, 202 / 224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a executive session of the Senate Committee on Labor and Human Resources will be held on Wednesday, October 22, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The following are on the agenda to be considered: S. 1294, Emergency Student Loan Consolidation Act of 1997; S. 1237, Safety Advancement for Employees Act of 1997; and Presidential nominations.

For further information, please call the committee, 202 / 224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, October 23, 1997, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is S. 869, Employment Non-Discrimination Act of 1997. For further information, please call the committee, 202 / 224–5375.

COMMITTEE ON ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that an addition has been made to the hearing scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources on Thursday, October 23, 1997, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

In addition to its consideration of S. 633, the subcommittee will also receive testimony on S. 1132, a bill to modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies to their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Subcommittee on Public Health and Safety, Senate Committee on Labor and Human Resources will be held on Monday, October 27, 1997, 2 p.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is "Youth and Tobacco: Breaking the Cycle." For further information, please call the committee, 202 / 224–5375.

ADDITIONAL STATEMENTS

UPON DAVE WRIGHT'S RETIREMENT FROM WSCQ, "SUNNY 100" RADIO

• Mr. HOLLINGS. Mr. President, it is my pleasure to thank Dave Wright for

his many years of service to the listeners of Columbia, South Carolina's "Sunny 100" radio and to congratulate him on a job well done. His tenure of nearly 40 years is a tribute to his tenacity, acumen, and energy. His dedication to his craft is an inspiration to aspiring broadcasters everywhere.

Dave Wright's friends and colleagues will agree with me that his retirement is a bittersweet occasion. We wish him the best as he embarks on a new chapter in his life, yet we do not want to see him leave the airwaves. I always have considered Dave Wright to be the voice of Columbia and shall miss hearing him during my travels through the city. With Gene McKay and Bill Benton, he combined local news reporting with humor, music, and listener interaction to make the "Good Morning Columbia" radio show one of the best in the Southeast.

Over the span of five decades, Dave Wright has provided the people of Columbia with humorous commentary on community news. It is no secret why they look forward to tuning in to Sunny 100 in the morning. Of course, his long record of service extends beyond Columbia; we all are proud of his service in the Air Force during the Korean war.

Fortunately for us, Dave Wright is not completely retiring from the news business. South Carolinians look forward to his future coverage of golf tournaments around the country, as they have since 1962. And we all are hoping to see him devote more time to one of his greatest loves: stand-up comedy.

Today I join the people of Columbia in thanking Dave Wright for brightening our lives and our airwaves for almost 40 years.•

TRIBUTE TO RYE, NEW HAMPSHIRE

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate the Town of Rye, NH, for receiving the 1997 Walter B. Jones Memorial and National Oceanic Atmospheric Administration Excellence Awards for Coastal and Ocean Resource Management. The town of Rye received the awards for the category of excellence in local government, which recognizes local communities that show exemplary leadership, innovation and accomplishment in coastal resource protection and management.

Due to the gradual cut-off from the daily tidal water around the town of Rye, a number of wildlife habitats and marsh lands have steadily decreased. By thier own initative, The town of Rye's Conservation Commission took immediate action and undertook an innovate project to restore a majority of its historic salt marsh areas.

Since 1993, Rye has undertaken numerous salt marsh restoration projects and is well on its way to restoring the majority of its historic slat marsh areas. Rye has also worked cooperatively with U.S. Fish and Wildlife, splitting costs with the town to replace culverts and restore the tidal flow to approximately 18 acres of salt marsh.

To date, the town of Rye has jointly funded four restoration projects affecting 240 acres of salt marsh. Utilizing such agencies as the U.S. Fish and Wildlife, the Environmental Protection Agency, the New Hampshire Estuaries Project, as well as private businesses, the town of Rye continues to improve and enhance the salt marsh areas.

Mr. President, as a member of the Environmental Public Works Committee, I am very concerned with every aspect of our environment. The salt marshes in Rye, NH, are a very important part to the overall habitat of the area and I am very pleased to know many other citizens of the Granite State share my concerns for the environment. But more importantly, I commend the action taken by the town of Rye for making the necessary changes to improve the salt marshes. It is this type of initiative that exemplifies how local government and its citizens can better and more efficiently manage their environment than the Federal Government. The town of Rye has shown dedication and is a model as well as inspiration to other towns in New Hampshire and the country. Congratulations and appreciation are in order to the many people who have selfishly worked to save the historic salt marshes. No town is more deserving to receive the Excellence in Local Government Award than Rye, NH.•

A POSITIVE EFFORT

• Mr. MOYNIHAN. Mr. President, on Sunday, October 5, I had the good fortune to speak at the Dedication of the new Jerome and Dawn Greene Medical Arts Pavilion at Montefiore Hospital in the Bronx. I speak of good fortune not because I was able to offer some remarks at the dedication of the splendid new pavilion, but because I was able to hear, Dr. Domenick P. Purpura, dean of the Albert Einstein College of Medicine, remind us all of the lasting significance of the American academic medical center.

With eloquence, humor and a New Yorker's flair, Dr. Purpura reaffirmed my belief that our core values demand our dedication to, and will provide for the future of, academic medical centers. He stated from the outset:

We are here . . . to dispel the septic rumor oozing from some health policy think tanks to the effect that academic medical centers such as ours are dinosaurs doomed to extinction by the impact of the asteroid of managed care. Look skyward! On this day of noble purpose the sun shines brightly. No ashen clouds obscure the values that have made American medicine a crowning achievement of Western Civilization. And what are these core values? Simply stated: Faith in evidence-based medicine and trust that our superbly trained physicians will translate the basic science of medicine into the art and science of patient care. These values constitute the concrete foundation upon which the three pillars of our academic medical center rests so securely.

As the good Doctor said, these hospitals are not doomed to extinction by managed care, but rather destined for continued success due to our faith, and their proven achievement, thus far.

Thirty-two years ago, in the first article of the first issue of the Public Interest, I published some observations on the "Professionalization of Reform." The essay began with a passage from Wesley C. Mitchell, who had been for near quarter a century (1920–45) director of research at the National Bureau of Economic Research, then based at Columbia University.

Our best hope for the future lies in the extension to social organization of the methods that we already employ in our most progressive fields of effort. In science and in industry . . . we cannot wait for catastrophe to force new ways upon us . . . We rely, and with success, upon quantitative analysis to point the way; and we advance because we are constantly improving and applying such analysis.

In the proven field of medicine, the burden of improving and applying analytical methods falls on the academic medical center. Indeed, we cannot forget their influence on the state of medicine today—what Dr. Purpura called, the crowning achievement of western civilization.

Dr. Purpora reformulated Albert Einstein's $e=mc^2$ to be "e, excellence [of the medical center] to be equal to m, motivation times c, commitment . . . and the square be the multiple rather than the addition of our joint commitment to excellence in patient care." Catastrophe will occur not because of "the asteroid of managed care," but rather due to a decline in either the motivation of Doctors like Dominick Purpura or society's commitment to institutions like the Albert Einstein College of Medicine.

I ask that the full text of Dr. Dominick P. Purpura's dedicatory remarks be printed in the RECORD.

The remarks follow:

JEROME AND DAWN GREENE MEDICAL ARTS PAVILION

(By Dominick P. Purpura, M.D.)

We are gathered here for several reasons. Most importantly to bear witness to the felicitous marriage of high-spirited philanthropy and good works, now consummated in this the Jerome and Dawn Greene Medical Arts Pavilion. We are here for another purpose as well. To dispel the septic rumor oozing from some health policy think tanks to the effect that academic medical centers such as ours are dinosaurs doomed to extinction by the impact of the asteroid of managed care. Look skyward! On this day of noble purpose the sun shines brightly. No ashen clouds obscure the values that have made American medicine a crowning achievement of Western Civilization. And

what are these core values? Simply stated: Faith in evidence-based medicine and trust that our superbly trained physicians will translate the basic science of medicine into the art and science of patient care. These values constitute the concrete foundation upon which the three pillars of our academic medical center rests so securely. One pillar is this great medical center committed to superb patient care; the second is the Albert Einstein College of medicine, dedicated to excellence in education and biomedical research. The third pillar is this community whose loyalty and support ensure our continuing vitality. I submit that neither the temblors of the healthquake nor the asteroid of managed care can shake or threaten the foundation of our AMC. Dinosaurs are we? Let us not forget that dinosaurs, as every child knows, dominated this planet for nearly 300 million years.

Besides who would have thought that the most vulnerable to extinction by the impact of managed care might be the giant insurance companies themselves? Asteroid impact sites are difficult to predict. For us, in this holy week of contemplation let us be comforted in the knowledge that good deeds and good works still have currency as effective challenges to potential economic catastrophes. Our species, Homo sapiens, is not only man of wisdom who makes tools; he is also man who plans and builds for the future. How we rejoice when on occasion a man arises from our species who redeems the time with a vision of what will be and has the courage and motivation to pursue it to its realization. Mr. Greene, I salute your uncommon wisdom in selecting parents who gave you good genes and taught the boy to be the mensch he is today. Yours and Mrs. Greene's benefaction strengthens the ties that bind the College of medicine and the Montefiore Medical Center by helping to provide a state-of-the-art medical arts pavilion for the faculty we share in common cause.

On behalf of the President of Yeshiva University and the Board of Overseers of the Albert Einstein College of Medicine, I congratulate the President and Trustees of the Montefiore Medical Center and especially Jerry and Dawn Greene for proving that our Academic Medical Center is not only alive and well but that the Sun will continue to shine upon us until it exhausts its thermonuclear energy. But not to worry since that is not likely to happen for another 3 billion years.

I conclude on a personal note of reinterpretation of Albert Einstein's most famous special relativity equation $E=mc^2$, the equivalence of mass and energy. Let us consider the E to be Excellence equal to m, motivation times c, commitment. Excellence=motivation × commitment. And let the square be the multiple rather than the addition of our joint commitment to excellence in patient care. Albert Einstein was troubled for the remainder of his life by the use to which his relativity equation was, of necessity, put in producing nuclear weapons of mass destruction in what became the Manhattan project. How pleased he might be to learn today that our interpretation of $e=mc^2$ defines the excellence of our academic medical center as the product of our collective motivation and commitment to the health of the community we serve, not a Manhattan project, but a Bronx project.•

TRIBUTE TO EDWARD VILLELLA, MIAMI CITY BALLET

• Mr. GRAHAM. Mr. President, I rise today to commend the meritorious efforts of Edward Villella, founder of the Miami City Ballet, in the global dance community.

Mr. Villella's interest in dance began when he joined the School of American Ballet, where he now serves on the board of directors, at the age of 10.

Early in his career, Edward Villella was the first American male to perform with the Royal Danish Ballet and was the only American asked to dance an encore at the Bolshoi Theater in Moscow.

Villella has honored America with his contributions to dance and his dedication to teaching dance to others. He danced for President John Kennedy's inaugural and in 1975 captured an Emmy for his television production of "Harlequin."

Recently, he was 1 of the 11 recipients of the National Medal of Arts and was inducted into the Florida Artists Hall of Fame this year, the most prestigious cultural honor that can be bestowed upon an individual in Florida.

Edward Villella has honored his State by being awarded a distinguished Kennedy Center Honor for lifetime achievement.

Mr. President, on behalf of Floridians everywhere, I applaud Edward Villella for his success. It is my earnest hope that his outstanding contributions to our State will continue to inspire us for years to come.•

WORLD FOOD DAY AND THE UNITED NATIONS WORLD FOOD PROGRAMME

• Mr. DURBIN. Mr. President, to mark the celebration of World Food Day on October 16, I rise today to recognize the work of the United Nations' World Food Programme. The U.N.'s World Food Program is the largest international food aid organization in the world. Last year alone it fed over 45.3 million people in 84 countries, transporting 2.2 million tons of food by ship, canoe, river barge, on the backs of donkeys and elephants, and by parachute drop in remote areas.

The World Food Programme distributes food at hospitals, clinics, and schools to fight malnutrition, which kills 11,000 children under the age of 5 every day and stunts the physical growth and intellectual development of those it does not kill.

When disaster strikes, the World Food Programme is there. When severe droughts threatened North Korea and Southern Africa, the World Food Programme helped prevent famine by feeding millions of people, especially children. The World Food Programme has also provided food to ensure the stability of the peace process in Mozambique and to assist refugees when war hit the Caucasus.

The World Food Programme helps people escape the poverty trap by promoting economic self-reliance. In exchange for food, workers repair dykes in Vietnam, install irrigation systems in India, replant forests in Ethiopia, and construct mountainside terraces in Peru which prevent topsoil erosion.

As an essential element of its strategy of combating hunger, the World Food Programme encourages the empowerment of women. In places like rural Pakistan, the World Food Programme promotes female literacy by giving vegetable oil to parents who send their daughters to school.

In war-torn countries like Afghanistan, Guatemala, Cambodia, Mozambique, Angola, and Bosnia, the World Food Programme trains local people to carry out demining operations which clear roads and land, allowing the delivery and production of food and the safe return of refugees.

Americans can take special pride in the accomplishments of the World Food Programme. Not only is the United States the program's single biggest donor, it also played a central role in its creation, when President Kennedy committed the resources and leadership necessary to make it a reality in 1963.

I urge you, my fellow colleagues, and all my fellow Americans to support the work of the World Food Programme.•

TRIBUTE TO JUDGE ADDELIAR "DEL" GUY

• Mr. REID. Mr. President, I rise today to pay tribute to an outstanding Nevadan, my friend, the late Judge Addeliar "Del" Guy III, who died last year. This extraordinary individual will receive a permanent honor in my State on February 5, 1998. A local school, to be named the Addeliar Guy Middle School, will serve as a lasting tribute to this remarkable man.

In addition to serving as Nevada's first African-American judge, Addeliar Guy's legacy includes his role as a devoted husband, father and grandfather, decorated soldier, concerned citizen, community leader, talented litigator, and until his retirement, as an elected judge for the Eighth District Court of Clark County, where he served for 20 years.

Judge Guy served in the Coast Guard in World War II, followed by active duty in the United States Army through the Korean war. While in the Army, Del had the chance to act as counsel for one of his fellow sergeants, sparking his interest in the exercise of justice. He later continued his military service in the Illinois and Nevada National Guard and the U.S. Army Reserve.

His extraordinary display of American patriotism has earned him another prominent memorial in our State. On July 2, my colleagues and I in the Nevada congressional delegation presided over the dedication of the new Las Vegas Ambulatory Care Center for

Veterans, which was named in his honor. The judge's many military credentials include the Purple Heart, Meritorious Award Medal, Korean Service Medal with two battle stars, and a Combat Infantryman's Badge.

Upon leaving the Army, Del looked for work in the private sector, and although he had a wide range of aspirations and his experience as an officer qualified him for many professional jobs, those opportunities were closed off to him because of race. Fortunately for Nevada, he decided to dedicate his life to the law and received his law degree from Chicago's Loyola University in 1957, where in his second year, he set his sights on achieving what would seem to many an impossible goal, earning a judgeship.

Although he once said that he would never leave Chicago, after attending a Young Democrats meeting in Las Vegas, he was persuaded to join the District Attorney's Office when he was denied a judgeship he was expecting in Illinois. Addeliar Guy became the first African-American licensed to practice law in my State, and, in 1967, was officially admitted to the Nevada bar. In his two decades on the State bench, he served as Alternate Justice of the Supreme Court and in 1975 was appointed by then Governor O'Callaghan to the newly created Eighth Judicial District.

He truly believed in the law. I counted on Judge Guy's trademark intelligence and honesty, as well as his ability to astutely assess the character and behavior of others. These qualities were invaluable as he assisted me in selecting young Nevadans as nominees for our Nation's military academies.

Much of my admiration for Judge Guy stems from his continued enduring commitment to people of the Silver State. Judge Guy's values are reflected not only in the way he lived his life, but in the many organizations he belonged to and served. Until his passing, he worked every day as a citizen-soldier, contributing to groups like the NAACP, the Bar Association, my Academy Board and local youth agencies. Judge Guy also served as a motivating force for Nevada's kids, promoting education through the A.D. Guy Scholarship Fund and the Nevada Spirit of Art Contest.

The Honorable Addeliar Guy's lifetime of achievement is truly an inspiration, and he serves as an incredible role model for judicial and legal acumen. I am confident that Nevadans will remember Judge Guy for his distinguished career, and I hope that the children passing through his namesake will be inspired by his phenomenal record of accomplishment and lifelong service to the State of Nevada.•

ORDERS FOR TUESDAY, OCTOBER 21, 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 noon on Tuesday, October 21. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate immediately proceed to a period of morning business until 12:30 p.m., with Senators permitted to speak for up to 5 minutes each with the following exceptions: Senator HUTCHINSON, 10 minutes; Senator LIEBERMAN, 20 minutes; and Senator BOND, 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I also ask unanimous consent that from the hour of 12:30 p.m. until 2:15 p.m., the Senate stand in recess for the weekly policy luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CHAFEE. Therefore, tomorrow the Senate will be in a period of morning business until 12:30 p.m., From 12:30 p.m. to 2:15 p.m., the Senate will recess for the weekly policy luncheons to meet. When the Senate reconvenes at 2:15 p.m., the Senate will resume consideration of the ISTEA legislation. As the managers of the bill indicated earlier today, Members are encouraged to make opening statements and discuss possible amendments to the legislation during tomorrow's session of the Senate. In addition, the Senate may turn to any appropriations conference reports that become available. Rollcall votes are, therefore, possible throughout the day.

ADJOURNMENT UNTIL TOMORROW

Mr. CHAFEE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:06 p.m., adjourned until Tuesday, October 21, 1997, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 20, 1997:

THE JUDICIARY

KERMIT LIPEZ, OF MAINE, TO BE U.S. CIRCUIT JUDGE FOR THE FIRST CIRCUIT, VICE CONRAD K. CYR, RETIRED.

A. HOWARD MATZ, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE HARRY L. HUPP, RETIRED.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE U.S. OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. PAUL A. WEAVER, JR., [redacted]

To be brigadier general

COL. CRAIG R. MCKINLEY, [redacted]
COL. KENNETH J. STROMQUIST, JR., [redacted]
COL. JAY W. VAN PELT, [redacted]

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE U.S. OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. GLETCHER C. COKER, JR., [redacted]

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATS CODE, SECTION 624:

To be rear admiral

REAR ADM. (LH) LOWELL E. JACOBY, [redacted]

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE U.S. AIR FORCE UNDER TITLE 10, SECTION 2114:

To be captain

SHARE DAWN P. ANGEL, [redacted]
MARK A. ANTONACCI, [redacted]
ADRIENNE W. ASKEW, [redacted]
EZELL ASKEW, JR., [redacted]
CAROLYN V. AUBURN, [redacted]
KERRI L. BADEN, [redacted]
MICHAEL C. BARROWS, [redacted]
ROBERT R. BATES, JR., [redacted]
GREGORY H. BEAN, [redacted]
BRIANA C. BEREZOVYTCH, [redacted]
DARREN E. CAMPBELL, [redacted]
THOMAS J. CANTILINA, [redacted]
MICHAEL C. CASCIELLO, [redacted]
PATRICK J. DANAHER, [redacted]
DANIEL H. DUFFY, [redacted]
CASEY E. DUNCAN, [redacted]
SHANNON D. EMRY, [redacted]
RONALD W. ENGLAND, [redacted]
CHERYL L. FOLSON, [redacted]
JUAN GARZA, [redacted]
MARY L. GUYE, [redacted]
MICHAEL J. HIGGINS, [redacted]
SUSAN L. HILL, [redacted]
DAVID C. INVES, [redacted]
JON M. JOHNSON, [redacted]
JOSEPH C. JOHNSONWALL, [redacted]
BRENT P. LEEDLE, [redacted]
MARK D. LOCKETT, [redacted]
MIKELLE A. MADDOX, [redacted]
CHARLES D. MOTSINGER, [redacted]
ANDREW J. MYRTUE, [redacted]
MARK A. NASSIR, [redacted]
CHRISTINE A. NEFCY, [redacted]
ANDREW O. OBAMWONYI, [redacted]
TANDY G. OLSEN, [redacted]
ANH T. PHAM, [redacted]
CHARLES D. REILLY, [redacted]
ERIC M. RITTER, [redacted]
RECHELL G. RODRIGUEZ, [redacted]
KAREN A. RYAN, [redacted]
MARK W. SANKEY, [redacted]
SUSAN A. SCHOONMAKER, [redacted]
DALE M. SELBY, [redacted]
MARK A. SELDES, [redacted]
ANTHONY P. TVARYANAS, [redacted]
LYNN G. VIX, [redacted]
NICOLE C. WATTENDORF, [redacted]
LINDY W. WINTER, [redacted]
DUSTIN ZIEROLD, [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be colonel

DEBRA L. BOUDREAU, [redacted]
ILA C. BRIDGES, [redacted]
HOWARD G. COOLEY, [redacted]
ALFRED L. FAUSTINO, [redacted]
JAMES P. GERSTENLAUER, [redacted]
MARK S. GRAHAM, [redacted]
STEWART C. HUDSON, [redacted]
ROBERT S. JOHNSON, JR., [redacted]
PATRICK W. LISOWSKI, [redacted]
JOHN L. LONG, [redacted]
CHRISTOPHER M. MAHER, [redacted]
DAVID L. POINTER, [redacted]
JAMES P. POTTORFF, JR., [redacted]
SAMUEL J. RPB, [redacted]
DAN TRIMBLE, [redacted]
CARL M. WAGNER, [redacted]

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

To be lieutenant colonel

LELON W. CARROLL, [redacted]
ROBERT K. KNIGHT, [redacted]
HOWARD W. WELLSPRING, II, [redacted]

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. NAVAL RESERVE UNDER TITLE 10, UNITED STATES CODE, SECTION 12203.

To be captain

ARVIN W. JOHNSEN, [redacted]

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be captain

WILLIAM L. RICHARDS, [redacted]
DAVID A. HAWKINS, [redacted]

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 618 AND 628:

To be commander

JAMES R. PIPKIN, [redacted]

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 21, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 22

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR–253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Environment and Public Works
Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee
To hold hearings on S. 1084, to establish a research and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act.
SD–406

Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine the situation in Afghanistan.
SD–419

Labor and Human Resources
Business meeting, to consider S. 1294, to allow for the consolidation of student loans under the Federal Family Loan Program and the Direct Loan Program, S. 1237, to further improve the safety and health of working environments, and pending nominations.
SD–430

Small Business
To hold hearings to examine small business and fundamental tax law reform issues.
SR–428A

10:00 a.m.
Appropriations
To continue hearings to examine the costs of enlarging NATO membership to include Poland, Hungary, and the Czech Republic.
SD–192

Banking, Housing, and Urban Affairs
Financial Services and Technology Subcommittee
To hold hearings to examine Year 2000 liability and disclosure issues.
SD–538

Governmental Affairs
To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Judiciary
To hold hearings on the nomination of Bill Lann Lee, of California, to be Assistant Attorney General, Department of Justice.
SD–226

2:00 p.m.
Foreign Relations
To resume hearings on certain issues with regard to the proposal to grant NATO membership to Poland, Hungary, and the Czech Republic, focusing on their qualifications.
SD–419

Judiciary
Youth Violence Subcommittee
To hold hearings to examine Federal efforts to prevent juvenile crime.
SD–226

2:30 p.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

OCTOBER 23

9:00 a.m.
Environment and Public Works
To hold hearings to examine the Army Corps of Engineers flood control project at Devils Lake, North Dakota.
SD–406

Indian Affairs
Business meeting, to consider pending calendar business.
SR–485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 943 and H.R. 2005, bills to revise Federal aviation law to declare that nothing in such law or in the Death on the High Seas Act shall affect any remedy existing at common law or under State law with respect to any injury or death arising out of any aviation incident occurring on or after January 1, 1995.
SR–253

10:00 a.m.
Appropriations
To continue hearings to examine the costs of enlarging NATO membership to include Poland, Hungary, and the Czech Republic.
SD–192

Armed Services
To hold hearings on the nominations of Lt. Gen. Peter J. Schoomaker, USA, to be Commander-in-Chief, United States Special Operations Command and for appointment to the grade of general, and Lt. Gen. John A. Gordon, USAF, to be Deputy Director of Central Intelligence and for appointment to the grade of general.
SR–222

Banking, Housing, and Urban Affairs
To hold hearings on S. 318, to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and S. 1228, to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States.
SD–538

Budget
To hold hearings to examine public pension programs in Europe.
SD–608

Energy and Natural Resources
To hold oversight hearings on the issue of peaceful nuclear cooperation with China.
SD–366

Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Judiciary
Business meeting, to consider pending calendar business.
SD–226

Labor and Human Resources
To hold hearings on S. 869, to prohibit employment discrimination on the basis of sexual orientation.
SD–430

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 633, to adjust the boundary of the Petroglyph National Monument, and S. 1132, to modify the boundaries of the Bandelier National Monument.
SD–366

Foreign Relations
To hold hearings on the nominations of Daniel Fried, of the District of Columbia, to be Ambassador to the Republic of Poland, Peter Francis Tufo, of New York, to be Ambassador to the Republic of Hungary, Alexander R. Vershbow, of the District of Columbia, to be United States Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador, Thomas J. Miller, of Virginia, for the rank of Ambassador during his tenure of service as Special Coordinator for Cyprus, David Timothy Johnson, of Georgia, for the rank of Ambassador during his tenure of service as Head of the United States

Delegation to the organization for Security and Cooperation in Europe, and Kathryn Walt Hall, of Texas, to be Ambassador to the Republic of Austria.
S–116, Capitol

Foreign Relations
International Economic Policy, Export and Trade Promotion Subcommittee
To hold hearings to examine United States economic and strategic interests in the Caspian Sea region.
SD–419

4:15 p.m.
Armed Services
Business meeting, to consider pending nominations.
SR–222

OCTOBER 24

9:00 a.m.
Foreign Relations
To hold hearings on the nominations of Carolyn Curiel, of Indiana, to be Ambassador to Belize, and Victor Marrero, of New York, to be an Alternate Representative of the United States to the 51st Session of the General Assembly of the United Nations.
SD–419

10:00 a.m.
Governmental Affairs
To hold hearings on H.R. 1953, to clarify State authority to tax compensation paid to certain employees.
SD–342

OCTOBER 27

10:00 a.m.
Indian Affairs
To hold oversight hearings on the contemporary status of the Bureau of Indian Affairs of the Department of the Interior.
SR–485

2:00 p.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine the safety and reliability of the nuclear stockpile.
SD–342

Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to examine proposals to deter youth from using tobacco products.
SD–430

OCTOBER 28

10:00 a.m.
Governmental Affairs
To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Labor and Human Resources
To resume hearings to examine an Administration study on the confidentiality of medical information and recommendations on ways to protect the privacy of individually identifiable information and to establish strong penalties for those who disclose such information.
SD–430

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings to examine the potential impacts on, and additional responsibilities for, federal land managers imposed by the Environmental Protection Agency's Notice of Proposed Rulemaking on regional haze regulations implementing Section 169A and 169B of the Clean Air Act.
SD–366

2:30 p.m.
Select on Intelligence
To hold hearings on proposed legislation with regard to intelligence disclosure to Congress.
SD–106

OCTOBER 29

9:30 a.m.
Indian Affairs
To hold hearings on S. 1077, to amend the Indian Gaming Regulatory Act.
SD–106

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Joint Economic
To hold hearings to examine the role of monetary policy in a healthy economic expansion.
SD–138

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 638, to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the monument.
SD–366

OCTOBER 30

9:30 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal land in accordance with the principles of multiple use and sustained yield.
SD–366

Indian Affairs
To hold hearings on the nomination of Kevin Gover, of New Mexico, to be Assistant Secretary of the Interior for Indian Affairs.
SR–485

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Labor and Human Resources
To hold hearings to examine recent developments and current issues in HIV/AIDS.
SD–430

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to review the Federal Energy Regulatory Commission's hydroelectric relicensing procedures.
SD–366

NOVEMBER 3

10:00 a.m.
Indian Affairs
To hold hearings on provisions of H.R. 1604, to provide for the division, use, and distribution of judgement funds of the Ottawa and Chippewa Indians of Michigan.
SR–485

NOVEMBER 5

2:00 p.m.
Judiciary
Technology, Terrorism, and Government Information Subcommittee
To hold hearings to examine the report of the President's Commission on Critical Infrastructure Protection.
SD–226

NOVEMBER 6

12:00 p.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the social impact of music violence.
SD–342

CANCELLATIONS

OCTOBER 29

9:30 a.m.
Indian Affairs
To resume oversight hearings on proposals to reform the management of Indian trust funds.
Room to be announced

NOVEMBER 5

9:30 a.m.
Indian Affairs
To hold oversight hearings on proposals to extend compacting to agencies of the Department of Health and Human Services.
SR–485

SENATE—*Tuesday, October 21, 1997*

The Senate met at 12 noon, and was called to order by the Honorable JEFF SESSIONS, a Senator from the State of Alabama.

PRAYER

The Honorable JEFF SESSIONS offered the following prayer:

Almighty God, we praise You for the constancy and consistency of Your faithfulness in blessing and guiding the Senate of the United States through the years of our Nation's history. We turn to You today again to know that You will be faithful, to give the women and men of this Senate exactly what is needed in each hour, each challenge, each decision. Give us light when our vision is dim, courage when we need to be bold, decisiveness when it would be easy to equivocate, and hope when others are tempted to be discouraged.

So we commit ourselves to be Your faithful servants, examples of patriotism to our people and crusaders of the best for our Nation. In Your holy name. Amen.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 21, 1997.

To the Senate:

Under the provisions of rule 1, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF SESSIONS, a Senator from the State of Alabama, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. SESSIONS thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

SCHEDULE

Mr. HUTCHINSON. Mr. President, on behalf of the majority leader, today the Senate will be in a period of morning business until 12:30 p.m. The Senate will recess from 12:30 p.m. to 2:15 p.m. We will be recessed for the weekly policy luncheons.

When the Senate reconvenes at 2:15 p.m., the Senate will resume consideration of S. 1173, the ISTEA reauthorization bill. Members are encouraged to participate in debating this important legislation during today's session. In addition, the Senate may turn to any appropriations conference reports that become available. Therefore, rollcall votes are expected throughout today's session.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Arkansas [Mr. HUTCHINSON] is recognized to speak for up to 10 minutes.

Mr. HUTCHINSON. I thank the Chair.

(The remarks of Mr. HUTCHINSON pertaining to the introduction of S. 1299 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HUTCHINSON. I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

TRIBUTE TO THE LATE REVEREND DR. ABRAHAM AKAKA, PASTOR EMERITUS, KAWAIAHAO CHURCH

Mr. AKAKA. Mr. President, I rise today to honor the memory of the Reverend Dr. Abraham Akaka, my brother Abe, who passed away last month. Brother Abe, as our family knew him, was "kahu," meaning shepherd in Hawaiian, to people of faith in Hawaii. For 28 years, he was pastor of Kawaiahao Church, the Westminster Abbey of the Pacific, Christianity's mother church in Hawaii. A true man of God, he dedicated his life to serving our church and its congregation, while attending to the spiritual needs of our people and communities across our State, and Nation. In a life marked by numerous achievements, honors, awards, and titles, the appellation "kahu" best describes Brother Abe.

He was also a beloved husband and wonderful father to his five children, aided in his ministry by his wife Mary Lou Jeffrey Akaka. He was a source of comfort and inspiration, a bulwark of strength, and font of love for our family, and will be sorely missed.

Mr. President, I ask that a tribute I offered at my brother's memorial service at Kawaiahoa Church be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF TRIBUTE BY SENATOR DANIEL K. AKAKA AT THE FUNERAL SERVICE OF THE REVEREND DR. ABRAHAM KAHIKINA AKAKA, KAWAIAHAO CHURCH, SATURDAY, SEPTEMBER 20, 1997

Aloha ke Akua!

Mama Kahu, Mary Lou, Fenner, Pua, Sally, Sandy, Jeff—the family of Abraham Akaka. Spiritual, Community, Governmental, Business Leaders of Hawai'i, our sister States and the World; and friends, all who were personally touched by the ministry of this Man of God, Rev. Dr. Abraham Kahikina Akaka.

Aloha! I rise on behalf of my family, the descendants of Simeon, Pulu and Kahikina Akaka to give honor and pay tribute to brother Abe. He was truly a distinguished human being who believed deeply in God, our Lord Jesus Christ and the "pono" (making things right) as the destiny for mankind—those with needs on every level of human existence. He was the Kahu, the Shepherd to all people.

Words and time do not permit me to tell you of his untold accomplishments. Brother was a mortal being like you and me and was gifted with many Blessings from the Lord that determined his life and mission. He was a channel to all for God's love. He was in the right place at the proper time and had a manner that brought about positive changes to personal lives and our diversified communities. He was constantly working to prescribe understandable goals, even through metaphors, that we might be guided to assuring a productive, useful and positive future for all rather than a future of futility and obsolescence. He held high hopes for the people of Hawai'i, the people of our country and the people of our world.

As you know, Abe was born in a family whose parents nurtured their children in the Christian faith and lived by the Christian faith. Ma and Pa began and ended each day with a family devotion known as ohana. We thanked God at each meal and had to be home to auau, take a bath, when the ice house whistle blew at 5 p.m. and shortly after dinner we retired for the night. School and church dominated our activities. Sunday was devoted to Sunday school at 9 a.m.; service at 10:30 a.m. Pauoa Apana service at 2 p.m.; Christian Endeavor at 6 p.m.; evening church service at 7:30 p.m.; we were back home at 9 p.m. We attended Pauoa School, Kawananakoa School, McKinley High School, University of Hawai'i during the week. As the baby in our family, I was the only one that attended the Kamehameha Schools and served in the U.S. Army during World War II. Though our family was young and close-knit, brother Abe was the one that worked at developing a beautiful body and played the "Tarzan" role in the trees. He even caught, from the circular saw, flying ice flakes in his hands to eat like shaved ice. Brother John tells me of Abe, at Akaka Lane, falling into the taro patch on broken glass which cut his arm badly and caused him to bleed profusely. Brother Johnny and sister Susan called sister Phenbe for help because they didn't know what to do. And sister Pheobe nursed Abe through this and many other predicaments during his young life.

Since Pa and Ma led us, our family recited our memory bible verses, sang hymns, usually recited the 23rd Psalm in Hawaiian, kneeled and prayed and repeated the Lord's Prayer in Hawaiian together, at each ohana. As a result, Abe became a talented singer and musician, along with sister Annie and brother John. Sisters Phoebe and Susan, brother Joe and I trailed behind them. Such was our family life with Ma and Pa, Tutu Kahoa of Pearl City and Tutu Akaka and Tutu Hiwauli of Pauoa.

Following the Conference of World Christian Youth in Amsterdam, Holland, in 1939, Abe made his decision to educate himself to serve our Lord. How did brother affect people? How did people perceive him? He saved lives by helping people over crucial moments of despair and anxiety by spiritual counseling and financial assistance. He was accessible to help the needs of all—from CEOs to workers—from the rich to the poor—from those in their twilight years to those in the dawn of life. He was truly the Shepherd, a man of God; a visionary (rebel); believed and lived God first, others second, self last; related every utterance to God; extended and lived the Love of God (Aloha ke Akua); was a profound and deep thinker; extremely courteous, caring and generous; went the extra mile; good listener; had a keen sense of understanding situations; gave you 100% of his attention even though he was running to another appointment; prolific writer; expressive composer; a clarity man, made things clear; man of "pono"; good communicator through speaking, chatting, writing, promptness in writing and sending postcards; grateful man; man of creative expressions in music, oratory, prayer; believed that something new should be blessed and started right in God's hands; very humble man; would not let grass "grow under his feet"; he moved to build bridges, bring harmony to people and functions and did not let the future lead toward obsolescence.

Do you know that (to mention a few):

He was the State Senate Chaplain in 1959 for 2 years.

His Statehood address was disseminated all over the world.

He was a UH Regent, 1961–63.

The Saturday Evening Post wrote of him as the "Hustling Shepherd", Aug. '62.

He received the NAACP Award, 1964 (Civil Rights).

He was Chair of the Hawaii Civil Rights Commission.

He conducted a Service of Thanksgiving for the safe return of the Apollo 13 Astronauts at Kawaiahao Church with President and Mrs. Nixon (Aug. 19, 1970).

Preached at the White House, April 19, 1970, by invitation from President Nixon.

He was a notable composer—Kristo ka Pohaku Kihi, 1989, Aloha Ke Akua, 1996, and others.

He was honored by being given the prestigious privilege of delivering the Prayer in both the U.S. House and Senate. Excerpts from the CONGRESSIONAL RECORD:

[CONGRESSIONAL RECORD—House, Sept. 14, 1977]

PRAYER BY REV. DR. ABRAHAM KAHIKINA AKAKA

Ma Ka Inoa O Ka Makua, Keiki, Kauhane Hemolele—Almighty God, under whose mercy and judgment all people rise and fall, let Thy guiding hand be upon our beloved Nation, like a loving carpenter's level, that President Carter, Speaker O'Neill, Members of this House, and all who bear responsibility for the peaceful future of our world, can be faithful in our common stewardship of power, justice, and aloha. As new storms gather about us and our world, help all Americans exercise our puritanical responsibility for the whole social order, fulfill that responsibility in our private and public arenas, and thus give vital moral and political direction to our Nation and the nations.

Hear O America and planet Earth, the Lord our God is one Lord. Amen.

[CONGRESSIONAL RECORD—Senate, Sept. 15, 1977]

PRAYER

Mr. MATSUNAGA. Our guest chaplain for today is the undisputed religious leader of Hawaii and, to the people of Hawaii, its social conscience, the Reverend Abraham Akaka, pastor of the oldest church in Hawaii, Kawaiahao Church.

The Reverend Dr. Abraham K. Akaka, pastor, Kawaiahao Church, Honolulu, Hawaii, offered the following prayer:

Let us pray.

One nation, one world under God, with liberty and justice for all.

Almighty God, our Father, under whose mercy and judgment all people rise or fall, let Thy guiding hand be upon our beloved Nation like a gentle carpenter's level, that President Carter, Vice President Mondale, the Members of this Senate, and all who bear responsibility for the peaceful future of our world may be clear and faithful in our common stewardship of power, justice, and aloha.

Whenever dark clouds may gather about us and our world, help us and all American remember our precious heritage of faith, to exercise our puritan responsibility for the whole social order, to fulfill that responsibility in our private and public arenas and thus give vital moral and political direction to our Nation and the nations.

Help us to walk with integrity in Thy righteousness that we may fear no man or media. Let no evil have claim upon us and our Nation. Destroy, O God what is evil. Establish what is good. Let the beauty and glory, the prosperity and peace, joy and aloha of the Lord our God be upon us and our Nation. For Thine is the kingdom and the power and the glory forever.

Hear, O America. Hear, O planet Earth, the Lord our God is one Lord. Amen.

[CONGRESSIONAL RECORD—Senate, May 9, 1991]

The PRESIDING OFFICER. The prayer will be offered by the guest chaplain; Rev. Dr. Abraham Akaka, pastor emeritus of Kawaiahao Church, Honolulu, HI.

My brother.

PRAYER

Let us pray.

God has made of many national and ethnic, political and economic, religious and social diversities, but of one blood—all His children to dwell on the face of one Earth. Almighty God, our Father, as our ancient Hawaiian ancestors found new islands of life and order, sailing their brave voyaging canoes even in the face of deadly storms, by making and maintaining connection with their right guiding star, so let it be with our beloved Nation and with all peoples of our planet.

Bless our President, our Senate, and House, all who bear authority in government, nationally and locally, that by following the starlight of Your truth, justice, and love, we may help our Nation and all nations gain our right bearings with Thee.

Let no one play games with the light of Your truth and justice—and thus place our canoe in harm's way. Help us lead our Nation and all nation in turning clenched fists into open hands of friendship and family, in finding together the best ways for sailing our common canoe surely and safely to our promised new space island.

Let our connection with thy light turn MC2—massive cremation squared, into CM2—creative mutuality squared, that we and all mankind may become one winning crew-sailing our space canoe faithfully with Thee to our New World Order.

In the name of Jesus Christ, our Lord—Adonai Elohaynu Adonai Echod—for the Lord our God is one Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

Mr. MITCHELL. Mr. President, I ask the Senate to pause for a moment and note a rare and inspiring event which has just occurred when the prayer was read by the Reverend Akaka, brother of Senator AKAKA, now the Presiding Officer, and a Member of the U.S. Senate from Hawaii.

The people of Hawaii and the Akaka family can take justifiable pride in the service of two sons to the people of their State in two different but honorable ways.

The Reverend Akaka serves the spiritual needs of the people of Hawaii. Senator AKAKA serves with great distinction the material needs of the people of Hawaii.

We are honored to have Senator AKAKA as a valued and beloved Member of this body, and we are very pleased and honored to welcome his brother today and thank him for his very fine prayer.

THE REVEREND DR. ABRAHAM AKAKA, GUEST CHAPLAIN

Mr. AKAKA. Mr. President, I thank the leader for his generous remarks, and I appreciate his remarks, because our relationship in our family is very close.

It is indeed a single honor and a privilege for me to be permitted by the U.S. Senate to convene this honorable body today as its Acting President pro tempore, and a genuine personal pleasure to introduce my brother, the Reverend Dr. Abraham Akaka, to give the opening prayer.

Brother Abe, as our family knows him; or "kahu," meaning "shepherd" in Hawaiian, as many in our community in Hawaii know him, was born in Honolulu 74 years ago. He began his service to the Lord and our people after graduating from the Chicago Theological Seminary of the University of Chicago, with a bachelor of divinity degree.

He was the pastor of our Kawaiahao Church, the mother church of Hawaii, for 28 years. With brotherly love and family pride, I think I can fairly say that Brother Abe was Kawaiahao Church, and Kawaiahao Church was Brother Abe. He dedicated his life to serving our church and its parishioners and the greater Hawaii, and forgive me for my brotherly pride, but the church will not be the same again without him. In 1964, he lobbied here in Washington, DC, for the Civil Rights Act, was the first chairman of the civil rights commission for the State of Hawaii, and sent leis that were worn by Rev. Dr. Martin Luther King and his supporters in the Selma, AL, march. He began to organize the Congress of Hawaiian People, Friends of Kamehameha Schools, and Council of Hawaiian Organizations. He served as regent of the University of Hawaii.

Among the honors bestowed on my brother are honorary doctoral degrees from the Chicago Theological Seminary of the University of Chicago, the University of Hawaii, Illinois Wesleyan University, the University of the

Pacific in Stockton, CA, and Salem College in West Virginia. He served as the chaplain in our territorial senate, and subsequently, our State senate. He gave our statehood sermon on May 13, 1959, and inspired our Hawaii State Legislature to name our State, "the Aloha State." Following Henry J. Kaiser, he received the Hawaii Salesman of the Year in 1952.

Brother Abe has been most ably assisted in his calling by his bride of 47 years, Mary Louise Jeffrey Akaka. They share their love with five children and seven grandchildren.

In retirement, Kahu continues to serve through the Akaka Foundation.

LETTER OF CONDOLENCE FROM PRESIDENT AND MRS. CLINTON TO MRS. ABRAHAM AKAKA

DEAR MRS. AKAKA: Hillary and I were saddened to learn of your husband's death, and we extend our deepest sympathy. We hope that the love and support of your family and friends will sustain and comfort you during this difficult time. You are in our thoughts and prayers.

Sincerely,

BILL CLINTON.

We weep with sorrow because he will no longer talk, walk, eat and play with us. We rejoice knowing that he is with God, with Ma, with Pa, and with members of our family in that Beautiful City of God in heaven—pearls, goldlined streets, river of life. He has left each of us a legacy of his life, his light and ministry to carry and bear here on earth. I can hear him speak in his velvety, soft voice. John 13:34, "A commandment I give to you, that you love one another; even as I have loved you, that you also love one another."

A POEM FOR THE MEMORIAL SERVICE FOR THE REV. ABRAHAM AKAKA

Abe, you are not dead;
Christ has but set you free.
Your years of life were like a lovely song;
The last poignant notes held strong.
Then you passed into silence, and,
We who love you feel that grief
For you would surely be wrong—
You have but passed beyond
Where we can see.
For us who knew you,
Dread of life is past;
You took life in its fullest to the last.
It never lost for you it's lovely look;
You kept your commitment to God's book.
To you death came no conqueror in the end;
You merely rose to greet Christ, your friend.

—Anonymous.

His Master said unto him, "Well done, good and faithful servant; you have been good and faithful . . . now enter into the joy of your Master."

I will miss him. He was my inspiration. I will miss his mana'and loving spirit.

Aloha ke Akua!

Mr. AKAKA. I thank the Chair very much. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that I be able to proceed as in morning business for up to 8 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNITED STATES-CHINA NUCLEAR COOPERATION

Mr. ASHCROFT. Mr. President, I rise today to address the disturbing prospect that President Clinton will make the necessary certification to Congress that would permit nuclear cooperation between the United States and China. I really believe we should be honest with each other. This is a political decision, driven by the United States-China October summit rather than the facts of China's weapons proliferation record.

The prospect of nuclear cooperation with China is perhaps the clearest illustration yet of the "trust but don't verify" approach behind the administration's China policy. The administration does not want Chinese President Jiang Zemin to return to Beijing empty-handed. But I question the need to make concessions to China in the first place.

China has a weapons proliferation record that is unrivaled in the world. Chinese trade barriers continue to block U.S. goods and companies. In the last several years, Beijing has had a human rights record that has resulted in the most intense religious persecution in several decades, and of course it has also resulted in the silencing of all political dissidents in China, according to our State Department reports.

In spite of such behavior, nuclear cooperation with China could become a reality. Beijing has made a host of nonproliferation promises to acquire United States nuclear technology, and the administration is applauding China's efforts. Sadly, China's promises of new export controls and assurances that no nuclear technology will be sent to unsafeguarded nuclear facilities will do little to stem China's proliferation activity.

China has made and broken nuclear nonproliferation commitments for over a decade, and they have broken them with great regularity. Little confidence can be placed in China's new nonproliferation promises until Beijing backs up such commitments with action. Disregarding the issue of whether or not China can be trusted, each of China's nonproliferation commitments is deficient in important areas.

China's new export controls are untested, and will be administered by agencies with close ties to the China National Nuclear Corporation—that is the organization which has helped Iran prospect for uranium and that is the organization which transferred ring magnets used for uranium enrichment to an unsafeguarded nuclear facility in Pakistan. We are relying on China's new non-proliferation promises, but we are, in effect, trusting Chinese entities with a questionable record of proliferation activity.

The ring magnet transfer was in apparent violation of United States law, although the Clinton administration did not impose sanctions. The transfer also was an apparent violation of China's commitment under the Nuclear Nonproliferation Treaty. We cannot continue to turn our head away from this proliferation activity which violates U.S. laws to international treaties. At the very least, we should not be establishing a new level of nuclear cooperation with China.

China has had a nuclear cooperation agreement with Iran since the late 1980's. The administration is allowing China to use nuclear blackmail to obtain United States nuclear technology as it relates to Iran. China will consider forswearing new nuclear cooperation with Iran, such as the sale of a nuclear reactor and a plant for uranium conversion, if the administration will allow United States-China nuclear cooperation to proceed. They are threatening to proliferate more nuclear technology if we don't give them additional nuclear information

China's pledge to join the Zangger committee says more about what China is unwilling to do rather than signaling a new commitment to nonproliferation. China has joined the Zangger committee and not the Nuclear Suppliers Group because Zangger members can continue to export nuclear technology to countries which keep some nuclear facilities from international inspection. If they were to pledge to join the Nuclear Suppliers Group and honor its guidelines, that would be a step in the right direction. But the Zangger committee has the loophole necessary to proliferate nuclear technology to places that don't have international inspections. China is the only nuclear weapons power in the world that has not joined the Nuclear Suppliers Group and they remain unwilling to do so.

The national security arguments for United States-China nuclear cooperation are far from compelling, and the economic rationale is exaggerated. As the Washington Post notes this morning, United States big business is lobbying hard for nuclear cooperation with China in hopes that this market will boost exports.

I want United States businesses to benefit from possible export markets, but China is seeking nuclear cooperation with the United States to increase the number of bidders for and to lower the price of Chinese power projects. Once China obtains nuclear technology, they will reverse engineer our products and they will start building those products themselves and be our competitors in other export markets.

As Dan Horner of the Nuclear Control Institute notes in the Post article this

morning, China is only seeking enough technology to develop a domestic production capability.

The United States should not enter into nuclear cooperation with China until real and observable progress is made in China's nonproliferation record. Before we send our nuclear technology to China, Beijing should cut off all nuclear cooperation with terrorist states, such as Iran. Before we send our nuclear technology to China, Beijing should maintain at least for 1 year an exemplary nonproliferation record for all weapons-of-mass-destruction technology, including technologies other than nuclear-chemical technologies and biological technologies.

The threat of weapons of mass destruction has become a broader issue than the proliferation of nuclear technology alone. Chemical weapons, biological weapons, and the missile systems to deliver those weapons are all part of the weapons-of-mass-destruction threat. China's improvements in nuclear nonproliferation are questionable at best, but not even the administration is defending China's broader weapons-of-mass-destruction nonproliferation record.

Even though the administration argues that China has honored its May 1996 pledge not to transfer nuclear material to unsafeguarded nuclear facilities, doubts persist about China's recent nuclear-proliferation activity. A June 1997 CIA report released this year states that:

> During the last half of 1996, China was the most significant supplier of (weapons of mass-destruction), related goods and technology to foreign countries. The Chinese provided a tremendous variety of assistance to both Iran's and Pakistan's ballistic-missile programs. China was also the primary source of nuclear-related equipment and technology to Pakistan, and a key supplier to Iran during this reporting period.

Clearly, China's proliferation record does not inspire confidence, and it certainly does not deserve the bill of good health that nuclear cooperation would signify.

Therefore, I hope the President does not enter into nuclear cooperation with China to thereby diminish the credibility of the United States in the fight against the proliferation of weapons of mass destruction.

Mr. President, I yield the floor.

Mr. BOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

EXTENSION OF MORNING BUSINESS

Mr. BOND. Mr. President, I ask unanimous consent that the period for morning business be extended by 5 minutes and that I be permitted to speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOND. I thank the Chair.

CAMPAIGN FOR HEALTHIER BABIES MONTH

Mr. BOND. Mr. President, I rise today on a very, very important mission, and that is to highlight the important work of the March of Dimes and its over 3 million dedicated volunteers across America. I thank and congratulate them on the most worthwhile of endeavors.

During the month of October, the March of Dimes Birth Defects Foundation is celebrating Campaign for Healthier Babies Month by stepping up its efforts to reach more women of childbearing age with valuable information which will give every baby a better chance of being born healthy.

These efforts are critical to prevent birth defects, low birthweight and prematurity, which are the leading causes of infant death and morbidity and also a tremendous cause of heartbreak and tragedy for so many families in the United States today.

As all of us know, the March of Dimes is a national voluntary health agency whose mission is to improve the health of babies by preventing birth defects and infant mortality. Through its campaign for healthier babies, the March of Dimes funds programs of research, community services, education and advocacy. To enhance these efforts, the foundation has started the March of Dimes Resource Center.

The resource center provides accurate up-to-date information and referral services to the public. It consistently offers high-quality, reliable, and prompt responses. It is staffed by highly trained professionals. The March of Dimes helps people one on one to address personal and complex problems relating to maternal and child health. The center provides information on numerous topics in which the March of Dimes has been in the forefront, such as the dangers of drug and alcohol use and other hazards during pregnancy. And most important, it is promoting the use of folic acid by women of childbearing age.

We know now that 400 micrograms of vitamin B folic acid taken regularly by women of childbearing age before they become pregnant can reduce by one-half, or even 70 percent, the incidence of neural tube defects in babies born in America today. I don't know how many of my colleagues know of a family that has been afflicted with the loss of a child who was born with a severe and fatal neural tube defect. Many of us know good friends who were born with spina bifida and other problems which could be substantially reduced if women of childbearing age regularly take 400 micrograms of vitamin B folic acid every day.

The March of Dimes professionals and the resource center answer questions from parents, health providers, students, librarians, Government agencies, health departments, social workers—people from all walks of life. The good people at the March of Dimes estimate that through the resource center, they will provide information to almost half a million individuals in the first year alone.

The center is a state-of-the-art facility which can be contacted by people around the world through both a toll free number and e-mail. March of Dimes is shortened to MODIMES, M-O-D-I-M-E-S. MODIMES. The toll free number is 1–888–MODIMES, or by e-mail, the Web site is www.modimes.org. I urge people to take advantage of the toll free number or the Web site.

I congratulate the March of Dimes on the success of the resource center, and I thank them for the years of dedicated work to prevent birth defects and to reduce infant mortality.

Mr. President, we rank far too high in infant mortality in this country. Many, many countries do better than we do because we don't provide the care and the attention that expectant mothers need.

Many of my colleagues in this body know that I have been a long-time supporter of a particular priority, the March of Dimes and the Birth Defects Prevention Act I first introduced in 1992. It has been passed time and time again by the Senate. In June of this year, this vital piece of legislation passed the Senate by a unanimous vote. A House companion bill currently has over 130 cosponsors. Both bills have strong bipartisan support in our body, the majority leader and the minority leader both, along with most of the people on all the relevant committees. The groups endorsing this include the March of Dimes Birth Defects Foundation, the American Academy of Pediatrics, the National Association of Children's Hospitals, the American Hospital Association, the National Easter Seals Society, the Spina Bifida Association of America, and numerous others.

I urge all of my colleagues and people who may be listening around the country to urge the House to take up this important legislation and pass it this year. As we get to the end of a particular year's session, there are always so many things, so many other bills that people think are priorities. Let me ask anybody to name me a priority that would be higher than helping the families of America of each of our States avoid the tragedy of the loss of an infant through birth defects or the permanent disability of a child born with birth defects.

America's families and all of us have waited too long for this measure because it can go a long way in preventing birth defects, which is the leading cause of infant death. Quite

simply, a little prevention goes a long way in avoiding family pain and heartache. It is up to Congress, it is up to us to seize this excellent opportunity to protect our most valuable resources—our children. I urge all of my colleagues to pay attention and to take an interest in this vital matter.

Mr. President, I yield the floor.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m. today.

Thereupon, at 12:39 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Indiana, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent I be permitted to speak as in morning business.

The PRESIDING OFFICER. The Senator is recognized to speak as in morning business.

GLOBAL WARMING

Mr. KERRY. Mr. President, this week, representatives from over 160 nations are meeting in Bonn, Germany, for the final negotiating session prior to the climate change conference scheduled in Kyoto in December. It is a critical meeting, the culmination of several years of international cooperation on this extraordinarily important global issue.

Over the past several months I have had an opportunity to discuss global warming with scientists and representatives from the United States and abroad and, indeed, we have had one brief discussion on the Senate floor in the context of the Byrd-Hagel amendment.

Last week, I met in London with a number of officials of the Government of Great Britain, but most importantly on this subject with Foreign Minister Robin Cook, to discuss our mutual concerns about the climate change problem and how best to address this issue from a global perspective. As our U.S. negotiators continue their work in Bonn and the President finalizes the U.S. position for the Kyoto conference, I wanted to share with my colleagues some views on the science of global warming, on the international process, the U.S. role, and the next steps that the United States and others should undertake to address this issue in a responsible manner.

Last July, I joined with Senator BYRD and others in the Chamber to discuss global warming and to debate Senate Resolution 98 which addressed some of the Senate position on the Kyoto treaty. The Byrd-Hagel resolution called for the United States to support binding commitments to reduce greenhouse gases only if: One, all nations, developed and developing, participate in addressing this global problem; and two, if the commitment did not adversely impact the U.S. economy. In addition, the resolution created a bipartisan Senate observer group of which I am pleased to be a member. Our task is to continue to monitor this process.

I supported the Byrd-Hagel resolution, Mr. President, which passed the Senate 95–0 after we worked out in colloquy some of the interpretations of definitions contained therein. I supported it because I believe that there has to be a universal effort to tackle this ever-growing problem, and that the United States, while taking a lead role, need not jeopardize its economic viability in order to meet our international obligations.

The resolution language, in my judgment, provides enough flexibility to address the concerns of growing economies of the developing world even as we encourage them to join in this global effort.

The resolution was silent, however, as to the science of global warming. It addressed only the U.S. role in the Kyoto negotiations. During the debate over the resolution, there was some discussion by a few Senators over their interpretation individually of the science. But there was no broad debate about the science, and there was certainly in the resolution no judgment by the U.S. Senate whatsoever as to the foundations of science which might or might not be applied to the negotiations in Kyoto. From the statements in the RECORD by the resolution's chief sponsor, Senator BYRD, it is clear that he agrees, as I and others do, that the prospect of human-induced global warming as an accepted thesis is beyond debate, and that there are many adverse impacts that can be anticipated as a consequence of those theories in fact being found to be true. We are joined by many of our colleagues in thinking that there is sufficient scientific consensus that human activities are exacerbating climate changes.

The vast majority of scientists and policymakers who have examined this issue carefully have concluded that the science is sound and that it is time to take additional steps through the established international theory to address this issue in a more systematic way. A small but extremely vociferous minority continue to assert that the science is not yet convincing. They advocate a wait-and-see approach. They believe that continued review and inaction is best for the U.S. economy and for Americans in general.

Given the money that the very vociferous minority has been expending in trying to promote their view, and given the fact that shortly we will be engaged in some discussions based on the factual foundations of this issue, I would like to address the issue of science for a few moments on the floor of the Senate.

Mr. President, the vast majority of the scientific community—the vast majority of those who have taken time to make a dispassionate, apolitical, nonideological determination based on lifetimes of work, and certainly on a lifetime-acquired discipline in their particular areas—the vast majority of consensus of those who have been so engaged is that the science regarding global warming is compelling and that to do nothing would be the most dangerous of all options.

In the late 1980's, a number of our Senate colleagues—among them Vice President GORE, State Department Counselor Tim Wirth, Senators JOHN HEINZ and FRITZ HOLLINGS—and I, and a few others became increasingly concerned about the potential threat of global warming. It was at that time that I joined as an original cosponsor of Senator HOLLINGS' bill, the National Global Change Research Act, which attracted support from many Members still serving in this body, including Senators STEVENS, MCCAIN, COCHRAN, INOUYE, and GORTON. After numerous hearings and roundtable discussions, this legislation to create the global change research program at the National Oceanic and Atmospheric Administration became law in 1990.

As a Senator from a coastal State I take very seriously parochial implications of global warming. As a United States Senator and a member of the Foreign Relations Committee, I am also concerned about the crafting of a workable international response that treats all parties—including the United States —fairly.

I have stated that I would be happy to engage any of my colleagues in the debate on the science of climate change here on the Senate floor, or elsewhere. And I have sought on numerous occasions—as yet not successfully—to try to get an adequate airing of the science within the Senate observer group. And it is my hope that, before that group reports to the Senate, a broad-based review of the science will be undertaken in a bipartisan, nonpolitical way.

But, Mr. President, before we even proceed further with that analysis, I want to take this opportunity to at least lay out some precursor truths with respect to the science as we know it.

Whether by nature or experience, we know that scientists are a fundamentally cautious group of people. That is why I find it particularly compelling that over 2,000 scientists who participated in the Intergovernmental Panel on Climate Change—the most comprehensive and thoroughly reviewed assessment of any environmental problem ever undertaken—concluded that global climate change is currently under way. The 1995 IPCC report concludes that the Earth has already warmed about 1 degree Fahrenheit over the last century, and that "the balance of evidence suggests that there is a discernible human influence on global climate." The IPCC estimates that the global surface air temperature will increase another 2 to 6.5 degrees Fahrenheit in the next century. Their "best guess" is that we will experience warming of about 3.5 degrees Fahrenheit by the year 2100. That would be a faster rate of climate change than any experienced during the last 10,000 years of the history of this planet. And we have to recognize that the human history as we have recorded it and, therefore, understand its impact on ourselves and current human endeavor is within a span of about 8,000 years.

The conclusion that the observed warming trend is not simply a natural fluctuation is affirmed by the research of several institutions. Basing their conclusions on climate model calculations, scientists at the Max Planck Institute for Meteorology in Hamburg, Germany, concluded that the warming of the Earth over the past 30 years goes far beyond natural variations. Indeed, there is a judgment that there is only a 1-in-40 chance of that variation being natural. So we are dealing with a 1-in-40 prospect in terms of odds.

The United States and other governments have been collecting at ground-based and ocean-based sites global surface temperature measurements since the year 1880. Remarkably the 11 warmest years this century have all occurred since 1980, with 1995 the warmest on record.

Some will argue that there are discrepancies between our long-term surface record and recent satellite observations. But that fact—by again nonideological dispassionate and nonpolitical scientists—has been determined to be not surprising at all because the two techniques—measurement at the surface and measurement by satellite—are entirely different. They measure temperature at different parts of the Earth's system—the surface and various layers of the atmosphere. In addition, other factors, such as the presence of airborne materials from the 1991 eruption of Mt. Pinatubo volcano, affect each record in a very different way.

The natural "greenhouse effect" has made life on Earth possible. Without it, our planet would be about 60 degrees colder. Water vapor, carbon dioxide, and other trace gases, such as methane and nitrous oxide, trap the solar heat, and they slow the loss of that solar heat by the reradiation back into space. That is a natural process.

But with industrialization and with population growth, greenhouse gas emissions from human activities have consistently increased. Anthropogenic climate changes, most importantly the burning of fossil fuels—coal, oil, and natural gas—and deforestation, have tipped the very delicate balance of nature. We all know that the forests of the planet play a critical role in the recycling of carbon dioxide. The forests in the Amazon, all through Central and Latin America, and all through Asia have been disappearing in entirely measurable and discernible ways. As we have seen by satellite photography over the last 15 or 20 years, all of the areas of the Earth's green are beginning to shrink in those satellite photographs; we understand that we are diminishing our capacity to do the recycling of the CO_2.

Therefore, more gas is trapped. More gases have the impact of diminishing the amount of reradiation that takes place. This natural climate variability alone, including the effect of volcanic eruptions and solar variability—that is, sunspot activity—would not have changed carbon dioxide levels in the atmosphere. However, the manmade addition, presently about 3 percent of annual natural emissions, is sufficient to exceed what is known to be the balancing effects of "carbon sinks." As a result, carbon dioxide is gradually accumulated in the atmosphere, until, at present, its concentration is 30 percent above preindustrial levels. Existing data of other greenhouse gases show increasing concentrations of methane, nitrous oxide, and chlorofluorocarbons over recent decades. While ice core data show that concentrations of methane and nitrous oxide have increased in the past few centuries, after having been relatively constant for thousands of years, chlorofluorocarbons are absent from deep-ice cores because they have no natural sources and were not manufactured before 1930.

So I want to emphasize for those who try to doubt the science, for those who come and say there is no indicator of this change and that we have only been recording the temperature since 1880, the fact is that both in the Arctic and the Antarctic we have accumulations of thousands of years—tens of thousands of years—of ice. And we have to be able to bore down into that ice. In the bores that we bring out—just as we have tested and found geological formations which have allowed us to drill for gas—we have been able to come up with ice cores. And as the scientists look at those ice cores, they have been able to measure the degree of carbon dioxide that was trapped in those ice cores. By measuring that, and, indeed, by measuring the absence of chlorofluorocarbons, we have been able to trace thousands of years of climatic activity and change that we otherwise would not have knowledge of.

That is what has given us this capacity to make a determination about the rapidity with which changes are taking place today relative to what we knew or can discern was taking place thousands of years ago.

While we have no control over sun spots or volcanoes, we, obviously, can control human activities.

Then the question will be, "Well, why should we do that? What is the showing that somehow this really represents a danger sufficient to require a response from Government?" Well, the essential issue here, Mr. President, is one of compounding emissions over time. We know that the emissions we put into the atmosphere today have a life that goes on and on and on. It is like nuclear material that has a half-life. So does this material have a half-life. And the fact is that, even if we were to stop our activity today, what is already in the atmosphere will continue to do the damage that it does. And the models have to measure the rate at which we might be able to reduce today in order to guarantee that you have turned off the spigot sufficiently to be able to control what will happen in the future. But anyone who follows the stock market or even your back account, obviously, understands the miracle of compounded interest. It means that a small amount set aside becomes a big amount over time.

That is what is happening to the Earth's accumulation of greenhouse gases. Many of these gases reside in the atmosphere for years to come—hundreds to thousands of years. Even constant emissions of the gases can cause atmospheric concentrations to build up rapidly.

So, unlike the stock market, when it comes to emissions, the small amounts don't necessarily bring a miracle. But they could bring enormous calamities.

So why would we care if the Earth warms a few degrees? I have actually heard people say it really doesn't matter that much if all of a sudden North Dakota or South Dakota became a little more attractive, and they don't have as long a winter, or somehow you have a longer hiking season in a particular State. Well, Mr. President, it isn't that simple. It just isn't reduced to that kind of simplistic judgment about the overall impacts.

The IPCC scientific assessment of climate change estimated that the average surface temperature will increase by 1 to 3.5 degrees with an associated rise in sea level of 6 to 37 inches. These changes are projected to lead to a number of potentially serious consequences with incidence of heat waves, floods,

droughts, hurricanes, and other extreme events affecting human health and natural ecosystems.

Americans will experience more health problems and there will be an increase in health-induced deaths from future warming. Heat waves of the type in the 1995 Chicago heat wave which killed 465 people will occur more frequently, and increased warming will exacerbate existing air quality problems such as smog that aggravate asthma and allergic disorders, especially in children and the elderly. Warmer climates breed diseases such as malaria, dengue and yellow fevers, encephalitis, and cholera due to the expansive range of mosquitoes as a consequence of increased warmer climates and other disease-carrying organisms.

One key aspect of climate change that is important to remember is the slow capacity of any corrective action to have an impact. Harvard professor and member of the President's Committee of Advisors on Science and Technology, Dr. John Holdren, shared his analogy at the White House Round Table on Climate Change. He said:

> The world's energy-economic system is a lot like a supertanker, very hard to steer and with very bad brakes * * * and we know from the science that the supertanker is heading for a reef * * * it's a bad idea to keep on a course of full speed ahead.

The oceans are going to continue to expand for several centuries even after the temperatures stabilize. We are currently dealing with rising sea levels that are already eroding beaches and wetlands, inundating low-lying areas and increasing the vulnerability of coastal areas to flooding from storm surges and intense rainfall.

We know how costly droughts, flood control, and erosion mitigation efforts can be to the taxpayers. We constantly, every year, are facing requests from one community or another to do a beach-erosion project or to undertake some kind of erosion mitigation, and we spend literally millions of dollars in insurance as a consequence of those anticipated problems already.

Damages from the southern plains drought of 1996 were estimated at $4 billion; the 1993 Mississippi River flood damages were $10 billion to $20 billion; the Pacific Northwest floods of the winter of 1996-97 were $3 billion; the 1997 Ohio River flood was nearly $1 billion; and the 1997 river flood in the Northern Plains was another $2 billion. And this is just the impact of the changes perceived in the United States in the last few years.

Scientists have not definitively said that any one of these events I just listed is absolutely tied to global warming. And I am not going to suggest that that is in fact true if they are not willing to suggest that that there is that linkage. But the scientists have issued a warning. The scientists have issued a warning—not the politicians, the scientists. And their warning is that these disasters collectively show precisely what we are likely to see if we do not reverse the current trend lines of global warming. And we will see them with greater frequency, with more destruction under global warming.

The areas of greatest vulnerability are those where quality and quantity of water are already problems such as the arid and semiarid regions in the United States and the world. If warming trends were to continue, then water scarcity in the Middle East and Africa will become even more pronounced, exacerbating tensions among countries that depend on water supplies that originate outside of their borders.

Another key area of concern will be the dramatic alteration of geographic distributions of vegetation. The composition of one-third of the Earth's forests would undergo major changes as a result of a doubling of preindustrial carbon dioxide levels. Over the next 100 years, the range of some North American forest species will shift by as much as 300 miles to the north, far faster than the forests can migrate naturally. For example, in my region of the country, New England, we could lose the most economically important species, the sugar maple.

Other areas of the country would be hit economically as well. The tourism industry, for instance, surrounding the Glacier National Park could literally evaporate along with glaciers which we already know have receded steadily for decades. Since the park's founding, over 70 percent of the glaciers have already melted. Model projections indicate that all of the park's glaciers will disappear by the year 2030 unless temperatures begin to cool. One-third to one-half of the world's mountain glacier mass could disappear by the year 2100, thus eliminating a natural reservoir of water for many areas.

Let me give an example. In Lima, Peru, the entire water supply for 10 million people depends on the annual summer melt from a glacier that is now in rapid retreat. These are just some of the predictions, predictions made by scientists, predictions made by various models where they have taken the data which scientists have agreed on—not speculated about, but agreed on.

The facts about global warming are beyond reasonable scientific doubt, and they ought to be beyond reasonable policymaking doubt.

Mr. John Browne, CEO of British Petroleum, in a recent speech at Stanford University said:

> The time to consider the policy dimensions of climate change is not when the link between greenhouse gases and climate change is conclusively proven but when the possibility cannot be discounted and is taken seriously by the society of which we are part. We in BP have reached that point.

That is the CEO of British Petroleum saying that they have reached the point of concluding that linkage exists.

Efforts to rein in and reduce man-made contributions of such emissions are now warranted. Worst case scenarios under current business-as-usual practices are catastrophic.

So let me turn for a moment to the international efforts and the role of the United States at this point.

In 1992, it was precisely because of those scientific conclusions that I have just enumerated that President Bush at the Earth Summit in Rio signed a climate-change agreement, and it was ratified later that year by the Senate. That agreement pledged that nations would reduce their gas emissions to their 1990 levels by the year 2000. Regrettably, the vast majority of nations, including the United States, have failed to achieve this goal. Today, the United States has increased emissions about 8 percent above 1990 levels. Much of that increase has been tied to our economic expansion.

However, it should also be noted that industry during this remarkable growth period was also engaged in a voluntary program to reduce emissions. While not achieving its objective completely, the voluntary effort did meet 70 percent of the original targets at a time when the American economy grew and wherein the American jobs machine was rolling along at as high a rate as we have seen in recent years. The relative success of voluntary industry effort ought to encourage confidence that more comprehensive efforts under a global regime can result in greater progress at far less cost than Cassandras allowed for.

However, the question is now for all countries, developed and developing, to step forward to support binding commitments to reach an acceptable level of human-induced emissions. That is why the United States is engaged in negotiating a legally binding climate-change agreement to be finalized in Kyoto this December.

Our challenge is to shape an agreement which sets tough, realistic global emission standards and goals while harnessing the market forces to lower costs, foster technological development, and ensure economic growth.

The climate change problem is global. It requires a solution, obviously, that includes a global response—participation from all nations, industrialized countries and those countries in the developing world. The best approach is to establish a global economic incentive program in which the free market and not Government intervention is driving the reductions.

The goal of universal participation via an international treaty with binding commitments ought to be undertaken now, not with delay, not with an effort to try to have subterfuge diminish what we can accomplish in Kyoto. The United States, with 22 percent of global emissions, is the world's largest emitter of greenhouse gases. And today

the industrial world comprises nearly three-quarters of all of the global emissions. But that does not mean that we are the only ones who should deal with this problem. The reason for that is clear. China is currently the world's second largest emitter, and it is expected to displace the United States as the largest emitter by the year 2015. Over the next few decades, 90 percent of the world's population growth will take place in the developing world. Given the projected economic and population growth statistics of China and other quickly developing countries such as India, Mexico and Brazil, the developing world will exceed the industrialized world in emissions by the year 2035.

Universal participation, therefore, does not mean we have to all begin at the same time. It does not mean you have to embrace the exact same commitment at the exact same implementation moment. Clearly, if one country is doing more than another, there is room for us to be able to negotiate an agreement where we all meet at the appropriate point. But it does mean that it is quite reasonable for the industrialized nations, those nations that have put most of the greenhouse pollution into the atmosphere, initially to take the lead, as long as in so doing they do not simply fall into a trap of disadvantaging themselves economically. A scenario where the industrialized world acts alone will not be enough to prevent the costly implications of global warming in the future.

I want to emphasize that. The developing nations cannot go to Kyoto and suggest that it is up to the developed world simply to bear the burden of reductions, because even if we reduce to the greatest degree possible, we cannot alone avert the problems that will come from global warming. It is absolutely essential that China, India, Brazil, Mexico, and other countries join in the effort with an understanding that we are moving down this road together.

Currently, many of these developing nations are not inclined to join in an international treaty. Some believe it is not in their immediate economic interests to do so. Others believe that as long as the biggest contributors to the problem, the industrialized nations, are not taking sufficient effective steps to cut back on greenhouse pollution, it is not in the interest of their nations to do so either. One could well understand how they would make that kind of determination. Some of them cite the language of the 1995 "Berlin Mandate," calling on the Annex I countries, the developed countries, to be the ones to complete a treaty with binding commitments by December 1997 but to leave excluded the developing world from an established binding reduction target.

Let me say that in my reading of the "Berlin Mandate," I do not believe that we are precluded from proceeding to Kyoto in an effort to come up with a two-stage arrangement which would have the developed countries enter into an agreement while simultaneously bringing the developed countries along. I don't believe it is in any nation's interest to thwart international efforts to reduce greenhouse gases in as expeditious and as economically feasible a manner as possible. The remaining option is the option of doing nothing, and nothing would, in most people's judgment, be ultimate mutual devastation.

The only viable solution is a global treaty which provides economic incentives for all nations. I believe such a treaty can be crafted, one that would include all nations but permit flexibility in the targets and flexibility in the timing of compliance for developing nations, while at the same time requiring all countries to agree to make legally binding commitments by a date certain. If the United States signs such a treaty, it would be reasonable for the President to refrain from transmitting that treaty to the Senate until the developing world signs its binding commitments. In that way we can make Kyoto a success, coming up with the binding agreements necessary but still maintain and keep good faith with the approach we have thus far deemed to be the roadmap to the achievement of this treaty.

In this Chamber I previously shared my concerns with a component of the European proposal as it currently stands. The Europeans continue to argue for a treaty that would enable the European Union to secure an exclusive bubble emissions policy. This is tantamount to a regional emissions trading program. They want Europe to be contained under one bubble, whereby they can trade their emissions within the European bubble, a license, in effect, to increase emissions in some European countries by relying on the trendline decreases that are already in place in others. Such a posture is helpful only to the European Union. It fails to address the essential need to engage those rapidly growing economies of the developing world, and it excludes other industrialized countries which could be left to meet target reductions in a more costly manner.

The European proposal would provide the Europeans with a competitive advantage over the United States by creating this collective emissions cap as opposed to country-by-country reduction targets. Some European countries could actually increase their emissions by up to 40 percent. This approach, coupled with their opposition to joint implementation with developing nations, seems to be aimed almost exclusively at beating the United States out of economically sensible emissions reduction activities in Eastern Europe, Russia, the Far East, and elsewhere. I think they should know that is not acceptable under most people's definition of fairness.

Therefore, it is my feeling that we should approach Kyoto in the following way. I believe President Clinton and his advisers have been developing a U.S. position for these negotiations that moves mostly in the right direction. I have shared views with the administration over the course of these last months and in recent weeks, and there are a number of different options that are currently rumored to be under consideration by the President. It is my hope the President will announce a U.S. position that is aggressive in curbing the projected business-as-usual trendline.

I believe the President ought to press for a proposal that will seek at least a target of 2010, rather than the outyear options of 2020 or 2030 that we have heard discussed. The Europeans, given the protection of their European bubble proposal, have proposed a 15 percent reduction below the 1990 levels by the year 2010. Perhaps without the bubble this level may prove to be too ambitious to achieve without significant harm to their economies. However, I believe it is realistic for the United States and other nations to stabilize their emissions at 1990 levels by the year 2010, remembering, of course, that our original goal was to do so by the year 2000. With additional economic incentives such as early credits for reductions and joint implementation and a market-oriented emissions trading system, perhaps additional reductions could be undertaken.

I believe also that the centerpiece of the U.S. negotiating position should be a worldwide emissions trading program. Emissions trading is an important market mechanism that will benefit all countries including the United States. But it is not only advantageous to U.S. businesses. It will provide developing countries with incentives to sign up to binding legal commitments that are absolutely essential to a workable treaty.

The market-based approach of emissions trading is a sensible one that helps businesses lower costs by promoting emissions reductions and by giving the industry flexibility to decide how they will go about reducing pollution. We know an emissions trading system could reduce the cost of emissions controls dramatically, afford American industry great opportunities to do what we do best, which is to innovate, to develop cheaper, better ways of getting the job done. And, if the system includes joint implementation with developing countries, providing jobs here at home in the well-paying technology export sectors that serve the booming demands in rapidly industrializing nations, we would be well served.

Experiences in States such as Massachusetts or California or Texas or Florida, States which have invested in

technology and which have built on their combined technology bases and education bases—those experiences have proven where we invest in technology in order to solve some of these problems, we inevitably not only create jobs for Americans but we wind up creating an export capacity, because we are the leading, cutting edge of technology and we wind up greatly reducing the costs that the original estimates are based on.

If you look at the SO_2 reduction programs in this country, I remember the automobile and other industries arguing it was going to be upward of $1,000 per ton to reduce. In fact, because of the technology advances, the costs have come in around $90. Therefore, the opportunity, by virtue of pushing our technology and advancing our capacity to transfer that technology to the developing countries, can assist all of us in the effort to create jobs and to provide for the gains necessary to be able to meet these targets. The United States should contain in this effort, along with the rest of the industrialized countries, a significant technology transfer component in order to assist in achieving this treaty and its goals.

Economically, the best time to establish an international trading program is now. Many developing countries are currently investing in long-term energy programs. By excluding any discussion of joint implementation with developing countries and early credits for reductions prior to implementation of such a system, important incentives to encourage developing countries to begin shifting their development trajectory to a cleaner path would be lost. U.S. industry and U.S. competitiveness are the winners of an international trading system, wholly apart from any environmental gains.

Environmentally, we need to get the trading program going as soon as possible, and world events are escalating the seriousness of the problem. The terrible fires in Indonesia and the havoc that that conflagration continues to wreak on the people of South Asia are additional testaments to an urgent need for a global framework that provides powerful market incentives for environmentally friendlier behavior. Emissions from these fires are pumping greenhouse gases into the atmosphere and destroying forests that could be protected and harvested in a much more sustainable manner. A Kyoto protocol that provides credits for protecting forests that sequester carbon dioxide, and an income stream that would potentially be available to those who husband the forest, would be an important step for the nations and the peoples of the worlds.

A model for such a regime is the SO_2 trading program contained in the 1990 Clean Air Act. That program, as I mentioned a moment ago, really contradicted what had been predicted by the industry. According to the Wall Street Journal, some initial industry estimates for those SO_2 reductions were $1,500 per ton but which actually came in at $90 per ton, which was 6 percent of the original doom forecast of the industry.

I would like to emphasize one point about the sulfur program that is key to its success. In the sulfur trading program, the Government has resisted the temptation to intervene in the market and provide price props or cushions, or to print new allowances and sell them at a set price. I understand that one option before the President is exactly such an approach. I believe other Senators would join me and strongly urge him to resist such intervention here. When the Government intervenes in market trading it inevitably drives those prices up.

My recommendation to the President would be that any proposal that would make companies pay the Government for additional carbon permits is likely to be regarded—in this institution, anyway—as a thinly veiled tax, and would, frankly, not receive favorable reception. I urge the President to let the market for greenhouse emissions reductions do what the markets do best, which is to spur companies to develop better products at a lower cost. I am very optimistic that the President will ultimately make a judgment that would be opposed to that alternative, significant intervention in the marketplace.

A second goal should be a framework that brings all countries into this effort at the beginning while allowing for the developing countries to initiate their reduction efforts at a different rate than the industrialized world. I think this is an essential component of any realistic approach to this effort. Even without a universal emission reductions program, the Montreal Protocol, signed by President Reagan during his second term, called for the phaseout of chlorofluorocarbons. As with the SO_2 estimates, the CFC reduction costs were grossly exaggerated by certain industry sectors. Market-type mechanisms in the Montreal Protocol and the U.S. domestic implementation program drove prices down, with the result that companies were spurred to bring online CFC substitutes that proved cheaper and cleaner. A more inclusive treaty, covering all greenhouse gas emissions, sources and sinks would produce even more economic and environmental progress.

A final goal is to recognize the opportunity presented by technology to help in this effort. The United States is now a world leader in the high tech industries of pollution prevention, abatement and control. With a global emissions reduction treaty, the faster we invest in new pollution prevention and energy conservation technologies, the faster we will achieve emissions reductions and the quicker we will gain market share in the international arena. This means more jobs for U.S. workers and more revenues for U.S. companies. If we don't, then someone else will.

I would simply cite the example of what took place in the two decades ago. At the end of the 1970's, President Carter had made a commitment to alternative and renewable fuel research. Regrettably, when the Reagan administration arrived in 1980, support for the institute in Colorado was withdrawn. So it was that over a 10-year period of time the great lead that the United States had built up in photovoltaics and in alternatives and renewables was lost.

Today, as the former Soviet bloc countries of Eastern Europe come online in their effort to try to reduce the grotesque pollution that is one of the longest legacies of the Communist rule, they are turning to the Japanese and to the Germans for the technology where we once were the leader. But since we withdrew our own investment, we ceased to be that leader.

So I believe there is, in this effort, an enormous economic opportunity for the United States for the future. At home, we need to consider ways to leverage our technological leadership through domestic tax provisions, such as a zero capital gains tax rate, or a specifically targeted investment tax credit for companies that invest in pollution prevention and energy conservation, or quicker depreciation of investment in such technologies. I repeat, a zero capital gains tax rate or faster depreciation for those companies that invest in energy saving, energy conservation and pollution prevention.

I anticipate, Mr. President, that following the announcement the President makes regarding a U.S. proposal, regardless of what that proposal entails, there will be a number of colleagues on the floor of the Senate denouncing it, arguing that the science is not yet there or that the economic assumptions are unreliable. Some will argue it is unnecessary and too costly for the United States to participate in an international treaty.

On the contrary. I believe the evidence from scientists is overwhelming, that it is far too costly to sit on the sidelines and do nothing. Mr. President, 2,500 leading economists, including 8 Nobel laureates tell us:

For the United States in particular, sound economic analysis shows that there are policy options that would slow climate change without harming American living standards, and these measures may, in fact, improve U.S. production in the long term.

I believe that if we heed the warnings, if we plan for the future now, if we avoid allowing this to become the political football that it might, if we seek the involvement of all nations, we

can secure a healthy planet for ourselves and for our children and for future generations, and we can exercise our responsibility as U.S. Senators in the way that we ought to. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Massachusetts for his thoughtful comments about global warming. It is a subject in which I am deeply interested.

I was very interested and pleased with his references and comparisons with what took place with the Montreal protocol and our efforts that were successful in controlling chlorofluorocarbons, so-called CFC's. There is an example where the first scientific body of opinion suggested that, indeed, the CFC's were destroying the ozone layer. There was great skepticism, not only in this body, but throughout the Nation. But gradually, through testimony and through powerful speeches and articles by those who were involved, this country came to recognize that, indeed, CFC's were destroying the ozone layer, were causing skin cancer to our population and the population of the world.

As a result of that, we moved forward and various meetings were held, which many of us remember, and capping it all off was the Montreal protocol, which called for substantial reduction of the production of CFC's in our country and the world.

At the time, it looked as though it would be very difficult to achieve, but as the Senator from Massachusetts pointed out, the United States' scientific and mechanical ingenuity rose to the surface and, lo and behold, we not only met those reductions but we exceeded them.

The results are now showing that the amount of chlorofluorocarbons in the atmosphere has been reduced, at least the increases have been reduced, and gradually we will see a reduction in the total body of CFC's, as it were, in the atmosphere, because all of this takes a long time to achieve.

I also say to the Senator from Massachusetts that I think it is important to stress not only the costs of complying with a global warming treaty—that is always what is portrayed, it is going to cost our farmers, it is going to cost our manufacturers, it is going to cost our automobile industry, the coal miners, and on and on it goes. The costs of complying. But rarely does anybody ask, what are the costs if we don't have the treaty?

The scientific evidence, as the Senator from Massachusetts was pointing out, is increasingly coming to be recognized that, indeed, the world is becoming warmer, just as the Senator pointed out what is happening to the ice accumulations, the glaciers. In every single place in the world, the glaciers are retreating. Why is that coming about? It is coming about because of the increased temperature, infinitesimal though it might seem, that is occurring throughout the world.

So more and more I believe we have to say to ourselves, what does it cost if we don't do anything? Just take Florida. I don't know what the height of Florida is above sea level, but it must be tiny. If they get an increase in the level of the oceans of the world, and particularly those in the Caribbean, for example, the effects to Florida can't help but be devastating. Indeed, in my State, likewise; Massachusetts, likewise. In all our States, we are doing what we can to increase seawalls. What is happening? We are not sure. All we know is, once upon a time, our beaches were steeper and now they have been cut away. Now we have to have breakwaters and barriers and groins, as they call them, and so forth, to try and prevent the erosion of the soil.

The Senator from Massachusetts pointed out what one of the presidents of one of the oil-producing countries of the world had to say. I would like to also point out a statement by the chairman of the Ford Motor Co. finance committee, none other than William Clay Ford, Jr. This is what he had to say on October 11, just 10 days ago, as quoted in the Washington Post:

> Ford Motor executive William Clay Ford, Jr., called global warming a genuine threat to the environment and said automakers who oppose a proposed treaty to address the problem risk being "marginalized" in the court of public opinion.

This is what someone, whose family owns 40 percent of the voting stock of Ford Motor Co., had to say.

The remarks by Ford, a leading contender to become chairman of the No. 2 automaker, distances himself from several Detroit executives who, in recent months, have criticized the proposed global warming treaty saying the phenomenon might not exist or its causes are uncertain.

So that's what the leader of the second largest automobile manufacturing company in our country had to say.

All I am saying to my colleagues, and substantiating what the Senator from Massachusetts said, is let's examine this thing carefully. Let's look at what the scientists have to say. We can say we don't agree with them. I don't know how many Nobel laureates there are in that group—are there 10 Nobel laureates in that most recent group? It is something like that—plus a total of 2,500 scientists.

I believe this thing is serious, and I think we ought to approach it with that attitude and not say, "No, we're not going to have anything to do with it because if we have anything to do with it and try and solve the problem it will be very expensive." Well, that is no way to approach things.

I commend the Senator from Massachusetts for the remarks he made, and I hope that all our colleagues were listening. This thing is serious; let's take it seriously. We may not agree. We may have different scientific evidence, but let's not just trash it because it is going to be expensive to comply with.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Rhode Island for his generous comments and also for his substantive comments. He has been dealing with this issue for a long period of time. As chairman of the committee of jurisdiction with respect to the environment, as well as a Senator from a coastal State, a neighbor of ours, he is very knowledgeable about these impacts. He serves also on the observer group. So I appreciate his comments particularly and his leadership on it.

I will just say to my friend from Rhode Island, when I was in this discussion with the British minister just last week, he was quite dumbstruck, in fact, that Senators here are still questioning the science or that some people want to make an issue out of the science. There is almost a universal European acceptance among those in Government of the science. They really have stepped beyond that debate.

The debate now is not over the science. The debate is how do you really deal with this the best. The Senator from Rhode Island pointed out Ford Motor Co. Let me just share with my colleague the environmental commitment statement by the insurance industry. The insurance industry in America is increasingly concerned about this. Here is what they said:

> Based on the current status of climate research and on their experience as insurers and reinsurers, the member companies of the UNEP-Insurance Industry Initiative conclude that . . . Man-made climate change will lead to shifts in atmospheric and ocean circulation patterns. This will probably increase the likelihood of extreme weather events in certain areas. Such effects carry the risk of dramatically increased property damage, with serious implications for property insurers and reinsurers . . . We are convinced that in dealing with climate change risks, it is important to recognize the precautionary principle, in that it is not possible to quantify anticipated economic and social impacts of climate change fully before taking action. Research is needed to reduce uncertainty but cannot eliminate it entirely . . . We insist that in accordance with the precautionary principle, the negotiations for the Framework Convention on Climate Change must achieve early, substantial reductions in greenhouse gas emissions.

So I think that increasingly businesses are aware of the fact that the costs of not doing something are the real measurement here.

I thank the distinguished chairman for bringing that to the Senate's attention. I yield the floor.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMBIENT AIR STANDARDS

Mr. INHOFE. Mr. President, tomorrow we will be holding public hearings on a bill that is very significant. It is Senate bill 1084.

Back almost a year ago, in November of last year, the Administrator of the EPA, Carol Browner, came out with the recommendation and the rule change to lower the ambient air standards as they pertained to particulate matter and to ozone.

After looking at this, we found that there was at that time no scientific justification for lowering the ambient air standards. Consequently we started having hearings.

Our first hearing was with the scientific community. We had representation there from CASAC, that is the Clean Air Science Advisory Committee. It was somewhat unanimous among all the scientific community that there is no scientific justification for lowering standards.

One of the things that was rather interesting that came up in that first hearing was a group of young children, we understand now, that came from some hospital who came in wearing masks, as if to say, "You must lower these standards or we're not going to be able to breathe."

I think a great disservice was done because it came out during the course of that hearing that these children used breathers, respirators; they were using various medical equipment that has the chemical CFC in it that allows them to breathe. At precisely the same time that the Administrator of the EPA was saying that we had to do something about lowering the ambient air standards so these young people could breathe, I asked for a show of hands as to how many of them used, in their particular medical devices, CFC's. Every hand went up.

I asked, "How many of you are aware of the fact that Administrator Browner, the same one who is advocating lowering the standards, has said she's going to take CFC's off the market so you folks would not be able to use these in your breathers?"

I was pleased to find out this morning that Senator TIM HUTCHINSON from Arkansas has introduced legislation that will keep the EPA and the other various bureaucracies from taking this chemical off the market. I certainly applaud him for that. I will join him in that effort.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

ISTEA AND CAMPAIGN FINANCE REFORM

Mr. DORGAN. Mr. President, I notice that we are in a situation today that is no different than the circumstances we found ourselves in before we left for the recess last week, and that is the bill that is on the floor of the Senate is the highway reauthorization bill, or ISTEA. Most people want to get some progress made on that piece of legislation.

I might say to the Senator from Rhode Island and the Senator from Montana who are managing that bill, I think they have done an extraordinary job with that bill and I support what they have done. I very much want the Senate to be able to complete its work on the highway reauthorization bill.

I also am someone who believes that if the Senate leaves after this first session of Congress without having dealt with the underlying bill of the campaign finance reform issue, more specifically, McCain-Feingold, we will not have done what we should do for the American people on that issue. It is clear we have a serious problem in campaign finance. It ought not be lost on the American people. I am sure it is not. We have a system here that is broken. There is money ricocheting around every crevice of this political system.

There was a story in one of the newspapers today, some new groups are coming together, suggesting each of the organizations and groups contribute a million dollars so they can do new independent campaign expenditures. The fact is there is all this money ricocheting around the political system, and it ought not be lost on anybody that this system is broken and needs fixing.

How do we fix it? There are a number of different ideas, but the McCain-Feingold is one that has been worked on and a lot of time has been spent on that proposal. At least we ought to have the opportunity for a vote on the McCain-Feingold proposal. We were told prior to bringing the highway reauthorization bill to the floor of the Senate that we would debate campaign finance reform. In fact, it was on the floor of the Senate for some long while, but we never got to a vote on the substance of campaign finance reform because all we did was talk and talk and talk, and then it was pulled from the floor before there was an opportunity for a vote.

That is our dilemma. We have kind of a self-imposed set of circumstances here where shackles have been allied in this legislative process so that, first, we can't get a vote on campaign finance reform, and, second, we have the highway reauthorization bill on the floor which we need to pass—it is a good bill, incidentally, which we need to pass—but it is brought to the floor with a Byzantine kind of structure in which the parliamentary tree is filled with amendments and second degrees and they have done what is called fill the tree so that no one else can offer any amendments on this legislation. So we find ourselves in a circumstance where we have gridlock, a self-imposed gridlock, because some are worried that we will force a vote on campaign finance reform—a vote, incidentally, I think the American people would like to see us have. So the result is they take a bill such as the highway reauthorization and load it up by filling the tree so that you can't do anything on that, either.

Now, I am thinking that perhaps later this afternoon I should come over—I guess what we have is a tree filled and the last amendment is a second-degree amendment—and maybe I should ask for the yeas and nays on the second-degree amendment. I think the yeas and nays would be in order on the second-degree amendment, so perhaps in order to try to end this gridlock, we ought to at least ask for the yeas and nays on the second-degree amendment.

In fact, let me just say for the record, the second-degree amendment as constructed by Senator LOTT, the majority leader, is one I will support. So if we get the yeas and nays, and I will vote for it, presumably a number of Members of the Senate would vote for it sufficient for it to pass, and then at that point the tree isn't full and people can come out here and offer amendments. Then we have one of two opportunities to do business: Either someone can come to the floor and offer an amendment to try to get a vote on McCain-Feingold, the campaign finance reform bill that will reform the campaign finance system, or someone can come to the floor and offer an amendment on the highway reauthorization act.

Either of those alternatives is preferable to the circumstance we now find ourselves in. It does no service to the Senate to say, first, we don't want to vote on campaign finance reform, so second, we will bring the ISTEA bill or highway reauthorization to the floor of the Senate and then tie it up with the same rope that we used to tie up campaign finance reform so that we are not able to move on either.

I again observe perhaps the approach should be for one of us, perhaps myself or someone else, to come over this afternoon and ask for the yeas and nays. I assume we can find enough friends to come and get a sufficient

second, and at some point we can get the yeas and nays on the second-degree amendment, which is the lowest hanging fruit on this bitter tree that has been constructed, and at that point maybe we can offer some other amendments. My first choice would be campaign finance reform, get a vote on that and move on, but if it is not that, at least other amendments, so we can make progress on what I think is a very good highway reauthorization bill.

I began by complimenting the Senator from Montana. He was not here, and the Senator from Rhode Island, I don't know if he heard, but you have brought a bill to the floor of the Senate that is an extraordinarily good bill. I like this piece of legislation. This country needs your legislation. I think the country will be better served by having the Senate pass it and going to conference and getting more than a 6-month extension that seems to be the mood on the other side. To the extent we move this bill and put in law some very good legislation, the country will be best served.

In order to get to that point, however, we have to find a way to untie this whole process, first on ISTEA, especially on ISTEA, saying let's bring the highway reauthorization bill to the floor and tie it up so nobody can move and then also on campaign finance reform. On campaign finance reform we all know the American people want us to at least vote on that issue. They don't want people to be involved in parliamentary maneuvering sufficient so you don't get an up-or-down vote on a bill that a good number of Members of this Senate have worked on for many, many, many months.

Mr. President, I will not do so now, but I say that if we have what is called a legislative tree filled with first- and second-degree amendments sufficient so that no one else in the Senate is able to move at all on anything, perhaps what we ought to do is take that bottom second-degree amendment, which I support and I expect the ranking member and the chairman would support, and let's vote on that. Let's have a vote on it. I will vote for it, we will pass it, and we will open a spot, and then let's do the business of either the highway reauthorization bill or any other amendment that one may wish to bring to the floor of the Senate, which might include on behalf of some the campaign finance reform proposal.

That is the only way, it seems to me, that we would be able to get the Senate to begin moving. It probably can only be considered sufficient to Members of a body that understand these rules to believe somehow you make progress when the lights are on and the heat is on. But there is no thoughtful discussion about an issue that allows you to make progress because we have the thing tied in knots. That is not something that would be sufficient to the rest of the American people.

Let me finish by saying again that we have a very important bill on the floor of the Senate right now. I want to be helpful in moving that piece of legislation, but it is not moving. It hasn't moved a centimeter. We have made no progress at all since the moment it was brought to the floor of the Senate, except for some statements. Why? Because some people are afraid that campaign finance reform will be brought to the floor as an amendment and be voted on and they don't want to have a vote on campaign finance reform, so they tie up the highway reauthorization.

Let's find a way to untie all of us. Let's have our votes up or down. However they come out, they come out. We don't waive those here. We just count them. Let's have them and decide where the votes are. In fact, prior to the highway reauthorization bill being brought to the floor and the cloture vote, it looks to me like there is probably sufficient numbers of Senators who would vote for McCain-Feingold to enact legislation of that type. It appears to me that there are over 50 votes in the Senate for that. But because we couldn't get past the cloture vote we couldn't get to it.

That is part of the purpose, I assume, with tying the Senate up with this procedural tree. But I guess it would be appropriate for a Member of the Senate to ask for the yeas and nays on the underlying second-degree amendment. I would certainly consider doing that later this afternoon, if that is what is available to us, and if that might get us off dead center and allow us to open up a slot either to do this bill, or for someone to come over and offer some other amendment of their choice.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Rhode Island.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that we now go to morning business until 6 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

ISTEA AND CAMPAIGN FINANCE REFORM

Mr. BAUCUS. Mr. President, I have a lot of sympathy with the remarks of the Senator from North Dakota. Being in a deadlock we are not accomplishing very much. The Senator is suggesting that we get off this deadlock; that we start to accomplish something. And he is suggesting that we vote on one of the amendments on this tree and suggesting under the parliamentary rules that we vote on the first one, which is the second-degree amendment. I am very sympathetic to that. I want to move, too.

I also would like to get campaign finance reform passed. Why? I can tell you, having just been through an election, that this country has dramatically changed the way campaigns are run and financed from just a few years ago. The present system is so bad. It is so obscene with virtually no limit on the total number of dollars raised or spent on behalf of, or for, or by candidates that it is demoralizing the country. It is causing the American people to think that the whole system stinks and becoming less and less involved in the democratic process and beginning to lose interest. And we run the risk of fragmenting a country—a country where Americans are going their own way; not a country that works together as a whole.

It is a huge problem. I can tell you, Mr. President. It is a huge problem. And if this Senate and this House does not do something about campaign finance reform very soon, this country, as we know it, is going to no longer be the greatest country on the face of this Earth just because we are going to be so awash in campaign money that the American people are just going to begin to lose interest in the U.S. Government—certainly in the Congress, and in the Presidential campaigns as well.

That is a vivid exaggeration. I grant you. They will have some interest. But they are not going to be nearly as proud of this Congress and their Federal Government as they would like to be.

At the same time, I think we have to pass this highway bill. Why do I say so? Because if the Senate does not pass the highway bill very soon—that is, within the next week or so—then the chances of it passing this year are virtually nil. If we do not pass a highway bill—we know the House wants a 6-month bill. The House's 6-month bill is something that is just totally unacceptable, in my view, because every year, or every couple of years, we would be reauthorizing the highway bill. And it makes no sense. We need to pass a 6-year highway bill. It is that simple.

I have a lot of sympathy for the Senator from North Dakota. He is right. We have to start moving. I hope that leadership on both sides of the aisle sits down and reaches an agreement today, and figure out a way to get off of this impasse so that we can do both—find a way to take up and work campaign finance reform, and also pass this highway bill.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

Mr. BAUCUS. Certainly.

Mr. DORGAN. My understanding is that the second-degree amendment that is pending is something that is acceptable, at least to the extent that I know it. I would vote for it. Would the Senator from Montana support it?

Mr. BAUCUS. I would. I think most Senators would support it.

Mr. DORGAN. It seems to me that the only reason the tree is full with a final second-degree amendment that would be acceptable to everyone is simply to prevent others from offering amendments. I understand the parliamentary strategy here. But the problem is that it puts the Senate in the position of having kind of a glacial progress. I have never tried to watch a glacier move. But I have been told it will pass a lot of days.

Mr. BAUCUS. If the Senator wishes, I will take the Senator up to Grinnell Glacier in Glacier Park where you can virtually watch the glacier move because the Earth is warming at such a rapid rate. It is moving in the wrong way. It is receding, is diminishing. In fact, in 20 years that glacier will totally evaporate.

Mr. DORGAN. Mr. President, the Senator from Montana has actually seen a glacier move, something I have not yet observed. Would the Senator from Montana agree that the glacier—however rapidly or slowly it is moving—is moving more rapidly than we are?

Mr. BAUCUS. I think the Senator makes a very good point. At least it is moving—the glacier.

Mr. DORGAN. Will the Senator from Montana agree that we are not moving; that we have a circumstance where a bill is brought to the floor, and we are virtually tied in knots with a procedural tree, which is not unusual? It has been used before, and used by Democrats as well. But it is rarely used. And it is used in most cases, I am told, to stop legislation.

Mr. BAUCUS. That is correct.

Mr. DORGAN. The point is the tree was developed with the longest hanging fruit a second-degree amendment. If that is acceptable to the Senate, my point was, let's come here and ask for the yeas and nays, and have a vote on it. And if the vote is yes, as I expect it would be, then the tree is open, and we can offer amendments.

My expectation would be that someone would come and say, "We are not going to allow you to offer amendments. We will fill the tree again." I say that is fine. Let's vote again. Let's keep voting, and maybe at some point we will start making forward progress. You can have your car engine idling, and you can say, "Well, the engine is running." Yes. But you are not going anywhere. That is kind of what is happening here. What I want to do is have the engine running with the lights on, with the heat going, and some discussion on the floor of the Senate. But we are not going anywhere. I want to go somewhere—both on campaign finance reform, and I want to make progress on the highway reauthorization bill. And we are going nowhere on both of those fronts.

Mr. BAUCUS. The Senator is absolutely correct. We are at dead center. We are not moving at all.

One way to perhaps get a little more momentum is the procedure outlined by the Senator. I hope that we could count on the same objective by the leadership sitting down and working out an agreement so that we don't have to go through this process. But we may have to.

Mr. DORGAN. I would observe, finally, that the chairman and ranking member are enormously patient. The bill is brought to the floor with a procedure that really doesn't allow any movement on the bill. I expect you will remain on the floor while the bill is being considered, and perhaps at some point when the bill is further considered that we will ask for the yeas and nays and see if by that manner we can make some additional progress.

Mr. BAUCUS. I thank the Senator. I very much hope, as I said many times, that the leadership works out an agreement so we can solve this thing and get moving.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1173) to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

Pending:

Chafee-Warner amendment No. 1312, to provide for a continuing designation of a metropolitan planning organization.

Chafee-Warner amendment No. 1313 (to language proposed to be stricken by the committee amendment, as modified), of a perfecting nature.

Chafee-Warner amendment No. 1314 (to amendment No. 1313), of a perfecting nature.

Motion to recommit the bill to the Committee on Environment and Public Works, with instructions.

Lott amendment No. 1317 (to instructions of the motion to recommit), to authorize funds for construction of highways, for highway safety programs, and for mass transit programs.

Lott amendment No. 1318 (to amendment No. 1317), to strike the limitation on obligations for administrative expenses.

The Senate continued with the consideration of the bill.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator majority leader.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk on the pending highway legislation.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the modified committee amendment to S. 1173, the Intermodal Surface Transportation Efficiency Act:

Senators Trent Lott, John H. Chafee, Paul Coverdell, Christopher Bond, Jesse Helms, Michael B. Enzi, John Ashcroft, Don Nickles, Craig Thomas, Mike DeWine, Richard S. Lugar, Pat Roberts, Ted Stevens, Wayne Allard, Dirk Kempthorne, and Larry Craig.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote will occur on Thursday, October 23, at a time to be determined later. However, I do ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a second cloture motion to the desk to the pending bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the modified committee amendment to S. 1173, the Intermodal Surface Transportation Efficiency Act:

Senators Trent Lott, John Chafee, Paul Coverdell, Christopher Bond, Jesse Helms, Mike Enzi, John Ashcroft, Don Nickles, Craig Thomas, Mike DeWine, Richard Lugar, Pat Roberts, Ted Stevens, Wayne Allard, Dirk Kempthorne, and Larry Craig.

Mr. LOTT. For the information of all Senators, this cloture vote will occur on Thursday also, if necessary. It will be the intention of the majority leader to schedule the vote in the afternoon Thursday, if cloture is not invoked Thursday morning.

I now ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LOTT. I ask unanimous consent there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENCRYPTION

Mr. LOTT. Mr. President, I would like to report to my colleagues on the activities in the House to establish a new export policy on encryption. This is an issue that is still at the top of my list of legislation I hope this Congress can resolve within the next 2 months. The House's actions last month turned a spotlight on how this issue should ultimately be resolved.

Let me briefly review the issue. Encryption is a mathematical way to scramble and unscramble digital computer information during transmission and storage. The strength of encryption is a function of its size, as measured in computer bits. The more bits an encryption system has, the more difficult it is for someone else to illegally unscramble or hack into that information.

Today's computer encryption systems commonly used by businesses range from 40 bits in key length to 128 bits. A good hacker, let's say a criminal or a business competitor, can readily break into a computer system safeguarded by a lower-technology 40-bit encryption system. On the other hand, the 128-bit encryption systems are much more complex and pose a significant challenge to any would-be hacker.

Obviously, all of us would prefer to have the 128-bit systems. And equally as important, we would like to buy such systems from American companies. Firms we can routinely and safely do business with. Foreign companies and individuals also want to buy such systems from American companies. They admire and respect our technological expertise, and trust our business practices. The United States remains the envy of the world in terms of producing top-notch encryption and information security products.

However, current regulations prohibit U.S. companies from exporting encryption systems stronger than the low-end, 40-bit systems. A few exceptions have been made for 56-bit systems. Until recently, it has been the administration's view that stronger encryption products are so inherently dangerous they should be classified at a level equal to munitions, and that the export of strong encryption must be heavily restricted.

While we are restricting our own international commerce, foreign companies are now manufacturing and selling stronger, more desirable encryption systems, including the top-end 128-bit systems, anywhere in the world they want. Clearly, our policy doesn't make sense. Just as clearly, our export policies on encryption have not kept up to speed with either the ongoing changes in encryption technology or the needs and desires of foreign markets for U.S. encryption products.

My intention is neither to jeopardize our national security nor harm law enforcement efforts. I believe we must give due and proper regard to the national security and law enforcement implications of any changes in our policy regarding export of encryption technology. But it is painfully obvious we must modernize our export policies on encryption technology, so that U.S. companies can participate in the world's encryption marketplace. The legislative initiative on this issue has always been about exports, but this summer that changed.

During the past month, the FBI has attempted to change the debate by proposing a series of new mandatory controls on the domestic sale and use of encryption products. Let me be clear. There are currently no restrictions on the rights of Americans to use encryption to protect their personal financial or medical records or their private e-mail messages. There have never been domestic limitations, and similarly, American businesses have always been free to buy and use the strongest possible encryption to protect sensitive information from being stolen or changed. But now, the FBI proposes to change all that.

The FBI wants to require that any company that produces or offers encryption security products or services guarantee immediate access to plain text information without the knowledge of the user. Their proposal would subject software companies and telecommunications providers to prison sentences for failure to guarantee immediate access to all information on the desktop computers of all Americans. That would move us into an entirely new world of surveillance, a very intrusive surveillance, where every communication by every individual can be accessed by the FBI.

Where is probable cause? Why has the FBI assumed that all Americans are going to be involved in criminal activities? Where is the Constitution?

And how would this proposal possibly help the FBI? According to a forthcoming book by the M.I.T. Press, of the tens of thousands of cases handled annually by the FBI, only a handful have involved encryption of any type, and even fewer involved encryption of computer data. Let's face it—despite the movies, the FBI solves its cases with good old-fashioned police work, questioning potential witnesses, gathering material evidence, and using electronic bugging or putting microphones on informants. Restricting encryption technology in the U.S. would not be very helpful to the FBI.

The FBI proposal won't work. I have talked with experts in the world of software and cryptography, who have explained that the technology which would provide compliance with the FBI standard simply does not exist. The FBI proposal would force a large unfunded mandate on our high technology firms, at a time when there is no practical way to accomplish that mandate.

Rather than solve problems in our export policy, this FBI proposal would create a whole new body of law and regulations restricting our domestic market.

This and similar proposals would also have a serious impact on our foreign market. Overseas businesses and governments believe that the U.S. might use its keys to computer encryption systems to spy on their businesses and politicians. Most U.S. software and hardware manufacturers believe this is bad for business and that nobody will trust the security of U.S. encryption products if this current policy continues. In fact, this proposal appears to violate the European Union's data-privacy laws, and the European Commission is expected to reject it this week.

So, the FBI proposal would: Invade our privacy; be of minimal use to the FBI; would require nonexistent technology; would create new administrative burdens; and would seriously damage our foreign markets.

This is quite a list.

Mr. President, the FBI proposal is simply wrong. I have learned that even the administration does not support this new FBI proposal. So why does the FBI believe it must now subject all Americans to more and more surveillance?

This independent action by the FBI has created confusion and mixed signals which are troublesome for the Senate as it works on this legislation. Perhaps the FBI and the Justice Department need to focus immediately on a coordinated encryption position.

Mr. President, I congratulate the members of the House Commerce Committee for rejecting this FBI approach by a vote margin of more than 2 to 1.

I am sure all of my colleagues are sympathetic to the fact that emerging technologies create new problems for the FBI.

But we must acknowledge several truths as Congress goes forward to find this new policy solution. People increasingly need strong information security through encryption and other means to protect their personal and business information. This demand will grow, and somebody will meet it. In the long term, it is clearly in our national interest that U.S. companies meet the market demand. Individuals and businesses will either obtain that protection from U.S. firms or from foreign firms. I firmly believe that all of our colleagues want American firms to successfully compete for this business. Today there are hundreds of suppliers

of strong encryption in the world marketplace. Strong encryption can be easily downloaded off the Internet. Even if Congress wanted to police or eliminate encryption altogether, I am not sure that is doable.

So, let's deal with reality. Clamping down on the constitutional rights of American citizens, in an attempt to limit the use of a technology, is the wrong solution. The wrong solution. This is especially true with encryption technology because it has so many beneficial purposes. It prevents hackers and espionage agents from stealing valuable information, or worse, from breaking into our own computer networks. It prevents them from disrupting our power supply, our financial markets, and our air traffic control system. This is scary—and precisely why we want this technology to be more available.

Only a balanced solution is acceptable. Ultimately, Congress must empower Americans to protect their own information. Americans should not be forced to only communicate in ways that simply make it more convenient for law enforcement officials. This is not our national tradition. It is not consistent with our heritage. It should not become a new trend.

Mr. President, I would like to establish a framework to resolve this difficult issue. I hope to discuss it with the chairmen and ranking members of the key committees. I especially look forward to working with the chairman of the Commerce, Science and Transportation Subcommittee on Communications, Senator BURNS. He was the first to identify this issue and try to solve it legislatively. His approach on this issue has always been fair and equitable, attempting to balance industry wants with law enforcement requirements.

I believe there are other possible ideas which could lead to a consensus resolution of the encryption issue. It is my hope that industry and law enforcement can come together to address these issues, not add more complexity and problems. The bill passed by the House Commerce Committee included a provision establishing a National Encryption Technology Center. It would be funded by in-kind contributions of hardware, software, and technological expertise. The National Encryption Technology Center would help the FBI stay on top of encryption and other emerging computer technologies. This is a big step. This is a big step in the right direction.

It is time to build on that positive news to resolve encryption policy.

Mr. President, there is an op-ed piece which appeared in the Wall Street Journal on Friday, September 26. It is well written and informative, despite the fact that its author is a good friend of mine. Mr. Jim Barksdale is the president and CEO of Netscape Communications and is well-versed in encryption technology. Mr. Barksdale's company does not make encryption products; they license such products from others. They sell Internet and business software and, as Jim has told me many times, his customers require strong encryption features and will buy those products either from us or foreign companies.

Again, let's deal with reality. The credit union manager in Massachusetts, the real estate agent in Mississippi, the father writing an e-mail letter to his daughter attending a California university, each want privacy and security when using the computer. They will buy the best systems available to ensure that privacy and security. And, in just the same way, the banker in Brussels, Belgium, the rancher in Argentina, and the mother writing e-mail to her daughter in a university in Calcutta, India, each of these people also want privacy and security. They also will buy the best systems available to ensure that privacy and security. And they want encryption systems they trust—American systems. That's what this debate is about.

Mr. President, if Congress does not modernize our export controls, we run the real risk of destroying the American encryption industry. And we risk giving a significant and unfair advantage to our foreign business competitors.

THE FMC DID THE RIGHT THING

Mr. LOTT. Mr. President, I rise to congratulate the Federal Maritime Commission [FMC] for doing the right thing about Japan's ports. This action was not unexpected by the Japanese carriers, but I am sure many were surprised with the FMC's dedication to seeing this through. During the past few days, the Nation watched as a long running dispute between Japan and those countries whose ships call on Japan's ports appears to have been resolved.

Japan's ports are widely known as the most inefficient and expensive in the developed world. Additionally, Japan's port system discriminates against non-Japanese ocean carriers.

Mrs. HUTCHISON. For many years, the United States has attempted to negotiate commonsense changes to this system with Japan. Japan also faced criticism from the European Union. However, no progress was made until earlier this year when the FMC voted to assess $100,000 fines against Japanese ocean carriers for each United States port call. It is reasonable for the United States to collect fines from the Japanese shipping lines. Before these fines were to be imposed, the Government of Japan agreed to make the necessary changes. The FMC judiciously gave Japan until August 1997 to work out these changes. When Japan failed to meet this generous deadline, the fines automatically went into effect. By last week, the Japanese ocean carriers had missed the FMC's deadline to pay the first $5 million in fines. Realizing that Japan would not follow through on its promise to fix its port system unless stronger measures were imposed, the FMC voted last week to deny the same Japanese ocean carriers entry to and exit from United States ports.

Mr. LOTT. Mr. President, this firm action has had the desired effect.

An agreement between the United States and Japan on the port issue has been reached. The FMC's order will not have to be carried out, but it was vital to ensuring that Japan's discriminatory port practices are ended. International trade only works when trading partners treat each other fairly. Diplomatic solutions only work when both sides live up to their commitments, and this only occurs when nations know there are genuine consequences to inaction.

The FMC's active role in the port dispute ensured that United States ocean carriers will be treated fairly in Japan. I want to personally recognize Harold Creel, the Chairman of the FMC, and FMC Commissioners Ming Hsu, Del Won, and Joe Scroggins for their efforts to resolve the Japanese port dispute in a firm, yet fair, manner.

Clearly, the FMC has both the responsibility and the authority to take the action. And, the Commissioners approached their decision in a thoughtful and measured way.

I also want to thank the other members of the negotiation team, in particular, the Maritime Administration which provided much needed maritime expertise.

Mrs. HUTCHISON. I want to add my congratulations to the FMC, the Maritime Administration, and the administration as well. The resulting improvements in Japan's port practices will benefit not only U.S. ocean carriers, but other ocean carriers and the shippers of the world trading through Japan's ports.

Mr. LOTT. I would also note that the authority under which the FMC took these actions, section 19 of the Merchant Marine Act, 1936, and the independence of the U.S. Government's international shipping oversight agency would be preserved under S. 414, the Ocean Shipping Reform Act of 1997. Under this bill, the action would be carried out by the U.S. Transportation Board, an expanded and renamed Surface Transportation Board. To those who expressed concerns that this multimodal board would be unwilling or unable to be an effective regulator of the maritime industry, I tell them to look at the Surface Transportation Board's record of making tough decisions with regard to the mergers of the largest railroads in the United States.

When provided with similar maritime expertise, this combined board will certainly have the ability and willingness to protect the interests of the United States in international maritime disputes.

Mrs. HUTCHISON. The Majority Leader is correct. S. 414 does not limit the United States' ability to address similar situations in the future. The U.S. Transportation Board would have the same authority, independence, and I believe the same willingness, to protect America's interests as the FMC.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, October 20, 1997, the Federal debt stood at $5,418,457,770,302.08. (Five trillion, four hundred eighteen billion, four hundred fifty-seven million, seven hundred seventy thousand, three hundred two dollars and eight cents)

Five years ago, October 20, 1992, the Federal debt stood at $4,059,070,000,000. (Four trillion, fifty-nine billion, seventy million)

Ten years ago, October 20, 1987, the Federal debt stood at $2,384,494,000,000. (Two trillion, three hundred eighty-four billion, four hundred ninety-four million)

Fifteen years ago, October 20, 1982, the Federal debt stood at $1,137,638,000,000. (One trillion, one hundred thirty-seven billion, six hundred thirty-eight million)

Twenty-five years ago, October 20, 1972, the Federal debt stood at $438,262,000,000 (Four hundred thirty-eight billion, two hundred sixty-two million) which reflects a debt increase of more than $5 trillion—$4,980,195,770,302.08 (Four trillion, nine hundred eighty billion, one hundred ninety-five million, seven hundred seventy thousand, three hundred two dollars and eight cents) during the past 25 years.

AMERICAN MEDICAL ASSOCIATION HONORS MARK MONTIGNY

Mr. KENNEDY. Mr. President, the American Medical Association recently honored Massachusetts State Senator Mark Montigny of New Bedford with its 1997 Nathan Davis Award. This honor is a well-deserved tribute to Senator Montigny for his outstanding commitment to public service and his leadership in health care.

The award was established by the AMA in 1989 to honor elected and career officials at the Federal, State and local levels for their leadership in advancing public health. Mark Montigny's role on these vital issues in the Massachusetts legislature has helped our State to make impressive progress in improving the quality and affordability of health care for all citizens.

In July 1996, one of Senator Montigny's principal legislative initiatives was enacted into law, to provide health insurance for the 160,000 children in Massachusetts without such insurance. His initiative also launched a pilot prescription drug subsidy program for senior citizens.

These initiatives are financed by a 25 cent increase in the State cigarette tax. The linkage between the cigarette tax and children's health insurance in Senator Montigny's bill was one of the principal models for the national children's health insurance legislation enacted by Congress as part of the balanced budget agreement this year.

New Bedford and Massachusetts are proud of Mark Montigny's leadership on these issues. I congratulate him on the AMA's award, and I look forward to working closely with him in the years ahead.

NATO EXPANSION

Mr. CAMPBELL. Mr. President, this morning the Senate Appropriations Committee, on which I serve, held an important hearing on the topic of NATO expansion. Secretary of State Madeleine Albright and Secretary of Defense William Cohen testified at this hearing.

I feel that it is fitting at this time to keep in mind one of our recently retired colleagues who has played such a pivotal role in advancing the cause of NATO expansion. I am referring to my good friend from Colorado, Senator Hank Brown.

Few people have played a more crucial or steadfast role for the cause of NATO expansion than Senator Brown. He started his efforts after Stalin's notorious Iron Curtain crumbled and never let up. His devotion and successes in advancing NATO expansion has made Hank Brown a warmly regarded household name throughout Central Europe, including the three countries that have been invited to join NATO in this first round of expansion, Poland, Hungary, and the Czech Republic.

In fact, in the fall of 1996, the people of Poland showed their highest regards for Senator Brown by awarding him Honorary Polish citizenship in the name of the historic capital of Poland, Krakow. This is one of Poland's most prestigious honors. To this day, only two other Americans have received this honor, President Ronald Reagan and President George Bush.

I recall a moving speech that Senator MIKULSKI—who sits on the Appropriations Committee with me—gave right here on the Senate Floor just after the Brown NATO Expansion Amendment passed last fall. Senator MIKULSKI said that her mother had just placed a picture of Hank Brown in a place of honor on her fireplace mantle at home. I hope it is still there. This is but one illustration of how the debate over NATO expansion transcends party lines.

Senator Hank Brown has been one of the most effective advocates of securing freedom and peace for the people of Europe. We appreciated his valuable leadership in the Senate on the cause of NATO expansion. His legacy continues as the Senate proceeds with its consideration of this issue of great importance to the national security interests of the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HUTCHINSON (for himself and Mr. INHOFE):

S. 1299. A bill to limit the authority of the Administrator of the Environmental Protection Agency and the Food and Drug Administration to ban metered-dose inhalers; to the Committee on Labor and Human Resources.

By Mr. GRAMS (for himself and Ms. MOSELEY-BRAUN):

S. 1300. A bill to provide for the minting and circulation of new one dollar coins; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 1301. A bill to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; to the Committee on the Judiciary.

By Mr. FAIRCLOTH (for himself and Mr. MOYNIHAN):

S. 1302. A bill to permit certain claims against foreign states to be heard in United States courts where the foreign state is a state sponsor of international terrorism or where no extradition treaty with the state existed at the time the claim arose and where no other adequate and available remedies exist; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. HAGEL, Mr. KERREY, and Mr. MURKOWSKI):

S. 1303. A bill to encourage the integration of the People's Republic of China into the world economy, ensure United States trade interests, and establish a strategic working relationship with the People's Republic of China as a responsible member of the world community; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 137. A resolution to authorize testimony, production of documents, and representation of employees of Senate in the cases of *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffani Stoney;* considered and agreed to.

By Mr. DEWINE:

S. Con. Res. 54. A concurrent resolution expressing the sense of the Congress that the United States Postal Service should maintain the postal uniform allowance program; to the Committee on Governmental Affairs.

By Mr. GREGG (for himself, Mr. WARNER, and Mr. ROBB):

S. Con. Res. 55. A concurrent resolution declaring the annual memorial service sponsored by the National Emergency Medical Services Memorial Service Board of Directors to honor emergency medical services personnel to be the "National Emergency Medical Services Memorial Service"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUTCHINSON (for himself and Mr. INHOFE):

S. 1299. A bill to limit the authority of the Administrator of the Environmental Protection Agency and the Food and Drug Administration to ban metered-dose inhalers; to the Committee on Labor and Human Resources.

THE ASTHMA INHALER REGULATORY RELIEF ACT

Mr. HUTCHINSON. Mr. President, I come to the Senate floor to talk about an issue which literally means life and breath to 30 million Americans. It appears that in an effort to clean up the environment, some heavy-handed bureaucrats are willing to reduce the quality of life for those Americans—children, adults, and senior citizens—who are dependent upon inhalers like this inhaler that I have with me today. As I rode the elevator up to the Chamber, I mentioned to the elevator operator what I was going to be doing. She said, "Well, please do it because it means life to me. I have to have this to breathe."

I have a nephew, John Paul, who is an asthmatic, who has been dependent upon these inhalers that would be outlawed unless we act as the Senate.

Because of this, I am offering the Asthma Inhaler Regulatory Relief Act, AIRR, which would block the Food and Drug Administration from banning certain metered dose inhalers, MDI's. I am glad today that Senator SHELBY, Senator BOND, and Senator DEWINE have all joined as original cosponsors on this legislation. Senator DEWINE has a special interest in this, with four of his children, it is my understanding, being asthmatics and being dependent upon these inhalers. These inhalers are used by nearly 30 million Americans who suffer from respiratory diseases such as asthma, chronic obstructive pulmonary disease, and cystic fibrosis. These people have come to rely on their inhalers as a lifeline for daily living. Yet, the FDA at this time, in its very questionable wisdom, has decided that inhalers severely damage the environment and must be banned. One of only a few avenues to the outside world, the FDA would seal this avenue and ban these inhalers.

The FDA initially published an advanced notice of a proposed rulemaking to eliminate the use of MDI's that use chlorofluorocarbons on March 6, 1997. About this time, I received several letters which initially sparked my interest in the issue. I have come to find out that the FDA, in collaboration with the Environmental Protection Agency, proposed this rule as part of the EPA's desire to eliminate all uses of chlorofluorocarbons as soon as possible. Most metered dose inhalers use CFC's as the propellant to deliver the medicine from the inhaler to the lungs of the patient. Under the 1987 Montreal protocol CFC's are to be phased out globally by the year 2005. However, certain uses of CFC's, including this inhaler, were explicitly recognized by signatories of the protocol as vital to human health while posing relatively little harm to the environment. This exception has allowed the continued manufacture and use of inhalers which use CFC's as their propellants.

This exception, however, is being threatened by the Food and Drug Administration despite the objections of many, including the American Academy of Family Physicians. In their May 5, 1997 letter to Michael Friedman, Deputy Commissioner of the FDA, the physicians wrote:

> The Academy believes that the proposed rule might negatively affect our patients' health care and urges the FDA to continue to deem MDI's as "essential" under the Montreal Protocol.

These are the doctors who deal with our children day in and day out. They reiterated twice in their letter that they support eliminating CFC's from the environment but feel that this shortened timetable is not necessary and may be detrimental, very detrimental to their patients' health.

Carol Browner, the Administrator of the Environmental Protection Agency, has come to the Congress on numerous occasions to lobby on behalf of EPA's proposed clean air standards. I serve on the clean air subcommittee. We have had Administrator Browner before us numerous times as an advocate for children. One of the most compelling arguments she has made on behalf of these new air standards is that she is saving the children and the elderly from unnecessary respiratory illness. I respect Ms. Browner for her zeal to protect children and the elderly, but I find it ironic and amazing and I have to wonder how she can support taking the medication away from those whom she claims to be trying to protect.

I wonder how she can look these children in the eye and tell them she is taking away the one thing that allows them to play outside and enjoy the high-energy activities of running, climbing and participating in sports. Ms. Browner's actions will literally rob them of their childhood and force them to sit on the sidelines. Of course, the EPA has an answer. First, the EPA and the FDA will tell us there are other MDI's available that will provide the necessary protection for these children. The truth is there is only one that is currently available. Many are in the research and development stages, but that pales in comparison to the hundreds of these inhalers that are available currently.

Doctors will tell you that different patients react differently to different medications. There are many inhalers that are virtually identical in composition yet have dramatically different effects on various patients. Again, quoting the American Academy of Family Physicians:

> We are concerned that the proposed rule will severely limit the number of therapies available to our patients. We know that a drug that works for one patient may not work for another. We would like our members to have the flexibility to try different therapies to find the one that is most effective for their patients.

Simply put, 1 inhaler is not enough and 10 is not enough. Doctors must have the ability to choose the medication that best suits their patients. In the case of respiratory treatment, one size definitely does not fit all.

Another concern I have with allowing one inhaler to dominate the market is the cost to the consumer. Obviously, where there are hundreds as currently exist, including many generic brands, there will be lower prices for the consumer. If we allow the FDA and the EPA to ban CFC inhalers, many may not be able to afford the treatment. The majority of patients who suffer from these symptoms live in the inner-city where the cost of living is very high and their income very low. These families rely on inhalers which can cost eight times less than newer name brand products without CFC's. If these children from low-income inner-city families lose the most accessible inhaler, they are less likely to continue adequate treatment which is so important to a normal life.

According to a recent Wall Street Journal article, the Joint Council of Allergy, Asthma and Immunology has told both the FDA and the EPA that because of these increased costs, their proposal will unfairly punish poor children and the elderly who have the highest risks of asthma-related sickness and death.

A certain consequence of a decrease in the use of inhalers as part of a schedule to keep asthma in control is an increase in hospital admissions and an increase in deaths. According to a panel of the National Institute for Allergies and Infectious Diseases, between 1980 and 1993 failure to comply with treatment explains a 300 percent increase in asthma-related deaths among children. This proposal put forth by the EPA and the FDA will increase costs and can only worsen this statistic.

Another common argument the EPA will use is that by banning CFC's, we are making the air more safe for children and the elderly. While certainly there are studies that show these gases are harmful and increase the probability that an asthmatic will have an

attack, if you look at the statistics, you will find that inhalers, such as this one, account for at most 1.5 percent of all CFC's produced in the world. The EPA supports taking away nearly 30 million people's inhalers to eliminate approximately 1.5 percent of the CFC's produced. That hardly seems like a logical target for reducing CFC's and preserving and maintaining the health of the American people.

In the October edition of Insight Magazine, Robert Goldbert, senior research fellow at George Washington Center For Neuroscience, determines that banning MDI's that only account for 1.5 percent of CFC emissions is another cynical exploitation of kids for the sake of environmental correctness.

I do not believe that this proposal is part of a strategy to save the ozone layer. I believe it is a strategy to use children as a political tool for an end that I frankly do not understand. We cannot allow the FDA and the EPA to require children and senior citizens to foot the bill for reductions in CFC's that will do no good, while hurting the most vulnerable.

These actions, if allowed to proceed, will literally rob these children of their childhood and significantly reduce the quality of life of all those dependent on inhalers.

I urge the Presiding Officer and all of my colleagues who may be listening today to join in cosponsorship of what I think is commonsense legislation and that is going to be to the benefit of 30 million Americans including children and the elderly and those who are most vulnerable in our society.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asthma Inhaler Regulatory Relief Act".

SEC. 2. LIMITATION ON AUTHORITY TO BAN METERED-DOSE INHALERS.

Neither the Administrator of the Environmental Protection Agency nor the Commissioner of Food and Drug Administration may prohibit the manufacture, distribution, or sale of metered-dose inhalers that use chlorofluorocarbons unless the Administrator of the Environmental Protection Agency and the Commissioner of the Food and Drug Administration jointly certify to the Congress that alternatives to such inhalers are available that, for all populations of users of such inhalers, are comparable in terms of safety and effectiveness, therapeutic indications, dosage strength, costs, and retail availability.

SEC. 3. MORATORIUM ON FURTHER RULEMAKING.

The Commissioner of the Food and Drug Administration shall withdraw the March 6, 1997, advance notice of proposed rulemaking concerning chlorofluorocarbons in metered-dose inhalers and shall not issue any other proposal until after the 10th Meeting of the Parties to the Montreal Protocol on Substances That Deplete the Ozone Layer. Any subsequent proposal shall be in the form of an advance notice of proposed rulemaking and shall be initiated only after extensive consultations with patients, physicians, other health care providers, manufacturers of metered-dose inhalers, and other stakeholders.

SEC. 4. DEVELOPMENT OF STRATEGY.

(a) IN GENERAL.—Following the 10th meeting of Parties to the Montreal Protocol on Substances That Deplete the Ozone Layer, but not later than January 30, 1999, the Commissioner of the Food and Drug Administration shall publish a new advance notice of proposed rulemaking, setting forth the initial strategy for facilitating the transition in the United States to metered-dose inhalers that do not use chlorofluorocarbons.

(b) OBLIGATIONS UNDER MONTREAL PROTOCOL.—The initial strategy developed under subsection (a) shall be submitted by the Secretary of State to the Montreal Protocol Secretariat by January 31, 1999, to fulfill United States obligations under the Montreal Protocol decision IX/14.

By Mr. GRAMS (for himself and Ms. MOSELEY-BRAUN):

S. 1300. A bill to provide for the minting and circulation of new $1 coins; to the Committee on Banking, Housing and Urban Affairs.

THE UNITED STATES $1 COIN ACT OF 1997

Mr. GRAMS. Mr. President, today Senator MOSELEY-BRAUN and I are introducing the United States $1 Coin Act of 1997. The bill calls for a newly designated, golden-colored $1 coin to replace the Susan B. Anthony.

Unless this legislation is approved in the near future, the U.S. Mint will begin the process of minting more of the unpopular Susan B. Anthony coins by 1999. The supply of Anthony coins in government inventories fell by a total of 137 million coins in 1995 and 1996. Only 133 million remain as of September 30, 1997. The inventory has been falling at the rate of about 5 million per month because Anthony dollars are used at hundreds of vending locations, in more than a dozen major transit systems, and by the U.S. Postal Service.

Because the U.S. Mint has stated that it needs 30 months to design and fabricate a new $1 coin, the timeframe for a decision by Congress is short.

The current design of the SBA $1 coin is flawed because it has the same color and reeded edge as a quarter. This makes it difficult for consumers to tell the difference between an SBA $1 coin and a quarter.

The United States $1 Coin Act of 1997 will require the Treasury Department to change the color and edge of the SBA $1 coin so that it is different from the quarter. The act will not terminate the $1 bill.

Philip Diehl, Director of the U.S. Mint, stated his support for these reforms in his testimony to the House Subcommittee on Domestic and International Monetary Policy on October 21, 1997:

The U.S. Mint fully supports legislation which would authorize issuance of a new dollar coin with new characteristics at such time as the SBA inventory is exhausted. In addition, immediate passage is critical because the U.S. Mint needs at least 30 months to research and test coin alloys and suitability for use in commerce.

Mr. President, I ask unanimous consent that both a copy of the United States $1 Coin Act of 1997 and a section-by-section summary of its contents to be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "United States $1 Coin Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SECTION 2. NEW $1 COIN.

(a) WEIGHT.—Section 5112(a) of Title 31, United States Code, is amended by striking, "and weighs 8.1 grams."

(b) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—

(1) in the 1st sentence, by striking, "dollar,"; and

(2) by inserting after the 4th sentence, the following new sentence: "The dollar coin shall be golden in color, have a distinctive edge, have tactile and visual features that make the denomination of the coin readily discernable, be minted and fabricated in the United States, and have similar metallic, anti-counterfeiting properties as United States clad coinage in circulation on the date of enactment of the United States $1 Coin Act of 1997."

(c) DESIGN.—Section 5112(d)(1) of title 31, United States Code, is amended by striking out the 5th and 6th sentences and inserting the following new sentence: "The Secretary of the Treasury, in consultation with Congress, shall select appropriate designs for the obverse and reverse sides of the dollar coin.".

(d) PRODUCTION OF NEW DOLLAR COINS.—

(1) IN GENERAL.—Upon the depletion of the Government's supply (as of the date of the enactment of this Act) of $1 coins bearing the likeness of Susan B. Anthony, the Secretary of Treasury shall place into circulation $1 coins which comply with the requirements of subsections (b) and (d)(1) of section 5112 of title 31, United States Code, as amended by subsections (b) and (c) of this section. The Secretary may include such $1 coins in any numismatic set produced by the United States Mint before the date on which the $1 coins are placed in circulation.

(2) AUTHORITY OF SECRETARY TO CONTINUE PRODUCTION.—If the supply of $1 coins bearing the likeness of Susan B. Anthony is depleted before production has begun of $1 coins which bear a design which complies with the requirements of subsections (b) and (d)(1) of section 5112 of title 31, United States Code, as amended by subsections (b) and (c) of this section, the Secretary of the Treasury shall continue to mint and issue $1 coins bearing the likeness of Susan B. Anthony in accordance with such section 5112 (as in effect on the day before the date of the enactment of this Act) until such time as production begins.

SECTION 3. MARKETING PROGRAM.

(a) IN GENERAL.—Before placing into circulation $1 coins authorized under section 2 of this Act, the Secretary of the Treasury shall adopt a program to promote the use of such coins by commercial enterprises, mass transit authorities, and local, state and federal government agencies.

(b) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study on the progress of the marketing program authorized by subsection (a).

(c) REPORT.—No later than March 31, 2001, the Secretary of the Treasury shall submit a report to Congress on the results of the study conducted pursuant to subsection (b).

UNITED STATES $1 COIN ACT OF 1997—SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The Act is called the "United States $1 Coin Act of 1997."

Section 2. New $1 Coin

Subsection 2(a). The new $1 coin will be of a golden color so that consumers can tell the difference between it and a quarter. The 8.1 gram weight restriction for the dollar coin is deleted to take into account the difference in weight caused by the coin being minted from a different alloy. However, the new $1 coin will retain the same 1.043 inches diameter as the old coin.

Subsection 2(b). The current $1 coin has the same color and same reeded edge of a quarter. This subsection authorizes that the new $1 coin be golden in color and have a distinctive (probably smooth) edge. The change in the edge will permit vision impaired consumers to be able to differentiate the $1 coin from a quarter.

Subsection 2(c). This permits the Secretary of the Treasury, in consultation with Congress, to change the design of the dollar coin.

Subsection 2(d)(1). The U.S. Mint estimates that the current supply of old $1 coins will be depleted within 30 months. This subsection requires that upon the depletion of the current supply of old $1 coins, the Treasury Department shall place into circulation the new $1 coins. The Treasury Department is also authorized to sell the new $1 coin as part of a special set for coin collectors prior to date in which the new coins are set to be placed in general circulation.

Subsection 2(d)(2). This requires the Treasury Department to temporarily mint more SBA $1 coins, if the supply of these coins is for some reason depleted prior to the introduction of the new $1 coin. This will assure that commercial enterprises and mass transit authorities will not experience shortages of $1 coins prior to the introduction of the new $1 coin.

Section 3. Marketing Program

This requires the Treasury Department to publicize the issuance of the new $1 coin and promote the use of such $1 coins to commercial enterprises, mass transit authorities and government agencies. It requires the Treasury Department to report on the progress of their promotion efforts no later than March 31, 2001.

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 1301. A bill to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; to the Committee on the Judiciary.

THE "CONSUMER BANKRUPTCY REFORM ACT OF 1997"

Mr. GRASSLEY. Mr. President, I rise today to introduce the Consumer Bankruptcy Reform Act of 1997. This bill, which I am introducing with Senator DURBIN, will tighten bankruptcy laws and do much to stem the tide of casual bankruptcies. With bankruptcy filings at all time record highs, it's imperative that Congress enact serious and tough reforms of the consumer bankruptcy chapters.

By far, the most pressing bankruptcy policy question facing America today relates to the explosion of consumer bankruptcies. Last April, I chaired a hearing on the crisis in consumer bankruptcies. While there's not much agreement about the root causes of the rise in consumer bankruptcies, it's obvious that Congress needs to do something now—before the economy takes a downturn—to reverse this trend. At the present time, the economy is doing well and unemployment is low. Inflation is under control.

But we know there are always potholes on the road to economic prosperity. And we know that when the economy declines, bankruptcies increase. With so many bankruptcies now, when times are good, I shudder to think of the strains we will face if we hit a recession. Clearly, Congress needs to act while the economy is still in good shape.

The Consumer Bankruptcy Reform Act will discourage casual bankruptcies by sending a clear signal that you can't file for bankruptcy and walk away from your debts if you have the ability to re-pay some portion of those debts. This is a simple and straightforward idea whose time has come. According to my research, Congress considered reserving bankruptcy relief for only those Americans who can't re-pay their debts as far back as 1932. So, what we're proposing is not based on some unprecedented concept; but instead has a long and distinguished history.

The bill I'm introducing today amends section 707(b) of the bankruptcy code to permit bankruptcy judges to transfer debtors to chapter 13, or dismiss a case outright, if the debtor could re-pay 20 percent or more of their nonpriority unsecured debts. And the bill changes current law to let creditors bring motions to bankruptcy judges to have debtors moved to chapter 13 or have their cases dismissed. This means that creditors can be the masters of their own destiny. The bankruptcy code should not prevent creditors from even presenting evidence that debtors who could repay their debts are abusing the bankruptcy code and walking away scott-free.

The bill also allows private chapter 7 trustees to bring motions under the new section 707(b). And if they win on their motion, and the debtor is either dismissed or transferred to chapter 13, the private trustee will be reimbursed for attorney's fees. As an added incentive for the private trustees, if they win on a section 707(b) motion, the court can order the debtor's attorney fined and make that fine payable to the trustee. Thus, there will be a army of trustees looking for debtors who shouldn't be in bankruptcy. This will cause people to think twice before rushing to declare bankruptcy. And that's a very positive reform.

However, in order to forge a bipartisan compromise, the bill doesn't make ability to repay the only factor in determining whether to transfer or dismiss a case. Instead, each debtor's individual circumstances will be examined. In this way, our bill avoids the injustice which can accompany a crude formula with practically no exceptions.

I'm also very aware that there have been abuses by creditors using harsh and abusive tactics to collect debts from people who have declared bankruptcy. So, the Consumer Bankruptcy Reform Act contains an entire title—title II—dedicated to enhancing consumer protections by requiring judges to impose stiff penalties for abusive conduct and frivolous court filings. As a strong supporter of rule 11 reform, I believe that Congress should crack down on groundless court filings which some creditors have used to harass and intimidate debtors.

I also believe that the Grassley-Durbin bill will encourage alternative dispute resolution and out-of-court settlements under the new section 707(b), if a creditor refuses to attempt ADR, then a debtor who could otherwise be transferred from chapter 7 to chapter 13 can raise this noncooperation as a defense. This will encourage creditors to negotiate out-of-court settlements. And that will save court time and resources—a goal which I am strongly committed to. I think that bringing Bureau of Labor statistics numbers into the bankruptcy code for the first time, as the House bill does, is unprecedented and will breed new and costly litigation. The Grassley-Durbin bill avoids this problem by relying on time-tested bankruptcy provisions to identify chapter 7 filers who really need to be in chapter 13 or out of the bankruptcy system altogether.

This bill is fair and balanced and will implement needed changes efficiently and without the uncertainty and new litigation associated with statistical formulas which are completely foreign to the bankruptcy code. It will crack down on bankruptcy abuses on both sides of the equation. And it will tell those who don't want to take personal responsibility for their debts that the free-ride is over.

Finally, the bill also strikes the cap on single asset real estate, a goal which I have long supported. I'm very grateful to Senator DURBIN for working with me on this matter, since it really is so important to the health of the commercial banking industry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Bankruptcy Reform Act of 1997".

TITLE I—NEEDS BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by striking "13".

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 707. Dismissal of a case or conversion to a case under chapter 13";

and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)"; and

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking ", but not at the request or suggestion of a party in interest,";

(II) by inserting ", or, with the debtor's consent, convert such a case to a case under chapter 13 of this title," after "consumer debts"; and

(III) by striking "substantial abuse" and inserting "abuse"; and

(ii) by striking the last sentence and inserting the following:

"(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

"(A) under section 1325(b)(1) of this title, on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 20 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5 of this title);

"(B) the debtor filed a petition for the relief in bad faith; and

"(C)(i) the debtor made good-faith efforts, before the filing of the petition, to negotiate an alternative repayment schedule or to use alternative methods of dispute resolution; and

"(ii) if the debtor made efforts described in clause (i), the creditors of that debtor unreasonably refused to engage in the alternative methods of dispute resolution or to negotiate an alternative repayment schedule.

"(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection and the court grants that motion, the court shall order the counsel for the debtor, if the debtor is represented by counsel, to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees.

"(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

"(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

"(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

"(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

"(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

"(ii) determined that the petition—

"(I) is well grounded in fact; and

"(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1) of this subsection.

"(4) The court shall award a debtor all reasonable costs in contesting a motion brought by a party in interest under this subsection (including reasonable attorneys' fees and actual damages in an amount not less than $5,000) if—

"(A) the court does not grant the motion; and

"(B) the court finds that—

"(i) the position of the party that brought the motion was not substantially justified; or

"(ii) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

"707. Dismissal of a case or conversion to a case under chapter 13.".

TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS

SEC. 201. ALLOWANCE OF CLAIMS OR INTERESTS.

Section 502 of title 11, United States Code, is amended by adding at the end the following:

"(k)(1) The court shall award the debtor reasonable attorneys' fees and costs if, after an objection is filed by a debtor, the court—

"(A) disallows the claim; or

"(B) reduces the claim by an amount greater than 5 percent of the amount of the initial claim filed by a party in interest.

"(2) If the court finds that the position of a claimant under this section is not substantially justified, the court shall, in addition to awarding a debtor reasonable attorneys' fees and costs under paragraph (1), award additional punitive damages in the amount of $5,000.".

SEC. 202. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended to read as follows:

"(d)(1) If a creditor requests a determination of dischargeability of a consumer debt under this section and that debt is discharged, the court shall award the debtor reasonable attorneys' fees and costs.

"(2) In addition to making an award to a debtor under paragraph (1), if the court finds that the position of a creditor in a proceeding covered under this section is not substantially justified, the court shall, in addition to making an award of reasonable attorneys' fees and costs under paragraph (1), award an amount equal to the greater of—

"(A)(i) the amount of actual damages; multiplied by

"(ii) 3; or

"(B) $5,000.".

SEC. 203. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(i) The failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).

"(j)(1) Except as provided in paragraph (2), a creditor may not charge a debtor, or the account of a debtor, for attorneys' fees or costs for work performed in connection with a case brought under this title.

"(2) Any charge made by a creditor in violation of this subsection shall constitute a violation of an injunction under subsection (a)(2).

"(k) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

"(1) the greater of—

"(A)(i) the amount of actual damages; multiplied by

"(ii) 3; or

"(B) $5,000; and

"(2) costs and attorneys' fees.".

SEC. 204. AUTOMATIC STAY.

Section 362(h) of title 11, United States Code, is amended to read as follows:

"(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

"(A) the greater of—

"(i)(I) the amount of actual damages; multiplied by

"(II) 3; or

"(ii) $5,000; and

"(B) costs and attorneys' fees.

"(2) In addition to recovering actual damages, costs, and attorneys' fees under paragraph (1), an individual described in paragraph (1) may recover punitive damages in appropriate circumstances.".

SEC. 205. WHO MAY BE A DEBTOR.

Section 727 of title 11, United States Code, is amended by adding at the end the following:

"(f)(1) In any case in which a creditor files a motion to deny relief to a debtor under this section and that motion is denied or withdrawn, the court shall award the debtor reasonable attorneys' fees and costs.

"(2) If the court finds that the position of a party filing a motion under this section is not substantially justified, the court shall assess against the creditor for payment to the debtor a payment in an amount equal to the greater of—

"(A)(i) the amount of actual damages; multiplied by

"(ii) 3; or

"(B) $5,000.".

TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM

SEC. 301. NOTICE OF ALTERNATIVES.

(a) IN GENERAL.—Section 342 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter 1 of chapter 5 of this title) a written notice prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28. The notice shall contain the following:

"(1) A brief description of chapters 7, 11, 12, and 13 of this title and the general purpose, benefits, and costs of proceeding under each of those chapters.

"(2) A brief description of services that may be available to that individual from an

independent nonprofit debt counseling service.

"(3)(A) The name, address, and telephone number of each nonprofit debt counseling service with an office located in the district in which the petition is filed, if any.

"(B) Any nonprofit debt counseling service described in subparagraph (A) that has registered with the clerk of the bankruptcy court on or before December 10 of the preceding year shall be included in the list referred to in that clause, unless the chief bankruptcy judge of the district involved, after giving notice to the debt counseling service and the United States trustee and opportunity for a hearing, orders, for good cause, that a particular debt counseling service shall not be so listed."; and

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The debtor shall—";

(2) by striking paragraph (1) and inserting the following:

"(1) file—

"(A) a list of creditors; and

"(B) unless the court orders otherwise—

"(i) a schedule of assets and liabilities;

"(ii) a schedule of current income and current expenditures;

"(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

"(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition pursuant to section 110(b)(1) of this title indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b) of this title; or

"(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

"(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

"(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

"(vi) a statement of the amount of projected monthly net income, itemized to show how calculated;

"(vii) if applicable, any statement under paragraphs (3) and (4) of section 109(h); and

"(viii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;"; and

(3) by adding at the end the following:

"(b)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

"(2) At any time, a creditor, in a case under chapter 13, may file with the court notice that the creditor requests the plan filed by the debtor in the case and the court shall make that plan available to the creditor who requests that plan.

"(c) An individual debtor in a case under chapter 7 or 13 shall file with the court—

"(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

"(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

"(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

"(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

"(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

"(B) thereafter on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

"(d)(1) A statement referred to in subsection (c)(4) shall disclose—

"(A) the amount and sources of income of the debtor;

"(B) the identity of any persons responsible with the debtor for the support of any dependents of the debtor; and

"(C) any persons who contributed and the amount contributed to the household in which the debtor resides.

"(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying.".

(c) TITLE 28.—Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) in paragraph (6) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) on or before January 1 of each calendar year, and also not later than 30 days after any change in the nonprofit debt counseling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(3) of title 11 for each district included in the region.".

SEC. 302. FAIR TREATMENT OF SECURED CREDITORS UNDER CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

"(B)(i) the plan provides that the holder of such claim retain the lien securing such claim until the debt that is the subject of the claim is fully paid for, as provided under the plan; and".

SEC. 303. DISCOURAGEMENT OF BAD FAITH REPEAT FILINGS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting "(1)" before "Except as";

(B) by striking "(1) the stay" and inserting "(A) the stay";

(C) by striking "(2) the stay" and inserting "(B) the stay";

(D) by striking "(A) the time" and inserting "(i) the time"; and

(E) by striking "(B) the time" and inserting "(ii) the time"; and

(2) by adding at the end the following:

"(2) Except as provided in subsections (d) through (f), the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case if—

"(A) a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13; and

"(B) a single or joint case of that debtor (other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) of this title) was pending during the preceding year but was dismissed.

"(3) If a party in interest so requests, the court may extend the stay in a particular case with respect to 1 or more creditors (subject to such conditions or limitations as the court may impose) after providing notice and a hearing completed before the expiration of the 30-day period described in paragraph (2) only if the party in interest demonstrates that the filing of the later case is in good faith with respect to the creditors to be stayed.

"(4) A case shall be presumed to have not been filed in good faith (except that such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(A) with respect to the creditors involved, if—

"(i) more than 1 previous case under any of chapters 7, 11, or 13 of this title in which the individual was a debtor was pending during the 1-year period described in paragraph (1);

"(ii) a previous case under any of chapters 7, 11, or 13 of this title in which the individual was a debtor was dismissed within the period specified in paragraph (2) after—

"(I) the debtor, after having received from the court a request to do so, failed to file or amend the petition or other documents as required by this title; or

"(II) the debtor, without substantial excuse, failed to perform the terms of a plan that was confirmed by the court; or

"(iii)(I) during the period commencing with the dismissal of the next most previous case under chapter 7, 11, or 13 there has not been a substantial change in the financial or personal affairs of the debtor;

"(II) if the case is a chapter 7 case, there is no other reason to conclude that the later case will be concluded with a discharge; or

"(III) if the case is a chapter 11 or 13 case, there is not a confirmed plan that will be fully performed; and

"(B) with respect to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor, if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay with respect to actions of that creditor.

"(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and the request is granted in whole or in part, the court may, in addition to making any other order under this subsection, order that the relief so granted shall be in rem either—

"(i) for a definite period of not less than 1 year; or

"(ii) indefinitely.

"(B)(i) After an order is issued under subparagraph (A), the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor.

"(ii) If an in rem order issued under subparagraph (A) so provides, the stay shall, in addition to being inapplicable to the debtor involved, not apply with respect to an entity under this title if—

"(I) the entity had reason to know of the order at the time that the entity obtained an interest in the property affected; or

"(II) the entity was notified of the commencement of the proceeding for relief from

the stay, and at the time of the notification, no case in which the entity was a debtor was pending.

"(6) For purposes of this section, a case is pending during the period beginning with the issuance of the order for relief and ending at such time as the case involved is closed.".

SEC. 304. TIMELY FILING AND CONFIRMATION OF PLANS UNDER CHAPTER 13.

(a) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

"§ 1321. Filing of plan

"The debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.".

(b) CONFIRMATION OF HEARING.—Section 1324 of title 11, United States Code, is amended by adding at the end the following: "That hearing shall be held not later than 45 days after the filing of the plan, unless the court, after providing notice and a hearing, orders otherwise.".

SEC. 305. APPLICATION OF THE CODEBTOR STAY ONLY WHEN THE STAY PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) Notwithstanding subsection (c) and except as provided in subparagraph (B), in any case in which the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) shall apply to that creditor for a period not to exceed 30 days beginning on the date of the order for relief, to the extent the creditor proceeds against—

"(i) the individual that received that consideration; or

"(ii) property not in the possession of the debtor that secures that claim.

"(B) In any case described in subparagraph (A), a creditor may not proceed against an individual described in subparagraph (A)(i) or property described in subparagraph (A)(ii), if the debtor who did not receive consideration for the property that is the subject of the claim is able to demonstrate that the receipt of the property was not part of a scheme to defraud or hinder any creditor.

"(3) Notwithstanding subsection (c), the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan, in any case in which the plan of the debtor provides that the debtor's interest in personal property subject to a lease with respect to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease.".

SEC. 307. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Chapter 6 of part I of title 28, United States Code, is amended by adding at the end the following:

"§ 159. Bankruptcy statistics

"(a) The clerk of each district shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Office').

"(b) The Director shall—

"(1) compile the statistics referred to in subsection (a);

"(2) make the statistics available to the public; and

"(3) not later than October 31, 1998, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning—

"(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

"(B) the current total monthly income, projected monthly net income, and average income and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

"(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

"(D) the average period of time between the filing of the petition and the closing of the case;

"(E) for the reporting period—

"(i) the number of cases in which a reaffirmation was filed; and

"(ii)(I) the total number of reaffirmations filed;

"(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

"(III) of those cases, the number of cases in which the reaffirmation was approved by the court;

"(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

"(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

"(II) the number of final orders determining the value of property securing a claim issued;

"(ii) the number of cases dismissed for failure to make payments under the plan; and

"(iii) the number of cases in which the debtor filed another case within the 6 years previous to the filing; and

"(G) the extent of creditor misconduct and any amount of punitive damages awarded by the court for creditor misconduct.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"159. Bankruptcy statistics.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 308. AUDIT PROCEDURES.

(a) AMENDMENT.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), as amended by section 301 of this Act, by striking paragraph (6) and inserting the following:

"(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and"; and

(2) by adding at the end the following:

"(f)(1)(A) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

"(B) The audits described in subparagraph (A) shall be made in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. Those procedures shall—

"(i) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform those audits;

"(ii) establish a method of randomly selecting cases to be audited according to generally accepted auditing standards, except that not less than 1 out of every 50 cases in each Federal judicial district shall be selected for audit;

"(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed; and

"(iv) establish procedures for—

"(I) reporting the results of those audits and any material misstatement of income, expenditures, or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate;

"(II) providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

"(III) fully funding those audits, including procedures requiring each debtor with sufficient available income or assets to contribute to the payment for those audits, as an administrative expense or otherwise.

"(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1) of this subsection.

"(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things, or property belonging to the debtor as the auditor requests and that are reasonably necessary to facilitate the audit to be made available for inspection and copying.

"(4)(A) The report of each audit conducted under this subsection shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1).

"(B) If a material misstatement of income or expenditures or of assets is reported under subparagraph (A), a statement specifying that misstatement shall be filed with the court and the United States trustee shall—

"(i) give notice thereof to the creditors in the case; and

"(ii) in an appropriate case, in the opinion of the United States trustee, that requires investigation with respect to possible criminal violations, the United States Attorney for the district.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 309. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first

sentence the following: "Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than one creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

SEC. 310. FAIR NOTICE FOR CREDITORS IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ", but the failure of such notice to contain such information shall not invalidate the legal effect of such notice"; and

(B) by adding at the end the following:

"(d)(1) If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor that is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include that account number in any notice to the creditor required to be given under this title.

"(2) If the creditor has specified to the debtor, in the last communication before the filing of the petition, an address at which the creditor wishes to receive correspondence regarding the debtor's account, any notice to the creditor required to be given by the debtor under this title shall be given at such address.

"(3) For purposes of this section, the term 'notice' shall include—

"(A) any correspondence from the debtor to the creditor after the commencement of the case;

"(B) any statement of the debtor's intention under section 521(a)(2) of this title;

"(C) notice of the commencement of any proceeding in the case to which the creditor is a party; and

"(D) any notice of a hearing under section 1324 of this title.

"(e)(1) At any time, a creditor, in a case of an individual under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case.

"(2) If the court or the debtor is required to give the creditor notice, 5 days after receipt of the notice under paragraph (1), that notice shall be given at that address.

"(f) An entity may file with the court a notice stating its address for notice in cases under chapter 7 or 13. After the date that is 30 days following the filing of that notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (e) with respect to a particular case.

"(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor.

"(2) If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to that department or person, notice shall not be brought to the attention of the creditor until that notice is received by that person or department.".

SEC. 311. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding.".

SEC. 312. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(e); and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

"(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

"(B) that 60-day period is extended—

"(i) by agreement of all parties in interest; or

"(ii) by the court for such specific period of time as the court finds is required for good cause.".

SEC. 313. DISMISSAL FOR FAILURE TO FILE SCHEDULES TIMELY OR PROVIDE REQUIRED INFORMATION.

Section 707 of title 11, United States Code, as amended by section 102 of this Act, is further amended by adding at the end the following:

"(c)(1) Notwithstanding subsection (a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under section 521(a)(1) of this title within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

"(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. The court shall, if so requested, enter an order of dismissal not later than 5 days after that request.

"(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 20 days to file the information required under section 521(a)(1) of this title if the court finds justification for extending the period for the filing.".

SEC. 314. ADEQUATE TIME FOR PREPARATION FOR A HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) If not later than 5 days after receiving notice of a hearing on confirmation of the plan, a creditor objects to the confirmation of the plan, the hearing on confirmation of the plan may be held no earlier than 20 days after the first meeting of creditors under section 341(a) of this title.".

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. DEFINITIONS.

Section 101 of title 11, United States Code, is amended—

(1) by striking "In this title—" and inserting "In this title:";

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A) and (38), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph;

(6) by amending paragraph (54) to read as follows:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property;";

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55) (including paragraph (54), as added by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and

(8) by redesignating paragraphs (4) through (55) in entirely numerical sequence, so as to result in numerical paragraph designations of (4) through (68).

SEC. 402. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting "522(f)(3)," after "522(d)," each place it appears.

SEC. 403. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

SEC. 404. WHO MAY BE A DEBTOR.

Section 109(b)(2) of title 11, United States Code, is amended by striking "subsection (c) or (d) of".

SEC. 405. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(3) of title 11, United States Code, is amended by striking "attorney's" and inserting "attorneys' ".

SEC. 406. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

SEC. 407. SPECIAL TAX PROVISIONS.

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking ", except" and all that follows through "1986".

SEC. 408. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

SEC. 409. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(19) under subsection (a) of this section of any transfer that is not avoidable under section 544 and that is not avoidable under section 549.".

SEC. 410. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (C), by striking "or" at the end; and

(B) by striking subparagraph (D) and inserting the following:

"(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from a failure to perform nonmonetary obligations under an executory contract or under an unexpired lease of real or personal property;

"(E) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption; or

"(F) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an executory contract, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption and if the court determines, based on the equities of the case, that paragraph (1) should not apply with respect to such default.";

(2) in subsection (c)—

(A) in paragraph (2), by adding "or" at the end;

(B) in paragraph (3), by striking "or" at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1), by striking "; except that" and all that follows through the end of the paragraph and inserting a period.

SEC. 411. AMENDMENT TO TABLE OF SECTIONS.

The table of sections for chapter 5 of title 11, United States Code, is amended by striking the item relating to section 556 and inserting the following:

"556. Contractual right to liquidate a commodities contract or forward contract.".

SEC. 412. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

SEC. 413. PRIORITIES.

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B), by striking the semicolon at the end and inserting a period; and

(2) in paragraph (7), by inserting "unsecured" after "allowed".

SEC. 414. EXEMPTIONS.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (f)(1)(A)(ii)(II)—

(A) by striking "includes a liability designated as" and inserting "is for a liability that is designated as, and is actually in the nature of,"; and

(B) by striking ", unless" and all that follows through "support,"; and

(2) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

SEC. 415. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(3), by striking "or (6)" each place it appears and inserting "(6), or (15)";

(2) as amended by section 304(e) of Public Law 103-394 (108 Stat. 4133), in paragraph (15)—

(A) by inserting "or" after the semicolon at the end; and

(B) by transferring such paragraph so as to insert it after paragraph (14) of subsection (a);

(3) in paragraph (9), by inserting ", watercraft, or aircraft" after "motor vehicle";

(4) in subsection (a)(15), as so redesignated by paragraph (2) of this subsection, by inserting "to a spouse, former spouse, or child of the debtor and" after "(15)";

(5) in subsection (a)(17)—

(A) by striking "by a court" and inserting "on a prisoner by any court";

(B) by striking "section 1915 (b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915"; and

(C) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears; and

(6) in subsection (e), by striking "a insured" and inserting "an insured".

SEC. 416. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1) of this title, or that".

SEC. 417. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

SEC. 418. PROPERTY OF THE ESTATE.

Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (4)—

(A) in subparagraph (B)(ii), by inserting "365 or" before "542"; and

(B) by adding "or" at the end.

SEC. 419. LIMITATIONS ON AVOIDING POWERS.

Section 546 of title 11, United States Code, is amended by redesignating the second subsection (g) (as added by section 222(a) of the Bankruptcy Reform Act of 1994; 108 Stat. 4129) as subsection (h).

SEC. 420. PREFERENCES.

Section 547 of title 11, United States Code, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (i)"; and

(2) by adding at the end the following:

"(i) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider.".

SEC. 421. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of";

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

SEC. 422. TECHNICAL AMENDMENT.

Section 552(b)(1) of title 11, United States Code, is amended by striking "product" each place it appears and inserting "products".

SEC. 423. SETOFF.

Section 553(b)(1) of title 11, United States Code, is amended by striking "362(b)(14)" and inserting "362(b)(17)".

SEC. 424. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

SEC. 425. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1123(d)," after "1123(b),".

SEC. 426. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election. Upon the filing of a report under the preceding sentence—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(B) In the case of any dispute arising out of an election under subparagraph (A), the court shall resolve the dispute.".

SEC. 427. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 428. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 429. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking "1222(b)(10)" each place it appears and inserting "1222(b)(9)".

SEC. 430. CONTENTS OF PLAN.

Section 1322 of title 11, United States Code, is amended—

(1) in subsection (b), by striking "(c)" and inserting "(d)"; and

(2) in subsection (e), by striking "default, shall" and inserting "default shall".

SEC. 431. DISCHARGE UNDER CHAPTER 13.

Paragraphs (1) through (3) of section 1328(a) of title 11, United States Code, are amended to read as follows:

"(1) provided for under section 1322(b)(5) of this title;

"(2) of the kind specified in paragraph (5), (8), or (9) of section 523(a) of this title; or

"(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime.".

SEC. 432. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking "October 1, 2002" and inserting "October 1, 2012"; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking "October 1, 2002" and inserting "October 1, 2012"; and

(ii) in the matter following subclause (II), by striking "October 1, 2003" and inserting "October 1, 2013"; and

(B) in clause (ii), in the matter following subclause (II), by striking "October 1, 2003" and inserting "October 1, 2013".

SEC. 433. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

SEC. 434. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before " 'bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before " 'document"; and

(B) by striking "this title" and inserting "title 11".

SEC. 435. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply only with respect to cases commenced under title 11, United States Code, on or after the date of enactment of this Act.

Mr. DURBIN. Mr. President, I rise today with my distinguished colleague, Senator GRASSLEY, to introduce the Consumer Bankruptcy Reform Act of 1997. This sensible and bipartisan piece of legislation is designed to check many of the serious abuses in the Bankruptcy Code while maintaining a workable system.

Neither Senator GRASSLEY nor I can ignore the evidence that there are some people who are taking advantage of the Bankruptcy Code. Their numbers may not be great, but every abuse undermines confidence in the code. As with all systems, the Bankruptcy Code is subject to abuse. People can and will manipulate it. Senator GRASSLEY and I have introduced this legislation to attempt to curb many of these abuses. We have worked hard to craft a bill that is balanced—that corrects creditor and debtor abuses. It also attempts to catch abuses without being so harsh that it makes the system unworkable and without turning its back on the fundamental principles and good of the Bankruptcy Code.

Hovering in the background of all that we attempt to do in this legislation is the persistent news that personal bankruptcy filings are steadily increasing. Last year, personal bankruptcies broke the 1 million barrier. And this year will be worse. No one sitting in this room today can help but shudder at the prospect of 1.3 million personal bankruptcies this year.

The odds are that almost every American knows at least one person who has declared bankruptcy. Both Senator GRASSLEY and I vividly remember the farm crises of the 1980's when good, hard-working people came to the end of the line and were desperately trying to save their homes and their children's future. So they declared bankruptcy. We also remember the floods that swept through our States not too long ago that left a financial catastrophe as deep as the natural catastrophe. We must not lose sight of these people.

This jump in personal bankruptcies in good economic times is distressing, in large measure because it is a sign that many people—people we know—are in trouble.

As distasteful as bankruptcy is, the fact remains that we need the system. We cannot dismantle or radically alter it without doing serious damage to our economy, to creditors, and to millions of individuals. The cold hard fact is that the bankruptcy system does not just help individual debtors. It helps the creditors too. And by and large, it works.

To see how, imagine a world where people could not declare bankruptcy when they were in financial straits. In this world, each individual creditor would have to file suit in State court when the debtor defaulted. Only the first unsecured creditor to the courthouse door could get garnished wages to pay off the debt. The secured creditors could repossess all of the secured property. Meanwhile, all of the remaining creditors would get nothing, and the debtor would be left without an automobile, a home, or any assets and with next to no money after wage garnishment. There would be very few winners in that situation.

In stark contrast, the Federal bankruptcy system offers creditors and debtors a comprehensive system—paid for at public expense—which attempts to protect the creditors while also giving the debtor a chance to restart his life. Without our system, each creditor would be clawing his way through the State court system, racking up legal costs, achieving virtually nothing, and turning millions of debtors into financial outcasts.

Some people credit our voluntary individual bankruptcy system to the English author Daniel Defoe, who in 1697 proposed something akin to our current chapter 7. Defoe made some very wise distinctions. He felt there was a difference between the "honest debtor, who fails by visible necessity, losses, sickness, decay of trade, or the like" and the "knavish, designing, or idle, extravagant debtor, who fails because wither he has run out his estate in excess, or on purpose to cheat and abuse his creditors."

He also had something to say about creditors, praising the "moderate creditor, who * * * will hear reasonable and just arguments and proposals" while warning against the "rigorous severe creditor * * * without compassion, full of ill language, passion, and revenge."

It took almost 150 years for the American Congress to implement Defoe's suggestion, although many individual States had acted before then. In 1841, having experienced the Panic of 1837, Daniel Webster introduced and passed a bill that allowed individuals to voluntarily file for bankruptcy and discharge their debts. It is not surprising that the central subject of debate 156 years ago was whether debtors who could actually pay their debts would nevertheless try to avoid them by declaring bankruptcy. Some things never change.

Even as we focus on the Bankruptcy Code and its possible abuses, however, we should be very careful that we do not obscure a far more important and dangerous feature of our consumer economy—the proliferation of risky credit. Merely making bankruptcy abuse harder to get away with is only a small part of the equation. Another part is preventing bankruptcies in the first place by encouraging more responsibility from banks as well as consumers.

Let me make this clear, I am happy to root out abuses in bankruptcy and to encourage people to repay as much as possible within the bankruptcy system. But I insist that I be met half way—that banks and consumers do all they can to encourage healthy lending patterns and responsible money management.

Mr. President, we may never be able to fully understand why bankruptcies have jumped so much. But a few things are clear. First, personal bankruptcy rates are tied to increased consumer debt burdens. The higher the level of credit card debt a person has, the greater the chance that the person will declare bankruptcy. And individual consumer debt is very high. In 1996, consumers charged more than $1 trillion on credit cards. According to the Consumer Federation of America, an estimated $374 to $396 billion in debt was being revolved or incurring interest obligations.

To most people, accumulating credit cards seems easy and problem free. The

waters look awfully enticing when someone sends you a credit card. But there is a dangerous undertow. And as people move further from the shore, they risk getting caught by the undertow. Essentially people are placing themselves on the edge and not leaving enough of a margin for dealing with an unexpected fiscal calamity.

Yet rather than trying to blame anyone for bankruptcies, let us try to find a way to avert future bankruptcies. Both halves of the bankruptcy equation can and should act more responsibly. For creditors, that means providing consumers with enough information to assess the risks. For debtors, that means taking a hard look at what they can and can't afford.

People need to know about the deadly undertow associated with credit card solicitations. Right now people know more about what is in a box of cookies by looking at the nutritional label than they know about their credit cards. We need something like nutritional labels for credit cards.

I have previously proposed four important changes to the way people get and use credit.

First, companies should include in each bill to current cardholders information that details how long it will take that person paying only the minimum to pay off the credit card debt. In addition, the information should indicate how much of the overall payment would be interest.

Second, companies soliciting customers should provide the potential cardholders with an easy-to-understand worksheet to help them determine whether they really can afford more debt. Such a worksheet might include calculations of a person's expenses—current unsecured debt, home mortgage, rent, and other costs—and a simple formula to help people see whether they can or can't afford another card.

Third, companies should tell people the basis of the offer of more credit. When a person gets a preapproved credit card, he or she should know that the credit card company has not fully evaluated how more consumer debt could affect their overall financial health.

Finally, credit card companies should provide people who accept their card a free copy of their credit report.

These simple things might help quite a bit. Too many people are walking into consumer credit counseling bureaus, bankruptcy lawyers' offices, and bankruptcy court without any real understanding of their financial situation.

Mr. President, let me conclude on this note: I am proud to join Senator GRASSLEY in introducing this bill and in trying to prevent abuses of the Bankruptcy Code. But I believe that we must also work on something infinitely more constructive—we must try to help prevent financial catastrophes. What I propose is a small step in that direction which works on the principle that a well informed consumer is best able to protect himself.

By Mr. FAIRCLOTH (for himself and Mr. MOYNIHAN):

S. 1302. A bill to permit certain claims against foreign states to be heard in United States courts where the foreign state is a state sponsor of international terrorism or where no extradition treaty with the state existed at the time the claim arose and where no other adequate and available remedies exist; to the Committee on the Judiciary.

THE FOREIGN SOVEREIGN IMMUNITY TECHNICAL CORRECTIONS ACT OF 1997

Mr. FAIRCLOTH. Mr. President, I rise today to introduce a bill cosponsored by my esteemed colleague, Senator MOYNIHAN. This bill will close a loophole in the law and provide a safeguard for American citizens overseas. Last year, Congress amended the Foreign Sovereign Immunities Act to provide a remedy in U.S. courts to American citizens who are victims of acts of torture and terrorism perpetrated by terrorist nations.

The bill I am introducing today would broaden these antiterrorism provisions and send a forceful message to other foreign despots around the world that the United States will not tolerate the abuse of human rights of its citizens.

Last year's legislation took an important step to deal with the criminal act of terrorism and related human rights protections, however, because it targeted only those countries on the State Department's terrorist list, there is no available remedy for Americans under the Foreign Sovereign Immunities Act when governments of countries not on the torture list brutalize U.S. citizens.

Granted, only a few renegade countries not on the terrorist list systematically engage in torture. But our legislation will put these tyrants on notice that the United States will not let a legal technicality stand in the way of an American citizen bringing suit in the United States against his or her tormentor. These ruthless acts shall be judged by a court of law and, ultimately, by the opinions of mankind.

Mr. President, I urge Congress to close this loophole. To some it may seem like a small detail and the circumstances for such an incident may seem improbable, but I have first hand knowledge of two incidents of systematic torture, one of which involved a constituent from North Carolina living outside the protection of U.S. borders.

Mr. Scott Nelson was working in Saudi Arabia in 1984 as a systems engineer at King Faisal Specialist Hospital. In the course of his inspection duties, Mr. Nelson discovered a severe health hazard involving the valves that delivered oxygen during various medical procedures. He immediately reported the irregularities to his supervisors, and recommended corrective action be taken.

To his surprise, Mr. Nelson found his warnings blatantly ignored. After taking this to the highest managerial level of the hospital, he was summoned to a hospital office, arrested, imprisoned, and ultimately interrogated. When he arrived in the interrogation room, Saudi officials shackled Mr. Nelson and ultimately tortured him, causing lifelong disabilities.

Mr Nelson was thrown into a rat infested cell where he was denied food, water, and sleep for days. At some point, Mr. Nelson was presented a document in Arabic and ordered to sign it. Under a Saudi threat to arrest Mr. Nelson's wife and child, he signed the document.

At no time during his 39-day detention was Scott Nelson informed of any charges or given the due process right of having his situation brought before a court or tribunal.

After 39 days of this most horrible experience, Mr. Nelson was released. He immediately returned to the United States in grave need of medical treatment and surgery to his left knee. Since that time, he has had five additional surgical procedures.

Additionally, Mr. Nelson has been diagnosed with diffuse nerve injury and posttraumatic stress disorder with symptoms rated as catastrophic. Eight physicians and psychologists who have examined Scott are unanimous in their judgment that the severe physical and psychological injuries from which he suffers are entirely consistent with his allegations of torture.

Mr. President, had this torture taken place in Iraq, Libya, North Korea, or any of the nations the State Department has designated as "terrorist" states, he would be entitled to seek damages in a United States court. Because Saudi Arabia, like so many other countries, is not officially considered a terrorist nation by our State Department, there is no remedy for American citizens to seek legal redress for injuries resulting from torture.

Mr. President, Scott Nelson has suffered enough. It is time for his government to provide him with a vehicle for relief. The legislation I present today is a simple and indisputable proposition: The United States shall not tolerate any country in the world to violate the basic rights of her citizens. I believe this is legislation that everyone in this body can support without hesitation.

Mr. MOYNIHAN. Mr. President, today I rise as an original sponsor of the Foreign Sovereign Immunity Technical Corrections Act of 1997. This legislation will extend a provision signed into law as part of the Anti-Terrorism Act (Pub. L. 104-132) allowing individuals who are victims of terrorism and

other violations of international law to file suit for damages in United States court.

The Foreign Sovereign Immunities Act, enacted in 1976, recognizes that except in the most egregious cases, foreign states are immune from suit by a citizen of the United States. The bill Senator FAIRCLOTH and I are introducing today establishes the principle that terrorism, extrajudicial killing, and other gross abuses of human rights are not protected acts of state and are not entitled to sovereign immunity. While the Anti-Terrorism Act expanded the Foreign Sovereign Immunities Act to allow for suits against countries designated by the Department of State as a sponsor of terrorism, this bill would expand the list of states to include countries which do not have an extradition treaty with the United States, or which do not have an adequate available judicial remedy. This provision recognizes that while foreign states enjoy immunity from most legal action by individuals, there are certain fundamental principles of international law that cannot be violated with impunity.

Two examples of citizens who would gain legal standing by this legislation are James Smrkovski and Scott Nelson, Americans who were tortured by agents of their foreign state employer, a nation not on the list of terrorist states. They survived harrowing experiences only to be barred by the Foreign Sovereign Immunities Act from even attempting to obtain redress. When the United States Supreme Court said that the Foreign Sovereign Immunities Act did not permit Mr. Nelson any legal recourse, it made clear that a remedy must come from Congress.

And so, Mr. President, the Senator from North Carolina [Mr. FAIRCLOTH] and I are introducing this measure so that Americans who have been victims of terrible crimes perpetrated by foreign governments have legal recourse. I urge my colleagues to support and cosponsor the bill, and I hope it can be adopted without undue delay.

By Mr. LIEBERMAN (for himself, Mr. HAGEL, Mr. KERREY, and Mr. MURKOWSKI):

S. 1303. A bill to encourage the integration of the People's Republic of China into the world economy, ensure United States trade interests, and establish a strategic working relationship with the People's Republic of China as a responsible member of the world community; to the Committee on Finance.

THE UNITED STATES-CHINA RELATIONS ACT OF 1997

Mr. LIEBERMAN. Mr. President, I am honored to be joined by my distinguished colleagues Senators HAGEL, KERREY, and MURKOWSKI to introduce the United States-China Relations Act of 1997. I would also like to thank Congressman BEREUTER whose bill H.R. 1712, we have included in this act. The United States-China Relations Act of 1997 is legislation that will set us on a course toward more fully integrating China into the international community of nations while protecting our national economic and political interests and preserving our values.

We are at a critical juncture in our relations with the People's Republic of China. How we choose to manage China's emergence as a major global power will profoundly impact the shape of the international system in the 21st century, a situation not dissimilar to the late 19th and early 20th centuries when Germany, Japan, Russia, and the United States emerged to challenge Britain and France for world leadership.

British and French diplomacy failed although their task was not an easy one. Two terrible wars stained the history of this century. We must try to do better. We must work to establish an acceptable framework for peacefully integrating China into the evolving international economic, security, and political systems. And the core question is whether to continue on our current path of cooperation and integration or choose the path of containment and isolation.

During this session there has been much debate about which direction we should take in our relations with China. Most of the legislation that has been introduced regarding China has assumed the worst, centered on containment, and favored economic sanctions to remedy a host of Chinese transgressions. This policy of containment is ultimately premised on a view that China will be our next great enemy.

Some of my colleagues ask us to pass laws that use punishment as the primary tool in our bilateral relationship. These proposals overlook a number of realities: the ineffectiveness and unproductiveness of punitive legislation in changing China; the importance of maintaining and fostering trust and confidence in such an important bilateral relationship; the real potential for retaliation by China; and the potential upsides of a constructive relationship with China. Ultimately, those bills proposing containment of China will neither achieve their stated aims of changing China's behavior nor promote America's more general national and international interests.

The rest of the world will not join us in our effort to isolate China. That makes containment improbable. Our best policy option is to work to integrate China.

Before rushing to any conclusions about China's intentions, it is helpful to take a closer look at its development over the past 20 years. China has been engaged in a slow but steady effort to integrate itself into existing international systems. It has made efforts to be active in the United Nations, it has participated in a number of multilateral organizations, and has adapted some domestic institutions and policies to the demands of the international community.

I visited China last March with my friend and distinguished colleague, Senator CONNIE MACK of Florida, and was struck by the revolutionary changes occurring there. This time the revolution is being driven not by Mao's little red book, but by the mass quest for cellular telephones and personal computers, and incidentally, all the personal freedom of communication that goes with them.

The central government in China is still not tolerant of opposition. Political and religious dissidents are in jail. On the other hand, average Chinese seem to have lost their fear of open and spirited conversations with Westerners. And Senator MACK found the Catholic churches during that Holy Week before Easter packed with worshipers.

The Chinese Government has undertaken a slow but steady deregulation of the economy since it allowed for free enterprise in the countryside in 1982. Deregulation and the marketization of the Chinese economy has led to unprecedented improvements in the living standards—and purchasing power—of ordinary Chinese. In the past 15 years, China's per capita GDP has more than tripled, from $889 to $2,923, and is forecast to be $4,190 in 2000. Not uncoincidentally, China's demand for United States exports has increased in similarly substantial leaps. United States goods and services exports destined for China have increased from $3.7 million in 1980 to $11.1 billion in 1995. China is now America's fifth largest trading partner. Similarly, United States foreign direct investment in China has increased significantly.

On the other hand, we have a large and growing trade deficit with China that is unacceptable. A prosperous and stable relationship will only continue for as long as we have fair access to China's markets.

On balance, China's economic and political reforms are becoming more, not less, consistent with American core values. The transformation of a socialist command economy into a controlled market system has allowed for the emergence of a new class of entrepreneurs and has promoted individuals' freedom to decide what to consume, where to live, what to do as a livelihood. The State sector of the economy has steadily declined, and increasing numbers of Chinese now work for employers that do not answer directly to the central government or the Communist Party. This means that the Communist Party's ability to control and monitor individual's social, political, and economic lives has diminished substantially. Explicit political reforms have been fewer, but today there

are more local elections being held in China than at any other time in its modern history. The legal system has been reinvented over the past two decades, and has seen in recent years substantial, though still inadequate, improvements in criminal procedure and judicial review of administrative abuses. It can be said in summary that, the reforms of the past two decades have led to increased personal liberty, a strengthened legal system, and the beginnings of a civil society, although there is still a very long way to go.

In the clearest and most significant vote about China this year, a bipartisan majority in the House of Representatives chose to continue China's most-favored-nation trade status. But, after the vote, a flurry of bills were introduced expressing congressional opposition to China's economic, military, and human rights record. It is unfortunate that the Congress is sending mixed messages about this very important bilateral relationship.

To encourage China's current path of reform and development and to help ensure that China's inevitable transformation into a global economic and strategic power occurs in a way not adverse to United States interests or values, the United States must have an active China policy that aims at integration instead of isolation, and relies on carrots rather than sticks.

To ensure that our economic interests are met, we need to encourage China's increasing integration into international trade and investment regimes on commercially viable terms. This should help promote further liberalization of the Chinese economy while at the same time increasing American access to China's markets and thus decreasing the United States-China trade deficit. At the same time, the United States Government can more actively promote bilateral economic ties with those regions in China where human rights and labor conditions have shown improvement. Moreover, we should at every opportunity encourage China in the research and development of new energy efficiency and renewable energy technologies.

China's integration in international regimes also promotes American strategic interests. The bilateral strategic relationship can be strengthened, however, by developing closer exchanges with the Chinese military leadership. By opening ongoing lines of communication with the military, we will be in a better position to obtain accurate information about China's military modernization program. Through such proactive measures we will be in a better position to make Beijing more accountable for its strategic weapons exports.

It is time for Congress to end the ambivalence and build a consensus for a new China policy. Toward that end, along with my distinguished colleagues Senators HAGEL, KERREY, and MURKOWSKI, I am today introducing the United States-China Relations Act of 1997.

This legislation assumes that China will emerge as a superpower in the coming decades and become a nation with which the United States can and must have cooperative relationships—and that our relationships will be more cooperative if our economic, strategic, human rights, and environmental relations are viewed as distinct components of a larger, mutually-beneficial whole. It is based on a conclusion that China today is different from the China of the Cultural Revolution two decades ago and the China of Tiananmen Square a decade ago.

Here are some of the key provisions of the United States-China Relations Act of 1997:

Require an annual accounting of our economic relationship with China. Despite the growing significance of our trade relationship, barriers to U.S. exports should not be tolerated. The President would be required to submit an annual Economic Balance of Benefits Study to the Congress. The report would analyze the impact of existing bilateral trade agreements with China on United States employment, balance of trade, and United States international competitiveness.

Encourage China's integration into multilateral economic organizations. Just as it is important to have enforcement sticks, there should be carrots to encourage China's international economic integration. The bill requires the President to develop criteria for support of China's participation in the Organization for Economic Cooperation and Development and G–7 meetings, two groups that China is far from being accepted into, but in which it aspires to membership.

Give China permanent MFN upon accession to the WTO. First, I would like to credit Congressman BEREUTER for this innovative idea. This provision seeks to induce China to grant United States exporters adequate trade benefits and/or make significant progress toward WTO membership by authorizing a tariff increase on imports from China if those conditions are not met and by granting permanent MFN status once China becomes a WTO member.

Require greater information on energy and national security issues. The President should establish a bilateral United States-China committee on energy security and one for food security. These committees would help develop a bilateral policy for securing a stable supply of energy from politically volatile regions and securing food for China's large population. The bill also includes a sense-of-the-Senate resolution that the President and Congress continue to expand contact and exchanges between United States and Chinese national security personnel.

Establish a commission to promote the rule of law, respect for individual rights, religious tolerance, and civil society in China. This includes a bilateral commission on human rights with China; an exchange of legal professionals, government staff and religious leaders; and multilateral action on human and workers' rights. This last provision would include a prisoner information registry with information on all political prisoners, prisoners of conscience and prisoners of faith. The commission could recommend the imposition of specified sanctions to the President for human rights violations.

There is one provision more than any other that characterizes the tone and thrust of this act. It calls for the formation of a commission to prepare a profile of China province by province. This profile then would serve as a basis for consideration of transactions with China by the Export-Import Bank and the Overseas Private Investment Corporation in those identified provinces.

This provision is particularly helpful in improving and strengthening our relations with China. By opening up OPIC programs to regions that have acceptable human rights, labor, and environmental standards, we are increasing investment into China at the same time we are advancing our values. It is a provision that encourages China to improve its human rights record without punitive economic sanctions. It uses a carrot instead of a stick.

America's economic and strategic interests, as well as our fundamental values, are best served by encouraging China on its path of economic and political reform.

China's geopolitical and economic rise are inevitable developments. How we react to China's transformation and manage the bilateral relationship, however, is within our discretion. United States-China relations are at a critical turning point, and the real challenge before us now is how to peacefully integrate China into the world community, and work with China to ensure world prosperity and stability in the 21st century.

Mr. President, I ask unanimous consent that the United States-China Relations Act of 1997 which I am proud to introduce with Senators HAGEL, KERREY, and MURKOWSKI be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "United States-China Relations Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Declaration of policy.
Sec. 3. Definitions.
TITLE I—ECONOMIC NORMALIZATION
Subtitle A—General Provisions
Sec. 101. Congressional findings.
Sec. 102. Statements of policy.
Sec. 103. Reports to Congress.
Sec. 104. Bilateral economic relations.
Sec. 105. Multilateral economic relations.
Sec. 106. Use of funds for commercial and consular presence.
Subtitle B—United States-China Trade and Investment Commission
Sec. 111. United States-China Trade and Investment Commission.
Sec. 112. Study and report.
Sec. 113. Powers of the Commission.
Sec. 114. Staff and consultants.
Sec. 115. Termination.
Sec. 116. Investment treatment for United States business.
TITLE II—STRATEGIC RELATIONS
Sec. 201. Congressional findings.
Sec. 202. Statements of policy.
Sec. 203. Reports to Congress.
Sec. 204. Bilateral strategic relations.
Sec. 205. Multilateral strategic relations.
Sec. 206. Enforcement of the Iran-Iraq Non-Proliferation Act.
TITLE III—HUMAN RIGHTS
Subtitle A—General Provisions
Sec. 301. Congressional findings.
Sec. 302. Statement of policy.
Sec. 303. Radio Free Asia; National Endowment for Democracy.
Sec. 304. Multilateral human rights.
Subtitle B—Human Relations Commission
Sec. 311. Human Relations Commission.
Sec. 312. Functions of the Commission.
Sec. 313. Staff.
Sec. 314. Termination.

SEC. 2. DECLARATION OF POLICY.

It is the policy of the United States to—

(1) encourage the integration of the People's Republic of China into the global economy and community of nations;

(2) craft an economic, political, and strategic relationship with the People's Republic of China which builds mutual trust and encourages transparency;

(3) cooperate with the People's Republic of China on regional and global political and strategic issues, and to encourage the constructive interdependence of the People's Republic of China in the Asia Pacific region;

(4) recognize the sovereignty of the People's Republic of China, and oppose any unilateral change in the status quo of "one China policy", especially with respect to the Republic of China on Taiwan;

(5) continue a close relationship with the Special Administrative Region of Hong Kong; and

(6) enforce the Hong Kong Policy Act and any other provision that relates to the protection of civil liberties and the rule of law in Hong Kong.

SEC. 3. DEFINITIONS.

In this Act:

(1) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(2) WORLD TRADE ORGANIZATION.—The term "World Trade Organization" means the organization established pursuant to the WTO Agreement.

(3) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

TITLE I—ECONOMIC NORMALIZATION

Subtitle A—General Provisions

SEC. 101. CONGRESSIONAL FINDINGS.

Congress makes the following findings:

(1) The People's Republic of China is the world's tenth largest trading nation and the United States' fifth largest trading partner. United States exports to the People's Republic of China have quadrupled over the past decade. At least 170,000 Americans owe their jobs to United States exports to the People's Republic of China. Jobs related to exported goods, on average, pay 13 to 16 percent more than nonexport related jobs.

(2) The United States is the People's Republic of China's largest export market. United States imports from the People's Republic of China were nearly $51,500,000,000 in 1996 (or nearly 25 percent of the exports of the People's Republic of China). By contrast, United States exports of goods to the People's Republic of China stood at only $12,000,000,000. While the large trade deficit with the People's Republic of China is the result of many factors, the People's Republic of China's multiple, overlapping barriers to trade and investments are a serious concern.

(3) In the coming decade, the rapid economic expansion of the People's Republic of China will exert a powerful influence on the global economy. In order to be constructive, the emergence of the People's Republic of China as an economic power should be compatible with the existing multilateral economic regime.

(4) Since the bilateral Memorandum of Understanding between the United States and the People's Republic of China signed in October 1992, the People's Republic of China has eliminated import restrictions on more than 1,000 tariff categories and opened its market to computers, heavy machinery, and pharmaceutical products.

(5) However, the People's Republic of China still maintains many barriers to the sale of foreign products and United States firms still do not have access comparable to that which the People's Republic of China enjoys in the United States. Sectors such as agriculture, telecommunications, insurance, distribution, audio-visual, advertising, and maintenance and repair need to be opened to international trade.

(6) Since 1995, the People's Republic of China has made significant progress in concluding agreements in the enforcement of intellectual property rights.

(7) Despite significant improvements in enforcement, serious problems still remain. Piracy of computer software remains at high levels. While market access for copyrighted products has improved, further improvement is required for legitimate products to be available to meet market demand.

SEC. 102. STATEMENTS OF POLICY.

It is the policy of the United States—

(1) to encourage a fair and equitable economic relationship that ensures equal market access between the United States and the People's Republic of China;

(2) to support the accession of the People's Republic of China to the World Trade Organization on commercially viable terms, which include commitments on opening up the agricultural market of the People's Republic of China, concessions on trading rights, lower tariffs, access to distribution networks, and elimination of import inhibiting standards;

(3) for importers of goods or services to affirm that such products or services were not manufactured or procured in a manner inconsistent with United States law or otherwise incompatible with the values of the United States; and

(4) for United States persons conducting business in the People's Republic of China to refrain from using oppressive instrumentalities of the state to oppose worker's efforts to organize.

SEC. 103. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Trade Representative shall, in consultation with the International Trade Commission and the Department of Commerce, prepare and submit to Congress a study showing the economic benefits that existing bilateral trade agreements between the United States and the People's Republic of China have on United States employment, balance of trade, and international competitiveness.

(b) MILITARY ACTIVITIES.—

(1) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the head of any other appropriate intelligence agencies, shall, not later than 180 days after the date of enactment of this Act, and annually thereafter, prepare and submit to Congress a report on the commercial activities of the People's Liberation Army in the United States and the People's Republic of China. The report shall highlight the activities that provide off-budget revenue for military modernization.

(2) CONFIDENTIALITY.—The Secretary of Defense, the Secretary of Commerce, and the head of any intelligence agency may separately submit information regarding the report to Congress in confidence if such Secretary or agency head considers confidentiality appropriate.

SEC. 104. BILATERAL ECONOMIC RELATIONS.

(a) INVESTMENT TREATY.—Not later than 180 days after the date of enactment of this Act, the Trade Representative shall assess the feasibility of entering into a bilateral investment treaty with the People's Republic of China and shall advise Congress of the results of the assessment.

(b) TAX TREATY.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall assess the feasibility of entering into a bilateral tax treaty with the People's Republic of China and shall advise Congress of the results of the assessment.

(c) REPORT ON JOINT COMMISSIONS.—

(1) REVIEW.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the President shall review the functions and objectives of each United States-China Joint Commission and shall submit for congressional review a program plan that identifies the objectives of each Commission and the resources required to achieve those objectives.

(2) JOINT COMMISSIONS.—For purposes of this subsection, the term "United States-China Joint Commission" means—

(A) the United States-China Joint Commission on Commerce and Trade,

(B) the United States-China Joint Economic Commission, and

(C) the United States-China Joint Commission on Science and Technology.

SEC. 105. MULTILATERAL ECONOMIC RELATIONS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section—

(1) to authorize the President of the United States to raise tariffs on imports from the People's Republic of China to tariff levels in effect on December 31, 1994, if the President determines, upon the expiration of the 1979 United States bilateral agreement with the People's Republic of China, that the People's Republic of China is either denying adequate trade benefits to the United States or not taking steps to become a full member of the World Trade Organization;

(2) to provide a significant incentive for the People's Republic of China to gain admission to the World Trade Organization by eliminating the annual review of China's trade status after it commits to a commercially acceptable protocol and is admitted to the World Trade Organization; and

(3) therefore to enhance the ability of the President of the United States to negotiate a commercially acceptable World Trade Organization protocol with the People's Republic of China.

(b) SNAP-BACK MECHANISM.—

(1) DETERMINATION WITH RESPECT TO THE PEOPLE'S REPUBLIC OF CHINA.—Upon the expiration of the 1979 United States bilateral agreement with the People's Republic of China, the President shall, after consulting with the appropriate congressional committees, determine whether or not the People's Republic of China is—

(A) according adequate trade benefits to the United States, including substantially equal competitive opportunities for the commerce of the United States; and

(B) taking adequate steps or making significant proposals to become a WTO member.

(2) SUBMISSION OF FINDINGS.—Not later than 180 days after the expiration of the 1979 United States bilateral agreement with the People's Republic of China, the President shall submit to the appropriate congressional committees a report setting forth his determinations under subparagraphs (A) and (B) of paragraph (1), with a rationale for each determination.

(3) TARIFF INCREASE.—

(A) IMPOSITION OF INCREASE.—If the President determines either—

(i) under subparagraph (A) of paragraph (1) that the People's Republic of China is not according adequate trade benefits to the United States, or

(ii) under subparagraph (B) of paragraph (1) that the People's Republic of China is not taking adequate steps or making significant proposals to become a WTO member,

then the President shall proclaim, within 180 days after the date of that determination, an increase in the rate of duty with respect to 1 or more products of that country to not more than the column 1 rate of duty under the Harmonized Tariff Schedule of the United States that applied to the article or articles on December 31, 1994.

(B) TERMINATION OF INCREASE.—The President shall terminate any increase in the rate of duty imposed under subparagraph (A) on the earlier of—

(i) the date on which the People's Republic of China becomes a WTO member; or

(ii) the date on which the President proclaims that—

(I) the People's Republic of China is according adequate trade benefits to the United States, including substantially equal competitive opportunities for the commerce of the United States; and

(II) the People's Republic of China is taking adequate steps or making significant proposals to become a WTO member.

(C) MODIFICATION OF TARIFF.—The President may modify any increase in the rate of duty imposed under subparagraph (A) if the President notifies the appropriate congressional committees of the modification and the reasons therefor, except that—

(i) the modification may not result in a rate of duty higher than that permitted under subparagraph (A); and

(ii) the authority of this subparagraph may not be used to terminate an increase in the rate of duty imposed under subparagraph (A).

(c) ACCESSION TO THE WORLD TRADE ORGANIZATION.—On the date on which the People's Republic of China becomes a WTO member, the provisions of title IV of the Trade Act of 1974 shall cease to apply to that country, and nondiscriminatory treatment shall apply to the products of that country.

(d) PARTICIPATION IN OECD.—The President shall—

(1) develop criteria for supporting the People's Republic of China's participation in the Organization for Economic Cooperation and Development and the G–7 meetings; and

(2) when appropriate, initiate discussions with other members of the Organization for Economic Cooperation and Development and the G–7 regarding the People's Republic of China's participation.

(e) DEFINITION.—As used in this section, the term "WTO member" has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10)).

SEC. 106. USE OF FUNDS FOR COMMERCIAL AND CONSULAR PRESENCE.

Of the amounts authorized to be appropriated to the Department of State under the appropriations account entitled "Administration of Foreign Affairs" and of the amounts appropriated to the Department of Commerce for the United States and Foreign Commercial Service, $25,000,000 for fiscal year 1999, and $75,000,000 for fiscal year 2000, may be used to strengthen and expand the United States consular and commercial presence in the People's Republic of China to additional cities. The President, through the Director of the Office of Management and Budget, shall determine the allocation of funds to be used in any fiscal year to carry out the provisions of this section.

Subtitle B—United States-China Trade and Investment Commission

SEC. 111. UNITED STATES-CHINA TRADE AND INVESTMENT COMMISSION.

(a) IN GENERAL.—There is established a United States-China Trade and Investment Commission (referred to in this title as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be bipartisan and composed of 17 members, including—

(A) 3 individuals appointed by the President from the executive branch of the government;

(B) 2 individuals appointed by the President pro tempore of the Senate, upon the recommendation of the majority and minority leaders of the Senate;

(C) 2 individuals appointed by the Speaker of the House of Representatives, in consultation with the minority leader of the House of Representatives;

(D) 7 individuals from private business appointed by the Secretary of Commerce; and

(E) 3 individuals from nonprofit organizations appointed by the Secretary of Commerce.

(2) APPOINTMENT.—The members of the Commission shall be appointed not later than 6 months after the date of enactment of this Act.

(c) CHAIRPERSON.—The Secretary of Commerce shall select a Chairperson from among the private business members.

(d) TERM OF OFFICE.—Members shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(f) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission, and travel to conduct the duties of the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

SEC. 112. STUDY AND REPORT.

(a) STUDY.—The Commission shall conduct a study of—

(1) business practices employed by United States and foreign persons conducting business in the People's Republic of China;

(2) human rights, labor, and environmental conditions in each province of the People's Republic of China based on criteria set forth in title IV of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.) relating to insurance, financing, guarantees, and reinsurance by the Overseas Private Investment Corporation;

(3) other circumstances associated with the development of rule of law and civil society in the People's Republic of China;

(4) opportunities for bilateral cooperation for improving ecosystem management and pollution control, and for integrating policies that have environmental impact in the People's Republic of China; and

(5) opportunities for developing voluntary environmental guidelines for industrial suppliers located in the People's Republic of China, including the implementation of ISO 14000 environmental management standards of the International Organization of Standards.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Commission shall prepare and submit to the President and the appropriate committees of Congress a written report containing—

(1) the findings and conclusions of the Commission resulting from the study conducted under subsection (a);

(2) the recommendations of the Commission, based on the findings and conclusions described in paragraph (1), for—

(A) improving opportunities for United States business in the People's Republic of China; and

(B) developing bilateral cooperation between the United States and the People's Republic of China relating to labor and environment; and

(3) a list of provinces in the People's Republic of China that meet the criteria of the Overseas Private Investment Corporation for insurance, financing, guarantees, and reinsurance described in subsection (a)(2).

(c) APPROPRIATE COMMITTEES.—For purposes of this section, the term "appropriate committees" means the Committees on Finance and Foreign Relations of the Senate and the Committees on Ways and Means and International Relations of the House of Representatives.

SEC. 113. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission is authorized to—

(1) hold such hearings and sit and act at such times;

(2) take such testimony;

(3) have such printing and binding done;

(4) enter into such contracts and other arrangements;

(5) make such expenditures; and

(6) take such other actions;

as the Commission may determine to be necessary to carry out the duties of the Commission.

(b) OBTAINING INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency such information as the Commission may require to carry out its duties.

(c) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of property in order to carry out the duties of the Commission.

(d) USE OF MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

SEC. 114. STAFF AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Commission may appoint and determine the compensation of such staff as the Commission determines to be necessary to carry out the duties of the Commission.

(2) LIMITATIONS.—The rate of compensation for each staff member shall not exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the staff member is engaged in the performance of duties for the Commission. The Commission may otherwise appoint and determine the compensation of staff without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—The Chairperson of the Commission may obtain such temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(c) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Chairperson of the Commission, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(d) TECHNICAL ASSISTANCE.—On the request of the Chairperson of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

SEC. 115. TERMINATION.

The Commission shall terminate on the date that is 2 years after the date of enactment of this Act.

SEC. 116. INVESTMENT TREATMENT FOR UNITED STATES BUSINESS.

(a) IN GENERAL.—The Export-Import Bank, the Overseas Private Investment Corporation, and other United States agencies shall take into consideration the study and report conducted under this subtitle in funding any transaction with the People's Republic of China.

(b) AMENDMENT TO EXPORT-IMPORT BANK ACT.—Section 2(b)(2)(D)(i) of the Export-Import Bank Act (12 U.S.C. 635(b)(2)(D)(i)) is amended by adding at the end the following new sentence: "Subparagraph (A) shall not apply to guarantees, insurance, or extensions of credit by the Bank to a province of the People's Republic of China if the United States-China Trade and Investment Commission determines that the province meets the criteria for insurance, financing, guarantees, and reinsurance of the Overseas Private Investment Corporation set forth in title IV of the Foreign Assistance Act of 1961.".

(c) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Section 239 of the Foreign Assistance Act of 1961 (22 U.S.C 2199) is amended by adding at the end the following new subsection:

"(l) Notwithstanding any other provision of law, the Corporation may insure, reinsure, guarantee, or finance a project in the People's Republic of China if the United States-China Trade and Investment Commission determines that the province in which such project is located meets the criteria for insurance, financing, guarantees, and reinsurance set forth in this title.".

TITLE II—STRATEGIC RELATIONS

SEC. 201. CONGRESSIONAL FINDINGS.

Congress makes the following findings:

(1) The United States and the People's Republic of China share mutual security interests in the Asia Pacific region (including the Korean peninsula) as well as other areas of the world such as the Middle East.

(2) While the People's Liberation Army poses no direct military threat to the United States now, its sales of weapons and weapons technology to sponsors of terrorism, such as Iran, endangers the regional stability and global interests of the United States.

(3) The People's Liberation Army is engaging in a military buildup and an aggressive military modernization program, for undisclosed purposes. In fact since 1992, military spending by the People's Republic of China has doubled.

(4) The People's Liberation Army is engaging in commercial activities both at home and abroad. The revenues from these commercial activities are used for military expenditures and obscure actual military expenditures by the People's Republic of China.

(5) In March 1996, the People's Republic of China demonstrated its capacity to blockade the international shipping lanes of the Taiwan Strait and the air space over Taiwan by the repeated launches of M–9 ballistic missiles in the South China Sea.

(6) In May 1996, Poly Technologies, a People's Liberation Army enterprise, and Norinco, a Chinese civilian defense company, attempted to smuggle 2,000 AK–47's into Oakland, California and offered to sell to Federal undercover agents 300,000 machine guns with silencers, 66mm mortars, hand grenades, and Red Parakeet surface-to-air missiles.

(7) The People's Liberation Army's buildup, modernization, and economic activities may pose a regional threat and a threat to broader United States interests in the future unless greater efforts are made to increase communication and transparency of process.

SEC. 202. STATEMENTS OF POLICY.

It is the policy of the United States—

(1) to encourage the political and military integration of the People's Republic of China into the Asia Pacific region and the larger global community of nations;

(2) to maintain a strong United States presence in the Asia Pacific region and to encourage cooperation between the United States, the People's Republic of China, and other nations;

(3) to encourage transparency in military funding in the People's Republic of China to the greatest extent possible; and

(4) to engage in confidence building measures between the United States and the People's Republic of China in order to reduce the risk of unintended conflict.

SEC. 203. REPORTS TO CONGRESS.

Not later than 180 days after the date of enactment of this Act, the Secretaries of State, Defense, and Commerce, along with the heads of other intelligence agencies, shall provide Congress with—

(1) a report analyzing the effectiveness of existing weapons proliferation export controls and sanctions relating to the People's Republic of China; and

(2) a report describing economic, political, and military espionage conducted by the People's Republic of China against the United States.

The Secretaries of State, Defense, and Commerce, and the head of any other intelligence agency may separately submit any information regarding the reports to Congress in confidence if such Secretary or agency head considers confidentiality appropriate.

SEC. 204. BILATERAL STRATEGIC RELATIONS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should continue and expand contact and exchanges between national security personnel from the United States and of the People's Republic of China.

(b) ENERGY BILATERAL.—The President shall take steps to establish a bilateral committee with the People's Republic of China in order to begin a dialogue relating to the maintenance of stability in regions where there are energy resources of mutual interest to the United States and the People's Republic of China.

(c) FOOD BILATERAL.—The President shall take steps to establish a bilateral committee with the People's Republic of China in order to begin a dialogue relating to—

(1) common interests in the People's Republic of China's securing a stable and adequate supply of food, and

(2) the interests of the United States as a supplier of food to the People's Republic of China.

SEC. 205. MULTILATERAL STRATEGIC RELATIONS.

The President shall take steps to establish a multilateral risk reduction protocol with the People's Republic of China and other governments in East Asia. The protocol shall provide policies and procedures that include—

(1) establishing a line of direct communication between Washington and the People's Republic of China; and

(2) developing a protocol for naval encounters in international waters.

SEC. 206. ENFORCEMENT OF THE IRAN-IRAQ NON-PROLIFERATION ACT.

It is the sense of the Senate that the security and stability of the Near East is threatened by any augmentation of weapons inventories by Iran and Iraq and the President should vigilantly enforce the provisions of the Iran-Iraq Arms Non-Proliferation Act of 1992.

TITLE III—HUMAN RIGHTS

Subtitle A—General Provisions

SEC. 301. CONGRESSIONAL FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the following conclusions of the Department of State regarding human rights in the People's Republic of China:

(A) The Government of the People's Republic of China has "continued to commit widespread and well documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities intolerance of dissent, fear of unrest, and the absence and inadequacy of laws protecting basic freedoms."

(B) Nonapproved religious groups, including Protestant and Catholic groups, experienced intensified repression.

(C) Overall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. No dissidents were known to be active at year's end.

(2) Despite public assurances by the People's Republic of China that it would abide by the principles of the Universal Declaration of Human Rights and despite the United Nations charter requirements that all members promote respect for and observe basic human rights, the Government of the People's Republic of China continues to place severe restrictions on religious expression and practice.

SEC. 302. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to encourage the People's Republic of China to adhere to internationally accepted norms for the rule of law, human rights, and worker rights; and

(2) to develop a consistent multilateral response to the record of the People's Republic of China on human rights and worker rights.

SEC. 303. RADIO FREE ASIA; NATIONAL ENDOWMENT FOR DEMOCRACY.

(a) RADIO FREE ASIA.—The President shall direct the Director of the United States Information Agency and the Board of Broadcasting Governors to increase the broadcast hours of the Voice of America and Radio Free Asia to the People's Republic of China and to broadcast to the People's Republic of China in multiple Chinese dialects.

(b) NATIONAL ENDOWMENT FOR DEMOCRACY.—In addition to such sums as are otherwise authorized to be appropriated for fiscal year 1998 for grants to the National Endowment for Democracy, there is authorized to be appropriated for fiscal year 1998, $1,000,000 for grants to the National Endowment for Democracy which shall be available only for purposes of programs relating to the People's Republic of China.

SEC. 304. MULTILATERAL HUMAN RIGHTS.

In the absence of significant progress in improving human rights in the People's Republic of China, the President shall direct the United States Permanent Representative to the United Nations to develop and implement a strategy to ensure that there is a debate and discussion every year on the human rights record of the People's Republic of China before the United Nations Commission on Human Rights.

Subtitle B—Human Relations Commission

SEC. 311. HUMAN RELATIONS COMMISSION.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President, in consultation with the majority and minority leaders of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives, and appropriate representatives from the private sector, shall appoint a 12-member Human Relations Commission (referred to in this subtitle as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of—

(A) 4 individuals appointed from the executive branch of the government;

(B) 4 individuals appointed from the legislative branch of the government; and

(C) 4 individuals from the private sector.

(c) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(d) TERM OF OFFICE.—Members shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(f) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission, and travel to conduct the duties of the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

SEC. 312. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall perform the following functions:

(1) Assess the status of human rights and worker rights in the People's Republic of China based on the Universal Declaration of Human Rights and internationally recognized worker rights as defined in section 507(4) of the Trade Act of 1974.

(2) Work to develop a bilateral commission between the United States and the People's Republic of China on human rights and worker rights.

(3) Expand opportunities for the exchange between the United States and the People's Republic of China of judges, attorneys, religious leaders, customs officials, and members and staff of the executive and legislative branches of government.

(4) Encourage overseas development assistance programs that support the establishment of rule of law and civil society in the People's Republic of China.

(5) Identify opportunities for multilateral action on human rights and worker rights, and rejuvenate initiatives in the International Labor Organization relating to human rights and worker rights.

(b) ASSESSMENT OF HUMAN RIGHTS AND WORKER RIGHTS.—

(1) IN GENERAL.—In assessing the status of human rights and worker rights required by subsection (a), the Commission shall establish a Prisoner Information Registry that contains the information described in paragraph (2) with respect to people detained in the People's Republic of China as political prisoners, religious prisoners, and prisoners of conscience.

(2) REGISTRY INFORMATION.—The Prisoner Information Registry shall contain the following information with respect to the prisoners described in paragraph (1):

(A) The charges against each prisoner.

(B) A description of the judicial process or administrative action taken with respect to each prisoner.

(C) The length of incarceration, incidents of torture, and use of forced labor with respect to each prisoner.

(D) The physical condition and general health of each prisoner.

(E) Any other information relating to the general condition of each prisoner that the Commission considers to be relevant.

(3) REPORT AND RECOMMENDATIONS.—

(A) IN GENERAL.—Not later than 1 year after the first meeting of the Commission, and annually thereafter, the Commission shall report to Congress and the President the results of the assessment conducted under this subsection.

(B) RECOMMENDATION.—If the Commission determines that the People's Republic of China is not making progress in improving the status of human rights and worker rights within 2 years after the date of the first meeting of the Commission, the Commission shall recommend to the President that the President strengthen United States policies intended to improve the status of human rights and worker rights with respect to the People's Republic of China as the Commission determines to be appropriate.

SEC. 313. STAFF.

(a) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Chairperson of the Commission, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(b) TECHNICAL ASSISTANCE.—On the request of the Chairperson of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

SEC. 314. TERMINATION.

The Commission shall terminate on the day that is 3 years after the date of the Commission's first meeting.

ADDITIONAL COSPONSORS

S. 219

At the request of Mr. GORTON, his name was added as a cosponsor of S. 219, a bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States.

S. 597

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 839

At the request of Mr. BINGAMAN, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 839, a bill to improve teacher mastery and use of educational technology.

S. 887

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from

Delaware [Mr. BIDEN] was added as a cosponsor of S. 887, a bill to establish in the National Service the National Underground Railroad Network to Freedom program, and for other purposes.

S. 943

At the request of Mr. SPECTER, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the "Death on the High Seas Act" to aviation accidents.

S. 995

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 995, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1008

At the request of Mr. DURBIN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1008, a bill to amend the Internal Revenue Code of 1986 to provide that the tax incentives for alcohol used as a fuel shall be extended as part of any extension of fuel tax rates.

S. 1037

At the request of Mr. JEFFORDS, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1037, a bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearing-house and electronic networks for the distribution of child care information, to improve the quality of chlid care provided through Federal facilities and programs, and for other purposes.

S. 1105

At the request of Mr. COCHRAN, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1105, a bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes.

S. 1162

At the request of Mr. ALLARD, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 1162, a bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to penalties for powder cocaine and crack offenses.

S. 1206

At the request of Ms. SNOWE, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 1206, a bill to provide for an enumeration of family caregivers as part of the 2000 decennial census of population.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1262

At the request of Mr. FAIRCLOTH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1262, a bill to authorize the conveyance of the Coast Guard Station, Ocracoke, North Carolina.

S. 1285

At the request of Mr. FAIRCLOTH, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 1285, a bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals.

SENATE CONCURRENT RESOLUTION 48

At the request of Mr. KYL, the names of the Senator from Louisiana [Ms. LANDRIEU], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Concurrent Resolution 48, a concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran.

SENATE RESOLUTION 124

At the request of Mr. ROTH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of Senate Resolution 124, a resolution to state the sense of the Senate that members of the Khmer Rouge who participated in the Cambodian genocide should be brought to justice before an international tribunal for crimes against humanity.

SENATE CONCURRENT RESOLUTION 54—RELATIVE TO THE U.S. POSTAL SERVICE

Mr. DEWINE submitted the following concurrent resolution; which was referred to the Committee on Government Affairs:

S. RES. 54

Whereas the United States Postal Service has successfully supplied uniforms to its employees for 42 years under the postal uniform allowance program;

Whereas the postal uniform allowance program currently provides business to more than 1,000 American companies throughout the United States which, in turn, employ more than 10,000 American workers;

Whereas the United States Postal Service has proposed a new, centralized uniform procurement system that would result in substantial loss of business to those American companies and turn over control of the procurement system to a single vendor; and

Whereas the United States Postal Service has, in recent years, become more profitable while continuing to use the postal uniform allowance program: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the United States Postal Service should maintain its current postal uniform allowance program and make necessary changes to improve that program, rather than implement a centralized, single-vendor program.

SENATE CONCURRENT RESOLUTION 55—RELATIVE TO THE EMS NATIONAL MEMORIAL SERVICE

Mr. GREGG (for himself, Mr. WARNER, and Mr. ROBB) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 55

Whereas in 1928, Julian Stanley Wise founded the first volunteer rescue squad in Roanoke, Virginia, the Roanoke Life Saving and First Aid Crew, and Virginia has subsequently taken the lead in honoring the thousands of people nationwide who gave their time and energy to community rescue squads through the establishment of To The Rescue, a museum located in Roanoke devoted to emergency medical services (EMS) personnel;

Whereas to further recognize the selfless contributions of EMS personnel nationwide and as the first State in the Nation to establish a volunteer rescue squad, the Virginia Association of Volunteer Rescue Squads, Inc. and the Julian Stanley Wise Foundation, in conjunction with To The Rescue, in 1993 organized the First Annual National Emergency Medical Services (EMS) Memorial Service in Roanoke, Virginia, to honor EMS personnel from across the country who have died in the line of duty;

Whereas the National EMS Memorial Service has captured national attention by honoring 119 providers of emergency medical services from 35 States;

Whereas the singular devotion of EMS personnel to the safety and welfare of their fellow citizens is worthy of the highest praise;

Whereas the annual National EMS Memorial Service is a fitting reminder of the bravery and sacrifice of EMS personnel nationwide;

Whereas according to the Department of Health and Human Services, 170,000 Americans require emergency medical services on an average day, a number which projects to over 60,000,000 people annually; and

Whereas the life of every American will be affected, directly or indirectly, by the uniquely skilled and dedicated efforts of the EMS personnel who work bravely and tirelessly to preserve America's greatest resource—people: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress declares the memorial service held in Roanoke, Virginia, and sponsored by the National Emergency Medical Services (EMS) Memorial Service Board of Directors to honor emergency medical services personnel who have died in the line of duty as the "National Emergency Medical Services Memorial Service".

SEC. 2. RULE OF CONSTRUCTION.

Nothing in this resolution shall be construed to place the National EMS Memorial Service under Federal authority or to require any expenditure of Federal funds.

Mr. GREGG. Mr. President, I rise today to submit a resolution for myself

and the two Senators from Virginia, honoring emergency medical services [EMS] personnel across the country. I was asked by Martin Singer, chief of the bureau of emergency medical services in New Hampshire, to submit this resolution, recognizing this important annual event. I am pleased to be joined by my two colleagues from Virginia, Mr. WARNER and Mr. ROBB, as original cosponsors.

In 1993, the Virginia Association of Volunteer Rescue Squads, Inc., and the Stanley Wise Foundation organized the first annual National Emergency Medical Services Memorial Service in Roanoke, VA. As the first State in the Nation to have a volunteer rescue squad, Virginia has taken the lead in recognizing the importance of these members of our communities both through the establishment of a museum devoted to EMS personnel called To The Rescue and now a memorial service to honor those EMS personnel who have died in the line of duty. They have opened their doors to communities across the Nation giving them the opportunity to honor these selfless individuals. It is time now that we, as a Nation, recognize Virginia's efforts and let EMS personnel across the country know that we appreciate their efforts and honor those who have given their lives to save the lives of others with this national memorial service.

The memorial service which has been held in Virginia annually for 5 years has now honored 119 EMS personnel from 35 States. My own State of New Hampshire has had three providers who had served our State honored for their extraordinary service. Most recently, in the ceremony held on May 24, 1997, Mr. Lawrence A. Volz of Newington, NH was honored. Mr. Volz lost his life in 1971 at age 48 while driving a community ambulance. This memorial service lets the family and friends of these very important people know that the ultimate sacrifice made by their loved ones for their fellow man is recognized and honored.

It is my hope that the introduction of this resolution will make this very special service more widely recognized by the country as a whole to let all EMS personnel know that their dedication and contributions to their communities are greatly appreciated.

SENATE RESOLUTION 137—TO AUTHORIZE TESTIMONY

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 137

Whereas, in the case of *United States* v. *Tara LaJuan Edwards*, Case No. M12677–97, pending in the Superior Court of the District of Columbia, subpoenas have been issued for testimony by James E. LePire and Billy R. Smith, and Kristina D. Brown, employees of the Secretary of the Senate;

Whereas, in the case of *United States* v. *Robbin Tiffani Stoney*, Case No. M12598–97, pending in the Superior Court of the District of Columbia, subpoenas have been issued for testimony by James E. LePire and Billy R. Smith, employees of the Secretary of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved That James E. LePire, Billy R. Smith, and Kristina D. Brown, and any other Senate employee from whom testimony may be required, are authorized to testify in the cases of *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffani Stoney*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Secretary of the Senate is authorized to release Senate records and documents relevant to these cases.

SEC. 3. That the Senate Legal Counsel is authorized to represent James E. LePire, Billy R. Smith, and Kristina D. Brown, and any other Senate Employee from whom testimony may be required, in connection with *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffani Stoney*.

NOTICE OF HEARING

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. THOMPSON. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Governmental Affairs Committee will be held on Friday, October 24, 1997, at 10 a.m. The subject of the hearing is H.R. 1953, concerning State taxation of individuals working at certain Federal facilities straddling State borders.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 21, at 10 a.m. and 2 p.m. to hold hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts, Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, October 21, 1997, at 2 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: "Overview of the National Bankruptcy Review Commission Report."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Surface Transportation and Merchant Marine Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, October 21, 1997, at 2:30 p.m. on S. 803, S. 668, and the Domestic Cruise Ship Trade.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO MR. R. NOEL LONGUEMARE

• Mr. SANTORUM. Mr. President, I rise today to recognize the professionalism, dedication, vision, and public service of Mr. R. Noel Longuemare, who is retiring from the Department of Defense [DOD] after serving 4 years as the Principal Deputy Under Secretary of Defense for Acquisition and Technology, and most recently as the Acting Under Secretary of Defense for Acquisition and Technology.

Mr. Longuemare's tireless support for improved acquisition management practices, work force empowerment, and reduced life cycle support costs dramatically improved the DOD's acquisition management. He was instrumental in establishing Integrated Product Teams [IPT's] in all acquisition decisionmaking activities within the acquisition community. As the acquisition work force has been significantly reduced, IPT's have enabled commands to focus their expertise and to empower their managers in ways unmatched by traditional, functionally aligned organizations. Through his emphasis on IPT's, he has generated a climate of cooperative problem solving between industry and its DOD customers.

Along with IPT's, Mr. Longuemare led the efforts to redefine the ways in which DOD specifies the products it acquires. He was the driving force in the shift to performance specifications for complex defense articles. Through his emphasis on what new systems should do rather than how they should look, industry has enjoyed unparalleled opportunities to bring technical creativity to bear on the most complex requirements. Mr. Longuemare successfully ushered the reform of military specifications and standards. In fact,

nearly 2,700 specifications and standards have been rescinded as formal acquisition requirements since the program's inception. Thus, barriers to industry's own rate of technology acceleration have eroded, and industry continues to improve the way they do business with the Department of Defense.

In addition to his leadership through difficult institutional changes, Mr. Longuemare personally pioneered many innovative acquisition concepts such as cost as an independent variable [CAIV] and the single process initiative [SPI]. CAIV provides program managers and engineers a practical method for treating cost as a true systems design criterion, and it directly supports the DOD transition to performance specifications. The SPI approach, which replaces separate Government and commercial processes, is one of the most powerful techniques available for reducing overhead and accelerating process proficiency.

Mr. Longuemare has been a champion within the DOD for more effective communications. He initiated a systems engineering directorate to better define this crucial, but often elusive, discipline within the acquisition system. He advocated continuing education for the acquisition work force and fostered significantly improved coordination between the military departments, particularly in the requirements definition process.

Mr. President, the work of this exceptional public servant will continue to have a lasting impact on the DOD for many years to come. Mr. Longuemare has rightly earned the highest respect of all who know him in Congress, the DOD, and private industry. I ask my colleagues to join me in extending the Senate's best wishes to Noel, his wife Julie, and their daughter Maria.●

OUTRAGE OVER MALAYSIAN REMARKS

● Mrs. BOXER. Mr. President, I rise today to express my outrage and disgust at recent comments by Dr. Mahathir Mohamad, the Prime Minister of Malaysia. According to reports by official Malaysian news agencies, the Associated Press, and Reuters, Dr. Mahathir speculated last week that the collapse of Malaysian currency and the subsequent turmoil in its stock market may have been the result of an international Jewish conspiracy to oppress his predominately Muslim nation.

Malaysia is in the midst of an economic crisis. Its currency, the Ringgit, has depreciated over 25 percent, which has sent its stock market to all-time lows. The Prime Minister has blamed the crisis on currency speculators, most notably the famous hedge fund manager George Soros, who is Jewish. Soros has denied trading extensively in the Ringgit and most financial analysts agree that currency traders could not have triggered the Ringgit crisis.

I do not want to mischaracterize Dr. Mahathir's remarks, so I will quote them directly, as reported by the Associated Press. According to the AP, Dr. Mahathir said, "The Jews robbed the Palestinians of everything, but in Malaysia they could not do so, hence they do this, depress the Ringgit."

Referring to the economic progress made by Malaysia over the past decade, Dr. Mahathir said, "Incidentally, we are Muslims, and the Jews are not happy to see the Muslims progress." Finally, he speculated about a global anti-Malaysian conspiracy saying, "We may suspect that they [Jews] have an agenda, but we do not want to accuse."

Mr. President, I was shocked by these comments. They are patently outrageous, hateful, and blatantly anti-Semitic. I thought it appropriate that the Simon Wiesenthal Center, which is based in Los Angeles, immediately demanded a clarification from the Malaysian Government.

Today, the Simon Wiesenthal Center shared with me a letter it received from Hashim Makaruddin, Press Secretary to the Prime Minister. Rather than clarify Dr. Mahathir's remarks, Mr. Makaruddin's letter confirms a hostile attitude among Malaysia's leaders.

Mr. Makaruddin denies that the Prime Minister specifically alleged a Jewish conspiracy to stifle Malaysia's economic growth. He writes that Dr. Mahathir "was merely explaining that the currency crisis now being faced by Malaysia was the doing of George Soros, who is a Jew, and that among the victims which suffered were Malaysia and Indonesia, which are Muslim countries. Because coincidentally Mr. Soros is a Jew and Malaysia and Indonesia are Muslim countries, there are people who thought that this currency manipulation was a Jewish 'conspiracy' against the Muslim countries. This was what Dr. Mahathir told the crowd at the rally."

Mr. President, in other words, the Prime Minister's explanation is that he was not advancing his own anti-Semitic views, he was simply repeating the anti-Semitic conspiracy theories advanced by others without refuting them. Clearly, it is wrong for any government leader to lend official credence to such anti-Semitic views by repeating them at a widely attended rally.

I find Mr. Makaruddin's explanation of the Prime Minister's remarks wholly unsatisfactory.

I call on Prime Minister Mahathir to apologize to those who have taken offense at his remarks. I do not believe any other course of action can undo the damage done by these hateful and irresponsible comments.●

JOE CENARRUSA

● Mr. KEMPTHORNE. Mr. President, integrity. That one word encompasses the life of Joe Cenarrusa. Today, family, friends, and the people of Idaho bid farewell to a man filled with integrity whose life ended tragically on September 9, 1997.

Joe Cenarrusa, the son of Idaho Secretary of State Pete Cenarrusa and his wife Freda, was first and foremost a family man. But he was also a successful businessman who was very active in his community.

Joe Cenarrusa was born on the family ranch in Carey, ID. He was Pete and Freda Cenarrusa's only son. Joe had a love for flying—a love which he inherited from his father who was a Marine fighter pilot during World War II. At the age of 4, Joe would sit on his father's lap in the cockpit and Pete would let him take over the controls. It was clear from that early age that Joe would continue to soar to new heights.

The day he turned 16, Joe took his first solo flight. He then took his FAA check rides for the instrument, commercial, and airline transport ratings on the days he became age-eligible for them. Joe graduated from the University of Idaho where he was a flight instructor and was also active in the skydiving club.

In 1974, he returned home to take over the ranch. He brought with him new ideas and innovative techniques which turned the operation into one of the most successful livestock operations in Idaho.

Joe Cenarrusa never shied away from a challenge. "You just can't take; you also have to give." That's how Joe lived his life, always finding ways to give back to his community—especially for causes that helped children.

Joe felt every child needed a bicycle. A young child riding a bike was only natural, but there were some children in the community whose families couldn't afford bikes. So Joe decided to do something about that. As the owner of Red Robin Restaurants, Joe would offer deluxe hamburgers for anyone who would donate a bicycle. Those bikes would be refurbished by a friend, Mike Cooley, and then donated to needy children at the start of each school year. "Burgers For Bicycles" was a program that made Joe happy. It made his friend Mike Cooley happy. And it made thousands of schoolchildren happy each fall.

Joe also had a place in his heart for battered and neglected children who ended up at the Hays Shelter Home. He'd bring the children and staff from the home down to his restaurant once a week and let them order whatever they wanted off the menu—including dessert. What a wonderful opportunity and a very visible sign to these neglected children that someone in their community cared.

Joe is remembered as a "good, decent man, a visionary, a man of integrity, a man who loved his family, and a man who, in the best tradition of America, gave generously to his community." He never lost sight of his Basque values. He understood the value of hard work, and he learned at an early age the importance of honor and integrity.

The measure of this man is reflected in the mission statement for his company which reads, "We are a company committed to creating opportunities for success." Joe Cenarrusa's life was committed to helping all around him succeed. And for that, each of us who knew Joe have lived a richer life. My prayers are with his parents Pete and Freda, his wife Jean, and their two sons, Andy and Tyler.•

TRIBUTE TO THE COMMITTEE OF 200

• Mr. DURBIN. Mr. President, I rise today to pay special tribute to the Committee of 200, a distinguished professional women's organization headquartered in my home State, on the occasion of its 15th anniversary the week beginning October 20.

The Committee of 200 is dedicated to promoting entrepreneurship and corporate leadership among women of this generation and the next. The committee is comprised of 370 members from the United States and abroad, representing 70 different industries. Each member is an accomplished businesswoman, including entrepreneurs whose companies generate annual revenue of $10 million or greater and U.S. corporate executives who manage divisions that produce more than $50 million in annual revenue.

Recognizing the needs of young women who will soon be entering the business world, the Committee of 200 established a foundation in 1986 to enhance its outreach activities. This foundation provides important assistance and scholarships for women business students and provides grants to foster entrepreneurship among young women.

The Committee of 200 exemplifies the spirit of American business, promoting entrepreneurship, corporate innovation, and community awareness. It supports the careers of young women by giving them the tools to complete effectively in an intensely competitive environment.

Mr. President, the Committee of 200 has provided critical support services over the last 15 years to business leaders and business students. It has distinguished itself as a preeminent professional organization for women. I am confident that over the next 15 years, the committee will continue to be a credit to American businesses and women corporate leaders. I want to congratulate all the members of the Committee of 200 as they celebrate this important milestone in the organization's history.•

ASTRONAUT JERRY LINENGER

• Mr. ABRAHAM. Mr. President, I rise today to congratulate Dr. Jerry Linenger and his wife Kathryn and sons John and Jeffrey as they celebrate their homecoming to Eastpointe, MI.

Astronaut Jerry Linenger has traveled a little farther than just the ends of the Earth. Having been a crewmember of STS–64 aboard the Space Shuttle *Discovery* and the recent STS–81 and STS–84 missions of the Space Shuttle *Atlantis*, and a resident aboard the Russian *Mir* Space Station, Dr. Linenger has logged a total of 142 days in outerspace, clearly, he exemplifies the spirit of a modern-day American pioneer.

Dr. Linenger has made a profession of reaching for the stars, and now spends much of his time sharing his experience with the people of Michigan and of this great Nation. By bringing the stars to Earth, Dr. Linenger has inspired young minds to look beyond their immediate surroundings and has offered them a vision of an even greater future.

Tonight, there is no doubt a young Dr. Linenger in the audience. As a graduate of East Detroit High School, at one time walking in your shoes, he has shown us what can happen with hard work and commitment toward a goal. I encourage you to view Dr. Linenger's accomplishments with the thought in mind that you too may someday share the same experience.

With all of his educational, personal and professional accomplishments, Dr. Linenger has truly proven to be an American hero for his family, friends, all citizens of Michigan, especially the citizens of the city of Eastpointe.

On behalf of the U.S. Senate, I congratulate Dr. Linenger and his family and wish them the best of luck in their future endeavors.•

JANE ALEXANDER'S RESIGNATION FROM THE NATIONAL ENDOWMENT FOR THE ARTS

• Mr. DODD. Mr. President, I rise today to commend Jane Alexander on her tenure as Chairperson of the National Endowment for the Arts. Just a few days ago, she announced her resignation from the NEA and her plan to return to private life. I am truly saddened that the NEA will lose such a strong and respected leader and that the Nation will lose one of its most articulate and effective champions in the effort to preserve the NEA.

I am proud to be a strong supporter of the arts. It is clear that future generations will remember us not for our gross national product or our stockpile of advanced weapons, but for the content of the artistic and cultural expression that characterizes our civilization. The arts give us an opportunity to leave our mark on history.

Jane Alexander's tenure has not been easy. Her term has spanned four of the most challenging years in the NEA's history, filled with annual fights over its survival. Each year we have seen assaults mounted on the arts and the NEA in particular. But the supporters of the arts in the Congress have met each of these challenges and emerged victorious thanks to the leadership of Jane Alexander.

Perhaps as important as her leadership in these legislative battles has been her efforts throughout the country as an articulate voice in support of the arts and a Federal role in supporting the arts. She has visited schools and community centers as well as theaters and galleries across the country and has reminded Americans of the strength and importance of the arts.

Beyond these efforts on the national scene, she has proved an able and adept manager of the NEA. She has implemented the mandated staff cuts at the NEA and restructured the agency without compromising its mission. She has compensated for fewer resources by forming partnerships with other agencies and encouraging all arts organizations to work more closely together. In addition, under her leadership, grantmaking processes have been reorganized, accountability measures have been put in place, investments in arts education have increased, and new communication tools including a website have been developed.

From the stage and the big screen to the halls of Congress, Jane Alexander has proven she is a remarkable individual, a great voice for the arts in America, and a true national treasure. I thank her for her dedication and her tireless efforts, and I wish her the best of luck in her future endeavors.•

THE AGRICULTURAL PRODUCTS MARKET ACCESS ACT

• Mr. GORTON. Mr. President, I would like to add my name as a cosponsor to S. 219, the Agricultural Products Market Access Act of 1997 and to commend Senators GRASSLEY and DASCHLE for their excellent work on behalf of American agricultural exports.

S. 219 will set up a system for agricultural trade identical to that used to identify violations of intellectual property rights—the "Special 301" procedure. Specifically, the bill requires the Office of the U.S. Trade Representative to annually designate as priority countries those trading partners having the most egregious trade barriers to U.S. agricultural products. USTR would then initiate a streamlined 301 investigation of the trade practices of those countries identified to determine

whether their agricultural trade barriers merit sanctions or other retaliatory actions.

As many of my colleagues know, my home State of Washington is a major producer and exporter of agricultural products. In fact, agriculture is Washington's No. 1 industry employing well over 100,000 people directly and accounting for 20 percent of the State's total exports. I and my constituents, however, are continually frustrated by the unfair and irrational barriers erected to our agricultural exports in countries throughout the world.

The most recent example is Mexico's imposition of a 101.1-percent prohibitive duty on red delicious and golden delicious apples. This tariff hike is based on claims by Mexican apple farmers that United States producers are selling apples to Mexico at half the fair price. There is no factual basis for these claims, yet Mexico has successfully closed the United States-Mexico border to apples and cut Washington apple producers off from their largest export market. The administration has pledged to work to resolve this impasse, but the process is likely to be long and hard fought with no guarantee of a solution through the NAFTA or WTO dispute resolution process.

Japan too has continually used protectionist measures to lock Washington apples out of its domestic market. On questionable phytosanitary grounds, Japan has erected barrier after barrier to Washington apples. Under the current protocol for the export of apples to Japan, only red delicious and golden delicious varieties may be shipped to Japan. Since the Japanese market was first opened to United States apples in 1994, Japan has required the cold treatment and fumigation of all United States apples. While scientific data supports the United States contention that this type of treatment is unnecessary, Japan insists on subjecting all additional United States apple varieties to the same costly and time-consuming tests.

Washington's wheat exports also face formidable export barriers. Since 1972, the People's Republic of China has maintained a nontariff barrier on Pacific Northwest wheat affected by TCK smut. Over the past 20 years, the United States has presented Chinese officials with scientific evidence that conclusively shows there is no risk of introducing this smut into China, but the Chinese Government refuses to budge. The continued ban on our wheat only adds to our large and growing trade deficit with China which has already reached $40 billion.

These are just a few of the most egregious examples of the seemingly endless obstacles to Washington's agricultural exports. The time has come for the U.S. Trade Representative to take quick and decisive action against all nations that engage in unfair trade practices to lock out U.S. agricultural exports. S. 219 will give the administration the tools it needs to do just that. If this legislation can accomplish even half of what the "Special 301" process has done to protect U.S. intellectual property, we will be well on our way to a freer, fairer system of international trade in agriculture.

Mr. President, Washington, and every State in the Nation engaged in agricultural trade will gain if this legislation is signed into law. I commend my colleagues Senators GRASSLEY and DASCHLE for their insight and hard work in devising this intelligent solution to a difficult and pressing problem and am proud to join them as a cosponsor of S. 219.●

TRIBUTE TO CARMEN WARSCHAW

● Mrs. BOXER. Mr. President, I rise today to honor and congratulate Carmen Warschaw on receiving the 1997 Heart of Gold Award from the Medallion Group of the Cedars-Sinai Medical Center.

Through the years, Ms. Warschaw has shown her commitment to the people of Los Angeles, and to the people of California. She has served her community with pride and dignity. I commend her on a job well done, and an honor richly deserved.

Ms. Warschaw has served on many governing boards and commissions, including the California Fair Employment Practices Commission, the National Council of Women, the California State Board of Social Welfare, the Los Angeles County Election Security Commission, and the 1996–97 Los Angeles County Blue Ribbon Budget Task Force. She is currently an active member of the State Central Commission of California.

Ms. Warschaw has also served as a delegate to the Democratic National Convention, chairperson of the Jewish Community Relations Committee, and National Vice Chairperson of the Anti-Defamation League. She has a long tradition of supporting the arts: She was president of the Los Angeles County Art Museum, a founder of the Civic Light Opera, and a board member of the Truman Library Institute. In 1968, she was a recipient of the prestigious Los Angeles Times Woman of the Year Award.

In addition to these accomplishments and activities, Ms. Warschaw is a mother of two and a grandmother of three.

There are many heroes among us: Men and women who, like Ms. Warschaw, give something back to the world in which they live. They inspire and move us. We may not always know their names, nor recognize their faces, but their goodwill lives on in every life they touch. Their selflessness and courage is an example to us all.

I congratulate Carmen Warschaw once again, for her years of dedication and hard work on behalf of her city, her State, and her country. She is a true hero, and I salute her.●

AMERICAN LEGION AUXILIARY SCHOLARSHIP

● Mr. COVERDELL. Mr. President, I rise today to commend the American Legion Auxiliary, State of Georgia, and their efforts in assisting educational opportunities for fellow Georgians. Specifically, as it has recently come to my attention, they have distributed $10,125 toward the education of 21 medical students in Georgia. In addition, $3,678.55, given by the Past Presidents Parley, was equally distributed to the following medical college students: Regina Lewis, of unit 107; Laura Sargent, of unit 64; Krista Nicole Swann, of unit 160.

As we continue to strive to better our country and the educational opportunities it promotes, it is vital that we work in partnership with organizations like the American Legion Auxiliary so all of our fellow Americans may reach their goals.●

TRIBUTE TO RICHARD D. ORR

● Mr. SANTORUM. Mr. President, the Sons of Union Veterans of the Civil War [SUVCW] is a congressionally chartered organization dedicated to preserving the memory of Union veterans and their sacrifices on behalf of our Nation. Today, I rise to recognize an exceptional Pennsylvanian, Mr. Richard D. Orr, who was recently elected commander-in-chief of the SUVCW.

Richard's forefathers answered the call to duty during the Civil War. His great-great-grandfather, Pvt. Peter Paul Gallisath, served in the 5th Pennsylvania Cavalry. Another great-great-grandfather, Sgt. Martin Schaefer, served in Pennsylvania Militia of 1863, which defended the arsenal at Pittsburgh during the Gettysburg Campaign. His great-great-grandfather, Sgt. David Orr, was a member of the 14th Pennsylvania Cavalry. Other Union veterans in Richard's family include his great-great-great uncle, Capt. Bardele Gallisath of the 5th Pennsylvania Cavalry, and Medal of Honor recipient Col. Robert L. Orr, of the 61st Pennsylvania Volunteer Infantry.

Since joining the SUVCW on April 11, 1981, Richard has been very active in the organization. A life member, Richard has served the Pittsburgh Davis Camp as camp commander and treasurer. After attending his first department encampment in 1982, he immediately took an active role at the department level. He has served the Pennsylvania Department as patriotic instructor, junior vice commander,

senior vice commander, counselor, department council member, and department commander. In the national organization, Richard has held the positions of committee chairman, trial commissioner, national treasurer, national counselor, junior vice commander-in-chief, and senior vice commander-in-chief.

I am pleased to note that Mr. Orr is equally active in his community. A former Eagle Scout, the new commander-in-chief continued his affiliation with the Boy Scouts of America as a volunteer for more than 35 years. In fact, Richard was awarded the District Award of Merit for his many years as a volunteer with the Boy Scouts. Similarly, the Boy Scouts' National Court of Honor presented him the Silver Beaver Award—the highest honor that can be conferred upon a volunteer. Likewise, the National Catholic Committee on Scouting recognized his contributions to youth with the St. George Award.

Mr. Orr is employed as an environmental health administrator by the Allegheny County Health Department [ACHD]. He has worked for ACHD for the past 19 years in a variety of programs including public drinking water, waste management, food protection, housing, community environment, and emergency response. Currently, he is responsible for evaluating, acquiring, and coordinating the training needs for all ACHD employees. Richard has earned the respect of colleagues and subordinates alike for his uncompromising dedication to sound principles of environmental health and environmental protection. Others outside the ACHD have taken notice as well. Richard received two community service citations from the Allegheny County Board of Commissioners. Also, the U.S. Army Corps of Engineers presented him with the Planning Excellence Award for his role in the development of an intragovernmental plan to provide an uninterrupted supply of drinking water during environmental emergencies.

Mr. President, I ask my colleagues to join me in extending the Senate's best wishes for continued success to Mr. Orr and his family.•

FORWARD TO ETHICS IN LAW AND POLITICS BY SENATOR PAUL SIMON

• Mr. DURBIN. Mr. President, our friend and former colleague in this body, Paul Simon, has always been a man of exceptional integrity who has demonstrated exemplary leadership on national issues. He continues to contribute to the national debate as the director of the Public Policy Institute at Southern Illinois University in Carbondale.

Paul recently authored the foreword for the Loyola University of Chicago Law Journal on the subject of ethics in law and politics. While the Senate continues to investigate and debate the conduct of our federally elected officials, Paul's foreword to this journal provides valuable insight about political ethics and the public trust which I would like to share with my colleagues.

I ask that Senator Simon's foreword be printed in the RECORD.

The forward follows:

[From the Loyola University of Chicago Law Journal, Volume 28, 1996]

FOREWORD—ETHICS IN LAW AND POLITICS

(By Senator Paul Simon)

Paul Simon was a Democratic member of the United States Senate from the State of Illinois from 1985 to 1996. He has also served as member of the United States House of Representatives (1975–1984), Lieutenant Governor of Illinois (1969–1972), member of the Illinois Senate (1963–1968), and member of the Illinois House of Representatives (1955–1962). In addition to his extensive years of service in the political arena, Senator Simon is the author of numerous works, including Lincoln's Preparation for Greatness (1965), The Once and Future Democrats (1982), and The Glass House, Politics, and Morality in the Nation's Capitol (1984).

I. INTRODUCTION

I am pleased to introduce Loyola University of Chicago Law Journal's special symposium issue on Legal Ethics. I may not be the obvious choice for this honor since I am not a lawyer. I am, however, the husband of an attorney and the father of another; moreover, I work everyday with lawyers and have drafted far more legislation than most attorneys in the profession.

My years in state and federal politics have also provided me with empathy for the legal profession. After all, politicians and lawyers share at least one uneviable distinction—they are both roundly criticized in America today for their ethical shortcomings. The public's distrust of lawyers and politicians can be traced to a common cause—to a perception that both professions have failed to live up to the full range of their responsibilities, and particularly to a sense that both too often see their obligations in terms of temporarily pleasing constitutents or clients and not enough in terms of serving the national interest and the public good. This pervasive attitude is harmful, not only to the public standing of lawyers and politicians, but—more importantly—to the well-being and moral strength of the nation itself.

II. PUBLIC TRUST AND POLITICAL ETHICS

For many years, I have warned of the increasing influence of public opinion polls, focus groups, and political consultants in Washington. Office-holders have become too quick, when faced with issues of immense public importance, to stick their finger to the wind to see which way the public passions are blowing. It is easy to understand this temptation. As a Senator, I know how appealing it is to do the popular thing. Most elected officials enjoy their jobs. We are treated with respect; we are listened to and applauded; and we make decisions about matters which effect the lives of thousands, if not millions, of people. Naturally, we dislike casting votes that might jeopardize our positions. And so political self-interest makes the office-holder excessively sensitive to his constitutents' desires.

Certainly, the desire to please one's constituents is not a bad thing in and of itself. Public accountability and constituent service are a vital part of the democratic process. But the legislator's duty is greater than simply serving his or her constituents' immediate interests. A representative also has an obligation, as James Madison wrote, to "refine and enlarge the public views," to use independent judgment, and to serve the public good.[1] Edmund Burke declared, in his famous speech to the electors at Bristol, that "[y]our representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion."[2]

Burke sometimes spoke as if he believed elected officials should concern themselves solely with the national interest and not at all with local affairs.[3] I certainly would not go that far. Rather, I believe representatives have two principal obligations—one to their constituents and one to the broader public good. Fortunately, those obligations do not generally conflict, and especially in matters of vital national significance, they are often closely aligned. Nonetheless, when they diverge, as they inevitably do at times, conscientious politicians face an ethical dilemma—how to balance the voice of their constituents with the call of the conscience.

Representatives must resolve this tension as best as they can. It is reasonable, in my opinion, for representatives to defer to their constituents' desires when an issue is not clear-cut and the stakes are not vital. But in fundamental cases where justice is clear, politicians must have the courage to vote their conscience. The lawmaker must recognize this simple truth—that some things are more important than being reelected.

The obligation to exercise independent judgment—rather than to blindly follow public opinion—is strong in cases affecting citizens marginalized by society, such as the poor or minorities. These are people whom the general public is prone to ignore; they are often powerless to defend themselves in the "court" of public opinion. Frequently, the legislator's independent sense of justice is all that protects the underprivileged members of society from neglect or isolation. If representatives are to be worthy of their positions, they must have the courage to fight for the least fortunate, even when doing so in unpopular.

The passage of the new welfare bill is only the most recent and egregious illustration of Congress' increasing tendency to choose expediency over principle. To be sure, the political calculus in favor of the bill was clear. Welfare has become a dirty word in America today. Proportionately few welfare recipients vote, and the cases where welfare is abused are highly publicized. President Clinton certainly knew which way the political winds were blowing when he signed the bill.

But "ending welfare as we know it" is not a noble goal. "Ending poverty as we know it" is, and the latter goal requires genuine welfare reform. But that cannot be achieved without jobs for people with limited skill, without day care for single mothers with small children, and without job training for those who need it. We are pursuing "welfare reform on the cheap"—but the next generation will find it very expensive. Real welfare reform will take an additional initial investment but, in the long term, will save money, reduce crime, and make America a more productive society.

The dangerous consequences of the "welfare reform" measure have been well publicized. According to the Urban Institute's

Footnotes at end of article.

estimates, the bill will push a million more children into poverty. It will cut food stamps—basic nutrition for the poor—by nearly 20% from already low levels.[4] This is an unconscionable act, a failure by Congress to meet its essential obligation to protect those who are neglected by society.

Candidates who yield to public passions and vote for this kind of measure may gain some temporary increase in popularity. But in the long run, citizens perceive the truth. They come to view Washington as an arena for dividing spoils among powerful factions and interest groups rather than as a proper forum for deliberating over the common good. When elected officials follow public opinion at the expense of justice, they ultimately discredit themselves and their own institutions.

By contrast, candidates who act against public opinion may find themselves penalized in the polls. But my experience is that over time the public comes to respect those men and women of principle who vote their conscience. These politicians gain an unexpected reward: a deep kind of public respect. I had a small taste of this type of reaction in 1990, when I was running for reelection to the Senate. Although I voted against the death penalty and spoke about the need to raise revenues—two very unpopular positions—I won the election by the largest margin of any seriously contested campaign for Senator or Governor. Once, in Chicago, a man approached me and said, "Senator Simon, I don't think I agree with you on anything. But I trust you, and I'm going to vote for you." Citizens yearn for candor and for officials they can trust. If all we can give them is blind obedience to current polls, we as public officials have failed our public duties.

Politicians should be distinguished by their willingness to meet the full ethical obligations of their position—to exercise independent judgment in matters of justice and to act on that judgment, even when it leads to unpopular decisions. Walter Lippmann once wrote that a statesman emerges whenever a politician "stops trying merely to satisfy or obfuscate the momentary wishes of his constituents, and sets out to make them realize and assent to those hidden interests of theirs which are permanent. . . . When a statesman is successful in converting his constituents from a childlike pursuit of what seems interesting to a realistic view of their interests, he receives a kind of support which the ordinary glib politician can never hope for. . . . [O]nce a man becomes established in the public mind as a person who deals habitually and successfully with real things, he acquires an eminence of a wholly different quality from that of even the most celebrated caterer of the popular favor. . . ."[5]

Ultimately, the political profession will not redeem itself in the public's eyes until a larger number of its representatives begin to heed the call of their conscience over the call of the polls.

III. ETHICS AND THE LEGAL PROFESSION

Unlike the political realm, the legal profession has not always been viewed with the scorn reserved for it today. in words that may seem strange to us now, Alexis de Tocqueville wrote that "people in democratic states do not mistrust the members of the legal profession, because it is known that they are interested to serve the popular cause; and the people listen to them without irritation because they do not attribute to them any sinister designs."[6] During the last century, however, this picture of the legal profession has too often been replaced by an entirely different one—a picture of lawyers as parasites, hired-guns of large corporations or grasping clients, motivated by greed and neglectful of the public good. The legal industry—and it is an industry—has become increasingly commercialized, with too much emphasis on profits and the bottom line.

Paralleling this development has been the growth of a new ideology within the legal culture itself, which one observer has called the "ideology of adversarial zeal."[7] It is more prevalent than it should be. This ideology tells lawyers that they need not concern themselves with the public good or the ordinary obligations of justice. Rather, their ethical obligations are simply to serve their clients' desires and commands.

When unrestrained, this ideology puts few ethical burdens on the legal profession. Simply stated, it affirms that: "[l]awyers should not commit crimes or help clients to plan crimes. They should obey only such ethical instructions as are clearly expressed in rules and ignore vague standards. Finally, they should not tell outright lies to judges or fabricate evidence. Otherwise, they may, and if it will serve their clients' interest must, exploit any gap, ambiguity, technicality, or loophole, any not-obviously-and-totally-implausible interpretation of the law or facts."[8]

Like the norm of constituent service through polling in the political realm, the ideology of adversarial zeal panders to the lawyer's own self-interest. It enables lawyers to ignore the effects of their work on the rest of society—considerations that may detract from their profits but should bother their conscience.

To be fair, the ideology of adversarial zeal may have value in some contexts. For example, in criminal trials, there is a strong temptation to pre-judge a defendant who stands before the court of law, who often is a marginalized member of our society, and who faces the awesome power of the state's legal machinery. Public norms that encourage a fervent defense may help to counteract this pressure and ensure that the defendant has at least one committed defender. That defender may be all that stands between the innocent individual and the loss of his or her liberty.[9]

The finest legal traditions are followed when attorneys use their zeal and skills in pro bono work, but today the combination of federally assisted legal aid and pro bono work still leaves far too many unserved or under served. In all cases, there is a strong ethical argument for encouraging lawyers to weigh the broader implications of their work for society. Just as the politician must balance his constituent's interests with the public interest, so too must a lawyer balance client service with public service.

I do not know precisely how that balance should be drawn today in the legal profession. But it certainly means that lawyers—like candidates and office-holders—should hold themselves to a higher standard of conduct than they sometimes do now. It often means that lawyers should resist the temptation to exploit loopholes in the law and instead seek to ensure compliance with the spirit of the law. It certainly means that a lawyer should not engage in a scorched earth approach to discovery in order to overwhelm a less resourceful opponent, even if that means sacrificing a strategic edge in litigation. And it surely means working with the political branches to improve and strengthen our legal system, even if that effort may temporarily work to the detriment of existing clients or the attorney's pocketbook. Self-restraint is essential for a free society to function effectively. We as a society should set our ethical goals high, even the likelihood that many will inevitably fall short.

We need, in other words, to revive an old ideology that once permeated the legal profession, which Dean Kronman of Yale Law School called the ideology of the "lawyer statesman."[10] The lawyer statesman understands that professional obligations extend far beyond the client's interests to those of the nation at large, and that the Bar's enormous power in American society comes with a great responsibility to protect the common good. This is vital, in part, because the legal profession plays such a basic role in maintaining the nation's ideals. Professor George Anastaplo has rightly spoken of the Bar's obligation: "to mediate between popular passions and informed and principled men, thereby upholding republican government. Unless there is this mediation, intelligent and responsible government is unlikely . . . . The bar is, in short, in a position to train and lead by precept and example the American people."[11] Similarly, Justice Louis Brandeis, who lived the noble ideal of the lawyer statesman in his own life, spoke of lawyers "holding a position of independence, between the wealthy and the people, prepared to curb the excesses of either."[12]

Not least of all, a resurgence in the ideal of the lawyer statesman is important to our nation's future because, in the United States, the legal profession has traditionally been a training ground for many political aspirants. We will have little hope of finding statesmen in the political arena, if we are unable to cultivate statesmen in the legal sphere.

This is an extraordinarily difficult challenge. To change the culture of the legal and political professions will require a partnership among law schools, bar leaders, schools of political science, and the public at large. But before we can begin this task, we need to understand the reasons an ideology of self-interest has too extensively replaced a commitment to the public interest in both of our professions. We need creative suggestions about how to reverse that trend. For this reason, a symposium issue such as this one is so timely and important to our national welfare. I congratulate the Loyola University of Chicago Law Journal for taking on this fundamental issue.

FOOTNOTES

[1] The Federalist No. 10 (James Madison).

[2] Edmund Burke, Election Speech at Bristol (Nov. 3, 1774), reprinted in Burke's Politics 115 (Ross J.S. Hoffman et. al. eds., Alfred A. Knopf, Inc. 1949).

[3] For example, Burke also declared in his election speech at Bristol that: Parliament is a deliberative assembly of one nation, with one interest, that of the whole—where, not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole. You choose a member, indeed; but when you have chosen him he is not a member of Bristol, but he is a member of Parliament. If the local constituent should have an interest or should form a hasty opinion evidently opposite to the real good of the community, the member for that place ought to be as far as any other from any endeavor to give it effect.

Id. at 116 (emphasis in original).

[4] David Super, et al., Center on Budget and Policy Priorities, The New Welfare Bill 17–23 (1996).

[5] Walter Lippmann, The Essential Lippmann 457 (1963).

[6] Alexis de Tocqueville, Democracy in America 275–76 (Phillips Bradley ed., 1987) (1835).

[7] See David Luban & Michael Millemann, "Good Judgment: Ethics Teaching in Dark Times," 9 Geo. J. Legal Ethics 31, 57 (1995) (stating that "the ideology of adversarial zeal—the professional religion of a great many lawyers—tells them that they are morally required to push the edge of the envelope").

[8] Robert W. Gordon, "The Independence of Lawyers," 68 B.U. L. Rev. 1, 20 (1988).

[9]For a broadly similar point about the ethics of criminal defense work, see Daniel Luban, Lawyers and Justice. An Ethical Study 62-63 (1988).

[10]Anthony T. Kronman, The Lost Lawyer: Failing Ideals of the Legal Profession 11 (1993) (quoting Chief Justice Rehnquist).

[11]In re Anastaplo, 366 U.S. 82, 110 (1961) (Black, J., dissenting) (quoting Anastaplo's statement to the Bar Committee).

[12]L. Brandeis, "The Opportunity in the Lands" in Business—A Profession 329, 337-39 (1933), quoted in Robert W. Gordon, The Independence of Lawyers, 68 B.U. L. Rev. 1, 3 (1988).

VETERANS DAY 1997

• Mr. BURNS. Mr. President, as a veteran of the U.S. Marine Corps, I rise today to pay tribute to our Nation's veterans, their families, and to those who died in defense of our great land.

On November 11, 1997, we will again pay tribute to our Nation's veterans. There will be parades, ceremonies, and in my home State of Montana, where I served as Yellowstone County commissioner, a dedication of a veterans wall will take place in Billings.

One must stop and wonder on Veterans Day 1997, if our Government is doing all we can for our country's veterans. For the many men and women who rely on Uncle Sam to provide the benefits they earned by putting their lives on the line, the answer is a resounding "No." We must do more to ensure that veterans and their families are looked after and afforded every opportunity to receive the health care and the benefits they so rightly deserve. The veteran stepped forward when the Nation called; it is time the Government stepped up to the plate and delivered the benefits the veterans deserve.

Today, I would like to say "thank you" to the veterans for the sacrifices you made defending our country. Thank you for the time you spent away from your home and families to heed the call of our great Nation.

Mr. President, we must never forget those brave men and women who paid the ultimate sacrifice by giving their lives for the United States of America.

As the saying goes, "If you love your freedom, thank a vet." I urge our Nation to reach out and shake the hand of a veteran today and say "thank you" for a job well done.•

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 269, 270, 287, 308, 309, 310, 314, 317, 321, 322, 325, and 330. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, and any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate immediately return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Brian Dean Curran, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mozambique.

Timberlake Foster, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Thomas M. Foglietta, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Italy.

SECURITIES AND EXCHANGE COMMISSION

Paul R. Carey, of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2002.

Laura S. Unger, of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2001.

NATIONAL TRANSPORTATION SAFETY BOARD

George W. Black Jr., of Georgia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2001. (Reappointment)

NATIONAL TRANSPORTATION SAFETY BOARD

John Arthur Hammerschmidt, of Arkansas, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2000.

NATIONAL TRANSPORTATION SAFETY BOARD

James E. Hall, of Tennessee, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2002.

DEPARTMENT OF STATE

Alphonse F. La Porta, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mongolia.

Stephen W. Bosworth, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

THE JUDICIARY

Richard Conway Casey, of New York, to be United States District Judge for the Southern District of New York vice Charles S. Haight, Jr., retired.

THE JUDICIARY

Dale A Kimball, of Utah, to be United States District Judge for the District of Utah vice David K. Winder, retired.

STATEMENT ON NOMINATIONS OF DALE A. KIMBALL TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH AND RICHARD C. CASEY TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

Mr. HATCH. Mr. President, it is with great pleasure that I endorse the nomination of Dale Kimball, who has been nominated by President Clinton for the position of U.S. district judge for the district of Utah, and I urge my colleagues to do the same. I am acquainted with Mr. Kimball personally and know that he comes before the Senate with an already distinguished record as a lawyer and litigator, an individual demonstrably well qualified for the position of Federal district court judge.

After working as an associate and then as a partner with a leading Utah law firm, Van Cott, Bagley, Cornwell & McCarthy, for 8 years, Dale Kimball became a founding partner, and is now the senior partner, at what has become one of my State's most distinguished firms: Kimball, Parr, Waddoups, Brown & Gee.

During his 30-year career, Mr. Kimball has developed extensive expertise in various areas of civil practice, particularly the litigation in Federal and State court of complex business cases involving such matters as energy, antitrust, securities fraud, insurance, and contracts. As an experienced litigator, Dale Kimball is particularly well-qualified to serve as a trial court judge. The respect Dale Kimball has earned from the Utah legal community is reflected in his selection as Distinguished Lawyer of the Year by the Utah State Bar in 1996.

Dale Kimball's dedication to the practice of law is matched by his dedication to serving his community. He has been a member of the board of the Pioneers Theater Co., Alta View Hospital, the Desert News Publishing Co., the Jordan Education Foundation, and the J. Reuben Clark Law Society.

I am confident that Dale Kimball will be a worthy addition to the Federal district court in Utah, and I am very pleased that the Senate has confirmed his nonination.

Mr. LEAHY. Mr. President, I am delighted that the Senate majority leader has decided to take up the nomination of Dale A. Kimball to be a U.S. district judge for the District of Utah. Mr. Kimball has been engaged in the private practice of law for 30 years and is currently the senior partner in the Salt Lake City law firm, Kimball, Parr, Waddoups, Brown & Gee. The ABA unanimously found him to be well-qualified for this appointment.

We received Mr. Kimball's nomination on September 5, 1997. He participated in a confirmation hearing on September 30 and was unanimously reported by the committee on October 9. Now, less than 7 weeks after receiving his nomination, the Senate has confirmed this nominee. Had the Senate not taken a recess last week, I suspect this nominee would have been confirmed in less than 6 weeks. Nonetheless, 7 weeks is a good benchmark against which to consider our progress on other judicial nominations.

I congratulate Mr. Kimball and his family and look forward to his service on the U.S. district court.

I also congratulate Richard C. Casey on his confirmation as a district judge for the Southern District of New York. Mr. Casey is both an accomplished

legal practitioner and a true inspiration. He has been associated with, and a partner of the law firm of Brown & Wood in New York City since 1964. Remarkably, he has been practicing law without his eyesight since the early 1980's—a congenital disease stripped him of his ability to see. Dedicated to serving the blind community of New York City, Mr. Casey is a member of the board of directors for organizations such as Guiding Eyes for the Blind, Catholic Guild for the Blind, and Ski for Light.

I congratulate Mr. Casey and his family and anticipate his outstanding service on the U.S. Federal Court.

We have experienced 115 judicial vacancies over the course of this year. These are only the 20th and 21st nominees that the Senate has confirmed. More than 50 additional nominees remain pending in committee and before the Senate. The Senate is not even keeping pace with attrition for since the adjournment of Congress last year, judicial vacancies have increased by almost 50 percent.

Another of the well-qualified nominees who has been delayed far too long is Margaret Morrow. Her nomination has been pending before the Senate for over 16 months. Last year this nomination was unanimously reported by the Judiciary Committee and was left to wither without action for over 3 months. This year, the committee again reported the nomination favorably and it has been pending for another 4 months. There has been no explanation for this delay and no justification. This good woman does not deserve this shameful treatment.

Senator HATCH noted in his recent statement on September 29 that he will continue to support the nomination of Margaret Morrow and that he will vote for her. He said: "I have found her to be qualified and I will support her. Undoubtedly, there will be some who will not, but she deserved to have her vote on the floor. I have been assured by the majority leader that she will have her vote on the floor. I intend to argue for and on her behalf."

I have looked forward to that debate since June 12 when she was favorably reported to the Senate for a second time. This is a nomination that has been pending for far too long and that has been stalled here on the floor twice over 2 years without justification.

Meanwhile, the people served by the district court for the Central District of California continue to suffer the effects of this persistent vacancy—cases are not heard, criminal cases are not being tried. This is one of the many vacancies that have persisted for so long that they are classified as judicial emergency vacancies by the Administrative Office of the United States Courts. There are four vacancies in the court for Los Angeles and the Central District of California. Nominees have been favorably reported by the Judiciary Committee for both of the judicial emergency vacancies in this district but both Margaret Morrow and Christina Snyder have been stalled on the Senate calendar.

This is a district court with over 300 cases that have been pending for longer than 3 years and in which the time for disposing of criminal felony cases and the number of cases filed increased over the last year. Judges in this district handle approximately 400 cases a year, including somewhere between 40 and 50 criminal felony cases. Still these judicial vacancies are being perpetuated without basis or cause by a Republican leadership that refuses to vote on these well-qualified nominees.

I am told that last week a Republican Senator announced at a speech before a policy institute that he has a hold on the Morrow nomination. The Senator's press release stated that he had placed a hold on Margaret Morrow's nomination because he wants to "be able to debate the nomination and seek a recorded vote." I too want to debate the nomination of Margaret Morrow and have been seeking Senate consideration of this outstanding nominee for many months. After being on the Senate calendar for a total of 7 months, this nomination has been delayed too long.

I believe all would agree that it is time for the full Senate to debate this nomination and vote on it. I have inquired about a time agreement but gotten no response. Now that an opponent has finally come forward to identify himself, I look forward to a prompt debate and a vote on this nomination in accordance with the apparent commitment of the majority leader. I look forward to that debate. I ask again, as I have done repeatedly over the last several months, why not now, why not today, why not this week?

I again urge the majority leader to call up the nomination of Margaret Morrow for a vote. She has suffered enough. The people of the Central District of California have been denied this outstanding jurist for long enough. The chairman of the Judiciary Committee said last month that he had the assurance of the majority leader that she will be called up for a vote but neither has said when that will be. I hope that the majority leader will proceed to the consideration of this nomination and that he will support Margaret Morrow to be a district court judge for the Central District of California.

STATEMENT ON THE NOMINATION OF PAUL R. CAREY TO BE A COMMISSIONER OF THE SECURITIES AND EXCHANGE COMMISSION

Mr. MOYNIHAN. Mr. President, I rise in emphatic support of the nomination of Paul R. Carey of New York to be a commissioner of the Securities and Exchange Commission. Mr. Carey, who has served since 1993 as special assistant to President Clinton, is an inspired public servant who is exceptionally well qualified for this position.

I have known Paul Carey, boy and man. He was born in Brooklyn, the borough of churches. And indeed it was in a sort of church that we first met. It was in the summer of 1977. I was a newly serving Senator and Paul's father was New York's Governor. It was through Hugh Carey's heroic efforts that New York City was saved from bankruptcy. As I have often said elsewhere, Hugh Carey was New York's greatest Governor since Al Smith. Paul's father and I had gathered, along with several hundred others at Siena College, to be present at the induction of Howard Hubbard to serve as the bishop of the Diocese of Albany. Paul accompanied his father that day. He was still in grade school but he was attentive throughout and his firm handshake alone identified him as his father's son. We became friends and I shared his family's pride as he progressed through high school, graduated from Colgate University, and entered the world of business and finance.

But I think he was always interested in public service. In 1991 he chanced upon my wife Liz in the Albany train station and said as much. He joined the Clinton administration at the first. And he has just shone. Paul has exemplified what Alexander Hamilton called Energy in the Executive. No bill has been too complex to yield to his explanation. Few Senators are able to withstand his persuasive powers. He has seen the President's program through. Paul has proved his worth and his talents have not escaped the President's notice.

If I may say Mr. President, Paul's time in the White House will serve him well at the SEC. For despite being an independent agency, the Commission is withal a part of the national government. As such, it is useful to have a Commissioner who knows intimately the workings of the legislative and executive branches. Government has been called the art of the possible. Paul has over these last years learned what is possible and what is not. As the Commission confronts a world made more complex by technology and the globalization of finance, proposals will be made for regulations and laws of great sweep and broad scope. Having a Commissioner who knows what can be done as well as what should be done will allow the Commission to better serve us all.

Mr. President, I do not believe there is any representative of the administration who enjoys a higher degree of respect on Capitol Hill than Paul Carey, as was demonstrated by the unanimous vote in favor of Paul's nomination by the Senate Banking Committee, and by the enthusiastic support of its chairman. Senator D'AMATO.

Mr. President, I urge the Senate to follow suit and confirm the nomination of Paul Carey by a unanimous vote.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

AUTHORIZING TESTIMONY, PRODUCTION OF DOCUMENTS, AND SENATE LEGAL COUNSEL REPRESENTATION

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 137 submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A resolution (S. Res. 137) to authorize testimony, production of documents and representation of employees of the Senate in the cases of United States versus Tara LaJuan Edwards and United States versus Robbin Tiffani Stoney.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, United States versus Tara LaJuan Edwards and United States versus Robbin Tiffani Stoney are two criminal cases set for trial in the Superior Court of the District of Columbia, charging the defendants, two former Senate employees, with financial misconduct during their former Senate employment.

Three employees of the Secretary of the Senate not implicated in the alleged wrongdoing have been subpoenaed by the Government to testify at these trials. This resolution would authorize these Senate employees to testify, and would also authorize representation of these Senate witnesses by the legal counsel. The resolution also would authorize the Secretary to release Senate records and documents relevant to these cases.

I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 137) and its preamble read as follows:

S. RES. 137

Whereas, in the case of *United States* v. *Tara LaJuan Edwards*, Case No. MI2677–97, pending in the Superior Court of the District of Columbia, subpoenas have been issued for testimony by James E. LePire, Billy R. Smith, and Kristine D. Brown, employees of the Secretary of the Senate;

Whereas, in the case of *United States* v. *Robbin Tiffani Stoney*, Case No. M12598–97, pending in the Superior Court of the District of Columbia, subpoenas have been issued for testimony by James E. LePire and Billy R. Smith, employees of the Secretary of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That James E. LePire, Billy R. Smith, and Kristine D. Brown, and any other Senate employee from whom testimony may be required, are authorized to testify in the cases of *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffiani Stoney*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Secretary of the Senate is authorized to release Senate records and documents relevant to these cases.

SEC. 3. That the Senate Legal Counsel is authorized to represent James E. LePire, Billy R. Smith, and Kristine D. Brown, and any other Senate employee from whom testimony may be required, in connection with *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffani Stoney*.

ORDERS FOR WEDNESDAY, OCTOBER 22, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Wednesday, October 22. I further ask that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to a period of morning business until 12:30 p.m. with Senators permitted to speak for up to 5 minutes each, with the exception of Senator BAUCUS for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I also ask unanimous consent that at 12:30 p.m. the Senate resume consideration of S. 1173, the ISTEA reauthorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Tomorrow, the Senate will be in a period of morning business until the hour of 12:30, after coming in at noon. At 12:30, we will go back to the ISTEA legislation. It is hoped that the Senate will make some progress on this important legislation which authorizes the funding for transportation projects and safety programs so essential to the transportation infrastructure of this country.

As a reminder to all Senators, a cloture motion was filed this afternoon on the ISTEA legislation. Therefore, all second-degree amendments must be filed prior to the vote on Thursday. In addition, a cloture vote will occur on Thursday, with the exact time to be announced later, with the mandatory quorum being waived.

In addition, the Senate may turn to appropriations conference reports that become available at any time and, of course, Members can expect votes during the day tomorrow.

I know Senator CHAFEE, the distinguished Senator from Rhode Island, would like very much to get on with the substance of this bill. I believe it is important legislation and that there is a growing desire to work together on this bipartisan issue, and I believe and hope that we will get cloture on Thursday. If not, then we would have another vote on Friday, so that we could get to the germane amendments and deal with this issue in a serious way.

It is my intent to continue to work with the members of the committee—they have done good work on this legislation, it was reported out of the committee unanimously—and complete action on it next week so we will have this 6-year bill completed in the Senate. Then we can see what might happen at that point. Then it would be my intention, shortly after that, whenever that may be, late next week I hope, to go to fast track legislation.

This is ambitious, but these are very important bills that I believe most Senators want us to act on. The President of the United States today personally asked me to try to move both of these bills, and I will continue to work with Senator DASCHLE and other Senators to try to find a way to move this process forward. We did have some good faith exhibited today. Our committees were allowed to meet. We did move some nominations that are required, needed for the administration in order for it to be able to do its work. I hope we can continue in that vein.

So far we have not been able to get everybody to agree to a process whereby we can move on to important, substantive legislation like ISTEA and fast track and Amtrak and adoption and foster care legislation. But it is certainly my intention to do everything I can to get to these serious issues.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of the distinguished Senator from Alaska, Senator MURKOWSKI. I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

WARD VALLEY LOW-LEVEL WASTE DISPOSAL FACILITY

Mr. MURKOWSKI. Mr. President, it is often useful to compare the public statements of Government officials with their private statements. Such a comparison can say a great deal about an official's true motives, not to mention their character. Last week, in response to a question I posed for the public record, the Department of the Interior provided me with a copy of a memo written by Deputy Secretary of the Interior John Garamendi to his boss, Secretary Bruce Babbitt. This memorandum was dated February 21, 1996, and it concerns the Ward Valley low-level waste disposal issue.

For those who do not know, Ward Valley is the site of a low-level radioactive waste facility licensed by the State of California under the Federal Low-Level Radioactive Waste Policy Act. The site sits on the Bureau of Land Management land in a remote and sparsely populated area of the Mojave Desert. But the Department of the Interior reversed an earlier decision to sell the land to California, and has insisted on study after study to achieve endless delays.

Meanwhile, low-level radioactive waste is piling up at hundreds of urban locations all across California. It is stored in basements, stored in parking lots, stored in trailers, stored in warehouses, and temporary shelters. It is on college campuses, it is in residential neighborhoods, it is in hospitals—sites that were not designed for permanent storage. As long as the waste in these temporary locations in populated areas is where it is, it is subject to accidental radioactive release from, fire, earthquakes, and floods.

Governor Wilson is understandably concerned about the health and safety of Californians. That is his job. He is frustrated by the delays California has faced in trying to get this facility open, and so am I.

I am further frustrated by the fact that the President's nominee to be the Deputy Secretary of the Interior, Mr. John Garamendi, appeared before our committee, the Energy and Natural Resources Committee, on July 27, 1995, and testified under oath that Ward Valley and the issue should and would be quickly resolved. Mind you, this was July, 1995.

It may interest my colleagues to know that Ward Valley was scrutinized by two—not one, but two—environmental impact statements under NEPA, and two biological opinions under the Endangered Species Act. Although all these environmental reviews have been favorable to the Ward Valley facility, the Secretary of the Interior continues to opt for further studies rather than just transferring the land to California.

In 1994, having seemingly exhausted the studies available to delay the process under NEPA and the Endangered Species Act, the Secretary turned to the National Academy of Sciences and asked for yet another study. But in May 1995 the National Academy of Sciences study was complete, and again it was favorable to the Ward Valley site.

Finally, it appeared that Secretary Babbitt had little choice but to transfer the land, and announced his intention to do so in May 1995. Environmentalists bitterly complained. Greenpeace even picketed the Secretary. Movie stars and pop singers rallied against the facility. It did not matter what the science said. The facts didn't seem to matter. It was simply good politics in California to oppose a radioactive waste site and I guess the Secretary did not like the unfavorable press he was getting at the time.

Indeed, the politics of Ward Valley seems to loom large in another memorandum that we have uncovered, going back to 1993. I have a memorandum to the Secretary from October 19, 1993, that speaks to the prevailing mindset at Interior, and it says:

And I quote:

This memorandum addresses only the politics of Ward Valley. I can imagine no scenario that allows us to go forward with the land transfer and retain credibility with Boxer and the enviros.

So to keep themselves out of hot water with environmental groups, Deputy Secretary Garamendi had to devise a new way to delay Ward Valley while simultaneously waging a public relations and political campaign against the site.

As far as John Garamendi was concerned, a new excuse for a new study and further delay simply had to be found.

So in February 1996, the Department of Interior evidently struck gold, or thought they had. A former low-level waste facility in Beatty, NV, was determined to be "leaking."

Ignoring the fact the Director of the U.S. Geological Survey told him that you could not relate Ward Valley with the Beatty, NV, site, Deputy Secretary Garamendi knew a good excuse for another study when he saw one and a PR campaign to go with it.

So environmental and radiological factsheets were prepared by the Department for the press and the public, factsheets that were later criticized by the chair of the Nuclear Regulatory Commission for the errors and misinformation they contained.

Press conferences were held where Deputy Secretary Garamendi announced that new tritium tests would be conducted, and another new EIS would be performed because of so-called new information about the Beatty, NV, site.

These new studies and the lawsuits that would surely follow might take years.

But what were Interior's true motivations? Did Interior ever intend to transfer the site under their watch? Was Interior interested in the public health and safety or good PR and political advantage?

Mr. President, I now have the internal memo that cuts through the public statements and press releases to provide clear insight into the Department's motivations. Let me read this memorandum for my colleagues. It is dated February 21, 1996, memorandum to Bruce Babbitt from John Garamendi. Subject: Ward Valley:

Attached are the Ward Valley [press] clips. We have taken the high ground. Wilson—

Meaning Governor Pete Wilson—

is the venal toady of special interests (radiation business).

It goes further to state:

I do not think Greenpeace will picket you any longer. I will maintain a heavy PR campaign until the issue is finally won.

Mr. President, here is the Deputy Secretary of Interior engaged in a PR campaign to portray the Governor of California as a venal toady. For those in this Chamber who may not know the precise definition of a "venal toady," it means a deferential, fawning parasite who is open to bribery.

A venal toady. That is Secretary Garamendi's characterization of the Governor of California, or the goal of his PR campaign. I am not sure which.

Is this what Deputy Secretary Garamendi calls the high ground? Is it taking the high ground to call for study after study and create delay after delay while ignoring all the studies that show the site is safe so far?

Is it taking the high ground to keep radioactive waste spread around 800 locations in California subject to some accidental release, a flood, fire or earthquake, where literally millions of people could be exposed to radioactivity, or finding a site and put it there, which we have given California the authority to do?

Is it taking the high ground to say you are working to protect public health when you are, in fact, endangering the public's health?

Is it taking the high ground to pretend to be pursuing a careful deliberative process following standards of good Government when, in fact, you are waging a ruthless PR campaign in which misstatements and half-truths are used?

Remember, I am not the one claiming that misstatements have been made. President Clinton's own selection as chair of the Nuclear Regulatory Commission, Dr. Shirley Jackson, has highlighted the Interior Department's misleading errors and misstatements in her letter to me of July 22, 1997, which I ask unanimous consent be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES,
NUCLEAR REGULATORY COMMISSION,
Washington, DC, July 22, 1997.

Hon. BRUCE BABBITT,
Secretary, U.S. Department of Interior, Washington, DC.

DEAR SECRETARY BABBITT: I am writing on behalf of the U.S. Nuclear Regulatory Commission (NRC) to share our views related to the Department of Interior's (DOI) actions regarding the proposed Ward Valley low-level radioactive waste (LLW) disposal facility in California. In February 1996, DOI announced that it would prepare a second supplement to an environmental impact statement (SEIS) for the transfer of land from the Federal government to the State of California, for the development of the Ward Valley low-level radioactive waste (LLW) disposal facility. We understand that DOI has identified 13 issues that it believes need to be addressed in the SEIS. DOI also stated that it would not make a decision on the land transfer until the SEIS was completed. NRC will actively serve as a "commenting agency" on the SEIS in accordance with the Council of Environmental Quality regulations in 40 CFR 1503.2 "Duty To Comment." NRC's interest in the Ward Valley disposal facility is focussed on protection of public health and safety, and many of the 13 issues to be addressed in the SEIS are related to our areas of expertise. As a commenting agency, we will review the draft SEIS, and provide comments based on the requirements in federal law and regulations, and our knowledge of policy, technical, and legal issues in LLW management. We would also be available to discuss these issues with DOI, both before and after publication of the draft SEIS.

On a related matter, it is our understanding that Deputy Secretary John Garamendi of DOI held a press conference on July 22, 1996, addressing the effect of Ward Valley facility availability on the use of radioisotopes in medicine and medical research. It was recently brought to our attention that DOI distributed a document entitled, "Medical, Research, and Academic Low Level Radioactive Waste (LLRW) Fact Sheet" at the press conference. This Fact Sheet contains several errors and statements that may mislead the reader. To assist DOI, we have addressed these errors and statements in the enclosure to this letter. Some of the points contained in the Fact Sheet are useful and contribute to the dialogue on this issue; however, NRC is concerned that some of the subjective information of the document is characterized as factual. We are particularly concerned by the statement that the NRC definition of LLW ". . . is an unfortunate and misleading catch-all definition . . ." In fact, NRC's definition is taken from Federal law, specifically the Low-Level Radioactive Waste Policy Act of 1980, and the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPAA). Additionally, it is NRC's view that some of the information that was referenced or relied on in the Fact Sheet may not represent a balanced perspective based on facts. For example, a table of the sources and amounts of radioactive waste that is projected to go to the Ward Valley facility is erroneously attributed to NRC, the U.S. Department of Energy (DOE), U.S. Ecology, the Southwestern Compact, and the Ward Valley EIS. Raw data from the sources quoted appear to have been interpreted based on uncertain assumptions about future activities of generators to produce the figures in the table. Additionally, NRC noted that the figures in the table are identical to those in a March 1994 Committee to Bridge the Gap report.

With respect to the relationship between LLW disposal policy and medicine and medical research, we note that the National Academy of Sciences Board on Radiation Effects Research has prepared a Prospectus for a study entitled, "The Impact of United States Low-Level Radioactive Waste Management Policy on Biomedical Research." The study would, among other things, "Evaluate the effects of higher disposal costs and on-site storage on the current and future activities of biomedical research, including the effects of state noncompliance [with the LLRWPAA of 1985] on institutions conducting biological and biomedical research and on hospitals where radioisotopes are crucial for the diagnosis and treatment of disease." Thus, the issue of medical uses of radioisotopes and how they have been affected by the Ward Valley process is far less clear than the Fact Sheet portrays.

Finally, since there are no formal arrangements that permit NRC to review and comment on the technical accuracy of various DOI documents on LLW and Ward Valley, we may not be aware such documents exist, thus the absence of NRC comments does not imply an NRC judgment with respect to the technical accuracy or completeness of such documents.

I trust our comments will be helpful in your efforts to address Ward Valley issues.

Sincerely,

SHIRLEY ANN JACKSON,
Chairman.

Enclosure.

NRC STAFF COMMENTS ON THE DEPARTMENT OF INTERIOR "FACT SHEET" [1]

1. The Fact Sheet contains a projection of LLW to be sent to the Ward Valley disposal facility over its 30-year life, and attributes the table to the Department of Energy, the U.S. Nuclear Regulatory Commission, the Southwestern Compact, U.S. Ecology, and the Ward Valley environmental impact statement. In fact, the figures in the table are identical to those in a table from a March 1994 Committee to Bridge the Gap report, are substantially different from California projections, and are based on assumptions that are not identified. The actual assumptions used are contained in the Committee to Bridge the Gap report and minimize the amount and importance of the medical waste stream.

2. The Fact Sheet is incomplete in that it provides only anecdotal evidence of the impact of not having the Ward Valley disposal facility available to medical generators. Although its arguments about short-lived radionuclides appear to be generally true, the Fact Sheet downplays the effects on generators that use longer-lived radionuclides. According to the Fact Sheet, there are an estimated 53 research hospitals in California, out of some 500 hospitals overall. The Fact Sheet describes the impact at three of these research organizations and concludes that they can manage their waste, either by disposing of it at an out-of-state facility (Barnwell or Environcare), storing it, or, for sealed sources, sending them back to the manufacturer. The Fact Sheet concludes that there is a no health and safety impact from the approach, but does not address broader issues such as the continued availability of existing disposal sites as an option, and the fact that transferring a sealed source to a manufacturer does not eliminate the problem, but simply shifts it from one organization to another.

3. The Fact Sheet does not address the more complex issues concerning use of radioisotopes in medicine, such as how medical research in general has been affected by issues such as disposal and storage cost increases, and the need to switch from longer-lived radionuclides to short-lived nuclides or non-radioactive materials. The National Academy of Sciences Board on Radiation Effects Research has prepared a Prospectus for a study entitled "The Impact of United States Low-Level Radioactive Waste Management Policy on Biomedical Research." The study would, among other things, "Evaluate the effects on higher disposal costs and on-site storage on the current and future activities on biomedical research, including the effects of state non-compliance on institutions conducting biological and biomedical research and on hospitals where radioisotopes are crucial for the diagnosis and treatment of disease." Thus, the issue of medical uses of radioisotopes and how they have been affected by the Ward Valley process is far less clear than the Fact Sheet portrays.

4. The Fact Sheet characterizes the NRC definition of LLW in 10 CFR Part 61 as "unfortunate and misleading" because it includes both long-lived and short-lived radionuclides. It fails to acknowledge that this definition is contained in Federal law (the Low-Level Radioactive Waste Policy Act of 1980 and the Low-Level Radioactive Waste Policy Amendments Act of 1985) and that information on the kinds and amounts of radionuclides contained in LLW for land disposal is widely available in NRC regulations and/or NUREGS, and from DOE. In developing Part 61 in the early 1980s. NRC sought public comment on the proposed rule, and provided extensive information on the assumptions, analyses, and proposed content of the regulation for review. In developing the regulations for LLW, including how different classes are defined, NRC received and considered extensive public input. Four regional workshops were held, and 107 persons commented on the draft rulemaking for 10 CFR Part 61, which defines LLW. In short, NRC encouraged public involvement in developing the definition of, and defining the risk associated with LLW.

The Fact Sheet focuses on the half-life of radionuclides, but fails to discuss risk to the public from the efforts of ionizing radiation and how they are affected by the half-life of radionucludes. Public health and safety is measured in terms of risk, not half-life. Risk is a function of radiation dose, and the determination of risk depends on a variety of factors, including the type of radiation emitted, the concentration of radionuclides in the medium in which they are present, the likelihood that barriers isolating the radionuclides will be effective, and the likelihood of exposure if radioactive materials are not fully contained. The Fact Sheet is misleading when it states that the half-life of ^{123} used in medicine is 13 hours, and that of ^{129} from nuclear power plants is 16 million years and that it remains hazardous for 160–320 million years. Either isotope can be a risk to the public, depending upon the other factors discussed above, and half-life by itself does not indicate risk.

5. In the definition section, the Fact Sheet defines "radioactive half-life" as "The general rule is that the hazardous life of a radioactive substance is 10–20 times its half-life."

[1] "Medical, Research, and Academic Low Level Radioactive Waste (LLRW) Fact Sheet." U.S. Department of Interior, Office of the Deputy Secretary. Distributed at a press conference of the Deputy Secretary on July 22, 1996.

This definition contains a new term (hazardous) not used by the national or international health physics or radiation protection communities, and not defined in the Fact Sheet.

Mr. MURKOWSKI. Mr. President, I might add, I did not seek this letter from the NRC. It came unsolicited. Perhaps one might give the Department the benefit of the doubt and recognize that it is human to err. But then you encounter a memorandum such as that of February 21 to the Secretary and the Department's intent becomes obvious.

This is nothing more than a political and public relations game. Secretary Garamendi seems to be saying: Let's not worry about the waste or danger it may pose. If nothing is done, that's fine. Let somebody else take care of it on their watch. But let's just make the Governor of California look like a "parasite open to bribery," as the definition of "venal toady" describes.

I believe that the Department of Interior has absolutely no intention of transferring the Ward Valley land until they are ordered to do so by the Congress or the courts.

If the Senators from California and I cannot work out something with respect to land transfer legislation, we will either have to have a floor fight of some kind or be content to let the courts decide the issue.

I encourage my colleagues to recognize the significance of the administration's attitude toward the Ward Valley issue and refer to the memorandum that I have highlighted of February 21, 1996, from John Garamendi to Bruce Babbitt where he criticizes, in inappropriate terms, the motivation of the Governor of California and suggests to the Secretary that he does not think Greenpeace will picket him any longer.

So again, Mr. President, the terminology, referring to the Governor of California as "the venal toady of special interests," deserves reflection by my colleagues on the total inappropriateness of such a memorandum from the Deputy Secretary, John Garamendi, to the Secretary of the Interior, Bruce Babbitt.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

Thereupon, the Senate, at 5:59 p.m., adjourned until Wednesday, October 22, 1997, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 21, 1997:

DEPARTMENT OF STATE

BRIAN DEAN CURRAN, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOZAMBIQUE.

TIMBERLAKE FOSTER, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF MAURITANIA.

THOMAS M. FOGLIETTA, OF PENNSYLVANIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ITALY.

SECURITIES AND EXCHANGE COMMISSION

PAUL R. CAREY, OF NEW YORK, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 2002.

LAURA S. UNGER, OF NEW YORK, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 2001.

NATIONAL TRANSPORTATION SAFETY BOARD

GEORGE W. BLACK, JR., OF GEORGIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2001.

JOHN ARTHUR HAMMERSCHMIDT, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2000.

JAMES E. HALL, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2002.

DEPARTMENT OF STATE

ALPHONSE F. LA PORTA, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MININSTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONGOLIA.

STEPHEN W. BOSWORTH, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

RICHARD CONWAY CASEY, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

DALE A. KIMBALL, OF UTAH, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH.

HOUSE OF REPRESENTATIVES—*Tuesday, October 21, 1997*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Ms. GRANGER].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 21, 1997.

I hereby designate the Honorable KAY GRANGER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 8. Concurrent resolution recognizing the significance of maintaining the health and stability of coral reef ecosystems.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 399. An act to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes;

S. 587. An act to require the Secretary of the Interior to exchange certain lands located in Hinsdale County, Colorado;

S. 588. An act to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the Slate Creek Addition;

S. 589. An act to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys;

S. 591. An act to transfer the Dillon Ranger District in the Arapaho National Forest to the White River National Forest in the State of Colorado;

S. 595. An act to designate the United States Post Office building located at Bennett Street and Kansas Expressway in Springfield, Missouri, as the "John Griesemer Post Office Building";

S. 916. An act to designate the United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, as the "Blaine H. Eaton Post Office Building";

S. 973. An act to designate the United States Post Office building located at 551 Kingstown Road in Wakefield, Rhode Island, as the "David B. Champagne Post Office Building"; and

S. 985. An act to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the "Larry Doby Post Office".

The message also announced that in accordance with sections 1928a–1928d, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Utah [Mr. BENNETT] as a member of the Senate delegation to the North Atlantic Assembly during the 1st session of the 105th Congress, to be held in Bucharest, Romania, October 9–14, 1997.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. PAUL] for 5 minutes.

TOBACCO SETTLEMENT

Mr. PAUL. Madam Speaker, tobacco industry leaders are under attack by nearly everyone. A tobacco-friendly tax provision that was hidden in the settlement was quickly removed by the Senate and the House once the public became aware of it. But without a tax benefit or higher cigarette prices, or both, there is no way the industry can afford the astronomical $368.5 billion settlement they have agreed to pay over the next 25 years. The industry makes only $8.4 billion annual pretax profit.

The tobacco companies deserve every bit of grief they are receiving, but for reasons other than commonly assumed. It is true they profit from selling a dangerous product, but so do automobile, airplane, and gun manufacturers as well as food producers, drug companies, and coffee farmers. When we boil it down, any product used incorrectly or excessively is dangerous. Even oxygen used incorrectly can be dangerous. And most people know tobacco is dangerous without the benefit of the nanny-state inspectors and the bureaucrats' warning label.

Tobacco company executives symbolize much of what is wrong with corporate America and our corrupt system of special interests, favoritism, and interventionism. For decades, Big Tobacco lobbied for and gladly accepted subsidies and trade benefits, while anyone with a grain of common sense knew smoking was a bad habit that adversely affected some people's health. It is no secret that young people could easily become addicted to nicotine.

There were specific gains to be realized from the charade that surrounded tobacco sales. Pretending that smoking was a benign habit made it easier to collect benefits from the nonsmoking taxpayers. And the alternative, arguing for personal responsibility, was hardly in vogue.

Over the past 50-plus years, responsibility for risk incrementally has been shifted from the individual to the State. As we moved further from a free society toward a managed welfare state, responsibility for nearly everything began to be systematically delivered to someone else through the State and its growing army of bureaucrats. The tobacco industry was a willing accomplice to this betrayal of individual responsibility.

The failure of Big Tobacco to fight Government's requirement to put warning labels on cigarettes while accepting agricultural subsidies allowed the entire smoking industry to be invaded by the Federal Government.

Tobacco put the welcome mat out for big Government. Now it is only a matter of time before nicotine will be declared a drug and more FDA regulation will inundate us. Unfortunately, this will only compound our many problems with nicotine.

Madam Speaker, smoking should be treated no differently than compulsive eating, chocolate addiction, or driving too fast. But the way the tobacco corporate leaders are acting in cahoots with big Government, one would think they are conspiring to prevent this.

Madam Speaker, the question is who has responsibility for our well-being? Who should make decisions regarding risk-taking and personal habits, the Government or the individual?

During the Clinton health care debate, tobacco, and nearly every other industry took the easy way out. They conceded that it was Government's responsibility, Federal and State, to provide medical care for everyone, as if it were in itself a constitutional right.

When the free market works, medical insurance premiums adjust to reflect the cost of habits like smoking, sky diving, overweight, and medical preconditions. When Government pays,

the concept of insurance goes out the window and everybody gets everything paid for and no one can be discriminated against.

Persons who have harmed their health by smoking have learned they can coerce those with good health into paying for the consequence of their bad habit. In fact, many who harm themselves through their chosen lifestyles, not just a single bad habit, religiously believe they have a right to be taken care of by someone else. This group of individuals, not only those who smoke, but those who drink too much or perform sexual acts which increase their chance of acquiring AIDS or hepatitis, or who will not diet to take care of diabetes or heart conditions.

It is this abdication of personal responsibility, this misconceived notion that the State is responsible for us, that drives counterintelligent drug laws, which inspires the use of dirty needles, which serves to further spread AIDS and hepatitis. And instead of legalizing the right to buy a clean needle for a few pennies, the bureaucrats insist on making it the Government's responsibility to coerce nondrug users into paying for free needles so the addicts can keep using their illegal drugs. Nothing could be more bizarre.

This lack of understanding responsibility, rights and subsidies has led the tobacco industry leaders to further compound the problem by not fighting the trumped up obligation to pay for any health care that may have arisen from smoking.

Not once have we heard a tobacco industry leader defend his right to sell something that is risky to someone but not others, which is the case with tobacco and most other products.

Tobacco industry leaders are under attack by nearly everyone. A tobacco-friendly tax provision that was hidden in the settlement was quickly removed by the Senate and House once the public became aware of it. But without a direct tax benefit or higher cigarette prices, or both, there's no way the industry can afford the astronomical $368.5 billion settlement they have agreed to pay over the next 25 years—the industry makes only $8.4 billion annual pretax profit.

The tobacco companies deserve every bit of grief they are receiving—but for reasons other than commonly assumed. It's true they profit from selling a dangerous product. But so do automobile, airplane, and gun manufacturers, as well as food producers, drug companies, and coffee farmers. When you boil it down, any produce used incorrectly or excessively is dangerous. Even oxygen used incorrectly can be dangerous. And most people know tobacco is dangerous without the benefit of the nanny-state inspectors and the bureaucrats' warning label.

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There were specific gains to be realized from the charade that surrounded tobacco sales. Pretending that smoking was a benign habit made it easier to collect benefits from nonsmoking taxpayers. And the alternative—arguing for personal responsibility—was hardly in vogue.

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Persons who have harmed their heath by smoking have learned they can coerce those with good health into paying for the consequences of their bad habit. In fact, many who harm themselves through their chosen lifestyles, not just a single bad habit, religiously believe they have a right to be taken care of by someone else. This group includes not only those who smoke, but those who drink too much, or perform sexual acts which increase their chances of acquiring AIDS or hepatitis, or those who won't diet to take care of their diabetes or heart conditions.

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This lack of understanding responsibility, rights, and subsidies has led tobacco industry leaders to further compound the problem by not fighting the trumped-up obligation to pay for any health care that may have arisen from smoking.

Not once have we heard a tobacco industry leader defend his right to sell something that is risky to some but not others—which is the case with tobacco and most other products. One pack of cigarettes a year never hurt anyone. Everyone who smokes doesn't become addicted. Ninety percent of smokers never get a smoking-related illness. Absent fraud, the user is responsible for the risk he assumes, not the seller of any given product.

It has been suggested by some that smoking cigarettes provides certain immunity from some diseases. I personally cannot stand smoking, and even as a child I knew it was dangerous. It was a time when parents had a lot more to do with assuming the responsibility for teaching children about all dangers—like fire, chemicals, heights, crossing highways, sharp objects, guns, and smoking.

We still don't hear a principled challenge to the demands of the various states to be reimbursed by the tobacco industry for the costs of smoking-related illnesses. States should not be in the medical business in the first place, let alone be extorting funds from the producers of tobacco products.

Yes, the business leaders in the tobacco industry deserve sharp criticism. Once this precedent of paying medical bills is set, the manufacturers of automobiles will then be liable for all accidents even if the drivers are speeding and intoxicated. Chocolate addicts can then sue Hershey, fat people can sue cattle ranchers. The whole notion that tobacco companies should pay for tobacco-related illnesses is absurd.

The tobacco deal does great harm, because it further undermines the principle of self-responsibility. The spread of this concept will not only push up the costs of medical treatment and the products involved, it could actually encourage the use of dangerous products. The response of potential users will be, "If I'm unfortunate and become ill or injured, the seller or the Government will be made to take care of me"—a very common reaction in a welfare state. To the extent one can lower the cost of one's own risky habit by socializing it, one is less likely to worry about consequences and more likely to engage in that dangerous behavior.

If this attitude toward consumer risk is not changed, the free society that we once had cannot be restored.

I'd like to see a spokesman for tobacco come forward and insist on recognition of the moral principle that individuals have responsibility for themselves and a duty to make choices and assume the consequences of the risks they take. My advice to him would be to give up the subsidies, demand freedom, and

fight the social misfits who argue for collective guilt and collective responsibility. Any other course of action will lead to more evils.

CONGRESSIONAL CAUCUS ON WOMEN'S ISSUES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning hour debates for 5 minutes.

Ms. NORTON. Madam Speaker, the women of the House have something to celebrate this evening. Nearly all—Republican and Democratic women alike—are members of the Congressional Caucus on Women's Issues. The caucus will celebrate 20 years of historic legislation and other milestones for women, families, and children led by the Women's Caucus for two decades.

Madam Speaker, an all-star cast will be on hand at the elegant Andrew Mellon Auditorium for the 7 p.m. dinner led by remarks from President Clinton himself. Secretary of State Madeleine Albright will speak, ABC's Cokie Roberts, the daughter of former Congresswoman Lindy Boggs, will MC, and "Sweet Honey in the Rock," the award-winning singing group, will entertain.

Today, 50 of the 52 women of the House are members of the caucus. We are more than three times the group we were in 1977 when 15 Members led by former Representatives Elizabeth Holtzman and Margaret Heckler founded the Congressional Caucus on Women's Issues. Resolutely bipartisan from that day to this, the caucus has a list of achievements that boggle the mind. Here is a sampling from the honor roll of legislative landmarks achieved through the leadership of the Women's Caucus:

The Family Medical and Leave Act, the Violence Against Women Act, the Pregnancy Discrimination Act, retirement equity legislation, child support enforcement legislation, the Mammography Quality Assurance Act, legislation that established the NIH Office of Research in Women's Health, legislation barring health plan discrimination against victims of domestic violence and against the genetic information of clients, criminalization of female genital mutilation, and policies requiring that women be included in clinical trials. There is too much more where that came from to name and there is lots more to come.

Madam Speaker, this year we have initiated new approaches in the caucus that promise even greater legislative production. We have inaugurated a series of Women's Caucus hearings and we now have 14 issue teams, each led by a Republican and a Democratic Member. My cochair, the gentlewoman from Connecticut [Mrs. JOHNSON], and I have worked hard in the tradition of prior Republican and Democratic cochairs, the gentlewoman from Maryland [Mrs. MORELLA] and the gentlewoman from New York [Mrs. LOWEY], former Congresswomen Liz Holtzman and Margaret Heckler, former Congresswoman Pat Schroeder and former Representative and now Senator OLYMPIA SNOWE.

Tonight we are throwing ourselves a party. We hope to see our colleagues there.

SUPPORT THE 21ST CENTURY PATENT SYSTEM IMPROVEMENT ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from North Carolina [Mr. COBLE] is recognized during morning hour debates for 5 minutes.

Mr. COBLE. Madam Speaker, I want to respond to the unfounded and increasingly bizarre criticism of H.R. 400, the 21st Century Patent System Improvement Act.

Throughout the winter and spring of the current session, I have been involved with the writing, reshaping, and marshaling support for H.R. 400. While I understand that the legislative process is necessarily deliberate and often contentious, I confess my ongoing amazement that this bill has engendered so much controversy.

Madam Speaker, we are not talking about a red meat issue that divides people on partisan ideological lines. This is not a subject matter that hits at the gut or tears at the heart. This is not gun control, abortion, or the death penalty. This is a patent bill, but significant to America's economic well-being.

Now, for most people the words "patent bill" are sufficient to induce sleep. For a small minority, however, it inspires a level of paranoia that reaches biblical proportions. I recently witnessed two floor critiques of H.R. 400 and S. 507 and the experience was quite revealing, Madam Speaker.

Previously, I was led to believe that my exclusive motivation in sponsoring H.R. 400 was to destroy the U.S. patent system. But no, I am far more ambitious. I have now learned that Senator HATCH and I are part of a nefarious plot designed to ruin the United States of America financially.

Madam Speaker, the two orations through which I sat were, charitably considered, devoid of factual content. Worst still, however, were the base metaphors and cliches invoked to drive home the opposition's point. There were references to secret deals with the Japanese Government that will enable Japanese corporations, Chinese corporations, huge multinationalists, and if it can be believed, the People's Liberation Army, to bully the little guy and brutalize Americans.

Representatives from American corporations were criticized for having talked to Congressmen and were clearly identified as members of the enemy. Presently, the paranoid jumble was tied together and we learned that H.R. 400 and S. 507 constitute the first fight in a war that, if not won on our opponents' terms, will result in the complete internationalization of American economic activity and the total elimination of our liberty. I recall no mention of black helicopters or drug trafficking by the Queen of England, but such testimony is sure to follow.

Madam Speaker, for anyone who cares to know the facts, H.R. 400 and S. 507 are forward-thinking attempts to make our current patent system even stronger. Both bills would allow the Patent and Trademark Office to operate more like a business on a day-to-day basis, while subjecting the agency to congressional and executive oversight.

Good faith users of the patent system, those who the Constitution was intended to protect, will be guaranteed a minimum of 17 years of patent term and, in most instances, will receive more than 18 years.

□ 1045

Far from hurting applicants, the publication feature of H.R. 400, or what is left of it, will inhibit patent submarining, which does indeed harm American businesses and generally violates the constitutional spirit of patent policy. Both bills also create a new patent pending right, along with a commercial use defense for inventors who do not have the resources to file for protection. And companies which pedal application scams to innocent inventors will be punished severely under H.R. 400.

A well-known American inventor once wrote, "with the change of circumstances, institutions must advance to keep pace with the times." This inventor, Madam Speaker, was Thomas Jefferson and he knew a little bit about the Constitution, which charges the Congress with the duty of promoting the progress of science and useful arts through intellectual property.

None of us discharges his or her duty by pandering to the worst instincts of other people. Nor do we honor ourselves by pretending that complex and arcane subject matter is easily and snappily explained. The regrettable effect of the two lectures just described is that they may motivate 20 or 30 people in some Member's district to write or call urging a "no" vote on the patent bill. I urge support of the patent bill.

SEXUAL PREDATORS

The SPEAKER pro tempore (Ms. GRANGER). Under the Speaker's announced policy of January 21, 1997, the

gentleman from Texas [Mr. LAMPSON] is recognized during morning hour debates for 5 minutes.

Mr. LAMPSON. Madam Speaker, yesterday the people of Friendswood, TX, whose lives have been inexorably altered by the kidnapping and murder of 12-year-old Laura Kate Smither, saw a light at the end of their tunnel. Police Chief Jared Stout announced yesterday that they had a prime suspect who was in custody. The Friendswood police were able to name this suspect after his arrest for kidnapping a 19-year-old woman from a nearby community called Webster.

In the case for which this suspect was arrested, he approached a young woman changing a flat tire and offered assistance, but as he approached, he pulled a knife on her and ordered her into his truck. This woman escaped by throwing herself out of his truck, which was moving down an interstate highway at 70 miles an hour sustaining significant injuries.

That was not the first time this individual had attacked a woman. The prime suspect in the murder of Laura Smither had been sentenced on December 18, 1986, to a total of 28 years for convictions on charges of aggravated kidnapping, forcible oral sodomy, and rape. He was released a year ago. He served less than half of that sentence, and now this man has been named as the prime suspect in the slaying of Laura Smither.

In less than a year, this individual, who had committed previous acts of kidnapping and violent sexual assault, has already been charged with aggravated kidnapping again. It is outrageous. Scientific data demonstrates that individuals who commit sex crimes against children have the highest recidivism rate of any criminal. It is irresponsible, if not downright negligent to release this individual back into society after serving only 10 years of a 28-year sentence for aggravated kidnapping, forcible oral sodomy and rape.

Violence against women and children cannot be tolerated. It cannot be excused. It cannot be swept under the rug. Rape and sexual violence are not minor offenses. They are violent attacks that violate the body and violate the human spirit. These crimes must be punished swiftly and severely. An Oklahoma court tried to do that when it sentenced this man to 28 years in prison. But somehow in that State's criminal justice system someone decided that 10 years was enough for that rapist. And less than a year later, one 19-year-old woman had to throw herself out of a truck to save herself, traveling 70 miles an hour down a highway sustaining significant injuries, to save herself from a rapist. And when Chief Stout's investigation is completed, we are likely to learn that this individual has committed a total of three acts of aggravated kidnapping, one act of forcible oral sodomy and two rapes and a murder.

We cannot lose these people in this system. Yes, this man was registered as a sex offender, but if he had been an incarcerated sex offender as he was sentenced, we might have a 12-year-old child alive today.

As for Bob and Gay Smither, they may soon know for certain who took their little girl away never to return again. That is little solace, but that is what the Friendswood Police Department has worked so hard to accomplish since we discovered Laura's body on April 20. We thank and salute them and the Webster Police Department, as well. And today we still pray, as many did last night gathered in Stevenson Park in Texas. We are all still mourning, and worst of all, we must continue to pray for the safe return of Jessica Cain, who has kidnapped from the same vicinity on August 17.

It was the way the community came together to search for Laura that spurred me to form the Congressional Caucus on Missing and Exploited Children. I am proud of the fact that 80 of our colleagues in the House have joined the effort to protect our children and reunite families. But this morning, Madam Speaker, I am frustrated and angry. Whatever we do here in Congress will not matter a bit if we do not punish these sexual predators and make them serve their full sentences in prison. Madam Speaker, we cannot allow more of these tragedies.

FDA'S MISGUIDED POLICY COULD HARM PATIENTS WITH RESPIRATORY PROBLEMS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. STEARNS] is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Madam Speaker, on March 6, 1997, the FDA issued an advanced notice of proposed rulemaking, which set forth its plan to ban CFC-containing metered-dose inhalers once certain criteria are met. The plan was developed in collaboration with the Environmental Protection Agency and is intended to eliminate the minuscule amount of CFC's currently allowed to be used for medication delivered by metered-dose inhalers.

CFC is the abbreviated term used to refer to chlorofluorocarbon gas. There are tens of millions of Americans who suffer from asthma; 5 million of those are children. These patients depend upon CFC-propelled metered-dose inhalers to treat their asthma and to help them breathe. With over 5,000 deaths each year in America due to asthma, I am convinced that the FDA's rule would eliminate treatment options for asthmatic patients.

Today, I want to talk about H.R. 2221, legislation that I, along with my colleague, the gentleman from New Jersey [Mr. SMITH], introduced on July 22 of this year. Since that time I have received tremendous support from all over the country. With 28 cosponsors, the bill continues to receive new cosponsors daily. The bill would require the Secretary of Health and Human Services to take no further action on the FDA's proposed ban on CFC-containing metered-dose inhalers.

My colleague, the gentleman from New Jersey [Mr. SMITH], and I are working with Members from the House and Senate from the relevant committees in an effort to add language in the conference report to the Food and Drug Reform legislation. It will direct the FDA to withdraw its March 6, 1997, advanced notice of proposed rulemaking and to take no further action to promulgate a proposed final rule on the basis of such advanced notice.

Madam Speaker, recently it has been pointed out in several leading publications, including the Wall Street Journal editorial dated September 17, 1997, that asthma is on the rise in our Nation. It is the most common chronic illness affecting children. In fact, among children's chronic diseases, asthma is the No. 1 reason for school absenteeism. Asthma mortality is also on the rise. Explanations for the increasing prevalence, morbidity and mortality are varied. Regardless, these populations include children, especially poor children living in urban areas.

Are not these the very children that the EPA claims it is helping with its new air quality standards? This misguided policy is definitely the case of one hand not knowing what the other hand is doing.

With one hand, the EPA presents new air quality standards that are supposed to protect the health of asthmatic children, while on the other, the FDA proposes to ban life-saving metered-dose inhalers from the market. The result of these actions would be to deny these children the treatment to help them to lead almost normal lives.

Madam Speaker, I urge my colleagues on the conference to adopt the language that I have presented and outlined in their final report. I urge my colleagues to support our bill, H.R. 2221, by becoming a cosponsor.

YOUTH SUMMIT '97

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning hour debates for 5 minutes.

Mrs. CLAYTON. Madam Speaker, I am pleased to inform the House about an exciting and successful event that I sponsored in Ayden, NC, Saturday, October 18. This event, called Youth Summit '97, is an annual event for students

that I have sponsored for the last 5 years. Each year, I am particularly pleased that the turnout is equal or greater than the one the previous year.

This year's summit brought together an impressive number of youth; over 600 participated. It was certainly an inspiration to see so many students expressing their interests in pursuing an education. Most of the youth were minority students throughout eastern North Carolina. Many came with school or church groups, while others came with their parents.

The youth summit was held this year in Pitt County at a local school called Ayden-Grifton High School. Over the past several years, I have sponsored the event in different counties exposing students throughout North Carolina to the seminar.

The youth summit is designed to expose children to educational opportunities afforded to them, to reaffirm the importance of their skills and competency development, to alert the children to explore all job and career options they have, and to remind and to encourage students that they should pursue their goals to their utmost ability.

The summit also prepares students about the entire process of applying to colleges, from testing procedures to the availability of financial aid. Because I feel that the financial aid is so important to students, particularly those who come from low-income homes, we explained to the students just exactly what has transpired in Congress this session regarding funding for education.

For example, we discussed and explained the legislation enacted granting increases in title I funding and what effects these increases would have particularly on particular families. The increases included, $1,500 HOPE scholarships, the increase in Pell grants by 26 percent, the largest in the last 20 years, and 20-percent tuition tax credit for families with students in their third and fourth year of college and universities.

These increases are so critical for North Carolina's educational success, and particularly important for the educationally disadvantaged. According to the U.S. Department of Education, North Carolina families will tremendously benefit from the increase in the scholarships and grants appropriated by title I.

Not only was the event an informational session, but the summit was also a forum where several speakers made their presentation. It also was a social event. Several speakers included guidance counselors, pastors, doctors, professors, judges, county commissioners, and representatives from the military academy. They spoke on a wide range of topics, including testing, financial aid, job career opportunities, parent-child communication, self-esteem, service academies, and the church's role in the development of our youth.

Additionally, our session three students explained just how difficult it was and their struggle from their path to make sure they would become adults.

The youth summit reinforced how essential education is for students and their communities. In order to be entirely successful, however, students must appreciate the importance of developing values and morals in their life, in addition to education they receive in attending class.

I am particularly pleased with the youth summit's success this year and I am looking forward to many future youth summits in North Carolina. These annual events seem to have such a positive effect, not only on the children, but on their parents and other communities. Therefore, I am also recommending to my colleagues that they do similar in their districts.

□ 1100

H.R. 2564, MARRIAGE TAX ELIMINATION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Illinois [Mr. WELLER] is recognized during morning hour debates for 5 minutes.

Mr. WELLER. Madam Speaker, today I stand here to speak in favor of H.R. 2564, legislation entitled the Marriage Tax Elimination Act, which many of us believe should be the centerpiece of next year's budget. And I am proud to report that the Marriage Tax Elimination Act today has 222 cosponsors. Members of both parties have joined with us in this very important effort.

Let me explain why elimination of the marriage tax is so important; why bipartisan support is needed and so necessary for the Marriage Tax Elimination Act, with some three very simple questions:

Do Americans feel that it is fair that our Tax Code imposes a higher tax penalty on marriage? Do Americans feel that it is fair that 21 million married working couples pay almost $1,400 more a year in taxes just because they are married; $1,400 more than an identical couple living together outside of marriage? Do Americans feel it is morally right that our Tax Code provides a financial incentive to divorce?

I think the answer is pretty clear. The marriage tax is not only unfair, it is wrong, it is immoral. It is immoral that our Tax Code punishes our society's most basic institution, which is marriage. And, according to the Congressional Budget Office, this marriage tax is imposed on 21 million married working couples for an average of $1,400 more in taxes just because they are married.

Let me give my colleagues an example of a couple from my district in Illinois, a couple with the combined income of $61,000. This particular couple, and I will say the husband is a machinist at the Joliet Caterpillar plant, the wife is a schoolteacher at the Joliet public schools. They each have essentially identical incomes, right around $30,000.

If this couple were two singles, say living together outside of marriage, they would each be in the 15-percent tax bracket, after considering the standard deductions and exemptions. But because as a married couple they file jointly, their combined income, which is almost $61,000, they are pushed into the 28-percent tax bracket.

For this married couple, this machinist at the Joliet Caterpillar plant, this public schoolteacher at the Joliet public schools, they pay almost $1,400 more in higher taxes just because they got married. And do the American taxpayers believe that it is right that we impose a higher tax on this Joliet couple just because they are married?

Think about it, what that $1,400 would mean for an average married working couple. Fourteen hundred dollars is several months worth of a car payment, tuition at the Joliet Junior College, or tuition at a local parochial or private or religious school for their child. Of course, even a portion of a downpayment on a home.

Let me quote Mike Reading from Monee, IL, who many have talked with about the Marriage Tax Elimination Act, and Mike says, you know, "You try and be honest and do things straight, and you get penalized for it. That's just not right."

Well, that is really what it is all about. This is an issue of right and wrong. The marriage tax is wrong. We proposed the Marriage Tax Elimination Act to do something about it, and we really want to provide an issue of fairness by giving working married couples the power to choose their filing status. Very simple.

Under the Marriage Tax Elimination Act, this Joliet machinist and Joliet public schoolteacher would be able to choose to file each as single, even while they are married, to be able to enjoy the same tax rate as that couple who lives together outside of marriage. That would save this couple $1,400, money they could spend to meet their family's needs.

And I am pleased that our efforts to eliminate the marriage tax penalty, which now has 222 cosponsors for the Marriage Tax Elimination Act, is gaining momentum. I am proud our efforts have been endorsed by the Joliet Herald News. The hometown newspaper for this Joliet couple, this Joliet machinist and this Joliet public schoolteacher, has said that working families would welcome repeal of the marriage tax penalty.

The Daily Journal, another paper in the 11th Congressional District, says:

"The marriage tax is an unfair imposition. The code should be rewritten to eliminate it.

"While we are all for simplicity in the Tax Code, the reality is that taxes drive social engineering."

The marriage tax should be eliminated and repealed today.

I have a letter here from Robert Eckert of Jacksonville, FL, a tax preparer. He says, "As a seasoned tax preparer and enrolled agent, I find the marriage penalty can be very significant, 12 percent of after tax income or 33-percent increase in tax liability."

My colleagues, group after group have endorsed the Marriage Tax Elimination Act. It should be the centerpiece. The bottom line is elimination of the marriage tax penalty should be the centerpiece of next year's budget agreement. I ask for bipartisan support and I ask for public support for our campaign to eliminate the marriage tax.

THE CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from the Virgin Islands [Ms. CHRISTIAN-GREEN] is recognized during morning hour debates for 2 minutes.

Ms. CHRISTIAN-GREEN. Madam Speaker, I rise to salute the Congressional Caucus for Women's Issues for 20 years of leadership and tenacity on legislation affecting the lives of women and all Americans.

Our founders, Representatives Elizabeth Holtzman and Margaret Heckler had the foresight to realize that women and their families required significantly more attention from our Nation's leaders.

The baton has been passed on to us and so I salute all of my colleagues, past and present, Democrat and Republican, and especially Representatives NORTON and JOHNSON for the direction and leadership they have provided to this distinguished caucus.

I hope that you have noticed that our famous women's intuition is alive and well. Just this past weekend in my district, the Virgin Islands, women were reenergized as they came together at the annual women's conference hosted by our Senate president, Senator Lorraine Berry and the local women's caucus. And this week, as we celebrate our anniversary, members of the Congressional Black Caucus and thousands of American African women are preparing to travel to Philadelphia for the million woman march on Saturday.

Madam Speaker, I am proud to have been given the wonderful opportunity to be one of the caucuses' 50 members in the 105th Congress, and although some of us will not be in Philadelphia this weekend, we should all stand with the women who will be there in the Godly, creative, energetic, and loving spirit that has made this caucus what it is.

So Madam Speaker, I am pleased today to salute the past, the present, and, most importantly, the future of the Congressional Caucus for Women's Issues.

SUPPORT LEGISLATION TO HELP STATES PROTECT CHILDREN FROM SEX OFFENDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized during morning hour debates for 2 minutes.

Mr. GUTKNECHT. Madam Speaker, I join my colleague today, the gentleman from Texas, Mr. NICK LAMPSON, and congratulate Texas law enforcement agents for identifying a prime suspect in the kidnapping and murder of young Laura Smither, but I also share his frustration that things might have turned out differently.

We need tougher mandatory sentences; we need more effective community notification programs. While every State now registers child sex offenders, many of their notification programs have been stalled by legal challenges and confusion. This is unacceptable.

To help the States, 31 of my colleagues have joined me in introducing a resolution which gives the States a model community notification program that they can follow, if they choose. This resolution is not a Federal mandate. Instead, it expresses the sense of Congress that States should enact a tier-based system, like nine States have already done successfully.

For example, a released sex offender posing a high risk of repeating his crimes moves into a community. Everyone, police officers, past victims, and, most importantly, neighborhood parents, are notified.

As someone who served in the State legislature for 12 years, I urge my colleagues to join me in helping the States to protect America's children. Cosponsor House Concurrent Resolution 125.

CELEBRATION OF 20 YEARS OF THE WOMEN'S CAUCUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from New York [Mrs. MALONEY] is recognized during morning hour debates for 5 minutes.

Mrs. MALONEY of New York. Madam Speaker, tonight we will honor the 20th anniversary of the Women's Caucus. President Clinton will join us as we celebrate the past, present, and future of the Women's Caucus.

Women have always faced extra hurdles as they served in Congress. Recognizing these extra challenges, Elizabeth Holtzman, from my home State of New York, along with Peggy Heckler of Massachusetts, organized 13 Members to join them in forming the Women's Caucus in 1977.

We have certainly expanded our numbers. The caucus is 53 members strong this year, but we still face many obstacles.

I would like to submit this copy of achievements of the Women's Caucus during its 20 years for the Record, and just note some of the achievements for the Record.

In 1978, the caucus was instrumental in the passage of the Pregnancy Discrimination Act, guaranteeing employment rights to pregnant workers.

In 1979, Congress, at the pushing by the Women's Caucus, created the Office of Civil Rights at the Education Department to enforce the title IX ban against sex discrimination in education.

In 1984, the caucus' Economic Equity Act was the driving force behind enactment of important legislation in retirement equity and child support enforcement legislation.

That year, also, a caucus member, Geraldine Ferraro, from my home State of New York, was nominated for Vice President of the United States, the first time a woman ran for that office on a major party ticket.

In 1985, for the first time, legislation was introduced to provide temporary leave for parents of newborns and seriously ill children and for workers with serious health problems. This effort sparked an 8-year campaign that ended with the 1993 enactment of the Family and Medical Leave Act. That was the first bill that I voted for in Congress.

In 1992, the media called this year the "Year of the Woman" in politics as hundreds of women lined up to run for office. It was a year in which many people voted for women candidates, not as a slogan but as a force to be reckoned with. A record 48 women were elected to the House and 6 to the Senate. And our presence here truly did make a difference.

We passed many important bills: The Family and Medical Leave Act; we expanded the earned income tax credit; we passed the domestic violence bill; the Violence Against Women Act; we expanded coverage and funding for breast cancer and breast cancer research; and this year, in 1997, Congress passed landmark legislation to balance the Federal budget, and they included in it very important expansions for women's health provisions.

One bill that I am particularly proud of is one that I worked on since 1992 with my Republican colleague, Barbara Vucanovich, which expanded the coverage of mammograms in Medicare for women over 65 and bone mass measurement. And I note the very good work of my Republican colleague, the gentlewoman from Maryland [Mrs. CONNIE MORELLA], in this area.

We also enacted a child tax credit, assistance for families with children in college, and expanded health coverage for uninsured children.

I would like to take this time to thank the Congresswomen who have chaired the Women's Caucus. This year the gentlewoman from Connecticut, Mrs. NANCY JOHNSON, and the gentlewoman from the District of Columbia, Ms. ELEANOR HOLMES NORTON.

This year, on Mother's Day, again with my colleague, the gentlewoman from Maryland, Mrs. CONNIE MORELLA, it was a symbolic victory, but after many hurdles we finally moved the only statue of women that are in the rotunda, from the basement into the rotunda. On that particular day Lucretia Mott, Susan B. Anthony, and Elizabeth Cady Stanton, two of whom were women from New York State and who worked very hard on women's issues and for the right for women to gain the vote, they finally took their place in the Capitol rotunda, along with our other great revolutionary leaders.

I would like to put the rest of my remarks into the RECORD and also note other great women leaders from New York State, Bella Abzug, Shirley Chisholm, Geraldine Ferraro and Elizabeth Holtzman, all of whom were members of the Women's Caucus.

PROGRAM BOOK HIGHLIGHTS

1977—Reps. Elizabeth Holtzman (D-NY) and Margaret Heckler (R-MA) founded the Congresswomen's Caucus. Comprised of 15 of the 18 women in the House, the group focused its early efforts on eliminating sex discrimination and improving women's employment opportunities in the federal government.

1978—The Caucus led a successful effort to gain an extension of the ratification period for the Equal Rights Amendment. Also that year, Congress passed landmark legislation—the Pregnancy Discrimination Act—guaranteeing employment rights to pregnant workers.

1979—Double digit inflation spurred the Caucus to focus on economic equity for women, ranging from women's business opportunities to the susceptibility of women workers to unemployment. Congress created the Office of Civil Rights at the Education Department to enforce the Title IX ban against sex discrimination in education. Rep. Patricia Schroeder (D-CO) took over as Democratic Co-Chair of the Caucus.

1980—The Caucus called for a Congressional investigation of the extent to which women-owned businesses were gaining access to federal contracts. Congress voted to require federal agencies to report the dollar value of all federal contracts awarded to small, minority-owned and female-owned businesses.

1981—The Caucus introduced the Economic Equity Act—a package of legislation to address key economic security issues. Sandra Day O'Connor was sworn in as the first woman Associate Justice of the U.S. Supreme Court. The Congresswomen's Caucus opened its membership to men and changed its name to the Congressional Caucus for Women's Issues.

1982—At the urging of the Caucus, the Joint Economic Committee convened hearings on the economic status of women and its impact on family income. Congress extended flex-time arrangements for federal workers and made former military spouses eligible for health benefits.

1983—Virtually every piece of the Caucus' Economic Equity Act was the subject to Congressional hearings, including tax and retirement matters, dependent care, nondiscrimination in insurance, and child support enforcement. In a major jobs bill, Congress enacted provisions important to working women. Rep. Olympia Snowe (R-ME) becomes Republican Co-Chair of the Caucus.

1984—The Caucus Economic Equity Act was the driving force behind enactment of important retirement equity and child support enforcement legislation. Caucus member Geraldine Ferraro (D-NY) was nominated for Vice-President of the United States, the first time a woman ran for that office on a major party ticket.

1985—For the first time, legislation was introduced to provide temporary leave for parents of newborns and seriously ill children, and for workers with serious health problems. This effort sparked an eight year campaign that ended with the 1993 enactment of the Family and Medical Leave Act (FMLA).

1986—Congress passed major legislation to increase accessibility of a college education to non-traditional students—mostly women—and to allow states to expand Medicaid coverage to pregnant women and infants. Sen. Barbara Mikulski (D-MD) was the first Democratic woman elected to the Senate without first having been elected or appointed to fill a vacant seat.

1987—The Caucus celebrated its 10th anniversary as the nation marked the 100th Congress and the 200th anniversary of the Constitution. Two important Supreme Court decisions upheld the constitutional use of affirmative action plans for women and ruled that states could force all-male clubs to admit female members.

1988—An important Caucus priority was achieved when Congress restored broad coverage of Title IX and other civil rights laws. The Caucus won passage of legislation to address the impoverishment faced by many elderly women when their spouses entered nursing homes. Congress also passed the Women's Business Ownership Act aimed at ending discrimination in credit to women entrepreneurs.

1989—The Caucus continued to push Congress to approve the Family and Medical Leave Act as well as new legislation to increase the availability, quality, and affordability of child care. Congress increased funding for maternal and child health programs and required states to expand Medicaid programs to cover pregnant women and children under six, Rep. Ileana Ros-Lehtinen (R-FL) was the first Latina elected to Congress.

1990—Congress approved the first major child care legislation in 20 years. A General Accounting Office (GAO) report requested by the Caucus confirmed the widespread exclusion of women from federally funded medical research. Caucus members introduced the first Women's Health Equity Act and traveled to the National Institutes of Health (NIH) to discuss plans for creating an NIH Office of Research on Women's Health.

1991—Congress approved civil rights legislation that expanded remedies for victims of sex discrimination, established a Glass Ceiling Commission to examine barriers to the advancement of women in management positions, and removed the statutory prohibition against women flying combat missions. Rep. Patricia Schroeder (D-CO) became the first woman in nearly 20 years to chair a full committee in the House.

1992—Caucus initiatives to improve quality of mammograms and combat infertility in women were enacted. The media labeled 1992 the "Year of the Woman" in politics as hundreds of women lined up to run for office. A record 48 women were elected to the House and 6 to the Senate.

1993—After an eight year battle, the Family and Medical Leave Act was signed into law. Major women's health legislation drafted by the Caucus also became law. Congress removed the remaining statutory limits on women serving in the military. The Earned Income Tax Credit was expanded to help raise poor working families above the poverty level.

1994—With strong bipartisan support from the Caucus, Congress enacted the Violence Against Women Act, which authorized $1.6 billion over six years for services to victims of sexual assault and domestic violence. Congress also passed legislation to ensure more equitable treatment for women and girls in education and required federal agencies to establish a five percent goal for contracting with women-owned businesses.

1995—Congress approved legislation applying civil rights and employment statutes to itself, long a priority of the Caucus. Congress also defunded the legislative offices of House caucuses, including the Congressional Caucus for Women's Issues. Reps. Constance Morella (R-MD) and Nita Lowey (D-NY) were named to co-chair the reorganized Congressional Caucus for Women's Issues. Three women were named to chair committees in the House and Senate.

1996—Legislation was enacted to guarantee continued health insurance coverage for workers who change or lose their jobs. Included were Women's Health Equity Act provisions barring insurers from discriminating on the basis of genetic information or evidence of domestic violence. Congress also require insurers to expand hospital stays for new mothers and approved a Caucus initiative to strengthen child support enforcement.

1997—Congress passed landmark legislation to balance the federal budget and included in it important women's health provisions which expand Medicare coverage of mammography and bone mass measurement. Also enacted were a child tax credit, assistance for families with children in college, and expanded health coverage for uninsured children. Congresswomen Nancy Johnson (R-CT) and Eleanor Holmes Norton (D-DC) take over as Co-Chairs of the Caucus.

□ 1115

TRIBUTE TO THE LATE HONORABLE JOEL PRITCHARD

The SPEAKER pro tempore (Ms. GRANGER). Under the Speaker's announced policy of January 21, 1997, the gentleman from Washington [Mr. METCALF] is recognized during morning hour debates for 5 minutes.

Mr. METCALF. Madam Speaker, it is with deep sadness and sorrow that I rise today to note the death last week of former Congressman Joel Pritchard, a man deeply respected and admired and liked by everyone.

Joel was a rare politician who worked across partisan lines to solve problems. He exemplified the qualities

that make our system work in his 40 years in the political system, from 1956 until 1996. Joel went on to serve 12 years in Congress. I was still in the State Senate when he was our Lieutenant Governor.

An affable, unassuming politician, Joel will be remembered as a man of his word. He believed strongly in term limits, as I do, and kept his word to leave Congress after 12 years, even when friends and colleagues urged him otherwise.

Joel believed you do not have to give up your principles to work with people and to be pleasant. He said, "I have always been able to get along with people, people I disagreed with, to help find a way out of an impasse."

I considered Joel both a friend and respected colleague. He will be deeply missed, not only in Washington State, but also here in Washington, DC.

Today I would like to pay respect to Joel Pritchard and to send from the House of Representatives our sympathy to his family. Joel, you will most certainly be missed. I hope that we in Congress can continue to work across partisan lines that you so aptly personified in your exceptional career.

THE 20TH ANNIVERSARY OF THE CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from Maryland [Mrs. MORELLA] is recognized during morning hour debates for 3 minutes.

Mrs. MORELLA. Madam Speaker, tonight the Congressional Caucus for Women's Issues will be celebrating its 20th anniversary. Since 1977, the Caucus has worked to ensure the well-being of women, children and families, and has played a major role in the enactment of more than 100 laws or provisions of laws. The Family and Medical Leave Act, child support enforcement legislation, child care legislation, expanded funding for women's health research, civil rights legislation, the Violence Against Women Act, just to name a few, are among the achievements of the Caucus.

In the last Congress, I had the honor of cochairing the caucus with my good friend and colleague, NITA LOWEY. We had the difficult assignment of guiding the caucus from its former status as a legislative service organization with a separate office and five paid staffers to the current status as a congressional members organization, without paid staff or office space.

While many of the caucus' folded under the lack of financial and staff support, the Congressional Caucus for Women's Issues continued to thrive and contribute its energies to legislation benefiting women, children and families.

In the 104th Congress, the caucus successfully worked on behalf of increased funding for the Violence Against Women Act, women's health research, and other priorities at a time when funding was reduced for many other programs. We worked to preserve the title X Family Planning Program and the Women's Educational Equity Act, and, as part of health care reform legislation, the caucus won the inclusion of provisions to prevent discrimination by health plans against domestic violence victims and on the basis of genetic information. A provision requiring insurers to guarantee minimum hospital stays for new mothers was also approved.

We successfully fought for substantial increases in funding to the States for child care under welfare reform, and the caucus child support enforcement initiative was made part of the bill as well. Most recently, provisions to expand Medicare coverage to include annual mammograms and bone density testing for the diagnosis and prevention of osteoporosis were also made part of the Balanced Budget Act, which is now law.

I am pleased to join with my colleagues today and later tonight in celebrating the work of the caucus over these past 20 years, from the initial founding of the caucus by Margaret Heckler and Liz Holtzman with a bipartisan group of 15 women, through the distinguished leadership of OLYMPIA SNOWE and Pat Schroeder, to today's organization, comprised of 50 women Members of the House under the able leadership of cochairs NANCY JOHNSON and ELEANOR HOLMES NORTON.

As we celebrate 20 years of accomplishment in sisterhood, I know that the caucus will only continue to grow, leading to new advancements for women and their families. We still have a long way to go in achieving our goal, but we also need to stop and acknowledge the long journey we have already traveled.

TRIBUTE TO THE LATE REGINA FRANKEWICZ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. MICA] is recognized during morning hour debates for 5 minutes.

Mr. MICA. Madam Speaker, when citizens are elected to have the great honor of serving in Congress, there are numerous individuals who help to make that experience possible for us. Each Member of Congress has family, friends, and supporters who have worked hard and sacrificed to elect us to office and to make our system of representative government work.

Today I would like to take just a few moments to honor the memory of one of my most faithful friends and supporters, Regina Frankewicz. She passed away yesterday in central Florida, and I would like to extend my very deepest sympathy to her husband, Leonard, and to her family.

While Regina was not a State or national figure, she was one of those great individuals in our Nation, one of those untold heroes who indeed helped make our democratic system function. Besides being a devoted wife and mother, Regina would often roll up her sleeves, and she went to labor in the political vineyards to support her candidates and her party in an untiring fashion.

Madam Speaker, I am pleased today to pay a very special tribute to the memory of my good friend, Regina Frankewicz. Without her kind, faithful, and devoted efforts, I am certain that I would not be serving in Congress.

Madam Speaker, I submit if every citizen would take up their political and electoral responsibility in a manner and fashion as exemplified by Regina Frankewicz, our Nation and our communities would well be served.

To Regina's husband, Leonard, today, and to her family and her friends, I would like to extend my deepest sympathy on their great loss.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 11 o'clock and 22 minutes a.m.), the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mrs. EMERSON] at 12 noon.

PRAYER

The Reverend Constantine Nicholas Dombalis, Dean Emeritus, Sts. Constantine and Helen Greek Orthodox Cathedral, Richmond, VA, offered the following prayer:

We thank You God, for the return of the mystic and quiet spell of this autumn season, that brings a majesty of color to the singing symphonies of our woodlands and our mountains.

In this Chamber, the finest minds of our Nation convene, responsible to the citizens, our laws, and on final account to You. May they never lose confidence, grow weary nor desolate. May they see in every adversity an opportunity, and serve Your will, nothing more, nothing less, nothing else.

We are strengthened by the House of Representatives, unafraid of standing for the dignity, worth, and rights of men as a special Congressional Gold Medal was presented this morning to

His All Holiness, Ecumenical Patriarch Bartholomew, world leader of the Greek Orthodox Faith and the presentation of the honor, transmits an advocacy of religious freedom.

May we take something of the love of God wherever we go. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina [Mr. BALLENGER] come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

WELCOME TO OUR GUEST CHAPLAIN

(Mr. BLILEY asked and was given permission to address the House for 1 minute.)

Mr. BLILEY. Madam Speaker, it is indeed a high honor for me and a great personal privilege to recognize today and to present our guest chaplain, a longtime friend and constituent from Richmond, VA, the retired dean of the Cathedral of Sts. Constantine & Helen. Father Bombalis is not only a great religious leader, but he is a great community leader throughout Virginia, and certainly not least of which in our capital city, Richmond. He is a longtime friend. He is a wonderful pastor and a devoted father and husband, and it is, indeed, a great pleasure to have him here with us today.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bills on Wednesday, October 15, 1997:

H.R. 2158, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, and

H.R. 2169, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OCTOBER 15, 1997.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

Dear Mr. Speaker. Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit correspondence received from the White House on October 15, 1997 at 5:00 p.m. and said to contain a message from the President pursuant to the Line Item Veto Act (P.L. 104–130) transmitting a cancellation with respect to the Department of Defense Appropriations Act, 1998 (P.L. 105–56).

With warm regards,

ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

CANCELLATION OF SPECIFIC DISCRETIONARY BUDGET AUTHORITY WITH RESPECT TO DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1998—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–155)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, pursuant to section 1025(a) of the Congressional Budget and Impoundment and Control Act of 1974, referred to the Committee on Budget and the Committee on Appropriations and ordered to be printed:

THE WHITE HOUSE,
Washington, DC, October 14, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the "Department of Defense Appropriations Act, 1998" (Public Law 105–56; H.R. 2266). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachments, constitutes a special message under section 1022 of the Congressional Budget and Compoundment Act of 1974, as amended.

Sincerely,

WILLIAM J. CLINTON.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OCTOBER 16, 1997.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit correspondence received from the White House on October 16, 1997 at 3:00 p.m. and said to contain a message from the President pursuant to the Line Item Veto Act (P.L. 104–130) transmitting a cancellation with respect to the Treasury and General Government Appropriations Act, 1998 (P.L. 105–61).

With warm regards,

ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

CANCELLATION OF SPECIFIC DISCRETIONARY BUDGET AUTHORITY WITH RESPECT TO TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1998—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–156)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, pursuant to section 1025(a) of the Congressional Budget and Impoundment Control Act of 1974, referred to the Committee on the Budget, the Committee on Government Reform and Oversight, and the Committee on Appropriations and ordered to be printed:

THE WHITE HOUSE,
Washington, DC, October 16, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In accordance with the Line Item Veto Act, I hereby cancel the dollar amount of discretionary budget authority, as specified in the attached report, contained in the "Treasury and General Government Appropriations Act, 1998" (Public Law 105–61; H.R. 2378). I have determined that the cancellation of this amount will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachment, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

WILLIAM J. CLINTON.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OCTOBER 17, 1997.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit correspondence received from the White House on October 17, 1997 at 2:11 p.m. and said to contain a message from the President pursuant to the Line Item Veto Act (P.L. 104–130) transmitting cancellations with respect to the Energy and Water Development Appropriations Act, 1998 (H.R. 2203, approved October 13, 1997).

With warm regards.

ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

CANCELLATION OF SPECIFIC DISCRETIONARY BUDGET AUTHORITY WITH RESPECT TO ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–157)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, pursuant to section 1025(a) of the Congressional Budget and Impoundment and Control Act of 1974, referred to the Committee on the Budget and the Committee on Appropriations and ordered to be printed:

THE WHITE HOUSE,
Washington, DC, October 17, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the "Energy and Water Development Appropriations Act, 1998" (H.R. 2203, approved October 13, 1997). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachments, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

WILLIAM J. CLINTON.

NUCLEAR WASTE DUMP DECISIONS SHOULD NOT BE BASED ON CAMPAIGN CONTRIBUTIONS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Madam Speaker, a recent editorial in the Las Vegas Sun stated: "Nuclear industry stacks the deck." The article further states, "Dollars here. Get your campaign money here."

How true. Like hucksters at a carnival, the nuclear industry is dangling dollars in front of Senators and Congressmen, then stuffing their campaign coffers with nearly $13 million. The prize, of course, is a nuclear waste dump in Nevada.

According to the study aptly titled, "The Nuclear Industry: A Cash Cow for Congress," pointed out that nearly $10 million was given to House Members and $3 million to Senators. Nevadans wonder what effect this money has had on the scientific study of Yucca Mountain's suitability as a nuclear waste repository. Does this money amount to hush money or is it just political contributions to pay off opposition? Should the industry's $13 million not be better spent recycling this waste?

Madam Speaker, I urge my colleagues to vote "no" on H.R. 1270. Government should make its decisions on sound science; not bank accounts.

WOMEN'S CONGRESSIONAL CAUCUS ADVOCATES ADEQUATE CHILD CARE

(Ms. DEGETTE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DEGETTE. Madam Speaker, and that sounds kind of good, "Madam Speaker," when 18 women established the Congressional Caucus on Women's Issues in 1977, little did they realize that their brainchild would be the single most important tool for advancing issues most important to American women.

One of the most pressing issues that is facing women and families today, and as we move into the next century, is child care. I know this personally, having faced struggles in child care in just the last few months in moving in the Washington area and looking for quality child care for my two young girls.

Madam Speaker, finding child care for me was tough, but finding child care for low-income women and families, where a dollar spent on child care means a dollar less on food or rent, is even harder.

That is why I applaud the efforts of the Women's Congressional Caucus and the White House, which this week is holding a conference on child care, the first of its kind ever.

Mothers and families should not have to choose between work and adequate child care. That is why the Women's Caucus has been, and continues to be, a strong advocate for quality child care.

OSHA AND MSHA SHOULD BE MERGED

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Madam Speaker, last Congress I proposed legislation to merge two Federal workplace safety and health agencies, OSHA and MSHA, into a single agency. In my view, merging these two agencies would more effectively promote workplace safety. It would also help reduce Washington bureaucracy.

The Clinton administration strongly opposed my proposed merger. But after he criticized my plan to merge the agencies, the Clinton administration made the head of MSHA a part-time job. And 2½ years later, the Clinton administration still considers MSHA so important that the Acting Solicitor of Labor is running the agency in a couple of hours a week.

Madam Speaker, I am all for saving taxpayer money and combining Federal Government jobs where possible, but I am curious whether this sharing of top-level jobs might be part of a larger strategy. I know the Department of Labor has criticized companies in the past for filling too many lower level positions with part-time workers. Is the Clinton administration trying to turn the tables by putting part-timers in top positions?

Madam Speaker, how far will the administration carry this? Will the Attorney General be officially splitting time as a White House Press Secretary?

WHITE HOUSE MUST ACCEPT CHANGE IN BURDEN OF PROOF IN TAX DISPUTES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, the White House is opposed to shifting the burden of proof from the taxpayer to the IRS. The White House wants to leave it alone, smack dab on the taxpayer.

The White House says it will cost too much. Unbelievable. The IRS accuses; the taxpayer must prove it. Could my colleagues imagine George Washington opposing the Bill of Rights over dollars and cents?

Shame, White House. Shame. As far as I am concerned, the White House will get the burden of proof change in a civil tax case one way or the other. They will either accept it with common sense and good logic, or they will get it as a stone cold congressional suppository.

Madam Speaker, I would tell them, "Make your choice, White House, and make our 1040. It is time to put the Bill of Rights back into the Tax Code. Audit this."

LIBERAL EDUCATION ADVOCATES ARE NOT TO BE TAKEN SERIOUSLY

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute.)

Mr. HUTCHINSON. Madam Speaker, it appears to me that the liberal thinkers who talk about education and always call for education standards are

not to be taken seriously. These advocates for children, who proudly call themselves progressives, are the same people responsible for the outrageous academic fads in the classroom which have produced such terrible academic results in the first place.

Academic rigor gives way to emphasis on self-esteem. Merit is replaced by cooperative learning. Common sense, time-tested methods to teach kids how to spell correctly lose out to whole learning.

□ 1215

Classrooms which challenge the gifted are scrapped for dumbed-down learning that cheat kids out of real education. Math that requires actual calculations yields to rain forest algebra that teaches no mathematical skills whatsoever, and so on and on. So before we listen to the progressives who are responsible for this deplorable state of affairs, let us consider instead whether a return to the basics and common sense learning methods are what is really needed.

WOMEN'S CAUCUS

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Madam Speaker, what do President Clinton, Secretary of State Madeleine Albright, Cokie Roberts, and the singing group, Sweet Honey in the Rock have in common? They are part of the all-star line up this evening when the Women's Caucus celebrates 20 years of incredible achievements for women and families.

Originally 15, we are now 50 strong. Almost all of the women of the House are Members. We are bipartisan and proud of it. At 7 tonight at Mellon Auditorium we will celebrate extraordinary legislative achievements that range from the Pregnancy Discrimination Act to the Family Medical and Leave Act. The Women's Caucus has given shape and focus to women's issues and we have a lot to show for it. Tonight, though, we will just show off.

CONGRESSIONAL GOLD MEDAL CEREMONY

(Mr. PAPPAS asked and was given permission to address the House for 1 minute.)

Mr. PAPPAS. Madam Speaker, I just attended the Congressional Gold Medal presentation ceremony in the rotunda of this building in which that was presented to His All Holiness Patriarch Bartholomew of the Greek Orthodox Church. It was a real honor to be there and be a Member of this House that made that possible in recognition for his leadership, not just as a religious leader, but as someone who is a defender of freedom around the world.

I decided to come here and just take this moment to draw attention to the people around our country that this has taken place and that we in this country are very, very fortunate to be able to speak freely of our religious beliefs and, yes, even the U.S. Government through the U.S. Congress recognizes the importance that religion plays in our world and certainly in our Nation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the provisions of clause 5 of rule I, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules but not before 5 p.m. today.

EMERGENCY STUDENT LOAN CONSOLIDATION ACT OF 1997

Mr. McKEON. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2535) to amend the Higher Education Act of 1965 to allow the consolidation of student loans under the Federal Family Loan Program and the Direct Loan Program, as amended.

The Clerk read as follows:

H.R. 2535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Emergency Student Loan Consolidation Act of 1997".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 2. LOAN CONSOLIDATION PROVISIONS.

(a) DEFINITION OF LOANS ELIGIBLE FOR CONSOLIDATION.—Section 428C(a)(4) (20 U.S.C. 1078–3(a)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) made under part D of this title, except that loans made under such part shall be eligible student loans only for consolidation loans for which the application is received by an eligible lender during the period beginning on the date of enactment of the Emergency Student Loan Consolidation Act of 1997 and ending on October 1, 1998;".

(b) TERMS OF CONSOLIDATION LOANS.—Section 428C(b)(4)(C)(ii) is amended—

(1) in subclause (I), by inserting after "consolidation loan" the following: "for which the application is received by an eligible lender before the date of enactment of the Emergency Student Loan Consolidation Act of 1997, or on or after October 1, 1998," ;

(2) by striking "or" at the end of subclause (I);

(3) by inserting "or (II)" before the semicolon at the end of subclause (II);

(4) by redesignating subclause (II) as subclause (III); and

(5) by inserting after subclause (I) the following new subclause:

"(II) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender on or after the date of enactment of the Emergency Student Loan Consolidation Act of 1997 and before October 1, 1998, except that the Secretary shall pay such interest only on that portion of the loan that repays Federal Stafford Loans for which the student borrower received an interest subsidy under section 428 or Federal Direct Stafford Loans for which the borrower received an interest subsidy under section 455; or".

(c) NONDISCRIMINATION IN LOAN CONSOLIDATION.—Section 428C(b) is amended by adding at the end the following new paragraph:

"(6) NONDISCRIMINATION IN LOAN CONSOLIDATION.—An eligible lender that makes consolidation loans under this section shall not discriminate against any borrower seeking such a loan—

"(A) based on the number or type of eligible student loans the borrower seeks to consolidate;

"(B) based on the type or category of institution of higher education that the borrower attended;

"(C) based on the interest rate that is authorized to be collected with respect to the consolidation loan; or

"(D) with respect to the types of repayment schedules offered to such borrower.".

(d) INTEREST RATE.—Section 428C(c)(1) is amended—

(1) in the first sentence of subparagraph (A), by striking "(B) or (C)" and inserting "(B), (C), or (D)"; and

(2) by adding at the end the following new subparagraph:

"(D) A consolidation loan for which the application is received by an eligible lender on or after the date of enactment of the Emergency Student Loan Consolidation Act of 1997 and before October 1, 1998, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the rate specified in section 427A(f), except that the eligible lender may continue to calculate interest on such a loan at the rate previously in effect and defer, until not later than April 1, 1998, the recalculation of the interest on such a loan at the rate required by this subparagraph if the recalculation is applied retroactively to the date on which the loan is made.".

(e) AMENDMENTS EFFECTIVE FOR PENDING APPLICANTS.—The consolidation loans authorized by the amendments made by this section shall be available notwithstanding any pending application by a student for a consolidation loan under part D of title IV of the Higher Education Act of 1965, upon withdrawal of such application by the student at any time prior to receipt of such a consolidation loan.

SEC. 3. ADMINISTRATIVE EXPENSE REDUCTIONS.

Section 458(a)(1) (20 U.S.C. 1087h(a)(1)) is amended by striking "$532,000,000" and inserting "$507,000,000".

SEC. 4. TREATMENT OF TAX BENEFITS.

(a) FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.—

(1) PARENTS' AVAILABLE INCOME.—Section 475(c)(1) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) the amount of any tax credit taken by the parents under section 25A of the Internal Revenue Code of 1986.".

(2) STUDENT CONTRIBUTION FROM AVAILABLE INCOME.—Section 475(g)(2) is amended—

(A) by striking "and" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(C) by inserting after subparagraph (D) the following new subparagraph:

"(E) the amount of any tax credit taken by the student under section 25A of the Internal Revenue Code of 1986.".

(b) FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—Section 476(b)(1)(A) (20 U.S.C. 1087pp(b)(1)(A)) is amended—

(1) by striking "and" at the end of clause (iv); and

(2) by inserting after clause (v) the following new clause:

"(vi) the amount of any tax credit taken under section 25A of the Internal Revenue Code of 1986; and".

(c) FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—Section 477(b)(1) (20 U.S.C. 1087qq(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) the amount of any tax credit taken under section 25A of the Internal Revenue Code of 1986.".

(d) TOTAL INCOME.—Section 480(a)(2) (20 U.S.C. 1087vv(a)(2)) is amended—

(1) by striking "individual, and" and inserting "individual,"; and

(2) by inserting "and no portion of any tax credit taken under section 25A of the Internal Revenue Code of 1986," before "shall be included".

(e) OTHER FINANCIAL ASSISTANCE.—Section 480(j) is amended by adding at the end the following new paragraph:

"(4) Notwithstanding paragraph (1), a tax credit taken under section 25A of the Internal Revenue Code of 1986 shall not be treated as estimated financial assistance for purposes of section 471(3).".

The SPEAKER pro tempore. Pursuant to the rule the gentleman from California [Mr. MCKEON] and the gentleman from Michigan [Mr. KILDEE], each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of the Emergency Student Loan Consolidation Act of 1997 and urge its immediate passage.

Madam Speaker, this bill is the first in a series of education bills that Members of our party will bring to the floor this week. Already this year the House Republicans have passed bills that will make our schools safer, train Americans for high-paying jobs and educate disabled children and make college more affordable.

Now, over the next 2 weeks, Americans will see the House of Representatives vote on a series of innovative education bills introduced by Republicans. These are dramatic efforts, not old, tired Federal programs from Washington. Our bills will help children read, send dollars directly to the classroom, and assist families in saving for the high cost of education. Our bills also will empower low-income families with new parental choice, scholarships and launch new innovative charter schools.

The bill I support today will help college students and recent graduates who are caught in a credit crunch created by the U.S. Department of Education. On September 24, 1997, when I, along with the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Ohio [Mr. BOEHNER], introduced this legislation, the Department of Education was facing a backlog of more than 80,000 applications for Direct Student Loan consolidations, and had stopped accepting new applications for loan consolidations altogether. Many of these borrowers had waited months for their applications to be processed. Today, over 30,000 are still waiting and another 35,000 have simply given up and been dropped out of the process.

Countless thousands more need to consolidate their student loan debt but have been told to wait until the Department begins accepting applications again.

The legislation before us today will provide these borrowers with immediate relief. The Emergency Student Loan Consolidation Act will allow borrowers to consolidate direct student loans into FFEL consolidation loans. The interest rate for all new consolidation loans will be identical to the rate in the Direct Loan Program and borrowers who consolidate subsidized loans will not lose their deferment benefits simply because they consolidate their loans.

In addition, thanks to an amendment offered in committee by our colleague, the gentleman from Michigan [Mr. KILDEE], and our colleague, the gentleman from Missouri [Mr. CLAY], this legislation makes urgently needed technical changes to the need analysis provisions found in the Higher Education Act. These changes will ensure that low- and middle-income families who receive the benefits of the education tax credits provided for in the Taxpayer Relief Act of 1997 will not be penalized with respect to their eligibility for financial aid in future years.

Making these changes now will allow the Department of Education to begin the process of revising its forms and procedures for the 1999 academic year well in advance so that students and families will not encounter delays in the processing of their applications for financial aid.

While many of us still have doubts about the long-term viability of the Direct Student Loan Program and the Department's ability to manage it, this legislation is not about direct loans or guaranteed loans or which program is better. It is about helping students who are currently unable to obtain a consolidation loan through the Direct Loan Program.

These are students who may pay hundreds or even thousands of dollars in additional interest costs, who may have serious difficulty in securing other credit such as a mortgage, and who may even default on their student loans if we do not act now to offer them an alternative to the Direct Loan Program.

The alternative offered under the Emergency Student Loan Consolidation Act will also take some of the pressure off of the Department of Education. We do not want the Department to hastily try to fix the current system problems only to cause more delays and problems in the future.

One graduate from the Boston University School of Law was delighted to have received a Direct Consolidation Loan after 8 months of waiting. However, when the direct loan servicing center began sending her bills and charging her interest on a $57,000 consolidation loan when it should have been a $37,000 consolidation loan, she was not too happy. Mistakes such as this will continue to occur if the Department attempts to hurriedly process all the pending applications without first ensuring that the applications are being processed correctly.

This is emergency legislation, so these changes will only remain in effect until September 30, 1998. However, I want to assure lenders that step in to help students and the Department during this crisis that we realize that every time we change the law, it also requires changes in the way we do business. We will be reviewing the changes included in this legislation for inclusion in our authorization of the Higher Education Act.

The cost of this legislation will be paid for by reducing the section 458 administrative funds available to the Department of Education and for the Direct Loan and the FFEL programs by $25 million in fiscal year 1998. Statements made by the Assistant Secretary for Postsecondary Education and others at the Department about being unable to administer the Direct Loan Program without the $25 million are very troubling.

The Department's fiscal year 1998 budget proposal for section 458 requested an increase of $41 million with 75 percent of the increased funds or $30 million needed as a result of the growth in the Direct Loan Program. However, with the net gain of only one school participating in the fourth year of the program, it is difficult to imagine why the Department would need another $30 million in order to manage this program.

I would also note that the administration has expressed concerns that private sector lenders might discriminate against some borrowers when making these loans. I want to point out that the legislation before us today contains antidiscrimination provisions. This is a change from the legislation reported from the committee to specifically address these concerns.

Unfortunately, for many students, this bill does not go far enough. It does not require the Department and its contractor to reimburse students for the additional interest they have been charged while waiting for this mess to be resolved. The Secretary should look into that possibility. The Secretary should also look into the quality of the information being provided to students. The students who testified at our hearing expressed a total lack of confidence in the Department's ability to provide quality customer service and accurate information.

Additionally, a while back I spoke with a constituent, David Higbee, a recent law school graduate. He had written me a letter about his concerns with the direct loan consolidation process. In the letter he said, "we quickly received an estimate from Sallie Mae on the portion of our student loans we were refinancing there. The Department of Education was slow and refused every reasonable suggestion to expedite its inadequate customer service process."

I am inclined to believe David and the other students who testified before us. I am inclined to help them and others like them with their similar stories. This bill will provide these borrowers with immediate emergency relief, which is the right thing to do.

Finally, I want to thank my colleagues on both sides of the aisle for supporting this effort. I particularly want to thank the gentleman from Ohio [Mr. BOEHNER], for his active participation in addressing this problem. I also want to thank the gentleman from Missouri [Mr. CLAY], and the gentleman from Michigan [Mr. KILDEE], for their efforts in bringing a bipartisan bill before the committee and the gentleman from New Jersey [Mr. ANDREWS], for his recommendation that we specifically ensure that the students caught in the current delays have the final say in deciding whether they obtain a consolidation loan. I am happy that we were able to address his concern in the committee.

I urge my colleagues to support this emergency legislation and provide immediate relief to student loan borrowers trapped by the shutdown of the direct student loan consolidation process. I urge a "yes" vote on this Emergency Student Loan Consolidation Act of 1997.

Madam Speaker, I reserve the balance of my time.

□ 1230

Mr. KILDEE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I believe that speedy enactment of H.R. 2535 is necessary for one reason, to help students, and to my mind no other reason need be offered.

Suspension of the Direct Loan Consolidation Program initially left more than 84,000 students without the ability to consolidate their student loans. These are not simply numbers, they are real people who suddenly faced additional costs and difficulties in paying off their student loans. This crisis is something they should not have had to endure.

While I believe the Department must bear the responsibility for suspension of this program, I applaud the progress it has made in approving the consolidation for almost 22,000 students since the program was suspended. I remain deeply concerned, however, that almost 34,000 students have withdrawn or have had their consolidation applications deactivated, and that another 30,000 students will continue to await approval of their applications.

I have been informed that the Department expects to renew operation of its Loan Consolidation Program by December 1 of this year, and I am very hopeful that they will reach that target. I would caution officials at the Department, however, to prepare for a potential avalanche of new consolidation applications that has been building in the period since the current program suspended operation in August. We cannot afford another crisis for our students.

I believe that broadening loan consolidation in the Federal Family Education Loan Program provides more choices for students to consolidate their outstanding student loans. I am especially encouraged that this will be done, to the extent possible, on terms that are the same as those now provided in the Direct Loan Consolidation Program. Especially important is the provision in this legislation that will enable students participating in loan consolidation in the FFEL program to receive a lower interest rate on the consolidated loans than they now enjoy.

The other important provision of H.R. 2535 involves an amendment that I offered on behalf of the gentleman from Missouri [Mr. CLAY] and myself, and which was unanimously accepted during full committee consideration of this bill. It would make sure that the receipt of a HOPE scholarship would not count against a student's eligibility for other Federal student aid.

When we enacted the HOPE scholarship program as part of the tax bill, we intended to make sure that the receipt of a HOPE scholarship would not adversely affect a student's eligibility for a Pell grant and other student aid. Financially needy students need all the help they can get if they are to pay for a college education, and pitting a HOPE scholarship against a Pell grant or other student aid was certainly something we never intended.

In order to avoid this situation, changes in the need analysis provisions of the Higher Education Act are necessary. Without this amendment, some 69,000 students will annually lose an estimated $125 million in Federal student aid.

I would also point out that this provision is very time sensitive. While changes in the new tax law regarding the HOPE scholarship will not take place until 1999, my understanding is that this change is already included in the CBO baseline for the Pell Grant Program. Failure to make the changes included in this legislation will result in the removal of those assumptions from the baseline. Restoring them at any time other than the current calendar year will, as I understand it, result in the cost of at least $120 million a year.

Madam Speaker, this legislation is worthy of strong bipartisan support, the same support it had in committee. The need for its enactment is immediate, and I urge my colleagues to join me in supporting its passage.

Madam Speaker, I reserve the balance of my time.

Mr. MCKEON. Madam Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the chairman of the Committee on Education and the Workforce.

(Mr. GOODLING asked and was given permission to revise and extend his remarks.)

Mr. GOODLING. Madam Speaker, this would be a good time to say I told you so, if it were not for the fact that probably 100,000 students and former students are dangling in the wind. But I have repeated, since 1991 or earlier, what my predecessor, Chairman Ford, would say over and over again, "There is no way under the sun that the Department of Education can become the effective largest bank in the world." But I learned something. If one wants to get a program named after oneself, make sure it does not work, and then one will succeed.

At any rate, we have a problem. Leo created it. He was the lion and he wanted to make very sure that the private sector would be put out of business as far as student loans were concerned, and he did everything under the Sun to make sure that that would happen, that only direct lending would be allowed. And some of the things he did, of course, was say, well, we will give reduced interest rates, we will give subsidized deferments, knowing that the private sector could not do that. And of course that brought all these wonderful applicants to consolidate loans at these good offers that Leo the lion was making.

And of course all of a sudden they discovered, well, now we are 84,000 behind, so we will just shut down the operation and let the rest of the students wonder what is going to happen.

Now of the 84,000, we understand there has been some reduction in the number, but most of it has been done because they just gave up and dropped out or others the Department decided just not to consider. So we have a serious problem, and it is the students we are interested in, the former students, not what will work or will not work.

So I am happy to be here today to say that in a bipartisan way we have done the right thing in the name of honoring those students who were tricked into what appeared to be what the Government so many times promises, something wonderful for nothing that never happens.

Today we can take a bipartisan step with an overwhelming vote and we can help all of those students and maybe send a message to the Department, to the departed lion, Leo, that we told him so. We knew he could not do it. Did not matter which administration, he never did very well managing anything, and, obviously, he could not become the biggest bank in the world.

So let us pass it unanimously, help the students.

Mr. CLAY. Madam Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Missouri.

Mr. CLAY. Madam Speaker, the gentleman is speaking about bipartisanism and he has had a frontal attack on the former chairman of this committee, Bill Ford, who has had an outstanding record of supporting education in this committee, and I do not know how the gentleman can stand there——

Mr. GOODLING. Madam Speaker, reclaiming my time, I did not attack Bill Ford at all. Bill Ford and I are very good friends.

Mr. CLAY: It sounds like the gentleman and Mr. Ford are very good friends.

Mr. GOODLING. I merely repeated what Bill Ford said time and time again, when the gentleman from Wisconsin [Mr. PETRI] would try to move direct lending. It was the gentleman from Wisconsin who was moving it, and Bill Ford would say over and other again that is a silly idea, that is a crazy idea, that cannot work, the Department is not capable of doing that. And, of course, I have just repeated what he said over and over again.

Mr. KILDEE. Madam Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. CLAY], the ranking Democratic member of the full committee.

Mr. CLAY. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I am supporting the bill before us today because, on balance, it provides some students an additional option to consolidate their loans. While this serious problem with loan consolidation cannot be minimized, I am pleased to hear that the Department of Education is making good progress in eliminating the backlog of loan consolidation applications. I believe Secretary Riley has a strong commitment to eliminate this backlog and to prevent future problems.

Madam Speaker, I remain confident about the quality of service direct lending provides in originating student loans, and there continues to be substantial support in the use of direct lending in the education community. It is indisputable that by providing competition, direct lending has brought great improvement to the whole student loan program.

Finally, Madam Speaker, I am pleased that this bill includes an amendment I offered, along with the gentleman from Michigan [Mr. KILDEE], that will ensure that students who receive HOPE scholarship credits will not have their Pell grants or other student aid reduced. Without this amendment, some 69,000 students would lose an estimated $125 million annually.

Madam Speaker, I recommend that the Members of this House support this bill.

Mr. MCKEON. Madam Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER], the chairman of our Republican conference, a member from this committee, who is on leave of absence with the leadership.

Mr. BOEHNER. Madam Speaker, we have spent the past several years knocking down the status quo barriers to our children's future, but nowhere is the status quo still more evident than in the Federal education establishment, a bureaucracy built on empty promises to our young people.

Not long ago an Education Department official bragged that the direct loan program, and I will quote, "provides a simpler, more automated, and more accountable system," to its student customers. But last month American students learned the harsh truth: That the Government cannot handle the job.

If you're looking for proof that the education bureaucracy hurts our kids' future, the consolidation meltdown offers some good examples—84,000 examples, to be exact. That's the number of students left in the lurch while the education bureaucracy tries to get its act together. That's the number of students being told to put their financial futures on hold until their government figures out how to deliver its promises.

The Education Department has made students an offer that sounds too good to be true, and it is. The truth is, for students hoping to consolidate their direct loans, their government has sold them a lemon. For many who grew up in the era of big Government, it is just the latest empty promise from Washington.

I have two daughters, a 19-year-old and a 17-year-old. People have labeled that generation Generation X, implying that they are disillusioned or unsure of who or what they can believe in. Madam Speaker, if this is the way their government treats their hopes for the future, who can blame them for being disillusioned?

Today, the House will take action to help give students caught up in this bureaucratic nightmare a way out by allowing the consolidation of the direct loans to occur through private lenders. The hard work of my colleagues on the committee, the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from California [Mr. MCKEON], certainly the gentleman from Michigan [Mr. KILDEE], and the gentleman from Missouri [Mr. CLAY] should be commended. I urge all my colleagues to vote for this bill today.

Mr. KILDEE. Madam Speaker, I yield 1 minute to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Madam Speaker, I thank the gentleman for yielding me this time.

To my thinking, this bill addresses a crisis and also addresses over 1 year an inequality which needs to be addressed.

The crisis is the Federal Government's loan consolidation program offered as part of the Department of Education's Direct Lending effort. With a backlog of over 80,000 loan consolidation requests, that part of the system clearly is in crisis. This is simply not fair to the students, and the bill helps address that.

I am confident that the private lenders of the Guaranteed Student Loan Program will meet the challenge we give them in this bill. Rather than delays, backlogs, and shutdowns, students will have the service they have a right to expect.

As to the fairness issue, I am glad that the private sector will be allowed a loan consolidation role like the Government's loan program for the next year. I hope this becomes permanent in future legislation. If we are to have two student loan programs, one run by the Government yet one made available through the private sector, let us give them equal range. Let us give permanently to the private sector this loan consolidation opportunity.

Mr. MCKEON. Madam Speaker, I yield 2 minutes to the gentleman from South Dakota [Mr. THUNE].

Mr. THUNE. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, this is an issue with which I have some experience because it was not all that long ago that my wife and I were in the process of repaying the loans, the money that we borrowed to finance our college education.

I believe that this is a very commonsense approach to dealing with an issue that is so important to ensuring that

our young people have an opportunity to pursue a higher education.

It has already been noted there is a backlog of some 84,000 applications for consolidation. The Department of Education has stopped accepting any future applications, and that means there are tens of thousands of students waiting to even submit their application, trying to seek a way to solve their financial problems and with no other way to solve them.

□ 1245

This bill encourages students to do business with the private sector instead of the Federal Government. I do not think we want people to depend upon the Government to handle their personal financial matters. Consolidation will allow students to make lower payments, thus reducing the number of defaults. In the long run that is going to mean better credit ratings, which means students will have a better chance to secure credit in the future, especially when it comes time to apply for things like a mortgage.

I would encourage all our colleagues, and I am delighted to hear the bipartisan support for this approach today, to put the private sector on a level playing field with the Federal Government and to assist the thousands of students who need to consolidate their loans. In my view, this is something that is very much win-win. It is very pro student, pro consumer and user of government programs. It is also something that is very pro taxpayer in that it gives us a more efficient mechanism with which to deal with the student loan program. And so I credit those who have worked on it on both sides of the aisle, and I would encourage all my colleagues here to support this important move toward better efficiency in government.

Mr. KILDEE. Madam Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Madam Speaker, I thank the gentleman for yielding me this time. I thank my former committee colleagues, the two chairmen, for their kind and great work on this bill. H.R. 2535 is very similar to section 8 of a bill that I introduced in both this Congress and the last Congress, this Congress it is H.R. 2140, the Federal Accountability and Institutional Reform and Education Act, or FAIR Ed Act, which would make commonsense reforms to the student loan program.

The bill that we are talking about today, H.R. 2535, deserves a positive vote from Members on both sides of the aisle. It is going to provide students with the ability to consolidate loans either from the Federal Student Loan Program or the Federal Family Education Loan Program into a single student loan. This is going to allow students to better manage their student loan debt and avoid defaults. That is going to be good for the students, it is going to be good for the schools, and it is going to be good for the Federal Government.

It is unfortunate under the current circumstances that this has to come forward as an emergency bill, but this is a great first step in the process of reauthorizing the Higher Education Act. I urge my colleagues to vote "yes."

Mr. MCKEON. Madam Speaker, I reserve the balance of my time.

Mr. KILDEE. Madam Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. GORDON], who has worked very hard on this whole question of loans.

Mr. GORDON. Madam Speaker, I thank the gentleman from Michigan [Mr. KILDEE] for allowing me the opportunity to express my strong support for H.R. 2535, the Emergency Student Loan Consolidation Act. I want to begin by commending the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from California [Mr. MCKEON], the gentleman from Missouri [Mr. CLAY] and the gentleman from Michigan [Mr. KILDEE] for their leadership on this issue.

When talking about student financial assistance, more specifically about student loans, there is one thing that we as Members of Congress can all agree upon. We want what is in the best interests of students by making available the means to pay for higher education. Each year that goes by, the cost of higher education climbs more and more, as does student debt. A major component for students as they graduate and enter into repayment of their loans is to consolidate their multiple loans into one manageable debt that has monthly payments. Unfortunately, the Federal Government, after providing students with loans, has failed those same students in need of consolidating their previous loans into one manageable sum.

These recent graduates are trying to start their lives, start their families and buy homes. Unfortunately, more than 87,000 students throughout the country are now having trouble making ends meet, balancing their checkbooks and getting a mortgage because they cannot consolidate their student loans. I think it is clear that Congress needs to take action and correct this problem. This bill will accomplish two things in regard to loan consolidation. First, it will allow them to consolidate their loans now. Second, it will level the playing field between our two distinct loan programs, allowing students more choices in dealing with their finances.

I would like to once again commend my colleagues and the committee staff for their hard work and for addressing this issue quickly and in a timely bipartisan manner.

Mr. KILDEE. Madam Speaker, I yield myself such time as I may consume. I believe it is very important that we recognize the staff for their good, hard work that they put into this legislation. In particular, I want to thank Mr. David Evans, Mr. Mark Zuckerman, Ms. Sally Stroup, Mr. George Conant and Mr. Jeff Andrade for their efforts. Their work has been very, very helpful. They work back and forth between the chairman and I, and we certainly appreciate their efforts.

Mr. CUNNINGHAM. Madam Speaker, I rise in strong support of H.R. 2535, the Emergency Student Loan Consolidation Act.

Millions of American college students and graduates depend on the Nation's student financial aid system to work reliably for them. Unfortunately, the bureaucracy at the U.S. Department of Education is letting down our students and graduates time and time again. And Congress must act to remedy the Clinton administration's failure.

The most recent problem is that the U.S. Department of Education's Direct Lending Consolidation Loan Program has collapsed. In August, it stopped accepting applications from students and graduates to consolidate their direct student loans. Loan consolidations allow students with multiple loans to simplify their finances by combining their many monthly loan payments into a single loan. Often, students can consolidate at a preferred rate that lowers their monthly payments. At the end of August, some 84,000 student borrowers found their consolidation applications delayed by as much as 10 months. And since then, when this crisis first broke, the U.S. Department of Education bureaucracy has made headway on a mere 12,000 consolidation applications.

In San Diego, this failure is having a significant and negative impact. We are working very hard to encourage young people to advance their education in institutions of higher learning. Our local, high technology economy depends on a growing stream of qualified graduates. But the failure of the direct lending consolidation system causes students to question whether their system will work for them. Is it causing students to reconsider whether they will pursue their college education? I hope not, but the failure of the U.S. Department of Education to keep its promises may cause people to make that decision. This collapse is forcing student borrowers to pay more, and undergo more hassle, for no good reason, just because the Clinton bureaucracy failed.

Now, what does this mean in practical terms for American student borrowers? Students typically participate in several student loan programs at once, as their education institutions prepare individual packages of financial aid involving grants and many types of loans. Simply put, thousands of American students and graduates are in a credit crunch. They expected consolidations that the Department's bureaucracy failed to deliver. They are having to make several student loan payments every month, instead of just one. They are paying higher rates of interest than they need to. In all the confusion, some students face damage to their credit ratings, jeopardizing their ability to buy a home or a car.

All of this has occurred because the bureaucratic U.S. Department of Education has failed to do its job, again.

One may reasonably ask: Can't students consolidate their loans elsewhere? The answer is that some can. But in 1993, the Clinton administration and the Democrat Congress passed a Washington-knows-best type of law. It requires students that use the Direct Lending Program—in which student loans are made directly by the U.S. Department of Education and not by private sources—to use only the U.S. Department of Education to consolidate their loans. Because educational institutions, not students, often make the choice in what loan programs to offer, this choice was not the students; to take. As a result, students whose schools are direct lending have simply been led off the edge of a cliff. And that's wrong.

The Clinton administration has failed to adequately remedy this situation. Congress must act. And we do today, by moving H.R. 2535.

H.R. 2535 simply allows direct lending borrowers to consolidate their loans using a private sector student loan provider. It was approved on a unanimous, bipartisan 43–0 vote in committee. And now, it falls to use in the House to promptly adopt their legislation today.

Madam Speaker, the Clinton administration's U.S. Department of Education has time and time again let America's students and our children down. Its bureaucracy is failing our young people, burdening our schools with paperwork and needless regulation, and costing us too much money for too little good.

Let the record show that this Republican Congress will continue to fight for better education for our young people. We will work to bring accountability and good management to those programs that are important, and to eliminate wasteful programs that are failing. We will fight for the bottom line: better student achievement, better results, better teacher training, better technology, and less bureaucratic overhead. We have already made progress in this area by enacting HOPE scholarships and other incentives for citizens to expand their education, and by moving my 21st Century Classrooms Act to expand private investment of technology in our schools.

If we do nothing, our young people and our country will suffer. We can and will act. We will put our citizens, our students, and our children first—ahead of big government bureaucracy, ahead of the status quo special interests, and ahead of partisan political agendas. The American people demand nothing less. This Emergency Loan Consolidation Act is just one more step in our long journey forward.

Mr. KILDEE. Madam Speaker, I yield back the balance of my time.

Mr. MCKEON. Madam Speaker, I want to second the remarks of the gentleman from Michigan [Mr. KILDEE] in thanking the staff for their good work, especially on an emergency bill which takes very quick movement and good cooperation.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from California [Mr. MCKEON] that the House suspend the rules and pass the bill, H.R. 2535, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCKEON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2535.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CARLOS J. MOORHEAD POST OFFICE BUILDING

Mr. MCHUGH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 681) to designate the U.S. Post Office building located at 313 East Broadway in Glendale, CA, as the "Carlos J. Moorhead Post Office Building."

The Clerk read as follows:

H.R. 681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 313 East Broadway in Glendale, California, shall be known and designated as the "Carlos J. Moorhead Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Carlos J. Moorhead Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MCHUGH] and the gentleman from Pennsylvania [Mr. FATTAH] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. MADAM SPEAKER, I YIELD MYSELF SUCH TIME AS I MAY CONSUME.

Madam Speaker, H.R. 681 was introduced by the gentleman from Illinois [Mr. HYDE]. As has been noted, the legislation designates the U.S. Post Office building located at 313 East Broadway in Glendale, CA, as the Carlos J. Moorhead Post Office Building and honors a colleague with whom many of us in this body were very familiar.

Madam Speaker, though the sponsor of the bill, Mr. HYDE, is from Illinois, the measure did receive, as required by the committee rules, the support of the entire House delegation from the State of California, where the office is located, and many other friends and colleagues of Mr. Moorhead.

Madam Speaker, Mr. Moorhead, as we all know, represented and served in this body with distinction from 1972 until he retired in 1997. Mr. Moorhead was a member of the Committee on the Judiciary and then became chairman of the Subcommittee on Courts and Intellectual Property. He is a native Californian, having been born in Long Beach and attending public school in Glendale, receiving a B.A. from UCLA and a J.D. from the University of Southern California School of Law in Los Angeles. Former Representative Moorhead is a veteran of World War II and a retired judge advocate lieutenant colonel.

Madam Speaker, I have a longer statement that I will submit for the RECORD. I will end my comments at this time by saying I am very pleased that the gentleman from Illinois [Mr. HYDE] has acted to honor a dear friend and a very distinguished colleague, Congressman Moorhead. Those of us who had the opportunity and the privilege of serving with him knew him as a hard-working legislator, an honorable man and a good friend. I think this is the kind of tribute that this House makes that is so appropriate and so fitting.

Madam Speaker, I reserve the balance of my time.

Mr. FATTAH. Madam Speaker, I yield myself such time as I may consume. Let me join with the gentleman from New York in support of this measure. I think it is appropriate and fitting that this House take notice of the fine work of our colleague in this manner. I want to congratulate the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary, for offering this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. MCHUGH. Madam Speaker, let me first acknowledge and express my appreciation to the ranking member, the gentleman from Pennsylvania, as always for his leadership and his assistance in this and all matters involving the subcommittee. I deeply appreciate his support and his hard work.

Madam Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. COBLE] for some comments about a friend and colleague.

Mr. COBLE. Madam Speaker, I thank the gentleman for yielding me this time. I also express my appreciation to the gentleman from Illinois [Mr. HYDE] of the Committee on the Judiciary for having introduced this bill and the committee of jurisdiction for having expeditiously handled it.

During my time in the Congress, a little over a decade now, I served with Carlos Moorhead and with the gentleman from Illinois [Mr. HYDE], the chairman, on the Committee on the Judiciary and served with Carlos Moorhead during the years that he was the ranking Republican and during the term when he served as chairman of the Subcommittee on Courts and Intellectual Property. Oftentimes, Madam

Speaker, when one refers to a man, a male, a boy, or a man, as being gentle, sometimes that is perceived as being soft or being vulnerable. Carlos Moorhead was neither soft nor vulnerable, but he was, indeed, gentle. He was a gentle man. He loved this House, and he loved the Committee on the Judiciary, and for that matter the Subcommittee on Courts and Intellectual Property.

I think it is very fitting, I say to those who have handled the bill and I say to my friend the gentleman from Illinois [Mr. HYDE], I think it is very fitting that this bill be introduced and enacted and that that Post Office in Glendale, I have never been to Glendale, CA, one day I may ride by there and look with pride as it, is identified as the Carlos J. Moorhead Building.

Mr. FATTAH. Madam Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Madam Speaker, being here on the floor, I would just like to rise and pay tribute to the distinguished past chairman and also pay tribute to the gentleman from Illinois [Mr. HYDE], the current chairman, for having brought this legislation. Mr. Moorhead was a great member, a good friend. He helped a lot of people like myself and others. I just want to rise and associate myself with the remarks of the previous speaker and add my little 2 cents in commending Mr. Moorhead and congratulating him on this.

Mr. MCHUGH. Madam Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. HYDE], the primary sponsor of this legislation, the distinguished chairman of the Committee on the Judiciary.

Mr. HYDE. I thank the gentleman for yielding me this time. Madam Speaker, I have a prepared statement here which I will try to get through, but I just want to say this. I, in a long life have never met a nicer person than Carlos Moorhead. He was a gentleman. He had a sense of patriotism. He loved this country, he loved the law, he loved the Committee on the Judiciary, and we loved him back.

Today I rise to pay tribute to a man who dedicated his professional life to the service of this country and to the people of California. Most Members are familiar with Congressman Moorhead who served this body with distinction until his retirement at the conclusion of the 104th Congress. He was born in Long Beach, CA. He was a veteran of World War II, a retired judge advocate lieutenant colonel. Carlos was first elected to Congress in 1972 to represent the 27th District of California, which includes his hometown of Glendale where this post office is located, along with Pasadena, Burbank, La Crescenta, and San Marino.

As a member of the Committee on the Judiciary and later chairman of the Subcommittee on the Courts and Intellectual Property, Carlos led some of the most controversial and important legislative debates that we have ever had in Congress. Throughout his 24 years of service to the people of California, Carlos typified the very best of what the House has to offer, vigorous debate by a gentleman statesman. He worked hard and was highly respected by Members on both sides of the aisle, as evidenced by the fact that all 52 members of the California delegation are cosponsors of this legislation. He proved himself to be one of the most versatile and adaptable legislators this body has seen. He consistently had the most conservative voting record of any Member of Congress, and that did not stop him from being an effective legislator during his 22-year tenure in the minority.

Always a loyal statesman, Carlos was also skilled in the art of the possible. He had a special ability to get past politics and negotiate legislation that achieved the best result possible under the circumstances. Nevertheless, after 22 years in the minority, Carlos wasted no time adapting to the majority.

□ 1300

He proved to be one of the most efficient and effective subcommittee chairmen of the 104th Congress. In just 2 years, he managed to favorably report several of the most important and controversial elements of the Contract With America. He went on to break decades-old log jams of legislation in the area of patents, copyrights, trademarks, and the Federal courts.

In his short tenure as chairman of the Subcommittee on Courts and Intellectual Property, Carlos was responsible for the enactment of 14 public laws, both qualitatively and quantitatively. That was the best record of any subcommittee chairman.

I join with pride the California delegation in saluting this man of service, a great patriot, and wish him and his wife, Valerie, and his five children and grandchildren the very best.

Mr. FATTAH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me again join with the chairman of the Committee on the Judiciary. I did take note while some of us were on break, he kept the home fires burning here in Washington and the committee was working.

Madam Speaker, I want to again say that in terms of this bill, that we join on this side of the aisle in recognizing the achievements of our colleague, and want to see this post office in California named after him. I am happy he was able to serve for more than two decades in the House. As a newer Member of the Congress, I look forward to one day of having that type of lengthy service.

I think it is very important to see that the experience a Member gains over those years comes to be admired by both sides of the aisle and comes to be appreciated, hopefully, throughout the country.

Madam Speaker, I yield back the balance of my time.

Mr. MCHUGH. Madam Speaker, I yield 2 minutes to the gentleman from California [Mr. ROGAN], Mr. Moorhead's successor in this Congress.

Mr. ROGAN. Madam Speaker, I thank the gentleman for yielding me time. I especially want to thank the distinguished chairman of the Committee on the Judiciary for bringing this very well-deserved bill to the floor.

As Carlos Moorhead's successor, I have both a benefit and a burden. It is a benefit, because I have enjoyed him not just as a friend, but as a mentor in my private and public career. It is also a burden, because he sets a very high-standard of respect and accomplishment for those who follow in his footsteps.

As we walk through the Capitol, we see there is a propensity to build statues to heroes. Yet not all of our heroes are represented in statue. Although he deserves a statue, naming a post office for Carlos Moorhead is a modest way of thanking him for a job well done. In 32 years of public service, Carlos served his community and country with a sense of quiet dignity and resolve. And he did so without there ever being a hint of scandal or of impropriety. He is a man who has faithfully served his country for 24 years in this House, and in doing so he has left a lasting mark.

As I meet both veteran and new Members of Congress, I have found that if I want to ingratiate myself, I simply tell them that I took Carlos Moorhead's place. Invariably this introduction brings a smile and a nod of appreciation for both Carlos as a friend, and for Carlos as a colleague.

Mr. Speaker, it is a great honor to join with so many distinguished Members of this House in paying tribute to a great Congressman, a great public servant, a great friend, and most of all, a great American. This bill is a fitting tribute to a well-deserving public servant, the Honorable Carlos J. Moorhead of California.

Mr. MCHUGH. Madam Speaker, I am honored to yield two minutes to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Madam Speaker, I want to thank the gentleman from Illinois, Chairman HYDE, of the Committee on the Judiciary for bringing forth this bill, the gentleman from New York, Chairman MCHUGH, and the ranking member, the gentleman from Pennsylvania, Mr. FATTAH, for their expeditious handling of the bill to bring it to the floor in this timely manner.

Madam Speaker, I just was thinking while people were talking, I was thinking about Carlos Moorhead. He was the

first Congressman I had the pleasure of meeting in my lifetime. I was the mayor of our city and he was our Congressman.

I was at work one day and received a phone call from our receptionist who said, "There is a Congressman out front that would like to meet you." I did not know how to act or how to react to that, but I invited him to come into the office. Those of you who are colleagues who know Carlos know how quiet and unassuming he was. He came in, introduced himself, and we had a nice chat. That began a strong friendship.

To me, Carlos represents all that is great about the House of Representatives. As has been mentioned, he had an unimpeachable character. He served this House and his countrymen for many years with great dignity. He practiced his Christian principles that he believed in. He was a humble, unassuming man. As was said earlier by the gentleman from North Carolina [Mr. COBLE], he was a true gentleman.

The greatest praise my dad could give to someone was that he was a real gentleman. I cannot think of anything greater to say about Carlos.

He was great to work with. He helped me very much in assuming my role here. He was my Congressman. I replaced part of his district when we had the reapportionment in 1992.

Madam Speaker, I am happy to see this done. I have been to Glendale many times. I am happy this Post Office will be named after him. I know the people of that district will love to see this named after him, and they appreciate all the things he did for them.

Mr. MCHUGH. Madam Speaker, I have no further requests for time, and, with a final urging to my colleagues to support this very worthwhile legislation for a very distinguished colleague, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COBLE). The question is on the motion offered by the gentleman from New York [Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 681.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed, H.R. 681.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

OSCAR GARCIA RIVERA POST OFFICE BUILDING

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 282) to designate the U.S. Post Office building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building".

The Clerk read as follows:

H.R. 282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 153 East 110th Street, New York, New York, shall be known and designated as the "Oscar Garcia Rivera Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Oscar Garcia Rivera Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MCHUGH] and the gentleman from Pennsylvania [Mr. FATTAH] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 282, the bill designating the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the Oscar Garcia Rivera Post Office Building, was introduced by the gentleman from New York [Mr. SERRANO] and cosponsored by the entire House delegation of the State of New York in accordance with the policy of the Committee on Government Reform and Oversight.

This legislation honors the first Puerto Rican elected to public office in the continental United States. Having been born in Puerto Rico, Mr. Rivera came to New York. After graduating from high school, he worked at the post office and city hall while pursuing his further studies.

He was instrumental in organizing and establishing the Association of Puerto Rican and Hispanic Employees within the Post Office Department. Mr. Rivera received his law degree from St. John's University in New York in 1930 and was elected as a State assemblyman in New York in 1937 and served until 1940.

He returned to his hometown of Mayaguez, PR, where he continued to be known for his commitment to protecting the rights of manual laborers, and remained a role model and a community leader. He died in Mayaguez in 1969.

Mr. Speaker, I urge our colleagues to support H.R. 282 to designate the U.S. Post Office building located at 153 East 110th Street, New York, NY as the "Oscar Garcia Rivera Post Office Building" which has twice been approved by the House. The Congressional Budget Office has determined that enacting H.R. 282 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply, nor does it contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995, Public Law 104–4, and would impose no costs on the budgets of State, local, or tribal governments.

Mr. Speaker, I would at this time like to commend the gentleman from New York [Mr. SERRANO], for his initiative on this bill. Under any circumstances, Mr. Rivera would represent a totally worthy recipient of this particular honor, but given the odds that he overcame, the ground that he broke, I think this is a particularly fitting tribute, and I am honored and proud to be a part of this. I also would like to thank the gentleman from Pennsylvania [Mr. FATTAH] for his invaluable assistance in helping this bill to come to the floor in a timely manner.

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 282, to name a post office in the State of New York after Mr. Garcia Rivera. He has two last names, and I guess we alternately have used both. But, nonetheless, it is a fitting tribute.

Mr. Speaker, this is a gentleman who was the first Puerto Rican to be elected to the State assembly in the State of New York, a labor leader, someone committed to human rights, who helped to fight and support legislation to punish lynchings throughout our land, someone who in his own time and space has made a contribution.

I join with my colleague, the gentleman from New York [Mr. SERRANO], who has sponsored this bill, in support of this legislation. I would like just to add that in terms of the leadership that my colleague from the State of New York is providing in this Congress on so many important issues, he has helped inspire all of us on the committee to give due consideration to this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New York [Mr. SERRANO], the prime sponsor of this bill.

Mr. SERRANO. Mr. Speaker, I would like to thank the gentleman from New York, Chairman MCHUGH, and the gentleman from Pennsylvania, Mr. FATTAH, for bringing this bill to the floor. I would like to thank the New York delegation for supporting the bill.

Mr. Speaker, I rise today to urge my colleagues' support of H.R. 282, a bill that would designate the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the Oscar Garcia Rivera Post Office Building.

Let me in addition thank my colleague and mentor, the gentleman from New York [Mr. RANGEL]. The post office is in his district, and he has allowed me to play this role throughout these couple of years on this bill.

Mr. Garcia Rivera, and let me clarify for the gentleman from Pennsylvania [Mr. FATTAH], this is an old tradition in Latin America. His name was Garcia, and then you pick up your mother's last name, and that created a big confusion in New York. That is why I am "Serrano" and not "Serrano Soto." Otherwise it would be kind of confusing at times.

Mr. Garcia Rivera was elected assemblyman in New York in the 14th District on March 30, 1937. He was born in Mayaguez, PR, on November 6, 1900, which happens to be my hometown.

Oscar Garcia Rivera was raised on a coffee plantation. After graduation from high school, Garcia came to the mainland and began working part time in a factory in Brooklyn while he continued to take courses to reach his goal of becoming a lawyer.

He applied for a job in the U.S. Postal Service, obtained high recommendations, and was assigned to the post office in city hall. He quickly became very involved in union issues, and later encouraged the establishment of the Association of Puerto Rican and Hispanic Employees within the U.S. Postal Service. Garcia Rivera attended law school at St. John's University and graduated in 1930.

Dedicated and committed to the struggles of the then pioneering Puerto Rican and Hispanics in East Harlem, he announced publicly in 1937 that he would seek a seat in the New York State Assembly.

In March of that same year he made history by becoming the first Puerto Rican elected to public office in the United States. The gentleman from New York [Mr. MCHUGH], would be happy to know he was elected as a Republican, the first and only one, but that is an issue for another day. He won reelection the following year and continued in this post until 1940.

During the short time that he served in the assembly, however, Garcia Rivera, initiated legislation that offered valuable and lasting contributions to his Puerto Rican community, the labor movement, and to the working class at large.

He introduced a bill guaranteeing safeguards against unemployment. This revolutionary piece of legislation at that time was enacted into law in 1939. Garcia Rivera defended minimum wage laws, fought for regulated hours of labor, worked to establish tariff agreements, and, most importantly, he was committed to protecting the rights of manual laborers and encouraged workers to organize themselves into active unions.

□ 1315

He also supported the campaign, which, as my colleague, the gentleman from Pennsylvania [Mr. FATTAH], has said, established a law which punished lynchings throughout the United States.

Every year the anniversary of his election as the first Puerto Rican who attained a public office marks a proud moment in my community's history. Despite his brief career as Assemblyman, Oscar Garcia Rivera became a great leader in his community, creating a role model for young people and establishing hope for his people that they could achieve their dreams in the United States. His actions transformed the Puerto Rican community and improved working conditions for all New Yorkers.

Mr. Speaker, I believe the passage of this bill and the dedication of this building to this great leader would serve as an inspiration to the future generations in my community and Americans throughout this country and throughout the United States. Please join me in support of H.R. 282.

Once again, I want to thank these two gentlemen for bringing this bill to the floor. This has been a long time coming, and as one who served 16 years in the State Assembly in New York, I take very seriously the fact that Mr. Garcia Rivera opened the doors for so many members of my community.

Mr. FATTAH. Mr. Speaker, I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Again, Mr. Speaker, I commend the gentleman from New York [Mr. SERRANO] for his hard work on this bill to honor a gentleman who obviously is a very, very fitting recipient of this kind of honor. I urge all of my colleagues to join with the gentleman from Pennsylvania [Mr. FATTAH] and the gentleman from New York [Mr. SERRANO] and myself in supporting this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COBLE). The question is on the motion offered by the gentleman from New York [Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 282.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 282, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

THE DAVID B. CHAMPAGNE POST OFFICE BUILDING

Mr. MCHUGH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2013) to designate the facility of the U.S. Postal Service located at 551 Kingston Road in South Kingstown, RI, as the "David B. Champagne Post Office Building."

The Clerk read as follows:

H.R. 2013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 551 Kingstown Road in South Kingstown, Rhode Island, shall be known and designated as the "David B. Champagne Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "David B. Champagne Post Office Building".

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the rule, the gentleman from New York [Mr. MCHUGH] and the gentleman from Pennsylvania [Mr. FATTAH] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2013 was sponsored by our colleague, the gentleman from Rhode Island [Mr. WEYGAND], and cosponsored by the Rhode Island House delegation, according to the policy rules of the Committee on Government Reform and Oversight.

The legislation designates the facility of the U.S. Postal Service located at 551 Kingstown Road in South Kingstown, RI, as the "David B. Champagne Post Office Building." The bill recognizes the valiant efforts of David Champagne, a 19-year-old marine who lost his life in the Korean conflict.

Mr. Champagne was born in Wakefield, RI, and entered the military soon after completing high school. Corporal Champagne was posthumously awarded the Medal of Honor by President Eisenhower for his gallantry above and beyond the call of duty in action against the enemy.

Corporal Champagne skillfully led his first fire team through intense enemy machine gun and grenade fire in spite of a severe leg wound. An enemy grenade landed in the midst of the fire team, and Corporal Champagne hurled it in the direction of the enemy. His hand was blown off in this endeavor and he was hurtled out of the trench.

He succumbed to his injuries, but not before he saved the lives of his fellow marines.

Madam Speaker, I urge our colleagues to support H.R. 2013, designating the facility of the U.S. Postal Service located at 551 Kingstown Road in South Kingstown, RI, as the "David B. Champagne Post Office Building". Additionally, Madam Speaker, the Congressional Budget Office has notified the committee that the legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on State, local, or tribal governments.

Madam Speaker, I think the recipients of these designations today have all been very, very worthy gentlemen, but I have to say in all candor that few displayed the sense of courage and sense of dedication and love of country as did the gentleman that we are seeking to honor here today. He is truly an epitome of the American spirit, and we all, as a Congress and as a Nation, are in his debt.

I want to commend the gentleman from Rhode Island [Mr. WEYGAND] and the gentleman from Pennsylvania [Mr. FATTAH] for working together on their side to bring this bill to the floor to honor a very, very worthy American and very, very worthy individual.

Madam Speaker, I reserve the balance of my time.

Mr. FATTAH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this is, as the gentleman from New York [Mr. MCHUGH] has stated, someone who has literally given his life through an act of courage to save his fellow comrades. For this young man, David Champagne, this is an honor that is obviously something that we would like to bestow, but it does not even begin to represent what should be the appreciation for his act of great courage.

I want to join with my colleague, the gentleman from Rhode Island [Mr. WEYGAND]. The gentleman from New York [Mr. MCHUGH] said that the cosponsor requirement had been met because the entire delegation from the State had signed on to this naming bill.

I want to join with fully 50 percent of the Rhode Island House delegation and support this piece of legislation. It is very worthy. This gentleman, Corporal Champagne, has been already awarded the Medal of Honor, but I think this is something that people in the community of Rhode Island will have as a living memory of his act of courage.

Madam Speaker, I yield such time as he may consume to the gentleman from Rhode Island [Mr. WEYGAND].

Mr. WEYGAND. Madam Speaker, I want to thank Chairman MCHUGH and the ranking member, the gentleman from Pennsylvania [Mr. FATTAH], for allowing me to speak today on this very important naming of the post office in South Kingstown, Rhode Island.

I would also like to thank my colleagues, Senator REED and Senator CHAFEE, who have also cosponsored similar legislation, which has already passed the U.S. Senate, and as the ranking member, the gentleman from Pennsylvania [Mr. FATTAH] has said, the entire Rhode Island delegation, which is a total of two people, the gentleman from Rhode Island [Mr. KENNEDY] and myself, we totally support this bill, and I want to thank the gentleman for helping us get this through the committee.

Madam Speaker, I rise today to express my support for H.R. 2013, a bill to name the South Kingstown Post Office in Wakefield, RI, as the David B. Champagne Post Office Building. As mentioned by the chairman, David Champagne was born on November 11, 1932, Veterans Day. Not only is he a local hero in Rhode Island, but he is also a Congressional Medal of Honor recipient.

Corporal Champagne of the U.S. Marine Corps led a life dedicated to serving his country, his community, and his family. Even as I walked through his elementary school just yesterday, people said how proud they would be to have the post office dedicated in his memory. The South Kingstown High School graduate, the Wakefield Elementary School graduate, received the Congressional Medal of Honor in May 1952 by then-President Eisenhower for conspicuous gallantry and intrepidity at the risk of his own life above and beyond the call of duty while serving as fire team leader of Company A, 1st Battalion of the 7th Marines, the 1st Marine Division, in action against enemy aggressor forces in Korea on May 28, 1952.

Advancing with his platoon in the initial assault on the company against a strongly fortified and heavily defended hill position, Corporal Champagne skillfully led his fire team through a veritable hail of intense enemy machine gunfire, small gunfire, and grenade fire, overrunning trenches in a series of almost impenetrable bunker positions before reaching the crest of a hill and placing his men in a defensive position.

Suffering from painful leg wounds while assisting in repelling the ensuing hostile counterattack, which was launched under cover of a murderous hail of mortar and artillery fire, he steadfastly refused evacuation and fearlessly continued his control of his fire team. When the enemy counterattack increased in intensity and a hostile grenade landed in the midst of his fire team, Corporal Champagne unhesitatingly seized that deadly missile and hurled it in the direction of the approaching enemy.

Unfortunately, as the chairman just mentioned, the grenade as it left his hand exploded, blowing off his hand and throwing his body into the midst of the oncoming fire. Mortally wounded by enemy mortar fire while in this exposed position, Corporal Champagne lost his life, but in doing so showed his gallant leadership, fortitude, and spirit of self-sacrifice in the face of almost certain death, and undoubtedly saved many of the lives of his fellow marines.

Mr. Champagne made a great contribution, not only to our State but also to the history of our Nation. I look forward to the day when Mr. Champagne's family and I cut the ribbon, and let them know just how much we appreciate his gallantry. By naming this post office, we will bestow a well-deserved honor on a great man who will be forever remembered.

Madam Speaker, I again want to thank my colleagues, our ranking member, the gentleman from Pennsylvania [Mr. FATTAH], and Chairman MCHUGH for their support of this legislation, and I ask the support of my colleagues for 2013.

Mr. MCHUGH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me just associate myself, if I may, with the very eloquent words of the last speaker, and urge all of my colleagues to join us in supporting what is a very worthy tribute to a more than deserving young man.

Mr. FATTAH. Madam Speaker, I yield myself such time as I may consume.

We, in support of this bill, not only recognize the courageous act of Corporal Champagne, but in some important way symbolize our thanks to thousands and thousands of Americans who have given their lives in defense of this Nation or on behalf of our Government, either in the armed service or in law enforcement, in any number of ways. So I think it is very appropriate that this House recognize an individual, but in doing that, hopefully send a signal to the Nation that we appreciate the acts of so many individuals that have helped us move forward.

Madam Speaker, I yield back the balance of my time.

Mr. MCHUGH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 2013.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed, H.R. 2013.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DOUGLAS APPLEGATE POST OFFICE

Mr. MCHUGH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2129) to designate the U.S. Post Office located at 150 North 3d Street in Steubenville, OH, as the "Douglas Applegate Post Office."

The Clerk read as follows:

H.R. 2129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office located at 150 North 3rd Street in Steubenville, Ohio, shall be known and designated as the "Douglas Applegate Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in section 1 shall be deemed to be a reference to the "Douglas Applegate Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MCHUGH] and the gentleman from Pennsylvania [Mr. FATTAH] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2129 designates the U.S. Post Office located at 150 North 3d Street in Steubenville, OH, as the Douglas Applegate Post Office. The legislation was introduced by the gentleman from Ohio [Mr. TRAFICANT] and cosponsored by the entire House delegation from the State of Ohio, as in accordance with the policy of the Committee on Government Reform and House Oversight.

Mr. Applegate was born and educated in Steubenville. He served in the Ohio House of Representatives and the Ohio Senate for 8 years, respectively. He was then elected to the 95th Congress by Ohio's 18th Congressional District, and reelected each term until his retirement after the 103d Congress.

Mr. Applegate was known as an advocate of America's veterans, and was chairman of the Subcommittee on Compensation, Pension, and Insurance of the Committee on Veterans' Affairs. Though he was known as a quiet worker, he strongly and emphatically defended American jobs.

Madam Speaker, H.R. 2129 designates the U.S. Post Office located at 150 North 3d Street in Steubenville, OH, as the Douglas Applegate Post Office. The legislation was introduced by Mr. TRAFICANT and cosponsored by the entire House delegation from the State of Ohio in accordance with the policy of the Committee on the Government Reform and Oversight.

Mr. Applegate was born and educated in Steubenville. He served in the Ohio House of Representatives and the Ohio Senate for 8 years respectively. He was then elected to the 95th Congress by Ohio's 18th Congressional District and reelected each term until his retirement after the 103d Congress. Mr. Applegate was known as an advocate of America's veterans and was the chairman of the Veterans' Affairs Subcommittee on Compensation, Pensions, and Insurance. Though he was known as a quiet worker, he strongly and emphatically defended American jobs.

Madam Speaker, I urge our colleagues to support H.R. 2129 designating the U.S. Post Office located at 150 North 3d Street in Steubenville, OH, as the Douglas Applegate Post Office.

Madam Speaker, the Congressional Budget Office has affirmed that the legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on State, local, or tribal governments.

Madam Speaker, I would say, as happened earlier this afternoon with our tribute to a former colleague, Mr. Moorhead, that Mr. Applegate as well represents the kind of dignity, the kind of hard work and honesty, that this body strives for each and every day.

□ 1330

And he certainly would represent a very, very fitting recipient of this postal naming bill, and I urge the support by all of my colleagues.

Madam Speaker, I reserve the balance of my time.

Mr. FATTAH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 2129. The sponsor of this bill, the gentleman from the great State of Ohio [Mr. TRAFICANT], has been very enthusiastic in making sure the committee acted expeditiously on this piece of legislation. But I think it is appropriate because the colleague whose service we recognize in the naming of this postal facility is someone who, in many ways, the gentleman from Ohio seemingly has some bond with because of their support for similar causes.

Madam Speaker, the naming bill that is in front of us is a bill that hopefully will enjoy broad-based support.

Madam Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Madam Speaker, Steubenville is a tough town. It produced Dean Martin and Douglas Applegate, and both of them had as big an effect in the professional careers that they pursued. Dean Martin, a giant on the screen and, although a lot of people did not realize this, Doug Applegate was a giant right here.

Madam Speaker, when it comes to veterans benefits, veterans compensation, and benefit compensation to survivors of those who lost their lives, Doug Applegate was responsible for that legislation. When it came about, as chairman of the Subcommittee on Water Resources, to restrict the interstate transportation of hazardous materials, Douglas Applegate did not get a whole lot of attention for it. When the Taiwanese manufacturers were producing American flags and giving us a great deal on them, it was Doug Applegate that brought to the attention of Congress and the American people that Old Glory was being made by a Taiwanese factory.

Madam Speaker, all of these imports all of a sudden had a "Made in America" label on them. Doug Applegate worked very hard with me to pass the law now that provides for a Federal offense to be applied to anybody who places a fraudulent "Made in America" label.

When it comes to benefits to veterans, Doug Applegate is a giant in our history just like Dean Martin is a giant in the movie industry.

Madam Speaker, he was one of my mentors. He was just a great guy. Along with Walter Jones and Jamie Whitten, there was no one better, and maybe he is responsible for what I have evolved into. But this is certainly one of the great Members that we have had in our past. He really did not get the attention and the glory that he should have earned. But I would like to, hopefully with the naming of this post office, see that that comes to pass.

His beautiful wife Betty, I hope that they are watching, great children and grandchildren. I do not know, maybe Doug is down there in Florida now. But hopefully we will see him up in Steubenville.

Madam Speaker, it is a tough town, he is a tough guy, and he will have his name on a new post office. I am hopeful that we will get the other body to expeditiously handle our affair, and I thank the Congress for listening to my plea.

H.R. 2129, to designate the U.S. Post Office in Steubenville, OH, as the "Douglas Applegate U.S. Post Office," will pay a much-deserved tribute to a strong leader, a loyal friend, and a great man.

As many of you may remember, Doug was not one to grandstand or bring attention to himself. Doug chose, instead, to work quietly, yet diligently. It was in this manner that he affected important change, earned the respect of his colleagues, and won the loyalty of Ohio's 18th Congressional District.

Doug chose his legislative battles then devoted himself to them completely. Among the most important items on his agenda was protecting the benefits to our country's veterans. He worked to substantially increase the benefits to the survivors of those who did not make it home. Realizing that no amount of money could ever make up for their terrible loss, he also knew that such compensation could make life a little less complicated for those left behind.

Doug was a champion of American jobs and industry. His house stationery was emblazoned with the slogan "Buy American! Save

American Jobs!" But, this was not just a slogan to Doug. Time and again he demonstrated his determination to protect and promote American jobs.

He fought to protect the sanctity of the "Made in the U.S.A." label when he worked to uncover a scheme, concocted by American companies, to cut labor costs by having United States flags made in Taiwan, then labeled "Made in the U.S.A." Doug refused to let our workers and our industry be misrepresented by those only concerned with the bottom line.

Throughout his tenure in Congress, Doug demonstrated tremendous integrity and true leadership ability. He could work to build a consensus, yet he was not afraid to stand alone.

Never afraid to stand up for what he believed, he would not play partisan politics if he felt the interests of the American people could be better served by following another viewpoint.

In addition to all of this, however, some of my fondest memories of Doug will be of a great and loyal friend.

I urge all of my colleagues who believe that great leadership should be memorialized, to vote for H.R. 2129 to designate the U.S. Post Office in Steubenville, OH, the "Douglas Applegate Post Office."

Mr. MCHUGH. Madam Speaker, I have no further requests for time. I would join with the gentleman from Ohio [Mr. TRAFICANT], a man who is known for his plain words and straight-to-the-point comments on this floor, and he has done them again here today, and his very poignant tribute to a former colleague. I urge all of our colleagues to support passage of this bill.

Madam Speaker, I yield back the balance of my time.

Mr. FATTAH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would just say that the gentleman from Ohio [Mr. TRAFICANT], in the conclusion of his remarks said that he hoped that the House would hear his words. There is not a day that he has spoken before the House that all of America has not heard his words. So we thank the gentleman for authoring this legislation, and we would hope that it would receive unanimous support.

Mr. JOHNSON of Wisconsin. Madam Speaker, I rise today in strong support of H.R. 2129, which would designate the U.S. post office in Steubenville, OH as the Doug Applegate Post Office.

Although I never had the privilege of serving in Congress with former Congressman Applegate, I do have the privilege of serving on the Subcommittee on Water Resources and Environment, which he chaired. I have also heard a lot about him through my legislative director, George Shevlin, who worked for Mr. Applegate for 5 years. George has told me of the fine work that Congressman Applegate did on behalf of his congressional district and about how he was known for providing excellent constituent services. He was very aware of the needs of his district, which was hard hit by the economic restructuring of the 1970's and 1980's, and worked hard to protect American jobs. He followed the example of his father, who was the mayor of Steubenville, by dedicating his life to public service, first in the statehouse in Columbus, and then for nine terms in the U.S. House of Representatives. Despite his many years in Congress, he never lost touch with his district, and traveled back there every weekend possible, even after he had announced his retirement.

Doug Applegate was also known for his tireless work on behalf of veterans and, as chairman of the Veterans' Affairs Subcommittee on Compensation, Pensions, and Insurance, he worked hard to increase the benefits to the survivors of those who gave their lives for our country. He was well-liked by his colleagues on both sides of the aisle and was loved by his loyal staff, most of whom served him for many years.

Madam Speaker, I believe that we would all do well by following Congressman Applegate's example of service to his constituents and therefore I urge my colleagues to vote in favor of this fine tribute to a dedicated public servant and former colleague.

Mr. FATTAH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH], that the House suspend the rules and pass the bill, H.R. 2129.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2129, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PETER J. MCCLOSKEY POSTAL FACILITY

Mr. MCHUGH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2564) to designate the U.S. Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, as the "Peter J. McCloskey Postal Facility".

The Clerk read as follows:

H.R. 2564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, shall be known and designated as the "Peter J. McCloskey Postal Facility".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in section 1 shall be deemed to be a reference to the "Peter J. McCloskey Postal Facility".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MCHUGH] and the gentleman from Pennsylvania [Mr. FATTAH] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MCHUGH).

Mr. MCHUGH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the legislation before us, H.R. 2544, designates the United States Post Office located at 450 North Centre Street in Pottsville, PA, as the Peter J. McCloskey Postal Facility. The bill was introduced by the gentleman from Pennsylvania [Mr. HOLDEN] and cosponsored by the House delegation of the State of Pennsylvania in its entirety, in accordance with the policy of the Committee on Government Reform and Oversight.

Peter McCloskey, a native of Pennsylvania, joined the U.S. Army Air Corps in 1944. In 1967, he was selected to join the Post Office Department as acting postmaster of the City of Pottsville, and then was reappointed postmaster. During his 23 years as postmaster, Mr. McCloskey has seen 30 of the employees that he has supervised become postmasters. He has been an active member of the Pottsville community for more than 60 years.

Madam Speaker, the Congressional Budget Office has commented that this bill contained no intergovernmental or private sector mandates as defined in the Unfunded Mandated Reform Act of 1975, and would impose no costs on State, local, or tribal governments.

Madam Speaker, on four occasions previously today, we have honored truly deserving gentlemen. I think this one is especially appropriate because it is an opportunity to recognize the Postal Service's own, a gentleman who worked his literal entire adult career in the Postal Service in service to that great cause.

I think for that reason, particularly, this is a very, very fitting tribute for a man who stands out, but probably is best recognized for the kind of dedication to the service that so typifies the over 800,000 postal employees who each and every day go out and make sure that all of us in this Nation receive our mail in a timely fashion.

So I would commend the gentleman from Pennsylvania [Mr. HOLDEN] and thank the gentleman from Pennsylvania [Mr. FATTAH] for helping to bring this bill to the floor to pay tribute to a gentleman who represents all of the good and positive things that the Postal Service has stood for for more than 200 years in this Nation.

Madam Speaker, I reserve the balance of my time.

Mr. FATTAH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 2564 as introduced by my colleague, the gentleman from Pennsylvania [Mr. HOLDEN], a Member with whom I have had the opportunity to serve and who has provided a great deal of leadership here in the House and on behalf of the citizens of Pennsylvania.

Madam Speaker, this bill is appropriate. We sometimes joke about the Postal Service in our country. Let the record be clear that we have the finest Postal Service anywhere in the world, and partly because of people like the gentleman we honor with the naming of this postal facility in Pottsville, PA, because we have dedicated people who work very, very hard, almost 700,000 people who work for the United States Postal Service. And I think that among these bills, it is, indeed appropriate that we would take one and name it after someone who has labored to help make sure that our Nation has a Postal Service that is really second to none in the world.

Madam Speaker, I am not surprised at all that the naming of a postal facility on behalf of someone who has worked for the Postal Service would come from my colleague, the gentleman from Pennsylvania [Mr. HOLDEN], because the gentleman is someone that we all know who has seriously applied himself to understanding the interworkings of the Federal Government and how it interacts and is relevant in the lives of the people who we attempt to serve.

Madam Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. HOLDEN], my colleague.

Mr. HOLDEN. Madam Speaker, I rise today as the proud sponsor of H.R. 2564, a bill to designate the U.S. Post Office located at 450 North Centre Street in Pottsville, PA, as the Peter J. McCloskey Postal Facility. I would like to thank the gentleman from New York [Mr. MCHUGH] the subcommittee chairman, and the gentleman from Pennsylvania [Mr. FATTAH], ranking member, and all 21 members of the Pennsylvania delegation for cosponsoring this legislation and bringing it to the floor today.

Madam Speaker, Pete McCloskey has dedicated his entire life to serving his country, his Government, and helping people. He was born in New Castle Township, PA, on September 20, 1920, and graduated from Cass Township High School in 1938.

In February 1941, Pete married Catherine "Kitty" Mahoney. They are the proud parents of Ethel McCloskey Joyce and have four grandchildren: Patrick, Peter, Lalor and Kaeti.

In 1942, Pete joined the U.S. Army Air Corps serving with distinction as an aerial gunner instructor in the European Theater. Upon discharge from the Army, he worked for the Metropolitan Life Insurance Co. and was later appointed by Pennsylvania Auditor General as the supervisor for the Bureau of School Audits, where he served until 1967.

In 1968, he was appointed postmaster of the Post Office in Pottsville, PA. In his 23 years as postmaster of Pottsville, he earned the respect of the hundreds of employees he supervised, approximately 30 of whom moved on to become postmasters in their own right.

During his tenure as postmaster, and prior to that and since that, Pete not only earned the respect of his coworkers and his employees but of the entire community of Pottsville and of Schuykill County, PA. Whether that be involved with civic organizations such as the Elks or the Rotary or the Lion's or the Knights of Columbus or with his church, Saint Patrick's.

After retirement from the Postal Service, Pete continues to be active in the community. He has served on the Pottsville Housing Authority Board of Directors. And the thing that most impresses me about Pete McCloskey is that he never looks to help himself; he is always there to help others with their problems.

Madam Speaker, I wish I could count the number of times that Pete has come to see me or other political leaders or other businesspeople in the community to say I have so-and-so who is in need of a job. They have a difficult situation right now and they need employment. Can you help them? Or the number of times he would bring a widow to my office and say, can you help with the black lung benefits? Or another constituent of mine who had trouble with the Social Security Administration or with the Veterans Administration. It is Pete who acts as an intermediary to try to bring those people to get help. He does that through my congressional office, with the county commissioners, with our State representatives throughout Schuykill County and, in particular, the city of Pottsville.

Madam Speaker, here is a man who has dedicated his life to serving his community and, as was mentioned by the gentleman from New York [Mr. MCHUGH], he is a retired worker from the Postal Service. I think it is proper and fitting that we rename the Pottsville Post Office for Peter J. McCloskey.

Madam Speaker, I thank the gentleman from New York and the gentleman from Pennsylvania for bringing this to the floor.

Mr. MCHUGH. Madam Speaker, I have no requests for time at this moment, and conclude with a final urging to my colleagues to supporting this very worthy legislation for a very, very worthy recipient.

Madam Speaker, I yield back the balance of my time.

Mr. FATTAH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me again thank the gentleman from New York [Mr. MCHUGH]. It has been a real pleasure to work with him on these bills and any number of activities that we have had to deal with over the course of this session thus far. I really do appreciate the level of cooperation and the spirit of bipartisanship. That is talked a lot around here, but in actuality is practiced by the gentleman from New York, and I want to publicly thank him for his efforts as we have worked together in these matters.

Madam Speaker, I would like to thank my staff, Denise Wilson and also Neal Snyder, for their work on these bills and other matters related to postal affairs.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 2564.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1345

GENERAL LEAVE

Mr. MCHUGH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2564, the bill just passed.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from New York?

There was no objection.

REREFERRAL OF H.R. 1249 TO THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Mr. MCHUGH. Madam Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure be discharged from further consideration of the bill, H.R. 1249, and that H.R. 1249 be rereferred to the Committee on Government Reform and Oversight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REGARDING MANAGEMENT OF NATIONAL FORESTS TO REDUCE GREENHOUSE GASES

Mr. YOUNG of Alaska. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 151) expressing the sense of the Congress that the United States

should manage its public domain national forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives and that the United States should serve as an example and as a world leader in actively managing its public domain national forests in a manner that substantially reduces the amount of carbon dioxide added to the atmosphere, as amended.

The Clerk read as follows:

H. CON. RES. 151

Whereas carbon dioxide, a major greenhouse gas, can be removed from the atmosphere by trees through photosynthesis and stored in wood;

Whereas releases of carbon dioxide can be prevented by the use of wood products as substitutes for products whose manufacture consumes fossil fuels and releases substantial amounts of carbon dioxide; and

Whereas managing our forests by planting and growing our forest resources will remove carbon dioxide from the atmosphere: Now, therefore, be it

Resolved, by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United States—

(1) should manage its forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives; and

(2) should serve as an example and as a world leader in managing its forest in a manner that substantially reduces the amount of carbon dioxide in the atmosphere.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska [Mr. YOUNG] and the gentleman from American Samoa [Mr. FALEOMAVAEGA], each will control 20 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Madam Speaker, I yield myself such time as I may consume.

In December, representatives of 150 nations will gather in Kyoto, Japan, to sign a successor treaty to the United Nations 1992 framework convention on climate change. Today, as we anticipate this important event, we will debate a nonbinding measure putting the House on record as supporting proper management of our Nation's forests to maximize the reduction of greenhouse gases, among other important objectives. This resolution is similar to the Byrd-Hagel resolution passed by the Senate earlier this year that put them on record opposing any treaty that would cause serious economic harm to the United States.

Everyone agrees that we must have clean environment, but we must do it in a way that does not impair or harm our economy. This resolution represents the fact we can have both a healthy environment and a vibrant economy.

By the Clinton-Gore administration's own economic model, the effect of mandatory reductions of greenhouse gases would be devastating to this economy of ours. The United States has an obligation to defend the rights of people who inhabit our planet. It seems that officials representing the United States in the climate change treaty negotiations have lost sight of that duty. Science has proven to us that carbon dioxide, the leading greenhouse gas, can be taken out of the atmosphere by properly managing our forests. Carbon dioxide is kept out of the atmosphere by harvesting the forest before it begins to decompose or burn, thus storing the carbon in wood products that are environmentally friendly, as well as providing an economic benefit to society.

The United Nations Framework Convention on Climate Change, which may commit the United States to mandatory greenhouse gas reductions, could lead to enormous burdens and costs on the American people, the economy, and our way of life. The key issue is whether the Clinton-Gore administration will commit the United States to mandatory reductions of carbon dioxide.

Mandatory reductions will cost taxpayers billions of dollars and will cost many Americans their jobs. There are alternatives to mandatory reductions of carbon emissions. The alternative we bring before the Congress today is to properly manage our forests in order to take from the atmosphere carbon dioxide.

This means using the controls on greenhouse gases that Mother Nature gives to us rather than controls that Government mandates for us to follow. For that reason, we would move to agree on House Concurrent Resolution 151 and urge our colleagues to give it their full support.

Madam Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Madam Speaker, I yield myself such time as I may consume.

As cosponsor of House Concurrent Resolution 151, I am proud to rise today in strong support of this important measure introduced by our distinguished chairman, the gentleman from Alaska [Mr. YOUNG]. The chairman's legislation sends a crucial message. Carbon dioxide and other greenhouse gas emissions constitute a serious problem of global dimension. We can begin, in part, to address and control gas emissions and the growing crisis of global warming by proper and prudent management of our national forests and Federal lands.

Madam Speaker, coming from the South Pacific, I am particularly sensitive to the related phenomena of global climate warming and rising sea levels. For many low-level Pacific island nations, especially those that rise only 6 feet at their highest point of elevation, increasing sea levels threaten to flood, engulf and destroy the very homelands of many Pacific peoples.

Global climate warming presents a real and terrifying danger in the region that cannot be dismissed.

I have introduced a companion-related resolution, House Concurrent Resolution 157, to address the need for the United States to work with the Pacific island leaders on these issues. I have attached a copy of House Concurrent Resolution 157 for the RECORD and urge our colleagues' support.

Madam Speaker, just last month, as a member of the House Committee on International Relations, I attended the South Pacific Forum meetings in Rarotonga in the Cook Islands as a representative of the U.S. Congress. As Members know, the South Pacific Forum is the annual meeting of the Heads of State of 16 Pacific island nations, including Australia and New Zealand.

The Forum meetings revealed that the most urgent priority of the island leaders concerned global climate warming and the related phenomenon of rising sea levels.

House Concurrent Resolution 157 expresses the sense of the Congress regarding the effects of global warming-induced climate disruptions to Pacific nations that are longtime allies of the United States. The measure calls on the United States to work with the island nations to address this extremely serious problem.

As I foresee the process unfolding, the United States will play a leadership role to ensure that all nations and major economies in the world—including China, India and Mexico—fairly share the burden of reducing global greenhouse emissions. All members of the international community must bear the sacrifice for the greater good of the world. No nation should be exempt from doing its part.

As to the measure before us, House Concurrent Resolution 151, Madam Speaker, the ranking member of the committee, the gentleman from California [Mr. MILLER], has contributed immensely to the amended legislation. Unfortunately, the gentleman from California [Mr. MILLER], is at the White House and is unable to be here with us to urge adoption of this measure.

House Concurrent Resolution 151, as amended in committee with the leadership of the gentleman from California [Mr. MILLER], recognizes that our forests have an important role to play in removing carbon dioxide, a major greenhouse gas, from the atmosphere. In our view, however, the amended resolution clearly does not endorse the original premise that it is desirable to increase old growth harvests of U.S. national forests in order to reduce global warming. That would be a horribly misguided message to send to the rest of the world, especially as we seek to encourage conservation of forest resources in other countries.

Instead, we believe that the old growth forest reserves of the United States should be protected. The temperate rain forests in the Pacific

Northwest are among the most effective carbon sinks in the world. If the old growth is harvested it takes many decades to recover the vast amount of carbon released in the process.

We do recognize that carbon dioxide reduction can and should be improved by planting and growing more forest cover in the United States, especially on marginal crop and pasture lands. That is why the amended resolution applies not only to national forests, but to all U.S. forests including private lands.

Finally, Madam Speaker, we want to be very clear that forest-based carbon sequestration, while important, does not replace the need to reduce fossil fuel emissions.

Just yesterday, the Department of Energy reported U.S. emissions of carbon dioxide and other gases, which contribute to global warming, significantly increased in 1996. Contrary to our 1992 treaty obligations, such emissions have increased by 7.4 percent since 1990. This should give the administration a sense of urgency as they prepare to engage in global warming talks with the rest of the world in Kyoto, Japan, this December.

Madam Speaker, I would urge our colleagues to adopt House Concurrent Resolution 151, a worthy measure that symbolizes America's commitment to address the growing crisis of global climate warming.

H. CON. RES. 157

Whereas the world's leading climate experts who comprise the Intergovernmental Panel on Climate Change (hereafter in this preamble referred to as the "IPCC") have reported that "the balance of evidence suggests a discernible human influence on global climate";

Whereas the IPCC has concluded that the effects of global climatic disruption due to increased greenhouse gas emissions could result in (1) a global temperature increase of 1.8 to 6.3 degrees Fahrenheit by the year 2100; (2) a rise in sea level of 6 inches to 3 feet by the year 2100; (3) extreme weather events due to a more vigorous hydrological cycle, such as increased flooding in some areas and more severe droughts in others; (4) saltwater intrusion into freshwater supplies; and (5) the spread of infectious diseases, including malaria and dengue fever;

Whereas the IPCC estimates that today's carbon emissions will remain in our atmosphere for a century or more;

Whereas more than 2,600 scientists recently signed the Scientists' Statement on Global Climatic Disruption calling on the United States, and the world leader in greenhouse gas emissions, to provide leadership this December in Kyoto, Japan, where an international protocol to the United Nations Framework Convention on Climate Change, to which the United States is party, is scheduled to be signed;

Whereas relations between the United States and Pacific island nations historically have been marked by a spirit of mutual understanding and cooperation on a wide range of issues;

Whereas Pacific island nations and the United States share a commitment to world peace, and the Pacific islands have traditionally been supportive of major United States initiatives, including United States positions at the United Nations;

Whereas at the Seventh Economic Summit of Smaller Island States (SIS), held September 17, 1997, in the Cook Islands, a statement was issued to reaffirm, recognize, and endorse the Second Assessment Report of the Inter-Governmental Panel on Climate Change (IPCC) of 1996;

Whereas the United States is a Forum Dialogue Partner in the South Pacific Forum and is a participant or contributor to other regional organizations, including the South Pacific Regional Environment Programme, the South Pacific Commission, the Forum Fisheries Agency, the El Nino research in conjunction with the United States National Oceanic and Atmospheric Administration (NOAA), the South Pacific Geoscience Commission (SOPAC), the Joint Commercial Commission (JCC), the U.S. Studies Country Program (USSCP), in connection with the Integrated Coastal Zone Management (ICZM) Program, the International Coral Reef Initiative (ICRI), the South Pacific Nuclear-Free Zone (SPNFZ) Treaty, the Asia-Pacific Economic Cooperation (APEC), the World Bank, and the Asian Development Bank;

Whereas the bonds of cooperation are established between the United States and Pacific island nations either through independent territorial, commonwealth, or free association relationships;

Whereas certain Pacific island nations, in alliance with the United States, have historically provided for an important U.S. regional strategic presence and have continued to provide such vital assistance in recent years;

Whereas the world is becoming more politically and socially volatile, with growing security threats in proximity to the Pacific region and in other potentially hostile global theaters;

Whereas Pacific island nations, with many inhabited atolls, lie only a few feet above sea level and are faced with the constant threat of flooding and the possible loss of their nations due to a rise in sea level induced by global warming;

Whereas Pacific island nations such as Nauru, Tuvalu, Kiribati, Niue, Tonga, the Cooks Islands, the Marshall Islands, and the Federated States of Micronesia are already experiencing the effects of an accelerated sea level rise, such as salinization of soil and water, erosion, and rising tides;

Whereas the National Academy of Sciences has determined that the efficiency of nearly every United States energy use can be improved and that the United States could reduce its greenhouse gas emissions significantly at low cost or potential savings; and

Whereas research and development into advanced energy saving technologies would position the United States as the leading exporter of these technologies, reduce the dependency of the United States on foreign oil, and help balance the trade deficit: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States, with its advanced technologies and comprehensive studies on global climate conditions, should be committed to the proposition that global warming is a very serious international issue, and the United States take appropriate measures to consult closely with the nations of the world to address this serious problem; and

(2) the leaders and peoples of Pacific island nations should be commended for their efforts to enhance the consciousness and sensitivity of the world community by raising the issue of global warming and greenhouse gas emissions.

Madam Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Madam Speaker, I yield 7 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH], subcommittee chairman.

Mrs. CHENOWETH. Madam Speaker, I thank the gentleman from Alaska for yielding me the time. This is a very interesting subject. I listened with great intrigue to the gentleman from American Samoa [Mr. FALEOMAVAEGA]. I can identify with his remarks and appreciate them.

Today, as the administration considers its position on global warming, though, the House will send a message to the White House that regardless of whether you believe that human-induced global climate change is occurring are not, our forests should play an integral part in reducing greenhouse gases.

At the 11th World Forestry Congress taking place in Antalya, Turkey, many professional forest managers in other countries have criticized the Clinton administration for its lack of management of our national forests. This is very interesting to me, Madam Speaker, because they feel that we have great resources here in America and we are not using them. Instead, we are demanding that the wood that we export now from other countries be harvested in other countries putting an undue pressure on those countries to produce the wood.

By not applying good silviculture treatments to our forests, we are creating burdens for the rest of the world. The ramification is decertification and destruction of tropical forests because of the pressures of the world demand as well as increases in world levels of greenhouse gases that are leading to some of the problems we are talking about today.

Science has proven to us that carbon dioxide, the leading greenhouse gas, can be taken out of the atmosphere by allowing a young vibrant forest to absorb carbon through photosynthesis and storing it as wood. In 1 year, an acre of healthy forest can absorb approximately 3 tons of carbon dioxide by sequestering 1 ton of carbon in woody tissue and converting 2 tons into oxygen for our use. Tree planting, forest management and increasing forest productivity research can positively reduce greenhouse gas buildup.

Carbon dioxide can also be kept out of the atmosphere by harvesting the forest before it begins to decompose on the forest floor or burn, thus storing the carbon dioxide in wood products that are environmentally friendly as well as providing an environmental and economic benefit to society.

In December of this year, the United Nations Framework Convention on Climate Change, which may commit the

United States to mandatory greenhouse gas reductions, is expected to meet in Kyoto, Japan. The ramifications of this treaty could be enormous for the American people, for our environment, for our economy and our way of life.

The key issue, Madam Speaker, is whether the Clinton-Gore administration will commit the United States to mandatory reductions of carbon dioxide. Mandatory reductions will cost taxpayers billions of dollars and will cost many Americans their jobs and that is very sad, Madam Speaker. This is based on the fact that we do not know how much greenhouse gas emissions, especially carbon dioxide, from the burning of fossil fuels contributes to the rise in temperatures.

There are alternatives to mandatory reductions of carbon emissions. To suggest that the United States now take radical steps to curb greenhouse gases such as imposing heavy taxes on carbon dioxide emissions, such as 50 cents per gallon of gasoline, to all of the people who drive cars, is a horrible burden for the United States of America. Rather than head down this road void of scientific information that will lead to devastating economic, environmental consequences, we should begin to manage our public forests through sound silviculture methods. This means using the controls on greenhouse gases that mother nature gives to us rather than controls that Government mandates us to follow.

We must send a message that the Federal Government itself should take the lead by reducing the levels of carbon dioxide in the atmosphere, but not by mandating unrealistic, costly, ambient air quality standards, but by doing that which comes natural. That is, that we as good stewards of this Earth should help manage our forests to reestablish themselves as healthy forests.

By managing our national forests to minimize additions of carbon dioxide to the atmosphere, we will improve our air quality, the health of our Nation's forests, and set an example for other nations as the world prepares for the negotiations in Kyoto, Japan.

□ 1400

Mr. FALEOMAVAEGA. Madam Speaker, I yield myself such time as I may consume.

Certainly I would commend and thank the gentlewoman from Idaho for her eloquent statement and her thoughts and reasoning, which are well taken.

With regard to the Global Climate Treaty to be negotiated in Kyoto, I do not think there is any question that the Administration is very mindful of the concerns of both private industry as well as the many hundreds of thousands of American workers. The impacts upon the U.S. business community and labor force from the Kyoto conference will be significant but positive. Aside from all of that, I think the jury is still out. We will see tomorrow what the Administration's decisions will be as far as greenhouse gas emissions and the United States' role, which I am sure will be very critical, in the upcoming conference this December in Kyoto.

Madam Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Madam Speaker, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN], the chairman of the subcommittee.

Mr. HANSEN. Madam Speaker, I thank the gentleman for yielding me this time.

This week in Bonn, Germany, representatives from around the world will meet on the issues of greenhouse gases. They will be negotiating how quickly the industrial nations must rein in the emissions of carbon dioxide and other so-called greenhouse gases. These talks are in preparation for later negotiations in December in Kyoto, Japan.

Global warming has been an issue of great debate and discussion in Congress. Nearly all of the discussion on global warming surrounds the mandatory reduction of carbon dioxide through costly government controls. The Clinton administration's own studies show that this effort would result in substantial increases in energy prices and damage to the economy.

Quoting from "Economic Effects on Global Climate Change Policies" published by the administration's own Interagency Analytical Team, the higher energy costs would produce GDP losses between 0.2 and 1.0 percent of GDP. For an economy which grew 5.1 percent last year, 1.0 percent would financially hurt every single American.

There is no doubt that everyone agrees that we need to keep our planet clean. To this end, we are here today to put the House on record as supporting proper management of our Nation's forests to maximize reductions of greenhouse gases. Science has conclusively proven that carbon dioxide can be reduced in the atmosphere by allowing a young vibrant forest to absorb carbon through photosynthesis and store it in wood.

Proper management of our forests is important to the environment as well as our economy. There is no doubt that how we are currently managing our Federal forests is neither good for the economy nor is it good for the environment. This resolution puts us on record as supporting good forest management. The forests can and should be managed to help reduce greenhouse gases from the atmosphere.

Mr. YOUNG of Alaska. Madam Speaker, I yield myself such time as I may consume to restate what has been said very eloquently by the gentlewoman from Idaho [Mrs. CHENOWETH], the gentleman from Utah [Mr. HANSEN], and my good friend, the gentleman from American Samoa [Mr. FALEOMAVAEGA]. We cannot have it both ways. We must have sound forest management and we must have young trees growing today.

I remember when there was the old saying "plant a tree today for tomorrow," and we have forgotten that. Many people now want the old trees, the constant dying old trees, which contribute very little to mankind. They will either burn or they will die from beetle kill and they will stand and they do nothing to clean the air.

All this concurrent resolution says is we say it is time for us to have sound management, scientific management of our new forests; to plant those trees, to harvest the older trees and have these forests clean up our air.

Mr. SMITH of Oregon. Madam Speaker, I rise in strong support of this resolution. Over the last several months the Committee on Agriculture has held a series of hearings on the management of our Nation's forest resources. The scientists who have appeared before the committee have taught us a great deal about the environmental benefits of proactive forest management. This resolution on the minimization of greenhouse gases addresses one of the foremost of these benefits.

Those who truly care for the environment should be quick to realize that wood is our most environmentally friendly building material. Processing construction grade wood releases a tiny fraction of the carbon dioxide produced by steel, concrete, brick, and other non-renewable construction materials that are processed using fossil fuels.

Wood also stores vast amounts of carbon for long periods of time. Wood extracted from the forest for construction purposes continues to store carbon. Furthermore, the resulting regeneration of trees in the forest sequesters carbon from the atmosphere. In other words, when we use wood for homes, furniture and pulp and paper products, we both minimize carbon releases into the atmosphere and provide an efficient means of removing carbon from the atmosphere. This is a win-win proposition for both the environment and our economy.

In contrast, failing to actively manage our forests to both provide useful wood products to society and to maximize the ability of our forests to store carbon can have devastating results. In 1996, six million acres of national forest burned in one of the worst fire seasons of the century. This tragedy came on the heels of the 1994 fire season during which over 4 million acres of national forest burned.

These fires, because of their size and intensity, released staggering amounts of particulate matter into the air. One study indicates that the fires of 1994 alone emitted as much as a ton of particulate matter into the atmosphere for each acre of forest burned and over 400 million tons of carbon in the aggregate.

Proactive forest management, that focuses on reducing fuel loading and tree density in overstocked timber stands, can significantly reduce carbon emissions caused by wildfire. It

can also improve the ability of the forest to store carbon by replacing denser stands of sick, fire prone small diameter trees with more vigorous, fire resistant stands where tree growth and health are both maximized.

Scientifically managing our forests to reduce atmospheric carbon dioxide levels is a policy that America should enthusiastically embrace, particularly in preparation of the upcoming conference in Kyoto. Yet, surprisingly, the administration does not yet appear to have included a forest management component to its official policy position.

This resolution fills that void. It frames a policy that will enable the United States to lead the world in pursuit of scientific, proactive forest management practices that will both clean our air and improve our quality of life. I urge my colleagues to support the resolution.

Mr. YOUNG of Alaska. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 151, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title was amended so as to read:

Concurrent resolution expressing the sense of the Congress that the United States should manage its forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives, and that the United States should serve as an example and as a world leader in managing its forests in a manner that substantially reduces the amount of carbon dioxide in the atmosphere.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 151, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

GRAZING AT GRAND TETON NATIONAL PARK

Mr. HANSEN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 708) to require the Secretary of the Interior to conduct a study concerning grazing use of certain land within and adjacent to Grand Teton National Park, WY, and to extend temporarily certain grazing privileges, as amended.

The Clerk read as follows:

H.R. 708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) open space near Grand Teton National Park continues to decline;

(2) as the population continues to grow in Teton County, Wyoming, undeveloped land near the park becomes more scarce;

(3) the loss of open space around Teton Park has negative impacts on wildlife migration routes in the area and on visitors to the Park, and its repercussions can be felt throughout the entire region;

(4) a few ranches make up Teton Valley's remaining open space, and the ranches depend on grazing in Grand Teton National Park for summer range to maintain operations;

(5) the Act that created Grand Teton National Park allowed several permittees to continue livestock grazing in the Park for the life of a designated heir in the family;

(6) some of the last remaining heirs have died, and as a result the open space around the Park will most likely be subdivided and developed;

(7) in order to develop the best solution to protect open space immediately adjacent to Grand Teton National Park, the Park Service should conduct a study of open space in the region; and

(8) the study should develop workable solutions that are fiscally responsible and acceptable to the National Park Service, the public, local government, and landowners in the area.

SEC. 2. STUDY OF GRAZING USE AND OPEN SPACE.

(a) IN GENERAL.—The Secretary of the Interior shall conduct a study concerning grazing use and open space in Grand Teton National Park, Wyoming, and associated use of certain agricultural and ranch lands within and adjacent to the Park, including—

(1) base land having appurtenant grazing privileges within Grand Teton National Park, Wyoming, remaining after January 1, 1990, under the Act entitled "An Act to establish a new Grand Teton National Park in the State of Wyoming, and for other purposes", approved September 14, 1950 (16 U.S.C. 406d–1 et seq.); and

(2) any ranch and agricultural land adjacent to the Park, the use and disposition of which may affect accomplishment of the purposes of the Act.

(b) PURPOSE.—The study shall—

(1) assess the significance of the ranching use and pastoral character of the land (including open vistas, wildlife habitat, and other public benefits);

(2) assess the significance of that use and character to the purposes for which the park was established and identify any need for preservation of, and practicable means of, preserving the land that is necessary to protect that use and character;

(3) recommend a variety of economically feasible and viable tools and techniques to retain the pastoral qualities of the land; and

(4) estimate the costs of implementing any recommendations made for the preservation of the land.

(c) PARTICIPATION.—In conducting the study, the Secretary of the Interior shall seek participation from the Governor of the State of Wyoming, the Teton County Commissioners, the Secretary of Agriculture, affected land owners, and other interested members of the public.

(d) REPORT.—Not later than 3 years from the date funding is available for the purposes of this Act, the Secretary of the Interior shall submit a report to Congress that contains the findings of the study under subsection (a) and makes recommendations to Congress regarding action that may be taken with respect to the land described in subsection (a).

SEC. 3. EXTENSION OF GRAZING PRIVILEGES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior shall reinstate and extend for the duration of the study described in section 2(a) and until such time as the recommendations of the study are implemented, the grazing privileges described in section 2(a)(1), under the same terms and conditions as were in effect prior to the expiration of the privileges.

(b) EFFECT OF CHANGE IN LAND USE.—If, during the period of the study or until such time as the recommendations of the study are implemented, any portion of the land described in section 2(a)(1) is disposed of in a manner that would result in the land no longer being used for ranching or other agricultural purposes, the Secretary of the Interior shall cancel the extension described in subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 708 and urge its adoption. Senator THOMAS of Wyoming introduced similar legislation in the form of S. 308 in the Senate. The Subcommittee on National Parks and Public Lands of the Committee on Energy and Natural Resources held hearings on that legislation and it has been widely supported by the people of Jackson Hole, WY, the administration, conservation groups, and the ranching community.

I applaud the gentlewoman from Wyoming [Mrs. CUBIN] for her hard work on this issue and I am pleased to be sending this message to the President for his signature after it is worked out with the Senate.

H.R. 708 recognizes the increasing demand on private lands within the Jackson Hole area of Wyoming and the benefits that open space and ranching provide Grand Teton National Park. This legislation would require the Secretary to conduct a study concerning grazing and open space in and around Grand Teton National Park. Moreover, the Secretary must analyze the benefits of existing ranching and grazing operations to wildlife, the national park, and other public benefits.

This legislation initiated by the gentlewoman from Wyoming recognizes the development pressures on resort lands in and around national parks. If the public policy is to drive these long-held ranching families out of business, we must be prepared to deal with the

consequences of ranches being sold to pay the estate taxes and development into resort communities.

In some groups' zeal to drive livestock grazing off the public lands, we are leaving no alternative to these landowners but to sell out to developers. The gentlewoman from Wyoming has convinced the people of Jackson Hole to stand back and take another look at this situation and assess the benefits of these ranches on wildlife and the park itself. I urge my colleagues to support H.R. 708.

Madam Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I wish to thank the chairman of the Subcommittee on National Parks and Public Lands, the gentleman from Utah, [Mr. HANSEN], for his management of this legislation, and also the chief sponsor of this legislation, the gentlewoman from Wyoming [Mrs. BARBARA CUBIN] for her leadership in providing this legislation for our consideration.

Madam Speaker, the goals of H.R. 708 are quite laudable. The National Park Service and the Jackson Hole community are concerned that the ranchlands and open space surrounding Grand Teton National Park may be developed, furthering the loss of wildlife habitat, migration routes, and scenic values.

Much of the land south of Grand Teton has already been developed or is under pressure of development. H.R. 708 provides for a study to determine if there are viable means to preserving open space and ranching operations for the benefit of both the park and the community.

When the Committee on Resources held a markup of H.R. 708, an amendment in the nature of a substitute was adopted that incorporated many of the suggested changes made by the National Park Service. The changes that were made improved the bill. This study has the potential to be a win-win situation for both the park and the local community. I hope that this is the case and look forward to seeing the final study.

Madam Speaker, I support H.R. 708, as amended, and urge my colleagues to approve this proposed bill.

Mrs. CUBIN. Madam Speaker, Jackson Hole, WY is one of the most beautiful and unique areas of our Nation. Over 3 million visitors per year come to hike, camp, ski, and sightsee amidst the grandeur of the Teton range and the winding Snake River in Grand Teton National Park and the Greater Yellowstone area beyond.

Many wildlife species such as moose, bear, eagles, and trumpeter swan make the valley their home, while the largest elk herd in the lower 48 states annually migrates through it to winter on the wildlife refuge at its southern end.

While much of the valley is protected in perpetuity by Federal ownership, some of the most valuable wildlife habitat, migration routes, and scenic vistas remain in private ownership as working ranch lands.

Conservation groups in Jackson Hole and around the country have worked for years to help protect these ranches from development through the use of scenic easements and other means and are to be commended for their good work.

The concept of preserving and protecting parts of the Teton Range and Jackson Hole date from the time settlers moved into the valley in the late 1800's. In January 1929 the U.S. Senate reported on a bill to establish Grand Teton National Park and stated:

The Teton range presents the most profoundly impressive view in America. It is a gift to the Nation and posterity in which the people of Wyoming may be proud, and the wilderness surrounding them may be preserved in their natural state for the benefit and enjoyment of the people of these United States and future generations to come.

In 1950, the act establishing Grant Teton National Park allowed the continuation of grazing privileges within the boundaries of the new park for the life of the designated heirs of the current holders of grazing permits.

Early management of the park determined that managing cattle in a concentrated area with irrigated grass was less destructive to the resource and less intrusive to the visiting public than random grazing throughout the park.

The purpose of my legislation, H.R. 708, is not about granting special grazing rights; it is about doing the right thing to maintain the scenic wonderment that encompasses this magnificent area and keep the area open for wildlife, especially migratory elk.

This pristine land obviously comes with a price tag. Real estate prices have skyrocketed, and intense development pressure has occurred because of this fact.

Through this legislation I have worked in cooperation with officials from Grant Teton National Park to resolve many issues. I know that all parties involved in this matter are striving to reach the same goal: maintain the scenic beauty that those of us who have been fortunate enough to spend time in the Tetons will continue to enjoy the park for a long time to come.

I have incorporated some changes to the legislation proposed by the Park Service during the National Parks and Public Lands Subcommittee hearing this summer, and the bill reflects some, but not all, of those changes.

Madam Speaker, I am dedicated to maintaining the highly valuable open space and ranching culture in this vicinity of the park. The authorization of a 3-year study will allow time to explore a network of relationships and avoid the indiscriminate development that will occur on these pastoral lands.

Mr. HANSEN. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 708, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to require the Secretary of the Interior to conduct a study concerning grazing use and open space within and adjacent to Grand Teton National Park, Wyoming, and to extend temporarily certain grazing privileges.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 708, the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

ASIAN ELEPHANT CONSERVATION ACT OF 1997

Mr. SAXTON. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1787) to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants, as amended.

The Clerk read as follows:

H.R. 1787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asian Elephant Conservation Act of 1997".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Asian elephant populations in nations within the range of Asian elephants have continued to decline to the point that the long-term survival of the species in the wild is in serious jeopardy.

(2) The Asian elephant is listed as an endangered species under section 4 of the Endangered Species Act of 1973 and under appendix I of the Convention on International Trade of Endangered Species of Wild Fauna and Flora.

(3) Because the challenges facing the conservation of Asian elephants are so great, resources to date have not been sufficient to cope with the continued loss of habitat and the consequent diminution of Asian elephant populations.

(4) The Asian elephant is a flagship species for the conservation of tropical forest habitats in which it is found and provides the consequent benefit from such conservation to numerous other species of wildlife including many other endangered species.

(5) Among the threats to the Asian elephant in addition to habitat loss are population fragmentation, human-elephant conflict, poaching for ivory, meat, hide, bones and teeth, and capture for domestication.

(6) To reduce, remove, or otherwise effectively address these threats to the long-term viability of populations of Asian elephants in the wild will require the joint commitment and effort of nations within the range of Asian elephants, the United States and other countries, and the private sector.

SEC. 3. PURPOSES.

The purposes of this Act are the following:

(1) To perpetuate healthy populations of Asian elephants.

(2) To assist in the conservation and protection of Asian elephants by supporting the conservation programs of Asian elephant range states and the CITES Secretariat.

(3) To provide financial resources for those programs.

SEC. 4. DEFINITIONS.

In this Act:

(1) The term "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and its appendices.

(2) The term "conservation" means the use of methods and procedures necessary to bring Asian elephants to the point at which there are sufficient populations in the wild to ensure that the species does not become extinct, including all activities associated with scientific resource management, such as conservation, protection, restoration, acquisition, and management of habitat; research and monitoring of known populations; assistance in the development of management plans for managed elephant ranges; CITES enforcement; law enforcement through community participation; translocation of elephants; conflict resolution initiatives; and community outreach and education.

(3) The term "Fund" means the Asian Elephant Conservation Fund established under section 6(a).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "Administrator" means the Administrator of the Agency for International Development.

SEC. 5. ASIAN ELEPHANT CONSERVATION ASSISTANCE.

(a) IN GENERAL.—The Secretary, subject to the availability of funds and in consultation with the Administrator, shall use amounts in the Fund to provide financial assistance for projects for the conservation of Asian elephants for which final project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSAL.—Any relevant wildlife management authority of a nation within the range of Asian elephants whose activities directly or indirectly affect Asian elephant populations, the CITES Secretariat, or any person with demonstrated expertise in the conservation of Asian elephants, may submit to the Secretary to project proposal under this section. Each proposal shall include the following:

(1) The name of the individual responsible for conducting the project.

(2) A succinct statement of the purposes of the project.

(3) A description of the qualifications of the individuals who will conduct the project.

(4) An estimate of the funds and time required to complete the project.

(5) Evidence of support of the project by appropriate governmental entities of countries in which the project will be conducted, if the Secretary determines that the support is required for the success of the project.

(6) Information regarding the source and amount of matching funding available to the applicant.

(7) Any other information the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this Act.

(c) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—Within 30 days after receiving a final project proposal, the Secretary shall provide a copy of the proposal to the Administrator. The Secretary shall review each final project proposal to determine if it meets the criteria set forth in subsection (d).

(2) CONSULTATION; APPROVAL OR DISAPPROVAL.—Not later than 6 months after receiving a final project proposal, and subject to the availability of funds, the Secretary, after consulting with the Administrator, shall—

(A) request written comments on the proposal from each country within which the project is to be conducted;

(B) after requesting those comments, approve or disapprove the proposal; and

(C) provide written notification of that approval or disapproval to the person who submitted the proposal, the Administrator, and each of those countries.

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a final project proposal under this section if the project will enhance programs for conservation of Asian elephants by assisting efforts to—

(1) implement conservation programs;

(2) address the conflicts between humans and elephants that arise from competition for the same habitat;

(3) enhance compliance with provisions of CITES and laws of the United States or a foreign country that prohibit or regulate the taking or trade of Asian elephants or regulate the use and management of Asian elephant habitat;

(4) develop sound scientific information on the condition of Asian elephant habitat, Asian elephant population numbers and trends, or the threats to such habitat, numbers, or trends; or

(5) promote cooperative projects on those topics with other foreign governments, affected local communities, nongovernmental organizations, or others in the private sector.

(e) PROJECT SUSTAINABILITY.—To the maximum extent practical, in determining whether to approve project proposals under this section, the Secretary shall give consideration to projects which will enhance sustainable integrated conservation development programs to ensure effective, long-term conservation of Asian elephants.

(f) PROJECT REPORTING.—Each person who receives assistance under this section for a project shall provide periodic reports, as the Secretary considers necessary, to the Secretary and the Administrator. Each report shall include all information required by the Secretary, after consulting with the Administrator, for evaluating the progress and success of the project.

(g) MATCHING FUNDS.—In determining whether to approve project proposals under this section, the Secretary shall give priority to those projects for which there exists some measure of matching funds.

(h) LIMITATION ON USE FOR CAPTIVE BREEDING.—Amounts provided as a grant under this Act may not be used for captive breeding of Asian elephants other than for release in the wild.

SEC. 6. ASIAN ELEPHANT CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account to be known as the "Asian Elephant Conservation Fund", which shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO THE FUND.—The Secretary of the Treasury shall deposit into the Fund—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Fund.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may use amounts in the Fund without further appropriation to provide assistance under section 5.

(2) ADMINISTRATION.—Of amounts in the Fund available for each fiscal year, the Secretary may use not more than 3 percent to administer the Fund.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to provide assistance under section 5. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund $5,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002 to carry out this Act, which may remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Hawaii [Mr. ABERCROMBIE] each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I introduced H.R. 1787, the Asian Elephant Conservation Act of 1997, along with the gentleman from Hawaii [Mr. ABERCROMBIE] and 17 other Members on June 4, 1997.

The fundamental purposes of this legislation are twofold: First, to create an Asian elephant conservation fund; and, second, to authorize the Congress to appropriate up to $5 million per year to this fund to finance various conservation projects for each of the next 5 fiscal years.

The legislation is modeled after the highly successful African Elephant Conservation Act of 1988 and the Rhinoceros and Tiger Conservation Act of 1994. The new authorization would be separate from those funds appropriated for African elephants or for rhinos or tigers.

Under the terms of H.R. 1787, the Secretary of the Interior would carefully evaluate the merits of each proposed conservation project, select those that best enhance the future of the Asian elephant, and give priority to those projects whose sponsors demonstrate the ability to match some portion of the Federal funds. In addition, the bill stipulates the Secretary may accept donations to assist Asian elephants and shall spend no more than 3 percent of the amount appropriated to administer the fund.

Unless immediate steps are taken to conserve this magnificent animal, it will surely continue to disappear from much, if not all, of its traditional habitat. We cannot allow the Asian elephant, which has such a direct impact on so many other species, like the clouded leopard, the rhinos and tigers, to become extinct. The goal of H.R. 1787 is to stop the decline and hopefully rebuild the population stocks of this irreplaceable species by financing, with a small amount of Federal money, a limited number of conservation projects.

While not an exact list, it is likely that these projects would include efforts to monitor known populations of Asian elephants, develop improved conservation management plans, and educate the public about the value of this so-called flagship species.

Finally, I want to acknowledge the tireless dedication of our former colleague, Andy Ireland. Due to his inspirational leadership, Feld Entertainment has played a major role in helping to move this legislation forward. This company, which has been a leader in Asian elephant conservation and husbandry for decades, is motivated by the goal of ensuring that there are Asian elephants living in the world, and will be for the next century.

Obviously, I am going to urge a "yea" vote on this, but before I do that, let me pay particular thanks to our staff for helping move this bill forward this morning, and in particular a young lady by the name of Sharon McKenna, who is not able to be here with us today, as she is home taking care of her brand new little baby, Jackson. So we wish Sharon and her husband Mike, and Jackson, all the best, and thank her for the great work that she has done on this bill.

Madam Speaker, let me just say that when I introduced this bill with the gentleman from Hawaii, who has joined us in the Chamber, I think we both were deluged with a number of questions as to why in the world a Congressman from Hawaii and a Congressman from New Jersey should devote the time and energy that we have to trying to save an Asian species, the Asian elephant.

The answer to that is quite simple, and I think it was brought to bear quite clearly here today by the previous speakers, the gentleman from Alaska [Mr. YOUNG] and the gentlewoman from Idaho [Mrs. CHENOWETH], who were talking about the controversies surrounding the issue of global warming and making the point very clearly that this world's forests, not just this Nation's forests, but this world's forests are vital in the fight against global warming.

This species, the Asian elephant, has been named a flagship species because it is easy to see. It is easy to see it disappearing. And one can quite readily draw the conclusion that one of the reasons it is disappearing is because of its disappearing habitat, the forests in which it lives.

So by concentrating on this magnificent species that men and women and boys and girls all around the world recognize and have grown to love as one of God's creatures that we all recognize, by using it as a flagship species, so-called, we draw attention and educate ourselves as a world people about the importance of not only the Asian elephant but the African elephant as well and rhinos and tigers and the forests in which they reside.

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And so to the extent that we can set an example here today by passing this bill and working to save the Asian elephant in this case, we will also be successful in doing our part in the effort to combat global warming.

Madam Speaker, I reserve the balance of my time.

Mr. ABERCROMBIE. Madam Speaker, I yield myself such time as I may consume. I am delighted to be here today, particularly in the company of the gentleman from New Jersey [Mr. SAXTON], my good friend. I too want to pay tribute not just to him and his great leadership on this issue but to the especially strong staff support we have received along the way with the enactment of this bill.

Madam Speaker, I am just getting to the floor now because we have had the opportunity over the past couple of hours to be meeting on the questions of travel, tourism and the world, not only in relation to the United States but in relation one to another as people throughout the world.

Madam Speaker, I cannot emphasize enough to Members that in paying particular attention to this species as covered under the Asian Elephant Conservation Act, we are taking a giant step forward in seeing to it not only that we respect the ecological consequences for the Asian elephant as such, but that we recognize that in this context, the people of the world are coming to know that we are all interrelated, and we are very, very hopeful that we will be able to fund as a result of this act partnerships, international partnerships, that will result in people being able to view the Asian elephant, to understand through the conservation of the Asian elephant its relationship to ecological balance, environmental balance in South Asia and that this is beneficial on a planetary basis when all of the species of the world understand their interrelationship.

This is then a modest step in the effort to protect the existing Asian elephant herds from multiple sources of danger, including poaching for meat, hides, teeth and bones as well as capture for domestication and the encroachment of humans and civilization, so-called.

Madam Speaker, the population of Asian elephants as has been pointed out, has been dwindling steadily and now numbers roughly 40,000 animals. It is an incredible thing to contemplate, as we did in the course of our examination in the committee hearings, what such a relatively small number of great animals and of course I must say parenthetically, Madam Speaker, that my respect for and admiration for the diversity of life on this planet was only enhanced by the hearings that we had. This is indeed one of God's most magnificent creatures and indeed represents something unique. Not everyone is aware that the Asian elephant has been a partner with humankind throughout all of the thousands of years of its existence. That relationship is now threatened by the advance of modern life.

Maybe advance is almost the wrong word, Madam Speaker. But nonetheless we are realizing more and more that this great creature of South Asia, the Asian elephant, represented a true symbiosis between humankind and the animal kingdom that is now threatened. The numbers are less than 10 percent of the numbers of African elephants in the wild. I think that that is a very sobering statistic.

The African elephant of course has received great publicity. It also of course is magnificent in its presentation of self in the wild and has attracted the imagination and admiration of people throughout the world. The Asian elephant being a blue collar animal, a working animal, a domesticated animal working in close proximity with human beings, has been ignored in the process.

So this legislation will help prevent the eventual extinction of the Asian elephant as an endangered species. The future of these magnificent animals in the wild is in clear jeopardy. H.R. 1787 authorizes $5 million to fund projects crucial to the survival of the species. Our goals are to assist and support the conservation of elephant range, as the gentleman from New Jersey [Mr. SAXTON] has enunciated so clearly and to support the United Nations Convention on International Trade in Endangered Species. Although wild Asian elephants are scattered across 13 Asian countries, there are only 4 remaining herds containing 1,000 or more animals.

Douglas H. Chadwick, a distinguished and honored scientist and author, wrote of these animals:

Elephants are one of those animals by which we define the grandeur of creation. No larger life forms walk our earth and precious few are more intelligent. Elephants are more than just a part of the extraordinary variety of the plants and animals found in Asia's tropical forest. Elephants are one of the main reasons that the genetic bounty is there in the first place with the potential to provide humanity with new sources of food, fiber and pharmaceutical products. Elephants distribute seeds of perhaps one-third

of all tropical trees. In some cases elephants are the only known agents of dispersal. To save Asian elephants is to save one of the principal shapers of biological diversity. To maintain habitat is to maintain the resources that enrich human communities over the long run.

I am absolutely certain, Madam Speaker, speaking parenthetically that with the expansion of the Asian elephant habitat and with their preservation and conservation, we will see enormous increases in travel and tourism and by extension the awareness of the items that I am speaking of. Going back, then, in my quotation, "To pass an Asian Elephant Conservation Act would be one of the most foresighted and yet practical, cost-effective things we can do for the benefit of Americans, people throughout Asia, and the world we all share."

H.R. 1787 received overwhelming support in the Committee on Resources, again under the leadership of the gentleman from New Jersey [Mr. SAXTON]. I was pleased to be an original cosponsor of the bill. Not only does H.R. 1787 enjoy strong bipartisan support in the House, Madam Speaker, but it has also been endorsed by such diverse groups that bears repeating, the American Zoological and Aquarium Association, the World Wildlife Fund, Wildlife Preservation Trust International, the Sierra Club, and Feld Entertainment, emphasizing the partnership we have in the private sector. Feld Entertainment is the owner of the Ringling Brothers and Barnum and Bailey Circus.

It is clear that if we are to prevent the extinction of the Asian elephant, a number of coordinated and visible activities must be undertaken by the international community and host-range nations. I believe it bears repeating, Madam Speaker, as to what they might be:

Protection of the remaining elephant populations and their habitat from further loss and degradation by establishing and managing special protected areas;

Promotion of coexistence between people and elephants by developing and implementing sound management practices that would prevent or reduce conflict;

Promotion of effective law enforcement through participation of local communities;

Reduction of captures from the wild, and extension of care and humane management of the remaining domesticated population;

Madam Speaker, I believe it has been stated but I believe again bears repeating that the Asian elephant as a participant in society as a domesticated work elephant, I was going to say workhorse, I guess is the equivalent, is now finding itself in the situation of being unemployed.

The work elements associated with the Asian elephant are disappearing much as the workhorse did, as the great workhorses that my grandfather was associated with as a teamster in Buffalo, NY, the great eight-horse hitches that the great beer wagons that we see advertised now with Budweiser, they were working animals. My grandfather was the manager of the stables that carried baked goods on great wagons throughout Buffalo for the then existing Hall's Bakery. So horses, great workhorses, were displaced by engines, by the internal combustion engine. The same thing is happening to the Asian elephant. The elephants who worked under these circumstances need to be taken care of, need humane management and treatment, and this bill will help agencies and individuals and groups interested in this in completing that task. Finally, restoration of the congenial relationship that previously existed between people and elephants through education and awareness programs. And of course this is where travel and tourism can play a great role.

Many groups and individuals contributed to the development of the bill. The Tiger and Rhinoceros Conservation Act is one to be cited. It would be administered by the Secretary of the Interior after consultation with the Administrator of AID. Instead of focusing on remedies appropriate for trade-related conservation issues, this bill emphasizes remedies that would address the human-elephant conflict resolutions that prevails throughout the Asian elephant's natural range. I think I have already made reference, Madam Speaker, to the African elephant and I am particularly grateful to the gentleman from Alaska [Mr. YOUNG], the chair of our committee, who has been instrumental in working with the preservation and conservation of the African elephant and who realized that the Asian elephant emphasis that we have in this bill is an appropriate next step to take.

The purpose then of H.R. 1787 is to assist initiatives in the Asian elephant range nations as well as regional and national agencies and organizations whose activities directly or indirectly promote Asian elephant habitat conservation. Then the bill would be funded in a manner so as not to affect funds currently earmarked for the African Elephant Conservation Act and the Rhino and Tiger Act. The legislation would specify that support would be provided for projects that would directly support and promote wild elephant management practices such as monitoring population trends of known populations, assessing the movement and the annual ranging patterns of known populations. We would emphasize law enforcement through community participation, develop management plans for managed elephant ranges, translocation of elephants, conflict resolution initiatives and community outreach and education. It specifically authorizes the Secretary of the Interior to fund projects addressing the use of domesticated elephants as such use relates to conservation of Asian elephants in the wild. It provides for multiplying the impact of funding by authorizing priority to be given projects which have matching funds from private sector sources.

In that instance I, too, want to add my congratulations and grateful thanks to our colleague Andy Ireland, who brought this issue to our attention in an extraordinarily comprehensive way and in that context, Madam Speaker, I want to conclude by urging all of our colleagues to take advantage of the pioneering work that was done in the Committee on Resources previously with respect to conservation of the great animals in Africa and Asia and add to it then this great and magnificent representation of the symbiotic relationship of humankind and the animal world in the Asian elephant.

Madam Speaker, I yield 3 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

□ 1430

Mr. FALEOMAVAEGA. Madam Speaker, I thank the gentleman from Hawaii [Mr. ABERCROMBIE] for yielding me time.

Madam Speaker, I am delighted to be a cosponsor of this piece of legislation, and commend the gentleman from New Jersey [Mr. SAXTON], the chairman of the Subcommittee on Wildlife and Fisheries.

Madam Speaker, I would like to thank the gentleman from Hawaii [Mr. ABERCROMBIE] for introducing H.R. 1787, the Asian Elephant Conservation Act of 1997. Like the similar African Elephant Conservation Act of 1988, and the Rhinoceros and Tiger Conservation Act of 1994, the fund created by this act should provide valuable financial assistance to programs protecting a keystone species which is greatly threatened throughout its range.

This bill will focus projects toward those problems which most threaten Asian elephants: habitat loss and human-elephant conflicts. This bill also supports conservation programs within range states, which is the best way to perpetuate healthy populations of Asian elephants in the wild.

Furthermore, this act will help provide the infrastructure necessary to limit Asian elephant poaching activity, which threatens the population that now numbers only one-tenth its previous level.

The Asian Elephant Conservation Act of 1997 also contains provisions that encourage efficiency and public participation in wildlife conservation programs. The act works to obtain the greatest leverage for U.S. taxpayer dollars by directing that preference for funding be given to those projects that

will generate matching funds in cooperative projects.

Additionally, the Asian Elephant Conservation Act of 1997 promotes public involvement in our efforts to protect this species by permitting the Secretary of the Interior, through the Fish and Wildlife Service, to accept and use private donations to the fund.

This proposed bill, Madam Speaker, is but one example of the environmental leadership that is needed to protect threatened and endangered species, both at home and overseas. H.R. 1787 deserves our support, and I urge our colleagues' support for its adoption.

Mr. YOUNG of Alaska. Madam Speaker, as a cosponsor of H.R. 1787, I rise in support of this legislation to create an Asian elephant conservation fund.

This measure is modeled after the highly successful African Elephant Conservation Act of 1988 and the Rhinoceros and Tiger Conservation Act of 1994. It will authorize up to $5 million per year to be appropriated to the Department of the Interior to fund various projects to conserve the African elephant.

This flagship species of the Asian continent is in grave danger of extinction. According to international experts, there are less than 45,000 Asian elephants living in the wild. On a daily basis, these animals face the loss of their forest habitat, poachers who kill them for their bones, hide, ivory, and meat, capture for use in Burma's timber industry, and conflicts between elephants and man. While Asian elephants are found in 13 countries in South and Southeast Asia, nearly half of the wild population reside in India. Unless immediate steps are taken to help conserve this species, it will continue to disappear from its historic habitat.

By enacting this legislation, it is my hope that projects will be funded to update census figures, assist in antipoaching efforts, translocate highly endangered elephants, and educate the public on why it is important to protect Asian elephants.

This small but critical investment of U.S. taxpayer money will be matched by private funds and will significantly improve the likelihood that wild Asian elephants will exist in the 21st century.

We should not allow this magnificent animal to disappear from this planet. H.R. 1787 will not solve all of the problems facing the Asian elephant but it is a positive step in the right direction.

I urge an aye vote on the Asian Elephant Conservation Act of 1997.

Mr. MILLER of California. Madam Speaker, I would like to thank Mr. SAXTON and Mr. ABERCROMBIE for introducing H.R. 1787, the Asian Elephant Conservation Act of 1997. Unfortunately, it appears as if the programs this legislation will promote are needed now more than ever.

Many of us have expressed our concerns about the decision made at the recent Convention on International Trade in Endangered Species of Fauna and Flora [CITES] to downlist several populations of African elephants. At that meeting, which I attended, many representatives from elephant range states expressed their concern about the downlisting, fearing that it would send a signal to poachers that the ivory trade was about to resume. Sadly, it now seems their concerns were justified. Several of the elephant range states have experienced increased levels of poaching leading up to, and following the CITES decision, which is exactly why some of these range states opposed the downlisting proposal.

The Asian elephant has not escaped this slaughter. At the CITES conference, the representative from India stated his country's opposition to the downlisting because of the impact it would have upon the elephants in that country which is home to 50 percent of the Asian elephant population. In June and July of this year—following the CITES conference—poachers killed 20 Asian elephants in India, raising India's total poaching numbers to 52 for the first half of 1997. This is an increase in poaching activity over recent years, and when combined with habitat loss and other factors, does not bode well for the future of Asian elephants.

The Asian Elephant Conservation Act of 1997 deserves our support. H.R. 1787 will support projects that focus on protecting wild populations of Asian elephants against poaching, habitat loss, and human-elephant conflicts. This legislation promotes both fiscal efficiency and public participation by working to obtain the greatest leverage for U.S. taxpayer dollars by giving funding priority to those projects that will generate matching funds and cooperative projects. Furthermore, based upon the experiences of the similarly structured African Elephant Conservation Act of 1988 and the Rhinoceros and Tiger Conservation Act of 1994, the programs funded by this legislation should prove highly effective.

Our own Endangered Species Act recognizes the critical importance that protecting species' habitat plays in the long term survival of that species. Our goal should be to restore healthy populations of all animals in the wild by fighting poaching and protecting habitat—H.R. 1787 is a good start for doing this for Asian elephants.

Mr. CUNNINGHAM. Madam Speaker, I rise today in support of the Asian Elephant Conservation Act (H.R. 1787). This important piece of legislation will continue America's commitment to worldwide elephant conservation. I would also like to congratulate Chairman SAXTON for introducing and promoting this important legislation.

H.R. 1787 will authorize the Asian elephant conservation fund to receive $5 million each fiscal year from fiscal year 1998 to 2002. This contribution will be matched with private funds from outside interest groups committed to preserving Asian elephants. Our investment will coordinate and leverage private sector support for elephant conservation and fund projects that focus on antipoaching efforts, elephant population research, efforts to mitigate elephant-human conflict, habitat restorations, and identifying new techniques for elephant management. The creation of this important and successful program will continue to promote America's leadership to conserve and restore elephant herds in their native habitat. The future survival of Asian elephants depends upon America's leadership, and our small but crucial amount of financial support.

The Asian elephant conservation fund is based on the very successful African Elephant Conservation Act [AECA], which has been responsible for rescuing African elephants from the path to extinction. The AECA has stabilized elephant populations across Africa, tremendously slowed poaching, and provided important incentives to native people to preserve elephants.

The need for this legislation is clear. Asian elephant populations living in the wild have fallen dramatically. Right now only about 40,000 animals exist in the wild. The major cause for this decrease is shrinking habitat and expanding human populations. However, passage of this act will reverse the downward trend to elephant populations. This fund will help local villagers, who often live in fear of elephants, to coexist and benefit from the long-term conservation of elephants. This is an important step. Over time, this will reduce the high cost of conservation and save elephants from extinction.

Madam Speaker, the African Elephant Conservation Act has been a tremendous success. Let us now authorize the Asian elephant conservation fund and continue America's leadership to promote worldwide elephant conservation. I encourage all my colleagues to vote for H.R. 1787.

Mr. GILMAN. Madam Speaker, I rise in support of H.R. 1787, the Asian Elephant Conservation Act. I ask unanimous consent to revise and extend my remarks.

Madam Speaker, this legislation was referred to our Committee on International Relations, but in the interest of advancing it to early passage we waived our right to consider it.

I want to thank the sponsor of the bill, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Hawaii [Mr. ABERCROMBIE] and the leadership of the Committee on Resources, the chairman, the gentleman from Alaska [Mr. YOUNG] and the ranking minority member, the gentleman from California [Mr. MILLER].

As has already been explained, this bill sets up a system whereby the Administrator of the Agency for International Development and the Secretary of the Interior shall look for ways to help preserve the precious heritage of Asian Elephants. Not only are Asian elephants endangered—and deserving of protection—but they are especially important from a cultural and economic point of view to Americans and Asians alike.

I want to salute the many organizations that had a role in moving this bill, such as the World Wildlife Fund, Safari Club International, the Sierra Club, and our former colleague Andy Ireland of Feld Enterprises. The bill was supported by representatives of the Indian Institute of Science and the Wildlife Preservation Trust International. The model of protection in this bill is appropriate, flexible, and carries a reasonable cost.

Madam Speaker, I reiterate my support for this important legislation and yield back the balance of my time.

Mr. ABERCROMBIE. Madam Speaker, I believe everyone who wishes to speak on the issue has done so, and I yield back the balance of my time.

Mr. SAXTON. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 1787, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAXTON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on H.R. 1787, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONCURRING IN THE SENATE AMENDMENTS TO H. CON. RES. 8, REGARDING CORAL REEF ECOSYSTEMS

Mr. SAXTON. Madam Speaker, I move to suspend the rules and concur in the Senate amendments to the concurrent resolution (H. Con. Res. 8) recognizing the significance of maintaining the health and stability of coral reef ecosystems.

The Clerk read as follows:

Senate Amendments:

Strike out all after the resolving clause and insert:

That the Congress recognizes the significance of maintaining the health and stability of coral reef ecosystems, by—

(1) promoting comprehensive stewardship for coral reef ecosystems;

(2) discouraging unsustainable fisheries or other practices that are harmful to coral reefs and human health;

(3) encouraging research, monitoring, and assessment of and education on coral reef ecosystems;

(4) improving the coordination of coral reef efforts and activities of Federal agencies, academic institutions, nongovernmental organizations, and industry; and

(5) promoting preservation and sustainable use of coral reef resources worldwide.

Strike out the preamble and insert:

Whereas coral reefs are among the world's most biologically diverse and productive marine habitats, and are often described as the tropical rain forest of the oceans;

Whereas healthy coral reefs provide the basis for subsistence, commercial fisheries, and coastal and marine tourism and are of vital economic importance to coastal States and territories of the United States including Florida, Hawaii, Georgia, Texas, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

Whereas healthy coral reefs function as natural, regenerating coastal barriers, protecting shorelines and coastal areas from high waves, storm surges, and accompanying losses of human life and property

Whereas the scientific community has long established that coral reefs are subject to a wide range of natural and anthropogenic threats;

Whereas a wide variety of destructive fishing practices, including the use of cyanide, other poisons, surfactants, and explosives, are contributing to the global decline of coral reef ecosystems;

Whereas the United States has taken measures to protect national coral reef resources through the designation and management of several marine protected areas, containing reefs of the Flower Garden Banks in the Gulf of Mexico, the Florida Keys in south Florida, and offshore Hawaii, Puerto Rico, the Virgin Islands, and American Samoa;

Whereas the United States, acting through its agencies, has established itself as a global leader in coral reef stewardship by launching the International Coral Reef Initiative and by maintaining professional networks for the purposes of sharing knowledge and information on coral reefs, furnishing near real-time data collected at coral reef sites, providing a repository for historical data relating to coral reefs, and making substantial contributions to the general fund of coral reef knowledge; and

Whereas 1997 has been declared the "International Year of the Reef" by the coral reef research community and over 40 national and international scientific, conservation, and academic organizations: Now, therefore, be it

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Hawaii [Mr. ABERCROMBIE] each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, on April 23rd, the House of Representatives unanimously approved House Concurrent Resolution 8, a resolution that I introduced along with my colleague, the gentleman from Hawaii [Mr. ABERCROMBIE].

This measure expresses strong support for research, monitoring, and education related to the coral reef ecosystems. Healthy coral reefs help provide numerous benefits to the United States and other nations. For example, coral reefs support important commercial and recreational fisheries, as well as a large tourism and vacation industry, provide natural storm protection in coastal communities, and have recently become an important frontier for biomedical research.

The other body has now approved an amended version of House Concurrent Resolution 8. The amendment takes note of the alarming damage to coral reefs caused by destructive fishing practices, as unbelievable as the use of cyanide and dynamite in fishing in some areas of the globe. It further expresses the sense of Congress that international action to eliminate these unbelievably harmful practices is much needed.

I believe that this amendment is not only acceptable, but strengthens the resolution, and I am sorry that I did not think about it to begin with.

Madam Speaker, I urge the House to approve this measure as amended, and complete Congressional recognition of the importance of the coral reef ecosystems and the need to conserve them. I urge my colleagues to vote "aye".

Madam Speaker, I reserve the balance of my time.

Mr. ABERCROMBIE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, before I rise in strong support of the Senate amendments to House Concurrent Resolution No. 8, I want to assure the gentleman from New Jersey [Mr. SAXTON] that in the statement of the gentleman from California [Mr. MILLER], that I submitted on the Asian elephant resolution, that it did not contain a statement, as rumored, that while he was in favor of increasing the number of Asian elephants in South Asia, that he was for decreasing the number of elephants on the Committee on Resources.

Madam Speaker, this resolution brings much-needed attention to the crisis that coral reefs are facing worldwide. I commend yet once again the gentleman from New Jersey [Mr. SAXTON] for his leadership in introducing and passing House Concurrent Resolution No. 8, and for focusing on the subcommittee's attention on the value of and threats to coral reefs.

I also want to praise the efforts of the ranking member, the gentleman from California [Mr. MILLER] for his concern over cyanide fishing and the need to promote sustainable coral reef fisheries, ideas incorporated in the Senate amendments to the resolution.

Coral reefs, as I have every opportunity to observe, being from Hawaii, Madam Speaker, are vital to the environment and the economy of many islands and coastal States, territories, and nations. They are among the most biologically diverse and productive ecosystems on Earth, rivaling the tropical rain forests on land. The hard structure of the reef is built up over thousands of years by the secretions of tiny living coral animals, so a coral reef is truly a living structure. As a living structure, thousands, perhaps millions, of individual coral animals are dying, and others are taking their place on the reef at any one time.

The problem now is that human activities have shifted that balance, and coral reefs are dying off at an alarming rate worldwide. Coral is very sensitive to water pollution, sedimentation, damage from boat groundings, or even simple physical contact by divers. These largely inadvertent injuries are a significant cause of the well-documented decline of coral reefs worldwide. Coral reefs are, in a sense, the canary in the coal mine of the ocean.

A great deal of injury is also being inflicted on coral reefs, mainly in Southeast Asia and the Indo-Pacific

through largely illegal fishing techniques. Cyanide and other elements, such as dishwashing liquids, are being used to stun fish for capture for the aquarium trade and for the live food fish trade.

The demand for live food fish, fueled by increasing affluence in Asia, has resulted in widespread depletion of stocks of the preferred species. As a result, the live-capture boats are moving into even more remote and thus more pristine reefs. Most of the aquarium fish captured by these techniques end up in hobby tanks in the United States, I am sorry to say. Most of the live food fish end up on plates in the homes and restaurants of Southeast Asia.

More damaging than the depletion of coral reef fisheries, these chemicals kill nearby coral, and divers scrambling to get fish out of the nooks and crannies of the reef often cause substantial physical damage to the reef. In fact, research has shown that cyanide kills reef-building corals at concentrations many thousands of times less than that used by live-capture divers. While depletion of certain fish species threatens the ecological balance of the reef by removing key predators and grazers, the destruction of the reef building corals themselves tears at the very fabric of the ecosystem.

Although the State Department, NOA, the Department of the Interior and other agencies are working through the international coral reef initiative to identify and reduce threats to coral reefs, they need our help. Thus, this resolution before us today.

These kinds of unsustainable fishing practices would not be occurring if powerful market forces were not at work. The U.S. and Asian consumer demands for reef fish is, in part, driving its destruction of coral reefs. Yet, how many aquarium hobbyists would purchase a wild-caught reef fish if they truly understood that in doing so they were contributing to the destruction of the reef environment that they sought to reproduce in their tank?

Furthermore, if affordable alternatives to wild-caught fish were available, would the educated consumer not choose them? This has worked very well in the exotic bird trade, and we can do the same for reef aquarium species and specimens.

Many of the countries where the reefs are being destroyed, Indonesia, Malaysia, the Philippines, and others, have laws on the books that protect the reefs, but there is little money for enforcement, and the more lucrative the market, the more people are willing to risk the penalties in any case.

So the keys are information and education. Only by identifying these destructive practices and consumer demands that drive them can we begin to eliminate or modify them, and only through the development of sustainable coral reef fisheries can reefs be saved.

This concurrent resolution before us today, Madam Speaker, No. 8, brings the global plight of coral reefs before Congress. It is intended to raise the level of awareness of policymakers and asks us to do more.

The scientific and environmental communities have declared 1997 the International Year of the Reef. We cannot stop ships from running aground on reefs, and we may not be able to stop global warming at this stage, but what better time for us to pay attention to the many problems plaguing coral reefs and seek practical solutions to those threats that we can address? If we do not do something soon, there may not be any reefs left to save.

With these thoughts in mind, Madam Speaker, and again thanking the gentleman from New Jersey [Mr. SAXTON] for his leadership on this issue, I urge the House to adopt the resolution.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAXTON. Madam Speaker, I would like to thank the ranking member, the gentleman from Hawaii, for his great cooperation and his leadership in helping to bring this coral reef bill to the floor today.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and concur in the Senate amendments to House Concurrent Resolution 8.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAXTON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate amendments to House Concurrent Resolution 8.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

DEVILS BACKBONE WILDERNESS BOUNDARY ADJUSTMENT

Mr. BLUNT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1779) to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, MO, to exclude a small parcel of land containing improvements.

The Clerk read as follows:

H.R. 1779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY ADJUSTMENT, DEVILS BACKBONE WILDERNESS, MARK TWAIN NATIONAL FOREST, MISSOURI.

The boundary of the Devils Backbone Wilderness established by section 201(d) of Public Law 96-560 (16 U.S.C. 1132 note) in the Mark Twain National Forest, Missouri, is hereby modified to exclude from the area encompassed by the Devils Backbone Wilderness a parcel of real property consisting of approximately two acres in Ozark County, Missouri, and containing a garage, well, mailbox, driveway, and other improvements, as depicted on a map entitled "Devils Backbone Wilderness Boundary Modification", dated June 1996. The map shall be retained with other Forest Service maps and legal descriptions regarding the Devils Backbone Wilderness and shall be made available for public inspection as provided in section 202 of Public Law 96-560 (94 Stat. 3274).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. BLUNT], and the gentleman from Texas [Mr. STENHOLM], each will control 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. BLUNT].

Mr. BLUNT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today to ask my colleagues to support H.R. 1779. This bill makes a minor adjustment in the boundary of the Devils Backbone Wilderness in the Mark Twain National Forest in the Seventh District in Missouri.

Don and Laverne McFarland of Pottersville, MO, purchased their home in 1979. At the time they purchased their home they relied on a neighbor who had been part of the original surveying team to help establish where their outside boundary was and where the boundary of the wilderness area was.

As it turned out, a later survey proved that his recollections from the 1930's were not accurate. That later survey left part of their improvements, a well, their garage, and their driveway, inside the boundary of wilderness land.

□ 1445

The McFarlands are now in their seventies. They would like to retire and sell their property and move closer to their children and grandchildren. It is very difficult for them to do without this issue being settled. So I hope my colleagues will join me today in passing this resolution that will clarify this problem.

Madam Speaker, I reserve the balance of my time.

Mr. STENHOLM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 1779. It is exactly as the gentleman from Missouri [Mr. BLUNT] has

explained it. I urge my colleagues to support this bill.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BLUNT. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Missouri [Mr. BLUNT] that the House suspend the rules and pass the bill, H.R. 1779.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BLUNT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1779, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REAUTHORIZING THE DAIRY INDEMNITY PROGRAM

Mr. POMBO. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1789) to reauthorize the dairy indemnity program.

The Clerk read as follows:

H.R. 1789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DAIRY INDEMNITY PROGRAM.

(a) EXTENSION.—Section 3 of Public Law 90-484 (7 U.S.C. 4501) is amended by striking "1995" and inserting "2002".

(b) TREATMENT OF EXISTING CLAIMS.—Section 2 of Public Law 90-484 (7 U.S.C. 450k) is amended by adding at the end the following new sentence: "Funds appropriated pursuant to this section for fiscal year 1998 to carry out this Act may also be used to pay valid claims arising under this Act during fiscal year 1997 to the extent that such claims are not fully paid using fiscal year 1997 funds.".

(c) ALTERNATIVE FINANCING OPTIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress a report identifying and evaluating alternative methods to finance the dairy indemnity program established under the first section of Public Law 90-484 (7 U.S.C. 450j).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. POMBO] and the gentleman from Texas [Mr. STENHOLM] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. POMBO].

Mr. POMBO. Madam Speaker, I yield myself such time as I may consume.

Today, Madam Speaker, we are considering H.R. 1789, the reauthorization of the dairy indemnity program. H.R. 1789 was introduced by the ranking member of the Committee on Agriculture, the gentleman from Texas [Mr. CHARLIE STENHOLM], and I am glad to be an original cosponsor.

In the overall scheme scheme of things, the dairy indemnity program is a modest undertaking which reimburses dairymen when they are directed to remove their products from the market because of harmful residues occurring through no fault of the producer or the processors. Although this may be a small program, it can be vitally important to some of America's dairymen facing possible bankruptcy.

Since 1964, the dairy indemnity program was routinely reauthorized without much notice or attention. Unfortunately, it seems that after the smoke cleared from deliberations of the last farm bill, this program had been overlooked, since no action was taken to reauthorize it.

The recent rise in aflatoxin contamination in several States, however, has refocused attention on the need for this program. Therefore, H.R. 1789, which itself spends no money, would simply provide the authorization for this important program, which has quietly helped dairymen in trouble for over 20 years. At a time when our dairy industry is facing major challenges and restructuring, I would hope that we could continue to authorize and support this as a fair and equitable program.

Madam Speaker, I urge my colleagues to pass this bill, and I reserve the balance of my time.

Mr. STENHOLM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 1789, and I want to thank committee chairman, the gentleman from Oregon [Mr. SMITH], and Chairman POMBO, and the ranking member, the gentleman from Minnesota [Mr. PETERSON] of the Subcommittee on Livestock, Dairy, and Poultry for joining me in sponsoring and supporting this legislation. I am also grateful to the Secretary of Agriculture, Mr. Glickman, for his support of the bill.

Madam Speaker, H.R. 1789 authorizes appropriations for the dairy indemnity program through fiscal year 2002. Madam Speaker, on June 26, 1997, the subcommittee held a hearing on this bill and received testimony from the Department of Agriculture in support of the program and its objectives. The subcommittee also heard testimony from Mr. Calvin Buchanan, a constituent of mine who spoke on behalf of Associated Milk Producers. Mr. Buchanan is a lifelong dairy farmer, and he and his wife, Virginia, milk 500 cows in Decatur, TX.

During the hearing, Mr. Buchanan testified about the importance of the dairy indemnity program to a producer whose milk is ruined by contaminated feed. I quote:

> The Dairy Indemnity Program has been a small element of total agricultural policy over the years. It has, however, been the difference between many dairy farm families being able to continue in business and being forced to liquidate. . . .
>
> Not only do producers lose income from the market, they lose the value of the contaminated feed and often incur additional costs to clean up the problem. Given the current economic situation, there just is not room in the operation to absorb these costs.

Madam Speaker, at the time Mr. Buchanan testified, milk prices were very low, and the economic challenges facing every dairy producer in this Nation were enormous. Since that time conditions have improved only slightly, and dairy producers in Texas and many other parts of the Nation are constantly being forced to shut down their operations. Madam Speaker, passage of H.R. 1789 will be a small but important step which will help to preserve certainty of payment for dairy producers, and a safe and stable milk supply for consumers.

Madam Speaker, during fiscal year 1997 there were insufficient funds available to meet claims filed under the program. Appropriations and carryover funds provided $257,000 for the program, but that amount was depleted in February. There still are pending and unpaid applications for fiscal year 1997 funds in Georgia, Illinois, Louisiana, Mississippi, Montana, North Carolina, Tennessee, and Texas in the amount of $230,635.

I am grateful that the House and Senate have agreed to provide sufficient appropriations to meet these unpaid claims. Even in good times, a dairy farmer faces difficulties resulting from revenue lost because contaminated milk is withdrawn from the market. Many of my colleagues are well aware that now is a particularly bad time for a producer to remain unpaid for his or her milk. Passage of H.R. 1789 will help provide financial security for our Nation's hard working dairy farmers. I urge all of my colleagues to support the passage of this bill.

Madam Speaker, I yield back the balance of my time.

Mr. POMBO. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. POMBO] that the House suspend the rules and pass the bill, H.R. 1789.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. POMBO. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within

which to revise and extend their remarks on H.R. 1789, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CENSUS OF AGRICULTURE ACT OF 1997

Mr. GOODLATTE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2366) to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes.

The Clerk read as follows:

H.R. 2366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Census of Agriculture Act of 1997".

SEC. 2. AUTHORITY OF SECRETARY OF AGRICULTURE TO CONDUCT CENSUS OF AGRICULTURE.

(a) CENSUS OF AGRICULTURE REQUIRED.—In 1998 and every fifth year thereafter, the Secretary of Agriculture shall take a census of agriculture.

(b) METHODS.—In connection with the census, the Secretary may conduct any survey or other information collection, and employ any sampling or other statistical method, that the Secretary determines is appropriate.

(c) YEAR OF INFORMATION.—The information collected in each census taken under this section shall relate to the year immediately preceding the year in which the census is taken.

(d) ENFORCEMENT.—

(1) FRAUD.—A person over 18 years of age who willfully gives an answer that is false to a question, which is authorized by the Secretary to be submitted to the person in connection with a census under this section, shall be fined not more than $500.

(2) REFUSAL OR NEGLECT TO ANSWER QUESTIONS.—A person over 18 years of age who refuses or willfully neglects to answer a question, which is authorized by the Secretary to be submitted to the person in connection with a census under this section, shall be fined not more than $100.

(3) SOCIAL SECURITY NUMBER.—The failure or refusal of a person to disclose the person's social security number in response to a request made in connection with any census or other activity under this section shall not be a violation under this subsection.

(4) RELIGIOUS INFORMATION.—Notwithstanding any other provision of this section, no person shall be compelled to disclose information relative to the religious beliefs of the person or to membership of the person in a religious body.

(e) GEOGRAPHIC COVERAGE.—A census under this section shall include—

(1) each of the several States of the United States;

(2) as determined appropriate by the Secretary, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and Guam; and

(3) with the concurrence of the Secretary and the Secretary of State, any other possession or area over which the United States exercises jurisdiction, control, or sovereignty.

(f) COOPERATION WITH SECRETARY OF COMMERCE.—

(1) INFORMATION PROVIDED TO SECRETARY OF AGRICULTURE.—On a written request by the Secretary of Agriculture, the Secretary of Commerce may provide to the Secretary of Agriculture any information collected under title 13, United States Code, that the Secretary of Agriculture considers necessary for the taking of a census or survey under this section.

(2) INFORMATION PROVIDED TO SECRETARY OF COMMERCE.—On a written request by the Secretary of Commerce, the secretary of Agriculture may provide to the Secretary of Commerce any information collected in a census taken under this section that the Secretary of Commerce considers necessary for the taking of a census or survey under title 13, United States Code.

(3) CONFIDENTIALITY.—Information obtained under this subsection may not be used for any purpose other than the statistical purposes for which the information is supplied. For purposes of sections 9 and 214 of title 13, United States Code, any information provided under paragraph (2) shall be considered information furnished under the provisions of title 13, United States Code.

(g) REGULATIONS.—A regulation necessary to carry out this section may be promulgated by—

(1) the Secretary of Agriculture, to the extent that a matter under the jurisdiction of the Secretary is involved; and

(2) the Secretary of Commerce, to the extent that a matter under the jurisdiction of the Secretary of Commerce is involved.".

SEC. 3. REPEAL OF SUPERSEDED PROVISION.

(a) REPEAL.—Section 142 of title 13, United States Code, is repealed.

(b) CLERICAL AMENDMENTS.—

(1) Subchapter II of chapter 5 of title 13, United States Code, is amended by striking the subchapter heading and inserting the following:

"SUBCHAPTER II—POPULATION, HOUSING, AND UNEMPLOYMENT".

(2) The analysis of chapter 5 of title 13, United States code, is amended—

(A) by striking the item relating to section 142; and

(B) by striking the item relating to the heading for subchapter II and inserting the following:

"SUBCHAPTER II—POPULATION, HOUSING, AND UNEMPLOYMENT".

(C) CROSS REFERENCE.—Section 343(a)(11)(F) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(11)(F)) is amended by striking "taken under section 142 of title 13, United States Code".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect October 1, 1998.

SEC. 4. CONFIDENTIALITY OF INFORMATION.

(a) INFORMATION PROVIDED TO SECRETARY OF AGRICULTURE.—

(1) AUTHORITY TO PROVIDE INFORMATION.—Section 9(a) of title 13, United States Code, is amended by inserting after "chapter 10 of this title" the following: "or section 2(f) of the Census of Agriculture Act of 1997".

(2) CONFIDENTIALITY OF INFORMATION.—Section 1770(d) of the Food Security Act of 1985 (7 U.S.C. 2276(d))is amended—

(A) by striking "or" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; or"; and

(C) by adding at the end the following:

"(10) section 2 of the Census of Agriculture Act of 1997.".

(b) INFORMATION PROVIDED TO THE SECRETARY OF COMMERCE.—Section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276) is amended by adding at the end the following:

"(e) INFORMATION PROVIDED TO SECRETARY OF COMMERCE.—This section shall not prohibit the release of information under section 2(f)(2) of the Census of Agriculture Act of 1997.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. GOODLATTE] and the gentleman from Texas [Mr. STENHOLM] each will control 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2366 is a short bill. It simply transfers the authority to conduct the census of agriculture from the Secretary of Commerce to the Secretary of Agriculture, and eliminates this authority from the Secretary of Commerce as of October 1, 1998. In order to cope with the continuing move to streamline and downsize Federal agencies, it has become apparent that moving the authority to conduct the census of agriculture from the Census Bureau in the Commerce Department to the USDA makes sense from both an administrative and cost-effective point of view.

In fact, the fiscal years 1997 and 1998 agriculture appropriations bills have already shifted funding for the census of agriculture to the USDA rather than the Department of Commerce. By moving the authority to conduct the census over to the USDA, it allows the Department of Commerce to free up funds otherwise obligated for this census, eliminates the need for a specific line item in the Commerce Department's appropriation, and locates the census at the agency with the biggest interest in information collected from the census, without precluding the U.S. Department of Agriculture from working with the Commerce Department on actually getting the work done.

Madam Speaker, I would like to acknowledge the assistance of the Department of Agriculture in producing this transfer, and I would also like to thank the Committee on Government Reform and Oversight for their cooperation in developing this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. STENHOLM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2366, the Census of Agriculture Act of 1997, is, as has been explained, legislation that would shift the authority to carry out a census of agriculture from the Commerce Department to the Department of Agriculture. Similar legislation, H.R. 3665, passed the House last year.

The interest in shifting the agriculture census from the Commerce Department to USDA has occurred because of budget pressures being felt by the Census Bureau, and USDA's interest in including the agriculture census responsibilities with the data collection and dissemination which they already carry out. The Secretary of Agriculture has indicated that the National Agriculture Statistics Service, which is already responsible for gathering statistics in the agriculture arena, will be the agency charged with carrying out the agriculture census. I also expect the Secretary to utilize the other agencies within the Department who also have a field structure.

Last year's agriculture appropriation bill moved funding for the agriculture census from the Commerce Department to the USDA in order to ensure that no additional cost burden would be imposed on USDA by undertaking this task. Funding has also been included in the fiscal year 1998 agriculture appropriation bill.

As a final step, the Committee on Agriculture and the Committee on Government Reform and Oversight have agreed to legislative language that provides for the transfer of authority to carry out the agriculture census. Staff from both committees worked out language with the Census Bureau and USDA, and the result is H.R. 2366, which I introduced on July 31.

I am pleased that 16 of my colleagues have cosponsored the bill, which was reported out favorably by the full Committee on Agriculture on September 24. I would hope that my colleagues would support this effort to streamline reporting requirements on agricultural producers while saving the taxpayer several dollars.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLATTE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia [Mr. GOODLATTE] that the House suspend the rules and pass the bill, H.R. 2366.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2366, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

□ 1500

AMENDING THE IMMIGRATION AND NATIONALITY ACT TO EXEMPT INTERNATIONALLY ADOPTED CHILDREN UNDER AGE 10 FROM IMMUNIZATION REQUIREMENT

Mr. SMITH of Texas. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2464) to amend the Immigration and Nationality Act to exempt internationally adopted children under age 10 from the immunization requirement, as amended.

The Clerk read as follows:

H.R. 2464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FOR INTERNATIONALLY ADOPTED CHILDREN 10 YEARS OF AGE OR YOUNGER FROM IMMUNIZATION REQUIREMENT.

Section 212(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (C)," after "(ii)"; and

(2) by adding at the end the following:

"(C) EXCEPTION FROM IMMUNIZATION REQUIREMENT FOR ADOPTED CHILDREN 10 YEARS OF AGE OR YOUNGER.—Clause (ii) of subparagraph (A) shall not apply to a child who—

"(i) is 10 years of age or younger,

"(ii) is described in section 101(b)(1)(F), and

"(iii) is seeking an immigrant visa as an immediate relative under section 201(b),

if, prior to the admission of the child, an adoptive parent or prospective adoptive parent of the child, who has sponsored the child for admission as an immediate relative, has executed an affidavit stating that the parent is aware of the provisions of subparagraph (A)(ii) and will ensure that, within 30 days of the child's admission, or at the earliest time that is medically appropriate, the child will receive the vaccinations identified in such subparagraph.".

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the rule, the gentleman from Texas [Mr. SMITH] and the gentleman from Massachusetts [Mr. DELAHUNT] each will control 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

GENERAL LEAVE

Mr. SMITH of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I was pleased to support the efforts of the gentleman from Florida [Mr. MCCOLLUM] last year to include a vaccination requirement for all new immigrants in the Illegal Immigration Reform Act of 1996. This revision, section 341 of the 1996 act, is an important measure to protect the public health.

In recent months, adoptive parents have become concerned about whether implementation of the new vaccination requirements will compromise the health of their foreign-born adopted children. These parents have raised legitimate arguments that the administration of vaccines to their adopted or prospective adopted children should take place here in the United States.

We have every confidence that these parents will see to the immunization needs of their new children. The amendment made in committee will require parents to attest to their intention to fulfill the vaccination requirements in an appropriate time after their children have been admitted into the United States.

Madam Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, when the 104th Congress amended the Immigration and Nationality Act in 1996, they unintentionally denied American parents who were adopting orphans from other countries the right to decide where their child would be vaccinated.

That amendment required applicants for immigrant status, including children who will be adopted by American parents, to present evidence of numerous vaccinations for diseases ranging from mumps to hepatitis B before they can be admitted to the United States. This, despite the fact that there has never been a single documented case of an adopted child from another country posing any public health risk.

This unintended consequence of the 1996 act has provoked major concerns among adoptive parents and for good reason. It is important to note that every year, American families adopt some 12,000 orphaned and abandoned children living in countries that cannot care for them. These adoptive parents and families endure innumerable bureaucratic obstacles and delays that frequently take many months or even years to overcome.

International adoption is an expensive process. It is time consuming and it is often frustrating and can certainly be an emotional roller coaster for many, many parents. I know from personal experience, as my younger daughter Kara came from Vietnam. The daughter of the gentleman from Louisiana [Mr. LIVINGSTON], came from Taiwan, and the gentleman from North Dakota [Mr. POMEROY] has a son and a daughter from Korea. I certainly want to acknowledge the help and support of these Members for this proposal before the Congress.

Madam Speaker, the new requirement that I referred to only serves to impede the process of intercountry

adoptions and may very well create potential health risks to the children themselves.

I would simply ask a rhetorical question: Would any parent want to be required to rely on the medical care available in such nations as Bosnia, Afghanistan, Romania, Haiti, or a long list of other war-torn or Third World countries? I am confident that their preference, like mine, would be to have their child vaccinated by their family doctor here at home in the United States.

Let me tell my colleagues about one of the families affected by the bill, the Collins family of Hingham, MA. In September 1995, before the current requirements went into effect, they adopted a child from China who experienced a severe reaction to a DPT vaccination she received after arriving in the United States.

While such reactions can be serious wherever they occur, Judy and Richard Collins were relieved and grateful to be able to ensure that their daughter, Brittany, had the very best of care here at home.

They are now about to complete the adoption process for another child from China, and I sincerely hope that they will be able to provide him or her with that same level of care.

Additionally, there is evidence that vaccinations in some countries can be unsafe or ineffective promoting adverse reactions and that unsterile needles and syringes have been used. These are real health threats, especially for the many children raised in orphanages who may be malnourished or sickly and whose medical records are often incomplete or are inaccurate.

Madam Speaker, as I said, there is not a single case documented of a child placed for adoption who came to this country and created a public health risk. It is only common sense that parents who have been through the rigorous international adoption process will do anything they can to assure that their adopted child will receive the best possible medical care as soon as they arrive here, home in America.

Remember, they are not unwanted children. To the contrary. They are often the children who bring great joy to childless couples.

This bill, sponsored by myself and the gentleman from Florida [Mr. MCCOLLUM], restores common sense in the case of adoptive children immigrating to the United States. It would exempt foreign-born orphans aged 10 and younger who are adopted by American families from this vaccination requirement.

It has, as has been indicated, the full support of the gentleman from Texas [Mr. SMITH], chair of the Subcommittee on Immigration and Claims, and was passed unanimously by the Committee on the Judiciary.

Madam Speaker, I want to acknowledge the time and thoughtful review given to this proposal by both the gentleman from Florida and the gentleman from Texas, as well as the support of Chairman HYDE and our ranking members, the gentleman from Michigan [Mr. CONYERS] and the gentleman from North Carolina [Mr. WATT].

I also want to acknowledge the priority given to the swift passage of this measure by both the gentleman from Florida and the gentleman from Texas, as it is important to remember that this requirement is now in effect and may very well be impeding the entry of orphaned children into the United States where their American families are anxiously awaiting them.

This bill is strongly supported by the adoption community, parents groups, and physicians with expertise in the medical aspects of international adoption. These groups include the Joint Council on International Children's Services, Adoptive Families of America, the National Council for Adoption, the American Academy of Pediatrics, and the Child Welfare League.

I strongly agree with them and enthusiastically support this proposal and urge its passage.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Madam Speaker, I thank the gentleman from Massachusetts [Mr. DELAHUNT] for his comments and also for his help in shepherding the bill to the point where we are at today.

Madam Speaker, I yield 2 minutes to the gentlewoman from Kentucky [Mrs. NORTHUP], and also in the process I want to thank the gentlewoman for being a longtime proponent of the changes that we propose in this bill as well.

Mrs. NORTHUP. Madam Speaker, I would just like to add my voice to the very reasonable voices of the sponsors of this bill and comment from a personal perspective as the mother of two adopted children and children that were at risk.

Many of the orphans from overseas that come into this country come in here to this country in a weakened state. They come from communities and countries that do not have the opportunity for immunization and for medical records that we have in this country.

□ 1515

From a very loving perspective, these opportunities represent real families, real lives, real children. These families may be the only chance that these children have to grow up in a stable, healthy, loving family. For many of the parents, it is the only chance that they have to actually become parents, to create families and to have the wonderful joy that children bring into our lives.

I think considering that each year American families provide 12,000 foreign-born orphan children with a home, that we should do everything we can in Congress to make that continue, to make that opportunity ever possible and to create the welcoming, generous opportunity that so many families want to create. I think what we do today is remove an obstacle so that we can continue to have this opportunity for children and parents in this country.

Mr. SMITH of Texas. Madam Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Madam Speaker, I yield 4 minutes to the gentleman from North Dakota [Mr. POMEROY], who has done so much in the area of the adopted children of this Nation.

Mr. POMEROY. Madam Speaker, I want to begin my remarks by congratulating the gentleman for the leadership he has brought to this task. As a first-year Member of this body, I think that Representative DELAHUNT has shown remarkable tenacity as well as ability in bringing this bipartisan accord to the floor of the House today.

I also want to thank the Members of the majority, particularly the committee chairmen of jurisdiction, for their assistance in bringing this bill up.

I have got a personal perspective; I would like to tell my colleagues a little bit about it.

I was a Member of the 103d Congress when, as a Member on the Hill on a busy day, I got a note that said, "Time to go to National Airport." Our daughter, Kathryn, had arrived that day from Korea, my wife and I anxiously awaited her departure from the airplane to begin our life together as a family. It was a moment that I will never ever forget.

Within 24 hours, we had Kathryn to her first visit to the physician. While it was painful watching her being poked and prodded that day, there was no way in the world that we as new parents were going to accept as adequate the uncertain medical records of a foreign country. We began the whole business right here in this country. We did that as parents but, in addition, the agency through which we adopted Kathryn had immediate U.S. medical evaluation as the basic requirement. I think that is pretty much the universal experience of adoptive parents of children from another country. We try to get them here as fast as possible; get them to the doctor immediately and start the childhood vaccination and inoculations.

Existing law needs correcting because we have now a requirement that the inoculations take place in the foreign country prior to their arrival here. There are many uncertainties in terms of basic things like sanitary needles, strength of the vaccine, in addition, the untenable delay that can be caused by this requirement.

Delay is really the enemy of getting families together. As we learn about

the biological developments of adoption of any infants, we know that delay is something to be avoided. We need to get children as soon as possible into families and start the development in their new homes.

I routinely speak on behalf of all of the citizens of North Dakota when I take to the well, but today I want to cite two in particular, Dan and Laurel, as I speak to my colleagues this afternoon. They are in Fargo, ND, eagerly awaiting a little girl who happens to be across the world in China. They cannot wait to get their little girl into their home. They, and all similarly situated soon-to-be adoptive parents, need this legislation so that this delay can be avoided.

Again, this is a great moment for bipartisan cooperation to fix something that needs fixing. I thank everyone for participating and getting this done today and conclude my remarks.

Mr. DELAHUNT. Madam Speaker, I yield 3 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Madam Speaker, I congratulate the gentleman from Massachusetts [Mr. DELAHUNT], for his leadership on this bill. I am proud to be a part of this effort to exempt internationally adopted children from the vaccination requirements of the INA. I want to thank my colleagues who have worked together in a bipartisan manner to correct this problem.

Internationally adopted children face serious and unnecessary health risks as a result of this new law that went into effect last July. The provision requires immunization of all immigrants, even newborn infants adopted by U.S. parents. Forced immunization of children abroad in conditions that may be substandard exposes children to health risks from nonsterile needles, from out-of-date or improperly stored vaccines and from foreign doctors who may not follow recommended pediatric guidelines on vaccination. It should also be noted that vaccinations given to children who are malnourished or unhealthy, as are many children living in orphanages abroad, can actually create health problems.

As a representative from the New York City area, where there are at least 1,000 adopted girls from China alone, I have heard directly from my constituents about the difficulties in getting a medical exemption from this requirement for their adopted children. I have letters from the State Department that specifically state that "the law as it now stands does not allow an adopted child to receive a waiver due to concerns about the safety of vaccines in a given country or because they have made plans to be immunized upon their arrival in the United States."

This bill would allow the children to be vaccinated here in the United States once they have arrived under the supervision of their adoptive parents in safe and clean environments instead of forcing them to undergo potential health risks abroad.

I hope the action we take here today will address these concerns and correct this problem.

It should also be noted that this bill simply represents a return to the policy that existed before July 1 of this year. The administration has indicated its support for exempting internationally adopted children from this provision and, in fact, would like to see the exemption expanded to all children. However, we have an opportunity today to correct a glaring problem and ease the fears of adoptive parents by passing this bill today, and I am hopeful the administration will sign this bill into law without delay.

Finally, I want to thank families with children from China and the National Council for Adoption for all the hard work they have done on behalf of adopted children and their families to further this legislation. Their efforts were critical to building support for this measure. Again, I want to thank those of my colleagues who worked on this in a bipartisan manner.

Mr. BLILEY. Madam Speaker, as cochairman of the bipartisan Congressional Coalition on Adoption, I rise today in support of H.R. 2464, a commonsense solution to a problem facing adoptive parents and their new kids. My office has received letters from all over the country in this matter and I want to thank these parents for their efforts. As an adoptive parent, I know there is no greater love than the bond between the child and their new parents. Adoptive parents will take all the steps necessary to protect their children from undue health dangers inside and outside of the country.

This bill is necessary to protect children's health because incomplete medical histories and background information are routine occurrences for overseas adoptions. Adoptive parents rightful uncertainty about their child's medical care received overseas makes it very hard to determine their child's immunization status. Disposable needles and syringes and substandard sterilization processes compound the problem.

At the minimum, Congress should do no harm. Last year, we properly addressed public safety concerns by requiring immigrants to be immunized against specified communicable diseases in order to gain lawful entry into the country. This bill today still requires young orphans to be vaccinated, however, it gives adoptive parents the right to have their children immunized in this country. Adoptive parents have already undergone significant expense and it is unthinkable to surmise they won't promptly tend to their new child's medical needs.

Mr. SMITH of Texas. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DELAHUNT. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Texas [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 2464, as amended.

The question was taken.

Mr. SMITH of Texas. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PRESIDENTIAL AND EXECUTIVE OFFICE FINANCIAL ACCOUNTABILITY ACT OF 1997

Mr. HORN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1962) to provide for the appointment of a chief financial officer and deputy chief financial officer in the Executive Office of the President, as amended.

The Clerk read as follows:

H.R. 1962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Presidential and Executive Office Financial Accountability Act of 1997".

SEC. 2. CHIEF FINANCIAL OFFICER IN THE EXECUTIVE OFFICE OF THE PRESIDENT.

(a) IN GENERAL.—Section 901 of title 31, United States code, is amended by adding at the end the following:

"(c)(1) There shall be within the Executive Office of the President a Chief Financial Officer, who shall be designated or appointed by the President from among individuals meeting the standards described in subsection (a)(3). The position of Chief Financial Officer established under this paragraph may be so established in any Office (including the Office of Administration) of the Executive Office of the President.

"(2) The Chief Financial Officer designated or appointed under this subsection shall, to the extent that the President determines appropriate and in the interest of the United States, have the same authority and perform the same functions as apply in the case of a Chief Financial Officer of an agency described in subsection (b).

"(3) The President shall submit to Congress notification with respect to any provision of section 902 that the President determines shall not apply to a Chief Financial Officer designated or appointed under this subsection.

"(4) The President may designate an employee of the Executive Office of the President (other than the Chief Financial Officer), who shall be deemed 'the head of the agency' for purposes of carrying out section 902, with respect to the Executive Office of the President.".

(b) PLAN FOR IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the President shall communicate

in writing to the Chairman of the Committee on Government Reform and Oversight of the House of Representatives and the Chairman of the Committee on Governmental Affairs of the Senate a plan for implementation of the provisions of, including the amendments made by, this Act.

(c) DEADLINE FOR APPOINTMENT.—The Chief Financial Officer designated or appointed under section 901(c) of title 31, United States Code (as added by subsection (a)), shall be so designated or appointed not later than 180 days after the date of the enactment of this Act.

(d) PAY.—The Chief Financial Officer designated or appointed under such section shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(e) TRANSFER OF FUNCTIONS.—(1) The President may transfer such offices, functions, powers, or duties thereof, as the President determines are properly related to the functions of the Chief Financial Officer under section 901(c) of title 31, United States Code (as added by subsection (a)).

(2) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office the functions, powers, or duties of which are transferred under paragraph (1) shall also be so transferred.

(f) SEPARATE BUDGET REQUEST.—Section 1105(a) of title 31, United States Code, is amended by inserting after paragraph (3) the following new paragraph:

"(31) a separate statement of the amount of appropriations requested to carry out the provisions of the Presidential and Executive Office Financial Accountability Act of 1997.".

(g) TECHNICAL AND CONFORMING AMENDMENTS.—Section 503(a) of title 31, United States Code, is amended—

(1) in paragraph (7) by striking "respectively." and inserting "respectively (excluding any officer designated or appointed under section 901(c))."; and

(2) in paragraph (8) by striking "Officers." and inserting "Officers (excluding any officer designated or appointed under section 901(c))."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN], and the gentlewoman from New York [Mrs. MALONEY], each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

Mr. HORN. Madam Speaker, I yield myself such time as I may consume.

H.R. 1962, the Presidential and Executive Office Financial Accountability Act of 1997 will apply the Chief Financial Officers Act of 1990 to the Executive Office of the President. The substance of H.R. 1962 passed the House of Representatives with overwhelming support last fall. It was part of H.R. 3452, the Presidential and Executive Office Accountability Act, which passed the House by a vote of 410 to 5 on September 24, 1996.

That important measure was authored by the gentleman from Florida [Mr. MICA], a distinguished Member of this House and chairman of the Subcommittee on Civil Service. Unfortunately, as the 104th Congress raced to a close, the chief financial officer provision did not make it into law. We now have an opportunity to advance this important reform.

The Chief Financial Officers Act of 1990 was landmark legislation. It was inspired by the realization that billions of dollars are lost through waste, fraud, abuse and mismanagement throughout the Federal Government. The waste stems in part from the obsolete and inefficient financial management systems that fail to produce consistent and reliable information. The Chief Financial Officers Act was designed to improve management and to coordinate internal controls and financial accounting.

The act installed a chief financial officer in every major department and agency. Chief financial officers oversee all financial management activities in their agencies and they report directly to the head of the agency on financial matters. This high-level reporting is crucial if financial management issues are going to have a voice at the leadership table in Federal agencies.

Chief financial officers also develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls. Furthermore, the chief financial officers provide guidance and oversight of financial management personnel activities and operations in these agencies. This ensures in-house expertise on financial management.

It also establishes a point of responsibility for all financial operations.

Given the importance of the Chief Financial Officers Act, it must surprise some Members to learn that the law was never applied to the Executive Office of the President. The Presidential and Executive Office Financial Accountability Act of 1997 will do so in a way that recognizes the unique circumstances of the Presidency. The chief financial officer will review and audit financial systems and records of the Executive Office of the President. This type of control has worked well in other Federal agencies, including the Department of Justice and the Central Intelligence Agency.

The Subcommittee on Government Management, Information and Technology marked up H.R. 1962 on September 4, 1997. The subcommittee considered an amendment in the nature of a substitute that was based on negotiations with the Democratic minority on the subcommittee and with the White House. The purpose of these changes is to provide the White House with maximum flexibility in meeting the requirements of the Chief Financial Officers Act due to its special circumstances. The subcommittee voted unanimously to forward H.R. 1962 with the amendment in the nature of a substitute to the full Committee on Government Reform and Oversight for consideration.

The full Committee on Government Reform and Oversight marked up H.R. 1962 on September 30, 1997. The committee adopted the amendment in the nature of a substitute reported by the subcommittee and voted unanimously to report the bill, as amended, to the full House of Representatives.

Madam Speaker, "The Administration has no objection to House passage of H.R. 1962." We have received today, a Statement of Administration Policy which I include in the RECORD at this point.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 21, 1997.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

H.R. 1962—Presidential and Executive Office Financial Accountability Act of 1997

(Reps. Horn (R) CA and 7 others)

The Administration has no objection to House passage of H.R. 1962.

I urge all of my colleagues to join in supporting this very important reform. I thank the ranking Democrat on the Subcommittee on Government Management, Information, and Technology, the gentlewoman from New York [Mrs. MALONEY], for the support that she has given us and the advice she has given us on this legislation.

Madam Speaker, I reserve the balance of my time.

Mrs. MALONEY of New York. Madam Speaker, I yield myself such time as I may consume.

H.R. 1962, the Presidential and Executive Office Financial Accountability Act, was originally included as a provision of H.R. 3452, the Presidential and Executive Office Accountability Act, which is now Public Law 104-331. The provision was deleted from H.R. 3452 prior to final passage by the other body.

□ 1530

H.R. 3452 extended certain labor and civil rights laws to the White House, much as the Congressional Accountability Act did for Congress. H.R. 1962, the Presidential and Executive Office Financial Accountability Act, as amended, would require the appointment of a chief financial officer in the Executive Office of the President.

The Chief Financial Officers Act of 1990 was landmark legislation which brought needed improvements to the executive branch by requiring sound financial management practices, automated financial systems, and annual reports to Congress. This law has resulted in substantial savings, probably billions of dollars, by eliminating waste, fraud, and abuse in the 24 major agencies in the executive branch.

Putting a chief financial officer in the Executive Office of the President is

an improvement, and one which the White House supports. As was the case last year with H.R. 3452, the chairman has worked with the minority and with the White House to improve this legislation.

I thank the gentleman from California [Mr. HORN] for the bipartisan spirit with which he has approached this issue. The amendment in the nature of a substitute adopted by our committee addressed our concerns with the original bill. It eliminated the requirement for a deputy chief financial officer for the Executive Office of the President as an unnecessary provision given the small size of that office.

That amendment also provides the President significant discretion in implementing the act required due to the special nature of that office.

In addition, that amendment provided for a separate budget request to pay for implementation. Under this legislation, the President may designate someone already employed in the Executive Office of the President as the chief financial officer. The chief financial officer may also be established in any office of the Executive Office of the President, including the Office of Administration.

The most logical place for the Executive Office of the President's chief financial officer is in the Office of Administration, since the financial management division of that office already performs 90 percent of the duties required by the Chief Financial Officers Act.

The chairman has worked constructively with the minority and with the administration to perfect this bill and has committed to continue working in a bipartisan manner to address any remaining concerns in report language. I support H.R. 1962 and urge my colleagues to vote for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HORN. Mr. Speaker, I yield myself such time as I may consume to thank the gentlewoman from New York for her helpful comments in rounding out this legislation.

I might say, Mr. Speaker, this legislation, when we talk about the Executive Office of the President, currently includes the White House Office, the executive residence of the White House, the Office of the Vice President, the Council of Economic Advisers, the Council on Environmental Quality, the National Security Council, the Office of Administration, the Office of Management and Budget, the Office of National Drug Control Policy, the Office of Policy Development, the Office of Science and Technology Policy, and the Office of United States Trade Representative.

The current structure of the White House first began with Franklin Roosevelt in 1939, after the Brownlow committee report, which gave the President really the first staff and support system in this particular century. Now, different Presidents, either by Executive order or Congress, by statute on the recommendation of the President, has set up various offices over time to help the Presidency in terms of legislation, budget, policy development of one sort or the other, and this chief financial officer would be available to the President for various special assignments having to do with fiscal affairs, as it is for the normal use that comes under the Chief Financial Officers Act. And I believe that we have had very strong support from all people that have looked at this from the standpoint of government organization.

Mr. Speaker, I provide for the RECORD a document from the Congressional Budget Office on H.R. 1962.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1962—Presidential and Executive Office Financial Accountability Act of 1997

CBO estimates that, subject to the availability of appropriated funds, enacting H.R. 1962 would increase cost of the Office of Administration (OA) within the Executive Office of the President (EOP) by no more than $250,000 a year. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 1962 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would not affect the budgets of state, local, or tribal governments.

H.R. 1962 would require the President to appoint a chief financial officer (CFO) for the 12 agencies and offices that comprise the EOP. The bill would require the CFO to comply with those provisions of the CFO Act that the President determines to be appropriate and in the interest of the United States. Based on information provided by the Office of Management and Budget and the Office of Administration, CBO expects that the President would appoint as CFO someone within the OA, which already provides centralized financial management and accounting services to the EOP. As a result of enacting H.R. 1962, the OA might require an additional employee or two to coordinate activities within the EOP. In addition, the OA would need to contact with a private firm to audit the consolidated annual financial statements of the EOP. We estimate that the annual audit would cost around $100,000.

In total, assuming no major problems exist in the financial management and systems of the EOP, CBO estimates that enacting H.R. 1962, would increase annual cost of the OA by no more than $250,000. In addition, it is possible that by improving financial systems and communication within the EOP, the legislation could lead to a reduction in losses from waste and abuse, buy CBO cannot estimate and amount of such potential savings.

The CBO staff contact for this estimate is John R. Righter, who can be reached at 226–2860. The estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

Mr. HORN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MALONEY of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and pass the bill, H.R. 1962, as amended.

The question was taken.

Mr. HORN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

NATIONAL NARCOTICS LEADERSHIP ACT AMENDMENTS OF 1997

Mr. HASTERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2610) to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 1999, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "National Narcotics Leadership Act Amendments of 1997".

(b) AMENDMENT REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1501 et seq.).

SEC. 2. DEPUTY DIRECTORS.

(a) ESTABLISHMENT.—Section 1002 (21 U.S.C. 1501) is amended—

(1) in subsection (b)—

(A) by amending paragraph (2) to read as follows:

"(2) There shall be in the Office of National Drug Control Policy a Deputy Director of the Office of National Drug Control Policy, a Deputy Director for Demand Reduction, a Deputy Director for Supply Reduction, a Deputy Director for State and Local Affairs, and a Deputy Director of Intelligence."; and

(B) by amending paragraph (3) to read as follows:

"(3) The Deputy Director of the Office of National Drug Control Policy, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, the Deputy Director for State and Local Affairs, and the Deputy Director of Intelligence shall assist the Director in carrying out the responsibilities of the Director under this Act."; and

(2) by amending subsection (c)(2) to read as follows:

"(2) The Deputy Director for State and Local Affairs shall be the head of the Bureau of State and Local Affairs.".

(b) APPOINTMENT.—

(1) IN GENERAL.—Section 1003(a) (21 U.S.C. 1502(a)) is amended—

(A) in each of paragraphs (1) and (2), by inserting ''the Deputy Director of the Office of National Drug Control Policy,' after ''The Director,'';

(B) in each of paragraphs (1) and (2), by striking ''and the Associate Director for National Drug Control Policy'' and inserting ''the Deputy Director for State and Local Affairs, and the Deputy Director of Intelligence''; and

(C) in paragraph (2), by striking '', a Deputy Director, or Associate Director'' and inserting ''or as a Deputy Director''.

(2) DEADLINE FOR NOMINATION.—The President shall submit to the Senate nominations of individuals for appointment as the Deputy Director of the Office of National Drug Control Policy, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, the Deputy Director for State and Local Affairs, and the Deputy Director of Intelligence of the Office of National Drug Control Policy by not later than 90 days after the date of the enactment of this Act.

(3) CONTINUED SERVICE OF ASSOCIATE DIRECTOR.—The individual serving on the date of the enactment of this Act as Associate Director for National Drug Control Policy may act as the Deputy Director for State and Local Affairs until such time as an individual is appointed to that position in accordance with the amendments made by this Act.

(4) CLERICAL AMENDMENT.—The heading of section 1003 (21 U.S.C. 1502) is amended to read as follows:

''SEC. 1003. APPOINTMENT AND DUTIES OF DIRECTOR AND DEPUTY DIRECTORS.''.

(c) COMPENSATION.—

(1) IN GENERAL.—Chapter 53 of title 5, United States Code, is amended—

(A) in section 5314, by inserting after the item relating to the Deputy Director for Supply Reduction, Office of National Drug Control Policy, the following:

''Deputy Director for State and Local Affairs, Office of National Drug Control Policy.

''Deputy Director of Intelligence, Office of National Drug Control Policy.'';

(B) in section 5313, by adding at the end the following:

''Deputy Director of the Office of National Drug Control Policy.''; and

(C) in section 5315, by striking the item relating to the Associate Director for National Drug Control Policy, Office of National Drug Control Policy.

(2) CLERICAL AMENDMENT.—Section 1003(a) (21 U.S.C. 1502(a)) is amended by striking paragraph (4)(C).

SEC. 3. EXPANSION OF RESPONSIBILITIES OF DIRECTOR.

(a) EXPANSION OF RESPONSIBILITIES.—Section 1003(b) (21 U.S.C. 1502(b)) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) establish Federal policies, objectives, goals, priorities, and performance measures (including specific annual agency targets expressed in terms of precise percentages) for the National Drug Control Program and for each National Drug Control Program agency, which include targets for the following:

''(A) reduction of unlawful drug use to 3 percent of the population of the United States or less by December 31, 2001 (as measured in terms of overall illicit drug use during the past 30 days by the National Household Survey), and achievement of at least 25 percent of such reduction during each of 1998, 1999, 2000, and 2001;

''(B) reduction of adolescent unlawful drug use (as measured in terms of illicit drug use during the past 30 days by the Monitoring the Future Survey of the University of Michigan or the National PRIDE Survey conducted by the National Parents' Resource Institute for Drug Education) to 3 percent of the adolescent population of the United States or less by December 31, 2001, and achievement of at least 25 percent of such reduction during each of 1998, 1999, 2000, and 2001;

''(C) reduction of the availability of cocaine, heroin, marijuana, and methamphetamine in the United States by 80 percent by December 31, 2001;

''(D) reduction of the respective nationwide average street purity levels for cocaine, heroin, marijuana, and methamphetamine (as estimated by the interagency drug flows assessment led by the Office of National Drug Control Policy, and based on statistics collected by the Drug Enforcement Administration and other National Drug Control Program agencies identified as relevant by the Director) by 60 percent by December 31, 2001, and achievement of at least 25 percent of each such reduction during each of 1998, 1999, 2000, and 2001;

''(E) reduction of drug-related crime in the United States by 50 percent by December 31, 2001, and achievement of at least 25 percent of such reduction during each of 1998, 1999, 2000, and 2001, including—

''(i) reduction of State and Federal unlawful drug trafficking and distribution;

''(ii) reduction of State and Federal crimes committed by persons under the influence of unlawful drugs; and

''(iii) reduction of State and Federal crimes committed for the purpose of obtaining unlawful drugs or obtaining property that is intended to be used for the purchase of unlawful drugs; and

''(F) reduction of drug-related emergency room incidents in the United States (as measured by data of the Drug Abuse Warning Network on illicit drug abuse), including incidents involving gunshot wounds and automobile accidents in which illicit drugs are identified in the bloodstream of the victim, by 50 percent by December 31, 2001;'';

(2) by amending paragraph (3) to read as follows:

''(3) coordinate, oversee, and evaluate the effectiveness of the implementation of the policies, objectives, goals, performance measures, and priorities established under paragraph (1) and the fulfillment of the responsibilities of the National Drug Control Program agencies under the National Drug Control Strategy;'';

(3) in paragraph (5), by inserting ''and nongovernmental entities involved in demand reduction'' after ''governments'';

(4) by striking ''and'' at the end of paragraph (7);

(5) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(6) by adding at the end the following new paragraphs:

''(9) require each National Drug Control Program agency to submit to the Director on a semi-annual basis (beginning with the first 6 months of 1998) an evaluation of progress by the agency with respect to drug control program goals using the performance measures referred to in paragraph (1), including progress with respect to—

''(A) success in reducing domestic and foreign sources of illegal drugs;

''(B) success in protecting the borders of the United States (and in particular the Southwestern border of the United States) from penetration by illegal narcotics;

''(C) success in reducing violent crime associated with drug use in the United States;

''(D) success in reducing the negative health and social consequences of drug use in the United States; and

''(E) implementation of drug treatment and prevention programs in the United States and improvements in the adequacy and effectiveness of such programs;

''(10) submit to Congress on a semi-annual basis, not later than 60 days after the date of the last day of the applicable 6-month period, a summary of—

''(A) each of the evaluations received by the Director under paragraph (9); and

''(B) the progress of each National Drug Control Program agency toward the drug control program goals of the agency using the performance measures described in paragraph (1);

''(11) require the National Drug Control Program agencies to submit to the Director not later than February 1 of each year a detailed accounting of all funds expended by the agencies for National Drug Control Program activities during the previous fiscal year, and require such accounting to be authenticated by the Inspector General for each agency prior to submission to the Director;

''(12) submit to Congress not later than April 1 of each year the information submitted to the Director under paragraph (11);

''(13) submit to Congress not later than August 1 of each year a report including—

''(A) the budget guidance provided by the Director to each National Drug Control Program agency for the fiscal year in which the report is submitted and for the other fiscal years within the applicable five-year budget plan relating to such fiscal year; and

''(B) a summary of the request of each National Drug Control Program agency to the Director under this Act (prior to review of the request by the Office of Management and Budget) for the resources required to achieve the targets of the agency under this Act;

''(14) act as a representative of the President before Congress on all aspects of the National Drug Control Program;

''(15) act as the primary spokesperson of the President on drug issues;

''(16) make recommendations to National Drug Control Program agency heads with respect to implementation of Federal counterdrug programs;

''(17) take such actions as necessary to oppose any attempt to legalize the use of a substance (in any form) that—

''(A) is listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812); and

''(B) has not been approved for use for medical purposes by the Food and Drug Administration; and

''(18) ensure that drug prevention and drug treatment research and information is effectively disseminated by National Drug Control Program agencies to State and local governments and nongovernmental entities involved in demand reduction by—

''(A) encouraging formal consultation between any such agency that conducts or sponsors research, and any such agency that disseminates information in developing research and information product development agendas;

''(B) encouraging such agencies (as appropriate) to develop and implement dissemination plans that specifically target State and local governments and nongovernmental entities involved in demand reduction; and

''(C) developing a single interagency clearinghouse for the dissemination of research

and information by such agencies to State and local governments and nongovernmental agencies involved in demand reduction.".

(b) SURVEY OF DRUG USE.—(1) The University of Michigan shall not be prohibited under any law from conducting the survey of drug use among young people in the United States known as the Monitoring the Future Survey.

(2) The National Parents' Resource Institute for Drug Education in Atlanta, Georgia, shall not be prohibited under any law from conducting the survey of drug use among young people in the United States known as the National PRIDE Survey.

SEC. 4. EXPANSION OF POWERS OF DIRECTOR.

Section 1003(d) (21 U.S.C. 1502(d)) is amended—

(1) in paragraph (9), by striking the period and inserting a semicolon; and

(2) by adding at the end the following new paragraphs:

"(10) require the heads of National Drug Control Program agencies to provide the Director with statistics, studies, reports, and any other information regarding Federal control of drug abuse;

"(11) require the heads of National Drug Control Program agencies to provide the Director with information regarding any position (before an individual is nominated for such position) that—

"(A) relates to the National Drug Control Program;

"(B) is at or above the level of Deputy Assistant Secretary; and

"(C) involves responsibility for Federal counternarcotics or anti-drug programs; and

"(12) make recommendations to the National Drug Intelligence Center on the specific projects that the Director determines will enhance the effectiveness of implementation of the National Drug Control Strategy.".

SEC. 5. SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.

(a) IN GENERAL.—Section 1005(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) include comprehensive, research-based, specific, long-range goals and performance measures (including specific annual targets expressed in terms of precise percentages) for reducing drug abuse and the consequences of drug abuse in the United States;";

(2) by striking "and" at the end of paragraph (2)(C);

(3) by striking paragraph (2)(D);

(4) by adding at the end of paragraph (2) the following new paragraphs:

"(D) include 4-year projections for National Drug Control Program priorities (including budget priorities); and

"(E) review international, Federal, State, local, and private sector drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.";

(5) in paragraph (3)(A), by striking clauses (iv) and (v) and inserting the following:

"(iv) private citizens and organizations with experience and expertise in demand reduction;

"(v) private citizens and organizations with experience and expertise in supply reduction; and

"(vi) appropriate representatives of foreign governments.";

(6) in paragraph (4)—

(A) in subparagraph (B), by amending clauses (i) through (vi) to read as follows:

"(i) the quantities of cocaine, heroin, marijuana, methamphetamine, ecstasy, and rohypnol available for consumption in the United States;

"(ii) the amount of cocaine, heroin, marijuana, ecstasy, rohypnol, methamphetamine, and precursor chemicals entering the United States;

"(iii) the number of hectares of marijuana, poppy, and coca cultivated and destroyed domestically and in other countries;

"(iv) the number of metric tons of marijuana, cocaine, heroin, and methamphetamine seized;

"(v) the number of cocaine and methamphetamine processing labs destroyed domestically and in other countries;

"(vi) changes in the price and purity of heroin and cocaine, changes in price of methamphetamine, and changes in tetrahydrocannabinol level of marijuana;";

(B) by striking "and" at the end of subparagraph (C);

(C) by striking the period at the end subparagraph (D) and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(E) assessment of the cultivation of illegal drugs in the United States."; and

(7) in paragraph (5)—

(A) in the matter preceding subparagraph (A), by striking "February 1, 1995" and inserting "February 1, 1998";

(B) in the matter preceding subparagraph (A), by striking "second";

(C) by striking "and" at the end of subparagraph (C);

(D) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(E) by adding at the end the following new subparagraph:

"(E) a description of the National Drug Control Program performance measures described in subsection (a)(2)(A).".

(b) GOALS AND PERFORMANCE MEASURES FOR NATIONAL DRUG CONTROL STRATEGY.—Section 1005(b) is amended—

(1) in the heading, by striking ", OBJECTIVES, AND PRIORITIES" and inserting "AND PERFORMANCE MEASURES";

(2) in the matter after the heading, by inserting "(1)" before "Each National Drug Control Strategy";

(3) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F);

(4) in subparagraph (A) (as redesignated by paragraph (3)), by striking "and priorities" and inserting "and performance measures";

(5) in subparagraph (C) (as redesignated by paragraph (3)), by striking "3-year projections" and inserting "4-year projections"; and

(6) by adding at the end the following new paragraph:

"(2) In establishing the performance measures required by this subsection, the Director shall—

"(A) establish performance measures and targets expressed in terms of precise percentages for each National Drug Control Strategy goal and objective;

"(B) revise such performance measures and targets as necessary, and reflect such performance measures and targets in the National Drug Control Program budget submitted to Congress;

"(C) consult with affected National Drug Control Program agencies;

"(D) identify programs and activities of National Drug Control Program agencies that support the goals of the National Drug Control Strategy;

"(E) evaluate in detail the implementation by each National Drug Control Program agency of program activities supporting the National Drug Control Strategy;

"(F) monitor consistency between the drug-related goals of the National Drug Control Program agencies and ensure that drug control agency goals and budgets fully support, and are fully consistent with, the National Drug Control Strategy;

"(G) coordinate the development and implementation of national drug control data collection and reporting systems to support Federal policy formulation and performance measurement;

"(H) ensure that no Federal drug control funds are expended for any study or contract relating to the legalization (for a medical use or any other use) of a substance listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812); and

"(I) ensure that no Federal funds appropriated for the High Intensity Drug Trafficking Program are expended for the expansion of drug treatment programs.".

SEC. 6. REPORT ON DESIGNATION OF HIGH INTENSITY DRUG TRAFFICKING AREAS.

Section 1005(c)(3) is amended to read as follows:

"(3) Not later than March 1 of each year, the Director shall submit to Congress a report—

"(A) on the effectiveness of, and need for, the designation of areas under this subsection as high intensity drug trafficking areas; and

"(B) that includes any recommendations of the Director for legislative action with respect to such designation.".

SEC. 7. REPROGRAMMING AND TRANSFER OF FUNDS.

(a) EXPANSION OF TRANSFER AUTHORITY.—Section 1003(d)(8) (21 U.S.C. 1502(d)(8)) is amended to read as follows:

"(8) except to the extent that the Director's authority under this paragraph is limited in an annual appropriations Act, and with the concurrence of the head of the affected agency and upon advance approval of the Committees on Appropriations and the authorizing committees of the House of Representatives and the Senate, transfer funds appropriated to a National Drug Control Program agency program, activity, or function designated by the Director pursuant to subsection (c) to a different National Drug Control Program agency program, activity, or function designated by the Director pursuant to such subsection in an amount that does not exceed 5 percent of the amount appropriated to either program, activity, or function;".

(b) REPORT.—Section 1003(c)(7) (21 U.S.C. 1502(c)(7)) is amended to read as follows:

"(7)(A) The Director shall report to Congress on a quarterly basis (beginning with the first quarter of 1998) on—

"(i) the need for any reprogramming or transfer of funds appropriated for National Drug Control Program activities; and

"(ii) any funds appropriated for National Drug Control Program activities that were reprogrammed or transferred during the quarter covered by the report.

"(B) The Director shall report to Congress as required by paragraph (A) not later than 30 days after the last day of each applicable quarter.".

SEC. 8. LONG-TERM PLAN FOR REDUCTION OF DRUG USE.

Section 1003 (21 U.S.C. 1502) is amended by adding at the end the following new subsection:

"(g) LONG-TERM PLAN FOR REDUCTION OF DRUG USE.—Not later than March 1, 1998, the Director shall submit to Congress a long-

term plan for reducing the population of illegal drug users in the United States by December 31, 2001, to 3 percent of the population of the United States or less. Such plan shall include—

"(1) a request for funds and other resources necessary to achieve such reduction within the guidelines of the balanced budget agreement of 1997; and

"(2) the justifications for each such request.".

SEC. 9. DRUG POLICY COUNCIL.

The National Narcotics Leadership Act of 1988 (21 U.S.C. 1501 et seq.) is further amended by adding at the end of chapter 1 the following new section:

"SEC. 1013. DRUG POLICY COUNCIL.

"(a) ESTABLISHMENT.—There is established in the Executive Office of the President a Drug Policy Council, which shall be composed of the members of the President's cabinet, and the purpose of which shall be to make cabinet-level decisions regarding national drug policy.

"(b) CHAIRMAN.—The President shall be the Chairman of the Drug Policy Council established by subsection (a).

"(c) EXECUTIVE DIRECTOR.—The Director of the Office of National Drug Control Policy shall be the Executive Director of the Drug Policy Council established by subsection (a).".

SEC. 10. DEFINITION OF NATIONAL DRUG CONTROL PROGRAM AGENCY.

Section 1010(6) (21 U.S.C. 1507(6)) is amended to read as follows:

"(6) the term 'National Drug Control Program agency' means any agency that is responsible for implementing any aspect of the National Drug Control Strategy, including any agency that receives Federal funds to implement any aspect of the National Drug Control Strategy;".

SEC. 11. EXTENSION OF DATE FOR TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

Section 1009 is amended by striking "September 30, 1997" and inserting "September 30, 1999".

SEC. 12. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

Section 1011 is amended by striking "8 succeeding fiscal years" and inserting "10 succeeding fiscal years".

SEC. 13. REPORT REQUIRED.

Not later than November 1, 1997, the Director of the Office of National Drug Control Policy shall submit to Congress a report including—

(1) proposed goals, targets, performance measures (as described in section 1003(b)(1) of the National Narcotics Leadership Act of 1998 (21 U.S.C. 1502(b)(1)), and specific initiatives with respect to the National Drug Control Program, including the High Intensity Drug Trafficking Area Program; and

(2) proposals to coordinate the efforts of all National Drug Control Program agencies.

SEC. 14. APPOINTMENT OF TEMPORARY ADMINISTRATOR FOR DRUG-FREE COMMUNITIES SUPPORT PROGRAM.

(a) IN GENERAL.—Section 1031(c) (21 U.S.C. 1531(c)) is amended—

(1) by inserting "(1)" after "(c) ADMINISTRATION.—"; and

(2) by adding at the end the following new paragraph:

"(2) The Director shall appoint an individual to act as Administrator until such time as an individual is appointed to such position under paragraph (1).".

(b) DEADLINE FOR APPOINTMENT.—The Director of the Office of National Drug Control Policy shall appoint an individual to act as Administrator of the Drug-Free Communities Support Program under section 1031(c)(2) of the National Narcotics Leadership Act of 1988 (as added by subsection (a)) not later than 30 days after the date of the enactment of this Act.

SEC. 15. CONSISTENCY WITH NATIONAL SECURITY ACT OF 1947.

Section 1004 (21 U.S.C. 1503) is amended—

(1) in subsection (a)—

(A) by striking "(1)";

(B) by striking "(2)(A)" and inserting "(b) CONSISTENCY WITH NATIONAL SECURITY ACT OF 1947.—(1)";

(C) by striking "(B)" and inserting "(2)"; and

(D) by striking "subparagraph (A)" and inserting "paragraph (1)"; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d) respectively.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the rule, the gentleman from Illinois [Mr. HASTERT] and the gentleman from Wisconsin [Mr. BARRETT] each will control 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2610 amends the National Narcotics Leadership Act to reauthorize the Office of National Drug Control Policy and fundamentally restructure the way the drug war is fought.

In many ways, this is the most significant antidrug bill since the original authorization of the drug czar in 1988, with the possible exception of the Drug-Free Communities Act, which Congress passed earlier this year.

This bill is built around one basic goal, a virtual drug-free America by the year 2001. To achieve this goal, the bill has two basic points: First, it empowers the Nation's drug czar to improve interagency coordination; second, it adds significant accountability mechanisms to ensure that the American taxpayer is getting maximum results from the drug czar's office and all of the national drug control policy program agencies.

H.R. 2610 includes additions from both Democrats and Republicans. Although we do not agree on everything, I believe the basic concern for America's future, especially our shared interest in achieving a virtually drug-free America, is certainly a bipartisan goal.

I thank my colleague across the aisle, the gentleman from Wisconsin, [Mr. BARRETT], and the gentleman from California [Mr. CONDIT], for being an original cosponsor of the bill, as well as my Republican colleagues, the gentlemen from Indiana [Mr. SOUDER], the gentleman from Georgia [Mr. BARR], the gentleman from Indiana [Mr. BURTON], the gentleman from Texas [Mr. SESSIONS], the gentleman from Florida [Mr. GOSS], the gentleman from Ohio [Mr. PORTMAN], and the gentleman from Florida [Mr. MCCOLLUM] for their cosponsorship.

I will briefly summarize the major provisions. First, H.R. 2610 gives new coordination authority to the White House drug czar's office, including allowing the drug czar to shift up to 5 percent of the counternarcotics funding among the national drug control program agencies upon concurrence of the agency head. It also requires that performance measures be established to give Congress a way to test the effectiveness of each and every drug control program.

Additionally, agencies are asked to identify precisely where each dollar of the $16 billion drug budget is going.

Other new powers include: Requiring the director to review agency budgets prior to OMB approval in order to find out the real needs of our agencies; acting as the President's chief spokesman on drug policy; and monitoring consistency between agency budgets, performance measures, and results.

This bill also creates deputy directors for intelligence coordination and for State and local affairs, both of which are badly needed.

At the request of the ONDCP, we also included a deputy for the office to facilitate transitions in the absence of a director.

To assure the utmost accountability in our war on drugs, this bill sets forth, for the first time ever, hard targets and goals and precise percentages to be achieved by the year 2001. They are premised on a collection of Federal, State, and private studies and hearing testimony dating back to 1995.

These goals are expected to form the basis of a growing national expectation that the drug war must be well coordinated and the national drug control agencies be held accountable for meeting the ONDCP's performance measures. The aim of this bill also is to establish the ONDCP, through semiannual reporting, as a central coordinating entity in the drug war and not as a mere bully pulpit or paper tiger.

Finally, this bill contains a manager's amendment, the purpose of which is to reaffirm that the authorities conferred on the Office on National Drug Control Policy, and its director, by this act shall be exercised in a manner consistent with the provisions of the National Security Act of 1947.

In the end, there are certain to be differences of opinion about how high or how low the bar should be set in this fundamentally reengineered approach to our national drug control policy, but the important point about this bill is that for the first time ever Congress is actually setting a standard, a bar, and empowering the drug czar's office to promulgate aggressive performance measures for the agencies which will provide results.

In closing, let me say that we reauthorized the Office of National Drug Control Policy for 2 years, the midpoint between now and the year 2001,

which will allow a review of the foregoing innovations 2 years into the 4-year goals.

Madam Speaker, I reserve the balance of my time.

Mr. BARRETT of Wisconsin. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in opposition to this bill. Although it is named the National Narcotics Leadership Act Amendments of 1997, it would be more appropriately called the Drug Control Failure Act for the year 2000.

I say failure because this bill has never been designed to give the Office of National Drug Control Policy the tools and direction to succeed, rather the bill establishes unattainable drug control targets, requires the administration to report twice yearly on its failure to meet those targets, and provides for only a 2-year authorization requiring reauthorization during a Presidential campaign.

Judging by its major provisions, the bill appears designed to achieve political advantage in the 1998 and 2000 elections, all at a cost to ONDCP and its efforts to fight drugs at the Federal level.

In case there is any doubt about this, the bill is opposed by the administration, and General McCaffrey, the drug czar, has stated he has serious reservations about the bill.

I have had the pleasure of working and serving with the gentleman from Illinois [Mr. HASTERT] as the ranking member of the Subcommittee on National Security, International Affairs, and Criminal Justice. I know of his commitment to the fight against drugs in this country, a commitment shared by all members of the subcommittee, and I am sure by all Members of this House. It is because of this commitment and because of the hard work we have done on a broad range of drug-related issues that I am dismayed by this bill and the process leading up to its consideration today.

Although the subcommittee has held many hearings on a variety of drug-related topics, we have not conducted a single hearing on this piece of legislation, either in subcommittee or full committee. General McCaffrey gave testimony on the administration's proposed bill, but neither he nor any other administration official has had the opportunity to testify about this bill or any of its major provisions.

Although the majority in committee made vague references to statistics from various sources, there is not a single study or report from any source, government or private sector, that recommends or even directly supports the targets set forth in this bill. In view of ONDCP, which has spent thousands of hours developing performance measures and drug control objectives, these targets are arbitrary and flatly unattainable by the year 2001.

The target for overall drug use is illustrative. The bill establishes an arbitrary target to reduce drug use from the current level of 6.1 percent to 3 percent by year 2001, a goal we all share. However, this would require ONDCP to reduce drug use to a rate 60-percent lower than at any time in the last three decades. The greatest reduction in drug use ever recorded in this country was from 14.1 percent in 1979 to 5.8 percent in 1992.

□ 1545

That was a 59 percent reduction and it took 13 years. The other targets in this bill are similarly unrealistic and unsupported by any scientific evidence. The point here is to make the administration fail and to embarrass Democratic candidates in the 1998 and 2000 elections.

Madam Speaker, if this were a serious bill and not an exercise in partisan politics, we would take our example from the other body. There Democrats and Republicans are working together on a 4-year authorization that supports ONDCP's extensive work on performance measures and targets. This bill, which authorizes ONDCP for only 2 years, takes the agency only halfway in time to the very goals that it seeks to establish. It also falls woefully short of the 10-year plan outlined in the 1997 National Drug Control Strategy.

Finally, I would only note that despite its willingness to establish arbitrary and unrealistic drug control targets, this House appears unwilling to put its money where its mouth is. A review of appropriations bills in the House shows drug control budgets significantly below the President's request in several key areas:

In education, appropriations fall short by $68 million. Sixty-four million dollars of this is for safe and drug-free school grants. Appropriations for drug courts fall $45 million below the President's request. Appropriations for the U.S. Customs Service will likely fall by $18 million, resulting in a significant reduction in interdiction efforts along the southwest border. And appropriations for the Bureau of Alcohol, Tobacco and Firearms are likely to fall by $17 million. About 40 percent of ATF's programs are related to drug enforcement.

Madam Speaker, instead of setting up ONDCP for failure, we should act responsibly and in a bipartisan way to give General McCaffrey the tools and the flexibility he needs to get this job done. I urge my colleagues to defeat this bill on suspension so that we may have a full debate and an opportunity to offer amendments.

Madam Speaker, I reserve the balance of my time.

Mr. HASTERT. Madam Speaker, I yield myself 1 minute. Madam Speaker, I have worked with the gentleman from Wisconsin for a number of years and certainly appreciate his hard work. The fact is that we have had over 40 hearings on the ONDCP and the drug czar. We have had a dozen hearings this year. We have had General McCaffrey up on the Hill himself. We have talked about these issues.

The fact is we are setting goals for this country and for the drug czar to wipe out one of the most dreaded things that can approach this country and our children, and that is drug addiction. We want to make sure that we significantly reduce it and we want to be sure by the year 2001 that we have significantly reduced it to a point that it is not a threat in this country anymore. I do not think that is partisan. It was never set up to be partisan. We want to win this fight against drugs. We have to take an extraordinary effort to get it done. The fact is the drug czar has gotten 7 of the 8 things that he wanted in this bill. He got the flexibility that he needs.

Madam Speaker, I yield 2¼ minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Madam Speaker, I thank the distinguished gentleman for yielding me the time. Despite a decade of steady progress in combating drug use and drug abuse during the 1980's, the situation appears to have taken somewhat of a dramatic turn for the worse since the early 1990's, and that is why we are here.

In my view, that is because the administration has accepted stalemate in the war on drugs rather than pressing on for the victory that everybody in America wants. So now Congress is going to take charge. We are going to set some tough goals for the Office of National Drug Control Policy. I am very concerned and I know many parents and all Americans are concerned about the permissive attitude toward drug use that once again seems to be spreading out across our country. We need to have leadership that says drugs are not cool, drug use is not acceptable, it will not be tolerated.

That is what this bill is about. We set some performance measures to judge the success of the administration's efforts. Let me ask, if we are willing to set performance measures for our kids in schools, why are we reluctant to set performance measures for how well the bureaucrats are doing on the war on drugs? It seems to me to be a curious question.

By 2001 under our program, we expect drug use to be at 3 percent of the population or lower. We expect an 80 percent reduction in the supply of illegal drugs. We expect a reduction of 50 percent in drug-related crime and drug-related emergency room visits. And we expect drug use by young people to be down to 3 percent, because one of the most effective strategies for decreasing the overall use of drugs is to convince young people to disapprove of them.

The war on drugs has many facets, as we all know, treatment, prevention, law enforcement, interdiction. ONDCP was created to develop an overall strategy, coordinate Federal efforts and channel resources. That was a good idea.

While this bill will improve the drug czar's ability to effectively manage and win the drug war, we are not giving him a blank check. There are certain very strict reporting requirements that go along with this, so we know what is working and what is not.

I am also very pleased to be able, through the efforts of the gentleman from Illinois [Mr. HASTERT] to be able to provide ONDCP with new tools without upsetting the balance that now exists between ONDCP and the intelligence community. It took a lot of workout and compromise to get that done. I urge Members to support this bill. It is time we had a plan to win the war. This is a good one.

Mr. BARRETT of Wisconsin. Madam Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Madam Speaker, I rise today in strong opposition to this bill in its current form. This bill is anything but noncontroversial. This bill deals with one of the great issues of our day, what type of drug policy will we have.

Any effective drug policy in America or any nation must include at least 3 components: Treatment, education, and prevention. This bill does not include in a real way these 3 components.

An effective drug control policy must embody the principle of treatment because through treatment people are healed of their addictions. Through treatment we can reduce the number of addicts. However, this bill prohibits the use of HIDTA funds for treatment of people who are chemically dependent. In fact, this bill provides no real ideas for treatment strategies. This is the first reason it should be rejected.

The second principle that must be a part of any effective drug control policy is education. Education gives people an opportunity to understand how to move away from that which they are using. However, this bill does not provide any real component of education. It sets up grandiose targets for reductions in drug use that are unrealistic and unachievable. This bill lacks the serious components of education and therefore must be opposed for that reason.

Finally, the third principle that must be a part of any effective drug control strategy is prevention. An ounce of prevention goes a long way toward reducing the number of people addicted to drugs. Prevention comes in many forms. It could be a job, it could be hope for someone who was hopeless, it could be interdiction, reducing the supply. This bill provides no real prevention strategies other than the old "lock them up, throw away the key," which we already know does not, will not, and cannot work.

This bill is too important to not debate. I urge that we oppose it on the suspension calendar and have a full debate so that we can really get at the issues.

Mr. HASTERT. Madam Speaker, I yield myself 30 seconds. To my good friend from Chicago, I just want to say that we devote $2 billion on treatment to HHS and initially $90, $100 million to Justice. We also add and allow $3 million for treatment out of the $140 million for HIDTA's, something that is happening now, especially in areas like Baltimore. And we are strong on prevention. We even have $195 million for media prevention and passed the prevention act this year. So I beg to differ with the gentleman from Chicago but that is the fact.

Madam Speaker, I yield 4 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Madam Speaker, I thank the gentleman for yielding me this time. Back in 1988 I was one of the prime sponsors, along with the gentleman from New York [Mr. GILMAN] and others, that worked so hard in this area of drug prevention of the original so-called drug czar bill, which was then watered down considerably in conference. This would reestablish much of the power that many of us back then, in a very bipartisan way, were supporting in order to try to get a handle on this Nation's growing drug problem.

What has happened in the last 10 years? In the last 10 years we have spent $103 billion on the war on drugs. I will tell my colleagues that in the last 10 years, we have seen a bipartisan failure in the war on drugs. Neither party can say that they have been successful.

Now, what are we doing with this bill? We are setting up expectations. We are setting up goals. We are setting up flexibility. We are setting up more power within the drug czar's office. We are doing all of the right things in order to try to get to what we all want to accomplish, both Democrats and Republicans, and that is to finally start winning some battles in the war against drugs.

This country has had absolutely no resolve. Our war on drugs has been a blueprint for failure. We have not actually gone to war with the objective of winning. We have gone to the war on drugs with a Vietnam mentality, and that is the status quo. We talk about putting more resources, even more than this bill does, in education and in treatment. Sure, that is necessary. But if that is all you are going to talk about, it is like bailing the boat out and not plugging the hole, and that is ridiculous.

This bill finally sets accountability and responsibility. I personally have a great deal of faith in the present drug czar, General McCaffrey. But if he cannot do it, then step aside and let somebody in that can do it. It is about time that we set our resolve to winning the war on drugs. The greatest possible gift that we can give to the next century, and the President is always talking about the bridge into the next century, the biggest gift that we can give is to cut back addiction in this country, to cut the supply of illegal drugs coming into this country, and to at last, get a grip on this thing that is absolutely killing neighborhoods. It is creating poverty, it is a disaster, it is a national disgrace. This bill fires a shot and it is not just a shot across the bow, this is real progress. I would hope that we do get a bipartisan vote on this, and I hope we get some speakers up on the Democrat side to speak in favor of this bill. It is a good bill and it is the way to go.

Mr. BARRETT of Wisconsin. Madam Speaker, I yield 3 minutes to the fine gentleman from Baltimore, MD [Mr. CUMMINGS].

Mr. CUMMINGS. Madam Speaker, I first of all want to thank the gentleman from Wisconsin for his leadership as the ranking member of our subcommittee. I urge my colleagues to vote against this legislation. This bill is indeed controversial. A number of amendments, including one that was offered by myself, was offered by Democratic Members but rejected by the Committee on Government Reform and Oversight. This bill should not be on the suspension calendar. At the very least it should be placed on the House calendar and be considered under regular order where issues surrounding the reauthorization can be debated.

I object to a provision within the bill that does not allow high intensity drug treatment areas, HIDTA's, to expand their drug treatment programs. The Washington-Baltimore HIDTA is the only 1 of 17 federally funded HIDTA projects nationwide that uses drug treatment as one of its strategies. The success of the Baltimore-Washington HIDTA treatment program has been remarkable. Analysts have found that arrest rates plunge for drug-addicted nonviolent criminal offenders when they are forced to participate in sanctions-based drug treatment programs. After 9 months of experience in the treatment programs, only 12 percent of HIDTA's clients were rearrested. Only 13 percent of HIDTA's clients tested positive for illegal substances in a typical month. This should be contrasted with the fact that 100 percent tested positive prior to entering the HIDTA program.

□ 1600

The Washington-Baltimore HIDTA is the only HIDTA that operates a program of this kind, and it should serve as a model for the remaining 16.

Under this bill, the expansion of this successful program approach is not possible. The bill sets a series of unrealistic and unworkable goals to reduce drug use. According to Barry McCaffrey, the requirements in this bill are arbitrary targets, goals and timetables, and contain unachievable goals.

I agree with the gentleman from Illinois, Chairman HASTERT, that the HIDTA's primary focus should be law enforcement. However, I firmly believe there should be a partnership with a proven drug treatment program, which the Baltimore-Washington HIDTA drug treatment program provides. I regret this bill hamstrings the HIDTA drug treatment program.

Mr. HASTERT. Madam Speaker, I yield 2½ minutes to the gentleman from New York [Mr. GILMAN].

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Madam Speaker, I have been pleased to work with my friend and colleague, the gentleman from Illinois [Mr. HASTERT], in this vital battle against illicit drugs. He has given new meaning to the term "war on drugs." I share his desire and that of many others in the Congress to get greater accountability from this administration in its less-than-effective efforts in the battle, our battle, against illicit drugs.

We surely need accountability from the drug czar now, more than ever, as our youth use soars. We also have 141,000 new heroin addicts in 1995, and those statistics keep growing. Heroin use among the young has reached historic levels.

I was distressed last week that not one piece of equipment or supplies to the Colombian National Police or military had been delivered under date under the President's 614 waiver of last August. We are losing that nation to narcoguerrillas. Witness the attacks on both their Joint Chiefs of Staff and the killings and executions of 17 National Police. More soldiers and judges are being killed or maimed as a result of their war.

The income for these narcoguerrillas is nearly $1 billion a year, and we are asking our friends in the CMP to fight this war on the cheap. ONDCP's reauthorization is a good legislative vehicle for reform and accountability for these shortcomings.

I fully support the efforts of the gentleman from Illinois [Mr. HASTERT]. I was pleased the gentleman was able to accommodate my concerns about section VII of the bill entitled, "Reprogramming and Transfer of Funds." ONDCP now has reprogramming or transfer authority of over 2 percent of all the Governments and antidrug budgets, for example, the FBI's and DEA's.

The transfer authority has long created fear that substantial funds from law enforcement or interdiction could not be moved and later be used by this administration for treatment or media campaigns to the detriment of these equally important enforcement efforts.

To raise the ONDCP Director's transfer authority even higher to up to 5 percent of the budget of these agencies needs more counterbalance, checks and controls.

By providing the authorizing committees' as well as the appropriations committees' approval for any such reprogramming, we built in strong protections, and I am pleased that the bill now provides for notice of approval under this provision to the Committee on International Relations, for example. We and other authorizing committees could then have some real meaningful input.

Mr. BARRETT of Wisconsin. Madam Speaker, I yield three minutes to the gentlewoman from Michigan [Ms. KILPATRICK].

Ms. KILPATRICK. Madam Speaker, I thank the distinguished ranking member from Wisconsin for this opportunity to address the House.

Madam Speaker, I rise in opposition to this legislation, primarily because I am not a member of the committee that reported this, and, as a result, because it is on the suspension calendar, I do not have an opportunity to offer amendments.

How can we put on the suspension calendar a bill so important to this Nation as the one before us this afternoon? Did you know that 850 tons of drugs leave Mexico, Peru, Colombia, and a couple other places in this world, destined to America, and that 600 tons of those drugs get into our country?

Drugs are the cancer of America. It is creating a cancer in our families and our communities and across this Nation. How then can we put this legislation on the suspension calendar and not allow 435 elected Representatives to debate the issue?

I oppose this legislation, mainly on that ground. I have a HIDTA in my district, high intensity drug trafficking area. I work with the community and the people who are part of that in my district.

But what we found in HIDTA is, yes, it is good on law enforcement, but it is poor on community input. It is poor on having proven programs participate in the HIDTA. The board of the HIDTA is law enforcement.

Yes, we need law enforcement, but we also need community input into the cancerous drug trade hampering America, and which, in my opinion, will really restrict America from being the fine country we have been as we move to the 21st century.

There have been no hearings on this legislation. How can a cancer such as drugs, 600 tons of it into our country, come before this Congress, with no hearings, and then be put on the suspension calendar?

I urge my colleagues to vote against this. Let it go to the Committee on Rules. Let it be debated before the full House of Representatives. We can cure this program, I am convinced of that, but not when we try to hoodwink Americans, not when we do not give our communities the support that they need.

This bill must go to the Committee on Rules. It must come on the Floor for open debate, so we can all debate it and amend it, and then send it on to the President.

I urge the defeat of this legislation. Let us come back and debate it. Until we deal with the drug problem in America, our seniors are not safe, our children have no opportunity, and this Congress will not be as effective as it ought to be.

Please defeat this legislation.

Mr. HASTERT. Madam Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Madam Speaker, I thank the distinguished gentleman, the chairman of the Subcommittee on National Security, for yielding me time.

Madam Speaker, I would enlighten the previous speaker and just indicate that there have been extensive hearings on this legislation, as there should have been, with regard to reauthorizing such a major component of our war against drugs, the Office of National Drug Control Policy.

The vote on this bill, H.R. 2610, is very simple: Any Member who is serious about getting tough in the war against drugs should vote for it. Anybody satisfied with the status quo or desiring to move backwards should vote against it. It is that simple.

The legislation did not all of a sudden develop. It was the result of extensive negotiations with the executive branch, both parties in this Congress, and the Senate. It reflects very extensive hearings that were held, including hearings with the GAO.

The GAO, which is a nonpartisan watchdog agency of our Government, has told us that long study has indicated to it that the current drug policy under the leadership of the ONDCP is not clear, it is not coordinated, it is not comprehensive, and it is not consistent. Therefore, it comes as no surprise that it has been largely ineffective.

This legislation, on the other hand, is clear, it is coordinated, it is comprehensive, and it is consistent; in short, a recipe for success where we have had failure in the past.

This is perhaps the most important vote to come before this body with regard to coordinating our war against mind-altering drugs since the original enabling legislation setting up the Office of National Drug Control Policy was passed in 1988.

Every Member here who is serious and wants to put their vote where their

words are should vote for this piece of legislation. It is the by-product of extensive hearings, extensive material, and it will work.

Mr. BARRETT of Wisconsin. Madam Speaker, I yield 2½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I would say I reject the simplistic choices set forth by the gentleman from Georgia. They are not, in fact, the choices that are being made. I regret the gentleman is not listening to me, but to set up such a simplistic choice between A and B, and with the hypothesis if you are not for this bill, you are not for the drug fight, is absolutely incorrect. The gentleman is still not listening to me. C'est la guerre.

Madam Speaker, as ranking member of the Subcommittee on Treasury, Postal Service and General Government, I rise to urge my colleagues to oppose H.R. 2610. This bill does not simply reauthorize the Office of National Drug Control Policy, an office I strongly support, headed by Gen. Barry McCaffrey, who I think is doing an outstanding job. And we need to do more. There is no doubt about it, and he would be the first to say so.

It does, however, contain several controversial provisions affecting national drug policy. My colleague from Michigan is correct, we should have had an opportunity to offer amendments to this critically important legislation. Therefore, it should not be on the suspension calendar.

I want to address one provision, Madam Speaker, which would undermine the effectiveness of the high intensity drug trafficking areas. H.R. 2610 would prohibit the use of HIDTA funds to expand drug treatment programs.

There is not a law enforcement official I have talked to in the United States of America, and I would imagine the U.S. attorney from Georgia at one point in time did not have a law enforcement official that did not say if we could not get people off drugs, we are not going to win this war, period. That is the bottom line, and every law enforcement official I have talked to agrees with that.

The Washington-Baltimore HIDTA, created in 1994, is one of the most successful in the Nation. Check the statistics, one of the most successful in the Nation. One important reason is the program's tough sanctions-based drug treatment component.

Last year, that component caused the rearrest rate for drug-addicted nonviolent offenders to plummet 38 percent below the national HIDTA average. Hear me, it is the only one that has the drug prevention, and it is 38 percent better in preventing recidivism than any other HIDTA program in America.

The program forces addicts into treatment, holds them responsible for staying clean, and continually checks their state of sobriety.

Madam Speaker, I would hope we would not defeat this bill. I would hope that temporarily we send it back to commit, give us the opportunity to address the shortcomings in this bill. Obviously, there is a lot of good in this bill. But in its current state, I will be unable to support it and would urge my colleagues not to support it in its current state.

Mr. HASTERT. Madam Speaker, I yield myself 10 seconds to address the gentleman from Maryland.

Madam Speaker, there is $2.9 billion dedicated to treatment and an extra $1 billion more than there were 3 years ago. The Baltimore-Washington HIDTA will continue. It is there. It can still coordinate that treatment. We have made sure that that treatment will flow into that area.

Madam Speaker, I yield two minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Madam Speaker, I thank the gentleman for yielding me time.

I rise in strong support of this bill. I think it is a tremendous improvement over current law and a reauthorization for the next 2 years of the National Drug Policy Office. I think, Madam Speaker, that we are not only not winning the war on drugs, we do not even have a war on drugs, not in the sense that most Americans would believe. We have not set up the kind of goals and missions and objectives that the military would fight if they were fighting a war.

This bill tries to go to some measure to do that. I think General McCaffrey has discussed doing it, is working on doing it. I would like to believe much of what is in here he would embrace and will ultimately do so. But we are charged as legislators with the responsibility of setting goals and objectives, and we are charged with putting this war on drugs on a real wartime footing, and that is what this bill does.

First of all, yes, there is 600 metric tons of cocaine coming into this country every year, and because of that, thousands of more young people's lives are being damaged by that result. The drugs that are coming in are purer and cheaper than ever.

In order to stop that, we have to have a balanced approach. We have to have interdiction, we have to have drug treatment, we have to have a supply and demand, education, all those things. But on the interdiction side alone, I would like to point out this bill sets a goal of interdicting at least 80 percent of the cocaine coming into this country every year.

We do not have a goal right now. They tell us that at least 60 percent has to be interdicted before the price will be driven up. If you drive the price of the cocaine up on the streets, far fewer kids are going to get the narcotics. That is the way it was 5 or 6 years ago. We were driving the price up, interdicting enough.

Now we are interdicting at best estimates 20 to 30 percent of the cocaine coming our way, not anywhere near the 60 percent. So the bill sets, among other things, a goal of 80 percent interdiction; 80 percent is a real goal. We then should know from the Drug Policy Office in a short duration what are the requirements to achieve that. What does it take? How many planes, how many ships, how much military involvement? Where do we draw the line? How do we proceed, and then this Congress should come back and provide whatever assistance it takes to do that, to win the war on drugs. I urge a yes vote for this bill. It is a good bill.

□ 1615

Mr. BARRETT of Wisconsin. Madam Speaker, I yield 4 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Madam Speaker, I thank the gentleman for yielding me the time.

It is with a great deal of regret that I come to the floor to oppose this bill. It has never been a partisan issue to fight against drugs in this country. But the Republican majority is politicizing this whole effort, and by this legislation today, the essence of it, it is a political one and it is a partisan one. Let me explain it on two grounds.

First of all, there were no hearings in the committee on this legislation. There were not discussions with the administration to try to work out the bill that is now being presented to us. There were no processes where we could offer amendments on the floor today. This is being put on the suspension calendar to preclude any amendments to the bill.

Second, this takes an agency that struggled to stay out of partisan politics and imposes upon it a standard which dooms it to failure, sets it up for ridicule during the election cycle in the year 2000. The bill has targets for drug reduction. I am not against targets. But the targets have to be realistic, and the targets in this legislation are doomed to failure because the targets are set so unrealistically.

The bill requires the drug office to reduce adolescent drug use by 90 percent in 4 years. This chart that is before me shows that the largest reduction in teen use achieved in any 4-year period in the past was just 33 percent, not the 90 percent required in this bill.

What happens if we do not get a 90 percent reduction? Nothing, except the Republicans in the election year for President can say, look at the failure to achieve a 90 percent reduction in drug use by kids.

I would suppose that when we get to the tobacco issue my Republican colleague will support a 90 percent reduction in tobacco use in 4 years. There we have an easier time to deal with the problem, because we have a domestic manufacturer we can hold accountable. They control the distribution of their product. But I do not think anybody would say a 90 percent reduction is going to be achieved in illicit drugs in 4 years when it is so diffuse, it is so illegal, and with all the ramifications of distribution and use.

I feel that what we have here is a bill that is so unrealistic that we are being set up on a partisan basis for a failure, and then to politicize the effort by trying to have the Republicans attack the Democrats for that failure, this has never happened in the Congress before. We have always had opposition to drugs, the illicit traffic in drugs, opposition to drug use on a bipartisan basis, after hearings, after discussions, after votes, where amendments were offered and agreed to.

So I regret this, and urge my colleagues to oppose this legislation, and to insist that we go back to the regular order and have a realistic appraisal of what ought to be in a bipartisan effort to stamp out drug use.

Mr. HASTERT. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, my good friend, the gentleman from California, I am dismayed at what he has said. This is not a partisan issue. It should never be a partisan issue, and we should not try to put up a partisan smoke screen to say this is why we should vote against this bill.

We had more than a dozen meetings with the White House. We had the drug czar's office included, and two personal meetings with the drug czar. We asked and complied with the drug czar on seven out of eight requests. The only request that he wanted is a 12-year reauthorization. We said, that is too long, nobody is responsible for 12 years, because the drug czars especially are not here for 12 years.

We are saying, let us look at 2 years and then go another 2 years, and let us get the job done. Let us hold ourselves and this administration and the law enforcement and treatment to tough standards in this country. Let us say that we are going to do this, we are going to cut teenage drug use in half. Is that too much? The 20,000 kids who die in this country in hospitals because of ODing and on street corners because of drug violence, to cut drug use in half in 4 years, is that too much? I do not think so.

An example, in 1985 to 1992 we cut by 79 percent the amount of cocaine used in this country. Why can we not cut by 50 percent by the year 2000, so we can start in the 21st century with less than we have now, half the amount of kids on drugs? This deserves a yes vote, and I ask for Members' support.

Mr. BARRETT of Wisconsin. Madam Speaker, I yield myself 30 seconds.

Madam Speaker, this reminds me of a press conference where there is a new football coach hired, and there is a lot of hoopla where they say, this coach is going to bring us to the Superbowl in 4 years. We are going to give him the tools to do it. Then the question is, how long is his contract? And the answer is 2 years. No one thinks they are serious. No one can say this is a serious attempt to end drug usage in this country, if you are not going to give General McCaffrey the time he needs to do it.

Madam Speaker, I yield the remainder of my time to the gentleman from Michigan [Mr. LEVIN].

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Michigan [Mr. LEVIN] is recognized for 1 minute.

Mr. LEVIN. Madam Speaker, I deeply believe we have to do much better in the antidrug area, much better. I have spent, I think, more time in my district on this issue than any other, working with coalitions. If any issue needs a bipartisan approach, it is this one. This bill violates that, violates it. It extends the office tenure for only a couple of years. General McCaffrey does not support this bill. We should be working with him. Goals are set without relationship to what the office thinks is realistic. Let us not make this into a political football. Let us work together on this issue. Give us a chance to debate this on the floor with amendments, where we can improve it.

I urge a no vote, not so that we stop this bill but so that we can amend it, debate it, and pass it with the seriousness this problem deeply deserves.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. HASTERT] that the House suspend the rules and pass the bill, H.R. 2610, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HASTERT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2610, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR THE CONSIDERATION OF H.R. 2204, COAST GUARD AUTHORIZATION ACT OF 1997

Mr. DIAZ-BALART. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 265 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 265

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2204) to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 401 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 7 or rule XVI or section 401 of the Congressional Budget Act of 1974 are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House of any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 265 is an open rule providing for the consideration of the Coast Guard Authorization Act of 1997. The purpose of this legislation is to authorize the activities and the programs of the Coast Guard for fiscal years 1998 and 1999.

The rule provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation. The rule also contains a minor waiver of the Budget Act, waiving section 401 of the Budget Act of 1974 against consideration of the bill.

Section 401 prohibits consideration of legislation providing new entitlement authority which becomes effective during the current fiscal year. This waiver is needed because the bill removes the cap on severance pay for Coast Guard and warrant officers. The provision is meant to conform the Coast Guard with the other services; no other Coast Guard officer or other service's warrant officer has a cap on severance pay.

The rule also makes in order the Committee on Transportation's amendment in the nature of a substitute as an original bill for the purpose of amendment, which shall be considered as read.

There are two minor waivers needed for the committee substitute. The rule waives clause 7 of rule XVI relating to germaneness, and section 401 of the Congressional Budget Act of 1974 against the committee amendment in the nature of a substitute.

The germaneness waiver is needed for an amendment adopted during full committee consideration of the bill which recognizes the community of Grand Haven, MI as Coast Guard City, U.S.A., and the budget waiver is needed because the committee substitute retains the severance pay cap removal that is in the original bill.

Further, the Chair, Madam Speaker, is authorized to grant priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. In addition, the rule allows for the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce votes to 5 minutes on a postponed question if the vote follows a 15-minute vote. In addition, the rule provides for one motion to recommit, with or without instructions.

The Coast Guard is the primary Federal agency with maritime authority for the United States. It is a complex organization of ships, aircraft, boats, and shore stations. Title 14 of the United States Code provides that the Coast Guard is at all times an armed force of the United States.

I believe the Coast Guard has a very difficult task in carrying out its main missions of law enforcement, maritime safety, marine environmental protection, and national security. An average day for the Coast Guard includes, among other things, saving 32 lives, assisting 308 people, saving $8 million in property value, conducting 142 search and rescue missions, responding to 34 oil or hazardous chemical spills, conducting 128 maritime law enforcement boardings, identifying 97 violations of law, seizing 84 pounds of marijuana, and 148 pounds of cocaine. That is an average day for the Coast Guard.

The Committee on Rules hearing on this bill I think was extremely cordial. It was bipartisan. I am told that that is an accurate reflection, Madam Speaker, of the manner in which the Committee on Transportation and Infrastructure handled the legislation, as well.

The bill was reported to the House by voice vote, as was the rule. I would like to commend both the chairman of the committee, the gentleman from Maryland [Mr. GILCHREST], as well as the ranking member, the gentleman from Tennessee [Mr. CLEMENT], for their hard work on the bill.

Madam Speaker, House Resolution 265, I believe, is a fair rule. It is completely open. I would urge its adoption.

Madam Speaker, I reserve the balance of my time.

□ 1630

Mr. MOAKLEY. Madam Speaker, I yield myself such time as I may consume, and I thank the gentleman from Florida [Mr. DIAZ-BALART] for yielding me the customary half-hour.

Madam Speaker, I am pleased to rise in support of this very noncontroversial bill and this open rule. As Members know, the Coast Guard was established in 1915. Today 82 years later, the Coast Guard is still protecting people at sea and enforcing U.S. law. It is a great organization and it is well worth funding.

Today's bill authorizes $3.9 billion for the Coast Guard's operation this year, which is the President's request plan plus an additional $70 million for drug interdiction activities.

The 37,000 members of the U.S. Coast Guard provide this Nation with invaluable maritime service for everything from search and rescue to drug interdiction, and this $3.9 billion, Madam Speaker, will support their good work.

I would like to commend the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, and the gentleman from Minnesota [Mr. OBERSTAR], ranking member, for putting together a truly bipartisan bill which should pass this House with very little opposition.

Madam Speaker, I have heard very few complaints on either side of the aisle about the bill, which will provide for marine safety, waterway safety, and maritime safety. This bill will also clarify the rules about oilspill liability and provides $5.5 million for the new ports and waterways safety system which is replacing the vessel traffic service 2,000 program.

Madam Speaker, this bill also provides funds for drug interdiction, ice breaking on the Great Lakes, repairs of buoys, and operation or removal of bridges that impede boat traffic.

Madam Speaker, this bill will enable the Coast Guard to continue its great work, and I urge my colleagues to support it.

Madam Speaker, I reserve the balance of may time.

Mr. DIAZ-BALART. Madam Speaker, I yield such time as he may consume to the distinguished gentleman from Florida [Mr. GOSS] a member of the Committee on Rules and chairman of the Select Committee on Intelligence.

Mr. GOSS. Madam Speaker, I want to speak briefly on the subject of the Coast Guard because it is an agency of great importance and great concern to the quality of life of our Nation and particularly to the people in Florida.

The Coast Guard is very well known for the good work it does. It is a wonderful agency. In times of war, the Coast Guard plays an integral role in the defense of our country. In times of peace, it has got so many missions it is hard to account for them all, but basically the safety of our boaters up and down our coastlines, well-being of our fisheries, providing for navigational aids, and emergency assistance. Those types of things are well understood and necessary, and they do a good job on it.

Madam Speaker, less well known, and the reason I wanted to speak today, is the vital role that the Coast Guard plays in the war on drugs. In a recent congressional hearing we heard about the reemergence of Florida as a drug transshipment route. We are sorry to hear it. This is not good news, and it is something that demands an immediate response.

I was encouraged to hear of the greater coordination we have now among the Coast Guard, the DEA, and our Customs folks in dealing with this problem. If we are going to be effective, we need to have everybody working from the same page in the war on drugs. It is certainly not going to be enough to settle for a stalemate in the war on drugs. We just had that debate, and we are not going to settle for a stalemate. We are going to need to get serious about winning that war, and the Coast Guard is going to be a major player in that.

The Coast Guard does fight in the frontlines in the war on drugs, and for that reason this particular bill is very important. I commend the gentleman from Maryland [Mr. GILCHREST] for his leadership.

Madam Speaker, I urge my colleagues to support this very fair and open rule and get on with the business of making this in order.

Mr. MOAKLEY. Madam Speaker, I yield 8 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Madam Speaker, I rise in opposition to the rule

because it does not allow for the consideration of campaign finance reform on the House floor. I ask my colleagues to vote to defeat the previous question so that the Committee on Rules can make in order the consideration of a debate on campaign finance reform.

Madam Speaker, I do not oppose this bill and would not otherwise oppose this rule. But I do not believe that we should move forward with other legislation without a commitment on campaign finance reform by this House.

My colleagues and members of the public who have been watching the House floor in the past month or two by now are familiar with the problem. The Republican leadership in this House, Speaker GINGRICH and Majority Leader ARMEY, refuse to allow us to debate and to vote on campaign finance reform legislation. Apparently, they like the system the way they have it and they refuse to allow us to consider bills to reduce the amount of money spent on campaigns.

Because of their refusal to allow debate on campaign finance reform, we are forced to take extraordinary measures. We are forced to do what we are doing today, to debate campaign finance reform on a rule dealing with the Coast Guard. But the nature of campaign finance reform is such that we must act. If we do nothing, simply let the current system continue. And we know that that system is repugnant to the American people, and, in fact, threatens the public interest and our Democratic institutions.

And with each passing day that the Republican leadership blocks reform, the influence of money over legislation, over elections, over what committee Members sit on or are allowed to serve on, every decision made in Washington grows worse and worse. Money, politics, and influence becomes tighter and tightly controlled.

This week, for example, it is reported that the Senate Republican leaders gathered to discuss their legislative agenda for 1998. A normal meeting. One would expect them to plan ahead. It was reported that one of the key issues for the Senate Republican leaders would be whether or not to design a legislative agenda that would stand a chance of winning approval by the President or whether to use next year to raise issues that would galvanize the core Republican constituencies, even if they stood no chance of approval.

Madam Speaker, foremost in the minds of that group was to use this legislative agenda for the purpose of generating money for the Republican Party. Now, that is a little bit different. Now we are not just talking about issues; we are talking about whether or not the agenda can be used to raise money, as if to erase any question over the influence that fundraising is to have on setting the agenda.

The meeting reportedly was held at the Republican fundraising offices here in Washington. Here is what was reported by Congressional Quarterly Monday morning. Quote, "A prime topic of discussion is whether to devote the early months of 1998 to legislative priorities that have no chance of winning President Clinton's signature, but would energize the GOP's conservative base as the primary season begins and Senate incumbents try to beef up their bankrolls for the fall."

They try to beef up their bankrolls? We are going to use the Senate floor and the Senate agenda and the time of the Senate and the House and the people's Congress, to beef up the bankrolls of Republican Members of the Senate? That is why the Senate majority leader, that is why Mr. MCCONNELL, the Senator from Kentucky, went there. They went there to decide how to put together an agenda that would allow the Republican Senators to raise money? That is what the House of Representatives and the Senate has come to? We are not talking about doing the people's business; we are talking about doing the business of people who give money in large chunks to the Republican Party?

Madam Speaker, that is why we need campaign finance reform. That is why we are having to debate this issue on a bill dealing with the Coast Guard, because the Republican leadership in either House will not allow this debate to take place.

I find it rather interesting that the same people who were in the meeting talking about setting the agenda to raise campaign money for Republican Senators were the same Senators who engineered the defeat of the McCain-Feingold bill, a bipartisan bill to reform this system. These same leaders in the Senate engineered the defeat of that legislation over the last 2 weeks.

Madam Speaker, we are here to tell our colleagues that campaign finance reform is not dead either in the House or in the Senate. We are going to continue to pursue the Republican majority in the House and in the Senate to give us a vote, to give us the debate on this issue.

If necessary, we will resort to a discharge petition. We will have to force them. We will have to get a bipartisan coalition in this House, 218 signatures to force this leadership to give us a debate. What we are asking for is a debate and a vote on campaign finance reform.

That is what the House of Representatives is supposed to be about. That is what the Congress is supposed to be about. It is about the people's House. The people have spoken now in opinion poll after opinion poll. They are disgusted. They are disgusted with the way that elections are financed in this country. They are disgusted with the fact that now soft money means access. It not only means access to the White House; it means access to committee chairmen who are making multibillion dollar decisions about telecommunications, about energy deregulation, about clear air, about global warming. It is all about access. And if a contributor can write a $100,000 check, they can get it and the rest of the American public cannot.

Madam Speaker, that is why we are forced to debate this, but we are not going to let the people who engineer on one day the death of campaign finance reform and then run downtown to the Republican headquarters and talk about using the people's legislative body as a fundraising tool. We thought it was bad enough the other day when the Republicans sent out a letter and said for $10,000 a contributor could have lunch, breakfast, or dinner with the 10 most important Senators who are interested in meeting for $10,000. It is more than about ham and eggs. It is about the legislative agenda. Now they have gone from sending out letters to designing the legislative agenda for the purposes of fundraising.

Madam Speaker, I thought that if making a phone call is a problem, what about designing an entire agenda and using the Senate of the United States for the purposes of raising money and doing it with forethought? That is why we need campaign finance reform.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. EMERSON). The Chair must caution the Member against improper references to the Senate or its members.

Mr. MILLER of California. Madam Speaker, if my time has not expired, the problem is when I look at the polling numbers, if I said "the Senate majority leader" no one in the country knows who I am talking about.

The SPEAKER pro tempore. The gentleman must refrain from such references.

Mr. DIAZ-BALART. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have brought to the floor a rule that is completely open, that permits all amendments. While we were in the minority it was very rare to get the majority, then the Democrats, to permit an open rule so that all amendments could be introduced, on a subject, by the way, as important as the Coast Guard, where the distinguished gentleman from Massachusetts [Mr. MOAKLEY], ranking member of the Committee on Rules, admitted that that function is a primary function of national security and law enforcement.

So, Madam Speaker, we come to the floor today with a totally open rule to permit any and all amendments from any Member of this House on a subject as critical to the national security of the United States as the authorization of the Coast Guard and what are we

confronted with? We are confronted with what we just heard. No one could ever accuse the distinguished gentleman from California [Mr. MILLER] of lack of imagination, because even on a bill as necessary to the national security as this one, even on a rule totally open, which permits amendment by any Member of this House, we have heard what we have heard today on an issue that has nothing to do with the Coast Guard.

Madam Speaker, I remind all our distinguished Members that we are debating an open rule to authorize that critically important organism of this country, institution of this country, which is the Coast Guard. That is what we are on today, Madam Speaker. I do not want to get confused. We are not going to let ourselves get confused by these arguments which seek to confuse, apparently, people who are not Members of this House and they will not get confused either. We are bringing an open rule permitting all debate on this critically important piece of legislation to this country.

Madam Speaker, I yield 4 minutes to the distinguished gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Madam Speaker, I am going to make reference to the previous speaker, the gentleman from California, saying that the leadership of both Houses of Congress are discussing at this time anything else, discussing the issue of campaign finance reform when they should be discussing the issues of the Nation.

I want to say emphatically that the issue that the leadership has been discussing in recent times are the issues of what the Coast Guard needs in the Arctic Ocean in February. They are discussing how the Coast Guard has more influence and can more effectively deal with the pollution problems of the coastal waters of the United States and the inland seas of the United States. The leadership of both Houses is discussing the major problem of cargo ships bringing in enslaved immigrants by criminal thugs and how they can get to the shores of the United States and perform more effectively their criminal activity.

□ 1645

And how does the Coast Guard, made up of very young men and women, stop that? We are talking about a whole range of issues that deal with the Coast Guard. The leadership of both Houses of Congress are talking about welfare reform. They are talking about IRS reform. They are talking about how to improve agricultural practices. They are talking about a lot of things.

Last, Madam Speaker, I would like to remind the gentleman from California, when we are talking about campaign finance reform, each and every Member of this House, as individuals, as representatives of their district, have always the option of how they are going to run their campaign and how they are going to raise their money. So if the gentleman from California does not like the present legal system of the way campaigns are funded, he can simply do what he wants. He could stop taking PAC money. He could stop taking money from anybody from his district. He could do what he wants.

Each of us, as Members of this House, should tell our constituents, this is what I am going to do as a person, regardless of what Congress can or cannot do, I am going to stop taking all money except for those people who can vote for me. I will stop taking PAC money. I will stop taking money from outside of my district. I will stop taking special interest money. I will stop accepting soft dollars into my district. I will only take money from someone who is registered in my district to vote in my district, regardless of what the Congress does.

The leadership of this Congress has been talking about issues relating to the American people and, I might add, in the last 2 or 3 years, doing a fine job. I would remind the American people that sometimes the rhetoric on the floor would make a Shakespearean play look pretty dull, but look through the rhetoric at some of the details. We are talking about how to protect the coastal waters of the United States. This rule, as the gentleman from Florida has suggested, is open. All amendments are possible on this particular rule.

I urge my colleagues to support the rule.

Mr. MOAKLEY. Madam Speaker, I yield 8 minutes to the gentleman from Michigan [Mr. BONIOR], majority whip of the Democratic Party.

Mr. BONIOR. Madam Speaker, I thank my colleague for yielding me the time.

Madam Speaker, I want to commend the Committee on Rules, both parties, for providing us with a rule that is open and allows us to do the things that my friend from Maryland talked about and that is help with the exploring and science and fighting pollution, dealing with the immigration problems and that our national defense needs, those are all very good things. But I think my friend from Florida may have just a wee bit stretched the procedural argument that he made that this has nothing to do with political campaign reform.

We have no objections to dealing with the Coast Guard issue. It is an important issue for the country and for all of us. But what we will attempt to do is allow that to happen, but at the same time, when that is finished in our rule here, we will ask that the House consider campaign finance reform and the variety of proposals that have emanated from both political parties.

There have been some very good suggestions on this side of the aisle, as well as on our side of the aisle. What the gentleman from California [Mr. MILLER] is objecting to, what I am objecting to, and if I may dare say so, the American people have been objecting to, is the fact that this system is broke and this Congress, in both House and Senate, is not willing to face up to the broken system and fix it. In fact, we have not even faced up to the fact that we want it to be debated, debated.

This is not the first time that we have come to the floor to do this. This is the sixth time in this session that we are demanding a vote on campaign finance reform. We asked that the same procedure be initiated on the 7th of January, 13th of March, 19th of April, 16th of April and, I think, the 21st of May.

We will attempt to defeat the previous question in order to bring finance reform to the bill, campaign finance reform. It is not about a specific proposal. It is about having a debate so we can come to some conclusion to try to fix what I think is a rotten system, a rotten system. Every one of us knows in our hearts that we spend too much time, too much energy seeking campaign contributions in order to stay here and do not devote enough time to the work at hand.

It is a system that has gotten both political parties in enormous trouble. It is a system which has caused the people of this country to lose faith in this institution. It is a system in which Members of both bodies would prefer not to have. And yet I must say, I watched that handshake between the President and Speaker GINGRICH, when was it, a couple, 3 years ago. They were going to do something about it.

Well, nothing is being done. The Speaker says that the problem is not too much money, but too little money. We ought to be spending more. Well, that is nonsense. That is absolute nonsense and it is not a prerequisite in a democracy today. Nine out of ten of the American people think we spend too much and we spend too much time raising it and it is corrupting this institution and our democracy. We need to fix this system, Madam Speaker. And we need to limit the amount of money, stop this negative advertising and get the American people voting once again.

If other democratic nations can do it, we can do it. Just across the border from my district in Canada, the political season is much shorter, the airwaves are free. Campaigns are publicly financed, Great Britain, Ireland. We ought to be able to craft something that is fair to both sides.

I would say to my Republican colleagues, you should not be afraid to have this debate. Voter cynicism does not just hurt us, it hurts you as well. It undermines our democratic institutions and who we are as a people and why we came here to serve. I suspect

that we will lose once again today. It is the nature of the situation here. But as my friend from California said, campaign finance reform will not die. And we will attempt to bring it to the floor of the House of Representatives with a discharge petition. That means every Member of this body will have the opportunity to walk over to the Clerk here and sign a petition that says, we want all the issues related to this most important issue on how we run our democracy and how we finance it, we want it on the floor of the House of Representatives. And we will have a list of those who want to reform the system and those who want the status quo.

Finally, in just one word to my friend from Maryland, who I have a deep respect for for his work on the environment and education and some other issues, I admire him as well as the gentleman from Florida. But he makes the argument, well, you know, if you really want reform, do it yourself. That ignores the situation where someone will unilaterally disarm, limit their campaign contributions while their opponent is able to play by the present, I think, rotten and corrupt system and raise so much money that the scales are not balanced nor are the elections. We have to have a level playing field where we are playing by the same rules.

To suggest to us on the floor today that you ought to just take it right out of your district, the fact of the matter is, if some of my colleagues decided to just take contributions out of their own districts and their opponent decides to take it out of the country, there are districts in this country that are so poor that it would not be a contest financially.

I could make a lot of arguments

Mr. GILCHREST. Madam Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Maryland.

Mr. GILCHREST. Madam Speaker, the comment about taking money just from one's district, I do that now. I do not take any PAC money, no money unless a person can vote for me. I did that in 1992, when I ran against an opponent, an incumbent of this House, who spent a lot more money than I did. It is still possible to win.

Mr. BONIOR. Madam Speaker, it is possible to win and the gentleman is an example of that happening. But there are districts, and the gentleman, I think, will concede this, where it is extremely difficult to raise the money to be competitive in a congressional race within that district itself. I think the gentleman understands that. That is the dilemma that we face if we are not all playing by the same rules.

So let me just conclude, Madam Speaker, by suggesting that our colleagues vote against the previous question so we can bring this issue to the floor and we can have a full and honest and fair debate so our Republican colleagues, as well as our Democratic colleagues, can offer the suggestions to reform the system so we know where we are. Maybe we will not resolve it. Maybe we will not come to a conclusion. Maybe we will not have the votes to pass anything. But at least we will have some sense of where we are in this debate and where the center of gravity is in terms of where this Congress wants to go and where the public wants us to go. We owe that to the American people. We owe that to the institution that we serve in and we certainly owe it to the people who sent us here.

Mr. DIAZ-BALART. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Madam Speaker, I thank my colleague from Florida for yielding me the time.

It is with great interest that I listen to the minority whip as we talk about what our priorities should be as those who are duly elected representatives of the citizens of the United States. In fact, Madam Speaker, I am sure that my colleagues on the other side of the aisle would join me in this realization, that those who aspire to public office should obey existing law. And unfortunately, the scenario that is played out here, listening to the whip, my friend from Michigan, listening to my colleague from California, is one akin to a speeder pulled over by a traffic cop.

Now, I know many policemen who patrol the highways and byways hear all sorts of excuses. But never have I heard them relate to me that when they pull over a speeder, the speeder says to the officer, well, you may have a posted speed limit of 55 or 65, but that is just not adequate. That law should be changed. That law should now be 95 miles an hour. And sadly what is going on in this Chamber, Madam Speaker, and going on, I regret to say, at the other end of Pennsylvania Avenue is a massive effort to misdirect the attention of the American people.

Campaign finance reform, indeed, that is a subject that should be discussed. But not to sacrifice, indeed, some, Madam Speaker, might use the word "obstruct," not to sacrifice the legitimate priorities of funding our Coast Guard, of maintaining the integrity of our borders and indeed to maintain the integrity of our electoral process, Madam Speaker. This should be the framework under which we operate, obedience to existing statute.

Sadly, Madam Speaker, what this is about, I regret to say, is the presence of some in the White House. And here we see the President and First Lady in this picture with one Johnny Chung who seems to be unavailable to come before committees in this House and in the other body and freely explain to the American people his role in the 1996 campaign. So let me say candidly, Madam Speaker, to my friends on the other side, to all of my colleagues in this Chamber and indeed to the citizens of the United States, let us first exercise our legitimate oversight to find out exactly what went on in 1996, to find out exactly what went on within the executive branch, to find out when this gentleman is so pleased to be standing with the first couple, to get to the bottom of these very disturbing questions.

If we are to prioritize, it would seem to me that we would start with the numerous concerns, suspicions and allegations sadly confronting this administration. Madam Speaker, there are many lessons to be learned from history. I lament the fact that some of my colleagues have drawn the wrong conclusions from what transpired nearly a quarter century ago.

□ 1700

Because in that era there were those who talked of stonewalling, there were those who talked of the absurdity of the limited modified hangout. And in stark contrast, quite frankly, to the behavior we see displayed today from Members of the minority, two people from my State had the guts and the gumption to go to the White House in 1974 and request that President Richard Nixon resign. Oh, for a true spirit of bipartisanship, not borne out of temporary convenience but of constitutional conviction.

This is not a game. Serious questions remain. Yes, we should take a look at campaign finance reform from stem to stern, but first we must find out who violated, who is under suspicion of violating the rules that now apply in everyday law.

And, moreover, Madam Speaker, we should not try to turn this question of a legitimate security question to our national boundaries, to a branch of our service, to funding of the Coast Guard for the preening and posing of partisanship in the hopes that those allied with those who would obfuscate and try to run away from the problem might find temporary advantage.

Let us adopt the rule.

Mr. MOAKLEY. Madam Speaker, I yield 2½ minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, we can all parade up to the well of the House and present our favorite photo of a political leader who we may disagree with because of some alleged impropriety. I suspect Members on this side of the aisle could, and have I suspect, done the same thing with the Speaker of the House [Mr. GINGRICH], with his improprieties that found him sanctioned by his Republican colleagues as well as our Democratic colleagues.

I suspect we on this side of the aisle could do the same thing where the former chairman of the Republican Party, Haley Barbour, who was engaged in raising foreign funds in the last campaign. I suspect we could even do that with members of the Republican Party who are presently engaged in similar problems as Members of the House of Representatives. But that really does not get us to where we need to go. Where we need to go is to have a full and honest debate about the ways to reform the system.

I would invite the gentleman from Arizona, who just spoke, to join his Senator, Senator MCCAIN, in sponsoring the McCain-Feingold bill, and join those of us in the House who want to bring this debate to the American people. We know how that argument goes, how it plays out in the end, the one that the gentleman propounded on the floor just a minute ago: Let's find out before we do anything.

We have had really 20 years of this system and we have found out. It has gotten many, many people in trouble. It has reduced the number of people in this country who have faith in the system and who have voted. It has in many ways had a very, very negative influence on how people operate in public life.

And so I encourage my friend from Arizona to get on board. We are going to have a line out here on Friday of people signing a discharge petition. I assume we maybe even will have a few Republicans, and we encourage the gentleman to be right in front of the line and he can be that running back that I never was.

I played at the University of Iowa, and I was a kind of a small guy, but I was always looking for somebody to plough that hole open. He can plough that hole open for his party by getting in line and joining us in signing the petition.

Mr. DIAZ-BALART. Madam Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Madam Speaker, I thank the gentleman for yielding me this time, and I appreciate the reminiscences of the distinguished minority whip as to his athletic career, a great athletic career that continues even today, as we have seen him on the baseball diamond and on the basketball court.

Let me also invite the minority whip, Madam Speaker, and others on that side of the aisle, to join with me, with my own campaign finance reform bill, the nickname is ERIC, election reform in campaigns, and let them also, Madam Speaker, join with me to reaffirm the basic first amendment rights of members of voluntary associations, trade associations, and union associations not to have their dues taken from them against their will to be used for political causes in campaigns with which those members may not agree.

I would hope that we would move forward in that debate. But for now, and the question before this House now, we dare not turn a deaf ear or a blind eye to the funding requirements of the U.S. Coast Guard and the legitimate national security concerns therein.

And, Madam Speaker, on the subject of national security concerns, it entirely proves my point that we should assess just exactly what has transpired when foreign nationals, indeed with suspected representatives of foreign governments coming to peddle their influence in Washington and sadly in the last cycle allegedly at 1600 Pennsylvania Avenue.

Oh yes, let the committees, Madam Speaker, conduct their oversight. Let the chips fall where they may. Let us end the obfuscation and what sadly has become the misdirection. Let us put our priorities in order.

Campaign finance? Sure. But legitimate constitutional congressional oversight first for very disturbing questions of national security and alleged improprieties that cannot be erased no matter how fond the athletic reminiscences.

Mr. MOAKLEY. Madam Speaker, may I inquire what is the remaining time on each side?

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Massachusetts [Mr. MOAKLEY] has 11½ minutes remaining and the gentleman from Florida [Mr. DIAZ-BALART] has 12 minutes remaining.

Mr. MOAKLEY. Madam Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Madam Speaker, I thank the gentleman for yielding me this time.

Like all my colleagues who have spoken, I too would like to see campaign finance reform brought to the floor of this House and done so immediately. I rise, however, to raise another issue.

I think that the Coast Guard bill is a good one, but I raise a concern that has adversely affected the Chicago area, which I represent. For many years the Coast Guard Air Station helicopter facility located in Glenview, IL, patrolled southern Lake Michigan, an area with a high volume of recreational traffic. Recently that facility was relocated to Muskegon, MI, more than 100 miles away.

Under the current setup, it takes a helicopter twice as long to get from Muskegon to the Chicago area as it did from Glenview. Some authorities have contended that moving the unit out of the Chicago area has dramatically compromised the safety margin for those persons who frequent the lakefront.

A recent Chicago Sun Times article reported that during the past year, 26 people have died on southern Lake Michigan as compared to 4 deaths during the previous year. It has been observed that the number of deaths on southern Lake Michigan have continued to spiral upward since the Coast Guard's decision to relocate to Muskegon.

Mr. Speaker, it is my hope that the U.S. Coast Guard will reevaluate this move, which is possibly responsible for a number of senseless deaths. I would also request that the Subcommittee on Coast Guard and Maritime Transportation review this location site. A site closer to the Chicago metropolitan area could save many lives.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to respond to the gentleman who spoke about the transfer of the helicopter in the Chicago region. I do not see him on the floor now, but I do want to say that this is an area that we have considered. We certainly will try to obtain more funding so the Coast Guard can have more helicopters.

It is my judgment that the Coast Guard, for the past several years, has been, in fact, underfunded. So we are going to correct this in the next cycle, so that we hope with that increase in funding the helicopters can be in more areas than they are now.

Now, one of the reasons that the Coast Guard helicopter was moved from this gentleman's particular area to another area is because of the assessment of where most of the accidents occur. Most of the accidents, clearly over 90 percent of the accidents that the Coast Guard responds to, they respond with small boats, not helicopters. There is only a small percentage of the accidents where they actually use helicopters, but the helicopters are moved to those areas that need that type of assistance more, and that is a judgment by the Coast Guard. But I assure the gentleman it is an area that we are taking under serious consideration.

Mr. Speaker, if I can just go back to our favorite subject, I suppose at least for some Members, campaign finance reform, I would like to remind my colleagues on the House floor that each of us, regardless of what the regulations are regarding the Federal Election Commission, and regardless of whatever regulations there are out there for campaign finance fundraising, each of us, as individuals, can eliminate the entire system at the snap of a finger.

What is good about this country is that it thrives on individual initiative and individual responsibility. So if a Member thinks the system is bad or corrupt, or whatever they think about the system, I would like to remind my colleagues that they can simply stop taking money from everybody; from PAC's, from interest groups, from

unions, from trade unions. Just name it. Just stop taking all those dollars that might be tainted or might be corrupted and run the campaign without taking any money or just from people that vote in the district.

In 1990 I won an election. I was very honored to come to the House of Representatives. And I defeated an incumbent. I was a candidate and I defeated a 10-year incumbent who had a lot of money. I figured if I wanted to get to Congress, I had to create a strategy where I could meet as many people as possible and convince them that I would be a better Member of the House of Representatives.

It takes a lot of work, a lot of courage, a lot of planning as an individual, using one's own initiative. So if we do not like the system, then we can change it ourselves.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, talk, talk, talk. That is what we have been doing about campaign finance reform. It is time to vote, vote, vote. That is what we need to do in this House. We would not need to talk so much about campaign finance reform if the Republican leadership of this House would bring this matter to a vote.

And if I could just respond briefly to what the gentleman from Maryland was just saying, about we can always do it our own way. When we play tennis, we play by the rules. When we play football, we play by the rules. We do not make up individual rules for individual players.

What we need in this body is, we need a vote on a bipartisan campaign finance reform bill. We know enough about what went on in the 1996 elections to know that we need to do something different.

I am a member of the Committee on Government Reform and Oversight, chaired by the gentleman from Indiana [Mr. BURTON]. We have spent $3 million for 1 day of hearings; $3 million for 1 day of hearings.

And when I was back in my home State of Maine this past week, I heard over and over again the same refrain: We are tired of these investigations. We want to get to the bottom, but we are tired of investigations with no legislation. We want to see Members of Congress do something for us people back home.

Now, there are not many Republicans who are on a bipartisan campaign finance reform bill, but my friend, the gentleman from Arkansas, Mr. [ASA HUTCHINSON], is cochair with me of our freshman bipartisan group. We produced a bill. We went through a 5-month process. It was a bipartisan effort. We ban soft money. We take the biggest of the big money out of this system.

We have put together a bill with no poison pills. We took the poison pills out. And I think that is the kind of legislation that ought to come to the floor of this House; that we ought to give every Member of this House a chance to stand up and vote, not just talk about campaign finance reform.

□ 1715

I believe that if we do that, if we ban soft money, if we take the biggest of the big money out and we make sure that the parties have enough money to keep going so they can fulfill a role, if we make sure that every group, every group that wants to participate in this system by way of a third-party advertisement has to disclose who they are, has to disclose how much money they are spending. Then the American people will know more about what is going on in this political system and they will be able to deal with it.

I sense in my home State a crisis of confidence in this political system. I also sense a real impatience with this Congress for all of the talk and no action. The fact is that if we bring this matter to a vote, then we can move this question ahead. For that reason, Mr. Speaker, I urge Members to vote against the previous question and bring campaign finance reform to the floor for a vote.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume. May I remind the House that this is the rule to bring the Coast Guard authorization bill to the floor?

We do not have other speakers on this side, but my understanding is that the other side wants to talk about issues that have nothing to do with the Coast Guard. Of course it is a democracy that we live in, Mr. Speaker. People when they rise can speak about anything they wish. That is one of the beauties of the system, Mr. Speaker. But I think it is important for the Members who may be trying to find out what the debate is about, what we are on here, dealing with, what we are on the floor dealing with.

This is the rule, which is an open rule, and during the many years before we acquired the majority, Mr. Speaker, there were very few open rules. Open rules are rules that bring bills to the floor with the opportunity for all Members to offer amendments on that legislation. That is something that we cherish, that is something that we fought for. Since we are in the majority, we are able to do it. We are able to bring legislation to the floor with what are known as open rules, which are guidelines that permit any and all amendments, any and all amendments by any Member to the legislation that is brought to the floor. What we are bringing to the floor with this open rule is the authorization of the Coast Guard, which is critically important to the national security of the United States, which is critically important to law enforcement, which is critically important to drug interdiction, issues that are obviously essential for the American people.

So we are bringing to the floor the Coast Guard authorization law, bill, legislation with an open rule. I wanted to remind Members of the fact that that is what we are doing, Mr. Speaker. Of course since it is the United States of America, since it is this wonderful free Nation of laws, people can come to the floor and talk about whatever they wish when they are given time by the Speaker. But I wanted to remind any colleagues who may be watching on their screens in their offices or the American people what it is that we are seriously doing here today, and it is serious, reauthorizing the Coast Guard, protecting the American people from narcotics, helping the national security. That is what we are doing by bringing forth the Coast Guard authorization and we are bringing it forth, we are bringing it to the floor with a rule that permits any and all amendments obviously that have something to do with the Coast Guard; in other words, that are germane.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair would inform both Members that the gentleman from Massachusetts [Mr. MOAKLEY] has 6½ minutes remaining and the gentleman from Florida [Mr. DIAZ-BALART] has 6½ minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I have listened to what everyone said. I heard what the gentleman from Michigan [Mr. BONIOR] said and the gentleman from California [Mr. MILLER] and all. I must admit I do not see anything wrong with it. I have voted no on most of the parliamentary motions that the gentleman from California [Mr. MILLER] has made concerning campaign finance reform, but I think it comes to a time that we have to make up our mind, are we going to have a debate? Are we going to have a vote on campaign finance reform? I think I have waited long enough. I think most of the other Members have.

You turn on TV, you listen to the radio, you read the newspaper, and the entire country is talking about campaign finance reform. They are not just talking about what has happened at the White House. They are talking about what has happened in all congressional districts, in all States in the United States. They know what other countries have done when it comes to campaign finance reform, and they know what we have not done in the United States of America. And the

American people know the influence of big money on political campaigns. It has gotten to the point in time where people buy elections. They do not earn elections anymore. They buy elections.

We also know the disparity of income between the haves and the have-nots. We know that that is growing daily. We know that the middle class is being squeezed now. And we know also that a lot of people are not even participating in the electoral process anymore. Why are they not participating? I think they are not participating because of the influence of big money.

I say to the Republicans and I say to the Republican Party, let us have a vote, let us have a debate, let us have it now, not later, because it is in the best interests of the American people.

Mr. DIAZ-BALART. Mr. Speaker, I do not have any other speakers at this time. I would just remind the Members who may be tuning in that this is the Coast Guard authorization, the open rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. Maloney].

Mrs. MALONEY of New York. Mr. Speaker, I rise in opposition to this rule because it does not allow for the consideration of campaign finance reform on the House floor. I do not oppose this bill and I would otherwise not oppose this rule, but I do not believe that we should move forward with other legislation without a commitment to campaign finance reform by this House.

More than 300 Members of this House have signed on to various campaign finance reform bills. Nearly everyone has an idea and they have worked hard to turn those ideas into legislation. The evidence is before this House. There are 87 different campaign finance reform bills before this House. But not a single one of these bills has made it to the floor for debate, not a single one of these bills, not one of the 87 has even been considered in a committee hearing this year. Mr. Speaker, there are 435 Members of Congress and 311 of them have signed on to various campaign finance bills. That is 72 percent, a majority of the Members. And a majority of Americans are pleading for reform. Yet these pleas are not being heard by the majority party.

Our counterparts in the Senate, they did not have much success but at least they tried. At least they brought it to the floor. Let us do the same here, Mr. Speaker. Let us bring some of these 87 bills to the floor for debate. Nearly three-quarters of this House is asking for it. Nearly three-quarters of this House is a sponsor of a campaign finance bill.

I urge all of my colleagues to join the gentleman from Michigan [Mr. BONIOR] in calling for and signing a discharge petition so that we can get the issue before this body for debate and before this body for a vote. We certainly owe it to our constituents to have a vote on campaign finance before we adjourn and go back to our districts.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume. I include for the RECORD an explanation of the previous question, as follows:

THE PREVIOUS QUESTION VOTE: WHAT IT MEANS

House Rule XVII ("Previous Question") provides in part that: There shall be a motion for the previous question, which, being ordered by a majority of the Members voting, if a quorum is present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked or ordered.

In the case of a special rule or order of business resolution reported from the House Rules Committee, providing for the consideration of a specified legislative measure, the previous question is moved following the one hour of debate allowed for under House Rules.

The vote on the previous question is simply a procedural vote on whether to proceed to an immediate vote on adopting the resolution that sets the ground rules for debate and amendment on the legislation it would make in order. Therefore, the vote on the previous question has no substantive legislative or policy implications whatsoever.

Mr. Speaker, I think the gentleman from Arizona [Mr. HAYWORTH] was really on point in this debate which was brought up by our distinguished friends on the other side of the aisle in this open rule on Coast Guard; in other words, on nothing that had to do with the Coast Guard. But the gentleman from Arizona [Mr. HAYWORTH], in setting the record straight, I think had a very interesting point and that is the analogy of the policeman who stops someone who is speeding because the speed limit is 50 miles an hour and then when the person is stopped, the person wants to change the law. This law is very bad, yes, it is true I was going 70 miles an hour, but I think it should be a 30-mile-an-hour speed limit. That is an excellent point because that is exactly what we are dealing with here.

The allegations that are being made and that are being substantiated on a day-in and day-out basis are very serious. These allegations have to do with selling of influence to enemy dictatorships. I think few allegations can be more serious. And so when we have an analogy about stopping someone for going 50 miles an hour, remember the 50 miles an hour that we are talking about. We are talking about selling influence to enemies of the United States being the 50 miles an hour. And yet saying, oh, no, no, the law is bad, make it 30 miles an hour.

So yes, we can debate and we will very happily debate this issue, but the bottom line is that today what we are doing is something else that is very important to the United States; by the way, very important, Mr. Speaker, to the national security of the United States as well. And that is authorizing the Coast Guard.

And so we bring forth to the floor the legislation to authorize the Coast Guard with the opportunity for all Members of this House under what we call in this House an open rule, an opportunity for any and all Members to bring forth any amendment that is germane, that is relevant to that legislation. That is what we are doing, Mr. Speaker. That is what we ask at this moment, that the resolution, the rule be accepted.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority argues that our attempt to defeat the previous question is futile because our proposed amendment is not germane. The fact of the matter is that the Chair has not made a ruling nor heard our arguments as to the germaneness of our amendment. The only way to make that determination is to allow us to offer the amendment by defeating the previous question.

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote.

A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan.

It is a vote about what the House should be debating.

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

I include the following material for the RECORD.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's "Precedents of the House of Representatives," (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said:

"The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership "Manual on the Legislative Process in the United States House of Representatives," (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual:

"Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's "Procedure in the U.S. House of Representatives," the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues:

"Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

H. RES. 265—PREVIOUS QUESTION AMENDMENT TEXT

At the end of the resolution add the following new section:

"Section 2. Before the House adjourns sine die for the first session of the 105th Congress, it shall consider campaign finance reform legislation under an open amendment process."

Mr. Speaker, I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. QUINN). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 223, nays 196, not voting 14, as follows:

[Roll No. 515]

YEAS—223

Aderholt	Gilman	Pappas
Archer	Goodlatte	Parker
Armey	Goodling	Paul
Bachus	Goss	Paxon
Baker	Graham	Pease
Ballenger	Granger	Peterson (PA)
Barr	Greenwood	Petri
Barrett (NE)	Gutknecht	Pickering
Bartlett	Hall (OH)	Pitts
Barton	Hansen	Pombo
Bass	Hastert	Porter
Bateman	Hastings (WA)	Portman
Bereuter	Hayworth	Pryce (OH)
Bilbray	Hefley	Quinn
Bilirakis	Herger	Radanovich
Bliley	Hill	Ramstad
Blunt	Hilleary	Redmond
Boehlert	Hobson	Regula
Boehner	Hoekstra	Riggs
Bonilla	Holden	Riley
Brady	Horn	Rogan
Bryant	Hostettler	Rogers
Bunning	Houghton	Rohrabacher
Burr	Hulshof	Ros-Lehtinen
Burton	Hunter	Royce
Buyer	Hutchinson	Ryun
Callahan	Hyde	Salmon
Calvert	Inglis	Sanford
Camp	Istook	Saxton
Campbell	Jenkins	Scarborough
Canady	Johnson (CT)	Schaefer, Dan
Cannon	Johnson, Sam	Schaffer, Bob
Castle	Jones	Sensenbrenner
Chabot	Kasich	Serrano
Chambliss	Kelly	Sessions
Chenoweth	Kim	Shaw
Christensen	King (NY)	Shimkus
Coble	Kingston	Shuster
Coburn	Klug	Skeen
Collins	Knollenberg	Smith (MI)
Combest	Kolbe	Smith (NJ)
Cook	LaHood	Smith (OR)
Cooksey	Largent	Smith (TX)
Cox	Latham	Smith, Linda
Crane	LaTourette	Snowbarger
Crapo	Lazio	Solomon
Cunningham	Leach	Souder
Davis (VA)	Lewis (CA)	Spence
Deal	Lewis (KY)	Stearns
DeLay	Linder	Strickland
Diaz-Balart	Livingston	Stump
Dickey	LoBiondo	Sununu
Doolittle	Lucas	Talent
Dreier	Manzullo	Tauzin
Duncan	McCollum	Taylor (NC)
Dunn	McCrery	Thomas
Ehlers	McDade	Thornberry
Ehrlich	McHugh	Thune
Emerson	McInnis	Tiahrt
English	McKeon	Traficant
Ensign	Metcalf	Upton
Everett	Mica	Walsh
Ewing	Miller (FL)	Wamp
Fawell	Moran (KS)	Watkins
Foley	Morella	Weldon (FL)
Forbes	Murtha	Weldon (PA)
Fowler	Myrick	Weller
Fox	Nethercutt	White
Franks (NJ)	Neumann	Whitfield
Frelinghuysen	Ney	Wicker
Gallegly	Northup	Wolf
Ganske	Norwood	Young (AK)
Gekas	Nussle	Young (FL)
Gibbons	Oxley	
Gilchrest	Packard	

NAYS—196

Abercrombie	Baldacci	Berman
Ackerman	Barcia	Berry
Allen	Barrett (WI)	Bishop
Andrews	Becerra	Blagojevich
Baesler	Bentsen	Blumenauer
Bonior	Hinojosa	Pascrell
Borski	Hooley	Pastor
Boswell	Hoyer	Payne
Boucher	Jackson (IL)	Pelosi
Boyd	Jackson-Lee (TX)	Peterson (MN)
Brown (CA)	John	Pickett
Brown (FL)	Johnson (WI)	Pomeroy
Brown (OH)	Johnson, E. B.	Poshard
Capps	Kanjorski	Price (NC)
Cardin	Kaptur	Rahall
Carson	Kennedy (MA)	Rangel
Clay	Kennedy (RI)	Reyes
Clayton	Kennelly	Rivers
Clement	Kildee	Rodriguez
Clyburn	Kilpatrick	Roemer
Condit	Kind (WI)	Rothman
Conyers	Kleczka	Roukema
Costello	Klink	Roybal-Allard
Coyne	Kucinich	Rush
Cramer	LaFalce	Sabo
Cummings	Lampson	Sanchez
Danner	Levin	Sanders
Davis (FL)	Lewis (GA)	Sandlin
Davis (IL)	Lipinski	Sawyer
DeFazio	Lofgren	Schumer
DeGette	Lowey	Scott
Delahunt	Luther	Shays
DeLauro	Maloney (CT)	Sherman
Deutsch	Maloney (NY)	Sisisky
Dicks	Manton	Skaggs
Dingell	Markey	Skelton
Dixon	Martinez	Slaughter
Doggett	Mascara	Smith, Adam
Dooley	Matsui	Snyder
Doyle	McCarthy (MO)	Spratt
Edwards	McCarthy (NY)	Stabenow
Engel	McDermott	Stark
Eshoo	McGovern	Stenholm
Etheridge	McHale	Stokes
Evans	McIntyre	Stupak
Farr	McKinney	Tanner
Fattah	McNulty	Tauscher
Fazio	Meehan	Taylor (MS)
Filner	Meek	Thompson
Flake	Menendez	Thurman
Frank (MA)	Millender-McDonald	Tierney
Frost	Miller (CA)	Torres
Furse	Minge	Towns
Gejdenson	Mink	Turner
Gephardt	Moakley	Velázquez
Goode	Mollohan	Vento
Gordon	Moran (VA)	Visclosky
Green	Nadler	Waters
Gutierrez	Oberstar	Watt (NC)
Hall (TX)	Obey	Waxman
Hamilton	Olver	Wexler
Harman	Ortiz	Weygand
Hastings (FL)	Owens	Wise
Hefner	Pallone	Woolsey
Hilliard		Wynn
Hinchey		Yates

NOT VOTING—14

Bono	Gillmor	Neal
Cubin	Gonzalez	Schiff
Dellums	Jefferson	Shadegg
Foglietta	Lantos	Watts (OK)
Ford	McIntosh	

□ 1748

Mr. HALL of Texas changed his vote from "yea" to "nay."

Mrs. MORELLA and Mr. SCARBOROUGH changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will

now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 2464, de novo; and

H.R. 1962, de novo.

The Chair will reduce to 5 minutes the time for each electronic vote in this series.

AMENDING THE IMMIGRATION AND NATIONALITY ACT TO EXEMPT INTERNATIONALLY ADOPTED CHILDREN UNDER AGE 10 FROM THE IMMUNIZATION REQUIREMENT

The SPEAKER pro tempore. The pending business is the question de novo of suspending the rules and passing the bill, H.R. 2464, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 2464, as amended.

The question was taken.

RECORDED VOTE

Mr. DIAZ-BALART. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a five-minute vote.

The vote was taken by electronic device, and there were—ayes 420, noes 0, not voting 13, as follows:

[Roll No. 516]

AYES—420

Abercrombie	Brady	Crapo
Ackerman	Brown (CA)	Cummings
Aderholt	Brown (FL)	Cunningham
Allen	Brown (OH)	Danner
Andrews	Bryant	Davis (FL)
Archer	Bunning	Davis (IL)
Armey	Burr	Davis (VA)
Bachus	Burton	Deal
Baesler	Buyer	DeFazio
Baker	Callahan	DeGette
Baldacci	Calvert	Delahunt
Ballenger	Camp	DeLauro
Barcia	Campbell	DeLay
Barr	Canady	Deutsch
Barrett (NE)	Cannon	Diaz-Balart
Barrett (WI)	Capps	Dickey
Bartlett	Cardin	Dicks
Barton	Carson	Dingell
Bass	Castle	Dixon
Bateman	Chabot	Doggett
Becerra	Chambliss	Dooley
Bentsen	Chenoweth	Doolittle
Bereuter	Christensen	Doyle
Berman	Clay	Dreier
Berry	Clayton	Duncan
Bilbray	Clement	Dunn
Bilirakis	Clyburn	Edwards
Bishop	Coble	Ehlers
Blagojevich	Coburn	Ehrlich
Bliley	Collins	Emerson
Blumenauer	Combest	Engel
Blunt	Condit	English
Boehlert	Conyers	Ensign
Boehner	Cook	Eshoo
Bonilla	Cooksey	Etheridge
Bonior	Costello	Evans
Borski	Cox	Everett
Boswell	Coyne	Ewing
Boucher	Cramer	Farr
Boyd	Crane	Fattah
Fawell	Latham	Ramstad
Fazio	LaTourette	Rangel
Filner	Lazio	Redmond
Flake	Leach	Regula
Foglietta	Levin	Reyes
Foley	Lewis (CA)	Riggs
Forbes	Lewis (GA)	Riley
Fowler	Lewis (KY)	Rivers
Fox	Linder	Rodriguez
Frank (MA)	Lipinski	Roemer
Franks (NJ)	Livingston	Rogan
Frelinghuysen	LoBiondo	Rogers
Frost	Lofgren	Rohrabacher
Furse	Lowey	Ros-Lehtinen
Gallegly	Lucas	Rothman
Ganske	Luther	Roukema
Gejdenson	Maloney (CT)	Roybal-Allard
Gekas	Maloney (NY)	Royce
Gephardt	Manton	Rush
Gibbons	Manzullo	Ryun
Gilchrest	Markey	Sabo
Gilman	Martinez	Salmon
Goode	Mascara	Sanchez
Goodlatte	Matsui	Sanders
Goodling	McCarthy (MO)	Sandlin
Gordon	McCarthy (NY)	Sanford
Goss	McCollum	Sawyer
Graham	McCrery	Saxton
Granger	McDade	Scarborough
Green	McDermott	Schaefer, Dan
Greenwood	McGovern	Schaffer, Bob
Gutierrez	McHale	Schumer
Gutknecht	McHugh	Scott
Hall (OH)	McInnis	Sensenbrenner
Hall (TX)	McIntyre	Serrano
Hamilton	McKeon	Sessions
Hansen	McKinney	Shadegg
Harman	McNulty	Shaw
Hastert	Meehan	Shays
Hastings (FL)	Meek	Sherman
Hastings (WA)	Menendez	Shimkus
Hayworth	Metcalf	Shuster
Hefley	Mica	Sisisky
Hefner	Millender-McDonald	Skaggs
Herger	Miller (CA)	Skeen
Hill	Miller (FL)	Skelton
Hilleary	Minge	Slaughter
Hilliard	Mink	Smith (MI)
Hinchey	Moakley	Smith (NJ)
Hinojosa	Mollohan	Smith (OR)
Hobson	Moran (KS)	Smith (TX)
Hoekstra	Moran (VA)	Smith, Adam
Holden	Morella	Smith, Linda
Hooley	Murtha	Snowbarger
Horn	Myrick	Snyder
Hostettler	Nadler	Solomon
Houghton	Nethercutt	Souder
Hoyer	Neumann	Spence
Hulshof	Ney	Spratt
Hunter	Northup	Stabenow
Hutchinson	Norwood	Stark
Inglis	Nussle	Stearns
Istook	Oberstar	Stenholm
Jackson (IL)	Obey	Stokes
Jackson-Lee (TX)	Olver	Strickland
Jenkins	Ortiz	Stump
John	Owens	Stupak
Johnson (CT)	Oxley	Sununu
Johnson (WI)	Packard	Talent
Johnson, E. B.	Pallone	Tanner
Johnson, Sam	Pappas	Tauscher
Jones	Parker	Tauzin
Kanjorski	Pascrell	Taylor (MS)
Kaptur	Pastor	Taylor (NC)
Kasich	Paul	Thomas
Kelly	Paxon	Thompson
Kennedy (MA)	Payne	Thornberry
Kennedy (RI)	Pease	Thune
Kennelly	Pelosi	Thurman
Kildee	Peterson (MN)	Tiahrt
Kilpatrick	Peterson (PA)	Tierney
Kim	Petri	Torres
Kind (WI)	Pickering	Towns
King (NY)	Pickett	Traficant
Kingston	Pitts	Turner
Kleczka	Pombo	Upton
Klink	Pomeroy	Velázquez
Klug	Porter	Vento
Knollenberg	Portman	Visclosky
Kolbe	Poshard	Walsh
Kucinich	Price (NC)	Wamp
LaFalce	Pryce (OH)	Waters
LaHood	Quinn	Watkins
Lampson	Radanovich	Watt (NC)
Largent	Rahall	Waxman
Weldon (FL)	Whitfield	Wynn
Weldon (PA)	Wicker	Yates
Weller	Wise	Young (AK)
Wexler	Wolf	Young (FL)
Weygand	Woolsey	
White		

NOT VOTING—13

Bono	Gonzalez	Neal
Cubin	Hyde	Schiff
Dellums	Jefferson	Watts (OK)
Ford	Lantos	
Gillmor	McIntosh	

□ 1801

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend the Immigration and Nationality Act to exempt internationally adopted children 10 years of age or younger from the immunization requirement in section 212(a)(1)(A)(ii) of such Act.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FORD. Mr. Speaker, on rollcall Nos. 515 and 516, I was unavoidably detained.

On rollcall 515 I would have voted: "no";

On rollcall 516 I would have voted: "yes".

ANNOUNCEMENT OF THE CONFIRMATION OF REPRESENTATIVE THOMAS FOGLIETTA AS AMBASSADOR TO ITALY

(Mr. MURTHA asked and was given permission to address the House for 1 minute.)

Mr. MURTHA. Mr. Speaker, it is my pleasure to announce to the House of Representatives that the gentleman from Pennsylvania [Mr. FOGLIETTA] has now been confirmed by the other body, the Senate, as the Ambassador to Italy. The gentleman from Texas [Mr. DELAY] says, "Make your reservations early."

PRESIDENTIAL AND EXECUTIVE OFFICE FINANCIAL ACCOUNTABILITY ACT OF 1997

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1962, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and pass the bill, H.R. 1962, as amended.

The question was taken.

RECORDED VOTE

Mr. LINDER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 413, noes 3, not voting 17, as follows:

[Roll No. 517]

AYES—413

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—3

Coble
Manton
Paul

NOT VOTING—17

Barrett (NE)
Bono
Cubin
Dellums
Doggett
Fowler
Gillmor
Gonzalez
Hyde
Jefferson
Lantos
McIntosh
Neal
Schiff
Talent
Watkins
Watts (OK)

□ 1813

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to provide for a Chief Financial Officer in the Executive Office of the President.".

A motion to reconsider was laid on the table.

PARTIAL-BIRTH ABORTION BAN ACT—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–158)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 1122, which would prohibit doctors from performing a certain kind of abortion. I am returning H.R. 1122 for exactly the same reasons I returned an earlier substantially identical version of this bill, H.R. 1833, last year. My veto message of April 10, 1996, fully explains my reasons for returning that bill and applies to H.R. 1122 as well. H.R. 1122 is a bill that is consistent neither with the Constitution nor sound public policy.

As I stated on many occasions, I support the decision in *Roe* v. *Wade* protecting a woman's right to choose. Consistent with that decision, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or prevent serious harm to her health. Unfortunately, H.R. 1122 does not contain an exception to the measure's ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury.

I have asked the Congress repeatedly, for almost 2 years, to send me legislation that includes a limited exception for the small number of compelling cases where use of this procedure is necessary to avoid serious health consequences. When Governor of Arkansas, I signed a bill into law that barred third-trimester abortions, with an appropriate exception for life or health. I would do so again, but only if the bill contains an exception for the rare cases where a woman faces death or serious injury. I believe that Congress should work in a bipartisan manner to fashion such legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 10, 1997.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

□ 1815

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that the message of the President and the bill be referred to the Committee on the Judiciary.

The SPEAKER pro tempore (Mr. DICKEY). Is there objection to the request of the gentleman from Florida?

Mr. SCOTT. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Florida [Mr. CANADY] to explain his request.

Mr. CANADY of Florida. Mr. Speaker, I thank the gentleman for yielding to me. This unanimous-consent request would send the veto message of the President and the bill to the Committee on the Judiciary.

Mr. SCOTT. Further reserving the right to object, Mr. Speaker, considering that this bill was vetoed because it lacked a health exception, does the subcommittee chairman intend to process similar legislation which exempts from the bill's coverage cases where it is necessary to protect the health of the mother, which provision,

of course, is necessary in order for the bill to meet constitutional muster so that we can actually have a bill?

Mr. CANADY of Florida. Mr. Speaker, if the gentleman will continue to yield, the legislation which the President has again vetoed seeks to ban the procedure known as partial-birth abortion. The procedure is performed several thousand times each year, primarily in the fifth and sixth months of pregnancy, on healthy babies of healthy mothers. To the victims of partial-birth abortion, this is no rhetorical campaign statement, as some have said. Instead, it is a means, partial-birth abortion is a means to a brutal death.

According to the American Medical Association, which supports H.R. 1122, partial-birth abortion is not an accepted medical practice. Hundreds of obstetricians and gynecologists and fetal maternal specialists, along with former Surgeon General C. Everett Koop have come forward to unequivocally state that partial-birth abortion is never medically necessary to protect the mother's health or her future fertility.

In fact, the procedure can significantly threaten a mother's health or ability to carry future children to term. In conclusion, the health exception sought by the President would be both unnecessary and dangerous. We want to enact a meaningful ban on partial-birth abortions that will protect innocent babies from a brutal death. That is exactly what the bill does. No changes in the bill are necessary.

Mr. SCOTT. Mr. Speaker, further reserving the right to object, since it is clear that the constitutionally required health exception will probably not be included and so that we can determine the effect of the motion to refer and because it would seem useless to have this bill just gathering dust in the Committee on the Judiciary until we engage in another futile political exercise during next year's campaign, I would ask the gentleman when we could expect a bill to be considered by the House?

Mr. CANADY of Florida. Mr. Speaker, again, if the gentleman will continue to yield, I reject certain premises contained in the gentleman's question. I believe that this bill is constitutional. It does not fall within the scope of Roe v. Wade. Roe v. Wade dealt with the status of the unborn child. I disagree with the court's decision in Roe v. Wade, but I do not believe that that decision covers the case of a partially born child. This is different in that regard.

I think it is clearly distinguishable from what the court dealt with in Roe v. Wade. On the question of timing, it would be the intention of the committee to bring this back to the floor for a vote on overriding the veto sometime next year before the conclusion of this Congress. We do not have a date established for action.

Mr. SCOTT. Further reserving the right to object, Mr. Speaker, I would just say that we disagree on the constitutionality of a bill without the health exception and several State bills very similar to this have been already thrown out just this year.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The veto message and the bill will be referred to the Committee on the Judiciary.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2595

Mr. BERRY. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 2595.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

COAST GUARD AUTHORIZATION ACT OF 1997

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 265 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2204.

□ 1822

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2204) to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes, with Mr. DICKEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Tennessee [Mr. CLEMENT], each will control 30 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2204. Before I discuss this bill, I would like to thank the distinguished chairman of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER], our ranking minority member, the gentleman from Wisconsin [Mr. OBERSTAR], and the ranking minority member of the Subcommittee on Coast Guard and Maritime Transportation, the gentleman from Tennessee [Mr. CLEMENT], and their staff for their help and cooperation on this legislation. H.R. 2204 was developed in a bipartisan manner and deserves the support of all the Members.

The primary purpose of H.R. 2204 is to authorize funds for the United States Coast Guard for fiscal years 1998, 1999. Title I of this bill authorizes $3.9 billion for Coast Guard activities in fiscal year 1998 and $4 billion in fiscal year 1999. The fiscal year 1998 authorization contains an increase over the level requested by the President for the Coast Guard of approximately $97 million. These funds primarily support additional Coast Guard efforts to interdict illegal drugs before they reach the United States.

The fiscal year 1999 authorization contains additional funds for drug interdiction and for other Coast Guard operating and acquisition costs. Specifically, this legislation includes approximately $2.79 billion in fiscal year 1998, and $2.85 billion in fiscal year 1999 for Coast Guard operating expenses, $401 million in fiscal year 1998, and $444 million in fiscal year 1999 for acquisition of vessels, aircraft and shore facilities, and $652 million in fiscal year 1998, and $692 million in fiscal year 1999 for Coast Guard retired pay.

I strongly support the increase in funds for drug interdiction because cuts in resources devoted to drug interdiction in the early 1990s have greatly hindered Coast Guard efforts to fight the war on drugs. The evidence is clear that effective drug interdiction raises the price of drugs driving use down especially among casual users.

A study released last January by the Institute on Defense Analysis confirmed this point. Interdiction is especially significant as we focus on ways to eliminate teenage drug use. We must mount an aggressive attack on drug smugglers if we intend to win the war on drugs. The funds authorized in this bill will restore cuts to the Coast Guard drug interdiction program and provide the level of drug interdiction we need to keep drugs from reaching the shores of the United States.

There are many things we as a Nation together can do to fight the drugs and to participate in the war on drugs. There is treatment programs, there is educational programs, there is a whole range of things that we can do. Interdiction is an important part, an important piece of that puzzle.

Title II of H.R. 2204 deals with several internal Coast Guard personnel management matters. Title III of the bill addresses issues related to navigation safety. This title amends the Ports and Waterways Safety Act and subtitle II of title XLVI, United States Code, by extending the territorial sea for these laws from 3 to 12 nautical miles from shore. These amendments will enhance the Coast Guard's ability to fully implement its port State control program and protect U.S. waters and substandard foreign vessels.

Title IV of the legislation contains several miscellaneous provisions, including enhancements to the Coast Guard vessel identification system, several Coast Guard property transfers, classification of financial responsibility requirements for oil spill response vessels and several specific wavers of the U.S. coastwise trade laws.

Finally, Mr. Chairman, as we go through the authorization of the Coast Guard, we would like, the gentleman from Tennessee [Mr. CLEMENT], and I, and the staff would like Members, when they think about the Coast Guard, to think about the Arctic Ocean at midnight in February in a driving storm, the Coast Guard is there.

Think of the environmental enforcement of our shores, our coastal waters and our inland seas, the Coast Guard is there. Think of the illegal immigrants enslaved in cargo ships by criminals from all around this globe intercepted by young Coast Guard men and women on the high rough seas in all kinds of weather.

Think about the protection of the coastal waters and the fisheries which provide an abundance of food for this United States. Think about the search and rescue missions that are taken throughout the entire year, day and night, winter and summer, calm seas and rough seas, that is what the Coast Guard does.

At the appropriate time, I will offer an en bloc amendment which makes several technical corrections and includes several noncontroversial amendments to the bill. I urge Members to support this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. CLEMENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2204, the Coast Guard Authorization Act of 1997. Members on both sides of aisle support the Coast Guard in this very bipartisan bill. The Coast Guard is on the front lines every day saving lives and stopping drugs from entering our country. They are the lead agency in the clean up of oil spills and protect our fisheries within our 200-mile exclusive economic zone.

Mr. Chairman, these are not partisan issues. The gentleman from Maryland [Mr. GILCHREST], and I have worked closely with the gentleman from Pennsylvania [Mr. SHUSTER] and the ranking member, the gentleman from Wisconsin [Mr. OBERSTAR], to craft a bill that will meet the needs of the Coast Guard for fiscal year 1998.

H.R. 2204 authorizes approximately $3.9 billion for the Coast Guard for fiscal year 1998, including $2.8 billion for their operations, $401 million for acquisition and construction of new ships and facilities, $19.5 million for research and development and $21 million for environmental compliance and restoration at Coast Guard facilities.

□ 1830

The only difference between the amounts authorized in this bill and the budget proposed by the President is that we have added approximately $97 million for increased drug interdiction operations.

We have also worked closely with the administration to include much of its legislative program for this year, including extending the territorial sea from 3 miles to 12 miles.

We have also included a number of recommendations made by the maritime industry, such as prohibiting people from interfering with the safe operation of commercial vessels.

I urge all my colleagues to support H.R. 2204, the Coast Guard Authorization Act of 1997.

Mr. Chairman, I reserve the balance of my time.

Mr. GILCHREST. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. LOBIONDO].

Mr. LoBIONDO. Mr. Chairman, I would like to voice my strong support for H.R. 2204, the Coast Guard Authorization Act.

In addition to funding for critical drug interdiction activities, this bill contains a significant increase in the Coast Guard operating expense account. This boost will allow the Coast Guard to do their job more effectively.

In my district, Mr. Chairman, this will benefit the Coast Guard's training center in Cape May, which is the only recruit training center in our Nation. In addition, the completion of the new air station in Atlantic City will ensure better and faster search and rescue missions along the east coast.

I want to thank the Coast Guard for the important service that they are performing in southern New Jersey and throughout our Nation. Their small boat stations have been a great help to fishermen and recreational boaters. Their rapid response saved the lives of two Air National Guard pilots forced to eject into the Atlantic in a recent accident.

In general, Mr. Chairman, the Coast Guard personnel have proven to be very welcome members of the community in southern New Jersey and, in fact, throughout our Nation where the Coast Guard has a presence.

And I would like to, Mr. Chairman, in conclusion, congratulate and to thank the Coast Guard for the great job that they are doing in so many different ways. As the gentleman from Maryland has stated, they are putting their lives on the line day in and day out, very often without recognition, and I want to say how very proud we are of the great job that they are doing.

Mr. CLEMENT. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. JOHNSON.]

Mr. JOHNSON of Wisconsin. Mr. Chairman, I too join in support of this Coast Guard Authorization Act. As a Representative who lives and works on the Great Lakes, and as a member of the Subcommittee on Coast Guard and Maritime Transportation, I am pleased to see that this great investment in the Coast Guard is being made today not only with the full support of people here but the full support of a lot of people in our districts.

Every day, as has been noted before, the Coast Guard is patrolling our lakes and shores aiding navigation, performing search and rescue missions, protecting the coastal resources, and fighting drug trafficking.

The Coast Guard performs vital services for Great Lake States and across the Nation. And as a member of the Great Lakes States, and of particular importance to all of us who live along the coastline of the Great Lakes, the bill includes nearly $5 million in the fiscal year ahead for continued operation and maintenance of what is vital to our area and to the Great Lakes, the ice-breaking cutter, the *Mackinaw*.

For as long as I have been on this Earth, for some 54 years, the *Mackinaw* has sailed the Great Lakes breaking ice so other ships may travel safely and bring goods in and out of the ports, including the port of Green Bay.

The bill also provides funding to explore future options to the now aging icebreaker *Mackinaw*, and I am pleased to see this endeavor take shape as we plan for the Coast Guard and with the Coast Guard for the years ahead.

Mr. Chairman, I look forward to the passage of this bill as we show our support not just for the Coast Guard in general but for the hard work of the men and women of the Coast Guard, and in particular the people in my district who build the great ships that they sail. As someone who has grown up on the Great Lakes, I can appreciate the work and the effort put in by the Coast Guard.

We have Coast Guard operations in Green Bay, Sturgeon Bay, Marinette, and Washington Island in my district, a district that contains one county that has more lighthouses than any other county in America. We know full well the work of the Coast Guard on the Great Lakes, but also wherever ships and wherever people are in trouble at sea, the Coast Guard is there. I ask for my colleagues support for the Coast Guard Authorization Act.

Mr. CLEMENT. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I rise to call my colleagues' attention to a potentially dangerous situation in southern Lake Michigan. Currently, there is only one air rescue helicopter serving the entire southern Lake Michigan region. Until 1995, that helicopter was located at the Coast Guard air station in Chicago at Glenview, IL. In 1995, the village of Glenview asked the Coast Guard to vacate Glenview's

site and, subsequently, the Coast Guard moved the facility to Muskegon, MI.

While the justification for a move is clear, I take issue with the Coast Guard's choice for the location of a new facility. The new site is simply too far away from where the majority of boating activities and accidents occur in Lake Michigan. I believe safety should be the primary factor guiding where the helicopter air rescue station serving southern Lake Michigan should be situated.

The decision about where to base the Coast Guard's air rescue helicopter must consider public safety. The Coast Guard's SAR standard response time is 2 hours. It takes a helicopter centrally based in Michigan at least 80 minutes to reach the Chicago area. It is clear that 1 hour could mean the difference between life and death when boaters are in an emergency situation in Lake Michigan. Simple common sense dictates a response time of 15 to 20 minutes from a base on the southern end of the lake would be safer.

Other factors for which the Coast Guard did not account for are population and accident rates. According to July 1996 Census Bureau statistics, the population of counties bordering Lake Michigan in Indiana and Illinois is 6.4 million people. Michigan's shoreline population in the region is only 715,000. It stands to reason that the more populated areas of the Lake Michigan shoreline are at greater risk for boating accidents.

In addition, northwest Indiana's casino boats, which now carry thousands of people each year, and Chicago's dinner and sightseeing boats, which carry over 1 million passengers per year, accentuate the southern Lake Michigan region's need for a Coast Guard helicopter that can respond very quickly in emergencies.

Recent events have highlighted the need for a helicopter rescue team which can respond. Twenty-six people died in Lake Michigan between October 1, 1995, and October 1, 1996, compared with just 4 deaths in the previous year. Thirteen of those deaths were the result of boating and jet skiing accidents and occurred in lake waters between Gary, IN, and Waukegan, IL.

This is a serious problem and, for the sake of the tens of thousands of people along the southern shore of Lake Michigan who use the lake for recreational and commercial purposes, I would hope that this body and the administration would act to improve their safety, safety that has been seriously jeopardized since 1995.

I would simply add my thanks to the gentleman from Maryland [Mr. GILCHREST] for his earlier colloquy with the gentleman from Illinois [Mr. DAVIS] recognizing the situation we find ourselves in and his commitment, and I am sure the commitment of the gentleman from Tennessee [Mr. CLEMENT], to seek resources to make sure that the safety of everyone along that southern shore of Lake Michigan is protected.

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume, to advise that while we have no more speakers on our side, I do want to take just a few seconds to respond to this issue of the helicopter.

There are limited resources no matter where we go in this country. Each State has limited resources. Each county has limited resources. The Federal Government has limited resources. The Coast Guard has limited resources. So we try to spread those few limited resources to the areas that we think need to be served the most because of the dangers that have been associated with those areas.

The Coast Guard has chosen to move that helicopter. Now, we also recognize that the Coast Guard does a fine job working with State and county officials in all of these rescue missions, and that is what they are going to do. And I want to assure the people in the gentleman's area, I want to assure the people in the Great Lakes region, Lake Michigan, that the Coast Guard is there and they are continuing to work there and they are going to do the best job they can and they will continue to work with local hospitals, with local States, with local rescue missions with their helicopters that cover the area.

What we are going to do next year is to find out what areas the Coast Guard is lacking, where they are underfunded because of increased responsibilities and make those corrections. So I assure the gentleman from Indiana that we are going to pursue this issue with all our effort.

Mr. VISCLOSKY. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Chairman, I just wish to thank the gentleman very, very much.

Mr. CLEMENT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. BLAGOJEVICH].

Mr. BLAGOJEVICH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, last year, to reiterate what the gentleman from Indiana [Mr. VISCLOSKY] said moments ago, last year almost seven times more people died on the southern side of Lake Michigan, or the connecting rivers around the Chicago, IL, Gary, IN, area than in the previous year.

And while the remarks of the previous speaker are certainly correct, there are limited resources in today's environment, and there are certainly a tremendous amount of needs, oftentimes competing needs. I would simply argue that when we consider the urgency on the southern side of Lake Michigan, there are compelling arguments and compelling reasons for the Coast Guard to consider sending another search and rescue helicopter to the area that serves southern Lake Michigan.

Because presently there is only one Coast Guard search and rescue helicopter which serves the needs of southern Lake Michigan, and the needs for that particular area are compelling. The population of counties bordering Lake Michigan in Indiana and Illinois is 6.4 million people.

Northwest Indiana, every year, has four casino boats that carry thousands of people on any given day. Chicago's dinner and sightseeing boats carry over 1 million passengers every year. There are more than 5,000 boats which harbor in Chicago. Every day over 1,000 flights, every day over 1,000 flights come in and out of Chicago's three airports in their final descent over Lake Michigan. Chicago O'Hare happens to be among the busiest airports in the world.

Chicago fire and police department marine units are gravely concerned, they have expressed this publicly, about their emergency response capability if a plane were to crash into Lake Michigan. On an average day in the summer there are roughly 2,000 boats in the water along the 70 miles of shoreline between Gary, IN, and Waukegan, IL.

There are, on average, 10 to 20 Coast Guard search and rescue boats which cover Gary, IN, north to Waukegan, IL. These are missions routinely done, yet again we only have one search and rescue helicopter serving that area.

Mr. Chairman, the gentleman from Indiana [Mr. VISCLOSKY], the gentleman from Illinois [Mr. LIPINSKI], and myself have requested the GAO to prepare an independent assessment to determine which location best protects the safety of those who live and recreate in this area of southern Lake Michigan. I would hope that this study will strongly consider factors such as population and the number of accidents which occur along the Chicago and Gary shoreline.

This is about saving lives and not about saving money, and I am hopeful and confident that the GAO and the appropriators will consider these factors.

Mr. CRANE. Mr. Chairman, I rise to speak today, not on a matter that was addressed by H.R. 2204, the Coast Guard Authorization Act, but on one that was not addressed but should have been. Specifically, I refer to the ill-advised relocation, by the U.S. Coast Guard [USCG], of its helicopter rescue unit from Glenview, IL, to Muskegon, MI.

The effect of that move, which was prompted by the decision to close the Glenview Naval Air Station, has been to increase, by about 30 minutes, the time it takes for a Coast Guard air rescue helicopter to reach the Chicago lakefront in the case of an emergency. Moreover, that rescue helicopter is now 15–20

minutes further removed from the area north of Chicago, an area featuring over 60 lakes and one of America's most popular recreational waterways, not to mention miles of Lake Michigan shoreline often frequented by boating enthusiasts. As a matter of fact, over 25,000 boating permits have been issued in the Fox River-Chain o' Lakes area of northeastern Illinois alone.

Mr. Chairman, the significance of these figures is this. Thousands of people boating near, or flying over, one of the most heavily populated areas of America are at greater risk than they were a year ago. Not only is the USCG's rescue helicopter further away, but it can operate anywhere over lake Michigan whereas the local policy boats and fire department helicopters usually stay within 4 miles of shore. Also, there are two other considerations. First, whenever the USCG helicopter does come down to the Chicago area for a search and rescue mission, it cannot remain aloft as long as it did previously before it has to refuel. Second, the USCG personnel manning that helicopter have more specialized training and equipment than do the dedicated people who operate local police boats and rescue helicopters.

Since any one of these considerations could delay or otherwise compromise efforts to rescue people from the waters of lower Lake Michigan, the Fox River, the Chain o' Lakes, and/or the other lakes that dot northeastern Illinois and southeastern Wisconsin, I think you can understand why so many people in or near that area are concerned about the basing of this USCG helicopter rescue unit. To them, that unit represents the margin between life and death in the event of a serious boating or airplane accident, the potential for which has become increasingly apparent lately.

During the past year, no less than 26 people have died in those waters compared to four the year before. Nine of those fatalities resulted from airplane crashes over Lake Michigan, a sobering indication of what could happen if a commercial jet headed to or from either O'Hare Airport or Midway were to suffer a similar fate. In such a circumstance, we would want all available rescue resources on the scene as soon as possible, just as we would in the event a sightseeing boat were to sink or an aircraft were to disappear. But, so long as the USCG's helicopter rescue unit continues to be based in a more thinly populated area across the lake 85 miles from Waukegan, one of those resources—that unit—may not be able to arrive in a timely fashion.

For that reason, I would like to see that concern dealt with before too much more time elapses and we suddenly find ourselves confronted with a tragedy. To my way of thinking, there are two sure ways in which it could be addressed. One would be to relocate the USCG helicopter unit presently based in Muskegon back to the southwestern shore of Lake Michigan, preferably at a site in Lake County, IL. The other would be to create a new unit and base it at a site on or near that same stretch of shore. By mentioning these options, I do not mean to suggest the absence of other alternatives, such as Meigs Field in downtown Chicago. Instead, my intent is to underscore the availability of viable options, to emphasize the need to bring the best of them to the fore as soon as possible, and to express the hope that, before H.R. 2204 is sent to the President for his consideration, progress will have been made to that end.

Mr. BILIRAKIS. Mr. Chairman, as we debate H.R. 2204, the Coast Guard Reauthorization Act, I want to highlight a very important program administered by the Coast Guard. I am referring to the Coast Guard's ports and waterways safety system [PAWSS], a new follow-on program for the vessel traffic service [VTS] 2000 project which was terminated in October 1996.

The primary purpose of a vessel traffic service is to ensure the safety of vessel traffic in U.S. ports and waterways. This program saves lives, protects property and protects the marine environment by giving mariners timely, accurate, and relevant information to avoid groundings and collisions. The Coast Guard currently operates several vessel traffic services in major port areas with much success and support.

The PAWSS Program is an important next step to assure the safety and efficiency of the Nation's ports and inland waterways.

My interest in the VTS began when on August 10, 1993, a collision occurred in a navigation channel outside the entrance to Tampa Bay between two tug/barges and a 357-foot freighter. This accident resulted in a thunderous explosion that shot a fireball hundreds of feet into the air.

In addition, approximately 380,000 gallons of oil spilled into the Gulf of Mexico. The cost of the clean-up of this spill was enormous, not to mention the damage to the environment.

This is not the first accident to occur at the mouth of Tampa Bay. In May 1980, a freighter, traveling through dense fog, ran into the Sunshine Skyward Bridge causing one of its spans to collapse. Some 40 people were killed. Had the VTS been in place prior to these incidences, these disasters could have been avoided. Today, the port of Tampa Bay is still without a VTS system.

The VTS represents a cost-effective answer to the prevention of these types of environmental disasters. The 1993 accident resulted in over $100 million in economic penalties and pollution cleanup costs. Nationally, the cost of cleaning up accidents such as the 1993 oil spill could easily outpace the cost of operating a VTS program.

Over 2 billion tons of cargo move in and out of all U.S. ports each year. Almost half of this total consists of petroleum products, which pose environmental hazards. Increased use of waterways by passenger and recreational vessels only increases the risk of serious accidents on our Nation's waterways.

Mr. Chairman, I urge my colleagues to support the Coast Guard's port and waterways safety systems.

Mr. LIPINSKI. Mr. Chairman, during consideration today of H.R. 2204, the Coast Guard Authorization Act, Members spoke on the floor about a need for a study to determine the best location for the seasonal Coast Guard air search and rescue facility for Southern Lake Michigan. There is some controversy surrounding the recent relocation of the facility from just north of Chicago to Muskegon, MI. I would like to take this opportunity to enter into the record a letter from my good friend, Chicago Alderman Ed Burke, on this subject. In his letter, he refers to a recent article from the Chicago Sun-Times, which I would also like to include in the record.

I encourage my colleagues to consider Alderman Burke's comments in the context of today's debate.

CITY OF CHICAGO,
COMMITTEE ON FINANCE,
Chicago, IL, September 22, 1997.

HON. WILLIAM O. LIPINSKI,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSMAN LIPINSKI: The Chicago Sun-Times recently published an article which reported a steep increase in the number of deaths in southern Lake Michigan or connecting rivers over the past year.

I have enclosed for your perusal a letter that I have forwarded to Rear Admiral J.F. McGowan of the United States Coast Guard, detailing my continuing and growing concerns regarding the controversial relocation of an emergency helicopter unit to Muskegon, Michigan.

Any assistance that you could provide in helping to convince the U.S. Coast Guard to restore the "rescue" helicopter unit to a site closer to the Chicago Metropolitan Area would be greatly appreciated.

Yours truly,

EDWARD M. BURKE,
Chairman.

CITY OF CHICAGO,
COMMITTEE ON FINANCE,
Chicago, IL, September 16, 1997.

J.F. MCGOWAN,
Rear Admiral, U.S. Coast Guard, Commander,
Ninth Coast Guard District, Cleveland, OH.

DEAR REAR ADMIRAL MCGOWAN: Enclosed please find a copy of a recent article from the Chicago Sun-Times, which reports that almost "seven times more people have died in Lake Michigan or connecting rivers" since October 1, 1996.

According to the U.S. Coast Guard, twenty-six people have died in southern Lake Michigan, compared with just four people during the previous fiscal year, the article states. I hope you would agree that this sharp increase in fatalities is completely unacceptable. I also cannot help but observe that these statistics skyrocketed after the U.S. Coast Guard's decision to relocate its "rescue" helicopter unit more than 100 nautical miles away from Chicago in Muskegon, Michigan.

Therefore, I must request that you provide an explanation as to why this "rescue" helicopter continues to remain in Michigan while the number of deaths continue to spiral upward in the Greater Chicago Metropolitan Area and Southern Indiana.

In light of these troubling statistics, I also wish to inquire whether the U.S. Coast Guard plans to reconsider its controversial decision made last year to relocate this "rescue" helicopter unit.

Your prompt attention to this matter would be appreciated.

Yours truly,

EDWARD M. BURKE,
Chairman.

[From the Chicago Sun Times, Sept. 9, 1997]

LAKE MICHIGAN DEATHS UP SHARPLY THIS YEAR

(By Phillip J. O'Connor)

Almost seven times more people have died in Lake Michigan or connecting rivers since Oct. 1 than in the previous year, the Coast Guard said Monday.

Twenty-six people have died since Oct. 1, compared with just four during the previous fiscal year, said Chief Scott Kirwen, acting commander of the Coast Guard's South Chicago station, which directs all agency rescues here. "This was an extremely high year for some reason."

Nine people died in plane crashes, including seven killed in the collision of two planes over the lake near 55th Street on July 26. Two others were killed Feb. 20 and when a plane crashed near Waukegan.

Four people died when they jumped off bridges into rivers. Eleven deaths involved boating, and two people died in jet skiing accidents.

The 26 deaths occurred in the area covered by the Coast Guard here, stretching from Indiana Harbor in Whiting, Ind., to the middle of the lake, to north of Waukegan.

Kirwen said he doubted that moving the Coast Guard's helicopter rescue unit from the former Glenview Naval Air Training Station to Muskegon, Mich., last year would have made any difference.

"A Chicago Fire Department helicopter responded in most of these cases," he said. "By the time the Coast Guard is notified, the people have already disappeared under the surface of the water."

Some authorities and legislators have contended that moving the unit out of the Chicago area cut the safety margin for lake boaters, sailors and swimmers. It takes twice as long for a helicopter based in Muskegon to reach boaters off Chicago's lakefront and the North Shore.

Kirwen said that only two of the people who died—fishermen found drowned in April after a fishing trip off Hammond—were wearing life jackets. Nationally, nearly nine out of 10 drowning victims were not wearing life jackets, Kirwen said.

Life jackets can protect against hypothermia because they allow a person to float without expending energy, Kirwen said.

The Coast Guard uses a 50-50-50 rule in promoting use of life jackets. "If a person is in 50-degree water for 50 minutes, they have a 50 percent better chance to survive if they are wearing a life jacket," Kirwen said.

Mr. CLEMENT. Mr. Chairman, I yield back the balance of my time.

Mr. GILCHREST. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purposes of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1997".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—AUTHORIZATION
Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.
TITLE II—COAST GUARD MANAGEMENT
Sec. 201. Removal of cap on warrant officer severance pay.
Sec. 202. Authority to implement awards programs.
TITLE III—MARINE SAFETY
Sec. 301. Extension of territorial sea for certain laws.
Sec. 302. Penalties for interfering with the safe operation of a vessel.
TITLE IV—MISCELLANEOUS
Sec. 401. Vessel identification system amendments.
Sec. 402. Conveyance of Coast Guard Reserve training facility, Jacksonville, Florida.
Sec. 403. Documentation of certain vessels.
Sec. 404. Conveyance of Coast Guard facility in Nahant, Massachusetts.
Sec. 405. Unreasonable obstruction to navigation.
Sec. 406. Financial responsibility for oil spill response vessels.
Sec. 407. Conveyance of Coast Guard property to Jacksonville University in Jacksonville, Florida.
Sec. 408. Penalty for violation of international safety convention.
Sec. 409. Coast Guard City, USA.
Sec. 410. Conveyance of Communication Station, Boston Marshfield Receiver Site, Massachusetts.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard, as follows:

(1) For the operation and maintenance of the Coast Guard—

(A) for fiscal year 1998, $2,790,700,000; and

(B) for fiscal year 1999, $2,854,700,000; of which $25,000,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto—

(A) for fiscal year 1998, $401,000,000, of which $2,000,000 shall be made available for concept evaluation for a replacement vessel for the Coast Guard icebreaker MACKINAW, which concept evaluation shall be transmitted to the Congress not later than April 1, 1998; and

(B) for fiscal year 1999, $440,000,000;

to remain available until expended, of which $20,000,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness—

(A) for fiscal year 1998, $19,500,000; and

(B) for fiscal year 1999, $19,000,000;

to remain available until expended, of which $1,000,000 may be made available in fiscal year 1998 for fuel cell research, and of which $3,500,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code—

(A) for fiscal year 1998, $652,000,000; and

(B) for fiscal year 1999, $692,000,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program—

(A) for fiscal year 1998, $17,300,000; and

(B) for fiscal year 1999, $20,000,000,

to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $21,000,000 for each of fiscal years 1998 and 1999, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of—

(1) 37,944 as of September 30, 1998; and

(2) 38,038 as of September 30, 1999.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training—

(A) for fiscal year 1998, 1,424 student years; and

(B) for fiscal year 1999, 1,424 student years.

(2) For flight training—

(A) for fiscal year 1998, 98 student years; and

(B) for fiscal year 1999, 98 student years.

(3) For professional training in military and civilian institutions—

(A) for fiscal year 1998, 283 student years; and

(B) for fiscal year 1999, 283 student years.

(4) For officer acquisition—

(A) for fiscal year 1998, 814 student years; and

(B) for fiscal year 1999, 810 student years.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. REMOVAL OF CAP ON WARRANT OFFICER SEVERANCE PAY.

Section 286a(d) of title 14, United States Code, is amended by striking the last sentence.

SEC. 202. AUTHORITY TO IMPLEMENT AWARDS PROGRAMS.

Section 93 of title 14, United States Code, is amended—

(1) in paragraph (s), by striking the comma at the end and inserting a semicolon;

(2) in paragraph (t), by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by redesignating paragraphs (a) through (v) in order as paragraphs (1) through (21);

(4) by redesignating the existing text (as so amended) as subsection (a); and

(5) by adding at the end the following new subsection:

"(b) The Commandant may provide for the honorary recognition of individuals and organizations, including State and local governments and commercial and nonprofit organizations, that significantly contribute to Coast Guard programs, missions, or operations, by awarding plaques, medals, trophies, badges, and similar items to acknowledge that contribution.".

TITLE III—MARINE SAFETY

SEC. 301. EXTENSION OF TERRITORIAL SEA FOR CERTAIN LAWS.

(a) PORTS AND WATERWAYS SAFETY ACT.—Section 3 of the Ports and Waterways Safety Act (33 U.S.C. 1222) is amended by adding at the end the following:

"(5) 'Navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

(b) TITLE 46, UNITED STATES CODE.—Subtitle II of title 46, United States Code, is amended as follows:

(1) In section 2101—

(A) by redesignating paragraph (17a) as paragraph (17b); and

(B) by inserting after paragraph (17) the following:

"(17a) 'navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

(2) In section 2301, by inserting "(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988)" after "of the United States".

(3) In section 4102(e), by striking "on the high seas" and inserting "beyond 3 nautical miles from the baseline from which the territorial sea of the United States is measured".

(4) In section 4301(a), by inserting "(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988)" after "of the United States".

(5) In section 4502(a)(7), by striking "on vessels that operate on the high seas" and inserting "beyond 3 nautical miles from the baseline from which the territorial sea of the United States is measured".

(6) In section 4506(b), by striking paragraph (2) and inserting the following:

"(2) is operating—

"(A) in internal waters of the United States, or

"(B) within 3 nautical miles from the baseline from which the territorial sea of the United States is measured.".

(7) In section 8502(a)(3), by striking "not on the high seas" and inserting: "not beyond 3 nautical miles from the baseline from which the territorial sea of the United States is measured".

(8) In section 8503(a), by striking paragraph (2) and inserting the following:

"(2) is operating—

"(A) in internal waters of the United States, or

"(B) within 3 nautical miles from the baseline from which the territorial sea of the United States is measured.".

SEC. 302. PENALTIES FOR INTERFERING WITH THE SAFE OPERATION OF A VESSEL.

(a) IN GENERAL.—Section 2302 of title 46, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§2302. Penalties for negligent operations and interfering with safe operation";

and

(2) in subsection (a) by striking "that endangers" and inserting "or interfering with the safe operation of a vessel, so as to endanger".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 46, United States Code, is amended by striking the item relating to section 2302 and inserting the following:

"2302. Penalties for negligent operations and interfering with safe operation.".

TITLE IV—MISCELLANEOUS

SEC. 401. VESSEL IDENTIFICATION SYSTEM AMENDMENTS.

Title 46, United States Code, is amended—

(1) in section 12102(a), by striking "or is not titled in a State";

(2) in section 12301, by adding at the end the following:

"(c) A documented vessel shall not be titled or required to display numbers under this chapter by a State, and any certificate of title issued by a State for a documented vessel shall be surrendered in accordance with regulations prescribed by the Secretary.

"(d) The Secretary may approve the surrender under subsection (c) of a certificate of title covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.";

(3) in section 31322—

(A) by amending subsection (b) to read as follows:

"(b) Any indebtedness secured by a preferred mortgage that is filed or recorded under this chapter, or that is subject to a mortgage or instrument that is deemed to be a preferred mortgage under subsection (d) of this section, may have any rate of interest to which the parties agree."; and

(B) in subsection (d), by amending paragraph (3) to read as follows:

"(3) A preferred mortgage under this subsection continues to be a preferred mortgage even if the vessel is no longer titled in the State where the mortgage or instrument granting a security interest became a preferred mortgage under this subsection."; and

(4) in section 31325—

(A) in subsection (b)(1), by inserting "a vessel titled in a State," after "a vessel to be documented under chapter 121 of this title,";

(B) in subsection (b)(3), by inserting "a vessel titled in a State," after "a vessel for which an application for documentation is filed under chapter 121 of this title,"; and

(C) in subsection (c), by inserting "a vessel titled in a State," after "a vessel to be documented under chapter 121 of this title,".

SEC. 402. CONVEYANCE OF COAST GUARD RESERVE TRAINING FACILITY, JACKSONVILLE, FLORIDA.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) the land and improvements thereto comprising the Coast Guard Reserve training facility in Jacksonville, Florida, is deemed to be surplus property; and

(2) the Commandant of the Coast Guard shall dispose of all right, title, and interest of the United States in and to that property, by sale, at fair market value.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other person, the Commandant of the Coast Guard shall give to the city of Jacksonville, Florida, the right of first refusal to purchase all or any part of the property required to be sold under that subsection.

SEC. 403. DOCUMENTATION OF CERTAIN VESSELS.

(a) GENERAL WAIVER.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for each of the following vessels:

(1) SEAGULL (United States official number 1038605).

(2) BAREFOOT CONTESA (United States official number 285410).

(3) PRECIOUS METAL (United States official number 596316).

(4) BLUE HAWAII (State of Florida registration number FL0466KC).

(5) SOUTHERN STAR (United States official number 650774).

(6) KEEWAYDIN (United States official number 662066).

(7) W.G. JACKSON (United States official number 1047199).

(8) The vessel known as hopper barge E–15 (North Carolina State official number 264959).

(9) MIGHTY JOHN III (formerly the NIAGARA QUEEN, Canadian registration number 318746).

(10) MAR Y PAZ (United States official number 668179).

(11) SAMAKEE (State of New York registration number NY 4108 FK).

(12) NAWNSENSE (United States official number 977593).

(b) OWNERSHIP OF VESSEL PHILADELPHIA.—Notwithstanding section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802, 803) and section 12102(a)(4) of title 46, United States Code, the parent corporation of the corporation holding title to the vessel PHILADELPHIA (United States official number 654192) on May 3, 1995, is deemed on that date and thereafter to be a citizen of the United States for purposes of owning corporations whose vessels are eligible for documentation under chapter 121 of title 46, United States Code, with a coastwise endorsement, if—

(1) the chief executive officer of the parent corporation is a citizen of the United States;

(2) the chairman of the board of directors of the parent corporation is a citizen of the United States, and the number of its directors who are noncitizens does not exceed a minority of the number necessary to constitute a quorum;

(3) the parent corporation meets the stock ownership requirements of section 2 of the Shipping Act, 1916, for operating a vessel in the coastwise trade;

(4) the corporation holding title is otherwise eligible to own a vessel operated in the coastwise trade; and

(5) the vessel is otherwise eligible to be operated in the coastwise trade.

(c) SUNMAR SKY.—Section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104–324; 110 Stat. 3978) is amended by inserting "SUNMAR SKY (United States official number 683227)," after "vessels".

SEC. 404. CONVEYANCE OF COAST GUARD FACILITY IN NAHANT, MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property comprising United States Coast Guard Recreation Facility Nahant, Massachusetts, to the town of Nahant, Massachusetts.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—Any conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the terms and conditions the Secretary considers appropriate.

SEC. 405. UNREASONABLE OBSTRUCTION TO NAVIGATION.

Notwithstanding any other provision of law, the liftbridge over the back channel of the Schuylkill River in Philadelphia, Pennsylvania, is deemed to unreasonably obstruct navigation for purposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes", approved June 21, 1940 (chapter 409; 33 U.S.C. 511–523), popularly known as the "Hobbs Bridge Act" and the "Truman-Hobbs Bridge Act".

SEC. 406. FINANCIAL RESPONSIBILITY FOR OIL SPILL RESPONSE VESSELS.

Section 1004(a)(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(2)) is amended by inserting "including a vessel responding to a discharge of substantial threat of a discharge of oil," after "vessel,".

SEC. 407. CONVEYANCE OF COAST GUARD PROPERTY TO JACKSONVILLE UNIVERSITY IN JACKSONVILLE, FLORIDA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey to Jacksonville University, located in Jacksonville, Florida, without consideration, all right, title, and interest of the United States in and to the property comprising the Long Branch Rear Range Light, Jacksonville, Florida.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—Any conveyance of any property under this section shall be made—

(1) subject to the terms and conditions the Commandant may consider appropriate; and

(2) subject to the condition that all right, title, and interest in and to property conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by Jacksonville University.

SEC. 408. PENALTY FOR VIOLATION OF INTERNATIONAL SAFETY CONVENTION.

(a) IN GENERAL.—Section 2302 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) A vessel may not transport cargoes sponsored by the United States Government if—

"(A) the vessel has been detained by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention in an electronic form, including the name of the owner of the vessel; or

"(B) the owner of the vessel has had more than one vessel detained by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention in an electronic form, including the name of the owner of the vessel.

"(2) The prohibition in paragraph (1) expires for a vessel 1 year after the date of the publication in electronic form on which the prohibition is based.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect January 1, 1998.

SEC. 409. COAST GUARD CITY, USA.

The community of Grand Haven, Michigan, shall be recognized as "Coast Guard City, USA".

SEC. 410. CONVEYANCE OF COMMUNICATION STATION BOSTON MARSHFIELD RECEIVER SITE, MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Coast Guard Communication Station Boston Marshfield Receiver Site, Massachusetts, to the Town of Marshfield, Massachusetts.

(2) LIMITATION.—The Secretary shall not convey under this section the land on which is situated the communications tower and the microwave building facility of that station.

(3) IDENTIFICATION OF PROPERTY.—(A) The Secretary may identify, describe, and determine the property to be conveyed to the Town under this section.

(B) The Secretary shall determine the exact acreage and legal description of the property to be conveyed under this section by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(b) TERMS AND CONDITIONS.—Any conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and conditions:

(A) The Secretary may reserve utility, access, and any other appropriate easements on the property conveyed for the purpose of operating, maintaining, and protecting the communications tower and the microwave building facility.

(B) The Town and its successors and assigns shall, at their own cost and expense, maintain the property conveyed under this section in a proper, substantial, and workmanlike manner as necessary to ensure the operation, maintenance, and protection of the communications tower and the microwave building facility.

(C) Any other terms and conditions the Secretary considers appropriate to protect the interests of the United States.

The CHAIRMAN. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a demand for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the bill?

AMENDMENTS OFFERED BY MR. GILCHREST

Mr. GILCHREST. Mr. Chairman, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. GILCHREST:

Page 4, beginning at line 9, strike "of which" and all that follows through "research, and" at line 11.

Page 10, before line 20, insert the following new section (and conform the table of contents in section 2 accordingly):

SEC. 303. GREAT LAKES PILOTAGE ADVISORY COMMITTEE.

Section 9307 of title 46, United States Code, is amended to read as follows:

"§ 9307. Great Lakes Pilotage Advisory Committee

"(a) The Secretary shall establish a Great Lakes Pilotage Advisory Committee. The Committee—

"(1) may review proposed Great Lakes Pilotage regulations and policies and make recommendations to the Secretary that the Committee considers appropriate;

"(2) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to Great Lakes pilotage;

"(3) may make available to the Congress recommendations that the Committee makes to the Secretary; and

"(4) shall meet at the call of—

"(A) the Secretary, who shall call such a meeting at least once during each calendar year; or

"(B) a majority of the Committee.

"(b)(1) The Committee shall consist of 7 members appointed by the Secretary in accordance with this subsection, each of whom has at least 5 years practical experience in maritime operations. The term of each member is for a period of not more than 5 years, specified by the Secretary. Before filling a position on the Committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Committee.

"(2) The membership of the Committee shall include—

"(A) 3 members who are practicing Great Lakes pilots and who reflect a regional balance;

"(B) 1 member representing the interests of vessel operators that contract for Great Lakes pilotage services;

"(C) 1 member representing the interests of Great Lakes ports;

"(D) 1 member representing the interests of shippers whose cargoes are transported through Great Lakes ports; and

"(E) 1 member representing the interests of the general public, who is an independent expert on the Great Lakes maritime industry.

"(c)(1) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

"(2) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. The representatives shall, as appropriate, report to and advise the Committee on matters relating to Great Lakes pilotage. The Secretary's designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).

"(d)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to Great Lakes pilotage.

"(2) The Secretary shall consider the information, advice, and recommendations of the Committee in formulating policy regarding matters affecting Great Lakes pilotage.

"(e)(1) A member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

"(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS–18 of the General Schedule under section 5332 of title 5 including travel time; and

"(B) travel or transportation expenses under section 5703 of title 5.

"(2) A member of the Committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

"(f)(1) The Federal Advisory Committee Act (5 U.S.C. App.) applies to the Committee, except that the Committee terminates on September 30, 2003.

"(2) 2 years before the termination date set forth in paragraph (1) of this subsection, the Committee shall submit to the Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.".

Page 11, line 3, insert "by a State" after "titled".

Page 11, line 4, strike "by a State".

Page 11, strike lines 17 through 19, and insert the following:

to a mortgage, security agreement, or instrument granting a security interest that is deemed to be a preferred mortgage under subsection (d) of this section, may have any rate of interest to which the parties agree.";

Page 11, after line 19, insert the following:

(B) in subsection (d)(1), by striking "mortgage or instrument" each place it appears and inserting "mortgage, security agreement, or instrument";

(C) in subsection (d)(2), by striking "mortgages or instruments" and inserting "mortgages, security agreements, or instruments"; and

Page 11, line 20, strike "(B)" and insert "(D)".

Page 11, line 24, insert ", security agreement," after "mortgage".

Page 14, after line 15, insert the following new paragraphs:

(13) ELMO (State of Florida registration number FL5337BG).

(14) MANA-WANUI (United States official number 286657).

(15) OLD JOE (formerly TEMPTRESS; United States official number 991150).

(16) M/V BAHAMA PRIDE (United States official number 588647).

(17) WINDWISP (United States official number 571621).

(18) SOUTHLAND (United States official number 639705).

(19) FJORDING (United States official number 594363).

(20) M/V SAND ISLAND (United States official number 542918).

(21) PACIFIC MONARCH (United States official number 557467).

(22) FLAME (United States official number 279363).

(23) DULARGE (United States official number 653762).

Page 15, after line 19, insert the following new subsections:

(d) DOCUMENTATION OF THE VESSEL PRINCE NOVA.—

(1) DOCUMENTATION AUTHORIZED.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel PRINCE NOVA (Canadian registration number 320804).

(2) EXPIRATION OF CERTIFICATE.—A certificate of documentation issued for the vessel under paragraph (1) shall expire unless—

(A) the vessel undergoes conversion, reconstruction, repair, rebuilding, or retrofitting in a shipyard located in the United States;

(B) the cost of that conversion, reconstruction, repair, rebuilding, or retrofitting is not less than the greater of—

(i) three times the purchase value of the vessel before the conversion, reconstruction, repair, rebuilding, or retrofitting; or

(ii) $4,200,000; and

(C) not less than an average of $1,000,000 is spent annually in a shipyard located in the United States for conversion, reconstruction, repair, rebuilding, or retrofitting of the vessel until the total amount of the cost required under subparagraph (B) is spent.

(e) DOCUMENTATION OF VESSEL COLUMBUS.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), sections 12102 and 12106 of title 46, United States Code, and the endorsement limitation in section 5501(a)(2)(B) of Public Law 102-587, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel COLUMBUS (United States official number 590658).

(2) LIMITATION.—Coastwise trade referred to in paragraph (1) may not include the transportation of dredged material from a project in which the stated intent of the Corps of Engineers, in its Construction Solicitation, or of another contracting entity, is that the dredged material is to be deposited—

(A) above mean high tide for the purpose of beach nourishment; or

(B) into a fill area for the purpose of creation of land for an immediate use other than disposal of the dredged material.

Page 17, line 5, strike "discharge of" and insert "discharge or".

Page 18, beginning on line 8, strike "cargoes sponsored by the United States Government" and insert "Government-impelled cargoes".

Page 18, beginning at line 16, strike "the owner of the vessel has had more than one vessel detained" and insert "the operator of the vessel has on more than one occasion had a vessel detained".

Page 18, strike lines 22 through 24 and insert the following:

"(2) The prohibition in paragraph (1) expires for a vessel on the earlier of—

"(A) 1 year after the date of the publication in electronic form on which the prohibition is based; or

"(B) any date on which the owner or operator of the vessel prevails in an appeal of the violation on which the detention is based.".

Page 20, after line 22, add the following new sections (and conform the table of contents in section 2 accordingly):

SEC. 411. CLARIFICATION OF LIABILITY OF PERSONS ENGAGING IN OIL SPILL PREVENTION AND RESPONSE ACTIVITIES.

(a) CLARIFICATION OF LIABILITY FOR PREVENTING SUBSTANTIAL THREAT OF DISCHARGE.—Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)(8) by striking "to minimize or mitigate damage" and inserting "to prevent, minimize, or mitigate damage";

(2) by striking "and" after the semicolon at the end of subsection (a)(23), by striking the period at the end of subsection (a)(24) and inserting "; and", and by adding at the end of subsection (a) the following:

"(25) 'removal costs' means—

"(A) the costs of removal of oil or a hazardous substance that are incurred after it is discharged; and

"(B) in any case in which there is a substantial threat of a discharge of oil or a hazardous substance, the costs to prevent, minimize, or mitigate that threat."; and

(3) in subsection (c)(4)(A), by striking the period at the end and inserting the following: "relating to a discharge or a substantial threat of a discharge of oil or a hazardous substance.".

(b) OIL SPILL MECHANICAL REMOVAL.—Section 311(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)(2)) is amended—

(1) by striking "and (C)" and inserting ", (C)"; and

(2) by inserting before the semicolon at the end the following: ", and (D) discharges incidental to mechanical removal authorized by the President under subsection (c) of this section".

(c) SENSE OF THE CONGRESS REGARDING OIL SPILL RESPONSE ACTIONS.—It is the sense of the Congress that, under the Oil Pollution Act of 1990, the President should ensure that liability concerns regarding response actions to remove a discharge, or to mitigate or prevent the threat of a discharge, do not deter an expeditious or effective response, by promulgating guidelines in accordance with applicable Federal law, as soon as possible, clarifying that a person who takes any response action consistent with the National Contingency Plan, including the applicable fish and wildlife response plan, or as otherwise directed by the President, to prevent or mitigate the environmental effects of a discharge or a threat of a discharge should not be held liable for the violation of fish and wildlife laws, unless the person is grossly negligent or engages in willful misconduct.

SEC. 412. VESSEL DEEMED TO BE A RECREATIONAL VESSEL.

(a) IN GENERAL.—The vessel described in subsection (b) is deemed for all purposes, including title 46, United States Code, and all regulations thereunder, to be a recreational vessel of less than 300 gross tons, if—

(1) it does not carry cargo or passengers for hire; and

(2) it does not engage in commercial fisheries or oceanographic research.

(b) VESSEL DESCRIBED.—The vessel referred to in subsection (a) is the vessel TURMOIL (British Official number 726767).

SEC. 413. LAND CONVEYANCE, COAST GUARD STATION OCRACOKE, NORTH CAROLINA.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey, without consideration, to the State of North Carolina (in this section referred to as the "State"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, in Ocracoke, North Carolina, consisting of such portion of the Coast Guard Station Ocracoke, North Carolina, as the Secretary considers appropriate for purposes of the conveyance.

(b) CONDITIONS.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That the State accept the property to be conveyed under that subsection subject to such easements or rights of way in favor of the United States as the Secretary considers to be appropriate for—

(A) utilities;

(B) access to and from the property;

(C) the use of the boat launching ramp on the property; and

(D) the use of pier space on the property by search and rescue assets.

(2) That the State maintain the property in a manner so as to preserve the usefulness of the easements or rights of way referred to in paragraph (1).

(3) That the State utilize the property for transportation, education, environmental, or other public purposes.

(c) REVERSION.—(1) If the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with subsection (b), all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Upon reversion under paragraph (1), the property shall be under the administrative jurisdiction of the Administrator of General Services.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a), and any easements or rights of way granted under subsection (b)(1), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the conveyance under subsection (a), and any easements or rights of way granted under subsection (b)(1), as the Secretary considers appropriate to protect the interests of the United States.

SEC. 414. CONVEYANCE OF COAST GUARD PROPERTY IN SAULT SAINTE MARIE, MICHIGAN.

(a) REQUIREMENT TO CONVEY.—The Secretary of Transportation (in this section referred to as the "Secretary") shall promptly convey, without consideration, to American

Legion Post No. 3 in Sault Sainte Marie, Michigan, all right, title, and interest of the United States in and to the parcel of real property described in section 202 of the Water Resources Development Act of 1990 (Public Law 101–640), as amended by section 323 of the Water Resources Development Act of 1992 (Public Law 102–580), comprising approximately 0.565 acres, together with any improvements thereon.

(b) CONDITION.—The conveyance under subsection (a) shall be subject to the condition that the property be used as a clubhouse for the American Legion Post No. 3.

(c) REVERSION.—(1) If the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with subsection (b), all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Upon reversion under paragraph (1), the property shall be under the administrative jurisdiction of the Administrator of General Services.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the American Legion Post No. 3.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 415. DRY BULK CARGO RESIDUE.

(a) DRY BULK CARGO RESIDUE.—Section 3 of the Act to Prevent Pollution from Ships (33 U.S.C. 1902) is amended by adding the following subsection at the end thereof:

"(h) DISCHARGE OF RESIDUE OF DRY BULK CARGO IN CERTAIN NAVIGABLE WATERS AND WATERS OF THE GREAT LAKES.—(1) Notwithstanding any provision of this Act, the Secretary may allow, under conditions and standards prescribed by regulation—

"(A) vessels to discharge residue of dry bulk cargo into the waters of the Great Lakes under the jurisdiction of the United States; and

"(B) vessels of the United States to discharge residue of dry bulk cargo into the waters of the Great Lakes System governed by the Great Lakes Water Quality Agreement of 1978 and the 1987 Protocol thereto, under the jurisdiction of the Government of Canada or other waters governed by the Boundary Waters Treaty of 1909 under the jurisdiction of the Government of Canada.

"(2) Any regulation issued under this subsection shall be consistent with the Great Lakes Water Quality Agreement of 1978 and the 1987 Protocol thereto, and the Boundary Waters Treaty of 1909, and shall be developed in consultation with the Government of Canada, under the general guidance of the Secretary of State, and with the concurrence of the Administrator of the Environmental Protection Agency, and in consultation with appropriate Federal agencies, including the Assistant Secretary of the Army for Civil Works.

"(3) Any regulations issued under this subsection shall be reviewed by the Secretary no less often than every 5 years to determine whether such regulations are consistent with the water quality goals for the Great Lakes.".

(b) DEFINITION.—Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901) is amended

(2) by redesignating paragraphs (9), (10), (11), and (12) as (10), (11), (12), and (13), respectively and by inserting the following new paragraph after paragraph (8):

"(9) 'residue to dry bulk cargo' includes any residue or residues of dry bulk cargo generated in the customary operation of commercial vessels, including iron ore, coal, coke, salt, grain, stones, gravel, sand, clay, and slag, but does not include, even if associated with the aforementioned materials, any—

"(A) plastic, as defined in the convention,

"(B) oil or hazardous substance, as defined under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), or

"(C) hazardous substance, as defined in section 101(14) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (42 U.S.C. 9601(14)).".

Mr. GILCHREST (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

□ 1845

Mr. GILCHREST. Mr. Chairman, this amendment was developed and agreed to on a bipartisan basis. The amendment contains miscellaneous amendments, many of which are technical or clarifying in nature. The amendment includes a requirement for the Secretary of Transportation to appoint members to the Great Lakes Pilotage Advisory Committee, amendments to implement the Coast Guard Vessel Identification System, and various Jones Act waivers and Coast Guard property transfers. I urge the Members to support this amendment.

Mr. Chairman, this amendment was developed and agreed to on a bipartisan basis. The amendment contains miscellaneous amendments, many of which are technical or clarifying in nature. The amendment includes a requirement for the Secretary of Transportation to appoint members to the Great Lakes Pilotage Advisory Committee, amendments to implement the Coast Guard Vessel Identification System, and various "Jones Act" waivers and Coast Guard property transfers.

I urge the members to support this amendment.

New section 411(a) of the bill, as contained in this amendment, amends provisions in section 311 of the FWPCA, regarding liability immunity for measures to respond to oil spills, to clarify that such immunity also applies to measures to prevent, minimize or mitigate the substantial threat of a discharge. The intent of this amendment is to address oil spill prevention and response. Nothing in the amendment changes the current relationship between the FWPCA and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, regarding hazardous substances. For example, there is no intent to supersede or modify the effect of section 304 of such Act.

Section 411(b) amends the definition of discharge in section 311 of the FWPCA to exclude discharges that are incidental to mechanical removal authorized by the President under section 311. Mechanical removal activities, such as the "decanting" or separation of water from recovered oil, usually involve the return of excess water into the response area. However, such excess water almost necessarily includes a "de minimis" amount of oil. Unfortunately, current provisions and policies regarding "harmful quantities" in section 311 could potentially apply to such de minimis discharges, creating a disincentive to effective oil spill response. The amendment is intended to remove this potential disincentive.

Mr. CLEMENT. Mr. Chairman, I rise in strong support of the en bloc amendments offered by the gentleman from Maryland [Mr. GILCHREST]. This amendment was developed on a bipartisan basis to make technical corrections to the bill and to add provisions requested by Members since the bill was reported from committee in August. The additions to the bill include establishing a Great Lakes Pilotage Advisory Committee, allowing more vessels into our coastwise trade, provisions to promote oil spill response vessels, and a few excess property transfers. I believe this amendment will improve Coast Guard programs and I urge its adoption.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Maryland [Mr. GILCHREST].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. UPTON

Mr. UPTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UPTON:

Page 20, after line 22, insert the following (and conform the table of contents in section 2 accordingly):

SEC. 411. MAINTENANCE OF FOGHORNS.

The Secretary of Transportation shall take such actions as may be necessary to ensure that foghorns at the following ports are in working order:

(1) St. Joseph, Michigan.
(2) South Haven, Michigan.
(3) Grand Haven, Michigan.
(4) Muskegon, Michigan.
(5) Pentwater, Michigan.
(6) Lundington, Michigan.
(7) Frankfort, Michigan.
(8) Michigan City, Indiana.
(9) Saugatuck, Michigan.
(10) Marquette, Michigan.

Mr. UPTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Chairman, I would like to say that I very much appreciate the help of the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Tennessee [Mr. CLEMENT] in discussions for much of today. This amendment is about foghorns. As I was back in my district, as most of us were

these last 10 days, my district is along the shore of Lake Michigan, the Coast Guard currently has a proposal to end the maintenance and in essence stop foghorns in a number of ports along Lake Michigan. What this amendment does is a very simple amendment, it just requires the Secretary of Transportation take action as necessary to ensure that the foghorns at 10 ports along Lake Michigan are in working order.

We have been talking to the Members of Congress on both sides of the aisle whose ports are impacted. They all, Republicans and Democrats alike, support this bill. I would urge its passage. I am not going to ask for a recorded vote. I want to thank the staff on the committee as well as again the two gentlemen that I mentioned before in supporting this amendment.

Mr. HOEKSTRA. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman from Michigan for yielding. I support him in his efforts to restore and to maintain the foghorns along the shores of Lake Michigan. In another effort of the Coast Guard that was discussed briefly in the debate, in general debate on this bill, I want to reinforce the decisions that the Coast Guard has made and also reiterate I think all of our concern both from Michigan, from Indiana and Illinois about ensuring that the Coast Guard and having confidence in the Coast Guard that the Coast Guard is putting in place a structure of services and capabilities and resources that is going to provide safety for the boating population and also for the commerce along Lake Michigan.

In regards specifically to the location of a helicopter station in Muskegon, Michigan, they have gone through an elaborate process of identifying where the most effective operational location should be for that capability and also a community that could provide those services at the lowest possible cost. But I think we all as Congressmen that border on Lake Michigan are committed to ensuring that every section of that coastline and all the waters of Lake Michigan are adequately protected by the Coast Guard and that we will work together to make sure that there are ample resources to ensure that that moves forward in the future.

Mr. UPTON. Mr. Chairman, reclaiming my time, I would just note as a boater myself that a foghorn one evening brought my little boat in when we could not see the beam of the lighthouse. This is an amendment that is needed. As I met with my boaters and some Coast Guard personnel even this last week in Michigan, I think that this is a very good effort to try and maintain safety along the shores of Lake Michigan. I again just want to thank my two friends for allowing this amendment to come in at such late notice.

Mr. Chairman, a few years ago, I was out sailing on Lake Michigan with a group of friends. But as the sun went down, a full and beautiful day gave wave to a sailors worst nightmare. Fog rolled in, the visibility fell, and we were lost.

After searching and searching, we finally gained our direction not because of the charts on board or the buoys in the water but thanks to the foghorn and its steady signal.

It has come to my attention that the Coast Guard is considering whether to eliminate the use of foghorns at many locations on the Great Lakes. I oppose this idea and as one who has seen first hand, know that these foghorns play a crucial role in the safety of many boaters in my district and across the region.

Many boaters have contacted my office to express concern that they will no longer be able to rely on the foghorn signal the next time they are caught on the lake in a dense cloud of fog. In order to allow people to enjoy and appreciate the water safely, we must ensure the continued operation of our navigation aids.

Foghorns are a small, but integral part of the safety net that the Coast Guard administers.

I sincerely feel that dismantling the foghorns will unnecessarily endanger the lives of my constituents who may find themselves in a similar predicament.

While many boaters have advanced navigational devices such as GPS or LORAN, the foghorn signal is still an essential device used by many. If the foghorns are dismantled, I guarantee that it will only be a matter of time before an accident occurs and lives are threatened.

Please support my amendment that will ensure that the foghorns in my district and across the Great Lakes are in working order.

Mr. CLEMENT. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Tennessee.

Mr. CLEMENT. Mr. Chairman, I support the amendment offered by the gentleman from Michigan [Mr. UPTON] to require these foghorns to be operated and maintained by the Coast Guard. However, I would like to inquire as to how long. I ask these questions because today we do have the GPS satellite navigation systems that virtually all commercial vessels are depending upon. The cost of these systems are dropping continually as more and more recreational vessel owners are buying them.

Mr. UPTON. Mr. Chairman, my amendment does not address how long these should be in effect. I would guess that if this amendment is accepted, as I think that it will be, it will be for the length of the bill, which—is this a 1-year authorization?

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, this is a 2-year authorization. I will say that I as well accept the gentleman's amendment. I think what we will do, though, between now and the conference committee and beyond is to look into the issue of navigation concerns. I know that GPS is an up-and-coming technology that more and more people are purchasing and using and is probably the best type of system that anybody could have. However, I do think for the next few years, maybe even the next decade or so, we need to consider ourselves those people who do not have that technology who may have to rely upon the foghorn system. I am not sure what the foghorn sounds like. I wonder if the gentleman from Michigan——

Mr. UPTON. The gentleman is not going to hear it this evening but if he asks me tomorrow, I might whistle a note or two.

Mr. CLEMENT. Mr. Chairman, if the gentleman will yield further, I do support his amendment. I thank the chairman of the committee for his comments.

Mr. STUPAK. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Michigan.

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding and I thank him for his amendment as I do have two foghorns in that amendment myself. I just mention for the Record that I have 3 of the 5 Great Lakes, Lake Superior being one of them. Not all of the areas yet are in position to use the GPS technology due to some charting that still has to take place. So I would hope that this amendment would stay at least for this authorization and further, if needed, until the GPS and the wonderful things it brings to the boating community is available to all parts of the Great Lakes.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. UPTON] has expired.

Mr. STUPAK. Mr. Chairman, I move to strike the last word.

Mr. UPTON. Mr. Chairman, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Michigan.

Mr. UPTON. Mr. Chairman, I would just note in terms of the cost, the cost of this amendment is very small. For the most part these foghorns, many were installed in the early 1970s, have required virtually no maintenance at all. As far as I know, all of these ports, the lighthouses themselves are not manned, they are automatically timed as they should be, require very little maintenance, but in some cases, as is the case with the port at St. Joseph, a storm literally knocked the foghorn from the lighthouse itself. It went into the lake and efforts up to this point have not occurred where they would replace it. Whether it be in St. Joe or other ports that we list along Lake Michigan, I think this is a good exercise, a safe one that the Coast Guard is

entrusted to do and at least in the near term, until the GPS technology is really readily on all boats, and maybe even required by various States and we have more boaters in Michigan than any other State in the Union, that this seems to be a prudent way of spending a few Federal dollars to make sure that safety is there for not only the boaters but their families, too.

Mr. Chairman, I urge that the House adopt my amendment.

Mr. STUPAK. Mr. Chairman, I urge the House to accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. UPTON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUPAK:

At the end of title IV, add the following new section (and conform the table of contents in section 2 accordingly):

SEC. . CONVEYANCE OF EAGLE HARBOR LIGHT STATION.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Administrator of General Services shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Eagle Harbor Light Station, Michigan, to the Keweenaw County Historical Society.

(2) IDENTIFICATION OF PROPERTY.—The Secretary of Transportation may identify, describe, and determine the property to be conveyed pursuant to this subsection.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3), (4), and (5) and other terms and conditions the Secretary of Transportation may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the property conveyed shall immediately revert to the United States if the property, or any part of the property.—

(A) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(B) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary of Transportation considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the person to which the property is conveyed may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary of Transportation;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigations in use on the property.

(4) OBLIGATION LIMITATION.—The person to which the property is conveyed is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) REVERSION BASED ON USE.—The conveyance of the property described in subsection (a) is subject to the condition that all right, title, and interest in the property conveyed shall immediately revert to the United States if the property, or any part of the property ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of maritime history.

(6) MAINTENANCE OF PROPERTY.—The person to which the property is conveyed shall maintain the property in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

Mr. STUPAK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STUPAK. Mr. Chairman, let me at the beginning here thank the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Tennessee [Mr. CLEMENT] for not only allowing me the opportunity to offer my amendment but for the excellent bipartisan bill they have put forward. We have heard a lot here tonight about some of the strengths in this bill, such as keeping the operation of the Coast Guard cutter *Mackinaw* that the gentleman from Wisconsin [Mr. JOHNSON] mentioned, the authorization of continuation of shipbuilding of Coast Guard cutters and buoy tenders at Marinette Marine Corporation in Marinette, Wisconsin.

Mr. Chairman, if I may just briefly, yesterday I was actually at a Coast Guard ceremony to honor the Coast Guard in somewhat of a unique way in Charlevoix, Michigan. Yesterday we recognized the heroic action of Coast Guard members, especially Officer Henning, the crew of the buoy tender *Acacia*, the members of the Coast Guard Station Charlevoix, the Coast Guard Auxiliary. Back on July 26 as we were enjoying the Venetian Festival in Charlevoix, unfortunately fireworks exploded prematurely and a number of 12-inch fireworks exploded, sending shrapnel some 1200 feet into a crowd of 30,000 people. We had one person unfortunately died. Many were seriously, very seriously injured, limbs ripped right off their bodies. If it was not for the crew of the Coast Guard Station Acacia and Coast Guard Station Charlevoix and the Coast Guard Auxiliary which was on their waterfront and they had rendered heroic assistance and first aid in saving lives and maintaining control in a very emergency situation that many people did not realize because the rest of the fireworks continued to go and they tried to continue the evening with this tragic set of circumstances. So just yesterday we were honoring the Coast Guard in sort of a unique action and all the accolades given to the Coast Guard here tonight are well deserved.

Mr. Chairman, more specifically to the amendment I have, it is a simple amendment which would merely transfer Eagle Harbor Light Station in Eagle Harbor, Michigan to the Keweenaw County Historical Society. The society has held a lease on this property since 1982, operating it as a museum that depicts the history of the lighthouse and maritime transportation on the Great Lakes. In addition, the society has made repairs to the light station and the surrounding buildings and property. The society wishes to obtain this light station in order to continue their current preservation efforts and to further develop educational programs to teach all ages about the Keweenaw County heritage with an emphasis on the importance of maritime transportation, especially in the copper ore industry. This transfer is supported by the Coast Guard, the county of Keweenaw and Eagle Harbor Township.

Once again I would like to thank the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Tennessee [Mr. CLEMENT] for their work on this and other transfers I have worked on in the past. I urge my colleagues to pass this transfer.

I would also especially like to thank the chairman for including in his mark the transfer of land in Sault Ste. Marie, Michigan which will be used for the American Legion. The land will transfer from the Coast Guard to the American Legion. But I would especially like to take the opportunity to acknowledge the hard work and dedication of Mr. Leno Pianosi of Sault Ste. Marie, Michigan. He is a friend of mine and the chairman of the county board of commissioners. Without his efforts and his continued dedication to this project and persistence, this transfer could not have taken place. I thank both gentlemen for giving Mr. Pianosi and this transfer in the chairman's mark the opportunity to be in the bill.

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Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, I do want to say it is a well-done amendment. The gentleman from Michigan [Mr. STUPAK] has done his homework, and we accept his amendment.

Mr. CLEMENT. Mr. Chairman, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Tennessee.

Mr. CLEMENT. Mr. Chairman, I also support the amendment offered by the gentleman from Michigan [Mr. STUPAK]. This amendment is very clear, concise, and will decrease the Coast Guard's operations and maintenance costs of this facility. Therefore, I support the gentleman's amendment.

Mr. STUPAK. Mr. Chairman, reclaiming my time, let me thank everyone for their help and cooperation in these efforts and for a fine Coast Guard bill we have here, and ask for support of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. STUPAK].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KINGSTON) having assumed the chair, Mr. DICKEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2204), to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes, pursuant to House Resolution 265, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2204, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

AN INTERESTING OCCURRENCE IN IDAHO FALLS

(Mrs. CHENOWETH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CHENOWETH. Madam Speaker, a very interesting occurrence happened recently in Idaho Falls, ID. A 14-year-old young man by the name of Nathan Zohner engaged in a contest. The contest was entitled, "Find Out How Gullible We Are." And Mr. Zohner engaged in this contest and he did a paper on dihydrogen monoxide asking students in his class if dihydrogen monoxide should not be made illegal because, after all, this chemical is so caustic that it accelerates the corrosion and rusting of many metals. It is a major component of acid rain and has been found in excised tumors of terminal cancer patients, and for those who have developed a dependency on DEHMO, complete withdrawal means certain death.

We have to understand that these young people are from families generally who work at the NEEL, the National Environmental and Engineering Lab. They are very bright. But they voted 86 percent to do away with DEHMO.

Do you know what DEHMO is, Madam Speaker? It is water, pure and simple, water.

Maybe it takes a 14-year-old to lead us back to the land of common sense and reason.

My hat goes off to Nathan Zohner to which the Washington Post defines this young man's research project as "Zohnerism"—the use of a true fact to lead a scientifically and mathematically ignorant public to a false conclusion.

Mr. Speaker, this perceptive young man has shown how science can be literally manipulated to fit the whims of social engineering extremists.

In a time where sound scientific evidence is often overlooked, I believe it's the duty of politicians, journalists, and scientists to present facts accurately and responsibly.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. DICKEY). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MIDDLE-CLASS TAXPAYERS NEED EXPANDED IRA'S

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Mr. Speaker, I take this 5-minute special order to discuss with my colleagues why I believe it is important that we expand the IRA, Individual Retirement Account Program, for the American taxpayers.

I rise today to address what I believe is an urgent need to increase incentives to save and invest for middle-class taxpayers. Earlier this year, I introduced a bill which we called the Investment Revitalization Act of 1997 that would greatly increase the deduction ceilings for IRA contributions, increase the income caps which currently prevent many middle-class taxpayers from using IRA's, and expand the reasons for penalty-free withdrawals from IRA accounts.

By increasing incentives to save, this legislation would boost long-term economic growth and help middle-class taxpayers help themselves in addressing a wide variety of economic contingencies that might otherwise lead to expanded Government activity, which is exactly what this House has been trying to avoid.

Why? Well, in part because there have been concerns expressed about the economic viability of families when they are exposed to unemployment and other setbacks, the exposure of families to medical or other emergencies, the great difficulty in coping with increased educational costs, the heavier tax burden over the last three decades, and the looming problems associated with the retirement of the baby-boomers.

These are all issues that we have traditionally set up as reasons for our families to save, and this IRA program will help and encourage Americans to do so.

Most of these problems are related to the fact that our income tax is systematically biased, however, biased against personal savings, and this makes it much harder for families to accumulate the resources successfully to address these needs as they arise and encourages families to depend more and more on government programs.

More extensive use of the IRA would go a long way toward removing the bias against saving and investment in the Tax Code. This legislation is intended to suggest a new direction and to guide tax policy into the next century.

The basic idea is to expand our IRA's enough to strip away much of the multiple taxation of personal savings and investment which is vital. My IRA bill increases, therefore, the $2,000 IRA deduction that exists today by $500 every year for the next 10 years, and, at the end of this period, the deduction cap would, therefore, be $7,000.

In addition, to make IRA's even more attractive, penalty-free IRA withdrawals would be permitted for medical care, for college education, unemployment, and for first-time home ownership.

Over some number of years, a few years, a thrifty middle-class family could accumulate sums in excess of $100,000 or more. Then, when a career

setback or an unexpected medical problem occurred, they would have significant assets to fall back on, and not have to look to the Government for help.

Some would save aggressively for children's education expenses, or for some other reason, attracted by the deduction, but also knowing that earnings compound even faster without the annual tax bite. Others might focus solely on retirement.

In my view, the adoption of this legislation would largely reverse the current discrimination against personal savings and investment, thus boosting long-term economic growth as well as savings.

Government policy has undermined middle-class savings incentives for far too long. If we are concerned about inadequate personal savings and related problems, it is time for the U.S. tax policy to become less counterproductive. We cannot maintain a Tax Code that systematically discriminates against personal savings and investment, and then be surprised when people fail to save, and then be surprised when they demand more and more government services to help deal with these very difficult problems.

Let us reduce the multiple taxation on middle-class savings and get serious about expanding the individual retirement account, IRA system.

IMPORTANT EVENTS IN MONTGOMERY COUNTY, PENNSYLVANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. I appreciate the time to speak to my colleagues about two important matters that took place in my district, Montgomery County, Pennsylvania, most recently. The first was the return of the 1215th Garrison Support Unit last night around 10 o'clock at night, eight soldiers from the 1215th U.S. Army Reserve Unit returned after a nine-month deployment to Europe in support of Operation Joint Guard.

These outstanding soldiers were part of the third rotation of the Army Reservists deployed to support the UN peacekeeping mission in Bosnia, formerly known as Operation Joint Endeavor. These soldiers, men and women, have, as Reservists, done a great service, not only to Pennsylvania, but their country. They come from such occupational specialists within the U.S. Army as personnel administration, logistics and transportation, public affairs, chaplains, military police, medical and legal affairs, and the mobilized soldiers are from the Montgomery County, Pennsylvania, area as well as other parts of Pennsylvania and Maryland, and have done an outstanding job and are to be congratulated for their readiness to assume these duties and the service they have given to our country.

I wanted to join with Congressman GREENWOOD, who also represents this area, in saluting these soldiers.

I also want to take the opportunity to congratulate the Montgomery County Employment Group, who I met with this morning, in Plymouth township. There they had the opportunity to have employers and employees who are with disabilities being able to work for local employers, doing an outstanding job. They are among the most dedicated, hard-working individuals within our community. And many businesses, including the reporter newspaper, ARAMARK-Beaver College, Valley Forge Hilton and very important businesses throughout my district, over 25, have employed over 200 people with disabilities and done an outstanding job working with them, providing them long-term employment, self-esteem, leadership opportunities, and they are an inspiration, I think, to all those who come to meet them and have been served by them.

Our special award winners today were the Lower Merion School Superintendent David Magill as one of the winners of leadership for his service with the hiring of disabled individuals, as well as Ike Carpenter, President and CEO of Micro E.D.S., a marketing communications company.

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Those individuals were especially cited for their outstanding work. I look forward to working with my colleagues in Congress to make sure that the tax credit legislation that is provided to these employers will be continued.

WHAT SHOULD BE DONE WITH THE IRS?

The SPEAKER pro tempore (Mr. SAXTON). Under the Speaker's announced policy of January 7, 1997, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, I wanted to talk tonight about what we need to do with the IRS. I think what we need to do with the IRS is change the initials from "IRS" to "CRS." Right now, as we know, IRS stands for Internal Revenue Service. I say that what we should try to do is cut taxes, with a "C," and give tax relief, change the attitude of the tax system, and also simplify taxes. I guess the best way would be to make it "RAS," and have that stand for relief, attitude adjustment, and simplification.

I have my friend, the distinguished gentleman from Pennsylvania [Mr. FOX], who has been a leader on this with me tonight. I know that the good folks in Pennsylvania want lower taxes and simpler taxes, or the gentleman would not spend so much time working with that.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I think the gentleman from Georgia [Mr. KINGSTON] is right on target. There are three parts to this national debate and national issue that I think affect Pennsylvanians as well as they do Georgians and everyone else in the other 48 States.

The fact is, people are already overtaxed, and we have already started on the road to reducing taxes in this session. Number two, we need to change the IRS culture as we know it, and to change that agency and dismantle it. Three, we need to have a new Tax Code. Let me just speak, if I can, about the second point, which I think is very important.

The IRS has gone on too long with being unchecked, and where it all started was the original law which said that the IRS commissioner is presumed to be correct and taxpayers are presumed to be guilty. That whole presumption has to change and be reversed.

We need to have legislation such as I will be introducing as Taxpayer Bill of Rights III which says, no more quotas, no more fishing expeditions by the IRS, no more improper procedures with regard to bank accounts and businesses.

The IRS from now on will be responsible for legal bills that they cause unfairly to taxpayers and businesses, and they also will be responsible for any closures of businesses wrongfully conducted, just like you and I as private business people could be involved with a lawsuit if we interfere with someone else's right to conduct business. We need to make the agency accountable for the first time.

Mr. KINGSTON. Mr. Speaker, just to underscore what the gentleman is saying, when we talk about we need an IRS attitude adjustment, I have a rural district with a lot of farmers who work with the Soil Conservation Service or the Farm Service Agency, and generally these Federal Government agencies have a cooperative, friendly, help and technical assistance kind of attitude with farmers. Farmers come to them with erosion problems, wetlands problems, questions about applications of fertilizers and so forth, and the Federal Government agents, representing the USDA, are friendly to the farmers.

Would it not be nice if we had an IRS who was that way to small businesses? Most of the people I know fear an audit, not because of anything they have done wrong, but because maybe inadvertently they did forget to dot an "I" or cross a "T," and that being the case, they are afraid the IRS is going to catch them and fine them, and be excessively ruthless in their treatment of them.

Mr. FOX of Pennsylvania. If the gentleman will continue to yield, the fact is, while most IRS employees are doing the job they have been given to do, and do it properly, the fact is the whole culture has given them the incentives to go through peoples' rights without going through due process.

Take the example of Carol Ward in Colorado, in Colorado Springs, Colorado, where she was complaining to an IRS agent about the way they were treating her son's particular audit. The IRS agents get back at her, close her three businesses, put a sign on the door saying the business is closed, ruin her reputation, cost her hundreds of thousands of dollars. They had an improper audit, and in the end she is going to win back her business and hopefully get the fine she deserves back from the government.

But this has, frankly, gone on not just as mere anecdotal evidence, this is happening regularly.

Mr. KINGSTON. Mr. Speaker, if the gentleman will continue to yield, here are some stories that the Heritage Foundation has given us, from one of their fellows named Dan Mitchell.

One taxpayer was fined $10,000 for using a 12-pitch typewriter to fill out his tax forms instead of a 10-pitch typewriter. He was fined $10,000 for it.

In 1983, one taxpayer was fined $46,806 for an alleged underpayment of 10 cents. In another case, a day care center which allegedly owed the IRS $14,000 was raided by armed agents, who then refused to release the children until the parents pledged to give the money to the government.

These are cases that have been documented. It is just atrocious. There is no reason to have to have this kind of a relationship with a government agency when it is a government by we the people.

The Tax Code, there are 17,000 pages of IRS laws and regulations. There are 480 different tax forms. The IRS sends out, Mr. Speaker, 10 million corrections each year on notices.

In 1990, there were 190,000 disputes between the IRS and taxpayers that went to court. But of those, something like, and I have the exact statistic, 83 percent of all taxes that are collected are paid voluntarily. Only 3½ percent is because of the dispute and the IRS going after people, which tells me that the American people are pretty darned honest and forthright about paying their taxes, particularly when they can understand them.

Mr. FOX of Pennsylvania. If the gentleman will continue to yield, the fact is it is very clear from the Senate Finance Committee hearings, we learn that individuals who the IRS especially go after are the mom and pop stores, or single person-owned businesses where they would be less likely to be able to afford a lawyer or an accountant or taxpayer services, so that they would capitulate and pay the fine, even when they were not guilty.

The fact is, we should have a Federal Government agency like the National Park Service which is so respected. Why can we not have an IRS or a successor agency be one that the people will trust, they will have some belief that what is happening is credible and accountable?

But beyond changing the agency, I think it is also important that we move the debate on to having a replacement code from the 5 million words we have now, where the perception and the reality, by most Americans, is only those with special interests get the tax breaks, the deductions that they want. And meanwhile, I think most Americans would rather have a flat tax, something along the order of maybe a situation where those who have a dual-income under $25,000 or $30,000 would not pay a tax, a single person with $15,000 would pay no tax, but there would be a flat tax for those above. But there would be three exemptions: One for charitable deductions, a mortgage deduction, and State and local tax deduction.

That is not the only program that is out there. People talk about a national sales tax. But I think the important thing is to start the debate moving forward of a fairer tax program that will not give special breaks to those who have lawyers who can put them in the Tax Code, only to make it more difficult for those who are hardworking middle-income earners to make ends meet without having three jobs and sacrificing the unity of the family.

Mr. KINGSTON. The tax simplification argument really sets the stage for a thorough flat tax versus consumption tax debate. We have, in fact, two of our colleagues, the gentleman from Oklahoma [Mr. LARGENT] and the gentleman from New York [Mr. PAXON], who have introduced bills that shelf the IRS code in the year I think 1999 or 2000. So if their legislation passes, Congress will be in a position of having to change the code. But it is not going to be easy.

Mr. FOX of Pennsylvania. If I may speak to that point, I am glad the gentleman raised that. I believe that both the bills of the gentleman from Oklahoma [Mr. LARGENT] and the gentleman from New York [Mr. PAXON] are on target. What they are going to do for the first time, I say to the gentleman from Georgia [Mr. KINGSTON] is to say we will put a deadline. By the last day of the year 2000, we are going to have a new code.

Just like it took discipline to make us have this 104th Congress, 105th Congress reach a balanced budget by a date certain, we need to do the same thing. I think the gentleman from New York [Mr. PAXON] and the gentleman from Oklahoma [Mr. LARGENT] are right on target, for us to have the discipline to say here is the date by which we are going to make this change, and let us be about the business in a bipartisan fashion of changing the outdated code.

Mr. KINGSTON. As I talk to different civic clubs and have town meetings and talk about the difference between a flat tax and a consumption tax, one of the things that I realize, speaking for myself and speaking for the folks in the audience, is we all need to have a more thorough debate on it. We need to have education.

For example, if we exempt charitable contributions and the home mortgage deductions and something else, what is going to prevent us from coming back and saying, well, what about the cost of a wheelchair, the cost of a college education, prescription drugs, long-term health care, all of which are worthy causes, and underscore an important investment in public policy?

If we start having those deductions again, will we not return back to as complex a Tax Code as we have now? It is possible.

Mr. FOX of Pennsylvania. Mr. Speaker, let me respond. I think the gentleman's point is well taken in this respect, that if we start kind of slippery slope with three exemptions, where do we end up? But the fact is, those are probably the three most reasonable. We may well end up with those three, or we could end up with none.

I think what is important is that we be able to, in our town meetings and in our discussions in the nationwide TV, as well as debates here on the House floor, to discuss them.

My concern with the national sales tax is twofold. One, for those living on fixed income, many of them seniors, you are going to tax them the same as they tax you or I, and they are less able to pay if we have a national sales tax of a certain percentage. Plus, if we have States, and most of them already have a sales tax, if we have a super sales tax now from the Federal Government, what new tax will States have to have in order to replace the old sales tax?

So I think the movement is more to a flat tax, rather than a sales tax. But we have not heard the last of it. I think we need to have all the different alternatives out there, put them on a board, figure out who the winners and losers are, and have the American public weigh in before any bill is adopted to find out what the best solution is. But we certainly know from the American taxpayers and those who have worked with this code that we need a change.

Mr. KINGSTON. Yes. I want to point out something about the national sales tax. I know England, Britain, has a high sales tax, but they exempt groceries from it and children's clothes, among other things. So we can, for the seniors or those who could adversely be affected by a national sales tax, we could have certain deductions for

them. There again, we get into a deduction kind of problem, but it still would not complicate it for the taxpayer as much as it would for those collecting it. That could be a problem in itself.

I want to give the gentleman some more statistics, though, about how complicated the tax system is now. These figures came out from the office of the gentleman from Ohio [Mr. PORTMAN], who has been working, as the gentleman knows, on the National Commission for Restructuring the IRS.

Just to read some things they found, last year only one in five calls to the IRS customer service hotline got through. How many constituents does the gentleman have who call him for a fairly simple tax question, they call the gentleman from Pennsylvania, [Mr. JON FOX], because they know he can get an answer from the IRS and they cannot? That is very common.

Mr. FOX of Pennsylvania. Another interesting story, if the gentleman will continue to yield, I had a CPA from Montgomery County, Pennsylvania, call up the IRS helpful hotline, and he asked the question on behalf of his client. And they said, this is only for taxpayers, this is not for accountants.

This accountant is also a taxpayer. He pays part of the bills of this Federal employee. As far as I am concerned, if you are going to have a taxpayer service, it is for everyone, not just those who are not accountants, and also those who are accountants.

So we have a whole culture that goes to why I say the agency needs to be overhauled, it needs to be dismantled, and we need to start over again. The gentleman's statistics bear out what I am saying.

Mr. KINGSTON. If I can reclaim my time, Mr. Speaker, here is something interesting. The gentleman keeps using the word "culture." One of the finds of this committee is that the culture is so insular that only 5 of the top 73 IRS employees have been with the agency less than 15 years. Other than the commissioner, only two non-IRS employees have been brought in from the outside world to fill senior positions at the IRS.

It is interesting, because quite frequently we read in the newspaper that the CEO of General Motors or one of the senior VPs goes to FORD, or the head guy of CBS goes to NBC, or whatever. We see that all the time in the private sector, where top level management leaders are moving from one corporation to the other. I think it is a good blood mixture; it is good for everybody. But apparently the IRS does not believe in that. That could be one of their problems.

Here are some more statistics. The IRS still hand-processes the vast majority of returns and still relies on papers, 14 billion pieces of paper annually. It costs the IRS about $7 to process a paper return, and less than $1 if it is done electronically.

But electronically does not necessarily answer the question, because an IRS agent may have to access six different computer systems to resolve a taxpayer problem, and to answer questions, simple questions, often because of this, takes weeks and weeks. It is just too complicated.

Since 1956, the number of sections in the Tax Code has risen from 102 to 698.

□ 1930

Just since 1986, that Simplification Act, there have been 4,000 amendments to the tax codes. I think this is important for us to realize, that we as Members of Congress have taken on this task, and the Republican Party has led the way. Unfortunately, for whatever reason, the White House has decided that this is a partisan issue and the President wants to go down saying that the Democrat Party is the party of the status quo and the IRS and not change it. This is an actual headline from the Washington Times, September 30. It says, "The White House champions the IRS. The President opposes a citizen oversight committee." And the citizen oversight committee would just have some ideas and some suggestions for the IRS. But the President does not want that.

Now, we are not here to bash IRS employees, we are here to bash a tax system, a code, which these employees, another statistic, many of these employees want tax simplification and this was one of the findings of this committee, that the IRS employees themselves want simplification. But every time we in Congress, Democrats and Republicans, pass new exemptions on tax, it is not just if we have children, we want a $500 tax credit, we just fill out this form. It is not like that. It is pages and pages of forms, because that is the nature of it. As a result of it, Congress is the one who has made this system so complicated.

Now, we are not the one who has given the attitude which seems to be so prevalent among some IRS offices, but we certainly should be the ones to try to straighten out the complications.

Mr. FOX of Pennsylvania. If the gentleman would yield, the fact is that the agency has not been able to make the proper changes on itself. Take for example the fact that I exposed in my recent "Washington Waste Watch," the fact that $2.5 billion was spent on a new computer system that does not work. We would think that the agency that most depends on computers would buy a system that works.

Then we have 110,000, approximately that number, of IRS employees and when we think how many taxpayer advocates we would appoint to make sure they represent the taxpayers, one would think there would be several thousand or several hundred. There are only 43. So we have our sights and our issue of taking care of taxpayers, helping them fill out forms, helping them try to get through their debts and reshape their lives when they have been overburdened would be something that the agency would be about, and I am sure there are cases where there are some directors who worked at it. But as an overall, there has not been the changes that the public wants and Congress must demand.

Mr. KINGSTON. I think we should move for simplification and we should move to insist that IRS employees have a taxpayer friendly attitude. But along with this, whether we go to a flat tax or whether we go to a national sales tax or whatever we do, we still have to keep tax relief in mind.

Here are some examples of hidden taxes that we do not know about when we think about it. This is from Americans for Tax Reform, 1997: That a bottle of beer has 43 percent taxes. An airplane ticket, 40 percent tax. A bottle of liquor, 72 percent taxes. Electric bill, 25 percent taxes. A loaf of bread, 31 percent taxes. A car, 45 percent taxes. A hotel bill, 43 percent taxes. A restaurant bill, 27 percent taxes. A packet of cigarettes, 75 percent taxes. The phone bill, which keeps going down and down and down incidentally, 50 percent taxes. Pizza, 38 percent taxes. A set of tires, 36 percent taxes. And a can of soda, that is what my colleagues say up north. We say a can of Coca-Cola where I am from.

Mr. FOX of Pennsylvania. Mr. Speaker, the gentleman is from Georgia, so I understand that.

Mr. KINGSTON. A can of soda, 35 percent taxes. A gallon of gas, 54 percent tax. When taxpayers say, "I am paying too much tax," they are saying "I pay too much sales tax. I pay too much income taxes and tangible taxes and ad valorem taxes." They are not thinking about what they pay when they buy a pizza or tires or pay their phone bill. This is a tremendous problem.

Mr. FOX of Pennsylvania. If the gentleman would yield, and it is not only that the American people have been paying too much in taxes and our tax relief bill, the $500 per child is going to help and the new tax credit for education is going to help and the capital gains tax reduction is going to help. But one of the most important areas that we need to work on is making sure that the Federal Government wastes less. Our legislation, which will sunset review regulations and that also will sunset review agencies will make a difference. Under my legislation what will happen is every seven years each Federal Agency will have to justify its existence.

Mr. Speaker, what would happen if during that rotation an agency does not meet its original purpose or is wasting money because it is duplicating what States already do, or the private sector can be doing better?

That agency could be either eliminated, it could be privatized, or it could be downsized.

The fact is we need to look to for more than just tax relief, we need to look for regulation relief and we need to look for spending relief. When we look to this Congress, there are going to be three things that we look at, and I am pleased that the gentleman from Arizona [Mr. HAYWORTH] has joined us. There are three things: Trying to reduce taxes, change the IRS as we continue and, third, make sure that we change the code.

Mr. Speaker, I would like to turn to our friend who has been an outspoken fighter for the taxpayer.

Mr. KINGSTON. And as a distinguished member on the Committee on Ways and Means leading the tax fight.

Mr. HAYWORTH. Mr. Speaker, I thank my colleagues from Georgia and Pennsylvania, and listened with great interest to some of their discussion here tonight because, Mr. Speaker, it mirrors, it echoes what I have heard in the sixth district of Arizona.

Now, Mr. Speaker, just to offer some background as to the nature of the sixth district in Arizona, in square mileage it is almost the size of the entire Commonwealth of Pennsylvania which the gentleman from Pennsylvania [Mr. FOX] my good friend, calls home.

I heard a lot of what my colleagues heard back home during town hall meetings; an almost universal urge on the part of those gathered to move to sunset the current Tax Code by a date certain. As my colleague from Pennsylvania pointed out, the gentleman from New York [Mr. PAXON] has legislation in that regard, as does the gentleman from Oklahoma [Mr. LARGENT].

But coming up tomorrow, Mr. Speaker, in the Committee on Ways and Means, and later this week, we will move to actually mark up, and let us move out of legislative parlance to discuss this for those who join us outside this Chamber via television, to sit down and examine a piece of legislation to make sure the wording is correct, perhaps to offer an amendment here or there, to deal with accountability of the Internal Revenue Service.

Mr. Speaker, as my colleagues pointed out earlier, it certainly it was a curious spectacle to see government employees, their identities shielded, their faces kept from the cameras, their voices electronically altered, as they offered example after example of an agency that sadly has run roughshod over the rights of many Americans.

Indeed, one of the most important provisions we will discuss this week in the IRS accountability legislation that I am pleased to cosponsor with my colleague and fellow Ways and Means member, the gentleman from Ohio [Mr. PORTMAN], one of the most important provisions that will emanate from that legislation is something that Americans take for granted. For, Mr. Speaker, when we are hauled into a court of law on criminal charges, I know my colleague from Pennsylvania not only has the initials J.D., but he is in fact a juris doctor, he is an attorney. The presumption when we are hauled into court and charged with some criminal activity, if any American is placed in that situation, the burden of proof rests with the State. The presumption of innocence belongs to the accused citizen.

And yet, sadly in terms of tax adjudication, that presumption of innocence is not there for the individual. Essentially in tax adjudication, an American citizen, a taxpayer, has to go in and prove his innocence. The government assumes the taxpayer's guilt.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield, it just occurs to me, is this a throwback from the days of a monarchy? When we had our revolution with the folks overseas, did we not change this part? Was this not a Constitutional right? Did the Committee on Ways and Means discover at what point in American history the taxpayer became guilty until proven innocent? Or was it something that actually goes back to the monarchy?

Mr. HAYWORTH. No, indeed, to the best of my recollection, and I must confess, Mr. Speaker and to my colleagues here, I do not have a detailed history at my fingertips. It is my understanding, however, that as things changed in our society, as the 16th Amendment to the Constitution was ratified, as there was an allowance of direct taxation of income, sadly, a lot of perversions have grown out of that. And I use that word purposefully, because these things run counter to our well-established constitutional rights that our Founders brought us.

Mr. KINGSTON. I do not want to digress too much, but income tax, 1913; correct?

Mr. HAYWORTH. That is correct.

Mr. KINGSTON. Now, the use of the audit, I understand that regardless of who the commissioner of the IRS is, the commissioner, the head person is appointed by the President of the United States and regardless of who that appointee is, Democrat or Republican, audits still seem to happen with a curious degree of coincidence.

For example, my wife's great uncle, who is deceased now, during the 1930s made a wisecrack about the WPA, the Works Project Administration, of the Roosevelts, and he made a comment to a group that was working on a street or road. He said that unfortunately the employees got there before the truck with the equipment did, and so the shovels are going to be a little bit late today, but to tell employees to go ahead and start leaning anyhow.

He made that comment and was asked by the Roosevelt administration to take it back. This is America. Free speech. He made a comment. We may like it or not like it, but he has a right to say it. He would not retract it. This is years and years ago. And as a result, coincidentally, he was audited the next year.

Now, we have another case of a young lady named Paula Jones. I do not know Ms. Jones, but she has suddenly become audited. Now, I am sure it is just coincidence, but did the Committee on Ways and Means come up with any correlation between Paula Jones' legal situation right now and the fact that she is being audited?

Mr. HAYWORTH. Mr. Speaker, as my colleague asked the question, I can simply point out that is one of many questions that members of the committee have had for those involved in the Internal Revenue Service and for those who ostensibly oversee the Internal Revenue in the Department of Treasury.

But as my colleague points out, whether it is as relevant as today's headlines or historical incidents in the past, for example, I would commend to the attention of my colleagues and those who join us tonight a very fine book by the political author and columnist Chris Matthews, entitled "Kennedy and Nixon." Very interesting. And these are the words and the observations and the scholarship of Chris Matthews. I am not here to hurl partisan brickbats, but as a historical fact or incident, Mr. Matthews points out that the audits were used quite willingly to the defeated candidate, Mr. Nixon, in the early years of the New Frontier. Again, I am quoting Mr. Matthews and his book, "Kennedy and Nixon." I am not making that assertion.

We understand, certainly, President Kennedy is not here to answer for that. But there have been numerous examples. And then again for the not so rich and famous an example in my district. One of my colleagues, one of my coworkers, had a situation where his father was a small businessman, a pharmacist. An Internal Revenue agent came in. In frustration, the gentleman made a comment that probably we could all agree was ill-advised and intemperate. He did not threaten any violence against the government employee, but it was a comment that was fraught with frustration. However, after that, the gentleman was audited, I believe, for the next 5 to 7 years, every year.

□ 1945

Mr. FOX of Pennsylvania. Perhaps what we need, you, as a member of the Committee on Ways and Means, may be in the best position to be our fiscal watchdog. We need a taxpayers' whistle blower law, because it seems to me that in a Federal agency or the private sector, if you report a wrongdoing, the

law is supposed to say you are to be protected from bringing forward a wrongdoing so that redress can occur without having recrimination.

Why should it be that someone who uses their free speech rights as an American, whether they agree with an agency or a Congressman or anyone for that matter should have to have their rights trampled upon just because the party in power or the person with authority disagrees with them?

I hope that the oversight factor on whatever successor agency happens to the IRS is something that you are contemplating when you get involved with the legislation.

Mr. HAYWORTH. I think that is absolutely necessary. We manifested in perhaps another fashion what is key on this legislation that will be offered by the gentleman from Ohio [Mr. PORTMAN] in a bipartisan manner is to say that there needs to be effective oversight of the Internal Revenue Service not only from the constitutional purview of those of us in the Congress, but also immediate oversight. And right now the Internal Revenue Service is the 800-pound gorilla, if you will, of the Treasury Department, because so many of the resources allocated for Treasury end up in the Treasury of the IRS. So much of the Treasury budget is focused there that sometimes it is the tail wagging the dog, so to speak.

What the legislation calls for is an independent advisory oversight council, not based on political appointees, but again to remove some of the suspicion, some of the coincidence of audits, some of the questions that I think Americans of all political persuasions have to depoliticize that agency. Of course, this is but a first step.

You spoke earlier of what should transpire in the years to come as we have a grand debate about tax reform in general, whether it is a flat tax, a national retail sales tax or some other notion, it is such an important debate to have that we take the steps now to rein in the IRS, but certainly as we confront a new century, it is certainly time to reexamine the 16th amendment, certainly time to reexamine the tax tables and the Tax Code and some of the arcane procedures that surround them.

We have a very big job. The challenge for us, and I think this is a marked difference, quite candidly, in political discourse and in working within our constitutional Republic, that instead of walling off this debate and calling a few people in, a few so-called experts in to give testimony behind closed doors, this is something that is so far-reaching to every American family, to every American citizen that quite literally every American needs to weigh in, needs to offer their thoughts and opinions. That is why I am so gratified, Mr. Speaker, that two of our colleagues, our party leader here in the Congress, the gentleman from Texas [Mr. ARMEY], and our good friend, the gentleman from Louisiana [Mr. TAUZIN], have taken to American cities to debate the different alternatives that are there because the stakes are high and the implications are many for our Nation as we approach the next century.

Mr. FOX of Pennsylvania. Mr. Speaker, I think the gentleman hit some good points. The fact is that those two individuals, the gentleman from Texas [Mr. ARMEY], and the gentleman from Louisiana [Mr. TAUZIN] are leading the fight for a flat tax and the sales tax, respectively. But that is not the last word. Your town meetings and the town meetings of the gentleman from Georgia [Mr. KINGSTON], or mine, we will hear other ideas that may be equally good.

Mr. HAYWORTH. In fact, just to point out one of the ideas, this engenders a lot of interest and a lot of initiative. Indeed, one of our constituents in Carefree, Arizona, put together a proposal. He attended a town hall meeting in Carefree and two nights later was back at another town hall in Fountain Hills, Arizona, where he had put together his own plan that, indeed, I will take and certainly take into the Committee on Ways and Means and offer to the Joint Committee on Taxation and take a look at with my staff, because that is the essence of our constitutional Republic, different opinions, different notions.

In fact, the gentleman, as he brought the plan down, I could not help but say, imagine if it is this skill, and someone on the front lines who has been in business, has not been wrapped up in electioneering, has not been part of bureaucratic intrigue, but simply seeks a solution, how refreshing it would be? And one other constituent at the meeting said, there may be a town hall marker, there may be a historical marker placed outside this room saying, here is where the solution was found. That type of participation we need.

One cannot help but note the stark contrast to before we arrived in Washington when those in the administration dealing with health care wanted to have almost super secret meetings and then unveil a plan from soup to nuts that ostensibly was going to help the American people. What a great contrast to have the sunshine come in, to have the ingenuity, the ambition, the ideas of the American people come to us as their duly elected representatives and then move forward to have the debate. This can be a great moment for our country.

Mr. FOX of Pennsylvania. I like that idea of Carefree, Arizona. They probably do not pay taxes in Carefree.

Mr. HAYWORTH. They pay quite a few.

Mr. FOX of Pennsylvania. When the gentleman from Georgia opened the hour, he said the three things we need to look at is reforming the IRS, dismantling it, number two, change the code and, three, look to some more tax relief for Americans.

The one I wanted to start off there was to talk about eliminating the marriage penalty. Right now, two people are discouraged from getting married because they actually will pay more in taxes if they do get married. I thought you, as an expert, might have some other taxes that you want to reduce.

Mr. HAYWORTH. My good friend from Georgia has a tangible example.

Mr. KINGSTON. This is the situation with the gross income taxes, the couple, once they are married, actually end up paying more taxes. I will not go through this, but just suffice it to say that basically each individual is in a lower percentage tax bracket than they are collectively when they married. The percentage bumps up. They pay more taxes. And it is a crazy example of a policy that is wrong because if we as a country support the institution of marriage, then certainly we should not give people a financial penalty for getting married, particularly right now with all the children that we have running around who are illegitimate today.

The gentleman is from Arizona. I am from Georgia. Georgia had a substantial tax cut, $500 million, exempted food from the sales tax, and as a result we have had one of the fastest growth rates in the history of our country. In 1992, since 1992, your Governor has cut taxes by 1.5 billion and including dropping the top rate from 8.7 to 5.6 percent and reducing the corporate tax rate as well.

As a result, the new business creation has grown in Arizona three times the national average because folks are spending their money their way instead of sending it to Washington and having bureaucrats spend it for them.

Mr. HAYWORTH. I thank my colleague for pointing out the Arizona experience because certainly in this short time frame, this decade of the 1990's, we have seen a philosophy in Arizona that, indeed, I believe would work well throughout the country and it is born of this notion, we have talked about it before, Mr. Speaker. It is the notion of many of us who came here to change the way Washington works, to first of all, identify the problem in this fashion.

When we are talking about tax funds, money taxed from the American people, this money does not belong to the Government. It is money that belongs to the people. Quite simply, whether at the State, county, or more fittingly here for this Chamber at the Federal level, the notion should be that the American people work hard to create their wealth. They worked hard for the money they earned. Therefore, they ought to hang on to more of it and send

less of it to the Government and we have been able to do that and make great strides in the State of Arizona and, indeed, Mr. Speaker, as I was riding out to catch the airplane very early this morning Arizona time to get back here prior to votes after 5 eastern time, we heard some of the new unemployment figures. And unemployment is down in metropolitan Maricopa County to points almost minuscule.

To be sure there are other problems, other places across the width and breath of the Sixth District, but it shows what can happen when people are allowed to hang on to more of their own money. When they have it to save, spend and invest as they see fit and that can really be an answer because it actually, with economic growth, would create more revenue for the government.

Mr. KINGSTON. Mr. Speaker, New Jersey cut taxes. Gov. Christine Todd Whitman made good on a campaign promise and cut taxes and as a result they have had growth. Massachusetts, under Dukakis, had high tax increases. Under Governor Weld they enacted an income tax rollback and as a result they have regained 150,000 jobs that were lost under the Dukakis tax increase. California, the same way, 1960, the legislature enacted a $7 billion tax increase. It was the largest in the history of any State in the country. And income taxes went up. Everything went up and then there was a recession. Now they have turned it around.

In 1995, these tax hikes were repealed and since then California has gained over 150,000 jobs. Revenues have gone up to States because of tax cuts that they have enacted. Revenues have also gone up nationally. As a result of that, this Congress is very, very close to having a balanced budget. Our deficit has fallen from about over $200 billion 3 or 4 years ago to now around $23 billion. And it is because if we confiscate less of the people's money, they are going to spend more of their own money and when they spend money, business expands, jobs are created, more people go to work, less people are on welfare and tax revenues do go up.

Mr. FOX of Pennsylvania. Mr. Speaker, the fact is, when it comes to the balanced budget, people like the gentleman from Wisconsin [Mr. NEUMANN], who came here to Congress has done a great job in championing reducing the deficit and balancing the budget. By balancing the budget, we have been able to reduce those interest costs for car loans, for mortgage payments, for education, those are key things to making people live the American dream. I have to thank the gentleman from Wisconsin [Mr. NEUMANN], for his leadership in moving us forward in that bipartisan debate and the bipartisan success.

Mr. HAYWORTH. Let me join the chorus of praise for our colleague from Wisconsin because we are moving actually beyond that notion where, yes, we realize we want to balance the budget, but it should not be a one-time curiosity. Indeed, now with responsible fiscal practices that allow people to hang on to more of their own money, with the growth we have seen in terms of jobs and economic opportunity, it now appears that we may really turn the corner, and as our colleague from Wisconsin has pointed out, we may be moving into an era of surplus and yet there is another public charge, if you will.

There is another requirement of those of us who serve here for future generations and that, of course, is to pay down the debt. So we really have a one-two punch. I am pleased that our colleague from Wisconsin has offered a National Debt Repayment Act as well where we take a look at codifying or putting into law a fairly significant observation that with those surpluses, one-third for tax relief, one-third for debt retirement, and one-third for Social Security to maintain that program so vital to our retirees.

I think there are a lot of things that we are working on in this Congress, building off the solid success of the first tax cuts in some 16 years, also balancing this budget, and then moving forward to define how best to serve as custodians of our children's future by working to pay down and eventually pay off this burdensome debt.

Mr. KINGSTON. Mr. Speaker, if the gentleman is through, I am ready to yield back the time.

Mr. FOX of Pennsylvania. I want to conclude by saying I appreciate the leadership of the gentleman from Georgia [Mr. KINGSTON], and the gentleman from Arizona [Mr. HAYWORTH] for helping us lead the charge here for doing the three-part goal; that is, first, tax reductions for the American family; second, dismantling the IRS as we know it into a new successor agency that is taxpayer-friendly; and third, to change the Tax Code so it is more flat. And in my case, I would like to see it more flat, but certainly more fair to the American people.

We are moving to that goal and I support the legislation that these two individuals have introduced. Hopefully, it will be passed and under the gentleman's leadership in the Committee on Ways and Means, we are looking forward to it being a very happy day for the American people.

Mr. HAYWORTH. I just want to say, I thank those in the Sixth District of Arizona and those nationwide who join in this endeavor, in this crusade to make our tax laws fairer, to work to restore basic constitutional dignity and to restore fiscal sanity to this Nation.

Mr. KINGSTON. I know the gentlewoman in Arizona, Ms. MARY, is in the Sixth District, but you should always thank her.

Mr. HAYWORTH. Amen.

Mr. KINGSTON. I wanted to say this, the gentleman is blessed to have good family support, as I am and the gentleman from Pennsylvania [Mr. FOX], and everyone else.

The initials, IRS, if we can change them to RAS, which would stand for reduced taxes, change the attitude and simplify taxes, if we could do that, I think then we can all go home to these great families that we have and look our children in the eye and say, we have done something to make a difference.

□ 2000

NATIONAL EDUCATIONAL TESTING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Arizona [Mr. SHADEGG] is recognized for 60 minutes.

Mr. SHADEGG. Mr. Speaker, I appreciate the time to speak on a topic that is of great concern to me this evening. It is a topic that is growing more and more important as we move into this week of the proceedings of the U.S. Congress. It is a topic that touches me very personally because I have two children.

The topic I want to talk about tonight, Mr. Speaker, is the President's proposal to impose on America a national test, that is so-called national testing. And by that, what the President means is that he wants to require all students in America to take a federally written national examination. His proposal is that we give this examination to all fourth graders in the subject of reading and to all eighth graders in the subject of mathematics. And, in fact, he is going to do that and has already gotten the basic test specifications written.

Right here we can see, in this document I am holding up, which says, the report of the national test panel, item and test specifications for the voluntary national tests in fourth grade reading and eighth grade mathematics.

This is, I think, a critically important topic for every Member of the U.S. House of Representatives and for every single American, and that is why I wanted to talk about it.

Let me first explain how I feel about the subject of education and where I come from. I am a Republican, and for that reason some of my Democrat colleagues like to say I do not care about education. They like to claim that for us Republicans education is not important.

Well, I am offended by that remark. I care deeply about education, and I not only care deeply about education, I care very deeply about public education because I got all of my education in public education.

I attended public schools from eighth grade through college. Excuse me, not

eighth grade through college, from kindergarten through college, and I am proud of the education I got. I am also proud that my two children, Courtney and Stephen, who are home in Phoenix, AZ, tonight, are obtaining their education at public schools, at public schools that I am proud of. And I am married to a woman, the mother of those two children, who was herself a public schoolteacher. So do not tell me I do not care about education or that I do not care about public education.

Now, the topic here tonight is not generally public education; the topic here tonight is voluntary national tests. Many in America cannot understand this issue. Indeed, they cannot understand why there would be a controversy around this issue. Indeed, many Americans kind of listening to the topic of Bill Clinton proposing here in this Chamber in his State of the Union a national test for every fourth grader in America and every eighth grader in America in reading and math say, well, what is wrong with that?

How is it that someone could oppose that? Why would, for example, the Family Research Council put out an extensive paper opposing it? Why would Lynne Cheney, a nationally syndicated columnist and former official of the Federal Government, write and oppose it? Why would a series of other experts speak out and speak out stridently against national testing? Why would 290-plus Members of the U.S. House of Representatives, this very body, vote to prohibit the President from going forward, at least unilaterally, on his own with just the aid of his Education Department? Why would over 290 Members of this U.S. House vote to deny the President one dime to spend on national testing?

Why am I here on the floor trying to educate other Members of this Congress? Why am I asking Americans across this country, from New Hampshire to Arizona, from Oregon to Florida, to speak out and join me in opposing the effort to impose on our children a federally written national mathematics test and a federally written national English test?

Well, let me explain that. Just today the Secretary of Education, Mr. Riley, took to the stump. "White House Campaigns for Education Agenda." And this is an article from today's Washington Times. In it the Secretary of Education, Mr. Riley, says that he is here to fight for national testing. He says, for example, citing a recent report that says, "The report, Mathematics Equals Opportunity, is a report released yesterday which shows that rigorous teaching of mathematics does a tremendous job in helping children get into the best colleges in America, and those children who get rigorous mathematics education do very, very well." There is a quote. Mr. Riley. "These courses demand discipline, they demand hard work and they demand responsibility."

In that regard, I totally agree with Mr. Riley. But, unfortunately, the national test that Mr. Riley advocates, the national test that Mr. Clinton wants to apply does not test mathematics skills. You say, well, wait a minute, how can that be true, it is a math exam? How can it possibly not test mathematics skills?

Well, let me just find for my colleagues a copy of the materials already written. The report of the national test panel, October 1997, released this month, prepared for the national test panel by NPR Associates Inc., and it says here, "Item and test specifications for the voluntary national tests in fourth grade reading and eighth grade mathematics."

I have not had a chance to read every word of this report, but there is a fascinating section of it I want to call to my colleagues' attention. It says in here that on the eighth grade mathematics test, every single student will be allowed to have throughout the entire duration of the test a calculator. That is to say, at no point in the eighth grade math examination that is being proposed by President Clinton and that will, in fact, be implemented and be imposed on every single education department and every single school in America, if Bill Clinton and Mr. Riley have their way, that exam will not at any point in time require the eighth grade student to demonstrate his or her ability to do basic pen and pencil mathematic calculations without a calculator.

Now, my colleagues may be saying to themselves, well, maybe it is important to test higher skills. That might be true, and there is a national assessment test which is given in which a portion of the exam includes an examination of doing certain calculations with a calculator. But in the NAEP test, which is currently given to test or to evaluate performance from State to State across America, and to see how Arizona is doing as compared with Michigan, or how Wisconsin is doing in comparison with Louisiana, in that exam at least a portion of the test requires the students to do pen and pencil calculations.

But in the test Bill Clinton is proposing, in the test Mr. Riley wants, in the test that Mr. Riley is demanding this Congress agree to, on the front page of the Washington Times today he is demanding that we agree to a test to be given to every single student in America to test their math skill, in point of fact in that test, as the materials already prepared for the Department of Education, and this was written, by the way, if we turn the first page, it says this report was funded by the U.S. Department of Education. It was prepared for the U.S. Department of Education. And there will not be a single question on the test that requires an eighth grade math student to demonstrate that he or she can do multiplication, division, addition, or subtraction.

Now, my colleagues might say, well, why is my fellow colleague so concerned about that? Maybe the experts thought that was the right way to go. Maybe we will just assume that students by the time they get to eighth grade can do basic math. Well, I am not alone in my concern and in my objection, because at the back of this report there is a letter of dissent. It is one of several, but it is the only one I will talk about tonight because that is all I have time for.

This is the overall report. One of the gentlemen who was on this committee to write the exam, the actual test panel to which this report was given, was a gentleman by the name of Alan L. Wurtzel, W-U-R-T-Z-E-L. Mr. Wurtzel is an executive with a prominent company here in America, and he was invited to participate on the test panel, that is, to help write the exam.

He writes a letter raising the very point I am concerned about and that is, he says, "I disagree with your allowing the use of calculators on the entire test." And he writes, and I quote, in a letter written to Mr. Wilmer Cody, Commissioner of the Kentucky State Department of Education, a letter dated September 25 of this year, "The test assumes that by eighth grade children can do basic arithmetic including addition, subtraction, multiplication, and division of whole numbers, decimals and common fractions by hand." But he goes on to say, "We shouldn't do that. We shouldn't make that assumption."

He says, "We already know that the NAEP test tests, at least in part, the ability of children to do basic math skills." And he says that he believes, in his letter of dissent, that the national test should include those basic math skills.

Interestingly, Mr. Wurtzel is with a large corporation in America that used to give an examination to people who run cash registers for his company, and he used to ask those people applying for a job as a cashier to do basic calculations. He writes in this letter that they gave up on that. They gave up on that because so few people applying for the job as a cashier could do basic calculations. And he, therefore, says that to assume that America's eighth graders can do basic math, basic math skills, is a mistake, and he pleads with the President's committee, this test panel, to include at least a part of the exam to be focused on basic math skills.

Now, this illustrates, I think, a larger issue of what is desperately wrong with this national testing proposal, and that is it puts all of the power and all of the focus and all of the authority in Washington, DC.

Now, I have to say a couple of different things. Mr. Riley may think strongly that this national test is a great idea, but I suggest that Mr. Riley has not done some reading he should have done. Because as a first basic argument there is not a word in the U.S. Constitution which calls upon the Federal Government to educate our children. Indeed, not a single American who has completed a civics class fails to understand that our Constitution gives certain roles to the Federal Government, like national defense, like trade with foreign governments and foreign countries, and trades between the States. But in the 10th amendment it reserves every single other power of government not expressly given to the Federal Government, it reserves those to the States and to the people respectively.

Now, Mr. Riley has not read that part of the Constitution. I suggest he has not read the 10th amendment at all or he does not understand it. But the Founding Fathers had a good reason for writing the Constitution in that fashion, and that is the idea of Federalism.

Now, I do not want to get off on notions of Federal Government and government theory, but it comes down to this simple premise: I trust the teachers and the administrators and the parents at my daughter's high school, Thunderbird High School in Phoenix, AZ. I trust them. I know them. If I want my voice to be heard in the curriculum at the Washington school district or at Thunderbird High School, my wife or I can go to their curriculum discussions and have input. We can make our voice heard.

If they propose to radically alter the curriculum at Courtney's high school, at Thunderbird High in Phoenix, AZ, I can speak out and I can be heard. If at Lookout Mountain Grade School, where my 11-year-old son is in school, if the principal or the teachers or the other administrators or the parents want to alter the curriculum, Shirley and I can drive down there and we can talk about that curriculum change.

But in this examination we have no input. Indeed, we will see, and my colleagues can get a copy of this report, in this report even the people on the test panel lacked input. Because the gentleman who wrote and dissented and who said we are going to give an eighth grade math exam and we are going to assume as a nation that this is a valid test of the performance of all children across America in eighth grade math, which does not devote a single question to testing whether or not those eighth graders can do a basic math calculation without a calculator, even he could not be heard.

Yet that is what we are going to do. We are going to write this entire test in Washington, DC.

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I happen to trust, as I said, the local school officials in Arizona and the local school officials in Washington Elementary District and at Thunderbird High School to do a good job of teaching my daughter Courtney and my son Stephen. I do not happen to trust Mr. Riley and the national experts that will write a Federal test and dictate it all the way across the country. I think we would be making a grave mistake if we put all of our eggs into one basket of a national test.

Some people say, but what could be wrong with a test? After all, this is not a national curriculum in mathematics. This is not just Washington, D.C. deciding what will be taught in every school in America. This is just Washington, D.C. deciding what will be tested in every school in America. Let me suggest to Members that what is tested is what will be in fact taught. Think about that one for a moment. If we as a Nation adopt a national test in mathematics and we say as a part of that national test as this report says and this is the test specification written for the national test panel, if we in that national test say we are not going to test 8th graders on any basic math skills, we are going to let them take a calculator and use that calculator on every single question, you have to understand, what is tested is what will be taught. What is tested is what will be taught. Courtney, my daughter, is a sophomore in high school. She cares very much about getting into the best possible college she can. Every one of her teachers has made sure that as a teacher he or she knew what Courtney would be tested on. And every one of her teachers having learned what Courtney would be tested on has made sure that in the classroom, in the classroom curriculum, Courtney was taught what she would later be tested on and therefore Courtney has done well on the tests that she has taken in her education to this point in time. Stephen's teachers are exactly the same. Teachers are caring people. They enjoy their jobs. They do not do it for the pay, I can tell Members that much. Both of my sisters are teachers today. One in North Phoenix and one in the Chandler School District. Both of my sisters, and I have two older sisters, are teachers today. Teachers care about their students' performance. They do not do it for the money. Go look at a teacher's salary anywhere in America. If they care about their students' performance, they are going to learn what is to be tested and they will make sure that they teach what is to be tested.

Therefore, if we write a national test, if we embrace as a Nation that there is one correct theory in mathematics, if we decide that in mathematics what we should do is not test 8th graders on basic mathematical computational skills, we ought to give every one of them a calculator because it is not a good idea to force them to do basic math skills without a calculator, then that will be the emphasis in America. I suggest that that is a grave error.

I want to in this discussion talk about one of the experts that helped write this point. I am talking now about the national math test because that is where I think this debate focuses at the moment. It seems that Lynne Cheney, who is an expert in this area, did some research. She discovered that one of the people who helped write the national math test and who serves on this test panel is a consultant to the Connecticut Department of Education. His name is Mr. Steven Leinwand. Mr. Leinwand is in fact a part of the National Association of Mathematics Teachers. Mr. Leinwand believes and has written an article in which he argues strenuously that it is, and I quote, downright dangerous to teach children, to teach students things like 6 times 7 is 42. Indeed, he argues that it is improper and, as I said in his words, downright dangerous to continue to demand that our children master basic pencil and paper computational algorithms. What he writes is that the problem with teaching those things and by the way, therefore, the problem with testing them, according to Mr. Leinwand, is that it sorts the some out from the many.

Lynne Cheney wrote an article on this, discussed Mr. Steven Leinwand, an article that appeared in the Wall Street Journal on September 29, 1997. She points out that Mr. Leinwand believes that such instruction, instruction in basic computational mathematics skills sorts people out. That is, it anoints the few who can do those pen and pencil calculations and it casts out the many, and that is a direct quote from Mr. Leinwand, casts out the many who fail to do them. I happen to disagree with Mr. Leinwand. I happen to think, first, that in America, the many are those who actually master those skills and do learn basic computational math. But I also disagree with his more basic premise, which is that he says it is wrong to sort out those who master those skills from others because it makes them feel bad. I suggest that if making children feel bad who do not learn basic math is the worst we are doing, we are not doing great damage, because the alternative proposal is to say to those children, "Don't worry about math. Don't worry about pen and pencil and computations. Don't worry about mastering those skills." If we say that to them, we condemn them to a lifetime of not being competitive in the world in which they live. We condemn them to living in a world where they can be taken advantage of by businesspeople, by unscrupulous people, by whoever wants to take advantage of the fact that they simply cannot do basic math skills.

I think Mr. Leinwand is dead wrong. But I want to make one last point on this. Let us assume that I am right and he is wrong. If we have a single test just in Connecticut where Mr. Leinwand is from, we can look at whether or not the children of Connecticut following Mr. Leinwand's, I would suggest, radical theories do better than the children in Arizona or whether they do not do better. If Mr. Leinwand turns out to be right and his system turns out to be better, Arizona can follow that, California can follow it, Florida can follow, and adopt his theories on their own. But if Mr. Leinwand is in fact wrong and he succeeds and Bill Clinton succeeds and Secretary Riley succeeds in imposing their one-size-fits-all Federal test following Mr. Leinwand's radical theory on every school child in America, I suggest to you, to all my colleagues in the Congress and to every American watching that we will be condemning a generation, maybe a generation and a half of America's children to living in a world where they are not competitive with the rest of the children around the world. I suggest to you that children in Germany and Japan and France and England and in many other countries around this world are indeed being drilled on these skills, they are mastering them and they will beat our children if we adopt a one-size-fits-all program. But even if he is right, the States could follow suit later. But if he is wrong, the risk of handing over the control of all of our children's education to one single Federal test is I think an absolute disaster.

This is an issue which is going to be fought out right here in the Congress in the next few days. The President is proceeding with his national exam right now. The report I held up just moments ago is in fact the report on that national exam. There is only one way to stop it and that is by passing legislation stopping the President from spending Federal moneys which he wants to take from other parts of the Department of Education's budget and put it into his national testing program. If we do not stop him in a vote on the House floor and on the Senate floor within the next 2 or 3 weeks when this issue is resolved, it will be too late. I think there is no more time, no more urgent moment in our Nation's history if you care about education than to speak out on this topic.

I am joined by the gentleman from Florida [Mr. WELDON]. I hope he is interested in jumping into this topic. I yield to the gentleman.

Mr. WELDON of Florida. I appreciate the gentleman yielding. I want to commend him for rising this evening to speak out on this issue. I share his concerns about the President's plan to institute a national test. I want to just commend the gentleman for his actions here tonight and indeed I also want to commend him for his work in the whole area of education. I have had the opportunity to work with him on the Republican Policy Committee and he has exemplified the level of concern that I think many of the people who got elected with us in 1994 share about education in America and about the terrible decline in educational standards in America and the decline in academic performance. You cannot speak to any college professor in the United States without them lamenting the fact that over the past 30 years, the quality of math and verbal skills of incoming freshmen has deteriorated dramatically and many, most of our colleges now have to have rudimentary courses particularly in English skills, in writing skills.

I am a product of the public education system in the United States. My mother was a public school teacher. Not only did I go through the public school system K through 12, I also went to a public college and then I went to a public medical school. I am a medical doctor. My mother was a public educator. I understand the value and importance of public education. I think the debate that we should be having in this city today, and the gentleman is touching right on it, is what can we really do to help education in the United States. Certainly I think one of the most important things we can do is we can make it more affordable for parents to send their kids to school and we are doing that with our tax relief package.

We also can help parents to have more choice, and this is critically important in our inner city schools where so many of those parents in those poor neighborhoods have no choice. Unlike wealthy people who can select the best academic environment for their kids, people like Bill and Hillary Clinton, they were able to send their child to a very prestigious private school, many poor Americans living in our inner cities have no choice and they are locked into some of the worst and most failing schools.

Also, one of the issues that we are debating in this city today, and the gentleman from Arizona [Mr. SHADEGG] is bringing it up, is should we have national testing. Let me just say, I have a 10-year-old daughter, we have chosen to home-school my daughter so that my wife and daughter can spend part of their time up here with me and part of their time in Florida when we are on recess and we consider testing extremely important. We test my daughter every year to make sure that she is meeting national standards or accepted standards. Actually our goal is that she exceeds standards and that is why we test her every year. I am very thankful to have my wife who bears the primary responsibility for educating my daughter and who makes sure that she gets the testing scheduled every year.

The question is, is it an appropriate role of the Federal Government to be instituting a national test? Just to point to Sweden, a country of 7 million people or some other little foreign country that has national testing and say they do it, therefore, we should do it is ludicrous in my opinion. This is a country of 260 million people, 50 different States, people of all kinds of diverse ethnic backgrounds. There is no way that a one-size-fits-all concept could be put on the United States. This is just a different country.

But the most important issue that the gentleman has brought up today and the biggest reason why I oppose national testing is because I do not have confidence in the Federal Government to do it correctly. This report that has come out clearly spells that out for every voter to see with their own eyes. They are going to give a math test and they are going to give the kids a calculator. Mr. Speaker, as far as I am concerned, I am not a lawyer, I am a doctor, but I know there is an expression in the legal profession, it says I think it is res ipsa loquitur. The thing speaks for itself. In other words, if you have got video footage of the perpetrator coming through the window with a TV in his hands, res ipsa loquitur. "I rest my case, your honor. We don't need to debate this in front of the jury. The man is guilty. We've got him on tape." Ladies and gentlemen of the jury, Mr. Speaker, they want to give a math test and they want to give the kids a calculator. Do we think that the Federal Government can run a math test and run it properly?

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I say, no. I say it is fraught with hazard. I say it is destined to fail. I say it is inappropriate.

I agree with you that it is unconstitutional. What we need to be doing are the things that I spoke of earlier. We need to give parents choice, and the most crucial thing is we need to give poor, working-class families real choice.

Rich people in America today have choice. Doctors and lawyers have choice, wealthy businessmen have choice. The hard-working people in our poorest communities, they do not have choice.

Do you want to improve educational performance in the United States today? Give those people choice and get money to the classroom. Get money out of the hands of bureaucrats.

To say somehow by having this national test it is going to help educational performance, I think, is ludicrous. I, again, commend the gentleman for his speaking up, for coming to the floor tonight to talk about this issue. It is a critically important issue.

Mr. SHADEGG. Reclaiming my time, perhaps we could have a dialogue here. It seems to me, first of all, the most important premise is to establish the fact that for those of us who oppose national testing, our opponents on the

other side, that is the President and Secretary Riley and the educational experts and bureaucrats in the Education Department, would argue that if we oppose national testing, it is because we do not care about education.

Let me ask the gentleman, you indicated you had a long history in public education. Do you believe that those of us who oppose a one-size-fits-all national test; that is, that a Federal Government mathematics test, written inside the Beltway, in Washington, D.C., is a bad idea. Do you believe those of us that think that is a bad idea do not care about education?

Mr. WELDON of Florida. Well, you know, you touch on a real fundamental issue of this city, in my opinion. Before I came here I practiced medicine in Melbourne, Florida, for eight years. Prior to that, I practiced medicine in the Army. I was an Army doctor. I was not really used to all the crazy stuff that goes on in this city.

But one of the things I have learned very quickly is if you, if the President or some of his colleagues here in the House or Senate have an idea, and they all think it is a great idea, everybody thinks their kids are beautiful and their ideas are brilliant, so they come up with an idea and they think it is a great idea, they are going to improve education in America by establishing this national test. So, because you oppose it, then, oh, you must be anti-education.

We were trying to fix Medicare last year, trying to preserve it so it would be there for senior citizens, seniors like my dad. They did not like our plan, so, therefore, we suddenly hated seniors and we hated Medicare, and they ran around misquoting NEWT GINGRICH saying he said Medicare was going to wither on the vine. He was talking about the bureaucracy here in Washington that screwed things up.

Anyway, to get back to the issue, that is the theme always, always the attack. You do not like their agenda; therefore, you do not like education.

Mr. SHADEGG. Reclaiming my time, it seems to me their point is, well, if they are against our proposal for national testing, they must, by definition, be against education.

I will tell you, that argument makes me angry. I do oppose national testing. I think it is dead wrong for America. I think when the national testing would be a national math exam for eighth graders, that does not have a single question on it which requires the student to demonstrate he can do one math calculation without a calculator, I think I am right and I am demonstrating that I care about education.

In my view, more testing is not the answer. If the answer were more testing, we would not have a problem in education in America today, because American students are tested, and tested, and tested.

Now, what does the national test do? In this case, the national test that President Clinton is proposing is not only wrong on the merits, because it does not test basic math computational skills, thanks to Mr. Steven Leinwand and a handful of other radical theorists who do not want to test basic math skills, that say that will make students feel bad, but what does it do? It takes money away from education.

That is right, the Congress was not presented with a bill from the President saying let us fund a national test. Let us define it by legislation, and let us then fund it through appropriations, the way this government is supposed to work.

He is doing an end-run around the Congress, and his national testing program is going to be implemented without the approval of the Congress because the President just wants to do it, and he says he can do it.

But do you know what? He has got to have money to do it. What is he going to do? He is going to take money out of other pieces of the Federal Department of Education and give it to national testing.

Now, I think that is an abuse of this process, and it is dead wrong. Do you know what? As a House Republican, as a Member of this Congress who got public education and who believes to the depth of his soul in public education, I think it is dead wrong to steal money from other parts of the Federal Department of Education to push national testing, at least when that national testing will not even test the basic math skills that America's kids cannot do now.

So am I playing politics with this, because I want to see the money already in the Department of Education spent for what it was supposed to be spent for? Am I anti-education, or is Bill Clinton anti-education because he wants to take that money away?

Mr. HOEKSTRA. If the gentleman will yield, as my colleague from Arizona knows, we came to Arizona, you were there when we did a hearing. We have been to 13 other States with my subcommittee and we have talked about testing, we have talked about charter schools, we have talked about vouchers, we have talked about innovation and improvement in public schools. We have really taken a look at the full range of education reforms that are going around and taking place in the country today. It is amazing. Testing is one of those issues. Testing is a very complicated issue.

We had a hearing in the State of Delaware where we talked about Delaware's experiment with testing. Delaware has done it right. Delaware did not go to Washington and say, hey, Washington, would you develop a test for us and we will implement it?

Delaware started at the grassroots level. They got parents involved, they got teachers involved, they got administrators involved.

Remember, Delaware is the size of what? One Congressional district. They have one very good Congressman. He was there at the hearing. They started at the grassroots level and talked about where are our kids, what do we want to test them on? After a three-year process they developed a test that they felt was appropriate.

This President wants to develop a test in six months?

Mr. SHADEGG. Reclaiming my time, he has already developed the test, as near as I can see. He proposed it here on the floor of the House in his State of the Union address in January, and now they already have, as I have talked about earlier this night, item and test specifications for the voluntary national test, and we ought to talk about whether or not they are voluntary, for fourth grade reading and eighth grade mathematics, the report of the national test panel.

So while that panel in Delaware included parents and teachers and local school administrators, and probably students from all over Delaware, and it took them three years to write what they felt was a good test, to make the model, and recognizing that States are, in fact, charged with educating their children, the President has done a one-size-fits-all, it is here, finished, done, he got it finished between January and October.

By the way, it says we are not going to test whether or not you can do any math computations with a pen and pencil; we are going to give you a calculator for the whole exam.

Mr. HOEKSTRA. The gentleman is absolutely right. Delaware, three years, they still haven't figured out exactly how they are going to use it and what they are going to do with the test results. This President, in six or eight months, wow, he develops a test, no parental involvement, no local involvement, has not gone to the Governor of our State of Michigan, hasn't gone to California and said what would you like in a national test?

How will that integrate with what Michigan is doing in the area of testing? He has developed a national test, meaning he is going to drive national curriculum.

And he now believes that a test that a few people here in Washington have developed over a short period of time is going to work in Florida, is going to work in Arizona, is going to work in Detroit, is going to work in L.A., is going to work in New York City, Cleveland, Louisville, all of these places we went to, and the one thing we found in all of these places, there are tremendous things going on in education, but the problems and opportunities in the educational focus that they need to have in their schools varies, in some cases ever so slightly, in other cases

dramatically, because the circumstances are different.

He is going to try to impose a one-size-fits-all test, and then he is going to come back and say, see, those kids in Cincinnati, those schools are not doing well because they did not do well on my test.

Those teachers and those school administrators and those kids may be doing great, depending on where and what their environment is. But he wants one-size-fits-all, and it will not work.

Mr. SHADEGG. Reclaiming my time, there is a great tendency in these discussions on the floor to focus on the partisan bickering and on the President wants this and I listened to the gentleman do that and reflected on it earlier in the evening. I was talking about the President's plan and his wants and his goal and he wrote this test.

I hope that people understand, this is not a partisan fight between a Republican Congress and a Democratic President. This is not a partisan attack on Bill Clinton, the person. For all I know, the President and the First Lady genuinely care about educating America's children. But this is a vitally important debate about that, that is, about educating America's children.

The gentleman mentioned we held a field hearing of your committee in my city, in Phoenix. I cannot tell you how proud I am of the strides that have been made in Arizona in the education field. We are doing new and innovative things. We are charting new ground. We are doing, I think, not a perfect job, but a yeoman's job in a workmanlike fashion to try to craft for Arizona school children the best education possible.

In some regards we are failing. We have an education funding debate going on in the State that needs to be resolved. But this much I know: I trust the parents and the teachers and the administrators and the local school boards in Arizona to focus on my children's education and to adapt the education that is necessary in my community, and I know that a test written thousands of miles away in Washington, D.C., a test written deep in the bowels of the Federal Department of Education, a test written by a handful of Federal education experts, cannot reflect my input or the input of the parents and the principals and the school administrators and the school board officials and the other people in Arizona that care about Arizona kids.

You know, it is the point, can you say that Mr. Leinwand and Secretary Riley care more about my kids' education than I do? If so, I would like to ask them what their names are, because they do not know the names of my kids, but parents and teachers know their kids and care about their education. They do not want to have shoved down their throat a federally written Department of Education test.

I want to just ask the gentleman, either gentleman can comment on this, you mentioned that a national test will drive school curricula all across America. That is, it will take choice, it will take educational options about curriculum away from the parents in Michigan in your district, or the parents in Arizona in my district, or the parents in Florida. I would like you to explain that.

Mr. WELDON of Florida. I just want to comment on that, and maybe the chairman of the education subcommittee can add to this, but that is one of the very important issues that I think we need to get into tonight.

We all know that testing is extremely valuable. It gives parents an idea how their kids are doing. It gives parents an idea how good the school is doing. But when you have the Federal Government in charge of testing, that is a whole different situation. When a school decides they want to use Iowa basic or want to use SAT, that is one issue. But when you have the Federal Government promulgating a test that has all kinds of very complex political and economic ramifications associated with it, and I am sure the gentleman from Michigan can comment on this issue, that is one of the other reasons why I am extremely concerned about this.

The point you are alluding to, that suddenly you can have a scenario where everybody's academic program is tailored to meet the requirements in the Federal test, I am not sure that is a good thing for the United States of America. I am not sure it would be the best thing for the people of the State of Florida to adopt standards that would allow them to do well on the Bill Clinton, Federal-promoted test. I am not sure that is good for our economy in Florida.

I have some very serious concerns. I think the President is definitely moving much too hastily on this issue, and it really needs to be debated within this body, and the Committee on Education and the Workforce needs to take this issue up. I would be happy to yield to the gentleman from Michigan.

□ 2045

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman for yielding.

What we have found, as we have gone around the country, and again, in the 14 States that we have been to, and I think we have had multiple hearings in a couple of States, so we have probably been in 16 different cities, we have seen tremendous things in education, tremendous things in public education, private education. That is really the good thing of all these hearings. We have seen some wonderful things. There are some common ingredients.

We go into these environments, we ask the teachers, we ask parents, we ask administrators, we ask the business community, what is working in your school district, or who is making a difference? Why are your schools improving? What is the catalyst? I have still yet to hear someone say, it is that new Federal program, or it is this Federal program.

The schools that are doing well are typically where a group of parents, administrators, and teachers have taken back their school and said, we are going to focus on these kids, and we are not going to focus on the bureaucracy and the red tape that either comes from Sacramento or comes from Lansing; but we know the kids' names, we know what their needs are. We are going to focus on our kids. We are going to take our schools back.

We are going to, and this is what they are trying to do in Michigan as well, and what we are trying to do here in Washington, DC, as well, we are going to debate it next week, we are going to focus on getting the dollars from the bureaucracy and getting them into the classroom.

When we do national testing, what is going to happen? We are going to spend a dollar on a national test, and the first 20 or 30 cents is going to be spent on bureaucracy. Only 65 or 60 cents will actually be spent on giving a test that they really should not be taking anyway. We are going to get dollars into the classroom and focus on basic academics.

Mr. WELDON of Florida. If the gentleman will continue to yield for a question, Mr. Speaker, as I understand it, one of the additional concerns of this test is that this will take time away from teachers and their students in terms of basic education, learning, that they will have to devote a week, they are proposing, or several days out of a week, to sitting down and taking a test, when they could be educating those children in crucial issues that are important for them to learn.

Mr. HOEKSTRA. What we talked about earlier, Mr. Speaker, what happens in this process is, No. 1, our kids go through all kinds of tests already. This is one more layer on top. It is not only the time that is spent on taking the test, but if a school district is going to be evaluated on a national basis, and every child in a classroom is going to be evaluated against every other child in the country, we can bet parents are going to expect and teachers are going to want to prepare their students for that test. They are going to spend a week or 2 weeks teaching to the test.

That is not what we want. We do not want teachers teaching to tests. We want teachers teaching to basic academics, the basic skills we want our children to learn.

Then there are other ways to measure how they are learning. There is not a need for the Federal Government to

come in and put one more overlay on things that are already being done at the State and local level.

Mr. SHADEGG. Mr. Speaker, reclaiming my time, sometimes in these discussions we get a little esoteric and just talk theory. I want to bring this back home.

There is a woman who teaches at Arizona State University in Phoenix, AZ, and in Tempe, AZ, who is a scholar herself and quite an expert in education. Her name is Marianne Jennings. She has written a nationally syndicated column on this issue.

It turns out that 1 day her eldest daughter was doing some homework in her bedroom, and Marianne walked in and interrupted the child as she was doing the homework. She looked down, and what the child was doing was using a calculator to calculate what 10 percent of 470 was. Mrs. Jennings looked at that and said, what are you doing?

And she discovered that her daughter needed a calculator to calculate 10 percent of 470, and needed a calculator to calculate what 25 percent of a fairly simple number was, and did not fully understand that 25 percent equaled one-quarter.

She became enraged, and started to get involved in this issue, and in her daughter's education. She discovered that what was happening was that her daughter was being taught whole math or new, new math. She had to inject herself deeply into her own daughter's education, because the focus was in the wrong direction.

I want to make the point that it is not that we do not understand the goal of national tests. Perhaps it would be worthwhile to compare the performance of kids in Arizona with the performance of kids in Michigan. But there are already ways we can do that, and in this proposal, we would create a single national test. That single national test could embody radical theories inside the Federal Department of Education like Mr. Leinwand's new, new math or whole math, where students are not taught basic computational skills because Mr. Leinwand believes it is downright dangerous to teach them those basic skills.

I want to read or I want to emphasize this issue of "voluntary." The President says and listeners tonight might think, what is wrong with a voluntary test? I have heard our colleagues on the other side of the aisle here defend the national test by saying, look, if you out in Arizona, if you do not want to participate in these national tests, if you think the Department of Education should not write a one-size-fits-all math test on which every eighth-grader should be tested, you may simply opt out.

I want to point out to those listening that that option, that claim that that is voluntary, is a hollow claim. It will not work. In point of fact, and this is pointed out by Lynne Cheney in her article "A Failing Grade for Clinton's National Standards," she points out that even if my State, Arizona, chooses not to participate in the national tests, or your school district in your hometown chooses not to participate in the national test, there are in reality in America only a handful of textbook writers.

The minute we adopt as a Nation a single test, the minute we give away from Phoenix, AZ, to Washington, DC, the authority to write one test, every textbook writer in America will be compelled to bring out their next edition in math for 8th graders or reading for 4th graders to meet that national test.

The curriculum will indeed have been written in Washington, DC, as a result of that test, and so my school department, my school board, the principal at Stephen's school or Courtney's school, will not have hardly any choices but to adopt a text, a textbook, written to teach to that national test. I think it is a disastrous idea that scares me a great deal.

I want to point out that in today's Washington Times Mr. Riley makes a point. I want to quote. Mr. Riley says that instead of being controversial, he believes the country will embrace national tests as a chance to show their support for education.

"We think it's going to catch on, and we think the people in this country are going to almost look at it," that is, national testing, "as a patriotic thing, to get involved in getting this country to read well, getting this country to do math well, and getting our children ready for college and important jobs." It is like do not dare challenge us, we in Washington, DC, know all the answers.

The gentleman mentioned earlier that in his field hearings across the country what he found was that those schools that were succeeding were schools where the parents and teachers and the administrators in that school took possession of their children's education. They said, the heck with the State capitol, the heck with Washington, DC, we are going to make education better right here.

I would like to ask the gentleman, will a nationally dictated curriculum in the form of a national test, to top-down give this test and do it on these subjects because we think this is the way math should be tested, is that going to help those people and encourage them to take control of their schools?

I yield to the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. I thank the gentleman for yielding.

No, Mr. Speaker, what our hearings have shown, as we have talked with parents, teachers, and administrators, developing a test is a very personal and very important issue.

In the State of Michigan, we have made progress in developing a test, but if this test is not embraced at the local level by the parents and by the teachers, the American people will not rise up and embrace this test that they have had no input in.

Secretary Riley may be a bright person, but there is no way, without bringing that grass-roots support and involvement in at the beginning of the process, that we can expect that a bunch of bureaucrats here in Washington are going to write a test that is going to be embraced in Hawaii, Detroit, Holland, Phoenix, or in Florida. There is absolutely no way.

This is not about patriotism, this is about what works. This is a test that has to be developed at the grass-roots level up. If we issue a national test and we then test our kids, and that test is not a well-developed test and is not supported by the parents, we will not have Americans embracing this, we will have American parents in an uproar, because we will have tested their kids and given them a grade or score on a test that they do not believe in, and a test that has not been validated. It is the greatest disservice we could do to our local school districts, to our kids, and to their parents.

Mr. SHADEGG. It is a basic character of human nature to take possession of your own ideas. If you get involved in your own school and in your own children's education and you start working on making their education better, you are going to work at it and care about it.

If you get told, no, we do not need your input, we have gotten some experts in Washington, DC, to write the test, and those experts know what the right curriculum is, so do not bother showing up for the school board meeting where the curriculum is going to be discussed, that has already been decided in Bill Clinton's Washington, DC.

Mr. HOEKSTRA. If the gentleman will continue to yield, the question we really ought to be asking is why is the administration rushing to write a test? Why are they not involving Congress, why are they not involving the appropriate committees, why are they not involving the Governors, why are they not involving teachers and parents and school administrators? Why are they rushing to get this thing done without any involvement?

It is absolutely going to fail, and the question is why? Why do we need to rush through this, and why can we not involve different people in this process?

Mr. SHADEGG. I think it is an excellent question, and probably a great question on which to kind of end this discussion.

The reality is that we are on the verge of adopting a national test on which Congress will have had no input, on which local parents and teachers will have had no input. I simply want

to make clear to everybody who might be listening tonight across America that this issue will be decided within the next few days to few weeks here in the U.S. Congress, in the House and in the Senate.

If they do not think a one-size-fits-all Washington, DC, exam written that is crammed down their throats without the chairman of the subcommittee in charge of this area having some input, without the local State superintendent of public instruction having the ability to have input, but most importantly, without them as parents or teachers of their children, or as a school principal, if they do not want that crammed down your throat, we need their support now to stop this, and stop it before it goes any further.

I think it holds the potential, as one of the articles that has been written suggests, of being a national calamity. I think it will be an absolute disaster if we turn the education of our children in America over to Washington, DC. We owe the children of America more than abdicating our responsibility to Washington, DC, and letting their education be dictated millions of miles from their homes and thousands of layers of bureaucrats from their own principal or their own teacher.

Mr. WELDON of Florida. If the gentleman will continue to yield, Mr. Speaker, I just want to add that what the gentleman says is critical. The future of our children's education, it is not just about them and their lives, it is about our whole Nation.

We have learned, we have discovered, that the future lies not only in our ability today to be innovative, but in the ability of our children tomorrow to compete, to be inventive. We need to be doing what we can to make sure we are making education better in America. This is an ill-advised scheme, in my opinion, that the President should shelve. I again commend the gentleman for his initiative.

Mr. SHADEGG. It may be well-intended, but it has the potential to be a disaster. If we write one test in Washington and it is bad, we will not be able to change it for decades to come. In a global economy, we will perhaps be handicapped.

I will yield to the gentleman from Michigan [Mr. HOEKSTRA] to close, if he would like.

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman for yielding. What we have found as we have gone across the country is schools, where they are working, where they have done a good job with the children, are those where there is local parental control, not where Washington is dictating the agenda.

This is about where are education decisions for our children going to be made. Is the direction going to be at the local level, or is it going to be moved to Washington, DC? All we have to do is go around the country, take a look at the grass-roots level. We will be surprised at the wonderful things that are going on in all types of education, public, private, parochial, religious education efforts. But it is because of grass roots, not because of what we are doing here in Washington.

□ 2100

Moving to national testing is moving more decision making to Washington away from the very people that are making a difference in our kids' lives today. We need to begin a process of moving power and money back to parents and the local school districts, not continuing on this trend of moving it to Washington. Mr. Speaker, I thank the gentleman for this special order.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for joining me. I want to conclude by saying that national testing is one of those ideas where the proponents believe that Washington knows best and I suggest they are wrong. Washington does not know best how to educate your children in your school or my children in my school. You can do it better.

Mr. Speaker, I ask my colleagues to help us to reject the idea of national testing, which would give too much responsibility to Washington and take too much away from the parents and their child's teacher.

PLUTONIUM POWER SOURCE PROVEN SAFE ON NASA PROBE TO SATURN

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, I rise to speak on the recent Cassini mission to Saturn. This was a successful launch on a Titan launch vehicle that left Cape Canaveral a week ago tomorrow morning. Actually, it was 4 a.m. on Wednesday. It was a mission that garnered a lot of publicity, primarily because the probe, this deep space probe that was going to one of the moons of Saturn, it is a moon called Titan, it had a plutonium power source on it. The source of electricity to run all the computers and the sensors on this satellite, this probe, was plutonium, and as everybody knows, plutonium is radioactive and it is dangerous.

Mr. Speaker, as soon as I heard about this mission 6 months ago or so and I knew it was going to be going off, I immediately had some of the leaders of the Cassini program from NASA come into my office and brief me, because I live in that area and I remember very well the controversy surrounding the Galileo mission. I am sure many Americans remember the Galileo mission, which was a mission to Jupiter, and we had a probe that went into the Jupiter atmosphere. It was a very successful mission and got a lot of publicity.

So 5 years ago when that mission was taking off, at that time there was a lot of controversy as well about the plutonium power source. I was also concerned because I live in the area, my wife and daughter live in the area, my father lives in the area, all of my friends live in the area. So I wanted to find out the facts on this issue, and I was actually very disappointed to see, they never really came out in any of the press coverage on the Cassini mission.

The plutonium that they use to power these vehicles is plutonium that has been solidified in a ceramic. It is encased in metal and it has essentially been tested and tested and tested so that it can withstand a disaster. And indeed I discovered on my research on this issue that actually at one point there was a mission that failed on the launch pad and the rocket blew up with the plutonium on board. It was out in California at Vandenberg Air Force Base. And not only did the plutonium power source, they call it an RTG power source, not only did it not break up and spill plutonium into the atmosphere, they were actually able to clean the thing up and put it on another satellite, it was constructed so well to withstand the blast.

The other issue that there has been some concern about is that this thing could reenter the atmosphere and in the process of burning up, that it would release all of this plutonium into the atmosphere. And they have also designed the plutonium power source so that if it does reenter the atmosphere, it has a casing around it and the casing absorbs the heat and it never actually burns up.

Indeed, I found out that plutonium RTG's were actually on the Apollo mission, and Apollo 13, when it reentered the atmosphere, there were plutonium RTG's on the Apollo 13, and they survived the reentry and there was no release of plutonium into the atmosphere.

The bottom line is here that the engineers, the men and women who designed this power source, and it has been used 26 times safely on various missions, and as well they use the same technology in Russia and they have used it on many missions. It is designed to withstand an explosion on the launch pad without releasing any plutonium into the atmosphere, and it is designed to reenter if there were an accident and it were to fall back to Earth and not burn up and not release any plutonium into the atmosphere.

So, Mr. Speaker, the point is basically this. They have designed it so that it is safe and there is no way, if one talks to these scientists there is no way that we could send probes out to Jupiter, out to Saturn, to those outer planets, without this power source.

People will say, well we can use solar. The solar rays are so weak when probes get that far out from the sun that we would have to have a solar array as big as the State of New Jersey to drive this probe. It is impossible to do that.

Well, it turned out the mission went off successfully. It was a successful launch. Cassini is on its way to Titan and it is going to yield valuable scientific information. The news media did a disservice and the scare tactics did not work, and I congratulate NASA.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 97, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

Mr. MCINNIS (during the special order of the gentleman from New York, Mr. OWENS) submitted a privileged report (Rept No. 105–333) on the resolution (H. Res. 269) providing for consideration of the joint resolution (H. J. Res. 97) making further continuing appropriations for the fiscal year 1998, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 2247, AMTRAK REFORM AND PRIVATIZATION ACT OF 1997

Mr. MCINNIS (during the special order of the gentleman from New York, Mr. OWENS) submitted a privileged report (Rept. No. 105–334) on the resolution (H. Res. 270) providing for the consideration of the bill (H. R. 2247) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. MCINNIS (during the special order of the gentleman from New York, Mr. OWENS) submitted a privileged report (Rept. No. 105–335) on the resolution (H. Res. 271) providing for the consideration of the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution, which was referred to the House Calendar and ordered to be printed.

CONGRESS SHOULD EXERCISE OVERSIGHT REGARDING IRS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the majority leader.

Mr. OWENS. Mr. Speaker, I suppose the item of the day in terms of significant news is the fact that the Democratic minority leader has decided to also throw his lot in with those who want to make the highest priority of reforming the IRS, the Internal Revenue Service. I want to get on board, too. I cannot think of any American out there who does not think that we could improve the Internal Revenue Service in some way, and hopefully in a way which relieves us of some of the unjust items that have affected us in the past in some way.

But, in all seriousness, it is long overdue. The IRS has been neglected by Congress for too long. Congress, in general, is delinquent in its oversight responsibilities for the Federal Government. In the 15 years that I have been here, I have watched how time is frittered away and it is always the item which captures the most headlines for the moment that gets the most attention, while the important functions of government, and the gigantic agencies of government, like the Internal Revenue Service, they go on and on and they get very little oversight.

I suppose that is why IRS stumbled into a $4 billion blunder in the setup of their computer operation in an attempt to computerize themselves. Not enough Congressmen were watching. Not enough outside independent monitoring was going on, and there are probably numerous other areas in the IRS which need reform.

Mr. Speaker, I certainly hope that the debate on IRS will not degenerate or remain at the level that it is. It is sort of standing at a very low level. We are interested more in paper clips and rubber bands and operations that are at a very primitive level than we are in the total philosophy that guides IRS and the total setup of policies that emanate from the Congress through the Committee on Ways and Means and the Senate Finance Committee.

I hope that the debate about IRS will be a long and fruitful one. I hope that it will be a very thorough one, and I hope that we will look at all aspects of what is happening with our Internal Revenue Service, what is happening with our revenue collection processes.

Revenue has always been, and I have said this many times before, neglected by people who are progressives, liberals, whatever we want to call us these days. We have never spent enough time looking at revenue collection, taxes, tax policies, and that has caused some serious problems, the fact that there has never been a balanced debate or the kind of attention focused on the revenue process that we should have.

For the past few years, I have been insistent that we take a hard look, an intense and thorough analysis of what is going on with respect to revenue collection. I was fascinated. I am not on the Committee on Ways and Means, I am on the Committee on Education and the Workforce. I am concerned primarily about why there are no funds for programs like the school construction program. I am concerned about the fact that while we are lumbering along with an antiquated education system in some obvious ways. It needs help from the Federal Government and we are not supplying that help. I am concerned about our priorities and why we continue to give the impression to the American people and the world that we are a bankrupt Nation or almost a bankrupt Nation when it comes to the area of education, in the area of youth employment or a number of other worthwhile programs. We always have enough money for defense and we increase the defense budget, but we do not have enough for education.

So, my concern for expenditures related to positive programs like building schools led me to take a closer look at the revenue side of the equation and several years ago, I became fascinated by the fact that our income tax collection process, our income taxes produce a large amount of taxes from individuals and families and a much smaller percentage from corporations.

Corporations are where the money is, so I was fascinated by the fact that at present about 11 percent, of the last figures I looked at, the records that I saw, 11 percent in 1996 of the income tax collected was collected from corporations, while four times that much was collected from families and individuals, 44 percent.

So, the policies and the laws which govern and guide IRS are of very great interest to me. How much of that inequity in collection, inequality in the collection between corporations and families and individuals is due to the fact that Congress made the wrong kinds of laws, or the laws are imbalanced, they are not in balance in terms of collections from corporations versus individuals and families. How much is doing to the wrong policy? The wrong philosophy? And how much might be due to IRS and its administration, its implementation of the policies that

have emanated from Congress? Is IRS delinquent in the way it pursues collection of revenue from corporations? Does it spend too much time, an inordinate amount of time pursuing families and individuals and shy away from pursuing collection of taxes from corporations because they are so big, they are so complicated, they have lawyers, they have tax accountants?

We have all seen in the past remarks made by people in the executive branch of government concerning the need to focus on collecting taxes where we can collect them more rapidly. I think in the Reagan administration there was a statement made that IRS should not waste so much time with corporations, it takes too long to get the collection. Middle-class people are the people who will respond when the IRS goes for the collections. If there are problems, then pursue middle-class taxpayers and we will get a better return, a more rapid return in terms of collection.

How much of that permeates the modus operandi of the Internal Revenue Service?

Those kinds of questions I would like to see raised and answers.

There is another aspect of the debate which I think also I have raised before and we should take a hard look at, and that is how fair is our revenue collection policy and how fair are the procedures?

When we have a situation which has persisted for a long, long time, more than 10 years, we will talk about just the last 10 years, but it is probably the last 20 years that we have had the situation with respect to New York City and New York State. We have a situation where big cities like New York City and big States like New York, industrial States, have consistently paid more into the Federal coffers, the Federal Treasury, than they have gotten back. The balance of payments has been way out of kilter consistently over the years. I have discussed it on the floor of this House on several occasions.

Senator MOYNIHAN quite a number of years ago started making a study, an analysis, of which States are in a position where they are paying more into the Federal Treasury than they get back in terms of Federal aid. So it has become a very thorough kind of analysis, and now it is supported by the John F. Kennedy School of Government at Harvard and they produce a nice booklet every year and the latest version of the booklet I have in my hand. It is entitled "The Federal Budget and the States: Fiscal Year 1996," the 21st edition.

□ 2115

I was wondering before about how long we have done this, 21 years. For 21 years this study has been done, and Senator MOYNIHAN does it now in conjunction with the John F. Kennedy School of Government. It is available, and I hope that certainly the policymakers in States like New York, New Jersey, Connecticut, the States that find themselves paying enormous amounts more into the Federal Treasury than they are getting back in terms of Federal aid, New York State is not so bad.

This year we only paid $14 billion more into the Treasury than we are getting back. In the past it has been $16 billion and at one point it was $23 billion more was being paid by the taxpayers of New York into the Federal coffers than they were getting back in various forms of aid. This ranges all across the board, all forms of Federal aid.

So it is interesting that New York State columnists and New York State legislators, Congressmen, city councilpersons, assemblymen, State Senators have never been that concerned about this imbalance. Senator MOYNIHAN first made a speech about it at a community college in New York State, New York City. He was hoping it would attract the attention of the press, but it did not.

The press, over the last 21 years, has basically ignored a basic injustice in revenue collection and distribution. We do not get back nearly as much as we put in. New York State now ranks third among those who suffer from this imbalance. At the same time New York State now ranks third in the amount of poverty that it has. That is pointed out in Mr. MOYNIHAN's statement here. It is an important piece of irony.

I am sort of stimulated and led to return to this discussion, and maybe I will be repetitious and say things I have said before here, but I am led to return because there was a columnist in the New York Post on Monday, October 13, who happened to single me out in his discussion of the New York economy and in his discussion of the fact that this piece of literature is produced every year and that New Yorkers seem to ignore it.

Mr. Fred Siegel, a columnist for the New York Post, I do not know much about Mr. Siegel, I have not read him that often, but I think it is interesting that he pointed out in his column that we have this situation where the economy of New York City is in serious trouble. It is ready to fail.

The point he was making primarily was that in the present mayoral election in New York City, we have a municipal election, borough president Ruth Messinger is running against incumbent Mayor Rudy Giuliani. He was stating that in this election there is very little talk about the economy of the city. The discussion of the economy of the city does not focus at all on the fact that New York City and New York State are in the situation where they continue to pay more into the Federal Government's coffers than they get back.

And during the course of his discussion, he says that this is a subject that officials should be addressing, the mayor and his opponent should be addressing it. And he also pointed out that the Members of Congress should be addressing this subject. Particularly, he says Representative MAJOR OWENS devotes his time to long rambling and incoherent speeches on poverty and welfare reform before an empty House Chamber. I was stimulated, of course, to respond to Mr. Siegel and I think that Mr. Siegel and all the columnists in New York City's papers, the Times, the Daily News, the Post, columnists, reporters, Mr. Siegel has thrown out a challenge to elected officials.

I would like to throw that challenge back to the columnists and reporters. Why is it that the editors, the columnists, the reporters of New York City and New York State refuse to accept the fact that we are being swindled and that we are a donor State to an ungrateful set of States out there who make speeches on the floor criticizing New York all the time.

Why do we continue to accept the drain from New York State without putting up a fight, even if we can do no more than have a rhetorical fight at this point? Certainly the people of the State ought to be aroused by the columnists as well as by elected officials and begin the debate. We do not even have a debate now. There is really no challenge.

I have quotes here from Mr. Siegel and other columnists who think that New York's Congresspeople are not interested in this problem and we have done nothing in the past. I do not know about my colleagues in the Congress from New York, but I have the proof here that I have consistently spoken about this very problem. I only went back one year, 1996, and I found three occasions where I talked at considerable length about the problem of the drain of dollars from New York State and New York City: March 12, 1996, March 22, 1996, and April 16, 1996. I talked at length about this very problem. I quoted from the statistics from the previous edition of this book, the Federal Budget and the States.

I would like to say Mr. Siegel and all the other columnists and the editorial boards of the New York Times, the New York Post, get a copy. It is a fascinating book. It was made even simpler to read this time. Join the few Members of Congress and other political leaders who are aware and who are discussing this matter.

Mr. Siegel is to be congratulated. He put his finger on a very important problem in terms of the mayoral election. There is not enough discussion about New York's economy. His article appeared in the Post, as I said before, on Monday, October 13, and is entitled "New York Economy Ready to Fail but

City Politicians do Nothing to Stop the Hemorrhage of Wealth.''

I am just going to quota a few items from Mr. Siegel's column. He is really writing about the mayoral election and that is his primary concern. He criticizes both candidates for mayor, the democratic candidate, Ms. Messinger and the incumbent Mayor Guiliani. He even throws in the candidate for the Socialist Workers Party, Olga Rodriguez, and says she at least talks about the economy, even though she is still trying to fight the October revolution. Talks about the kinds of things that have been discredited in terms of the fall of the Soviet empire.

But he does talk about it, and I think it is a proper point of start, a jump-off point for a bigger discussion. And I hope that other journalists and editors will pick up and we can really begin to deal with the problem.

Quoting from his article, Mr. Siegel says, and I quote, on Thursday, the Federal Reserve Chairman, Alan Greenspan, warned that the economy is on an unsustainable track. Less cautious observers suggest that stocks are overvalued by 20 percent. Is there a crash in the offing? Probably not. But there does not have to be for the city to suffer. Should the market drop to 6000, a level that just a few years back was unthinkably high, the city will start to slide into a fiscal meltdown.

What Mr. Siegel is saying is that the present prosperity of the city, such as it is, and it is a spotty prosperity, certain neighborhoods have not enjoyed it at all, but overall the city looks good on paper. The mayor has just announced a surplus of more than $150 million. The Board of Ed has announced a surplus of more than $150 million. The Transit Authority has announced a surplus. These are all bodies which inflicted heavy taxes on the backs of the poorest people in the city, heavy suffering on the backs of the poorest people in the city.

The Transit Authority raised the fare from $1.25 to $1.50, and people going to work every day can feel that in their pocketbooks in terms of poor people having to pay $1.50 to ride the subway or the bus. But now they come up with a surplus. And that is a whole other discussion.

The mayor has cut numerous programs in neighborhoods. He has cut back drastically on the hospitals, city hospitals, a number of other places where tremendous cuts were made. And the most devastating cuts of all were, of course, made in education. We are suffering mightily as a result of those cuts. But we now have a surplus, and part of the reason given for the surplus is because the stock market is booming. And New York City and New York State have a tax on stock market transactions. Every time there is a transaction, we reap revenue.

So what Mr. Siegel is saying is that that will not go on for much longer. We cannot expect to prosper or to have our budget balanced indefinitely by the gyrations of the stock market. We have to do something better than that. And I agree with Mr. Siegel on that point.

The low rate of job growth, I will quote Mr. Siegel again. Beyond the halo of Manhattan prosperity, unemployment is 11.4 percent in Brooklyn, 12.6 percent in the Bronx, total employment, according to a report from the State Comptroller's office, has grown by 1.1 percent over the past 3 years and New York State as a whole. That may be good for New York but it is considerably less than half the national rate of 2.7 percent. We are at the peak of the national business cycle, but the gap between the city unemployment rate and the national unemployment is the highest in recorded history.

To sum up and clarify, I am reading from an article by columnist Fred Siegel that appeared in the New York Post on October 13, entitled New York Economy Ready to Fail but City Politicians do Nothing to Stop the Hemorrhage of Wealth. In this column he mentioned my name and said that while this is going on, we are neglecting the problem of the fact that we have a hemorrhage of wealth and people like Major Owens make long, rambling and incoherent speeches on poverty and welfare reform before an empty House Chamber.

My speech, I assure, is not incoherent at all. Step by step I am saying that I agree with you that we have neglected, as political leaders and as columnists and editors, we have neglected a major problem. I hope that your article and my speeches here, which are not different from the kind of speeches I have been making all along, will spark a debate among New Yorkers so that they can get themselves together and understand where the enemy is and go out and demand a just sharing of Federal revenue.

We are $14 billion in the hole this year, $16 billion last year. And it has gone as high as $23 billion, where $23 billion more has been paid into the Federal coffers than we received back.

At the other end of the spectrum, we have New Mexico, which receives the greatest amount per capita of Federal aid above the amount that it puts in.

□ 2130

We have places like the Speaker's county in Georgia, which is one of the highest per capita recipients of Federal aid. We have the great State of California, which has a booming population, but compared to New York, their balance of payments has gone way down because they are the recipients of disaster aid.

If it is not a mud slide, it is a hurricane or an earthquake that leads to Federal money being pumped into California's economy. And California now is contemplating El Nino and the results of El Nino and what El Nino might do to the weather, and the weather may lead to some catastrophic natural disasters.

I am all in favor of people being helped when they have natural disasters, but this may be one of the areas where States should go it alone and not have to come to the Federal Government for a handout. It is certainly a very unfair situation for certain States to continually have floods and earthquakes and various catastrophes that they know are going to happen and they are not prepared for them. As a result, their economy is rewarded by enormous amounts of money being pumped in to deal with those disasters.

Somebody should do a study on California's economy, the amount of damage done, the estimate of the damage versus the amount of Federal aid that flows in and the amount of Federal aid combined with the amount of local and State aid, and we might find that disasters are really a great benefit in kind of a perverse way.

I am not going to go into it in too much detail, but all of these things need to be looked at when we start criticizing the kind of economy we have in New York. And it has been the subject of a great deal of criticism, which I will quote in a few minutes.

But I want to continue and complete Mr. Siegel's article. Mr. Siegel goes further and says the low rate of job growth accounts in part for the facts that despite the city's image of wealth and power, 2 million New Yorkers live in poverty. Two million New Yorkers live in poverty. An average household income, adjusted for the cost of living, is about 16 percent below the national average. These numbers will only grow in the case of a recession.

I want to repeat that, quoting from Fred Siegel's article, the low rate of job growth accounts in part for the facts that despite the city's image of wealth and power, 2 million New Yorkers live in poverty. And the average household income, adjusted for the cost of living, is about 16 percent below the national average. These numbers will only grow in the case of a recession.

He has already quoted before that unemployment in Brooklyn is 11.4 percent; unemployment in the Bronx, 12.6 percent. While the city's overall economy is benefiting from the stock transfer tax and the city has a surplus in its budget, rampant poverty is still there. And New York State, as a whole, now ranks third in terms of being among the poorest States in the Union having the greatest amount of poverty. Two million New Yorkers living in poverty.

Mr. Siegel goes further and says that the growth of wealth and power in the high-tech West has been one of the two massive transfers of wealth and power undermining New York's position in the national economy. The shift of economic power to the West is matched by

the continuous movement of Federal dollars to the South.

Senator PATRICK MOYNIHAN just issued his 20th annual study of the balance of payments between various States in the Federal Government. Well, Mr. Siegel, it was not the 20th, it was the 21st balance of payment study between various States and the Federal Government. For the 20th consecutive year, the average New Yorker sends roughly one thousand more to Washington than he or she gets back, and it is even worse for New Jersey and Connecticut, residents of New Jersey and Connecticut and the surrounding metropolitan region.

The South, by contrast, is the big net winner. Continuing to read from Fred Siegel's article of October 13 in the New York Post, "Did this massive redistribution of resources come up in the mayoral debate? No. Is it a pressing matter for our daffy delegation of Congress?" And he goes on to criticize Congress Members from New York for not paying attention. Even drops my name, as I have just read before.

But I am not guilty, and Mr. Siegel, I would like to join with you, as I said before, in stimulating the most voluminous, thorough, intense debate possible about this whole matter.

Successful institutions, Mr. Siegel says, like successful people, learn from their pasts and adapt to new conditions. Neither of the major candidates seems capable of the adaptations necessary to stem the flood of wealth and influence away from New York.

And, like Mr. Siegel, I am baffled by the fact that New York leaders, politicians, clergymen, columnists, editorial writers for years on end continue to ignore what is contained in this book. The Federal budget of the States contains a graphic picture of the wealth flowing out of New York State into the rest of the country.

We could use $14 billion. Our economy could certainly benefit from $14 billion being sent back. Or even $7 billion. Let us take half. Maybe there should be some kind of revenue-sharing provision written into the Tax Code where States are always given back at least half of what they put in beyond what they normally get back from the Federal Government.

Maybe that would be a creative idea and maybe it would be acceptable to everybody, because the people in this Chamber who yell the loudest about States' rights are the ones who seem to benefit the most from this imbalance. The Representatives of the recipient States are the ones who talk most about States' rights and the need to have States do it on their own, go it on their own, do not interfere, no mandates. If we do not want any mandates, that might be a good idea. But why should we have Federal dollars flowing in large amounts into the States who do not want Federal interference?

Now, certainly the tradition of the Northeast and New York State supplying more in terms of its contribution to the Federal budget than it gets back is a tradition that was not blindly initiated. I think Franklin Roosevelt and people who developed the New Deal knew very well that the rest of the country needed help and they deliberately came up with policies that related to taxes and expenditures which spread the wealth across the country. The greatest beneficiary of the New Deal were the southern States, and they still are the greatest beneficiaries of the way that we distribute Federal dollars.

The New Deal was something that New Yorkers were proud of, and for years progressives and liberals have always been proud of the fact that money has flowed from the northeastern States, the industrial States, out into the rest of the country. And we have taken care of the national interest that way. However, in the past few years, New York and the big cities like Chicago, in an industrial State like Illinois, and New York and New Jersey, and these big industrial States that have big cities are being constantly criticized for serving as a drain on the Federal Treasury.

People who don't look at the figures tell us that New York is a great drain. I do not know where his assumptions came from, but the gentleman from Georgia [Speaker GINGRICH] more than once on the floor of this House over the last 10 years that I have been here has been particularly focused on New York City and New York State as being wasteful of Federal dollars.

I think that at one point in 1995 he stated that New York was quote, "Saddled with a culture of waste for which they want us to send a check." New York was saddled with a culture of waste for which they want us to send a check. Who is us? Send it from Georgia? Georgia is a recipient. They get more money from the Federal Government than they pay in. How would they send a check to New York? We continually send the check for the rest of the country.

The Federal Government is not going to bail out the habits that have made New York so extraordinarily expensive, quoting the Speaker again. The Speaker stated that the Federal Government is not going to bail out the habits that have made New York so extraordinarily expensive.

Conventional wisdom came to be believed on the floor of this House that New York was a financial sinkhole. New York was inefficient, wasteful, a drain on the public purse. I suppose that the Congressmen and Senators from New York have a lot of blame to bear. They must bear the burdens of blame for allowing this to happen, when we have the figures here for the last 20 years which show that New York has not been a burden on anybody. We have been the donor of large amounts of taxes flowing into the rest of the country.

Now, in the days of FDR, it was a conscious transfusion. They consciously decided that the northeast States, and New York among them, should help to supply the money needed to sustain the economies of the rest of the country. What started as a transfusion, a voluntary transfusion, has now become bloodsucking. It is really sucking the blood of a dying economy.

Mr. Siegel is right, the New York economy needs help. It is the last place that should have to continue to send out billions of dollars that do not come back. Speaker O'Neill used to say that all politics is local. All income taxes are local and many other taxes are local, but certainly income tax. People live in a locality. They live in a city, a village or a State. They pay their taxes, and they flow up to the Federal Government.

The Federal Government does not generate any taxes. In Washington, we print dollars, paper, but those paper bills are symbolic of the revenue that is collected from across the country. So it comes out of the localities and the States. It comes from New York, the billions come, and they do not go back in any just way to a State that now needs it to come back.

There was a time when we did not need it, but we need it now, and the Members of the congressional delegation of New York ought to lead the fight to get into this debate about the Internal Revenue Service, a discussion of how revenue is distributed in America. Nobody has a right to take from one set of localities and give to another unless there is some kind of formula, some kind of rationale.

It is now a habit. It is not a voluntary transfusion, it is bloodsucking. We have to stop the tax sucking, the bloodsucking, and look at the dying economy of New York City and reroute the blood, reroute the taxes back into the economy of New York City.

Let me just read from Mr. MOYNIHAN's introduction to this year's edition of this wonderful book that comes out every year, The Federal Budget and the States. In his introduction he says some interesting things. He talks about, a little bit about the history of taxes, income taxes, for example.

An income tax was proposed by the Secretary of the Treasury, Alexander J. Dallas, in the Madison administration as a means of financing the War of 1812. The war ended before anything was agreed, but the idea was in place and the legislation with respect to income tax was enacted in the Civil War and continued until 1872.

Legislation that put the income tax in place actually had been conceived as early as Madison's administration during the War of 1812, but it was enacted

in 1872. In that period, New York alone, quoting from Mr. MOYNIHAN's report, New York alone paid one-third of the entire tax when the tax first began. Massachusetts and Pennsylvania each contributed about 13 percent, thus approximately 60 percent of the total revenue collected came from only three States.

Historically, the northeast has taken care of the rest of the country. It started that way and it still is that way. I am sure that at different points in time it has been voluntary, it has been given freely, but now we have a situation where ungrateful recipient States are like jackals criticizing the policies and economies of the donor States.

□ 2145

Mr. MOYNIHAN continues in another section where he talks about the 16th amendment. There was legislation that established the income tax, but that only lasted until 1872. Later on, in 1913, the 16th amendment was ratified, in 1913. It provided that Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several States and without regard to any census or enumeration. The 16th amendment, in 1913. That is a long period of time between amendments. The 15th amendment had been passed in the 1800's. We had the 13th amendment, which freed the slaves, the 14th amendment, which established equal rights, and proposed to punish the people who rebelled against the Government. That part is always left out. There is more in the 14th amendment about punishing the rebels than there is about equal rights. But nevertheless the 14th amendment.

Then the 15th amendment which gave the right to vote to the newly freed slaves. Then it was not until 1913 that we had another amendment to the Constitution. That amendment did what legislation had started before, it enshrined in the Constitution the power of Congress to lay and collect taxes on incomes from whatever source derived without apportionment among the several States and without regard to any census or enumeration. The States in the Northeast could have objected at that time. They might have had the power to stop it at that time, but they did not because they had this spirit of being responsible for the rest of the Nation. They also made some assumptions about the fact that at that time a large percentage of the funds collected by the Federal Government were going into the Armed Services, the military budget and a large part of that military budget was being spent in the big northeastern States. To continue from Mr. MOYNIHAN, his introduction:

"It may be noted that this was the First Amendment to the Constitution to be adopted since the time of the Civil War. The regional conflict never ceased. The time simply came when the poorer regions were assumed to have the better of the argument and the votes. The programs that followed may have been a good idea when New York was singularly the most prosperous state in the Nation and these programs were an act of social conscience designed to uplift the downtrodden or unenlightened elsewhere. We sent the money to Washington, received precious little in return and felt very good. Somehow as late they don't seem to show as much gratitude as they used to."

A very important statement. New Yorkers gave freely because they wanted to uplift the downtrodden or unenlightened elsewhere, the money went to Washington, the New Deal moved even faster, and yet we got little back in terms of gratitude. Mr. MOYNIHAN is to be congratulated for his thoroughness and his diligence over the years in staying with this subject and getting the most objective analysis possible so that the figures that we quote here are generally accepted as credible. We have a situation, however, when we look at all of the available numbers, the quote from the report now is very apt, quoting again from Mr. MOYNIHAN's introduction:

"We will have more to say about this subject at another time but consider for the moment the logic of the 95 percent minimum return advocates. He is talking about transportation and the fact that there has been a great complaint about States which pay the gasoline tax not receiving 95 percent of the money back in terms of highway and transportation funds. Take it a step further. If the Federal highway program exists merely to collect gasoline taxes and return them precisely to where they were paid, why bother."

Quote from Mr. MOYNIHAN again: "Let the final word be that of Gerald B. Solomon of our 22nd Congressional District in the Upper Hudson Valley of New York. Mr. Solomon happily is also the chairman of the House Committee on Rules." Quoting from Mr. SOLOMON, "Anyone who thinks that their State is being short-changed because they don't get back what they contribute in a gas tax is ignoring a whole series of factors and should take a hard look at New York. New York pays $18 billion," he is quoting the previous years, "$18 billion more in Federal taxes than we receive in Federal funds. If they want to raise a stink, then let's redo the formulas for everything. New York could use an additional $18 billion." End of quote from Mr. GERALD SOLOMON, Republican from the State of New York's 22nd Congressional District.

When we look at the mix of defense expenditures, gasoline taxes and return for transportation costs, the expenditures for Medicaid, aid to families with dependent children or welfare, when we look at the whole mix and put it together, military expenditures, also, New York still comes out as a donor. It gets back more from Medicaid and Medicare than most States, but we are forced to pay 50 percent of the total Medicaid-Medicare costs, whereas in Mississippi the Federal Government pays 70 percent and the Federal Government only pays 50 percent of our costs. Per capita we have a larger number of people so we get back more Medicaid and Medicare funds than probably any other State per capita. But when we balance that off against what we get back for transportation, military contracts, when it all is balanced out, the taxpayers of New York in 1996 were still paying into the Federal Government $14 billion more than they received back. This is worthy of a debate.

Mr. Siegel, get yourself a copy of the book, arouse your fellow journalists and editors and let us go to work. Let us take a close look at the pages of a book which spell out the situation State by State and educate the people of New York as to what is the problem with respect to their taxes not returning to improve their quality of life and how are they being swindled. Let us look at Alabama on page 1. Alabama is a recipient State. They receive far more than they pay into the Federal Government's coffers. Alabama continues to retain its positive fiscal relationship with the Federal Government with a balance of payments surplus of $1,421 per person, the eighth highest in the Nation. They get back $1,421 for each person in the State than they pay in. Relative low per capita income results in tax collections of about 13 percent below the national average. Alabama ranks fourth in the Nation for payments to individuals and 14th for defense spending, leading to overall Federal spending that is 16 percent higher than the national average. The State of Alabama receives 16 percent more, its Federal spending, receipt of Federal funds is 16 percent higher than the national average. It has consistently been that way for a long, long time, certainly the last 10 years. Our dollars flow to Alabama. Alabama is not grateful. Alabama talks a great deal about States rights and not having people outside interfere.

The State of Georgia, let us read the synopsis on the State of Georgia. Georgia is almost equal to the national averages for both taxes and spending, varying by less than 1 percent in each direction. It began and ended the period from 1981 to fiscal year 1996 with moderate balance of payments surpluses. In the early to mid-1980's, rising Federal tax payments fueled by economic growth outpaced the State's success in attracting defense dollars, with the result that its balance of payments surplus fell slightly. The dramatic decline in defense spending in the late 1980s dropped the State into a deficit

position in fiscal year 1988. Defense spending increased in fiscal year 1992 and went up again in the past year, so Georgia ends the 16-year period with a balance, a small balance of payments surplus of $66 per capita and a rank of 27th. Over the years, Georgia has received per person as high as $434 more per person than it has paid in and it presently receives $66 more when you take the whole State into consideration. In a previous year, this book zeroed in on some counties and they found that the county that Speaker GINGRICH represented was the county that received the highest per capita in amount of Federal spending than any other county in the country.

New Mexico ranks at the very top. It is number one when it comes to recipient States. New Mexico receives more than any other State in the Union. New Mexico, the synopsis reads, leads the Nation with the greatest balance of payments surplus. Per capita Federal spending is about 45 percent above the national average, assisted by strong defense spending. While the average State receives about $865 per capita in defense spending in fiscal year 1996, New Mexico received nearly 3 times that, $2,400 per person. The State also ranks high for intergovernmental assistance, particularly Department of Interior grants to minerals management and Native American programs. Per capita income is very low and tax collections are about 23 percent below the national average. They collect very little, send very little to the Federal Government but the amount that they receive is the greatest in the whole country. In past years they have cited New Mexico as also being the recipient of a tremendous amount of agricultural subsidies. The agricultural subsidies also were driving the amount of per capita Federal spending in New Mexico up. They have always had an interesting record. If we look at the record of New Mexico all the way from fiscal year 1981 to fiscal year 1996, they have always been above the $2,500 mark in terms of per capita. For each person in New Mexico, they receive more than $2,500. It generally has run much higher than that. $3,048 per person in 1981, $3,005 in 1985, $3,313 in 1986, $3,421 in 1987, $4,464 in 1988 and on and on it goes, always very high in terms of what they receive per person versus the amount that they pay in.

Likewise, on the other end of the spectrum, New York has always had a negative balance. We have received less consistently since 1981 per person. The $14 billion overall from 1996 translates into $773 we receive less per person in New York than we pay in. That is what the overall figure of $14 billion translates into on a per capita basis. In 1981 it was $312 less. It went as high as $1,016 per person less in 1989, $1,101 in 1994, $1,070 in 1995, receiving per person in New York that much less than we are paying into the Federal coffers. New York once again finds itself among the States with the largest per capita balance of payments deficits. The deficit fell by about 20 percent in fiscal 1996 but the total deficit of $14 billion still ranks third in the Nation. New York ranks near the bottom for most Federal spending, almost 12 percent below the national average of 1996. Defense spending has fallen sharply since the mid 1980s and New York ranked 46th in defense spending last year. New York's success in attracting grants to State and local government can be traced to Medicaid assistance, AFDC and surface transportation grants. New York ranks 12th in the real per capita income and tax collections are about 4 percent above the national average.

I know that statistics can be boring and maybe these are boring but they are certainly not incoherent. There is a story here that we must listen to in the statistics. Mr. Siegel and other journalists have to pay more attention to these statistics. New York is to be applauded for the fact that this year its economy, partially as a result of the booming stock market, New York State, its economy is such that they have placed in the budget more money for schools, more money for education. It has also voted to launch a bond issue for school construction, more than $2 billion bond issue to help construct schools. It is to be applauded for as a State moving ahead to try to fill the gap. In New York City in 1996 we had 91,000 children who did not have a place to sit in a classroom. This year we cannot find out the number because this is an election year in New York and they kept secret the exact number of children who did not have a place to sit. The estimate is that at least there were 80,000 who did not have a place to sit at the start of school.

□ 2200

They have to shuffle about and find places in the hallways and the closets, and, in some cases, the bathrooms were converted in order to have a place for the kids to sit. Again, we continue to have a situation where some children are forced to eat lunch at 10 o'clock in the morning because the school is so overcrowded until the lunchroom cannot take all the students. They have to have three or four lunch periods, so the first lunch period has to begin at 10 o'clock in the morning. That is child abuse, to force a child to eat lunch at 10 o'clock, but that is the case in a number of schools in New York City.

So New York State has begun, at least to do more than just wringing its hands about its need for more schools. New schools, renovated schools, et cetera, will do more when we get the bond issue passed. But in the meantime we are paying more money into the Federal coffers than we are receiving back. The Federal Government ought to float a school construction initiative.

The President proposes a mere $5 billion over a five-year period, and that was dropped out of the negotiations. We need to come back to that. We need to understand that if we are not willing to launch a school construction initiative to make sure of the schools across the country.

The General Accounting Office estimates that the problem is about $120 billion in infrastructure needs across the whole country. There are rural schools, suburban schools, a number of places where they need new schools, not just in the inner-cities. The total tab would be, according to the General Accounting Office estimate, about $120 billion. Here we had a proposal in the State of the Union message for a mere $5 billion and they dropped that.

If you are not willing as a Nation through the Federal budget to deal with the problem of school construction and some other acute problems in places like New York, then give us our money back. Give us back the $14 billion or give us back half of it. We can solve our own problems.

We have a situation where it is an involuntary transfusion. It is blood sucking, really, when you have a State which has an acute poverty problem, a city like New York, which has 2 million people who are poor out of a population of close to 8 million, but 2 million are poor. We need our money back.

I want to repeat and emphasize the fact that this is not stated enough by journalists, by columnists, by editorial boards in New York City and New York State. When Mr. Siegel says that this Congressman is one of those who has not addressed the problem, I want to read and close out with a couple of quotes from my previous statements on the floor of this House.

I think just last March 12, 1996, I made the following statement: New York State is a State in the Nation which provides the greatest amount of surplus in terms of Treasury. When you compare what New York State receives from the Federal Government, what it receives from the Federal Government in terms of aid, it is much less than it pays in. That has been true for the last 20 years.

This is my quote from last year. In 1994, the last year they had figures available, New York State paid the Treasury $18.9 billion more than it got back from the Federal Treasury in State aid. New York was the most generous of the States. We were at the very top in 1994. I quoted from the booklet in 1994.

This was, for the benefit of Mr. Siegel and the other journalists who want to check it out, this is in the CONGRESSIONAL RECORD, March 12, 1996, H–2117.

On that same date, I made several statements about Medicare and Medicaid. If New York State stood alone, it

would be in receipt of $18.9 billion that it does not have now. If you gave us back the $18.9 billion in 1994 that we paid into the Federal Government, which was greater than the amount we got back in terms of aid, we could solve our budget problems. In fact, just give us back half that amount.

I am like a broken record, the same things I am saying tonight, I have said it many times before. It is not incoherent, Mr. Siegel. It is repetitious, I confess, but it needs to be repetitious because nobody seems to pick up on these important messages. If we had $9 billion, the New York State budget could be balanced and you would have a lot left over. We could take care of our own summer youth program, our own construction problems. If you give us back the greater amount of money we pay in, we could stop waiting for the Federal Government.

I mention this because the criticism on the floor of the House repeatedly aims at New York and calls New York a welfare State.

I think during that same discussion I talked about the Speaker's home State of Georgia, meanwhile, is one of the large number of southern largely Republican States that receives far more from the Federal Government than they send out in taxes.

I quoted Mr. MOYNIHAN at that time. Mr. MOYNIHAN said, "I told Mr. GINGRICH, what are you talking about my friend? In Atlanta 59 percent of the children are AFDC, Aid for Families with Dependent Children. In a single year, where do you think that money comes from?" By the way, Atlanta is in Georgia, and in case somebody doesn't have his geography straight, Atlanta is in Georgia, and Atlanta is the Speaker's home state. Those are some comments, but there are many, many paragraphs where I expanded on the same argument.

Also, for the benefit of Mr. Siegel and any other journalist who wants to criticize this for not speaking out on this subject of providing leadership, on March 22, 1996, I announced I was going to have a town meeting, and the subject of the meeting was the fiscal future of New York City.

The discussion begins with a discussion of what is happening here in Washington, because the fiscal future of New York City is inextricably interwoven with the policies of general aid here in Washington, our capital. I am going to start by talking that New York City is often discussed on the floor of the House of Representatives. People often talk about New York City and New York State. It is a favorite target of the Speaker of the House. Speaker GINGRICH often refers to New York State and New York City as a welfare state and a welfare city. For that reason, the people of New York need to understand the perspective of our relationship with Washington better.

I again repeat, we are called a welfare state and a welfare city. We are often accused of being a drain on the Nation, and yet New York City pays taxes to the tune of $9 billion more into the Federal Government and New York State pays another $9 billion, a total of $18.9 billion in 1994.

The total of New York State and the city for that year was $18.9 billion. The year before that, in 1993, it was $23 billion more to the Federal Government than we received back from the Federal Government.

Mr. Speaker, I said at that time, it is baffling. We do not understand why Members on the floor of the House like to single out New York City. New York City and New York State are often singled out for its high expenditures for Medicare and Medicaid.

Well, after we take away our high expenditures for Medicaid and Medicare, which are the highest in the country, I will admit that, and I can think of no more noble way to expend public funds than by taking care of the sick and the infirm and the elderly in nursing homes, no more noble way to expend funds. But we do not waste money when we take care of the sick and the infirm.

In closing, I want to repeat and sum up, so that nobody will accuse me of being incoherent, this discussion is very much related to the topic of the day, the IRS and revenue collection. Revenue collection and the IRS should not be a discussion that takes place in a trivial manner. Let us talk about the philosophy of taxation and revenue collection, the implementation of that philosophy and how that impacts on the states that are now donors, while other states are traditional recipients.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GILLMOR (at the request of Mr. ARMEY), for today, on account of attending a funeral.

Mr. BONO (at the request of Mr. ARMEY), for today, on account of illness.

Mr. MCINTOSH (at the request of Mr. ARMEY), for today and the balance of the week, on account of the birth of his baby.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CLEMENT) to revise and extend their remarks and include extraneous material:)

Mr. TRAFICANT, for 5 minutes, today.
Ms. WATERS, for 5 minutes, today.
Mr. CLAY, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. PAYNE, for 5 minutes, today.
Mr. FATTAH, for 5 minutes, today.
Mr. SCOTT, for 5 minutes, today.
Mr. FORD, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. SAXTON, for 5 minutes each day, on today and October 22 and 23.
Mr. BILBRAY, for 5 minutes, on October 22.
Mr. METCALF, for 5 minutes, today.
Mr. GUTKNECHT, for 5 minutes, on October 24.
Mr. SMITH of Michigan, for 5 minutes each day, on today and October 22.
Mr. HUTCHINSON, for 5 minutes, on October 22.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WELDON of Florida, for 5 minutes, today.

EXTENSION OF REMARKS

By unamimous consent, permission to revise and extend remarks was granted to: The following Members (at the request of Mr. CLEMENT) and to include extraneous matter:

Mr. PASCRELL.
Mr. CLEMENT.
Mr. SKELTON.
Mr. NEAL of Massachusetts.
Mr. SCHUMER.
Mr. STARK.
Mr. BARRETT of Wisconsin.
Mr. MATSUI.
Mr. RUSH.
Mr. BENTSEN.
Mr. KLECZKA.
Mr. BLAGOJEVICH.
Mr. NADLER.
Mr. KIND.
Ms. JACKSON-LEE of Texas.
Mr. FARR of California.
Mr. SHERMAN.
Ms. HARMAN.
Mr. LIPINSKI.
Mr. SERRANO.

(The following Members (at the request of Mr. KINGSTON) and to include extraneous matter:)

Mr. NEY.
Mr. GOODLATTE.
Mr. MCINTOSH.
Mr. GINGRICH.
Mr. THOMAS.
Mr. GILMAN, in two instances.
Mr. RILEY.
Mr. CHRISTENSEN.
Mr. WELLER.
Mr. DOOLITTLE.
Mr. NEUMANN.
Mr. BEREUTER.
Mr. SHAW.
Mr. MCCOLLUM.
Mr. TAYLOR of North Carolina.
Mr. PACKARD.
Mr. LEWIS of Kentucky.

The following Members (at the request of Mr. OWENS) and to include extraneous matter:

Ms. KILPATRICK.
Mr. DIXON.

Mr. TRAFICANT.
Mr. BROWN of California.
Mr. SESSIONS.
Ms. MCCARTHY of Missouri.
Mr. DICKS.
Mr. HASTINGS of Florida.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 595. An act to designate the United States Post Office building located at Bennett Street and Kansas Expressway in Springfield, Missouri, as the "John Griesemer Post Office Building"; to the Committee on Government Reform and Oversight.

S. 916. An act to designate the United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, as the "Blaine H. Eaton Post Office Building"; to the Committee on Government Reform and Oversight.

S. 985. An act to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the "Larry Doby Post Office"; to the Committee on Government Reform and Oversight.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2158. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.

H.R. 2169. An act making appropriations for the Departments of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on the following date present to the President, for his approval, bills for the House of the following titles:

On October 15, 1997:

H.R. 2158. An act making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.

H.R. 2169. An act making appropriations for the Departments of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 22, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5435. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Procedures to Limit the Volume of Small Florida Red Seedless Grapefruit; Correction [Docket No. FV96-905-2] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5436. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Hazelnuts Grown in Oregon and Washington; Reduced Assessment Rate [Docket No. FV97-982-1 IFR] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5437. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Kiwifruit Research, Promotion, and Consumer Information Order; Referendum Procedures [FV-96-708FR] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5438. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports [Docket No. 97-032-1] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5439. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Oriental Fruit Fly; Designation of Quarantined Area [Docket No. 97-073-3] received October 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5440. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Brucellosis in Cattle; State and Area Classifications; California [Docket No. 97-082-1] received October 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5441. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Performance of Certain Functions by National Futures Association with Respect to Commodity Pool Operators and Commodity Trading Advisors—received October 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5442. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Spinosad; Pesticide Tolerances for Emergency Exemptions [OPP-300560; FRL-5746-6] (RIN: 2070-AB78) received October 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5443. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Book-entry Procedures for Farm Credit Securities (RIN: 3052-AB73) received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5444. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Noninsured Crop Disaster Assistance Program (RIN: 0560-AF23) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5445. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting the Department's Defense Manpower Requirements Report for FY 1998, pursuant to 10 U.S.C. 115(b)(3)(A); to the Committee on National Security.

5446. A letter from the Secretary of Energy, transmitting the report entitled "Savannah River Site Chemical Separation Facilities Multi-Year Plan," pursuant to 42 U.S.C. 7252 nt.; to the Committee on National Security.

5447. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Assessment of Fees; National Banks; District of Columbia Banks [Docket No. 97-21] (RIN: 1557-AB60) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5448. A letter from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting the Office's final rule—Deposits [No. 97-108] (RIN: 1550-AB00) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5449. A letter from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting the Office's final rule—Risk-Based Capital Requirements; Transfers of Small Business Loan Obligations with Recourse [Docket No. 97-97] (RIN: 1550-AB11) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5450. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to authorize the Secretary of Housing and Urban Development to make grants to units of general local government to stimulate economic opportunity in newly designated empowerment zones; to the Committee on Banking and Financial Services.

5451. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits [29 CFR Part 4044] received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5452. A letter from the Inspector General, Department of Defense, transmitting the Superfund Financial Transactions Report for Fiscal Year 1996, pursuant to Public Law 99-499, section 120(e)(5) (100 Stat. 1669); to the Committee on Commerce.

5453. A letter from the Acting General Counsel, Department of Energy, transmitting the Department's final rule—Worker Protection Management for DOE Federal and Contractor Employees [DOE Order 440.1] received September 30, 1997, pursuant to 5

U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5454. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Energy Conservation Program for Consumer Products: Test Procedures for Externally Vented Refrigerators and Refrigerator-Freezers (RIN: 1904–AA93) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5455. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Final Determination to Extend Deadline for Promulgation of Action on Section 126 Petitions [FRL–5911–8] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5456. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's "Major" final rule—Control of Emissions of Air Pollution from Highway Heavy-duty Engines [AMS-FRL–5908–8] (RIN: 2060–AF76) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5457. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Santa Barbara County Air Pollution Control District, California [CA157–0050a; FRL–5907–7] received October 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5458. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions from Yeast Manufacturers, Screen Printing, Expandable Polystyrene Operations, and Bakeries [MD 040–3017a; FRL–5906–1] received October 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5459. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Transitional and General Opt-Out Procedures for Phase II Reformulated Gasoline Requirements [FRL–5903–3] received October 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5460. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Compliance Assurance Monitoring [IL–64–2–5807; FRL–5908–6] (RIN: 2060–AD18) received October 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5461. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Acid Rain Program: Revisions to Permits, Allowance System, Sulfur Dioxide Opt-Ins, Continuous Emission Monitoring, Excess Emissions, and Appeal Procedures [FRL–5908–5] (RIN: 2060–AF43) received October 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5462. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Connecticut [CT–7202a; FRL–5902–2] received October 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5463. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New Hampshire [NH–7157a–FRL–5906–8] received October 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5464. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District [CA 193–054; FRL–5907–9] received October 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5465. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Virginia—General Conformity Rule [VA079–5020a; FRL–5909–9] received October 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5466. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Auction of 800 MHz SMR Upper 10 MHz Band; Minimum Opening Bids or Reserve Prices—received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5467. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Newaygo, Michigan) [MM Docket No. 97–154, RM–9116] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5468. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Expedited Safety Reporting Requirements for Human Drug and Biological Products [Docket No. 93N–0181] (RIN: 0910–AA97) received October 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5469. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Policy and Procedure for Enforcement Actions; Enforcement Conference Procedures [NUREG–1600] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5470. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Integrated Materials Performance Evaluation Program (IMPEP) [Management Directive 5.6] received October 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5471. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Codes and Standards; IEEE National Concensus Standard (RIN: 3150–AF73) received October 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5472. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Information to Licensees Regarding NRC Inspection Manual Section on Resolution of Degraded and Nonconforming Conditions [Generic Letter 91–18] received October 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5473. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Offshore Press Conferences, Meetings with Company Representatives Conducted Offshore and Press-Related Materials Released Offshore [Release Nos. 33–7470 and 34–39227; S7–26–96] (RIN: 3235–AG85) received October 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5474. A letter from the the Assistant Secretary for Legislative Affairs, the Department of State, transmitting a copy of Presidential Determination No. 97–34: Transfer of $4 million in FY 1997 Economic Support Funds to the Peacekeeping Operations Account to Support the African Crisis Response Initiative Under Section 610(a) of the Foreign Assistance Act of 1961, pursuant to 22 U.S.C. 2318(a)(1); (H. Doc. No. 105—148); to the Committee on International Relations and ordered to be printed.

5475. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Korea for defense articles and services (Transmittal No. 98–01), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5476. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Turkey for defense articles and services (Transmittal No. 98–06), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5477. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services (Transmittal No. 98–07), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5478. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification for Fiscal Year 1998 that no United Nations agency or United Nations affiliated agency grants any official status, accreditation, or recognition to any organization which promotes and condones or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization, pursuant to Public Law 103–236, section 102(g) (108 Stat. 389); to the Committee on International Relations.

5479. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting President Clinton's determination that the Board of the International Fund is, as a whole, broadly representative of the interests of the communities in Ireland and Northern Ireland, and that disbursements from the International Fund are distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation, and will address the needs of both communities in Northern Ireland, pursuant to Public Law 99–415, section 5(c) (100 Stat. 948); to the Committee on International Relations.

5480. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Turkey

(Transmittal No. DTC–106–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5481. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to NATO AEW&C Programme Management Organization (Transmittal No. DTC–116–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5482. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Korea (Transmittal No. DTC–28–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5483. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Belgium, Canada, Denmark, Germany, Greece, Italy, Portugal, Turkey, United Kingdom, and Norway (Transmittal No. DTC–115–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5484. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

5485. A communication from the President of the United States, transmitting the Compliance Report on Armenia and Other Parties in the Caucasus Region, in accordance with Condition 5(F) of the resolution of advise and consent to ratification on the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe of November 19, 1990 (''The CFE Flank Document''), adopted by the Senate of the United States on May 14, 1997; to the Committee on International Relations.

5486. A letter from the Deputy Congressional Liaison, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Rules Regarding Availability of Information [Docket No. R–0975] received October 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5487. A letter from the Executive Director, Office of Navajo and Hopi Indian Relocation, transmitting the FY 1997 annual report under the Federal Managers' Financial Integrity Act (FMFIA) of 1982, and the Inspector General Act of 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5488. A letter from the Chairman, Postal Rate Commission, transmitting a report noting some discrepancies, since corrected, to the Commission's IMPAC Credit Card report for fiscal year 1997; to the Committee on Government Reform and Oversight.

5489. A letter from the Staff Director, United States Commission on Civil Rights, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

5490. A letter from the the Chief Administrative Officer, the U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period April 1, 1997, through June 30, 1997 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a; (H. Doc. No. 105–154); to the Committee on House Oversight and ordered to be printed.

5491. A letter from the Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Nine Plants from the Grasslands or Mesic Areas of the Central Coast of California (RIN: 1018–AD36) received September 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5492. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in Central Regulatory Area of the Gulf of Alaska [Docket No. 961126334–7025–02; I.D. 100997A] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5493. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Recreational Fishery Adjustments [I.D. 100697B] received October 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5494. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; ''Other Rockfish'' Species Group in the Bering Sea Subarea [Docket No. 961107312–7021–02; I.D. 100797A] received October 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5495. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Atlantic Bluefin Tuna General Category [I.D. 100797B] received October 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5496. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Reporting and Procedures Regulations; Foreign Terrorist Organizations Sanctions Regulations [31 CFR Parts 501 and 597] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5497. A letter from the Director, Executive Office for United States Trustees, Department of Justice, transmitting the Department's final rule—Procedures for Suspension and Removal of Panel Trustees and Standing Trustees (RIN: 1105–AA54) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5498. A letter from the Director, Federal Bureau of Prisons, transmitting the Bureau's final rule—Drug Abuse Treatment and Intensive Confinement Center Programs: Early Release Consideration [BOP–1070–I] (RIN: 1120–AA66) received October 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5499. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's nineteeth Annual Report to Congress pursuant to section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, pursuant to 15 U.S.C. 18a(j); to the Committee on the Judiciary.

5500. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's ''Major'' final rule—Affidavits of Support on Behalf of Immigrants [INS No. 1807–96] (RIN: 1115–AE58) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5501. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 1129 of the Bankruptcy Code; to the Committee on the Judiciary.

5502. A letter from the the Acting Assistant Secretary (Civil Works), the Department of the Army, transmitting a report on the authorization of navigation improvements for Boston Harbor, Massachusetts, pursuant to Public Law 104–303, section 101(a)(13); (H. Doc. No. 105–150); to the Committee on Transportation and Infrastructure and ordered to be printed.

5503. A letter from the the Acting Assistant Secretary (Civil Works), the Department of the Army, transmitting a report on a flood damage reduction project for the American River Watershed, California, pursuant to Public Law 104–303, section 101(a)(1); (H. Doc. No. 105–151); to the Committee on Transportation and Infrastructure and ordered to be printed.

5504. A letter from the the Acting Assistant Secretary (Civil Works), the Department of the Army, transmitting a report on a flood damage reduction and agricultural water supply project at the Terminus Dam, Kaweah River Basin, California, pursuant to Public Law 104–303, section101(b)(5); (H. Doc. No. 105–152); to the Committee on Transportation and Infrastructure and ordered to be printed.

5505. A letter from the the Acting Assistant Secretary (Civil Works), the Department of the Army, transmitting a report on a storm damage reduction and shoreline protection project for Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey, pursuant to Public Law 104–303, section 101(b)(13); (H. Doc. No. 105–153); to the Committee on Transportation and Infrastructure and ordered to be printed.

5506. A letter from the General Counsel, Department of Transportation, transmitting a letter to correct the ''Major'' status originally attributed to the non-major rule, Executive Communication 5066; to the Committee on Transportation and Infrastructure.

5507. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes (Federal Aviation Administration) [Docket No. 97–CE–15–AD; Amdt. 39–10148; AD 97–20–11] (RIN: 2120–AA64) received October 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5508. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model HS 748 Series Airplanes (Federal Aviation Administration) [Docket No. 97–NM–218–AD; Amdt. 39–10143; AD 97–20–05] (RIN: 2120–AA64) received October 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5509. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300, A300–600, and A310 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–215–AD; Amdt. 39–10146; AD 97–20–08] (RIN: 2120–AA64) received October 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5510. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace (Federal Aviation Administration) [Docket No. 28860; Amdt. No. 187–9] (RIN: 2120–AG17) received October 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5511. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—List of Nonconforming Vehicles Decided to be Eligible for Importation (National Highway Traffic Safety Administration) [Docket No. 97–067; Notice 1] (RIN: 2127–AG98) received October 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5512. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airspace Designations; Incorporation By Reference (Federal Aviation Administration) [Docket No. 29030; Amendment No. 71–29] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5513. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Restricted Areas; Camp Lejeune, NC (Federal Aviation Administration) [Airspace Docket No. 94–ASO–18] (RIN: 2120–AA66) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5514. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–149–AD; Amdt. 39–10116; AD 97–18–06] (RIN: 2120–AA64) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5515. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Hiller Aircraft Corporation Model UH–12A, UH–12B, UH–12C, UH–12D, and UH–12E Helicopters (Federal Aviation Administration) [Docket No. 96–SW–32–AD; Amdt. 39–10151; AD 97–20–15] (RIN: 2120–AA64) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5516. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 430 Helicopters (Federal Aviation Administration) [Docket No. 97–SW–24–AD; Amdt. 39–10152; AD 97–15–16] (RIN: 2120–AA64) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5517. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) (Eurocopter) Model MBB-BK117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters (Federal Aviation Administration) [Docket No. 97–SW–15–AD; Amdt. 39–10153; AD 97–20–16] (RIN: 2120–AA64) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5518. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model BAe 125–800A Series Airplanes and Hawker 800 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–142–AD; Amdt. 39–10156; AD 97–21–03] (RIN: 2120–AA64) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5519. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Vessel Identification System (Coast Guard) [CGD 89–050] (RIN: 2115–AD35) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5520. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operations Regulations; Bronx River, New York (Coast Guard) [CGD01–97–018] (RIN: 2115–AE47) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5521. A letter from the Administrator, Environmental Protection Agency, transmitting the 1996 Clean Water Needs Survey report on the "Assessment of Needs for Publicly Owned Wastewater Treatment Facilities, Correction of Combined Sewer Overflows, and Management of Storm Water and Nonpoint Source Pollution in the United States," pursuant to 33 U.S.C. 1375(b)(1); to the Committee on Transportation and Infrastructure.

5522. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Disaster Assistance; Snow Assistance (RIN: 3067–AC58) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5523. A letter from the Director, Office of Management and Budget, transmitting the annual report summarizing all explanations received for agency's declining to use the consensus technical standards, pursuant to Public Law 104–113, section 12(d)(3) (110 Stat. 783); to the Committee on Science.

5524. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Loan Guaranty: Credit Standards (RIN: 2900–AI16) received October 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5525. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Informed Consent for Patient Care (RIN: 2900–AH72) received October 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5526. A letter from the Acting Director, Office of Personnel Management, transmitting OPM's Fiscal Year 1996 annual report on Veteran's Employment in the Federal Government, pursuant to 38 U.S.C. 4214(e)(1); to the Committee on Veterans' Affairs.

5527. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rewards for Information Relating to Violations of Internal Revenue Laws [TD 8737] (RIN: 1545–AU88) received October 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5528. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rev. Proc. 97–46, Correction [Announcement 97–107] received October 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5529. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Source of Income from Sales of Inventory Partly from Sources within a Possession of the United States; Also, Source of Income Derived from Certain Purchases from a Corporation Electing Section 936 [REG–251985–96] (RIN: 1545–AU79) received October 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5530. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Nonbank Trustees and Custodians for Education Individual Retirement Accounts [Notice 97–57] received October 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5531. A letter from the Chairman, United States International Trade Commission, transmitting the combined report on the Caribbean Basin Economic Recovery Act—Impact on the United States, and the Andean Trade Preference Act—Impact on the United States, pursuant to Public Law 102–182, section 206(a) and 215(a); to the Committee on Ways and Means.

5532. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the authorization of up to $100M in defense articles and services to the Government of Bosnia-Herzegovina, pursuant to Public Law 104–107, section 540(c); jointly to the Committees on International Relations and Appropriations.

5533. A letter from the Director, Office of Budget and Management, transmitting the report on costs and benefits of Federal regulatory programs, pursuant to Public Law 104–208, section 645(a) (110 Stat. 3009–366); jointly to the Committees on Government Reform and Oversight and Appropriations.

5534. A letter from the the Executive Director, the Office of Compliance, transmitting the first annual report on the use of the Office of Compliance by covered employees, pursuant to section 301(h) of the Congressional Accountability Act; (H. Doc. No. 105–149); jointly to the Committees on House Oversight and Education and the Workforce, and ordered to be printed.

5535. A letter from the Assistant Secretary for Force Management Policy, Department of Defense, transmitting a letter of notification of determinations that institutions of higher education have been deemed ineligible for certain Federal funding, pursuant to Public Law 104–208, section 514; jointly to the Committees on National Security, Education and the Workforce, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on October 14, 1997]

Mr. GOODLING: Committee on Education and the Workforce. H.R. 2616. A bill to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools; with an amendment (Rept. 105–321). Referred to the Committee of the Whole House on the State of the Union.

[Submitted October 21, 1997]

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1270. A bill to amend the Nuclear Waste Policy Act of 1982; with an

amendment (Rept. 105–290 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING. Committee on Education and the Workforce. H.R. 2535. A bill to amend the Higher Education Act of 1965 to allow the consolidation of student loans under the Federal Family Loan Program and the Direct Loan Program; with an amendment (Rept. 105–322). Referred to the Committee of the Whole House on the State of the Union.

Mr. COBLE: Committee on the Judiciary. H.R. 1534. A bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other Government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution; with an amendment (Rept. 105–323). Referred to the Committee of the Whole House on the State of the Union.

Mr. GEKAS: Committee on the Judiciary. H.R. 764. A bill to make technical corrections to title 11, United States Code, and for other purposes; with an amendment (Rept. 105–324). Referred to the Committee of the Whole House on the State of the Union.

Mr. COBLE: Committee on the Judiciary. H.R. 1967. A bill to amend title 17, United States Code, to provide that the distribution before January 1, 1978, of a phonorecord shall not for any purpose constitute a publication of the musical work embodied therein (Rept. 105–325). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. H.R. 1085. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, United States Code, "Patriotic and National Observances, Ceremonies, and Organizations"; with an amendment (Rept. 105–326). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 134. A bill to authorize the Secretary of the Interior to provide a loan guarantee to the Olivenhain Water Storage Project, and for other purposes; with an amendment (Rept. 105–327). Referred to the Committee of the Whole House on the State of Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 136. A bill to amend the National Parks and Recreation Act of 1978 to designate the Marjory Stoneman Douglas Wilderness and to amend the Everglades National Park Protection and Expansion Act of 1989 to designate the Ernest F. Coe Visitor Center; with an amendment (Rept. 105–328). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1856. A bill to amend the Fish and Wildlife Act of 1956 to direct the Secretary of the Interior to conduct a volunteer pilot project at one national wildlife refuge in each U.S. Fish and Wildlife Service region, and for other purposes; with an amendment (Rept. 105–329). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. House Concurrent Resolution 151. Resolution expressing the sense of the Congress that the United States should manage its public domain National Forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives and that the United States should serve as an example and as a world leader in actively managing its public domain national forests in a manner that substantially reduces the amount of carbon dioxide added to the atmosphere: with an amendment (Rept. 105–330). Referred to the House Calendar.

Mr. BURTON: Committee on Government Reform and Oversight. H.R. 1962. A bill to provide for the appointment of a Chief Financial Officer and Deputy Chief Financial Officer in the Executive Office of the President; with amendments (Rept. 105–331). Referred to the committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 2646. A bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes; with an amendment (Rept. 105–332). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 269. Resolution providing for consideration of the joint resolution (H.J. Res. 97) making further continuing appropriations for the fiscal year 1998, and for other purposes (Rept. 105–333). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 270. Resolution providing for consideration of the bill (H.R. 2247) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes (Rept. 105–334). Referred to the House Calendar.

Mr. McINNIS: Committee on Rules. House Resolution 271. Resolution providing for consideration of the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution (Rept. 105–335). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[The following action occurred on October 20, 1997]

H.R. 2513. Referral to the Committee on the Budget extended for a period ending not later than October 20, 1997.

H.R. 2513. Referral to the Committee on the Budget extended for a period ending not later than October 21, 1997.

[Submitted October 21, 1997]

H.R. 2513. Referral to the Committee on the Budget extended for a period ending not later than October 22, 1997.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MICA (for himself, Mr. CUMMINGS, Mr. PAPPAS, Mrs. MORELLA, Mr. SESSIONS, Mr. FORD, and Ms. NORTON):

H.R. 2675. A bill to require that the Office of Personnel Management submit proposed legislation under which group universal life insurance and group variable universal life insurance would be available under chapter 87 of title 5, United States Code, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. ARCHER (for himself, Mr. PORTMAN, and Mr. CARDIN):

H.R. 2676. A bill to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Government Reform and Oversight, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself, Mr. HYDE, Mr. LANTOS, Mr. MORAN of Virginia, Mr. KENNEDY of Massachusetts, Ms. ROS-LEHTINEN, Mr. SANDERS, Mr. MILLER of California, and Mr. FALEOMAVAEGA):

H.R. 2677. A bill to impose certain sanctions on countries that do not prohibit child labor; to the Committee on International Relations, and in addition to the Committees on Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself, Mr. HYDE, Mr. LANTOS, Mr. MORAN of Virginia, Mr. KENNEDY of Massachusetts, Ms. ROS-LEHTINEN, Mr. SANDERS, Mr. MILLER of California, and Mr. FALEOMAVAEGA):

H.R. 2678. A bill to impose certain sanctions on countries that do not prohibit child labor; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GIBBONS:

H.R. 2679. A bill to restore the traditional day of observance of Memorial Day; to the Committee on Government Reform and Oversight, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GIBBONS (for himself and Mr. DOOLITTLE):

H.R. 2680. A bill to designate the Lake Tahoe Basin National Forest in the States of California and Nevada to be administered by the Secretary of Agriculture, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Rhode Island (for himself, Mr. CAMPBELL, and Mr. SANDERS):

H.R. 2681. A bill to establish a program of pharmacy assistance fee for elderly persons who have no health insurance coverage; to the Committee on Commerce.

By Mr. MEEHAN (for himself and Mr. SANFORD):

H.R. 2682. A bill to amend the Social Security Act to improve the information made available in social security account statements and to provide for annual distribution of such statements to beneficiaries; to the Committee on Ways and Means.

By Mr. SCHUMER:

H.R. 2683. A bill to amend the auto theft provisions of title 49, United States Code, to add air bag modules to the list of major auto parts protected under such provisions; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW:

H.R. 2684. A bill to amend the Internal Revenue Code of 1986 to provide for the elimination of certain foreign base company shipping income from foreign base company income; to the Committee on Ways and Means.

By Mr. SNOWBARGER:

H.R. 2685. A bill to amend the Internal Revenue Code of 1986 to allow an individual taxpayer to elect a flat alternative individual return tax as an alternative to the current Internal Revenue Code; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SPRATT:

H.R. 2686. A bill to suspend temporarily the duty on beta hydroxyalkylamide; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 2687. A bill to amend title XVIII of the Social Security Act to provide for payment for drugs furnished incident to hospital outpatient department services under the prospective payment system for hospital outpatient department services; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TRAFICANT:

H.R. 2688. A bill to establish an Office of Economic Development Information in the Economic Development Administration; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMBO:

H.R. 2689. A bill to correct an oversight in earlier legislation by directing the National Park Service to grant to three individuals a right of use and occupancy of certain property on Santa Cruz Island; to the Committee on Resources.

By Mr. LIVINGSTON:

H.J. Res. 97. A joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes; to the Committee on Appropriations.

By Mr. GOODLATTE (for himself and Mr. GOODE):

H. Con. Res. 171. Concurrent resolution declaring the memorial service sponsored by the National Emergency Medical Services (EMS) Memorial Service Board of Directors to honor emergency medical services personnel to be the "National Emergency Medical Services Memorial Service"; to the Committee on Commerce.

By Mr. BAESLER (for himself, Mr. TURNER, Mr. PETERSON of Minnesota, Mr. CONDIT, and Mr. STENHOLM):

H. Res. 272. A resolution providing for consideration of the bill (H.R. 1366) amending the Federal Elections Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes; to the Committee on Rules.

By Mr. MENENDEZ (for himself, Mr. ROYCE, and Mr. HASTINGS of Florida):

H. Res. 273. A resolution condemning the military intervention by the Government of the Republic of Angola into the Republic of the Congo, and for other purposes; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

213. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to House Resolution Number 1928 requesting the President and the Congress of the United States of America give the utmost attention and active support to the Republic of China in Taiwan as an important participant in international commerce and trade and as a former ally, and in support of its efforts to attain its fullest participation in the international community bodies; to the Committee on International Relations.

214. Also,a memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to House Concurrent Resolution No. 2 expressing gratitude to the leaders and all the members of the House of Representatives of the United States of America; to exhort all the members of the House of Representatives of the Unted States of America to approve legislation that will allow Puerto Ricans to select their own political destiny and to further request that they promulgate said selection promptly; to the Committee on Resources.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LIVINGSTON introduced A bill (H.R. 2690) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel DULARGE; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. WATTS of Oklahoma.

H.R. 20: Mrs. MORELLA and Mr. HOLDEN.

H.R. 51: Mr. LUCAS of Oklahoma.

H.R. 59: Mr. NUSSLE, Mr. PICKERING, Mr. INGLIS of South Carolina, and Mr. LATOURETTE.

H.R. 66: Ms. DELAURO.

H.R. 80: Mr. STRICKLAND.

H.R. 146: Mr. LOBIONDO.

H.R. 165: Mr. CALVERT.

H.R. 168: Mr. KENNEDY of Rhode Island.

H.R. 230: Mr. BUNNING of Kentucky.

H.R. 306: Mr. SCOTT and Mr. BAESLER.

H.R. 367: Mr. SALMON, Mr. ROEMER, Mr. NUSSLE, and Mr. MURTHA.

H.R. 450: Mr. EWING and Mr. BARCIA of Michigan.

H.R. 493: Mr. SHERMAN.

H.R. 586: Mr. GOSS and Mr. LUCAS of Oklahoma.

H.R. 590: Mr. VENTO and Mr. SABO.

H.R. 612: Ms. SLAUGHTER and Ms. CARSON.

H.R. 619: Ms. WATERS, Mr. WOLF, Mr. MILLER of California, Mr. DEUTSCH, Mr. NEAL of Massachusetts, Mr. MEEHAN, Ms. ROYBAL-ALLARD, Mr. PASCRELL, Mr. KENNEDY of Massachusetts, Mr. MENENDEZ, and Mr. MCGOVERN.

H.R. 676: Mr. NEAL of Massachusetts.

H.R. 738: Mr. NADLER, Mr. TOWNS, and Mr. SERRANO.

H.R. 777: Mr. RODRIGUEZ.

H.R. 789: Mr. HINOJOSA.

H.R. 805: Mr. DICKEY.

H.R. 815: Mr. SAM JOHNSON, Mr. SCOTT, Mr. GILCHREST, Mr. MCHUGH.

H.R. 859: Mr. HASTINGS of Washington.

H.R. 877: Mr. LUCAS of Oklahoma, Mrs. EMERSON, Ms. DUNN of Washington, Mr. RUSH, Ms. WOOLSEY, Mr. HUTCHINSON, Mr. PICKERING, Mr. QUINN, and Mr. INGLIS of South Carolina.

H.R. 880: Ms. GRANGER.

H.R. 919: Mr. PAYNE.

H.R. 971: Mr. PASCRELL and Mr. PAYNE.

H.R. 972: Mr. SUNUNU and Mr. CAMPBELL.

H.R. 981: Ms. FURSE.

H.R. 1023: Mr. CRAMER.

H.R. 1054: Mr. MICA, Mr. LINDER, Ms. PELOSI, Mr. MARTINEZ, Mr. MEEHAN, Mr. DOOLEY of California, and Mr. FAZIO of California.

H.R. 1060: Mr. WEYGAND, Mr. KOLBE, Mr. SANFORD, Mr. JENKINS, and Mr. COOK.

H.R. 1070: Ms. HOOLEY of Oregon, Mr. GEJDENSON, Mr. BROWN of Ohio, Ms. CARSON, Mrs. THURMAN, Mr. FALEOMAVAEGA, Mr. PAXON, and Mr. LANTOS.

H.R. 1072: Ms. FURSE.

H.R. 1114: Mr. SPENCE, Mr. UPTON, Ms. MILLENDER-MCDONALD, Mr. GILCHREST, Mr. BOUCHER, and Mr. BLUMENAUER.

H.R. 1126: Mr. LATOURETTE.

H.R. 1129: Mr. SANFORD, Mr. BEREUTER, Mr. WOLF, Mr. CASTLE, Mr. HYDE, Mr. SMITH of New Jersey, and Mr. CHABOT.

H.R. 1147: Mr. STUMP.

H.R. 1165: Mr. MORAN of Virginia.

H.R. 1173: Mr. MENENDEZ and Mr. LAHOOD.

H.R. 1231: Mr. STUPAK and Mr. BOUCHER.

H.R. 1234: Mr. RODRIGUEZ and Mr. STARK.

H.R. 1285: Mr. CRAMER and Mr. SHAW.

H.R. 1375: Mr. BARTLETT of Maryland and Ms. SANCHEZ.

H.R. 1415: Mr. COSTELLO, Mr. NEAL of Massachusetts, Mr. MARKEY, Ms. VELÁZQUEZ, Mr. SPRATT, Mr. STENHOLM, Mr. RILEY, Mr. LUCAS of Oklahoma, Mr. BOB SCHAFFER, and Mr. PAXON.

H.R. 1425: Mr. FATTAH and Mr. WEXLER.

H.R. 1428: Mr. BLUNT.

H.R. 1432: Mr. WATT of North Carolina.

H.R. 1438: Mr. CAMPBELL.

H.R. 1450: Mr. FARR of California and Ms. FURSE.

H.R. 1481: Mr. GUTIERREZ.

H.R. 1500: Mr. BORSKI, Mr. KILDEE, Mr. POSHARD, and Mr. PRICE of North Carolina.

H.R. 1507: Ms. FURSE.
H.R. 1520: Mr. RAHALL.
H.R. 1524: Mr. HILL and Mr. SCARBOROUGH.
H.R. 1534: Mr. KING of New York, Mr. ROTHMAN, and Mr. HULSHOF.
H.R. 1555: Mr. JACKSON.
H.R. 1689: Ms. GRANGER, Mr. PAPPAS, Mr. MANZULLO, Mr. ADERHOLT, Mr. POMBO, Mr. LAHOOD, Mr. CAMP, and Mr. CRAMER.
H.R. 1735: Ms. FURSE, Mr. JACKSON, and Mr. LANTOS.
H.R. 1737: Mr. BENTSEN, Mr. GUTIERREZ, Mr. REGULA, and Ms. MILLENDER-MCDONALD.
H.R. 1739: Mr. SESSIONS, Mrs. CHENOWETH, and Mr. YOUNG of Alaska.
H.R. 1822: Mr. KUCINICH and Mr. WEYGAND.
H.R. 1826: Mr. CAMPBELL.
H.R. 1856: Mr. NETHERCUTT.
H.R. 1861: Mrs. LOWEY.
H.R. 1864: Mr. CAMPBELL and Mr. SUNUNU.
H.R. 1891: Mrs. JOHNSON of Connecticut, Mr. MANZULLO, Mr. ENSIGN, and Mr. CUNNINGHAM.
H.R. 1951: Mr. SKAGGS, Mr. CLEMENT, Mr. CONYERS, Mrs. MALONEY, of New York, Mr. MARKEY, Mr. FORD, and Mr. OWENS.
H.R. 1972: Mr. MCGOVERN.
H.R. 1984: Mr. BRADY, Mr. ROYCE, and Mr. VISCLOSKY.
H.R. 2001: Mr. CAMPBELL.
H.R. 2009: Mr. WAXMAN, Mr. FOLEY, Mr. WALSH, Mrs. TAUSCHER, Mr. MCHUGH, Mr. LANTOS, Mr. DELAHUNT, Mr. PALLONE, and Mr. WEXLER.
H.R. 2021: Mr. SHAYS.
H.R. 2029: Mr. HEFLEY.
H.R. 2090: Mr. BONO.
H.R. 2109: Mr. MCKEON and Mr. LUTHER.
H.R. 2121: Mr. MCNULTY.
H.R. 2124: Mr. PARKER, Mr. EHLERS, Mr. BOB SCHAFFER, Mr. CANADY of Florida, Mr. COLLINS, Mr. TALENT, Mr. BALLENGER, Mr. COOKSEY and Mr. SENSENBRENNER.
H.R. 2195: Ms. FURSE, Mr. GUTIERREZ and Mr. PORTER.
H.R. 2198: Mr. NETHERCUTT.
H.R. 2221: Mr. ISTOOK and Mr. DELAY.
H.R. 2229: Mr. SOLOMON and Mr. SMITH of New Jersey.
H.R. 2265: Mr. CLEMENT.
H.R. 2292: Mr. CALLAHAN, Mr. ROEMER, Mr. HANSEN, Mr. CANADY of Florida, Mr. SAWYER, Mr. LIVINGSTON, Mr. FORD, Mr. MCINTOSH, Mr. POMBO, Mr. LATHAM, Ms. HARMAN, Mr. MINGE, Mr. CRAMER, Mr. CHAMBLISS, Mr. CALVERT, Mr. GOODLING, Mr. THUNE, and Mr. BURTON of Indiana.
H.R. 2332: Mr. SMITH of Michigan.
H.R. 2351: Mr. STOKES, Mr. PAYNE, Mr. KILDEE, Mr. ALLEN, Mr. ABERCROMBIE, Mr. BORSKI, and Mr. ROTHMAN.
H.R. 2374: Mr. BILBRAY and Ms. HARMAN.
H.R. 2408: Mr. FROST, Mr. FILNER, Mr. STARK, Mr. HINCHEY, and Mr. BALDACCI.
H.R. 2432: Mr. GOODE, Mr. BROWN of Ohio, and Mr. PAXON.
H.R. 2456: Ms. DANNER.
H.R. 2457: Mr. UNDERWOOD and Mr. EVANS.
H.R. 2460: Mr. MEEHAN.
H.R. 2463: Ms. SLAUGHTER, Ms. WOOLSEY, Mr. BONIOR, Mrs. JOHNSON of Connecticut, and Ms. FURSE.
H.R. 2476: Mr. SHAYS.
H.R. 2481: Mrs. LINDA SMITH of Washington, Mr. QUINN, Mr. SCHUMER, and Mr. DINGELL.
H.R. 2490: Mr. BACHUS, Mr. BRADY, Mr. CONDIT, Mr. CUNNINGHAM, Ms. DUNN of Washington, Mr. GIBBONS, Mr. GUTKNECHT, Mr. ISTOOK, Mr. PETERSON of Pennsylvania, Mr. SCARBOROUGH, and Mr. THUNE.
H.R. 2493: Mr. MCKEON.
H.R. 2497: Mr. EWING, Mr. WOLF, Mr. KOLBE, Mr. NETHERCUTT, Mr. BILBRAY, Mr. GILLMOR, Mr. INGLIS of South Carolina, Mr. PICKETT, Mr. KING of New York, Mr. JENKINS, Mr. HUTCHINSON, Mr. NEUMANN, Mr. GIBBONS, Mr. ROYCE, MR. SPENCE, Mr. SCARBOROUGH, Mr. CUNNINGHAM, Mr. BURR of North Carolina, Mr. WICKER, Mr. SAXTON, Mr. BARCIA of Michigan, Mr. OXLEY, Mrs. MYRICK, Mr. GUTKNECHT, and Mr. CHRISTENSEN.
H.R. 2503: Ms. RIVERS, Ms. PELOSI, Mr. LANTOS, and Ms. FURSE.
H.R. 2519: Mr. ACKERMAN and Ms. NORTON.
H.R. 2526: Mr. MILLER of California, Mr. BISHOP, Mr. BEREUTER, Ms. FURSE, Mr. SABO, Mr. HINCHEY, and Mrs. THURMAN.
H.R. 2535: Mr. SPENCE and Mr. BASS.
H.R. 2541: Mr. MORAN of Virginia.
H.R. 2553: Mr. EVANS.
H.R. 2560: Mr. POSHARD, Mr. GUTIERREZ, Mr. CANADY of Florida, Ms. MILLENDER-MCDONALD, Ms. CARSON, Mr. OLVER, Mr. MARTINEZ, Mr. ALLEN, Mr. ETHERIDGE, Mrs. MEEK of Florida, Ms. BROWN of Florida, and Ms. RIVERS.
H.R. 2583: Mr. PACKARD.
H.R. 2585: Mr. LEWIS of California.
H.R. 2586: Mr. POMEROY.
H.R. 2596: Mr. POMEROY.
H.R. 2597: Ms. KILPATRICK and Mr. MANTON.
H.R. 2602: Mr. BROWN of California, Mr. COYNE, and Mr. KENNEDY of Rhode Island.
H.R. 2604: Mrs. EMERSON, Mrs. MYRICK, Mr. RYUN, Mr. PICKERING, Mr. MANZULLO, Mr. FOLEY, Mr. INGLIS of South Carolina, Mr. SPENCE, and Ms. DANNER.
H.R. 2609: Mr. STUMP, Mr. BOYD, Mr. MCCOLLUM, Mr. STENHOLM, Mr. BUNNING of Kentucky, Mr. MCHUGH, Mr. INGLIS of South Carolina, Mr. OXLEY, Mr. BALLENGER, Mr. DOOLEY of California, Mrs. FOWLER, Mr. ETHERIDGE, Mr. BURR of North Carolina, Mr. WICKER, and Mr. BARRETT of Nebraska.
H.R. 2611: Mr. RYUN and Mr. DELAY.
H.R. 2626: Mr. SKEEN, Mrs. KELLY, Mr. KILDEE, and Mr. LARGENT.
H.R. 2627: Mr. MCINTOSH, Mr. SCARBOROUGH, and Mr. BOEHNER.
H.R. 2639: Mr. HOLDEN, Mr. BROWN of Ohio, Mr. LAFALCE, Mrs. MORELLA, Mr. MASCARA, Mr. COBURN, Mr. BENTSEN, Mr. TOWNS, Mr. STEARNS, Mr. FROST, and Mr. MCDERMOTT.
H.R. 2646: Mr. ARMEY, Mr. DELAY, Mr. BOEHNER, Mr. BUNNING of Kentucky, Mr. CHRISTENSEN, Mr. COLLINS, Ms. DUNN of Washington, Mr. ENSIGN, Mr. HAYWORTH, Mr. HERGER, Mr. MCCRERY, Mr. WELLER, Mr. LINDER, Mr. BLILEY, Mr. INGLIS of South Carolina, Mr. HOEKSTRA, Mr. GREENWOOD, Mr. SOUDER, Mr. PARKER, Mr. MILLER of Florida, Mr. RILEY, Mr. SNOWBARGER, Mr. STEARNS, Mr. CHABOT, Mrs. EMERSON, Mr. POMBO, Mr. BACHUS, Mr. EHLERS, Mr. TALENT, Mr. NUSSLE, Ms. GRANGER, Mr. GOODLING, Ms. PRYCE of Ohio, Mr. NEUMANN, Mr. HULSHOF, Mr. FLAKE, Mr. KASICH, and Mr. LIPINSKI.
H.R. 2667: Mr. SALMON and Mr. DOOLITTLE.
H.J. Res. 89: Mr. SERRANO, Ms. FURSE, and Mr. WAXMAN.
H.J. Res. 96: Mr. HOYER, Mr. MORAN of Virginia, and Ms. NORTON.
H.Con. Res. 55: Mr. LOBIONDO and Mr. CALVERT.
H.Con. Res. 65: Mr. LEWIS of Kentucky, Mr. SANDLIN, and Mr. LUTHER.
H. Con. Res. 80: Ms. FURSE, Mr. INGLIS of South Carolina, Mr. LEACH, Mrs. MORELLA, Mr. LAFALCE, Ms. HARMAN, Ms. WOOLSEY, Ms. PELOSI, Mr. BERMAN, Mr. BARTON of Texas, and Mr. WAMP.
H. Con. Res. 107: Mr. MCNULTY, Ms. DUNN of Washington, Mr. LOBIONDO, Mr. SKELTON, Mr. HUTCHINSON, Mr. DOOLEY of California, and Mr. PETERSON of Pennsylvania.
H. Con. Res. 112: Mr. EVANS.
H. Con. Res. 116: Ms. FURSE.
H. Con. Res. 148: Mr. DOYLE, Ms. DELAURO, Mr. LAZIO of New York, and Mr. ACKERMAN.
H. Con. Res. 151: Mr. FALEOMAVAEGA.
H. Con. Res. 156: Mr. ENGEL and Ms. ROYBAL-ALLARD.
H. Con. Res. 160: Mr. ALLEN and Ms. RIVERS.
H. Res. 190: Mr. HYDE and Mr. WOLF.
H. Res. 235: Mr. BOYD, Mr. COMBEST, Mr. PASCRELL, Mr. CASTLE, Mr. RODRIGUEZ, Ms. MILLENDER-MCDONALD, and Mr. SANDERS.
H. Res. 247: Mr. SCHIFF and Ms. DEGETTE.
H. Res. 267: Mr. UNDERWOOD and Mr. SCHIFF.

DELETIONS OF SPONSORS FROM PUBLIC BILLS, AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2595: Mr. BERRY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1534

OFFERED BY: MR. CAMPBELL

AMENDMENT NO. 1: Page 5, line 4, strike the quotation marks and second period.

Page 5, insert the following after line 4:

"(f) Nothing in subsections (c), (d), or (e) alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.".

Page 6, line 9, strike the quotation marks and second period.

Page 6, insert the following after line 9:

"(3) Nothing in this subsection alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.".

Page 7, line 11, insert the following after the first period: "Nothing in this paragraph alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.".

H.R. 1534

OFFERED BY: MR. CAMPBELL

AMENDMENT NO. 2: Page 5, line 4, strike the quotation marks and second period.

Page 5, insert the following after line 4:

"(f) In each action to which subsection (c), (d), or (e) applies, the court shall designate the substantially prevailing party, and the reasonable attorney's fees of that party shall be paid by the nonprevailing parties in whole or in such part as the court deems equitable.".

Page 6, line 9, strike the quotation marks and second period.

Page 6, insert the following after line 9:

"(3) In each action to which this subsection applies, the court shall designate the substantially prevailing party, and the reasonable attorney's fees of that party shall be paid by the nonprevailing parties in whole or in such part as the court deems equitable.".

Page 7, line 11, insert the following after the first period: "In each action to which this paragraph applies, the court shall designate the substantially prevailing party, and the reasonable attorney's fees of that party shall be paid by the nonprevailing parties in whole or in such part as the court deems equitable.".

EXTENSIONS OF REMARKS

IN RECOGNITION OF NATIONAL MAMMOGRAPHY DAY AND BREAST CANCER AWARENESS MONTH

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. RILEY. Mr. Speaker, today, somewhere in this country, a woman has been diagnosed with breast cancer. There's no cure to offer her. There's no known cause to explain her condition. She's just joined a club of over 180,000 women, who have received the same terrible news from their doctor. What's even worse is that she may join another group of over 43,000 women who die from breast cancer every year. And she will likely wonder if there is anything she could have done to stop it.

And the answer is yes—women are not powerless in this fight for their lives. Over 92 percent of breast cancers can be treated with early detection and prompt treatment.

October 17 is National Mammography Day and I am proud to be a cosponsor of House Resolution 235, which recognizes the importance of mammographies in the fight against breast cancer. I want to encourage every woman across this country to become more proactive in the fight against this disease by scheduling mammograms for herself or someone she loves. The most effective way to battle breast cancer is to detect the disease in its earliest stages, when treatment is possible. Through mammogram screening, physicians can discover breast cancer up to 2 years before a woman could through self-examination. Clearly, the sooner the disease is diagnosed, the better the chance a woman has to survive.

This is an issue that's obviously important to every woman in this Nation. However, it's an issue that should be crucial to America as a whole. I've been blessed through the women in my life. I have a wonderful wife, three lovely daughters, a great daughter-in-law, and the prettiest little granddaughter any one has ever seen. It scares me to know that 1 out of 9 women in America will be diagnosed with breast cancer in their lifetime. Out of these five ladies in my life, there is a chance one of them will one day become a member of the 180,000 women diagnosed with breast cancer.

So, today I call on all Americans, both men and women, to focus more attention on this deadly disease and to become more active in the fight against it. After all, virtually everyone has a mother or a sister, a wife or a daughter that he or she loves and depends on. Women are too important, too precious to this Nation for any of us to ignore one of their most recurrent killers. I know all the women in my life are to me.

TRIBUTE TO TERRY M. RYAN

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention Terry M. Ryan of Little Falls, NJ, as he is very deservingly honored this evening by Wayne General Hospital.

Terry is president of Hanson & Ryan, Inc. in Totowa, NJ. He joined the agency in 1970 and is responsible for oversight of all agency operations. Terry also serves as president of Financial Services subsidiary, T.M. Ryan Financial Services, Inc. Hanson & Ryan, Inc. has been listed in Business News of New Jersey as one of the "Top 50 Insurance Brokers."

Terry attended Syracuse University and graduated from the College of Insurance with a degree in insurance and risk management.

Active in the industry throughout his career, Terry was a founder of the IIANJ [Independent Insurance Agents of New Jersey] Young Agents Committee and served as its first chairman in 1974. He served IIAA [Independent Insurance Agents of America] as regional director of the National YAC [Young Agents Committee] for 3 years. Terry has been a member of the Agents Advisory Council for Aetna Casualty & Surety and served as chairman. He has also been the New Jersey representative to the GPC council for Aetna and has served on GRE Insurance Group Advisory Council.

Terry has served on the executive committee of the IIAPC [Independent Insurance Agents of Passaic County]. He has received the New Jersey Department of Insurance Meritorious Service Award and IIANJ's Young Agent of the Year Award.

Terry is chairman of the Insurance Committee for the Township of Little Falls and very notably is currently chairman of the Board of Wayne General Hospital. He has been active in many additional community organizations and received citations for his work in those areas. Among those organizations, he has served as a youth sports coaching program honorary trustee of the Passaic County 200 Club of which he was cofounder.

An active member of his community, Terry is currently a member of the board of directors of the Passaic Valley Rotary Club, the National Notary Association, the Little Falls Athletic Club, and an associate member of the Passaic Police Chief's Association. He is a past member of the board of directors, Passaic Valley Kiwanis, the Hamilton Club of Paterson, vice-president-elect and board member of the Passaic Valley Chamber of Commerce, board member of the American Cancer Society—Passaic County chapter, and a member of the board of directors for the Passaic County Historical Society.

Terry resides in Little Falls with his wife, Debbie and three children, Sean, Carrie, and Kristin.

Mr. Speaker, I ask that you join me, our colleagues, Terry's family, friends, and colleagues, and the Township of Little Falls in recognizing Terry M. Ryan's many outstanding and invaluable contributions to the community.

A CALL FOR PRODUCT LIABILITY REFORM

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. THOMAS. Mr. Speaker, I rise to address an issue that may soon have severe implications for our health industry. Within the next year there may be a shortage of critical medical devices on the market due to the unavailability of biomaterials. Biomaterials, such as teflon, polyurethane, and polyester yarn, are necessary components in medical devices, for hip and knee implants, pacemakers, and catheters. What makes these biomaterials special is that their biological nature will not be rejected by the immune system. Their chemical properties are specialized to fit the durability and the malleability that is needed in constructing implants, like the tiny cochlear ear implant which enhances hearing.

What has caused this short supply of biomaterials? Biomaterials suppliers are leaving the market of medical devices because of an onslaught of litigation. The suppliers of biomaterials have rarely been found liable for defects in the manufacture of a medical device. The reason is that the biomaterial seldom has anything to do with defect of the product. With so many victories, why would the biomaterials makers continue to face litigation threats? Why do plaintiffs and trial lawyers pursue innocent, though hapless, suppliers of biomaterials? Because they can. In the United States, anyone willing to pay a court filing fee can bring a lawsuit for any reason and pursue it through actual trial even with no hope of success. And while manufacturers of medical devices are relatively small and go bankrupt when forced to pay large litigation settlements, suppliers of biomaterials have deep pockets and thereby attract the voracious appetites of the major trial lawyers.

Thus, biomaterial suppliers, most of which are companies that sell a small percentage of its overall production to medical device manufacturers, are subject to litigation for products that it had no say or responsibility. Biomaterial suppliers are being litigated against for simply supplying the raw materials.

One example of the problem with litigation reaching too far in the biomaterials industry involves DuPont, a maker of synthetic materials. DuPont sold teflon to a manufacturer that

made temporo mandibular joint implants. The manufacturer was sued on the grounds of tort law, where the plaintiff believed that the implant was defective. The manufacturer went bankrupt so the plaintiff held DuPont liable for the defective implant. With only about 5 cents' worth of teflon in each mandibular joint implant, DuPont was named in over 250 different cases. DuPont won every case. However, the litigation cost was almost $50 million over 8 years. Result: DuPont left the medical device market after it decided, without too much difficulty, that its sales for 5 cents of teflon resulted in millions of dollars in legal expenses.

Do we hold steel mills responsible for the criminal use of a gun? Do we hold makers of car paint liable for every auto accident? The law does not, Juries do not. This Congress should not. As the chairman of the Health Subcommittee on Ways and Means, I fear this trend. In a time of rising health care costs, we can ill afford to lose the technologies that have helped patients live their lives with better quality and care. A shortage of raw materials for medical devices and implants will only raise health costs and limit access to the few. In the ongoing process of trying to provide more accessible health care at costs sustainable to our Nation's future, present product liability laws has the potential of running a lot of biomaterial suppliers out of the medical device market, even though many of them are completely without fault with regards to the design and manufacture of defective implants.

It would be wise to look at recent health care history for a perspective. Just 40 years ago, children who were afflicted with hydrocephalus—water in the brain—died of brain damage in early childhood. With a device called an implantable shunt, doctors are now able to save these children by relieving the fluid pressure. Before pacemakers were created, heart attack victims would not have survived without something pacing the beat of their heart. Technology has now allowed us to achieve this. We can manufacture knee implants that allow crippled people to walk again. We now have hip and jaw implants. Our technology has been pushed forward with ambitious thinkers, courageous entrepreneurs, and a public with increasing demand for quality in their lives. In the end, every American benefits from these advances in medical technology. More than 75 percent of biomaterial suppliers have already left the medical device implant market. In responding to the influence that made them leave the market, 100 percent of the suppliers cited the fear of litigation costs.

The medical device industry has almost $50 billion in annual domestic sales, with almost an additional 120 billion dollars' worth of sales in the foreign market. Because nearly a third of all medical device companies reside in California, a loss of this revenue to the California and U.S. economy would be significant. With the current rate of biomaterial suppliers leaving the market, the medical device companies may be left without the precious biomaterials to make implants and be forced to close their businesses.

The many effects that current product liability law provides for with regards to biomaterials simply illustrates one segment of the detrimental effects of overlitigation on our economy. The biomaterials shortage is only one piece of a much larger puzzle. The problem remains excessive litigation while the solution is comprehensive product liability reform. It is not in the best interests of the American people to cease all litigation on defective or harmful products. However, we must provide an environment where consumers can be protected from bad products, while also limiting senseless litigation so that businesses can continue to operate, innovate, and provide for the American consumer. Piecemeal reform of certain industries, while ignoring the problems that excessive litigation is having on other industries, is not the solution. We tried, in 1995, to enact product liability reform but it was vetoed by the President. I ask Congress to enact comprehensive product liability reform.

HONORING KAY KEYSER OF QUAKER CITY, OH

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues.

Kay Keyser, of Quaker City, OH, has been nominated for Ohio Teacher of the Year by the East Guernsey Local School District. Kay is a seventh and eighth grade teacher at Buckeye Trail Middle School.

Kay has been in education for 24 years. She is very committed to the school and the community. Kay spends her spare time volunteering on activities which will directly benefit her students. Not only is she a volunteer but also a single mother of two which leaves a minimal amount of time for herself.

The finalists for the Ohio Teacher of the Year will be named within the next few weeks. Mr. Speaker, I ask that my colleagues join me in congratulating Kay Keyser on her nomination for Ohio Teacher of the Year. I wish Kay continued success, health and prosperity.

A COMPELLING ARTICLE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. GINGRICH. Mr. Speaker, today I call attention to a recent editorial in the Washington Post by George F. Will, entitled "Melding in America."

Mr. Will eloquently encourages the Office of Management and Budget [OMB] to add a sixth racial category to the next census form: multiracial. Not only would such a designation be more accurate, it would also represent society's acknowledgment that a child should never be forced to choose between maternal and paternal heritages.

Additionally, creating such a category would serve to diffuse the politics of grievance groups that use membership in a particular race to claim victim status and thus recompensation for wrongs real or imagined. America is a country founded upon the idea of individual rights—not rights determined by one's skin pigmentation.

I encourage all of my colleagues to read Mr. Will's compelling article.

[From the Washington Post, Oct. 5, 1997]

MELDING IN AMERICA

(By George F. Will)

An enormous number of people—perhaps you—are descended, albeit very indirectly, from Charlemagne. And an enormous number are descended from Charlemagne's groom. Trace our pedigree back far enough, you may find that you are an omelet of surprising ingredients.

Booker T. Washington, Frederick Douglass, Jesse Owens and Roy Campanella each had a white parent. Martin Luther King, Jr. (who had an Irish grandmother and some Indian ancestry), W.E.B. DuBois and Malcolm X had some Caucasian ancestry. The NAACP estimates that 70 percent of those who identify themselves as African American are of mixed racial heritage. And then there is Tiger Woods, who calls himself "Cablinasian"—Caucasian, black, Indian, Asian. Bear such things in mind as the Office of Management and Budget decides whether to make a small but consequential change in the census form.

The 1790 census classified Americans in three categories—free white male, free white female, slave. In 1850 "free colored"was added. Then came mulatto, octoroon and quadroon (one-eighth and one-quarter black). In 1890 Chinese and Japanese were included as distinct races. Today there are five categories—white, black, Asian/Pacific Islander, American Indian/Native Alaskan and other.

Now there is a rapidly spreading belief that the "other" category is unsatisfactory, because it does not contribute to an accurate snapshot of the population, and it offends sensibilities: Why should a child of a white-black marriage be required to identify with one parent, or as an "other"? So OMB is considering adding a sixth category—"multiracial."

This would serve the accuracy of the census in a nation experiencing a rapid surge in interracial marriages, which increased about 550 percent between 1960 and 1990. The number of children in interracial families rose from 500,000 in 1970 to 2 million in 1990. Between 1960 and 1990 the percentage of African American marriages involving a white spouse more than tripled, from 1.7 percent to 6 percent. Sixty-five percent of Japanese-Americans marry someone of another race.

The multiracial category would serve civic health by undermining the obsession with race and ethnicity that fuels identity politics. Such politics proceed on the assumption that individuals are defined by their membership in this or that racial or ethnic group, often a group that cultivates its sense of solidarity by nurturing its grievances. The multiracial category is opposed by many who have a stake in today's racial spoils system, and thus favor maintaining the categories that help Balkanize America.

It is estimated—probably too conservatively—that 10 percent of blacks would check a "multiracial" box on the census form. As more and more people accurately identify themselves as "multiracial," the artificial clarity of identity politics will blur. The more blurring the better, because it will impede application of the principle of categorical representation—the principle that people of a particular group can only be understood, empathized with and represented by members of that group.

Today some native Hawaiians want out of the Asian/Pacific Islander category, and

some Indian and native Alaskans do not want the native Hawaiians included in their category. Some Creoles, Americans of Middle Eastern descent (there are 2 million of them), and others want their own categories. Such elbow-throwing prickliness is one consequence of government making membership in distinct grievance-groups advantageous.

Race and ethnicity are not fixed, easily definable scientific categories. The law once regarded the Irish "race" as nonwhite. Today, ethnicity and race can be, to some degree, matters of choice. Many Hispanics regard "Hispanicity" as an attribute of race, others are more inclined to identify themselves as Hispanic when it is not presented as a racial category.

OMB's decision will follow last week's report from the Commission on Immigration Reform, which recommends a "new Americanization movement" emphasizing the melding of individuals rather than the accommodation of groups. It argues that national unity should be built upon a shared belief in constitutional values, and that the nation "admits immigrants as individuals" and must "emphasize the rights of individuals over those of groups."

Today the government concocts "race-conscious remedies" such as racial preferences for conditions it disapproves. This encourages Americans to aggregate into groups jockeying for social space. Perhaps it would be best to promote the desegregation of Americans by abolishing the existing five census categories, rather than adding a sixth.

However, the "multiracial" category could speed the dilution of racial consciousness. One criticism of this category is that "multiracial" does not denote a protected class under the law and therefore gathering data about those who think of themselves as "multiracial" serves no statutory purpose. To which the sensible response is: good.

A TRIBUTE TO MICHAEL J. MURRY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to my long time friend, Mr. Michael J. Murry, of Hales Corners, WI, who is being honored by the South Side Business Club of Milwaukee, as 1997 Man of the Year.

Mike Murry, the chairman of the board and chief executive officer of the Merchants and Manufacturers Bancorp, is a fine choice as the recipient of this year's Man of the Year Award. He has been a well-respected force for many years in the financial community on the southside of Milwaukee and its suburbs.

Adding to the respect he has established as a business leader, Mike is to be commended for his 1990 organization of the St. Josaphat Basilica Foundation, to restore this Southside Milwaukee landmark to its original grandeur. The foundation has raised over $3 million to date, and the impact on the basilica building on the neighborhood is amazing. A sense of pride and history have been restored, along with the bricks, mortar and paint, to this grand house of worship, which is now, yet again, a shining beacon for all to see in Milwaukee.

Mike Murry has given his time and talents to other worthwhile causes and organization in his community, including Alverno College, Covenant Health Care, St. Francis Hospital, Sacred Heart School of Theology, the Wisconsin Conservancy of Music, St. Joseph Day Care Center, the Girl Scouts of America, the Kiwanis, and many banking and financial organizations and various Polish heritage groups.

Congratulations, Mike. I join your lovely wife Jan, and your children, in saluting you as you receive this prestigious award from the South Side Business Club. Best wishes, God bless and keep up the excellent work. A grateful community salutes you.

TRIBUTE TO CHARLES H. MARCIANTE

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention Charles H. Marciante, president of the New Jersey State AFL–CIO.

For the past 36 years, Charlie has been a leader in the New Jersey State AFL–CIO. Prior to the merger of the State's AFL and CIO unions, he served briefly as secretary-treasurer of the old State Federation of Labor. Charlie served as secretary-treasurer of the New Jersey State AFL–CIO from its inception on September 25, 1961 until his election as president in 1969. First elected as president in June 1970, he was reelected to a 3-year term in 1973 and a 4-year term in 1976, 1980, 1984, 1992, and again in 1996. Now serving his eighth and last term as president, it is apparent that Charlie has given his all to the New Jersey AFL–CIO. Identified from youth within the trade movement, Charlie has achieved a notable position as spokesman for organized labor in New Jersey, as well as deserved recognition in the councils of the national labor movement.

Charlie was born in Trenton, NJ. He was educated in the Trenton public school system and graduated with a bachelor of arts degree in political science from Rutgers University in 1952.

Prior to his election as secretary-treasurer of the State federation Charlie served a 5-year apprenticeship and worked in the construction industry as a journeyman electrician. In the field of electronics, Charlie supervised the installation and military readiness of one of the major east coast missile defense sites in New Jersey for the U.S. Air Force. He remains a member of Local Union No. 269 of the International Brotherhood of Electrical Workers (IBEW), AFL–CIO, as a journeyman electrician.

Charlie has served his State in numerous social, civic, and charitable leadership capacities while an officer with the New Jersey AFL–CIO. A former charter member of the State's Economic Development Authority, he has also served as a member of the Economic Development Council and was appointed to the Governor's Economic Recovery Commission in 1974. Charlie is a founding member of the Alliance for Action and the Society for Economic and Environmental Development (SEED), which is a dual coalition of labor and business groups seeking to expand economic potentials for New Jersey. He served for several years on the State Department of Education's vocational education board, raising New Jersey's standing from 49th to 6th in the Nation on vocational programs and school facilities.

Charlie led the campaigns to reform New Jersey's workers compensation and unemployment insurance systems and devoted himself to the State Workers Compensation Reform Act of 1980 and the unemployment insurance system task force in 1983 to 1984. He has also served on the New Jersey Business Retention and Job Retraining Commission assisting dislocated workers to secure extended out of work benefits, retraining and education upgrading to assist them to compete job wise and a rapidly changing economic world.

In 1990, Charlie served as cochairman of the Governor's Health Care Reform Commission, the first proposed total revamp of the State's health care system, which was a prototype of the Federal universal care proposal of President Clinton. Many of the ideas generated from that commission were incorporated into the Federal proposal. Charlie is a member of the board of directors of the Robert Wood Johnson University School of Medicine and Dentistry in New Brunswick, NJ, serving on the finance and quality of care committees. He and several unions successfully led the Federal court challenge to reform of the delivery of health care in New Jersey.

Charlie has acted as a State labor coordinator for Radio Free Europe, a U.S. savings bond campaign labor coordinator and vice chairman of the President's and Governor's committee to employ the handicapped. He has been a major fundraiser for Deborah Hospital, where free heart and lung procedures are undertaken, and has served as labor coordinator for annual March of Dimes drives in New Jersey.

Politically, Charlie has served as an elected delegate from New Jersey to several Democratic National Conventions and has served in the 1980's on the labor advisory committee of the Republican National Committee along with several other AFL–CIO designated representatives.

Charlie is married to the former Barbara Quinn of Trenton. They reside in West Trenton and have four children, Michael, Catherine, Stephen, and Mary Barbara.

Mr. Speaker, I ask that you join me, our colleagues, Charlie's family and friends, NJ SEED, and the State of New Jersey in recognizing Charles H. Marciante's many outstanding and invaluable contributions to the community.

IN MEMORY OF GERALD ROGERS PETERS OF EMPIRE, OH

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. NEY. Mr. Speaker, I rise today in memory of Gerald Rogers Peters, who passed away on September 25, 1997. Gerald served in the Army for more than 25 years and was

a master sergeant when he retired. During his military career, Gerald served in World War II, the Korean war and Vietnam. After retiring from the service, Gerald worked at Titanium Metals Inc. until retiring from there also.

Gerald has known as a kind and caring man. He was the father of nine children and enjoyed taking care of them along with his nieces and nephews. He had a gentle soul and was loved by all who knew him.

Mr. Speaker, it is a privilege for me to pay my last respects to a man who gave so much of himself to his country, his community, and his family. Gerald will be missed by all whose lives he touched. I am honored to have represented him and proud to call him a constituent.

AGRICULTURAL EXPORT BENEFIT CALIFORNIA

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. THOMAS. Mr. Speaker, California is famous as the home of the motion picture industry, Disneyland, beaches, and an overwhelming tourist industry. It may surprise you to learn, however, that agriculture is actually California's No. 1 industry. Since California is also the home of numerous international ports, the combination of agriculture and international trade creates the backbone of California's economy. As such, it is a priority to foster growth in agricultural exports by supporting U.S. efforts to decrease barriers to trade with foreign countries.

For the last 50 years California has held the title as the Nation's No. 1 agricultural State. California's agricultural industry is important to the Nation as well as to the economic well being of our local communities. Agricultural exports account for over half of California's total agricultural products which brings $22 billion into the California economy every year. Thus, over half of the revenues earned by the sale of California's agricultural products were generated by California growers' ability to enter and compete competitively in foreign markets. For some products, such as the sale of cotton in my district, exports account for 75 percent of the $1 billion in total sales revenues.

Agriculture provides 1 in every 10 jobs in the State. These jobs serve as the underlying force behind California's economic strength. According to the California Department of Food and Agriculture's 1995 Crop Report, "for every $1 billion in export sales, 27,000 jobs are created in the state". By this approximation, agricultural exports helped the total California economy by creating 124,000 jobs, and these jobs, on average, pay more than non-export related jobs. In my district, Kern County's $350 million in exports sales creates almost 10,000 jobs, which does not include indirect economic benefits.

Given the direct relationship between agricultural exports and employment levels, it is important that we work to increase exports by encouraging free trade and maintaining strong working relationships with our trading partners. Although exports already represent a large portion of California's agricultural sales, they remain the area of greatest potential growth for the industry. While overseas markets are growing, our domestic market has reached a stagnant growth rate. The global marketplace is where the action is, due to the fact that there are about 6 billion consumers beyond our Nation's borders. In just the last 6 years, U.S. agricultural exports have increased by 50 percent.

New trade agreements that open and liberalize trade allow California farmers access to those 6 billion consumers in the global market. I mentioned how successful cotton has been for California and my district. Consider if other agricultural products also succeeded in expanding through free trade. For example, as the leading dairy producing county in the Nation, Tulare County in my district is well positioned to seize a lion's share of the growing world dairy demand if only fair and free trade can be achieved. Other major agricultural products found in California, such as pistachios, almonds, grapes, and stone fruits, stand to gain from the ability to enter foreign markets if given an equal footing with producers from other countries.

We must plan for future growth by working with our trading partners to open market access, allowing California farmers the opportunity to sell even more goods in the global market. Expansion of agricultural exports has always been my priority. As the Representative of an agricultural district I am proud that the success of California's farmers and ranchers helps build America's economy while feeding millions. Since the implementation of NAFTA 3 years ago, agricultural exports to our NAFTA trading partners have increased by 13 percent. Trade liberalization under NAFTA will continue to bolster the economic forces that are promoting trade growth. As we work to further reduce barriers to trade, we can look forward to great increases in our agricultural exports. Creating a free market is in our best interest, and I urge this Congress to do its best to continue to support free trade.

A GROWING TREND

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. GINGRICH. Mr. Speaker, I would like to call attention to a growing trend in America: Democrats who have switched to the Republican Party. These officials were tired of the same old liberal social philosophies which characterize the Democrat Party as the party of higher taxes, bigger government, and moral permissiveness. A classic example of this liberal thinking was the Clinton administration's proposed takeover of the health care industry, a scheme which had Democrats running for cover in the 1994 mid-term elections, when 9 million more people voted Republican than in 1990 and the Republicans took control of Congress for the first time in 40 years.

The Republican National Party has added 18 new elected officials to its ranks within the past week. Since Bill Clinton and ALBERT GORE were elected in 1992, 349 elected Democrat officials have now joined the GOP.

Last Thursday, North Dakota State Representative Michael Brandenburg switched to the Republican Party, saying, "I knew I had to make the change to stay true to myself and my own beliefs."

On Friday of last week, Topeka, Kansas City Councilman Vince Cook renounced his affiliation with the Democrat Party and joined the Republicans. "Nationally, regionally, and locally, it [the Democrat Party] has been associated with fund raising irregularities, political patronage, and professional and personal scandals," said Cook. Clearly, the growing campaign fund raising scandals surrounding the 1996 Clinton/Gore Campaign is fueling the flight from the Democrat Party.

Last Saturday in New Jersey, Evesham Mayor Gus Tamburro joined the Republican Party and endorsed Governor Christie Whitman, saying, "Under Christie Whitman's leadership we have reaped the benefits of jobs, tax cuts, and economic growth. That's why I switched parties."

On Monday of this week, 13 elected Democrats in Texas switched to the Republican Party at a ceremony hosted by Governor George Bush. Among those Texans who abandoned the Democratic Party was Presiding Judge of the Court of Criminal Appeals, Michael J. McCormick. To date, 90 elected Democrats have jointed the GOP in Texas alone since 1992.

In New York this week, Liberty Town Supervisor Richard Martinkovic changed his party affiliation and stated, "I join the Republican Party today and look forward to working with all elected officials . . . to serve the people, not be served."

And finally, in my home State of Georgia, State Representative Scott Tolbert announced his decision to join the GOP. Tolbert gives Republicans 79 seats in the 180-seat State House of Representatives, the highest number since Reconstruction. At a ceremony in Jefferson, GA, Tolbert commented, "After watching the Democrat Party in action, I knew I had to make a change."

I welcome each of these 18 new members to the Republican Party. The door to our party remains open to all who are committed to the ideals of smaller, smarter government with lower taxes and more freedom for the American people.

RECOGNITION OF THE WEBB SCHOOL'S 75TH ANNIVERSARY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. BROWN of California. Mr. Speaker, I rise today to recognize the 75th anniversary of the Webb School.

Founded in 1922 by Thompson and Vivian Webb in Claremont, CA, the school has maintained a tradition of academic excellence throughout its history.

Though initially an all male school, the Vivian Webb School for girls was opened in the fall of 1984. The school now also includes the

Raymond Alf Museum. Founded after a student's discovery of a fossil of a previously unknown prehistoric pig, it is the only museum of paleontology located on a high school campus. The museum houses over 80,000 specimens, 90 percent of which were collected by Webb students, and draws over 10,000 visitors annually.

Currently, there are 158 girls and 167 boys enrolled in the school from 12 States and 11 countries. One hundred percent of Webb graduates go on to attend 4-year colleges and universities including Harvard, Stanford, Yale, Princeton, Dartmouth, Columbia, Duke, the Claremont Colleges, UCLA, USC, and UC Berkeley.

Students of the Webb School also have an outstanding awards record. For designing a multimedia exhibit explaining the physics of dinosaur motion, Webb students received the 1994 Tapestry Award from Toyota Motor Corp. Webb also placed second in the 1996 Toshiba/NSTA ExploraVision Awards, with a design for a self-powered artificial heart. The chair of the science department, John Ball, was recognized as one of the top 100 math and science teachers in the country in the 1996 Tandy Technology Scholar competition. In the 1996 National Physics Bowl, Webb placed first in California and third in the Nation.

I would like to offer my congratulations to this outstanding institution on its 75th anniversary. May it continue to provide an excellent education for its students.

IN RECOGNITION OF JAMESETTA J. HARRIS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. RUSH. Mr. Speaker, it is with great pleasure that I rise today to recognize an outstanding woman from the city of Chicago and my district, and First Congressional District of Illinois. Her name is Jamesetta J. Harris, and she has been chosen to receive the Ameritech Award of Excellence in Crime Prevention on behalf of the National Crime Prevention Council. Ms. Harris is 1 of 8 winners selected from a group of 140, who has worked diligently to turn her community around.

Jamesetta J. Harris held high expectations, as any new homeowner would, for her soon-to-be home. She looked forward to a neat, clean neighborhood, a yard; a few trees. But Ms. Harris was not expecting the reality of life in Englewood. She was not looking forward to the rampant crime that plagued the neighborhood, nor the violent gangs that ruled the streets. She was not aware that neighbors were afraid to go outdoors and cowered in their kitchens at night in fear of stray gunfire.

Rather than abandon her new home, or succumb to the pressure of fear that engulfed her community, Ms. Harris decided to fight. Her first step was to organize the Concerned Citizens of 5500 South Marshfield Block Club, to organize fellow residents and send a message that the community would no longer be victimized. She next created the 5500 South Marshfield Newsletter to improve neighborhood communication and reach those neighbors who were afraid to attend meetings.

Not long after the formation of the block club, the police department organized Chicago's Alternative Policing Strategy [CAPS]. The Englewood district was chosen as one of the prototypes for the CAPS program and Ms. Harris gladly partnered with the police to collaborate efforts to reduce crime in Englewood. Ms. Harris continued her fight to save the community by organizing neighborhood improvement projects, such as repairing sidewalks, replacing stop signs, and collecting abandoned cars and garbage.

Ms. Harris was able to accomplish so much and inspire so many because she was wise enough to realize one thing: when people have something that they are proud of, they will do anything to protect it. Her work has been so successful that she and the Englewood community have been featured in a number of programs dealing with community policing, including a television special by the Arts and Entertainment network that highlighted some of the best policing projects in the United States.

Ms. Harris is an inspiration for all communities, black and white, across this Nation. She has truly shown the value of one caring person, and how their willingness to work hard can positively affect an entire community of people and their quality of life. I commend Ms. Harris for her work, and I commend Ameritech and the National Crime Prevention Council for recognizing such an extraordinary individual with this award.

TRIBUTE TO THE CALI FAMILY

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the Cali Family who were honored on Friday, October 17, 1977, by the Center for Italian and Italian-American Culture.

Vincenzo Cali, the family patriarch, arrived in the United States from Aidone, Sicily in 1901 at Ellis Island. An immigrant farmer arriving in America, Vincenzo continued westward until he reached a part of the United States with hills and vistas like those of the Aidone he loved—the Rocky Mountains of Colorado. He then brought his wife, Maria Grazia, to America,

Though a farmer, Vincenzo soon became a contractor in the lucrative coal mines of Bear Canyon, located in the Sangre De Cristo mountains of Colorado. It was in the hills of Bear Canyon where his sons, Angelo and John, experienced an idyllic early childhood. They were 13 and 10 years old respectively when, in 1928, due to an economic downturn, the Cali family moved east for the prospect of earning a better living.

Angelo attended high school in Passaic, NJ. He received a B.A. degree from Montclair State University and did graduate work in anthropology at Columbia University. He was director of adult education in Clifton from 1938 to 1942. During World War II, Angelo was an officer in Military Intelligence in the European Theater of Operations [ETO] attached to the 3d Armored Division. After the war, Angelo was a training facilities and contract officer, charged with rehabilitating veterans.

John attended Clifton High School and received a B.A. degree in psychology from Indiana University. During the war, John worked as an industrial psychologist for the Industrial Relations Methods in New York City, a company specializing in the supervision of wartime workers. Soon after the war, John and Angelo developed proprietary schools for training veterans and in particular, opened the first School for Modern Music in New Jersey.

In 1949, Angelo and John saw an opportunity presented by the post World War II housing shortage and embarked with their much-loved childhood friend, Edward Leshowitz, on careers in real estate construction and investment. They formed Cali Associates and began developing one-family communities throughout northern New Jersey. In the early 1960's, they began to include apartments and condominiums in their construction activities and over the years have built more than 5,500 residential units.

In the last 1960's Cali Associates expanded its operations to include developing and managing office properties. Cali Associates earned praise for their original and pleasing designs and many have received architectural awards. Seven buildings have been awarded the "New Good Neighbor Award" for their unique architecture and contributions to the local economy. In addition, Cali has twice received the "Developers of the Year" awards from the National Association of Industrial and Office Properties [NAIOP].

In 1977, Angelo's son, John R. Cali, decided to join Cali Associates along with Brant Cali, John's son. Both sons learned the construction and management business from the bottom up and were well prepared to assume the responsibilities of managing Cali Realty Corp. when it made its initial public offering on the New York Stock Exchange in August 1994.

When Cali Realty went public, its assets consisted primarily of a portfolio of 12 office buildings adding up to 2.5 million square feet. Going public gave the founding fathers, Angelo and John, the opportunity to pass the torch over to the second generation of Calis. This continuity is clearly a source of pride for the Cali family.

As chief administrative officer, John R. Cali took on the responsibilities for directing acquisition functions for Cali Realty. Brant Cali, the chief operating officer, is responsible for directing the property management, leasing and marketing activities for Calif Realty. In just 3 years since going public, the second generation has expanded the company across the tri-state area, completing more than 9.7 million square feet of acquisitions, accumulating more than 117 properties and increasing the total market cap of the company from $300 million to nearly $2 billion.

In 1996, John J. Cali retained the title of chairman and passed on the title of CEO to Tom Rizk, a close friend brought into the business to serve as general counsel. All partners and their heirs are still with Cali Realty.

Mr. Speaker, I ask that you join me, our colleagues, the Center for Italian and Italian-

American Culture, friends of the Cali family and the State of New Jersey in applauding this family's realization of the American dream and recognizing their many outstanding and invaluable contributions to the community.

TRIBUTE TO ATTORNEY MARJAN R. KMIEC

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. KLECZKA. Mr. Speaker, I am pleased to rise today in tribute to Milwaukee attorney Marjan R. Kmiec, who is being honored by the Polish Legion of American Veterans, Woodrow Wilson Post 11, with their Heritage Appreciation Award.

For over three decades, Marty Kmiec has been actively involved in a variety of Polish heritage groups in my hometown, Milwaukee, including the Polish Legion of American Veterans, the Milwaukee Society and Polish Festivals, Inc. These organizations work to strengthen, preserve, and celebrate Polish heritage, an ethnicity Marty and I share. Marty was a founding member of Polish Fest, Milwaukee's summertime lakefront festival which successfully celebrates Polish-American customs and traditions, and served as its president for 10 years. He was actively involved the land acquisition for the future construction of the Polish Community Center.

Marty Kmiec is also a respected attorney, specializing in personal injury litigation. He served as president of the Milwaukee Bar Association Litigation Section for 3 years, and has shared his vast experience and knowledge in the field during lectures at Milwaukee Bar Association and State of Wisconsin Bar Association seminars.

I am honored to join the Polish Legion of American Veterans, Marty's colleagues, family, and friends, in thanking him for his years of dedicated service to the Milwaukee community, and our city's Polish community, in particular.

Congratulations, Marty. God Bless and keep up the great work.

HONORING EDDIE AND BETTY FELLABAUM ON THEIR 45TH WEDDING ANNIVERSARY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. NEY. Mr. Speaker, it is an honor to rise today to celebrate the 45th wedding anniversary of Eddie and Betty Fellabaum. It gives me great pleasure to congratulate Eddie and Betty on their special day.

In an era where marriages are too often short lived, it is wonderful to see a couple who has endured the trials and tribulations that can cause a marriage to fail. The love and commitment they have demonstrated should serve as an inspiration to couples everywhere.

Mr. Speaker, what an achievement to be married for 45 years. It is an honor to represent a couple like the Fellabaum's. I am proud to call them my constituents.

DEDICATED FEDERAL EMPLOYEES

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. DOOLITTLE. Mr. Speaker, on Wednesday, October 8, 1997, eight employees of the Bureau of Reclamation and a pilot were tragically killed when their charter plane crashed en route from Montrose, CO to Page, AZ. The downed plane was not located until that Friday, at which time it was determined there were no survivors. I would like to offer my deepest sympathies to the families, friends, and coworkers of these dedicated Federal employees and the pilot.

The accident victims were: James L. Bloomfield, electrical engineer, Glen Canyon Field Division, Page, AZ, who was a Reclamation employee since 1983; William H. Duncan, Jr., manager, Glen Canyon Field Division, Page, AZ, a Reclamation employee since 1976; Delphina D. Holliman, computer clerk, Glen Canyon Field Division, Page, AZ, who was a Reclamation employee since 1996; Allen E. Inman, Jr. manager, Curecanti Field Division, Montrose, CO, who had been a Reclamation employee since 1980; Walter A. Kaltmaier, computer specialist, Glen Canyon Field Division, Page, AZ, a Reclamation employee since 1988; Jon E. Nees, safety and occupational health manager, human resources group of upper Colorado region, duty station at Montrose, CO, who was a Reclamation employee since 1979; Jeffrey E. Waite, powerplant operations manager, Glen Canyon Field Division, Page, AZ, a Reclamation employee since 1988; Catrina M. Wall, computer specialist, Glen Canyon Field Division, Page, AZ, a Reclamation employee since 1981; Robert Armstrong of Phoenix, AZ, a pilot with 10 years of experience with the airline.

Nothing can replace these individuals in the lives of those who loved them. I would like their loved ones to know, however, that their service and dedication has been remembered by the Congress. May the friends and family of all these victims be comforted in their time of sorrow.

TRIBUTE TO PASTOR EPHRAIM WILLIAMS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to one of California's great spiritual leaders, Pastor Ephraim Williams of St. Paul Missionary Baptist Church in Sacramento.

Today, Pastor Williams will conclude his 5-year tenure as president of the California State Baptist Convention. On this special occasion, I ask my colleagues to join me in saluting the remarkable evangelical contributions Dr. Williams has made while serving in this high position.

During his pastoral career at St. Paul, Dr. Williams has established a stellar reputation as a tireless spiritual and community leader in the Sacramento area. Yet his contributions extend far beyond St. Paul Missionary Baptist Church.

Through his roles as president of the California State Baptist Convention, and vice president of the National Baptist Convention, USA, Dr. Williams has proven to be a religious leader of State and national prominence.

Dr. Williams' accomplishments while president of the California State Baptist Convention include strengthening the spiritual growth of the individual members, pastors, and 230 churches which comprise that association. He has also provided non-pastors and laypeople with important opportunities to participate in the convention's activities and leadership roles.

Pastor Williams' success as president of the California State Baptist Convention is evident in the increasing attendance at the convention sessions, as well as in the mutual financial and evangelical support the member congregations are offering one another.

Under Dr. Williams' guidance, the California State Baptist Convention assisted churches affected by the spate of arson fires which occurred over the past several years. Additionally, he made sure that the congregations impacted by these heinous events received the financial support necessary to continue functioning.

Pastor Williams has furthered his religious and civic activities to include a broad array of important community-based and evangelical organizations. Among these are the California Southern Baptist African-American Network, for which he serves as first vice president, as well as the Christian Education Board, St. Hope Academy, the Sacramento City Unified School District Cluster of Schools, and the St. Paul and Oak Park Community Outreach Program.

In 1996, President Clinton hosted Pastor Williams for a meeting at the White House. He has also been honored by the California State Legislature, Sacramento Mayor Joe Serna, and the Urban League. The breadth of the awards and honors Pastor Williams has received is a testament to his significant community and evangelical endeavors.

Mr. Speaker, Dr. Ephraim Williams has contributed greatly to the spiritual and civic health of countless Baptist parishioners throughout the State of California and the entire Nation. As he steps down today as president of the California State Baptist Convention, I ask my colleagues to join me in saluting this truly exceptional religious leader.

HONORING THE OCCIDENTAL CHEMICAL CORP. HOUSTON CHEMICAL COMPLEX

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. BENTSEN. Mr. Speaker, I rise to congratulate the Occidental Chemical Corp. Houston chemical complex for their selection by the

Deer Park Chamber of Commerce as the 1997 Industry of the Year. The Occidental Chemical Corp. Houston chemical complex's commitment to building a better future for our community has made it an example all industry can follow.

The Occidental Chemical Corp. Houston chemical complex [OXY] Deer Park facility has been a integral component of the area economy since its creation in 1948. Located along the Houston Ship Channel in my district, OXY produces many of the building blocks our economy needs to thrive and grow, including chemicals for paper, housing, and automotive manufacturing; petroleum products; packaging; textiles; detergents; and food processing. The success of the Occidental Chemical Corp. Houston chemical complex, and companies like it, have helped the United States become the world leader in petrochemical exports.

The Occidental Chemical Corp. Houston chemical complex employees 900 full-time and contract workers from Deer Park and the Greater Houston area. Its employees are an integral part of our community, contributing to our schools through Junior Achievement, local mentoring programs, and science fairs, and to area charities such as the United Way, Boys & Girls Harbor, Little League, and holiday food and toy drives. They also serve on local community advisory councils, local emergency planning committees, and school boards. Through their commitment, the people of OXY have shown that they understand that our schools and our neighborhoods are made better when we take the time to get involved.

Dedication to worker safety and environmental performance has been a hallmark of the Occidental Chemical Corp. Houston chemical complex. Earlier this year, OXY was approved as a Star Work Site, the highest rating conferred by the Occupational Safety and Health Administration, for its outstanding worker safety record. In addition, OXY has been a long-time participant in the Chemical Manufacturers Association's Responsible Care program. The program mission is to continually improve safety, health, and environmental protection by the chemical industry, a goal OXY has fulfilled. OXY's efforts have helped set an example of how worker safety, environmental protection, and business growth can go hand-in-hand.

Mr. Speaker, I congratulate the Occidental Chemical Corp. Houston chemical complex for their work in expanding business and job opportunities, establishing safer conditions for our workers and environment, and building a better future for our community.

TO SAVE HEALTH CARE REQUIRES MALPRACTICE REFORM

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. THOMAS. Mr. Speaker, why do we need malpractice reform? Without it, the health care industry as a whole faces greater inflation and increases in costs, costs which Americans can not afford. With reform, however, both the consumer and medical practitioner alike benefit, both fiscally and physically.

Medical malpractice costs have risen 49 percent since 1990. At present, the estimated cost of such malpractice insurance is more than $9 billion annually, and the costs continue to mount. Add to this number the billions of dollars for defensive medicine, and tort litigation becomes a major contributor to the financial woes of the health care industry. In reforming the tort system, we will free up funds and lower the costs of overall health care.

A recent study performed by Stanford University professors David Kessler and Mark McClellan provides compelling evidence of the numerous cost-effective benefits of tort reform. By examining nearly almost 2 million cases of coronary illness among the elderly, over a time period spanning approximately 6 years, these analysts concluded that the Federal Government would have saved $600 million a year in Medicare expenditures on heart disease alone. In fact, the annual overall savings projected by the study totaled $10 billion to Medicare, an important reason why tort reform should be part of any effective strategy to save Medicare from bankruptcy. Even more phenomenal, however, are the figures projecting overall savings for the health care industry. By implementing tort reform, Kessler and McClellan estimate an astounding $50 billion in savings to the health care industry as a whole.

Defensive medicine significantly forces up medical costs. Defensive medicine is the practice of ordering extra tests on patients in order to protect the health care provider from the risk of being sued. Tort reform that directly limits the liability of health care providers, according to Kessler and McClellan, could reduce hospital expenditures by 5 to 9 percent within 3 years of adoption. This would be done primarily by eliminating unnecessary testing associated with defensive medicine alone. An excellent example of an illness subject to such practices is coronary artery disease. Over the 7-year period examined in the Stanford study, States with serious tort reform saw real costs rise about 9 percent, as compared to those States which lacked reform which experienced an inflationary rate more than 10 percent higher, at 19. Given the often uncertain diagnosis of this ailment, many doctors order up batteries of tests and procedures. As with heart attacks, researchers found these tests to be mostly defensive measures, which proved unnecessary. In fact, readmission and mortality rates remained constant throughout the United States. These extra tests are just one example of defensive medicine driving up the costs of effective and safe health care.

Yet these savings in no way harm either private citizens or the health care industry. The health care liability system actually tends to stymie efforts to make health care safer and more accessible. Rising insurance premiums have long charted the rising cost of jury awards and out-of-court malpractice settlements. By issuing a cap on pain and suffering damages, by eliminating collateral source payments, and by placing limits on plaintiff attorney contingency fees, we will be able to not only lower health care costs, but also allow more than the mere 43 cents received for every dollar, at present, to reach injured patients.

In 1975, California, my home State, introduced a number of tort reforms applying to medical malpractice. The Medical Injury Compensation Act [MICRA] embodies a package of reforms, including a $250,000 cap on noneconomic damages, which set a precedent which national reform should be modeled after.

I propose that Congress take the following necessary measures in implementing tort reform. First and foremost, we must follow California's lead and adopt a $250,000 cap on pain and suffering awards. This cap will in no way limit the amount of money that an injured plaintiff could receive to cover his or her hospital costs, doctor bills, lost wages, or other medical expenses. Second, I would advise an elimination of collateral source payments. Plaintiffs, and their attorneys, often receive payments totaling two or more times the actual amount of damage ensued, simply by being paid by multiple insurers or defendants. As a third measure, I believe that we must place a limit on attorney contingency fees. In so doing, we will provide more money to the deserving injured patient. Finally, effective tort reform must allow for both periodic payments, and a fair statute of limitations.

In 1995 the House of Representatives passed the product liability bill and the Balanced Budget Act, in 1996 the Health Insurance Portability and Accountability Act, and in 1997 the Balanced Budget Act. Each of these important pieces of legislation included measures to instate medical malpractice reform, and each has received my support. Four times the House has passed tort reform legislation, and four times the Senate has removed such measures from the legislation. We cannot allow this pattern to continue.

By taking the bold steps necessary to reform the tort system, both the House and Senate would be bettering the lives of every individual. The health care system of this country plays an important role in all of our lives. It is the responsibility of the leaders of this Nation to maintain it in such a way as to provide the safest, most cost-effective, and highest quality medicine possible. Without medical malpractice reform we fall dangerously short of this goal.

FORTIETH ANNIVERSARY CELEBRATION FOR THE ENGLEWOOD BLOCK CLUB

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. RUSH. Mr. Speaker, I rise today to honor an extraordinary group of people from the 1st Congressional District of Illinois. They are part of the Englewood Community Block Club located at 61st and Sangamon Drive in Chicago, and they have dedicated their lives to community service. Block clubs have a rich history within the city of Chicago, and the Englewood Community Block Club has made a significant contribution to that history. Many of the founding members remain as an integral part of the organization, and many others have served for the past 30 years or more.

I was honored to have the opportunity this past weekend, to take part in their 40th anniversary celebration. I would like to recognize several individuals who received awards during the celebration banquet for their outstanding work over the years.

Mr. Horace C. Broy, Sr., received the Superior Presidential Award for his work as president in the block club. Mr. Broy is one of the original founding members of the Englewood Block Club and implemented a number of community service programs during his tenure.

Dr. Horace and Betty Broy received the award for Superior Achievement by a Husband and Wife in Education. The couple has been married for the past 27 years.

Mr. Henry Sanders received the Outstanding Treasury Service Award, for his role as treasurer for the past 25 years.

Deacom Albert Bailey, Sr., was presented with the Outstanding Christian Community Leadership Award. Deacon Bailey has actively served his community through a number of activities for the past 40 years through the Little League Program, the Chicago Public Schools system, and as a Sunday school teacher.

Mr. Roderic Pierce, Sr., received the Outstanding Community Businessman Award. He is a lifelong resident of Englewood, and has provided job opportunities within the community through his business establishments.

Ms. Sybil Hunley is the recipient of the Julia Broy Educator Award. Ms. Hunley is a teacher in the Chicago Public School System and has taught three generations of students over the past 37 years.

Ms. Patricia Ann Hill was awarded the Adult Education Achievement Award. As a single parent who returned to school and earned a bachelor of arts degree from Chicago State University in 1987, Ms. Hill is an inspiration to other students who may be struggling with their decision to return to school.

The Appreciation Award for Outstanding Service to Block Club was presented to Mrs. Eva Graves. Mrs. Graves served as vice president of the Block Club for 35 years, and is a founding member.

Mr. Speaker, we are all fortunate that dedicated individuals such as these, are part of our communities today. I wish each of them and the entire Englewood Block Club organization continued success in the future.

TRIBUTE TO RAYMOND R. KIMBLE

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention Raymond R. Kimble, the township manager and director of public safety for the Township of Belleville, NJ as he was honored on Thursday, October 16, 1997, for 33 years of outstanding public service.

Ray was born and raised in the township of Belleville, attended the public schools and was a star athlete on the Belleville High School football team. He graduated from William Paterson College with a B.S. in public administration and a master's degree in urban and community affairs.

Ray served his Nation proudly in the U.S. Army from November 1958 to October 1960 and began his service to the Belleville police department on February 16, 1964 when he received his initial appointment. Ray was promoted to the rank of sergeant in 1967, lieutenant in 1973, captain in 1981, deputy chief in 1986, and eventually to the rank of chief of police on April 1, 1992. Throughout his career as a police officer, Ray either served or supervised the police department's patrol division, detective bureau, records and identification bureau, internal affairs division and crime prevention unit. He has been recognized numerous times for actions above and beyond the call of duty, including the April 1970 apprehension of a suspect wanted for murder in Belleville, the June 1970 rescue of a woman submerged under water in her car after a motor vehicle accident, and the June 1977 apprehension of a suspect exiting a liquor store after committing armed robbery.

As chief of police, Ray was responsible for many improvements made in the Belleville police department including new guns and radios for the officers, the expansion of the narcotics squad, the creation of the Silver Lake sub station and the addition of 15 police officers through State and Federal grants. Ray helped bring about the addition of over $1 million in State and Federal funds to the department, the establishment of the community policing unit and training bureau, and the expansion of the internal affairs unit. He was additionally instrumental in the building of the new public safety complex.

Ray is the former vice president of the Essex County Police Chief's Association and a member of the New Jersey State Police Chief's Association, Belleville P.B.A Local 28 where he served on the executive board. He also devoted his time as a member and officer of the Belleville Little League.

He is married to the former Marie Marinaro and is the father of four children, Raymond Kimble, Jr., Esq., Steve Kimble, Esq., C.P.A., Linda Conley, and Lisa Gabriele, and the grandfather of Raymond.

Mr. Speaker, I ask that you join me, our colleagues, Ray's family, friends, and colleagues, the Township of Belleville and the members of the law enforcement community in recognizing Raymond R. Kimble's many years of dedication and invaluable contributions to the public safety of Belleville and its citizens.

THE ECONOMIC DEVELOPMENT INFORMATION ACT OF 1997 INTRODUCED

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. TRAFICANT. Mr. Speaker, today, I introduce the Economic Development Information Act of 1997. This bill establishes and expands an online resource of Government-wide Economic Development Information in the Economic Development Administration of the U.S. Department of Commerce.

BACKGROUND: THE SUCCESS OF THE OFFICE OF ECONOMIC CONVERSION INFORMATION

Over the last decade, hundreds of defense bases have been realigned and closed and more than 100,000 defense civilians have lost their jobs. Pursuant to the 1995 round of base realignment and closure, additional bases are slated for closure in the next 4 years. To help communities and displaced workers adjust to this defense downsizing, Congress established the Office of Economic Conversion Information [OECI] in the Economic Development Administration [EDA] in November 1993.

The Office of Economic Conversion Information is an important part of the Federal Government's efforts to share information on defense adjustment and economic development. The OECI serves as a "one-stop shop" central clearinghouse for a wide range of users, ranging from individual displaced workers and economic developers to communities facing major base closures and businesses affected by defense downsizing. It helps these groups pick their way through the maze of Federal defense conversion and economic development programs in an easily usable format—a toll free 1–800 phone call, fax, or use of OECI's Internet site—and provides information on how others have responded to defense downsizing. With a database of more than 1,000 files, the OECI is not limited to sources of Federal funding and support. It also includes State and local program descriptions, case studies, guidance manuals, raw economic data, and various publications related to base reuse, worker placement programs, and the commercialization of defense technology. In addition, the OECI has created a new system, the PARCELS Military Base Property Marketing System, to further assist communities impacted by military base closures. This system helps communities create their own Internet home pages to describe and market base closure properties for private investment.

In its almost 4 years of operation, the OECI has responded to more than 143,000 queries. It currently serves approximately 5,000 customers each month. Moreover, the average OECI Internet user is not merely visiting the site, they are using it—the average user downloads 3 to 5 documents. Because of this success, EDA's OECI was awarded the American Economic Development Council's Arthur D. Little Technological Excellence Award in April 1996.

THE ECONOMIC DEVELOPMENT INFORMATION ACT OF 1997

The success of the OECI in assisting workers, communities, and businesses in adjusting to downsizing should not be limited to base reuse and defense conversion. The Economic Development Information Act of 1997 creates the Office of Economic Development Information in EDA—expanding the OECI to help all economically distressed communities.

Pursuant to this bill, the OEDI will serve as a central information clearinghouse on economic development, economic adjustment, disaster recovery, industrial retention, and defense conversion. In addition, the OEDI could link users to an expanded PARCELS system that would list all Government-owned properties that need economic redevelopment. The bill authorizes such sums as may be necessary to establish the OEDI.

I am hopeful that when the Committee on Transportation and Infrastructure considers its

bill to reauthorize the programs of the Economic Development Administration and Appalachian Regional Commission later this Congress, this bill will be a part of the chairman's mark.

When a community's top employer shuts down, it doesn't matter to the community or its workers whether that employer is a defense installation or a steel plant. It shouldn't matter to EDA and its information network either. The Office of Economic Development Information provides the resources to ensure that all of our Nation's economically distressed communities have the information necessary to help them create jobs and compete in the global economy.

CONFERENCE REPORT ON H.R. 2169, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. JOSEPH P. KENNEDY, II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today in support of H.R. 2169, the Transportation appropriations conference report. I want to thank my colleagues on both sides of the aisle for providing $1,000,000 to develop the Boston Urban Ring.

The Urban Ring will make public transportation more efficient around Boston. It will stimulate economic growth, and it will enhance the chances of persons on welfare to find jobs, by providing an efficient, inexpensive form of transportation for them to travel between home and work.

The Urban Ring will stimulate economic growth because it will create an affordable transportation system for all commuters to travel the Boston area without using their cars. The business community will be well served because the Urban Ring will expand the accessibility of its labor force. This will help businesses to increase redevelopment potential of underutilized or vacant land and buildings that were used in the region's older industrial economy.

The Urban Ring will help the chances of welfare recipients to find jobs. These days, many factories and businesses build their new facilities in the suburbs. But many welfare recipients live in the city. The Urban Ring will provide inner city residents affordable transportation to find jobs in the suburbs, and to keep those jobs.

Finally, I want to thank the conferees for providing $250 million for Amtrak's Northeast Corridor Improvement Program. Amtrak's passenger service contributes to cleaning up air pollution in my district. It reduces the number of cars on the road every day between Boston and New York by 27,000.

The Transportation appropriations conference report is fair and adequate, and it is a great help to the Boston area. I urge my colleagues to vote in favor of the conference report.

TRIBUTE TO HENRY B. GONZALEZ

SPEECH OF

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. LAZIO of New York. Mr. Speaker, I rise today to pay tribute to the distinguished Member from Texas and the ranking member of the Banking Committee, Mr. GONZALEZ.

Representative GONZALEZ has served in elected public office for more than 40 years, and has served with distinction in this House since the 87th Congress in 1961. Mr. GONZALEZ served as chairman of the Subcommittee on Housing and Community Development beginning in 1981 until the 104th Congress when he became ranking member of the committee.

During his time here in the House, Representative GONZALEZ dedicated much of his time to helping low-income families and distressed communities across America obtain affordable housing and development opportunities.

I have had the privilege of working closely with the distinguished gentleman since becoming chairman of the subcommittee in 1994. Although we have often held different perspectives on public policy, we both believe that our most vulnerable populations must be protected. I thank him for his leadership and lifelong commitment to helping our Nation's poor.

IN RECOGNITION OF 22 YOUNG MUSICIANS FROM CENTRAL MIDDLE SCHOOL IN COLUMBUS, IN

HON. DAVID M. McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. McINTOSH. Mr. Speaker, I rise today to recognize 22 young musicians from Central Middle School in Columbus, IN, who will be performing this week at the Holocaust Museum in Washington as part of the school's annual tour of the Washington area.

These young musicians, under the direction of Ms. Sue Hartin, will perform "Inscription of Hope" by D. Z. Randall Stroope. This song is based upon words inscribed on a cellar wall in Cologne, Germany, where Jews were hiding during the Second World War. According to Ms. Hartin, "The purpose of this performance is to give the students a deeper, more personal understanding of the reality of the Holocaust. This music gives a unique insight to simple historical facts."

The actual text of the piece reads:

I believe in the sun even when it is not shining, and I believe in love even when there's no one there. And I believe in God even when he is silent. I believe through any trial, there is always a way. But sometimes in this suff'ring and hopeless despair, my heart cries for shelter, to know someone's there. But a voice rises within me saying "hold on my child, I'll give you strength, I'll give you hope, just stay a little while." I believe in the sun even when it is not shining, And I believe in love even when there's no one there. But I believe in God even when he is silent. I believe through any trial, there is always a way. May there someday be sunshine, may there someday be happiness, may there someday be love, may there someday be peace.

I am happy to congratulate these young students on their hard work and wish them the best of luck for their performance this week.

CONGRATULATING JIM GURETSKY, CHAIRMAN OF THE NATIONAL ASSOCIATION OF FEDERAL CREDIT UNIONS

HON. JON CHRISTENSEN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. CHRISTENSEN. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Jim Guretzky on his recent appointment to the chairmanship of the National Association of Federal Credit Unions [NAFCU]. During my term in Congress, I have worked closely with Jim on a number of issues and have found him to be a man of outstanding ability and knowledge. I feel credit unions across the Nation will benefit from Jim's leadership and business acumen. He has been president of the SAC Federal Credit Union in Omaha, NE, since 1984. Also, he has pledged that as chair of the NAFCU, he will work with the other directors on the NAFCU board and with members of the credit union community to help ensure all Federal credit unions receive the education, information, and representation they need to remain competitive and to maintain safe and sound operations. I look forward to working wit Jim Guretsky to attain these goals, and wish him a successful tenure as chairman of NAFCU.

TRIBUTE TO REUBEN HARPOLE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. BARRETT of Wisconsin. Mr. Speaker, on October 25, the University of Wisconsin—Milwaukee [UWM], his family, friends, and admirers will celebrate Reuben Harpole's 31 yeas of service to UWM and his lifetime of service to Milwaukee.

I have known Reuben for years, and it is hard to recall a more dynamic, engaging personality. These qualities and his love of people have guided Reuben through the tough times. In the 1960's, he was not daunted by the challenges of selling white businesses advertising space in a newspaper serving African-American readers. When racial tension in Milwaukee threatened to explode in violence, Reuben did not retreat. He enlisted the partnership of a UWM professor, surveyed African-American families, learned that their most urgent desire was that their children should be able to read, and the two men founded a program at UWM to teach them.

Reuben Harpole's commitment to education is incomparable. He established a central city

teacher project, was instrumental in the foundation of Milwaukee's Harambee Community School and has been a driving force at UWM's Center for Urban Community Development for the past 31 years. UWM has established in his honor the Reuben Harpole Education Scholarship. Every year, the scholarship will help one UWM school of education student to reach toward Reuben's goal. I can think of no more fitting recognition of Reuben's unique dedication to the education of our children.

Reuben Harpole brings energy and vitality to every undertaking. He put the king in networking, and his unabashed enthusiasm is irresistibly infectious. I do not doubt for a second that, as he has for over 30 years, Reuben Harpole will continue to get things done.

TRIBUTE TO ARCHIE D. BARRETT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SKELTON. Mr. Speaker, today, I wish to congratulate and pay tribute to Archie D. Barrett, who recently retired from his position as Principal Deputy Assistant Secretary of the Army, Manpower and Reserve Affairs, Mr. Barrett served our Nation for 44 years, as an Air Force fighter pilot, a member of the professional staff of the Armed Services Committee of the U.S. House of Representatives, and finally in his most recent position where he was the principal advisor to the Assistant Secretary of the Army on all Department of the Army policy and activities pertaining to manpower and force structure.

Archie D. Barrett was born in Paris, TX, on August 13, 1935. Following graduation from high school, he accepted an appointment to the U.S. Military Academy at West Point. He graduated from West Point in 1957, and was commissioned as a second lieutenant in the U.S. Air Force. During his distinguished 24 year career in the Air Force, Mr. Barrett served in a variety of assignments, including an assignment as an F–4 fighter pilot in Southeast Asia during the Vietnam conflict. Along the way, he earned both a masters and a doctorate from Harvard University. He retired as a colonel in 1981.

After retiring from the Air Force, Arch began 13 years of service as a professional staff member of the then House Armed Services Committee. He served on both the Subcommittee on Investigations and the Subcommittee on Military Forces and Personnel, where his responsibilities included participation in the investigation of the terrorist bombing of the Marine headquarters in Lebanon. I worked very closely with him when I chaired the panel on military education of the House Armed Services Committee. His thorough knowledge of the defense education system helped the panel formulate needed reforms in this area.

Arch Barrett will be best remembered in Congress for his work on the hearings and legislative proposals on defense reorganization, culminating in the Goldwater-Nichols Department of Defense Reorganization Act of 1986. It was my privilege to work with Arch on this issue, and his expertise on Department of Defense organization proved invaluable to Congress and the Nation. Indeed, his book on this subject, "Reappraising Defense Organizational," was published in 1983. It is not overstating it to say that this legislation, which helped win the gulf war, would not have become law without the tireless and devoted efforts of Arch Barrett.

Mr. Speaker, Archie D. Barrett is a national treasure. Although he is retiring from the Government, I am sure that he has many more productive years of service ahead of him, and that we will be able to call upon his wise counsel when needed. I know the Members of the House will join me in extending our heartfelt gratitude and best wishes in the years ahead to Arch and his family—his wife Miriam, who joins him in retirement from her position in the office of our colleague MARTIN OLAV SABO, and his three children, Julie Ann Heady, Cynthia Dawn Barrett, and Archie Don, Jr.

TRIBUTE TO THE HONORABLE WAYNE R. BRYANT, THE HONORABLE RICHARD H. BAGGER, THOMAS P. GIBLIN, AND T. JOSEPH SEMROD

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the Honorable Wayne R. Bryant, senator of the 5th district, the Honorable Richard H. Bagger, assemblyman of the 22d district, Thomas P. Giblin, president of the International Union of Operating Engineers, Local 58, and T. Joseph Semrod, chairman and CEO of Summit Bancorp. These individuals were all honored on Tuesday, October 14, 1997, by the New Jersey Society for Environmental and Economic Development [NJ SEED] and each is tremendously deserving of this recognition.

Senator Wayne Bryant and Assemblyman Richard Bagger are receiving the organization's legislative award.

While in the legislature, Wayne sponsored a series of welfare reform initiatives, signed into law in 1992, designed to foster family formation and require personal responsibility through education and employment. He was also sponsor of legislation which created the Thomas H. Kean New Jersey State Aquarium in Camden and the transportation trust fund. He is a graduate of Haddon Heights High School and Howard University and received his bachelor of arts degree in political science in 1969. Wayne studied law at Rutgers University in Camden, receiving his juris doctorate in 1972, the year of his admission to the New Jersey bar.

Assemblyman Richard H. Bagger was born March 27, 1960, in Plainfield. Richard is a 1982 graduate of Princeton University's Woodrow Wilson School of Public and International Affairs. He received his juris doctorate degree from Rutgers Law School in 1986. He was admitted to the bar in 1986 and is a corporate manager with Pfizer, Inc.

Richard served as mayor of Westfield in 1991 and 1992. He also served on the Westfield Town Council from 1984 to 1990 and on the Westfield Planning Board from 1987 to 1992, serving as chairman in 1990. He is serving his third term in the assembly and is the sponsor of more than 50 laws, including measures concerning economic development, energy policy, civil justice reform, education, state budgeting, and local government.

Thomas P. Giblin, of Montclair, NJ, was elected New Jersey State Democratic Chairman in June 1997. His party service also includes serving as chairman of the Essex County Democratic Committee since June 1993, performing as a delegate at the 1996 Democratic National Convention in Chicago, IL, and being an alternate delegate to the 1984 and 1988 conventions. He was also a member of the New Jersey electoral college.

Tom served for 10 years as a member of the Essex County Board of Chosen Freeholders and served as president during 1987 to 1988. He as elected Essex County surrogate in November 1989 and served until his election as Essex County Democratic chairman. Tom is president of the 5,000 member Local 68–68A–68B of the International Union of Operating Engineers, AFL–CIO, headquartered in West Caldwell, NJ. As president of Local 68, Tom also serves as chairman of the board of trustees for the union's pensions, welfare, education, and annuity funds. He is the president of the Essex-West Hudson Labor Council, AFL–CIO, and a trustee of the United Labor Agency of Essex and West Hudson.

T. Joseph Semrod is chairman and CEO of Summit Bancorp. He is a respected individual throughout the banking and financial community. He is the recipient of a multitude of civic awards and has led Summit Bank through tumultuous and rapid expansion.

Summit is a New Jersey bank and under Joe's leadership they have definitely prioritized New Jersey. Joe has exemplified the importance of being a good corporate neighbor and is indeed worthy of accolades.

Mr. Speaker, I ask that you join me, our colleagues, the families and friends of Wayne, Richard, Tom, and Joe, New Jersey SEED, and the State of New Jersey in recognizing Wayne R. Bryant, Richard H. Bagger, Thomas P. Giblin, and T. Joseph Semrod's many outstanding and invaluable contributions to the community.

PERSONAL EXPLANATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SCHUMER. Mr. Speaker, I was unavoidably detained on Thursday, October 9, and unable to cast several votes on the District of Columbia appropriations bill. Had I been here I would have voted "no" on final passage of the bill, "yes" on the Moran substitute, and "no" on the motion to table the motion to reconsider.

LOWER TAXES ON INCOME AND HELP THE ENVIRONMENT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. STARK. Mr. Speaker, I will be introducing legislation to gradually lower and even eliminate the payroll tax on wages.

The tax revenue lost by reducing the payroll tax rates will be replaced by an equal and gradually rising tax on energy and pollutants, thus helping the environment and reducing the disruption that may be caused by global warming.

This tax will fall heavily on imported energy and will help gradually reduce our dependence on unstable sources of foreign oil, as America becomes more energy efficient in response to higher energy prices.

By lowering the tax on labor, we will encourage full employment and the movement of people off welfare. By raising the price of energy and nonrenewable resources, we will encourage innovation and new products that will help make America the leader in the types of production needed in the 21st century.

By phasing in these tax shifts gradually over 20 years, the proposal avoids disruption and gives time for adjustment. Some of the money raised by taxes on energy and pollutants will be returned to the regions of the country that are primary producers or users of energy and nonrenewables, so that those communities will have extra money to transition to new forms of cleaner production or more energy efficient homes and workplaces. Those on fixed retirement income will be kept whole by special attention to ensuring that price increases in energy related items are fully compensated through cost-of-living adjustments.

To repeat, under this proposal, there will be no net increase in taxes. There will be a shift in taxes off of things we value—labor—and onto things we want to discourage—wasteful use of energy and nonrenewable resources. People will see the price of gasoline increase—at the same time they see the tax on their income decline.

This proposal is a 3-fer: it lowers the payroll tax; it discourages pollution and helps the United States in its international negotiations on global warming; it increases our national security by reducing our dependence on the Middle East and other unstable regions.

I hope that my Republican colleagues who support sales taxes and/or value added type taxes will take a look at this proposal. Their proposals would increase the taxes on energy and nonrenewables along with all the other things sold or manufactured in our society. But rather than set up elaborate new sales tax or VAT collection systems on millions of businesses and production centers, with all the potentials for evasion and abuse, this proposal would concentrate tax collection on just a few thousand sources of production, freeing millions of others from paperwork and IRS hassels.

Republican leaders from Texas, who have been proposing various tax reforms, may at first object to concentrating the new system of taxation on energy, because Texas is such a major producer of energy. But I urge them to work with me to return extra amounts of the revenue raised by this proposal to their region to help it transition to a cleaner and higher-paying form of production.

I hope to introduce this bill before the recess, and I invite comments and ideas on how to make it a smooth transition for America.

To repeat: this is a chance to ensure a cleaner environment for future generations, increase America's security, reduce taxes on employment, and encourage the production of a new generation of products.

This is not a tax increase. It is a tax shift from things we don't want to tax onto things we should want to discourage.

PERSONAL EXPLANATION

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Ms. KILPATRICK. Mr. Speaker, during earlier debate on the floor of the House on October 9, 1997, I stated that my oldest son, Kwame Kilpatrick, was an attorney. While he will soon be an attorney, he is a third year law student. I would like to use this opportunity to correct that fact in the CONGRESSIONAL RECORD, and I thank the House for this opportunity.

ROGER DESROSIERS AIDS DEMOCRACY AND FREE ELECTIONS IN BOSNIA AND HERZEGOVINA

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to recognize an outstanding teacher in Massachusetts' Second Congressional District, Roger Desrosiers.

As a teacher at Millbury Jr./Sr. High School, Mr. Desrosiers challenges young minds in his classroom. This past summer, Mr. Desrosiers challenged teachers in Bosnia and Herzegovina to prepare their students for life in a democratic system. Mr. Desrosiers was part of a team of 20 American educators who traveled to Bosnia and Herzegovina as part of the CIVITAS Program, developed by the center for civic education.

During the intensive 17 day program, Mr. Desrosiers provided teachers in Bosnia and Herzegovina with the tools to prepare their students and communities for competent and responsible citizenship in a democracy. He showed his Bosnian counterparts how to engage their students in elections and the political life of their communities. Mr. Desrosiers' effort and energy with teachers this summer will inaugurate a sense of community, cooperation, tolerance, and support for democracy and human rights in this war torn area.

In this age when American children will grow up to lead on a global level, their education is of paramount importance. Quality teachers and schools ensure they will be prepared. Mr. Desrosiers meets this responsibility thoroughly. For him, teaching does not end at the last bell of the day. Teaching continues after school, on class trips to Washington, and even with other teachers in foreign countries. I am proud to introduce him to this House today, and ask you to join me in recognizing his accomplishment.

INTRODUCTION OF LEGISLATION TO DECLARE A NATIONAL EMERGENCY MEDICAL SERVICES MEMORIAL SERVICE

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. GOODLATTE. Mr. Speaker, I rise today to introduce legislation, along with my colleague from Virginia, Congressman GOODE, declaring that the memorial service held each year in Roanoke, VA to honor emergency medical services personnel be designated as the National Emergency Medical Services Memorial Service.

In 1928, an aptly named gentleman from Roanoke, VA, Julian Stanley Wise, founded the first volunteer rescue squad, the Roanoke Life Saving and First Aid Crew. This organization was the forerunner of today's emergency medical services, or EMS, programs. Today, thousands of dedicated citizens give their time and energy to community rescue squads across the country as EMS personnel, and many have made the ultimate sacrifice by giving their lives for the safety and welfare of their fellow citizens.

To further recognize the contributions of both Julian Wise and countless EMS personnel nationwide, a museum was established in Roanoke to pay tribute to both volunteer and career EMS personnel. This museum, called "To the Rescue," includes a memorial "Tree of Life," which includes a bronze oak leaf that has inscribed on it the names of all those who have been recognized. A National EMS Memorial Book, located beside the "Tree of Life", contains a picture and brief biography of each person recognized.

In 1993, to honor EMS personnel from across the country who have died in the line of duty, the Virginia Association of Volunteer Rescue Squads, Inc., and the Julian Stanley Wise Foundation, in conjunction with To The Rescue, organized the first annual National Emergency Medical Services Memorial Service in Roanoke. Since then, the National EMS Memorial Service has captured national attention by honoring 119 providers of emergency medical services from 35 States.

The life of every American will be affected, directly or indirectly, by the uniquely skilled and dedicated efforts of the EMS personnel who work bravely and tirelessly to preserve America's greatest resource—her people. Because the memorial service held in Roanoke is a fitting reminder of that bravery and sacrifice, it is only appropriate that Congress recognize it as the National Emergency Medical Service Memorial Service. Similar legislation is being introduced in the Senate by Senator GREGG of New Hampshire, as well as Senators WARNER and ROBB of Virginia. I join

Congressman GOODE in urging that the House act swiftly to pass this important resolution and recognize the important role that EMS personnel play in the life of every American citizen.

RECOMMENDED READING ON THE CHANGING NATO AND THE EFFECT OF GLOBALIZATION ON THE TRANSATLANTIC RELATIONSHIP

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. BEREUTER. Mr. Speaker, as chairman of the House delegation to the North Atlantic Assembly [NAA], it is my distinct pleasure to call to the attention of the House and the American people the outstanding paper delivered by the gentleman from Virginia [Mr. BLILEY] as chairman of the NAA Economic Committee at the fall meeting of the NAA in Bucharest, Romania, on October 9–13, 1997. Members of the House should find this truly exceptional, incisive, and very timely presentation by our colleague to be of great value and worth their reading time. This is particularly the case because it focuses on two very important subjects: First, the reasons for the continuing importance of the alliance we know as the North Atlantic Treaty Organization [NATO] as it expands to incorporate three additional member countries and reexamines its mission, and second, the diverse set of changes affecting our planet which we term globalization and specifically their impact on the transatlantic relationship. The paper by our distinguished colleague, the gentleman from Virginia [Mr. BLILEY] follows:

NATO IN THE 21ST CENTURY: ECONOMIC COMMITTEE CHAIRMAN'S CONTRIBUTIONS

There are two kinds of economic issues that this committee should discuss as we try to envision challenges and opportunities to the Alliance over the next decade: those that will directly affect what we might call the business of NATO and those that will have an impact on the broader transatlantic relationship. Let us first look at the direct issues beginning with burden-sharing.

The end of the Cold War was quickly follows by large cuts in defense outlays as NATO members sought to reap dividends from the decline in threat. These reductions made perfect fiscal and military sense, but also fueled a debate about NATO's ongoing relevance. Some Americans for example began again to ask why precious resources should be used to defend the rich countries of Europe, particularly given the unrelenting financial pressures arising out of America's budget deficit, the declining threat and the need for new domestic infrastructure investment. The Balkan war and NATO's decisive role in quelling that disturbance amply demonstrates the ongoing need for a transatlantic alliance. Yet, the old burden-sharing debate will not go away. Indeed, NATO enlargement will only fuel that debate, although most of the additional cost burdens associated with enlargement will fall on new members themselves. European initiatives to improve mobility and lift become all the more important in an enlarged NATO and insofar as enlargement encourages NATO's European members to move in this direction; it could ultimately ease rather than exacerbate the burden-sharing debate. Finally, as Harry Cohen—member of the British House of Commons—points out in his draft report on the Costs of NATO Enlargement, properly administered alliances generally are cost effective insofar as they provide greater security at lower cost than purely national defence. This fiscal reality does not show up in national accounting sheets, but it will continue to hold true. We parliamentarians must help ensure that the burden-sharing debate reflects this central reality. If national leaders fail to do this, this vital Alliance could come under unwelcome political stress.

The growing gap in the defence-industrial bases of Europe and the United States represents another economic issue with direct consequences for NATO. Here the problems may be more serious. Norbert Wieczorek's report to—the Economic Committee of the North Atlantic Assembly—on changing defence markets discussed the important consolidation of U.S. defence industries. Profound restructuring and rapid integration of information technology have resulted in a growing U.S. competitive edge over European defence firms, which remain more heavily regulated, smaller and higher cost producers. This gap makes a genuine two-way street in defence trade increasingly difficult and is adding yet another barrier to transatlantic project teaming. The divergence is growing so apparent that it could eventually have spill-over effects on military tactics and the overall transatlantic relationship. The recent Administration-EU Commission dispute over the Boeing-McDonnell Douglas merger was indicative of this issue's great sensitivity.

Until Europe creates a more unified market for defence goods which fosters the creation of pan-European defence firms, there will be few European firms to rival their American counterparts in scale and scope. The result will be higher procurement costs in Europe and perhaps even greater protectionism which will further shorten the scope for transatlantic defence industrial exchange and could lead to trade tension. Transatlantic defence co-operation and trade foster interoperability, reduce overall defence costs, and ensure the existence of competitors which will help spark innovation and cost reductions. Europe is moving too slowly in consolidating the defence business, and unless the effort is galvanized, the current gap may become wider by the next century.

Internal market reforms in transition economies has also become an issue directly related to NATO's future, insofar as the introduction of liberal market structures is a precondition for an invitation to join the Alliance. The financial capacity of prospective states to underwrite force modernization, retrain their officers and meet minimal standards of interoperability represents another economic consideration of considerable importance. These factors were crucial to NATO's decision to invite Poland, Hungary, and the Czech Republic to accession negotiations. The pace of reform has certainly quickened in Romania and was one reason why its candidacy was considered with a great deal of seriousness—something which was not anticipated even two years ago. Slovenia has already registered one of the more impressive transitions to a market-based economy. As the region's economies become more integrated with those of Western Europe, whether or not they are formally invited to join the EU, it seems likely that the economic preconditions for NATO accession will be met by several other states over the next ten years provided the reform path is not abandoned.

Accession is not without economic consequences, NATO, of course, has no direct responsibility over transatlantic economic management, but it certainly can provide a secure foundation which business and investment need to flourish. This is taken for granted among current members, but not by aspiring members. Disappointed Romanian and Slovenian officials lamented that their being left out of NATO would penalize them economically. Those admitted, on the other hand, might enjoy a comparative advantage in attracting foreign investors who would be marginally more reassured by the commitment of the West to the security of new members. It should be recalled that such considerations can even have an impact on interest rates, and thus all things being equal, membership could thus reduce the cost of capital in new member states. So much for the issues of direct consequence to NATO.

The second category of economic issues that are likely to affect the Alliance will not be specifically tied to NATO, but will nevertheless be influential in shaping the overall relationship between North America and Europe. It should go without saying that the end of the Cold War has profoundly altered the transatlantic relationship. The dramatic reduction of military tension has perhaps loosened the discipline that kept the Atlantic partners from allowing trade, monetary or other economic disputes to weaken the partnership. There are some signs that each side is now turning away from the other despite real interests in not doing so. The key question is whether or not mutual economic dependencies as well as shared strategic interests are sufficient to hold together the Alliance. I think they should be, but we must recognize the potential for difficulties in an Alliance no longer overwhelmingly bound together by an overarching Soviet threat but rather united by a more complex set of strategic, political and economic ties.

A second consequence of the Cold War's passing is that economic issues have become a more prominent force in the overall transatlantic relationship. On the face of it, this is a good thing; Europe and America broadly share a common appreciation of the value of a liberal international economic regime and are important trade and investment partners. One writer recently described the relationship in terms of a shared economic culture, writing that, "When America and Europe advocate free trade, they are less likely to talk past each other than are America and Asia." Although economic relations between the two continents have generated great material prosperity, they have also long been a source of generally healthy, if often fiercely contested, competition. That rivalry is never as heated as it is when two conflicting visions of the legitimate role of the state in economic matters come into play. In recent years we have seen the American officials claim that foreign policy imperatives give it the right to exercise extraterritorial authority over non-American firms. The European Commission did the same when it claimed anti-trust review authority with regard to the Boeing-McDonnell Douglas merger.

Since the end of the Cold War, the frequency and seriousness of transatlantic economic disputes seems to be growing. This is hardly a welcome harbinger for future transatlantic relations; but it could just as well reflect difficulties associated with transition

to a new international security and economic order.

The shape that Europe takes is another critical factor in the transatlantic relationship. We can now presume that EMU will go ahead, and that by January 1999, the Euro and a European Central Bank will be in place. This will constitute the greatest change to the international monetary system since the collapse of Bretton Woods. The accompanying commitment to price stability will bring down interest rates in Europe and may provide an additional impetus to loosen overly burdensome labour market regulation which has been the primary source of high unemployment on the continent. This coupled with the elimination of burdensome transaction costs will more deeply unify European money and commercial markets and will prove a dynamic boost to European growth. Moreover, the Euro will ultimately rival the dollar internationally. It is possible however that the absence of fluctuation in intra-European rates could result in even greater dollar-Euro rates fluctuation with negative effects on transatlantic trade and investment. Thus in monetary matters, Europe and the United States will have to consult even more deeply than they do today. In this respect, perhaps the creation of a Euro could be a force for greater transatlantic integration. This, of course, hinges on a number of additional economic and political factors.

The likely accession of new members to Europe in the early years of the next century could have different effects on transatlantic relationship. The Americans will broadly welcome EU enlargement as a critical contribution to regional stabilization and prosperity and thus a natural complement to NATO enlargement. Moreover, EU enlargement is likely to compel Europe finally to revamp those institutions and programs which many officials acknowledge have grown outdated or unwieldy. Agricultural reform here may be the key question, and insofar as it leads to greater market access for American producers and general liberalization of agriculture markets, it could have a very positive impact on the transatlantic relationship.

On the other hand, a geographically larger, more diverse Europe implies perhaps a more inward-looking EU, at least over the medium term. The process of consolidation is likely to create certain tension with the United States, particularly if American officials and the US Congress gather the impression that the EU is artificially diverting trade away from the US. The Americans will thus be watching both monetary integration and EU enlargement with a keen eye and will not hesitate to express their views on matters that effect its interests—just as Europeans will scrutinize American economic policies including its sanctions initiatives designed to tie security and trade issues and which are likely to directly impinge directly on European commercial and monetary interests.

Another problem is that globalization itself has partly eclipsed the transatlantic economic relationship, even if globalization itself can be seen as a natural and successful consequence of the transatlantic partnership. The emerging global economic order is increasingly characterized by the unhindered trade of goods and services, the rapid diffusion of technology, the ever greater mobility of financial capital and the far more prominent role being played by private financial institutions. In this new global economy, there will be an ever greater premium attached to stringent monetary and fiscal management. This is increasingly leading to macro-economic convergence. Yet, our societies are naturally not always willing to cede everything to economic logic. And it is for this reason that states will remain critical actors in the world economy.

Globalization is a force affecting all our countries, and I would argue that it is pushing North America and Europe in the same general direction but at varying speeds. This could potentially lead to further drift in the relationship. In the United States, key sectors have been deregulated, while strategic corporate mergers have created a number of large coherent industrial and service companies poised to flourish in the international economy. Responding to new challengers like Japan, American civilian firms in recent years have restructured their operations, introduced new organizational principles and slashed work forces and production costs. American firms like Microsoft and Intel have established nearly hegemonic positions in new computing industries. California's Silicon Valley rides on the crest of the information revolution and is reaping huge profits as a result. American industry has very rapidly incorporated the computer into the workplace and this seems to have contributed to America's current economic boom. Average GNP growth in the United States over the last seven years is 2.5%, the current unemployment rate stands at only 4.8%, and inflation has fallen to 2.8%, while a rocketing stock market index continues to astonish observers.[1] Some economists including Fed Chairman Alan Greenspan have hinted that a kind of sea change has transpired in the United States that has permanently changed the inflation-growth-unemployment relationship.

Europe's firms have begun to respond to global pressure through restructuring and consolidation although markets there are generally more regulated and tax rates remain higher. Moreover, with a GNP the size of America's, in 1994 Europe produced only a fifth as much software. It has only 7 percent of the export market for computers and office equipment. This suggests that despite unambiguous signs of an economic recovery, Europe needs to make great advances in the industries that are likely to dominate world markets in the future. If globalization is seen in Europe as rewarding only those industries in which Europe feels less competitive, the result could be a more inward-looking Europe, resistant to deregulation and determined to defend a quality of life that cannot be sustained without undertaking important changes. An inward-looking Europe's relationship with the United States would be tense. The United States clearly needs Europe as a partner to advance the liberal, free trading vision. Therefore, a significant fallout would gravely weaken America's capacity to promote greater international liberalization and integration.

At the Denver summit earlier this year, the contrast between the American and European economic cultures were starkly on parade. While President Bill Clinton extolled American achievements, somewhat offended European leaders and numerous writers subtly pointed to what many see as the down sides of the US model, including the wider income gap in the United States and the tragic state of American inner cities. Again this is indicative of how domestic political economies are increasingly becoming a subject of international discussion. This is partly because distinctions between domestic and international economic issues are artificial and increasingly recognized as such. How states organize their domestic political economy will have important effects on their relations with other states. The New Transatlantic Agenda, however, suggests that this phenomenon need not be viewed with trepidation. It can have a mutually advantageous impact provided that our countries' leaders manage it properly. That will not be easy as the Helms-Burton dispute revealed.

Finally it is often assumed that the greatest investment opportunities lie in developing or transition economies. But in the coming decade, growth opportunities will be great in much of the OECD as well, due to de-regulation, restructuring trade in services and the emergence of new information industries like those related to the internet. The most developed countries are undergoing an industrial revolution which will create countless new opportunities for trade and investment between Europe and the United States. We are already seeing this revolution in the development of transatlantic telecommunications and airline alliances. The intricate interweaving of corporate interests could have the effect of bringing Europe and the United States into an even closer relationship partly by making it more difficult for states to claim companies as their own and to act on that basis.

The Russian economy's evolution will also shape the transatlantic agenda. Were the Russian economy to spiral downward, the resultant instability would pose a serious set of problems to Central and Eastern European states—ranging from new refugee pressures to even greater mafia activity. The proliferation of the know-how and material necessary to construct weapons of mass destruction is not unrelated to the health of the Russian economy as well as the Russian state's capacity to control the export of weaponry and material and to keep scientists and engineers gainfully employed. The Allies will have to encourage further liberal market reform and commercial integration with the West and assist Russian leaders in controlling armaments exports insofar as each of these is possible. Responsibility ultimately lies with the Russians themselves, and the current government appears committed to reform. But strong political and social resistance to reform will not fade away and mafia activities seem to be growing in scale and scope. The most likely scenario for Russia is fitful reform with uneven results. The West must therefore be prepared both to extend a hand to its Russian partners while preparing for a relationship that will not always be easy.

Russia will continue to be a key player in energy markets. For example we can anticipate a rivalry in the Caspian Sea for influence and access to the huge potential oil and gas reserves of the Caspian region. Energy issues have long been a source of division within the Alliance (Total's recent investment plans on Iran being the latest example), and forging a united Western approach to the Caspian region may prove enormously difficult given the different kind of interests involved. The Caspian region will emerge as one of the crucial out-of-area considerations shaping the strategic calculations of the NATO partners as well as the Russians, and it may well divide more than unite North America, Europe and Russia.

Let me conclude with a brief remark about my own country. Like Europe, America confronts long-term structural problems that will continue to absorb the energy of legislators and government officials. Some of these

[1] The Economist, June 21st, 1997: p. 12.

problems, like the growing income gap, may have been exacerbated by globalization, while others, like educational weaknesses, compromise America's long-term prospects in that economy. Finding solutions to such problems lie at the core of contemporary American politics. Despite these problems, there is a growing perception that globalization has proven beneficial to most Americans. President Clinton, for example, will probably be granted authority to negotiate a new round of free trade pacts despite resistance from his own party's left wing. The public and its representatives have come to recognize the value of the world economy. Many new members of the U.S. Congress arrive with little international experience, but economic globalization and America's central role in that process means they cannot or at least should not ignore developments beyond its borders. The Senate NATO enlargement ratification debate will again focus attention on the profound ties between the U.S. and Europe.

One of the hallmarks of democracy is that when push comes to shove, rationality generally prevails. The reasons for maintaining close transatlantic economic co-operation far outweigh the inconveniences and petty disputes. Both Europe and America are subject to global economic pressures and its leaders and companies are responding in ways consistent with their distinct political and economic cultures and traditions. The great challenge lies in accommodating these differences in order to revivify a partnership of politically stable and economically vital nations that together will help steer the world economy into the next century.

90TH ANNIVERSARY OF THE VILLAGE OF SOUTH CHICAGO HEIGHTS

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. WELLER. Mr. Speaker, I rise today to honor the 90th anniversary of the village of South Chicago Heights, a community rich in heritage. First settled in 1833 at the corner of the Old Saulk Trail and the Chicago-Vincennes Road, South Chicago Heights has become a strong community many families are proud to call home.

The village of South Chicago Heights has been growing rapidly since it was incorporated 90 years ago. In the first election in 1908 there were a mere 82 votes cast. Today, the village boasts a population of over 3,700 residents.

In 1910 the police department was established, in 1926 the first village hall was erected, and in 1959 the first fire station was built. South Chicago Heights grew as America grew and in 1959 the village board approved the development of the first shipping center in the community.

Currently, the village of South Chicago Heights provides many services to its residents. From fire and police protection to water and sanitary services, the families in this community receive outstanding services while paying low taxes. South Chicago Heights should be given special commendation as a community which takes care of those who have given so much of themselves. The village has devoted a great deal of time and effort to assisting its seniors by building a senior citizens center. This center should serve as a model for all communities.

The 90th anniversary of the village of South Chicago Heights has been celebrated this year by village President David L. Owen, trustees Lou Bednarek, Tony Capua, Donald E. Cull, Bonnie S. Hudson, Joseph F. Kudra, Jr., John M. Ross, and Clerk Melinda Villarreal. These outstanding elected officials joined the residents of the village at a dinner dance and all-day festival this fall.

It is truly fitting that this village celebrate 90 years of history and progress. I extend my best wishes to the village, its community leaders, and its residents for many more prosperous years to come.

DISTRICT OF COLUMBIA APPROPRIATIONS, MEDICAL LIABILITY REFORM, AND EDUCATION REFORM ACT OF 1998

SPEECH OF

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998:

Mr. DIXON. Mr. Chairman, I rise in opposition to H.R. 2607 and in support of the Moran substitute. As you will hear during this debate, there are a litany of reasons why the House should pass the substitute and adopt the Senate language. From micromanagement of the District to tort reform to the controversial provisions on school vouchers, this bill represents a step backward from efforts to bring fiscal sanity and reform to the government of the Nation's Capital.

What we should do is work together with the locally elected government of the District of Columbia and the federally appointed Control Board to move forward on implementation of the D.C. reform plan passed in the budget agreement. What we choose to do is to put roadblocks in the way of that forward movement by adopting extraneous provisions that have absolutely no business on this appropriations bill.

I have no illusions about the prospects for passing this substitute amendment. It would be too reasonable to assume that Members of the majority might put their leadership's zeal to make ideological points aside in the best interests of the Nation's Capital. Every Member should understand that by voting against the Moran substitute, we dispense with the possibility of quick enactment of this bill; we set up a clear possibility for veto; and we do a disservice to the very people we profess to be so concerned about—the citizens of the District of Columbia.

Much of the debate today will focus on the most controversial aspect of this legislation which the majority will maintain is essential to the well-being of D.C. children—the so-called Student Opportunity Scholarship program. I regret that I find it necessary, as others will, to spend my debate time concentrating on this issue, rather than broader concerns facing Washington, DC.

It is inconceivable to me that the leadership of this House believes that it is more important to hold up enactment of a bill that is a vital piece of our efforts to revive the District for all its children, in order to make its ideological statement on the value of school vouchers. But since that is the course they choose, let's look at the program that the majority argues is an answer to the problems besetting the District of Columbia public schools.

H.R. 2607 authorizes $45 million over 5 years to fund tuition and tutoring scholarship—vouchers—for D.C. students. Rather than a boon to D.C. schools and her students, this provision is a vote of no confidence in the newly appointed school leadership committed to improving public education; it injects the controversial issue of funding religious schools with public money; and it a structurally deficient piece of authorization legislation on an appropriations bill.

Voucher proponents often refer to the failures of the school system, documented in a November 1996 study conducted by the District of Columbia Financial Responsibility and Management Assistance Authority. The study "Children in Crisis," revealed numerous problems with the District's public school, noting that the system "has failed to provide our children with a quality education and safe environment in which to learn." The Authority found that D.C. students consistently rank below national average scores on tests of competency and student achievement, school administrators fail to adequately manage resources, and the infrastructure is in need of major improvements.

I do not stand here in defense of the management and instructional quality of the D.C. school system. However, the story of the public schools should not end with the bad news. We all hear about what's wrong with the D.C. schools, but what about those public schools that are doing things right?

Walker Jones Elementary School in Northwest Washington is working with the Laboratory for Student Success program using Community for Learning, a research-based school reform model. The concept is called whole school reform, and is characterized by intensive teacher training methods and materials geared toward better student learning. As a result, student test scores have improved. After 6 months in the program, the school raised its ranking in the District on reading scores from 99th in 1996 to 36th in 1997. In math, the school climbed from 81st in the District to 18th.

All of Eastern Senior High School's 1997 graduates of its Health and Human Services Academy—more than 400—were accepted to college. The Health and Human Services Academy is a special high school program that prepares its participants to enter the health and human services field immediately upon graduation or to pursue postsecondary education in a related field. The Academy was developed through a partnership with the U.S. Department of Health and Human Services.

At Stuart Hobson Middle School, the school's Odyssey of the Mind team won second place in the national competition's classics category—in which 5,000 teams competed nationwide. Hobson features a museum magnet program in which the school offers courses, seminars, labs, and field experience in conjunction with the Smithsonian.

The Nalle School and the Freddie Mac Foundation are working together to create the District's first full-service community school, to address the wide range of family needs. Working with service organizations, parents, educators, and community leaders, it is becoming a major hub of community activity.

We should be insisting on and facilitating the replication of these successes in D.C. schools. Instead, we fight over funneling taxpayer money to private schools, emphasizing failures rather than seeking to enhance successes.

For the sake of argument, let us assume that there are private school slots for the 2,000 kids eligible for vouchers with a maximum value of $3,200. We have to assume, because as the Washington Post of September 30 stated it would be difficult to find those slots given that the vast majority of secular private and religious schools charge more than $3,200 for tuition. Nevertheless, if we could find those 2,000 openings, what exactly does our voucher experiment prove? That we can spend public money on private schools for 3 percent of the District's students? Is the inference that if we are successful with this laboratory experiment in the District, then we can embark on a wholesale abandonment of the public schools in the District? Are we prepared to give the minimum voucher amount of $2,400 to every District student who would be eligible? That's 50,000 vouchers at a cost of over $100 million.

From the Republican leadership's strident support of vouchers, and their denigration of the public schools, one get the impression that no one is working to turn the tide? That is simply not the case.

In response to their study's findings, the members of the Authority embarked on a bold initiative to shake up the school system by implementing a new management structure with a mandate to improve the public schools. On November 15, 1996, the Authority appointed Gen. Julius W. Becton as chief executive officer and superintendent of DCPS and established the Emergency Transitional Education Board of Trustees.

Although General Becton has been on the job for less than a year, he has already taken significant steps to improve the public schools. He has developed an academic plan focusing on high standards and accountability for results; redesigned the budget structure to hold managers accountable for spending; and implemented comprehensive security and facilities' management plans. These efforts hold much promise for the system and Congress ought to be emphasizing our support for these objectives.

Instead, we put forth a proposal which will not improve public education and is probably unconstitutional. The Supreme Court has consistently held that public funds cannot pay, either directly or indirectly, for the religious education or the religious mission of parochial schools. Although public funds may be used for secular purposes in religious schools, regular everyday instruction at a religious elementary or high school would not qualify because such schools are seen as mainly sectarian in nature.

The Supreme Court ruled this year that public funding of certain instruction in parochial schools is severely limited. In the June 23 decision, the Court ruled 5 to 4 in Agostini versus Felton that title I services—remedial math and reading instruction provided to disadvantaged children—are permissible in private religious schools because the instruction offered is secular in nature and overseen by public school personnel. Rather than pave the way for vouchers, Justice Sandra Day O'Connor emphasized that under title I no Government funds "ever reach the coffers of religious schools." She further stated that this aid does not "relieve sectarian schools of costs they would otherwise have borne in educating their students."

Proponents of these scholarships or vouchers might argue there is no underlying agenda to fund religious schools. Then why include section 348, subsection (a) in the bill which reads:

> Nothing in this Act shall be construed to bar any eligible institution which is operated, supervised, or controlled by, or in connection with, a religious organization from limiting employment, or admission to, or giving preference to persons of the same religion as is determined by such institution to promote the religious purpose for which it is established or maintained.

Educational choice is held up by voucher supporters as the main reason that Members should embrace this bill. Choice for whom? We agree that the D.C. schools are not doing the job we want in providing a high-quality education to all D.C. students. How do we solve that problem by providing an opportunity for 2,000 to 3,000 students to attend private schools, leaving behind the remaining 75,000, or 97 percent, of students in the D.C. schools.

D.C. residents did not ask for this. The GOP's argument that D.C. religious leaders wholeheartedly endorse vouchers has been refuted by the ministers themselves. The Washington Post of October 6, 1997 reported that the ministers feel that the program was misrepresented to them by proponents.

The process by which this provision found its way in the bill is faulty—no hearings were held—and the structure of the program is faulty. It creates another bureaucracy for the District to contend with—a scholarship corporation with a board of directors and staff. This board is to be paid a stipend of up to $5,000 a year. Not even the financial management authority, appointed by the President 2 years ago to improve the operations of the District, receives payment for their thankless efforts.

The application and participation requirements for eligible schools are laughable. To apply, a school must show that it had more than 25 students in the preceding 3 years; submit an annual budget; and describe the proposed instructional program. To remain eligible, a school only has to provide the corporation with an annual budget statement, and certify that it has not charged a voucher student more than the cost of tuition, fees, and transportation to attend the school.

Such lax requirements could give rise to fly-by-night schools which open just to receive voucher money. In Milwaukee, two voucher schools closed last year as a result of criminal fraud charges. At least four other Milwaukee voucher schools closed during the first 4 years of the program, three of them in the middle of the school year. We need accountability, not soft reporting requirements.

Finally, voucher supporters argue that since the D.C. schools are withering on the vine already, why not give a few parents a chance to offer their child a better education? We need a vote of confidence for General Becton, who has faced a host of problems during his brief tenure, but is making progress. We need to assist the public schools by holding administrators and teachers accountable while ensuring that infrastructure and instruction needs are met. We need a comprehensive review of the best practices in the D.C. schools and apply those models to schools that are not performing. We do not need this ill-advised voucher experiment.

I strongly urge my colleagues to vote for the Moran substitute and move D.C. reforms forward in a manner which accrues to the benefit of all its citizens and all its children.

H.R. 901, THE AMERICAN LAND SOVEREIGNTY PROTECTION ACT

SPEECH OF

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. YOUNG of Alaska. Mr. Chairman, presently there is no formal international agreement defining a biosphere reserve—no treaty, no convention, no compact, no protocol—not one. Nor is there any domestic legislation authorizing and implementing the biosphere reserve program—none whatsoever. A biosphere reserve is an ambiguous concept in the field of international relations and lacks any legal definition in U.S. law.

Forty-seven biosphere reserves have been created in the United States with virtually no congressional oversight, no hearings, and no legislative authority. Congress is not notified when a biosphere reserve nomination is under consideration—nor is there any requirement to do so.

At a hearing held in March 1995 by the Subcommittee on Interior Appropriations, Congressman Nethercutt asked witnesses from the National Park Service, "Are there any more biosphere reserves to be designated at this time that you know of?" Mr. Kennedy, then Director of the Park Service replied, "No sir."

Yet, we now know that: Plans were well underway to designate the Ozark Highlands Biosphere Reserve and that the National Park Service was a prime force behind this effort.

The National Park Service applied for a grant in late 1994 or early 1995 from the U.S. Man and Biosphere Program—approved the following May—for "Elevation of Isle Royale Biosphere Reserve to Fully Functional Status."

According to the grant description, the project would develop a Lake Superior protected areas directory, and this would be the first U.S. step toward designation of additional protected areas and community partnerships in the Lake Superior binational region. In other words, this grant was for a study to expand the Isle Royale Biosphere Reserve.

Expansion of the Southern Appalachian Biosphere Reserve to include 11 counties in West Virginia was—and still is—under consideration.

The current system for implementing these programs has eaten away at the power and sovereignty of the Congress to exercise its constitutional power to make the laws that govern lands belonging to the United States.

The public and local governments are never consulted about creating biosphere reserves. On October 7, 1997, during debate on H.R. 901, "The American Land Sovereignty Protection Act," opponents kept saying that biosphere reserves were designated at the request of local communities. They seem to believe that if they keep repeating the mantra that "biosphere reserves are created at the request of local communities" often enough, then somehow it will prove to be true. The Committee on Resources has now held three hearings on this issue and has yet to find one example where a biosphere reserve designation was requested by a broad-based crosssection of either the public or local officials. On the contrary, the committee has found that biosphere reserve designation efforts are almost always driven by Federal agencies and often face strong local opposition whether in New York, Arkansas, New Mexico, or Alaska.

Once again, biosphere reserves are designated with little or no input from the public or local government. They are very unpopular. In the few cases where the local citizenry has become aware of a pending biosphere reserve designation, the designation has been strongly opposed. Proposed biosphere reserve nominations for the Catskill Mountains in New York, the Ozark Mountains in Arkansas and Missouri, and for Voyageurs National Park and Boundary Waters Wilderness in Minnesota were defeated by an aroused local citizenry. The Alaska and Colorado State Legislatures have passed resolutions supporting H.R. 901, and the Kentucky senate passed a resolution opposing the biosphere reserve program, particularly in Kentucky. I would like to include these resolutions in the RECORD.

I also wish to include in the RECORD a recent column, entitled "Protected Global Soil?," which appeared recently in the Washington Times. I urge my colleagues to read the resolutions and this important commentary.

A RESOLUTION—IN THE LEGISLATURE OF THE STATE OF ALASKA

Relating to supporting the "American Land Sovereignty Protection Act."

Be it resolved by the legislature of the State of Alaska:

Whereas, the United Nations has designated 67 sites in the United States as "World Heritage Sites" or "Biosphere Reserves," which altogether are about equal in size to the State of Colorado, the eighth largest state; and

Whereas, art. IV, sec. 3, United States Constitution, provides that the United States Congress shall make all needed regulations governing lands belonging to the United States; and

Whereas, many of the United Nations' designations include private property inholdings and contemplate "buffer zones" of adjacent land; and

Whereas, some international land designations such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Culture Organization operate under independent national committees such as the United States National Man and Biosphere Committee that have no legislative directives or authorization from the Congress, and

Whereas, these international designations as presently handled are an open invitation to the international community to interfere in domestic economies and land use decisions; and

Whereas, local citizens and public officials concerned about job creation and resource based economies usually have no say in the designation of land near their homes for inclusion in an international land use program; and

Whereas, former Assistant Secretary of the Interior George T. Frampton, Jr., and the President used the fact that Yellowstone National Park had been designated as a "World Heritage Site" as justification for intervening in the environmental impact statement process and blocking possible development of an underground mine on private land in Montana outside of the park; and

Whereas, a recent designation of a portion of Kamchatka as a "World Heritage Site" was followed immediately by efforts from environmental groups to block investment insurance for development projects on Kamchatka that are supported by the local communities; and

Whereas, environmental groups and the National Park Service have been working to establish an International Park, a World Heritage Site, and a marine Biosphere Reserve covering parts of western Alaska, eastern Russia, and the Bering Sea; and

Whereas, as occurred in Montana, such designations could be used to block development projects on state and private land in western Alaska; and

Whereas, foreign companies and countries could use such international designations in western Alaska to block economic development that they perceive as competition; and

Whereas, animal rights activists could use such international designations to generate pressure to harass or block harvesting of marine mammals by Alaska Natives; and

Whereas, such international designations could be used to harass or block any commercial activity, including pipelines, railroads, and power transmission lines; and

Whereas, the President and the executive branch of the United States have, by Executive Order and other agreements, implemented these designations without approval by the Congress, and

Whereas, actions by the President in applying international agreements to lands owned by the United States may circumvent the Congress; and

Whereas, Congressman Don Young introduced House Resolution No. 901 in the 105th Congress entitled the "American Lands Sovereignty Protection Act of 1997" that required the explicit approval of the Congress prior to restricting any use of United States land under international agreements; be it

Resolved, that the Alaska State Legislature supports the "American Lands Sovereignty Protection Act" that reaffirms the constitutional authority of the Congress as the elected representatives of the people over the federally owned land of the United States.

MEMORIAL 0111—HOUSE OF REPRESENTATIVES

Under clause 4 of Rule XXII, a memorial of the following title was presented, as follows:

By the Speaker: A memorial of the General Assembly of the State of Colorado, relative to House Joint Resolution 97–1032 showing that the State of Colorado supports the legislation, which reaffirms the Constitutional Authority of Congress as the elected representatives of the people, and urges the "American Land Sovereignty Protection Act" be introduced and passed by both the House of Representatives and the Senate, as soon as possible during the 105th Congressional session.

Referred to the Committee on Resources. June 3, 1997.

HOUSE JOINT RESOLUTION 97–1032—COLORADO

By representatives Entz, Arrington, Epps, Pankey, Paschall, and Young; also senators Duke, Arnold, Congrove, Mutzebaugh, and Powers.

Whereas, The United Nations has designated sixty-seven sites in the United States as "World Heritage Sites" or "Biosphere Reserves", which altogether are about equal in size to the State of Colorado, the eighth largest state; and

Whereas, Section 3 of Article IV of the United States Constitution provides that the United States Congress shall make all needed rules and regulations governing lands belonging to the United States; and

Whereas, Many of the United Nations designations include private property inholdings and contemplate "buffer zones" of adjacent land; and

Whereas, Some international land designations, such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Cultural Organization, operate under independent national committees, such as the United States National Man and Biosphere Committee, which have no legislative directives or authorization from Congress; and

Whereas, These international designations, as presently handled, are an open invitation to the international community to interfere in domestic land use decisions; and

Whereas, Local citizens and public officials usually have no say in the designation of land near their homes for inclusion in an international land use program; and

Whereas, The President and Executive Branch of the United States have, by Executive Order and other agreements, and implemented these designations without the approval of Congress; and

Whereas, Actions by the President in applying international agreements to lands owned by the United States may circumvent Congress; and

Whereas, In the 105th Congress, Congressman Don Young introduced HR–901, entitled the "American Land Sovereignty Act", to protect American public and private lands from jurisdictional encroachments by certain United Nations programs, and such resolution has been referred to the Resource Committee with 77 cosponsors; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-first General Assembly of the State of Colorado, the Senate concurring herein:

That the State of Colorado supports this legislation, which reaffirms the Constitutional Authority of Congress as the elected

representatives of the people, and urges the "American Land Sovereignty Protection Act" be introduced and passed by both the House of Representatives and the Senate as soon as possible during the 105th Congressional session.

Be It Further Resolved, That copies of this Resolution be sent to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to each member of the Congressional delegation from Colorado.

CHARLES E. BERRY,
Speaker of the House of Representatives.
TOM NORTON,
President of the Senate.
JUDITH RODRIGUE,
Chief Clerk of the House of Representatives.
JOAN M. ALBI,
Secretary of the Senate.

IN SENATE—1997 EXTRAORDINARY SESSION, SENATE RESOLUTION NO. 35, THURSDAY, MAY 29, 1997

Sponsors: Senators Moore, Bailey, Blevins, Borders, Freeman, Kelly, McGaha, Metcalf, Nunnelley, Philpot, Robinson, Roeding, Julie Rose, Sanders, Seum, Stivers, Tori, Westwood, D. Williams, and G. Williams introduced the following resolution which was ordered to be printed.

Introduced and adopted (voice vote) May 29, 1997.

A resolution opposing the Biosphere Reserves designation of the Man and the Biosphere Program and urging that the proposed Biodiversity Treaty not be ratified by the United States.

Whereas, the United Nations has promoted a Biosphere Program throughout the world; and

Whereas, the Biosphere Program threatens to place millions of acres of land under the control of United Nations via agreements and/or executive orders; and

Whereas, the United Nations Cultural, Educational, and Scientific Organization (UNESCO) has created a worldwide system of 328 Biosphere Reserves in 82 nations; and

Whereas, 47 United Nations-designated Biosphere Reserves are within the sovereign borders of the United States, and two United Nations-designated Biosphere Reserves are within the Commonwealth of Kentucky; and

Whereas, neither the legislature of the Commonwealth of Kentucky nor the Congress of the United States has considered, debated, or approved such designations; and

Whereas, such designations require strict land use management procedures as are set forth in the 1994 Strategic Plan for the United States man and the Biosphere Program, as published by the United States State Department, and further described in the Global Biodiversity Assessment, published by the United Nations Environment Program, expressly for the Conferences of the Parties to the Convention on Biological Diversity; and

Whereas, Biosphere Reserves are, by definition, designed to continually expand each of the three zones: core protected zone, buffer zone, and zone of cooperation; and

Whereas, Biosphere Reserves are expected to be the nucleus of the system of protected areas required by Article 8 of the Convention on Biological Diversity as expressed in the minutes of the first meeting of the Conference of the Parties; and

Whereas, no land owner within reach or potential reach of the Biosphere Reserves has input or recourse to land use management policies of UNESCO or the Conference of the Parties to the Convention on Biological Diversity; and

Whereas, no body of elected officials, whether local, state, or federal, has input, recourse, or veto power over such land use management policies that may be prescribed by either UNESCO or the Conference of the Parties to the Convention on Biological Diversity; and

Whereas, even though the Convention on Biological Diversity has not been ratified by the United States Senate, the very presence of United Nations Biosphere Reserves on American soil demonstrates the compliance with an international treaty that has not been ratified; and

Whereas, the use of land in biosphere areas for ordinary commercial or agriculture purposes may be severely restricted or eliminated; and

Whereas, the Mammoth Cave area and the Land Between the Lakes area have already been designated as Biosphere Reserves; and

Whereas, none of the current areas included within the Biosphere Program in Kentucky have been included at the request of or with the consent of the General Assembly of the Commonwealth of Kentucky; and

Whereas, the General Assembly does not believe that a request from the National Park Service or a tourist and convention service should be adequate to subject land in Kentucky to the control of the United Nations or any other foreign parties; and

Whereas, the areas encompassed by these reserves included not only public, but private, lands; and

Whereas, the placing of environmental or other restrictions upon the use of private lands has been held by a number of recent United States Supreme Court decisions to constitute a taking of the land for public purposes; and

Whereas, the proposed Biodiversity Treaty, if ratified by the United States, would ultimately lead to the reality that Kentuckians could not use their private and public lands in the manner to which they have been accustomed; and

Whereas, there are no proposals either to purchase the private lands by the United States or the United Nations; and

Whereas, the restrictions contemplated together with the outside control of the land encompassed by a Biosphere Reserve constitutes an unlawful taking of that land in violation of the Constitution of the United States, to wit:

Article I, Section 8, Clause 17, before any state lands can be purchased, the consent of the state legislature and not the state executive branch, must be obtained.

Article IV, Section 3, Clause 2, we note that, "[N]othing in this Constitution shall be construed as to Prejudice any Claims of the United States, or of any particular state."

Article IV, Section 4, we note that, "The United States shall guarantee to every State in this union a Republican Form of Government."

Amendment V of the Constitution of the United States, "nor [shall any person] be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use, without just compensation"; and

Whereas, the virtual ceding of these lands to the United Nations leaves the residents who own the land, local governments, and the Commonwealth of Kentucky without any legitimate form for redress of grievances for input into any decision-making process relating to the Biosphere Reserve; and

Whereas, under Article VI of the Constitution of the United States, this treaty would be given equal footing with the Constitution of the United States, thus effectively precluding any legal means of redress; and

Whereas, the General Assembly of the Commonwealth of Kentucky does not wish to have portions of its land area controlled by foreign minions over which it has no control and who are not subject to its laws;

Now, Therefore; *Be it*

Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly of the Commonwealth of Kentucky is unalterably opposed to the inclusion of any land within the borders of the Commonwealth within the purview of the Biodiversity Treaty or any biodiversity program without the express consent of the General Assembly of the Commonwealth of Kentucky, as provided by the Constitution of the United States and the Constitution of Kentucky.

Section 2. The General Assembly urges the members of the Congress of the United States, and especially the Kentucky delegation to the Congress of the United States, to oppose ratification of this treaty and the inclusion of any land within the Commonwealth of Kentucky in any biosphere program of the United Nations.

Section 3. The Clerk of the Senate is hereby directed to transmit copies of this Resolution to the Honorable Bill Clinton, President, 1600 Pennsylvania Avenue, Washington, D.C. 20500; the Honorable Madeleine K. Albright, 2201 "C" Street, N.W., Washington, D.C. 20520; the Honorable Wendell H. Ford, 173A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Mitch McConnell, 361A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Ed Whitfield, 236 Cannon House Office Building, Washington, D.C. 20515; the Honorable Ron Lewis, 412 Cannon House Office Building, Washington, D.C. 20515; the Honorable Anne Northup, 1004 Longworth Office Building, Washington, D.C. 20515; the Honorable Jim Bunning, 2437 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Harold Rogers, 2468 Rayburn Office Building, Washington, D.C. 20515; and the Honorable Scotty Baesler, 113 Cannon House Office Building, Washington, D.C. 20515.

[From the Washington Times, Oct. 12, 1997]

PROTECTED GLOBAL SOIL?

(By David Rothbard/Craig Rucker)

Whether it be the Grand Canyon, Statue of Liberty, or Taj Mahal, there are many places of natural and cultural interest on the Earth. Of this, there can be no doubt. The question of how to preserve these treasures, however, is very much open to debate.

The United Nations, through its Man and the Biosphere (MAB) and World Heritage Sites (WHS) programs, believes international cooperation—or a collectivist approach—is the best solution. But among a growing number of skeptics, these programs are not only unnecessary, but may actually be a way for Green utopians and international bureaucrats to chip away at national sovereignty and shut down any important natural resource developments they may oppose. And despite House passage last Wednesday of the American Land Sovereignty Act proposed by Rep. Don Young, Alaska Republican, this is not a controversy that's likely to be put to rest any time soon.

The first major concern surrounding these global patches of protected soil is the issue of sovereignty. The United Nations, in its publications and official statements, strains its vocal cords trying to tell the world that national sovereignty is not at risk. But while this may be true on paper, many observers see the process as the proverbial camel's nose under the tent by which the U.N. can get sites established now and worry about expanding the scope of its authority later.

And even in establishing these sites, there is serious question about the openness of the process, since over the last decade the story of biospheres and WHS's, at least in the United States, is not one of local involvement and input from elected representatives, but rather, secrecy, deception, and political maneuvering of agencies within the executive branch of our own government.

When hearings were recently held on Capitol Hill concerning the bill introduced by Mr. Young, witness after witness came forth to testify to this very fact. From Arkansas, citizens like Betty Beaver lambasted efforts to establish 55,000 square miles of the Ozark Highlands as a biosphere reserve, claiming it was all done "under cover of darkness" and pointing to actual MAB documents stating that citizens "were not to be introduced to the MAB by name" and that "there should be no press conference or large public meetings because they encourage polarized views before the story can be told in an objective, nonthreatening manner."

And in perhaps the most infamous of these controversies to date, involving Yellowstone National Park, witnesses spoke about how without precedent, Green bigwigs within our own Interior department invited U.N. bureaucrats to come out and "inspect" Yellowstone at taxpayer expense, urged them to declare the park a WHS "in danger," and thus effectively put the kibosh on a proposed gold mine that was to be sited three miles outside the area.

As seen at Yellowstone, the other major concern swirling around this global debate is the way biospheres and WHSs are being used by environmental extremists as a convenient way to attack what raises their blood pressure most—namely, industrial and economic development.

The situation playing out in Kamchatka, Russia, where the collapse of the old Soviet system has left many of the area's residents hungry and unemployed, is one such example. Here, the prospect of major gold and mineral mining in the region was met with understandable enthusiasm.

But environmentalists, led by the Environmental Defense Fund and the Sierra Club, opposed any development of the region from the get-go, and pushed the U.N. to establish a WHS around the volcanoes of Kamchatka. Over the pleas of the people, they did this in December of 1996, seriously jeopardizing the project's future and prompting one Russian official to say, "the attitude of the pro-environmentalists shows criminal disrespect for human life. . . .Our children have to starve and freeze. . .[while] environmentalists resort to falsification of facts and distortion of information."

In the Bering Strait off Alaska, efforts are under way to establish the Bering Land WHS, which would not only threaten nearly one-quarter of all U.S. coal reserves, but also the world's largest zinc mine. Near the Taj Mahal in India, some 292 industrial plants may have to shut down for allegedly harming that WHS. And in Australia, the push is on to create the Lake Eyre Basin WHS that would severely restrict grazing and threaten property values over an astounding 35 percent of the entire nation.

So are biospheres and WHS's really something to fret about? Well it's true that no national sovereignty has yet been officially abridged, but environmentalists are already able to exert undue influence simply through the public-relations angle of this whole business. And it's not that much of a stretch of the imagination to see how the Greens could very soon argue on behalf of more sharptoothed international regulations, like they successfully did on ozone depletion and are currently attempting on global warming.

Clearly, this is one issue on which the American people, and the people of the whole world for that matter, ought to keep a keen eye.

IN HONOR OF ROBERTO C. GOIZUETA

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. GINGRICH. Mr. Speaker, today I join my fellow Americans and citizens worldwide in celebrating the life of Roberto C. Goizueta, chairman and chief executive officer of Coca-Cola for the past 16 years, who passed away on Saturday.

Roberto embodied the American dream. Born the son of a sugar refinery owner in Havana, Cuba, he earned a chemical engineering degree from Yale University in 1953. The following year, he answered an anonymous ad in a Havana newspaper seeking a chemical engineer. That ad had been placed by the Coca-Cola Co. On the Fourth of July, 1954, he joined the company in Havana in the technical department.

Prior to the Castro regime's confiscation of this Cuban Coca-Cola bottling plant, Roberto fled Cuba with his wife for the promise of a better life in America. Arriving in 1960, Roberto and his wife Olga came to America with only $40 and 100 shares of Coke stock. They lived in a Miami motel room with their three children.

The most important thing that Roberto brought with him, however, was not material. It was a dream of a better life for himself and his family, coupled with a fierce determination and work ethic which made that dream a reality.

Through hard work and determination, Roberto worked his way up the corporate ladder, becoming chief executive officer in 1981. During his tenure as chief executive, Coke's sales more than tripled and profits increased sevenfold, reaching $3.5 billion last year. During the same time, Coca-Cola's market value skyrocketed, from $4 billion in 1981 to nearly $150 billion today.

Under Roberto's bold leadership, Coca-Cola introduced diet Coke, increased global share of sales from 35 percent to 48 percent, and contributed nearly $100 million to education initiatives around the world.

In addition to his outstanding business acumen and dedication to community service, Roberto was also a kind-hearted humanitarian who created the Goizueta Foundation, a charitable organization committed to meeting the needs of families by assisting institutions that serve children, support families at risk, and further educational opportunities.

Coca-Cola has been named "America's Most Admired Corporation" for the past 2 years in a survey conducted by Fortune Magazine. That outstanding achievement was due in no small part to Roberto's steadfast character and leadership.

To further illustrate the work ethic and character of this great man who lived the American dream to the fullest, I would like to conclude by submitting into the RECORD excerpts from a speech Roberto delivered in 1995 on the "Four Obligations of Opportunity." I commend his advice to all of my colleagues.

Roberto's vision led Coca-Cola to worldwide leadership and created a new standard for corporate excellence on both the national and world level. He will be missed as a businessman, a citizen, and as a friend.

"OPPORTUNITY ALWAYS COMES ACCOMPANIED BY OBLIGATIONS"

(Robert C. Goizueta wrote his own speeches. This is an excerpt from one he gave on July 4, 1995, when he administered the oath of citizenship to 67 new Americans at Thomas Jefferson's Monticello estate in Virginia. It summarizes some of his most deeply held beliefs.)

For me, looking into your eyes this morning is like looking into a mirror . . . a mirror that takes me back 26 years . . . back to a hot, muggy day in 1969 at the Federal Building in Atlanta, Georgia. Together, we share a truly magical gift . . . the magical gift of freedom . . . and with it, its corollary we refer to as "opportunity."

When my family and I came to this country, we had to leave everything behind. Back in Havana, our family photographs hung on the wall. Our wedding gifts sat on the shelves. Every material property we owned . . . overnight became government property.

But amid this turmoil, two treasured possessions remained mine because they simply could not be taken away by the newly arrived Cuban rulers.

Firstly, even though I had to leave behind my diploma from Yale . . . and even though I had to leave behind the specially engraved dictionary I earned as valedictorian of my high school graduating class . . . I carried with me, safely in my head, the meaning of that diploma and of that dictionary. I still had my education.

And, secondly, even though the Havana Coca-Cola bottling plant where I had worked was to be confiscated, I still had a job. And it wasn't just any job. It was a job with The Coca-Cola Co.

From that point on—as you might guess—the story improves significantly. And that story—my story—boils down to a single, inspiring reality . . . the reality that a young immigrant could come to this country, be given a chance to work hard and apply his skills, and ultimately earn the opportunity to lead not only a large corporation, but an institution that actually symbolizes the very essence of America and American ideals.

Not a bad story . . . but what has it taught me? It has taught me a great deal. But first and foremost, it has taught me that opportunity always comes accompanied by obligations.

The first obligation implied in opportunity is that you must seize it . . . and mold it into a work that brings value to your society.

To do otherwise is not just a waste . . . it is a crime against the human spirit. Squandering what the rest of the world covets is not only foolish . . . it is immoral.

The second obligation that naturally follows opportunity is that you must live it . . . you must carry it on your back all day long . . . you must sense the opportunity in your nostrils with every breath, and you must see it in your dreams when you are asleep.

Because even though opportunity—much like freedom itself—is born only out of ideals . . . it is nurtured only by action. Without action, opportunity and freedom soon shrivel and fade to a slow death.

Finally, the third obligation that inherently comes with opportunity is that you must defend it. Thomas Jefferson said, "The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants."

But the tree of liberty must also be irrigated—irrigated every single day—with the sweat off the brows of enterprising men and women . . . men and women working hard to further prove the inherent superiority of a democratic society . . . working hard to demonstrate the lasting stability of a democratic capitalistic system . . . working hard to preserve the sanctity of private property . . . working hard to continue to show the world that people can indeed be trusted with governing themselves.

And so, I challenge you and every other citizen across our nation—whether native born or naturalized—to embrace your individual obligations . . . to embrace your individual obligations as if the fate of the United States depended on it.

And you know why? Because—in reality—it does.

TRIBUTE TO JAMES BUTLER

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Mr. James Butler, president of Local 420 Municipal Hospital Employees Union, DC37, AFSCME, AFL–CIO. On October 11, officers, trustees and executive board of local 420 held a dinner dance in Manhattan to celebrate his 25th silver anniversary as president, as well as his birthday.

Jim Butler began his service to local 420 as a union organizer in 1954. He has been a tireless fighter for better pay, health, education, and other benefits for hospital employees. Mr. Butler has long been part of the struggle for equal opportunity for minorities within the labor movement through active membership in the Coalition of Black Trade Unionists, PUSH, NAACP, Urban League, and SCLC Labor Committees. He served on the executive board of CBTU's New York chapter as well as the New York Consumer Assembly's board of directors.

As vice president of the 120,000 member District Council 37, AFSCME, AFL–CIO, Mr. Butler represented AFSCME as a delegate to the Public Service International Congress in Singapore, Zimbabwe, Finland, and the Labor Committee in Puerto Rico. He is co-chair of AFSCME's Health Advisory Committee, where he represents the interests of more than 350,000 health care workers nationwide.

Throughout his life, Mr. Butler's philosophy has been one of helping those in need without expecting anything in return. He would often say: "I have devoted my life to helping health care workers. Health care workers help the ill, but when they are ill there is no one to help them. They work under the kind of stress that most people can only imagine."

In the past several years, Butler and his local have waged a battle against threats to privatize public hospitals in New York City. They recently saw their efforts pay off with a victory in stopping the privatization of Coney Island Hospital. In June, Jim Butler and his members boarded the "freedom bus" from New York to Quincy, FL, to march for justice with the mushroom workers of the United Farm Workers.

Under his leadership, local 420's political action also makes itself felt in voter education and registration drives. Annually, the local registers thousands of voters and directly involves hundreds of union members in political campaigns.

Jim Butler resides in Astoria, NY with his wife, Eloise.

Mr. Speaker, I ask my colleagues to join me in recognizing Mr. James Butler for his outstanding contributions to the advancement of the labor movement and of the African-American community.

LEGISLATION TO IMPROVE AND SIMPLIFY HOSPITAL OUTPATIENT DEPARTMENT BILLINGS UNDER MEDICARE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. STARK. Mr. Speaker, I am introducing a bill which would provide for the revenue neutral payment of self-administered drugs furnished as part of a hospital outpatient department [HOPD] service under the prospective payment system currently being developed for HOPD's

The Balanced Budget Act passed this summer starts the slow reform of HOPD payments by establishing a prospective payment system [PPS]. This PPS is designed to bring some control to the rising costs of these services and to ensure that the patient only pays 20 percent of the total cost of the HOPD service. Currently, Medicare beneficiaries are paying about 47 percent of the total cost of these services—far above the normal 20 percent Part B copayment. Unfortunately, the HOPD fix will take over 20 years to achieve. The long phasein was due to the cost of the fix to the Medicare trust fund plus its impact on hospital revenues.

PPS system will include most of the costs of seeking treatment in an HOPD. But it will not cover the cost of self-administered pharmaceuticals—such as Tylenol 3—administered in the HOPD, since Medicare generally does not provide insurance against drugs which can be taken without the aid of a doctor or medical staff. Thus in addition to sending the patient a bill for the 20 percent HOPD copayment, the hospital will need to send the patient a separate bill, often for a rather small amount, to collect the charge for the drug.

The American Hospital Association has suggested that this is just an extra wave of paperwork and that the cost of such drugs should be included in the total cost of the procedure as determined under the new PPS system. Just as pharmaceutical drugs are covered under a hospital inpatient admission under the DRG PPS payment system, so should HOPD self-administered drugs be covered under the new HOPD PPS system. The legislation provides that this consolidation of bills will not increase the total cost of the procedure. In order words, the hospitals would rather absorb the cost of the drug in the current cost of the procedure than endure the paperwork hassle of separately billing for small amounts.

This proposal was sent to the BBA conferees very late in the process, and it was not included because more time was needed to consider it. I think it is a simple, straightforward proposal to simplify the life of patients and hospital accountants, and I hope we can include it in the next Medicare bill that is considered by the Congress.

WORLD POPULATION AWARENESS WEEK

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. FARR of California. Mr. Speaker, I ask my colleagues to recognize October 26 through November 1, 1997, as "World Population Awareness Week". The purpose of this week is to educate the public about the impact of overpopulation on our resources and environment. Many communities have issued proclamations and I want to commend the Santa Cruz County Board of Supervisors and the mayor of the city of Santa Cruz for their recognition of this important week.

Family planning programs are critical in our efforts to reduce population growth, protect the environment, assist in the sustainable development of poorer countries, and improve the health of women and children. Without such programs, the population of the Earth will double within our children's lifetimes—and many scientists believe our present world population of 5.8 billion may already be reaching the limit that our planet can sustain.

World Population Awareness Week will teach and inform the global community of the need to bring the world's population into balance with the Earth's resources and environment. The world's population continues to grow by almost 90 million a year, mostly in underdeveloped nations, but population growth concerns developed nations as well. A citizen of the United States uses far more resources and energy than a citizen from an undeveloped nation. In order to ease the pressures human development puts on our fragile environment, we need to adopt sustainable development practices. The World Commission on Environment and Development, The Brundtland Commission, in 1987 defined sustainable development as the ability "* * * to meet the needs of the present without compromising the ability of future generations to meet their own needs."

I think sustainable development can be expanded to include preserving the integrity and beauty of the natural environment for enjoyment of current and future generations, economic vitality, human health and well-being, and community prosperity and social justice. As we recognize World Population Awareness Week, we must be mindful of the need to adopt sustainable development initiatives to balance our planet's dwindling natural resources with our population growth so that future generations can prosper.

A TRIBUTE TO EULA KAY BURRY BRIGGS

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to take a moment to recognize the life of an outstanding individual who spent most of her 83 years in my district. Mrs. Eula Briggs was born in Greenville County, SC, but moved to Madison County, NC, when she was 14 years old. At the age of 18 she married Clarence W. Briggs and reared three sons, all of whom she was very proud. Lee Roy, the oldest, taught school for a while before going to work for the Agricultural Stabilization and Conservation Service. Bruce earned his law degree, served as a State senator and also as a superior court judge. Her youngest son, Bill, worked several years, for the State of North Carolina and is currently the Madison County clerk of court.

As a member of the Madison County Republican Women's Club, Mrs. Briggs was presented the Woman of the Year Award by the North Carolina Federation of Republican Women in 1987. She was the last charter member of Calvary Baptist Church in Mars Hill where she was active in the Women's Missionary Union and taught the nursery Sunday school class for many years. She was affectionately called Granny Briggs by all in the church.

Mrs. Briggs passed from this life on September 23, 1997. During her life she was a homemaker and devoted to her family, church, and community. She worked diligently to see that all of her sons received a college education, and she was adored by her five grandchildren, Ashley, Grayson, Kelli, William, and Lydia. She was indeed a virtuous woman as described by King Solomon in Proverbs 31, "* * * Her children arise up, and call her blessed * * * a woman that feareth the Lord, she shall be praised * * *."

CONGRATULATING THE CLAY COUNTY HIGH PANTHERS

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. RILEY. Mr. Speaker, I rise today with enormous pride to congratulate and commend my hometown football team, the Clay County High School Panthers, on breaking the Alabama record for the most consecutive wins in high school history. This 2A classified team, with 42 players, claimed their 51st straight victory on Friday night, October 17, over Reeltown High School with a score of 43 to 16.

This victory is an enormous credit to the CCHS football team, as well as to their parents, the cheerleaders, the band and the student body, who have taken part in making this success possible. As a former player for the Panthers myself, I can appreciate the amount of work and sacrifice these young men have had to make in order to achieve this goal and applaud all their efforts in reaching this point.

Regardless of what happens in each of their lives, this is an honor and a memory that no one will ever be able to take away from them. I would also like to commend the Clay County High School coaching staff: Coaches Danny Horn, Jerry Weems, Garey Reynolds, Chris Herron, Chuck Freeman, Steve Burkhalter, and Bradley Cline. These men have molded each of these players into exceptional athletes and taught them the importance of teamwork, loyalty, dedication, and drive. And once the crowds stop cheering and the band no longer plays, it will be these lessons that will shape these teenagers into the men they will become. The Panthers have made their school, their coaches, and their entire town swell with pride, and I, as an alumnus and fan, would like to say congratulations on a job well done.

TRIBUTE TO DAVID J. AUGER

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to recognize David J. Auger as the 1997 Golden Horn Award recipient. This honor is presented to those who are deeply involved in our community and supportive of the Valley Cultural Center and its efforts to bring music to Woodland Hills.

The Valley Cultural Center seeks to enlighten, educate and enrich present and future generations by providing diverse programs through the performing and visual arts. Their programs include music therapy, community concerts, music in the schools, music for seniors, and performances for children.

David's contributions to the Valley Cultural Center are endless. As the vice president and general manager of Time Warner's Northern Region of the Los Angeles Division, David has solidified a partnership between Time Warner and the Valley Cultural Center and has made Time Warner a benefactor for the center. This partnership has resulted in $10,000 worth of financial support for the center and the development of a successful outreach program.

Today, David's main project in conjunction with the Valley Cultural Center is a video outreach program. With the use of video, David hopes to spread the benefits of music therapy to those outside of our community and around the world. His ingenuity in community involvement combined with his extensive record of service earns him this special recognition.

David's community service extends beyond the Valley Cultural Center to include the Valley Industry Commerce Association, Pacific Lodge Youth Services, Cal State University foundation, and the Los Angeles Cable Operators Association. His previous awards include the Tree of Life Award from the Jewish National fund, the Human Relations Award from the San Fernando Valley Interfaith Council and countless others which merely scratch the surface of his broad range of dedication and strength of his role in the community.

Mr. Speaker, distinguished colleagues, please join me in honoring David for his service and recognizing him as the 1997 Golden Horn Award recipient. His service dedication to our community distinguish David in our community.

RESTORING THE EXCLUSION FOR NON-OIL RELATED SHIPPING INCOME

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SHAW. Mr. Speaker, I am introducing legislation today to restore the exclusion of shipping income from subpart F of the Internal Revenue Code. When first enacted, subpart F did not tax the shipping income of foreign corporations owned by U.S. citizens. Shipping companies owned by U.S. citizens were allowed to compete on terms comparable with companies owned by foreign nationals. As a result, the U.S.-owned fleet represented over 25 percent of the total world fleet. The U.S.-controlled fleet made significant contributions to the Nation's security and it promoted the development of major shipping centers in the United States. The U.S.-controlled fleet alone generated hundreds of millions of dollars in tax revenues as a result of the voluntary repatriation of earnings from the fleet and the associated infrastructure generated billions of additional dollars of taxable economic activity.

In 1975, subpart F was amended to include shipping income that was not reinvested. As a result of the tax change, the U.S.-owned fleet began to decline and the centers of international shipping in the United States began their decline in prominence. As the once significant U.S.-owned fleet was forced to expatriate to remain competitive, related industries, including insurance brokers, ship management companies, surveyors, chartering brokers, technical consultants, and many others who provide services to the maritime industry followed. Tax revenues also declined. In 1986, this mistake was compounded with the imposition of taxes on reinvested shipping income. The U.S.-owned fleet now represents less than 5 percent of the world fleet.

Our major trading partners, on the other hand, have taken a different approach. They have adopted tax policies to ensure that their international shipping is competitive in world markets. As a result, the economic leadership of the United States in this vastly important sector of the economy has been lost. We simply do not have the fleet or the infrastructure to support even a modest percentage of our

own international trade. Subpart F has even contributed to the transfer foreign of the once significant U.S. flag fleet, which depends on foreign flag feeder vessels to be competitive. Recent transactions, including the agreement of Neptune Orient Lines to acquire APL, raise the troubling possibility of foreign control of the majority of the government supported U.S.-flag fleet. it makes little sense to spend scarce taxpayer dollars to support U.S.-flag shipping only to have our misguided tax policies undermine their competitive opportunities in international trade.

Restoring this exclusion also reflects sound tax policy. The United States generally does not tax U.S. shareholders on income until that income is realized, that is, the shareholders have dominion and control over the income. Subpart F of the Internal Revenue Code creates an exception to this general rule by taxing a U.S. parent corporation, or significant individual U.S. investor, on the income earned by a foreign subsidiary whether or not that income is paid to the U.S. parent, for example, in the form of dividends. Shipping income of such a U.S.-controlled foreign corporation [CFC] is subject to current taxation under subpart F, regardless of whether those earnings are distributed to its U.S. shareholders. But deferral properly remains the general rule, not the exception, under U.S. law.

There is no evidence whatsoever that the tax policy justifications for the application of subpart F—that seek to prevent the tax motivated expatriation of economic activity—apply to international shipping.

The U.S.-controlled fleet has declined from over 25 percent of the world fleet in 1975 to less than 5 percent today. This decline has in no way benefited U.S.-flag operations or U.S. employment. There has been no offsetting increase in the investment of U.S. persons in U.S.-flag shipping operations. Thus, however viewed, the current law has been a losing proposition for all U.S. interests.

Therefore, I am introducing legislation that will restore the exclusion of shipping income from subpart F of the Internal Revenue Code. While there has been disagreement on how to restore the American-owned fleet in international shipping, this legislation represents the most up to date thinking on how to accomplish that objective. It is the result of many hours of thought and consideration, and has received broad support from important elements of the maritime industry.

Specifically, the proposed amendment to the Code would restore the exclusion for non-oil related shipping income from subpart F. This deferral is available to U.S.-controlled groups, that is, groups under common control of the same ultimate owners, that maintain a U.S.-flag fleet of 4 or more ships of 10,000 deadweight tons or 2 or more cruise ships with at least 275 berths for passengers. The U.S.-flat fleet requirement will assure that groups benefiting from deferral will maintain at least a minimum U.S. investment, thereby bolstering the U.S. economy and providing U.S. jobs. It will also apply to shipping companies that operate in the Caribbean. This will serve the policy of fostering development in the Caribbean Basin as enunciated in the Caribbean Basin Economic Recovery Act. Finally, deferral is reinstated for companies that are not engaged in the carriage of the commerce of the United States. There is no conceivable justification for imposing U.S. taxes on the income of these foreign shipping companies controlled by U.S. citizens.

To further make available funds for expansion of a U.S.-flag fleet, the proposed amendment permits a controlled foreign corporation to loan funds for acquisition, construction, or reconstruction of a U.S.-flag vessel without triggering U.S. taxation of the funds. Further, the proposed amendment exempts in certain cases interest paid or accrued on the loan from U.S. withholding taxes to further foster investment in, and promote the competitiveness of, the subsidized U.S.-flag fleet. Ultimately, the success of that fleet will depend on policies that will help make U.S. flag operators more competitive. This proposal would do just that.

It was unfortunate that this legislation could not have been included in this year's tax reconciliation bill. Nevertheless, I urge my fellow members to support this proposal, which represents the current state of development of restoring America's presence in international shipping. I intend to include it in appropriate legislation at the earliest possible time.

TRIBUTE IN MEMORY OF VERALYNE HAMILTON

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the memory of Veralyne Hamilton, a remarkable woman whose lifelong commitment to her family, friends and the Bronx contributed to the nourishment and strengthening of our community. Her memory was honored on October 17 for her outstanding contributions to the communities at the Eighth Annual Salute to Excellence Awards Dinner hosted by the 163d Street Improvement Council, Inc. in New York.

Years of experience, dedication, and hard work led to her 1984 appointment as director of Community Boards and Affairs in the administration of Bronx Borough President Fernando Ferrer, the position she held at the time of her passing last year.

Previously, Ms. Hamilton served as the second vice chairperson for the Bronx Model Cities Program Committee from 1968 to 1972. She assisted in the development of proposals in physical development, education, multi-services, safety and sanitation for the Bronx. Her involvement in the Model Cities Program inspired and motivated her to pursue a career in urban planning.

Besides her service for the Model Cities Program, Ms. Hamilton was a member of Community Board #3 which includes the Morrisania community. She served as chairperson of the board and went on to become its district manager.

From 1973 to 1981, Ms. Hamilton was director of Labor Sherman Daycare in the Bronx. The center serves 235 children in daycare and after-school programs. She stressed the need to provide educational and housing workshops to parents and their children at the center. Many parents who initially were welfare recipients had enrolled in college by the time their children graduated from the daycare center.

Ms. Hamilton was born in 1934 in Norfolk, VA. She relocated to the Bronx in 1958 and attended Hunter College where she earned a bachelor's degree and a master's degree in urban planning.

She married Winston Hamilton and had four daughters, Pamela, Winifred and twins Joan and Joy. She had four grandchildren Malik, Yusef, Shani and Ziad. Ms. Hamilton left a legacy of courage, faith, hope, responsibility, love, and commitment to her family and community.

Mr. Speaker, I ask my colleagues to join me in paying homage to the life of Veralyne Hamilton, who still remains with us through the many people she served and touched.

CONCERNS REMAIN OVER CASSINI

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. FARR of California. Mr. Speaker, in the weeks prior to the launch of the Cassini spacecraft, I heard from many of my constituents who were greatly concerned about the use of plutonium in Cassini and its potential hazard.

I wrote to President Clinton before the launch, urging him to review the safety of the mission and address the concerns of Americans worried about the possibility of exposure to plutonium. I was greatly disappointed that he chose not to do so before Cassini was launched.

Thankfully, Cassini was launched without incident. But there are still important concerns about the use of nuclear power in space that need to be addressed. Furthermore, Cassini's trajectory will take it close to earth, and many are worried that this poses an additional threat of nuclear contamination.

I have been asked to submit a resolution, adopted by the City of Monterey on October 7, in opposition to the Cassini mission. It represents the concerns of many of my constituents, and raises important questions about the Cassini mission. Therefore, I ask unanimous consent that this resolution be placed in the CONGRESSIONAL RECORD.

CITY OF MONTEREY, CALIFORNIA

Resolution No. 97-185

Resolution of the City Council of the City of Monterey calling for the cancellation of the planned National Aeronautics and Space Agency [NASA] Cassini Space Probe launch and communicating the council's position to President Clinton and our congressional Representatives.

Whereas, as elected officials of the City of Monterey dedicated to the safety and protection of the public, we call for cancellation of the launch of the Cassini Space Probe which plans to carry 72.3 pounds of Plutonium-238 into space; and

Whereas, NASA's environmental impact statement outlines several scenarios in which Plutonium might be released including an explosion of the Titan IV rocket,

which is to loft the Cassini Space Probe into orbit, or an explosion of a small rocket, a Centaur, which is to propel the Probe on to Saturn; and

Whereas, presently NASA's environmental impact statement warns that "approximately five billion of the estimated seven to eight billion world population could receive ninety-nine percent or more of the radiation" if an inadvertent reentry occurred; and

Whereas, scientists and medical experts indicate that the "number of cancer doses are so high as to make calculations extraneous" and that the speed at which the Cassini Space Probe would hit the Earth's atmosphere would completely disintegrate the Probe and release all the Plutonium; and

Whereas, there is no medical disaster plan in place that could be adequate in case of a Cassini Space Probe accident; and

Whereas, worldwide fallout would contaminate much of the globe for generations and severely damage all living things; and

Whereas, there is no need to use deadly Plutonium at all due to a breakthrough in the development of new high-performance solar silicon cells for use in the future for demanding deep space missions. Now, therefore, be it

Resolved, That the City Council of the City of Monterey calls on the President and the Congress immediately to stop NASA from launching the Cassini Space Probe.

PERSONAL EXPLANATION

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. LEWIS of Kentucky. Mr. Speaker, due to the serious illness of my sister and her passing on October 10, I was unable to be in Washington, DC from October 7, through October 9. I would appreciate having the record reflect that I would have cast the following votes, had I been present:

H.R. 1122: PARTIAL BIRTH ABORTION—YES ON VOTES 499 AND 500

Over the years I have been a strong supporter of the unborn and consistently cast my vote in favor of pro-life issues. This is an issue that I feel very strongly about. I voted in favor of H.R. 1122 earlier this year, and during the 104th Congress. Had I been present, I would have again voted yes on H.R. 1122 to end the horrific practice of partial birth abortion.

H.R. 901: AMERICAN LAND SOVEREIGNTY PROTECTION ACT—NO ON VOTES 498, 501, 502, 503 AND YES ON 504

As a cosponsor of H.R. 901, I strongly support this measure which would ensure congressional approval is given before any U.S. land is designated as a World Heritage Site, a Biosphere Reserve, or is given any other U.N. designation. Had I been present, I would have opposed any weakening amendments and voted for final passage of this important legislation.

H.R. 2158: VA, HUD APPROPRIATIONS ACT CONFERENCE REPORT—YES ON 505

I supported this measure when it was passed by the House, earlier this year. This final version continues to increase support for veterans programs while controlling spending in other areas as agreed to in the Balance Budget Act.

MOTION TO INSTRUCT ON H.R. 2169—YES ON 506

I would have supported this motion to instruct the conferees on the State Department Reauthorization Act to prohibit the use of any Federal funding by private organizations that promote abortion. Once again, I would have voted yes to protect the unborn and prevent any efforts to promote abortions worldwide.

H.R. 2169: TRANSPORTATION APPROPRIATIONS ACT—YES ON 507 AND 510

While I support efforts for long-term improvements to the surface transportation funding system, I was pleased that this bill increases spending for infrastructure necessities next year, and would have voted yes.

APPROVAL OF THE JOURNAL—YES ON 509

H.R. 2607: DISTRICT OF COLUMBIA APPROPRIATIONS ACT—NO ON 511, 512 AND YES ON 508, 513, AND 514

I would have supported this measure because it includes important, necessary changes to the education system in the District of Columbia, such as the implementation of voucher programs for students. I would have voted against efforts to prevent the voucher program from moving forward. Had I been present, I would have also opposed the Vento amendment that in my view, would delay repair work at dilapidated District schools.

IMMIGRANT ADOPTIVE CHILDREN IMMUNIZATION

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. MCCOLLUM. Mr. Speaker, I would like to commend Chairman LAMAR SMITH for committing his time and effort to swift passage of H.R. 2464. Chairman SMITH played a vital role in responding to the concerns of adoptive parents and moving H.R. 2464 through the committee process. I would also like to thank my colleague, Rep. DELAHUNT, for his active interest in this issue and for his support of this legislation.

One of our Nation's resounding successes is our vaccination policy. By age 6, almost 95 percent of children in the United States have received their recommended vaccinations. It is no less than amazing that we have been able to curtail such childhood diseases as polio, mumps, whopping cough and diphtheria—diseases which once killed hundreds of thousands in the United States.

But, if we are to continue to protect our children from such deadly diseases, we cannot let our guard down. Many may remember the 1990 U.S. measles outbreak which killed 89 people. Measles is a prime example of a disease that is completely vaccine preventable which continues to hospitalize and kill people in the United States. In fact, it is estimated that over a million people die worldwide from measles every year, with tens of millions of cases reported.

We simply cannot become lackadaisical about vaccinating against diseases, such as measles, which remains a potent killer in the rest of the world. That is why I authored a provision in last year's Illegal Immigration Reform and Immigrant Responsibility Act to require incoming immigrants to receive certain immunizations before entering the United States. That provision took effect as of July 1, 1997.

Soon thereafter, I heard from numerous parents of internationally adopted children that the foreign immunization requirement posed a unique risk for young orphans adopted from abroad.

After carefully reviewing their concerns, and taking into consideration the fact that these adoptive parents are not familiar with the foreign medical community or with the medical histories of these young orphaned children, I introduced H.R. 2464 to exempt internationally adopted children under age 11 from the immigration vaccination requirement.

In addition, these adoptive parents will sign an affidavit stating that they will have their adopted children immunized within 30 days of entering the country or as soon as medically appropriate. This affidavit will primarily serve to remind parents of the vital importance of having their children immunized once they arrive in the United States. Since most children in the United States receive their vaccinations by age 6, it is essential that these adopted children receive their vaccinations as soon as possible and I am confident that these American parents will responsibly honor the affidavit.

Mr. Speaker, I am hopeful that enactment of H.R. 2464 will serve the dual purpose of protecting internationally adopted children from foreign vaccination risks while ensuring that these children receive vaccinations once in the United States. I urge all my colleagues to support H.R. 2464.

TRIBUTE TO SERGEANT DEREK DANIEL DIAZ

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to honor bravery and to congratulate Sergeant Derek Daniel Diaz on his reception of The Citizens' Choice Award. This award is presented to America's finest officers who have gone beyond the call of duty to ensure that our communities are secure and our children are safe. The following story illustrates Sergeant Diaz's heroism and serves as an extraordinary example of his dedication to our community.

Danger is always a heartbeat away for police officers, and May 24, 1996 was no exception for Sergeant Diaz. At 4 a.m., a woman called 911 and reported that she had just been shot and gave descriptions of the suspects and their vehicle. Sergeant Diaz volunteered to handle the call with the assistance of five other units. He quickly spotted a car fitting the description, and followed it until the two suspects jumped out of the moving vehicle which then crashed.

The suspects who were now on foot split up and Sergeant Diaz chased the driver and tackled him in an alley. Officer Byron Joseph then arrived on the scene, and despite the combined strength of the two officers, a violent struggle ensued with all three falling to the ground. Suddenly, the suspect produced a pistol and shot Sergeant Diaz in the base of the neck and Officer Joseph in the arm.

Sergeant Diaz, wounded and on the ground, looked up to see the suspect preparing to shoot Officer Joseph again. Fearing for the life of his fellow officer, Sergeant Diaz prevented the suspect from killing Officer Joseph and with a single shot, fatally wounding the suspect. Sergeant Diaz then collapsed to the ground.

Sergeant Diaz's courage and will to survive undoubtedly saved the life of Officer Joseph as well as his own. But in spite of this heroic act and countless others, Sergeant Diaz refuses to accept The Citizens' Choice Award only for himself. Rather, he is a custodian of this award for all police officers who put their lives on the line every night and every day.

Mr. Speaker, distinguished colleagues, please join me in honoring Sergeant Diaz for his bravery and heroism and upon reception of The Citizens' Choice Award. This recognition is long overdue.

TRIBUTE TO MARY CLARDY

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to recognize Mary Clardy, an extraordinary young woman whom, I am proud to say, is a constituent of the 18th Congressional District of Texas. I want to congratulate Ms. Clardy for her selection as the 1997 Peter J. Salmon National Blind Employee of the Year by National Industries for the Blind.

The Peter J. Salmon Award is given annually by the National Institute for the Blind to a blind employee working at one of the institute's 87 associated agencies throughout the country. The award recognizes outstanding achievement at work by a blind employee and this year is given to Ms. Clardy for her desire to, in her own words, "make it on her own."

Mary Clardy is dedicated and determined. Blind since birth, Ms. Clardy, age 37, has excelled professionally as a telecommunications operator at the Veteran's Affairs Medical Center in Houston, TX.

Ms. Clardy's supervisor at the VA says that Ms. Clardy represents everything that a good employee should be. Her exemplary performance at work, and her dedication and enthusiasm for her job are an inspiration.

Ms. Clardy has said, "I found out that, despite a misdiagnosis that I was mentally retarded, despite the fact that I have epilepsy, and despite the fact that I can not see, I can learn and I can work. It's that simple."

At an early age, Mary Clardy was told that she would be lucky to land a job as an assembly line worker. Today, however, she handles up to 70 calls an hour at the VA's switchboard, many requiring emergency response techniques.

Mary Clardy was born prematurely in Hobbs, NM in 1960. She developed retrolental fibroplasia at birth from a high level of oxygen emitted from an incubator and lost her sight. She graduated in 1978 from the School for the Blind in Muskogee, OK, moved on to Arkansas Enterprises for the Blind in Little Rock, AR, and then attended the Crisis Cole Rehabilitation Center in Austin, TX.

In 1983, the Lighthouse of Houston hired Ms. Clardy to work on contract assembly jobs. She says, "I worked for almost 10 years at a job that everyone thought I was suited for, but it wasn't what I wanted."

When a clerical program started at the Lighthouse, Mary Clardy convinced her counselor at the Texas Commission for the Blind to enroll her. Over the next year, she learned to type and operate a computer. She then pushed to be one of the first students at the Lighthouse's customer service training program. That led her to her current position at the Lighthouse as one of six telecommunications operators working at the VA Medical Center. Ms. Clardy credits the Lighthouse for helping her to develop the skills for this job, which she views as another step toward competitive employment. "If you want something bad enough, there is always a way to achieve it," she says. This is a winning attitude and one that has carried Mary Clardy to great success.

Congratulations, Mary Clardy, on your receipt of this award. I commend you for your hard work, your dedication, and your strength of spirit.

TRIBUTE TO BRONX COMMUNITY COLLEGE ON ITS 40TH ANNIVERSARY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Bronx Community College, part of the City University of New York and an invaluable Bronx institution, which will celebrate its 40th anniversary on October 22.

Back in 1957, thanks to the efforts of some civic-minded groups in the Bronx to meet the need for increased higher education facilities in the "Borough of Universities and Progress", Bronx Community College was established. An energetic president, Dr. Morris Meister, launched an enterprise that was ultimately to help tens of thousands of ambitious people find a place a advance in the business world. Classes began in February 1959 at the former site of the Bronx High School of Science at Creston Avenue and 184th Street.

In the ensuing four decades, under the leadership of Dr. Meister, Dr. James A. Colston, Dr. Roscoe C. Brown, Jr., and Dr. Leo A. Corbie, Bronx Community College has grown to be a modern community college offering 2–year associate degree programs in a variety of disciplines. The college's community service programs currently serve more than 25,000 residents of the city through academic upgrading, job training and placement, cultural enrichment, and recreation.

Throughout its existence, Bronx Community College has adhered to the highest standards. In its early days, the reputation it built through the success of its graduates helped BCC to achieve steady growth in difficult economic times. Most BCC graduates find employment in positions related to their fields of study thanks to a partnership with local businesses and industries.

Mr. Speaker, on that same day, BCC will welcome its new leader, Dr. Carolyn Grubbs Williams, an outstanding individual who has dedicated her life to education and public service. She will be installed as the fourth president of the Bronx Community College. The first female to lead Bronx Community College, Dr. Williams was named president in June of 1996.

Dr. Williams earned a bachelor's degree in sociology, a master's degree in urban planning and a Ph.D. in higher education, all from Wayne State University in Detroit. She has shown the importance of higher education, with a focus on community college throughout her long and distinguished career. She is an expert in designing programs to help community college students continue their education beyond the traditional 2 years.

Through her years of service, she has worked for several higher education institutions. Before coming to New York, she has served as vice provost of Wayne County College and acting vice president for Academic Affairs at Highland Park Community College, both in Detroit. She also has served as consultant for the Ford Foundation Urban Transfer Opportunity Program and the United Negro College Fund's Transfer Opportunity Program.

The business, professional and civic organizations to which she belongs, like the honors and awards she has been given demonstrate that. Dr. Williams joins BCC with many lessons learned in leadership in education, community service, and wisdom. It is our hope that the addition of Dr. Williams to the Bronx Community College will bring continued success to the institution.

Mr. Speaker, I have the privilege of representing the 16th district of New York where Bronx Community College is located and I am delighted by its success. In addition, I participate every year in the 10K race organized by BCC.

I ask my colleagues to join me in paying tribute to Bronx Community College, to the administration and faculty, and to the students, whose ambition and hard work have made this great institution a tremendous source of pride and success for the last 40 years.

WE MUST PROTECT OUR CHURCHES AND CHARITIES

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. PACKARD. Mr. Speaker, how much of the work done by your church or favorite charity depends on the generous donations of parishioners and contributors like yourself? Did you know that creditors can take already donated money from them because current bankruptcy law allows them to do so? It's unbelievable, but it's true.

In a recent case, a U.S. Federal Bankruptcy Trustee brought an action against the Crystal Evangelical Free Church of New Hope, MN. In doing so, the unprecedented case reinterpreted the Bankruptcy Code to mean that if an individual gives money to a nonprofit group within 1 year of declaring bankruptcy, creditors

can come after the group to reclaim this money. Why? Because an individual must receive something of reasonable equivalent value in return for a monetary donation.

Mr. Speaker, current law essentially says that if an individual has filed for bankruptcy, he cannot simply donate money to a charitable organization or to the church. However, because the Bankruptcy Code allows for certain "entertainment exemptions," taking a luxury vacation, purchasing liquor, buying a new car, or making 1–900 calls to psychics, are all reasonable expenditures.

This case outraged me and I decided to do something about it. I introduced legislation in early October to protect certain charitable contributions. Known as the Religious Liberty and Charitable Donation Protection Act, this legislation will amend U.S. Code to protect our Nation's churches and charities from the hands of creditors.

Mr. Speaker, H.R. 2604, the Religious Liberty and Charitable Donation Protection Act will allow your church or favorite charity to continue to thrive and prosper. Donations received in good faith from individuals will not be taken from their pockets by creditors. I encourage all of my colleagues to cosponsor this important legislation. As the holidays quickly approach, we must work to address the needs of our churches, charities, and the less fortunate who rely on their vital services. H.R. 2604 will do just that.

CONFERENCE REPORT ON H.R. 2158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. MARK W. NEUMANN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. NEUMANN. Mr. Speaker, as a former homebuilder, I have always thought that the steps people must take to purchase homes and get mortgages is confusing and difficult. I rise today to express my concern with a new HUD proposal which threatens to make buying a home even more difficult and more expensive for millions of Americans: HUD's proposed change to Regulation X which implements the Real Estate Settlement Procedures Act [RESPA].

RESPA was passed in 1974 to address two concerns. First, it requires lenders to inform borrowers of the costs they will face once they close on a home loan. Second, it prohibits lenders from making referral payments to individuals or businesses who recommend their services.

Congress did not anticipate recent innovations in the mortgage banking industry when it passed RESPA. Mortgage brokers now play key roles in serving home buyers, particularly those with lower incomes. RESPA's outdated approach has resulted in over 50 class action lawsuits claiming that lender-paid mortgage broker fees are prohibited because they are referral fees, despite the fact that these fees have helped cut the closing costs for home buyers.

Congress has before it a bill I have cosponsored, H.R. 1283, which would call a time out on these lawsuits until RESPA can be reformed to reflect current market operations. On March 3 of this year, over 30 bipartisan Members of Congress—including several from the HUD Appropriations Subcommittee—signed a letter written by Housing Subcommittee Chairman Lazio asking HUD to clarify RESPA's definition of lender-paid broker fees to make sure it protects consumers without restricting access to affordable mortgage credit. However, this new rule could reduce mortgage brokers ability to help people by setting fixed fees in addition to requiring fee disclosure.

As a member of the Subcommittee on VA/HUD and Independent Agencies of the House Appropriations Committee, I believe HUD should delay this new rule as long as Congress is working faithfully to update RESPA. Secretary Cuomo has already committed to delaying the implementation of similar RESPA rule regarding employee compensation while Congress works to reform RESPA. I am hopeful similar consideration will be given to proposed changes to Regulation X. I am confident that in the end, Congress will approve a new law that makes it easier for both consumers and lenders.

TRIBUTE TO THE CONSTRUCTION INDUSTRY

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SESSIONS. Mr. Speaker, I'd like to take the opportunity to commend a segment of our working population that seldom gets the recognition it deserves. The construction industry, one of the largest industries in the Nation, provides well paying jobs with valuable career opportunities for close to 5 million American workers every year. To remain at the present level of activity, the construction industry needs an additional quarter of a million workers per year to replace an aging and retiring workforce. As it continues to bring productive and talented craftsmen and women into its ranks, the construction trade deserves our thanks.

In order to keep pace with the growing construction needs of the American public, there must be adequate and appropriate training for individuals seeking to enter this important industry. Today, there is a program in place to meet that need. The National Center for Construction Education and Research administers a nationally recognized construction training program that allows individuals to advance at their own speed and competency to develop solid lifetime career opportunities. The merit shop believes work opportunities should be based on merit and recognizes the National Center for Construction Education and Research training programs as critical for today's workers.

No two individuals work at the same pace. That's why the merit shop is the perfect place to teach and develop careers for the construction workers of America. The merit shop, through organizations such as Associated Builders and Contractors, is committed to perfecting training programs that are both efficient and effective, in order to meet the need for a highly skilled construction work force.

An additional bonus of the merit shop apprenticeship programs is that they are excellent places for welfare recipients to gain on the job training and work experience through entry level jobs, which are the first step to obtaining the skills necessary to secure a career in the lucrative and rewarding field of construction. And merit shop contractors provide on the job work experience along with classroom training at the local level through nationally standardized and portable curricula.

On October 16, 1997, the industry reached out to 175,000 students, teachers, counselors, and parents at some 3,500 high schools and universities through a nationwide video teleconference sponsored by the National Center for Construction Education and Research on opportunities for entering the construction industry.

As the demand for highly trained and experienced construction workers increases, merit shops have consistently stepped in to fill that need. They will continue to offer Americans the training they need to fulfill the needs of the construction industry, and supply the increasing demands of economic growth in America. I applaud their efforts, and commend them for the excellent services they provide to the American people.

TRIBUTE TO THE THOUSAND OAKS SISTER CITY COMMITTEE

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to recognize the exemplary sister city effort between Thousand Oaks, CA and the City of Spitak in Armenia. In December 1988, Spitak was devastated by an earthquake which killed half its population. Thousand Oaks residents, led by Dr. Michael Hagopian, a prominent Armenian-American, coordinated a disaster relief effort by appealing to the community for donations and supplies.

The efforts were met with overwhelming community response which led to the formation of the Thousand Oaks Sister City Committee, a permanent link between the cities of Spitak and Thousand Oaks. Mayor Robert Lewis of Thousand Oaks and Mayor Arsen Ohanian of Spitak formally established sister city ties in 1992.

That same year, then-Mayor Alex Fiore of Thousand Oaks helped launch a fund raising drive to rehabilitate an apartment building in Spitak which housed 20 displaced families. Thousand Oaks residents and businesses provided $30,000 in this effort.

Since 1994 the Thousand Oaks Sister City Committee has sponsored Armenian-American cultural programs and educational and humanitarian efforts, including the Dr. Michael Hagopian Scholarship Fund. The committee

has funded a community center and hostel while providing donations to orphans and families in Spitak.

The Thousand Oaks Sister City Committee has also sponsored exchange visits for students and representatives, including Mayor Suren Avetisyan and Sister City coordinator Edward Sarkisyan. Several committee members travel regularly between Thousand Oaks and Spitak.

Mr. Speaker, I would like to recognize, in particular, several dedicated Thousand Oaks Sister City Committee founders and supporters, who have made great contributions to the sister city effort, including Mrs. Lauren Balekian, Mrs. Katie Bedrosian, Mrs. Annabelle Lee Darakjian, Mr. Raymond A. Garcia, Mr. Don Goodrow, Dr. Michael Hagopian, Mr. Sark Keochekian, Mrs. Judy Lazar, Mr. Michael Markey, Mr. Vasken Melkonian, Dr. Andrew Mikaelian, Ms. Caroline R. Milton, Mrs. Frances Prince, and Mrs. Nora Sahagian.

From the devastation of the 1988 earthquake was born a strong relationship between two geographically distant peoples. The efforts of residents of the Thousand Oaks community, on behalf of those in Spitak, has created an everlasting bond between Americans and the people of Armenia and Artsakh.

TRIBUTE TO ALBERT P. MAURO

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to salute a great man from Kansas City, Albert P. Mauro, as the first recipient of the American Citizen Award presented by the Southtown Council which for 15 years has brought together area businesses, associations, institutions, and neighborhoods to educate and strengthen our community. Mr. Mauro has served our community for over 40 years. In 1954 he was an assistant to City Manager L.P. Cookingham. He went on to lead the fight to end segregation at General Hospital. He was the public policy architect behind the vision for combining all the entities on hospital hill and more importantly the collaborative funding sources—that is, city, State, county, Federal, and so forth. No other complex has had such a diverse and complex fund mechanism. Through his work, the economic development of our area thrived. His leadership contributed tirelessly to the campaigns for the Boys and Girls Club, the Genesis School, and in securing the construction of the Deramus Education Pavilion at the Kansas City Zoo. Although he has retired as vice president and corporate secretary of Kansas City Southern Industries, he continues to chair the downtown council and serves on numerous boards and civic associations.

Mr. Mauro's combination of compassion and ingenuity have produced a brighter future for Kansas City. I join with the Southtown Council in recognizing Mr. Mauro for his leadership, integrity, and friendship.

Mr. Speaker, I congratulate Mr. Mauro on his well-deserved receipt of the First Southtown Council American Citizen Award.

IN MEMORY OF KEVIN DUANE NEWSOME

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to offer words of gratitude and recognition for the wonderful life that Mr. Kevin Duane Newsome lead in his Houston community.

I was saddened at hearing of the passing of Mr. Kevin Duane Newsome: son, husband, father, colleague, and friend to those who knew him.

A child is a mother's and father's best hopes and dreams personified. A husband is a wife's best friend, companion, and advisor. A brother is a counselor, aide, and active participant in the lives of his siblings. A certified public accountant a counselor and aid to others. A businessman is a pillar for our community.

Mr. Kevin Duane Newsome was a father in the true sense of the word, man of the finest and most honored titles that anyone can hold in a life time.

His sons Kevin Jr. and Jarrad had there father for only a brief time, but they knew that he loved them through his commitment to them and their mother, Deborah.

There is a lot that I could say, but a day or a week, not even a month would allow me enough time to express all that Kevin Duane Newsome was to his mother, his wife, to his sons, to his sister, to his friends, to Wesley Chapel A.M.E. Church, or to Houston business community.

Kevin Duane Newsome was a native son of Houston, TX. For those who knew him best, Kevin was a role model. It is easy for all to see the importance of role models for children, but as adults we soon forget the importance of having our own role models who can provide visible signs of triumphant over the complexities that life has to offer. Kevin taught us that truth matters, that honesty matters, and that fairness matters. Kevin Duane Newsome kept his focus on people and it showed in his relationship with his family and friends.

Kevin grew up in and attended Houston Independent School District schools. He obtained a bachelor in business administration in 1979 and a masters of business administration in 1984 from the University of Houston. Kevin's professional career included audit positions with Authur Anderson Co. and the city of Houston. In 1984, he joined Texaco, Inc., as an internal auditor. Most recently he was promoted to manager of quality human resources.

As the words of the Lord are recorded in St. John chapter 10, verse 27 to verse 30, He said:

> My sheep hear my voice and I know them and they follow me. And I give unto them eternal life; and they shall never perish, neither shall any man pluck them out of my hand.

Kevin heard the call for community and public service following graduation, he pledged and became an active member in Alpha Phi Alpha Fraternity, Xi Kappa Lambda Chapter. Kevin's civic activities included Houston Community College System Citizen's Advisory Board, Sam Houston Area Boy Scouts Speakers Bureau, University Oaks Civic Club, Junior Achievement, and University of Houston College of Business Alumni Board. Kevin's political involvement included candidate for Harris County treasurer in 1990, candidate for district clerk in 1994, Coalition of Black Democrats and alternate delegate to the 1992 Texas State convention.

In Isaiah chapter 40, verse 31, it is written: "But they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk, and not faint."

After a bout with multiple myeloma, Kevin Duane Newsome passed away on Sunday, September 14, 1997. He leaves to cherish his memories his wife, Deborah; two sons, Kevin Duane, Jr. and Jarrad Anthony; mother Mable L., and a sister Kimberly.

I would like to offer the Newsome Family my deepest sympathy at this difficult time.

TRIBUTE TO TERESENA (TERRY) WISE BRYANT

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Ms. Teresena Wise Bryant, an outstanding individual who has dedicated her life to public service and education. She was honored on October 17 by parents, family, friends, and professionals for her outstanding contributions to the community at the Eighth Annual Salute to Excellence Awards Dinner hosted by the 163d Street Improvement Council, Inc. in New York.

Born in Florida, Ms. Bryant, known as Terry by her friends, moved to New York City in 1964 after receiving a bachelor's degree from Florida A&M University. In 1977, she earned a master's degree in public administration at New York University. She has shown the importance of life-long learning as she has continued to take postgraduate courses in educational fields.

Through her years of service, she worked for several governmental agencies. Her career started as an assistance bookkeeper with Standard Motors. Later she worked as a homebound instructor with the White Plains Board of Education before she was hired as a teacher of recreation in the New York City Board of Education/Continuing Education Division. Within 6 months, she was recommended and hired as director of community education, Mohegan Community Center/P.S. 67 in the Bronx. She went on to become assistance executive director of contract development for the Youth Board/Bureau/Youth Services Agency. In 1987, Terry returned to the New York City Board of Education as special assistant to the Bronx board member.

Terry clearly believes that electoral politics is honorable public service. For 18 years, she was the campaign manager and confidential/political assistant to the late State Senator Joseph L. Galiber and she managed the election campaign for Bronx District Attorney Robert

Johnson, the first and only African-American district attorney in the State of New York. She is an expert in redistricting and reapportionment of Councilmanic, State Assembly, and senatorial as well as congressional lines.

The business, professional, religious, and civil organizations to which she belonged, like the honors and awards she was given are almost beyond counting. Terry retired last year after a fruitful career in public service. Ms. Bryant leaves us with many lessons learned in community service, leadership in education, and wisdom. A talented leader and educator, Ms. Bryant will continue sharing her knowledge and views with her family and friends.

Mr. Speaker, I ask my colleagues to join me in recognizing Ms. Teresena Wise Bryant for her outstanding achievements in education and her enduring commitment to the community.

IN HONOR OF DOMINICK DELLA ROCCA "THE LEGENDARY PIED PIPER"

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to acknowledge the outstanding pillars of our communities. In my neighborhood that pillar is Mr. Dominick Della Rocca. He represents what it is to be an exceptional human being, for without hesitation he has given so much of himself.

Before and after his World War II service, Mr. Della Rocca participated in and helped to organize neighborhood baseball games. Over the years, and with much local support, he developed many community activities for the young people of the neighborhood like the Buck Wingo Athletic League and the Fort Greene Civic Center.

His attention later turned toward the needs of handicapped children. With the generous help of a lifelong friend, he helped start Camp Montebello for Blind Children. What started as a modest effort transformed into a project of love which permitted children with visual impairments to participate in camp activities like so many of their peers.

Over the years many in the community have come to know, love and admire Della Rocca's natural ability to bring people together. There are few out there today who can turn charity into fun and excitement, something you love and look forward to performing time and time again. It was the popularity he gained from his charitable works that earned him the title of Executive Chief Mayor of the Locality Mayors. It has been in this capacity where he has focused the attention of the Community Mayors (also known as Locality Mayors) onto the needs of handicapped children of the area.

The Community Mayors, with the generous donations of many local businesses and neighbors, have been able to raise over $160 million to fund a number of programs for handicapped children. Events such as Operation Santa Claus, the Mets at Shea Stadium, Astroland at Coney Island and an exchange student journey from Milan, Italy to Brooklyn, NY are but a few of the activities which have brought much joy to the children with special needs in our community.

However, one of Della Rocca's greatest and most impressive achievements remains receiving the highest humanitarian honor from the Roman Catholic Church. Della Rocca was knighted by the Pope to the Magistral Knight of Sovereign Military Order of Malta. We are all very proud of this magnificent accomplishment.

In honor of his 50 years of service as a Community Mayor and for helping bring joy and hope into the lives of 3,200,000 special needs children, I rise today to salute this generous individual. Thank you Mr. Della Rocca for setting such a wonderful example for us all, I hope others will follow in your footsteps and spread your good works.

IMPROVE THE SAFETY OF BOATERS IN SOUTHERN LAKE MICHIGAN

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. BLAGOJEVICH. Mr. Speaker, I rise in support of locating a Coast Guard search and rescue helicopter in the southern end of Lake Michigan. Currently, there is only one Coast Guard search and rescue helicopter which serves southern Lake Michigan. Until 1995, this helicopter was located at the Coast Guard Air Station Chicago in Glenview, IL. In 1995, the Glenview facility was downgraded to a seasonal air facility. Subsequently, the Coast Guard decided to move the helicopter facility to Muskegon, MI. While the justification for the move from Glenview is clear, I respectfully disagree with the Coast Guard's choice of Muskegon as the alternative location for the air facility. Located 120 nautical miles from the southern end of Lake Michigan, Muskegon is simply too far away from where the majority of boating activities and accidents occur in Lake Michigan. I believe the Gary Regional Airport, in Gary, IN, is a more appropriate location for the facility.

Events during the course of the last few months have highlighted the need for a helicopter rescue team which can respond quickly to emergencies in southern Lake Michigan. On April 6, two fishermen died in a boating accident near east Chicago, IN, despite search efforts by boat and helicopter. A Coast Guard rescue helicopter had already been flying for more than an hour when it arrived in Gary, IN, to refuel and join the search for the missing boaters. The Coast Guard estimates that a person wearing a lifejacket can survive for about 4 hours in 40-degree water. It is clear that even 1 hour could mean the difference between life and death when boaters are in an emergency situation in Lake Michigan.

In June of this year, a man and his disabled jetski floated for 2 nights off a Chicago beach, waiting to be rescued. This event highlights the fact that emergencies which require helicopter search and rescue response occur within a few hundred yards of Chicago's beaches. Although this man was fortunate to have been able to float on a jetski, his experience demonstrates that there could well be a time when someone must survive in the icy cold of Lake Michigan waiting the hour it takes for the Coast Guard to fly from Muskegon to Chicago.

According to July 1996 Census Bureau statistics, the population of counties bordering Lake Michigan in Indiana and Illinois is 6.4 million people. Michigan's shoreline population in the counties south of Muskegon is only 715,748. It stands to reason that the more populated areas of the Lake Michigan shoreline are at greater risk for boating accidents. In addition, Northwest Indiana's casino boats, which carry thousands of people each year, Chicago's dinner and sightseeing boats, which carry over 1 million passengers each year, and the over 1,000 flights a day which make their final descent over Lake Michigan accentuate southern Lake Michigan's need for Coast Guard helicopters that can respond very quickly to emergencies.

On an average day in the summer, there are roughly 2,000 boats in the water along the 70 miles of shoreline from Gary to Waukegan. This tremendously heavily traffic gives rise to an average of 10 to 20 Coast Guard search and rescue boat missions a day within 3 to 5 miles of the Waukegan/Gary shoreline. These overburdened Coast Guard boats are responsible for not only the shoreline, but also the Chicago River, the Calumet River, and the Cal-Sag Channel west to Joliet. The increased risk to boaters due to this situation was brought to light by a recent Chicago Sun-Times article which reported that almost seven times more people have died in the lake waters near the Gary to Waukegan shoreline or connecting rivers in the past year than that in the previous year. Twenty-six people have died since October 1, 1996, compared to just four during the previous fiscal year. Even the Coast Guard's acting commander of the Chicago area has remarked that this number is, "extremely high." Nine of these deaths were the result of plane crashes, 11 deaths involved boating incidents, and 2 people died in jet skiing accidents.

Gary, IN, which is only 10 minutes flying time from Chicago, is ideally situated to provide the quick emergency response service needed in southern Lake Michigan. While some have suggested Waukegan as an alternative site, it takes a helicopter 19 minutes to fly from Waukegan to Chicago—9 minutes longer than from Gary. At the same time, a helicopter based in Gary can reach Chicago's north shore communities in 26 minutes—almost half the time as a helicopter flying from Muskegon. Moreover, with a control tower operating 24 hours a day and the second longest runway in the region, the Gary Regional Airport is already equipped to handle a helicopter station and would need no expensive improvements to maintain an air facility. Moving the Coast Guard search and rescue helicopter from Muskegon to Gary has the support of a majority of the Chicago and Indiana congressional delegations, including Senators DURBIN, MOSELY-BRAUN, COATS, and, LUGAR, as well as Mayor Daley, Governor Edgar, Governor O'Bannon, and Illinois Secretary of Transportation, Kirk Brown.

Mr. Speaker, although it may cost slightly more to locate a Coast Guard helicopter in Gary, the question before us is about saving lives, not about saving money. Clearly, a helicopter based in Gary has the potential to save more lives than one which sits over 45 minutes away in Muskegon, MI. This is why I, along with Representatives VISCLOSKY and LIPINISKI, requested the GAO to conduct an independent, nonparochial assessment of which location best protects the safety of those who live and recreate in southern Lake Michigan. It is my hope that the results of this study will impress upon my colleagues the need for more timely Coast Guard search and rescue helicopter response service in southern Lake Michigan. I look forward to working with my colleagues on this issue in the days ahead.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. KIND. Mr. Speaker, it has now been over 100 days since the July 4 deadline that President Clinton set for consideration of campaign finance reform. We still have not been given the opportunity to debate any legislation that would change the current campaign finance system. Time is running short as we near the end of our legislative year, it is vital that we take action immediately on campaign finance reform.

Today an effort by Democratic Members of the House to force a vote on campaign finance reform failed. This vote occurred during debate of legislation to reauthorize the U.S. Coast Guard, an important bill that deserves our consideration and support. Unfortunately, those in this House, Democrats and Republicans, who support reform have been forced to use parliamentary tricks and delaying tactics in an attempt to force a vote on legislation. Other parliamentary tricks are expected this week. It is sad that we have come to this point.

Mr. Speaker, over 300 Members of the House of Representatives have signed on to some piece of legislation to reform the campaign finance system. By failing to even consider this issue on the House floor you are rejecting the will of a majority of the House. More troubling, Mr. Speaker, is the fact that you are rejecting the will of the people of this Nation who want the Congress to fix the broken campaign finance system. The time for action is now.

RECOGNIZING WOMEN VETERANS AND CURRENT FEMALE SERVICE MEMBERS ON THE OCCASION OF THE DEDICATION OF THE WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Ms. HARMAN. Mr. Speaker, I was pleased to participate in the celebration of the Women in Military Service for America Memorial on Friday, October 17, when I attended a moving reunion of women veterans and current service members at the DC Armory. I ask unanimous consent to insert my remarks on that occasion in the CONGRESSIONAL RECORD. In recognition of all that women service members have done for our country, I would also ask unanimous consent to insert the attached profile of six courageous veterans that appeared in the Washington Post on Saturday, October 18, 1997.

REMARKS BY REPRESENTATIVE JANE HARMAN TO THE WOMEN IN MILITARY SERVICE FOR AMERICA REUNION RECEPTION, FRIDAY, OCTOBER 17, 1997

Tomorrow, with the official dedication of the Women in Military Service Memorial, America recognizes—and remembers—women who have given so much to our country. I am inspired by your service to the cause of freedom and honored to be with you tonight. This extraordinary gathering is getting the word out. Women in all walks of life are finally learning of your sacrifices, your dedication, and your accomplishments.

You and your predecessors have contributed immeasurably to the defense of our country and the preservation of our liberties. You worked as nurses and doctors, as logisticians, trainers, mechanics, pilots—and more. You did this in the face of overwhelming odds—often not enjoying the recognition you deserve. And you paved the way for other women to break into other unconventional roles in our society. For this, we are all indebted to you.

As one of three women on the House National Security Committee, I have witnessed first hand the impact you pioneers have had in the military and society at large. I was there when my friend, the late Secretary of Defense Les Aspin, opened vast new roles to women in the military. His courageous act was the right thing to do, and it was because of the groundbreakers here.

Now women have achieved highly visible leadership roles: I was there when Lieutenant General Claudia Kennedy received her third star—and rightly so: she is indeed a star. I am proud to point to the role of women in developing key programs that support our military. A woman is in charge of the precision-guided munitions program for the B-2 bomber. A woman heads the Tactical High Energy Laser program which protects Israel's northern border and our troops from Katyusha rockets.

As a co-chair of the National Security Committee's investigation of sexual harassment and misconduct in the military, I want to ensure that women serve in safety and can contribute to their full potential. This is not about political correctness. It's about combat readiness. Unless we include women as full partners in the military, we are not fielding the best team we need to fight and win our nation's next war. I salute Brigadier General Pat Foote who played a key role in the Army's recent groundbreaking report on gender issues.

I have read many moving stories of women veterans, including one of a woman who resides in the California district I represent—Gaylene McCartney. Gaylene was a medic at Oakland Naval Hospital in 1965, caring for the wounded from Vietnam, but that is only the beginning of her inspiring story. She became an attorney and then suffered a painful disability that led her to curtail her legal activities. Yet she says she wants to volunteer on behalf of veterans and others—once a leader, always a leader.

I am equally inspired by the efforts of the women whose work made this week's celebration possible. First and foremost is Brigadier General Wilma Vaught. General Vaught had the herculean task of turning the dream of the first major memorial honoring all military women into a reality. With uncommon determination, imagination, and initiative she and her team have been able to bring this effort to life. Without her work over the past decade, there would be no memorial.

I was also pleased to read that the on-site project manager for the Memorial is a woman, Margaret Van Voast, who has headed a team of women managers. I was doubly pleased to hear that Margaret Van Voast is a graduate of my alma mater, Smith College. No doubt Secretary Perry and General Shali agree that this really is the Women's Memorial: It honors women, it was made possible by women, and it was built by women!

Let me close with a wonderful quote from President and Former Assistant Secretary of the Navy Theodore Roosevelt who speaks to "Everywoman" here. I have edited it for gender:

"It is not the critic who counts, not the [one] who points out how the strong [person] stumbled. . . The credit belongs to the [one] who is actually in the arena. . . who strives valiantly; who errs and comes short again and again. . . who knows the great enthusiasms, the great devotions, and spends [herself] in a worthy cause; who, at the least, knows in the end the triumph of high achievement; and who, at the worst, if [she] fails, at least fails while doing greatly, so that [her] place shall never be with those cold and timid souls who know neither victory nor defeat."

Thank you for your service. Thank you for your patriotism. Thank you on behalf of a grateful nation.

SIX MILITARY WOMEN AND SIX U.S. WARS: STORIES REACH BACK THROUGH HISTORY OF A NATION

Duty. Honor. Pride. Patriotism.

A common current flows through the lives of the nation's 1.8 million women veterans: When their country needed them, they stepped forward without hesitation.

Some broke barriers and accomplished noteworthy deeds. Others were cloaked in ordinariness, their service and sacrifice little noted by contemporaries but recognized now by a grateful nation with today's dedication of the Women in Military Service for America Memorial.

Here are just a handful of their stories. But they speak for all who answered the call.

MARY EDWARDS WALKER—CIVIL WAR

Seventy-eight years after her death, people still get riled up about Mary Edwards Walker.

Was she a capable and intelligent physician, as some of her Civil War contemporaries maintained? Or was she—to quote an 1864 medical panel—"utterly unqualified," with a knowledge of medicine "not much greater than most housewives"?

Because she was Union doctor who also ministered to Southern civilians, some suspected Walker was a spy. But for which side?

She was the only woman ever to receive the Medal of Honor, her country's highest military award, presented by President Andrew Johnson in 1866 for "meritorious service." Supporters say her honor was unfairly taken away (along with the medals of 910 others) in 1917 when Congress tightened the eligibility requirements.

Today, 20 years after an Army board reinstated Walker's medal posthumously—citing her "distinguished gallantry, self-sacrifice, patriotism, dedication and unflinching loyalty to her country, despite the apparent discrimination because of her sex"—critics still claim she didn't deserve the honor.

A relative told the New York Times: "Dr. Mary lost the medal simply because she was a hundred years ahead of her time and no one could stomach it."

She was born in 1832 into an abolitionist family in Oswego, N.Y. Her father, a country doctor, believed strongly in education and equality for his seven daughters. He also believed they were hampered by the tight fitting women's clothing of the day, a belief that Mary passionately espoused.

She graduated from Syracuse Medical College in June 1855, the only woman in her class. A year later, she married a classmate (the bride wore trousers, a man's coat and kept her own name). They were divorced 13 years later.

When war broke out, she came to Washington and tried to join the Union Army. Denied a commission as a medical officer, she volunteered anyway, serving as an acting assistant surgeon—the first female surgeon in the U.S. Army.

In 1864, Walker was captured by Confederate troops and imprisoned in Richmond for four months until she was exchanged, with two dozen other Union doctors, for 17 Confederate surgeons.

She was paid $766.16 for her wartime service. Afterward, she got a monthly pension of $8.50, subsequently raised to $20, but still less than some widows' pensions.

After the war, she became a writer and lecturer on women's rights, dress reform, health and temperance issues. Tobacco, she said, resulted in paralysis and insanity. Women's clothing, she said, was immodest and inconvenient.

She toured here and abroad, often lecturing in full men's evening dress, which led one reporter to call her "that curious anthropoid."

She refused to give back her Medal of Honor, wearing it every day until her death in 1919.—Marylou Tousignant.

FRIEDA HARDIN—WORLD WAR I

Frieda Hardin is 101 now, but she can still vividly recall a Saturday night in 1918 when her family was gathered around the dinner table in Portsmouth, Ohio. Her father, a scrap yard foreman for the railroad, was discussing the fact that the Navy was recruiting women.

"That's for me!" Hardin, who was then Frieda Greene and 22, piped up.

Nobody paid much attention to her—not, that is, until the following Monday, when she signed up for the United States Naval Reserve Force and then phoned to tell her mother.

"Mamma, I just joined the Navy!" she said.

"Frieda, you come right home!" her mother, Rose Greene, exclaimed.

"Mamma was awfully embarrassed to have me join the Navy," Hardin recalled. "It was unheard of for women."

Women couldn't even vote then, and her mother informed the Navy recruiting officer that "this girl is not going!" But he gently asked how Frieda's father, George Greene, felt about it. When they told her father, he said, "Let her go!"

And off she went, on an adventure that eventually would lead the World War I veteran to Washington—79 years later—for the dedication of the first memorial for women in the armed forces. Although she is nervous, Hardin is going to try today to give a speech, which she has been practicing at her nursing home in Livermore, Calif.

Hardin flew to Washington on Thursday with her children, Warren, 69; Mary, 76; and Jefry, 73. (Roy, 70, did not make the trip.) She was given a standing ovation on the plane and a bottle of champagne, but she's never had an alcoholic drink in her life.

In an interview Thursday night, Hardin recalled her active duty in Norfolk, where she was a Yeomen Third Class (F), known as a "Yeomanette." Her job was to check dock receipts in the freight office. She was paid $41 a month, plus $2 a day for living expenses. Because there was no housing for women, she lived in a boardinghouse in town. Although the work itself was boring, she says, the women were treated very well.

She was proud of her Navy job because she felt she was helping her country. Before that, she was a salesclerk in a five-and-dime store. "Anybody can work in a dime store," Hardin said. "It take a smart person to work in the Navy."

Her children say she has had a wonderful life, with 26 great-great-grandchildren and four husbands along the way. Her only frustration now is that she can't hear very well. She hopes others can hear her today.

"It is not likely that I will be meeting with you again, so I bid each of you a fond farewell," she plans to tell the crowd. "God bless the United States Navy, and God bless America!"—Patricia Davis.

CHARITY ADAMS EARLEY—WORLD WAR II

The strict Army discipline was the thing that Charity Adams Earley valued most: Discipline to do the calisthenics that were part of her military training in World War II. Discipline to endure segregation there, as a woman and as a black American.

She had to have poise. Upon her had fallen the task of commanding the only black Women's Army Corps unit—800 enlisted women and 30 officers—to go overseas.

"It taught me stronger self-discipline," Earley said as she reflected on today's dedication of the women's military memorial at Arlington National Cemetery. "I was rather well-disciplined at first, because I had that kind of family. But doing what I needed to do, when it needed to be done—I learned to value that."

She was working on her master's degree in education when her country asked her, in July 1942, to serve in the Good War. Earley, 78, who now lives in Dayton, Ohio, didn't spend any time weighing the matter, what with the newfound prominence women were enjoying in the military. But she worried.

"In those days, by this time, women were going into the military, women were going to work who had never worked before, in factories and so on, and so this was another war effort and we didn't know exactly whether it was going to work," said Earley.

"We were told that the women would do the jobs that would replace the men who were going to the front. You didn't know what you were going to do once you got there."

She became an officer, with the rank of major. Her task was to reorganize the post office for the European Theater so that mail reached the troops promptly. The best system, she decided, would be the same one used in the civilian world. She would keep addresses on file. Whenever troops moved, they would send in a change-of-address card.

Earley and her battalion of 830 women sorted mail in England and closer to the front lines in France. They were relatively safe, Earley said, and their minds were occupied by other things. They lived in segregated barracks, ate in segregated dining halls. The only thing that was not segregated, Earley said, was the exercise field.

"We didn't mix it up," she said. "We were segregated two ways, because we were black and because we were women. Oh, we laugh about some of the things that happened. We have our memories about the good things and the bad things."

The war years stayed with Earley through jobs as dean of students at Tennessee A&I University and later at Georgia State College in Savannah. She married Stanley Earley, a doctor, and had two children. She published her memoir, "One Woman's Army," in 1989 and still travels occasionally for book signings.

"Somebody had to talk about it and tell what happened to women in World War II," Earley said. "I kept waiting and waiting and then I decided, if you want something done, you do it yourself."

MARY THERESE BURLEY—KOREAN WAR

On the moring after her high school graduation in Flint, Mich., in June 1994, Mary Therese Burley marched downtown to the U.S. Army recruiting office and declared herself ready to enlist. The Japanese attack on Pear Harbor was still fresh in the teenager's mind.

Only 16, she was gently rejected and advised to come back when she was older.

Her résumé included only one summer as a volunteer nurse's aid in her hometown hospital. But what she did have was the desire to nurse the sick and serve her country. Within a few years, she would get her chance.

Burley went on to attend the Cadet Nurse Corps program, and in December 1951, she entered the U.S. Army Nurse Corps as a first lieutenant. In April 1953, she boarded a ship to Korea, where she worked in the 48th Mobile Army Surgical Hospital (M.A.S.H.) northwest of Seoul for 15 months.

"I knew I could be of help if I could just get there," said Burley, now a 69-year-old retiree who volunteers at a veterans hospital in Saginaw, Mich.

As an Army nurse, Burley treated mostly soldiers suffering from the deadly viral ailment called hemorrhagic fever, she said. The illness began innocently enough, giving soldiers the achy, feverish, red-eyed symptoms of the flu. But the virus ravaged their kidneys.

"When I got there, it had kind of stabilized . . . but nobody knew how to cure it" Burley said. During her tour in Korea, she worked with what was then one of the medical wonders of the world: an artificial kidney.

"The first patient I saw who went on the kidney was near death when he was evac'd out," she wrote in a reminiscence for the foundation that built the women's memorial. "On his return, the next a.m., he sat up in bed and read a magazine!"

Burley, along with the other two dozen doctors and nurses of her unit, was shipped out of Seoul in September 1954, when the hospital was turned over to Korean troops.

She was reassigned to Fort Leavenworth, Kan., where she worked as a medical-surgical nurse and earned her captain's bars. In November 1957, Burley left active duty.

More than four decades have passed since she tended to the sick soldiers of the Korean War. But the sounds, the smells and the sense of that time are still with her.

Gunfire that pierced the still of night. The squat potbellied stoves that warmed the drafty corners of the cement-slab hospital. The noxious odor of the manure used by Koreans to fertilize their fields. The hours she spent crying in frustration that not every boy could be saved.

"I had no idea what it was like, none of us did," Burley said. "All we knew was that we were needed."

Burley plans to attend today's dedication, having earned her place in history in a war thousands of miles away in Asia. But even there she was at home.

"Every morning when you walked out and saw the flag, boy, I tell you," she said. "The hospital was surrounded by American flags on poles and it was so beautiful. That was home."—Sylvia Moreno.

CATHERINE KOCOUREK GENOVESE—VIETNAM WAR

One of the most vivid memories for retired Capt. Catherine Kocourek Genovese is the winter day she abandoned plans to become a teacher and instead worked her way through a throng of Vietnam War protesters to join the Marine Corps.

Genovese was earning a teaching degree at the College of St. Catherine in St. Paul, Minn. One day she saw the crowd of students, dressed in black with death masks painted on their faces, taunting a pair of Marines who had set up a recruiting display in the student union.

"It was a moment of clarity," said Genovese, 48, who now lives in Redwood City, Calif. "I had never really thought of joining, but I guess it was always in the back of my mind. I saw the recruiter and said this is it."

Genovese said she was certain she made the right choice by joining the military during a war that had claimed the lives of several high school classmates.

"In my own mind I was more of a rebel by going against my peer group," she said.

Genovese comes from a family with a tradition of military service. Her father was a Naval Reserve officer, and her mother a Navy nurse. One aunt served as a Marine officer and another was a Navy nurse.

"My view of the military for women was that it was a fantastic career," Genovese said. "Those women had more responsibility than other women I knew."

While she never went to the front lines of the war, her service brought rigorous physical training and assignments that tested her resolve.

As a young commanding officer at a base in Twentynine Palms, Calif., Genovese said, she quickly came up against a group of male recruits who refused to salute her. After a quick lesson in Marine etiquette, she said it never happened again.

"These guys were tough," Genovese said. "It wasn't easy to confront a group like that. But after that, even if they were half a block away, they'd salute and say, 'Good morning, ma'am.'"

At 22, Genovese became the first female Marine to pass a pistol marksmanship test and earn the second-highest ranking as a sharpshooter. She broke more ground by becoming the first woman assigned to a weapons training battalion.

Genovese left the service after her husband, a Marine she first saw during Christmas dinner at a mess hall, took a civilian job.

"I wanted to stay in the Marine Corps so badly, but I was married and that came first," Genovese said. "It broke my heart when I had to resign. But my time in the Marine Corps is still the most exciting period in my life."—Maria Glod.

MELISSA COLEMAN—PERSIAN GULF WAR

One hundred and seven days after Army Spec. Melissa Coleman began her service in the Persian Gulf, she found herself captured by the enemy, shot twice in the arm and headed to a Baghdad prison cell. On the way, the Iraqis pulled a hat over her eyes to blind her. Then her seatmate, an Iraqi soldier, kept reaching into her raincoat to touch her breasts.

"Finally, I just reached across and hit him," she said. "Needless to say, he wasn't exactly pleased."

He did, however, leave the 20-year-old alone after that, allowing her to reach her 12-foot-square concrete prison cell in relative peace.

She would spend the next 33 days there, bathing once a week using a garbage can full of hot water.

Coleman was one of two U.S. women prisoners of war during Operation Desert Storm, and one of 41,000 American military women involved in the 1990–1991 engagement, making it the largest deployment of women in U.S. history.

Her job was to transport heavy equipment to the front line. As she was moving a tractor-trailer, her convoy missed a turn, unwittingly driving into the captured Saudi city of Khafji. Iraqi soldiers fired at the vehicle she and fellow Army Spec. David Lockett were in, and as they tried to flee on foot, both were wounded.

While in the Baghdad prison, there were frequent U.S. air raids over the Iraqi capital that left Coleman wondering whether she would get out alive.

"I thought, 'I didn't die by the Iraqi's own hands, but my own people are going to bomb me,'" she said.

She said she later received kinder treatment from her captors. They allowed her to walk freely throughout part of the prison, fed her well enough that she lost no weight—a stark contrast to Lockett and other male prisoners—played basketball and kickball with her, and checked on her after air raids.

Coleman attributed the careful treatment to the fact that she was a woman. "Whenever I was interrogated, the major would just say 'She knows nothing. She's a female,'" she said.

Today, Coleman is married with two children and working on a college degree in San Antonio. She views the experience as little more than a short chapter in her life story.

"For me, it was like, okay, so that happened," she said. "Let's get it over it and move on."—Ann O'Hanlon.

DEATH OF FORMER CONGRESSMAN JOEL PRITCHARD

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. DICKS. Mr. Speaker, it is my sad duty to inform my colleagues here in the House of Representatives that our former colleague, Congressman Joel Pritchard of Washington State, died 12 days ago at his home in Seattle. As some of you may know, he fought a valiant battle with cancer over the last several years, though it affected neither his spirits nor his work as Lieutenant Governor of Washington State.

Joel Pritchard served here in the House from 1972 to 1984, and until his death he retained many of the strong friendships he developed during those 12 years among us. He was clearly one of those members whose exuberance and sense of humor left all who knew him—on both sides of the aisle—with a warm and positive impression. His retirement from Congress in 1984 was certainly a loss for this institution, and his death last week leaves all of his many friends with an even more profound sense of personal loss.

A memorial service was conducted in Seattle last week, at which his family and many friends had the opportunity to reflect on the many happy memories of Joel and on his accomplishments in 38 years of public life. On Thursday, October 30 at 5:00 p.m. we will have a similar opportunity at a memorial service that will be held in the Veterans Committee hearing room, 336 of the Cannon House Office Building.

Joel was a very special friend, and someone who represented the very best ideals of public service. His hallmark phase was "it's totally amazing what you can do if you don't care who gets the credit," and he was known here as someone who could bring people together on any important issue or cause. In his own selfless way, Joel deserves great credit for his service here and for the civility he brought to this institution. We will truly miss him.

MOURNING THE PASSING OF HUMANITARIAN, ENTERTAINER JOHN DENVER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. GILMAN. Mr. Speaker, today I mourn a friend and associate. The passing of singer-songwriter John Denver, over the Columbus Day recess, leaves a void in the world of humanitarianism and compassion.

I first met John Denver when we were working to create a Presidential Commission on World Hunger and the both of us were subsequently appointed to that commission by President Jimmy Carter in the 1970's. As a result of that commission's final report, I introduced legislation establishing a Select Committee on Hunger in the Congress. John Denver, along with our mutual friend the late singer-songwriter Harry Chapin, was instrumental in lobbying for the successful adoption of that legislation. Subsequently, the three of us often conferred regarding the problems of hunger and starvation throughout the world, but also the environment and the problems of nuclear proliferation.

All of us who had the honor and privilege of working with John Denver recognized his involvement with ecological concerns and his

heartfelt love of humanity. His work on behalf of hunger in the late 1970's and early 1980's was significant, along with that of Harry Chapin, in shining the spotlight of public opinion on the problems of malnutrition.

In the mid-1980's, many performers in show business received publicity for their fundraising efforts on behalf of world hunger. We must not forget that these successful efforts would not have been attempted, yet alone achieved, were it not for the courageous, trail-blazing activities of both John Denver and Harry Chapin.

The December 20, 1976 issue of Newsweek magazine noted that "People write him letters from hospitals telling how listening to 'Take Me Home, Country Roads' or 'Poems, Prayers and Promises' has stopped convulsions or cleared up depressions. A long-distance swimmer navigated the shark-infested Cook Strait of New Zealand by singing Denver songs as she counted her strokes. In Lockport, NY, a woman regained her spirits after a mastectomy by listening to Denver songs all day—especially 'Sweet Surrender'."

Those who are familiar with John Denver's work are not surprised to learn of the amazing impact it has had on so many lives. His gift of expressing empathy and sincere concern were perhaps his greatest contributions.

John Denver has left us with a legacy of goodwill and also of quality entertainment. From his platinum recordings, to his appearances on the silver screen and television, he delighted and inspired audiences worldwide. Throughout his career he selflessly shared the spotlight when working with such stars as George Burns, Placido Domingo, Itzhak Perlman, and Kermit the Frog. Like his humanitarian efforts, his singing, writing, and acting talents will be missed by many.

He started his career with three guitars, an old Chevrolet and less than $200 to his name. From such humble beginnings, John Denver rose to be counted among the brightest of America's stars. We will all be poorer from his loss.

I ask my colleagues to join with me in continuing to support the causes championed by John Denver and in extending condolences to John's three children, Jessie Belle, Anna Kate and Zachary, to the rest of his family, and to the millions of people whose lives were touched and influenced by this remarkable humanitarian.

STATEMENT OF RECOGNITION FOR NEW YORK ARTISTS EQUITY ASSOCIATION

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. NADLER. Mr. Speaker, I rise today in recognition of New York Artists Equity Association (NYAEA), now celebrating its 50th anniversary.

Since 1947, Artists Equity Association has been a strong advocate for legislation on behalf of visual artists, and has provided services to support the development of the visual arts in our communities. NYAEA not only fights for the future of the visual arts, but places the New York artistic community in the context of history, as a necessary component of society, one that enriches our lives.

New York Artists Equity Association's mission of education, awareness, and support for the visual arts has provided the basis for its constant efforts. By promoting emerging artists in its wonderful Broome Street Gallery, it has successfully integrated those artists into the larger community. By preserving endangered visual art work, it assures the record of our rich artistic past. Through educational outreach, it has developed a new audience which is constantly expanding.

Mr. Speaker, I rise to commend NYAEA, under the leadership of its Executive Director, Regina Stewart, for supporting visual artists at a time when the resources they receive from the government are simply not enough. NYAEA has provided support for many visual artists who otherwise would not have received help. Through referrals, legal services, and health care programs, the Association helps ensure economic stability for visual artists who might otherwise be forced to abandon their talents due to economic difficulties. By providing communication within the community, it helps establish a strong support base for issues relevant to artists' needs.

I stand here today to thank New York Artists Equity Association for all it has done to advocate for visual artists, consistent with the needs of their community. I am proud that NYAEA is in my Congressional District, and that its work reaches far beyond my District to help visual artists in the larger community. I also want to thank one of the Association's Past Vice Presidents, Doris Wyman, who serves on my Arts Advisory Committee, consistently championing the needs of visual artists. Because of my ongoing work with this fine organization and their leadership, I know of their constant efforts to change regressive policies on the arts and I commend them. For fifty years, NYAEA has supported visual artists and been a passionate advocate for their causes. In the current climate, NYAEA's nonpartisan commitment is especially valuable. I salute New York Artists Equity Association for helping to assure a stable artistic community—one that is, and always must be, an integral part of our heritage and culture.

CONFERENCE REPORT ON H.R. 2160, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 6, 1997

Mr. BISHOP. Mr. Speaker, I rise today in support of the FY98 Agriculture Appropriations Conference Report. I am pleased that the report protects the peanut program and that it does not eliminate the subsidy for crop insurance for tobacco. It is difficult for many Americans, and many of my colleagues, to understand the profound impact that farming has on our nation. They live in cities where their food appears in supermarkets, not fully understanding the difficult and laborious efforts that brought the food to them. Spend one day on a peanut farm in my district, and you will know the effort that went into that jar of peanut butter. Family farmers are the backbone of America's agricultural community and the peanut program is one of the vital and necessary safety-nets that help protect that community.

The peanut program helps 20,000 American farmers and small businesses compete in the world market, while providing nearly 50,000 American jobs on farms, in processing plants and in related industries. Peanuts are the 12th most valuable crop in the United States and the 4th most valuable oil crop worldwide. In addition, the program provides consumers with an ample supply of one of the safest, most nutritious foods on the market. Because of the program, the United States will be the No. 1 exporter of edible peanuts this year.

The peanut program is no-net-cost program and in fact contains a budget deficit reduction assessment of $83 million which would have been lost if the program was eliminated.

The program does not reduce consumer prices. Consumer prices have not changed from a year ago, despite the fact farm support prices were cut by 10 percent last year. Consumer prices for peanut butter remain the lowest in the world, at 11 cents a serving, the same price as 1988. Peanut butter prices are lower today than 10 years ago.

The environment is benefited by the program because peanut plants are nitrogen-fixing plants which help restore vital nutrients to the soil in rotation with other crops.

I have had serious questions about the GAO report that seems to be the main source of criticism to the Peanut Program. I do not believe that this report is entirely accurate or an objective presentation of data. It is really designed to give a skewed appearance. The USDA has commented on the "lack of objectivity," the "erroneous assumptions," and "lack of thoroughness" in the report. The GAO has admitted their use of the term "consumer" means the "first buyer" not the "final consumer of the product." The GAO also interviewed both small and large manufacturers of peanut products and were told that they "may not pass the costs [savings] directly on to the final consumer" of peanut products. This report was the basis of the attempt to phase-out the peanut program and quite simply the factual basis for that argument was truly flawed.

Those statistics give you the economic impact of the peanut program, but I want to put a human face on this debate. Peanut is concentrated in the rural regions of nine southern states, with these regions being poverty-dense and agriculture-dependent. Peanuts is the largest cash crop and industry in many of these regions. For example, every one of the 31 counties in the 2nd District of Georgia, which I represent, is a peanut producing county. The peanut farms are on average 100 acres, not exactly giant agribusiness. Twenty-nine of those counties have poverty exceeding the national average of 13 percent. It's not just my district. Alabama and Florida have a significant number of peanut producing counties that also have poverty exceeding the national average. The elimination of the Peanut Program would have cost more than 5,000 jobs.

We are not only talking about hard working family-farmers whose average income dropped sharply in 1995 & 1996. We are also talking about the families of the farmers, the small businesses that work in the peanut industry and the rural communities that are sustained by peanut farming.

Last year we forged an agreement between the Government and our farmers. Investment decisions have been based on a 7-year farm bill. This body should never make a 7-year commitment and attempt to break it after one. If we had broken this agreement we would have had zero credibility with the agricultural community. In addition, the banking community would no longer trust us, because they would have made loans based on the 7-year farm bill.

The crop insurance program was designed to protect crop producers from unavoidable risks associated with adverse weather, plant diseases and insect infestations. The crop insurance program was made available to producers of MAJOR crops, including tobacco, for which private insurance is generally not available. The Government underwriting enhances the ability of farmers to obtain credit from commercial lenders who view a crop insurance policy as a form of security on a farm loan. Private insurance availability would not be universal and without federal crop insurance, farmers premiums will more than double. Small farmers couldn't afford that. With the denial of private crop insurance would come the denial of production loans. Farmers would be forced to stop growing tobacco, and many small banks in small towns would be weakened. Simply put, efforts to eliminate multiperil crop insurance for tobacco farmers unfairly harms and discriminates against small tobacco farmers and tobacco communities. In fact, nearly 30 percent of all disaster indemnities go to small, black-operated farms. Larger operations will probably do fine if this amendment is adopted.

The average tobacco farm is less than 10 acres. If we use the sponsors of the amendment's figures and say the gross receipts for tobacco average $4,000 per acre, we are only talking about $4,000 a year, gross. Subtract the loan, interest, farmhand salary and inputs needed to grow the tobacco, there is not a lot left. Without any insurance, a single storm could bankrupt a small hard working American farmer, and another generation of people will be out of farming.

If you have listened to these arguments and said "so what, let them grow something else" do this math: To replace the gross income from 10 acres of tobacco, a farmer would have to plant 74 acres of cotton, 149 acres of corn, 232 acres of soybeans or 288 acres of wheat. On what land is the farmer supposed to plant these crops? Are you going to give him the land or loan him the money to buy the land? Unlikely. Once again, if you want to stop people from growing tobacco, just say so.

The USDA and the Administration opposed eliminating this program. According to the Secretary of Agriculture, Dan Glickman, abolishing the subsidy will effectively end our ability to provide crop insurance and non-insured assistance payments for tobacco grows. Additionally, he argues that eliminating the subsidy would have a particularly detrimental effect on thousands of small farmers in tobacco producing states, not to mention the toll it would take on the economic stability of many rural communities.

Tobacco growers in three States received $77.8 million in indemnities for losses due to back-to-back hurricanes that hit the East Coast last year. These funds helped communities recover from disaster and were paid for in part by the producers themselves. If no crop insurance or disaster assistance were available, these farmers would have been ruined, their farms foreclosed on, not knowing if they would be able to support their families.

We all agree that smoking is something we don't want children to do. I myself have introduced H.R. 2034, the Tobacco Use by Minors Deterrence Act. Through various civil penalties and community involvement, it would help address underage tobacco use. What it doesn't do is prevent anyone from making a living or telling them their livelihood is somehow inappropriate.

Adults should be able to make the decision to smoke. Tobacco farmers should be able to grow a legal product that sustains many communities in my state and across America.

If you think this program is corporate welfare, I invite you to come to my district and meet some of the "wealthy" tobacco farmers. I'll show you hard working men and women who earn an honest living.

I am very pleased that the Conference Committee has also seen fit to maintain research projects through the University of Georgia which are very critical to the future of the well-being of the constituents I represent, and their livelihood: The Peanut Competitiveness Institute; the Urban Insect Pest Management; the Alliance for Food Protection; and Landscaping for Water Quality.

I also am glad that this conference report has included $3,000,000 for the Outreach for Socially Disadvantaged Farmers and Ranchers Program instead of $2,000,000 as proposed by the House. This is still not the full authorization amount of $10 million, but we are getting closer because in addition to the funding received through appropriations bills, the program has also received $4,500,000 from the Fund for Rural America.

The conference agreement provides $652,197,000 for the Rural Community Advancement Program (RCAP) instead of $644,259,000 as proposed by the Senate. The crucial areas which are important for my district are the activities under the Rural Housing Assistance Program, the Rural Business-Cooperative Assistance Program and the Rural Utilities Assistance Program.

I think this is a good agreement, and I rise to support its swift passage.

SALUTE TO BROWARD COUNTY'S AFRICAN-AMERICAN LIBRARY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. HASTINGS of Florida. Mr. Speaker, I am honored to pay tribute today to the Broward County African-American Library, which opens in my congressional district this Saturday, October 25. One of the great milestones in learning opportunities, this sanctuary of history, learning, and cultural promises to become one of south Florida's greatest libraries. Its purpose is to showcase the immeasurable contributions of African-Americans in this country as well as in our native Africa. Beyond that, however, it will stand as a beacon for the educational uplift of an entire community.

The great historian, educator, and author David Walker, once commented about the importance of libraries for African-Americans:

"I would crawl on my hands and knees through mud and mire, to the feet of a learned man, where I would sit and humbly supplicate him to instill into me that which neither devils nor tyrants could remove, only with my life—for colored people to acquire learning in this country makes tyrants quake and tremble on their sandy foundations."

This is the kind of idealism that propels the outstanding individuals who have devoted their lives to making the Broward County African-American Library a reality. I am pleased to salute their achievement, and to praise their enormous efforts in this significant undertaking.

The significance of this project to the growth and development of Broward County is immeasurable. I am pleased to commend the individuals who have committed their lives and their livelihood to making this library a dream come true, a dream founded upon the notion that to study each other—our accomplishments, our traditions, our culture—is to know each other.

Mr. Speaker, I rise today to pay tribute to the Broward County African-American Library, as it steers our community toward greater progress and understanding.

SENATE—*Wednesday, October 22, 1997*

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Holy God, may our reverence for You give us authentic respect for people, the world You have entrusted to us to care for, and the values and traditions that are sacred in America's history which we are called to revere.

Dear God, we learn about the character pillar of respect from You. You created us and respect our uniqueness. You give us esteem and security and help us live at full potential. We know we are of value to You. Help us to communicate respect for the dignity of other people. May we respect their gifts and talents, and encourage them to be all that You created them to be. Make us defenders of the rights of people to be distinctive, to honor differences of race and religious practices.

Lord, we also pray for the character pillar of respect to be expressed in the way we live in Your creation. May we behold and never destroy the beauty of the natural world You've given us to enjoy.

Sovereign of this Nation, remind us that patriotism has not gone out of style. May our gratitude for living in this free land give us profound respect for the Constitution, our flag, and the genuine American spirit of mutual respect for the rights of individuals to life, liberty, and the pursuit of happiness.

Today we pray specifically for Geri Meagher, friend and fellow worker here in the Senate Chamber, as she undergoes surgery. Bless her and heal her. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. KYL. Thank you, Mr. President.

SCHEDULE

Mr. KYL. Mr. President, today the Senate will be in for a period of morning business until 12:30 p.m. At 12:30 p.m., we hope the Senate will be receiving the continuing resolution from the House. If that is the case, then debate will begin immediately in the Senate. As always, Members will be notified when the vote on the continuing resolution is scheduled.

In addition, the Senate may turn to any appropriations conference reports that may become available. As a reminder to all Members, a cloture motion was filed last evening on the ISTEA legislation. Therefore, all second-degree amendments must be filed prior to the vote on Thursday. All Senators will be notified as to when that cloture vote will occur on Thursday.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

RECOGNITION OF LIZ HEASTON

Mr. GORTON. Mr. President, I would like to recognize the historic achievements of Liz Heaston of Richland, WA. Last Saturday, Liz became the first woman to play in a college football game. Her performance as place kicker for the Willamette University football team resulted in kicking two extra points in a victorious effort against Linfield College. This event also strikes a special chord for me because Liz is the daughter of Suzanne Heaston, a member of my State staff in Richland, WA.

What is equally amazing about this young woman's accomplishments last Saturday is that her feat was accomplished after playing a full soccer game, where she is the star defender on the Willamette University women's soccer team, ranked 14th nationally in the NAIA. It was Liz's tremendous abilities on the soccer field which led the Willamette football coaching staff to recruit Liz onto the football field.

While Liz may not have a future football career ahead of her, Saturday's milestone sets a tremendous precedent for future trailblazers in womens sports. The athletic accomplishments of Liz Heaston, both in soccer and football, reinforce the role sports can play in helping our daughters discover and realize their potential both on and off the athletic field.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAMES D. WOLFENSOHN OF THE WORLD BANK GROUP

Mr. STEVENS. Mr. President, not many Americans—in fact not many human beings—have the opportunity to bring about permanent change in our world. Even if a person has the opportunity, it is seldom that change can be brought about in a time span of only 3 years. A distinguished exception to this is the president of the World Bank Group, James D. Wolfensohn. Under President Wolfensohn's wise guidance, the World Bank Group is facilitating global changes through the application of systems and knowledge developed in the United States.

Jim Wolfensohn, formerly president and chief executive officer of his own corporation, chairman of the board of trustees of the John F. Kennedy Center for the Performing Arts, and executive partner at Salomon Bros., recently delivered his third yearly address to the board of governors of the World Bank Group.

After reading this compelling statement twice, I concluded his message should be available to all who wonder if our citizens are applying the lessons of enlightened free enterprise in their business and personal lives throughout the world. I envy Jim Wolfensohn. He is truly making a difference in this world. It is my pleasure to commend his remarks to the Senate, and I ask unanimous consent that his statement entitled "The Challenge of Inclusion" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE CHALLENGE OF INCLUSION

(By James D. Wolfensohn)

I am very pleaded to welcome you to these Annual Meetings of the World Bank Group and the International Monetary Fund (IMF). I am also delighted to be in Hong Kong. This beautiful and bustling city, which I have visited regularly for forty years, exemplifies the openness, dynamism, and optimism of so much of Asia today. And so does our meeting here in this magnificent conference center, where everything has been done impeccably. I would like to express my thanks to our hosts, the government of China, and the authorities here in Hong Kong. It is impossible to imagine greater courtesy, generosity, and efficiency. We look forward to your continued progress.

China's success has been truly remarkable. Less than a generation ago, eight in ten Chinese eked out an existence by tilling the soil

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

for less than a dollar day. One adult in three could neither read nor write. Since then, 200 million people have been lifted out of absolute poverty, and illiteracy has fallen to less than one in ten. China is our largest borrower, one of our most valued shareholders, and home to more than a quarter of our clients. I am delighted that our partnership continues to strengthen.

This is the third time that I address you as president of the World Bank Group—the third time I have the opportunity to express my deep gratitude to my friend Michel Camdessus, whose collaboration over the past two and a half years has been so invaluable to me. We work ever more closely together, and I continue to benefit from his great experience and judgment.

From the beginning, one of my priorities has been to take the pulse of development firsthand. I have now visited almost sixty countries. I have met with governments, parliamentarians, and the private sector. I have talked with national and international nongovernmental organizations (NGOs) on subjects ranging from women's issues to the environment, from health to the impact of macroeconomic reform.

Wherever I go, I continue to be impressed by the people we serve—by their strength, their energy and their enterprise, even in the most abject conditions. By the hundreds of thousands disadvantaged by war, by the millions of children without families condemned to live on the streets, by the disabled shut out from any kind of social support. By the plight of the poorest.

Today our clients number 4.7 billion people in over 100 countries. Three billion live on under 2 dollars a day. A billion three hundred million live on under 1 dollar a day. One hundred million go hungry every day; 150 million never even get the chance to go to school.

But whether they live on the plains or in the valleys, whether they live in slums or isolated villages, whether they speak Hindi, Swahili, or Uzbek, they have one thing in common: They do not want charity. They want a chance. They do not want solutions imposed from without. They want the opportunity to build from within. They do not want my culture or yours. They want their own. They want a future enriched by the inheritance of their past.

I have learned that people are the same wherever they are—here in this room and across the world. We all want the best for our children and our families. We all want peace and economic and physical security. We all want to live in a supportive community. We all want personal dignity.

This was vividly brought home to me six months ago when I visited a large water and sanitation project that the Bank is supporting in the favelas of Brazil. The project, which is now self-sustaining, brings together the local community, the private sector, and NGOs.

With my host, the vice governor of the state of Rio, I went from one makeshift home to the next, talking with the women who live there and who used to carry the water on their shoulders from the bottom of the hillside to their dwellings at the top. One after the other, they proudly showed me their running water and flushed their toilets and told me how the project had transformed their lives.

And as we walked around, more and more of the women came up to me displaying pieces of paper showing charges and receipts for a few reals a month. I watched and listened to this until the vice governor said, "What they're showing you, Jim, is that this is the first time in their lives that their name and address have appeared on an official notice. This is the first time their existence has been officially recognized. This is the first time that they have been included in society. With that receipt they can get credit to purchase goods, with that receipt they have recognition and hope."

As I walked back down the hill from that *favela*, I realized that this is what the challenge of development is all about—inclusion. Bringing people into society who have never been part of it before. This is why the World Bank Group exists. This is why we are all here today. To help make it happen for people.

THE STATE OF DEVELOPMENT CIRCA 1997

Where are we in terms of "making it happen" in 1997? In many ways, this is the *best of times* for developing countries: Output grew last year by 5.6 percent—the highest rate in twenty years. Foreign direct investment exceeded $100 billion—the most ever. Private capital flows now total $245 billion—five times official development assistance. And developing countries are projected to enjoy continued strong growth over the next ten years.

Social indicators are also improving. Life expectancy has risen more in the past forty years than in the previous four thousand. And freedom is blossoming. Today nearly two in three countries use open elections to choose their national leadership and 5 billion people live in a market economy—up from 1 billion ten years ago.

There is also much good news regionally: Reform programs in *Eastern Europe and Central Asia* continue to advance, and prospects for accession to the European Union now look promising for several countries in the region. There is real progress in *Sub-Saharan Africa*, with new leadership and better economic policies. Gross domestic product (GDP) grew 4.5 percent in 1996, up from 2 percent two years ago.

In the *Middle East and North Africa*, despite political problems, efforts continue to boost regional trade and investment, improve competitiveness, and expand economic opportunity. In *Latin America* countries have emerged from the tequila crisis, with their earlier gains against hyperinflation fully intact.

In *East Asia*, despite recent turbulence in financial markets, we still expect long-term growth and poverty reduction to be strong. And in *South Asia*, home to 35 percent of the developing world's poor, growth rates over the past several years have approached 6 percent.

This all adds up to much to celebrate—but there is also much to lament. Yes, the glass is half full, but it is also half empty. Too many people are not enjoying the fruits of success—

Here in East Asia, where, despite the "miracle," inequities between rural and urban areas and between the skilled and the unskilled are becoming more widespread.

In the countries of the former Soviet Union, where the old and the unemployed have become more vulnerable amidst the turbulence caused by the transition from command to market economies.

In parts of Latin America, where problems of landownership, crime, drug-related violence, unequal access to education and health care, and enormous disparities in income hinder progress and threaten stability.

And in many of the world's poorest countries, where population growth continues to run ahead of economic growth, eroding living standards.

And the deeper tragedy is that the glass is almost totally empty for too many. Indeed, for too many, it is the *worst of times*, as huge disparities persist across and within countries.

In too many countries, the poorest 10 percent of the population has less than 1 percent of the income, while the richest 20 percent enjoys over half. In too many countries, girls are still only half as likely as boys to go to school. In too many countries, children are impaired from birth because of malnutrition, inadequate health care, and little or no access to early childhood development programs. In too many countries, ethnic minorities face discrimination and fear for their lives at the hands of ethnic majorities.

What we are seeing in the world today is the tragedy of exclusion.

THE CHALLENGE AHEAD

Our goal must be to reduce these disparities across and within countries, to bring more and more people into the economic mainstream, to promote equitable access to the benefits of development regardless of nationality, race, or gender. This—the *Challenge of Inclusion*—is the key development challenge of our time.

You and I and all of us in this room—the privileged of the developing and the industrial world—can choose to ignore that challenge. We can focus only on the successes. We can live with a little more crime, a few more wars, air that is a little bit dirtier. We can insulate ourselves from whole sections of the world for which crisis is real and daily but which to the rest of us is largely invisible. But we must recognize that we are living with a time bomb, and unless we take action now, it could explode in our children's faces.

If we do not act, in thirty years the inequities will be greater. With population growing at 80 million a year, instead of 3 billion living on under $2 a day, it could be as high as 5 billion. In thirty years, the quality of our environment will be worse. Instead of 4 percent of tropical forests lost since Rio, it could be 24 percent.

In thirty years, the number of conflicts may be higher. Already we live in a world which last year alone saw twenty-six interstate wars and 23 million refugees. One does not have to spend long in Bosnia or Gaza or the Lakes District in Africa to know that without economic hope we will not have peace. Without equity we will not have global stability. Without a better sense of social justice our cities will not be safe, and our societies will not be stable. Without inclusion, too many of us will be condemned to live separate, armed, and frightened lives.

Whether you broach it from the social or the economic or the moral perspective, this is a challenge we cannot afford to ignore. There are not two worlds, there is one world. We breathe the same air. We degrade the same environment. We share the same financial system. We have the same health problems. AIDS is not a problem that stops at borders. Crime does not stop at borders. Drugs do not stop at borders. Terrorism, war, and famine do not stop at borders.

And economics is fundamentally changing the relationships between the rich and the poor nations. Over the next twenty-five years, growth in China, India, Indonesia, Brazil, and Russia will likely redraw the economic map of the world, as the share in global output of the developing and transition economies doubles. Today these countries represent 50 percent of the world's population but only 8 percent of its GDP. Their share in world trade is a quarter that of the

European Union. By the year 2020, their share in world trade could be 50 percent more than Europe's.

We share the same world, and we share the same challenge. The fight against poverty is the fight for peace, security, and growth for us all.

How, then, do we proceed? This much we know: No country has been successful in reducing poverty without sustained economic growth. Those countries that have been most successful—including, most notably, many here in East Asia—have also invested heavily in their people, have put in place the right policy fundamentals, and have not discriminated against their rural sectors. The results have been dramatic: large private capital inflows, rapid growth, and substantial poverty reduction.

The message for countries is clear: Educate your people; ensure their health; give them voice and justice, financial systems that work, and sound economic policies, and they will respond, and they will save, and they will attract the investment, both domestic and foreign, that is needed to raise living standards and fuel development.

But another message is also emerging from recent developments. We have seen in recent months how financial markets are demanding more information disclosure, and how they are making swift judgments about the quality and sustainability of government policies based on that information. We have seen that without sound organization and supervision a financial system can falter, with the poor hurt the most. We have seen how corruption flourishes in the dark, how it prevents growth and social equity, and how it creates the basis for social and political instability.

We must recognize this link between good economic performance and open governance. Irrespective of political systems, public decisions must be brought right out into the sunshine of public scrutiny. Not simply to please the markets but to build the broad social consensus without which even the best-conceived economic strategies will ultimately fail.

THE DEVELOPMENT COMMUNITY

How can we in the broader development community be most effective in helping with the enormous task ahead?

It is clear that the scale of the challenge is simply too great to be handled by any single one of us. Nor will we get the job done if we work at cross purposes or pursue rivalries that should have been laid to rest long since. Name calling between civil society and multilateral development institutions must stop. We should encourage criticism. But we should also recognize that we share a common goal and that we need each other.

Partnership, I am convinced, must be a cornerstone of our efforts. And it must rest on four pillars.

First and foremost, the governments and the people of developing countries must be in the driver's seat—exercising choice and setting their own objectives for themselves. Development requires much too much sustained political will to be externally imposed. It *cannot* be donor-driven.

But what we as a development community can do is help countries—by providing financing, yes; but even more important, by providing knowledge and lessons learned about the challenges and how to address them.

We must learn to let go. We must accept that the projects we fund are not donor projects or World Bank projects—they are Costa Rican projects, or Bangladeshi projects, or Chinese projects. And development projects and programs must be fully owned by *local* stakeholders if they are to succeed. We must listen to those stakeholders.

Second, our partnerships must be inclusive—involving bilaterals and multilaterals, the United Nations, the European Union, regional organizations, the World Trade Organization, labor organizations, NGOs, foundations, and the private sector. With each of us playing to our respective strengths, we can leverage up the entire development effort.

Third, we should offer our assistance to all countries in need. But we must be selective in how we use our resources. There is no escaping the hard fact: More people will be lifted out of poverty if we concentrate our assistance on countries with good policies than if we allocate it irrespective of the policies pursued. Recent studies confirm what we already knew intuitively—that in a good policy environment, development assistance improves growth prospects and social conditions, but in a poor policy environment, it can actually retard progress by reducing the need for change and by creating dependency.

I want to be very clear on this point: I am not espousing some Darwinian theory of development whereby we discard the unfit by the wayside. Quite the contrary. Our goal is to support the fit and to help the unfit fit. This is all about inclusion.

In Africa, for example, a new generation of leaders deserves our strongest possible support for the tough decisions they are making; they have vast needs and a growing capacity to use donor funds well in addressing them. We must be there for them. It is an economic and a moral imperative.

However, where aid cannot be effective because of bad policy or corruption or weak governance, we need to think of new ways to help the people. not the old technical assistance approaches of the past that relied too heavily on foreign consultants. But helping countries help themselves: by building their own capacity to design and implement their own development.

Finally, all of us in the development community must look at our strategies anew.

We need that quantum leap which will allow us to make a real dent in poverty. We need to scale up, to think beyond individual donor-financed projects to larger country-led national strategies and beyond that to regional strategies and systemic reform.

We need approaches that can be replicated and customized to local circumstances. Not one agricultural project here or one group of schools there. But rural and educational country strategies that can help the Oaxacas and the Chiapas of this world, as well as the Mexico Cities.

We need to hit hard on the key pressure points for change—adequate infrastructure in key areas, social and human development, rural and environmental development, and financial and private sector development.

And we need to remember that educating girls and supporting opportunities for women—health, education and employment—are crucial to balanced development.

In the struggle for inclusion, this all adds up to a changed bottom line for the development community. We must think results—how to get the biggest development return from our scarce resources. We must think sustainability—how to have enduring development impact within an environmentally sustainable framework. We must think equity—how to include the disadvantaged. We must focus not on the easy projects but on the difficult—in northeast Brazil, in India's Gangetic Plain, and in the Horn of Africa. Projects there will be riskier, yes. But success will be worth all the more in terms of including more people in the benefits of development—and giving more people the chance of a better life.

THE WORLD BANK GROUP'S RESPONSE

How is the Bank Group responding to the Challenge of Inclusion?

Last year, I said that if the Group was to be more effective, it needed to change—to get closer to our clients' real needs, to focus on quality, and to be more accountable for the results of our work. This year, I want to tell you that it is happening. Not only is the Bank changing, but the need for change is now fully accepted.

I know—and you know—that the Bank has tried to change before. But there has never been this level of commitment and consensus. We are building on the mission statement articulated by my predecessor, Lew Preston, whose untimely death prevented him from implementing his plans.

Earlier this year, we launched an action program—the Strategic Compact—to renew our values and commitment to development and to improve the Bank's effectiveness. I believe the Compact is historic. Not because there is agreement on every paragraph of the document; but because staff, management, and shareholders—with terrific support from our Executive Directors—are now united on the future direction of the institution. And while we still have a long way to go, and while change is painful—and some people are undoubtedly feeling that pain—implementation is well under way.

I really believe that this time we can succeed. And we will succeed because of our truly remarkable and dedicated staff. I do not believe a better development team exists, or one with more experience in fighting poverty.

But the Compact is not primarily about our organization and internal change; it is about our clients and meeting their needs more effectively. To take this beyond rhetoric, we have decentralized aggressively to the field. By the end of this month, eighteen of our forty-eight country directors with decisionmaking authority will be based in the countries they serve—compared with only three last year.

We have speeded up our response time and have introduced new products such as the single currency loan and loans for innovative projects of $5 million or less that can be implemented very quickly.

Working with Michel Camdessus and our colleagues in the IMF—as well as with many other partners—we have prepared debt reduction packages worth about $5 billion for six heavily indebted poor countries under the HIPC Initiative. Not bad for an effort that did not even have a name eighteen months ago. And we are moving speedily ahead to help other HIPC countries.

The New Bank is committed to quality.

We have put in place reinvigorated country management teams, with 150 new managers selected over the last six months, and rigorous training and professional development programs have been introduced for all staff. The International Finance Corporation (IFC) has also made major changes in management and is decentralizing to the field.

We have improved the quality of our portfolio, and as a result our disbursements reached a record level last year of $20 billion.

And the quality of all our work is being enhanced by the progress we have made toward becoming a Knowledge Bank. We have created networks to share knowledge across all

regions and all major sectors of development. Our Economic Development Institute is playing a leading role in this area. Last June in Toronto, working with the Canadian government and many other sponsors, EDI brought together participants from over 100 countries, for the first Global Knowledge Conference.

My goal is to make the World Bank the first port of call when people need knowledge about development. By the year 2000, we will have in place a global communications system with computer links, videoconferencing, and interactive classrooms, affording our clients all around the world full access to our information bases—the end of geography as we at the Bank have known it.

We are also promoting increased accountability throughout the World Bank Group:

We have developed a corporate scorecard to measure our performance. We are closely monitoring compliance with our policies and are continuing to work to improve the inspection process by making it more transparent and effective. And we are designing new personnel policies that explicitly link staff performance to pay and promotion.

We are also emphasizing accountability in the dialogue with our clients. Last year, I highlighted the importance of tackling the cancer of corruption. Since then, we have issued new guidelines to staff for dealing with corruption—and for ensuring that our own processes meet the highest standards of transparency and propriety. We have also begun working with a first half-dozen of our member countries to develop anticorruption programs.

My bottom line on corruption is simple: If a government is unwilling to take action despite the fact that the country's development objectives are undermined by corruption, then the Bank Group must curtail its level of support to that country. Corruption, by definition, is exclusive: It promotes the interests of the few over the many. We must fight it wherever we find it.

But key to meeting the challenge of inclusion is making sure not only that we do things right but that we do the right things. Earlier, I mentioned the strategic pressure points of change. Let me say a few words about what we are doing in each of these areas.

Human and social development. We are mainstreaming social issues—including support for the important role of indigenous culture—into our country assistance strategies so that we can better reach ethnic minorities, households headed by women, and other excluded groups.

We are participating in programs designed by local communities to address pervasive needs, such as the EDUCO basic literacy program in El Salvador and the District Primary Education Program in India, and these programs are being replicated by other countries.

We are increasing our support for capacity-building—particularly the comprehensive program initiated by the African countries last year.

Sustainable development. In the rural sector, which is home to more than 70 percent of the world's poor, we have completed a major rethinking of our strategy. Lending is now up after many years of decline, supporting innovative programs such as the new market-based approach to land reform in Brazil.

We are also supporting our clients' efforts to address the brown environmental issues—clean water and adequate sanitation—that are so often neglected but are so important for the quality of the everyday lives of the poor.

And, through the Global Environment Facility, the Global Carbon Initiative, and a new partnership with the World Wildlife Fund to protect the world's forests, we are continuing to advance the global environmental agenda.

The private sector. We are capitalizing on the synergies between the Bank, the IFC, and the Multilateral Investment Guarantee Agency (MIGA) and are coordinating our activities under a single, client-focused service "window."

Across the Bank Group, we are building up our work on regulatory, legal, and judicial reform designed to help create environments that will attract foreign and domestic private capital. We are using International Bank of Reconstruction and Development (IBRD) guarantees to help support policy changes and mitigate risk, and we are expanding the product line of the International Development Association (IDA) to help poor countries develop their private sectors and become full participants in the global economy.

Meanwhile, the IFC is working in 110 countries, and in more sectors, employing more financial products than ever before. Last year saw $6.7 billion in new approvals in 276 projects. The IFC's Extending the Reach Program is targeting thirty-three countries and regions that have received very little private sector investment. Again, the goal is clear: to bring more and more marginalized economies into the global marketplace.

MIGA, too is playing an active and enhanced role. Last year it issued a record seventy guarantee contracts for projects in twenty-five developing countries, including eleven countries where it has not been active before. I am delighted that yesterday the Development Committee agreed to an increase in MIGA's capital that will allow it to continue to grow.

The financial sector. This pressure point has been brought sharply into focus by recent events in East Asia. Here too we are scaling up our work in coordination with the IMF and the regional development banks for the simple reason that when the financial sector fails, it is the poor who suffer most. It is the poor who pay the highest price when investment and access to credit dry up, when workers are laid off, when budgets and services are cut back to cover losses.

But success in the financial sector requires much more than the announcement of new policies or financial packages pulled together when crisis hits. This is why we are expanding our capacity for banking and financial system restructuring—and not just for the middle-income countries, but taking on the larger task of financial sector development in low-income countries.

For those countries, home to the world's 3 billion poorest people, IDA remains the key instrument for addressing the Challenge of Inclusion. I will be coming back to you in due course to seek your support for the twelfth replenishment of IDA.

CONCLUSION

I believe we have made considerable progress in putting our own house in order in preparation for the challenges of the new millennium.

1997 has been a year of significant achievement. We must push ahead with this process. We must make sure that we deliver next year's work program, that we strengthen the project pipeline and increase the resources going directly to the front line. And we must implement our recently completed cost-effectiveness review.

But the time has also come to get back to the dream. The dream of inclusive development.

We stand at a unique moment in history when we have a chance to make that dream a reality. Today, we have unprecedented consensus on the policies that need to be put in place for sustainable and poverty-reducing growth. Today, we have clear and unambiguous evidence of the economic and social linkages between the developing and the industrial worlds. Today, we face a future where, unless we take action, our children will be condemned to live in a degrading environment and a less secure world. All we need today is the determination to focus on tomorrow and the courage to do it now.

As a development community we face a critical choice.

We can continue business as usual, focusing on a project here, a project there, all too often running behind the poverty curve. We can continue making international agreements that we ignore. We can continue engaging in turf battles, competing for the moral high ground.

Or we can decide to make a real difference.

But to do that, we need to raise our sights. We need to forge partnerships to maximize our leverage and our use of scarce resources. And we need to scale up our efforts and hit hard on those areas where our development impact can be greatest.

We at the Bank Group are ready to do our part. But we cannot succeed alone. Only if we work together will we make a dent. Only if we collectively change our attitude will we make that quantum leap. Only if, in board rooms and ministries and city squares across the globe, we begin to recognize that ultimately we will not have sustainable prosperity unless we have inclusion, will we make it happen.

Let me end where I began: in that *favela* in Brazil: What I saw in the faces of the women there, I have also seen on the faces of women in India showing me passbooks for savings accounts. I have seen it on the faces of rural cave dwellers in China being offered new, productive land. I have seen it on the faces of villagers in Uganda, able for the first time to send their children to school because of the private profit they can now make through rural extension schemes.

The look in these people's eyes is not a look of hopelessness. It's a look of pride, of self-esteem, of inclusion. These are people who have a sense of themselves, who have a sense of tradition, who have a sense of family. All they need is a chance.

Each one of us in this room must take personal responsibility for making sure they get that chance. We can do it. For the sake of our children, we must do it. Working together, we will do it.

TRIBUTE TO GEN. WILLIAM W. "BUFFALO BILL" QUINN

Mr. STEVENS. Mr. President, I call to the attention of the Senate the fact that in a few days one of our Nation's most distinguished military officers, a veteran of World War II and of the Korean conflict, will celebrate his 90th birthday.

Lt. Gen. William W. "Buffalo Bill" Quinn, a 1933 graduate of the U.S. Military Academy at West Point, completed Command and General Staff School the day before Pearl Harbor.

He had served as G–2 of the 7th Army, responsible for the intelligence on

which the August 1944 allied landing in southern France was based when the 19th German Army was routed.

The following year he helped to liberate the survivors of the Nazi death camp at Dachau. What he saw there so horrified him that he said he would never let the world forget, so that nothing similar could happen again.

After the war, General Quinn became director of the Strategic Service Unit that was formerly known as the Office of Strategic Services. Later he was assigned to Korea where he boosted regimental morale by setting up a system for sending word of the accomplishments of individual soldiers to their hometown papers. He also served as G–2 for the daring and historic landing at Inchon.

His duties as a combat commander began when he was assigned to command the 17th Regiment in Korea, which was known as the "Buffaloes."

On a cold winter day in 1951, ending a report on his regiment, he said, "Tell the old man"—and he meant by that Maj. Gen. Claude Ferenbaugh, commanding general of the 7th Division—"that Bill of the Buffaloes said everything will be all right."

From then on, Bill Quinn became known as Buffalo Bill.

After Korea, he served for 2 years as an adviser to the Greek Army. Later he assumed command of the 4th Infantry Division at Fort Lewis, WA, and then returned to the Pentagon as the first Deputy Assistant Chief for Intelligence of the Army. In 1959, he became the Army's Chief of Public Information.

Assigned to the Defense Intelligence Agency as Deputy Director in 1961, he was then promoted to lieutenant general. In 1964, General Quinn was appointed the 18th commanding general of the 7th Army in Germany. He retired 2 years later.

I met General Quinn when I went to visit Senator Barry Goldwater once over on the Chesapeake. He is a great individual, Mr. President. General Quinn's distinguished military career provides a picture of a great man. Those of us who are fortunate enough to call him a friend know that he has many more dimensions. He is a fine writer, who has contributed to many periodicals. He wrote a successful television series on our American infantrymen. General Quinn is an ardent fisherman, an outdoorsman, a golfer. In his Academy days, he played end on the football team and attack on the lacrosse team.

As a father and grandfather, he has a family which is extremely proud of him. His list of citations, decorations, and civic activities and many accomplishments would be a long one and still would not tell the story of the whole man. I know him as an almost professional Irishman. He knows more jokes about Irish people and can tell them at length. And he enjoys Irish whiskey, as a matter of fact.

Mr. President, I ask the Senate to join me in honoring a great man, Gen. "Buffalo Bill" Quinn on his 90th birthday, which he will celebrate with his friends and family on November 1.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I ask unanimous consent that I might proceed for up to 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I thank the Chair.

THE GAZPROM DEAL

Mr. D'AMATO. Mr. President, on September 30, Total, a French company, and Petronas, a Malaysian company, and Gazprom, a Russian company, signed a $2 billion agreement to develop the South Pars oilfields in Iran. This contravenes the Iran-Libya Sanctions Act which passed the Senate unanimously, and passed the House of Representatives with I think all but four votes, and which was signed into law August 5, 1996, by President Clinton.

Mr. President, the history of the Iran-Libya Sanctions Act is one that, unfortunately, it seems to me, too many are ready to forget. Too many are ready to forget the 300-plus American citizens who were killed in PanAm 103, or that two Libyan agents have been indicted in connection with that terrorist attack and provided a safe harbor by the Libyan Government. Too many of us are fickle, it seems to me, and are ready to forget past acts of terrorism committed by these two countries because of political expedience, on the altar of corporate profits and greed.

Let us bring their arguments right out here: "Oh, if we don't participate in this, others will. If we don't provide the bullets for the killers, others will, so why don't we sell them. Oh, forget the fact that this legislation was passed unanimously because, when this bill passed it was in close proximity to another tragedy that took place, the TWA flight that inexplicably exploded off the shores of Long Island." When the legislation passed, people were concerned whether or not it might have been a terrorist bomb or missile. I am not suggesting that it was terrorism, but there was that concern, and so the Congress was quick to respond.

I think we responded correctly. We said to those who are going to do business with countries that export terrorism, that are in the business of financing the fanatical kinds of acts that result in a terrorist attack at the World Trade Center in New York where 6 people are killed, that result in the bombing of the barracks in Riyadh in Saudi Arabia where our troops are killed, that engage in the kind of terrorist attack sponsored by the Libyans where 300-plus Americans are killed; we are not going to help promote trade with those countries that played a role in these attacks. And if companies and countries want to enter into agreements that will promote the financial resources and development of Iran and Libya, then they cannot have free access to the marketplace in America.

Is that a sacrifice? Yes, it is. Is it a sacrifice that we have a right to expect? I believe it is. Should it be greeted by the French Prime Minister standing up and cheering on the day that Total enters into this agreement, an agreement that our State Department was aware of and attempted to intercede and to get the French to work with us? I don't believe so.

What does that sanction bill provide? It has a litany of opportunities for the Libyans and the Iranians to escape punitive measures; if they act in conformity with the world community and stop sponsoring terrorist attacks, if they begin to show actions that they will live and let live, then the President does have the ability to relax and alter those sanctions.

But, Mr. President, to date there has not been one showing, not one, that any of those countries, the Libyans or the Iranians, are willing to cease and desist from promoting terrorist attacks against the United States, against our interests and against those who seek peace and want to live in peace. Indeed, if anything, they have become more violent.

By the way, I say to those who argue that this agreement or this arrangement or this law has not worked, it has worked. We know that there have been billions of dollars of investments that would have gone into promoting the economy of Iran so that they would have more resources to export terrorism that has been precluded.

For the leader of France to stand up and cheer, I believe, is horrendous. For him to say that this is extraterritorial legislation flies in the face of common sense. Are you really saying that the United States cannot take a position; "that we are not going to support terrorist nations, that there will be sanctions, and that you cannot do business with us as if everything is fine and well and that you are comporting yourself as a good world citizen?"

Let me suggest to you that many of those who decry the U.S. position were the same who were so quick to come in and say a recent corporate merger that was about to take place should not take place. Oh, yes, the European Community, led by, once again, our friends

the French, were ready to step in and say that the agreement between two American companies, McDonnell Douglas and Boeing, be invalidated. What about extraterritoriality in that situation? And in that case we are talking about two companies that are not exporting terrorism right here within the United States. Yet today we have the European Common Market talking about sanctioning the United States if we were to proceed in allowing those two aircraft manufacturers to merge and not ask for waivers and not work out a situation, because this would be competition that would be difficult for a European company, Airbus.

So let us not have a situation where there are those who are willing to condemn us for fighting terrorism—and by the way, how do we take on those who promote terrorism? We cannot bomb them. I am not suggesting that we do. But should we not deny them the financial resources with which to fuel the engine for exporting terrorism? Of course, we should.

It takes a little courage. I think that our administration has not done the kind of things that it should do behind the scenes, working with our allies to make this policy one that is easier to enforce. We have not told the Europeans to stand up to the Iranians, and say "if you want to be able to have commerce and trade like others, then you have to behave. There is a code of conduct that we expect of you, or otherwise, there will be sanctions." We have simply not told them to tell the Iranians that.

There was once a time not too long ago when we imposed sanctions of all kinds on our current allies, the Russians, before the wall of communism came down. Sanctions that related to human rights, related to their antidemocratic activities. We didn't have pure free trade and commerce under the sanctions of yesterday, so the sanctions of today aren't anything new. For those who say somehow this is terrible, I'll tell you what is terrible: I think it is terrible that we have not laid our cards on the table with our allies and told them we expect them to join with us in the battle against terrorism.

I received a letter from our colleagues Senator BROWNBACK and Senator KYL, asking that the Banking Committee hold a hearing on the question of offering $1 billion of convertible bonds on the U.S. markets. And what were these bonds to be used for? They were to be used for helping to finance a company by the name of Gazprom; Gazprom, the very Russian company that helped bring about this deal promoting the exploration and development of the oil fields in Iran. Owing to the fact that Gazprom is clearly one of those companies that is in violation of the Iran-Libyan Sanction Act, and it can be sanctioned, I have a difficult time understanding—along with my colleagues Senator KYL and Senator BROWNBACK who have raised the question whether or not we should permit financing under our law—whether these financing activities wouldn't be in violation of our national security. Do these activities require a waiver from the President? We will be holding a hearing next week, next Thursday, to ascertain this.

In addition, I have learned from a number of accounts that Gazprom is now negotiating with our Export-Import Bank to get something in the area of $800 to $850 million worth of Export-Import Bank credits. This is incredible. Today I have written a letter to Senator MCCONNELL in which I have asked him to take the appropriate actions to see to it that this is not business as usual, that he puts a hold on this as he is marking up the appropriations bill dealing with the Export-Import Bank.

I ask unanimous consent the letter dated October 22 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, October 22, 1997.

Hon. MITCH MCCONNELL,
Chairman, Subcommittee on Foreign Operations, Appropriations Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write today with a matter of urgent concern. Gazprom, a Russian company has violated the Iran-Libya Sanctions Act by signing a $2 billion contract along with Total, S.A. of France and Petronas of Malaysia, with Iran to develop the South Pars oil field there. This flagrant act cannot be rewarded with U.S. inaction. Most importantly, it must not be rewarded with U.S. export financing.

Now, after this act of corporate greed and obstructionism of U.S. counter terrorism policy, we learn that Gazprom might well receive some $800 million in Export-Import credits. This cannot be allowed to happen. We must prevent the extension of these loans. There is no reason that we should be financing their violation of our laws and the enrichment of Iran.

Mr. Chairman, Iran's international misdeeds are legendary. Their sponsorship of international terrorism and their ongoing attempts to obtain weapons of mass destruction should cause all of us great concern. In this vein, Gazprom's aid to Iran cannot and should not be allowed to proceed without penalty. I, therefore, urge you in the strongest of terms, to seek an end to this financing as you prepare the final version of the FY 98 Foreign Operations Appropriations bill in the coming weeks.

Thank you for your support of this extremely important and urgent request.

Sincerely,

ALFONSE M. D'AMATO,
Chairman.

Mr. D'AMATO. I urged upon Senator MCCONNELL in the strongest terms to seek an end to this financing in the fiscal year 1998 foreign operations bill. If, indeed, we are going to have a situation where, on one hand we have a law that says you cannot do business with these countries, and on the other hand we are indirectly financing a corporation which is going to be undertaking these activities, then I think this is wrong. How can the United States provide $800 to $850 million worth of Export-Import Bank credits allowing U.S. companies to do more business with companies whose actions violate U.S. law and damage U.S. security? So we certainly have an obligation to look into this.

In fact, Gazprom is a company that is closely tied to the Russian Prime Minister, Victor Chernomyrdin. And when the Vice President, Vice President GORE, was in Russia several weeks ago, he reportedly spoke at length, to Mr. Chernomyrdin, about the Russian company's providing missile technology to Iran. It is my understanding Mr. Chernomyrdin said he had no knowledge of this, and that he could not do anything about it.

What are we talking about? I mean, the fact of the matter is the Russians have been providing this technology to Iran. It seems to me this situation is like the parent who doesn't want to acknowledge that a son or daughter may have some problems with substance abuse, but they look the other way. All the signs are there, but they look the other way. All the facts are there, but we don't want to have an acknowledgment.

Let me be clear, Iran is the foremost sponsor of international terrorism. They threaten our national security, the interests of our citizens and our allies, and it is unconscionable that we provide aid to them to do so. For the Russian Prime Minister to say we should stop worrying about this threat is incredible.

I think we should start worrying about the damage that will be done if this kind of contract is carried out by us acting as willing consorts. For Russian companies to be providing missile aid to Iran and then helping finance gas deals which will make it possible for the Iranians to undertake more terrorist activities, I think is simply impermissible. Are we supposed to really be quiet? Sit back? Are we going to really read the editorials that say that now I have somehow created a terrible situation by coming forth and saying "let's look at this, let's examine this—I believe this is wrong." As far as Total and Petronas are concerned, I hope the administration understands the only correct course to take is to implement the law and to impose the sanctions to their fullest and to sit down with our allies and say to them: Instead of poking us in the eye deliberately and publicly, we should be working together; not for one to advantage oneself and make a quick buck.

We cannot fail to take this initiative and implement the law the way it was intended—it was intended to bring sanctions upon those who deal with

countries that promote terrorist activities unless and until those countries change and mend their ways. Failure to act now will only come back to haunt us in the future. It will only bring more in the way of conduct that can be detrimental to world peace and to our security and to the national interests of the United States. I hope we have the courage to stand and act, instead of listening to those in the corporate and business sector come down and say: "Oh, well, if they take this action today against Total that tomorrow it may impact against us."

This is a battle. It is a war. It is a different kind but in many ways it is even more dangerous, more pernicious, more evil than the kinds of wars where nations may declare themselves against another nation. There, you know where the battlefields lie and you understand what is taking place. But this is a savage one, which is waged against innocent civilians, children—people throughout the world. That is why we need to employ all of the economic power and legal and moral authority that we have in bringing our allies together with us.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

GERI MEAGHER

Mr. LOTT. Mr. President, our prayers today are with Mrs. Geri Meagher and her family. Geri, as most of us know, is the majority floor Doorkeeper. Hers is one of the brightest and friendliest faces greeting us on the Senate floor every day. And we miss her sunshine today.

I always look back to see Geri there keeping an eye on the Senate floor and making sure that everything is working in proper order. But last night she was stricken with a brain aneurysm and today is undergoing surgery. Our prayers for her recovery and return to us go with her today.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

TRIBUTE TO LIZ HEASTON, THE FIRST WOMAN TO PLAY COLLEGE FOOTBALL

Mr. SMITH of Oregon. Mr. President, I rise with a pleasant report today. There are very serious things that occur on this floor in this great Chamber of debate. This is also serious, but very pleasant to report.

This past Saturday history was made in our country. It occurred in my State. It occurred because a young woman by the name of Liz Heaston appeared in a men's football game at Willamette University. She became the first woman in college football history to play in a game.

Before a crowd of 2,500 people, Liz kicked 2 extra points in what helped Willamette University defeat Linfield College 27–0.

Liz is a starter for the Willamette University soccer team. And at the last minute she was asked to fill in for the team's regular kicker who was injured. She did it with great aplomb and obviously very effectively.

After the game, Liz merely said, "I was out there to have fun and do my job on the field for the team. That was enough for me."

It isn't enough for me to just acknowledge this, but I wanted to come to the Senate floor today to pay tribute to her and to say in this day and age anything is possible.

I commend her for being the first woman to play in a men's college football game.

Mr. President, I yield the floor.

WOMEN IN MILITARY SERVICE TO AMERICA MEMORIAL

Mr. HATCH. Mr. President, I rise today to pay tribute to those whose service has at long last been recognized by their country. I am speaking, of course, of those women who have served their country in uniform. This past weekend, women veterans converged in Washington for ceremonies dedicating the Women in Military Service to America Memorial.

Two million women have stepped forward to serve in every conflict from the American Revolution to Desert Storm. This is a surprising fact when you look around Washington, DC, with its many monuments to American military heroes and battles—generally men on horseback.

The Women in Military Service to America Memorial, thanks to the dauntless effort of retired Brig. Gen. Wilma Vaught, has finally become a reality. It will serve as a permanent reminder that the words "duty, honor, country" are not merely the motto of West Point cadets; they are part and parcel of citizenship in this great Nation. They certainly are not gender specific.

Today, there are over 1 million women who are veterans of our Armed Forces; and 14 percent of the U.S. military are women, many of whom have made military service a career.

These are women who have nursed the wounded and comforted the dying; they have flown aircraft; they have delivered the mail; they have requisitioned and moved supplies; they have maintained equipment; they have gathered and assessed intelligence; they have managed offices and pushed paperwork.

They have braved every condition and suffered every deprivation. They have been prisoners of war; they have been wounded; and many have offered the ultimate sacrifice of their lives for the Nation.

A person who serves in our Nation's Armed Forces is a citizen who has sworn to step into harm's way to defend freedom. Male or female, we owe our veterans a debt of gratitude for taking on these risks.

With the dedication of the Women in Military Service to America Memorial, we are finally recognizing the contributions of women in our Armed Forces.

I want to pay special tribute to the many women of Utah who have served. Utah's population includes more than 6,000 women veterans.

During the First World War, the Red Cross made desperate pleas for qualified nurses to staff the hospitals for the troops. One-fourth of the nurses in Utah at the time offered their skills and joined the effort. I think it is of particular note that, although Utah women had the right to vote, other women volunteered for military service in World War I before they could even vote.

And yet, they served under brutal conditions.

Mabel Winnie Bettilyon of Salt Lake City worked at an evacuation hospital in France where she faced an unrelenting patient load. During one night, more than 800 wounded American soldiers came into the hospital, and she was assigned to care for 136 of them.

Ruth Clayton called her service in France "the most important experience of my life" because, she said, "I was able to help." She worked in a mobile medical unit caring for soldiers wounded by gas attacks, many suffering from horrifying disfigurement. She held the hands of the dying and strengthened the weak. They ate sitting in the mess tent on a wooden coffin. Upon Clayton's return, she went on, as so many others did, to a distinguished nursing career at home.

During World War II, Mary Worrell of Layton, UT, was among a select group of women who were trained to fly military cargo planes. Although relegated to the copilot's chair, these women proved their bravery and skill. Worrell trained as a Navy transport airman, a WAVE, flying the B–54 in alternately hot or cold unpressurized cabins. One of her assignments was to distribute the balance of weight in the plane. She recalls directing passengers to stand in the front of the plane for take off, or have them crouch in the tail depending on conditions. Today, Worrell helps educate and inspire visitors as a volunteer at the Hill Aerospace Museum in Utah.

Other women became Women Airforce Service Pilots [WASP's]; 25,000

women volunteered for the program to compensate for the shortage of pilots; 1,037 were accepted and completed the training to become full-fledged pilots, delivering bombers from factory to the troops in Europe during the 1940's. They flew every kind of mission except combat. Because they were not officially part of the military, there were no bands or benefits awaiting them at the completion of their service. In fact, 39 of them lost their lives, and families and friends paid for the return of their remains. Not until 1977 were these women finally recognized and granted veterans status.

Efforts to integrate more women, to incorporate those military groups who had served as auxillaries, grew during the Korean war. Barbara Toomer is a Utah veteran of the Army Nurse Corps during the Korean conflict, when the total enrollment of women in the Armed Forces was at just 4 percent.

Their sacrifice does not always end with their military tours of duty, nor does their struggle for respect. When Veda Jones, a disabled Vietnam-era veteran, sought to work with her local service organization, the local commander pointed her in the direction of the auxillary. Undaunted, Jones persisted. She recalls thinking, "I'm 60 percent disabled. I am a Vietnam-era veteran. I did my time—22 years on active duty. I belong with the main body." Ten years later, Jones was installed as the president of this 5,400 member organization. The veterans of Utah have looked to her leadership, and she has unfailingly been found at her post. She has been an inspiring champion on behalf of veterans, working tirelessly to assist with veterans' employment and health issues in Utah today.

When the country called many reservists to active duty during the gulf war, there were many Utahns, men and women, who answered the call. We hold the ideals of patriotism and service dear in Utah. With 6,000 members in the Army Reserve and 1,500 members in the Air National Guard, Utah has more units per capita than any other State. Brigham Young University in Provo, UT, has one of the few all-female Army ROTC units in the Southwest, a unit that has distinguished itself already as a force to be reckoned with.

As is the case throughout today's military, women hold key leadership positions and comprise vital elements of the units, proving not only that women have the skills to be full players in the defense of our Nation, but also that they have the same motivation for service as their male colleagues.

The women veterans of World War I, World War II, Korea, and Vietnam have opened the doors of opportunity for those Utah women on active duty today—as near as Hill Air Force Base or as far away as Europe, Korea, or on board ship.

The memorial dedicated last Saturday tells the stories of individual women, and it tells the story of a nation. Remember the women of the Revolutionary War and Civil War who disguised themselves as men in order to serve. Remember the women who worked as spies for the Army or nurses on the battlefield. Remember your grandmothers dodging fire as ambulance drivers in World War I, or your mothers staffing essential supply depots during World War II and Korea. Remember the women who worked in intelligence units in Vietnam or as helicopter pilots in the Persian Gulf. Today, military women are serving aboard ships and flying the space shuttle.

I will look forward to visiting this beautiful and fitting memorial; and, when I do, I will think of Mamie Ellington Thorne, Mabel Winnie Bettilyon, Mary Worrell, Barbara Toomer, and Veda Jones, among so very many others. I will think of those now serving and be grateful to them as well as to their male colleagues for keeping this country safe.

May the Women in Military Service to America Memorial stand to remind future generations of these noble women who, like their brothers, have given up certain comforts of civilian life, have volunteered to go to far flung places around the globe, and put themselves at risk to advance the cause of freedom.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to House Joint Resolution 97, the continuing resolution, for debate only. Therefore, no amendments will be in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A joint resolution (H.J. Res. 97) making further continuing appropriations for the fiscal year 1998, and for other purposes.

The Senate proceeded to consider the joint resolution.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. House Joint Resolution 97 is now pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, this resolution would extend the continuing concept of our appropriations to Friday, November 7, of this year. The terms and conditions are exactly the same as the bill that was passed by the Senate in September. The 1997 fiscal year funding levels and policy limits will prevail during the extended period of this continuing resolution.

We have made considerable progress on the appropriations bills for fiscal year 1998. The Defense, military construction, Treasury, energy and water, and legislative branch bills have all been enacted.

The Transportation and VA–HUD bills are pending before the President and should be signed within the next few days.

The Agriculture conference report has passed the House and is pending here in the Senate.

We expect to file an Interior appropriations conference report later today.

And it is my opinion we will complete the conference on the foreign operations, Commerce and Labor, Health and Human Services bills this week.

Additionally, we should pass or obtain cloture on the District of Columbia bill this week.

I am here to say I am grateful for the cooperation of the two leaders, Senator LOTT and Senator DASCHLE, in aiding our Appropriations Committee in passing these bills with significant bipartisan majorities.

We continue to need the help of all Members to complete our work prior to November 7.

Mr. President, I do not hope to come back to this floor again during this session of Congress to seek another continuing resolution.

We have very difficult policy issues to be settled on foreign operations, the Labor bill, and the Commerce bill, but I do believe we can complete the budget aspect of those bills this week. The controversial riders that are attached to the bills will dictate whether we can complete all of our work on these appropriations bills within this extended period.

I urge Senators who are concerned about these bills to support this continuing resolution, to give the committee the time it needs to work out the remaining differences between the House and the Senate on the bills that I have just enumerated.

Mr. President, again, it is my hope that we will, in this session, pass the separate appropriations bills, let the President exercise his will with regard to each bill, and conduct our affairs in the Appropriations Committee with separate appropriations bills and not to have one all-encompassing global type of continuing resolution as we wind up this session.

It is possible, Mr. President, to do our job, as we should do it—13 separate bills. That is my plea to the Senate. Help us work out the 13 separate bills.

I thank the President and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Brian Symmes, a fellow, and Maggie Smith, an intern, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I now be allowed to speak as in morning business.

The PRESIDING OFFICER. The Senator from Minnesota is recognized to speak as in morning business.

Mr. WELLSTONE. I thank the Chair.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

Mr. WELLSTONE. Mr. President, I rise to discuss legislation that the Senate may soon consider. The number of this bill is S. 270; it is the Texas low-level radioactive waste disposal compact bill.

As my colleagues know, the Congress is supposed to consent to all interstate compacts, which are contractual arrangements between States. In this case, we are asked to give our consent to the shipment of low-level nuclear waste from Maine and Vermont, and potentially other States, to Texas for disposal. I am opposed to this legislation as it is currently written. I want to make clear today what my intentions are.

Mr. President, we will have further opportunity to debate this legislation in full, and I do not intend to engage the bill's supporters today. I certainly never intend for this to become an acrimonious or bitter debate. But I want to publicly explain my opposition to this legislation and also what I intend to do.

I do not believe that it is the intention of the bill's sponsors, my good friends from Maine and Vermont, to do anything to harm the citizens of Sierra Blanca, TX, through this compact. My friends from New England are attempting to meet the concerns of their constituents. They just want to get rid of this nuclear waste and they want to figure out how to dispose of it. They want to get it out of their own States. I also understand that no one wants to have a nuclear waste dump in their neighborhood.

Now, this compact legislation says little about where the waste should go in Texas, other than that the State of Texas has an obligation to find a site. The State legislature in Texas has decided that there indeed will be a site and it will be in a small town in Hudspeth County, TX. My friends from Maine and Vermont, with whom I agree on many issues, and whom I enjoy working with, have not said that their State's nuclear waste should go to Sierra Blanca. But the effect of this legislation is to create a low-level nuclear waste dump site in a dusty little town in Texas called Sierra Blanca near the border with Mexico, about 60 miles east of El Paso.

Mr. President, I believe that there are many concerns that have been raised about the siting of this dump and the enactment of this legislation, including environmental issues, seismic problems, economic viability, current legal actions, and our relations with Mexico.

But I want to talk about one issue and one issue only, and hold what may be the first debate we have ever had on the floor of the U.S. Senate that deals with environmental justice, which is a shorthand way of talking about the disproportionate exposure of ethnic minorities and poor people to environmental pollutants. That is to say, all too often, when it comes to where we site these nuclear waste dump sites or where we put an incinerator, we tend to locate them in communities where there is a disproportionate number of people of color or poor people because they don't have the political clout.

Why do I raise the issue of environmental justice on a bill that professes to do no more than grant the Congress' consent to a compact between Maine, Vermont, and Texas for the disposal of nuclear waste? Because it is this bill which will enable Maine and Vermont to indeed ship nuclear waste to Texas—and I understand why they are trying to do it—but also because Texas has made it very clear where it intends to locate the dump site. That dump site, not surprisingly, is located in an area of west Texas that is populated disproportionately by poor Hispanics. This happens over and over and over again in our country. When we want to figure out where we are going to put the nuclear waste, we look to where the poor people live, to where communities of color without the economic clout live, and that is where we put it.

Is the proposed location of the dump in a poor community simply a coincidence, I ask my colleagues? Was it chance that the dry, sparsely populated county in Texas tentatively chosen for the dump site is 66 percent Hispanic with 39 percent of the people living below the poverty level? There certainly were other scientifically acceptable sites for the dump, so why did the Texas Legislature choose this spot, the sixth poorest county in Texas, with a high minority population, a low median household income and a sludge dump?

The answer to these questions is simple. We in this body understand the answer to this question all too well. It was politics. The community living near the site singled out by the Texas Legislature did not have the political clout to keep it out. While all the other candidate sites were able to deflect the dump, Sierra Blanca, in far western Texas, a poor community, a Hispanic community, did not pack the political punch of the communities near the other possible sites.

Another question that has arisen is, why am I, as a Senator from Minnesota, involving myself in the decision of the Texas Legislature to select a particular Texas site for a nuclear waste dump? For this reason, colleagues: It doesn't just happen in Texas, it happens all over this country. Poor and minority communities, unable to protect themselves in the political arena, find the old plumber's maxim is as true as ever: "Waste flows downhill," both figuratively and literally, and if you are at the bottom of the socioeconomic slope, the pollution lands on you.

That is what this is all about. That is what this cry for environmental justice is all about. I predict that eventually environmental justice will become a huge issue in the Congress. To repeat, it is the old plumber's maxim that "waste flows downhill, both figuratively and literally, and if you are at the bottom of the socioeconomic slope, the pollution lands on you."

I am standing on the floor of the U.S. Senate today to say that enough is enough. Until more of us say enough and we face up to the environmental injustices that we may contribute to in the granting of our consent in legislation such as this, poor and minority communities will continue to suffer disproportionately from environmental degradation in our country. We are in desperate need in the United States of America of a meaningful dialog on environmental justice. I believe Americans understand the need for fairness, and I want Americans to understand that we have to address environmental justice whenever we think about how to deal with problems like waste disposal. All our actions have moral implications, and what we decide on legislation like this can ultimately harm our most vulnerable citizens.

I intend, Mr. President, to have a full debate on environmental justice. I want Members to explain why we should overlook the environmental justice implications of our actions in this instance. I want to talk about how this situation is symptomatic of many situations that we face in our country today. I want the U.S. Senate, as a body, to reflect on the consequences of pollution on poor and minority citizens all across the United States of America. I also intend to offer an amendment which adds one additional condition to Congress' consent to the compact. That condition is essentially that Congress grants its consent as long as the compact is not implemented in a way that it discriminates on the basis of race, color, national origin, or income level. Specifically, it will be designed to allow people who don't have

the chance to fight fairly in the political process to make their case in the courts. I want to give poor and minority people, communities of color, a chance to fight this out in the courts.

That is the very point of environmental justice. When the political process fails, environmental justice means trying to level the playing field, sometimes forcing conflict into a more evenhanded forum in this country. In this particular case, that would be the courts. I am sure, Mr. President, that none of our colleagues would argue that it is acceptable to discriminate against people by locating a nuclear waste dump site in their community. That being the case, it is a simple matter to say that if the location of the compact dump discriminates against people on the basis of their race or economic status, Congress will not consent to this compact. That will be the amendment I will bring to the floor if this compact is brought to the floor. I think this will happen and we will have this debate, and I think it will not be an acrimonious debate, but it will be one of the first debates we have ever had in the Senate on environmental justice or environmental injustice.

I would like to make one point crystal clear. I am not rising in opposition to compacts. My amendment does not pass judgment on the compact this bill attempts to create. Rather, it is designed to give the citizens of Sierra Blanca, a poor Hispanic community, another tool to have their voices heard above a political process that would just as soon ignore them. I hope my colleagues will recognize our obligation to the people of Sierra Blanca and to all our citizens in taking a stand for environmental justice.

Mr. President, I look forward to this debate. I will bring to the floor documents and other information for discussion. I will raise important questions as a Senator. It will be a civil debate, but I feel very strongly about this. What has happened to the people of Sierra Blanca, or what might happen to them, is all too indicative of what happens all too often to those communities that are the poorest communities, communities of color that over and over and over again are asked to carry the disproportionate burden of environmental degradation. It is not fair to these citizens. It is not fair to their children. It is not fair to their families. It is not fair to their communities. I believe this is a fundamentally important question that we have to address as an institution, as the Senate.

Mr. President, I yield the floor. For the moment, I note the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that my remarks be considered a part of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A GLOBAL WARMING CHALLENGE

Mr. WELLSTONE. Mr. President, I would like to comment on what is a challenge unique in human history that we face as a nation, and I am talking about global warming. It is unique because we have to make important decisions without a visible crisis staring us in the face.

In the 1970's, we had the long gas lines, we had two oil price shocks, the taking of hostages by a revolutionary mob in Iran, and that spurred our Nation to reduce its reliance on oil. And in the 1960's and the 1970's we had the dark clouds of particulates and the smog that smothered urban areas which moved us to clean up the air. Today, we are faced with a potentially greater threat, but it is not a visible threat. We are talking about something that is going to happen, something that is going to affect our children and their children, and the question is what are we going to do? It is a challenge for my State of Minnesota. It is a challenge for our country. It is a challenge for the whole human race. It is also a challenge about leadership. I am talking about the problem of global warming, the problem of climate change.

In 1992, for the Earth summit, President Bush made a commitment to return greenhouse gases to 1990 levels by the year 2000, and we have not lived up to that commitment. We have not honored that commitment. I believe the President, in 1993, made a similar commitment that we would reduce our greenhouse gases to the 1990 level by the year 2000.

I believe that the President's announcement today will fall far short of meeting this challenge—but I certainly want to say to the President and to the White House that I appreciate their efforts to try to move this process forward as we move toward a very important international gathering in Kyoto.

For more than a decade, the scientific community has investigated the issue. Initially, its reports called for more research, better modeling techniques, more data. But in December 1995, the Intergovernmental Panel on Climate Change, composed of more than 2,000 scientists from more than 100 countries, concluded that there was a discernible human impact on global climate. In June, more than 2,000 U.S. scientists, including Nobel laureates, signed the Scientists' Statement on Global Disruption, which reads in part that the accumulation of greenhouse gases commits the Earth irreversibly to further global climate change and consequent ecological, economic and social disruption.

Mr. President, I believe as a Senator from Minnesota that we have reached a point where unduly delaying action on reducing greenhouse gas emissions is foolhardy and it is tantamount to betrayal of our future generations. We know what this is going to do. The consequences can be catastrophic for our country and for the world, and I believe that the President and the United States of America have to do better in addressing this challenge.

What has saddened me about this debate is that I believe we should be below 1990 levels certainly before the year 2010. I believe our country should make a commitment to meeting these kind of targets. I think the evidence shows that as opposed to being on the defensive, we should be proactive, and the very bridge the President talks about building to the next century is going to be a bridge that combines a sustainable environment with sustainable energy with a sustainable economy. I think the country that is the most clean country is going to be the country with an economy powered by clean technologies, industries and businesses. It is going to be a country run with an emphasis on energy efficiency and with a renewable energy policy. It is going to be a country which will generate far more jobs in the renewable energy and clean technology sectors, which are labor intensive, small business intensive and community building sectors.

We have an opportunity as we move into the next millennium to really create a new marriage between our environment and our economy. We are all but strangers and guests on this land, as the Catholic bishops have said. We have to take action now. What the President is calling for is not likely to be enough to address this challenge and the task before us. We can do better as a nation. We can be more respectful of our environment while still growing our economy.

In the Red River Valley, the people of North Dakota and people of Minnesota went through a living hell this past winter and spring. We don't want the floods in the Red River Valley to be 5-year occurrences. And there will be other catastrophic consequences from global warming. For my State it could be agricultural devastation; for my State it could be deforestation and lower lake levels in the Boundary Waters, an area that we love, a crown jewel wilderness area in northern Minnesota.

The more important point, however, is that not only for ourselves but for our children and grandchildren we need

to take much stronger action. We have to stand up to some of the powerful forces that are saying no to a meaningful treaty. We have to lay out a proactive, positive agenda which makes it crystal clear that energy efficiency and renewable energy and clean technologies will create many more small businesses and many more jobs for our country. This marriage between our economy and our environment would respect the environment, respect the economy, and would give us an energy policy that is much more productive and positive, while helping us to build and sustain our communities and our country.

I am disappointed in the position the President seems to have taken on targets and timetables for climate change action. I hope as we move forward toward an international treaty, our country will take a stronger negotiating position. We need to be the leaders of the world in meeting what I think is perhaps the most profound environmental challenge which we have ever faced.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPROACHING THE CLINTON-JIANG SUMMIT

Mr. BAUCUS. Mr. President, next week Chinese President Jiang Zemin will arrive for his first State visit, the first State visit by a Chinese leader in 12 years. As this visit approaches, I rise to discuss our China policy and the things we might hope to see from this event.

Let me begin with the broad goals of our Asia policy. I think they are clear. First, a peaceful Pacific. Second, open trade. Third, joint work on problems of mutual concern like environmental problems and international crime. And fourth, progress toward respect for internationally recognized human rights.

Generally speaking, our Asian policy has helped move us toward these goals. We have a permanent military force in the Pacific which, coupled with strong alliances with Japan and South Korea, Thailand, the Philippines, and Australia, has helped to keep the peace for 20 years. While we have a lot of work ahead on Asian trade, our work has produced over $100 billion in export growth, an increase of 70 percent. That is since 1991. We are beginning to adopt a more systematic approach to the region's growing environmental problems, and can cite the democratization of the Philippines, Thailand, Taiwan, and South Korea as human rights success stories.

Where does China fit in? China is the largest country in Asia, the fastest growing economy, the largest military power, and the Asian nation with which our relationship has been most volatile during this decade. If we can establish a stable, workable relationship with China, all of our goals will come closer to realization. If we cannot, both Americans and Chinese, and other Pacific nations, will suffer a great deal.

Next week's summit offers us a chance to make a start. Following it must be a work program focusing on a very practical agenda. And as we approach the summit, I think we can help ourselves by putting the issues we must address in three broad categories. They are: mutual interests, areas of dispute, and issues we will face in the future.

First are the areas where we have mutual interests.

Regional security is one case. We must work with China to maintain peace in Korea. Both countries want to avoid a conflict over Taiwan. We need to ensure that Japan does not feel pressured to become a military power. On weapons proliferation, if India and Pakistan develop nuclear missiles, China will suffer from it a lot more than we would.

Environmental issues are another matter. We both need to ensure sustainable management of fisheries and to address air pollution and acid rain problems caused by the boom in Chinese power production. We also must work much closer together to do our best to protect biodiversity and prevent large-scale climate change. One concrete proposal that will help in this area, if the public reports that China has agreed to our proposals on nuclear proliferation are accurate, is opening up civil nuclear technology sales.

A number of domestic Chinese issues also fall into this area. Helping China establish a broad rule of law will contribute to our human rights goals.

Labor safety is a second case where we could contribute to China's own efforts to improve factory safety and improve the lives of many ordinary Chinese; and helping Chinese farmers take advantage of cleaner pesticides, modern agricultural technologies, and an up-to-date infrastructure is a third.

We also clearly have some disputes with China. We should not make them the whole focus of our relationship, but neither should we try to duck them.

At times we will need simply to understand one another's positions and agree to put off disagreements into the future.

Taiwan policy has been handled reasonably well in this manner for the past few decades. Perhaps with some adjustments in detail, we should continue that policy.

Likewise, China has recently expressed some unhappiness with our stationing of troops in Asia. They need to understand that the issue is between us on the one hand and Japan and Korea and our allies on the other. It is not on the table for discussion.

In other areas we should expect to do better. We seem to be doing well in nuclear proliferation. It is my hope that the President will seal that achievement by certifying China as in compliance in the nuclear area, and open up civil nuclear power trade with China. On missiles and chemical weapons, we see less thus far. And while I do not regard sanctions as a tool appropriate for every issue on the table with China—and I do not believe Congress should be passing broad new sanction laws—these are areas where we should use targeted sanctions if necessary. We did this last spring in the case of the sale of chemical weapons precursors involving a Nanjing company. If it happens again, we should use tougher penalties.

Trade is another example. Despite the optimism of United States business, since 1980 our exports to China have grown more slowly than our exports to any other major market, whether it be Canada, Japan, Europe, Mexico, or ASEAN. Meanwhile, we have been tremendously generous to China, keeping our market to Chinese goods more open than any other in the world.

This is not acceptable. It is wrong when Chinese shoe companies can sell to Montana but Montana wheat farmers cannot sell to China. We should expect China to be as fair and open to us as we are to them. And we should offer an incentive to do that. Specifically, we should make MFN status permanent when China comes up with a good WTO package. But we should also be clear that we cannot wait forever.

Our 5-year bilateral trade agreement negotiated in 1992 is about to be completed. And if the pace of the WTO talks does not pick up soon, we should use our retaliatory trade law, section 301, to win a broad successor to it.

On human rights, while we should seek common ground and recognize where China is doing better, we should also not shrink from bringing up the tough issues. The time is past when these questions could be considered strictly domestic concerns. We should bring up individual cases of political prisoners, ask for talks with the Dalai Lama and Red Cross access to Chinese prisons. If the Chinese want us to stop sponsoring resolutions at the U.N. Human Rights Commission, they need to show some understanding of our concerns and the world's concerns on these issues.

THE ISSUES: LOOKING TO THE FUTURE

A third set of issues may be the most important of all, especially as we approach a state visit and a summit. These are the issues we will face in the years ahead, and where mutual understanding beforehand is crucially important.

The most important of all will be Korean unification. I recently visited North Korea. Hunger is widespread and chronic. Economic life in Pyongyang is at a standstill, with broken down streetcars in the middle of the road, empty streets and darkened buildings. And officials there offered no proposals for change other than planting more trees to prevent erosion.

This cannot continue forever. Whether it results from a violent collapse, peaceful if belated reform, or even a desperate attack on the south, change is sure to come on the Korean Peninsula. There will be no belligerent, autarkic regime on the Korean Peninsula.

And as Koreans sort out their own future, we will have to make some very serious security and economic decisions in a very short period of time. They will involve American troop movements and a crisis on the Chinese border. And we need to ensure beforehand, through intensive discussions with China, Russia, Japan, and South Korea, that our policies do not bring us into unnecessary disputes or conflicts with China or any of Korea's neighbors.

We can all think of other issues. They include the effects of very rapid financial flows on fast-growing regions, the potential of newly developed technologies to spur terrorism and organized crime. And the vulnerability of the new states on China's western border to civil war and religious fanaticism, which we hardly think about but which the Chinese Defense Minister told me last winter was, together with Korea, the most serious security issue China faces today.

IF THINGS GO WRONG ANYWAY

One final point. China policy does not exist in a vacuum. We should do our very best to make this relationship work. But we cannot predict the course China will take. And so, as we think about China policy, we must also think about broader Asian policy.

If we manage our alliances with Japan, South Korea, Southeast Asia, and Australia well; preserve our commitment of troops in the Pacific; and protect our own economic and technological strength, we will be able to handle whatever lies ahead.

CONCLUSION

But I believe we can do better than that. I have met this year with a number of Chinese officials, including the President as well as senior military officers and trade officials. And I think the Chinese on the whole are pragmatic people who understand the importance of this relationship to their own country. And I believe they are interested in working with us to set it right.

So as this summit approaches, we have a great opportunity to set our relationship with China on the right course to create a stable, long-term relationship that contributes to our goals: peace, prosperity, environmental protection, and human rights. It is a great chance, and we must not miss it. Because the issues dividing us may be many and complex. But the basic choice is simple. China will be there for a long time. So will we. And both governments can either try their best to get along, or all of us can suffer the consequences.

It's just about that simple, and that important.

Thank you, Mr. President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. GRASSLEY. Madam President, I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DRUG-FREE IOWA MONTH

Mr. GRASSLEY. Madam President, as chairman of the International Narcotics Control Caucus, sometimes called the drug caucus of the U.S. Senate, I periodically report to the Senate on trends in the use of drugs and the dangers thereof that go on in our society.

This month of October in my State of Iowa is called Drug-Free Month. I want to bring my colleagues' attention to this fact and the reason for it. Iowa has only 2.8 million people. As you know, it is largely a rural State. Des Moines, our largest city, numbers fewer citizens than one of the suburbs of some of our Nation's big cities. There are more people in the Los Angeles area or Chicago than in all of my State of Iowa. We are a closely knit community, proud of our commitment to families and the virtues of self-reliance, hard work and personal responsibilities.

These facts, however, do not mean that Iowa is isolated from the mainstream or provincial in its thinking. This also does not mean that Iowa is free of the problems that beset States with larger cities and more people. We, in Iowa, unfortunately, see our share of gang violence and teen drug use. Indeed, Iowa shares in the growing drug problems among the young, the same that troubles the rest of the Nation. The fact that this problem reaches beyond our larger States and beyond our big cities into our rural heartland should tell us something about the far-reaching nature of our national—and I emphasize national—drug problem.

According to recent numbers from my State of Iowa, as many as 11 percent of our high school seniors are regular users of marijuana. This number is up dramatically from just a few years ago. This number is growing as more kids at even younger ages no longer see using heroin as risky or dangerous. In the last few years, the number of regular users has grown steadily, whether it is in Iowa or across the country. In addition, we know from experience and research that as marijuana use goes up, so does drug use of other varieties.

We now have a major problem in my State of Iowa in methamphetamine. This problem has exploded in just the last few years, paralleling the trend in the West and the rest of the Midwest. Reports of treatment episodes for meth problems in my State of Iowa soared over 300 percent between 1994 and 1995. The trend continues. Just as troubling is the effort by the criminal gangs to site the labs that produce and sell this poison to our kids in Iowa. This is something that we are seeing through the West and Midwest, and the problem is moving eastward.

The lab problem is a double whammy. The labs produce a dangerous drug that poisons the hearts and souls of our kids and then they create a very dangerous environmental hazard requiring cleanup wherever the labs are found. Cleanup is risky, dangerous, costly. Many of our local fire and police departments lack the resources or the training to deal with the problem of cleaning up meth labs.

This problem and the trends that I have noted are not unique to Iowa. They are indicative of what is happening across the country. They are happening because we have lost our fear of drugs. We have let our guard down. Into that environment drug pushers and drug legalizers have stepped in to do their own song and dance. They are making gains; we are losing ground. And it is the kids who are paying the price.

Two very important concerns are being missed. The first is the serious nature of the growing drug use among kids. The second is the growing tendency to regard this trend with complacency, or worse, to go along with the drift into a de facto legalization of dangerous drugs. The last time we as a country did this we landed ourselves into the midst of a major drug epidemic. We were just beginning to dig ourselves out from the 1970's and 1980's. Now it seems the earlier lessons are forgotten.

There is no way to put a happy face on what is happening. It is not hard to describe. It is not difficult to understand. It is not beyond our power to do

something about it. Yet what is happening is happening right under our very noses, and to date what we are doing about it is not working. This is what is happening:

Between 1992 and 1995, marijuana use among kids aged 12 to 17 has more than doubled—from 1.4 million to 3.1 million. More than 50 percent of the high school seniors have used drugs before graduation; 22 percent of the class of 1996 were current users of marijuana. LSD use by teens has reached record levels. Evidence indicates that the current hard-core addict population is not declining.

Hospital emergency room admissions for cocaine-related episodes in 1995, the last year for which there is complete information, were 19 percent above the 1992 levels. Heroin admissions increased almost 60 percent. Drugs of every sort remain available and of high quality at cheap prices while the social disapproval has declined, especially among policy leaders and opinion makers.

Hollywood and the entertainment industry are back in the business of glorifying drug use in movies and on TV. There is a well-funded legalization effort that seeks to exploit public concerns about health care issues to push drug legalization, most often under the guise of medical marijuana.

Opinion polls among kids indicate that drugs and drug-related violence are their main concerns. They also make it clear that drugs are readily available in schools, and the kids as young as 9 and 10 years are being approached by drug pushers in school or on the way to school.

This is only part of what is happening. Taken together, what these things indicate is that we are experiencing a rapid increase in teenage drug use and abuse. This comes after years of progress and decline in use. These changes are undoing all of the progress that we had made during the 1980's. If the trend continues, our next drug epidemic will be worse than the last one. We will not only have the walking wounded from our last epidemic—there are over 3 million hard-core addicts—we will also have a new generation of substance-dependent kids moving into adulthood. As we learned, or as we should have learned during the last time that we went through this, this dependence is not a short-term problem. For many addicts, it is a lifetime sentence.

For the communities, families, and the Nation that must deal with these people and with the problems associated with it, it is also often an open-ended commitment.

Along with this comes all the associated violence that has made many of our inner cities and suburban neighborhoods dangerous places. Not to mention the medical and related costs in the tens of billions of dollars annually. And all of this for something that advocates reassure us is purely a personal choice without serious consequences. This is one of those remarks that should not survive the laugh test.

The fact that it does, however, and people can somehow make light that personal choice of drug use is not something to worry about and doesn't have serious consequences is an indicator of our problem in coming to terms with the drug use.

In the last 5 years, the record on drugs has gotten worse. Pure and simple. It's not because we are spending any less on the effort. Indeed, the drug budget has grown every year. One of the first acts of the Republican Congress was to increase the money devoted to combat drugs. Yet, the numbers on drug use grow worse.

One of the leading causes of that is a lack of leadership at the top. The President and First Lady in previous administrations were visible on the drug issue. That is not now the case. The present occupant of the White House has put a great deal of emphasis on tobacco but he has been the Man Who Never Was on illegal drugs. More than this, the message about both the harmfulness and, just as important the wrongfulness of illegal drug use has been allowed to disappear. I leave to others to determine if the President's absence is because his advisors believe he has no credibility on the issue or simply do not care. Whatever the explanation, the result is an ambiguous message or no message.

If we could have the same message coming out of the White House on illegal drugs as we do on tobacco, I think we would be much further along on the road to victory on the war against drugs.

We need to be consistent in our no-use message on illegal drugs. To be ambiguous or complacent or indifferent sends the wrong message. The recipients of that muddled message are kids. The consequences of garbled messages can be seen in changes in attitudes about drugs, and in drug use numbers among kids at earlier and earlier ages. We cannot afford this type of unmindfulness.

That is why we are having Drug-Free Iowa Month. We need to come together as a community to recognize the threat and deal with it. We need community leaders involved. We need our schools, politicians, business, entertainment, sports, and religious figures to be aware of the problem and engaged to deal with it. We can make a difference, but that begins with awareness. It requires an effort. It requires sustaining that effort.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO BOBBY MULLER

Mr. LEAHY. Madam President, on October 13, the Army Times had an article by George C. Wilson entitled "One Man's Fight for a Better World." It is about a man I admire as much as anyone I have met in my years in the Senate, and that is Bobby Muller, the head of the Vietnam Veterans of America Foundation.

The article, written by George Wilson in his usual definitive and exacting manner, speaks about Bobby probably far better than I could and I am going to shortly ask to have the article printed in the RECORD. The reason I want to do that—though I doubt that there are many people in Washington who do not already know Bobby Muller, is because I hope those who read the CONGRESSIONAL RECORD will see this. He has been my inspiration and really my conscience on so many issues. But the thing that I think sets him apart from so many others is the fact that for well over a decade he has fought so hard to rid the world of landmines. He has done it not only in this country, in working with those of us who have sponsored and backed legislation to ban landmine use by the United States, but he has done it worldwide. He founded the International Campaign to Ban Landmines. He was its inspiration.

I talked with him early one morning a couple of weeks ago after hearing that the Nobel Committee awarded the Nobel Peace Prize to the International Campaign to Ban Landmines, which was shared with its coordinator, Jody Williams of Putney, VT. I said to Bobby at that time how proud he must be because he is the one who started this campaign, and who hired Jody to coordinate it worldwide. Because of his vision and the hard work of so many people, in Ottawa this December some 100 countries will sign a treaty banning landmines.

I am extremely proud of Bobby. I feel privileged to be his friend. I have certainly been helped over the years by his advice and by his conscience.

Madam President, I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Army Times, October 13, 1997]

ONE MAN'S FIGHT FOR A BETTER WORLD

(By George C. Wilson)

"Oh my God! I'm hit! My girl. She'll kill me. I can't believe I'm dying on this piece of ground." Those were the last conscious thoughts of Marine 1st Lt. Bobby Muller as he lay bleeding on top of the hill he just taken in Quantri Province, Vietnam, in 1969.

An enemy bullet had pierced this chest tumbled through his lungs and severed his spinal cord.

He woke up in a military hospital, astonished he was still among the living. "I'm here!" his mind silently screamed at him in astonishment, "I didn't die."

Like any 24-year-old, especially a former athlete, Muller inventoried his body while lying in the hospital bed. He discovered he was paralyzed from the chest down. He would walk again, much less run with this old teammates or dance with that girl back home.

The rest of this story could have been like that of so many other Vietnam veterans that you and I have known, and perhaps helped get through the night. An all-consuming bitterness that eats away at everything: jobs, marriages, self-respect. Nothing matters any more. The Vietnam War, for thousands of young men, trivialized everything after it.

Not so with Bobby Muller. He is one of those welcome, shinning Vietnam success stories, which I want to tell here, because it is both timely and timeless. Doesn't matter if you agree with him or not. To everyone from President Clinton, who has sought his counsel, to the secretaries who work for him at the Vietnam Veterans of America Foundation, Bobby Muller is a man committed to leaving the world better than he found it.

Of late, Muller, from his wheelchair, has been the most credible and powerful voice arguing for ridding the world of anti-people land mines, which kill or maim somebody somewhere every 22 minutes. Years ago, he railed against the Vietnam War, calling it an "atrocity" and demanded that the Veterans Administration stop treating the men who got hurt in it like lepers. Many VA hospitals really were as bad as the one portrayed in the movie "Born on the Fourth of July".

"People would call me a traitor," he told a television audience, in recalling the reaction to his anti-war statements in the 1970s. "It's harder for me to repudiate the war," the paraplegic told his detractors. "Don't you think I'd love to be able to wrap myself in the mantle of being a hero? Don't you think I'd love to be able to say that what happened to me was for a reason—it's a price you got to pay for freedom? When I have to say what happened to me, what happened to my friends, what happened to everybody over there was for nothing and was a total waste, that's a bitter pill to swallow."

Muller did swallow the pill. It still burns in his gut. But he has managed to use the burn to fuel his drive, not consume it.

"The reality of that war has stayed with me every day," Muller has said. "I know what it is to have people around me die. I know what it is to hear the screams in the recovery room. The most important thing for me in life is dealing with those issues that come out of war. And particularly the Vietnam War."

Muller learned the hard way that he had to mobilize not only himself, but also other Vietnam veterans before he could take the new hills he set out to conquer. He was thrown out of the Republican convention in 1972 for shouting at President Nixon to stop the war. He needed comrades and soon got them, founding the Vietnam Veterans of America in 1978. He left that membership organization in 1980 to found and head the more broadly involved Vietnam Veterans of America Foundation. Nobody throws Bobby Muller out of anywhere anymore.

White-haired but still passionate about his causes, the 52-year-old Muller has led the battle against land mines from up front. How would you like to be Clinton and—in refusing to sign the treaty banning anti-personnel land mines—pit your thin credibility and bureaucratic rhetoric against such penetrating statements as these from Muller, who had a mine blow up near him before he was shot in Vietnam:

Land mines, mostly our own, were "the single leading cause of casualties" to U.S. service people in Vietnam. "Land mines are not a friend to the U.S. soldier. They are a threat to the U.S. soldier. The Pentagon is institutionally incapable of giving up a weapon."

I don't fault the Joint Chiefs of Staff for fighting to keep their weapons, including certain types of land mines. That's their job. And it was ever thus. But it's the president's job to stand up to the chiefs if the Mullers of the world have the more persuasive case.

"I can't tolerate a breach with the Joint Chiefs," Muller says Clinton told him. You can, and should, Mr. President. You're our only commander in chief. And Bobby won't let you forget it as he takes this new hill.

Mr. LEAHY. Madam President, there is much more I could say about Bobby Muller, but I know what would happen if I went on longer. I would hear from him and he would chastise me for praising him, because Bobby always finds others to praise. I have probably risked that already, but I want people to know that this is a man who has done so much for the world and a man who should feel so honored by what he did to create the International Campaign to Ban Landmines and by its receipt of the Nobel Peace Prize.

REPUBLICAN ATTACKS ON THE INDEPENDENCE OF THE FEDERAL JUDICIARY

Mr. LEAHY. Madam President, last month, the President of the United States devoted a national radio address to the threats being posed to our federal judiciary by the campaign of intimidation, including the stall in confirming judicial nominees for the almost 100 vacancies that persist nationwide. It is a sad day when the President must remind the Senate of its constitutional responsibilities to consider and confirm qualified nominees to the Federal bench. I regret that we have reached this point.

The President's address was an important one. I hope that his call for an end to the intimidation, the delay, the shrill voices of partisanship will be headed. I will continue to do all that I can to defend the integrity and independence of our federal judiciary and to urge the Republican leadership of the Senate to move forward promptly on judicial nominations. I ask unanimous consent that a copy of the text of the President's address be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. I have previously included in the RECORD on July 31 a letter dated July 14 to Senator LOTT from the presidents of seven national legal associations similarly urging the Senate to act to preserve the integrity of our justice system by fulfilling its constitutional responsibility to expedite the confirmation process for federal judges so that longstanding vacancies could be filled. These bar association presidents noted the "looming crisis in the Nation brought on by the extraordinary number of vacant federal judicial positions."

Last month also saw the publication of a report by People for the American Way entitled "Justice Delayed, Justice Denied: The Right Wing Attack on the Independent Judiciary." This report concludes that the campaign attacking the legitimacy of the judiciary and pressuring the Senate not to process the judicial nominees of the President is resulting in the judiciary not having the judges it needs to fulfil its responsibilities:

> Dockets are backing up, cases are going unheard for years at a time, justice is being delayed. In the end, the right wing's campaign has increased the risk that the law will not be enforced because there are two few judges to enforce it.

During the week of September 22 through September 26, National Public Radio broadcast a series of five reports on the federal judge shortage by correspondent Nina Totenberg.

When a U.S. attorney can refer to the lack of courtrooms and Federal judges as a bottleneck in the criminal justice process and the chief judge of a Federal district court can acknowledge that the court is so overwhelmed with criminal cases that it is operating like an assembly line, that cases are not given the attention that they deserve and that you know that you're making a lot of mistakes with—because of the speed, we have reached a crisis. That is not American justice, that is not the Federal justice system on which all of us rely to protect our rights while enforcing the law.

I have addressed the Senate on this problem on a number of occasions already this year, including March 19, March 20, April 10, May 1, May 14, May 23, June 16, July 31, September 4, September 5, September 11, September 25, September 26, October 9, and October 21. I have spoken of it at meetings of the Judiciary Committee on March 6, April 17, May 22, June 12, July 10, July 31, September 18 and October 9 and in Judicial Committee hearings on March 18, May 7, June 25, July 22, September 5, and September 30.

The current vacancy crisis is having a devastating impact on the administration of justice in courts around the country. Let me note a few examples:

In the Northern District of Texas, a family filed their lawsuit 7 years ago and is still waiting for their day in court.

Chief Judge J. Phil Gilbert, head of trial court in the Southern District of

Illinois, where two of the four judgeships are vacant, reported that his docket has been so burdened with criminal cases that he went for a year without having a hearing in a civil case. That happened despite the fact that 88 percent of the cases filed in all Federal trial courts were civil, while only 12 percent were criminal in 1996.

In California, one family's 1994 lawsuit against police, filed after the family's 14-year-old child was killed in a police chase 6 years ago, is still pending.

In Oregon, the Federal courts has stopped doing settlement conferences, an invaluable tool for resolving claims before trial, because of the unavailability of judges.

Due to vacancy problems, the district court in San Diego is holding only 10 civil trials per year.

In Florida, to reduce an expected backlog of 4,400 cases, 10 district court judges have announced that they will hold a 3-month marathon session in Tampa next year.

In the Ninth Circuit Court of Appeals, for which the Senate has found time to include as a rider on an appropriations bill a politically inspired plan to split the circuit but not to fill any of the 10 vacancies that plague that court, 100 oral argument panels and 600 hearings were canceled this year due to lack of judges. As a result, it takes a year after closing briefs have been filed to schedule oral arguments.

Chief Judge Ralph Winter testified that the Second Circuit Court of Appeals expects to include a visiting judge on 80 percent of its panels over this year in light of the four unfilled vacancies on that court and its burgeoning workload.

Across the country, the number of active cases pending for at least 3 years jumped 20 percent from 1995 to 1996, and there are now more than 16,000 Federal cases older than 3 years.

These are real life examples of the harm caused by the irresponsible lack of action by this Senate in considering highly qualified judicial nominations. It is time for the Senate to fulfil its constitutional responsibility to confirm the Federal judges needed for the effective administration of justice.

Judge Stephen Trott, formerly a high-ranking Reagan appointment in the Department of Justice, included the following summary of the situation in which the ninth circuit finds itself in light of the Senate's unwillingness to consider nominees to fill the vacancies that plague that court in an opinion that he wrote early this year:

> With nine [now ten] vacancies out of twenty-eight authorized judges in the United States Court of Appeals for the Ninth Circuit . . . one wonders how Congress and the President expect us promptly to process our ever increasing 8,000-plus caseload. . . . Our current 9 [now 10] vacancies mean we will process 1,500 fewer cases this year than we could with a full bench. To the litigants who wait in line for us to resolve their disputes, this unnecessary disability is unpardonable. . . . In a country that prides itself on being a nation of laws rather than just a nation of leaders, and which exalts the rule of law as the appropriate method of resolving controversies, we must do better in keeping our civil and criminal justice system able without unnecessary delay to deliver to the People the important promises of our Constitution.

In light of all of this, I was surprised to read the remarks of the distinguished chairman of the Judiciary Committee in response to the President of the United States in the RECORD for September 29. The Senator from Utah referred to myths and distortions, but I do not believe that he could have been referring to the statement by the President. The President spoke the truth. There is a vacancy crisis in the Federal judiciary and there is a Republican slowdown of judicial confirmations.

The Chief Justice of the United States recognized the crisis when in his 1996 end of the year report he noted:

> The number of judicial vacancies can have a profound impact on the courts ability to manage its caseload effectively. Because of the number of judges confirmed in 1996 was low in comparison to the number confirmed in preceding years, the vacancy rate is beginning to climb. . . . It is hoped that the Administration and Congress will continue to recognize that filling judicial vacancies is crucial to the fair and effective administration of justice.

More recently, the Chief Justice termed the rising number of vacancies on the Federal bench "the most immediate problem we face in the federal judiciary." This is hardly a partisan statement but a recognition of the seriousness of the crisis posed by judicial vacancies.

As for the slowdown, there are currently 27 judicial vacancies that the Administrative Office of the United States Courts terms judicial emergencies because they have been vacant for more than a year and one-half. Last year the President had sent 15 nominees to the Senate to fill judicial emergencies and all were returned without action at the end of the year.

This year, after months of delay, the Senate finally filled judicial emergencies by confirming the nominations of Merrick Garland, Colleen Kollar-Kotelly, Eric Clay, Arthur Gajarsa, Henry Harold Kennedy, Jr., Joseph Battalion, Katherine Sweeney Hayden, Richard Lazzara, Marjorie Rendell, and Richard C. Casey. Some of these nominations were pending before the Senate for periods of 18 months, 12 months, 16 months, 16 months, 19 months, and 17 months.

Still, the Federal judiciary and American people face a record number of judicial emergency vacancies and await action on the nominations of Ann Aiken, James Beaty, Richard Caputo, William Fletcher, Bruce Kauffman, Stanley Marcus, Michael McCuskey, Margaret McKeown, Susan Oki Mollway, Margaret Morrow, Richard Paez, Anabelle Rodriguez, Michael Schattman, Christina Snyder, Clarence Sundram, Hilda Tagle, Jame Ware, and Helene White, who are pending before the Senate eager to get to work and fill them.

We have seen 115 judicial vacancies over the course of this year. The Senate has seen fit to confirm only 21 nominees. More than 50 additional nominees remain pending in committee and before the Senate. The Senate is not even keeping pace with attrition. Since the adjournment of Congress last year, judicial vacancies have increased by almost 50 percent. Indeed, this net increase in judicial vacancies, 29, still exceeds the number of judges confirmed over the course of the year, 21, and likely will when the Senate adjourns in November.

I have not attacked Senator HATCH on this floor and will not today. I know that if it were up to him we would be doing better, we would have fewer judicial vacancies and they would have been filled more quickly. I have asked him to hold more hearings and to consider nominations more expeditiously.

I thought we might be seeing a change in the atmosphere in the Senate in September. Anticipation of the President's radio address on the judicial vacancy crisis obviously reached the Senate. Even those who have been holding up the confirmations of Federal judges were uncomfortable defending this Senate's dismal record of having proceeded on only 9 of the 61 nominees received through August of this year.

As rumors of the President's impending address circulated around Capitol Hill, the Senate literally doubled its confirmations from 9 to 18 in the course of 23 days in September and forth first time all year achieved the snail-like pace of confirming 2 judges a month while still faced with almost 100 vacancies.

September was the only month all year that the Judiciary Committee held two confirmation hearings for judicial nominees during a single calendar month.

Following the wave of attention generated by the President's address, however, the Republican majority has reverted to its prior destructive course and the Judiciary Committee has yet to hold a hearing for any of the more than 40 nominees who have yet to be according hearings this year.

The President has sent the Senate 73 judicial nominations so far this year. The Senate has confirmed 21 judges. From the first day of this session of Congress, the Judiciary Committee has never worked through its backlog of nominees and has never had pending before it fewer than 20 judicial nominees awaiting hearings. The Committee's backlog has doubled, with 10 of

these nominations having been pending since at least 1996; 5 have been pending since 1995.

Early this year, Chairman HATCH worked hard to bring the nomination of Merrick Garland to a vote. He gave that nominee his strong personal endorsement and fought for him. After an 18-month delay over 2 years, that outstanding nominee was finally confirmed 77 to 23. During that debate, the Christian Coalition circulated a letter opposing this outstanding nominee. Senator HATCH concluded the debate on the confirmation of Merrick Garland observing that he was sick of those playing politics with judges. I agreed with him then and still do. Unfortunately, the stall has continued and some in his party have continued to play very dangerous politics with judges.

In the last five rollcall votes on judicial nominees, there has been a cumulative total of one negative vote by a single Senator. Five judges were confirmed by unanimous rollcall votes and one was confirmed 98 to 1. The only judicial nominee to receive any negative votes was Judge Merrick Garland of the District of Columbia Circuit. He was opposed by the majority leader and 22 other Republican Senators. He was well qualified and was confirmed. That confirmation took over 18 months from when the Senate received the nomination.

Another of the well-qualified nominees who has been delayed far too long is Margaret Morrow. I spoke of her earlier this week when the Senate acted in less than 7 weeks to confirm the nominee to the district court in Utah. Unfortunately, not every nominee fills a vacancy in the home state of the chairman of the Judiciary Committee.

In contrast to the Senate's treatment of the Kimball nomination, Margaret Morrow's nomination has been pending before the Senate for over 16 months and pending on the Senate calendar awaiting action for more than 7 months.

Last year this nomination was unanimously reported by the Judiciary Committee and was left to wither without action for over 3 months. This year, the committee again reported the nomination favorably and it has been pending for another 4 months. There has been no explanation for this delay and no justification. This good woman does not deserve this shameful treatment.

Senator HATCH noted in his recent statement on September 29 that he will continue to support the nomination of Margaret Morrow and that he will vote for her. He said: "I have found her to be qualified and I will support her. Undoubtedly, there will be some who will not, but she deserved to have her vote on the floor. I have been assured by the majority leader that she will have her vote on the floor. I intend to argue for and on her behalf."

I have looked forward to that debate since June 12 when she was favorably reported to the Senate for a second time. This is a nomination that has been pending for far too long and that has been stalled here on the floor twice over 2 years without justification.

Meanwhile, the people served by the District Court for the Central District of California continue to suffer the effects of this persistent vacancy—cases are not heard, criminal cases are not being tried. This is one of the many vacancies that have persisted for so long that they are classified as judicial emergency vacancies by the Administrative Office of the U.S. Courts. There are four vacancies in the court for Los Angeles and the Central District of California. Nominees have been favorably reported by the Judiciary Committee for both of the judicial emergency vacancies in this district but both Margaret Morrow and Christina Snyder have been stalled on the Senate calendar.

This is a district court with over 300 cases that have been pending for longer than 3 years and in which the time for disposing of criminal felony cases and the number of cases filed increased over the last year. Judges in this district handle approximately 400 cases a year, including somewhere between 40 and 50 criminal felony cases. Still these judicial vacancies are being perpetuated without basis or cause by a Republican leadership that refuses to vote on these well-qualified nominees.

I am told that last week a Republican Senator announced at a speech before a policy institute that he has a hold on the Morrow nomination. A press release stated that he had placed a hold on Margaret Morrow's nomination because he wants to "be able to debate the nomination and seek a recorded vote." I, too, want Senate consideration of this nomination and am prepared to record my vote.

After being on the Senate calendar for a total of 7 months, this nomination has been delayed too long. I believe all would agree that it is time for the full Senate to debate this nomination and vote on it. I have inquired about a time agreement but gotten no response. Now that an opponent has finally come forward to identify himself, I look forward to a prompt debate and a vote on this nomination in accordance with the apparent commitment of the majority leader. I look forward to that debate. I ask again, as I have done repeatedly over the last several months, why not now, why not today, why not this week?

I again urge the majority leader to call up the nomination of Margaret Morrow for a vote. She has suffered enough. The people of the Central District of California have been denied this outstanding jurist for long enough. The chairman of the Judiciary Committee said last month that he had the assurance of the majority leader that she will be called up for a vote but neither has said when that will be. I hope that the majority leader will proceed to the consideration of this nomination and that he will support Margaret Morrow to be a district court judge for the Central District of California.

Madam President, the reason I say that I am concerned that the President had to speak to this is that we should not have to be reminded of our constitutional duties. Indeed, the President was right in reminding us of this. I have served here now with numerous majority leaders—Senator Mike Mansfield of Montana, Senator ROBERT C. BYRD of West Virginia, Senator Howard Baker of Tennessee, Senator Robert Dole of Kansas, Senator George Mitchell of Maine—and all of these leaders of both parties are strong partisans for their parties, but all shared the responsibility as majority leader that there are certain things the Senate must do, and it is the responsibility of the leader to see that the Senate does it. One of those things, of course, is to see that the Senate votes on Presidential nominations to the Federal bench. Now, every Senator can vote against any nominee. Every Senator has that right. They can vote against them this committee and on the floor. But it is the responsibility of the U.S. Senate to at least bring them to a vote. It is our responsibility under the Constitution, it is our responsibility to the Senate itself, it is our responsibility to the American public not to allow 1 Senator to determine for all 100 Senators whether a person will be confirmed to a Federal judicial position or not. All Senators should be allowed to vote, and today they are not.

We really have not done our job as Senators. We have not fulfilled our responsibility to the Constitution. We have not fulfilled our responsibility to this body. We have not fulfilled our responsibility to advise and consent. And we certainly have not fulfilled our responsibility to the American people or the Federal judiciary.

I hope we might reach a point where we as a Senate will accept our responsibility and vote people up or vote them down. Bring the names here. If we want to vote against them, vote against them. But time after time after time I hear that there are vacancies where people are really concerned, a lot of Senators have a concern about this person. Then we come to a vote and 99 out of 100 Senators or all 100 Senators vote for that person.

This is not a fair way to do it. This is not being responsible. This is something, frankly, as I have said to my good friend, the majority leader, and he is my good friend, this is something that none of the majority leaders I have served with have ever allowed to happen, Republican or Democrat. Why? Because it would not be responsible.

Why? Because it affects the administration of justice. Why? Because it fails our responsibility to the American public. Why? Because it is beneath the Senate of the United States. We should get on with the process.

EXHIBIT 1

RADIO ADDRESS OF THE PRESIDENT TO THE NATION

The PRESIDENT. Good morning. I want to talk this morning about a very real threat to our judicial system. For more than 220 years our nation has remained young and strong by meeting new challenges in ways that renew our oldest values. Throughout our history our judiciary has given life and meaning to those values by upholding the laws and defending the rights they reflect, without regard for politics or political party.

That is the legacy of the judicial system our founders established, a legacy we recalled this Thursday on the 40th anniversary of the court-ordered desegregation of Little Rock Central High School.

But in the past 18 months this vital partnership has broken down as the Senate has refused to act on nomination after nomination. And in federal courthouses across America, almost 100 judges benches are empty. In 1996, the Senate confirmed just 17 judges—that's the lowest election-year total in over 40 years.

This year I've already sent 70 nominations to Congress, but so far they've acted on less than 20. The result is a vacancy crisis in our courts that Supreme Court Chief Justice William Rehnquist warned could undermine our courts' ability to fairly administer justice.

Meanwhile, our courts are clogged with a rising number of cases. An unprecedented number of civil cases are stalled, affecting the lives of tens of thousands of Americans—from the family seeking life insurance proceeds, to the senior citizen trying to collect Social Security benefits, to the small business protecting its right to compete. In our criminal courts nearly 16,000 cases are caught in limbo, while criminals on bail await punishment and victims await justice. Our sitting judges are overloaded and overworked, and our justice system is strained to the breaking point.

The Senate's failure to act on my nominations, or even to give many of my nominees a hearing, represents the worst of partisan politics. Under the pretense of preventing so-called judicial activism, they've taken aim at the very independence our founders sought to protect. The congressional leadership has actually threatened sitting judges with impeachment, merely because it disagrees with their judicial opinions. Under this politically motivated scrutiny, under ever-mounting caseloads, our judges must struggle to enforce the laws Congress passes and to do justice for us all.

We can't let partisan politics shut down our courts and gut our judicial system. I've worked hard to avoid that. And the people I've nominated for judgeships and had confirmed have had the highest rating of well qualified from the American Bar Association of any President since these ratings have been kept.

So today I call upon the Senate to fulfill its constitutional duty to fill these vacancies. The intimidation, the delay, the shrill voices must stop so the unbroken legacy of our strong, independent judiciary can continue for generations to come. This age demands that we work together in bipartisan fashion—and the American people deserve no less, especially when it comes to enforcing their rights, enforcing the law, and protecting the Constitution.

Thanks for listening.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ASHCROFT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that upon the conclusion of the remarks by the distinguished Senator from Missouri, Mr. ABRAHAM be recognized to speak for not to exceed 10 minutes; that he be followed by Mr. BREAUX for not to exceed 7 minutes; that he be followed by the Senator from West Virginia, Mr. BYRD, for not to exceed 30 minutes; that he be followed by Mr. GRAMM of Texas for not to exceed 20 minutes; that he be followed by Mr. BAUCUS for not to exceed 20 minutes; that he be followed by Mr. WARNER for not to exceed 20 minutes.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

Mr. BYRD. Mr. President, it may be those last four speakers will all cut their remarks a little short of what was included in the request.

Mr. ASHCROFT. Will the Senator yield?

Mr. BYRD. Yes.

Mr. ASHCROFT. I noted Senator FEINSTEIN came to the floor earlier. Did you mean to include her in any way?

Mr. BYRD. I haven't spoken with her. Did she indicate that she wanted some time?

Mr. ASHCROFT. She had at one time wanted to speak. I don't know whether she would want to be included. I think it might be appropriate to name her in the request in the event she decided to do so.

Mr. BYRD. All right. I ask unanimous consent that at the conclusion of the remarks of the Senators aforementioned, the distinguished Senator from California [Mrs. FEINSTEIN] be recognized for whatever time she may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank my friend from Missouri.

FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1998

The Senate continued with the consideration of the joint resolution.

Mr. ASHCROFT. Mr. President, I rise to raise certain issues about the continuing resolution which is before the Senate. It is a plan to continue the operation of Government for the next several weeks while we finish the appropriations process. As you well know and as most of us are keenly aware, there are matters that are still in controversy in the committees which are convened between the House and Senate to try to arrive at a final appropriations measure or a series of final appropriations measures that we could send to the President.

One of those contentious appropriations measures is the Labor, Health and Human Services and Education appropriations bill. In that appropriations measure are a number of important things that relate to the future of the country. I submit, however, that none are more important than the components of this measure that relate specifically to the education of young Americans. If I were to try to rank the responsibilities of a culture, I would have to rank very close to the top of the list the responsibility to prepare the next generation to be successful and to survive. I suppose survival is more important than success, but the idea that we have to prepare the next generation is a very important idea, and we want to do more than just prepare it for survival. I think we want to prepare it for success.

The job of preparation has been labeled in a variety of cultures in different ways. I think we expect a lot of the preparation to take place in the homes of America. We expect a lot of parents, and I think we have found that over the course of time we succeed most when we expect a lot of parents and when we get high delivery from parents in terms of what happens to young people.

Parents are not expected to do it all, however. We have a pretty substantial education system in the country, public education if you will, which is designed to help prepare young people for their lives in the next century. I think the way in which we address those issues related to education is fundamental. It is very, very important. As the father of three children, all of whom went to public schools, I know how important it is, and I am delighted to say they are all doing pretty well now, although my youngest is still in college so we want to make sure he continues that particular practice of preparation.

Education is among the top priorities of a culture. The preparation of one generation, the development of the skills to survive and succeed in the next generation is a top priority, a top responsibility. That is one of the reasons it demands our focus when the Federal Government starts to expand its participation in or indicate its intention to interfere with education as conducted at the local level. When the President of the United States in his

State of the Union Message this year indicated that he wanted to have a federally developed test, that there would be a test given to every fourth grade and eighth grade student across the country and that that test would be used to measure the success or failure of education systems around the country, I think a lot of us sat up and began to take notice. When there is talk about having a Federal test, a sort of one-size-fits-all test, with a group of bureaucrats in Washington deciding what would be tested and what would not be tested and what teaching techniques would be honored in the test and what teaching techniques would not be honored in the test, you begin to raise questions about this most serious and fundamental part of preparing the next generation to both survive and succeed.

As a matter of fact, I think there is a role for Government, but I am not sure about a uniformity that comes from Washington, DC, that ignores or displaces the responsibility of parents and local school boards and teachers at the local level.

In my previous opportunities for public service, I had responsibilities at the State level. I was Governor of the State of Missouri for 8 years, and education was one of our top priorities. We wanted to do what we could to make sure that we got the best achievement. After all, we did not necessarily want education for the sake of the education community. The focal point of education is the next generation, and how well it prepares them, and so we want to target student achievement. We want to always be sensitive to what will be the operative set of conditions which will result in the greatest student achievement, because if we can get students to achieve and their preparation is high and their skill levels are strong, they will be survivors and succeeders in the next generation. They will be swimmers and not sinkers, and that is very important.

One of the things that I had the opportunity to do when I was Governor of my State was to lead the Education Commission of the States. This is a group of officials, legislators, Governors, and school officials from every State in America, and they come together with a view toward finding ways to sort of exchange information. They are able to share about what is working in a particular jurisdiction—it is a clearinghouse. It is a way to say maybe you ought to try this in your locality. Perhaps it would not work there but perhaps it would. What are ways we can improve?

The information we began to develop, at least I began to be aware of, was that perhaps the single most important operative condition in educational achievement by students is the involvement of parents. How deeply involved in the education progress and product and projects are the parents? If the parents really care, if the community, meaning first the family, which is the fundamental building block of communities, and, second, the teaching community and, third, the larger community, which we think of as our towns or neighborhoods, if all of those institutions assign a very high value to education and are deeply involved in education and feel engaged in the educational experience, wonderful things happen to student levels of achievement.

I think we could all figure out that would be the case just by using our common sense. But we never leave everything to total common sense when we are considering policy. We like to have surveys and we like to have education studies and control groups and the like. But it is true that when families are deeply involved, when the local culture assigns a very high value to education, when they feel they are engaged, student achievement goes up substantially.

Let me give you the results of a 1980 report. It was published in "Psychology in the Schools", and it shows that family involvement improved Chicago elementary school children's performance in reading comprehension. Here is the data. One year after initiating a Chicago citywide program aimed at helping parents create academic support conditions in the home—in other words, involving parents in the schools—students in grades 1 through 6 intensively exposed to the program improved .5 to .6 grade equivalents in reading comprehension on the Iowa Test of Basic Skills than students less intensively involved in the program.

Now, if you really talk about an improvement which is .5 to .6 over the other students, you are talking about a 50 percent better performance or a 60 percent better performance. That means if normal students went up 1 year of study, these students with activated home environments and engaged parents went up 1.5 years to 1.6 years.

That is a real increase. I think some of our manufacturers, if they had the opportunity to get increases of 5 percent, not 50 percent, or increases of 6 percent, not 60 percent, in their output, they would have a tremendous competitive edge. But here is a study which says that when you actively engage parents, you get massive increases in the productivity in terms of the achievement levels of students. This happened when there was a contract signed by the superintendent, principal, teacher, parents, and student.

Note the involvement here. The school officials, the principals, the teachers, the parents, and the students. They stipulated that parents would provide a special place for home study, that they would encourage the child by daily discussion, attend to the student's progress in school and compliment the child on such points, and cooperate with the teacher in providing all these things properly. This is real engagement by parents. More than 99 percent of the students in the 41 classes, grades 1 through 6, held such contracts that were signed by all the parties. It is a clear example of the fact that student achievement skyrockets when you have a culture at the local level which is engaged in the development of school improvement policies. This study was from "School-Based Family Socialization and Reading Achievement in the Inner-City," by H. J. Walberg, R. E. Bole, and H. C. Waxman in "Psychology in the Schools."

National surveys also demonstrate this. Listen to this: a national survey reveals that parental involvement is more important in high school achievement than is the parental level of education.

So what it is really saying is that having smart parents is not important in terms of your educational achievement. Having parents that care about what you are doing and that are involved in the educational process, that is what drives student achievement.

A 1989 report found that, although parent education level and income are associated with higher achievement in high school, when socioeconomic status is controlled, meaning if you will take socioeconomic status out, only parent involvement during high school had a significant positive impact on achievement. So the real operative condition of student achievement in the high school years—we already talked about the Chicago study which showed in grades 1 through 6 you had a 50 to 60 percent improvement performance—but in the high school years what really makes a difference is whether or not there is parental involvement.

The report documents that students who enjoyed the most parental involvement, the students who had the most reinforcement, the strongest input from their culture, the ones who had the parents who were most likely to be participants, were most likely to achieve higher educational levels than their counterparts who did not have such involvement.

It's kind of interesting. They developed a chart there. When parents were highly involved during high school, 80 percent of their students got additional education after high school. You see what this does for students is to energize them. They think, "Education is important. I am going to get it. I am going to be involved in it." When parents were only moderately involved during their children's high school years, 68 percent of the students went on to studies after high school. When parents were not very involved, only 56 percent continued their education after high school. It makes a big difference.

These statistics show that students who have lots of involvement by their parents during their high school years were nearly 1½ times as likely to get some postsecondary education or a BS or BA degree, as students whose parents were not very involved. Further, students of highly involved parents are more than three times as likely to obtain a bachelor's degree than their counterparts whose parents were not very involved. This study used data from the 1980 "High School and Beyond" national survey conducted by the National Center for Educational Statistics, particularly focusing on 11,227 seniors who participated in the 1980 "High School and Beyond" survey, and in the 1986 followup documentation.

What we really have here is a fundamental understanding that when parents are involved in education, when parents are engaged in the educational process, students achieve. What I want to point out is when you have the President of the United States starting to nationalize schools by saying we are going to have a test and we are going to ask that everyone do, in school, what will show well on this test, you begin to say that you are going to test for a particular standard. And you begin to say we are going to make that standard up in Washington—not by parents, not by local school boards, not by interested parties in the community at the local level—but we are going to have a group of bureaucrats in Washington, DC, who are unreachable, uninfluenceable by local parents, who are going to design a test.

Of course, you know in order to pass a test you have to know basically what the test is wanting and you have to teach what the test wants. Once our schools begin the process of responding to the drummer in Washington, DC, teaching what that drummer wants instead of what is wanted at the local level, what is going to happen to parental involvement? How involved, how engaged, how important are parents going to feel when local school boards are no longer relevant? How successful are our students likely to be when their parents lose interest because no matter what they say they can't affect or change or direct the approach of their educational institutions, their schools?

I think the strong indication here is that when you start to dislocate parents from the process and put in their place a bureaucracy—one that is thousands of miles away in many instances—you pull the rug out from under student achievement.

The ultimate objective we are talking about is preparing the next generation to be survivors in the next century; to be succeeders; to be swimmers, not sinkers. And they do that best when their parents and the community is directly involved, has confidence in and is engaged in the education process. The absence of parental participation in that is, I think, a real threat to the success of our students.

Let me just take you to some more examples. California and Maryland elementary schools achieved strong gains in student performance after implementing partnership programs which emphasize parental involvement. If we say to the parents, "You don't matter, you can't affect curriculum, you can't affect what is being taught, we are going to decide all that in a bureaucracy in Washington, you just do as you are told," how much parental involvement are we going to be able to expect?

I think people will really respond if they have the opportunity to look carefully and participate in the development of curricula and the way the schools are run. Here is the data from California and Maryland, both of which show strong gains in student performance after implementing what are called partnership programs, which emphasize parental involvement. A 1993 study describes how two elementary schools implemented a partnership program which emphasized two-way communication and mutual support between parents and teachers, enhanced learning both at home and school, and joint decisionmaking between parents and teachers. Students at the Columbia Park School in Prince Georges County, MD, "who once lagged far behind national averages, now perform above the 90th percentile in math, and above the 50th percentile in reading, after implementing the Partnership Program. Here is kind of an interesting thing. There are already ways to find out whether you are doing well, according to national averages. There are all kinds of tests that schools can implement in order to find that out.

What we are really saying here is that the operative condition is not some set of new computers or new set of reading materials. The operative condition is a culture at the local level which assigns value to education and is engaged and is working to improve education. Instead of students that were below the 50th percentile, they are now operating above the 90th percentile. That is a formula for success instead of failure. That's a formula for survival instead of difficulty in the next century.

Here is another example, one from the other end of the country. "In its fourth year of the [partnership] program, the Daniel Webster School in Redwood City, CA, shows significant gains in student achievement compared to other schools in the district. Webster students have increased their average California Test of Basic Skills math scores by 19 percentile points." That means if they were at the 50th percentile before the partnership program, they were at the 69th percentile at the next testing period. They did this by having a situation in which parents were directly and substantially involved. "In language," the study continues, "most classes improved by at least 10 percentile points. "

What I am really trying to say here is that there is a fundamental truth that when local governments and local education officials and parents are working together to determine the curriculum and to energize student involvement and behavior, they produce success rates in school which are literally phenomenal. Remember the first of those rates we talked about in Chicago? That was a 50- to 60-percent improvement over the other group that had not had as much parental involvement in the local program.

If we take the component of parental energy and parental involvement out of our schools by divorcing from local school boards the opportunities to shape curricula because we have a national test which requires that everyone teach material which will help them survive on the next national test, we will have done a grave injustice to the next generation. An increase in parent involvement leads to significant gains in student academic achievement in virtually every instance.

Here is one from Mississippi elementary schools. According to a 1993 report of the Quality Education Program, which is designed to increase student success in school by increasing parental involvement, student success was strengthened in seven school districts in Mississippi in 1989. Between the 1988–89 school year, which was before the program was implemented, and the 1990–1991 school year, the 27 participating schools, which serve 16,000 elementary school students, showed a 4.5-percent increase in test scores over control schools. So, just implementing a program for increasing parental involvement resulted in a very important increase in test scores in Mississippi. That program provided, of course, a number of ways to engage parents in the process of being involved in schools.

I think it is a real, serious threat to parental involvement, local control and a community and culture which cares about education when we say we are going to take the fundamental decisions about what is taught and how it is taught out of local hands and we are going to put it into the hands of bureaucrats in Washington, DC, who operate under a third level wing of the U.S. Department of Education, individuals appointed by the Secretary of Education but really accountable to no one.

Even our U.S. Department of Education stated, in a 1994 report, that "when families are involved in their children's education in positive ways, children achieve grades and test scores, have better attendance at school, complete more homework, and demonstrate more positive attitudes and

behavior." That sounds like the ultimate in what you could want. Here you have children who achieve higher grades and test scores, have better attendance, they complete more homework and they demonstrate more positive attitudes and behavior. How do you get that? You engage parents and the local community in building a culture which reinforces student achievement.

Sadly, Federal testing takes away local control and parental involvement. Education should be focused at the local level, where parents, teachers, and school boards can have the greatest opportunity to be involved in the development of school curricula and testing. The Federal Government should not impose its will on teachers, parents and school boards about the education of their children. We should not have a dumbed-down national curriculum imposed through the back door of a national test. There are ways to test. There are ways to test at the local level. There are ways to compare local achievement to the performance of individuals in other districts and across the Nation. There are tests which are given across the Nation on a voluntary basis. The Iowa Test of Basic Skills, the Stanford test, and a number of other tests are developed by private agencies. But they don't impose curriculum because they are selected at the option of the schools.

The hallmark of the education proposals being considered by the Congress, rather than being proposed by the President, is a hallmark of local control and parental involvement. Look at the things that we have been discussing in the U.S. Congress. We have discussed the idea of scholarships for District of Columbia school children, giving parents more choice and more opportunity for assigning their students to schools that are productive and schools that are helpful to their children. That is empowering parents. It is putting parents in the driver's seat instead of the nickel seats. I believe we want parents in those front seats.

We have proposed education block grants, which send dollars to the classroom instead of the bureaucracy and move decisions from Washington to the local school districts. The Senate of the United States voted not long ago to send the resources to the States, where the money could be invested in classrooms, where the money could be invested in teachers, where the money could be provided to make a real difference rather than to say that the power would be somehow drawn to Washington, DC, or somehow provided to bureaucrats in some part of the Department of Education.

Here is another thing we are considering, A-plus accounts, that allow parents to save for their children's education and to make choices on spending resources for education.

Another thing we have been talking about is charter schools, creating innovative schools that are run by parents and teachers, not a bureaucracy.

We have had an effort moving schools away from bureaucracy towards more parental involvement, more and more active participation, hands-on control and engagement by parents. That is the design of what we have been talking about in the U.S. Congress. Then the President comes along and says no, we need a program where we develop a test nationally. The fact of the matter is, if you test nationally you are going to drive the curriculum nationally. You have to teach to the test, in order to do well on a test. National testing transfers power from parents and schools to Washington. It is exactly the opposite of what we are trying to accomplish in education.

States, educators, and scholars all stress the importance of local control in education decisions, and many of them stress the dangers of losing such local control. Gov. George Allen of Virginia has developed widely acclaimed Standards of Learning for English, mathematics, science, history and social studies. And he stated the importance of educational reform at the grassroots level:

> If there is one important lesson we have learned during our efforts to set clear, rigorous and measurable academic expectations for children in Virginia's public school system, it is that effective education reform occurs at the grassroots local and State level, not at the federal government level.

That was in a letter sent to Congressman GOODLING on July 29 of this year.

Here is Theodore Sizer, a liberal critic of the national standards agenda, who acknowledges that who sets the standard and controls the curriculum is crucial. Listen to Ted Sizer, a noted education authority:

> The "who decides" matter is not a trivial one. Serious education engages the minds and hearts of our youngest, most vulnerable, and most impressionable citizens. The state requires that children attend school under penalty of the law, and this unique power carries with it an exceedingly heavy burden on policymakers to be absolutely clear as to "who decides" and why that choice of authority is just. We are dealing here with the fundamental matter of intellectual freedom, the rights of both children and families.

Who decides? Theodore Sizer asks the question and says it is critical. Very few times would we let someone decide what is done who is not paying the bill, not footing the tab. I mean, we usually say that the person who makes the order gets to select from the menu.

Local governments and parents and communities pay 92 to 93 percent of all the bills for elementary and secondary education in the United States. The Federal Government pays about 7 percent. In most settings, we would say that the person who is picking up the tab should be able to pull the items off the menu to decide what he is getting. But through the back door of a national test developed by the Federal Government, we are in the position of saying to people, "Yeah, you're going to have to continue with your 93 percent of the cost, but we're going to tell you what you have to teach and how you have to teach it; we're going to tell you we know better than you do, and we'll be able to figure out from a thousand miles away in a conference room in Washington what is better for you and your family and your community than you will."

We have kind of gotten the genius of the democracy inverted. The genius of a democracy is not that the Government would impose its values on the citizens, it is that the citizens tell Washington what to do. I think in this instance, the citizens ought to say to Washington, "Wait a second, we are picking up 93 percent of the bill here, we should make the decisions and we can make the decisions and we can make them effectively. To yield to the bureaucrats in Washington, DC, the right to say what is going to be taught and how it is going to be taught in our schools, no thank you." It would be a disaster. As a matter of fact, it has been known and understood to be a bad idea for a long time. Nearly 30 years ago, education Professor Harold Hand accurately framed the issue when discussing whether the Federal Government should institute a national testing program.

"The question before us then," Professor Hand said, "is whether the national interest would be best served by embarking on a national achievement testing program in the public schools at the certain cost of relinquishing the principles of states and local control and of consent as these now apply to the public schools."

He points out clearly that there is a certain cost and the cost is giving away your ability to control what is taught and how it is taught.

This is being asked of the American citizens in spite of the fact we are going to say you still have to pay for it. "Ninety-three percent of the tab is still going to be yours, but we want to make that decision."

I don't think there is any question about the fact that national tests will lead to a national curriculum. Acting Deputy Secretary of Education Michael Smith has said:

> To do well on the national tests, curriculum and instruction would have to change.

So what we have here is an admission by those who are promoting the national test. Their admission is that they would expect to change the curriculum and to change instruction in order for people to do well on the national test. That is one of the reasons I think the Missouri State Teachers Association, made up of 40,000 teachers in the State of Missouri, has stated:

The mere presence of a federal test would create a de facto federal curriculum as teachers and schools adjust their curriculum to ensure that their students perform well on the tests.

Here you have it, 40,000 classroom teachers from the State of Missouri saying, "Wait a sec, thanks but no thanks. We don't need a nationally directed curriculum that disengages the community, that disengages the parents, that disengages the local school board, principals and teachers and mandates from Washington what to teach and how to teach it."

Test researchers George Madaus and Thomas Kellaghan point out that some advocates for national tests advance the argument that "a common national examination would help create and enforce a common national core curriculum," and that "national examinations would give teachers clear and meaningful standards to strive for and motivate students to work harder by rewarding success and having real consequences for failure."

What that really means is, if they are giving them a common national examination and help enforce a common national core curriculum, then the local level is no longer respected. It means that individuals at the local level are no longer meaningful. How long can we expect parents to stay engaged and to be active participants and to endorse and reinforce what their children are doing if the parents are told, "No thanks, we don't care for your input, we'll settle this with a group of folks behind closed doors in a bureaucracy in Washington, DC."?

Prof. Harold Hand, speaking on behalf of the Association for Supervision and Curriculum Development in opposition to the development of national tests, said:

A national testing program is a powerful weapon for the control of both purposes and content of curriculum, no matter where in the nation children are being taught, and so leads to increasing conformity and restriction in curriculum.

When President Carter was considering a national test proposed by Senator Pell of this body in 1977, here is what Joseph Califano, Carter's Secretary of Health, Education and Welfare, warned—Joseph Califano is not thought to be a person who was some kind of iconoclast, who was more interested or only interested in States rights, but here is what he warned:

Any set of test questions that the federal government prescribed should surely be suspect as a first step toward a national curriculum.

That is a substantial statement from a Secretary of Education. He goes on to say, and this is striking:

In its most extreme form—

These are the words of Joseph Califano, President Carter's Secretary of Health, Education and Welfare. He says about a national test:

In its most extreme form, national control of curriculum is a form of national control of ideas.

I find that to be a rather striking statement. I don't know whether I would go so far as to say that, but I think it is pretty clear that we want parents and teachers and community members and local school boards to be in charge of what is taught and how it is taught in our local schools, especially when they are being asked to pay 93 cents out of every dollar committed and devoted to schools. I can't imagine saying to the parents, "You don't matter anymore." I really don't like what that says to children when we tell them, "Really, the kind of decisions about your future are so important we have to relegate them to Government in Washington, DC; we can no longer trust your parents to make those kinds of decisions."

I think all of us know we want to say to children in their school system, "Respect your parents; there are things you can learn from your parents, and if your parents are engaged with you in a partnership for learning, your test scores and your achievement will go up and your life will have a higher quality."

It puzzles me to think that the President of the United States is suggesting that we should go to a national testing operation which would, as a matter of fact, drive curricula, and begin to take that control away from the local governmental entities and deprive parents of their participation in the development of educational opportunities for their young people.

There is a fundamental responsibility of our culture to help provide a basis through education for the survival of our children in the next century. If we do that effectively, we will be successful as a culture. But if we destroy the capacity of our young people to do well by nationalizing our schools and pulling the rug out from under those who would otherwise at the local level be able to make good decisions regarding schools and be involved with their children's education, we will have done a disservice to this country, not only in this generation but in the next.

H.D. Hoover, the director of the Iowa Basic Skills Testing program, has noted:

There is a whole history of trying to use tests to change curricula, and the record there is not particularly sterling.

So the point is with the idea of national tests, you drive national curriculum. Curriculum is, of course, the fundamental reason for school. It is what is being taught, and if we drive and we dislocate parents and we take people from the local community out of the situation where they can determine what is taught and how it is taught, we will have impaired the quality of our schools very, very significantly.

I am not against tests, and I don't want it to be said that I am against tests because I don't think you can really have education unless you test to see whether or not you make progress.

There was a time, there was a set of fads that came along that said we don't ever test anybody, we just hope they get excited about something and learn it and we don't give grades. You remember that. I unfortunately missed that. I was graded on almost everything I did.

But while I was teaching in college—and I spent 5½ years as an associate professor, assistant professor—there were some of these fads that came through where students wanted to take things pass-fail; just be really vague about our performance here and don't tell anybody whether we did well or did poorly.

Frankly, it was a cover for doing poorly. They would never ask that they take a course pass-fail if they thought they were going to do well in it. But, of course, they were going to slide by and, of course, suggest they take this pass-fail. I don't blame them. That makes sense.

So I am not against testing. I am in favor of testing. I think you can overtest. You can spend all your time testing and do too little teaching. You can spend too much resource in testing and too little in teaching. But in a balanced program of testing and teaching, providing accountability both for teachers and students, and providing accountability to the community, I am in favor of that.

But if you take that accountability and you impose it from a thousand miles away by a bureaucracy in Washington, DC, and you render powerless the people who are out there on the front lines, and particularly parents and school board members, and you basically have what you would call a national school board, so that they make the decisions in Washington—and the role of the local communities is to put up the money, but Washington decides what will be taught and how it will be taught—I do not think that really provides the energy and the incentive to get the job done well. As a matter of fact, I think it would be a disaster.

It is kind of interesting. A few years ago we had a rush to impose national standards. I may talk about that a little bit later. People rejected national standards because they were afraid there would be a change in curriculum based on national standards. Well, that is kind of interesting.

Terrance Paul of the Institute of Academic Excellence, has stated it this way:

Standards don't cause change. . . . Tests with consequences cause change.

Of course, some people may say, "Well, the President wants to give this test, but there won't be any consequence." Well, why give the test?

Frankly, we want something from our testing —and testing time is a precious resource—we should use it effectively. We should use it at the local level to test, to see whether or not we are achieving what we want to do at the local level.

And to take that precious resource and to fill it up with tests from the national level, that you say will not have any consequence, makes little sense. And to use resources—it costs to make tests.

The President's program, all told, is to be in the $50 to $60 million range to develop tests for reading and mathematics. I think I could develop a test to see if people could add, subtract, and multiply and divide, and if they could read for a little less than that. Be that as it may, I am not one of those that would be on this national testing development group that the President has suggested.

The important thing is that no one should devise a test for the local community unless the local community asks for it. A local community has a great opportunity to purchase tests and to deploy tests, administer tests that are either developed at the local level or developed by some nationally known, well-reputed testing agency in the United States, like the Iowa Test of Basic Skills or some other analogous or similar organization.

There are a number of States—48 as a matter of fact—that have developed or are developing State standards and State tests. To switch in midcourse from these would have a disruptive impact on those State tests and State standards, because you are going to have to teach to the national test if we have a national test.

Teaching to that test will pull the rug out from under teaching that is designed to prepare individuals for the tests at the State level by supplanting or superseding State and school district efforts. A national test will undercut their efforts and impose a one-size-fits-all system.

I have a little story I like to tell about one size fits all, because I think one size fits all is one of the greatest ruses in history. It is a joke. If you were to order pajamas for your family out of a catalog that says, "one size fits all"—and for all five members of mine, if you were to send the same set, I guarantee you that we would rename "one size fits all" to "one size fits none."

The value of this country is that we have a lot of different approaches to things. It is a major strength of this country. What would happen, for instance, if we were to take our computer industry—just an industry, for example—and decide that we were going to test all the computers in the same way, that they all had to have the same thing in them, they all have to meet the very same standards?

We would end up without competition, first of all. And we would end up without improvement because once people learned what the test was going to be, they would teach to that test and everybody would be uniform. We would not want it in industry. And we would not want it in automotives because we know that when people compete and they do what works best for them, we get the kind of energy in the economy and get the energy in our culture that provides for improvement.

Problems that would result from a national test are a national curriculum or national education standards. The National Assessment of Education Progress' science tests results show how the test can drive curriculum. Here is an article from today's Washington Post.

> Still, Education Secretary Richard W. Riley cautioned that the results may not be as dismal as they first seem. Student scores in science have improved substantially since the early 1980s, he said, and many schools are revamping how they teach the subject.

He said that revamping it, because of the new science test that the national group put out, that they went down in performance and they went against the trend that they had been going up in.

So we had a trend during the early 1980's of going up. Now they come out with a new test and they do not do well. And the Secretary of Education says, "Well, they'll do better on the new test because they'll start teaching to this test."

Well, first of all, if they were doing well on the other tests—or better—I wonder if we want to change and mandate the change through this curriculum or through a curriculum change that is imposed by this test, the National Assessment of Education Progress, the NAEP, test, which was in the paper today.

The scores were reported yesterday by the National Assessment Governing Board. "Education officials said the latest test results present stark new evidence of a problem in how science is being taught." They brought out a new test and they found out students did poorly on the new test. So they said: "Well, we have got to change how things are being taught. Too many schools, they contend, still emphasize rote memorization of facts instead of creative exercises that would arouse more curiosity in science and make the subject more relevant to students."

This whole endeavor suggests that they intend to shape how things are taught from the education bureaucracy. And they admit that that is the way change will take place.

In discussing proposed changes to the National Assessment of Education Progress, back in 1991, Madaus and Kellaghan described the danger caused by the momentum of instituting a national test. Here is their quote.

> Current efforts to change the character of [the National Assessment of Educational Progress] carry a clear lesson regarding the future of any national testing system. That is, testing and assessment are technologies. . . . Further, the history of technology shows us that "Once a process of technological development has been set in motion, it proceeds largely by its own momentum irrespective of the intentions of its originators."

What it means is you put a test in place, and people have to teach to that test. It develops a momentum of its own. And we are seeing that confessed in today's Washington Post. Students have been going up in their science evaluation, and the National Assessment of Educational Progress program comes in with a new type of science exam that says, "We don't care what you know, we want to find out different things about how creative you might be." And they all of a sudden say that the science performance falls off because they do not want to know what students have learned, they want to know how curious they are.

I think it is important for us to do more than develop curiosity in students. It is important for us to develop learning in students. And the previous tests were showing that learning was taking place and the test scores were going up. So they changed the test, redirected the objective from learning to curiosity. And when it shows that they are not as curious as they wanted them to be, they say, "Well, we're just changing the curriculum by keeping and giving this test over and over again, and pretty soon we will have curious students, although they may be ignorant of the kinds of facts we would want them to know."

This is a serious problem. Experts point out that Great Britain's attempt to provide a national exam "with a wide-achievement span seems to have been unsuccessful, not only in the case of lower-achieving students but is reported . . . to have lowered the standards of the higher-achieving students."

These experts, Madaus and Kellaghan, point out that in Great Britain the attempt to provide a national exam with wide achievement span, meaning over broad areas, seems to have been unsuccessful not only in lower-achieving students—meaning that lower-achieving students are not doing better because of the exam—but also it is saw the standards of higher-achieving students go down.

This is a lose-lose situation. It would be one thing if we were able to pull up the guys at the bottom at the cost of the guys at the top, maybe losing some, but this says that when you have these broad exams in Great Britain, not only do the people at the bottom do worse, the people at the top do worse.

In assessing the Educate America program in their 1991 report, these same experts dispel the argument that a national test would not lead to a national curriculum:

Educate America claims that their national test would not result in a national curriculum since it would only delineate what all students should know and what skills they should possess before they complete secondary school but would not prescribe how schools should teach. This assertion is disingenuous [according to the experts]. European schools have national curricula but do not prescribe how schools should teach. Through a tradition of past tests, however, national tests de facto constitute a curriculum and funnel teaching and learning along the fault lines of the test. Two acronyms describe what inevitably happens: WYTFIWYG—what you teach for is what you get—and HYTIHYT—how you test is how you teach.

If you are going to test for something, that is what you end up teaching.

These experts indicate that all over the continent of Europe, when you nationalize the testing you nationalize the curriculum.

Dr. Bert Green, professor of psychology at Johns Hopkins University notes:

The strategy seems to be to build a test that represents what the students should know, so that teaching to the test becomes teaching the curriculum that is central to student achievement.

A nationalized curriculum dislocates parents. It sets them out of the operation, along with other members of the local community. They no longer have an influence on the central core of what a school is about, that is, what is taught and how it is taught. And once that is done, I think we make a very serious inroad into the potential for student achievement.

Lyle V. Jones, a research professor in psychology at the University of North Carolina at Chapel Hill, fears that efforts to recast classroom curricula will focus simply on teaching what will likely produce higher scores on national tests. Let me quote Professor Jones: "The pressures to teach what is being tested are bound to be very large and hard to resist," he said, "Particularly in schools where the teachers and principals know the results will be published, the focus will be on getting kids to perform well on the test rather than meeting a richer set of standards in mathematics learning."

Marc F. Bernstein, superintendent of the Bellmore-Merrick central high school district in Seattle, worries that a national test will lead to a national curriculum. Here is what he said:

I know that the president has not recommended a national curriculum, only national testing, but educators know all too well that "what is tested will be taught."

The point here is the choice. Someone will decide what is tested; someone will decide what is taught; someone will decide how it is taught. Will it be a group of individuals made up of parents, teachers, business people, community officials, who want a local school board to have a sensitivity to what is happening in the local school, and when something goes wrong can try something else, can mediate a problem? Or will it be a group of individuals in Washington, DC, in some conference room in the Department of Education, inaccessible, who do not pay the bill but who will impose a national curriculum that is not correctable at the local level when it flops, when it does not work, when it fails students, when it fails the community but still is enshrined in either the egos or in the minds or in the theories of people 1,000 miles or 2,000 miles away?

That is the question. It is simple. And I think we do not want to develop some backdoor entry to a national curriculum. These experts, expert after expert that I have been quoting, they say that if you develop the test, you develop the curriculum, you specify the curriculum.

The superintendent of the Bellmore-Merrick central high school district in Seattle says:

I know that the president has not recommended a national curriculum, only national testing, but educators know all too well that "what is tested will be taught."

President Clinton remarked on May 23, 1997, at an Education Town Hall meeting—these are the words of the President:

The tests are designed so that if they don't work out so well the first time, you'll know what to do to teach, to improve and lift these standards.

Let me read that again. This is a quote from the President of the United States.

The tests are designed so that if they don't work out so well the first time, you'll know what to do to teach, to improve and lift these standards.

Basically, you will know, says the President, to change your curriculum. You will know how to teach differently. You will know how to remove the opportunity to decide curriculum from the local level and forfeit it to those who make the test in Washington, DC.

The Association for Childhood Education International notes, "What we are seeing is a growing understanding that teaching to tests increasingly has become the curriculum in many schools."

William Mehrens, Michigan State College of Education Professor, has noted that one major concern about standardized achievement tests is that when test scores are used to make important decisions, teachers may teach to the test too directly. Although teaching to the test is not a new concern, today's greater emphasis on teacher accountability can make this practice more likely to occur.

While basic skills are the most important thing for kids to learn, the proposed national tests contain high-risk educational philosophies and fads. It would be one thing if we thought the test would work or this test would help us get to the basics. I am afraid that they do not hold such promise.

John Dossey, chairman of the President's math panel to develop the math test, served on the 1989 National Council of Teachers of Mathematics group that criticized American schools' "long-standing preoccupation with computation and other traditional skills." We have been too long preoccupied with addition, subtraction, multiplication and division. He is saying teaching kids the multiplication tables—whether 12 times 12 is 144 or 15 times 15 is 225, or 6 times 7—demonstrates our "long-standing preoccupation with computation and other traditional skills."

I believe that is what we need in our schools. We need to teach young people to be able to multiply, subtract, add, divide. His focus on what advocates call "whole math" would teach our children that the right answer to basic math tables are not as important as an ability to justify incorrect ones, to argue about incorrect ones. The ability to add, subtract, multiply and divide should be replaced, it seems, by calculator skills in students. These are "whole math" individuals, the people who want to start students with calculators so they are never encumbered by the responsibility of learning addition, subtraction, multiplication, and division. They can always do it on a calculator.

The proposed math test is steeped in the new, unproven "whole math" or "fuzzy math" philosophy, deemed by some as "MTV math," which encourages students to rely on calculators and discourages arithmetic skills and has resulted in a decline in math performance.

Now, this is the sort of approach to mathematics taken by a group that the President has had working on these exams for quite some time—he has spent millions of dollars in trying to develop this, and we have talked about this previously. The last meeting convened at the Four Seasons Hotel here in Washington, DC. Their approach to mathematics is similar to this "new-new math" or the "fuzzy math" or "MTV math," depending on how you characterize it.

This fad was tried, unfortunately, on our Defense Department dependent students. The Defense Department has to operate schools all over the world in order to make it possible for the dependents, the children of people who work in our defense operation around the world, to get an education. Here is what happened when they implemented this program in the Defense Department schools. The median percentile computation scores on the Comprehensive Test of Basic Skills taken by more than 37,000 Department of Defense dependent students one year after the Defense Department introduced whole math dropped 14 percent for third graders, 20 percent for fourth graders, 20

percent for fifth graders, 17 percent for sixth graders—this is not a laughing matter—17 percent for seventh graders and only 8.5 percent for eighth graders.

Now, that is the whole math, that is the new-new math or the fuzzy math. That is the kind of math that they want to test for in the new national test. It means you will have to be teaching it in order to survive on the test, and if we reorient the curriculum of this country across America to the so-called new math or fuzzy math woe be unto our ability in the next century for our young people to be able to make simple calculations.

These are the folks who say that calculation is not important, we have been too long focused on calculation. I disagree as totally as I could with the statement that we have been too focused on calculation. I think the average parents in America know we have not focused enough on teaching kids to add, subtract, multiply and divide. We have not overdone it. The fact we are in trouble in terms of mathematic or arithmetic literacy in this country indicates we have not focused on computation of skills, not that we have.

Five hundred mathematicians from around the Nation have written a letter to President Clinton describing the flaws in the proposed math test. They say that the committee members who developed the test relied on the National Council of Teachers of Mathematics standards, which represents only one point of view of math and has raised concerns from mathematicians and professional associations. No. 2 in their concerns, the test failed to test basic computation skills.

The President said we want to have a national test, and the math teachers, 500 of them, took a look and said, wait a second, these tests fail to test basic computational skills under the assumption that all the students will know these things already. I think that would be a tragedy to try to drive a curriculum, try to test under the assumption everybody knows how to add, subtract, multiply and divide, so you give everybody a calculator in the test.

One California parent's 11th grade daughter, who was in the whole math curriculum in a local district there, was diagnosed as having second-grade math skills. The mother panicked and got a teacher and began to teach at home what would not be taught in the schools. Parents in Illinois were advised to let their son work with a school counselor—and here is the reason they were told to do so—because "he values correct and complete answers too much." I think counseling is indicated in a situation like that—but it is not for the student. There should be some counseling that goes on for the so-called educators.

Lynne Cheney, former chairman of the National Endowment for the Humanities, who, incidentally, tried to develop a national set of history standards and found out how difficult it was and how inappropriate it would be to try to impose the proposed standards on the students, has become an opponent of national standards and national tests. She wrote in the Wall Street Journal not long ago about Steven Leinwand, who sits on the President's math panel. Leinwand had written an essay, explaining why it is "downright dangerous" to teach students things like 6 times 7 is 42, put down the 2 and carry the 4. Simple multiplication. Such instruction sorts people out, Mr. Leinwand writes, "anointing the few" who master these procedures and "casting out the many."

Now we have people who are developing the national test who have such a low view of the talent pool in America that they say only a few students can learn 6 times 7 is 42, put down the 2 and carry 4. That kind of low understanding and low evaluation of America's future is not what we need in designing a curriculum through the back door of a national test. It is just that simple.

Students all over the world have arithmetic literacy. They have the capacity to compute fundamentally. They have the fundamental capacity to do arithmetic, addition, subtraction, multiplication and division. And to say that only a few could do it in the United States and is to undervalue our most important resource—that's the students who will make up the population of this great country.

I have to say this. If we have very, very low expectations of students, that will drive the levels at which they produce. There are books full of studies that say, if you have low expectations, you get low output; if you have high expectations, you get much better performance. Let's not turn this country over to a group of individuals who think that most American students are simply incapable of learning 6 times 7 is 42, put down the 2 and carry the 4.

I was pleased to have an opportunity to speak with the Senator from West Virginia here earlier this afternoon. Senator BYRD made a speech in June of 1997, a speech on a whole math textbook called Focus on Algebra. After looking at the textbook, he called it "whacko algebra." We have his entire speech. It is an interesting speech in which he points out some of the real problems we have with this approach. He says:

> A closer look at the current approach to mathematics in our schools reveals something called the "new-new math." Apparently the concept behind this new-new approach to mathematics is to get kids to enjoy mathematics and hope that "enjoyment" will lead to a better understanding of basic math concepts. Nice thought, but nice thoughts do not always get the job done. Recently Marianne Jennings, a professor at Arizona State University, found that her teenage daughter could not solve a mathematical equation. This was all the more puzzling because her daughter was getting an A in algebra. Curious about the disparity, Jennings took a look at her daughter's Algebra textbook, euphemistically titled "Secondary Math: An Integrated Approach: Focus on Algebra." . . . After reviewing it, Jennings dubbed it "Rain Forest Algebra."

I think the Senator may have been right when he said, "I have to go a step further and call it whacko algebra."

If that is the kind of new-new math, if that is the kind of whole math that this national test would impose upon citizens across this country and would literally say to individuals, "This is what we will test, and you will have to take this test and you will be wanting to teach to this test," I think it is a terrible disservice to the next generation.

Now, the President has not only indicated he wants to have a mathematics test or a test of arithmetic or skills in that area, he wants to have a reading test. What I fear about tests is that they not only drive what is taught but they drive how it is taught. How you teach reading makes a tremendous difference in terms of your capacity in your life-long endeavor with the written word. Of course, we know that being able to read instructions and being able to read things is far more important than it has ever been in history. One philosophy for teaching reading is what is called the "whole language approach," which doesn't really focus on phonics.

One of the real advantages of the English language is that we have letters. There are some languages that do not have letters. They just have pictures. Some of the Oriental languages just have pictures, and the picture, if you have never seen it before, really can't tell you how to pronounce it. It won't tell you what it might mean. It won't give you many clues of how to look it up because it is just a picture. If you don't recognize it, you don't recognize it.

With English, on the other hand, if you understand it phonetically, you look at it and you know that there are certain sounds that are associated with certain letters and combinations of letters. As you sound words out, it also provides a pretty easy way to look it up because we have the ability to have the dictionary and it is in alphabetical order. There is an order. There is a logic to phonetically understanding the English language. It is the capacity to take the language, a word you have never seen before, sound it out, and deconstruct the word and figure out what it means.

I think it would be a tremendous disaster if, instead of allowing schools to decide how they want to teach English, if we were to have a test constructed and from that test drive an approach to teaching English, for instance, that ignored phonics.

Now, I have to say this, and I have said it before, and I guess I will be saying it many times: I don't think we ought to have a national test even if it were one that I thought perfectly represented what ought to be taught. The point I think we have to understand is that parents deserve the right to shape the curriculum and the way it is taught at the local level. When parents have that right and can be involved in it, they are far more likely to be engaged in the educational effort and we go back to our primary understanding that when parents are involved in the education effort, students' achievements skyrocket. The whole purpose of education is not for teachers. It is not for school boards. It is not for parents. The purpose of education is for students. We should be doing those things which drive student achievement and performance, and parental involvement in the system drives student achievement and performance. Now, the President of the United States has come before the American people and he has said that the test would be voluntary. He says that these are going to be voluntary. Well, frankly, he wants everybody to pay for the tests. So you have to pay for them whether you would use them or not. I think if he really wanted them voluntary, he would say, if you don't use the test, you could get the money that would be spent if you did use the test to do other things. So a school district that had plenty of tests and knew what its weak points were and how it wanted to advance the interest of its students could spend the money on something worthwhile to them from what they already knew. Most good school districts know where they are weak and where they are strong and they know what they need to do.

The President said, though, this is going to be a voluntary test, you don't have to worry. Don't worry about a test that drives curriculum all over the country and makes it uniform and monotonous and dumbs down things to a single, low common denominator on the national level, because that won't happen. "This is a voluntary test." That is the line, that is the statement, that is the oft-repeated sales pitch of the Department of Education. However, it is pretty clear that that is really not their intention. While the President has stated that it will be voluntary, and clearly indicated that in his remarks in the State of the Union message, he went to Michigan on March 10, 1997, just a couple months later, and said, "I want to create a climate in which no one can say no."

So much for your voluntary test. The President says he wants the test to be voluntary, but he goes to Michigan and says, "I want to create a climate in which no one can say no, in which it's voluntary but you are ashamed if you don't give your kids the chance to do [these tests]." I really think we need to get an understanding of whether this is voluntary or not. I think when you open the backdoor through national testing to the development of national curriculum and you displace the capacity of parents, teachers, school board members, and community members to develop what they want taught and how they want it taught, and to correct it when mistakes are being made at the local level, displace that with a national system of tests that directs curriculum and say they will be voluntary so there is not a problem, but then you go to Michigan and say you want to create a climate in which no one can say no, I will guarantee you that you properly raise suspicion on the part of the American people.

When the President of the United States decides what is voluntary and what is not voluntary and he tells you in one instance he wants it to be voluntary, but in another instance "no one can say no," you have to consider the fact that the President has a lot of power, a lot of resources and a lot of money, a lot of grants, and other things that are available to the President through his department. He can say, oh, that is one of those school districts that decided they didn't need our testing system. You know, that indicates they are not very progressive, so they should not be able to participate in this, that, or the other thing. Or we certainly would not want to favor them with a visit from governmental leadership from the executive branch—or any number of things. The President himself says, "I want to create a climate in which no one can say no."

Now, I have heard about choices where no one can say no, and I have heard about people who were so attractive that no one could say no. But I don't think we want to create a situation or a circumstance in education where we have a nationally driven, federally developed test by bureaucrats in Washington, to which no one can say no. William Safire talked about the "nose of the camel under the tent." He wrote, "We're only talking about math and English, say the national standard-bearers, and shucks, it's only voluntary." Safire said this: "Don't believe that; if the nose of that camel gets under the tent, the hump of a national curriculum, slavish teaching to the homogenizing tests, and a black market in answers would surely follow."

It sounds to me like he has listened to what the President said in Michigan. Voluntary? Hardly. It is the nose of the camel, and a nationalized, federalized curriculum—a Federal Government curriculum will follow. If a State chooses to administer the tests, all local educational agencies and parents will not have a choice whether they want to participate. The truth of the matter is that this is the dislocation of parents, school boards, and communities, and it is investing power in Washington, DC, in a new bureaucracy to control curriculum and testing across the country.

Other Federal "voluntary" plans have ended up becoming mandatory. A Missouri State Teachers Association memo says: "Experience in dealing with federal programs has taught us to be wary. For example, the 55 mph speed limit was voluntary, too—on paper, at any rate. In practice, the speed limit was universally adopted because federal highway funds were contingent upon states' 'voluntary' cooperation. The point is that what is voluntary often becomes mandatory when you have federal programs and funds involved."

The Department of Education stated in a September 16 memorandum that it is willing to use the leverage of Title I funds to gain acceptance for the proposed national tests—Federal funds linked to the proposed national tests. Voluntary? Hardly.

The memo says that the Federal agency will accept the national tests as an adequate assessment of the proficiency of Title I/educationally disadvantaged funds. This offer is totally inappropriate. It demonstrates how desperate the Department is to gain acceptance for these flawed Federal tests. Use of the tests is being linked directly with Federal funds. Today, the use of the tests for Title I students is "permitted," or suggested, perhaps even encouraged. It is only a matter of time before it could be required.

An October 1990 study from the Ohio Legislative Office for Education Oversight revealed that 173 of the 330 forms, 52 percent of the forms, used by a school district were related to participation in a Federal program, while Federal programs provide less than 5 percent of education funding.

Here is what we have already. We have a National Government that is intrusive. It is responsible for more than half of the paperwork load that teachers are struggling under, and that school officials are struggling under, which displaces resources that might otherwise go to the classroom. So you have 52 percent of the paperwork at the Federal level and only 5 percent of the funding, according to the 1990 Ohio Legislative Office of Education Oversight. I don't think we need additional invasion by Federal bureaucrats to displace what ought to be done, which can be done, what is being done and can be done far more successfully at the local level with a Federal bureaucracy.

What happened when we tried this through a Federal bureaucracy in the past? What has been our success at imposing things we thought might be good? It is kind of interesting to look at the so-called "National Standards for United States History," which were assembled in hopes of providing some

sort of standard for history teaching. These standards were funded in 1991 by the National Endowment for the Humanities and the Department of Education for just over $2 million.

Here is what we got for our $2 million. If you think you want to invite the National Government in a bureaucracy, through a test, to begin to develop a curriculum and to set standards that have to be followed in every district, think about what happened to this effort to develop national standards. The National Standards for United States History do not mention Robert E. Lee, Paul Revere's midnight ride, and did not mention the Wright Brothers or Thomas Edison. Who made the grade with the revisionists, the educationists, the liberals who wanted to rewrite history? Well, Mansa Musa, a 14th century African king, and the Indian chief Speckled Snake had prominent display—but not these others. I would not be against adding some people to our history books, but I am against deleting the Wright Brothers and Robert E. Lee. The American Federation of Labor was mentioned nine times, and the KKK was mentioned over a dozen times. It was obviously an attempt to set standards that would make students ashamed of their country instead of giving them an awareness of what their country was all about.

Lynne Cheney criticized the National Standards for U.S. History, in spite of the fact that she was the chairperson of the National Endowment for the Humanities when the Endowment contributed to the funding for the standards project. She said that the U.S. history standards were politically biased. She cited a participant in the process who said the standards sought to be "politically correct." What a tragedy that we would take an effort to our classroom that we were trying to make politically correct and impose that instead of the truth to people about our history. Cheney also said that the standards slighted or ignored many central figures in U.S. history, particularly white males. The standards were uncritical in their discussions of other societies. The standards were unduly critical of capitalism. The economic system, which has carried the United States into a position where it is the best place in the world to be poor, not the best place to be rich. You can get richer in some other place, but the poor of America are better off than the rich in many places around the world. But, no, the standards were unduly critical of capitalism, so writes Lynne Cheney, chairman of the National Endowment for Humanities at the time it funded this effort to build standards. In testimony before a subcommittee of the House Economic and Educational Opportunities Committee, she reiterated concerns about the history standards and concluded that national standards were not needed in any subject area, much less any entity to certify or approve them.

So that is what Lynne Cheney, who had experience with national standards, said when they tried a bureaucracy in Washington to dictate a history standard. She said it was a failure. She spent our money doing it, but she had the courage to stand up and say it ended up with a bunch of politically correct stuff that was inappropriate to use as teaching tools for our children.

Finally, George Will attacked the failed history standards as "cranky, anti-Americanism."

The English/language arts standards were such an ill-considered muddle that even the Clinton Department of Education cut off funding for them after having invested more than $1 million dollars. Over and over again, when there have been national efforts to establish standards, create curriculum, to develop tests, they have to suspend the effort because they get bogged down in politically correct language, they get bogged down in the compromise of politics and end up not speaking to the students' real needs, which is for education.

Can you imagine a politically driven math test that is not concerned about computing—adding, subtracting, multiplying and dividing—but is concerned about making sure that we don't offend anybody? Frankly, we need to be able to add, subtract, multiply and divide. To say that it doesn't matter whether you get the right number, that if you just get close, sounds a little bit too much like Washington, where people around here mumble "close enough for Government work." Well, if you are having your appendix taken out or you are having your teeth filled by a dentist, you hope they would not have that attitude toward mathematics or anything else. There are a lot of things that are relative in the world, I suppose. But one thing is not—we ought to be able to say to people that 2 plus 2 equals 4, and 2 plus 3 doesn't. It is hard to say to students that there are any absolutes left in the culture, but at least we ought to be able to say to them there are some absolutes. You can find them, at least, in the mathematics curriculum.

Well, USA Today reported that according to Boston College's Center for Study of Testing, children are already overtested, taking between three and nine standardized tests a year. The truth of the matter is, States and communities are already testing students. They are keenly aware of the need to improve performance, and to subject students to a national test on top of the testing that is already being done is to basically impose a resource allocation judgment by the Federal Government on the people who are at the State level and at the local level, who know how much testing is appropriate. Can you imagine that the State and local folks have been testing too little purposely for a long time in hopes that there would someday be a Federal test arrive which could take a day of their activities, or 2 days of their activities, and take resources and funding away from the teaching curriculum and add it to the testing curriculum? No, I don't think that is the case.

I think we have been having teachers and school officials deciding how much testing is appropriate, testing that amount, making sure that they had tests that could compare them to relevant groups.

We talked at the beginning of my remarks today, and that was some time ago, about school districts that have moved up dramatically compared to the national average. National averages are available today and international averages are available today. As a matter of fact, when we went to the Washington Post to talk about the new science results in the United States, we found out that we fell against international averages. We fell in large measure because we decided we would test for something else instead of testing for the hard science that the international averages are involved with.

If there is in this proposal for national testing—and obviously it is the one that is now being debated between the House and the Senate in the conference committee—a proposed national body which would develop a national Federal test with the Federal Government directing it through the Department of Education, it is important to note that this is still going to be Government. They may say that it is independent. It is not. It is the National Assessment Governing Board which would continue to get Federal appropriations for all of its activities through the National Center for Education Statistics, an arm of the U.S. Department of Education. This board, although it would have Governors and some local officials on it, would be a limited group of people that would operate in Washington, DC, under the direction and control of the Department of Education.

The Secretary of Education would still make final decisions on all board appointments. The Assistant Secretary for the Federal Office of Education Research and Improvement would still exert influence as an ex officio member of the National Assessment Governing Board.

While the House voted overwhelmingly by a vote of 295 to 125 to not allow one cent to go for national testing, the Senate-passed proposal would provide a new assessment governing board which would add a Governor, two industrialists, four members of the public and remove five individuals who are currently members of the board. But it would still operate in the U.S.

Department of Education under the National Center for Education Statistics. The Secretary of Education would still make final decisions on all board appointments. The Assistant Secretary would be the person who drove the ship as an ex officio member of the board and as, obviously, a representative of the Department through which all the funding would flow.

Now, the National Education Standards and Improvement Council, part of Goals 2000, was repealed April 26, 1996, a little over a year and a half ago, over concerns that it would function as a national school board, establishing Federal standards and driving local curriculum. I think it is fair to say that we had good judgment there. We said, wait a second, we don't want something that establishes a national curriculum, that establishes national standards. We saw how bad that was with the history standards. The history standards were repudiated unanimously by the Senate because they were just politically correct items that were revisionist history, designed, as I said, to make students ashamed of the country rather than to inform students about the country. And at the time the National Education Standards and Improvement Council was repealed, because there were concerns it would function as a national school board, it was said on this floor that "it is logical to presume that once a national standard has been set and defined by some group which has received the imprimatur of the Federal Government, you will see that standard is aggressively used as a club to force local curriculums to comply with the national standards * * * it was a mistake to set up the national school board, NESIC."

Well, if it was a mistake to set up a national school board under the nomenclature of an education standards and improvement council, it is a mistake to establish a national school board under the label of a test development committee.

It was further said in the Chamber that "the National Education Standards and Improvement Council should never have been proposed in the first place. It was a mistake and we should terminate it right now. The Federal Government does not have a role in this area, and it certainly should not be putting taxpayers' dollars at risk in this area."

Well, if that was a mistake in 1996, where they had no authority to propose a national test to be imposed on every student in America to drive curriculum, it is certainly a mistake now. And the number of letters or the identity of the letters which label the federal bureaucracy doesn't change the facts.

A single national test for students was rejected by the only congressionally authorized body ever to make recommendations on national testing. The National Council on Education Standards and Testing was authorized in 1992 by the Congress, and its final report concluded that "the system assessment must consist of multiple methods of measuring progress, not a single test."

Whether you allow test development and implementation through the Department of Education or through the National Assessment Governing Board, the fatal flaw is that we would be allowing the development of a test which would drive curriculum. When you drive curriculum from Washington and you make it impossible for people at the local level to decide what they want taught and how they want it taught and you deprive them of the ability to correct mistakes—if it is not working, they can't change it because it is all driven from the national level—you are forfeiting a great opportunity to make the kind of progress educationally which will make those who follow us survivors and succeeders.

As I said when I had the opportunity to begin making these remarks, the genius of America is bound up in our ability to hand to the next century, the next generation, a set of opportunities as great as ours. I firmly believe we have that opportunity and we have the responsibility to make sure that the next century is characterized by individuals who are capable. If we decide to spoil that opportunity by ruining our education system with a one-size-fits-all, dumbed-down curriculum that is driven by national, federalized testing that comes as a result of a bureaucratic organization in Washington that could only honestly be labeled as a national school board, we will have failed in our responsibility to protect the future of the young people in this country.

Some have concluded that the public is demanding what the President says he wants to provide. Nothing could be further from the truth. I seldom cite polls in things that I say because I don't want to be poll driven. I do not want to follow polls around. I want to try to find out what is the right thing to do. Living by polls is like driving down the road looking in the rear view mirror to find out what people thought a little while ago. We need to be driving down the road finding out where we need to be and where we want to go.

But there are those who say that, well, we can't say to the American people they should not embrace the President's proposal because the American people want the President's proposal. Here is what the Wall Street Journal said about that. This was quite some time ago:

> The Wall Street Journal/NBC national poll found that 81 percent of adults favor President Clinton's initiative, with almost half the public strongly in favor and only 16 percent opposed.
>
> But when asked whether the federal government should establish a national test—with questions spelling out the pro and con arguments of a standard national accountability vs. ceding too much power to the federal government—the public splits 49 percent to 47 percent, barely in favor.

This is fewer than half the people. With just one moment of explanation, all of a sudden the so-called 81 percent endorsement crumbles. When the real facts of the proposed federalized national test mandated by a group of folks acting as a national school board, in effect, in Washington, DC, reach the American people, they are going to know that is not the recipe for greatness. That is a recipe for disaster.

I have to say this is a little bit like the health care program that got so much support early on, but the more people knew, the less they liked it. One academic writer whom I will have an opportunity to quote when I speak again at another time says that the worst thing that could happen for the President would be for this plan for testing to be implemented because people would find out the disaster that it would really cause in the event it were implemented.

Our primary objective must be preparing the next generation educationally for the future, and we cannot pull the rug from beneath the components that make education a success—parental involvement, a strong culture supporting education at home, local control, the ability to change things that are failing, and the ability to adjust at the local level. A national bureaucracy cannot get that done. It is something that we must not embrace. National federalized testing is a concept that must be rejected if we are to save the opportunity for the future for our children.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. ABRAHAM. I thank the Chair. I appreciate being recognized.

INS PURSUIT OF CRIMINAL ALIENS

Mr. ABRAHAM. Mr. President, I would like today to speak briefly about an issue that pertains in large measure to the Subcommittee on Immigration, which I chair.

In the last several months, a number of incidents have come to our attention involving the pursuit by the Immigration and Naturalization Service of aliens, sometimes legal immigrants with American citizen spouses and children, for deportation based on one crime committed years ago. These crimes have on occasion been crimes like forgery, and some individuals have apparently been pursued where they did not even have a conviction.

I would like to make a few brief remarks on this because I, along with Republicans and Democrats, made efforts last Congress through the illegal immigration bill to improve the INS' poor

record of removing deportable criminal aliens.

Our goal was to deport convicted criminal aliens starting with the thousands currently serving in our jails and prisons. I believe that law-abiding people, not hardened criminals, should be filling our priceless immigration slots. Yet, until last year's bill, only a tiny percentage of deportable criminal aliens were actually being deported.

This happened because of a number of weaknesses in the immigration enforcement system. First, there were only very limited efforts to identify deportable criminal aliens, particularly in our State and local prison systems. This meant that the INS was not even learning about the vast majority of deportable criminal aliens.

Second, where deportable criminal aliens were identified and where deportation proceedings were begun, those aliens were frequently released into the community and, not surprisingly, were never heard from again.

Finally, in those rare instances in which deportation proceedings were begun and criminal aliens were detained, they were able to take advantage of delaying tactics and loopholes in our immigration law to significantly increase their chances of staying in the country or, at a minimum, lengthening their stays. In addition, the INS was often limited in its ability to remove criminal aliens due to the definition of deportable crimes under the old laws. Given the reality of the plea bargaining process, we wanted to broaden INS's ability to deport serious criminals who should be deported where they might have pled down to a lesser offense.

We took steps to address each of these flaws in the system. We increased INS's resources so they could identify deportable criminal aliens. We enhanced detention requirements to reduce the risk of flight. We removed criminals' abilities to delay deportation, and we closed loopholes in our immigration laws. We also increased the number of crimes for which criminal aliens could be deported, both to reflect the realities of our criminal justice system and to enhance the INS's abilities to go after hardcore criminals who should not be permitted to remain in the country.

Through all of this, we had assumed that the INS would focus their limited resources and manpower on deporting more serious criminals who had more recently committed crimes, especially those currently in prison. However, either because of an inability to set priorities, difficulty in interrelating the many different sections of the new immigration bill, or a combination of both, the INS seems to be pursuing some seemingly minor cases aggressively—by even, we are told, combing closed municipal court cases and old probation records—while letting some hardened criminals in jail go free.

Accordingly, I will be conducting investigative hearings of the Immigration Subcommittee to determine why this is happening and what is needed to clearly establish the right priorities. This particularly concerns me given the INS's continuing inability to detain and process deportable criminal aliens despite all the enhanced enforcement authority we gave them in last year's immigration bill.

Let me speak for a moment about a report issued just last month by the inspector general of the Department of Justice, which provides just one example of the troubling concerns about the INS's handling of criminal aliens. The inspector general's report dealt only with the Krome detention facility in Miami, which has attracted a great deal of attention and which ought to be one of the better run detention facilities at this point. While the IG's report covered a wide range of issues at that facility, what he found with respect to the release of criminal aliens is quite disturbing.

For example, the inspector general found that from a sample of 28 criminal aliens released into the community in June of 1997, 9 of the 28 had "known criminal records or indications of potential serious criminal history" and 4 of the 28 had "insufficient evidence in the files to indicate a criminal history check was even performed before release," something the INS's written policies require.

Here are some of those aliens that INS released:

A criminal alien who was convicted in 1994 of conspiracy to commit aggravated child abuse and third-degree murder in connection with the killing of a 5-year-old child. She had committed bank fraud in 1982, and her INS file clearly indicated that she had been convicted of an aggravated felony. She was released by the INS this past June without deportation proceedings being initiated.

Another alien was convicted in 1988 of cocaine trafficking, an aggravated felony, and was imprisoned in Florida. In 1994 the alien was processed by the INS and released on his own recognizance. Deportation proceedings were never completed. Although the INS served him with a warrant for arrest in June of 1997, they released him on bond the next day.

Yet another alien had several convictions in 1992 related to drugs, tax evasion and engaging in a continuing criminal enterprise. In 1982 the alien had entered the country without proper documentation and was placed into exclusion proceedings but was not detained. He only came to the INS's attention again after the 1992 convictions. As a result of those convictions, he was initially sentenced to 12 years in Federal prison, which was later reduced to 88 months. In June of 1997 he was taken into custody by the INS upon his release from Federal prison. Unfortunately, once again the INS just let him go. He was released the same month.

These are just a few examples, but they highlight the urgent need for oversight into the identification and removal of deportable criminal aliens. We simply must ensure that our immigration priorities are set properly so we can guarantee that dangerous and deportable criminal aliens are not permitted to remain on our streets and in our communities.

I look forward to working with my colleagues on the Immigration Subcommittee to address these issues.

I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Chair recognizes the distinguished Senator from Texas.

Mr. GRAMM. Mr. President, Senator BYRD from West Virginia had, through a unanimous consent request, reserved time for himself and for two other authors of a major amendment to the transportation bill to speak.

In the interim, Senator BREAUX, I think, was scheduled to speak for 7 minutes. Senator BREAUX is not here. So, rather than hold up the Senate, what I would like to do is to go ahead and speak out of order, and I ask unanimous consent to be able to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGHWAY FUNDING

Mr. GRAMM. Mr. President, when the distinguished Senator from West Virginia reaches the floor and is recognized, he will introduce an amendment that he and I are introducing with Senator WARNER and Senator BAUCUS. It is a very important amendment. It is the culmination of a long debate about highway funding and about using trust funds for the purpose that the trust funds are cumulated. My colleagues have heard a great deal about this debate to this point. They are going to hear a lot more about it in the next few days. But I wanted to outline how we got to the point of offering this amendment. I think it is a very important vote. I think it is important that it be an informed vote. So let me go back to 1993. What I want to do is outline how we got to the point that we find ourselves today. I then want to talk about the amendment, and I will leave the great preponderance of the details up to Senator BYRD.

In 1993, as part of the initial budget adopted with the new Clinton administration, the Congress adopted a 4.3-cent-a-gallon tax on gasoline. For the first time in the history of the country since we had the Highway Trust Fund, this permanent gasoline tax did not go to build roads or to build mass transit. Unlike any other permanent gasoline tax that we had adopted since the establishment of the trust fund, it went to general revenues.

When we had the debate, obviously much objection was raised to the fact that we were taxing gasoline and not funding roads. On the budget resolution this year, I offered an amendment that called on the Senate to do two things: One, to take the 4.3-cent-a-gallon tax on gasoline—which is an annual revenue, by the way, of about $7.2 billion—to take that money out of general revenue and put it into the Highway Trust Fund, where historically permanent gasoline taxes have always gone. The second part of this amendment was to require that the money be spent for the purpose for which it had been collected as part of the Highway Trust Fund, and that is that the money be spent to build roads. That amendment was adopted with 83 votes in the Senate. Every Republican except two voted for the amendment; 31 Democrats voted for the amendment. It was a strong bipartisan declaration of the principle that when you collect money from gasoline taxes that that money ought to be used to build roads as part of the user fee concept which has always been the foundation on which we have had gasoline taxes.

When we passed the tax bill this year, I offered an amendment in the Finance Committee to take the 4.3-cent-a-gallon tax on gasoline away from general revenue and to put it into the Highway Trust Fund. That amendment was adopted in the Finance Committee and that amendment was part of the tax bill both times it was voted on in the Senate. Those who opposed the amendment contemplated offering an amendment to strip away that provision and, after looking at the level of support in the Senate, decided not to offer it. As a result, in the new tax bill the transfer of the 4.3-cent-a-gallon tax on gasoline became the law of the land and it now is going into the Highway Trust Fund where historically our gasoline taxes have gone.

Now, in this last month, the transportation bill, the highway bill, was reported out of committee, but that highway bill did not provide that any of the funds from the 4.3-cent-a-gallon tax on gasoline be spent for roads. What would occur if in fact the bill as written by committee were adopted is that we now have—if you will look at this chart—we have $23.7 billion of surplus in the Highway Trust Fund. What that really means is that over the years we have collected $23.7 billion to build roads, but rather than building roads with those funds we have allowed that money to be spent for other purposes. And as a result, Americans have paid taxes on gasoline but that money has not been used for the purpose that they paid the taxes. Now, as a result of the adoption of the amendment that I offered on the Finance Committee bill, the 4.3-cent-a-gallon tax on gasoline is now going into the trust fund and, if we don't amend the transportation bill before us, by the year 2003 we could have a surplus in the Highway Trust Fund of $90 billion.

What does that surplus mean? It is simply an accounting entry to say that we have collected $90 billion that we told the American people would go to build roads, we have collected it by taxing gasoline, and yet every penny of that $90 billion will have been spent but not on roads. It will have been spent on many other things—some worthy, some not so worthy—but it will not have been spent for the purpose that the money was collected in the first place. And that purpose is to build roads.

The amendment that Senator BYRD and I are offering will basically do this. It will take the 4.3-cent-a-gallon tax on gasoline and it will allow it to accumulate for a year. And then, after the accumulation has occurred for 1 year, it will commit that revenue for the purpose that it was collected: To build roads. What it will mean is that over the period of our bill it will authorize about $31 billion of additional funds to build roads, and the actual expenditure will be about $21 billion.

If we don't pass this amendment, what will happen is this $90 billion will be collected, it will not be spent for roads, and every penny of it will be spent for something else. Senator BYRD the other day likened this procedure to the story of Ananias in the Bible, where, in the book of Acts, Ananias has sold his worldly goods to give the money to the new, fledgling church, only Ananias holds back part of the money. And God not only struck Ananias dead but struck his wife Saphira dead.

In a very real sense, what we have been doing on the Highway Trust Fund is we have been engaged in an action which is basically deception. We have been telling people that they are paying taxes to build roads when they pay at the gasoline pump, and we have not been building roads. We have, in fact, been spending that money for other purposes. The amendment that Senator BYRD will offer for himself and for me, for Senator WARNER, and Senator BAUCUS, will simply take the 4.3 cents of revenues and assure that they are, in turn, spent for the purpose that the tax is now collected, and that is building roads.

I would note that even under our amendment, the unexpended balance of the trust fund will grow from $23.7 billion today, to at least $39 billion by the year 2003.

The issue here is, should money that is collected for the purpose of building roads be authorized for expenditure for that purpose? Or should we continue to allow it to be spent for other purposes?

Let me address the issue of the budget. Nothing in our amendment busts the budget. Nothing in our amendment increases expenditures by one thin dime. Nothing in our amendment will allow the budget deficit to grow. All our amendment does is require that the funds that are collected on the gasoline tax to build roads be authorized to be expended on building roads. Obviously we cannot require, in the transportation bill, that the Appropriations Committee appropriate the money each and every year to fund the authorization. But I would remind my colleagues that 6 years ago we wrote a highway bill and we set out in that highway bill the authorization levels that would allow appropriations, and that highway bill, through 6 long years, was never changed.

Some of our colleagues will argue, "Well, let's not authorize the building of roads with taxes collected to build roads now, let's wait a couple of years and write another budget and make a decision."

Our decision today is about whether or not we are going to be honest with the American people and whether or not we are going to spend money collected to build roads for the purpose that they are collected.

That basically is the issue. This is not an issue about total spending. Nothing in our amendment changes total spending. It is an issue about truth in taxing, and that is, when we tax people on a user fee to build roads, do we build roads with the money or do we allow it to be spent for other purposes?

In our amendment, we say that we are not raising the total level of spending, but we make it clear we are serious about funding highways. We say that if savings occur in the future relative to the budget agreement and if Congress decides to spend any of those savings in the future, that those savings must be used to fully fund highways and meet the obligation that the revenues collected in this gasoline tax be used for the purpose of building roads.

So there will be many issues debated, but they really boil down to a very, very simple issue: When we are imposing a tax on gasoline, a tax that people are paying when they are filling up their car and truck, and we tell them that that money is being spent for roads so that they are beneficiaries of the tax they are paying, are we going to fulfill the commitment we make to them when we tell them that or are we going to allow, incredibly, $90 billion to be collected over the next 6 years where people are told the money is going to build roads but, in reality, the money goes to fund something else?

There are many ways you can debate this issue, but it all comes down simply to priorities. What the Byrd-Gramm amendment will do is fulfill the commitment we have made by authorizing that funds collected in the gasoline tax be available to build highways. That is the issue. We do not change the formula in allocating the funds. We meet

the same requirement the committee met, and that is, we guarantee that for the first time, every State, at a minimum, will get back 90 percent of their share of the gas taxes they send to Washington, DC. As a person who is from a donor State, which means we are currently getting 77 cents for every dollar we send to Washington, that is a dramatic improvement.

The amendment that Senator BYRD will be offering on behalf of some 40 or 50 cosponsors is an amendment basically that will allow us to fulfill the commitment that we have made to the American people.

So I am very proud to be an original cosponsor with Senator BYRD of this amendment. I think it is a very important amendment. I hope our colleagues will look at it. I hope they will decide that it is time to tell the American people the truth. It is time to stop collecting gasoline taxes and then using those gasoline taxes for purposes other than building roads.

I yield the floor.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Louisiana is to be recognized for 7 minutes.

Mr. BREAUX. I thank the President.

Mr. President, I want to associate myself with the remarks of the Senator from Texas. I think what he and Senator BYRD are doing is the correct thing to do. I am proud to be a cosponsor of their amendment and hope that the Senate recognizes that this makes a great deal of sense and is the right policy as well.

(The remarks of Mr. BREAUX pertaining to the introduction of S. 1308 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BREAUX. Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is now recognized for up to 30 minutes.

Mr. BYRD. I thank the Chair.

Mr. BYRD. I thank my distinguished friend, Mr. GRAMM, who has spoken already on this subject. And I thank Mr. WARNER and Mr. BAUCUS, both of whom will speak. I thank them for being chief cosponsors of the amendment along with me.

I should state at this point that there are 40 Senators, in addition to myself, who will have their names on this amendment. I will not offer it today except to offer it to be printed. And at such time as I do offer it, I will then add additional names by unanimous consent.

So in the meantime, if any Senators wish to cosponsor the amendment, if they will let either me or Mr. WARNER or Mr. BAUCUS or Mr. GRAMM know, we will act accordingly and have their names added at the appropriate time.

Mr. President, S. 1173, the reauthorization of the Intermodal——

Mr. WARNER. Mr. President, would the distinguished Senator yield?

Mr. BYRD. Yes.

Mr. WARNER. Because this is such an important announcement you are making, and having had the opportunity to work with you and the others on this, there are 41 cosponsors, but we also know of others who made personal commitments to us over and above the 41 that intend to vote for the amendment.

Mr. BYRD. That is right. And I am glad the distinguished Senator from Virginia, Mr. WARNER, has pointed that out. I have had several Senators say, for one reason or another, they would not cosponsor the amendment but that they intended to vote for it when the time comes. I am glad the Senator has brought that to the attention of the Senate.

The reauthorization of the Intermodal Surface Transportation Efficiency Act, or ISTEA II as it is often referred to, will set the authorization levels for the next 6 years for major portions of our national transportation system. And I congratulate the distinguished majority leader, Senator LOTT, for his decision to take up this 6-year bill rather than the 6-month extension proposed by the other body.

In the end, however, the committee did not report a bill that in my view provides sufficient highway funding authorizations for either the Appalachian Development Highway System or the entire National Highway System.

The levels reported were constrained by the allocation of budget authority provided to the Committee on Environment and Public Works by the budget resolution. And that allocation does not allow anywhere near the levels of highway authorization that can be supported by the highway trust fund revenues over the coming 6 years, nor the levels that are seriously needed to prevent further deterioration in our National Highway System.

Senators will recall that last year I, along with Senator GRAMM and other Senators, urged the leadership to allow us an opportunity to vote on an amendment to a tax measure to transfer the 4.3 cents per gallon gas tax which was going toward deficit reduction into the highway trust fund where it could be used for increased highway and transit spending in the coming years. At the request of both the majority and minority leaders, I deferred offering such an amendment during last year's session.

On May 22 of this year, I joined 82 other Senators in voting for an amendment by Senator GRAMM in support of transferring the 4.3 cents gas tax—Mr. President, I think I left my cough drops in the office. I can assure all Senators, however, I do not have whooping cough nor do I have consumption, but I have had a severe cold. If I could proceed, I will do so by rereading the sentence that I stumbled on.

Earlier this year, I joined 82 other Senators in voting for an amendment by Senator GRAMM in support of transferring the 4.3 cents gas tax to the highway trust fund and spending it on our rapidly deteriorating transportation systems.

And then on July 14, I joined with 82 other Senators and expressed in a letter to Senators LOTT and DASCHLE, as well as to the chairman and ranking member of the Finance Committee, Senators ROTH and MOYNIHAN, the view that additional funding for transportation is urgently needed.

We 83 Senators urged that the conferees on the Reconciliation Act retain the Senate's transfer of this gas tax into the highway trust fund so that it could then be used for additional transportation spending in the future rather than being applied toward deficit reduction.

Ultimately, the balanced budget agreement did include the transfer of the 4.3 cents gas tax into the highway trust fund, beginning October 1, 1997. And as a result, the highway account of the highway trust fund will receive additional revenues totaling almost $31 billion over the next 5 fiscal years.

One would think that the budget agreement would have taken this additional revenue into account in setting the allocations of budget authority for the pending 6-year highway bill. Instead, under the reported bill, the cash balances in the highway trust fund will grow massively over the next 6 years.

The Congressional Budget Office tells us that under the committee reported bill the balance in the highway trust fund will be just over $25.7 billion at the end of fiscal year 1998. And according to CBO, that trust fund balance will grow each year thereafter, to an unprecedented level of almost $72 billion by the end of fiscal year 2003. In other words, if we accept the levels of contract authority provided in the reported bill for the next 6 years, we will have accomplished nothing by placing the 4.3 cents gas tax into the highway trust fund other than to build up these huge surpluses which have the effect of masking the Federal deficit.

I have called for increased levels of infrastructure investment for years. And yet, despite my pleas and despite the needs of our States and of our constituents, we in the Congress have allowed much of the Nation's physical infrastructure to fall further and further into disrepair.

As the chart to my left shows, the Federal spending for infrastructure as a percentage of all Federal spending, 1980 through 1996, has significantly declined since 1980. And it was more than 5 percent at that time. And as of 1996, it is less than 3 percent.

So in that year—in that year—Federal spending on highways, mass transit, railways, airports, and water supply and waste water treatment facilities amounted to just over 5 percent of

total Federal spending. But as I have already pointed out, our 1996 Federal spending on these same infrastructure programs had dropped to less than 3 percent of total Federal spending—less than 3 percent of the total Federal spending.

Nowhere is there infrastructure investment more inadequate than on our Nation's highways. Our National Highway System carries nearly 80 percent of U.S. interstate commerce and nearly 80 percent of intercity passenger and tourist traffic. The construction of our national interstate system represents perhaps the greatest public works achievement of the modern era. But we have allowed segments of our National Highway System to fall into serious disrepair.

The U.S. Department of Transportation, the DOT, has released its most recent report on the condition of the Nation's highways. Its findings are even more disturbing than earlier reports. The Department of Transportation currently classifies less than half of the mileage on our interstate system as being in good condition. And only 39 percent of our entire National Highway System is rated in good condition. Fully 61 percent of our Nation's highways are rated in either fair or poor condition. Almost one in four of our Nation's bridges is now categorized as either structurally deficient or functionally obsolete.

There are literally over a quarter of a billion miles of pavement in the United States that is in poor or mediocre condition. There are over 185,000 deficient bridges across our country. If we allow the decay of our transportation systems to continue, we will vastly constrict the lifelines of our Nation and undermine our economic prosperity.

According to the Department of Transportation, our investment in our Nation's highways is a full $15 billion short each year of what it would take just to maintain current inadequate conditions. Put another way, we would have to increase our national highway investment by more than $15 billion a year to make the least bit of improvement in the status of our national highway network.

It is also critical to point out that while our highway infrastructure continues to deteriorate, highway use—highway use—is on the rise. Indeed, it is growing at a very rapid pace. The number of vehicle miles traveled has grown by more than one-third in just the last decade.

On the chart to my left we see shown U.S. highway vehicle miles traveled. The source is the Federal Highway Administration, highway statistics, 1983 through 1997.

As I say, the number of vehicle miles traveled has grown by more than one-third. And the chart represented here shows the miles traveled in billions, billions of miles. As a result, we are witnessing new highs in levels of highway congestion, causing delays in the movement of goods and people that costs our national economy more than $40 billion a year in lost productivity. And, Mr. President, it is clear that the requirements we place on our National Highway System are growing, while our investment continues to fall further and further behind.

We are simply digging ourselves into a deeper and deeper hole. It is a proven fact that investments in highways result in significant improvements in productivity and increased profits for business as well as improvements to both our local and our national well-being. According to the Federal Highway Administration, every $1 billion invested in highways creates and sustains over 40,000 full-time jobs. Furthermore, the very same $1 billion investment also results in a $240 million reduction in overall production costs for American manufacturers.

And while we can easily see the economic impact of this disinvestment, we must not lose sight of the fact that deteriorating highways have a direct relationship to safety. Almost 42,000 people died on our Nation's highways in 1996. And that is the equivalent to having a midsized passenger aircraft crash every day killing everyone on board.

Let me say that again: 42,000 people died on our Nation's highways in 1996. That is the equivalent to having a midsized passenger aircraft crash every day killing everyone on board.

Substandard road and bridge designs, outdated safety features, poor pavement quality and other bad road conditions are a factor in 30 percent of all fatal highway accidents according to the Federal Highway Administration. The economic impact of these highway accidents costs our Nation $150 billion a year, and that figure is growing.

Now, Mr. President, I am pleased today to bring before the Senate, together with the very able Senators GRAMM, BAUCUS, and WARNER, an amendment that will increase substantially the highway authorization levels contained in the underlying bill. In doing so, the amendment will authorize the use of the increased revenues that began flowing into the highway trust fund on October 1 of this year. As shown on this chart to my left, the Congressional Budget Office estimates that over the 5-year period 1999 through 2003, increased revenue to the highway account will equal $30.971 billion. This amendment will utilize these additional revenues in full to authorize additional highway spending over the 5-year period 1999–2003.

Our amendment does not change the formulas of the underlying bill. Each State will receive its same formula percentage share of these additional authorizations as it did in the reported bill. For the donor States, the amendment still ensures they will receive a minimum of 90 percent return on their percentage contribution to the highway trust fund. Moreover, our amendment, like the committee-reported bill, utilizes 10 percent of the total available resources for discretionary purposes. Increased discretionary amounts of contract authority will therefore be available for the multi-State trade corridors initiative, as well as the 13-State Appalachian Development Highway System.

Adoption of this amendment will not change the scoring of the deficit by one dime. It has been a routine event in this Senate for us to adopt authorization bills that authorize spending levels that far exceed available appropriations. Within the education area, we have funding authorizations on the books that exceed actual appropriations by billions of dollars. The same is true in the area of health research, environmental programs, agricultural programs and the like. The actual obligation ceiling that will pertain to these highway programs will be set annually by the Appropriations Committees as has been the case for the past 6 years under ISTEA and for many of the highway authorization bills before that.

The real question at this time is whether we will allow the 4.3-cents-per-gallon gasoline tax that is now going into the highway trust fund to be authorized for use in the 6-year highway bill or not. Eighty-three Senators signed a letter this past July stating their support of the use of these funds for the purposes for which the tax is being collected; namely, for the construction and maintenance of our national system of highways and bridges.

Much has been made by the opponents of this amendment about the possibility that the increased highway spending authorized by the amendment will cause drastic cuts over the next 5 years in other discretionary spending.

Mr. President, I believe that this argument is unfounded. Enactment into law of the Byrd-Gramm-Baucus-Warner amendment does not cause any cut in any Federal program. Let me repeat again that the bill before us is an authorization bill. It is not an appropriations bill. Therefore, the Appropriations Committees in each of the next 5 years will have to determine what level of highway spending they can afford versus all of the other programs under the committee's jurisdiction. Each year's transportation bill for fiscal years 1999 through 2003 will contain an obligation limit for total highway spending. That limitation will be set each year in light of the circumstances being faced by the Appropriations Committees in that particular year. The allocation of outlays to the Transportation Subcommittee hopefully will be sufficient to fully fund the entire contract authority provided in this amendment for each of the next 5 years. But,

the Senate and House and the President will have the final say as to what is provided for highway spending and for all other areas of the discretionary portion of the budget. Put another way, if we do not adopt this amendment, we may have precluded for the next 5 years any additional highway spending.

Regarding the question of outlay caps on discretionary spending, I fully support and will strongly urge the Budget Committee chairman and the Senate to include in the budget resolution for fiscal year 1999 the necessary provisions to increase discretionary caps for the following 5 years if the economy continues to perform at a positive rate. As Senators are aware, since the adoption of the balanced budget agreement earlier this year, the projections of revenues have dramatically increased and the projections for spending have been dramatically cut. The result is a far better forecast than was thought to be the case when we voted for the balanced budget agreement this past spring.

As the chart to my left shows, a comparison of the budget agreement and OMB's Mid-Session Review now projects revenues to be a total of $129.8 billion greater over the 5-year period 1998 through 2002 than was projected in the balanced budget agreement —$129.8 billion greater in revenues than was projected at the time of the balanced budget agreement. For outlays, the forecast is also much brighter than it was a few short months ago. Compared to the balanced budget agreement, OMB now projects in its Mid-Session Review that total spending over the period 1998 to 2002 will be $71.6 billion less than was projected in that agreement.

The pending Byrd-Gramm-Baucus-Warner amendment takes note of the new projections in the following way. The amendment provides that if—if—savings in budgetary outlays for fiscal years 1998 through 2002 are still projected to exist in connection with the fiscal year 1999 budget resolution, and if that budget resolution calls for using any of the projected spending savings, an allocation of additional discretionary outlays for highways should be made sufficient to cover the costs of the pending amendment.

So what we are saying in our amendment is this: If any of the $71.6 billion in spending savings is to be used in the fiscal year 1999 budget resolution, $21.6 billion should go toward increasing discretionary caps in order to cover the outlays that will result from the increased authorizations of contract authority for highways contained in the pending amendment.

I am for increasing discretionary outlays sufficient to cover the costs of the additional highway construction that will occur under the pending amendment if the economy continues to perform favorably as projected. But, we are not here today to debate the budget resolution. The time for that debate is next spring when the budget resolution for 1999 is before the Senate. We are here today to decide whether to authorize additional highway levels for the next 5 years or whether to let the 4.3-cents gas tax be used instead as a bookkeeping mechanism to build up huge surpluses to mask the Federal deficit. I urge all Senators to vote to waive points of order on this amendment so as to allow it to be voted on, and I urge all Senators to vote for its adoption. In so doing, Senators will be voting to restore public trust in the highway trust fund, and they will be voting to take the next step toward providing substantially increased highway investments for all States—not just one, not just 10, but all States—over the next 6 years.

Let us take a step forward in restoring confidence in Government policies by using gas tax revenues as we have told the people that they would be used. Taxes collected at the pump are intended to be used to construct and maintain safe and modern highways and also to provide needed transit systems.

It is unconscionable that we should continue to hold back public moneys from our Nation's highways when they are slipping into such deplorable disrepair. Promise keepers we certainly are not when it comes to the highway trust fund. The money is there. It has been specifically collected and designated to be plowed back into highways for the benefit of the taxpayer, and yet we are stubbornly sitting on it. We are stubbornly sitting on that money.

It is wrong. It is deceitful. It is bad public policy. It is deplorable in terms of its detrimental impact on our economy. It is contributing to the death and accident rates on our highways. It ought to be stopped. This amendment gives Senators a way to stop it.

I ask unanimous consent to have printed in the RECORD certain tables, and I shall send the amendment to the desk not for the purpose of it being offered today but only for the purpose of it being printed and available for all Senators to see it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PAVEMENT MILES IN POOR TO FAIR CONDITION [1]

State	Mileage poor & mediocre	Federal aid miles
Alabama	3,628	23,230
Alaska	1,259	3,010
Arizona	1,705	11,869
Arkansas	1,994	19,744
California	14,985	48,165
Colorado	5,571	15,965
Connecticut	1,384	5,579
Delaware	584	1,428
District of Columbia	184	389
Florida	7,858	24,378
Georgia	224	29,777
Hawaii	306	1,321
Idaho	4,719	8,594

PAVEMENT MILES IN POOR TO FAIR CONDITION [1]—Continued

State	Mileage poor & mediocre	Federal aid miles
Illinois	10,681	33,207
Indiana	5,028	21,586
Iowa	4,545	23,395
Kansas	10,987	22,274
Kentucky	3,380	14,389
Louisiana	4,943	14,503
Maine	1,377	6,138
Maryland	1,704	7,404
Massachusetts	3,028	9,154
Michigan	10,032	30,729
Minnesota	13,252	29,501
Mississippi	6,853	20,257
Missouri	8,191	30,178
Montana	5,336	12,058
Nebraska	6,120	15,086
Nevada	633	5,472
New Hampshire	832	3,291
New Jersey	2,318	9,382
New Mexico	4,715	9,787
New York	7,656	25,268
North Carolina	7,467	20,036
North Dakota	5,226	13,294
Ohio	4,316	27,791
Oklahoma	6,813	25,716
Oregon	5,454	17,535
Pennsylvania	4,864	27,105
Rhode Island	852	1,589
South Carolina	4,598	17,274
South Dakota	6,527	14,559
Tennessee	4,282	16,733
Texas	19,277	73,003
Utah	950	7,520
Vermont	1,869	3,760
Virginia	5,198	20,352
Washington	5,231	18,422
West Virginia	2,223	10,114
Wisconsin	8,806	27,606
Wyoming	3,664	7,329
Total	253,629	886,246

[1] Includes only pavement mileage eligible for federal highway funds.

Sources: The Road Information Program (TRIP). Federal Highway Administration.

TOTAL DEFICIENT BRIDGES

State	Bridges >20' in inventory	Total deficient bridges
Alabama	15,418	5,201
Alaska	849	212
Arizona	6,147	613
Arkansas	12,530	3,793
California	22,563	6,216
Colorado	7,688	1,688
Connecticut	4,070	1,259
Delaware	775	192
District of Columbia	239	143
Florida	10,823	2,628
Georgia	14,306	4,001
Hawaii	1,070	564
Idaho	4,002	790
Illinois	24,915	6,154
Indiana	17,782	5,112
Iowa	24,844	7,437
Kansas	25,460	7,973
Kentucky	12,961	4,391
Louisiana	13,664	5,178
Maine	2,353	874
Maryland	4,524	1,418
Massachusetts	5,021	2,931
Michigan	10,417	3,561
Minnesota	12,555	2,668
Mississippi	16,725	6,801
Missouri	22,940	10,533
Montana	4,808	1,145
Nebraska	15,584	5,284
Nevada	1,150	214
New Hampshire	2,281	874
New Jersey	6,209	2,855
New Mexico	3,475	615
New York	17,308	10,946
North Carolina	16,085	6,006
North Dakota	4,617	1,436
Ohio	27,795	8,664
Oklahoma	22,710	9,021
Oregon	6,516	1,789
Pennsylvania	22,327	9,771
Rhode Island	734	356
South Carolina	8,999	1,884
South Dakota	6,108	1,750
Tennessee	18,658	5,458
Texas	47,192	11,752
Utah	2,586	714
Vermont	2,653	1,112
Virginia	12,679	3,602
Washington	7,025	1,947
West Virginia	6,477	3,023
Wisconsin	13,165	3,348
Wyoming	2,889	664

TOTAL DEFICIENT BRIDGES—Continued

State	Bridges >20' in inventory	Total deficient bridges
Total	574,671	186,559

FY 1999–2003 TOTAL INTERMODAL SURFACE TRANSPORTATION EFFICIENT ACT II, BYRD/GRAMM AMENDMENT

[Preliminary data—dollars in thousands]

State	S. 1173 FY 1999–2003 total as reported by committee	Percent	Byrd/Gramm amendment [1]	Total	Percent
Alabama	2,211,500	1.9970	556,579	2,768,080	1.9970
Alaska	1,373,201	1.2400	345,600	1,718,802	1.2400
Arizona	1,719,893	1.5531	432,854	2,152,748	1.5531
Arkansas	1,472,869	1.3300	370,684	1,843,553	1.3300
California	10,134,190	9.1512	2,550,537	12,684,727	9.1512
Colorado	1,412,391	1.2754	355,465	1,767,856	1.2754
Connecticut	1,895,552	1.7117	477,038	2,372,590	1.7117
Delaware	520,488	0.4700	130,994	651,481	0.4700
District of Columbia	500,536	0.4520	125,973	626,508	0.4520
Florida	5,099,176	4.6046	1,283,335	6,382,510	4.6046
Georgia	3,882,378	3.5058	977,098	4,859,476	3.5058
Hawaii	861,113	0.5970	166,380	827,492	0.5970
Idaho	908,085	0.8200	228,542	1,136,627	0.8200
Illinois	3,683,946	3.3266	927,157	4,611,103	3.3266
Indiana	2,693,608	2.4323	877,914	3,371,522	2.4323
Iowa	1,461,433	1.3197	367,807	1,829,240	1.3197
Kanasa	1,450,185	1.3095	364,977	1,815,162	1.3095
Kentucky	1,921,071	1.7347	483,486	2,404,557	1.7347
Louisiana	1,967,553	1.7767	495,201	2,462,754	1.7767
Maine	636,102	0.5744	160,097	796,199	0.5744
Maryland	1,668,720	1.5069	419,975	2,088,696	1.5069
Massachusetts	1,968,441	1.7775	495,412	2,463,853	1.7775
Michigan	3,493,538	3.1547	879,236	4,372,775	3.1547
Minnesota	1,655,828	1.4952	416,732	2,072,558	1.4952
Mississippi	1,396,953	1.2614	351,580	1,748,533	1.2614
Missouri	2,635,864	2.3802	663,387	3,299,251	2.3802
Montana	1,173,866	1.0600	295,433	1,469,296	1.0600
Nebraska	929,790	0.8396	234,004	1,163,794	0.8396
Nevada	808,417	0.7300	203,458	1,011,875	0.7300
New Hampshire	575,859	0.5200	144,929	720,788	0.5200
New Jersey	2,668,883	2.1400	671,691	3,340,574	2.4100
New Mexico	1,162,791	1.0500	292,646	1,455,437	1.0500
New York	5,640,544	5.0934	1,419,503	7,060,046	5.0933
North Carolina	3,129,880	2.8263	787,713	3,917,593	2.8263
North Dakota	808,417	0.7300	203,458	1,011,875	0.7300
Ohio	3,812,849	3.4430	959,599	4,772,448	3.4430
Oklahoma	1,745,495	1.5762	439,300	2,184,796	1.5762
Oregon	1,426,177	1.2878	358,934	1,785,111	1.2878
Pennsylvania	4,199,341	3.7920	1,056,906	5,256,247	3.7920
Rhode Island	642,304	0.5800	161,652	803,956	0.5800
South Carolina	1,759,595	1.5889	442,846	2,202,441	1.5889
South Dakota	863,788	0.7800	217,394	1,081,182	0.7800
Tennessee	2,506,281	2.2632	630,768	3,137,049	2.2632
Texas	7,623,695	6.8842	1,918,693	9,542,388	6.8842
Utah	955,428	0.8628	240,460	1,195,888	0.8628
Vermont	520,488	0.4700	130,994	651,481	0.4700
Virginia	2,834,290	2.5594	713,320	3,547,610	2.5594
Washington	2,035,955	1.8385	512,401	2,548,356	1.8385
West Virginia	1,131,708	1.0219	284,833	1,416,541	1.0219
Wisconsin	2,011,684	1.8165	506,291	2,517,975	1.8165
Wyoming	841,639	0.7600	211,820	1,053,459	0.7600
Puerto Rico	508,260	0.4590	127,917	636,176	0.4590
Total	110,742,037	100.0000	27,871,000	138,613,037	100.0000

[1] Source of additional contract authority: CBO.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Virginia.

Mr. WARNER. Madam President, if I might just enter into a colloquy here with our distinguished former Senate leader and now the distinguished ranking member of the Appropriations Committee and reflect a little on the very important work which the Senator has led on this amendment, together with Senator GRAMM, Senator BAUCUS, and joined in by myself.

I think it is important to share with our colleagues what this amendment does not do. It doesn't break the budget. We have reviewed that in the number of sessions that the four of us have had.

I wonder if my colleague would recount some of the things to dispel, if I may say, some rumors that seem to be circulating at the moment.

Mr. BYRD. Madam President, I have read and heard some things that are being said about the amendment that do not conform to the proper rules of exactitude. I don't say it is intentional. I think some of these things have been said, perhaps all, through a misunderstanding. I am willing to see it in that way.

There is a great deal of misinformation that has been spread. I can understand why, to some extent. The amendment has not been available for Senators to read. Now it is available, and Senators and their staffs will be able to read for themselves.

It does not bust the budget. It will not intrude upon other programs. It will not mean that other programs will be cut.

I have read a letter or memo recently which indicated certain other programs—by the way, many of them are funded by my own Appropriations Subcommittee on the Department of the Interior, and I have supported those programs for years and years and intend to continue to support them. I would not vote to cut them. It would not result in the cutting of any programs.

I can think of those two things in particular. As we go along further in the debate, there will be other matters that I hope can be straightened out and the light of truth can be focused on them.

If the Senator thinks of other things being said, I will be happy to respond.

Mr. WARNER. If I might follow along, in drafting this bill we have made it very clear that any additional funds next year would be subject to a budget resolution, but they would flow and be distributed precisely as provided in the committee bill, which I hope will eventually become law.

So there would be a law in place next spring by which those funds as designated in this amendment would flow immediately pursuant to the terms of the committee bill.

Now, the key point, Madam President, is that it would not require the Senate to have another bill, but alternative measures that I have heard about, Madam President and colleagues, that may be offered in the second degree to the amendment we are now discussing would require a new bill.

Now, that, to me, is very important because we would take an existing law, move the funds through it under a formula, hopefully, that Senators will find equitable and not have to revisit in an election year. Madam President, those of us who have been here a while know—and I certainly defer to the experience and knowledge of the former majority leader of the U.S. Senate—in an election year, the chances of getting through a bill of this nature, allocating funds, is exceedingly difficult. I ask my colleague, does he not agree with that observation?

Mr. BYRD. I agree with the distinguished Senator. He is preeminently correct. We should do it in this bill that is before the Senate now. It should not be a 6-month bill or a 1-year bill. We ought to do it in this year, in this bill. Then we will have notified the highway departments of the 50 States more accurately as to what they can depend upon over the next 5 years insofar as planning is concerned.

Mr. WARNER. The distinguished Senator brings up a key point. I hope each Senator will consult with their respective Governors and highway officials on this matter, because particularly in the Northeast States and the Far West, Madam President, weather will close in. There is a shorter period within which to do the vital construction for surface transportation. And unless there is in place a piece of legislation that gives the certainty of 6 years, then they are put at a severe disadvantage. I think that is key to this bill.

One last thing and I will yield the floor. Another situation that is being discussed, should we say, in the hallways, is a means to stop the amendment we are discussing by repealing altogether the 4.3-cent gas tax. Now, Madam President, if that measure is brought forward, that is a very significant step that I think we should give a great deal of consideration to before anybody takes that initiative.

So, Madam President, I conclude by putting a question to the ranking member of the Appropriations Committee, the former chairman and former majority leader, what would be the consequences, in his judgment, if such a measure as repealing the 4.3-cent tax were to be brought before this body—with the extensive debate that we have and the unlikely nature of it being accepted—but in the event it were?

The PRESIDING OFFICER. Under the previous order, the 30 minutes of the Senator from West Virginia have expired, and under the previous order, the Senator from Montana was to be recognized, followed by the Senator from Virginia. Is there objection?

Mr. BAUCUS. I yield to the Senator from West Virginia such time as he needs.

Mr. WARNER. I ask unanimous consent that the time allocated to the Senator from Virginia be consumed by what we have just covered in this colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I would view that happening with some disappointment, if not sadness. I hope that no effort will be made to repeal the gas tax. If that happens, that would mean an increase in the deficit. And if the author of such an amendment happens to think that that would bar the amendment that has been offered by the distinguished Senator and two others of my colleagues, and myself, and has been cosponsored by 37 additional Senators—if the author of such an amendment thinks for a moment that that would bar the carrying into the effect of the amendment we have been discussing, that Senator would be sadly mistaken because there are moneys in the trust fund sufficient to carry out the purpose of the amendment that I am offering, or will be offering at the appropriate time, which I have sent to the desk for printing. So, No. 1, it would increase the deficit. No. 2, it would have no effect on the amendment that is being offered by the other Senators and I.

Mr. WARNER. I thank my distinguished colleague.

Mr. BYRD. That would enable the funds in the trust fund to carry out their purposes.

Mr. WARNER. We clearly looked at our amendment to make certain it would be operative irrespective of the Senate and, indeed, congressional action on such a proposal as to repeal the 4.3-cent gas tax.

So, again, Mr. President, I join my colleagues, Senator BYRD, Senator GRAMM, and Senator BAUCUS, to increase the authorization levels in ISTEA II using funds generated by the 4.3 cents per gallon gas tax.

Along with the support of many of my colleagues, we have waged strong efforts this year for higher funding levels for our nation's surface transportation programs.

I initiated that effort and my amendments to spend additional revenues from the highway trust fund earlier this year failed by 1 vote.

Later, during the debate on the conference on the budget resolution, 85 Senators urged—by letter—the conferees to raise the allocation to the highway program so that a portion of the 4.3 cents Federal gas tax could be spent. That effort received no response.

Once again, with the amendment we offer today, we have another opportunity to ensure that additional funding is made available to modernize and expand our nations surface transportation system.

I continue to believe that investments in our transportation system—highways, rail and transit—are a wise and essential investment for the American taxpayer.

Almost every economic effort by the U.S. private sector is met by competition worldwide. Mr. President, for every dollar invested in transportation, there is an economic return of $2.60. Transportation dollars are, in military terms, a strong force multiplier.

The Department of Transportation also confirms that transportation spending is important for American workers. For every $1 billion spent on transportation, there are 50,000 new jobs.

Only with such forces can we survive in this one market world. So, Mr. President, I urge my colleagues to carefully consider the amendment we offer today.

The Byrd-Gramm, Warner-Baucus, amendment is the most realistic chance for us to provide needed funds for transportation based on actions by this Congress in future budget resolutions.

I have joined this amendment because it ensures that the underlying formula, for distribution of funds, of the Committee bill remains intact.

For donor states, this is critically important because every state will continue to receive 90 percent of the funds distributed based on each state's contributions to the highway trust fund.

Ninety percent of the additional funds, provided under this amendment, will likewise be apportioned to each state. Apportioned in the same manner as the formula provides under the committee bill.

Simply stated, this means that no state's percentage share of the program will change with the additional funds provided in the Byrd-Gramm amendment.

Ensuring that every state gets a fair return of 90 percent of the funds sent to the states under the formula is a fundamental principle of ISTEA II.

It is a principle that I will not abandon.

I am satisfied that this amendment is compatible with the formula revisions established in the committee bill.

For this reason, I am pleased to join my colleagues in support of this amendment.

My colleague from New Mexico, Senator DOMENICI, may offer a different approach that makes it very difficult for

more funds to be directed to our nation's highways.

The amendment which may be offered by Senators DOMENICI and CHAFEE will provide an expedited process to pass another bill to allow for more transportation spending following action on next year's budget resolution.

That expedited process, however, requires the Senate to pass a new bill. No additional funds that may be provided in a future budget resolution can be released unless we enact a new bill.

Mr. President, the benefits of the Byrd amendment ensures that our states will not have to wait again for the Congress to act. If any additional funds are provided in a budget resolution, they will go out through the normal process in an appropriations bill and then be allocated by the provisions, then in law hopefully, in this committee bill.

As a result, America's transportation system will benefit. Americans will not be left stalled in gridlock waiting for the Congress to pass another bill in an election year.

Mr. CHAFEE. Madam President, I wonder if the distinguished senior Senator from West Virginia would yield for a couple of questions.

Mr. BYRD. I will be happy to. I may have to ask my friends who are on the committee and are far more expert than I on the subject matter to answer, or to help answer.

Mr. CHAFEE. First, I say to the Senator that I am very pleased that the amendment has now been submitted. It is submitted for printing—I guess not formally submitted. Anyway, this is the amendment that we are going to act upon, as I understand it.

Mr. BYRD. Yes.

Mr. CHAFEE. I thank the Senator for that because, so far, we have not been sure what we were dealing with. But now we know.

I say this to the Senator. I ask the Senator, I listened to the statements on the floor here from the Senator from Texas and others, and there has been a lot of talk about truth in taxes and how wicked it was that this 4.3 cents has not gone for highways, and that it was deceptive to the American motoring public that when this tax was levied, it was levied on the basis that it would be used for bridges, highways, and so forth. Yet, I ask the Senator, was it not true when that tax was enacted, the 4.3-cent additional gasoline tax, in 1993, it was crystal clear to everybody that that was a deficit reduction; am I correct in that?

Mr. BYRD. Let's go back to 1990 just a bit. The distinguished Senator has specificated the 4.3 cents. Let's go back to 1956, when I was in the Congress. We passed the interstate highway bill during the Eisenhower administration and I voted for it. We passed legislation providing for a highway trust fund and for taxes on fuels that would be deposited into that highway trust fund. And it was clearly understood by the American public then that that money was going to come back to the public in meeting their highway and other transportation needs. So that thought was thoroughly ingrained into the minds and hearts and pocketbooks of the American people more than 40 years ago.

Now, we come up to 1990, 34 years subsequent thereto, and we go to the meeting that was held over at Andrews Air Force base. I was part of that meeting. We passed the legislation as part of a package. President Bush entered into that agreement. I believe that former Speaker Foley was there and was part of it. Several us were there. A part of that package provided that 2.5 cents of the fuels taxes be for deficit reduction, temporarily, and that we would put it into a trust fund. That was in 1990. It was to go back into the trust fund in 1995.

Tomorrow, I am going to lay a clearer outline in the RECORD. But I know that our friends—and they are our friends; I consider them friends—are going to argue that the American people did not understand this money to be used for transportation needs, that the American people, all along, have known otherwise. But that is not the case. I go back to 1956, and there are people who were infants at that time—I should even say babies, some who hadn't been born yet who, for the next 34 or 36 years after that period were paying taxes on gasoline at the pump and who believe clearly and had good reason to believe because that is what they were told and that was a fact, that those gas taxes were going to be returned to the States by way of transportation infrastructure. So that's what the American people have been told. We know now, and it has been made clear in a recent study titled, "What Americans Think About Federal Highway Investment Issues." This is presented by the Transportation Construction Coalition Commission' Opinion and Survey.

It is not surprising then that fully 75 percent of Americans say that the United States should use the gas tax exclusively to pay for road and bridge improvements and not on nontransportation programs. Fully 71 percent of Americans want the $6 billion in gas tax revenues, now spent on nontransportation programs, shifted to highways and bridge safety improvements. Indeed, 69 percent of the majority say the U.S. Government should place an even higher priority on highway and bridge improvements of any type than it does now.

So I thank the distinguished Senator for asking the question. I say, yes, there was a brief interlude in those years between 1956 and 1997 when some of the gas taxes were to be used on reduction of the deficits. But that is not the case now, and it was not the case for 34 years prior to the year 1990.

Mr. CHAFEE. Well, Madam President, the point I am making here is that, in 1993—and we were all here at the time—the President of the United States came forward with a deficit reduction program. In that deficit reduction program—this was in 1993—there was a 4.3-cent added gasoline tax imposed. It was crystal clear to everybody who paid any bit of attention to it that that was for deficit reduction. That went into the general fund. It wasn't for gas, it wasn't for highways or bridges, it was for deficit reduction. I voted against it. Every single Republican voted against it, but that is neither here nor there. The fact is that it passed. In those days, there were a majority of Democratic Senators in this body, and those 1993 moneys were clearly for deficit reduction. So the reason I am stressing this is because we have heard some powerful discussion here on the floor about truth in taxes and how unfair it is to the American public that when our wives go and pump the gas into the car, they believe that every tax they pay on that is going into roads and bridges. That may be what they think, but that isn't what the facts are. In 1993, it was crystal clear. There was all kinds of debate here. I am not saying that was wrong. I voted against the entire package but, as I said, that is neither here nor there. It is clear that the money for gasoline taxes was to go for deficit reduction.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CHAFEE. I don't even have the floor. I am here by sufferance.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is entitled to the floor at this point.

Mr. BAUCUS. How much time do I have left?

The PRESIDING OFFICER. The Senator has 20 minutes.

Mr. CHAFEE. I will give you all of my time that I don't have.

Mr. BAUCUS. I say to the Senator, back in 1993, it was a very difficult time. The President and the Democratic majority of the Congress were trying to figure out a way to get us on the path toward deficit reduction.

I might say to my good friend from Rhode Island that I think it worked. That package dramatically set us on a glidepath which has enabled us to begin to reduce our budget deficit. In fact, the budget resolution which was passed this year, which allows us to balance the budget was due in large part to that 1993 package.

Having said that, I can remember when I cast that vote. At first, some were proposing a higher tax than 4.3-cents per gallon. I think it was up to a nine cents or so. I argued that I opposed using a gasoline tax for deficit reduction. And because of these arguments, the final number was 4.3 cents. So while I didn't like the idea of a gas tax for deficit reduction, I supported it for the greater good of getting the deficit reduced. And again, that package

led get down the road to deficit reduction. But I knew at that time, that once the deficit was reduced, we would be working get this money back to the trust fund for transportation uses.

Indeed, that is what this Congress has done. We have voted to transfer the 4.3 from deficit reduction to the trust fund. That vote passed by a very large margin with a majority of Republicans voted for it.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I am not going to argue against the action that was taken at that time. I think the Senator may well be right, that those actions started a glidepath toward significantly reducing the deficit. All I am saying here is that nobody was under any illusions at the time. I am just trying to rebut the statements being made here that what we need is truth in taxation, truth in gasoline taxation, and that this is a great deception to the American people. There was no deception. It was absolutely clear in 1993 when those votes were taken—I am not arguing with people who voted for or against it, but nobody in this Chamber was under any illusion that that money was going to build roads or bridges. It was going to go to deficit reduction.

Mr. BAUCUS. Madam President, I would like to ask the Senator, if he is going to speak, not to speak in my time because I would like to finish my statement, and I see it slowly slipping away.

Mr. CHAFEE. I think we better let the Senator get on with his statement. I have no time.

Is the Senator the last speaker?

Mr. BAUCUS. I have no idea.

Mr. CHAFEE. Go to it.

Mr. BAUCUS. I appreciate the good points made by my friend from Rhode Island, but they are really sort of obfuscation. They really don't get to the central point, the central point being should we or should we not pass the Byrd-Gramm-Baucus-Warner amendment which will increase the contract authority or authorization of transportation programs.

There have been a lot of statements from my colleagues about this amendment already. So I will be very brief. The most important point is one the Senator from West Virginia has so correctly made. We have tremendous transportation infrastructure needs, and that they are not being met. Indeed, the Department of Transportation has concluded under the current highway program we need about $15 billion a year in additional spending to meet our highway needs.

And these investments help us compete globally. It is this competition that has helped us reach the economic growth we have today. But we have to invest more in the engine of the economy, our transportation network. Other nation's are investing more in infrastructure in order to catch up to us. If you look at what other countries spend on infrastructure, Japan is four times as a percentage of GDP and Europe twice as much as we do. Just look around the D.C. area. Anybody who drives around here, with all the pot holes and congestion, knows how much we need to improve the highways in this country.

So how do we meet these transportation needs? We begin by increasing the authorizations for transportation spending. We have to do that with the Byrd-Gramm amendment because we are faced with a budget resolution which has limited the amount of money that the Environment and Public Works Committee can spend. And these limits are too low.

So the amendment Senator BYRD is offering is a very creative way to meet the needs of our highway system. It is very simple. It says that if the savings, or a portion of the savings projected in OMB's midsession review are realized and if Congress decides to spend them, then transportation programs should be fully funded. Let me emphasize the key words here. If there are additional savings from the economy and if Congress decides to spend them, then transportation should be fully funded. So nothing is mandated. There is no automatic increased spending. All of that will be decided by Congress next year and in future years. We are only saying that we should authorize these additional funds so that if additional spending is available, the authorization process is complete. We do not mandate anything. We are not mandating the Budget Committee to take action. We are not mandating the Appropriations Committee to spend any additional money. We are just saying they should spend the additional savings if that savings is available.

Now, the total savings available, if OMB's midsession review is accurate, will be about $200 billion. That is to say that we in the Congress will have $200 billion more than we thought we had when we passed the last budget resolution. That is, the economy has been doing so well that there will be about $71 billion less in spending—that is less in unemployment compensation insurance, for example—and about $130 billion in additional revenues because the economy is doing so well. This is over a 5-year period. It is these savings that we are targeting in this amendment.

Let me also say what this amendment does not do. Some Senators have said, and I think it is true that it is based on incorrect information—it is not their fault; the amendment has not been available for them to read. Some Senators said, well, this amendment will cut other programs. It is going to cut Head Start. It is going to cut education programs.

Let me be clear. This amendment in no way cuts funding for any program. Let me repeat that. The effect of this amendment is not to cut any program. That is because we are only authorizing additional spending with the anticipation that future economic savings will be available to fund these authorizations. If we do not do this, if we are locked into the lower numbers in the underlying bill, we will not be able to increase these numbers during the six year authorization. Not unless the Environment and Public Works Committee writes a new bill to do so. We do not want to have to write a new highway bill every year. That does not make sense. But the important point is that increasing the contract authority will not cut the spending for other programs.

And this amendment does not bust the budget. Again, that is because it only increases the contract authority for transportation programs.

Another point. If this amendment does not pass, the balances in the highway trust fund will be $71 billion by the year 2003. That is not right. Congress would continue to use this money to mask the true budget deficit. It is phony business. It is smoke and mirrors to let that happen. It just is not right to let these balances accumulate to such a large degree to mask the true budget deficit. That is wrong. And again that would happen if this amendment does not pass. It just happens automatically if it doesn't pass.

I might also add, Madam President, that I hear some Senators who are unhappy with the formula in the underlying bill. They have asked for more money for their States. I have heard from many States. It is a rare State that doesn't make that plea.

There is only one way to help States get more money and that is to vote for the Byrd amendment. Every State will receive more contract authority. If we do not have this extra contract authority, there is no way we can help States get more money. So if you need more money and if you feel you are not being dealt with fairly, this amendment will help bring that result. We will not be able to help any States or any programs without more money.

Madam President, I have more points I want to make, but I think it is probably more appropriate to bring those points up when the amendment is actually before us. But I just wanted to summarize by saying that I ask Senators to read the amendment now that it is available and they will see it does not cause all these problems that some fear it will cause. And on the contrary, they will see that it does not bust the budget and will not cause a funding cut to other programs.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Madam President, I want to call to the attention of my colleagues, both here on the floor and elsewhere, that there will be a Domenici-Chafee amendment which will provide a simple, fast-track method to increase highway spending without requiring an entire new ISTEA bill. So let's put to rest the suggestion that all kinds of complications are going to have to be gone through in order to increase highway spending under the bill that is before us, plus the amendment that Senator DOMENICI and I will submit.

So, therefore, you say, what's the difference? What's the difference between the two bills? Domenici-Chafee provides a fast-track method to provide additional funding and the so-called Byrd bill, Byrd-Baucus-Warner-Gramm bill says there will be increased funding for highway spending. But, let me just tell you the difference, Madam President. What the Byrd bill says, it says, now, what the contract authority will be, and since that is to be apportioned in just the present proportions that exist amongst the States, that applies a chart immediately that will go out, telling each State what it will get for each successive year.

There is a hitch there, though. That's a promise, it appears. But the sponsors are stressing that it is not a promise, that the appropriators do not have to provide that amount of money. Here is the problem under that approach. I just look here on page 2, "Authorization Of Contract Authority: There shall be available from the Highway Trust Fund . . . to carry out this subsection [$5.x billion] for fiscal year 1999," $5.471 billion the next year, on and on it goes until it gets up to $5.781 billion.

That is contract authority. And, absent something occurring, that is what the States will get. But the question is, is that what the appropriations are going to be? Here is the hitch. Every State department of transportation will look, as I say, at these amounts, everybody can figure out what their percentage is now and, since the promise is they are going to get the same percentage, we will figure let's see, what does Rhode Island get out of this? Let's see, in fiscal year 2001 things look pretty good. You just take $5.573 billion, which is on top of the amounts we have already, the $21 billion, you just add that in and figure this is what we are going to get in Rhode Island. But Rhode Island is not—or Maine, or Montana or West Virginia—is not necessarily going to get these amounts which appear to be promises because they are not promises because the appropriators have to act.

So, it seems to me the proponents of the bill are riding two horses here. One, they are saying to every State, you are going to get 25 percent more, isn't that wonderful? At the same time they are saying, oh, there are no commitments. Nothing is done. We are not breaking the budget. We are just going to leave it to the appropriators. Other programs can get what they want.

The problem, it seems to me, is once you get these sums out there in contract authority, as is in the Byrd bill, that every department of transportation, every Governor will figure that is what is coming and there will be tremendous pressure on this body to come through on the promise, seeming promise. They will stress, rightfully, it is not a promise. But who knows what the requirements are going to be for the budget, on the budget in the year 2001? Or 2002? Or 2003? It may well be we want to spend more on education. We may want to spend more on health care. It may be we want to cut taxes. But here this is locking us in.

I know they will deny it is locking us in. Why, contract authority, that is just there, you can change it. But I will guarantee by this time tomorrow every State will have a chart showing what they are going to get for 1999, 2000, 2001, 2002, and 2003. And it will appear to be a promise. That, to me, I believe, is a definite flaw in this measure.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. If the Senator will yield, if I understand the Senator, he is saying under the Byrd-Gramm-Baucus-Warner amendment it is true that it is up to the discretion of the Budget Committee and appropriations committees to make these decisions, but that they will be under such pressure that they will not be able to decide responsibly what is right for the country? That is what I understand the Senator to be saying.

Mr. CHAFEE. What I am saying is these amounts are listed here as contract authority. I mean that is the word. And that means that every single State will anticipate—they can work these percentages out. You don't have to be a Phi Beta Kappa to do that. And they will anticipate what they are getting.

Indeed, proponents are already saying every State is going to get 25 percent more. They don't know they are going to get 25 percent more. That is what I mean. They are riding one horse saying you are going to get 25 percent more because there it is, "in contract authority." At the same time they are saying we leave it completely up to the appropriators, it is not necessarily 25 percent.

Which is it?

Mr. BAUCUS. I think it is very clear. The point of this is we transferred 4.3 cents to the highway trust fund. Those are dollars that Americans expect to be used for highways. And I think the Senator is correct in saying there is a very strong presumption that that contract authority will be spent someday. The Budget Committee and the Appropriations Committee along with the rest of Congress will decide if the contract authority will be spent. But that is only if economic savings are realized. But the beauty of the amendment is if for some reason it does not make sense next year to increase transportation spending, they still have that discretion. That is the beauty of it.

So, in answer to the Senator, it is very clear. It could not be more clear. Yes, there is a very strong presumption because the amendment says it should be spent. But it does not say it must be spent. It does not mandate that. But I personally feel it should be spent. The cosponsors of this amendment very strongly believe that those dollars should be spent.

But, still, we can't totally predict the future. I can't. I don't think anybody in this body can. So next year if for some reason the Budget Committee and Congress decides it wants to make some other decision, it can. And the Senator knows, under the terms of this amendment, the Budget Committee can. But the Senator also is correct in saying there is a strong presumption under this amendment that this money should be spent on highways if the savings are realized. Again, the amendment provides "if the savings are realized."

I have one question for the Senator. When are we going to see the amendment of the Senator?

Mr. CHAFEE. It will be available tomorrow.

Mr. BAUCUS. Tomorrow. Good.

Mr. CHAFEE. I might say I think the Senator is on weak ground to suggest I am slow. If I understand, the first discussion of the Byrd amendment was on October 9th. I know there is a gestation period here, but this has been unusually long. Whereas we have not been discussing our amendment publicly and talking about it, it is going to come. I think it was first going to come on the 10th; then it was going to come on Monday the 20th. Then we looked forward with bated breath for it on the 21st. Indeed, it has not even been submitted yet.

You could perfectly well revise this. I don't know why you haven't filed it.

Mr. BYRD. Madam President, will the Senator yield?

Mr. CHAFEE. Sure.

Mr. BYRD. Madam President, I call the attention of the Senator to a letter dated October 9th, signed by Mr. CHAFEE and by Mr. DOMENICI, to colleagues, in which the two Senators promise that there will be an amendment forthcoming. They even enclose an one-page summary of their amendment. And they say, "We hope that we can have your support for this important matter." So on October 9th they had an amendment. That was before the recess occurred. They had an amendment, apparently, then, because they sent this to all their colleagues. I

don't believe I received one. Maybe I did. I'm not sure.

In any event, they had the amendment then. Why have they waited until this date? They had it on October 9th. Today is October the 22nd, and we still don't see the amendment. But that is not so important.

May I say to the distinguished Senator from Rhode Island that the States know that they may not get the full authorized level. They never did under ISTEA, under ISTEA I, in previous years. They didn't get the authorized level.

May I also add I will be glad to join with the Senator and with Mr. DOMENICI in raising the caps. I will be happy to do that at the proper time, and I will urge that that be done. But there is time for that, yes.

Yes, the pressure is going to increase. No doubt about it. The pressures will increase because the people are going to want to get what they have been promised. Say what you like, but on May 22, 83 Senators voted that 4.3 cents should be returned to the trust fund and be spent on highway needs. That was 5 months ago. Only half of the task has been done, the transfer of the tax, but no spending of that revenue is currently authorized. So, I think when the people out in the various States, the hills and hollows, the seashores, read about this amendment they are, indeed, going to increase pressure to have us live up to the commitment that we know has been made and which was being urged by 83 Senators on May 22nd.

I thank my good-natured friend, Mr. CHAFEE. He is always very good natured, humorous, pleasing to get along with. I enjoy serving with him. I thank him for yielding.

If he will yield just one moment further, I ask unanimous consent, Madam President, that the amendment that I am offering today on behalf of myself, Mr. GRAMM, Mr. BAUCUS, Mr. WARNER and 36 other Senators, be printed in the RECORD so that all Senators may read it tomorrow.

(The text of the amendment No. 1397 is printed in today's RECORD under "Amendments Submitted.")

Mr. BYRD. And, while I am on the floor on my feet, I shall read the names of the other cosponsors. And we are expecting additional cosponsors, as I indicated earlier today, with several Senators saying they won't cosponsor but they would vote with us.

The following Senators have agreed up to this point to cosponsor the amendment: Senators AKAKA, ASHCROFT, BAUCUS, BREAUX, BRYAN, BUMPERS, BURNS, BYRD, CLELAND, COATS, COVERDELL, DEWINE, DORGAN, FAIRCLOTH, FEINSTEIN, FORD, GRAMM of Texas, GRAMS of Minnesota, HARKIN, HOLLINGS, HUTCHINSON of Arkansas, INHOFE, INOUYE, JOHNSON, KENNEDY, KERREY of Nebraska, KERRY of Massachusetts, LANDRIEU, LEAHY, LIEBERMAN, MCCAIN, MCCONNELL, MIKULSKI, REID of Nevada, ROCKEFELLER, SANTORUM, SESSIONS, SHELBY, SPECTER and WARNER.

I thank the Senator for allowing me the privilege of reading these names into the RECORD.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate now resume the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Chafee/Warner amendment No. 1312, to provide for a continuing designation of a metropolitan planning organization.

Chafee/Warner amendment No. 1313 (to language proposed to be stricken by the committee amendment, as modified), of a perfecting nature.

Chafee/Warner amendment No. 1314 (to amendment No. 1313), of a perfecting nature.

Motion to recommit the bill to the Committee on Environment and Public Works, with instructions.

Lott amendment No. 1317 (to instructions of the motion to recommit), to authorize funds for construction of highways, for highway safety programs, and for mass transit programs.

Lott amendment No. 1318 (to amendment No. 1317), to strike the limitation on obligations for administrative expenses.

CLOTURE MOTION

Mr. CHAFEE. Mr. President, I now send a cloture motion to the desk to the pending committee amendment.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring a close debate on the modified committee amendment to S. 1173, the Intermodal Surface Transportation Efficiency Act:

Trent Lott, John H. Chafee, Pat Roberts, Slade Gorton, Jon Kyl, Dan Coats, Ted Stevens, Mitch McConnell.

Mike DeWine, John W. Warner, Larry E. Craig, Don Nickles, Jesse Helms, Chuck Hagel, Dirk Kempthorne, Lauch Faircloth.

Mr. CHAFEE. Mr. President, for the information of all Senators, the cloture vote will occur on Friday of this week if cloture is not invoked earlier on Thursday. All Senators will be notified as to the exact time of this cloture vote.

Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ONE-CALL NOTIFICATION

Mr. FORD. Mr. President, I would like to clarify the intent of a portion of the Commerce Committee's ISTEA amendment that deals with State one-call ("call-before-you-dig") programs. I'm interested in this language as it relates to the treatment of railroads. I understand that the provisions proposed to be added to the ISTEA legislation are the same as the provisions of S. 1115, the "Comprehensive One-Call Notification Act of 1997."

The Leader, together with the Minority Leader, introduced this bill as S. 1115 in July, and the Committee on Commerce, Science and Transportation already held a hearing on this bill in September.

Mr. LOTT. Senator FORD is correct. Thank you for focusing attention on this important safety aspect of the amendment. Our country increasingly depends on a reliable, safe, dependable underground infrastructure of pipelines and communications networks. To protect these facilities against damage from excavation activities, States have developed one-call programs. These programs notify facility owners of imminent excavation in the vicinity of those facilities. The owners can then mark the location of those facilities, protecting both the facilities and the excavator. My legislative goal is to augment and improve the effectiveness of these State programs.

Mr. FORD. Does the legislation impose mandates on States and require them to change their programs?

Mr. LOTT. The answer is an emphatic "no." The legislation does not impose any federal mandate on the States to modify their existing one-call

programs. The bill does not dictate the content of these programs from Washington. Period. The legislation does, however, encourage States to improve their programs, and it makes funding available for that purpose.

To be eligible for the funding, the State programs must meet certain minimum standards, but even those standards are performance-based, not prescriptive.

Frankly, legislation that contained a federal mandate for a one-call system was tried a few years ago, and it failed. There were endless fights over how the bill should be written precisely due to the fact that there are indeed 50 differing perceptions. Valid perceptions and experiences which match up to the many programs already in existence. This year, this mistake was avoided with this legislative approach—no mandates. And I am pleased to say that is why it enjoys broad support on both sides of the aisle.

In fact, at the conclusion of my remarks, I will ask unanimous consent to have printed in the RECORD a letter from Secretary of Transportation Slater, dated October 16, recognizing the importance of including one-call legislation as part of the reauthorization of the ISTEA legislation.

Mr. FORD. Among the minimum standards required for a program to be eligible for federal assistance is the requirement for "appropriate participation by all excavators." However, the bill does not define these terms. Isn't that going to lead to a variety of inconsistent outcomes?

Mr. LOTT. What I have found is that there is not one single one-call definition that applies equally to all 50 States. The various State laws on the books have certain elements in common, but there are just as many differences, and those differences often are appropriate. Montana will not need the same law as Mississippi. For that reason, the bill allows States flexibility by not mandating a single definition written in Washington.

Mr. FORD. While there is not a definition of "excavation" in the bill, some definitions in other bills on this subject would have covered routine railroad maintenance. I am concerned that railroads might be required to participate in a program that places an undue burden on activities that pose little threats to underground facilities. How would the bill before us affect this matter?

Mr. LOTT. Again, I say to Senator FORD, the bill does not require States to change their existing programs. So it would not change the way railroads are treated under any existing State laws. I understand about 30 States laws now cover at least some railroad activities while about 10 specifically exempt railroads from coverage. The bill will not change the exemption in these States. Will not. The fact that 30 States have chosen to include railroads within their programs suggests that at least in these instances, State legislatures determined that some potential threat to underground facilities from railroad activity does exist. Again, this bill in and of itself will not require a change in how the railroad activity is treated. Will not.

However, I want to reiterate that what is appropriate for one State may not be appropriate for another. To receive Federal assistance under the bill, a State must only demonstrate that its program covers those excavators whose action poses a significant risk to underground facilities.

The State's decisions will not be measured and second-guessed against a national standard.

Mr. FORD. Railroads also raised the issue of whether it is appropriate to require them to participate in one-call systems as "underground operators" because railroads own their right-of-ways and know the location of their own facilities within those right-of-ways.

Mr. LOTT. Again, if States do not now require railroads to participate as operators of underground facilities, then there still is no provision in the bill that would change that status. Remember, no mandates. Most State programs do not require participation by persons whose underground facilities lie within their own property like a gas station. The bill in no way discourages States from continuing such common sense exclusions.

Mr. FORD. The railroads also urged Congress to provide for immediate response in the case of derailments and natural disasters. Does the bill address this issue?

Mr. LOTT. Again, this bill neither specifies or directs the details of a State program nor does it override existing State programs. All of the State programs of which I am aware allow for an immediate response in the event of an emergency. And this bill does not change this situation.

Mr. FORD. Finally, the railroad industry expressed concern that the bill could possibly interfere with the right-of-way agreements companies have negotiated between themselves. Can this concern be addressed?

Mr. LOTT. I want to personally assure Senator FORD that this bill does not override private contracts, just as it does not override existing State programs. If expert opinions believe doubt is created than I will offer an amendment to remove this consequence.

Mr. FORD. I thank the Leader for his clarifications regarding this legislation.

Mr. LOTT. Mr. President, I ask unanimous consent that the letter from Secretary Slater be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, October 16, 1997.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: Thank you for your continued support in developing legislation to enhance protection of America's underground utilities.

As you know, safety is the Department of Transportation's highest priority. Prevention of damage to underground facilities, including pipelines and telecommunications cables, is a key departmental safety initiative. That is why we included one-call legislation as part of the Administration's proposal to reauthorize the Intermodal Surface Transportation Efficiency Act (ISTEA).

Your continued leadership on one-call issues is critical to enacting legislation during this Congress. I am pleased that our respective bills share the same fundamental principles: that all underground facility operators must participate in one-call systems and that, with very limited exceptions, all excavators must call before they dig. I look forward to working with you to enact this important legislation.

Please do not hesitate to contact me or Mr. Steven O. Palmer, Assistant Secretary for Governmental Affairs, at 202-366-4573, if you have any questions or concerns.

Sincerely,

RODNEY E. SLATER.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 21, 1997, the Federal debt stood at $5,420,383,941,176.62. (Five trillion, four hundred twenty billion, three hundred eighty-three million, nine hundred forty-one thousand, one hundred seventy-six dollars and sixty-two cents)

One year ago, October 21, 1996, the Federal debt stood at $5,227,288,000,000. (Five trillion, two hundred twenty-seven billion, two hundred eighty-eight million)

Five years ago, October 21, 1992, the Federal debt stood at $4,060,086,000,000. (Four trillion, sixty billion, eighty six million)

Ten years ago, October 21, 1987, the Federal debt stood at $2,384,932,000,000. (Two trillion, three hundred eighty-four billion, nine hundred thirty-two million)

Fifteen years ago, October 21, 1982, the Federal debt stood at $1,140,014,000,000 (One trillion, one hundred forty billion, fourteen million) which reflects a debt increase of more than $4 trillion—$4,280,369,941,176.62 (Four trillion, two hundred eighty billion, one hundred sixty-nine million, nine hundred forty-one thousand, one hundred seventy-six dollars and sixty-two cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING OCTOBER 17TH

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending October 17, the United States imported 7,927,000

barrels of oil each day, 204,000 barrels less than the 8,131,000 imported each day during the same week a year ago.

While this is one of the few weeks that Americans imported less oil than the same week a year ago, Americans still relied on foreign oil for 55.4 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,927,000 barrels a day.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendments of the Senate to concurrent resolution (H. Con. Res. 8) recognizing the significance of maintaining the health and stability of coral reef ecosystems.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 282. An act to designate the United States Post Office building located at 153 East 110th Street, New York, New York, as the "Oscar Garcia Rivera Post Building."

H.R. 681. An act to designate the United States Post Office building located at 313 East Broadway in Glendale, California, as the "Carlost J. Moorhead Post Office Building."

H.R. 708. An act to require the Secretary of the Interior to conduct a study concerning grazing use and open space within and adjacent to the Grand Teton National Park, Wyoming, and to extend temporarily certain grazing privileges.

H.R. 1779. An act to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements.

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants.

H.R. 1789. An act to reauthorize the dairy indemnity program.

H.R. 1962. An act to provide for a Chief Financial Officer in the Executive Office of the President.

H.R. 2013. An act to designate the facility of the United States Postal Service located at 551 Kingstown Road in South Kingstown, Rhode Island, as the "David B. Champagne Post Office Building."

H.R. 2129. An act to designate the United States Post Office located at 150 North 3rd Street in Steubenville, Ohio, as the "Douglas Applegate Post Office."

H.R. 2204. An act to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes.

H.R. 2366. An act to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes.

H.R. 2464. An act to amend the Immigration and Nationality Act to exempt internationally adopted children 10 years of age or younger from the immunization requirement in section 212(a)(1)(A)(ii) of such.

H.R. 2535. An act to amend the Higher Education Act of 1965 to allow the consolidation of student loans under the Federal Family Loan Program and the Direct Loan Program.

H.R. 2564. An act to designate the United States Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, as the "Peter J. McCloskey Postal Facility."

H.R. 2610. An act to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 1999, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes.

H.J. Res. 97. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 151. Concurrent resolution expressing the sense of the Congress that the United States should manage its forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives, and that the United States should serve as an example and as a world leader in managing its forests in a manner that substantially reduces the amount of carbon dioxide in the atmosphere.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 282. An act to designate the United States Post Office building located at 153 East 110th Street, New York, New York, as the "Oscar Garcia Rivera Post Office Building"; to the Committee on Governmental Affairs.

H.R. 681. An act to designate the United States Post Office building located at 313 East Broadway in Glendale, California, as the "Carlost J. Moorhead Post Office Building"; to the Committee on Governmental Affairs.

H.R. 1779. An act to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements; to the Committee on Energy and Natural Resources.

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants; to the Committee on Environment and Public Works.

H.R. 1789. An act to reauthorize the dairy indemnity program; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 1962. An act to provide for a Chief Financial Officer in the Executive Office of the President; to the Committee on Governmental Affairs.

H.R. 2129. An act to designate the United States Post Office located at 150 North 3rd Street in Steubenville, Ohio, as the "Douglas Applegate Post Office"; to the Committee on Governmental Affairs.

H.R. 2366. An act to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2564. An act to designate the United States Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, as the "Peter J. McCloskey Postal Facility"; to the Committee on Governmental Affairs.

H.R. 2610. An act to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 1999, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes; to the Committee on the Judiciary.

The following measure was read and referred as indicated:

H. Con. Res. 151. Concurrent resolution expressing the sense of the Congress that the United States should manage its forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives, and that the United States should serve as an example and as a world leader in managing its forests in a manner that substantially reduces the amount of carbon dioxide in the atmosphere; to the Committee on Agriculture, Nutrition, and Forestry.

The Committee on Energy and Natural Resources was discharged from further consideration of the following measure which was referred to the Committee on Environment and Public Works:

S. 1268. A bill to amend the Tennessee Valley Authority Act of 1933 to modify provisions relating to the Board of Directors of the Tennessee Valley Authority, and for other purposes.

Pursuant to the order of the Senate of October 22, 1997, the following measures were considered jointly referred to the Committee on Finance and to the Committee on Governmental Affairs:

S. 613. A bill to provide that Kentucky may not tax compensation paid to a resident of Tennessee for certain services performed at Fort Campbell, Kentucky.

H.R. 1953. An act to clarify State authority to tax compensation paid to certain employees.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

M. John Berry, of Maryland, to be an Assistant Secretary of the Interior.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. JEFFORDS, from the Committee on Labor and Human Resources:

Ela Yazzie-King, of Arizona, to be a Member of the National Council on Disability for a term expiring September 17, 1999. (Reappointment)

Espiridion A. Borrego, of Texas, to be Assistant Secretary of Labor for Veterans' Employment and Training.

Patricia Watkins Lattimore, of the District of Columbia, to be an Assistant Secretary of Labor.

Charles N. Jeffress, of North Carolina, to be an Assistant Secretary of Labor.

Jeanette C. Takamura, of Hawaii, to be Assistant Secretary for Aging, Department of Health and Human Services.

Robert H. Beatty, Jr., of West Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for the remainder of the term expiring August 30, 1998.

David Satcher, of Tennessee, to be an Assistant Secretary of Health and Human Services.

David Satcher, of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service for a term of four years.

Susan Robinson King, of the District of Columbia, to be an Assistant Secretary of Labor.

(The above nomination was reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Docs. 104–28 and 105–26 Migratory Bird Protocol With Canada and Migratory Bird Protocol With Mexico (Exec. Rept. 105–5).

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol between the Government of the United States of America and the Government of the United Mexican States Amending the Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on May 5, 1997 (Treaty Doc. 105–26), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) INDIGENOUS INHABITANTS.—The United States understands that the term "indigenous inhabitants" as used in Article I means a permanent resident of a village within a subsistence harvest area, regardless of race. In its implementation of Article I, the United States also understands that where it is appropriate to recognize a need to assist indigenous inhabitants in meeting nutritional and other essential needs, or for the teaching of cultural knowledge to or by their family members, there may be cases where, with the permission of the village council and the appropriate permits, immediate family members of indigenous inhabitants may be invited to participate in the customary spring and summer subsistence harvest.

(b) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Between the United States and Canada Amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States, with Related Exchange of Notes, signed at Washington on December 14, 1995 (Treaty Doc. 104–28), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) INDIGENOUS INHABITANTS.—The United States understands that the term "indigenous inhabitants" as used in Article II(4)(b) means a permanent resident of a village within a subsistence harvest area, regardless of race. In its implementation of Article II(4)(b), the United States also understands that where it is appropriate to recognize a need to assist indigenous inhabitants in meeting nutritional and other essential needs, or for the teaching of cultural knowledge to or by their family members, there may be cases where, with the permission of the village council and the appropriate permits, immediate family members of indigenous inhabitants may be invited to participate in the customary spring and summer subsistence harvest.

(b) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Ex. F, 96–1 U.S.-Mexico Treaty On Maritime Boundaries (Exec. Rept. 105–4).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), Tha the Senate advise and consent to the ratification of the Treaty on Maritime boundaries between the United States of America and the United Mexican States, signed at Mexico City on May 4, 1978 (Ex. F, 96–1), subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

91) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1304. A bill for the relief of Belinda McGregor; to the Committee on the Judiciary.

By Mr. GRAMM (for himself, Mr. LIEBERMAN, Mr. DOMENICI, and Mr. BINGAMAN):

S. 1305. A bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research; to the Committee on Labor and Human Resources.

By Mr. INHOFE:

S. 1306. A bill to prohibit the conveyance of real property at Long Beach Naval Station,

California, to China Ocean Shipping Company; to the Committee on Armed Services.

By Mr. DASCHLE:

S. 1307. A bill to amend the Employee Retirement Income Security act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits and to extend continuation coverage to retirees and their dependents; to the Committee on Labor and Human Resources.

By Mr. BREAUX (for himself and Mr. KERREY):

S. 1308. A bill to amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. BOND, Mr. ROCKEFELLER, Mr. CHAFEE, Mr. KENNEDY, Mr. HOLLINGS, Ms. LANDRIEU, Mr. WELLSTONE, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. TORRICELLI, and Mr. JOHNSON):

S. 1309. A bill to provide for the health, education, and welfare of children under 6 years of age; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Con. Res. 56. A concurrent resolution authorizing the use of the rotunda of the Capitol for the ceremony honoring Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1304. A bill for the relief of Belinda McGregor; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. HATCH. Mr. President, I am today introducing a private relief bill on behalf of Belinda McGregor, the beloved sister of one of my constituents, Rosalinda Burton.

Mistakes are made everyday, Mr. President, and when innocent people suffer severe consequences as a result of these mistakes, something ought to be done to remedy the situation.

In the particular case of Ms. Belinda McGregor, the federal bureaucracy made a mistake—a mistake which cost Ms. McGregor dearly and it is now time to correct this mistake. Unfortunately, the only way to provide relief is through Congressional action.

Belinda McGregor, a citizen of the United Kingdom, filed an application for the 1995 Diversity Visa program. Her husband, a citizen of Ireland, filed a separate application at the same time. Ms. McGregor's application was among those selected to receive a diversity visa. When the handling clerk at the National Visa Center received the application, however, the clerk erroneously replaced Ms. McGregor's name in the computer with that of her husband.

As a result, Ms. McGregor was never informed that she had been selected and never provided the requisite information. The mistake with respect to Ms. McGregor's husband was caught, but not in time for Ms. McGregor to meet the September, 1995 deadline. Her visa number was given to another applicant.

In short, Ms. McGregor was unfairly denied the 1995 diversity visa that was rightfully hers due to a series of errors by the National Visa Center. As far as I know, these facts are not disputed.

Unfortunately, the Center does not have the legal authority to rectify its own mistake by simply granting Ms. McGregor a visa out of a subsequent year's allotment. Thus, a private relief bill is needed in order to see that Ms. McGregor gets the visa to which she was clearly entitled to in 1995.

Mr. President, I have received a very compelling letter from Rosalinda Burton of Cedar Hills, UT which I am placing in the RECORD. Ms. Burton is Ms. McGregor's sister and she described to me the strong relationship that she and her sister have and the care that her sister provided when Ms. Burton was seriously injured in a 1993 car accident.

I hope that the Senate can move forward on this bill expeditiously. Ms. McGregor was the victim of a simple and admitted bureaucratic snafu. The Senate ought to move swiftly to correct this injustice.

Mr. President, I am also including in the record additional relevant correspondence which documents the background of this case.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CEDAR HILLS, UT,
September 23, 1997.

Hon. ORRIN HATCH,
U.S. Senate.

DEAR SENATOR HATCH. This is one of the many endless attempts to seek fairness and justification regarding a very unique and still unresolved case pertaining to the future of my beloved sister, Belinda McGregor.

This is a plea on my part for you to please allow me the opportunity to humbly express in this letter, my deepest concern which is also personally shared by Senator Edward Kennedy.

It would be a challenge to explain what once stated as "the dream come true" for my sister, Belinda, on to paper, but I hope you will grant me a moment of your time to read this attempt to seek your help, as my Senator.

Towards the end of 1993 I was the victim of a very serious car accident and I could not have coped without the support of my church and the tremendous help of my beloved sister, Belinda, after which she expressed a strong desire to come and live in Utah, to be close to me, her only sister. In 1994, therefore, a dream came true when, after applying for the DV1 Program, which is held yearly, my sister's husband David, was informed by the National Visa Center, that he was selected in the 1995 Diversity Visa Lottery Program. Finally, my sister had a chance to live near her family and friends. Belinda, who is Austrian/British, then working for the "United Nations Drug Control Programme" (UNDCP) at the UN Headquarters in Vienna, Austria, was so thrilled to be informed of the good news. Therefore, all the necessary documents were provided to the National Visa Center in New Hampshire.

Her patience was put to the test, as she did not hear from anybody during a lengthy period of time. She contacted the American Embassy in Vienna from time to time, but to no avail. She then tried contacting various offices and people without success and as a last resort made contract with Senator Edward Kennedy's office, who kindly looked into her case. She was so happy that someone took the time to check into "the ongoings of the National Visa Center" and you can imagine the surprise when Ms. Patricia First (Senator Kennedy's staff) contacted my sister to let her know the outcome of their investigation (Attachment [1]). I am also attaching a copy of Senator Kennedy's letter to Ms. Mary A. Ryan, Assistant Secretary for Consular Affairs, United States Department of State. (Attachment [2]), which explains very clearly what actually had happened. Mr. McNamara, then Director of the National Visa Center, addressed his reply to Senator Kennedy (Attachment [3]). As my sister always wanted to come live and work near me, and always believed very strongly in fairness, she was convinced that the U.S. Government would then do anything possible to find a resolution to this predicament. By this time it was already April 1997 and being quite a determined lady due to her 3 year struggle, my sister, therefore, got in touch (via e-mail) with the newly appointed Director of the National Visa Center, Ms. Josefina Papendick. She explained the whole situation, sent copies of previous correspondence to Ms. Papendick but was always told (Attachments [4 5]) that unfortunately there were no more visa numbers available as the deadline for the 1995 Diversity Visa Lottery was 30 September 1995. This was indeed a shock and disappointment that no effort or willingness was shown to rectify the matter, especially as the National Visa Center acknowledged their own mistakes. The McGregor family did everything within their power—submitted all necessary papers in a timely fashion, but due to serious errors made by the National Visa Center, were disqualified and their numbers were given to someone else. She realizes of course that she is only a minority but nevertheless—we all feel that injustice has been done.

This injustice prevented my sister in building her future here with me. For one tiny moment this special gift was placed in her hands, to build her own world, but was quickly taken, due to these errors made. As advised, my sister has since then applied every year for the DV1 Program under her Austrian Nationality.

She always worked in an international environment, her previous employment being with the drug control program of the United Nations and was confident her experience and skills would be invaluable and beneficial to her newly adopted homeland. In preparation for her invitation to immigrate, she

sought independence immediately and acquired a secretarial position, which was put on hold for her. Unfortunately and with deep regret she had to abandon the offer when she was informed of the errors that were made.

She has been in contact with the honorable Senator Kennedy ever since and his kind office suggested that I contact you and maybe between you and Senator Kennedy this problem could be looked into and resolved.

The future happiness of my sister is as important as my own, and I hope and pray with all my heart, her tears of sadness will, via your understanding, help and determination, turn those tears to joy. Thank you for listening, dear Senator Hatch.

Yours sincerely,

ROSALINDA BURTON.

PS: Should you need any further information, please do not hesitate to contact Belinda at my address. Thank you.

FOOTNOTES

[1]Ms. Patricia First's (Senator Kennedy's office) e-mail to Belinda McGregor

[2]Senator Edward Kennedy's letter to Mary A. Ryan, Assistant Secretary for Consular Affairs.

[3]Mr. McNamara's reply to Senator Edward Kennedy.

[4]Ms. Josefina Papendick's letter to Belinda McGregor.

[5]Ms. Josefina Papendick's letter to Belinda McGregor.

ATTACHMENT ONE

FEBRUARY 15, 1996.

DEAR MS. MCGREGOR: I have received an answer from the State Department on the specifics of both your and your husband's diversity visa applications. It appears that the Department of State and National Visa Center grossly mishandled your applications. Our office has sent a letter to Mary Ryan, Assistant Secretary of Consular Affairs for the State Department. Ms. Ryan's Section oversees the visa process. I have attached the letter to Ms. Ryan which details the mistakes made by the National Visa Center in processing your applications.

The ultimate result seems to be that you were unfairly denied a diversity visa to which you were entitled. Please be assured our office is doing everything we can to find an administrative solution to your case. We are awaiting a response from the State Department, and I will communicate their response to you as soon as I receive it.

Again, I urge you to apply for the 1997 Diversity Visa Lottery, and I am sorry I cannot delivery better news. Please feel free to contact me should you have any questions. I can be reached at (202) 224-7878. I will update you as soon as I have any new information.

Sincerely,

PATRICIA FIRST.

ATTACHMENT TWO

U.S. SENATE,
Washington, DC, February 16, 1996.

MARY A. RYAN,
Assistant Secretary, Consular Affairs,
U.S. Department of State,
Washington, DC.

RE: 1995 Diversity Visa Lottery
Applicants: Belinda McGregor, David John McGregor
Case No: 95-EU-00020036

DEAR MS. RYAN: I am writing to request your assistance in resolving the above-referenced case. I am deeply concerned about the way this case was handled by the Department of State and the National Visa Center in New Hampshire.

Belinda McGregor, a citizen of the United Kingdom, and her husband, David John McGregor, a citizen of Ireland, each filed a separate application for the 1995 Diversity Visa Lottery program. As you know, although Belinda McGregor was born in the United Kingdom, she is eligible for the diversity program through her husband's Irish citizenship.

According to your visa office and the National Visa Center, Belinda McGregor's application was among those chosen as eligible to receive a diversity visa. When the National Visa Center received Belinda McGregor's application, however, the clerk handling her case erroneously assumed Ms. McGregor, as a citizen of the United Kingdom, was ineligible for the diversity program. The clerk, in an apparent attempt to remedy the problem, replaced Belinda McGregor's name in the computer with that of her husband, David John McGregor.

The National Visa Center then sent David John McGregor a notice that his name had been selected in the 1995 Diversity Visa Lottery Program, and listed the additional information Mr. McGregor needed to provide to be eligible for a diversity visa (including, *inter alia*, educational background and an affidavit of support). David John McGregor provided this information about himself to the National Visa Center in a timely fashion. The McGregor's, who currently live in Austria, heard nothing more about Mr. McGregor's diversity application until they asked my office to inquire into the status of the application. Belinda McGregor was never informed that her application had been selected in the diversity lottery.

Upon receiving Mr. McGregor's completed information, a second clerk at the National Visa Center discovered that Belinda McGregor's name had been improperly changed to David John McGregor in the computer. This clerk changed the name back to Belinda McGregor, and noted the receipt of Mr. McGregor's information. The clerk, however, failed to inform the McGregor's that Belinda McGregor was the diversity applicant selected in the lottery, and, therefore, the National Visa Center needed information on Belinda McGregor, instead of David John McGregor.

Having not received any information on Belinda McGregor by the diversity visa entitlement date, September 30, 1995, the National Visa Center disqualified Belinda McGregor's application and gave her visa number to another applicant.

It appears that Belinda McGregor was unfairly denied the 1995 diversity visa which was rightfully hers due to a series of errors made by the National Visa Center. A review by your office of procedures at the National Visa Center may be in order. And, I would greatly appreciate your help in finding a solution to the McGregor's case in light of the serious errors committed by the Center. Thank you for your consideration.

Sincerely,

EDWARD M. KENNEDY.

ATTACHMENT THREE

U.S. DEPARTMENT OF STATE,
NATIONAL VISA CENTER,
Portsmouth, NH, March 14, 1996.

DEAR SENATOR KENNEDY: I refer to your letter of February 16, to Ms. Mary A. Ryan, Assistant Secretary for Consular Affairs, regarding the Diversity Lottery application for Ms. Melinda McGregor.

The Immigration Act of 1990 provides for an annual Diversity Immigration Program, making available each year by random selection 55,000 permanent residence visas in the United States. Visas are apportioned among six geographic regions based on immigration rates over the last five years, with a greater number of visas going to regions with lower rates of immigration.

The National Visa Center (NVC) acknowledges the allegations made in your correspondence as true and correct. However, there are no visa numbers available as the deadline for the 1995 Diversity Lottery was September 30, 1995. Unfortunately, we are unable to correct the situation at this time. Ms. McGregor may wish to apply for any future lotteries.

We have reviewed this incident with our staff and have taken steps to ensure that this error will not be repeated in the future.

I hope this information is helpful. Please do not hesitate to contact me if I can be of assistance to you in this or any other matter.

Sincerely,

BRIAN M. MCNAMARA,
Director.

ATTACHMENT FOUR

U.S. DEPARTMENT OF STATE,
NATIONAL VISA CENTER
Portsmouth, NH, April 21, 1997.

DEAR MS. MCGREGOR: Thank you for your letter of April 14 regarding the Diversity Lottery applications filed on your and Mr. John McGregor's behalf.

Please note that as a citizen of United Kingdom you were not eligible to apply for DV-lottery program in 1995. However, as a citizen or Ireland, Mr. McGregor was eligible to apply for this program and you were a derivative beneficiary of his application. Mr. McGregor's case was chosen at random and entered into the computer system at the National Visa Center (NVC). We assigned lottery rank number 95-EU-00020036 to this application.

Unfortuantely, the deadline for the completion of the DV-95 was September 30, 1995. If you were not issued a visa by this date, the application for the 1995 program is no longer valid.

Your correspondence indicates that you believe you may be eligible for immigrant visa issuance under the provision for the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Act 1996). However, this provision applies only to applicants who were residing in the U.S. and were unable to adjust their status. As you were residing outside the U.S. you are not eligible to be processed under the Act of 1996.

I hope this information is helpful. Please do not hesitate to contact me if I can be of further assistance to you in this or any other matter.

Sincerely.

JOSEFINA L. PAPENDICK,
Director.

ATTACHMENT FIVE

U.S. DEPARTMENT OF STATE,
NATIONAL VISA CENTER,
Portsmouth, NH, July 3, 1997.

Mrs. BELINDA MCGREGOR,
Bexleybeath, Kent, England.

DEAR MRS. MCGREGOR: I am replying to your e-mailed messages requesting a review of your DV-95 application. Since no paper file is still available after all this time, I am unable to provide any new or additional information regarding the processing of your case.

I recognize your sincere wish to immigrate to the United States. However, I very much regret to inform you that there is no provision of law or regulations that would allow your DV-95 application to be processed after September 30, 1995.

If you wish to pursue your interest in living and working in the United States, the diversity program is an option available every year for applicants (or their spouses) who were born in eligible countries. For individuals who are not eligible under any family immigrant visa category, there are other visa classifications, both non-immigrant and immigrant, in the employment or professional fields to apply for. For more information on these, I suggest you contact the American Embassy in London.

I am sorry that this response cannot be more encouraging. I wish you and your family the best of luck in the future.

Sincerely,

JOSEFINA L. PAPENDICK,
Director.

By Mr. GRAMM (for himself, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. DOMENICI):

S. 1305. A bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and precompetitive engineering research; to the Committee on Labor and Human Resources.

THE NATIONAL RESEARCH INVESTMENT ACT OF 1998

Mr. GRAMM. Mr. President, President Clinton has talked a lot about building a bridge to the 21st century and, our philosophical differences aside, I want to help him build that bridge—with Bucky Balls.

"Bucky Ball" is the nickname for Buckminsterfullerene, a molecular form of carbon that was discovered by Prof's. Robert F. Curl and Richard E. Smalley of Rice University in Houston. They won the 1996 Nobel Prize in chemistry for this discovery.

Bucky Balls were named after R. Buckminster Fuller, the architect famous for his geodesic domes, because this new molecule closely resembles his designs. The silly nickname notwithstanding, their discovery was a breakthrough that will have scientific and practical applications across a wide variety of fields, from electrical conduction to the delivery of medicine into the human body.

Bucky Balls are impervious to radiation and chemical destruction, and can be joined to form tubes 10,000 times smaller than a human hair, yet 100 times stronger than steel. Use of the molecules is expected to establish a whole new class of materials for the construction of many products, from airplane wings and automobile bodies to clothing and packaging material.

This may be more than you want to know about molecular physics, but think about it this way: Because we encourage the kind of thinking that leads to discoveries like Bucky Balls, the United States stands as the economic, military, and intellectual leader of the world. We achieved this not by accident, but by a common, unswerving conviction that America's future was something to plan for, invest in, and celebrate. Using the products of imagination and hard work, from Winchester rifles and steam engines to space shuttles, Americans built a nation. We're still building, but for what we need in the next century, we're going to have to turn to people like Curl and Smalley to give us materials like Bucky Balls, and the Government has a role to play.

Unfortunately, over the past 30 years, the American Government has set different priorities. In 1965, 5.7 percent of the Federal budget was spent on nondefense research and development. Thirty-two years later in 1997, that figure has dropped by two-thirds. We spend a lot more money than we did in 1965, but we spend it on social programs, not science. We invest in the next elections, not the next generation.

The United States is underinvesting in basic research. That's right. The author of the landmark deficit reduction legislation known today as Gramm-Rudman supports the idea of the Government spending more money on something.

Not only do I support the idea of spending more on science and technology, I am today introducing a piece of legislation to achieve that goal. I am pleased to be joined by Senators LIEBERMAN, DOMENICI, and BINGAMAN as I introduce S. 1305, the National Research Investment Act of 1998. This bill, an update of my earlier bill, S. 124, would double the amount spent by the Federal Government on basic scientific, medical, and precompetitive engineering research over 10 years from $34 billion in 1999 to $68 billion in 2008.

If we, as a country, do no restore the high priority once afforded science and technology in the Federal budget and increase Federal investment in research, it will be impossible to maintain the U.S. position as the technological leader of the world. Since 1970, Japan and Germany have spent a larger share of their national income on research and development than we have. We can no longer afford to fall behind. Expanding the Nation's commitment to research in basic science and medicine is a critically important investment in the future of our Nation. It means saying no to many programs with strong political support, but by expanding research we are saying yes to jobs and prosperity in the future.

I believe that if we want the 21st century to be a place worth building a bridge to, and if we want to maintain the U.S. position as the leader of the free world, then we need to restore the prominence that research and technology once had in the Federal budget. Our parent's generation fought two World Wars, overcame some of the worst economic conditions in the history of our Nation, and yet still managed to invest in America's future. We have an obligation to do at least an equal amount for our children and grandchildren.

Over the past 30 years, we have not lived up to this obligation, but it isn't too late to change our minds. The discovery of Bucky Balls is a testament to the resilience of the American scientific community. I believe that if we once again give scientists and researchers the support that they deserve, if we make the same commitment to our children's future that our parents made to ours, then the 21st century promises to be one of unlimited potential.

America is a great and powerful country for two reasons. First, we have had more freedom and opportunity than any other people who have ever lived and with that freedom and opportunity people like us have been able to achieve extraordinary things. Second, we have invested more in science than any people in history. Science has given us the tools and freedom has allowed us to put them to work. If we preserve freedom and invest in science, there is no limit on the future of the American people. I urge my colleagues to cosponsor this important legislation.

Mr. LIEBERMAN. Mr. President, the National Research Investment Act of 1998, which Senator GRAMM and I introduced this morning, is important legislation designed to reverse a downward trend in the Federal Government's allocation to science and engineering research. Although America currently enjoys a vibrant economy, with robust growth of over 4 percent and record low unemployment, we should pause for a moment to examine reasons which underlie our current prosperity.

In one of the few models agreed upon by a vast majority of economists, Dr. Robert Solow won the Nobel Prize for demonstrating that at least half of the total growth in the U.S. economy since the end of World War II is attributable to scientific and technological innovation. In other words, money spent to increase scientific and engineering knowledge represents an investment which pays rich dividends for America's future.

Dr. Solow's economic theory is the story of our Nation's innovation system—a system that has transformed scientific and technological innovation into a potent engine of economic growth for America. In broad terms, our innovation system consists of industrial, academic, and governmental institutions working together to generate new knowledge, new technologies, and people with the skills to move them effectively into the marketplace. Publicly funded science has shown to be surprisingly important to the innovation system. A new study prepared for the National Science Foundation found that 73 percent of the main science papers cited by American industrial patents in two recent years were based on domestic and foreign research financed by governments or nonprofit agencies.

Patents are the most visible expression of industrial creativity and the

major way that companies and inventors are able to reap benefits from a bright idea. Even though industry now spends far more than the Federal Government on research, the fact that most patents result from research performed at universities, government labs, and other public agencies demonstrate our dependence on these institutions for the vast majority of economic activity. Such publicly funded science, the study concluded, has turned into a fundamental pillar of industrial advance.

Last week's awarding of the Nobel Prize to Dr. William Phillips from the Government's National Institute of Standards and Technology provides a wonderful example of how publicly funded science pays dividends. Dr. Phillips was honored for his work which used laser light to cool and trap individual atoms and molecules. I am told that the methods developed by Dr. Phillips and his coworkers may lead to the design of more precise atomic clocks for use in global navigation systems and atomic lasers, which may be used to manufacture very small electronic components for the next generation of computers. Dr. Phillips' achievement is the most visible recognition of the Department of Commerce's laboratory. Since 1901, however, the agency has quietly carried out research to develop accurate measurement and calibration techniques. The NIST laboratory, together with Commerce's technology programs, have greatly aided American business and earned our Nation billions of dollars in industries such as electrical power, semiconductor manufacturing, medical, agricultural, food processing, and building materials.

Yet, despite the demonstrated importance of publicly funded scientific research, the amount spent on science and engineering by the Federal Government is declining. Senator GRAMM has already noted that "in 1965, 5.7 percent of the Federal budget was spent on nondefense research and development. Thirty two years later, that figure has dropped by two-thirds to 1.9 percent." If you believe as I do, that our current prosperity, intellectual leadership in science and medicine and the growth of entire new industries are directly linked to investments made 30 years ago, then you have got to ask where will this country be 30 years from now?

At the same time, it is likely that several countries, particularly in Asia, will exceed on a per capita basis, the U.S. expenditure in science. Japan is already spending more than we are in absolute dollars on nondefense research and development. This is an historic reversal. Germany, Singapore, Taiwan, China, South Korea, and India are aggressively promoting R&D investment. These facts led Erich Bloch, the former head of the National Science Foundation, to write that the "whole U.S. R&D system is in the midst of a crucial transition. Its rate of growth has leveled off and could decline. We cannot assume that we will stay at the forefront of science and technology as we have for 50 years."

The future implications of our failure to invest can be better understood if we consider what our lives would be like today without the scientific innovations of those past 50 years. Imagine medicine without x rays, surgical lasers, MRI scanners, fiber-optic probes, synthetic materials for making medical implants, and the host of new drugs that combat cancer and even show promise as suppressors of the AIDS virus. Consider how it would be to face tough choices about how to protect the environment without knowledge of upper atmospheric physics, chemistry of the ozone layer or understanding how toxic substances effect human health. Imagine communication without faxes, desktop computers, the internet, or satellites. Less tangible but nonetheless disconcerting, is the prospect of a future for our country of free thinkers, if all new advances and innovation were to originate from outside of America's shores.

Although difficult, the partisan conflicts and rifts of the past several years may have performed a useful service in clarifying the debate over when public funding on research is justified. Senator GRAMM and I have discussed this topic at some length. We believe it is a mistake to separate research into two warring camps, one flying the flag of basic science and the other applied science. Rather the research enterprise represents a broad spectrum of human activity with basic and applied science at either end but not in opposition. Every component along the spectrum produces returns—economic, social, and intellectual gains for the society as a whole. The Federal Government should patiently invest in science, medicine, and engineering that lies within the public domain. Once an industry or company begins to pursue proprietary research, then support for that particular venture is best left to the private sector. This is what we mean by the term "precompetitive research."

With introduction of the National Research Investment Act of 1998, we begin a bipartisan effort to build a consensus that will support a significant increase in Federal research and development efforts. I am particularly appreciative of the support given today from nearly 100 different scientific and engineering professional societies which collectively represent many more than 1 million members. Accomplishments of your members illuminate the role that science and engineering plays in the innovation process.

In a Wall Street Journal survey of leading economists published in March, 43 percent cited investments in education and research and development as the Federal action that would have the most positive impact on our economy. No other factors, including reducing Government spending or lowering taxes, scored more than 10 percent. While Senator GRAMM and I are certainly committed to fiscal responsibility and balancing the budget, we think that the country would be best served by promoting investments in education and R&D and reducing entitlement consumption spending. Failure to do so now may well imperil America's future economic vitality and our leadership in science and technology.

Mr. BINGAMAN. Mr. President, I am pleased to be an original cosponsor of S. 1305, the National Research Investment Act of 1998.

Boosting the strength of our R&D infrastructure is crucially important to the future health and prosperity of every inhabitant of my home State of New Mexico, just as it is to every American. The scientific, technical, and medical advances of the past 40 years have dramatically improved our standard of living. If we are to maintain these advances into the future, we cannot afford to stand still.

Unfortunately, we are now headed in the wrong direction. Federal funding for research and development has declined as an overall percentage of the Federal budget over the last 20 years. We now spend less than 2 cents of each dollar of Federal spending on science and engineering research and development. We need to do better. It is clear that if we want to create the kind of high-paying, high-technology jobs that will ensure a decent standard of living for American workers, we will need a much stronger commitment to investing in research and development.

Although the focus of this bill is ensuring a strong future for civilian R&D, it is important to recognize that the basic science and fundamental technology development supported by the Defense portion of our budget also contributes to our domestic prosperity. For our Nation to remain prosperous into the next century, we need both sources of support for basic science and fundamental technology to remain strong, even in a time of constrained budgets.

There was a time when our investment in research and development equaled that of the rest of the world combined. But through the years, we have allowed our commitment to slide, and have lost much ground compared to our international competitors. Mr. President, this is not where we want to be, and I hope that the National Research Investment Act of 1998 will put us on the path to a better future.

By Mr. DASCHLE:

S. 1307. A bill to amend the Employee Retirement Income Security Act of 1974 with respect to rules governing

litigation contesting termination or reduction of retiree health benefits and to extend continuation coverage to retirees and their dependents; to the Committee on Labor and Human Resources.

THE RETIREE HEALTH BENEFITS PROTECTION ACT OF 1997

Mr. DASCHLE. Mr. President, today I am introducing a bill that restores employer health coverage to individuals who, throughout their careers, were led to believe their retiree health benefits were secure. These retirees earned their benefits through years of labor and have reached an age when other private coverage is difficult if not impossible to find. The Retiree Health Benefits Protection Act of 1997 reempowers retirees whose employers renege, often without notice, on a commitment they made to retiree security and health.

The bill I am offering today melds two measures I first introduced in the 104th Congress. The goal is to restore retirees' rights and options when their former employer takes action to terminate their health benefits.

The legislation was drafted to address a serious problem brought to my attention by the retirees of the Morrell meatpacking plant in Sioux Falls, SD. In January 1995, more than 3,300 Morrell retirees in Sioux Falls and around the country were given 1 week's notice that their health benefits were being terminated.

Pre-Medicare retirees were offered continued health coverage for only 1 year under Morrell's group plan, if the retiree assumed the full cost of coverage. When this option lapsed in January 1996, many of these people became uninsured. These retirees, like so many who face this situation, had spent years building the company and taking lower pensions or wages in exchange for the promise of retiree health benefits.

This problem is unfortunately not limited to the Morrell retirees. Recent data confirms that a declining share of employers maintain health benefits for their retirees. In fact, the percentage of large employers offering such coverage has dropped by nearly 10 percentage points over the last 5 years. In 1991, 80 percent of large employers provided retiree benefits. As of 1996, 71 percent do.

Early retirees age 50–64 who lose their health benefits are especially vulnerable to becoming uninsured, because health insurance is expensive when purchased at an older age, or unavailable as a result of preexisting conditions.

The bill I am introducing today would establish a number of protections to address this alarming trend.

To minimize unexpected terminations of benefits, my bill would ensure that benefits are terminated or reduced only when evidence shows that retirees were given adequate warning—before their retirement—that their health care benefits were not promised for their lifetimes. If the contract language establishing retiree benefits is silent or ambiguous about the termination of these benefits, my bill would place the burden of proof on the employer to show that the plan allows for the termination or reduction of retiree health benefits.

To help protect coverage for retirees and their families until fair settlements are reached, if an employer's decision to terminate benefits is challenged in court, my bill requires the employer to continue to provide retiree health benefits while these benefits are in litigation.

To prevent early retirees and their families from being left uninsured, this legislation would extend so-called COBRA benefits to early retirees and their dependents whose employer-sponsored health care benefits are terminated or substantially reduced.

Broadly stated, COBRA currently requires employers to offer continuing health coverage for up to 18 months for employees who leave their place of employment. The employee is responsible for the entire cost of the premium, but is allowed to remain in the group policy, thus taking advantage of lower group rates. This legislation would extend the COBRA law to cover early retirees and their families who are more than 18 months away from Medicare eligibility.

This bill would not prohibit employers from modifying their retiree health benefits to implement legitimate cost-savings measures, such as utilization review or managed care arrangements.

Mr. President, retirees deserve this kind of health security.

Workers often give up larger pensions and other benefits in exchange for health benefits. Unfortunately, in the case of the Morrell employees and far too many others, the thanks they get for their sacrifices is that their benefits are taken away with no notice and no compensating increase in their pensions or other benefits.

Early retirees often have been with the same company for decades, perhaps all of their adult lives. They rightfully believe that a company they help build will reward their loyalty, honesty, and hard work.

It is time for this Congress to address this victimization of retirees by companies that put profits before integrity and cost-cutting before fairness. We should not simply sit back while this system creates another population of uninsured individuals. Instead, we should take this opportunity to preserve private coverage for as many retirees as possible and restore the financial security and freedom they earned and thought they could depend upon.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retiree Health Benefits Protection Act".

TITLE I—RETIREE HEALTH BENEFITS PROTECTION

SEC. 101. RULES GOVERNING LITIGATION INVOLVING RETIREE HEALTH BENEFITS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

"SEC. 516. RULES GOVERNING LITIGATION INVOLVING RETIREE HEALTH BENEFITS.

"(a) MAINTENANCE OF BENEFITS.—

"(1) IN GENERAL.—If—

"(A) retiree health benefits or plan or plan sponsor payments in connection with such benefits are to be or have been terminated or reduced under an employee welfare benefit plan; and

"(B) an action is brought by any participant or beneficiary to enjoin or otherwise modify such termination or reduction,

the court without requirement of any additional showing shall promptly order the plan and plan sponsor to maintain the retiree health benefits and payments at the level in effect immediately before the termination or reduction while the action is pending in any court. No security or other undertaking shall be required of any participant or beneficiary as a condition for issuance of such relief. An order requiring such maintenance of benefits may be refused or dissolved only upon determination by the court, on the basis of clear and convincing evidence, that the action is clearly without merit.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any action if—

"(A) the termination or reduction of retiree health benefits is substantially similar to a termination or reduction in health benefits (if any) provided to current employees which occurs either before, or at or about the same time as, the termination or reduction of retiree health benefits, or

"(B) the changes in benefits are in connection with the addition, expansion, or clarification of the delivery system, including utilization review requirements and restrictions, requirements that goods or services be obtained through managed care entities or specified providers or categories of providers, or other special major case management restrictions.

"(3) MODIFICATIONS.—Nothing in this section shall preclude a court from modifying the obligation of a plan or plan sponsor to the extent retiree benefits are otherwise being paid by the plan sponsor.

"(b) BURDEN OF PROOF.—In addition to the relief authorized in subsection (a) or otherwise available, if, in any action to which subsection (a)(1) applies, the terms of the employee welfare benefit plan summary plan description or, in the absence of such description, other materials distributed to employees at the time of a participant's retirement or disability, are silent or are ambiguous, either on their face or after consideration of extrinsic evidence, as to whether retiree health benefits and payments may be terminated or reduced for a participant and

his or her beneficiaries after the participant's retirement or disability, then the benefits and payments shall not be terminated or reduced for the participant and his or her beneficiaries unless the plan or plan sponsor establishes by a preponderance of the evidence that the summary plan description or other materials about retiree benefits—

"(1) were distributed to the participant at least 90 days in advance of retirement or disability;

"(2) did not promise retiree health benefits for the lifetime of the participant and his or her spouse; and

"(3) clearly and specifically disclosed that the plan allowed such termination or reduction as to the participant after the time of his or her retirement or disability.

The disclosure described in paragraph (3) must have been made prominently and in language which can be understood by the average plan participant.

"(c) REPRESENTATION.—Notwithstanding any other provision of law, an employee representative of any retired employee or the employee' spouse or dependents may—

"(1) bring an action described in this section on behalf of such employee, spouse, or dependents; or

"(2) appear in such an action on behalf of such employee, spouse or dependents.

"(d) RETIREE HEALTH BENEFITS.—For the purposes of this section, the term 'retiree health benefits' means health benefits (including coverage) which are provided to—

"(1) retired or disabled employees who, immediately before the termination or reduction, have a reasonable expectation to receive such benefits upon retirement or becoming disabled; and

"(2) their spouses or dependents."

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 515 the following new item:

"Sec. 516. Rules governing litigation involving retiree health benefits."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions relating to terminations or reductions of retiree health benefits which are pending or brought, on or after January 1, 1998.

TITLE II—RETIREE CONTINUATION COVERAGE

SEC. 201. EXTENSION OF COBRA CONTINUATION COVERAGE.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) TYPE OF COVERAGE.—

(A) IN GENERAL.—Section 2202(1) of the Public Health Service Act (42 U.S.C. 300bb-2(1)) is amended—

(i) by striking "The coverage" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage"; and

(ii) by adding at the end the following:

"(B) CERTAIN RETIREES.—In the case of an event described in section 2203(6), the qualified beneficiary may elect to continue coverage as provided for in subparagraph (A) or may elect coverage—

"(i) under any other plan offered by the State, political subdivision, agency, or instrumentality involved; or

"(ii) notwithstanding paragraphs (4) and (5) of section 2741(b), through any health insurance issuer offering health insurance coverage (as defined in section 2791(b)(1)) in the individual market in the State.".

(B) TECHNICAL AMENDMENT.—Section 2202(2)(D)(i) of the Public Health Service Act (42 U.S.C. 300bb-2(2)(D)(i)) is amended by striking "covered under any other" and inserting "except with respect to coverage obtained under paragraph (1)(B), covered under any other".

(2) PERIOD OF COVERAGE.—Section 2202(2)(A) of the Public Health Service Act (42 U.S.C. 300bb-2(2)(A)) is amended by adding at the end thereof the following new clause:

"(v) QUALIFYING EVENT INVOLVING SUBSTANTIAL REDUCTION OR ELIMINATION OF A RETIREE GROUP HEALTH PLAN.—In the case of an event described in section 2203(6), the date on which such covered qualified beneficiary becomes entitled to benefits under title XVIII of the Social Security Act.".

(3) QUALIFYING EVENT.—Section 2203 of the Public Health Service Act (42 U.S.C. 300bb-3) is amended by adding at the end thereof the following new paragraph:

"(6) The substantial reduction or elimination of group health coverage as a result of plan changes or termination with respect to a qualified beneficiary described in section 2208(3)(A).".

(4) NOTICE.—Section 2206 of the Public Health Service Act (42 U.S.C. 300bb-6) is amended—

(A) in paragraph (2), by striking "or (4)" and inserting "(4), or (6)"; and

(B) in paragraph (4)(A), by striking "or (4)" and inserting "(4), or (6)".

(5) DEFINITION.—Section 2208(3) of the Public Health Service Act (42 U.S.C. 300bb-8(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR RETIREES.—In the case of a qualifying event described in section 2203(6), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial reduction or elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

"(i) as the spouse of the covered employee;

"(ii) as the dependent child of the covered employee; or

"(iii) as the surviving spouse of the covered employee.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) TYPE OF COVERAGE.—

(A) IN GENERAL.—Section 602(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(1)) is amended—

(i) by striking "The coverage" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage"; and

(ii) by adding at the end the following:

"(B) CERTAIN RETIREES.—In the case of an event described in section 603(7), the qualified beneficiary may elect to continue coverage as provided for in subparagraph (A) or may elect coverage—

"(i) under any other plan maintained by the plan sponsor involved; or

"(ii) notwithstanding paragraphs (4) and (5) of section 2741(b) of the Public Health Service Act, through any health insurance issuer offering health insurance coverage (as defined in section 2791(b)(1) of such Act) in the individual market in the State.".

(B) TECHNICAL AMENDMENT.—Section 602(2)(D)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(D)(i)) is amended by striking "covered under any other" and inserting "except with respect to coverage obtained under paragraph (1)(B), covered under any other".

(2) PERIOD OF COVERAGE.—Section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) is amended by adding at the end thereof the following new clause:

"(vi) QUALIFYING EVENT INVOLVING SUBSTANTIAL REDUCTION OR ELIMINATION OF A GROUP HEALTH PLAN COVERING RETIREES, SPOUSES AND DEPENDENTS.—In the case of an event described in section 603(7), the date on which such covered qualified beneficiary becomes entitled to benefits under title XVIII of the Social Security Act.".

(3) QUALIFYING EVENT.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by adding at the end thereof the following new paragraph:

"(7) The substantial reduction or elimination of group health plan coverage as a result of plan changes or termination with respect to a qualified beneficiary described in section 607(3)(C).".

(4) NOTICE.—Section 606(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166) is amended—

(A) in paragraph (2), by striking "or (6)" and inserting "(6), or (7)"; and

(B) in paragraph (4)(A), by striking "or (6)" and inserting "(6), or (7)".

(5) DEFINITION.—Section 607(3)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(2)) is amended by striking "603(6)" and inserting "603(6) or 603(7)".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) TYPE OF COVERAGE.—

(A) IN GENERAL.—Section 4980B(f)(2)(A) of the Internal Revenue Code of 1986 is amended—

(i) by striking "The coverage" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), the coverage"; and

(ii) by adding at the end the following:

"(ii) CERTAIN RETIREES.—In the case of an event described in paragraph (3)(G), the qualified beneficiary may elect to continue coverage as provided for in clause (i) or may elect coverage—

"(I) under any other plan maintained by the plan sponsor involved; or

"(II) notwithstanding paragraphs (4) and (5) of section 2741(b) of the Public Health Service Act, through any health insurance issuer offering health insurance coverage (as defined in section 2791(b)(1) of such Act) in the individual market in the State.".

(B) TECHNICAL AMENDMENT.—Section 4980B(f)(2)(B)(iv)(I) of the Internal Revenue Code of 1986 is amended by striking "covered under any other" and inserting "except with respect to coverage obtained under paragraph (1)(B), covered under any other".

(2) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B)(i) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subclause:

"(VI) QUALIFYING EVENT INVOLVING SUBSTANTIAL REDUCTION OR ELIMINATION OF A RETIREE GROUP HEALTH PLAN.—In the case of an event described in paragraph (3)(G), the date on which such covered qualified beneficiary becomes entitled to benefits under title XVIII of the Social Security Act.".

(3) QUALIFYING EVENT.—Section 4980B(f)(3) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subparagraph:

"(G) The substantial reduction or elimination of group health coverage as a result of plan changes or termination with respect to a qualified beneficiary described in subsection (g)(1)(D).".

(4) NOTICE.—Section 4980B(f)(6) of the Internal Revenue Code of 1986 is amended—

(A) in subparagraph (B), by striking "or (F)" and inserting "(F), or (G)"; and

(B) in subparagraph (D)(i), by striking "or (F)" and inserting "(F), or (G)".

(5) DEFINITION.—Section 4980B(g)(1)(D) of the Internal Revenue Code of 1986 is amended by striking "(f)(3)(F)" and inserting "(f)(3)(F) or (f)(3)(G)".

SEC. 202. EFFECTIVE DATE.

This title shall take effect as if enacted on January 1, 1998.

By Mr. BREAUX (for himself and Mr. KERREY):

S. 1308. A bill to amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes; to the Committee on Finance.

THE TAXPAYER PROTECTION ACT OF 1997

Mr. BREAUX. Mr. President, this afternoon, I rise to introduce legislation representing, I think, a very important step in giving American taxpayers an additional tool for them to use in solving problems that they have when they are entering into a dispute with the Internal Revenue Service. My bill would ensure that American taxpayers have someone with real authority and significant resources who will represent their interests when dealing with IRS, a true taxpayer advocacy organization which will be on the side of the American taxpayer and not on the side of Washington bureaucrats.

I want to also point out that I am proud to be a cosponsor of the Kerrey-Grassley bill, which is a broader restructuring of the entire Internal Revenue Service, that came about as part of the work that the bipartisan commission studied for over a year's time.

The bill, however, that I am introducing today will strengthen the part of the bill dealing with the Office of Taxpayer Advocate by making the advocate's office much more independent than it is now and giving it more muscle in representing the interests of American taxpayers.

Last month, our Senate Finance Committee had 3 days of hearings looking at the practices and procedures within the Internal Revenue Service. In addition to hearing from taxpayers who had been mistreated by the Internal Revenue Service, our committee also heard very shocking testimony from both current and former IRS employees. These witnesses clearly underscored the importance of doing some major changes in how the Internal Revenue Service operates.

We heard, for instance, Acting Commissioner of IRS Mike Nolan say, "The IRS is undergoing tremendous change."

That is very encouraging and also very long overdue. My concern is that there is a big disconnect between the Commissioner's office and over 100,000 IRS employees who work all over America, and even a greater disconnect between some of these employees—not all, but some—and the American taxpayer. This became very painfully clear as a result of our 3 days of hearings.

I want to point out that the IRS is a very convenient political punching bag for many, and speeches condemning the IRS are met with widespread applause at any type of a townhall meeting you want to have. But this is not an issue that we should demagog. Americans want us to solve the problem and not just pass the blame around and blame the other side for their failures.

As was the case with the balanced budget amendment, Republicans and Democrats need to come together in a bipartisan fashion and act responsibly to come up with some real changes that are going to help address this problem and protect the American taxpayer.

Unless we don't want a national defense or a public highway system or schools and national parks, we have to ask ourselves, what will we have if we just eliminated the Internal Revenue Service? When the Department of Defense, I am reminded, had all of these problems buying $200 toilet seats and $500 hammers, we didn't do away with the Department of Defense, we reformed it. We gave them specific instructions on how they should conduct their business. As a result, we still have a Department of Defense, thank goodness, but it is operating more efficiently and more effectively and not making the type of mistakes that we saw in the past. The bottom line is we reformed it. We have to do the same thing with the Internal Revenue Service.

There are many issues to look at when we talk about how to restructure. One is IRS management, how to model a new oversight structure at the IRS that would make it more responsive and accountable to their management problems.

There also is a separate issue, and that is how to strengthen the hand of the American taxpayer when they have to deal with the Internal Revenue Service and let our American taxpayers know that somewhere there is someone who is on their side when they have problems with the Federal Government and specifically with the IRS.

On the first issue of management, attention has focused on who should sit on the board of directors that runs an IRS and what kind of authority and responsibilities this board would have. I think there is widespread agreement that the management and oversight of the IRS needs to improve dramatically. We need to have more private sector involvement in that board of directors.

The Finance Committee is going to have hearings on the restructuring question next week. I hope that we have a fair and open discussion about what needs to be done, because that is the only way a solution will be arrived at. I personally think we should try and model the management of IRS on a real board of directors, a concept that is part of the bill introduced by Senator KERREY and Senator GRASSLEY and also Congressmen PORTMAN and CARDIN in the House of Representatives. I am a cosponsor of their legislation and will be actively participating in getting that done.

There is no reason why the Internal Revenue Service shouldn't be just as advanced technologically from an organizational standpoint as any Fortune 500 company in America. Our goal should be to have an oversight board that improves the IRS accountability and also their operations. A better managed IRS will translate into better customer service for taxpayers.

But just as important, however, we need to look at ways to improve the everyday outcomes when taxpayers have a problem and have to engage with the IRS. An oversight board may solve some of those, but we need to put in place some independent group that is going to represent the interests of the American taxpayer on a day-to-day basis, and that is what my legislation would do.

Currently, the IRS has an Office of Taxpayer Advocate whose job is to represent the American taxpayers in dealings with the IRS. The problem with the current structure, however, is that this taxpayer advocate does not have enough independence. The taxpayer advocate in each district reports directly to the district director of the IRS. Taxpayers need someone who will work for them and represent their interests and not just be an employee of the IRS.

My bill would make the taxpayer advocate a great deal more independent by giving it more resources, more authority and more responsibilities. The American taxpayers would then have someone working for them and not just working for the IRS when they need help.

My bill would do the following:

No. 1: A national taxpayer advocate would be appointed directly by the President, with the advice and consent of the Senate. He or she would not continue to be appointed by the IRS Commissioner. The national taxpayer advocate would also not be selected from the ranks of the IRS, to make sure that person is truly independent.

No. 2: The national taxpayer advocate will make the hiring and firing decisions regarding the heads of the local taxpayer advocate office in the IRS district and service centers. No longer would the local taxpayer advocate be hired and fired by the district director.

No. 3: The initial contact between the IRS and the taxpayer will include a disclosure that the taxpayers have a right to contact their local taxpayer advocate and information on how to contact them so that the taxpayer will know that this office is there and it is there to protect their legitimate interests.

No. 4: The local taxpayer advocate office would have a separate phone number, fax number, and post office box apart from the IRS district office.

And finally, No. 5: The taxpayer advocate would also have the discretion not to disclose taxpayer information to IRS employees, another tool which could help taxpayers.

All of these measures are designed to give the taxpayer advocate a much stronger voice, a much stronger hand in representing American taxpayers. What taxpayers in this country need is someone who is on their side, not on the Government side, who has the resources to go up against the IRS.

I have been working closely with Senator KERREY and pleased he supports including my provision in the overall bill that they are planning to introduce. So, I think we are making progress. I think we ought to be doing it in a continued responsible fashion, in a bipartisan fashion. If we can get this done, I just suggest that the American taxpayer will now know that there is some office that is on their side representing their interests before their Government.

By Mr. KERRY (for himself, Mr. BOND, Mr. ROCKEFELLER, Mr. CHAFEE, Mr. KENNEDY, Mr. HOLLINGS, MS. LANDRIEU, Mr. WELLSTONE, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. TORRICELLI, and Mr. JOHNSON):

S. 1309. A bill to provide for the health, education, and welfare of children under 6 years of age; to the Committee on Labor and Human Resources.

THE EARLY CHILDHOOD DEVELOPMENT ACT

Mr. KERRY. Mr. President, I am delighted to introduce today the Early Childhood Development Act with Senator BOND. I want to thank Senator BOND for his leadership, both as a Governor who began the successful Parents as Teachers Program and for joining together in this bipartisan effort to develop a real world solution to real world problems.

Mr. President, there is no issue more important in America than the urgent needs of young children. This country must rededicate itself to investing in children, an investment which will have tremendous returns. Early intervention can have a powerful effect on reducing Government welfare, health, criminal justice, and education expenditures in the long run. By taking steps now we can significantly reduce later destructive behavior such as school dropout, drug use, and criminal acts. A study of the High/Scope Foundation's Perry Preschool found that at-risk toddlers who received preschooling and a weekly home visit reduced the risk that these children would grow up to become chronic lawbreakers by a startling 80 percent. The Syracuse University Family Development Study showed that providing quality early-childhood programs to families until children reached age 5 reduces the children's risk of delinquency 10 years later by 90 percent. It's no wonder that a recent survey of police chiefs found that 9 out of 10 said that "America could sharply reduce crime if Government invested more" in these early intervention programs.

These programs are successful because children's experiences during their early years of life lay the foundation for their future development. Our failure to provide young children what they need during this period has long-term consequences and costs for America. Recent scientific evidence conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits for children, families, and our Nation. The electrical activity of brain cells actually changes the physical structure of the brain itself. Without a stimulating environment, the baby's brain suffers. At birth, a baby's brain contains 100 billion neurons, roughly as many nerve cells as there are stars in the Milky Way. But the wiring pattern between these neurons develops over time. Children who play very little or are rarely touched develop brains 20 to 30 percent smaller than normal for their age.

Mr. President, reversing these problems later in life is far more difficult and costly. I want to discuss several examples.

First, poverty seriously impairs young children's language development, math skills, IQ scores, and their later school completion. Poor young children also are at heightened risk of infant mortality, anemia, and stunted growth. Of the 12 million children under the age of 3 in the United States today, 3 million—25 percent—live in poverty.

Second, three out of five mothers with children younger than 3 work, but one study found that 40 percent of the facilities at child care centers serving infants provided care of such poor quality as to actually jeopardize children's health, safety, or development.

Third, in more than half of the States, one out of every four children between 19 months and 3 years of age is not fully immunized against common childhood diseases. Children who are not immunized are more likely to contact preventable diseases, which can cause long-term harm.

And fourth, children younger than 3 make up 27 percent of the 1 million children who are determined to be abused or neglected each year. Of the 1,200 children who died from abuse and neglect in 1995, 85 percent were younger than 5 and 45 percent were younger than 1.

Unfortunately, Mr. President, our Government expenditure patterns are inverse to the most important early development period for human beings. Although we know that early investment can dramatically reduce later remedial and social costs, currently our Nation spends more than $35 billion over 5 years on Federal programs for at-risk or delinquent youth and child welfare programs for children ages 12 to 18, but far less for children from birth to age 6.

Today we seek to change our priorities and put children first. I am introducing the Early Childhood Development Act of 1997 to help empower local communities to provide essential interventions in the lives of our youngest at-risk children and their families.

This legislation seeks to provide support to families by minimizing Government bureaucracy and maximizing local initiatives. We would provide additional funding to communities to expand the thousands of successful efforts for at-risk children ages zero to 6 such as those sponsored by the United Way, Boys and Girls Clubs, and other less well-known grassroots organizations, as well as State initiatives such as Success By Six in Massachusetts and Vermont, the Parents as Teachers program in Missouri, Healthy Families in Indiana, and the Early Childhood Initiative in Pittsburgh, PA. All are short on resources. And nowhere do we adequately meet demand although we know that many States and local communities deliver efficient, cost-effective, and necessary services. Extending the reach of these successful programs to millions of children currently underserved will increase our national well-being and ultimately save billions of dollars.

The second part of this bill would provide funding to States to help them provide a subsidy to all working poor families to purchase quality child care for infants, toddlers, and preschool children. We would not create a new program but would simply increase resources for the successful Child Care and Development Block Grant [CCDBG]. Child care for infants and toddlers is much more expensive than for older children since a higher level of care is necessary. Additional funding would also pay for improving the salaries and training level of child care workers, improving the facilities of child care centers and family child care homes, and providing enriched developmentally appropriate educational opportunities.

Finally, the bill would increase funding for the Early Head Start Program. The successful Head Start Program provides quality services to 4- and 5-year-olds. The Early Head Start Program, which currently is a modest program funded at $200 million annually, provides comprehensive child development and family support services to infants and toddlers. Expanding this program would help more young children receive the early assistance they need.

I was delighted to be joined earlier today by Dr. Berry Brazelton and Rob

Reiner to announce this bill. I want to thank Governor Dean of Vermont and Governor Romer of Colorado for supporting this legislation and the wide range of groups who support this legislation including the Association of Jewish Family & Children's Agencies, Boys and Girls Clubs of America, Children's Defense Fund, Child Welfare League of America, Coalition On Human Needs, Harvard Center for Children's Health, Jewish Council for Public Affairs, National Black Child Development Institute, Inc., National Council of Churches of Christ in the USA, Religious Action Center of Reform Judaism, and Rob Reiner of the I Am Your Child Campaign.

Children need certain supports during their early critical years if they are to thrive and grow to be contributing adults. I look forward to working with Senator BOND and both sides of the aisle to pass this legislation and ensure that all children arrive at school ready to learn.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Early Childhood Development Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
TITLE I—ASSISTANCE FOR YOUNG CHILDREN
Sec. 101. Definitions.
Sec. 102. Allotments to States.
Sec. 103. Grants to local collaboratives.
Sec. 104. Supplement not supplant.
Sec. 105. Authorization of appropriations.
TITLE II—CHILD CARE FOR FAMILIES
Sec. 201. Amendment to Child Care and Development Block Grant Act of 1990.
TITLE III—AMENDMENTS TO THE HEAD START ACT
Sec. 301. Authorization of appropriations.
Sec. 302. Allotment of funds.
Sec. 303. Effective date.

SEC. 2. FINDINGS.

Congress makes the following findings—

(1) The Nation's highest priority should be to ensure that children begin school ready to learn.

(2) New scientific research shows that the electrical activity of brain cells actually changes the physical structure of the brain itself and that without a stimulating environment, a baby's brain will suffer. At birth, a baby's brain contains 100,000,000,000 neurons, roughly as many nerve cells as there are stars in the Milky Way. But the wiring pattern between these neurons develops over time. Children who play very little or are rarely touched develop brains that are 20 to 30 percent smaller than normal for their age.

(3) This scientific evidence also conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits for children, families, and our Nation.

(4) Since more than 50 percent of the mothers of children under the age of 3 now work outside of the home, our society must change to provide new supports so young children receive the attention and care that they need.

(5) There are 12,000,000 children under the age of 3 in the United States today and 1 in 4 lives in poverty.

(6) Compared with most other industrialized countries, the United States has a higher infant mortality rate, a higher proportion of low-birth weight babies, and a smaller proportion of babies immunized against childhood diseases.

(7) National and local studies have found a strong link between increased violence and crime among youth when there is no early intervention.

(8) The United States will spend more than $35,000,000,000 over the next 5 years on Federal programs for at-risk or delinquent youth and child welfare programs, which address crisis situations which frequently could be avoided or made much less severe with good early interventions.

(9) Many local communities across the country have developed successful early childhood efforts and with additional resources could expand and enhance opportunities for young children.

TITLE I—ASSISTANCE FOR YOUNG CHILDREN

SEC. 101. DEFINITIONS.

In this title:

(1) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) STATE BOARD.—The term "State board" means a State Early Learning Coordinating Board established under section 102(c).

(5) YOUNG CHILD.—The term "young child" means an individual from birth through age 5.

(6) YOUNG CHILD ASSISTANCE ACTIVITIES.—The term "young child assistance activities" means the activities described in paragraphs (1) and (2)(A) of section 103(b).

SEC. 102. ALLOTMENTS TO STATES.

(a) IN GENERAL.—The Secretary shall make allotments under subsection (b) to eligible States to pay for the Federal share of the cost of enabling the States to make grants to local collaboratives under section 103 for young child assistance activities.

(b) ALLOTMENT.—

(1) IN GENERAL.—From the funds appropriated under section 105 for each fiscal year and not reserved under subsection (i), the Secretary shall allot to each eligible State an amount that bears the same relationship to such funds as the total number of young children in poverty in the State bears to the total number of young children in poverty in all eligible States.

(2) YOUNG CHILD IN POVERTY.—In this subsection, the term "young child in poverty" means an individual who—

(A) is a young child; and

(B) is a member of a family with an income below the poverty line.

(c) STATE BOARDS.—

(1) IN GENERAL.—In order for a State to be eligible to obtain an allotment under this title, the Governor of the State shall establish, or designate an entity to serve as, a State Early Learning Coordinating Board, which shall receive the allotment and make the grants described in section 103.

(2) ESTABLISHED BOARD.—A State board established under paragraph (1) shall consist of the Governor and members appointed by the Governor, including—

(A) representatives of all State agencies primarily providing services to young children in the State;

(B) representatives of business in the State;

(C) chief executive officers of political subdivisions in the State;

(D) parents of young children in the State;

(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the State;

(F) representatives of State nonprofit organizations that represent the interests of young children in poverty, as defined in subsection (b), in the State;

(G) representatives of organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs under the Head Start Act (42 U.S.C. 9831 et seq.), providing services through a family resource center, providing home visits, or providing health care services, in the State; and

(H) representatives of local educational agencies.

(3) DESIGNATED BOARD.—The Governor may designate an entity to serve as the State board under paragraph (1) if the entity includes the Governor and the members described in subparagraphs (A) through (G) of paragraph (2).

(4) DESIGNATED STATE AGENCY.—The Governor shall designate a State agency that has a representative on the State board to provide administrative oversight concerning the use of funds made available under this title and ensure accountability for the funds.

(d) APPLICATION.—To be eligible to receive an allotment under this title, a State board shall annually submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum, the application shall contain—

(1) sufficient information about the entity established or designated under subsection (c) to serve as the State board to enable the Secretary to determine whether the entity complies with the requirements of such subsection;

(2) a comprehensive State plan for carrying out young child assistance activities;

(3) an assurance that the State board will provide such information as the Secretary shall by regulation require on the amount of State and local public funds expended in the State to provide services for young children; and

(4) an assurance that the State board shall annually compile and submit to the Secretary information from the reports referred to in section 103(d)(2)(F)(iii) that describes the results referred to in section 103(d)(2)(F)(i).

(e) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsection (a) shall be—

(A) 85 percent, in the case of a State for which the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))) is not less than 50 percent but is less than 60 percent;

(B) 87.5 percent, in the case of a State for which such percentage is not less than 60 percent but is less than 70 percent; and

(C) 90 percent, in the case of any State not described in subparagraph (A) or (B).

(2) STATE SHARE.—

(A) IN GENERAL.—The State shall contribute the remaining share (referred to in this paragraph as the "State share") of the cost described in subsection (a).

(B) FORM.—The State share of the cost shall be in cash.

(C) SOURCES.—The State may provide for the State share of the cost from State or local sources, or through donations from private entities.

(f) STATE ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—A State may use not more than 5 percent of the funds made available through an allotment made under this title to pay for a portion, not to exceed 50 percent, of State administrative costs related to carrying out this title.

(2) WAIVER.—A State may apply to the Secretary for a waiver of paragraph (1). The Secretary may grant the waiver if the Secretary finds that unusual circumstances prevent the State from complying with paragraph (1). A State that receives such a waiver may use not more than 7.5 percent of the funds made available through the allotment to pay for the State administrative costs.

(g) MONITORING.—The Secretary shall monitor the activities of States that receive allotments under this title to ensure compliance with the requirements of this title, including compliance with the State plans.

(h) ENFORCEMENT.—If the Secretary determines that a State that has received an allotment under this title is not complying with a requirement of this title, the Secretary may—

(1) provide technical assistance to the State to improve the ability of the State to comply with the requirement;

(2) reduce, by not less than 5 percent, an allotment made to the State under this section, for the second determination of noncompliance;

(3) reduce, by not less than 25 percent, an allotment made to the State under this section, for the third determination of noncompliance; or

(4) revoke the eligibility of the State to receive allotments under this section, for the fourth or subsequent determination of noncompliance.

(i) TECHNICAL ASSISTANCE.—From the funds appropriated under section 105 for each fiscal year, the Secretary shall reserve not more than 1 percent of the funds to pay for the costs of providing technical assistance. The Secretary shall use the reserved funds to enter into contracts with eligible entities to provide technical assistance, to local collaboratives that receive grants under section 103, relating to the functions of the local collaboratives under this title.

SEC. 103. GRANTS TO LOCAL COLLABORATIVES.

(a) IN GENERAL.—A State board that receives an allotment under section 102 shall use the funds made available through the allotment, and the State contribution made under section 102(e)(2), to pay for the Federal and State shares of the cost of making grants, on a competitive basis, to local collaboratives to carry out young child assistance activities.

(b) USE OF FUNDS.—A local collaborative that receives a grant made under subsection (a)—

(1) shall use funds made available through the grant to provide, in a community, activities that consist of education and supportive services, such as—

(A) home visits for parents of young children;

(B) services provided through community-based family resource centers for such parents; and

(C) collaborative pre-school efforts that link parenting education for such parents to early childhood learning services for young children; and

(2) may use funds made available through the grant—

(A) to provide, in the community, activities that consist of—

(i) activities designed to strengthen the quality of child care for young children and expand the supply of high quality child care services for young children;

(ii) health care services for young children, including increasing the level of immunization for young children in the community, providing preventive health care screening and education, and expanding health care services in schools, child care facilities, clinics in public housing projects (as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))), and mobile dental and vision clinics;

(iii) services for children with disabilities who are young children; and

(iv) activities designed to assist schools in providing educational and other support services to young children, and parents of young children, in the community, to be carried out during extended hours when appropriate; and

(B) to pay for the salary and expenses of the administrator described in subsection (e)(4), in accordance with such regulations as the Secretary shall prescribe.

(c) MULTI-YEAR FUNDING.—In making grants under this section, a State board may make grants for grant periods of more than 1 year to local collaboratives with demonstrated success in carrying out young child assistance activities.

(d) LOCAL COLLABORATIVES.—To be eligible to receive a grant under this section for a community, a local collaborative shall demonstrate that the collaborative—

(1) is able to provide, through a coordinated effort, young child assistance activities to young children, and parents of young children, in the community; and

(2) includes—

(A) all public agencies primarily providing services to young children in the community;

(B) businesses in the community;

(C) representatives of the local government for the county or other political subdivision in which the community is located;

(D) parents of young children in the community;

(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the community;

(F) community-based organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs, or providing pre-kindergarten education, mental health, or family support services; and

(G) nonprofit organizations that serve the community and that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(e) APPLICATION.—To be eligible to receive a grant under this section, a local collaborative shall submit an application to the State board at such time, in such manner, and containing such information as the State board may require. At a minimum, the application shall contain—

(1) sufficient information about the entity described in subsection (d)(2) to enable the State board to determine whether the entity complies with the requirements of such subsection; and

(2) a comprehensive plan for carrying out young child assistance activities in the community, including information indicating—

(A) the young child assistance activities available in the community, as of the date of submission of the plan, including information on efforts to coordinate the activities;

(B) the unmet needs of young children, and parents of young children, in the community for young child assistance activities;

(C) the manner in which funds made available through the grant will be used—

(i) to meet the needs, including expanding and strengthening the activities described in subparagraph (A) and establishing additional young child assistance activities; and

(ii) to improve results for young children in the community;

(D) how the local cooperative will use at least 60 percent of the funds made available through the grant to provide young child assistance activities to young children and parents described in subsection (f);

(E) the comprehensive methods that the collaborative will use to ensure that—

(i) each entity carrying out young child assistance activities through the collaborative will coordinate the activities with such activities carried out by other entities through the collaborative; and

(ii) the local collaborative will coordinate the activities of the local collaborative with—

(I) other services provided to young children, and the parents of young children, in the community; and

(II) the activities of other local collaboratives serving young children and families in the community, if any; and

(F) the manner in which the collaborative will, at such intervals as the State board may require, submit information to the State board to enable the State board to carry out monitoring under section 102(f), including the manner in which the collaborative will—

(i) evaluate the results achieved by the collaborative for young children and parents of young children through activities carried out through the grant;

(ii) evaluate how services can be more effectively delivered to young children and the parents of young children; and

(iii) prepare and submit to the State board annual reports describing the results;

(3) an assurance that the local collaborative will comply with the requirements of subparagraphs (D), (E), and (F) of paragraph (2), and subsection (g); and

(4) an assurance that the local collaborative will hire an administrator to oversee the provision of the activities described in paragraphs (1) and (2)(A) of subsection (b).

(f) DISTRIBUTION.—In making grants under this section, the State board shall ensure that at least 60 percent of the funds made available through each grant are used to provide the young child assistance activities to young children (and parents of young children) who reside in school districts in which half or more of the students receive free or reduced price lunches under the National School Lunch Act (42 U.S.C. 1751 et seq.).

(g) LOCAL SHARE.—

(1) IN GENERAL.—The local collaborative shall contribute a percentage (referred to in this subsection as the "local share") of the cost of carrying out the young child assistance activities.

(2) PERCENTAGE.—The Secretary shall by regulation specify the percentage referred to in paragraph (1).

(3) FORM.—The local share of the cost shall be in cash.

(4) SOURCE.—The local collaborative shall provide for the local share of the cost through donations from private entities.

(5) WAIVER.—The State board shall waive the requirement of paragraph (1) for poor rural and urban areas, as defined by the Secretary.

(h) MONITORING.—The State board shall monitor the activities of local collaboratives that receive grants under this title to ensure compliance with the requirements of this title.

SEC. 104. SUPPLEMENT NOT SUPPLANT.

Funds appropriated under this title shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for young children.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $250,000,000 for fiscal year 1999, $500,000,000 for fiscal year 2000, $1,000,000,000 for each of fiscal years 2001 through 2003, and such sums as may be necessary for fiscal year 2004 and each subsequent fiscal year.

TITLE II—CHILD CARE FOR FAMILIES

SEC. 201. AMENDMENT TO CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

The Child Care and Development Block Grant Act of 1990 is amended by inserting after section 658C (42 U.S.C. 9858b) the following:

"SEC. 658C–1. ESTABLISHMENT OF ZERO TO SIX PROGRAM.

"(a) IN GENERAL.—

"(1) PAYMENTS.—Subject to the amount appropriated under subsection (d), each State shall, for the purpose of providing child care assistance on behalf of children under 6 years of age, receive payments under this section in accordance with the formula described in section 658O.

"(2) INDIAN TRIBES.—The Secretary shall reserve 2 percent of the amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations.

"(3) REMAINDER.—Any amount appropriated for a fiscal year under subsection (d), and remaining after the Secretary awards grants under paragraph (1) and after the reservation under paragraph (2), shall be used by the Secretary to make additional grants to States based on the formula under paragraph (1).

"(4) REALLOTMENT.—

"(A) IN GENERAL.—Any portion of the allotment under paragraph (1) to a State that the Secretary determines is not required by the State to carry out the activities described in subsection (b), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

"(B) LIMITATIONS.—

"(i) REDUCTION.—The amount of any reallotment to which a State is entitled to under subparagraph (A) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out the activities described in subsection (b).

"(ii) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this paragraph.

"(C) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant made to an Indian tribe or tribal organization under paragraph (2) that the Secretary determines is not being used in a manner consistent with subsection (b) in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations in accordance with their respective needs.

"(5) AVAILABILITY.—Amounts received by a State under a grant under this section shall be available for use by the State during the fiscal year for which the funds are provided and for the following 2 fiscal years.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts received by a State under this section shall be used to provide child care assistance, on a sliding fee scale basis, on behalf of eligible children (as determined under paragraph (2)) to enable the parents of such children to secure high quality care for such children.

"(2) ELIGIBILITY.—To be eligible to receive child care assistance from a State under this section, a child shall—

"(A) be under 6 years of age;

"(B) be residing with at least one parent who is employed or enrolled in a school or training program or otherwise requires child care as a preventive or protective service (as determined under rules established by the Secretary); and

"(C) have a family income that is less than 85 percent of the State median income for a family of the size involved.

"(3) INFANT CARE SET-ASIDE.—A State shall set-aside 10 percent of the amounts received by the State under a grant under subsection (a)(1) for a fiscal year for the establishment of a program to establish innovations in infant and toddler care, including models for—

"(A) the development of family child care networks;

"(B) the training of child care providers for infant and toddler care; and

"(C) the support, renovation, and modernization of facilities used for child care programs serving infants.

"(4) POVERTY LINE.—As used in this subsection, the term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that is applicable to a family of the size involved.

"(c) LEVELS OF ASSISTANCE.—

"(1) ADJUSTMENT OF RATES.—With respect to the levels of assistance provided by States on behalf of eligible children under this section, a State shall be permitted to adjust rates above the market rates to ensure that families have access to high quality infant and toddler care.

"(2) ADDITIONAL ASSISTANCE.—In administering this section, the Secretary shall encourage States to provide additional assistance on behalf of children for enriched infant and toddler services.

"(3) AMOUNT OF ASSISTANCE.—In providing assistance to eligible children under this section, a State shall ensure that an eligible child with a family income that is less than 100 percent of the poverty line for a family of the size involved is eligible to receive 100 percent of the amount of the assistance for which the child is eligible.

"(d) APPROPRIATION.—For grants under this section, there are appropriated—

"(1) $250,000,000 for fiscal year 1999;

"(2) $500,000,000 for fiscal year 2000;

"(3) $1,000,000,000 for each of fiscal years 2001 through 2003; and

"(4) such sums as may be necessary for fiscal year 2004 and each subsequent fiscal year.

"(e) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning—

"(1) the appropriate child to staff ratios for infants and toddlers in child care settings, including child care centers and family child care homes; and

"(2) other best practices for infant and toddler care.

"(f) APPLICATION OF OTHER REQUIREMENTS.—

"(1) STATE PLAN.—The State, as part of the State plan submitted under section 658E(c), shall describe the activities that the State intends to carry out using amounts received under this section, including a description of the levels of assistance to be provided.

"(2) OTHER REQUIREMENTS.—Amounts provided to a State under this section shall be subject to the requirements and limitations of this subchapter except that section 658E(c)(3), 658F, 658G, 658J, and 658O shall not apply.".

TITLE III—AMENDMENTS TO THE HEAD START ACT

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 639(a) of the Head Start Act (42 U.S.C. 9834(a)) is amended by inserting before the period at the end the following: ", $4,900,000,000 for fiscal year 1999, $5,500,000,000 for fiscal year 2000, $6,100,000,000 for fiscal year 2001, and such sums as may be necessary for fiscal year 2002".

SEC. 302. ALLOTMENT OF FUNDS.

Section 640(a)(6) of the Head Start Act (42 U.S.C. 9835(a)(6)) is amended—

(1) by striking "1997, and" and inserting "1997,"; and

(2) by inserting after "1998," the following: "6 percent for fiscal year 1999, 7 percent for fiscal year 2000, 8 percent for fiscal year 2001, and 10 percent for fiscal year 2002,".

SEC. 303. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on October 1, 1998.

Mr. BOND. Mr. President. I rise today, along with my distinguished colleague from Massachusetts, Senator JOHN KERRY, to introduce the Early Childhood Development Act of 1997. Let me thank all who have worked so hard to develop this legislation.

The most important thing we can do to address the many social problems we face, is to recognize that the family is the centerpiece of our society and take steps to strengthen families and mobilize communities to support young children and their families.

This legislation follows up on recent scientific research showing that infant brain development occurs much more rapidly than previously thought, and that early, positive interaction with parents plays the critical role in brain development.

Not surprisingly parents have known instinctively for generations what

science is just now figuring out: that reading to a baby, caressing and cuddling him, and helping him to have a wide range of good experiences will enhance his development. When children fail to receive love and nurturing at home when they do not receive quality child care, whether it is provided by centers, family child care homes, or relatives, they are far more likely to develop social and academic problems.

Yet parents today face burdens that were unimaginable a generation ago. Half of all marriages now end in divorce, and 28 percent of all children under the age of 18 live in a single-parent family. One in four infants and toddlers under the age of 3—nearly 3 million children—live in families with incomes below the Federal poverty level.

Many women, particularly in low- and moderate-income families, are essential in helping support their families financially and have entered the workforce in record numbers during the last generation. In many families, both parents work. Each day, an estimated 13 million children younger than 6—including 6 million babies and toddlers—spend some or all of their day being cared for by someone other than their parents. Children of working mothers are entering care as early as 6 weeks of age and spending 35 or more hours a week in some form of child care. Whether by choice or necessity, parents must try to find quality child care—which is not always available.

We are seeking, through this legislation, to provide families with support through early childhood education and more child care options. Our bill will support families—not bureaucracy—by building on local initiatives that are already working for families with infants and toddlers. We will help communities improve their services and supports to families with young children by expanding the thousands of successful efforts for families with children from birth to 6, such as those sponsored by the United Way and Boys and Girls Clubs as well as State initiatives such as Success by Six in Massachusetts and Vermont, the Parents as Teachers programs in Missouri and 47 other States, and the Early Childhood Initiative in Pennsylvania.

The Early Childhood Development Act will provide funds for early childhood education programs for all children that emphasize the primary role of parents and help give them the tools they need to be their children's best teachers. Parents are the key to a child's healthy development and as we all know, we will never solve our social problems unless we involve parents in the process and in their children's lives.

In addition, the bill will expand quality child care programs for families, especially for infants. And we will begin the Head Start Program earlier—when its impact could be much greater—at birth.

While Government cannot and should not become a replacement for parents and families, we can help families become stronger by providing support to help them give their children the encouragement, the love and the healthy environment they need to develop their social and intellectual capacities.

Our legislation balances the desire to provide support with the need to do so responsibly. I am proud that we have come together on a bipartisan basis to invest in programs that encourage family responsibility and obligation while helping families in need to reach those goals.

I am very optimistic that the spirit of bipartisanship will guide our consideration of this legislation and move it forward. Recent polls have shown that the overwhelming majority of Americans want early childhood development issues to be top priorities for our country. We must all work together to ensure that our most vulnerable citizens are given the care and protection they need and deserve.

Mr. President. I look forward to working with my colleagues to improve the quality of life for all children.

ADDITIONAL COSPONSORS

S. 19

At the request of Mr. DODD, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 19, a bill to provide funds for child care for low-income working families, and for other purposes.

S. 61

At the request of Mr. LOTT, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 356

At the request of Mr. GRAHAM, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 358

At the request of Mr. DEWINE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 617

At the request of Mr. JOHNSON, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 617, a bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin.

S. 644

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 644, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish standards for relationships between group health plans and health insurance issuers with enrollees, health professionals, and providers.

S. 732

At the request of Mr. FAIRCLOTH, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 732, a bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903.

S. 803

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 803, a bill to permit the transportation of passengers between United States ports by certain foreign-flag vessels and to encourage United States-flag vessels to participate in such transportation.

S. 943

At the request of Mr. SPECTER, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the "Death on the High Seas Act" to aviation accidents.

S. 983

At the request of Mr. DODD, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 983, a bill to prohibit the sale or other transfer of highly advanced weapons to any country in Latin America.

S. 990

At the request of Mr. FAIRCLOTH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 990, a bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging.

S. 1037

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 1037, a bill to amend the Internal Revenue Code of 1986 to establish

incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearing-house and electronic networks for the distribution of child care information, to improve the quality of chlid care provided through Federal facilities and programs, and for other purposes.

At the request of Mr. DODD, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1037, supra.

S. 1042

At the request of Mr. CRAIG, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1042, a bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements.

S. 1084

At the request of Mr. INHOFE, the names of the Senator from Louisiana [Ms. LANDRIEU], the Senator from Mississippi [Mr. COCHRAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alabama [Mr. SESSIONS], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Ohio [Mr. DEWINE], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. SHELBY], the Senator from Wyoming [Mr. ENZI], the Senator from Wyoming [Mr. THOMAS], the Senator from Kansas [Mr. ROBERTS] and the Senator from Missouri [Mr. ASHCROFT] were added as cosponsors of S. 1084, a bill to establish a researh and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act, and for other purposes.

S. 1096

At the request of Mr. KERREY, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Louisiana [Mr. BREAUX], the Senator from Indiana [Mr. LUGAR], the Senator from Michigan [Mr. ABRAHAM], the Senator from Connecticut [Mr. DODD], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. BROWNBACK], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1189

At the request of Mr. SMITH, the names of the Senator from New Jersey [Mr. TORRICELLI] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1189, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 1204

At the request of Mr. COVERDELL, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. LOTT] and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 1204, a bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficently final to ripen certain Federal claims arising under the Constitution.

S. 1220

At the request of Mr. DODD, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1237

At the request of Mr. ENZI, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1237, a bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

SENATE RESOLUTION 96

At the request of Mr. CRAIG, the names of the Senator from Oregon [Mr. SMITH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. GRAMS] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Resolution 96, A resolution proclaiming the week of March 15 through March 21, 1998, as "National Safe Place Week".

SENATE CONCURRENT RESOLUTION 56—AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL

Mr. SPECTER submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used on October 29, 1997, for a ceremony to honor Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

AMENDMENTS SUBMITTED

THE INTERMODAL TRANSPORTATION ACT OF 1997

DOMENICI (AND OTHERS) AMENDMENTS NOS. 1324–1327

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mr. INOUYE, Mr. BINGAMAN, and Mr. JOHNSON) submitted four amendments intended to be proposed by them to the bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for mass transit programs, and for other purposes; as follows:

AMENDMENT NO. 1324

On page 54, between lines 2 and 3, insert the following:

(d) ADDITIONAL FUNDING FOR INDIAN RESERVATION ROADS.—

(1) IN GENERAL.—Section 202(d) of title 23, United States Code, is amended—

(A) by striking "(d) On" and inserting the following:

"(d) INDIAN RESERVATION ROADS.—

"(1) IN GENERAL.—On";

(B) in paragraph (1) (as so designated), by inserting ", and the amount set aside under paragraph (2)," after "appropriated"; and

(C) by adding at the end the following:

"(2) SET-ASIDE.—

"(A) IN GENERAL.—For each of fiscal years 1998 through 2003, before making an apportionment of funds under section 104(b), the Secretary shall set aside the amount specified for the fiscal year in subparagraph (B) for allocation in accordance with paragraph (1).

"(B) AMOUNTS.—The amounts referred to in subparagraph (A) are—

"(i) for fiscal year 1998, $25,000,000;

"(ii) for fiscal year 1999, $50,000,000;

"(iii) for fiscal year 2000, $75,000,000;

"(iv) for fiscal year 2001, $75,000,000;

"(v) for fiscal year 2002, $100,000,000; and

"(vi) for fiscal year 2003, $100,000,000.".

(2) CONFORMING AMENDMENT.—Section 104(b) of title 23, United States Code (as amended by section 1102(a)), is amended in the matter preceding paragraph (1) by inserting "and section 202(d)(2)" after "(f)".

AMENDMENTS NO. 1325

At the appropriate place, insert the following:

SEC. . FUNDING FOR INDIAN RURAL TRANSIT PROGRAM.

Section 5311 of title 49, United States Code, is amended by adding at the end the following:

"(k) INDIAN RURAL TRANSIT PROGRAM.—

"(1) IN GENERAL.—Of amounts made available under section 5338(a) to carry out this section in each fiscal year, $10,000,000 shall be available for grants to Indian tribes (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) in accordance with this section for transportation projects in areas other than urbanized areas.

"(2) FORMULA ALLOCATION.—Amounts made available under paragraph (1) shall be allocated among Indian tribes—

"(A) with respect to fiscal years 1998 and 1999, by the Administrator of the Federal Transit Administration; and

"(B) with respect to each fiscal year thereafter, in accordance with a formula, which shall be established by the Secretary, in consultation with Indian tribes, not later than October 1, 1999.".

AMENDMENT NO. 1326

On page 54, between lines 2 and 3, insert the following:

(d) ALLOCATION FOR INTERTRIBAL TRANSPORTATION ASSOCIATION.—Section 202(d) of title 23, United States Code, is amended—

(1) by striking "(d) On" and inserting the following:

"(d) INDIAN RESERVATION ROADS.—

"(1) IN GENERAL.—On";

(2) in paragraph (1) (as designated by subparagraph (A)), by striking "the Secretary shall allocate" and inserting "after making the allocation authorized by paragraph (2), the Secretary shall allocate the remainder of"; and

(3) by adding at the end the following:

"(2) ALLOCATION FOR INTERTRIBAL TRANSPORTATION ASSOCIATION.—For each fiscal year, the Secretary shall allocate $300,000 of the sums described in paragraph (1) to the Intertribal Transportation Association.".

AMENDMENT NO. 1327

On page 127, strike line 8 and insert the following: bridges that—

"(A) provides for the allocation of funds reserved under paragraph (2) in accordance with the priorities established by the Bureau of Indian Affairs through application of the National Bridge Inspection Standards; and

"(B) accords highest priority in funding to bridges with the greatest deficiency.

ALLARD AMENDMENT NO. 1328

(Ordered to lie on the table.)

Mr. ALLARD submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

Beginning on page 14, strike line 6 and all that follows through page 18, line 5, and insert the following:

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

"(i) the total of all weighted non-attainment area and maintenance area populations in each State; bears to

"(ii) the total of all weighted non-attainment area and maintenance area populations in all States.

"(B) CALCULATION OF WEIGHTED NON-ATTAINMENT AREA AND MAINTENANCE AREA POPULATION.—For the purpose of subparagraph (A), the weighted nonattainment area and maintenance area population shall be calculated by multiplying the population of each area in a State that is a nonattainment area designated under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) or as a maintenance area for ozone, carbon monoxide, or PM-10 by a factor of—

"(i) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area, as a transitional ozone nonattainment area (within the meaning of section 185A of the Clean Air Act (42 U.S.C. 7511e)), or as a maintenance area for any pollutant under part D of title I of the Clean Air Act (42 U.S.C. 7501 et seq.);

"(ii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area, a moderate carbon monoxide nonattainment area with a design value of 12.7 parts per million or less at the time of classification, or a moderate PM–10 nonattainment area, under the part;

"(iii) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area, or a moderate carbon monoxide nonattainment area with a design value greater than 12.7 parts per million at the time of classification, under that part;

"(iv) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area, a serious carbon monoxide nonattainment area, or a serious PM–10 nonattainment area, under that part; or

"(v) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under that part.

"(C) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(D) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

"(E) DEFINITION OF PM–10.—In this paragraph, the term 'PM–10' means particulate matter with an aerodynamic diameter smaller than or equal to 10 microns.

TORRICELLI AMENDMENTS NOS. 1329–1330

(Ordered to lie on the table.)

Mr. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1329

On page 85, between lines 18 and 19, insert the following:

(d) EVALUATION OF PROCUREMENT PRACTICES AND PROJECT DELIVERY.—

(1) STUDY.—The Comptroller General shall conduct a study to assess—

(A) the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects;

(B) methods States use to mitigate delays described in subparagraph (A), including the use of the courts to compel utility cooperation;

(C) the prevalence and use of—

(i) incentives to utility companies for early completion of utility relocations on Federal-aid transportation project sites; and

(ii) penalties assessed on utility companies for utility relocation delays on such projects;

(D) the extent to which States have used available technologies, such as subsurface utility engineering, early in the design of Federal-aid highway and bridge projects so as to eliminate or reduce the need for or delays due to utility relocations; and

(E)(i) whether individual States compensate transportation contractors for business costs incurred by the contractors when Federal-aid highway and bridge projects under contract to the contractors are delayed by delays caused by utility companies in utility relocations; and

(ii) methods used by States in making any such compensation.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study, including any recommendations that the Comptroller General determines to be appropriate as a result of the study.

AMENDMENT NO. 1330

On page 85, between lines 18 and 19, insert the following:

(d) EVALUATION OF PROCUREMENT PRACTICES AND PROJECT DELIVERY.—

(1) STUDY.—The Comptroller General shall conduct a study to assess—

(A) the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects;

(B) methods States use to mitigate delays described in subparagraph (A), including the use of the courts to compel utility cooperation;

(C) the prevalence and use of—

(i) incentives to utility companies for early completion of utility relocations on Federal-aid transportation project sites; and

(ii) penalties assessed on utility companies for utility relocation delays on such projects;

(D) the extent to which States have used available technologies, such as subsurface utility engineering, early in the design of Federal-aid highway and bridge projects so as to eliminate or reduce the need for or delays due to utility relocations; and

(E)(i) whether individual States compensate transportation contractors for business costs incurred by the contractors when Federal-aid highway and bridge projects under contract to the contractors are delayed by delays caused by utility companies in utility relocations; and

(ii) methods used by States in making any such compensation.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study, including any recommendations that the Comptroller General determines to be appropriate as a result of the study.

McCAIN AMENDMENTS NOS. 1331–1332

(Ordered to lie on the table.)

Mr. MCCAIN submitted two amendments intended to be proposed by him to amendment No. 1319 proposed by Mr. ROTH to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1331

In the matter added by Amendment No. 1319, strike Sections X002(a)(1)(C), (a)(2), (a)(3), (a)(4), (a)(5), and (c), and renumber the sections accordingly.

AMENDMENT NO. 1332

Strike Sections X002(a)(1)(C), (a)(2), (a)(3), (a)(4), (a)(5), and (c), and renumber the sections accordingly.

McCAIN AMENDMENT NO. 1333

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . Notwithstanding any other provision of law, existing provisions in the Internal Revenue Code of 1986 relating to ethanol fuels may not be extended beyond the periods specified in the Code, as in effect prior to the date of enactment of this Act."

McCAIN AMENDMENT NO. 1334

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to amendment No. 1319 proposed by Mr. ROTH to the bill, S. 1173, supra; as follows:

At the end of the amendment, add the following new section:

"SEC. X008. Notwithstanding any other provision of law, existing provisions in the Internal Revenue Code of 1986 relating to ethanol fuels may not be extended beyond the periods specified in the Code, as in effect prior to the date of enactment of this Act."

SNOWE AMENDMENTS NOS. 1335–1336

(Ordered to lie on the table.)

Ms. SNOWE submitted two amendments intended to be proposed by her to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1335

On page 176, strike lines 3 through 5 and insert the following:

(a) IN GENERAL.—

(1) PROGRAM.—Section 129(c) of title 23, United States Code, is amended—

(A) by inserting "in accordance with paragraph (2) and sections 103, 133, and 149," after "toll or free.";

(B) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively, and indenting appropriately;

(C) by striking "(e) Notwithstanding" and inserting the following:

"(c) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

"(1) IN GENERAL.—Notwithstanding";

(D) in subparagraph (C) (as redesignated by subparagraph (B)), by inserting "or operated" before the period at the end;

(E) in the first sentence of subparagraph (F) (as redesignated by subparagraph (B)), by striking "sold, leased, or" and inserting "sold or"; and

(F) by adding at the end the following:

"(2) PROGRAM.—

"(A) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with paragraph (1).

"(B) FEDERAL SHARE.—The Federal share of the cost of construction of a ferry boat or ferry terminal facility using funds made available under subparagraph (C) shall be 80 percent.

"(C) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for obligation at the discretion of the Secretary in carrying out this paragraph $18,000,000 for each of fiscal years 1998 through 2000.

"(ii) AVAILABILITY.—Amounts made available under this subparagraph shall remain available until expended.".

(2) STUDY.—

(A) IN GENERAL.—The Secretary shall conduct a study of ferry transportation in the United States and the possessions of the United States—

(i) to identify ferry operations in existence as of the date of the study, including—

(I) the locations and routes served; and

(II) the source and amount, if any, of funds derived from Federal, State, or local government sources that support ferry operations; and

(ii) to identify potential domestic ferry routes in the United States and possessions of the United States and to develop information on the routes.

(B) REPORT.—The Secretary shall submit a report on the results of the study under subparagraph (A) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

AMENDMENT NO. 1336

On page 309, between lines 3 and 4, insert the following:

SEC. 18 . FUNDING TRANSFER.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) in the table contained in section 1103(b) (105 Stat. 2027), in item 9, by striking "32.1" and inserting "25.1"; and

(2) in the table contained in section 1104(b) (105 Stat. 2029)—

(A) in item 27, by striking "10.5" and inserting "12.5"; and

(B) in item 44, by striking "10.0" and inserting "15.0".

REED AMENDMENT NO. 1337

(Ordered to lie on the table.)

Mr. REED submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the appropriate place in subtitle D of title I, insert the following:

SEC. 14 . YOUNGER DRIVER SAFETY DEVELOPMENT DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State or unit of local government; or

(B) a nonprofit organization.

(2) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation by reason of section 501(a) of such Code.

(3) YOUNGER DRIVER.—The term "younger driver" means a driver of a motor vehicle who has attained the age of 15, but has not attained the age of 21.

(b) GENERAL AUTHORITY.—The Secretary shall conduct a demonstration program to, with respect to younger drivers—

(1) reduce traffic fatalities and injuries among those drivers; and

(2) improve the driving performance of those drivers.

(c) GRANTS.—An eligible entity may submit an application, in such form and manner as the Secretary may prescribe for a grant award to conduct a demonstration project under the demonstration program under this section.

(d) DEMONSTRATION PROJECT.—A demonstration project conducted under this section—

(1) shall be designed to carry out the purposes specified in subsection (b); and

(2)(A) may include the development and implementation of a comprehensive approach to—

(i) the licensing of younger drivers (including graduated licensing); or

(ii) the education of younger drivers; or

(B) may address specific driving behaviors (including seat belt use, or impaired driving or any other risky driving behavior).

(e) REPORTS.—

(1) IN GENERAL.—Upon completion of a demonstration project under this section, the grant recipient shall submit to the Secretary a report that includes the findings of the grant recipient with respect to results of the demonstration project, together with any recommendations of the grant recipient relating to those results.

(2) DISTRIBUTION OF INFORMATION.—The Secretary shall ensure that, to the maximum extent practicable, the information contained in the reports submitted under this subsection is distributed to appropriate entities.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section, $500,000 for each of fiscal years 1998 through 2000.

(2) AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available until expended.

(3) CONTRACT AUTHORITY.—Subject to paragraph (2), funds authorized under this subsection shall be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 14 . AGGRESSIVE DRIVER COUNTERMEASURE DEVELOPMENT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) LARGE METROPOLITAN AREA.—The term "large metropolitan area" means a metropolitan area that is identified by the Administrator of the Federal Highway Administration as being 1 of the 27 metropolitan areas in the United States with the greatest degree of traffic congestion.

(2) METROPOLITAN AREA.—The term "metropolitan area" means an area that contains a core population and surrounding communities that have a significant degree of economic and social integration with that core population (as determined by the Secretary).

(3) SMALL METROPOLITAN AREA.—The term "small metropolitan area" means a metropolitan area with a population of—

(A) not less than 400,000 individuals; and

(B) not more than 1,000,000 individuals.

(b) GENERAL AUTHORITY.—

(1) IN GENERAL.—The Secretary shall carry out a demonstration program to conduct—

(A) 1 demonstration project in a large metropolitan area; and

(B) 1 demonstration project in a small metropolitan area.

(2) DEMONSTRATION PROJECTS.—Each demonstration project described in paragraph (1)—

(A) shall identify effective and innovative enforcement and education techniques to reduce aggressive driving; and

(B) may—

(i) investigate the use of new law enforcement technologies to reduce aggressive driving;

(ii) study the needs of prosecutors and other elements of the judicial system in addressing the problem of aggressive driving; and

(iii) study the need for proposed legislation.

(c) GRANTS.—

(1) IN GENERAL.—A State may submit an application, in such form and manner as the Secretary may prescribe, for a grant award to conduct a demonstration project under the demonstration program under this section.

(2) GEOGRAPHIC DIVERSITY.—In awarding grants under this subsection, the Secretary shall provide for geographic diversity with respect to the metropolitan areas selected, to take into account variations in traffic patterns and law enforcement practices.

(3) GRANT AGREEMENTS.—As a condition to receiving a grant under this section, each State that is selected to be a grant recipient under this section shall be required to meet the requirements of a grant agreement that the Secretary shall offer to enter into with the appropriate official of the State. The grant agreement shall specify that the grant recipient shall submit to the Secretary such reports on the demonstration project conducted by the grant recipient as the Secretary determines to be necessary.

(d) DEMONSTRATION PROJECT.—A demonstration project conducted under this section shall be designed to carry out 1 or more of the activities described in subsection (b).

(e) DISTRIBUTION OF INFORMATION.—

(1) EVALUATION AND REPORT.—Upon completion of the demonstration projects conducted under the demonstration program under this section, the Secretary shall—

(A) conduct an evaluation of the results of those projects; and

(B) prepare a report that contains the findings of the evaluation, including such recommendations concerning addressing the incidence and causes of aggressive driving as the Secretary determines to be appropriate.

(2) DISTRIBUTION.—

(A) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that the information contained in the reports submitted under this subsection is distributed to appropriate entities, including law enforcement agencies.

(B) PUBLIC INFORMATION AND EDUCATION CAMPAIGN.—In conjunction with carrying out the demonstration program under this section, the Secretary shall develop a comprehensive public information and education campaign to address aggressive driving behavior. The program shall include print, radio, and television public service announcements that highlight law enforcement activities and public participation in addressing the problem of aggressive driving behavior.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section, $500,000 for each of fiscal years 1998 through 1999 (of which not more than $165,000 may be used by the Secretary to carry out subsection (e)) and $500,000 for fiscal year 2000 (of which not more than $200,000 may be used to carry out subsection (e)).

(2) AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available until expended.

(3) CONTRACT AUTHORITY.—Subject to paragraphs (1) and (2), funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

ABRAHAM (AND LEVIN) AMENDMENT NO. 1338

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

On page 139, line 22, insert "or a unit of local government in the State" after "State".

MURKOWSKI (AND STEVENS) AMENDMENTS NOS. 1339–1343

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself and Mr. STEVENS) submitted five amendments intended to be proposed by them to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1339

On page 176, strike lines 3 through 5 and insert the following:

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended—

(1) by striking "may" and inserting "shall";

(2) by inserting "in accordance with sections 103, 133, and 149," after "toll or free,";

(3) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively, and indenting appropriately;

(4) by striking "(c) Notwithstanding" and inserting the following:

"(c) CONSTRUCTION OF FERRY BOATS AND TERMINAL FACILITIES.—

"(1) IN GENERAL.—Notwithstanding"; and

(5) by adding at the end the following:

"(2) FEDERAL SHARE.—The Federal share of the cost of construction of a ferry boat or terminal facility using funds made available under paragraph (3) shall be 80 percent.

"(3) FUNDING.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account), for obligation at the discretion of the Secretary in carrying out this subsection $18,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.

"(4) APPLICABILITY OF OTHER PROVISIONS OF THIS CHAPTER.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to the apportionment formula and Federal share, shall apply to funds made available under paragraph (3), except as determined by the Secretary to be inconsistent with this subsection.".

AMENDMENT NO. 1340

At the end of subtitle A of title I, add the following:

SEC. 11 . NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.

Section 311 of title 23, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "Funds"; and

(2) by adding at the end the following:

"(b) NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.—

"(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or a portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for reconstruction of the highway or portion of highway.

"(2) FUNDING.—

"(A) IN GENERAL.—From funds made available to carry out this title that are associated with the Interstate System, the Secretary may make available to carry out this subsection not to exceed $16,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.".

AMENDMENT NO. 1341

On page 269, line 2, insert "(a) IN GENERAL.—" before "Section".

On page 278, between lines 14 and 15, insert the following:

(b) REDUNDANT METROPOLITAN TRANSPORTATION PLANNING REQUIREMENTS.—

(1) FINDING.—Congress finds that the major investment study requirements under section 450.318 of title 23, Code of Federal Regulations, are redundant to the planning and project development processes required under other titles 23 and 49, United States Code.

(2) STREAMLINING.—

(A) IN GENERAL.—The Secretary shall streamline the Federal transportation planning and NEPA decision process requirements for all transportation improvements supported with Federal surface transportation funds or requiring Federal approvals, with the objective of reducing the number of documents required and better integrating required analyses and findings wherever possible.

(C) REQUIREMENTS.—The Secretary shall amend regulations as appropriate and develop procedures to—

(i) eliminate, effective as of the date of enactment of this section, the major investment study under section 450.318 of title 23, Code of Federal Regulations, as a stand-alone requirement independent of other transportation planning requirements;

(ii) eliminate stand-alone report requirements wherever possible;

(iii) prevent duplication by integrating planning and transportation NEPA processes by drawing on the products of the planning process in the completion of all environmental and other project development analyses;

(iv) reduce project development time by achieving to the maximum extent practical a single public interest decision process for Federal environmental analyses and clearances; and

(v) expedite and support all phases of decisionmaking by encouraging and facilitating the early involvement of metropolitan planning organizations, State departments of transportation, transit operators, and Federal and State environmental resource and permit agencies throughout the decisionmaking process.

AMENDMENT NO. 1342

On page 191, line 12, strike the semicolon at the end and insert ", except that if the State has a higher Federal share payable under section 120(b) of title 23, United States Code, the State shall be required to contribute only an amount commensurate with the higher Federal share;".

AMENDMENT NO. 1343

On page 52, line 10, strike "reservations." and insert "reservations, and in the case of Indian reservation roads and transit facilities, to pay for the costs of maintenance of the Indian reservation roads and transit facilities.".

HATCH (AND BENNETT) AMENDMENT NO. 1344

(Ordered to lie on the table.)

Mr. HATCH (for himself and Mr. BENNETT) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

On page 144, strike line 5 and insert the following: the'' and inserting ''The''.

SEC. 1206A. WAIVER FOR HIGH-ALTITUDE, EXTERNAL-LOAD HOIST RESCUES.

The Secretary, acting through the Administrator of the Federal Aviation Administration, shall waive any regulation of the Federal Aviation Administration that prohibits the use of an Agusta A 109K2 helicopter by an entity that is not a public service agency (as that term is defined by the Administrator) to execute a high-altitude, external-load rescue with such a helicopter if the Secretary, acting through the Administrator, determines that the entity—

(1) has sufficient expertise to execute such a rescue; and

(2) is implementing sufficient safety measures.

BENNETT AMENDMENTS NOS. 1345–1346

(Ordered to lie on the table.)

Mr. BENNETT submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1345

At the end of subtitle A of title I, add the following:

SEC. 11 . TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.

(a) PURPOSE.—The purpose of this section is to authorize the provision of assistance for, and support of, State and local efforts concerning surface transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement by hosting international quadrennial Olympic events in the United States.

(b) PRIORITY FOR TRANSPORTATION PROJECTS RELATING TO OLYMPIC EVENTS.—Notwithstanding any other provision of law, from funds available to carry out section 104(k) of title 23, United States Code, the Secretary may give priority to funding for a transportation project relating to an international quadrennial Olympic event if—

(1) the project meets the extraordinary needs associated with an international quadrennial Olympic event; and

(2) the project is otherwise eligible for assistance under section 104(k) of that title.

(c) TRANSPORTATION PLANNING ACTIVITIES.—The Secretary may participate in—

(1) planning activities of States and metropolitan planning organizations and transportation projects relating to an international quadrennial Olympic event under sections 134 and 135 of title 23, United States Code; and

(2) developing intermodal transportation plans necessary for the projects in coordination with State and local transportation agencies.

(d) USE OF ADMINISTRATIVE EXPENSES.—From funds deducted under section 104(a) of title 23, United States Code, the Secretary may provide assistance for the development of an Olympics transportation management plan in cooperation with an Olympic Organizing Committee responsible for hosting, and State and local communities affected by, an international quadrennial Olympic event.

(e) TRANSPORTATION PROJECTS RELATING TO OLYMPIC EVENTS.—

(1) IN GENERAL.—The Secretary may provide assistance, including planning, capital, and operating assistance, to States and local governments in carrying out transportation projects relating to an international quadrennial Olympic event.

(2) FEDERAL SHARE.—The Federal share of the cost of a project assisted under this subsection shall not exceed 80 percent.

(f) ELIGIBLE GOVERNMENTS.—A State or local government shall be eligible to receive assistance under this section only if the government is hosting a venue that is part of an international quadrennial Olympics that is officially selected by the International Olympic Committee.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such suns as are necessary for each of fiscal years 1998 through 2003.

AMENDMENT NO. 1346

At the appropriate place, insert the following:

SEC. . TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.

(A) PURPOSE.—The purpose of this section is to provide assistance and support to State and local efforts on surface and aviation-related transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement by hosting international quadrennial Olympic events in the United States.

(b) PRIORITY FOR TRANSPORTATION PROJECTS RELATED TO OLYMPIC EVENTS.—Notwithstanding any other provision of law, the Secretary of Transportation shall give priority to funding for a mass transportation project related to an Olympic event from the Mass Transit Account of the Highway Trust Fund available to carry out 1 or more of sections 5307, 5309, and 5326 of title 49, United States Code, if the project meets the extraordinary needs associated with an international quadrennial Olympic event and if the project is otherwise eligible for assistance under the section at issue. For purposes of determining the non-Federal share of a project funded under this subsection, highway and transit projects shall be considered to be a program of projects.

(c) TRANSPORTATION PLANNING ACTIVITIES.—The Secretary may participate in planning activities of States and Metropolitan planning organizations and sponsors of transportation projects related to an international quadrennial Olympic event under sections 5303 and 5305a of title 49, United States Code, and in developing intermodal transportation plans necessary for such projects in coordination with State and local transportation agencies.

(d) USE OF ADMINISTRATIVE EXPENSES.—The Secretary may provide assistance from funds deducted under section 104(a) of title 23, United States Code, for the development of an Olympics transportation management plan in cooperation with an Olympic Organizing Committee responsible for hosting, and State and local communities affected by, an international quadrennial Olympic event.

(e) TRANSPORTATION PROJECTS RELATED TO OLYMPIC EVENTS.—

(1) GENERAL AUTHORITY.—The Secretary may provide assistance to States and local governments in carrying out transportation projects related to an international quadrennial Olympic event. Such assistance may include planning, capital, and operating assistance.

(2) FEDERAL SHARE.—The Federal share of the costs of projects assisted under this subsection shall not exceed 80 percent. For purposes of determining the non-Federal share of a project assisted under this subsection, highway and transit projects shall be considered to be a program of projects.

(f) ELIGIBLE GOVERNMENTS.—A State or local government is eligible to receive assistance under this section only if it is housing a venue that is part of an international quadrennial Olympics that is officially selected by the International Olympic Committee.

(g) AIRPORT DEVELOPMENT PROJECTS.—

(1) AIRPORT DEVELOPMENT DEFINED.—Section 47102(3) of title 49, United States Code, is amended by adding at the end the following:

''(H) Developing, in coordination with State and local transportation agencies, intermodal transportation plans necessary for Olympic-related projects at an airport.''.

(2) DISCRETIONARY GRANTS.—Section 47115(d) of title 49, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the need for the project in order to meet the unique demands of hosting international quadrennial Olympic events.''.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1998 through 2003.

THOMAS AMENDMENTS NOS. 1347–1350

(Ordered to lie on the table.)

Mr. THOMAS submitted four amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1347

At the appropriate place, insert the following:

SEC. . MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

Section 5338 of title 49, United States Code, is amended by adding at the end the following:

''(o) MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

''(1) SET-ASIDE REQUIRED.—For each fiscal year beginning after September 30, 1997, after providing for any allocation or set-asides under subsection (g) or (h), but before completing distribution of other amounts made available or appropriated under subsections (a) and (b), the Secretary shall set aside, and shall make available to each State, in addition to amounts otherwise made available to the State (or to its political subdivisions) to carry out sections 5307, 5309, 5310, and 5311, the amount calculated under paragraph (2)(B).

''(2) CALCULATION.—

''(A) DEFINITION OF MINIMUM GUARANTEE THRESHOLD AMOUNT.—In this subsection, the term 'minimum guarantee threshold amount' means, with respect to a State for a fiscal year, the amount equal to the product of—

''(i) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311 for that fiscal year; multiplied by

''(ii) 70 percent of the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account

under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

"(B) CALCULATION.—Subject to subparagraph (C) and any other limitations set forth in this subsection, the amount required to be provided to a State under this subsection is the amount, if it is a positive number, that, if added to the total amount made available to the State (and its political subdivisions) under sections 5307, 5309, 5310, and 5311 for that fiscal year, is equal to the minimum guarantee threshold amount.

"(C) LIMITATION.—The maximum amount made available to a State under this subsection shall not exceed $12,500,000.

"(3) SOURCE OF FUNDS.—

"(A) IN GENERAL.—Amounts required to be set aside and made available to States under this subsection—

"(i) may be obtained from any amounts under section 5309 that are made available to the Secretary for distribution at the Secretary's discretion; or

"(ii) if not, shall be obtained by proportionately reducing amounts which would otherwise be made available under subsections (a) and (b), for sections 5307, 5309, 5310, and 5311, to those States and political subdivisions for which the amount made available under sections 5307, 5309, 5310, and 5311 to the State (including political subdivisions thereof) is greater than the product of—

"(I) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311, in that fiscal year; multiplied by

"(II) the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

"(B) PROPORTIONATE REDUCTIONS.—The Secretary also shall apply reductions under subparagraph (A)(ii) proportionately to amounts made available from the Mass Transit Account and to amounts made available from other sources.

"(C) OTHER REDUCTIONS.—

"(i) IN GENERAL.—Reductions otherwise required by subparagraph (A) may be taken against the amounts that otherwise would be made available to any State or political subdivision thereof, only to the extent that making those reductions would not reduce the total amount made available to the State and its political subdivisions under sections 5307, 5309, 5310, and 5311 to less than the lesser of—

"(I) 90 percent of the total of those amounts made available to the State and its political subdivisions in fiscal year 1997; or

"(II) the minimum guarantee threshold amount for the State for the fiscal year at issue.

"(ii) PROPORTIONATE REDUCTIONS.—In the event of the applicability of clause (i), the Secretary shall obtain the remainder of the amounts required to be made available to States under the minimum guarantee required by this subsection proportionately from those States, including political subdivisions, to which subparagraph (A) applies, and to which clause (i) of this subparagraph does not apply.

"(4) ATTRIBUTION OF AMOUNTS.—For the purposes of calculations under this subsection, with respect to attributing to individual States any amounts made available to political subdivisions that are multi-State entities, the Secretary shall attribute those amounts to individual States, based on such criteria as the Secretary may adopt by rule, except that, for purposes of calculations for fiscal year 1998 only, the Secretary may attribute those amounts to individual States before adopting a rule.

"(5) USE OF ADDITIONAL AMOUNTS.—Amounts made available to a State under this subsection may be used for any purpose eligible for assistance under this chapter and up to 50 percent of the amount made available to a State under this subsection for any fiscal year may be used by the State for any project or program eligible for assistance under title 23.

"(6) TREATMENT OF CERTAIN AMOUNTS.—For purposes of sections 5323(a)(1)(D) and 5333(b), amounts made available to a State under this subsection that are, in turn, awarded by the State to subgrantees, shall be treated as if apportioned—

"(A) under section 5311, if the subgrantee is not serving an urbanized area; and

"(B) directly to the subgrantee under section 5307, if the subgrantee serves an urbanized area.".

AMENDMENT NO. 1348

Strike Section 1125 of the Committee Amendment and insert in lieu thereof the following new section:

SEC. 1125. AMENDMENT TO 23 U.S.C. § 302.

Section 302 of Title 23 United States Code is amended to read:

§ 302. State highway department

(a) Any State desiring to avail itself of the provisions of this title shall have a State highway department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. Among other things, the organization shall include a secondary road unit. In meeting the provisions of this subsection, a State shall rely on entities in the private enterprise system—including but not limited to commercial firms in architecture, engineering, construction, surveying, mapping, laboratory testing, and information technology—to provide such goods and services as are reasonably and expeditiously available through ordinary business channels, and shall not duplicate or compete with entities in the private enterprise system.

(b) The Secretary shall promulgate regulations and procedures to inform each State and any other agency that administers this Act and each recipient of a grant or other Federal assistance of the requirements of subsection (a).

(c) The State highway department may arrange with a county or group of counties for competent highway engineering personnel suitably organized and equipped to the satisfaction of the State highway department, to perform inherently governmental functions on a county-unit or group-unit basis, for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof.

AMENDMENT NO. 1349

At the appropriate place in the amendment, insert the following new section and renumber any remaining sections accordingly:

"SEC. . WASTE TIRE RECYCLING RESEARCH PROGRAM.

(a) RESEARCH GRANTS AND CONTRACTS.—The Administrator may use funds to make a grant or enter into a contract or cooperative agreement with a person to conduct research and development on—

(1) waste tire/waste oil processing and recycling technologies; or

(2) the use, performance, and marketability of products made from carbonous materials and oil products produced from waste tire processing.

(b) RESEARCH PROGRAM.—The Administrator shall conduct a program of research to determine—

(1) the public health and environmental risks associated with the production and use of asphalt pavement containing tire-derived carbonous asphalt modifiers;

(2) the performance of asphalt pavement containing tire-derived carbonous asphalt modifiers under various climate and use conditions; and

(3) the degree to which asphalt pavement containing tire-derived carbonous asphalt modifiers can be recycled.

(c) DATE OF COMPLETION.—The Administrator shall complete the research program under subsection (b) of this section not later than 3 years after the enactment of this Act.

AMENDMENT NO. 1350

On page 54, between lines 2 and 3, insert the following:

(d) ADDITIONAL FUNDING FOR PARK ROADS AND PARKWAYS.—

(1) IN GENERAL.—Section 202(c) of title 23, United States Code, is amended—

(A) by striking "(c) On" and inserting the following:

"(c) PARK ROADS AND PARKWAYS.—

"(1) IN GENERAL.—On";

(B) in paragraph (1) (as so designated), by inserting ", and the amount set aside under paragraph (2)," after "appropriated"; and

(C) by adding at the end the following:

"(2) SET-ASIDE.—For each of fiscal years 1998 through 2003, the Secretary shall set aside from funds deducted under 104(a) $50,000,000 for allocation in accordance with paragraph (1).".

(2) CONFORMING AMENDMENT.—Section 104(b) of title 23, United States Code (as amended by section 1102(a)), is amended in the matter preceding paragraph (1) by inserting "and section 202(c)(2)" after "(f)".

HUTCHISON AMENDMENTS NO. 1351–1354

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted four amendments intended to be proposed by her to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1351

On page 99, strike lines 22 through 25 and insert the following:

"programs;

"(J) other factors to promote transport efficiency and safety, as determined by the Secretary; and

"(K) the ratio that the annual tonnage of commercial vehicle traffic at the border stations or ports of entry in each State bears to the annual tonnage of commercial vehicle traffic at the border stations or ports of entry of all States."

AMENDMENT NO. 1352

On page 397, strike line 16 and insert the following:

"scribed in section 529.

"(3) CONTINUANCE OF PARTNERSHIP AGREEMENT.—Under the program, the Secretary shall continue in effect, at a funding level of $1,300,000 for each of fiscal years 1998, 1998, and 2000, a public-private, multimodal partnership agreement entered into by the Secretary before the date of enactment of this

chapter providing for the integration of the freeway arterial, transit, railroad, and emergency management components of surface transportation management system.''

AMENDMENT NO. 1353

On page 302, strike line 5 and insert the following:

(g) TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES.—Section 129(a)(3) of title 23, United States Code, is amended—

(1) by striking ''Before the Secretary'' and inserting the following:

''(A) IN GENERAL.—Before the Secretary'';

(2) by striking ''If the State'' and inserting the following:

''(B) Exceptions.—

''(i) IN GENERAL.—If the State''; and

(3) by adding at the end the following:

''(ii) TOLL FACILITIES FINANCED BY LOANS.—In the case of a toll facility owned and operated by a local government that is financed by a loan to the local government under paragraph (7), if the local government certifies annually that the tolled facility is being adequately maintained, the limitations on the use of any toll revenues under subparagraph (A) shall not apply.''.

(h) RAILWAY-HIGHWAY CROSSINGS.—Section 130(f)

AMENDMENT NO. 1354

At the end of the bill, add the following:

TITLE —AMTRAK REFORM AND ACCOUNTABILITY

SEC. 01. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This title may be cited as the ''Amtrak Reform and Accountability Act of 1997''.

(b) TABLE OF SECTIONS.—The table of sections for this title is as follows:

Sec. 01. Short title; table of sections.
Sec. 02. Findings.

Subtitle A—Reforms

PART 1—OPERATIONAL REFORMS

Sec. 101. Basic system.
Sec. 102. Mail, express, and auto-ferry transportation.
Sec. 103. Route and service criteria.
Sec. 104. Additional qualifying routes.
Sec. 105. Transportation requested by States, authorities, and other persons.
Sec. 106. Amtrak commuter.
Sec. 107. Through service in conjunction with intercity bus operations.
Sec. 108. Rail and motor carrier passenger service.
Sec. 109. Passenger choice.
Sec. 110. Application of certain laws.

PART 2—PROCUREMENT.

Sec. 121. Contracting out.

PART 3—Employee Protection Reforms

Sec. 141. Railway Labor Act Procedures.
Sec. 142. Service discontinuance.

PART 4—USE OF RAILROAD FACILITIES

Sec. 161. Liability limitation.
Sec. 162. Retention of facilities.

Subtitle B—Fiscal Accountability

Sec. 201. Amtrak financial goals.
Sec. 202. Independent assessment.
Sec. 203. Amtrak Reform Council.
Sec. 204. Sunset trigger.
Sec. 205. Access to records and accounts.
Sec. 206. Officers' pay.
Sec. 207. Exemption from taxes.

Subtitle C—Authorization of Appropriations

Sec. 301. Authorization of appropriations.

Subtitle D—Miscellaneous

Sec. 401. Status and applicable laws.
Sec. 402. Waste disposal.
Sec. 403. Assistance for upgrading facilities.
Sec. 404. Demonstration of new technology.
Sec. 405. Program master plan for Boston-New York main line.
Sec. 406. Americans with Disabilities Act of 1990.
Sec. 407. Definitions.
Sec. 408. Northeast Corridor cost dispute.
Sec. 409. Inspector General Act of 1978 amendment.
Sec. 410. Interstate rail compacts.
Sec. 411. Composition of Amtrak board of directors.
Sec. 412. Educational participation.
Sec. 413. Report to Congress on Amtrak bankruptcy.
Sec. 414. Amtrak to notify Congress of lobbying relationships.

SEC. 02. FINDINGS.

The Congress finds that—

(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

(3) immediate action is required to improve Amtrak's financial condition if Amtrak is to survive;

(4) all of Amtrak's stakeholders, including labor, management, and the Federal government, must participate in efforts to reduce Amtrak's costs and increase its revenues;

(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies;

(10) Amtrak's Strategic Business Plan calls for the establishment of a dedicated source of capital funding for Amtrak in order to ensure that Amtrak will be able to fulfill the goals of maintaining—

(A) a national passenger rail system; and

(B) that system without Federal operating assistance; and

(11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.

SUBTITLE A—REFORMS

SUBTITLE A—OPERATIONAL REFORMS

SEC. 101. BASIC SYSTEM.

(a) OPERATION OF BASIC SYSTEM.—Section 24701 of title 49, United States Code, is amended to read as follows:

''§ 24701. Operation of basic system

''Amtrak shall provide intercity rail passenger transportation within the basic system. Amtrak shall strive to operate as a national rail passenger transportation system which provides access to all areas of the country and ties together existing and emergent regional rail passenger corridors and other intermodal passenger service.''.

(b) IMPROVING RAIL PASSENGER TRANSPORTATION.—Section 24702 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(c) DISCONTINUANCE.—Section 24706 of title 49, United States Code, is amended—

(1) by striking ''90 days'' and inserting ''180 days'' in subsection (a)(1);

(2) by striking ''24707(a) or (b) of this title,'' in subsection (a)(1) and inserting ''discontinuing service over a route,'';

(3) by inserting ''or assume'' after ''agree to share'' in subsection (a)(1); and

(4) by striking ''section 24707(a) or (b) of this title'' in subsections (a)(2) and (b)(1) and inserting ''paragraph (1)''.

(d) COST AND PERFORMANCE REVIEW.—Section 24707 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(e) SPECIAL COMMUTER TRANSPORTATION.—Section 24708 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(f) CONFORMING AMENDMENT.—Section 24312(a)(1) of title 49, United States Code, is amended by striking '', 24701(a),''.

SEC. 102. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.

(a) REPEAL.—Section 24306 of title 49, United States Code, is amended—

(1) by striking the last sentence of subsection (a);

(2) by striking subsection (b) and inserting the following:

''(b) AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.—State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.''.

SEC. 103. ROUTE AND SERVICE CRITERIA.

Section 24703 of title 49, United State Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 104. ADDITIONAL QUALIFYING ROUTES.

Section 24705 of title 49, United State Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 105. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.

Section 24101(c)(2) of title 49, United States Code, is amended by inserting '', separately or in combination,'' after ''and the private sector''.

SEC. 106. AMTRAK COMMUTER.

(a) REPEAL OF CHAPTER 245.—Chapter 245 of title 49, United States Code, and the item relating thereto in the table of chapters of subtitle V of such title, are repealed.

(B) CONFORMING AMENDMENT.—Section 24301(f) of title 49, United States Code, is amended to read as follows:

''(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt,

effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.".

(c) TRACKAGE RIGHTS NOT AFFECTED.—The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.

SEC. 107. THROUGH SERVICE IN CONJUNCTION WITH INTERCITY BUS OPERATIONS.

(a) IN GENERAL.—Section 24305(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

"(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 13902(b)(8)(A) of this title, other than a recipient of funds under section 5311 of this title;

"(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

"(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

"(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.".

(b) POLICY STATEMENT.—Section 24305(d) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in section 11342(a) of this title for the purpose of providing improved service to the public and economy of operation.".

SEC. 108. RAIL AND MOTOR CARRIER PASSENGER SERVICE.

(a) IN GENERAL.—Notwithstanding any other provision of law (other than section 24305(a) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

(b) REVIEW.—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest.

SEC. 109. PASSENGER CHOICE.

Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.

SEC. 110. APPLICATION OF CERTAIN LAWS.

(a) APPLICATION OF FOIA.—Section 24301(e) of title 49, United States Code, is amended by adding at the end thereof the following: "Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.".

(b) APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 303B(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 3253b(m)) applies to a proposal in the possession or control of Amtrak.

SUBTITLE B—PROCUREMENT

SEC. 121. CONTRACTING OUT.

(a) CONTRACTING OUT REFORM.—Effective 180 days after the date of enactment of this Act, section 24312 of title 49, United States Code, is amended—

(1) by striking the paragraph designation for paragraph (1) of subsection (a);

(2) by striking "(2)" in subsection (a)(2) and inserting "(b)"; and

(3) by striking subsection (b).

The amendment made by paragraph (3) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.

(b) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to contracting out by Amtrak of work normally performed by an employee in a bargaining unit covered by a contract between Amtrak and a labor organization representing Amtrak employees, which are applicable to employees of Amtrak shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice. This subsection shall not apply to issues relating to provisions defining the scope or classification of work performed by an Amtrak employee. The issue for negotiation under this paragraph does not include the contracting out of work involving food and beverage services provided on Amtrak trains or the contracting out of work not resulting in the layoff of Amtrak employees.

(c) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (d), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (b), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(d) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (b) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(e) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (b) which—

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (d),

Amtrak shall, and the labor organizations that are parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection of the individual under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 141(d) of this Act.

(3) This compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (b) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (b) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (b).

(f) NO PRECEDENT FOR FREIGHT.—Nothing in this section shall be a precedent for the resolution of any dispute between a freight railroad and any labor organization representing that railroad's employees.

SUBTITLE C—EMPLOYEE PROTECTION REFORMS

SEC. 141. RAILWAY LABOR ACT PROCEDURES.

(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(c) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(d) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (a) which

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (c), Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of

the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 121(e) of this Act.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

SEC. 142. SERVICE DISCONTINUANCE.

(a) REPEAL.—Section 24706(c) of title 49, United States Code, is repealed.

(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished, including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

(c) SPECIAL EFFECTIVE DATE.—Subsections (a) and (b) of this section shall take effect 180 days after the date of the enactment of this Act.

(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.

SUBTITLE D—USE OF RAILROAD FACILITIES

SEC. 161. LIABILITY LIMITATION.

(a) AMENDMENT.—Chapter 281 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 28103. Limitations on rail passenger transportation liability

"(a) LIMITATIONS.—

"(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, a contract between Amtrak and its passengers or private railroad car operators and their passengers regarding claims for personal injury, death, or damage to property arising from or in connection with the provision of rail passenger transportation, or from or in connection with any operations over or use of right-of-way or facilities owned, leased, or maintained by Amtrak, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier shall be enforceable if—

"(A) punitive or exemplary damages, where permitted, are not limited to less than 2 times compensatory damages awarded to any claimant by any State or Federal court or administrative agency, or in any arbitration proceeding, or in any other forum or $250,000, whichever is greater; and

"(B) passengers are provided adequate notice of any such contractual limitation or waiver or choice of forum.

"(2) For purposes of this subsection, the term 'claim' means a claim made directly or indirectly—

"(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier or private rail car operators; or

"(B) against an affiliate engaged in railroad operations, officer, employee, or agent of, Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier.

"(3) Notwithstanding paragraph (1)(A), in any case in which death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, a claimant may recover in a claim limited by this subsection for actual or compensatory damages measured by the pecuniary injuries, resulting from such death, to the persons for whose benefit the action was brought, subject to the provisions of paragraph (1).

"(b) INDEMNIFICATION OBLIGATION.—Obligations of any party, however arising, including obligations arising under leases or contracts or pursuant to orders of an administrative agency, to indemnify against damages or liability for personal injury, death, or damage to property described in subsection (a), incurred after the date of the enactment of the Amtrak Reform and Accountability Act of 1997, shall be enforceable, notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to the damages or liability.".

(e) CONFORMING AMENDMENT.—The table of sections of chapter 281 of title 49, United States Code, is amended by adding at the end the following new item:

"28103. Limitations on rail passenger transportation liability.".

SEC. 162. RETENTION OF FACILITIES.

Section 24309(b) of title 49, United States Code, is amended by inserting "or on January 1, 1997," after "1979,".

SUBTITLE B—FISCAL ACCOUNTABILITY

SEC. 201. AMTRAK FINANCIAL GOALS.

Section 24101(d) of title 49, United States Code, is amended by adding at the end thereof the following: "Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.".

SEC. 202. INDEPENDENT ASSESSMENT.

(a) INITIATION.—Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak and of the Department of Transportation to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements. The Department of Transportation, Office of Inspector General, shall approve the entity's statement of work and the award and shall oversee the contract. In carrying out its responsibilities under the preceding sentence, the Inspector General's Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment conducted under this subsection meets the requirements of this section.

(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described above, using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak's funding needs.

(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak's—

(1) cost allocation process and procedures;

(2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

(3) Strategic Business Plan, including Amtrak's projected expenses, capital needs, ridership, and revenue forecasts; and

(4) Amtrak's assets and liabilities.

For purposes of paragraph (3), in the capital needs part of its Strategic Business Plan Amtrak shall distinguish between that portion of the capital required for the Northeast corridor and that required outside the Northeast corridor, and shall include rolling stock requirements, including capital leases, "state of good repair" requirements, and infrastructure improvements.

(d) DEADLINE.—The independent assessment shall be completed not later than 180 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

SEC. 203. AMTRAK REFORM COUNCIL.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 11 members, as follows:

(A) The Secretary of Transportation.

(B) Two individuals appointed by the President, of which—

(i) one shall be a representative of a rail labor organization; and

(ii) one shall be a representative of rail management.

(C) Three individuals appointed by the Majority Leader of the United States Senate.

(D) One individual appointed by the Minority Leader of the United States Senate.

(E) Three individuals appointed by the Speaker of the United States House of Representatives.

(F) One individual appointed by the Minority Leader of the United States House of Representatives.

(2) APPOINTMENT CRITERIA.—

(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act.

(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

(i) may not be employees of the United States;

(ii) may not be board members or employees of Amtrak;

(iii) may not be representatives of rail labor organizations or rail management; and

(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual's predecessor was appointed.

(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

(B) 45 days after the date of enactment of this Act.

(4) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(e) MEETINGS.—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a trade secret or commercial or financial information that is privileged or confidential.

(g) DUTIES.—

(1) EVALUATION AND RECOMMENDATION.—The Council—

(A) shall evaluate Amtrak's performance; and

(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council take consider all relevant performance factors, including—

(A) Amtrak's operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;

(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

(h) ANNUAL REPORT.—Each year before the fifth anniversary of the date of enactment of this Act, the Council shall submit to the Congress a report that includes an assessment of Amtrak's progress on the resolution or status of productivity issues; and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

SEC. 204. SUNSET TRIGGER.

(a) IN GENERAL.—If at any time more than 2 years after the date of enactment of this Act and implementation of the financial plan referred to in section 201 of Amtrak Reform Council finds that—

(1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 201; or

(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act, then

the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate; and the Committee on Transportation and Infrastructure of the United States House of Representatives.

(b) FACTORS CONSIDERED.—In making a finding under subsection (a), the Council shall take into account—

(1) Amtrak's performance;

(2) the findings of the independent assessment conducted under section 202;

(3) the level of Federal funds made available for carrying out the financial plan referred to in section 201; and

(4) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

(c) ACTION PLAN.—

(1) DEVELOPMENT OF PLANS.—Within 90 days after the Council makes a finding under subsection (a)—

(A) it shall develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system; and

(B) Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness.

(2) CONGRESSIONAL ACTION OR INACTION.—If within 90 days after receiving the plans submitted under paragraph (1), an Act to implement a restructured and rationalized intercity rail passenger system does not become law, then Amtrak shall implement the liquidation plan developed under paragraph (1)(B) after such modification as may be required to reflect the recommendations, if any, of the Inspector General of the Department of Transportation and the General Accounting Office.

SEC. 205. ACCESS TO RECORDS AND ACCOUNTS.

Section 24315 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.".

SEC. 206. OFFICERS' PAY.

Section 24303(b) of title 49, United States Code, is amended by adding at the end the following: "The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.".

SEC. 207. EXEMPTION FROM TAXES.

(a) IN GENERAL.—Subsection (l) of section 24301 of title 49, United States Code, is amended—

(1) by striking so much of paragraph (1) as precedes "exempt" and inserting the following:

"(1) IN GENERAL.—Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are";

(2) by striking "tax or fee imposed" in paragraph (1) and all that follows through "levied on it" and inserting "tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom";

(3) by striking the last sentence of paragraph (1);

(4) by striking "(2) The" in paragraph (2) and inserting "(3) JURISDICTION OF UNITED STATES DISTRICT COURTS.—The"; and

(5) by inserting after paragraph (1) the following:

"(2) PHASE-IN OF EXEMPTION FOR CERTAIN EXISTING TAXES AND FEES.—

"(A) YEARS BEFORE 2000.—Notwithstanding paragraph (1), Amtrak is exempt from a tax or fee referred to in paragraph (1) that Amtrak was required to pay as of September 10, 1982, during calendar years 1997 through 1999, only to the extent specified in the following table:

PHASE-IN OF EXEMPTION

Year of assessment	*Percentage of exemption*
1997	40
1998	60
1999	80
2000 and later years	100

"(B) TAXES ASSESSED AFTER MARCH, 1999.—Amtrak shall be exempt from any tax or fee referred to in subparagraph (A) that is assessed on or after April 1, 1999.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) do not apply to sales taxes imposed on intrastate travel as of the date of enactment of this Act.

SUBTITLE C—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 24104(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation—

"(1) $1,138,000,000 for fiscal year 1998;

"(2) $1,058,000,000 for fiscal year 1999;

"(3) $1,023,000,000 for fiscal year 2000;

"(4) $989,000,000 for fiscal year 2001; and

"(5) $955,000,000 for fiscal year 2002, for the benefit of Amtrak for capital expenditures under chapters 243 and 247 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.".

SUBTITLE D—MISCELLANEOUS

SEC. 401. STATUS AND APPLICABLE LAWS.

Section 24301 of title 49, United States Code, is amended—

(1) by striking "rail carrier under section 10102" in subsection (a)(1) and inserting "railroad carrier under section 20102(2) and chapters 261 and 281"; and

(2) by amending subsection (c) to read as follows:

"(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11301, 11322(a), 11502 (a) and (d), and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.".

SEC. 402. WASTE DISPOSAL.

Section 24301(m)(1)(A) of title 49, United States Code, is amended by striking "1996" and inserting "2001".

SEC. 403. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

SEC. 404. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 of title 49, United States Code, and the item relating thereto in the table of sections for chapter 243 of that title, are repealed.

SEC. 405. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK MAIN LINE.

(a) REPEAL.—Section 24903 of title 49, United States Code, is repealed and the table of sections for chapter 249 of such title is amended by striking the item relating to that section.

(b) CONFORMING AMENDMENTS.—

(1) Section 24902 of title 49, United States Code is amended by striking subsections (a), (c), and (d) and redesignating subsection (b) as subsection (a) and subsections (e) through (m) as subsections (b) through (j), respectively.

(2) Section 24904(a)(8) is amended by striking "the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2)" and inserting "a high-speed rail passenger transportation area".

SEC. 406. AMERICANS WITH DISABILITIES ACT OF 1990.

(a) APPLICATION TO AMTRAK.—

(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements at any station jointly used by Amtrak and a commuter authority.

(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998.

(b) CONFORMING AMENDMENT.—Section 24307 of title 49, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 407. DEFINITIONS.

Section 24102 of title 49, United States Code, is amended—

(1) by striking paragraphs (2) and (11);

(2) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively; and

(3) by inserting ", including a unit of State or local government," after "means a person" in paragraph (7), as so redesignated.

SEC. 408. NORTHEAST CORRIDOR COST DISPUTE.

Section 1163 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111) is repealed.

SEC. 409. INSPECTOR GENERAL ACT OF 1978 AMENDMENT

(a) AMENDMENT.—

(1) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "Amtrak,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect in the first fiscal year for which Amtrak receives no Federal subsidy.

(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978. The proceeding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy.

(c) FEDERAL SUBSIDY.—

(1) ASSESSMENT.—In any fiscal year for which Amtrak requests Federal assistance, the Inspector General of the Department of Transportation shall review Amtrak's operations and conduct an assessment similar to the assessment required by section 202(a). The Inspector General shall report the results of the review and assessment to—

(A) the President of Amtrak;

(B) the Secretary of Transportation;

(C) the United States Senate Committee on Appropriations;

(D) the United States Senate Committee on Commerce, Science, and Transportation;

(E) the United States House of Representatives Committee on Appropriations;

(F) the United States House of Representatives Committee on Transportation and Infrastructure.

(2) REPORT.—The report shall be submitted, to the extent practicable, before any such committee reports legislation authorizing or appropriating funds for Amtrak for capital acquisition, development, or operating expenses.

(3) SPECIAL EFFECTIVE DATE.—This subsection takes effect 1 year after the date of enactment of this Act.

SEC. 410. INTERSTATE RAIL COMPACTS.

(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(1) retaining an existing service or commencing a new service;

(2) assembling rights-of-way; and

(3) performing capital improvements, including—

(A) the construction and rehabilitation of maintenance facilities;

(B) the purchase of locomotives; and

(C) operational improvements, including communications, signals, and other systems.

(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(3) on such terms and conditions as the States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law.

(c) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code, is amended by striking "and publicly owned intracity or intercity bus terminals and facilities." in paragraph (2) and inserting "facilities, including vehicles and facilities, publicly or privately owned, that are used to provide intercity passenger service by bus or rail, or a combination of both.".

(d) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking "standard." in paragraph (4) and inserting "standard; or"

(3) by inserting after paragraph (4) the following:

"(5) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.".

(e) ELIGIBILITY OF PASSENGER RAIL AS NATIONAL HIGHWAY SYSTEM PROJECT.—Section 103(i) of title 23, United States Code, is amended by adding at the end thereof the following:

"(14) Construction, reconstruction, and rehabilitation of, and operational improvements for, intercity rail passenger facilities (including facilities owned by the National Railroad Passenger Corporation), operation of intercity rail passenger trains, and acquisition or reconstruction of rolling stock for intercity rail passenger service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operation.".

SEC. 411. COMPOSITION OF AMTRAK BOARD OF DIRECTORS.

Section 24302(a) of title 49, United States Code, is amended—

(1) by striking "3" in paragraph (1)(C) and inserting "4";

(2) by striking clauses (i) and (ii) of paragraph (1)(C) and inserting the following:

"(i) one individual selected as a representative of rail labor in consultation with affected labor organizations.

"(ii) one chief executive officer of a State, and one chief executive officer of a municipality, selected from among the chief executive officers of State and municipalities with an interest in rail transportation, each of whom may select an individual to act as the officer's representative at board meetings.";

(4) by striking subparagraphs (D) and (E) of paragraph (1);

(5) by inserting after subparagraph (C) the following:

"(D) 3 individuals appointed by the President of the United States, as follows:

"(i) one individual selected as a representative of a commuter authority, (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) that provides its own commuter rail passenger transportation or makes a contract with an operator, in consultation with affected commuter authorities.

"(ii) one individual with technical expertise in finance and accounting principles.

"(iii) one individual selected as a representative of the general public."; and

(6) by striking paragraph (6) and inserting the following:

"(6) The Secretary may be represented at a meeting of the Board by his designate.".

The amendments made by this section shall not affect the term of any sitting director as of the date of enactment.

SEC. 412. EDUCATIONAL PARTICIPATION.

Amtrak shall participate in educational efforts with elementary and secondary schools to inform students on the advantages of rail travel and the need for rail safety.

SEC. 413. REPORT TO CONGRESS ON AMTRAK BANKRUPTCY.

Within 120 days after the date of enactment of this Act, the Comptroller General shall submit a report identifying financial and other issues associated with an Amtrak bankruptcy to the United States Senate Committee on Commerce, Science, and Transportation and to the United States House of Representatives Committee on Transportation and Infrastructure. The report shall include an analysis of the implications of such a bankruptcy on the Federal government, Amtrak's creditors, and the Railroad Retirement System.

SEC. 414. AMTRAK TO NOTIFY CONGRESS OF LOBBYING RELATIONSHIPS.

If, at any time, Amtrak enters into a consulting contract or similar arrangement, or a contract for lobbying, with a lobbying firm, an individual who is a lobbyist, or who is affiliated with a lobbying firm, as those terms are defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), Amtrak shall notify the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Transportation and Infrastructure of—

(1) the name of the individual or firm involved;

(2) the purpose of the contract or arrangement; and

(3) the amount and nature of Amtrak's financial obligation under the contract.

DEWINE AMENDMENTS NOS. 1355–1356

(Ordered to lie on the table.)

Mr. DEWINE submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1355

On page 236, strike line 16 and insert the following: subsection (a).

SEC. 1408. SCHOOL TRANSPORTATION SAFETY.

(a) STUDY.—Not later than 3 months after the date of enactment of this Act, the Secretary shall offer to enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct a study of the safety issues attendant to the transportation of school children to and from school and school-related activities by various transportation modes.

(b) TERMS OF AGREEMENT.—The agreement under subsection (a) shall provide that—

(1) the Transportation Research Board, in conducting the study, consider—

(A) in consultation with the National Transportation Safety Board, the Bureau of Transportation Statistics, and other relevant entities, available crash injury data;

(B) vehicle design and driver training requirements, routing, and operational factors that affect safety; and

(C) other factors that the Secretary considers to be appropriate;

(2) if the data referred to in paragraph (1)(A) is unavailable or insufficient, recommend a new data collection regiment and implementation guidelines; and

(3) a panel shall conduct the study and shall include—

(A) representatives of—

(i) highway safety organizations;

(ii) school transportation;

(iii) mass transportation operators; and

(iv) employee organizations;

(B) academic and policy analysts; and

(C) other interested parties.

(c) REPORT.—Not later than 12 months after the Secretary enters into an agreement under subsection (a), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains the results of the study.

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

(A) $200,000 for fiscal year 1998; and

(B) $200,000 for fiscal year 1999.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 1409. IMPROVED INTERSTATE SCHOOL BUS SAFETY.

(a) APPLICABILITY OF FEDERAL MOTOR CARRIER SAFETY REGULATORY TO INTERSTATE SCHOOL BUS OPERATIONS.—Section 31136 of title 49, United States Code, is amended by adding at the end of the following:

"(g) APPLICABILITY TO SCHOOL TRANSPORTATION OPERATIONS OF LOCAL EDUCATIONAL AGENCIES.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations that require that the relevant commercial motor vehicle safety standards issued under subsection (a) apply to all interstate school transportation operations conducted by local educational agencies (as that term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)).".

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes—

(1) the status of compliance by private for-hire motor carries and local educational agencies (as that term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in meeting the requirements of section 31136 of title 49, United States Code; and

(2) any activities carried out by the Secretary or 1 or more States to enforce the requirements referred to in paragraph (1).

AMENDMENT NO. 1356

Beginning on page 225, strike line 12 and all that follows through page 227, line 13, and insert the following:

"(5) REPEAT INTOXICATED DRIVER LAW.—The term 'repeat intoxicated driver law' means a State law that—

"(A) provides, as a minimum penalty, that an individual convicted of a second offense for driving while intoxicated or driving under the influence within 5 years after a conviction for that offense shall receive—

"(i)(I) a license suspension for not less than 1 year; or

"(II) a license restriction for not less than 1 year permitting the individual to drive only a vehicle that is equipped with a functioning ignition interlock device;

"(ii) an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

"(iii)(I) an assignment of 30 days of community service; or

"(II) 5 days of imprisonment; and

"(B) provides that each of the sanctions under subparagraph (A) shall be increased by 10 percent for each subsequent such offense within a 5-year period.

"(b) TRANSFER OF FUNDS.—

"(1) FISCAL YEARS 2001 AND 2002.—

"(A) IN GENERAL.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used—

"(i) for alcohol-impaired driving countermeasures; or

"(ii) for enforcement by State and local law enforcement agencies laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including use for purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures dedicated to enforcement of those laws.

"(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

"(i)) from the apportionment of the State under section 104(b)(1);

"(ii) from the apportionment of the State under section 104(b)(3); or

(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

"(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer 3 percent of the funds apportioned to the State on that date under each of paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used—

"(A) for alcohol-impaired driving countermeasures; or

"(B) for enforcement by State and local law enforcement agencies laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including use for the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures dedicated to enforcement of those laws.

MCCAIN AMENDMENTS NOS. 1357–1364

(Ordered to lie on the table.)

Mr. MCCAIN submitted eight amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1357

At the appropriate place, insert the following:

SEC. . HIGHWAY DEMONSTRATION PROJECTS.

(a) FINDINGS.—The Senate finds that—

(1) 10 demonstration projects totaling $362 million were listed for special line-item funding in the Surface Transportation Assistance Act of 1982;

(2) 152 demonstration projects totaling $1.4 billion were named in the Surface Transportation and Uniform Relocation Assistance Act of 1987;

(3) 64 percent of the funding for the 152 projects had not been obligated after 5 years

and State transportation officials determined the projects added little, if any, to meeting their transportation infrastructure priorities;

(4) 538 location specific projects totaling $6.23 billion were included in the Intermodal Surface Transportation Efficiency Act of 1991;

(5) more than $3.3 billion of the funds authorized for the 538 location specific-projects remained unobligated as of January 31, 1997;

(6) the General Accounting Office determined that 31 States plus the District of Columbia and Puerto Rico would have received more funding if the Intermodal Surface Transportation Efficiency Act location-specific project funds were redistributed as Federal-aid highway program apportionments;

(7) this type of project funding diverts Highway Trust Fund money away from State transportation priorities established under the formula allocation process and under the Intermodal Surface Transportation and Efficiency Act of 1991;

(8) on June 20, 1995, by a vote of 75 yeas to 21 nays, the Senate voted to prohibit the use of Federal Highway Trust Fund money for future demonstration projects;

(9) the Intermodal Surface Transportation and Efficiency Act of 1991 expires at the end of Fiscal Year 1997; and

(10) legislation is pending in the House of Representatives sets aside $4.3 billion in new mandatory spending for so-called "high priority" projects.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) notwithstanding different views one existing Highway Trust fund distribution formulas, funding for demonstration projects or other similarly titled projects diverts Highway Trust Fund money away from State priorities and deprives States of the ability to adequately address their transportation needs;

(2) State are best able to determine the priorities for allocating Federal-Aid-To-Highway monies within their jurisdiction;

(3) Congress should not divert limited Highway Trust Funds resources away from State transportation priorities by authorizing new highway projects; and

(4) Congress should not authorize any new demonstration projects, similarly-titled projects, or legislative discretionary projects.

AMENDMENT NO. 1358

On page 40, strike lines 1 through 16.

AMENDMENT NO. 1359

Notwithstanding any provision of law, authorizations and appropriations for demonstration projects shall lapse for any project for which funds have not been obligated within three years.

AMENDMENT NO. 1360

Notwithstanding any other provision of law, the Secretary shall limit obligations for demonstration projects, or any similarly titled high priority projects that are authorized or appropriated.

AMENDMENT NO. 1361

At the appropriate place, insert the following:

SEC. 105. PROTECTION OF CHILDREN FROM AIRBAG HARM.

(a) SUSPENSION OF UNBELTED BARRIER TESTING.—The provision in Federal Motor Vehicle Safety Standard No. 208 set forth at section 571.208 of the Department of Transportation Regulations (49 C.F.R. 571.208) requiring air bag-equipped vehicles to be crashed into a barrier using unbelted 50th percentile adult male dummies is hereby suspended.

(b) RULEMAKING TO PROTECT CHILDREN.—

(1) IN GENERAL.—Not later than June 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to amend and improve the occupant protection provided by Federal Motor Vehicle Safety Standard No. 208. The notice shall propose that air bags provide protection to individuals according to the following priorities:

(A) FIRST PRIORITY.—To minimize the risk of harm to children from air bags.

(B) SECOND PRIORITY.—To improve protection for belted occupants.

(C) THIRD PRIORITY.—To protect unbelted occupants to the extent reasonable and practicable, consistent with minimizing the risk to children.

(2) METHODS TO ENSURE PROTECTION.—Notwithstanding subsection (a), the notice required by paragraph (a) may include such static and dynamic tests as the Secretary determines to be reasonable, practicable, and appropriate to ensure the safety of children, especially those who are unbelted and out of position, as well as the safety of other vehicle occupants, consistent with the priorities set forth in paragraph (1).

(3) FINAL RULE.—The Secretary shall complete the rulemaking required by this subsection by issuing, not later than June 1, 1999, a final rule consistent with paragraphs (1) and (2) of this subsection. The Secretary may extend the period for issuing the final rule for not more than 6 months. If the Secretary extends that period, then the Secretary shall state the reasons for the extension in the notice of extension.

AMENDMENT NO. 1362

At the appropriate place, insert the following:

SEC. . AIRBAG DEPLOYMENT RULE-MAKING PROCEDURE.

The Secretary shall provide notice and an opportunity for public comment for establishing a threshold for the deployment on impact of a passive passenger restraint system in passenger motor vehicles.

AMENDMENT NO. 1363

At the appropriate place, insert the following:

SEC. . DOT TO DETERMINE ELIGIBILITY FOR AIRBAG SWITCH USE.

If the Secretary of Transportation, under any provision of law, permits the employment of a device or switch to activate or deactivate a passive passenger restraint system installed in passenger motor vehicles and establishes criteria for the determination of what individuals or classes of individuals are eligible to use that device or switch, then that determination shall be made by the Secretary.

AMENDMENT NO. 1364

At the end of the amendment, insert the following:

SECTION 1. SHORT TITLE; APPLICATION WITH PRECEDING PROVISIONS AND AMENDMENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intermodel Transportation Safety Act of 1997".

(b) APPLICATION.—The provisions of this Act appearing after this section, including any amendment made by any such provision, supersede any provision appearing before this section to the extent that the provisions or amendments appearing after this section conflict with and cannot be reconciled with the provisions (including amendments) appearing before this section. For purposes of this subsection, conflicts of enumeration or lettering of subdivisions of any provision of law amended by this Act, and conflicts of captions of any provision of law amended by this Act, shall be ignored.

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; application with preceding provisions of amendments.
Sec. 2. Amendment of title 49, United States Code.
Sec. 3. Table of contents.

Title I—Highway Safety

Sec. 101. Highway safety programs.
Sec. 102. National driver register.
Sec. 103. Authorizations of appropriations.
Sec. 104. Airbags.
Sec. 105. Protection of children from airbag harm.

Title II—Hazardous materials transportation reauthorization

Sec. 201. Findings and purposes; definitions.
Sec. 202. Handling criteria repeal.
Sec. 203. Hazmat employee training requirements.
Sec. 204. Registration.
Sec. 205. Shipping paper retention.
Sec. 206. Unsatisfactory safety rating.
Sec. 207. Public sector training curriculum.
Sec. 208. Planning and training grants.
Sec. 209. Special permits and exclusions.
Sec. 210. Administration.
Sec. 211. Cooperative agreements.
Sec. 212. Enforcement.
Sec. 213. Penalties.
Sec. 214. Preemption.
Sec. 215. Judicial review.
Sec. 216. Hazardous material transportation reauthorization.
Sec. 217. Authorization of appropriations.

Title III—Comprehensive One-call Notification

Sec. 301. Findings.
Sec. 302. Establishment of one-call notification programs.

Title IV—Motor Carrier Safety

Sec. 401. Statement of purpose.
Sec. 402. Grants to States.
Sec. 403. Federal share.
Sec. 404. Authorization of appropriations.
Sec. 405. Information systems and strategic safety initiatives.
Sec. 406. Improved flow of driver history pilot program.
Sec. 407. Motor carrier and driver safety research.
Sec. 408. Authorization of appropriations.
Sec. 409. Conforming amendments.
Sec. 410. Automobile transporter defined.
Sec. 411. Repeal of review panel; review procedure.
Sec. 412. Commercial motor vehicle operators.
Sec. 413. Penalties.

Sec. 414. International registration plan and international fuel tax agreement.
Sec. 415. Study of adequacy of parking facilities.
Sec. 416. National minimum drinking age—technical corrections.
Sec. 417. Application of regulations.
Sec. 418. Authority over charter bus transportation.
Sec. 419. Federal motor carrier safety investigations.
Sec. 420. Foreign motor carrier safety fitness.
Sec. 421. Commercial motor vehicle safety advisory committee.
Sec. 422. Waivers; exemptions; pilot programs.
Sec. 423. Commercial motor vehicle safety studies.
Sec. 424. Increased MCSAP participation impact study.

Title V—Rail and Mass Transportation Anti-terrorism; Safety

Sec. 501. Purpose.
Sec. 502. Amendment to the "wrecking trains" statute.
Sec. 503. Terrorist attacks against mass transportation.
Sec. 504. Investigative jurisdiction.
Sec. 505. Safety considerations in grants or loans to commuter railroads.
Sec. 506. Railroad accident and incident reporting.
Sec. 507. Vehicle weight limitations—mass transportation buses.

Title—VI Sportfishing and Boating Safety

Sec. 601. Amendment of 1950 Act.
Sec. 602. Outreach and communications programs.
Sec. 603. Clean Vessel Act funding.
Sec. 604. Boating infrastructure.
Sec. 605. Boat safety funds.

TITLE I—HIGHWAY SAFETY

SEC. 101. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended by striking "section 4007" and inserting "section 4004".

(b) ADMINISTRATIVE REQUIREMENTS.—Section 402(b) of such title is amended—

(1) by striking the period at the end of subparagraph (A) and subparagraph (B) of paragraph (1) and inserting a semicolon;

(2) by inserting ", including Indian tribes," after "subdivisions of such State" in paragraph (1)(C);

(3) by striking the period at the end of paragraph (1)(C) and inserting a semicolon and "and"; and

(5) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(c) APPORTIONMENT OF FUNDS—Section 402(c) of such title is amended by—

(1) by inserting "the apportionment to the Secretary of the Interior shall not be less than three-fourths of 1 percent of the total apportionment and" after "except that" in the sixth sentence; and

(2) by striking the seventh sentence.

(d) APPLICATION IN INDIAN COUNTRY.—Section 402(i) of such title is amended to read as follows:

"(i) APPLICATION IN INDIAN COUNTRY.—

"(1) IN GENERAL.—For the purpose of application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subparagraph (b)(1)(C) of this section, 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subparagraph (b)(1)(D) of this section shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

"(2) INDIAN COUNTRY DEFINED.—For the purposes of this subsection, the term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patient, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.".

(e) RULEMAKING PROCESS.—Section 402(j) of such title is amended to read as follows:

"(j) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs."

(f) SAFETY INCENTIVE GRANTS.—Section 402 of such title is amended by striking subsection (k) and inserting the following:

"(k)(1) SAFETY INCENTIVE GRANTS: GENERAL AUTHORITY.—The Secretary shall make a grant to a State that takes specific actions to advance highway safety under subsection (l) of this section. A State may qualify for more than one grant and shall receive a separate grant for each subsection for which it qualifies. Such grants may only be used by recipient States to implement and enforce, as appropriate, the programs for which the grants are awarded.

"(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under subsection (l) or (m) of this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for the specific actions for which a grant is provided at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this subsection.

"(3) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—Each grant under subsection (l) or (m) of this section shall be available for not more than 6 fiscal years beginning in the fiscal year after September 30, 1997, in which the State becomes eligible for the grant. The Federal share payable for any grant under subsection (l) or (m) shall not exceed—

"(A) in the first and second fiscal years in which the State receives the grant, 75 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year a program adopted by the State;

"(B) in the third and fourth fiscal years in which the State receives the grant, 50 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program; and

"(C) in the fifth and sixth fiscal years in which the State receives the grant, 25 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program.

"(l) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: BASIC GRANT ELIGIBILITY.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce traffic safety problems resulting from persons driving under the influence of alcohol. A State shall become eligible for one or more of three basic grants under this subsection by adopting or demonstrating the following to the satisfaction of the Secretary:

"(1) BASIC GRANT A.—At least 7 of the following:

"(A) .08 BAC PER SE LAW.—A law that provides that any individual with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

"(B) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures.

"(C) UNDERAGE DRINKING PROGRAM.—An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system shall include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

"(D) STOPPING MOTOR VEHICLES.—Either—

"(i) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol, or

"(ii) a statewide Special Traffic Enforcement Program for impaired driving that emphasizes publicity for the program.

"(E) REPEAT OFFENDERS.—Effective sanctions for repeat offenders convicted of driving under the influence of alcohol. Such sanctions, as determined by the Secretary, may include electronic monitoring; alcohol interlocks; intensive supervision of probation; vehicle impoundment, confiscation, or forfeiture; and dedicated detention facilities.

"(F) GRADUATED LICENSING SYSTEM.—A three-stage graduated licensing system for

young drivers that includes nighttime driving restrictions during the first 2 stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

"(G) DRIVERS WITH HIGH BAC'S.—Programs to target individuals with high blood alcohol concentrations who operate a motor vehicle. Such programs may include implementation of a system of graduated penalties and assessment of individuals convicted of driving under the influence of alcohol.

"(H) YOUNG ADULT DRINKING PROGRAMS.—Programs to reduce driving while under the influence of alcohol by individuals age 21 through 34. Such programs may include awareness campaigns; traffic safety partnerships with employers, colleges, and the hospitality industry; assessment of first time offenders; and incorporation of treatment into judicial sentencing.

"(I) TESTING FOR BAC.—An effective system for increasing the rate of testing for blood alcohol concentration of motor vehicle drivers at fault in fatal accidents.

"(2) BASIC GRANT B.—Either of the following:

"(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as requested by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or receives notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures; or

"(B) 0.08 BAC PER SE LAW.—A law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

"(3) BASIC GRANT C.—Both of the following:

"(A) FATAL IMPAIRED DRIVER PERCENTAGE REDUCTION.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and

"(B) FATAL IMPAIRED DRIVER PERCENTAGE COMPARISON.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of such calendar years.

"(4) BASIC GRANT AMOUNT.—The amount of each basic grant under this subsection for any fiscal year shall be up to 15 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

"(5) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in no more than 2 fiscal years of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

"(A) OPEN CONTAINER LAWS.—The State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(i) as allowed in the passenger area, by a person (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(ii) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(B) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—The State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(C) VIDEO EQUIPMENT FOR DETECTION OF DRUNK DRIVERS.—The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

"(D) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—The State enacts and enforces a law providing that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated or driving under the influence of alcohol, and further provides for a minimum suspension of the person's driver's license for not less than 30 days.

"(E) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(F) REDUCING DRIVING WITH A SUSPENDED LICENSE.—The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a 'zebra' stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

"(G) EFFECTIVE DWI TRACKING SYSTEM.—The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

"(H) ASSESSMENT OF PERSONS CONVICTED OF ABUSE OF CONTROLLED SUBSTANCES; ASSIGNMENT OF TREATMENT FOR ALL DWI/DUI OFFENDERS.—The State provides for assessment of individuals convicted of driving while intoxicated or driving under the influence of alcohol or controlled substances, and for the assignment of appropriate treatment.

"(I) USE OF PASSIVE ALCOHOL SENATORS.—The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

"(J) EFFECTIVE PENALTIES FOR PROVISION OR SALE OF ALCOHOL TO PERSONS UNDER 21.—The State enacts and enforces a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to any individual under 21 years of age. The Secretary shall determine what penalties are effective.

"(6) DEFINITIONS.—For the purpose of this subsection, the following definitions apply:

"(A) 'Alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(B) 'Controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(C) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

"(D) 'Open alcoholic beverage container' means any bottle, can, or other receptacle—

"(i) which contains any amount of an alcoholic beverage; and

"(ii)(I) which is open or has a broken seal, or

"(II) the contents of which are partially removed.

"(m) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—The Secretary shall make a grant to a State that takes effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the State's data needed to identify priorities within State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, and to link these State data systems, including traffic records, together and with other data systems within the State, such as systems that contain medical and economic data:

"(1) FIRST-YEAR GRANT ELIGIBILITY.—A State is eligible for a first-year grant under this subsection in a fiscal year if such State either:

"(A) Demonstrates, to the satisfaction of the Secretary, that it has—

"(i) established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary membership including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities) of highway safety and traffic records databases;

"(ii) completed within the preceding 5 years a highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and

"(iii) initiated the development of a multi-year highway safety data and traffic records strategic plan to be approved by the Highway Safety Data and Traffic Records Coordinating Committee that identifies and prioritizes its highway safety data and traffic records needs and goals, and that identifies performance-based measures by which

progress toward those goals will be determined; or

"(B) Provides, to the satisfaction of the Secretary—

"(i) certification that it has met the provisions outlined in clauses (A)(i) and (A)(ii) of subparagraph (A) of this paragraph;

"(ii) a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; and

"(iii) certification that the Highway Safety Data and Traffic Records Coordinating Committee continues to operate and supports the multi-year plan described in clause (B)(ii) of this subparagraph.

"(2) FIRST-YEAR GRANT AMOUNT.—The amount of a first-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State eligible for such a grant under subparagraph (1)(A) of paragraph (A) of this subsection shall equal $1,000,000, subject to the availability of appropriations, and for any State eligible for such a grant under subparagraph (1)(B) of this subsection shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $250,000, subject to the availability of appropriations. The Secretary may award a grant of up to $25,000 for one year to any State that does not meet the criteria established in paragraph (1). The grant may only be used to conduct activities needed to enable that State to qualify for first-year funding to begin in the next fiscal year.

"(3) STATE HIGHWAY SAFETY DATA AND TRAFFIC RECORDS IMPROVEMENTS; SUCCEEDING-YEAR GRANTS.—A State shall be eligible for a grant in any fiscal year succeeding the first fiscal year in which the State receives a State highway safety data and traffic records grant if the State, to the satisfaction of the Secretary:

"(A) Submits or updates a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined;

"(B) Certifies that its Highway Safety Data and Traffic Records Coordinating Committee continues to support the multi-year plan; and

"(C) Reports annually on its progress in implementing the multi-year plan.

"(4) SUCCEEDING-YEAR GRANT AMOUNTS.—The amount of a succeeding-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State that is eligible for such a grant shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $225,000, subject to the availability of appropriations.".

(g) OCCUPANT PROTECTION PROGRAM.—

(1) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

"§ 410. Safety belts and occupant protection program

"The Secretary shall make basic grants to those States that adopt and implement effective programs to reduce highway deaths and injuries resulting from persons riding unrestrained or improperly restrained in motor vehicles. A State may establish its eligibility for one or both of the grants by adopting or demonstrating the following to the satisfaction of the Secretary:

"(1) BASIC GRANT A.—At least 4 of the following:

"(A) SAFETY BELT USE LAW FOR ALL FRONT SEAT OCCUPANTS.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever a person in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly secured about the person's body.

"(B) PRIMARY SAFETY BELT USE LAW.—The State provides for primary enforcement of its safety belt use law.

"(C) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

"(D) CHILD OCCUPANT PROTECTION EDUCATION PROGRAM.—The State demonstrates implemention of a statewide comprehensive child occupant protection education program that includes education about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraints systems. The states are to submit to the Secretary an evaluation or report on the effectiveness of the programs at least three years after receipt of the grant.

"(E) MINIMUM FINES.—The State requires a minimum fine of at least $25 for violations of its safety belt use law and a minimum fine of at least $25 for violations of its child passenger protection law.

"(F) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State demonstrates implementation of a statwide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program.

"(2) BASIC GRANT B.—Both of the following:

"(A) STATE SAFETY BELT USE RATE.—The State demonstrates a statewide safety belt use rate in both front outboard seating positions in all passenger motor vehicles of 80 percent or higher in each of the first 3 years a grant under this paragraph is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant under this paragraph is received.

"(B) SURVEY METHOD.—The State follows safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

"(3) BASIC GRANT AMOUNT.—The amount of each basic grant for which a State qualifies under this subsection for any fiscal year shall equal up to 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

"(4) OCCUPANT PROTECTION PROGRAM: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in a fiscal year of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

"(A) PENALTY POINTS AGAINST A DRIVER'S LICENSE FOR VIOLATIONS OF CHILD PASSENGER PROTECTION REQUIREMENTS.—The State has in effect a law that requires the imposition of penalty points against a driver's license for violations of child passenger protection requirements.

"(B) ELIMINATION OF NON-MEDICAL EXEMPTIONS TO SAFETY BELT AND CHILD PASSENGER PROTECTION LAWS.—The State has in effect safety belt and child passenger protection laws that contain no nonmedical exemptions.

(C) SAFETY BELT USE IN REAR SEATS.—The State has in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat.

"(5) DEFINITIONS.—As used in this subsection—

"(A) 'child safety seat' means any device except safety belts, designed for use in a motor vehicle to restrain, seat, or position children who weigh 50 pounds or less.

"(B) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

"(C) 'Multipurpose passenger vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

"(D) 'Passenger car' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(E) 'Passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(F) 'Safety belt' means—

"(i) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(ii) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 4 of that chapter is amended by striking the item relating to section 410 and inserting the following:

"410. Safety belts and occupant protection program".

(h) DRUGGED DRIVER RESEARCH AND DEMONSTRATION PROGRAM.—Section 403(b) of title 23, United States Code, is amended—

(1) by inserting "(1)" before "In addition";

(2) by striking "is authorized to" and inserting "shall";

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) by inserting after subparagraph (B), as redesignated, the following:

"(C) Measures that may deter drugged driving.".

SEC. 102. NATIONAL DRIVER REGISTER.

(a) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—Section 30302 is amended by adding at the end thereof the following:

"(e) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—(1) The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

"(2) Any transfer of the National Driver Register's computer timeshare and user assistance functions to an organization that represents the interests of the States shall

begin only after a determination is made by the Secretary that all States are participating in the National Driver Register's 'Problem Driver Pointer System' (the system used by the Register to effect the exchange of motor vehicle driving records), and that the system is functioning properly.

"(3) The agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative changes they may need to pay fees charged by the organization representing their interests for their use of the National Driver Register's computer timeshare and user assistance functions. During this transition period, the Secretary (through the National Highway Traffic Safety Administration) shall continue to fund these transferred functions.

"(4) The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register's computer timeshare and user assistance functions shall not exceed the total cost to the organization for performing these functions in such fiscal year.

"(5) Nothing in this subsection shall be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.".

(b) ACCESS TO REGISTER INFORMATION.—Section 30305(b) is amended by—

(1) by striking "request." in paragraph (2) and inserting the following: "request, unless the information is about a revocation or suspension still in effect on the date of the request";

(2) by inserting after paragraph (6) the following:

"(7) The head of a Federal department or agency that issues motor vehicle operator's licenses may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual applicant for a motor vehicle operator's license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator's license by that department or agency for cause; whose motor vehicle operator's license is revoked, suspended or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in subsection 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in subsection 30304(b).

"(8) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.";

(3) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10); and

(4) by striking "paragraph (2)" in paragraph (10), as redesignated, and inserting "subsection (a) of this section".

SEC. 103. AUTHORIZATIONS OF APPROPRIATIONS.

(a) HIGHWAY SAFETY PROGRAMS.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

(A) For carrying out the State and Community Highway Safety Program under section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, except for the incentive programs under subsection (l) of that section—

(i) $117,858,000 for fiscal year 1998;
(ii) $123,492,000 for fiscal year 1999;
(iii) $126,877,000 for fiscal year 2000;
(iv) $130,355,000 for fiscal year 2001;
(v) $133,759,000 for fiscal year 2002; and
(vi) $141,803,000 for fiscal year 2003.

(B) To carry out the alcohol-impaired driving countermeasures incentive grant provisions of section 402(l) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $30,570,000 for fiscal year 1998;
(ii) $28,500,000 for fiscal year 1999;
(iii) $29,273,000 for fiscal year 2000;
(iv) $30,065,000 for fiscal year 2001;
(v) $38,743,000 for fiscal year 2002; and
(vi) $39,815,000 for fiscal year 2003. Amounts made available to carry out subsection (l) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (l) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(C) To carry out the occupant protection program incentive grant provisions of section 410 of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $13,950,000 for fiscal year 1998;
(ii) $14,618,000 for fiscal year 1999;
(iii) $15,012,000 for fiscal year 2000;
(iv) $15,418,000 for fiscal year 2001;
(v) $17,640,000 for fiscal year 2002; and
(vi) $17,706,000 for fiscal year 2003. Amounts made available to carry out subsection (m) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (m) to subsections (l), (n), and (o) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(D) To carry out the State highway safety data improvements incentive grant provisions of subsection 402(n) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $8,370,000 for fiscal year 1998;
(ii) $8,770,000 for fiscal year 1999;
(iii) $9,007,000 for fiscal year 2000; and
(iv) $9,250,000 for fiscal year 2001. Amounts made available to carry out subsection (n) are authorized to remain available until expended.

(E) To carry out the drugged driving research and demonstration programs of section 403(b)(1) of title 23, United States Code, by the National Highway Traffic Safety Administration, $2,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

Amounts made available to carry out subsection (o) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (o) to subsections (l), (m), and (n) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(2) SECTION 403 HIGHWAY SAFETY AND RESEARCH.—For carrying out the functions of the Secretary, by the National Highway Traffic Safety Administration, for highway safety under section 403 of title 23, United States Code, there are authorized to be appropriated $60,100,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $61,700,000 for fiscal year 2003.

(3) PUBLIC EDUCATION EFFORT.—Out of funds made available for carrying out programs under section 403 of title 23, United States Code, for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003, the Secretary of Transportation shall obligate at least $500,000 to educate the motoring public on how to share the road safely with commercial motor vehicles.

(4) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 (National Driver Register) of title 49, United States Code, by the National Highway Traffic Safety Administration—

(i) $1,605,000 for fiscal year 1998;
(ii) $1,680,000 for fiscal year 1999;
(iii) $1,726,000 for fiscal year 2000;
(iv) $1,772,000 for fiscal year 2001;
(v) $1,817,000 for fiscal year 2002; and
(vi) $1,872,000 for fiscal year 2003.

SEC. 104. AIRBAGS.

(a) RULEMAKING PROCEDURE REQUIRED FOR DEPLOYMENT THRESHOLD DETERMINATION.—Before establishing a threshold for the deployment on impact of a passive passenger restraint system in passenger motor vehicles under any provision of law, the Secretary shall provide notice and an opportunity for public comment.

(b) DEPARTMENT OF TRANSPORTATION TO DETERMINE ELIGIBILITY FOR ON/OFF SWITCH.—If the Secretary of Transportation, under any provision of law, permits the employment of a device or switch to activate or deactivate a passive passenger restraint system installed in passenger motor vehicles and establishes criteria for the determination of what individuals or classes of individuals are eligible to use that device or switch, then that determination shall be made by the Secretary.

SEC. 105. PROTECTION OF CHILDREN FROM AIRBAG HARM.

(a) SUSPENSION OF UNBELTED BARRIER TESTING.—The provision in Federal Motor Vehicle Safety Standard No. 208 set forth at section 571.208 of the Department of Transportation Regulations (49 C.F.R. 571.208) requiring air bag-equipped vehicles to be crashed into a barrier using unbelted 50th percentile adult male dummies is hereby suspended.

(b) RULEMAKING TO PROTECT CHILDREN.—

(1) IN GENERAL.—Not later than June 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to amend and improve the occupant protection provided by Federal Motor Vehicle Safety Standard No. 208. The notice shall propose that air bags provide protection to individuals according to the following priorities:

(A) FIRST PRIORITY.—To minimize the risk of harm to children from air bags.

(B) SECOND PRIORITY.—To improve protection for belted occupants.

(C) THIRD PRIORITY.—To protect unbelted occupants to the extent reasonable and practicable, consistent with minimizing the risk to children.

(2) METHODS TO ENSURE PROTECTION.—Notwithstanding subsection (a), the notice required by paragraph (a) may include such static and dynamic tests as the Secretary determines to be reasonable, practicable, and appropriate to ensure the safety of children, especially those who are unbelted and out of position, as well as the safety of other vehicle occupants, consistent with the priorities set forth in paragraph (1).

(3) FINAL RULE.—The Secretary shall complete the rulemaking required by this subsection by issuing, not later than June 1, 1999, a final rule consistent with paragraphs (1) and (2) of this subsection. The Secretary may extend the period for issuing the final rule for not more than 6 months. If the Secretary extends that period, then the Secretary shall state the reasons for the extension in the notice of extension.

TITLE II—HAZARDOUS MATERIALS TRANSPORTATION REAUTHORIZATION

SEC. 201. FINDINGS AND PURPOSES; DEFINITIONS.

(a) FINDINGS AND PURPOSES.—Section 5101 is amended to read as follows:

"§ 5101. Findings and purposes

"(a) FINDINGS.—The Congress finds with respect to hazardous materials transportation that—

"(1) approximately 4 billion tons of regulated hazardous materials are transported each year and that approximately 500,000 movements of hazardous materials occur each day, according to the Department of Transportation estimates;

"(2) accidents involving the release of hazardous materials are a serious threat to public health and safety;

"(3) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple and conflicting registration, permitting, routings, notification, loading, unloading, incidental storage, and other regulatory requirements;

"(4) because of the potential risks to life, property and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials, including loading, unloading, and incidental storage, is necessary and desirable;

"(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable;

"(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required;

"(7) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner;

"(8) primary authority for the regulation of such transportation should be consolidated in the Department of Transportation to ensure the safe and efficient movement of hazardous materials in commerce; and

"(9) emergency response personnel have a continuing need for training on responses to releases of hazardous materials in transportation and small businesses have a continuing need for training on compliance with hazardous materials regulations.

"(b) PURPOSES.—The purposes of this chapter are—

"(1) to ensure the safe and efficient transportation of hazardous materials in intrastate, interstate, and foreign commerce, including the loading, unloading, and incidental storage of hazardous material;

"(2) to provide the Secretary with preemption authority to achieve uniform regulation of hazardous material transportation, to eliminate inconsistent rules that apply differently from Federal rules, to ensure efficient movement of hazardous materials in commerce, and to promote the national health, welfare, and safety; and

"(3) to provide adequate training for public sector emergency response teams to ensure safe responses to hazardous material transportation accidents and incidents.".

(b) DEFINITIONS.—Section 5102 is amended by—

(1) striking paragraph (1) and inserting the following:

"(1) 'commerce' means trade or transportation in the jurisdiction of the United States—

"(A) between a place in a State and a place outside of the State;

"(B) that affects trade or transportation between a place in a State and a place outside of the State; or

"(C) on a United States-registered aircraft.";

(2) by striking paragraphs (3) and (4) and inserting the following:

"(3) 'hazmat employee' means an individual who—

"(A) is—

"(i) employed by a hazmat employer,

"(ii) self-employed, or

"(iii) an owner-operator of a motor vehicle; and

"(B) during the course of employment—

"(i) loads, unloads, or handles hazardous material;

"(ii) manufactures, reconditions, or tests containers, drums, or other packagings represented as qualified for use in transporting hazardous material;

"(iii) performs any function pertaining to the offering of hazardous material for transportation;

"(iv) is responsible for the safety of transporting hazardous material; or

"(v) operates a vehicle used to transport hazardous material.

"(4) 'hazmat employer' means a person who—

"(A) either—

"(i) is self-employed,

"(ii) is an owner-operator of a motor vehicle; and

"(iii) has at least one employee; and

"(B) performs a function, or uses at least one employee, in connection with—

"(i) transporting hazardous material in commerce;

"(ii) causing hazardous material to be transported in commerce, or

"(iii) manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material.";

(3) by striking "title." in paragraph (7) and inserting "title, except that a freight forwarder is included only in performing a function related to highway transportation";

(4) by redesignating paragraphs (9) through (13) as paragraphs (12) through (16);

(5) by inserting after paragraph (8) the following:

"(9) 'out-of-service order' means a mandate that an aircraft, vessel, motor vehicle, train, other vehicle, or a part of any of these, not be moved until specified conditions have been met.

"(10) 'package' or 'outside package' means a packaging plus its contents.

"(11) 'packaging' means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packaging requirements established by the Secretary of Transportation."; and

(6) by striking "or transporting hazardous material to further a commercial enterprise;" in paragraph 12(A), as redesignated by paragraph (4) of this subsection, and inserting a comma and "transporting hazardous material to further a commercial enterprise, or manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material".

(c) CLERICAL AMENDMENT.—The chapter analysis of chapter 51 is amended by striking the item relating to section 5101 and inserting the following:

"5101. Findings and purposes".

SEC. 202. HANDLING CRITERIA REPEAL.

Section 5106 is repealed and the chapter analysis of chapter 51 is amended by striking the item relating to that section

SEC. 203 HAZMAT EMPLOYEE TRAINING REQUIREMENTS.

Section 5107(f)(2) is amended by striking "and sections 5106, 5108(a)–(g)(1) and (h), and".

SEC. 204. REGISTRATION.

Section 5108 is amended by

(1) by striking subsection (b)(1)(C) and inserting the following:

"(C) each State in which the person carries out any of the activities.";

(2) by striking subsection (c) and inserting the following:

"(c) FILING SCHEDULE.—Each person required to file a registration statement under subsection (a) of this section shall file that statement annually in accordance with regulations issued by the Secretary.";

(3) by striking "552(f)" in subsection (f) and inserting "552(b)";

(4) by striking "may" in subsection (g)(1) and inserting "shall"; and

(5) by inserting "or an Indian tribe," in subsection (1)(2)(B) after "State,".

SEC. 205. SHIPPING PAPER RETENTION.

Section 5110(e) is amended by striking the first sentence and inserting "After expiration of the requirement in subsection (c) of this section, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) of this section shall retain the paper or an electronic image thereof, for a period of 1 year after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.".

SEC. 206. UNSATISFACTORY SAFETY RATING.

Section 5113(d) is amended by striking "Secretary, in consultation with the Interstate Commerce Commission," and inserting "Secretary".

SEC. 207. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended by—

(1) by striking "DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in" in subsection (a) and inserting "UPDATING.—In";

(2) by striking "develop and" in the first sentence of subsection (a);

(3) by striking the second sentence of subsection (a);

(4) by striking "developed" in the first sentence of subsection (b);

(5) by inserting "or involving an alternative fuel vehicle" after "material" in subparagraphs (A) and (B) of subsection (b)(1); and

(6) by striking subsection (d) and inserting the following:

"(d) DISTRUBUTION AND PUBLICATION.—With the national response team, the Secretary of

Transportation may publish a list of programs that use a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous materials.".

SEC. 208. PLANNING AND TRAINING GRANTS.

Section 5116 is amended by—

(1) by striking "of" in the second sentence of subsection (e) and inserting "received by";

(2) by striking subsection (f) and inserting the following:

"(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material, Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State and Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team for Oil and Hazardous Substances and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee."; and

(3) by adding at the end thereof the following:

"(l) SMALL BUSINESSES.—The Secretary may authorize a State or Indian tribe receiving a grant under this section to use up to 25 percent of the amount of the grant to assist small businesses in complying with regulations issued under this chapter.".

SEC. 209. SPECIAL PERMITS AND EXCLUSIONS.

(a) Section 5117 is amended by—

(1) by striking the section caption and inserting the following:

"§ 5117. Special permits and exclusions";

(2) by striking "exemption" each place it appears and inserting "special permit";

(3) by inserting "authorizing variances" after "special permit" the first place it appears; and

(4) by striking "2" and inserting "4" in subsection (a)(2).

(b) Section 5119(c) is amended by adding at the end thereof the following:

"(4) Pending promulgation of regulations under this subsection, States may participate in a program of uniform forms and procedures recommended by the working group under subsection (b)."

(c) The chapter analysis for chapter 51 is amended by striking the item related to section 5117 and inserting the following:

"5117. Special permits and exclusions".

SEC. 210. ADMINISTRATION.

(a) Section 5121 is amended by striking subsections (a), (b), and (c) and redesignating subsections (d) and (e) as subsections (a) and (b).

(b) Section 5122 is amended by redesignating subsections (a), (b), and (c) as subsections (d), (e), and (f), and by inserting before subsection (d), as redesignated, the following:

"(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

"(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

"(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

"(2) make the records, reports, and information available when the Secretary requests.

"(c) INSPECTION.—

"(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

"(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or

"(B) the transportation of hazardous material in commerce.

"(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.".

SEC. 211. COOPERATIVE AGREEMENTS.

Section 5121, as amended by section 310(a), is further amended by adding at the end thereof the following:

"(c) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the State Department), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, emergency response planning and training activities.".

SEC. 212. ENFORCEMENT.

Section 5122, as amended by section 310(b), is further amended by—

(1) by inserting "inspect," after "may" in the first sentence of subsection (a);

(2) by striking the last sentence of subsection (a) and inserting: "Except as provided in subsection (e) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order requiring compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.";

(2) by redesignating subsections (d), (e) and (f) as subsections (f), (g) and (h), and inserting after subsection (c) the following:

"(d) OTHER AUTHORITY.—

"(1) INSPECTION.—During inspections and investigations, officers, employees, or agents of the Secretary may—

"(A) open and examine the contents of a package offered for, or in, transportation when—

"(i) the package is marked, labeled, certified, placarded, or otherwise represented as containing a hazardous material, or

"(ii) there is an objectively reasonable and articulable belief that the package may contain a hazardous material;

"(B) take a sample, sufficient for analysis, of material marked or represented as a hazardous material or for which there is an objectively reasonable and articulable belief that the material may be a hazardous material, and analyze that material;

"(C) when there is an objectively reasonable and articulable belief that an imminent hazard may exist, prevent the further transportation of the material until the hazardous qualities of that material have been determined; and

"(D) when safety might otherwise be compromised, authorize properly qualified personnel to conduct the examination, sampling, or analysis of a material.

"(2) NOTIFICATION.—No package opened pursuant to this subsection shall continue its transportation until the officer, employee, or agent of the Secretary—

"(A) affixes a label to the package indicating that the package was inspected pursuant to this subsection; and

"(B) notifies the shipper that the package was opened for examination.

"(e) EMERGENCY ORDERS.—

"(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary decides that an unsafe condition or practice, or a combination of them, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary may immediately issue or impose restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, that may be necessary to abate the situation.

"(2) The Secretary's action under this subsection must be in a written order describing the condition or practice, or combination of them, that causes the emergency situation; stating the restrictions, prohibitions, recalls, or out-of-service orders being issued or imposed; and prescribing standards and procedures for obtaining relief from the order.

"(3) After taking action under this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5.

"(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists."

SEC. 213. PENALTIES.

"(a) Section 5123(a)(1) is amended by striking the first sentence and inserting the following: "A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $27,500 for each violation.".

"(b) Section 5123(c)(2) is amended to read as follows:

"(2) with respect to the violator, the degree of culpability, any good-faith efforts to comply with the applicable requirements, any history of prior violations, any economic benefit resulting from the violation, the ability to pay, and any effect on the ability to continue to do business; and".

(c) Section 5124 is amended to read as follows:

"§ 5124. Criminal penalty

"(a) IN GENERAL.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.".

SEC. 214. PREEMPTION.

(a) REQUIREMENTS CONTRARY TO PURPOSES OF CHAPTER.—Section 5125(a)(2) is amended by inserting a comma and "the purposes of this chapter," after "this chapter" the first place it appears.

(b) DEADWOOD.—Section 5125(b)(2) is amended by striking "prescribes after November 16, 1990." and inserting "prescribes.".

(c) INDEPENDENT APPLICATION OF PREEMPTION STANDARDS.—Section 5125 is amended by adding at the end thereof the following:

"(h) INDEPENDENT APPLICATION OF EACH STANDARD.—Each preemption standard in subsections (a), (b)(1), (c), and (g) of this section and section 5119(c)(2) is independent in its application to a requirement of any State, political subdivision of a State, or Indian tribe.".

SEC. 215. JUDICIAL REVIEW.

(a) Chapter 51 is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

"§ 5127. Judicial review

"(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person disclosing a substantial interest in a final order issued, under the authority of section 5122 or 5123 of this title, by the Secretary of Transportation, the Administrators of the Research and Special Programs Administration, the Federal Aviation Administration, or the Federal Highway Administration, or the Commandant of the United States Coast Guard ('modal Administrator'), with respect to the duties and powers designated to be carried out by the Secretary under this chapter, may apply for review in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

"(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the modal Administrator, as appropriate. The Secretary or the modal Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

"(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or the modal Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the modal Administrator to conduct further proceedings. After reasonable notice to the Secretary or the modal Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the modal Administrator, if supported by substantial evidence, are conclusive.

"(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final order under this section, the court may consider an objection to a final order of the Secretary or the modal Administrator only if the objection was made in the course of a proceeding or review conducted by the Secretary, the modal Administrator, or an administrative law judge, or if there was a reasonable ground for not making the objection in the proceeding.

"(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.".

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

"5127. Judicial review.".
"5128. Authorization of appropriations.".

SEC. 216. HAZARDOUS MATERIAL TRANSPORTATION REAUTHORIZATION.

(a) IN GENERAL.—Chapter 51, as amended by section 215 of this Act, is amended by redesignating section 5128 as section 5129 and by inserting after section 5127 the following:

"§ 5128. High risk hazardous material; motor carrier safety study

"(a) STUDY.—The Secretary of Transportation shall conduct a study—

"(1) to determine the safety benefits and administrative efficiency of implementing a Federal permit program for high risk hazardous material carriers;

"(2) to identify and evaluate alternative regulatory methods and procedures that may improve the safety of high risk hazardous material carriers and shippers;

"(3) to examine the safety benefits of increased monitoring of high risk hazardous material carriers, and the costs, benefits, and procedures of existing State permit programs;

"(4) to make such recommendations as may be appropriate for the improvement of uniformity among existing State permit programs; and

"(5) to assess the potential of advanced technologies for improving the assessment of high risk hazardous material carriers' compliance with motor carrier safety regulations.

"(b) TIMEFRAME.—The Secretary shall begin the study required by subsection (a) within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997 and complete it within 30 months.

"(c) REPORT.—The Secretary shall report the findings of the study required by subsection (a), together with such recommendations as may be appropriate, within 36 months after the date of enactment of that Act.".

(b) SECTION 5109 REGULATIONS TO REFLECT STUDY FINDINGS.—Section 5109(h) is amended by striking "not later than November 16, 1991." and inserting "based upon the findings of the study required by section 5128(a).".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 51, as amended by section 315, is amended by striking the item relating to section 5128 and inserting the following:

"5128. High risk hazardous material; motor carrier safety study
"5129. Authorization of appropriations".

SEC. 217. AUTHORIZATION OF APPROPRIATIONS.

Section 5129, as redesignated, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, and 5116) not more than—

"(1) $15,492,000 for fiscal year 1998;
"(2) $16,000,000 for fiscal year 1999;
"(3) $16,500,000 for fiscal year 2000;
"(4) $17,000,000 for fiscal year 2001;
"(5) $17,500,000 for fiscal year 2002; and
"(6) $18,000,000 for fiscal year 2003."; and

(2) by striking subsections (c) and (d) and inserting the following:

"(c) TRAINING CURRICULUM.—Not more than $200,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1999–2003, to carry out section 5115 of this title.

"(d) PLANNING AND TRAINING.—

"(1) Not more than $2,444,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(a) of this title.

"(2) Not more than $3,666,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(b) of this title.

"(3) Not more than $600,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(f) of this title.".

TITLE III—COMPREHENSIVE ONE-CALL NOTIFICATION

SEC. 301. FINDINGS.

The Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.

SEC. 302. ESTABLISHMENT OF ONE-CALL NOTIFICATION PROGRAMS.

(a) IN GENERAL.—Subtitle III is amended by adding at the end thereof the following:

"CHAPTER 61. ONE-CALL NOTIFICATION PROGRAMS

"Sec.
"6101. Purposes.
"6102. Definitions.
"6103. Minimum standards for State one-call notification programs
"6104. Compliance with minimum standards
"6105. Review of one-call system best practices
"6106. Grants to States
"6107. Authorization of appropriations

'§ 6101. Purposes.

"The purposes of this chapter are—

"(1) to enhance public safety;
"(2) to protect the environment;
"(3) to minimize risks to excavators; and
"(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

"§ 6102. Definitions.

"For purposes of this chapter—

"(1) ONE-CALL NOTIFICATION SYSTEM.—The term "one-call notification system" means a system operated by an organization that has as one of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities on order to prevent damage to underground facilities in the course of such excavation.

"(2) STATE ONE-CALL NOTIFICATION PROGRAM—The term "State one-call notification program" means the State statutes, regulators, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

"(3) STATE.—The term 'State' means a State, the District of Columbia, and Puerto Rico.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"§ 6103. Minimum standards for State one-call notification programs

(a) MINIMUM STANDARDS.—A State one-call notification program shall, at a minimum, provide for—

(1) appropriate participation by all under ground facility operators;

(2) appropriate participation by all excavators; and

"(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

"(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

"(1) damage to types of underground facilities; and

"(2) activities of types of excavators.

"(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for—

"(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

"(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

"(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a *de minimis* risk to public safety or the environment.

"(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

"(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

"(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

"(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

"(4) equitable relief; and

"(5) citation of violations.

"§ 6104. Compliance with minimum standards

"(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall, within 2 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, submit to the Secretary a grant application under subsection (b).

"(b) APPLICATION.—

"(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for implementation of the program and the record of compliance and enforcement under the program.

"(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

"(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

"(4) The Secretary shall prescribe the form of, and manner of filing, an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

"(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

"(c) ALTERNATIVE PROGRAM.—A State may maintain an alternative once-call notification program if that program provides protection for public safety, the environment, or excavators that is equivalent to, or greater than, protection under a program that meets the minimum standards set forth in section 6103.

"(d) REPORT.—Within 3 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

"(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

"(2) an analysis by the Secretary of the overall effectiveness of the State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

"(3) the impact of the State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

"(4) areas where improvements are needed in one-call notification systems in operation in the State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

"§ 6105. Review of one-call system best practices

"(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

"(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to assemble information in order to determine which existing one-call notification systems practices appear to be the most effective in preventing damage to underground facilities and in protecting the public, the environment, excavators, and public service disruption. As part of the study, the Secretary shall at a minimum consider—

"(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

"(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

"(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

"(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

"(5) the effectiveness and accuracy of mapping used by one-call notification systems;

"(6) the relationship between one-call notification systems and preventing intentional damage to underground facilities;

* * * * *

sections 31137 and 31138) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, who—

"(I) does not make that report;

"(II) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered or;

"(III) does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $500 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $5,000.

"(ii) Any such person, or an officer, agent, or employee of that person, who—

"(I) knowingly falsifies, destroys, mutilates, or changes a required report or record;

"(II) knowingly files a false report with the Secretary;

"(III) knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction; or

"(IV) knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each violation, provided that any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.".

SEC. 414. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Chapter 317 is amended—

(1) by striking sections 31702, 31703, and 31708; and

(2) by striking the item relating to sections 31702, 31703, and 31708 in the chapter a analysis for that chapter.

SEC. 415. STUDY OF ADEQUACY OF PARKING FACILITIES.

The Secretary shall conduct studies to determine the location and quantity of parking

facilities at commercial truck stops and travel plazas and public rest area that could be used by motor carriers to comply with Federal hours-of-service rules. Each study shall include an inventory of current facilities serving corridors of the National Highway System, analyze where specific shortages exist or are projected to exist, and propose a specific plan to reduce the shortages. The studies may be carried out in cooperation with research entities representing the motor carrier and travel plaza industry. The studies shall be recompleted no later than 36 months after enactment of this Act.

SEC. 416. NATIONAL MINIMUM DRINKING AGE—TECHNICAL CORRECTIONS

Section 158 of title 23, United States Code, is amenmded—

(1) by striking "104(b)(2), 104(b)(5), and 104(b)(6)" each place it appears in subsection (a) and inserting "104(b)(3), and 104(b)(5)(B)"; and

(2) by striking subsection (b) and inserting the following:

"(b) AVAILABILITY OF WITHHELD FUNDS.—No funds withheld under this section from apportionment to any State after September 31, 1988, shall be available for apportionment to such State.".

SEC. 3417. APPLICATION OF REGULATIONS.

(a) APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES.—Section 31135 as redesignated, is amended by adding at the end thereof the following:

"(g) APPLICATION TO CERTAIN VEHICLES.—Effective 12 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this section shall apply to operators of commercial motor vehicles described in section 31132(1)(B) to the extent that those regulations did not apply to those operators before the day that is 12 months after such date of enactment, except to the extent that the Secretary determines, through a rulemaking proceeding, that it is appropriate to exempt such operations of commercial motor vehicles from the application of those regulations.".

(b) DEFINITION.—Section 31301(4)(B) is amended to read as follows:

"(B) is designed or used to transport—

"(i) passengers for compensation, but does not include a vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places; or

"(ii) more than 15 passengers, including the driver, and not used to transport passengers for compensation; or".

(c) APPLICATION OF REGULATIONS TO CERTAIN OPERATORS.—

(1) Chapter 313 is amended by adding at the end thereof the following:

"§ 31318. Application of regulations to certain operators

"Effective 12 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this chapter shall apply to operators of commercial motor vehicles described in section 31301(4)(B) to the extent that those regulations did not apply to those operators before the day that is 1 year after such date of enactment, except to the extent that the Secretary determines, after notice and opportunity for public comment, that it is appropriate to exempt such operators of commercial motor vehicles from the application of those regulations.".

(d) DEADLINE FOR CERTAIN DEFINITIONAL REGULATIONS.—The Secretary shall issue regulations implementing the definition of commercial motor vehicles under section 31132(1)(B) and section 31301(4)(B) of title 49, United States Code, as amended by this Act within 12 months after the date of enactment of this Act.

SEC. 418. AUTHORITY OVER CHARTER BUS TRANSPORTATION.

Section 14501(a) is amended—

(1) by striking "route or relating" and inserting "route;"; and

(2) by striking "required." and inserting "required; or to the authority to provide intrastate or interstate charter bus transportation.".

SEC. 419. FEDERAL MOTOR CARRIER SAFETY INVESTIGATIONS.

The Department of Transportation shall maintain the level of Federal motor carrier safety investigators for border commercial vehicle inspections as in effect on September 30, 1997, or provide for alternative resources and mechanisms to ensure an equivalent level of commercial motor vehicle safety inspections. Such funds as are necessary to carry out this section shall be made available within the limitation on general operating expenses of the Department of Transportation.

SEC. 420. FOREIGN MOTOR CARRIER SAFETY FITNESS.

(a) IN GENERAL.—No later than 90 days after enactment of this Act, the Secretary of Transportation shall make a determination regarding the willingness and ability of any foreign motor carrier, the application for which has not been processed due to the moratorium on the granting of authority to foreign carriers to operate in the United States, to meet the safety fitness and other regulatory requirements under this title.

(b) REPORT.—Within 120 days after the date of enactment this Act, the Secretary of Transportation shall submit a report to the Senate Commerce, Science, and Transportation Committee and the House Transportation and Infrastructure Committee on the application of section 13902(c)(9) of title 49, United States Code. The report shall include—

(1) any findings made by the Secretary under subsection (a);

(2) information on which carriers have applied to the Department of Transportation under the section; and

(3) a description of the process utilized to respond to such applications and to certify the safety fitness of those carriers.

SEC. 421. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation may establish a Commercial Motor Vehicle Safety Advisory Committee to provide advice and recommendations on a range of regulatory issues. The members of the advisory committee shall be appointed by the Secretary from among individuals affected by rulemakings under consideration by the Department of Transportation.

(b) FUNCTION.—The Advisory Committee established under subsection (a) shall provide advice to the Secretary on commercial motor vehicle safety regulations and assist the Secretary in timely completion of ongoing rulemakings by utilizing negotiated rulemaking procedures.

SEC. 422. WAIVERS; EXEMPTIONS; PILOT PROGRAMS.

(a) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS FOR CHAPTER 311.—Section 31136(e) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6); and

(2) by striking the subsection caption and paragraph (1) and inserting the following:

"(e) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall, by regulation promulgated after notice and an opportunity for public comment and within 180 days after the date of enactment of the Intermodal Transportation Safety Act of 1997, establish procedures by which waivers, exemptions, and pilot programs under this section may be initiated. The regulation shall provide—

"(A) a process for the issuance of waivers or exemptions from any part of a regulation prescribed under this section; and

"(B) procedures for the conduct of pilot projects or demonstration programs to support the appropriateness of regulations, enforcement policies, waivers, or exemptions under this section.

"(2) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this section if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the waiver—

"(A) for a period not in excess of 3 months;

"(B) limited in scope and circumstances;

"(C) for non-emergency and unique events; and

"(D) subject to such conditions as the Secretary may impose.

"(3) EXEMPTIONS.—The Secretary may grant an exemption in whole or in part from a regulation issued under this section to a class of persons, vehicles, or circumstances if the Secretary determines, after notice and opportunity for public comment, that it is in the public interest to grant the exemption and that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the exemption. An exemption granted under this paragraph shall be in effect for a period of not more than 2 years, but may be renewed by the Secretary after notice and opportunity for public comment if the Secretary determines, based on the safety impact and results of the first 2 years of an exemption, that the extension is in the public interest and that the extension of the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the extension.

"(4) PILOT PROGRAMS.—

"(A) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this title.

"(B) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this paragraph, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this title.

"(C) EXEMPTIONS.—A pilot project under this paragraph—

"(i) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this title; and

"(ii) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

"(D) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under subparagraph (C) if—

"(i) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

"(ii) the Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.".

(b) WAIVERS EXEMPTIONS, AND PILOT PROGRAMS FOR CHAPTER 313.—Section 31315 is amended—

(1) by inserting "(a) IN GENERAL.—" before "After notice"; and

(2) by adding at the end thereof the following: "(b) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall, by regulation promulgated after notice and an opportunity for public comment and within 180 days after the date of enactment of the Intermodal Transportation Safety Act of 1997, establish procedures by which waivers, exemptions, and pilot programs under this section may be initiated. The regulation shall provide—

"(A) a process for the issuance of waivers or exemptions from any part of a regulation prescribed under this section; and

"(B) procedures for the conduct of pilot projects or demonstration programs to support the appropriateness of regulations, enforcement policies, or exemption under this section.

"(2) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this section if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the waiver—

"(A) for a period not in excess of 3 months;

"(B) limited in scope and circumstances;

"(C) for non-emergency and unique events; and

"(D) subject to such conditions as the Secretary may impose.

"(3) EXEMPTIONS.—The Secretary may grant an exemption in whole or in part from a regulation issued under this section to a class of persons, vehicles, or circumstances if the Secretary determines, after notice and opportunity for public comment, that it is in the public interest to grant the exemption and that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the exemption. An exemption granted under this paragraph shall be in effect for a period of not more than 2 years, but may be renewed by the Secretary after notice and opportunity for public comment if the Secretary determines, based on the safety impact and results of the first 2 years of an exemption, that the extension is in the public interest and that the extension of the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the extension.

"(4) PILOT PROGRAMS.—

"(A) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this title.

"(B) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this paragraph, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this title.

"(C) EXEMPTIONS.—A pilot project under this paragraph—

"(i) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this title; and

"(ii) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

"(D) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under subparagraph (C) if—

"(i) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

"(ii) The Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.".

SEC. 423. COMMERCIAL MOTOR VEHICLE SAFETY STUDIES.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a study of the impact of safety and infrastructure of tandem axle commercial motor vehicle operations in States that permit the operation of such vehicles in excess of the weight limits established by section 127 of title 23, United States Code.

(b) COOPERATIVE AGREEMENTS WITH STATES.—The Secretary shall enter into cooperative agreements with States described in subsection (a) under which the States participate in the collection of weight-in-motion data necessary to achieve the purpose of the study. If the Secretary determines that additional weight-in-motion sites, on or off the Dwight D. Eisenhower System of Interstate and Defense Highways, are necessary to carry out the study, and requests assistance from the States in choosing appropriate locations, the States shall identify the industries or transportation companies operating within their borders that regularly utilize the 35,000 pound tandem axle.

"(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the results of the study, together with any related legislative or administrative recommendations. Until the Secretary transmits the report to the Congress, the Secretary may not withhold funds under section 104 of title 23, United States Code, from any State for violation of the grandfathered tandem axle weight limits under section 127 of that title.

SEC. 424. INCREASED MCSAP PARTICIPATION IMPACT STUDY.

(a) IN GENERAL.—If a State that did not receive its full allocation of funding under the Motor Carrier Safety Assistance Program during fiscal years 1996 and 1997 agrees to enter into a cooperative agreement with the Secretary to evaluate the safety impact, costs, and benefits of allowing such State to continue to participate fully in the Motor Carrier Safety Assistance Program, then the Secretary of Transportation shall allocate to that State the full amount of funds to which it would otherwise be entitled for fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. The Secretary may not add conditions to the cooperative agreement other than those directly relating to the accurate and timely collection of inspection and crash data sufficient to ascertain the safety and effectiveness of such State's program.

(b) REQUIREMENTS.—

(1) REPORT.—The State shall submit to the Secretary each year the results of such safety evaluations.

(2) TERMINATION BY SECRETARY.—If the Secretary finds such an agreement not in the public interest based on the results of such evaluations after 2 years of full participation, the Secretary may terminate the agreement entered into under this section.

(c) PROHIBITION OF ADOPTION OF LESSER STANDARDS.—No State may enact or implement motor carrier safety regulations that are determined by the Secretary to be less strict than those in effect as of September 30, 1997.

TITLE V—RAIL AND MASS TRANSPORTATION ANTI-TERRORISM; SAFETY

SEC. 501. PURPOSE.

The purpose of this title is to protect the passengers and employees of railroad carriers and mass transportation systems and the movement of freight by railroad from terrorist attacks.

SEC. 502. AMENDMENTS TO THE "WRECKING TRAINS" STATUTE.

(a) Section 1992 of title 18, United States Code, is amended to read as follows:

"§ 1992. Terrorist attacks against railroads

"(a) GENERAL PROHIBITIONS.—Whoever willfully—

"(1) wrecks, derails, sets fire to, or disables any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

"(2) brings, carries, possesses, places or causes to be placed any destructive substance, or destructive device in, upon, or near any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, without previously obtaining the permission of the carrier, and with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

"(3) sets fire to, or places any destructive substance, or destructive device in, upon or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, knowing or having reason to know such activity would likely derail, disable, or wreck a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

"(4) removes appurtenances from, damages, or otherwise impairs the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad line used, operated, or employed by a railroad carrier;

"(5) interferes with, disables or incapacitates any locomotive engineer, conductor, or other person while they are operating or maintaining a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

"(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a railroad carrier while on the property of the carrier;

"(7) causes the release of a hazardous material being transported by a rail freight car, with the intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

"(8) conveys or causes to be conveyed false information, knowing the information to be

false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

"(9) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts; Provided however, that whoever is convicted of any crime prohibited by this subsection shall be:

"(A) imprisoned for not less than thirty years or for life if the railroad train involved carried high-level radioactive waste or spent nuclear fuel at the time of the offense;

"(B) imprisoned for life if the railroad train involved was carrying passengers at the time of the offense; and

"(C) imprisoned for life or sentenced to death if the offense has resulted in the death of any person.

"(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

"(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a passenger train of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a passenger train or in a passenger terminal facility of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a passenger train or a passenger terminal facility of a railroad carrier involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

"(4) Paragraph (1) shall not apply to:

"(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

"(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

"(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law;

"(D) the possession of a firearm or other dangerous weapon by a railroad police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, whether on or off duty; or

"(E) an individual transporting a firearm on board a railroad passenger train (except a loaded firearm) in baggage not accessible to any passenger on board the train, if the railroad carrier was informed of the presence of the weapon prior to the firearm being placed on board the train.

"(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any locomotive or car of a train, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of any crime prohibited by this subsection by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

"(d) DEFINITIONS.—In this section—

"(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

"(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

"(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that could be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

"(4) 'firearm' has the meaning given to that term in section 921 of this title;

"(5) 'hazardous material' has the meaning given to that term in section 5102(2) of title 49, United States Code;

"(6) 'high-level radioactive waste' has the meaning given to that term in section 10101(12) of title 42, United States Code;

"(7) 'railroad' has the meaning given to that term in section 20102(1) of title 49, United States Code;

"(8) 'railroad carrier' has the meaning given to the term in section 20102(2) of title 49, United States Code;

"(9) 'serious bodily injury' has the meaning given to that term in section 1365 of this title;

"(10) 'spent nuclear fuel' has the meaning given to that term in section 10101(23) of title 42, United States Code; and

"(11) 'State' has the meaning given to that term in section 2266 of this title.".

(b) In the analysis of chapter 97 of title 18, United States Code, item "1992" is amended to read:

"1992. Terrorist attacks against railroads".

SEC. 503. TERRORIST ATTACKS AGAINST MASS TRANSPORTATION.

(a) Chapter 97 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1994. Terrorist attacks against mass transportation

"(a) GENERAL PROHIBITIONS.—Whoever willfully—

"(1) wrecks, derails sets fire to, or disables a mass transportation vehicle or vessel;

"(2) places or causes to be placed any destructive substance in, upon, or near a mass transportation vehicle or vessel, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

"(3) sets fire to, or places any destructive substance in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle used, operated, or employed by mass transportation provider;

"(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including a train control system, centralized dispatching system, or rail grade crossing warning signal;

"(5) interferes with, disables or incapacitates any driver or person while they are employed in operating or maintaining a mass transportation vehicle or vessel, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

"(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of mass transportation provider on the property of a mass transportation provider;

"(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

"(8) attempts, threatens, or conspires to do any of the aforesaid acts—shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of a crime prohibited by this section shall also be subject to imprisonment for life if the mass transportation vehicle or vessel was carrying a passenger at the time of the offense, and imprisonment for life or sentenced to death if the offense has resulted in the death of any person.

"(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

"(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a mass transportation vehicle or vessel, or attempts to do so, shall be

fined under this title or imprisoned not more than one year, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a mass transportation vehicle or vessel, or in a mass transportation passenger terminal facility, or attempts to do so, shall be fined under this title, or imprisoned not more than 5 years, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a mass transportation vehicle or vessel, or a mass transportation passenger terminal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

"(4) Paragraph (1) shall not apply to:

"(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

"(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law'

"(C) the possession of a firearm or other dangerous weapon by a Federal official or member of the Armed Forces if such possession is authorized by law;

"(D) the possession of a firearm of other dangerous weapon by a railroad police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, whether on or off duty; or

"(E) an individual transporting a firearm on board a mass transportation vehicle or vessel (except a loaded firearm) in baggage not accessible to any passenger on board the vehicle or vessel, if the mass transportation provider was informed of the presence of the weapon prior to the firearm being placed on board the vehicle or vessel.

"(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any mass transportation vehicle or vessel, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a mass transportation provider engaged in or substantially affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

"(d) DEFINITIONS.—In this section—

"(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

"(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

"(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

"(4) 'firearm' had the meaning given to that term in section 921 of this title;

"(5) 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

"(6) serious bodily injury' has the meaning given to that term in section 1365 of this title, and

"(7) 'State' has the meaning given to that term in section 2266 of this title.".

(b) The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end thereof:

"1994. Terrorist attacks against mass transportation.".

SEC. 504. INVESTIGATIVE JURISDICTION.

The Federal Bureau of Investigation shall lead the investigation of all offenses under sections 1192 and 1994 of title 18, United States Code. The Federal Bureau of Investigation shall cooperate with the National Transportation Safety Board and with the Department of Transportation in safety investigations by these agencies, and with the Treasury Department's Bureau of Alcohol, Tobacco and Firearms concerning an investigation regarding the possession of firearms and explosives.

SEC. 505. SAFETY CONSIDERATIONS IN GRANTS OR LOANS TO COMMUTER RAILROADS.

Section 5329 is amended by adding at the end the following:

"(c) COMMUTER RAILROAD SAFETY CONSIDERATIONS.—In making a grant or loan under this chapter that concerns a railroad subject to the Secretary's railroad safety jurisdiction under section 20102 of this title, the Federal Transit Administrator shall consult with the Federal Railroad Administrator concerning relevant safety issues. The Secretary may use appropriate authority under this chapter, including the authority to prescribe particular terms or convenants under section 5334 of this title, to address any safety issues identified in the project supported by the loan or grant.".

SEC. 506. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

"(a) GENERAL REQUIREMENTS.—On a periodic basis not more frequent than monthly, as specified by the Secretary of Transportation, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during that period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.".

SEC. 507. VEHICLE WEIGHT LIMITATIONS—MASS TRANSPORTATION BUSES.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (23 U.S.C. 127 note), is amended by striking "the date on which" and all that follows through "1995" and inserting "January 1, 2003".

TITLE—VI SPORTFISHING AND BOATING SAFETY

SEC. 601. AMENDMENT OF 1950 ACT.

Whenver in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of the 1950 Act, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (16 U.S.C. 777 et seq.).

SEC. 602. OUTREACH AND COMMUNICATIONS PROGRAMS.

(a) DEFINITIONS.—Section 2 of the 1950 Act (16 U.S.C. 777a) is amended—

(1) by indenting the left margin of so much of the text as precedes "(a)" by 2 ems;

(2) by inserting "For purposes of this Act—" after the section caption;

(3) by striking "For the purposes of this Act the" in the first paragraph and inserting "(1) the";

(4) by indenting the left margin of so much of the text as follows "include—" by 4 ems;

(5) by striking "(a)", "(b)", "(c)", and "(d)" and inserting "(A)", "(B)", "(C)", and "(D)", respectively;

(6) by striking "department." and inserting "department;"; and

(7) by adding at the end thereof the following:

"(2) the term 'outreach and communications program' means a program to improve communications with anglers, boaters, and the general public regarding angling and boating opportunities, to reduce barriers to participation in these activities, to advance adoption of sound fishing and boating practices, to promote conservation and the responsible use of the nation's aquatic resources, and to further safety in fishing and boating; and

"(3) the term 'aquatic resource education program' means a program designed to enhance the public's understanding of aquatic resources and sport-fishing, and to promote the development of responsible attitudes and ethics toward the aquatic environment.".

(b) FUNDING FOR OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4 of the 1950 Act (16 U.S.C. 777c) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f);

(2) by inserting after subsection (b) the following:

"(c) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Of the balance of each such annual appropriation remaining after making the distribution under subsections (a) and (b), respectively, an amount equal to—

(1) $5,000,000 for fiscal year 1998;

(2) $6,000,000 for fiscal year 1999;

(3) $7,000,000 for fiscal year 2000;
(4) $8,000,000 for fiscal year 2001;
(5) $10,000,000 for fiscal year 2002; and
(6) $10,000,000 for fiscal year 2003,

shall be used for the National Outreach and Communications Program under section X08(d). Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary of the Interior for that program may be expended by the Secretary under subsection (e).";

(3) by inserting a comma and "for an outreach and communications program" after "Act" in subsection (d)), as redesignated;

(4) by striking "subsections (a) and (b)," in subsection (d), as redesignated, "subsections (a), (b), and (c),";

(5) by adding at the end of subsection (d), as redesignated, the following: "Of the sum available to the Secretary of the Interior under this subsection for any fiscal year, up to $2,500,000 may be used for the National Outreach and Communications Program under section X08(d) in addition to the amount available for that program under subsection (c). No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purpose except those purposes authorized by this Act. The Secretary shall publish a detailed accounting of the projects, programs, and activities funded under this subsection annually in the Federal Register."; and

(6) by striking subsections (a), (b), and (c)," in subsection (e), as redesignated, and inserting "subsections (a), (b), (c), and (d),".

(c) INCREASE IN STATE ALLOCATION.—Section 8 of the 1950 Act (16 U.S.C. 777g) is amended—

(1) by striking "12 ½ percentum" each place it appears in subsection (b) and inserting "15 percent";

(2) by striking "10 percentum" in subsection (c) and inserting "15 percent"'

(3) by inserting "and communications" in subsection (c) after "outreach"; and

(4) by redesignating subsection (d) as subsection (f); and by inserting after subsection (c) the following:

"(d) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—

"(1) IMPLEMENTATION.—Within 1 year after the date of enactment of the Intermodal Transportation Safety Act of 1997, the Secretary of the Interior shall develop and implement, in cooperation and consultation with the Sport Fishing and Boating partnership Council, a national plan for outreach and communications.

"(2) CONTENT.—The plan shall provide—

"(A) guidance, including guidance on the development of an administrative process and funding priorities, for outreach and communications programs; and

"(B) for the establishment of a national program.

"(3) SECRETARY MAY MATCH OR FUND PROGRAMS.—Under the plan, the Secretary may obligate amounts available under subsection (c) or (d) of section 604 of this Act—

"(A) to make grants to any State or private entity to pay all or any portion of the cost of carrying out any outreach or communications program under the plan; or

"(B) to fund contracts with States or private entities to carry out such a program.

"(4) REVIEW.—The plan shall be reviewed periodically, but not less frequently than once every 3 years.

"(e) STATE OUTREACH AND COMMUNICATIONS PROGRAM.—Within 12 months after the completion of the national plan under subsection (d)(1), a State shall develop a plan for an outreach and communications program and submit it to the secretary. In developing the plan, a State shall—

"(1) review the national plan developed under subsection (d);

"(2) consult with anglers, boaters, the sportfishing and boating industries, and the general public; and

"(3) establish priorities or the State outreach and communications program proposed for implementation.".

SEC. 603. CLEAN VESSEL ACT FUNDING.

Section 4(b) of the 1950 Act (16 U.S.C. 777c(b)) is amended to read as follows:

"(b) USE OF BALANCE AFTER DISTRIBUTION.—

"(1) FISCAL YEAR 1998.—For fiscal year 1998, of the balance remaining after making the distribution under subsection (a), an amount equal to $51,000,000 shall be used as follows:

"(A) $10,000,000 shall be available to the Secretary of the Interior for 3 years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note);

"(B) $10,000,000 shall be available to the Secretary of the Interior for 3 years for obligation for qualified projects under section X05(d) of the Intermodal Transportation Safety Act of 1997; and

"(C) $31,000,000 shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(2) FISCAL YEARS 1999–2003.—For each of fiscal years 1999 through 2003, the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $84,000,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 (26 U.S.C. 9504) to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

"(A) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note);

"(B) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section X05(d) of the Intermodal Transportation Safety Act of 1997; and

"(C) the balance shall be transferred for each such fiscal year to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(3) Amounts available under subparagraphs (A) and (B) of paragraph (1) and paragraph (2) that are unobligated by the Secretary of the Interior after 3 years shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.".

SEC. 604. BOATING INFRASTRUCTURE.

(a) PURPOSE.—The purpose of this section is to provide funds to States for the development and maintenance of public facilities for transient nontrailerable recreational vessels.

(b) SURVEY.—Section 8 of the 1950 Act (16 U.S.C. 777g), as amended by section X03, is amended by adding at the end thereof the following:

"(g) SURVEYS.—

"(1) NATIONAL FRAMEWORK.—Within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, the Secretary, in consultation with the States, shall adopt a national framework for a public boat access needs assessment which may be used by States to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

"(2) STATE SURVEYS.—Within 18 months after such date of enactment, each State that agrees to conduct a public boat access needs survey following the recommended national framework shall report its findings to the Secretary for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

"(3) EXCEPTION.—Paragraph (2) does not apply to a State if, within 18 months after such date of enactment, the Secretary certifies that the State has developed and is implementing a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on its waters.

"(4) FUNDING.—A State that conducts a public boat access needs survey under paragraph (2) may fund the costs of conducting that assessment out of amounts allocated to it as funding dedicated to motorboat access to recreational waters under subsection (b)(1) of this section."

(c) PLAN.—Within 6 months after submitting a survey to the Secretary under section 8(g) of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (16 U.S.C. 777g(g)), as added by subsection (b) of this section, a State may develop and submit to the Secretary a plan for the construction, renovation, and maintenance of public facilities, and access to those facilities, for transient nontrailerable recreational vessels to meet the needs of nontrailerable recreational vessels operating on navigable waters in the State.

(d) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate amounts made available under section 4(b)(1)(C) of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (16 U.S.C. 777c(b)(1)(C)) to make grants to any State to pay not more than 75 percent of the cost to a State of constructing, renovating, or maintaining public facilities for transient nontrailerable recreational vessels.

(2) PRIORITIES.—In awarding grants under paragraph (1), the Secretary shall give priority to projects that—

(A) consist of the construction, renovation, or maintenance of public facilities for transient nontrailerable recreational vessels in accordance with a plan submitted by a State under subsection (c);

(B) provide for public/private partnership efforts to develop, maintain, and operate facilities for transient nontrailerable recreational vessels; and

(C) propose innovative ways to increase the availability of facilities for transient nontrailerable recreational vessels.

(e) DEFINITIONS.—For purposes of this section, the term—

(1) "nontrailerable recreational vessel" means a recreational vessel 26 feet in length or longer—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure;

(2) "public facilities for transient nontrailerable recreational vessels" includes

mooring buoys, daydocks, navigational aids, seasonal slips, or similar structures located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable recreational vessels; and

(4) "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(f) EFFECTIVE DATE.—This section shall take effect on October 1, 1997.

SEC. 605. BOAT SAFETY FUNDS.

(a) AVAILABILITY OF ALLOCATIONS.—Section 13104(a) of title 46, United States Code, is amended—

(1) by striking "3 years" in paragraph (1) and inserting "2 years"; and

(2) by striking "3-year" in paragraph (2) and inserting "2-year".

(b) EXPENDITURES.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: "Subject to paragraph (2) and subsection (c), the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount appropriated from the Boat Safety Account for that fiscal year and (B) the amount transferred to the Secretary under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b))."; and

(2) by striking subsection (c) and inserting the following:

"(c) Of the amount transferred for each fiscal year to the Secretary of Transportation under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), $5,000,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this Act. Amounts made available by this subsection shall remain available until expended. The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.".

(c) CONFORMING AMENDMENTS.—

(1) The caption for section 13106 of title 46, United States Code, is amended to read as follows:

"§ 13106. Authorization of appropriations".

(2) The chapter analysis for chapter 131 of title 46, United States Code, is amended by striking the item relating to section 13106 and inserting the following:

"13106. Authorization of appropriations".

TITLE VII—MISCELLANEOUS

SEC. 701. ENFORCEMENT OF WINDOW GLAZING STANDARDS FOR LIGHT TRANSMISSION.

Section 402(a) of title 23, United States Code, is amended by striking "post-accident procedures." and inserting "post-accident procedures, including the enforcement of light transmission standards of glazing for passenger motor vehicles and light trucks as necessary to improve highway safety.".

DOMENICI AMENDMENT NO. 1365

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

In the language proposed to be stricken, at the appropriate place insert the following:

Notwithstanding any other provision of this Act, any amount of contract authority which is provided in this Act for the reauthorization of the Intermodal Surface Transportation Efficiency Act of 1991, which exceeds $147,387,000,000 for fiscal years 1998 through 2002 shall only be available to the extent provided in advance in appropriation acts.

REID (AND BOXER) AMENDMENT NO. 1366

(Ordered to lie on the table.)

Mr. REID (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

On page 253, between lines 15 and 16, insert the following:

"(3) LAKE TAHOE REGION.—Notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region (as defined in the Lake Tahoe Regional Planning Compact), by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

REID AMENDMENT NO. 1367

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the appropriate place, insert the following:

SEC. . LONGER COMBINATION VEHICLES.

(a) INTERSTATE SYSTEM.—

(1) IN GENERAL.—Section 127(d) of title 23, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking "configuration type was" and inserting the following "configuration type—

"(i) was";

(II) by striking the period at the end and inserting "; and"; and

(III) by adding at the end the following:

"(ii) consists of combination of a truck tractor and 2 trailers or semitrailers."; and

(ii) in each of subparagraphs (D), (E), and (F), by inserting before the period at the end the following: ", except that the State may not allow the operation of any combination of a truck tractor and more than 2 trailers or semitrailers"; and

(B) in paragraph (3), by adding at the end the following:

"(F) ADDITIONAL REVISION.—

"(i) IN GENERAL.—Not later than 120 days after the date of enactment of this subparagraph, the Secretary shall publish in the Federal Register a revision of the list published under subparagraph (D) that reflects the amendments made by section ——(a) of the Intermodal Surface Transportation Efficiency Act of 1997.

"(ii) REVIEW AND CORRECTION PROCEDURE.—The revised list published under clause (i) shall be subject to the review and correction procedure described in subparagraph (E).".

"(2) APPLICATION OF AMENDMENTS.—The amendments made by paragraph (1) shall apply beginning on the date that is 180 days after the date of enactment of this Act.

PROPERTY-CARRYING UNIT LIMITATION.—Section 31112 of title 49, United States Code, is amended—

(1) in subsection (b), by striking "A State" and inserting "Subject to subsection (h), a State";

(2) in subsection (c), by striking "In addition" and inserting "Subject to subsection (h), in addition";

(3) in subsection (d), by adding at the end the following:

"(5) Paragraphs (1) through (3) are subject to the limitation under subsection (h).";

(4) in subsection (e), by adding at the end the following:

"(5) Not later than 120 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, the Secretary shall publish in the Federal Register a revised list that reflects the limitation under subsection (h).";

(5) in subsection (f), by striking "This section" and inserting "Except as provided in subsection (h), this section"; and

(6) by adding at the end the following:

"(h) LIMITATION WITH RESPECT TO LONGER COMBINATION VEHICLES.—Beginning on the date specified in section ——(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1997, each State shall take such action as may be necessary to ensure that no longer combination vehicle (as that term is defined in section 127(d)(4) of title 23, United States Code) that consists of a combination of a truck tractor and more than 2 trailers or semitrailers may operate on the Interstate System.".

JOHNSON AMENDMENT NO. 1368

(Ordered to lie on the table.)

Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 136, strike line 22 and insert the following:

specified in subparagraph (G).".

SEC. 1128. TAX-EXEMPT FUEL FOR MASS TRANSPORTATION RECIPIENTS.

(a) GASOLINE.—Section 6421(b)(1) of the Internal Revenue Code of 1986 (relating to intercity, local, or school buses) is amended by striking "or" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following:

"(B) providing mass transportation (as defined in section 5302(a)(7) of title 49, United States Code), if the mass transportation provider is a recipient or a subrecipient of financial assistance under chapter 53 of such title or an entity under contract to a recipient to provide mass transportation service for the recipient, but only to the extent that mass transportation service is provided, or".

(b) OTHER FUELS.—Section 6427(b)(1) of the Internal Revenue Code of 1986 (relating to intercity, local, or school buses) is amended by striking "or" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following:

"(B) providing mass transportation (as defined in section 5302(a)(7) of title 49, United States Code), if the mass transportation provider is a recipient or a subrecipient of financial assistance under chapter 53 of such title or an entity under contract to a recipient to provide mass transportation service

for the recipient, but only to the extent that mass transportation service is provided, or''.

(c) CONFORMING AMENDMENT.—Section 6427(b)(2)(B) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) EXCEPTION FOR CERTAIN TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus which engaged in the transportation described in subparagraph (B) or (C) of paragraph (1).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel used after the date of enactment of this Act.

JOHNSON (AND OTHERS) AMENDMENT NO. 1369

(Ordered to lie on the table.)

Mr. JOHNSON (for himself, Mr. THOMAS, Mr. LEVIN, and Mr. ALLARD) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

At the appropriate place, insert the following:

SEC. . MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

Section 5338 of title 49, United States Code, is amended by adding at the end the following:

''(o) MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

''(1) SET-ASIDE REQUIRED.—For each fiscal year beginning after September 30, 1997, after providing for any allocation or set-asides under subsection (g) or (h), but before completing distribution of other amounts made available or appropriated under subsections (a) and (b), the Secretary shall set aside, and shall make available to each State, in addition to amounts otherwise made available to the State (or to its political subdivisions) to carry out sections 5307, 5309, 5310, and 5311, the amount calculated under paragraph (2)(B).

''(2) CALCULATION.—

''(A) DEFINITION OF MINIMUM GUARANTEE THRESHOLD AMOUNT.—In this subsection, the term 'minimum guarantee threshold amount' means, with respect to a State for a fiscal year, the amount equal to the product of—

''(i) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311 for that fiscal year; multiplied by

''(ii) 70 percent of the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

''(B) CALCULATION.—Subject to subparagraph (C) and any other limitations set forth in this subsection, the amount required to be provided to a State under this subsection is the amount, if it is a positive number, that, if added to the total amount made available to the State (and its political subdivisions) under sections 5307, 5309, 5310, and 5311 for that fiscal year, is equal to the minimum guarantee threshold amount.

''(C) LIMITATION.—The maximum amount made available to a State under this subsection shall not exceed $12,500,000.

''(3) SOURCE OF FUNDS.—

''(A) IN GENERAL.—Amounts required to be set aside and made available to States under this subsection—

''(i) may be obtained from any amounts under section 5309 that are made available to the Secretary for distribution at the Secretary's discretion; or

''(ii) if not, shall be obtained by proportionately reducing amounts which would otherwise be made available under subsections (a) and (b), for sections 5307, 5309, 5310, and 5311, to those States and political subdivisions for which the amount made available under sections 5307, 5309, 5310, and 5311 to the State (including political subdivisions thereof) is greater than the product of—

''(I) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311, in that fiscal year; multiplied by

''(II) the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

''(B) PROPORTIONATE REDUCTIONS.—The Secretary also shall apply reductions under subparagraph (A)(ii) proportionately to amounts made available from the Mass Transit Account and to amounts made available from other sources.

''(C) OTHER REDUCTIONS.—

''(i) IN GENERAL.—Reductions otherwise required by subparagraph (A) may be taken against the amounts that otherwise would be made available to any State or political subdivision thereof, only to the extent that making those reductions would not reduce the total amount made available to the State and its political subdivisions under sections 5307, 5309, 5310, and 5311 to less than the lesser of—

''(I) 90 percent of the total of those amounts made available to the State and its political subdivisions in fiscal year 1997; or

''(II) the minimum guarantee threshold amount for the State for the fiscal year at issue.

''(ii) PROPORTIONATE REDUCTIONS.—In the event of the applicability of clause (i), the Secretary shall obtain the remainder of the amounts required to be made available to States under the minimum guarantee required by this subsection proportionately from those States, including political subdivisions, to which subparagraph (A) applies, and to which clause (i) of this subparagraph does not apply.

''(4) ATTRIBUTION OF AMOUNTS.—For the purposes of calculations under this subsection, with respect to attributing to individual States any amounts made available to political subdivisions that are multi-State entities, the Secretary shall attribute those amounts to individual States, based on such criteria as the Secretary may adopt by rule, except that, for purposes of calculations for fiscal year 1998 only, the Secretary may attribute those amounts to individual States before adopting a rule.

''(5) USE OF ADDITIONAL AMOUNTS.—Amounts made available to a State under this subsection may be used for any purpose eligible for assistance under this chapter. Not more than 50 percent of the amount made available to a State under this subsection for any fiscal year may be used by the State for any project or program eligible for assistance under title 23.

''(6) TREATMENT OF CERTAIN AMOUNTS.—For purposes of sections 5323(a)(1)(D) and 5333(b), amounts made available to a State under this subsection that are, in turn, awarded by the State to subgrantees, shall be treated as if apportioned—

''(A) under section 5311, if the subgrantee is not serving an urbanized area; and

''(B) directly to the subgrantee under section 5307, if the subgrantee serves an urbanized area.''.

STEVENS (AND MURKOWSKI) AMENDMENT NO. 1370

(Ordered to lie on the table.)

Mr. STEVENS (for himself and Mr. MURKOWSKI) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . MUNICIPALITY OR FERRY AUTHORITY.

(a) Notwithstanding any other provision of law, section 5333(b) of Title 49, United States Code, shall not apply to a grant to a municipality or ferry authority for a ferry operated between points which are not connected by road to the remainder of the United States, Canada, or Mexico and which is replacing service that has been or will be diminished by the applicable State or ferry authority within 24 months of the date of passage of this amendment.

(b) The Federal Transit Administration is authorized to award a grant to a municipality or ferry authority required by State law to operate its ferry without any guarantee from other municipal receipts or financing.

SPECTER AMENDMENTS NOS. 1371–1372

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1371

On page 309, after line 3, insert the following:

''Sec. . DESIGNATION OF HIGH PRIORITY CORRIDORS.

''Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032–2033) is amended by inserting after paragraph (29) the following:

''(30) The Mon-Fayette Expressway and Southern Beltway in Pennsylvania.

''(31) The U.S. route 219 Corridor from the vicinity of Bradford, Pennsylvania to the vicinity of Salisbury, Pennsylvania.''

AMENDMENT NO. 1372

On page 105, line 13, strike ''$40,000,000'' and insert ''$50,000,000''.

On page 105, line 14, strike ''$50,000,000'' and insert ''$70,000,000''.

On page 105, line 15, strike ''$60,000,000'' and insert ''$80,000,000''.

On page 105, line 16, strike ''$70,000,000'' and insert ''$100,000,000''.

On page 395, line 8, strike ''$120,000,000'' and insert ''$115,000,000''.

On page 395, line 8, strike ''$125,000,000'' and insert ''$120,000,000''.

On page 395, line 9, strike ''$130,000,000'' and insert ''$125,000,000''.

On page 395, line 10, strike ''$135,000,000'' and insert ''$125,000,000''.

On page 395, line 10, strike ''$140,000,000'' and insert ''$130,000,000''.

On page 395, line 11, strike ''$150,000,000'' and insert ''$135,000,000''.

On page 398, line 7, strike ''$100,000,000'' and insert ''$95,000,000''.

On page 398, line 7, strike ''$110,000,000'' and insert ''$105,000,000''.

On page 398, line 8, strike ''$115,000,000'' and insert ''$110,000,000''.

On page 398, line 9, strike "$130,000,000" and insert "$120,000,000".

On page 398, line 9, strike "$135,000,000" and insert "$125,000,000".

On page 398, line 10, strike "$145,000,000" and insert "$130,000,000".

LEVIN AMENDMENTS NOS. 1373–1376

(Ordered to lie on the table.)

Mr. LEVIN submitted four amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1373

On page 29, strike lines 7 through 19 and insert the following:

"(i) each State's percentage of the total sums made available from the Highway Trust Fund for the fiscal year; bears to

On page 29, lines 23 and 24, strike "(other than the Mass Transit Account)".

On page 31, strike lines 8 and 9 and insert the following:

"(B) shall—

"(i) in the case of amounts allocated under subsection (a)(1)(A), be available for any purpose eligible for funding under this title, title 49, or the Intermodal Surface Transportation Efficiency Act of 1997; and

"(ii) in the case of amounts allocated under subsection (a)(1)(B), be available for any purpose eligible for funding under this title.

On page 31, line 11, strike "(a)" and insert "(a)(1)(B)".

On page 31, line 23, strike the quotation marks and the following period.

On page 31, between lines 23 and 24, insert the following:

"(e) APPLICABILITY OF OBLIGATION LIMITATIONS.—Any obligation limitation established by the Intermodal Surface Transportation Efficiency Act of 1997 or any subsequent Act shall not apply to obligations made under this section, unless the provision of law establishing the limitation specifically amends or limits the applicability of this subsection.".

AMENDMENT NO. 1374

At the end of subtitle H of title I, add the following:

SECTION 18. USE OF BRIDGE REINFORCEMENT TECHNOLOGY IN SOUTHFIELD, MICHIGAN.

(a) IN GENERAL.—The Secretary shall make funds available to the State of Michigan to carry out a project to construct the Bridge Street bridge in the city of Southfield, Michigan, using advanced carbon and glass composites as reinforcements for concrete, instead of steel, in the manufacture of prestressed bridge beams and bridge decks.

(b) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $2,300,000 for each of fiscal years 1998 and 1999.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

AMENDMENT NO. 1375

On page 125, lines 5 and 6, strike "not less than 15 percent" and insert "not less than 25 percent, nor more than 35 percent,".

On page 156, strike lines 21 through 23 and insert the following:

(B) in paragraph (3)—

(i) in the first sentence of subparagraph (A), by striking "80" and inserting "82"; and

(ii) in subparagraph (B)—

(I) by striking "tobe" and inserting "to be"; and

(II) by adding at the end the following: "A project under this subparagraph shall be undertaken on a road that is classified as below a principal arterial."; and

On page 274, strike lines 3 through 7 and insert the following:

"(ii) NONMETROPOLITAN AREAS.—

"(I) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed jointly by the State, elected officials of affected local governments, and elected officials of subdivisions of affected local governments that have jurisdiction over transportation planning, through a process developed by the State that ensures participation by the elected officials.

"(II) REVIEW.—Not less than once every 2 years, the Secretary shall review the planning process through which the program was developed under subclause (I).

"(III) APPROVAL.—The Secretary shall approve the planning process if the Secretary finds that the planning process is consistent with this section and section 134.

On page 286, between lines 10 and 11, insert the following:

SEC. 1605. STUDY OF PARTICIPATION OF LOCAL ELECTED OFFICIALS IN TRANSPORTATION PLANNING AND PROGRAMMING.

(a) STUDY.—The Secretary shall conduct a study on the effectiveness of the participation of local elected officials in transportation planning and programming.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of the study required under subsection (a).

AMENDMENT NO. 1376

In lieu of the matter proposed to be inserted, insert the following:

1. SHORT TITLE.

This Act may be cited as the "Short-Term ISTEA Extension Act of 1997".

SEC. 2. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

(a) MAJOR PROGRAMS.—

(1) IN GENERAL.—Section 1003 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1918) is amended by adding at the end the following:

"(d) FEDERAL-AID HIGHWAYS FOR PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety construction programs $11,942,375,000 for the period of October 1, 1997, through March 31, 1998.

"(B) DISTRIBUTION.—Amounts made available under subparagraph (A) shall be distributed in accordance with this subsection.

"(2) CERTAIN DISCRETIONARY PROGRAMS.—Of the amounts made available under paragraph (1), the Secretary shall deduct, for the period of October 1, 1997, through March 31, 1998—

"(A) $32,500,000 to carry out section 118(c)(2) of title 23, United States Code; and

"(B) $30,250,000 to carry out the discretionary program under paragraphs (1) and (2) of section 144(g) of that title.

"(3) STATE ALLOCATION PERCENTAGES.—Using amounts remaining after making the deductions under paragraph (2) and application of paragraphs (4) and (5), the Secretary shall determine the amount to be apportioned to each State in accordance with the percentage specified for the State in the following table:

"State	Percentage
Alabama	2.1138
Alaska	0.9988
Arizona	1.6077
Arkansas	1.4268
California	9.3057
Colorado	1.2912
Connecticut	1.8229
Delaware	0.4157
District of Columbia	0.4436
Florida	4.7766
Georgia	3.6171
Hawaii	0.6435
Idaho	0.6314
Illinois	3.4058
Indiana	2.5115
Iowa	1.082
Kansas	1.0732
Kentucky	1.7883
Louisiana	1.5431
Maine	0.5871
Maryland	1.5643
Massachusetts	1.8584
Michigan	3.2075
Minnesota	1.4147
Mississippi	1.3196
Missouri	2.4028
Montana	0.7957
Nebraska	0.8027
Nevada	0.6218
New Hampshire	0.4764
New Jersey	2.4404
New Mexico	0.8767
New York	5.1849
North Carolina	2.9155
North Dakota	0.6972
Ohio	3.4675
Oklahoma	1.6553
Oregon	1.2105
Pennsylvania	3.878
Rhode Island	0.6208
South Carolina	1.6819
South Dakota	0.629
Tennessee	2.3345
Texas	7.0623
Utah	0.7969
Vermont	0.3912
Virginia	2.647
Washington	1.8263
West Virginia	1.2008
Wisconsin	1.8776
Wyoming	0.625
Puerto Rico	0.431.

"(4) STATE PROGRAMMATIC DISTRIBUTION.—

"(A) IN GENERAL.—Of the funds to be apportioned to each State under paragraph (3), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under subparagraph (B)—

"(i) for the Interstate maintenance program under section 119 of title 23, United States Code;

"(ii) for the National Highway System under section 103 of that title;

"(iii) for the bridge program under section 144 of that title;

"(iv) for the surface transportation program under section 133 of that title;

"(v) for the congestion mitigation and air quality improvement program under section 149 of that title;

"(vi) for minimum allocation under section 157 of that title;

"(vii) for Interstate reimbursement under section 160 of that title;

"(viii) for the donor State bonus under section 1013(c);

"(ix) for hold harmless under section 1015(a);

"(x) for the 90 percent of payments adjustments under section 1015(b);

"(xi) for metropolitan planning under section 134 of that title;

"(xii) for section 1015(c); and

"(xiii) for funding restoration under section 202 of the National Highway System Designation Act of 1995 (109 Stat. 571).

"(B) FORMULA.—The amount that each State shall be apportioned under this subsection for each item referred to in subparagraph (A) shall be determined by multiplying—

"(i) the amount apportioned to the State under paragraph (3); by

"(ii) the ratio that—

"(I) the amount of funds apportioned for the item to the State for fiscal year 1997; bears to

"(II) the total of the amount of funds apportioned for the items to the State for fiscal year 1997.

"(C) MINIMUM ALLOCATION.—Funds apportioned to States under this subsection for minimum allocation under section 157 of title 23, United States Code, shall not be subject to any obligation limitation.

"(D) ADMINISTRATION.—Funds authorized under this subsection shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code.

"(5) GENERAL OPERATING EXPENSES AND TERRITORIAL HIGHWAYS.—

"(A) GENERAL OPERATING EXPENSES.—After making the determinations and before apportioning funds under paragraphs (3) and (4), the Secretary shall deduct the amount that would be required to be deducted under section 104(a) of title 23, United States Code, from the aggregate of amounts to be apportioned to all States for programs to which the deduction under that section would apply if that section applied to the apportionment.

"(B) TERRITORIAL HIGHWAYS.—After making the determinations and before apportioning funds under paragraphs (3) and (4), the Secretary shall deduct the amount required to be deducted under section 104(b)(1) of title 23, United States Code, for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands from the aggregate of amounts to be apportioned to all States for the National Highway System under this subsection.".

(2) NATIONAL RECREATIONAL TRAILS PROGRAM.—Section 104(h) of title 23, United States Code, is amended by inserting after "1997" the following: "and $7,500,000 for the period of October 1, 1997, through March 31, 1998".

(3) WOODROW WILSON BRIDGE.—Section 104(i)(1) of title 23, United States Code, is amended by inserting after "1997" the following: ", and for the period of October 1, 1997, through March 31, 1998,".

(4) OFF-SYSTEM BRIDGES.—Section 144(g)(3) of title 23, United States Code, is amended by inserting after "1997," the following: "and for the period of October 1, 1997, through March 31, 1998,".

(5) SURFACE TRANSPORTATION PROGRAM.—

(A) IN GENERAL.—Section 133(f) of title 23, United States Code, is amended by inserting after "1997" the following: ", and for the period of October 1, 1997, through March 31, 1998,".

(B) APPORTIONMENT OF SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 104(b)(3)(B) of title 23, United States Code, is amended in the first sentence by inserting after "1997," the following: "and for the period of October 1, 1997, through March 31, 1998,".

(b) FEDERAL LANDS HIGHWAYS.—Section 1003(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) is amended—

(1) in subparagraph (A)—

(A) by striking "1992 and" and inserting "1992,"; and

(B) by inserting before the period at the end the following: ", and $95,500,000 for the period of October 1, 1997, through March 31, 1998";

(2) in subparagraph (B)—

(A) by striking "1995, and" and inserting "1995,"; and

(B) by inserting before the period at the end the following: "and $86,000,000 for the period of October 1, 1997, through March 31, 1998"; and

(3) in subparagraph (C)—

(A) by striking "1995, and" and inserting "1995,"; and

(B) by inserting before the period at the end the following: ", and $42,000,000 for the period of October 1, 1997, through March 31, 1998".

(c) CERTAIN ALLOCATED PROGRAMS.—

(1) HIGHWAY USE TAX EVASION.—Section 1040(f)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat 1992) is amended in the first sentence by inserting before the period at the end the following: "and $2,500,000 for the period of October 1, 1997, through March 31, 1998".

(2) SCENIC BYWAYS PROGRAM.—Section 1047(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1998) is amended in the first sentence—

(A) by striking "1994, and" and inserting "1994,"; and

(B) by inserting before the period at the end the following: ", and $7,000,000 for the period of October 1, 1997, through March 31, 1998".

(3) FERRY BOAT CONSTRUCTION.—Section 1064(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) is amended—

(A) by striking "1996, and" and inserting "1996,"; and

(B) by inserting after "1997" the following: ", and $9,000,000 for the period of October 1, 1997, through March 31, 1998,".

(d) FISCAL YEAR 1998 OBLIGATION LIMITATION.—

(1) IN GENERAL.—Section 1002 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1916) is amended—

(A) in subsection (a)—

(i) in paragraph (5), by striking "and" at the end;

(ii) in paragraph (6), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(7) $21,500,000,000 for fiscal year 1998."; and

(B) by adding at the end the following:

"(h) SPECIAL RULE FOR FISCAL YEAR 1998.—The Secretary shall distribute—

"(1) on October 1, 1997, 50 percent of the limitation on obligations for Federal-aid highways and highway safety construction programs imposed by the Department of Transportation and Related Agencies Appropriations Act, 1998; and

"(2) on July 1, 1998, 50 percent of the limitation.".

(2) LIMITATION.—Nothing in this section (including the amendments made by this section) shall apply to any funds made available before October 1, 1997, for carrying out—

(A) sections 125 and 157 of title 23, United States Code; and

(B) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027).

SEC. 3. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) NHTSA HIGHWAY SAFETY PROGRAMS.—Section 2005 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2079) is amended—

(1) in paragraph (1)—

(A) by striking "1996, and" and inserting "1996,"; and

(B) by inserting before the period at the end the following: ", and $83,000,000 for the period of October 1, 1997, through March 31, 1998"; and

(2) in paragraph (2), by inserting before the period at the end the following: "and $22,000,000 for the period of October 1, 1997, through March 31, 1998".

(b) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.—Section 410 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "5" and inserting "6"; and

(B) in paragraph (3), by striking "and fifth" and inserting "fifth, and sixth";

(2) in subsection (d)(2)(B), by striking "two" and inserting "3"; and

(3) in the first sentence of subsection (j)—

(A) by striking "1997, and" and inserting "1997,"; and

(B) by inserting before the period at the end the following ", and $12,500,000 for the period of October 1, 1997, through March 31, 1998".

(c) NATIONAL DRIVER REGISTER.—Section 30308(a) of title 49, United States Code, is amended—

(1) by striking "1994, and" and inserting "1994,"; and

(2) by inserting after "1997," the following: "and $1,855,000 for the period of October 1, 1997, through March 31, 1998,".

(d) OBLIGATION LIMITATION.—The total of all obligations for highway traffic safety grants under sections 402 and 410 of title 23, United States Code, for fiscal year 1998 shall not exceed $186,500,000.

SEC. 4. FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m)(1) of title 49, United States Code, is amended by inserting ", and for the period of October 1, 1997, through March 31, 1998" after "1997".

(b) APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.—Section 5337 of title 49, United States Code, is amended—

(1) in subsection (a), by inserting "and for the period of October 1, 1997, through March 31, 1998," after "1997,"; and

(2) by adding at the end the following:

"(e) SPECIAL RULE FOR OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—The Secretary shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under this section on a pro rata basis to reflect the partial fiscal year 1998 funding made available by section 5338(b)(1)(F).".

(c) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by adding at the end following:

"(F) $1,284,792,000 for the period of October 1, 1997, through March 31, 1998."; and

(B) in paragraph (2), by adding at the end the following:

"(F) $213,869,000 for the period of October 1, 1997, through March 31, 1998.";

(2) in subsection (b)(1), by adding at the end the following:

"(F) $1,162,708,000 for the period of October 1, 1997, through March 31, 1998.";

(3) in subsection (c), by inserting "and not more than $1,500,000 for the period of October 1, 1997, through March 31, 1998," after "1997,";

(4) in subsection (e), by inserting "and not more than $3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998," after "1997,";

(5) in subsection (h)(3), by inserting "and $3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998" after "1997";

(6) in subsection (j)(5)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) the lesser of $1,500,000 or an amount that the Secretary determines is necessary is available for the period of October 1, 1997, through March 31, 1998.";

(7) in subsection (k), by striking "or (e)" and inserting "(e), or (m)"; and

(8) by adding at the end the following:

"(m) SECTION 5316 FOR THE PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Account) for the period of October 1, 1997, through March 31, 1998:

"(1) $125,000 to carry out section 5316(a).

"(2) $1,500,000 to carry out section 5316(b).

"(3) $500,000 to carry out section 5316(c).

"(4) $500,000 to carry out section 5316(d).

"(5) $500,000 to carry out section 5316(e).".

(d) OBLIGATION LIMITATIONS.—

(1) DISCRETIONARY GRANTS AND LOANS.—The total of all obligations from the Mass Transit Account of the Highway Trust Fund for carrying out section 5309 of title 49, United States Code, relating to discretionary grants and loans, for fiscal year 1998 shall not exceed $2,000,000,000.

(2) FORMULA TRANSIT PROGRAMS.—The total of all obligations for formula transit programs under sections 5307, 5310, 5311, and 5336 of title 49, United States Code, for fiscal year 1998 shall not exceed $2,210,000,000.

SEC. 5. EXTENSION OF MOTOR CARRIER SAFETY PROGRAM.

(a) MOTOR CARRIER SAFETY FUNDING.—Section 31104(a) of title 49, United States Code, is amended—

(1) in paragraphs (1) through (5), by striking "not more" each place it appears and inserting "Not more"; and

(2) by adding at the end the following:

"(6) Not more than $45,000,000 for the period of October 1, 1997, through March 31, 1998.".

(b) OBLIGATION LIMITATION.—The total of all obligations for carrying out the motor carrier safety program under section 31102 of title 49, United States Code, for fiscal year 1998 shall not exceed $85,325,000.

SEC. 6. EXTENSION OF RESEARCH PROGRAMS.

(a) BUREAU OF TRANSPORTATION STATISTICS.—Section 6006 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2172) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Chapter I"; and

(2) in the first sentence of subsection (b)—

(A) by striking "1996, and" and inserting "1996,"; and

(B) by inserting before the period at the end the following: ", and $12,500,000 for the period of October 1, 1997, through March 31, 1998".

(b) INTELLIGENT TRANSPORTATION SYSTEMS.—Section 6058(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194) is amended—

(1) by striking "1992 and" and inserting "1992,"; and

(2) by inserting before the period at the end the following: ", and $56,500,000 for the period of October 1, 1997, through March 31, 1998".

(c) RESEARCH AND TECHNOLOGY PROGRAM.—Section 307 of title 23, United States Code, is amended in subsections (b)(2)(B), (e)(13), and (f)(4) by inserting after "1997" each place it appears the following: "and for the period of October 1, 1997, through March 31, 1998,".

(d) EDUCATION AND TRAINING PROGRAM.—Section 326(c) of title 23, United States Code, is amended in the second sentence by inserting after "1997" the following: ", and for the period of October 1, 1997, through March 31, 1998,".

SEC. 7. 1-YEAR EXTENSION OF HIGHWAY TRUST FUND EXPENDITURES.

(a) GENERAL EXPENDITURE AUTHORITY AND PURPOSES.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking "October 1, 1997" and inserting "October 1, 1998"; and

(2) by striking the last sentence and inserting the following new flush sentence:

"In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of this sentence.".

(b) TRANSFERS TO OTHER ACCOUNTS.—

(1) Paragraphs (4)(A)(i) and (5)(A) of section 9503(c), and paragraph (3) of section 9503(e), of such Code are each amended by striking "October 1, 1997" and inserting "October 1, 1998".

(2) Subparagraph (E) of section 9503(c)(6) of such Code is amended by striking "September 30, 1997" and inserting "September 30, 1998".

(c) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(1) by striking "October 1, 1997" and inserting "October 1, 1998"; and

(2) by striking all that follows "the enactment of" and inserting "the last sentence of subsection (c)(1).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

Amend the title so as to read: "A bill to authorize through March 31, 1998, funds for construction of highways, for highway safety programs, and for mass transit programs.".

SPECTER AMENDMENT NO. 1377

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 117, after line 22, insert the following:

"(5) MAGLEV PILOT PROJECT.—Notwithstanding any other provision of this section, of the amounts made available for fiscal year 1999 by this section, $5,000,000 shall be available to carry out conceptual design and development of a high speed MAGLEV project for which initial research and development funds were provided in 1991 by the Federal Transit Administration and which is intended to serve an international airport in Western Pennsylvania."

ABRAHAM (AND LEVIN) AMENDMENTS NOS. 1378–1383

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted six amendments intended to be proposed by them to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1378

On page 136, after line 22, add the following:

SEC. 11 . AMBASSADOR BRIDGE ACCESS, DETROIT, MICHIGAN.

Notwithstanding section 129 of title 23, United States Code, or any other provision of law, improvements to and construction of access roads, approaches, and related facilities (such as signs, lights, and signals) necessary to connect the Ambassador Bridge in Detroit, Michigan, to the Interstate System shall be eligible for funds apportioned under paragraphs (1) and (3) of section 104(b) of that title.

AMENDMENT NO. 1379

On page 309, between lines 3 and 4, insert the following:

SEC. 18 . MODIFICATION OF HIGH PRIORITY CORRIDOR.

Section 1105(c)(18) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

(1) by striking "(18) Corridor from Indianapolis," and inserting the following:

"(18)(A) Corridor from Sarnia, Ontario, Canada, through Port Huron, Michigan, southwesterly along Interstate Route 69 through Indianapolis,"; and

(2) by adding at the end the following:

"(B) Corridor from Sarnia, Ontario, Canada, southwesterly along Interstate Route 94 to the Ambassador Bridge interchange in Detroit, Michigan.

"(C) Corridor from Windsor, Ontario, Canada, through Detroit, Michigan, westerly along Interstate Route 94 to Chicago, Illinois.".

AMENDMENT NO. 1380

On page 309, between lines 3 and 4, insert the following:

SEC. 18 . INTERNATIONAL BRIDGE, SAULT STE. MARIE, MICHIGAN.

The International Bridge authority, or its successor organization, shall be permitted to continue collecting tolls for maintenance of, operation of, capital improvements to, and future expansions to the International Bridge, Sault Ste. Marie, Michigan, and its approaches, plaza areas, and associated structures.

AMENDMENT NO. 1381

On page 304, after line 24, add the following:

(p) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—Section 323 of title 23, United States Code, is amended by adding at the end the following:

"(e) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—A contribution of real property, funds, material, or a service in connection with a project elegible for assistance under this title shall be credited against the State share of the project at the fair market value of the real property, funds, material, or service.".

AMENDMENT NO. 1382

On page 136, after line 22, add the following:

SEC. 11 . NATIONAL DEFENSE HIGHWAY PROGRAM.

Section 311 of title 23, United States Code, is amended—

(1) by striking "Funds made available" and inserting the following:

"(a) USE OF ADMINISTRATIVE FUNDS.—Funds made available";

(2) by striking "construction of projects for" and inserting the following: "construction of—

"(1) projects for"; and

(3) by striking "may designate. With the consent" and inserting the following: "may designate; and

"(2) transportation projects associated with the economic redevelopment of real property that was the subject of a base closure.

"(b) USE OF APPORTIONED FUNDS.—With the consent".

AMENDMENT NO. 1383

On page 156, strike lines 18 through 24 and insert the following:

(1) in subsection (c), by striking "subsection (b)(1)" and inserting "subsections (b)(1) and (d)(3)(B)(ii)";

(2) in subsection (d)—

(A) in paragraph (2), by striking "10" and inserting "8"; and

(B) in paragraph (3)—

(i) in the first sentence of subparagraph (A), by striking "80" and inserting "82"; and

(ii) in subparagraph (B)—

(I) by striking "Of the amounts required tobe" and inserting the following:

"(i) IN GENERAL.—Of the amounts required to be"; and

(II) by adding at the end the following:

"(ii) ROADS CLASSIFIED AS MINOR COLLECTORS.—Not more than 15 percent of the amounts required to be obligated under this subparagraph may be obligated for roads functionally classified as minor collectors."; and

(3) in subsection (e)—

ABRAHAM AMENDMENT NO. 1384

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 156, strike line 18 and insert the following:

(1) in subsection (b)(9), by striking "section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act" and inserting "section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))";

(2) in subsection (d)—

On page 156, line 24, strike "(2)" and insert "(3)".

ABRAHAM (AND LEVIN) AMENDMENT NO. 1385

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

On page 130, strike lines 19 through 22 and insert the following:

(4) in paragraph (3)—

(A) by inserting "or maintenance of the standard" after "standard"; and

(B) by striking "or" at the end;

(5) in paragraph (4)—

(A) by inserting "or maintenance" after "attainment"; and

(B) by striking the period at the end and inserting "; or"; and

(6) by inserting after paragraph (4) the following:

"(5) to purchase mass transit vehicles or to construct mass transit facilities.".

ABRAHAM AMENDMENT NO. 1386

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the end of the amendment add the following:

SEC. . BLOCK GRANT ACCOUNT.

Section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund), as amended by section 901(d) of the Taxpayer Relief Act of 1997, is amended by adding at the end the following:

"(f) ESTABLISHMENT OF BLOCK GRANT ACCOUNT.—

"(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Block Grant Account', consisting of such amounts as may be transferred or credited to the Block Grant Account as provided in this subsection or section 9602(b).

"(2) TRANSFERS TO BLOCK GRANT ACCOUNT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall transfer to the Block Grant Account the block grant portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after September 30, 1997.

"(B) BLOCK GRANT PORTION.—For purposes of subparagraph (A), the term 'block grant portion' means an amount determined at the rate of .3 cent for each gallon with respect to which tax was imposed under section 4041 or 4081.

"(3) EXPENDITURES FROM ACCOUNT.—

"(A) IN GENERAL.—The applicable percentage of the amounts in the Block Grant Account shall be available, as provided by appropriation Acts, to each State for making expenditures after September 30, 1997, for projects which are or would otherwise be funded under the Intermodal Surface Transportation Efficiency Act of 1997.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage for any State in any fiscal year is the State's percentage of the total expenditures allocated to all States from the Highway Trust Fund (other than the Block Grant Account) for the preceding fiscal year.

"(C) ENFORCEMENT.—If the Secretary determines that a State has used funds under this paragraph for a purpose that is not described in subparagraph (A), the amount of the improperly used funds shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year that begins after the date of the determination.".

DOMENICI AMENDMENTS NOS. 1387–1394

(Ordered to lie on the table.)

Mr. DOMENICI submitted eight amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1387

Beginning on page 339, strike line 11 and all that follows through page 341, line 16, and insert the following:

"(ii) in cooperation with other Federal departments, agencies, and instrumentalities and multipurpose Federal laboratories; or

"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

"(C) TECHNICAL INNOVATION.—The Secretary shall develop and carry out programs to facilitate the application of such products of research and technical innovations as will improve the safety, efficiency, and effectiveness of the transportation system.

"(D) FUNDS.—

"(i) IN GENERAL.—Except as otherwise specifically provided in other sections of this chapter—

"(I) to carry out this subsection, the Secretary shall use—

"(aa) funds made available under section 541 for research, technology, and training; and

"(bb) such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose; and

"(II) the funds described in item (aa) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF FUNDS.—The Secretary shall use funds described in clause (i) to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

"(i) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State; and

"(ii) multipurpose Federal laboratories.

AMENDMENT NO. 1388

On page 385, line 13, strike "and" after the semicolon.

On page 385, line 17, strike the period and insert a semicolon.

On page 385, between lines 17 and 18, insert the following:

"(15) to promote the deployment of new intelligent transportation system technologies at international ports of entry into the United States to detect and deter illegal narcotic smuggling; and

"(16) to promote the deployment of intelligent transportation systems to expedite the movement of commercial cargo through international ports of entry into the United States.

AMENDMENT NO. 1389

On page 371, line 6, strike "and" after the semicolon.

On page 371, line 10, strike the period and insert "; and".

On page 371, between lines 10 and 11, insert the following:

"(6) the development of new nondestructive bridge evaluation technologies and techniques.

AMENDMENT NO. 1390

At the appropriate place, insert the following:

SEC. . DESIGNATION OF NEW MEXICO COMMERCIAL ZONE.

(a) COMMERCIAL ZONE DEFINED.—The term "commercial zone" means a zone containing

lands adjacent to, and commercially a part of, 1 or more municipalities with respect to which the exception described in section 13506(b)(1) of title 49, United States Code, applies.

(b) DESIGNATION OF ZONE.—

(1) IN GENERAL.—The area described in paragraph (2) is designated as a commercial zone, to be known as the "New Mexico Commercial Zone".

(2) DESCRIPTION OF AREA.—The area described in this paragraph is the area that is comprised of Dona Aña County and Luna County in New Mexico.

(c) SAVINGS PROVISION.—Nothing in this Act shall affect any action commenced, or pending before the Secretary of Transportation or Surface Transportation Board before the date of enactment of this Act.

AMENDMENT NO. 1391

On page 320, strike lines 11 and 12 and insert the following:

"(I) surface transportation safety;

"(J) infrastructure finance studies; or

"(K) development and testing of innovative technologies for bridge construction and nondestructive evaluation.

AMENDMENT NO. 1392

On page 98 line 13, insert ", and is projected to grow in the future," after "103–182)".

On page 98 line 17, insert ", and is projected to grow," after "grown".

AMENDMENT NO. 1393

On page 389, line 4, insert "the national laboratories," after "universities,".

AMENDMENT NO. 1394

On page 122, line 6, strike "of the" and insert the following: "of—

(1) the".

On page 122, line 11, strike the period and insert "; and".

On page 122, between lines 11 and 12, insert the following:

(2)(A) Interstate Business Loop 35 in Santa Rosa, New Mexico, connecting United States Route 84 and United States Route 54 to Interstate Route 40;

(B) New Mexico Route 14 in Sante Fe, New Mexico, connecting Interstate Route 25 and United States Route 84; and

(C) United States Route 550 from Farmington, New Mexico, to Aztec, New Mexico.

BROWNBACK AMENDMENT NO. 1395

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 156, strike lines 19 and 20 and insert the following:

(A) in paragraph (2)—

(i) by striking "ACTIVITIES.—10" and inserting the following: "ACTIVITIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), 8"; and

(ii) by adding at the end the following:

"(B) WAIVER BY THE SECRETARY.—The Secretary may waive the application of subparagraph (A) with respect to a State upon receipt of a petition from the State requesting the waiver."; and

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DOMENICI AMENDMENT NO. 1396

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 345, strike line 14 and insert the following: report required under section 5221(d) of title 49.

"(d) REVISED NATIONAL LABORATORY OVERHEAD RATES.—In connection with activities conducted under this section through a national laboratory, the Secretary of Energy shall establish a revised overhead rate that—

"(1) is commensurate with services of the national laboratory actually used by the Secretary of Transportation; and

"(2) does not reflect overhead charges associated with legacy wastes and security for nuclear operations or any other additional charges.".

BYRD (AND OTHERS) AMENDMENT NO. 1397

(Ordered to lie on the table.)

Mr. BYRD (for himself, Mr. GRAMM, Mr. BAUCUS, Mr. WARNER, Mr. AKAKA, Mr. ASHCROFT, Mr. BREAUX, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CLELAND, Mr. COATS, Mr. COVERDELL, Mr. DEWINE, Mr. DORGAN, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FORD, Mr. GRAMS, Mr. HARKIN, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Ms. LANDRIEU, Mr. LEAHY, Mr. LIEBERMAN, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, and Mr. SPECTER) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

Strike the last word and insert the following:

SEC. 1128. GAS TAX HONESTY PROGRAM.

(a) IN GENERAL.—

(1) APPORTIONMENT.—On October 1 of each fiscal year, the Secretary shall apportion the funds authorized for the gas tax honesty program under this subsection among the States in the ratio that—

(A) the total of the apportionments to each State under section 104 of title 23, United States Code, and allocations to each State under section 105(a) of that title; bears to

(B) the total of all apportionments to all States under section 104 of that title and allocations to all States under section 105(a) of that title.

(2) ELIGIBLE PROJECTS.—A State may obligate funds authorized for the gas tax honesty program under this subsection for any project eligible for funding under section 133(b) of title 23, United States Code.

(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,370,000,000 for fiscal year 1999, $5,471,000,000 for fiscal year 2000, $5,573,000,000 for fiscal year 2001, $5,676,000,000 for fiscal year 2002, and $5,781,000,000 for fiscal year 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(4) TREATMENT OF APPORTIONMENTS.—Fifty percent of the amounts apportioned under paragraph (1) shall be subject to section 133(d) of title 23, United States Code.

(b) SPENDING ADJUSTMENT FOR HIGHWAY PROGRAMS.—

(1) IN GENERAL.—If—

(A) the baseline projections for the fiscal year 1999 budget resolution contain the savings in budget outlays for fiscal years 1998 through 2002 (as compared to budget outlay levels projected in the Balanced Budget Agreement) that are contained in the President's fiscal year 1998 midsession review; and

(B) the assumptions for the fiscal year 1999 budget resolution allow these outlay savings to be spent;

that resolution should ensure that any additional spending of these savings be used to fully fund the highway spending resulting from this Act, as modified by this section.

(2) MAXIMUM AMOUNT.—The amount of additional spending provided in the resolution shall not exceed the savings identified in paragraph (1)(A) for the applicable fiscal year.

(c) OTHER ADJUSTMENTS.—

(1) IN GENERAL.—Notwithstanding sections 1116, 1117, and 1118, and the amendments made by those sections—

(A) in lieu of the amounts authorized to be appropriated under section 1116(d)(5)—

(i) there shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 1116(d) $50,000,000 for fiscal year 1999 and $100,000,000 for each of fiscal years 2000 through 2003; and

(ii) there are authorized to be appropriated to carry out section 1116(d) $125,000,000 for fiscal year 1998 and $25,000,000 for each of fiscal years 1999 through 2003;

(B) in addition to the funds made available under the amendment made by section 1117(d), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) in the manner described in, and to carry out the purposes specified in, that amendment $415,000,000 for fiscal year 1999, $415,000,000 for fiscal year 2000, $450,000,000 for fiscal year 2001, $440,000,000 for fiscal year 2002, and $480,000,000 for fiscal year 2003, except that the funds made available under this subparagraph—

(i) shall be subject to the obligation limitations established under section 1103 or any other provision of law; and

(ii) notwithstanding section 118(g)(1)(C)(v) of title 23, United States Code, shall be subject to subparagraphs (A) and (B) of section 118(g)(1) of that title; and

(C) in addition to the sums made available under section 1101(1), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Interstate and National Highway System program $90,000,000 for each of fiscal years 1999 through 2003, which funds shall be allocated by the Secretary for projects described in subparagraphs (A), (B), and (C) of section 104(k)(1) of title 23, United States Code, to any State for which—

(i) the ratio that—

(I) the State's percentage of total Federal-aid highway program apportionments and Federal lands highways program allocations under the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914), and allocations under sections 1103 through 1108 of that Act (105 Stat. 2027), for the period of fiscal years 1992 through 1997; bears to

(II) the percentage of estimated total tax receipts attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) for the period of fiscal years 1992 through 1997;

is less than or equal to 1.00;

(ii) the ratio that—

(I) the State's estimated percentage of total Federal-aid highway program apportionments for the period of fiscal years 1998 through 2003 under this Act; bears to

(II) the percentage of estimated total tax receipts attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) for the period of fiscal years 1998 through 2003;

is less than or equal to 1.00, as of the date of enactment of this Act; and

(iii) the State's estimated percentage of total Federal-aid highway program apportionments for the period of fiscal years 1998 through 2003 under this Act, as of the date of enactment of this Act, is less than the State's percentage of total Federal-aid highway program apportionments and Federal lands highways program allocations under the Intermodal Surface Transportation Efficiency Act of 1991, and allocations under sections 1103 through 1108 of that Act, for the period of fiscal years 1992 through 1997.

(2) CONTRACT AUTHORITY.—Funds authorized under subparagraphs (A)(i) and (C) of paragraph (1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that funds made available under paragraph (1)(C) shall remain available until expended.

(3) LIMITATION.—No obligation authority shall be made available for any amounts authorized under this subsection in any fiscal year for which any obligation limitation established for Federal-aid highways is equal to or less than the obligation limitation established for fiscal year 1998.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Thursday, October 23, 1997, at 9 a.m. in room 485 of the Russell Senate Office Building to conduct a markup on S. 109, to provide Federal housing assistance to native Hawaiians; S. 156, the Lower Brule Sioux Tribe Infrastructure Trust Fund Act; S. 1079, to permit the leasing of mineral rights within the boundaries of the Ft. Berthold Reservation; and H.R. 79, the Hoopa Valley Reservation South Boundary Adjustment Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Wednesday, October 29, 1997, at 9:30 a.m. in room 106 of the Dirksen Senate Office Building to conduct a hearing on S. 1077, a bill to amend the Indian Gaming Regulatory Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Thursday, October 30, 1997, at 9:30 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on the nomination of B. Kevin Gover to be Assistant Secretary for Indian Affairs, Department of the Interior.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

ADDITIONAL STATEMENTS

BOSNIA AND AMERICAN FOREIGN POLICY: FINISHING THE JOB

• Mr. DODD. Mr. President, on October 16, our colleague, Senator JOE BIDEN gave a very important and insightful assessment of United States foreign policy with respect to Bosnia. The occasion for those remarks was that Senator BIDEN was being honored by Fairleigh Dickinson University by being chosen as the first individual to hold a newly established chair at the university—the Fatemi University Chair in International Studies.

In accepting this honor, Senator BIDEN focused his remarks on a current and some what daunting foreign policy challenge that looms before us in the coming months—Bosnia. As is always the case, JOE gave his candid and unvarnished assessment of the current situation in Bosnia—what's gone right and what's gone wrong. He also sets forth how he believes U.S. policy should evolve over the coming months, if the United States is to enhance the prospects for fostering peace and stability in that war-torn country and in maintaining its leadership in shaping the course of world events. His comments were very thoughtful and very much on target from my point of view.

Mr. President, I urge all of my colleagues to take a moment to read Senator BIDEN's remarks. It would be time well spent.

I ask that the text of Senator BIDEN's remarks be printed in the RECORD.

The remarks follow:

BOSNIA AND AMERICAN FOREIGN POLICY: FINISHING THE JOB

(By Joseph R. BIDEN, Jr.)

I. INTRODUCTION

It would be a very high honor under any circumstances to be called to the fatemi university chair in international studies here at Farleigh Dickinson University.

Although I'm not sure I deserve the distinction, I feel honored to be the first to hold that chair.

This is for me, as I know it is for many of you, an extra-special occasion, and an extra-special honor.

Not only because of the very high standing in the foreign policy community the graduate institute of international studies has earned for Farleigh Dickinson.

Not just because of the pre-eminent position Dr. Fatemi occupied in the field of international studies,

But also because I have had the very great privilege of knowing Dr. Fatemi and his family personally, through the friendship of his son Fariborz. So besides an opportunity to discuss foreign policy with you, this is a kind of homecoming for me.

That's the way Dr. Fatemi and his family made even a stranger feel upon entering their household, and that kind of hospitality was a direct reflection of the kind of man he was.

I knew beforehand of his record as a diplomat, as a writer and teacher, and as an exemplar of the richness and integrity of an ancient but still vital culture.

What I discovered when I met him was that the man was even more impressive than his credentials. Despite his many achievements, he always put his newest acquaintance instantly at ease.

If you were his guest, he became your friend, and when he was your friend, you became, eagerly and irresistibly, his student. That was not just because of his learning and the experience he gained over a long and productive life.

He became a valued friend and mentor primarily because it was his nature to do so. He was undeniably bright and intellectually challenging. But he was also gentle, unassuming and encouraging.

He taught by example rather than precept; he radiated wisdom and good will in equal measure.

It was impossible not to leave his presence wiser than you arrived.

The breadth of his scholarship was astonishing, and simply being exposed to it was an invigorating experience.

But it was the clarity of his insights into the maelstrom of the Middle East and the passions of the islamic fundamentalists that were most valuable to me.

The views I am about to express on Bosnia, are, of course, mine alone. But if I manage to shed any light on that bloody confrontation, much of the credit must go to Nasrollah Fatemi, who opened his hearth, his heart and his mind to me in a way I shall never forget.

Bosnia, of course, has significance far beyond the borders of the former Yugoslavia.

It has turned out to be one of the most serious challenges for America's foreign policy in the post-cold-war era. It has produced 5 years of debate in congress. It is the centerpiece of any discussion about American military intervention around the world. In short, it has become a critical test of our foreign policy.

Rightly or wrongly, whether United States foreign policy in this era is viewed as a success or failure will depend in large part on the success or failure of our policy in Bosnia. So we better get it right.

II. FROM "LIFT AND STRIKE" TO DAYTON

At the outset, let me state the obvious: I have cared deeply about Bosnia for a long time, since the beginning of the war. Some would say I bring "historical baggage" to the issue. I care not just because of the strategic implications—as Bosnia goes, so goes NATO—but for humanitarian reasons.

Appalled by the naked Serbian aggression and genocidal attacks on Bosnian civilians, in September 1992 I called for a "lift and strike" policy. That was shorthand for lifting the illegal and immoral arms embargo against the Bosnian Government, which was the victim of aggression, and launching air strikes against the Bosnian Serb aggressors.

My views were not widely shared at that time. As the war escalated—with massacres, "ethnic cleansing," and rapes—a few other senators, including Bob Dole and JOE LIEBERMAN, joined my call for action. But it took more than two years of failed diplomacy—and a quarter-million killed and two million homeless—before we finally came around to the much-derided "lift and strike" policy in the fall of 1995.

Guess what? The policy worked! The Serbian bullies sued for peace, and under the leadership of Ambassador Dick Holbrooke we

were able to hammer out the Dayton accords in November 1995. I'm leaving out the details—all the peace plans that didn't work—but in a nutshell that's what happened.

Honest people may disagree about the compromises that were made at Dayton. I think the accords accomplished as much as we could have hoped for, given the obvious reluctance of our Government, and of our European allies, to get more deeply involved militarily.

And I wish I could say that even the modest results envisioned in Dayton had been achieved. But they have not. It's true that conditions today are far better than the bloody mayhem that existed during the war. The killing has stopped.

But we are only halfway to the full peace envisioned in the Dayton accords. The question is: "How do we get the rest of the way? How do we finish the job?

III. BOSNIA TODAY

Having returned 6 weeks ago from my third trip to Bosnia, I am certainly aware of the contradictions, the ambiguities, the ironies, and the uncertainties of Bosnia today. Bosnia and Herzegovina might be labeled the classical land of "yes, but."

Yes, there has been ongoing conflict among the various religious groups in Bosnia—the Orthodox Serbs, the Catholic Croats, and the Muslim South Slavs—for centuries.

But, for most of the time, these conflicts were kept under control, usually by an outside hegemon: first the Ottoman Turks, then the Austrian Habsburgs, and more recently the Communists under President Tito.

When violence broke out in the spring of 1992, a cosmopolitan society existed in much of Bosnia. Sarajevo, for example, had one of the highest rates of inter-marriage in all of Europe. What killed the "live and let live" character of Sarajevo were unscrupulous, ultra-nationalist politicians, many of whom were searching for a new "-ism" to replace communism, an ideology that had been discredited.

Yes, there were elements of civil war in Bosnia, but there was also blatant aggression from Serbia across an internationally recognized border. In fact, it was through the overwhelming advantage of the weaponry, the salaries, and the support services furnished by Slobodan Milosevic that the Bosnian Serbs perpetrated their systematic slaughter.

The "yes, but" dichotomy persists in Bosnia today.

Yes there has been considerable progress in Bosnia since Dayton, but a huge amount remains to be accomplished.

Yes the 50 percent unemployment rate in the Bosnian Croat Federation is huge, but it has come down from 90 percent in only one year. Incidentally, it still hovers at 90 percent in the Republika Srpska, which has been denied all but a trickle of international aid because it has refused to implement the Dayton accords.

Yes, Bosnian Serbs regularly try to paralyze many of the institutions of national government created at Dayton, but the Parliament has begun to meet, and even the three-member presidency shows signs of life.

Yes, the nationalist parties representing the Serbs, Muslims, and Croats are narrow-minded and corrupt, and in many ways resemble the characteristics of the old Yugoslav league of Communists, which they supplanted.

But even in this cynical Bosnian political arena there is hope. In last month's municipal elections a non-nationalist, multi-ethnic coalition triumphed in Tuzla, one of Bosnia's largest cities.

A non-nationalist opposition also exists in the Republika Srpska. I met with three of its leaders in Banja Luka. They are confident that they—not Kardžić and his thugs from Pale, not President Plavšić—are the wave of the future.

Yes, more than two-thirds of the indicted war criminals remain at large—an international disgrace. But, ladies and gentlemen, just last week, under strong pressure from Washington, Croatia and the Bosnian Croats surrendered 10 indicted Bosnian Croats to the Hague.

Virtually every observer of Bosnia believes that Dayton cannot be implemented until indicted war criminals are indicted and transported to the International Tribunal at the Hague to stand trial.

The other major precondition for progress in Bosnia is the return of refugees and displaced persons that was mandated by the Dayton accords.

Yes, this will be the most difficult of all the Dayton tasks to accomplish.

But , contrary to popular belief, even here there has been noteworthy progress. As many as 150,000 refugees have returned to Bosnia from abroad, and another 160,000 persons who were displaced within Bosnia have returned to their homes.

Most of these have returned to areas where their ethnic group is in the majority, but an "open cities" program has induced several towns—even a half-dozen villages in the Republika Srpska—to accept returnees from other groups in return for economic assistance.

On my last trip, I visited one of these sites in a suburb of Sarajevo occupied by the Bosnian Serbs during the war and returned to the federation by Dayton. The U.S. Agency for International Development and its subcontractor, Catholic Relief Services, are helping returning refugees to rebuild their homes.

I was moved by the selfless dedication of the young Americans and Europeans working at this important task.

Finally let me address the issue of security in Bosnia today. In a country that has recently suffered some of the worst atrocities of the 20th century, the citizens need physical security. For the Muslims and Croats, who were forced into an alliance in 1994 by the United States, this means guaranteeing their ability to deter renewed Serbian aggression in the future.

Toward that end, the "train and equip" program, led by retired U.S. military officers, is molding a unified force under joint command. We have supplied three hundred million dollars worth of equipment. I visited the training center in Hadžići (haj-eech-ee), near Sarajevo, where Muslims and Croats are studying and training.

On the local level, in the Federation, multi-ethnic police forces are being formed. Believe it or not, joint Muslim-Croat police units are now patrolling Mostar, scene of some of the worst warfare in 1993 and early 1994. So there is progress here as well.

IV. NEXT STEPS

In citing these examples of progress, I do not want to suggest for a moment that conditions in the Federation, let alone in the Republika Srpska, are rosy.

They are not. But everyone to whom I spoke in Bosnia agreed on two things: First, significant progress has been made in the Federation; and second, it is absolutely essential for the international military force to remain in Bosnia after June 1998 to guarantee that progress will continue.

So what should our policy be in Bosnia in the coming months? I believe we should redouble the efforts we are already making.

Yes, I would like to see a multi-ethnic, multi-religious society re-emerge like the one that existed in Sarajevo before the war. But, I fear that too much blood has been shed and too many atrocities committed for that to happen in the near future.

More realistic, and politically feasible, is the development of a multi-ethnic state. Most likely that will mean a confederation with a good degree of de-centralization in all but foreign policy and defense.

Am I sure that we can achieve the goal of a democratic, decentralized Bosnia? No, I am not. Last year I would have rated the odds 1 in 20.

As a result of the progress made in the last 12 months, I would now estimate the odds on success at about 50-50, if we stay the course.

But 50-50 looks mighty good compared to the probable outcome if we followed the advice of those now calling for a renegotiation of Dayton and a formal partition of Bosnia. "Snatching defeat from the jaws of victory" might be a slight exaggeration, but this policy prescription tends in that direction.

Those who favor partition seem unaware of the progress already made in Bosnia and blind to the calamities that would result from scrapping Dayton.

Warfare would almost certainly erupt again, with higher casualties, given the new military balance.

But renewed fighting would only be part of the tragedy. The vile ethnic cleansers and the war criminals would see their policies vindicated. Europe's remaining anti-democratic rulers like Serbia's Milosević and Belarus's Lukashenka would be emboldened.

Moreover, if we pulled the plug on Bosnia just as international efforts are beginning to bear fruit, we could kiss goodbye American leadership in NATO. In fact, the plan to enlarge NATO, I predict, would fail in the Senate.

And soon thereafter, even the future of NATO itself would be cast in doubt. After all, if Bosnia is the prototypical European crisis of the 21st century—and if NATO is unable to solve Bosnia—then why bother spending billions of dollars on NATO every year?

So, leaving Bosnia would be a fool's paradise. Just as certainly as night follows day, an American abdication of responsibility and withdrawal from Bosnia would eventually cost us more in blood and treasure than we would ever spend in the current course.

Let me sum up: the tragedy in Bosnia and Herzegovina, although complex, ultimately boils down to old-fashioned oppression. It was preventable, and, with the requisite American and European steadfastness, it is solvable.

By continuing to lead the effort to put Bosnia and Herzegovina back on its feet and guarantee its citizens a chance to lead productive lives, the United States will be both living up to its ideals and furthering its national self-interest. Thank you.•

NATIONAL TESTING

• Mr. CRAIG. Mr. President, as you know, the Labor/HHS/Education conference committee is considering funding for national education testing. I want to make it clear where I stand on this important issue and point out to my fellow conferees the task before us.

While I support higher standards for our schools, I cannot support national testing. National testing, despite what some of its supporters might say, is the

first step toward a unified national curriculum. It is my firm belief that these decisions are better left to the States and locally elected school boards.

Some might argue that testing to a national standard would not affect curriculum. However, to do well on the tests, students will have to be taught accordingly. This was pointed out by Acting Secretary of Education Marshall Smith who said: "to do well in the national tests, curriculum and instruction would have to change."

Even the Washington Post agrees that the test would be "a dramatic step toward a national guideline for what students should be learning in core subjects."

Mr. President, the schools of Idaho are doing well, and our students continually score above the national average in core subjects, without being told what and how to teach by Washington bureaucrats.

Supporters of the tests argue that a national standard would be acceptable because it would be based on standards developed by the Department of Education: the National Assessment of Education Progress [NAEP]. However, the NAEP framework is fundamentally flawed. These standards are so out-of-touch that no State in 50 has adopted them. Now we're being asked to force the States to teach within the NAEP framework.

Most offensive, Mr. President, is the fact that the NAEP framework does not measure basic skills or the student's ability to perform tasks. The NAEP framework focuses on whole language and new math concepts and awards credit for more than one response, even if the response is wrong. National testing would force local school districts to adopt these flawed strategies.

I believe that the correct course for us to take is to direct resources to the classroom instead of forcing national standards on teachers and students. Let's assist local educators and our students in rising to the existing standards—standards set and supported by local and State leaders.

Mr. President, the Senate has voted on this matter once, when the appropriations bill was on the floor. I, along with most of our colleagues, voted for the compromise offered by Mr. GREGG. This vote has been interpreted by some, including many in the administration, as Senate support for national testing. This is not the case, and I caution anyone from reading too much into that particular vote.

I voted for the compromise, and I do not support national testing in any form. The true message of the vote is the Senate's willingness to alter the President's proposal and its interest in the language included in the House version of the bill.

Finally, Mr. President, let me publicly thank my colleague, Senator ASHCROFT, for his leadership on this issue. I am pleased to cosponsor his measure, S. 1215, which would prohibit the Federal Government from developing these flawed national tests.•

A TRIBUTE TO RUTH BECKER

• Mr. KOHL. Mr. President, I rise today to honor a distinguished Wisconsinite, Mrs. Ruth (Nowicki) Becker of Altoona, WI. Mrs. Becker, who just turned 75, attended the dedication of the Memorial to the Women in Service at Arlington National Cemetery on October 18, 1997. Ruth is one of approximately 1.8 million women who have served in the U.S. Armed Forces and we honor her as does the memorial for serving our country proudly.

Mrs. Becker enlisted in the U.S. Navy in 1944 and served as a WAVE, Women's Auxiliary for Volunteer Emergency Service, during World War II. Ruth's responsibilities took her to New York City and Washington, DC where she worked in naval communications for Pacific theater operations until February 1946.

Ruth is a charter member for the women's memorial project which has transformed Arlington National Cemetery's 75-year-old main entrance gate into a shrine honoring the Nation's women veterans. The memorial will house a museum, a 196-seat auditorium, a Hall of Honor, and an education center on military history. Mr. President, Ruth Becker served our country with pride and we honor her, as we also honor all women who have served our country proudly.•

RETIREMENT OF WILLIAM P. CROWELL

• Mr. MOYNIHAN. Mr. President, the National Security Agency has recently lost to retirement its deputy director, William P. Crowell. As David Kahn has recently written in Newsday, Mr. Crowell has taken NSA and "brought the super-secret spy organization into its public, post-Cold War posture." For too long, we have been learning our cold war history from Soviet Archives. Bill Crowell set about to change that at the National Security Agency. He directed the establishment of the National Cryptologic Museum, which I have visited and commend to my colleagues, and helped to make public the hugely important VENONA project.

The VENONA intercepts comprise over 2,000 coded Soviet diplomatic messages between Moscow and its missions in North America. The NSA and its predecessors spent some four decades decoding what should have been an unbreakable Soviet code. Led by Meredith Gardner, these cryptanalysts painstakingly decoded these messages word by word. They would then pass on the decoded messages to the FBI, which conducted extensive investigations to determine the identities of the Soviet agents mentioned in the messages. The resulting VENONA decrypts detail the Soviet espionage effort in the United States during and after the Second World War.

We need access to much more of this type of information. Not only does VENONA allow us to learn our history, but in releasing it to the public, not insignificant gaps in the government's knowledge of this material are being filled. For instance, the identity of one of the major atomic spies at Los Alamos was recently discovered by clever journalists using the published VENONA messages. Joseph Albright and Marcia Kunstel of Cox News and, working independently, Michael Dobbs of The Washington Post, identified the agent codenamed MLAD as Theodore Alvin Hall, a 19-year-old physicist working at Los Alamos. Hall provided crucial details of the design of the atomic bomb which enabled the Soviet Union to develop a replica of the bomb dropped on Nagasaki.

Bill Crowell recognized the historic value of VENONA and played an important role in getting this material released, along with Dr. John M. Deutch, and with the gentle prodding of the Commission on Protecting and Reducing Government Secrecy. Mr. Crowell should receive a medal for his work.

Mr. Crowell retires after a long career of government service. He served as a senior executive of the National Security Agency for 17 years. He was appointed Deputy Director of the agency by the President in 1994. In addition to his work which has already been described, Mr. Crowell has worked in recent years to help craft a responsible Administration policy regarding encryption technology. I ask to have the article by David Kahn in Newsday, which announces his retirement and highlights some of his accomplishments, printed in the RECORD. I salute Mr. Crowell for his dedicated service and wish him well in his future pursuits.

The article follows:

[From Newsday, Oct. 6, 1997]

NATIONAL SECURITY OFFICIAL RETIRES—HELPED REFOCUS AGENCY'S AIMS

(By David Kahn)

The National Security Agency has said goodbye to its retiring deputy director, who largely brought the super-secret spy organization into its public, post-Cold War posture.

William P. Crowell was the force behind the establishment of the National Cryptologic Museum, which exhibits what had been some of the nation's deepest secrets; the revelation of the VENONA project, which broke Soviet spy codes early in the Cold War; and the National Encryption Policy, which seeks to balance personal privacy with national security.

Succeeding Crowell will be Barbara McNamara, who, like Crowell, is a career employee of the agency, which breaks foreign codes and makes American Codes for the United States government.

McNamara is the second female deputy director of the agency. The first, Ann Z.

Caracristi, who served from 1980 to 1982, is the sister of the late Newsday photographer Jimmy Caracristi.

More than 500 present and past members of the agency attended Crowell's recent retirement ceremony at its glossy, triple-fenced headquarters at Fort Meade, Md. They applauded as he was presented with awards for his intelligence and executive services and with a folded American flag that had flown over the agency.

They laughed as a picture, claimed to be his retirement portrait, was unveiled: It was a photograph of Crowell, notorious for his love of motorcycles, astride his fancy bike. During his acceptance speech, Crowell choked up when he thanked his wife, Judy, a former agency employee and fellow motorcyclist, for her help.

The agency director, Air Force Lt. Gen. Kenneth Minihan, recited some of the administrative landmarks of Crowell's career.

Crowell, 58, a native of Louisiana, began in New York City in 1962 as an agency recruiter. In 1969, when he sought an assignment to operations, he became instead an executive assistant to the then-director. He eventually got to operations, where he rose to be chief of W group, whose function remains secret, and then chief of A group, which focused on the then-Soviet Union. After a year in private industry, he rose through other posts to the deputy directorship on Feb. 2, 1994.

Among his organizational accomplishments were conceiving a crisis action center and linking the agency with other producers of intelligence to improve information exchange.

His more public initiatives included the museum and the VENONA disclosures, which sought to maintain public support for the agency after the disappearance of the Soviet Union. The National Encryption Policy seeks to enable the agency to read the messages of terrorists and international criminals who use computer-based, unbreakable ciphers while enabling individuals to use good cryptosecurity to preserve such rights as security on the Internet.●

GIVING CHILDREN IN THE NATION'S CAPITAL A CHANCE TO SUCCEED

● Mr. BROWNBACK. Mr. President, last week, a remarkable event took place while Congress was in recess. Two private citizens gave 1,000 low-income children in the District of Columbia a chance.

On Monday, October 13, 1997, Ted Forstmann, the newly elected chairman of the Washington Scholarship Fund, and John Walton, director of Wal-Mart Stores, Inc., each contributed $3 million for students in the District to receive a quality education. The Washington Scholarship Fund currently provides private school scholarships to 460 low-income District students. With the contributions from Mr. Forstmann and Mr. Walton, the Washington Scholarship Fund will be able to provide these needed scholarships to an additional 1,000 low-income students.

Mr. Forstmann made it very clear that this initiative is not a political statement for or against public education in the District. This is simply a commitment to give children a chance to succeed. In describing the prospects of many of the District's children to William Raspberry of the Washington Post, Mr. Forstmann said, "It's like being born already dead. There are too many children like that, and I just feel we have to do what we can for them."

In praising this powerful gesture for children, my hope, Mr. President, is that corporate America will follow Mr. Forstmann and Mr. Walton's example. Responsible business investments include investing in human capital and the value-added impact of a quality education. There is no better investment than America's children.●

HONORING RAYMOND W. FANNINGS

● Ms. MOSELEY-BRAUN. Mr. President, it is my pleasure and my privilege to join the family, friends and colleagues of a distinguished citizen of Chicago, IL, Mr. Raymond W. Fannings, in honoring him as he retires from the Chicago Child Care Society. Mr. Fannings served as executive director of the Chicago Child Care Society for the past 18 years.

Raymond Fannings leaves the agency with a rich legacy. He has more than 35 years of faithful and distinguished service in the field of child welfare. His contributions are widely recognized and his many community service awards serve as a testament to his compassion, commitment, talent, and vision. As the first African-American Executive Director of the Chicago Child Care Society, he has built bridges and forged interracial coalitions in behalf of the values held and goals pursued by this renowned social service provider.

Under Mr. Fannings' leadership, the Chicago Child Care Society expanded its mission and became a moving force in the development and provision of family preservation services. Raymond Fannings also recognized the importance of responding to community needs. He dedicated substantial resources to both develop and implement services in many of the economically distressed communities surrounding his agency.

During Mr. Fannings' illustrious career, he served as president of the Child Care Association of Illinois and as a board member of the United Way Crusade of Mercy. He is the current president of both the Child Care Association of Illinois and the Black Executive Directors Coalition. He has served on the Child Advisory Committee, the Governmental Affairs Committee for United Way, and the United Way Board of Directors. He is also a board member of the Free People's Clinic, president of the St. Mark Credit Union, and an active member of St. Mark United Methodist Church in Chicago.

Mr. Raymond Fannings has distinguished himself as one of Chicago's most valuable leaders, and his achievements and dedication are a shining example to us all. His efforts have opened avenues of faith, hope, and opportunity for many children and their families. As my neighbor and friend, I know that retirement will only be the beginning of a new chapter of his advocacy for children and for community. I wish him all the best in his future endeavors.●

TRIBUTE TO DEAN KAMEN FOR HIS CONTRIBUTIONS TO SCIENCE

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Dean Kamen of Manchester, NH. Mr. Kamen was recently inducted into the renowned National Academy of Engineers for his invention and commercialization of biomedical devices and fluid measurement and control systems.

Mr. Kamen is currently the president of DEKA Research and Development Corp. of Manchester, NH. He studied at Worcester Polytechnic Institute, where he earned his degrees in physics and has also received an honorary doctorate of science degree from Worcester Polytechnic Institute as well as Daniel Webster College. Dean has more than 35 U.S. patents attributed to him which range from a volumetric pump with replaceable reservoir assembly to an integral intravenous fluid delivery device.

Dean's innovations and significant contributions to the field of engineering have strengthened the economy of New Hampshire as well as the Nation. Dean is also recognized for using skills and influence to promote scientific inquiry at this critical time in America, a time when more young people are needed in the fields of science. Combining sports and scientific discovery, Dean established the FIRST robotics competition for young people. He is currently working on a science and technology museum project in Manchester, NH, which will be a valuable addition to the town, as well as the scientific community.

Entrance into the National Academy of Engineers is an extremely prestigious honor. In fact, it is among the highest honors with which an engineer can be bestowed. Engineers are nominated and then elected to the academy by the current membership. Becoming a member is a validation of an engineer's great contributions to science by his peers, and many scientists work to achieve this honor throughout their lives. Dean is one of 85 engineers and 8 foreign associates who was inducted into the academy in early October.

Dean's induction into the National Academy of Engineering is only one of the numerous honors he has received. He is a fellow with the American Institute of Medical and Biological Engineering, in addition to being appointed

a senior lecturer at the Massachusetts Institute of Technology.

Renowed the world over in various science fields for inventions and advances in engineering, Dean has established a tradition of greatness with his work. In 1995 he was awarded the Hoover Medal for "innovation that has advanced medical care worldwide, and for innovative and imaginative leadership in awakening America to the excitement of technology and its surpassing importance in bettering the lot of mankind." Dean has also received the International John W. Hyatt Service to Mankind Award for service to humankind through the use of plastics.

I have known Dean for over a decade, and I am very proud of the important advances he has made in engineering. He has increased the quality of lives through his engineering feats not just in New Hampshire, but also the United States and the world. He represents the very best in science today: a man of great expertise, capability, and integrity. The Granite State is fortunate to have Dean working in our State. His innovations in engineering are priceless. Both Dean, as well as the other members of the National Academy of Engineering, are national treasures. I congratulate Dean Kamen on this distinguished honor; it could not have been bestowed on a more deserving individual.•

THE 1997 WALTER B. JONES MEMORIAL AND NOAA EXCELLENCE AWARDS FOR COASTAL AND OCEAN RESOURCE MANAGEMENT

• Mrs. MURRAY. Mr. President, this morning the National Oceanic and Atmospheric Administration [NOAA] presented the 1997 Walter B. Jones Memorial and NOAA Excellence Awards for Coastal and Ocean Resource Management. A number of distinguished citizens, students, and public servants were honored for their commitment to the protection, conservation, and sustainable use of our Nation's precious coastal resources. I would like to offer my praise and admiration to all of the award recipients for their hard work and dedication to this critical area of ecological and economic concern.

Over one-half of the U.S. population resides within 50 miles of the coast. All of these people and the associated development and other activities that accompany them place extraordinary pressure on the ecosystems, watersheds, and communities on our coasts. Coastal areas provide incredible commercial, recreational, and aesthetic benefits to the American people. The Walter B. Jones and NOAA awards recognize individuals who have taken on the challenge of protecting these coastal areas and ensuring these benefits are not lost.

While I congratulate all of the award recipients, I would like to acknowledge two Washington State recipients in particular. Recipients of the Excellence in Coastal and Marine Graduate Study Award, Lillian Ferguson and John Field, from the University of Washington School of Marine Affairs. I am honored to have these two bright graduate students represent Washington State and our commitment to the protection of coastal areas.

Lillian Ferguson's works focuses on management of maritime transportation and marine protected areas. As a summer intern (1996) for the Olympic Coast National Marine Sanctuary [OCNMS] she developed a program for documentation and analysis of vessel traffic in the congested entrance and approaches to the Strait of Juan de Fuca. Her work formed the basis for recent implementation of the program by the OCNMS this year. This prototype program may be suitable for adoption in many similar situations in the United States and abroad. During the academic year 1996–97, Lillian is the Project Assistant for the Safe Marine Transportation Forum [SMART Forum]. In this capacity she promotes dialogue among more than 20 stakeholder interests on marine safety and transportation on Puget Sound. Lillian has also contributed as a research assistant to the National Coastal Zone Management Effectiveness Study recently completed for OCRM/NOAA. Her thesis work analyzes the development of interjurisditional collaboration in managing marine environments between the NMS Program and the U.S. National Park Service. Lillian has made significant contributions with the work she has already completed. Her thesis should be quite informative and valuable in improving interjurisdictional cooperation between the NMS Program and other Federal and State entities.

John Field's work focuses on the initial impacts of regional climate change. For approximately 2 years John has been a Research Assistant in the Integrated Regional Assessment Program for the Pacific Northwest sponsored by NOAA through the Joint Institute for Study of the Atmosphere and Ocean [JISAO, Principal Investigator Ed Miles]. His role and responsibilities have been especially difficult to perform given the scant attention to systematic monitoring of coastal impacts. John has done a superb job of combining disparate data sets, anecdotal information, and informed experience to document key issues and trends relevant to projected Global Climate Change scenarios. His efforts form the stage on which interdisciplinary team-based integration can take place. John coauthored with Marc Hershman a report on this work and is currently completing his thesis documenting and expanding somewhat on the findings. This research should assist the development of coastal impact scenarios under regional climate change assessments elsewhere. Besides this work John has been the coordinator for a very successful joint seminar between the School of Marine Affairs and the fishing industry. In addition, John has been working during the summer on a seabed coring project led by Prof. Robert Francis to obtain Paleo-records of fish and shellfish abundance in the North Pacific.

Both of these award recipients have worked hard for the sake of our coastal resources in Washington State. As they move on from graduate work and enter the work force either in public service, nongovernmental organizations, or private industry, I know they will continue in their commitment to the protection, conservation, and sustainable use of our coastal resources. With students such as Lillian and John in our graduate schools, I am confident about the future of our coastal areas as the challenges confronting these areas and those of us who care about them become increasingly complex. And to Lillian and John, congratulations.•

THE WOMEN'S RESOURCE CENTER

• Mr. FRIST. Mr. President, Friday, October 24, in my hometown of Nashville, TN, the National Association of Women Business Owners/Nashville Chapter and the Nashville Foundation for Women Business Owners will recognize the establishment of an exciting and worthwhile project—The Women's Resource Center.

The first in Tennessee, the Women's Resource Center is designed to further enhance business opportunities for women, by providing technical assistance, training, and education. I am proud that Nashville is currently among the 10 fastest growing metropolitan areas for women-owned businesses, and this center will ensure continued economic growth and increase participation from women interested in founding and growing their own businesses.

Like most visionary ideas, this one would not have happened without community support, and women who clearly saw the need for the center and rose to the occasion to make their dream come true. My congratulations go to all of the Nashville members of the Foundation for Women Business Owners and the National Association of Women Business Owners, and especially to local entrepreneurs who as "founding mothers" provided the initial capital to match funds from the Small Business Administration.

When Alexis de Toqueville traveled this young Nation, he wrote, "If I were asked to what the singular prosperity and growing strength of the American people ought mainly to be attributed, I should reply—to the superiority of their women." His words still ring true

today, and the realization of the Women's Resource Center is further testimony to the superiority and the achievements of these outstanding women business owners in Nashville, TN. I am honored to serve as their U.S. Senator.•

THE SALE OF THE FEDERAL BUILDING IN BAKERSFIELD, CA

• Mr. MCCAIN. Mr. President, during Senate consideration of the Fiscal Year 1998 Treasury Postal Appropriations bill, I submitted for the RECORD a list of projects which I found to be low-priority, unnecessary or wasteful spending, that circumvented the normal, merit-based prioritization process. On October 15, 1997, I forwarded this list to President Clinton and recommended he use his line-item veto authority to eliminate these projects. Included in this list was language contained in the Conference Report which directed that the Bakersfield Federal Building in California be sold.

It has been brought to my attention that this Federal building went through the proper screening process by GSA in order to ascertain if it was needed for any further Federal use. No Federal Government agency expressed an interest in utilizing this property.

Furthermore, I am informed that the sale of this property, through a process of competitive bidding, will result in a profit to the American taxpayer. The Conference Committee directed the sale of this building only after the GSA screening was completed and it was determined that this was in fact surplus Federal property.

Therefore, Mr. President, I applaud the actions of the Committee and Rep. BILL THOMAS of California, and withdraw my objection to the sale of this property as well as my recommendation that the President veto this provision.•

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 56, submitted earlier today by Senator SPECTER.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 56) authorizing the use of the rotunda of the Capitol for a ceremony honoring Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States.

The Senate proceeded to consider the concurrent resolution.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 56) was agreed to, as follows:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used on October 29, 1997, for a ceremony to honor Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

MEASURES JOINTLY REFERRED—S. 613 AND H.R. 1953

Mr. CHAFEE. Mr. President, I ask unanimous consent that S. 613 and H.R. 1953 be considered jointly referred to the Finance Committee and the Governmental Affairs Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE DISCHARGED AND REFERRED—S. 1268

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 1268 and the bill be referred to the Environment and Public Works Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Indian Affairs Committee be immediately discharged from further consideration of the following nominations, and further that the Senate then proceed to their consideration:

Michael Naranjo, Jeanne Givens, Barbara Blum, Letitia Chambers.

I further ask unanimous consent that the nominations be confirmed; that the motions to reconsider be laid upon the table; that any statements relating to the nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

Michael A. Naranjo, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2002.

Jeanne Givens, of Idaho, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 2002.

Barbara Blum, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2002.

Letitia Chambers, of Oklahoma, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2000.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR THURSDAY, OCTOBER 23, 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, October 23. I further ask that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to a period of morning business until 11 a.m., with Senators permitted to speak for up to 5 minutes each, with the exception of Senators FAIRCLOTH and FORD, 30 minutes; Senators CRAIG and HAGEL, 35 minutes; Senator FEINSTEIN, 15 minutes; Senator SHELBY, 10 minutes; Senator TORRICELLI, 15 minutes; Senators KEMPTHORNE and ROBB, 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the cloture vote occur on the modified amendment to S. 1173 at the hour of 11 a.m. on Thursday. I further ask unanimous consent that immediately following the cloture vote, the Senate proceed to a vote on passage of the continuing resolution, H. J. Res. 97, regardless of the outcome of the first cloture vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CHAFEE. Mr. President, tomorrow morning following the period of morning business the Senate will conduct two consecutive rollcall votes beginning at 11 a.m. The first vote will be on cloture on the committee amendment to the ISTEA legislation, to be followed by a vote on passage of the continuing resolution.

If cloture is not invoked at 11 a.m. on Thursday, it is hoped that the second cloture vote will occur Thursday afternoon. Therefore, Members can anticipate rollcall votes throughout Thursday's session of the Senate.

It is the leader's hope that the Senate can make progress on the highway

legislation—it is my hope, too, I might add—during tomorrow's session. In addition, if any appropriations conference reports become available, it would be expected that the Senate consider those reports in short order.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. CHAFEE. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

Thereupon, the Senate, at 7:13 p.m., adjourned until Thursday, October 23, 1997, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 22, 1997:

DEPARTMENT OF DEFENSE

DARYL L. JONES, OF FLORIDA, TO BE SECRETARY OF THE AIR FORCE, VICE SHEILA WIDNALL, RESIGNED.

DEPARTMENT OF LABOR

RICHARD M. MCGAHEY, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE ANNE H. LEWIS.

DEPARTMENT OF STATE

WILLIAM DALE MONTGOMERY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CROATIA.

DEPARTMENT OF DEFENSE

WILLIAM J. LYNN III, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF DEFENSE (COMPTROLLER), VICE JOHN HAMRE.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. MICHAEL L. BOWMAN, x...

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. VERNON E. CLARK, x...

CONFIRMATIONS

Executive nominations confirmed by the Senate October 22, 1997:

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

MICHAEL A. NARANJO, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2002.

JEANNE GIVENS, OF IDAHO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 18, 2002.

BARBARA BLUM, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2002.

LETITIA CHAMBERS, OF OKLAHOMA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2000.

HOUSE OF REPRESENTATIVES—*Wednesday, October 22, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. SNOWBARGER].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 22, 1997.

I hereby designate the Honorable VINCE SNOWBARGER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With grateful hearts we laud and praise every person who uses the talents and abilities You have given, O God, in ways that promote justice and serve the common good.

May Your good blessing, O God, be with the men and women who serve in this place and encourage them along the way. Give them vision to see the way of justice, give them grace to withstand all the pressures of the day, and give them patience and understanding to demonstrate the spirit of unity in their words and in their actions.

Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California [Ms. SANCHEZ] come forward and lead the House in the Pledge of Allegiance.

Ms. SANCHEZ led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I rise in support of H.R. 1534, the Private Property Rights Implementation Act. Allowing property owners their day in court to defend their constitutional rights should be an easy vote. Why should property owners face enormously expensive hurdles in attempting to defend their Federal rights in court?

Some opponents of the bill are now standing as defenders of federalism and local decisionmaking. I hope their faith in State and local officials and their ability to make responsible decisions carries over to future discussions about block granting various Federal programs.

The fact is that H.R. 1534 does not impose any new limit on the ability of local governments to make decisions affecting zoning or any other land use controls. Those limits are imposed by the Constitution, not H.R. 1534. H.R. 1534 simply allows an individual who feels their fifth amendment rights have been violated the opportunity to have the facts of their case heard without fighting bureaucratic hurdles for years.

Mr. Speaker, I urge a "yes" vote on H.R. 1534.

CONGRESS SHOULD NOT GIVE UP ON PUBLIC SCHOOLS

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, just two weeks ago Speaker GINGRICH forced this House to pass a publicly-financed private school voucher program in the D.C. appropriations bill. This provision initially failed to pass the House, but the Speaker held the vote open and basically twisted his fellow Republicans' arms to change their vote.

In spite of this near failure, Speaker GINGRICH will take another step at cutting public education. He will bring to the floor this week another bill to pour taxpayer dollars into private and religious schools. It is called an education savings account, but would primarily benefit wealthy families.

Democrats have an alternative that would use the money for school construction bonds to help public schools that are in disrepair or in need of new construction.

Mr. Speaker, let us improve public education rather than siphon Federal dollars for private schools. Mr. Speaker, I urge my colleagues: Do not give up on the public schools.

FOR EFFECTIVE EDUCATION PARENTS SHOULD BE IN CONTROL

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the gentleman from New Jersey [Mr. PALLONE] and let me simply, gently correct the gentleman.

The proposed legislation we will bring to the floor of the House will help every American family by empowering every parent with the choice of how best to educate their child, whether in public schools or in an alternative setting.

Also, the bill we will bring to the House with a tax-free, interest-bearing account will allow those parents of children with special needs to have the ability to find a way to educate their children and, moreover, there will be no time limit on those children with special needs because we understand full well the challenges they will face, the special needs they have.

Mr. Speaker, what this bill does instead is allow parents the dignity to decide how best to educate their children, free from the Washington bureaucrats and the notion of centralized planning. It is as elementary as ABC.

Mr. Speaker, for an effective education, parents need to be in control.

$13,000 TOILETS BUILT BY PARK SERVICE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the U.S. Park Service built a $500,000 outhouse. That is right. This Taj Mahal has a slate roof, a porch, and a cobblestone foundation. The paint cost $80 a gallon. The wildflower seed was $720 a pound.

Unbelievable. To boot, it is earthquake proof, able to withstand the shock of 6.5 on the Richter, either from without or within.

Mr. Speaker, if that is not enough to warm your globe, there is no running water and the special high-technology self-composting toilets cost $13,000 each. The Park Service said, "We tried to cut costs desperately."

Mr. Speaker, I have a suggestion. Why do they not cut those $13,000 toilets in half to better accommodate all

those half-passed bureaucrats at the U.S. Park Service?

DANGERS OF TRANSPORTING NUCLEAR WASTE

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, in the upcoming debate over H.R. 1270, many of my colleagues will make the unfortunate statement that the shipment of the world's most deadly material, nuclear waste, is safe. That is wrong. It is absolutely and totally wrong.

The Sandia National Laboratories found that terrorists using a small amount of military explosives could blow just a 6-inch hole in a container, releasing 2,000 to 10,000 curies, a deadly amount of radiation.

Furthermore, a 1985 Department of Energy contractor report stated that the release of only 1,380 curies could be sufficient to contaminate, get this, 42 square miles, an area that could take up to 460 days to clean up at a price tag for the taxpayers of more than $620 million.

Mr. Speaker, another DOE contractor estimated that that could cost up to $19.4 billion, that is with a B, billion, to clean up.

Mr. Speaker, we are aware of the real threat of terrorism and accidents in this country. I say to my colleagues, if it could happen in their district, there is no reason to transport nuclear waste.

Mr. Speaker, I urge my colleagues to vote "no" on H.R. 1270.

SAY NO TO FAST TRACK

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, those of lesser intellect might question the wisdom and efficacy of our trade policy. After all, our deficit rose last month. In fact, the $10.4 billion deficit in August was the worst in 7 months. We are headed toward a $114 billion budget deficit this year, eclipsing last year's record of $111 billion.

Mr. Speaker, we are headed toward an all-time high deficit with China and our deficit with our NAFTA, free-trade partners increased once again. There was only one spot on the horizon that looked a little dark. We are actually running a surplus, a trade surplus with Central and South America. Imagine that. That is against the principles of free trade.

But do not worry, Mr. Speaker. This administration and the Republican leaders want to fix that. They want to jam through a fast track trade agreement so we can have free trade and the same principles with Central and South America that we do with the rest of the world. That means trade deficits for the United States, job exports for the United States, and disaster for the American workers.

Mr. Speaker, I urge my colleagues to say no to fast track and let us get a real trade policy that makes sense for American workers in this country.

TIME IS NOW FOR CAMPAIGN FINANCE REFORM

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, with the failure of the Senate to address the problem of campaign finance reform, the spotlight has returned to the House to create momentum for this effort.

As a conservative editor, Bill Kristol, recently suggested, there is a conservative grassroots hostility to the massive soft money donations and the apparent influence such donations buy for big businesses and unions.

Mr. Speaker, we must not let the American people down and shuffle aside reform. Do not forget that unlike the Senate, we must face the voters next year. To oppose this reform effort is not only bad policy, but it is bad politics.

In 1992, the voters abandoned the Republican and Democratic Parties in significant numbers, attracted by the reform platform of Ross Perot, who understood that the people are tired of the Washington status quo.

Mr. Speaker, we cannot surrender control of Congress to the multinational corporations and unions, which pump millions of dollars of soft money into the system. We must return power and influence to the grassroots, to the people who sent us here.

Mr. Speaker, as a conservative, I came to Washington with just such an agenda; to return authority to the people back home. To abandon that reform would be to abandon that effort. I cannot do so.

"RADICAL REPUBLICANS" NOT A MODERN MONIKER

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, often, very often, we have heard the Republicans and their ideas called derogatory names, names like "extremist," "far right," "radical," "radical Republicans." But this is not the first such occasion this has happened.

In fact, Mr. Speaker, it was about 130 years ago when in this very room the defenders of the status quo called a group of Republicans radical. During Reconstruction, it was radical Republicans who were criticized 130 years ago.

So what were these radical ideas 130 years ago that caused the radical Republicans to be so chastised by their critics? It was full citizenship for black Americans, not just abolishment of slavery, full voting rights, owning of property, full citizenship. Now it is commonly accepted here in America.

So, Mr. Speaker, when we hear today's radical Republican ideas like scrapping the IRS Tax Code, like school vouchers and competition, like regulation reform and individual responsibility, remember the critics of radical Republicans not long ago. It is not new; it is just the entry fee for the bright future of our country.

CONGRATULATIONS TO DEBORAH TAMARGO, WINNER IN FLORIDA DISTRICT 58 ELECTION

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, yesterday in Florida we had a special election in Florida State House District 58. The incumbent Democrat, Elvin Martinez, had retired to take a judgeship.

Mr. Speaker, I rise today to congratulate Republican Deborah Tamargo, the new State Representative from District 58. This now moves the Republican majority in the State House of Florida to 65 versus 55.

Mr. Speaker, as most people know, 1996 was the year for the first time since Reconstruction that the Republican Party had taken the State House in Florida, and now the State House majority is 65. My congratulations go out to Deborah and to all the Republicans who got involved in that race.

Mr. Speaker, I would like to read a quote from Tom Slade where he said, "Perhaps a key moment came in the endorsement of Martinez," the Democrat, "by one of the local editorial boards." The endorsement favored the Democrat in the race because of her willingness to raise taxes.

Mr. Speaker, Deborah Tamargo won on Republican principles of less taxes and less government.

□ 1015

IRS REFORM: WELCOME ABOARD, MR. PRESIDENT

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, during the congressional recess I was back home meeting with constituents at townhall meetings. A recurring frustration expressed to me was, "you Republicans are the ones that proposed tax cuts,

and you got them through; the President, who opposed them all along the way, now is taking credit for it. You Republicans proposed balancing the budget; the President opposed it all along the way, and now he is taking credit for it."

I always smile at such comments, because I view it as proof that the Republican agenda and ideals are winning.

Now, with IRS reform at the top of our agenda, we Republicans have pledged to the people of this country that we are going to overhaul from top to bottom the way the IRS conducts business. We are going to simplify the Tax Code, and make what is left of the IRS accountable to taxpayers. Since we made this proposal, the President and his advisers said they were going to oppose us. They defended the IRS and claimed it was running satisfactorily now.

Lo and behold, today, I picked up the Los Angeles Times. The front page story reports that "after weeks of vehement opposition," the President "has made an abrupt reversal" and is now supporting our call for IRS reform.

Mr. Speaker, I have no doubt that in the near future the President will forget his original position, and will be taking full credit for our IRS proposals, too. When I think of President Clinton's tendencies in this regard, I am reminded of the sign Ronald Reagan kept on his desk: "There is no end to what a person can accomplish if they do not mind who gets the credit."

IRS reform. Welcome aboard, Mr. President.

SUPPORT PUBLIC EDUCATION IN AMERICA

(Mr. MCGOVERN asked and was given permission to address the House for 1 minute.)

Mr. MCGOVERN. Mr. Speaker, the success of America is a direct result of its public school system. We were among the first nations in the world to provide for universal public education for all our children. I would venture to say that the majority of Members of this House and the overwhelming majority of their staff are products of the public school system in this country.

Why then, Mr. Speaker, is the Republican leadership of this House so hostile to our public schools. Let me say a word about the public school system in the Third Congressional District of Massachusetts, which I represent. In the city of Worcester, the families and community enthusiastically embrace the public school system. Eighty-seven percent of the children eligible for grades K through 12 attend public schools.

Working together as a community, Worcester School Superintendent Jim Garvey, teachers, parents, business leaders, area colleges and universities, and neighborhood groups have created a school district with topflight teachers providing education to every child.

This effort deserves our respect and our praise. Mr. Speaker, I will not support the majority's plan to dismantle our public education system. I urge my colleagues to reject these efforts on the House floor this week.

EDUCATION

(Mr. THUNE asked and was given permission to address the House for 1 minute.)

Mr. THUNE. Mr. Speaker, reading, writing, and arithmetic are the basic building blocks of education. Today, I would like to talk about an education issue that just does not add up, no matter how we do the math.

A recent study found that 14 billion is allocated to the Department of Education for elementary and secondary programs. Of that $14 billion, $2 billion never reaches local school districts. This must be some crazy form of new math, because I cannot quite see how this adds up.

The Department of Education is spending our tax dollars on something our children never see in the classroom. We can apply algebra, geometry, calculus, but no matter how we look at this equation, we get the wrong answer.

That is why I support House Resolution 139, the Dollars to the Classroom resolution. This measure puts 90 percent of the Department of Education's elementary and secondary funds where they belong, in the classroom. It is pretty simple. Subtract the money from the Washington bureaucracy and add it to the local school districts. That equals better education for our students and a better buy for taxpayers.

REFORM OF THE IRS AND TAX CODE

(Ms. GRANGER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GRANGER. Mr. Speaker, when I was first elected to Congress, people told me that to be successful in Washington I had to know how to count my votes. I did not come to Congress to count votes. I came to make my vote count. One issue I want to speak out on today is the IRS.

Recent hearings in the Senate have only confirmed what millions of Americans have always known, the IRS is outdated, out of touch and out of control. Mr. Speaker, it is no wonder the American people are growing frustrated with the way the IRS does business. The IRS recently spent $4 billion on a computer program which was completely unable to function because it was literally overwhelmed by a Tax Code which is too complicated and too convoluted.

How can we expect the American people to comprehend a Tax Code when a $4 billion computer cannot?

Mr. Speaker, I raise these issues not because I wanted to indict the IRS. I raise them because I want to improve it. We owe the American people more, much more. We owe them an IRS that is reasonable and we owe them a that is readable. Mr. Speaker, the world's freest people deserve the world's fairest tax system.

I do not think that is too much to ask. Let us tear down the Tax Code and build up the American people.

CHARTER SCHOOLS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, in 1992, there was one charter school in the United States of America. Today, there are over 1000. In the next 3 years, there are expected to begin 3,000 more. What.

Is a charter school and why do they seem to be growing and seem to be so popular? A charter school is a public school. It is publicly funded, but unlike most public schools these days that have all their rules and regulations dictated by Washington bureaucrats, charter schools have their own rules, their own goals and their own set of regulations. That is why they are so popular.

Every day when I speak to a teacher, she or he tells me about the paperwork that they must do, 2 to 3 hours' worth each week to send off to Washington or to Atlanta to the State Capitol. They tell me about going to seminars where they are told not to hug children, not to touch children, never to walk into a bathroom alone with a kid because of harassment and so forth. I talked to parents who will no longer go to PTA meetings because they say it does not matter. We have no control anymore.

Mr. Speaker, charter schools return local control to those parents and those teachers and that classroom. That is why charter schools are so important and that is why the Republican conference is supporting them.

CONGRATULATIONS TO REV. JESSE JACKSON

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning to pay tribute to the Reverend Jesse Jackson. The reason I do so is because I am delighted that the President of the United States has decided to select this man for all seasons to be Special Envoy to Africa.

Many of us have seen the works of Reverend Jackson and know full well

his compassion and intellect, his commitment to world peace and humanity. What better position than to assign him as a Special Envoy to Africa, working with this great continent on humanitarian issues, on issues of peace, economic development, and social justice. It was Reverend Jackson who was at the pivotal point of working against apartheid in South Africa, one of the strong, eloquent agitators who provided for the freedom of the now distinguished statesman, President Nelson Mandela. Certainly a child of the movement and of the civil rights era, a protege of Dr. Martin Luther King, he was raised in the arena of understanding how to achieve peace.

We wish him well and he will make us very proud. Reverend Jackson is an American, but he is a world leader and we are delighted to have his leadership as a Special Envoy to Africa. Congratulations, Rev. Jesse Jackson.

ANNOUNCEMENT ON RULE FOR H.R. 1270, THE NUCLEAR WASTE POLICY ACT OF 1997

(Mr. DREIER asked and was given permission to address the House for 1 minute.)

Mr. DREIER. Mr. Speaker, the Committee on Rules is expected to meet on Friday, October 24, this Friday, to grant a rule which may restrict amendments for consideration of H.R. 1270, the Nuclear Waste Policy Act of 1997. Any Member contemplating an amendment to H.R. 1270 should submit 55 copies of the amendment and a brief explanation of the amendment to the Committee on Rules no later than 5 p.m. on this Thursday, tomorrow, October 23. The Committee on Rules office, for those who are not aware of it, is upstairs in H–312.

Members should draft their amendments to the Committee on Commerce reported version of the bill, which the Committee on Rules intends to make in order as the base text for the purpose of amendment. Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the distinguished Parliamentarian to be certain that their amendments comply with the rules of the House.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 269 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 269

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 97) making further continuing appropriations for the fiscal year 1998, and for other purposes. The joint resolution shall be considered as read for amendment. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. SNOWBARGER). The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very good friend, the gentleman from South Boston, MA [Mr. MOAKLEY], the distinguished ranking minority member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule makes in order House Joint Resolution 97, which makes further appropriations for fiscal year 1998. It is a closed rule providing 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The continuing resolution made in order by this rule is very simple and noncontroversial. It simply extends until November 7, funding for those agencies and programs that have not received permanent appropriations on the terms and conditions imposed by the previously adopted continuing resolution, which as we all know, expires tomorrow.

As we all know, approval of this continuing resolution is necessary to prevent a Government shutdown since only 5 of the 13 appropriations bills have been signed into law, although 2 more are pending Presidential action right now. Hopefully, by November 7, differences over the remaining appropriations bills can be resolved, and the Government will be operating under more normal conditions.

I also know that a number of my colleagues are troubled that the continuing resolution extends section 245(I) of the Immigration and Nationality Act.

□ 1030

I share their concern that in its current state section 245(I) may continue to encourage illegal immigration, although it is not the source of our illegal immigration program, and I am not convinced that allowing it to totally expire is the right solution. The issue needs to be resolved, preferably through compromise language that both opponents and proponents of the law can agree on.

My Committee on Rules colleague, the gentleman from Sanibel Island, FL, [Mr. GOSS], has a thoughtful solution, and I hope it will be part of any discussions we have. Our Republican leadership is also working with both sides to resolve the differences.

But this rule, and the continuing resolution it makes in order, are not the appropriate vehicles for settling this dispute. It is totally appropriate to grant section 245(I) a 2-week extension because this and other issues pertaining to the Commerce, Justice, State appropriations bill are still being addressed in conference with the Senate.

Let us debate section 245(I) and all of the other differences that have yet to be resolved, but let us do it at the appropriate time and the appropriate place.

Mr. Speaker, I urge adoption of this rule, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume, and I thank my very dear friend, my colleague, the gentleman from California, Mr. DAVID DREIER, for yielding me the customary half hour.

Mr. Speaker, we are doing the second continuing resolution because, despite the late date, despite the President's very clear decisions, my Republican colleagues still have not done their job and they still insist on playing politics.

The 13 appropriation bills should have been sent to the President for signature 3 weeks ago, but 4 of them are being stalled because my more radical Republican colleagues insist on attaching very controversial provisions to these bills. And as far as the President is concerned, those partisan provisions just beg his veto.

Mr. Speaker, the Government shutdown looming on the horizon may sound very familiar to us. Last Congress, when my Republican colleagues picked politics over pragmatism, they closed the Federal Government several times to the tune of hundreds of millions of wasted tax dollars.

For the sake of veterans and for the sake of Social Security recipients, Mr. Speaker, I hope they are not planning to do that again. But, Mr. Speaker, it is sure starting to look that way.

Today's temporary funding bill will keep the Government from shutting down for another week. We need this bill, Mr. Speaker, because my Republican colleagues have refused to pass the rest of the appropriation bills. Some Members, unbelievable as it may sound, some Members would rather watch these appropriation bills go down in flames rather than work with President Clinton and their Democratic colleagues to make sure they become law.

For instance, Mr. Speaker, my Republican colleagues are using the Commerce, Justice, State appropriation bill to stop the Census Bureau from using a technique called sampling, which most experts agree will give us a

more accurate census count. But that accuracy, Mr. Speaker, will come mostly from improved counts of people in inner cities and rural areas, and as far as my Republican colleagues are concerned, those people are better off not counted because their presence might hurt Republicans at the polls.

My Republican colleagues are also forcing a showdown on President Clinton's national education standards. President Clinton is hoping to set standards for fourth grade reading and eighth grade math, but my Republican colleagues just do not agree with him. And over that issue, and over that issue alone, the Labor, Health and Human Services appropriation bill may never see the light of day.

On a better note, Mr. Speaker, I am glad my colleagues have included the extension of section 245(I) of the Immigration and Naturalization Act in this continuing resolution. This provision will allow immigrants the opportunity to stay in this country while their applications are being processed. And those are only the immigrants that are eligible for citizenship. Mr. Speaker, these people are hard working. They have families here, and we should not be uprooting them from their families and jobs while they are waiting in line, legally, to become citizens.

Mr. Speaker, I hope this provision does not stop with the continuing resolution. I hope it will be permanently extended when we take up the Commerce, Justice, State appropriation conference report, if we take it up at all.

So Mr. Speaker, despite my opposition to the choice of politics over substance, I will support the continuing resolution. The American people deserve a government that is open for business, no matter how childish we get here in Washington, and I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 4 minutes to the gentleman from Huntington Beach, CA, [Mr. ROHRABACHER], my very good friend with whom I have worked closely on a wide-range of issues, including the problem of illegal immigration.

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman from California [Mr. DREIER]. He and I have worked on a number of issues over the years and we have a close relationship, but I might add the issue I will be talking about today is a bipartisan issue that crosses both sides of the aisle.

I had been planning to oppose this rule. I had been planning to stand up today and ask my colleagues to join me in opposing this continuing resolution because it included in it a provision which would grant amnesty to 500,000 to 1 million illegal aliens who are currently residing in the United States of America.

That issue is a significant issue. It is something that I did not receive an agreement on until just a few moments ago, that there would be an up and down vote other than on this rule. So today, while not opposing the rule, I am announcing to my colleagues and to those people who are listening that there will be an up and down vote.

The reason why we will not be opposing this rule is that there will be an up and down vote on 245(I) next Wednesday in the form of a motion to instruct conferees on the Commerce, Justice, State appropriation bill to insist on the House's, that means this body's, disagreement with the Senate's permanent extension of 245(I).

Now, we all know in the House a motion to instruct conferees is not a binding motion. It does not actually secure the change in law that we are trying to gain. But if we win that vote, we then have been assured by the leadership that there will be a binding vote in this body on the issue of 245(I). So between now and Wednesday this issue of 245(I) will be discussed.

Just a preview of how much I disagree with my good friend, the gentleman from Massachusetts [Mr. MOAKLEY] on this issue, is that we passed an illegal immigration reform bill last year with the intent of restoring respect for America's immigration law. By taking half a million to a million people who are in this country illegally, and permitting them to stay in this country for $1,000, we are breaking down the respect for our immigration law that we attempted to build last year in our immigration reform bill. It is totally contrary to that process.

What we are talking about is an amnesty, a new amnesty for 500,000 to 1 million illegal immigrants. I strongly oppose that. It is in the Senate's bill already, in their Commerce, State, and Justice appropriation bill. Again, this provision has been snuck into law. We will have a chance to vote on it.

There has only been one vote in the Congress of the United States on the issue of 245(I). That vote was a resounding no. And then 3 years ago it was, instead, snuck into another larger piece of legislation without a vote for even a conference report, that was not voted on by either the House or the Senate. So the only vote that we have ever had on 245(I) has been against it.

We owe it to the American people not to have a policy in place that is so controversial and so contrary, actually contrary to the wishes and contrary to the interests of American citizens and legal immigrants into our country, without having a direct vote in the House. We have now been guaranteed that there will be an up and down vote. The first vote on this will be Wednesday on the motion to instruct conferees. And if we win that, there will be a binding vote.

So I will be supporting this rule and ask my colleagues to join me and look forward to the debate on this issue next week.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to correct my dear friend from California, the other gentleman from California [Mr. ROHRABACHER], when he said this extension would grant amnesty under the 245(I). That is incorrect. Amnesty is a legal term in immigration. What it does is it grants them a stay of deportation but does not grant them amnesty.

Mr. Speaker, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong opposition to including the provision on section 245(i) to extend amnesty to Illegals. Although, I accept the public commitment made by the House leadership on allowing an up or down vote on this issue next week. I stand with our colleague Representative ROHRABACHER on this commitment to an up or down vote. When that vote comes, I urge my colleagues to vote against any extension.

Section 245(i) of the Immigration and Naturalization Act should not be extended. This rewards illegal immigrants who knowingly violated the law and permits them to remain in the United States and gain permanent status.

What message does this send to people around the world? It tells them that they are better off to break the law than to follow it. It sends the wrong message to law-abiding people in other countries who have legally applied for entry into the United States while remaining in their homelands for their visas to become available. It tells them to come to this country illegally and then adjust the residence status. Section 245(i) inundates the INS another endless set of applications, further creating a backlog to delay conducting background checks and investigating fraudulent applications.

I am concerned today that our benefits system acts as a magnet for many illegal immigrants. For example, many children of illegal immigrants receive a free education in U.S. public schools at the expense of American taxpayers, driving up the cost of education and taking resources away from U.S. children. The State of New Jersey alone spends an estimated $146 million a year to educate about 16,000 children of illegal aliens.

The argument has been made that by allowing section 245(i) to stay on the books, the INS makes up to $125 million in revenue received from the $1,000 fee that aliens pay to obtain legal status. But, this money pales in comparison to the multi-billion dollar cost imposed on taxpayers as a result of the devastating consequences of illegal immigration.

The cost associated with providing Federal benefits to illegal immigrants is astronomical. While as a society, we should not turn people away from an emergency room or deny food to the hungry; but I do not believe we should reward illegal immigrants by allowing them to stay. While millions of others wait their turn in line, year after year to enter legally.

Although I understand that there are extenuating circumstances in some cases, I believe that anyone who is in the country illegally should be held to the letter of the law.

I urge my colleagues not to support any extension of section 245(i) and to vote against

any extension at the appropriate time next week.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Sanibel, FL [Mr. GOSS], the chairman of the Permanent Select Committee on Intelligence and the Subcommittee on Legislative and Budget Process.

Mr. GOSS. Mr. Speaker, I thank my friend from greater metropolitan downtown San Dimas, CA, the distinguished vice chairman of the Committee on Rules for yielding me this time, and I rise to support his rule.

By allowing the House to consider this 2-week extension of the existing continuing resolution, this rule helps to ensure that current government functions remain operational while the Congress completes the work on next year's funding measures. We all know that and we all know why we are doing this.

Mr. Speaker, we will hear much discussion today of one provision of the law that is still very highly controversial and that may be extended for 2 weeks under this CR. I oppose a long-term extension of that provision of the immigration law, known as section 245(I), which has been discussed already this morning, which allows aliens who are in this country illegally to pay a fee and then adjust to permanent legal resident status.

This provision was, in fact, slipped into permanent law 3 years ago without hearings, without public discussion, or without debate on this floor. That is not the way laws should be made.

As part of the immigration reform of the 104th Congress, section 245(I) was set to expire on September 30. In other words, we had a phaseout of that provision, to be fair to all people who were put on notice. However, Congress extended the deadline for 3 weeks in the first continuing resolution this year to allow time for Members and the public to consider ramifications.

As that discussion is still continuing without resolution, the second CR includes another brief extension. I will support this one last extension in the hopes that a consensus can be achieved, and I believe it can. But I will not support a blanket extension, and I urge the House leadership to set aside time for full debate and vote on this issue.

In my view, indefinitely extending the 245(I) provision flies in the face of the reforms we passed last year by negating the consequences of illegally entering the United States. A permanent extension would further damage the credibility of our immigration system, which has for too long had its priorities reversed. For years, illegal immigration has been quick, while following the rules has been a slow and difficult process. Those who did it right, paid a penalty; those who did it wrong, got the rewards. That is backward.

In addition, a permanent extension would perpetuate an inherent conflict of interest for the INS, which is both tasked with deporting illegal aliens and requiring to process these people for legal residency. That is a tough decision for them.

While it seems there is no obvious middle ground, I have a proposal, which I understand the distinguished ranking member has spoken to already, to mitigate the impact on children under 18, who rely on section 245(I) to become legal permanent residents. In other words, reduce the impact on the families, which is a major concern for those of us in congressional offices who have been hearing about this.

□ 1045

This proposal would grandfather in minors already present in the United States and who have approved pending petitions. But it would not contradict the reforms we enacted last year. This is an important debate and there are many issues involved. We simply cannot have a policy that tells people who have abided by the lawful, established procedures that they would have been better off to simply have come across the border illegally or to ignore our laws. That is not good governance, it is not what the people of this country are asking us to do. I urge support for this rule.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Del Mar, CA [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, my colleague across the way said that it is not amnesty. It allows illegals to remain in this country. That is amnesty. I do not care what semantics are, but it allows them to stay here and we are opposed to that. If you are here illegally, if you come into the United States illegally, we will legally deport you to whatever country of origin that you have, and that is our position. That is what we are sticking to.

I would also say to the gentleman when he talks about extreme Republicans that cause the President to veto bills, we passed Medicare over to the President. It was vetoed. The DNC through the unions and the White House, thousands of negative ads on the Medicare, and the Government shut down. It is the same Medicare bill that was passed in the balanced budget, but there are still extremists on the other side that do not want the Medicare reform. The same was true with the welfare reform, vetoed, and Government shut down, but yet welfare reform untraps people and we passed that.

I would also look at direct lending. The President wanted 100 percent of direct student loans in 1 year capped at 10 percent. It cost $7 billion annually more through the President's direct lending. But that was a pet program, so the Government shut down and the President said, "We're not going to let the Government go until the extremists allow me to have 100 percent of the direct loans." There was a negotiation. Forty percent went forward. In 1 year, they could not account, the Department of Education, for $50 million, and we said, "That's wrong." Also capped at 10 percent, $7 billion additionally a year. What happened with the 40 percent? We just so happened to put it in where you cannot grow the bureaucracy. We saved $10 billion. We increased IDEA, we increased Pell grants to the highest level ever. And you call those extremist ideas, but you want to keep adding big Government, you want big bureaucracy. It takes higher taxes to go forward and support it. We are not going to allow that to happen.

When you talk about a rule that allows illegals to stay in, that is also not an extreme position. Legals, yes. Illegals, no. I will support this rule. I had planned like the gentleman from California [Mr. ROHRABACHER] on Friday to vote against the rule because of 245(i). But I would also say to my colleague on the other side, for whom I have a lot of respect, when they want to get up and demagogue about the misinformation of the left, 100,000 cops. There are not 100,000 cops out there. You know it and I know it. But yet you say it over and over. When the DNC fights Medicare and welfare reform and a balanced budget was vetoed twice by the President and then comes forward and supports it, yes. But do not call us extremists for a balanced budget, for welfare reform and tax relief for the American people.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. Again I cannot let Members use the term "amnesty." "Amnesty" is a definite term used in immigration. One-week, 2-week extension of deportation is not amnesty. I would hope that people would just use that term the way it is meant to be used.

Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume. As has been pointed out on both sides, this is a very simple, clean continuing resolution which allows us to ensure that the government will not shut down. Yes, it does have that 2-week extension of 245(i). The main reason it does is that we are in the process of working on negotiations.

The gentleman from Miami, FL [Mr. DIAZ-BALART] has just walked onto the floor and he is in the midst of working on those, along with others who feel very strongly about addressing this issue. The gentleman from California [Mr. ROHRABACHER] has said that we will have a vote next Wednesday on the floor. So the issue is, in fact, moot at this juncture. We should support this rule and support the continuing resolution.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 269, I call up the joint resolution (H.J. Res. 97) making further continuing appropriations for the fiscal year 1998, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 97 is as follows:

H.J. RES. 97

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106(3) of Public Law 105-46 is amended by striking "October 23, 1997" and inserting in lieu thereof "November 7, 1997", and each provision amended by sections 118, 122, and 123 of such public law shall be applied as if "November 7, 1997" was substituted for "October 23, 1997".

The SPEAKER pro tempore [Mr. SNOWBARGER]. Pursuant to House Resolution 269, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 97 and that I might include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the initial fiscal year 1998 continuing resolution expires tomorrow night. Currently 5 of the 13 appropriations bills have been enacted into law and 2 others are pending at the White House. We have concluded conference on one additional bill which is pending in the Senate, leaving five left to finish in the House. Because these remaining bills will not be completed by tomorrow night, it is necessary now to proceed with an extension of the current short-term continuing resolution so that government can continue to operate while we finish our work.

The joint resolution now before the House merely extends the provisions of the initial continuing resolution until November 7. The basic funding rate would continue to be the current rate. We retain the provisions that lower or restrict those current rates that might be at too high a level and would therefore impinge on final funding levels. Also, the traditional restrictions such as no new starts and 1997 terms and conditions are retained. The expiration date of November 7 should give us time to complete our work.

Mr. Speaker, while I am disappointed that we have to be here asking for another extension of the current continuing resolution, this is the right kind of action that we should be taking under these circumstances. It will be signed, and I hope that we can get on with completing our work by the end of this proposed continuing resolution. I urge the adoption of the joint resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, there is absolutely no reason for this continuing resolution to be here and for that matter there is absolutely no reason for this Congress to continue to be in session. To the best of my understanding, we are continuing to be in session past the leadership's original target date for adjournment for two reasons.

One, there appears to be a Senate Republican Campaign Committee dinner with a fundraising target of $5 million which is to take place on November 5 or 6, and I guess certain folks would like to keep the Congress around for that so there is good attendance at that dinner.

The second reason is because there are essentially four issues remaining on four appropriation bills which reasonable people ought to be able to resolve and which if left to this committee could be resolved within a week. There is no reason whatsoever why appropriation bills could not be finished yet this week or certainly early next if this committee were allowed to do its work on appropriation items. But we have four issues which are still hanging out there. Until somebody at a higher level than the committee decides which way this boat is going to go, we are going to be continuing to go in circles.

Virtually nothing has happened since we passed the last CR with the exception, I believe, of one or two noncontroversial appropriation bills. But we are still being held up on the issue of education testing. It would seem to me reasonable people could come to a compromise on that agreement. We are still being held up on Mexico City policy because the right-to-life folks in the Republican caucus will brook no compromise whatsoever and some of the population groups on the other side of the issue will also brook no compromise whatsoever.

Again, it seems if this House is willing to take back its duty and do what it thinks right rather than listening to outside lobby groups, this Mexico City issue could be resolved in about 5 minutes.

On the District of Columbia bill, we have those folks on the other side of the aisle who would rather see, as they have already been quoted in the newspaper as saying—and I am not talking about all the folks but some of the folks—we see some of those folks saying that they would rather see the entire District of Columbia budget held up for months rather than to compromise on the issue of $7 million for vouchers.

And then on the Interior bill, we have language which was inserted by the conferees with respect to Lake Clarke which was certainly not in either bill and which in my view is a huge threat to that spectacular piece of property, and that is holding up agreement. And so is the fact that the administration has come in with a number of items late in the day expressing their objections about those items when in fact many of them were not raised when we had top level discussions with the leadership on those issues. And so it seems to me that there is no reason whatsoever to continuing this session or to pass this CR except for the fact that we have a few folks around this town and in two cases a few folks in the other caucus in this House who would rather hold their breath and turn blue than get the people's work done.

There is not a whole lot we can do about that, but we are essentially getting paid each day between now and the end of this session for doing nothing. It seems that sooner or later, we ought to tell both the hardheads in this House and the Johnny-come-latelies in the administration that we are not interested in their continuing to hold up our ability to finish this session of the Congress. It seems to me that granting further extensions only encourages people to refuse to cooperate.

It appears to me that we are not going to be able to shut this place down until the extreme elements in this House on at least two issues have demonstrated that they are willing to go right through the end of the continuing resolution period before they are going to be willing to compromise. As long as we are around here, the administration is going to be continuing to ask for other items that they had not thought of before.

It just seems to me what we ought to do is pass this CR and say, "Boys and girls, no more. No more. Get your work done. Come up here and compromise, recognize that you are not just elected to define differences, you are also elected to resolve differences once those differences are defined."

As I said earlier, on the Appropriations Committee I am convinced the gentleman from Louisiana and I could reach agreement in about 2 days, maybe 2 hours on these items. It just

seems to me it is ludicrous to pretend to the public that anything useful is going on because hardheads will not be reasonable.

Mr. Speaker, I reserve the balance of my time.

□ 1100

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, much of what the gentleman from Wisconsin has said, I have to agree with. I think we could wrap up our business very rapidly, but for other reasons, we are not. I would say we are making progress. We are not sitting around doing nothing. The fact is we expect that today, for example, the Interior bill will be resolved and filed with the House, and the Labor-Health bill by the end of the week will, for all intents and purposes, be finalized and be ready for House action next week.

But in addition to appropriations matters, let me say that the Congress still has yet to complete action on the ISTEA legislation, which deals with funding of transportation projects. That will have to be done between now and the time that we adjourn, and a matter of great importance to the President, if not to the other side of the aisle, is this whole matter of fast track, which deals with the authorization of the President to negotiate trade deals with our Latin American friends and allies.

The President has said that it is very important to him and to the future of the country, and I tend to agree with him. However, if you do a nose count at this point, the fact is that the President has been very unpersuasive with his Members of his own party. Very few Members of the Democrat Party as of this moment seem to support that fast-track legislation, and it would fall on the shoulders of the Republicans to pass the legislation, which, frankly, puts us in an awkward position, because some of our Members do not favor it. And the last thing in the world that would be good for this country, and, in fact, for this administration, is if the matter were brought up to the floor and had an insufficient number of votes to pass.

So I expect that the President, if he is listening or if he reads the proceedings of debate on this resolution, should get busy and start calling Members of his own party to encourage them to support an initiative which he has advocated and proposed and backed for the last couple of years.

That is an important piece of legislation, and that must be tackled before we leave. If we do not have the votes, however, it will not be.

With that, Mr. Speaker, I have no additional requests for time, and I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, a small point, but I would ask the gentleman when he refers to my party to refer to it as the Democratic Party. That is, in fact, the name of our party. We do not call the Republican Party the "Republic Party." It has been a practice of some Members of the Republican Party for a generation to call us the "Democrat Party," but, in fact, it is the Democratic Party, and I would appreciate it if they would remember that.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, having grown up in Louisiana where the Democratic Party was of paramount significance throughout my entire life, I would only say that was what I was taught by my friends, neighbors, peers, allies, and Democratic friends. So that is why I used the term "Democrat."

Mr. OBEY. Mr. Speaker, reclaiming my time, the name of the party is "Democratic."

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, first I want to rise in support of the continuing resolution and to congratulate both the Chair and the ranking member of the committee for the extraordinary work they do on this whole process. If everything went as they wanted, I think we would be moving through this whole process quite quickly.

But I took this time and came to the floor after listening to some really flagrant misrepresentations about one aspect of the continuing resolution and of the appropriations process, and that is the question of the extension of section 245(I).

I have heard it discussed as an amnesty provision and stay of deportation provision. Section 245(I) has nothing to do with that.

Section 245(I) of the law, in the immigration law, is only available to people who are already eligible to become permanent residents. It is not an amnesty, it only applies to people who, under our legal immigration system, are now eligible at the particular time to adjust status.

The only issue it deals with is where they can adjust status, whether they can adjust status in this country or whether they have to go back to their home country, take the airline, pay the airline, go into our consular office at our embassy or one of the Consulates in the foreign country, go in that morning, show their papers, pick up their visa, and in many cases on the very next flight.

What we did back 3 or 4 years ago is say this is crazy. We are pushing a great deal of resources into our beleaguered embassies abroad for work that is not particularly relevant to anything in our national interests. We are giving money to the airlines. Let us raise the fees for that adjustment.

Let the agency that is most equipped to deal with it, the Immigration and Naturalization Service, deal with it, in-country, for those people who are eligible. It simply permits these people who are eligible, who are in line, whose time has come, to adjust to legal status in this country as a permanent resident, to do that in the United States.

It does not give illegal immigrants the right to live in the United States. It is not a defense to an action for deportation. It is not a stay of deportation. It is not an American necessity. It does not declare as legal people who have come here illegally. It does not change the order in which a person's claim is adjudicated.

There is one single worldwide line for everyone who is waiting for their immigrant visa. There are category limits, there are country limits, and only when that person's number comes up and that person's time in line, he gets to the front of the line, can he then adjust his status.

Mr. Speaker, we produce now $200 million a year in revenue, essentially by processing the people in-country rather than giving even greater amounts of that money to the airlines and costing our State Department far more to process them overseas. This frees up our consular officials to do the key work of screening applicants for visas in those countries, looking for terrorists, looking for people with criminal backgrounds, ensuring they do not come into this country. It has them doing the work we should be wanting them to do, not simply processing the paperwork for people whose turn has come through the legal immigration system.

It is for that reason that an incredible array of organizations, almost every major business organization in the country, wants to do this. This is the most expeditious and sensible fashion for processing legal immigrants.

So, I just hope as the appropriators go to a decision on the Commerce-State-Justice bill, as we deal with this continuing resolution, that all of the scare tactics about amnesty and stays of deportation are seen for what they are. They are an effort to cloud the real issue in the 245(I) debate.

Section 245(I) produces $200 million a year by allowing people whose time has come to adjust status through the legal immigration system to adjust in the United States. Eighty percent of that money goes for enforcement of our borders and to keep illegal immigrants from entering the United States, and it makes a tremendous amount of sense from every point of view and from every type of analysis. I urge its adoption.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SNOWBARGER). All time for debate has expired.

The joint resolution is considered as having been read for amendment.

Pursuant to House Resolution 269, the previous question is ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 271 and ask for its immediate consideration.

The Clerk read the resolution, as follows.

H. RES. 271

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except a further amendment in the nature of a substitute offered by Representative Conyers of Michigan or his designee, which shall be considered as read, shall be debatable for thirty minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. If that further amendment is rejected or not offered, then no other amendment shall be in order except the amendment printed in part 2 of the report of the Committee on Rules, which may be offered only by the Member designated in the report, shall be considered as read, shall be debatable for thirty minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 271 is a modified closed rule providing for 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on the Judiciary, and waiving points of order against consideration of the bill for the failure to comply with clause 2(L)(6), relating to the 3-day availability of committee reports.

Additionally, House Resolution 271 makes in order the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment, modified by the amendments printed in part 1 of the Committee on Rules report. Moreover, the rule provides that the committee amendment in the nature of a substitute shall be considered as read.

Additionally, House Resolution 271 provides for an amendment in the nature of a substitute, if offered by the gentleman from Michigan [Mr. CONYERS] or his designee. The rule provides that this amendment, if offered, shall be considered as read, shall be debatable for 30 minutes equally divided and controlled by the proponent and opponent, and shall not be subject to amendment. If the gentleman from Michigan [Mr. CONYERS] or his designee does not offer the amendment or if the amendment is rejected, no other amendment shall be in order except the amendment offered by the gentleman from New York [Mr. BOEHLERT], which shall be considered as read, shall be debated for 30 minutes, equally divided between the proponent and opponent of the amendment.

□ 1115

Likewise, this amendment shall not be subject to amendment.

Finally, Mr. Speaker, the rule provides one motion to recommit, with or without instructions. House Resolution 271 was reported out of the Committee on Rules by voice vote.

Mr. Speaker, House Resolution 1534, the Private Property Rights Implementation Act of 1997, is an attempt to address procedural hurdles which currently prevent property owners claiming a violation of the fifth amendment's takings clause from having fair and equal access to Federal court. H.R. 1534 attempts to remedy this situation by defining when a final agency decision takes place and prohibiting Federal judges from invoking the abstention doctrine to avoid cases that revolve on the fifth amendment takings claims. I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1534, the Private Property Rights Implementation Act of 1997. This important legislation seeks to provide a clear end to the process of resolving land use disputes which, under the current administrative and judicial system, can drag on for years.

While this legislation seeks to give property owners their day in court, it does not change the statutory underpinnings that define takings, it does not change environmental laws, and it does not mandate compensation. What it does do, Mr. Speaker, is to provide a much more expeditious remedy to land use and property rights disputes arising from Federal statutes and constitutional law.

In spite of my support for the legislation, Mr. Speaker, I must oppose this rule which provides for its consideration. The Committee on Rules majority has recommended a rule which denies the House the opportunity to fully debate the matter. This rule, in effect, forces Democratic Members to barter among themselves for which amendment to the bill might be included as a part of a Democratic substitute.

In addition, an amendment relating to homeowners and their property rights, which was brought to the committee by the gentleman from Minnesota [Mr. VENTO] was rejected by the committee Republicans. The excuse offered by the Republican majority was that there was not sufficient time to consider amendments before the House completes is business for the year. This is a very poor excuse, Mr. Speaker, for denying Members the opportunity to fully debate a matter of such importance.

I support this legislation and I will urge all Members to vote for its passage, but I am of the opinion that the consideration of one or two additional amendments would not have tied up the House and delayed our departure.

Perhaps it would have been wise for the Republican leadership to have scheduled more legislative days this month and fewer district work period days. We have important business to attend to in Washington, and H.R. 1534 is just one of those important matters that should be heard and should be passed.

I have no doubt, Mr. Speaker, about the outcome of the vote on this rule, but I would like to remind my Republican colleagues once more of their pledge to open the process in this House. This legislation is seeking to clear away hurdles encountered by property owners who seek to assert their rights in court. Why then cannot the Republican majority do the same for Members of this House, and clear away the hurdles that they have erected which prevent Members from expressing their points of view?

Mr. Speaker, again, I support H.R. 1534. It is a bill which enjoys bipartisan support, and is a far cry from the takings legislation passed by this House 2 years ago. This legislation is a procedural bill which clarifies how the Federal courts should address Federal property rights claims. It seeks to bring relief to property owners, who now can spend an average of 10 years jumping through the administrative and judicial hurdles that currently exist in order to be allowed to use their property. It is relief that is long overdue, and which can be remedied through passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I appreciate the support of the bill offered by the gentleman from Texas [Mr. FROST].

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE REFORM OF THE INTERNAL REVENUE SERVICE

(Mr. MCINNIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCINNIS. Mr. Speaker, I have this opportunity today to talk about the Internal Revenue Service. As we know, it is great gratitude that I express to the White House, and thank the President for changing his mind, thank him for coming on board with this Republican majority here, and frankly being helped by a lot of Democrats, to force reform in the Internal Revenue Service. This is a charge that has been led by the Republican Party. It is a charge that will be seen through by the Republican Party. Now it is a charge that is going to be supported by the White House.

Why do we need reform in the Internal Revenue Service? Because that is one of the few exceptions in the judiciary process in this country where you are assumed guilty and you have to prove yourself innocent. That is one of the agencies the gentleman from Texas, Mr. ARCHER, who should receive lots of merit and lots of commendation for his leadership on this, is going to change.

It is about time that the Internal Revenue Service, when they come to your house, you are assumed innocent until the IRS proves you guilty. There are some other very basic and fundamental reforms that we are going to put through on the Internal Revenue Service. This is a great day for the taxpayers of this country. Finally they are going to have accountability from the Federal Government that works for them.

THE PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of the rule that was just considered. I want to thank the Committee on Rules, particularly the gentleman from New York, Chairman SOLOMON, for the very fair approach that has been taken on this bill. The rule will allow full and open debate on a policy dispute of great significance. Again, I offer my appreciation and my support.

What is the policy dispute that is at the center of H.R. 1534? It comes down to this: Do Members of this body want to interfere for the first time with the most basic sorts of local zoning decisions? I say we should not do that, that any problems that exist with local zoning procedures ought to be remedied by State law, not by the intrusion of Federal judges.

I am more than a little bit surprised to see some of my more conservative colleagues throwing overboard their professed belief in Federalism to allow Federal judges to intrude early on in these extremely local matters.

This is not just my view. I do not stand alone in the well of this House. The bill is opposed by the National Governors' Association, by 40 States Attorneys General, including Attorney General Lundgren of California, Attorney General Vacco of New York.

The list goes on and on. It is opposed by the Judicial Conference of America, chaired by Chief Justice Rehnquist of the Supreme Court of the United States; it is opposed by the National League of Cities; by the U.S. Conference of Mayors; by all the environmental groups who, incidentally, are going to double score this bill, because of the significance of what is being proposed. The list of opponents of H.R. 1534 goes on and on. I think it is very important for all of my colleagues to really give full focus to what is being proposed.

I am not sure how anyone could claim with a straight face that this bill is "noncontroversial"; anything but. The manager's amendment represents a decided improvement in the bill, but it does not remedy the fatal flaw. The bill still would let Federal judges interfere with far more local zoning decisions. Think about that. Do we want everything kicked upstairs to the Federal Government, where all decisionmaking is made here? I think the answer to that is clearly no.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent to proceed for 1 additional minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. Mr. Speaker, my substitute, the Boehlert substitute, is the only way to correct that flaw, because it would eliminate the portion of the bill dealing with local zoning laws.

Let me reemphasize what we are talking about. We are talking about local decisions made in local communities on whether or not, for example, to deny a permit for building in an area, if when that permit were granted it would bring in unnecessary intrusion in terms of heavy traffic, where adequate infrastructure does not exist. It happens in our home towns every single day.

Do we want decisions made for us in our home towns by Washington, DC in every single zoning issue? I think the answer is clearly no, so we have to deal with it in a different way.

We would expedite Federal court access for property owners with a claim against a Federal agency. I think that is very appropriate. I urge support of the rule and support for the Boehlert substitute. I thank the Chair for being so indulgent.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 271 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 1534.

□ 1127

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the

consideration of the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other Government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution, with Mr. SNOWBARGER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for the first time.

Under the rule, the gentleman from North Carolina [Mr. COBLE] and the gentlewoman from California [Ms. LOFGREN] will each control 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 1534 is about Congress' duty to implement the 5th and 14th amendments to the Constitution. The U.S. Constitution protects individuals from having their private property "taken" by the Government without receiving just compensation.

To file a claim of a violation of that fundamental right, plaintiffs encounter several high obstacles which must be negotiated or crossed prior to the Federal courts hearing the cases on their merits. Plaintiffs alleging violations of other fundamental rights oftentimes do not encounter the same hurdles before gaining access to the Federal courts.

Plaintiffs filing taking claims in Federal court are met with steep requirements prior to their case being considered to be ripe. A plaintiff must show both that there has been a final decision by the State or local governmental entity which has authority over land use, and that the plaintiff has requested compensation by exhausting all possible State remedies.

□ 1130

Ironically, it may be impossible to then get any Federal remedy because the case has been forced to be heard in the State court and a case cannot be tried twice in most instances. Deprivation of a Federal remedy goes against what our Founding Fathers saw as a uniquely Federal matter, it seems to me.

Lower courts attempting to interpret when a final decision has occurred have reached conflicting and confusing decisions which are not instructive to takings plaintiffs trying to determine when their cases are ripe. H.R. 1534 defines when a final decision has been reached in order to give takings plaintiffs some certainty in the law so that their fifth amendment rights may be properly reserved.

Takings plaintiffs also confront the barrier of the abstention doctrine when filing a claim in Federal court. This doctrine gives Federal judges the discretion to refuse to hear cases that are otherwise properly before the court. Judges often avoid land use issues based on the abstention doctrine, even when the case involves only a Federal fifth amendment claim.

H.R. 1534 remedies this by prohibiting district courts from abstaining from or relinquishing jurisdiction when the case alleges only a violation of Federal law. H.R. 1534 would not affect the traditional abstention doctrines, Younger, Pullman, and Burford, used by the Federal courts because it allows a Federal court to abstain from hearing any case that alleges a violation of a State law, right, or privilege.

H.R. 1534 does not remove State court jurisdiction, even over Federal claims. Plaintiffs with Federal takings claims will still be able to file in State courts. H.R. 1534, the bill before us, simply assures plaintiffs with a 5th or 14th amendment takings claim that a meaningful Federal option exists.

This bill has undergone many improvements already since its introduction. For example, amendments included at the subcommittee and full committee levels addressed the special concerns of opponents that the bill was too broad and that it would circumvent local elected officials. At the subcommittee markup, an amendment making it clear that H.R. 1534 applies only to cases involving real property was offered by the gentleman from California [Mr. GALLEGLY], the primary author of the bill, and approved.

At the full committee markup, the amendment of the gentlewoman from California [Ms. LOFGREN], who will be handling the bill for the minority, which required a land use applicant to seek review of a denied appeal, or waiver from a local elected body if that procedure is available, was approved. And I say to the gentlewoman from California, I think that was a sound proposal and I think improved the bill.

Mr. Chairman, the bill includes a manager's amendment which will further address concerns expressed to the committee by other Members. These provisions narrow the scope of terms that could be construed more broadly than intended. It will include a provision that ensures local agencies an opportunity to offer suggestions to an applicant that must be taken into account or consideration in resubmitting the application before the applicant may seek an administrative or judicial appeal and subsequent Federal court litigation.

Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 1534, the first takings proposal which specifically targets our State and local elected officials.

This legislation would mandate a series of rules granting expedited access to the Federal courts for property takings claims. In addition to providing developers with special procedural advantages, the bill could alter the substantive law of takings in favor of developers.

The net result would be legislation which does unbalance the playing field as between State and local governments and developers. Even worse, the bill elevates the rights of real property owners above all other categories of persons having constitutional claims against the Government, which would include civil rights victims and the like. We believe that this is being propounded in the absence of any quantitative evidence that justifies this massive intrusion into States rights.

Under H.R. 1534, for example, if a corporation, say Wal-Mart, seeks to establish a very large, some would say even oversized commercial development in a small town, and the town says no because of the massive development and Wal-Mart is dissatisfied, they would have the opportunity to immediately threaten to bring suit and to march down to Federal court, forcing the town to incur a large amount of legal expenses.

Mr. Chairman, in that situation, I will add I spent 14 years in local government having to deal with difficult issues of zoning and land use. It has to be a factor for local governments who are constantly facing financial shortfalls to know that if they decide in favor of neighbors, they may face humongous legal expenses. That has to be factored into the decision-making process.

That is why this bill really does tilt the playing field in favor of developers and away from neighbors and homeowners who enjoy the benefit of zoning protection that local governments do impose.

Mr. Chairman, let me pose this issue because it comes from my own experience. A number of years ago when I was on the board of supervisors we established regulations, because we could not outlaw the pornography businesses that were established in part of our jurisdiction. We, the board of supervisors, were ultimately sued.

Mr. Chairman, in that case, under this law, we would elevate the rights of the pornographers in that case to immediately go to Federal court to challenge the zoning regulations that the local government had imposed. I do not think such a result is intended by the authors or proponents of the bill, but it is an outcome that is predictable and will happen in towns and counties around the country.

Mr. Chairman, it is no wonder that H.R. 1534 has drawn such diverse and strenuous opposition. The Attorney General, the Secretary of the Interior, the Administrator of the EPA, and the Chair of the Council of Environmental Quality have recommended a veto and the President has given strong signs that he would veto this bill.

The National Governors' Association, the Conference of Mayors, the League of Cities have come out in strong opposition to the bill as of yesterday. A bipartisan group of 37 State attorneys general opposes the bill because in their words it invades the province of State and local governments. They are joined by a broad array of environmental groups as well as the New York Times and the Washington Post.

Mr. Chairman, I think we must make sure that we understand that the manager's amendment does not really fix the problems, the many problems in this legislation. Even after the third rewrite of this bill, it still allows developers to bypass local administrators in State courts and imposes significant new costs on local government. It would still impose on the Federal courts to decide cases based on inadequate records, and it still elevates the claim of real property developers above ordinary civil rights claimants.

In some respects the manager's amendment has made the bill even worse by creating a series of complex and vague new procedural requirements and by allowing developers to proceed to Federal court without even waiting for a final answer.

Mr. Chairman, I urge a "no" vote on H.R. 1534 so we can continue to allow democratically elected local officials to protect their citizens, to protect neighborhoods and to protect homeowners from unwise development through the prudent use of zoning.

I would like to note also that I do understand there are occasions when overzealous zoning and regulation can, in fact, lead to takings. In those cases it is fair that justice be brought to the land developer. I do believe in the fifth amendment and its clause providing for due compensation in the case of such takings. However, this is the wrong remedy for those cases and I would urge my colleagues to join me in voting "no."

Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield 7 minutes to the gentleman from Florida [Mr. CANADY], a member of the Committee on the Judiciary.

Mr. CANADY of Florida. Mr. Chairman, I rise today in strong support of H.R. 1534, the Private Property Rights Implementation Act. This bill has the simple purpose of streamlining the process by which property owners petition for compensation when their property has been taken by a unit of government.

Mr. Chairman, the fifth amendment of the U.S. Constitution provides that private property shall not be taken for public use without just compensation. The intent of this constitutional protection is being thwarted by the current state of confusion regarding when and where a takings claim may be filed. Property owners are subjected to an inefficient and unnecessary legal maze of appeals back and forth between local boards, State courts, and Federal courts.

To illustrate the hurdles which face property owners who seek to defend their property rights, I will cite today the efforts of a couple in Florida who challenged the rezoning of their land. Their 13-year odyssey, 13 years, Mr. Chairman, through numerous layers of bureaucracy is, I am afraid, typical, all too typical of the struggle endured by countless property owners every day in this country.

In 1984, Richard and Ann Reahard inherited 40 acres of land in Lee County, FL, an area not far from the district I represent in central Florida. The land was zoned for high density residential development. Two weeks later the county adopted a land use plan which restricted use of the Reahards' land to a single house. That is a single house on a 40-acre tract. With this rezoning, the county reduced the value of the parcel by 96 percent, yet the county had no plans to compensate the Reahards for their loss.

Among the many zoning petitions filed by the Reahards with local authorities were: An application for an administrative determination of error, a request for plan amendment, and an application for determination of minimum use. These appeals were made variously to the county planning and zoning commission, the county board of commissioners, and the county attorney's office with differing results.

In 1988, that is 4 years from when this odyssey started, the planning and zoning commission approved the building of up to six units per acre on 35 of the acres and the remaining acres to be set aside as a buffer. But the board of commissioners rejected that plan.

In 1989, the county attorney determined that the Reahards could build four homes, but the board of commissioners decided again only to allow one home on the 40-acre tract. The Reahards filed a complaint in Florida State court, but the attorneys in Lee County removed the case to Federal court.

In 1990, the Federal district court decided in favor of the Reahards. The court ruled that the Reahards had exhausted all the administrative remedies, that their claim was ripe for adjudication, and that a taking had occurred. The jury awarded the couple $700,000 for the lost use of their land and for their legal costs.

But, Mr. Chairman, this is not the end of the story. Between 1992 and 1994, Lee County twice appealed the case to the U.S. Court of Appeals for the 11th Circuit. The first time, the circuit court remanded the case to the district court to revisit the ripeness issue. The district court again found that the issue was ripe and the jury award was reinstated.

Lee County again appealed to the 11th Circuit. On the second appeal, the circuit court decided that the Reahards had not exhausted their State court remedies and that the district court should not have heard the case in the first place.

By 1997, the Reahards' case was back in State court. The Lee County Circuit Court ruled that a taking had occurred and the jury awarded the Reahards $600,000 plus $816,000 in interest dating back to 1984.

□ 1145

In addition, the jury awarded attorney's fees and other costs to the Reahards. Lee County has appealed the case to Florida's Twentieth Judicial Circuit Court of Appeals where it is now pending. If the appeals court upholds the lower court's ruling and jury award, Lee County will owe the Reahards close to $2 million. Was this 13-year-long costly legal battle really necessary?

A major issue in this case was whether a final decision had been reached by the local authorities and if the case was, therefore, ripe or ready for review by a Federal court. The bill we have before us today, H.R. 1534, clarifies this issue by defining what constitutes a final decision, yet it leaves intact several layers of review by local authorities.

Under H.R. 1534, a property owner with a takings claim will have received a final decision when, upon filing a meaningful application for property use, a definitive decision regarding the extent of the permissible uses of the property is made. That is, the final decision will occur when the property owner has received a final decision, upon the filing of a meaningful application for property use, a definitive decision regarding the extent of permissible uses of the property.

When local law provides for an appeal process by administrative agency, the applicant must receive one denied appeal to have a final decision. If the local authorities render an opinion on what the applicant was turned down for, the applicant must then reapply incorporating those comments.

In addition, where local law provides for review by local elected officials, the applicant must also receive a decision from those officials. A clarification of this issue with regard to ripeness will reduce legal costs for both property owners and local governments who will now, under this law, know when and where to file these cases.

The suggestion has been made that this is a partisan bill. This is not a partisan bill. This is a bipartisan bill.

There are nearly 50 Democratic cosponsors. This is addressing a very real problem that affects property owners all across this country. I urge my colleagues to support the bill.

Just to conclude on the point, this is a very real issue that is affecting property owners all across the country. In most zoning cases, this sort of abuse does not occur. But it occurs all too often. And when it takes place, it imposes an unreasonable burden on the property owner. It can end up imposing significantly greater costs on the taxpayers who end up having to pay the interest costs that are incurred while these cases drag on, and drag on, and drag on.

I believe that the House has a responsibility to address this issue. This is being addressed in a bipartisan way.

The manager's amendment, as I understand it, has attempted to address the concerns that have been raised by various folks who have raised issues about the bill. I believe that the bill that is before the House strikes a balanced approach that takes into account the concerns of local governments, but also recognizes that the property owner has some rights that need to be protected and the property owner has to be able to get to court to do that.

I thank the gentleman for yielding me the time. I urge my colleagues to support the bill.

Ms. LOFGREN. Mr. Chairman, Mr. Butterworth, the attorney general of Florida, does oppose this bill. The prior speaker may not have been aware of that.

Mr. Chairman, I yield 4 minutes and 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentlewoman, a member of the Committee on the Judiciary and Representative from California, for yielding me the time.

This is an important issue. None of us, Mr. Chairman, would in any event be opposed to the fairness as it relates to the fifth amendment and the whole question, if you will, of property rights. But let me rise to share my concerns concerning H.R. 1534, the Private Property Rights Implementation Act of 1997.

It is not a sheer case, as the previous speaker has indicated, of vindicating those property owners who want to pursue their goals of development. It is a question of sidestepping State and local governments, very compelling interests of zoning and protecting the rights and interests of their citizens who would be less empowered to fight intrusion and development that they may not want.

Let me also say how supportive I am of my friends in the building industry and the many good works that they have done dealing with building housing and my intent is to work with them through this process. However, I think this legislation would greatly narrow both the ripeness and abstention doctrines exercised in Federal courts with respect to claims made under the takings clause of the fifth amendment and in doing so increases the ability of Federal courts to accept jurisdiction over local land use matters.

This is a difficult proposition to propose. This says that the local elected officials, the people duly elected by the State's citizens and the city's citizens can be usurped. Proponents of this legislation argue that this bill is necessary to remedy the excessive barriers that property owners face in receiving their just compensation. They point out that under current law landowners trying to defend their property rights are frequently snarled up in courts for years. Sometimes this is burdensome. I am concerned, however, that the bill may not correct a solution.

H.R. 1534 will have a very serious and adverse impact on the ability of State and local governments to implement their zoning and land use laws. This bill attacks the primary powers of local and State officials in land use matters by effectively taking control of local land use away from State and local governments and, if Members will, putting a speeding train across the finish line into Federal courts.

H.R. 1534 threatens to severely diminish the negotiating posture of States and municipalities. As a former member of a city council, local government, we have on many occasions been able to dialog and compromise on some of these very ticklish issues. This would be hampered by allowing developers and polluters to threaten to bring them into Federal court on an expedited basis.

For example, under the bill, if a developer seeking an oversized commercial development is dissatisfied with the initial land use decision by a small town, it could immediately threaten to go to Federal court. The cost of litigating this issue would overwhelm many small towns, counties, and cities.

Under this bill, the case could even proceed if negotiations regarding the alternative developments were ongoing. This smacks right in the middle of disrupting local government and their ability to reason and to work with the developers and others in these very difficult issues.

Right now I am facing a situation where there is major pollution by a large corporation in my community and obviously they are in Federal court, and it puts the burden on these neighborhoods who are trying to fight against this pollution. This bill is likely to result in a significant increase in Federal judicial workload, a particular problem given the high number of vacant judgeships.

According to a recent Congressional Research Service report, there is a sound argument that H.R. 1534 will result in a significant increase in the caseload of the Federal courts particularly from takings litigation. I believe the Boehlert amendment will improve this legislation.

This amendment limits the effect of the bill to takings claims brought about against the Federal Government and would not impact the abstention or ripeness doctrines as they affect cases brought against State and local governments. In doing so, the Boehlert amendment answers some of the concerns of those Members who are concerned about the burdensome legal process. So I am supporting the Boehlert amendment.

Let me also acknowledge that this does not give the same kind of protection to those who are fighting civil rights violations. Therefore, I find this to be contradictory and hypocritical at best. Also, I wanted to note that in the Washington Post and the New York Times, both of these have labeled this legislation as undermining local government.

We find that the League of Cities, Conference of Mayors, and 40 State attorneys general are against this and this gives developers and property owners who have a wealth of money an imbalance against small towns and counties and cities who fight every day to protect their citizens. I think we can work out some of these problems. This is not the right legislation to go forward.

Mr. Chairman, I would offer to say that my colleagues should oppose this legislation. Let us go back to the drawing boards and really work out a solution.

Mr. Chairman, I rise today to share my concerns regarding H.R. 1534, the Private Property Rights Implementation Act of 1997. This legislation would greatly narrow both the ripeness and abstention doctrines exercised in Federal Courts with respect to claims made under the takings clause of the fifth amendment and in so doing increases the ability of Federal courts to accept jurisdiction over local land use matters.

Porponents of this legislation argue that H.R. 1534 is necessary to remedy the excessive barriers that property owners face in receiving their just compensation. They point out that, under current law, landowners trying to defend their property rights are frequently snarled up in court for years. I agree with my colleagues that such a delay is overly burdensome. I am concerned, however, that H.R. 1534 may not be the correct solution to this problem.

H.R. 1534 will have a very serious and adverse impact on the ability of State and local governments to implement their zoning and land use laws. This bill attacks the primacy of local and State officials in land use matters by effectively taking control over local land use away from State and local governments and putting that power into the hands of the Federal Government.

H.R. 1534 threatens to severely diminish the negotiating posture of States and municipalities, by allowing developers and polluters to threaten to bring them into Federal court on an expedited basis. For example, under the bill, if a developer seeking an oversized commercial development is dissatisfied with the initial land use decision by a small town, it could immediately threaten to bring suit against that town in Federal court. The costs of litigating this issue would overwhelm many small towns and counties. Under this bill, the case could proceed even if negotiations regarding alternative developments were ongoing, even if there was an insufficient record available for the Federal court to make a reasoned takings decisions, and even if there were important unresolved State legal issues.

H.R. 1534 is also likely to result in a significant increase in the Federal judicial workload, a particular problem given the high number of vacant judgeships. According to a recent Congressional Research Service report on the legislation, "There is a sound argument that H.R. 1534 will result in a significant increase in the Federal courts, particularly from takings litigation."

Another very important concern with H.R. 1534 is that it unfairly identifies one type of action for violation of Federal rights—property takings under the fifth amendment—for favored consideration in Federal courts, while ignoring all other types of procedures where abstention may apply. For example, abstention has been held appropriate in section 1983 actions involving the sixth amendment right to counsel, conditions of confinement at a juvenile facility, the denial of Medicare benefits, gender-based discrimination, and parallel State-court criminal proceedings. Are the rights of property developers more important then the life, liberty, and other civil rights of Americans including claims regarding personal property and intangible property? If not then why should the claims of land developers be given priority treatment in our Federal courts when Federal courts abstain from deciding other civil rights claims that are at least as valid and important?

In light of these problems with H.R. 1534, I urge my colleagues to join me in supporting the Boehlert amendment in the nature of a substitute. The amendment limits the effect of the bill to takings claims brought against the Federal Government, and would not impact the abstention or ripeness doctrines as they affect cases brought against State and local governments. In so doing, the Boehlert amendment answers the concerns of those Members who are concerned about the burdensome legal process that many landowners have encountered and yet have long advocated the importance of State and local government authority.

Mr. COBLE. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I want to thank my friend from North Carolina for his work on this legislation.

Let me assure everyone that this legislation received a full hearing in Committee on the Judiciary. The concerns that have been expressed have been adequately addressed in the legislation and I rise in strong support of the Private Property Implementation Act. I believe it is important. There are two fundamental principles that are at issue and are at stake in this legislation.

First of all, there is the constitutional principle that the Government cannot take your property without just compensation. This was learned when we studied the Constitution at an early age. It has been preserved in our history and it is one of the most important constitutional principles that we have. The second principle that is at issue in this legislation is that constitutional rights are to be protected in Federal court.

As an attorney in private practice for almost 20 years, I brought into Federal court due process claims, first amendment claims involving freedom of speech, freedom of association, freedom of religion. In Federal court they deal with constitutional claims regarding unlawful seizure. The Federal courts, though, have set up a particular burden for anyone who is asserting the constitutional principle that property should not be taken without just compensation. That is the abstention doctrine, that the Federal courts have to refrain from that, they refer it back to State court.

It creates a tremendous burden on the homeowner, the property owner who desires to protect their rights. So the constitutional principle of private property rights has been diminished and I believe put below other constitutional rights because of this doctrine and the hesitancy of Federal courts to consider this type of case.

The purpose of this legislation is to restore the protections to the property owner. In Arkansas, I assure my colleagues, this is an important constitutional right that must be protected. This legislation maintains an appropriate balance, protecting the rights of the city and the municipality in their zoning laws, but yet at the same time looking out at the protection of the homeowner. Under the bill the landowner must go through the usual appeal process, but when court action is necessary, then they are assured of access to the Federal courts.

The objection that has been raised today is the Federal courts are too busy. It will result in a crowded docket. I believe that the Federal court should never be too busy to hear constitutional cases, to hear constitutional claims, claims that involve constitutional rights, whether it be freedom of speech, whether it be freedom of association, or whether it be the protection against unlawful taking of private property.

For that reason, I support the legislation. It preserves important constitutional principles. It preserves a balance between the desire to zone property, but the desire to give homeowners the property protection from unlawful taking. For that reason I support this legislation.

Ms. LOFGREN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, this is an extraordinary day. My Republican colleagues are trying to federalize a whole bunch of State activities and State procedures and to impose Federal law both on the subject of rights and on the subject of procedure upon local units of government, a remarkable activity in view of all the talk I have heard on this side about devolution.

Here are the questions that are potentially to be brought into the Federal court. Whether a community is going to permit a house of ill-repute, a place for nude dancing or adult book stores to be established in a particular area, whether there will be glue factories, slaughterhouses, nuclear waste dumps or hazardous waste dumps or, indeed, ordinary municipal dumps established at a particular place.

These are hardly rights that should be litigated in a Federal court. This includes whether bars, crack houses, opium dens and places where narcotics, illegal drugs and illegal activities of all sorts are conducted. The question of whether activities which constitute a clear public nuisance, as interpreted by the States and the local units of government, will be permitted in a particular area, and if the person or the entrepreneur who wishes to engage in these kinds of activity feels he is not going to get fair treatment in a State court or in the State-administered procedure, he rushes to Federal court where the Federal judiciary has then got to take up the important question, for example, of whether nude dancing should be permitted near a church or whether a bar may be located within 100 yards of a school or whether some other kind of action, long known and long viewed as being noxious and obnoxious to the public interest and to the concerns of the people in the area will be permitted.

□ 1200

And it will be done in Federal Court, not the State court, not in the court where people are closest to the people in the community.

Now, the Constitution protects the rights of all, the property rights and other rights. There is a long history of how these rights are protected in State and Federal court, and there is an intelligent and a sensible way in which these questions have been and can be reviewed.

The procedure and the jurisprudence is clear. The courts have defined this process for years, and the process is defined to protect the property owner, to permit him to use his property in an intelligent and beneficial manner. It is,

however, also arranged so that the rights of honest citizens who might live in the neighborhood will receive protection.

Now, let us vision this. An individual wishes to create a deep injection well into the subsoil. The citizens object. The question under this legislation is federalized. Citizens cannot go through the normal procedure. And the result is that the Federal courts all of a sudden have a question of great local concern without any real awareness or any real sentiment of closeness to the people who are involved.

Is that a good result? Is that the result we want? And is that a result which we want at a time my Republican colleagues are telling us how important it is that these matters should be decided at the local level? I think this is insane.

The question of whether or not the local governments are proceeding correctly now under the laws and the Constitution is settled, clear, understood and sound jurisprudence. They decide the question on the basis of appropriate proceedings where all parties are afforded an opportunity to be heard, then the matter can be elevated and is subject to suitable and appropriate judicial review. And the people in the process, if they deal with it incorrectly, either in the administrative process or in the courts, the courts then are subject to having the matter reviewed in Federal court. This is sensible, intelligent protection of the rights of all.

But remember that we are addressing questions which involve a difficult balancing of the rights of the property owner and the rights of the citizen. What my colleagues are saying to the citizens, if we adopt this legislation, is that the question of whether a nuclear waste dump or a slaughterhouse or a glue factory or a rendering plant or a nuclear waste dump or a house of ill repute is now a matter of Federal concern; that a bar or a place where illegal activities are a public nuisance, or a place where nude dancing is permitted is a question that is an essential Federal right that goes immediately to the Federal courts for consideration by the Federal judiciary.

I think this is the worst and most intolerable kind of invasion of the rights of communities, the rights of States and the rights of ordinary citizens that this body could construct.

Mr. COBLE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. GALLEGLY], the principal author of the legislation before us.

Mr. GALLEGLY. Mr. Chairman, government bodies may have legitimate reasons for restricting the use of private property, for local zoning, environmental protection and other purposes. Most government agencies use these powers very responsibly. However, sometimes they do not. And when a government body infringes on an individual's rights as guaranteed under the Constitution, that person should have their day in court to defend those rights.

That is what this bill is all about, giving property owners their day in court, not on choosing sides in takings.

I think the need for this bill is also demonstrated by the broad support we have received here in the House. H.R. 1534 to date has 239 bipartisan cosponsors. Of these, 44 Members happen to be Democrats.

The bill specifically states that nothing in H.R. 1534 would change the legal arguments or whether a landowner deserves to be compensated for the loss of economic value of their land. Judges would use the same current standards to evaluate the merits of these cases. However, people would not have to wait for years and years to get those merits considered.

The bill applies only in cases in which a Federal claim has been made, not to State cases. The language of the bill makes certain that the Federal courts may continue to abstain their jurisdiction if there is a case pending in a State court arising out of the same operative facts. This provision ensures that H.R. 1534 absolutely does not affect in any way proceedings in the State courts.

Circumstances involving other Federal rights or legislation are given a fair chance to be heard in the Federal courts. For example, Federal environmental laws are readily enforced in the Federal courts. First amendment claims against local governments have no trouble getting a hearing in the Federal courts. Only property rights are routinely dismissed or delayed because of abstention or ripeness.

Let me give my colleagues one example that illustrates this problem extremely well. Earlier this year the Supreme Court ruled on a case brought by Mrs. Bernadine Suitum. Mrs. Suitum was basically denied 99 percent use of her property, which is in Lake Tahoe, CA. She was told she could not build her retirement home or anything else on her lot.

For 8 years, Mrs. Suitum sought to have her request for compensation heard in the Federal courts. However, year after year the Federal judges ruled that her case was not ripe. Only now, after the Supreme Court ruled unanimously in her favor, are the merits of her case being heard.

It never should have taken that long. If Mrs. Suitum could not get the merits of her case heard for 8 years, what chance do other property owners have? Few people have the time or money to fight all the way to the Supreme Court to defend their constitutional rights. So this bill is about equal access to justice for the ordinary landowners and property owners of America.

Mr. Chairman, it is often said that justice delayed is justice denied. I urge my colleagues to support H.R. 1534 to simplify the process our constituents must navigate to defend their personal property rights and their constitutional rights.

Ms. LOFGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I rise in support of the private property owners and in support of H.R. 1534.

Mr. Chairman, the fifth amendment to the Constitution guarantees certain private property rights and protections that have been subject to various interpretations by the courts over the years, often at great expense and a great waste of time to private property owners.

For many years the Congress has attempted to secure the rights of private property owners and to clarify the intent of the fifth amendment. In the 104th Congress the House passed legislation that would have curtailed judicial interpretation of the takings clause in the amendment and would have established a formula for the Federal Government to compensate private property owners from Federal agencies limited use of their property. Unfortunately, the Senate did not act on the bill, and private property disputes were left to the discretion of the courts.

However, today we will try again to provide some long-sought relief for private property owners through a bill, H.R. 1534, that would expedite disputes between private property owners and Federal agencies in Federal court. Under current law, property owners often spend years in court—at the local, State and Federal level—in an attempt to prove their case. This bill will give property owners the right to have their case heard in Federal court in a more timely manner, and it clarifies other provisions that will facilitate legal action. The bill does not usurp the authority of State and local governments—but it does help speed up the resolution of State issues.

Mr. Chairman, we have an opportunity to help eliminate the impediments that the courts have placed on the protections offered under the fifth amendment. This legislation will help restore the rights of property owners to due process of law and a timely determination of just compensation for property that has been seized for public use. This is not an issue of States' rights—States will still have authority over State issues. This is a constitutional issue, and I ask my colleagues to join me today in support of H.R. 1534 to help guarantee these constitutionally protected private property rights.

Ms. LOFGREN. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT], a member of the committee.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I rise in opposition to this bill, and I wish to talk for a minute or two about what this bill is not about, because there is a lot of misinformation out there.

This is not about whether people will be compensated for the taking of their property. People always have been, will continue to be compensated for a taking of property, and that is a right

under the Federal Constitution. But this is not about whether the Federal courts only can decide that. State courts have and do and should continue to decide Federal constitutional issues based on who has jurisdiction over those issues and where the lawsuit is filed.

For the Republicans to say to us that somehow we should direct the Federal courts to do this seems to me completely inconsistent with everything that they have said that they stand for. First of all, they have told us that they believe in the devolution of power back to the State and local level. This bill is absolutely counter to that proposition.

Second of all, they have told us that they believe in disputes being resolved at the level of conflict closest to the people. This is absolutely contrary to that proposition.

Third, they say they want these things resolved quickly. Well, we have a backlog in the Federal courts unlike any State in this Union, because the Senate will not let the Federal judges be appointed, and so we are getting further and further and further behind. So to put these cases in Federal Court is going to prolong the process, not shorten the process.

This is a bad idea. State courts can and should resolve these disputes. Federal courts can and should resolve these disputes. The current law allows that to happen right now and we ought to leave it alone.

Mr. COBLE. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Chairman, I thank the gentleman for yielding me this time.

I am here in Congress because I am absolutely committed to communities being able to achieve livable futures. I was present at the inception of Oregon's landmark land use planning laws, and I spent the last 18 years of my life in local government implementing some of the best and most far-reaching environmental protections in America and, as such, I would like to offer some observations about today's legislation.

First, I am happy that so many of my Republican and business friends acknowledge that there is a legitimate Federal role in local and State land use planning. This is an important milestone for Congress. But I do fear that a number of people are avoiding the true circumstance that occurs in development in many parts of our country.

In the absence of comprehensive land use plans developed by local government with the help of their citizens and business interests, we have a patchwork system that too often employs as a central part legal maneuvering and political pressure. I believe from the bottom of my heart this is the wrong way to go.

Just because communities have not yet decided to have a comprehensive plan in place does not mean that people can do anything they technically or legally want with their property. Instead, there is an elaborate political legal tangle in most communities. This is an exceedingly inefficient and often unfair way to resolve the important public policy decisions attendant to development.

There needs to be a way to provide incentives to State and local governments to carefully codify their planning objectives in terms of zoning and development requirements, along with cost and fee structures that require development to pay its own way. A combination of sound land use planning and appropriate user fee structures makes good development possible.

I do not fear a wholesale legal assault on behalf of the development community. My experience is that State and local government have at least as many legal resources and opportunities as the private sector. In fact, over the years, I have seen local government better able to defend itself in this fashion than the private sector. We in local government pay our attorneys by the year rather than by the hour.

I look forward to working with the development interests, local governments, and the environmental community as this bill works its way through the legislative process. I do see it as a step forward in the discussion of how we are going to direct and manage growth without undo legal and political wrangling.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume, and note that the Attorney General of Oregon does oppose the bill.

Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in strong opposition to this bill. In doing so, I do not stand alone. I am reflecting not only my own position but that of the National Governors' Association, most State Attorneys General, 40 at last count, the Judicial Conference of the United States, chaired by Chief Justice Rehnquist, the National League of Cities, the U.S. Conference of Mayors, and every single environmental group who view this issue as of such magnitude that they are going to double score it.

It is an unusual coalition and they have come together on this for good reason. The reason is simple: This bill violates the most basic principles of federalism. That is just as true of the manager's amendment as it is of the original text. That is not, as some say, a narrow procedural fix. Far from it. Would all these groups be arrayed against powerful developers if the bill was a narrow procedural bill? I doubt it.

The bill would fundamentally alter the balance between localities and the Federal Government, between developers and neighborhoods, between the legislative and the judicial branches. The bill would overturn a 7-to-1 Supreme Court decision, a decision in which all the conservative justices of the time, Burger, Rehnquist, O'Connor, concurred.

Make no mistake about it, H.R. 1534 represents a fundamental shift in American law and will rob communities of the opportunity to determine their own destinies.

□ 1215

Forget about legal doctrine for a minute. Let us look at the practical impact of the bill. It basically removes any incentive for a developer to negotiate with a community because the developer will always be able to threaten to take the community immediately into Federal court. That will change the look of every single community in this country. Think about it.

Now, supporters of the bill sometimes say, "We're just making sure that the fifth amendment claims can get to Federal court." We think fifth amendment cases should get to Federal court, but the Federal court cannot determine if the fifth amendment has been violated until they know exactly what a zoning board would allow, exactly how much a local action reduced property values and exactly what compensation was offered. Bringing Federal courts in prematurely, as this bill does, simply allows Federal judges to substitute their judgment for the locality's before all the facts are in.

Again, do not take my word for it. Here is what the Judicial Conference of the United States says: "The bill would alter deeply ingrained federalism principles by prematurely involving the Federal courts in property regulatory matters that have historically been processed at the State and local levels."

Here is what the National Governors' Association wrote in a letter signed by Governor Voinovich of Ohio: "The result will be substantially more Federal involvement in decisionmaking on purely local issues." Listen to the experts who do not have a financial interest in the outcome of this bill. This bill says we do not trust local governments. This bill says devolution; that is, sending authority from the Federal Government to the State and local governments, is a cockamamie idea. This bill says all wisdom is vested in Federal courts, not in State and local courts. I urge opposition to H.R. 1534 unless the sensible Boehlert amendment is passed.

Mr. COBLE. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman for yielding me this time. There is some controversy on this bill. I was able to pass an amendment when it was offered on the

floor 2 years ago. People may argue about limiting, causing damage to private property and wanting to compensate them for it. I believe when the Federal Government takes an action which limits the use of or damages the property of a citizen, the Federal agency should in fact be responsible for ensuring they be made whole. No action do them.

I support the bill, but I do not believe this bill in its current form really is in the total best interests of all of the people we represent. Not all of our constituents have accountants and attorneys. If this bill becomes law, those big corporations and all those people have all those legal eagles and they are going to advise them exactly what to do and what is available to them and how to go about it, but the average citizen may not even know there is an action taken which may have in the future caused them to lose money.

My amendment says that when a Federal agency takes an action that causes an American to have their property use restricted or to lose value, that the agency shall give notice to the owners of that property explaining their rights under the law and then, second of all, the procedures that they can use for obtaining any compensation if they are eligible for it.

Now, if this is not fairness, I want someone to tell me what fairness is. This language was accepted overwhelmingly on the House floor during the debate 2 years ago. It ensured that every private citizen and property owner would be afforded the same types of procedural rights and protections as do those people that can afford to hire attorneys and accountants. I would like to ask the Congress that, in the wisdom of the Congress, under unanimous-consent order to allow this amendment to be offered on the floor for an up or down vote. That, I ask. I hope that that opportunity would be made available. It makes the bill better. From what I understand, the sponsor of the bill is in support of that language and I see no opposition.

Ms. LOFGREN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I thank the gentlewoman for yielding me this time. I rise in opposition to this bill. I want to speak specifically to some of those cosponsors, because I got close to cosponsoring this bill until I read it. Frankly what this bill is is a fast track for developers. It is a fast track that allows them to bypass the local zoning process.

Look at this. This bill is opposed by the National League of Cities, by the National Mayors, and by the National Governors' Association. Why? It is because this bill allows that usurpation or that bypassing of the local process. What does that do? First, it is going to cost local governments a lot more money to have to defend these cases.

Remember, this case is driven by the property owner and the property owner in this case is sponsored by the Homebuilders Association. This is not the little lady in tennis shoes who we often talk about that may have conditions placed on the development of her house and therefore you have got a takings issue. What the sponsor did not tell you is that in California, the State he represents, there is in the State constitution a protection of takings issues. There is a protection in the national Constitution.

So there is nothing here that is broken. The only thing that is broken is the fact that people do not like zoning conditions, use permits, and conditions placed upon those use permits on their property.

As the gentleman from Michigan [Mr. DINGELL] indicated, you could do all kinds of things. You could complain that if you were a liquor store owner that you wanted to put your liquor store next to a high school because that local zoning may prohibit that. You could complain because you would not be allowed to put your waste dump in a residential neighborhood. Those are all issues that would generate takings issues.

I think that this body ought to wake up and listen to a former Speaker who said all politics is local. In this case, leave those politics local. Oppose this legislation, join the National League of Cities, the U.S. Conference of Mayors, the National Conference of State Legislatures, and the Judicial Conference of the United States and the President, who will veto this bill if enacted the way it comes to the floor. I oppose H.R. 1534.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I rise in support of this bill. I want to bring to Members' attention a single case in Louisiana, 20 years old now, a Corps of Engineers levee project. The corps denied the project in 1976. The landowners overturned it. It went to court over and over again. Eventually the EPA exercised veto authority in 1985, denying the landowners' rights. When the landowners finally filed suit following that veto exercise in 1985, which they contested in court additionally, the court ruled that the 6-year statute of limitation had passed and they no longer had a right to file a claim for takings.

Now, get this. They were in court for all these years, from 1976 to 1985. When they finally lose their case in 1985, EPA vetoes the project and therefore their land is taken from them, all viable use has been taken away. The court then rules that the 6-year statute of limitation is over and they should have filed years ago for the taking when they did not know a taking had yet occurred. They eventually had that decision overturned.

It is 20 years and these property owners have not yet received relief. This bill is vital. It will end litigation, consolidate it and protect procedural rights of property owners in America.

Ms. LOFGREN. Mr. Chairman, I yield 2 minutes to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, I appreciate the gentlewoman yielding me this time. Mr. Chairman, I served as a city counselor in Portland for 6 years and as mayor of the city of Portland. I was also an attorney. So I have a perspective, I think, on this issue that I want to share with other Members.

First of all, in cities like mine, we have perfectly appropriate and sound local zoning practices. I would argue that most communities, a great many communities in this area, do very well. Second, I would say this. Although if you look around the country there is a variation between how quickly you can move through State court and how quickly you can move through Federal court, at least in my State it is more time consuming, more expensive to go to Federal court, more complicated.

I would just say to Members of this House, we have heard over and over again the urging of Members of this House to push more responsibility back to the State and local governments. We have also heard concerns about the Federal courts. What are we doing with this bill? We are pushing local land use disputes into the Federal courts so they can be dealt with there.

That is why the National Governors' Association, the National League of Cities and the U.S. Conference of Mayors are all in opposition to this bill. This bill, as they say, would give parties to a local property dispute immediate access to Federal courts before State and local processes have a chance to work. I do not think that yields better government for us here in the Congress or for our taxpayers back home.

The distinguished gentleman from California, the sponsor of this bill, said it would provide equal access to justice for ordinary landowners. I dispute that. I agree with the gentleman from California [Mr. FARR], who said this bill is fast track for developers. We should not pass this bill. The Founding Fathers never intended the Federal courts as the first resort in resolving community disputes among private property owners.

Mr. Chairman, I include for the RECORD the letter dated October 21, 1997 from those three groups, the National League of Cities, the National Governors Association, and the U.S. Conference of Mayors.

The text of the letter is as follows:

NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL LEAGUE OF CITIES, U.S.
CONFERENCE OF MAYORS,
October 21, 1997.

DEAR MEMBER OF CONGRESS: We are writing to express our strong opposition to H.R. 1534, the so-called Private Property Rights Implementation Act of 1997. We assure you that

state and local elected officials are deeply committed to the protection of private property rights. However, by preempting the traditional system for resolving community zoning and land use disputes, this bill would undermine authorities that are appropriately the province of state and local governments and create a new unfunded mandate on state and local taxpayers. We urge you to vote against H.R. 1534.

This bill would give parties to a local property dispute immediate access to federal courts before state and local processes have had a chance to work. The result will be substantially more federal involvement in decision making on purely local issues. This represents a significant infringement on state and local sovereignty and interferes with our ability to balance the rights of certain property owners against the greater community good or against the rights of other property owners in the same community. It also represents a significant new cost shift to state and local governments as we are forced to resolve disputes in the federal judiciary instead of through established state and local procedures.

In our view, the Founding Fathers never intended the federal courts as the first resort in resolving community disputes among private property owners. Rather, these problems should be settled as close to the affected community as possible. By removing local disputes from the state and local to the federal level, H.R. 1534 violates this principle and undermines basic concepts of federalism.

For these reasons we urge you to oppose H.R. 1534.

Sincerely,

GOV. GEORGE V. VOINOVICH,
Chairman, National Governors' Association.
MARK SCHWARTZ,
Councilmember, Oklahoma City, President, National League of Cities.
MAYOR PAUL HELMKE,
City of Fort Wayne, President, U.S. Conference of Mayors.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE of Ohio. Mr. Chairman, I rise in strong support of this bill. Today we have an opportunity to open the courthouse doors to America's private property owners who are clamoring outside, hoping to gain entrance merely to exercise their constitutional rights.

At one time in our Nation's history the property rights of individuals were sacred. In our Constitution the Founding Fathers provided that that no person shall be denied of life, liberty, or property without due process, nor shall private property be taken for public use without just compensation.

But increasingly local, State, and Federal Governments have overlooked the Constitution and placed more and more restrictions on land use in a manner that ignores rather than protects the interests of those who own the land. In these situations, it is only right that landowners have a fair opportunity to challenge the decisions of governmental bodies in court. But instead their access to justice is routinely denied. In fact, only 20 percent of takings cases successfully weave their way through the procedural obstacles that await them in a journey that takes an average of 9½ years to navigate.

Mr. Chairman, this bill sends a message to Federal courts that they can no longer willingly ignore takings cases. In effect, the bill will give private property owners their day in court and finally put the decision within their view.

Ms. LOFGREN. Mr. Chairman, noting that the attorney general of Ohio is opposed to the bill, I yield 1½ minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentlewoman for yielding me this time. I wonder if we might send the Sergeant at Arms out around the House buildings to search for conservatives. We seem to have lost our conservative grounding in this Congress, after all of the protests that we have heard over the last, almost 3 years, about the importance of returning power to the States, about mistrust of Federal judicial activism and on and on and on. Here we have this piece of legislation that will run exactly counter to the presumed doctrine of the majority party, inviting judicial activism by the Federal courts, interposing Federal intervention as the first resort rather than the last.

□ 1230

I am absolutely bewildered by this. I wonder whether the subtitle of this legislation ought to make some reference to the fact that Lewis Carol has been installed as honorary chairperson of the Committee on the Judiciary. This bill certainly represents Congress through the looking glass, in which all notions of what had been true and upright have been turned on their heads. And we are now presented with this proposal from the majority that really makes a mockery of what we thought they stood for, and what really most of us stand for, in terms of local control, the determination of local matters of land use by the authorities that are most competent to deal with the issue.

Mr. Chairman, after carefully reviewing H.R. 1534 as reported by the Judiciary Committee, I've come to the conclusion that it is not a good bill, and that we should not pass it.

It's true that this bill takes a different approach than did the so-called private property or takings legislation considered in the last Congress. This bill, at least in form, is a procedural measure, not one to revise the basic substantive law in this area. But that's about the best that can be said for it. Just because it's procedural doesn't mean that it's not a far-reaching bill. In fact, it's a radical measure.

It's radical in the way it would nationalize decisions about matters that directly affect our constituents—decisions about every neighborhood and every community.

It's radical in the way it would take those decisions out of the hands of legislators and even State judges and entrust them to Federal judges—even though some of our colleagues who are supporting it have been outspoken about their fervent desire to reduce, not enlarge, the role of the Federal Government.

And it's radical in the way it would promote Federal litigation, rather than encouraging local resolution of these local issues in ways that emphasize accommodation and that don't involve the considerable expense—including legal fees and other costs—of going into Federal court.

It's because it is such a radical measure that it's opposed by the attorney generals of 37 States. As they've written to Chairman HYDE, the bill invades the province of State and local governments and * * * literally compels Federal judges to intrude into State and local matters.

The bill is also opposed by many other groups, including the National League of Cities and the U.S. Conference of Mayors. I have received letters in opposition from the mayor of the city of Boulder, CO, and every member of the Denver City Council. Under general leave, I will include those letters at the end of my statement; for the moment, I'll just share two of the points they make.

In her letter, Mayor Durgin says:

The city of Boulder works very hard to balance the controls it must place on private property owners, creating win-win situations. . . . In only the most unusual circumstances is it necessary for the court system to deal with property rights disputes in Boulder. . . . By interjecting the federal court system into even the most superficial takings claims, House Bill 1534 reduces the incentive for private property owners to participate in negotiated land use solutions. . . . Further, the enhanced threat of federal legal action raises the stakes for local government as it seeks to protect the general public welfare. . . . This is a grave threat to the delicate balance of public and private interests which the state and federal court system has struck in the land use arena.

The letter from the Denver Council members also puts it well. As it says, "our political and legal system has been set up to resolve such disputes at the lowest possible level through local processes, appropriate local administrative procedures, and appeal to State courts. These traditional methods of dispute resolution are near and dear to Coloradans as this is a State with a particularly powerful tradition of local control and home rule on land use matters. The bills currently before the House and Senate to radically expand Federal jurisdiction over land use matters would be utterly contrary to this tradition in Colorado and would also contradict the recent trend in Congress to devolve power to State and local government."

For another perspective, last week I asked Judge John L. Kane, one of the senior judges of the U.S. District Court in Colorado, to take a look at this bill and tell me how it would affect him and his colleagues.

His response made some very telling points about the language of the bill, parts of which he described as "the sort of statutory language that gives judges fits and subjects them to accusations of 'judicial activism' when they try to determine what, if anything such language means."

For example, he asked, "what is 'one meaningful application'? Is it one that complies with the rules and regulations of the agency to which it is addressed? Is it one that is grammatically sensible? or decipherable? Or filed on time? Who determines whether the prospects for success are 'reasonably unlikely'? What does reasonably unlikely mean? Courts do not intervene. What is meant by 'intervention by the U.S. Court of Federal Claims is warranted to decide the merits"? Who decides what is warranted and by whom? What is meant by 'merits'? These and other terms appear throughout the proposed legislation and no definitions of procedures are presented."

"I think," he said, "the proposed legislation needs to go back to the drawing boards."

As to how the bill might work in practice, should it actually become law, Judge Kane said that even if Congress were ready to destroy time-honored concepts of federalism, separation of powers, and finality of judgments, by passing this bill, it would not achieve its goal for what he called "very pragmatic reasons." Here's what he told me:

"First, there aren't enough Federal judges and magistrates in the country to handle the anticipated caseload for the zoning cases alone that would come into Federal court, even if they did nothing else. In addition, the present wording of H.R. 1534 would encompass State forfeiture cases, condemnation cases, and nuisance cases." * * *

"Second, these anticipated cases would have to take their turn in waiting to be heard: Congress has already decided that criminal cases must receive priority. Given the so-called war on drugs, there are some Federal courts where scarcely any civil cases are tried. Other civil cases including civil rights, employment, and diversity jurisdictional claims must also wait their turn."

In summary, about the effectiveness of the bill, this senior, experienced Federal judge said, "The result which has a safe degree of predictability is more, not less, judicial gridlock."

I think we should pay careful attention to the very serious objections to this bill raised by the attorneys general of so many States and territories.

I think we should listen closely to the many local elected officials who oppose this bill.

And I think we should pay attention to Judge Kane's analysis, and heed his advice. We should not pass this bill—instead, we should send it back to the drawing board.

CITY OF BOULDER
LESLIE L. DURGIN, MAYOR,
October 7, 1997.

Hon. DAVID E. SKAGGS,
Longworth House Office Building, Washington, DC.

Re: House Bill 1534: The Private Property Rights Implementation Act.

DEAR REPRESENTATIVE SKAGGS: I am writing to you on behalf of the Boulder City Council to request that you vote against House Bill 1534, the Private Property Rights Implementation Act, and any similar takings initiatives.

The City of Boulder is extremely sensitive to the impacts that local government actions can have on the rights of neighbors and the rights of property owners to use their land in a manner which suits their needs. The City of Boulder works very hard to balance the controls it must place on private property owners, creating win-win solutions. Often, striking the proper balance between the rights of individual property owners and the interest of the public at large entails thoughtful negotiations between community representatives and private landowners. Boulder's present vested rights and land preservation agreement with IBM is an outstanding example. In only the most unusual circumstances is it necessary for the court system to deal with property rights disputes in Boulder.

Takings legislation, such as House Bill 1534, threatens to undermine the current relationship between private land owners and local governments. By interjecting the federal court system into even the most superficial takings claims, House Bill 1534 reduces the incentive for private property owners to participate in negotiated land use solutions. This includes the opportunity to address takings claims through local administrative procedures. Further, the enhanced threat of federal legal action raises the stakes for local government as it seeks to protect the general public welfare against the private actions of individual landowners. This is a grave threat to the delicate balance of public and private interests which the state and federal court system has stuck in the land use arena.

Finally, the City of Boulder notes that the federal government has given a great deal of attention in recent years to the notion of federalism. This is the principle that the federal government should only interject its authority in matters which are of a peculiar interest to national concerns. Clearly, the individual disputes between local governments and private landowners rarely have national implications, and the federal courts are properly loathe to become local planning boards of appeal. The Hamilton Bank precedent that House Bill 1534 seeks to overturn stands for that very proposition. Local administrative procedures and state court actions are sufficient to rectify most improper limitations on private property rights. It is at these levels that takings claims should first be adjudicated, with the federal courts serving to hear appeals of cases which are mishandled in the local and state processes. To permit landowners to skirt state and local remedies in favor of the federal court system runs completely contrary to federalist principles.

For the above reasons, the City of Boulder asks you to vote against House Bill 1534 and to oppose any similar takings legislation.

Sincerely,

LESLIE L. DURGIN,
Mayor.

CITY COUNCIL,
CITY AND COUNTY OF DENVER,
October 14, 1977.

Re: S. 1204 "Property Owners Access to Justice Act of 1997"; H.R. 1534 "Private Property Rights Implementation Act of 1997".

DEAR MEMBERS OF THE COLORADO CONGRESSIONAL DELEGATION, As members of the Denver City Council, we are urging your opposition to S. 1204 and H.R. 1534, bills which stand for the extraordinary proposition that federal courts should be much more involved in local land use decisions.

As you know, debates over land use, growth management, and property rights are raging all over Colorado at the moment. Municipal officials are doing their best to balance the rights of developers and the desires of current residents to preserve existing communities and our treasured quality of life, even as growth proceeds at a break neck pace in many jurisdictions. Often our officials find themselves squeezed between two equally sincere factions, both of whom argue for protection of their property values and rights, and both whom may threaten to sue if their rights are not vindicated.

As you are also undoubtedly aware, our political and legal system has been set up to resolve such disputes at the lowest possible level through local processes, appropriate local administrative procedures, and appeal to state courts. These traditional methods of dispute resolution are near and dear to Coloradans as this is a state with a particularly powerful tradition of local control and home rule on land use matters.

The bills currently before the House and the Senate to radically expand Federal jurisdiction over land use matters would be utterly contrary to this tradition in Colorado, and would also contradict the recent trend in Congress to devolve power to state and local governments.

Before granting plaintiffs and their attorneys easier and earlier opportunities to haul Colorado local governments (and by implication their taxpayers) into Federal courts, please ask yourself one simple question: Where is the empirical evidence to show that local political institutions and state courts have been insufficient to protect the rights of property owners in Colorado?

Thank you for your attention to our concerns. Please let us know if you would like to discuss the matter with us.

Cathy Reynolds, Council President; Dennis Gallagher, Council District 1; Joyce Foster, Council District 4; Bill Himmelmann, Council District 7; Edward Thomas, Council District 10; Ted Hackworth, Council District 2; Polly Flobeck, Council District 5; Hiawatha Davis, Jr., Council District 8; Happy Haynes, Council District 11; Ramona Martinez, Council District 3; Susan Casey, Council District 6; Debbie Ortega, Council District 9; Susan Barnes-Gelt, Council At-Large.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. SMITH], a member of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Chairman, first of all, I thank the chairman of the subcommittee for yielding me time.

Mr. Chairman, I rise in support of H.R. 1534, the Private Property Rights Implementation Act of 1997. This legislation is necessary to protect a basic civil right for all Americans: Protection against governmental confiscation of homes, farms, and businesses.

Today, the fundamental liberties of all of our citizens are threatened by a regulatory regime imposed by Government officials. The Government is able to confiscate the property of workers, farmers, and families without providing compensation.

Adding insult to injury, is a landowner's inability to have their day in court. Not only is the Government taking the private landowner's property, but is using a legal maze to prevent landowners from presenting and receiving a fair hearing on the merits of their case. Without H.R. 1534, property owners will continue to find themselves trapped in a legal nightmare from which they are unable to escape.

Mr. Chairman, I urge my colleagues to support this bill.

Ms. LOFGREN. Mr. Chairman, noting that the attorney general of Texas opposes the bill, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I would like to express to my colleagues that may be observing this debate that this really is what the gentleman from Colorado referred to as a world turned upside down. This legislation is absolutely outrageous. The unintended consequences are limitless.

I would perfectly agree, especially with the gentleman from Louisiana [Mr. TAUZIN] that if someone's property rights are hindered by a Federal action, that individual should have an expedited process to get to Federal court. But this bill goes way beyond that. This legislation deals with local zoning laws that have nothing to do with Federal action, and they have a major impact on State land use that has nothing to do with Federal action. So what we are doing here is completely taking out of the hands of your local planning commission, their right to decide zoning and land use and what is best needed for their community.

Mr. Chairman, we all want expedited Federal process when a Federal action impedes private property, but this takes the right of a local planning board in a community to have their say about how land is supposed to be used.

Land use, is it to be controlled by the Federal Government, or is it to be controlled by the State? If you think land use is a State issue and a local zoning issue, then you must vote against this legislation.

The idea that if your property is taken away for the public good, you should be compensated, that is absolutely, 100 percent for sure. But if the local government wants to regulate your property and regulate land to prevent public harm on other property, they should have a right to do that.

Mr. COBLE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Ms. PRYCE of Ohio) having assumed the chair, Mr. SNOWBARGER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1534), to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution, had come to no resolution thereon.

MAKING IN ORDER ADDITIONAL AMENDMENT AND PERMISSION TO POSTPONE VOTES DURING FURTHER CONSIDERATION OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. COBLE. Madam Speaker, I ask unanimous consent that during further consideration of H.R. 1534 in the Committee of the Whole, pursuant to House Resolution 271, first, it be in order to consider the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] in the form I have placed at the desk, after the disposition of the amendment offered by the gentleman from Michigan [Mr. CONYERS], as though printed in part 2 of the House Report 105–335, which shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent; and, second, the Chairman of the Committee of the Whole may, (a) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and, (b) reduce to 5 minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT.

OFFERED BY MR. TRAFICANT OF OHIO

Insert the following after section 4 and redesignate the succeeding section accordingly:

SEC. 6. DUTY OF NOTICE TO OWNERS.

Whenever a Federal agency takes an agency action limiting the use of private property that may be affected by the amendments made by this Act, the agency shall give notice to the owners of that property explaining their rights under such amendments and the procedures for obtaining any compensation that may be due to them under such amendments.

Mr. COBLE (during the reading). Madam Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BOEHLERT. Madam Speaker, reserving the right to object, I would like to ask a question of the Chair. I have no objection to the Traficant amendment, but I just want to make certain it is clarified when that will occur. Will that amendment come after the Boehlert substitute? If it does, I have no objection. If it does come before the Boehlert substitute, then we have a problem.

The SPEAKER pro tempore. The Chair understands the amendment would be made in order before the Boehlert substitute.

Mr. BOEHLERT. Madam Speaker, I object, I reserve the right to object.

Mr. TRAFICANT. Madam Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Madam Speaker, if the gentleman's substitute is passed, then his substitute would pass, with or without. This was approved unanimously. It is the only measure that gives notice to people who do not have accountants and attorneys of some protections, and has been worked out by leadership on both sides. I believe that position would not be in the best interests of our taxpayers and property owners of our country.

Mr. BOEHLERT. Madam Speaker, maintaining my reservation of objection, as I have made clear, I have no objection to the gentleman's amendment, I am in support of that amendment. I do have some serious reservations about when it would appear.

Mr. COBLE. Madam Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from North Carolina.

Mr. COBLE. Madam Speaker, I want to ask a question of the gentleman from Ohio [Mr. TRAFICANT] in an effort to clear the cloud.

Would the gentleman from Ohio be willing for his amendment to follow that of the gentleman from New York [Mr. BOEHLERT] since it appears he will object if it does not?

Mr. TRAFICANT. Madam Speaker, if the gentleman will yield further, I do not, as long as if my amendment passes it would be in order to either of the actions taken here today that might pass, if it would be amendable to both.

Mr. BOEHLERT. Madam Speaker, reclaiming my time, maybe we can resolve this. I have had some conversations away from the microphone.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Ms. LOFGREN. Madam Speaker, reserving the right to object, and I will not object. I just want to clarify that the minority supports the desire of the gentleman from Ohio [Mr. TRAFICANT] to debate this amendment. That does not necessarily mean we support the amendment itself, but the gentleman from Ohio's right to offer it, subsequent to the Boehlert amendment.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the request is granted.

There was no objection.

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1534.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 271 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 1534.

□ 1240

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution, with Mr. SNOWBARGER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from North Carolina [Mr. COBLE] had 3 minutes remaining in debate, and the gentlewoman from California [Ms. LOFGREN] had 2 minutes remaining.

Ms. LOFGREN. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, what happened to the Federalists in the Congress? We were going to empower the States. This is the most extraordinary preemption of local and State laws in my 11 years in the Congress.

This is unbelievable. We heard horror stories from people from States that do not have a regular land use process. Those States should adopt a land use process. Those local jurisdictions should adopt a land use process, and it should be regular. It should have process of appeal and litigation through their States. But not the Federal Government.

Do we want the Federal Government wading into every single local land use dispute? Peep shows next to schools, liquor stores next to high schools? I think not.

I do not think the people on that side of the aisle really believe that. They are playing here to an audience of special interests, very well-funded special interests. This is horrible legislation for small town America. It is horrible legislation for our States and States' rights. Reject this legislation.

Ms. LOFGREN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I believe in the fifth amendment and the minority believes in the fifth amendment. I believe there ought to be compensation when there is a taking, and there ought to be due process. There is no dispute about that. But what we dispute is this remedy. We have heard a lot of discussion about widows who have been abused by the heavy-handed Government. But we need to get beyond that appealing image to what is really going on here.

Zoning protects neighborhoods, zoning protects homeowners, and what this bill does is allow developers rights that are much greater than those that would attach to neighborhoods and to homeowners.

These rights will attach, whether it is 20,000 housing units being built, or whether a town is trying to regulate the hours of operation of a topless bar or pornographic bookstore. That is what is so terribly flawed with this legislation.

Mr. Chairman, I urge my colleagues to oppose this and to search for a more rational response to this problem.

□ 1245

Mr. COBLE. Mr. Chairman, I yield the balance of my time to the gentleman from Kansas [Mr. RYUN].

The CHAIRMAN. The gentleman from Kansas [Mr. RYUN] is recognized for 3 minutes.

Mr. RYUN. Mr. Chairman, I rise in support of H.R. 1534. Mr. Chairman, one of the pillars of our democracy is the right of every individual to own private property. In 1792, James Madison said this, and I quote: "That is not a just government nor is property secure under it where the property which a man has in his personal safety and personal liberty is violated by an arbitrary seizure of one class of citizens for the service of the rest."

Because our Founding Fathers understood this very important principle, they included a guarantee in the Bill of Rights to protect private property owners from politicians and bureaucrats who believe that they know best how to use someone else's lands.

The fifth amendment to the Constitution assures the Government cannot take a person's private property without first providing the owner due process and just compensation. Unfortunately, the fears which motivated our Founding Fathers to include this property guarantee are being realized today.

For example, in the first 10 years after the enactment of the 1983 Rails to Trails Act, trails groups and State governments used that law to take the property from 62,000 landowners. Yet, not one of those aggrieved farmers and homeowners has received a single penny in compensation for their loss.

While courts have ruled that compensation must be paid to the property owners, endless bureaucratic redtape would first require a small Kansas farmer to retain a high-priced Washington lawyer to begin jumping over administrative hurdles. This lawyer would then need almost 10 years of expensive court time before securing a farmer's compensation for his strip of land that was taken to create a recreational trail for others to use.

All we have to do is do a little math, and if the value of a farmer's confiscated land is about $30,000 but a Washington lawyer would charge the farmer $100,000 to pursue the farmer's claim, there is no farmer who will be able to afford any compensation. That is why this private property rights bill, this one particularly, H.R. 1534, is so important. It is our duty as Members of this House, the peoples' House, the House of Representatives, to protect private property owners from arbitrary actions and guarantee their right to due process.

Mr. Chairman, I urge my colleagues to vote "yes" for property rights, to vote "yes" for due process, and to vote "yes" on H.R. 1534.

Mr. VENTO. Mr. Chairman, I rise in strong opposition to H.R. 1534, the Private Property Rights Implementation Act.

Mr. Chairman, last night I brought a germane amendment to the Rules Committee and asked that it be made in order. My amendment seeks to balance this bill with adequate protection for the 65 million Americans that own their own homes. It would have limited the application of H.R. 1534 to States that provide adequate protection for homeowners in this country. All I asked for was 30 minutes to make my case to the Members of this House. My request was denied.

This measure, H.R. 1534, is an end of the session effort to avert full debate on a very important issue, property rights, the rights of special interests not the property rights of homeowners, yet on the floor today the rule was again expanded to accommodate another unheard, unrequested amendment.

I don't know for the life of me why the leadership in this House of Representatives is not willing to spend 30 minutes on the concerns of homeowners. H.R. 1534 is not a purely procedural, noncontroversial bill, as supporters of this bill would have you believe, they are

wrong. This bill sides with developers who have made their views clear and, of course, generously contribute to the campaigns of those who support them. This is a new judicial superhighway that places the decisions in Federal courts, out of the hands of local government and State courts.

Ironically, the underlying bill we are considering today does not protect the property of homeowners—the most important investment made by the American family—from adverse actions by State and local government and others. This bill protects developers that may have been unjustifiably or justifiably stymied by local and State courts that are carrying out their own laws and rules. Under H.R. 1534, Congress rearranges this authority and moves it away from local and State governments. It's ironic that a Congress emblematic of devolution initiatives over the past several years are suddenly moving to superimpose such a national policy. The Federal courts, with this new guideline, will be no doubt more friendly to the interests of developers than State and local courts. The handwriting is on the wall as to the expense and policy change that this bill gives developers to easier access, and assure more profitable treatment in the Federal courts.

The real motive I believe is apparent, to first remove local decisionmaking power from communities, States, and the respective courts. And in the future create a wholly new class of takings which will hamstring the United States both State and Federal with a new class of taxpayer payments whenever zoning and the limits of common interest for the common good guide the use of real property to stop pollution, to enhance—their community they would be forced to buy theoretical development rights—this turns the local decisionmaking on its head.

I have drafted an amendment which is very important and seeks to balance this newly proposed policy path. I must admit, Mr. Chairman, I have some interests to worry about, too. They are the property homeowners of St. Paul, of Minnesota, and the Nation—the families that work hard every day and believe in the importance of neighborhoods and communities and their only property is their family homes. My amendment would have sought to at least protect them and their homes. It would have prevented this bill from going into effect in States that have not passed laws that protect homeowners' property rights. These laws will have to provide families with adequate notice when adverse development is moving in to affect their property. The intent was to provide homeowners with guaranteed access to the courts when their property is devalued by harmful developments nearby. I'm not sure anybody would oppose such an amendment. It will significantly improve H.R. 1534 and insures protection of the rights of American families and homeowners. We all have homeowners in our districts, and they deserve this right a priori.

All I asked for, Mr. Chairman, was 30 minutes. Claims have been made we simply don't have time to consider all the amendments that are in order. What I want to know is why we are wasting floor time on legislation that is opposed not just by all the environmental groups. But, Mr. Chairman, this bill is opposed by the National League of Cities, the Conference of Mayors, 40 State attorneys general, and is headed for a certain veto by the President. With a list that long you have to wonder who supports this bill and why. The point is, however, that we are engaged in a futile exercise. If we have the time to consider this bill on the floor, we certainly have time to consider the property rights of homeowners in this country, but the advocates of this legislation obviously feared this germane amendments; that placed homeowners property rights on a par with developer's for who this measure will benefit.

This procedure for debate silences the voices of the 65 million Americans who own their own homes and are concerned about reckless activities that could cause their most precious investment to lose its value. For these reasons, I urge my colleagues to resoundingly defeat this measure and maintain the protections accorded homeowners by State and local governments, they are far better served at the local level where they have a place at the table than being shut out by this redefined property rights effort in the Federal courts where they are for all practical purpose excluded.

Mr. NADLER. Mr. Chairman, I rise to strongly oppose this bill which would override local zoning procedures, undermine local governments, burden Federal courts, and weaken efforts to protect public health, welfare, and the environment. It is bad policy and ought to be soundly rejected.

The current judicial procedures, which may appear cumbersome, have in fact served to protect communities across the Nation from misguided property use which may have been detrimental to the society at large. This bill will allow those who seek to risk public health, safety, and welfare for private gain to go over the heads of local officials and appeal directly to Federal judges, some of whom may have less understanding and expertise in the issues and concerns of the local community.

We learned while considering this bill in committee that this bill is specifically designed to undermine legitimate efforts to protect public health and safety. During consideration of this bill in committee, I offered an amendment to ensure that in cases where public health and safety are involved, the plaintiff cannot circumvent State and local courts to get to the Federal courts. And the bill's sponsor rejected it. It appears then that supporters of this bill would deliberately seek to undermine the health and safety of our Nation's communities. That is simply wrong, and more than that, it is shameful.

I also want to mention that it appears that this bill could be used to undermine rent regulation in cities like New York, because it may allow landlords to challenge rent regulation and public housing laws and rulings in expedited fashion in Federal court. Tenants may lack the financial resources, the legal know-how or standing to appear in Federal court to defend their rights. Some have argued that this bill could undermine tenants' rights and threaten to eliminate low- and moderate-income housing in some of our biggest cities.

I urge my colleagues to oppose this bill that would jeopardize public health, destroy the environment, and put citizens' lives in danger.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of H.R. 1534, the Private Property Rights Implementation Act of 1997.

This bill would streamline the court procedures when a case is brought by a private property owner to protect their legal and civil rights as guaranteed in the fifth amendment of the U.S. Constitution. This is a bill that is sorely needed.

As chairman of the Committee on Resources, we have documented in our hearings the many cases where governments assert the right to set aside private lands for the protection of wildlife.

When a landowner wants to sell land and the Government pays for the land, that is legal and an acceptable manner for the Government to protect wildlife.

However, as is happening more frequently, the Government sometimes finds it inconvenient to find the funds to buy the land, so they designate it as habitat for an endangered species.

When that happens, landowners find that they cannot use their land. In the last 2 years, under extreme pressure from this Republican Congress, the Government is beginning a process to allow landowners to use land designated as habitat, but only at a very high cost to landowners.

When landowners cannot afford to go to court to protect their legal and civil rights, the Government can use pressure to take the land from the landowner.

We need to give landowners a more level playing field. We need to ensure that going to court is not so expensive that only the biggest and richest landowners can afford to protect their rights.

A case in point is the Headwaters Forest in California. For years the Government tried to use various forestry laws and the ESA to force the landowner off a portion of its land.

The landowner filed a takings suit in the court of claims and now the Government has come to the bargaining table and offering to pay for the property. This would not have happened if this landowner had not been a large, wealthy corporation with the resources to fight a long and an expensive court battle.

Now some environmentalists are arguing that this bill would increase the number of Federal lawsuits. Some environmentalists are now in the business of filing lawsuits. In the last 10 years, environmentalists have received over $10 million in payments from the Federal Treasury for filing endangered Species Act lawsuits. I believe many of these lawsuits are frivolous and an abuse of the courts, and their numbers are increasing dramatically. For environmentalists to argue against allowing average citizens to sue at the same time they are making a living off their lawsuits is hypocrisy of the highest order. I have a list of environmentalists who have received payments for lawsuits and would ask that it be entered into the RECORD with my testimony.

Let's ensure that the smallest and poorest landowner can have the same rights as the biggest corporation or the environmental groups. Let's pass H.R. 1534 and protect our constitutional rights.

ATTORNEY FEES AWARD BY ORGANIZATION

Name	Court No.	District	Amount
Alaska Wilderness Recreation and Tourism Assoc. v. Gary A. Morrison, et al. (Tongass Nat'l Forest)	94–033	Alaska	$853.20
Bay Institute of San Francisco v. Lujan—Delta Smelt	92–2132	California East	60,000.00
Bay Institute of San Francisco, et al. v. Babbitt—Delta Smelt	94–0265	California East	5,000.00
Biodiversity Legal Foundation v. Babbitt (Categroy 2 Species)	96–641	District of Columbia	10,000.00
Biodiversity Legal Foundation v. Babbitt	95–601	Colorado	1,000.00
Biodiversity Legal Foundation v. Babbitt	95–382	Colorado	8,000.00
Biodiversity Legal Foundation v. Babbitt	95–1815	Colorado	3,500.00
Biodiversity Legal Foundation v. Babbitt (Pending see above)—N. Am. Wolverine	95–816	Colorado	500.00
Biodiversity Legal Foundation, et al. v. Babbitt—Flatwoods Salamander	94–0920	District of Columbia	5,000.00
Biodiversity Legal Foundation, et al. v. Babbitt—Flatwoods Salamander	94–0920	District of Columbia	3,815.00
Biodiversity Legal Foundation, et al. v. Babbitt—Western Boreal Toad	94–1086	Colorado	1,408.19
Biodiversity Legal Foundation v. Babbitt—Selkirk Mountain Woodland Caribou	94–02441	District of Columbia	4,000.00
Biodiversity Legal Foundation v. Babbitt	95–2509	Colorado	3,435.61
California Trout, et al. v. Babbitt (Santa Ana Speckled Dace) (Pending see above)	95–3961	California North	40,000.00
California Native Plant Society v. Manuel Lujan, Jr. (Pending see above)—Plant listings	91–0038	California East	16,678.25
Canadian Lynx, Greater Ecosystem Alliance v. Lujan—Listing of Can. Lynx	92–1269	Washington West	2,000.00
Canadian Lynx, Greater Ecosystem Alliance v. Lujan—Listing of Can. Lynx	92–1269	Washington West	9,500.00
Citizens Cmte to Save Our Canyons, et al v. USFS, Bernie Weingardt, Dale Boswort (John Paul Area)	95–68	Utah	145.50
Clemmys Karmorata v. USFWS—Western Pond Turtle, Red Legged	93–6135	Oregon	2,522.30
CLR Timber Holdings, Inc. et al v. Bruce Babbitt, et al (Marbled Murrelet)	94–6403	Oregon	40,000.00
Colorado Wildlife Federation v. Turner—Razorback Sucker	92–884	Colorado	5,000.00
Colorado Wildlife Federation v. Turner—Razorback Sucker	92–884	Colorado	31,351.90
Colorado Environmental Coalition v. J. Turner—Razorback Sucker	91–1765	Colorado	5,168.40
Conservation Council for Hawaii, et al v. Manuel Lujan and John F. Turner	89–00953	Hawaii	44,635.25
Defenders of Wildlife v. Thomas—Strychnine	Strychnine	Minnesota	122,500.00
Desert Tortoise, et. al. v. Lujan—Ward Valley—Tortoise	93–0114	California North	69,000.00
Dioxin/Organi-chlorine Center and Columbia River United v. Dana Rasmussen	91–1442	Washington West	61,500.00
Earth Island Institute, et al v. Manuel Lujan—5 Year Review	91–6015	Oregon	32,338.70
Edward Wilkinson Mudd Jr. v. William Reilly Admin., EPA—CWA/ESA consultation	91–1392	Alabama North	39,000.00
Energy and Resource Advocates, et al vs. Kenneth R. Quitoriano, et al and James D. Watkins (Energy Dept.)—(Purex Waste)	90–2479	California North	10,000.00
Environmental Defense Center v. Babbitt—Red Leggedfrog/salamander	94–0743	California Central	4,074.75
Environmental Defense Center v. Babbitt—Fairy Shrimp	94–0788	California Central	3,815.00
Environmental Defense Center v. Bruce Babbitt—Western Pond Turtle	93–1847	California Central	4,700.00
Environmental Defense Center v. Babbitt—Red Legged Frog	95–2867	California Central	44,511.53
Environmental Defense Center v. Lujan—Tidewater Goby	92–6082	California Central	7,500.00
Environmental Defense Center v. Babbitt—California Tiger Salamander	93–3379	California Central	4,300.00
Environmental Defense Center v. Bruce Babbitt—Southwestern Willow Flycatcher	93–1848	California Central	4,700.00
Environmental Defense Fund v. Lujan—Desert Tortoise	89–2034	District of Columbia	2,237.50
Florida Key Deer, et al v. Robert H. Morris—Fema/Flood Insurance	90–10037	Florida South	130,000.00
Friends of the Wild Swan, Inc., Alliance for the Wild Rockies, Inc., et al. v. Babbitt—Bull Trout Listing	94–0246	District of Columbia	4,500.00
Friends of Walker Creek Wetlands v. Dept. of the Interior—Nelson's Checker Mallow	92–1626	Oregon	12,000.00
Fund for Animals v. Manuel Lujan, et al. (Pending see above) ESA Listings	92–800	District of Columbia	67,500.00
Fund for Animals v. Manuel Lujan (Pending see above) (ESA Listings)	92–800	District of Columbia	24,500.00
Fund for Animals, Swan View Coalition, D.C. "Jasper" Carlton (Director, of Biodiversity Legal Foundation) v. Turner—Grizzly Bears	91–2201	District of Columbia	36,000.00
Greater Gila Biodiversity Project v. USFWS—Pygmy Owls	94–0288	Arizona	2,048.91
Greater Gila Biodiversity Project v. USFWA—Loach Minnow	93–1913	Arizona	11,000.00
Greater Yellowstone Coalition, et al. v. F. Dale Robertson (USFWS)—Grizzly bears	93–1495	District of Columbia	32,750.00
Greenpeace v. Baldridge	86–0129	Hawaii	88,794.01
Hawaiian Crow v. Manuel Lujan—Hawaiian crow	91–00191	Hawaii	195,000.00
Hughes River Watershed Conservancy, et al v. Dan Glickman, et al	1–94–113	West Virginia North	63,367.71
Idaho Department of Fish and Game v. NMFS—hydro transfer/salmon	93–1603	Oregon	8,405.06
Idaho Conservation League v. Manuel Lujan, et al.—Bruneau Hot Springs Snail	92–0260	Idaho	21,166.00
Idaho Conservation League v. Babbitt—White Sturgeon	94–0351	Idaho	5,000.00
Idaho Conservation League, et al. v. Lujan—Idaho Springsnail	92–0406	Idaho	8,000.00
Jeffrey Mausolf, William Kullberg, Arlys Strehlo; Minnesota United Snowmobilers Association v. Babbitt (Wolt/Eagle) (Pending see above)	95–1201	Minnesota	28,821.50
La Compania Ocho Inc., et al v. USFS, et al (Carson Nat'l Forest)	94–317	New Mexico	303,635.67
Marbled Murrelet et al v. Manuel Lujan (Pending see above)—Listing and critical habitat for marbled murrelet	91–522	Washington West	61,109.47
Mountain Lion Foundation v. Babbitt—Santa Ana Mountain Lion	94–1165	California East	6,500.00
National Audubon Society et al. v. Babbitt et al.—Guam species	93–1152	District of Columbia	22,500.00
National Audubon Society v. Lujan—Least Bell's vireo	92–209	California South	7,348.75
National Audubon Society v. Babbitt, et al.—Snowy Plover	94–0105	California South	7,540.61
National Wildlife Foundation, et al. v. Endangered Species Committee, et al	79–1851	District of Columbia	20,000.00
National Wildlife Federation, et al v. Robert Mosbacher (Commerce)	89–2089	District of Columbia	42,500.00
Native Plant Society of Oregon v. U.S. DOI—Oregon Plants	93–180	Oregon	13,046.19
Natural Resources Defense Council, et al. v. Bruce Babbitt—Desert Tortoise	93–0301	California North	262,096.76
Natural Resources Defense Council v. Donald Hodel (Kesterson)	85–1214	California East	57,000.00
Natural Resources Defense Council v. Donald Hodel (Kesterson)	85–1214	California East	518,000.00
Northern Spotted Owl, et al v. Donald Hodel, et al.—Spotted Owl Listing	88–573	Washington West	56,718.00
Northwest Forest Resource Council v. Dan Glickman (Emergency Salvage Timber Sale)(Pending see above)	95–6244	Oregon	298,144.36
Northwest Coalition for Alternatives to Pesticides v. Babbitt	94–6339	Oregon	10,500.00
Oregon Council of the Federation of Fly Fishers v. Brown (Cutthroat Trout)(Pending see above)	95–1969	Oregon	24,706.49
Oregon Trout Inc., et al v. USFS (Trout Creek Salvage Sale)	96–1460	Oregon	21,400.00
Oregon Natural Resources Council v. Babbitt—Western lily	94–666	Oregon	4,000.00
Oregon Natural Resources Council v. Department of Commerce	93–293	Oregon	16,200.00
Oregon Natural Resources Council v. Schmitten (Steelhead Trout)(Pending see above)	95–3117	California North	120,952.54
Pacific Rivers Council v. Thomas (Pending see above)—Salmon/Umatilla Forest	92–1322	Oregon	165,000.00
Resources Limited Inc., et al v. F. Dale Robertson, et al (Pending see above)—Flathead Forest/Grizzlies	89–41	Montana	47,000.00
			90,000.00
Restore: The North Woods v. Babbitt (Pending see above)—Atlantic salmon	95–37	New Hampshire	5,400.00
Save Our Springs Legal Defense Fund, Inc. v. Babbitt (Barton Springs Salamander) (Pending see above)	95–230	Texas West	72,500.00
Save our Ecosystems, et al. v. Federal Hwy Admin. (West Eugene Parkway)	96–6161	Oregon	2,560.80
Sierra Club and League for Coastal Protection v. John Marsh, et al	86–1942	California South	44,774.16
Sierra Club Legal Defense Fund v. Manuel Lujan	89–1140	District of Columbia	9,000.00
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer** same case but Justice split the fee in four portions	91–069	Texas West	666,666.67
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer	91–069	Texas West	666,666.67
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer	91–069	Texas West	666,666.66
Sierra Club v. Lujan (Pending see above)—Edwards Aquifer	91–069	Texas West	1,550,000.00
Sierra Club, et al. v. Bruce Babbitt, et al.—10 species of plants and animals	93–1717	California South	11,368.76
Sierra Club, et al v. James A. Baker, et al—Turtles??	89–3005	District of Columbia	18,583.72
Sierra Club, et al v. Richard Lyng (Pending see above)—Southern Pine Beetle and Red Cockaded Woodpecker	85–69	Texas East	149,647.50
Sierra Club, et al. v. David Garber, et al	93–069	Montana	55,000.00
Silver Rice Rat, et al v. Manuel Lujan—Silver Rice Rat Listing	89–3409	District of Columbia	19,500.00
Southern Utah Wilderness Alliance v. Bruce Babbitt—Virgin River Club	93–2376	Colorado	8,500.00
Southern Utah Wilderness Alliance v. Morgenweck—Virgin Spinedace	94–717	Colorado	4,200.00
Southwest Center for Biological Diversity v. Babbitt (SW Willow Flycatcher)(Pending see above)	94–1969	Arizona	15,509.11
Southwest Center for Biological Diversity, et al. v. USFWS—Loach Minnow/spinedace	94–0739	Arizona	1,000.00
Southwest Center for Biological Diversity v. Babbitt (Pending see above)	94–2036	Arizona	40,000.00
Southwest Center for Biological Diversity v. Babbitt	94–1946	Arizona	1,971.01
Southwest Center for Biological Diversity, et al. v. USFWA—Jaguar listing	94–0696	Arizona	1,665.00
Southwest Center for Biological Diversity v. Babbitt—Arizona Willow	94–1034	Arizona	5,145.00
Southwest Center for Biological Diversity v. Babbitt (Laguna Mtn Skipper)	96–1170	California South	17,000.00
Dr. Robin Silver et al. v. Babbitt (Pending see above)	94–0337	Arizona	4,000.00
Dr. Robin Silver v. Thomas (USFWS) (Mexican Spotted Owl) (Pending see above)	94–1610	Arizona	231,393.75
Dr. Robin Silver, et al. v. Babbitt (Pending see above)—Mexican spotted owl	94–0337	Arizona	102,418.86
Steven Krichbaum (w/Virginias for Wilderness) & Michael Jones v. USFS, William Damon (GW Nat'l Forest)	96–0108	Virginia West	345.00
Swan View Coalition Inc v. USFS (Flathead Forest/Grizzlies)(Pending see above)	93–7	Montana	23,700.00

Mr. DOOLEY of California. Mr. Chairman, I rise today to express my support for H.R. 1534, the Private Property Implementation Act. I believe this bill takes a new, more modest approach to the issue of property rights and has received widespread bipartisan support. The legislation helps property owners by clearing some of the legal and procedural hurdles that make it both excessively time consuming and expensive to assert their claims. This bill proposes to do nothing except clarify the jurisdiction of Federal courts to hear and determine issues of Federal constitutional law.

H.R. 1534 is vastly different from previous property rights bills. It does not attempt to define for a court when a taking has occurred nor does it change or weaken any environmental law. The bill would have no budgetary impact because, unlike previous bills, it contains no compensation requirement or trigger. Simply put, the legislation amends Federal procedural laws governing the jurisdiction of the U.S. district courts. H.R. 1534 would provide more straightforward access to Federal courts for property owners seeking redress of their fifth amendment rights.

There has been a lot of controversy generated surrounding this bill. More of the criticism of this legislation is based upon the assumption that the bill cuts local governments out of the decisionmaking process when it comes to land use. Nothing could be further from the truth.

The truth is that H.R. 1534 applies only to Federal claims based on the 5th and 14th amendments that are filed in Federal court. The bill creates no new cause of action against local governments. H.R. 1534 is only a procedural bill, clarifying the rules so a decision can be reached faster on the facts of the case instead of wasting taxpayer money on jurisdictional questions.

Local governments will have no new limits on their ability to zone or regulate land use. Local agencies will get at least two, maybe three, chances to resolve a land use decision locally before their decision will be defined as "final"—once on the original application, once on appeal, and yet again on review by an elected body.

H.R. 1534 doesn't provide a ticket to Federal court—individuals already have a right to go to Federal court. The bill simply provides an objective definition of when "Enough is Enough," so that both parties in a land use dispute can participate in meaningful negotiations. I believe H.R. 1534 represents a moderate approach that Members can and should support. Let's not miss an opportunity to do something that will provide a direct benefit to our constituents.

Mr. NEUMANN. Mr. Chairman, I rise today in support of H.R. 1534—the Private Property Rights Implementation Act. I strongly believe land use decisions should be made at the local level to the greatest degree possible. In fact, this Congress has fought hard to move more Federal programs out of the hands of Washington bureaucrats and into the control of the folks back home. The folks in Wisconsin and other States are better suited to make decisions that affect local areas than bureaucrats in Washington. Nevertheless, there are limitations that exist on local governments to ensure they do not trample on the rights of individuals. Those limitations are embodied in the Constitution and the Bill of Rights.

H.R. 1534 allows a property owner, who feels his or her constitutional rights have been violated, a chance to seek protection in Federal court—the same chance that anyone else would have. H.R. 1534 simply puts fifth amendment protections on par with other constitutional rights.

Those who argue that H.R. 1534 would "federalize local land use decisions," have long supported Federal land use controls to protect the environment. Where is the consistency? Support H.R. 1534 and support the right of all Americans to be treated equally under the Constitution—even property owners.

Mr. GOSS. Mr. Chairman, this is a tough subject, involving the need to balance protection of constitutionally guaranteed private property rights with other constitutional guarantees of public health, safety, and welfare as traditional, legitimate functions of Government. While I agree this is a subject that needs our attention, and I commend Mr. GALLEGLY for his work in bringing the matter forward, I do have some concerns about the bill we are about to consider.

As a former mayor and county commissioner, I'm particularly interested in H.R. 1534. While the current system we have of layering government an division of authority isn't perfect, I believe it works well and ensures a balanced role for all three levels of government involved in these decisions. We ought to trust the local officials to work through the zoning issues. They're the ones on the frontlines—they deal with these questions every day and are in the best position to be directly responsive to the needs and concerns of the community. Of course, there are poster child examples of the extreme development abuses and cases of egregious takings without compensation.

If there are questions of State law that need to be resolved, we need State courts to decide those issues. If a legitimate takings claim exists, it is critical we ensure landowners their day in court.

We need to maintain for local officials a meaningful opportunity to work with the landowners and other constituents to craft a compromise. In my view, it is not appropriate to have the Federal Government deciding or pressuring local land use questions. In addition, some critics of this bill have argued that the Federal judiciary would be flooded with claims and simply could not handle the caseload that would result if this bill were enacted. For example, the Federal district court for the area of Florida that I represent is already short handed and has a backlog of cases that is measured in years, not just months. I think we need to ensure that any changes to the current system take these concerns into account.

In the end, Mr. Speaker, balancing the right of a landowner to develop his property within the bounds set by the health, safety, and welfare interests of the community is a difficult question—I, for one, do not believe there's any particular magic a Federal court has that can solve these problems and make them go away.

Mrs. TAUSCHER. Mr. Chairman, I am a cosponsor of H.R. 1534, the Private Property Rights Implementation Act of 1997 because I believe that relief needs to be provided to property owners who are seeking finality to their land use plans, and I have become convinced that reform is necessary.

Since cosponsoring the measure, I have heard from opponents, especially many of the local elected officials from the 10th Congressional District, whom I'm proud to represent. I have continued to meet with both advocates and opponents to discuss in depth many of the concerns raised and fully explore the various interpretations of the bill as amended. Earlier this week, I wrote to Chairman HYDE of the House Judiciary Committee with several of my questions and urged him to postpone floor consideration of the bill until these issues are sufficiently resolved. Unfortunately, this measure is before the full House for consideration today and I, despite my support for reform, cannot vote for a measure with such important and potentially far-reaching implications without the time needed to fully explore the ramifications of this amended bill.

As I stated, I want to see a more streamlined and fair process for property owners, and I wish that this body had taken the time necessary in developing a needed reform measure, without overburdening our cities and counties. It is my hope that we can continue to work on this issue in the future to develop a consensus bill that can be supported by a coalition of involved parties.

Mr. PORTER. Mr. Chairman, while I realize that it is too late to formally remove my name as a cosponsor of H.R. 1534, I want to indicate that I do not support this bill in its current form. My initial understanding of this legislation was that its central thrust was to facilitate the ability of aggrieved parties to have Federal question claims adjudicated by Federal judges. However, it is now clear that the bill would significantly alter the abstention doctrine and more importantly, would allege to alter the Supreme Court definition of ripeness. I am concerned that a legislative effort to alter such a constitutional doctrine may be unconstitutional. I support the effort of my colleague, Mr. GALLEGLY, to make reasonable changes to unfair impediments to the consideration of takings claims but, acknowledging the two concerns outlined above, I cannot support this legislation.

Mr. COBLE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, as modified by the amendments printed in part 1 of House Report 105–335, shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered as read.

The text of the committee amendment in the nature of a substitute, as modified by the amendments printed in part 1 of House Report 105–335, is as follows:

H.R. 1534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Rights Implementation Act of 1997".

SEC. 2. JURISDICTION IN CIVIL RIGHTS CASES.

Section 1343 of title 28, United States Code, is amended by adding at the end the following:

"(c) Whenever a district court exercises jurisdiction under subsection (a) in an action in which the operative facts concern the uses of real property, it shall not abstain from exercising or relinquish its jurisdiction to a State court in an action where no claim of a violation of a State law, right, or privilege is alleged, and where a parallel proceeding in State court arising out of the same operative facts as the district court proceeding is not pending.

"(d) Where the district court has jurisdiction over an action under subsection (a) in which the operative facts concern the uses of real property and which cannot be decided without resolution of an unsettled question of State law, the district court may certify the question of State law to the highest appellate court of that State. After the State appellate court resolves the question certified to it, the district court shall proceed with resolving the merits. The district court shall not certify a question of State law under this subsection unless the question of State law—

"(1) will significantly affect the merits of the injured party's Federal claim; and

"(2) is patently unclear and obviously susceptible to a limiting construction as to render premature a decision on the merits of the constitutional or legal issue in the case.

"(e)(1) Army claim or action brought under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) to redress the deprivation of a property right or privilege secured by the Constitution shall be ripe for adjudication by the district courts upon a final decision rendered by any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State of territory of the United States, that causes actual and concrete injury to the party seeking redress.

"(2)(A) For purposes of this subsection, a final decision exists if—

"(i) any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State or territory of the United States, makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken

"(ii)(I) one meaningful application, as defined by the locality concerned within that State or territory, to use the property has been submitted but has not been approved, and the party seeking redress has applied for one appeal or waiver which has not been approved, where the applicable statute, ordinance, custom, or usage provides a mechanism for appeal to or waiver by an administrative agency; or

"(II) one meaningful application, as defined by the locality concerned within that State or territory, to use the property has been submitted but has not been approved, and the disapproval explains in writing the use, density, or intensity of development of the property that would be approved, with any conditions therefor, and the party seeking redress has resubmitted another meaningful application taking into account the terms of the disapproval, except that—

"(aa) if no such reapplication is submitted, then a final decision shall not have been reached for purposes of this subsection, except as provided in subparagraph (B); and

"(bb) if the reapplication is not approved, or if the reapplication is not required under subparagraph (B), then a final decision exists for purposes of this subsection if the party seeking redress has applied for one appeal or waiver with respect to the disapproval, which has not been approved, where the applicable statute, ordinance, custom, or usage provides a mechanism of appeal or waiver by an administrative agency; and

"(iii) in a case involving the use of real property, where the applicable statute or ordinance provides for review of the case by elected officials, the party seeking redress has applied for but is denied such review.

"(B) The party seeking redress shall not be required to apply for an appeal or waiver described in paragraph (1)(B) if no such appeal or waiver, is available, if it cannot provide the relief requested, or if the application or reapplication would be futile.

(3) For purposes of this subsection, a final decision shall not require the party seeking redress to exhaust judicial remedies provided by any State or territory of the United States.

"(f) Nothing in subsections (c), (d), or (e) alters the substantive law of taking of property, including the burden of proof borne by the plaintiff.".

SEC. 3. UNITED STATES AS DEFENDANT.

Section 1346 of title 28, United States Code, is amended by adding at the end the following:

"(h)(1) Any claim brought under subsection (a) that is founded upon a property right or privilege secured by the Constitution, but was allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

"(2) For purposes of this subsection, a final decision exists if—

"(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

"(B) one meaningful application to use the property has been submitted but has not been approved, and the party seeking redress has applied for one appeal or waiver which has not been approved, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available, if it cannot provide the relief requested, or if application or reapplication to use the property would be futile.

"(3) Nothing in this subsection alters the substantive law of takings of property, including the burden of proof borne by the plaintiff."

SEC. 4. JURISDICTION OF COURT OF FEDERAL CLAIMS.

Section 1491(a) of title 28, United States Code, is amended by adding at the end the following:

"(3) Any claim brought under this subsection founded upon a property right or privilege secured by the Constitution, but allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress. For purposes of this paragraph, a final decision exists if—

"(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

"(B) one meaningful application to use the property has been submitted but has not been approved, and the party seeking redress has applied for one appeal or waiver which has not been approved, where the applicable law of the United States provides a mechanism for appeal to or waiver.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available, if it cannot provide the relief requested, or if application or reapplication to use the property would be futile. Nothing in this paragraph alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to actions commenced on or after the date of the enactment of this Act.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except a further amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. CONYERS], or his designee. That amendment shall be considered as read, shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

If that further amendment is rejected or not offered, no other amendment is in order except, No, 1, the Traficant amendment made in order by the House today; and, No. 2, the amendment printed in part 2 of the report, which may be offered only by the Member designated in the report, shall be considered as read, shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

Pursuant to the order of the House of today, the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on the Traficant amendment made in order today by the order of the House, and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows that recorded vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in that series of questions shall not be less than 15 minutes.

The Conyers amendment not being offered, for what purpose does the gentleman from Ohio rise?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

Insert the following after section 4 and redesignate the succeeding section accordingly:

SEC. 5. DUTY OF NOTICE TO OWNERS.

Whenever a Federal agency takes an agency action limiting the use of private property that may be affected by the amendments made by this Act, the agency shall

give notice to the owners of that property explaining their rights under such amendments and the procedures for obtaining any compensation that may be due to them under such amendments.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Pursuant to the order of the House today, the gentleman from Ohio [Mr. TRAFICANT] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support, in principle, the fact that when a Federal agency takes an action that limits the use of private property or causes the damage in property values that compensation is in order, and proper procedures affecting those goals shall be implemented.

In essence, I support H.R. 1534. I want to commend the sponsor, the gentleman from California, Mr. GALLEGLY, and the gentleman from North Carolina, Chairman COBLE, for this measure. I have supported it in the past. I support it today.

My measure was added as an amendment the last time this legislation was offered on the floor, and unanimously accepted. Here is what it says: When a Federal agency takes an action that limits the use of or causes property damage, the agency shall give notice to that prisoner explaining the rights they have and where they go for compensation, if they qualify.

Let me say this: The average private property owner does not have accountants and attorneys that monitor legislation. This is the right thing to do.

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I say to the chairman and to the gentleman from Ohio [Mr. TRAFICANT] and to the body, Mr. Chairman, that I have reviewed the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] and I am supportive thereof.

Mr. GALLEGLY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished sponsor of the legislation that I support, the gentleman from California.

Mr. GALLEGLY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I join with my colleague, the chairman of the subcommittee, after having reviewed the amendment, and stand in strong support of the amendment offered by the gentleman from Ohio [Mr. TRAFICANT]. I think it adds to the bill.

Mr. TRAFICANT. Mr. Chairman, I appreciate that, and I reserve the balance of my time.

The CHAIRMAN. Is the gentlewoman from California [Ms. LOFGREN] opposed to the amendment?

Ms. LOFGREN. Yes, I am, Mr. Chairman.

The CHAIRMAN. The gentlewoman from California [Ms. LOFGREN] is recognized for 5 minutes.

Ms. LOFGREN. I yield myself such time as I may consume, Mr. Chairman.

Mr. Chairman, I recognize the motivation of the author of the amendment, and I think the motivation is entirely honorable and one that I concur with. I do, however, have grave reservations about the actual language of the amendment and the implications and unintended consequences that might occur. This is a very broad duty that is being imposed by the amendment on the Federal Government. Let me just give an example of why I think it is problematic.

In the Clean Water Act we, the National Government, make some very stringent findings about what may and may not be discharged into a stream. For example, discharging arsenic into a river is something that we have tried to control and avoid. Under this amendment, control of the discharge of arsenic into a stream would or could qualify as a taking, because if you are in a business that uses arsenic in manufacturing, and you are constrained from using arsenic and discharging it, you have, in fact, been impaired in the full utilization of your property. It could be a taking under the act. There would be a duty to provide notice to the business under the amendment.

I think that would be a very difficult thing for the Federal Government to do. I would also like to make an additional point, which is that there is no burden under the amendment to notify other private property owners who are disadvantaged by the failure to proceed with the Government regulation.

In the example I have previously outlined, for those downstream from the polluter, if there is arsenic in the water, their right to use the water for home consumption is going to be impaired. There is no duty under the amendment to notify the downstream users that the pollution is going to continue to be coming at them. I think that is a problem.

I do not plan to ask for a recorded vote on this amendment, but I would think that narrowly drafting this amendment to cover land regulation activities that are directly aimed at use of property might go a long way toward perfecting this amendment and reaching what the author hopes to do.

But in its current form, I think it is a massive new obligation for the Federal Government. It will be impossible, actually, to accomplish. Therefore, it will lead to litigation and further costs and expenses that none of us can afford, and all of us would like to avoid. These are all unintended consequences but nevertheless, severe ones. Therefore, I would urge opposition to this well-intentioned amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

I could understand the grave reservations that the gentlewoman from California has, but she cited as an example the discharge of arsenic into a stream. If the Federal Government or one of its agents or agencies has discharged such a pollutant into our stream, the Traficant amendment says that any private property owner affected by it would not only be eligible under the bill, but they would be notified by the Traficant amendment that it has occurred.

Mr. Chairman, the Traficant amendment is very clear. It says if a Federal agency, a Federal agency takes an action. If a Federal agency is responsible for discharging arsenic, the Traficant amendment says they shall notify all of the people. That is why it is so drafted, so everyone downstream in fact would have to be notified; would they not? There would have to be a notice, and if there was damage that was created from that, they would be eligible for compensation, and what are their procedures where they can go for such compensation.

That is why it was unanimously accepted. This is the language that ensures that an average private property owner has some basic notification, more than anything else. That is the trouble around here. We pass laws at times that the legal eagles understand, identify, distill, and digest, and then come back and lobby to amend them, but the average American may not even know there is a protection that exists, or they are even eligible for compensation for an action that was taken wrongly; maybe not intended to be wrongful action, but it certainly was, such as arsenic in the river.

Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would note that the amendment says, whenever a Federal agency takes an agency action limiting the use of private property.

In the example I used earlier, if the Environmental Protection Agency limits a business from discharging arsenic into the creek, they have impacted and limited the use of that private property, if the arsenic is important to the manufacturing process.

Therefore, the polluter, the arsenic deliverer to the stream, would, under

this amendment, be required to be notified of the limitation on the use of his or her property. And arguably also be entitled to compensation for the limitation of the use of their property.

We will not, however, under the amendment be required to notify downstream users that the upstream user and deliverer of arsenic to the stream is not going to be constrained from so polluting because of the implication of this amendment, that essentially will stay action because of access to court.

I understand that the gentleman from Ohio [Mr. TRAFICANT] wants the average American to have notice. I do, too. But as a lawyer and prior professor of law, we also need to look at the plain language that we adopt. This will lead to unintended consequences certainly that the gentleman from Ohio [Mr. TRAFICANT] very clearly from his prior comments does not intend, nor do I. That is the problem with the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if there is any language that needs to simplify this, that expresses the legislative intent in debate here today, I will not oppose it in conference. But the legislative intent and history is clear. Anybody downstream that would be subject to arsenic from the gentlewoman's debate here today would be eligible for notification and for compensation.

□ 1300

That is the purpose. If there is language in here that is so nebulous that the gentlewoman from California [Ms. LOFGREN] feels that it may in fact negate that intention, then certainly, my request is to make those small minor adjustments to effect that legislative intent.

But, Mr. Chairman, let me say this: When an average citizen's property is being limited or, in fact, the value is being diminished therein, they should get notice that such action is being taken and where they go for proper procedures. And if this amendment does not do that, then I do say to the drafters of the bill for those additional substantive language to be placed in there to, in fact, express that concern.

With that, I would hope that the gentlewoman would take that in good faith and help to construct that language.

The CHAIRMAN pro tempore (Mr. FOLEY). The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BOEHLERT:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Rights Implementation Act of 1997".

SEC. 2. UNITED STATES AS DEFENDANT.

Section 1346 of title 28, United States Code, is amended by adding at the end the following:

"(h)(1) Any claim brought under subsection (a) that is founded upon a property right or privilege secured by the Constitution, but was allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

"(2) For purposes of this subsection, a final decision exists if—

"(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

"(B) one meaningful application, as defined by the relevant department or agency, to use the property has been submitted but denied, and the party seeking redress has applied for but is denied one appeal or waiver, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available or if such an appeal or waiver would be futile.".

SEC. 3. JURISDICTION OF COURT OF FEDERAL CLAIMS.

Section 1491(a) of title 28, United States Code, is amended by adding at the end the following:

"(3) Any claim brought under this subsection founded upon a property right or privilege secured by the Constitution, but allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress. For purposes of this paragraph, a final decision exists if—

"(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

"(B) one meaningful application, as defined by the relevant department or agency, to use the property has been submitted but denied, and the party seeking redress has applied for but is denied one appeal or waiver, where the applicable law of the United States provides a mechanism for appeal or waiver.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available or if such an appeal or waiver would be futile.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to actions commenced on or after the 120th day after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 271, the gentleman from New York [Mr. BOEHLERT] and the gentleman from North Carolina [Mr. COBLE] will each control 15 minutes.

The Chair recognizes the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of my substitute. Here is what the substitute would do. It would allow those who sue the Federal Government over property rights to get to Federal court more rapidly. It does that in language that is virtually identical to sections 3 and 4 of the manager's amendment.

Mr. Chairman, here is what the substitute would not do. It would not interfere in any way with local government. It does that by eliminating section 2 of the manager's amendment. That is the section that allows Federal judges to intrude on local decisionmaking.

As Federal officials, we ought to limit ourselves to effecting Federal decisions. That is what my substitute does.

Mr. Chairman, I urge support for the Boehlert amendment. It is the moderate approach to property rights. It grants relief without trampling on Federalism. It helps property owners without preventing local communities from deciding their own future. I urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Boehlert amendment in the nature of a substitute to H.R. 1534. Very frankly, Mr. Chairman, the amendment will effectively gut the bill.

The fifth amendment to the Constitution prohibits the government from taking private property without just compensation. This prohibition is applicable to local governments through the 14th amendment. H.R. 1534 addresses the procedural difficulties encountered by property owners alleging the local or Federal Government has taken their property.

Currently, property owners claiming a fifth amendment taking by local governments do not have a realistic option to file in Federal court. Under current case law, a takings plaintiff must meet both the ripeness standard, meaning have a final decision regarding the permissible uses on the property and exhaust all State remedies and overcome the well-documented abuse of the abstention doctrine which Federal judges use to avoid takings cases. Federal judges routinely abstain from takings cases even when the claim alleges only a Federal fifth amendment claim based on action by a local government.

H.R. 1534 addresses this problem by prohibiting Federal judges from abstaining when the claim involves only a Federal fifth amendment claim, even

when the taking was done by local governments.

Mr. Chairman, the Boehlert amendment strikes the provisions of the bill which are applicable to local governments, leaving in the provisions which apply to the United States as a defendant. Mr. Chairman, this would exempt the vast majority of private property owners from the relief and assistance that H.R. 1534 provides.

If the United States is a defendant, a takings claimant will have very little trouble getting into Federal court. However, claimants alleging a Federal fifth amendment taking by local government will continue to operate without any certainty as to when their case is ripe for Federal adjudication and continue to be routinely dismissed by Federal judges avoiding takings cases.

Mr. Chairman, during the past couple of weeks, our staff and the staff of the gentleman from California [Mr. GALLEGLY], the sponsor of the bill, have worked tirelessly with the staff of the gentleman from New York [Mr. BOEHLERT] to come to an agreement on several issues, and I think the gentleman from New York will admit to that.

On October 15, 1997, the staff of the gentleman from New York handed a list of amendments that needed to be made in order to gain the gentleman's support for the bill. The manager's amendment incorporated each one of these items, either precisely as requested or in spirit. It is not an exaggeration to say that we bent over backward to accommodate the gentleman's concerns about H.R. 1534. The Boehlert amendment does not reflect the concerns raised in those meetings, but a complete gutting of the bill.

Mr. Chairman, I urge my colleagues to vote "no" on the Boehlert amendment in the nature of a substitute for H.R. 1534.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, it has been alleged that the manager's amendment accommodates all of our objections to the bill. This simply is not so. The fundamental flaw in this bill is not addressed in the manager's amendment. It does now say that if a zoning board offers alternatives, a developer must appeal one more time. That is good. But the bill still removes all incentives to negotiate because a developer can go to Federal court rather than follow the zoning board's instructions. Moreover, the bill still explicitly takes State courts out of the process.

Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of the Boehlert amendment and, contrarily, I do not believe that this guts the bill; it enhances it.

Mr. Chairman, there is clear evidence that we do need something to ensure that the property owners are afforded their day in court. Several Law Review articles agree that the current takings ripeness barriers are unreasonable and that the obstacles confronting property owners are often insurmountable.

However, I fear, in fact I am convinced, that this bill, H.R. 1534, swings the pendulum too far in the other direction. I commend to my colleagues a quote from a recent letter sent by the National Governors' Association, the National League of Cities, and the Conference of Mayors. And I quote, "This represents," meaning the bill, "a significant infringement on State and local sovereignty." Mr. Chairman, I do not know why Republicans want to do that. But State and local sovereignty, "and interferes with our ability to balance the rights of certain property owners against the greater community good or against the rights of other property owners in the same community. It also represents a significant new cost shift to State and local governments as we are forced to resolve disputes in the Federal judiciary instead of through established State and local procedures."

Mr. Chairman, it is for this reason, all these reasons, of course, that I urge support of the Boehlert amendment.

Mr. Chairman, I would say to my colleagues, by the way, I have always lived under the rule that all politics is local and there is nothing more local than private property and zoning questions. Let us make sure that we are not shifting the balance from our local communities to the Federal Government. I urge my colleagues to support the Boehlert amendment.

Mr. COBLE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, I rise today in support of H.R. 1534, the Private Property Rights Implementation Act. As a Member representing California, as well as a member of the Western Caucus, I am acutely aware of the need for legislation to protect priority property owners, especially those who have fallen victim to the current administration's ongoing war with the West.

H.R. 1534 is fair legislation. It simply allows property owners injured by Government action equitable access to the Federal courts. Currently, 80 percent of Federal property claims are thrown out of the court before their merits can be debated. With a statistic like that no one can argue that the current process is fair.

No matter what reason the Government has for restricting private property use, and there are many legitimate reasons, there is no excuse for denying landowners their day in court.

Mr. Chairman, I urge my colleagues to oppose all weakening amendments to H.R. 1534, especially the Boehlert amendment. This amendment would eliminate the bill provisions allowing landowners to take their appeals to Federal court. Instead, the amendment states it would help landowners get to court "more quickly." But what does that mean, more quickly?

It currently takes an average of 9½ years for the process to be resolved. "More quickly" could mean 8 or maybe 7 years, but it does not make that timeframe any more acceptable. This is not an issue about taking power away from the States and localities, as the Boehlert amendment would lead my colleagues to believe. H.R. 1534 is about the rights of property owners to have their claims considered fairly and in a timely manner.

Mr. Chairman, I urge my colleagues to oppose the Boehlert amendment and support H.R. 1534.

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to point out to the gentleman from California [Mr. CALVERT] that his State attorney general, Attorney General Lungren, a good Republican, is opposed to this bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I would like to address my colleagues with this concept: how many Members on this House floor are in favor of judicial activism where the unelected will determine land use and local zoning ordinances in their community? Who is in favor of that? If Members are in favor of judicial activism and if they are in favor of the unelected judicial judges determining local zoning in their area, then they will vote against the Boehlert amendment.

If, however, Members are in favor of expedited process to the Federal courts whenever a Federal action impedes or regulates private property, then they will vote for the Boehlert substitute.

The Boehlert amendment in the nature of a substitute expedites the process to Federal courts whenever a Federal action regulates Federal property. What the bill does without the Boehlert amendment is make Federal action control local land use and local zoning. That is the unintended consequences. The bill would send to Federal courts cases to decide local zoning and local land use.

Now, Mr. Chairman, the small community might be able to afford State courts, but there is no way they are going to be able to afford Federal courts. We all believe in the fifth amendment. We strongly believe that if property rights are taken away for the public good, constitutionally landowners should be compensated and they will be compensated.

However, if the local zoning board, the planning commission, decides in

their management of their community that someone's property is going to cause public harm, that is a different story.

Mr. Chairman, I urge an "aye" vote on the Boehlert substitute.

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to say to the gentleman from New York [Mr. BOEHLERT], my good friend, I did not mean to mislead, when he said that the manager's amendment did not address all of his problems, what I said was that it addressed them either precisely or exactly or in spirit. And I think that is probably an accurate statement, although the gentleman's amendment did go a little farther than during the discussion.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the spirit is one thing, but reality is something altogether different. There still is a fundamental flaw, as the gentleman from North Carolina would acknowledge.

Mr. COBLE. Mr. Chairman, reclaiming my time, we will talk about that another day.

Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Chairman, I rise in opposition to the Boehlert amendment and in strong support of the passage of H.R. 1534.

Mr. Chairman, I want to thank the gentleman from North Carolina [Mr. COBLE] and the gentleman from California [Mr. GALLEGLY] and the other cosponsors for their leadership on this very vital issue that is so important to so many of our constituents across the country.

Mr. Chairman, many of us here today were elected so that we could make the Federal Government smaller and give more power to State and local governments, and I am proud that we are making progress in that regard. But all of us were elected and are sworn to protect and defend the Constitution. We should never waiver from that protection.

Mr. Chairman, as we continue to move toward a larger role for State and local government, the protection and defense of the Constitution must remain in the forefront of our minds, and perhaps no element of the Constitution is more important than the Bill of Rights.

□ 1315

House Resolution 1534 goes far toward ensuring that as local governments rightfully play larger roles, the rights of the citizenry do not fall prey to overzealous regulation. This bill does not infringe on the rights of States or localities to regulate land use. It merely ensures that the citizen will receive final decisions on those legitimate principles of governance in an expeditious manner.

Even now, before the goal of devolution is fully achieved, takings claims brought under the fifth amendment are lengthy and time consuming. They are treated, as Justice Brennen of the U.S. Supreme Court said, like stepchildren to the Bill of Rights. The bipartisan authors of House Resolution 1534 have recognized that this current situation, already a problem, needs to be addressed before the laudable goal of devolution exacerbates the situation. As Robert F. Kennedy once said, back in 1964, justice delayed is democracy denied.

Some elements of State and local government oppose this bill because House Resolution 1534 will, as the U.S. Conference on Mayors writes, lead to increased liability for municipalities. What more blatant admission is there than that this bill is needed? If the municipalities are engaging in activities for which the courts would find them liable, they should cease or pay in a timely manner without forcing the citizens into costly administrative procedures. The Constitution requires no less. House Resolution 1534 ensures that that will happen.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. DELAHUNT].

Mr. DELAHUNT. Mr. Chairman, I rise in support of the Boehlert amendment. I am particularly pleased to hear so many Members on the other side speak to the issues of States rights, devolution. It was the authors of the Contract With America that said they wanted to return power to the people through State and local governments. Yet the bill, H.R. 1534, that is before this Congress would take local land disputes that have always been decided by State and local authorities and turn them over to the Federal courts. Whatever happened to devolution and State rights?

It also was the authors of the Contract With America that said they wanted to limit judicial activism. Yet the bill sweeps away the abstention doctrine which in effect restrains judicial judges. It also eviscerates the ripeness doctrine which prevents premature Federal involvement in such cases. It invites the Federal courts to strike down the actions of zoning boards and city councils across the land.

Mr. Chairman, let us give federalism, devolution, and States rights another chance and let us support the Boehlert amendment.

Mr. COBLE. Mr. Chairman, may I inquire of the Chair the time remaining on both sides.

The CHAIRMAN pro tempore (Mr. FOLEY). The gentleman from North Carolina [Mr. COBLE] has 7 minutes remaining, and the gentleman from New York [Mr. BOEHLERT] has 7½ minutes remaining.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, this bill does not give property owners any new authority to sue the cities in Federal court. They have it. I believe that the Boehlert substitute would gut this bill and would treat property owners differently. That is my concern.

Let me say this, the great Vince Lombardi was loved by everybody, but when they asked Mr. Willie Davis why they loved him, here is what he said, because he treats us all alike, like dogs at times, but all alike.

I think that the gentleman's substitute would put and inflect some differences in the way property owners would be treated.

Local officials still govern this. The process would be expedited under this bill. I think the bill is, in essence, good.

I would like to see the gentleman work in conference for some of the ideas in his substitute which are good.

Mr. BOEHLERT. Mr. Chairman, I would like to point out to my distinguished colleague from Ohio that this simply says that Federal courts deal with Federal issues. Local courts, State courts deal with local and State issues. Washington is not the source of all wisdom.

Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE], former Governor.

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me the time.

This is a very interesting bill. It is very conflicted in terms of the usual beliefs that we have here. We basically have private property rights versus local decisionmaking. The Republican Party which sides with local decisionmaking does not in this particular case.

I can understand the argument for private property rights, but then to give it to the Federal judiciary, which is not exactly an entity that is supported readily by Republicans, strikes me as being highly unusual. I do not know how they are really qualified to handle these kinds of decisions on a regular, simple appeal at an early process. And that is what this is all about.

Could we argue that eventually the appeal could go up to Federal court? It is very unlikely. Now, it is very likely that the Federal court is going to spend about half of its time handling these local property appeals. They are totally ill equipped to do this. It just is not going to work.

Do we want to expand the Federal judiciary to do this? We should note that the National Governors Association, as has been stated, 39 State attorneys general, the Judicial Conference of the

United States have all come out against this bill. They have serious problems with it and they rightfully should.

This amendment is a pretty simple amendment. I support the amendment. Sections 3 and 4 basically are being changed here. It eliminates the direct appeal to the Federal courts on local property decisions, which really, in my judgment, absolutely should be done. But if one exhausts everything, they could still do it. If one is dealing with a Federal agency, they could still do it. So it still leaves the essence of the bill.

Yes, I understand the concern. I have a lot of respect for the sponsor of the legislation because I believe there are some private property concerns that need to be addressed out there. But this unfortunately is not the right answer. The bill goes too far. Now that we have had a chance to really study that, I think we need to understand it.

The best thing we can do today is to pass the Boehlert amendment, a good amendment which adjusts the bill and makes it correct, and then go on and pass the rest of the legislation at that point. I would urge everybody to look at this carefully. These are significant issues and the burden that we are shifting over to the Federal courts is something we should not do. I encourage support of the Boehlert amendment.

Mr. COBLE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in strong support of H.R. 1534 and in stronger opposition to the Boehlert amendment. The bill, the base bill is an equitable solution aimed at balancing the rights of private property owners with increased environmental, economic, and land use concerns. The fifth amendment states that private property shall not be taken for public use without just compensation. The legislation before us today is a bipartisan and moderate approach that guarantees the protection of the fifth amendment. The Boehlert amendment guts the heart of H.R. 1534 by removing equal access to Federal courts for property owners.

The base bill is a targeted limited bill that does not define when a taking has occurred. Consequently, the proper trigger point for compensation does not need to be debated. The Boehlert amendment creates a dangerous precedent by forcing Federal courts to deal differently with property rights cases depending on who the defendant is. The base bill does not give Federal courts new authority on questions that should be answered in State courts, rather, it provides an expedited way to resolve State issues.

Furthermore, this bill does not amend environmental law or regulation which was a point of contention in previous debate. Simply put, this legislation would provide for quicker and more straightforward access to Federal courts. The Boehlert amendment micromanages the Federal courts.

I would like to commend the gentleman from California [Mr. GALLEGLY] and other supporters of H.R. 1534 for their efforts to find a new way of reconciling the difficult issues addressed here. This legislation is balanced and fair. I urge my colleagues to support the base bill and oppose strenuously the Boehlert amendment which guts the base bill.

Mr. BOEHLERT. Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. GALLEGLY], a member of the Committee on the Judiciary and primary sponsor of the bill.

Mr. GALLEGLY. Mr. Chairman, I stand in strong opposition to this amendment. I would just like to respond to the gentleman from Massachusetts [Mr. DELAHUNT] and his comments. I am also very pleased to see the number of Democrats we have in strong opposition to the Boehlert amendment.

As a former mayor, I could not agree more with those who have argued for local control and decisionmaking. What we are trying to do is to provide some certainty to a process that can otherwise be very open-ended. What the bill now says is that the property owner must take a meaningful application, then if the locality chooses to deny that application, they should explain why in writing. If they do not approve that application, they should explain what type of development they would accept.

Mr. Chairman, I ask my colleagues to strongly oppose this amendment. It guts the bill. I hope the Members will join me in helping to preserve the reforms that are intended in this legislation.

I rise in opposition to the amendment by the gentleman from New York. Although the gentleman has made a number of positive suggestions about the bill recently, the amendment he is offering today is quite severe.

The amendment on the floor today will gut an extremely important part of H.R. 1534.

It is very important that we do not lose sight of the central point of this bill: Federal Constitutional property rights do not empower Federal judges to make land use decisions. H.R. 1534 would not empower Federal judges to decide whether a certain piece of land should be used for a grocery store or for a hair salon. Local governments will continue to have their traditional powers to make and enforce zoning regulations.

Some of the people who are screaming the loudest about local control of all land-use decisions have also been big supporters of having Federal environmental laws micromanage how land is used. Federal endangered species protections certainly interfere with how land is used. No locality can regulate land use in a way that does not comply with Federal wetlands protections. There are probably many other environmental laws, enforceable in Federal court, that directly impact local governments or lands use decisions.

H.R. 1534 provides ample opportunity for the local process to work so that appropriate zoning and land use regulation can proceed.

What we are trying to do is provide some certainty to a process that can be otherwise very open-ended. What the bill now says, is that the property owner must make a meaningful application. Then, if the locality chooses to deny that application they should explain why, in writing. If they will not approve the application, they should explain what type of development they would accept.

Taking into account this information, the landowner must reapply. If that application is not approved, then he or she must appeal the decision or seek a waiver.

As a former mayor, I could not agree more with those who have argued for local control and decision-making. I might also note that many of the cosponsors of H.R. 1534 bring to this debate extensive knowledge of State and local government—133 of the members supporting the bill previously served as mayors, city council members, or State legislators. They bring to this debate a very practical understanding of what is at stake, and they support this legislation.

The question before us today is whether Americans should have reasonable access to the Federal courts to enforce Federal rights. I hope the Members of the House will support H.R. 1534 to provide legal protections that are fair and effective.

Mr. COBLE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding me this time.

Basically what we have here is the age-old debate, the debate of whether or not we have power to the government or power to the people. We get down to this basic debate many times over different issues, especially over private property issues. Whether the argument is to protect the power that the government controls over its citizens at the Federal level, the State level, or the local level, that is a debate that we continually hear from this particular side on this issue. They want to maintain that power over the citizenry.

On the other side of this issue what we have is people who are arguing in favor of the private property owner, of the individual citizen, of the individual that we all represent. I think that that is one of the important distinctions in this debate.

The importance of this underlying legislation is an attempt to give private property owners their so-called day in court. That is the effort that is being made. I admit that this bill does not go as far as I would like it to. I admit that the underlying legislation is a moderate attempt to achieve a very worthwhile goal. The Boehlert amendment guts even a moderate attempt to try to achieve that.

Mr. BOEHLERT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, for those who say that my substitute guts the bill, I would point out that my substitute retains section 3 and 4 of the manager's amendment. Are the sponsors saying that those sections of the bill are meaningless? I do not think so.

To the previous speaker who says there is a choice, do we have power to the Government or power to the people? I say the choice is, do we have all power vested in Washington, DC, in the Federal Government, or do we leave to State and local governments power that they so jealously guard that they want to preserve, the power to make the decisions at the local level about local zoning issues?

Should the Federal Government determine whether or not we will have a pornographic parlor on some corner in some small hamlet in some State in America? I do not think so. I think the local communities can deal very effectively with that issue.

I would point out that the National Governors Association has spoken eloquently to this bill. Let me read an excerpt from their letter which has been addressed to all of our colleagues here:

We are writing to express our strong opposition, strong opposition, to H.R. 1534, the so-called Private Property Rights Implementation Act of 1997.

Continuing, the Governors letter says,

the result will be substantially more Federal involvement in decisionmaking on purely local issues.

□ 1330

This represents a significant infringement on State and local sovereignty and interferes with our ability to balance the rights of certain property owners against the greater community good or against the rights of other property owners in the same community.

Now, that is an excerpt of a letter from the National Governors' Association signed by Gov. George Voinovich, chairman of the National Governors' Association, Mark Schwartz, councilmember, Oklahoma City, president, National League of Cities, and Mayor Paul Helmke, city of Fort Wayne, president, U.S. Conference of Mayors.

As a matter of fact, my bill is the sensible approach to this issue because the basic bill, H.R. 1534, is not just opposed by me, not just opposed by a couple of Representatives of this great institution, it is opposed by the National Governors' Association, most State attorneys general, 40 at last count, including Dan Lungren, the attorney general of the State of California, including the attorney general of the State of New York, including the attorney general of the State of Texas, including the attorney general of the State of Connecticut, of Delaware, of Florida, of Georgia, of Hawaii, of Idaho, of Indiana, of Iowa, of Louisiana, of Maine, of Maryland, of Massachusetts, of Michigan, of Minnesota, of Mississippi, of Missouri, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, the attorney general of the Virgin Islands, the attorney general of Guam, the attorney general of the State of Washington, the attorney general of the State of Wisconsin.

The list goes on and on. Not only the attorneys general but the Judicial Conference of the United States, chaired by the Chief Justice of the Supreme Court of the United States, a very conservative Republican, Chief Justice Rehnquist. It is opposed by the National League of Cities, the U.S. Conference of Mayors, and every single environmental group in America.

Why do they oppose it? Because it simply does not make sense. The Republicans, my colleagues, my friends, are saying they favor devolution. They want to send more authority back to State and local governments, and I think that makes a lot of sense. This bill does just the opposite.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to rise in support of the gentleman's amendment and in opposition to the underlying bill.

I think the gentleman has done good work in terms of this. This helps the bill. It does not completely fix it, but I think it does respect the issue of restraint, in terms of the Federal Court, which is something that I think others have spoken to.

So I thank the gentleman, commend him for his work, and support his amendment.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, I point out what the Judicial Conference of the United States says, and keep in mind we are talking about a basic issue decided by the Supreme Court that this bill proposes to overturn. That issue was decided 7 to 1 by the Supreme Court, with all the conservative justices voting in favor of Williamson County versus The Bank of Hamilton. Williamson County in Tennessee.

The Judicial Conference of the United States says the judicial conference expresses concern with the Private Property Rights Implementation Act of 1997. The bill would alter deeply ingrained Federalism principles by prematurely involving the Federal courts in property regulatory matters that have historically been processed at the State and local level.

Finally, let me point out to my colleagues that it has been said repeatedly that my concerns have been mainly accommodated, some directly, some in spirit. Well, in spirit, that leaves a lot for interpretation.

The basic fact of the matter is, there is a fatal flaw in this bill. It does now say that if a zoning board offers an alternative, a developer must appeal one more time. But the bill removes all incentives for negotiations.

I urge support of the Boehlert substitute and opposition to the basic bill unless it is properly amended.

Mr. COBLE. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, the States are the issue in this debate, and so the Boehlert amendment, the amendment of my good friend, will destroy the purpose of this bill. The debate is over States. Not Federal Government encroachment, but State government encroachment.

That is why we are here. It is because when individual plaintiffs with objections under the fifth amendment to the Constitution complain that State governments have interfered with their rights, they are kept from getting an adjudication in Federal court in anything like an expedited or appropriate time frame. So if we remove from the bill all those provisions that deal with the States and local government, which is what the Boehlert amendment does, we do not have a bill worth discussing.

We are not here because of Federal Government takings, we are here because of allegations against State governments and local governments. So, really, voting for the Boehlert amendment is voting against the bill. Do not make any mistake about it, that is what it is.

I do not think we should vote against the bill, and here is why. Think what the Federal courts are supposed to do in the protection of constitutional rights. We do not tell Federal court plaintiffs to go somewhere else and wait their time when they are complaining of voting rights, when they are complaining of discrimination, of poll tax, illiteracy tax, being told they cannot have a right to the ballot. We do not say go take it to the board of election commissioners.

When there is a restrictive zoning, keeping someone out of an area because of their race, we do not say, well, take it to 20 different appeals to the zoning commissioners of the particular State, county, or locality.

And we deal with school desegregation. The day the Governor stands in the school and says someone may not come in there because of their race, that day the plaintiff goes into Federal court.

Why is the fifth amendment less? Why are plaintiffs under the fifth amendment to our Constitution not entitled to that same access to the Federal courts that are available to those who plead under the other provisions that I have cited?

The managers of the bill have accepted my amendment. I conclude by quoting it. "Nothing in this bill alters the substantive law of takings of property, including the burden of proof borne by plaintiff." Vote for the bill, oppose the Boehlert amendment.

The CHAIRMAN pro tempore (Mr. ROGAN). The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. BOEHLERT].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 242, not voting 14, as follows:

[Roll No. 518]

AYES—178

Abercrombie	Hastings (FL)	Obey
Ackerman	Hefner	Olver
Andrews	Hinchey	Owens
Baldacci	Horn	Pastor
Barrett (WI)	Jackson (IL)	Payne
Bass	Johnson (CT)	Pelosi
Becerra	Johnson (WI)	Pomeroy
Bentsen	Johnson, E. B.	Porter
Bereuter	Kanjorski	Portman
Berman	Kaptur	Poshard
Blagojevich	Kelly	Price (NC)
Boehlert	Kennedy (MA)	Ramstad
Bonior	Kennedy (RI)	Rangel
Borski	Kildee	Reyes
Boucher	Kilpatrick	Rivers
Brown (FL)	Kind (WI)	Rodriguez
Brown (OH)	Kleczka	Roemer
Capps	Klink	Roukema
Cardin	Klug	Roybal-Allard
Carson	Kucinich	Rush
Castle	LaFalce	Sabo
Clay	Lampson	Sanchez
Clayton	LaTourette	Sanders
Costello	Lazio	Sanford
Coyne	Leach	Sawyer
Cummings	Levin	Saxton
Davis (FL)	Lewis (GA)	Scarborough
Davis (IL)	Lipinski	Schumer
DeFazio	Lofgren	Scott
DeGette	Lowey	Sensenbrenner
Delahunt	Luther	Serrano
DeLauro	Maloney (CT)	Shaw
Dellums	Maloney (NY)	Sherman
Dicks	Manton	Skaggs
Dixon	Markey	Slaughter
Doyle	Mascara	Smith (NJ)
Ehlers	Matsui	Smith, Adam
Engel	McCarthy (MO)	Snyder
Eshoo	McCarthy (NY)	Spratt
Etheridge	McDermott	Stabenow
Ewing	McGovern	Stokes
Farr	McHale	Stupak
Fattah	McKinney	Sununu
Fawell	McNulty	Thurman
Filner	Meehan	Tierney
Foglietta	Meek	Torres
Forbes	Menendez	Towns
Fox	Millender-McDonald	Velázquez
Frank (MA)	Miller (CA)	Vento
Frelinghuysen	Miller (FL)	Visclosky
Furse	Minge	Walsh
Ganske	Mink	Waters
Gephardt	Moakley	Watt (NC)
Gilchrest	Mollohan	Waxman
Gilman	Moran (VA)	Weygand
Goss	Morella	Wise
Greenwood	Murtha	Woolsey
Gutierrez	Nadler	Wynn
Hall (OH)	Neal	Yates
Hamilton		

NOES—242

Aderholt	Archer	Bachus
Allen	Armey	Baesler
Baker	Gejdenson	Oxley
Ballenger	Gekas	Packard
Barcia	Gibbons	Pallone
Barr	Gillmor	Pappas
Barrett (NE)	Gingrich	Pascrell
Bartlett	Goode	Paul
Barton	Goodlatte	Paxon
Bateman	Goodling	Pease
Berry	Gordon	Peterson (MN)
Bilbray	Graham	Peterson (PA)
Bilirakis	Granger	Petri
Bishop	Green	Pickering
Bliley	Gutknecht	Pickett
Blumenauer	Hall (TX)	Pitts
Blunt	Hansen	Pombo
Boehner	Harman	Pryce (OH)
Bonilla	Hastert	Quinn
Bono	Hastings (WA)	Radanovich
Boswell	Hayworth	Rahall
Boyd	Hefley	Redmond
Brady	Herger	Regula
Bryant	Hill	Riggs
Bunning	Hilleary	Riley
Burr	Hilliard	Rogan
Burton	Hinojosa	Rogers
Buyer	Hobson	Rohrabacher
Callahan	Hoekstra	Ros-Lehtinen
Calvert	Holden	Rothman
Camp	Hooley	Royce
Campbell	Hostettler	Ryun
Canady	Houghton	Salmon
Cannon	Hoyer	Sandlin
Chabot	Hulshof	Schaefer, Dan
Chenoweth	Hunter	Schaffer, Bob
Christensen	Hutchinson	Sessions
Clement	Hyde	Shadegg
Clyburn	Inglis	Shimkus
Coble	Istook	Shuster
Coburn	Jefferson	Sisisky
Collins	Jenkins	Skeen
Combest	John	Skelton
Condit	Johnson, Sam	Smith (MI)
Conyers	Jones	Smith (OR)
Cook	Kasich	Smith (TX)
Cooksey	Kennelly	Smith, Linda
Cox	Kim	Snowbarger
Cramer	King (NY)	Solomon
Crane	Kingston	Souder
Crapo	Knollenberg	Spence
Cunningham	Kolbe	Stearns
Danner	LaHood	Stenholm
Davis (VA)	Largent	Stump
Deal	Latham	Talent
DeLay	Lewis (CA)	Tanner
Deutsch	Lewis (KY)	Tauscher
Diaz-Balart	Linder	Tauzin
Dickey	Livingston	Taylor (MS)
Dingell	LoBiondo	Taylor (NC)
Doggett	Lucas	Thomas
Dooley	Manzullo	Thompson
Doolittle	McCollum	Thornberry
Dreier	McCrery	Thune
Duncan	McDade	Tiahrt
Dunn	McHugh	Traficant
Edwards	McInnis	Turner
Ehrlich	McIntyre	Upton
Emerson	McKeon	Wamp
English	Metcalf	Watkins
Ensign	Mica	Watts (OK)
Evans	Moran (KS)	Weldon (FL)
Everett	Myrick	Weller
Fazio	Nethercutt	Wexler
Flake	Neumann	White
Foley	Ney	Whitfield
Ford	Northup	Wicker
Fowler	Norwood	Wolf
Franks (NJ)	Nussle	Young (AK)
Frost	Oberstar	Young (FL)
Gallegly	Ortiz	

NOT VOTING—14

Brown (CA)	Lantos	Stark
Chambliss	Martinez	Strickland
Cubin	McIntosh	Weldon (PA)
Gonzalez	Parker	
Jackson-Lee (TX)	Schiff	
	Shays	

□ 1358

Messrs. HINOJOSA, HOEKSTRA, GUTKNECHT, CLYBURN and PEASE changed their vote from "aye" to "no."

Mrs. McCARTHY of New York, Mr. MOAKLEY and Mr. GANSKE changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WELDON of Pennsylvania. Mr. Chairman, on rollcall No. 518, I was unavoidably detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Chairman, on rollcall 518, the Boehlert amendment to H.R. 1534, I had a malfunctioning beeper and was in meetings where there was no detection that the vote was going on and so I missed that vote. Had I been present, I would have voted "yes."

□ 1400

PREFERENTIAL MOTION OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN pro tempore [Mr. ROGAN]. The Clerk will report the motion.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. FRANK of Massachusetts. Mr. Chairman, I read today that Roger Ebert, I guess it was today, has an article in which he says there should be a new category of Nobel Prize for Movies.

Well, I am going to add one. We should immediately ask that they institute a Nobel Prize for Inconsistency, because you would win it. There would be a problem: Under the rules, you could not accept the money, but maybe we can put it to the deficit. Because I do not think in recorded parliamentary history there has ever been a greater gap between people's professed principles and what they have voted for than there is in this bill.

The last speaker for the bill, against the amendment offered by the gentleman from New York [Mr. BOEHLERT], said it is about States. He was absolutely right. The premise of most of this bill is that States cannot be trusted to deal fairly with property rights; not State local officials, not State zoning boards, and, God forbid, State courts. Because what you are about to vote for is a bill that says let us tell every unelected life-tenured Federal judge in the country that they have not been sufficiently activist.

This bill says to all those guys sitting on the bench, what are you doing, sitting back and letting controversies be decided by State officials? How dare you leave things to the electorial process? What are we paying you for? How come you have life tenure? Intervene. Do not let these State zoning boards work out their will. Do not let State courts decide these issues.

In fact, it even says to them there is a State issue? You Federal judges, decide it. What do we pay you for? You have got life tenure.

Never in history have people denounced activism so much and promoted it even more.

The bill says this. And do we respect property rights? Yes. But what you are saying by this bill is we cannot trust State government. It is not a question about property rights, it is a question about whether State governments can be trusted, and it says we are not getting enough nonelected, life-tenured Federal judges intervening in the local process.

Somebody has a zoning fight in his or her State, and we say, all right, we will give the zoning board one shot. They get one appeal. Stay away from the State courts, go right into Federal Court. We do not want the Governor, the mayor, mucking around in here. What do all these elected officials know?

It also says, by the way, we do not decide enough judicially in America. It says that courts are sitting back and waiting for the political process. Let us intervene earlier.

There is a Federal doctrine known as ''ripeness'' which says the courts should not rush in; the courts should defer. Do you know what this bill says? Enough of that stuff. Earn your money. Do not wait for these disputes to be worked out, do not wait until the local officials debate it more and get factual information. Decide it. What do you have life tenure for? Ignore those local people. Do not pay attention to the State judges.

Let us be very clear: This bill says we need the Federal judges to be a lot more active than they have been. They should stop waiting for these things to be ripe. They should stop deferring to State courts to decide issues. They should stop letting local officials work these things out. We will solve it.

You passed a bill that restricted the right of habeas corpus in Federal court so we will not have habeas corpus. What we will have now is ''habeas propertius.'' What you will do, if your life is at stake, why not take three more State appeals? But you did not like the zoning, where is the Federal judge? You can get right into it.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, is the gentleman aware of any city or State organizations that support the Gallegly bill, himself a former mayor?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I do not know. I would have to say to my friend apparently there are some cities somewhere where people, having voted for the mayor, city council and to establish a zoning board, found they cannot trust them, and want the Federal courts.

There may be some municipality somewhere that wants unelected Federal judges to ride to the rescue from the zoning boards. Maybe we should be playing the William Tell Overture, because here come the Federal judges riding to the rescue, protecting you from these local officials.

Mr. Chairman, let me say in closing, I can understand people saying the Federal courts ought to do more, and if you think that you cannot trust the local people, okay. But, please, can I ask my colleagues on the other side, could you wait a week before you get up and denounce judicial activism? Can you wait a week before you pretend to be for States' rights? I do not think we can ban inconsistency, but let us have a waiting period.

Mr. GALLEGLY. Mr. Chairman will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. GALLEGLY. Mr. Chairman, I thank my good friend from Massachusetts for yielding.

I would like to respond to the gentleman from Michigan [Mr. CONYERS], my good friend and neighbor, every mayor I have talked to in my district has signed a letter supporting it, cities over 100,000 people. I have not had one say no.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I think there have been cases where mayors do not like what the Governors do. I do not doubt that. But if there is any respect left in this body for consistency, this bill will be voted down.

Mr. COBLE. Mr. Chairman, I rise in opposition to the motion.

Mr. Chairman, we believe in Federal protection in Federal courts for Federal fundamental rights. States protect State and Federal rights, but our Founding Fathers put this right in the Federal Constitution for attention by the Federal Government with a Federal remedy. So I do not see any inconsistency there.

Previously, Mr. Chairman, I said the Boehlert amendment would gut the Gallegly bill. I now say to my friend, the gentleman from Massachusetts [Mr. FRANK], that his motion to strike the enacting clause will emasculate the bill. It does great damage to the bill.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, under the bill with the manager's amendment, you do not get immediate access to the Federal court. You have to apply to the local land use agency. You get a ruling, you reapply, taking the conditions of the denial into account. Then you must appeal the application, or as much as necessary, to reach a body of elected local officials, if available.

If all of the above are denied, you have concurrent jurisdiction. You may go the State route or you may go the Federal route.

Now, I hasten to point out what we are vindicating here is a constitutional right, and the Federal courts exist to vindicate constitutional rights. The fifth amendment discusses the taking and the rights of property owners; the seventh commandment talks about thou shalt not steal.

The real problem is delay. Data indicates nine years it takes to wend your way through the maze of local jurisdiction. The Federal judges are local people. These cases are not too tough for them to decide. Concurrent jurisdiction is given, and there are many civil rights cases that get expedited treatment under the statute.

Why is not the right to have your property treated properly and legally a civil right? It is a human right. I simply say the Federal courts are not some exotic bizarre branch of justice only taking a few cases. Those judges can handle these cases. They are not tough. They handle a lot tougher cases.

But give the property owner some relief before 9 years have elapsed. Justice is what the court systems are all about, and concurrent jurisdiction gives the property owner an opportunity to get his Federal right, his constitutional right, vindicated in a Federal court.

I do not think there is anything improper with that.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I seriously appreciate having the chairman of the Committee on the Judiciary give this testimony to the important role of Federal district judges. We have heard too little of that. While I disagree with him on the specific bill, I am glad to have him reaffirm the importance of the local resident Federal district judges having a major role in defending constitutional rights.

Mr. HYDE. Mr. Chairman, if the gentleman will yield further, then the gentleman agrees with me and ought to withdraw his motion.

Mr. FRANK of Massachusetts. Mr. Chairman, I will withdraw my motion.

Mr. HYDE. God bless you.

Mr. FRANK of Massachusetts. I will ask unanimous consent to withdraw my motion, but the gentleman will lose his debate time. Does the gentleman want me to do it now, or wait?

Mr. HYDE. Mr. Chairman, you know, it is very unfair debating BARNEY FRANK, because he can get 20 minutes into 3 minutes. Never forget, this is a Federal constitutional right we are seeking to vindicate, and if the Federal courts do not want to hear these cases, this is a shame.

□ 1415

That is denying justice. Justice delayed 9 years is not justice, and we ought to seek a remedy. This bill provides a remedy, and I urge its support.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent to withdraw the motion.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. HANSEN] having assumed the chair, Mr. ROGAN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the U.S. Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when Government action is sufficiently final to ripen certain Federal claims arising under the Constitution, pursuant to House Resolution 271, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. LOFGREN. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. LOFGREN moves to recommit the bill to the Committee on the Judiciary.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 248, noes 178, not voting 8, as follows:

[Roll No. 519]

AYES—248

Aderholt	Davis (VA)	Hoekstra
Archer	Deal	Holden
Armey	DeLay	Hostettler
Bachus	Deutsch	Houghton
Baesler	Diaz-Balart	Hoyer
Baker	Dickey	Hulshof
Baldacci	Dooley	Hunter
Ballenger	Doolittle	Hutchinson
Barcia	Doyle	Hyde
Barr	Dreier	Inglis
Barrett (NE)	Duncan	Istook
Bartlett	Dunn	Jefferson
Barton	Edwards	Jenkins
Bateman	Ehrlich	John
Berry	Emerson	Johnson, Sam
Bilirakis	English	Jones
Bishop	Ensign	Kasich
Bliley	Etheridge	Kim
Blumenauer	Everett	King (NY)
Blunt	Fazio	Kingston
Boehner	Foley	Knollenberg
Bonilla	Ford	Kolbe
Bono	Fowler	LaHood
Boswell	Fox	Largent
Boyd	Franks (NJ)	Latham
Brady	Frost	LaTourette
Bryant	Gallegly	Leach
Bunning	Gekas	Lewis (CA)
Burr	Gibbons	Lewis (KY)
Burton	Gillmor	Linder
Buyer	Gingrich	Livingston
Callahan	Goode	LoBiondo
Calvert	Goodlatte	Lucas
Camp	Goodling	Manzullo
Campbell	Gordon	Martinez
Canady	Graham	Mascara
Cannon	Granger	McCollum
Chabot	Green	McCrery
Chenoweth	Gutknecht	McDade
Christensen	Hall (OH)	McHugh
Clement	Hall (TX)	McInnis
Coble	Hamilton	McIntyre
Coburn	Hansen	McKeon
Collins	Harman	Metcalf
Combest	Hastert	Mica
Condit	Hastings (WA)	Miller (FL)
Cook	Hayworth	Moran (KS)
Cooksey	Hefley	Murtha
Cox	Herger	Myrick
Cramer	Hill	Nethercutt
Crane	Hilleary	Neumann
Crapo	Hilliard	Ney
Cunningham	Hinojosa	Northup
Danner	Hobson	Norwood
Nussle	Rothman	Stump
Ortiz	Royce	Sununu
Oxley	Ryun	Talent
Packard	Salmon	Tanner
Pappas	Sanchez	Tauzin
Parker	Sandlin	Taylor (MS)
Pascrell	Scarborough	Taylor (NC)
Paul	Schaefer, Dan	Thomas
Paxon	Schaffer, Bob	Thompson
Pease	Scott	Thornberry
Peterson (MN)	Sensenbrenner	Thune
Peterson (PA)	Sessions	Tiahrt
Petri	Shadegg	Traficant
Pickering	Shaw	Turner
Pickett	Shimkus	Upton
Pitts	Shuster	Wamp
Pombo	Sisisky	Watkins
Pryce (OH)	Skeen	Watts (OK)
Quinn	Skelton	Weldon (FL)
Radanovich	Smith (MI)	Weldon (PA)
Redmond	Smith (OR)	Weller
Regula	Smith (TX)	Weygand
Riggs	Smith, Linda	White
Riley	Snowbarger	Whitfield
Roemer	Solomon	Wicker
Rogan	Souder	Wolf
Rogers	Spence	Young (AK)
Rohrabacher	Stearns	Young (FL)
Ros-Lehtinen	Stenholm	

NOES—178

Abercrombie	Gilman	Neal
Ackerman	Goss	Oberstar
Allen	Greenwood	Obey
Andrews	Gutierrez	Olver
Barrett (WI)	Hastings (FL)	Owens
Bass	Hefner	Pallone
Becerra	Hinchey	Pastor
Bentsen	Hooley	Payne
Bereuter	Horn	Pelosi
Berman	Jackson (IL)	Pomeroy
Bilbray	Johnson (CT)	Porter
Blagojevich	Johnson (WI)	Portman
Boehlert	Johnson, E. B.	Poshard
Bonior	Kanjorski	Price (NC)
Borski	Kaptur	Rahall
Boucher	Kelly	Ramstad
Brown (CA)	Kennedy (MA)	Rangel
Brown (FL)	Kennedy (RI)	Reyes
Brown (OH)	Kennelly	Rivers
Capps	Kildee	Rodriguez
Cardin	Kilpatrick	Roukema
Carson	Kind (WI)	Roybal-Allard
Castle	Kleczka	Rush
Clay	Klink	Sabo
Clayton	Klug	Sanders
Clyburn	Kucinich	Sanford
Conyers	LaFalce	Sawyer
Costello	Lampson	Saxton
Coyne	Lazio	Schumer
Cummings	Levin	Serrano
Davis (FL)	Lewis (GA)	Shays
Davis (IL)	Lipinski	Sherman
DeFazio	Lofgren	Skaggs
DeGette	Lowey	Slaughter
Delahunt	Luther	Smith (NJ)
DeLauro	Maloney (CT)	Smith, Adam
Dellums	Maloney (NY)	Snyder
Dicks	Manton	Spratt
Dingell	Markey	Stabenow
Dixon	Matsui	Stark
Doggett	McCarthy (MO)	Stokes
Ehlers	McCarthy (NY)	Stupak
Engel	McDermott	Tauscher
Eshoo	McGovern	Thurman
Evans	McHale	Tierney
Ewing	McKinney	Torres
Farr	McNulty	Towns
Fattah	Meehan	Velázquez
Fawell	Meek	Vento
Filner	Menendez	Visclosky
Flake	Millender-McDonald	Walsh
Foglietta	Miller (CA)	Waters
Forbes	Minge	Watt (NC)
Frank (MA)	Mink	Waxman
Frelinghuysen	Moakley	Wexler
Furse	Mollohan	Wise
Ganske	Moran (VA)	Woolsey
Gejdenson	Morella	Wynn
Gephardt	Nadler	Yates
Gilchrest		

NOT VOTING—8

Chambliss	Jackson-Lee	McIntosh
Cubin	(TX)	Schiff
Gonzalez	Lantos	Strickland

□ 1437

Mr. FLAKE changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on rollcall vote 519, final passage of H.R. 1534, I had a malfunctioning House beeper and was not able to get to the vote. Had I been present, I would have voted "no."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1534, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

Mr. COBLE. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1534, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 1534.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERSONAL EXPLANATION

Mr. SHAYS. Mr. Speaker, on rollcall vote No. 518, the Boehlert substitute, I was, believe it or not, in the Capitol chapel and missed my first vote since I became a Member of this body in 1987. Unfortunately, the battery in my pager was dead, and I was unaware that there was a vote. I know, "My dog ate it." Had I been present, I would have voted "aye."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2646, EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 105-336) on the resolution (H. Res. 274) providing for consideration of the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AMTRAK REFORM AND PRIVATIZATION ACT OF 1997

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 270 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 270

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2247) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution and an amendment in the nature of a substitute by Representative Oberstar of Minnesota. The amendment by Representative Oberstar may be offered only after the disposition of the amendments printed in the report of the Committee on Rules, shall be considered as read, shall be debatable for thirty minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. The amendments printed in the report may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore [Mr. FOLEY]. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 270 is a modified closed rule providing for consideration of H.R. 2247, the Amtrak Reform and Privatization Act of 1997.

Mr. Speaker, the rule provides for 1 hour of general debate, equally divided, and makes in order the Committee on Transportation and Infrastructure's amendment in the nature of a substitute.

Further, the rule makes in order two amendments printed in the report of the Committee on Rules as well as the Democratic substitute.

To expedite floor proceedings, the Chairman of the Committee of the Whole may be allowed to postpone votes during the consideration of H.R. 2247 and to reduce votes to 5 minutes, provided they follow a 15-minute vote.

Finally, the rule also provides the minority with the customary motion to recommit with or without instructions.

□ 1445

Many of my colleagues may recall that last Congress the House considered and passed an Amtrak reform bill. In fact, that bill is virtually identical to the legislation before us today and it passed the House by an overwhelming vote of 406 to 4 with the support of both political parties, the administration, and organized labor. So one would think that without much debate the House could again easily pass this compromise legislation. But oddly things have changed.

Last night, in the Committee on Rules we heard testimony to the effect that organized labor has had a change of heart and no longer finds the Amtrak reform bill to their liking. While the reason for this mood swing was not made fully clear, the Committee on Rules voted to make in order two amendments that had the support of organized labor, a bipartisan amendment offered by my colleagues, the gentlemen from Ohio [Mr. LATOURETTE], and [Mr. TRAFICANT], as well as an amendment offered by the gentleman from New York [Mr. QUINN], which will be offered as a substitute to the LaTourette-Traficant amendment. Each amendment will be debatable for 20 minutes.

In a further effort to alleviate recent concerns, the Committee on Rules agreed to allow the ranking Democrat on the Committee on Transportation and Infrastructure to offer an amendment in the nature of a substitute

which will be debatable for 30 minutes. That means that under the rule, two Democrats and two Republicans will have the opportunity to offer amendments to the Amtrak reform bill. In addition, the minority has the opportunity to offer a motion to recommit with or without instructions.

I would submit to my colleagues that the rule before us is very balanced and, given the easy passage of virtually identical legislation in the 104th Congress, I think the rule provides adequate time to debate the substance of the legislation, including the new concerns that have cropped up.

Mr. Speaker, not only is the rule before us fair, but the underlying legislation it allows the House to debate is critical. Amtrak's financial state is rapidly deteriorating. In April of this year, the Committee on Transportation and Infrastructure appointed a panel of outside experts to study Amtrak. The panel reached the unanimous conclusion that Amtrak is facing a severe financial crisis with bankruptcy looming the next 6 to 12 months.

In response, the Committee on Transportation and Infrastructure reintroduced legislation to implement a number of long-awaited reforms that will stave off bankruptcy and put the railroad back on track, ready to serve the many passengers who rely on its services. H.R. 2247 will eliminate the Federal Government's micromanagement of Amtrak and provide Amtrak with needed flexibility in managing its work force.

For example, H.R. 2247 will restructure Amtrak's management by removing the current board of directors and providing for the appointment of an emergency reform board which will recommend a plan to restructure Amtrak. The bill also creates a seven-member advisory council of business experts having no affiliation with the railroad industry, Amtrak, or the U.S. Government who will be charged with evaluating Amtrak's business plan, cost containment measures, productivity improvements, and accounting procedures. The council would then recommend to Congress how best to proceed toward partial or complete privatization of the railroad.

In addition, the bill gives Amtrak the option of contracting out work which will provide for desperately needed capital savings. Contracting out the work to repair and modernize Amtrak's facilities alone would save taxpayers an estimated $262 million. The bill also makes some reasonable changes to onerous labor protection requirements that will allow Amtrak to streamline and reassign its work force in line with commonsense business practices.

Other reforms in the bill will provide options for private financing and encourage States to continue their financial support of Amtrak in cooperation with other States to ensure their citizens have continued access to valued intercity rail services. These and other reforms in H.R. 2247 promise to continue Amtrak's service for passengers in the short term and set the railroad on a course to financial solvency and self-sufficiency in the long run.

While these changes are dramatic by necessity, they are carefully designed in fairness to the American taxpayers and Amtrak's employees.

Mr. Speaker, time is of the essence. Our constituents who rely on intercity rail services and all American taxpayers are looking to Congress to address Amtrak's crisis in a reasonable, responsible, and timely manner. Therefore, I urge my colleagues to adopt this fair and balanced rule without delay so that the House can move on to debate the important issues surrounding Amtrak's future.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. I thank my colleague, the gentlewoman from Ohio [Ms. PRYCE] for yielding me the customary half hour.

Mr. Speaker, Amtrak is one of the foundations of our national transportation system and it is a crucial part of our economic infrastructure. But this bill will hurt Amtrak. It will hurt Amtrak workers far more than it will help Amtrak. For that reason, I urge my colleagues to oppose this modified closed rule.

Mr. Speaker, millions of Americans rely on Amtrak. They take the train to work. They take the train to meet their customers. They take the train to meet their clients. They take the train to college. They take the train to visit family and friends.

The people who work on the railroad do an excellent job of making sure that the trains run on time.

Mr. Speaker, rail travel is the transportation of the future. It is fast. It is convenient. It is energy-efficient, and it enables everyone to travel regardless of whether or not they can afford an automobile.

The Northeast corridor is the most traveled rail route in the country. This corridor stretches from Boston to Washington, DC, and carries over 100 million passengers a year. Without Amtrak, Mr. Speaker, our infrastructure would be much more overloaded than it already is. Our air would be more polluted, and most people would have a much more difficult time getting from one destination to another.

Mr. Speaker, we all recognize that Amtrak, despite the great improvements that have been made over the last few years, is still not working at its best. According to the General Accounting Office, Amtrak's equipment, Amtrak's facilities, its stations, its tracks, its rolling stock are all starved for capital investment. Without capital investment, services are less reliable, trains are less comfortable, and the American rail system falls further and further behind those of other developed countries.

Mr. Speaker, today's bill is designed to help solve these problems by making Amtrak more commercially viable. For example, today's bill forbids Federal micromanagement of Amtrak's routes and incorporates transport industry expertise from the private sector. It also triggers up to $2.3 billion in tax credits for desperately needed capital expenditures.

But despite the great improvements this bill will make in our national rail system, I urge my colleagues to oppose the rule and oppose the bill.

This bill contains some very dangerous provisions which will hurt Amtrak, hurt Amtrak employees, and hurt Amtrak's passengers. It is unfair and it is antiworker.

This bill ends the statutory wage protection for displaced or downgraded workers which Amtrak employees have had since the 1930's. It also ends the remaining protections Amtrak employees have against the contracting out of their jobs to outside vendors.

Amtrak's labor protection costs are minimal. Over the last couple years, when Amtrak has laid off 4,000 workers, they have paid only $100,000 on labor protection. And this is out of an entire budget of nearly $1 billion a year.

My Republican colleagues will argue that these protections drive up costs and cripple attempts to make passenger rail commercially and financially viable.

Mr. Speaker, that is totally untrue. In fact, the cost of statutory protections is tiny compared to total operating subsidies and even tinier when compared to Amtrak's total cost. So removing these statutory protections will do very little to make Amtrak more efficient, but it will do a lot more to make workers' lives more difficult.

The lives of the people on Amtrak's management team do not seem to be suffering much. Amtrak has paid $3.5 million in management buyout costs. I do not hear my Republican colleagues complaining about that.

Mr. Speaker, outside contracts do nothing to help keep the costs down either. Amtrak already has considerable leeway to make outside contracts, but its own workers are much more efficient. For example, Amtrak has not been able to find an outside vendor capable of delivering food and beverage services more economically than Amtrak workers already deliver those services at the present time.

Mr. Speaker, my Republican colleagues appear to be obsessed with the idea of contracting things out. But in this case they are really putting politics before the national interest. The facts show Amtrak employees just can do it better. If organized Amtrak workers can do the job better for less

money, why on Earth would anybody try to stop them?

Mr. Speaker, Amtrak workers are not exactly living high on the hog. Over the last 16 years, Amtrak workers' standard of living has declined by over 33 percent. In most cases, their wages have not even kept abreast of inflation.

Mr. Speaker, I come from a railroad family. All of my uncles also worked for the railroad, so I have always respected and saw firsthand the hard work that these people do. Today it is no different. The 20,000 Americans who work so hard for Amtrak deserve some protection in this bill. Unfortunately, the way it stands now, they just will not get it.

Meanwhile, this bill's attacks on Amtrak employees workers just do not stop at cutting statutory wage protection and increasing outside contracts. Mr. Speaker, this bill completely ends the wage protection aspect of collective bargaining agreements, and it is not as if these agreements were forced on anyone. These agreements were freely agreed to by unions and management under the established law. To overturn them is completely unwarranted and, once again, smacks of unjustified attack on organized labor.

Finally, Mr. Speaker, this bill hurts Amtrak passengers by limiting the liability of freight railroads for causing accidents and by tying the calculation of damages to an arbitrary economic formula. It sets up an unfair double standard under which the liability of freight carriers is restricted, but under which Amtrak's liability is not restricted.

Mr. Speaker, despite the much-needed improvements this bill will make in our national passenger rail system, the harm it will do, the harm it will cause Amtrak employees is far worse. I urge my colleagues to oppose this bill, oppose the rule.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. PETRI], a member of the Committee on Transportation and Infrastructure.

Mr. PETRI. Mr. Speaker, I rise in support of House Resolution 270. This rule is a fair rule especially in light of the history of this legislation. In the 104th Congress, the House passed virtually the same bill that we have before us today. That legislation enjoyed the bipartisan support of 406 House Members and the full endorsement of organized labor. In fact, labor participated in drafting the labor reforms that it is opposing today. This rule allows for a Democratic substitute amendment and for one Republican amendment with a substitute. Members will have the opportunity to vote on these amendments. Amtrak reform legislation must be enacted. Anyone who has been paying attention to Amtrak knows that it is about to enter into bankruptcy.

The General Accounting Office has confirmed this as well as the Committee on Transportation and Infrastructure's bipartisan Blue Ribbon Panel on intercity rail.

Mr. Speaker, today's vote is about the future of intercity rail in the United States. If we want to continue to have rail service as a transportation option, then we must enact reform legislation dealing with Amtrak. There is no way Amtrak can survive without it. In addition, the reform legislation will free up $2.3 billion that was provided in the Taxpayer Relief Act for badly needed capital investment in Amtrak.

Mr. Speaker, I urge a "yes" vote on this rule and on the legislation to follow.

□ 1500

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, I oppose this rule, and let us just get to the heart of one of the things we are going to hear, and that is the mantra, over and over, 406 to 4, 406 to 4. My colleagues, I voted for this bill last year. I spoke for it last year. So why would I be one of the 406 that is opposed to the rule and opposed to the bill? Because, my colleagues, this is not the same time, it is not the same conditions.

I guess I played a little bit, mainly from the bench, but I played high school football, and I learned that if a play is run and it does not go anywhere, then that play is not run again. And this is what is attempting to be done with this Amtrak bill. Yes, it passed this House 406 to 4. Does anybody ever talk about what happened after that? There is deafening silence. And the reason is because there was deafening silence. Nothing happened. It went to the Senate, but it was not brought up for consideration, therefore, it never got to the President for his signature.

The fact of the matter is it passed here 406 to 4, and in terms of getting enacted, the score is zero. So that is what will happen again if we run the same play, and that is why there are a number of us who oppose this bill.

There is another reason, too, because a number of the representations that were made last year about the provisions in this bill, why they had to be in there, have since proven to be false in terms of the labor protection language. We were told that Amtrak had to have this because of high labor protection costs. It turns out that Amtrak has laid off almost 2,000 workers at an average cost of a little over $1,000 a worker, less than most severance packages in any private sector bill.

We were told there had to be the indemnification provisions, which Amtrak has to sign indemnification contracts agreeing to bear the responsibility for the costs of any accident, even if the fault is that of the railroad over which Amtrak runs and leases. Well, we were told of course that Amtrak needed this in order to operate and to negotiate these leases. Since then Amtrak has negotiated the trackage rights over all these at no significant markup in cost. Once again, a nonissue.

There is another reason that I oppose this bill, and I will speak further on it. I oppose this rule because the Committee on Rules did not make in order my language to strike the limitations of liability. In this bill, if someone is injured they are entitled to no more than $250,000 in noneconomic damages. Furthermore, they are entitled to no more than $250,000 or three times their economic loss for punitive damages. They also require Amtrak, no matter what the situation, to pay the railroad that may have been at fault for the accident that resulted.

These are onerous provisions. They do not help Amtrak. They will hurt Amtrak in the long run. So I urge rejection of this rule for that reason. And remember, 406 to 4 and the bill never went anywhere. That is why it needs to be changed.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, sometimes I hesitate to stand up here and talk, especially when my blood pressure goes up, but I have been here for 20 years and I came out of the private sector, and in the private sector we never played politics. We did what was right for our business and we made it successful and we made our payrolls. Is it not too bad that we cannot do the same thing in this body? Maybe this is why we are not held in high esteem by the American people.

With all the good intentions of my good friend, the gentleman from West Virginia, Mr. BOB WISE, and I highly respect him and admire him, let me just quote to my colleagues his statements when this same bill, the identical bill, passed the House with 406 affirmative votes. He said, there has been a good deal of hard work and many difficult compromises on various issues which now enables me to support this final product. I am satisfied that the bill is a reasonable compromise and that it is needed to keep Amtrak moving ahead. I was initially concerned that the Amtrak employees might not be treated equitably in the bill, however, after some changes were made to the bill, a reasonable compromise was reached.

Now my good friend just said sometimes times change. Let me tell my

colleagues what the changes are. And Amtrak is terribly important to the Northeast and especially to the Hudson Valley corridor that I have the privilege of representing. Let me tell my colleagues what those time changes are. It means Amtrak is going bankrupt. Now, not only does that affect all of the people that commute back and forth in using Amtrak, but it affects the economy. And more than that, it affects the jobs of every single one of those Amtrak workers.

Now, I have gone back and I have talked to those workers, and they have told me not to let Amtrak go down the drain. Many of them have worked all of their lives there. That is what this is all about.

Now, how did we get to this point? I guess my friend from West Virginia does not remember several months ago when we were fighting the battle of the balanced budget, which is probably the most important thing that we can do in this Congress, is to get this deficit spending under control and stop this sea of red ink which is bankrupting all Americans, particularly those that have to live on fixed incomes; young people who have to buy homes and have to pay mortgage rates that are just astronomical caused by this deficit.

I will give an example. I hate to get off on another subject, but if there is a young couple that just got married and has one child, and now they are making an interest payment annually on their mortgage payment of $6,000, that is not a lot, because it is a low mortgage that produces that, but $2,000, one-third of that entire interest payment they make, is caused by the Federal deficit. We had to get the deficit under control and we did. We bit the bullet and we had bipartisan support in doing it.

But in doing so, then we had to fight to save Amtrak, and it meant come up with a couple of billion dollars extra. And, my colleagues, in order to do that we had to have compromise. And, yes, we had to work with Senator ROTH in the other body, I guess I should not mention names over there, but the quid pro quo is that we would have some reform.

Now, I do not know about all of my colleagues, but I know for sure that the Amtrak workers in the Hudson Valley want us to save Amtrak. They want to save their jobs. This bill will do that. So why do we not just kind of stop the rhetoric? Why do we not just get down to brass tacks and agree that we have to do this and pass this bill?

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, to have the distinguished chairman of the Committee on Rules quote my words, print them up, I am honored, and I hope he will do the same thing with the many predictions that I made that turned out to be true on the Contract With America.

But also let me then quote these words today. Yes, a number of us voted for this bill because we were told certain things would happen. They did not happen. This bill went absolutely nowhere in the Senate because of the very provisions that are in the bill today: Labor protection, indemnification, limitation of liability, resulting in Amtrak coming to a quick halt.

If we are serious about wanting Amtrak to keep running, and I want it to run through West Virginia just as much as the gentleman does from New York. If we are serious about wanting it to keeping running, we have to recognize the realities. We can pass this bill without a lot of burdensome baggage on it and we can get it then moving to the Senate and to the President, who, incidentally, has threatened to veto over some of the same provisions they insist on keeping in this bill. We do not have to go down this track again.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. MICA], a member of the Committee on Transportation and Infrastructure.

Mr. MICA. Mr. Speaker, I rise in support of this rule, this rule, in fact, that will keep Amtrak on track.

Mr. Speaker, let us examine the facts. Amtrak is about to enter bankruptcy, and this Nation could, in fact, risk losing its inner city passenger rail system. We have a bill before us that enjoyed the bipartisan support of 406 House Members in 1995.

This bill includes significant reform of Amtrak that will allow the corporation to do these things: To operate like a business, to cut costs, and achieve financial stability. In addition, the bill will allow the $2.3 billion that was provided in the Taxpayer Relief Act that we passed to be spent by Amtrak on very badly needed capital improvements and investments.

Mr. Speaker, this rule should not be controversial at all. There is no veto threat. This is a badly needed piece of legislation. It allows us to have a Democratic substitute as well as Republican amendments. And H.R. 2247, in fact, is the same bill that this Congress passed 2 years ago on this floor. We need to act decisively to get this rule passed so that Amtrak reform legislation can be enacted to save Amtrak from bankruptcy, and that is the fact.

Mr. Speaker, I would like to address the labor reform measures that are contained in this bill since they are now generating some controversy. These reforms are exactly the same labor reforms that were included in H.R. 1788, the Amtrak reform bill of the 104th Congress.

The reforms were actually endorsed by labor then. In fact, they were even drafted with labor's full participation in the process. These compromise reforms were the product of significant battles in our committee. And since the original committee proposals included even stronger proposals for labor reform, I think the case can be made that stronger labor reforms are appropriate for a company that is indeed facing bankruptcy.

Through the efforts of the gentleman from New York [Mr. QUINN], working in conjunction with organized labor, the committee produced legislation that enjoyed the support of the minority and also of organized labor. In fact, the bill was reported out of committee on a unanimous voice vote. Now labor is claiming the reforms are, in fact, unfair and this is what they have indeed supported in the past.

I tell my colleagues what I think is unfair. The status quo to which labor is attached is unfair, and it is unacceptable. It is unacceptable to this Congress and it is unacceptable to the American taxpayers who foot the bill for a system that is near bankruptcy.

Under current law, Amtrak must pay a worker who is laid off due to a route elimination or frequency reduction up to 6 full years of full wages and benefits. Currently, over 75 percent of Amtrak employees are eligible for the full 6 years of benefits based on their length of service. This is what labor is, in fact, trying to preserve. They have a sweetheart deal that Congress handed to them a number of years ago on a silver platter when Amtrak was created and they do not want to give that up. Those are the facts.

The same dynamic principle applies to the ban on contracting out. Right now Amtrak cannot contract out any work, other than food and beverage services, if it would result in the layoff of a single employee in a bargaining unit. This effectively prohibits almost all contracting out, in fact, of work by Amtrak.

How is Amtrak supposed to rationalize the system and save money? This is a company about to, in fact, go bankrupt; to go belly up. But if it wants to downsize its employment base, if it has to pay everybody wages and benefits for 6 years, I ask how is that possible?

Congress does not require the airlines to pay their employees for 6 years in the event of a layoff; why should we make Amtrak do that? And Amtrak cannot even achieve any savings through contracting out work as its competitors in the airline industry have been able to do.

Mr. Speaker, this rule is indeed fair. Amtrak reform legislation is crucial to the future of passenger rail in this country. Let us pass the rule and let us move on to general debate on this important bill.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts, [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today in opposition to the Amtrak reform bill because in its current form the bill betrays Amtrak's employees' rights, it compromises the safety of Amtrak's passengers, and it would deny just compensation for victims of passenger rail accidents.

This bill would be better known as the Simon Legree Act of 1998. It essentially proposes to balance the books of Amtrak on stripping away the income of the workers that lay our rails, that essentially make our rails safe and secure, and it would impose an undue burden on those victims of any rail accidents that would no longer be able to look to their legal rights.

□ 1515

The fact of the matter is that our legal system in this country plays an important role in making certain that victims are provided the assurance that they will receive benefits if in fact they are hurt or injured in the course of normal day-to-day operations. This is a basic security which has always been the balance of justice in America. It is a system that has worked well for over 200 years. Why should we cut out Amtrak from that balance that we achieve in every other aspect of American life?

Under the guise of financial interests for the insolvent Amtrak system, this bill dresses up a bunch of unfair labor provisions and calls them reforms. In direct violation of their collective bargaining agreements, this bill would eliminate wage protections for displaced Amtrak workers, protections that have been in place for employees for over 70 years. The truth of the matter is Amtrak employees have not gotten anything close to the kind of cost of living benefits that are necessary in order to keep up with the rising costs that almost all the American people have been able to enjoy.

What we have here is a system that is being put in place and imposed on the poor workers of that system that will, I believe, unduly shift the balance of fairness and justice onto the backs of the people that use the Amtrak system, the people that build the Amtrak system and those few individuals that may be hurt by a rail accident.

To further undermine the unions, this bill would also make contracting out Amtrak jobs a routine procedure by ending current protections against such practices. I strongly urge and support the LaTourette-Traficant amendment, which will retain statutory wage protections, collective bargaining, and the rights of Amtrak workers to keep their jobs without the fear of losing them to cheaper, less skilled labor.

I also encourage and support the efforts to repeal the bill's caps on punitive and non-economic damages. These provisions would deny just compensation to victims of passenger rail accidents and should be removed.

Mr. Speaker, Amtrak service is important to the Northeast corridor, the heavily traveled route between Boston and Washington, where almost 600,000 people use the trains each day. Amtrak service gives my constituents an alternative to fighting traffic jams, it contributes to reducing air pollution from auto exhaust and it keeps 27,000 cars off our highways each and every day in this country.

It is no secret that a pending Amtrak strike is being held at bay with the hopes of the passage of this bill. We must do all we can to avert a strike that would be devastating for the commuters in many of our districts. I believe that we can pass the underlying bill by a wide margin if we strip out these anti-labor provisions and limits on liability.

Therefore, I urge my colleagues to support the LaTourette-Traficant amendment and the Democratic substitute and send a real reform bill, one free of poison pills, to the President's desk.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the Committee on Transportation and Infrastructure, a gentleman who is an expert on this matter.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time and for his kind words.

Mr. Speaker, I do not have a billboard as the distinguished chairman of the Committee on Rules had on who said what, but I do have the transcript of the debate in 1992, August 11, the last time that an Amtrak authorization bill passed the House to be enacted by the President. It is remarkable to note in that debate that not a single question was raised by either Democrat or Republican about labor issues. Not a single question. It passed on a voice vote in the House. It passed overwhelmingly on suspension later on when the conference report came back. Not a single question was raised about labor rights at a time when there are the same issues as there are today.

So if we want to talk about consistency, one might be reminded by Samuel Pepys, the British poet and writer who said, "Consistency is the hobgoblin of small minds." Because there is not consistency. There is a significant change in what has happened with Amtrak and with the issues underlying the effective operation of Amtrak. But that is not what I want to discuss at this time. There will be time, plenty of time in the general debate and on the amendments later.

What I rise for here is objection to the rule that was crafted. It is not a fair rule. Democrats were not given an opportunity to offer pinpointed, specific amendments. Instead, what was done was to carefully, thoughtfully, and cleverly make in order the LaTourette amendment to rectify the passenger rail labor rights which the gentleman from Ohio [Mr. LATOURETTE] requested and which we supported on the Democratic side, and then to make as a substitute to LaTourette an amendment by the gentleman from New York [Mr. QUINN], which vitiates LaTourette, reinstates essentially the committee bill, but corrects a little problem that was opened by obiter dictum language in the committee report to suggest that the Surface Transportation Board might extend these provisions of eliminating labor protection for freight rail and transit labor.

So now we have the Quinn amendment that goes just so far, but not quite far enough, and the body never gets to vote on the underlying real issue of rail labor, the LaTourette amendment.

And then the rule makes in order something we did not even ask for, a substitute on our side. Our committee has historically come to the Committee on Rules and asked for open rules. The chairman has always praised the leadership on both sides for doing so, both during the times when he was ranking member in the minority and now in his service as chairman. He has essentially remained faithful to that premise. But not in this case, and that is why I object to this rule. It is unfair. It sets up a process by which labor must fail or Democrats are going to be substantially divided on a range of issues and Members on the Republican side who might ordinarily be favorable to labor issues but divided on consumer questions are necessarily going to be divided.

It is a fundamentally unfair rule. You did not lay the issues out and give an opportunity for each question to be debated and voted on its own merits. That is why I object to the rule.

I think, in all fairness, that the gambit has failed, because labor is not taking the bait and the consumer groups are not taking the bait, and I think that in the end we are going to prevail because of the unfairness with which the issue has been handled in the present rule.

I urge my colleagues to vote against the rule. It is an unfair rule. We should not have that kind of mischief visited in the legislative process. We ought to be able to vote on issues on their merits without these little games being played.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, let me address my good friend the gentleman from Minnesota [Mr. OBERSTAR], because he is a good friend. He is a highly respected Member of this body. I admired him even when I was a member

of the committee many, many, many years ago. I really am surprised at his protestations here this afternoon, because when he testified before the Committee on Rules we discussed at length the kind of rule that we would make in order in trying to be fair to everybody. We all know that there are few precious days left before this Congress will adjourn. If we are fortunate enough to adjourn by November 7 or even the 14th, we will only be able to accomplish about one-third of all that is planned between now and then as far as passing the important legislation on this floor.

But let us get to the rule itself. The gentleman from Minnesota knows that the gentleman from Ohio [Mr. LATOURETTE] was allowed to offer an amendment, which he supports. It is strongly supported by labor. We also made in order a substitute amendment to the LaTourette amendment. It was characterized, I think, by the gentleman from Minnesota as the LaTourette amendment being a whole loaf and the Quinn amendment being a half a loaf. Both of them are supported by labor. Both of them are pro-labor, I guess you could characterize them that way. So that when Members come to the floor later on today, they can either vote in favor of the LaTourette amendment, the whole loaf, or they can vote against it by voting for the Quinn amendment. It is as simple as that. This is the normal procedure that we follow in this House.

We also discussed at length a number of other amendments that were offered from Republicans and Democrats. We told the gentleman from Minnesota that he, being the ranking member, was entitled, with fairness, to offer a substitute in which he could put any amendment that he wanted to, the Wise amendment which was a very important amendment, in his opinion, the Vento amendment or I believe there was a Jackson-Lee amendment, but any of those or any part of those could have been included in a Democrat substitute and as I understand it, we gave them something we very rarely do and something the Democrats never did in my 20 years here, and that was to give the minority the right to offer a substitute, sight unseen, providing it is germane to the bill. We did that in an act of being as fair and open as we possibly could.

So I think the gentleman protests too much. I think we really have been open and fair, much more fair than the Democrats ever were to us on this side of the aisle.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding. At the hearing of the Committee on Rules yesterday evening, I specifically said my recommendation is make in order the LaTourette amendment, make in order the Quinn amendment, they deal with different aspects of the labor issue, and I specifically also said, "But do not play a little game with us by making the Quinn amendment in order as a substitute for the LaTourette." I said that, I was very, very clear about that because it was a very important point for me. I did not ask for an amendment on our side. I asked for other amendments to be made in order. I did not ask for a substitute. The Committee on Rules crafted a rule that plays both ends against the middle. I do not believe that the gentleman from New York [Mr. QUINN] asked for his to be a substitute.

Mr. SOLOMON. If I could just reclaim my time briefly to say, the question was posed that the Democrat side of the aisle did not have all of the information available and we were requested to leave it open so that you could present a sight unseen substitute. We did exactly as we were asked.

Having said that, please come over and vote for this fair rule and vote for this very vital piece of legislation.

Mr. MOAKLEY. Mr. Speaker, just to correct my dear friend, my chairman, it was not our side that asked to keep it open. It was the gentleman from Virginia [Mr. SCOTT], who was testifying before the panel on a different bill. Secondly, if the chairman looks at the records, when I was chair, we did give unseen amendments to the minority leader on many occasions. You can look in the records.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I will yield to the gentleman, but I just want to start out here and say something that I think is important. I am going to vote for the rule. I appreciate the fact you allowed the LaTourette amendment. It would probably be called Traficant-LaTourette if it were not for the politics here. Both sides are playing politics.

I am concerned about workers. There is not a more wily strategist in the House than the gentleman from Pennsylvania [Mr. SHUSTER] and really the gentleman from New York [Mr. SOLOMON] has been very fair. There is an opportunity for working people, and just let me say this before we go on. The Quinn amendment says freight and transit workers will not be impacted by this bill.

□ 1530

The LaTourette-Traficant amendment says that, too.

Now, let us tell it the way it is. Labor came out and tried to beat Republicans, but there are a whole lot of working people that did not agree with some of those endorsements and voted for you, too.

I think the collective bargaining agreement should be allowed to be intact. There has been an awful lot of contracting out by Amtrak that has not even been contested by the workers. It was agreed.

I believe, and I say this straightforward, the Republican Party has an opportunity to say, "Look, you in labor tried to screw us, but we are more concerned about the rights of all people." And I honest-to-God believe there is a shot to pass LaTourette-Traficant.

I agree with the gentleman from Minnesota [Mr. OBERSTAR] that if that Quinn amendment passes, and the way the bill has been structured I guess it has been set up by the craftiest Member in the House, maybe in its history, the gentleman from Pennsylvania [Mr. SHUSTER], and I don't blame him, but there has not been a better man, and he is a pit man, he is a pit man, I might say, and he knows those steel workers, those coal workers, those workers at Amtrak and related labor people.

I am just saying, look for fairness. I am going to vote for the rule, and I want Members to consider what I say in other substantive points during the debate on this bill. I am proud to join with the gentleman from Ohio, STEVE LATOURETTE, my neighbor. He has done an outstanding job. He, like many Republicans, contrary to what the press might say, has been a friend of labor and working people.

So, the Republicans have an opportunity to demonstrate, I honest-to-God believe this, and the fact is that most of the many working people voted for them or you would not be here in the majority. Believe me when I tell you that. Look for the fairness of the bill.

I wish you had structured the rule a little different, Mr. Chairman, but I want to thank you for allowing the vote on it in the first place.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I just want to make it very clear that labor opposes the Quinn amendment, because passage of Quinn forecloses an opportunity to vote "aye" on LaTourette-Traficant.

Mr. TRAFICANT. Mr. Speaker, reclaiming my time, I know that. We want to defeat the Quinn amendment, but we have an opportunity to do it, and we have an opportunity to debate it before the Quinn amendment is offered. I am hoping that people understand the substance of that, and not get tied up in the politics.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am certainly not here to dispute the need for this legislation. In fact, I am a strong Texas advocate for Amtrak. In fact, we are certainly working to maintain our sources of intercity transit in our State, and I am a strong advocate of that.

Certainly, I am concerned about pieces of this legislation that deal with removing employee and various other rights as relates to working conditions, and I hope we address that.

But I am also here to speak on behalf of an amendment that I attempted to offer and that I think is extremely important, and that is H.R. 2247 removes or caps the noneconomic damages at $250,000 in this legislation, regardless of the nature of an individual's injury. It caps punitive damages at $250,000, or three times economic damages, whichever is greater.

We have had this debate when we talked about tort reform. That clearly weighs on the side of the more economically endowed, the CEO versus the little girl who lost her leg. Each leg is of similar value, because they do not have a leg, but the CEO gets more than the little girl with no job.

Regardless of the cause of that injury, it allows Amtrak to indemnify other railroads for even gross negligence and recklessness. I offered an amendment to correct that, as I said, and that was not included.

Let me address the issue of a cap on noneconomic damages. A cap on noneconomic damages is unfair to passengers injured by Amtrak's negligence because it arbitrarily places a value on the injured person's loss.

This value may be completely unrelated to the type of injury suffered, and may fail to fully compensate that individual's loss. This value may be completely unrelated, as I said, to the type of injury suffered, and may fail to fully compensate the injured passenger for his or her loss.

H.R. 2347 as written says the loss of a leg is worth $250,000, at most. The loss of both legs is worth $250,000, at most, and the loss of both legs plus an arm is again worth, at most, is worth $250,000.

As I said earlier, this cap discriminates against women, children, the elderly and the poor who may not have the same substantial economic losses, by placing greater value on economic losses than on noneconomic losses. Effectively what this does is it says that injuries such as the losses of senses or one's limbs, the loss of a child or a spouse, the loss of one's fertility or ability to care for one's family or gross disfigurement are not real losses and need not be compensated.

We really need to correct this. I do believe that this legislation is important legislation, but limiting these damages, as well as punitive damages, which are in fact the basis upon which industry reforms itself, is distracting from this very good legislation.

I would hope that we would be able to cure this by relieving us of these caps to be fair to all citizens.

Mr. Speaker, I rise today in opposition to the rule on H.R. 2247, the Amtrak reauthorization bill.

H.R. 2247 is an important piece of legislation which authorizes $3.4 billion in continued Federal support for Amtrak through fiscal year 2000. H.R. 2247 also facilitates the privatization of Amtrak by decreasing its costs and increasing its revenues, in order to eventually eliminate its reliance on Federal subsidies. I am not here to dispute the need for such legislation, but instead to address concerns raised by some of the more controversial provisions of the bill, specifically those dealing with liability issues.

H.R. 2247 caps noneconomic damages at $250,000 regardless of the nature of an individuals' injury, caps punitive damages at $250,000 or three times economic damages, whichever is greater, regardless of the cause of that injury, and allows Amtrak to indemnify other railroads for even gross negligence and recklessness.

I offered an amendment before the Rules Committee last night which would have struck these unfair and arbitrary provisions from the bill. However, neither my amendment, nor any other amendment with the same or a similar purpose, was made in order under the rule.

Let us first address the issue of the cap on noneconomic damages that is included in H.R. 2247. A cap on noneconomic damages is unfair to passengers injured by Amtrak's negligence because it arbitrarily places a value on the injured person's loss. This value may be completely unrelated to the type of injury suffered and may fail to fully compensate the injured passenger for his or her loss. For example, H.R. 2247 as written, says that the loss of a leg is worth $250,000 at most, the loss of both legs is worth $250,000 at most, and the loss of both legs plus an arm is again worth at most $250,000.

A cap on noneconomic damages discriminates against women, children, the elderly, and the poor who may not have substantial economic losses by placing greater value on economic losses than on noneconomic losses. H.R. 2247 effectively says that injuries—such as the loss of one's senses or one's limbs, the loss of a child or a spouse, the loss of one's fertility or ability to care for one's family or gross disfigurement—are not real losses and need not be compensated as completely as the loss of salary.

Consider the case of an accident in which two individuals—a business executive earning $1 million a year and a mother who stays at home to care for her children—sustain the exact same injury. The executive might be able to recover $1.25 million—$1 million for a year of lost salary and up to $250,000 in noneconomic damages. The mother, who does not earn real wages or a salary for her job, would be limited to a maximum of $250,000 for her loss.

By limiting compensation for noneconomic damages, women, children, senior citizens, and others whose injuries cannot be measures in lost wages will become second-class citizens when it comes to claims for rail accidents.

A second area of concern in H.R. 2247 is the provision capping punitive damages at $250,000, or three times economic damages, whichever is greater. A cap on punitive damages threatens public safety. While punitive damages are rarely awarded, they remain an important tool in forcing reckless or malicious defendants to change their conduct and in deterring others from recklessly disregarding public safety. Punitive damages ensure that safety devices are installed and properly maintained, that speed limits are followed, and that employees are trained to follow safety procedures. Given the current cost-cutting climate at Amtrak, the safety incentives offered by the threat of punitive damages are needed now more than ever.

It is not necessary to look for in order to find cases in which a cap on punitive damages would have been inappropriate. The 1987 accident in Chevy Chase, MD that resulted in 16 passenger deaths and 175 passenger injuries, was completely preventable. The engineer and brakeman of a Conrail train, high on marijuana and alcohol, drove the train 62-miles-per-hour in a 20-miles-per-hour zone blasting through stop signs before slamming head first into an Amtrak train filled with passengers. More recently, the National Transportation Safety Board stated that last year's Silver Spring accident between a MARC commuter train and Amtrak that resulted in 11 deaths was preventable had Federal regulators and safety officials been more aggressive in enforcing safety requirements.

Finally, I would like to direct your attention to the troubling indemnification provisions in H.R. 2247. These provisions are clearly contrary to public policy. Even though indemnification agreements between Amtrak and rail owners are common, several courts, including the court in the Chevy Chase, MD case, have refused to uphold these private agreements where the freight railroads are themselves responsible for the crash and engaged in particularly egregious conduct. The courts found it against public policy and contrary to the interests of public safety to uphold an agreement that would completely immunize freight railroads for truly outrageous conduct that caused death and serious injury. The courts have recognized that legalizing private agreements that force Amtrak to pay for a freight railroad's liability—regardless of how grossly reckless or negligent the freight railroad is—will only lessen the pressure on freight railroads to ensure that their tracks are as safe as possible for passenger trains, and in so doing, will lead to further accidents.

There is no reason freight railroads should be exempt from the consequences of their actions, just because an Amtrak train is involved in the accident. As written, the bill establishes an irrational double standard. Under it, a motorist who is hit by a freight train because the freight railroad's grade-crossing signal malfunctions would be entitled to full damages from the freight railroad, including punitive and noneconomic damages. If the motorist was hit by an Amtrak train, however, because of the same malfunctioning signal, the motorist could collect only limited punitive damages and noneconomic damages from Amtrak, and no damages could be collected from the freight railroad—even though the freight railroad was equally at fault in both cases.

We must consider that the indemnification provision in H.R. 2247 does not just pose a threat to public safety, but is also potentially quite costly. At a time when the financial viability of Amtrak is at stake, why should taxpayers pay for the gross negligence or recklessness of another rail carrier?

My colleagues, I ask you to consider the impact of the liability restrictions in H.R. 2247 on the safety of rail passengers as you cast your vote on the rule to H.R. 2247. I urge you to consider these provisions and then to vote against the rule that does not allow an amendment to address these alarming provisions.

Mr. MOAKLEY. Mr. Speaker I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he might consume to the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the Committee on Transportation and Infrastructure.

Mr. SHUSTER. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I want to save Amtrak. That is what we have been dedicated to. Now, I can tell you, as I am sure many of you know, there are some in this body that do not want to save Amtrak. In fact, I was in a meeting this morning with several Members where we had a hard sell because they were telling us why are you trying to save it? It is about to go into bankruptcy. It is a failure. Let it go down the tubes.

But we need Amtrak, but we need an efficient Amtrak. And it is the sad truth. In fact, virtually everybody agrees, it is on a steep path to bankruptcy. The GAO report says that, the panel of experts that Congressman OBERSTAR and I together appointed in order to come back and give us their recommendations said that. Everybody acknowledges it is on a steep path to bankruptcy.

We need to reform it, but we also need the votes to reform it. And it is a fact that virtually the same legislation before us today passed this body in the last Congress 406 to 4. It is almost a bit embarrassing to tell you that every Member who stood up today, who spoke against this rule and this bill, is on record as having voted for this very legislation in the last Congress.

Now, what changed? What changed is our friends in rail labor apparently think they can get a better deal, and so they have said they now oppose this.

I would have to say, while I have the greatest respect for my colleagues, this is the biggest flip-flop since Humpty Dumpty fell off the wall. To have 406 Members vote for this bill, every Member who spoke against it today, to now stand up and speak against it, when he, in fact, voted for the bill.

We need to save Amtrak. There is $2.3 billion already set aside for Amtrak if this reform legislation passes. That is extraordinary. It puts us on the way to saving a needed transportation mode in our country.

Some of my friends have talked about how labor will be hurt, how labor will be hard done by.

I represent Altoona, PA, one of the big railroad centers of America. I am perhaps one of the few Members of the Congress who actually worked on the track gang on the railroad. We heard it said earlier about how the track gang workers, the maintenance of way, they are now called, would be hurt by this.

Let me tell you, the average maintenance of way worker on Amtrak makes $41,000 a year. I don't begrudge that to them. As a former gandy dancer, and that is what they called us back in those days. As a former track gang worker myself, I am delighted to see that the fellows that I used to work with in a previous time, today are making that kind of money. There is nothing here which will reduce those salaries, those incomes.

But if we do not pass this legislation, if we do not pass this reform, there is not going to be an Amtrak. We need to save these jobs.

We are told about the Senate not moving, that is a fact, the other body not moving last year. That is a fact. We did our job. We passed the reform. They did not move.

However, it is very significant to note that this year, in reconciliation, we sat down and cut a deal with the Senate which was that $2.3 billion would be made available to Amtrak, coupled with the reform legislation, and the Senators in conference were willing to go along with that. We had an agreement with the Senate to pass virtually this reform language, and unlock the $2.3 billion for Amtrak.

Well, we could not get agreement downtown, so in reconciliation, we had to drop it.

We are back here trying to do the responsible thing, and that is save Amtrak, and trying to do it in a fashion that will unlock the money, and trying to do it in a way that really this body previously overwhelmingly approved. My good friends have talked about not being a fair rule, and my good friend from Ohio talked in terms of "my rule." I wish it were true, but, of course, it wasn't my rule. The Committee on Rules writes rules; I did not craft it.

In fact, initially it was suggested to me that it should be a closed rule, and the minority would have their opportunity to offer a motion to recommit. I objected to that. I said, no, I believe the minority should have an opportunity to offer their substitute, and the Committee on Rules has, indeed, provided that the minority does have the right to offer their substitute.

I generally like our committee to bring open rules, but when you have a piece of legislation that passed by a vote of 406 to 4, and we are coming down to the closing days of this session, it does not seem unreasonable to say if we bring back that which already passed 406 to 4, do we really need to have an open rule?

Let us give the minority their rights. Let us give them the opportunity to offer their substitute. We offer our bill. And that is why it is in front of us as it is today.

So I urge you, if you care about saving Amtrak, if you care about unlocking the $2.3 billion that can be there for the capital improvements that are so necessary, I urge Members to support this rule, to support us in our efforts to save Amtrak, because this Member, at least, and I believe I speak for many, does not want to see Amtrak go into bankruptcy.

Ms. PRYCE of Ohio. Mr. Speaker, the debate provided for under this rule should be more than sufficient to address any new concerns that have arisen since the House last considered this measure and passed it overwhelmingly by a vote of 406 to 4. Therefore, I urge my colleagues to support this fair and generous rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 200, not voting 7, as follows:

[Roll No. 520]

YEAS—226

Aderholt	Castle	Fox
Archer	Chabot	Franks (NJ)
Armey	Chenoweth	Frelinghuysen
Bachus	Christensen	Gallegly
Baker	Coble	Ganske
Ballenger	Coburn	Gekas
Barr	Collins	Gibbons
Barrett (NE)	Combest	Gilchrest
Bartlett	Cook	Gillmor
Barton	Cooksey	Gilman
Bass	Cox	Goode
Bateman	Crane	Goodlatte
Bereuter	Crapo	Goodling
Bilbray	Davis (VA)	Goss
Bilirakis	Deal	Graham
Bliley	DeLay	Granger
Blunt	Diaz-Balart	Greenwood
Boehlert	Dickey	Gutknecht
Boehner	Dooley	Hall (TX)
Bonilla	Doolittle	Hansen
Bono	Dreier	Hastert
Brady	Duncan	Hastings (WA)
Bryant	Dunn	Hayworth
Bunning	Ehlers	Herger
Burr	Ehrlich	Hill
Burton	Emerson	Hilleary
Buyer	English	Hobson
Callahan	Ensign	Hoekstra
Calvert	Everett	Horn
Camp	Ewing	Hostettler
Campbell	Fawell	Houghton
Canady	Foley	Hulshof
Cannon	Forbes	Hunter
Cardin	Fowler	Hutchinson

Hyde	Ney	Shaw
Inglis	Northup	Shays
Istook	Norwood	Shimkus
Jenkins	Nussle	Shuster
Johnson (CT)	Oxley	Skeen
Johnson, Sam	Packard	Smith (MI)
Jones	Pappas	Smith (NJ)
Kasich	Parker	Smith (OR)
Kelly	Paul	Smith (TX)
Kim	Paxon	Smith, Linda
King (NY)	Pease	Snowbarger
Kingston	Peterson (PA)	Solomon
Klug	Petri	Souder
Knollenberg	Pickering	Spence
Kolbe	Pitts	Stearns
LaHood	Pombo	Stenholm
Largent	Porter	Stump
Latham	Portman	Sununu
LaTourette	Pryce (OH)	Talent
Lazio	Quinn	Tauzin
Leach	Radanovich	Taylor (NC)
Lewis (CA)	Ramstad	Thomas
Lewis (KY)	Redmond	Thornberry
Linder	Regula	Thune
Livingston	Riggs	Tiahrt
LoBiondo	Riley	Traficant
Lucas	Rogan	Upton
Manzullo	Rogers	Walsh
McCollum	Rohrabacher	Wamp
McCrery	Ros-Lehtinen	Watkins
McDade	Roukema	Watts (OK)
McHugh	Royce	Weldon (FL)
McInnis	Ryun	Weldon (PA)
McKeon	Salmon	Weller
Metcalf	Sanford	White
Mica	Saxton	Whitfield
Miller (FL)	Scarborough	Wicker
Moran (KS)	Schaefer, Dan	Wolf
Morella	Schaffer, Bob	Young (AK)
Myrick	Sensenbrenner	Young (FL)
Nethercutt	Sessions	
Neumann	Shadegg	

NAYS—200

Abercrombie	Engel	Levin
Ackerman	Eshoo	Lewis (GA)
Allen	Etheridge	Lipinski
Andrews	Evans	Lofgren
Baesler	Farr	Lowey
Baldacci	Fattah	Luther
Barcia	Fazio	Maloney (CT)
Barrett (WI)	Filner	Maloney (NY)
Becerra	Flake	Manton
Bentsen	Foglietta	Markey
Berman	Ford	Martinez
Berry	Frank (MA)	Mascara
Bishop	Frost	Matsui
Blagojevich	Furse	McCarthy (MO)
Blumenauer	Gejdenson	McCarthy (NY)
Bonior	Gephardt	McDermott
Borski	Gordon	McGovern
Boswell	Green	McHale
Boucher	Gutierrez	McIntyre
Boyd	Hall (OH)	McKinney
Brown (CA)	Hamilton	McNulty
Brown (FL)	Harman	Meehan
Brown (OH)	Hastings (FL)	Meek
Capps	Hefley	Menendez
Carson	Hefner	Millender-McDonald
Clay	Hilliard	Miller (CA)
Clayton	Hinchey	Minge
Clement	Hinojosa	Mink
Clyburn	Holden	Moakley
Condit	Hooley	Mollohan
Conyers	Hoyer	Moran (VA)
Costello	Jackson (IL)	Murtha
Coyne	Jackson-Lee (TX)	Nadler
Cramer	Jefferson	Neal
Cummings	John	Oberstar
Cunningham	Johnson (WI)	Obey
Danner	Johnson, E. B.	Olver
Davis (FL)	Kanjorski	Ortiz
Davis (IL)	Kaptur	Owens
DeFazio	Kennedy (MA)	Pallone
DeGette	Kennedy (RI)	Pascrell
Delahunt	Kennelly	Pastor
DeLauro	Kildee	Payne
Dellums	Kilpatrick	Pelosi
Deutsch	Kind (WI)	Peterson (MN)
Dicks	Kleczka	Pickett
Dingell	Klink	Pomeroy
Dixon	Kucinich	Poshard
Doggett	LaFalce	Price (NC)
Doyle	Lampson	Rahall
Edwards		

Rangel	Sisisky	Torres
Reyes	Skaggs	Towns
Rivers	Skelton	Turner
Rodriguez	Slaughter	Velázquez
Roemer	Smith, Adam	Vento
Rothman	Snyder	Visclosky
Roybal-Allard	Spratt	Waters
Rush	Stabenow	Watt (NC)
Sabo	Stark	Waxman
Sanchez	Stokes	Wexler
Sanders	Stupak	Weygand
Sandlin	Tanner	Wise
Sawyer	Tauscher	Woolsey
Schumer	Taylor (MS)	Wynn
Scott	Thompson	Yates
Serrano	Thurman	
Sherman	Tierney	

NOT VOTING—7

Chambliss	Lantos	Strickland
Cubin	McIntosh	
Gonzalez	Schiff	

□ 1604

Mr. MORAN of Virginia, Mr. JEFFERSON, and Mrs. MINK of Hawaii changed their vote from "yea" to "nay."

Mr. BRYANT and Mr. SMITH of Texas changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to House Resolution 270 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2247.

□ 1605

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2247), to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, with Mr. KOLBE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Minnesota [Mr. OBERSTAR] each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are here today to seize what is probably the last chance to save Amtrak without a bankruptcy. I am dedicated to trying to save Amtrak, but it is no secret that are several Members in this body, and in the other body, who would just as soon kill Amtrak.

So what we have tried to do is put together a compromise which we can get through to reform Amtrak, which will unleash the $2.3 billion that has already been set aside for Amtrak if we are able to get reform through.

Mr. Chairman, much of this debate took place during the rule, and so there is no need for me to restate what has been stated many times already with regard to the debate that took place concerning the rule. The bottom line is if we do not reform Amtrak, if we do not pass legislation to reform Amtrak, Amtrak goes into bankruptcy, there will be no Amtrak. It is that simple.

In the last Congress virtually the same legislation passed this body 406 to 4, as has been emphasized in the previous debate, and that needs to be reemphasized here. This is our last, best hope of saving Amtrak and saving the jobs of the many good people who work at Amtrak; also for saving Amtrak and saving the very positive implication that the saving of Amtrak will have on the whole railroad retirement system.

So for all of those reasons, I would urge support for this legislation.

Mr. Chairman, we are here today to seize what is probably the last chance to save Amtrak without a bankruptcy. No informed observer denies that the company is at best only a few months away from the bankruptcy court. That includes Amtrak itself, the General Accounting Office, and the expert bipartisan panel that our committee formed to examine Amtrak's condition.

This is no longer a postponable problem: Amtrak has only a few months to live if it is kept in the straitjacket of Federal laws that prevent it from operating on a rational, business-like basis. This bill removes that straitjacket, and frees Amtrak from the statutory micromanagement that has brought it to the brink of financial collapse.

These structural changes were drafted on a bipartisan basis with the participation and agreement of the minority and of rail labor in the 104th Congress. They include: Establishing a new reform board of directors; giving Amtrak a fresh start in its capital and stock structure; removing the numerous Federal mandates that preclude rationalizing its route system; and organizing itself for business efficiency. Up to now, the company has never been permitted to do any of these things—unlike other transportation companies.

This bill should be very familiar to most Members, because you voted for it by a rollcall of 406 to 4 less than 2 years ago. There are only technical changes in this bill to reflect the passage of time, plus one substantive change. We have authorized the reform Board of directors—if it chooses—to recommend a plan to Congress to implement one of the key ideas of our expert panel—the separation of Amtrak into two distinct corporations, one for infrastructure, and one for operations. Of course, even if the board made such a recommendation, it would take future congressional action to implement such a plan.

Among the restrictions this bill removes are the current statutory requirements for up to 6 years of labor protection—that is, full salary and benefits, to any employee adversely affected by a discontinuance of service a reduction of service below three trains weekly, or even a 30-mile relocation. But remember, this bill was a bipartisan compromise: It does not forbid Amtrak from providing protections for its

employees—if merely places these issues in collective bargaining, without having the Federal Government dictate what the protections will be by statute.

The bill also addresses the continuing problem of unlimited tort liability exposure. Almost everywhere except the Northeast corridor that Amtrak owns, it must operate over the tracks belonging to private-sector freight railroads. Amtrak, by Federal law, has access to those tracks, whether the freight carrier likes it or not. Therefore, the liability exposure that is placed on the freight railroads is involuntary in nature. All this bill does is to place reasonable limits on the punitive and non-economic damage exposure in passenger train accidents. It has no effect on the freight railroads' own freight-carrying operations. If we do not make these sensible reforms, however, Amtrak may be facing prohibitively expensive access requirements, because Amtrak still has to pay the freight railroads, even under compulsory access arrangements.

There are those, Mr. Chairman, who say that the only way Amtrak will ever be fixed is by going bankrupt first. I do not share this view, because a shutdown would be a great blow to our transportation system, to our commuter rail operations, and even to the Railroad Retirement System.

But let's look at an Amtrak bankruptcy, because there are too many constituencies here who are still in denial about Amtrak and its finances. If Amtrak goes under, the GAO estimates that labor protection payments alone would total up to $5 billion. Amtrak's commercial debt—not to the Federal Government—is about $1 billion. So that's $6 billion in liabilities, with virtually no possibility of paying those claims out of Amtrak's assets. And just this week, the Comptroller General issued a legal opinion in response to an inquiry from Chairman KASICH and myself. He ruled that none of Amtrak's liabilities—labor protection or commercial debt—constitute claims against the U.S. Treasury.

What does this mean? It means that if Amtrak's labor force and management do not cooperate and help turn this company around there will be no golden parachute of 6 years of labor protection. The golden parachute has already collapsed, and if they help drive Amtrak into bankruptcy, Amtrak's employees are simply going to be standing in line with a lot of other unsatisfied creditors who collect little or nothing.

I hope, Mr. Chairman, that these rather stark realities will spur Members to realize that this is the last train out of the station. If this bill is not enacted, Amtrak stands virtually no chance of survival for more than a few months at best.

What about some good news? Well, if we do approve this reform legislation and the President ultimately signs it into law, then Amtrak will have access to over $2 billion in much-needed capital funds that have been set aside for it under the Taxpayer Relief Act of 1997. So this bill not only presents the opportunity to avoid an immediate Amtrak collapse; it also will provide Amtrak with immediate access to desperately needed capital funds. I know from our committee's hearings that Amtrak has a severe shortage of capital, and has, in fact, been cannibalizing its physical plant and equipment for some time, because it did not have the resources to do an orderly capital replacement program. Together with the efficiencies made possible by this bill, the $2 billion of additional capital will go a long way toward turning Amtrak around and letting it become a healthy, self-sustaining company.

Finally, Mr. Chairman, let me tell all Members on both sides of the aisle, this bill is not about free votes. History has placed us in positions of responsibility in a time of transportation crisis. Unlike some of our predecessors in this body, we do not have the option of punting. It's put-up-or-shut-up time, and currying favor with special interests today will not solve any of these problems that have been getting worse for 26 years. If you can't stand up and be counted on a sensible bipartisan reform like this, then don't delude yourself into thinking that there's going to be a second chance. That's a pipe dream.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to begin with, I would like to inquire of the gentleman from Pennsylvania [Mr. SHUSTER], is my understanding correct that this afternoon we are going to do only general debate?

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the gentleman is correct.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, presumably we will begin tomorrow morning at some time? Has there been an announcement by the leadership of when we may anticipate?

Mr. SHUSTER. Mr. Chairman, if the gentleman would continue to yield, I have no further information other than the statement that I will move that the committee rise following general debate.

Mr. OBERSTAR. Mr. Chairman, again reclaiming my time, that leaves our side somewhat puzzled. During the debate on the rule there was some statement made about the shortness of the session and the urgency to move this bill ahead. Now it seems that the urgency has faded and I am very puzzled by this, and I am wondering what has happened on the other side of the aisle.

Mr. SHUSTER. Mr. Chairman, if the gentleman would continue to yield, the decision was made by the leadership during the vote to not proceed beyond general debate today, and that decision is above my pay grade.

Mr. OBERSTAR. Mr. Chairman, again reclaiming my time, I would say that I did not think there was much above the gentleman's pay grade.

Mr. Chairman, it reminds me of the last Congress when this bill was before the committee and there was a vote and then we suspended and then we came back, then the bill was pulled again, and now this is the third time. I am curious as to what really is going on here. I am very curious about what has happened.

Mr. Chairman, I also wanted to mention that during debate on the rule, as the gentleman from Pennsylvania was making his comments, I noted with great interest his reference to service on the track gang and I wanted to suggest at the conclusion of the gentleman's remarks that we might form a track gang caucus, since this Member also worked in the iron ore mines on the track gang pounding oil and bumping rail.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, that is back when men were men.

Mr. OBERSTAR. Mr. Chairman, this is extremely important legislation. It puzzles me, therefore, why we have a truncated process today if it is that important and there is so little time remaining in the session that we are to have this restricted rule and this expedited process that we cannot proceed through to conclusion tonight.

Amtrak's financial situation is indeed critical. We do need to pass reform legislation. We do need to pass reauthorization legislation to enable Amtrak to operate efficiently and release the funds that have been made available in the tax legislation.

Mr. Chairman, Amtrak's survival is absolutely vital to the Nation's transportation system. Most passengers now travel by car or plane, but those modes use enormous amounts of energy. They have substantial adverse environmental impact. There are limits to our ability to accommodate more traffic by building new highways and new airports. We need rail service.

Mr. Chairman, we need a highly efficient passenger rail system as other countries in the world have. We ought to be able to have 175-mile-an-hour passenger rail service in America as they do in France or 300-mile-an-hour rail service, as they will have in Germany with the construction now underway of the Maglev train system between Hamburg and Berlin or the 180-mile-an-hour passenger rail system in Japan, the Shin-Kansen, that carry 254 million passengers a year. But we do not have that in the United States, and we ought to make that investment. And this legislation would move us in that direction if it was the right kind of legislation.

Mr. Chairman, we agree with much of what is in this bill and what passed the House in 1995. But we believe it is bad public policy to go forward with provisions in the bill that adversely affect labor and the consumer interests that are adversely affected by the liability caps.

Mr. Chairman, there will be amendments to address those issues and I will

support those amendments. But it will be extremely difficult to pass this legislation in its present form because the provisions in the bill dealing with labor and liability are opposed by the administration and, indeed, caused the bill in 1995 to die in the other body.

□ 1615

The same provisions are there this time. They will again make it impossible to include Amtrak reform, to see Amtrak reform through to enactment, and they made it impossible to see Amtrak reform through in the reconciliation package that passed the Congress recently.

It is puzzling to us why this restrictive labor language is necessary. The obligations in current law to protect the rights of working men and women that are freely negotiated between labor and management, which would be eliminated by this legislation, are not an impediment to the efficiency of Amtrak.

In the year and a half, almost 2 years now since the House passed the much ballyhooed bill in 1995, we have had an opportunity to see what the effect has been of labor protective provisions. In this period that has elapsed since passage of that bill, there has been a net loss of 2,000 jobs at Amtrak. The cost has been an average of $1,000 per employee. That nets out to about $2 million.

Amtrak adjusted service, laid off 10 percent of its work force. It cost roughly $2 million to do that. I do not see how that is an impediment. I do not see why we need to eliminate protection of labor's rights freely negotiated in order to save Amtrak. How does that $2 million save Amtrak?

In fact, in a July 28 letter from the chairman of Amtrak, Tom Downs, he stated:

I testified in front of the Senate Finance Committee with Sonny Hall, and I stated in the hearing on the record, that Amtrak does not experience significant costs in C–2 expenses; that is, labor protection expenses, so that the impact of the repeal of C–2 would not save us any significant funds except in the ultimate bankruptcy of Amtrak. I also stated I would prefer to be able to negotiate C–2 provisions with labor than to have Congress mandate changes.

That same view was expressed by Mr. Robert Kiley, spokesman for the committee's task force of experts who reviewed the Amtrak financial situation, that the chairman had appointed. At a press conference on the task force report, Mr. Kiley said that the labor protection issue is a red herring.

Well, it is a red herring. Why it has to be the centerpiece of this legislation is beyond me, Mr. Chairman. I simply do not understand it. I do not know why they want to take it out on Amtrak labor, on rail lab labor under the guise of somehow saving Amtrak. The labor and liability provisions are bad public policy.

On the labor side, it takes away from employees all rights on severance pay and all rights on contracting out. The provisions in the bill abrogate not only labor protection provisions in law, but those provisions that labor and management together have negotiated. Why do you break a contract?

My father worked in the iron ore mines all his life. He said the only guarantee against the company is your union contract. It cannot be taken away from you. But here in this legislative body, if we pass this bill, by legislative fiat we will take away what labor has freely negotiated with management. That is wrong. I will not stand for it. No one else should stand for it in this body.

The reported bill also establishes new procedures for negotiations on labor protection and on contracting out. And they go far beyond and substantially depart from the balance process established in the Railway Labor Act.

The liability provisions in the bill create serious inequities. The bill would cap noneconomic damages, such as damage for pain and suffering, in a manner that favors affluent plaintiffs. The cap is economic damages plus $250,000. That means the higher the economic damage, the higher the added damage for pain and suffering.

For example, take a wealthy corporate executive who can show economic losses or damage of a million dollars. That person gets in an additional $1.25 million in noneconomic damage for pain and suffering. A child or an unemployed person with the same pain and suffering is limited to $250,000. That is not right. We should not do that. We should not make those kinds of changes. We should not interfere in the tort liability process.

I cannot support a bill that has such onerous provisions and is so destructive of the labor-management relationship. There are reasonable amendments that will be offered. They could be offered tonight. We could pass this, pass those amendments and conclude action on this bill tonight and get Amtrak on its way if Members are so concerned about seeing Amtrak continue to operate safely and efficiently.

We could do it tonight. We could pass the LaTourette amendment and get on with our business, but apparently it is going to be held over until tomorrow.

In that spirit, Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, this is a very serious business, a very serious issue before the Congress. In fact, as we heard the gentleman from Pennsylvania [Mr. SHUSTER] say, Amtrak is going down the tubes. Amtrak cannot survive a strike which has been put off for another week here.

What is fundamental to this debate is, why is Amtrak off track? As a member of the Subcommittee on Railroads, I had the nerve, the very gall, like other responsible members of the subcommittee, to ask why. Why is Amtrak in this condition? We held hearings on this matter. Why are we subsidizing billions of hard-earned taxpayer dollars in a losing system? Why is Amtrak losing money day, after day, after day? How can we put national and vital regional rail passenger service back in responsible operation?

Anyone, in fact I submit anyone, Democrat or Republican, who take a look at this and we passed this bill by a wide, wide bipartisan measure and folks looked at it. We had a bipartisan commission look at it. I submit even if we had the village idiot look at this they would all come up with the same conclusion, that there are two reforms that are necessary for Amtrak. One is labor reforms, changes in labor law, some that were enacted decades ago. Two, liability reform. Everyone who looks at it comes to the same conclusion.

I submit on the labor front, and this is, let us get to the heart of the issue, just read this, what are the Democrats and labor bosses defending? Up to 6 years of wages and benefits for any Amtrak employee asked to travel more than 30 miles from home to work. This is one provision. Look at this one.

What are the Democrats and labor bosses defending? Up to 6 years of full wages and benefits for all Amtrak employees who are laid off due to a route elimination or because of the frequency of Amtrak train service falls below three trips per week. This is the premium that we have to pay some labor agreements that were made years and decades ago. We do not have firemen on trains anymore because the situation changes. We do not have fires in the engine anymore. But this is what they want to preserve. This is the heart and the core of it.

I submit we can protect employee rights. I think that we can expand employment in Amtrak and give more opportunity. But we need labor reforms, we need liability reforms. We can protect individual rights as far as liability reform, but we must limit some exposure. We cannot be paying out these huge settlements and make this train run on track.

With a little bit of flexibility, I submit, with a little bit of cooperation and, God forbid, a little bit of innovation, we can make Amtrak run. We can increase employment and, in fact, we can provide cost-effective national passenger rail service.

Times change. I said there is no firemen on trains anymore. I am part of the club, too. I worked on the railroad in the summers and they are great people. They are wonderful people. They are hard-working people. But times and position change, I submit, Mr. Chairman, and we must change. Why must

we change? Because Amtrak must run like a business. The Congress demands it. The balanced budget requires it. Common sense dictates it. The taxpayers are fed up and they will no longer pay for it running the way it is.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, we have an opportunity today to continue a vital service to millions of people or to help in causing its demise. I think it important that we adopt the LaTourette-Oberstar amendment and the Oberstar substitute, which would provide the capital funds Amtrak needs and would not punish Amtrak's workers and those unfortunate enough to be injured in any possible accident.

The need to fund Amtrak's capital program and provide operating assistance is obvious. The bill before us provides that funding at adequate levels. Unfortunately, the bill also includes provisions that are unacceptable to many of us in this body, to many in the other body and to the President. This House passed an almost identical bill last year and at that time we thought it was the only way that Amtrak could receive the funding it needs to continue. We know now this is not the case. We know that this bill died in the Senate last year precisely because of the objectionable provisions that are contained in this bill and will most likely meet the same fate again. We also know the President will likely veto this legislation as currently drafted.

What must be removed to make this an acceptable and a good bill? The caps on punitive damages and noneconomic damages must be removed. To put a cap on punitive damages of $25,000 or three times the amount of economic loss, whichever is greater, says that the rich person who is damaged by deliberate negligence, by deliberate tort, we should punish the tort-feasor by three times as much as he is worth. But the infant or the low-income person, his pain and suffering is not worth that. His suffering is only worth the much lower amount.

The straight cap of $250,000 on noneconomic damages on pain and suffering, that is not fair. That is not fair to those who are injured. It is wrong to arbitrarily place a value on an injured persons's loss or his life.

The second issue that has no place in this bill is the circumventing of labor protections. This body, through this bill, has taken upon itself to determine the labor practices for Amtrak and its employees. Even Amtrak does not believe that these provisions are needed.

Thomas Downs, chairman of Amtrak, stated that Amtrak was completely satisfied with the collective bargaining process under the Railway Labor Act. Even the amendment to the C–2 provision in this bill, he said, was not necessary. Amtrak does not experience significant costs in C–2 expenses. This is supposedly the most burdensome labor protection Amtrak employees have. The reason Amtrak needs this capital money and this operating assistance is because the competition from the federally subsidized interstate highway system makes it imperative that any passenger railroad have this kind of subsidy.

Mr. Chairman, I would urge this Congress not to punish Amtrak, its labor, its management, and its passengers. We should support the LaTourette-Traficant amendment. We should vote "yes" on the Oberstar substitute and then we should pass a bill that will keep Amtrak viable for all Americans.

Mr. SHUSTER. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama [Mr. BACHUS], a distinguished member of our committee.

□ 1630

Mr. BACHUS. Mr. Chairman, there have been several issues that have come up on the floor that I think need clarification. One thing that has been said on this House floor is why is there a need for labor reform? Why can Amtrak labor and management not just sit down and negotiate through the collective bargaining process?

I would point out to the Members that Amtrak is presently required by Federal law to make labor protection payments of up to 6 years of full wages and benefits to any employee who is laid off due to a route discontinuation or the reduction in service below three times a week.

Now, there have been some statements also on the floor of this House that that is the same labor protection that the freight railroads enjoy. But that fact is not true. Reducing service below three times a week does not kick in the freight railroad protection. The discontinuation of service does not kick it in.

Under the labor protection in this bill, if an employee is asked to move 30 miles or more, these labor protection provisions kick in. That is not true with the freight railroads.

What we basically have by the protection that is in the bill today is we have our railroads competing with bus lines and airlines which do not have these restrictions, and they are losing money, and that is despite the fact that we have subsidized them to the tune of $19 billion between 1970 and today. That is something that we should not ask the American taxpayer to do. And we also should not have the type of restrictions in this bill that we find nowhere else in America, that no other worker enjoys.

We also have the contracting out provisions. Those are a source of capital drain for Amtrak. That is one of the reasons that Amtrak capital and their equipment is in such bad shape today; that it is beginning, I think, to be a responsibility of all of us in Congress either to operate Amtrak safely or not operate it at all. This is becoming more and more a safety issue.

There was a reference on the floor of the House that they are presently contracting out some work. The only work that they can contract out now is work if it would not result in one single employee of Amtrak being terminated. So we have almost zero contracting out now.

The final thing that I would say is it has been said that Amtrak pays out very little cash in labor protection payments. The reason for that is, and that is probably one thing that has been said that is true, that this simply proves that Amtrak management is unable to make normal, rational business decisions because the statutory labor protection standards are standing in the way.

I repeat again this example. Most Amtrak service reductions do not go below three trains a week. The reason they do not is to do so would trigger the labor protections. So Amtrak is tied up. That is why they are running three trains on some routes when they would like to run none.

We ought to at least give Amtrak the right to operate with sufficient capital and to operate the way that other businesses operate in this country. And we also should not come to this floor and say that what Amtrak now has is the same labor protection that the freight railroads have. That is not true.

In fact, and I will close with this, these labor protections not only extend to labor, they extend to the management of Amtrak, which I do not think I have ever seen an instance of that before.

Mr. OBERSTAR. Mr. Chairman, I yield myself 25 seconds.

In the interest of accuracy, the 30-mile issue is not in Amtrak law, it is covered by a collective bargaining agreement. And if we wipe out collective bargaining agreements, then we have wiped out something labor and management together have freely negotiated.

Amtrak did try cutting their frequencies to three times a week. They found that it lost money. So they cut those routes altogether.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida, Ms. BROWN of Florida.

Ms. BROWN of Florida. Mr. Chairman, I rise today in support of preserving wage and labor protection for Amtrak rail workers. Overall, the Amtrak authorization bill is an acceptable bill, but it eliminates wage protection provisions which already exist because of collective bargaining agreements. Mr. Chairman, this is totally unacceptable. Let me repeat, Mr. Chairman. This is totally unacceptable.

Congress should not place in law language that disregards labor agreements. I urge all of my colleagues to

support the Traficant amendment which allows collective bargaining to settle the wage protection and contracting issues.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time and also for all the work he is doing on this bill.

I am a little concerned about the debate which I am hearing today. I am right in the center of Amtrak. Wilmington, DE, is directly between New York City and Washington. We are the ninth most used rail station. I use it personally. We have a lot of employees there. I speak to Mr. Downs on a regular basis, for whom I have a tremendous amount of respect. I think he is doing a wonderful job. I have toured the different facilities there and spoken to the union people. I have been through the whole thing.

We have a problem on our hands, and I am not sure we are recognizing that on the floor of the House of Representatives today. And that problem is that there is almost a strike today. It would have started at 12:01 this morning, I believe, if they had not put it off for a week. It could start up 6 days from now. That is a tremendous problem.

If we shut down Amtrak, we will have a problem. That did not come up directly because of this but because of a board which the President put together imposing some very high wage increases, which is all well and good, except nobody said how we are going to pay for it. It comes to about $85 million a year, is what it comes to, and we are not sure at this point how that will be paid for.

We are not sure at this point what we will do with respect to the capital improvements, which everybody agrees are needed. We did pass $2.3 billion as part of the tax bill in the course of this summer, but we cannot get that released unless we get this authorization done. All these things have to come together and they all have to interlock together in some way or another.

And while it is fine that we are debating the labor and liability issues, the bottom line is if we do not pass something pretty soon in the House of Representatives, Amtrak will fail, and then our debate will be about whose fault it was that it failed. We need to come to some resolution of this. We need to make sure the $2.3 billion is released. We need to deal with the strike issues as soon as possible.

And by the way, I have serious doubts they can continue commuter travel at the same time that they are going through a strike. This would just clog the whole east coast area. Amtrak is vitally important not just to the east coast but to other parts of this country, but it literally would have an effect that is overwhelming in certain parts of the country, and the congestion on the east coast would be that.

But I am bothered beyond all this. I am bothered by the fact we are trying to play catch up with Amtrak. And yet we go to other countries and see videos of other countries on television and we learn about the rail systems which they have, which are vastly superior to what we have in the United States of America. That does not exist in any other area of transportation but in that of rail. And I think we need to address that issue as well.

This does have 500 destinations. Amtrak does touch in 45 States. It does provides over 22 million passenger rail trips every year. That is a significant amount of travel in this country, and my judgment is we have to improve it. We have that chance to do it. The chairman has worked hard to get us in that position to do it, and we have to pull together.

If indeed there are labor, liability, or other issues that need to be resolved, such as route flexibility or whatever it may be, we need to sit down and try to work that out. But we do not need to defeat this legislation. That would be a serious error. It passed last year by a vote of 406 to 4. Let me tell my colleagues, it is a lot more urgent this year in 1997 than it was in 1996.

I would encourage all of us to support this legislation, work out what the differences are and make sure rail travel in America goes forward.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I believe to save Amtrak we do not have to kill the Amtrak workers. We all want to save Amtrak. I think that we are not going to go forward with any votes tonight because there are many Republicans that realize that it may be perceived as just a jab back at labor, because the two major elements of this bill and the real bottom line issue is preserving the integrity of the collective bargaining process, and that is why labor is up in arms.

I think Republicans are foolish. I think they are getting more labor votes than they think, and I think they have an opportunity to look at this in a different vein. My voting record reveals I have tried to always be fair, and I vote for what I think is best for the country, and I am advising my Republican colleagues to take a look at this before they come to the floor.

One thing the Quinn bill does, and I love the gentleman, I think he is a great Member, but it does something I do not like: It treats some people differently; namely, Amtrak workers. And I want to stand here today on behalf of Amtrak workers.

I have said this many times, but I will say it again, because I want that old Pitt man there, one of the great chairmen in our history, I think he was born to be chairman of this committee, and I follow his lead, but as an old Pitt quarterback, I can remember when Vince Lombardi died. Everybody said they loved him, and the news media could not believe it. And they went up to Willie Davis and said, Willie, big Hall of Fame defensive end, Willie, tell us the truth about Vince Lombardi. Now, look, tell us the truth. He said, I loved him. They asked him why he loved him. He said because he treated us all alike, like dogs at times, but all alike.

Mr. Chairman, I think it is bad policy, poor precedent to place worker against worker. If I were a Republican and the labor unions tried to beat me, I would feel the same way. I think it is time to rise above that.

Here is the point I want to make: The contracting out provisions and the other labor protections in this bill for Amtrak workers has been admitted by Amtrak to not be a part of the cost complications. They are inconsequential. So what appears to me to be labor is, all right, these guys screwed me and I am going to get them. And I guaranty back there in Altoona the gentleman has more labor support than any Democrat that is going to run against him.

I am asking the chairman to treat Amtrak workers like all the other workers, and we do not have to kill Amtrak workers to save Amtrak. Let us save Amtrak and get ourselves a few votes in the process.

With that, I yield back any more of the politics of this matter.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

Let me be very brief on some very key issues. There is no doubt that we join collectively to save Amtrak. I am a strong proponent of that, and I appreciate the work that has been done by both the ranking member and the chairman on this committee.

I want to lay on the table two key issues, and that is protecting employees, providing them with the same work conditions and benefits as we would want to have provided for our other workers throughout this Nation; and then, as a member of the House Committee on the Judiciary, I must emphasize my great concern in the capping of economic and noneconomic damages, in this instance relating to punitive damages as it relates to individuals who are injured.

We have gone through this battle before. I think that we can save a valuable transportation vehicle and tool like Amtrak by being fair with those injured parties. There is no price that we can place on a lost arm or leg. There is no price that says that one who is the CEO of a company, that one who has great wealth should be costed

out in damages more so than that retired, elderly, former schoolteacher, or that young student who tragically was injured.

We can fix this legislation, and I think we should. Let us be fair and provide for transportation for all those who need it and, at the same time, give value and benefits to the workers and protect those individuals, those innocent individuals who may be using this vehicle, this means of transportation, so that they too will recognize the value of what we do in this Congress and we do it in a fair and honest way.

Mr. Chairman, I rise today to raise some serious concerns about H.R. 2247, the Amtrak reauthorization bill, as it stands today. Unless amended, this legislation would be a failure by this Congress to protect the interests of the American people in general, as well as, the constituents that we have all been elected to represent. I do not mean to suggest that H.R. 2247 is a piece of legislation without merit. Actually, this legislation begins the important first steps necessary to make Amtrak a fully self-funded national transportation entity, by decreasing costs and making it possible to increase revenues. However, it is still very important that we be careful of what means we use to achieve greater gains in fiscal solvency. Frankly speaking, the changes that this bill makes to the state of standing Amtrak labor relations and the liability of the rail line for either economic or non-economic injury is greatly in need further review and revision by this Congress. We must and can not pass legislation from this body that chooses economic gains and protections for corporations above the rights of the individual to recover in case of injury.

As far as claims for property damage or personal injury, my primary objections to H.R. 2247, as it stands, are as follows. First of all, H.R. 2247 caps damages for noneconomic injuries at a sum of $250,000 above the victim's economic damages. Second, the bill then limits an injured passenger or victim's recovery for punitive damages to $250,000 or three times the amount of economic loss, whichever is greater in that case. And third, the bill sanctions private indemnification agreements that would completely immunize railroads from liability in the event of an accident, forcing Amtrak to pay for the gross negligence of these parties.

First of all, the final legislative initiative in this group, about indemnification, may very well increase Amtrak's costs because of the recent frequency of rail crashes in America, which occur approximately once an hour according to U.S. News and World Report. On the other side of every indemnified Amtrak crash, there are most likely going to be injured passengers or victims who deserve to recover damages, why place that burden solely on Amtrak? Is it prudent or responsible at a time when railroad accidents are occurring at an alarming rate to pass legislation that assigns additional financial responsibilities on Amtrak to compensate injured parties for accidents? I would contend that it is not. What incentive does an indemnified entity have to make sure that accidents do not occur, and if these incentives do exist, why take such a great risk with the lives of the American people? These railroads can act negligently or recklessly, cause an accident, and simply leave Amtrak to carry the bill.

Furthermore, how can we dare to put a cap, a calculated, definitive value on the amount of recovery for noneconomic and punitive losses? Is the loss of an arm, a leg, a wife, a husband, a mother, a father, a daughter, or son because of a disastrous crash all equal in value? I do not see how they could be. Also, why does this legislation place a cap upon punitive and noneconomic damages and not economic damages? Are those who have lesser economic harms somehow justifiably entitled to less no matter what that particular injury may be? In sum, none of these new initiatives appear to be pragmatic in function or necessary for the future of Amtrak; they ultimately raise a lot of questions, but give very few answers.

Finally, the blatant disregard of this appropriations bill for the standing labor relations within the Amtrak operative structure, is grounds enough for opposing H.R. 2247. The bill, as it stands, removes protections from workers, tells Amtrak and its employees to negotiate, but gives no incentive for Amtrak to negotiate. H.R. 2247 just strikes standing Amtrak employee protections from the law without giving Amtrak bargaining constraints, and thus forces the employees to strike to enforce their demands to management because their statutory protections are gone. Much like many of the other changes within this bill, it just does not make any sense. I urge my colleagues to support the LaTourette amendment which was drafted specifically to address these concerns.

In light of all of these many concerns and controversies, I would ask all of my colleagues to be reasonable, and please reconsider H.R. 2247. Not simply for the good of Amtrak, but as well for the good of America.

□ 1645

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I want to thank the gentleman and I want to thank the chairman of our full committee and members of the Republican Party. It is the first time in 15 years I have ever had my words blown up and prominently displayed. I have joined the ranks of GINGRICH, ARMEY, GEPHARDT, and many others. I just hope they will also blow up some of my predictions that I made about the Contract With America because I think those proved to be equally succinct and of course prescient.

Now, 406 to 4, and so the claim is made, well, many of our colleagues voted for that and, yes, I voted for the bill the last time, too. But, Mr. Chairman, I have got a practice that if I run one time into a brick wall, I try not to suit up and run into it again. And so many of us when we signed up last time and voted were told this is the way it had to be because this is the best way to get this bill passed and Amtrak is in trouble and this is the way to get it passed, emphasis on "passed."

406 to 4, 2 years ago and we are back here again. Why? Because it did not pass the Senate and it was not signed by the President. The Senate would not even take it up and so we can vote for this bill again and we can run into a legislative brick wall for every bit the same reasons. What we are doing in our amendments and in our language is we are trying to remove the impediments to getting this bill passed, the labor protection clauses and the liability clauses. That is what held this bill up. We can get this bill passed, I presume, in the next week or so by removing the controversial items.

So, yes, my hope is that 406 to 4, there are a lot of people that learned something out of that. And what we have learned is that if it did not work this way last time, it will not work this time and so let us make the changes that are necessary to keep Amtrak functioning. There are significant differences between then and now. Amtrak is in a different situation but, most importantly, we know what did and did not work and now that we know what did not work, let us not make that mistake again. I would urge my colleagues to support the amendments that will make this bill work and get it passed.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Indiana [Ms. CARSON].

Ms. CARSON. Mr. Chairman, during this general debate there are certain points that need to be made crystal clear. Amtrak's most important assets are the many men and women who work hard to make sure that our Nation's rail passenger trains operate safely. The bill before us today simply is not fair to these employees. It creates a gaping hole in the law which will deprive Amtrak workers of wage protections which have been in place since the 1930's for displaced and downgraded employees.

It also removes restrictions on contracting out work. This would allow Amtrak management to throw away its employees by making their jobs disappear. This provision in the bill would directly affect 706 workers in the 10th Congressional District of Indiana. Amtrak operates a maintenance shop in Beech Grove, IN, to keep its engines and passenger coaches in good running order. This bill would allow Amtrak to shut down that facility and shift maintenance to privately contracted shops outside of Indiana. The 706 workers at the Beech Grove maintenance shop deserve better than this. They are doing a good job and receive health care and other benefits. I do not believe that we should be eliminating those jobs and sending the work out of Indiana, especially the contract facilities that do not give their workers the same pay and benefits.

That is why I support the LaTourette-Traficant amendment. It

would restore the labor protections that exist in current law and would preserve the jobs in Beech Grove. I compliment my two colleagues for offering this amendment.

The Quinn amendment, on the other hand, would only make minor improvements to the bill. By voting for the Quinn amendment, we would be voting against the LaTourette-Traficant amendment. Do not be fooled. The Quinn amendment does nothing to help Amtrak workers. It is a killer amendment designed to defeat the important labor protections that the LaTourette-Traficant amendment seeks to restore. When these amendments are offered, I strongly urge my colleagues to reject Quinn and adopt LaTourette-Traficant.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, the Federal Government is a master at creating Federal programs based upon good intentions, but for which the tax till has become a lifeline for survival. Congress created Amtrak back in 1970 with a one-time grant of $40 million, one-time grant, it was supposed to be. It was to be independent and was to be self-sufficient. As we all know, Amtrak has not become self-sufficient. It has turned into a $22 billion black hole for taxpayer dollars.

What have we gotten for our money? Passenger trains in 1997 are slower than they were in the 1950's. Their average speed is slower than many Third World countries. Even tomorrow's version of high speed rail will be slower than France or Japan's trains in the 1970's. Amtrak has used the taxpayers' $22 billion and taken a giant step backward. How do we reward Amtrak for this? In Congress' infinite wisdom we have decided to give Amtrak, which has never paid any taxes, a $2.3 billion tax refund. But to kill the $2.3 billion now, we would have to kill this legislation.

While I do not think this bill goes far enough and I know Amtrak will be right back at the Federal trough as soon as it gobbles up the next $2.3 billion, it does contain a number of items which make sense. With the passage of this bill, Amtrak will finally be able to adjust their system of routes without fear that Congress will tie their hands. At the same time we have given preapproval for States to form interstate compacts in order to take over any routes Amtrak discontinues. We are encouraging contracting out, replacing the current Amtrak board, taking the Government out of Amtrak through the redemption of Amtrak's common stock and reforming the labor structure.

Mr. Chairman, some of my colleagues beholden to the labor unions will argue that this bill goes way too far, and I say it does not go nearly far enough. This bill does not go far enough and Amtrak is bound to turn to Congress for more help in future years. But as long as the labor unions are spending millions of dollars trying to buy Congress, as long as we continue to delude ourselves that Amtrak will ever be able to run a railroad and as long as we continue to waste our taxpayers' dollars by pouring it down this empty pit, this is the best bill we can probably pass in this House. I urge my colleagues not to water it down any more.

Mr. OBERSTAR. Mr. Chairman, although we have more time, we have no further speakers on our side. In sorrow, disappointment, and puzzlement that we will not get to a vote tonight, I yield back the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Mr. SHUSTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. CALLAHAN) having assumed the chair, Mr. KOLBE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2247) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON S. 830, FOOD AND DRUG ADMINISTRATION REGULATORY MODERNIZATION ACT OF 1997

Mr. BLILEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, with House amendments thereto, insist on the House amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia? The Chair hears none, and without objection, appoints the following conferees:

Messrs. BLILEY,
BILIRAKIS,
BARTON of Texas,
GREENWOOD,
BURR of North Carolina,
WHITFIELD,
DINGELL,
BROWN of Ohio,
WAXMAN, and
KLINK.

There was no objection.

TRIBUTE TO PHINEAS INDRITZ

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, it is with a great sense of sadness that I advise this House of the passing of a dear friend of this institution and of mine, Mr. Phineas Indritz, an individual known for many years as an outstanding staff member of many committees of this Congress and well known to many on Capitol Hill and the city of Washington.

Phineas Indritz died on October 15, 1997, at the age of 81 at Holy Cross Hospital following a long illness. Phineas was a graduate of the University of Chicago with A.B. and J.D. cum laude degrees, served as Assistant Solicitor and Counsel at the U.S. Department of the Interior from 1938 to 1957, except during the years of World War II, when he served with distinction in the Army Air Forces.

He then began 20 years of service on Capitol Hill as a staff member to the Government Operations Committee, first as counsel for the Subcommittee on Public Works and Resources in 1957 and then going on to other assignments.

In 1963, he became chief counsel of the Subcommittee on Natural Resources and Power, and at the same time, in 1969, to the Subcommittee on Conservation and Natural Resources. He also served with distinction as a member of the staff of the Committee on Energy and Commerce and also for its Subcommittee on Energy and Power.

He has long been known for the outstanding work he has done for human rights, protection of natural resources, and for his work as teacher and scholar and educator in the area of law.

Mr. Speaker, he will be missed, and I extend my sorrow and sympathy to the members of his family who properly grieve the loss of a great man.

Some may remember the series of articles written by David Maraniss for the Washington Post about the Committee on Energy and Commerce in 1983. In one of these articles, dated July 18, 1983, was a portrait of Phineas Indritz. I would ask that a passage from this article be reprinted as follows:

There is a special desk and telephone reserved for Phineas Indritz, the gnome of the Energy and Commerce Committee, on the third floor of House Annex II, and he is received there with the respect befitting a wise old man who has worked in Congress since the birth of the youngest committee member.

That Indritz retired from government service several years ago and is not on the committee's payroll matters not at all when it comes to his standing and influence. Chairman John D. Dingell loves him like a brother, and it is fair to say that Dingell keeps him around because he needs him: Little Phineas is in many respects the social conscience of Big John.

Every few months, Indritz appears in Dingell's office with a wrong that must be righted, with evidence of an injustice inflicted by corporate America or some agency

of the federal bureaucracy. "He's like a kid who comes home every day with a different stray dog or cat and plops it on our doorstep," one committee colleague said. "Sometimes we wish he wouldn't bring them home, but his heart is always in the right place. And usually the things he believes in are things that ought to be done."

All of this must be taken into account when one considers the life and times of H.R. 100. This measure, popularly known as the unisex insurance bill, has sent the insurance industry into a multimillion-dollar lobbying frenzy. It has been embraced by feminist groups as the centerpiece of their campaign for economic equity. And it has trapped Energy and Commerce members in the middle of a ferocious fight that many of them wish would be waged somewhere else.

Indritz, committee aide emeritus, dropped H.R. 100 on the doorstep. He is one of the bill's principal authors. An old civil rights activist and New Deal liberal, Indritz is blessed with talents as extraordinary as his name. For years, his amazing juggling feats with bowling pins have delighted friends and strangers in parks around Capitol Hill.

He drives through town in a fine old convertible, his head barely protruding above the steering wheel. His tweed suit pockets hold a bountiful supply of hard candy, and his scholarly mind retains more obscure facts about constitutional law and legal briefs on discrimination than can be found in the library of the Supreme Court.

It was his lifelong obsession with fighting discrimination that led Indritz several years ago to take hold of a bill prohibiting insurance companies from using race or sex in setting rates for policyholders.

Phineas will be greatly missed. We are fortunate that his legacy is so long, and continues to live with us and help us every day. He is survived by his two daughters, Tahma Metz of Bethesda and Tova Indritz of Albuquerque, NM; and a son, Dr. Doren Indritz of Phoenix, AZ; a sister; and two grandsons. He was preceded in death by his beloved wife of 34 years, Ruth Gould Indritz.

HONORING BOB L. VICE

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, I rise to honor a distinguished agricultural leader at the local, State, and national level who will be leaving office this year. Bob L. Vice, President of the California Farm Bureau Federation, has led the largest agricultural organization in the State of California for the past 8½ years. He has met many challenges during the time to keep a $24 billion a year agricultural industry, the largest in the Golden State on course. California agriculture is an industry that contributes generously to the State's economy.

While many think of California as large cities and recreational parks, one in 10 jobs are directly related to agriculture. Farmers face the whims of mother nature and uncertainties of the marketplace and ever increasing government regulations. Bob Vice has been a strong advocate of the industry and has spent much of his time away from his family to devote his efforts to the industry that he loves. I am proud to know him as a distinguished agricultural leader, a devoted constituent and a friend. I wish him the best in his future endeavors.

Bob Vice began his service to the agricultural industry when approached to attend a meeting of the California Farm Bureau Federation's Young Farmers and Ranchers Committee. This offer to attend this meeting was made so far in advance that he gave little thought to the time commitment involved. But it was to the agricultural industry's benefit that he chose to do so.

After attending the meeting, Bob Vice became very active in the San Diego County Farm Bureau's Young Farm and Ranchers Program and worked on many programs at the county level. His involvement led him to a position on the County Farm Bureau board of directors.

His enthusiasm for work on behalf of the agricultural industry and Farm Bureau was acknowledged by his progression to president of the San Diego County Farm Bureau and thus a delegate to the California Farm Bureau Federation. In 1987, he was honored as the San Diego County Farmer of the Year.

In December 1981, Bob Vice was elected as the first vice president of the California Farm Bureau Federation at their annual meeting in Palm Springs. As an officer and board member of the State organization, he participated in many committee assignments and directed the policy review procedures at the annual meetings.

In 1985–86, he participated as the agricultural point person to deal with the Immigration Reform and Control Act provisions in the national legislation. He continues to be a national spokesperson for agricultural labor issues and has been called upon to testify before Congress numerous times.

In 1989, after serving 7½ years as first vice president, Vice assumed the role of president of the California Farm Bureau Federation and was re-elected four times to that two year position. He served on the American Farm Bureau Federal [AFBF] board of directors from 1989–92. He was reelected to the AFBF board in 1994 and continues to serve in that capacity. He was also named to the six member executive committee of that organization. He has served on many committees including chairman of the AFBF International Trade Advisory Committee. He has participated in agricultural trade delegations to Europe, Israel, Latin America, the Pacific Rim, South Africa and Australia.

Bob Vice has not only been active within Farm Bureau but as a leader for all of agriculture. Shortly after assuming the presidency, he became the chairman of an agricultural coalition to successfully fight the ill-conceived "Big Green" initiative. His efforts further elevated him as a leader on the national agriculture scene.

Bob Vice has been a visionary on behalf of the agriculture industry by his long range outlook on issues affecting the industry. He is especially aware of the need to balance the use of water between competing interests within California and was one of the original participants on the California Bay Delta Oversight Committee established by Governor Pete Wilson. He was a major participant in the effort to pass Proposition 204, the water bond issue in 1996.

His willingness to participate in issues affecting agriculture has propelled the California Farm Bureau to new heights in political awareness and has made the organization a well respected force in Sacramento and Washington, DC. This respect is not only acknowledged by elected officials but also by his peers throughout the industry.

He was appointed to the 22d Agricultural District Fair Board (Del Mar) in 1984 by Governor George Deukmejian and has been reappointed twice by Gov. Pete Wilson. He is a member of the Advisory Council on Small Business and Agriculture of the Federal Reserve Bank of San Francisco.

In addition to his many agricultural activities, Bob Vice and his wife Carilyn are very active in their church and community. He continues to farm avocados in Fallbrook, San Diego County.

MORE ON THE IRS AND THE TAX CODE

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I wanted to talk about the IRS, our Tax Code, where we go from here, and some of the abuses. In my Somerset congressional church in Somerset, MI, a member gave me his dun notice from the IRS and I would like to share it with my colleagues and, Mr. Speaker, with the American people.

It says, "According to our records, you owe $49 on your income tax. Please pay the full amount, et cetera, by this date. If you have not paid, mail your check or money order. Tax withheld, zero; estimated tax payments, $6,347; total payments or credits, $7,379.83; total tax on return, $7,380." That is all complicated.

Here is the line that makes the difference. "Your underpaid tax, 17 cents. You owe a penalty of $49.35."

The postage stamp to send out this dun notice is more than the 17 cents that IRS said he owed on his taxes. I think it is another example of why we have to reform the IRS and get rid of it as we know it.

Mr. Speaker, I include for the RECORD the following:

REQUEST FOR TAX PAYMENT

According to our records, you owe $49.35 on your income tax. Please pay the full amount by Sep. 15, 1997. If you've already paid your tax in full or arranged for an installment agreement, please disregard this notice.

If you haven't paid, mail your check or money order and tear-off stub from the last page of this notice. Make your check payable to Internal Revenue Service and write your Social Security number on it. If you can't pay in full, please call us to discuss payment.

Tax Statement

Payments and credits:

Tax withheld ..... $.00

Tax Statement—Continued

Estimated tax payments	6,347.83
Other credits	.00
Other payments	1,032.00
Total payments and credits	7,379.83
Tax:	
Total tax on return	7,380.00
Less:	
Total payments and credits	7,379.83
Underpaid tax	.17
Penalty	20.64
Interest	28.54
Amount you owe	49.35

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

□ 1700

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore (Mr. CALLAHAN). Under a previous order of the House, the gentleman from Arkansas [Mr. HUTCHINSON] is recognized for 5 minutes.

Mr. HUTCHINSON. Mr. Speaker, it is my pleasure to come today to talk about a very important subject, and that is campaign finance reform. I think a legitimate question at this point can be, where are we and where are we going in the House and Senate on campaign finance reform?

We have seen the Senate try to address this issue. They brought up the McCain-Feingold bill. They came to a stalemate in the Senate, neither side winning, but simply could not get the 60 votes necessary to move that issue forward.

I believe that the issue now turns back to the House to see what are we going to do, what are we going to do for the American public. I believe we have a tremendous opportunity now to address the issue seriously, through our policy conference, through our committees, and to make some constructive suggestions and legislative enactments in regard to this important issue.

We also have the opportunity to create some momentum, which this issue seriously needs. So I believe that we have that opportunity, and I would urge my colleagues in the House to get behind the effort to reform our campaign finance laws.

One thing I hear all the time is we first have to enforce the laws. I agree 100 percent, the first obligation that we have is to enforce our current campaign laws, and I am grateful for the hearings that Senator THOMPSON is conducting on the Senate side and Congressman BURTON is handling on this side, that are bringing out some serious abuses, some violations of the law, and we have to continue digging in that area.

But the American public fully understands what the real problem is. It does not take a rocket scientist to figure out that the problem is soft money. That is what has led to the abuses of the last campaign, and that is what needs to be addressed during this legislative cycle in regard to the reform that we need to do.

So we have presented the Bipartisan Campaign Integrity Act of 1997 that I have introduced as H.R. 2183, that Congressman TOM ALLEN from Maine, my Democrat counterpart, has cosponsored along with me, along with 650 cosponsors to this legislation, both Republicans and Democrats, both conservatives and liberals.

Why can we all agree upon this? Because we narrowed it down to what is important. What we have to present now is what are the important elements of reform in this bill. It includes, first of all, a ban on soft money to the national political parties.

What is soft money? It is the millions of dollars generally in contribution that come from the corporations and the labor unions to our national political parties.

I believe the debate boils down to this: Are we going to have our national political parties controlled by the multinational corporations that give the huge chunks of money, or are we going to be responsive to the grassroots of the American population? That is how simple this issue is, and that is how the American public sees it.

I believe conservatives need to unite behind this bill, the Bipartisan Campaign Integrity Act, because it builds confidence in the grassroots. It tells them that we are going to be serious about being responsive to them and reforming our system and banning soft money, returning control of our parties, of our Congress, to those people that have built this Nation. That is what it is all about.

In addition, it increases disclosure. We need to simply give the American people information on the campaigns, who is spending what. So it provides for electronic disclosure for the candidates, quicker information for them.

In regards to issue advocacy groups, it is simply disclosure. It does not get into the constitutional questions of some other billings, but simply provides the disclosure of information as to who is spending what on the campaigns to influence those. So that is the essence of the Bipartisan Campaign Integrity Act, and I believe it is very, very important.

Where did all of this start? It started with the Republican President, President Teddy Roosevelt, who in 1905 addressed the Congress of the United States and said that all contributions by corporations to any political committee or for any political purpose should be forbidden by law.

It started with a Republican President, who started campaign finance reform. Later, the prohibition on union contributions, labor union contributions to the political candidates, was enacted.

So that is the basis upon our legislation today that bans unions and corporations from giving directly to the political candidates. But yet we have this loophole where they can give in multimillion-dollar chunks to the political parties that influences those elections they cannot give directly to. That is why it is a loophole of soft money that we should address.

Now there is a proposal that is out there that says we just need to deregulate it all, we need to let anybody contribute whatever they want to, and that is the best approach to campaign finance reform.

First of all, I believe that this would take us back to the dark ages. People remember the day when a candidate could receive anything he wanted and lean however much he wants to get money. And, sure, the American public will need it, but it is bad for the system. It would be inappropriate to raise the limits.

The proposal says we even take the limits off of political action committees. Can you imagine the labor union political action committees that could give anything they want, that they could give $1 million to a candidate? I think that is bad for the system. So the proposals that say we need to take the limits off is not where the American public is today.

We need true reform. We need to have the bipartisan proposal that bans soft money, the greatest abuse, that increases disclosures, empowers individuals and restricts the influence of the special interest groups. That is what our bill does.

I am grateful for the gentleman from California, Chairman THOMAS, who has indicated that he will provide hearings on this legislation, as well as others. I hope that he will schedule those immediately, so that we can move forward with this important legislation before we go home in November.

That is where we are. I ask my colleagues to support the Bipartisan Campaign Integrity Act.

FAST TRACK TREATY AUTHORIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KOLBE] is recognized for 5 minutes.

Mr. KOLBE. Mr. Speaker, I rise today to take this five minutes to begin what I hope will be a constructive and important debate on the subject of fast track, a debate which I

think will certainly rank with among the most important debates that this Congress will undertake this year or next year, whenever we finally do actually take this debate and cast a vote on fast track.

I recognize in beginning this discussion tonight, and this will only be the beginning of a long discussion I think we need to have, that there are many Members in this body who have come to the Congress of the United States since the Congress last voted on any kind of substantive trade issue, an issue where the fast track was the essence of the debate. It also ranks as one of the most unusual, some would say arcane, but certainly one of the most complex pieces of legislation that we have in our panoply of legislative tools.

It ranks as that because it very uniquely delegates to the President certain responsibilities that normally Congress would not delegate to the President. It gives up certain powers of its own in order to get trade legislation enacted.

During the course of the next several days and weeks, I hope that we can discuss the importance of trade, how the fast track process works, why fast track is an essential element to getting trade negotiations and trade agreements in place, why fast track does not represent something that will damage workers and consumers in this country, why, indeed, these trade agreements are essential, why it should be considered constitutional, why we should or should not consider it and what elements of labor and environmental considerations should be included in any kind of fast track negotiations, and, ultimately, how fast track and trade agreements can protect the U.S. health and safety standards.

But today let me just begin with a little bit of background of where we have come from to get to this position today, where we now have a bill that has been reported from the Committee on Ways and Means, another bill in the other body that has been reported from the Senate Finance Committee, how we have gotten to this stage and why we are here today.

Fast track is legislation that goes back more than 20 years, about 25 years, to a time when we began to see that the complexity of trade negotiations required something that gave the President the authority to negotiate these kinds of agreements with other countries, and usually multiple numbers of countries, as we have found in the Uruguay round of GATT talks or the other multiple trade talks that preceded that.

We decided we needed this kind of fast track authority because the complexity of the negotiation itself meant that at the end of the negotiation, we had to be able to submit something to the Congress of the United States that would be voted yes or no.

The reason for that is simply our trading partners do not want to negotiate with the United States if they do not know at the end of that time there is going to be a yes or no vote. They want to know with certainty that the agreement they reach is the agreement that will be voted on. That is why we gave fast track authority to the President of the United States, and it has worked for every President since 1974, Republican and Democrat.

This is the first time that we have been, for several years now, without trade negotiating authority for a President. The results tell. During the course of the next several times that I will speak on this floor on this subject, I will outline some of the problems that we now have, because we have not had fast track authority for the President.

But let me just say in closing, Mr. Speaker, that this is absolutely vital legislation. It is vital because I think literally the economic future of this country depends on having fast track. We must have fast track because we must have trade, and trade is the engine of economic opportunity for the future, for American workers, for American consumers, for American entrepreneurs, for the security of the United States. It depends on having fast track authority.

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I would like to say thank you to colleagues of mine who have joined this evening to speak out on the fight against breast cancer.

October is Breast Cancer Awareness Month. This is a time when we honor all of the women who are fighting this deadly disease, we remember those who we love who have lost the fight, and we renew our commitment to trying to find a cure.

It is time to take stock of where we are in the fight against cancer. Are we committing sufficient resources for biomedical research to find a cure? Do women who have been diagnosed have access to the care that they need in order that they can heal properly?

I am very, very pleased that the appropriations committee that I sit on is poised to increase funding for the National Institutes of Health by at least $700 million so researchers can continue their quest for the causes of this disease and find an effective treatment that will, at longlast, give us the cure that we have been looking for.

Also the Department of Defense, along with NASA, is putting state-of-the-art technology to use in improved mammograms to increase the rate of earlier detection, which is clearly a key.

Unfortunately, all too often the answer to the second question, do women have access to the care that they need, is a resounding no. More and more often managed-care organizations are forcing patients home just hours after a mastectomy. In fact, a study by the Connecticut Office of Health Care Access proved that the average length of stay for breast cancer patients in Connecticut is dramatically decreasing. Most disturbing, it is decreasing faster for mastectomies than for other inpatient discharges.

This is really unacceptable. These are real women, women who are undergoing traumatic surgery, who are then sent home while they are still in pain, groggy from the anesthesia and with drainage tubes stitched to their skin.

It is not every day that you come face-to-face with your own mortality in a very profound way, as you do when you face a cancer diagnosis. It is not too much to ask for a mere two days in the hospital as you recover from this kind of surgery.

Congress needs to act to stop this practice. That is why, along with Congresswoman MARGE ROUKEMA of New Jersey and Congressman JOHN DINGELL of Michigan, I introduced the Breast Cancer Patient Protection Act. The bill would require insurance companies to cover 48-hour hospital stays for women who undergo a mastectomy and a 24-hour stay for those undergoing a lymph node dissection. The patient and her doctor, not an insurance company, can decide if a shorter stay is appropriate.

My home State of Connecticut and a number of other States have passed legislation to give women a 48-hour hospital stay. However, 125 million Americans are covered by the Employee Retirement Income Security Act, ERISA. These plans are exempt from State law, so we need to work together here in the Congress to pass Federal legislation to ensure that every woman is protected.

This measure has wide bipartisan support, 195 cosponsors, Democrats and Republicans. Congress has yet to act on this important bill. Nor has it moved on another piece of legislation that is so important to breast cancer patients, and that is the Reconstructive Breast Surgery Benefits Act, which was introduced by my friend and colleague, the gentlewoman from California, ANNA ESHOO. Congresswoman ESHOO could not be with us here tonight, and I will include her remarks for the record.

Americans understand the need for this legislation. In fact, through the breast cancer care petition, which is an on-line petition drive which we have initiated, thousands of Americans are

speaking out and calling for hearings on these bills.

□ 1715

Not only can they sign a letter, but they can leave their own stories of their own experiences about breast cancer. Over 6,000 people have signed this petition. Hundreds of women and men, survivors and their families, have left very moving stories that are more eloquent than anything that I could say.

Just a quick example that has been posted on the petition, from a Nebraska resident. I quote:

As the director of a breast cancer screening program, I have felt close to the medically underserved women who are our clients as they daily struggle with the painful choice of taking care of their own good health and buying cereal for their kids. There are real tears being shed by real women every day. They are your neighbors, your colleagues, your kids' teachers, the clerk at the grocery store. Breast cancer survivors have enough to deal with. Do the right thing, pass this legislation, and help make the tears fewer for those who will follow us until a cure is found.

One New York resident simply wrote, "During the most devastating time in my life I should not have to fight with the insurance company."

We all pray for the day when we find a cure for cancer. Until then, we must ensure that those suffering from this disease get the care they need and the care they deserve. I call on the Congress to pass the Breast Cancer Patient Protection Act.

Mr. Speaker, I include for the RECORD the statement by the gentlewoman from California, Ms. ANNA ESHOO, on this legislation.

The statement referred to is as follows:

Ms. ESHOO. Mr. Speaker, first, I thank my colleague Rep. ROSA DELAURO for organizing this special order during National Breast Cancer Awareness Month and for her unwavering advocacy on behalf of breast cancer patients.

Breast cancer touches the lives of thousands of American women, their families, and their friends every year, forcing them to confront both death and disfigurement. Over 180,000 American women are diagnosed with breast cancer annually and 44,000 of them die from the disease. Another 85,000 American women have mastectomies as part of their treatment each year, 25,000 of whom choose to have reconstructive breast surgery because of the tremendous damage that mastectomy does to a woman's body.

Fear of losing a breast is one of the main reasons many women do not have preventive examinations for breast cancer—many don't know about the possibility of reconstructive surgery.

Unfortunately, many insurance companies don't recognize the importance of breast reconstruction. A recent survey shows that 84 percent of plastic surgeons had up to 10 patients denied coverage for reconstruction of an amputated breast.

The unwillingness of some insurance companies to pay for reconstructive breast surgery following a mastectomy defies all sense of reason and compassion. Reconstructive surgery in these cases is not cosmetic—it's part of the continuum of case necessary for the complete recovery of patients.

On the first day of the 105th Congress, I introduced H.R. 164, the Reconstructive Breast Surgery Benefits Act. This legislation says that insurance companies that cover mastectomies must also cover reconstructive breast surgery resulting from mastectomies, including surgery to establish symmetry between breasts. Companies can't deny coverage for reconstructive surgery by claiming it's cosmetic surgery.

At the same time, H.R. 164 doesn't force women to have the surgery and it allows companies to impose reasonable charges for providing the benefit.

Even though this initiative has won broad bipartisan support, no hearings have been held on it. Nor have hearings been held on a related piece of bipartisan legislation, H.R. 135, which would stop the shameful practice of drive-through mastectomies.

That's why I welcome the online breast cancer care petition drive which was launched last month to call for hearings on both breast cancer bills.

Located on the Web at breastcare.shn.com, the petition gives breast cancer patients and those who care about them a chance to log on, learn, and leave their names in support of congressional action. The petition will run through the end of this month.

Nearly 6,000 people from across the country have signed the petition so far.

In addition to collecting signatures, the site allows people to leave personal stories about their experiences with breast cancer. Hundreds of people have done so, and anyone reading them can't help but be moved.

At the end of the drive, the petition will be delivered in hard copy to the appropriate committee and subcommittee chairmen to demonstrate that these bills have broad support and deserve hearings.

In closing, I want to read to you just two of the comments that have been left at the petition site. The people who have left them speak far more eloquently about this issue than I ever could.

One woman wrote:

On January 17, 1997, I learned that my mother, the woman I thought was a breast cancer survivor and success story, had developed recurrent breast cancer. On February 4, 1997, my mother was dead. My family has been devastated by the loss. I have accomplished some of the dreams she and I shared together, but cannot tell her. I was finally able to return to live near her, but she's no longer there . . . I thank you for providing me with this opportunity to let those in government know how important it is to provide women with adequate and acceptable care for this devastating disease.

On October 5, a woman left this message:

I was diagnosed with breast cancer 48 hours ago. I must have more surgery in 24 hours. I am terrified. I don't want to die. My grandmother, my mother, and my mother's sister all had breast cancer. I am 53. I have a beautiful 26-year-old daughter. I want her never to suffer with this.

Providing coverage for reconstructive breast surgery and stopping drive-through mastectomies are two important issues related to breast cancer. Until there's a cure for the disease, we must ensure that women are given the best care possible to cope with breast cancer and its treatment.

Mr. Speaker, I encourage people to visit the petition site, breastcare.shn.com, and read these personal stories. They all have one simple underlying theme: it's time for Congress to stop delaying and start acting on these important pieces of legislation.

Ms. JACKSON-LEE of Texas, Mr. Speaker, I rise tonight to speak about an issue of vital importance to the women of this Nation—breast cancer. As a woman and a mother, I feel that there are few issues as important to women's health as the breast cancer epidemic facing our Nation. Therefore, I add my voice to supporting the DeLauro legislation on breast cancer.

As you may know, breast cancer is the most commonly diagnosed cancer in American women today. An estimated 2.6 million women in the United States are living with breast cancer. Currently, there are 1.8 million women in this country who have been diagnosed with breast cancer and 1 million more who do not yet know that they have the disease. It was estimated that in 1996, 184,300 new cases of breast cancer would be diagnosed and 44,300 women would die from the disease. Breast cancer costs this country more than $6 billion each year in medical expenses and lost productivity.

These statistics are powerful indeed, but they cannot possibly capture the heartbreak of this disease which impacts not only the women who are diagnosed, but their husbands, children, and families.

Sadly, the death rate from breast cancer has not been reduced in more than 50 years. One out of four women with breast cancer dies within the first 5 years; 40 percent die within 10 years of diagnosis. Furthermore, the incidence of breast cancer among American women is rising each year. One out of eight women in the United States will develop breast cancer in her lifetime—a risk that was 1 in 14 in 1960. For women ages 30 to 34, the incidence rate tripled between 1973 and 1987; the rate quadrupled for women ages 35 to 39 during the same period.

I am particularly concerned about studies which have found that African-American women are twice as likely as white women to have their breast cancer diagnosed at a later stage, after it has already spread to the lymph nodes. One study by the Agency for Health Care Policy and Research found that African-American women were significantly more likely than white women to have never had a mammogram or to have had no mammogram in the 3-year period before development of symptoms or diagnosis. Mammography was protective against later stage diagnosis in white women, but not in black women.

We have made progress in the past few years by bringing this issue to the Nation's attention. Events such as this October's Breast Cancer Awareness Month, are crucial to sustaining this attention. There is, however, more to be done.

It is clear that more research and testing needs to be done in this area. We also need to increase education and outreach efforts to reach those women who are not getting mammograms and physical exams.

We cannot allow these negative trends in women's health to continue. We owe it to our daughters, sisters, mothers, and grandmothers to do more. Money for research must be increased and must focus on the detection, treatment, and prevention of this devastating disease.

Mrs. ROUKEMA. Mr. Speaker, I take this opportunity during Breast Cancer Awareness Month to ask my colleagues' support for H.R. 135, the Breast Cancer Patient Protection Act of 1997. This legislation would require health insurance companies to pay for at least a 48-hour hospital stay for women who undergo a mastectomy.

I find it unbelievable that some HMO's are sending women home the same day after having a mastectomy. This is not just a matter of postsurgical complications, possible infection, and other medical issues. This is one of the most anguish-filled, emotionally trying crises a woman can ever face. To perform a mastectomy and then turn the patient out the door shows callous indifference to the dignity of all women.

Sometimes it seems that HMO's are making a concentrated attack on the health concerns of women. First they were trying to discharge new mothers 12 hours after giving birth. Now we have outpatient—drive-through—mastectomies. What will come next? I will not settle for third-world standards for health care for women in this country and neither will the 184,000 women who contract breast cancer each year. This is not legitimate cost-saving. This is cold, callous rationing of care.

Some HMO's say outpatient mastectomies are not mandatory—that the doctor and patient can decide how long to stay in the hospital. I would like to believe that it is true. But we have already seen physicians being coerced into providing lower levels of care when HMO's think they are spending too much money. HMO's are often in a position to put a doctor out of business overnight by taking his or her patients away. I do not accept the rationalizations of the HMO's. Clearly, they need regulatory direction.

With 184,000 new cases each year, breast cancer is the most common form of cancer afflicting American women. My home State of New Jersey has the fourth-highest number of breast cancer cases in the Nation and the third-highest number of deaths from breast cancer. Those statistics make the seriousness and scope of this tragic disease absolutely clear. Someday, we may find a cure. But in the meantime, we must do everything possible to ensure that women who contract breast cancer receive proper medical treatment—and that proper care is placed ahead of insurance companies' bottom line. Please support the Breast Cancer Patient Protection Act of 1997.

Mr. FROST. Mr. Speaker, I am pleased to rise in recognition of the month of October as Breast Cancer Awareness Month. This year alone, 180,000 women in this country will be diagnosed with breast cancer. Although there is no cure, the best way known to prevent breast cancer is through early diagnosis and treatment.

Two bills have been introduced to combat breast cancer. House Resolution 135, the Breast Cancer Patient Protection Act, guarantees that women who must undergo surgery for the treatment of breast cancer get the hospital stay they need and deserve. This legislation requires a woman to receive a minimum hospital stay of 48 hours for a mastectomy, and 24 hours for a lymph node removal. This will enable women and doctors to determine how long they need to stay in the hospital and not the insurance companies.

The other bill is House Resolution 164, the Breast Surgery Benefits Act, which targets insurance coverage for breast reconstruction. It requires group and individual health insurance plans to provide coverage for reconstructive breast surgery if they provide coverage for mastectomies. This bill will protect many of the mastectomy patients that are denied coverage for breast reconstruction each year.

Breast cancer is a serious problem facing every woman in the United States today. I believe that breast cancer deserves more attention and that is why I am a cosponsor of both of these bills. Breast cancer is not going to go away and we must, in any way that we can, protect our women from the dangers of it.

Mrs. MALONEY of New York. Mr. Speaker, it is my pleasure to join my colleagues, ROSA DELAURO, ANNA ESHOO, and others tonight to salute October as Breast Cancer Awareness Month.

We know, all too well, the devastating facts:

With nearly 200,000 cases of breast cancer diagnosed last year, breast cancer is the most common cancer among women.

I was pleased earlier this year, Congress enacted, as part of its balanced budget, my bipartisan bill, the Breast Cancer Early Detection Act, to allow for annual mammograms for Medicare women.

By including my bipartisan bill, this budget agreement makes a wise investment that will save women's lives.

But there is more that needs to be done.

Once breast cancer is diagnosed, sometimes it is too late.

But sometimes, when treatment is available, a woman can undergo a mastectomy which may save her life.

Unfortunately, very often, we've seen women who have been forced to leave the hospital with drainage tubes still attached. And just like the drive-thru delivery bill, a national outcry forced us to look at the safety of women who were sent home hours after a radical mastectomy.

I am proud to be an original cosponsor of H.R. 135, the Breast Cancer Patient Protection Act.

This bill will eliminate these so-called drive-through mastectomies by requiring insurance companies to provide at least 48 hours of inpatient hospital care following a mastectomy and a minimum of 24 hours following a lymph node dissection for the treatment of breast cancer.

I am also proud to be a cosponsor of H.R. 164, the Reconstructive Breast Surgery Benefits Act, introduced by Representative ANNA ESHOO.

This bill would require health insurance companies to cover reconstructive breast surgery if they already pay for mastectomies.

I am pleased to stand with my colleagues in support of the one out of every eight women who will get breast cancer in her lifetime.

Right now, thousands of women are signing an electronic petition. The online petition drive will enable breast cancer patients to become activists on behalf of the legislation that would provide them with the kind of health care they deserve.

Many have shared their personal stories. One New York woman wrote:

On August 25, 1997 a lumpectomy showed that indeed, I did have breast cancer. An axillary lymph node dissection showed that the cancer has traveled to my blood stream. I am 34 years old. I am undergoing chemotherapy, and will also to have radiation. It is absolutely necessary for you in government to help women all across the country and to take this disease seriously. We depend on our government to protect us, even when a devastating illness has befallen us.

My mother's two best friends died of breast cancer, one when I was too young to remember, and the other when I was 18. It was devastating for everyone and we are convinced that it was the love of family and friends that helped one friend fight 10 years with this disease. Coming from a family in which no woman has ever developed breast cancer, the pop culture leads me to believe that I am not at risk. Only through doing research on my own have I learned that every woman is at risk regardless of age, family history, or geographical location. This is a silent killer that must be stopped. Our world desperately needs its mothers, sister, aunts and friends.

I was not in any high risk group for developing breast cancer. Yet I was diagnosed with breast cancer in November 1996. I was shocked and it is still very hard for me to accept this diagnosis. I opted for a mastectomy with reconstruction. I am still in the process of reconstructive surgery. I also underwent seven months of chemotherapy.

We need to make sure mastectomies and reconstructive surgery are safe, and covered.

I thank my colleagues for organizing this special order, and I salute the women who are facing these issues every day.

You are our inspiration, and we will continue fighting for you.

Mr. DINGELL. Mr. Speaker, I am pleased today to join with my colleague from Connecticut [Ms. DELAURO], to urge our colleagues to cosponsor the Breast Cancer Patient Protection Act of 1997. This legislation seeks to ensure that women and doctors—not insurance company bureaucrats—decide how long a woman who has a mastectomy should remain in the hospital.

For any woman, learning that she has breast cancer is one of her most frightening experiences. Learning she must have a mastectomy, a surgical procedure that will alter her body and her life, can be devastating.

For an insurance company to dictate to a woman, facing one of life's greatest challenge, that she must leave the hospital whether she is ready or not, is the ultimate insult.

Late last year, I came to a more precise understanding of the trauma a woman faces when she learns she must have a mastectomy. A member of my staff in Michigan, Connie Shorter, practically awoke 1 day to the stunning and agonizing reality that she had cancer. As if physical and psychological pain of the disease were not already too much to cope with, soon Connie would discover the pain of a process which neither she nor her doctor could control.

Earlier this year, Ms. Shorter was asked to the White House to join with First Lady Hillary

Rodham Clinton in relating the difficulties associated with drive-thru mastectomies. There are no words better than Connie's own as she told her story to the First Lady:

What makes this awful situation worse is that I was discharged eight hours after two major surgeries. I was appalled to learn that this is routine, and I learned very quickly why. Being sent home only a few hours after surgery was not because of my medical condition or because of my doctor's specific recommendation.

Coming home was not easy. From the moment a woman walks in the hospital door in the morning for her unwanted mastectomy, until she is wheeled out that afternoon, she feels she has been through one of the world's most painful physical and psychological wars, a very personal loss and incredible physical battle * * * after my experience, I could not feel more strongly that a woman and her doctor are the only two people who should decide when she should leave the hospital after surgery.

Every medical specialty organization in this country challenges the right of insurance companies to interfere in the decision of what treatment is medically necessary or appropriate for a patient. Whether that patient is a young woman giving birth to a baby, or having surgery to treat breast cancer, the insurer has no right to be in the middle, between the patient and the doctor. And in no case should a patent be sent home less than 24 hours after a mastectomy so that an insurance company or hospital can save money.

Representative DELAURO and I, along with many other Members, placed this issue on the table at the end of the last session because we wanted every Member of this body to think about this matter before the convening of the 105th Congress. We spent several months researching the best, most effective way to accomplish the goals we laid out last year. This legislation is consistent with the Kennedy-Kassebaum health insurance reform bill and with the MOMS bill passed last Congress, providing 48-hour maternity stays.

H.R. 135 goes where many angels have feared to tread, into the hallowed halls of a well-heeled industry that is trying to make cost, rather than care, the driving principle of our health care system. This legislation just says "no." It says to anyone who is not the patient or the patient's doctor: "No, you may not dictate when a patient must leave the hospital."

Mr. Speaker, I am very happy to report that almost a year after her surgery, Connie Shorter is a breast cancer survivor, and remains a vital and effective member of my senior staff. More important, she remains a loving, caring and giving spouse, mother, and grandmother, and we all expect her to continue in all these roles for a very long time.

As Connie's story reveals, the devastation of breast cancer is too great to allow Congress to ignore the risks of inadequate medical care. The difficulties, both physical and psychological, associated with mastectomy are too complex. This legislation seeks to ensure that insurance snafus and mindless refusals do not make these difficult situations impossible.

Today, H.R. 135 has almost 200 cosponsors from both sides of the aisle. In addition, a nationwide campaign on the Interned has begun to push us to give this bill and other crease cancer legislation the hearings they deserve. I urge my colleagues who have not already cosponsored this legislation to do so now, and express the hope that Congress will listen to respond to the women of America who seek better and more reliable treatment for breast cancer.

GENERAL LEAVE

Ms. DELAURO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. BRADY). Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

RECOGNIZING OCTOBER AS BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. CLEMENT] is recognized for 5 minutes.

Mr. CLEMENT. Mr. Speaker, I rise on this special occasion, recognizing October as Breast Cancer Awareness Month.

Mr. Speaker, breast cancer is the most common form of cancer affecting women in the United States, with one out of eight women developing this disease in her lifetime. It affects mothers, daughters, wives, and sisters. Both its cause and the means for its cure remain undiscovered.

In honor of October as Breast Cancer Awareness Month, I am pleased to lend my support for the initiatives of this Congress to not only work toward eradicating this dreaded disease, but to ensure that women receive the proper treatment they deserve.

I would like to take this opportunity to call attention to the Internet petition. This petition gives constituents across the Nation a chance to voice their support for the initiatives by the gentlewoman from California [Ms. ESHOO] and the gentlewoman from Connecticut [Ms. DELAURO] to stop insurance companies from forcing women to have drive-through mastectomies, and denying women coverage for reconstructive breast surgery following mastectomies.

As a cosponsor of both of these bills, I am pleased to support this legislation, which would provide much needed improvements in coverage for breast cancer treatment.

A young lady from my State of Tennessee who lost her mother to breast cancer a year ago signed the petition earlier this week. She also added, "Not only do we need to stand up for the above initiatives, but we need to stand up for better treatment and cures for this deadly disease."

Yes, Mr. Speaker, we do need to stand up for better treatment and cures for this deadly disease. I encourage the House of Representatives to hold hearings on these two bills in an effort to see that this legislation is passed into law.

Like many of us down here on the floor tonight, I am dedicated to expanding the Federal commitment to eradicating breast cancer through increased outreach and education programs, as well as through regulation and provision of treatment. Let us work together to find a cure for this dread disease.

Mr. Speaker, I also want to brag on my wife, too, Mary Clement, because she is on the board at the Vanderbilt Cancer Center in Nashville, TN. She is very outspoken on this particular issue; and also my aunt, who is a State senator, or a former State senator now, from the State of Tennessee, Annabelle Clement O'Brien. She passed some major legislation in the Tennessee General Assembly several years ago, and was just honored, alongside Dr. Benjamin Byrd. Both of them were honored at Vanderbilt University, and I congratulate them.

If all of us will work together, we can accomplish great things.

THE CITIZENSHIP REFORM ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BILBRAY] is recognized for 5 minutes.

Mr. BILBRAY. Mr. Speaker, I rise today to address the Citizenship Reform Act of 1997. The Citizenship Reform Act of 1997 amends the Immigration and Naturalization Act to deny automatic citizenship to children born in the United States who were not born by parents who are legal resident aliens or permanent residents, or U.S. citizens.

Now, Members may say there are not that many people out there who are born to citizens of tourists or illegal aliens, and it is not that big a deal. Mr. Speaker, let me clarify that this has become a big deal. In California alone, we have addressed this issue and seen this issue grow. Over 250,000 children of illegal aliens are now qualified in the county, in one county, of Los Angeles, over 250,000 qualify for benefits such as Medicare, AFDC, WIC, and SSI. In fact, two-thirds of the births in Los Angeles County, Mr. Speaker, in the public hospitals of Los Angeles County, are to parents who are illegal aliens.

The fact is that the cost to the State of California alone is $500 million for providing welfare and health benefits to the children of illegal aliens. Forty percent of all births in the State of California are children of illegal aliens.

These costs are not just borne by the people of California, they are borne by

everyone. I think it is an issue that we now have a responsibility to address. The fact is we have created a loophole and created a benefit for people who break our laws.

I do not fault the mothers who come to the United States so their children can get automatic citizenship and get all these benefits. I do not fault them at all. They are only doing what is legal for them. Who I fault is Congress in Washington, DC, for having this huge loophole, this great encouragement for people to immigrate illegally.

Just in Texas there has recently been a report coming out showing that birth certificates are being sold to Mexican nationals for children that were never even born in the United States. In fact, one midwife has sold over 3,800 phony birth certificates so children could then qualify for welfare benefits and Social Security benefits.

In fact, it is estimated that in one sting operation alone where there were 89 people arrested, over $400,000 of alleged fraud was committed under the guise of utilizing the automatic citizenship clause through phony certificates. The granting of automatic citizenship to children born in the United States has led to this kind of fraud. Regardless of the parents' status, we are rewarding people for violating our laws.

We are talking about fairness here, too, Mr. Speaker, because how many people are waiting out there, 3,500,000, to immigrate legally? How many children are born to these 3,500,000 people who are playing by the rules? Do we give them automatic citizenship? No. We tell them, like we should be telling the children of illegal aliens, you have the right to apply for citizenship like anyone else, but we are not going to give you automatic citizenship.

I think it is quite unfair that we tell one group of people that your children get automatic citizenship because you broke the law and then tell another group of people, 3,500,000, that you will not get this privilege because you did not break the law. Fairness tells us we need to take care of this problem. Thousands of legal immigrants are waiting, and many, many thousands of illegal aliens are getting rewarded.

There may be those who say that H.R. 7 is unconstitutional. Mr. Speaker, the Supreme Court has never ruled on the issue of illegal aliens getting automatic citizenship for their children. They have ruled on legal aliens, and they have said that because legal aliens were allowed in this country and agreed to come to this country, they have the burdens of loyalty and obligations of service in the draft. With that obligation comes the inheritance for their children of automatic citizenship. Illegal aliens do not have that obligation, and thus cannot pass on a citizenship right to their children as legal immigrants can and U.S. citizens.

Mr. Speaker, the status of H.R. 7 is we have 51 bipartisan sponsors. The hearing was held on June 25. We are looking forward to a markup in early November, and frankly, I would encourage every citizen in the United States and every legal resident to contact their Congressman and ask them to join in the Immigration Reform Act of 1997, and bring some logic and some fairness back into our immigration policy.

Let us start rewarding people for playing by the rules and stop punishing them for obeying the laws.

JOIN THE FIGHT AGAINST BREAST CANCER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MCGOVERN] is recognized for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, breast cancer is currently the second leading cause of cancer deaths among American women. One woman in eight will develop breast cancer during her lifetime. In 1996 alone, an estimated 44,000 women died from this terrible disease.

While these statistics are sobering indeed, there is hope. If breast cancer is detected early, the probability that a woman can survive is greater than 90 percent. Certainly, we must do everything in our power to identify the signs of breast cancer early, treat the symptoms aggressively, and make continued medical attention affordable and accessible. As we celebrate Breast Cancer Awareness Month, we in Congress should recognize the obligation that we share in the national battle against this terrible illness.

I am a cosponsor of several important pieces of legislation that seek to establish high standards for quality and affordable medical treatment of breast cancer, including H.R. 164 and H.R. 135, which my colleagues, the gentlewoman from California, Ms. ANNA ESHOO, and the gentlewoman from Connecticut, Ms. ROSA DELAURO, introduced earlier this year. Both of these measures would give breast cancer patients who undergo mastectomies the health care coverage they need to fully recuperate from their illness.

When I meet the women throughout my district in Massachusetts, I hear how concerned they are that their health insurance will not adequately provide for them if they are one day diagnosed with breast cancer.

Back in January, the Massachusetts Breast Cancer Coalition wrote me to ask that I cosponsor the legislation of the gentlewoman from Connecticut [Ms. DELAURO], which requires a 48-hour minimum hospital stay for patients undergoing mastectomies, and a 24-hour stay for lymph node removal for the treatment of breast cancer.

Under the legislation drafted by my colleague from Connecticut, physicians and patients, not insurance companies, determine whether or not a shorter hospital stay is warranted. I strongly agree with their sentiment, that decisions about hospital stays following these painful and psychologically distressing surgeries should be between the health care provider and the patient. I was proud to become a cosponsor of that legislation.

The gentlewoman from Connecticut [Ms. DELAURO] and the gentlewoman from California [Ms. ESHOO] have also worked to establish a site on the World Wide Web that allows visitors to learn more about breast cancer, read and submit personal encounters with the disease, and build support for many of the legislative initiatives that seek to improve conditions for breast cancer patients.

As I read through some of the personal stories posted on that Internet site, I noticed a number of individuals who had written from my home State of Massachusetts, and I would like to share a couple of those stories.

Lynn DeCristofaro of Massachusetts wrote, and I quote: "I am only 16 years old, and I had to watch my 24-year-old sister die from breast cancer. I watched her come home after a mastectomy when it was obvious that she should be in the hospital."

Mrs. R. Russell of Massachusetts wrote: "I am a breast cancer survivor who is doing very well. However, I never know if the day will come that I have a reoccurrence. I think a recurrence is enough to worry about, without additional concern that my insurance company may not adequately cover my care."

Christopher Carron of Massachusetts wrote: "Two years ago my mother was diagnosed with breast cancer. She immediately had a mastectomy and reconstructive surgery. Luckily, she lives in Connecticut, where minimum stays in the hospital are required by law, and her health insurance company was flexible in the amount of time she spent in the hospital.

"I now realize that my mom's care was the exception, not the rule. Please end the inhumane treatment of our Nation's mothers, daughters, sisters, grandmothers, and granddaughters, and vote for H.R. 135 and H.R. 164. These women need to be treated with dignity and more than ample health care. My mom is now a 2-year cancer survivor and is fighting for herself and the rights of millions of other women who have faced this horrible battle. Thank you," he wrote.

Mr. Speaker, after hearing the stories of these individuals and countless others like them, I do not see how any Member of this body could say that current law is doing an adequate job of addressing the health needs of breast cancer patients in America.

□ 1730

Doctors in this country are spending far too much time fighting with insurance companies to get permission to give their patients the treatment they need. Physicians who treat women suffering from breast cancer should never be put in that position.

Our legislation will allow doctors to make decisions based on the health and long-term well-being of their patients and not the bottom line. Clearly we in Congress must do more to ensure that women suffering from this dreaded disease have access to quality, affordable, and complete health care coverage that they need and they deserve.

Mr. Speaker, I urge my colleagues to become cosponsors of H.R. 135 and H.R. 164 and to reassert our commitment to protecting the health of American women.

CONGRESS SHOULD OPPOSE INCREASES IN WHALING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, for the last 3 days I have been in Monaco at my own expense to try to prevent the renewal of whaling in the continental United States.

From the beginning of this debate over whether the Makah Indian Tribe in Washington State should be allowed to resume the practice of hunting whales after a 70-year cessation, I have maintained what is being described as "aboriginal subsistence whaling" is not that at all. It will in fact lead to a tragic resumption of commercial whaling and a geometric increase in the number of whales killed worldwide.

Without now addressing whether the Makah Tribe itself is motivated by the $1 million value of a gray whale in Japan, other powerful evidence exists that indicates that we are on the threshold of a dramatic increase in whaling. The official U.S. delegation to the IWC has been asking for a change in the definition of aboriginal subsistence whaling, the only type of whaling now legal under the International Whaling Commission, which the United States has ratified.

In their shortsighted attempt to legalize the intentions of the Makah Tribe, the United States is asking the other nations at the IWC to expand the definition of subsistence whaling to permit cultural issues to be addressed. Why? Currently aboriginal whaling is solely for the physical nutrition of the tribe in question. In other words, they need the food. It is obvious the Makah do not need to eat whales to survive.

What is the problem with expanding the definition into the cultural realm? There are villages and people all over the world who have a cultural history of whaling but who do not now qualify under the current definition of subsistence.

Saturday at the IWC hearings, the Japanese repeatedly asked the United States delegation: What is the difference between the Makah request and the desire of four villages on the Taiji Peninsula to resume whaling? It is obvious the Japanese are going to use this loophole that our own delegation is attempting to create to increase their commercial harvest of the whales. Other nations will undoubtedly follow suit if the Makah are successful.

Mr. Speaker, we cannot allow this to happen. The killing of whales around the world is on the increase. For this fraudulent cultural subsistence to become a legal authorization for further killing would be a tragedy. In addition, staff members of other IWC delegations have indicated resentment at the tremendous pressure the U.S. delegation is putting on other nations to support this fraud.

However, this pressure may not be changing votes. Observers today have informed me that the United States is now attempting to set an even more dangerous precedent of lobbying to increase the Russian gray whale quota. This new tactic would allow, this under-the-table deal would allow the Russians to give the Makah five whales at no loss to themselves. More importantly, this backroom style deal would not require a vote of the IWC. In other words, when they ran into trouble they are trying to go around the system.

A new whale hunt could then occur without IWC authorization. This is dangerous and dishonorable, Mr. Speaker. Frankly the tactics of this administration have been an embarrassment. They depicted the 43 Members of Congress who signed the letter that I took there that oppose the Makah as the only opponents in Congress.

Mr. Speaker, does anyone really believe that 389 Members of this House support the killing of whales in the continental United States? When pressed, the U.S. delegation could only name two Members of Congress who support the Makah hunt.

Mr. Speaker, they are not representing the best interests of our Nation or the sentiments of the vast majority of our people. It is now time for Congress to speak in a large, loud, bipartisan voice in condemnation of this blatant attempt at the expansion of commercial whaling. The vote will be tomorrow, and this is a critical issue.

ADDITIONAL FUNDS FOR RESEARCH NECESSARY TO SOLVE PFIESTERIA PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, Pfiesteria has plagued North Carolina for many years and experts now think that this organism was first observed in our waters almost 20 years ago in 1978.

While the Old North State has made multiple efforts to address this pestilence through estuary studies, nondischarge rules, phosphate bans, rapid resource teams, nitrogen load reduction, nutrient limit reductions, source wetland restoration programs, and a 2-year moratorium on new and expanding swine farms, Pfiesteria is an enigma for us all as it has been found in many Atlantic waters from the Chesapeake Bay south to Florida and west to Texas.

We must work together constructively and effectively, Federal, State, and local governments and agencies, academic researchers, concerned citizens, to attack and find rapid and workable solutions to this predicament.

Mr. Speaker, now is the time to find additional funds for Dr. Burkholder, one of the leading researchers in the area, as well as other scientists and researchers like her, in order to answer the remaining questions concerning the effects of Pfiesteria on humans, animals, and watersheds.

The waters of North Carolina have certainly felt the effects of the Pfiesteria outbreak, especially in the Neuse River, the Tar River, the Pamlico River, as well as the entire Albemarle-Pamlico Estuary, parts of which are in my congressional district. There have been more than 1 million fish killed in our State and many reports of human health problems. Given the adverse impact of such significant fish kills upon my district, North Carolina, and the mid-Atlantic, we need to seek solutions through aggressive research.

Mr. Speaker, we face a very serious threat that must be addressed immediately. We should not rush to judgment, however. Scientific inquiries are ongoing, but we should not waste time. Further research and testing should be undertaken at once. It is my hope that funding for critically needed research and testing will come as a result of recent hearings in the Committee on Resources and the Committee on Government Reform and Oversight.

Only through funding will come opportunities for a solution. Additionally, several of my mid-Atlantic colleagues and I introduced H.R. 2565 on September 26, 1997, the Pfiesteria Research Act of 1997. This bill appropriates a minimum of $5.8 million in fiscal year 1998 and 1999 for the establishment of a research and grant program for Pfiesteria through EPA, USDA, and HHS.

All North Carolinians and others who live, work, and play in the affected waters look forward to successful results of this research, and that is because many of their lives and their livelihood depend upon it.

TRIBUTE TO MAJOR GENERAL FRANK WORTH ELLIOTT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. EWING] is recognized for 5 minutes.

Mr. EWING. Mr. Speaker, I come here tonight saddened with the responsibility of informing this House of the loss of a great American, a man who served his country for many years, a man who reached the rank of Major General in the Air Force, a citizen of the 15th district of Illinois and a friend and somebody who will be missed a great deal by all who knew him.

Mr. Speaker, memorial services for U.S. Air Force Major General Frank Worth Elliott of Rantoul, Illinois, will be held at the United Methodist Church in that community on Friday of this week. Private burial will take place at a later time.

Mr. Elliott was born on December 2, 1924, in Statesville, North Carolina, son of Frank W. and Lois Young Elliott. He married Evaughn "Bonnie" Close on January 7, 1950, at Rapid City, South Dakota. His wife survives him. He is also survived by two sons, Frank Elliott of Santiago, Chile; Jeff Elliott of Albany, Georgia; and a brother, Jim Elliott of North Carolina, along with five grandchildren in whom he took great pride and affection.

General Elliott graduated from high school in 1941, and he attended college in California and in North Carolina, before he enlisted in December of 1942 in the U.S. Air Force. He later did complete his college work at Charleston, Illinois, at Eastern Illinois University in 1973.

He completed pilot's training and was commissioned a Second Lieutenant in March of 1944. He completed a tour of combat duty as an air crew commander of B–24s with the 15th Air Force in Italy during April of 1945, and he was promoted to Captain in that same year.

General Elliott remained in the service after World War II. He served in a number of different capacities, in operational supply and aircraft maintenance positions, until 1963 when he was promoted to the grade of Colonel while serving as the Deputy Commander for an operations wing of B–52s based in California.

He has attended the War College right here in Washington, D.C. General Elliott commanded the 92nd Bomb Wing at Fairchild Air Force Base in Washington from January 1969 to January 1970, when he was promoted to Brigadier General. He was the commander of the 14th Strategic Air Division at Beale Air Force Base, California, and from 1970 to July of 1971, he was assigned to the Air Force base in Thailand as Commander of the 307th Strategic Wing.

General Elliott was promoted to Major General and then as Commander of the Chanute Technical Training Center at Chanute, Illinois, which brought him into Illinois again, and into the 15th Congressional District. He served there with distinction. He retired from the Air Force in September of 1975 after completing 33 years of active service.

Later, after a few years of retirement, we were so pleased when General Elliott returned to Rantoul to serve as an economic development consultant to the Village of Rantoul. This was at a time when the community of Rantoul was quite fearful. There was a great deal of concern in the community because the Chanute Air Force Base was being closed under the base closure passed by this Congress. A large number of jobs were being lost to the community.

General Elliott was a man for all seasons, a man who came to the rescue of his adopted community. He served them well. He will be greatly missed. I am glad to come here tonight to put this in the RECORD for his memory.

□ 1745

IN HONOR OF THOMAS HENDRICKS, ONE OF THE LAST LIVING BUFFALO SOLDIERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. BARRETT] is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, it gives me great pleasure to pay tribute to an outstanding member of my community and one of the last surviving Buffalo Soldiers of the United States Army, Mr. Thomas Hendricks. The story of Thomas Hendricks and his fellow Buffalo Soldiers who served before him will forever be a significant part of the history of America.

The legacy of the Buffalo Soldiers dates back to post Civil War days. Although African Americans have fought with distinction in all of this country's military engagements, their future in the Army was even in doubt after the Civil War. In July 1866, however, Congress passed legislation establishing two cavalry regiments and four regiments of infantrymen, later merging two, whose composition was made up entirely of black soldiers.

The troopers of the 9th and 10th Cavalries developed into two of the most distinguished fighting units in the Army. The fierce fighting techniques of these soldiers and their bravery on the battlefield inspired Native Americans to call them Buffalo Soldiers. Although history has often overlooked the contributions of the Buffalo Soldiers, I am proud to salute one of its finest cavalrymen, Thomas Hendricks. He is a man of courage and wears the name Buffalo Soldier with honor and great pride.

Thomas Hendricks was born on February 14, 1920, in Evanston, Illinois. As a young boy, he was strongly influenced by his grandfather, James Hendricks, who was also a Buffalo Soldier and served our country with distinction. It was actually his grandfather who inspired him to become a Buffalo Soldier and carry on the legacy of the hundreds of thousands of African Americans who have given their lives for the sake of freedom in our country.

Thomas Hendricks joined the 10th Cavalry of the U.S. Army in 1938 as a volunteer after receiving extensive military training under the tutelage of his grandfather. A few years later, he was sent to Ft. Hood for training and went on to pursue a distinguished military career which extended more than a decade.

Throughout his career as a Buffalo Soldier, Tom Hendricks has received numerous honors, including Battle Stars, for his valiant efforts in World War II. He was engaged in military conflicts including the Normandy Invasion and the Battle of the Bulge. Although much has changed since the days of the Buffalo Soldiers, including the integration of all military servicemen and women, the story of Tom Hendricks and his fellow Buffalo Soldiers who served before him will remain one of great patriotism and unsurpassed courage.

I urge my colleagues to join me in saluting Thomas Hendricks for his accomplishments as a Buffalo Soldier. We owe him a tremendous debt of gratitude for his service to our country, and we should all be proud of his contribution to our Nation's military history.

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, I rise to participate in the special order organized by my colleague, the gentlewoman from Connecticut [Ms. DELAURO] and the gentlewoman from California [Ms. ESHOO] and others to salute October as Breast Cancer Awareness Month.

We all know too well the devastating facts. With nearly 200,000 cases of breast cancer diagnosed last year, breast cancer is the most common cancer among women. I was pleased earlier this year that Congress enacted, as part of its balanced budget, my bipartisan bill, the Breast Cancer Early Detection Act, to allow for annual mammograms for Medicare women. This bill was first introduced in 1992 along with Barbara Vucanovich, who is herself a survivor of breast cancer.

We were very pleased that it was included in the balanced budget this year. It certainly makes a very wise investment that will save women's lives. But there is much more that needs to be done.

Once breast cancer is diagnosed, sometimes it is too late. But sometimes when treatment is available, a woman can undergo a mastectomy which may save her life. Unfortunately, very often we have seen women who have been forced to leave the hospital with drainage tubes still attached and just like the drive through delivery bill, a national outcry forced us to look at the safety of women who were sent home hours after a radical mastectomy.

I am proud to be an original cosponsor of H.R. 135, the Breast Cancer Patient Protection Act. This bill will eliminate the so-called drive-through mastectomies by requiring insurance companies to provide at least 48 hours of inpatient hospital care following a mastectomy, and a minimum of 24 hours following a lymph node dissection for the treatment of breast cancer.

I am also very proud to be a cosponsor of H.R. 164, the Reconstructive Breast Surgery Benefits Act, introduced by my colleague and friend, the gentlewoman from California [Ms. ESHOO]. This bill would require health insurance companies to cover reconstructive breast surgery, if they already pay for mastectomies. I am pleased to stand with my colleagues in support of the one out of every eight women who will get breast cancer in her lifetime.

Right now thousands of women are signing an electronic petition. The online petition drive will enable breast cancer patients to become activists on behalf of this legislation that would provide them with the kind of health care they deserve.

Many have shared their personal stories. One New York woman wrote, and I quote, "On August 25 of this year, I learned that I did have breast cancer. A further study showed that the cancer had traveled to my bloodstream. I am 34 years old. I am undergoing chemotherapy and will also have radiation. It is absolutely necessary for you in government to help women all across the country and to take this disease seriously. We depend on our government to protect us, even when a devastating illness has befallen us."

I quote from another letter. I would like to put a series of them in the RECORD. Quoting, "I was not in any high risk group for developing breast cancer. Yet I was diagnosed with breast cancer in November of 1996. I was shocked and it is still very hard for me to accept this diagnosis. I opted for a mastectomy. I am still in the process of reconstructive surgery. I thank government. You must do more to help women like me."

Mr. Speaker, we need to make sure mastectomies and reconstructive surgery are safe and covered. I thank my colleagues for organizing this special order tonight and I salute the women who are facing these issues every day. You are our inspiration and we will continue fighting for you.

REFORM OF THE IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to discuss an issue that has received quite a bit of attention over the last couple of weeks and months. However, many have raised concerns about this for a period of time.

Today, however, I think we can bring this discussion to a higher note in a bipartisan manner that reflects greater interest in saving the voluntary taxpaying system that we have in this Nation, but as well, acknowledging that there have been serious problems that have plagued the Internal Revenue Service as perceived by taxpayers in the variety of stories that they have been able to share with Congress on this very point.

I felt compelled to address this question in my own district, for it is one thing to hear of a national outcry. It is extremely important to allow your constituents to share their own individual cases that may have occurred.

Not one single witness got up and wanted to declare the abolishment of the IRS or to say that they no longer wanted to share the responsibility of this great government, the government that provides with national security your protection, provides for public education, the safety of our air and water, that provides for our national law enforcement, the beautiful national parks and monuments that we appreciate, the protecting of this capital. Citizens to a one concluded that they wanted to be part of this government and part of supporting it.

But each of them could recount for me an unfortunate set of circumstances that made them feel intimidated and unable to deal with addressing their problems of questions about the taxes that they paid or were alleged to have not paid.

In particular, let me honestly say in this hearing that I held on Friday, October 17th, many citizens and constituents that I asked to participate or suggested that they might were, in fact, frightened and intimidated and did not want to come forward for fear of being targeted. That is not the kind of agency we would like to have.

Let me say in defense that representatives of the IRS employees union also came forward and mentioned the many good and dedicated and sincere employees that want to work within the bounds of the law, want to work with taxpayers and want to ensure that that kind of intimidation does not exist.

With that hearing behind me, I thought it was extremely important to compliment the process today of a bill marked up in the Committee on Ways and Means and offer my own legislation, entitled the Taxpayers Justice Act of 1997. I focus on justice for taxpayers.

I agree with those who are supporting elimination of the marriage tax penalty. My bill includes that. We should encourage those who are married, live together, support families and pay taxes. Why should they be penalized because they are not single?

I also support the creation of civil and criminal penalties for IRS employees who work outside the bounds of their job description and scope, who harass or intimidate taxpayers, do not give them a chance to explain their situation.

I am supporting a two-year commission to help simplify the Tax Code so that we are not going through mounds and mounds of paper, some 9000 pages of the Tax Code. That simply cannot be.

I am also interested in creating a taxpayers advisory board of real, plain, average taxpayers, not the major giants across the Nation, but just the average citizen who, every day of their life, is trying to comply with the laws of this land.

I want to eliminate potential discrimination, job discrimination at the IRS, and potential discrimination of those who may be targeted because of race, sex or ethnic origin or religion origin to be audited. I also want to be assured or assure divorced women whose incomes are less than their spouses that they are not penalized with the taxes of past mistakes in marriage so that there is some protection for them. And, yes, rather than rushing a taxpayer to the courthouse where their resources are exhausted, I would like to see the utilization of mediation and dispute resolution so that taxpayers and the IRS can sit down and attempt to resolve their differences. There is some form like that, but it is not where it is moved in a direction that reinforces the taxpayer that this is the right thing to do, to sit down in mediation.

Overall, we have a good system that supports this government. But whenever you call a hearing on the IRS and your constituents run the opposite direction rather than come to the table to provide insight and information, you know you have a problem. The Taxpayers Justice Act of 1997 is to compliment the Act of the Committee on Ways and Means, but also to address your concerns, that of the taxpayers of this country who need justice.

I hope Members will support the Taxpayers Justice Act of 1997.

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I join my Democratic colleagues this evening in a series of special orders during Breast Cancer Awareness Month to discuss what we should do in this Congress and in communities across the country to prevent and to cure this dreadful disease of breast cancer.

Recently, at a breast cancer awareness forum at the Elyria, Ohio WYCA, a woman recounted the story of holding her ailing mother's hand as she was wheeled down a sterile hospital hallway to a surgical room where she was to receive a lifesaving mastectomy. Another breast cancer survivor shared with us the emotional toll this deadly disease took on her and her loved ones.

This type of meeting to promote awareness and education about this deadly disease is not an unfamiliar sight in the industrial communities I represent in northeast Ohio. A study conducted by the Ohio Department of Health estimates that one in three women in Ohio will develop some form of cancer in their lifetimes and one in nine women will develop breast cancer. Ohio unfortunately ranks 11th in the Nation in breast cancer deaths and 9th in total cancer deaths among women.

Northeast Ohio has been particularly hard hit by this tragedy. There is no magic bullet in our fight against breast cancer. There is no vaccine. There is no guaranteed cure. However, early screening, detection and treatment of breast cancer offer women the best hope of beating breast cancer and leading long, healthy lives.

In an effort to increase local awareness of the importance of early detection and treatment options, I helped found the Northeast Ohio Breast and Prostate Cancer Task Force in 1994.

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This dedicated group of volunteers includes cancer survivors, medical researchers, and health care professionals such as doctors and nurses.

The mission of the task force is twofold:

First, it works to support and supplement ongoing public education efforts in breast cancer in northeast Ohio. Last year, the members of the task force put together a comprehensive, easily readable pamphlet to provide information to women on how to prevent breast cancer and the importance of periodic screening. It was packed with information on counseling and whom to talk to about treatment options.

Volunteers distributed these pamphlets to 273 hairdressers and beauty salons in northeast Ohio in a local campaign to eradicate breast cancer. We worked with the Women's Preventive Health Care Services program offered by the Cuyahoga County Board of Health, which provides information on early detection of breast and cervical cancer to medically underserved women, a group historically vulnerable to these killers.

The task force's second mission is to seek out any environmental factors which may cause northeast Ohio's higher than average rates of breast cancer.

To further this mission, my colleague, the gentleman from Michigan [Mr. STUPAK], and I were able to add language to last year's reauthorization of the Safe Drinking Water Act which requires the EPA to test whether certain chemicals found in drinking water cause breast or other forms of cancer.

The stories of the women at the Elyria YWCA and the efforts of the task force are vital because they represent our most important and potent weapon in the battle against breast cancer. Through the tireless efforts of breast cancer survivors, the local health care community, and ordinary residents and business owners, one small community is taking a stand. As their elected officials in Washington, we must do more, however, to help win this battle.

We must support legislation currently before us which would ensure that health insurance companies provide coverage for women who undergo mastectomies and the reconstructive surgery often required after this procedure.

Furthermore, women must never be forced out of the hospital on the same day a mastectomy is performed unless the patient and the doctor, not the insurance company, the patient and the doctor agree that it is in the patient's best health interest.

Lastly, we must continue to support increased funding for more biomedical research to improve treatment and to find a cure for breast cancer in other terminal and chronic diseases.

Until we are able to find a cure for deadly diseases like breast and prostate cancer, early detection and screening represent the best hope for the millions of men and women who will be diagnosed with these diseases. We should join with the millions of Americans, like the women at the Elyria YWCA and members of the task force, who are on the front lines spreading this lifesaving message.

As we listen to stories of hope and sadness by those individuals whose lives have been touched by breast cancer, let us work together in Washington to ensure that patients have access to affordable, quality health care and demonstrate our commitment to winning this battle by providing the research dollars necessary for improving treatment and finding a cure.

SUPPORT OF LEGISLATION TO HELP WOMEN FIGHT BREAST CANCER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BENTSEN] is recognized for 5 minutes.

Mr. BENTSEN. Mr. Speaker, I rise today in strong support of legislation that will help to fight breast cancer. These bills, including H.R. 1350 and H.R. 164, would ensure that women have sufficient time to recover from breast cancer treatments and ensure that women have the medical treatments they need to fight this difficult and dreadful disease.

Already 135 would ensure that women and doctors can work together to determine what is the best treatment for each woman. I am an original cosponsor of this bill that will require all health plans to provide minimum hospital stays for those women who undergo mastectomies and lymph node dissections. Without this protection, women may have to choose between their health and their treatments. In the past, Congress has acted to provide minimum protections for pregnant women and their children and we should provide the same protections for women with breast cancer.

H.R. 164 would ensure that women with breast cancer would receive the necessary breast reconstruction surgeries they need. This legislation would require all health plans to provide coverage for this surgery. Many health plans do not currently provide this coverage because health plans believe these surgeries are not necessary. I believe doctors and patients should decide which treatment plan would benefit each patient without interference from their health plans. This legislation would provide this much needed protection for breast cancer patients.

I would like to commend the gentlewoman from Connecticut [Ms. DELAURO] for organizing this special order to highlight these bills as part of Breast Cancer Awareness Month. It is particularly important to me, as the Representative of the Texas Medical Center, that I have many constituents who are active in the fight against the disease that we can defeat.

In honor of Breast Cancer Awareness Month, I would also like to highlight the work of two outstanding individuals who are constituents of mine: One, Dr. Dixie Melillo, a physician who operates the Rose, a clinic targeting women and in particular low-income women to ensure that they receive adequate breast cancer screening and treatment.

After years of hard work, Dr. Melillo has been able to expand her operation to three clinics in and around my district, and I commend her for her work.

Second, I want to honor Dr. Jennifer Cousins, who runs the Women's Health

Initiative at Baylor College of Medicine, which recently celebrated its third anniversary.

Three years ago, the National Institutes of Health awarded Baylor College of Medicine a grant of $11.8 million to conduct the largest, longest clinical trial in Baylor's history. This study is examining the health of more than 5,400 women over a 12-year period, and focuses on diseases that are critically important to the health of women: Cardiovascular, colorectal cancer, osteoporosis and, in particular, breast cancer. Breast cancer is the second killer among cancer in women.

The information provided by the Women's Health Initiative will lead to breakthrough treatments for these diseases and improve the lives of women in Texas and across the Nation. The Baylor Clinical Center has recruited 3,300 women for an observational study to gather information regarding risk factors for these deceases.

The Baylor Clinical Center will also recruit an additional 2,100 women for a clinical trial to research whether diet and hormone replacement therapy will help women lead healthier lives. Information gathered from this clinical study will help women to make informed decisions about which therapies to use to prevent the disease and stay healthy.

I also want to highlight the efforts of Dr. Jennifer Cousins, Director for the Center for Women's Health, to bring this critical WHI study to the Houston area. I believe Dr. Cousins is critical to the success of this study, and she should be commended for her hard work.

Mr. Speaker, to really honor these two women leaders in Houston, the House should schedule and pass H.R. 135 and H.R. 164 and show that we too in the House mean business in the fight against breast cancer.

REPUBLICAN LEGISLATION ATTACKS PUBLIC EDUCATION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I expect to be joined in a few minutes by one of my colleagues.

This evening I would like to talk about the efforts that have been made by the Republican leadership to move various legislation which I consider essentially an attack on public education in this country.

Democrats, for a long time, certainly throughout this Congress, have stressed the need for this Congress to address education in various ways. We started out during the debate on the Balanced Budget Act this summer stressing the need for better access to higher education.

In fact, as a result of President Clinton's efforts and the efforts of the Democrats joining with him, we were able to include in the Balanced Budget Act, when it passed, some significant measures that would provide more access to higher education for the average American in terms of expanding student loan programs, providing tax deductions or tax credits that make it easier for the average American, the working American, to pay for college education or graduate education.

But now, after the Balanced Budget Act was passed, and certainly starting this fall, we have talked increasingly about the need to address the problems in our public schools, but in a very positive way. Our feeling is that the public schools in America are in pretty good shape but they certainly need improvement and that there are various ways to go about improving them.

One of the areas that we have talked about the most is the need to address the public school infrastructure. The fact of the matter is there are many public schools that have great need for repairs or even new construction because of expanded enrollment but do not have the ability within their school district to pay for those school construction or renovation needs.

In addition, there is the whole issue of basic skills; that more needs to be done to improve learning with regard to basic skills in the various public schools. And the Democrats have actually come up with a whole series of ideas about ways to improve public education, which I may get into this evening with some of my colleagues.

But before I do that, I wanted to talk about the fact that instead of emphasizing the need to improve the public schools, where better than 90 percent of America's students are enrolled, the Republican leadership, at least in the last few weeks, has instead embarked on an effort to try to take away resources, taxpayer dollars, from the public schools and use them, or credit them, to private or religious school initiatives.

Now, the best example of that was 2 weeks ago, before we adjourned for the district work period, the Speaker actually brought to the floor as part of the D.C., District of Columbia, appropriation bill a private school voucher program. It was a provision that would basically have provided funding to a very limited number of students within the District of Columbia, I think 2,000, approximately, which is really a drop in the bucket in terms of the number of students in the D.C. Public schools, and allowed them to take that voucher and use it for private schools either in the District of Columbia or in surrounding States.

This provision initially failed to pass the House, and the reason it failed to pass was essentially because most Members, and I am one of them, do not believe that it makes sense to take resources that could be used for things like school construction in the District of Columbia, which has a great need for school construction and renovation, and instead use that money to pay for private education.

The Speaker did not have the votes, actually, for the D.C. appropriation bill, in part because of the voucher provision, but what he did was he held the vote open and he twisted some fellow Republican arms to change their votes so he finally got a majority of one to pass the bill.

Despite this near failure, and I say near failure, because the way it was done it was clearly an indication that this was not a measure that had the support of a majority within this House of Representatives, but nonetheless, even with that, keeping that in mind, the Speaker is now once again, and the Republican leadership is now once again taking another step in this same direction, taking resources that could be used for public education and using them to pour taxpayer dollars into private and religious schools.

This was a provision that was originally proposed in the Senate by Senator COVERDELL. He has called it an education savings account but, essentially, it primarily benefits wealthy families. It allows them to basically provide tax-free funds that would be used to pay for private education.

Now, Democrats, and I believe this is coming up tomorrow, Mr. Speaker, but Democrats basically will put forth an alternative that will use this money for school construction bonds to help public schools that are in disrepair or in need of new construction. Without getting into the specifics of this provision, which I oppose, I am trying to make the point, and I think we as Democrats are making the point, that we need to improve the public schools rather than siphon Federal dollars for private schools.

We should not be giving up on the public schools. The public schools are where most of our children are educated. We have had an historic commitment to public schools in this country and, if anything, and I feel very strongly, we should be moving a Democratic initiative, which we have discussed and which our Democratic task force has put forward, that would provide improvements for public education rather than siphoning off this money for private and religious schools.

I see one of the cochairs of the Democratic education task force, which has taken the initiative to put forward these principles for America's public schools, my colleague from North Carolina, is here.

I was going to briefly, if I could, just outline some of the principles that the gentleman and his task force have put

together, just to juxtapose those to what the Republican leadership has been trying to do in the last couple of weeks, and if I could just mention six very briefly.

These are the principles for America's public schools. First, an emphasis on academic excellence in the basics; second, well-trained, motivated teachers to help children achieve high standards; third, using public dollars to improve public schools rather than private school vouchers at public expense, which we have discussed; fourth, the Federal role in education that supports local initiatives for strong neighborhood public schools; fifth, empower parents to choose the best public school for their children; and, sixth, every child should have access to a safe, well-equipped public school.

Again, the task force does not take the position they are opposed to choice, but the choice should be in the public schools. We do not want to take taxpayer dollars and use them for private education.

I would like at this time to yield to my colleague, the gentleman from North Carolina [Mr. ETHERIDGE], who has taken the lead on this and who has been so well-spoken because of his background and experience on the issue of public education.

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Mr. ETHERIDGE. I appreciate the gentleman from New Jersey [Mr. PALLONE] yielding and I appreciate very much the gentleman putting together this special order, because I think it is important to the American people to understand. Let me set a little history, if I may before we get to this because I think it is important.

I think of a great Congressman who represented the district that I now represent many years ago, a gentleman by the name of Harold Cooley, who at that time chaired the Committee on Agriculture in the U.S. Congress. It was his task to chair the Agriculture Committee during and right after World War II. Many of our young people who went before the draft in World War II failed their physical. Congressman Cooley felt so strongly that he attached an appropriation and an authorization piece to a military authorization bill, defense bill, to provide for school lunches for the children of this Nation. Prior to that time, there had not been a hot lunch for children in our public schools across this country.

I set that tone because there are many who today say this is not the role of the Federal Government, or that is not the role of the Federal Government. Well, until about 1945, 1946, it had not been the role of the Federal Government to participate in the school lunch programs, either. I know this Congress last session, the majority, tried to strip that out, but when they heard from the American people, they changed their minds.

I will say to the gentleman, having been a superintendent for 8 years in the public schools of the State of North Carolina and having responsibility for about 1.2 million children, and having gone in those cafeterias, as a matter of fact, last week I was in 4 different schools, had lunch with two different classrooms of students, and I can tell the gentleman that instruction goes on in those schools all across America whether they are having lunch or they are in recess.

One of the things I wanted to point out was that the teacher, it happened to be International Day. Every day during the week they had a different country. One of the schools I was in, in Wilson, it happened to be the day for China. They had chop suey or they had egg rolls. What was so significant I think about it was that it was a first grade class that I was having lunch with and the teacher, and if you know first graders and kindergartners, you use your finger to point to the first letter as you start to read and they were reading to those children each line of the menu so they could identify the menu, and then they were allowed to stand in two different rows, depending on which menu they chose. It was quite obvious to me that there were children in each of those rows who had tried neither of those menus. But it was so instructive in the teachers working with them and I sat at the table with them, and we talked and of course as the gentleman can appreciate, there was a lot of media there, but they had a delightful time. But that is instruction.

I tell that little story to set the stage for what we are talking about, because Democrats are working to improve public schools in America. We have done that time and time again. We have set the tone. Education, public education, in my opinion, is the key to the foundation of our democracy. It is the one thing that helps bring people together. It is the one thing that levels the playing field for children no matter what their ethnic or economic background is, and it gives them a chance in this highly competitive world, and without an education they do not have it. I mean that when I say all children, not just those from the privileged, not just those whose parents can afford to send them to private schools or those who might get a few vouchers. All children, because any that are left behind are the ones I think that are deprived.

I want to talk just a minute, and I hope the gentleman will join me as we get into this, about reading, because I believe reading is the foundation, that is one of the pieces that we have talked about and the President laid out in his State of the Union address so strongly. Because reading is the gateway skill, let me repeat that again, reading is the gateway skill. We talk about how important it is today in the world we live in that is so technical, it is high tech. A report has just come out in the last 10 days about how important it is to have algebra, geometry and those higher skills in math, and I certainly agree with that wholeheartedly because North Carolina required algebra of all of our students back in 1991. We were one of the first States to do that. But until a child learns to read, all the other things are off the sheet, they are off the page. It is so important to do it early.

The President had requested in his program, America Reads Challenge, to have 1 million tutors. Many of them are volunteers and we have a lot of those in our State and across this country. But I thought it was a great stroke when he said of the money we are sending to our universities, we want to develop a partnership with the universities in this country to not only just get them to go into schools but get young people to understand it is important to volunteer again, and some of them were to be paid out of the funds that are in the current budget that is now hung up in conference, and I trust it will be broken loose because unless we do it, I really believe that we will do the children of this country a grave injustice and it will cost our country in the productivity of these young people, in the productivity of our economy a tremendous amount of money.

I would say to the gentleman that parents are the first teachers. There is no question about that. They are the first teachers that a child has in every family. I do not know of a parent that does not want their child to succeed, but there are a lot of parents who are nonreaders themselves, unfortunately, in a Nation as rich and as plentiful as we have it in America. But they want their children to read, and that is why we have a program for adults.

But I am going to talk about a school I was in last week, I went in a school system. They had a tremendous program that they have been involved in now for about 5 years, and it fits right into what the President is talking about, this issue of getting 100,000 college work-study students to serve as reading tutors. There are almost 800 colleges and universities, public and private, across this country who have now signed up to be a part of this program, assuming the funds are there. It is great to go out and teach, but what we have to have on the backside of it is accountability. I want to talk about those together.

We have to challenge every parent, teacher, principal and community member in each of our communities across this country to help get children started to learn to read by the time they are in the third grade. But to do that, we have to teach and we have to hold them accountable. We have to measure what we have done. Otherwise, we will not know how we get there. I think that is important.

It would be great if every parent would read to their child at least 30 minutes a day. Many do not. They do not have the time. But I think it would be super. And schools need to be able to provide high quality reading initiatives for all students, making sure that teachers know how to teach children to read, identify those that need extra help, and that is where the tutors come in. When you have 21 to 26 and in some cases, unfortunately, as many as 30 students in a class, a teacher cannot give the quality time that he or she wants to. They are hardworking people, they care so deeply about their children. We have to have the community members involved. America Reads Challenge, this tutoring program, is a tremendous program that we have a chance to make a difference. And businesses can be involved. The business community is involved, I know in our State, but there are more that can get involved, not only in tutoring but doing a lot of other things and encouraging parents, giving parents time off to go in and work with their children.

I would suggest they follow the lead of Johnston County schools, and I want to talk about that for just a moment because I have some charts here showing what happened when a school district says that we are absolutely going to make a difference for all of our children, not just a few, all children, and this is representative of the 100 percent of children in that school system where in 1993, only 65.8 percent of those children were what was called proficiency level. That means they could read at or above grade level and move on to the next grade. We see the next year there was a drop, and then we see progressive growth up to 76.1 percent in 1997. I predict that will continue to rise.

When we see that kind of growth in reading, a lot of good things are happening on the part of the teachers, on the part of the parents and on the part of the total community. There is great pride, there is tremendous work, and that is well above the national average as reported on NAEP. Because if we look at the numbers, we will see that in the 5-year period, they gained 11 points in their reading proficiency. But more importantly, let me show you what those points really translate into. Because what we are looking at here is a chart showing the 8th grade students, and this is cohort data in reading. What that really means, the same group of students that were measured in 1993 were measured in 1997 in their growth patterns to see how much they had grown. If we look at the bottom cohort, which means level 1, they are not proficient, they are not doing well, and they really would not be able to move to the next grade and do the work. We see that number drop from 9.2 in 1993 down to 2.5 in 1997, almost a 7 percent drop. That represents a tremendous number of children. What is so important about that is we look at the numbers, we look at the cohort at the top, goes from 21 to 34. That is well above grade level, because the 48.6 percent here versus the 44.4 percent is really at grade level.

So we see the Johnston County School System is really doing what we want done in every school system all across our State and all across America because we are pushing more and more students up into the top two cohorts where we really need them to be proficient, to be able to handle the other things they have to do and the more sophisticated reading they need to do. Because we see in the second cohort in level 2, it drops from 25.4 down to 14.7.

If it were only in reading, it would be one thing, but let us look at what happened in math for those very same students. So it tells us we have got a system that is really doing some things because they are getting help. In 1993, students who were proficient, and that is a bar that is set. That is why when the President talks about standards it makes sense. It makes sense to talk about standards and then you measure to that standard because we have that. In 1993, it was 61.8 percent of the students in grades 3 through 8 were proficient in math. But look at the difference that 5 years made when they really began to focus, they realized what was expected. It was measured. It made a difference on the part of the parents, on the part of the students, because every student in this school system with their parent signs a contract. This is a public school system where they signed a contract. We see tremendous growth.

This is the kind of thing I think that we talk about when we talk about America Reads and the President's program of providing students a goal, providing resources, because, yes, it takes resources. But when we do it, we must have accountability and measure. And people need to know what we are doing and we get results. I think this is proof that we can improve our children's reading through our public schools. But we have to let them know what we want. Let me be the first to say, we cannot do it from Washington. But what we can do and what I think we should do and what we must do is say it is important, as the President had, and when we have done that, then we have got to be willing to stand behind it, because the job will get done at the local level.

Mr. PALLONE. What the gentleman has laid out there I think is very impressive and it really shows what can be accomplished in just a few years. I think that that is what we need to do. We need to emphasize here on the floor of the House how certain school districts have been very effective in improving basic skills and improving other aspects of public education. Because my whole point is that there are some really excellent examples of what can be done in the public schools and that I think generally most people are satisfied with the public school system but they would like to see some improvements.

Our point as Democrats has been throughout this debate, and it will continue throughout this session of Congress, that you should not be spending resources for private education when you can actually do things with some Federal help, if necessary, that would improve significantly education in the public schools. I think this is a very good example of that. The gentleman was very much involved in putting forward this Democratic agenda for first class public schools. I just mentioned briefly some of those points that the task force brought together.

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But just to provide a little more detail, and maybe we can go back and forth and talk about some of these things, with regard to just the two issues of early childhood development, Basics by Six, and well-trained teachers, the task force, Democratic task force, mentioned a couple of things.

First of all, they said there should be the opportunity for every child to be ready to learn by the time he or she enters kindergarten, invest in early intervention, community-based programs such as Early Start, Head Start, engage parents and community stakeholders in the needs of at-risk children, use schools all day as the center of the communities for the services children need, including before and after school.

Then for well-trained teachers, that was the second point, help communities recruit and train well-qualified teachers who are certified in the subjects they teach, hire enough qualified teachers to bring down student-to-teacher ratios, incentives for qualified teachers to teach in high-need areas and strengthen parents' rights to know about teacher qualifications.

I think the point here is, because the last chart, and I think the one before, this certainly was from grades three to eight in both cases. That is eighth grade there, is that if you were able to get these kids even before they get to the third grade ready to learn, so to speak, it would make a big difference. But, again, the teachers, and having qualified teachers is an important part of this, and particularly bringing down that teacher-student ratio, because I would assume it is very difficult to improve basic skills if you have huge classrooms and because of the problems that result from having a very high level of students versus the number of teachers.

Mr. ETHERIDGE. If the gentleman would yield, the number of studies that put that out, Tennessee is a great example as a State that spent the money,

reduced class sizes and saw some tremendous results from it. There is no question that it makes a significant difference in kindergarten through third grade, because that is where children are learning the basic skills, where there is so much need for personalized attention.

If you have a large class, as you were indicating, it is very, very difficult to be able to reach them. For some students, no problem, they will sail through. But those marginal students or those who show up at the public schools with all the number of problems they show up with today makes it very, very difficult for them to be able to make it.

But if you give them the skills and give them the opportunity to learn to read, to do the basic computations to get going, and you give them the chance to find out they really can do it, it makes all the difference in the world. And you cannot do all of that, as you have indicated, without having good ongoing staff development for your teachers, and then the rest of your staff, for that matter.

Certainly they are professionals. Certainly they work hard. But I do not know of a corporation in America that pays their executives, in a lot of cases far more than we are able to pay school teachers in our public schools, that do not spend a substantial amount of money on staff development and continue to upgrade and retrain those professionals on the latest skills. Yet we say to a lot of our teachers in America, you have to be recertified, depending on the State, anywhere from five to six years. You have to have so many hours of training, and you have got to pay for it out of your own pocket.

Industry would not dare do such a thing. We would not do it. They pay for it, and yet we have to do it.

As you are well aware, the first money for that, some of that money came out of the Eisenhower money that was put in the budget back in the late fifties. That money is still important today. It is not enough. States put it in, but I can tell you in a lot of States, when their budgets got tight in the eighties and early nineties, the first dollars pulled out of those budgets, and it was not true in just one State, it was true all across America, because we know here on this floor the Federal Government only puts in between 6 and 7 percent of the dollars that flow down. The bulk of the money is State and local money.

Those were the first dollars pulled out, staff development, the very dollar you need. Once you get it out, I can tell you from being a superintendent, it is the hardest dollar to get back in.

Mr. PALLONE. One of the ironies, you are talking about Johnston County, but when we had the debate two weeks ago on the D.C. appropriations bill, and there was the proposal which actually passed after some strong-arming here to include a voucher system within that for about 2,000 D.C. school kids, and I just thought it was so ironic, because if there is any school system that has greater needs in terms of dollars, for example, for infrastructure, their schools were closed down for three weeks in the beginning at September because the judge ruled they were unsafe and wanted the schools to be fixed up or renovated before they started the school year.

What we as Democrats were saying in that debate is, you know, spend this voucher money, if you will, to better train the teachers, to fix up the schools, to improve academic performance.

One of the things we did the day of the vote is a number of us went down, we did a little march where we went from the Capitol, from the House chamber here, down to a local public school, the one that was very close to here called the Brent School. It was only a few blocks away.

But talk about innovative ideas. Like Johnston County, they are out there trying to improve the public school system in various ways. They have started a very innovative tutoring program, an after-school program that has again brought up not only the grades, but the proficiency, if you will, of the students. So basically now Brent School is a success story for the District of Columbia.

When we went there at the end of our march, we talked to some of the teachers and students. It was amazing to me. First of all, the building looked good. Secondly, I noticed a lot of students were wearing uniforms. I was not able to find out if that was a requirement or whatever, but that was something they were trying that was a little different. Maybe not every school wants to have uniforms, but they were trying it out. And it just sort of upset me to think that here is a public school within the District of Columbia trying to make improvements, having success in various ways. Let us encourage that. Let us try to get more schools within the District to do that, with how many millions of dollars is going to be made available for these school vouchers?

The same thing is true around the country. Your principles that came out of your Democrat Education Task Force, some of them involved spending money, and there will be some Federal dollars available. We know we do not have all the money in the world, and it is still primarily locally controlled, what the schools do. But it just makes no sense, it seems to me, when there are these innovative ideas, when you show in Johnston County what can be done to siphon that money away in the ways proposed two weeks ago, and in another way to be proposed tomorrow by the Republican leadership.

Mr. Speaker, I would yield back my time, and ask that the balance be given to the gentleman from North Carolina [Mr. ETHERIDGE].

EDUCATION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from North Carolina [Mr. ETHERIDGE] is recognized for the remainder of the minority leader's hour, approximately 30 minutes.

Mr. ETHERIDGE. Mr. Speaker, let me respond to what the gentleman said about facilities and other things, because this is important. When you think of public schools, public schools are like a small town, they carry on a lot of the services that any town would have and they need to have basic infrastructure for water and sewer of some type. They have got to have maintenance facilities, they teach, they provide discipline and provide instruction. It is a whole multitude of things we require teachers to do and the staff of a school as well as teach.

I am reminded of people who say that the facility does not make any difference, and my friend from New Jersey was just talking about the school here in D.C. and how important it is. If your roof leaks, the first thing you have got to do is patch the roof. It is hard to say to a child, this and that is important, and they look around and find out their building is dirty, the walls need painting, the windows need fixing and the roof needs patching, and they do not perceive that education is important. That is important to fix.

Just last week I was in a brand new school in a school in my district. I went in and read to a kindergarten classroom in Rocky Mount, and in the process of reading, the school is new and it had video throughout the school, and in the process of reading to those students, I knew it was on camera, but I didn't realize, I guess I just got so involved in reading to the children, the kindergartners, I forgot it was going throughout the whole school.

So when we finished the reading of the book, the kindergartners in the class I was in applauded, and the door happened to be open, and apparently the doors to a lot of the school were open, and I could hear applause all over that school.

I tell that story because that is an example of what could happen when you have a school that has modern facilities and conveniences, and the things we talk about every day. And we talk about high-tech and the Internet and faxes and things we move quickly, and yet some of our children go to buildings every day that we would not dare put a business in. But we send children there, because they do not have any choice.

Some communities are growing so fast, they are struggling to make sure they can do it. The question is can the Federal Government do all that? No,

absolutely not. But we can say it is important and our taxing policies can support that where we can, and we tried to put some money in this time. The majority would not let it go as part of the bill. I trust before this Congress adjourns, it will get another opportunity to assist in those areas where it is so important, because children do deserve a good environment in which to learn. It improves the qualities. The school ought to be one of the nicest places they attend every day. It was when I was in school, and we should not back up.

I remember, I told a group in a chamber meeting not long ago, if the facilities do not matter, then I would suggest the next time the industrial hunter goes out looking for any major client to come to town and open their business, take them to someplace in town where there is an old, run-down warehouse and say to them, you know, the facility really does not make any difference in the quality of product you are going to put out, so this is the building we are going to try to help you acquire, and see how long it is before that client is out of town and the word gets around, and you will not have an opportunity to recruit very much.

We have a responsibility I think, and I say "we," I think all of us in this country, in the Nation, that has the resources we do, to help. It is a local matter, yes, but all of us working together need to make it happen.

The last time I was in a school, which was just last Friday, I do not remember a single child, as a matter of fact, they didn't, they didn't ask who paid for anything in that school; the books, the TV, the materials they used. Children only know what they get. They do not know what they need. That is our responsibility, and I think Congress can help with that by setting the tone and saying education is important. It is one of the key components we have to deal with in this country.

It is as much, in my opinion, of our national defense in this global economy we find ourselves in, and the economic challenges we face around the world, to be able to compete economically as it is to have strong military, and I very strongly support a strong military to defend our borders.

I think we should not give up on public education. That is where the bulk of our children are. They will be there tomorrow, they will be there next week, next year, and they will be there for time to come, because there is not enough space in any other place for them. And to back away from making sure they have a quality education would be a travesty, in my opinion.

Let me touch on one other point that Mr. PALLONE mentioned in his remarks as he was going through, and he touched on facilities and standards and the whole issue of teacher assistance, teacher support, to be able to make sure that they have the support to do the job.

We need to make sure that we work with our universities in the dollars appropriated from the Federal Government, that they get more involved, as the President has now encouraged the universities to do, roughly 800 of them now, participating in the America Reads program. But we also need them to get involved in our teacher development and in our teacher recertification programs, to provide some of the latest up-to-date resources and research-based information for our teachers to use.

I know at the University of North Carolina, they are now developing a tremendous program on the Internet, and they are using graduate students to do some of the work. The reason I know about it, Mr. PALLONE, my daughter is working in it, and they will have it on line in another year or so, when teachers, when they have access to computers, they can log in, bring down some of the best lesson plans anywhere around, and use those to challenge our students in the way that they never have been challenged before.

□ 1845

It will help that teacher at the point they are working with our children. That is one of the things the President and the Vice President talked about when they are talking about having access to the Internet in every library and in every classroom. Until it is available to the teacher, my view is it will not be used the way it should be. Teachers have to be comfortable with using it, and then it becomes integrated in their instructional materials and the children will use it.

Mr. PALLONE. Mr. Speaker, I just wanted to follow up on what the gentleman mentioned. When we talk about the need to address school infrastructure, whether it is building new school buildings or renovating those that have deteriorated, the gentleman knows we have mentioned before this initiative that was essentially recommended by the President, the $5 billion to help pay the costs of school construction bonds or the interest on school construction bonds, which the Republicans rushed and insisted that it not be part of the balanced budget agreement.

The reason why it was not I think was very unfortunate, but it is still out there, something that the gentleman's task force supports and many of my Democratic colleagues support.

We stressed that money would not be just used for buildings, but could also be used for the Internet, for rewiring, for making improvements so that the Internet or various computers, whatever, could be utilized in schools, because obviously one of the infrastructure needs, as the gentleman mentioned, that a lot of the schools do not have in this country is to address the high-tech problems, wiring, the types of things that make computers and the Internet available. So that is important. That was actually the third point of the gentleman's task force agenda.

But I just wanted to, in the small amount of time that we have left, go into another area which the gentleman mentioned in the task force, the Democratic task force recommendations. That is support for local plans to renew neighborhood public schools.

It sounds like a generic term, but when we break it down, they talked about specific things: Federal assistance for communities committed to renewing their public schools; Federal support for local school renewal plans that are developed and implemented by the community; plans to address such considerations as parental involvement, teacher training, technology enhancement.

A lot of this involves getting the community as a whole involved and at the same time getting individual parents or caretakers involved. That is so important, and it also shows how much the Democratic proposals, if you will, the task force proposals, want to build upon the community and upon parental involvement.

Oftentimes when we talk about addressing education on a Federal level and providing funding on a Federal level, we get accused from our colleagues on the other side of saying, well, you want the Federal Government to control the public schools. It is just the opposite. We want more parental involvement; we want more community involvement. We simply want the dollars to be made available, because we know that is where the crunch is.

A lot of times they do not have the dollars. If the gentleman maybe wants to discuss a little more the types of ways that communities can get involved when they get a small amount of Federal resources, because I think it is so important, I will yield to him for that purpose.

Mr. ETHERIDGE. The gentleman is absolutely correct, Mr. Speaker. What this was about was a reaffirmation of the fact that schools inherently are community-based. People believe very strongly in their schools.

That is why poll after poll after poll and research and whatever says, I believe in my school, but it is the one down the road that needs changing, or the one down the road ought to have the new program, but I like what I have here. The belief there is that we ought to provide the resources to do it.

Another example, a school I am aware of a number of years ago had very little parent involvement and low test scores, which indicates that, and a lot of other problems, discipline problems.

The principal said, listen, I'm not going to put up with this. It was an area where you would say the school cannot be successful, with a lot of problems in the community, lack of involvement, et cetera. This principal decided, I am going to get them involved. She went to every house and knocked on every door, went to softball games, baseball games during the summer; wherever parents were, this principal went.

It was a long story. Parental involvement, the PTA went from something like 10 percent to 80 percent. School scores went up dramatically; dropout rates went down. That is what we are trying to get to, is to be able to provide a resource. All this school needed was one person. One parent came and volunteered. Pretty soon they were not able to volunteer and they needed more help, so they were able to scrounge up enough money to pay a half-time person to coordinate the parents.

These kinds of things make all the difference in the world: Just a few resources at the point of the school to reach out and bring them in and you have changed lives forever and the opportunities are tremendous.

If we take that and allow a child to progress through school, and follow through with what we did this time, in putting $35 billion available for education beyond high school, we have changed this country forever, too, when we allow more and more young people to get a college education.

But we have to get them started on the right track, get them to read, get them stronger in math, give them that foundation, get the parents involved, let them understand they can dream the American dream and they can achieve it.

Mr. PALLONE. Mr. Speaker, the other point that the gentleman made in his agenda, and again, his task force agenda, the Democratic task force agenda, was about efficient and coordinated use of resources. There was a very important point incorporated under that rubric which says, coordinate the services for children and families through local consortiums of education and social service providers.

What I find in my congressional district, and I am sure this is true in many parts of the country, is that many times the school districts are too small. If they want to provide certain types of services, or address certain educational needs, they need to get together with other local school districts. A small amount of Federal dollars would help a great deal in that, as well.

Just to give an idea, in my home county, Monmouth County, over the years they have tried to get the schools together on a county level to set up various schools that address particular needs. For example, we have a MAST program, M-A-S-T, which is the Marine Academy of Science and Technology. Students from the various county schools can enroll there. The county set it up at one location along the shore, actually, in my district, where they had basically marine and science programs for 4 years.

The students have to participate in like a naval training program, similar to the Navy officer reserves, but this is on a high school level. There is a physical element. I do not know if I would call it a military element, but there is a physical element to it. But then they spend their time dealing with marine resources, specialty courses on oceanography and various aspects of marine resources. There are similar schools that have been set up on a county level for other purposes like that, whether it is sciences, or there is talk now with regard to arts programs.

I think the schools individually could not do that, but if they get together with some kind of consortium either through the county, the State or whatever, then they can set up something like that. Then again, that is the innovative idea. It is public. These are public school dollars that are being used to set up specialty type schools. I know this type of thing is a very important part of the gentleman's agenda, as well.

Mr. ETHERIDGE. The gentleman is absolutely correct, Mr. Speaker. What that does is open up for young people. We want them to be well-grounded in the basic foundation, but children learn a whole lot more earlier than we can have any idea, and have interests. That is how we get our astronauts, how we get our scientists.

With schools working together in consortia, or really outside the school, with various groups, there may be resources in the community they can pull in. Many schools are doing that in some areas, but they are doing it where they have substantial business interests who are putting the dollars in. But in some areas where those resources are lacking in terms of the tax base of the community or the school, and they do not have the business support because it is virtually nonexistent, then those children deserve the same opportunity. They deserve the same opportunity. They are just as talented.

I would venture to say if we take a sampling or checked every Member who serves in this United States Congress and in the Senate, we are going to find a lot of people serving in this body that came from Small Town, U.S.A. There are a lot of children today out in rural areas in Small Town, U.S.A., who can make major contributions if we give them that opportunity.

That is what the consortia is about, allow them to work together, because they do not have the money. They may not have the resources for all the Internet pieces they need. They may want to have a math high school. That is available in a lot of places and it works.

Mr. PALLONE. Mr. Speaker, the other thing, too, when we talk about innovative programs like that where we get schools together on a county level or whatever to do something innovative, it is often difficult to get the local board of education to contribute dollars to something like that because they are locally based, and they figure it is taking it away, and so on. So that is a perfect example of where the Federal dollars become very attractive, and become a tool to provide excellence and to improve and provide more opportunities for public education.

Mr. ETHERIDGE. If the gentleman will continue to yield, Mr. Speaker, it is a lot like the farmer that seeded the ground and put some water on, because that local board, in many cases those dollars are allocated. It gets back to the issue you raised earlier as it relates to vouchers. It is not like taking new money. We are taking money away from the students who were out there, whether they be in the poorest community, the wealthiest suburban community, and the rural community. Ultimately, all children have less money, because you are funding a source that was not there before, because we have a lot of children who are not in the public schools.

That is their choice. I will say today that I will fight for their right to have that choice, but I will not support their right to take tax money and make that choice, because I do not think it is in the interests of all of our children. I do not think that is ever what was designed or intended when we talk about public education in this country. It is not taking public dollars and carrying it for private support.

Mr. PALLONE. The point is, we like to provide more alternatives, more choices, as the gentleman stated, but within the context of public education. We do not want the dollars taken away from public education. If we want to use the money to start some innovative programs at the existing schools, or to send kids in some sort of consortium, that is fine.

I know there have been a lot of experiments within, say, one school district, say it is a city and there are many elementary schools, in providing parents choices within the public school system. They can go to one school or another. But that is public dollars. That is still public education. There is a big difference between that and a voucher program that takes those dollars and uses it for private education.

Mr. ETHERIDGE. Absolutely. I get a little frustrated at times, people talk about how schools have too much money, and some will say that. I do not know where they get that information.

I would say to them, anyone who feels schools have more money than

they need, go talk to those PTA presidents, those PTA moms and dads who are out there selling candy and selling subscriptions to books and working at ball games in the evening, and taking the money from the concession and buying things schools need, that their children need.

That happens all across America. It is not restricted to urban areas, and not restricted to suburban areas, and it is certainly not restricted to rural areas. It is all across the country. Because that to me is the fact that parents want what is best for their children, and they are willing to go the extra mile to make sure that their children get that opportunity. When they do it and they spend those dollars and that time, it is not selfishly, for just their child, it is for all those children in that public school.

Mr. PALLONE. Mr. Speaker, I just wanted to thank the gentleman again for his participation. I think this is what we have to do, exactly what the gentleman has done, which is to show how in various districts around the country efforts have been made to improve the public schools, whether it is basic skills or some of the other things we discussed tonight, and that is the direction in which this Congress and this House of Representatives should be going, clearly, not in the direction of taking the resources away for vouchers or other types of plans.

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman from New Jersey. He is absolutely right, that this country is what it is today because we have been able to stand on the shoulders of those who have given so much for so long in our public schools, under some very tough situations.

I am very happy tonight to be part of showing some success stories. I hope we will be about that in this body on both sides of the aisle, talking about the successes of our teachers and children, because if we criticize our schools, we are criticizing our children and teachers. I hope I am never guilty of that. I thank the gentleman for helping organize this.

THE WAR ON DRUGS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. Pappas) is recognized for 60 minutes as the designee of the majority leader.

Mr. PAPPAS. Mr. Speaker, the war on drugs is just that, a war. What I and a number of our colleagues will be talking about over the next 60 minutes or so is the war on drugs.

□ 1900

In my opinion, there are few issues that are facing the people of our country as important as that. And this dialogue that we are going to be having tonight is really a continuation of what has been going on around the country for many years now; unfortunately, many decades.

Mr. Speaker, each of us represents approximately 600,000 people in this House and unfortunately what had been a problem in maybe just certain urban settings 20, 30 years ago has now spread throughout suburbia and even into the rural areas of our country.

Each of us here took the oath of office to serve the people that elected us and the majority of the issues that we deal with seem to be about national defense, about our balanced budget plan, about providing for tax relief for the people of our country. Yet there is a generation that is growing up that is facing, in my opinion, a very uncertain future because of the drug culture that is so rampant throughout our communities.

Mr. Speaker, I want us to focus on a couple of things here tonight, something that we have debated here in this Chamber just recently, and that is what should our goal be? Is it, in fact, realistic to try to see our young people focus on something else other than drugs?

Mr. Speaker, the gentleman from Illinois [Mr. HASTERT] has asked us to focus upon a goal: Reducing the usage of drugs by teenagers from 6 percent to 2 percent by the year 2001.

Unfortunately, there were some Members in this Chamber just a few days ago that spoke about that as being unrealistic, one that was, as I understand their statements, meant to set the national drug czar's office up for failure. I know that that was not the intent. I think it was to set a goal that is important that we focus upon to try to see that become a reality.

In my district in central New Jersey, I have undertaken certain initiatives to try to speak out about this, use the small bully pulpit that I have been fortunate enough to have to challenge the young people of my district, and here challenge the young people throughout our country, to enter a poster in an essay contest. I wrote to each of the principals of the schools throughout the 67 towns in my district, and I asked them if they would give the young people in their schools an opportunity to participate. The theme is this: "What I can say yes to instead of drugs?"

We all know that back in the 1980s when Ronald Reagan was President, the First Lady, Nancy Reagan, undertook a "Just Say No to Drugs" campaign, and some were critical or somewhat cynical of that rather simple message, but it was very successful. This I would like to think is the next step, trying to focus on a positive aspect of the future possibilities that face our young people.

I believe that we as Members of Congress need to do whatever we can to focus our constituencies' attention to challenge not just people in education that are very dedicated to try to see young people get a good education, but to challenge people from all walks of life that we all have a stake in this.

Mr. Speaker, I want to just mention a few statistics. I see I am joined by my colleague from Tennessee [Mr. WAMP], who I would like to yield to in a moment, but first I will list some statistics that were very sobering. This was from a report from Columbia University. They conducted a study that states 41 percent of high school students say they can get drugs easier in schools than on the streets. By the time the average teenager reaches the age of 17, 68 percent can buy marijuana within one day; 62 percent have friends who use marijuana; 58 percent have personally been solicited to buy marijuana; 43 percent personally know someone with a serious drug problem; 42 percent say that they can buy marijuana easier than beer and cigarettes.

That means youngsters throughout our country can purchase a banned, illegal and dangerous substance easier than they can purchase something freely that is sold in a store or any market. That should cause us all to be very concerned.

The efforts that I have described, this drug and poster contest, some people may make light of it, but based on the initial reaction that we have gotten just the other day, in fact, Congressman HASTERT and I held a hearing in Freehold Borough High School, which is the county seat in one of the counties that I represent. The gentleman from Illinois has been going all around the country holding these hearings to hear from the people on the front lines, the educators, people in law enforcement, people who are from community-based organization or religious institutions who are dealing with people struggling with this most important problem and hearing from them; hearing about local solutions to a national problem.

Mr. Speaker, that is something as someone who has served as a town council member, as a mayor, as a member of my town governing body, I am a great believer in local solutions to national problems. I believe that some of the most innovative ideas come from people in our communities and not from here in Washington, D.C., and not to be critical of our State governments, but maybe not even our State capitals, but from our communities, from our places of worship, and from our students.

We even had four schools participate in this hearing. Eight students wanted to speak, ask questions, or just express their positions, and I will get into that a little bit later.

Now, Mr. Speaker, I want to yield to the gentleman from Tennessee [Mr. WAMP].

Mr. WAMP. Mr. Speaker, I thank the gentleman from New Jersey for yielding, and commend him and the gentleman from Texas and the gentleman from Arkansas and the gentleman from Colorado and the gentleman from Pennsylvania for spending this time to focus on this issue. To the gentleman from New Jersey I will say they are on the way, there will be several speaking because this issue does not receive enough airtime in America today, this issue of drug and alcohol abuse.

This is an interesting fall, Mr. Speaker, because on the heels of an unprecedented bipartisan agreement to balance the Federal budget between the President and the Congress, the sea of public opinion is relatively calm. As a matter of fact, we heard two weeks ago national bipartisan surveys that indicated that there were no real issues that jumped off the page in surveys in the double digits when asked: What is the number one problem in America? Three issues were at 9 percent, but for the first time in many years the economy is good and people are relatively comfortable, so the sea of public opinion is relatively calm.

But let me say this, Mr. Speaker. I believe that what lurks underneath that calm sea of public opinion today is extremely dangerous and we need to spend some time focusing on it and we need to raise the awareness of the American people, because as we face the turn of this great American century into what I hope and pray is another great American century, the 21st century, we need to recognize that the grandchildren of the baby boomers are becoming teenagers.

I served, Mr. Speaker, on the Bipartisan Task Force, and the gentleman from New Jersey spoke of the work of the gentleman from Illinois [Mr. HASTERT]. The gentleman from New York [Mr. RANGEL] and the gentleman from Illinois [Mr. HASTERT] cochair a bipartisan working group here in the Congress on drug and alcohol abuse. We had a briefing a few months ago from Louis Freeh, the head of the FBI, who talked about numbers of teenagers. Because while violent crime and drug abuse is on the decline among grown people, it is on the increase among our teenagers and herein lies the problem.

We are on a collision course through the turn of the century. More and more teenagers, as a matter of fact, the bell curve in 2005 is the highest concentration of teenagers that we have had in the history of our country, we are told, more teenagers as a percent of our population than we have ever had. That is wonderful in a sense. It is the grandchildren of the baby boomers. But when suicide, violent crime and drug abuse is on the incline, and the number of teenagers is on the incline, and families are breaking down at unprecedented rates, it is a recipe for disaster and we must once again as a Nation come together at every level and recognize what this problem really is.

Mr. Speaker, we are told the common denominator of violent crime among teenagers in America, the most common denominator is fatherlessness. People without fathers as they are growing up have a much higher propensity to commit a violent crime. The number two common denominator is alcohol abuse. Drug and alcohol abuse is destroying our country.

Now, I know today things are relatively comfortable and many people might not recognize that, but it is true and we must address it. Drug and alcohol abuse is the manifestation of a hopelessness that is now an epidemic in this country, and what we need as we approach this next great American century is a zero tolerance policy at every level of our society on drug and alcohol abuse.

Mr. Speaker, I use the two together because many people talk about drug abuse and they overlook the fact that alcohol abuse is even more prevalent in our society than drug abuse. It is the number two common denominator of violent crime in our country and violent crime is going to be an even greater problem as we turn this century than it is today.

Now, what do we need to do about it? We need a balanced approach on substance abuse between prevention, treatment, and interdiction. Today, if my memory serves me correctly, we spend about $16 billion through the Federal Government fighting the drug war. About 20 percent of that money is spent on interdiction and, frankly, that is where we can actually document the most success at fighting the war on drugs, through interdiction.

The military is doing an excellent job. There are four supply countries. We actually now do a better job of intercepting drugs from those supply countries than we have ever done. The transit zone in Central America, we have really restricted the transit of illegal drugs into this country. But we are only spending 20 percent of our gross resources on interdiction, yet that is where the most success actually is today. We need to spend more money and help our military fight the international war on drugs. I really believe that.

We are spending a lot of money on prevention, and I think there are ways by block granting we can spend it more effectively. A lot of money is being spent on prevention. Prevention really starts at home. If we leave it up to the government to stop substance abuse, and we overlook the importance of the home, as Ronald Reagan used to say, the most important decisions in America are not made in Washington, D.C.; they are made around the dinner table of American families. Is that not true?

Treatment is an interesting piece of this, because I believe that treatment should be available in this country to anyone who wants it who has a substance abuse problem. But I can also say that I believe treatment works for people who want treatment, and treatment does not work for people who do not want treatment. That sounds obvious, but we are actually spending a lot of money providing treatment to people who do not even want to get better and, therefore, it is not successful.

Mr. Speaker, we need a balanced approach on all three aspects of fighting a real war on substance abuse, I would say to the gentleman from New Jersey. Not just a war of words, but a real attack on this.

Mr. Speaker, we need cooperation from the mayors who actually do not need to be lectured by those of us in Congress. They need our help. The district attorneys need our help. We need the administration, the Presidential administration to cooperate. And the Congress needs to get more serious about this issue as we approach the turn of the century than we have ever been.

We need to recognize this is a national crisis. It is ripping apart the fiber of our society, drug and alcohol abuse, and it is going to take a team effort to fight it. The gentleman from New York [Mr. RANGEL], who serves as the distinguished cochairman of our task force, he actually has said at several meetings that he did not really appreciate Nancy Reagan when she was First Lady, but he misses her now and he said, at least then, somebody was saying that it was important to just say no to drugs. Now, we do not have that focus, and there is something about all of us leading by example and hammering away at this issue that this is a national crisis, drug and alcohol abuse.

It is going to take a team effort. We need to get underway. I appreciate this night being a start and a step in the right direction. I commend the Members of this freshman class for bringing this issue to the floor, and I thank you.

Mr. Speaker, I yield back to my friend the gentleman from New Jersey.

Mr. PAPPAS. Mr. Speaker, I thank my friend. I hope that Mrs. Reagan is watching. And if not, we will have to see that she gets a copy of this to pay tribute to her dedication to this effort. It is one that is so important.

Mr. Speaker, just earlier this month I introduced a resolution, House Resolution 267. It is a Sense of the Congress Resolution, and it basically states and encourages citizens of our country to remain committed to do whatever we can to combat the distribution, sale, and illegal use of drugs to our Nation's youth and by our Nation's youth.

□ 1915

For those of my colleagues who are here who have yet to become cosponsors of this particular resolution, I certainly would encourage them to do so.

Now, Mr. Speaker, I would like to yield to another member of our freshman class, my friend, the gentleman from Texas [Mr. SESSIONS].

Mr. SESSIONS. I thank the gentleman, Mr. Speaker, for yielding to me.

I am glad to be here today because the problem of drugs in our country is dire and urgent. There is a moral crisis in America.

I want to use some of the data published in a report by the House Subcommittee on National Security, International Affairs and Criminal Justice to illustrate just how bad this moral crisis is.

The report entitled, National Drug Policy: A Review of the Status of the Drug War, details the startling use and rise of drug use among Americans, all Americans, but most especially those that are young Americans.

According to the 1994 Michigan University study, 13 percent of eighth graders experimented with marijuana in 1993. That is almost twice the 1991 level. Experimentation among 10th graders increased about two-thirds the previous 3 years. And daily use among high school seniors was up by half over the 1993 levels. Increasing use was also reported in 1994, by the Drug Abuse Warning Network Data, which collected data from emergency rooms around the country on drug-related emergencies in 1993. That data showed an 8 percent increase in drug-related emergency room cases between 1992 and 1993, 45 percent of which were heroin overdoses. Cocaine was also at an alltime high, having almost doubled since 1988, and marijuana emergencies increased 22 percent between 1992 and 1993.

1995 data is even worse. The National Household Survey, released in September 1995, shows that overall drug use among kids, ages 12 to 17, jumped 50 percent in 1994, from 6.6 to 9.5 percent. The National Pride Survey of 200,000 students shows that one in three American high school seniors now smokes marijuana. There has been a 36-percent increase in cocaine use among students in grades 9 through 12, from 1991 to 1992, and hallucinogen use by high schoolers has risen 75 percent since 1988 and 1989.

Finally, October 1995 DAWN data says that in 1994, cocaine-related episodes reached their highest level in history and registered a 15 percent increase from 1993, and a 40 percent increase from 1988.

On top of this, marijuana or hashish-related emergencies rose 39 percent from 1993 to 1994. And total drug-related emergency room cases rose 10 percent between 1993 and 1994.

The reason we are here today is to call on all Americans to join in this fight against drugs. As we know, this is Red Ribbon Week across America. That is what those red ribbons are there for. That is why we are calling on Americans now to join with us at this time to fight drugs.

But parents can also start by demanding that their children and the schools that they attend, that they learn to be drug free. The fight against drugs must be waged in churches, schools and by every family in America. Kids should report drug dealers to their teachers, and parents and teachers need to do what they know is right by leading by example and doing the right thing. And that is by saying, no. I also wish adults had the courage to do the same thing.

Currently, there is also a drug that has taken hold in neighborhoods throughout America, and this is wreaking havoc. This drug is called methamphetamine or it is called speed, crank or crystal. If there is a drug that enslaves the mind and destroys the soul, this is it.

According to a report by the Drug Enforcement Administration, and I quote, the extreme agitation and paranoia associated with the use of methamphetamine often leads to situations where violence is more likely to occur. Chronic use of methamphetamine can cause delusions and auditory hallucinations that precipitate violent behavior or responses. End of quote.

This is a violent drug that devastates the user. DEA Administrator Constantine, in a statement, attested to the horror of this drug, when he said, and I quote, during the summer in New Mexico a father, while high on methamphetamine, beheaded his 14-year-old son. Administrator Constantine also described how a mother and 3 young children under 5 were recently seriously burned when a meth lab exploded causing a fire in their home. Two of the children were rushed to the hospital in critical condition and one died. The responsible father fled the scene, abandoning his critically injured family before rescue teams arrived to assist them.

Methamphetamine, just like other drugs, is a cancer on our society. In 1994, there were over 700 methamphetamine-related deaths in the United States. In several cities, meth-related deaths are up over 50 percent in the last three years. And in 1995 alone, the DEA seized 241 methamphetamine laboratories.

Methamphetamine is easier to manufacture in the United States because its precursor chemicals are more readily available. If the penalties for the manufacture of this killer drug do not deter its production within our borders, how are we going to stop its rising use? I think we should make punishment more severe so that we push it out of America's cities and towns.

It is important to note that the danger from those chemicals used in the manufacture of methamphetamine is immense. They are highly flammable and explosive and can cause extensive damage to first responders, including law enforcement, firefighters and civilians, as well as devastation to our environment.

We must give law enforcement the tools to deal with this epidemic efficiently by getting those drug thugs off our streets. I believe that those involved in the manufacture and distribution of methamphetamine should spend the rest of their lives in prison. I have drafted a bill to do just that, the Speed Manufacturing Life in Prison Act of 1997.

This legislation will help stem the rise in methamphetamine production by giving those involved in the manufacture and distribution of methamphetamine a mandatory sentence of life in prison.

This is just one way to address the problem of drugs in our society. Unfortunately, in Washington, there are many who cannot even agree how to address the problem.

According to the General Accounting Office, the bipartisan watchdog agency of the Federal Government, the current drug policy under the leadership of the Office of National Drug Control Policy is not clear. It is not coordinated. It is not comprehensive, and it is not consistent.

It is no wonder we are here tonight calling on the families and communities of America to help us solve this problem. To save our children we will have to all work together and, if we do that, we can ensure that the lives of our children are safer, more productive and free of the drugs that can cripple the mind and destroy the soul.

I want to thank the gentleman for being here tonight. I want to thank my good friend from New Jersey for allowing me the opportunity to speak on this important subject tonight.

Mr. PAPPAS. Mr. Speaker, I thank my friend from Texas for his participation. We have spoken about this, and I commend him for the leadership that he has shown and the legislation that I think I am an original cosponsor of.

Mr. SESSIONS. You are.

Mr. PAPPAS. We have spoken about a number of specific areas of the country and a number of drugs in particular that people are abusing. I know we have spoken about heroin. I know you have some thoughts. I am wondering if you would share that.

Mr. SESSIONS. Yes. We have a terrible problem in Texas. Just outside of Dallas, in a neighboring community, we have had a minimum of eight heroin-related deaths by teenagers in the last year. Of course, this is causing a lot of inward thought to the community. And I want you to know that every single time those parents say, please talk about the problem, please tell the story, because many of them did not even recognize that their children were even on drugs. So this is why

I think this is important. I thank you for bringing that up.

Mr. PAPPAS. I thank you very much.

We are joined by yet another member of our class, my friend from Arkansas. I would like to yield to the gentleman from Arkansas in a moment.

Before I do that, I know that we all have heard an awful lot about those in our society that think that the answer is to legalize certain drugs and that that will unclog our court system. And I disagree.

Just last week I met with a group of police chiefs from one of my counties in the district, Hunterdon County. When I concluded my remarks and I just made my last pitch, so to speak, to indicate that my door is always open to them and I hope that they do not feel that they cannot offer a suggestion or a viewpoint, if it is unsolicited, one of the comments that one of the gentlemen made was that a response that some have to our drug epidemic of legalization is not the answer, sending the exact wrong signal.

I know that the gentleman from Arkansas, my friend, who is here joining us has had a very distinguished career in many capacities. Certainly, I am glad to see him here tonight, certainly glad to serve with him in this House.

Mr. Speaker, I yield to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman from New Jersey. I am grateful that he has taken the leadership in addressing this very important subject. Hopefully, by our discussion, we can center some legislative activity but, most importantly, some momentum in our country to reinforce and reinvigorate the war against drugs.

I approach this subject as a former Federal prosecutor, serving in the Reagan Administration as United States Attorney, but more importantly, I approach this subject as a parent. I have raised three teenagers. I have another one coming. I know the struggles that parents go through in dealing with this very, very tough issue, because it truly affects all families.

I think back during the 1980s, when I was a United States Attorney and my wife Susan was involved in "Just Say No" clubs, starting them in the schools, encouraging young people to think about their decision and their commitment in regard to drugs.

This last week I had a very interesting experience. I serve on the House Committee on the Judiciary on the Subcommittee on Crime. We had a hearing in the Subcommittee on Crime in which we had a witness who we called Mr. Rodriguez, which is not his real name, but he assumed that name to protect his identity. He further protected himself by coming to testify before Congress with a hood over his face to protect him further. And he was from New York City. He was in prison. He had pled guilty to drug trafficking.

He was the number two person in the New York City branch of the Medellin drug cartel out of Colombia. So he is about as high as one can get in that drug structure in New York City.

He testified about the drug federation, the Medellin federation. He testified as to his experience, the organization, trying to shed some light on what Congress can do, on what our country can do as we fight this devastating disease called drugs.

As he testified, he talked about his organization which outmans and outguns law enforcement agencies on both sides of the border, both in Colombia and here, an organization that resorts to bribery, to kidnapping, to intimidation and murder to protect their trade and profits.

He described the organizational structure in which we could see it, just like any organizational chart, the Medellin federation has consultants, financial and tax, administrative, legal, political, media. They have their operations for payments and deliveries, their security, their international operations for their shipments, their New York City branch. They have their distribution outlet, their deliveries, their warehouses and so on.

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It is an organization that is as sophisticated as any business organization in America. But what is of interest, I believe, as I talked to him, I asked him four common sense questions that I think a lot of people in America would ask someone in that position in the drug trade.

The first question I asked him was, how would he compare the resources of the drug organizations to the resources of law enforcement here in the United States? And I asked this same question in a previous hearing to the head of the FBI, the head of the Drug Enforcement Administration, and I got the same answer out of both. And the answer was, for Mr. Rodriguez, that he saw the resources tilting a little bit more on the side of the drug federation, the drug cartel, and the drug organization.

This flabbergasts me, that in a country as large as the United States we are outgunned, we are outmanned, and they have more resources on the opposite side. The point of that question and answer is that we have to have a commitment of resources, yes enormous resources, in this country to win this war.

The next question I asked him was, what is the greatest weapon that drug dealers fear that law enforcement has? And the answer surprised me. His answer was extradition. And, of course, he is speaking as someone who was from Colombia that is in New York City, and from the Colombia perspective, the worst thing that could happen is that a drug dealer was extradited to the United States.

I asked him to elaborate on that. He said they cannot fix the system in the United States. That is what we have going for us, is the integrity of our justice system. We can never let our prosecutors, our judges be attacked, our system be attacked, and get in the hands through bribery, through intimidation, of these drug dealers, as it has in other countries in South America and in Mexico.

And then I asked him the question, the third question, does he and his other drug dealers use cocaine or other illegal drugs? And his answer was no, of course not, it is bad for business. And a drug dealer has the understanding, the sophistication, to know how dangerous drugs are. And if they understand it, our young people certainly must get that message very clearly.

Then the final question I asked him was, what advice would he, as a person who is waiting prison time, what advice would he give a young person who is confronted by a drug dealer? And his answer was, as he stood there in prison garb with a hooded mask over his face, he said, look at me, do you want to wind up where I am? I hope our young people can think seriously and the parents can think seriously about the end result of drug dealing, of using drugs.

But he did indicate that we are making progress. The encouraging word, the sophistication of law enforcement in dealing with money laundering, in financial transactions is really making it tough on the drug dealers. So we are making some progress.

I see when I look at the drug problems, not just statistics but life stories, and when I was a United States attorney we looked at New York City as a far off territory, but I can cite numerous instances in which the drugs went straight from Colombia to New York City and straight from New York City to my State of Arkansas and then into the hands of teenagers. It was 98 percent pure cocaine. And with that level of not being diluted, it was straight from Colombia through New York City. What happens in New York City, what happens in Chicago, what happens in Dallas affects us in the rural areas. So this hooded witness impacts us all.

And then I think about that young teenager who went to a high school in Arkansas, who never used drugs, who spoke against drugs in high school, and went to a college campus and in a short amount of time was free-basing cocaine. Why do I tell that story? It is because this could happen to anyone, and we have to clean up our high schools, we have to clean up our campuses, and we have to have an ever vigilant society in this dangerous situation.

How do we win the war on drugs? It is commitment, commitment of resources, and then I think just as importantly, it is consistency. We were starting to make progress and win the war in the late 1980's and early 1990's and then we changed direction in 1992. And as soon as we did that, the teenage use of drugs went up. Marijuana, experimentation with cocaine went up and we started losing. We did not have the resources. Now we are starting to get back there, but we cannot change our commitment and the consistency we have to fighting this drug war.

I know I have taken a little bit longer than I intended to. I thank the gentleman from New Jersey. I commend him for this. There is not a more important subject that we deal with in the United States Congress. But we have to put the resources in it, and the answer comes from every family, every community, every city in America who must take the bull by the horns and deal with this important issue.

Mr. PAPPAS. Mr. Speaker, I thank my friend, and before he leaves, I want to compliment him not just on his statements here tonight, but also I can recall the early part of this year, I think the gentleman was one of the first members of our class that said we need to talk about this, and I am glad he is here and I hope we will continue to do this.

Mr. Speaker, as a Member from central New Jersey, I frequently get visits from students in my district. It is about a 4-hour drive by car or bus, and I have been amazed at the number of students that have visited me here. But while I am home in New Jersey, I spend an awful lot of time visiting schools and speaking to students, all age categories, and I try to challenge them and ask them the question, where do they see themselves in 5 years, in 10 years, in 15 years, and try to make them realize that the choices they make now in grammar school, in middle school, and high school have a tremendous effect upon where they are going to be 5, 10, 15 years from now. We all need to challenge them.

We are joined now by another distinguished member of our class, and I would like now to yield to my friend from Illinois [Mr. SHIMKUS].

Mr. SHIMKUS. Mr. Speaker, I wish to thank the gentleman from New Jersey for running this hour for this message. It is one that I really get fired up about. I remember harking back to even the campaign days when this issue would come up, it stirs emotions in many of us, and my perspective comes from, I guess, the different jobs that I have held before coming to this floor, one being that of a military officer.

We have done ourselves a great disservice by calling this a war on drugs, because we have never significantly started a campaign. We have not identified the resources. We have not focused the attention. We have not really, unfortunately, decided to fight a war on drugs. We like to use the verbiage, and I am aghast at it. So I wish we would get that out of our lexicon until we are ready to do it, until we are ready to fight the war on drugs.

I think three things have to be done, and I think we are taking some steps in the right direction, but I do not want skirmishes, I want a war on drugs. I want to drive it from the land.

A couple of things. We need to, as we did this year in the House, we need to say let us put military forces on the border and stop drugs coming across the country's border. And on the House floor we said let us put 10,000 troops there because this is a serious conflict that we are in and we need a serious commitment. So we have to do everything in our power to stop the importation of drugs from outside the Continental United States.

Second thing is, and my colleague from Arkansas has had great experience, we have to punish the drug pushers. We need to identify them, which we can. They are on the streets. We need to arrest them. We need to lock them up. They need to be breaking rocks. They need to be sweeping streets. They need to be chained up so that they are an example. There is an example, when kids see a chain gang sweeping the streets of drug pushers. So if they do the crime, they do the time. And, of course, we have a judicial system that does not support that.

The third thing is we just need to look at ourselves. And I am going to say shame on my colleagues who used drugs in high school that are still abusing drugs as adults. And I am going to say shame on the entertainment industry who glorifies the use of drugs. And I am going to say shame on the professional athletes who glorify drugs or abuse drugs. Because what this is all about is our children, and they are looking at the folks in the entertainment industry, they are looking at their parents, they are looking at sports leaders and idols, idolizing them, wanting to be like them. But we have adult leadership in our Nation, adult idols, and I hate to use the word "adult" because they are still caught in a juvenile world that thinks drug use is cool, and so we have to get that message out.

An ounce of prevention is worth a pound of cure. We need to work on preventing the first use by children of drugs. We can stop it at the border if we commit ourselves, we can arrest the pushers if we commit ourselves, but if we do not educate the children to make good choices, then those others are for naught.

As a former teacher, as a West Point graduate, we lead by example. Children are crying out for leadership. They are crying out for good examples. And we as a society continue to fail our most vulnerable, which are our children.

Our message is simple: Nancy Reagan was right. Just say no. The current administration is wrong when they laugh about it and they send the wrong message. We need to take the moral high ground. We need to talk to our kids. We need to plead with them. We need to lead by example. We need to just say no. If we truly love our children, we will tell them just say no. We will spend time with them and we will work with them.

And to the gentleman from New Jersey, I again thank him for this opportunity. It helps air out some major concerns that I have that I do not get to address many times in some of the other forums.

One of these days, and I just hope we get serious and that we will move in the right direction. As I see so often in this body, we really have no national policy on specific issues. We pick here and we pick there and there is no coordination. I would ask the drug czar to be a little bit more coordinating in these efforts.

Mr. PAPPAS. I thank the gentleman from Illinois, and knowing of his family and seeing him with his boys here sometimes on the floor of the House, I know what he has said is heartfelt.

Mr. Speaker, Monday, when we had that hearing back in my district in Freehold Borough High School, I mentioned that there were some students from three or four different schools in my district. One of them was the Manalapan Township High School, and there were eight students interested in coming forward and speaking their minds, and I would like to mention a couple of the things they said, because it really bears repeating.

Several of them said that we need to put more emphasis on stopping drugs from coming across the border, north or south. Many of them mentioned that in their opinion the education system does not solve anything; that there needs to be more younger people closer to their age to speak to them about why doing drugs is not going to do anything for them in their future.

Some view that the discipline that they are given is not very good. One of the students spoke that there is a smoking area outside of the school where some of the students congregate to smoke and a teacher or guard gives them some sort of a detention slip as punishment, and that they believe, the students believe, that more needs to be done to prevent even kids from smoking, which I believe is illegal for minors.

I will speak about some of their other suggestions a little bit later, but now we are joined by my good friend, the gentleman from Colorado, Mr. BOB SCHAFFER, and I would like to yield to him.

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Mr. BOB SCHAFFER of Colorado. I thank the gentleman from New Jersey for yielding and commend him for bringing this topic to the floor and allowing us to share a little bit tonight with each other and with the American people about an issue that is so crucial to the future of our country. I am a parent of 4 children. What I bring with me here to Washington is my hopes and dreams and aspirations for my children and all children just like them throughout the country. Tonight we have focused quite a lot on the drug abuse problem and juveniles and what our hopes are for children in America and I want to talk about that and what we can do as conservatives and as Republicans here in this Congress and focus for a moment, if you will, on some of the programs that exist. But again with the underlying thought being, what is it that we can best do to safeguard the future for our children in a positive and constructive way?

Mr. Speaker, government programs are nice. In fact some even work. But when it comes to improving the general virtue of American children, few things matter more than fathers, faith and fortune. Sure, there are examples of public programs that have turned around the lives of youngsters, stood in where families were nonexistent or provided support where it was needed most. Virtually every social worker and counselor I have ever met genuinely cares about the youth they serve and are dedicated to straightening out juvenile lives.

However, after 10 years in public service as a Colorado State Senator and a United States Congressman, I have come to the frank conclusion that too many government programs aimed at helping wayward youths fall far short of achieving their noble goals. The anecdotal stories of adolescents rescued from their troubled settings are regarded by grant writers and politicians to be all that is necessary to justify heftier appropriations from public coffers. Yet what public officials frequently fail to consider are the untold millions of young Americans robbed of economic opportunity by the mammoth bureaucracies inevitably created by an expanding welfare state.

Always I ask how much a juvenile program spends per successful case. The calculation more often than not is dismaying. More vexing is the frequency of the worn retort, "But, Congressman, if it helps only one child, isn't that worth it?" When will we ever wake up and realize that our government spends too much on a welfare state that hurts children by making bureaucrats the gatekeepers of prosperity? The national debt has soared as a direct result of unbridled spending jeopardizing not only present income, but the future incomes of many generations. A child born today owes $20,000 as his share of the present debt. Over the course of his working life, the interest on that debt will amount to $200,000. For every child in America, this means less money for their education, less money for their insurance, less money for their college education and instead of capital to draw on to build their families and fortunes, heavy taxes to pay off the debt. No new Federal youth program no matter how ingenious can replace the security of these essential items of self-sufficiency. With such tall odds is it any wonder that today's youngsters feel disconnected from society, lose hope, experience great anxiety, and rebel against the rest of us?

Worse yet, the common family feels powerless to offer answers. In 1950 the median family of 4 paid just 3 percent of its income to the Federal Government in taxes. Today that figure has risen to 24 percent. When State and local taxes are thrown in, the typical family of 4 now pays 40 percent of its income in taxes to the government. The results of this disastrous policy are only too apparent. Even as its punitive tax policy discourages child rearing by traditional middle class families, the Federal Government continues to subsidize illegitimacy and broken homes. By placing crippling financial burdens on two-parent families, our government is essentially engineering social collapse. One need only consider the current juvenile crime statistics. Teenagers account for the largest portion of all violent crime in America. In 1995, those under the age of 18 were responsible for almost 2 million violent crimes, more than one-fifth of all violent crime. It is reasonable to ask, where are their parents? While marriage and the stable two-parent family remain the most essential and central social unit in America, outrageous rates of divorce and out-of-wedlock births are destroying this crucial institution and weakening the development of the next generation. More and more children must grow up with little guidance from a parent who loves them. Youth violence is dominated by boys. More murder and robbery is committed by 18-year-old males than any other group. Research tells us the likelihood that a young male will engage in criminal activity doubles if he is raised without a father and triples if he lives in a neighborhood with high concentrations of single-parent families. 72 percent of adolescent murderers grew up without fathers and 60 percent of America's rapists grew up in homes without fathers.

On the other hand, children living with both biological parents are up to 4 times less likely than other children to have been expelled or suspended from school. The tax burden on families with children has raised the cost of having children and forced many couples to endure a tradeoff between time at home and time spent at work earning money to support the family. The tax system no longer helps families raising young children. Rather than defend the family and encourage marriage, the Tax Code does just the opposite. That is primarily due to the erosion of the personal exemption by inflation and steep increases in payroll taxes.

Simply put, children need fathers. They need parents at home. They need an America offering economic promise, which strengthens the lot of parents and a society providing hope for economic participation, particularly at a young age. But economics is not the only place pro-family leaders should look for solutions. America's moral decline is more often cited by experts as the fundamental cause of family instability. More than 4 out of 5 Americans, that is 83 percent, when polled, say they are deeply concerned about our moral and religious well-being as a Nation. They know we will never effectively reach out to America's youth by avoiding the essential challenge, the lack of spiritual life in society.

As elected representatives, all political leaders ought to be able to discuss the need for spiritual renewal. And we should not be ridiculed and castigated for discussing the spiritual life of our society. Clearly our moral problems are too great to remain silent. Fortunately, where matters of faith are concerned, things are frankly not as bad as the media would have us believe. The fact that the majority of adults in this country believe there is a moral crisis in America is pressing policymakers to the conclusion that there are definite rights and wrongs when it comes to immorality. On increasing occasions, politicians are hearing from constituents their belief in the values of faith, family, community, responsibility, accountability, and they desperately want others, particularly their elected representatives, to believe in them, too.

For America's youth, inclusion in a pious society is perhaps the greatest hope. It is clearly here where we can do the most to stem juvenile violence. A recent survey found that 93 percent of the American people believe in God. Historian Will Durant once concluded that the soul of the Nation is its religion. By that standard the American people are returning to the divine in record numbers. It would be the height of abuse if children were denied the chance to know the God who made them and the glorious truth of His presence among us today.

On this point it becomes apparent that despite the best intentions of the Federal Government, this government is unable to fully embrace wayward youths in the wholesome custom that American people deep down know is needed. The notion of it takes a village is an errant message for Americans

precisely because in America the village is too big and too impersonal to really care.

Public institutions and bureaucracies cannot love. They possess no resources or emotion of their own to constitute true charity, and they are incapable of instilling the faith upon which our forefathers built a great nation.

The only thing bureaucracies do well is spend other peoples' money, and they do it with reckless abandon on the chance that a program or two will actually hit its mark. That chance is far too great when a child's future stands in the balance.

Sure government should legitimately continue to maintain a minimal safety net to save children from poverty, and protect their physical health, etc. But if America is serious about reversing moral decay and social disintegration for the sake of juvenile behavior we need to find ways to allow private, and faith-based charities to lead the way; for only they are unrestrained in conveying family values and moral precepts in godly terms that children need and understand. Moral absolutes are good but rarely exist in government settings.

America's youth deserve a country that believes the Right to pursue Happiness is for real, that this right is unalienable, endowed by God and secured for every child. They deserve an America where government rewards honest hard work and respects the authority of families, where they are not unjustly taxed and where jobs are not regulated away.

For juveniles to behave like Americans, they must be allowed to embrace the American Dream. They must be treated like real Americans and given the moral backing to thrive in a free society full of opportunity.

Mr. PAPPAS. I thank the gentleman from Colorado for his enthusiastic comments and his dedication to his family and to our country.

I yield to my friend from Pennsylvania [Mr. PETERSON].

Mr. PETERSON of Pennsylvania. I would like to thank and congratulate the gentleman from New Jersey for initiating this hour and this issue that we are talking about, I believe the most important issue facing this country. Our children, our young people, our future and the problem they face of drug use, which has just grown immensely. They have often talked about a war. I have not seen a war. As I look back on war, it is life and death. It is fighting till death takes over, or we win the war. I have not seen a war in this country. We may have called it a war, but it is a life and death issue, and I have not seen many leaders in this country that have made drugs a life and death issue.

When we look at what goes on with professional sports today, how many football players in the National Football League and the National Basketball Association and Major League Baseball which is holding a World Series game tonight, how many of their players have had multiple drug use, have been arrested for drugs, have sold drugs and continue after some short penalty to be a leader in this country, a model that our young people look up to and they have had multiple drug crimes, multiple instances where they have used drugs in this country, a terrible example that we have allowed.

Television and the movie industry have glorified drug use. The results of that have been 47 percent of 14-year-olds today say they can buy marijuana within a day. That is half of our young people. 76 percent of high school students and 46 percent of middle school students say that drugs are kept or used or sold on school grounds. 29 percent of high school students and 12 percent of middle school students say that a student in their school died in the past year from an accident related to alcohol or drugs, an astounding figure. 56 percent of high school students and 24 percent of middle school students have attended a party in the past 6 months where marijuana was available. 41 percent of high school students and 18 percent of middle school students have reported seeing drugs sold in school or on school grounds. High school students say that 50 percent of their peers are using drugs at least monthly. 35 percent of teens cite drugs as the most important problem they face.

Every youth group that I speak to, and I never turn one down, and some we organize and we bring them into our district from schools all over our congressional district. We used to do it in the Senate district when I served in State government, and we have panels of issues where we are teaching them about government and talking about issues, the number one issue they want to talk about is drugs. Why is it that young people bring it up again and again? Because they are scared, because they know in some instances that they do not do drugs and that they do not participate in alcohol. They are looked at as some kind of a square, they are not cool, they are not part of the in group. There is a little bit of good news. In 1996, there may have been some good news. Our overall current has remained about the same as last year and currently illicit drug use among teens 12 to 17 years old appears to have declined for the first time since 1992. However, current drug use among 18 to 25-year-olds is still on the rise. While teenage use of marijuana in the past month appears to have declined, in 1996 first-time use of heroin and cocaine has increased. Heroin and cocaine is in our small towns. It is in rural America. It is not just in the cities. Many people made fun of or made light of the Just Say No campaign. But as we look back, even those who criticized it at the time realized it was a crystal clear message. There was no way you could dispute it. There was no way you could not understand.

During that period of time, drug use was really declining. We were making major progress. And then we come to the current administration, the Clinton-Gore administration. Since they have been in office, marijuana use is up 140 percent. LSD use overall is up 183 percent. Use of LSD has reached its highest rate since they began keeping statistics in 1975. Fully 11.7 percent of the class of 1995 have tried it at least once, LSD. And we all know the dangers of that drug. The number of cocaine and heroin-related emergency room admissions has jumped to historic levels. Perhaps most troubling is the rise in teen drug use during the Clinton administration. The number of 12 to 17-year-olds using marijuana has doubled. Teenage use of cocaine is up 166 percent.

I think a lot of that has been this ambiguous message, no clear message. What are the costs? The costs are unmeasurable. Loss of loved ones. How many of us know a friend who has died? How many of us know a family who has lost a child? The juvenile suicide rate has skyrocketed. I have two granddaughters, Tara and Nicki. Tara is in seventh grade and Nicki is in fourth. My number one concern as a grandparent is their exposure to drugs in school because they are there. The school administration last year thought I was overevaluating the issue. But last spring at the close of the year, two 6th graders were arrested with drugs. The greatest problem facing this country is out of control use of drugs. Our young people are exposed to it on a daily basis. It is an issue that we must make the number one issue in this country. We must start a war on drugs.

Mr. PAPPAS. Mr. Speaker, I get the same thing from students in my district. It is the number one issue as well. I now want to turn to the gentleman from South Dakota [Mr. THUNE] and yield to him.

Mr. THUNE. I thank the gentleman from New Jersey for yielding and credit him with the great work he has done in introducing a resolution which I think calls attention not only to the problem, helping define the problem, but also in terms of the solutions and where we need to look for solutions. I am proud to be a part of the effort tonight to draw attention to this important issue. If we look at what the future of our country depends upon and where America is headed, I do not think there is any problem that is more pervasive and more terrifying than is drug use in this country. Substance abuse is clearly public health enemy number one.

If we look at the effects, they are seen in our Nation in so many different ways, from crime, to violence, to welfare dependency, to divorce, family breakup, domestic violence, child abuse, high health care costs, the spread of AIDS and other sexually transmitted diseases. The cost to our society according to a recent estimate is some $400 billion a year.

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I have always thought that my State of South Dakota, is somewhat immune from these pressures, but we are seeing an increasing evidence of drug use there as well. In fact, drug-related arrests have risen dramatically. In 1991, there were 1,308 drug related arrests. In 1995, there were 3,000. We are seeing a pervasive problem all over the country. It is something that I want to credit my friend from New Jersey for drawing attention to, and I hope that we can continue to have a dialog about what we might do as a country, as communities, as families, as churches, to attack this problem and deal with it in a very realistic way.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman, and I hope that this is the beginning of how our House can continue to focus on this most important issue.

THE WAR ON DRUGS IN AMERICA

The SPEAKER pro tempore (Mr. BRADY). Under the Speaker's announced policy of January 7, 1997, the gentleman from South Dakota [Mr. THUNE] is recognized for 60 minutes as the designee of the majority leader.

Mr. THUNE. Mr. Speaker, my friend from Pennsylvania [Mr. PETERSON] and I would like to carry on a little bit of this discussion on drug use in America. As I mentioned just previously, we have seen in my state of South Dakota drug use rise in a dramatic way. The number of arrests has almost tripled in the last four years' time.

I want to draw particular attention to one instance that I was recently informed about, which is a good example of this. In July of 1995, drug agents in Lincoln County, South Dakota, got warrants to search a home in the City of Worthing.

Now, Worthing is not what you would call a hot bed of criminal activity. It had a population of 371, but even Worthing, South Dakota, is not immune to the problem of drugs.

When agents entered the home they found what you might expect to find in any home around this country, and that is someone cooking. The only difference was this person was using a recipe from something called the Anarchist Cookbook. He was not cooking with food, he was cooking with chemicals. When agents entered that home in Worthing, a community of 371 people, they found the beginnings of a methamphetamine lab. The man in the home had a wide array of chemicals spread out, and he was trying various combinations, trying to come up with the perfect recipe to cook up a good batch of meth.

Well, eventually he did find the right recipe. I am happy to report, thanks to South Dakota law enforcement agencies, he is now serving a second stint in the South Dakota State Penitentiary. But it goes to show that no city, no matter how large or how small, is immune from the problem of drugs.

That does not mean our communities cannot fight back. There are important initiatives going on all over our State, I believe all over this country, that are attempting to address this important problem in ways that are very practical, very realistic, and I think get at the heart and the core of what the problem is.

If you drive into South Dakota today, you will see when you arrive on the interstate one of 14 different billboards. It says "Warning: If you bring illegal drugs into South Dakota, plan to stay a long, long time." It looks something like this, but you will see it anyplace you enter our state.

These signs are not the result of some piece of Federal legislation, they are not the result of some Federal grant or program. Every billboard is sponsored by a local business. No tax dollars are used. It is an effort coordinated with the state, with local businesses and the cooperation of the private sector, to keep drugs out of our states and out of our communities.

South Dakota is doing other things as well, particularly in the area of our schools. In the largest city in our state, police officers are not only fighting drugs from the police department. They are fighting the war from the hallways of the city's high schools.

Each high school has its own full-time police officer. Each officer has an office at the school. When they walk their beat, they are walking past lockers, past the gymnasium, into the school parking lot, and back through the cafeteria.

The students do not just see the cops when the law is broken. They see officers every day under all kinds of circumstances in the hallways at their schools. These officers are forming bonds with kids, and kids are learning the very fundamental fact that cops are not bad people.

These officers are also able to keep an eye on drug traffic in the schools while keeping an eye on the kids. They talk to students, they talk to parents, they talk to teachers, and they all work together to keep our schools drug free.

People in South Dakota are working at every level to fight the war on drugs. Not long ago a 15 year old came to the attention of the South Dakota Juvenile System. She was running away from home, skipping school, using drugs and drinking.

But instead of just locking her up and then releasing her a few hours later, the State of South Dakota tried a new and novel approach. She was put in a treatment and counseling program. Shortly thereafter, she discovered she was pregnant. Counselors worked with her and with her family to help her quit drinking and taking drugs. She was then placed in a long-term counseling program. She had her baby and went on to live, with the supportive family members, who helped her through the recovery and counseling stages of the process. She went back to school and graduated.

Recently she and her baby showed up at the South Dakota Division of Alcohol and Drug Abuse to thank those very people for helping her to get her life back on track.

These people are trying new programs which bring judges, police officers, teachers, parents and problem children together to deal with the problem when it starts. Hopefully this young woman will go on to lead a productive and fulfilling life. The drug war, I think we all have to keep in mind, is not going to be an easy war to win. But by bringing parents and children and communities together, we can work to keep drugs out of our communities and out of our children's lives.

I might also add that I think it is important and it has been mentioned previously this evening, that we have to somehow get the message through to our children before they make the decision to try and experiment with drugs. To do that, I think we have to let parents be parents and give them more time to spend with their kids.

We are working in a very intensive and conscious and deliberate way in this body as the Republican leadership to allow parents in this country to keep more of what they earn, so they do not spend all their time working three or four jobs, so they have more quality time to spend with their kids.

We tried to provide education tax incentives so that young people today will see hope and an opportunity to go to college, to go on, to continue their education and lead productive lives. Ultimately the best deterrent that we have for drug use in this country is the family. It is the family more than anything else, that helps us shape and define the values of our culture and of the next generation.

I believe, we need to continue to work at that level, in families, in churches, in communities with individuals, law enforcement people, working together, to try and discourage kids from experimenting with drugs in the first place. I look at my two young girls who are seven and ten, and the temptations that are out there today are pervasive, and they are something that is an incredible pressure that I believe all our young people have to deal with in a way we did not when I was growing up.

But even in our state of South Dakota we are seeing an increasing use. It is a problem which is drawing a considerable amount of attention all over this country, and I think that we need to look, again, into the areas that ultimately are going to be responsible for solving this problem, not some big government solution, but people working

together in a constructive, practical, real way, that meets the needs of people where they are at.

I appreciate again the opportunity to discuss this issue this evening. It is a very important one to me, being a father, a parent of young children, who are entering that age of their lives when they are going to be faced with these pressures, and I know my good friend from Pennsylvania, Mr. PETERSON, feels very deeply about this. I would be happy at this point to yield to him.

Mr. PETERSON of Pennsylvania. Mr. Speaker, it is certainly, again, a privilege to say a few more things. I ran short of time here a while ago and didn't get to say some of the things I wanted to mention. I think one of the issues we face is that not all Americans, and especially in rural America, are willing to admit to the problem. I think everybody knows there is drug usage in our rural schools. I think everybody knows there is some drugs in our small towns. But I don't think they are willing to quite accept the immenseness of it, the gravity of it, how much of it is really going on there.

We really have a population across America of people raised in the sixties, and some of those people have never stopped using drugs. So here we have families raising children where drug use has never ceased since the sixties. They have continued to use some form of illegal drugs because they are hooked, and they have not admitted that it is a problem in their lives. But it is.

Last year, I visited a high school close to home, and was concerned about some information I had received about the availability of drugs within the block of the school, about the availability of drugs in the junior high school, and so when I made that visit, I questioned do you bring in dog teams, do you check lockers, do you really make sure that drugs are not kept here?

I was told in Pennsylvania, you cannot do that. It is different State by State. We have had a recent court case in Pennsylvania that has somewhat put the fear in the hearts of administrators and school principles, that they will be sued if they do that.

I am sort of an adventure type. I said I would get sued if it meant keeping drugs out of the school, making sure that every locker, you don't have to really search, you bring in a good dog and you will know if there are drugs in that school, what backpack they are in, what locker or desk they are in. That is just that easy. But that is not common practice in many schools.

I think sometimes school boards are, again, and school administrations, are not willing to admit, I know last year when I questioned sixth and seventh grade having the problem equally to junior high and senior high, I was disputed with that. But then last year, several young people in sixth grade were caught with drugs and were arrested and were prosecuted.

It is clear now. They are afraid of the ACLU. They are afraid of the legal community out there who is going to nail them. I think that is unfortunate. We somehow need to untie our superintendents', our administrators' hands, so they can take whatever means are necessary to make sure that weapons and drugs and stolen property is not being stored on school property.

I think in some cases young people can harbor those things easier in a school where searches are not done and dog teams are not brought in than they can at home, and that is very unfortunate. It is interesting. I was talking to a lady at a restaurant that I stopped at to pick up something on the way to the airport the other day coming in to session this week, and she said to me she closed her private airport in a little town of 1,000. The reason she closed it was too many small planes were coming in and big cars and she didn't know who they were meeting them. It was a little grass strip in the country, but she allowed people to use it. It was a licensed, legal airport, long enough and in a good location. She closed that airport because she had a sense that drugs were being delivered there.

They came in at the inappropriate times and they quickly sped away after they met the airplane and there were people who have since lobbied her that they sure miss that airport. With the small airports across America, it is very easy to fly a large amount of drugs into our communities very easily.

The other problem that rural communities face, and I am again speaking in a Pennsylvania perspective, more than once as a State Senator I brought the State strike force, the narc units in, and more than once they told the local police they would hang around a while to appease the Senator, but they were going back to the urban-suburban areas where they were really fighting the war on drugs. They didn't want to be in rural America.

I do not personally think in a lot of cases, small rural towns have the same ability. When you look at a small police force of 10 people, you cannot use them as narc agents. You cannot have them investigating in the school and places undercover with young people to find out or in the local pubs where drugs are often sold. You cannot have them, you have to have strangers, you have to have people who know what they are doing. It is a very dangerous business.

So I think another area we need to take a hard look at is, does rural America have the same ability to fight back that urban-suburban America has. I think some people think it is their problem; it is not ours, but I want to tell you, I think drug use is almost as prevalent in rural America today as is in urban-suburban America. That is my own personal view from my own experiences as a parent, as a grandparent, and as a community leader before I was involved in State and Federal Government.

It is an issue that I think we just have to start a war on drugs. We have never fought a war on drugs. We may have had a few skirmishes, a few arguments. We may have spent some resources, but when you look at how much resources, I will go back to something I was talking about earlier.

In the first days of this administration, the President cut the drug czar's office by more than 80 percent and the administration cut DEA by 227 agents. Total funding for drug interdiction in the Caribbean, that includes DOD, Coast Guard, Customs, DEA and the State, dropped by more than 40 percent from '92 to '95. However, the $1.6 billion the President recently requested for interdiction is still less than the $2 billion spent by the previous administration in 1991.

I guess I would like to come back and include in my comments that Congressmen need to speak out, State leaders need to speak out, and this administration needs to speak out. We need to have a crystal clear voice to America that drugs are bad.

I know when I speak to youth groups, I tell them as straight as you can tell them, there is no upside to doing drugs; there is no win to doing drugs. It is a lose-lose-lose proposition.

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Until we get that message to our young people, until they understand that that good feeling they have for a few moments, that they are going to end up with a brain that is sub-par, they are going to end up with all kinds of health problems, and the juvenile suicide rate in this country is very much related to drugs and the abuse of drugs and alcohol.

I think we must always remember that the most abused drug in this country is alcohol. All of us have lost friends and loved ones to drugs, hard drugs, but we have lost many friends and associates to alcohol.

Mr. THUNE. Mr. Speaker, I thank the gentleman. I would simply add that this is, again, an important subject, one on which I think most of us agree we need to do something, and the current approaches have not worked very effectively.

Frankly, again, it is something where we need to work together. As the gentleman mentioned, I think, when he speaks to young people, one of the best jobs I have in this position is being able to talk to young people around this country about how important it is that they make decisions that are based upon something other than the temptation to use drugs.

I think as we, again, debate this, we have an opportunity. We have to be role models from the top down. People who are in public life, athletes, everybody else, has a responsibility in our culture to try and help define the values that our young people adopt. They are very impressionable at that age.

As I speak with young people in my State of South Dakota, that is something that is very important to me to be able to convey, a message that it is important that we establish a tone, set a tenor, where we discuss values, and where things like drug use are discouraged at a very early age, and we stop it at the point of decision. I think that is something that we have a very intense commitment to. I know the members of our class who have spoken here this evening are certainly interested in that subject.

CONFERENCE REPORT ON H.R. 2107, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. REGULA submitted the following conference report and statement on the bill (H.R. 2107) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes:

CONFERENCE REPORT (H. REPT. 105-337)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2107) "making appropriations for the Department of the Interior and Related Agencies, for the fiscal year ending September 30, 1998, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 6, 7, 13, 28, 30, 35, 40, 54, 61, 91, 95, 106, 131.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 5, 10, 16, 18, 20, 25, 31, 33, 38, 39, 41, 44, 45, 46, 47, 48, 49, 52, 53, 56, 58, 59, 60, 62, 63, 64, 66, 71, 72, 73, 75, 76, 79, 85, 86, 92, 94, 100, 107, 112, 113, 116, 117, 119, 120, 122, 123, 125, 126, 127, 133, 135, 139, 140, 141, 145, 147, 148, 149, 154, 155, 159, 160, and 161; and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$583,270,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$583,270,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$120,000,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,200,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$594,842,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: , *and of which not to exceed $5,190,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act of 1973, as amended: Provided, That the proviso under this heading in Public Law 104-208 is amended by striking the words "Education and" and inserting in lieu thereof "Conservation", by striking the word "direct" and inserting in lieu thereof the word "full", and by inserting before the period ", to remain available until expended"*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$45,006,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,228,000*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: $62,632,000; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,700,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,233,664,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$44,259,000, of which $4,500,000 is for grants to Heritage areas in accordance with section 606 of title VI, division I and titles I-VI and VIII-IX, division II of Public Law 104-333 and is*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$40,812,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows:

In lieu of the sum named in said amendment insert: *$4,200,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$214,901,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted in said amendment, insert: *: Provided, That $500,000 for the Rutherford B. Hayes Home; $600,000 for the Sotterly Plantation House; $500,000 for the Darwin Martin House in Buffalo, New York; $500,000 for the Penn Center, South Carolina; and $1,000,000 for the Vietnam Veterans Museum in Chicago, Illinois shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a: Provided further, That $3,000,000 for the Hispanic Cultural Center, New Mexico, is subject to authorization: Provided further, That none of the funds provided in this Act may be used to relocate the Brooks River Lodge in Katmai National Park and Preserve from its current physical location*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$143,290,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$759,160,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$145,159,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$137,521,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$68,574,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,528,588,000*; and the Senate agree to the same. Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$55,949,000*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$67,514,000*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$63,665,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$33,907,000*; and the Senate agree to the same. Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 107. In fiscal year 1998 and thereafter, for those years in which the recreation fee demonstration program authorized in Public Law 104–134 is in effect, the fee collection support authority provided in 16 U.S.C. 460l–6(i)(1)(B) applies only to parks not included in the fee demonstration program, and that the amount retained under this authority to cover fee collection costs will not exceed those costs at the non-demonstration parks, or 15 percent of all fees collected at non-demonstration parks in a fiscal year whichever is less. Fee collection costs for parks included in the fee demonstration program will be covered by the fees retained at those parks.

And the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

SEC. 118. Any funds made available in this Act or any other Act for tribal priority allocations (hereinafter in this section "TPA") in excess of the funds expended for TPA in fiscal year 1997 (adjusted for fixed costs, internal transfers pursuant to other law, and proposed increases to formula driven programs not included in tribes' TPA base) shall only be available for distribution—

(1) to each tribe to the extent necessary to provide that tribe the minimum level of funding recommended by the Joint-Tribal/BIA/DOI Task Force on Reorganization of the Bureau of Indian Affairs Report of 1994 (hereafter "the 1994 Report") not to exceed $160,000 per tribe; and

(2) to the extent funds remain, such funds will be allocated according to the recommendations of a task force comprised of 2 designated Federal officials and 2 tribal representatives from each BIA area. These representatives shall be selected by the Secretary after considering a list of names of tribal leaders nominated and elected by the tribes in each area. The list of nominees shall be provided to the Secretary by October 31, 1997. If the tribes in an area fail to submit a list of nominees to the Secretary by October 31, 1997, the Secretary shall select representatives after consulting with the BIA. In determining the allocation of remaining funds, the Task Force shall consider the recommendations and principles contained in the 1994 Report. If the Task Force cannot agree on a distribution by January 31, 1998, the Secretary shall distribute the remaining funds based on the recommendations of a majority of Task Force members no later than February 28, 1998. If a majority recommendation cannot be reached, the Secretary in exercising his discretion shall distribute the remaining funds considering the recommendations of the Task Force members.

And the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 120. Notwithstanding any other provision of law, 90 days after enactment of this section there is hereby vested in the United States all right, title and interest in and to, and the right of immediate possession of, all patented mining claims and valid unpatented mining claims (including any unpatented claim whose validity is in dispute, so long as such validity is later established in accordance with applicable agency procedures) in the area known as the Kantishna Mining District within Denali National Park and Preserve, for which all current owners (or the bankruptcy trustee as provided hereafter) of each such claim (for unpatented claims, ownership as identified in recordations under the mining laws and regulations) consent to such vesting in writing to the Secretary of the Interior within said 90-day period: Provided, That in the case of a mining claim in the Kantishna Mining District that is involved in a bankruptcy proceeding, where the bankruptcy trustee is a holder of an interest in such mining claim, such consent may only be provided and will be deemed timely for purposes of this section if the trustee applies within said 90-day period to the bankruptcy court or any other appropriate court for authority to sell the entire mining claim and to consent to the vesting of title to such claim in the United States pursuant to this section, and that in such event title in the entire mining claim shall vest in the United States 10 days after entry of an unstayed, final order or judgment approving the trustee's application: Provided further, That the United States shall pay just compensation to the aforesaid owners of any valid claims to which title has vested in the United States pursuant to this section, determined as of the date of taking: Provided further, That payment shall be in the amount of a negotiated settlement of the value of such claim or the valuation of such claim awarded by judgment, and such payment, including any deposits in the registry of the court, shall be made solely from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code, and shall include accrued interest on the amount of the agreed settlement value or the final judgment from the date of taking to the date of payment, calculated in accordance with section 258a, title 40, United States Code: Provided further, That the United States or a claim owner or bankruptcy trustee may initiate proceedings after said 90-day period, but no later than six years after the date of enactment of this section, seeking a determination of just compensation in the District Court for the District of Alaska pursuant to the Declaration of Taking Act, sections 258a–e of title 40, United States Code (except where inconsistent with this section), and joining all owners of the claim: Provided further, That when any such suit is instituted by the United States or the owner or bankruptcy trustee, the United States shall deposit as soon as possible in the registry of the court the estimated just compensation, in accordance with the procedures generally described in section 258a of title 40, United States Code, not otherwise inconsistent with this section: Provided further, That in establishing any estimate for deposit in the court registry (other than an estimate based on an agency approved appraisal made prior to the date of enactment of this Act) the Secretary of the Interior shall permit the claim owner to present information to the Secretary on the value of the claim, including potential mineral value, and the Secretary shall consider such information and permit the claim owner to have a reasonable and sufficient opportunity to comment on such estimate: Provided further, That the estimated just compensation deposited in the court registry shall be paid forthwith to the aforesaid owners upon application to the court: Provided further, That any payment from the court registry to the aforesaid owners shall be deducted from any negotiated settlement or award by judgment: Provided further, That the United States may not request the court to withhold any payment from the court registry for environmental remediation with respect to such claim: Provided further, That the Secretary shall not allow any unauthorized use of claims acquired pursuant to this section after the date title vests in the United States pursuant to this section, and the Secretary shall permit the orderly termination of all operations on the lands and the removal of equipment, facilities, and personal property by claim owners or bankruptcy trustee (as appropriate).

And the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

Retain the matter proposed in said amendment, amended as follows:

Before the period at the end of the amendment, insert: *and by inserting at the end of the section the following new sentence: "If such litigation is commenced, at the court trial, any party may introduce any relevant evidence bearing on the interpretation of the 1976 agreement."*

And the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 122. (a) KODIAK LAND VALUATION.—Notwithstanding the Refuge Revenue Sharing Act (16 U.S.C. 715s) or any regulations implementing such Act, the fair market value for the initial computation of the payment to Kodiak Island Borough pursuant to such Act shall be based on the purchase price of the parcels acquired from Akhiok-Kaguyak, Incorporated, Koniag, Incorporated, and the Old Harbor Native Corporation for addition to the Kodiak National Wildlife Refuge.

(b) The fair market value of the parcels described in subsection (a) shall be reappraised by the Alaska Region of the United States Fish and Wildlife Service under the Refuge Revenue Sharing Act (16 U.S.C. 715s). Any such reappraisals shall be made in accordance with such Act and any other applicable law and regulation, and shall be effective for any payments made in fiscal year 1999.

(c) The fair market value computation required under subsection (a) shall be effective as of the date of the acquisition of the parcels described is such subsection.

And the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 123. ASSESSMENT OF FEES.—

(a) COMMISSION FUNDING.—Section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717 (a)) is amended—

(1) in paragraph (1), by striking "class II gaming activity" and inserting "gaming operation that conducts a class II or class III gaming activity"; and

(2) in paragraph (2)—

(A) in subparagraph (A)(i), by striking "no less than 0.5 percent nor" and inserting "no"; and

(B) in subparagraph (B), by striking "$1,500,000" and inserting "$8,000,000".

(C) nothing in subsection (a) of this section shall apply to self-regulated tribes such as the Mississippi Band of Choctaw.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19 of the Indian Gaming Regulatory Act (25 U.S.C. 2718) is amended—

(1) in subsection (a), by striking "such sums as may be necessary" and inserting "for fiscal year 1998, and for each fiscal year thereafter, an amount equal to the amount of funds derived from the assessments authorized by section 18(a) for the fiscal year immediately preceding the fiscal year involved,"; and

(2) by striking subsection (b) and inserting the following:

"(b) Notwithstanding section 18, there are authorized to be appropriated to fund the operation of the Commission, $2,000,000 for fiscal year 1998, and $2,000,000 for each fiscal year thereafter. The amounts authorized to be appropriated in the preceding sentence shall be in addition to the amounts authorized to be appropriated under subsection (a).".

And the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 127. For the sole purpose of accessing park or other authorized visitor services or facilities at, or originating from, the public dock area at Bartlett Cove, the National Park Service shall initiate a competitive process by which the National Park Service shall allow one-entry per day for a passenger ferry into Bartlett Cove from Juneau: Provided, That any passenger ferry allowed entry pursuant to this Act shall be subject to speed, distance from coast lines, and other limitations imposed necessary to protect park resources: Provided further, That nothing in this Act shall be construed as constituting approval for entry into the waters of Glacier Bay National Park and Preserve beyond the immediate Bartlett Cove area as defined by a line extending northeastward from Pt. Carolus to the west to the southernmost point of Lester Island, absent required permits.

And the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 131. No funds provided in this or any other Act may be expended for the promulgation of a proposed or final rule to amend or replace the National Indian Gaming Commission's definition regulations located at 25 CFR 502.7 and 502.8.

And the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 132. Notwithstanding any other provision of law, hereafter the United States Fish and Wildlife Service may disburse to local entities impact funding pursuant to Refuge Revenue Sharing that is associated with Federal real property transferred to the United States Geological Survey from the United States Fish and Wildlife Service.

And the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 134. CONVEYANCE OF CERTAIN BUREAU OF LAND MANAGEMENT LANDS IN CLARK COUNTY, NEVADA.—

(a) FINDINGS.—Congress finds that—

(1) certain landowners who own property adjacent to land managed by the Bureau of Land Management in the North Decatur Boulevard area of Las Vegas, Nevada, bordering on North Las Vegas, have been adversely affected by certain erroneous private land surveys that the landowners believed were accurate;

(2) the landowners have occupied or improved their property in good faith reliance on the erroneous surveys of the properties;

(3) the landowners believed that their entitlement to occupancy was finally adjudicated by a Judgment and Decree entered by the Eighth Judicial District Court of Nevada on October 26, 1989;

(4) errors in the private surveys were discovered in connection with a dependent resurvey and section subdivision conducted by the Bureau of Land Management in 1990, which established accurate boundaries between certain federally owned properties and private properties; and

(5) the Secretary has authority to sell, and it is appropriate that the Secretary should sell, based on an appraisal of the fair market value as of December 1, 1982, the properties described in section 2(b) to the adversely affected landowners.

(b) CONVEYANCE OF PROPERTIES.—

(1) PURCHASE OFFERS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the city of Las Vegas, Nevada, on behalf of the owners of real property located adjacent to the properties described in paragraph (2), may submit to the Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this Act as the "Secretary"), a written offer to purchase the properties.

(B) INFORMATION TO ACCOMPANY OFFER.—An offer under subparagraph (A) shall be accompanied by—

(i) a description of each property offered to be purchased;

(ii) information relating to the claims of ownership of the property based on an erroneous land survey; and

(iii) such other information as the Secretary may require.

(2) DESCRIPTION OF PROPERTIES.—The properties described in this paragraph, containing 37.36 acres, more or less, are—

(A) Government lots 22, 23, 26, and 27 in sec. 18, T. 19 S., R. 61 E., Mount Diablo Meridian;

(B) Government lots 20, 21, and 24 in sec. 19, T. 19 S., R. 61 E., Mount Diablo Meridian; and

(C) Those lands encroached upon in Government lot 1 in sec. 24, T. 19 S., R. 60 E., Mount Diablo Meridian, containing approximately 8 acres.

(3) CONVEYANCE.—

(A) IN GENERAL.—Subject to the condition stated in subparagraph (B), the Secretary shall convey subject to valid existing rights to the city of Las Vegas, Nevada, all right, title, and interest of the United States in and to the properties offered to be purchased under paragraph (1) on payment by the city of the fair market value of the properties, based on an appraisal of the fair market value as of December 1, 1982, approved by the Secretary.

(B) CONDITION.—Properties shall be conveyed under subparagraph (A) subject to the condition that the city convey the properties to the landowners who were adversely affected by reliance on erroneous surveys as described in subsection (a).

And the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 135. (a) Notwithstanding any other provision of law, the Secretary of the Interior is directed to accept full title to approximately 84 acres of land located in Prince Georges County, Maryland, adjacent to Oxon Cove Park, and bordered generally by the Potomac River, Interstate 295 and the Woodrow Wilson Bridge, and in exchange therefor shall convey to the Corrections Corporation of America all of the interest of the United States in approximately 42 acres of land located in Oxon Cove Park in the District of Columbia, and bordered generally by Oxon Cove, Interstate 295 and the District of Columbia Impound Lot.

(b) The Secretary shall not acquire any lands under this section if the Secretary determines that the lands or any portion thereof have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(c) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this section after their transfer to any party, but nothing in this section shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party: Provided, that the Corrections Corporation of America shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601) and the Resource Conservation Recovery Act (42 U.S.C. 9601, et seq.).

(d) The properties so exchanged shall be equal in fair market value or if they are not approximately equal, the Corrections Corporation of

America shall equalize the values by the payment of cash to the Secretary and any such payments shall be deposited to credit of "Miscellaneous Trust Funds, National Park Service" and shall be available without further appropriation until expended for the acquisition of land within the National Park System. No equalization shall be required if the value of the property received by the Secretary is more than that transferred by the Secretary.

(e) Costs of conducting necessary land surveys, preparing the legal descriptions of the lands to be conveyed, appraisals, deeds, other necessary documents, and administrative costs shall be borne by the Corporation. The required appraisals shall be conducted in accordance with 43 C.F.R. §2201.3–1, §2201.3–3 and §2201.3–4.

(f) Following any exchange authorized by this provision, the boundaries of the Park System of the Nation's Capital are hereby amended to reflect the property added to and deleted from that System.

And the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 136. The National Park Service shall, within 30 days of enactment of this Act, begin negotiations with the University of Alaska Fairbanks, School of Mineral Engineering, to determine the compensation that shall be paid by the National Park Service, within funds appropriated to the National Park Service in this Act, or within unobligated balances of funds appropriated in prior Appropriations Acts, to the University of Alaska Fairbanks, School of Mineral Engineering, for facilities, equipment, and interests owned by the University that were destroyed by the Federal Government at the Stampede Mine Site within the boundaries of Denali National Park and Preserve: Provided, That if the National Park Service and the University of Alaska Fairbanks, School of Mineral Engineering, fail to reach a negotiated settlement within 90 days of commencing negotiations, then the National Park Service shall submit a formal request to the Director of the Office of Hearings and Appeals, Department of the Interior, for the purpose of entering into third-party mediation to be conducted in accordance with the Department of the Interior's final policy applicable to alternative dispute resolution: Provided further, That any payment made by the National Park Service to the University of Alaska Fairbanks, School of Mineral Engineering, shall fully satisfy the claims of the University of Alaska Fairbanks, School of Mineral Engineering; and that the University of Alaska Fairbanks, School of Mineral Engineering, shall convey to the Secretary of the Interior all property rights in such facilities, equipment and interests: Provided further, That the Secretary of the Army shall provide, at no cost, two six by six vehicles, in excellent operating condition, or equivalent equipment to the University of Alaska Fairbanks, School of Mineral Engineering, and shall construct a bridge across the Bull River to the Golden Zone Mine Site to allow ingress and egress for the activities conducted by the School of Mineral Engineering.

And the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$187,944,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$161,237,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,348,377,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: after the words "design costs" in said amendment insert: *: Provided further, That any such project must be approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 105–163*; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$584,707,000*; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$166,045,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$52,976,000*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,250,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$750,000*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

No funds appropriated under this or any other Act for the purpose of operations conducted at the Forest Service Region 10 headquarters, including those funds identified for centralized field costs for employees of this office, shall be obligated or expended in excess of $17,500,000 from the total funds appropriated for Region 10, without 60 days prior notice to Congress. Funds appropriated by this Act to implement the Revised Tongass National Forest Land Management Plan, shall be spent and obligated at the Forest Supervisor and Ranger District levels, with the exception of specific management and oversight expenses, provided such expenses are included in the funding ceiling of $17,500,000.

And the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$362,403,000*; and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$611,723,000*; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$155,095,000*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103 and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$124,845,000*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$30,250,000*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et. seq.), $207,500,000, to remain available until expended, of which $207,500,000 shall be repaid from the "SPR Operating Fund" from amounts made available from the sale of oil from the Reserve: Provided, That notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary shall draw down and sell in fiscal year 1998 $207,500,000 worth of oil from the Strategic Petroleum Reserve: Provided further, That the proceeds from the sale shall be deposited into the "SPR Operating Fund", and shall, upon receipt, be transferred to the Strategic Petroleum Reserve account for operations of the Strategic Petroleum Reserve.

And the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,841,074,000*; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$361,375,000*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *: Provided further, That not to exceed $168,702,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts entered into with the Indian Health Service prior to fiscal year 1998, as authorized by the Indian Self-Determination Act of 1975, as amended*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in the matter restored insert: *$257,538,000*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,250,000*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$333,408,000*; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,192,000*; and the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *$81,240,000* ; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$23,280,000*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

Sec. 316. SUBSISTENCE HUNTING AND FISHING IN ALASKA.—

(a) MORATORIUM ON FEDERAL MANAGEMENT.—None of the funds made available to the Department of the Interior or the Department of Agriculture by this or any other Act hereafter enacted may be used prior to December 1, 1998 to issue or implement final regulations, rules, or policies pursuant to Title VIII of the Alaska National Interest Lands Conservation Act to assert jurisdiction, management, or control over the navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act of 1953 or the Alaska Statehood Act of 1959.

(b) AMENDMENTS TO ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—

(1) AMENDMENT OF ANILCA.—Except as otherwise expressly provided, whenever in this subsection an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(2) DEFINITIONS.—Section 102(2) (16 U.S.C. 3102(2)) is amended to read as follows:

"(2) The term 'Federal land' means lands the title to which is in the United States after December 2, 1980. "Federal land" does not include lands the title to which is in the State, a Native Corporation, or other private ownership.".

(3) FINDINGS.— Section 801 (16 U.S.C. 3111) is amended—

(A) by inserting "(a)" immediately before "The Congress finds and declares"; and

(B) by inserting at the end the following new subsection:

"(b) The Congress finds and declares further that—

"(1) subsequent to the enactment of this Act in 1980, the subsistence law of the State of Alaska (AS 16.05) accomplished the goals of Congress and requirements of this Act in providing subsistence use opportunities for rural residents of Alaska, both Native and non-Native;

(2) the Alaska subsistence law was challenged in Alaska courts, and the rural preference requirement in the law was found in 1989 by the Alaska Supreme Court in McDowell v. State of Alaska (785 P.2d 1, 1989) to violate the Alaska Constitution;

"(3) since that time, repeated attempts to restore the validity of the State law through an amendment to the Alaska Constitution have failed, and the people of Alaska have not been given the opportunity to vote on such an amendment;

"(4) in accordance with title VIII of this Act, the Secretary of the Interior is required to manage fish and wildlife for subsistence uses on all public lands in Alaska because of the failure of State law to provide a rural preference;

"(5) the Ninth Circuit Court of Appeals determined in 1995 in State of Alaska v. Babbitt (73 F.3d 698) that the subsistence priority required on public lands under section 804 of this Act applies to navigable waters in which the United States has reserved water rights as identified by the Secretary of the Interior;

"(6) management of fish and wildlife resources by State governments has proven successful in all 50 states, including Alaska, and the State of Alaska should have the opportunity to continue to manage such resources on all lands, including public lands, in Alaska in accordance with this Act, as amended; and

(7) it is necessary to amend portions of this Act to restore the original intent of Congress to protect and provide for the continued opportunity for subsistence uses on public lands for Native and non-Native rural residents through the management of the State of Alaska.".

(4) TITLE VIII DEFINITIONS.—Section 803 (16 U.S.C. 3113) is amended—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period and inserting a semicolon at the end of paragraph (2); and

(C) by inserting at the end the following new paragraphs:

"(3) 'customary and traditional uses' means the noncommercial, long-term, and consistent taking of, use of, or reliance upon fish and wildlife in a specific area and the patterns and practices of taking or use of that fish and wildlife that have been established over a reasonable period of time, taking into consideration the availability of the fish and wildlife;

"(4) 'customary trade' means, except for money sales of furs and furbearers, the limited noncommercial exchange for money of fish and wildlife or their parts in minimal quantities; and

"(5) 'rural Alaska resident' means a resident of a rural community or area. A 'rural community or area' means a community or area substantially dependent on fish and wildlife for nutritional and other subsistence uses.".

(5) PREFERENCE FOR SUBSISTENCE USES.—Section 804 (16 U.S.C. 3114) is amended—

(A) by inserting "(a)" immediately before the first sentence; and

(B) by inserting at the end the following new subsection:

"(b) The priority granted by this section is for a reasonable opportunity to take fish and wildlife. For the purposes of this subsection, the term 'reasonable opportunity' means an opportunity, consistent with customary and traditional uses (as defined in section 803(3)), to participate in a subsistence hunt or fishery with a reasonable expectation of success, and does not mean a guarantee that fish and wildlife will be taken.".

(6) LOCAL AND REGIONAL PARTICIPATION.—Section 805 (16 U.S.C. 3115) is amended—

(A) in subsection (a) by striking "one year after the date of enactment of this Act,"; and

(B) by amending subsection (d) to read as follows:

"(d)(1) Upon certification by the Secretary that the State has enacted and implemented laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in sections 803, 804, and 805, the Secretary shall not implement subsections (a), (b), and (c) of this section, and the State may immediately assume management for the taking of fish and wildlife on the public lands for subsistence uses pursuant to this title. Upon assumption of such management by the State, the Secretary shall not implement subsections (a), (b), and (c) of this section unless a court of competent jurisdiction determines that such laws have been repealed, modified, or implemented in a way that is inconsistent with, or does not provide for, the definition, preference, and participation specified in sections 803, 804, and 805, or that the State has failed to cure any such inconsistency after such determination. The State laws shall otherwise supercede such sections insofar as such sections govern State responsibility pursuant to this title for the taking of fish and wildlife on the public lands for subsistence uses. The Secretary may bring a judicial action to enforce this subsection.

"(2)(A) Laws establishing a system of local advisory committees and regional advisory councils consistent with section 805 shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any

recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision.

"(B) The members of each regional advisory council established under this subsection shall be appointed by the Governor of Alaska. Each council shall have ten members, four of whom shall be selected from nominees who reside in the region submitted by tribal councils in the region, and six of whom shall be selected from nominees submitted by local governments and local advisory committees. Three of these six shall be subsistence users who reside in the subsistence resource region and three shall be sport or commercial users who may be residents of any subsistence resource region. Regional council members shall have staggered terms of three years in length, with no limit on the number of terms a member may serve. A quorum shall be a majority of the members of the council.".

(7) JUDICIAL ENFORCEMENT.—Section 807 (16 U.S.C. 3117) is amended by inserting the following as subsection (b):

"(b) State agency actions may be declared invalid by the court only if they are arbitrary, capricious, or an abuse of discretion, or otherwise not in accordance with law. When reviewing any action within the specialized knowledge of a State agency, the court shall give the decision of the State agency the same deference it would give the same decision of a comparable federal agency.".

(8) REGULATIONS.—Section 814 (16 U.S.C. 3124) is amended—

(A) by inserting ", and the State at any time the State has complied with section 805(d)" after "Secretary"; and

(B) by adding at the end the following new sentence: "During any time that the State has complied with section 805 (d), the Secretary shall not make or enforce regulations implementing sections 805 (a), (b), or (c).".

(9) LIMITATIONS, SAVINGS CLAUSES.—Section 815 (16 U.S.C. 3125) is amended—

(A) by striking "or" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and "or"; and

(C) by inserting at the end the following new paragraph:

"(5) prohibiting the Secretary or the State from entering into co-management agreements with Native organizations or other local or regional entities when either is managing fish and wildlife on public lands in Alaska for subsistence uses.".

(c) SAVINGS CLAUSE.—No provision of this section, amendment made by this section, or exercise of authority pursuant to this section may be construed to validate, invalidate, or in any way affect—

(1) any assertion that a Native organization (including a federally recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq.), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska;

(2) any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist within the boundaries of the State of Alaska;

(3) any assertion that the Alaska National Interest Lands Conservation Act, as amended, (16 U.S.C. 3101 et seq.) is or is not Indian law; or

(4) the authority of the Secretary of the Interior under section 1314(c) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3202(c)).

(d) EFFECTIVE DATE.—Unless and until laws are adopted in the State of Alaska which provide for the definition, preference, and participation specified in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111 et seq.), the amendments made by subsection (b) of this section shall be effective only for the purposes of determining whether the State's laws provide for such definition, preference, and participation. The Secretary shall certify before December 1, 1998 if such laws have been adopted in the State of Alaska. Subsection (b) shall be repealed on such date if such laws have not been adopted.

And the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 317. Section 909(b)(2) of Division II, Title IX of P.L. 104-333 is hereby amended to delete the sentence which reads "For technical assistance pursuant to section 908, not more than $50,000 annually.".

And the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 318. No part of any appropriation contained in this Act shall be expended or obligated to fund the activities of the western director and special assistant to the Secretary within the Office of the Secretary of Agriculture that exceeds the funding provided for these activities from this Act during fiscal year 1997.

And the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

Before the final period in the matter restored insert: *; and amend section 315(c)(1), subsection (C) as follows: after the words "the Fish and Wildlife Service", insert "and the National Park Service"*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 323. (a) Prior to the completion of any decision document or the making of any decision related to the final Environmental Impact Statements (hereinafter "final EISs") associated with the Interior Columbia Basin Ecosystem Project (hereinafter the "Project"), the Secretary of Agriculture and the Secretary of the Interior shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives a report that shall include:

(1) a detailed description of any and all land and resource management planning and policy or project decisions to be made, by type and by the level of official responsible, and the procedures for such decisions to be undertaken, by the Forest Service, Bureau of Land Management, and Fish and Wildlife Service pursuant to the National Forest Management Act, Federal Land Policy and Management Act, Endangered Species Act, National Environmental Policy Act and any other applicable law in order to authorize and implement actions affecting the environment on Federal lands within the jurisdiction of either Secretary in the Project area that are consistent with the final EISs;

(2) a detailed estimation of the time and cost (for all participating federal agencies) to accomplish each decision described in paragraph (1), from the date of initiation of preparations for, to the date of publication or announcement of, the decision, including a detailed statement of the source of funds for each such decision and any reprogramming in fiscal year 1998;

(3) estimated production of goods and services from each unit of the Federal lands for the first 5 years during the course of the decision making described in paragraph (1) beginning with the date of publication of the applicable final EIS; and

(4) if the requirements described in paragraphs (1) through (3) cannot be accomplished within the appropriations provided in this Act, adjusted only for inflation, in subsequent fiscal years and without any reprogramming of such appropriations, provide a detailed description of the decision making process that will be used to establish priorities in accordance with such appropriations.

(b) Using all research information available from the area encompassed by the Project, the Secretaries, to the extent practicable, shall analyze the economic and social conditions, and culture and customs, of the communities at the sub-basin level within the Project area and the impacts the alternatives in the draft EISs will have on those communities. This analysis shall be published on a schedule that will allow a reasonable period of time for public comment thereon prior to the close of the comment periods on the draft EISs. The analysis, together with the response of the Secretaries to the public comment, shall be incorporated in the final EISs and, subject to subsection (a), subsequent decisions related thereto.

(c) Nothing in this section shall be construed as altering or affecting in any manner any provision of applicable land or resource management plans, PACFISH, INFISH, Eastside screens, and other policies adopted by the Forest Service or Bureau of Land Management prior to the date of enactment of this Act to protect wildlife, watershed, riparian, and other resources of the Federal lands.

And the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

SEC. 326. (a) Notwithstanding any other provision of law, after September 30, 1997 the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93-638 (25 U.S.C. 450 et seq.), with any Alaska Native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity.

(b) Nothing in this section shall be construed to prohibit the disbursal of funds to any Alaska Native village or Alaska Native village corporation under any contract or compact entered into prior to August 27, 1997, or to prohibit the renewal of any such agreement.

(c) The General Accounting Office shall conduct a study of the impact of contracting and compacting by the Indian Health Service under Public Law 93-638 with Alaska Native villages

and Alaska Native village corporations for the provision of health care services by Alaska Native regional corporation health care entities. The General Accounting Office shall submit the results of that study to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives by June 1, 1998.

(d) Section 1004 of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3956) is amended—

(1) in subsection (a) by striking "for use as a health or social services facility" and insert in lieu thereof "for sale or use other than for a facility for the provision of health programs funded by the Indian Health Service (not including any such programs operated by Ketchikan Indian Corporation prior to 1993)';and

(2) by striking subsection (c).

And the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137 , and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 327. None of the funds made available by this Act may be used to require any person to vacate real property where a term is expiring under a use and occupancy reservation in Sleeping Bear Dunes National Lakeshore until such time as the National Park Service (NPS) indicates to the appropriate Congressional Committees and the holders of these reservations that it has sufficient funds to remove the residence on that property within 90 days of that residence being vacated. The NPS will provide at least 90 days notice to the holders of expired reservations to allow them time to leave the residence. The NPS will charge fair market value rental rates while any occupancy continues beyond an expired reservation. Reservation holders who stay beyond the expiration date will also be required to pay for appraisals to determine current fair market value rental rates, any rehabilitation needed to ensure suitability for occupancy, appropriate insurance, and all continuing utility costs.

And the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138 , and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 328. (a) None of the funds made available in this Act or any other Act providing appropriations for the Department of the Interior, the Forest Service or the Smithsonian Institution may be used to submit nominations for the designation of Biosphere Reserves pursuant to the Man and Biosphere program administered by the United Nations Educational, Scientific, and Cultural Organization.

(b) The provisions of this section shall be repealed upon enactment of subsequent legislation specifically authorizing U.S. participation in the Man and Biosphere program.

And the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 333. No part of any appropriation contained in this Act shall be expended or obligated to fund new revisions of national forest land management plans until new final or interim final rules for forest land management planning are published in the Federal Register. Those national forests which are currently in a revision process, having formally published a Notice of Intent to revise prior to October 1, 1997, or having been court-ordered to revise, are exempt from this section and may utilize funds in this Act and proceed to complete the forest plan revision in accordance with current forest planning regulations.

And the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 333. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the five year program under the Forest and Rangeland Renewable Resources Planning Act.

And the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: After "fiscal year 1998", delete "and each year thereafter"; and the Senate agree to the same.

Amendment numbered 146:

That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: After the word "may", delete the word "hereafter", and insert in lieu thereof: ", *until September 30, 2000,*"; and the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

SEC. 340. (a) The Secretary of Agriculture is authorized and directed to negotiate with Skamania County for the exchange of lands or interests in lands constituting the Wind River Nursery Site within the Gifford Pinchot National Forest, Washington.

(b) In return for the Nursery Site properties, Skamania County is authorized and directed to negotiate with the Forest Service the conveyance of approximately 120 acres of high biodiversity, special management lands located near Table Mountain within the Columbia River Gorge National Scenic Area, title to which must be acceptable to the Secretary of Agriculture.

(c) Before this exchange can occur, it must be of equal value and the Secretary and the Skamania County Board of Commissioners must agree on the exact parcels of land to be included in the exchange. An agreement signed by the Secretary of Agriculture and the Skamania County Board of Commissioners describing the properties involved and a certification that the exchange is of equal value must be completed no later than September 30, 1999.

(d) During this two year negotiating period, the Wind River Nursery property shall not be conveyed to another party. The Forest Service shall maintain the site in a tenantable condition.

(e) Except as provided herein, the exchange shall be for equal value in accordance with land exchange authorities applicable to the National Forest System.

(f) The Secretary is directed to equalize values by not only cash and exchange of lands, easements, reservations, and other interests in lands, but also by full value credit for such services as Skamania County provides to the Gifford Pinchot and Columbia River Gorge National Scenic Area and as the Secretary and Skamania County deem appropriate. The Secretary may accept services in lieu of cash when the Secretary can discern cash value for the services and when the Secretary determines such services would provide direct benefits to lands and resources and users of such lands and resources under the jurisdiction of the Secretary.

(g) Any cash equalization which Skamania County elects to make may be made up to 50 percent of the fair market value of the Federal property, and such cash equalization may be made in installments over a period not to exceed 25 years. Payments received as partial consideration shall be deposited into the fund in the Treasury established under the Act of December 4, 1967, commonly known as the Sisk Act, and shall be available for expenditure as provided in the Act except that the Secretary may not use those funds to purchase lands within Skamania County.

(h) In defining the Federal estate to be conveyed, the Secretary may require such additional terms and conditions as deemed necessary in connection with assuring equal value and public interest considerations in this exchange including, but not limited to, continued research use of the Wind River Experimental Forest and protection of natural, cultural, and historic resources, existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail.

(i) This authorization is predicated on Skamania County's Board of Commissioners commitment to give foremost consideration to preservation of the overall integrity of the site and conservation of the educational and research potential of the Site, including providing for access to and assurance of the continued administration and operation of forestry research on the adjacent Thornton Munger Research Natural Area.

(j) The Secretary is further directed to cooperate with Skamania County to address applicable Federal and State environmental laws.

(k) Notwithstanding the processes involved with the National Environmental Policy Act and the State Environmental Policy Act, should the Secretary of Agriculture and the Skamania County Board of Commissioners fail to reach an agreement on an equal value exchange defined under the terms of this legislation by September 30, 1999, the Wind River Nursery Site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenantable condition.

And the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 341. The National Wildlife Refuge in Jasper and Marion Counties, Iowa, authorized in Public Law 101–302 shall be referred to in any law, regulation, documents or record of the United States in which such project is referred to, as the Neal Smith National Wildlife Refuge.

And the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows:

After "July 1997" in said amendment insert: "*and issuing a Record of Decision*"; and the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 343. The Secretary of Agriculture shall hereafter phase in, over a 3 year period in equal annual installments, that portion of the fee increase for a recreation residence special use permit holder which is more than 100 percent of the previous year's fee, provided that no recreation residence fee may be increased any sooner than one year from the time the permittee has been notified by the Forest Service of the results of an appraisal which has been conducted for the purpose of establishing such fees: Provided, That no increases in recreation residence fees on the Sawtooth National Forest will be implemented prior to January 1, 1999.

And the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

At the end of the amendment insert:

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1); and

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act.

(e) Section 6(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b)) is amended to read as follows:

"(b) APPOINTMENT AND COMPOSITION OF COUNCIL.—(1) The Council shall be composed of members as follows:

"(A) The Chairperson of the National Endowment for the Arts, who shall be the chairperson of the Council.

"(B) Members of Congress appointed for a 2 year term beginning on January 1 of each odd-numbered year as follows:

"(i) 2 Members of the House of Representatives appointed by Speaker of the House of Representatives.

"(ii) 1 Member of the House of Representatives appointed by the Minority Leader of the House of Representatives.

"(iii) 2 Senators appointed by the Majority Leader of the Senate.

"(iv) 1 Senator appointed by the Minority Leader of the Senate.

Members of the Council appointed under this subparagraph shall serve ex-officio and shall be nonvoting members of the Council.

"(C) 14 members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

"(i) from among private citizens of the United States who—

"(I) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in, the arts; and

"(II) have established records of distinguished service, or achieved eminence, in the arts;

"(ii) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

"(iii) so as collectively to provide an appropriate distribution of membership among major art fields and interested citizens groups.

In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts and shall make such appointments so as to represent equitably all geographical areas in the United States.

"(2) TRANSITION TO THE NEW COUNCIL COMPOSITION.—

"(A) Notwithstanding paragraph (b)(1)(B), members first appointed pursuant to such paragraph shall be appointed not later than December 31, 1997. Notwithstanding such paragraph, such members shall be appointed to serve until December 31, 1998.

"(B) Members of the Council serving on the effective date of this subsection may continue to serve on the Council until their current terms expire and new Members shall not be appointed under subsection (b)(1)(C) until the number of Presidentially appointed members is less than 14.".

(f) Section 6(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(c)) is amended—

(1) by inserting "appointed under subsection (b)(1)(C)" after "member" each place it appears, and

(2) in the second sentence by inserting "appointed under subsection (b)(1)(C)" after "members".

And the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended to read as follows:

SEC. 347. No timber sale in Region 10 shall be advertised which, when using domestic Alaska western red cedar selling values and manufacturing costs, fails to provide at least 60 percent of normal profit and risk of the appraised timber, except at the written request by a prospective bidder. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 1998, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan which provides greater than 60 percent of normal profit and risk at the time of the sale advertisement, all of the western red cedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at domestic rates. Should Region 10 sell, in fiscal year 1998, less than the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan meeting the 60 percent of the normal profit and risk standard at the time of advertisement, the volume of western red cedar available to domestic processors at domestic rates in the contiguous 48 states shall be that volume: (i) which is surplus to the needs of domestic processors in Alaska and (ii) is that percent of the surplus western red cedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. All additional western red cedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported and sold at export rates at the election of the timber sale holder. All Alaska yellow cedar may be sold at export rates at the election of the timber sale holder.

And the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 348. None of the funds in this Act may be used for planning, design or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the House and Senate Committees on Appropriations.

And the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment insert:

TITLE IV—ENVIRONMENTAL IMPROVEMENT AND RESTORATION FUND

(a) One half of the amounts awarded by the Supreme Court to the United States in the case of United States of America v. State of Alaska (117 S.Ct. 1888) shall be deposited in a fund in the Treasury of the United States to be known as the "Environmental Improvement and Restoration Fund" (referred to in this section as the "Fund").

(b) INVESTMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest amounts in the Fund in interest bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligations acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO FUND.—The interest earned from investments of the Fund shall be covered into and form a part of the Fund.

(c) TRANSFER AND AVAILABILITY OF AMOUNTS EARNED.— Each year, interest earned and covered into the Fund in the previous fiscal year shall be available for appropriation, to the extent provided in the subsequent appropriations Acts, as follows:

(1) 80 percent of such amounts shall be made available to be equally divided among the Directors of the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, and the Chief of the Forest Service for high priority deferred maintenance and modernization of facilities that directly enhance the experience of visitors, including natural, cultural, recreational, and historic resources protection projects in National Parks, National Wildlife Refuges, and the public lands respectively as provided in subsection (d) and for payment to the State of Louisiana and its lessees for oil and gas drainage in the West Delta field. The Secretary shall submit with the annual budget submission to Congress a list of high priority maintenance and modernization projects for Congressional consideration.

(2) 20 percent of such amounts shall be made available to the Secretary of Commerce for the purpose of carrying out marine research activities in the North Pacific in accordance with subsection (e).

(d) PROJECTS.—A project referred to in paragraph (c)(1) shall be consistent with the laws governing the National Park System, the National Wildlife Refuge System, the public lands and Forest Service lands and management plan for such unit.

(e) MARINE RESEARCH ACTIVITIES.—(1) Funds available under subsection (C)(2) shall be used by the Secretary of Commerce according to this subsection to provide grants to Federal, State, private or foreign organizations or individuals to conduct research activities on or relating to the fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, and Arctic Ocean (including any lesser related bodies of water).

(2) Research priorities and grant requests shall be reviewed and recommended for Secretarial approval by a board to be known as the North Pacific Research Board (referred to in this subsection as the "Board"). The Board shall seek to avoid duplicating other research activities, and shall place a priority on cooperative research efforts designed to address pressing fishery management or marine ecosystem information needs.

(3) The Board shall be comprised of the following representatives or their designees—

(A) the Secretary of Commerce, who shall be a co-chair of the Board;

(B) the Secretary of State;

(C) the Secretary of the Interior;

(D) the Commandant of the Coast Guard;

(E) the Director of the Office of Naval Research;

(F) the Alaska Commissioner of Fish and Game, who shall also be a co-chair of the Board;

(G) the Chairman of the North Pacific Fishery Management Council;

(H) the Chairman of the Arctic Research Commission;

(I) the Director of the Oil Spill Recovery Institute;

(J) the Director of the Alaska SeaLife Center;

(K) five members nominated by the Governor of Alaska and appointed by the Secretary of Commerce, one of whom shall represent fishing interests, one of whom shall represent Alaska Natives, one of whom shall represent environmental interests, one of whom shall represent academia, and one of whom shall represent oil and gas interests;

(L) three members nominated by the Governor of Washington and appointed by the Secretary of Commerce; and

(M) one member nominated by the Governor of Oregon and appointed by the Secretary of Commerce.

The members of the Board shall be individuals knowledgeable by education, training, or experience regarding fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, or Arctic Ocean. Three nominations shall be submitted for each member to be appointed under subparagraphs (K), (L), and (M). Board members appointed under subparagraphs (K), (L), and (M) shall serve for three year terms, and may be reappointed.

(4)(A) The Secretary of Commerce shall review and administer grants recommended by the Board. If the Secretary does not approve a grant recommended by the board, the Secretary shall explain in writing the reasons for not approving such grant, and the amount recommended to be used for such grant shall be available only for other grants recommended by the Board.

(B) Grant recommendations and other decisions of the Board shall be by majority vote, with each member having one vote. The Board shall establish written criteria for the submission of grant requests through a competitive process and for deciding upon the award of grants. Grants shall be recommended by the Board on the basis of merit in accordance with the priorities established by the Board. The Secretary shall provide the Board such administrative and technical support as is necessary for the effective functioning of the Board. The Board shall be considered an advisory panel established under section 302(g) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for the purposes of section 302(i)(1) of such Act, and the other procedural matters applicable to advisory panels under section 302(i) of such Act shall apply to the Board to the extent practicable. Members of the Board may be reimbursed for actual expenses incurred in performance of their duties for the Board. Not more than 5 percent of the funds provided to the Secretary of Commerce under paragraph (10 may be used to provide support for the Board and administer grants under this subsection.

(f) SUNSET.—If amounts are not assumed by the concurrent budget resolution and appropriated from the Fund by December 15, 1998, the Fund shall terminate and the amounts in the Fund including the accrued interest shall be applied to reduce the Federal deficit.

And the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

TITLE V—PRIORITY LAND ACQUISITIONS, LAND EXCHANGES, AND MAINTENANCE

For priority land acquisitions, land exchange agreements, other activities consistent with the Land and Water Conservation Fund Act of 1965, as amended, and critical maintenance to be conducted by the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service and the Forest Service, $699,000,000, to be derived from the Land and Water Conservation Fund notwithstanding any other provision of law, to remain available until September 30, 2001, of which $167,000,000 is available to the Secretary of Agriculture and $532,000,000 is available to the Secretary of the Interior: Provided, That of the funds made available to the Secretary of Agriculture, not to exceed $65,000,000 may be used to acquire interests to protect and preserve Yellowstone National Park, pursuant to the terms and conditions set forth in sections 502 and 504 of this title, and $12,000,000 may be used for the rehabilitation and maintenance of the Beartooth Highway pursuant to section 502 of this title: Provided further, That of the funds made available to the Secretary of the Interior, not to exceed $250,000,000 may be used to acquire interests to protect and preserve the Headwaters Forest, pursuant to the terms and conditions set forth in sections 501 and 504 of this title, and $10,000,000 may be used for a direct payment to Humboldt County, California pursuant to section 501 of this title: Provided further, That the Secretary of the Interior and the Secretary of Agriculture, after consultation with the heads of the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service and the Forest Service, shall, in fiscal year 1998 and each of the succeeding three fiscal years, jointly submit to Congress a report listing the lands and interests in land that the Secretaries propose to acquire or exchange and the maintenance requirements they propose to address using funds provided under this heading for purposes other than the purposes of sections 501 and 502 of this title: Provided further, That none of the funds appropriated under this heading for purposes other than the purposes of sections 501 and 502 of this title shall be available until the House Committee on Appropriations and the Senate Committee on Appropriations approve, in writing, a list of projects to be undertaken with such funds: Provided further, That monies provided in this title, when combined with monies provided by other titles in this Act, shall, for the purposes of section 205(a) of H. Con. Res. 84 (105th Congress), be considered to provide $700,000,000 in budget authority for fiscal year 1998 for Federal land acquisitions and to finalize priority land exchanges.

SEC. 501. HEADWATERS FOREST AND ELK RIVER PROPERTY ACQUISITION.—

(a) AUTHORIZATION.—Subject to the terms and conditions of this section, up to $250,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire lands referenced in the Agreement of September 28, 1996, which consist of approximately 4,500 acres commonly referred to as the "Headwaters Forest", approximately 1,125 acres referred to as the "Elk Head Forest", and approximately 9,600 acres referred to as the "Elk River Property", which are located in Humboldt County, California. This section is the sole authorization for the acquisition of such property, which is the subject of the Agreement dated September 28, 1996 between the United States of America (hereinafter "United States"), the State of California, MAXXAM, Inc., and the Pacific Lumber Company. Of the entire Elk River Property, the United States and the State of California are to retain approximately 1,845 acres and transfer the remaining approximately 7,755 acres of Elk River Property to the Pacific Lumber Company. The property to be acquired and retained by the United States and the State of California is that property that is the subject of the Agreement of September 28, 1996 as generally depicted on maps labeled as sheets 1 through 7 of Township 3 and 4 North, Ranges 1 East and 1 West, of the Humboldt Meridian, California, titled "Dependent Resurvey and Tract Survey", as approved by Lance J. Bishop, Chief Cadastral Surveyor—California, on August 29, 1997. Such maps shall be on file in the Office of the Chief Cadastral Surveyor, Bureau of Land Management, Sacramento, California. The Secretary of the Interior is authorized to make such typographical and other corrections to this description as are mutually agreed upon by the parties to the Agreement of September 28, 1996. The land retained by the United States and the State of California (approximately 7,470 acres) shall hereafter be the "Headwaters Forest". Any funds appropriated by the Federal government to acquire lands or interests in lands that enlarge the Headwaters Forest by more than five acres per each acquisition shall be subject to specific authorization enacted subsequent to this Act, except that such funds may be used pursuant to existing authorities to acquire such lands up to five acres per each acquisition or interests in lands that may be necessary for roadways to provide access to the Headwaters Forest.

(b) EFFECTIVE PERIOD OF AUTHORIZATION.—The authorization in subsection (a) expires March 1, 1999 and shall become effective only—

(1) when the State of California provides a $130,000,000 contribution for the transaction;

(2) when the State of California approves a Sustained Yield Plan covering Pacific Lumber Company timber property;

(3) when the Pacific Lumber Company dismisses the following legal actions as evidenced by instruments in form and substance satisfactory to each of the parties to such legal actions: Pacific Lumber Co. v. United States, No. 96-257L (Fed. Cls.) and Salmon Creek Corp. v. California Board of Forestry, No. 96-CS-1057 (Cal. Super. Ct.);

(4) when the incidental take permit under Section 10(a) of the Endangered Species Act (based upon a multi-species Habitat Conservation Plan covering Pacific Lumber Company timber property, including applicable portions of the Elk

River Property) is issued by the United States Fish and Wildlife Service and the National Marine Fisheries Service;

(5) after an appraisal of all lands and interests therein to be acquired by the United States has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate;

(6) after the Secretary of the Interior issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and Senate for the land and property to be acquired by the Federal government. Such opinion of value shall also include the total value of all compensation (including tax benefits) proposed to be provided for the acquisition;

(7) after an environmental impact statement for the proposed Habitat Conservation Plan has been prepared and completed in accordance with the applicable provisions of the National Environmental Policy Act of 1969; and

(8) when adequate provision has been made for public access to the property.

(c) Notwithstanding any other provision of law, the amount paid by the United States to acquire identified lands and interests in lands referred to in section 501(a) may differ from the value contained in the appraisal required by section 501(b)(5) if the Secretary of the Interior certifies, in writing, to Congress that such action is in the best interest of the United States.

(d) HABITAT CONSERVATION PLAN.

(1) APPLICABLE STANDARDS.—Within 60 days after the enactment of this section, the Secretary of the Interior and the Secretary of Commerce shall report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives on the scientific and legal standards and criteria for threatened, endangered, and candidate species under the Endangered Species Act and any other species used to develop the habitat conservation plan (hereinafter "HCP") and the section 10(a) incidental take permit for the Pacific Lumber Company land.

(2) REPORT.—If the Pacific Lumber Company submits an application for an incidental take permit under section 10(a) of the Endangered Species Act for the transaction authorized by subsection (a), and the permit is not issued, then the U.S. Fish and Wildlife Service and the National Marine Fisheries Service shall set forth the substantive rationale or rationales for why the measures proposed by the applicant for such permit did not meet the issuance criteria for the species at issue. Such report shall be submitted to the Congress within 60 days of the decision not to issue such permit or by May 1, 1999, whichever is earlier.

(3) HCP STANDARDS.—If a section 10(a) permit for the Pacific Lumber Company HCP is issued, it shall be deemed to be unique to the circumstances associated with the acquisition authorized by this section and shall not establish a higher or lesser standard for any other multi-species HCPs than would otherwise be established under existing law.

(e) PAYMENT TO HUMBOLDT COUNTY.—Within 30 days of the acquisition of the Headwaters Forest, the Secretary of the Interior shall provide a $10,000,000 direct payment to Humboldt County, California.

(f) PAYMENT IN LIEU OF TAXES.—The Federal portion of the Headwaters Forest acquired pursuant to this section shall be entitlement land under section 6905 of title 31 of the United States Code.

(g) OUT-YEAR BUDGET LIMITATIONS.—The following funding limitations and parameters shall apply to the Headwaters Forest acquired under subsection (a)—

(1) At least fifty percent of the total funds for management of such lands above the annual level of $100,000 shall (with the exception of law enforcement activities and emergency activities) be from non-federal sources.

(2) Subject to appropriations, the authorized annual federal funding for management of such land is $300,000 (with the exception of law enforcement activities and emergency activities).

(3) The Secretary of the Interior or the Headwaters Forest Management Trust referenced in subsection (h) is authorized to accept and use donations of funds and personal property from the State of California, private individuals, and other non-governmental entities for the purpose of management of the Headwaters Forest.

(h) HEADWATERS FOREST MANAGEMENT TRUST.—The Secretary of the Interior is authorized, with the written concurrence of the Governor of the State of California, to establish a Headwaters Forest Management Trust ("Trust") for the management of the Headwaters Forest as follows:

(1) MANAGEMENT AUTHORITY.—The Secretary of the Interior is authorized to vest management authority and responsibility in the Trust composed of a board of five trustees each appointed for terms of three years. Two trustees shall be appointed by the Governor of the State of California. Three trustees shall be appointed by the President of the United States. The first set of trustees shall be appointed within 60 days of exercising the authority under this subsection and the terms of the trustees shall begin on such day. The Secretary of the Interior, the Secretary of Resources of the State of California, and the Chairman of the Humboldt County Board of Supervisors shall be non-voting, ex officio members of the board of trustees. The Secretary is authorized to make grants to the Trust for the management of the Headwaters Forest from amounts authorized and appropriated.

(2) OPERATIONS.—The Trust shall have the power to develop and implement the management plan for the Headwaters Forest.

(i) MANAGEMENT PLAN.—

(1) IN GENERAL—A concise management plan for the Headwaters Forest shall be developed and periodically amended as necessary by the Secretary of the Interior in consultation with the State of California (and in the case that the authority provided in subsection (h) is exercised, the trustees shall develop and periodically amend the management plan), and shall meet the following requirements:

(A) Management goals for the plan shall be to conserve and study the land, fish, wildlife, and forests occurring on such land while providing public recreation opportunities and other management needs.

(B) Before a management structure and management plan are adopted for such land, the Secretary of the Interior or the board of trustees, as the case may be, shall submit a proposal for the structure and plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The proposed management plan shall not become effective until the passage of 90 days after its submission to the Committees.

(C) The Secretary of the Interior or the board of trustees, as the case may be, shall report annually to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the House and Senate Committees on Appropriations concerning the management of lands acquired under the authority of this section and activities undertaken on such lands.

(2) PLAN.—The management plan shall guide general management of the Headwaters Forest. Such plan shall address the following management issues—

(A) scientific research on forests, fish, wildlife, and other such activities that will be fostered and permitted on the Headwaters Forest;

(B) providing recreation opportunities on the Headwaters Forest;

(C) access to the Headwaters Forest;

(D) construction of minimal necessary facilities within the Headwaters Forest so as to maintain the ecological integrity of the Headwaters Forest;

(E) other management needs; and

(F) an annual budget for the management of the Headwaters Forest, which shall include a projected revenue schedule (such as fees for research and recreation) and projected expenses.

(3) COMPLIANCE.—The National Environmental Policy Act shall apply to the development and implementation of the management plan.

(j) COOPERATIVE MANAGEMENT.—

(1) The Secretary of the Interior may enter into agreements with the State of California for the cooperative management of any of the following: Headwaters Forest, Redwood National Park, and proximate state lands. The purpose of such agreements is to acquire from and provide to the State of California goods and services to be used by the Secretary and the State of California in cooperative management of lands if the Secretary determines that appropriations for that purpose are available and an agreement is in the best interests of the United States; and

(2) an assignment arranged by the Secretary under section 3372 of title 5, United States Code, of a Federal or state employee for work in any Federal or State of California lands, or an extension of such assignment, may be for any period of time determined by the Secretary or the State of California, as appropriate, to be mutually beneficial.

SEC. 502. PROTECTION AND PRESERVATION OF YELLOWSTONE NATIONAL PARK—ACQUISITION OF CROWN BUTTE MINING INTERESTS.—

(a) AUTHORIZATION.—Subject to the terms and conditions of this section, up to $65,000,000 from the Land and Water Conservation Fund is authorized to be appropriated to acquire identified lands and interests in lands referred to in the Agreement of August 12, 1996 to protect and preserve Yellowstone National Park.

(b) CONDITIONS OF ACQUISITION AUTHORITY.—The Secretary of Agriculture may not acquire the District Property until:

(1) the parties to the Agreement have entered into and lodged with the United States District Court for the District of Montana a consent decree as required under the Agreement that requires, among other things, Crown Butte to perform response or restoration actions (or both) or pay for such actions in accordance with the Agreement;

(2) an appraisal of the District Property has been undertaken, such appraisal has been reviewed for a period not to exceed 30 days by the Comptroller General of the United States, and such appraisal has been provided to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the House and Senate Committees on Appropriations;

(3) after the Secretary of Agriculture issues an opinion of value to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the House and Senate Committees on Appropriations for the land and property to be acquired by the Federal government; and

(4) the applicable requirements of the National Environmental Policy Act have been met.

(c) Notwithstanding any other provision of law, the amount paid by the United States to

acquire identified lands and interests in lands referred to in the Agreement of August 12, 1996 to protect and preserve Yellowstone National Park may exceed the value contained in the appraisal required by section 502(b)(2) if the Secretary of Agriculture certifies, in writing, to Congress that such action is in the best interest of the United States.

(d) DEPOSIT IN ACCOUNT.—Immediately upon receipt of payments from the United States, Crown Butte shall deposit $22,500,000 in an interest bearing account in a private, federally chartered financial institution that, in accordance with the Agreement, shall be—

(1) acceptable to the Secretary of Agriculture; and

(2) available to carry out response and restoration actions.

The balance of amounts remaining in such account after completion of response and restoration actions shall be available to the Secretary of Agriculture for use in the New World Mining District for any environmentally beneficial purpose otherwise authorized by law.

(e) MAINTENANCE AND REHABILITATION OF BEARTOOTH HIGHWAY.—

(1) MAINTENANCE.—The Secretary of Agriculture shall, consistent with the funds provided herein, be responsible for—

(A) snow removal on the Beartooth Highway from milepost 0 in Yellowstone National Park, into and through Wyoming, to milepost 43.1 on the border between Wyoming and Montana; and

(B) pavement preservation, in conformance with a pavement preservation plan, on the Beartooth Highway from milepost 8.4 to milepost 24.5.

(2) REHABILITATION.—The Secretary of Agriculture shall be responsible for conducting rehabilitation and minor widening of the portion of the Beartooth Highway in Wyoming that runs from milepost 24.5 to milepost 43.1.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture—

(A) for snow removal and pavement preservation under paragraph (1), $2,000,000; and

(B) for rehabilitation under paragraph (2), $10,000,000.

(4) AVAILABILITY OF FUNDS.—Within 30 days of the acquisition of lands and interests in lands pursuant to this section, the funds authorized in subsection (e)(3) and appropriated herein for that purpose shall be made available to the Secretary of Agriculture.

(f) RESPONSE AND RESTORATION PLAN.—The Administrator of the Environmental Protection Agency and the Secretary of Agriculture shall approve or prepare a plan for response and restoration activities to be undertaken pursuant to the Agreement and a quarterly accounting of expenditures made pursuant to such plan. The plan and accountings shall be transmitted to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

(g) MAP.—The Secretary of Agriculture shall provide to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, a map depicting the acreage to be acquired pursuant to this section.

(h) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term "Agreement" means the agreement in principle, concerning the District Property, entered into on August 12, 1996 by Crown Butte Mines, Inc., Crown Butte Resources Ltd., Greater Yellowstone Coalition, Northwest Wyoming Resource Council, Sierra Club, Gallatin Wildlife Association, Wyoming Wildlife Federation, Montana Wildlife Federation, Wyoming Outdoor Council, Beartooth Alliance, and the United States of America, with such other changes mutually agreed to by the parties;

(2) BEARTOOTH HIGHWAY.—The term "Beartooth Highway" means the portion of United States Route 212 that runs from the northeast entrance of Yellowstone National Park near Silver Gate, Montana, into and through Wyoming to Red Lodge, Montana.

(3) CROWN BUTTE.—The term "Crown Butte" means Crown Butte Mines, Inc. and Crown Butte Resources Ltd., acting jointly.

(4) DISTRICT PROPERTY.—The term "District Property" means the portion of the real property interests specifically described as District Property in appendix B of the Agreement.

(5) NEW WORLD MINING DISTRICT.—The term "New World Mining District" means the New World Mining District as specifically described in appendix A of the Agreement.

SEC. 503. CONVEYANCE TO STATE OF MONTANA

(a) CONVEYANCE REQUIREMENT.—Not later than January 1, 2001, but not prior to 180 days after the enactment of this Act, the Secretary of the Interior shall convey to the State of Montana, without consideration, all right, title, and interest of the United States in and to—

(1) $10,000,000 in federal mineral rights in the State of Montana agreed to by the Secretary of the Interior and the Governor of Montana through negotiations in accordance with paragraph (b); or

(2) all federal mineral rights in the tracts in Montana depicted as Otter Creek number 1, 2, and 3 on the map entitled "Ashland Map".

(b) NEGOTIATIONS.—The Secretary of the Interior shall promptly enter into negotiations with the Governor of Montana for purposes of paragraph (a)(1) to determine and agree to mineral rights owned by the United States having a fair market value of $10,000,000.

(c) FEDERAL LAW NOT APPLICABLE TO CONVEYANCE.—Any conveyance under paragraph (a) shall not be subject to the Mineral Leasing Act (20 U.S.C. 181 et seq.).

(d) AVAILABILITY OF MAP.—The Secretary of the Interior shall keep the map referred to in paragraph (a)(2) on file and available for public inspection in appropriate offices of the Department of the Interior located in the District of Columbia and Billings, Montana, until January 1, 2001.

(3) CONVEYANCE DEPENDENT UPON ACQUISITION.—No conveyance pursuant to paragraph (a) shall take place unless the acquisition authorized in section 502(a) is executed.

SEC. 504. The acquisitions authorized by sections 501 and 502 of this title may not occur prior to the earlier of: (1) 180 days after enactment of this Act or (2) enactment of separate authorizing legislation that modifies sections 501, 502, or 503 of this title. Within 120 days of enactment, the Secretary of the Interior and the Secretary of Agriculture, respectively, shall submit to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, reports detailing the status of efforts to meet the conditions set forth in this title imposed on the acquisition of the interests to protect and preserve the Headwaters Forest and the acquisition of interests to protect and preserve Yellowstone National Park. For every day beyond 120 days after the enactment of this Act that the appraisals required in subsections 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources of the House, the Committee on Energy and Natural Resources of the Senate and the House and Senate Committees on Appropriations in accordance with such subsections, the 180 day period referenced in this section shall be extended by one day.

SEC. 505. The Land and Water Conservation Fund Act of 1965 (P.L. 88-578; 78 Stat. 897) (16 U.S.C. 460l-4—460l-11) is amended by moving section 13 (as added by section 1021(b) of the Omnibus Parks and Public Lands Management Act of 1996; 110 Stat. 4210) so as to appear in title I of that Act following section 12.

And the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended to read as follows:

TITLE VI—FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF

SEC. 601. SHORT TITLE.—This Act may be cited as the "Forest Resources Conservation and Shortage Relief Act of 1997".

SEC. 602. (a) USE OF UNPROCESSED TIMBER—LIMITATION ON SUBSTITUTION OF UNPROCESSED FEDERAL TIMBER FOR UNPROCESSED TIMBER FROM PRIVATE LAND.—Section 490 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620b) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "paragraph (3) and" after "provided in"; and

(B) by adding at the end the following:

"(3) APPLICABILITY.—In the case of the purchase by a person of unprocessed timber originating from Federal lands west of the 119th meridian in the State of Washington, paragraph 1 shall apply only if—

"(A) the private lands referred to in paragraph (1) are owned by the person; or

"(B) the person has the exclusive right to harvest timber from the private lands described in paragraph (1) during a period of more than 7 years, and may exercise that right at any time of the person's choosing.";

(2) in subsection (c)—

(A) in the subsection heading, by striking "APPROVAL OF";

(B) in paragraph (2)—

(i) in the paragraph heading, by inserting "FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA"; after "APPLICATION"; and

(ii) in subparagraph (A), by inserting "(except private land located in the north-western private timber open market area)" after "lands";

(C) in paragraph (3)—

(i) in the paragraph heading, by inserting "FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE OF THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—(A) IN GENERAL"; after "APPROVAL"; and

(ii) by striking the last sentence of paragraph (3) and adding at the end the following:

"(B) FOR TIMBER MANUFACTURING FACILITIES LOCATED IN IDAHO.—Except as provided in subparagraph (D), in making a determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the private and Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the private and Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative similarity of such private and Federal timber sourcing patterns.

"(C) FOR TIMBER MANUFACTURING FACILITIES LOCATED IN STATES OTHER THAN IDAHO.—Except as provided in subparagraph (D), in making the determination referred to in subparagraph (A), the Secretary concerned shall consider the private timber export and the Federal timber sourcing patterns for the applicant's timber manufacturing facilities, as well as the Federal timber sourcing patterns for the timber manufacturing facilities of other persons in the same local vicinity of the applicant, and the relative

similarity of such Federal timber sourcing patterns. Private timber sourcing patterns shall not be a factor in such determinations in States other than Idaho.

"(D) AREA NOT INCLUDED.—In deciding whether to approve or disapprove an application, the Secretary shall not—

"(i) consider land located in the northwestern private timber open market area; or

"(ii) condition approval of the application on the inclusion of any such land in the applicant's sourcing area, such land being includable in the sourcing area only to the extent requested by the applicant.";

(D) in paragraph (4), in the paragraph heading, by inserting "FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA"; after "APPLICATION";

(E) in paragraph (5), in the paragraph heading, by inserting "FOR SOURCING AREAS FOR PROCESSING FACILITIES LOCATED OUTSIDE THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA"; after "DETERMINATIONS"; and

(F) by adding at the end the following:

"(6) SOURCING AREAS FOR PROCESSING FACILITIES LOCATED IN THE NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA—

"(A) ESTABLISHMENT.—In the northwestern private timber open market area—

"(i) a sourcing area boundary shall be a circle around the processing facility of the sourcing area applicant or holder;

"(ii) the radius of the circle—

"(I) shall be the furthest distance that the sourcing area applicant or holder proposes to haul Federal timber for processing at the processing facility; and

"(II) shall be determined solely by the sourcing area applicant or holder;

"(iii) a sourcing area shall become effective on written notice to the Regional Forester for Region 6 of the Forest Service of the location of the boundary of the sourcing area;

"(iv) the 24-month requirement in paragraph (1)(A) shall not apply;

"(v) a sourcing area holder—

"(I) may adjust the radius of the sourcing area not more frequently than once every 24 months; and

"(II) shall provide written notice to the Regional Forester for Region 6 of the adjusted boundary of its sourcing area before using the adjusted sourcing area; and

"(vi) a sourcing area holder that relinquishes a sourcing area may not reestablish a sourcing area for that processing facility before the date that is 24 months after the date on which the sourcing area was relinquished.

"(B) TRANSITION.—With respect to a portion of a sourcing area established before the date of enactment of this paragraph that contains Federal timber under contract before that date and is outside the boundary of a new sourcing area established under subparagraph (A)—

"(i) that portion shall continue to be a sourcing area only until unprocessed Federal timber from the portion is no longer in the possession of the sourcing area holder; and

"(ii) unprocessed timber from private land in that portion shall be exportable immediately after unprocessed timber from Federal land in the portion is no longer in the possession of the sourcing area holder.

"(7) RELINQUISHMENT AND TERMINATION OF SOURCING AREAS.—

"(A) IN GENERAL.—A sourcing area may be relinquished at any time.

"(B) EFFECTIVE DATE.—A relinquishment of a sourcing area shall be effective as of the date on which written notice is provided by the sourcing area holder to the Regional Forester with jurisdiction over the sourcing area where the processing facility of the holder is located.

"(C) EXPORTABILITY.—

"(i) IN GENERAL.—On relinquishment or termination of a sourcing area, unprocessed timber from private land within the former boundary of the relinquished or terminated sourcing area is exportable immediately after unprocessed timber from Federal land from within that area is no longer in the possession of the former sourcing area holder.

"(ii) NO RESTRICTION.—The exportability of unprocessed timber from private land located outside of a sourcing area shall not be restricted or in any way affected by relinquishment or termination of a sourcing area."; and

(3) by adding at the end the following:

"(d) DOMESTIC TRANSPORTATION AND PROCESSING OF PRIVATE TIMBER.—Nothing in this section restricts or authorizes any restriction on the domestic transportation or processing of timber harvested from private land, except that the Secretary may prohibit processing facilities located in the State of Idaho that have sourcing areas from processing timber harvested from private land outside of the boundaries of those sourcing areas.".

(b) RESTRICTION OF EXPORTS OF UNPROCESSED TIMBER FROM STATE AND PUBLIC LAND.—Section 491(b)(2) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c(b)(2)) is amended—

(1) by striking "the following" and all that follows through "(A) The Secretary" and inserting "the Secretary";

(2) by striking "during the period beginning on June 1, 1993, and ending on December 31, 1995" and inserting "as of the date of enactment of the Forest Resources Conservation and Shortage Relief Act of 1997"; and

(3) by striking subparagraph (B).

SEC. 603. MONITORING AND ENFORCEMENT.—Section 492 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620d) is amended—

(1) in subsection (c)(2), by adding at the end the following:

(C) MITIGATION OF PENALTIES.—

"(i) IN GENERAL.—The Secretary concerned—

"(I) in determining the applicability of any penalty imposed under this paragraph, shall take into account all relevant mitigating factors, including mistake, inadvertence, and error; and

"(II) based on any mitigating factor, may, with respect to any penalty imposed under this paragraph—

"(aa) reduce the penalty;

"(bb) not impose the penalty; or

"(cc) on condition of there being no further violation under this paragraph for a prescribed period, suspend imposition of the penalty.

"(ii) CONTRACTURAL REMEDIES.—In the case of a minor violation of this title (including a regulation), the Secretary concerned shall, to the maximum extent practicable, permit a contracting officer to redress the violation in accordance with the applicable timber sale contract rather than assess a penalty under this paragraph."; and

(2) in subsection (d)(1)—

(A) by striking "The head" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), the head"; and

(B) by adding at the end the following:

"(B) PREREQUISITES FOR DEBARMENT.—

"(i) IN GENERAL.—No person may be debarred from bidding for or entering into a contract for the purchase of unprocessed timber from Federal lands under subparagraph (A) unless the head of the appropriate Federal department or agency first finds, on the record and after an opportunity for a hearing, that debarment is warranted.

"(ii) WITHHOLDING OF AWARDS DURING DEBARMENT PROCEEDINGS.—The head of an appropriate Federal department or agency may withhold an award under this title of a contract for the purchase of unprocessed timber from Federal lands during a debarment proceeding.".

SEC. 604. DEFINITIONS.—Section 493 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620e) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (2) the following:

"(3) MINOR VIOLATION.—The term 'minor violation' means a violation, other than an intentional violation, involving a single contract, purchase order, processing facility, or log yard involving a quantity of logs that is less than 25 logs and has a total value (at the time of the violation) of less than $10,000.

"(4) NORTHWESTERN PRIVATE TIMBER OPEN MARKET AREA.—The term 'northwestern private timber open market area' means the State of Washington.";

(3) in subparagraph (B)(ix) of paragraph (9) (as redesignated by paragraph (1))—

(A) by striking "Pulp logs or cull logs" and inserting "Pulp logs, cull logs, and incidental volumes of grade 3 and 4 sawlogs";

(B) by inserting "primary" before "purpose"; and

(C) by striking the period at the end and inserting: ", or to the extent that a small quantity of such logs are processed, into other products at domestic processing facilities."; and

(4) by adding at the end the following:

"(11) VIOLATION.—The term 'violation' means a violation of this Act (including a regulation issued to implement this Act) with regard to a course of action, including—

"(A) in the case of a violation by the original purchaser of unprocessed timber, an act or omission with respect to a single timber sale; and

"(B) in the case of a violation of a subsequent purchaser of the timber, an act or omission with respect to an operation at a particular processing facility or log yard.".

SEC. 605. REGULATIONS.—Section 495(a) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620f(a)) is amended—

(1) by striking "The Secretaries" and inserting the following:

"(1) AGRICULTURE AND INTERIOR.—The Secretaries";

(2) by striking "The Secretary of Commerce" and inserting the following:

"(2) COMMERCE.—The Secretary of Commerce"; and

(3) by striking the last sentence and inserting the following:

"(3) DEADLINE.—

"(A) IN GENERAL.—Except as otherwise provided in this title, regulations and guidelines required under this subsection shall be issued not later than June 1, 1998.

"(B) The regulations and guidelines issued under this title that were in effect prior to September 8, 1995 shall remain in effect until new regulations and guidelines are issued under subparagraphs (A).

"(4) PAINTING AND BRANDING.—

"(A) IN GENERAL.—The Secretary concerned shall issue regulations that impose reasonable painting, branding, or other forms of marking or tracking requirements on unprocessed timber if—

"(i) the benefits of the requirements outweigh the cost of complying with the requirements; and

"(ii) the Secretary determines that, without the requirements, it is likely that the unprocessed timber—

"(I) would be exported in violation of this title; or

"(II) if the unprocessed timber originated from Federal lands, would be substituted for unprocessed timber originating from private lands west of the 100th Meridian in the contiguous 48 States in violation of this title.

"(B) MINIMUM SIZE. The Secretary concerned shall not impose painting, branding, or other forms of marking or tracking requirements on—

"(i) the face of a log that is less than 7 inches in diameter; or

"(ii) unprocessed timber that is less than 8 feet in length or less than ⅓ sound wood.

"(C) WAIVERS.—

"(i) IN GENERAL.—The Secretary concerned may waive log painting and branding requirements—

"(I) for a geographic area, if the Secretary determines that the risk of the unprocessed timber being exported from the area or used in substitution is low;

"(II) with respect to unprocessed timber originating from private lands located within an approved sourcing area for a person who certifies that the timber will be processed at a specific domestic processing facility to the extent that the processing does occur; or

"(III) as part of a log yard agreement that is consistent with the purposes of the export and substitution restrictions imposed under this title.

"(ii) REVIEW AND TERMINATION OF WAIVERS.—A waiver granted under clause (i)—

"(I) shall, to the maximum extent practicable, be reviewed once a year; and

"(II) shall remain effective until terminated by the Secretary.

(D) FACTORS.—In making a determination under this paragraph, the Secretary concerned shall consider—

"(i) the risk of unprocessed timber of that species, grade, and size being exported or used in substitution;

"(ii) the location of the unprocessed timber and the effect of the location on its being exported or used in substitution;

"(iii) the history of the person involved with respect to compliance with log painting and branding requirements; and

"(iv) any other factor that is relevant to determining the likelihood of the unprocessed timber being exported or used in substitution.

"(5) REPORTING.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary concerned shall issue regulations that impose reasonable documentation and reporting requirements if the benefits of the requirements outweigh the cost of complying with the requirements.

"(B) WAIVERS.—

"(i) IN GENERAL.—The Secretary concerned may waive documentation and reporting requirements for a person if—

"(I) an audit of the records of the facility of the person reveals substantial compliance with all notice, reporting, painting, and branding requirements during the preceding year; or

"(II) the person transferring the unprocessed timber and the person processing the unprocessed timber enter into an advance agreement with the Secretary concerned regarding the disposition of the unprocessed timber by domestic processing.

"(ii) REVIEW AND TERMINATION OF WAIVERS.—A waiver granted under clause (i)—

"(I) shall, to the maximum extent practicable, be reviewed once a year; and

"(II) shall remain effective until terminated by the Secretary.".

And the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended to read as follows:

TITLE VII—MICCOSUKEE SETTLEMENT

SEC. 701. SHORT TITLE.—This title may be cited as the "Miccosukee Settlement Act of 1997".

SEC. 702. CONGRESSIONAL FINDINGS.—Congress finds that:

(1) There is pending before the United States District Court for the Southern District of Florida a lawsuit by the Miccosukee Tribe that involves the taking of certain tribal lands in connection with the construction of highway Interstate 75 by the Florida Department of Transportation.

(2) The pendency of the lawsuit referred to in paragraph (1) clouds title of certain lands used in the maintenance and operation of the highway and hinders proper planning for future maintenance and operations.

(3) The Florida Department of Transportation, with the concurrence of the Board of Trustees of the Internal Improvements Trust Fund of the State of Florida, and the Miccosukee Tribe have executed an agreement for the purpose of resolving the dispute and settling the lawsuit.

(4) The agreement referred to in paragraph (3) requires the consent of Congress in connection with contemplated land transfers.

(5) The Settlement Agreement is in the interest of the Miccosukee Tribe, as the Tribe will receive certain monetary payments, new reservation lands to be held in trust by the United States, and other benefits.

(6) Land received by the United States pursuant to the Settlement Agreement is in consideration of Miccosukee Indian Reservation lands lost by the Miccosukee Tribe by virtue of transfer to the Florida Department of Transportation under the Settlement Agreement.

(7) The lands referred to in paragraph (6) as received by the United States will be held in trust by the United States for the use and benefit of the Miccosukee Tribe as Miccosukee Indian Reservation lands in compensation for the consideration given by the Tribe in the Settlement Agreement.

(8) Congress shares with the parties to the Settlement Agreement a desire to resolve the dispute and settle the lawsuit.

SEC. 703. DEFINITIONS.—In this title:

(1) BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENTS TRUST FUND.—The term "Board of Trustees of the Internal Improvements Trust Fund" means the agency of the State of Florida holding legal title to and responsible for trust administration of certain lands of the State of Florida, consisting of the Governor, Attorney General, Commissioner of Agriculture, Commissioner of Education, Controller, Secretary of State, and Treasurer of the State of Florida, who are Trustees of the Board.

(2) FLORIDA DEPARTMENT OF TRANSPORTATION.—The term "Florida Department of Transportation" means the executive branch department and agency of the State of Florida that—

(A) is responsible for the construction and maintenance of surface vehicle roads, existing pursuant to section 20.23, Florida Statutes; and

(B) has the authority to execute the Settlement Agreement pursuant to section 334.044, Florida Statutes.

(3) LAWSUIT.—The term "lawsuit" means the action in the United States District Court for the Southern District of Florida, entitled Miccosukee Tribe of Indians of Florida v. State of Florida and Florida Department of Transportation, et al., docket No. 6285-Civ-Paine.

(4) MICCOSUKEE LANDS.—The term "Miccosukee lands" means lands that are—

(A) held in trust by the United States for the use and benefit of the Miccosukee Tribe as Miccosukee Indian Reservation lands; and

(B) identified pursuant to the Settlement Agreement for transfer to the Florida Department of Transportation.

(5) MICCOSUKEE TRIBE; TRIBE.—The terms "Miccosukee Tribe" and "Tribe" mean the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476) and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SETTLEMENT AGREEMENT; AGREEMENT.—The terms "Settlement Agreement" and "Agreement" mean the assemblage of documents entitled "Settlement Agreement" (with incorporated exhibits) that—

(A) addresses the lawsuit; and

(B)(i) was signed on August 28, 1996, by Ben G. Watts (Secretary of the Florida Department of Transportation) and Billy Cypress (Chairman of the Miccosukee Tribe); and

(ii) after being signed, as described in clause (i), was concurred in by the Board of Trustees of the Internal Improvements Trust Fund of the State of Florida.

(8) STATE OF FLORIDA.—The term "State of Florida" means—

(A) all agencies or departments of the State of Florida, including the Florida Department of Transportation and the Board of Trustees of the Internal Improvements Trust Fund; and

(B) the State of Florida as a governmental entity.

SEC. 704. RATIFICATION.—The United States approves, ratifies, and confirms the Settlement Agreement.

SEC. 705. AUTHORITY OF SECRETARY.—As Trustee for the Miccosukee Tribe, the Secretary shall—

(1)(A) aid and assist in the fulfillment of the Settlement Agreement at all times and in a reasonable manner; and

(B) to accomplish the fulfillment of the Settlement Agreement in accordance with subparagraph (A), cooperate with and assist the Miccosukee Tribe;

(2) upon finding that the Settlement Agreement is legally sufficient and that the State of Florida has the necessary authority to fulfill the Agreement—

(A) sign the Settlement Agreement on behalf of the United States; and

(B) ensure that an individual other than the Secretary who is a representative of the Bureau of Indian Affairs also signs the Settlement Agreement;

(3) upon finding that all necessary conditions precedent to the transfer of Miccosukee land to the Florida Department of Transportation as provided in the Settlement Agreement have been or will be met so that the Agreement has been or will be fulfilled, but for the execution of that land transfer and related land transfers—

(A) transfer ownership of the Miccosukee land to the Florida Department of Transportation in accordance with the Settlement Agreement, including in the transfer solely and exclusively that Miccosukee land identified in the Settlement Agreement for transfer to the Florida Department of Transportation; and

(B) in conjunction with the land transfer referred to in subparagraph (A), transfer no land other than the land referred to in that subparagraph to the Florida Department of Transportation; and

(4) upon finding that all necessary conditions precedent to the transfer of Florida lands from the State of Florida to the United States have been or will be met so that the Agreement has been or will be fulfilled but for the execution of that land transfer and related land transfers, receive and accept in trust for the use and benefit of the Miccosukee Tribe ownership of all land identified in the Settlement Agreement for transfer to the United States.

SEC. 706. MICCOSUKEE INDIAN RESERVATION LANDS.—The lands transferred and held in trust for the Miccosukee Tribe under section 705(4) shall be Miccosukee Indian Reservation lands.

SEC. 707. MISCELLANEOUS.—(a) RULE OF CONSTRUCTION.—Nothing in this Act or the Settlement Agreement shall—

(1) affect the eligibility of the Miccosukee Tribe or its members to receive any services or benefits under any program of the Federal Government; or

(2) diminish the trust responsibility of the United States to the Miccosukee Tribe and its members.

(b) NO REDUCTIONS IN PAYMENTS.—No payment made pursuant to this Act or the Settlement Agreement shall result in any reduction or denial of any benefits or services under any program of the Federal Government to the Miccosukee Tribe or its members, with respect to which the Tribe or the members of the Tribe are entitled or eligible because of the status of—

(1) the Miccosukee Tribe as a federally recognized Indian tribe; or

(2) any member of the Miccosukee Tribe as a member of the Tribe.

(c) TAXATION.—

(1) IN GENERAL.—

(A) MONIES.—None of the monies paid to the Miccosukee Tribe under this Act or the Settlement Agreement shall be taxable under Federal or State law.

(B) LANDS.—None of the lands conveyed to the Miccosukee Tribe under this Act or the Settlement Agreement shall be taxable under Federal or State law.

(2) PAYMENTS AND CONVEYANCES NOT TAXABLE EVENTS.—No payment or conveyance referred to in paragraph (1) shall be considered to be a taxable event.

And the Senate agree to the same.

RALPH REGULA,
JOSEPH M. MCDADE,
JIM KOLBE,
JOE SKEEN,
CHARLES H. TAYLOR,
GEORGE R. NETHERCUTT, Jr.,
DAN MILLER,
ZACH WAMP,
BOB LIVINGSTON,
SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
DAVID E. SKAGGS,
JAMES P. MORAN,
DAVID OBEY,

Managers on the Part of the House.

SLADE GORTON,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CONRAD BURNS,
ROBERT F. BENNETT,
JUDD GREGG,
BEN NIGHTHORSE CAMPBELL,
ROBERT BYRD,
PATRICK LEAHY
DALE BUMPERS,
ERNEST HOLLINGS,
HARRY REID,
BYRON DORGAN,
BARBARA BOXER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2107), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1998, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on H.R. 2107 incorporates some of the provisions of both the House and the Senate versions of the bill. Report language and allocations set forth in either House Report 105-163 or Senate Report 105-56 which are not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not negate the language referenced above unless expressly provided herein.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Amendment No. 1: Appropriates $583,270,000 for management of lands and resources instead of $581,591,000 as proposed by the House and $578,851,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $100,000 for the Alaska Gold Rush Centennial task force, $500,000 for the joint Department of Defense land cover mapping project in Alaska, $200,000 for threatened and endangered species for the Virgin River Basin recovery plan, $500,000 for recreation resources management, $2,100,000 for the National Petroleum Reserve—Alaska, $700,000 for the Alaska resources library and information services, $2,334,000 for Alaska conveyance and $1,000,000 for ALMRS. Decreases to the amount proposed by the House include $1,000,000 for prescribed fire, $2,774,000 for wild horse and burro management, $250,000 for wildlife management, $500,000 for a recreation fees scoring adjustment, $231,000 for wilderness management, and $1,000,000 for law enforcement. The managers concur with the Senate's proposed distribution of funds in the Mining Law Administration category.

Within the increased funds provided for recreation resource management, $200,000 is provided for the Lewis and Clark Trail, $100,000 is provided for the Iditarod National Historic Trail, $100,000 is provided for the De Anza, California, Mormon Pioneer, Nez Perce, Oregon, and Pony Express National Historic Trails, and the Pacific Crest and Continental Divide National Scenic Trails, and $100,000 is provided as a general increase.

The managers have reduced the Bureau's oil and gas management program by a net $450,000, consistent with the Administration's requested program decrease. This decrease is made up of a $50,000 increase for Grand Staircase activities and a $500,000 decrease related to efficiencies in lease processing in Alaska, Arizona, and Idaho. In agreeing to the requested budget reduction, the managers direct the Bureau not to delay the processing of any lease application in these States in 1998. The managers expect the Bureau to request funding sufficient to meet the Bureau's responsibilities for oil and gas management activities on Federal lands in each of these States as warranted.

After reviewing the Department's soda ash royalty study, the managers are concerned that the Department was unresponsive to the question relating to the appropriate method of setting Federal royalty rates when the only comparable rates are the product of a monopoly. The managers will watch carefully how the Department deals with these issues in the future.

The managers support efforts of the land management agencies to consolidate activities and facilities at the field level as a means of achieving savings and providing improved services to the public. The managers support the joint BLM-Forest Service trading post pilot program, which allows the Secretaries of the Interior and Agriculture to make reciprocal delegations of authorities, duties and responsibilities to promote customer service and efficiency, with the understanding that nothing will change the applicability of any public law or regulation to lands administered by the BLM or the Forest Service.

The managers seek additional information on BLM's activities dealing with the acquisition of water rights. By November 30, 1998, the Bureau shall provide a report detailing its short and long-term plans for acquiring non-reserved water rights and any actions dealing with Federal reserved rights.

The managers encourage the Bureau to cooperate fully with the Umpqua River Basin land exchange project group as authorized in section 1028 of Public Law 104-333.

Amendment No. 2: Earmarks $27,650,000 for mining law administration program operations as proposed by the Senate instead of $27,300,000 as proposed by the House.

Amendment No. 3: Restates the final appropriation amount for management of lands and resources as $583,270,000.

WILDLAND FIRE MANAGEMENT

Amendment No. 4: Appropriates $280,103,000 for wildland fire management as proposed by the House instead of $282,728,000 as proposed by the Senate.

Within the funds provided for preparedness, $700,000 is to fund the startup and first year of operating costs for a type I hotshot crew in Alaska to be managed by the Alaska Fire Service as an intertribal, interagency hotshot crew; and $1,925,000 is provided for redevelopment of the obsolete interagency fire operations center in Billings, MT.

Amendment No. 5: Earmarks $6,950,000 for renovation or construction of fire facilities as proposed by the Senate instead of $5,025,000 as proposed by the House.

CENTRAL HAZARDOUS MATERIALS FUND

Amendment No. 6: Appropriates $12,000,000 for the central hazardous materials fund as proposed by the House instead of $14,900,000 as proposed by the Senate.

CONSTRUCTION

Amendment No. 7: Appropriates $3,254,000 for construction as proposed by the House instead of $3,154,000 as proposed by the Senate.

PAYMENTS IN LIEU OF TAXES

Amendment No. 8: Appropriates $120,000,000 for payments in lieu of taxes instead of $113,500,000 as proposed by the House and $124,000,000 as proposed by the Senate.

LAND ACQUISITION

Amendment No. 9: Appropriates $11,200,000 for land acquisition instead of $12,000,000 as proposed by the House and $8,600,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Arizona Wilderness, AZ	$700,000
Blanca Wildlife Habitat, CO	550,000
Bodie Bowl, CA	1,000,000
Lake Fork of the Gunnison, CO	900,000
Otay Mountains, CA	1,000,000
Santa Rosa Mountains, CA	1,000,000
West Eugene Wetlands, OR	300,000
Western Riverside County, CA	1,000,000

Project	Amount
Washington County Desert Tortoise, UT	1,000,000
Emergencies/hardships/ inholdings	750,000
Acquisition management	3,000,000
Total	11,200,000

FOREST ECOSYSTEMS HEALTH AND RECOVERY

(REVOLVING FUND, SPECIAL ACCOUNT)

Amendment No. 10: Inserts language proposed by the Senate expanding BLM's flexibility to complete forest ecosystem health projects. The House had no similar provision.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Amendment No. 11: Appropriates $594,842,000 for resource management instead of $591,042,000 as proposed by the House and $585,064,000 as proposed by the Senate. Increases to the amount proposed by the House include $800,000 in candidate conservation, of which $400,000 is for the Alabama sturgeon and $400,000 is for the Preble's Meadow Jumping Mouse; $300,000 in consultation as a general increase; $300,000 in recovery for a wolf reintroduction study on the Olympic Peninsula; $1,000,000 in habitat conservation of which $50,000 is for the Middle Rio Grande/ Bosque program, $50,000 is for Platte River studies, $100,000 is to establish a Cedar City ecological services office, $750,000 is for Washington salmon enhancement and $50,000 is for the Vermont partners program; $1,000,000 for Salton Sea recovery planning and for bioremediation efforts in the New River in cooperation with the U.S. Geological Survey, contingent on matching funds from the State of California; $250,000 in migratory bird management for the North American waterfowl management plan; $500,000 in hatchery operations and maintenance for endangered species recovery, including operation of the Mora hatchery in New Mexico; $750,000 in fish and wildlife management of which $100,000 is for Yukon River escapement monitoring and research, $300,000 is for Atlantic salmon conservation, $50,000 is for the regional park processing center and $300,000 is for whirling disease research; $200,000 in international affairs for the Caddo Lake Institute scholars program; and $1,000,000 for the National Conservation Training Center. Decreases to the House proposed level include $300,000 in consultation for the Olympic Peninsula wolf recovery program (funded under the recovery program); $500,000 in habitat conservation, of which $250,000 is for assistance to private landowners and $250,000 is for the coastal program in Texas; $1,000,000 in refuge operations and maintenance; and $500,000 in fish and wildlife management for habitat restoration.

The managers agree to the following:

1. Within the consultation program, $560,000 should be used for the Iron County habitat conservation plan, contingent on matching non-Federal funding.

2. The increase for law enforcement should be used, in part, to improve the Service's ability to prevent illegal bear poaching and the smuggling of bear viscera, but is not limited to that activity.

3. The Chicago Wetlands Office should be funded at the same level as in fiscal year 1997.

4. In allocating resources for refuge operations and maintenance, the Service should seek to balance competing refuge uses consistent with the National Wildlife Refuge Systems Improvement Act of 1997.

5. There is no earmark within available funds for the Washington State regional fisheries enhancement group initiative. The $750,000 in the habitat conservation program for Washington salmon enhancement efforts addresses that initiative. These funds should be transferred, in the form of a block grant, to the Washington Department of Fish and Wildlife to support the volunteer efforts of the Regional Fisheries Enhancement Group program.

6. Within habitat conservation, $23,839,000 is for project planning.

7. With respect to the double-crested cormorant depredation order, the managers understand that the comment period on the proposed rule has closed and the Service anticipates issuing the final rule in 45–60 days. The managers make no assumptions about the content of that rule.

8. The House takes no position on the issue of overgrazing of bighorn sheep on the confederated Salish and Kootenai reservations.

9. With respect to tribal management takeover of the Moise Bison Range, the Service should continue to work with the Salish and Kootenai tribes on appropriate functions for compacting by the tribes.

10. With respect to hunting season extensions and the impact on waterfowl, the Service should examine existing data and consult with the States and with the International Association of Fish and Wildlife Agencies to determine what changes should be made to the existing methodology. The Service should report the results of this effort to the Committees, including a discussion of the pros and cons of alternatives to the current procedures.

11. In preparing its report on agriculture depredations caused by dusky Canada geese, the Service should consider other areas, in addition to the Pacific Northwest, where this is known to be a problem.

12. Of the funds provided for whirling disease research, $700,000 should be used for work with the National Partnership on the Management of Wild and Native Cold Water Fisheries. The Service is encouraged to use other funds available for fish health to continue and expand the National Wild Fish Health Survey.

13. With respect to the Pacific Northwest forest plan, unallocated program increases provided by the conference agreement should be applied to forest plan activities in proportion to the increases for forest plan activities included in the budget request for that program.

14. The Salton Sea recovery plan should be developed by the Service in coordination with the State of California, the U.S. Geological Survey, the Bureau of Reclamation and the Environmental Protection Agency. The plan should be submitted to the Committees and should address the appropriate division of responsibilities and funding among all involved agencies.

15. Future increases in the Service's budget for the Salton Sea should be considered in the context of the Service's National priorities. The Service should continue to work with the State of California to ensure that the State remains an active participant in the conduct and funding of recovery efforts.

16. The managers encourage the U.S. Fish and Wildlife Service to include the Arid Lands Ecology Reserve in the Earth Stewards Program, and to provide the necessary resources to support the efforts of the Department of Energy and other public and private sector organizations in order to accelerate the formation of the Partnership for Arid Lands Stewardship (PALS).

The managers are aware of recently identified, near-term needs in the Atchafalaya Basin region of Louisiana, including personnel needs for the Southeast Louisiana refuge system and wildlife management shortfalls in and around the Atchafalaya Basin and at the Mandalay NWR, LA. To the extent practicable, the Service should address these needs within the increase provided for refuge operations and maintenance in fiscal year 1998. The managers expect the Service, in consultation with State and local entities, including landowners, to study habitat protection needs in the entire Atchafalaya Basin region and to report to the Committees on the results of those consultations prior to submission of the fiscal year 1999 budget.

The managers understand that the translocation of a portion of the Adak caribou herd onto privately owned islands in Alaska may provide long term relief for subsistence users in the Alaska Peninsula region. Since the filing of the Senate report, it has come to the managers' attention that at least two such islands have historically sustained indigenous caribou herds and therefore a suitable habitat study is not necessary. The managers encourage the Service to enter into discussions with subsistence users of the Alaska Peninsula region to explore a potential partnership arrangement to establish new caribou herds on Deere and Unga Islands to provide meat sources for Native people.

Amendment No. 12: Restores language proposed by the House and stricken by the Senate which earmarks an amount not to exceed $5,190,000 for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act of 1973, as amended, and inserts language proposed by the Senate making a technical correction to the existing statutory fee authority for the National Conservation Training Center. The House had no similar provision on the National Conservation Training Center.

As requested by the Department of the Interior the managers reluctantly have agreed to limit statutorily the funds for the endangered species listing program. The managers continue to believe that a long term solution to the problems in the ESA program should be dealt with through the reauthorization process, and regret that another year has passed without substantial progress by the Administration.

Amendment No. 13: Deletes language proposed by the Senate prohibiting overhead charges by the Service on funds transferred from the Bureau of Reclamation for the Upper Colorado River recovery program. The House had no similar provision.

The managers expect the Service to keep any necessary administrative charges to an absolute minimum, and to provide a report to the Committees that justifies any overhead charges on funds transferred to the Upper Colorado River recovery program.

CONSTRUCTION

Amendment No. 14: Appropriates $45,006,000 for construction instead of $40,256,000 as proposed by the House and $42,053,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	Amount
Audubon Institute, LA	$2,000,000
Baker Island NWR, HI (assessment/site investigation)	250,000
Blackwater NWR, MD (administrative building)	335,000
Bozeman FTC, MT (laboratory building planning and design)	606,000

Project	Amount
Crab Orchard NWR, IL (rehabilitate sewage treatment facilities)	1,659,000
Craig Brook NFH, ME (station rehabilitation/final phase)	3,500,000
Creston NFH, MT (Jessup Mill Pond Dam)	1,500,000
Great Swamp NWR, NJ (disposal assessment/site investigation)	250,000
Horicon NWR, WI (replace boardwalk)	425,000
John Hay Estate, NH (rehabilitation)	1,000,000
Keauhou Bird Conservation Center, HI (complete construction)	1,000,000
Kodiak NWR, AK (Camp Island renovations)	150,000
Merced NWR, CA (water distribution)	2,548,000
National Elk Refuge, WY (irrigation system)	400,000
Orangeburg NFH, SC (rehabilitate drainage canal)	833,000
Patuxent NWR, MD (Cash Lake Dam)	2,515,000
Region 2 (hazardous materials/solid waste cleanup)	445,000
Santa Ana NWR, TX (road rehabilitation)	1,208,000
Shiawassee NWR, MI (bridge rehabilitation)	520,000
Southest LA refuges, LA (health & safety)	500,000
Southwest FTC, NM (Mora hatchery)	2,000,000
St. Marks NWR, FL (replace 6 bridges)	469,000
St. Vincent NWR, FL (Outlet Creek bridge)	186,000
Steigerwald NWR, WA (trail construction and access)	840,000
Tennessee NWR, TN (road)	2,500,000
Tennessee NWR, TN (2 bridges)	139,000
Togiak NWR, AK (residence)	335,000
Turnbull NWR, WA (building)	843,000
Upper Miss. NW&FR, IL (headquarters construction)	510,000
WB Jones Partnership, NC (headquarters design and construction)	1,900,000
Wichita Mountains WR, OK (road rehabilitation)	1,840,000
Wichita Mountains WR, OK (Grama Lake & Comanche Dams)	4,800,000
Woodbridge NWR, VA (rehabilitation)	100,000
Bridge safety inspection	495,000
Dam safety inspection	495,000
Construction management	5,910,000
Total	45,006,000

The managers agree to the following:

1. $850,000 in unobligated balances from completed projects should be used for the design, manufacture and installation of educational displays and furnishings for the Environmental Education Center at the Silvio O. Conte NWR, MA. The Service should notify the Committees of the proposed offsets before proceeding with the reprogramming of funds.

2. Funding provided herein represents the completion of the Federal commitment for the Audubon Institute, LA and the Walter B. Jones Partnership for the Sounds, NC projects.

3. No funds are provided for Bear River NWR, UT with the understanding that there is currently a large unobligated balance of funds provided in previous fiscal years that will enable dike work to continue in fiscal year 1998.

4. The Committees will consider a reprogramming of funds for planning and design of the National Black Footed Ferret Conservation Center once the Service has determined a site for the Center.

5. Prior to proceeding with the Togiak NWR, AK housing project, the Service should certify that there is insufficient rental housing in the Dillingham area that meets Service requirements and is suitable for refuge personnel.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

Amendment No. 15: Appropriates $4,228,000 for the natural resource damage assessment fund instead of $4,128,000 as proposed by the House and $4,328,000 as proposed by the Senate.

The managers agree that changes to the management structure for the natural resource damage assessment program in fiscal year 1998 should be made consistent with the level of funding provided. The Committees will consider any more ambitious restructuring in the context of Service-wide priorities in the fiscal year 1999 budget.

Amendment No. 16: Amends fiscal year 1994 appropriations language to permit transfers of funds to Federal trustees and payments to non-Federal trustees to carry out the provisions of negotiated legal settlements or other legal actions for restoration activities, and to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, as proposed by the Senate. The House had no similar provision.

LAND ACQUISITION

Amendment No. 17: Appropriates $62,632,000 for land acquisition instead of $53,000,000 as proposed by the House and $57,292,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	Amount
Archie Carr NWR, FL	$2,000,000
Attwater Prairie Chicken NWR, TX	1,000,000
Back Bay NWR, VA	2,000,000
Balcones Canyonlands NWR, TX	700,000
Big Muddy NFWR, MO	1,000,000
Bon Secour NWR (Izard tract), AL	3,000,000
Canaan Valley NWR, WV	3,000,000
Cape May NWR, NJ	3,000,000
Clarks River NWR, KY	2,000,000
Crocodile Lake NWR, FL	400,000
Cypress Creek NWR, IL	750,000
Don Edwards NWR (Bair Island), CA	2,000,000
Edwin B. Forsythe NWR (including the Zell tract), NJ	2,000,000
Great Swamp NWR, JN	750,000
Julia B. Hansen NWR, WA	300,000
Kodiak NWR, AK	600,000
Lower Rio Grande Valley NWR, TX	900,000
Mashpee NWR (including the Bufflehead Bay tract), MA	332,000
Minnesota Valley NWR (Kelly tract), MN	2,300,000
Nisqually NWR (Black River unit), WA	1,500,000
Ohio River Islands NWR, PA–WV–OH–KY	500,000
Ottawa NWR, OH	1,000,000
Patoka River NWR, IN	500,000
Petit Manan NWR, ME	1,000,000
Rachel Carson NWR, ME	1,100,000
Rappahannock River Valley NWR, VA	2,000,000
Rhode Island complex, RI	500,000
San Diego NWR, CA	3,000,000
Silvio O. Conte NWR (including Pondicherry), CT–MA–NH–VT	1,000,000
Southeast Louisiana refuges, LA	2,500,000
Stewart B. McKinney NWR (Great Meadows Salt Marsh), CT	1,100,000
Stillwater NWR, NV	1,000,000
Waccamaw NWR, SC	2,000,000
Wallkill River NWR (including Papakeeting Creek), NJ	1,000,000
Wertheim NWR (including Southaven), NY	2,290,000
Western Montana project, MT	1,000,000
Acquisition management	8,860,000
Emergency/hardships	1,000,000
Exchanges	1,000,000
Inholdings	750,000
Total	62,632,000

The managers note that the Service is preparing a draft environmental assessment on the feasibility of establishing a National wildlife refuge in the Kankakee area of Indiana and Illinois. That draft should be completed and distributed for comment later this fall and final NEPA documentation will not be completed until next year. The managers understand that any land acquisition for such a refuge will not proceed without Congressional approval through the appropriations process.

Within 90 days, the Fish and Wildlife Service shall report to the Appropriations Committees if there is a willing seller of the Bolsa Chica Mesa in Huntington Beach, CA, the cost of an appraisal of the mesa, the estimated cost of acquisition, and opportunities for public-private partnerships.

The managers understand that the estimated total cost of the Bair Island acquisition at Don Edwards NWR in California is $15,000,000. The managers are aware that the Peninsula Open Space Trust has committed to raising $5,000,000 towards this total purchase price and the managers encourage the State to give a contribution of up to $2,500,000.

The managers have not provided funds for acquisition of the Shadmoor property at Amagansett NWR due to the large disparity between the appraised value and the current sale price, and the lack of matching funds. The managers remain interested in the Shadmoor acquisition, however, and will consider allocating funds appropriated in this or subsequent appropriations bills should these issues be satisfactorily resolved.

NATIONAL WILDLIFE REFUGE FUND

Amendment No. 18: Appropriates $10,779,000 for the National wildlife refuge funds as proposed by the Senate instead of $10,000,000 as proposed by the House.

NORTH AMERICAN WETLANDS CONSERVATION FUND

Amendment No. 19: Appropriates $11,700,000 for the North American wetlands conservation fund instead of $10,500,000 as proposed by the House and $13,000,000 as proposed by the Senate. The managers expect that $500,000 of

the funds provided will be used for the small grant program initiated in fiscal year 1996, and that the amount used for management and administration will be consistent with the authorized level.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Amendment No. 20: Appropriates $1,593,000 for the Volunteers-in-Parks program as proposed by the Senate instead of $2,500,000 as proposed by the House.

Amendment No. 21: Appropriates $1,233,664,000 instead of $1,232,325,000 as proposed by the House and $1,250,429,000 as proposed by the Senate. The conference agreement provides $221,112,000 for resource stewardship, which includes an increase to the amount proposed by the House of $100,000 for the Northwest ecosystem office and decreases to the House proposed level of $300,000 for air quality, $500,000 for abandoned mines, $3,000 for desert mining, and $596,000 for special need parks.

The amount provided for special need parks includes an increase of $920,000 over the amount provided by the House for Gettysburg NMP and a decrease of $1,516,000 which is shifted to other activities consistent with the Senate distribution. The managers intend that the entire $580,000 provided for desert mining be spent at the Mojave National Preserve to hire mineral examiners to begin to clear the existing backlog.

The conference agreement provides $291,080,000 for visitor services. The decrease below the House amount is $769,000 for special need parks.

The conference agreement provides $383,588,000 for maintenance. Increases to the House amount include $2,028,000 for special need parks and $250,000 for ongoing structure stabilization at Dry Tortugas NP. The managers expect this program to be included in the base in future budget submissions. The managers are concerned that these funds be used directly for ongoing masonry work at the park, and not be used to hire additional supervisory personnel.

The conference agreement provides $240,341,000 for park support. Increases to the House amount include $257,000 for special need parks, $300,000 for wild and scenic rivers, $422,000 for social science programs and $350,000 for the National trails system. Within the increase provided for National trails, $50,000 is for the Lewis and Clark Trail office, $200,000 is provided for technical assistance to the Lewis and Clark Trail, $50,000 is for the California and Pony Express Trails and $50,000 is for the North Country Trail. The managers continue to support the $600,000 earmark for the NPS challenge cost share program for the National trails system.

The conference agreement provides $97,543,000 for external administrative costs. This amount includes an increase above the House level of $700,000 for IDEAS and a decrease of $900,000 for FTS 2000.

The managers find the recent reports of excessive construction costs incurred by the National Park Service, and specifically the Denver Service Center, totally unacceptable.

The managers continue to be concerned about the condition of employee housing in the National parks and have provided over $150 million since 1989 to address the problem. However, there have been several General Accounting Office reports in recent years and a March 1996 Inspector General report that raise serious concerns about the high cost of housing that the Service has built in recent years, particularly at Grand Canyon and Yosemite National Parks. The managers do not believe that constructing houses at three times the cost of comparable privately built homes can be justified under any circumstances.

The lack of oversight and accountability, not only in the design and construction of NPS facilities, but also in tempering the mix of desired features sought at the park level, is of great concern. The managers are particularly concerned about the decision making processes leading to the construction of the housing, the lack of effective constraints on the scope and costs of housing as well as other projects, and the role of the Denver Service Center (DSC) in design and oversight. There currently are no incentives at the Denver Service Center or at the individual park level to reduce these cost and save money. The managers are concerned that the current structure of the construction program lacks sufficient justification and explanation of the basis for overhead costs for DSC charged to NPS construction projects. The Park Service should give serious consideration to base funding for the center as opposed to funding center operations from individual construction projects. The managers are also concerned that current methods used to monitor construction projects report only on cost-overruns, and that any cost-efficiencies or savings are rarely reported to the Committees on Appropriations.

The managers have previously raised concerns about the Park Service's management of its employee housing program. The managers appreciate the need for Federally provided employee housing where it is critical to the mission of the specific park. However, in 1993, it became apparent that housing was being provided in parks where it was not mission critical. Yet four years later, there appears to have been little change. In fact, the housing inventory has increased. While the managers realize that the Park Service is presently implementing the 1996 Omnibus Parks Act which requires a park by park assessment, the managers understand that it will take five years to complete, nine years from the time the programs were first identified. This time frame is not acceptable.

The Secretary is directed to appoint a review committee, a majority of whose members shall come from outside the National Park Service, to review the construction practices of the service, with primary emphasis on the role of the Denver Service Center. The report of the review committee, together with recommendations of the Secretary, shall be submitted to the Committees no later than April 15, 1998.

In addition, the managers direct the National Park Servide to take the following actions:

1. Working with independent consultants familiar with design and construction business operations, the National Park Service is to develop design and construction guidelines for all buildings and structures in the Service including employee dwellings, visitor use structures, and administrative and maintenance support facilities. The guidelines should consider comparable facilities in use by the private sector, other Federal land management agencies, and State and local governments. The consultants should identify methods and procedures for the Denver Service Center to reduce design costs, and should consider different ways of procuring contract services and supervising construction, including increased responsibility for supervision and oversight by the park unit and not Denver employees. Internal control procedures must be put in place to ensure that the design guidelines are met once they are adopted by the Service. The guidelines and procedures are to be in place and a full report made to the House and Senate Committees on Appropriations by April 1, 1998.

2. All future line-item construction requests for new and signficiantly rehabilitated structures shall conform to these guidelines. Should the Park Service want to vary from these guidelines, the individual projects shall be submitted to the House and Senate Appropriations Committee for approval.

3. The Park Service also should propose a two-year action plan for reducing its housing inventory. This plan should be provided to the Committees by April 1, 1998, and should include specific inventory reductions based on an amount agreed to by the agency and the Committees. In addition, the managers want to know how the agency intends to hold its managers accountable for achieving these inventory reduction commitments.

4. The managers expect that no request for funds for construction additional employee housing will be considered until these directives are fully implemented.

The managers have included a general provision in Title III regarding the appointment and compensation of officer of the Presidio Trust.

The Presidio Trust is authorized to exercise loan guarantee authority in accordance with the provisions set forth in Public Law 104-333. Pursuant to Public Law 104-333, funds appropriated to the National Park Service for operations at the presidio in San Francisco are to be transferred to the Presidio Trust. The managers do not object to the use of a portion of the funds transferred to provide the necessary loan subsidy for the authorized loan guarantee program.

The managers are concerned that the environmental cleanup proposed by the Department of the Army for the Presidio will not meet the ecological, health and safety criteria appropriate for a National park. As the only base closure to revert to National park use, the managers emphasize the importance of meeting the cleanup levels set by the National Park Service.

In addition to this concern, the managers also express their strong interest in ensuring the timely rededication of the Presidio because of the requirements placed on the Presidio Trust to achieve self sufficiency by a time certain. Without a thorough and timely cleanup of the Presidio, the Trust will experience difficulty in securing the leases necessary to generate revenues to ensure its success.

Substantial philanthropic pledges have been made toward restoration of the Crissy Field area of the Presidio. Any delay in the remediation of this site could jeopardize private funds for the project.

The managers are concerned that the Army's current plans for environmental remediation at the Presidio will present a serious impediment for high public use of the Presidio and protection of its ecological values, and for the Presidio Trust to achieve self sufficiency.

The managers are concerned about the unsafe conditions at the intersection of Virginia State Routes 29 and 234 in the Manassas National Battlefield Park, Prince William County, Virginia, and encourage the National Park Service, consistent with applicable laws pertaining to the management of the park, to cooperate with the Virginia Department of Transportation and Federal Highway Administration officials as safety improvements to the intersection are considered.

NATIONAL RECREATION AND PRESERVATION

Amendment No. 22: Appropriates $44,259,000 for National recreation and preservation instead of $43,934,000 as proposed by the House and $45,284,000 as proposed by the Senate and expands the authority for grants to heritage areas to include sec. 606 of title VI, division I of Public Law 104–333.

The conference agreement provides $8,984,000 for natural programs. This is the same level as proposed by the House. The managers have included $250,000 to continue the Lake Champlain program and $150,000 for ongoing support to the Connecticut River Conservation partnership.

The managers included an additional $200,000 in the river and trails technical assistance program's budget for fiscal year 1997 specifically for the Chesapeake Bay program office in Maryland. These funds were to be used to help local communities and local heritage park partnerships implement their heritage watershed protection plans. Although the managers expect $200,000 to be used for this purpose in each of fiscal years 1997 and 1998, there has been concern over the extremely slow obligation of these funds to the local communities in fiscal year 1997. The managers expect the Park Service to consider the project a high priority and ensure that the funds for both fiscal years 1997 and 1998 are provided to the local communities in an expeditious manner. A report on the status of these funds is to be provided to the House and Senate Appropriations Committees no later than April 15, 1998.

The conference agreement provides $18,899,000 for cultural programs, the same level as the House. This amount includes an increase of $200,000 above the House level for the Native American graves protection program and a reduction of $200,000 below the House level for National Register programs.

The conference agreement provides $6,797,000 for Statutory or Contractual Aid. Changes to the House level include increases of $100,000 for the Aleutian World War II National Historic Area, $325,000 for the Delaware and Lehigh Navigation Canal, $65,000 for the Lower Mississippi Delta, $285,000 for the Vancouver National Historic Reserve, and $300,000 for the Wheeling National Heritage Area; and a decrease of $750,000 for the Alaska Native Cultural Center.

With respect to heritage partnership programs, the managers concur with the approach specified by the House, with the understanding that the areas encompassed in the bill language that do not receive the maximum amount shall each receive no less than $200,000.

HISTORIC PRESERVATION FUND

Amendment No. 23: Appropriates $40,812,000 for the historic preservation fund rather than $40,412,000 as proposed by the House and $39,812,000 as proposed by the Senate. The increase above the House provides $400,000 for grants to Indian tribes. Funds for the HBCU initiative are to be allocated as described in House Report 105–163.

Amendment No. 24: Modifies language proposed by the Senate providing that $4,200,000 for restoration of historic buildings at historically black colleges and universities will remain available until expended. The House had no similar provision.

The managers are aware of efforts by the Villages of Westhampton Beach and Patchogue to rejuvenate their main street business community by refurbishing two historic theaters and turning them into performing arts centers. Toward this end, and to the extent allowed by law, the relevant Federal agencies should consider, through the normal application and review process, any requests for assistance from the Villages as they proceed with their theater improvements.

CONSTRUCTION

Amendment No. 25: Includes language provding that modifications for Everglades National Park are authorized under the construction account as proposed by the Senate. The House had no similar provision.

Amendment No. 26: Appropriates $214,901,000 for construction instead of $148,391,000 as proposed by the House and $173,444,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Acadia NP (carriage roads)	$1,200,000
Acadia NP (upgrade utilities)	2,000,000
Accokeek Foundation (facilities)	200,000
Alaska Native Heritage Center	2,200,000
Amistad NRA (sewer treatment)	750,000
Blackstone River Valley NHC (exhibits/signs)	500,000
Blue Ridge Parkway (administration bldg)	1,500,000
Blue Ridge Parkway (dam repair)	1,100,000
Blue Ridge Parkway (EIS)	300,000
Blue Ridge Parkway (Fisher Peak)	5,235,000
Boston NHP (elevator)	1,600,000
Cape Hatteras NS (lighthouse)	2,000,000
Carisbad Caverns NP (water collection)	3,752,000
Cuyahoga Valley NRA (repair & rehabilitation)	4,500,000
Darwin Martin House (restoration)	500,000
Dayton Aviation NHP (Hoover Print Block restoration)	3,500,000
Delaware Water Gap NRA (dam repair)	900,000
Delaware Water Gap NRA (education facilities)	2,000,000
Delaware Water Gap NRA (trail development)	1,500,000
Denali NP&P (Riley Creek utilities rehabilitation)	4,150,000
El Malpais NM (multi-agency center)	1,500,000
Everglades NP (water delivery)	11,900,000
Everglades NP (water line)	3,000,000
FDR Home NHS (water supply)	1,540,000
FDR Home NHS (Vanderbilt utilities)	1,300,000
Fort McHenry NM and Historic Shrine (wall rehabilitation)	1,200,000
Fort Necessity NB (Jumonville and Braddock access, parking)	955,000
Fort Necessity NB (Washington Tavern access, parking)	1,290,000
Fort Smith NHS (rehabilitation)	3,400,000
Fort Sumter NM (site development)	2,860,000
Gateway NRA (road protection)	4,800,000
Gauley NRA (facilities planning)	750,000
General Grant NM (restoration of grounds and facilities)	900,000
George Washington Memorial Parkway (trail repair)	300,000
Glacier Bay NP&P (wastewater treatment)	1,731,000
Grand Canyon NP (transportation)	2,900,000
Hispanic Cultural Center (arts center)	3,000,000
Hot Springs NP (stabilization, lead abatement)	500,000
Independence NHP (utilities, rehabilitation)	4,300,000
Isle Royale NP (vessel)	2,300,000
Jean Lafitte NHP&P (shoreline stabilization)	2,000,000
Katmai NP&P (rehabilitation)	200,000
Kenai Fjords NP (Seward interagency facility)	300,000
Lake Mead NRA (water system)	4,700,000
Lewis & Clark Trail (trail construction)	300,000
Manzanar NHS (fence repair)	310,000
Marsh-Billings NHP (rehabilitation carrage house)	2,400,000
Minute Man NPH (road/trail)	2,000,000
Mount Rainer NP (employee dorms)	2,452,000
Natchez Trace Parkway (road construction)	5,100,000
National Capital Parks (Washington Monument)	1,000,000
National Capital Parks (Jefferson Monument)	4,500,000
New Bedford Whaling NHP (roof repair)	153,000
New River Gorge NR (access, trails)	2,525,000
Oklahoma City National Memorial (construction)	5,000,000
Penn Center (rehabilitation)	500,000
President's Park (HVAC)	11,500,000
Rock Creek Park tennis facilities (access improvements)	200,000
Rutherford B. Hayes Home (rehabilitation)	500,000
Sequoia NP (facilities)	3,000,000
Shiloh NMP (interpretative center)	1,000,000
Shiloh NMP (bank stabilization)	2,000,000
Sotterly Plantation (restoration)	600,000
Southwest Pennsylvania Heritage Comm. (rehabilitation)	2,000,000
Stones River NB (rehabilitation & trail)	650,000
Timpanogos Cave NM (joint facility)	510,000
Trail of Tears NHT, NC (museum exhibits)	600,000
Trail of Tears NHT, OK (museum exhibits)	600,000
Upper Delaware SRR (aqueduct)	420,000
Vancouver NHR (planning restoration)	2,223,000
Vicksburg NMP (rehabilitation)	1,695,000
Vietnam Veterans Museum, Chicago	1,000,000
Wind Cave NP (elevators)	1,400,000
Wrangell-St. Elias NP&P (headquarters and interpretive center)	400,000
Zion NP (transportation)	3,210,000
Project total	156,761,000

Project	Amount
Emergency unscheduled housing	15,000,000
Planning	17,500,000
General management plan	7,775,000
Equipment replacement	17,865,000
Total	214,901,000

The managers have included $2,200,000 to assist in the construction of the Alaska Native Heritage Center. This completes the Park Service commitment to construction of this project.

The managers have provided $1,500,000 for the El Malpais Multiagency administrative and information center in New Mexico. These funds are to be equally matched with non-Federal funds. This completes the Park Service construction commitment to this project. Funding for exhibits, furnishings and operations should be provided equally by all partners.

The managers have provided $5,000,000, the total Federal commitment, for the proposed Oklahoma City National Memorial. The managers understand that a private trust will be responsible for the operations of this facility.

The managers have agreed to provide $1,000,000 to initiate planning and design for the Corinth, MS, interpretive center at Shiloh National Military Park. The managers encourage the Park Service to keep the total cost of this project as low as possible and to work with the local community and other interested parties to generate a significant non-Federal cost share.

The managers have included $510,000 for planning and design of a joint Park Service and Forest Service facility at Timpanogos Cave National Monument, Utah. The managers understand that the total construction cost for this administrative/information center is $4,500,000. The managers expect future budget submissions to reflect a 50/50 cost share between the Park Service and the Forest Service.

Of the $2,223,000 in construction funds made available for the Vancouver National Historic Reserve, $150,000 is for developing a management plan for the Reserve, pursuant to Public Law 104–333, Section 502; $200,000 is for reconstruction at historic Fort Vancouver; $500,000 is for the removal of airplane hangars and cultural landscape restoration on National Park Service lands; and $1,373,000 is for historic structure surveys, restoration planning, restoration construction, and historic exhibits in the Reserve. Use of funds for and expenses associated with the Jack Murdock Aviation Center should be consistent with the Cooperative Agreement between the City of Vancouver and the National Park Service (agreement number 1443–CA9000–96–01, executed December 4, 1995).

The managers have provided $50,000 for a special resource study for the Charleston school district in Arkansas.

The managers direct the National Park Service to provide the necessary funding from its Federal Highway Lands Program funds to ensure completion of the U.S. Highway 27 Bypass around the Chickamauga-Chattanooga National Military Park no later than December 31, 1999.

The managers have provided $300,000 for the Lewis and Clark Trail Visitor Center. These funds, subject to matching from non-Federal sources, complete the Federal commitment.

Amendment No. 27: Restores language proposed by the House and stricken by the Senate which provides that $500,000 for the Rutherford B. Hayes Home, and $600,000 for the Sotterley Plantation shall be derived from the Historic Preservation Fund; inserts language proposed by the Senate which provides similar authority for $500,000 for the Darwin Martin House and $500,000 for Penn Center; provides that funds for the Hispanic Cultural Center are subject to authorization; prohibits the use of funds to relocate the Brooks River Lodge in Katmai NP&P from its current location; and inserts language providing $1,000,000 to be used for the Vietnam Veterans Museum in Chicago, Illinois.

The managers are providing $300,000 to the National Park Service and $100,000 to the Forest Service to begin the planning and design of a multi-agency facility in Seward, Alaska. The facility will include a convention center for the City of Seward, and office and visitor facility space for the two Federal agencies. The location of the convention center and agency operations in a common building will generate efficiencies and cost savings by providing a single facility that combines administrative and interpretative programs and that streamlines facility operations and maintenance. These funds are being provided with the understanding that the facility will be financed, constructed, owned and operated by the City of Seward. The managers intend that the Federal involvement in this project be limited to funding the planning and design, and that the Federal office and visitor facility space be procured via long-term leases with the City of Seward.

An amount of $400,000 is provided for site preparation for a visitor center in Wrangell-St. Elias National Park and Preserve. The managers are pleased the initial cost estimate of up to $19,000,000 has been scaled down to $4,500,000 and the size of the facility reduced by two-thirds to reduce costs.

The managers note that the City of Galax, VA has donated approximately 1,100 acres of prime land to the National Park Service to be the location for the Fisher Peak Center on the Blue Ridge Parkway. The managers further acknowledge the commitment of a non-governmental, non-profit organization to take responsibility for the operation of all cultural aspects of the center's activities, including acquisition and maintenance of exhibits and payment of fees and expenses for performing artists. Following construction of the center, the Park Service's responsibility for the center will be limited to maintenance of the infrastructure, in accordance with the draft negotiations previously undertaken by the NPS and the non-profit organization. The managers believe the donation of land and the financial contribution represented by the operation of the cultural activities at Fisher Peak over the life of the facility should constitute a non-Federal share for the center of considerably more than 50 percent of the construction cost.

The managers direct the National Park Service to conduct a study, within available funds, on the feasibility of establishing the Androscoggin River Valley as a National heritage area.

The managers have provided $3,000,000 for the Hispanic Cultural Center in Albuquerque, New Mexico, subject to authorization. The managers note that this facility will not be located in or near a unit of the National Park System and therefore encourage that future funding be provided from other Federal or non-Federal sources.

Amendment No. 28: Deletes Senate language directing the reprogramming of funds from the Jefferson National Expansion Memorial to the U–505 National Historic Landmark. The House had no similar provision.

LAND ACQUISITION

Amendment No. 29: Appropriates $143,290,000 for land acquisition instead of $129,000,000 as proposed by the House and $126,690,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	Amount
Appalachian Trail	$4,200,000
Arkansas Post NM, AR	440,000
Aztec Ruins, NM, NM	600,000
Big Cypress NPr, FL	10,000,000
Chattahoochee River NRA, GA	3,000,000
Cuyahoga Valley NRA, OH	4,000,000
Denali NP&P, AK	2,000,000
Everglades NP, FL	66,000,000
Fredericksburg/Spotsylvania NMP, VA	3,500,000
Gauley NRA, WV	950,000
Golden Gate NRA, CA	1,550,000
Hagerman Fossil Beds NM, ID	800,000
Haleakala NP, HI	1,000,000
Indiana Dunes NL, IN	3,000,000
Minute Man NHP, MA	500,000
New River Gorge NR, WV	2,000,000
Olympic NP, WA	3,000,000
Palo Alto Battlefield NHS, TX	900,000
Petroglyph NM, NM	2,000,000
Saguaro NP, AZ	3,000,000
San Antonio Missions NHP, TX	1,500,000
Santa Monica Mountains NRA, CA	1,000,000
Sterling Forest, NY	8,500,000
Stones River NB, TN	1,000,000
Voyageurs NP, MN	650,000
Wrangell-St. Elias NP&P, AK	4,200,000
Aacquisition management	8,500,000
Emergency/hardships	3,000,000
Inholdings/exchanges	1,500,000
State grant assistance	1,000,000
Total	143,290,000

Amendment No. 30: Earmarks $1,000,000 for administering the State assistance program as proposed by the House. These funds are associated with close-out of prior year awards.

Amendment No. 31: Deletes House language providing an earmark for the Sterling Forest.

The amendment also includes language as proposed by the Senate providing the Secretary of the Interior authority to provide Federal land acquisition funds to the State of Florida for the protection of the Everglades and allows for acquisitions within Stormwater Treatment Area 1–E, including reimbursement. Funds are made available for STA 1–E because STA 1–E will be designed and operated to improve the quality of water flowing into the Loxahatchee NWR.

While the managers have agreed to the Senate bill language giving the Secretary of the Interior authority to provide Federal assistance to the State of Florida for land acquisition in the Everglades, the managers agree that completing the Federal acquisitions remains the priority for the use of Federal acquisition dollars. The managers also believe progress should continue on the east buffer.

The managers intend that any funds remaining available for land acquisition for, or development of, the East St. Louis portion of the Jefferson National Expansion Memorial may not be expended until private entities located within the East St. Louis portion of the Memorial have been removed or relocated (using non-Federal funds) for park development purposes. Further appropriations

for this purpose are not likely until these local issues are resolved.

The managers have provided $1,550,000 to purchase the Giacomini Ranch property within the Golden Gate National Recreation Area. These funds, along with the $3,200,000 in State funds, complete this purchase.

The managers have provided funds to complete the purchase of the Gisler property in the Hagerman Fossil Beds National Monument. The purchase of this desirable property from a willing seller should be conducted with all due speed based on an offer to sell dated May 21, 1997.

The managers direct that the funds provided for Stones River National Battlefield may only be spent on acquisitions within the authorized park boundaries as of January 1, 1996.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Amendment No. 32: Appropriates $759,160,000 for surveys, investigations and research instead of $755,795,000 as proposed by the House and $758,160,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $3,000,000 for the global seismographic network, $1,000,000 for volcano hazard studies for Hawaii and Alaska, $2,000,000 for the Alaska minerals at risk project and $500,000 for Great Lakes research; and decreases of $500,000 for biological information management, $135,000 for Caddo Lake (funded under the U.S. Fish and Wildlife Service), and $2,500,000 for the pilot competitive grant research program.

The hypoxia zone in the Louisiana shelf of the Gulf of Mexico has grown to an area of about 7,000 square miles and because of its size and scope is having a significant negative impact on the fishing industry in the Gulf. The managers support the U.S. Geological Survey's research into the causes and effects of the problem. The managers urge the Survey to consider this a high priority in its fiscal year 1999 budget.

The managers expect the current policy with respect to awarding competitive grants to the Water Resources Research Institutes to be continued.

Increased funding for the cooperative research units is provided in order to fill some of the 20 position vacancies that now exist at established units. The managers have not provided any funding to establish new cooperative research units.

Amendment No. 33: Earmarks $2,000,000 for an Alaska mineral and geologic data base as proposed by the Senate. The House had no such earmark.

Amendment No. 34: Earmarks $145,159,000 for the biological research activity and the operation of the cooperative research units instead of $147,794,000 as proposed by the House and $147,159,000 as proposed by the Senate.

Amendment No. 35: Deletes language proposed by the Senate allowing the United States Geological Survey to make payments to local entities for real properties transferred from the Fish and Wildlife Service to the Survey. The House had no similar provision. Language is included under General Provisions, Department of the Interior, to allow the U.S. Fish and Wildlife Service to continue these payments.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

Amendment No. 36: Appropriates $137,521,000 for royalty and offshore minerals management instead of $139,621,000 as proposed by the House and $135,722,000 as proposed by the Senate. Changes to the amount proposed by the House include an increase of $1,200,000 in resource evaluation for the marine minerals resource center program and decreases of $1,000,000 in the OCS lands regulatory program for a clearinghouse for offshore petroleum production information and $2,300,000 in the royalty management program, of which $1,000,000 is for valuations and operations and $1,300,000 is for compliance.

The managers expect the MMS to report on how funds for the marine minerals resource center program will be used to support the MMS mission, and thereafter to keep the Committees advised of how these funds are being used.

The managers are aware that the MMS has received numerous expressions of concern about the proposed new regulations on oil valuation including concerns about the proposed changes in the long standing practice of valuation of hydrocarbon production at the lease where it is brought to the surface; the impact of transportation, administrative costs and other risks if valuation of hydrocarbon production is conducted away from the lease site; and the application of any new regulations retroactively. The managers expect the MMS to continue to consult with industry and the States and to report back to the Committees prior to finalizing this regulation. The managers also intend to explore the possibility of an independent evaluation by the General Accounting Office on this issue and on the issue of royalty in kind.

The managers understand that the MMS needs to acquire geological and geophysical information to obtain the information needed to ensure that fair prices are received on outer continental shelf tracts offered for leasing. This is a responsibility to MMS has to the taxpayers of this country. However, the MMS also has the responsibility of ensuring that company confidential information is protected from disclosure. In finalizing the proposed rule on geological and geophysical information, the MMS should ensure that both of these responsibilities are met and should continue to work with the industry toward that end.

Amendment No. 37: Earmarks $68,574,000 for royalty management instead of $70,874,000 as proposed by the House and $66,175,000 as proposed by the Senate.

Amendment No. 38: Deletes language proposed by the House and stricken by the Senate which would have limited the use of receipts to activities within the outer continental shelf lands program.

Amendment No. 39: Earmarks $3,000,000 to remain available for two fiscal years for computer acquisitions as proposed by the Senate instead of $1,500,000 as proposed by the House.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

Amendment No. 40: Appropriates $95,437,000 for regulation and technology as proposed by the House instead of $97,437,000 as proposed by the Senate. The agreement does not fund the acid mine drainage technology initiative proposed by the Senate.

ABANDONED MINE RECLAMATION FUND

Amendment No. 41: Appropriates $177,624,000 for the abandoned mine reclamation fund as proposed by the Senate instead of $179,624,000 as proposed by the House.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Amendment No. 42: Appropriates $1,528,588,000 for the operation of Indian programs instead of $1,526,815,000 as proposed by the House and $1,529,024,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $1,500,000 for the tribally controlled community colleges, $1,000,000 under non-recurring programs for tribes in South Dakota that intend to run their own welfare programs, and $500,000 for the United Tribes Technical College; and decreases of $427,000 for the Gila River Farms project and $800,000 for trust records management.

The managers have agreed upon a new distribution for tribal priority allocation funding for fiscal year 1998. This distribution is as follows: (1) requested fixed cost increases, internal transfers, and proposed increases to formula driven programs not included in the tribes' TPA base; (2) all tribes are provided a minimum funding level of $160,000; and (3) any remaining funds will be distributed based on recommendations of a task force to be established by the Secretary of the Interior. Other than this agreed upon distribution there are no other earmarks for TPA. A more detailed explanation is provided under General Provisions, Department of the Interior, Amendment No. 65.

Within other recurring programs $600,000 is provided for the Bering Sea Fishermen's Association.

Amendment No. 43: Earmarks $55,949,000 to remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian self-determination fund, land records improvements and the Navajo-Hopi settlement program instead of $59,775,000 as proposed by the House and $59,479,000 as proposed by the Senate.

Amendment No. 44: Inserts language proposed by the Senate allowing tribes to use tribal priority allocation funds for replacement and repair of school facilities, provided that such replacement and repair is approved by the Secretary of the Interior and is completed with non-Federal and/or TPA funds. The House had no similar provision.

The managers have included bill language to allow tribes to use TPA funds for replacement and repair of school facilities. This language requires that tribes comply with applicable building codes, obtain the approval of the Secretary of the Interior for proposed projects, and complete projects with TPA and/or non-Federal funds. The Secretary's approval would be based on the determination that the proposed projects comply with the Bureau's education space guidelines; the Bureau would have the two-year lead time it requires to plan adequately for operation and maintenance costs; and tribes would have adequate funding to complete the project.

CONSTRUCTION

Amendment No. 45: Appropriates $125,051,000 for construction as proposed by the Senate instead of $110,751,000 as proposed by the House. Changes to the amount proposed by the House include increases of $1,800,000 for the Pyramid Lake school, $1,600,000 for the Sac and Fox school, $1,800,000 for the WaHeLut school, and $9,100,000 for the Ute Mountain Ute detention center.

The managers are aware of assistance that has been provided in prior years to the Marty Indian school in South Dakota. To the extent that there are additional high-priority requirements identified for the facilities which service the elementary grades at this location, the Bureau should give consideration to these needs through the emergency or minor repair programs within the educational facility improvement and repair program.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

Amendment No. 46: Appropriates $43,352,000 for Indian land and water claim settlements and miscellaneous payments to Indians as proposed by the Senate instead of $41,352,000 as proposed by the House. Changes to the amount proposed by the House include increases of $1,500,000 for the Pyramid Lake settlement and $500,000 for church restoration on the Aleutian and Pribilof Islands.

Amendment No. 47: Earmarks $42,000,000 for implementation of settlements as proposed by the Senate instead of $40,500,000 as proposed by the House.

Amendment No. 48: Earmarks $1,352,000 for various settlements as proposed by the Senate instead of $852,000 as proposed by the House.

Amendment No. 49: Inserts references to Public Laws 101–383 and 103–402 as proposed by the Senate consistent with the funding earmark in Amendment No. 48.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

Amendment No. 50: Appropriates $67,514,000 for assistance to territories instead of $68,214,000 as proposed by the House and $67,214,000 as proposed by the Senate. The decrease to the amount proposed by the House is $700,000 for technical assistance within the territorial assistance activity.

Amendment No. 51: Earmarks $63,665,000 for technical assistance instead of $64,365,000 as proposed by the House and $63,365,000 as proposed by the Senate.

COMPACT OF FREE ASSOCIATION

Amendment No. 52: Appropriates $20,545,000 for the compact of free association as proposed by the Senate instead of $20,445,000 as proposed by the House. The conference agreement includes $100,000 above the level proposed by the House for Enewetak support.

DEPARTMENTAL MANAGEMENT

The managers agree not to require the Alaska North Slope land exchange assessment mandated in the Senate report.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

Amendment No. 53: Appropriates $24,500,000 for the Office of the Inspector General as proposed by the Senate instead of $24,439,000 as proposed by the House.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

Amendment No. 54: Appropriates $1,000,000 with one-year availability for salaries and expenses of the National Indian Gaming Commission as proposed by the House instead of $1,000,000 to remain available until expended as proposed by the Senate.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

Amendment No. 55: Appropriates $33,907,000 for Federal trust programs in the Office of Special Trustee for American Indians instead of $32,126,000 as proposed by the House and $35,689,000 as proposed by the Senate. There is a general increase of $1,781,000 above the House level.

Within the funds provided for the office of the special trustee $2,197,000 is provided for settlement and litigation support. The managers understand that the demands placed on the office of the special trustee to support activities related to settlement efforts and ongoing tribal and IIM litigation are significant. These activities are critical to ensuring that the Federal government appropriately addresses its past management of Indian trust accounts. The managers expect to be kept apprised of settlement and litigation activities through semiannual reports to the Committees.

Amendment No. 56: Strikes the redundant phrase "for trust fund management" in the description of programs to be funded under the Office of Special Trustee for American Indians as proposed by the Senate.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Amendment No. 57: Deletes language proposed by the House and stricken by the Senate restricting the use of funds for finalizing a rule regulation pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 and inserts language providing that Park Service units participating in the recreation fee demonstration program cover the cost of collecting fees within the funds retained at each unit. The managers note that 80% of all fees collected under the demonstration project are retained by the collecting unit.

Section 107 of the House bill prohibited any agency of the Federal government from implementing any final rules or regulations regarding the recognition, management, or validity of rights of way established pursuant to section 2477 of the Revised Statutes (43 U.S.C. 932). The language of section 107 is identical to section 108 of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208, 110 Stat. 3009–200). The Senate bill or fiscal year 1998 did not contain any provision similar to section 107 because the Senate maintained that section 108 of the fiscal year 1997 Interior appropriations law was intended as, and is, permanent law. The Comptroller General recently reviewed section 108 of the fiscal year 1997 Interior appropriations law and determined that it is permanent law (Opinion B–277719, August 20, 1997). The Comptroller General's opinion is printed on page E1681 of the Congressional Record of September 8, 1997.

The managers agree with the Comptroller General that existing law prohibits any final rules or regulations regarding the recognition, management, or validity of rights of way established pursuant to section 2477 of the Revised Statutes from taking effect until such time as any such rules or regulations are expressly authorized by an Act of Congress. Further, the managers note that noting in the deletion of section 107 or in any provision of the conference report shall be constructed as contradicting or diminishing the permanence of section 108 of the fiscal year 1997 Interior appropriations law or as a subsequent Act of Congress expressly authorizing any final rules or regulations regarding section 2477 of the Revised Statutes to take effect.

Amendment No. 58: Makes a technical correction to House language continuing the moratorium on offshore oil and gas leasing in the North Aleutian Basin as proposed by the Senate.

Amendment No. 59: Modifies House language regarding the ability of Indian tribes, tribal organizations, or tribal consortia to invest advance payments or to allow such payments to be invested in certain mutual funds and securities or to be deposited in certain protected accounts as proposed by the Senate.

The intent of the investment restrictions contained in Section 112 is to limit the types of permissible investments for all funds appropriated and obligated under the Indian Self-Determination and Education Assistance Act and the Tribally Controlled Schools Act. This is to ensure that these funds are available to support the public functions for which these funds were appropriated. The managers believe that these goals will be achieved by barring risky investments such as those in speculative securities, in unsecured financing arrangements, or uncollateralized or uninsured bank accounts. The managers strongly believe that should losses occur, such amounts must be repaid by the tribes.

Amendment No. 60: Inserts language proposed by the House and modified by the Senate concerning severance pay and others benefits by Bureau of Land Management employees in the helium operations program to include certain training benefits and to clarify annual leave restoration provisions as proposed by the Senate.

Amendment No. 61: Restores language inserted by the House and stricken by the Senate stipulating that the establishment of a new regional office in the United States Fish and Wildlife Service requires the advance approval of the House and Senate Committees on Appropriations.

The managers are sympathetic to the Service's argument that the large workload on the west coast is putting a strain on the regional office in Portland, Oregon. The managers believe that the Service's proposal to create a new regional office at a cost of $10 million and more than 120 FTEs may not be the best use of additional resources and staffing. In this conference agreement the managers have been very sensitive to the Service's need to address its large maintenance and operational backlogs in the field. The managers do not want to see a large new bureaucracy drain both funding and staffing increases which are so essential to making on-the-ground improvements as the National refuge system approaches its 100th birthday in the year 2003. The managers note that the Vice President's National Performance Review goals are targeted toward reducing the size of the Federal bureaucracy and empowering employees to take responsibility for their work assignments without a multi-layered review bureaucracy. Therefore, the managers encourage both the Service and the Administration to examine a variety of cost-effective alternatives, including nontraditional alternatives, to deal with the Service's west coast workload problem, such as placing additional personnel in the field. The House and Senate Committees on Appropriations will continue to work with the Service to identify the most appropriate way to address this problem. The managers believe the solution should be part of an overall approach to addressing the operational, maintenance and staffing needs of the Service.

Amendment No. 62: Inserts language conveying the Bowden National Fish Hatchery to the State of West Virginia as proposed by the Senate. The House had no similar provision. This provision is consistent with the hatchery transfer proposal included in the fiscal year 1996 Appropriations Act.

Amendment No. 63: Amends section 115 of Public Law 103–332 to allow agencies in addition to the Department of the Interior to fund cooperative research agreements incrementally with funds provided by other Federal agencies as proposed by the Senate. The House had no similar provision.

Amendment No. 64: Amends Public Law 100–446 as proposed by the Senate to change the annual amount that can be expended for Kili and Ejit at Bikini Atoll and to provide

for inflation adjustments. The House had no similar provision.

Amendment No. 65: Modifies language proposed by the Senate directing the BIA to reallocate tribal priority allocation (TPA) funds. The House had no similar provision.

The managers agree that the current pro rata distribution of TPA, based on historical methods dating to the 1930s, has resulted in great disparity in the funds of the non-formula funded TPA programs, which are referred to as "base" funds. Currently, 309 of the 526 Federally recognized tribes do not receive a base of even $160,000, the minimum level of TPA funding per tribe recommended by the Joint Tribal/BIA/DOI Advisory Task Force on Reorganization of the BIA in its 1994 report. The managers agree that the BIA shall raise the base funding of all tribes not receiving the minimum recommended TPA funding to $160,000 in fiscal year 1998.

The managers understand that the tribes have obligations related to the use of the TPA funds. The managers have provided tribes with full fiscal year 1997 TPA funding, adjusted for all fixed costs and internal transfers, and have provided funding for the proposed increases to the formula driven programs not included in tribes' base.

To the extent that TPA funds remain available for allocation after distribution as directed above, the managers agree that the funds should not be allocated under the current method used by the BIA. The managers direct the Secretary to convene a task force of Federal officials and tribal representatives by October 31, 1997, to determine the allocation of any remaining TPA funds, based on the recommendations and principles contained in the 1994 report. If the task force cannot agree on a distribution consistent with the 1994 report by January 31, 1998, the Secretary shall distribute the funds by February 28, 1998, based on the recommendations of a majority of task force members, or, if no majority recommendation can be reached, considering the recommendations of the task force members. The managers urge the task force and the Secretary, in the event that the Secretary has to distribute the funds without a distribution recommendation supported by a majority of task force members, to consider the inequities in current TPA allocation and the disparate economic situations of the tribes.

Amendment No. 66: Amends Section 116 of Public Law 104–208 as proposed by the Senate to correct citations in the fiscal year 1997 appropriations Act relating to the transfer of a Federal facility in Salt Lake City, Utah, to the University of Utah. The House had no similar provision.

Amendment No. 67: Amends language relating to Kantishna Mining claims acquisition which was set out in the Senate bill. In 1903, gold miners first staked claims in the area known as the Kantishna Mining District. Mining operations continued, and periodically enjoyed a number of boom years, right up through the 1970's. In 1980, the area became part of the National Park System. In 1985, the Park Service was enjoined from approving claim owners' operation plans until an Environmental Impact Statement (EIS) was completed. The preferred alternative in the EIS was for the National Park Service to acquire the claims. Under these circumstances, and subsequent delays and uncertainties, a large majority of claim owners believed that mining operation plans would not be approved. This section is intended to provide both the claim owners and the National Park Service with an expeditious mechanism to resolve these claims. While incorporating the procedures and jurisprudence under the Declaration of Takings Act, this section includes an additional procedure provided under this section for the owner's ability to bring suit.

The managers recognize that there has been significant dispute as to whether there have been takings of mining claims. This section offers consenting owners the opportunity at least to obtain compensation as of 90 days from the day of enactment of this Act, while leaving the takings matter to the parties or the court system to resolve.

The National Park Service is encouraged to use, to the greatest extent feasible, and within reasonable health and safety guidelines and in consultation with the Alaska State Historic Preservation Officer, any equipment or structures not removed by owners that are of an historic nature as part of future exhibits on mining within Denali National Park and Preserve. In addition, the managers encourage the National Park Service to allow appropriate visitor use of the trails and roads created by the miners. Congress does not authorize the National Park Service to use this section to force unwilling sellers off their patented or unpatented land.

The managers have provided funding in the NPS land acquisition account, in part, to pay for administrative work such as validity determinations and appraisals, as well as the review of information received from claim owners pursuant to this section. Such money may also fund the acquisition of claims through Declarations of Takings account.

Amendment No. 68: Modifies language proposed by the Senate which amends Section 1034 of Public Law 104–333 to extend the period for filing by Alaska Native Corporations regarding the land conveyance dispute in Lake Clark National Park and Preserve, AK. The modification permits the introduction of any relevant evidence. The House had no similar provision.

Amendment No. 69: Modifies language proposed by the Senate relating to the computation of the refuge revenue sharing payment to the Kodiak Island Borough. The modification requires the Fish and Wildlife Service to conduct another assessment of the property and to base refuge revenue sharing payments, beginning with the payment to be made in fiscal year 1999, on the new assessment. The House had no similar provision.

Amendment No. 70: Deletes language proposed by the Senate authorizing a National Park Service heritage study of the Androscoggin River Valley, and inserts language authorizing increased assessment fees for the National Indian Gaming Commission, excluding self regulated tribes such as the Mississippi Band of Choctaw. The House had no similar provision.

Amendment No. 71: Amends Section 3 of Public Law 94–392 as proposed by the Senate regarding the ability of the government of the Virgin Islands to issue bonds. The House had no similar provision.

Amendment No. 72: Directs the Secretary of the Interior to take action to ensure that the lands comprising the Huron Cemetery of Kansas City, Kansas, are used only for religious and cultural uses compatible with the use of the lands as a cemetery as proposed by the Senate. The House had no similar provision.

Amendment No. 73: Revises the boundaries of the Arkansas Post National Memorial as proposed by the Senate to include an additional 360 acres and authorizes the Secretary of the Interior to acquire these acres. The House had no similar provision.

Amendment No. 74: Modifies language proposed by the Senate regarding Glacier Bay access to provide for open competition and to limit additional passenger ferry transportation into Bartlett Cove from Juneau to one entry per day. The House had no similar provision.

Amendment No. 75: Amends Title I of Public Law 96–514 under the heading "Exploration of National Petroleum Reserve in Alaska" as proposed by the Senate regarding lease operations and royalty terms. The House had no similar provision.

Amendment No. 76: Inserts language proposed by the Senate prohibiting the Secretary of the Interior from approving any class III tribal-State gaming compacts without the prior approval of a State. It is also the sense of the Senate that the Justice Department should enforce the provisions of the Indian Gaming Regulatory Act. The House had no similar provisions.

The managers agree that this section prohibits the Secretary of the Interior during fiscal year 1998 from adoption specific procedures to authorize and govern Indian gaming activities in any particular State in the absence of a tribal-State compact approved by a State in accordance with State law.

Amendment No. 77: Inserts language which modifies a Senate provision relating to definition regulations of the National Indian Gaming Commission. The modification is intended to make clear that the Commission can gather information relating to the Advanced Notice of Proposed Rulemaking, but not issue draft or final rules. The House had no similar provision.

The managers note that this provision will have no effect on the classification of bingo games, including bingo involving electronic blowers. Such games currently are considered class II and will remain class II under this provision.

Amendment No. 78: Deletes language inserted by the Senate concerning the Youth Environmental Service program and inserts a provision providing for the U.S. Fish and Wildlife Service to continue to make payments to local entities for real Federal properties transferred to the U.S. Geological Survey. The Senate bill addressed the payment provision under the U.S. Geological Survey. The House had no similar provisions. The managers expect the Department to provide the report requested in the Senate amendment dealing with the Youth Environmental Service program not later than 120 days after enactment of this Act.

Amendment No. 79: Includes language proposed by the Senate concerning the conveyance of certain lands managed by the Bureau of Land Management to Lander County, Nevada. The House had no similar provision.

Amendment No. 80: Modifies language proposed by the Senate requiring the sale of certain BLM lands to landowners in Clark County, NV. The House had no similar provision.

Amendment No. 81: Deletes language proposed by the Senate establishing a National Parks and Environmental Improvement Fund and inserts language providing for a National Park Service land exchange of property in the District of Columbia for property in Prince Georges County, MD, for Oxon Cove Park. The managers have addressed the establishment of an environmental restoration fund in Title IV, Amendment No. 162. With respect to the Oxon Cove land exchange, the managers understand that the National Park Service is not liable for the hazardous wastes or other substances placed on the lands.

Amendment No. 82: Modifies language proposed by the Senate regarding the Stampede

Mine Site in Denali NP&P, AK. The House had no similar provision.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

Amendment No. 83: Appropriates $187,944,000 for forest and rangeland research instead of $187,644,000 as proposed by the House and $188,644,000 as proposed by the Senate. Changes from the amounts proposed by the House include a total of $700,000 for the Rocky Mountain station forest health project, an additional $450,000 for the Institute of Pacific Islands Forestry, IH, an increase of $500,000 for the fine hardwoods tree improvement project in association with Purdue University, IN, and $1,500,000 as additional funding for research at the Pacific Northwest station. The agreement retains the Senate positions that no additional funding is provided as a grant for the Northern Arizona School of Forestry forest health project and that $3,000,000 is provided to accelerate forest inventory and analysis focused on States with partnerships.

The managers have included an increase of $300,000 for the Rocky Mountain Research Station for monitoring and research to support the Southwest region wildland ecosystem restoration projects, as developed by a joint region-station project team, that also will include appropriate expertise from other organizations. The managers, recognizing the current controversies surrounding the management of the forests in the Southwest, wish to ensure full participation by all parties in the Southwest ecosystem restoration research effort. The Forest Service shall place a representative of the New Mexico Department of Agriculture and a representative from the range task force at New Mexico State University on any advisory committee or team established for this research project. The Forest Service is directed to submit a draft proposal at the earliest possible date to the House and Senate Committees on Appropriations fully outlining its research plans and more complete details on this proposal, including the duration and multi-year cost estimate.

STATE AND PRIVATE FORESTRY

Amendment No. 84: Appropriates $161,237,000 for State and private forestry instead of $157,922,000 as proposed by the House and $162,668,000 as proposed by the Senate. Changes from the House position include the addition of $500,000 for the Alaska Spruce Bark Beetle task force in the cooperative lands forest health management activity and a reduction of $1,850,000 for cooperative lands fire management. Other changes from the levels proposed by the House include an increase of $2,000,000 for stewardship incentives and $2,000,000 for the forest legacy program, Mountains to Sound Greenway project in Washington State. The Chesapeake Bay program is funded at the fiscal year 1997 level from the forest stewardship activity. The managers encourage the Forest Service to use the stewardship incentives program to enhance sustained commodity production from private lands and aid the nation's supply of forest products and services by using the full range of forest practices authorized for this program. Economic action programs are provided $11,465,000, an increase of $465,000 above the House level. The funds to restore the forestry products conservation and recycling program to the fiscal year 1997 level are provided to maintain the technical assistance for the Princeton Hardwoods Center at the fiscal year 1997 level of $200,000. The economic action program funds should be distributed as follows:

Rural development	$5,000,000
Wood in transportation	1,200,000
Economic recovery	3,850,000
Forestry products conservation and recycling	1,200,000
Columbia River Gorge county payments	215,000

Amendment No. 85: Retains language proposed by the Senate to provide $800,000 in the Pacific Northwest Assistance activity for the World Forestry Center in Oregon to be used to aid the Umpqua River Basin land exchange project as authorized in section 1028 of Public Law 104-333. The House had no similar provision. The managers encourage the project directors to increase funding from private sources so this study can be finished in fiscal year 1998. The managers expect that no further Federal funds will be necessary and that a report detailing the use of these funds and previous Federal funds and the results of the studies will be provided to the House and Senate Committees on Appropriations no later than January 15, 1999. The managers encourage the involved Federal agencies to cooperate fully with the Umpqua River Basin land exchange project to facilitate the goals of the authorized study.

Amendment No. 86: Retains language proposed by the Senate exempting the Alaska Spruce Bark Beetle task force from requirements of the Federal Advisory Committee Act. The House had no similar provision.

INTERNATIONAL FORESTRY

The conference agreement allows the Forest Service to use up to $3,500,000 to support international forestry activities as authorized. These funds may be taken from other appropriations available to the Forest Service. The House and Senate Committees on Appropriations should be informed of the funding mix used. Of this amount, $230,000 is for the international forestry activities of the Institute of Pacific Islands Forestry, an increase of $100,000 over the fiscal year 1997 funding for this activity.

NATIONAL FOREST SYSTEM

Amendment No. 87: Appropriates $1,348,377,000 for the National forest system instead of $1,364,480,000 as proposed by the House and $1,337,045,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $1,000,000 for inventory and monitoring, $500,000 for anadromous fish habitat management and $2,034,000 for grazing management, and decreases of $1,370,000 for inland fish habitat management, $1,000,000 for timber sales management, $1,000,000 for soil, water and air operations, $500,000 for watershed improvements, $767,000 for minerals and geology management, $1,000,000 for real estate management and $14,000,000 for general administration.

The conference agreement includes language in Title III encouraging the Forest Service to release forest planning regulations that have been under development since 1990. Other Title III language governs the Interior Columbia River Basin environmental impact statements but the managers have not set a date certain for public comment periods. The conference agreement directs that the Forest Service not begin any new large scale ecoregional assessments, such as the Interior Columbia Basin study, without the advance approval of the House and Senate Committees on Appropriations. Funding associated with such initiatives should be clearly displayed in the budget explanatory notes. The managers agree that the Forest Service should provide advance notice to the House and Senate Committees on Appropriations if small scale, multi-forest assessments are planned that are not reflected in the annual budget justification.

The managers agree to earmarks proposed by the Senate including $300,000 for the great western trail feasibility study in the Intermountain region and $100,000 for Alaska gold rush centennial exhibits and living history presentations, and an increase of $1,000,000 for trail maintenance in the Pacific Northwest region. The managers expect the challenge cost share funding levels for all activities to follow the budget request, with the addition of $500,000 in both the rangeland and forestland vegetation management activities. The managers agree that a total of $4,000,000 should be used for exotic and noxious plant management, and that the Pacific Northwest region is encouraged to fund the Okanogan and the Colville National Forest activities targeted at the eradication of noxious weeds. The managers note that it appears that Forest Service staff in the Pacific Northwest region has attempted to penalize ranchers in perpetuity for alleged grazing violations. The managers expect that any penalties imposed will reflect the severity of the violation and should not be permanent, and that appropriate agency review of the alleged violations should be undertaken to determine if the penalty is still necessary.

The managers are concerned that commitments made in the President's Pacific Northwest Forest Plan be fulfilled. Accordingly, the managers expect the Forest Service to make available for sale in fiscal year 1998 the timber volume specified in alternative 9 of the Record of Decision of the Final Environmental Impact Statement, as revised. This volume should be no less than 763 million board feet, which includes no more than 10 percent of the volume in the form of products which the Final Environmental Impact Statement defines as "other wood".

The conference agreement earmarks at least $1,000,000 from the land ownership activity to assist resource input to the relicensing of hydropower projects on national forest lands and to update assessments of hydropower project fair market values. The managers agree with the House language directing the Forest Service to use funds generated as a result of 16 U.S.C. 501 promptly for priority road, trail, and bridge maintenance projects to reduce the significant backlog. The report requested by the House on facility, road and bridge maintenance, repair and replacement needs should indicate clearly how this significant source of funds will be used to improve the transportation infrastructure on national forest system lands. The managers reiterate support for cooperative law enforcement agreements and have included funds for this purpose. The managers are aware of a proposed designation of a high intensity drug trafficking area in the Daniel Boone National Forest, KY. Such a designation would provide for enhanced enforcement which would address marijuana production in the Forest. The managers urge the Forest Service to ensure that appropriate law enforcement personnel are provided to support this initiative once approved.

The managers urge the Forest Service to work cooperatively with Lafayette County, Mississippi, officials in making improvements to county road 244 within the Holly Springs National Forest.

The managers have agreed to revised instructions, provided in the Forest Service

administrative provisions, regarding potential Alaska regional office relocations and other Alaska office closures and alterations proposed by the Senate.

Amendment No. 88: Modifies language proposed by the Senate governing the use of national forest system funds for the construction of facilities costing no more than $250,000 to require the advance approval of the House and Senate Committees on Appropriations following established reprogramming procedures. The House had no similar provision.

WILDLAND FIRE MANAGEMENT

Amendment No. 89: Appropriates $584,707,000 for wildland fire management instead of $591,715,000 as proposed by the House and $582,715,000 as proposed by the Senate. The managers agree that $4,000,000 should be used from the fire operations activity for the new fire science and management program to work closely with the similar program at the Department of the Interior.

RECONSTRUCTION AND CONSTRUCTION

Amendment No. 90: Appropriates $166,045,000 for reconstruction and construction instead of $154,522,000 as proposed by the House and $155,669,000 as proposed by the Senate. Increases above the House allowance for recreation roads include $1,000,000 for the Hamma Hamma road in Washington and $800,000 for the Trappers Loop Connector road in Utah.

The managers agree to the following distribution of funds:

Project	*Amount*
Facilities construction:	
Research:	
Inst. Pacific Islands Forestry (HI)	$360,000
Request projects	2,377,000
Subtotal: Research	2,737,000
Fire, Admin., other:	
Boulder Ranger District (CO)	1,000,000
Grey Towers Nat. Historic Site (PA)	2,300,000
Oakridge RD station reconstruction (OR)	4,000,000
Wayne NF supervisor's office (OH)	500,000
Seward RD interagency center (AK)	100,000
Request projects	8,196,000
Subtotal: FAO	16,096,000
Recreation:	
Badin Lake campground (NC)	1,000,000
Barton Flats group campground rehab (CA)	640,000
Chilowee campground rehab (TN)	500,000
Choctaw RD visitor contact center (OK)	445,000
Cradle of Forestry (NC)	1,700,000
Franklin County Dam (MS)	1,000,000
Klahowya campground water system (WA)	50,000
Lake Isabella rehabilitation projects	250,000
Lee Canyon, Tahoe Meadows (NV)	427,000
Midewin National Tallgrass Prairie (IL)	1,600,000
Nantahala NF rehabilitation projects (NC)	400,000
Oklahoma equestrian projects	205,000
Olympic NF campgrounds (WA)	150,000
Pikes Peak Summit House (CO)	1,000,000
Sawtooth NRA Harriman trail structure (ID)	100,000
Spruce Knob repairs (WV)	80,000
Upper Ocoee corridor (TN)	200,000
Waldo Lake rehabilitation (OR)	550,000
Winter Olympic Games 2002 (UT)	1,214,000
Request projects	20,312,000
Subtotal: Recreation	31,823,000
Total facilities construction	50,656,000
Trails Construction:	
Continental Divide Trail (CO)	750,000
Palmetto Trail (SC)	125,000
Sawtooth NRA Harriman Trail (ID)	300,000
Steigerwald Lake (WA)	150,000
Taft Tunnel (ID)	750,000
Tonopah N/S trailhead (NV)	20,000
Request projects	25,200,000
Total Trails Construction	27,295,000
Road Construction:	
Road type:	
Timber Roads	47,400,000
Recreation Roads	27,400,000
General Purpose Roads	13,294,000
Total Road Construction	88,094,000
Total all construction	166,045,000

The managers understand that the Forest Service and the National Park Service have agreed to build and jointly occupy a multiagency facility for administration, operations, and visitor contact in Utah at Timpanogos Cave National Monument and Unita National Forest, Pleasant Grove ranger district. The managers support these cooperative efforts so long as they result in greater efficiency and better public service. The managers have provided funds elsewhere to the National Park Service for planning and design of this project. The managers expect the Forest Service to include an equal share of total construction costs in its fiscal year 1999 budget submission. The managers have included a total of $100,000 in the fire, administrative and other facilities activity for planning assistance to the new interagency facility in Seward, AK. More detailed instructions for the Seward/Kenai Fjords NP facility are provided under the National Park Service construction account in this statement.

Amendmet No. 91: Deletes language proposed by the Senate earmarking $800,000 for the Trappers Loop Connector Road in the Wasatch-Cache National Forest. The House had no similar provision. Funding for the Trappers Loop Connector Road is included in the Forest Service reconstruction and construction account.

Amendment No. 92: Deletes language proposed by the House and stricken by the Senate providing that not to exceed $25,000,000 remain available until expended for the construction of forest roads by timber purchasers. The managers support the instructions regarding timber purchaser road credits proposed by the Senate.

LAND ACQUISITION

Amendment No. 93: Appropriates $52,976,000 for land acquisition instead of $45,000,000 as proposed by the House and $49,176,000 as proposed by the Senate. The managers agree to the following distribution of funds:

Project	*Amount*
Appalachian Trail	$3,000,000
Arapaho (Wedge), CO	350,000
California wilderness	1,500,000
Chattooga watershed, GA–NC–SC	1,000,000
Cleveland (Rutherford Ranch), CA	1,000,000
Columbia River Gorge, WA	8,000,000
Danial Boone & Red Bird, KY	1,000,000
Gallatin (Yellowstone), MT	1,500,000
Green Mt. (Taconic Grest and Vermont Rivers), VT	2,000,000
Hossier, IN	500,000
Jefferson (Guest River Gorge), VA	300,000
Lake Tahoe, NV–CA	900,000
Los Padres (Big Sur), CA	1,000,000
Michigan Lakes & Streams	250,000
Missouri Ozark Mt. Streams	500,000
Mt. Baker (Skagit), WA	700,000
Nantahala (Thompson River), NC	1,200,000
New Mexico Forests	750,000
Ouachita (Cossotot River), AR	500,000
Ozark (Richland Creek), AR	326,000
Pacific NW Streams	2,500,000
San Bernardino, CA	2,000,000
Sawtooth, ID	1,800,000
Sumter (Lake Jocassee), SC	3,250,000
Uinta (Bonneville shoreline trail), UT	500,000
White Mt. (Lake Tarleton), NH	2,650,000
White River (Warren Lakes), CO	700,000
Wisconsin Wild Waterways	2,000,000
Acquisition management	7,500,000
Cash equalization	1,800,000
Wilderness protection	500,000
Emergency acquisitions	1,500,000
Total	52,976,000

COOPERATIVE, WORK, FOREST SERVICE

Amendment No. 94: Appropriates no funding for cooperative work, Forest Service as proposed by the Senate instead of $128,000,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Amendment No. 95: Deletes language proposed by the Senate exempting Alaska relocations and closures from the requirement to obtain consent from the House and Senate Committees on Appropriations. The House had no similar provision.

Amendment No. 96: Earmarks $2,250,000 for Federal financial assistance to the National Forest Foundation instead of $2,000,000 as proposed by the House and $2,500,000 as proposed by the Senate.

Amendment No. 97: Earmarks as maximum of $750,000 for administrative expenses of the National Forest Foundation instead of $500,000 as proposed by the House and $1,000,000 as proposed by the Senate. The managers understand the initial delays during the establishment of the Foundation and encourage the Foundation to work strenuously to fulfill its authorized purpose and to reduce its future dependence on Federal funds for administrative support.

Amendment No. 98: Modifies language proposed by the Senate regarding reorganization and funding of the Forest Service regional office in Alaska. The House had no similar provision.

The managers note that the Tongass National Forest Land Management Plan reduces the timber allowable sale quantity. It is presumed that the Forest Service will tailor its workforce and organization appropriately. The managers are very concerned about the appearance that expenditures for regional office operations and centralized field costs have risen significantly as a proportion of annual appropriated funds since 1993. The managers recognize that the reduced timber volume offer under this plan will create economic hardships for local communities and that imbalance distribution of remaining Federal jobs and spending in the region may compound those hardships. Accordingly the managers expect the regional forester to conduct a regional work load study and to develop a workforce plan that ensures high levels of customer service throughout the region, preserves the regional headquarters in Alaska, evaluates the need to consolidate and/or relocate offices, including regional the regional office to Ketchikan, makes limited use of centralized support activities from other regions or agencies, and provides for implementation by January 1, 2000. Further, the managers expect the workforce plan to reflect the full participation of affected Southeast Alaska communities and to include a community by community assessment of economic impacts and the rationale used by the regional forester to distribute Federal jobs under the workforce plan. The managers expect that the workforce plan will emphasize retention of experienced personnel for accomplishment of Southeast Alaska's multiple-use resource management mission, will make maximum use of local hiring authority, and will be submitted to House and Senate committees with jurisdiction by March 1, 1998, for review and further guidance, if warranted. Any expenditures at the regional office in excess of $17,500,000 from the funds provided to the region shall be preceded by a 60-day notification to the House and Senate Committees on Appropriations.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 99: Appropriates $362,403,000 for fossil energy research and development instead of $313,153,000 as proposed by the House and $363,969,000 as proposed by the Senate. Increases to the amount proposed by the House include $650,000 in coal research to complete the hospital waste project at the veterans hospital in Lebanon, PA; $48,650,000 in natural gas research, of which $45,000,000 is for advanced turbine systems (rather than consolidating all turbine research in the energy conservation account as proposed by the House), $1,000,000 in the gas to liquids program is for alternative cost shared technology needed to foster the commercialization of ceramic membrane processes, $650,000 is for technology development, and $2,000,000 is for fuel cell systems; $350,000 in oil technology, of which $250,000 is for the northern mid-continent digital atlas and $100,000 is for environmental compliance; and $800,000 for cooperative research and development. Decreases to the House proposed level include $1,000,000 for laboratory/industry partnerships and $200,000 for the risk assessment and groundwater protection data base, both in the oil technology program.

The mangers agree to the following:

1. The $300,000,000 included above the budget request relating to the new PM 2.5 air quality regulations is for data monitoring and development of cost effective control technologies or source production science.

2. The amount provided for fuel cell research assumes that at least an additional $6,000,000 will be made available from the fiscal year 1998 National Security appropriation (Army) for molten carbonate fuel cells; the Department should work with the Defense Department/Army to ensure those funds are transferred appropriately.

3. No assumption is made with respect to downselecting from 3 to 2 contractors in the fuel cell program; the Department of Energy should base its decision on available funding and the merits of the 3 existing projects and report to the Committees on that decision.

4. Project funds for the cooperative research and development program should be distributed equally between the participating sites.

5. No additional funds have been provided for the Gypsy field project in oil technology because the Committees have been assured by the Department that sufficient funds are available for the project through fiscal year 1998.

The managers are aware of the Department's request for proposals relating to new fuel cell research. While not directing the fossil energy program to cancel the RFP, the managers are concerned about the potential outyear costs of new initiatives and expect the Department to proceed cautiously in that regard. The managers understand that the RFP is for studies only and that these studies relate to the strategic plan recently developed by the Federal Energy Technology Center.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

The managers are aware of a proposed pipeline from the Great Plains Gasification Plant in North Dakota to an oil field in Saskatchewan, to provide CO_2 for enhanced recovery of oil. The managers believe that such a pipeline should have a positive effect on the long term stability of the plant and should provide further assistance of payments to be made to the Department from the Great Plains operation over the next 7 years. Therefore, the managers do not object to modifying the existing trust agreement with Dakota Gasification Company (DGC) to: (1) provide DGC a loan up to a maximum of $12.5 million subject to confirmation that the balance of funding for the CO_2 project has been committed; (2) provide such a loan at an interest rate equal to the average rate of other loans for the project acquired by DGC; and (3) secure such loan for the benefit of the Federal Government on terms and conditions equivalent to those agreed to by the other lenders.

NAVAL PETROLEUM AND OIL SHALE RESERVES

Amendment No. 100: Appropriates $107,000,000 for the Naval petroleum and oil shale reserves as proposed by the Senate instead of $115,000,000 as proposed by the House. The decrease below the amount proposed by the House is for operations at the Elk Hills Reserve.

The managers agree that unexpended balances and other available assets and resources may be used for the purpose of privatizing the Rocky Mountain Oilfield Test Center. The Center should be fully privatized no later than fiscal year 2001.

The managers do not object to the recent reprogramming request to realign funds to complete the Elk Hills sale and equity determinations at the Elk Hills Reserve. The managers have agreed to this reprogramming with the understanding that this realignment of funds is needed to ensure that the taxpayer receives the best possible price for the reserve when a sale is consummated.

The managers make no assumption with respect to the sale price of the Elk Hills Reserve. The managers expect the Department to ensure that it receives fair value for the taxpayer in consummating the sale.

ENERGY CONSERVATION

Amendment No. 101: Appropriates $611,723,000 for energy conservation instead of $644,766,000 as proposed by the House and $629,357,000 as proposed by the Senate. Increases to the amount proposed by the House include $4,235,000 for building technology, of which $1,535,000 is for the home energy rating system, $100,000 is for advanced desiccant technology, $500,000 is for Energy Star, $100,000 is for highly reflective surfaces, $750,000 is for codes and standards, $1,000,000 is for the weatherization assistance program, and $250,000 is for State energy program grants; $2,797,000 for the industry sector, of which $300,000 is for forest and paper products, $333,000 is for steel, $674,000 is for aluminum, $990,000 is for metal casting, $200,000 is for motor challenge, and $300,000 is for management; and $11,875,000 for transportation of which $350,000 is for clean cities, $575,000 is for infrastructures, systems, and safety, $100,000 is for EPACT replacement fuels, $350,000 is for vehicle field test and evaluation, $500,000 is for systems optimization, $500,000 is for electric vehicles, $2,500,000 is for hybrid propulsion, $1,000,000 is for high power energy storage, $4,000,000 is for fuel cell research and development, and $2,000,000 is for light weight materials. Decreases to the amount proposed by the House include $2,500,000 in building technology of which $200,000 is for industrialized housing, $100,000 is for hi-cool heat pump, $800,000 is for VHF light sources, $400,000 is for volume purchases, $300,000 is for roofs, walls, and foundations, $100,000 is for electrochromic research, and $600,000 is for State and local grants management; $46,600,000 for industry sector programs of which $1,000,000 is for chemicals, $45,000,000 is for utility turbine programs (funded in the fossil energy account), $400,000 is for the national industrial competitiveness through energy, environment, and economics (NICE^3) program, and $200,000 is for inventions and innovations; $2,800,000 for transportation which is for high efficiency engine research and development; and $50,000 in policy and management for information and communications.

The managers agree to the following:

1. Of the funds provided for the home energy rating system, at least $250,000 should be set aside for new States. The Department should report to the Committees as soon as possible on plans to phase out the existing 7 pilot States and the procedures under which new States will be considered for participation in the program.

2. The Energy Star program should be carefully examined in the context of reorganizing and streamlining the buildings program. Marketing efforts should be left to the private sector to fund.

3. In the transportation program, the Department should consider using the gas utilization expertise at the University of Oklahoma to the extent that it fits within program priorities and enhances program goals.

4. No funds are provided to initiate a precollege student vehicle competition program.

5. No funds should be redirected from program funding provided by the Congress unless specifically identified in the budget request or in the Committee reports. Any funding realignments are subject to the reprogramming guidelines contained in the front of House Report 105–163 and Senate Report 105–56.

The managers recognize the economic and environmental benefits that could be realized from successful development of an energy efficient and environmentally benign coke making process. Such a technology could help achieve the environmental goals of this Nation, enhance the international competitiveness of the U.S. steel industry and contribute to improved energy efficiency in the steel industry. Because of the significant potential environmental and energy efficiency benefits, the managers encourage the Department to pursue the development of such a technology, either in the energy conservation program or the fossil energy research and development program, with at least a 50 percent cost share from industry.

Amendment No. 102: Earmarks $155,095,000 for energy conservation grant programs instead of $153,845,000 as proposed by the House and $150,100,000 as proposed by the Senate.

Amendment No. 103: Earmarks $124,845,000 for weatherization assistance grants instead of $123,845,000 as proposed by the House and $129,000,000 as proposed by the Senate.

Amendment No. 104: Earmarks $30,250,000 for State energy conservation grants instead of $30,000,000 as proposed by the House and $31,100,000 as proposed by the Senate.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 104: Appropriates $207,500,000 for operation of the strategic petroleum reserve as proposed by the Senate instead of $209,000,000 as proposed by the House and stipulates that these funds are to be repaid from the sale of SPR oil as proposed by the House rather than potential repayment using excess receipts from the sale of the Elk Hills Naval Petroleum Reserves as proposed by the Senate.

ENERGY INFORMATION ADMINISTRATION

Amendment No. 106: Appropriates $66,800,000 for the Energy Information Administration as proposed by the House instead of $62,800,000 as proposed by the Senate.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Amendment No. 107: Makes a technical correction as proposed by the Senate to correct the public law citation for the Energy Policy Act of 1992.

The managers note that the Department of Energy especially in the energy conservation program activity, has been lax in following the reprogramming guidelines prescribed by the Committees. The managers expect the Department to adhere strictly to those guidelines in fiscal year 1998 and thereafter. Quarterly reporting of accounting data is no longer sufficient.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

Amendment No. 108: Appropriates $1,841,074,000 for Indian Health services instead of $1,829,008,000 as proposed by the House and $1,958,235,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $5,036,000 for fixed costs in the hospital and clinic programs and a $3,000,000 program increase for the diabetes program; $480,000 for fixed costs in dental health, $245,000 for fixed costs in the mental health program, $105,000 for fixed costs in the alcohol and substance abuse program, $27,000 for fixed costs and a $2,000,000 program increase in contract care, $204,000 for fixed costs in public health nursing, $77,000 for fixed costs in health education, $1,000 for fixed costs for community health representatives, $11,000 for fixed costs for urban health, $27,000 for fixed costs and a $400,000 program increase in Indian health professions for the Indians in psychology program, $462,000 for fixed costs in direct operations, and $9,000 for fixed costs for self governance. A decrease of $18,000 below the proposed House level is applied to contract support costs related to a transfer of funds to the facilities account.

Within the $400,000 increase for the Indians in psychology program, $200,000 is earmarked for the University of Montana.

Amendment No. 109: Earmarks $361,375,000 to remain available for two fiscal years for contract medical care instead of $358,348,000 as proposed by the House and $362,375,000 as proposed by the Senate.

Amendment No. 110: Deletes the Senate earmark for the Office of Navajo Uranium Workers and inserts language placing a cap of $168,702,000 on contract support costs in the Indian Health Service, services account. The House had no similar provision.

INDIAN HEALTH FACILITIES

Amendment No. 111: Appropriates $257,538,000 for Indian health facilities instead of $257,310,000 as proposed by the House and $168,501,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $100,000 for the Montezuma Creek health clinic in Utah, $40,000 for fixed costs for sanitation facilities and $588,000 for fixed costs for facilities and environmental health support; and a decrease of $500,000 for modular dental units. Bill language related to the environmental health and facilities support activities included in the House bill but stricken in the Senate bill is retained.

The managers understand that additional funds may be necessary to complete design for three health facility projects that are in the preconstruction phase, and encourage IHS, HHS and OMB to include funding in the fiscal year 1999 budget submission to complete design for the Winnebago Hospital, NE, and the outpatient facilities at Parker, AZ, and Pinon, AZ.

In the fiscal year 1994 Interior Appropriations conference report, the managers agreed that the $465,000 unobligated balance remaining from the Phoenix area regional youth treatment center project was to be used for planning and construction of a satellite facility at an alternate site in Nevada. The managers are concerned about delays in reaching agreement on the issues associated with further progress on this project, and urge the IHS to work with the Washoe Tribe. The managers are aware of the Washoe Tribe's proposal to locate this facility in Gardnerville, Nevada, which has been determined as the alternate site for the treatment center, and encourage IHS to reach closure with the tribe so that services can be provided as soon as possible.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Amendment No. 112: Strikes House language and inserts Senate language on the disposition of funds for transferred functions which tribal contractors no longer wish to retain.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Amendment No. 113: Appropriates $15,000,000 for salaries and expenses of the Office of Navajo and Hopi Indian Relocation as proposed by the Senate instead of $18,345,000 as proposed by the House.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

Amendment No. 114: Appropriates $4,250,000 for payment to the Institute of American Indian and Alaska Native Culture and Arts Development instead of $3,000,000 as proposed by the House and $5,500,000 as proposed by the Senate.

The managers agree that fiscal year 1999 will be the last year Federal funding will be provided.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Amendment No. 115: Appropriates $333,408,000 for salaries and expenses of the Smithsonian Institution instead of $334,557,000 as proposed by the House and $333,708,000 as proposed by the Senate. The difference from the amount proposed by the House consists of decreases of $138,000 for museums and research institutes and $1,011,000 for facilities services, which includes a reduction of $300,000 for utilities.

REPAIR AND RESTORATION OF BUILDINGS

Amendment No. 116: Appropriates $32,000,000 for repair and restoration of buildings as proposed by the Senate instead of $50,000,000 as proposed by the House.

CONSTRUCTION

Amendment No. 117: Appropriates $33,000,000 for construction as proposed by the Senate. The House proposed no funding. This amount includes $4,000,000 to complete funding for planning and design of the Dulles extension of the National Air and Space Museum and $29,000,000 to begin the first phase of construction for the National Museum of the American Indian Mall Museum.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

Amendment No. 118: Appropriates $6,192,000 for repair, restoration and renovation of buildings instead of $6,442,000 as proposed by the House and $5,942,000 as proposed by the Senate. The reduction from the House level is to be taken from the increase provided for backlog maintenance needs.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

Amendment No. 119: Appropriates $5,840,000 for salaries and expenses of the Woodrow Wilson International Center for Scholars as proposed by the Senate instead of $1,000,000 as proposed by the House. The managers agree to the following distribution of funds:

Fellowships	$920,000
Scholar support	634,000
Public service	1,516,000
Administration	1,247,000
Smithsonian fee	139,000
Conf./Outreach	909,000
Space	475,000

The managers remain concerned about the serious deficiencies in the Center's management and organization as outlined in the National Academy of Public Administration (NAPA) review. That review outlines 27 specific recommendations for corrective action. The managers will continue to monitor carefully the Center's progress in addressing the critical recommendations, including establishing a clearly defined mission, improving the process for selecting fellows and involving them in relevant debates on public policy issues, and improving the connection between the Center's fellows and the public programs. To that end the Inspector General

also has been asked to oversee the Center's implementation of the NAPA recommendations and report to the Committees.

While the managers are encouraged that there have been changes in the management of the Center, and an Interim Director has been named to oversee the-day-to-day operations of the Center, they also strongly encourage the Center's Board to take a more active role in guiding the Center. The managers also strongly encourage the search committee to expedite the search for a new Director, The Center should keep the goal of bridging the gap between the worlds of scholarship and public policy in the forefront of its mission and increase the interaction between the fellows, the programs and the public policy makers.

In allocating funds provided to the Center, the managers have sought to help implement one of the NAPA recommendations by deciding a greater portion of appropriated funds to public service program. encourage public knowledge, education, understanding and appreciation of the arts and have agreed that the Endowment should stress service to underserved populations. The conference agreement also reduces the size of the National Council of the Arts, but adds 6 Members of Congress to the Council.

The managers have agreed to $31,822,000 for program grants instead of $37,435,000 as proposed by the Senate. The conference agreement provides $25,486,000 for State grants instead of $22,250,000 as proposed by the Senate and $6,952,000 for the State set-aside instead of $6,069,000 as proposed by the Senate. The managers also encourage the NEA to consider carefully the merits of various non-professional grant applicants when making awards and to not award grants only to professionals. The managers have agreed to a reduction of $566,000 for administration compared to the level proposed by the Senate and agree that further administrative streamlining may be warranted in future years. The NEA should develop a proposed structuring of the administrative budget of the agency that more accurately reflects the Endowment's various functions and activities, such as executive direction, costs for grant review by NEA, panel review and Council costs, outreach, computers, policy and planning and other elements funded from administrative dollars. Other NEA issues are discussed under Amendments No. 139, 140 and 156.

MATCHING GRANTS

Amendment No. 122: Appropriates $16,760,000 for NEA matching grants as proposed by the Senate instead of zero as proposed by the House.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

Amendment No. 123: Appropriates $96,800,000 for grants and administration of the National Endowment for the Humanities as proposed by the Senate instead of $96,100,000 as proposed by the House. The agreement includes $700,000 above the House level as proposed by the Senate for fixed cost increases.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

Amendment No. 124: Appropriates $23,280,000 for grants and administration of the Office of Museum Services instead of $23,390,000 as proposed by the House and $22,290,000 as proposed by the Senate. Program funds are provided to support the following activities: $16,060,000 for operations; $3,130,000 for conservation; $2,200,000 for services to the profession; and $1,890,000 for administrative costs. From services to the profession, the managers provide $1,000,000 for National Leadership Projects that are collaborative museum/library endeavors.

COMMISSION OF FINE ARTS

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

Amendment No. 125: Appropriates $7,000,000 for National capital arts and cultural affairs grants as proposed by the Senate instead of $6,000,000 as proposed by the House.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

Amendment No. 126: Appropriates $2,745,000 for salaries and expenses of the Advisory Council on Historic Preservation as proposed by the Senate instead of $2,700,000 as proposed by the House.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

Amendment No. 127: Appropriates $5,740,000 for salaries and expenses of the National Capital Planning Commission (NCPC) as proposed by the Senate instead of $5,700,000 as proposed by the House. The managers agree that the Commission should participate in the operation of the Washington Geographic Information System project. However, the managers do not intend for the NCPC to become the primary operator of this system nor should funds appropriated under this Act be used to promote that purpose. If funds are available from other sources, the NCPC is encouraged to apply its special planning expertise to the project and collaborate in the operation of such a system.

TITLE III—GENERAL PROVISIONS

Amendment No. 128: Modifies language proposed by the House and stricken by the Senate continuing the moratorium on the use of funds for preparing, promulgating, implementing or enforcing interim or final rules or regulations dealing with the management of subsistence fishing in Alaska waters. The modification continues the moratorium through December 1, 1998, and amends the Alaska National Interest Lands Conservation Act.

The language contains four subsections. Subsection (a) prohibits the Federal government from asserting jurisdiction, management or control prior to December 1, 1998, over the navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act or Alaska Statehood Act.

Subsection (b) amends the Alaska National Interest Lands Conservation Act (ANILCA) in a number of ways. Subsection (2) clarifies that the term "Federal land" in ANILCA does not include lands owned by the State of Alaska, or Native Corporations or other private owners. Neither subsection (2) nor any other provision of this section overturns, or shall be construed to overturn the decision of the Ninth Court of Appeals in *State of Alaska v. Babbitt* (73 F.3d 698) (commonly known as the Katie John case).

Subsection (c) contains a savings clause specifying that neither this section nor amendments made by this section in any way affect assertions of Native governmental authority over lands or persons, the existence or nonexistence of Indian country, whether or not ANILCA is Indian Law, or the Secretary of the Interior's authority under section 1314(c) of ANILCA.

Subsection (d) specifies that amendments made by subsection (b) shall only be effective for the purposes of determining whether the State of Alaska's laws provide for the definition, preference, and participation required in sections 803, 804, and 805 of ANILCA, including as amended by this section, unless and until laws are adopted in the State of Alaska which provide these things. Subsection (d) specifies that the amendments made to ANILCA by subsection (b) will be repealed on December 1, 1998, unless such laws are adopted in Alaska by December 1, 1998.

Amendment No. 129: Deletes language proposed by the House and stricken by the Senate regarding the export of timber from the western United States and inserts language making a technical correction to the Hudson River Valley National Heritage Area legislation.

Amendment No. 130: Modifies language proposed by the House and modified by the Senate regarding funding for the office of western director and special assistant to the Secretary of Agriculture to provide that funding from this Act for the office is allowed up to the amount provided from this appropriation in fiscal year 1997.

Amendment No. 131: Retains language proposed by the House limiting competition on watershed restoration contracts for the "Jobs in the Woods" component of the President's Forest Plan for the Pacific Northwest in fiscal year 1998. The Senate proposed making the provision permanent.

Amendment No. 132: Modifies language proposed by the House and stricken by the Senate which permits all fees collected through the recreation fee demonstration program to be used by the collecting agency. The modification adds language stipulating that the National Park Service should pay administrative costs for collecting fees from the funds that are retained by each collecting unit.

Amendment No. 133: Modifies House language as proposed by the Senate limiting the use of recreation fees to construct visitor centers or other permanent structures, to permit such construction if the total estimated cost does not exceed $500,000.

Amendment No. 134: Modifies language proposed by the House and stricken by the Senate on the Interior Columbia River Basin. The modified language instructs the Secretaries of Agriculture and the Interior concerning the Interior Columbia River Basin draft environmental impact statements (DEIS). The managers remain extremely concerned about the huge cost and time involved in this project, but the managers want to see the project come to a conclusion. The managers also are concerned that additional social and economic analyses are required and that the Administration has not been forthcoming regarding the potential impacts that the implementation of the projects may eventually have on this large area of the West. The bill language provides that the Secretaries will report to the Congress on the estimated impacts of the proposed project. As a result of the revised bill language concerning additional analysis to be conducted for the projects, the managers expect that additional time will be required for public comment on the DEIS but the managers do not specify a time for the comment period. However, the managers expect the agencies to address fully the implementation of these projects in their fiscal year 1999 budget justifications and convey to the Congress a sense of the scope, impact and cost for implementation.

Amendment No. 135: Deletes language proposed by the House and inserts alternative language proposed by the Senate that establishes a framework for Alaska native governance of the Alaska Native Medical Center.

Amendment No. 136: Inserts language which modifies a Senate provision precluding Alaska native villages from entering into a compact or contract which would withdraw funds out of the Alaska native regional health care corporations, changes a date in the provision, and amends the Coast Guard Authorization Act of 1996 to reflect a change in the use of property transferred to a native village. The House had no similar provision.

The managers have changed the effective date in this section to permit an existing contract with the Indian Health Service to be executed. The managers also have added a subsection making changes in a land conveyance to the Ketchikan Indian Corporation to reflect agreed to changes regarding the use of the property.

Amendment No. 137: Amends language inserted by the House and stricken by the Senate regarding the eviction of certain people from property in Sleeping Bear Dunes National Lakeshore. The revision allows the National Park Service to pursue such evictions provided that 90 days notice is given and provided that funds are available for the removal of the structures to be vacated. Fair market value rates will be charged while any occupancy continues beyond an expired reservation.

Amendment No. 138: Amends language included by the House and stricken by the Senate to prohibit agencies funded in this bill from expending funds for the nomination of sites under the Man and Biosphere Program until legislation specifically authorizing this program is enacted. With regard to both the World Heritage and Man and Biosphere programs, the managers agree that designation of U.S. sites under these programs cedes absolutely no authority to the United Nations or other international organizations, and should not be construed as imposing any new land use restrictions on lands included in either program. The managers further agree that agencies involved in both of these programs should redouble efforts to involve the public fully in deliberations over possible designations.

Amendment No. 139: Includes language proposed by the Senate restricting grant making to individuals, sub-granting, and seasonal support by the National Endowment for the Arts. The House had no similar provision.

Amendment No. 140: Inserts language proposed by the Senate authorizing the National Endowment for the Arts and the National Endowment for the Humanities to raise funds and deposit them in special interest bearing accounts for future use. The House had no similar provision. The managers believe that it is appropriate to provide the agencies with this ability, particularly in light of recent program reductions and discussions within Congress to establish a supplemental endowment fund. The managers intend that this new authority be used to augment the Federal contribution to the endowments. The managers also recognize that there is a potential for traditional arts and humanities fundraising efforts to be affected by NEA and NEH's use of this authority. Thus, the endowments should seek to tap new sources of support for the arts and humanities and not pursue a shift of private giving from the non-Federal to the Federal arts and humanities communities.

Amendment No. 141: Inserts language proposed by the Senate providing for reciprocal delegations of authorities between the Secretaries of the Interior and Agriculture for the management of public lands and forests. The House had no similar provision.

Amendment No. 142: Modifies language proposed by the Senate concerning a limitation of funding for any activities associated with national forest land management planning. The modification allows those plans currently in the revision process or under court order to proceed. The House had no similar provision.

The managers agree that the forest planning regulations which the Forest Service has written, but no implemented, are long overdue. The managers are concerned that the Secretary's decision to appoint a panel of scientists to study further the land management planning process will result in continued and unacceptable delay, and therefore the managers strongly urge the Secretary to issue new rules in at least an interim form while the panel conducts its review. The managers agree that a final rule should be published promptly and that the forest planning revision process should proceed in an orderly and efficient manner so that forest plans reflect current social, economic and resource conditions. Consequently, the managers have provided bill language which requires that no funding for new forest plan revisions be provided until a new rule is published. The new planning rule may be either interim or final. National forests which published a Notice of Intent to Revise their plan by October 1, 1997, or are court ordered, are exempt from this restriction. The managers agree that national forests may continue to amend existing forest plans following established procedures.

Amendment No. 143: Modifies language proposed by the Senate that prevents funding from being used to complete or issue the five year program under the Forest and Rangeland Renewable Resources Planning Act (RPA review). The House had no similar provision.

The managers are concerned about the duplication between the requirements for developing a strategic plan under the Government Performance Results Act (GPRA) and the RPA review. The managers encourage the Forest Service to work diligently to make the GPRA process successful, and to more efficiently use resources which otherwise may have been spent on the duplicative RPA review.

Amendment No. 144: Modifies language proposed by the Senate concerning cooperative agreements for watershed restoration and enhancement by limiting the application of the provision to fiscal year 1998 rather than making the provision permanent as proposed by the Senate. The House had no similar provision. The managers encourage the Forest Service to use this authority carefully for new projects so that they do not displace higher priority work on national forest system lands.

Amendment No. 145: Amends the Franklin Delano Roosevelt commission statute (69 Stat. 694) as proposed by the Senate to provide for the termination of the commission and for the use of unexpended funds for maintenance, repair, interpretation, and education. The House had no similar provision.

Amendment No. 146: Modifies language inserted by the Senate concerning priority land exchanges within the White Salmon Wild and Scenic River boundaries and within the Columbia River Gorge National Scenic Area by limiting the Secretary's authority to facilitate the transfers to September 30, 2000. The Senate proposed permanent authority. The House had no similar provision.

Amendment No. 147: Adjusts the boundaries of the Wenatchee National Forest in Chelan County, Washington, as proposed by the Senate. The House had no similar provision.

Amendment No. 148: Inserts language proposed by the Senate restricting the use of funds by the Department of Energy for the Center of Excellence for Sustainable Development without the approval of the House and Senate Committees on Appropriations. The House had no similar provision.

The managers are concerned that the Department of Energy established the Center of Excellence for Sustainable Development without justification and approval through the budget process. The information provided in response to Committee questions on the center has been slow in coming and less than candid. The Committees will review the merits of this program in the context of fiscal year 1999 budget priorities. In the meantime the managers expect the Department to use the funds and staffing devoted to this effort to work on the programs approved in the fiscal year 1998 budget. The Department should report to the Committees by October 30, 1997, on how it intends to comply with this direction. The managers caution the Department that incomplete and inaccurate information in this regard is unacceptable. The managers further expect the Department to disclose fully any other instances in which programs have been started without approval through the budget process. The fiscal year 1999 budget request must clearly identify each program to be funded in the appropriate activity. Initiatives by the Assistant Secretary should be clearly identified and justified in the policy and management account.

Amendment No. 149: Limits the use of funds to amend or replace Bureau of Land Management regulations on surface mining as proposed by the Senate. The House had no similar provision.

Amendment No. 150: Modifies language inserted by the Senate conveying the Wind River Nursery site to Skamania County, Washington, in exchange for approximately 120 acres of county land. The House had no similar provision. The new language authorizes the Secretary of Agriculture to negotiate with Skamania County for the exchange of the Wind River Nursery site for county owned lands in the Columbia River Gorge National Scenic Area. During a two-year period ending September 30, 1999, the nursery is not to be conveyed to another party and is to be maintained in a tenantable condition by the Forest Service. The exchange is to be for equal value, however, the Secretary may accept services from the County in lieu of cash as the Secretary deems appropriate and the County may make cash payments in installments not to exceed a period of 25 years. The managers expect that future agreements should protect natural, cultural and historic values, the existing administrative sites, and a scenic corridor for the Pacific Crest National Scenic Trail as well as the continued research on the Wind River Experimental Forest and the T.T. Munger Research Natural Area. If the Secretary and the County fail to reach an agreement on an equal value exchange as defined in the section, the nursery site shall remain under Forest Service ownership and be maintained by the Forest Service in a tenantable condition.

Amendment No. 151: Deletes language inserted by the Senate exempting residents in communities which receive lower-than-authorized PILT payments from paying user fees under the recreation fee demonstration program for the White Mountain National

Forest in New Hampshire and inserts language renaming Walnut Creek NWR, IA as the Neal Smith National Wildlife Refuge.

Amendment No. 152: Modifies language proposed by the Senate restricting the use of funds for introduction of grizzly bears in the Selway-Bitteroot area of Idaho and Montana and for certain consultations under section 7(b)(2) of the Endangered Species Act. The House had no similar provision. The modification to the Senate language allows the Fish and Wildlife Service to publish a Record of Decision on the Environmental Impact Statement.

The managers understand that the Fish and Wildlife Service will not introduce any grizzly bears into the Selway-Bitteroot area in fiscal year 1998 and expect the Service to continue and intensify its public outreach and consultation efforts in the area.

Amendment No. 153: Modifies language proposed by the Senate concerning increases in fees charged by the Forest Service for recreation residence special use permit holders. The modification provides that fee increases which are in excess of 100% of the previous year's fees should be phased in over a three-year period in equal annual installments. The House had no similar provision.

Amendment No. 154: States the Sense of the Senate that Civil War battlefields should be preserved and should be given special priority in land acquisition. The House had no similar provision.

Amendment No. 155: States the Sense of the Senate that hearings should be conducted and legislation brought forward during this Congress addressing the issues of Federal and private sector funding for the arts and any needed modifications to the current funding mechanism. The House had no similar provision.

Amendment No. 156: Amends language proposed by the Senate to include additional reforms to the National Endowment for the Arts. The section provides, as proposed by the Senate, that the Endowment should give priority in making grants and awards to underserved populations. The House had no similar provision. In addition, the conference agreement has added a provision that gives priority to grants which encourage public knowledge, education, understanding and appreciation of the arts. The amendment also limits funding for any one State to no more than 15% of the total grants available during the fiscal year. Grants with a national impact, or which are applicable to several States, are exempted from the calculation.

Finally, the conference agreement revises the current size and composition of the National Council of the Arts. The reform reduces the total of Presidential appointments to the Council from 26 to 14 and adds 2 Representatives appointed by the Speaker of the House, 1 Representative appointed by the Minority Leader of the House, 2 Senators appointed by the Majority Leader of the Senate and 1 Senator appointed by the Minority Leader of the Senate. To allow a smooth transition to this new Council, existing members are allowed to serve out their terms. Congressionally appointed members are to serve in an ex officio capacity for two-year terms beginning in odd numbered years; however, initial appointments shall be made by December 31, 1997, with terms expiring December 31, 1998. The managers agree that Congressional members of the Council shall be non-voting on matters involving application review and grant selection, but may provide advice and counsel on broader issues of policy and procedure. As Presidentially appointed members' terms expire, new members may not be appointed by the President until the Council membership falls below 14. The managers intend that the newly comprised Council work diligently with the Chairperson of the NEA to foster public service that is more sensitive to the needs and desires of the nation.

Amendment No. 157: Modifies language proposed by the Senate directing the Forest Service to develop export policy and procedures on the use of Alaskan western red cedar and domestic processing. The House had no similar provision. The managers are very concerned that Alaska western red cedar is being exported despite significant domestic processing demand within the contiguous United States. The new language specifies conditions under which Alaska western red cedar will be made available for domestic processors in the contiguous United States at domestic rates. The managers are hopeful that these changes will allow greater use of western red cedar from Alaska in the contiguous 48 States. The managers have also included language which specifies that Forest Service timber sale accomplishments in Alaska will be based on volume sold and that all Alaska yellow cedar may be sold at export rates at the election of the timber sale holder. The managers direct the Forest Service to implement this policy no later than January 1, 1999.

Amendment No. 158: Deletes Senate language providing that $4,000,000 from previously appropriated emergency funds be used for reconstructing the Oakridge Ranger Station in Oregon, contingent upon a Presidential declaration and Congressional designation of an emergency, and inserts language restricting the use of funds for redevelopment of Pennsylvania Avenue. Funding for reconstructing the Oakridge Ranger Station has been included in the Forest Service reconstruction and construction account.

The amendment inserts language prohibiting the expenditure of any funds related to the redevelopment of Pennsylvania Avenue, including planning, without prior approval from the Committees. The managers believe that this project should not be initiated in fiscal year 1998 without the concurrence of Congress. The managers understand that this project will cost some $40,000,000 and are not inclined to provide additional resources at this time even for planning. The managers also are concerned that funds previously expended for planning on this project which were to be reimbursed by other Federal agencies have never been repaid. Given the significant backlog in critical repair and maintenance needs that the National Park Service has identified, this project should not commence until it has been carefully considered against other National Park Service priorities.

Amendment No. 159: Limits the use of funds as proposed by the Senate to implement guidelines or adjust plans for National Forests in Arizona and New Mexico. The House had no similar provision.

Amendment No. 160: Amends section 6901(2)(A)(i) of title 31, United States Code as proposed by the Senate to include populations of cities within unorganized boroughs of Alaska for the purposes of PILT. The House had no similar provision.

Amendment No. 161: Amends section 103(c)(7) of Public Law 104-333 as proposed by the Senate to provide for the appointment and compensation of officers of the Presidio Trust. The House had no similar provision.

TITLE IV

Amendment No. 162: Deletes language proposed by the House and stricken by the Senate which would have established a deficit reduction lock-box ledger in the Congressional Budget Office and inserts language establishing an environmental restoration fund.

The managers have agreed to establish an environmental restoration fund with the interest accrued to such fund to be used, subject to appropriation, to address deferred maintenance needs of the Bureau of Land Management, the U.S. Fish and Wildlife Service, the National Park Service and the Forest Service; to provide for payments to the State of Louisiana and its lessees for oil and gas drainage in the West Delta field; and to carry out marine research activities in the North Pacific. The fund is a modification of the National Parks and Environmental Improvement Fund proposed by the Senate in Amendment No. 81. The land acquisition element in the original proposal has been removed.

TITLE V—PRIORITY LAND ACQUISITIONS, LAND EXCHANGES, AND MAINTENANCE

Amendment No.163: Modifies language proposed by the Senate that provides funding for priority land acquisitions and exchanges. The House had no similar provision. The modifications to the Senate language provide for a total fund of $699,000,000 and make a portion of these moneys available for critical maintenance needs.

The managers have provided funds for high priority land acquisitions and exchanges as requested by the Administration despite serious reservations about two particular acquisitions—the Headwaters Forest in California and the Crown Butte/New World Mine in Montana (near Yellowstone National Park). Because of the many uncertainties surrounding these acquisitions, the managers have agreed to bill language outlining the specific requirements that must be met before the acquisitions can be consummated.

The managers agree that legislation authorizing the Headwaters Forest acquisition should require a current appraisal, require a completed Environmental Impact Statement on the habitat conservation plan, cap the Federal commitment at the negotiated $250,000,000, address the issue of public access and require that the State of California's $130,000,000 cost share be available before release of the Federal funds. The managers, at the request of the Administration, have agreed that the Secretary of the Interior may issue an opinion of value for the acquisition. The Secretary's opinion of value may serve as the basis for the acquisition price but any difference between the appraised value and the Secretary's opinion of value should be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

Funding for the New World Mine acquisition is capped at $65,000,000 and the managers believe this acquisition also should have a current appraisal. The Secretary of Agriculture may issue an opinion of value for the acquisition. The Secretary's opinion of value may serve as the basis for the acquisition price but any difference between the appraised value and the Secretary's valuation should be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations.

Both the Headwaters Forest appraisal and the Crown Butte/New World Mine appraisal should conform to the Department of Justice

"Uniform Appraisal Standards for Federal Land Acquisitions" and other applicable laws and regulations governing Federal land acquisitions. The Comptroller General must review both appraisals, including an examination of the methodology and data used in conducting the appraisals. The Comptroller General should submit the results of each of those reviews to the appropriate Secretary and to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources, and the House and Senate Committees on Appropriations.

With respect to the remainder of the $699,000,000, the managers have agreed to make these funds available with the understanding that they will be used over the next four fiscal years for high priority land acquisitions and exchanges, to address the critical repair and restoration needs of the four land management agencies, and for other purposes consistent with the Land and Water Conservation Fund statute. The managers agree to allocate the remaining $384,000,000 as follows: $10,000,000 for a payment to Humboldt County, California as part of the Headwaters Forest land acquisition; $12,000,000 for repair and maintenance of the Beartooth Highway as part of the Crown Butte/New World Mine land acquisition; and $272,000,000 to the Department of the Interior and $90,000,000 to the Forest Service for other priority land acquisitions and critical maintenance needs.

The Secretaries of Agriculture and the Interior should submit requests for the use of the remaining land acquisition and maintenance funds to the Committees for approval following reprogramming procedures. The managers encourage the Secretaries to emphasize the critical maintenance backlogs that they have identified on the public lands, which total more than $2 billion for the Forest Service and approximately $7 billion for the land management agencies in the Department of the Interior. Requests for additions to the public lands base should be evaluated carefully, and priority should be given to those acquisitions which complete a unit, consolidate lands for more efficient management, or address critical resource needs.

The funds provided for a payment to Humboldt County and the funds provided by repair and maintenance of the Beartooth Highway are included because of the unusual circumstances associated with the Federal acquisition of the Headwaters Forest and the Crown Butte mining interests. The managers do not intend Land and Water Conservation Fund moneys to be used for these purposes in the future nor to imply that Federal land acquisitions entitle local or State governments to mitigation payments either from the Land and Water Conservation Fund or from other sources.

Major Land Acquisitions—Authorization for Headwaters Forest and Crown Butte Properties. Sections 501 through 504 authorize two land acquisitions requested by the Administration, to be funded from the Land and Water Conservation Fund—the Crown Butte acquisition in Montana and the Headwaters Forest acquisition in California. The managers have provided, in section 504, a 180 day review period during which the authorizing committees will examine the issues associated with these transactions and recommend any appropriate changes to the relevant statutory language contained herein. The managers believe that it is appropriate that a more measured and thorough review of these complex and costly acquisitions be undertaken by the legislative committees of jurisdiction during the 180 day review period. The managers have agreed to allow amendments that are reported from the authorizing committees within the 180 days to be incorporated into the anticipated fiscal year 1998 supplemental appropriations bill. That bill is expected to be available as early as February 1998. After the 180 day review, if no modifications have been enacted, the funds appropriated by this Act are authorized to be spent, consistent with the requirements set forth in this title.

The managers are concerned that the government not pay more than fair value for the Crown Butte and Headwaters Forest properties. The managers expect that at least 30 days prior to executing each of these transactions, the Secretary of Agriculture, with respect to the Crown Butte acquisition, and the Secretary of the Interior, with respect to the Headwaters Forest acquisition, shall issue an opinion of value to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources, and the Committees on Appropriations of the House and Senate for the land and property to be acquired by the Federal government in each transaction. The respective Secretary is expected to assume responsibility for the basis and accuracy of the opinion.

Headwaters Forest. Subsection (a) of section 501 contains the authority for up to $250 million to be spent for acquisition of the Headwaters Forest and a clause ensuring that any substantial expansion of the forest be specifically authorized.

Subsection (b) makes the authorization effective until March 1, 1999, consistent with the anticipated timetable for completion of the Headwaters Forest Agreement. This leaves some latitude for unforeseen delays while providing a date certain for the transactions authorized. This subsection also makes the authorization contingent on the following conditions: 1) the State of California must provide its share of the cost, 2) the State must approve the Pacific Lumber Company's sustained-yield plan, 3) the Pacific Lumber Company must withdraw two lawsuits, 4) an incidental take permit is issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, 5) there must be an appraisal, 6) to the extent the purchase price is different than the appraised value, the difference must be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, 7) there must be a completed environmental impact statement on the habitat conservation plan and full compliance with the National Environmental Policy Act, and 8) there must be adequate provision for public access. The authorizing committees can examine the status of each condition during the 180 day review period specified in section 504.

Subsection (c) permits the Headwaters Forest to be acquired for a value which differs from the appraisal if the Secretary of the Interior certifies in writing to Congress that such action is in the best interest of the United States.

Subsection (d) contains provisions to facilitate issuance of a Habitat Conservation Plan (HCP) based on sound science by requiring the Secretary of the Interior and the Secretary of Commerce to report to Congress on the scientific and legal standards and criteria that will be used for developing the HCP and the incidental take permit. The Endangered Species Act and its implementing regulations outline the HCP standard for listed species that are to be covered by an incidental take permit. The governing standards for unlisted species (candidate and noncandidate) that are to be covered by an incidental take permit are identical to the standards for listed species. An HCP provides assurances to a land owner for all species, both listed and unlisted, that are covered by an incidental take permit. The subsection also recognizes the uniqueness of the Headwaters Forest HCP. Should the HCP and incidental take permit not be approved, the agencies must report to the House and Senate committees on why the proposals were not sufficient to meet the applicable standards, and the statutory citations therefor, indicated by the Secretary under subsection (d)(1). This subsection does not change or waive any public review through normal National Environmental Policy Act and Endangered Species Act processes.

Subsection (e) directs a payment of $10,000,000 to Humboldt County within 30 days of acquisition of the Headwaters Forest. While the use of the funds by the county has no limitation, the payment is to offset economic impacts to the county government from the acquisition and to compensate the county for enhanced public safety costs associated with the controversy surrounding the Headwaters Forest.

Subsection (f) ensures that the Federal portion of the Headwaters Forest is considered Federal land for purposes of payments in lieu of taxes.

Subsection (g) limits the amount of Federal funds (above the first $100,000) that can be used each year for managing the Headwaters Forest to fifty percent of the total cost of management. This will ensure that there will be cost-sharing with other entities such as the State of California, charitable trusts and conservation groups. Language authorizing acceptance of donations is included to facilitate such cost-sharing. It is anticipated that the State of California will assume its proportional share of land management costs, but substantial funds should come from charitable foundations and groups that have favored acquisition of the Headwaters Forest. The Administration has consistently maintained that Federal funding needed for management of the Headwaters Forest will be minimal and that the State of California will participate in funding outyear activities associated with the acquired land. No detailed dollar figures were provided by the Administration for activities related to management of the forest. The authorized level of funding for the Federal portion of the Headquarters Forest has been set at $300,000, with an exception for law enforcement and emergencies. During the 180 day review period, the Administration should submit its financial plan for the Headwaters Forest to the authorizing and appropriations committees so that the committees can evaluate whether the authorized level of funding is appropriate.

Subsection (h) provides to the Secretary of the Interior, with concurrence of the Governor of California, authority to manage the Headwaters Forest in a trust. Because the property will be acquired jointly by the State of California and the United States, a trust arrangement allowing for management by both parties through a board of trustees may be a useful way to structure the relationship. This matter can be considered further during the 180 day review period and regularly thereafter.

Subsection (i) requires a concise management plan for the Headwaters Forest by the

Secretary of the Interior or the Headwaters Trust once the Forest is acquired. The goals of the management plan, as stated by the Administration, should be to conserve and study the land, and the fish, wildlife and forests occurring on such land, while providing recreation opportunities, scientific study, and other management needs. Bill language is included to make clear that the National Environmental Policy Act (NEPA) applies to development and implementation of the management plan, notwithstanding the option to perform some of these functions through a trust. The Administration has stated the NEPA analyses are being developed for the proposed Headwaters Forest Habitat Conservation Plan. The managers believe that the New World Mine acquisition also must comply with NEPA requirements. The managers expect the relevant documents to be completed prior to consummation of each of these land acquisitions.

Subsection (j) provides the Secretary of the Interior with the flexibility to develop cooperative arrangements with the State of California for land management, allowing sharing of goods, services, and personnel when it is mutually beneficial and in the best interest of the United States.

Consistent with the final rule designating critical habitat for the marbled murrelet, the managers understand that when the HCPs are completed and incidental take permits for marbled murrelets issued, critical habitat will be lifted from the private landowners whose land is covered by the incidental take permit.

Crown Butte Properties. Section 502 authorizes the acquisition of land and interests in land that were to be used for development of a mine in Montana, north of Yellowstone National Park. The acquisition is to be made subject to the following conditions: 1) a consent decree has been lodged in the litigation regarding the cleanup of historical contamination in the New World Mining District; 2) an appraisal of the Crown Butte mining interests has been completed and, to the extent the purchase price is different than the appraised value, the difference must be explained in writing to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, and 3) the requirements of the National Environmental Policy Act have been fulfilled.

The managers have also incorporated a provision from the August 12, 1996 Agreement so that Crown Butte will place $22,500,000 in an account to perform cleanup activities.

This section also authorizes a one-time appropriation of $10,000,000 to make critical repairs to the Beartooth Highway, which serves Yellowstone National Park, and a one-time appropriation of $2,000,000 for snow removal and maintenance of the road by the Department of Agriculture. These funds will become available within 30 days of the acquisition of the Crown Butte properties.

The managers expect the Secretary of Agriculture to work with other Federal officials and with the appropriate officials in the States of Montana and Wyoming on a long term solution for repair and maintenance of the Beartooth Highway, including the potential use of Federal highway funding. The managers intend that the $12,000,000 provided in this conference agreement be used on an interim basis, pending a long term resolution. The managers do not object to the Department of Agriculture entering into cooperative arrangements with the Department of the Interior, or with other entities, to make the most effective use of the funds provided for repair and maintenance of the Beartooth Highway.

The managers expect the Administration to provide, to the Committees and to the legislative committees of jurisdiction, a letter with appropriate documentation verifying that Crown Butte Mines, Inc. has obtained agreement from private property owners whose interests are necessary to fulfill the Agreement. This letter must be provided no later than 30 days prior to the United States payment to Crown Butte Mines, Inc.

Section 503 provides for the transfer of $10 million in Federal mineral assets to the State of Montana at such time as the Crown Butte/New World Mine acquisition is consummated. The negotiated acquisition of the New World Mine preempted the usual NEPA and State permitting processes, which would have provided a forum in which the significant impact of the acquisition on State revenues could have been considered.

The managers expect the Secretary of the Interior, in consultation with the Governor of Montana, to study potential mineral resource development in Montana. This study should facilitate discussions between the State of Montana and the Federal government regarding future coal and other mineral development in Montana. The study should identify coal and other mineral assets that may be appropriate for transfer to the State of Montana. The study also should review opportunities for developing super compliance coal which meets the standards of Phase II of the Clean Air Act; focus, in particular, on development opportunities in the Ashland, Birney, Decker area of Montana; and examine the issue and impact of the checker board ownership pattern in Montana on coal development. The managers note that no new Federal coal reserves, other than reserves near existing mines, have been made available in Montana since 1969.

Section 504 provides a 180 day period during which neither the Headwaters Forest land acquisition nor the Crown Butte land acquisition may occur unless separate authorizing legislation is enacted. Within 120 days of enactment, the Secretaries of Agriculture and the Interior must individually report to the Committee on Resources of the House of Representatives and the Senate Committee on Energy and Natural Resources on the status of their efforts to meet the conditions set forth in this title involving the acquisition of interests to protect and preserve the Headwaters Forest and to protect and preserve Yellowstone National Park. For each day beyond 120 days after enactment of this Act that the appraisals required in subsections 501(b)(5) and 502(b)(2) are not provided to the Committee on Resources of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House and Senate Committees on Appropriations, the 180 day period is extended by one day.

Section 505 makes a technical correction to the Land and Water Conservation Fund statute to move a provision from title II to title I.

TITLE VI—FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF

Amendment No. 164: Modifies language provided by the Senate under Title VI to make technical corrections to the Forest Resources Conservation and Shortage Relief Act of 1990 (FRCSRA) which provide for correct format, and changes Section 605(3)(3)(B) of the Act to require the use of regulations in effect prior to September 8, 1995, during the interim period in which the Forest Service prepares new regulations to implement the Act. An additional technical correction is made to Section 602(A)(3) to clarify which paragraph is referred to by the language. The House had no similar provision.

The managers have included language in Title VI which amends the Act by: (1) making the Washington State log export ban a complete and permanent ban on log exports from the State's public lands; (2) making it clear that FRCSRA does not restrict the domestic movement and processing of private timber, except in the State of Idaho; (3) protecting the ability of private tree farmers in Washington State to freely market their private timber; (4) making some timber processing facilities located in western Washington State more competitive for timber harvested from private and Federal lands; (5) providing the Secretaries concerned with discretion to impose reasonable timber making, branding, and reporting requirements and to waive such requirements when appropriate; and (6) clarifying other enforcement and due process provisions in FRCSRA.

The managers note that on September 8, 1995, the U.S. Department of Agriculture issued and made effective immediately the final rule to implement FRCSRA. Because of the unintended consequences and adverse impact this rule would have on the western forest products industry, particularly in Washington State—where Federal timber harvests have fallen from 1.5 billion board feet prior to enactment of FRCSRA to less than 100 million board feet in 1996, the final rule was suspended, resulting in the maintenance of the Washington State log export ban at 100%. Title VI clarifies and preserves the optimization of domestic processing of timber in western states and avoids the imposition of restrictions on the domestic transportation and processing of timber harvested on western private property. The managers provide the following explanation of each section:

Section 2(a). Use of Unprocessed Timber—Limitation on Substitution of Unprocessed Federal Timber for Unprocessed Timber from Private Land

Section 490(a)(3) provides that the substitution prohibitions do not limit the acquisition of timber originating on Federal land west of the 119th meridian in Washington State by a buyer-broker (i.e., a company that only exports timber originating from private lands owned by a third party, and over which the company has no long term exclusive harvest rights). A buyer-broker may acquire timber originating on Federal land west of the 119th meridian in Washington State either directly from a Federal agency or indirectly from a third party. A buyer-broker does not need a sourcing area in order to acquire timber harvested from Federal land west of the 119th meridian in Washington State. The 119th meridian in Washington State is a limitation only on the area from which a buyer-broker may acquire timer harvested from Federal land. There is no geographic limitation on the area from which a buyer-broker may acquire private timber, whether for purposes of domestic processing or export. Moreover, a buyer-broker may domestically process any private timber.

The sourcing area provisions in Section 490(c) of FRCSRA enable persons to freely market timber harvested from private lands in some areas and domestically process timber harvested from Federal lands in other areas. Section 490(c) of FRCSRA is modified to differentiate between sourcing areas for

processing facilities located within Washington State and sourcing areas for processing facilities located outside of the State.

Section 490(c)(3)(d) provides holders of sourcing areas for facilities located outside of Washington State with the option of excluding any or all Washington lands from their sourcing areas. This provision makes Washington timberlands irrelevant to sourcing area determinations for processing facilities located outside of Washington. The language provides that the Secretary may not condition approval of a sourcing area for a processing facility located outside of Washington on the inclusion or exclusion of any Washington lands. The decision to include or exclude Washington lands in such a sourcing area is at the discretion of the sourcing area applicant or holder.

Except for Idaho. FRCSRA's sourcing area provisions in section 490(c)(3) are modified to make it clear that FRCSRA does not restrict the domestic transporting or domestic processing of timber harvested on private property. Sourcing area boundaries for processing facilities in States other than Idaho and Washington are to be determined on private timber export and Federal timber sourcing patterns. Sourcing area boundaries for processing facilities located in Idaho are to be determined by Federal and private timber sourcing patterns, which could lead to restrictions on the domestic processing of some private timber at processing facilities with sourcing areas in Idaho.

Section 490(c)(6) provides for the establishment of sourcing areas in the State of Washington. The boundaries of such a sourcing area will be a circle, the radius of which will be the furthest distance the sourcing area applicant or holder proposes to haul timber harvested from Federal land to its processing facility. Sourcing area boundaries for processing facilities located in Washington State are solely determined by the sourcing area applicant or holder.

Section 490(c)(7) provides that a sourcing area is relinquished when the sourcing area holder provides written notice to the appropriate regional forester of the U.S. Forest Service, and that timber harvested from private land in a sourcing area is exportable after that sourcing area is relinquished and timber from Federal land in that sourcing area is no longer in the sourcing area holder's possession. Whether a sourcing area holder's Federal timber contract is still open is irrelevant to whether private timber from a relinquished sourcing area is exportable. This provision also makes it clear that relinquishing a sourcing area does not affect the exportability to timber harvested from private land located outside of the sourcing area.

A new subsection is added to FRCSRA at 490(d) to make it clear that nothing in this section restricts or authorizes restrictions on the domestic transportation or processing of timber harvested from private lands, with one exception. Because sourcing areas for processing facilities located in Idaho will be determined by both Federal and private timber movements, the Secretary may develop rules that prohibit an Idaho sourcing area holder from processing private timber that originates outside of its sourcing area. There are no restrictions on the domestic movement or processing of private timber for processing facilities located in States other than Idaho.

Section 2(b). Restriction on exports of unprocessed timber from State and public land

Section 491(b)(2) is amended by striking the requirement that the Secretary reduce the Washington State log export ban to 400 million board feet. That requirement is replaced with a permanent ban on the export of all logs harvested from lands owned by the State of Washington.

Section 3. Monitoring and enforcement

Section 492(c)(2)(C) has been added to clarify that the Secretary concerned must consider the seriousness of the offense in determining whether to impose a penalty for a particular violation of FRCSRA or its regulations. Where the Secretary determines there has been a minor infraction of FRCSRA or its regulations, the Secretary should delegate the matter to the contracting officer who need not impose a penalty.

Section 492(d)(1) has been modified to ensure that a person receives due process prior to the imposition of debarment for a violation of FRCSRA or its regulations.

Section 4. Definitions

Section 493(3) defines "minor infraction" to provide flexibility for inadvertent and minor non-compliance of the provisions in FRCSRA and its regulations.

Section 493(4) defines "northwestern private timber open market area" as the State of Washington. That phrase is used throughout this title where new provisions are added to protect investments in processing facilities and private timberlands located in Washington State.

Section 493(9)(B)(ix) defines "unprocessed timber" to allow exporters of private logs to acquire and domestically process incidental volumes of grade 3 and grade 4 saw logs from Federal lands into chips. This provision also allows exporters of private logs to domestically process small volumes of such logs into other products.

Section 493(11) defines "violation" to make it clearer that a person should not be penalized $50,000 or more per log handled in violation of FRCSRA or its regulations, but rather that "violation" refers to transgressions under a contract or purchase order.

Section 5. Regulations and review

Section 495 has been expanded to specify that reasonable painting and branding and reporting requirements should be imposed only where the benefits outweigh the burdens of complying with such requirements. Because of the minimal risk of small logs being exported and the substantial burdens of complying with painting and branding requirements, this provision prevents requiring painting or branding on the face of any log that is less than seven inches in diameter. Likewise, this provision restricts the imposition of painting and branding requirements on timber harvested from private land where the transfer of such timber is to a person who is eligible to purchase timber from Federal land or if both parties certify that the logs will be processed at the delivery site.

The Secretary is also authorized to waive painting and branding requirements if it is determined that the risk of export or substitution is low in the region. The Secretary may also waive painting and branding requirements for unprocessed timber originating from private lands within an approved sourcing areas.

The Secretary may also waive painting and branding requirements for timber harvested from Federal land if there has been no exporting in the area for an extended period, and a person certifies that any unprocessed timber to which the waiver applies that goes outside of that area will be branded.

Title VI provides for the issuance of new FRCSRA regulations no later than June 1, 1998, and provides further that the regulations under this title that are currently in effect (the regulations that were in effort prior to September 8, 1995) shall remain in effect until new regulations are issued.

TITLE VII—MICCOSUKEE SETTLEMENT

Amendment No. 165: Makes technical corrections to language proposed by the Senate dealing with the transfer of lands for the Miccosukee Tribe of Florida. The House had no similar provision.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1998 recommended by the Committee of Conference, with comparisons to the fiscal year 1997 amount, the 1998 budget estimates, and the House and Senate bills for 1998 follow:

New budget (obligational) authority, fiscal year 1997	$13,514,435,000
Budget estimates of new (obligational) authority, fiscal year 1998	13,799,946,000
House bill, fiscal year 1998	12,952,829,000
Senate bill, fiscal year 1998	13,756,350,000
Conference agreement, fiscal year 1998	13,789,438,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1997	+275,003,000
Budget estimates of new (obligational) authority, fiscal year 1998	−10,508,000
House bill, fiscal year 1998	+836,609,000
Senate bill, fiscal year 1998	+33,088,000

RALPH REGULA,
JOSEPH M. MCDADE,
JIM KOLBE,
JOE SKEEN,
CHARLES H. TAYLOR,
GEORGE R. NETHERCUTT, JR.,
DAN MILLER,
ZACH WAMP,
BOB LIVINGSTON,
SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
DAVID E. SKAGGS,
JAMES P. MORAN,
DAVID OBEY,
Managers on the Part of the House.

SLADE GORTON,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CONRAD BURNS,
ROBERT F. BENNETT,
JUDD GREGG,
BEN NIGHTHORSE CAMPBELL,
ROBERT BYRD,
PATRICK LEAHY,
DALE BUMPERS,
ERNEST HOLLINGS,
HARRY REID,
BYRON DORGAN,
BARBARA BOXER,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STRICKLAND (at the request of Mr. GEPHARDT), for today, on account of a death in the family.

Mr. CHAMBLISS (at the request of Mr. ARMEY), for today, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. SCOTT, for 5 minutes, today.
Mr. FORD, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. BARRETT of Wisconsin, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Ms. BROWN of Florida, for 5 minutes, today.
Ms. SANCHEZ, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mr. CLEMENT, for 5 minutes, today.
Mr. PRICE of North Carolina, for 5 minutes, today.
Mr. LEWIS of Georgia, for 5 minutes, today.
Mr. MCGOVERN, for 5 minutes, today.
Mrs. MALONEY of New York, for 5 minutes, today.

(The following Members (at the request of Mr. KOLBE) to revise and extend their remarks and include extraneous material:)

Mrs. LINDA SMITH of Washington, for 5 minutes each day, today and on October 23 and 24.
Mr. KOLBE, for 5 minutes, today.
Mr. FOLEY, for 5 minutes each day, today and on October 23.
Mr. METCALF, for 5 minutes, today.
Mrs. ROUKEMA, for 5 minutes, today.

(The following Members (at the request of Mr. MCGOVERN) to revise and extend their remarks and include extraneous material:)

Mr. FROST, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BENTSEN, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.
Mr. BROWN of Ohio, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous matter:)

Ms. SANCHEZ.
Mr. SERRANO.
Mr. HAMILTON.
Mr. STOKES.
Mr. NEAL of Massachusetts.
Mr. KANJORSKI.
Mr. BERMAN.
Mr. STARK.
Mr. RANGEL.
Mr. SHERMAN.
Mr. WAXMAN.
Mr. FILNER.
Mr. LANTOS.
Mr. MANTON.
Mr. SKELTON.
Mr. HOYER.
Mr. DELLUMS.
Mr. MILLER of California.
Mr. BENTSEN.

(The following Members (at the request of Mr. KOLBE) and to include extraneous matter:)

Mr. PORTMAN.
Mr. WELDON of Pennsylvania.
Mr. PAPPAS.
Mr. COBLE.
Mr. GILMAN.
Mr. WELLER.

(The following Members (at the request of Mr. THUNE) and to include extraneous matter:)

Mr. RANGEL.
Mr. MCINNIS
Ms. NORTON.
Mr. PAYNE.
Mr. HASTINGS of Florida.
Mr. ENGEL.
Mr. POSHARD.
Mr. OBERSTAR.
Mr. HORN.
Mr. BONIOR.
Mr. HOBSON.
Mr. BOB SCHAFFER of Colorado.
Mr. KIND.
Mr. STUPAK.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 75. Joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope.

ADJOURNMENT

Mr. THUNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 18 minutes p.m.), the House adjourned until tomorrow, Thursday, October 23, 1997, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Report and amended report concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the 1st and 2d quarter of 1997, by various Committees, House of Representatives, pursuant to Public Law 95–384, are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Delegation expenses	2/16	2/24	France						560.00		560.00
			Germany								
			Russia								
Committee total									560.00		560.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

F. JAMES SENSENBRENNER, Chairman, Oct. 7, 1997.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1997

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Sonny Callahan	3/31	4/2	Guatemala		378.00		[3]				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Hon. Sonny Callahan	5/8	5/10	Nicaragua		468.50		[3]				468.50
Hon. Rodney Frelinghuysen	3/31	4/2	Guatemala		378.00		[3]				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Hon. David Hobson	5/23	5/25	Belgium		506.00						506.00
	5/25	5/28	Latvia		366.00						366.00
	5/28	5/30	Luxembourg		444.00						444.00
Commercial air							6,742.25				6,742.25
Hon. Joseph Knollenberg	3/31	4/2	Guatemala		378.00		[3]				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
William Inglee	3/31	4/2	Guatemala		378.00		[3]				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
	5/8	5/10	Nicaragua		468.50		[3]				468.50
Mark Murray	3/31	4/2	Guatemala		378.00		[3]				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Juliet Pacquing	3/30	4/2	Korea		915.00						915.00
	4/2	4/5	Japan		900.00						900.00
Commercial air							4,468.95				4,468.95
Timothy Peterson	6/13	6/17	France		1,168.00				50.00		1,218.00
Commercial air							3,549.05				3,549.05
John Plashal	5/23	5/25	Belgium		506.00						506.00
	5/25	5/28	Latvia		366.00						366.00
	5/28	5/30	Luxembourg		444.00						444.00
Commercial air							4,247.25				4,247.25
	6/14	6/16	France		873.00		[3]				873.00
	6/16	6/16	Belgium								
John Shank	3/31	4/2	Guatemala		378.00		[3]				378.00
	4/2	4/2	Panama								
	4/2	4/6	Jamaica		972.24						972.24
	4/4	4/4	Haiti								
Total					15,526.44		19,007.50		50.00		34,583.94
Surveys and Investigations staff:											
Frederick A. Brugger	6/22	6/25	Colombia		493.00		2,651.95		60.00		3,204.95
	6/25	6/28	Peru		585.75						585.75
Robert W. Catlin, Jr.,	6/24	6/25	Barbados		470.25		2,338.96		31.90		2,841.11
	6/26	6/28	Panama		258.00						258.00
John J. Clynick	6/21	6/25	Uruguay		677.00		3,739.95		42.40		4,459.35
	6/25	6/27	Argentina		448.00						448.00
	6/27	7/2	Chile		1,085.00						1,085.00
Norman H. Gardner	5/3	5/7	Israel		1,045.00		4,901.85		6.00		5,952.85
	5/7	5/10	Egypt		459.25						459.25
	6/21	6/25	Uruguay		677.00		3,739.95		81.00		4,497.95
	6/25	6/27	Argentina		448.00						448.00
	6/27	7/2	Chile		1,085.00						1,085.00
James A. Higham	6/24	6/26	Barbados		470.25		2,338.96		68.00		2,877.21
	6/26	6/28	Panama		258.00						258.00
Susan G. Joseph	6/22	6/25	Colombia		493.00		2,651/95		62.50		3,207.45
	6/25	6/28	Peru		585.75						585.75
Robert J. Reitwiesner	5/3	5/7	Israel		1,405.00		4,901.98		87.00		6,033.98
	5/7	5/10	Egypt		459.25						459.25
	6/24	6/26	Barbados		470.25		2,338.06		112.00		2,920.31
	6/26	6/28	Panama		258.00						258.00
R.W. Vandergrift, Jr.	5/3	5/7	Israel		1,045.00		4,901.98		579.00		6,525.98
	5/7	5/10	Egypt		459.25						459.25
	6/21	6/25	Uruguay		677.00		3,739.95		402.74		4,819.69
	6/25	6/27	Argentina		448.00						448.00
	6/27	6/30	Chile		651.00						651.00
Frank J. Waldburger	6/21	6/25	Uruguay		677.00		3,739.95		38.00		4,454.95
	6/25	6/27	Argentina		448.00						448.00
	6/27	7/2	Chile		1,085.00						1,085.00
Peter T. Wyman	5/3	5/7	Israel		1,045.00		4,901.85		36.01		5,982.86
	5/7	5/10	Egypt		459.25						459.25
	6/22	6/25	Colombia		493.00		2,651.95		112.90		3,257.85
	6/25	6/28	Peru		585.75						585.75
Committee total					19,844.00		49,539.29		1,719.45		71,102.74

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BOB LIVINGSTON, Chairman, Oct. 1, 1997.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5536. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Mediterranean Fruit Fly; Addition to Quarantined Areas [Docket No. 97-102-1] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5537. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Mediterranean Fruit Fly; Removal of Quarantined Areas [Docket No. 97-056-7] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5538. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Cyromazine; Pesticide Tolerances for Emergency Exemptions [OPP-300563; FRL-5748-9] (RIN: 2070-AB78) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5539. A letter from the Director, Office of Regulatory Management and Information,

Environmental Protection Agency, transmitting the Agency's final rule—Pyrithiobac Sodium Salt; Time-Limited Pesticide Tolerance [OPP-300548; FRL-5742-5] (RIN: 2070-AB78) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5540. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Amendment to the Production Flexibility Contract Regulations (RIN: 0560-AF25) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5541. A letter from the Manager, Federal Crop Insurance Corporation, Risk Management Agency, transmitting the Agency's final rule—General Crop Insurance Regulations, Canning and Processing Tomato Endorsement; and Common Crop Insurance Regulations, Processing Tomato Provisions [7 CFR Parts 401 and 457] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5542. A letter from the Director, Washington Headquarters Services, Department of Defense, transmitting the Department's final rule—OCHAMPUS; State Victims of Crime Compensation Programs; Voice Prostheses [DoD 6010.8-R] (RIN: 0720-AA42) received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

5543. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Restrictions on Advances to Non-Qualified Thrift Lenders [No. 97-62] (RIN: 3069-AA60) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5544. A letter from the Chairman, National Credit Union Administration, transmitting a report on flood insurance compliance by insured credit unions, pursuant to section 529(e)(2) of the Riegle Community Development and Regulatory Improvement Act of 1994; to the Committee on Banking and Financial Services.

5545. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Risk-Based Capital Requirements; Transfers of Small Business Loan Obligations with Recourse [Docket No. 97-17] (RIN: 1557-AB14) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5546. A letter from the Director, Office of Budget and Management, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 111, H.R. 680, H.R. 2248, S. 996 and S. 1198, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on the Budget.

5547. A letter from the Director, Office of Budget and Management, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 2016, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on the Budget.

5548. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Energy Conservation Program for Consumer Products: Test Procedures for Furnaces and Boilers [Docket No. EE-RM-93-501] (RIN: 1904-AA45) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5549. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Procedural Rules for DOE Nuclear Activites; General Statement of Enforcement Policy [10 CFR Part 820] received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5550. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Approval Under Section 112(1); State of Iowa [IA 016-1016; FRL-5912-6] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5551. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Kentucky; Indiana [KY95-9722a; IN82a-1; FRL-5901-2] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5552. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New York; Motor Vehicle Inspection and Maintenance Program [Region II Docket No. NY22-1-163, FRL-5913-7] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5553. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New Hampshire [NH-7157a-FRL-5906-8] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5554. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 [CC Docket No. 96-128] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5555. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure [CC Docket No. 96-262; CC Docket No. 94-1; CC Docket No. 91-213] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5556. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Administration of the North American Numbering Plan; Toll Free Service Access Codes [CC Docket No. 92-237; CC Docket No. 95-155] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5557. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules Regarding Installment Payment Financing For Personal Communications Services (PCS) Licensees [WT Docket No. 97-82] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5558. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Revision of the Requirements for a Responsible Head for Biological Establishments [Docket No. 96N-0395] (RIN: 0910-AA93) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5559. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 93F-0111] received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5560. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Notice to Employees; Minor Amendment (RIN: 3150-AF66) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5561. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 98-03), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5562. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Korea for defense articles and services (Transmittal No. 98-02), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5563. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the semi-annual report for the period October 1, 1996 to March 31, 1997 listing Voluntary Contributions made by the United States Government to International Organizations, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on International Relations.

5564. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order No. 12978 of October 21, 1995, pursuant to 50 U.S.C. 1703(c); (H. Doc. No. 105-159); to the Committee on International Relations and ordered to be printed.

5565. A letter from the Director, Bureau of the Census, transmitting the Bureau's final rule—Census Tract Program for Census 2000—Final Criteria [Docket No. 961213356-7236-02] received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5566. A letter from the Executive Director, Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to and Deletions from the Procurement List [97-018] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5567. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Trawl Catcher Vessels in the Bering Sea and Aleutian Islands [Docket No. 961107312-7021-02; I.D.

101497A] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5568. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component [Docket No. 970730185-7206-02; I.D. 093097A] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5569. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area [Docket No. 961107312-7021-02; I.D. 101697A] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5570. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Illinois Regulatory Program [SPATS No. IL-081-FOR] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5571. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, transmitting the Administration's final rule—Schedules of Controlled Substances Placement of Butorphanol into Schedule IV [DEA-166F] received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5572. A letter from the Chairman, National Bankruptcy Review Commission, transmitting a report entitled "Bankruptcy: The Next Twenty Years," pursuant to Public Law 103-394; to the Committee on the Judiciary.

5573. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Board of Veterans' Appeals: Rules of Practice—Death of Appellant During Pendency of Appeal (RIN: 2900-AI86) received October 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5574. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit or abatement; determination of correct tax liability [Rev. Proc. 97-50] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5575. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 97-49] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5576. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 97-44] received October 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. MYRICK: Committee on Rules. House Resolution 274. Resolution providing for consideration of the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes (Rept. 105-336). Referred to the House Calendar.

Mr. REGULA: Committee of Conference. Conference report on H.R. 2107. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105-337). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on the Budget discharged from further consideration. H.R. 2513 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TAUZIN:

H.R. 2691. A bill to reauthorize and improve the operations of the National Highway Traffic Safety Administration; to the Committee on Commerce.

By Mr. SMITH of Oregon:

H.R. 2692. A bill to combine the Consolidated Farm Service Agency and the Natural Resources Conservation Service of the Department of Agriculture as a single agency under an Under Secretary of Agriculture for Foreign Agriculture and Agricultural Field Services and to ensure the equitable treatment of socially disadvantaged farmers and ranchers and employees of the Department who are members of a socially disadvantaged group; to the Committee on Agriculture.

By Mrs. MALONEY of New York (for herself, Mrs. MORELLA, Mr. PASCRELL, Mr. COOK, Mrs. TAUSCHER, Mrs. KELLY, Mr. NEAL of Massachusetts, Ms. DELAURO, Mr. NADLER, Mr. LANTOS, Ms. SLAUGHTER, Ms. KILPATRICK, Mr. FROST, Mr. SANDERS, Mrs. THURMAN, Mr. FALEOMAVAEGA, Mr. GUTIERREZ, Mr. LIPINSKI, Mr. MCGOVERN, Mr. EVANS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ACKERMAN, Mr. GREEN, Mr. DELLUMS, Mr. RUSH, Mr. FILNER, Mr. SHERMAN, Ms. HOOLEY of Oregon, Mr. FAZIO of California, Mr. WYNN, Mr. BROWN of California, Mr. CONDIT, Mr. CLEMENT, Mr. KENNEDY of Rhode Island, Mr. KLECZKA, Mr. HINCHEY, Mr. FORD, Ms. ESHOO, and Ms. WOOLSEY):

H.R. 2693. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis and to help women make informed choices about their reproductive and post-menopausal health care; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILMAN:

H.R. 2694. A bill to amend the Immigration and Nationality Act to authorize the Attorney General to continue to treat certain petitions approved under section 204 of such Act as valid notwithstanding the death of the beneficiary; to the Committee on the Judiciary.

By Ms. SANCHEZ:

H.R. 2695. A bill to amend the Internal Revenue Code of 1986 to encourage new school construction through the creation of a new class of bond; to the Committee on Ways and Means.

By Mr. COBLE (for himself and Mr. SHAW):

H.R. 2696. A bill to amend title 17, United States Code, to provide for protection of certain original designs; to the Committee on the Judiciary.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mrs. MALONEY of New York, Mrs. MORELLA, Ms. WOOLSEY, Mr. PASCRELL, Mr. DELLUMS, and Mr. DINGELL):

H.R. 2697. A bill to amend the Public Health Service Act to expand and intensify programs of the National Institutes of Health with respect to research and related activities concerning osteoporosis and related bone diseases; to the Committee on Commerce.

By Mrs. MCCARTHY of New York:

H.R. 2698. A bill to improve teacher preparation at institutions of higher education; to the Committee on Education and the Workforce.

By Mrs. MORELLA (for herself, Mrs. JOHNSON of Connecticut, Mrs. LOWEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MALONEY of New York, Ms. WOOLSEY, Ms. NORTON, Ms. WATERS, Mr. DAVIS of Virginia, Mr. HAYWORTH, Mr. UNDERWOOD, Mr. MEEHAN, Mr. WAXMAN, Mr. DELAHUNT, Mr. PASCRELL, Mr. LANTOS, and Mr. NADLER):

H.R. 2699. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Government Reform and Oversight.

By Ms. NORTON:

H.R. 2700. A bill to direct the Secretary of the Interior to convey certain lands to the District of Columbia for use for single-family homes for low and moderate income individuals and families; to the Committee on Resources.

By Mr. RANGEL (for himself, Mr. STARK, Mr. CARDIN, Mr. LEWIS of Georgia, and Mr. BECERRA):

H.R. 2701. A bill to amend title XVIII of the Social Security Act to carve out from payments to Medicare+Choice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHUMER:

H.R. 2702. A bill to authorize the Secretary of the Treasury to ban the importation of firearms that have been cosmetically altered

to avoid the ban on semiautomatic assault weapons; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 2703. A bill to amend part C of title XVIII of the Social Security Act to continue after 2001 continuous open enrollment of individuals in Medicare+Choice plans; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Mrs. MALONEY of New York, Mr. PASCRELL, Mrs. MORELLA, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 2704. A bill to amend the Public Health Service Act to provide for an increase in the amount of funding for the information clearinghouse on osteoporosis, Paget's disease, and related bone disorders; to the Committee on Commerce.

By Mr. PORTER (for himself, Mr. DREIER, and Mr. LANTOS):

H. Con. Res. 172. Concurrent resolution expressing the sense of Congress in support of efforts to foster friendship and cooperation between the United States and Mongolia, and for other purposes; to the Committee on International Relations.

By Mr. SAM JOHNSON:

H. Con. Res. 173. Concurrent resolution honoring the accomplishments of the many Americans who contributed to the development of supersonic flight technology; to the Committee on Science.

By Mr. WEXLER (for himself, Mr. ACKERMAN, and Mr. LANTOS):

H. Con. Res. 174. Concurrent resolution expressing the sense of Congress regarding the anti-American and anti-Semitic remarks of Malaysian Prime Minister Mahathir Mohamed; to the Committee on International Relations.

By Mr. GANSKE:

H. Res. 275. A resolution to amend the Rules of the House of Representatives to permit a committee to vote to allow live media coverage of the testimony of a subpoenaed witness; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. PORTER introduced A bill (H.R. 2705) for the relief of Edwardo Reyes and Dianelita Reyes; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. DICKEY and Mr. PETERSON of Minnesota.

H.R. 59: Mr. DELAY.

H.R. 182: Mr. CONYERS.

H.R. 351: Ms. RIVERS.

H.R. 371: Mr. OLVER.

H.R. 614: Mr. WELDON of Florida.

H.R. 676: Mr. BOUCHER, Mr. OBERSTAR, Mr. ACKERMAN, and Mr. FROST.

H.R. 777: Mr. LANTOS.

H.R. 815: Mr. JACKSON, Mr. RANGEL, Mr. SMITH of Oregon, and Mr. SISISKY.

H.R. 820: Mr. SCOTT.

H.R. 946: Mr. HAYWORTH.

H.R. 979: Mr. SMITH of Michigan, Mr. KILDEE, Mr. HOLDEN, Mr. KANJORSKI, Ms. MILLENDER-MCDONALD, Mr. DIXON, and Ms. ROYBAL-ALLARD.

H.R. 983: Ms. MILLENDER-MCDONALD.

H.R. 986: Mrs. CUBIN.

H.R. 991: Mr. BAESLER, Mr. ETHERIDGE, Mr. SKAGGS, Mr. MCINTYRE, and Mr. OLVER.

H.R. 992: Mr. WELDON of Florida and Mrs. CHENOWETH.,

H.R. 1023: Mr. LOBIONDO.

H.R. 1161: Mr. KLECZKA.

H.R. 1173: Mr. BOSWELL, Mr. BALDACCI, Ms. JACKSON-LEE, Mr. JACKSON, Ms. WOOLSEY, Mr. KENNEDY of Rhode Island, Mr. QUINN, Mr. MOAKLEY, Mr. LEWIS of Kentucky, Mr. HEFNER, Ms. SANCHEZ, Mr. PASTOR, Mr. BILBRAY, Mr. LAMPSON, and Mr. SANDLIN.

H.R. 1227: Mr. GOODLING, Mr. CHAMBLISS, and Mrs. NORTHUP.

H.R. 1231: Mrs. EMERSON.

H.R. 1232: Mr. MCGOVERN, Mr. MILLER of California, Mr. CALLAHAN, Mrs. FOWLER, Mr. DELAHUNT, and Mr. SMITH of Michigan.

H.R. 1234: Mr. RUSH.

H.R. 1356: Ms. STABENOW and Mrs. CHENOWETH.

H.R. 1371: Mr. KUCINICH.

H.R. 1387: Mr. SUNUNU.

H.R. 1415: Mr. TRAFICANT, Mr. MCINTYRE, Mr. MCNULTY, Mr. BOEHLERT, Mr. WATKINS, and Mr. DREIER.

H.R. 1425: Mr. STARK.

H.R. 1531: Mr. WAXMAN.

H.R. 1541: Mr. CAPPS.

H.R. 1542: Mr. INGLIS of South Carolina, Mr. MCINNIS, and Mr. NETHERCUTT.

H.R. 1773: Mr. EWING.

H.R. 1800: Mr. OBEY and Mr. PETERSON of Minnesota.

H.R. 1842: Mr. HILL and Mr. BLILEY.

H.R. 1891: Ms. RIVERS.

H.R. 2011: Mr. RYUN.

H.R. 2021: Mr. MILLER of Florida.

H.R. 2023: Mr. DELLUMS.

H.R. 2029: Mr. COBURN, Mr. RYUN, and Mr. LIVINGSTON.

H.R. 2110: Mr. WEXLER.

H.R. 2172: Mr. BOSWELL.

H.R. 2189: Mr. FROST, Ms. RIVERS, Ms. ROYBAL-ALLARD, Mr. LAMPSON, Mr. TRAFICANT, Mr. FALEOMAVAEGA, Mr. BLILEY, Mr. ACKERMAN, Mr. KUCINICH, and Ms. KAPTUR.

H.R. 2191: Mr. BARR of Georgia.

H.R. 2194: Mr. TRAFICANT, Mrs. JOHNSON of Connecticut, Mr. TOWNS, Mrs. MALONEY of New York, Mr. LANTOS, Mr. RANGEL, Mrs. LOWEY, Mr. ENGEL, and Mr. MANTON.

H.R. 2292: Mr. BAESLER, Mr. ROYCE, Mr. GREENWOOD, Mrs. KENNELLY of Connecticut, Ms. RIVERS, Mr. FAZIO of California, Mr. SANDLIN, Mr. SCHIFF, and Mr. BENTSEN.

H.R. 2327: Mr. SHERMAN, Mr. FAWELL, Ms. DUNN of Washington, Mr. FROST, Mr. WHITE, Mr. EVANS, Mr. PETERSON of Minnesota, Mr. RAMSTAD, and Mr. SOUDER.

H.R. 2377: Mr. BAKER, Mr. MCDADE, Mr. UPTON, and Mr. PICKERING.

H.R. 2380: Mr. CHRISTENSEN.

H.R. 2392: Mr. GOODLING.

H.R. 2476: Mr. DINGELL.

H.R. 2483: Mr. MCKEON, Mr. ISTOOK, Mr. SHIMKUS, Mr. BUNNING of Kentucky, Mr. CHAMBLISS, Mr. CALVERT, Mrs. FOWLER, Mr. BOB SCHAFFER, Mr. GOODLING, Mr. CANNON, and Mr. HILL.

H.R. 2488: Ms. FURSE.

H.R. 2549: Mr. TRAFICANT.

H.R. 2560: Mr. DOOLEY of California, Mr. MCINTYRE, Ms. NORTON, Mr. UNDERWOOD, Mrs. MALONEY of New York, and Mr. PASTOR.

H.R. 2563: Mr. CHAMBLISS, Mr. HASTINGS of Washington, Mr. MENENDEZ, Mr. CALLAHAN, and Mr. NETHERCUTT.

H.R. 2584: Mr. SANDERS and Mr. WEYGAND.

H.R. 2595: Mr. BOEHNER and Mr. PICKERING.

H.R. 2598: Mr. TIAHRT.

H.R. 2609: Mr. MORAN of Kansas, Mr. CHAMBLISS, Mr. HOLDEN, Mr. CLYBURN, and Mr. KLUG.

H.R. 2611: Mr. COBURN and Mr. LEWIS of Kentucky.

H.R. 2625: Mr. COX of California, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. KINGSTON, Mr. COOKSEY, Mr. JONES, Mr. LARGENT, Mr. BALLENGER, Mr. GINGRICH, Mr. BUNNING of Kentucky, Mr. KING of New York, Mr. SESSIONS, Mr. WATTS of Oklahoma, Mr. SALMON, Ms. DUNN of Washington, and Mr. MCINTOSH.

H.R. 2627: Mr. WEYGAND and Mr. MILLER of Florida.

H.R. 2639: Mr. PRICE of North Carolina, Mr. YATES, Mr. KING of New York, and Mr. DEUTSCH.

H.R. 2689: Mr. RADANOVICH.

H.J. Res. 78: Mr. GEKAS, Mr. GIBBONS, Mr. HASTINGS of Washington, Mr. RIGGS, Mr. SHUSTER, Mr. BRADY, and Mr. CANNON.

H.J. Res. 95: Mr. TANNER, Mr. JENKINS, Mr. HILLEARY, Mr. CLEMENT, Mr. FORD, Mr. DUNCAN, Mr. WAMP, Mr. GORDON, Mr. THOMPSON, Mr. TAYLOR of Mississippi, Mr. PARKER, and Mr. PICKERING.

H. Con. Res. 100: Mr. ANDREWS, Mr. SAXTON, Mr. HASTINGS of Florida, Mr. RUSH, Mr. PORTER, and Mr. WAMP.

H. Con. Res. 107: Mr. DEUTSCH.

H. Res. 37: Mr. WAMP and Mr. TAYLOR of Mississippi.

H. Res. 259: Ms. LOFGREN, Mr. HAMILTON, Mr. BALDACCI, Mr. CAPPS, Ms. RIVERS, Mr. FAZIO of California, Mrs. MALONEY of New York, Mr. ENGEL, Mr. BARRETT of Wisconsin, and Mr. POSHARD.

H. Res. 268: Mr. DELAY and Mr. SOUDER.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE OXON RUN PARKWAY LAND TRANSFER AND RESTORATION ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Ms. NORTON. Mr. Speaker, today, I introduced the Oxon Run Parkway Land Transfer and Restoration Act, a bill which directs the National Park Service to convey to the District of Columbia all right, title, and interest of the United States to approximately 25 acres of land in Southeast DC, in Ward 8. The purpose of my legislation is to enable a group of churches, the Washington Interfaith Network [WIN], working with the District of Columbia government, to build more than 300 units of low- and moderate-income housing, almost entirely with church-gathered funds. WIN is a coalition of 43 churches. They stand ready to invest $2.5 million at no interest to finance the construction of these homes. Among the major contributors are: First, the Catholic Archdiocese of Washington, second, the Episcopal Archdiocese of Washington, third, the United Methodist Church, and fourth, the Evangelical Lutheran Church in America.

My understanding is that the Interior Department supports this transfer. The land is bordered on the northeast by South Capitol Street, on the west by Oxon Run Parkway, and on the southeast by the Maryland-DC border. Presently, the land is administered by the District of Columbia but is actually owned by the National Park Service. In 1972, the Park Service transferred jurisdiction to the District of Columbia of approximately 100 acres of land in Southeast DC, that includes the approximately 25 acres addressed in my legislation. However, the transfer was made under condition that the land be used for recreation and related purposes. My legislation removes this legal impediment to construction of low and moderate income housing on this land and enables the future homeowners to own full title to their property.

The transfer which I propose is a modest but important step in restoring one of the city's vital residential neighborhoods and the city's overall morale and financial health. Ward 8, the most disadvantaged in the city, has experienced devastating loss of population in significant part because of the absence of affordable housing. In addition, the land which I propose to transfer from the Park Service to the District is currently in a deplorable condition and is an embarrassment to the Park Service and the city. Although this piece of land is ostensibly recreational parkland, it has become unsightly neighborhood dumpyard. Transfer of this land to the District for construction of a residential neighborhood will not only enable environmental cleanup of the property but will also provide desperately needed housing at a site that has become a terrible eyesore.

TRIBUTE TO FRED HOLSTEN

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. PAPPAS. Mr. Speaker, I rise today to pay tribute to Fred Holsten of South Brunswick, NJ. He was honored Monday, August 4, for his 20 years of volunteer service to Middlesex County Fair by the trustees of the annual fair.

Since retiring as chief of police in South Brunswick in 1974, Mr. Holsten has served many organizations such as the Lion's Club and the International Association of Chiefs of Police. In his over 20 years of service to the Middlesex County Fair, Mr. Holsten has come to be affectionately known as Uncle Fred. Since Mr. Holsten has joined the fair, it has grown to offer a great family atmosphere for all those in Middlesex County. As a result, worthy causes that receive funds from the fair have benefited greatly.

Mr. Speaker, Mr. Holsten has set a great example. After an extensive time of service as police chief, he continues as a volunteer. This selfless service to his community is a great example of the indelible American spirit that only makes our country stronger.

I, too, commend Mr. Fred Holsten for the unselfish, heartwarming dedication he has shown.

HONORING RIVERDALE NEIGHBORHOOD HOUSE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. ENGEL. Mr. Speaker, the Riverdale Neighborhood House is a settlement house serving 5,000 residents of the northwest Bronx, providing programs for parents, their infants and toddlers, and after school programs. It not only serves young families, but provides outreach and support to homebound senior citizens. Its teen center offers job training and a place to congregate, or as the teens might say, "hang out." Riverdale Neighborhood House also had a pool for local residents, a summer camp for kids, and a thrift shop.

Not only does the Riverdale Neighborhood House do a lot of good for the community, it has been doing it for a long time for this year it celebrates its 125th anniversary. RNH started as a neighborhood lending library for workers to which Riverdale residents subsequently gave land and money to promote social services as well as a reading room. In time it helped servicemen in the Spanish American War, fought problems of sanitation and contagious diseases, aided soldiers' families in World Wars I and II, opened a kindergarten and a seeming infinite number of programs to aid the community and its residents.

On its anniversary, RNH is honoring Paul Elston, a member of its board who has served on so many organizations working for the community that his life would deem to epitomize public service. Riverdale Neighborhood House and people like Paul Elston deserve the acclaim of all people, for they show the benefit and goodness which flows to the community when good people act to benefit all of us.

A TRIBUTE TO WOMEN IN MILITARY SERVICE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to pay tribute to a courageous group of women who have played an important role in shaping the future of women in the military. On October 18, 1997, the Women in Military Service Memorial was dedicated to the millions of courageous women who have served and continue to serve our country in the armed services. The dedication of this memorial is another page in American history that will give women in the military the recognition they have so longed deserved. This memorial is a reminder and representation of the invaluable service, sacrifice, and dedication women have given our country.

Mount Holyoke College, the oldest continuing institution of higher education for women in the country, resides in my district and is very proud and grateful for the Women in Military Service Memorial. Joanne Creighton, president of Mount Holyoke College, wrote a letter to Brig. Gen. Wilma L. Vaught, who was responsible for the organization taking the lead to build the memorial, paying tribute to the Women in Military Service Memorial. Mr. Speaker, it is with great honor that I submit the letter written to Brigadier General Vaught from Joanne Creighton, president of Mount Holyoke College.

As a women's college, we support activities that recognize women and women's varied contributions to the world. It is vital that the experiences of women be known and included as a visible part of history. The women's memorial, which honors and remembers the service, sacrifice, and achievement of the nearly 2 million American servicewomen who have defended America through our Nation's history, accomplishes all of these important tasks and is, therefore, a welcomed and much-needed addition to our Nation's heritage.

Fittingly, it was 55 years ago this November 9, during World War II, that Mount Holyoke was part of the history which is about

to be honored by the new memorial. From across the country, women came to Mount Holyoke's campus to receive the training they needed to serve the country. Along with our nearby sister institution Smith College, Mount Holyoke served as one of the very few training centers for women officers. It was a privilege to function during that historic time as a training site for the Women's Reserve of the Marine Corps and the Navy's WAVES [Women Accepted for Volunteer Emergency Service] program.

WAVES, the young women in uniform living and learning at Mount Holyoke, studied such subjects as naval organization, personnel, and administration along with the Navy's etiquette, customs, and traditions. While in training for 5 weeks, WAVES lived in Rockefeller Hall—a campus residential hall that was renamed the U.S.S. Rockefeller—sleeping in double decker beds, eating the same meals as Mount Holyoke students here at the same time. Classes for WAVES were held on campus, drills were held on the athletic fields, and the women marched to meals and to classes wearing their dark blue uniforms. Reveille was at 6:15 a.m. for these women and the day included five recitations, two study periods, drill, athletic recreation, and an evening lecture. It was a rigorous indoctrination, as it was then called, for these women and we salute them today, just as we did many years ago.

After completing their WAVES training, the women were commissioned and offered to active duty. During the 18 months the Navy occupied the U.S.S. Rockefeller approximately 2,500 officers were graduated and went out to duty throughout the United States. They played an important role in our American story and it is with deep gratitude for their efforts that we pay tribute to them and all the others who, in a range of roles, served the country.

We join wholeheartedly in this first major memorial to U.S. military women and this celebration of a very important page in history. We also commend you for the success of the foundation, which you established in 1987, and which has overseen the design, development, and construction of this new structure, and the creation of the week-long commemoration of American servicewomen that will launch the women's memorial.

Sincerely,

JOANNE CREIGHTON.

Mr. Speaker, the people of the 2d Congressional District in Massachusetts will be forever grateful for the invaluable service and dedication women in the military have provided in defense of the United States. This memorial is very welcome in our Nation's Capital and I, along with Mount Holyoke College, rise to congratulate all the women in the military for this milestone in American history.

TRIBUTE TO ROBERT GEORGE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Robert George, a constituent of mine who for 30 years put on a long white beard and a red suit to play Santa at Christmas time. Many people have played Santa at shopping malls, private parties and amusement parks. What makes Mr. George unusual is that he was Santa at several White House Christmas functions.

Though a staunch Democrat, Mr. George was very much a bipartisan Santa. He began playing St. Nick at the White House during the Eisenhower years, and continued through the Kennedy, Johnson, Nixon, Ford, Carter, Reagan, and Bush administrations. He has one of the more unusual political scrapbooks I have seen; pictures of Santa and the Carters, Santa and Gerald Ford, Santa and the Nixons, Santa and John Kennedy and Santa and the Eisenhowers.

In addition to the photos, Mr. George has a collection of thank you letters from inhabitants of the White House. I especially enjoyed the note from Barbara Bush, written when her husband was Vice President, which included this closing line: "The stuffed animals will be great successes with our grandchildren, and we both appreciate your generosity."

Mr. George has been Santa in more places than the White House. He has participated in Christmas parades in Hollywood, Tulsa, Toledo and Phoenix, and has appeared on numerous television programs through the years.

When he's not Santa, Mr. George is still infused with the spirit of giving. He has spent more than a decade aiding the LA Mission, and has been quite active with Easter Seals, the Starlight Foundation, and the Make-A-Wish Foundation.

If you call Mr. George at home, he answers with the number of days until Christmas. He is obviously a man who loves his work.

I ask my colleagues to join me today in saluting Robert George, whose dedication to making this a better world inspires us all.

TRIBUTE TO THE HUNTS POINT LOCAL DEVELOPMENT CORP.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Hunts Point Local Development Corp. for 10 years of success working for the economic revitalization of the Hunts Point community in the South Bronx.

Today, the Hunts Point Local Development Corp. [HPLDC] celebrates its 10th anniversary with a 10th annual tent party at the Hunts Point Cooperative Market in my South Bronx congressional district.

HPLDC was established in 1988 as a nonprofit community-based organization to act as an engine for economic development in Hunts Point.

During the past 10 years, HPLDC has been instrumental in providing the services that corporations and residents need to succeed in commerce. Its wide range of programs and services to the community include: a bilingual entrepreneurial development program, industrial park business advocacy, computer literacy training, Internet training, and commercial revitalization. Through its Business Outreach Center, HPLDC provides counseling, seminars, workshops, and management technical assistance to small business and entrepreneurs.

Today, the dynamic Hunts Point community encompasses 600 businesses and 19,000 employees, and is the largest distribution center in the Northeast. To HPLDC's credit, the corporation has provided assistance to more than 500 entrepreneurs and businesses and has helped secure over 4 million dollars in small business loans.

Among other important achievements, HPLDC was chosen to serve as the administrator for the Hunts Point economic development zone. It also lobbied for inclusion of the Hunts Point community in the New York City Federal Empowerment Zone for the South Bronx.

HPLDC received an excellence award from the U.S. Small Business Administration for small business development. Most recently, it has launched efforts to help rebuild the New York City 41st Police precinct and to establish a new U.S. Postal Office in Hunts Point.

Mr. Speaker, I ask my colleagues to join me in recognizing the Hunts Point Local Development Corp. for a decade of achievements spurring economic development in Hunts Point, and in wishing them continued success.

A SPECIAL TRIBUTE TO THE LATE ADA BERRYMAN: AN OHIO PIONEER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. STOKES. Mr. Speaker, throughout history, there have been trailblazers who have achieved important firsts and made enormous contributions to the development of this Nation. While the names of some of these individuals are recorded in the annals of history, there are many others who should be recognized.

I rise to acknowledge the contributions of Mrs. Ada Berryman, a former resident of Warren, OH, who was the first African-American to be appointed to the State Housing Board. This feat by Mrs. Berryman in the late 1940's was just one of many achievements during her lifetime.

Mrs. Berryman was born in 1910 in Troy, AL. When she was young, her family fled to Ohio to escape the segregation of the South. Mrs. Berryman resided in Warren, OH, for 45 years. She is credited with the founding of the Warren Chapter of the NAACP. It was Ohio Governor Frank Lausche who saw fit in the late 1940's to appoint Mrs. Berryman to the State Housing Board. She became the first African-American to be chosen for this important State board. In addition to her appointment to the housing board, Mrs. Perryman served as president of the Warren Urban League board, and as a member of the Trumbull County Welfare Board.

Mrs. Berryman was also active in the Democratic Party. She was a member of the NAACP Federated Democratic Women of Ohio. In 1957 Mrs. Perryman ran for city council on the Democratic ticket. She won the primary election, but was defeated in the November general election.

Mr. Speaker, Ada Perryman passed away in 1967 at the age of 56. Throughout her life, she sought to make a difference. She challenged segregation, she challenged the political system, and she challenged our society. I

want to note that a member of Mrs. Berryman's family, her granddaughter, Ada Posey, serves as Acting Director of the Office of Administration for the White House. She brought to my attention the achievements of this remarkable individual. I share the family's pride in Mrs. Berryman's accomplishments. I am pleased to share this information with my colleagues.

TRIBUTE TO PATSY GUADNOLA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. McINNIS. Mr. Speaker, I'd like to a take a minute to tell you about a woman who has been instrumental in the lives of so many children on the Western Slope of Colorado. Her name is Patsy Guadnola and she taught music in Glenwood Springs for over 51 years. She was such a knowledgeable and patient teacher that she even taught music to me. Ms. Guadnola is the type of individual that we could all learn from, as she has given so much of herself to the people.

Ms. Guadnola is the youngest of 10 brothers and sisters who were Italian immigrants. She has witnessed the town of Glenwood Springs evolve from a town of dirt roads and a two lane bridge to a town now considering a light rail system and a bypass for its main street.

Her love of music, children, and family has been the constant that has rooted her so deeply in the community. When she was just a child, her brothers and sisters contributed money so that she might take piano lessons. When she was 12, she began playing the organ on Sundays at St. Stephen's Catholic Church, a commitment she continues to this day.

Following Ms. Guadnola's graduation from the University of Northern Colorado and the Julliard School of Music, she returned home and began work as the music teacher at the Glenwood public schools for grades 1 to 12. She taught in the very same room where she discovered her own desire to one day become a music teacher herself.

For 40 years Ms. Guadnola taught music in the elementary and high school. Following her retirement from the public school, Ms. Guadnola went on to teach music for 11 more years at St. Stephen's Catholic School.

With a career spanning 51 years, Ms. Guadnola has enjoyed watching many locals grow from children to adults.

Ms. Guadnola's legacy lives around her in the people she has taught and continues to see. In her former students she sees a little bit of herself living on especially in those who have gone on to a career in music or teaching.

Mr. Speaker, it is people like Patsy Guadnola who make the Western Slope of Colorado the wonderful place it is. She is truly an inspiration to us all, and as one who learned so much from her myself, I can say she will always be greatly appreciated for what she has done.

MEDICAL RESEARCH

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 15, 1997 into the CONGRESSIONAL RECORD:

SETTING FUNDING PRIORITIES FOR MEDICAL RESEARCH

The United States is the world's leader in medical research. We spend more each year on research to cure and prevent disease than any other nation, and we are also at the forefront of developing new and innovative treatments for diseases ranging from heart disease to breast cancer to AIDS. The benefits of this research are manifest. Americans are living longer than ever before, and we are much more successful at fighting disease.

The federal government will spend about $13 billion on medical research this year, which is 37% of the total amount spent on research by all sectors. An important issue for Congress, the medical community and average Americans is how that money is spent. In general, Congress gives the National Institutes of Health (NIH), the government's lead agency for medical research, broad discretion in setting research priorities, that is, in deciding how funding is allocated to research on various cancers and other diseases. Congress has earmarked money in recent years for specific types of illnesses, such as breast cancer and prostate cancer. But by and large, NIH is still the lead decisionmaker. This approach is premised on the view that NIH, rather than Congress, has the expertise to make the best professional judgments about funding priorities and will make its decisions based on public health requirements and hard science, not political pressures.

LOBBYING FOR RESEARCH DOLLARS

There is some concern, however, that this process is becoming increasingly politicized. One measure of this change has been the proliferation of groups lobbying the federal government for research dollars. There are over 2,800 registered lobbyists on health issues, including 444 specifically on medical research. Lobbying on research funding is not necessarily a bad thing. It can, for example, bring attention to illnesses which have been underfunded and otherwise provide decisionmakers with helpful information.

The question, though, is how far lobbying can go before it undermines the integrity of the decisionmaking process. Lobbying for research dollars is intense, with different advocacy groups fighting for limited resources. The NIH budget, unlike most agency budgets in this period of government downsizing, has nearly doubled in the last decade. It is nonetheless uncertain whether these increases can be sustained under the recent balanced budget agreement. Furthermore, competition for NIH grants is intense. About 75% of the research grant proposals submitted to NIH do not receive funding. Lobbying efforts appear in some cases to have succeeded in shifting more research dollars to certain diseases, particularly AIDS and breast cancer.

HOW FUNDING IS ALLOCATED

NIH-funded research is wide-ranging. It encompasses everything from accident prevention to basic research on the root causes of disease to research on specific diseases, such as heart disease, diabetes and AIDS. NIH considers many factors when allocating research dollars among various diseases, including economic and societal impacts, such as the number of people afflicted with a disease; the infectious nature of the disease; the number of deaths associated with a particular disease; as well as scientific prospects of the research.

Congressional debate has focused on how NIH funds research on specific diseases. Comparing funding levels can be a tricky business. Research on one disease can have benefits in other research areas. Likewise, funding of basic research may not be categorized as funding for a specific disease even though the basic research may be related to the fundamental understanding and treating of the disease. Nonetheless, NIH does categorize funding by disease area and, according to the most recent statistics, it dedicates $2.7 billion to cancer research, including $400 million to breast cancer research; $2.1 billion to brain disorders; $1.5 billion to AIDS research; and $1 billion to heart disease. Other well-known diseases get lesser amounts. For example, diabetes research gets $320 million, Alzheimer's research $330 million, and Parkinson's research $83 million.

NIH critics say that these funding priorities fail to focus on those diseases which afflict the largest number of Americans, but rather emphasize those illnesses which get the most media and public attention as well as the most effective lobbying efforts. For example, the leading cause of death in the U.S. is heart disease, followed by cancer, stroke and lung disease. AIDS-related deaths rank eighth. A recent study suggested that in 1994 NIH spent more than $1,000 per affected person on AIDS research, $93 on heart disease, and $26 on Parkinson's.

CONCLUSION

Congress has held hearings this year on how NIH sets its funding priorities, and is now considering a proposal to direct an independent commission to study the matter and make recommendations on how to improve funding decisions. Others have proposed more dramatic measures, such as having Congress, rather than NIH, earmark funds or at least set funding guidelines for the agency.

I am wary of proposals to involve Congress too directly in the funding decisions of the NIH. Medical research involves complex questions of science and technology, and Congress is not well-equipped to make policy judgments in this area. I am concerned that, if Congress took to micro-managing agency decisions in this way, special interests would overwhelm the process. Funding allocation should be guided by science and public health demands, not by lobbying efforts or politics, and the process used by NIH has been successful. Its research has produced advances in the treatment of cancer, heart disease diabetes and mental illness that have helped thousands of American families.

I am, nonetheless, sympathetic to the view that the NIH should give more attention when setting priorities to the societal and economic costs associated with particular disease areas. Setting funding priorities, particularly in an era of tight Federal budgets, is a difficult process and involves difficult choices. When NIH decides to emphasize one area of research, it necessarily means less funding will be available for other, worthy areas of research. The key point is that the decisionmaking process be generally insulated from political pressures.

HEART OF GOLD

HON. HOWARD L. BERMAN
OF CALIFORNIA
HON. HENRY A. WAXMAN
OF CALIFORNIA
HON. JULIAN C. DIXON
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. BERMAN. Mr. Speaker, it is no surprise to my colleagues, Mr. WAXMAN and Mr. DIXON, and me that Carmen Warschaw has been named the Heart of Gold Honoree by the Medallion Group of Cedars Sinai Medical Center and will be given this prestigious award on October 25, 1997.

Few people in America have contributed so much intellect, time, energy, and passion to improving our world, our country, and our greater Los Angeles community than has Carmen Warschaw.

Each of us has known Carmen, and her husband Louis, personally and professionally for more than 30 years. She has had an immense impact on our lives and our careers. None of us would likely have reached our positions were it not for Carmen Warschaw. She is a close personal friend, trusted adviser, candid—sometimes acerbic, but always humorous—critic, and a model of what community service and good citizenship ought to be. Our admiration for her is indescribable.

It would be impossible—and if possible, give the appearance of carrying coals to Newcastle—to try to list a fraction of Carmen's honors, areas of interest, awards, positions of responsibility, and titles. It would sound as if we were praising a dozen public spirited people—not just Carmen Warschaw.

Nor could we discuss the myriad stories and legends—both factual and perhaps embellished by time—that surround this fascinating, witty, charming Whirling Dervish of national and local Democratic politics, civil rights, women's rights, health care, art, culture, and Jewish community involvement.

One story will suffice. Several years ago, then, as now, a major leader in the Democratic Party, Carmen was double-crossed in a backroom deal. When Carmen confronted her nemesis, she was told that next time she should get it in writing. Ever since, Carmen has handed out pens with the inscription, Get it in writing, Love, Carmen, and ever since, successive generations of California Democratic leaders have repeated the admonition—and the story.

While making an enormous mark on the larger society, Carmen is a wonderful wife, mother, and grandmother. We have had the pleasure of being close to the entire Warschaw family, her husband Lou, daughters Susan and Hope, sons-in-law Carl Robertson and John Law and grandchildren Cara, Chip, and Jack.

Our comments today are occasioned by yet another Warschaw milestone. Carmen and Louis have—with their characteristic generosity—endowed the Carmen and Louis Warschaw Chair in Neurology at Cedars-Sinai Medical Center.

We ask our colleagues to join us in honoring Carmen Warschaw, an extraordinary woman whose zest for living and profound sense of compassion are examples for us all. She has—and is continuing to—truly enriched our lives.

MICHAEL TURNER A COMMUNITY CRIME FIGHTER

HON. STENY H. HOYER
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. HOYER. Mr. Speaker, I rise today to recognize Michael Tucker, one of my constituents, who was recently honored for his leadership and community work in crime prevention. The National Crime Prevention Council and Ameritech selected Special Agent Turner to receive the Ameritech Awards of Excellence in Crime Prevention. Special Agent Turner is one of 8 winners selected from 140 nominations.

Special Agent Turner, the demand reduction coordinator for the DEA's Washington Field Division, is a pioneer in the coordination of law enforcement officials with local citizens to combat crime in their communities. He has had numerous successes in South Boston, Virginia, and Halifax County where he helped these communities fight drugs and crime. Most recently, Special Agent Turner has worked with the DEA in Washington, DC, to provide leadership in reducing homicides and violent crimes in the East Capitol Dwellings and Greenway communities. Additionally, he has worked with the 6th District Police Department Community Services section to create youth programs and neighborhood watch groups. He, along with the D.C. Police Department, helped to organize the orange hat patrol groups.

Special Agent Turner's work to help foster community involvement in law enforcement has led to a sharp decline in the homicide rate in DC's 6th Police District and the creation of many new prevention programs in community organizations. Organizations such as the Boys and Girls Clubs and Drug Abuse Resistance Education Plus have become involved with these new prevention programs.

I would like to thank the National Crime Prevention Council and Ameritech for honoring Michael Turner with the Ameritech Awards in Excellence in Crime Prevention. I applaud NCPC's dedication to helping fight crime and building community support and, I appreciate Ameritech's commitment to supporting crime prevention initiatives.

It is evident from Special Agent Turner's work that he is not afraid to identify a troubled community which is plagued with crime, to roll up his sleeves and to take personal action to solve a problem. I ask my colleagues to join me in congratulating Special Agent Turner for this well deserved honor.

SALUTE TO BROWARD COUNTY'S AFRICAN-AMERICAN LIBRARY

HON. ALCEE L. HASTINGS
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. HASTINGS of Florida. Mr. Speaker, I am honored to pay tribute today to the Broward County African American Library, which opens in my congressional district this Saturday, October 25. One of the great milestones in learning opportunities, this sanctuary of history, learning and culture promises to become one of south Florida's greatest libraries. Its purpose is to showcase the immeasurable contributions of African-Americans in this country as well as in our native Africa. Beyond that, however, it will stand as a beacon for the educational uplift of an entire community.

The great historian, educator, and author David Walker, once commented about the importance of libraries for African-Americans:

"I would crawl on my hands and knees through mud and mire, to the feet of a learned man, where I would sit and humbly supplicate him to instill into me that which neither devils nor tyrants could remove, only with my life—for colored people to acquire learning in this country makes tyrants quake and tremble on their sandy foundations."

This is the kind of idealism that propels the outstanding individuals who have devoted their lives to making the Broward County African American Library a reality. I am pleased to salute their achievement, and to praise their enormous efforts in this significant undertaking.

The significance of this project to the growth and development of Broward County is immeasurable. I am pleased to commend the individuals who have committed their lives and their livelihood to making this library a dream come true, a dream founded upon the notion that to study each other—our accomplishments, our traditions, our culture—our accomplishments, our traditions, our culture—is to know each other.

Mr. Speaker, I rise today to pay tribute to the Broward County African American Library, as it steers our community toward greater progress and understanding.

INTRODUCTION OF LEGISLATION TO REPEAL "LOCK-IN" OF MEDICARE BENEFICIARIES IN MANAGED CARE PLANS

HON. FORTNEY PETE STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. STARK. Mr. Speaker, I am today introducing legislation to repeal a provision in the Balanced Budget Act of 1997 that would "lock" Medicare beneficiaries into a managed care plan. My bill would continue the present policy which permits continuous open enrollment—and disenrollment—in HMO's by Medicare beneficiaries.

The BBA provides that in 2002 Medicare beneficiaries have half a year to get out of a

Medicare+Choice plan that they have enrolled in. In 2003 and forever thereafter, they have only 3 months each year to decide to disenroll.

Mr. Speaker, many HMO's do a good job making people happy while they are healthy. Like fire engines at the Fourth of July parade, they look good and make people feel safe. The test comes when there is a fire—or in the case of an HMO, when a person gets sick. There is strong evidence that many HMO's do not do well when a person becomes ill, particularly when one faces a chronic illness or disability and needs rehabilitation. Today under Medicare, an HMO enrollee who finds they need help and the HMO is not delivering can on a month-by-month basis leave and seek care in another HMO or in the fee-for-service sector.

Beginning in 2002, that right will end.

There are good policy reasons for limiting the enrollment and disenrollment of people in HMO's. For example, coordinating periods of open enrollment provides a wonderful chance to compare plans and to encourage more competitive pricing of HMO products as they compete for business during an annual open enrollment period. Further, a bad HMO can make a huge profit by encouraging the disenrollment of people once they become sick and it makes financial sense for Medicare to limit this opportunity for gaming.

Mr. Speaker, these good reasons are overridden in my mind by the danger that lock-in creates for people who become seriously ill and who needs treatment that an HMO may refuse to provide. There are good economic reasons for Medicare to limit disenrollment—but those economic reasons are going to kill some of our seniors and disabled. Thus, I support repeal of the BBA lock-in.

We simply do not know enough about quality of care in HMO's to justify a lock-in. Perhaps some day when there are much better measurements of outcomes and quality we could put a limit on the timing of enrollment and disenrollment. But that time is not here yet, and I fear the proposed lock-in will be deadly.

Friends of the managed care movement should support this amendment, because it will remove a fear that many Medicare beneficiaries will have of joining an HMO and then being stuck in it for most of a year. If there is continuous open enrollment and disenrollment, more people are likely to try managed care without the fear of being stuck in a nonresponsive bureaucracy or assigned to a quack of a gatekeeper.

Mr. Speaker, I do not expect this legislation to move in the 105th Congress—but as we get closer to 2002 and the lock in of beneficiaries, I expect that the interest will grow dramatically. I urge my colleagues to support this legislation in the months to come.

TRIBUTE TO MARY JEANNE KLYN

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. PORTMAN. Mr. Speaker, I would like to take this opportunity to recognize a friend and constituent, University of Cincinnati Vice President for Public Affairs Mary Jeanne Klyn. Mrs. Klyn, or MJ as she is known by her many fans, will be retiring in February 1998, after 22 years of service to the university.

In 1975, when she came to UC from the Greater Cleveland Growth Association, MJ was named the university's first-ever female vice president. During her term at UC, MJ has developed a legendary reputation as a committed, energetic, and effective representative of the university.

She first demonstrated leadership in the successful campaign to bring UC into the State university system. Since then, she has secured stable funding for UC's academic and research programs, and has worked hard for building projects that mark the rebirth of the university's campus. She played a key role in the Shoemaker Center, the Barrett Cancer Center, and the designation of the UC College of Engineering as one of only 10 NASA Federal Research Centers.

Throughout her time of service to the university, she has also become known as a dedicated advocate for the entire city of Cincinnati. A consultant to the Greater Cincinnati Chamber of Commerce, MJ has served as member of the boards of WCET public television and the Cincinnati Convention and Visitors Bureau. She chaired the chamber's Committee to Welcome New Industries, and is a member of Women in Communication, and a recent recipient of their Movers and Shakers Award.

University of Cincinnati President Joseph A. Steger said, "It is rare that we can say in truth that someone is irreplaceable, but M.J. truly is. She has helped orchestrate most of the major strides achieved by the university over the past two decades. There is no question that she is beloved by everyone."

MJ is beloved in Cincinnati and will be missed by the university. Those of us who have had the privilege of working with her look forward to continuing friendship and wish her well.

TRIBUTE TO THE CITICENTRE DANCE THEATRE

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. DELLUMS. Mr. Speaker, on October 26, 1997, the CitiCentre Dance Theatre will be celebrating their 20th anniversary. Founded in 1977 by Halifu Osumare, CitiCentre Dance Theatre is Oakland's oldest multiethnic arts organization. CitiCentre is also dedicated to the principal of bringing dance and the community together.

CitiCentre understands that dance rejuvenates and reinvigorates the community, and believes strongly that dance must be returned to ordinary people. Through the diverse offering of dance classes—from belly dance and ballet, to jazz and African dance forms, this unique organization allows people of all ages and background to come together to experience the joy of dance. CitiCentre has done a lot to accomplish their goals in their 20 years of existence. CitiCentre has averaged over 600 students per month taking classes. It was also estimated that 100,000 East Bay residents have received dance instruction at CitiCentre.

CitiCentre is a community center that reflects diversity and the spirit of the East Bay. Through dance, they have explored the commonalities among cultures, and how racial and cultural diversity can work to enrich the participants, which can only lead to a greater understanding among each other. CitiCentre is also dedicated to the preservation and presentation of the dance heritage of people of African descent. These classes include West African, Congolese, Brazilian, Cuban, Haitian, Jazz, and Tap. The instruction teaches more than just dance steps, it communicates the world views of these related cultures. CitiCentre also works with the local schools, the police department, as well as other community groups to expose the young people to the art of dance.

Over the years, CitiCentre has acquired nationally known expert performers and instructors. Expanding over a wide variety of dance companies, these performers and instructors were affiliated with such groups as: the Dance Theater of Harlem, the bill T. Jones Co., the Alvin Ailey Dance Theater, and Les Ballet Africians. This gives the ordinary person the unique opportunity to work with and learn from world famous dancers.

CitiCentre is a community-based organization that doesn't sacrifice the excellence and professionalism in the interest of its community spirit. When cultures come together and interact CitiCentre becomes the unique multicultural face of my district, a community of diverse people and cultures. I take pride in their accomplishments and growth as the community celebrates 20 years of dance with CitiCentre.

ST. MARY'S SCHOOL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. POSHARD. Mr. Speaker, it gives me great pleasure to congratulate St. Mary's School in Mattoon, IL for being named the 1997 State Champion of Illinois for the President's Council on Physical Fitness and Sports. This is the third year in a row the school has won this prestigious award. St. Mary's performance during the 1996–97 school year, in which 67.69 percent of students performed at the 85th percentile rank, was the best among all Illinois schools.

It is not by accident or luck that St. Mary's has performed so well in this nationally recognized competition. The physical requirements are among the most demanding in high school sports, and include a 1 mile run-walk, curl-ups, a sit and reach stretch, pull-ups, and a shuttle run. The students train hard under the tutelage of Mike Martin, who puts in countless hours, year after year, even going as far as to construct weights and an obstacle course. Our Nation has many heroes in the world of sports, from Michael Jordan, Mark McGuire and Cal Ripken, Jr., to Jackie Joyner-Kersee

and Tara Lipinski. But none is more important than Mike Martin who gives of himself so that others may reach new heights. This kind of dedication is truly remarkable.

Mr. Speaker, we hear a great deal today about how America's youth are unmotivated, lazy, and apathetic. I beg to disagree. The students at St. Mary's are proving what hard work can accomplish. The benefits of good health are just the beginning. They are learning habits and values, such as discipline, teamwork, and respect, that will lead to success in their future endeavors. As a former high school coach, I know about the joys of athletic competition; the beauty in giving your all, and win or lose, not being ashamed because you gave your maximum effort. We sometimes lose sight of these ideals among the contract disputes and big money of professional sports, but they are alive and well in Mattoon, IL. I am proud to represent St. Mary's school and the Mattoon area in the U.S. Congress, and salute them again for this magnificent achievement.

TRIBUTE TO KATE BROGAN

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. PAPPAS. Mr. Speaker, I rise today to call attention to the outstanding service of Kate Brogan of Branchburg, a young girl that should serve as a role model to all of us.

Miss Brogan has showed us that expressions of love and compassion need not be hindered by one's age. Whether we are 9 or 99, this country can only grow stronger when generations come to serve one another.

When Kate was only 8, she began helping her disabled, elderly neighbor Marjorie Martin. Kate helped with household chores and enjoyed keeping Ms. Martin company, whether it was playing games or just talking. Now 14, Miss Brogan also visits the Agape House in Somerville, helping homeless families get back on there feet. Kate believes that, "Seeing the reaction and knowing that you are helping someone gives you a warm feeling inside."

As a result of her work, Kate was recently recognized as one of the top student volunteers in New Jersey. Kate was also chosen from a pool of more than 15,000 students across the Nation for her essays describing her volunteer work with Ms. Martin. But even as Kate is recognized for her work, she continues to do more. Using money she earns from babysitting, Kate also sponsors a disadvantaged young girl for $12 a month.

Mr. Speaker, I would also like to give thanks to Kate's parents, Elaine and James, who are also valuable volunteers in their own community. It has been their guiding example that has set Kate on her path of service. Their own compassion and dedication radiates in their child's spirit and actions.

Kate had said she has tried to spread her spirit of volunteering to her peers but runs into difficulty. I say to Kate, persevere and your great example shall convince them. Mr. Speaker, it is my honor to congratulate Kate and wish her continued success in her first year at Immaculata High School next year.

HONORING THE REVEREND DR. MAJOR McGUIRE III

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. ENGEL. Mr. Speaker, the Reverend Dr. Major McGuire is celebrating his 11th anniversary of pastoral ministry at the Emmanuel Baptist Church. In that time, he and his wife, the Reverend Darlene Thomas-McGuire, minister of education and youth, have contributed to its growth, brining in 400 members to the Emmanuel family.

The Reverend McGuire also initiated a number of programs which contributed to the growth and development of the church and surrounding community in the Bronx.

Rev. Major McGuire was born in Baltimore. He attended Morgan State University and Towson State University in Baltimore. He accepted the call to preach the gospel of Jesus Christ and was licensed in 1974. Three years later he was named Under Shepherd of the Riverview Missionary Baptist Church in Coeymans, NY, and in May of that year was ordained from the New Shiloh Baptist Church in Baltimore. He later served at the Bethel Baptist Church in Mount Kisko.

He continued his education, ultimately receiving his masters of divinity degree from the Union Theological Seminary in New York City in 1983. He was awarded the Martin Luther King Distinguished Leadership Award from the State University of New York and in 1983 was named as an Outstanding Young Man of America.

In 1986, he became pastor of the Emmanuel Baptist Church. He, his wife, and their four children have made their church and community a landmark to the family and to worship. The Reverend McGuire made his church into a dramatic force for good. We salute him and the accomplishments of his ministry.

TRIBUTE TO THE MEMORY OF BISHOP GERALD JULIUS KAUFMAN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. SERRANO. Mr. Speaker, I rise to express my deepest sympathy to the family and friends of Bishop Gerald Julius Kaufman, a man of the cloth who dedicated his life to the service of our community. Bishop Kaufman passed away on April 25.

Bishop Kaufman was sought by people from all ages. He was the chief shepherd of the Love Gospel Assembly, in my South Bronx congressional district. Established in 1970, the assembly is now one of the largest ministries in the New York City area.

At a special ceremony celebrated outside the church on October 9th, the community renamed part of the Grand Concourse, the main street in the Bronx, after him. It is now "Bishop Gerald J. Kaufman Way".

Kaufman was born in 1935 to Jewish parents Fred and Julia Kaufman in New York City. He demonstrated his strong will and perseverance by winning the battle against 12 years of substance abuse. His immense love for God and desire to be trained in the faith brought him to the Zion Bible School in Rhode Island, where he graduated with honors.

In 1967, Kaufman was ordained into ministry at the Zion Bible Institute. He continued his religious education at Vision Christian University, in Hawaii, where he received a B.S.L., Th.M., D. Min., L.H.D. and Ph.D.

Bishop Kaufman's service to God and his social ministry at the Love Gospel Assembly gave birth to a program which now feeds 500 to 700 people daily, a Care Service Ministry, and an Antioch School of Urban Ministry dedicated to train men and women in urban ministry.

Kaufman's fruitful work at Love Gospel Assembly spread far beyond the Bronx. He facilitated the opening of churches in Orlando, FL; Aguadilla and Bayamon, PR; Bridgetown, Barbados; and Ghana, Africa. He oversaw 23 ordained ministers, 22 licensed ministers, 16 pastors, and 45 missionaries.

Among other recognitions, Kaufman received a citation of merit and proclamation for dedicated community work from the Bronx Borough President's Office. Committed to his community, he also served on the board of directors of the Youth Challenge International organization and the Barnabas Ministries, and as chaplain of the Police Benevolent Association for the Federal Protective Services.

Mr. Speaker, I would like to join the family, friends, and members of the community in their prayers for the soul of Bishop Gerald Julius Kaufman. His legacy of love for our inner city neighborhood has not gone unnoticed. It is a blessing to all of our communities.

A SPECIAL TRIBUTE TO JOHN M. COYNE: "AMERICA'S LONGEST-SERVING MAYOR"

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. STOKES. Mr. Speaker, I am especially pleased to pay tribute to an individual who has earned a very special place in the history of public service. In just a few weeks, John M. Coyne, the Mayor of Brooklyn, OH, will be honored for having served 50 years in this post. I join residents of the City of Brooklyn, the 11th Congressional District of Ohio, his colleagues, friends, and many others in recognizing Mayor Coyne on this auspicious occasion.

President Bill Clinton affectionately describes John Coyne as "this nation's longest-serving mayor." Indeed, Mayor Coyne holds the record for consecutive terms of service. In his 50 years of leading the City of Brooklyn, he has displayed a level of dedication and commitment that is unmatched.

Mr. Speaker, when John Coyne took office as mayor in 1948, Brooklyn was still a small village. Today, we celebrate a city that is a shining model for communities across America. Under Mayor Coyne's leadership, the City of Brooklyn led the country in promoting the

first mandatory seatbelt law. He also administered ordinances to ban assault-type weapons, and started a mandatory curbside recycling program. With John Coyne at the helm, the City of Brooklyn has benefitted from millions of dollars in funding to support important transportation, recycling, recreation, and economic development initiatives.

Beyond his mayoral assignment, John Coyne also served five consecutive terms as Chair of the Cuyahoga County Democratic Party, the 13th largest county in the country. In this post, he pursued a course of action to make the Democratic Party inclusive of all races, creeds, colors, and religions. Under his chairmanship, more minorities were appointed or elected to public office in Cuyahoga County than under any other chairman in our history. He always stated to me, "Congressman, I don't see color, I see people."

I am proud of my personal association with Mayor Coyne. He has shared a very long friendship with me, my later brother, mayor and Ambassador Carl B. Stokes, and my daughter, Judge Angela R. Stokes. Additionally, I am grateful to him for the support he has given me each year enabling me to provide an annual Christmas party for poor and disadvantaged families in my congressional district.

Mr. Speaker, as he is honored for 50 consecutive years of public service, I join many others who are congratulating Mayor Coyne. I am also pleased to note that proceeds from the upcoming gala will benefit the John M. Coyne Endowed Public Service Scholarship at the Cleveland State University Maxine Goodman Levin College of Urban Affairs. I extend my warn congratulations to Mayor Coyne, his devoted wife, Jean, and members of the Coyne family. We wish the Nation's "longest-serving mayor" many, many more years at the helm.

ADDRESS TO GREEN CROSS ON WATER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. MILLER of California. Mr. Speaker, I had the opportunity last Friday to speak at the International Freshwater Symposium sponsored by Green Cross International and Global Green USA in Los Angeles. The meeting, which was chaired by Green Cross President Mikhail Gorbachev, the former president of the Soviet Union, was attended by many of the leading water policy scholars, advocates, and administrators in California. I would like to share my remarks at the conference with my colleagues.

In addition, I know that all Members of the House will want to join me in paying tribute to those who received awards from Global Green USA for their outstanding leadership in environmental advocacy. The Founder's Award was given to the president emeritus and founder of Global Green USA, Diane Meyer Simon. The Entertainment Industry Environmental Leadership Award was given to actor Pierce Brosnan for his work on dolphin protection and other issues. James Quinn, the president and CEO of Collins Pine Co., one of the leading U.S. companies practicing sustained yield forest management. The Individual Environmental Leadership Award went to David Brower, the legendary founder of Friends of the Earth and Earth Island Institute, a great leader in environmental causes in California and nationwide for decades. And the International Environmental Leadership Award was given to the National Geographic for its outstanding educational and scientific work:

INTERNATIONAL FRESHWATER SYMPOSIUM

President Gorbachev, fellow panelists, ladies and gentlemen, I am very pleased to participate in this program today.

Much of the world has struck a Faustian bargain over the past century; develop natural resources to promote economic growth with little consideration for long term environmental damage or remediation. Nowhere has this trade-off been more dramatic, or more cataclysmic, than in the case of water development in the American West.

In California, as in the Aral Sea, or the forests of Indonesia, or the polluted rivers of Eastern Europe, we are paying a huge environmental price for short-term economic growth. Correcting those past errors will not be cheap or without political risk.

Because of our rapid economic development, we in the United States committed serious resource management blunders earlier than many other nations. But we also have been among the first to recognize the errors of the past and to develop, if haltingly, innovative solutions.

Western water policy provides a textbook example. The great dams, reservoirs and waterways planned over the last century were supposed to reconfigure Nature for 500 years. Now, in the Pacific Northwest, in Utah, Arizona, North Dakota and California, we are confronting the urgent need to redefine the mission of these projects.

The goal of the great water planners in arid California was to make the deserts bloom and to permit cities to flourish. The decisions to build the great dams and canals were made by farsighted, powerful and wealthy interests who spent far more time asking "How" than "Should we?" We built dams when destruction of wetlands and fisheries was ignored; we became addicted to subsidies in an era when long-term deficits and inflation were not considered; we allowed irrigation of low-quality lands without adequate drainage; we allowed urban growth that within a generation will push the population of our water-short state to nearly that of France and Britain.

We created, in short, a population, an economy and a political system that thirsted for water, and that has created a host of economic and environmental problems.

On the cusp of the 21st Century, as we were compelled to modernize a water policy conceived in the twilight of the 19th, many doubted that the political system could exercise the bold leadership that is essential to alter destructive, costly habits.

And yet, five years ago, we did begin a unique experiment to conform water policy to the environmental, political and economic standards of our own time. Interestingly, these changes were not initiated by local officials in California, but rather were imposed by the national government which recognized that reform was urgent.

The Central Valley Project Improvement Act included, for the first time, environmental restoration and fish and wildlife mitigation as fundamental purposes of a major federal water project. This law represents something rather remarkable, even for those who are utterly disinterested in water policy. The CVPIA is fundamentally a mandate to reconfigure our most crucial resource in a way that preserves the vitality of the economy, and then does more.

Unlike earlier periods, we are not basing policy solely on what engineering, money and political muscle can achieve. Now, we must pay attention to what science and ethics tell us is necessary to pass a healthy, diverse and prosperous California on to future generations.

Policy can no longer only benefit those who arrived first and struck their best bargains. Today, fishermen and hunters, Native Americans, fish and wildlife, the environment itself, must be included. The CVPIA law established the right of all of these parties to a seat at an expanded table and to participate fully in making the fundamental decisions about how we remedy the severe mistakes of the past and plan for more equitable sharing of our resources in the future.

Securing such change is difficult enough within a single, heterogeneous state like California. Adding the overlay of clashes between cultures, nations and religions, make solutions seem impossible unless great tenacity is displayed by political and other leaders.

And yet, we in California have begun to make great progress, in no small part because all parties have begun to recognize the inevitability of change; to understand that it is cheaper, better science and smarter business to help create a new framework than to be the last defender of the old order.

I am encouraged that the progress we are making through the CALFED process and CVPIA implementation, however halting and difficult it is at times, represents the only course for California. And it can serve as a successful model for those in the Middle East, in South America, and elsewhere where water politics threatens both political stability and environmental quality.

Lastly, Mr. President, may I say that it is an honor to participate in this meeting with you. Your willingness to venture great thoughts and take enormous risks—both political and personal—stand as one of the great legacies of our century, and I am tremendously gratified that you are lending your distinguished efforts to resolving the problems of the environment around this world.

MOOD OF THE COUNTRY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 22, 1997

Mr. HAMILTON. Mr. Speaker, I am inserting my Washington Report for Wednesday, October 22, 1997 into the CONGRESSIONAL RECORD:

THE MOOD OF THE COUNTRY

This is an unusual time in American politics. The Cold War is over. Communism has been defeated. The federal budget is basically in balance. Americans are feeling better about themselves and upbeat about the economy. Politicians in Washington are asking themselves what the American people want us to do or not to do.

POSITIVE VIEW OF COUNTRY

Politicians are looking for issues and symbols to capture the attention of voters. Most

of us remember that only a few years ago they were angry and wanted to take out revenge on incumbents. Today voters seem much more content and their mood more agreeable.

Economic issues have always been the dominant feature of American politics. Today those issues have not moved off the minds of voters but their concerns are muted, due, I suspect, in large measure to the strong economy and the agreement between the Congress and the President to balance the budget and to cut taxes. By a wide margin Americans feel that the country is headed in the right director, and two thirds say they are satisfied with the state of the U.S. economy—the highest satisfaction levels we have seen in the 1990s.

Most people I talk to across southern Indiana believe that the economy is doing well, and many tell me their personal situation has improved in recent years. The performance of the economy has been impressive, with solid, noninflationary growth, low unemployment, and stable inflation. Unemployment in some southern Indiana counties is at 2%—the lowest in a generation. All of this translates into a sense that people want things to remain pretty much as they are, and they aren't looking to Washington for major policy changes.

VIEW OF GOVERNMENT

There is also a strong level of satisfaction with the political status quo in Washington. There is a feeling that we are finally getting done what they wanted us to do, and people are pleased that the nasty tone and partisan bickering in Congress has subsided somewhat. Americans like the way both parties worked together to balance the budget, and it is clear to me that they are satisfied with divided government. We have a Democratic President and a Republican Congress. Republicans control 30 of the 50 state houses; the Democrats control more of the court houses. More people identify themselves as Democrats, but the balance is fairly even and volatile.

This general support for divided government seems to stem, in part, from the desire to prevent either party from going too far. The American people have made it clear that they want us to govern from the center.

At the same time, I get the sense that the American people are increasingly disengaged from government, at least the federal government. They now seem to have more important things to do in their own lives than to follow every development in Washington.

ISSUES

Politicians are always trying to determine what the mandate of the voters is. No single issue dominates, but several concerns do come through.

I'm impressed that education has soared to the top of the public policy concerns of Americans. It is remarkable to me how often improving the quality of education comes up on the conversations I have with voters. Parents, of course, are particularly concerned because they see education as the pathway to success for their children, and local business leaders increasingly talk about their need for well-educated, skilled workers. All the education issue—national testing, vouchers, school choice—have become hot-button issues. Even so, I think most Americans are satisfied with the schools in their communities, which makes all of the interest in education a little puzzling.

Everyone thinks we need to look out for the middle class. People often tell me they are concerned about their ability to meet major health care and college costs, and they want to make sure that the government helps promote opportunity. They especially support efforts to promote education and skills training, which they see as key to opportunity and a bright future for their families. A large number of voters still talk to me about declining moral values as the biggest problem in the country. They want to make sure that traditional values are promoted, and they are very concerned about drug abuse in their communities.

As always, the politician is receiving mixed signals today. Many Americans want additional tax cuts; but they also want us to begin to develop spending plans for the looming budget surplus, and they opt for more spending on education and health care.

Although people feel positive about the economy, and interest in reducing the deficit has declined sharply, it would be a mistake to think that economic issues have disappeared. In a recent public meeting, I spent three quarters of the time talking about jobs and trade and other economic issues. But it is also clear that people are focused on health, education, crime, and the environment. They also very much want to protect Social Security and Medicare. What impresses the politician most, I think, is that no single issue dominates the voters' ranking of concerns.

CONCLUSION

Satisfaction with the economy and widespread support for the balanced budget agreement reached this summer has meant that the voters aren't looking for major changes. My own impression is that American are rejecting politicians whom they consider too extreme, and they want the politicians to be compassionate and strongly supportive of the middle class. They favor a mainstream, centrist approach that is based on fiscal responsibility, opportunity, and traditional values. I also think the views of voters are very fluid today, and that things could easily change in the future, particularly if there is a change in the outlook for the economy.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 23, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 24

9:00 a.m.

Foreign Relations

To hold hearings on the nominations of Carolyn Curiel, of Indiana, to be Ambassador to Belize, Victor Marrero, of New York, to be an Alternate Representative of the United States to the 51st Session of the General Assembly of the United Nations, Christopher C. Ashby, of Connecticut, to be Ambassador to the Oriental Republic of Uruguay, and Timothy Michael Carney, of Washington, to be Ambassador to the Republic of Haiti.

SD–419

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the National export strategy.

SD–538

Governmental Affairs

To hold hearings on H.R. 1953, to clarify State authority to tax compensation paid to certain employees.

SD–342

OCTOBER 27

2:00 p.m.

Governmental Affairs

International Security, Proliferation and Federal Services Subcommittee

To hold hearings to examine the safety and reliability of the nuclear stockpile.

SD–342

Labor and Human Resources

Public Health and Safety Subcommittee

To hold hearings to examine proposals to deter youth from using tobacco products.

SD–430

OCTOBER 28

9:00 a.m.

Environment and Public Works

To hold hearings on the nomination of Kenneth R. Wykle, of Virginia, to be Administrator of the Federal Highway Administration, Department of Transportation.

SD–406

10:00 a.m.

Foreign Relations

To hold hearings to examine costs, benefits, burdensharing and military implications of NATO enlargement.

SD–419

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Judiciary

To hold hearings on pending nominations.

SD–226

Labor and Human Resources

To resume hearings to examine an Administration study on the confidentiality of medical information and recommendations on ways to protect the privacy of individually identifiable information and to establish strong penalties for those who disclose such information.

SD–430

2:00 p.m.
Budget
To hold hearings to examine the state of American education.
SD–608

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings to examine the potential impacts on, and additional responsibilities for, federal land managers imposed by the Environmental Protection Agency's Notice of Proposed Rulemaking on regional haze regulations implementing Section 169A and 169B of the Clean Air Act.
SD–366

Foreign Relations
To hold hearings on the nominations of Richard Frank Celeste, of Ohio, to be Ambassador to India, Shaun Edward Donnelly, of Indiana, to be Ambassador to the Democratic Socialist Republic of Sri Lanka, and to serve concurrently as Ambassador to the Republic of Maldives, Edward M. Gabriel, of the District of Columbia, to be Ambassador to the Kingdom of Morocco, Cameron R. Hume, of New York, to be Ambassador to the Democratic and Popular Republic of Algeria, Daniel Charles Kurtzer, of Maryland, to be Ambassador to the Arab Republic of Egypt, James A. Larocco, of Virginia, to be Ambassador to the State of Kuwait, and Edward S. Walker, Jr., of Maryland, to be Ambassador to Israel.
SD–419

2:30 p.m.
Select on Intelligence
To hold hearings on proposed legislation with regard to intelligence disclosure to Congress.
SD–106

OCTOBER 29

9:30 a.m.
Indian Affairs
To hold hearings on S. 1077, to amend the Indian Gaming Regulatory Act.
SD–106

10:00 a.m.
Budget
To hold hearings to examine U.S. policy implications for NATO enlargement, European Union expansion and the European Monetary Union.
SD–608

Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Joint Economic
To hold hearings to examine the role of monetary policy in a healthy economic expansion.
SD–138

11:00 a.m.
Foreign Relations
To hold hearings on the nominations of Amy L. Bondurant, of the District of Columbia, to be Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador, Terrence J. Brown, of Virginia, to be Assistant Administrator for Management, and Thomas H. Fox, of the District of Columbia, to be an Assistant Administrator for Policy and Program Coordination, both of the Agency for International Development, Department of State, and Kirk K. Robertson, of Virginia, to be Executive Vice President of the Overseas Private Investment Corporation, U.S. International Development Cooperation Agency.
SD–419

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 638, to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the monument.
SD–366

Foreign Relations
To hold joint hearings with the United States Senate Caucus on International Narcotics Control to examine United States- Mexican cooperation in efforts to combat drugs.
SD–106

Foreign Relations
To hold hearings on the nominations of Joseph A. Presel, of Rhode Island, to be Ambassador to the Republic of Uzbekistan, Stanley Tuemler Escudero, of Florida, to be Ambassador to the Republic of Azerbaijan, B. Lynn Pascoe, of Virginia, for the rank of Ambassador during his tenure of service as Special Negotiator for Nagorno-Karabakh, Steven Karl Pifer, of California, to be Ambassador to Ukraine, Kathryn Linda Haycock Proffitt, of Arizona, to be Ambassador to the Republic of Malta, James Catherwood Hormel, of California, to be Ambassador to Luxembourg, and David B. Hermelin, of Michigan, to be Ambassador to Norway.
SD–419

United States Senate Caucus on International Narcotics Control
To hold joint hearings with the Committee on Foreign Relations to examine United States-Mexican cooperation in efforts to combat drugs.
SD–106

OCTOBER 30

9:30 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal land in accordance with the principles of multiple use and sustained yield.
SD–366

Indian Affairs
To hold hearings on the nomination of Kevin Gover, of New Mexico, to be Assistant Secretary of the Interior for Indian Affairs.
SR–485

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Labor and Human Resources
To hold hearings to examine recent developments and current issues in HIV/AIDS.
SD–430

2:00 p.m.
Budget
To hold hearings to examine funding for international affairs.
SD–608

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to review the Federal Energy Regulatory Commission's hydroelectric relicensing procedures.
SD–366

NOVEMBER 3

10:00 a.m.
Indian Affairs
To hold hearings on provisions of H.R. 1604, to provide for the division, use, and distribution of judgement funds of the Ottawa and Chippewa Indians of Michigan.
SR–485

NOVEMBER 4

10:00 a.m.
Judiciary
To hold hearings to examine competition, innovation, and public policy in the digital age.
SD–226

NOVEMBER 5

2:00 p.m.
Judiciary
Technology, Terrorism, and Government Information Subcommittee
To hold hearings to examine the report of the President's Commission on Critical Infrastructure Protection.
SD–226

NOVEMBER 6

12:00 p.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the social impact of music violence.
SD–342

CANCELLATIONS

OCTOBER 29

9:30 a.m.
Indian Affairs
To resume oversight hearings on proposals to reform the management of Indian trust funds.
Room to be announced

NOVEMBER 5

9:30 a.m.
Indian Affairs
To hold oversight hearings on proposals to extend compacting to agencies of the Department of Health and Human Services.
SR–485

POSTPONEMENTS

OCTOBER 23

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 943 and H.R. 2005, bills to revise Federal aviation law to declare that nothing in such law or in the the Death on the High Seas Act shall affect any remedy existing at common law or under State law with

respect to any injury or death arising out of any aviation incident occurring on or after January 1, 1995.

SR–253

OCTOBER 27

10:00 a.m.

Indian Affairs

To hold oversight hearings on the contemporary status of the Bureau of Indian Affairs of the Department of the Interior.

SR–485